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INQUIRIES AND SUGGESTIONS

This publication was prepared under the editorial direction of Robert E. Lewis assisted by Rose Steinman, with Loren Myers and Carol Blanchard as Chief Editors. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Fred J. Emery, Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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	(a)(9) revised	1921
	(q)(7) revised	2815
	(b)(3) added	3693
	(a)(3) revised	4585
	(a)(14) added	4585
	(a)(20) revised	4963
	(x)(1) added	9782
	(a)(9) revised	12291

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	(r)(4) through (9) added	12292
	(f) added	16305
	(a)(20) revised	16967
	(a)(28) added	19337
	(n)(2) and (r)(10) added; (r)(1) revised	22667
213.3315	(a)(1) revised	2377, 4964
	(a)(13) revised	6913
	(a)(1) revised	14637
	(a)(58) revised; (a)(17) added	16967
	(a)(28) and (k)(2) added	19337
213.3316	(c)(19) added	1474
	(h)(14) added	4963
	(q)(9) added	6913
	(f)(9) revised	7199
	(h)(13) added	8777
	(h)(15) added	9782
	(h)(16) added	12291
	(a)(45) and (h)(17) added	12292
	(a)(8) and (n)(8) added	14001
	(c)(20), (i)(3), and (s)(3), (4) and (5) added	16306
213.3318	(b)(8) revised	9781
213.3322	(g) added	16967
213.3327	(a)(7) and (10) revised	2377
	(a)(7) and (11) revised; (a)(8) removed	3994
213.3331	(a)(3) and (4) revised	1472
	(c)(3) and (4) added	1922
	(a)(6) added	2377
	(c)(2) revised; (o)(2) added	3993
	(a)(7) revised	4963
	(c)(5) and (s) added	6914
	(c)(3) and (4) revised	6913
	(n)(2) added	8149
	(s)(1) revised	8251, 8777
	(a)(1), (d)(1), (g)(1), and (r)(1) revised	9781
	(g)(1) revised; (g)(2) added	12291
	(c)(6) added	12292
	(m)(6) added	14001
	(a)(8) added; (e)(1), (j)(2), and (l)(1) revised	14637
	(a)(9) added	14638
	(c)(7) added	15607
	(a)(10) and (t) added; (c)(7) and (m)(6) revised	20953
	(n)(3) added	22001
	(c)(3) revised	22667
	(c)(4) revised	22668
213.3332	(t) revised	4586
213.3333	(l) added	3994
213.3337	(a)(4) revised	2377
	(e) added	4963
213.3339	(a), (b), and (c) revised	5793
	(a) revised	7199
	(b) revised	15607
213.3340	(g) added	1921
	(h) added	2815
213.3343	(b) revised; (a) added	1472
	(e) removed	19337
213.3344	(d) removed	5793
213.3348	(n) removed	13491
213.3354	(o) added	1921
	(p) and (q) added	4585
213.3356	(h) added	12845
213.3357	(f) added	14001
213.3359	(z), (aa) and (bb) added	4586
	(cc) added	8777
	(cc) revised	9782
	(k) removed	12291
	(n) added	14001
	(o) revised	15607
213.3360	(a) revised	12291
	(e) revised	15607
	(d) revised	18641
213.3364	(o) added	1921
213.3367	(b) revised; (h) added	1922
213.3368	(f) added	21635
213.3373	(m) added	5793
	(a)(9) added; (g)(2) revised	18642
213.3377	(a) and (i) revised	14637
	(m) added	22001
213.3379	(n) added; (g) removed	8149
213.3381	Added	16307
213.3382	(o) added	12845
	(n) removed; (p) added	13491
	(q) added	14637
	(n) added	16305
	(r) through (t) added	16967
	(l) revised	19337
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213.3384	(l)(5) through (7) added	2167
	(a)(13) added	3253
	(l)(5), (6) and (7) added	2815
	(a)(14) added	4963
	(a)(24) and (m)(3) revised; (a)(31) and (46) removed	5793
	(b)(19) revised	6914
	(i)(5) revised	7199
	(a)(17) and (m)(3) revised	9781
	(a)(9) and (47) revised	12292
	(d)(3) revised	14001
	(a)(31) added	18641
	(h) added	20953
	(a)(45) added	22001
	(b)(23) revised	22667
213.3386	(f) added	2816

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213.3394 (a)(2) revised	3254
(d)(6) added	2816
(h)(10) added	4586
(h)(11) added	8149
(d)(7) added	9782
(a)(29) revised	11143
213.3396 (a)(3) added	10305
(b) heading and (1) revised	18641
302 Authority citation revised	4964
302.101 (c) introductory text and (a) revised	2378
302.103 Revised	2378
302.501—302.503 (Subpart E) Added	2378
315.605 Heading, (a), and (b) revised	20954
315.703c Added	14002
315.806 (b)(1) revised	5794
330 Authority revised	2379
330.201 (e)(2) revised	2378
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353.308 Redesignated from 353.307 and revised	2379
353.401 (a)(3) added; (b) revised	2379
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1.41 Amended	6205
2.15 (a)(1) revised; (a)(2)(x) added	1289
2.17 (a)(3)(xxi) removed; (b)(28) revised	1289
(b)(28) revised	14005
2.19 (a) revised; (b), (c), and (e) removed	3254
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2.20 (a) added; (b) and (c) removed	3256
2.21 (d)(28) added	15135
2.23 (f) added	22001
2.25 (b) revised; (c) and (f) removed	6057
(c) added; (g) revised	13053
(e)(10)(xviii) and (xix) removed; (f) added	22329
(h)(1) revised	22001
2.27 (a)(3) and (4) and (c) revised; (a)(7) through (11) and (16) removed; (a)(12) through (15) redesignated as (a)(7) through (10)	13053
(c) correctly designated	16967
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2.51 (a)(28) revised	1289
(a)(28) revised	14005
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2.58 Removed	3256
2.59 Removed	3256
2.61 Removed	3256
2.62 (a)(11) added	8252
2.68 (a)(16) added	15135
2.70 (a)(15) through (27) added	11689
2.71 Removed	11689
2.75 Revised	6058
2.76 Removed	6059
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2.77 Added	20781
2.78 (a)(10)(xviii) and xix) removed	22330
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2.86 Added	20217
2.92 (a)(1) revised; (a)(2)(xi) added	1290
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6.20—6.33 Appendix I amended	18536
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16.5 (a), (b), and (c) removed	969
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26.72 Revised	16309
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29.9251 Revised	9585
29.9403 (b) and (d) revised	16309
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102.44 Revised	14006
102.57 Revised	14006
102.61 (c) removed; (d) through (f) redesignated as (c) through (e)	14006
102.63 Revised	14006
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102.80 Revised	14006
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215.7 (d)(1) and (2) revised	1059
215.8 (b) revised; (c) removed; (d) redesignated as (c)	1060
215.9 (b) revised	1060
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215.11 (c)(1) amended; (c)(3) added	1060
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215.16 (b) and (g) amended	1060
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230 Appendix amended	5794
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240.6 (a) amended	12300
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240.8 Text designated as (a) and amended; (b) added	12301
247 Added	8778
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250.6 (r) amended	20955
250.8 (c)(1) revised	20955
250.10 (f)(3)(iv) revised	4029
250.14 Removed	9783
271.3 (f)(2) removed; (f)(3) through (11) redesignated as (f)(2) through (10); new (f)(8) revised; (f)(9) amended; eff. 1–1–78	1612
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271 Appendix G added	21299
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401.137 Amended	2380
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401.150 Amended	2384
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401.154 Added	4248
401.155 Added	14639
401.156 Added	14638
404.22 Amended	2381
404.25 Amended	2381
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701.2 (c) amended	8784
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701.5 Amended	8784
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701.11 Redesignated as 701.12 and amended; new 701.11 redesignated from 701.10 and heading amended	8784
701.12 Redesignated as 701.10 and revised; new 701.12 redesignated from 701.11 and amended	8784
701.13 Heading and (b) revised; (d) removed; (c) redesignated as (d); new (c) added	8784
701.16 (b), (c), (f), and (k) amended	8784
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719.3 (b)(8) added	18159
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722.401—722.423 Removed	8785
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724 Referendums	6205
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726.68 (q) removed	19339
729.105 Revised	2817
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905.120 Revised	9455
905.146 Added	9455
905.147 Added	9456
905.148 Added	9456
905.216 Added; eff. 8-1-77 to 7-31-78	2385
905.301 (a) and (b) tables amended; (c) revised; eff. 1-16-78 to 9-24-78	2821

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906.360 (a)(4) revised	4033
907.215 Added; eff. 11-1-77 to 10-31-78	4966
907.719 Revised	753
907.722 Revised	753
907.727 Added; eff. 2-3 to 7-13-78	3897
908.217 Added	19643
908.876 Added; eff. 3-3-78 to 4-13-78	8785
908.881 Added; eff. 3-31-78 to 1-15-79	13492
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912.217 Added; eff. 8-1-77 to 7-31-78	2385
913.213 Added; eff. 8-1-77 to 7-31-78	2385
915.140 (d) added	23557
915.216 (a) revised; eff. 4-1-77 to 3-31-78	3898
915.320 Added	22660
916.216 (a) revised; eff. 3-1-77 to 2-28-78	2385
916.352 Added	20219
917.217 (a) revised; eff. 3-1-77 to 2-28-78	2385
917.218 (a) revised; eff. 3-1-77 to 2-28-78	2385
917.219 (a) revised; eff. 3-1-77 to 2-28-78	2385
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923.317 Added	21867
928.207 Added	1785
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930.107 (a) revised	8116
944.18 Added	22665
944.205 (a) introductory text and (2) revised; eff. 5-1 to 6-23-78	16150
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944.400 Added	19340
947.230 Added; eff. until 6-30-78	12845
948.377 (b) suspended 5-15-78 to 6-30-78	21638
953.215 Added	21638
953.318 Added	21639
959.218 Added	1475
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967.130 (a)(4) added	15609
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987.72 (a) amended	4253
989.701 (g) added	13493
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991.216 Added; eff. 8-1-78 to 7-31-79	10903
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1001.5b (a) through (d) revised 17460
1001.11 (c) revised 17460
1001.15 Introductory text revised 17460
1001.43 (d) added 17460
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1001.50 Introductory text and (a) revised 17460
1001.52 Introductory text amended; (e) revised 17460
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1001.74 (d)(1) amended 17461
1001.86 (a) amended 17461
1004.7 (a) suspended in part from April to August 1978 18987
1049.61 (f) suspended in part; (g) through (k) suspended; eff. Apr. through Dec. 1978 15136
1068.73 (a)(4) suspended May 1978 through April 1979 19341
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1207.512 (a) introductory text amended; (a)(8) revised 9133

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1421.294 (a) revised 5501
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1421.390—1421.392 (Subpart) Revised 2841
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1421.530—1421.544 (Subpart) Added 17461
1425.2 (a) revised 4590
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1435.18 Amended 21318
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1435.26—1435.33 (Subpart) Added 1477
1438.1636—1438.1645 (Subpart) Revised 18988
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1446.12 (j) revised; (k) added 5502
1446.13 Revised 5502
1446.30—1446.37 (Subpart) Added 21428
1464.7 (a) revised 9134
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1487 Added 4035
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1701 Appendix A amended 20955

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1804.3 (d)(1) revised 3075
1806.21—1806.27 (Subpart B) Exhibit B revised 18538
1807.2 (f)(8) revised 7967
1811 Removed 19342
1815 Redesignated as Part 2045 (Subchapter S) and revised 3694
1821.81—1821.86 (Subpart C) Removed 20221
1822.1–1822.18 (Subpart A) Exhibit G amended 5503
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1822.63 Revised 3696
1822.81—1822.98 (Subpart D) Exhibits F-5A and J amended; Exhibit J-2 revised 7968
1822.88 (a)(8) and (i)(3) added 7968
1822.203 Revised 3696
1822.321—1822.334 (Subpart I) Redesignated as 1933.401—1933.419 (Subpart I) and revised 2853
1823.360 Removed 22671
1823.410 Revised 18161
1823.472 (b)(1), (3)(i), and (e)(1) revised 7200
(b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added; (b)(1) revised 13494
(b)(5) correctly redesignated from old (b)(4) 15137
(e)(2) introductory text and (ii) revised 20221
1861.1 (b)(5)(v) removed; (b)(5)(vi) redesignated as (b)(5)(v) and revised; (b)(5)(iv) and (d) revised; (e) and (f) added 8786
1861.9 (e) revised 21640
1861.10 (e)(2) revised 21640
1888.13 (c) revised 20957
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1901.158 (f)(1) revised 8787
1901.205 (f)(1) corrected 7977
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1904.124 (a)(1) revised 5503
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(a)(6)(i)(E)(1) revised 19342
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43i—43k Removed 19650
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43p Added 16175
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1.593 Removed 21454
1.593–4 Revised 21454
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1.593–6 (a) introductory text revised 21455
1.593–6A Added 21455
1.593–7 (a)(2)(ii) revised 21457
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1.593—10 (a), (b)(3) (i) and (ii) (b) revised 21457
1.593–11 (b)(1) amended; (b)(3) and (4) revised 21458
1.692 Removed 19392
1.692–1 (a) revised 19392
1.952–1 (c)(2)(ii) amended 19652
1.959–3 (b)(3) amended 19652
1.960–1 (c)(1)(v) amended 19652
1.963–0 Added 19652
1.964–1 (c)(2), (c)(6)(iv), and undesignated texts following (b)(2)(ii) and (c)(6)(iv) amended 19652
1.964–2 Undesignated text following (c)(1)(ii) amended 19652
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301.6110–6 Added 20791
301.6401–1 (a)(2) amended 13878
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601.106 (a)(3) revised; (d)(2)(ii), and (3)(iii)(*e*) and (*i*) amended ---- 17817
601.201 (e)(2) and (n)(4) amended; (e)(15), (n)(1)(i) and (iv), (2), (3)(iii), (5) and (6) revised; (n)(7) redesignated as (n)(8); new (n)(7) added ---- 17817
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763 Added ---------- †3706
Technical correction--------- †11815
765.2 Removed ---------- †17355
765.9—765.11 Removed-------- †17355
766.14 Removed ---------- †17355

Chapter VII—Department of the Air Force

804 Removed ---------- †22970
806b.13 Revised ---------- †19230
806b.18 Revised ---------- †19231
806b.58 (m) revised---------- 41409
809 Removed ---------- †22970
809b Removed ---------- †22970
809c Removed ---------- †22970
816 Redesignated as Part 983--- †1070
819b Added ---------- 53958
835 Added ---------- †22030
842.49 (a)(1), (b)(1), (2), (3)(iii) and (iv), (c), (e)(4), (g), (h) introductory text, (h)(1) heading, (h)(i)(*d*) and (*e*), (ii), and (2) revised- †7316
842.83 (b)(1)(i)(*c*) and (*d*), (ii) through (v) and (c) revised; (b)(1)(i)(*e*) and (*f*) added- †7316
842.110 (a)(1)(iii) and (2)(vi) added; (a)(2)(iv) and (v), (3), (4), (5)(i), and (f) revised ---------- †7316
842.125 (a)(1)(iii), (iv), (2), and (3) revised; (a)(1)(v), (vi), and (c) added--------- †7316
842.148 Revised ---------- †7317

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852 Added ---------- 42684
861 Redesignated as Part 984--- †1070
865.7 (d) added---------- †1619
865.13 Revised ---------- †1619
865.14 (f) and (g) revised------ †1619
865.100—865.126 (Subpart B) Revised ---------- †20795
865.101 Amended ---------- 36450
865.103 (b) amended---------- 36450
865.107 (d) amended---------- 36450
865.109 (e) introductory text revised; (e)(3) redesignated as (e)(4) and revised; new (e)(3) added---------- 36450
(e)(3) amended---------- †2394
865.112 Amended ---------- 36450
872 Removed ---------- †22970
873 Removed ---------- †22970
874 Removed ---------- †22970
880.0—880.24 Designated as Subpart A; eff. 10-24-77------- †6766
880.35—880.38 (Subpart B) Added; eff. 10-24-77---------- †6766
881 Removed ---------- †22970
882 Removed ---------- †22970
886 Removed ---------- †22970
888c Removed ---------- †22970
888g Added ---------- †4605
888h Added ---------- †10908
905 Removed ---------- †22970
906 Removed ---------- †22970
908 Removed ---------- †22970
955 Removed ---------- †22970
983—984 (Subchapter S) Added- †1070
983 Redesignated from Part 816- †1070
Removed ---------- †22970
984 Redesignated from Part 861- †1070
985 Added; eff. 8-3-77--------- †6767
Removed ---------- †16979

Chapter XII—Defense Logistics Agency

1201—1250 (Subchapter A) Heading revised---------- †18993
1201 Revised ---------- †18993
1202 Revised ---------- †19008
1203 Revised ---------- †19011
1204 Revised ---------- †19015
1205 Revised ---------- †19016
1206 Revised ---------- †19018
1207 Revised ---------- †19023
1208 Revised ---------- †19023
1209 Revised ---------- †19024
1210 Revised ---------- †19025
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1213 Revised ---------- †19026
1214 Revised ---------- †19026

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1215 Revised ---------- †19028
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1217 Revised ---------- †19033
1219 Revised ---------- †19033
1220 Revised ---------- †19034
1221 Revised ---------- †19034
1225 Revised ---------- †19035
1250 Revised ---------- †19036
1286 Revised ---------- 45908
1287 Added ---------- 37204
1288 Added ---------- 36997

Chapter XIV—Renegotiation Board

1453.5 (b)(3)(ii) revised; (b)(2) and (3) note removed------- †4014

Chapter XVIII—Defense Civil Preparedness Agency

1800 Added ---------- 34878
1802 Removed ---------- †6229

Title 32—*Proposed Rules:*

43a ---------- †17838, 23001
70 ---------- 62934
---------- †2634, 7932, 8240
81 ---------- 34340
91 ---------- 59761
114 ---------- 39234
143 ---------- 41306
260 ---------- 34893
286 ---------- 40552, 45935
288 ---------- 62503
---------- †8271
292a ---------- 38604
298a ---------- †19689
553---------- †3139
806b ---------- 33776, 37019, 37829
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832---------- †980, 2735
835 ---------- †16193
865 ---------- 39999
976 ---------- 46367
1286 ---------- 37982
1421–1499 (Ch. XIV)---------- †12039
1453 ---------- 37424
1460 ---------- †2187, 10581
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TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Federal Preparedness Agency, General Services Administration

134 Revised ---------- 57457

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Title 32A—Continued

Chapter VI—Industry and Trade Administration, Department of Commerce

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Chapter heading revised; eff. 12-31-77 †8
621 Sec. 7 amended 52400
621a Sec. 5 amended 52400
621b Sec. 6 amended 52400
631 Sec. 15 amended 52400
633 Sec. 11 amended 52400
651 Sec. 6 amended 52400

Chapter XV—Federal Reserve System

1505 Section 1 amended 35833, 55211

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621 38193
621a 38193
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TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

1.01-30 (a) revised 48022
1.08-1 (a)(9) added †22657
1.08-5 (c) through (f) revised †22657
3.01-1 (g) added 48022
3.04-1 (b) revised †8516
3.04-3 (b) revised †8516
3.10-1 (b) revised †2372
3.10-40 Revised †2372
3.10-80 (b) revised †2372
3.35-10 Revised †1056
3.35-15 Revised †1056
3.35-20 Revised †1056
(b) corrected †18553
3.35-25 Revised †1056
3.35-30 Revised †1056
3.35-35 Revised †1056
3.35-55 Removed †1057
3.35-60 Removed †1057
3.35-65 Removed †1057
3.35-70 Removed †1057
3.35-75 Removed †1057
3.35-80 Removed †1057
3.35-85 Removed †1057
3.40-1 (b) revised †2372
3.40-10 (b) revised †2373
3.55-10 (a) revised †18553
3.85-15 Revised 36252
(b) corrected 38354
3.85-20 Added 36252
26.02 Amended 35784
82 Revised 35784
Authority citation revised 63169
82.120 (a) and (b) corrected 63169
82.135 (a) corrected 63169
82.305 (c) and (e) corrected 63169
82.310 (d) corrected 63169
82.735 (f) corrected 63169
82.748 (a) corrected 63169
82.750 (g) corrected 63169
82.1255 (a) corrected 63169
82.1305 Corrected 63169
82.1440 Corrected 63169
82.1495 Corrected 63169
82.1720 (b) corrected 63169
82.1735 Corrected 63169
85 Removed 35792
86.01-12 Added 57648
87 Heading revised 35792
87.1 Amended 35792
87.5-87.17 Undesignated center heading added 35792
87.18 Added 57648
87.20 Undesignated center heading and section added 35792
87 Appendix B added 57648
Appendix B corrected †10911
88 Added 35792
91.01-12 Added 57650
96.05-10 Added 35793
110.2a Added 34881
110.5 (a-2) added 40694
110.25 (a) revised 39386
110.72b Added 40694
110.72c Added †14470
110.84a Added 36254
110.90 (c) removed 40694
110.93 Added 44985
110.126 Revised 37369
110.127c Added 37811
110.128b Added 62001
110.128c Added 62001
110.128d Added 62001
(a) through (d) revised †21881
110.155 (m)(1) removed 58519
110.233 Added †21458
117.75 (c) and (f) amended; (m) added †11983
117.130 Revised †13379
117.131 Removed †13379
117.145 (d)(2) revised †1337
117.190 (f)(3) and (4) removed 42199
117.191 Added 42199
117.200 (a) amended; (j) added †21881

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117.225 (f)(1-c) added †958
117.229 Revised †956
117.245 (i)(13) removed 58936
(j)(2) revised 61042
(i)(7a) Removed †957
(j)(10) Revised; (j)(11) removed †3562
(f)(18) added †21459
117.433a Added 61041
Authority citation corrected †958
117.438c Added †8518
117.439b Removed †22970
117.446f Heading corrected 46302
117.462a Added 39387
117.465 Revised †8516
117.540 (b)(2) amended †3562
117.560 (g)(9) revised †1338
117.641 (f)(3) and (4) removed †1337
117.643 (d) added †957
117.663 (e)(7) revised 55470
117.685 Revised †1337
117.706 (b) revised †6770
117.708 Revised 41118
117.712 (g)(2) revised †6770
117.725 (b) removed †8517
117.759b (f)(16) Added †8517
117.795 Revised 46925
117.800 (e)(1) revised 38903
117.810 (f)(5) and (6) amended 38904
118.15 Amended 56954
118.35 Removed 56954
118.45 Amended 56954
118.60 Authority citation removed 56954
118.65 (c) amended 56954
118.85 (a) amended 56954
126 Authority citation revised 48022
127.511 Revised 55471
128.101 Added 48876
128.301 Authority citation removed 63642
128.1401 (b)(2) and (3) revised; (b)(6) added; authority citation removed 63642
Effective date corrected to 1-18-78 †2170
135-136 (Subchapter M) Removed 57650
135 Removed 57650
136 Removed 57650
160 Authority citation revised 48022
160.1 Revised 48022
160.11 Introductory text amended 63369
160.35 (a) and (b) amended; (c) and (d) added 48022
160.37 Added 48023
160.39 Revised 48023
161.101 — 161.189 (Subpart B) Appendix A added †12257
161.301 — 161.387 Undesignated center heading and sections added 37931
161.401—161.402 Undesignated center heading and sections added 51759
162 Added; supersedes 33 CFR Part 207 in part 51759
Redesignation table 51773
165 Added 63369
Effective date corrected to 1-16-78 †2170
165.201 Added (temporary) †12682
165.513 Added (temporary) †10342
173.3 (a) revised †17941
173.21 (b) revised †17941
181.31 (b) added †14964
181.701 — 181.705 (Subpart G) Added; eff. 9-1-78 †9767
181.705 (a) corrected †17356
183 Technical correction 41634
183.445 (a) revised 36253
183.450 (d) and (e) revised 36253
183.516 (b) and (c) amended 36253
183.520 Heading amended 36253
183.524 (c) revised 36253
183.526 (a) removed 36253
183.532 Table 7 revised 36253
183.534 Revised 36253
183.582 (a) amended 36253
183.590 (a)(2) revised 36253

Chapter II—Corps of Engineers, Department of the Army

203 Revised †1434
204.30 (d) and (e) revised 41281
204.202a (b)(9) revised †20802
204.216 (a) amended; heading and (b) revised 40196
204.222b (a) revised 46520
207.35 Superseded by 162.15 51773, 57961
207.36 Superseded by 162.20 51773, 57961
207.40 Superseded by 162.25 51773, 57961
207.70 Superseded by 162.30 51773, 57961
207.80 Superseded by 162.35 51773, 57961
207.100 (g), (i), (l), (r), and (s) superseded by 162.40 (a) through (f) 51773, 57961

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207.127	Removed	51574
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207.140	Superseded by 162.50	51773, 57961
207.154	Superseded by 162.55	51773, 57961
207.157a	Superseded by 162.20	51773, 57961
207.160	(f) superseded by 162.65 (a) (1) through (3) and (b)	51773, 57961
207.164c	Added	38177
207.172	Superseded by 162.70	51773, 57961
207.180	(e)(1) through (4), (5)(i) and (iii) through (vi) correctly superseded by 162.75 (a)(1) through (3), (b)(1) through (4), and (5)(i) through (v)	51773, 57961
207.200	(b) (2) through (3), (c), and (d) superseded by 161.402 (a) (1) through (3), (b), and (c)	51773, 57961
	(e) superseded by 162.80(a)	51773, 57962
207.260	(d) superseded by 162.85 (a)	51773, 57962
207.275	(a)(3), (e)(1), (2)(i) through (iii) and (v) through (vii), and (3) through (6) correctly superseded by 162.90 (a)(1) through (3), (b)(1), (2)(i) through (vi), and (3) through (6)	51773, 57962
207.301	Superseded by 162.100	51773, 57962
207.306	(a) and (c) superseded by 162.105 (a) and (b)	51773, 57962
207.400	(a) (1), (2), and (4) through (8) superseded by 162.110(a) (1) through (7)	51773, 57962
207.410	(a), (b), and (d) through (j) superseded by 162.115 (a) through (i)	51773, 57962
207.450	Superseded by 162.120	51773, 57962
207.470	(e) through (g), (i) through (l), and (n) correctly superseded by 162.125 (a) through (m)	51773, 57962
207.473	(b) superseded by 162.130 (a)	51773, 57962
207.510	Superseded by 162.135	51773, 57962
207.530	Superseded by 162.140	51773, 57962
207.545	Superseded by 162.145	51773, 57962
207.550	Superseded by 162.150	51773, 57962
207.560	(a) through (c) superseded by 162.155 (a) through (c)	51773, 57962
207.565	(a) and (b) superseded by 162.160 (a) and (b)	51773, 57962
207.570	(a) and (b) superseded by 162.165 (a) and (b)	51773, 57962
207.580	(a) and (b) superseded by 162.170 (a) and (b)	51773, 57962
207.590	(f) superseded by 162.175 (a)	51773, 57962
207.591	Superseded by 162.180	51773, 57962
207.600	(a) and (b) superseded by 162.185 (a) and (b)	51773, 57962
207.610	(a) through (c) superseded by 162.190 (a) through (c)	51773, 57962
207.616	Removed	†3275
207.619	Superseded by 162.195	51773, 57962
207.619a	Superseded by 162.200	51773, 57962
207.640	(k), (o), and (p) superseded by 162.205 (a) through (c)	51773, 57962
207.642	Superseded by 162.210	51173, 57962
207.643	Superseded by 162.215	51773, 57962
207.645	Superseded by 162.220	51773, 57962
207.670	Superseded by 162.225	51773, 57962
207.715a	Superseded by 162.230	51773, 57962
207.718	Revised	†3115
207.750	(f) removed	40909
	(d)(1) through (6), (10), and (l) correctly superseded by 162.235 (a)(1) through (7), and (b)	51773, 57962
	(g) (1), (4) through (6), (7)(i) and (iii), and (11) and (15) revised	60142
	(g)(2), (4), (5), and (11) revised	†14652
207.785	Superseded by 162.240	51773, 57962

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207.800	(a), and (c) through (h) correctly superseded by 162.250	51773, 57962
207.802	(b)(3) revised	58519
207.804	(b)(3) revised	58519
207.810	Superseded by 162.260	51773, 57962
207.812	Superseded by 162.265	51773, 57962
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208.16	Removed	56329
208.17	Removed	56329
208.23	Removed	56329
208.24	Removed	56329
208.30	Removed	56329
208.31	Removed	56329
208.35–208.81	Removed	56329
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209.125	Removed	37133
209.131	Removed	37133
209.133	Removed	37133
209.141	Added	†8258
209.147	Added	62118
209.150	Removed	37133
209.190	Revised	†22971
209.260	Removed	37133
209.325	Revised	†19661
221	Added	†4979
	Appendix A added	†4982
	Appendix B added	†4984
222.2	Appendix A amended	47204
222.5	Added	†14013
238	Added	†19804
257	Added	54286
274	Added	41119
278	Added	38569
279	Added	†14014
305	Added	†13990
320	Added	37133
321	Added	37138
322	Added	37139
323	Added	37144
324	Added	37147
325	Added	37149
326	Added	37158
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328	Added	37161
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161	†6906, 15586, 18571
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207	51618, 58960
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208	53637, 57141
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232	Removed	56121
235	Removed	†2722
271	Removed	35833, 35853

TITLE 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

10.13	(a)(30) added	†11577
10.14	(a)(2)(xli) added	†11577
69.312	(a) revised	40197

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119.12 (h) amended	†13380
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119.16 (b) removed; (c) through (g) redesignated as (b) through (f)	†13380
119.23 Revised	†13380
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119.105—119.108 Removed	†13381
119.141 (a)(4) removed; (a)(5) and (6) redesignated as (a)(4) and (5)	†13381
119.183—119.187 (Subpart E) Heading revised	†13381
119.183 Heading and (a) revised; (e) added	†13381
119.184 Revised	†13381
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119.186 Heading and introductory text revised	†13381
119.221 Revised	†13381
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TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior

7.3 (h) added	37812
7.4 (i) added	†1793
7.7 (a)(1)(i) and (iii) revised; (a)(2)(v) added	†14308
7.13 (b)(2) revised	†21460
7.14 (c) added	37812
7.20 (a) revised	62483
7.25 (b)(1) revised	†17357
7.34 (b)(3)(i) revised	61042
7.75 (a)(1)(iii) revised	†6229
17 Added	46303
17.3 Amended	†3360
50.19 (e)(1) and (2) revised; (e)(3) through (10) redesignated as (e)(4) through (11); new (e)(3) added	†14654
60.5 Removed	47658
60.7 Removed	47658
60.8 Removed	47658
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63 Added	47664
67 Added	54549
67.9 Added	40437

Chapter II—Forest Service, Department of Agriculture

200.2 (d) amended	40438
211.2 Effective date corrected to 7-28-77	38178
211.19 Effective date corrected to 7-28-77	38178
211.20—211.37 Effective date corrected to 7-28-77	38178
212.7 (a) revised; (b) removed	†20007
212.20 Revised	†20007
212.21 Revised	†20007
215 Added	†11827
222.1—222.11 (Subpart A) Added; redesignated in part from Part 231	56732
223.1 (e)(3) amended	35958
223.3 (m) revised	63777
223.6 Revised	†21882
223.10 (c)(2) revised	61452
231 Redesignated in part as 222.1—222.11 (Subpart A)	56732
251.52 (b) and (d) introductory text amended	59386
254.20—254.28 (Subpart B) added	†5821
261.1 Revised	35958
261.1a Added	35958
261.2 (r) revised; (s) added	35959
261.6 (f) and (g) revised	35959
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261.16 Heading and (c) revised; introductory text added	35959
261.19 Revised	35959
261.21 Added	35959
261.50 (e)(1) revised; (f) removed; (g) redesignated as (f)	35959
261.52 (d), (h), and (j) revised	35959
261.58 (w), (x), and (y) added	35959

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264 Added	†23574
291.9 (a), (b), and (c) amended	35959
292.17—292.18 (Subpart D) Added	39387
293.3 Existing text designated as (a); (b) added	35959
293.9 Removed	35960
293.15 (b) removed	35960
293.17 (c) added	35960
295 Revised	†20008

Chapter III—Corps of Engineers, Department of the Army

327.4 Revised; eff. 11-15-78	59077
328 Added	59078
330 Added	61986

Chapter IX—Pennsylvania Avenue Development Corporation

904 Added	†22708

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1.5 (a) revised	†20461
1.8 (a) introductory text and (2)(i) revised; (a)(2)(xi) added	†20461
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1.12 Revised	†20461
1.14 (a) and (c) revised	†20462
1.21 (w) and note added	†20462
1.23 Revised	†20462
1.25 (b) revised	†20462
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1.52 (a) and (b) revised	†20462
1.55 (d) added	†20463
1.57 Revised	†20463
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1.61 Added	†20463
1.70 Added	†20463
1.72 (b) revised	†20464
1.75 (c) revised; (f) and (g) added	†4015
1.77 Revised	†20464
1.78 (a) revised	†20464
1.81 Revised	†4015
1.83 (c) added	†4015
1.84 (a) through (f), (i), (j), and (l) revised	†20464
1.104 (c), (d), and note added	†20465
1.141 Revised	†20465
1.146 Revised	†20465
1.318 Added	†20465
1.331 (a) and (c) revised	†20465
1.401—1.482 (Subpart C) Added	†20466
3.56 Added	†20469
3.57 Added	†20470
5.1 Revised	†20470
5.3 Revised	†20470
5.11 Revised	†20471
5.13 Revised	†20471
5.14 (b) and (c) revised	†20471
5.15 (a) revised	†20471
5.17 Revised	†20471

Chapter II—Copyright Office, Library of Congress

201.4 Revised	†772
201.5 Revised	†773
201.8 Revised	†772
201.10 Added	45920
201.11 Revised	†960
201.12 Added	53961
201.13 Added	64684
201.14 Added	59265
201.15 Added	63778
201.16 Added	63780
201.17 Added	†962
201.18 Added	64891
201.19 Added	64892
202.3 Revised	†966
202.4—202.9 Removed	†966
202.10 (a) and (c) removed	†966
202.11 Removed	†966
202.12 (a) and (b) removed	†966

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Title 37, Chapter II—Continued

	Page
202.13 Removed	†966
202.14 (a) and (b) removed	†966
202.15 Removed	†767
202.15a Removed	†966
202.16 Removed	†767
202.17 Revised	†964
202.19 Added	†767
(d)(2)(ii) revised	†12321
202.20 Added	†768
(b)(2), (c)(2)(ix) and (d) revised	†11702
(c)(2)(ii) revised	†12321
202.21 Added	†770
(a), (c) and (e) revised	†11703
203 Added	†744
204 Added	†776

Title 37—*Proposed Rules:*

2	40450
	†4441
4	40450
201	41437, 41438, 42362, 44247, 53980, 54840, 61051, 64374
202	59302
203	61476
204	61476
Ch. III	62019
	†6262, 6263
302	†19423
303	†20513

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

	Page
1.554 (a)(3) revised	37976
2.6 Introductory text and (e) revised	41409
(e)(3) revised	†10560
(f) added	†22973
2.75 Revised	41424
2.80 Revised	†3707
3.12 (c)(6) and (g) through (j) added; (c)(5) and (f) revised	†15153
3.13 (b) revised; (c) added	†15154
3.261 (a)(20) revised	43834
3.350 (a) introductory text, (f)(1)(i) and (iii), (2)(i) and (iii) and (h) revised	†14017
3.359 Added; eff. 10-14-76	†4424
3.360 Added	†15154
3.400 (x) and (y) added	†11703
3.460 Introductory text revised	†14018
3.461 Revised	†14018
3.552 (g) revised	†14018
3.808 (a) and (b)(1) introductory text revised	†4423
3.809 (b)(3) and (d) revised; (b)(4) added	†14018
8.0 (b)(2) revised	62367
8a.1 (a), (c), and (e) revised; (h) removed	43835
8a.2 (a), (b)(1), (4), (5), (6) and (8) revised; (b)(9) and (c) added	43835
8a.3 Revised	43835
8a.4 (b), (c) and (d) revised	43836
13.56 (a) and (b) revised	34282
13.400 Removed	41410
13.401 Removed	41410
13.402 Removed	41410
14.500 Revised	41410
14.501 Revised	41411
14.502 Revised	41411
14.503 Revised	41411
14.504 Revised	41411
14.505 Added	41411
14.507 Added	41411
14.514 Revised	41411
14.515 Revised	41412
14.516 Revised	41412
14.517 Revised	41413
14.518 Revised	41413
14.560 Revised	41413
14.561 Revised	41413
14.562 Redesignated from 14.563 and revised	41413
14.563 Redesignated as 14.562; new 14.563 redesignated from 14.583 and revised	41413
14.583 Redesignated as 14.563 and revised	41413
14.600 (a) and (b) introductory text and (b)(1) revised	41414
14.601 Revised	41414
14.602 Revised	41414
(c) and (d) revised	†2722
14.603 (a) revised	41414
14.604 Revised	41414
14.605 Revised	41415
14.606 (a) revised	41415
14.607 Introductory text, (a) and (b) revised	41415
14.608 Revised	41416
(a) and (b) revised	†2722
14.609 Revised	41416
14.610 Revised	41417
14.615 (b) and (c) revised	41417
14.616 (b) revised	41418
14.617 (a) revised	41418
14.618 (a), (b), and (c) revised	41418

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	Page
14.619 Undesignated center heading and section added	41418
(b) and (c) revised	†10560
14.620 (b) through (e) revised	41418
14.626 (a)(2) revised	41419
14.627 Introductory text, (a), and (c) revised	41419
14.628 Revised	41419
14.629 (a) and (b)(1) and (4) revised	41419
14.630 Revised	41420
14.632 Redesignated from 14.635 and revised	41420
14.633 Redesignated from 14.636 and revised	41420
14.634 Redesignated from 14.637 and revised	41420
14.635 Redesignated as 14.632 and revised	41420
14.636 Redesignated as 14.633 and revised	41420
14.637 Redesignated as 14.634 and revised	41420
14.638 Revised	41420
14.639 Revised	41420
14.642 Revised	41421
14.646 Revised	41421
14.649 Revised	41421
14.650 Revised	41421
14.651 Revised	41421
14.657 Revised	41421
14.660 Redesignated from 14.663 and revised	41421
14.663 Redesignated as 14.660 and revised	41421
14.664 Revised	41421
14.665 (a) introductory text and (3), and (c) revised	41421
14.666 Revised	41422
14.667 (a)(2), and (4) revised	41422
14.668 (b)(2) revised	41422
14.700—14.709 Undesignated center heading and sections added	41422
17.50d Revised	55212
17.261 Revised	54804
17.262 Revised	54804
17.266 (e) revised	54804
17.270 Introductory text and (a) revised	54805
17.281 Revised	54805
17.285 Revised	54805
17.286 Removed	54805
17.287 Revised	54805
17.290 Revised	54806
18.3 (d) added	60144
21.1045 (f) revised	34517
21.4001 (c)(1) revised	†3707
21.4005 (a)(1) and (2), (b), (c), and (e) revised; (f) added	†3707
21.4233 (a)(1) revised	49454
21.4234 (d)(2) revised	49455
21.4235 (h) and (i) added	49455
21.4237 Heading, (a) introductory text and (d) revised; (h) and (i) added	49455
21.4255 (d) and (e) revised; (f) added	†3909
21.4272 (f) and (g) revised	49455
36.4212 (a)(2) and (3) revised	†9274, 22717
36.4311 (a) revised	†9274, 22717
36.4503 (a) revised	†9274, 22717

Title 38—*Proposed Rules:*

0—36 (Ch. I)	†2685
1	†1628
2	57328
	†1631, 12892
3	34528, 59390, 60167, 62396, 64640
	†2737, 5856
8	40452
14	†12893, 17482
17	39409, 41439
18d	†19166
21	36484, 37019, 54954, 57328
	†5549, 6722, 6969, 9322, 10581, 10706, 15336, 22059
36	†10583, 17840

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service

	Page
10.4 (b) incorporation by reference time extended	†22717
111.3 PSM amendments described	38905, 41635, 46742, 55617, 58170
PSM amendments described	†1620, 3118, 4991, 7317, 14019, 14312, 19043, 21328
111.4 (b) incorporation by reference time extended	†22717
232.2 (a)(16) added	63170
233.1 (b)(1) and (b)(2) note amended	43836
241 Heading revised	59082
241.1 (c) removed	59082
243.2 (g) removed; (h) and (i) redesignated as (g) and (h)	33722
247 Added	59032
248 Added	59085

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Title 39, Chapter I—Continued

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259.1 (a) amended; (b), (c), and (d) redesignated as (c), (d), and (e); new (b) added 58170
(c) amended 63170
265.6 (a)(2) amended 59085
265.8 (b)(3) amended 63170
265.10 Appendix A revised 63170
601.100 Incorporation by reference time extended †22717
601.103 (t) through (w) redesignated as (u) through (x); new (v) revised; new (t) added 35158
601.105 Table amended 35158, 35648, 62368

Chapter III—Postal Rate Commission

3002.3 Revised 63781

Title 39—*Proposed Rules:*

111 38604, 38506, 39411, 40219, 40922, 43868, 48349, 56509, 56960
†1966, 6111, 6263, 6972, 9831, 12044, 15165, 19689
232 63911
241 42695, 44821
245 42695, 44821
246 42695, 44821
247 42695, 44821
248 42695, 44821
257 63903
259 43647
265 42695, 44821

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

1—610 (Chapter I) Appendix A added 60912
3.300—3.307 (Subpart C) Appendix D revised 62136
Appendix F heading revised; Appendix G added 62137
Appendix F heading revised †1338
Appendix H added †1339
3.301 (a) and (d) amended 62135
(a) and (d) amended †1338
3.305 (d)(3) through (5) added; (f) and (g) revised 62135
3.306 (d)(3) and (4) added; heading, (f) and (g) revised 62135
3.307 Added 62135
3.308 Added †1339
3.607 (d) revised; (e) added 62137
(f) added †1339
20.1 Revised †1340
20.2 (a), (b)(1), and (f) revised †1340
20.3 (h) amended †1340
20.5 (d) through (g) and (n) revised; (o) added †1340
20.8 (a)(2) and (3), (b)(1), (2) and (3), (d), and (e) revised †1341
30 Authority citation revised 56051
30.101 (c) revised 56051
30.305-2 (a) (3), (4), and (14) revised; (a) (15) and (16) added 56051
30.305-5 (a) revised 56051
30.515 Existing text designated as (a); new (b) added 56051
33 Interim regulations; effective date extended to 3-1-78 53600
Interim regulations; effective date extended to 10-1-78 †10342
35.300—35.340 Text and undesignated center heading removed 56051
35.400—35.425 (Subpart B) Revised 56051
35.605-1 (c) and (d) revised †1494
35.613 (b) revised; (d) redesignated as (e); new (d) added †1494
35.626-2 (a) revised †1494
35.700—35.744 Text and undesignated center heading added 56052
35.850—35.880 (Subpart D) Revised †7426
35.900—35.965 (Subpart E) Appendix A revised †17712
35.903 (b) revised †17703
35.905-6 Revised †17703
35.905-8 Revised †17703
35.905-23 Revised †17703
35.905-26 Revised †17703
35.905-28 Added †17703
35.909 Added †17704
(b) introductory text and (1) correctly added †21460
35.910-1 Revised †1598
35.910-2 Revised †1598
35.910-7 Added †1598
35.913 Removed †17717
35.915 Revised †17704
35.915-1 Added †17706
35.917-1 (b) revised; (d)(5)(iv) added †17706
35.917-2 (a)(4) added †17706
35.918—35.918-3 Added †17706
35.920-3 (d) and (e) revised †17707

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35.925-13 Revised †17707
35.925-21 Added †17708
35.928 Revised †17708
(b) corrected †21460
35.928-1 Revised †17708
35.928-2 Revised †17708
35.928-3 Added †17709
35.928-4 Added †17709
35.929—35.929-3 Added †17709
35.930-1 (a)(4) and (b) revised; (a)(5) removed †17711
35.935-4 Added †17711
35.935-9 Revised †17711
35.935-13 Revised †17711
(a)(2) and (b) corrected †21460
35.935-15 Added †17711
35.936-13 (d) added †17712
35.938-9 (b)(5) added †17712
35.939 (j)(6)(i) revised †17712
35.940-3 Revised †17712
35.1000—35.1050 (Subpart F) Added †17717
35.1016 Revised †21460
35.1020 Correctly added †21461
35 Appendix A corrected †21460
40.110 (d) revised 56056
40.115 Revised 56056
40.115-2 (b) revised 56056
40.115-3 (c) revised 56056
40.115-4 (b) revised 56056
40.115-5 Existing text designated as (a); (b) added 56057
40.115-6 Revised 56057
40.115-7 Removed 56057
40.115-8 Removed 56057
40.115-9 Removed 56057
40.115-10 Removed 56057
40.120 Revised 56057
40.120-1 Removed 56057
40.120-2 Removed 56057
40.120-3 Removed 56057
40.125-1 Revised 56057
40.125-2 (c) revised 56057
40.130 (b) revised 56057
40.135-1 (a)(1) revised; (c) added 56057
40.135-2 Amended 56057
40.140-2 Removed 56057
40.145-1 Revised 56057
40.160-2 Revised 56057
45.102 (d) revised 56057
45.115 (c) revised 56057
45.135 (f) added 56058
45.145 Amended 56058
51 Policy memorandum †21673

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52.21 (b)(7), (c)(2), and (c)(3)(i), (v)(*a*), and (vi)(*a*) revised; (b) (8) and (9) added 57461
(b)(8) corrected 59500
52.50 (c)(17) added 44235
(c)(16) added 55811
52.120 (c)(11) added 36999
(c) (9), (10), and (11) redesignated as (12), (14), and (15); new (9), (10), (11), and (13) added 46926
52.125 (h) added 36999
(d) added †759
Authority citation added †760
(e) added †6945
52.126 (b) introductory text and (a) revised 46926
52.130 (d) added 46926
52.131 Table amended; footnote (b) revised; footnote (f) removed †761
52.220 (c)(24)(iii)(B) and (ix), (29)(ii) through (iv), (30)(vi)(C), (31)(v)(B) and (vi) through (xii), (32)(iii) and (35)(i)(B) and (ii) through (iv) added; (c)(27)(iv) introductory text and (A), (29)(v) introductory text and (A), (30)(ix) revised 37977
(c)(35)(viii)(A) added 39664
(c)(19) removed 40695
(c)(21)(xiii), (25)(v), (29)(vi), (31)(xiii), and (35)(iii)(B) added; (24)(x) introductory text and (A) revised 41121
(c)(20), (21)(xxiv) through (xxviii), and (23)(ii) and (iii) removed 42224
(c)(21)(i) through (v) and (vii) through (xii), (22)(ii), (23)(i), (24)(iv) through (v), (26)(iii) through (v), (x), and (xiii), (27)(i), (28)(iii) and (iv), (30)(iii) and (32)(ii) revised 42224
(c)(25) introductory text and (i) through (iv), (26)(vi) through (viii) and (x) through (xii) (27)(iii), (28)(v) through (ix), (29) introductory text and (i) and (ii)(B), (30)(iv), (v) and (vi)(A) and (vii) and (viii), (31)(i)(C) through (E) and (v) added 42224
(c)(35)(vi) added 47556

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	Page
(c)(35)(v) added	53962
(c)(35)(i)(A) added	53963
(c)(35)(x) and (37)(ii) added	56113
(c)(25)(vii), (26)(xiv) and (35)(xi) added	56606
(c)(21)(ix)(B), (24)(v)(B), (vi)(B) and (vii)(B), (x)(B), (26)(iv)(B), (viii)(B), (xiii)(B), (xvi)(A), (31)(xvi), (xvii), (32)(iii)(B), (35)(vi)(B), (ix), (xii)(B), (xiv) through (xviii), (37)(i)(B), (iv), (v), and (39) added	†3277
(c)(35)(vii) added	†3279
(c)(35)(xiii) added	†11817
(c)(21)(xvi), (23)(ii), (27)(x), (30)(xi) and (31)(vii)(B) added	†11819
(c)(39)(iv) added	†13879
(c)(38) added	†22721
52.224 (a)(8) added	41122
(a)(1)(ii), (2)(v), (4)(ii) and (5)(ii) and (iv) through (ix), and (6) added	42225
(a)(9) added	56606
52.226 (b) revised	42225
(b)(9)(i) added	47556
(b)(4)(ii) added	†3279
52.231 Reinstated	40695
Revised	42225
(a)(2)(ii) revised	47557
(a)(2)(ii) revised	†11819
52.234 (a)(4) added	41122
(a)(2)(ii) added	42226
(d)(2) and (3) correctly reinstated	†18174
52.236 Added	39664
(b)(3)(ii) and (4)(i) added	†11817
52.246 (b)(2) added	41122
(b) revised	42226
52.252 (b)(2) added	41122
(b) revised	42226
52.253 (b)(2) added	41122
52.254 (a)(1)(ii) through (v) and (2) added	42226
52.255 (b)(c)(3)(v), (d)(1) and (2) revised; (c)(3)(vi) and (vii) removed; (d)(4) and (5) added	37977
52.269 (b)(1)(i) and (ii) added	42226
52.271 Added	†3277
52.272 Added	42226
52.273 (a)(2) added	41122
(a)(3)(ii) revised	47557
(a)(3)(i)(A) added	53962
(a)(1)(i)(A) added	53963
(a)(5)(i) added	56606
(a)(3)(v) and (7)(i) added	†11817
(a)(6)(ii) and (b) added	†11819
52.274 Added	†22721
52.276 Added	56606
52.277 Added	56606
52.470 (c)(7) revised	49812
(c)(7) revised	†16178
52.488 Removed	†16178
52.520 (c)(17) added	57125
52.676 (b)(6) added	58173
52.720 (c)(12) added	39665
(c)(7) revised	†16178
52.770 (c)(12) revised; (c)(16) added	34518
52.771 (c) revised	34519
52.795 (b) added	34519
52.920 (c)(11) added	†3361
52.931 (c) added	†3361
52.970 (c)(6) added	37000
(c)(7) added	37549
52.980 Added	37549
52.1020 (c)(6) and (7) added	†14964
(c)(8) added	†15424
52.1025 (b) and (c) added	†14964
(d) added	†15424
52.1070 (c)(19) through (21) added	†22719
52.1120 (c)(8) revised	35834
(c)(6) revised	42218
(c)(12) added	44236
(c)(15) revised	†22358
Technical correction	†1070
(c)(14) added	†11816
(c)(13) added	†12325
(c)(15) revised	†22358
52.1126 (e) revised	35834
(f) added	42218
(d) added	44236
(d) revised	†1795
(g) added	†12325
52.1131 (a) corrected	37978
52.1224 (b)(5) added; eff. 10-6-77	†10
52.1234 (c) added; eff. 10-6-77	†10
52.1270 (c)(8) and (9) added	†22358
52.1382 (c) added	40697
52.1470 (c)(6) through (9) revised; (c)(11) added	†1342
(c)(10) added	†3278
52.1473 (a) amended; (c) removed	†1342
52.1474 (a) removed	†3278
52.1477 Removed	†1343
52.1484 Added	†1343
52.1486 Added	†1343
52.1487 Added	†1343
52.1620 (c)(9) added	53963
52.1633 Removed	53963
52.1670 (c)(33) added	43079
(c)(34) added	56607
(c)(35) added	58520
Authority citation and (c)(36) added	61453
(c)(37) added	†17358
(c)(38) added	†17359
52.1685 Removed	58520
52.1686 Removed	58520
52.1820 (c)(8) added	37550
(c)(9) added	55471
52.1830 Table amended	37551
52.1870 (c)(13) added	†4259
(c)(12) added	†4611
52.1880 (b) added	†4259
(c) correctly added	† 4611, 16736
52.1920 (c)(8) added	39389
(c)(9) added	55472
(c)(10) added	63782
(c)(9) revised	†9275
(c)(11) added	†13574
52.1926 Removed	39389
52.1931 Added	63782
52.1932 Added	†13574
52.2020 (c)(15) added	54417
52.2054 Added	54417
Technical correction	†1070
52.2220 (c)(28) Added	†11820
52.2233 (c) added	36456
52.2270 (c)(14) added	34518
(c)(13) added	37380
(c)(15) added	†9276
52.2272 Revised	37380
52.2275 Revised	37380
52.2279 Amended	37380
52.2283 (a), (b)(1), (2), (3) and (4), and (c) revised	37380
52.2285 Revised	37380
52.2286 Revised	37381
52.2289 Revised	37382
52.2291 Removed	37383
52.2292 Removed	37383
52.2294 Revised	37383
52.2295 Removed	37384
52.2296 Revised	37384
52.2297 Revised	37384
52.2298 Revised	37386
52.2420 (c)(13) and (14) revised	58406
(c)(17) and (18) added	†9604
52.2435 (h) added	58406
52.2486 (q) added	38355
52.2489 (i) added	38355
52.2770 (c)(9) added	†4016
52.2780 (b) revised	†4016
55.570 (a)(1)(iii), (iv), (vi), and (vii) revised	56608
55.872 (a) introductory text and (1) revised	†14471
55.1520 Removed	41282
60 Authority citation revised	41424
Authority citation revised	†8800
60.2 (i) revised	†9278
60.3 Revised	37000
(a) corrected	38178
60.4 (b)(FF) revised	37387
(b)(BB) revised	44545
(b)(ZZ) added	46304
(b)(BBB) revised	62137
(b)(Y) added; eff. 10-6-77	†10
(b)(S) added	†3361
(b)(I) revised	†6771
(b)(D), (F), and (DD) revised	†20987
60.7 Authority citation added	41424
Authority citation revised	†8800
60.8 Authority citation added	41424
(c) revised	57126
Authority citation revised	†8800
60.9 Authority citation added	41424
Authority citation revised	†8800
60.10 Authority citation added	41424
Authority citation revised	†8800
60.11 Authority citation added	41424
Authority citation revised	†8800
60.13 Authority citation added	41424
(a) revised	†7572
Authority citation revised	†8800
60.24 (g) authority citation added	41424
Authority citation revised	†8800
60.30—60.34 (Subpart C) Added	55797
60.40 Revised	37936
(c) revised; (d) added	†9278
60.41 (f) added	†9278
60.42 (a)(2) revised	61537
60.44 (a)(4) and (5), (c) and (d) added; (b) revised	†9278
60.45 (f)(4)(iii) and (iv) and (5) corrected; (f)(4)(v) revised	41122
Authority citation added	41424
(g)(1) added	61537
Authority citation revised	†8800
(f)(4)(vi) added	†9278
60.46 Authority citation added	41424
Authority citation revised	†8800
60.50 Revised	37936
60.53 Authority citation added	41424
Authority citation revised	†8800
60.54 Authority citation added	41424
Authority citation revised	†8800
60.60 Revised	37936

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	Page
60.63 Authority citation added	41424
Authority citation revised	†8800
60.64 Authority citation added	41424
Authority citation revised	†8800
60.70 Revised	37936
60.73 Authority citation added	41424
Authority citation revised	†8800
60.74 Authority citation added	41424
Authority citation revised	†8800
60.80 Revised	37936
60.84 Authority citation added	41424
Authority citation revised	†8800
60.85 Authority citation added	41424
Authority citation revised	†8800
60.90 Revised	37936
60.93 Authority citation added	41424
Authority citation revised	†8800
60.100 Revised	37937
Revised	†10868
60.101 (i) through (m) added	†10869
60.102 (a)(2) effective date corrected to 6-24-77	38178
(a)(2) corrected	39389
(a) introductory text and (b) revised	†10868
60.104 Revised	†10869
60.105 (e)(1) effective date corrected to 6-24-77	38178
(e)(1) corrected	39389
Authority citation added	41424
Authority citation revised	†8800
(a)(2) and (4) through (6) and (e)(2) and (3) added	†10869
60.106 (e) effective date corrected to 6-24-77	38178
Authority citation added	41424
Authority citation revised	†8800
(c) and (d) revised	†10869
60.110 Revised	37937
60.113 Authority citation added	41424
Authority citation revised	†8800
60.120 Revised	37937
60.123 Authority citation added	41424
Authority citation revised	†8800
60.130 Revised	37937
60.133 Authority citation added	41424
Authority citation revised	†8800
60.140 Revised	37937
60.141 (c) added	†15602
60.142 (a)(2) added	†15602
60.143 Added	†15602
60.144 Authority citation added	41424
Authority citation revised	†8800
(a)(5) and (c) added	†15602
60.150 Revised	37937, 58521
60.153 Authority citation added	41424
Revised	58521
Authority citation revised	†8800
60.154 Authority citation added	41424
Authority citation revised	†8800
60.160 Revised	37937
60.165 Authority citation added	41424
(d)(2) revised	57125
Authority citation revised	†8800
60.166 Authority citation added	41424
Authority citation revised	†8800
60.170 Revised	37937
60.175 Authority citation added	41424
Authority citation revised	†8800
60.176 Authority citation added	41424
Authority citation revised	†8800
60.180 Revised	37937
60.185 Authority citation added	41424
Authority citation revised	†8800
60.186 Authority citation added	41424
Authority citation revised	†8800
60.190 Revised	37937
60.194 Authority citation added	41424
Authority citation revised	†8800
60.195 Authority citation added	41424
Authority citation revised	†8800
60.200 Revised	37937
60.203 Authority citation added	41424
Authority citation revised	†8800
60.204 Authority citation added	41424
Authority citation revised	†8800
60.210 Revised	37937
60.213 Authority citation added	41424
Authority citation revised	†8800
60.214 Authority citation added	41424
Authority citation revised	†8800
60.220 Revised	37938
60.223 Authority citation added	41424
Authority citation revised	†8800
60.224 Authority citation added	41424
Authority citation revised	†8800
60.230 Revised	37938
60.233 Authority citation added	41424
Authority citation revised	†8800
60.234 Authority citation added	41424
Authority citation revised	†8800
60.240 Revised	37938
60.243 Authority citation added	41424
Authority citation revised	†8800
60.244 Authority citation added	41424
Authority citation revised	†8800
60.250 Revised	37938
(b) corrected	44812
60.253 Authority citation added	41424
Authority citation revised	†8800
60.254 Authority citation added	41424
Authority citation revised	†8800

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	Page
60.260 Revised	37938
60.264 Authority citation added	41424
Authority citation revised	†8800
60.265 Authority citation added	41424
Authority citation revised	†8800
60.266 Authority citation added	41424
Authority citation revised	†8800
60.270 Revised	37938
(b) corrected	44812
60.273 Authority citation added	41424
Authority citation revised	†8800
60.274 Authority citation added	41424
Authority citation revised	†8800
60.275 Authority citation added	41424
Authority citation revised	†8800
60.280—60.285 (Subpart BB) Added	†7572
60.340—60.344 (Subpart HH) Added	†9453
60 Appendixes A through D authority citations added	41424
Appendix A amended	41755
Appendix A amended	†1495
Appendixes A through D authority citations revised	†8800
Appendix A amended	†10870, 11984
61 Authority citation revised	41424
Authority citation revised	†8800
61.03 Revised	51574
61.04 (b)(FF) revised	37387
(b)(BB) revised	44545
(b)(BBB) revised	62137
(b)(Y) added; eff. 10-6-77	†10
(b)(I) revised	†6771
(b)(D), (F), and (DD) revised	†20988
61.09 Authority citation added	41424
Authority citation revised	†8800
61.10 Authority citation added	41424
Authority citation revised	†8800
61.12 Authority citation added	41424
Authority citation revised	†8800
61.13 Authority citation added	41424
Authority citation revised	†8800
61.14 Authority citation added	41424
Authority citation revised	†8800
61.15 Authority citation added	41424
Authority citation revised	†8800
61.16 Authority citation added	41424
Authority citation revised	†8800
61.24 Authority citation added	41424
Authority citation revised	†8800
61.33 Authority citation added	41424
Authority citation revised	†8800
61.34 Authority citation added	41424
Authority citation revised	†8800
61.43 Authority citation added	41424
Authority citation revised	†8800
61.44 Authority citation added	41424
Authority citation revised	†8800
61.53 Authority citation added	41424
Authority citation revised	†8800
61.54 Authority citation added	41424
Authority citation revised	†8800
61.55 Authority citation added	41424
Authority citation revised	†8800
61.67 Authority citation added	41424
Authority citation revised	†8800
61.68 Authority citation added	41424
Authority citation revised	†8800
61.69 Authority citation added	41424
Authority citation revised	†8800
61.70 Authority citation added	41424
Authority citation revised	†8800
61.71 Authority citation added	41424
Authority citation revised	†8800
61.104 (b)(S) added	†3361
61 Appendixes A and B authority citation added	41424
Appendixes A and B authority citations revised	†8800
80.7 (a) and (a)(1) introductory texts and (a)(1)(i) amended; (a)(2) revised	45307
80.23 (b)(2)(viii) added	45307
81.300—81.356 (Subpart C) Added	†8964
85.001—85.076-35 (Subpart A) Removed	36457
85.101—85.176-1 (Subpart B) Removed	36457
85.201—85.276-35 (Subpart C) Removed	36457
85.301—85.376-39 (Subpart D) Removed	36457
85.701—85.874-39 (Subpart H) Removed	36457
85.801—85.874-39 (Subpart I) Removed	36457
85.901—85.974-39 (Subpart J) Removed	36457
85.1504 (a)(1) revised	36456
85.1601 (a)(3) revised	36457
85.1602 (a)(1) revised	36457
85.1606 Revised	36457
85.1608 (d) revised	36457
85.1802 (a) amended	36456
85.1803 (a) amended	36456
85 Appendixes I through VI removed	36457
86.077-2 (a) revised	45135
86.078-3 (a) revised	45135
86.078-8 (a)(1) revised	40697
86.078-37 (b)(1) revised	45646
86.079-2 Amended	45135

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		Page
86.079–10	Added	45136
	(a)(2)(i) corrected	46927
86.079–11	Added	45136
86.079–21	Revised	45136
86.079–22	Added	45136
86.079–23	Added	45136
86.079–24	Added	45137
	(e)(6) corrected	46927
86.079–25	Added	45139
86.079–26	Revised	45142
86.079–27	Added	45144
86.079–28	Added	45144
86.079–29	Added	45145
86.079–30	Revised	45146
86.079–31	Added	45149
86.078–32	Added	45149
86.079–33	Added	45149
89.079–34	Added	45149
86.079–35	Revised	45149
86.079–36	Added	45150
86.079–37	Added	45150
86.079–38	Added	45151
86.079–39	Added	45151
86.080–2	Added	45646
86.080–10	Added	45151
86.080–11	Added	45152
86.080–24	Added	45152
	Revised	45647
86.080–26	Added	45649
86.108–78	Revised	45651
86.108–79	Added	45651
86.113–78	(b) (2) and (3) amended; (b) (2) and (3) tables revised	45651
86.113–79	(a) added	45651
86.114–78	(a)(7) added	45652
86.121–78	(b)(3) revised	45652
86.123–78	(b)(3) revised	45652
86.129–79	(a) table, (b), and (c) revised	45652
86.129–80	Added	45653
86.135–78	(h) added	45654
86.136–78	(c) revised	45654
86.137–78	(b) (1), (11), (13), (16) and (17) amended; (b)(7) revised	45655
86.142–78	(f) revised; (p) added	45655
86.142–80	Added	45655
86.144–78	(d) (1), (2) and (3) amended; (a) and (d)(4) revised	45655
86.301–79—86.347–79	(Subpart D) Added	45154
86.402–78	Amended	56737
86.413–78	(a)(2) revised	56737
86.416–78	(a)(2)(ii) revised	56737
86.416–80	Added	56737
86.426–78	(a) revised; (c) added	56737
86.428–78	(f) revised	56737
86.432–78	(a) and (e) revised	56737
86.436–78	(b) and (e)(2) revised	56737
86.437–78	(b)(1)(ii) and (3) revised	56738
86.440–78	(a)(2)(ii) revised	56738
86.442–78	(a)(1) revised	56738
86.508–78	(c) revised	56738
86.513–78	(b) revised	56738
86.519–78	(a)(9) revised	56738
86.535–78	(c) revised	56738
86.537–78	(b)(6) through (21) redesignated as (b)(7) through (22); new (b)(6) added; (b)(3), (11), (13), and (18) revised	56738
86.540–78	(a) through (g) redesignated as (b) through (h); new (a) added	56739
86.542–78	(f) revised; (o) added	56739
86.544–78	(c) and (d)(4) amended; (d) introductory text revised	56739
86.603	(c) amended	†4552
86.605	(a)(2)(v) revised	†4552
86.607	(i) revised	†4552
86.608	(c)(1) and (i) revised	†4552
	(a) revised	†4554
86.609	Heading, (a), (b), (c), (d)(3) and (d)(4)(iii) revised	†4552
86.610	(a), (b) and (c) revised	†4553
86.612	(f)(1)(ii) and (g)(2) revised	†4553
86.613	(b)(3) revised	†4553
86.777–1—86.777–15	(Subpart H) Heading revised	45171
86.777–1	Revised	45171
86.879–5	Added	45171
86.879–6	Added	45171
86.879–7	Added	45171
86.879–8	Added	45172
86.879–9	Added	45172
86.879–10	Added	45173
86.879–11	Added	45173
86.879–12	Added	45173
86.879–13	Added	45174
86.879–14	Added	45174
86.977–1—86.977–15	(Subpart J) Heading revised	45174
86.977–1	Revised	45174
86	Appendix IX heading revised; Appendix X added	†4554
87.21	(d) revised	†12614

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		Page
87.51	(a) revised	†12614
87.52	Revised	†12614
116	Added; eff. 6–12–78 and 9–11–78	†10479
117	Added; eff. 6–12–78 and 9–11–78	†10489
118	Added; 6–12–78 to 9–11–78	†10493
119	Added; 6–12–78 and 9–11–78	†10498
120.5—120.11	Removed	56740
120.12	Redesignated from 120.104 and (a) and (b) removed; (c) redesignated as (a)	56740
120.21	Redesignated as 120.27 and introductory text removed	56740
120.22	Removed	56740
120.27	Redesignated from 120.21 and introductory text removed	56740
120.104	Redesignated as 120.12 and (a) and (b) removed; (c) redesignated as (a)	56740
120.115	Removed	56740
124.42	(a)(6) revised	†22163
124.46	Revised	†22163
124.47	Redesignated as 124.49 and revised; new 124.47 added	†22163
124.48	Added	†22163
124.49	Redesignated from 124.47 and revised	†22164
124.100—124.108	(Subpart L) Added; interim	†21270
124	Appendix D added	†22164
125.5	(a)(5) added; interim	†21272
125.26	(c) added; interim	†21272
	(d) added	†22166
125.35	(d)(2) amended; interim	†21272
133.103	(c) added	54665
136.3	Table 1 corrected; footnote 27 added	37205
	Table 1; technical correction	39977
140.4	(b)(1) added	43837
142.10	(b)(6)(vi) revised	†5373
142.15	(b)(1) revised	†5373
149	Revised	51578
162.10	(i)(2)(x)(D) removed; (j)(2) revised	†5786
162.30	Added	44171
	(d) through (i) added	†5786
162.31	Added	†5790
180.2	(a) revised	40909
180.3	(e)(5) corrected	†12682
180.111	Revised	†22974
180.150	Revised	†22359
180.209	(b) amended	†1796
180.213a	Revised	†1796
180.215	Revised	46304
180.225	Revised	56113
	Corrected	61259
	Amended	64685
180.242	(a) table amended	44812
180.269	Amended	51580
180.275	Revised	56114
	Table amended	†22725
180.287	Removed	†3709
180.319	Table amended	46305
180.332	Revised	62913
180.345	Added	†14021
180.355	(a) amended	39978
	(a) amended	†14020
	(a) technical correction	†15155
180.356	Revised	40910
	Correctly designated	46305
180.370	Added	†22973
180.1001	(c) and (d) tables amended	35159
	(c), (d), and (e) tables amended	40909
	(d) table amended	47205
	(c) and (e) tables amended	63783
180.1036—180.1038	Added	47205
180.1039	Added	61985
	Correctly designated	56114
180.1043	Added	†20803
204.4	(b) amended	41635
204.5–5	(c) and (d) revised	61454
204.5–6	(a) amended; (b) revised	61454
204.5–7	Amended	41635
204.51	(k) amended	41635
204.53	(a)(1)(iv) added	61455
204.55–2	(f) amended	41635
	(a) revised	61455
204.55–4	(a) amended	41635
204.55–8	(a)(4) introductory text amended; (a)(4)(iii) revised	61455
204.55–11	(b) amended	61455
204.56	(b) revised; (c) removed	61455
204.57–1	(c) amended	41635
	(h) amended	61455
204.57–5	(d) added	41635
204.57–8	(a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added	61455
204.57–9	(a) revised	61455
204.58–1	(d) amended	41635
204.58–2	(g) amended	41635
204.58–3	(e) amended	41635
	(d) revised	61455
204.59	(d) amended	61456
205.2	(a)(6) removed; (a)(26) revised	61457

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	Page
205.4 (b) amended	†12326
205.5–2 (e) correctly designated; (a) introductory text revised; (f) added	61457
205.5–3 Removed	61457
205.5–5 (c) and (d) revised	61457
205.5–6 (a) amended; (b) revised	61457
205.5–7 Amended	†12326
205.50—205.59 (Subpart B) Stayed in part until 2–21–78	59975
Letter of interim warranty	60741
Effective date corrected	60912
Effective date stayed in part	†1796
205.51 (a)(29) revised	61456
(a) (3), (5), and (23) revised; (a) (8) and (9) amended	61458
205.52 (c) amended	61456
205.53 (a)(2)(ii) amended	61458
205.54–1 (b) (1) and (2) amended; (d)(4) revised	61456
205.54–2 (a)(1)(iii) introductory text revised; (a)(1)(iv), (2)(i), and (3)(i) amended	61456
205.55–1 (b) revised	61456
205.55–2 (a) and (b)(1) revised	61458
(f) amended	†12326
205.55–4 (b)(4)(i) revised	61456
(b)(4)(ii) and (6) revised	61458
(a) amended	†12326
205.55–6 (a) revised	61458
205.55–9 (a) amended	61458
205.55–11 (a)(3)(iii) revised	61456
(a)(3) introductory text amended; (a)(3)(v) removed; (b) added	61458
205.56 (a)(2) amended	61456
(a)(1), (b), and (c) revised; (a)(3) added	61459
205.57–1 (a) and (e)(1) revised; (c) amended	61459
(c) amended	†12326
205.57–2 Heading and (e) revised	61459
205.57–5 (a) and (b) removed; (c) redesignated as new (a); new (a) introductory text amended; new (a)(3)(ii) and (5) revised	61459
(b) revised	†12326
205.57–7 (d) revised	61460
205.57–8 (a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added	61460
205.57–9 (a) revised	61460
205.58–1 (d) amended	†12326
205.58–2 (g) amended	†12326
205.58–3 (d)(3) revised; (e) amended	61456
(e) amended	†12326
205 Appendix I amended	61460
220.3 (d) corrected	†1071
223 Revised	60703
226 Revised	60705
227.6 (c)(3) corrected	†1071
227.27 (b) corrected	†1071
228.11 (b) corrected	†1071
228.12 (a) and (b) corrected	†1071
249 Added	†1903
254 Added	56115
406.12 (b) revised; (c) added	62371
Effective date corrected	64345
406.13 Revised	62372
Effective date corrected	64345
413.11 (d) revised; (e), (f), and (g) added	35839
Comment time extended	48877
Hearing	†22360
413.14 Added	35839
Comment time extended	48877
Hearing	†22360
413.21 (d) revised; (e), (f), and (g) added	35840
Comment time extended	48877
Hearing	†22360
413.24 Added	35840
Comment time extended	48877
Hearing	†22360
413.41 (d) revised; (e), (f), and (g) added	35840
Comment time extended	48877
Hearing	†22360
413.44 Added	35840
Comment time extended	48877
Hearing	†22360
413.51 (d) revised; (e), (f), and (g) added	35841
Comment time extended	48877
Hearing	†22360
413.54 Added	35841
Comment time extended	48877
Hearing	†22360
413.61 (d) revised; (e), (f), and (g) added	35841
Comment time extended	48877
Hearing	†22360
413.64 Added	35841
Comment time extended	48877
Hearing	†22360
413.70—413.74 (Subpart G) Added	35842
Comment time extended	48877
Hearing	†22360

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413.80—413.84 (Subpart H) Added	35842
Comment time extended	48877
Hearing	†22360
415.10 Amended	37299
Comment time extended	58747
415.14 Added	37299
Comment time extended	58747
415.20 Amended	37299
Comment time extended	58747
415.24 Added	37299
Comment time extended	58747
415.120 Amended	37299
Comment time extended	58747
415.124 Added	37299
Comment time extended	58747
415.360 Amended	37300
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415.364 Added	37300
Comment time extended	58747
415.380 Amended	37300
Comment time extended	58747
415.384 Added	37300
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415.440 Amended	37300
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415.444 Added	37300
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415.470 Amended	37301
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415.474 Added	37301
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415.530 Amended	37301
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415.534 Added	37301
Comment time extended	58747
415.550 Amended	37301
Comment time extended	58747
415.554 Added	37301
Comment time extended	58747
416.126 Technical correction	40698
Comment time extended	58747
418.30 Revised	†17826
418.31 Revised	†17826
418.32 (a) and (b) revised	†17826
418.33 Revised	†17826
418.35 (a) and (b) revised	†17827
418.37 Added	†17827
418.40 Revised	†17827
418.41 Revised	†17827
418.42 Revised	†17827
418.43 Revised	†17828
418.45 Revised	†17828
418.47 Added	†17828
419.14 Comment time extended	35159, 43837
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419.34 Comment time extended	35159, 43837
419.44 Comment time extended	35159, 43837
419.54 Comment time extended	35159, 43837
428.26 Removed	†6230
428.36 Removed	†6230
429.52—429.53 Removed	49812
429.55 Removed	49812
432.103 (a) revised	54419
432.105 Revised	54419
436.20—436.22 (Subpart B) Revised	35849
436.30—436.32 (Subpart C) Revised	35850
436.40—436.42 (Subpart D) Revised	35851
436.180—436.182 (Subpart R) Revised	35852
436.180—436.185 (Subpart R) Revised	†9809
455 Revised	†17785
458 Revised	†1344
600 Authority citation revised	45668
600.002–77 (a)(15) revised	45656
600.002–78 (a) (39) and (40) added	45670
600.002–79 Amended	45670
Revised	45923
Comment time extended	†7983
600.002–80 Added	45656
(a)(14) revised; (a) (41) and (42) added	45924
(a)(14), (41) and (42); comment time extended	†7983
600.007–77 (b)(1) and (f) revised	45657
600.007–80 Added	45657
600.101–78—600.113–78 (Subpart B) Added	45657
600.206–77 (c)(1) (i), (ii), and (iii) revised	45660
600.206–79 Added	45660
(b) and (c) removed; eff. 7–17–78	†21416
600.206–80 (a)(2) added	45660
Revised; eff. 7–17–78	†21416
600.207–77 (d)(1) (i), (ii), and (iii) revised	45660
600.207–78 Added	45660
600.207–79 (a)(3)(iii) added	45661
Revised; eff. 7–17–78	†21416
600.207–80 (a)(3)(iii) added	45661
Revised; eff. 7–17–78	†21417

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600.306–78 Added 37812
600.306–79 Added 45670
(a) revised; eff. 7–17–78..... †21417
600.307–78 Added 37813
600.307–79 Added; eff. 7–17–78.. †21418
600.308–78 Added 37813
600.308–79 Added; eff. 7–17–78.. †21418
600.309–78 Added 37813
600.309–79 Added 45670
Revised; eff. 7–17–78..... †21418
600.309–80 Added 45661
600.311–79 Added; eff. 7–17–78.. †21418
600.312–79 Added 45670
600.313–78 Added 45662
600.315–78 Added 45670
600.316–78 Added 45672
600.406–77 Removed 45672
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405.2025 (a)(1) amended	†5827
405.2050 (b)(1)(ii) amended; (b)(1)(iii) revised; (b)(1)(iv) added	†5823
405.2056 (b), (c), and (d) revised	†5827
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405.2401–405.2430 (Subpart X) Added	†8261
446 Nomenclature changes	65116
446.10 (Subpart A) Heading added; section heading revised	60564
446.150–446.185 (Subpart B) Added	60564
448 Nomenclature changes	65116
Technical correction	†6605
448.1 (c)(4) revised (a)(1), (b)(2)(i), (c)(1), and (d) revised; (b)(1)(vii) and (viii) added; eff. in part 7–1–77	†9813
(d) and (e) technical correction	†20009
448.2 (d)(4) and (e) revised	†9814
448.3 (b)(1)(ii) and (7) through (9) revised; eff. in part 7–1–77	†9814
(b)(1)(ii)(7) technical correction	†20009
448.4 (a) and (b)(3) revised; (e) added; eff. in part 7–1–77	†9815
448.10 (b)(2)(iv) revised	†7986
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448.21 (a)(2)(i)(C), (3)(i)(B) and (C) and (c) revised	†9815
Introductory text technical correction	†20009
448.60 (a)(2) and (3)(iv) revised	†7986
(a)(1) and (b)(3) revised; (b)(11) added; eff. 10–1–76	†9816
(b)(11) revised	†20009
448.70 (a)(1) amended	†9816
448.80 (a)(1) amended	†9816
449 Nomenclature changes	65117
Technical correction	†6605
449.10 (a)(11) added	64345
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480 Nomenclature change 65122
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4.296 Revised ..... †5514
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4.560a Added ..... †2724
4.561 Revised ..... †2725
4.561a Added ..... †2725
4.562 (c) and (d) added ..... †2725
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17.1 Amended ..... †4259
17.3 (a), (b) (1) and (2) amended ..... †4259
17.11 (a) amended ..... †4259
20 Appendixes C through F revised ..... †1072
31 Added 54806
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33 Heading and note added 62913, 65181

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16 Appendix B heading revised; text amended ..... †9265
19.4 Revised 57317
46.102 (c) revised ..... †1759
46.203 (b) and (c) revised ..... †1759
46.204 (b) removed; (c) through (e) redesignated as (b) through (d); new (b) amended ..... †1759
46.209 (a) and (b) revised ..... †1759
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102 Removed 56506
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104 Added 53828
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105 Added 53852
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121a.541 Added 65083
121a.542 Added 65083
121a.543 Added 65083
121a.702 (a)(2) removed 65083
121a Appendix A amended 65084
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126 Removed 56506
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167 Removed 56506
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168.76 (b)(1)(iii), (2) and (6) corrected ..... †6230
168.80 (b) correctly designated and corrected; (c) (1) and (2) corrected ..... †6230
168.81 (b)(2)(ii) corrected ..... †6230
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205.202 (a) amended; (c)(4) removed 60566
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228.20 (a) revised 61267
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228.29 (a) and (b) revised ..... †4019
228.29-a Added ..... †4020
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228.61 (a)(1) through (3) and (b) through (d) revised 61267
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903 Redesignated as Part 1321 59212
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1061.52-1—1061.52-9 (Subpart) Added ..... †9818
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1068.22-6 (Subpart) Added ..... †19394
1068.25-1 — 1068.25-2 (Subpart) Added 53600
1068.30-1—1068.30-4 (Subpart) Added 63171
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5.13–5	(a) amended	†4431
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7	Heading correctly added	63174
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182.20–22	(a) revised; (a–1) added	63175
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195.20–15	(a) designated removed; text amended	56332
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251.1	Appendix No. 3 added	†1622
252.20	Heading revised; (a) and (b) redesignated as (a)(1) and (2); new (a) heading added; (c) introductory text and (1) through (4) redesignated as (a)(3) introductory text and (i) through (iv) (d) heading and (1) through (3) redesignated as (a)(4) heading and (i) through (iii); new (b) added	†4858
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310.12	Article 1 revised; Article 2 amended; eff. 11–12–77	†9
350.2	Amended	†1943
350.4	(b) amended	†1943
350.5	(b)(7) added	†1943
381.2	(b)(4) added	57126
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502.53	Amended	†19395
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502.153	Amended	†19665
502.209	Revised	†19665
502.262	Effective date clarified	†11992
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507.1	Revised	†3362
507.4	(d) revised	†3563
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173.377 (b) (5) revised; (j) added	58938
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178.118–6 (a) footnote 3 revised	61465
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Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: April 28, 1978]

H.R. 7744 ..... Pub. L. 95269
To amend the Acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes. (April 26, 1978; 92 Stat. 218) Price: $.50.

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Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

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(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SEA—Science and Education Administration
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
EDA—Economic Development Administration
ITA—Industry and Trade Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office
USTS—United States Travel Service

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DCAA—Defense Contract Audit Agency
DIA—Defense Intelligence Agency
DLA—Defense Logistics Agency
EC—Engineers Corps
Navy—Navy Department

DOE—ENERGY DEPARTMENT

BPA—Bonneville Power Administration
ERA—Economic Regulatory Administration
EIA—Energy Information Administration
ERO—Energy Research Office
ETO—Energy Technology Office
FERC—Federal Energy Regulatory Commission
OHADOE—Hearings and Appeals Office, Energy Department

SEPA—Southeastern Power Administration
SWPA—Southwestern Power Administration
WAPA—Western Area Power Administration

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
MSI—Museum Services Institute
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
HCRS—Heritage Conservation and Recreation Service
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals, Interior Department
RB—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
MSHA—Mine Safety and Health Administration
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FMC—Federal Maritime Commission
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICA—International Communications Agency
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NACEO—National Advisory Council on Economic Opportunity
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register

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OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

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presidential documents

[3195-01]

PROCLAMATION 4567

Loyalty Day, 1978

By the President of the United States of America

A Proclamation

Throughout the remainder of our third century of national existence, America will face problems that will differ markedly from those we have confronted in the past. Yet some things will remain constant. Among these is the loyalty of the American people.

Because we are a free people, the loyalty we feel to our country is deeper than that which any imposed political or ideological orthodoxy could possibly evoke. And as long as we continue to remain faithful to the principles and freedoms on which our republic was founded, that loyalty will see us through whatever challenges lie ahead.

To encourage the people of the United States to reflect upon the liberties and institutions that have inspired the loyalty of so many generations of Americans, the Congress, by joint resolution of July 18, 1958 (72 Stat. 369; 36 U.S.C. 162) has designated the first day of May of each year as Loyalty Day and has requested the President to issue a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, call upon all Americans to observe Monday, May 1, 1978, as Loyalty Day. I ask the appropriate officials of the Government to display the flag of the United States on that day on all Government buildings.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of April, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc. 78-11999 Filed 4-28-78; 11:25 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1505-01]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1977 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal regulations issued to date for 1977. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The rate for subscription service to all revised volumes issued for 1977 is $400 domestic, $100 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1977):

Title	Price
1	$1.65
2 [Reserved]	
3	3.00
4	3.25
5	4.70
7 Parts:	
0-45	5.30
46-51	4.20
52	5.20
53-209	5.80
210-699	6.10
700-749	4.10
750-899	1.80
900-944	4.25
945-980	2.40
981-999	2.50
1000-1059	4.25
1060-1119	4.40
1120-1199	3.20
1200-1499	4.20
1500-end	7.25
8	2.60
9	6.80
10 Parts:	
0-199	4.40
200-end	4.60
11 (Rev. 5/1/77)	2.30
12 Parts:	
1-299	7.40
300-end	7.30
13	4.20
14 Parts:	
1-59	6.00
60-199	5.10
200-1199	6.20
1200-end	2.20
15	5.35
16 Parts:	
0-149	5.50
150-999	4.25
1000-end	3.00

CFR Unit (Rev. as of April 1, 1977):

Title	Price
17	$6.75
18 Parts:	
1-149	4.25
150-end	4.00
19	5.75
20 Parts:	
01-399	3.25
400-499	5.00
500-end	4.00
21 Parts:	
1-99	3.25
100-199	4.75
200-299	2.10
300-499	5.00
500-599	4.00
600-1299	3.50
1300-end	4.25
22	4.50
23	5.50
24 Parts:	
0-499	5.00
500-end	5.25
25	4.50
26 Parts:	
1 (§§ 1.0-1.169)	4.75
1 (§§ 1.170-1.300)	4.00
1 (§§ 1.301-1.400)	3.75
1 (§§ 1.401-1.500)	4.00
1 (§§ 1.501-1.640)	4.00
1 (§§ 1.641-1.850)	4.35
1 (§§ 1.851-1.1200)	5.25
1 (§§ 1.1201-end)	6.75
2-29	4.50
30-39	4.35
40-299	4.50
300-499	4.35
600-end	2.40
27	7.00

CFR Unit (Rev. as of July 1, 1977):

Title	Price
28	$4.25
29 Parts:	
0-499	5.75
500-1899	6.00
1900-1919	6.00
1920-end	4.50
30	6.00
31	5.75
32 Parts:	
1-39 (V. I) (Rev. 7/1/76)	4.75
(V. II) (Rev. 7/1/76)	7.50
(V. III) (Rev. 7/1/76)	5.25
400-589	8.00
590-699	4.00
700-799	8.25
800-999	5.75
1000-1399	2.75
1400-1599	4.25
1600-end	2.75
32A	3.75
33 Parts:	
1-199	7.00
200-end	5.30
34	1.70
35	4.00
36	4.50
37	3.00
38	6.00
39	3.50
40 Parts:	
0-49	4.25
50-59	5.75
60-99	5.00
100-399	4.75
400-end	5.75
41 Chapters:	
1-2	5.25
3-6	5.50
7	2.75
8	2.30
9 (Rev. 9/26/77)	5.00
10-17	4.25
19-100	4.50
101-end	5.75
CFR INDEX & finding aids	4.75

CFR Unit (Rev. as of Oct. 1, 1977):

Title	Price
43 Parts:	
1-999	$4.00
45 Parts:	
1-99	4.25
46 Parts:	
1-29	3.00
30-40	3.25
70-89	3.25
90-109	3.00
110-139	3.00
140-166	4.75
166-199	3.75
49 Parts:	
1-99	3.00
1300-end	4.25

[3410-10]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 6—IMPORT QUOTAS AND FEES

Subpart—Section 22 Import Quotas

PRICE DETERMINATION FOR CERTAIN CHEESE

AGENCY: Foreign Agricultural Service.

ACTION: Final rule.

SUMMARY: The subpart, section 22 Import Quotas, is amended to change the price, determined by the Secretary of Agriculture, which is used as a basis for establishing import restrictions under section 22 on certain cheese. The change from $1.05 to $1.10 per pound is required since one of the factors used in determining such price (the Commodity Credit Corporation purchase price for Cheddar cheese under the milk support program) has been increased.

EFFECTIVE DATE: May 1, 1978. (See Supplementary Information)

FOR FURTHER INFORMATION CONTACT:

Bryant H. Wadsworth, Head, Dairy

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and Import Group, Dairy, Livestock and Poultry Division, FCA, Foreign Agricultural Service, Room 6621 So. Agricultural Building, United States Department of Agriculture, Washington, D.C. 20250, 202-447-5270.

SUPPLEMENTARY INFORMATION: Since the action taken herewith involves foreign affairs functions of the United States, this amendment falls within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553. (Sec. 3, 62 Stat. 1248, as amended, 7 U.S.C. 624; Part 3 of the Appendix to the Tariff Schedules of the United States, 19 U.S.C. 1202)

EFFECTIVE DATE

In accordance with headnote 3(a)(v) of Part 3 of the Appendix to the Tariff Schedules of the United States, the change in price effected by this amendment would not make the import restrictions contained in items 950.10B through 950.10E of Part 3 of the Appendix to the Tariff Schedules of the United States applicable to cheese having a purchase price of $1.05 or more per pound if such cheese had been exported to the United States on a through bill of lading or had been placed in a bonded warehouse on or before May 1, 1978.

The subpart, section 22 Import Quotas of Part 6, Subtitle A of Title 7, is amended as follows:

1. Section 6.16, under the heading "Price Determination for Certain Quotas," is amended to read as follows:

§ 6.16 Price determination.

The price referred to in items 950.10B through 950.10E of Part 3 of the Appendix to the Tariff Schedules, determined by the Secretary of Agriculture in accordance with headnote 3(a)(v) of said Part 3, is $1.10 per pound. This price shall continue in effect until changed by amendment of this section.

APPENDIX 1 [AMENDED]

2. Group V of Appendix 1, under the heading "Licensing Regulations," is amended by changing the description appearing immediately below "Group V" to read as follows:

Cheese described below, if shipped otherwise than in pursuance to a purchase, or if having a purchase price under $1.10 per pound.

Issued at Washington, D.C. this 25th day of April 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-11760 Filed 4-28-78; 8:45 am]

[3410-08]

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. No. 97]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

CLOSING DATES

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This is an extension of the final dates for the filing of applications for crop insurance for the 1978 crop year on barley, corn, oats, potatoes, and wheat having an April 30 or earlier closing date in those counties where such insurance is otherwise authorized to be offered. The extension will be until May 1 for all crops listed. This extension will coincide with the ASCS acreage, offsetting compliance, and signup period of April 30 and allow farmers more time to make decisions on their insurance plans along with signup intentions.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: On January 12, 1978, the Agricultural Stabilization and Conservation Service (ASCS) issued notification of acreage, offsetting compliance, and signup period, which indicates the signup period for filing an intention to participate on farms with a crop subject to set-aside will be March 1 through April 30. Since April 30 is on a Sunday, intentions will be accepted by ASCS the following Monday, May 1, 1978.

The ASCS set-aside announcement will have significant impact on farm operations and farmers are presently involved in decisionmaking regarding the set-aside acreage. Since crop insurance is involved in the overall farm operation decisionmaking process and the closing dates for many crops insured by the Federal Crop Insurance Corporation falls long before the end of the ASCS signup date of May 1, 1978, the Corporation has determined that the closing dates for filing applications for crop insurance on barley, corn, oats, potatoes, and wheat, having an April 30 or earlier closing date, should be extended to coincide with the end of the ASCS signup period. This will allow farmers more time to include plans for crop insurance on those crops subject to set-aside.

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), and in accordance with the applicable provision in the Federal crop insurance regulations for the 1969 and succeeding crop years (7 CFR § 401.103(c), 32 FR 15911, Nov. 21, 1967), allowing for such extensions, the Federal Crop Insurance Corporation is extending, effective for the 1978 crop year, the closing date for the acceptance of applications for crop insurance on barley, corn, oats, potatoes, and wheat through May 1, 1978, as indicated below.

Since these extensions will benefit producers by providing more time to file applications for crop insurance, and since producers need to be informed of these extensions immediately, it is found and determined that compliance with the procedure for notice and public participation in the proposed rulemaking process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

Accordingly, 7 CFR § 401.103(a) is amended by adding at the end thereof the following:

§ 401.103 Application for insurance.

(a) • • • The time for filing applications for the 1978 crop year on the following crops in those States and counties so indicated is hereby extended until the close of business on Monday, May 1, 1978. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

BARLEY

Modoc and Siskiyou Counties, Calif. All counties in Colorado, Minnesota, Montana, North Dakota, South Dakota, Utah, and Wyoming. Klamath and Malheur Counties, Oreg. All Idaho counties south of Idaho County.

CORN

All counties in all States.

OATS

All counties in all States.

POTATOES

Grant County, Wash., and Canyon County, Idaho.

WHEAT

All counties in Minnesota and North Dakota. The following counties in South Dakota: Aurora, Beadle, Bon Homme, Brown, Campbell, Clark, Codington, Corson, Day, Deuel, Douglas, Edmunds, Grant, Hamlin, Hutchinson, Jerauld, Kingsbury, McPherson, Marshall, Miner, Perkins, Roberts, and Spink.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

Dated: April 25, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: April 25, 1978.

Approved:

BOB BERGLAND,
Secretary.

[FR Doc. 78-11734 Filed 4-28-78; 8:45 am]

[3410-08]

[Amdt. No. 98]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

WHEAT ENDORSEMENT

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule changes the wheat endorsement to add Gregory County, S. Dak., to the cancellation and termination for indebtedness date table. Gregory County was added for wheat crop insurance effective with the 1979 crop year.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending its regulations found in 7 CFR 401.126 The Wheat Endorsement (33 FR 2376, January 31, 1968), to list Gregory County, S. Dak., in the table at the end thereof which lists the cancellation and termination for indebtedness dates.

Gregory County was added as a new county for wheat crop insurance effective with the 1979 crop year. The amendment No. 98 to the Federal crop insurance regulations for the 1969 and succeeding crop years merely adds the name of the county to the list as indicated above.

In view of the foregoing, the Corporation has found and determined that compliance with the procedure for notice and public participation would be impracticable, unnecessary, and contrary to the public interest.

Accordingly, this amendment No. 98 is hereby issued without compliance with such procedure.

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), section 7 of the endorsement contained in § 401.126 of the Federal crop insurance regulations contained in 7 CFR, Part 401, is amended effective with the 1979 crop year in the following respect:

§ 401.126 The wheat endorsement (applicable in all States except North Dakota).

• • • • • •

7. Cancellation and termination for indebtedness dates.

• • • • • •

In the table at the end thereof, under the section listing counties in South Dakota, insert the word "Gregory" immediately after the work "Faulk" and immediately before the word "Haakon."

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.)

Dated: April 25, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: April 25, 1978.

Approved:

BOB BERGLAND,
Secretary.

[FR Doc. 78-11736 Filed 4-28-78; 8:45 am]

[3410-08]

[Amdt. No. 1]

PART 414—FORAGE SEEDING CROP INSURANCE

Subpart—Regulations for the 1978 and Succeeding Crop Years

CLOSING DATES

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This is an extension of the final date for the filing of applications for crop insurance for the 1978 crop year on forage seeding in counties where such insurance is otherwise authorized to be offered. The current closing date is April 15 in all States except New York, which is July 31 and need not be extended. This extension will be through May 6, 1978, for the 1978 crop year only and is being made to allow sufficient time for producers to become familiar with this new program inasmuch as the forage seeding crop insurance application period will only be open for approximately 15-20 days due to the late start of the program offer.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: It is expected that the forage seeding crop insurance program, recently enacted by the Board of Directors of the Federal Crop Insurance Corporation, will become effective with approximately 15-20 days before the April 15 closing date for accepting applications. In order to provide more time for producers to examine this new program, it has been determined by the Corporation to extend the closing date for the filing of applications for the 1978 crop year until the close of business on Saturday, May 6, 1978, thus allowing an additional 20 days. This extension of closing date will be applicable for the 1978 crop year only due to the short time available.

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), and in accordance with § 414.3(b) of the forage seeding crop insurance regulations for the 1978 and succeeding crop years (7 CFR Part 414), allowing for such extensions, the Federal Crop Insurance Corporation is extending, effective for the 1978 crop year, the closing date for accepting applications for forage seeding crop insurance through the close of business on Saturday, May 6, 1978, as indicated below.

Since this extension will benefit the producer by providing additional time for filing, and since producers need to be informed of this extension immediately, it is found and determined that compliance with the procedure for notice and public participation in the proposed rulemaking process would be impracticable, unnecessary, and contrary to the public interests. Therefore, this amendment is issued without compliance with such procedure.

Accordingly, 7 CFR § 414.3(a) is amended by adding at the end thereof the following sentence:

§ 414.3 Application for insurance.

(a) • • • The time for filing applications for the 1978 crop year for forage seeding crop insurance is hereby extended until the close of business on Saturday, May 6, 1978, in all States except New York. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

Dated: April 25, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: April 25, 1978.

Approved:

BOB BERGLAND,
Secretary.

[FR Doc. 78-11735 Filed 4-28-78; 8:45 am]

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[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 426.2]

PART 1806—INSURANCE

Subpart B—National Flood Insurance

SERVICING COMPANIES

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: Farmers Home Administration amends its regulations regarding servicing companies for the national flood insurance program. The intended effects of the action is to list the servicing company to be contacted for information regarding the national flood insurance. This action is necessitated by the new Federal Insurance Administration (FIA) contract which took effect January 1, 1978.

DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Jerry B. Ireton, 202-447-4296.

SUPPLEMENTARY INFORMATION: The table of sections of part 1806, and exhibit B of subpart B of part 1806, chapter XVIII, Title 7, Code of Federal Regulations, are amended. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to reflect the new agreement between FIA and the servicing company public participation as to this FmHA regulation is therefore unnecessary.

Accordingly, the table of contents of part 1806 and exhibit B of subpart B of part 1806 read as follows:

Subpart B—National Flood Insurance

Sec.

1806.21 General.
1806.22 Areas of responsibility.
1806.23 Definitions.
1806.24 Eligibility.
1806.25 Conditions.
1806.26 Coverage and premium rates.
1806.27 Acceptable policies and servicing.
Exhibit A—Coverage and premium rates.
Exhibit B—Servicing company.

• • • • •

EXHIBIT B—SERVICING COMPANY

The servicing company office to be contacted for information relative to the availability of coverage under the national flood insurance program, flood hazard boundary maps, insurance rate tables, and related material.

E.D.S. Federal Corporation, National Flood Insurance, P.O. Box 34294, Bethesda, Md. 20034, phone toll-free 800-638-6620; commercial phone 301-898-5900.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 17, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-11721 Filed 4-28-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Minor and Clarifying Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission's "Licensing of Production and Utilization Facilities" is hereby amended. The amendments make changes relating to the service of copies of an updated application for a license to construct a production or utilization facility so as to reflect the current practice regarding the NRC officers who are to receive copies of such updated applications. The amendments also provide clarifying language as to when the application should be updated, and substitute clarifying language regarding the service of copies of any subsequent amendments to the application.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Royal J. Voegeli, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-492-7437.

SUPPLEMENTARY INFORMATION: 10 CFR 50.30(c)(2) presently provides that an applicant for a license to construct a production or utilization facility who has updated its application shall, upon notification of the appointment of an atomic safety and licensing board to conduct the public hearing required by the Atomic Energy Act for the issuance of a construction permit, serve copies of such updated application on each atomic safety and licensing board member and alternate, the Chairman of the Atomic Safety and Licensing Board Panel, the Office of the Secretary, and the Director of Nuclear Reactor Regulation or the director of Nuclear Material Safety and Safeguards. The current NRC practice is to not require serving copies on the Office of the Secretary, the Chairman of the Atomic Safety and Licensing Board Panel, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards. Applicants are, however, requested to serve a copy on the Atomic Safety and Licensing Appeal Panel. In order to reflect the current practice, the present amendments delete the language designating the NRC officers who are to be served copies of the updated application, and provide instead that copies shall be served as directed by the atomic safety and licensing board appointed to conduct the public hearing on the application. In addition, the amendments provide that the applicant shall serve a copy on the Atomic Safety and Licensing Appeal Panel, and that at the time the application is offered into evidence at the public hearing on the application, the applicant shall provide sufficient updated copies so that one may be served by the Office of the Secretary upon the Atomic Safety and Licensing Appeal Panel. The amendments also provide clarifying language as to when the application is to be updated by providing that the applicant shall update its application when notified to do so by the atomic safety and licensing board appointed to conduct the public hearing on the application. The amendments also substitute clarifying language regarding the service of copies of any subsequent amendments to the application.

Because these amendments relate solely to minor matters, it has been found that good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecessary, and for making the amendments effective upon publication in the FEDERAL REGISTER (May 1, 1978).

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50 are published as a document subject to codification.

1. Paragraph (c)(2) of § 50.30 of 10 CFR Part 50 is amended to read as follows:

§ 50.30 Filing of application for license; oath or affirmation.

• • • • •

(c) *Number of copies of applications.*

• • •

(2) With respect to an application for a license described in subdivision (1)(i) of this paragraph, the applicant shall, upon notification by the atomic safety and licensing board appointed to conduct the public hearing required by the Atomic Energy Act for the issuance of a construction permit, update the application and serve such updated copies of the application or parts thereof, eliminating all superseded information, together with an index of the updated application, as directed by the atomic safety and licensing board. In addition, at that time the applicant shall serve one such copy on the Atomic Safety and Licensing Appeal Panel. Further, at the time the application is offered into evidence at the public hearing on the application, the applicant shall provide sufficient updated copies so that one may be served by the Office of the Secretary on the Atomic Safety and Licensing Appeal Panel. Any subsequent amendments to the application shall be served on those served copies of the application, and three signed originals and the specified number of copies of such amendments shall be filed with the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate as provided in paragraph (c)(1)(i) of this section. At the time of filing of such an application, one copy shall be made available in an appropriate office near the site of the proposed facility for inspection by the public and updated as amendments to the application prior to the public hearing may be made. This updated copy shall be produced at the public hearing for the use of any other parties to the proceeding. The applicant shall certify that the updated copies of the application contain the current contents of the application submitted in accordance with the requirements of this part. The applicant shall also update and serve copies of the application and make available a copy of such updated application in an appropriate office near the site of the facility for inspection by the public at such time as the Commission may issue a notice of public hearing concerning the issuance of an operating license.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Md. this 24th day of April, 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-11759 Filed 4-28-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. B and Z; Docket No. R-0154]

PART 202—EQUAL CREDIT OPPORTUNITY

PART 226—TRUTH IN LENDING

Amendment to Procedures for Issuing Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment to Regulation B, Equal Credit Opportunity, and Regulation Z, Truth in Lending, revises the Board's existing procedures for issuing official staff interpretations.

The amendment provides that official staff interpretations will be published in the FEDERAL REGISTER with a 30 day delayed effective date. If a request for public comment is received, the effective date will be suspended and the interpretation published for comment. Once the comments have been analyzed, a final version of the interpretation will be published. The current criteria for determining whether a question merits an official staff interpretation and the procedures for a request for reconsideration are eliminated.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2761.

SUPPLEMENTARY INFORMATION: The Equal Credit Opportunity Act and Truth in Lending Act provide for the issuance of official staff interpretations. Regulations B and Z, which implement these laws, set forth procedures and criteria for requesting an official staff interpretation. Currently, official staff interpretations are issued when clarification of a technical ambiguity in the regulation is required or when a request does not involve significant policy implications. The interpretation is published in the FEDERAL REGISTER within a week or two of issuance, to be effective at the time of publication. The regulations also provide for reconsideration of an official staff interpretation if a request is submitted within 30 days of publication.

The Board is amending Regulations B and Z to provide for a delayed effective date and for an opportunity for public comment on official staff interpretations. The Board believes this change in procedure is appropriate because it will enable the public to review official staff interpretations before they become final. If an official staff interpretation is challenged, the new procedures will enable the new staff to reconsider it in the light of public comments.

The amendment provides that official staff interpretations will be published in the FEDERAL REGISTER within a week or two of issuance but will become effective only upon the expiration of thirty days. If a request for public comment is received or postmarked within the 30 days, the effective date of the interpretation will be suspended. Notice of the suspension of the effective date and the interpretation will then be published for public comment as soon as possible. Any comments received will be reviewed and a final interpretation issued to be effective upon publication in the FEDERAL REGISTER.

EXPLANATION OF AMENDMENT

The references to official or formal Board interpretations have been deleted because the Administrative Procedure Act and the Board's Rules of Procedure (12 CFR 262.3) independently provide opportunity for requests for Board action. Sections 202.1(d) and 226.1(d) deal only with staff action and procedures.

The language in the second and third sentences of subsection (d)(1) of the regulations regarding the signature of the requester or authorized agent, and copies of documents accompanying a request has been deleted because the Board believes that such requirements have proved unnecessary. In the same subsection, the language concerning a substantive response has been deleted as it is no longer applicable. The time for acknowledging the request for an offical staff interpretation has been reduced from fifteen to five business days.

The provision for requests for reconsideration of official staff interpretations has been deleted because this amendment provides an opportunity for public comment and the Board's Rules of Procedure independently provide for Board consideration of the underlying issue.

The requirements in subsection (d)(4)(ii) that official staff interpreta-

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tions deal with clarification of a technical ambiguity in the regulation or have no significant policy implications have been deleted because the Board has determined that these criteria are not sufficiently specific to be useful. However, official staff interpretations will not address policy questions, which will be referred to the Board for its consideration.

The prohibition on issuance of interpretations approving creditors' or lessors' forms or language has been moved from subsection (d)(3) to (d)(2)(i). The description of the two types of staff interpretations, followed by a description of the manner in which they may be obtained, will enable an interested party to determine, first, which kind of interpretation to seek and, second, how to request it.

A new subsection (d)(3) has been added to provide for requests for public comment on official staff interpretations. Such requests must be postmarked or received by the Secretary, Board of Governors of the Federal Reserve System, within 30 days of the interpretation's publication in the FEDERAL REGISTER. A statement of the reasons why public comment is appropriate must accompany the request.

TEXT OF AMENDMENT

1. Pursuant to the authority granted under section 703 of the Equal Credit Opportunity Act (15 U.S.C. 1691(b)), the Board amends Regulation B, 12 CFR 202.1(d) as follows:

§ 202.1 Authority, scope, enforcement, penalties and liabilities, interpretations.

* * * * *

(d) *Issuance of staff interpretations.* (1) Unofficial staff interpretations will be issued at the staff's discretion where the protection of section 706(e) of the Act is neither requested nor required, or where a rapid response is necessary.

(2) (i) Official staff interpretations will be issued at the discretion of designated officials. No such interpretation will be issued approving creditors' or lessors' forms or statements. Any request for an official staff interpretation of this Part must be in writing and addressed to the Director of the Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request must contain a complete statement of all relevant facts concerning the credit or lease transaction or arrangement and must include copies of all pertinent documents.

(ii) Within 5 business days of receipt of the request, an acknowledgment will be sent to the person making the request. If, in the opinion of the designated officials, issuance of an official staff interpretation is appropriate, it will be published in the FEDERAL REGISTER to become effective 30 days after the publication date. If a request for public comment is received, the effective date will be suspended. The interpretation will then be republished in the FEDERAL REGISTER and the public given an opportunity to comment. Any official staff interpretation issued after opportunity for public comment shall become effective upon publication in the FEDERAL REGISTER.

(3) Any request for public comment on an official staff interpretation of this Part must be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and postmarked or received by the Secretary's office within 30 days of the interpretation's publication in the FEDERAL REGISTER. The request must contain a statement setting forth the reasons why the person making the request believes that public comment would be appropriate.

(4) Pursuant to section 706(e) of the Act, the Board has designated the Director and other officials of the Division of Consumer Affairs as officials "duly authorized" to issue, at their discretion, official staff interpretations of this Part.

2. Pursuant to the authority granted under § 105 of the Truth in Lending Act (15 U.S.C. 1604), the Board amends Regulation Z, 12 CFR 226.1(d), as follows:

§ 226.1 Authority, Scope, Purpose, etc.

* * * * *

(d) *Issuance of staff interpretations.* (1) Unofficial staff interpretations will be issued at the staff's discretion where the protection of section 130(f) of the Act is neither requested nor required, or where a rapid response is necessary.

(2) (i) Offical staff interpretations will be issued at the discretion of designated officials. No such interpretation will be issued approving creditors' or lessors' forms or statements. Any request for an official staff interpretation of this Part must be in writing and addressed to the Director of the Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request must contain a complete statement of all relevant facts concerning the credit or lease transaction or arrangement and must include copies of all pertinent documents.

(ii) Within 5 business days of receipt of the request, an acknowledgment will be sent to the person making the request. If, in the opinion of the designated officials, issuance of an official staff interpretation is appropriate, it will be published in the FEDERAL REGISTER to become effective 30 days after the publication date. If a request for public comment is received, the effective date will be suspended. The interpretation will then be republished in the FEDERAL REGISTER and the public given an opportunity to comment. Any official staff interpretation issued after opportunity for public comment shall become effective upon publication in the FEDERAL REGISTER.

(3) Any request for public comment on an official staff interpretation of this Part must be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and postmarked or received by the Secretary's office within 30 days of the interpretation's publication in the FEDERAL REGISTER. The request must contain a statement setting forth the reasons why the person making the request believes that public comment would be appropriate.

(4) Pursuant to section 130(f) of the Act, the Board has designated the Director and other officials of the Division of Consumer Affairs as officials "duly authorized" to issue, at their discretion, official staff interpretations of this Part.

By order of the Board of Governors, April 21, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-11758 Filed 4-28-78; 8:45 am]

[6714-01]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 338—FAIR HOUSING

Deferral of Effective Date for Fair Housing Advertising, Poster, and Recordkeeping Requirements

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Deferral of effective date for final rules.

SUMMARY: The Federal Deposit Insurance Corporation postpones to July 3, 1978 the effective date for its adopted Fair Housing Regulations published on pages 11563 through 11568 of the FEDERAL REGISTER dated March 20, 1978 because of requests for additional time to prepare for compliance and the need to disseminate information regarding the numerous inquiries that have been made concerning the proper interpretation of the regulations.

EFFECTIVE DATE: July 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550-17th Street NW., Washington, D.C. 20429, telephone 202-389-4237.

By order of the Board of Directors, April 25, 1978.

ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-11763 Filed 4-28-78; 8:45 am]

[3510-24]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 303—ECONOMIC DEVELOPMENT DISTRICTS

Extension of Time To Comply with the Private Citizen Representation Requirement

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule revises the regulation which requires certain district organizations to comply with the representation of private citizens requirement by May 1, 1978. EDA is making this change because it is currently reconsidering the amount of representation that private citizens must have on district organizations. The effect of this rule is to postpone the date by which district organizations must comply with this requirement until October 1, 1978 in order to give EDA time to conclude its deliberations.

DATES: Effective date: April 27, 1978. Comments by: May 31, 1978.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Information on Regulations:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, 202-377-5441.

SUPPLEMENTARY INFORMATION: EDA is currently reconsidering the requirement of § 303.4(c)(3) that one-third of the members of the governing boards of economic development districts must be private citizens. While EDA has not decided to change the requirement at this time, it will continue to reconsider the requirement for the next few months; § 303.4(a)(2) of 13 CFR requires compliance with the one-third private citizen provision no later than May 1, 1978. In that compliance with § 303.4(c)(3) will require districts to make changes in the composition of their governing boards over the course of the next several months. EDA believes it is unfair to require them to make these changes while it is considering modifying that requirement. In order to give EDA time to reconsider this requirement without burdening the districts with possibly needless reorganization of their boards, EDA is extending the time of compliance until October 1, 1978.

Because this rule relates to EDA grant and loan programs, it is exempted from the notice and comment procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding this amendment to the above address.

Due to the technical nature of this rule, EDA has determined that this document does not constitute a significant regulation under Executive Order 12044 and that it is exempt from the procedural requirements imposed by that order.

Accordingly, 13 CFR 303.4 is amended to read as follows:

§ 303.4 District organization.

(a) * * *

(2) Each development organization shall comply with the representation requirement set forth in paragraph (c)(3) of this section no later than October 1, 1978.

* * * * *

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).)

Dated: April 27, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-11848 Filed 4-28-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-CE-6-AD; Amdt. 39-3202]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 336, 337, T337, P337, and M337 Series Airplanes

AGENCY: Federal Aviation Administrative (FAA), DOT.

ACTION: Final rule, supersedure of existing airworthiness directive.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Cessna 336, 337, T337, P337, and M337 series airplanes, which supersedes AD 76-10-11. In addition to incorporating those provisions requiring repetitive inspections of wing front and rear spar lower caps for cracks originally set forth in AD 76-10-11, the new AD requires repetitive inspections of the inboard end of the wing front spar web and web doubler for cracks on certain airplanes. Approximately 490 additional airplanes are added to the AD applicability. This action will assure continued structural integrity of wing front and rear spar lower caps and the inboard end of the front spar web on affected airplanes and will preclude possible separation of the wing from the airplanes due to failure of these components.

DATES: Effective date. May 11, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Cessna Multi-Engine Service Letter ME78-2, dated February 13, 1978, applicable to this AD, may be obtained from Cessna Aircraft Co., Marketing Division, Attention: Customer Service Department, Wichita, Kans. 67201; telephone 316-685-9111. A copy of the service letter cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Mo. 64106, and at Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106; telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: Amendment 39-2621 (41 FR 22045-22048), AD 76-10-11, currently requires repetitive inspection of critical areas of the wing front and rear spar lower caps on certain 336, 337, T337, P337, and M337 series airplanes for fatigue cracks in accordance with Cessna Multi-Engine Service Letter ME76-3 and ME76-3, Supplement No. 1.

Subsequent to the issuance of AD 76-10-11 a fatigue crack was discovered in the wing front spar web and doubler on a Cessna Model 337C airplane operated on pipeline patrol. AD 76-10-11 does not require inspection of the wing front spar web for cracks.

The manufacturer has now issued Multi-Engine Service Letter ME78-2, dated February 13, 1978, which supersedes ME76-3 and ME76-3, Supplement No. 1. The new service letter recommends, in addition to the repetitive

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front and rear spar lower cap inspections, repetitive inspections of the inboard end of the front spar web and web doubler for fatigue cracks.

The spar web and web doubler inspections are applicable to all airplanes currently affected by AD 76-10-11 plus approximately 490 additional airplanes which have improved front and rear spar lower caps installed that do not require repetitive inspection for cracks.

Accordingly the FAA has decided to supersede AD 76-10-11 with a new AD applicable to 336, 337, T337, P337, and M337 series airplanes that makes compliance with most of the recommendations in Cessna Service Letter ME78-2 mandatory. The new AD includes the inspection requirements currently in AD 76-10-11 plus repetitive inspections of the inboard end of the front wing spar web and web doubler on Cessna 336, 337, T337, P337, and M337 series airplanes which do not have the new improved front spar web and doubler installed. The new AD incorporates a clearer presentation of the more complicated compliance times resulting from the addition of the spar web inspections. In addition, paragraph IV of AD 76-10-11 is deleted from the new AD since owners/operators can best determine how they meet the compliance times in the AD. As is the case with the service letters cited in AD 76-10-11, ME78-2 recommends initiating wing spar cap and web inspections at 3,000 hours time in service and repetitive inspections each 300 hours on airplanes flown predominately at or below 1,500 feet above ground level. Since it is impossible to identify such aircraft because of a lack of operating records, we are prevented from making such inspections mandatory on these airplanes. However, as previously recommended in AD 76-10-11 the new AD strongly urges owners/operators to initiate inspections at 3,000 hours time in service and to perform repetitive inspections at 300-hour intervals on aircraft utilized in contour or terrain following operations at low altitudes, such as, power/pipe line patrol, fish or game spotting, aerial applications, police patrol, livestock management, etc.

The agency has coordinated this document with the manufacturer prior to issuance.

Since a situation exists that requires the adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Drafting Information

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

Adoption of the Amendment

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Cessna. Applies to the following models and serial number airplanes certificated in all categories:
Model: 336; serial Nos.: 336-0001 through 336-0195.
Models: 337, 337A, 337B, T337B, 337C, T337C, 337D, and T337D; serial Nos.: 337-0001 through 337-1193.
Models: 337E, T337E, 337F, T337F, 337G, 337H, and T337H; serial Nos.: 33701194 through 33701852.
Models: T337G and P337H; serial Nos.: P3370001 through P3370313.
Model: M337B; serial Nos.: All serial numbers.

Compliance: Required as indicated in accordance with compliance table I set forth in this AD or as otherwise set forth herein, unless already accomplished.

To detect cracking of the wing front and rear spar lower caps, front spar web and web doubler—In accordance with instructions set forth herein and in Cessna Multi-Engine Service Letter ME78-2, dated February 13, 1978, or later revisions:

I. At time intervals noted in table I of this AD, inspect the right and left wing front and rear spar lower cap and front spar web and web doubler on airplanes having model and serial numbers shown below:

Table I.—*Compliance times*

Airplane type/operation	Inspection times for spar cap inspections required by par. I.A. Total time [1]	Initial inspection [2]	Interval for repetitive inspections (hours)	Inspection times for front spar web inspections required by par. I.B. Initial inspection	Interval for repetitive inspections* (hours)
Nonpressurized (see note 1)	0 to 4,999	None	None	None	None
	5,000 and up	Within 25 h time in service after the effective date of this AD for those airpanes which have not yet been inspected in accordance with AD 76-10-11 or 73-04-02 or; within 500 h time in service after the last inspection in accordance with AD 76-10-11 or 73-04-02.	500	Within 25 h time in service after the effective date of this AD.	500
Pressurized (see note 1)	0 to 9,999	None	None	None	None
	10,000 and up	Within 25 h time in service after the effective date of this AD for those airplanes which have not yet been inspected in accordance with AD 76-10-11 or 73-04-02 or; within 500 h time in service after the last inspection in accordance with AD 76-10-11 or 73-04-02.	500	Within 25 h time in service after the effective date of this AD.	500

Table I.—*Compliance times* —Continued

Airplane type/operation	Inspection times for spar cap inspections required by par. I.A. Total time [1]	Initial inspection [2]	Interval for repetitive inspections (hours)	Inspection times for front spar web inspections required by par. I.B. Initial inspection	Interval for repetitive inspections* (hours)
Note 1: For those airplanes which have engaged in contour or terrain following operations at low altitudes, such as power/pipeline patrol, fish or game spotting, aerial applications, police patrol, livestock management, etc., Cessna recommends and FAA strongly urges inspections at intervals shown to the right of this note.	0 to 2,999	None	None	None	None
	3,000 and up	Within 25 h time in service after the effective date of this AD for those airplanes which have not yet been inspected in accordance with the suggestion in AD 76-10-11 or 73-04-02 or, within 300 h time in service after the last inspection in accordance with AD 76-10-11 or 73-04-02.	300	Within 25 h time in service after the effective date of this AD.	300

[1] In service for each of the following: (1) front spar lower cap; (2) rear spar lower cap; and (3) front spar web and web doubler.
[2] In accordance with this AD.
*After initial inspection in accordance with this AD the compliance time for repetitive inspections may be adjusted to allow compliance at the same time as the inspections required by paragraph I.A. of this AD.

A. Front and rear spar lower cap inspection:
Model: 336; serial Nos.: 336-0001 through 336-0195.
Models: 337, 337A, 337B, T337B, 337C, T337C, 337D, and T337D; serial Nos. 337-0001 through 337-1193.
Models: 337E, T337E, 337F, T337F, and 337G; serial Nos.: 33701194 through 33701548.
Model: T337G; serial Nos.: P3370001 through P3370138.
Model: M337B; serial Nos.: All serial numbers.

1. Front spar lower cap inspection. (a) Inspect three fastener holes on the left wing and three fastener holes on the right wing for wing spar cracks using eddy current inspection procedures outlined in the above noted Cessna service letter. Figure 1 shows the area involved and the three fasteners (two NAS 221 screws at W.S. 64.41 and the jack point bolt hole at W.S. 68.45) that are to be inspected.

(b) Remove the two NAS 221 screws at wing station 64.41 one at a time for this inspection and hold the boom fairing firmly against underlying thicknesses of material to insure proper eddy current probe depth settings during this inspection. A cross-section with the screws at W.S. 64.41 removed is shown in figure 2. Figure 3 shows the spar assembly (less boom and wing skins) and the relationship of the lower cap to the other parts at the strut attachment. Figure 4 shows the spar cross-section through the jack point bolt hole.

(c) If cracks are found in either the right or left wing front spar lower cap during any inspection required by this AD, prior to approving the airplane for return to service replace the front spar lower cap in both the right and left wing with new spar caps.

2. Rear spar lower cap inspection. (a) Dye penetrant inspect the lower spar cap area between 2 and 3 inches (second rivet outboard of W.S. 66.00 rib) outboard of wing station 66.00 rib for spar cap cracks originating in the rivet hole in accordance with inspection provisions in the above noted Cessna service letter. Figures 5, 6, and 7 show the location of the area on the rear spar lower cap to be inspected.

(b) If cracks are found in either the right or left wing rear spar lower cap during any inspection required by this AD, prior to approving the airplane for return to service replace the rear spar lower cap in both the right and left wing.

B. Front spar web and web doubler inspection:
Model: 336; serial Nos.: 336-0001 through 336-0195.
Models: 337, 337A, 337B, T337B, 337C, T337C, 337D, and T337D; serial Nos.: 337-0001 through 337-1193.
Models: 337E, T337E, 337F, T337F, 337G, 337H, and T337H; serial Nos.: 33701194 through 33701852.
Models: T337G and P337H; serial Nos.: P3370001 through P3370313.
Model: M337B; serial Nos.: All serial numbers.

1. Remove wing root access panels and wing root fairings.

2. Visually inspect the radii of both the spar web and web doubler for cracks in the shaded critical area shown in figure 8 of this AD.

3. If cracks are found in either the right or left wing front spar web or web doubler during any inspection required by this AD, prior to approving the airplane for return to service, replace the discrepant components.

II. Airplanes found to have cracked spar caps, webs or web doublers during inspections required by this AD may be flown in accordance with FAR 21.197 to a base where the component replacement can be accomplished.

III. Accomplish the repetitive inspections made mandatory by this AD on those spar caps, webs and web doublers replaced in accordance with this AD upon accumulation of the total time in service shown in table I of this AD. Repetitive inspections "strongly urged" via note 1 in table I of this AD should also be accomplished on spar caps, webs and web doublers replaced in accordance with this AD upon accumulation of the total time in service shown in note 1, table I, of this AD.

IV. Notify in writing the Chief, Engineering and Manufacturing Branch, FAA, Central Region, of the location and length of any crack found during inspections required by this AD and also the total time in service of the component at the time the crack was discovered. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.)

V. The time interval for repetitive inspections required by this AD, after compliance with initial inspection requirements, can be adjusted up to 25 hours to allow accomplishment of these inspections at regular scheduled maintenance periods.

VI. Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This AD supersedes AD 76-10-11, Amendment 39-2621 (41 FR 22405, 22406, 22407, and 22408).

This amendment becomes effective May 11, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and sec. 11.89 of the Federal Aviation regulations (14 CFR 11.89).)

Note.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on April 21, 1978.

John E. Shaw,
Acting Director,
Central Region.

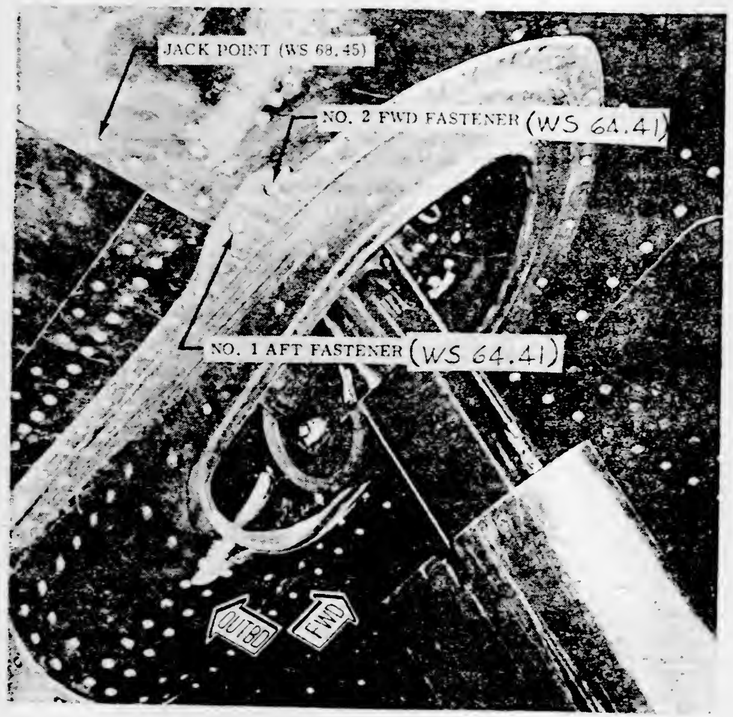
[FR Doc. 78-11607 Filed 4-28-78; 8:45 am]

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WING STRUT ATTACHMENT AREA

WITH STRUT CUFF REMOVED



VIEW LOOKING UP AT R.H. WING - L.H. TYPICAL

FIG. 1

FRONT WING SPAR-BOOM & STRUT ATTACHMENT AREA

L.H. Shown - R.H. Typical

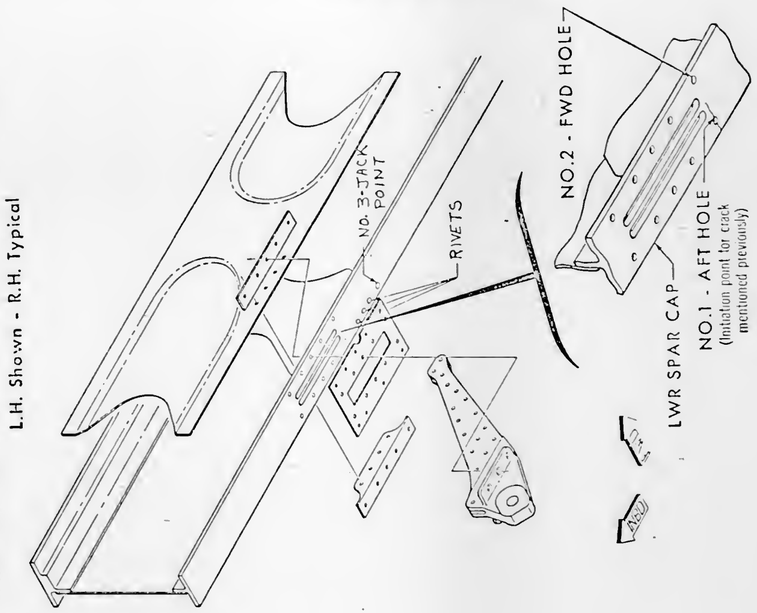
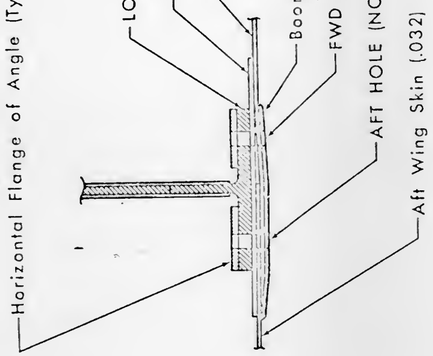


Fig. 3

LOWER SPAR CAP AT FASTENERS

Wing Station 64.41



*.032 THRU SN 337-0755

.040 SN 337-0756 AND ON

Fig. 2

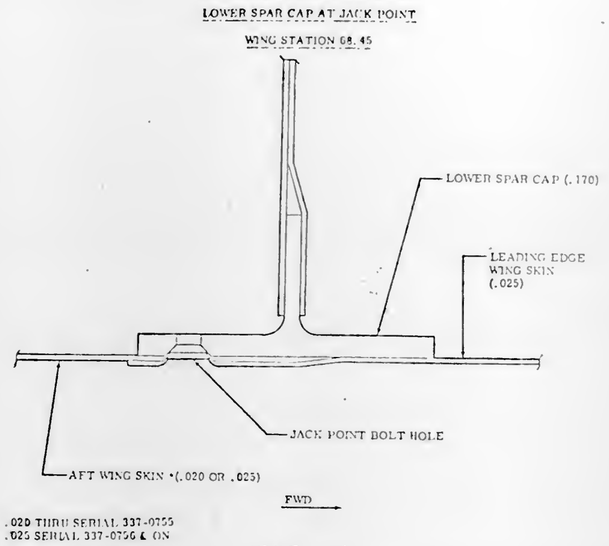


FIG. 4

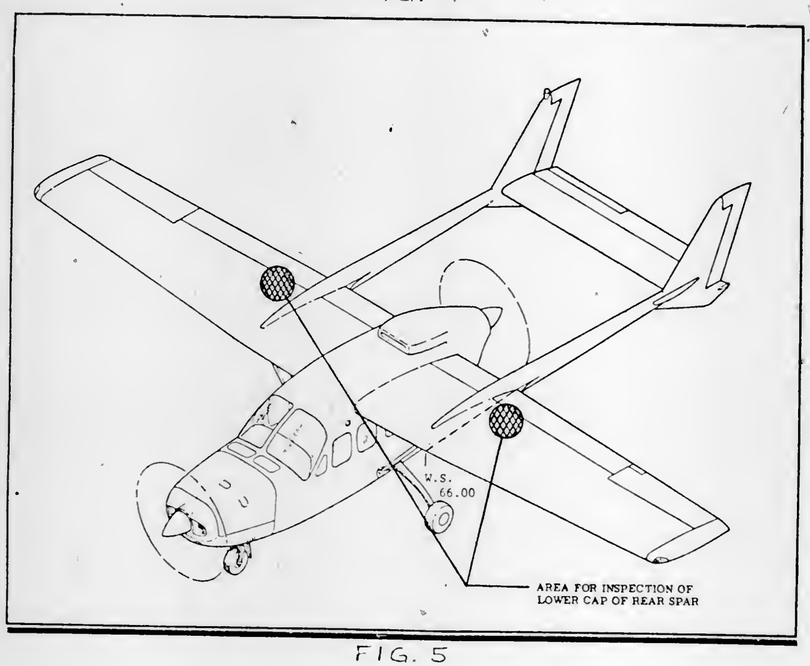


FIG. 5



FIG. 6
TANK COVER REMOVED FROM TOP OF WING

V 43 — 84 MAY 1 78 UMI

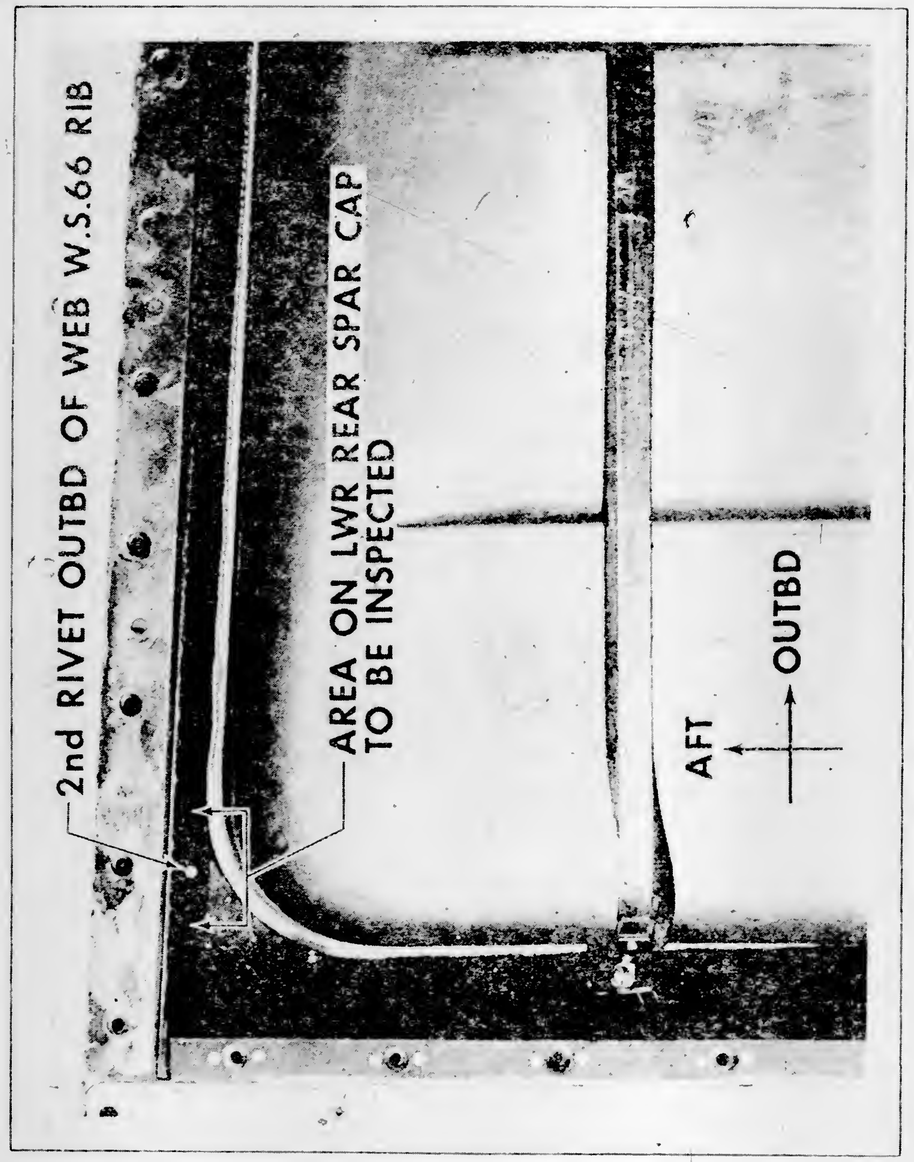


FIG. 7

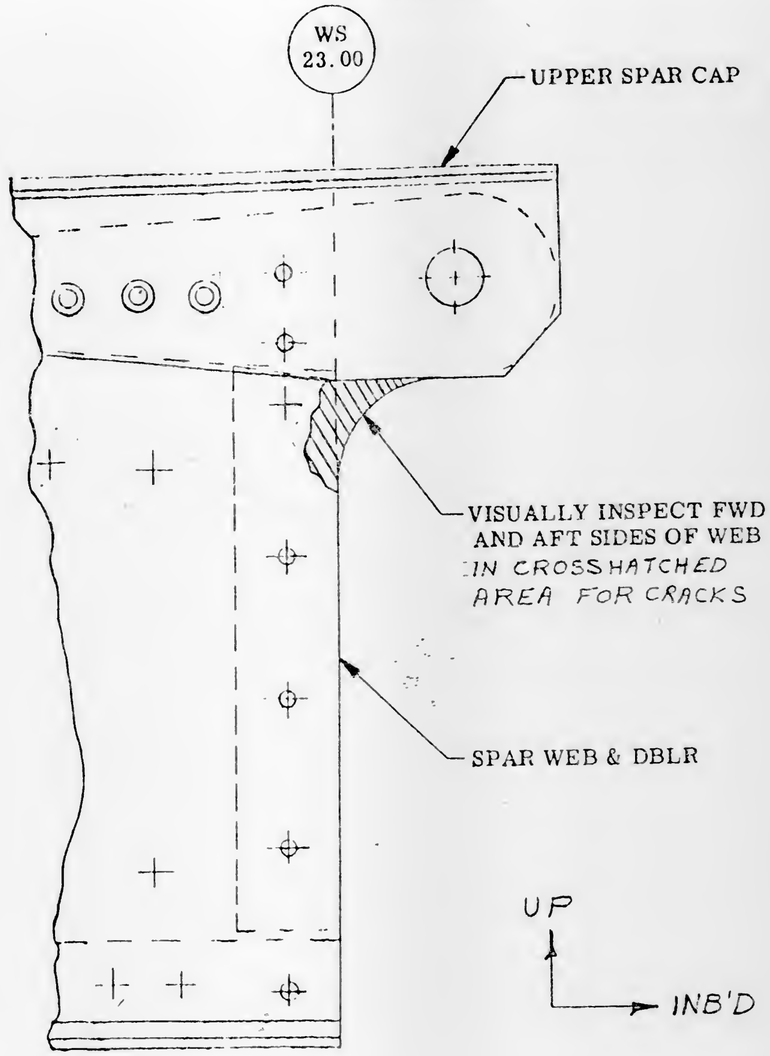


FIGURE 8

FRONT SPAR ASSY

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V 4 3 1 8 4 M Y 1 7 8 UMI

[4910-13]

[Airspace Docket No. 78-RM 12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zones and Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the control zones and transition areas that operate on irregular schedules in Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. The operating hours of these facilities are being removed from the Airman's Information Manual and posted in the new Airport/Facility Directory. This rule is necessary to alter the controlled airspace descriptions to reflect the change of publication containing the operating hours.

EFFECTIVE DATE: 0901 G.m.t. May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-530, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010, telephone 303 837 3937.

SUPPLEMENTARY INFORMATION

HISTORY

There are part-time control zones and transition areas that operate on an irregular schedule. These facilities are presently described in Part 71 of the Federal Aviation Regulations (14 CFR Part 71) with a reference to consult the Airman's Information Manual (AIM) for effective hours. Parts 2 and 3 of the AIM will be placed in the new Airport/Facility Directory effective May 18, 1978. The operating hours and dates of part-time controlled airspace designations currently listed in the AIM Part 3 Special Notices will now be listed in the new directory in the airport remarks section.

RULE

Therefore, it is necessary to alter the named control zones and transition areas by this editorial change. Since this alteration is minor in nature, notice and public procedure hereon are not considered necessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Divison, and Mr. Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t. May 18, 1978 as follows:

Subpart F, §71.171 is amended by deleting: "• • • Airman's Information Manual • • •" and substituting "• • • Airport/Facility Directory • • •" in the following descriptions:

Alamosa, CO
Aspen, CO
Brookings, SD
Broomfield, CO
Cody, WY
Colorado Springs, CO (USAF Academy Airstrip)
Cortez, CO
Devils Lake, ND
Durango, CO
Fort Carson, CO (Butts AAF)
Gillette, WY
Glasgow (AFB)
Greenwood Village, CO (Arapahoe County Airport)
Livingston, MT
Mitchell, SD
Montrose, CO
Pueblo, CO
Riverton, WY
Vernal, UT
Yankton, SD

Subpart G, § 71 181 is amended by deleting: "• • • Airman's Information Manual • • •" and substituting "• • • Airport/Facility Directory • • •" in the following descriptions: West Yellowstone, MT.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A 107.

Issued in Aurora, Colo., 80010, on April 18, 1978.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc. 78-11603 Filed 4-28-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-RM 13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Redesignation of Control Zone, Havre, Mont.

AGENCY: Federal Aviation Aministration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the effective time for the Havre, Mont. control zone from continuous to part-time to establish effectiveness for this control zone which coincides with the availability of weather reporting service at this location. The National Weather Service is reducing their hours of operation at Havre, Mont., making this amendment necessary.

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010, telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

HISTORY

The National Weather Service at Havre, Mont. currently provides full time weather reporting service supporting the full time control zone at Havre, Mont. Beginning May 18, 1978, operational hours for the National Weather Service at Havre, Mont. will be changed from full time to the periods from 0500 to 2100 hours local time daily and weather reporting service will not be available for an eight-hour period. Therefore, the present continuous effective period of the Havre, Mont. control zone must be revised to establish effective times for this control zone coincidental with the availability of weather reporting service by the National Weather Service.

Since effective periods for the Havre, Mont. control zone are contingent on the availability of weather reporting service at that location, it was further determined that issuance of a Notice of Proposed Rulemaking for this amendment would be impractical and not within the public interest.

RULE

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) revises the control zone at Havre, Mont. The reduced hours of weather reporting service by the National Weather Service at Havre, Mont. necessitates the changing of the effective hours of operation for the Havre, Mont. control zone.

DRAFTING INFORMATION

The principal authors of this document are Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, and Mr. Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective May 18, 1978 as follows:

By amending Subpart F, Section 71.171 by adding the following:

HAVRE, MONT.

This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time, thereafter, will be continuously published in the Airport Facility Directory.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo. 80010, on April 20, 1978.

ISAAC H. HOOVER,
Acting Director,
Rocky Mountain Region.

[FR Doc. 78-11604 Filed 4-28-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-WA-23]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Revocation of Area High Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes certain area high routes which do not respond to area navigation user requirements. This action is consistent with FAA Area Navigation Policy and is taken as a positive step to facilitate area navigation within the existing air traffic control environment by eliminating area navigation routes that are not required nor used by existing area navigation equipped aircraft operators.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On January 12, 1978, the FAA proposed to amend Subpart D of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to revoke 81 area high routes that are not responsive to user requirements (43 FR 1802). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection to the route revocations. This amendment is that proposed in the notice. Section 75.400 was republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 730).

THE RULE

This amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) revokes 81 area high routes that are not responsive to user requirements. Most area navigation equipped aircraft are using area navigation in the en route system on a random route basis as direct between two points with radar monitoring when traffic conditions permit such clearances by air traffic control. Except for these routes being handled in Airspace Docket No. 78-WA-1, which require coordination under the provisions of Executive Order 10854, this amendment revokes those area navigation routes not identified as being required by any area navigation user.

DISCUSSION OF COMMENTS

The notice stated that initially the agency intends to retain waypoints used to define the routes being deleted. Later, those waypoints would be relocated to more accurately serve the users and the ATC System. While there were no objections to the proposed route revocations, there were several comments that questioned the value of retaining those waypoints and recommendations were made for their deletion. FAA believes that these comments may have merit. Accordingly, FAA will reconsider this matter after several months experience has been gained and the benefits, if any, of the retained waypoints in facilitating pilot selection of direct routes can be determined.

DRAFTING INFORMATION

The principal authors of this document are Mr. John Watterson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart D of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (43 FR 730) is amended, effective 0901 GMT, July 13, 1978, as follows:

In § 75.400 The following area high routes are revoked:

1. J804R—Tampa, Fla. to Atlanta, Ga.
2. J807R—New York, N.Y. to Sherbrooke, Canada
3. J813R—Atlanta, Ga. to New Orleans, La.
4. J814R—New Orleans, La. to Atlanta, Ga.
5. J816R—Atlanta, Ga. to Washington, D.C.
6. J821R—Chicago, Ill. to Minneapolis, Minn.
7. J822R—Minneapolis, Minn. to Chicago, Ill.
8. J823R—Detroit, Mich. to Chicago, Ill.
9. J824R—St. Louis, to Chicago, Ill.
10. J826R—Kansas City, Mo. to Chicago, Ill.
11. J827R—Chicago, Ill. to Kansas City, Mo.
12. J830R—St. Louis, Mo. to New York, N.Y.
13. J834R—Chicago, Ill. to Cleveland, Ohio
14. J835R—Cleveland, Ohio to Chicago, Ill.
15. J837R—Cincinnati, Ohio to Chicago, Ill.
16. J838R—Atlanta, Ga. to Jacksonville, Fla.
17. J839R—Jacksonville, Fla. to Atlanta, Ga.
18. J846R—Omaha, Nebr. to Chicago, Ill.
19. J847R—Chicago, Ill. to Omaha, Nebr.
20. J849R—Chicago, Ill. to Des Moines, Iowa
21. J850R—Los Angeles, Calif. to San Francisco, Calif.
22. J852R—Las Vegas, Nev. to San Francisco, Calif.
23. J854R—Los Angeles, Calif. to Sacramento, Calif.
24. J856R—Atlanta, Ga. to Pittsburgh, Pa.
25. J857R—Denver, Colo. to Salt Lake City, Utah
26. J858R—Denver, Colo. to Kansas City, Mo.
27. J859R—Kansas City, Mo. to Denver, Colo.
28. J860R—Memphis, Tenn. to Louisville, Ky.
29. J866R—Denver, Colo. to Chicago, Ill.
30. J867R—Chicago, Ill. to Denver, Colo.
31. J869R—Columbia, S.C. to Atlanta, Ga.
32. J871R—Atlanta, Ga. to St. Louis, Mo.
33. J872R—Atlanta, Ga. to Columbia, S.C.
34. J874R—Memphis, Tenn. to Atlanta, Ga.
35. J876R—Atlanta, Ga. to Savannah, Ga.
36. J877R—Savannah, Ga. to Atlanta, Ga.
37. J878R—Atlanta, Ga. to Cleveland, Ohio
38. J879R—Cleveland, Ohio to Atlanta, Ga.
39. J881R—Detroit, Mich. to Atlanta, Ga.
40. J882R—Atlanta, Ga. to Detroit, Mich.
41. J885R—St. Louis, Mo. to Memphis, Tenn.
42. J890R—Cleveland, Ohio to St. Louis, Mo.

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43. J891R—Chicago, Ill. to Memphis, Tenn.
44. J894R—Jacksonville, Fla. to Miami, Fla.
45. J897R—Philadelphia, Pa. to Chicago, Ill.
46. J901R—Seattle, Wash. to Spokane, Wash.
47. J902R—Portland, Oreg. to Los Angeles, Calif.
48. J904R—Los Angeles, Calif. to Denver, Colo.
49. J905R—Las Vegas, Nev. to Tucson, Ariz.
50. J908R—San Francisco, Calif. to Denver Colo.
51. J909R—Denver, Colo. to San Francisco, Calif.
52. J911R—Portland, Oreg. to Denver, Colo.
53. J913R—Portland, Oreg. to Salt Lake City, Utah.
54. J916R—San Antonio, Tex. to Hobby, Tex.
55. J923R—Albuquerque, N. Mex. to Denver, Colo.
56. J925R—Minneapolis, Minn. to Denver, Colo.
57. J926R—Denver, Colo. to Los Angeles, Calif.
58. J927R—Chicago, Ill. to Dallas, Tex.
59. J928R—Denver, Colo. to Seattle, Wash.
60. J931R—Salt Lake City, Utah to San Francisco, Calif.
61. J935R—Tucson, Ariz. to Albuquerque, N. Mex.
62. J936R—Phoenix, Ariz. to Chicago, Ill.
63. J942R—Dallas, Tex. to Lubbock, Tex.
64. J950R—Houston, Tex. to Oklahoma City, Okla.
65. J951R—Washington, D.C. to St. Louis, Mo.
66. J954R—Washington, D.C. to Detroit, Mich.
67. J956R—Memphis, Tenn. to Chicago, Ill.
68. J969R—Denver, Colo. to Phoenix, Ariz.
69. J970R—Denver, Colo. to Dallas, Tex.
70. J971R—San Antonio, Tex to Dallas, Tex.
71. J972R—Dallas, Tex. to San Antonio, Tex.
72. J973R—Seattle, Wash. to Salt Lake City, Utah
73. J975R—Dallas, Tex. to El Paso, Tex.
74. J977R—Portland, Oreg. to Chicago, Ill.
75. J978R—Chicago, Ill. to Portland, Oreg.
76. J982R—Los Angeles, Calif. to Kansas City, Mo.
77. J987R—Montreal, Canada to New York, N.Y.
78. J988R—New York, N.Y. to Montreal, Canada.
79. J989R—New York, N.Y. to Chicago, Ill.
80. J991R—Minneapolis, Minn. to Greater Southwest Texas, Tex.
81. J992R—Houston, Tex. to Tulsa, Okla.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on April 20, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-11602 Filed 4-28-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7542]

PART 301—PROCEDURE AND ADMINISTRATION

Procedures for the Abatement of the Civil Penalty for Failure To File Information Required by Section 6046

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the abatement of the civil penalty for failure to file an information return regarding the organization or reorganization of foreign corporations and acquisitions of their stock. The regulations are intended to provide more efficient procedures for the abatement of the penalty. They affect potentially all persons who are required to file the described information return.

EFFECTIVE DATE: The regulations are effective May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

David Dolan of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459) (not a toll free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains an amendment to the Regulations on Procedure and Administration (26 CFR Part 301) under section 6679 of the Internal Revenue Code of 1954. Because the regulations affect solely Departmental practice and procedure, a notice of proposed rulemaking was not published in the FEDERAL REGISTER.

Section 6046 requires certain persons to detail in a return information regarding the organization or reorganization of foreign corporations and acquisitions of the stock of those corporations. Section 6679(a) provides for a $1,000 penalty for failure to file a return required under section 6046 or for failure to furnish in full the information required on the return. Section 6679(a) also provides that the penalty will be abated if failure to file a proper return is due to reasonable cause. Section 301.6679-1(a)(3) specifies that the Director of International Operations or the Director of the Philadelphia Service Center shall make all determinations of reasonable cause.

The amendment to § 301.6679-1(a)(3) provides that district directors and service center directors, as well as the Director of International Operations, may make reasonable cause determinations. This amendment will permit the evaluation of reasonable cause to be undertaken by the district or service center director who can most conveniently make the evaluation.

DRAFTING INFORMATION

The principal author of this regulation was David Dolan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation on matters of both substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 301 is amended as follows:

§ 301.6679-1 Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.

(a) *Civil penalties.* • • •

(3) *Showing of reasonable cause.* The district director, the director of the Internal Revenue service center, and the director of International Operations are authorized to make the determination that such failure was due to a reasonable cause and that, accordingly, the penalty imposed by section 6679 shall not apply. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration that it is made under the penalties of perjury, setting forth all the facts alleged as a reasonable cause. If the taxpayer exercises ordinary business care and prudence and is nevertheless unable to furnish any item of information required under section 6046 and the regulations thereunder, such failure shall be considered due to a reasonable cause. In determining the extent of a taxpayer's ability to obtain information, the percentage of stock owned by such taxpayer and the nature of the other interests in the foreign corporation will be considered.

• • • • •

Because this treasury decision affects solely Departmental practice and procedure, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: April 18, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-11761 Filed 4-28-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-234]

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT AREAS

Administrative Change; Los Angeles-Long Beach Marine Inspection Office Relocation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment reflects a recent change in the Eleventh Coast Guard District. The Los Angeles-Long Beach Marine Inspection Office has been moved from Wilmington, Calif. to Long Beach, Calif., where it is now collocated with the Los Angeles-Long Beach Captain of the Port Office.

EFFECTIVE DATE: This amendment is effective on May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Capt. George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Since this amendment is related to agency organization, it is exempt from the notice of proposed rulemaking requirements in 5 U.S.C. 553(b)(3)(A), and since this amendment is not substantive, it may be made effective in less than 30 days after publication in the FEDERAL REGISTER under 5 U.S.C. 553(d)(2).

The Coast Guard has evaluated this final rule under the Department of Transportation Policies for Improving Government Regulations published on March 8, 1978 (43 FR 9582). Since this rule amounts to an address change, impacts are anticipated to be minimal.

DRAFTING INFORMATION

The principal persons involved with the drafting of this regulation are: Ens. G. W. Molessa, Jr., Project Manager, Office of Marine Environment and Systems, and Lt. G. S. Karavitis, Project Attorney, Office of Chief Counsel.

In accordance with the foregoing, Part 3 of Chapter 1, Title 33 of the Code of Federal Regulations is amended as follows:

1. By amending 33 CFR 3.55-10(a) to read as follows:

§ 3.55-10 Los Angeles-Long Beach Marine Inspection Zone and Captain of the Port Area.

(a) The Los Angeles-Long Beach Marine Inspection Office and the Los Angeles-Long Beach Captain of the Port Office are located in Long Beach, California.

• • • • • •

(Sec. 1, 63 Stat. 504; (14 U.S.C. 93).)

Dated: April 26, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 78-11792 Filed 4-28-78; 8:45 am]

[4910-14]

[CGD 78-212]

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES AND CAPTAIN OF THE PORTS AREAS

Boundary Realignments within the Seventh Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: This document makes a correction to a regulation which appeared in the Thursday, January 5, 1978 edition of the FEDERAL REGISTER.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Capt. George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

The following correction is made to Part III of the FEDERAL REGISTER of January 5, 1978, appearing on page 1055:

1. On page 1056, second column, in § 3.35-20(b), in the fourth line, the words "eastern Florida" should be deleted and the word "Georgia" should be inserted in their place.

Dated: April 14, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 78-11788 Filed 4-28-78; 8:45 am]

[4910-60]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—PIPELINE SAFETY

[Amdts. 192-32, 195-14; Docket No. 77-10]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

PART 195—TRANSPORTATION OF LIQUIDS BY PIPELINE

Qualification and Design of Steel Pipe

AGENCY: Materials Transportation Bureau.

ACTION: Final rule.

SUMMARY: This amendment updates the existing incorporation by reference of API Standard 5LS, "API Specification for Spiral-Weld Line Pipe," and API Standard 5LX, "API Specification for High-Test Line Pipe," to include in Part 192, the March 1976 Supplement and the 1977 edition of each document and in Part 195, the 1977 edition of each document..

DATE: This amendment becomes effective June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank E. Fulton, 202-426-2082.

SUPPLEMENTARY INFORMATION: This amendment makes Parts 192 and 195 conform with recent developments in the manufacture and design of steel pipe. These subjects are now regulated, in part, through an incorporation by reference of API Standard 5LS and API Standard 5LX. At present, the 1975 editions are the latest applicable editions of API 5LS and 5LX listed in Parts 192 and 195. This amendment updates the lists to include the 1977 editions in both parts and the March 1976 Supplements in Part 192.

Of particular importance is that by referencing the March 1976 Supple-

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ments and the 1977 editions of API 5LS and 5LX, pipeline operators will be permitted to use Grade X-70 pipe in the transportation of gas. Grade X-70 is more economical for certain uses than other available grades of steel pipe because of its high strength, which permits the use of thinner walled pipe. It is projected for use in the pipeline approved under the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719) to transport gas from the North Slope to the lower 48 States.

The Office of Pipeline Safety Operations proposed adoption of the later editions of API 5LS and 5LX in a Notice of Proposed Rulemaking (Notice 77-7) issued on December 7, 1977 (42 FR 62397, Dec. 12, 1977). Interested persons were invited to participate in the rulemaking proceeding by submitting written data, views, or arguments by January 12, 1978. In addition, in accordance with Sec. 4(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1673(b)), the Technical Pipeline Safety Standards Committee (TPSSC) considered the proposal at its meeting in Washington, D.C., on January 17 and 18, 1978. The TPSSC's report is set forth below.

Twelve persons submitted comments in response to Notice 77-7, 3 trade associations and 9 gas pipeline companies. All the commenters favored adoption of the later editions of API 5LX and 5LS.

One person suggested that Grade X-70 pipe be required to pass the Charpy impact testing set forth in Supplementary Test SR5 in the 1977 editions of 5LS and 5LX. The SR5 test, which is intended to substantiate material quality and to mitigate the potential for brittle or shear pipe fractures, is not obligatory under the provisions of 5LS and 5LX and was not discussed in Notice 77-7. The test, therefore, could not be made binding under Part 192 or Part 195 without issuing an additional Notice of Proposed Rulemaking on the subject. Since the commenter did not submit evidence that would justify imposing the Charpy test as a general rule and the other available information does not show that potential fractures are a general problem in Grade X-70 pipe, there does not appear to be an immediate need to pursue the matter further. It is recognized, however, that under certain conditions of high stress and low temperature, the potential for fractures may increase in thin walled pipe. Under these conditions, operators are already required by the general design requirements of Parts 192 and 195 to take additional precautions (see §§ 192.53 and 195.102). Further consideration will be given to this problem in a future rulemaking proceeding on pipelines operating in low temperature environments.

Several commenters suggested that the introductory language in Section II of Appendix A and Section I of Appendix B to Part 192 and in § 195.3(a) be amended to permit the use of components which provide a comparable level of safety but do not comply with any of the listed editions of the documents incorporated by reference. Since the safety standards were adopted, the use of items in stock or the reuse of salvagable items has been permitted only if the items meet the requirements of Part 192 or Part 195, as the case may be, and where applicable, the requirements of a listed edition of a referenced document. Although this requirement may be too inflexible in certain situations, it was not proposed to be changed in Notice 77-7 and thus cannot be changed in the final rules. However, the problem will be given further attention in the future when action is taken on a petition for rulemaking filed by the Interstate Natural Gas Association of America. This petition proposes that criteria be established for the use of materials that do not conform with any listed edition of a listed document.

REPORT OF THE TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 requires that all proposed standards and amendments to such standards pertaining to gas pipelines be submitted to the Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the technical feasibility, reasonableness, and practicability of each proposal. This amendment to Part 192 was submitted as Item A in a list of items before the Committee at a meeting in Washington, D.C., on January 17 and 18, 1978. On March 10, 1978, the Committee filed the following favorable report. A minority report was not filed.

This communication is the official report of the Technical Pipeline Safety Standards Committee concerning the Committee's action on one amendment to 49 CFR Part 192 proposed by the Office of Pipeline Safety Operations, on revisions of Subpart I of Part 192, as proposed by Committee members, and on other matters the Committee decided should be brought to the attention of the Department of Transportation.

The following described actions were taken by the Committee at a meeting held in Washington, D.C., on January 17 and 18, 1978.

A. PROPOSAL BY OPSO TO AMEND THE REQUIREMENTS IN RESPECT TO QUALIFICATION AND DESIGN OF STEEL PIPE

OPSO proposed to amend the requirements of Appendix A and Appendix B of Part 192 pertaining to qualification and design of steel pipe as published in Notice 77-7, Docket No. 77-10. By a unanimous affirmative vote of the nine members present, the Committee found the following language to be technically feasible, reasonable and practicable.

[The language suggested is adopted in the final rules.]

• • • • • •

NOTE.—It has been determined that this document does not contain a major regulation requiring preparation of a Regulatory Analysis under DOT procedures or Executive Order 12044.

In consideration of the foregoing, Parts 192 and 195 of Title 49 of the Code of Federal Regulations are amended as set forth below.

1. Section II of Appendix A to Part 192 is amended to read as follows:

APPENDIX A—INCORPORATED BY REFERENCE

• • • • • •

II. Documents incorporated by reference. Numbers in parentheses indicate applicable editions. Only the latest listed edition applies except that an earlier listed edition may be followed with respect to pipe or components which are manufactured, designed, or installed in accordance with the earlier edition before the latest edition is adopted, unless otherwise provided in this part.

A. • • •

(5) API Standard 5LS "API Specification for Spiral-Weld Line Pipe" (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975 plus Supp. 1, and 1977).

(6) API Standard 5LX "API Specification for High-Test Line Pipe" (1976, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975 plus Supp. 1, and 1977).

• • • • • •

2. Section I of Appendix B to Part 192 is amended to read as follows:

APPENDIX B—QUALIFICATION OF PIPE

I. Listed Pipe Specifications. Numbers in parentheses indicate applicable editions. Only the latest listed edition applies except that an earlier listed edition may be followed with respect to pipe or components which are manufactured, designed, or installed in accordance with the earlier edition before the latest edition is adopted, unless otherwise provided in this part.

• • • • • •

API 5LS, Steel pipe (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975 plus Supp. 1, and 1977).

API 5LX, Steel pipe (1967, 1970, 1971 plus Supp. 1, 1973 plus Supp. 1, 1975 plus Supp. 1, and 1977).

• • • • • •

(Sec. 3, Pub. L. 90-481, 82 Stat. 721, (49 U.S.C. 1672); for offshore gathering lines, sec. 105, Pub. L. 93-633, 88 Stat. 2157, (49 U.S.C. 1804); 49 CFR 1.53 and App. A to Part 1.)

3. In § 195.3, paragraphs (a) and (c)(1) (iv) and (v) are revised to read as follows:

§ 195.3 Matter incorporated by reference.

(a) There are incorporated by reference in this part all materials referred to in this part that are not set forth in full in this part. These materials are hereby made a part of this regulation. Applicable editions are listed in paragraph (c) of this section in parentheses following the title of the referenced material. Only the latest listed edition applies, except that an earlier listed edition may be followed with respect to components which are manufactured, designed, or installed in accordance with the earlier edition before the latest edition is adopted, unless otherwise provided in this part.

• • • • • •

(c) • • •

(1) • • •

(iv) API Specification 5LS "API Specification for Spiral-Weld Line Pipe" (1969, 1975, and 1977).

(v) API Specification 5LX "API Specification for High-Test Line Pipe" (1969, 1975, and 1977).

• • • • • •

(Secs. 6, Pub. L. 89-670, 80 Stat. 937, (49 U.S.C. 1655); (18 U.S.C. 831-835); 49 CFR 1.53 and App. A to Part 1.)

Issued in Washington, D.C., on April 25, 1978.

L. D. SANTMAN,
Acting Director,
Materials Transportation Bureau.

[FR Doc. 78-11813 Filed 4-28-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1323]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1323).

SUMMARY: There is a shortage of tri-level auto rack flatcars on the Burlington Northern (BN) and on the Union Pacific (UP) Railroads for the shipment of automobiles. Bi-level auto rack cars are available to these railroads but cannot be used because of tariff provisions requiring the use of tri-level cars. Service Order No. 1323 authorizes the BN and the UP to substitute three bi-level cars for each two tri-level cars ordered by shippers for transporting automobiles.

DATES: Effective 12:01 a.m., April 25, 1978; expires 11:59 p.m., June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 25th day of April, 1978.

There are shortages of tri-level type multi-level auto rack flat cars on the Burlington Northern Inc., (BN) and on the Union Pacific Railroad Co. (UP) required to transport automobiles subject to tariff restrictions requiring the use of such tri-level cars. These railroads have available supplies of bi-level cars of similar type for which could be used for transporting these automobiles if tariff provisions permitted. The economic loss suffered by shippers dependent upon the BN and the UP for their car supplies can be alleviated by the substitution of bi-level cars for tri-level cars at the ratio of three bi-level cars for each two tri-level cars ordered.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of auto rack flat cars are ineffective to overcome these shortages of auto rack flat cars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1323 Distribution of freight cars.

(a) Subject to the concurrence of the shipper the Burlington Northern Inc., (BN), and the Union Pacific Railroad Co. (UP) may substitute three bi-level auto rack flat cars, listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 407, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "FA" for each two tri-level auto rack flat cars ordered by the shipper for transporting automobiles.

(b) The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(c) *Rates and Minimum Weights Applicable.* The rates to be applied to shipments for which three bi-level cars have been substituted for two tri-level cars ordered as authorized by Section (a) of this order shall be the rates applicable to the larger cars ordered. The minimum weight to be applied to each group of three bi-level cars substituted for two tri-level cars shall be the combined minimum weights applicable to the two tri-level cars ordered.

(d) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by Section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Two tri-level cars ordered. Three bi-level cars furnished authority I.C.C. Service Order No. 1323.

(e) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(f) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(h) *Effective date.* This order shall become effective at 12:01 a.m., April 26, 1978.

(i) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-11787 Filed 4-28-78; 8:45 am]

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[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14711; File No. S7-648]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Quotations for Reported Securities

AGENCY: Securities and Exchange Commission.

ACTION: Postponement of effective date of rule.

SUMMARY: The Commission has amended its rule governing dissemination of quotation information with respect to reported securities to postpone the effective date of that rule from May 1, 1978 to August 1, 1978. The Commission has taken this action to permit the self-regulatory organizations to plan for the joint implementation of the rule in a manner which is designed to facilitate the development of a composite quotation system—an important element of a national market system.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

John W. Osborn, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-8961.

SUPPLEMENTAL INFORMATION: The Commission today announced that it has amended Rule 11Ac1-1 [17 CFR § 240.11Ac1-1] (the "Rule") under the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975)] to postpone the effective date of the Rule until August 1, 1978. The Rule governs dissemination of quotation information as to which last sale information is reported in the consolidated transaction reporting system contemplated by Rule 17a-15 under the Act (17 CFR 240.17a-15) ("reported securities") and, as adopted, would have become effective on May 1, 1978.[1]

Most of the self-regulatory organizations subject to the Rule have requested that the Commission delay the effective date of the Rule.[2] The requests state that the various self-regulatory organizations which are subject to the Rule have been meeting to discuss the feasibility of joint implementation of the Rule. The discussions contemplated the formation of a Consolidated Quotation Association, which would make available to vendors quotations in eligible securities from each participating self-regulatory organization through a single data stream. The self-regulatory organizations further state that joint implementation would provide several forms of cost savings to the industry and to vendors of quotation information by removing possible redundancies in equipment and personnel. In particular, they state that creation of a single, comprehensive quotation data stream would avoid multiple data transmission lines from self-regulatory organizations to vendors and facilitate the sequencing of quotation information.

In addition, certain exchanges have advised the Commission that they have encountered technical problems in connection with their plans to disseminate quotations in reported securities through the use of computer systems which permit market makers on those exchanges either to input quotations manually or generate updated quotations automatically in response to changes in quotations in the primary markets. These exchanges have been actively involved in developing such systems facilities for over a year and state that recently discovered technical problems (which became evident during the testing of certain new programs) make full compliance with the Rule technically impossible on May 1, 1978.

The Commission has frequently stated its belief that the availability of comprehensive quotation information is a fundamental building block of a national market system. In its recent Statement on the Development of a National Market System, the Commission noted that a composite quotation system should:

(i) lead to increased efforts by brokers to make informed order routing decisions from among the various competing market centers (in order to choose the particular market affording, at a particular point in time, the most favorable execution opportunities to their customers); (ii) foster improvements in existing methods of routing orders to all market centers; (iii) enhance fair competition among markets; and (iv) otherwise advance the objectives of a national market system specified by the Congress in Section 11A(a) of the Act.[3]

The Commission has also encouraged the self-regulatory organizations to plan for joint implementation of the Rule. In the release announcing the adoption of the Rule, the Commission stated its belief that "any arrangement among all of the various exchanges and associations leading to centralized processing, sequencing and validation of quotations would be beneficial."[4] The Commission continues to believe that joint implementation of the Rule would be in the public interest and would further the purposes of the Act by facilitating the development of an important facility of a national market system—a composite quotation system. It also appears that the creation of a single data stream would result in reduced costs for both the self-regulatory organizations and the vendors by eliminating the necessity for duplicative facilities, data transmission lines and personnel, and by resolving potential timing and sequencing problems. It is apparent, however, that joint implementation will not be possible by May 1, 1978, and that technical problems will delay the ability of certain exchanges to comply with the Rule on that date. Accordingly, the Commission has determined to amend the Rule by postponing its effective date from May 1, 1978, to August 1, 1978. The Commission wishes to emphasize that this action reflects its understanding that each of the self-regulatory organizations has acted, and will continue to act, as expeditiously as possible in implementing the facilities and procedures (including the proposed joint data stream) necessary to provide quotation information from all market centers in conformity with the Rule so that further delays will not be necessary.[5]

For the reasons stated above and pursuant to the Administrative Procedure Act (5 U.S.C. 551 et seq.), the Commission finds for good cause that notice and public procedure on this amendment to the Rule is both impracticable, unnecessary and contrary to the public interest and that there is good cause for making this amendment to the Rule effective immediately. The Commission also finds that adoption of this amendment to the Rule does not impose any burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act.

The Securities and Exchange Commission, acting pursuant to the Act, and particularly Sections 2, 3, 6, 9, 10, 11A, 15, 15A, 17, and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78k-1, 78o, 78o-3, 78q, and 78w) hereby amends paragraph (e) of § 240.11Ac1-1 of Title 17 of the Code of Federal Regulations to postpone until August 1, 1978, the effective date of that section. The text of the amendment is as follows:

Rule 11Ac1-1 under the Act (17 CFR 240.11Ac1-1) is amended to read as follows:

§ 240.11Ac1-1 Dissemination of quotations for reported securities.

. . . . . .

(e) The effective date of this section shall be August 1, 1978.

. . . . . .

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 27, 1978.

[FR Doc. 78-11826 Filed 4-28-78; 8:45 am]

[1] Securities Exchange Act Release No. 14415 (January 26, 1978), 43 FR 4342.

[2] Requests for a delay in the effective date of the Rule have been received from the American, Boston, Cincinnati, Midwest and New York Stock Exchanges and the National Association of Securities Dealers, Inc.

[3] Securities Exchange Act Release No. 14416 (January 26, 1978) at 28, 43 FR 4358.

[4] Securities Exchange Act Release No. 14415 (January 26, 1978) at 51, 43 FR 4349.

[5] In addition, the Commission notes that, to the extent a self-regulatory organization participates in the Intermarket Trading System ("ITS") recently approved by the Commission on a temporary basis prior to the revised effective date of the Rule, it will be necessary for organizations to provide quotation information to the other ITS participants in accordance with the terms of the ITS Plan approved pursuant to Section 11A(a)(3)(B) of the Act (15 U.S.C. 78k-1 (a)(3)(B)). See Securities Exchange Act Release No. 14661 (April 14, 1978), 43 FR 14419.

[8010-01]

[Release No. 34-14713; File No. S7-613]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Securities Transactions by Members of National Securities Exchanges

AGENCY: Securities and Exchange Commission.

ACTION: Temporary rules and interpretations.

SUMMARY: Section 11(a) of the Securities Exchange Act of 1934 prohibits members of national securities exchanges from effecting transactions for certain types of accounts. The Commission is announcing the adoption of: (i) A new temporary rule under section 11(a) permitting members to effect exchange transactions in listed bonds and other forms of indebtedness; (ii) amendments to temporary rules previously adopted concerning (a) proprietary trading, and (b) transactions effected by exchange members through other members; and (iii) certain interpretations of the section and the rules thereunder.

EFFECTIVE DATES: May 1, 1978. Comments should be received by June 1, 1978.

ADDRESSES: Interested persons should submit six copies of their views and comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should refer to File No. S7-613. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Richard A. Steinwurtzel, Esq., 202-755-7974 or Charles M. Horn, Esq., 202-755-8747, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

INTRODUCTION

Section 11(a)(1) of the Securities Exchange Act of 1934 (the "Act")[1] prohibits, subject to certain exemptions, a member of a national securities exchange from effecting a transaction on that exchange for its own account, the account of an associated person, or an account as to which it or its associated person exercises investment discretion (collectively referred to as "covered accounts"). Section 11(a)(1) became effective upon its enactment with respect to persons who became exchange members after May 1, 1975. Pursuant to section 11(a)(3),[2] its effectiveness was delayed until May 1, 1978, with respect to transactions by persons who were exchange members on May 1, 1975.[3]

On March 14, 1978,[4] the Commission announced the adoption of several rules and interpretations under section 11(a), including: (i) Interpretation of the meaning of the term "investment discretion" for purposes of the section 11(a) prohibition; (ii) adoption of technical amendments to the "proprietary trading" rule (Temporary Rule 11a1-1(T));[5] (iii) adoption of the "look-through" rule (Rule 11a1-2);[6] (iv) adoption of the "effect versus execute" rule (Rule 11a2-2(T));[7] and (v) discussion of the scope of exemptions under section 11(a)(1) for members' proprietary transactions.

In recent weeks, the Commission has received numerous inquiries with respect to the operation of section 11(a) and the existing final and temporary rules thereunder. Particularly in view of the widespread uncertainty concerning the meaning and application of section 11(a), and in order to provide further guidance by May 1, 1978, for members and others in complying with the section and the Commission's rules, the Commission has determined to clarify in this Release several matters. In so doing, the Commission is adopting amendments to the proprietary trading rule and the effect versus execute rule.

[1] 15 U.S.C. 78k(a)(1).

[2] 15 U.S.C. 78k(a)(3).

[3] The Commission has rulemaking authority under section 11(a)(2), 15 U.S.C. 78k(a)(2), to extend the prohibitions of section 11(a)(1) to: (i) members' transactions (other than market maker and odd-lot dealer transactions) exempted thereunder; (ii) over-the-counter transactions (other than market maker transactions); and (iii) non-members' exchange transactions (other than market maker transactions). The Commission's authority under that section is complemented by sections 11(b) and 15(c)(5) of the Act, 15 U.S.C. 78k(b) and 78o(c)(5). In addition, under section 11(a)(1)(H), 15 U.S.C. 78k(a)(1)(H), the Commission is authorized to exempt from section 11(a)(1) any transaction of a kind which the Commission, by rule, determines is consistent with the purposes of section 11(a)(1), the protection of investors, and the maintenance of fair and orderly markets.

[4] Securities Exchange Act Release No. 14563 (Mar. 14, 1978) (the "March 1978 Release") 43 FR 11542 (Mar. 17, 1978).

[5] 17 CFR 240.11a1-1(T). The proprietary trading rule was adopted in Securities Exchange Act Release No. 12055 (Jan. 27, 1976) (the "January 1976 Release"), 41 FR 8075 (Feb. 24, 1976).

[6] 17 CFR 240.11a1-2.

[7] 17 CFR 240.11a2-2(T).

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In addition, the Commission has determined to adopt, effective May 1, 1978, Temporary Rule 11a1-4(T) under section 11(a)(1)(H) to exempt from the section's prohibition exchange transactions by members in bonds and other forms of indebtedness. Interested persons are invited to submit comments with respect to any of the matters raised in this release.

The remainder of this Release consists of the following sections:

I. Exemptive Rule for Bond Transactions (Temporary Rule 11a1-4(T))

II Amendments to, and Interpretations Under, the Proprietary Trading Rule Temporary Rule 11a1-1(T))

III. Interpretations Under the Look-Through Rule (Rule 11a1-2)

IV. Amendment to, and Interpretations Under, the Effect Versus Execute Rule (Temporary Rule 11a2-2(T))

V. Application of the Natural Person Exemption Under Section 11(a)(1)(E) to Certain Accounts

VI. Relationship of Exemptions Under Section 11(a) to One Another

VII. Statutory Basis

I. Exemptive Rule for Bond Transactions (Temporary Rule 11a1-4(T))

As discussed above, section 11(a)(1) prohibits a member of a national securities exchange from effecting transactions on such exchange for its own account or the account of its associated person. That proscription encompasses transactions in any type or class of security listed or admitted to trading on the exchange.

Commentators on the March 1978 Release and the Commission's two prior releases on section 11(a), the January 1976 Release and Securities Exchange Act Release No. 13388 (Mar. 18, 1977) (the "March 1977 Release"),[8] requested that the Commission exercise its exemptive authority under section 11(a)(1)(H) to permit members to effect transactions for their own accounts in bonds listed on an exchange. In support of that request, they contended that the over-the-counter market is the primary market in listed bonds; that bond trading on exchanges is essentially an odd-lot business; and that bond transactions on the exchange are overwhelmingly conducted by members on a principal basis and therefore section 11(a)(1) could and probably will eliminate the great majority of exchange transactions in listed bonds. Commentators further urged that such principal bond transactions are not subject to the member trading advantages identified by the Congress as a reason for enacting section 11(a). Bond trading is different in that respect, they suggested, because among other things, bonds are priced on the basis of factors, such as the money supply and interest rates, which are independent of the influence of exchange market activities. Consequently, they argued, fluctuations in bond prices are usually small, and the ability of members to avail themselves of time and place advantages in bond transactions for their own accounts is limited.[9]

In December 1977, the New York Stock Exchange, Inc. (the "NYSE"), requested the Commission to adopt rules under section 11(a)(1)(H) exempting certain types of member transactions from the prohibition of section 11(a). Among the rules suggested was a rule which would exempt proprietary transactions in listed bonds which are effected to facilitate an order of a public customer.[10] In the March 1978 Release, the Commission determined that the NYSE had not provided a sufficient rationale for such an exemption.[11] Upon further consideration of members' principal transactions in exchange-traded bonds, however, the Commission has determined to adopt Temporary Rule 11a1-4(T) (the "bond trading rule") under section 11(a)(1)(H) of the Act to exempt from section 11(a)(1) all bond transactions on an exchange for the account of a member or its associated person. The Commission has taken this action in recognition of several factors.

First, principal bond trading on exchanges provides a relatively liquid market for transactions of small size. The primary market in listed bonds is over-the-counter and is characterized by large-sized transactions among financial institutions and bond dealers. Bond transactions on exchanges, on the other hand, are generally effected as principal on behalf of exchange members' retail customers and often involve transactions of less than 100 bonds, which normally would be the minimum size of an institutional over-the-counter transaction.

The second reason for the Commission's adoption of an exemptive rule for bond trading is its belief that, because the primary market for listed bond trading currently is in the over-the-counter market, the exchange bond markets do not appear to offer to exchange bond traders the special "time and place" trading advantages which the Congress identified as a basis for section 11(a).[12] Unlike other types of securities, the pricing of listed bonds on the exchanges appears to be directly related to the pricing of simular forms of indebtedness traded in the over-the-counter market. Finally, since the institutional trading market in bonds currently is conducted over-the-counter, an exemption for exchange bond trading would not appear to raise any of the problems of institutional exchange membership articulated by the Congress when it enacted section 11(a).[13]

The bond trading rule covers transactions involving any bond, debenture, or other form of indebtedness listed or admitted to trading on national securities exchanges.[14] Transactions permitted by the rule will continue to be governed by applicable exchange rules as well as provisions of the Act (other than section 11(a)) and rules thereunder. The relief provided by that rule extends to transactions for the account of a member or its associated person,[15] but not to transactions effected by a member on behalf of a managed institutional account.[16] Transactions for managed institutional accounts are not being exempted since the potential fiduciary problems which the Congress identified with respect to such accounts would not appear to be substantially less significant in debt securities than they were perceived to be in the case of equity securities.

The Commission is adopting Rule 11a1-4(T) on a temporary basis, effective May 1, 1978, in order to avoid any disruption of the exchange bond market on and after May 1, 1978. The Commission will consider carefully commentators' views on the bond trading rule and may act at any time to modify, or indeed to rescind, the rule. The Commission may also need to revise the rule if exchange bond trading activities undergo a substantial change of character or begin to exhibit any substantial member trading abuses.

[8] 42 FR 16345 (Mar. 29, 1977).

[9] Responses of Asiel & Co. (June 14, 1976, June 30, 1977, and Apr. 14, 1978); Cowen & Co. (Apr. 7, 1978); Lehman Bros. Kuhn Loeb (Apr. 14, 1978); Mabon, Nugent & Co. (Apr. 19, 1976, May 10, 1977, and Apr. 14, 1978); Merrill Lynch, Pierce, Fenner & Smith Inc. (Apr. 13, 1978); the New York Stock Exchange, Inc. (June 25, 1976, undated response received July 25, 1977, and Apr. 20, 1978); and the Securities Industry Association (July 14, 1977), Securities and Exchange Commission File No. S7-613 (hereinafter "File No. S7-613").

[10] Letter from James E. Buck to Andrew M. Klein (Dec. 23, 1977), File No. S7-613.

[11] March 1978 Release, at text following note 80.

[12] Securities Reform Act of 1975, Report of the House Comm. on Interstate and Foreign Commerce, Together With Minority Views, to Accompany H.R. 4111 (the "House Report"), H.R. Rept. No. 94-123, 94th Cong., 1st Sess. 54-57 (1975).

[13] House Report, at 55-57; Securities Acts Amendments of 1975, Report of the Senate Comm. on Banking, Housing, and Urban Affairs to Accompany S. 249 (the "Senate Report"), S. Rept. No. 94-75, 94th Cong., 1st Sess. 60-69 (1975). In 1964, the Commission concluded that floor trading activities in bonds did not pose serious problems. The Commission permitted the NYSE and the American Stock Exchange, Inc. (the "Amex"), to amend their floor trading plans under Rule 11a-1, 17 CFR 240.11a-1, to exempt bond trading from all of the prohibitions contained in that rule and in the plans adopted by the exchanges thereunder. In that connection, the Commission concluded that: (i) bond trading on the NYSE and the Amex comprises a minimal part of the business transacted on those exchanges; (ii) the low volume of activity in the exchange markets for bonds, coupled with the fact that the principal market for bonds exists in the over-the-counter market, eliminates the possibilities of harm which the Commission had earlier identified as arising from floor trading in equity securities; (iii) the floor trader in bonds does not have a significant competitive advantage over the public and, in fact, must adjust his own quotations to meet those he receives from off the floor; and (iv) because of the limited activity in bonds, there is considerable doubt whether the exchanges could continue making markets in bonds if the restrictions in Rule 11a-1 and the plans of the exchanges were to apply to the activities of members trading bonds on the floor. Securities Exchange Act Release No. 7375 (July 13, 1964).

[14] The phrase "other form of indebtedness" would include, for example, notes, obligations of the United States, foreign government obligations, guaranteed loan certificates, equipment trust certificates, and convertible debt securities. It would not, of course, include any equity security other than a convertible debt security. See Rule 3a11-1 under the Act, 17 CFR 240.3a11-1.

[15] The Commission continues to believe that, for purposes of section 11(a), there should be no difference between transactions for the account of a member allowed under section 11(a)(1) and transactions for the account of a person associated with that member, provided that those transactions are effected in the same manner and are subject to the same conditions. March 1978 Release, at text following note 58.

[16] Such transactions may, of course, be effected pursuant to an available statutory or rule exemption under section 11(a)(1), such as the effect versus execute rule (Rule 11a2-2(T)). In that regard, a member (the "initiating member") entering transactions into the NYSE Automated Bond System for execution should be regarded as meeting the off-floor transmission requirement contained in paragraph (a)(2)(ii) of the effect versus execute rule regardless of the location of the terminal at which the order is entered. See also March 1978 Release, note 41. If the order is matched by that system with an order on the contra side also entered by the initiating member and the transaction is thereafter effected under the conditions and limitations built into that system, the transaction will nevertheless comply with paragraph (a)(2)(iii) of the effect versus execute rule even though the initiating member's orders were so effected as a cross transaction.

[17] 15 U.S.C. 78k(a)(1)(G).

II. Amendments to, and Interpretations Under, the Proprietary Trading Rule (Temporary Rule 11a1-1(T))

The proprietary trading rule was adopted under Section 11(a)(1)(G)[17] to implement that provision's exemption for members' proprietary transactions. Under Section 11(a)(1)(G), as implemented by the proprietary trading rule, a member may effect a transaction for its own account if (i) the member derives more than 50% of its gross income from certain types of business (the "business mix" test), and (ii) the transaction yields priority, parity, and precedence in execution to orders for the accounts of persons who are not members or associated with members of the exchange. Questions have been raised concerning (i) the revenues which are included within the categories of business enumerated in the "business mix" test, and (ii) procedures that should be implemented by exchanges and their members concerning the identification of members' orders.

A. Treatment of revenues derived from transactions exempted under Section 11(a)(1).

The "business mix" test contained in Subparagraph (G)(i) of Section 11(a)(1) is intended to limit the Section 11(a)(1)(G) exemption to members which are engaged in certain aspects of the securities business.[18] Specifically, that test limits the availability of the exemption to members which are "primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, and acting as broker, or any one or more of such activities, and whose gross income normally is derived principally from such business and related activities" (referred to as "eligible income").

The determination as to whether revenue derived from a particular transaction or series of transactions is eligible income turns solely on the Section 11(a)(1)(G)(i) test itself rather than on whether the transaction or series of transactions is exempted under Paragraphs (A) through (H) of Section 11(a)(1). For example, revenue from an arbitrage transaction exempt under Section 11(a)(1)(D) would not necessarily be eligible income, since the arbitrage transaction might not involve any of the activities enumerated in Section 11(a)(1)(G)(i).

The phrase "selling securities to customers" in Section 11(a)(1)(G)(i) refers to an exchange member's principal transactions with its own customers. While purchasing securities from customers should be considered a "related" activity,[19] an exchange member's purchase of securities from, or sale to, other broker-dealers is not a transaction with the member's own customers,[20] even though the broker-dealers with whom the transactions are effected may be acting as agent for their customers. For example, an exchange specialist would derive eligible brokerage income from his book, but would derive eligible dealer income only in transactions with the specialist's own non-broker-dealer "customers." [21] Similarly, an upstairs market maker would derive eligible income from effecting principal transactions with its own customers[22] but not from market-making transactions with other broker-dealers who are acting as principal or as agent for their customers.

While this result represents what the Commission believes to be a proper reading of the language of Section 11(a)(1)(G)(i), the "business mix" test in the Section 11(a)(1)(G) exemption, as so interpreted, is too restrictive. It fails to recognize a number of exchange member dealer activities which also have been considered part of a "traditional" securities business. Accordingly, the Commission is amending Paragraph (b) of the proprietary trading rule, pursuant to its authority under Section 11(a)(1)(H), to permit members to count revenues from market-making, odd-lot dealer, and arbitrage and hedge transactions towards the satisfaction of the Section 11(a)(1)(G)(i) "business mix" test. All of these activities are expressly exempted from the prohibitions of Section 11(a)(1), in part because the Congress determined that their impact on exchange markets was beneficial, or at least not deleterious.[23]

In assessing compliance with the "business mix" test under Paragraph

[18] The "business mix" test is derived from a comparable provision in Section 3(c)(2) of the Investment Company Act of 1940, 15 U.S.C. 80a-3(c)(2). See Securities Acts Amendments of 1975, Report of the Committee on Conference to Accompany S. 249, H.R. Rep. 94-229, 94th Cong., 1st Sess. 105 (1975). The Commission's interpretations and actions with respect to Section 11(a)(1)(G)(i) should not, however, be viewed as implying any necessary interpretation or action with respect to that Section of the Investment Company Act of 1940.

[19] Income derived from activities "related" to such business would include income from activities which are directly incidental to one of the activities enumerated in Section 11(a)(1)(G)(i). For example, activities "related to" the sale of securities to customers or brokerage would include clearance and settlement, custodial services, and the extension of credit to customers.

[20] The term "customer" is generally used to refer to persons other than registered broker-dealers. See, e.g., Rule 15c1-1 under the Act, 17 CFR 240.15c1-1.

[21] NYSE Rule 113, for example, permits NYSE specialists to carry accounts for certain types of non-institutional customers. New York Stock Exchange Guide (CCH) ¶2113.

[22] Investment advisory activities would not, however, represent activities "related" to those set forth in Section 11(a)(1)(G)(i). March 1978 Release, note 65.

[23] Senate Report, at 68. Market-making transactions are exempted under Section 11(a)(1)(A), odd-lot dealer transactions under Section 11(a)(1)(B), and arbitrage and hedge transactions under Section 11(a)(1)(D).

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(b) of the proprietary trading rule, an exchange may rely on a financial report prepared by independent accountants in accordance with generally accepted accounting principles. Certain classes of members, however, are not required to file such reports with exchanges under Rule 17a-5,[24] and, as a result, would not be able to supply such reports to exchanges without incurring additional costs. The Commission believes that, in the absence of a report of independent accountants under Rule 17a-5, an exchange may rely on a final report filed under rule 17a05(a)(4) unless the exchange knows or should know that the report is inaccurate.[25]

B. Pre-May 1, 1978 limit orders.

Under current practices on the exchanges, limit orders left with an exchange specialist or other person maintaining a limit order book may be designated as "good 'til cancelled" or otherwise designated as not expiring if unfilled at the end of the trading day on which they were entered.[26] In view of those practices, the Commission understands that limit orders entered before May 1, 1978 generally will not have been marked, for purposes of the proprietary trading rule, to indicate whether they must yield to non-members' orders if effected on or after May 1, 1978.[27]

In order to avoid undue burdens with respect to those orders, the Commission has adopted, effective May 1, 1978, a new Paragraph (c) to the proprietary trading rule. That Paragraph, adopted pursuant to Sections 11(a)(1)(G) and (H), provides that any limit order which was left with a specialist or any other person maintaining a limit order book on a national securities exchange before May 1, 1978, and not executed before that date, shall be deemed, if executed before January 1, 1979, to be an order for the account of a person who is not, and is not associated with, a member.

C. Identification of orders.

Subparagraph (G)(ii) of Section 11(a)(1) requires all members' proprietary orders effected thereunder to comply with Commission rules assuring that such orders yield priority, parity, and precedence in execution to orders for the accounts of persons which are not members or associated with members of the exchange (collectively referred to as "yielding orders"). Paragraph (a) of the proprietary trading rule implements that provision by requiring (i) that a member's proprietary order be identified at all steps in the process of effecting the order, and (ii) that, notwithstanding exchange yielding rules otherwise applicable, such order yields to any non-member order at the same price regardless of size or the time when entered. Members' yielding orders under the proprietary trading rule are not required to yield to other members' yielding orders, or to other members' or associated persons' proprietary orders otherwise exempt under Section 11(a)(1).

The proprietary trading rule sets forth an order identification requirement only with respect to yielding orders. In order for the yielding requirement of the proprietary trading rule to work properly, however, it would appear necessary for all members of the trading crowd to identify all orders, including those not required to yield, as to whether they are (i) non-member orders, (ii) members' or associated persons' yielding orders, or (iii) members' or associated persons' non-yielding orders.[28]

III. Interpretations Under the Look-Through Rule (Rule 11a1-2)

The look-through rule permits a member to effect a transaction for the account of its associated person or the public customers of its associated person if, assuming such account were carried on the same basis by a member, the member itself would have been permitted under Section 11(a) and the rules thereunder to effect the transaction. The look-through rule is based on the principle that there should be no difference between transactions for the account of a member allowed under Section 11(a)(1) and transactions for the account of a person associated with that member, provided that these transactions are effected in the same manner and are subject to the same conditions.[29]

The look-through rule provides that a member proposing to effect a transaction for the account and benefit of an associated person in reliance on Section 11(a)(1)(G) and the proprietary trading rule thereunder may do so if the associated person, during its preceding fiscal year, met the "business mix" text of Paragraph (G)(i). While the associated person's order must yield to public orders to satisfy the conditions of Section 11(a)(1)(G)(ii), the member effecting such a transaction for its associated person is not itself required to satisfy the "business mix" test.

IV. Amendment to, and Interpretations Under, the Effect Versus Execute Rule (Temporary Rule 11a2-2(T))

The effect versus execute rule was adopted by the Commission in the March 1978 Release. It provides an exemption for all member transactions for covered accounts that are referred to other members for execution and are executed in accordance with certain conditions. The effect versus execute rule was designed to put members and non-members on the same footing, to the extent practicable, in light of the purposes of Section 11(a).[30]

A. Effective date. The effect versus execute rule was adopted pursuant to the Commission's rulemaking authority under Sections 11(a)(1)(H) and 11(a)(2).[31] Pursuant to Section 11(a)(3), the provisions of Section

[24] 17 CFR 240.17a-5.

[25] The proprietary trading rule does not define the procedures to be followed in the case of new members which have not been in business long enough to have financial statements for the preceding fiscal year. The Commission believes that it would be appropriate for exchanges to permit a new member to use the Section 11(a)(1)(G) exemption if the new member represents to the exchange its bona fide intention to conduct a business meeting the "business mix" test in Section 11(a)(1)(G)(i). Thereafter, the exchange should obtain unaudited quarterly statements from the member (until such time as its audited financial statement for the preceding fiscal year is available) and allow the new member to use the Section 11(a)(1)(G) exemption only if its revenues in each quarter meet the "business mix" test. See Nadell-Lodge, Inc. (1976-77 Transfer Binder) Fed. Sec. L. Rep. (CCH) ¶80,964 (Jan. 3, 1977).

[26] See, e.g., NYSE Rule 13, New York Stock Exchange Guide (CCH) ¶2013; Amex Rule 131, American Stock Exchange Guide (CCH) ¶9281.

[27] Response of the New York Stock Exchange, Inc. (April 20, 1978), File No. S7-613.

[28] For example, if upstairs member firm A transmits an order for the account and benefit of its associated person or its managed institutional account to floor member B pursuant to the effect versus execute rule, it would appear necessary for member B to identify the class of its order to the trading crowd immediately prior to execution in order to facilitate operation of the yielding requirement.

[29] March 1978 Release, at text following note 56.

[30] See March 1978 Release, at text accompanying notes 24-52. Three commentators on the March 1978 Release objected to the contractual modification and disclosure provisions of the effect versus execute rule on the ground that those provisions were inconsistent with the purposes of Section 11(a). Responses of the American Council of Life Insurance (April 14, 1978) and the American Insurance Association (April 13, 1978), File No. S7-613. One of those commentators suggested that compliance with those provisions would put exchange members at a competitive disadvantage with respect to non-member money managers. Response of Sanford C. Bernstein & Co., Inc. (April 13, 1978), File No. S7-613. But see Report of the House Comm. on Interstate and Foreign Commerce, Together With Additional Views, to Accompany H.R. 11567, H.R. Rept. No. 95-1010, 95th Cong., 2d Sess. 4 (1978); 121 Cong. Rec. H2431 (daily ed. April 4, 1978) (remarks of Congressman Moss).

[31] Under Section 11(a)(2) and other provisions of the Act, the Commission has general authority to extend, by rule, the Section 11(a) prohibition to nonmember, exempt, and over-the-counter transactions. See note 3 supra.

11(a)(1) will not become effective until May 1, 1978, with respect to persons who were exchange members on May 1, 1975. Section 11(a)(3), however, also provides that the Commission is not prohibited from exercising its Section 11(a)(2) rulemaking authority to adopt regulations prior to May 1, 1978, prohibiting or regulating the kinds of transactions subject to Section 11(a)(1). Consequently, the Commission is authorized under Sections 11(a)(2) and 11(a)(3) to apply the prohibition of Section 11(a)(1) to exchange members who were members on May 1, 1975, and otherwise not subject to Section 11(a)(1) until May 1, 1978.

The House of Representatives[32] and the Senate[33] recently passed legislation to extend the "grandfather" provision of Section 11(a)(3). The effect versus execute rule, because it was adopted in part under Section 11(a)(2), might be construed to become effective on May 1, 1978 as to all exchange members, notwithstanding any legislative extension of Section 11(a)(3). If the delay legislation is enacted into law, however, the Commission does not intend the effect versus execute rule to be effective with respect to those grandfathered members. Accordingly, the Commission today is amending the effect versus execute rule by the addition of a new Paragraph (f), to eliminate any uncertainty as to the Commission's intention in that regard.

B. Participation of member's floor employees.

Paragraph (a)(2)(iii) of the effect versus execute rule prohibits the initiating member or an associated person thereof from participating in the execution in the transaction at any time after the order for the transaction has been transmitted. The prohibition would thus extend to any order-handling function performed by the initiating broker (or one of its associated persons) after the order was transmitted. Accordingly, the Commission wishes to make it clear that the participation prohibition in Paragraph (a)(2)(iii) would not allow a member to transmit a covered account order from off the exchange floor to its employee on the floor for the purpose of having that employee refer the order to an unaffiliated member. That employee is an associated person of the member and is prohibited from participating in the execution of any transaction pursuant to the effect versus execute rule after transmission of the order by the member from its facilities off the exchange floor. That application of the prohibition on participation helps to ensure that members do not retain any special trading advantages not available to non-members in connection with effecting orders for covered accounts under the effect versus execute rule.

V. Application of the Natural Person Exemption Under Section 11(a)(1)(E) to Certain Accounts

Section 11(a)(1)(E)[34] exempts from the prohibition of section 11(a)(1) any transaction for the account of a "natural person, the estate of a natural person, or a trust (other than an investment company) created by a natural person for himself or another natural person." That exemption was discussed in earlier releases.[35] The application of that exemption as to certain kinds of customer accounts requires clarification.

One reading of section 11(a)(1)(E) might lead to the conclusion that accounts of two or more natural persons are excluded from its coverage, even though many such accounts are substantially similar to individual natural person accounts. The Commission believes that that exemption should be available to certain accounts which, in light of the purposes of section 11(a), may be considered "natural person accounts," provided that such accounts are not established for the purpose of avoiding section 11(a) or the rules thereunder: (i) husband and wife joint accounts and other joint tenancies where the tenants are related by blood or marriage or are members of the same household; (ii) accounts of family trusts with one or more beneficiaries who are related to the settlor by blood or marriage, or who are members of the settlor's household; and (iii) an individual retirement account established by a natural person.[36]

An account established by an entity with a separate legal existence (e.g., an unincorporated business association, a general or limited partnership, a joint venture, a professional association, a personal holding company, or a corporation) would not qualify for the natural person exemption. A personal holding company established under the laws of another country, however, may be a "natural person" for purposes of section 11(a)(1)(E) if the company is able to demonstrate that: (i) it is established under the laws of a country which does not recognize or permit the equivalent of a common law joint tenancy or trust; (ii) the company is established for the benefit of persons who are related by blood or marriage, or who are members of the same household; and (iii) the company is not established for the purpose of avoiding section 11(a) or the rules thereunder.

VI. Relationship of Exemptions Under Section 11(a) To One Another

Section 11(a)(1) prohibits a member of a national securities exchange from effecting a transaction for any covered account in the absence of a statutory exemption or one created by rule. In many cases, a member may be able to effect a transaction pursuant to more than one statutory or rule exemption. As the Commission observed in the March 1978 Release,[37] each exemption under section 11(a), whether provided by the section or by rule, is independent of each other exemption under that provision.[38] The number of questions, however, received by the Commission's staff with respect to the interaction of exemptions under section 11(a) suggests that further explanation of this matter would be appropriate.

A member effecting a transaction that could fall within more than one statutory or rule exemptions is only required to satisfy the terms of one exemption. For example, a member which qualifies for the exemption for members' proprietary transactions under section 11(a)(1)(G) or one of the other statutory exemptions may properly decide to rely instead upon the provisions of the effect versus execute rule to effect a proprietary transaction. If the member chooses to rely upon the provisions of the effect versus execute rule, it need comply only with the conditions of that rule and need not comply with the conditions of any other available statutory or rule exemption.

VII. Statutory Basis

The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, and particularly sections 2, 3, 6, 10, 11, 11A, 15, and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78j, 78k, 78k-1, 78o, and 78w), hereby adopts Temporary Rule 11a1-4(T), amendments to Temporary Rule 11a1-1(T), and an amendment to Temporary Rule 11a2-2(T). The Commission has determined that Temporary Rule 11a1-4(T), the amendments to Temporary Rule 11a1-1(T), and the amendment to Temporary Rule 11a2-

[32] H.R. 11567, 95th Cong., 2d Sess., Section 2(a) (1978).

[33] S. 8331, 95th Cong., 2d Sess., Section 19 (1978).

[34] 15 U.S.C. 78k(a)(1)(E).

[35] See January 1976 Release, at text accompanying notes 26-27 and note 27; March 1977 Release, at text accompanying notes 86-123; March 1978 Release, at text following note 67.

[36] Group retirement accounts, such as group Keogh plans and so-called "master IRA" accounts maintained by a member or its associated person, would not be included within the ambit of the natural person exemption.

[37] March 1978 Release, note 10.

[38] The look-through rule, however, does not provide any exemption that would not separately be available to a member trading for its own account, one which it managed, or the account of an unaffiliated public customer.

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2(T) are consistent with the purposes of section 11(a), the protection of investors, and the maintenance of fair and orderly markets.

With respect to the adoption of Temporary Rule 11a1-4(T), the Commission believes that failure to adopt this rule prior to May 1, 1978 would be likely to disrupt exchange trading in bonds and other forms of indebtedness without furtherance of the purposes of section 11(a). Such a disruption could interfere with the execution of transactions for retail customer orders in exchange-listed bonds and other forms of indebtedness.[39] In view of the foregoing discussion and the May 1, 1978 effective date of section 11(a), the Commission finds that notice and public procedures in accordance with Section 4(b) of the Administrative Procedure Act ("APA")[40] would be impracticable and contrary to the public interest. Accordingly, the Commission finds, pursuant to 5 U.S.C. 553(b)(B), that good cause exists to adopt Temporary Rule 11a1-4(T) without notice and public procedures in connection therewith. For the same reasons, the Commission finds good cause to make Temporary Rule 11a1-4(T) effective less than 30 days after its adoption, in accordance with Section 4(d) of the APA.[41] In addition, publication of notice is not required because Temporary Rule 11a1-4(T) grants an exemption under section 11(a).[42]

With respect to the amendments to Temporary Rule 11a1-1(T), the Commission believes that the amendment should eliminate unjustifiable distinctions between classes of securities transactions, will avoid anticompetitive discrimination in various aspects of the securities business, and will avoid unnecessary disruptions of exchange markets. In view of the May 1, 1978 effective .date of section 11(a), the Commission finds that notice and public procedures in accordance with section 4(b) of the APA would be impracticable and contrary to the public interest and that good cause exists to adopt the amendments to Temporary Rule 11a1-1(T) without notice and public procedure in connection therewith. In addition, the Commission finds good cause to make the amendments to Temporary Rule 11a1-1(T) effective less than 30 days after its adoption in accordance with section 4(d) of the APA,[43] in view of the foregoing and the fact that the amendment broadens an existing exemption under section 11(a).

With respect to the amendment to Temporary Rule 11a2-2(T), the Commission finds that the amendment is interpretive in nature, and that notice and public procedure under Section 4 of the APA[44] are unnecessary in connection therewith, and that 30 days' notice of its effective date is likewise unnecessary.

The Commission finds that the rule and rule amendments being adopted today will not impose any burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The adoption of Temporary Rule 11a1-4(T) will establish an exemption for members' exchange proprietary transactions in listed bonds and other forms of indebtedness, and may increase competition on exchanges. The amendment to Temporary Rule 11a1-1(T) which concerns the "business mix" test may increase competition by broadening the availability of the exemptions under Section 11(a)(1)(G). The second amendment to Temporary Rule 11a1-1(T) relieves problems with respect to the handling of certain limited price orders and will not impose any unnecessary or inappropriate burdens on competition. The amendment to Rule 11a2-2(T) is interpretive in nature and does not impose any burden on competition.

Part 241 of Chapter II of Title 17 of the Code of Federal Regulations is amended, effective immediately, by the inclusion of this release therein. Part 240 of Chapter II of Title 17 of the Code of Federal Regulations is amended, effective May 1, 1978, as follows:

§ 240.11a1-4(T) Bond transactions on national securities exchanges.

A transaction in a bond, note, debenture, or other form of indebtedness effected on a national securities exchange by a member for its own account or the account of an associated person thereof shall be deemed to be of a kind which is consistent with the purposes of section 11(a)(1) of the Act, the protection of investors, and the maintenance of fair and orderly markets.

§ 240.11a1-1(T) Transactions yielding priority, parity and precedence.

. . . . . .

(b) A member shall be deemed to meet the requirements of section 11(a)(1)(G)(i) of the Act if during its preceding fiscal year more than 50 percent of its gross revenues was derived from one or more of the sources specified in that section. In addition to any revenue which independently meets the requirements of section 11(a)(1)(G)(i), revenue derived from any transaction specified in paragraph (A), (B), or (D) of section 11(a)(1) of the Act shall be deemed to be revenue derived from one or more of the sources specified in section 11(a)(1)(G)(i). A member may rely on a list of members which are stated to meet the requirements of section 11(a)(1)(G)(i) if such list is prepared, and updated at least annually, by the exchange. In preparing any such list, an exchange may rely on a report which sets forth a statement of gross revenues of a member if covered by a report of independent accountants for such members to the effect that such report has been prepared in accordance with generally accepted accounting principles.

(c) Any limited price order which was left with a specialist or any other person maintaining a limit order book on a national securities exchange before May 1, 1978, and not executed before that date, shall be deemed, if executed before January 1, 1979, to be an order for the account of a person who is not, and is not associated with, a member.

§ 240.11a2-2(T) Transactions effected by exchange members through other members.

. . . . . .

(f) The provisions of this section shall not apply to transactions by exchange members to which, by operation of section 11(a)(3) of the Act, section 11(a)(1) of the Act is not effective.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 27, 1978.

[FR Doc. 78-11979 Filed 4-28-78; 9:35 am]

[39] See, e.g., NYSE Rule 396, New York Stock Exchange Guide (CCH) ¶2396.
[40] 5 U.S.C. 553(b).
[41] 5 U.S.C. 553(d).
[42] Id.
[43] 5 U.S.C. 553(d).
[44] 5 U.S.C. 553.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4102]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Hooksett, Merrimack County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Hooksett, Merrimack County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, 16 Main Street, Hooksett, N.H. Send comments to: Mr. Raymond Langer, Chairman, Board of Selectmen, Town Office, 16 Main Street, Hooksett, N.H. 03106.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Hooksett, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River	At southern corporate limit.	185
	4100 ft upstream of confluence of Peters Brook.	190
	Just downstream of Main St.	191
	Just upstream of Hooksett Dam.	194
	At northern corporate limit.	198
Dalton Brook	At confluence with Merrimack River.	187
	800 ft upstream of Boston & Maine RR.	188
	1050 ft upstream of Boston & Maine RR.	218
	2300 ft upstream of Boston & Maine RR.	236
	3700 ft upstream of Boston & Maine RR.	249
	1950 ft downstream of Benton Rd.	264
	300 ft downstream of Benton Rd.	273
	Just upstream of Benton Rd.	295
	Upstream end of U.S. Route 3 Culvert.	298
	Downstream end of State Route 28 Bypass.	299
	Just upstream of Route 28 Bypass Culvert.	302
Messer Brook	At confluence with Merrimack River.	186
	285 ft downstream of Martins Ferry Rd.	186
	85 ft downstream of Martins Ferry Rd.	189
	50 ft upstream of Martins Ferry Rd.	197
	2600 ft upstream of Martins Ferry Rd.	221
	850 ft downstream of Trailor Park Rd.	225
	65 ft downstream of Trailor Park Rd.	234
	Just upstream of Trailor Park Rd.	239
	1225 ft upstream of Trailor Park Rd.	244
	At downstream end of State Route 28 Culvert.	265
Peters Brook	At confluence with Merrimack River.	189
	Just upstream of Boston & Maine RR.	195
	260 ft upstream of Boston & Maine RR.	195
	Just upstream of Gravel Pit Dam.	212
	80 ft downstream of Construction Products Rd.	214
	80 ft upstream of Construction Products Rd.	223
	1080 ft upstream of Construction Products Rd.	230
	1815 ft upstream of Construction products Rd.	241
	140 ft downstream of Industrial Park Rd (southernmost crossing).	255
	Just upstream of Industrial Park Rd (southernmost crossing).	278
	Just upstream of Industrial Park Rd (northernmost crossing).	282
	60 ft downstream of U.S. Route 3.	289
	Just upstream of U.S. Route 3.	294
	Just upstream of Gravel Pit Culvert C (3350 ft upstream of Industrial Park North Crossing).	304

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11672 Filed 4-28-78; 8:45 am]

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[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4103]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Eastchester, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Eastchester, Westchester County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Department of Planning and Community Development, 40 Mill Road, Eastchester, N.Y. Send comments to: Mr. Anthony J. Colavita, Town Supervisor, town of Eastchester, Town Hall, 40 Mill Road, Eastchester, N.Y. 10709.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Eastchester, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures reuired by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bronx River	Bronx River Parkway approximately 1,890 ft upstream of Harney Rd[1].	123
	Harney Rd[1]	120
	Bronx River Parkway approximately 240 ft downstream of Harney Rd[2].	117
	Bronx River Parkway approximately 4,040 ft downstream of Harney Rd[1].	113
	Bronx River Parkway approximately 4,720 ft downstream of Harney Rd[2].	111
Hutchinson River	Hutchinson Blvd[1]	212
	Wilmot Rd[2]	192
	Dam holding reservior No. 1[1].	186
	Exit ramp—upstream Hutchinson River Parkway[1].	150
	Entrance/exit ramp downstream of Hutchinson River Parkway[2].	137
	Dam holding reservior No. 3[1].	124
	Hutchinson River Parkway ramp[1].	103
	Dam holding reservior No. 2[1].	103
	Driveway bridge[2]	69
	New Rochelle Rd[1]	66

[1]Upstream.
[2]Downstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 12, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 78-11673 Filed 4-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3418]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Oneonta, N.Y.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 42 FR 53765 of the FEDERAL REGISTER of October 3, 1977.

EFFECTIVE DATE: October 3, 1977.

FOR FUTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Oneonta Creek	625 ft upstream of Spruce St.	1,143
	Upstream of High School Dr.	1,191
Mill Race	Downstream of Gas Ave.	1,084
	150 ft upstream of Gas Ave.	1,085
Silver Creek	500 ft upstream of Center St.	1,175
Glenwood Creek	50 ft upstream from private dam located 900 ft upstream of Main St.	1,224
	City limit (1,650 ft upstream of Main St.).	1,270

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Oneonta Creek	675 ft upstream of Spruce St.	1,143
	60 ft upstream of High School Dr.	1,191
Mill Race	50 ft upstream of Gas Ave.	1,084
	325 ft upstream of Gas Ave.	1,085
Silver Creek	550 ft upstream of Center St.	1,175
Glenwood Creek	70 ft upstream from private dam located 900 ft upstream of Main St.	1,224
	City limit (1670 ft upstream of Main St.).	1,270

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968, as amended

(42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27,1969, as amended (39 FR 2787, January 24,1979).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR DOC. 78-11674 Filed 4-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-2273]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for the Borough of West Easton, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of West Easton, Northampton County, Pa. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 41 FR 42208 on September 27, 1976, and in The Easton Express published on August 30, 1976, and August 31, 1976, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review in the front window of Borough Hall, 6th and Center Streets, West Easton, Pa. Send comments to: Mayor James R. Kelly, Borough Hall, 6th and Center Streets, West Easton, Pa. 18042.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the borough of West Easton, Northampton County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing building and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Lehigh River	Main St	192
	Closed highway bridge	196
	Corporate limit, upstream.	197

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11675 Filed 4-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4104]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of West Columbia, Lexington County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevation listed below for selected locations in the city of West Columbia, Lexington County, S.C. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 1053 Center Street, West Columbia, S.C. 29169. Send comments to: Mayor Paul Waites or Mr. Jack Carraway, 1053 Center Street, P.O. Box 44, West Columbia, S.C. 29169.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of West Columbia, Lexington County, S.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on it own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on exisiting buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Congaree River	Intersection of Gervais St. and corporate limits.	157
Saluda River	Natchez Ter. (extended)	162

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delega-

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tion of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11676 Filed 4-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4105]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Lakeway, Travis County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Lakeway, Travis County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 1204 Lakeway Drive, Austin, Tex. 78734. Send comments to: Mayor J. T. Gribble, 1204 Lakeway Drive, Austin, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Lakeway, Travis County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or purusant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Travis	Entire shoreline	725
Hurst Creek	Upstream of Lohmann Crossing Rd.	750
	Upstream of Lakeway Dr.	765
	Downstream of World of Tennis Blvd.	778

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11677 Filed 4-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4106]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Lorena, McLennan County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) Flood elevations listed below for selected locations in the city of Lorena, McLennan County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Lorena, Tex. Send comments to: Mayor William Woody, P.O. Box 6, Lorena, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Lorena, McLennan County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Cow Bayou, tributary 1.	Just downstream County Road 22 bridge.	521
	Approximately 100 ft upstream of FM 2837 bridge.	570
North Cow Bayou, tributary 2.	County Road 133	581
North Cow Bayou.	Approximately 150 ft upstream of the eastern corporate limits.	516

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11678 Filed 4-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4107]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of McGregor, McLennan County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of McGregor, McLennan County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 409 West Forrest Street, McGregor, Tex. 76657. Send comments to: Mayor F. A. Morris, 409 West Forrest Street, McGregor, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of McGregor, McLennan County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Harris Creek	Just upstream of Atchison, Topeka, & Santa Fe RR.	685
	Just downstream of North Main St. (State Highway 317).	691
Tributary to Harris Creek.	Just upstream of U.S. Highway 84.	721
Willow Creek	Eastern corporate limits	702

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11679 Filed 4-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4108]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Robinson, McLennan County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Robinson, McLennan County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 104 West Glendale Street, Waco, Tex. 76706. Send comments to: Mayor Doyle F. Hunton, 104 West Glendale Street Waco, Tex. 76706

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410. 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Robinson, McLennan County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Flat Creek	Just upstream of 12th St. (County Rd. 102).	427
	Just upstream of U.S. 77	461

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11680 Filed 4-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4109]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Chatham, Pittsylvania County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Chatham, Pittsylvania County, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Bulletin Board at the Town Hall, Chatham, Va. Send comments to: Mr. Paul J. Harold, Town Manager of Chatham, 24 Depot Street, Chatham, Va. 24531.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Chatham, Pittsylvania County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-488)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevation, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community much change any existing ordinances that are more stringent in their flood plan management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cherrystone Creek.	City boundary (downstream).	586
	Davis Rd.	587
	U.S. 29	592
	South Ry.	600
	VA-57	610
	City boundary (upstream).	613

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11681 Filed 4-28-78; 8:45 am]

[4210-01]

[24CFR Part 1917]

[Docket No. FI-4110]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed flood Elevation Determinations for the Town of Hurt, Pittsylvania County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Hurt, Pittsylvania County, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Council Chambers, Hurt, Va. Send comments to: Hon. Robert T. Payne, Mayor of Hurt, P.O. box 160, Hurt, Va. 24563.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Hurt, Pittsylvania County, Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management menasures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by the other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roanoke River	Confluence with Reed Creek.	535
	U.S. Route 29	537
	Western Corporate Limit.	536
Reed Creek	Confluence with Roanoke River.	535
	Upstream Corporate Limit.	535
Sycamore Creek	Confluence with Roanoke River.	537
	Western Corporate Limit.	537

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of atuhority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11682 Filed 4-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4111]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Ilwaco, Pacific County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Ilwaco, Pacific County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the bulletin board at the City Hall, Ilwaco, Wash. Send comments to: Hon. Leslie E. Peterson, Mayor of Ilwaco, P.O. Box 548, Ilwaco, Wash. 98624.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Ilwaco, Pacific County, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Baker Bay	Ilwaco Marina	9
	Coastline at town of Ilwaco.	11

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 Fr 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11683 Filed 4-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4112]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Spooner, Washburn County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Spooner, Washburn County, Wis. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Spooner, Wis. Send comments to: Hon. Thomas F. Donovan, Mayor, City of Spooner, City Hall, Spooner, Wis. 54801.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Spooner, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures re-

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quired by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yellow River	Western corporate limit.	1,049
	1200 ft upstream from western corporate limit.	1,051
	Just downstream from Fish Hatchery Bridge.	1,053
	50 ft upstream of dam	1,066
	50 ft upstream of South River Street Bridge.	1,067
	East corporate limit	1,067

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968, as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator (43 FR 7719).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11684 Filed 4-28-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-2-78]

INCOME TAX

Requirements Relating to Certain Exchanges Involving a Foreign Corporation.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of Time for Comments and Requests for a Public Hearing.

SUMMARY: This document provides notice of an extension of time for submitting comments and requests for a public hearing concerning the notice of proposed rulemaking with respect to Requirements Relating to Certain Exchanges Involving a Foreign Corporation. The extended deadline for submission of comments and requests for a public hearing is August 1, 1978.

DATES: Written comments and requests for a public hearing must be delivered or mailed by August 1, 1978.

ADDRESS: Send comments and request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-2-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Katherine A. Newell of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, CC:LR:T, 202-566-3740, not a toll-free call.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking published in the FEDERAL REGISTER for Friday, December 30, 1977 (42 FR 65152 and 65204), comments and requests for a public hearing with respect to the proposed rules were to be delivered or mailed to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-2-78), Washington, D.C. 20224, by February 28, 1978. By a notice published in the FEDERAL REGISTER for Tuesday, February 21, 1978, (42 FR 7245), this date was extended to May 1, 1978. The date by which such comments or requests must be delivered or mailed is hereby further extended to August 1, 1978.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

FR Doc. 78-11795 Filed 4-27-78; 8:45 am]

[4510-27]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 575]

WAIVER OF CHILD LABOR PROVISIONS FOR AGRICULTURAL EMPLOYMENT OF 10- AND 11-YEAR-OLD MINORS IN HAND-HARVESTING OF SHORT SEASON CROPS

Hearing Concerning Provisions Governing Application for an Issuance of a Waiver

AGENCY: Wage and Hour Division.

ACTION: Notice of hearing concerning proposed rule.

SUMMARY: The Administrator of the Wage and Hour Division has proposed regulations to implement section 13(c)(4) of the Fair Labor Standards Amendments of 1977. This proposed regulation would provide a waiver from the child labor provisions of the Act for the agricultural employment of 10- and 11-year-old minors in the hand-harvesting of short season crops under certain conditions as provided in the proposal published in the FEDERAL REGISTER on April 4, 1978, at page 14068. This hearing will provide an additional forum for comment.

DATES: All comments are due on or before the close of the hearing. The hearing will commence on May 11, 1978, at 9:30 a.m., e.d.t.

ADDRESS: The hearing will be held in Room S-5215 A, B and C, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Lucille C. Pinkett, Wage and Hour Division, Room S-3022, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C., 20210, telephone 202-523-8412.

SUPPLEMENTARY INFORMATION: In order to give all interested parties an opportunity to present supporting and contrary views and to assist the Administrator in reaching a decision in this matter the Administrator of the Wage and Hour Division, has determined that an informal hearing is desirable.

Beginning at 9:30 a.m., e.d.t., on May 11, 1978, the presiding officer will hold a prehearing conference in order to establish the order and time for the presentations and in order to settle any other matters relating to the proceedings. All persons intending to make presentations should attend the prehearing conference, which is open to the public. The public hearing will immediately follow the prehearing conference.

The oral proceedings shall be reported verbatim. The use of prepared statements by witnesses is encouraged. An original and two copies of all documents to be used should be submitted at the hearing.

Comments submitted in accordance with the notice of April 4, 1978, need not be resubmitted as they will be incorporated in and made a part of this record.

The presiding officer shall have all the powers necessary or appropriate to conduct a full and fair informal hearing, including the powers:

(a) To regulate the course of the hearing;

(b) To dispose of procedural requests, objections, and comparable matters;

(c) To confine the presentations to matters pertinent to the requested information;

(d) To regulate the conduct of those present at the hearing by appropriate means;

(e) To permit and to limit cross examination; and

(f) In his discretion, to keep the record open for a short, stated period

of time to receive written data from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding officer shall certify the record thereof to the Administrator of the Wage and Hour Division. The Administrator of the Wage and Hour Division shall, after consideration of the record and other pertinent information, take such action as he deems appropriate.

A copy of the record or portions thereof as it becomes available will be open for public inspection and examination at the office of Xavier M. Vela, Administrator, Room S-3502, Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210. The entire record or any part thereof may be purchased as provided in 29 CFR 70.62(c) at the actual cost of duplication as computed pursuant to the fee schedule in 29 CFR 70.62(b).

The harvest season during which the 10- and 11-year-old minors will be employed commences about June 1. In order that appropriate action may be promptly taken it is necessary that less than 15 days notice of the hearing be given.

Signed at Washington, D.C., on this 27th day of April 1978.

HERBERT J. COHEN,
Assistant Administrator, Wage and Hour Division.

[FR Doc. 78-11963 Filed 4-28-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 100]

[CGD5-78-04R]

SAFETY OF LIFE ON NAVIGABLE WATERS

Establishment of Special Local Regulations for the President's Cup Regatta, Washington, D.C.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: This proposed rule details the special local regulations which are intended to be established for the President's Cup Regatta. The special local regulations will be established to ensure the safety of life on the Potomac River at Washington, D.C., immediately before, during, and immediately after the regatta.

DATES: All comments received before May 31, 1978, will be considered. Proposed effective dates: From 10 a.m. EDST until 6 p.m. EDST on June 15, 16, 17 and 18, 1978.

FOR FURTHER INFORMATION CONTACT:

LCDR C. C. Atkins, Commander(b), Fifth Coast Guard District, Portsmouth, Va. 23705, 804-393-9611.

SUPPLEMENTARY INFORMATION: The establishment of special local regulations to ensure the safety of life on the navigable waters of the United States immediately before, during and immediately after a regatta is authorized by the Act of April 28, 1908 (35 Stat. 69) as amended, and 33 CFR 100.35, as amended.

Accordingly, the following local regulations are proposed:

§ 100.35 Special local regulations.

(a) Location. The area subject to these regulations is those waters enclosed by a line drawn from the southern tip of Haines Point northwards along the eastern seawall to a point 1,000 feet from the southern tip of Haines Point; thence easterly to a point 400 feet from the seawall; thence in a southerly direction to a point 1,400 feet distant; thence along a line of bearing 240° T. to the Virginia shore; thence upstream along the Virginia shoreline to the Penn Central Railroad bridge between Washington, D.C., and Arlington, Va.; thence 034° T. to the Potomac Park-Potomac River shoreline; thence along the Potomac Park-Potomac River shoreline to the southern tip of Haines Point.

(b) Regulations. (1) Except for participants in the President's Cup Regatta or persons or vessels authorized by the Coast Guard patrol officer, no person or vessel may enter or remain in the area specified in paragraph (a) of these regulations.

(2) The operator of any vessel in the immediate vicinity of the area specified in paragraph (a) above of these regulations shall:

(i) Stop his vessel immediately upon hearing five or more short blasts of a horn or whistle from any vessel displaying a Coast Guard emblem; and

(ii) Proceed as directed by any Coast Guard officer or petty officer.

(3) Any spectator vessel may anchor outside of the area specified in paragraph (a) of these regulations.

(4) The Coast Guard patrol officer is a commissioned officer of the Coast Guard who has been designated by the Commander, Fifth Coast Guard District.

(5) These regulations and other applicable laws and regulations shall be enforced by Coast Guard officers and petty officers on board Coast Guard, public, and private vessels displaying the Coast Guard emblem.

(Sec. 1, 35 Stat. 69 as amended, sec. 6(b)(1) 80 Stat. 937; 46 U.S.C. sec. 454, 49 U.S.C. sec. 1655(b)(1); 33 CFR 100.35, 49 CFR 1.46(b).)

Dated: April 19, 1978.

J. E. JOHANSEN,
Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 78-11793 Filed 4-28-78; 8:45 am]

[4910-14]

[33 CFR Parts 126, 154, 156]

[CGD 77-128]

WATERFRONT FACILITIES

Public Meeting

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice—Public meeting.

SUMMARY: In the FEDERAL REGISTER of Monday, April 10, 1978 (43 FR 15108), the Coast Guard invited public participation in the development of new waterfront facilities regulations. This advance notice announced a public meeting to be held on May 25, 1978, in Houston, Tex. Because of scheduling problems, it has become necessary to change the location of the meeting in Houston. The new location of the meeting is set out below.

DATES: The public meeting will be held on May 25, 1978, beginning at 9:30 a.m., in the Ballroom, Whitehall Hotel, 1700 Smith Street, Houston, Tex.

FOR FURTHER INFORMATION CONTACT:

Capt. George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transporation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

Dated: April 26, 1978.

G.H. PATRICK BURSLEY,
RADM, USCG, Chairman, Marine Safety Council.

[FR Doc. 78-11791 Filed 4-28-78; 8:45 am]

[4910-14]

[33 CFR Part 161]

[CGD 77-213]

NOTIFICATION OF TANK VESSEL OWNERSHIP INFORMATION, NAMES AND COUNTRY OF REGISTRY

Public Hearing

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice—Public hearing.

SUMMARY: In the FEDERAL REGISTER of Thursday, April 13, 1978 (43 FR 15586), the Coast Guard proposed amending the rules for protection of the marine environment relating to tank vessels carrying oil in bulk to require all oil tankers of 20,000 tons deadweight (dwt) or more, United States and foreign vessels, that call at U.S. ports, places or deepwater ports to engage in commercial service to report certain ownership information,

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all registered names the vessel has had since it began operation, and the country of current registry. This proposal announced a public hearing to be held on May 26, 1978, in Houston, Tex. Because of scheduling problems, it has become necessary to change the location of the hearing in Houston. The new location of the hearing is set out below.

DATES: The public hearing will be held on May 26, 1978, beginning at 9:30 a.m., in the Ballroom, Whitehall Hotel, 1700 Smith Street, Houston, Tex.

FOR FURTHER INFORMATION CONTACT:

Capt. George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

Dated: April 26, 1978.

G. H. PATRICK BURSLEY,
RADM, USCG, Chairman,
Marine Safety Council.

[FR Doc. 78-11790 Filed 4-28-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 78-12]

RULES OF PRACTICE AND PROCEDURE

Simplification of Rules Governing Special Docket Applications for Permission To Refund or Waive Portions of Freight Charges in Foreign Commerce

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rule Changes.

SUMMARY: The Federal Maritime Commission proposes to amend its rules of practice and procedure to simplify the process by which common carriers by water in the foreign commerce of the United States or conferences of such carriers seek permission to refund or waive a portion of freight charges because of tariff errors. The amendments are necessary to eliminate unnecessary technicalities and uncertainties which interfere with the prompt processing of applications. The effect of the amendments will be to eliminate participation of unnecessary parties, clarify requirements as to the time required to file, and simplify the standard form used to submit relevant information.

DATES: Comments on or before: May 26, 1978.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: In 1968, section 18(b)(3) of the Shipping Act, 1916, 46 U.S.C. 817(b)(3), was amended by Pub. L. 90-298 to authorize the Commission to grant permission to common carriers by waters in the foreign commerce of the United States or conferences of such carriers to refund or waive portions of freight charges under certain conditions. The amending legislation was enacted because of rigid application of tariff law requiring strict adherence to rates published at time of shipment often resulted in inequitable financial injury to shippers when carriers or conferences committed certain types of errors in tariff publication. For example, if the carriers or conferences had no intention of charging a particular higher rate but through bona fide mistake on the part of the carrier or conference, a tariff reflecting a lower intended rate had not been timely filed, the shipper would nevertheless be compelled to pay the higher rate even though such shipper might have been promised the lower rate. To correct such inequities and others specified, section 18(b)(3) was amended to permit the Commission to eliminate the harmful effects flowing from the carriers' or conferences' errors and give relief to shippers.

Although the Commission must exercise care to insure that mistakes committed by carriers or conferences are bona fide and that the various procedural requirements of Pub. L. 90-298 are met, the basic thrust of the amending legislation is remedial. However, the Commission has observed that under the present regulation which implements the amending legislation confusion and uncertainty has arisen which causes unnecessary delay and frustrates the remedial pruposes of the law. The particular areas of uncertainty and confusion concern the status of shippers as parties to proceedings commenced by the filing of applications and the methods used to determine the period of time within which such applications must be filed.

Pub. L. 90-298 gives carriers or conferences the right to file applications to correct the results of their own mistakes for the benefit of shippers. Proceedings arising under that law are therefore not truly adversary in nature. However, the Commission's present regulation, Rule 92(a), 46 CFR 502.92(a), establishes any proceeding begun under law in question as "the equivalent of a complaint and answer thereto admitting the facts complained of." Furthermore, the standard form prescribed by the present regulation requires the notarized concurrence of the shipper as "complainant." As a result of this situation, the processing of applications has been delayed. In some instances, it has been necessary to obtain the concurrence of shippers located overseas, or assignments of their rights to persons located in the United States, or affidavits from nominal complainants whose only function is to promise to pass the refund or the benefit of the waiver through to the real party in interest, i.e., the shipper or consignee who was responsible for payment of the freight and did make payment in whole or in part.

The Commission believes that the primary objective of the law in question was to remedy obvious inequites and give relief when the conditions set forth in that law are met and that relief, when deserved, should not be impeded by unnecessary technicalites. The proposed amendments to Rule 92(a) will eliminate such technicalities while at the same time providing the Commission with sufficient information upon which to base a proper decision. This will be done by restructuring the proceedings arising under the law into non-adversary applications and removing the requirement that shippers submit concurrences with the applications. To insure that the the proper person receives the benefit of the refund or waiver, however, the applicant will be required to furnish specific information regarding payment of the freight and the person responsible for payment. The standard form prescribed by the regulation will also be restructured to eliminate unnecessary information and simplify the format for easier utilization.

The second major problem concerns the method used to determine whether the application has met the statutory requirement that it be "filed with the Commission within one hundred and eighty days from the date of shipment." Although the Commission has determined in special-docket cases that the term "filing" may be construed to mean date of placing the application in the mail,[1] there is as yet no clear definition of the term "date of shipment." In most cases applications are filed early enough in time so that is has been unnecessary to fix a particular point in time as the "date of shipment." Usually, the date shown on the bill of lading issued by the carrier, whether rated or not, has been used as a convenient standard. However, in some instances the date of the on-board bill of lading has been used.[2] Furthermore, it has not been settled as to whether some other point of reference could be used such as date of payment of the feight or date of delivery. The problem stems from the fact that the legislative history to Pub. L. 90-298 is not illuminating because the term "date of shipment" found its way into the statute without discussion of definition.

[1] *Ghiselli Bros.* v. *Micronesia Interocean Line, Inc.*, 13 F.M.C. 179, 182 (1970).

[2] *Id.*, at pp. 182, 186.

The Commission believes that it is necessary to define these statutory terms so that prospective applicants will not have to function in a state of uncertainty and to insure that applications which qualify in other respects are treated equally. Accordingly, the Commission proposes to define the term "filing" to mean date the application is received by the Commission or the date the application is deposited in the mail, as duly certified by the applicant, whichever occurs sooner. This difinition codifies the Commission's ruling in the *Ghiselli* case and permits an alternative date of the application is filed by hand. The Commission proposes to define the term "date of shipment" to mean the date of issuance of the rated bill of lading, a point of reference which has often been employed in previous cases. However, the Commission realizes that an argument can be made in favor of date of payment, since such date may have more meaning to the shipper and has been recognized as having significance in determining when causes of action accrue in compliant cases filed under section 22 of the Shipping Act. 1916.[3] The Commission therefores invites comments addressed to the question of which standard should be used.

In addition to the major changes discussed above, certain other changes have been made to the regulation and the standard form. This, the proposed regulation will codify the present practice of the Commission in ordering applicants to take action to collect undercharges if applications for waiver are denied and will require that the new tariff filed to conform to the carrier's or conference's original intent actually be received by the Commission. The Commission has observed that in at least one instance a conforming tariff was not actually received by the Commission although the applicant published such tariff.[4]

The standard form has been modified to require conferences, when appropriate, to join in applications of individual carriers by verified concurrence. It has also been Modified to insure against the possibility of discrimination among shippers by requiring more definite information concerning carriage of the same or similar commodities on the same voyage or at relevant time periods based on bill of lading and conforming tariff dates. The present form merely requests such information about similar shipments during "approximately the same period of time." Furthermore, the form has been reworded and physically restructured to make it easier to prepare.

The regulation has been further amended to advise applicants that the requirements of the regulation must be met and that legible information and documentation must be furnished. Failure to meet these requirements may result in summary rejection of the application. The Commission has observed that inadequately prepared applications have caused undue delay in the decisional process. Although Pub. L. 90-298 is remedial in nature, as mentioned, the Commission must take care that the relief requested is fully qualified and that the rights conferred by Congress are not abused. The regulation is also consistent with the Commission's Rule 11(a), 46 CFR 502.11(a), which authorized rejection of any pleding, document, writing, etc., not in conformity with the Commission's rules.

Paragraph (c) of the rule is also being clarified to remove possible confusion resulting from the current use of the word "filed" in this paragraph.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), and sections 18(b)(3), 21, and 43 of the Shipping Act, 1916 (46 U.S.C. 817(b)(3), 820, and 841(a), Part 502 of Title 46, Code of Federal Regulations, is proposed to be amended as set forth below:

1. Paragraph (a) of § 502.92 is proposed to be revised and the first sentence of (c) is revised as follows:

§ 502.92 **Special docket applications.**

(a)(1) Application for permission to refund a portion of freight charges collected from a shipper or to waive collection of a portion of freight charges from a shipper where it appears that there is an error in a tariff of a clerical or administrative nature or an error due to inadvertence in failing to file a new tariff and that such refund or waiver will not result in discrimination among shippers may be filed by a common carrier by water in foreign commerce which publishes its own tariff or by such carrier and conference of such carriers if the error involves a tariff published by a conference.

(2) Prior to filing the application, the applicant must file and the Commission must have received an effective tariff setting forth the rate on which such refund or waiver would be based.

(3) The application for refund or waiver must be filed with the Commission within one hundred and eighty days from the date of shipment. For the purposes of this paragraph filing shall be construed to mean the date the application is received by the Commission or the date the application is deposited in the mail, as duly certified by the applicant, whichever occurs sooner. For the purposes of this paragraph date of shipment shall mean the date of issuance of the rated bill of lading.

(4) By filing the application the applicant(s) agrees that if permission is granted by the Commission, an appropriate notice will be published in the tariff, or such other steps will be taken as the Commission may require, which give notice of the rate on which such refund or waiver would be based, and additional refunds or waivers as appropriate shall be made with respect to other shipments in the manner prescribed by the Commission in its order approving the application and also agrees that if the application is denied by the Commission, other steps will be taken as the Commission may require in its order denying the application.

(5) Application for refund or waiver shall be made in accordance with the form set forth below. Any application which does not furnish the information required by the prescribed form or otherwise comply with this rule may be returned to the applicant by the Secretary without prejudice to resubmission within the 180-day limitation period.

FEDERAL MARITIME COMMISSION

SPECIAL DOCKET NO.

Application of ——— for (Applicant(s)) the benefit of ——— (Name of person who paid or is responsible for payment of freight charges).
(1) Shipment(s)
Commodity (according to tariff description) ——
Number of shipments ——
(a) weight or measurement of individual shipment ——
(b) aggregate weight or measurement of all shipments ——
Shipper and place of origin ——
Consignee and place of destination ——
Name of carrier and date shown on bill of lading (furnish legible copies of rated bill(s) of lading) ——
Names of participating ocean carriers and routing ——
Name(s) of vessel(s) involved in carriage ——
Amount of freight charges collected (a) per shipment ——
(b) in the aggregate ——
(c) by whom paid ——
(d) who responsible for payment if different ——
Date of payment (collection) (furnish supporting evidence) ——
Was shipment prepaid or collect? ——
Rate applicable at time of shipment (furnish legible copies of tariff page(s)) ——

[3] See *CSC Intercontinental Inc.* v. *Orient Overseas Container Line, Inc., Order on Remand*, 16 SRR 1239, 1240 (1976); *United States of America* v. *Hellenic Lines Limited*, 14 F.M.C. 255, 260 (1971); *Aleutian Homes Inc.* v. *Coastwise Line, et al.*, 5 F.M.B. 602, 611 (1959); *U.S. ex rel Louisville Cement Company* v. *ICC*, 246 U.D. 638, 644 (1918).

[4] See *A. E. Staley Mfg. Co.* v. *Mamenic Line*, Special Docket No. 541, 17 SRR 1522 (1978).

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Rate sought to be applied (furnish legible copies of tariff page(s)). Note.—Must be on file with Commission prior to application.

Amount of freight charge at rate sought to be applied (a) per shipment ——
(b) in the aggregate ——
Amount of freight charges sought to be (refunded) (waived) (a) per shipment ——
(b) in the aggregate ——

(2) Furnish docket numbers of other special docket applications or decided or pending formal proceedings involving the same rate situations.

(3) State whether there are shipments of other shippers of the same or similar commodity which (a) moved via applicant(s) during the period of time beginning on the day the bill(s) of lading was issued and ending on the day before the effective date of the conforming tariff and (b) moved on the same voyage of the vessel(s) carrying the shipment(s) described in (1) above.

(4) Fully explain the clerical or administrative error or error due to inadvertence showing why the application should be granted. Furnish legible copies of all supporting documents (in addition to those documents required by (1) above).

—— (Applicant) (Carrier).
By: —— (Signature).
—— (Typed or printed name of person signing).
—— (Title).
——Date.

State of ——, County of ——, ss:

I, ——, on oath depose and say that I am —— of the above-named carrier-applicant, that I have read the foregoing application and know the contents thereof; and that the same is true.

Subscribed and sworn to before me, a notary public in and for the State of ——, County of ——, this —— day of ——, A.D. 19 —.

[SEAL]

—— (Notary Public).

The —— joins in the (Applicant) (Conference) application.

By: —— (Signature)
—— (Typed or printed name of person signing)
—— (Title)
——Date

State of ——, County of ——, ss:

I, ——, on oath depose and say that I am —— of the above-named conference-applicant; that I have read the foregoing application and know the contents thereof; and that the same is true.

Subscribed and sworn to before me, a notary public in and for the State of ——, County of ——, this —— day of ——, A.D. 19 —.

[SEAL]

—— (Notary Public).

I hereby certify that I have this day filed the foregoing application by mailing (or by delivering in person) an original and three copies to the Office of the Secretary, Federal Maritime Commission, Washington, D.C. 20573.

Dated at —— this —— day of ——, 19 —.

(Signature) ——
(For) ——

• • • • •

(c) Applications under paragraphs (a) and (b) of this section shall be submitted in an original and three (3) copies to the Office of the Secretary, Federal Maritime Commission, Washington, D.C. 20573. • • •

Since the proposals set forth in this rulemaking proceeding concern procedural matters limited to the conduct of formal proceedings before the Commission, their adoption could in no way be considered to result in major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Consequently no environmental impact statement will be issued in this proceeding.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-11785 Filed 4-28-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-140; Rm-3019]

FM BROADCAST STATION IN FAIRBANKS, ALASKA

Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Action taken herein proposes the assignment of a fourth FM channel to Fairbanks, Alaska, in response to a petition filed by the Interior Broadcasting Corp. Petitioner claims that the additional station is needed to provide service to the rapidly increasing population of Fairbanks.

DATES: Comments must be filed on or before June 20, 1978, reply comments on or before July 10, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 21, 1978.

Released: May 2, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Fairbanks, Alaska), BC Docket No. 78-140, RM-3019.

1. *Petitioner, Proposal and Comments.* (a) Petition for rulemaking[1] filed November 29, 1977, by the Interior Broadcasting Corp. ("petitioner"), proposing the assignment of Class C FM Channel 273 as a fourth assignment to Fairbanks, Alaska. No responses where make to the petition.

(b) The channel could be assigned without affecting any existing FM assignments.

(c) Petitioner states that it will apply for authority to construct an FM station on the channel, if assigned.

2. *Demographic Data*—(a) *Location.* Fairbanks, in Fairbanks North Star Borough, is located in central Alaska, approximately 400 kilometers (250 miles) north of Anchorage.

(b) *Population.* Fairbanks—14,771; Fairbanks North Star Borough—30,618.[2]

(c) *Local Aural Service.* Noncommercial educational FM Station KUAC-FM (Channel 284); Station KJNP-FM (Channel 262, used at North Pole); full-time AM Stations KFAR, KFRB and KIAK. There is a pending application on Channel 266 (BPH-9530).

3. *Economic Considerations.* Petitioner states that the population of Fairbanks, which is one of the two leading cities in the State of Alaska, has doubled since 1970. Petitioner claims that Fairbanks has experienced a 670 percent increase in gross business receipts between 1973 and 1975. It adds that the bank deposits in the Fairbanks area rose from $92 million to 218 million, an increase of 137 percent between 1973 and 1976. Petitioner details other economic and statistical data to demonstrate the need for a fourth broadcast voice in Fairbanks. it also asserts that the "Alcan" gas pipeline construction is expected to begin in 1978 and 1979, and continue for four or five years setting off another upward spiral in Fairbanks' population. It notes that Fairbanks has become the transporation and service center for the oil and gas industry and will serve in the same capacity for the mining industry which is exploiting the vast abundance of minerals in Alaska.

4. *Preclusion Studies.* Two unincorporated communities (Aurora, pop. 1,100 and College, pop. 3,000), which are adjacent to Fairbanks, would be precluded as a result of the proposed assignment. However, use of the channel could be proposed in an application for either place under the "10-mile" rule.

5. Petitioner states that although there are presently three Class C channels assigned to Fairbanks, one is an educational station and another is used at North Pole, Alaska, rather than Fairbanks, and broadcasts religious programs exclusively. It contends that the remaining channel (266) has a pending application on it (BPH-9530), and assuming it is granted, would be the only one of the three assignments which would be used as a commercial channel in Fairbanks. Petitioner asserts that there is a serious need for an additional Class C channel assignment to serve the growing Fairbanks area.[3]

6. The request for a fourth FM assignment to a community of 14,771 persons exceeds the FM population guidelines. However, one of the channels is used by an educational institution, From petitioner's showing, it appears that the population of Fairbanks has had a significant increase and, from all indications, will continue to do so. For this reason and because of the minimal preclusionary effect, we are willing to consider the proposal even though it is in excess of the population criteria.

7. Since Fairbanks is located within 420 kilometers (250 miles) of the U.S.-Canada border, the proposed Channel 273 assignment to Fairbanks, Alaska, requires coordination with the Canadian Government.

8. Comments are invited on the following proposal to amend the FM Table of Assignments with regard to the community of Fairbanks, Alaska, as follows:

City	Channel No. Present	Channel No. Proposed
Fairbanks, Alaska	262, 266, 284	262, 266, 273, 284

9. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before June 20, 1978, and reply comments on or before July 10, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached.

2. *Showing required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-11722 Filed 4-28-78; 8:45 am]

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[1] Public Notice of the petition was given on December 19, 1977, Report No. 1094.

[2] Population figures are taken from the 1970 U.S. Census.

[3] We also note that in all likelihood, no significant first or second FM or first or second aural service would be provided because of the operating stations in Fairbanks and the sparse population in the potential service area.

[4910-59]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 531]

[Docket No. LVM 77-01; Notice 2]

PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

Decision to Grant Exemption

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Proposed decision to grant exemption from average fuel economy standards.

SUMMARY: This notice is being issued in response to a petition by Avanti Motor Corp. (Avanti) requesting that it be exempted from the generally applicable average fuel economy standard of 18.0 miles per gallon (mpg) for 1978 model year passenger automobiles and that a lower, alternative standard be established for it. This notice proposes that the requested exemption be granted and that an alternative standard of 16.1 mpg be established for Avanti.

COMMENT CLOSING DATE: May 31, 1978.

ADDRESS: Comments on this notice must refer to Docket LVM 77-01 and should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-755-9384.

SUPPLEMENTARY INFORMATION: Section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act), provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if the National Highway Traffic Safety Administration (NHTSA) establishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one which manufactured less than 10,000 passenger automobiles worldwide in the model year for which the exemption is sought ("the affected model year") and which manufactured less than 10,000 passenger automobiles

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worldwide in the second model year before the affected model year. In determining maximum feasible average fuel economy, the agency is required by section 502(e) of the Act to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

To implement section 502(c), NHTSA issued Part 525, Exemptions from average fuel economy standards (42 FR 38374; July 28, 1977). Part 525 prescribes the contents of exemption petitions and sets forth the procedures for processing those petitions. After receipt of a complete petition, the agency publishes a notice of receipt which summarizes the petition and invites comments on it. Subsequently, the agency publishes a proposed decision to grant or deny the petition and provides a further opportunity for comment. Finally, the agency publishes a final decision to grant or deny the petition.

Avanti originally filed a petition in June 1977 for exemption from the generally applicable standards for 1978–1980 model year passenger automobiles. By letter of August 16, 1977, the agency informed Avanti that its petition was incomplete and identified the additional information needed by the agency. Avanti submitted further information in a letter dated September 12, 1977. This letter essentially completed Avanti's petition for exemption from the 1978 model year standard but left still incomplete the portion of the petition relating to model years 1979 and 1980.

Accordingly, NHTSA issued a notice announcing the receipt of a petition for exemption from the model year 1978 standard (42 FR 64168; December 22, 1977). That notice summarized the portion of the Avanti petition relating to that model year and invited public comment on it.

Only one comment on the notice of receipt was submitted. The commenter urged that Avanti be exempted "in the name of common sense."

Requested Alternative Standard

Avanti requested that its alternative standard for model year 1978 be set at the same level of average fuel economy as it achieved in model year 1977. Avanti's request was premised on the assumption that it would have a single vehicle configuration for model year 1978 that would meet both Federal and California emissions standards and that the configuration would have the same fuel economy as the single Avanti configuration for model year 1977. The combined city-highway fuel economy for the model year 1977 configuration was 15.6 mpg. Avanti's assumption regarding fuel economy was based on the model year 1978 configuration being identical to the model year 1977 configuration.

Since the agency issued its notice of receipt, it has learned of several events that have invalidated Avanti's original premise. Since the Environmental Protection Agency (EPA) instituted, beginning in this model year, a new test procedure (known as the SHED test) for hydrocarbon emissions from sources other than the exhaust, that agency required that the model year 1977 configuration be retested and recertified. When the configuration was retested, higher fuel economy values were achieved. The new combined figure, as reported by the EPA, is 16.1 mpg. The 0.5 mpg increase is presumably due to vehicle to vehicle or test to test variability or both and is well within the expected range of variability.

Further, the single configuration planned for model year 1978 failed to pass the California emission certification test. In an attempt to achieve certification, Avanti decided to submit a running change and thus created a second model year 1978 configuration. Avanti had that second configuration tested and achieved a combined fuel economy of 14.9 mpg. However, the second configuration also failed the California emissions certification test.

Thus, there are some slight uncertainties about the average fuel economy that Avanti will achieve for model year 1978. It is uncertain whether Avanti will try to recertify its second configuration and whether those efforts will be successful. If further technical changes are necessary to meet the durability test, the 14.9 mpg figure may change. Finally, the number of second or California configuration Avantis for model year 1978 that might ultimately be sold is uncertain. Avanti informed this agency in early March that not more than 6 California configuration Avantis would be sold if certification were achieved.

Nevertheless, it appears from currently available information that barring any changes to the configuration sold in States other than California (49-State configuration), the final average fuel economy for Avanti in model year 1978 should be 16.1 mpg. In view of Avanti's plan to produce and sell 174 49-State configuration Avantis in model year 1978, the California configuration Avantis, if any, are not expected to affect that final average. If information received in response to this notice suggests otherwise, the agency will reexamine its assumption about the final average.

Technological Feasibility and Economic Practicability

In considering whether Avanti could improve its average fuel economy for model year 1978, the agency examined the same methods for improving average fuel economy that it examined in establishing average fuel economy standards for model year 1981–1984 passenger automobiles (42 FR 33534; June 30, 1977) and for model year 1980–1981 light trucks (43 FR 11995; March 23, 1978). These methods were weight reduction, aerodynamic improvements, engine efficiency improvements, engine accessory efficiency improvements, alternative engines, turbochargers, automatic transmission improvements, improved lubricants, reduced rolling resistance, engine displacement or drive ratio reductions, and mix shifts.

NHTSA's examination of these methods in this proceeding was significantly less detailed than in those earlier proceedings since there is almost no leadtime now for making running changes to the model year 1978 Avantis. There will be even less leadtime when the final decision on the exemption petition is issued.

To use most of these methods, Avanti would have to discard components that it has already made or purchased (Avanti purchases its engines, transmissions, and emission control systems from General Motors) and obtain new ones. NHTSA has no information regarding Avanti's ability to produce or purchase and incorporate the new components before the end of the model year. Even if these problems could be surmounted, Avanti would be potentially faced with probably having to write off completely the discarded components and raise the prices on its cars to recover the loss. The price increases could be of sufficient magnitude to place the Avanti at a significant disadvantage in the marketplace.

In addition to these substantial uncertainties and the very short leadtime, there is the possibility that changes to the Avanti's components to improve fuel economy could create a need to certify the Avantis for compliance with the model year 1978 emissions standards again. Depending on the type and magnitude of change, the recertification could entail rerunning the 50,000 mile durability test and the 4,000 mile test. Certification testing is ordinarily done for Avanti by General Motors as a part of selling Avanti its drivetrain. If Avanti were able to persuade General Motors to retest the Avanti, there could still be serious problems of time and cost for Avanti. It would take at least 60 days to complete the testing if both tests were necessary. Until the Avantis were recertified, Avanti would have to choose between (1) producing its automobiles with the changes and running the risk that the automobiles would not be certified and therefore could not be sold, (2) not producing any automobiles until certification was granted, thus potentially causing serious financial problems for Avanti, or (3) continuing to produce Avanti's as currently certified. Regardless of which course was selected, only a small portion of the entire Avanti fleet would have the changes and thus have improved fuel economy. The first and second course would involve a high degree of financial risk for a small company like Avanti. Both could lead to serious disruptions of its cash flow. The third course would not involve that type of financial risk, but also would produce the least fuel economy benefit. Indeed, none of the courses would produce much of a fuel economy benefit since only a small portion of the entire Avanti fleet would have the changes and thus have improved fuel economy.

Finally, mix shifts were considered. At most, Avanti will have only two vehicle configurations for model year 1978. A mix shift could be achieved only by curtailing sales of its California configuration. As suggested above, even total abandonment of the California market would not increase Avanti's final average.

Based on the foregoing considerations, the NHTSA concludes that running changes to improve the fuel economy of Avanti's model year 1978 passenger automobiles are not technologically feasible and economically practicable.

The Effect of Other Federal Vehicle Standards

Avanti stated that other Federal motor vehicle standards (safety, emissions, and damageability) have not helped their 1978 average fuel economy. Avanti did not claim that the other Federal motor vehicle standards hurt their 1978 average fuel economy, either. Further, no manufacturer applied under section 502(d) of the Act for a reduction of the generally applicable standard for model year 1978 passenger automobiles due to the effect of other model year 1978 standards. In the absence of any showing to the contrary, this agency will assume that no fuel economy penalty has been caused by the other Federal standards.

The Need of the Nation to Conserve Energy

The daily extra U.S. demand for petroleum that will result from Avanti achieving an average fuel economy of 16.1 mpg rather than the generally applicable level of 18.0 mpg is estimated to average 0.77 barrel per day over the life of the model year 1978 Avantis. To give a perspective on this number, the fuel consumed by passenger automobiles in the United States is about 5 million barrels each day. The United States currently consumes about 17 million barrels of petroleum each day.

Selection of the Type of Alternative Standard

The Act permits NHTSA to establish an alternative average fuel economy standard applicable to exempted manufacturers in one of three ways: (1) A separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

The NHTSA believes that it is appropriate to establish a separate standard for Avanti. The analyses of the petitions submitted by other low volume manufacturers has not been completed, so the agency cannot practicably use the second or third approaches described in the preceding paragraph.

Proposed Alternative Standards

Based on its tentative conclusions that it is not technologically feasible and economically practicable for Avanti to improve the fuel economy of the model year 1978 Avantis remaining to be produced, that other Federal vehicle standards have not adversely affected achievable fuel economy, that the national effort to conserve energy will be negligibly affected by the granting of requested exemption and alternative standard, the agency believes that the maximum feasible average fuel economy for Avanti for model year 1978 is 16.1 mpg. Therefore, the agency proposes to exempt Avanti from the generally applicable standard of 18.0 mpg and to establish an alternative standard of 16.1 mpg for Avanti for model year 1978.

In consideration of the foregoing, it is proposed that 49 CFR Chapter V be amended to read as set forth below:

PART 531—AVERAGE FUEL ECONOMY STANDARDS FOR PASSENGER AUTOMOBILES

1. By amending § 531.1 to read as follows:

§ 531.1 Scope.

This part establishes average fuel economy standards pursuant to section 502 (a) and (c) of the Motor Vehicle Information and Cost Savings Act, as amended, for passenger automobiles.

2. By amending § 531.5 to read as follows:

§ 531.5 Fuel economy standards.

(a) Except as provided in paragraph (b) of this section, each manufacturer of passenger automobiles shall comply with the following standards in the model years specified:

Model year:	Average fuel economy standard (miles per gallon)
1978	18.0
1979	19.0
1980	20.0
1981	22.0
1982	24.0
1983	26.0
1984	27.0
1985 and thereafter	27.5

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

(1) Avanti Motor Corp.:

Model year:	Average fuel economy standard (miles per gallon)
1978	16.1

Persons are invited to submit comments on this proposed decision. Comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

All comments received before the close of business on the comment closing date indicated at the beginning of this proposal will be considered, and will be available for public inspection in the docket both before and after the comment closing date. To the extent possible, comments filed after the comment closing date will also be considered. The agency will continue to file relevant material in the docket as it becomes available after the comment closing date, and it is recommended that interested persons continue to examine the docket for new material.

(Sec. 9, Pub. L. 89-670, 80 Stat. 981 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976, and 43 FR 8525, March 2, 1978.)

The program official and attorney principally responsible for the development of this proposed regulation are Douglas Pritchard and Stephen Kratzke, respectively.

Issued on April 26, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-11773 Filed 4-28-78; 8:45 am]

[4910-59]

[49 CFR Part 571]

[Docket No. 1-21; Notice 4]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Theft Protection

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

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ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to amend Standard No. 114, Theft protection, to extend its applicability to additional types of vehicles, to upgrade its requirements, and to clarify certain of its provisions. The proposal is being issued to reduce vehicle theft because of the continuing disproportionately high accident rate of stolen vehicles.

DATES: Comments must be received on or before July 31, 1978. Proposed effective dates: September 1, 1980, for passenger cars and September 1, 1981, for trucks with a gross vehicle weight rating (GVWR) of 10,000 pounds or less and multipurpose passenger vehicles.

ADDRESSES: Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Kevin Cavey, Office of Crash Avoidance, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2720.

SUPPLEMENTARY INFORMATION: On March 4, 1976, the National Highway Traffic Safety Administration (NHTSA) published an advance notice of proposed rulemaking (41 FR 9374) which stated that the agency was considering issuing a proposal to upgrade and extend the applicability of Federal Motor Vehicle Safety Standard No. 114 dealing with theft protection for passenger cars (49 CFR 571.114).

A total of 61 comments were received in response to the advance notice of proposed rulemaking (ANPRM). Those responding included automobile, truck, lock and motorcycle manufacturers. In addition, private citizens (a number of whom proposed their own inventions), manufacturer associations, States, consumer groups, and a university submitted comments to the docket. Of the commenters, 35 were in favor of upgrading the requirements and 26 were against. Most of the objections concerned specific portions of the proposal. All comments have been considered and the most significant are discussed below.

Summary of Comments

The automobile industry commented, in general, that the present standard has considerably reduced vehicle theft by joyriders and petty thieves, and that current thefts are by professional thieves (as contrasted with joyriders and petty thieves). This assertion was based on Federal Bureau of Investigation data which demonstrate that the recovery rate of stolen vehicles has decreased by 20 percent from 1966 to 1974. As unrecovered vehicles are generally assumed to have been stolen by professional thieves, these data would imply that less vehicles are being stolen by joyriders and petty thieves. The industry commented further that strict law enforcement and more accurate vehicle registration, identification and titling are necessary now to combat this problem since, the industry stated, a vehicle's security could not be upgraded on a cost effective basis to deal with professional thieves. Based on their assumption that the problem of theft by joyriders and petty thieves, who pose the threat to safety, had been solved, they also contended that the proposal is beyond the agency's authority. They argued that the several studies mentioned in their comments indicate that additional requirements will not yield sufficient safety benefits. They stated further that any changes should, as a matter of law and policy, be cost effective, and that the Federal Interagency Committee on Auto Theft Reduction should develop new approaches in the area of police enforcement and State administrative measures to the problem. Finally, they urged that the NHTSA cooperate with the Economic Commission for Europe (ECE) on Regulation 18, a European motor vehicle safety standard to improve vehicle security. That standard was published as an appendix to the ANPRM.

The trucking industry opposed extending the requirements to trucks, particularly heavy trucks. They concluded, based on the skills needed by the thief and the apparent theft of trucks for their cargo, that truck thefts are performed by professionals and that the additional requirements under consideration would be ineffective against this caliber of thief. The motorcycle industry was in favor of reducing motorcycle thefts through a motor vehicle safety standard, but proposed that a separate rulemaking be undertaken because of the different design characteristics of motorcycles. The lock industry favored lock improvement by manufacturers to deter vehicle theft. Consumer groups and associations approved the requirements being considered, but believed cost effectiveness and innovation should be stressed.

Vehicle Theft and Safety

The automobile industry raised the threshold question of the relation of safety and the requirements listed in the ANPRM. To summarize their argument, they concluded, based on stolen vehicle recovery data, that the current Standard No. 114 has been effective in limiting the number of vehicles stolen for joyriding or petty theft. Vehicle theft today, they further concluded, is being carried out primarily by highly professional thieves who are often organized into rings. Further, they suggested that the professional thief has sophisticated tools and expertise for which no cost-effective deterrents exist. Further, they believe professional thieves drive stolen vehicles safely to avoid being stopped by a law enforcement officer who might discover the vehicles are stolen.

To help determine the validity of this position, the NHTSA funded a study by Arthur D. Little, Inc., which addressed this question and considered, among other data, the data cited by the automobile manufacturers in the comments. (DOT-HS-7-01723). A copy of the Little study has been placed in the docket. After reviewing this study and other data, the NHTSA concludes:

(1) Stolen cars are involved in one out of every 350 accidents and account for approximately 5,100 disabling injuries and 130 fatalities annually.

(2) Stolen cars are from 47 to 200 times more likely than unstolen cars to be involved in accidents.

(3) Approximately 1 million vehicles were stolen during 1976, of which a conservative estimate of those stolen for joyriding purposes is 350,000.

The data used in reaching these conclusions are essentially the same as those used by the manufacturers, except that the manufacturers utilized 1974 data and the NHTSA 1976 data. There was no significant difference, however, between the data for these years.

In view of the association of theft by joyriders and petty thieves with highway accidents and the significant number of accidents, deaths and injuries involving stolen vehicles found in the study, NHTSA believes that a serious safety problem still exists with regard to stolen vehicles and that further rulemaking in this area is justified. It should be noted that the consumer impact of vehicle theft is substantial. Vehicle theft costs society from $1.8 billion to $2.9 billion annually, and represents 8.4 percent of all the crimes committed in this country, placing a substantial burden on law enforcement agencies and the courts.

Extending the Application of Standard No. 114

The ANPRM stated that the agency was considering the extension of the requirements of Standard No. 114 to all motor vehicles except trailers. Truck and bus manufacturers opposed this extension. They believed that the low number of thefts of these vehicles, particularly of heavy trucks and of buses, does not justify having their vehicles comply with the requirements. In their comments, truck manufacturers submitted data which indicated

that trucks are often stolen for their cargo and later abandoned. The Motorcycle Industry Council commented that the proposed requirements were not appropriate for motorcycles because of their design and said that theft of these vehicles should be addressed in a separate rulemaking action.

The contention that heavy trucks, buses and special trucks, such as fire and refuse vehicles should not be included in the standard on the basis of their low theft rates has merit. This position is supported by the report "Preliminary Study of Effectiveness of Auto Anti-Theft Devices" prepared for the Department of Justice. A copy of that report is in the docket. This report concludes that the theft rate for heavy trucks and buses is much lower than for passenger cars, and, when stolen, 67 percent of these vehicles are recovered.

Theft report data from the States, however, indicates that the theft rate for light trucks and multipurpose passenger vehicles is similar to that for passenger cars. It shows too that currently available devices to protect light trucks (those rated at 10,000 pounds or less GVWR) from theft are relatively unsophisticated. For example, the ignition locks in many light trucks and multipurpose vehicles are frequently of a type that proved unsatisfactory in pre-1970 automobiles because of their susceptibility to tampering. Due to the popularity and increasing use of these vehicles (sales of new light trucks and multipourpose passenger vehicles have more than doubled in the past 7 years to 3,000,000 sales per year) and a reported increase by the FBI and the State of California in the theft rate of these vehicles, especially vans, the NHTSA concludes that anti-theft deterrents are appropriate for trucks with a GVWR of 10,000 pounds or less and multipurpose vehicles.

The suggestion of separate rulemaking for motorcycles also has merit because of the construction and design differences between those vehicles and enclosed vehicles. The agency has decided that further consideration should be devoted to specific anti-theft measures for motorcycles.

Stronger Ignition Locking Systems

The ANPRM listed a number of requirements relating to greater protection for a vehicle's ignition system against tampering. Domestic manufacturers stated that the present ignition system lock requirements, implemented in January 1970, had reduced automobile thefts and that further requirements were unnecessary and related to design rather than performance characteristics.

Foreign manufacturers objected to changes in ignition locks stating that current locks were sufficiently effective, and recommended that the NHTSA cooperate with the ECE to revise Regulation No. 18, if necessary, rather than independently establish new requirements. Lock manufacturers and consumer groups recommended more intricate and stronger locking systems to deter motor vehicle thefts.

After a review of the state of the art in lock design and the difficulty of articulating performance standards for stronger locks, the NHTSA has tentatively concluded that it would be more effective to approach the problem of the susceptibility of locks to tampering by limiting the utility of removing the lock. Consequently, a new requirement is being proposed which requires the ignition systems to be inoperative if any part of the ignition lock is removed. To further protect the ignition system, the agency proposes also that the wires which activate this system shall be shielded so that they cannot be directly contacted from within the passenger compartment. The shielding could be provided by the vehicle structure or by other means. The agency is considering establishing a requirement that would necessitate the use of metal or other similar strong shielding materials which would have to be cut by special cutting tools before access to the ignition wires could be gained. Comments are invited on whether requirements should be specified for the type of material that may be used to provide the shielding or for the type of actions (e.g., cutting, bending) necessary to removing the shielding.

In deciding to make these proposals, the NHTSA took note of the significant progress already achieved by the industry in making locks stronger. The NHTSA does intend, however, to monitor closely the efforts of the industry in this area and, if appropriate, propose a further amendment to Standard No. 114 to ensure all manufacturers are taking advantage of improved lock technology.

Interior Latch Release for Hood

The ANPRM stated that the agency was considering a requirement that each vehicle have a trunk lock and a hood lock operable only from within the vehicle. Comments from automobile manufacturers were not in agreement on this requirement. Some manufacturers felt a hood release could delay motor vehicle theft by denying ready access to the ignition system, but questioned NHTSA's authority to issue this requirement on the basis of safety. Other manufacturers felt that since a thief would have to eventually enter the passenger compartment in order to steal the vehicle, there was no compelling reason for this requirement. Generally, the other comments did not address this requirement.

The NHTSA concludes that a hood release located inside the passenger compartment would delay the vehicle's theft since "hot wiring" of a vehicle would be made more difficult. Since time is of the essence in theft (5 to 10 minutes being the most time a thief would devote to a theft under optimal conditions), a hood release represents an effective deterent. The NHTSA also notes that many automobile manufacturers already provide an internal hood release, and it would not be a burden to require this for all vehicles. Consequently, it is proposed that Standard No. 114 be amended to require that the primary hood latch position or, if a vehicle has two hood latch systems, the primary hood latch system be operable only from within the passenger compartment.

The NHTSA also concludes that an interior release mechanism for the trunk, which was suggested in the ANPRM would serve primarily to protect valuables within the trunk, rather than deter theft of the vehicle. Therefore, the agency is not proposing a similar requirement for trunk locks.

Two Key System

The ANPRM listed a requirement that vehicles be designed so that different keys are necessary for the steering ignition lock and for door and trunk locks.

The automobile manufacturers and private sector generally opposed the two key system because they said it would be inconvenient and would not aid safety. The lock manufacturers stated their belief that two keys would delay the vehicle thief for the reasons described below.

Some police departments in high vehicle theft areas recommended the use of two keys as a delay to the theft because after a thief has entered the vehicle, he or she would then have to defeat the ignition system lock to start the vehicle. The one key system enables thieves to obtain an ignition system lock key by stealing a trunk or door lock and reproducing the key which fits it. General Motors uses a two key system which, according to the police comments, has helped in reducing thefts. The additional cost of a two key system is so small as to be unquantifiable, and the NHTSA concludes that it will be of benefit in slowing down the theft of a vehicle. A system requiring a separate key to operate the ignition lock system is therefore proposed.

Prevention of Accidental Locking of Steering System

As a result of a petition received from Mr. R. L. Beal, the NHTSA proposed that steering lock systems be incapable of activation with the vehicle in motion. Currently, S4.2 permits the driver of an automobile to turn off the

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engine while the car is in motion without activating the steering column lock or impeding forward self-mobility. Automobile manufacturers stated that their vehicles already meet the intent of this requirement, and that the steering lock cannot be activated under these conditions. Nonetheless, the NHTSA has concluded that this danger should be guarded against with certainty, even if the key is actually removed from the ignition. Therefore, it is proposed that, when the vehicle is in motion and the key is either removed from the ignition lock or rotated to a different position in the lock, neither steering nor the ability of the vehicle to move forward under its own power shall be impeded.

ALARM TO PREVENT LEAVING THE KEY IN THE IGNITION

The ANPRM suggested improvements in current alarm systems for discouraging the driver from leaving the key in the ignition system. The majority of comments from the automobile industry felt that the current alarm system provision, which requires a warning to the driver when the key has been left in the ignition, and the door is open, has been effective in getting the driver to remove the key from the ignition and that any further requirements would not be cost effective. They based this conclusion on the decreasing number of vehicles reported as stolen because the driver has left the key in the ignition. They further opposed the requirement as they considered removal of the key to be the driver's responsibility. On the other hand, lock manufacturers and consumers felt that the system could be improved because vehicles were still being stolen by thieves using a key left in the vehicle's ignition system.

NHTSA agrees with the manufacturers that the present requirements have had a beneficial effect. Recovered stolen vehicles with owner's keys still in the ignition have dropped from a pre-Standard 114 rate of 47 percent to an estimated current rate of 13.5 percent. However, the actual rate may be higher since laws imposing liability for accidents involving vehicles which have had their keys left in them and have then been stolen may lead to underreporting of such thefts. Further, a thief may not wish to draw attention to himself or herself by leaving the key in the ignition and thus causing the alarm to be activated when he or she opens the door to abandon the vehicle.

The agency is proposing requirements for improvements to the warning system that would further discourage the driver from leaving the key in the ignition and could be effective at a minimal cost. Under the proposal, an audible warning to the driver, measuring 65 decibels A at a point outside the vehicle and 1 foot from the driver's door with all doors and windows closed, would be activated whenever the engine or other source of motive power has been turned off, the key has not been removed from the ignition lock, and the door has been opened. the warning would continue until the key was removed. Specific information is requested concerning the sound level within the passenger compartment of specific vehicles of a warning device which achieves that the proposed sound level outside the vehicle.

ECE REGULATION NO. 18

The ANPRM also requested comments on a proposed regulation of the ECE relating to vehicle security (Regulation No. 18). Consumers, lock manufacturers, truck industry, and motorcycle industry comments did not address this issue. The automobile industry recommended that the United States and Europe issue identical regulations concerning motor vehicle theft. The domestic manufacturers, however, stated that the ECE should be urged to amend Regulation No. 18 to conform to Standard No. 114 in the interests of international harmonization. ECE Regulation No. 18, which is considerably different from the NHTSA proposal, is more design oriented than appears to be necessary. Inasmuch as NHTSA regulations are required by statute to be written in as performance-oriented terms as possible, the NHTSA has decided to work closely with the International Standards Organization (ISO) ISO/TC22/SC20 Committee, which deals with vehicle security, to arrive at a standard consistent with that statutory requirement.

DOOR LOCKING SYSTEM

The ANPRM also sought comments on stronger and more secure door locking systems. Comments on this subject generally followed the pattern of comments relating to other stronger locking systems. In essence, most commenters felt that the cost of substantially increasing the strength of door locks would not be justified in terms of benefits of overall vehicle security. The agency agrees and consequently is not proposing stronger door locks in this rulemaking, although the matter will be considered again in amending Federal Motor Vehicle Safety Standard No. 206, door locks and door retention components. Nonetheless, the NHTSA has concluded that simpler and more cost effective methods of protecting door locking systems have been developed by automobile manufacturers. Therefore, the notice proposes that door lock buttons shall be of uniform thickness or tapered with the thicker end at the bottom to prevent thieves from unlocking a car door by using a tool to hook the button and pull it upward. It is also proposed that the door lock mechanism within the door be shielded to prevent direct access to the mechanism by such manipulative devices as a "Slim Jim." Comments are requested on what sort of shielding should be required. It appears that less rigid shielding is needed then in the case of the shielding for the ignition wires.

CLARIFICATION OF CURRENT REQUIREMENTS

Based upon the agency's experience with the current Standard No. 114, minor clarifying amendments have also been proposed to requirements currently in effect.

COST OF THE PROPOSAL

In determining the cost of the proposal, the NHTSA made the assumptions that all vehicles covered by the standard would require some upgrading, although a significant number already meet one or more of the proposed requirements. The NHTSA estimates that the proposal will add approximately $1.50 to the cost of manufacturing a passenger car, and $3.70 to the cost of manufacturing a truck or multipurpose passenger vehicle. The aggregate manufacturing cost of the proposal would be $20.92 million annually for passenger cars and $16.53 million annually for trucks and multipurpose passenger vehicles.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

In consideration of the foregoing, it is proposed to amend 49 CFR 571.114 to read as follows:

S.1 *Scope.* This standard specifies requirements for vehicle theft protection.

S.2 *Application.* This standard applies to passenger cars, trucks with a GVWR of 10,000 pounds or less, and multipurpose passenger vehicles.

S.3 *Definitions.*

"Combination" means one of a number of configurations of a lock which allows it to be operated by a specific key to permit activation of the locked system.

"Key" means a device designed to operate a specific lock.

"Lock" means a device designed to control the movement or activation of a vehicle system or component.

S4. *Requirements.*

S4.1 Each vehicle shall have an ignition system lock that, whenever the key is removed, will prevent—

(a) Normal activation of the vehicle's engine or other main source of motive power; and

(b) Either steering or forward self-mobility of the vehicle, or both.

S4.2 When the vehicle is in motion and the key is either removed from the ignition system lock or rotated to a different key position in the lock, neither steering nor forward self-mobility shall be impeded.

S4.3 Each manufacturer, in meeting the requirements of S4.1, shall employ a locking system with at least 1,000 different combinations or with a separate combination for each vehicle manufactured annually.

S4.4 The ignition system lock shall not be operable with a key which operates any exterior lock in the vehicle.

S4.5 An audible warning to the driver, measuring 65 decibels A at a point outside the vehicle and 1 foot from the driver's door with all doors and windows closed, shall be activated whenever the engine or other main source of motive power has been turned off, the key has not been removed from the ignition lock, and the door has been opened. The warning shall operate continuously, even if the door is subsequently closed, until the key is removed.

S4.6 The door lock mechanism contained within the door shall be shield so that it can not directly be contacted by external manipulative devices.

S4.7 Any vertical protrusion designed to move vertically and to operate the door lock within the passenger compartment shall be either of uniform thickness or tapered with the thicker end at the bottom.

S4.8 Wires which activate the ignition system shall be shielded so that they can not be directly contacted from within the passenger compartment.

S4.9 The removal of any part of the ignition lock shall cause the ignition system to be inoperative.

S4.10 The hood latch position, in the case of vehicles with one hood latch system, or primary hood latch system, in the case of vehicles with two hood latch systems, shall be operable only from within the passenger compartment.

The principal authors of this proposal are Kevin Cavey of the Office of Crash Avoidance and Frederic Schwartz, Jr., of the Office of Chief Counsel.

(Sec. 103, 112, 119, Pub. L. 89563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on April 26, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate
Administrator for Rulemaking.

[FR Doc. 78-11770 Filed 4-26-78; 3:37 pm]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1065]

[Ex Parte No. 55 (Sub-No. 8B)]

GATEWAYS AND TACKING—IRREGULAR ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Motor Common Carriers of Property Routes and Service

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of petition for modification of 49 CFR 1065.1

SUMMARY: The purpose of this document is to gather public comment concerning; (1) The petition filed by the Common Carrier Conference—Irregular Route, Steel Carriers Conference of the American Trucking Association and Heavy-Specialized Carrier Conference of the American Trucking Association seeking elimination of the requirement of filing of gateway elemination applications in acquisitions under section 5 and transfers under section 212(b) of the Interstate Commerce Act where the most direct highway distance between points to be served is not less than 80 percent of the highway distance over routing through the resulting gateway or where movements would be less than 300 miles; and (2) whether a vendee, which acquires two pieces of authority with which the vendor had been performing service by tacking onmovements of less than 300 miles, should be able to continue to perform that service.

SCHEDULE FOR SUBMISSION OF COMMENTS: Must be submitted on or before May 31, 1978.

FOR FURTHER INFORMATION CONTACT:

G. M. Bober, Assistant Deputy Director, Section of Finance, Room 5417, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7564.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by a petition filed June 21, 1977, by the Common Carrier Conference—Irregular Route, Steel Carriers Conference of the American Trucking Association, and Heavy Specialized Carriers Conference of the American Trucking Association (petitioners) seeking modification of the application of the gateway elimination rules, 49 CFR 1065, as they relate to section 5 and 212(b) transactions.

The regulations in question were issued in *Gateway Elimination*, 119 MCC 530 (1974), and, as noted by petitioners, do not specifically consider their effect on acquisition proceedings.

It was found in *Gateway Elimination*, supra, that were the direct highway distance was more than 80 percent of the distance between two points by observing the gateway, carriers operating through the gateway were effective competitors with directline operators. Carriers meeting this so-called "20-percent rule" (the circuity in utilizing the gateway is less than 20 percent), which demonstrated that such a service was offered by an appropriate tariff being on file, could eliminate the gateway. The new direct services would not, the Commission believed, materially affect the existing competitive balance. This applied only to certificated authorities issued pursuant to an application pending on or before November 23, 1973.

As a corollary, where the circuity would be more than 20 percent, tack-

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ing would be prohibited, unless the carrier could demonstrate a public need for the service, in conformity with *Childress—Elimination Sanford Gateway*, 61 MCC 421 (1952), cf. 119 MCC at 549-50. Carriers which did not follow one of these paths, except for movements of 300 miles or less, were prohibited from tacking irregular routes.

The Commission has stated that this 300-mile exemptiojn was applicable only to authorities issued pursuant to applications pending on or before November 23, 1973.

The Commission in its report did briefly consider the effect of the new regulation on acquisitions. It stated that if two irregular routes are to be joined, the applicant carriers would be required to file an application demonstrating that public convenience and necessity required joinder, and if a need was shown, direct service would be authorized. If no such showing was made, a "no-tacking" restriction would be imposed. 119 MCC at p. 552-3.

On December 3, 1974, the Commission issued a policy statement concerning ex parte 55 (Sub-No. 8) and Applications under sections 5(2) and 212(b) of the Interstate Commerce Act. In that policy statement the Commission instructed carriers with pending section 5 or 212 (b) applications filed after November 23, 1973, to file applications to eliminate any gateways, the failure to do so resulting in the imposition of a "no-tacking" restriction. The Commission, further, asserted that in future section 5 proceedings, parties would be required to file a directly related application to avoid imposition of a "no-tacking" restriction. The Commission determined that the criteria in *Childress, supra*, would be applicable to such gateway elimination applications, i.e., a showing of public convenience and necessity would be required.

PETITIONERS' REQUEST

Petitioners seek to modifications in the Commission's application of the regulations to acquisitions and mergers under section 5 and transfers under section 212(b). Petitioners would permit the elimination of gateways resulting from an acquisition, i.e., the point of joinder of the vendee's existing authority and the authority being acquired without requiring a showing of public convenience and necessity where circuity through the gateway point would not exceed 20 percent. An applicant would only have to demonstrate the existence of a tariff for interline service through the joinder point. Secondly, petitioners want the Commission to apply the "300-mile exemption" to gateways resulting from section 5 and 212(b) acquisitions.

Pettioners suggest that the 20-percent rule was promulgated on the rationale that where the direct service route is 80 percent or more of the distance utilizing the gateway, a persumption arises that existing carriers providing service have felt the competitive impact of the service through the gateway. Since this presumption was valid in section 5 applications filed before November 23, 1973, petitioners believe it should have equal validity on applications filed after that date.

Petitioners refer to the findings of the Commission's Bureau of Economics, that the elimination of gateways resulted in significant savings in fuel, and man-hours. It is argued that granting of the requested relief would add to the savings because the present policy constitutes a major deterrent to applicants entering into acquisition transactions.

Rater than enter into such transactions, it is urged that carriers continue to interline, thereby wasting fuel, dollars and manpower. Petitioners also assert that the relief sought would lessen the disparity in treatment between irregular route carriers and regular route carriers with regard to joinder. A regular route carrier which acquires another regular route under section 5, can perform a through service without a showing of public convenience and necessity, as well as join an irregular route with a regular route. Petitioners plead that imposing the requirement of demonstrating public convenience and necessity on irregular rount carriers, even if no circuity is involved results in discrimination in favor of the regular route carrier.

Petitioners, also, reiterate the Commission's rationale for the "300-mile exemption", that on such shipments the added cost and fuel use from tacking would be more than made up through increased efficiencies and operational savings. The same reasoning, it is urged, applies to hauls of 300 miles or less resulting from a joinder of two irregular routes by an acquisition, and accordingly the 300-mile exemption should be broadened to include such traffic.

If, after considering all the comments submitted, the Commission deems a rulemaking proceeding appropriate, one will be instituted.

We also wish to consider the situation of a vendee acquiring two certificates presently utilized by a vendor under the "300-mile exemption."(e.g.,X, a vendor holds irregular route authority from A to B, and also from B to C. The distance from A to C (through B) is less than 300 miles, and X has been tacking the two authorities pursuant to the exemption. X proposes to sell both certificates to Y.)

The issue for consideration is whether the vendee should be permitted to continue the service previously performed by the vendor pursuant to the "300-mile exemption."

We seek comments on five questions related to the issues discussed above:

(1) Should the "20-percent rule" be applied to future acquisitions of irregular route authority authorized under sections 5(2) or 212(b), to permit elimination of the gateway resulting from joinder of vendee's irregular route authority with the authority authorized to be acquired by filing an E letter notice rather than filing a gateway elimination application?

(2) Should the "300-mile exemption" be applied to future acquisitions authorized under sections 5(2) or 212(b) of irregular route authority to permit the tacking of vendee's existing irregular route authority with the authority authorized to be acquired on movements of less than 300 miles?

(3) Should the "20-percent rule" and the "300-mile exemption" be applied to applications under section 5(2) and 212(b) filed after November 23, 1973, and disposed of prior to the Commission's action on the request presented by petitioners; and, if so, should a distinction be made between those applications that have been consummated and those that have not?

(4) If the relief sought by petitioners is granted, should a similar rule be applied if the new authority is acquired by an extension application pursuant to section 207, rather than by an application pursuant to sections 5 or 212(b); i.e., if the applicant can show that it had a tariff on file for interline service through the joinder point, should it be permitted to utilize the "20-percent rule" through filing of an E letter notice?

(5) Should a vendee who acquires two portions of irregular route authority, which the vendor has been tacking pursuant to the "300-mile exemption", be permitted to continue to tack the operating rights in this manner; and, if so, should the vendee provide information in its application of its intention to so use the authority?

Any interested person may participate in this proceeding by submitting a statement of views, arguments, or other comments regarding petitioners' proposals, and the questions we have set forth. We also will entertain comments on the environmental impact of the proposals. Any person intending to participate in this proceeding shall on or before 30 days from publication in the FEDERAL REGISTER of this notice file with the Office of Proceedings, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423, an original and 12 copies of each statement.

All written submissions will be available for public inspection during regular business hours at the Office of the Interstate Commerce Commission, 12th Street and Constitution Avenue, Washington, D.C. 20423.

It is ordered: Notice of the institution of this proceeding be given to the general public by depositing a copy of this notice in the Office of the Secretary, Interstate Commerce Commission, Washington, for public inspection and by delivering a copy of the attached notice to the Director of Federal Register for publication in the FEDERAL REGISTER as notice to interested persons.

Decided: April 17, 1978.

By the Commission, Commissioners Murphy, Brown, and Stafford dissenting.

H. G. HOMME, JR.,
Acting Secretary.

COMMISSIONER BROWN DISSENTING

In this instance, we would save much time and effort by following a two-step procedure proposing some rules for all parties to consider now, rather than simply requesting comments on the question of whether we should propose rules.

[FR Doc. 78-11789 Filed 4-28-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

REVIEW OF STATUS OF THE LECHWE AND LEOPARD UNDER THE ENDANGERED SPECIES CONVENTION

Advance Notice of Potential Rulemaking

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of potential rulemaking.

SUMMARY: On January 3, 1978, Safari Club International (4615 North Camino Nuestro, Tucson, Ariz. 85705) petitioned the Department of the Interior to propose reclassifying the leopard (*Panthera pardus*) from Appendix I to Appendix II and to propose deleting the lechwe (*Kobus leche*), an African antelope from Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The Department has determined that substantial evidence has been presented by the petitions, and that such evidence warrants a review of the status of these species to learn whether changes in their Appendix listings should be proposed for consideration by other countries that are Parties to the Convention.

DATE: Submit information in writing by June 30, 1978.

ADDRESS: Please send information to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, phone 202-632-8796.

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Service is seeking the views of the governments of other countries in which these species occur. All interested persons are hereby invited to submit any factual information, including publications and written reports, that pertains to this review. This information, together with that provided in the petition from Safari Club International and that obtained from other sources, will be reviewed to determine whether the leopard and lechwe should be proposed for reclassification or deletion from appendices to the Convention.

All information used in this review will be available for public inspection during normal business hours in Room 546, 1717 H Street NW., Washington, D.C.

This document was prepared by Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: April 24, 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 78-11775 Filed 4-28-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

BIG SANDY CREEK WATERSHED, TEXAS

Intent to Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, give notice that an environmental impact statement is being prepared for the Big Sandy Creek Watershed, Clay, Jack, Montague, Tarrant, and Wise Counties, Tex.

The environmental assessment of this Federal action indicates that the project will cause significant, local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is needed for installing the remaining measures in this project.

The project concerns a plan for watershed protection, flood prevention, improved water quality and quantity, and improved quality of life for the area. The planned action for the remaining project provides for the installation of 43 floodwater retarding structures, one multiple-purpose structure with recreational facilities, 31 grade stabilization structures, land stabilization measures on 825 acres of critically eroding lands, land treatment measures for stabilization of critical sediment source areas on 2,100 acres of privately owned land and 1,455 acres of federally owned land in the L. B. J. National Grasslands, and technical assistance for application of land treatment measures on watershed lands. Accelerated technical assistance for land treatment has been provided for approximately 75 percent of the land treatment goals for the watershed, and 13 floodwater retarding structures have been installed.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement is being developed by Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, Temple, Tex. 76501, 817-774-1255.

(Catalog of Federal domestic Assistance Program No. 10.904, Flood Control Act, Public Law 78-534, 58 Stat. 905.)

Dated: April 20, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-11699 Filed 4-28-78; 8:45 am]

[3410-16]

LITTLE WYACONDA-SUGAR CREEK WATERSHED, MISSOURI

Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Little Wyaconda-Sugar Creek Watershed, Clark, Lewis, and Scotland Counties, Mo.

The environmental assessment of this federally-assisted action indicates that the project may cause local, regional, or national impacts on the environment. As a result of these findings, Mr. Kenneth G. McManus, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for flood prevention and watershed protection. The planned works of improvement include accelerated land treatment and a system of flood prevention structures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Mo. 65201, 314-442-2271, extension 3155.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 USC 1001-1008.)

Dated: April 20, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-11700 Filed 4-28-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 32470; Order 78-4-110]

ALLEGHENY AIRLINES, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 97

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1978.

By Order 78-4-109, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Delta Air Lines in a manner which would, among other things, give Delta unrestricted authority[1] in 22 minor markets[2] where Allegheny Airlines also holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Allegheny as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

[1] I.e., markets which generate fewer than 20 true O. & D. plus interline connecting passengers a day.

[2] The minor markets where both Allegheny and Delta currently hold restricted authority are set forth in Appendix A to this order.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Allegheny's operations in the 22 markets listed in Appendix A is required by the public convenience and necessity and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 60 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly it is ordered, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Allegheny's certificate for route 97 so as to remove operating restrictions in the markets listed in Appendix A.

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 60 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix K of Order 78-4-109, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed 20 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix K of Order 78-4-109.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

APPENDIX A.—*Minor markets where Allegheny will receive unrestricted authority*

Market	Fiscal year 1975 traffic[1]	Present authority
Boston to Lexington	6,650	1-stop.
Burlington to—		
Cincinnati	880	Do.[2]
Columbus	840	Do.[2]
Dayton	1,460	Do.[2]
Evansville	60	Do.[2]
Indianapolis	980	Do.[2]
Lexington	180	Do.[2]
Louisville	510	Do.[2]
Memphis	310	Do.[2]
Nashville	210	Do.[2]
St. Louis	1,880	Do.[2]
Toledo	80	Do.[2]
Cleveland to Evansville	5,170	Do.
Columbus to Nashville	6,810	Do.
Dayton to Nashville	7,170	Do.
Evansville to—		
Lexington	350	Do.
Nashville	120	Do.
Philadelphia	5,140	Do.
Hartford to—		
Lexington	2,930	Do.
Toledo	5,000	Do.
Indianapolis to Nashville	6,660	Do.
Lexington to St. Louis	4,200	Do.

[1] True O. & D. plus interline connecting passengers.

[2] Via New York.

[FR Doc. 78-11615 Filed 4-28-78; 8:45 am]

[6320-01]

[Docket No. 32471; Order 78-4-111]

AMERICAN AIRLINES, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 4

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1978.

By Order 78-4-109, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Delta Air Lines in a manner which would, among other things, give Delta unrestricted authority in 2 minor markets[1] where American also holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on American as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impace on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on American operations in the 2 markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 60 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

According, it is ordered, that:

1. All interested persons be directed to show cause why the Board should

[1] I.e., markets which generate fewer than 20 true O. & D. plus interline connecting passengers a day.

[2] The minor markets were both American and Delta currently hold restricted authority are set forth in Appendix A to this order.

[3] We further find and conclude that Allegheny is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All Members concurred.

[3] We further find and conclude that American is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

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not issue an order making final the tentative findings and conclusions stated here and amending American's certificate for Route 4 so as to remove operating restrictions in the markets listed in Appendix A.

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 60 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix K of Order 78-4-109, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed 20 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issued raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix K of Order 78-4-109.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

APPENDIX A.—*Minor markets where American will receive unrestricted authority*

Market	Fiscal year 1975 traffic[1]	Present authority
Cleveland to Knoxville	7,290	1-stop via Nashville.
Indianapolis to Nashville	6,860	1-stop via Cincinnati.

[1]True O. & D. plus interline connecting passengers.

[FR Doc. 78-11616 Filed 4-28-78; 8:45 am]

[4]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5]All Members concurred.

[6320-01]

[Docket No. 32472; Order 78-4-112]

BRANIFF AIRWAYS, INC.

Order to show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 9

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1978.

By Order 78-4-109, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Delta Air Lines in manner which would, among other things, give Delta unrestricted authority in 3 minor markets[1] where Braniff Airways also holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Braniff as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109 and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Braniff's operations in the 3 markets listed in appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 60 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly, in is ordered, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Braniff's certificate for Route 9 so as to remove operating restrictions in the markets listed in appendix A.

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 60 days after the date of service of this order, file with the Board and serve upon all persons listed in appendix K of Order 78-4-109, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed 20 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issued raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in appendix K of Order 78-4-109.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

APPENDIX A.—*Minor markets where Braniff will receive unrestricted authority*

Market	Fiscal year 1975 traffic[1]	Present authority
Little Rock to Tampa.	4,840	2-stop via Fort Smith, New Orleans.
Nashville to Shreveport.	4,390	1-stop via Tulsa.
Shreveport to Tampa.	4,740	1-stop via New Orleans.

[1]True O&D plus interline connecting passengers.

[FR Doc. 78-11617 Filed 4-28-78; 8:45 am]

[1]I.e., markets which generate fewer than 20 true O&D plus interline connecting passengers a day.

[2]The minor markets where both Braniff and Delta currently hold restricted authority are set forth in appendix A to this order.

[3]We further find and conclude that Braniff is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5]All Members concurred.

[6320-01]

[Docket 32473; Order 78-4-113]

EASTERN AIR LINES, INC.

Order to Show Cause Regarding Amendment of Certificates of Public Convenience and Necessity for Routes 5, 6, and 10

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1978.

By Order 78-4-109, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Delta Air Lines in a manner which would, among other things, give Delta unrestricted authority in 70 minor markets[1] where Eastern Air Lines also holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Eastern as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109 and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Eastern's operations in the 70 markets listed in appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 60 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly, *it is ordered,* That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Eastern's certificates for Routes 5, 6, and 10 so as to remove operating restrictions in the markets listed in appendix A.

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 60 days after the date of service of this order, file with the Board and serve upon all persons listed in appendix K of Order 78-4-109, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed 20 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in appendix K of Order 78-4-109.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.[5]

APPENDIX A.—*Minor markets where Eastern will receive unrestricted authority*

Market	Fiscal year 1975 traffic[1]	Present authority
Augusta to—		
Evansville	320	2-stop via Charlotte, Chattanooga.
Houston	4,820	1-stop via Charlotte.
Macon	150	1-stop via Jacksonville.
Nashville	3,310	2-stop via Charlotte, Chattanooga.
St. Louis	4,100	1-stop via Charlotte.
Birmingham to—		
Columbus, Ohio	5,610	Do.
Lexington	3,130	1-stop via Louisville.
Toledo	1,590	1-stop via Charlotte.
Boston to Macon	2,900	1-stop via Atlanta.
Charleston to—		
Evansville	650	2-stop via Charlotte, Chattanooga.
Macon	1,120	1-stop via Jacksonville.
Nashville	5,350	2-stop via Charlotte, Chattanooga.
St. Louis	7,240	1-stop via Charlotte.
Charlotte to—		
Evansville	920	Do.
Lexington	3,430	2-stop via Atlanta, Louisville.
Macon	2,000	1-stop via Atlanta.
Chattanooga to Cleveland	5,390	1-stop via Charlotte.
Cincinnati to—		
Columbus, Ga	2,380	1-stop via Jacksonville.
Evansville	2,990	No Single-plane service.
Macon	1,450	1-stop via Jacksonville.
Montgomery	2,650	1-stop via Chicago.
Toledo	5,970	No single-plane service.
Cleveland to—		
Columbus, Ga	2,400	2-stop via Pittsburgh, Atlanta.
Evansville	5,170	2-stop via Charlotte, Chattanooga.
Lexington	2,830	2-stop via Greensboro, Washington.
Macon	1,740	2-stop via Pittsburgh, Atlanta.
Montgomery	4,070	1-stop via Charlotte.
Columbia to—		
Evansville	510	2-stop via Charlotte, Chattanooga.
Macon	610	1-stop via Jacksonville.
Nashville	7,090	2-stop via Charlotte, Chattanooga.
Columbus, Ga to—		
Columbus, Ohio	1,510	1-stop via Charlotte.
Detroit	7,230	Do.
Lexington	710	1-stop via Louisville.
Los Angeles	6,530	1-stop via Atlanta.
Toledo	550	1-stop via Charlotte.
Columbus, Ohio to—		
Evansville	3,350	2-stop via Charlotte, Chattanooga.
Greensboro	5,090	1-stop via Charlotte.
Macon	1,340	2-stop via Charlotte, Atlanta.

[1]I.e., markets which generate fewer than 20 true O&D plus interline connecting passengers a day.

[2]The minor markets where both Eastern and Delta currently hold restricted authority are set forth in appendix A to this order.

[3]We further find and conclude that Eastern is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests or petitions for reconsideration of this order will be entertained.

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APPENDIX A.—*Minor markets where Eastern will receive unrestricted authority*—Continued

Market	Fiscal year 1975 traffic[1]	Present authority
Columbus, Ohio to—		
Montgomery	2,550	1-stop via Charlotte.
Nashville	6,810	2-stop via Charlotte, Chattanooga.
Raleigh	7,180	1-stop via Charlotte.
Dallas to—		
Evansville	4,660	1-stop via Atlanta.
Toledo	4,490	2-stop via Atlanta, Charlotte.
Detroit to Macon	5,380	2-stop via Charlotte, Atlanta.
Evansville to—		
Greensboro	590	1-stop via Chattanooga.
Raleigh	1,070	Do.
Greensboro to—		
Indianapolis	4,050	Do.
Lexington	2,440	1-stop via Washington.
Macon	1,170	1-stop via Atlanta.
Toledo	610	1-stop via Detroit.
Raleigh	4,010	No single-plane service.
Hartford to—		
Macon	1,360	1-stop via Atlanta.
Toledo	5,000	1-stop via Charlotte.
Houston to—		
Lexington	6,910	2-stop via Birmingham, Louisville.
Macon	1,910	1-stop via Birmingham.
Indianapolis to Raleigh	6,820	1-stop via Chattanooga.
Jacksonville to Montgomery	3,930	2-stop via Columbus, Ga.
Lexington to—		
Los Angeles	6,790	2-stop via Louisville, Atlanta.
Macon	460	1-stop via Louisville.
Memphis	3,000	2-stop via Louisville, Birmingham.
Montgomery	1,470	1-stop via Louisville.
Nashville	750	Do.
New Orleans	6,760	2-stop via Louisville, Huntsville.
Los Angeles to Macon	5,050	1-stop via Atlanta.
Macon to—		
Philadelphia	5,600	Do.
Raleigh	1,400	Do.
Toledo	360	2-stop via Atlanta, Charlotte.
Montgomery to Toledo	450	1-stop via Charlotte.
Nashville to Toledo	1,430	1-stop via Jacksonville.
Raleigh to Toledo	920	1-stop via Detroit.
St. Louis to Toledo	5,160	1-stop via Charlotte.

[1]True O&D plus interline connecting passengers.

[FR Doc. 78-11619 Filed 4-28-78; 8:45 am]

[6320-01]

FRONTIER AIRLINES, INC.

[Docket No. 32474; Order 78-4-114]

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessary for Route 73

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1978.

By Order 78-4-109, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Delta Air Lines in a manner which would, among other things, give Delta unrestricted authority in Las Vegas-Little Rock minor market[1] where Frontier Airlines also holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Frontier as well as the other carriers certificated to serve the Las Vegas-Little Rock minor market will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in the market, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Frontier's operations in the Las Vegas-Little Rock market is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 60 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly, it is ordered, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Frontier's certificate for Route 73 so as to remove its operating restriction in the Las Vegas-Little Rock market.

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 60 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix K of Order 78-4-109, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed 20 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix K of Order 78-4-109.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

[FR Doc. 78-11620 Filed 4-28-78; 8:45 am]

[6320-01]

[Docket No. 32475; Order 78-4-115]

NATIONAL AIRLINES, INC.

Order To Show Cause Regarding Amendment of Certificates of Public Convenience and Necessity for Routes 31 and 39

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1978.

By Order 78-4-109, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Delta Air Lines in a manner which would, among other things, give Delta unrestricted authority in 5 minor markets[1] where National Airlines also holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on National as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on National's operations in the 5 markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 60 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly, it is ordered, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending National's certificates for Routes 31 and 39 so as to remove operating restrictions in the markets listed in Appendix A.

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 60 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix K of Order 78-4-109, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed 20 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix K of Order 78-4-109.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

APPENDIX A.—*Minor markets where National will receive unrestricted authority*

Market	Fiscal year 1975 traffic[1]	Present authority
Charleston to—		
Las Vegas	1,260	1-stop via Jacksonville.
San Diego	2,880	Do.
Las Vegas to Savannah	1,140	Do.
San Diego to Savannah	1,260	Do.
San Francisco to Savannah	5,350	Do.

[1]True O&D plus interline connecting passengers.

[FR Doc. 78-11621 Filed 4-28-78; 8:45 am]

[6320-01]

[Docket No. 32476; Order 78-4-116]

OZARK AIR LINES, INC.

Order to Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 107

Adopted by the Civil Aeronautics Board, at its office in Washinton, D.C., on the 19th day of April 1978.

By Order 78-4-109, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Delta Air Lines in a manner

[1]*I.e.*, markets which generate fewer than 20 true O&D plus interline connecting passengers a day.

[2]The Las Vegas-Little Rock market consisted of 4,390 ture O&D plus interline connecting passengers in the year ended June 30, 1976. Frontier's current authority in the market requires 3 intermediate stops with specific stops required at Albuquerque and Dallas-Fort Worth.

[3]We further find and conclude that Frontier is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5]All Members concurred.

[1]*I.e.*, markets which generate fewer than 20 true O&D plus interline connecting passengers a day.

[2]The minor markets where both Piedmont and Delta currently hold restricted authority are set forth in Appendix A to this order.

[3]We further find and conclude that National is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5]All Members concurred.

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which would, among other things, give Delta unrestricted authority in 4 minor markets[1] where Ozark also holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Ozark as well as the other carriers certificated to serve on these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Ozark's operations in the 4 markets listed in Appendix A is required by the the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 60 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly, it is ordered, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Ozark's certificate for Route 107 so as to remove operating restrictions in the markets listed in Appendix A.

2. Any interested person having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 60 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix K of Order 78-4-109, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed 20 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix K of Order 78-4-109.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

[1]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5]All Members concurred.

APPENDIX A.—*Minor markets where Ozark will receive unrestricted authority*

Market	Fiscal year 1975 traffic[1]	Present authority
Dallas to Paducah	1,820	1-stop via St. Louis.
Indianapolis to Nashville	6,660	1-stop.
New York to Paducah	4,420	1-stop via Champaign.
Paducah to Washington	2,040	Do.
Springfield, Mo. to Washington	4,570	Do.

[1]True O&D plus interline connecting passengers.

[FR Doc. 78-11622 Files 4-28-78; 8:45 am]

[6320-01]

[Docket No. 32477; Order 78-4-117]

PIEDMONT AVIATION, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 87

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1978.

By Order 78-4-109, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Delta Air Lines in a manner which would, among other things, give Delta unrestricted authority in 6 minor markets[1] where Piedmont also holds restricted authority.[2] As discussed in orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Piedmont as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Piedmont's operations in the 6 markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 60 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly, it is ordered, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Piedmont's certificate for Route 87 so as to remove operating restrictions in the markets listed in Appendix A.

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 60 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix K of Order 78-4-109, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed 20 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix K of Order 78-4-109.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

APPENDIX A.—*Minor markets where Piedmont will receive unrestricted authority.*

Market	Fiscal year 1975 traffic[1]	Present authority
Augusta to Nashville	3,310	1-stop.
Charleston, S.C. to Nashville	5,350	2-stop.
Columbia to Nashville	7,090	1-stop.
Columbus to Nashville	6,810	Do.
Lexington to—		
Memphis	3,000	Do.
Nashville	750	Do.

[1]True O. & D. plus interline connecting passengers.

[FR Doc. 78-11623 Filed 4-28-78; 8:45 am]

[6320-01]

[Docket No. 32478; Order 78-4-118]

SOUTHERN AIRWAYS, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 98

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1978.

By Order 78-4-109, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Delta Air Lines in a manner which would, among other things, give Delta unrestricted authority in 46 minor markets[1] where Southern Airways also holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Southern as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Southern's operations in the 46 markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 60 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full blown evidentiary hearing complete with the opportunity for oral cross examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly, it is ordered, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Southern's certificate for Route 98 so as to remove operating restrictions in the markets listed in Appendix A.

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 60 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix K of Order 78-4-109, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed 20 days thereafter;

[1]I.e., markets which generate fewer than 20 true O. & D. plus interline connecting passengers a day.

[2]The minor markets where both Ozark and Delta currently hold restricted authority are set forth in Appendix A to this order.

[3]We further find and conclude that Ozark is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[1]I.e., markets which generate fewer than 20 true O&D plus interline connecting passengers a day.

[2]The minor markets where both Piedmont and Delta currently hold restricted authority are set forth in Appendix A to this order.

[3]We further find and conclude that Piedmont is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5]All Members concurred.

[1]I.e., markets which generate fewer than 20 true O&D plus interline connecting passengers a day.

[2]The minor markets where both Southern and Delta currently hold restricted authority are set forth in Appendix A to this order.

[3]We further find and conclude that Southern is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

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3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix K of Order 78-4-109.

This order shall be published in the Federal Register.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

[4]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5]All Members concurred.

APPENDIX A.—*Minor markets where Southern will receive unrestricted authority*

Market	Fiscal year 1975 traffic[1]	Present authority
Baton Rouge to—		
Charlotte	1,720	1-stop via Meridian.
Chattanooga	1,690	2-stop via Meridan, Atlanta.
Detroit	3,390	2-stop via Jackson, Nashville.
Fort Lauderdale	760	2-stop via New Orleans, Panama City.
Jacksonville	1,610	Do.
Knoxville	2,070	2-stop via Jackson, Nashville.
Miami	2,670	2-stop via New Orleans, Panama City.
Nashville	3,150	1-stop via Jackson.
Orlando	1,850	2-stop via New Orleans, Panama City.
Birmingham to Chattanooga	1,340	1-stop via Huntsville.
Charleston to—		
Orlando	6,460	2-stop via Athens, Atlanta.
St. Louis	7,240	1-stop via Memphis.
Charlotte to—		
Columbus, Ga	3,020	2-stop via Athens, Atlanta.
Monroe	820	1-stop via Columbus.
Montgomery	3,730	1-stop via Birmingham.
Chattanooga to—		
Columbus, Ga	1,340	1-stop via Huntsville.
Jackson	2,130	Do.
Meridian	260	1-stop via Atlanta.
Monroe	410	2-stop via Atlanta, Columbus, Miss.
Montgomery	1,370	1-stop via Huntsville.
Chicago to Meridian	5,100	1-stop via Memphis.
Columbus, Ga. to—		
Detroit	7,230	2-stop via Atlanta, Nashville.
Knoxville	1,690	Do.
Miami	6,490	1-stop via Panama City.
Nashville	2,780	1-stop via Atlanta.
Orlando	3,860	1-stop via Panama City.
St. Louis	2,800	2-stop via Atlanta, Memphis.
Fort Lauderdale	2,100	1-stop via Panama City.
Detroit to—		
Meridian	2,180	2-stop via Nashville, Birmingham.
Monroe	2,920	2-stop via Nashville, Jackson.
Fort Lauderdale to—		
Meridian	570	2-stop via Panama City, New Orleans.
Monroe	830	Do.
Jackson to Knoxville	3,010	1-stop via Nashville.
Knoxville to—		
Meridian	510	2-stop via Nashville, Birmingham.
Monroe	500	2-stop via Nashville, Jackson.
Montgomery	1,990	2-stop via Nashville, Birmingham.
Meridian to—		
Miami	880	2-stop via New Orleans, Panama City.
Nashville	580	1-stop via Birmingham.
New York	4,730	2-stop via Birmingham, Columbus, Ga.
St. Louis	1,260	1-stop via Memphis.
Washington	1,940	2-stop via Birmingham, Columbus, Ga.
Miami to Monroe	2,380	2-stop via Panama City, New Orleans.
Monroe to—		
Nashville	1,750	1-stop via Jackson.
New York	7,040	3-stop via Jackson, Birmingham, Columbus, Ga.
Washington	3,780	Do.
Montgomery to—		
Nashville	3,320	1-stop via Huntsville.
St. Louis	6,490	1-stop via Memphis.

[1]True O&D plus interline connecting passengers.

[FR Doc. 78-11624 Filed 4-28-78; 8:45 am]

[6320-01]

[Docket No. 32479; Order 78-4-119]

TEXAS INTERNATIONAL AIRWAYS, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 82

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1978.

By Order 78-4-109, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Delta Air Lines in a manner which would, among other things, give Delta unrestricted authority in 2 minor markets[1] where Texas International Airways also holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Texas International as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Texas International's operations in the 2 markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 60 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly, it is ordered, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Texas International's certificate for Route 82 so as to remove operating restrictions in the markets listed in Appendix A.

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 60 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix K of Order 78-4-109, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed 20 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

[1]*I.e.*, markets which generate fewer than 20 true O&D plus interline connecting passengers a day.

[2]The minor markets where both Texas International and Delta currently hold restricted authority are set forth in Appendix A to this order.

[3]We further find and conclude that Texas International is a citizen of the United States within the meaning of the Act, and is

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fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

5. A copy of this order shall be served upon all persons listed in Appendix K of Order 78-4-109.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

APPENDIX A.—*Minor markets where Texas international will receive unrestricted authority*

Market	Fiscal year 1975 traffic[1]	Present authority
Alexandria to Los Angeles	5,060	2-stop.
Los Angeles to Monroe	7,240	Do.

[1]True O. & D. plus interline connecting passengers.

[FR Doc. 78-11625 Filed 4-28-78; 8:45 am]

[6320-01]

Docket No. 32480; Order 78-4-120]

UNITED AIR LINES, INC.

Order to Show Cause Regarding Amendment of Certificates of Public Convenience and Necessity for Routes 1 and 51

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1978.

By Order 78-4-109, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Delta Air Lines in a manner which would, among other things, give Delta unrestricted authority in 66 minor markets[1] where United Air Lines also holds restricted authority.[2] As discussed in orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on United as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Order 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on United's operations in the 66 markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 60 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly, it is ordered, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending United's

[5]All members concurred.

[1]I.e., markets which generate fewer than 20 true O&D plus interline connecting passengers a day.

[2]The minor markets where both United and Delta currently hold restricted authority are set forth in Appendix A to this order.

[3]We further find and conclude that United is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

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APPENDIX A.—*Minor markets where United will receive unrestricted authority*

Market	Fiscal year 1975 traffic[1]	Present authority
Toledo	5,600	Do.
West Palm Beach	6,230	1-stop via Asheville.
Chattanooga to—		
Fort Wayne	770	1-stop via Akron.
Hartford	4,290	1-stop via New York.
Kansas City	3,490	1-stop via Akron.
Las Vegas	2,300	2-stop via Memphis, Los Angeles.
San Diego	1,390	Do.
San Francisco	6,240	Do.
Columbus to—		
Fort Wayne	340	1-stop via Chicago.
Greensboro	6,000	1-stop via Washington.
Raleigh	7,180	Do.
Dayton to—		
Fort Wayne	30	1-stop via Chicago.
Greensboro	1,790	1-stop via Washington.
Raleigh	2,800	Do.[2]
Toledo	3,280	1-stop via Chicago.
Fort Wayne to—		
Greensboro	660	1-stop via Washington.
Jacksonville	1,460	1-stop via Akron.
Knoxville	860	Do.
Raleigh	1,230	1-stop via Washington.
San Diego	3,190	1-stop via Chicago.
West Palm Beach	2,280	1-stop via Akron.
Greensboro to—		
Hartford	5,590	1-stop via New York.
Jacksonville	7,250	
Kansas City	4,810	1-stop via Washington.
Knoxville	2,930	Nonstop long-haul restricted.
Las Vegas	2,460	1-stop via Washington.
San Diego	1,870	Do.
Toledo	4,150	Do.
West Palm Beach	6,180	No single-plane service.
Raleigh	4,010	Nonstop long-haul restricted.
Hartford to Knoxville	3,280	1-stop via New York.
Kansas City to—		
Knoxville	4,030	1-stop via Akron.
Raleigh	6,030	1-stop via Washington.
West Palm Beach	5,520	1-stop via Akron.
Knoxville to—		
Las Vegas	2,280	Do.
San Diego	2,440	1-stop via Cleveland.
Las Vegas to—		
Raleigh	3,340	1-stop via Washington.
West Palm Beach	2,970	1-stop via Akron.
Memphis to West Palm Beach	6,970	1-stop via Asheville.
Raleigh to—		
San Diego	3,280	1-stop via Washington.
Toledo	920	Do.
West Palm Beach	5,060	No single-plane service.
San Diego to—		
Toledo	3,170	1-stop via Kansas City.
West Palm Beach	2,110	1-stop via Cleveland.

[1]True G&D plus interline connecting passengers.

[FR Doc. 78-11626 Filed 4-28-78; 8:45 am]

certificates for Routes 1 and 51 so as to remove operating restrictions in the markets listed in Appendix A.

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 60 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix K of Order 78-4-109, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed 20 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issued raised by the objections before further action is taken by the Board; [1]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix K of Order 78-4-109.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[2]
Secretary.

[1]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[2]All Members concurred.

APPENDIX A.—*Minor markets where United will receive unrestricted authority*

Market	Fiscal year 1975 traffic[1]	Present authority
Asheville to—		
Boston	4,010	1-stop via New York.
Fort Wayne	190	1-stop via Akron.
Hartford	1,980	1-stop via New York.
Kansas City	1,170	1-stop via Akron.
Las Vegas	710	Do.
Los Angeles	4,000	1-stop via Memphis.
Philadelphia	4,700	Long-haul restricted.
San Diego	930	1-stop via Cleveland.
San Francisco	3,160	1-stop via Akron.
Birmingham to—		
Columbus, O	5,610	1-stop via Washington.
Dayton	4,100	Do.
Fort Wayne	1,030	1-stop via Pittsburgh.
Greensboro	5,540	Long-haul restricted.
Hartford	4,350	1-stop via New York.
Raleigh	6,080	Long-haul restricted.
San Diego	3,670	1-stop via Los Angeles.
Toledo	1,590	1-stop via Pittsburgh.
West Palm Beach	4,090	1-stop via Atlanta.
Boston to Chattanooga	5,170	1-stop via New York.
Charlotte to—		
Dayton	3,680	1-stop via Washington.
Fort Wayne	1,500	Do.
Kansas City	6,570	Do.
Las Vegas	5,000	Do.
San Diego	3,820	Do.

[6320-01]

AEROLINEAS DOMINICANAS, S.A.,

[Docket 31654]

PREHEARING CONFERENCE AND HEARING

Notice is hereby given that a prehearing conference in this preceeding is assigned to be held on May 18, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before May 11, 1978.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., April 25, 1978.

RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc. 78-11766 Filed 4-28-78; 8:45 am]

[6320-01]

[Docket 30332, Agreement C.A.B. 26701, R-5, R-6 and R-7, Agreement C.A.B. 26707, R-19; Order 78-4-78]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Relating to Cargo Matters; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of April, 1978.

By Order 77-8-114, August 23, 1977, the Board acted on numerous resolutions of the International Air Transport Association (IATA) dealing with air cargo matters such as rate construction rules and procedures, and charges for ancillary services. The resolutions were adopted either at the Composite Cargo Conference held in Vancouver during May 1977, or at the 9th Meeting of the Cargo Traffic Procedures Committee held in Geneva, February 28-March 4, 1977. The Board stated that it would not act on resolutions governing live animal regulations, or the resolution proposing a $2.50 charge for preparation of air waybills, until we had received carrier justification and comments from interested persons. These resolutions are the subject of this order.

LIVE ANIMAL REGULATIONS

Resolution 511a (IATA Live Animal Regulations) establishes as binding on IATA members the standards for acceptance and carriage of live animals set forth in the 6th Edition of a separately published manual entitled "IATA Live Animals Regulations." [1] A proposed amendment to Resolution 511a, as well as to Resolution 512a (c.o.d. Procedures), would prohbiit the acceptance of live animals collect on delivery (c.o.d.), and is based on Recommendation No. 7 of the April 1977 meeting of the International Conference on Transportation of Live Animals. [2] Justification for the Live Animals Regulations and c.o.d. prohibition has been filed by Pan American World Airways, Inc. (Pan American), and by Trans World Airlines, Inc. (TWA). Objections, and a reply to TWA's justification, have been submitted by the Animal Shipper Parties (ASP). [3]

In its justification, Pan American states that: shippers often offer animals on a c.o.d. or charges collect basis on speculation, without advance notice to consignee, and in some instances the animals are not picked up at the destination airport; and the proposed c.o.d. ban seeks to prevent possible injury, distress and unnecessary suffering of live animals. TWA submits that under the Board's domestic rules, [4] when live animal c.o.d. shipments are not accepted, and the carrier returns the shipment to the shipper, the shipper must pay for the return transportation, which results in disputes between carriers and shippers; the longer distances and higher charges, as well as strict country-by-country rules on transport of animals in international transportation, exacerbate this problem; c.o.d. services are discretionary in any event and many carriers do not accept c.o.d. shipments; and, of the major European countries, only Greece accepts c.o.d. shipments without restrictions.

In its comments, ASP alleges that: the Board should not approve Resolution 511a and thus give sanction to the separately published "Live Animal Regulations" manual until all interested parties have had an opportunity to comment on it, and in the meantime the Board should require IATA to distribute warning stickers to all recipients of the latest edition of the manual stating that the regulations are not effective to/from the United States until the Board has approved them; the proposed c.o.d. ban, which is traceable to the International Conference on Transportation of Live Animals sponsored by IATA and which had no shipper participation, is unwarranted and conflicts with the U.S. Animal Welfare Act, and there is not reason not to apply the U.S. domestic c.o.d. rule to international shipments. [5] ASP also objects to the Board's approval in Order 77-8-114 of the revalidation of IATA Resolution 511b (IATA Live Animals Board), and seeks procedures such as opportunity for direct shipper comments and appearances before the Live Animals Board to safeguard shipper interests in the preparation of the Live Animals Regulations. [6]

In reply to TWA's justification ASP contends that: TWA has not offered any justification whatsoever for the revalidation of Resolution 511a; the outside (non-IATA) groups included at the International Conference on transporation of Live Animals were primarily preservation and conservation organizations with no expertise in the production, breeding and shipping of live animals; shippers have tendered live animals c.o.d. for years without encountering the problems alleged by TWA; the domestic tariff rule, which contains the consignor guarantee, is now federal law and should be applied to international shipments; the higher costs and more complex rules in international transportation are not unique to live animal shipments and do not warrant a c.o.d. ban on this one class of traffic; responsible shippers should not be penalized for the unsubstantiated misdeeds of a few abusers; and TWA's justification contains factual errors. [7]

[1]The IATA live animals manual is produced by the IATA Live Animals Board which operates under procedures set forth in Resolution 511b (IATA Live Animals Board).

[2]The conference was attended by representatives of governments, carriers, the IATA Secretariat, the Air Transport Association, the International Committee on Laboratory Animals, the International Society for the Protection of Animals, the International Union for Conservation of Nature and Nature Resources, and the World Wildlife Fund.

[3]These parties are named in the Attachment.

[4]See Order 77-8-72, August 16, 1977, in Docket 23610, *Rules and Practices Relating to the Acceptance and Carriage of Live Animals in Domestic Air Freight Transportation.*

[5]The standard domestic tariff rule requires a written guarantee from consignor to pay all transportation and other charges associated with the live animal c.o.d. shipments, including return to sender, in the event of nonpayment at destination.

[6]Finally, ASP requests that the Board direct the carriers to submit full economic justification before September 30, 1978, for the 110 percent rate premium on warm-blooded animals, which ASP contends should not be universally applicable to all categories of animal shipments, citing the Board's decisions in Docket 22859, Domestic Air Freight Rate Investigation (DAFRI). The initial decision in DAFRI states that the per-shipment charge for live animals should be reduced to eliminate the customer service element, which would be covered by separate accessorial charges on those shipments where the carrier assisted the shipper in preparing documentation, or rented him a kennel.

[7]For example, TWA states that the United Kingdom requires a 6-month quarantine for all live animal shipments destined to or transiting the United Kingdom, but ASP states that this regulation applies only to canine and feline species.

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CHARGE FOR PREPARATION OF AIR WAYBILL

In support of the proposed $2.50 charge for preparing the air waybill Pan American and TWA assert that: in international air transportation, most air waybills are prepared by agents or consolidators, and the charge would not be or substantial benefit to the air carriers; and the $2,50 level is fully justified by costs, which Pan American estimates at $2.54 and TWA at $2.84.[8] Eastern Airlines, Inc., and Compagnie Nationale Air France have submitted letters stating that they support the air waybill charge.

Comments in support of the proposed charge have also been submitted by the International Airfreight Agents Association (IAAA), which alleges that: when the cargo agent prepares the air waybill, it would retain the fee, an arrangement which has long been in effect worldwide except in the United States; the proposed charge would be an important means of redressing agent grievances in terms of their overall compensation, which has been inadequate because of IATA's fixed-commission agreement and resultant monopsony, as well as the Board's policies which have disallowed commissions on consolidations and charges for air waybill preparation;[9] the Board is reviewing cargo agents' compensation in Docket 28672 and 28776, IATA Commissions Rate Agreements investigation, and Docket 30362, EDR-330, Advance Notice of Proposed Rulemaking Concerning Commissions or Other Payments for International Air Freight Shipments, thus indicating a desire to alter the status quo; and as a form of "conscience money," the air waybill fee requires no further justification, but in any event is fully warranted by costs[10] and by the agents' needs, since IAAA has produced solid evidence in Dockets 28672 and 28776 that U.S. cargo agents are losing money on their operations and require a revenue increase, although most agents enter the business for reasons totally unrelated to its profitability.[11]

[8]The estimates are based on data developed in DAFRI, where the Parsons study showed an average of 3.5 man-minutes for preparation of each air waybill, with domestic terminal labor and support costs estimated at 72.51 cents per man-minute. Both carriers use the 3.5 man-minute averge, and Pan American uses the domestic cost figure while TWA uses its Atlantic division freight handling cost estimate of 81.22 cents per man-minute.

[9]In Order 72-3-106, March 30, 1972, the Board disapproved an IATA air waybill fee on grounds that there was no specific cost justification or response from the agents. IAAA contends that those grounds no longer exist.

[10]IAAA cites the findings and data in DAFRI in a manner similar to Pan American and TWA.

[11]IAAA states that cargo agents generally enter the business because their customers in a previously established line of operations, such as the trucking or cartage business or customs brokerage business, also have need of air cargo service and seek their services as a matter of convenience.

FINDINGS

The Board has decided to disapprove Resolution 511a (IATA Live Animals Regulations); to disapprove the proposed ban on C.O.D. shipment of live animals; to apply certain conditions on our outstanding approval of Resolution 511b (Live Animals Board); and to disapprove the proposed air waybill charge in Resolution 512c.

LIVE ANIMALS

In Order 75-7-43, July 10, 1975, the Board declined to approve the revalidation of Resolution 511a (IATA Live Animals Regulations), which sets forth the IATA Live Animals Manual, due to adverse shipper comment and our own reservations. Although we also had reservations about the nonpuplic procedures of the IATA Live Animals Board at that time, we approved the revalidation of Resolution 511b through September 30, 1977, since, even without shipper participation, it continued to perform a useful function in the exchange of information and furthered the welfare of live animals transported by air. Similarly, in Order 77-8-114 we did not approve Resolution 511a, but approved the extension of Resolution 511b.

The Board addressed the various complaints against the two resolutions, which have again been highlighted by ASP in this proceeding, in Order 75-9-27, September 11, 1975, where we directed the IATA carriers and all interested persons to show cause:

(a) Why the Board's earlier approval of Resolution 511a should not be withdrawn until the Live Animals Regulations are filed with and accepted by the Board as a tariff;

(b) Why Resolution 511b should not be disapproved in the absence of public (shipper, consignee, or other interested person) input and participation relating to amendment of the Live Animals Regulations by the IATA Live Animals Board;

(c) Why the Board's earlier approval of Resolution 607, insofar as it relates to standard labels for live animals shipments, should not be withdrawn in view of the fact that certain standard labels are at variance with those contained in the Live Animals Regulations;

(d) Why all current tariff rules of the IATA and non-IATA carriers participating in the Live Animals Regulations (except liability and rate provisions) should not be canceled when the Live Animals Regulations are filed in tariff forms;

(e) Why the Live Animals Regulations should not reflect the participation of all IATA member carriers for all local and interline traffic from and to the United States; and

(f) Why all non-IATA carriers serving the United States, and which elect to participate in the IATA Live Animals Regulations for interline traffic from and to the United States, should not be required to adopt the IATA Regulations for local traffic from and to the United States.

The parties were also directed to comment upon various technical aspects of the Live Animals Manual cited in Order 75-9-27. Comments and responses to that order were received, but the Board has delayed final resolution of the issues pending decision of Rules and Practices Relating to the Acceptance and Carriage of Live Animals in Domestic Air Freight Transportation, Docket 26310, as well as recent amendments of the Animal Welfare Act of 1970.

The domestic investigation has been completed, the Animal Welfare Act has been amended, and it is now time to resolve the outstanding issues pertaining to international live animal shipment rules.

In Order 75-9-27, the Board tentatively found that the provisions of the IATA Live Animals Regulations, which are made binding on all IATA members by agreement of the carriers, should be filed by the carriers in their tariffs. The Board has ruled many times that any provisions by which carriers seek to bind shippers must be filed in tariffs.[12] We continue to believe that a single document containing all the usual tariff material as to the acceptance, nonacceptance, packaging, documentation, etc., of live animal shipments as well as any relevant informational or advisory (nontariff) material would be a useful publication for both shippers and carriers.[13] Without such a single document, carriers would very likely continue to apply the IATA Regulations as they now exist, as an IATA agreement binding on all carrier participants, and on shippers, without notice to shippers of all the mandatory requirements for animal shipments or opportunity for them to participate in establishment of the rules. Thus duplication and perhaps conflicts could exist between the present regulations and present tariff rules and shippers would be denied the advantages of a single reference. A variety of local and interline tariff provisions could result as the carriers separately decide which portions, if any, of the IATA Regulations warrant publication in their tariffs. Certain carriers have tariff rules which conflict with the regulations and thus their use would mislead shippers as to the acceptability and transportation of various live animals;[14] in addition, the IATA regulations contain a statement that they "are approved by the appropriate governmental authorities," which is patently false and misleading as far as this Government is concerned.

[12]See, for instance, Order 73-6-103, June 26, 1973, and Order 76-3-139, March 22, 1976.

[13]By nontariff material we mean such good sense advice that is included in the Live Animals Manual, such as that bovine and ungulate species should receive their normal ration prior to departure and should not be overfed in order to avoid internal injury through movement of the stomach during transportation; or that female animals shipped during estrus should be stowed in the aircraft as far apart from males as possible.

As noted above, the IATA Live Animals Regulations as now constituted are not an appropriate document for filing as a tariff in their present form since they contain much ambiguous language and certain specific provisions which appear to us of questionable validity. In fact, the unsuitability of the IATA manual for tariff publication in its potential conflicts with the tariff conditions of contract were raised by carriers which filed comments in opposition to the Board's tentative findings in its 1975 show cause order.[15]

For these reasons, we have decided that we will not restrict the carriers to a particular publication procedure or require them to file such a document, since under the Act only provisions binding shippers and carriers are required to be filed in tariff form. We do, however, put the carriers on notice that all requirements they seek to impose on shippers as to acceptance, nonacceptance, packaging, documentation, etc., of live animal shipments must be fully supported and based on their lawfully filed tariff rules; and that the Board will not view lightly the imposition of extra-tariff requirements.[16] Moreover, we specifically invite shippers to bring to our attention any requirements imposed by carriers which appear to deviate from lawfully filed tariffs.

Although we are disapproving Resolution 511a and the IATA Live Animals Regulations manual, we believe the manual might be revised in an acceptable manner, and for this reason we will continue our approval of Resolution 511b governing the IATA Live Animals Board, which has the responsibility for amending the manual. The Board is also sympathetic to the views of specialized shippers of this particular class of traffic on liaison with the IATA Live Animals Board, considering their unique interests and expertise. Resolution 511b now contains no provision for regular contributions and input from shippers, and we will therefore condition our approval to insure that shippers have an opportunity to submit their views and recommendations.

We will also disapprove the proposed ban on c.o.d. shipment of live animals. The carriers have provided no evidence that the potential problems in international air transportation are so much more significant than in U.S. domestic transportation that they cannot be adequately dealt with by the guarantee provisions of the standard domestic tariff rules and the amended Animal Welfare Act.[17]

AIR WAYBILL CHARGE

We are not persuaded that the proposed $2.50 charge for preparation of the air waybill is justified in international air transportation. While it is true that the Board, in its decision in *DAFRI*, endorsed a customer service charge of up to $5.33 for assisting the customer to prepare freight documentation and for collecting payment for transportation from the consignee in U.S. domestic transportation, such charge was to be applied in addition to cost-based rates for transportation developed through an extensive formal investigation.[18] No such investigation has been conducted covering international cargo transportation rates, and all costs including the cost to the carrier when it is required to prepare air waybills are already included in the rate base as a cost of doing business.[19] In these circumstances, charging the shipper for preparation of the air waybill, when the cost of that service is already covered by the basic cargo rate, would be analogous to exacting a surcharge from the passenger for writing his ticket, regardless of whether he booked directly with the carrier or through a travel agent and in spite of the fact that passenger rates already reflect the cost of ticketing. One of the primary functions of both passenger and cargo agents is to prepare documentation such as tickets and air waybills for their customers. They are compensated for these services by commission payments. While it may be desirable to segregate charges so that the customer pays only for services actually used, the proposed air waybill fee is not an attempt at "unbundling," since as proposed it is a surcharge on top of rates which are already intended to cover the cost of providing this particular service.

A more general question which the Board is considering in a formal investigation is presented by this agreement. IAAA argues forcefully that the standard five percent commission to freight agents is inadequate and that approving the IATA-agreed air waybill charge, which the agent would retain when he performs the service, would be a means to partially redress the agents' longstanding grievances. The broad question of whether compensation to intermediaries should be established by inter-carrier agreement within IATA is before the Board in the *IATA Commissions Rate Agreements Investigation*. The IATA agreement presented here on the air waybill charge, which would directly affect cargo agents' overall compensation, presents the same general public interest issue involving antitrust considerations as does the investigation, and the Board believes it is far better to resolve that broad question in the context of the major case. Therefore, until we issue a decision in the *IATA Commission* case we are not prepared to approve any new inter-carrier agreements fixing the compensation

[14]For example, many carriers have tariff provisions limiting the acceptability of certain animals, which are not in the IATA Live Animals Regulations; conversely, there are limitations in the IATA manual which do not appear in tariffs.

[15]Comments were filed by Pan American, TWA, Delta Airlines, Inc., Seaboard World Airlines, Inc., United Air Lines, Inc., and the Flying Tiger Line, Inc. Responses were also submitted by IAAA, the American Association of Zoological Parks and Aquariums, and the Zoological Action Committee.

[16]Section 403(a) of the Federal Aviation Act and Part 221.3 of the Board's regulations require carriers to file tariffs containing, in addition to rates, fares and charges, "*all* classifications, rules, regulations, practices, and services" governing air transportation (emphasis supplied).

[17]Finally, we will not limit our approval of the 110-percent premium for warm-blooded animals to September 30, 1978, as ASP requests, or require the carriers to rejustify the premium. The Board's decision in DAFRI, on which ASP relies, is now subject to petitions for reconsideration, and reevaluation in light of the recent deregulation of U.S. domestic cargo rates. Moreover, the IATA-agreed 110-percent premium for warm-blooded animals is consistently with current U.S. domestic cargo tariffs which show the same 110-percent level.

[18]In domestic transportation, regular shippers normally prepare their own air waybills and usually only unsophisticated shippers require assistance by carrier personnel at the customer service counter.

[19]In fact, a tariff format consisting of rates based on weightbreaks can result in including a shipment-related cost, such as that of preparing an air waybill, more than once for a given weight. For example, a shipper tendering a shipment of 200 kilograms (kg.) to a carrier with weight breaks of 100, 300, 500, etc., kg. would pay twice the 100 kg. rate. Presumably, the 100 kg. weightbreak already contains the total costs for 100 kg., including the fixed cost for one shipment. Thus, the 200 kg. shipment is, in effect, being assessed two shipment charges.

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for intermediaries in the sale of international air transportation.

The Board, acting pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), and 412 thereof, makes the following findings:

1. It is found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest and in violation of the Act insofar as they would apply in air transportation as defined by the Act;

Agreement CAB	IATA No.	Title	Application
26701:			
R-5	511a	IATA Live Animals Regulations (Revalidating and Amending).	1;2;3
R-7	512a	C.O.D. Procedures (Amending)	1;2;3;1/2;2/3;3/1;1/2/3
26707:			
R-19	512c	Charge for Preparation of Air Waybill (Revalidating and Amending).	1;2;3

2. It is found that approval of the following resolution, incorporated in Agreement CAB 26701 as indicated, should be subject to the conditions stated below;

Agreement CAB	IATA No.	Title	Application
26701:			
R-6	511b	IATA Live Animals Board (Revalidating and Amending).	1;2;3

(a) The carriers shall keep complete and accurate minutes of each meeting of the IATA Live Animals Board and all other bodies dealing with live animals matters, and a true copy of each minutes and all documentation shall be filed in Docket 30332 not later than two weeks after close of each meeting:

(b) Any interested person may advise the International Air Transport Association or a direct air carrier participant of his interest in these discussions and upon request all meeting notices and agendas shall be mailed to such interested persons with such notice to include an invitation to submit comments upon the agenda matters and to request appointments for personal appearance; and

(c) Any agreement or agreements reached as a result of such discussions shall be filed with the Board in accordance with section 412 of the Federal Aviation Act of 1958 and approved by the Board prior to being incorporated in a tariff filing or otherwise placed in effect.

Accordingly, *It is ordered*, That:

1. Those portions of Agreements CAB 26701 and 26707 set forth in finding paragraph 1 above are disapproved;

2. The Board's approval of Resolution 511b is subject to the conditions of finding paragraph 2 above; and

3. Copies of this order shall be served upon the International Air Transport Association, Pan American World Airways, Inc., Trans World Airlines, Inc., Eastern Airlines, Inc., Compagnie Nationale Air France, counsel for the Animal Shipper Parties, and counsel for the International Airfreight Agents Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[20]

PHYLLIS T. KAYLOR,
Secretary.

ANIMAL SHIPPER PARTIES

American Pet Products Manufacturers Association, Inc.
American Association for Laboratory Animal Science
Animals for Research
Association of Animal and Fish Distributors, Inc.
Bay Area Pet Dealers Association
Blue Ribbon Pet Farm, Inc.
Charles P. Chase Co., Inc.
Delta International Bird Co., Inc.
Engle Laboratory Animals, Inc.
Florida Tropical Fish Farmers Association
Gators of Miami, Inc.
Hartz Mountain Corp.
International Bird Institute
Maryland Association Pet Industries, Inc.
Michigan Pet Retail Association
Millbrook Farms, Inc.
National Association for Live Science Industries, Inc.
National Association of the Pet Industry
National Association Multiple Pet Retail Outlets
National Pet Dealers and Breeders Association
National Turtle Farmers and Shippers Association
New England Council of Retail Pet Shops
Pacific Bird & Supply Co.
Pet Farm, Inc.
Pet Industry Distributors Association
Pet Industry Joint Advisory Council
Pet Producers of America
Poly Imports, Inc.
Primate Imports, Corp.
Red Sea Resources, Ltd.
Retail Pet Supply Association, Inc.
SPF Bird Imports
Tri-State Pet Dealers Association
United Pet Dealers Association
Universal Bird Imports
Western Wholesale Pet Supply Association, Inc.

[FR Doc. 78-11767 Filed 4-28-78; 8:45 am]

[20] All Members concurred.

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special censes population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since June 30, 1977, for which tabulations were completed between April 1, 1978 and April 30, 1978.

Dated: April 26, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas: Little Flock City	Benton	Feb. 22, 1978	822
Illinois to—			
Bloomingdale Village	Du Page	Feb. 16, 1978	11,276
De Kalb City	De Kalb	Oct. 19, 1977	32,840
Elmhurst City	Du Page	Oct. 10, 1977	44,657
Mississippi to—			
Bolton Town	Hinds	Sept. 16, 1977	692
Falcon Town	Quitman	Sept. 14, 1977	255
Jonestown Town	Coahoma	....do	1,055
Mayersville Town	Issaquena	Sept. 19, 1977	407
Mound Bayou Town	Bolivar	....do	2,392
Pace Town	....do	....do	560
Shelby Town	....do	Sept. 14, 1977	2,704
Winstonville Town	....do	....do	471
North Dakota to Wilton City	Burleigh and McLean	Mar. 7, 1978	930
Oklahoma to Roland City	Sequoyah	Feb. 7, 1978	1,296
Texas to Marshall City	Harrison	Feb. 10, 1978	25,109
Wisconsin to—			
Hull Town	Portage	Feb. 20, 1978	4,712
Oconomowoc Town	Waukesha	Jan. 17, 1978	6,668

[FR Doc. 78-11762 Filed 4-28-78; 8:45 am]

[3510-24]

Economic Development Administration

RONSON CORP. AND RAINBOW GIRL COAT CO., INC.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing on April 24, 1978, from two firms: (1) Ronson Corp., One Ronson Road, Bridgewater, N.J. 08807, a producer of lighters, gas and electric appliances, and aerospace products; and (2) Rainbow Girl Coat Co., Inc., 40 Congress Street, Springfield, Mass. 01104, a producer of outerwear for women, girls, and infants. The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-11774 Filed 4-28-78; 8:45 am]

[3510-25]

Industry and Trade Administration

NATIONAL INSTITUTES OF HEALTH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00066. Applicant: DHEW, National Institutes of Health, NIAID, Building 7, Lobby Bethesda, Md. 20014. Article: Ultramicrotome, Ultrotome III and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to section gastroenteritis, animal, and fungal tissues embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic specimens and animal tissues, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cell induced by changes in their biochemical and physical environments.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a cutting speed range of 0.1 to 60 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the National Bureau of Standards in its memorandum dated March 30, 1978, that (1) the cutting speed range of the foreign article is pertinent to the applicant's research studies, and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs.

[FR Doc. 78-11713 Filed 4-28-78; 8:45 am]

[3510-25]

NATIONAL RADIO ASTRONOMY OBSERVATORY—TUCSON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00101. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 North Forbes Boulevard, Suite 100, Tucson, Ariz. 85705. Artice: Repair of Klystron, Model VRB2113A30 and SN0139A7. Manufacturer: Varian Associates of Canada, Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a frequency in the range between 80-110 gigahertz. The National Bureau of Standards (NBS) advises in

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its memorandum dated April 11, 1978 that (1) the capability of the article described above is pertinent to the applicant's research purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-11711 Filed 4-28-78; 8:45 am]

[3510-25]

UNIVERSITY OF CALIFORNIA—LOS ALAMOS

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00049. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Laser, Multigas, Model TEA-203-2. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: In order to extend the capability of already ongoing efforts in the studies of polyatomic molecular multiphoton photodissociation, laser induced chemistry, isotopically selective photochemical processes and laser induced fluorence, the article will be used to excite specific infrared energy transmitions in molecules such as UF_6, SF_6, Cl_2, NOCl, CRO, CF_2Cl_2, BCl_3, SF_2CL, MOF_4, etc. As a result of these studies chemical reaction rates with reaction partners in known vibrational quantum states will be determined.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides continuous wave operation in either carbon monoxide or carbon dioxide wave lengths. The National Bureau of Standards (NBS) advises in its memorandum dated April 6, 1978 that (1) the capability of the article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-11714 Filed 4-28-78; 8:45 am]

[3510-25]

UNIVERSITY OF CALIFORNIA—LOS ALAMOS

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00048. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Laser, TEA CO_2, Type 103-2 and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used to optically pump gas samples to investigate the scalable potential of a 15.9 micro system. Investigations will be conducted to demonstrate the scientific and economic feasibility of the separation of uranium isotopes by laser methods.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a high power level (>20 joule/pulse). The National Bureau of Standards (NBS) advises in its memorandum dated March 14, 1978 that the specification of the article described above is pertinent to the applicant's intended purposes. NBS also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-11715 Filed 4-28-78; 8:45 am]

[3510-25]

UNIVERSITY OF MIAMI, ROSENSTIEL SCHOOL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00105. Applicant: University of Miami, Rosentiel School of Marine and Atm Science, 4600 Rickenbacker Cswy, Miami, Fla. 33149. Article: Flow Vibrating Densimeter, Model O1D. Manufacturer: Sodev, Inc., Canada. Intended use of article: The article will be used to measure the denisty of as little as $2cm^3$ of a solution (relative to pure water or standard seawater) to a precision of ± 1 ppm and an accuracy of at least 10 ppm. Also, the article will be used to give densities on natural water that can be used to check the reliability of the equation ± 3 ppm and examine the excess densities in deep ocean water of 20 ppm due to the increase of dissolved nutrients. In addition, the article will be used as a salinometer, which is a device that measures a physical property of seawater (or any electrolyte solution) that is directly related to concentration.

Comments: No comments have been received with respect to this application.

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Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket No. 77-00142 which was denied without prejudice to resubmission on October 18, 1977 for informational deficiencies. The foreign article has the capability of in situ shipboard operation in the flow mode in order to make measurements in the shortest possible time. The National Bureau of Standards (NBS) advises in its memorandum dated March 22, 1978 that the capability of the article described above is pertinent to the applicant's intended purposes. NBS also advises that it knows of no domestic instrument of equivalent scientific value to foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-11710 Filed 4-28-78; 8:45 am]

[3510-25]

THE UNIVERSITY OF TEXAS MEDICAL BRANCH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00079. Applicant: The University of Texas Medical Branch, Department of Pathology, Galveston, Tex. 77550. Article: LKB 14800-1 Cryokit Complete and with Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is an accessory to an existing ultramicrotome which allows it to be used to section frozen tissues at ultra low temperatures so that sites of sodium, potassium, calcium and phosphorus accummulation in tissues are not disturbed. The materials to be studied are mammalian—liver, heart, kidney and parts of cells derived therefrom. The article is intended to be used to train graduate and medical students in biomedical research in the courses Pathology 6 x 97—Research and Pathology 6 x 98—Thesis.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 23, 1978 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses.

The Department of Commerce knows of no other similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-11712 Filed 4-28-78; 8:45 am]

[1505-01]

CARNEGIE-MELLON UNIVERSITY ET AL.

Consolidated Decision on Application for Duty-Free Entry of Ultramicrotomes

Correction

In FR Doc. 78-11162 appearing at page 17521 in the issue of Tuesday, April 25, 1978, on page 17522, second column, the paragraph beginning "Docket No. 78-0018 • • •" should begin "Docket No. 78-00118 • • •".

[3510-17]

Office of the Secretary

ADVISORY PANEL FOR THE PACIFIC FISHERY MANAGEMENT COUNCIL

Establishment

In accordance with the provisions of the Federal Advisory Committee Act, as amended, (5 U.S.C. App. (1976)); and Office of Management and Budget Circular A-63 of March 1974, and after consultation with the General Services Administration, the Department of Commerce has determined that the establishment of the Advisory Panel for the Pacific Fishery Management Council is in the public interest in connection with the performance of duties imposed on the Department by the Fishery Conservation and Management Act of 1976, Pub. L. 94-265 (16 U.S.C. 1852).

The Panel will provide the Council with advice and counsel with respect to the Council's activities on matters of fishery management policy, the preparation and review of fishery management plans, and the effectiveness of plans which have been implemented.

The Panel shall be composed of Council-appointed individuals who are knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest of the fishery resources of the Council's geographical area of concern. The Panel will operate through sub-panels, each concerned with carrying out the objectives and duties of the Panel with respect to a particular fishery management unit. Eight subpanels will be initially established.

The Panel will function solely as an advisory body in compliance with the Federal Advisory Committee Act. Its charter will be filed 15 days from the publication date of this notice. On that filing date, the following five existing advisory panels for the Pacific Fishery Management Council will be terminated:

Anchovy Advisory Panel for the Pacific Fishery Management Council (FMC)
Groundfish Advisory Panel for the Pacific (FMC)
Jack Mackerel Advisory Panel for the Pacific (FMC)
Sablefish Advisory Panel for the Pacific (FMC)
Salmon Advisory Panel for the Pacific (FMC)

Interested persons are invited to submit comments regarding the establishment of the Advisory Panel for the Gulf of Mexico Fishery Management Council. Such comments, as well as inquiries, may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Md. 20852, telephone 443-8731.

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Dated: April 24, 1978.

GUY W. CHAMBERLIN, Jr.,
Deputy Assistant Secretary for Administration.

[FR Doc. 78-11695 Filed 4-28-78; 8:45 am]

[6330-01]

COMMISSION OF FINE ARTS

MEETING

The Commission of Fine Arts will meet in open session on Tuesday, May 23, 1978, at 10 a.m. in the Commission offices at 708 Jackson Place NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

This notice confirms notice published December 27, 1977, 42 FR 64651.

Dated in Washington, D.C., April 25, 1978.

CHARLES H. ATHERTON,
Secretary.

[FR Doc. 78-11753 Filed 4-28-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

CHANGE OF MISSION AT FORT STEWARD, GA.

Filing of Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army, on 21 April 1978, provided the Environmental Protection Agency, as required by the Council on Environmental Quality, a Final Environmental Impact Statement (FEIS) concerning the permanent stationing of the 24th Infantry Division (—) at Fort Stewart and Hunter Army Airfield, Ga., and the conversion of this unit from an infantry to a mechanized infantry division.

Copies of the statement have been forwarded to concerned Federal, State and local agencies. Interested organizations or individuals may obtain copies from Commander, 24th Infantry Division (—) and Fort Stewart, Attention: AFZP-FEC, Fort Stewart, Ga. 31313, telephone 912-767-4798.

In the Washington area, inspection copies may be seen during normal duty hours in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, telephone 202-694-3434.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc. 78-11754 Filed 4-28-78; 8:45 am]

[3710-08]

MILITARY TRAFFIC MANAGEMENT COMMAND

Military Personal Property Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Symposium. This meeting will be held on May 25, 1978, at the Ramada Inn, Rosslyn, Va., and will convene at 0900 hours and adjourn at approximately 1500 hours.

Proposed agenda: The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the personal property traffic management regulation (DOD 4500.34-R), and the handling of other matters of mutual interest relating to the movement and/or storage of household goods and unaccompanied baggage, as well as proposed changes and innovations in the Department of Defense personal property moving and storage program.

All interested persons desiring to submit topics to be discussed should submit them in writing to the Commander, Military Traffic Management Command, Attn.: MT-PPM, Washington, D.C. 20315. Topics to be discussed should be received on or before May 18, 1978.

Dated: April 21, 1978.

DONALD H. MENSCH,
Colonel, GS,
Director of Personal Property.

[FR Doc. 78-11755 Filed 4-28-78; 8:45 am]

[3810-71]

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on May 30-31, 1978, at the U.S. Naval War College, Newport, R.I. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. on both days. All sessions of the meeting will be closed to the public.

The agenda will consist of matters required by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order, including discussions of U.S. Navy-NATO plans, Navy advanced research studies, intelligence application to naval tactical developments, and related intelligence items. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact: Commander Robert B. Vosilus, U.S. Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 1401 Wilson Boulevard, Room 405, Arlington, Va. 22209, telephone No. 202-594-3191.

Dated: April 25, 1978.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-11756 Filed 4-28-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

Week of April 3, 1978 through April 7, 1978

Notice is hereby given that during the period April 3, 1978 through April 7, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

APRIL 19, 1978.

Proposed Decisions and Orders

M. J. Mitchell, Dallas, Tex., FXE-0534, Crude oil

M. J. Mitchell filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted and would permit Mitchell to continue to sell certain of the crude oil which he produces from the Pickrel Ranch Minnelusa Sand Unit, Pickrel Ranch Field, Campbell County, Wyoming at market prices. On April 7, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

A. T. Skaer, Denver, Colo., DEE—0408, Crude oil

A. T. Skaer filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Skaer to sell crude oil which he produces from the Wiant lease at upper tier ceiling prices as specified in the Mandatory Petroleum Price Regulations. On April 3, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Texas Gas Exploration Corp., Washington, D.C., FEE-4460, Propane

Texas Gas Exploration Corp., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart K. The exception request, if granted, would permit the firm to increase its banks of unrecovered product costs which it is permitted to reflect in price increases for propane in future months in recognition of the fact that it charged prices below its base price in previous periods. On April 4, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request should be granted.

Requests for Exception Received From Natural Gas Processors

The Office of Hearings and Appeals of the Department of Energy has issued Proposed Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The proposed exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Atlantic Richfield Co	DXE-0668	Bayou Sale	St. Mary Parish, La	$0.0116
	DXE-0669	Covington	Garfield, Okla	.0231
	DXE-0670	Crane	Crane, Tex	.0285
	DXE-0671	Dayton	Liberty, Tex	.0597
	DXE-0672	Drumright	Creek, Okla	.0302
	DXE-0673	Eldorado	Schleicher, Tex	.0213
	DXE-0674	Fairway	Henderson, Tex	(1)
	DXE-0675	Grand Chenier	Cameron Parish, La	.0120
	DXE-0676	Indian Basin	Eddy, N. Mex	.0084
	DXE-0677	Longview	Gregg, Tex	.0454
	DXE-0678	Midland	Midland, Tex	.0852
	DXE-0679	North Cowden	Ector, Tex	.0120
	DXE-0680	Nueces River	Live Oak, Tex	.0190
	DXE-0681	Price	Rusk, Tex	.0468
	DXE-0682	Refugio	Refugio, Tex	.0100
	DXE-0683	Seminole	Seminole, Okla	.0432
	DXE-0684	Spivey	Kingman, Kans	.0278
	DXE-0685	Swanson River	Kenal District, Alaska	.0266
Cities Service Co	DXE-0780	Ambrose	Kay, Okla	.0134
	DXE-0781	Bryans Mill	Cass, Tex	.0227
	DXE-0782	Camrick	Beaver, Okla	.0086
	DXE-0783	Chico	Wise, Tex	.0141
	DXE-0784	Crowley	Acadia Parish, La	.0249
	DXE-0785	Dollarhide	Andrews, Tex	.0154
	DXE-0786	East Texas	Gregg, Tex	.0165
	DXE-0787	Elmwood	Beaver, Okla	.0204
	DXE-0788	Indian Basin	Eddy, N. Mex	.0073
	DXE-0789	Lapeyrouse	Terrebone Parish, La	.0195
	DXE-0790	Lefors	Gray, Tex	.0159
	DXE-0791	Maysville	Garvin, Okla	.0135
	DXE-0792	Murdock	Texas, Okla	(1)
	DXE-0793	North Cowden	Ector, Tex	.0156
	DXE-0794	Pampa	Gray, Tex	.0715
	DXE-0795	Price	Rusk, Tex	.0717
	DXE-0796	Roberts Ranch	Midland, Tex	.0101
	DXE-0797	Rodman	Garfield	.0173
	DXE-0798	San Antonio Bay	Calhoun, Tex	.0607
	DXE-0799	Stonewall	Stonewall, Tex	.0226
	DXE-0800	Waco	McLennan, Tex	.0267
	DXE-0801	West Seminole	Gaines, Tex	.0225
	DXE-0802	Wichita	Sedgwick, Kans	.0063
Getty Oil Co	DXE-0688	Bastian Bay	Plaquemines Parish, La	.0429
	DXE-0689	Eunice	Lea, N. Mex	.0108
	DXE-0690	Fuller	Scurry, Tex	.0055
	DXE-0691	Hollywood	Terrebone Parish, La	.0175
	DXE-0692	Houma	...do	.0056
	DXE-0693	Schafer	Gray-Carson, Tex	.0241
	DXE-0694	Spearman	Ochiltree, Tex	.0051
	DXE-0695	Velma	Stephens, Okla	.0127
	DXE-0696	Venice	Plaquemines Parish, La	.0138
	DXE-0697	Vermilion	Vermilion Parish, La	.1317
	DXE-0803	Dollarhide	Andrews, Tex	(1)
	DXE-0804	Stevens-Calidon	Kern, Calif	.0058

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Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Gulf Oil Corp	DXE-0560	Adena	Morgan, Col	.0803
	DXE-0561	Bluebell	Duchesne, Utah	.0405
	DXE-0562	Breckenridge	Stephens, Tex	.0348
	DXE-0563	Camrick	Beaver, Okla	.0090
	DXE-0564	Chesterville	Colorado, Tex	.0282
	DXE-0565	Como	Hopkins, Tex	.0455
	DXE-0566	Delhi	Richland Parish, La	.0135
	DXE-0567	Encinal	San Patricia, Tex	.0343
	DXE-0568	Enville	Love, Okla	.0116
	DXE-0569	Eunice	Lea, N. Mex	.0087
	DXE-0570	Fannett	Jefferson, Tex	.0282
	DXE-0571	Fashing	Atoscosa, Tex	.0148
	DXE-0572	Glade-Water	Gregg, Tex	.0204
	DXE-0573	Headlee	Andrews, Tex	.0123
	DXE-0574	Kalkaska	Kalkaska, Mich	.0310
	DXE-0575	Krotz Springs	St. Landry Parish, La	.0102
	DXE-0576	Lake Washington	Plaquemines Parish, La	.0135
	DXE-0577	Maysville	Garvin, Okla	.0170
	DXE-0578	Mermentau	Acadia Parish, La	.0347
	DXE-0579	Monahans	Ward, Tex	.0139
	DXE-0580	Monument	Lea, N. Mex	.0134
	DXE-0581	Moores Orchard	Fort Bend, Tex	.0112
	DXE-0582	North Port Neches	Orange, Tex	.0113
	DXE-0583	Saunders	Lea, N. Mex	.0141
	DXE-0584	Shackelford	Shackelford, Tex	.0414
	DXE-0585	South Fullerton	Andrews, Tex	.0131
	DXE-0586	Spear	Gregg, Tex	.0272
	DXE-0587	Vada	Lea, N. Mex	.0266
	DXE-0588	Waddell	Crane, Tex	.0123
	DXE-0589	Worsham	Ward, Tex	.0109
	DXE-0590	Yates	Pecos, Tex	.0225
Mobil Oil Corp	DXE-0701	Phillips-Bradley	Garvin, Okla	.0282
	DXE-0702	Burnell-North Pettus	Bee, Tex	.0555
	DXE-0703	Cameron	Cameron Parish, La	.0074
	DXE-0704	Chitwood	Grady, Okla	.0201
	DXE-0705	Delhi	Richland Parish, La	(1)
	DXE-0706	Desdemona	Eastland, Tex	.0434
	DXE-0707	Dollarhide	Andrews, Tex	.0148
	DXE-0708	Electra	Wilbarger, Tex	.0153
	DXE-0709	Hickok	Grant, Kans	.0299
	DXE-0710	Indian Basin	Eddy, N. Mex	.0073
	DXE-0711	Iowa	Jefferson Davis Parish, La	.0057
	DXE-0712	Kermit	Winkler, Tex	.0154
	DXE-0713	Kettleman-North Dome	Kings, Calif	.0418
	DXE-0714	La Gloria	Jim Wells, Tex	(1)
	DXE-0715	Levelland	Hockley, Tex	.0058
	DXE-0716	Lisbon	San Juan, Utah	.0071
	DXE-0717	Nueces River	Live Oak, Tex	.0146
	DXE-0718	Pegasus	Midland, Tex	.0113
	DXE-0719	Rio Bravo	Kern, Calif	.0872
	DXE-0720	Seeligson	Jim Wells, Tex	(1)
	DXE-0721	Sholem Alechem	Stephens, Okla	.0184
	DXE-0722	Slaughter	Hockley, Tex	.0104
	DXE-0723	South Serepta	Bossier Parish, La	.0102
	DXE-0724	Spivey	Hayer, Kans	.0308
	DXE-0725	West Seminole	Gaines, Tex	.0137
Phillips Petroleum Co	DXE-0811	Andrews	Andrews, Tex	.0275
	DXE-0812	Benedum	Upton, Tex	.0334
	DXE-0813	Bradley	Garvin, Okla	.0363
	DXE-0814	Crane	Crane, Tex	.0159
	DXE-0815	Dumas	Moore, Tex	.0240
	DXE-0816	Edmond	Oklahoma, Okla	.0583
	DXE-0817	Gray	Gray, Tex	.0297
	DXE-0818	Hobbs	Lea, Tex	.0101
	DXE-0819	Lee	....do	.0110
	DXE-0820	Lovington	....do	.0394
	DXE-0821	North	Gray, Tex	.0276
	DXE-0822	Oklahoma	Oklahoma, Okla	.0493
	DXE-0823	Sprayberry	Midland, Tex	.0090
	DXE-0824	Tunstill	Reeves, Tex	.0458
	DXE-0825	Vermilion	Vermilion Parish, La	.0264
	DXE-0826	Henderson	Rusk, Tex	.0248
Standard Oil Co. of California	DXE-0459	Gaviots	Santa Barbara, Calif	.3748
	DXE-0460	Cymric	Kern, Calif	.0496
	DXE-0461	Greeley	....do	.0597
	DXE-0462	Huntinging Beach	Orange, Calif	.0823
	DXE-0464	Inglewood	Los Angeles, Calif	.0071
	DXE-0465	Kermit	Winkler, Tex	.0140
	DXE-0466	Lapeyrouse	Terrebone Parish, La	.0504
	DXE-0467	Lisbon Valley	San Juan, Utah	.0124
	DXE-0468	Marathon SCLU	Kern, Calif	.0264
	DXE-0469	McKittrick	....do	.0110
	DXE-0470	Murphy Coyote	Los Angeles, Calif	.0097
	DXE-0472	Red Wash	Unitah, Utah	.0431
	DXE-0473	Reserve-North Tejon	Kern, Calif	.0653
	DXE-0475	Swanson River	Kenai Bor, Ark	.0274
	DXE-0477	Wilson Creek	Rio Blanco, Colo	(1)
	DXE-0478	32-Z	Kern, Calif	.1497

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Sun Co. Inc	DXE-0606	Elmwood	Beaver, Okla	.0180
	DXE-0850	Bayou Sale	St. Mary Parish, La	.0317
	DXE-0851	Luby	Nueces, Tex	(1)
	DXE-0852	Mermentau	Acadia Parish, La	.0375
	DXE-0853	Red Fish Bay	San Patricio, Tex	.0144
	DXE-0914	Belle Isle	St. Mary Parish, La	.0169
	DXE-0915	Canales	Nueces, Tex	.0151
	DXE-0916	Fordoche	Point Coupe Parish, La	.0227
	DXE-0917	Newhall	Los Angeles, Calif	.0237
	DXE-0918	Spivey	Harper, Kans	.0377
	DXE-0919	Tonkawa	Kay, Okla	.1102
	DXE-0920	Wakita	Grant, Okla	.0312
	DXE-0941	Peoria	Arapahoe, Colo	.0175
	DXE-0942	Sun	Starr, Tex	.0153
	DXE-0943	Victoria	Victoria, Tex	.0293
Tenneco Oil Co	DXE-0874	Chesterville	Colorado, Tex	.0344
	DXE-0875	La Porte	Harris, Tex	.0087
	DXE-0876	Lake Bouef	La Fourche Parish, La	.0094
	DXE-0877	Leabo	Matagorda, Tex	.0724
	DXE-0878	Mayfield	Kleberg, Tex	.1026
	DXE-0879	Mermentau	Acadia Parish, La	.0075
	DXE-0880	Normanna	Bee, Tex	.0227
	DXE-0881	Pearce	Aranasas, Tex	.0216
	DXE-0882	Prentice	Yoakum, Tex	.0210
	DXE-0883	South Fullerton	Andrews, Tex	.0181
	DXE-0884	Stephens	Claiborne Parish, La	.0219
	DXE-0885	Ward	Hidalgo, Tex	.0185
Texaco, Inc	DXE-0736	Como	Hopkins, Tex	(1)
	DXE-0737	Enville	Love, Okla	.0071
	DXE-0738	Garvin County	Garvin, Okla	.0085
	DXE-0739	Handy	Grayson, Tex	.0382
	DXE-0740	Luby	Nueces, Tex	.0262
	DXE-0741	New Hope	Franklin, Tex	.0700
	DXE-0742	Roos South Campana	McMullen Tex	.2540
	DXE-0743	South Lake Arthur	Jefferson Davis Parish, La	.0110
	DXE-0744	South Kermit	Winkler, Tex	.0270
	DXE-0745	Tijerina	Jim Wells, Tex	.0268
	DXE-0746	TXL	Ector, Tex	.0225
	DXE-0747	Van	Van Zandt, Tex	.0237
	DXE-0897	Indian Basin	Eddy, N. Mex	(1)
	DXE-0898	Kettleman Hills	Kings, Calif	.0496
	DXE-0899	Sheills Canyon	Ventura, Calif	.0393
Union Oil Co. of California	DXE-0759	Bakke	Andrews, Tex	.0097
	DXE-0760	Bell	Los Angeles, Calif	.1240
	DXE-0761	Bryans Mill	Cass, Tex	.0779
	DXE-0762	Caddo	Carter, Okla	.0142
	DXE-0763	Camrick	Beaver, Okla	.0218
	DXE-0764	Coalinga	Fresno, Calif	.0115
	DXE-0765	Como	Hopkins, Tex	.1098
	DXE-0766	Cotton Valley	Webster Parish, La	.0137
	DXE-0767	Dollarhide	Andrews, Tex	.0194
	DXE-0768	Gillette	Campbell, Wyo	.0364
	DXE-0769	Houma	Terrebone Parish, La	.0088
	DXE-0770	Kettleman Hills	Kings, Calif	.0510
	DXE-0771	Lisbon	San Juan, Utah	.0155
	DXE-0772	Mermentau	Acadia Parish, La	.0224
	DXE-0773	North Okarche	Kingfisher, Okla	.0238
	DXE-0774	Putnam Oswego	Dewey, Okla	.0264
	DXE-0775	Santa Maria Valley	Santa Barbara, Calif	.0526
	DXE-0776	Stearns	Orange, Calif	.0264
	DXE-0777	Timbalier Bay	Terrebone Parish, La	.0134
	DXE-0778	Van	Van Zandt, Tex	.0211
	DXE-0779	Worland	Washakie, Wyo	.0349

(1)Denied.

[FR Doc. 78-11565 Filed 4-28-78; 8:45 am]

[3128-01]

CASES FILED WITH THE OFFICE OF ADMINISTRATIVE REVIEW

Week of March 17 Through March 24, 1978

Notice is hereby given that during the week of March 17 through March 24, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of ser-

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vice of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

APRIL 24, 1978.

RICHARD T. TEDROW,
DIRECTOR,
Office of Hearings and Appeals.

APPENDIX.—*List of cases received by the Office of Administrative Review*

[Week of Mar. 17 through Mar. 24, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 17, 1978	Basin Petroleum, Inc., Los Angeles, Calif. If granted: Basin Petroleum, Inc., would receive an exception from 10 CFR 211.67 with respect to its entitlement obligations.	DEE-0933	Exception from the entitlement program (sec. 211.67).
Do	Bassett Oil & Equipment Co., Bassett, Va. If granted: The appeal which Bassett Oil & Equipment Co. filed from a revised remedial order which was issued to the firm would not be considered under the procedural regulations applicable to the original remedial order issued to the firm.	DRX-0052	Supplemental order.
Do	Buck's Butane & Propane Service, San Jose, Calif. If granted: The provisions of DOE's Nov. 15, 1977, decision and order covering the issuance of a revised remedial order to Buck's Butane & Propane Service would be modified.	DRX-0051	Supplemental order in *Buck's Butane & Propane Service*, 1 DOE's par. 80,119 (Nov. 15, 1977).
Do	Northland Oil & Refining Co., Tulsa, Okla. If granted: Northland Oil & Refining Co. would be granted retroactive and prospective exception relief from the provision of 10 CFR 211.67.	DEE-0934 and DES-0934	Exception from the entitlement program (sec. 211.67), stay request.
Do	Tenneco Oil Co., Houston, Tex. If granted: The Feb. 15, 1978, revised remedial order issued to Tenneco by region VI would be rescinded and the firm would not be required to refund overcharges made in its sales of motor gasoline during the period November 1973 through January 1976.	DRA-0156	Appeal of the DOE's Feb. 15, 1978, revised remedial order.
Mar. 20, 1978	Raye Benham, Rico, Colo. If granted: Raye Benham would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-0935	Exception to reporting requirements.
Do	Energy Action Educational Foundation, Washington, D.C. If granted: The Energy Action Educational Foundation would receive access to deleted portions of the transcript of an Aug. 31, 1976, meeting of subcommittee A of the Industry Advisory Board of the International Energy Agency.	DFA-0157	Appeal of an information request denial.
Do	Hines Standard Service, Morgantown, Ky. If granted: Hines Standard Service would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-0936	Exception to reporting requirements.
Do	Hunt Petroleum Co., Dallas, Tex. If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Kinder plant.	DXE-0940	Extension of the relief granted in *Hunt Petroleum Corporation*, case No. FEE-4473 (decided Jan. 10, 1978) (unreported decision).
Do	Osage Tribe of Indians, Pawhuska, Okla. If granted: The Osage Tribe of Indians would receive an exception from the provisions of 10 CFR 212.52 which govern the maximum price that may be charged in first sales of crude oil.	DEE-0939	Price exception (sec. 212.52).
Do	Pennzoil Producing Co., Houston, Tex. If granted: Pennzoil Producing Co. would be permitted to sell the crude oil produced from the Perry Sand Waterflood unit located in Yazoo County, Miss., at upper tier ceiling prices.	DXE-0938	Extension of the relief proposed in the DOE's Jan. 19, 1978, proposed decision and order.
Do	Red Triangle Oil Co., Fresno, Calif. If granted: A Mar. 1, 1978, order issued by region IX, with respect to the withdrawal by Gulf from a market area, would be rescinded.	DEA-0158	Appeal of region IX's Mar. 1, 1978, order issued to Gulf.
Do	Sun Co., Inc., Dallas, Tex. If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Peoria, Sun, and Victoria plants.	DXE-0941 through DXE-0943	Extension of the relief proposed in the DOE's Sept. 30, 1977, proposed decison and order.
Do	W. E. Allford, Inc., McAlester, Okla. If granted: W. E. Allford, Inc., would be assigned a new, lower priced supplier of propane to replace its base period supplier, Mobil Oil Corp.	DEE-0937	Exception to change suppliers.
Mar. 21, 1978	Crest Resources & Exploration Corp., Houston, Tex. If granted: Crest Resources & Exploration Corp. would be permitted to sell the crude oil produced from the Cecile Williams lease located in Brazoria County, Tex., at upper tier ceiling prices.	DEE-0944	Price exception (sec. 212.73).
Do	Gas Engine & Compressor Service Inc., Longview, Tex. If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products.	DXE-0945	Extension of the relief granted in *Gas Engine & Compressor Service*, case No. DEE-0087 (decided Dec. 7, 1977) (unreported decision).

APPENDIX.—*List of cases received by the Office of Administrative Review*—Continued

[Week of Mar. 17 through Mar. 24, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Knowles Oil Co., Seymour, Ind. If granted: Knowles Oil Co. would receive a stay of the denial by DOE region V of the firm's application to quash subpena pending a final determination on a request for special redress filed by the Knowles Oil Co.	DES-0048	Stay request.
Do	Laketon Asphalt Refining, Inc., Laketon, Ind. If granted: DOE would review the entitlements exception relief granted to Laketon Asphalt Refining, Inc., during its 1977 fiscal year in order to determine whether the level of relief approved was appropriate.	DEX-0053	Supplemental order.
Do	Leonard E. Belcher, Inc., Alexandria, Va. If granted: The DOE's Feb. 15, 1978, information request denial would be rescinded and Leonard E. Belcher, Inc., would receive access to additional DOE data concerning the procedures of the Office of Administrative Review and of its predecessor, the Office of Exceptions and Appeals.	DFA-0159	Appeal of DOE's information request denial.
Do	Marathon Oil Co., Washington, D.C. If granted: The DOE's Feb. 9, 1978, information request denial would be rescinded and Marathon Oil Co. would receive access to additional DOE data regarding the issuance of notices of proposed disallowance.	DFA-0160	Do.
Do	Meason Operating Co., Natchez, Miss. If granted: Meason Operating Co. would be permitted to sell the crude oil produced from the Arnold Perry unit, well No. 1, located in Wilkinson County, Miss., at upper tier ceiling prices.	DXE-0946	Extension of the relief granted in *Meason Operating Company*, 1 DOE par. 81,038 (Dec. 14, 1977).
Do	Murphy Oil Corp., Washington, D.C. If granted: The DOE's Feb. 9, 1978, information request denial would be rescinded and Murphy Oil Corp. would receive access to additional DOE data regarding the issuance of notices of proposed disallowance.	DFA-0160	Appeal of DOE's information request denial.
Do	Texaco, Inc., White Plains, N.Y. If granted: The DOE's Feb. 21, 1978, information request denial would be rescinded and Texaco, Inc., would receive access to additional DOE data regarding the clarification and/or revision of the property definition as contained within 10 CFR 212.72.	DFA-0162	Do.
Do	Texaco, Inc., Los Angeles, Calif. If granted: Texaco, Inc., would be permitted to sell the crude oil produced from platform A located in the Cook Inlet, Alaska, at exempt price levels.	DEE-0947	Price exception (sec. 212.73).
Do	Texaco, Inc., Houston, Tex. If granted: Texaco, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Dover Hennessey gas plant.	DEE-0948	Price exception (sec. 212.165).
Mar. 23, 1978	Adams Oil Co., Inc., Charlotesville, Va. If granted: A Mar. 7, 1978, modified remedial order issued to Adams Oil Co., Inc., would be rescinded and the firm would not be required to refund overcharges made in its sales of motor gasoline and diesel fuel.	DRA-0163	Appeal of the modified remedial order.
Do	Commonwealth Oil Refining Co., Inc., San Antonio, Tex. If granted: Commonwealth Oil Refining Co., Inc., would receive a stay of the operation of the provisions of 10 CFR 211.67 pending a final determination on its application for exception.	DES-0611	Stay request.
Do	Doric Petroleum, Inc., Washington, D.C. If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Hennessey and Newcastle plants.	DXE-0953 and DXE-0954	Extension of the relief granted in *Doric Petroleum, Inc.* case Nos. DXE-0047 and DXE-0048 (decided Dec. 6, 1977) (unreported decision).
Do	FS Service, Inc., and Affiliated Cos., Alexandria, Va. If granted: FS Services, Inc., and Affiliated Cos., would receive an exception from the pricing regulations as they apply to sales of Gasahol.	DEE-0950	Price exception (sec. 212.129).
Do	Illinois Petroleum Marketers Association, Alexandria, Va. If granted: Illinois Petroleum Marketers Association would receive an exception from the pricing regulations as they apply to sales of Gasohol.	DEE-0949	Do.
Do	IU International Oil & Gas Co., Inc., Washington, D.C. If granted: IU International Oil & Gas Co., Inc., would receive a stay pending judicial review of the refund requirements of an Aug. 31, 1977, remedial order issued to the firm.	DRS-0049	Stay request.

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APPENDIX.—*List of cases received by the Office of Administrative Review*—Continued

[Week of Mar. 17 through Mar. 24, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Sun Co., Inc., Dallas, Tex. If granted: Sun Co., Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Gohlke plant.	DEE-0955	Price exception (sec. 212.165).
Do	Thrifty Oil Co., Downey, Calif. If granted: Thrifty Oil Co. would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-0951	Exception to the reporting requirements.
Do	TOSCO Corp., Washington, D.C. If granted: DOE would review the entitlements exception relief granted to TOSCO Corp. during its 1977 fiscal year in order to determine whether the level of relief approved was appropriate.	DEX-0054	Supplemental order.
Do	Wimps Garage, Northampton, Mass. If granted: Wimps Garage would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-0952	Exception to the reporting requirements.
Mar. 17, 1978	Basin Petroleum, Inc., Los Angeles, Calif. If granted: Basin Petroleum, Inc., would receive an exception from 10 CFR 211.67 with respect to its entitlement obligations.	DEE-0933	Exception from the entitlement program (sec. 211.67).

NOTICES OF OBJECTION RECEIVED.—*Week of Mar. 17 through Mar. 24, 1978*

Date	Name and location of applicant	Case No.
Mar. 23, 1978	Valley Oil Corp., Staunton, Va	DEE-0119
Mar. 21, 1978	Amax Petroleum Corp., Houston, Tex. Proposed remedial order: Mar. 6, 1978	DRO-0011
Do	Greene's Transport Co., Inc., Thomaston, Ga	DRO-0012
Do	Herrington L. P. Gas Co., Olive Branch, Miss	DRO-0013
Do	W. W. Lindsey and W. E. Elliott, Pikeville, Ky. Proposed remedial order: Mar. 6, 1978	DRO-0014
Do	Lovelace Gas Service, Inc., Orlando, Fla. Proposed remedial order: Mar. 6, 1978	DRO-0015

[FR Doc. 78-11549 Filed 4-28-78; 8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

March 20 through March 24, 1978

Notice is hereby given that during the period March 20 through March 24, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any futher proceeding involving the exception matter.

Copies of the full text of these proposed Decision and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except federal holidays.

Dated: April 24, 1978.

RICHARD T. TEDROW,
Acting Director,
Office of Hearings and Appeals.

APPENDIX

Proposed Decisions and Orders

Adams Oil Co., Inc., Dillwyn, Va., Fee-4816, Petroleum Products

Adams Oil Co., Inc, filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Adams to retain the revenues which it received as a result of charging unlawful price levels for petroleum products. On March 20, 1978 the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Charter Oil Co., Jacksonville, Fla., DXE-0491, Crude oil

Charter Oil Co., filed an Application for Exception from the provisions of 10 CFR 211.67 (the old Oil Entitlements Program). The exception request, if granted, would relieve charter of its obligations to purchase entitlements for a six month period. On March 20, 1978 the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Cologne Production Co., San Antonio, Tx., DXE—0857, Crude oil

Cologne Production Co., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in the extension of exception relief previously granted and would permit the firm to continue to sell certain quantities of the crude oil at upper tier prices which it produces from two Units on the Algoa Field Located in Galveston County, Tex. On March 24, 1978, the DOE issued a Proposed Decision and Order which determined that Cologne be permitted to sell 100 percent of the crude oil produced from Algoa Unit 4-2 and 54.07 percent of the crude oil produced from Algoa Unit 8 at upper tier ceiling prices.

Crystal Oil Co., Shreveport La., FPI—0128, Crude and Unfinished oils

Crystal Oil Co., filed an Application for Exception from the provisions of 10 CFR 213.12. The exception request, if granted, would result in an increase in the amount of crude oil and unfinished oils which the firm may import on a license fee-exempt basis. On March 20, 1978, the DOE issued a Proposed Decision and Order which determined that exception relief should be granted.

Getty Oil., Oklahoma City, Okla., DEE-0479, Crude oil

Getty Oil Co., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Getty to sell the crude oil produced from the Ed Dillon No. 2 Well located in Oklahoma County, Okla., at upper tier ceiling prices. On March 20, 1978, the DOE issued a Proposed Decision and Order which determined that the request be granted in part.

Golden Eagle Refining Co., Inc., Washington, D.C., DEE-0513, Crude oil

Golden Eagle Refining Co., Inc. filed an Application for Exception from the provisions of 10 CFR 211.67(a)(4). The exception request, if granted, would increase the number of entitlements which the firm is permitted to sell in every month. On March 22, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Little America Refining Co., Washington, D.C., DXE-0495, Crude oil

Little America Refining Co. filed an Application for Exception from the provisions of 10 CFR 211.67 (the old Oil Entitlements Program). The exception request, if granted, would relieve LARCO of its obligations to purchase entitlements for a six month period. On March 20, 1978 the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Martin Exploration Co., Metairie, La., FEE-4789, Crude oil

On September 6, 1977, Martin Exploration Co., (Martin) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Martin to sell at market price levels all of the condensate which the firm produces in connection with a gas cycling process at the Wilcox B Sand Unit located in the Fields Field, Beaureguard Parish, La. On March 22, 1978 the DOE issued a Proposed Decision and Order which determined that the request be granted in part.

Natrogas, Inc., Minneapolis, Minn., DMR-0013, Propane

Natrogas, Inc. filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would result in an extension of the exception relief previously granted to Natrogas and the assignment of a new, lower-priced supplier(s) of propane to supply a portion of the firm's base period use. On March 24, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Allen K. Trobaugh, Midland, Tex., DXE-0908, Crude oil

Allen K. Trobaugh filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted and would permit Trobaugh to continue to sell certain of the crude oil produced from the No. 1 well on the Bailey Lease at upper tier ceiling prices. On March 24, 1978, the DOE issued a Proposed Decision and Order which determined that exception request be granted.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Department of Energy has issued decisions and orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct costs increases:

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Company	Case No.	Plant	Location (county/State)	Amount of price increase(per gallon)
Aminoil, USA	DXE-0623	Aline	Alfalfa, Okla	$0.0473
	DXE-0624	Fox	Carter, Okla	.0116
	DXE-0625	Huntington Beach	Orange, Calif	.0726
	DXE-0626	Inglewood	Los Angeles, Calif	.0814
	DXE-0627	Taloga	Dewey, Okla	.0415
	DXE-0628	Tioga	Williams, N. D	.0254
Champlin Petroleum Co	DXE-0629	Witcher	Oklahoma, Okla	.0354
Continental Oil Co	DXE-0630	Acadia	Acadia Parish, La	.0849
	DXE-0631	Burnell-North Pettus	Kornes, Tex	.0759
	DXE-0632	Edmond	Edmond, Okla	.0173
	DXE-0633	Hamlin	Jones, Tex	.0125
	DXE-0634	Maljamar	Lea, N. Mex	.0182
	DXE-0635	North Cowden	Ector, Tex	.0197
	DXE-0636	North Okarche	Kingfisher, Okla	.0155
	DXE-0637	Rincon	Starr, Tex	.0456
	DXE-0638	Susses	Johnson, Wyo	.0772
	DXE-0639	West Seminole	Gaines, Tex	.0259
	DXE-0640	West World	Reagan, Tex	.0645
El Paso Natural Gas Co	DXE-0557	Jal	Lea, N. Mex	.0154
	DXE-0558	San Juan	San Juan, N. Mex	.0143
Estates of Inez and Loyce Phillips	DXE-0545	Nan-su-Gail	Freestone, Tex	.21705
Hewit & Dougherty	DXE-0546	Roche	Refugio, Tex	.04087
Hunt Industries	DXE-0642	Zoller	do	.04334
McCulloch Gas Processing Corp	DXE-0537	Belle Fourche	Butte, S. Dak	.0988
	DXE-0538	Gillette	Campbell, Wyo	.0505
	DXE-0539	Oedekoven	do	.0927
Ozona Gas Processing Plant	DXE-0386	Ozona	Crockett, Tex	.0164
Shell Oil Co	DXE-0591	Bayou Goula	Iberville Parish, La	.0533
	DXE-0592	Camargo	Dewey, Okla	.0186
	DXE-0593	Chalkley	Cameron Parish, La	.0578
	DXE-0594	Enville	Love, Okla	.0128
	DXE-0595	Pashing	Atascosa, Tex	.0111
	DXE-0596	Hailey	Winkler, Tex	(1)
	DXE-0597	KNDU	Kings, Calif	.0331
	DXE-0598	Lirette	Terrebonne Parish, La	.0418
	DXE-0599	Mermentau	Acadia Parish, La	.0228
	DXE-0600	O'Keene	Blaine, Okla	.0337
	DXE-0601	Person	Karnes, Tex	(1)
	DXE-0602	Prentice	Yoakum, Tex	.0157
	DXE-0603	Red Fish Bay	Nueces, Tex	.0302
	DXE-0604	Sea Robin	Vermillion Parish, La	.0068
	DXE-0605	Selling	Dewey, Okla	.0366
	DXE-0606	Timballer Bay	Terrebonne Parish, La	(1)
	DXE-0607	TXL	Ector, Tex	.0120
	DXE-0608	Van	Van Zandt, Tex	.0229
	DXE-0609	Weeks Island	Iberia Parish, La	.0081
	DXE-0610	West Seminole	Gaines, Tex	.0349
The Superior Oil Co	DEE-0397	Big Wells	Dinnip, Tex	(1)
	DEE-0398	Lowry	Cameron Parish, La	.0070
	DEE-0409	Coalinga Nose	Fresno, Calif	.0089
	DXE-0414	Thomas	Dewey, Tex	.0127
Wel-Gas, Inc., of Texas	DXE-0555	Possum Kingdom	Stephens, Tex	.09785

(1) Denied.

[FR Doc. 78-11567 Filed 4-28-78; 8:45 am]

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[3128-01]

ADMINISTRATOR, SOUTHWESTERN POWER ADMINISTRATION

Adjustment of Salary

Pursuant to section 5364 of title 5 of the U.S. Code, the salary of the Administrator, Southwestern Power Administration is adjusted to $42,423 per annum effective on the first day of the first pay period which begins after date of this publication in the FEDERAL REGISTER.

Dated: April 27, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-11905 Filed 4-28-78; 9:35 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 889-7]

NEW HAMPSHIRE DRINKING WATER

Approval of State Application for Primary Enforcement Responsibility

APRIL 25, 1978.

In accordance with the provisions of Section 1413 of the Safe Drinking Water Act (SDWA), (88 Stat. 1661; 42 U.S.C. 300f et seq.) and 40 CFR 142 (41 FR 2918, January 20, 1976), Mr. William A. Healy, Executive Director of the New Hampshire Water Supply and Pollution Control Commission, has submitted an application to assume primary enforcement responsibility under the Safe Drinking Water Act to the Environmental Protection Agency (EPA) for approval.

Notice is hereby given that the Regional Administrator, EPA, Region I, has approved this application for primary enforcement authority, to become effective on May 31, 1978. This action is based on a thorough evaluation of the State's water supply supervision program in relation to the requirements of 40 CFR 142.10, including the adoption and implementation of:

(1) State primary drinking water regulations; (2) an inventory of public water systems; (3) a systematic program of sanitary surveys; (4) a State program for certification of laboratories; (5) State laboratory facilities certified by EPA; (6) a plan review program; (7) adequate statutory or regulatory enforcement authority; (8) record-keeping and reporting procedures; (9) a program for issuing variances and exemptions; (10) a plan for providing safe drinking water under emergency circumstances.

This evaluation has shown that the program which will be carried out by the Water Supply and Pollution Control Commission's Division of Water Supply fulfills all requirements for obtaining primary enforcement authority.

Any interested person may request a public hearing to consider the Regional Administrator's determination on or before May 31, 1978. If a public hearing is requested and granted, this determination shall not become effective until such time, following the hearing, as the Regional Administrator issues an order affirming or rescinding the determination. Requests for hearing shall be addressed to:

William R. Adams, Regional Administrator, U.S. Environmental Protection Agency, Room 2203, John F. Kennedy Federal Building, Boston, Mass. 02203.

and shall include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

A complete copy of the Water Supply and Pollution Control Commission's application for primary enforcement responsibility is available for public inspection during normal business hours at the Office of the Regional Administrator and at the following location in New Hampshire.

State of New Hampshire, Water Supply and Pollution Control Commission, Division of Water Supply, Prescott Park, 105 Loudon Road, Concord, N.H. 03301.

Dated: April 25, 1978.

WILLIAM R. ADAMS, JR.,
Regional Administrator,
Region I.

[FR Doc. 78-11696 Filed 4-28-78; 8:45 am]

[6560-01]

[FRL 889-8]

RHODE ISLAND DRINKING WATER

Approval of State Application for Primary Enforcement Responsibility

APRIL 25, 1978.

In accordance with the provisions of Section 1413 of the Safe Drinking Water Act (SDWA), (88 Stat. 1661; 42 U.S.C. 300f et seq.) and 40 CFR 142 (41 FR 2918, January 20, 1976), Dr. Joseph E. Cannon, Director of the Rhode Island Department of Health has submitted an application to assume primary enforcement responsibility under the SDWA to the Environmental Protection Agency (EPA) for approval.

Notice is hereby given that the Regional Administrator, EPA, Region I, has approved this application for primary enforcement authority, to become on May 31, 1978. This action is based on a thorough evaluation of the State's water supply supervision program in relation to the requirements of 40 CFR 142.10, including the adoption and implementation of:

(1) State primary drinking water regulations; (2) an inventory of public water systems; (3) a systematic program of sanitary surveys; (4) a State program for certification of laboratories; (5) State laboratory facilities certified by EPA; (6) a plan review program; (7) adequate statutory or regulatory enforcement authority; (8) record-keeping and reporting procedures; (9) a program for issuing variances and exemptions; (10) a plan for providing safe drinking water under emergency circumstances.

This evaluation has shown that the program which will be carried out by the Health Department's Division of Water Supply fulfills all requirements for obtaining primary enforcement authority.

Any interested person may request a public hearing to consider the Regional Administrator's determination within 30 days of the publication of this notice. If a public hearing is requested and granted, this determination shall not become effective until such time, following the hearing, as the Regional Administrator issues an order affirming or rescinding the determination. Requests for hearing shall be addressed to:

William R. Adams, Regional Administrator, U.S. Environmental Protection Agency, Room 2203, John F. Kennedy Federal Building, Boston, Mass. 02203.

and shall include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Regional

Dated: April 21, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-11730 Filed 4-28-78; 8:45 am]

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Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

A complete copy of the Health Department's application for primary enforcement responsibility is available for public inspection during normal business hours at the Office of the Regional Administrator and at the following location in Rhode Island:

State of Rhode Island, Department of Health, Division of Water Supply, Cannon Building, Davis Street, Providence, R.I. 02908.

Dated: April 25, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator,
Region I.

[FR Doc. 78-11697 Filed 4-28-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218, or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., Chicago, Ill., and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by May 22, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3283-2.

Filing party: Dwight Green, Traffic Consultant, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Fla. 33404.

Summary: Agreement No. T-3283-2, between the Port of Palm Beach District (Port) and Palm Beach Steamship Agency (PBSA), modifies the parties' basic agreement providing for PBSA's lease of certain premises at the Port of Palm Beach Terminal, Palm Beach, Fla., for use as office space, together with the nonexclusive right to use the Port's lands and dock facilities for the loading and unloading of vessels for which PSBA acts as agent. The purpose of Agreement No. T-2283-2 is to provide for the renewal of the basic agreement's lease term for an additional one-year period and to increase the monthly rental from $349.73 to $372.04.

Agreement No.: T-3627.

Filing party: Ronaldo Rodriguez Ossorio, Esq., General Counsel, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, P.R. 00936.

Summary: Agreement No. T-3627, is between the Puerto Rico Ports Authority (Port) and Sea-Land Service, Inc. (Sea-Land), and provides for Sea-Land's month lease to 3.5455 cuerdas of land located at Piers J and K, Puerto Nuevo, San Juan, P.R., for the parking of container vans. As compensation, the Port is to receive a monthly rental of $5,500.

Agreement No.: T-3635.

Filing party: Betty I. Crefoot, House Counsel, Port of Portland, Box 3529, Portland, Oreg. 97208.

Summary: Agreement No. T-3635, between Port of Portland (Port) and Fred F. Noonan Co., Inc. (Noonan), consists of a terminal services contract between the parties. Under this agreement, Noonan will perform services relating to the receipt, inventory, and delivery of import vehicles at Terminal 6, Portland, Oreg. As compensation for its services, Noonan will be paid $2.62 per vehicle by Port. The agreement's term will be for a period of 10 years.

Agreement No.: T-3637.

Filing party: John H. Schulte, Esq., Smathers & Thompson, Alfred I. DuPont Building, Miami, Fla. 33131.

Summary: Agreement No. T-3637, between Lavino Shipping Co. (Lavino) and S.E.L. Maduro (Florida), Inc., (Maduro), is a covenant not to compete for a period of five years. Subsequent to Maduro's purchase of Lavino's assets and properties within the Southern Division, Lavino, in consideration of $25,000, agrees as follows: (1) not to compete with Maduro within the State of Florida or any other territories in which the Southern Division operates, except for Lavino's subsidiary, Shipside Packing Co. or car preparation activities in Jacksonville, Fla., as presently being conducted or contemplated by Hobelman, Inc.; (2) not to solicit or otherwise do business with any of its present or future accounts of the Southern Division; and (3) not to solicit or pirate any present or future employees of the Southern Division.

Agreement No.: T-3638.

Filing party: Ronaldo Rodriquez Ossorio, Esq., General Counsel, Puerto Rico Ports Authority, Apartado 2829, San Juan, P.R. 00936.

Summary: Agreement No. T-3638, between the Puerto Rico Ports Authority (Port) and the Puerto Rico Maritime Shipping Authority (PRMSA), is a preferential use agreement whereby the Port grants PRMSA the right of preference for the use of certain marine facilities at Puerto Nuevo, San Juan, P.R., for the docking and mooring of vessels which are engaged in the loading and unloading of cargo or supplies transported or to be transported by such vessels. As compensation, PRMSA shall pay the Port an annual fee of $8,188.94 subject to a minimum annual dockage and wharfage guarantee of $140,000, plus all applicable Port tariff charges. The amount of dockage and wharfage collected annually on cargo moving through the pier from or to vessels not operated by or for PRMSA shall be credited to PRMSA's minimum guarantee only when and to the extent that the dockage and wharfage charges paid by PRMSA are less than the minimum annual guarantee.

Agreement No.: T-3638-A.

Filing party: Ronaldo Rodriquez Ossorio, Esq., General Counsel, Puerto Rico Ports Authority, Apartado 2829, San Juan, P.R. 00936.

Summary: Agreement No. T-3638-A, between the Puerto Rico Ports Authority (Port) and the Puerto Rico Maritime Shipping Authority (PRMSA), provides for the Port's 25-year lease to PRMSA of certain premises at Puerto Nuevo, San Juan, P.R., to be used for the purpose of conducting shoreside operations pertaining to PRMSA's oceanborne common carrier service. PRMSA shall have the exclusive use of approximately 617,461.2638 square feet, plus an office consisting of approximately 1,152 square feet. As compensation, PRMSA shall pay the Port an annual ground rental of $151,736 for the exclusive use areas and $2,592 per year for the office space rental.

Agreement No.: 9973-4.

Filing party: John R. Mahoney, Esq., Burlingham, Underwood & Lord, One Battery Park Plaza, New York, N.Y. 10004.

Summary: Agreement No. 9973-4 modifies the basic agreement to provide that Johnson ScanStar May serve ports within its scope either by direct all-water service or by transshipment and, in the event of a strike, canal closure or other situation preventing all-water service through the Panama Canal, by overland movements from and to Pacific Coast ports via U.S. Atlantic, Gulf, and Great Lakes ports.

Agreement No.: 9981-6.

Filing party: Charles F. Warren, Attorney, Warren & Associates, P. C., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Summary: Agreement No. 9981-6 would extend the term of the Far East Discussion Agreement for one year from the date of approval by the Federal Maritime Commission. Agreement No. 9981, as amended, is presently set to expire with June 20, 1978.

Agreement No.: 10331.

Filing party: Mr. Enrique Landa, General Delegate, Empresa Lineas Maritimas Argentinas S.A., Five World Trade Center, Suite 6167, New York, N.Y. 10048.

Summary: Agreement No. 10331, between Empresa Lineas Maritimas Argentinas S.A. and A. Bottacchi Sociedad Anonima De Navegacion Comercial Industrial E Inmobiliaria, is an association agreement which sets forth the percentage share and the sailing requirements for each carrier under the Argentine flag share and obligations in Agreement No. 10039, a cargo revenue pooling agreement in the U.S. Gulf/Argentine trades. The agreement further spells out each carrier's rights and obligations with respect to their joint participation in Agreement No. 10039.

Dated: April 26, 1978.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-11784 Filed 4-28-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

COMMUNITY BANCORPORATION

Formation of Bank Holding Company

Community Bancorporation, Clear Lake, Iowa, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1), to become a bank holding company by acquiring 100 per cent of the voting shares of Community State Bank of Clear Lake, Clear Lake, Iowa. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 26, 1978.

Board of Governors of the Federal Reserve System, April 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-11739 Filed 4-28-78; 8:45 am]

[6210-01]

REPUBLIC OF TEXAS CORP.

Acquisition of Bank

Republic of Texas Corp., Dallas, Tex., has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of Greenville Avenue Bank & Trust, Dallas, Tex. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 21, 1978.

Board of Governors of the Federal Reserve System, April 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-11740 Filed 4-28-78; 8:45 am]

[6210-01]

WEATHERFORD BANCSHARES, INC.

Formation of Bank Holding Company

Weatherford Bancshares, Inc., Weatherford, Tex., has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of the First National Bank of Weatherford, Weatherford, Tex. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than May 30, 1978.

Board of Governors of the Federal Reserve System, April 25, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-11741 Filed 4-28-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

Cutoff Date for Receipt of Applications for Fiscal Year 1978

Under the authority contained in section 3 of Pub. L. 81-815 (school construction in areas affected by Federal activities; 72 Stat. 548, 20 U.S.C. 633) notice is hereby given that the U.S. Commissioner of Education has established a cutoff date for the receipt of applications for increase periods ending June 1978 or June 1979, for assistance under sections 5, 6, 9, and 14 of Pub. L. 81-815. Approval of these applications will be subject to the availability of funds. Applications must be received by the U.S. Commissioner of Education from the State educational agencies on or before the cutoff date.

Cutoff date: June 30, 1978.

A. *Application forms and information.* Information and application forms may be obtained from the appropriate State educational agency which serves the applicant local educational agency.

B. *Applications sent by mail.* An application sent by mail should be addressed to the Commissioner of Education, U.S. Office of Education, 400 Maryland Avenue SW., Room 2107A, Washington, D.C. 20202. An application sent by mail will be considered to be received on time if:

(1) The application was sent by registered or certified mail not later than June 26, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the cutoff date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be taken to the Office of Education, 400 Maryland Avenue SW., Room 2107A. Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Applications will not be accepted after 4 p.m. on the cutoff date.

D. *Applicable regulations.* The regulations applicable to this program include: (1) The Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) published in the FEDERAL REGISTER on November 6, 1973, at 38 FR 30661 and as amended at 41 FR 1395, January 7, 1976, and (2) Part 114 of 45 CFR published in the FEDERAL REGISTER on April 6, 1975, at 40 FR 16019.

(20 U.S.C. 633.)

(Catalog of Federal Domestic Assistance No. 13.477, School Assistance in Federally Affected Areas—Construction.)

Dated: April 26, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-11746 Filed 4-28-78; 8:45 am]

[4110-12]

Office of Human Development Services

REORGANIZATION ORDER

Notice of Amendments

The Reorganization Order of July 26, 1977, redesignated the Office of Human Development as the Office of Human Development Services and made certain organizational changes in that Office. The purpose of this

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Amendment to the Reorganization Order of July 26, 1977, is to order further organizational changes in the Office of Human Development Services and to set forth the organizational structure of each of the principal program elements, headquarters staff units, and regional offices of the Office of Human Development Services.

The Reorganization Order dated July 26, 1977, is hereby amended as follows:

1. Paragraph C of Section *I. Organization* is deleted and the following is substituted therefor:

The Office of Human Development Services will consist of the following principal program elements and headquarters staff units, the heads of which report directly to the Assistant Secretary for Human Development Services:

IMMEDIATE OFFICE STAFF

Office of Public Affairs.
Office of Legislative Affairs.
Office of Regional and Intergovernmental Relations.

PRINCIPAL PROGRAM ELEMENTS

Administration on Aging.
Administration for Children, Youth, and Families.
Administration for Public Services.
Administration for Native Americans.
Rehabilitation Services Administration.

HEADQUARTERS STAFF UNITS

Office of Planning, Research, and Development.
Office of Administration and Management.
Office of Policy and Management Control.

2. Paragraph D of Section *I. Reorganization* is amended as follows:

The Office of Human Development Services will have ten Regional Offices headed by Regional Administrators for Human Development Services, who report directly to the Assistant Secretary for Human Development Services. The Regional Program Directors on Aging will report directly to the Commissioner, Administration on Aging. The Regional Program Directors for Children, Youth, and Families will report directly to the Commissioner, Administration for Children, Youth, and Families. The Regional Directors for Rehabilitation Services will report directly to the Commissioner, Rehabilitation Services Administration. The Regional Program Directors for Public Services and the Native American staff (in regions with full-time positions) will report directly to the Regional Administrators.

3. *Section I. Organization* is amended by adding the following paragraph E thereto:

E. The principal program elements, headquarters staff units, and regional offices of the Office of Human Development Services shall consist of the following organizational units:

(a) Administration on Aging: (1) Federal Council on Aging Staff; (2) Office of Policy, Planning, and Management Control; (3) Office of Field Operations; (4) Public Information Office; (5) Office of Education and Training; (6) Office of Development, Evaluation, and Research; (7) Nation Clearinghouse on Aging; (8) Office of State and Community Programs; and (9) Office of Special Programs.

(b) Administration for Children, Youth, and Families: (1) Office of Public Information/Education; (2) Office of Regional/State and Community Affairs; (3) Office of Planning, Research, and Evaluation; (4) Office of Services for Children and Youth, (a) Children's Bureau, (b) Youth Development Bureau; (5) Office of Developmental Services, (a) Head Start Bureau, and (b) Day Care Division.

(c) Administration for Native Americans: (1) Intra-Departmental Council on Indian Affairs; (2) Office of Program Operations; and (3) Office of Planning and Program Development.

(d) Administration for Public Services: (1) Regional Liaison Staff; (2) Office of Administration and Management; (3) Executive Secretariat; (4) Office of Public Information; (5) Office of Policy Coordination; (6) Office of Program Operations; and (7) Office of Program Development.

(e) Rehabilitation Services Administration: (1) President's Committee on Mental Retardation Staff; (2) National Disability Advisory Council; (3) Public Affairs Staff; (4) Agency Monitoring Staff; (5) Regional Liaison Staff; (6) Executive Office; (7) Office for Handicapped Individuals; (8) Architectural and Transportation Barriers Compliance Board; (9) Office of Advocacy and Coordination; (10) Office of Policy, Planning, and Legislation; (11) Office of Administration and Management; (12) Bureau of Program Operations, (a) Office of Blind and Visually Handicapped, (b) Office of Vocational Rehabilitation, Operations, (c) Office of Developmental Disabilities; (13) Bureau of Program Development—The Office for Handicapped Individuals will continue to report directly to the Assistant Secretary, but for organizational purposes will be placed in the RSA. The ATBC Board will also be placed in the RSA for organizational purposes, although this Board is an interagency body headed by the Assistant Secretary.

(f) Office of Policy and Management Control: (1) Division of Management Analysis and Review; (2) Executive Secretariat; (3) Division of Policy Coordination; and (4) Division of Equal Opportunity and Civil Rights.

(g) Office of Planning, Research, and Evaluation: (1) Administration and Management Staff; (2) Office of Planning and Evaluation; and (3) Office of Program Systems Development.

(h) Office of Administration and Management: (1) Division of Budget and Financial Management; (2) Division of Grants and Contracts Administration; (3) Division of Administrative Services; and (4) Division of Personnel Administration.

(i) Regional Office (Typical organization in each of ten regions): (1) Office of the Regional Administrator; (2) Regional Office for Public Services; (3) Regional Office on Aging; (4) Regional Office for Children, Youth, and Families; and (5) Regional Office for Rehabilitation Services.

The functional statements for the organizational units described in this paragraph will be published in approximately 60 days.

4. All organizational transfers ordered by the Reorganization Order of July 26, 1977, inconsistent with the terms of this Amendment to the Reorganization Order are hereby repealed.

5. Section III, Continuation of Regulations, Section IV, Continuation of Delegations of Authority and Section V, Funds, Personnel, and Equipment of the Reorganization Order of July 26, 1977, shall continue in full force and effect except that all references therein to the Reorganization Order shall be deemed to include this Amendment to the Reorganization Order, and all references therein to the Office of Human Development, Assistant Secretary of Human Development, and the Office of the Assistant Regional Directors for Human Development shall be deemed to include the Office of Human Development Services, the Assistant Secretary for Human Development Services, and the Office of the Regional Administrators for Human Development Services, respectively.

Effective date: This Amendment to the Reorganization Order shall be effective April 18, 1978.

Dated: April 18, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-11738 Filed 4-28-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Dr. William A. Dunson, Dept. of Biology, 208 Life Science, Pennsylvania State University, University Park, Pa. 16802.

The applicant requests a permit to capture not more than 100 hatchings and 20 adult American crocodiles (*Crocodylus acutus*) per year in Monroe and Collier Counties, Florida in order to mark, measure, take blood and urine samples and immediately release same and to buy in interstate commerce not more than 60 hatchlings and 20 subadult crocodiles for scientific purposes described in his application. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2349. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by May 31, 1978. Please refer to the file number when submitting comments.

Dated: April 26, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-11772 Filed 4-28-78; 8:45 am]

THREATENED SPECIES PERMIT

Receipt of Application

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C. or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Interested persons may comment on these applications by May 31, 1978 by submitting written data, views, or arguments to the Director at the above address.

Applicant: Mr. B. S. Jolley, Route 1, Box 72, Roaring River, NC. 28669; PRT 2-2359.

Applicant: Mr. Winston Sessions, P.O. Box 353 Route 2, Monroeville, Ala. 36460; PRT 2-2382.

Applicant: Mr. Mark S. Bierbower, R.D. No. 1, Box 47 F 11, Hopwood, Pa. 15445; PRT 2-2405.

Applicant: Mr. Oswald A. Pung, 3424 18th Street, Lewiston, Idaho 83501; PRT 2-2373.

Applicant: Frederick S. Rose, 43 Cornwall Avenue, Cornwall-on-Hudson, N.Y. 12520; PRT 2-2397.

Please refer to the individual applicant and the appropriately assigned PRT 2- file number when submitting comments.

Dated: April 26, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-11771 Filed 4-28-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Arkansas Power & Light Co. The relief relates to the inservice inspection (testing) program for the Arkansas Nuclear One, Unit No. 1 (the facility) located in Pope County, Ark. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief is granted on an interim basis, pending completion of our detailed review from those inservice inspection and testing requirements of the ASME Code that the licensee has determined to be impractical within the limitations of design, geometry and materials of construction of components, because compliance would result in hardships or unusual difficulties without a compensating increase in the level of quality or safety.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant invironmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated October 19, 1977, and (2) the Commission's letter to the licensee dated April 20, 1978.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Ark. 72801. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 20th day of April, 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4 Division of Operating Reactors.

[FR Doc. 78-11749 Filed 4-28-78; 8:45 am]

[7590-01]

[Docket No. 50-471A]

BOSTON EDISON CO. ET AL.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

In the matter of Boston Edison Co. and Massachusetts Municipal Wholesale Electric Co., Taunton Municipal Lighting Plant, Vermont Electric Cooperative, Inc.

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated April 20, 1978:

You have requested our advice pursuant to the provisions of Section 105 of the Atomic Energy Act, as amended, in regard to the above-cited application. [Pilgrim Nuclear Generating Station, Unit No. 2]

On June 26, 1974, we advised the Commission that review of the information submitted by the lead applicant, Boston Edison Co., as well as other information relating to electric utility competition in New England, did not indicate any need for an antitrust hearing on this nuclear facility. You have now provided us with antitrust information submitted by three other applicants, Massachusetts Municipal Wholesale Electric Co. (MMWEC), Taunton Municipal Lighting Plant, and Vermont Electric Cooperative, Inc.

The MMWEC, which will own a 13.240 percent share in the unit, it is a public corporation of the Commonwealth of Massachusetts. It is engaged in the acquisition, development and sale of bulk power to its 30 member municipal electric systems[1] and others. MMWEC has contracted for the sale of all of its ownership share of the output of this unit to 25 of its members through power sales agreements covering the life of the facility. These 25 members provide retail or wholesale electric service to 32 communities in Massachusetts. The non-coincident peak of all members of MMWEC was 671.3 MW in 1977. In that year the smallest member had a peak of 3.2 MW, the largest a peak of 74.6 MW.

Taunton, which supplies electric power in the Taunton, Mass. area, will own a 0.60 percent share of the unit. In 1976 Taunton experienced a peak load of 62 MW. Vermont Electric Cooperative serves rural areas primarily in northern Vermont, and had a peak load of 2.38 MW in 1975. Vermont's share of the unit will be 0.20 percent.

With the present changes in ownership the current ownership of the 1180 MW Pilgrim Unit No. 2 is as follows:

	Percent ownership
Boston Edison Co.	59.026
Burlington Electric Dept.	0.330

[1]The 30 Massachusetts Municipal electric systems which are members of the MMWEC are: Ashburnham, Baldwinville, Belmont, Boylston, East Braintree, Chicopee, Danvers, Georgetown, Groton, Hingham, Holden, Holyoke, Hudson, Hull, Ipswich, Littletown, Mansfield, Marblehead, Middleborough, Middletown, North Attleborough, Paxton, Peabody, Reading, Shrewsbury, South Hadley, Sterling, Wakefield, West Boylston and Westfield.

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	Percent ownership
Central Maine Power Co.	2.850
Central Vermont Public Service Corp.	1.780
Fitchburg Gas & Electric Light Co.	0.190
Hudson Light & Power Dept.	0.174
Massachusetts Municipal Wholesale Electric Co.	13.240
Montaup Electric Co.	2.150
New Bedford Gas & Edison Light Co.	1.530
New England Power Co.	11.160
Public Service Co. of New Hampshire	3.470
Taunton Municipal Lighting Plant	0.600
The United Illuminating Co.	3.300
Vermont Electric Cooperative, Inc.	0.200

Our review three new applicants, as well as other relevant information, has disclosed no basis upon which to change our earlier conclusion that an antitrust hearing will not be necessary in this matter.

Any person whose interest may be affected by this proceeding may, pursuant to §2.714 of the Commission's "Rules of Practice", 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by May 31, 1978, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street NW., Washington, D.C. or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulations.

[FR Doc. 78-11750 Filed 4-28-78; 8:45 am]

[7590-01]

[Docket No. 50-219]

JERSEY CENTRAL POWER & LIGHT CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatoy Commission (the Commission) has issued Amendment No. 31 to Provisional Operating License No. DPR-16, issued to Jersey Central Power & Light Co. (the licensee), which revised Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, N.J. The amendment is effective as of its date of issuance.

The amendment deleted the Respiratory Protection Program which was superseded by the amended § 20.103 of 10 CFR Part 20 of the Commission's regulations.

This amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the Commission's letter to Jersey Central Power & Light Co. dated July 29, 1977, (2) Amendment No. 31 to License No. DPR-16, and (3) the Commission's related evaluation that is included in the concurrently issued letter to the licensee. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, N.J. 08723. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of April, 1978.

For the Nuclear Regulatory Commission,

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-11751 Filed 4-28-78; 8:45 am]

[7590-01]

[Docket No. 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR-65 to Northeast Nuclear Energy Co., The Connecticut Light and Power Co., The Hartford Electric Light Co., and Western Massachusetts Electric Co., which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2 located in the Town of Waterford, Conn. The amendment is effective as of its date of issuance.

The amendment authorizes operation with sleeved guide tubes for the Control Element Assemblies (CEAs), burnable poison pin perforations, modified containment electrical penetrations, and revises the Appendix A Technical Specifications by: (1) incorporating changes resulting from the analyses of Cycle 2 reload fuel; (2) authorizing the removal of all part length CEAs; (3) changes relating to a new water hole peaking factor; and (4) deleting the requirement for two reactor protection system trips.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with operation with sleeved guide tubes for the CEAs was published in the FEDERAL REGISTER on February 10, 1978 (43 FR 5908). No request for a hearing or petition for leave to intervene was filed following this notice of proposed action. Prior public notice of the other actions mentioned above was not required since these actions do not involve a significant hazards consideration. Steam generator tube support plate cracking problems were also the subject of the above Notice. This action is being handled separately.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated September 2, 1977, February 22 and 23, 1978, and March 20, 1978, as supplemented August 25, September 2 and 28, October 12, November 14, 17, and 23, December 15, 1977, January 12, 24, and 25, February 1, 10, 21, and 28, March 8, 15, and 16, April 6 and 13, 1978, (2) Amendment No. 38 to License No. DPR-65 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 19th day of April 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-11752 Filed 4-28-78; 8:45 am]

[7590-01]

[Docket No. 27-39]

NUCLEAR ENGINEERING CO., INC.

Withdrawal of Application

The Nuclear Regulatory Commission has previously issued a Notice of Opportunity for Hearing (43 FR 14781, April 7, 1978) on an application submitted by Nuclear Engineering Co., Inc. (NECO), 9200 Shelbyville Road, Suite 526, P.O. Box 7246, Louisville, Ky. 40207, for use of an additional compact and fill burial trench at the Sheffield, Ill. burial ground known as "Trench 15". By letter dated April 19, 1978, NECO informed the Commission that it was withdrawing the application for use of Trench 15. Therefore the previous Notice of Opportunity for Hearing on Trench 15 is no longer appropriate and should be disregarded.

Dated at Silver Spring, Md. this 27th day of April 1978.

For the Nuclear Regulatory Commission.

MICHAEL J. BELL,
Chief, Low-Level Waste Branch Division of Fuel Cycle and Material Safety.

[FR Doc. 78-11883 Filed 4-28-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 25, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare), Request to Establish Eligibility in the Health Insurance for the Aged and Disabled Program to Provide Rural health clinic Services, HCFA-29, single time, 700 rural health clinic sites, Clearance Office, 395-3772.

National Institute of Education, Evaluation of Freestyle-Pilot Testing, NIE-187 A-I, other (see SF-83), 450 students/parents—teachers—elementary schools, Human Resources Division, Laverne V. Collins, 395-3532.

Food and Drug Administration, Relationship of Exposure to Radiofrequency Energy and Selected Reproductive and Health Factors, single time, 4,200 phy. therap.-study members of another prof. soc. cont., Office of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development, Application for Federal Assistance; Community Development Program; Assurances. 7015, 7015.1, 7015.12, single time, 50 federally assisted new communities, Budget Review Division, 395-4775.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Detinners Recovery of Tin, 6-1118-A, annually, 14 domestic detinning plants, Office of Federal Statistical Policy and Standard, 673-7959.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare), Provider Billing for Patient Services by Physicians, HCFA-1554, on occasion, services by physicians, 6,400,000 responses, 800,000 hours, Richard Eisinger, 395-3214.

Center for Disease Control, Immunization Assistance Project Grants, 2-5, 10.32 A-C, other (see SF-83), Immuni. Proj. Dir's., State/local health departments, 3,720 responses, 651 hours, Budget Review Division, 395-4775.

Office of Education, Financial and Performance Report for Indochina Refugee Assistance Program, OE-443-1, single time, State education agency, 3,000 responses, 3,000 hours, Budget Review Division, 395-4775.

DEPARTMENT OF LABOR

Employment and Training Administration, Monthly Youth Program Status Report, ETA-11, other (see SF-83), State and local agencies, 2,475 responses, 1,237 hours, Strasser, A., 395-6132.

Employment and Training Administration, CETA Monthly PSE Report, ETA-8, monthly, State and local agencies, 9,460 responses, 3,153 hours, Strasser, A., 395-6132.

Bureau of Labor Statistics, Producer Price Indexes, by industry, BLS-1810, A through F, BLS-473P, on occasion, mfg. estab. in selected SIC's in mining and mfg., 500 responses, 250 hours, Office of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Lead, Secondary Smelter and Consumer Report, 6-1108-MA, monthly, consumer of lead, 3,195 responses, 1,598 hours, Office of Federal Statistical Policy and Standard, 673-7959.

Bureau of Mines, Nickel, 6-1106-MA, annually, nickel consumers, 2,780 responses, 1,390 hours, Office of Federal Statistical Policy and Standard, 673-7959.

Bureau of Mines, Zinc, 6-1150-A, annually, producers of zinc products, 29 responses, 156 hours, Office of Federal Statistical Policy and Standard, 673-7959.

EXTENSIONS

DEPARTMENT OF ENERGY

Solar Energy Manpower, single time, individuals and firms engaged in solar energy activities, Office of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation, Preliminary Inspection Report and Consent To Make Other Use of Insured Acreage, FCI-62, on occasion, 56,000 responses, 14,000 hours, Clearance Office, 395-3772.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, State Highway Expenditures, FR-532, annually, 52 responses, 2,080 hours, Strasser, A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management, Officer.

[FR Doc. 78-11815 Filed 4-28-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1459]

IDAHO

Declaration of Disaster Loan Area

Bonneville County and adjacent counties within the State of Idaho constitute a disaster area as a result of physical damage caused by a tornado and high winds which occurred April 7, 1978. Eligible persons, firms and organizations may file applications for physical damage until the close of business on June 22, 1978, and for economic injury until the close of business on January 22, 1979 at:

Small Business Administration, District Office, 1005 Main Street, Boise, Idaho 83702.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

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[8025-01]

[Declaration of Disaster Loan Area No. 1378; Amdt. No. 6]

TENNESSEE

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 54897), Amendment No. 1 (see 42 FR 64753), Amendment No. 2 (see 43 FR 3784) Amendment No. 3 (see 43 FR 4892) Amendment No. 4 (see 43 FR 10455), and Amendment No. 5, (see 43 FR 16584) are amended further by adding Cumberland County and adjacent counties within the State of Tennessee, due to drought which started on June 10 and continued through September 5, 1977. The termination date for filing applications for physical damage is the close of business on October 20, 1978, and for economic injury on the close of business on January 22, 1979, and applies only to Cumberland County and adjacent counties. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 21, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-11731 Filed 4-28-78; 8:45 am]

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. 78-15T]

IN THE MATTER OF TOLL BRIDGES OWNED BY THE DELAWARE RIVER PORT AUTHORITY

Appointment of Investigation Team

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: Notice of appointment of investigation team.

EFFECTIVE DATE: March 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald M. Tierney, Office of the Chief Counsel, 202-426-0346, Federal Highway Administration. Office hours are 7:45 a.m. to 4:15 p.m. e.t., Monday-Friday.

Discussion: On March 6, 1978, the Federal Highway Administrator, in response to complaints received concerning tolls charged on bridges owned by the Delaware River Port Authority, issued an order starting an investigation and appointing an investigation team. A copy of the order follows.

Issued on this 20th day of April 1978, in Washington, D.C.

(49 U.S.C. 526; 49 CFR Part 310.)

WILLIAM M. COX,
Federal Highway Administrator.

[Docket No. 78-15T]

ORDER APPOINTING AN INVESTIGATION TEAM

In the matter of bridges owned by the Delaware River Port Authority.

Complaints having been received about a recent toll increase on bridges owned by the Delaware River Port Authority, an investigation is hereby commenced. The investigation, which shall be performed in accordance with the bridge toll procedural rules, 49 CFR Part 310, is to be carried out by the following members of my staff: James J. Stapleton, Gerald M. Tierney, and Edward A. Gladstone. The investigation team shall send the complaints to the Delaware River Port Authority and commence the investigation immediately.

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc. 78-11757 Filed 4-28-78; 8:45 am]

National Highway Traffic Safety Administration

[Docket No. IP78-2; Notice 1]

GENERAL MOTORS CORP.

Receipt of Petition for Determination of Inconsequential Noncompliance

General Motors Corp. of Warren, Mich., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.208, Motor Vehicle Safety Standard No. 208, *Occupant Restraint Systems.* The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S7.3.1 of Standard No. 208 requires motor vehicles to contain a seat belt warning system part of which consists of a light "displaying the words 'Fasten Seat Belts' or 'Fasten Belts' • • • ." General Motors manufactured 196,118 "full size" 1977 model Pontiac passenger cars that displayed only the words "Seat Belt". Further, the word "Belt" appeared in the singular rather than the plural in the display "Fasten Seat Belt" in 77,549 Oldsmobile intermediate size cars for 1977 and in 71,714 intermediate sized Buick cars in the model years 1974 through 1977.

With respect to the first noncompliance, the petitioner argues that its omission of the word "Fasten" does not degrade the information transmitted to the vehicle occupants, and that the words "Seat Belt" by implication instruct the operator to fasten his belt. "There is no other reasonable interpretation that the driver could be expected to give to this message". As for its omission of the plural "s", petitioner notes that the initial NHTSA proposal was "Fasten seat belt" and that there was no explanation in the preamble of the final rule to explain the change from the singular to the plural, which, in GM's view, indicates "that in this instance, there is a distinction without a real difference."

Interest persons are invited to submit written data, views and arguments on the petition of General Motors Corporation described above. Comments should refer to the docket number and be submitted: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: June 15, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on April 26, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-11769 Filed 4-28-78; 8:45 am]

[4910-59]

[Docket No. IP77-6; Notice 2]

MACK TRUCKS, INC.

Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Mack Trucks, Inc. of Allentown, Pa. ("Mack" herein) to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment, on the basis that it is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on May 26, 1977 (42 FR 27082) and an opportunity afforded for comment. Standard No. 108 requires each motor vehicle to be equipped with an amber reflex reflector as far to the front of the vehicle as practicable. These reflectors must be mounted on the vehicle not less than 15 inches or more than 60 inches above the road surface. Mack has determined that the front reflex reflectors on approximately 260 DMM Model construction-type truck chassis, manufactured between December 1973 and February 1977, may exceed the 60-inch maximum by up to 5 inches. The company stated that construction type vehicles are normally used only in daylight hours, and when not in use, are parked on the owner's premises. It argued that the noncompliance is inconsequential because of the limited number of vehicles involved, and the general limitations on their use.

One comment was received on the petition, from Grove Manufacturing Co., which supported it. In Grove's opinion a construction vehicle such as the Mack DDM functions primarily in an off-road environment and when in motion on the public highways more than likely operates with the hazard warning lights engaged, thereby reducing the chances that another motor vehicle will run into it.

The National Highway Traffic Safety Administration concurs with the opinion that operation of the DDM series vehicles appears normally limited to daylight hours and primarily in offroad locations. The primary function of a reflex reflector is to reduce accidents by permitting early detection of a motor vehicle which is unlighted, and approaching an intersection or parked by the side of a road. Construction sites where the DDMs would be parked overnight are generally not accessible to the public. The vehicles are equipped with front reflex reflectors, and the agency considers it unlikely that the noncomplying mounting height poses any consequential effect upon motor vehicle safety.

Accordingly petitioner has met its burden of persuasion and it has been determined that the noncompliance is inconsequential as it relates to motor vehicle safety. The petition by Mack Trucks is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417) delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on April 26, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-11768 Filed 4-28-78; 8:45 am]

[4810-24]

TREASURY DEPARTMENT

Office of Foreign Assets Control

IMPORTATION FROM THE PHILIPPINES OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL MILL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

Availability of Special Certificates for Imports from The Republic of the Philippines

Special certificates of origin issued by the Bureau of Customs of the Government of the Republic of the Philippines are available as of April 1, 1978 for imports from that country of ferrochromium and chromium-bearing steel mill products. The certificates will be issued pursuant to a formal certification agreement between the Government of the Republic of the Philippines and the Government of the United States. They will serve to establish that Philippine materials exported to the United States do not contain any chromium of Rhodesian origin. Materials imported after April 1, 1978 may only be imported if a special certificate or origin is presented to Customs at the time of entry.

Importers are reminded that a special certificate must be procured and filed with Customs on or before May 31, 1978 to complete liquidation of entries covering certifiable materials imported between July 18, 1977 and September 18, 1977.

Dated: April 26, 1978.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:

RICHARD J. DAVIS,
Assistant Secretary.

[FR Doc. 78-11694 Filed 4-28-78; 8:45 am]

[4810-22]

Office of the Secretary

VISCOSE RAYON STAPLE FIBER FROM BELGIUM

Antidumping; Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that viscose rayon staple fiber from Belgium is being sold at less than fair value within the meaning of the Antidumping Act, 1921. Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise was previously suspended for six months. Interested parties were invited to comment on that action. The case is being referred to the International Trade Commission for a determination of possible injury to a United States industry.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, Office of Operations, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On June 17, 1977, information was received in proper from pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc., Valley Forge, Pa. alleging that viscose rayon staple fiber from belgium is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921 as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). An "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37610-11). The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. A "Withholding of Appraisement" notice was published in the FEDERAL REGISTER of January 23, 1978, (43 FR 3233) for a 6-month period.

The merchandise covered by this determination is "viscose rayon staple fiber, except solution dyed, in non-continuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments)."

DETERMINATION OF SALES AT LESS THAN FAIR VALUE:

On the basis of the information developed in the Customs investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that the purchase price of viscose rayon staple fiber from Belgium is less than the fair value, and thereby the foreign market value, of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED:

a. *Scope of investigation.* It has been determined 100 percent of imports of the subject merchandise from Belgium were sold for export to the United States by S.A. Fabelta N.V. (Fabelta). The investigation was therefore limited to sales by Fabelta.

b. *Basis of comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the

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proper basis of comparison has been determined to be between purchase price and home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162) was used since all export sales by Fabelta were made to a non-related importer in the United States. Home market price, as defined in §153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis for comparison.

In accordance with §153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States and in the home market during the period February 1, through July 31, 1977.

c. *Purchase price.* For the purpose of this determination of sales at less than fair market value, purchase price has been calculated on the basis of the f.o.b. Antwerp price to the United States importer, adjusted for inland freight and loading costs.

d. *Home market price.* For purposes of this determination, the home market price has been calculated on the basis of the ex-factory price to an unrelated Belgian dealer who operates at the same level of trade as the U.S. importer. Purchases of the subject merchandise by the dealer constituted 19 percent of total home market sales by Fabelta in the investigatory period, and were determined to be an adequate basis for fair value comparisons.

Adjustments have been made for discounts granted on home market sales, differences in the merchandise sold to the United States and in the home market and differences in credit costs in the two markets. Claims for adjustments for expenditures on insurance and technical assistance in the home market have been rejected because it does not appear that these costs were incurred on the specific sales under investigation.

A claim was made by the petitioner that a discount in the home market should be disallowed since it was based in part upon "customer loyalty". It is Treasury policy to adjust for discounts granted on either home market sales or export sales to the United States if it is verified that such discounts were in fact granted in the alleged amounts. Having found that this discount was granted on the home market sales used for fair value comparisons, the claim made by petitioner has been rejected and an adjustment to home market price granted for this discount.

Following publication of the Tentative Determination in this case an additional claim was made that Fabelta's home market sales had been made at less than the cost of producing the merchandise, invoking section 205(b) of the Act (19 U.S.C. 164(b)). This allegation is currently being investigated. Should this investigation establish that some or all home market sales must be disregarded and that another basis (i.e., third country sales prices or constructed value) for determining fair value must be used, the new basis will be published and we will immediately advise the U.S. International Trade Commission of any revised LTFV margins for its consideration.

e. *Results of fair value comparisons.* Using the above criteria, comparisons were made on 100 percent of the sales of the subject merchandise to the United States during the period of investigation. Those comparisons indicated that the purchase price of viscose rayon staple fiber was less than the home market price of such or similar merchandise. A margin of 6.7 percent was found on all sales compared.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.46, Customs Regulations (19 CFR 153.46).

The U.S. International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

APRIL 24, 1978.

[FR Doc. 78-11725 Filed 4-28-78; 8:45 am]

[4810-40]

[Dept. Circular, Public Debt Series—No. 10-78]

TREASURY NOTES OF MAY 15, 1988

Series A-1988

APRIL 27, 1978.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Tresury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,500,000,000 of United States securities, designated Treasury Notes of May 15, 1988, Series A-1988 (CUSIP No. 912827 HS 4). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated May 15, 1978, and will bear interest from that date, payable on a semiannual basis on November 15, 1978, and each subsequent 6 months on May 15 and November 15, until the principal becomes payable. They will mature May 15, 1988, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 2, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 1, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make

any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a one-eight of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, May 15, 1978, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Wednesday, May 10, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Tuesday, May 9, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are au-

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thorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Acting Fiscal
Assistant Secretary.

[FR Doc. 78-11972 Filed 4-28-78; 8:45 am]

[4810-40]

[Dept. Circular Public Debt Series—No. 11-78]

8¾ PERCENT TREASURY BONDS OF 1995-2000

APRIL 27, 1978.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $1,500,000,000 of United States securities, designated 8¾ percent Treasury Bonds of 1995-2000 (CUSIP No. 912810 BV 9). The securities will be sold at auction, with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks, as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities offered will be identical to the 8¾ percent Treasury Bonds of 1995-2000 (CUSIP No. 912810 BV 9) issued under Department of the Treasury Circular, Public Debt Series—No. 25-75, dated July 24, 1975, except that interest will accrue from May 15, 1978, and payment for the securities will be calculated on the basis of the auction price determined in accordance with this circular, plus accrued interest from February 15, 1978. With this exception, the securities are as described in the following excerpt from the above circular:

"1. The bonds will be dated August 15, 1975, and will bear interest[1] from that date, payable semiannually on February 15 and August 15 in each year until the principal amount becomes payable. They will mature August 15, 2000, but may be redeemed at the option of the United States on and after August 15, 1995, in whole or in part, at par and accrued interest on any interest day or days, on 4 months' notice of redemption give in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption, the bonds to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

"2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

"3. The bonds will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

"4. Bearer bonds with interest coupons attached and bonds registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-entry bonds will be available to eligible bidders in multiples of those amounts. Interchanges of bonds of different denominations and of coupon and registered bonds, and the transfer of registered bonds will be permitted.

"5. The bonds will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States bonds."

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, May 3, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 2, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 94.50 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the highest prices, through successively lower prices to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. Those submitting noncompetitive tenders will pay the weighted average price in two decimals of accepted competitive tenders. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

[1] On July 31, 1975, the Secretary of the Treasury announced that the interest rate on the bonds would be 8¾ percent per annum.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, May 15, 1978, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from February 15 to May 15, 1978, in the amount of $20.59047 per $1,000 of securities allotted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Wednesday, May 10, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Tuesday, May 9, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Acting Fiscal
Assistant Secretary.

[FR Doc. 78-11973 Filed 4-28-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 648]

ASSIGNMENT OF HEARINGS

APRIL 26, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139269 Sub 12, C.P. Craska, Inc., now assigned May 22, 1978 at New York, N.Y., will be held in Room F-2220, Federal Building, 26 Federal Plaza.

MC 141820 Sub 1, Roman Rurak, now assigned May 24, 1978 at New York, N.Y., will be held in Room F-2220, Federal Building, 26 Federal Plaza.

MC 56678 (Sub-No. 90), Brown Transport Corp., now assigned May 2, 1978, at Atlanta, Ga. and continued to June 20, 1978, at Chattanooga, Tenn. is postponed to June 20, 1978 (9 days), at the Holiday Inn-Downtown, I-124, 401 West 9th Street, Chatanooga, Tenn. and continued to September 26, 1978 (9 days), at the Holiday Inn-Downtown, 175 Piedmont Avenue NE., Atlanta, Ga.

MC 142059 Sub 13, Cardinal Transport, Inc., is now assigned for hearing June 28, 1978 (1 day) at St. Louis, Mo., at a location to be later designated.

MC 140768 Sub 13, American Trans-Freight, Inc., is now assigned for hearing June 1, 1978 at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 114273 Sub 309, CRST, Inc., is now assigned for hearing June 1, 1978 at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 109638 Sub 32, Everette Truck Line, Inc., is now assigned for hearing June 6, 1978 at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 143945 Sub 3, Artransport, Inc., is now assigned for hearing June 26, 1978 at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 124887 Sub 45, Shelton Trucking Service, Inc., now assigned May 2, 1978 at Atlanta, Ga., is cancelled, application dismissed.

MC 111231 Sub 214, Jones Truck Lines, Inc. now assigned May 9, 1978 at Little Rock, Ark., is postponed indefinitely.

MC 126574 Sub 3, M.L. Hatcher Pickup & Delivery Services, Inc., now being assigned July 11, 1978 (3 das) in Raleigh, N.C. in a hearing room to be later designated.

MC-F-13300, Stevens Van Lines, Inc.—Control and Merger—Airline Van, Inc. and MC 74681 Sub 6 and Sub 7, Stevens Van Lines, Inc., now assigned May 9, 1978 at Detroit, Mich., in the 13th Courtroom, Second Floor, Old Federal Building and

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U.S. Courthouse, 231 West Liberty, is transferred to Room 1057, Old Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard in Detroit, Mich.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-11781 Filed 4-28-78; 8:45 am]

[7035-01]

[No. 36819; Ex Parte No. 343]

COLORADO INTRASTATE RATES

By joint petition filed January 26, 1978, petitioners, 10 common carriers by railroad[1] subject to Part I of the Interstate Commerce Act (Act) and also operating in intrastate commerce in Colorado, request that this Commission institute an investigation of their Colorado intrastate freight rates and charges, under section 13 of the Act. They seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 343 effective November 30, 1977. Petitioners have stated grounds sufficient to warrant instituting an investigation.

It is ordered: The petition is granted. An investigation, under section 13 of the Act, is instituted to determine whether the Colorado state rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate of foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 343. The investigation shall also determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All common carriers by railroad operating in Colorado subject to the jurisdiction of the Commission are made respondents in this proceeding.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20432, on or before May 16, 1978. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this order shall be served upon each of the petitioners and respondents herein. Colorado shall be notified of the proceeding by sending copies of this order by certified mail to the Governor of Colorado, and the Public Utilities Commission of the State of Colorado. Further notice of this proceeding shall be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the FEDERAL REGISTER, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 20th day of April, 1978.

By the Commission, Robert J. Brooks, Director, Office of Proceedings.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-11783 Filed 4-28-78; 8:45 am]

[7035-01]

[Notice No. 34]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before May 31, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protests contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77550, filed April 17, 1978. Transferee: BRUCE D. KING, d.b.a. BRUCE KING TRUCKING, 202 Cliff Street, Mohawk, MI 49950. Transferor: Alphie J. Bousley, Inc. Route 3, Armstrong Creek, WI 54103. Applicant's representative: Robert W. Hansley, 120 North 6th Street, Escanaba, MI 49829. Authority sought for purchase of a portion of the operating rights of transferor as set forth in Permit No. MC-139930 issued October 31, 1975: Unfinished lumber from Mohawk, MI to points in IL, MI, MN, and WI for the account of Louisiana-Pacific Seaway Division. Transferee presently is authorized to operate as a common carrier in MC-138892 (Sub-No. 2); temporary authority is not sought under section 210a(b).

No. MC-FC-77584, filed April 26, 1978. Transferee: LARMER TRANSFER CO., a corporation, P.O. Box 706, Eugene, OR 97401. Transferor: Williams Transfer Co., a corporation, Eugene, OR 97401. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Authority sought for purchase of the operating rights set forth in Certificate No. MC-7156 (Sub-No. 3) issued December 6, 1967 as follows: *Lumber* from points in Lane County, OR to Portland, OR and points in Clarke and Cowlitz Counties, WA. Transferee holds Commission authority in Certificate No. MC-77051; it does not seek section 210a(b) authority.

No. MC-FC-77601, filed March 30, 1978. Transferee: MARGARET C. NIEHAUS, 2659 North Mascher St., Philadelphia, PA 19133. Transferor: Harry B. Niehaus, Jr., (Margaret C. Niehaus, Executrix), 2659 North Mascher St., Philadelphia, PA 19133. Applicant's representative: Margaret C. Niehaus, 2659 North Mascher St., Philadelphia, PA 19133. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-693, issued May 20, 1941, as follows: *Machinery* and *tramrails* and *materials and supplies* used or useful in the erection of tramrails, between Philadelphia, PA, on the one hand, and, on the other, New York, NY, Wilmington and Worth, DE and points in NJ. *Metal sponges,* between Philadelphia, PA, on the one hand, and, on the other, New York, NY, and Atlantic City, NJ. *Rugs,* between Philadelphia, PA, and New York, NY. *Tanning materials,* between Wilmington, DE, Newark, NJ, New York, NY, and Philadelphia, PA. *Water softeners, filters* and *purifiers,* and *materials* and *supplies,* used or useful in the erection of these commodities, between Philadelphia, PA, New York, NY, Wilmington, DE, and points in NJ. *Refrigerators* and *refrigerated showcases,* from Philadelphia, PA, to Atlantic City, NJ, and Wilmington, DE, transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77617 filed April 7, 1978. Transferee: RICHARD A. JONES, d.b.a. JONES TRUCK LINE, 717 North 13th Street, Fort Dodge, IA 50501.Transferor: Wenger Truck Line, Inc., 3909 West rusholme, P.O. Box 3427, Davenport, IA 52808. Applicants' representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 109818, issued May 15, 1964, as follows: *Malt beverages,* from Milwaukee, WI to Algona, IA; *Empty malt beverage containers,* from Algona, IA to Milwaukee, WI; *Beer,* from Milwaukee, WI to Fort Dodge, IA; and *Empty beer containers,* from Fort Dodge, IA to Milwaukee, WI. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77622 filed April 9, 1978. Transferee: J. P. NOONAN TRANSPORTATION, INC., 436 West Street, West Bridgewater, MA 02379. Transferor: Northern Trucking Co., 29 Andover Street, Danvers, MA 01923. Applicants' representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC 27474, issued May 13, 1946, as follows: *Petroleum products,* over irregular routes, from Providence, RI, and Revere and Chelsea, MA, to points in MA. Transferee is presently authorized to operate as a contract carrier under Permit No. MC-134677 and as a common carrier under Certificate No. MC-127610. Dual operations are involved. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77631 filed April 18, 1978. Transferee: ROBERT DAVIS, Pleasant Mount, PA 18453. Transferor: Edmund R. Owens, Uniondale, PA 18470. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought for purchase by transferee of the operating rights set forth in Permits No. MC 113408 and MC 113408 (Sub-No. 1) issued February 4, 1953 and November 25, 1958, as follows: *Livestock and poultry feed* over a specified regular route from Binghamton, NY to Pleasant Mount and Lakewood, PA. Transferee holds no Commission authority and does not seek Section 210a(b) temporary authority.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-11782 Filed 4-28-78; 8:45 am]

[7035-01]

[Finance Docket No. 28731]

STANLEY E. HILLMAN, TRUSTEE OF THE PROPERTY OF CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

Trackage Rights Over Chicago & North Western Transportation Co. Between Cliff and Mankato, MN

Stanley E. G. Hillman, trustee of the property of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (Milwaukee Road), represented by Thomas H. Ploss, Rodger K. Johnson, William C. Sippel, and William L. Phillips, 516 West Jackson Boulevard, Chicago, IL 60605, has filed an application with the Interstate Commerce Commission for authorization to acquire trackage rights to operate its engines and trains over the tracks of the Chicago & North Western Transportation Co. (CNW) between Cliff (near St. Paul) and Mankato, MN.

The tracks of the CNW over which applicant proposes to operate extend from milepost No. 4.2 at Cliff, MN (near St. Paul) in a southwesterly direction to milepost No. 85.8 at Mankato, MN, for a distance of 81.6 miles. That line of trackage passes through Dakota, Scott, Le Sueur, and Blue Earth Counties, in the State of MN, and through the towns of Cliff, Mendota, Nicols, Savage, Shakopee, Jordan, Blakeley, Le Sueur, Ottawa, Kasota, Benning, and Mankato, in the State of MN.

The trackage rights arrangement with CNW is part of a plan of the Milwaukee Road to abandon branch lines

[1] The Atchison, Topeka & Santa Fe Railway Co., Burlington Northern, Inc., Chicago, Rock Island & Pacific Railroad Co., The Colorado & Southern Railway Co., The Colorado & Wyoming Railway Co., The Denver & Rio Grande Western Railroad Co., Missouri Pacific Railroad Co., San Luis Central Railroad Co., Southern San Luis Valley Railroad Co., and Union Pacific Railroad Co.

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between Farmington and Benning, MN (Docket No. AB-7, (Sub-No. 56), and between Farmington and Shakopee, MN (Docket No. AB-7) (Sub-No. 57), and to operate over tracks which will permit service at faster speeds, and carrying heavier loads.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28731, and the original and two copies shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to participate formally in a proceeding but who desire to comment on it, may file such statements and information as they may desire, subject to the filing and service requirements specified in this notice. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-11951 Filed 4-28-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

BUSINESS DEVELOPMENT PROGRAM

Applications for Assistance Under the Economic Development Administration (EDA) Special Program to Guarantee Loans to Firms in the Basic Steel Industry

Notice is hereby given that the following applications for assistance under the EDA special program to guarantee loans to firms in the basic steel industry have been received by EDA:

Firm	Amount	Percent guaranteed	Products
Korf Industries, Inc., Charlotte, N.C	$21,250,000	90	Wire rod
Midvale Co., Philadelphia, Pa	61,000,000	90	Open die forgings

Dated: APRIL 27, 1978.

ROBERT T. HALL,
Assistant Secretary
for Economic Development.

[FR Doc. 78-11847 Filed 4-28-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6740-02]

APRIL 26, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., May 3, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

GAS AGENDA—88TH MEETING, MAY 3, 1978, REGULAR MEETING, 10 a.m.

I. PIPELINE RATE MATTERS

A. Pipeline rates

RP-1.—Docket Nos. RP72-127 and R. & D. 75-1, Northern Natural Gas Co.
RP-2.—Docket Nos. RP78-39 and RP78-40, Panhandle Eastern Pipe Line Co.
RP-3.—Docket No. RP77-31, Southern Natural Gas Co.

II. PRODUCER MATTERS

A. Producer certificates

CI-1.—Docket No. CI77-702, Pennzoil Louisiana & Texas Offshore Co., Inc. Docket No. CI77-703, Pennzoil Offshore Gas Operators, Inc. Docket No. CI78-96, Pennzoil Oil & Gas, Inc.
CI-2.—Reserved.
CI-3.—Reserved.

B. Producer rates

CI-4.—Docket No. AR64-2, et al., Area Rate Proceeding, et al. (Texas Gulf Coast area). Docket No. AR67-1, et al., Area Rate Proceeding, et al. (other southwest area). Docket No. AR61-2, et al., and AR69-1, et al., Area Rate Proceeding, et al., (southern Louisiana area).

III. PIPELINE CERTIFICATE MATTERS

A. Pipeline certificates

CP-1.—Docket No. CP78-1, Sea Robin Pipeline Co., Transcontinental Gas Pipe Line Corp.
CP-2.—Docket Nos. CP75-580, Sea Robin Pipeline Co.
CP-3.—Docket Nos. CP75-372 and CP75-373, Tennessee Gas Pipe Line Co., a division of Tenneco, Inc.
CP-4.—Docket Nos. CP78-123, et al., Northwest Alaskan Pipeline Co.
CP-5.—Reserved.
CP-6.—Reserved.

B. Storage.

CP-7.—Docket No. CP76-499, Natural Gas Pipeline Co. of America.
CP-8.—Reserved.
CP-9.—Reserved.

C.—LNG.

CP-10—(A) Transfer of proceedings to the Secretary of Energy and the Federal Energy Regulatory Commission. (B) Docket Nos. CP75-140, et al., Pacific Alaska LNG Co., et al. Docket Nos. CP74-160, et al., Pacific Indonesia LNG Co., et al. Docket Nos. CI78-453, Pacific Lighting Gas Development. Docket Nos. CI78-452, Pacific Simpco Partnership.
CP-11.—Docket No. CP66-43, Texas Eastern Transmission Corp.
CP-12.—Docket No. CP77-448, NPG-LNG, Inc. Docket No. CP77-449, Natural Gas Pipeline Co. of America.
CP-13.—Docket No. CP76, Tenneco LNG, Inc.

IV. OIL PIPELINE MATTERS

OR-1.—Docket No. OR78-1, Trans Alaska Pipeline System: Investigation and suspension.

GAS AGENDA—88TH MEETING, MAY 3, 1978, REGULAR MEETING

CAG-1.—Docket Nos. AR61-2, AR69-1, et al., RP67-23, RP71-6, et al., G-1980, et al., and RP73-114, Tennessee Gas Pipeline Co.
CAG-2.—Docket Nos. AR61-2, AR69-1, et al., and RP74-41, Texas Eastern Transmission Corp.
CAG-3.—Docket Nos. AR61-2, AR69-1, et al., and RP73-35, Trunkline Gas Co.
CAG-4.—Docket No. RP77-32, South Georgia Natural Gas Co.
CAG-5.—Docket No CP77-193, Northern Natural Gas Co.
CAG-6.—Docket Nos. C162-1184, Atlantic Richfield Co. (operator), et al.
CAG-7.—Docket Nos. CI77-851, et al., Alminex U.S.A., Inc. et al.
CAG-8.—Docket No. CI77-839, Forest Oil Corp. Docket No. CI77-850, Columbia Gas Development Corp.
CAG-9.—Docket No. CP77-525, United Gas Pipe Line Co. Docket No. CP77-529, Delhi Gas Pipeline Corp.
CAG-10.—Docket No. CP78-76, Transcontinental Gas Pipe Line Corp.
CAG-11.—Docket No. CP78-104, Natural Gas Pipeline Co. of America.
CAG-12.—Docket No. CP78-217, Tennessee Gas Pipeline Co., a division of Tenneco Inc.
CAG-13.—Docket No. CP76-500, Cities Service Gas Co.
CAG-14.—Docket No. CP78-129, Texas Eastern Transmission Corp. Docket No. CP78-141, Consolidated Gas Supply Corp. Docket No. CP78-158, Columbia Gas Transmission Corp.

MISCELLANEOUS AGENDA—88TH MEETING, MAY 3, 1978, REGULAR MEETING

M-1.—Docket No. RM78- , risk distribution and profit policy for the Alaska Natural Gas Transportation System, including variable rate of return and risk premiums.
M-2.—Docket No. RM76-13, the need for site selection and facility operation criteria for liquefied natural gas importation and storage facilities.
M-3.—Docket No. RM78- , amendments to regulations under the Government in the Sunshine Act.

POWER AGENDA—88TH MEETING, MAY 3, 1978, REGULAR MEETING

I. ELECTRIC RATE MATTERS

ER-1.—Docket No. ER78-220, Central Hudson Gas & Electric Corp.
ER-2.—Docket No. ER78-291, Northern States Power Co. (Minnesota).
ER-3.—Docket No. ER76-716, Indiana & Michigan Electric Co.
ER-4.—Docket Nos. E-8586 and E-8587, Public Service Co. of Indiana, Inc.

II. LICENSED PROJECT MATTERS

P-1.—Project No. 553, City of Seattle, Wash.
P-2.—Project No. 176, Escondido Mutual Water Co.
P-3.—Project No. 372, Southern California Edison Co.

POWER AGENDA—88TH MEETING, MAY 3, 1978, REGULAR MEETING

CAP-1.—Docket No. ER78-154, Wisconsin Power & Light Co.
CAP-2.—Docket No. ER78-286, New Bedford Gas & Electric Light Co.
CAP-3.—Docket No. ER77-211, Mt. Carmel Public Utility District.
CAP-4.—State Director, Bureau of Land Management (2320) (943) (1785), Cheyenne, Wyo.
CAP-5.—Project No. 2716, Virginia Electric & Power Co.
CAP-6.—Project No. 2207, Mosinee Paper Corp.
CAP-7.—Project No. 2336, Georgia Power Co.
CAP-8.—Docket No. ER78-249, Appalachian Power Co., Ohio Power Company, and Wheeling Electric Co.

KENNETH F. PLUMB,
Secretary.

[S-898-78 Filed 4-27-78; 9:06 am]

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[6720-01]

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FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., May 5, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Marshall, 202-377-6679.

MATTERS TO BE CONSIDERED:

Consideration of proposed amendments regarding maturities of certificate accounts.
Application for permission to organize a Federal association—E. L. Kittrell Smith, et al., Fort Oglethorpe, Ga.
Consideration of request to permit a commercial bank to operate ATM's located on the outside wall of a Federal association office—Hudson Valley Federal Savings & Loan Association, Kingston, N.Y.
Branch office application—Home Federal Savings & Loan Association of Lakewood, Lakewood, Ohio.
Branch office applications to be considered concurrently: (1) First Federal Savings & Loan Association of Chickasha, Chickasha, Okla. (2) Frontier Federal Savings & Loan Association, Ponca City, Okla.
Agency office application—Home Federal Savings & Loan Association of San Diego, San Diego, Calif.
Request for commitment for insurance of accounts—Farmington Valley Savings & Loan Association, Farmington, Conn.
Applications to be considered concurrently: (1) Branch office application—Clearwater Federal Savings & Loan Association, Clearwater, Fla. (2) Satellite office application—First Federal Savings & Loan Association of Tarpon Springs, Tarpon Springs, Fla.
Consideration of proposed amendments relating to State housing corporations.
No. 148, April 27, 1978.

[S-901-78 Filed 4-27-78; 3:32 pm]

[7020-02]

3

[USITC SE-78-21]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 11, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): (a) Stainless steel pipe and tube (docket No. 509).
5. Pre-hearing briefing on copper (Inv. TA-201-32).
6. Equal Employment Opportunity (EEO) status report.
7. FOIA appeal from Mr. John Heise, Jr., regarding request No. 78-16.
8. FOIA appeal from Mr. Michael Sandler regarding request No. 78-11.
9. Motions M-307 and M-308 to change the schedule in Investigation 332-99 (Conversion of Specific and Compound Rates of Duty to Ad Valorem Rates).
10. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-900-78 Filed 4-27-78; 3:32 pm]

[4910-58]

4

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 17628, April 25, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Thursday, April 27, 1978, 9:30 a.m. (NM-78-19).

CHANGE IN THE MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: Open.

1. *Marine Accident Report.*—M/T *Elics* Explosion and fire at the Atlantic Richfield Co., Fort Mifflin Terminal, Delaware River, Pa., April 9, 1974.
2. *Discussion.*—Fiscal year 1970-1980 authorization revisions to provide for increase in highway programs.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-899-78 Filed 4-27-78; 3:32 pm]

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MONDAY, MAY 1, 1978
PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Policy Determinations

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[4110-12]

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Office of the Secretary

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Policy Determinations

INTRODUCTION

The Office for Civil Rights will hereafter publish all major policy determinations in the FEDERAL REGISTER and systematically provide copies to organizations representing beneficiaries and recipients of Federal financial assistance.

Policy determinations will fall into one of three categories:

1. *Policy Interpretations* will clarify and explain regulatory provisions.

2. *Procedural Announcements* will outline the specific procedures recipients must follow to comply with regulatory provisions or the procedures this office will follow to obtain compliance.

3. *Decision Announcements* will illustrate how this office has applied regulatory provisions to specific fact patterns developed through investigations.

Following are the first five policy determinations issued in accordance with this procedure. Three relate to Title IX of the Education Amendments of 1972 which prohibits discrimination on the basis of sex; two relate to Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of handicap.

Dated: April 26, 1978.

DAVID S. TATEL,
Director,
Office for Civil Rights.

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Coverage: The following two policy interpretations apply to any public or private institution, person or other entity that operates an educational program or activity which receives or benefits from financial assistance authorized or extended under a law administered by the Department. This coverage includes educational institutions whose students participate in HEW funded or guaranteed student loan or assistance programs. For further information see definition of "recipient" in Section 86.2 of the Title IX regulation.

POLICY INTERPRETATION NO. 1

Subject: Requests for applicants' "marital status."

Policy Interpretation: Recipients may not ask prospective students or employees for their marital status including their maiden or former married name. However, applicants may be asked to state any names by which they may have been identified in relevant academic or employment records.

Discussion: the Title IX regulation prohibits discrimination on the basis of marital status and expressly prohibits inquiry into the marital status of prospective students and employees, including whether they are "Miss" or "Mrs." Recipients have asked whether requests for an applicant's "former married name" or "maiden name" would violate the regulation. The Department finds such requests indistinguishable from a request that an applicant state whether she is "Miss" or "Mrs."

The Department acknowledges that relevant employment or academic information may be filed under an applicant's former names. For the purpose of locating such relevant information all applicants, regardless of sex, may be asked to state other names under which such information can be found; but if the question is asked of persons of one sex it must be asked of persons of both sexes. This policy effectively reconciles the legitimate need to locate information about an applicant with the Title IX regulation's prohibition against discrimination on the basis of marital status.

Application forms must accommodate this policy. For example, the application form may include the following request: "If information necessary to process this application is located under a different name, please include such name(s) in the space provided."

Current supplies of forms which ask for maiden name or former married names may be exhausted if questions which would directly or indirectly reveal marital status are deleted or modified to conform to this policy interpretation.

Authority: Regulation issued under Title IX of the Education Amendments of 1972, 45 CFR 86.21(c)(4) and 86.60(a).

Section 86.21(c)(4): (c) *Prohibitions relating to marital or parental status.* In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this subpart applies:

(4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs." • • •

Section 86.60(a): (a) *Marital status.* A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss or Mrs."

POLICY INTERPRETATION NO. 2

Subject: Religious objections to participation in coeducational classes.

Policy Interpretation: Students who demonstrate that their religion prohibits certain coeducational courses may be excused from such courses or offered them on a sex segregated basis.

Discussion: The Title IX regulation's requirement that recipients offer classes on a coeducational basis is subject to several exceptions. For example, students may be grouped by objective standards of ability within physical education classes, or separated by sex for those portions of physical education activities devoted to participation in contact sports, or for those portions of elementary and secondary school classes which deal exclusively with human sexuality. Students may also be separated on the basis of vocal range for participation in chorus.

Recipients have asked whether they may offer sex segregated classes for students who object to coeducational classes on religious grounds. Although the regulation does not expressly authorize such classes, recipients must accommodate religious beliefs protected by the First Amendment. Therefore, students who demonstrate that they belong to religions which prohibit certain activities on a coeducational basis (e.g. swimming) may, at the option of the recipient, either be excused from unitary classes or offered sex segregated classes.

Authority: First Amendment to the Constitution of the United States. Regulation issued under Title IX of the Education Amendments of 1972, 45 CFR 86.34.

Section 86.34: A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses • • •.

(b) This section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

(c) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball and other sports the purpose of major activity of which involves bodily contact.

(d) Where use of a single standard of measuring skill or progess in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards which do not have such effect.

(e) Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(f) Recipients may make requirements based on vocal range or quality which may result in a chorus or choruses of one or predominantly one sex.

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

DECISION ANNOUNCEMENT NO. 1

Subject: Facts constituting adequate proof of unlawful sex discrimination.

Discussion: The complainant was a female elementary school principal who alleged that her employment contract was limited to 1 year because of her sex.

The recipient, a public school district, employed twelve principals, eleven of whom were men with 2-year contracts. The length of a contract offered by the recipient was determined entirely by "performance evaluation," under which the complainant was superior to at least six of the men. (See Exhibit "A") The school district's only response to these disparities was an unsubstantiated general denial of sex discrimination.

Decision: Sex discrimination barred by Title IX, like other forms of unlawful discrimination, may be proved by unrebutted statistical analyses. The school district failed to offer an adequate explanation for the statistical disparities and a "letter of findings" in favor of the complainant was issued.

The school district was required to lengthen the complainant's contract to 2 years and assure future compliance with Title IX. There was no claim or proof of a lower salary resulting from the 1-year contract and, accordingly, no back pay was required.

EXHIBIT A.—*Evaluation of principals*

Sex	Name	Number of 11 individual traits rated scale 1-5			Job performance summary scale of 1-5	Leadership objectives evaluation scale 1-5	2 yr. contract	1 yr. contract
		Strong	Good	Satisfactory				
F	Complaint	6	5	0	5	4		X
M	Principal No. 2	5	6	0	5	4	X	
M	Principal No. 3	5	6	0	5	4	X	
M	Principal No. 4	7	4	0	5	4	X	
M	Principal No. 5	4	7	0	5	4	X	
M	Principal No. 6	11	0	0	5	4	X	
M	Principal No. 7	7	4	0	5	4	X	
M	Principal No. 8	5	6	0	5	4	X	
M	Principal No. 9	5	6	0	4-5	4-5	X	
M	Principal No. 10	3	7	1	4-5	3	X	
M	Principal No. 11	7	2	2	4-5	4	X	
M	Principal No. 12	(*)	(*)	(*)	(*)	5	X	

*Evaluation sheet noted that the job performance evaluation did not apply to the 1975-76 year.

SECTION 504 OF THE REHABILITATION ACT OF 1973

Coverage: The following two policy interpretations apply to any public or private institution, person, or other entity that receives or benefits from HEW financial assistance. For further information see definition of "recipient" at 45 CFR 84.3(f).

POLICY INTERPRETATION NO. 1

Subject: Discrimination that occurred before the effective date of the regulation.

Policy interpretation: The Office for Civil Rights will investigate complaints of alleged discrimination that occurred after September 26, 1973, the date section 504 became law, and prior to June 3, 1977, the date the section 504 regulation became effective, if those complaints charge violations of the statute which do not require for their resolution the interpretative language of the regulation.

Discussion: Section 504 of the Rehabilitation Act of 1973 became law on September 26, 1973. The implementing regulation became effective on June 3, 1977. It would therefore be unreasonable for the Department to investigate the pending complaints alleging violations of section 504 occurring between September 26, 1973 and June 3, 1977 unless a clear violation of the statute is at issue.

The question, to be answered on a case-by-case basis is whether the language of the statute provides notice that the challenged policy or practice is unlawful. For example, the exclusion of qualified handicapped students from a college or university or the prohibition of tape recorders in classrooms by students whose handicap impairs their ability to take notes, will be considered violations of section 504. Discrimination against a qualified applicant for employment will be considered a violation of section 504 if adjustments would not have been needed to accommodate the applicant's handicap. However, failure to provide auxiliary aids in colleges and universities or to reasonably accommodate the needs of handicapped applicants for employment will not be considered unlawful unless it occurs after June 3, 1977.

This policy interpretation has no affect on obligations established by the Federal Architectural Barriers Act which predates Section 504.

Authority: Section 504, Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794).

Section 504: No otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

POLICY INTERPRETATION NO. 2

Subject: Application of the 180-day limitations period to discrimination occurring before the effective date of the regulation.

Policy interpretation: The 180-day limitations period for complaints of discrimination will not be applied to acts of discrimination occurring prior to the effective date of the regulation.

Discussion: The regulation requires that complaints of discrimination be filed within 180 days of the unlawful act. This requirement was not imposed until the effective date of the regulation (June 3, 1977), and it will therefore not apply to complaints alleging discrimination that occurred before the effective date of the regulation but after the effective date of the statute (September 26, 1973). For these complaints, the 180-day limitations period will begin to run from June 3, 1977. Such complaints, however, will

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be investigated only if they allege clear violations of the statute. See Section 504 Policy Interpretation No. 1.

Authority: Regulation issued under Section 504 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964, 45 CFR 84.61 and 80.7(b).

Section 84.61: The procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§ 80.6-80.10 and Part 81 of this Title.

Section 80.7(b): (b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative filed with the responsible Department official or his designee a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official or his designee.

[FR Doc. 78-11742 Filed 4-28-78; 8:45 am]

Federal Register

MONDAY, MAY 1, 1978
PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF ENERGY

Federal Register

IMPROVING GOVERNMENT REGULATIONS

Proposals for Implementing Executive Order 12044

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[3128-01]

DEPARTMENT OF ENERGY

IMPROVING ENERGY REGULATIONS

Response to Executive Order No. 12044 Improving Government Regulations

AGENCY: Department of Energy.

ACTION: Request for public comment.

SUMMARY: The Department of Energy ("DOE") is issuing this notice to obtain comments on its proposals for implementing Executive Order No. 12044, Improving Government Regulations (43 FR 12661, March 24, 1978) ("the Executive Order"). The proposals include procedures for developing new regulations; analyzing their potential impacts; reforming existing, but outdated or excessively burdensome regulations; and increasing public participation in regulatory development.

DATE: Comments by June 30, 1978.

ADDRESS: Send comments to William A. Strauss, Director, Regulatory Programs Division, Office of Policy and Evaluation, Department of Energy, Room 4108, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461. 202-566-9919.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (DOE Reading Room), 1200 Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

Ed Vilade (DOE Media Relations), 1200 Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Joseph C. Vanzant (DOE Policy and Evaluation), 1200 Pennsylvania Avenue NW., Room 4121, Washington, D.C. 20461, 202-566-7438.

Thomas B. DePriest (DOE Office of General Counsel), 1200 Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Comments Requested.
III. Comment Procedure.

I. Background

In his first State of the Union message and in the Executive Order, the President indicated his desire to reduce the regulatory burdens imposed by the Federal Government on the American people. The Secretary of Energy supports this objective, especially as it will increase public participation in DOE regulatory decisionmaking.

Regulatory reform is particularly important to the Department of Energy. First, one of the reasons the Department of Energy was created was to address the sometimes overlapping or conflicting regulations of the many energy-concerned agencies which existed before 1977. Second, the National Energy Plan calls upon this Department to move away from binding and costly regulatory strategies, while moving toward nonregulatory means of achieving energy objectives. Third, many of the laws administered by DOE give the Department substantial discretion in developing regulatory policies; when those policies become outmoded or are found to be excessively burdensome, changes can frequently be made without new legislation. Fourth, the energy legislation now pending before Congress may require this Department to develop many regulations which will directly and significantly affect the public (especially in the conservation area). Fifth, the Nation's long-term energy needs may not be met unless the public participates more actively in energy policymaking; increased conservation and development of renewable energy resources are important goals of the National Energy Plan, and they both require a substantial dialogue between this Department and the public.

For these reasons, the Department of Energy's proposals for improving regulations go well beyond the minimum requirements of the President's Executive Order.

II. Comments Requested

The DOE invites written comments on its proposals to implement Section II of the Executive Order. The complete proposal to reform the process for developing significant regulations is described in Section V of the appendix to this notice. The proposed procedures can be summarized as follows:

1. A proposed regulation will be considered significant if it may substantially affect important policy concerns (e.g., long-term energy supplies, the economy, or the environment), if it is expected to be a matter of major concern to the President, Congress, or the public, or if it would require substantial DOE resources to develop and enforce it.

2. If an Assistant Secretary, Office Director, or Administrator considers a proposed regulation to be significant, that regulation will be developed by a working group representing various DOE staffs, reviewed by the Deputy Secretary or Under Secretary, approved for final publication through a special clearance process, and published for comment for a minimum of 60 days. In addition, a plan will be developed for the subsequent evaluation of the impacts of the regulation.

3. The office developing the regulation and other working group members will work with the Office of Intergovernmental and Institutional Relations to develop means for including the public throughout the regulatory development process.

4. If public hearings are held, panels will be chaired by the office developing the regulation and will include the other members of the working group. When the period for public comment is completed, the office developing the regulation will summarize and, in coordination with the other working group members, analyze the public comment and revise the regulation accordingly.

5. Before a significant regulation is published in final form, it must be reviewed and approved by the Deputy Secretary or Under Secretary. The Office of Policy and Evaluation, Office of the General Counsel, and Energy Information Administration will assist in this review to ensure that the regulation is:

(a) Consistent with DOE policy and the goals of the National Energy Plan;
(b) Not unnecessarily burdensome;
(c) Preferable to other policy alternatives (especially nonregulatory alternatives) which might achieve the same objectives;
(d) Carefully drafted, legally sufficient, and enforceable; and
(e) Understandable; and
(f) Responsive to public comment.

6. Regulations not considered "significant" will be developed through other procedures, and will be published with a statement explaining why they are not "significant."

7. The Department will publish a semiannual agenda of regulations approved for development. This agenda will list the name and telephone number of the DOE point of contact for each regulation, and will be personally approved by the Secretary.

The DOE also invites written comments on its proposals to implement Section III of the Executive Order. The complete proposal to establish a systematic regulatory analysis scheme is described in Section VI of the appendix to this notice. The proposed procedures can be summarized as follows:

1. A significant regulation will be considered to have a major impact, thereby requiring analysis,

(a) If it is likely to have a substantial effect on any of the goals of the National Energy Plan;

(b) If it is likely to impose gross economic costs of $100 million per year, or cause a major increase in costs or prices for individual industries, levels of government, geographic regions, or demographic groups; or

(c) If the Secretary, Deputy Secretary, or Under Secretary considers a regulation to have a major impact for any other reason.

2. The office developing the regulation, in cooperation with the working group, will determine whether it has a major impact.

3. The office developing the regulation will be responsible for preparing a draft regulatory analysis, which will describe

(a) The mandate for government action and policy problem to be addressed;

(b) The policy objectives and their relationship to the goals of the National Energy Plan;

(c) Alternative means of achieving those objectives, analyzed in terms of their respective costs and benefits; and

(d) The preferred alternative, with an explanation of the reasons for selecting it.

4. The regulatory analysis will include a summary, which will be published in the Federal Register along with the draft of final regulation. The supporting documentation will also be made available to the public.

5. The public will be invited to comment on the findings of the regulatory analysis.

6. If a significant regulation is found not to have a major impact, the reasons justifying this decision will be published in the Federal Register.

To implement Section IV of the Executive Order and to review existing regulations, the DOE created a Regulatory Reform Task Force, chaired by the Deputy Secretary, and consisting of each Assistant Secretary, Administrator, and Office Director. This Task Force reviewed DOE's regulatory programs in search of reform initiatives which would accomplish the following objectives:

(1) Ensure that regulations are the best alternative means of achieving energy goals;

(2) Identify regulations which are conflicting, unnecessary, or otherwise contrary to DOE policy;

(3) Make regulatory reporting and compliance requirements less burdensome, without impairing the enforceability of regulations;

(4) Simplify the language of regulations, enabling nonlawyers to understand their purpose and effect;

(5) Minimize the burden on industry and the public caused by the need to collect energy data; and

(6) Enhance public participation and intra-agency and inter-agency cooperation in the development of regulations.

The 15 regulatory reform initiatives include regulations which will be amended or abolished and other internal reforms which will improve the regulatory development process. These initiatives should be substantially completed by the end of 1978 fiscal year and are just the start of what the Department of Energy expects will be a sustained effort to update, amend, or abolish regulations which are identified by sources inside or outside the Department as needing reform. By September 30, 1978, the Regulatory Reform Task Force will have identified a new reform agenda for the 1979 fiscal year.

The DOE invites comments regarding the 15 items on the Task Force's agenda. (Any proposed regulatory amendments resulting from these reform initiatives will be published in the Federal Register as notices of proposed rulemaking, and further comments will be solicited at that time). The DOE would also appreciate suggestions from the public for other regulatory reform initiatives. The 15 agenda items can be summarized as follows:

1. Economic Regulatory Administration:

(a) Options will be developed for the decontrol of kerosene jet aviation fuel, aviation gasoline, butane, and natural gasoline. Current efforts to decontrol motor gasoline will be continued. For further information, contact John P. Woods (aviation gasoline and kerojet aviation fuel decontrol), 202-254-3234; Robert A. Reinstein (butane and natural gasoline decontrol), 202-254-9766; or William E. Caldwell (motor gasoline decontrol), 202-254-8034.

(b) Crude oil pricing regulations will be reviewed, with consideration given to a possibly expanded use of market mechanisms throught the intitlements system, rather than the current schedules dictating the first-sale prices for crude oil. For further information, contact Douglas G. Robinson, 202-254-8675.

(c) Based upon this review of crude oil pricing regulations, the 1973 freeze on supplier/purchaser relationships will be examined to see if it inhibits competition or unnecessarily burdens producers and purchasers of domestic crude oil. For further information, contact Douglas G. Robinson, 202-254-8675.

(d) The current Mandatory Oil Import Program will be revised to reduce unnecessary reporting burdens, to support existing U.S. refinery capacity, and to provide incentives for increasing domestic capacity. For further information, contact Stephen W. Hall, 202-632-8494.

(e) Current procedures governing the import and export of natural gas and liquified natural gas will be reduced to help specify responsibilities of the Economic Regulatory Administration and the Federal Energy Regulatory Commission, to expedite import processing of those applications. For further information, contact Lynn Church, 202-632-4721.

(f) Current enforcement procedures will be reviewed to determine (a) whether the DOE should voluntarily restrict its enforcement audits (for nonwillful violations) to relatively recent violations), (b) whether the DOE should reduce enforcement efforts directed to very small firms, and (c) how the DOE might reduce the burden on small businesses imposed by recordkeeping and record-retention requirements. For further information, contact Phil White, 202-254-6990.

(g) The Transfer Pricing Regulations will be revised to establish a more realistic method of determining imported crude oil prices at the time of transfer between companies and components of companies. For further information, contact Daniel J. Thomas 202-254-7477.

(h) Proposed regulations involving the collection of information from 10 or more people will be published in the Federal Register along with a copy of the proposed form. This notice will include the need for information, the effect of the proposed form, an analysis of the burden to business which could result from the form, other alternatives considered, and a finding that the proposed form imposes no unnecessary regulatory burdens. For further information, contact Doug Robinson, 202-254-8675.

2. Procurement and Contracts Management:

(a) A procurement guide will be prepared, explaining the procedures through which small businesses and independent entrepreneurs can obtain DOE grants, contracts, and other financial support. For further information, contact Colonel C. Armstrong, 202-376-9215.

3. Resource Applications:

(a) Procedures will be developed for streamlining the geothermal leasing process, and the geothermal loan guarantee application forms, especially for small businesses and public bodies. For further information, contact Robert J. Kalter (leasing process), 202-566-9421; or Lawrence Falick (loan guarantee application forms) 202-376-1710.

(b) Procedures will be established for Federal power authorities to contact their customers and encourage participation in rate-setting procedures. Procedures for public hearings, conducted in consumers' communities, will be developed. For further information, contact David Ogden, 202-566-9615.

4. Energy Information Agency:

(a) Energy data systems and other existing reporting requirements will be examined to identify overlaps, duplications, and unnecessary demands on industry and others. These requirements will be eliminated or consolidated where possible. For further information, contact Rosalind Singleton, 202-254-5077.

(b) An element-by-element justification will be required of all newly-proposed reporting requirements. Criteria will be developed for maintaining these requirements, and those that do not meet these criteria will be eliminated. For further information, contact John Gross, 202-254-8600.

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5. Office of the General Counsel:

(a) Preambles will be drafted for each proposed and final regulation, clearly and concisely describing the need for the regulation, its basic objectives, and the rights and responsibilities it bestows on industries, consumers, or other parties. For further information, contact J. Peter Luedtke, 202-566-9199.

6. Office of Intergovernmental and Institutional Relations:

(a) A number of outreach efforts will be conducted to bring the public into the regulatory development and reform processes. A pamphlet will be prepared to explain DOE regulatory procedures and opportunities for public participation. Inquiries will be sent to regulated industries, consumers, and state and local governments, asking for their suggestions, as to what regulatory programs need reform and how the DOE can expand public participation. Options will be developed to provide DOE funding to pay the fees and expenses of lawyers or other experts who participate in DOE regulatory and policy development on behalf of consumers or other public interests. For further information, contact Ed Vilade (pamphlet), 202-566-9833; Sandra L. Schneider (inquiries), 202-376-1673; or Jerry A. Penno (funding for public testimony), 202-566-9021.

III. Comment Procedure

The DOE invites the public to participate in the development of the procedures which will implement the Executive Order by submitting comments to William A. Strauss, Director, Regulatory Programs Division, Office of Policy and Evaluation, Room 4108, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461. Identify the comments on the outside envelope and on the documents that are submitted. The DOE will consider all comments received by June 30, 1978, before taking further action on these matters.

Any information or data submitted pursuant to the above procedures and considered to be confidential must be so identified and submitted in one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it accordingly.

Issued in Washington, D.C., April 25, 1978.

John F. O'Leary,
Deputy Secretary,
Department of Energy.

Interim Management Directive—United States Department of Energy

Subject: Procedures for the Development and Analysis of Regulations, Standards, and Guidelines

I. Summary

This directive establishes procedures for the development and anaylsis of regulations by the Department of Energy. It implements Sections 2 and 3 of Executive Order No. 12044 on "Improving Government Regulations."

A proposed regulation will be considered significant if it may substantially affect important policy concerns, if it is expected to be a matter of major concern to the President, Congress, or the public, or if it would require substantial DOE resources to develop and enforce it.

If an Assistant Secretary, Office Director, or Administrator considers a proposed regulation to be significant, that regulation will be developed by the lead office, in coordination with a working group representing various DOE staffs, reviewed by the Secretary, Deputy Secretary, or Under Secretary for final publication through a special clearance process, and published for comment for a minimum of 60 days.

In addition, if the lead office and working group determine that a significant regulation may have a major impact (e.g., imposing economic costs of $100 million or more), then a regulatory analysis will be prepared. This analysis will consist of a five-to-ten page summary that will be published in the Federal Register with the proposed regulation, plus supporting documentation.

A regulation not considered significant, or a significant regulation not expected to have a major impact, will be published in the Federal Register with a statement justifying that determination.

II. Objectives

This directive has been drafted, and should be implemented, to serve the following objectives:

(1) Regulations must be developed through an orderly process, with responsibilities clearly assigned, and with each interested Secretarial Officer having an opportunity to participate;

(2) Regulated industries, state and local governments, other Federal agencies, consumer groups, and interested members of the public must be encouraged to participate in the development of regulations as early in the process as possible;

(3) Regulations must be written clearly and concisely, in language understandable to those who may be affected by them.

III. Applicability

This directive applies to all regulations, except those developed by the Federal Energy Regulatory Commission. In extraordinary circumstances, the Secretary, Deputy Secretary, or Under Secretary may waive some or all of this directive's requirements for a particular regulation.

IV. Definitions

For the purposes of this directive:

"Lead office" means the Secretarial Office responsible for administering a proposed regulation.

"Working group" is the *ad hoc* group, representing interested Secretarial Officers, which works with the lead office in developing a regulation.

"Secretarial Officers" include the Administrators of the Economic Regulatory Administration and the Energy Information Administration; the Assistant Secretaries for Conservation and Solar Applications, Resource Applications, Energy Technology, Environment, Defense Programs, Intergovernmental and Institutional Relations, International Affairs, and Policy and Evaluation; the Directors of Procurement and Contracts Management, Administration, the Executive Secretariat, the Office of Energy Research, and the Office of Hearings and Appeals; the General Counsel; the Controller; and the Inspector General.

"Regulations" include notices of inquiry, advance notices of proposed rulemaking, proposed or final regulations, amendments, standards, and guidelines which are published in the Federal Register.

"Significant regulations" are those regulations which meet the criteria described in Section V (A)(3) of this directive.

"Regulatory analysis" means the examination of various policy alternatives and their impacts.

A "significant regulation" is deemed to have a "major impact" if it is likely to impose gross costs of $100 million or meets other criteria described in Section VI (C) of this directive.

V. Procedures for the Development of Regulations

A. Initiation

1. A lead office proposing to develop a regulation must first notify all Secretarial Officers and the Deputy Secretary or Under Secretary of its intent. This notification can be either oral or written, and can take place during the weekly meeting of the Action Coordination Tracking System ("ACTS"). In this notification, the lead office must indicate whether it considers the proposed regulation significant.

2. The Secretarial Officers will then notify the lead office whether they consider the regulation to be significant and whether they wish to participate in its development.

3. A regulation will be significant if the lead office or another Secretarial Officer determines that:

(1) It may substantially affect:

(a) The goals of the National Energy Plan or other energy objectives,

(b) Inflation, unemployment, economic growth, or the ability of all population groups to have adequate energy supplies at reasonable prices,

(c) The ability of individual entrepreneurs and small businesses to compete fairly in the marketplace,

(d) The quality of the environment, and the public health and safety,

(e) State and local government programs, or

(f) Existing regulatory programs of the Department of Energy or other Executive agencies;

(2) It may impose heavy compliance and reporting burdens, especially on small businesses;

(3) It is a matter of major concern to the President, Congress, or the public (especially if substantial public comments are anticipated); or

(4) It will require substantial Department of Energy resources to develop and enforce it.

B. Development of Significant Regulations

1. If the regulation is significant, the lead office, with the assistance of the Assistant Secretary for Policy and Evaluation, will establish a working group to aid in its development. This working group will include representatives from Policy and Evaluation, the Office of the General Counsel, and other interested Secretarial offices. Working group members will assist the lead office in reviewing alternative means of solving the perceived problem and setting target dates for the completion of each phase of the regulatory development process. The working group members will also perform other duties, as assigned by the lead office.

2. In coordination with the Office of Policy and Evaluation, the lead office and other working group members will prepare a plan for the subsequent evaluation of the regulation's actual impact.

3. The lead office and other working group members will work with the Office of Intergovernmental and Institutional Relations to develop a plan for including the public in the regulatory development process.

4. If the lead office and working group members find that a significant regulation is likely to have a major impact, then a regulatory analysis will be prepared. (See Section VI.) If it is found that a significant regulation requires an Environmental Impact Statement under the National Environmental Policy Act, then that statement will be prepared in coordination with the regulatory analysis.

5. After a proposed significant regulation is drafted, the draft will be circulated for comment to the Special Assistant to the Secretary and the Secretarial Officers represented on the working group. Orally or in writing, in coordination with the working group members, the lead office will inform the Secretary, Deputy Secretary, or Under Secretary of the issues considered in the regulation, the alternative approaches that have been explored, and a tentative plan for obtaining public comment. The Secretary, Deputy Secretary, or Under Secretary must approve publication of proposed significant regulations in the Federal Register.

6. Upon the approval of the Secretary, Deputy Secretary, or Under Secretary, the Office of Administration will transmit the approved regulation to the Federal Register.

7. Regulations proposed to implement any function transferred to the Secretary under Section 301 or Section 306 of the Department of Energy Organization Act will be referred to the Federal Energy Regulatory Commission (FERC) in accordance with the Memorandum of Understanding between the Secretary and FERC.

8. Proposed significant regulations will be published in the Federal Register with a statement explaining why the regulation is considered significant. The notice will provide at least a 60-day public comment period, except that the Secretary, Deputy Secretary, or Under Secretary may approve a shorter comment period under extraordinary circumstances (see Section III). Notices of inquiry and advance notices of proposed rulemaking are not subject to this 60-day comment requirement. If public hearings are held, panels will be chaired by the lead office and will include the other members of the working group and such other persons as the lead office designates.

9. When the period for public comment is completed, the lead office will summarize all comments received. Then, together with the other working group members, the lead office will analyze the public comments and revise the regulation accordingly.

10. The proposed final regulation will be circulated for comment to the Special Assistant and Secretarial Officers represented on the working group. Orally or in writing, in coordination with the working group members, the lead office will then request approval from the Secretary, Deputy Secretary, or Under Secretary to publish the final regulation. Upon final approval, the Office of Administration will transmit the regulation to the Federal Register.

C. Development of Nonsignificant Regulations

1. If the proposed regulation is not considered significant, the lead office will so inform the other Secretarial Officers and the Deputy Secretary or Under Secretary. The lead office, in coordination with representatives of other interested Secretarial Officers, will then develop and publish the regulation.

2. When a proposed nonsignificant regulation is published in the Federal Register, the notice will provide at least a 30-day public comment period and will include statements explaining the need for and probable effect of the regulation and why the regulation was not considered significant.

VI. Procedures For the Analysis of Regulations

A. No formal regulatory analysis will be required if a regulation is not considered significant.

B. For every significant regulation, the lead office and other working group members will determine whether it is likely to have a major impact. If so, a regulatory analysis will be required.

C. A significant regulation will be considered likely to have a major impact:

(1) If the regulation is likely to have a substantial effect on any of the goals of the National Energy Plan;

(2) If the regulation is likely to impose

(a) Gross economic costs of $100 million per year, or

(b) A major increase in costs or prices for individual industries, levels of government, geographic regions, or demographic groups; or

(3) If the Secretary, Deputy Secretary or Under Secretary considers the regulation likely to have a major impact for any other reason.

In determining whether a regulatory proposal is likely to have a major impact, attention should be directed to the incremental effect of the proposal on the existing regulatory environment, not to the effect of the regulation on an unregulated environment.

D. The regulatory analysis will consist of a five-to-ten page summary and supporting documentation. The summary will be prepared by the lead office, in cooperation with the working group, and will include the following:

(1) A succinct statement of the problem and the mandate for government action;

(2) A statement of policy objectives and their relationship to the goals of the National Energy Plan;

(3) A description of the major alternatives, including nonregulatory alternatives, for dealing with the problem and achieving the policy objectives;

(4) A brief analysis of the economic consequences of each of these alternatives; and

(5) An explanation of the reasons for choosing the preferred alternative.

E. The supporting documentation will be provided by the lead office, the Energy Information Administration

(EIA) and other DOE offices that have been assigned tasks by the lead office, and will include the following:

(1) A more extensive statement of the problem;

(2) A description and analysis of each reasonable and feasible policy alternative, including:

(a) legislative authority,

(b) institutional, legal, or other impediments to implementation,

(c) enforceability, and

(d) sunset provisions;

(3) a comparative analysis of the impacts of these alternatives, including their effects on:

(a) the goals of the National Energy Plan and other energy objectives,

(b) the economic well-being of the Nation as a whole, individual industries, levels of government, geographic regions, and demographic groups,

(c) compliance and reporting requirements;

(d) other relevant costs and benefits, and

(e) the fairness of the distribution of the costs and benefits.

F. The regulatory analysis will be circulated to appropriate program offices, the Office of the General Counsel, the Office of Policy and Evaluation, the Energy Information Administration, and the Office of Intergovernmental and Institutional Relations for review. Concurrence by the Office of General Counsel, Policy and Evaluation, and the lead office will be obtained prior to release of the regulatory analyses.

G. When a proposed regulation is published in the FEDERAL REGISTER, the summary portion of the draft regulatory analysis will be included, and the public will be asked to comment on the findings of the analyses. The FEDERAL REGISTER notice will also indicate how members of the public can obtain the supporting documentation.

H. After the end of the public comment period, the draft regulatory analyses will be reviewed by the lead office in light of the comments received. If any changes are made, the revised analysis must be circulated and concurred in as indicated in (F) above.

I. When the final regulation is published in the FEDERAL REGISTER, the summary portion of the final regulatory analysis will be included. The FEDERAL REGISTER notice will also indicate how members of the public can obtain the supporting documentation.

J. If a significant regulation is determined not to have a major impact, the lead office, in cooperation with the working group, will prepare a statement justifying this determination and describing the anticipated effects of the regulation. This statement will be published in the FEDERAL REGISTER with the regulation. Information copies of the statement will be provided to the office of Policy and Evaluation, the Energy Information Administration, the Office of Intergovernmental and Institutional Relations, the Office of the General Counsel, and the National Energy Information Center.

VII. RESPONSIBILITIES

A. The *Secretary* will approve the publication of the semiannual regulation agenda.

B. The *Secretary, Deputy Secretary,* or *Under Secretary* will be informed of the development of all regulations and will approve the publication in the FEDERAL REGISTER of all proposed and final significant regulations.

C. The *lead office* is responsible for the development of a regulation and the preparation of any regulatory analysis. This includes assigning and coordinating working group tasks, notifying the Secretary, Deputy Secretary, or Under Secretary of the need for the regulation, obtaining their approval for publication of a proposed and final significant regulation, and assuring that the regulation undergoes proper coordination.

D. *Working group members* will perform tasks pertaining to regulation development and analysis assigned by the lead office. They are responsible for representing their Secretarial Officers' views and will keep their Secretarial Officers informed of the progress and content of the regulation under development.

E. *The Assistant Secretary for Policy and Evaluation* (AS/PE) is responsible for coordinating the policy aspects of the DOE's rulemaking activity; ensuring consistency with the Executive Order, the National Energy Plan, and other DOE policy; and acting as interagency liaison on matters concerning the Executive order. AS/PE will assist the lead office in organizing working groups and will participate in the development and analysis of all regulations. AS/PE will review all proposed and final regulations to ascertain whether they are understandable, not unnecessarily burdensome, preferable to nonregulatory alternatives, and consistent with DOE policy. AS/PE will also review draft and final regulatory analyses, and coordinate DOE responses to the interagency Regulatory Analyses Review Group.

F. The *General Counsel* will participate in the development and analysis of all regulations and will review all proposed and final regulations to ascertain whether they are carefully drafted, legally sufficient, and enforceable. The General Counsel is also responsible for maintaining a list of all significant regulations approved for development and preparing for publication in the FEDERAL REGISTER the semiannual regulation agenda.

G. The *Assistant Secretary for Intergovernmental and Institutional Relations* (AS/IR) will assist the working group in soliciting the views of outside persons and organizations, the Congress, and state and local governments, and other Executive agencies. AS/IR will assist the working groups in preparing and distributing press releases, answering press inquiries, coordinating press coverage of hearings, and answering Congressional correspondence.

H. The *Administrator of the Energy Information Administration* (EIA) is responsible for reviewing the data collection requirements of all regulations, ensuring that they are compatible with existing DOE data systems, are properly cleared with OMB, and do not impose unnecessary paperwork or reporting requirements on regulated industries. EIA will also help prepare documentation for regulated analyses at the request of the lead office.

I. All *Secretarial Officers* are responsible for having their representatives participate in the development of regulations in which they have an interest.

VIII. SEMIANNUAL REGULATIONS AGENDA

A. In March and October of each year, the DOE will publish a semiannual regulations agenda in the FEDERAL REGISTER, describing the status of significant regulatory actions approved for development. The General Counsel, in coordination with the Assistant Secretary for Policy and Evaluation, the Administrator of the ERA, and other lead offices will assist in drafting the regulatory agenda. This agenda will list the name and telephone number of the DOE point of contact for each regulation. The Secretary will approve the regulations agenda before publication.

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federal register

TUESDAY, MAY 2, 1978

highlights

GUIDE TO FREEDOM OF INFORMATION INDEXES

The guide to agency Freedom of Information indexes which is published quarterly by the Office of the Federal Register will be carried in the quarterly FEDERAL REGISTER INDEXES, beginning January-March 1978. The FEDERAL REGISTER INDEX is included as part of the FEDERAL REGISTER subscription.

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Monday	Tuesday	Wednesday	Thursday	Friday
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	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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[3195-01]

Title 3—The President

Executive Order 12056 • **April 28, 1978**

Exemption of G. Joseph Minetti from Mandatory Retirement

G. Joseph Minetti, Member, Civil Aeronautics Board, became subject to mandatory retirement for age on July 31, 1977, under the provisions of Section 8335 of Title 5 of the United States Code unless exempted by Executive Order. Mr. Minetti was exempted from mandatory retirement until September 30, 1977, by Executive Order No. 12006 of July 29, 1977, until October 31, 1977, by Executive Order No. 12011 of September 30, 1977, until January 31, 1978, by Executive Order No. 12016 of October 31, 1977, and until May 1, 1978 by Executive Order No. 12037 of January 31, 1978.

In my judgment, the public interest requires that G. Joseph Minetti continue to be exempted from such mandatory retirement.

NOW, THEREFORE, by virtue of the authority vested in me by subsection (c) of Section 8335 of Title 5 of the United States Code, I hereby exempt G. Joseph Minetti from mandatory retirement until August 31, 1978.

Jimmy Carter

THE WHITE HOUSE,
April 28, 1978.

[FR Doc. 78-12109 Filed 5-1-78; 10:44 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense and Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a position in the Department of Defense because it is confidential in nature, and (2) corrects a final rule appearing on page 5793 in the FEDERAL REGISTER of February 10, 1978 (FR 78-3852) which showed that 213.3384(a)(31) was revoked. This position was revoked in error.

EFFECTIVE DATE: April 18, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(52) and 213.3384(a)(31) are added as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* • • •

(52) One Personal and Confidential Assistant to the Assistant General Counsel (Intelligence, International and Investigative Programs).

• • • • • •

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* • • •

(31) One Special Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-11707 Filed 5-1-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Consumer Product Safety Commission and National Transportation Safety Board

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a position in the Consumer Product Safety Commission because it is confidential in nature, and (2) changes the headnote and title of one position at the National Transportation Safety Board because it more appropriately reflects the duties of the position and the current title of the superior.

EFFECTIVE DATE: April 7, 1978

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3360(d), the headnote of 213.3396 (b) and (b)(1) are amended to read as follows:

§ 213.3360 Consumer Product Safety Commission.

• • • • • •

(d) One Special Assistant and one Staff Assistant to a Commissioner.

• • • • • •

§ 213.3396 National Transportation Safety Board.

• • • • • •

(b) Office of the Managing Director.

(1) One Secretary (Steno) to the Managing Director.

(5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-11708 Filed 5-1-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Schedule A exception for positions of teacher, GS-5/7/9, at schools run by the Bureau of Indian Affairs which become vacant during the school year is amended to permit filling of positions during the months of July through May which become vacant after teachers have reported for duty because it is not practicable to hold an examination to fill such vacancies. The authority is also amended to show that appointments may not exceed the last day of the school year in which they are made.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 632-4533.

Accordingly, 5 CFR 213.3112(b)(3) is amended as set out below:

§ 213.3112 Department of the Interior.

• • • • • •

(b) *Bureau of Indian Affairs* • • •

(3) Positions of teacher, GS-5/7/9, at schools run by the Bureau of Indian Affairs, which become vacant after teachers have reported for duty. Appointments under this authority may be made only during the months of July through May and may not exceed the last day of the school year during which they are made.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-11709 Filed 5-1-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of State and Community Services Administration

AGENCY: Civil Service Commission.

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ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a position at the Department of State because it is confidential in nature, and (2) changes Staff Assistant, Office of Interagency and External Affairs to Staff Assistant to the Deputy Director, Community Services Administration. This organizational transfer does not effect the Schedule C exception.

EFFECTIVE DATE: April 13, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3304(a)(8) and 213.3373(a)(9) are added and 213.3373(g)(2) is amended as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* • • •

(8) One Staff Assistant to the Ambassador-at-Large.

• • • • •

§ 213.3373 Community Services Administration.

(a) *Office of the Director.* • • •

(9) One Staff Assistant to the Deputy Director.

• • • • •

(g) *Office of Interagency and External Affairs.* • • •

(2) One Special Assistant to the Associate Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-11706 Filed 5-1-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Peach Reg. 1]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes minimum grade and size requirements for fresh peaches grown in Georgia for the 1978 season. These requirements are designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 918, as amended (7 CFR part 918), regulating the handling of peaches grown in Georgia, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Industry Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of peaches, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on April 18, 1978, to consider supply and market conditions and other factors affecting the need for regulation. It recommended minimum grade and size requirements for shipments of fresh peaches grown in Georgia, except for those shipped in bulk to adjacent markets, which it deemed advisable for the 1978 season. The exception of peaches shipped in bulk to adjacent markets from grade, size, and inspection requirements follows the practice of prior years, and is designed to permit shipment of peaches which are of a quality and size acceptable in the adjacent markets but are not suitable for distribution in more distant markets in competition with peaches from other areas. The less stringent size requirements early in the season reflect the fact that earlier-maturing varieties of peaches generally mature at smaller sizes than do later maturing varieties.

The committee reports that it expects 1,800 carlots of inspected peaches to be shipped this season, compared with the past 6-year average of 1,514 carlots. It also reports that the developing crop is of good quality, and the fruit is sizing well. Shipment of this season's Georgia peach crop is expected to begin May 3, and ample supplies of peaches meeting the following requirements are expected to be available to satisfy the demand. Peaches failing to meet these requirements may be marketed in Georgia, shipped to adjacent markets, or utilized in processing.

The following regulations reflect the Department's appraisal of the need for regulation based on the current and prospective crop and market conditions.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 918.320 Peach regulation 1.

(a) No handler shall ship, except peaches in bulk to destinations in the adjacent markets, any peaches which:

(1) During the period May 3 through August 31, 1978, do not grade at least 85 percent U.S. No. 1 quality: *Provided,* That peaches with well-healed hail marks or split pits not scored as serious damage, or peaches with not more than 1 percent decay, may be shipped if they otherwise meet the requirements of this subparagraph.

(2) During the period May 3 through May 15, 1978, are smaller than 1¾ inches in diameter, except that not more than 10 percent, by count, of such peaches in bulk lot or any lot of packages, and not more than 15 percent, by count of such peaches in any container in such lot, may be smaller than 1¾ inches in diameter.

(3) During the period May 16 through August 31, 1978, are smaller than 1⅞ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or of any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1⅞ inches in diameter.

(b) The inspection requirement contained in § 918.64 shall not be applicable to any shipment of peaches in bulk to destinations in the adjacent markets, except for peaches in new containers, during the period May 3 through August 31, 1978.

(c) The maturity regulations contained in § 918.400 of this part are hereby suspended with respect to shipments of peaches to all destinations other than those in the adjacent markets during the period May 3 through August 31, 1978.

(d) As used in this section, "handler," "adjacent markets," "peaches," "peaches in bulk," and "ship" mean the same as defined in this marketing order, and "U.S. No. 1" and "diameter" means the same as defined in the U.S. Standards for Peaches. (7 CFR 51.1210-51.1223).

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: April 26, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-11827 Filed 5-1-78; 8:45 am]

[4410-01]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

ADJUSTMENT OF IMMIGRATION STATUS OF INDOCHINA REFUGEES

Final Rule

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service to implement Pub. L. 95-145 enacted October 28, 1977, which provides that under certain stated conditions, refugees who are natives of Vietnam, Laos, and Cambodia, may adjust their immigration status to that of lawful permanent residents of the United States. These amendments are necessary to implement that legislation.

EFFECTIVE DATE: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, telephone 202-376-8373.

SUPPLEMENTARY INFORMATION:

I. INTRODUCTION

On October 28, 1977, Pub. L. 95-145 (91 Stat. 1223) was signed by the President, to take effect upon his approval. Title I of that legislation provides that the Attorney General may, in his discretion, and under such regulations as he may prescribe, adjust the status of any alien who is a native or citizen of Vietnam, Laos or Cambodia, to that of a lawful permanent resident of the United States. This final rulemaking document amends various regulations of the Immigration and Naturalization Service to implement that legislation.

II. OUTLINE OF TITLE I OF PUB. L. 95-145 (91 STAT. 1223)

Section 101(b) provides that the benefits of this legislation shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia, who was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Act subsequent to March 31, 1975, but prior to January 1, 1979 or who was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975. Under section 101(a), the alien must apply within 6 years after October 28, 1977; he must be otherwise eligible to receive an immigrant visa and be otherwise admissible to the United States for permanent residence, except for the grounds of excludability specified in secs. 212(a) (14), (15), (20), (21), (25), and (32) of the Immigration and Nationality Act; and he must have been physically present in the United States for at least 2 years.

Section 102 provides that upon approval of the application, the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States whichever date is later.

Section 103 provides that an alien described in section 101 who acquired lawful permanent residence status prior to the date of enactment of Pub. L. 95-145, may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

Section 104 provides that when an alien has been granted lawful permanent residence under this title, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General if they otherwise qualify under section 101(a). The date of their admission for permanent residence shall be the same as that of the alien through whom they derive benefits under this section.

Section 105 provides that any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title.

Section 106 provides that there shall be no reduction in the number of visas authorized to be issued when the application of an Indochinese refugee has been approved. Also, under section 106, no fee is to be charged for the filing of an adjustment application under this title.

Section 107 provides that except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

III. OUTLINE OF AMENDMENTS TO CHAPTER I OF TITLE 8 OF THE CODE OF FEDERAL REGULATIONS

In order to implement Pub. L. 95-145, the following described amendments will be made to the indicated sections of Title 8 of the Code of Federal Regulations.

8 CFR 103.1(m)(3) will be added to provide that decisions on Indochinese refugee applications for adjustment of status may be appealed to the Regional Commissioner.

8 CFR 242.17(a) will be amended to include reference to sections 101 and 104 of Pub. L. 95-145.

8 CFR 245.1(c) will be amended to include reference to sections 101 and 104 of Pub. L. 95-145.

8 CFR 245.1(f) will be amended to provide that no fee will be required for filing of an application to overcome exclusionary grounds filed concurrently with an application for adjustment of status in an Indochinese refugee case.

New 8 CFR 245.1(h) will be added to set forth eligibility requirements for the filing of adjustment applications under section 101 and "roll back" applications under section 103 of Pub. L. 95-145.

8 CFR 245.2(a)(1) will be redrafted for clarity and amended to include reference to sections 101 and 104 of Pub. L. 95-145.

8 CFR 245.2(a)(2) will be amended to include regulations for filing applications for adjustment of status under sections 101 and 104 of Pub. L. 95-145.

8 CFR 245.2(a)(3) will be amended to provide that the date of readmission following a temporary absence abroad will be disregarded for purposes of fixing the date of "arrival" in the case of an Indochinese refugee who has no intention of abandoning his U.S. residence.

8 CFR 245.2(a)(4) will be amended to provide that an appeal shall lie from a decision by the district director in the case of an application for adjustment of status filed by an Indochinese refugee under section 101 or 104 of Pub. L. 95-145.

New 8 CFR 245.2(e) will be added to provide regulations for the filing of an application under section 103 of Pub. L. 95-145.

8 CFR 245.4(b) will be deleted. Enactment of Pub. L. 95-145 renders it unnecessary.

8 CFR 245.6 will be amended to include regulations respecting medical examination of applicants for adjust-

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ment of status under the provisions of Pub. L. 95-145.

8 CFR 299.1 will be amended to include reference to Form I-485C "Application for Creation of a Record of Lawful Admission for an Indochina Refugee", the application form to be used in connection with applications for adjustment filed under Pub. L. 95-145.

IV. REGULATIONS PRESCRIBED

The following amendments are hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. 8 CFR 103.1(m) is amended by adding a new subparagraph (3) to read as follows:

§ 103.1 Delegations of authority

• • • • • •

(m) Regional Commissioners. • • •

• • • • • •

(3) Decisions on Indochinese refugee applications for adjustment of status, as provided in §§ 245.2(a)(4) and 245.2(e);

• • • • • •

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

2. 8 CFR 242.17(a) is amended by revising the first sentence to read as follows:

§ 242.17 Ancillary matters, applications.

(a) *Creation of the status of an alien lawfully admitted for permanent residence.* The respondent may apply to the special inquiry officer for suspension of deportation under section 244(a) of the Act, for adjustment of status under section 245 of the Act, or under section 1 of the Act of November 2, 1966, or under section 101 or 104 of the Act of October 28, 1977, or for creation of a record of lawful admission for permanent residence under section 214(d) or 249 of the Act; such application shall be subject to the requirements contained in Parts 244, 245, and 249 of this chapter. • • •

• • • • •

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

§ 245.1 [Amended]

3. The first sentence of 8 CFR 245.1(c) is amended by adding reference to sections 101 and 104 of the Act of October 28, 1977. As amended, the first sentence of 8 CFR 245.1(c) reads as follows:

• • • • • •

(c) *Officials and treaty aliens.* An alien who has a nonimmigrant status under paragraph (15)(A), (15)(E), or (15)(G) of section 101(a) of the Act, or has an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under any of such paragraphs of section 101(a) of the Act is not eligible for the benefits of section 245 of the Act, section 13 of the Act of September 11, 1957, section 1 of the Act of November 2, 1966, or section 101 or 104 of the Act of October 28, 1977, unless he first executes and submits with his application the written waiver required by section 247(b) of the Act and Part 247 of this chapter. • • •

• • • • • •

4. 8 CFR 245.1(f) is amended by adding a new sentence to the end thereof, to read as follows:

• • • • • •

(f) *Concurrent applications to overcome exclusionary grounds.* • • • No fee shall be required for the filing of an application to overcome exclusionary grounds of the Act filed concurrently with an application for adjustment of status filed pursuant to the provisions of the Act of October 28, 1977, and of this part.

• • • • • •

5. 8 CFR 245.1 is amended by adding a new paragraph (h) to read as follows:

• • • • • •

(h) *Indochinese refugee.* An alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion is not eligible for the benefits under any provisions of the Act of October 28, 1977. An alien is not eligible for the benefits of any provisions of the Act of October 28, 1977, unless he has been physically present in the United States for at least two years subsequent to March 31, 1975 and prior to the date of filing the application for adjustment of status. An alien is not eligible for the benefits of section 101 or 103 of the Act of October 28, 1977, unless he is a native or citizen of Vietnam, Laos, or Cambodia who was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to January 1, 1979; or who was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

• • • • • •

§ 245.2 [Amended]

6. 8 CFR 245.2(a)(1) is revised for clarity and by adding reference to §§ 101 and 104 of the Act of October 28, 1977. As revised, § 245.2(a)(1) reads as follows:

(a) *General*—(1) *Jurisdiction.* An alien who believes he meets the eligibility requirements of section 245 of the Act or section 1 of the Act of November 2, 1966, or section 101 or 104 of the Act of October 28, 1977, and § 245.1 shall apply to the district director having jurisdiction over his place of residence. After an alien has been served with an order to show cause or warrant of arrest, his application for adjustment of status under section 245 of the Act or section 1 of the Act of November 2, 1966 or section 101 or 104 of the Act of October 28, 1977, shall be made and considered only in proceedings under Part 242 of this chapter. An adjustment application by an alien paroled under section 212(d)(5) of the Act, which has been denied by the district director, may be renewed in exclusion proceedings under section 236 of the Act only under the following two conditions: First, the denied application must have been properly filed subsequent to the applicant's earlier inspection and admission to the United States; second, the applicant's later absence from and return to the United States must have been under the terms of an advance parole authorization on Form I-512 granted to permit the applicant's absence and return to pursue the previously filed adjustment application.

• • • • • •

7. 8 CFR 245.2(a)(2) is amended by revising the existing eighth sentence; by adding a new ninth sentence between the existing eighth and ninth sentences; by amending the existing tenth sentence; and by adding six new sentences following the existing tenth sentence. The amended provisions of 8 CFR 245.2(a)(2) read as follows:

(a) • • •

(2) *Filing application.* • • • The application under section 245 of the Act shall be made on Form I-485, while the application under section 1 of the Act of November 2, 1966, shall be made on Form I-485A, and the application under section 101 or 104 of the Act of October 28, 1977, shall be made on Form I-485C. A separate application shall be filed by each applicant. Each application shall be accompanied by executed Form G-325A, if the applicant has reached his 14th birthday, which shall be considered as part of the application. An application under this part shall be accompanied by the documents specified in the instructions which are attached to the application. No fee shall be required for filing an application for the benefits of the Act of November 2, 1966 or the Act of October 28, 1977. An application for adjustment of status under section 101 or 104 of the Act of October 28, 1977, shall not be considered properly filed for acceptance and processing unless filed on or before October 28, 1983. An alien is ineligible for the benefits of the Act of October 28, 1977, unless he has been physically present in the United States for at least two years. An applicant is considered to have been physically present in the United States for at least two years within the meaning of the Act of October 28, 1977, only if he has been actually physically present in the United States for a period or periods in the aggregate of at least two years subsequent to March 31, 1975 and prior to the date of filing the application. An application for adjustment of status under the Act of October 28, 1977, by the spouse or child of a native or citizen of Vietnam, Laos or Cambodia shall not be processed under the provisions of section 104 of that Act unless the applicant is ineligible for adjustment under the provisions of section 101 of that Act. For the purpose of section 104 of the Act of October 28, 1977, a spouse or child, regardless of nationality, of a native or citizen of Vietnam, Laos or Cambodia shall, upon approval of an application for adjustment of status, be accorded permanent residence as of the date accorded the alien through whom such spouse or child derives eligibility under section 104 or the date of such spouse or child's arrival in the United States, whichever is later.

• • • • • •

8. 8 CFR 245.2(a)(3) is amended by adding two new sentences at the end thereof to read as follows:

(a) • • •

(3) *Departure.* • • • In determining the date of the alien's "arrival" in the United States within the meaning of section 102 of the Act of October 28, 1977, in the case of an applicant who was physically present in the United States on March 31, 1975 or who was paroled into the United States subsequent to March 31, 1975, but prior to January 1, 1979, and who subsequently departed temporarily with no intention of abandoning his residence in the United States and was readmitted or paroled into the United States upon his return, the date of the applicant's arrival after such temporary absence or absences shall be disregarded. For the purpose of section 102 of the Act of October 28, 1977, the date of the alien's "arrival" in the United States shall be the date of initial parole subsequent to March 31, 1975, but prior to January 1, 1979 as an Indochinese refugee under section 212(d)(5) of the Immigration and Nationality Act.

• • • • • •

9. 8 CFR 245.2(a)(4) is revised by amending the existing second sentence, and by adding two new sentences at the end of the existing paragraph. As revised, 8 CFR 245.2(a)(4) reads as follows:

(a) • • •

(4) *Decision.* The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor. Except as otherwise provided in this subparagraph, no appeal shall lie from the denial of an application by the district director but such denial shall be without prejudice to the alien's right to renew his application in proceedings under Part 242 of this chapter, or under Part 236 if the alien is a parolee who meets the conditions specified in subparagraph (1) of this paragraph. An application for adjustment of status under section 245 of the Act as a preference or nonpreference alien shall not be approved until an immigrant visa number has been allocated by the Department of State. An appeal shall lie from the decision of the district director on an application for the benefits of section 101 or 104 of the Act of October 28, 1977; if the application is denied, the applicant shall be advised of his right to appeal in accordance with the provisions of Part 103 of this chapter. No fee shall be required for filing such appeal.

• • • • • •

10. 8 CFR 245.2 is amended by adding a new paragraph (e) to read as follows:

• • • • • •

(e) *Application under section 103 of the Act of October 28, 1977.* An application by a native or citizen of Vietnam, Laos, or Cambodia who was lawfully admitted to the United States for permanent residence under the provisions of the Immigration and Nationality Act subsequent to March 31, 1975 but prior to October 28, 1977, and who desires such admission to be recorded as of an earlier date pursuant to section 103 of the Act of October 28, 1977, shall be made on Form I-485C. The application shall be submitted to the district director having jurisdiction over the applicant's place of residence in the United States. The decision on the application shall be made by the district director. The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter. No fee shall be required either for the filing of the application or for the filing of the appeal. If the application is approved, the applicant, upon surrender of his Form I-151, will be furnished with a replacement thereof bearing the new date as of which the lawful admission for permanent residence has been recorded.

• • • • • •

11. 8 CFR 245.4(b) is deleted.

§ 245.4 Adjustment of status of aliens within the proviso to section 203(a)(7) of the Act.

• • • • • •

(b) [Deleted]

• • • • • •

12. 8 CFR 245.6 is amended by adding a new second sentence between the existing first and second sentences thereof, to read as follows:

§ 245.6 Medical examination.

• • • Medical examination of an applicant for adjustment of status under the provisions of the Act of October 28, 1977, who was paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act, and who was medically examined when processed for parole by a Service officer in the United States or abroad, shall not be required unless medical grounds for exclusion existed when the applicant was processed for parole or such grounds presently appear to exist. • • •

• • • • • •

PART 299—IMMIGRATION FORMS

13. Section 299.1 is amended to add the following form in alphabetical and numerical sequence:

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§ 299.1 Prescribed forms.

Form No.	Title and description
•	•
I-485C	Application for Creation of a Record of Lawful Admission for an Indochina Refugee
•	•

(Title I of Pub. L. 95-145 enacted October 28, 1977 (91 Stat. 1223), sec. 103 of the Immigration and Nationality Act (8 U.S.C. 1103). Interpret or apply secs. 101, 212, 242 and 245 (8 U.S.C. 1101, 1182, 1252 and 1255).)

The amendments contained in this order are issued pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because these amendments confer benefits on the persons affected thereby, and are being published in implementation of Pub. L. 95-145 which became effective October 28, 1977.

Effective date. The amendments prescribed in this order become effective on: May 2, 1978.

Dated: April 26, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-11896 Filed 5-1-78; 8.45 am]

[7510-01]

Title 14—Aeronautics and Space

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1205—SPACE SCIENCE FLIGHT INVESTIGATIONS

Subpart 1205.1—Policy Concerning Data Obtained From Space Science Flight Investigations

AGENCY: National Aeronautics and Space Administration.

ACTION: Final regulations.

SUMMARY: The National Aeronautics and Space Administration (NASA) finalizes revision to its policy concerning data obtained from Space Science Flight Investigations. This revision is necessary to redefine the roles and responsibilities of individuals conducting space science investigations, Federal officials concerned with implementation of programs, and the National Space Science Data Center (NSSDC) to insure proper use and preservation of space science data. The revised policy, through the use of a Project Data Management Plan, will reduce the amount of data acquired by the NSSDC and insure that the data deposited in the NSSDC is processed in the most efficient, cost effective manner.

DATE: Effective date May 2, 1978.

ADDRESS: SRT Coordinator, Office of Space Science, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Franklin G. Tate, 202-755-3833.

SUPPLEMENTARY INFORMATION: On December 28, 1977, a notice of revision to the Policy Concerning Data Obtained from Space Science Flight Investigations was published in the FEDERAL REGISTER (42 FR 64706). The purpose of the revision is to redefine responsibilities of individuals concerned with implementation of programs and the NSSDC to insure proper use and preservation of space science data in the most cost efficient manner. Interested parties were granted 30 days to submit written comments regarding the proposed revisions. No written comments were received.

The proposed revised Policy Concerning Data Obtained from Space Science regulations is hereby adopted without change, as set forth below.

ROBERT A. FROSCH,
Administrator.

Subpart 1205.1—Policy Concerning Data Obtained From Space Science Flight Investigations

Sec.

1205.100 Scope.
1205.101 Policy.
1205.102 Responsibility.
1205.103 Support of research.

Appendix A—Glossary of terms and abbreviations.
Appendix B—Functions and operation of National Space Science Data Center.

AUTHORITY: 42 U.S.C. 2454.

Subpart 1205.1—Policy Concerning Data Obtained From Space Science Flight Investigations

§ 1205.100 Scope.

(a) This subpart continues the policy and responsibilities for reduction, analysis, reposition, preservation, and dissemination of data obtained from space science flight investigations. For glossary of terms and abbreviations, see Appendix A to this subpart.

(b) These provisions apply to all data obtained from space flight experiments processed by the Space Science Steering Committee and approved by the Associate Administrator for Space Science. The policy and procedures for the conduct of the Space Science Program and the responsibilities for the selection and support of scientific investigations and Investigators are set forth in NASA Management Instruction 7100.11 and NASA Handbook 8030.6.

§ 1205.101 Policy.

(a) In conducting space science flight experiments, NASA shall seek to:

(1) Preserve the integrity of each investigation.

(2) Encourage the participation of the best qualified scientists.

(3) Make the results of investigations generally available to the scientific community at the earliest practicable time.

(4) Document the instrument performance and probable cause of malfunctions that occur.

(b) NASA shall rely on individual scientists as Principal Investigators (PIs) to carry out a complete investigation by:

(1) Selecting, when appropriate, associates known as Co-Investigators (COIs) who have supporting roles in the investigation.

(2) Conceiving specific investigations.

(3) Developing, when appropriate, the instrumentation for the investigation.

(4) Participating actively, wherever appropriate, in the actual conduct of the investigation.

(5) Reducing and analyzing the data obtained.

(6) Publishing their findings as soon as practicable.

(7) Making their Reduced Data Records (RDRs) and Analyzed Data Records (ADRs) along with supporting documentation available on a timely basis for use by the scientific community and the news media, in accordance with a Project Data Management Plan (PDMP).

(8) Documenting any significant malfunctions which occur during the lifetime of the experiment.

(c) For certain missions, NASA shall also rely on Guest Investigators to obtain data within the capability of a given mission, which are additional to the mission's primary objectives, and to perform an analysis of the acquired data. Such projects generally maintain a data retrieval and dissemination system or provide a data analysis system for the life of the project. In such cases the PDMP should address the exchange of information with the National Space Science Data Center (NSSDC) so it can act as a switching center by referring data requesters to the appropriate contact or making requests on their behalf and handling the distribution. In addition, the eventual transfer of appropriate data to a more permanent repository prior to termination of the project shall be addressed in the PDMP.

(d) For facility-class payload missions, NASA may rely on Guest Investigators to obtain and analyze data. In connection with such missions a complete analysis activity may be provided for the Investigators; this activity may involve the creation of an institute with a significant lifetime. In such cases the PDMP should address the exchange of information with the NSSDC so it can act as a switching center by referring data requesters to the appropriate contact or making requests on their behalf and handling the distribution. In addition, the eventual transfer of appropriate data to a more permanent repository prior to termination of the mission activity or institute shall be addressed in the PDMP.

(e) A provision for the release of data obtained by the individual Investigator from the investigation shall be included in an agreement with the Investigator at the time of selection to participate. NASA shall take such action as necessary to insure that data are released as required to meet scientific, technological, and public information needs.

(f) Foreign scientists participating in cooperative space science flight investigations shall be governed by appropriate international agreements and/or memoranda of understanding.

§ 1205.102 Responsibility

(a) OSS. The Associate Administrator for Space Science is responsible for the issuance of implementing management instructions and guidelines consistent with the provisions of this subpart. The Assistant Associate Administrator for Space Science (Science) is responsible for the program management of the NSSDC and for insuring that any noncompliance with PDMPs will be factored into future selection considerations.

(b) OSS Program Scientist. (1) Each Program Scientist is responsible for establishing the data analysis policies for each mission including data sharing and collaborations on data analysis. He/she will review the PDMP to assure that data interpretation meetings will be conducted, that wide dissemination of data through presentations and publications will occur and that data and supporting information will be made available to the scientific community in accordance with the PDMP and, along with the Project Scientist, he/she will monitor the execution of the PDMP. He/she will assist NASA public affairs personnel in meeting public information needs.

(2) Each Program Scientist will insure that the letter of notification of selection stipulates that the Principal Investigator (PI), Team Leader (TL), or Guest Investigator (GI) contributes to a PDMP prior to receipt of flight data which documents the plans for data analysis, dissemination of results and for making ADRs, RDRs and supporting documentation available to the scientific community through the designated data dissemination facility. The notification letter will further stipulate that selection for further opportunities will be jeopardized by failure to meet the commitments of the PDMP. The Program Scientist is also responsible for sending information for the Space Investigations Documentation System (SIDS) to the NSSDC after letters of notification have been sent.

(c) Office of Management Operations. The Head, Scientific and Technical Information Branch is responsible for the issuance of instructions to the Scientific and Technical Information Facility (STIF) to provide to the NSSDC a monthly listing of newly acquired articles and documents that contain information about of results from NASA-supported space science flight experiments, especially those which can be identified through the contract, grant, or NSAS Unique Project Numbers (UPN) supplied by the NSSDC.

(d) Field installations. NASA field installations assigned project management responsibility for space science flight projects are responsible for: (1) Insuring that the project plan includes a statement within the project results (or equivalent) section that the Project Scientist or Mission Scientist, the appropriate scientific personnel associated with the investigations that comprise the mission, and the NSSDC acquisition manager will develop a PDMP. This PDMP will be approved by the project manager with concurrence signatures by the Project Scientist and the Director of the NSSDC.

(2) Insuring that the contracts or written agreements negotiated between the PIs, TLs, or GIs institution and the project management center specify the responsibility of the PI, TL, or GI for data reduction, data analysis, publication of results, and, where appropriate, the preparation of selected ADRs, RDRs and necessary documentation for delivery to a data disseminating repository. The contracts or written agreements will stipulate that the contract number or, in the case of a NASA field center Investigator, that the UPN number appear in all reports or articles. Copies of all reports and preprints shall be sent to the STIF and to the NSSDC. This responsibility will be documented in a PDMP to which the Investigators, the Project Scientists, the NSSDC Acquisition Manager, and the appropriate scientific advisory groups will contribute. The PDMP will commit the Investigator, where appropriate, to supply to a specified repository the following documentation upon submission of the selected ADRs and RDRs:

(i) General information about each data set, such as:

(A) Form of data set—hard copy, magnetic tape, microfiche, microfilm, photographic film, etc.

(B) Quantity of data set—number of units of the form.

(C) External identification for each physical unit of the data set—spacecraft, experiment, Investigator's internal ID.

(D) Time period covered by the data set.

(E) Quantity by which data set is ordered—time, orbit number, spatial coordinate, etc.

(F) Supporting documentation—tape formats, catalog, directory, indexes, User's Guide, etc.

(G) Brief description of the data set (not to exceed 250 words).

(ii) Specific information about each data set, such as:

(A) Magnetic tape—track density, recording density, recording mode, recording parity, make and model number of computer used, number of files, size of physical records, logical record format with specification of each field, etc.

(B) Photographic or microform—type of film, frame and/or reel numbers where supporting data and description are located, index of frames and each reel, assurance that all reels are quality controlled to allow proper duplication, etc.

(C) Hard copy—assurance that copy is clean, legible and of proper contrast so it can be photographed; index or catalog if appropriate; form of binding (burst, unburst, loose leaf, bound); etc.

(iii) A Data Users' Guide which includes a summary of the investigation, a description of the instrument, a discussion of calibration procedures and results, a discussion of pertinent events in the operational history that might affect data interpretation, a discussion of over-all data reduction procedures used in generating the various data sets, and other information useful to a scientifically trained recipient of the data.

(iv) A list of all published articles related to the investigation by the investigator group or team and copies of all reports and preprints.

(3) Insuring that Investigators on these projects fulfill the stipulations of the contracts or written agreements pertaining to the responsibilities described in paragraph (d)(1) of this section.

(4) Delivery of EDRs to Investigators on a timely basis. Conditions for discarding or destroying EDRs shall be specified in the PDMP.

(5) Providing to the NSSDC during the writing of the project plan (and

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provided updates during revisions and specifically after launch) the following information:

(i) Brief statement of the mission objectives for each launch (not to exceed 200 words).

(ii) The names, addresses and telephone and telex numbers of the program mansger, Program Scientist, project manager, and Project Scientists for each mission.

(iii) The launch site, launch vehicle, spacecraft weight, and planned orbit parameters.

(iv) A brief description of the spacecraft, not exceeding 250 words.

(v) For each investigation the names, addresses and telephone and telex number of all the Investigators and the relevant contract or UPN numbers.

(vi) The name of each experiment, its weight, average power, and approximate bit rate.

(vii) A brief description of each experiment, not exceeding 250 words.

(e) The PI, TL, or GI (NASA, Non-NASA, and foreign). At the time an investigation is selected, the PI, TL, or GI will be notified by letter signed by the Associate Administrator for Space Science of his responsibilities for data reduction, prime analysis, and the archiving of appropriate ADRs and RDRs. These responsibilities (subject in the case of foreign scientists to the specifications of the governing international agreement) will include:

(1) Completion of data reduction and prime analysis of the data from his experiment within the period of time agreed upon between the PI, TL, or GI and the Associate Administrator for Space Science.

(2) Publication of the results of his analyses as soon as practicable.

(3) Preparation of selected ADRs and RDRs together with the necessary background information to make them usable by other scientists as specified in the PDMP.

(f) National Space Science Data Center (NSSDC). The Director, Goddard Space Flight Center (GSFC), is responsible for management of the NSSDC, the central data disseminating repository for data obtained from space science flight investigations. For functions and operation of the NSSDC, see Appendix B. The NSSDC Director, appointed by the Director, GSFC, is responsible for:

(1) Implementing the NASA project plan for the operation of the NSSDC.

(2) Recommending through the Director, GSFC, any changes in policies, procedures, and plans for the operation of the NSSDC deemed appropriate to the effective attainment of project objectives.

(3) Preparing budget estimates for operation of the NSSDC.

(4) Recommending fees for the computer and reproduction services performed by the Center to Director, Financial Management Divisions, NASA Headquarters, and obtaining from that office a fee schedule which is consistent with NASA practice.

(5) Based upon information contained in the PDMPs, compiling schedules for transmission of ADRs and RDRs to the NSSDC by investigators on NASA space science flight projects.

(6) Assigning an NSSDC acquisition manager to each flight project to participate in the development of the PDMP and to assure that the plan is carried out on an established schedule concerning the deposition of any data and documentation in the NSSDC.

(7) Providing to the STIF a monthly listing of contract, grant, or UPN numbers for all NASA funded space science flight experiments and related investigations.

(8) Preparing guidelines for the submission to the NSSDC of ADRs and RDRs with documentation from non-NASA missions, and disseminating these guidelines to appropriate individuals and agencies to serve in lieu of a formal PDMP.

(9) Reporting through the Director, GSFC, to the Assistant Associate Administrator for Space Science (Science) semiannually on the data acquisition, request activities and financial status of the NSSDC operations.

(10) Assessing adequacy of the NSSDC facilities and the effectiveness of their utilization; and recommending through the Director, GSFC, the necessary actions to meet future facility requirements.

(11) Maintaining, protecting, and retiring NASA records in the custody of the NSSDC in accordance with the policies and practices of the NASA Records Management Program, NASA Records Disposition Handbook (NASA Handbook 1441.1A) and other pertinent management instructions.

§ 1205.103 Support of research.

The NSSDC will support investigations in space sciences by making available its scientific data and facilities. However, the NSSDC will not provide financial support for such research. The Office of Space Science will entertain proposals for space science research based on data available in the NSSDC.

APPENDIX A—GLOSSARY OF TERMS AND ABBREVIATIONS

Analyzed Data Records (ADRs). Those records which the Investigator designates as the best to display the scientific results of an experiment and provide the physical quantities by applying calibration curves or algorithms to the corrected observed quantities of the Reduced Data Records. The data may be time averaged and may incorporate model-dependent assumptions to obtain the physical quantities. Charts, graphs, tables, correlation coefficients, model parameters, photographs, and plots are possible forms of these records.

Co-Investigator (Co-I). An associate of the Principal Investigator (PI) who is assigned a supporting role in the investigation. In addition, some data rights may be assigned to the Co-I by the PI.

Experiment. A term used interchangeably with investigation (the latter is preferred). Activity or effort aimed at the generation of data obtained by measurement of space phenomena or the use of space to observe earth phenomena and the resulting analysis of such data.

Experiment Data Records (EDRs). Those records provided to the Principal Investigator, Team Leader, Guest Investigator, Co-Investigator, or team member containing all the data from the mission required to carry out the investigation specified in the contract or launch agreement. These records may include orbital position, spacecraft attitude, instrument attitude, commands, housekeeping data, ground time, spacecraft time, data from other investigations and other information as agreed upon. The exact form of these records and manner in which these data are provided may vary depending upon the policies, procedures, and capabilities of the project, the payload or mission control centers, the data acquisition network, and any support processing facilities. These records shall be specified in the Project Data Management Plan.

Facility-Class Payload Mission. A mission in which the payload is an instrument or set of instruments which serve as a facility for a large group of Guest Investigators who may be selected at different times throughout the life of the mission to participate. This type of mission may not have Principal Investigators or Team Leaders and all the data collected from such a mission is generally maintained by the project for use by Guest Investigators. Availability of data for the scientific community at large shall be specified at the Project Data Management Plan.

Guest Investigator (GI). Investigator selected to conduct observations and obtain data within the capability of a NASA mission, which are additional to the mission's primary objectives, or for a facility-class payload mission.

Investigation. Activity or effort aimed at the generation of data obtained by measurement of space phenomena or the use of space to observe earth phenomena and the resulting analysis of such data.

Investigator. A participant in an investigation. This term may refer to a Principal Investigator, Co-Investigator, Team Leader, team member, Guest Investigator, or any other member of an investigation group.

Mission. One or more flights within an approved payload project.

Mission Scientist. A scientist from a NASA field center assigned to a Spacelab mission, the Mission Scientist has similar functions as the Project Scientist with the exception of direct responsibility for the development of any experiments.

National Space Science Data Center (NSSDC). The main central repository for selected data and documentation from space science flight missions that serves as a disseminator of this archived data and supporting information to users throughout the international scientific community. The NSSDC, located at Goddard Space Flight Center, serves as a switching center for requesters who desire data still held individually by Principal Investigators (PIs) or Team Leaders (TLs) by providing a description of the spacecraft and experiment and the name, address and telephone number of the PI or TL. For missions involving a Guest Investigator program in association with a PI or TL experiment or involving a facility-class payload the role of the NSSDC shall be specified in the Project Data Management Plan.

Principal Investigator (PI). A person who conceives an investigation and is responsible for carrying it out, reporting its results, and providing appropriately selected data and supporting documentation to the scientific community in accordance with the Project Data Management Plan. The PI chooses his Co-Investigators and assigns them roles and privileges. The PI is the primary point of contact with the project office regarding the investigation.

Program Scientist. A NASA Headquarters official assigned to each mission who has a number of roles and responsibilities defined in NASA Management Instruction 7100.11, Attachment D. The most relevant one for this subpart is the responsibility to establish the data analysis, data dissemination, and data archiving policies for the mission, which will be documented in the Project Data Management Plan.

Project Data Management Plan (PDMP). A plan that addresses the total activity associated with the data acquired by a mission from the delivery of the Experiment Data Records to the Investigators to the delivery of selected reduced and analyzed records along with supporting documentation to a specified repository. The plan should provide the milestones in the data reduction, data interpretation, and resource requirements for these phases. Any planned data interpretation meetings, workshops, or other activities should be identified. The type of data records, data products, and compilations that have been selected in concert by the Investigators, the Project Scientist, the Program Scientist, the NSSDC acquisition manager, and any appropriate scientific advisory personnel for general availability to the international scientific community and for delivery to a disseminating repository, such as the NSSDC, shall be specified. For missions where the data will be maintained for many years by the project, the Principal Investigator handling a Guest Investigator program, or by an institute established by the mission, the eventual transfer of appropriate data to a more permanent archive, such as NSSDC or other repository, shall be specified. Conditions for discarding or destroying the Experiment Data Records shall be specified.

Project Scientist. A scientist from a NASA field center assigned to a project to manage the scientific aspects. The roles and responsibilities of this function are given in NASA Management Instruction 7100.11, Attachment E.

Reduced Data Records (RDRs). Those records prepared from the Experiment Data Records by applying corrections, where applicable, for temperature, voltage, gain change, offsets, dead time, drift and other known instrument changes, as well as eliminating unusable noisy periods and periods of questionable instrument performance. The Reduced Data Record should contain all the basic and supporting measurements obtained from the experiment, such as time position, attitude, settings of instrument by command, housekeeping data, and other information needed to analyze the data in an independent fashion. Visual data, such as photographs derived from imaging processing techniques, may also be considered as RDRs.

Scientific and Technical Information Facility (STIF). NASA's document and report acquisition and abstracting facility that produces a biweekly abstract journal, STAR, covering the aerospace report literature and a biweekly abstract journal, IAA, covering the published literature in these fields. The facility also produces microfiche copies of the report literature for primary distribution.

Space Science Flight Investigations. Investigations of natural phenomena of the earth and its environment, the moon, other planets, the sun, interplanetary space, and other celestial objects and regions made from aircraft, balloons, sounding rockets, satellites, probes, and manned spacecraft for the purpose of increasing basic knowledge of these natural phenomena. Biological investigations involving the search for extraterrestrial life are included.

APPENDIX B—FUNCTIONS AND OPERATION OF NATIONAL SPACE SCIENCE DATA CENTER

The National Space Science Data Center (NSSDC) has been established at the Goddard Space Flight Center to provide scientific data and facilities in support of investigations in space science.

(a) *Data to be acquired.* The NSSDC will acquire or accept:

(1) RDRs and ADRs from NASA-sponsored space science flight experiments which are deemed appropriate for secondary distribution and archiving by PDMPs or directly by the Program Scientist. The vast majority of records will be from satellite borne instruments. Any departures from a PDMP shall be approved in writing by the Program Scientist, the Project Manager, and the NSSDC Director.

(2) Unclassifed ADRs and RDRs made available from space science flight experiments by other agencies in accordance with interagency agreements providing the data media meet standards for reproduction and the supporting documentation is adequate.

(3) Ground-based correlative data, only when it is considered absolutely necessary for the utilization of data in the NSSDC.

(4) ARDs and RDRs from foreign space science flight experiments made availble by international exchange of data through the World Data Centers or by cooperative agreements.

(b) *Data not to be acquired.* (1) Data obtained from operational observations made for specific applications such as weather forecasting, navigation, communication, tracking and telemetry, medical investigations, and technological investigations which contribute only to the development of space flight hardware will not be acquired by the NSSDC.

(2) Any data from space science flight experiments that is excluded from archiving in the NSSDC by a PDMP.

(3) EDRs (including magnetic tapes, telemetry records, exposed film and meteorite collection panels) will not be acquired by the Center.

(c) *Availability of data.* Data records in the NSSDC will be available to users on the following basis:

(1) To U.S. residents and organizations upon request.

(2) To foreign nationals in accordance with procedures of World Data Center A.

(3) To foreign nationals on the basis of cooperative agreements between NASA and the space agencies of foreign governments or multi-lateral organizations devoted to space research.

(4) To foreign governments on the basis of bilateral intergovernment agreements made by the U.S. on behalf of NASA.

(d) *Preservation of data.* This should be specifically addressed in the PDMP. In general, data in the NSSDC will be preserved for the longest practicable time consistent with the physical life of the record. Records will be reproduced to extend their storage life only if the record of their past utilization justifies such prolongation. Specific categories of data may be reproduced to extend their storage life regardless of past usage in accordance with international or interagency agreements or with the PDMP.

(e) *Interface with other sources of data from NASA missions.* Certain NASA missions such as those involving national facility payloads or those with Guest Investigator programs may maintain the data within the project for many years. The NSSDC will route requesters of such data to the appropriate facility or make request on their behalf depending on the agreement specified in the PDMP. The distribution of catalogs produced by such a mission shall also be determined by the PDMP.

(f) *NSSDC publications.* The NSSDC will issue or provide publications as necessary to facilitate the use of available data. Publications will include:

(1) *Data users guides.* Provides the data user the experiment information and describes the reduced data available. These will usually be written by the Investigators and supplied to the NSSDC as specified in the PDMP;

(2) *Catalogs of data.* Lists of all data from space science flight experiments available from the NSSDC, issued as needed. The forms in which the data are available will also be indicated; i.e., microfilm, tapes, printouts, etc. Catalogs of data available from projects that maintain their own data base, such as Guest Investigator or facility missions, will also be distributed if the PDMP so specifies.

(3) *Data Announcements.* Announces those data sets which are known to have wide appeal when such sets become available.

(g) *Other services.* The NSSDC will provide technical assistance to data users. In some cases, this may involve the conversion of data records into compatible formats to facilitate correlation of data from various sources. When facilities are available the NSSDC will provide lecture rooms, study rooms, and office space for use by visiting scientists for research involving the use of available data.

(h) *User charges.* (1) User charges will, as a matter of policy, be in accordance with the policies set forth in the Bureau of the Budget Circular A-25 and NASA Financial Management Manual 9080. The methods to be used in computing the user charges will be reviewed by the Director, Financial Management Division, NASA Headquarters.

(2) Appropriate fees will be charged for reproduction, computer and dissemination services provided to individual users by the Data Center. The NSSDC may perform conversion of data records and general technical assistance without charge to individual users. Fees for reproduction and dissemination services may be waived by the NSSDC Director if:

(i) The cost of collecting the fee would be an unduly large proportion of the amount of the fee.

(ii) The data furnished are required to accomplish a research task approved by NASA Headquarters or field installations.

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(iii) The data are to be used by a Federal, State, or local government agency or by nonprofit organization.

[FR Doc. 78-11862 Filed 5-1-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9076]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

Reichhold Chemicals, Inc.

AGENCY: Federal Trade Commission.

ACTION: Final order to cease and desist.

SUMMARY: This order, among other things, requires a White Plains N.Y., manufacturer and distributor of various products, including fiberglass reinforced panels (frp panels) to divest itself completely, within 1 year from service of this order, of The Corrulux Corp., a Houston, Tex., producer of frp panels. Further, the firm is prohibited, for a 2-year period from soliciting (for the purpose of selling fiberglass reinforced plastic panels) those customers who had purchased such panels from Corrulux during the year prior to its acquisition by RCI. Additionally, the order prohibits RCI from acquiring, for 10 years, any domestic company engaged in the production, sale, or distribution of frp panels.

DATES: Complaint issued March 11, 1976; final order issued February 22, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Alfred F. Dougherty, Director, Bureau of Competition, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3601.

SUPPLEMENTARY INFORMATION: In the matter of Reichhold Chemicals, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; (15 U.S.C. 45, 18).)

The final order is as follows:

[1]Copies of the complaint, initial decision, and final order filed with the original document.

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondent from the initial decision; and

The Commission having considered the oral arguments of counsel, their briefs, and the whole record; and

The Commission having denied in full the appeal of respondent's counsel; and

The Commission having determined that the initial decision and order contained therein shall become the decision and order of the Commission, with the following changes:

Page 15, substitute for finding 21:

21. Except for the limited number of instances noted earlier which amount to no more than about 7 percent of industry frp panel production (findings 19 and 20), all of the producers of frp panels use the continuous line process (CX's 306A, B; RX 83, pp. 9-10; Tr. 311, 313-14, 928, 1180).

Page 46, footnote 53, line 21, change "competition" to "conversion."

Page 52, Finding 115, add at end of line:

The rates of return on equity in 1974 for frp panel producers Fiberglass Plastics, Inc., and Kemlite Corp. were 35 and 28 percent respectively (CX's 189B, C, 122R). Kemlite's average annual rate of return on equity for 1965-74 was 23 percent (CX 122R).

Page 64, substitute for footnote 71:

"The record indicates that frp panels fulfill a unique range of applications (see finding 23). While such versatility may constitute a "peculiar characteristic" under Brown Shoe, or otherwise contribute to the finding of a relevant submarket, see, e.g., *General Foods Corp.*, 69 F.T.C. 380 415 (1966), *aff'd*, 386 F. 2d 936 (2d Cir. 1967), *cert. denied*, 391 U.S. 919 (1968); *Brillo Mfg. Co., Inc.*, 64 F.T.C. 245, 253-54 (1963); *Union Carbide Corp.*, 59 F.T.C. 614, 654 (1961), we are not persuaded of its relevance here. The record does not show, for example, that this versatility is a basis for consumer preference or that it enables producers to withstand fluctuations in demand for particular end uses better than producers of substitute products which are less versatile.

In addition, complaint counsel failed to demonstrate the significance to an frp submarket of the use of frp panels in garage doors, glazing, water towers, and signs (Findings 55-59).

Page 72, footnote 92, line 7, change "kitting" to "kiting."

Page 75, delete lines 5-8 beginning with "Union Carbide" and substitute:

United States v. *Aluminum Co. of America*, 247 F. Supp. 308, 316 (E.D. Mo. 1964), *aff'd mem.*, 382 U.S. 12 (1965) (order required divestiture of plant built after unlawful acquisition); *Union Carbide Corp., supra*, 59 F.T.C. at 657, 673 (divestiture of all post-acquisition improvements and equipment installed on premises of acquired company); see generally Elzinga, *The Antimerger Law: Pyrrhic Victories*, 12 Journal of L. & Econ. 43 (1969).

Page 75, line 13, following "best market price" add "[97]," with text of footnote as follows:

"See *United States* v. *Kennecott Copper Corp.*, 249 F. Supp. 154, 162 (S.D.N.Y.), *aff'd mem.*, 381 U.S. 414 (1965); cf. *Ford Motor Co.* v. *United States*, *supra*, 405 U.S. at 572.

Page 75, line 22, change "[97]" to "[98]," and renumber footnote accordingly.

Therefore, it is ordered, That the initial decision (as modified above) and the order contained therein, shall become the decision and order of the Commission on the date of issuance of this order.

The order to divest and to cease and desist, including further order requiring report of compliance therewith, contained in the initial devision, is as follows:

ORDER

I

It is ordered, That Respondent, Reichhold Chemicals, Inc. (hereinafter "Reichhold"), a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors, and assigns, shall divest all assets, title, properties, interest, rights, and privileges, of whatever nature, tangible and intangible, including without limitation all real property, buildings, machinery, equipment, raw material reserves, inventory, customer lists, trade names, trademarks, and other property of whatever description acquired by Reichhold as a result of its acquisition of The Corrulux Corp. (hereinafter "Corrulux") together with all additions and improvements to Corrulux which have been made subsequent to the acquisition. Such divestiture shall be absolute, shall be accomplished no later than one (1) year from the service of this order, and shall be subject to the prior approval of the Federal Trade Commission.

II

It is further ordered, That pursuant to the requirements of paragraph 1, none of the stock, assets, properties, rights, privileges, and interests of whatever nature, tangible or intangible, acquired or added by Reichhold, shall be divested, directly or indirectly, to anyone who is at the time of the divestiture an officer, director, employee, or agent of, or under the control, direction or influence of Reichhold, or anyone who owns or controls, directly or indirectly more than one (1) percent of the outstanding shares of the capital stock of Reichhold or to anyone who is not approved in advance by the Federal Trade Commission.

III

It is further ordered, That pending the divestiture required by this order, Respondent shall not knowingly cause or permit the deterioration of the assets and properties specified in paragraph I in a manner that impairs the marketability of any such assets and properties.

IV

It is further ordered, That at the time of the divestiture required by this order, Respondent shall make available to the acquirer of the divested assets a list of all of respondent's customers for fiberglass reinforced panels who have purchased said panels from respondent within 3 years prior to the date this order becomes final.

V

It is further ordered, That respondent, for a period of two (2) years from the date this order becomes final, shall not solicit (for the purpose of selling fiberglass reinforced plastic panels) any customer who purchased said panels from Corrulux during the year prior to the acquisition by respondent of Corrulux.

VI

It is further ordered, That for a period of one (1) year following the divestiture required by this order, respondent shall provide the acquirer of the divested assets, if the acquirer so requests, such know-how as may reasonably be required to enable such acquirer to manufacture and sell fiberglass reinforced plastic panels. For a period of three (3) years following the divestiture required by this order, respondent shall provide the acquirer of the divested assets, if the acquirer so requests, such amounts of suitable polyester resin as the acquirer may reasonably need to produce fiberglass reinforced plastic panels. Respondent shall charge the acquirer no more than its own costs for providing know-how. Respondent shall charge the acquirer no more than the lowest price that it is then charging, on the open market, regardless of volume, for polyester resin.

VII

It is further ordered, That, for a period commencing on the effective date of this order and continuing for ten (10) years from and after the date of completing the divestiture required by this order, Reichhold shall cease and desist from acquiring, directly or indirectly, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital, assets, any interest in or any interest of, any domestic concern, corporate or noncorporate, engaged in the manufacture, production, distribution or sale of frp panels nor shall Reichhold enter into any arrangement with any such concern by which Reichhold obtains the market share, in whole or in part, of such concern.

VIII

It is furthered ordered, That on the first anniversary date of the effective date of this order and on each anniversary date thereafter until the expiration of the prohibitions in paragraph VII of this order, Reichhold shall submit a report in writing to the Federal Trade Commission listing all acquisitions, mergers, and agreements to acquire or merge made by Reichhold; the date of each such acquisition, merger, or agreement; the products involved and such additional information as may from time to time be required.

IX

It is further ordered, That within thirty (30) days from the effective date of this order and every sixty (60) days thereafter, until it has fully complied with paragraph I of this order, Reichhold shall submit a verified report in writing to the Federal Trade Commission setting forth in detail the manner and form in which it intends to comply, is complying or has complied therewith. All such reports shall include, in addition to such other information and documentation as may hereafter be requested: (a) A specification of the steps taken by Reichhold to make public its desire to divest Corrulux, (b) a list of all persons or organizations to whom notice of divestiture has been given, (c) a summary of all discussions and negotiations together with the identity and address of all interested persons or organizations, and (d) copies of all reports, internal memoranda, offers, counteroffers, communications, and correspondence concerning said divestiture.

X

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, or any other proposed change in the corporation, which may affect compliance obligations arising out of this order.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-11828 Filed 5-1-78; 8:45 am]

[6750-01]

[Docket No. C-2918]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Ferrara Imports, Ltd., et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a New York City importer and manufacturer of men's clothing to cease misrepresenting or failing to affix to their products required fiber disclosure labels. The firm is additionally required to furnish affected customers with a copy of the order.

DATE: Complaint and order issued March 24, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

John F. Dugan, Acting Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1200.

SUPPLEMENTARY INFORMATION: On Tuesday, January 17, 1978, there was published in the FEDERAL REGISTER 43 FR 2406, a proposed consent agreement with analysis In the Matter of Ferrara Imports, Ltd., a corporation, and Louis Ferrara, individually and as an officer of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-37 Formal regulatory and/or statutory requirements. Subpart—Misbranding or Mislabeling: § 13.1185 Composition; 13.1185-90 Wool Products Labeling Act; § 13.1200 Content; § 13.1212 Formal regulatory and statutory requirements; 13.1212-90 Wool Products Labeling Act. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1590 Composition; 13.1590-90 Wool Products Labeling Act; § 13.1605 Content; § 13.1623 Formal regulatory and statutory requirements; 13.1623-90 Wool Products Labeling Act. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1845 Composition; 13.1845-80 Wool Products Labeling Act; § 13.1850 Content; § 13.1852

[1]Copies of the Complaint and the Decision and Order filed with the original document.

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Formal regulatory and statutory requirements; § 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; Secs. 2-5, 54 Stat. 1128-1130; (15 U.S.C. 45, 68).)

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-11830 Filed 5-1-78; 8:45 am]

[6750-01]

[Docket No. 8879-0]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Grolier Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order to cease and desist.

SUMMARY: This order, among other things, requires a New York City publisher and seller of encyclopedia and other educational materials and services, and its subsidiaries to cease misrepresenting, failing to make relevant disclosures, or using any other unfair or deceptive method to recruit door-to-door sales personnel, sell merchandise and services, and collect delinquent accounts.

DATES: Complaint issued January 10, 1973; Final order issued March 13, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Edward D. Steinman, Acting Assistant Director for Marketing Abuses, Bureau of Consumer Protection, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3355.

SUPPLEMENTARY INFORMATION: In the Matter of Grolier, Inc., a corporation, et al. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections; 13.15-5 Advertising and promotional services; 13.15-20 Business methods and policies; 13.15-30 Connections or arrangements with others; 13.15-35 Contracts and obligations; 13.15-105 Identity; 13.15-150 Endorsement; 13.15-155 Institutional connections; 13.15-195 Nature; 13.15-245 Prospects; 13.15-247 Publication services; 13.15-265 Service; § 13.42 Connection of others with goods; § 13.60 Earnings and profits; § 13.75 Free goods or services; § 13.105 Individual's special selection or situation; § 13.110 Endorsements, approval and testimonials; § 13.125 Limited offers or supply; § 13.143 Opportunities; § 13.155 Prices; 13.155-5 Additional charges unmentioned; 13.155-15 Comparative; 13.155-33 Demonstration reductions; 13.155-35 Discount savings; 13.155-70 Percentage savings; 13.155-93 Special or test offers; 13.155-95 Terms and conditions; 13.155-100 Usual as reduced, special, etc.; § 13.160 Promotional sales plans; § 13.205 Scientific or other relevant facts; § 13.240 Special or limited offers; § 13.247 Statutes and regulations; § 13.255 Surveys. Subpart—Claiming or Using Endorsements or Testimonials Falsely or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly; 13.330-39 Educators, school authorities, etc.; 13.330-94 Users, in general. Subpart—Coercing and Intimidating: § 13.356 Delinquent debtors. Subpart—Contracting for Sale in any Form Binding on Buyer Prior to End of Specified Time Period: § 13.527 Contracting for sale in any form binding on buyer prior to end of specified time period. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.553-20 Disclosures; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records. Subpart—Enforcing Dealings or Payments Wrongfully: § 13.1045 Enforcing dealings or payments wrongfully. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1395 Connections and arrangements with others; § 13.1417 Financing activities; § 13.1440 Identity; § 13.1490 Nature; § 13.1545 Research bureau; § 13.1553 Services.—Goods: § 13.1625 Free goods or services; § 13.1663 Individual's special selection or situation; § 13.1665 Endorsements; § 13.1670 Jobs and employment; § 13.1675 Law or legal requirements; § 13.1697 Opportunities in product or service; § 13.1740 Scientific or other relevant facts; § 13.1747 Special or limited offers; § 13.1757 Surveys; § 13.1760 Terms and conditions; 13.1760-50 Sales contract.—Prices: § 13.1778 Additional costs unmentioned; § 13.1800 Demonstration reductions; § 13.1817 Reductions for prospect referrals; § 13.1823 Terms and conditions; § 13.1825 Usual as reduced or to be increased.—Promotional Sales Plans: § 13.1830 Promotional sales plans.—Services: § 13.1843 Terms and conditions. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; § 13.1863 Limitations of product; § 13.1882 Prices; 13.1882-10 Additional prices unmentioned; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905-50 Sales contract. Subpart—Offering Unfair, Improper and Deceptive Inducements to Purchase or Deal: § 13.1935 Earnings and profits; § 13.1955 Free goods; § 13.1960 Free service; § 13.1975 Government penalty; § 13.1985 Individual's special selection or situtior; § 13.2000 Limited offers or supply; § 13.2063 Scientific or other relevant facts; § 13.2080 Terms and conditions. Subpart—Securing Agents or Representatives by Misrepresentation: § 13.2130 Earnings; § 13.2148 Scientific or other relevant facts; § 13.2160 Success, history or standing; § 13.2165 Terms and conditions. Subpart—Threatening Suits, Not in Good Faith: § 13.2264 Delinquent debt collection.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

The Final Order to cease and desist, including further order requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter having been heard by the Commission upon the cross-appeals of complaint counsel and respondents' counsel from the initial decision and upon briefs and oral argument in support thereof and opposition thereto, and the Commission, for the reasons stated in the accompanying Opinion, having determined to sustain the initial decision with certain modifications:

It is ordered, That pages 1-176 of the initial decision of the administrative law judge be, and they hereby are, adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent modified or otherwise indicated in the accompanying Opinion and except for the following: Delete in Finding 126 the first sentence and the word "In fact" in the second sentence.

Other Findings of Fact and conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to Cease and Desist be, and it hereby is, entered:

ORDER

I

It is ordered, That respondents Grolier, Inc., Americana Corp., Grolier Interstate, Inc., Grolier New Era Corp., Madison Enterprises, Inc., R. H. Hinkley Co., the Grolier Society, Inc., Spencer International Press, Inc. and the Richards Co., Inc., corporations, and their successors, assigns, officers, agents, representatives and employees, directly or indirectly, through any corporation, subsidiary, division or other device, in connection with the recruitment, training, or orientation of any person to sell, rent, lease, or distribute any textbook, encyclopedia, reference or educational material, training course or teaching machine, or any other publication, merchandise or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, either orally or in writing, that:

(1) Any respondent is offering positions in such fields as advertising, education, public relations, marketing, interviewing, or in any field other than door-to-door sales, if door-to-door sales is included, to any extent, in the position for which persons are being recruited; or misrepresenting, in any manner, the job for which any person is being solicited;

(2) Persons will be trained as management trainees, or for other positions of responsibility concerned with administrative office functions, unless, in fact, a formal management training program is available to persons accepting employment on the basis of such representations; or misrepresenting, in any manner, the amount and type of training that will be given;

(3) Any person who may be employed will contact prospects in their homes or places of business for the purposes of conducting surveys, advertising promotions, educational instruction or other nonselling functions; or misrepresenting, in any manner, the purposes for which any person is engaged.

B. Misrepresenting, in any manner, the amount of income to be earned by any person or that may be earned by any person, the method of payment, or any condition or limitation imposed upon the compensation of any person, or the degree of ease or difficulty in performing any said condition imposed.

C. Failing to disclose, clearly and conspicuously, in all advertising offering employment in any way involving door-to-door sales:

(1) That the respondent concerned is recruiting persons for the sole purpose of soliciting or selling;

(2) That such soliciting or selling will be on an "in home" basis;

(3) That the products or services being sold are encyclopedias or services to be used in connection therewith, or in the event that encyclopedias or such related services are not being sold, the products and services being sold; and

(4) The basis for compensating persons so engaged.

D. Failing to clearly and conspicuously advise, both orally and in writing, any prospective salesperson at the initial face-to-face interview, and prior to executing any employment agreement with any such person, the following information:

(1) All those disclosures set forth in Paragraph I C above;

(2) A complete and detailed description of each condition and limitation imposed upon the receipt of any compensation;

(3) Where applicable, notification that such person will not be paid for time spent during orientation and training;

(4) A complete and detailed description of any expense or expenses any such person may incur in performing the required duties; and

(5) The percentage of persons holding similar positions engaged by the office offering the position during the twelve (12) months immediately preceding the offer, who have actually received an equivalent or greater, income than that promised under the terms of any such agreement.

E. Failing to furnish to each applicant at the initial face-to-face interview and prior to executing any employment agreement with any such person, a copy of Paragraphs I, II and V of this Order together with a cover letter as set forth in *Appendix A* attached hereto.

F. Making, distributing or using any training tapes, sales manuals, or any other document, method or device which contains any representation or instruction inconsistent with any provision of Paragraph I or Paragraph II of the Order.

II

It is ordered, That respondents Grolier, Inc., Americana Corp., Grolier Interstate, Inc., Grolier New Era Corp., Madison Enterprises, Inc., R. H. Hinkley Co., The Grolier Society, Inc., Spencer International Press, Inc., and The Richards Co., Inc., corporations and their successors assigns, officers, agents, representatives, and employees, directly or indirectly, through any corporation, subsidiary, division or other device, in connection with the publishing, advertising, offering for sale, sale, rental, lease or distribution of any textbook, encyclopedia, reference or educational material, training course or teaching machine, or any other publication, merchandise or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Disseminating or causing to be disseminated, any advertisement or promotional material which solicits participation in any contest, drawing or sweepstakes, or solicits any response to any offer of merchandise, service or information unless any such solicitation clearly and conspicuously discloses the following statement in 10-point bold-face type:

NOTICE TO CONSUMER—PERSONS WHO REPLY AS REQUESTED MAY BE CONTACTED BY A SALESPERSON FOR THE PURPOSE OF SELLING [insert name of applicable product].

B. Providing any return card, coupon or other device which is used to respond to any advertisement or promotional material covered by Paragraph II A above, unless the following statement clearly and conspicuously appears in 10-point bold-face type in immediate proximity to the space provided for a signature or other identification of the responding party:

NOTICE TO CONSUMER—PERSONS WHO RETURN THIS [insert name of applicable device] MAY BE CONTACTED BY A SALESPERSON FOR THE PURPOSE OF SELLING [insert name of applicable product].

C. Failing to disclose clearly and conspicuously, at the beginning of any telephone call to any prospective customer, the fact that the individual making the call is either soliciting the sale, rental or lease of publications, merchandise or services for respondents, or is arranging for a sales solicitation to be made, and that if the prospective customer so agrees, the respondent concerned will send a salesperson to visit said prospect for the purpose of soliciting the sale, rental or lease of said publications, merchandise or services.

D. Visiting the home or place of business of any person for the purpose of soliciting the sale, rental or lease of any publications, merchandise or service, unless at the time admission is sought into the home or place of business of such person, a card 3 inches by 5 inches in dimension, with all words in 10-point bold-face type, with the following information, and none other, in the indicated order, is presented to such person:

(1) The name of the corporation;

(2) The name of the salesperson;

(3) The term "Encyclopedia Sales Representative" [or other applicable product];

(4) The terminology: "The purpose of this representative's call is to solicit the sale of encyclopedias" [or other applicable product].

E. Failing to present the card, required by Paragraph II D, above, to each such person, to direct each such person to read the information contained on such card, and to provide each such person with an adequate opportunity to read the card before engaging any such person in any sales solicitation.

F. Using the words "Mothers Club" or words of similar import and meaning to represent, directly or by impli-

[1] Copies of the Complaint, Order Amending Complaint, Initial Decision, Opinion and Final Order filed with the original document.

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cation, the existence of a *bona fide* educational program, club, or business entity which provides educational services or benefits to consumers or using any trade name misrepresenting in any manner the nature or purpose of their business.

G. Representing, directly or by implication, either orally or in writing that:

(1) Any person calling on any prospective purchaser is:

(a) Engaged in or connected with "advertising", "marketing", "promotion", "education", or anything other than the sale of encyclopedias or other educational or reference materials;

(b) Conducting, taking or participating in a survey, opinion poll, interview or any other information gathering activity; or

(c) Calling on said prospect for the primary purpose of delivering or disseminating any vacation gift certificate, prize, gift, gift certificate, chance in any contest, or any other merchandise or item of chance;

(2) Only a few minutes will be required to complete the visit inside the prospective purchaser's home or place of business; or misrepresenting, in any manner, the period of time required to complete the sales or other presentation;

(3) Any person contacted has been specially selected to receive any offer; or misrepresenting, in any manner, the persons or class of persons to whom said offer is available;

(4) Any encyclopedia or other reference material is a new publication, or a publication which has not been previously available to the public unless such is the fact, or misrepresenting, in any manner, the extent of editorial revisions, in any encyclopedia or other reference material;

(5) Any offer is limited, must be accepted immediately or within a specified time period, or is a special offer, unless such is a fact, or misrepresenting, in any manner, the nature, scope or duration of any sales offer;

(6) Any publication, merchandise or service is being offered free, without cost, as a bonus, reduced in price or otherwise to any prospective purchaser of any of respondents' publications, merchandise or services agreeing to perform any advertising promotional or selling function, including but not limited to, any of the following acts or similar acts:

(a) Permitting their names to be listed as local owners of the product or services;

(b) Providing the name of any person who may be interested in purchasing any publication, merchandise or service;

(c) Writing a letter evaluating the merits of any publication or other item which may be used in advertising;

(d) Displaying any publication or other item in a conspicuous location in his home;

(e) Keeping any publication or other item current by purchasing an annual yearbook or by purchasing any research service;

(f) Completing installment payments for any item in a period of time less than the period of time initially represented; or

(g) Paying a membership fee in order to participate in the Consumer Buying Educational Service, or any other program, club, service or entity which provides an opportunity for participants to puchase merchandise at a savings from the retail prices for such merchandise, or paying a fee to participate in any similar program, club, service, or entity; or

(h) Misrepresenting, in any manner, that any publication, merchandise or service is being offered free, without cost, as a bonus, or reduced in price to any person;

(7) Any publication, merchandise or service is being offered free, without cost, or is given as a bonus or otherwise to any purchaser of any of respondents' publications, merchandise or services, pursuant to any agreement to purchase, rent or lease any other publication, merchandise, or service, or combination thereof, from such respondent, unless:

(a) The contract price for the purchase, rental or lease of any such other publication, merchandise, service, or combination thereof, has remained at the said price or above for at least six (6) months within the last twelve (12) months immediately preceding the time at which the representation is made;

(b) No publication, merchandise or service has been offered free, without cost or given as a bonus or otherwise with the sale, rental or lease of any such other publication, merchandise, service or combination thereof, to any person for a period of at least six (6) months within the last twelve (12) months immediately preceding the time at which the representation is made;

(c) No publication, merchandise, service, or combination thereof, of equivalent or greater value, has been eliminated by such respondent from any such other publication, merchandise, service, or combination thereof, with which the free, without cost or bonus publication, merchandise or service is being offered;

Provided however, Any such prices as are restricted by Paragraph II G(7)(a) of this Order may be altered at any time by the respondent concerned to reflect bona fide changes in market conditions.

H. Misrepresenting, in any manner, the terms, conditions, method, rate or time of payment actually made available to any person.

I. Representing, directly or by implication, either orally or in writing that:

(a) Any person using any research service will receive answers to questions on any subject; or misrepresenting, in any manner, the scope of, or restrictions imposed upon the use of, any such research service;

(b) Any answer provided by a research service is the product of detailed, exhaustive or original research generated by the specific question asked by any person utilizing said service unless such is the fact; or misrepresenting, in any manner, the extent of individual attention, research, preparation or quality of any answer furnished by any such research service;

(c) Any answer provided by any research service is a suitable or acceptable substitute for any term paper, theme or other report; or misrepresenting, in any manner, the benefit or use of any answer provided by any research service;

(d) Any research service is being offered at any price or that the research service has a retail value unless such is the fact;

(e) The cost to any respondent of any research service represents a retail value.

J. (1) Failing to disclose, clearly and conspicuously, in writing on all promotional materials describing any research service, and orally during the course of any sales or other presentation relating to said service, each condition or limitation placed upon the use of such research service.

(2) Failing to disclose applicable limitations on the time within which answers will be supplied by any research service in writing on all promotional materials and orally during the course of any sales presentations relating thereto.

K. (1) Representing, directly or by implication, through the use of any oral statement, written quotation, picture or any other means that any publication, merchandise or service has received an endorsement, recommendation, or sponsorship from any educational, religious, or other institution or other entity or from any person, unless the stated endorsement is genuine and authentic in all respects, and discloses the year or edition of the publication to which such endorsements pertain, if a publication is involved.

(2) Using, publishing, or referring to any testimonial or endorsement unless (1) such use, publication, or reference is expressly authorized in writing and unless (2) respondents have good reason to believe that at the time of such use, publication, or reference, the person or organization named subscribes to the facts and opinions therein contained.

(3) Representing, in any manner, than an endorsement or testomonial has been recently executed or is current unless this is the fact.

(4) Misrepresenting, in any manner, that any person is calling on a prospective customer with the endorsement, recommendation, or sponsorship of another person or organization.

L. Failing to disclose:

(1) Clearly to the officials of any educational institution being visited, where a purpose of such visit is to obtain the institution's permission to disseminate through the institution promotional material which solicits the sale of any product to the parents of the children enrolled in the educational institution, and which is designed to secure leads for in-home sales presentations, prior to any such dissemination, that the purpose of disseminating such promotional materials is to secure leads for in-home sales presentations;

(2) Conspicuously on the face of such promotional materials within the scope of L(1) that dissemination of such promotional materials through the educational institution does not constitute an endorsement or a recommendation by the institution or its officials that such materials being promoted should be purchased unless such is the fact.

M. Representing to any person, directly or by implication, either orally or in writing that:

(1) Any price is the retail, regular, usual or words of similar import or effect, price for any publication in any binding, merchandise or service, unless the respondent concerned is making a substantial number of its unit sales for each such publication in each such binding, merchandise or service, individually, at or above the represented price;

(2) Any price is the retail, regular, usual, or words of similar import or effect, price for any set of publications in any binding and in combination with any other publication, merchandise or service, unless the respondent concerned is making a substantial number of its unit sales for each such set of publications in each such binding individually or in combination at or above the represented price;

(3) Savings may be realized by the purchase, rental or lease of any publication, merchandise or service, or any combination thereof, from any of respondents' former prices for its products unless:

(a) Such savings claims are based upon retail, regular, or usual prices, or combination prices, arrived at in accordance with Paragraph II M (1) and (2) above:

(b) Respondents clearly and conspicuously specify the publication, merchandise or service, or combination thereof, and the price from which the savings are to be realized; and

(c) The publication, merchandise or service is of comparable quality in all material respects with the publication, merchandise or service sold at the higher price;

(4) Savings may be realized by the purchase, rental or lease of any publication, merchandise or service, or any combination thereof, from comparable products of competitors unless:

(a) The respondent concerned clearly and conspicuously specifies the publication, merchandise or service, or combination thereof, from which the savings are to be realized;

(b) The price utilized for comparison purposes is the price at which a substantial number of persons have purchased the item referred to in (a) immediately above;

(c) The item referred to in (a) above is of comparable quality in all material respects to the product being sold;

(d) Respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in the trade area where the comparison is made which establishes the validity of said compared price.

N. Misrepresenting in any manner, either orally or in writing:

(1) The amount of savings to be realized by any person who enters into an agreement with any respondent for any publication, merchandise or service; or

(2) That any publication, merchandise or service is being offered free or without charge, or is given to any such person.

O. Failing to comply with any and all provisions of the Commission's Trade Regulation Rule, Cooling-Off Period For Door-To-Door Sales (16 CFR 429.1), which are in effect on the date this Order becomes effective, and with any modifications or changes in the aforesaid Rule which may be made. A copy of the said Rule shall be made a part of this Order for purposes of complying with other provisions hereof.

P. Initiating contact with any purchaser through any means for any reason from the time said purchaser enters into any agreement containing a NOTICE OF CANCELLATION, as required by Paragraph II O of this Order, until said buyer's cancellation period has expired.

Q. Failing to maintain a copy of each NOTICE OF CANCELLATION received pursuant to Paragraph II O of this Order, and making said documents available for inspection and copying by the Commission's staff upon reasonable notice. Any respondent receiving such NOTICE shall maintain it for a period of three (3) years from date of receipt.

R. Failing to create adequate records, which shall be maintained for a period of three (3) years and made available to the Commission's staff for inspection and copying upon reasonable notice, from which the validity of any savings claims, retail price claims, comparative value claims, or other representations of the type described in Paragraphs II G(7), II M and II N of this Order can be determined, and making any pricing claims within the scope of this provision unless there are in existence for at least the six (6) months preceding such claims records from which the validity of such claims can be determined.

S. Failing to attach to any contract for the sale, rental or lease of any publication, merchandise, service or combination thereof a written statement that clearly and conspicuously discloses, and only discloses, the following information in the indicated order and manner:

(1) In 12-point bold-face type size the terminology:

PRICE LIST

THE FOLLOWING PRICES ARE THE *ONLY* AUTHORIZED PRICES AT WHICH THE LISTED ITEMS MAY BE OFFERED. ANY PRICE NOT LISTED BELOW IS UNAUTHORIZED AND FALSE.

(2) A list of all publications, merchandise, services or combination thereof currently offered for sale, rental or lease, and in immediate conjunction thereto each price at which any respondent is authorized to offer said product or service pursuant to Paragraph II M of this Order.

(3) In 12-point bold-face type the terminology, when applicable:

FREE ITEMS

ONLY THE FOLLOWING PRODUCTS AND SERVICES MAY BE OFFERED FREE. YOU ARE PAYING FOR ANY ITEMS RECEIVED AND NOT LISTED BELOW.

(4) A list of all publications, merchandise or services currently offered as free, without cost, or as a bonus pursuant to Paragraph II G(7) of this Order.

T. Failing to orally instruct any person at the time said person signs any contract for sale, rental or lease, of any publication, merchandise, service or combination thereof, pursuant to an oral sales presentation, that a "Price List" is attached to said person's contract.

III

It is further ordered, That respondents Grolier, Inc., American Peoples Press, Inc., Americana Interstate Corp., Career Institute, Inc., Grolier Enterprises, Inc., and Grolier Reading Programs, Inc., corporations, and their successors or assigns, their officers, agents, representatives and employees, directly or indirectly, through any corporation, subsidiary or division, or other device, in connection with the advertising, offering for sale, sale or distribution of any textbook, encyclopedia, reference or educational materi-

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al, training course or teaching machine, or any other publication, merchandise or service through the use of any program, plan, method or device, that provides or purports to provide for the sale or distribution of any of said items to any person on an approval basis, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, either orally or in writing that:

(1) Any person has the option to receive each publication, merchandise or service, separately and individually, and to accept or reject same, unless such person is allowed in all instances to receive and to purchase or reject each such publication, merchandise or service separately and individually;

(2) Any person will not receive any further publication, merchandise or service after the respondent concerned has received a timely notification of the person's cancellation of any such program, plan or method of sale or distribution, unless such is the fact; or misrepresenting, in any manner, any consequence resulting from any person's cancellation of his participation in any such program, plan, or method of sale or distribution; and

(3) Any person incurs no risk or obligation by joining or participating in any such program, plan, or method of sale or distribution; or misrepresenting, in any manner, any condition, right, duty or obligation imposed on any person.

B. Disseminating, or causing the dissemination of, any advertisement which fails to disclose in a clear and conspicuous manner:

(1) A description of the conditions and terms of any such program, plan, or method of sale or distribution, and the duties, risks and obligations of any subscriber thereto; and

(2) A description of each publication, merchandise or service to be offered for sale, the billing charge to be made therefor, the anticipated total number of publications, merchandise or services included in any such program, plan or method of sale or distribution, the number of publications, merchandise or services that will be included in each shipment of such items, and the number of and the intervals between each such shipment.

C. Failing to disclose, clearly and conspicuously, on any return coupon, order form or any other document used for responding to any such program, plan, or method of sale or distribution, the following information:

(1) The anticipated total number of publications, merchandise or services included in any such program, plan, or method of sale or distribution;

(2) The number of publications, merchandise or services that will be included in each shipment of such items; and

(3) The number of and the intervals between each such shipment.

D. Failing to disclose, clearly and conspicuously, in immediate conjunction with any publication, merchandise, service or notice thereof sent to any subscriber the anticipated date on which the respondent from whom the subscriber obtained any of such items will initiate processing of the next shipment of any such item.

E. Failing to provide to any person in conjunction with each notice of any shipment of any publication, merchandise or service, a clear and conspicuous means by which said person may exercise his option or right to cancel said shipment, if such is his right.

IV

It is further ordered, That respondents Grolier, Inc., American Peoples Press, Inc., Americana Corp., Americana Interstate Corp., Federated Credit Corp., Career Institute, Inc., Grolier Interstate, Inc., Grolier New Era Corp., Madison Enterprises, Inc., R. H. Hinkley Co., Spencer International Press, Inc., The Grolier Society, Inc., and The Richards Co., corporations, and their successors, assigns, officers, agents, representatives and employees, directly or indirectly, through any corporation, subsidiary, division or other device, in connection with the collection or attempted collection of any debt allegedly due and owing pursuant to any contract or other agreement relating to the purchase or other receipt of any textbook, encyclopedia, reference or educational material, training course or teaching machine, or any other publication, merchandise or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, either orally or in writing that:

(1) Any company, corporation, or entity engaged in collection of monies allegedly due or owing to such concerns or any other company, corporation or entity has separate *bona fide* departments or divisions for legal matters, unless such are the facts; or misrepresenting, in any manner, the existence, or functions of any division or department of any company, corporation or entity;

(2) The Code of Federal Regulations, or any other federal regulation or statute, provides that any employee of the Federal Government who has any outstanding debt due or owing may be subject to dismissal from the federal service for failure to pay said debt unless the respondent concerned can demonstrate that sufficient facts exist with regard to the employee to whom the representation was made which establish the propriety of such claim;

(3) Any person who utilizes the United States mails to obtain any publication, merchandise or service and who fails to pay or becomes delinquent in paying for any such item will be subject to prosecution for mail fraud under federal law unless the respondent concerned can demonstrate that sufficient facts exist, with regard to person to whom the representation was made, which established the propriety of such claim; or misrepresenting, in any manner, the rights, duties or obligations of any person arising from any federal, state, or local statute, ordinance, or regulation;

(4) Any respondent utilizes the services of credit reporting companies or other entities for persons who disseminate credit information in a manner which will adversely affect the public or general credit rating of any person who has become delinquent in paying any debt unless the respondent concerned can demonstrate that sufficient facts exist, with regard to the person to whom the representation was made, which establishes the propriety of such claim, or misrepresenting, in any manner, that any person's public or general credit rating will be adversely affected;

(5) Any letter, notice or other communication which has been prepared, originated or composed by any respondent has been prepared, originated or composed by any other person, firm or corporation;

(6) Suit will be instituted to recover any delinquent debt, or that any delinquent debt will be transferred to any attorney with instructions to institute suit, or that any other legal step to collect any outstanding debt will be taken, unless a definite date is set forth for such action and such are the facts; or misrepresenting, in any manner, respondents' relationship with, or instructions to, any attorney, or the course of action that will be taken by any attorney or misrepresenting in any manner that any account has been transferred to any person or entity for collection unless those are the facts.

B. Using any correspondence forms or any written materials which appear to depict official legal process.

V

For the purpose of the following provisions of this order, the term "respondents" shall apply to each of the respondents named in Paragraph I and II of the Order.

It is further ordered, That respondents:

A. Deliver by registered mail, a copy of this Decision and Order to each of their salesmen, agents, solicitors, or other persons engaged by respondents for the promotion, sale or distribution of any of the publications, merchandise or services included in this Order, and to any person engaged by respondents to perform such duties in the future at the time such person is so engaged;

B. Obtain from each person described in Paragraph V A, a signed statement setting forth their intention to conform their business practices to the requirements of this Order; retain said statement during the period of three (3) years thereafter; and make said statement available to the Commission's staff for inspection and copying upon reasonable notice;

C. Advise each such present and future salesman, agent, solicitor, or other person engaged by respondents for the promotion, sale or distribution of any of the publications, merchandise or services included in this Order that respondents will terminate the engagement or services of any such person, unless such person agrees to and does furnish to respondents a statement required by Paragraph V B, above; and

D. If any such person will not agree to file a statement with respondents as required by Paragraph V B above, and be bound by the provisions of this Order, the respondents shall immediately terminate the services of such person.

E. Furnish the Commission on a quarterly basis with a list, including business addresses, of those independent or outside distributors who have purchased or otherwise obtained for resale any of the publications, merchandise or services included in this Order.

VI

It is further ordered, That the respondent shall forthwith distribute a copy of this Order to each of their operating divisions.

VII

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in any of the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of which may affect compliance obligations arising out of this Order.

VIII

It is further ordered, That respondents shall, within sixty (60) days after the effective date of this Order, file with the Commission a report in writing setting forth in detail, the manner and form in which they have complied with this Order.

CAROL M. THOMAS,
Secretary.

APPENDIX A

NOTICE

Attached hereto are the pertinent provisions of a cease and desist order entered against Grolier, Incorporated and certain of its subsidiaries, including Grolier Interstate, Inc. by the Federal Trade Commission, an agency of the Federal Government. Violation of any provision of this Order can result in severe monetary penalties to Grolier, Incorporated and Grolier Interstate, Inc. If you are employed by Grolier, Incorporated or any of its subsidiaries, you will be required to observe the provisions of this Order. Violation of any provision of this Order by an employee constitutes a violation of a federal law.

You should carefully read this Order before agreeing to any employment arranged with Grolier, Inc. or any of its subsidiary companies.

President, Grolier, Inc.

[FR Doc. 78-11831 Filed 5-1-78; 8:45 am]

[6750-01]

[Docket No. C-2788]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Johnson Products Co., Inc.

AGENCY: Federal Trade Commission.

ACTION: Order modifying final order.

SUMMARY: This order modifies a consent order issued February 10, 1976, 41 FR 11172, 87 FTC 206, which was remanded to the Commission for reconsideration by the Court of Appeals for the Seventh Circuit. Modifications in the order exclude references to the advertising firm, restrict provisions of the order to hair straightening products, and are designed to eliminate the significant differences between the original order and that of a competitive company (Revlon, Inc.).

DATES: Final order issued February 10, 1976, order modifying final order issued March 20, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Albert H. Kramer, Director, Bureau of Consumer Protection, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3727.

SUPPLEMENTARY INFORMATION: In the Matter of Johnson Products Co., Inc., a corporation. The prohibited trade practices and/or corrective actions. as codified under 16 CFR Part 13, for this case appearing at 41 FR 11172, remain unaltered except for the following deletions: § 13.10-5 Knowingly by advertising agent; 13.533-15 Destruction of records and/or data; and § 13.533-53 Recall of merchandise, advertising material, etc.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

[1] Copies of the modifying order filed with the original document.

The order modifying final order, is as follows:

ORDER MODIFYING ORDER TO CEASE AND DESIST

On February 10, 1976 the Commission rejected an attempt by respondent Johnson Products Co., Inc. to withdraw from an executed consent order agreement and, on that date, the Commission entered a final cease and desist order. Thereafter, respondent petitioned the Court of Appeals for the Seventh Circuit to review and set aside the order, contending inter alia that the Commission patently abused its discretion by refusing to permit respondent to withdraw from the consent agreement in the face of its claim that the Commission had engaged in an "unfair and arbitrary discrimination between similarly situated competitors * * *" (i.e., Revlon, Inc. and respondent). The Court stayed enforcement of the order and remanded the matter to the Commission, noting the prospect that the proceeding might be reopened and modified to eliminate some or all of the critical disparities between the Revlon and Johnson orders.

After extended negotiations, the parties executed an agreement, which will be treated as a petition to reopen this proceeding, containing an order to cease and desist. The modifications contained in this agreement substantially eliminate the significant differences between the Revlon and Johnson orders.

The Commission has duly considered the modifications encompassed in the agreement and has determined that the order should be so modified. Accordingly,

It is ordered, That the proceeding be, and it hereby is, reopened.

It is further ordered, That the order to cease and desist, as it applies to respondent Johnson Products Co., Inc., be, and it hereby is, modified by striking the section entitled "Order" and substituting therefor the following:

ORDER

I

It is ordered, That respondent Johnson Products Co., Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of Ultra Sheen Creme Relaxer (Ultra Sheen Relaxer) or any hair care product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Representing in writing, orally, visually, or in any other manner, directly or by implication, that:

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1. Any hair straightening product is comfortable, gentle or safe.
2. Any hair straightening product is easy to use or to apply.
3. Any hair straightening product feels cool to skin or scalp.

B. Representing, in any manner, directly or by implication, the efficacy of any hair straightening product or the ingredients therein, unless, at the time such representation is made, respondent has in its possession a reasonable basis, consisting of competent and reliable controlled tests to support such representation; or misrepresenting in any manner the nature of any such product or its ingredients or the effect of any such product or its ingredients on hair or skin or any other structure of the body.

C. Representing, in any manner, directly or by implication, the safety of any hair care product or the ingredients therein, unless at the time such representation is made respondent has in its possession a reasonable basis, consisting of competent and reliable controlled test, to support such representation. For purposes of this provision, failure to disclose facts shall not constitute a representation.

D. Disseminating or causing to be disseminated any advertisement of Ultra Sheen Relaxer or any hair straightening product of similar composition, which fails to disclose, clearly and conspicuously, with nothing to the contrary or in mitigation thereof, the following statement exactly as it appears below:

"WARNING: Follow directions carefully to avoid skin and scalp irritation, hair breakage and eye injury."

II

It is further ordered, That respondent Johnson Products Co., Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of Ultra Sheen Relaxer or any hair care product, do forthwith cease and desist from:

A. Disseminating or causing to be disseminated by United States mails or by any means in or having an effect upon commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, for the purpose of inducing or which is likely to induce, directly or indirectly the purchase of any such product, any advertisement which contains a representation prohibited by Paragraph I of this order or which omits a disclosure for such product required by Paragraph I of this order.

B. Disseminating or causing to be disseminated by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of any such product in or having an effect on commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, any advertisement which contains a representation prohibited by Paragraph I of this order or which omits a disclosure for such product required by Paragraph I of this order.

III

It is further ordered, That respondent Johnson Products Co., Inc., a corporation, its successors and assigns and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device in connection with the offering for sale, sale, or distribution of Ultra Sheen Relaxer or any hair straightening product of similar composition in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from failing to include clearly and conspicuously on the information panel of the product package (i.e., the package containing the immediate container of the professional or home use hair straightening product), on the package insert, and on the label of the relaxer container of any such product, with nothing to the contrary or in mitigation thereof, the following disclosures exactly as they appear below:

"WARNING: 1. This product contains sodium hydroxide (lye). You must follow directions carefully to avoid skin and scalp burns, hair loss, and eye injury.

2. Do not use if scalp is irritated or injured.

3. Do not use on bleached hair. Do not use on permanently colored hair which is breaking, splitting or otherwise damaged. For hair that has been permanently colored and shows no sign of damage, use only mild strength formula.

4. If you have previously relaxed your hair, relax only the new growth, as described in the directions.

5. If the relaxer causes skin or scalp irritation, rinse out immediately and wash with the shampoo in the kit. If irritation persists or if hair loss occurs, consult a physician.

6. If the relaxer gets into eyes, rinse immediately and consult a physician."

Provided, however, That if such hair straightening product is offered for sale, sold or distributed without a neutralizing shampoo, respondent will disclose the following in place of Warning No. 5 above:

"5. If the relaxer causes skin or scalp irritation, rinse out immediately and wash with a non-alkaline shampoo (ph below 7). If irritation persists, or if hair loss occurs, consult a physician."

Provided further, however, That respondent may use existing retail product packages, package inserts, and container labels if such packages, inserts and labels conform to the order entered in this matter on February 10, 1976.

IV

It is further ordered, That respondent shall distribute a copy of this order to its present and future officers, directors, and operating division and that respondent secure from each such person a signed statement acknowledging receipt of the order.

V

It is further ordered, That respondent maintain complete business records relative to the manner and form of its continuing compliance with the terms and provisions of this order. Each record shall be retained by respondent for at least three years after it is made.

VI

It is further ordered, That respondent notify the Commission at least thirty days prior to any proposed change in respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries, a change in the corporate name or address, or any other change in the corporation which may affect compliance obligations arising out of this order.

VII

It is further ordered, That the respondent herein shall, within sixty (60) days after service of this order, file with the Commission a written report setting forth in detail the manner and form of its compliance with this order: *Provided, however,* that such compliance report need not contain materials or information previously submitted to the Commission to demonstrate compliance with the order entered in this matter on February 10, 1976.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-11829 Filed 5-1-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-123]

PART 101—GENERAL PROVISIONS

Field Organization; Fairport Harbor, Ohio

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect recent changes in the field organization of the Customs Service. The Fairport Harbor, Ohio, Customs station has been placed under the supervision of the port of Ashtabula/Conneaut, Ohio, and the Lorain, Ohio, Customs station has been placed under the supervision of the port of Sandusky, Ohio. Both stations previously were under the supervision of the port of Cleveland, Ohio. These changes have been made to provide better Customs Service to importers, carriers, and the public.

EFFECTIVE DATE: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert Schenarts, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue NE., Washington, D.C., 20229, 202-566-8151.

SUPPLEMENTARY INFORMATION:

BACKGROUND

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to importers, carriers, and the public, the Customs Service has placed the Fairport Harbor, Ohio, Customs station under the supervision of the port of Ashtabula/Conneaut, Ohio, and the Lorain, Ohio, Customs station under the supervision of the port of Sandusky, Ohio. Both stations previously were under the supervision of the Customs port of Cleveland, Ohio.

To reflect these changes and to correct the listing for Fairport, Ohio, to its proper name of Fairport Harbor, Ohio, it is necessary to amend § 101.4(c) of the Customs Regulations (19 CFR 101.4(c)), which lists Customs stations and the ports of entry having supervision over these stations.

Because these amendments relate only to matters of agency organization and administration and do not impose any affirmative duty on the public, notice and public procedure thereon are unnecessary, and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of these amendments was Teresa M. Polino, Regulaltions and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AMENDMENTS TO THE REGULATIONS

Section 101.4(c) of the Customs Regulations (19 CFR 101.4(c)) is amended by making the following changes:

1. "Fairport, Ohio ——" is corrected to read "Fairport Harbor, Ohio ——" in the column headed "Customs stations" opposite the reference to "Cleveland, Ohio" in the column headed "District". "Ashtabula/Conneaut." is substituted for "Cleveland." in the column headed "Port of entry having supervision" opposite the corrected reference to "Fairport Harbor, Ohio ——" in the column headed "Customs stations".

2. "Sandusky." is substituted for "Cleveland." in the column headed "Port of entry having supervision" opposite the reference to "Lorain, Ohio ——" in the column headed "Customs stations".

(Sec. 1, 37 Stat. 434, section 301, 80 Stat. 379; (5 U.S.C. 301, 19 U.S.C. 1).)

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: April 19, 1978.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc. 78-11897 Filed 5-1-78; 8:45 am]

[4810-22]

[T.D. 78-124]

PART 159—LIQUIDATION OF DUTIES

Waiver of Countervailing Duties—Handbags From Colombia

AGENCY: Department of the Treasury, Customs Service.

ACTION: Waiver of countervailing duties.

SUMMARY: This notice is to inform the public that a determination has been made to waive countervailing duties that would otherwise be required by section 303 of the Tariff Act of 1930 on imports of leather handbags from Colombia. The waiver is being issued based on actions by the Colombian handbag exporters to phase out the effective export subsidy on these items. The waiver will expire on January 4, 1979 unless revoked earlier.

EFFECTIVE DATE: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. Self, Director, Office of Tariff Affairs, U.S. Treasury Department, 15th and Pennsylvania Avenue NW., Washington, D.C., 202-566-8585.

SUPPLEMENTARY INFORMATION: In T.D. 78-125, published concurrently with this determination, it has been determined that bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), are being paid or bestowed directly or indirectly upon the manufacture, production, or exportation of handbags from Colombia.

Section 303(d) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (Pub. L. 93-618, January 3, 1975), authorizes the Secretary of the Treasury to waive the imposition of countervailing duties during the 4-year period beginning on the date of enactment of the Trade Act of 1974 if he determines that:

(1) Adequate steps have been taken to reduce substantially or eliminate during such period the adverse effect of a bounty or grant which he has determined is being paid or bestowed with respect to any article or merchandise;

(2) There is a reasonable prospect that under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and

(3) The imposition of the additional duty under this section with respect to such article or merchandise would be likely to seriously jeopardize the satisfactory completion of such negotiations.

Based upon analysis of all the relevant factors and after consultations with interested agencies and parties with direct interest in this proceeding, I have concluded that steps have been taken to reduce substantially the adverse effects of the bounty or grant. Specifically the manufacturers/exporters of leather handbags in Colombia are formally committed to the total elimination of the net bounty derived from the tax rebate certificate program (CAT) (or any equivalent or comparable benefit) on exports to the United States of leather handbags between May 1, 1978, and January 1, 1979. Such elimination will be staged according to the following schedule: 50-percent reduction on or before May 1, 1978; 50-percent reduction of the remaining balance on or before August 22, 1978; and total elimination of any remaining net bounty on or before January 1, 1979. The Government of Colombia, which under law can adjust the CAT payment only in December of each year, has promised the Treasury that it will accept the voluntary payment by the handbag exporters to the Government of a portion of the CAT to reflect the phase-out expressed above.

In addition the waiver is conditioned on the absence of aggressive marketing of Colombian handbags in the United States, which the Colombian handbag exporters have promised will not take place.

After consulting with appropriate agencies, including the Department of Labor, the

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Department of Commerce, and the Office of the Special Representative for Trade Negotiations, I have further concluded:

(1) That there is a reasonable prospect that, under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and

(2) That the imposition of countervailing duties on leather handbags from Colombia would be likely to seriously jeopardize the satisfactory completion of such negotiations.

Accordingly, pursuant to section 303(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(d)), I hereby waive the imposition of countervailing duties on handbags from Colombia.

This determination may be revoked, in whole or in part, at any time and shall be revoked whenever the basis supporting such determination no longer exists. Unless sooner revoked or made subject to a resolution of disapproval adopted by either House of the Congress of the United States pursuant to section 303(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(e)), this waiver of countervailing duties will, in any event by statute, cease to have force and effect on January 4, 1979.

On or after the date of publication in the FEDERAL REGISTER of a notice revoking this determination, in whole or in part, the day after the date of adoption by either House of Congress of a resolution disapproving this "waiver of countervailing duties," or January 4, 1979, whichever occurs first, countervailing duties will be assessable on handbags imported directly or indirectly from Colombia in accordance with T.D. 78-125, published concurrently with this determination.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry from Colombia under the commodity heading "Handbags," the number of this Treasury decision in the column heading "Treasury Decision," and the words "Imposition of countervailing duties waived" in the column headed "Action."

(R.S. 251, secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2051, 2052 (19 U.S.C. 66, 1303), as amended, 1624)

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

APRIL 24, 1978.

[FR Doc. 78-11811 Filed 5-1-78; 8:45 am]

[4810-22]

[T.D. 78-125]

PART 159—LIQUIDATION OF DUTIES

Leather Handbags From Colombia; Final Countervailing Duty Order

AGENCY: Customs Service, U.S. Treasury.

ACTION: Final countervailing duty order.

SUMMARY: This notice is to advise the public that an investigation has been completed which determined that the Government of Colombia has given benefits considered to be bounties or grants to manufacturers who export leather handbags to the United States. However, countervailing duties are being waived, based upon the criteria established by the Trade Act of 1974, including the actions to be taken by the Colombian handbag exporters to reduce significantly the bounty or grant.

EFFECTIVE DATE: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On November 1, 1977, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 57202). The notice stated that it preliminarily had been determined that benefits had been received by Colombian manufacturers and exporters of leather handbags which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act"). The notice stated that the benefits included the granting to manufacturers and exporters tax certificates ("CATS") upon export of the leather handbags and preferential financing for exporters.

The notice further stated that programs preliminarily determined not to be applicable included transportation subsidies, reduced credit insurance costs, freedom from taxes for firms located in designated free trade zones, and import duty exemptions for capital goods used in the production of exports.

Finally, the notice stated that import duty exemptions on raw materials used in the production of handbags for export was not a bounty or grant.

The notice provided interested parties 30 days from the date of publication to submit relevant data, views, or arguments, in writing, with respect to the preliminary determination.

The handbags subject to this determination are classified under item number 706.0820 of the tariff schedules of the United States as leather handbags, other than reptile. The term "handbags" as used in the petition covers "pocketbooks, purses, shoulder bags, clutch bags, and all similar articles by whatever name known, customarily carried by women or girls, but not including luggage of flatgoods."

Subsequent investigation led to the conclusion that alleged preferential export financing through PROEXPO, the Government agency responsible for the program, is not a bounty or grant since it was established that the terms provided through PROEXPO loans are identical to those available commercially.

The effect of the export subsidy (CAT) is offset by certain other factors. These include:

(1) The fact that the CAT is paid on the domestic value added component of the handbag, which effectively reduces the ad valorem benefit for handbags from 12 percent to 9 percent. Generally 75 percent of the value of a handbag in Colombia is produced from domestic materials;

(2) The discount paid by holders of CATS in the stock exchange, thus effectively not providing full value of the CAT when sold;

(3) Devaluation of the peso to the dollar since the certificate is not received on an average of 9 months after application has been made for it;

(4) Customs duties paid by the leather tanners on imported chemicals used in the tanning process. Such fiscal charge has the effect of being an indirect tax that, while not rebated, but would be eligible under the concept of drawback;

(5) Municipal sales taxes imposed on the handbag manufacturers and tanners, which are indirect taxes directly related to the exported handbag. While not rebated on export, they would be eligible under the act;

(6) The present value effect of the CAT resulting from the inflationary impact on its delayed payment. Treasury considered only that 90-day period which the Government of Colombia assured that no CATS could be tendered under any circumstances.

After consideration of all information received, it is hereby determined that leather handbags from Colombia are subject to bounties or grants within the meaning of section 303 of the Act. The bounties or grants are in the form of the export certificates referred to in the preliminary determination, taking into account the offsets described in this notice. The net amount of bounty or grant has been ascertained and determined to be 5.46 percent of the f.o.b. price for export to the United States of leather handbags from Colombia.

Effective on or after May 2, 1978, and until further notice, upon the entry for consumption of such dutiable leather handbags imported directly or indirectly from Columbia, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of leather handbags from Colombia are benefitting from a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production, or exportation of leather handbags from Colombia.

Notwithstanding the above, a "Notice of Waiver of Countervailing Duties" is being published concurrently with this order which covers leather handbags from Colombia subject to this investigation in accordance with section 303(d) of the Act. At such time as the waiver ceases to be effective, in whole or in part, a notice will be published setting forth the deposit of estimated countervailing duties which will be required at the time of entry, or withdrawal from warehouse, for consumption of each product then subject to the payment of countervailing duties.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting under the column headed "Country," the name "Colombia," and inserting the words "leather handbags," in the column headed "Commodity," the number of this Treasury Decision in the column headed "Treasury Decision," and the words "Bounty Declared-Rate" in the column headed "Action."

(R.S. 251, as amended, secs. 303, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624).)

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, and the provisions of the Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47); insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM.
General Counsel of the Treasury.

APRIL 24, 1978.

[FR Doc. 78-11812 Filed 5-1-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Advisory Committees; Establishment and Terminations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and the public advisory committee procedures (21 CFR Part 14), this document announces the establishment of one advisory committee and the termination of three others. This document adds to and deletes from the agency's list of standing advisory committees.

EFFECTIVE DATES: May 2, 1978, authority for the committee being established will end on April 10, 1980, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)), the Food and Drug Administration announces the establishment of the Anti-Infective and Topical Drugs Advisory Committee by the Secretary of the Department of Health, Education, and Welfare.

The committee will review and evaluate data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in infectious diseases, dermatological disorders, and ocular disease, and it will make appropriate recommendations to the Commissioner of Food and Drugs. The committee will consist of 15 members.

Concurrently with the establishment, the Secretary approved the termination of the Anti-Infective Agents Advisory Committee, the Dermatology Advisory Committee, and the Ophthalmic Drugs Advisory Committee. Under § 14.55(b) (21 CFR 14.55(b)), FDA announces the termination of these committees.

Therefore, under the Federal Food, Drug, and Cosmetic Act (section 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 by revising paragraph (c)(2) and deleting paragraphs (c)(8) and (15) and marking them "reserved," as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(c) * * *

(2) Anti-Infective and Topical Drugs Advisory Committee.

(i) Date established: April 10, 1978.

(ii) Function: Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in infectious diseases, dermatological disorders, and ocular diseases, and makes appropriate recommendations to the Commissioner.

* * * * *

Effective date: Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, May 2, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: April 24, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-11718 Filed 5-1-78; 8:45 am]

[4110-03]

SUBCHAPTER H—MEDICAL DEVICES

[Docket No. 77N-0110]

EXEMPTIONS FROM FEDERAL PREEMPTION OF STATE AND LOCAL DEVICE REQUIREMENTS

Procedures for Consideration of Applications

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes the procedures for applying to the Food and Drug Administration (FDA) for an exemption from the Federal preemption provisions of section 521 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360k). Section 521(a) preempts certain State or local device laws by providing that no State or local government may establish or

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continue in effect any requirement with respect to the safety and effectiveness of a medical device that is different from or in addition to a requirement applicable to the device under the act. Section 521(b) provides that, under certain conditions and in accordance with specified procedures, FDA may exempt a State or local requirement from the preemption provisions of section 521(a).

EFFECTIVE DATE: July 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph M. Sheehan, Bureau of Medical Devices (HFK-70), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: The proposal on which this final regulation is based was published in the FEDERAL REGISTER of June 14, 1977 (42 FR 30383). Interested persons were given until August 15, 1977 to comment on the proposal. Twenty comments were received. Most of the comments questioned the agency's interpretation of section 521 of the Federal Food, Drug, and Cosmetic Act.

Section 521(a) of the act provides for preemption of State and local requirements applicable to a medical device intended for human use that are different from or in addition to requirements applicable under the act. Section 521(b) provides that FDA may, by regulation issued after notice and an opportunity for an oral hearing, exempt a state or local medical device requirement from preemption under such conditions as the Commissioner may prescribe if the requirement is: (1) More stringent than Federal requirements applicable to the device under the act, or (2) required by compelling local conditions and compliance with it would not cause the device to be in violation of any applicable requirement under the act.

In the FEDERAL REGISTER of February 15, 1977 (42 FR 9186), FDA issued a proposal relating to an application for exemption from Federal preemption of medical device requirements filed by the State of California. Interested persons were given 60 days to submit written comments on the proposal. An oral hearing on the proposal was held on July 19, 1977. Many views presented in the written comments and at the oral hearing on the California application relate to the general procedures for applying for exemption from preemption and to FDA's interpretation of the scope of section 521 of the act. Accordingly, these views were also considered in the preparation of this final regulation.

In a related action, FDA's new regulations governing professional and patient labeling and conditions for sale of hearing aids became effective on August 25, 1977. Because these new requirements preempted some existing State and local requirements relating to hearing aids, and because five States had filed applications for exemption from preemption, FDA issued a notice in the FEDERAL REGISTER of October 18, 1977 (42 FR 55648) inviting the remaining State and local governments to file within 30 days, applications for exemption from preemption for requirements governing labeling and conditions for sale of hearing aids. This notice was intended to expedite FDA's consideration of applications for exemption from preemption for hearing aid requirements by encouraging simultaneous submissions by affected State and local governments. FDA stated its intention to evaluate each such application on its own merits, but to publish in a single FEDERAL REGISTER notice a proposed regulation to grant or to deny each such application for exemption, and to hold a single hearing on the proposed regulation. Appropriate FEDERAL REGISTER notices will be published in the near future. When appropriate, the Commissioner intends to adopt this consolidated approach in considering future applications for exemption from preemption.

RESPONSE TO COMMENTS

1. Many comments stated that there is no basis in the act or in the legislative history to justify the interpretation of section 521 of the act set forth in the first sentence of proposed § 808.1(d). That sentence stated that State and local requirements are preempted only when FDA has established specific counterpart regulations or there are other specific requirements applicable to a particular device under the act, thereby making any existing divergent State or local requirements applicable to the device different from, or in addition to, the specific FDA requirements.

The comments generally argued that all State and local medical device requirements were preempted as of May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (Pub. L. 94-295) (the Amendments). Some comments also noted that if there is no FDA requirement then any State requirement is "in addition to" the FDA requirement and is, therefore, preempted by the plain language of section 521 of the act. Other comments disputed the statement in the preamble to the proposal that a regulatory hiatus could result if State and local requirements were considered preempted before FDA could implement Federal requirements. These comments noted that the Amendments provide broad protection to the public from unsafe and ineffective medical devices. Comments also pointed out that the Congressional intent in enacting section 521 was to assure that interstate commerce would not be unduly burdened by the imposition of a substantial number of differing requirements applicable to a medical device by State and local governments and that this indicated that immediate preemption was intended. Comments also compared section 521 of the act to section 903 of S. 510 (the Senate version of the Amendments) which, had it been enacted, would have limited preemption only to devices subject to FDA standards or premarket approval, and to the preemption provisions included in other Federal acts. The thrust of these comments was that the language in section 521 is broader than the language in the other preemption provisions and therefore Congress intended a broader scope of preemption.

The Commissioner believes that both the language of section 521 of the act and the legislative history of the Amendments support the interpretation expressed in the proposal. Section 521(a) clearly states that:

> no State • • • may establish or continue in effect with respect *to a device* intended for human use *any requirement*—
>
> (1) which is different from, or in addition to, any requirement applicable under this Act to *the device*, and
>
> (2) which relates to the safety or effectiveness of *the device* or to any other matter included in a requirement applicable to *the device* under this Act. [Emphasis added.]

Thus, from a plain reading of section 521 of the act it is clear that the scope of preemption is limited to instances where there are specific FDA requirements applicable to a particular device or class of devices. As noted in the preamble to the proposal, a prime example is the preemption of divergent State or local requirements relating to hearing aid labeling and conditions for sale, which occurred when the new FDA hearing aid regulations took effect on August 25, 1977. Here, only requirements relating to labeling and conditions for sale were preempted, not all State or local requirements regulating other facets of hearing-aid distribution.

The language of section 521 of the act also does not support the argument that any State or local requirement is "in addition to" an FDA requirement if there is no FDA requirement. The phrase "or in addition to, any requirement applicable under this Act to the device" means that an FDA requirement must exist before preemption can occur. Moreover, the references in the comments to other Federal preemption statutes and bills do not support a different conclusion.

Finally, the interpretation of section 521 expressed in the regulation is more consistent with the Congressional intent of the Amendments than the interpretation urged by the comments. The entire thrust of the Amendments is to provide FDA with new and additional authority to assure that only safe and effective medical devices are permitted on the market. See, for example, House of Representatives Rept. No. 94-853, 94th Cong., 2d Sess. 3, 5-13, 17, 23, and 59 (1976); House of Representatives Conference Rept. No. 94-853, 94th Cong., 2d Sess. 51 et seq. (1976). There is nothing in the legislative history to indicate Congress intended that the Amendments should result in less protection for the public, which would be the natural consequence of State Controls being eliminated during the considerable period of time it will take for FDA to implement fully the new authorities provided in the Amendments.

Yet, interpretations urged by the comments would provide less public protection from unsafe and ineffective medical devices because State and local regulation of medical devices would be reduced or eliminated before compensating FDA regulations could become effective. For example, many States have laws governing labeling and conditions for sale of hearing aids. Under the theory espoused in the comments, these laws were preempted on May 28, 1976, although the FDA regulations on hearing aids did not become effective until August 25, 1977. In the interim, presumably, hearing aids were regulated neither by the States nor FDA. In the absence of a specific Congressional directive to this effect, however, the Commissioner will not adopt such a position.

The Commissioner also believes that the interpretation expressed in the regulation will not cause an undue burden on interstate commerce because it merely allows State and local requirements to continue in effect until FDA establishes a national policy on the regulation of specific devices. Thus, since there is no duplication between FDA and State programs, there is no greater burden on interstate commerce than if the Amendments had not been enacted.

2. Several comments stated that there is no basis in the act or in the legislative history for the statement in proposed § 808.1(d)(2) that section 521(a) does not preempt State or local requirements that are equal to, or substantially identical to, requirements imposed by or under the act. Some comments argued that if a State or local requirement is not exactly identical to the FDA requirement it is "different from" the FDA requirement. Other comments argued that even if a State or local requirement is exactly identical to the FDA requirement it is "in addition to" the FDA requirement and therefore preempted. Comments also pointed out that a State or local requirement that is exactly identical in language to the FDA requirement may be interpreted or applied in such a way as to make it "different from" an FDA requirement. Some comments also noted that it is not clear in the proposed regulation when FDA would consider requirements to be substantially identical.

The Commissioner believes that a common sense reading of section 521 of the act supports the "substantially identical" concept in § 808.1(d)(2). Thus, while a State or local requirement may differ in some nonessential manner from an FDA requirement, if it is substantially identical to an FDA requirement it is not "different from" the FDA requirement within the meaning of section 521, and therefore not preempted. It is not necessary that a State or local requirement be exactly identical in wording to an FDA requirement in order to be "substantially identical" so long as there is substantial identity between the FDA and the State or local requirement. In determining whether a State requirement meets this criterion, the Commissioner must consider whether the State requirement is so different as to interfere with the FDA requirement or as to injure public health by imposing an undue burden on interstate commerce. Thus, although the wording of a State or local requirement may not be identical to the FDA requirement, it may be substantially identical if the thrust or effect of the State or local requirement is the same as that of the FDA requirement.

The Commissioner also cannot accept the argument that an identical State or local requirement is preempted because it is "in addition to" the FDA requirement. Such an interpretation of section 521 renders meaningless the "different from" language of section 521 because under this theory any State and local requirement would be preempted whether or not it was actually "different from" an FDA requirement.

When determining whether a State or local requirement is preempted, however, the Commissioner will consider how the requirement is interpreted and applied, not merely the literal language of the applicable statute. This approach is consistent with the recent Supreme Court decision in *Jones* v. *Rath Packing Co.*, 97 S. Ct. 1305, 1309 (1977), a case involving the preemptive effects of food labeling requirements under the Fair Packaging and Labeling Act, the Federal Food, Drug, and Cosmetic Act, and the Wholesome Meat Act. The court there noted that in determining whether or not a Federal statute preempts a State statute, it is necessary "to consider the relationship between state and federal laws as they are interpreted and applied, not merely as they are written."

Finally, to clarify when FDA will consider State or local requirements to be "substantially identical," a new definition of "substantially identical" has been added to § 808.3.

3. Several comments objected to proposed § 808.1(d)(6), which stated that section 521(a) of the act does not preempt State or local requirements respecting general enforcement, such as requirements for inspection of factory records, registration and licensing of manufacturers, and prohibition of adulteration and misbranding of devices. The comments argued that there is no basis in the act or in the legislative history to support the contention that these types of requirements are not requirements with respect to a device within the meaning of section 521 of the act.

The Commissioner believes that State laws relating to inspection, registration, and licensing usually are not requirements "with respect to a device" within the meaning of section 521 of the act because they generally pertain either to persons who manufacture or distribute devices or to places where devices are manufactured, and not directly to devices. In order for a State provision to be a requirement with respect to a device within the meaning of section 521 of the act—and thereby a candidate for preemption—it must relate to the device itself.

Similarly, a State statute prohibiting the sale of an adulterated or misbranded device is not a "requirement with respect to a device" because it applies to the person who would sell the device—and thereby cause the violation—and not to the device itself. Thus, as a general proposition, State prohibitions against the sale of adulterated or misbranded devices are not preempted. Where, however, the State establishes a particular substantive provision defining what constitutes adulteration or misbranding, e.g., a specific type of labeling, this would be a "requirement" within the meaning of section 521 of the act because it relates directly to a device. If such a provision were "different from" or "in addition to" an FDA requirement, it would be preempted. Section 808.1(d)(6) is changed to clarify this position. In determining whether the provision is "different from" or "in addition to" an FDA requirement (that is, in determining whether it is "substantially identical"), the key factor is how the statute is actually applied by the State or local government. Thus, if such a State or local provision, as it is drafted, is "substantially identical" to the adulteration or misbranding provisions of sections 501 and 502 of the act (21 U.S.C. 351 and 352), but it is interpreted or applied to a specific device in such a way as to make it "different from" or "in addition to" the FDA requirements, that interpretation or application would be preempted.

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4. Several comments stated that it is unclear in the proposed regulation whether or when State and local premarket approval requirements are preempted.

Like all other medical device requirements, different or additional State and local premarket approval requirements are preempted when FDA establishes specific counterpart regulations or there are other specific requirements applicable to the device under the act. For a device classified in class III under sections 513(f) and 520(l) of the act (21 U.S.C. 360c(f) and 360j(l)), the counterpart FDA requirement—the requirement that the product have premarket approval—was established by operation of the act immediately upon enactment of the Amendments on May 28, 1976. For a device in commercial distribution before the date of enactment of the Amendments (or a substantially equivalent device) that is classified in class I under section 513(d) of the act (21 U.S.C. 360c(d)), the FDA requirement—in this instance actually a determination that the product is not subject to premarket approval or a performance standard—is established on the date of final classification of the device. For a device classified into class II, one part of the FDA requirement—that the product is not subject to premarket approval—is established on the date of final classification; the other part of the FDA requirement will be established when an FDA standard for the product is promulgated. For a device classified in class III under section 513(d) of the act, the counterpart FDA requirement is established on the date the device can not lawfully be marketed without approval of an application for premarket approval under section 501(f)(1)(A) of the act (21 U.S.C. 351(f)(1)(A)). Once these FDA requirements are established, different or additional State requirements are preempted. The Commissioner believes that no change in the final regulation is necessary to reflect this position.

5. Several comments objected to proposed § 808.5, which provided for the granting of advisory opinions on issues related to preemption of State and local requirements. Some comments suggested that FDA should not issue advisory opinions with respect to whether a State or local requirement or proposed requirement would be exempted from preemption unless FDA has all the information required for an application for exemption from preemption and provides an opportunity for a public hearing. These comments argued that if FDA issues an opinion that a requirement may be exempted from preemption and the State or local government later files an application for exemption, the Commissioner would be prejudiced by his previous opinion. Other comments stated that FDA should not issue advisory opinions with respect to proposed legislation pending before a State or local legislative body because the advisory opinion may be based on incomplete information and may have an undue influence on the legislative process.

The Commissioner believes that enough procedural safeguards are built into the process of issuing FDA advisory opinions to overcome the objections raised by the comments. Section 10.85 (21 CFR 10.85), which is incorporated by reference in proposed § 808.5, provides that the Commissioner may refuse a request for an advisory opinion if the request contains incomplete information on which to base an informed advisory opinion. Section 10.85 also provides that an advisory opinion may be amended or revoked at any time. The Commissioner will carefully review an application for exemption from preemption for a State or local requirement where he has previously issued an advisory opinion indicating whether an exemption might be granted, and the application will be judged on its own merits notwithstanding the earlier advisory opinion. In cases in which the Commissioner issues an advisory opinion on pending legislation, application of the advisory opinion will be limited to the facts presented when the opinion is issued, and the opinion will not apply if the legislation is changed significantly upon enactment.

The Commissioner believes that advisory opinions can be very useful in cases in which preemption is uncertain, and he encourages State and local governments, affected industries, and interested individuals to request advisory opinions in such cases. This practice will enable the Commissioner to clarify the uncertain status of State and local regulation of medical devices. As stated in the preamble to the proposed regulation, future FEDERAL REGISTER announcements of FDA actions that involve medical devices will discuss the preemption impact of the proposed actions of different or additional State or local requirements.

6. Several comments argued that FDA should not grant an exemption from preemption merely on a finding that the State or local requirement is more stringent than the FDA requirement or is required by compelling local conditions and would not cause the device to be in violation of any requirement under the act. The comments suggested that FDA should require the State or local government to show that granting an exemption will not cause an undue burden on interstate commerce and will result in a benefit in proportion to the cost of compliance.

It should be noted that section 521(b) of the act makes the granting of an exemption from preemption discretionary with the Commissioner. The two criteria mentioned in the comments are merely initial determinations that must be made before the Commissioner may exercise this discretion. The Commissioner intends to weigh carefully all of the consequences before granting an application for exemption from preemption.

Proposed § 808.25(g)(3) provided that the Commissioner may not grant an exemption if he determines that the granting of an exemption would not be in the best interest of the public health, taking into account the potential effect on the public health of granting or denying an exemption, e.g., additional cost to consumer, availability of needed products, etc. All other factors such as burdens on interstate commerce, compelling local conditions, and stringency will be weighted against these public health considerations. To enable FDA to make more informed judgments on these matters, § 808.20(c) is changed in the final regulation to require applicants to provide information on how the public health may be benefitted and how interstate commerce may be affected if an exemption is granted.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 521, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 15—PUBLIC HEARING BEFORE THE COMMISSIONER

1. By revising § 15.1(b) to read as follows:

§ 15.1 Scope.

• • • • •

(b) Pursuant to specific provisions in other sections of this chapter, a matter pending before the food and Drug Administration is subject to a public hearing before the Commissioner. Such specific provisions are in § 330.10(a)(8) of this chapter relating to review of the safety, effectiveness, and labeling of over-the-counter drugs, and in Part 808 of this chapter relating to exemptions from preemption of requirements for devices.

• • • • •

PART 25—ENVIRONMENTAL IMPACT CONSIDERATIONS

2. By adding new § 25.1(d)(6) to read as follows:

§ 25.1 Applicability.

• • • • •

(d) • • •

(6) Promulgation of a regulation exempting from preemption a requirement of a State or political subdivision concerning a device, or publication of a notice denying an application for such exemption.

• • • • •

3. By adding new Part 808 to read as follows:

PART 808—EXEMPTIONS FROM FEDERAL PREEMPTION OF STATE AND LOCAL MEDICAL DEVICE REQUIREMENTS

Subpart A—General Provisions

Sec.
808.1 Scope.
808.3 Definitions.
808.5 Advisory opinions.

Subpart B—Exemption Procedures

808.20 Application.
808.25 Procedures for processing an application.
808.35 Revocation of an exemption.

Subpart C—Listing of Specific State and Local Exemptions [Reserved]

AUTHORITY: Secs. 521, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371).

Subpart A—General Provisions

§ 808.1 Scope

(a) This part prescribes procedures for the submission, review, and approval of applications for exemption from Federal preemption of State and local requirements applicable to medical devices under section 521 of the act.

(b) Section 521(a) of the act contains special provisions governing the regulation of devices by States and localities. That section prescribes a general rule that after May 28, 1976, no State or political subdivision of a State may establish or continue in effect any requirement with respect to a medical device intended for human use having the force and effect of law (whether established by statute, ordinance, regulation, or court decision), which is different from, or in addition to, any requirement applicable to such device under any provision of the act and which relates to the safety or effectiveness of the device or to any other matter included in a requirement applicable to the device under the act.

(c) Section 521(b) of the act contains a provision whereby the Commissioner of Food and Drugs may, upon application by a State or political subdivision, allow imposition of a requirement which is different from, or in addition to, any requirement applicable under the act to the device (and which is thereby preempted) by promulgating a regulation in accordance with this part exempting the State or local requirement from preemption. The granting of an exemption does not affect the applicability to the device of any requirements under the act. The Commissioner may promulgate an exemption regulation for the preempted requirement if he makes either of the following findings:

(1) That the requirement is more stringent than a requirement under the act applicable to the device; or

(2) That the requirement is required by compelling local conditions and compliance with the requirement would not cause the device to be in violation of any applicable requirement under the act.

(d) State or local requirements are preempted only when the Food and Drug Administration has established specific counterpart regulations or there are other specific requirements applicable to a particular device under the act, thereby making any existing divergent State or local requirements applicable to the device different from, or in addition to, the specific Food and Drug Administration requirements. There are other State or local requirements that affect devices that are not preempted by section 521(a) of the act because they are not "requirements applicable to a device" within the meaning of section 521(a) of the act. The following are examples of State or local requirements that are not regarded as preempted by section 521 of the act:

(1) Section 521(a) does not preempt State or local requirements of general applicability where the purpose of the requirement relates either to other products in addition to devices (e.g., requirements such as general electrical codes, and the Uniform Commercial Code (warranty of fitness)), or to unfair trade practices in which the requirements are not limited to devices.

(2) Section 521(a) does not preempt State or local requirements that are equal to, or substantially identical to, requirements imposed by or under the act.

(3) Section 521(a) does not preempt State or local permits, licensing, registration, certification, or other requirements relating to the approval or sanction of the practice of medicine, dentistry, optometry, pharmacy, nursing, podiatry, or any other of the healing arts or allied medical sciences or related professions or occupations that administer, dispense, or sell devices. However, regulations issued under section 520(e) or (g) of the act may impose restrictions on the sale, distribution, or use of a device beyond those prescribed in State or local requirements. If there is a conflict between such restrictions and State or local requirements, the Federal regulations shall prevail.

(4) Section 521(a) does not preempt specifications in contracts entered into by States or localities for procurement of devices.

(5) Section 521(a) does not preempt criteria for payment of State or local obligations under Medicaid and similar Federal, State or local health-care programs.

(6)(i) Section 521(a) does not preempt State or local requirements respecting general enforcement, e.g., requirements that State inspection be permitted of factory records concerning all devices, registration, and licensing requirements for manufacturers and others, and prohibition of manufacture of devices in unlicensed establishments. However, Federal regulations issued under sections 519 and 520(f) of the act may impose requirements for records and reports and good manufacturing practices beyond those prescribed in State or local requirements. If there is a conflict between such regulations and State or local requirements, the Federal regulations shall prevail.

(ii) Generally, section 521(a) does not preempt a State or local requirement prohibiting the manufacture of adulterated or misbranded devices. Where, however, such a prohibition has the effect of establishing a substantive requirement for a specific device, e.g., a specific labeling requirement, then the prohibition will be preempted if the requirement is different from, or in addition to, a Federal requirement established under the act. In determining whether such a requirement is preempted, the determinative factor is how the requirement is interpreted and enforced by the State or local government and not the literal language of the statute, which may be identical to a provision in the act.

(7) Section 521(a) does not preempt State or local provisions respecting delegations of authority and related administrative matters relating to devices.

(8) Section 521(a) does not preempt a State or local requirement whose sole purpose is raising revenue or charging fees for services, registration, or regulatory programs.

(9) Section 521(a) does not preempt State or local requirements of the types that have been developed under the Atomic Energy act of 1954 (42 U.S.C. 2011 note), as amended, the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602 (42 U.S.C. 263b et seq.)) and other Federal statutes, until such time as the Food and Drug Administration issues specific requirements under the Federal Food, Drug, and Cosmetic Act applicable to these types of devices.

(e) It is the responsibility of the Food and Drug Administration, sub-

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ject to review by Federal courts, to determine whether a State or local requirement is equal to, or substantially identical to, requirements imposed by or under the act, or is different from, or in addition to, such requirements, in accordance with the procedures provided by this part. However, it is the responsibility of States and political subdivisions to determine initially whether to seek exemptions from preemption. Any State or political subdivision whose requirements relating to devices are preempted by section 521(a) may petition the Commissioner of Food and Drugs for exemption from preemption, in accordance with the procedures provided by this part.

§ 808.3 Definitions.

(a) "Act" means the Federal Food, Drug, and Cosmetic Act.

(b) "Compelling local conditions" includes any factors, considerations, or circumstances prevailing in, or characteristic of, the geographic area or population of the State or political subdivision that justify exemption from preemption.

(c) "More stringent" refers to a requirement of greater restrictiveness or one that is expected to afford to those who may be exposed to a risk of injury from a device a higher degree of protection than is afforded by a requirement applicable to the device under the act.

(d) "Political subdivision" or "locality" means any lawfully established local governmental unit within a State which unit has the authority to establish or continue in effect any requirement having the force and effect of law with respect to a device intended for human use.

(e) "State" means a State, American Samoa, the Canal Zone, the Commonwealth of Puerto Rico, the District of Columbia, Guam, Johnston Island, Kingman Reef, Midway Island, the Trust Territory of the Pacific Islands, the Virgin Islands, and Wake Island.

(f) "Substantially identical to" refers to the fact that a State or local requirement does not significantly differ in effect from a Federal requirement.

§ 808.5 Advisory opinions.

(a) Any State, political subdivision, or other interested person may request an advisory opinion from the Commissioner with respect to any general matter concerning preemption of State or local device requirements or with respect to whether the Food and Drug Administration regards particular State or local requirements, or proposed requirements, as preempted.

(1) Such an advisory opinion may be requested and may be granted in accordance with § 10.85 of this chapter.

(2) The Food and Drug Administration, in its discretion and after consultation with the State or political subdivision, may treat a request by a State or political subdivision for an advisory opinion as an application for exemption from preemption under § 808.20.

(b) The Commissioner may issue an advisory opinion relating to a State or local requirement on his own initiative when he makes one of the following determinations:

(1) A requirement with respect to a device for which an application for exemption from preemption has been submitted under § 808.20 is not preempted by section 521(a) of the act because it is: (i) Equal to or substantially identical to a requirement under the act applicable to the device, or (ii) is not a requirement within the meaning of section 521 of the act and therefore is not preempted;

(2) A proposed State or local requirement with respect to a device is not eligible for exemption from preemption because the State or local requirement has not been issued in final form. In such a case, the advisory opinion may indicate whether the proposed requirement would be preempted and, if it would be preempted, whether the Food and Drug Administration would propose to grant an exemption from preemption;

(3) Issuance of such an advisory opinion is in the public interest.

Subpart B—Exemption Procedures

§ 808.20 Application.

(a) Any State or political subdivision may apply to the Food and Drug Administration for an exemption from preemption for any requirement that is preempted. An exemption may only be granted to a State or political subdivision for a requirement that it has enacted and that has been enacted, promulgated, or issued in final form by the authorized body or official of the State or political subdivision so as to have the force and effect of law. However, an application for exemption may be submitted before the effective date of the requirement.

(b) An application for exemption shall be in the form of a letter to the Commissioner of Food and Drugs and shall be signed by an individual who is authorized to request the exemption on behalf of the State or political subdivision. Four copies of the letter and any accompanying material, as well as any subsequent reports or correspondence concerning an application, shall be submitted to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857. The outside wrapper of any application, report, or correspondence should indicate that it concerns an application for exemption from preemption of device requirements.

(c) For each requirement for which an exemption is sought, the application shall include the following information to the fullest extent possible, or an explanation of why such information has not been included:

(1) Identification and a current copy of any statute, rule, regulation, or ordinance of the State or political subdivision considered by the State or political subdivision to be a requirement which is preempted, with a reference to the date of enactment, promulgation, or issuance in final form. The application shall also include, where available, copies of any legislative history or background materials pertinent to enactment, promulgation, or issuance of the requirement, including hearing reports or studies concerning development or consideration of the requirement. If the requirement has been subject to any judicial or administrative interpretations, the State or political subdivision shall furnish copies of such judicial or administrative interpretations.

(2) A comparison of the requirement of the State or political subdivision and any applicable Federal requirements to show similarities and differences.

(3) Information on the nature of the problem addressed by the requirement of the State or political subdivision.

(4) Identification of which (or both) of the following bases is relied upon for seeking an exemption from preemption:

(i) The requirement is more stringent than a requirement applicable to a device under the act. If the State or political subdivision relies upon this basis for exemption from preemption, the application shall include information, data, or material showing how and why the requirement of the State or political subdivision is more stringent than requirements under the act.

(ii) The requirement is required by compelling local conditions, and compliance with the requirement would not cause the device to be in violation of any applicable requirement under the act. If the State or political subdivision relies upon this basis for exemption from preemption, the application shall include information, data, or material showing why compliance with the requirement of the State or political subdivision would not cause a device to be in violation of any applicable requirement under the act and why the requirement is required by compelling local conditions. The application shall also explain in detail the compelling local conditions that justify the requirement.

(5) The title of the chief administrative or legal officers of that State or local agency that has primary responsibility for administration of the requirement.

(6) When requested by the Food and Drug Administration, any records concerning administration of any requirement which is the subject of an exemption or an application for an exemption from preemption.

(7) Information on how the public health may be benefitted and how interstate commerce may be affected, if an exemption is granted.

(8) Any other pertinent information respecting the requirement voluntarily submitted by the applicant.

(d) If litigation regarding applicability of the requirement is pending, the State or political subdivision may so indicate in its application and request expedited action on such application.

§ 808.25 Procedures for processing an application.

(a) Upon receipt of an application for an exemption from preemption submitted in accordance with § 808.20, the Commissioner shall notify the State or political subdivision of the date of such receipt.

(b) If the Commissioner finds that an application does not meet the requirements of § 808.20, he shall notify the State or political subdivision of the deficiencies in the application and of the opportunity to correct such deficiencies. A deficient application may be corrected at any time.

(c) After receipt of an application meeting the requirements of § 808.20, the Commissioner shall review such application and determine whether to grant or deny an exemption from preemption for each requirement which is the subject of the application. The Commissioner shall then issue in the FEDERAL REGISTER a proposed regulation either to grant or to deny an exemption from preemption. The Commissioner shall also issue in the FEDERAL REGISTER a notice of opportunity to request an oral hearing before the Commissioner or the Commissioner's designee.

(d) A request for an oral hearing may be made by the State or political subdivision or any other interested person. Such request shall be submitted to the Hearing Clerk within the period of time prescribed in the notice and shall include an explanation of why an oral hearing, rather than submission of written comments only, is essential to the presentation of views on the application for exemption from preemption and the proposed regulation.

(e) If a timely request for an oral hearing is made, the Commissioner shall review such a request and may grant a legislative-type informal oral hearing pursuant to Part 15 of this chapter by publishing in the FEDERAL REGISTER a notice of the hearing in accordance with § 15.20 of this chapter. The scope of the oral hearing shall be limited to matters relevant to the application for exemption from preemption and the proposed regulation. Oral or written presentations at the oral hearing which are not relevant to the application shall be excluded from the administrative record of the hearing.

(f) If a request for hearing is not timely made or a notice of appearance is not filed pursuant to § 15.21 of this chapter, the Commissioner shall consider all written comments submitted and publish a final rule in accordance with paragraph (g) of this section.

(g) (1) The Commissioner shall review all written comments submitted on the proposed rule and the administrative record of the oral hearing, if an oral hearing has been granted, and shall publish in the FEDERAL REGISTER a final rule in subpart C of this part identifying any requirement in the application for which exemption from preemption is granted, or conditionally granted, and any requirement in the application for which exemption from preemption is not granted.

(2) The Commissioner may issue a regulation granting or conditionally granting an application for an exemption from preemption for any requirement if the Commissioner makes either of the following findings:

(i) The requirement is more stringent than a requirement applicable to the device under the act;

(ii) The requirement is required by compelling local conditions, and compliance with the requirement would not cause the device to be in violation of any requirement applicable to the device under the act.

(3) The Commissioner may not grant an application for an exemption from preemption for any requirement with respect to a device if the Commissioner determines that the granting of an exemption would not be in the best interest of public health, taking into account the potential burden on interstate commerce.

(h) An advisory opinion pursuant to § 808.5 or a regulation pursuant to paragraph (g) of this section constitutes final agency action.

§ 808.35 Revocation of an exemption.

(a) An exemption from preemption pursuant to a regulation under this part shall remain effective until the Commissioner revokes such exemption.

(b) The Commissioner may by regulation, in accordance with § 808.25, revoke an exemption from preemption for any of the following reasons:

(1) An exemption may be revoked upon the effective date of a newly established requirement under the act which, in the Commissioner's view, addresses the objectives of an exempt requirement and which is described, when issued, as preempting a previously exempt State or local requirement.

(2) An exemption may be revoked upon a finding that there has occurred a change in the bases listed in § 808.20(c)(4) upon which the exemption was granted.

(3) An exemption may be revoked if it is determined that a condition placed on the exemption by the regulation under which the exemption was granted has not been met or is no longer being met.

(4) An exemption may be revoked if a State or local jurisdiction fails to submit records as provided in § 808.20(c)(6).

(5) An exemption may be revoked if a State or local jurisdiction to whom the exemption was originally granted requests revocation.

(6) An exemption may be revoked if it is determined that it is no longer in the best interests of the public health to continue the exemption.

(c) An exemption that has been revoked may be reinstated, upon request from the State or political subdivision, if the Commissioner, in accordance with the procedures in § 808.25, determines that the grounds for revocation are no longer applicable except that the Commissioner may permit abbreviated submissions of the documents and materials normally required for an application for exemption under § 808.20.

Subpart C—Listing of Specific State and Local Exemptions [Reserved]

Effective date: This regulation shall become effective July 3, 1978.

(Secs. 521, 701, 52 Stat. 1055-1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371).)

Dated: April 24, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 11719 Filed 5-1-78; 8:45 am]

[4110–03]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77F–0374]

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

Sodium Lauryl Sulfate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The food additive regulations are being amended to provide for safe use of sodium lauryl sulfate as a wetting agent in the partition of high and low melting fractions of crude vegetable oils and animal fats. A petition had been filed by DeLaval Separator Co. proposing this safe use.

DATES: Effective May 2, 1978, objections by June 1, 1978.

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ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Notice was published in the FEDERAL REGISTER of January 17, 1978 (43 FR 2445) that a food additive petition (FAP 6A3170) had been filed by DeLaval Separator Co., 350 Dutchess Turnpike, Poughkeepsie, N.Y. 12602, proposing that the food additive regulations be amended to provide for the use of sodium lauryl sulfate as a wetting agent in the partition of high and low melting fractions of crude vegetable oils and animal fats.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 172.822 *Sodium lauryl sulfate* (21 CFR 172.822) should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))), and under authority delegated to the Commissioner (21 CFR 5.1), section 172.822 is amended by adding new paragraph (b)(4) to read as follows:

§ 172.822 Sodium lauryl sulfate.

. . . . . .

(b) . . .

(4) As a wetting agent at a level not to exceed 10 parts per million in the partition of high and low melting fractions of crude vegetable oils and animal fats, provided that the partition step is followed by a conventional refining process that includes alkali neutralization and deodorization of the fats and oils.

. . . . . .

Any person who will be adversely affected by the foregoing regulation may at any time on or before (June 1, 1978) submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective May 2, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: April 26, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-11807 Filed 5-1-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER J—HIGHWAY SAFETY

PART 920—PAVEMENT MARKING DEMONSTRATION PROGRAM

Revision

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this document in response to the recommendations of the FHWA Regulations Reduction Task Force. The existing regulations have been amended to eliminate redundancy, reduce detailed instructions, reduce reporting requirements, and provide increased flexibility on the part of FHWA field elements and the States.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James L. Rummel, 202-426-2131, Office of Highway Safety; or Mrs. Kathleen S. Markman, 202-426-0790, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are Monday through Friday from 7:45 a.m. to 4:15 p.m. e.s.t.

SUPPLEMENTARY INFORMATION: Because these rules contain no substantial changes from the existing pavement marking demonstration program regulations, notice and comments are unnecessary.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

In consideration of the above, 23 CFR Part 920 is revised to read as follows:

Sec.
920.1 Purpose.
920.3 Objective.
920.5 Eligibility.
920.7 Procedures.
920.9 Standards.
920.11 Reports.

AUTHORITY: 23 U.S.C. 151 and 315; 49 CFR 1.48.

§ 920.1 Purpose.

The purpose of the regulation is to set forth policies and procedures for implementing Section 151 of Title 23, United States Code, "Pavement Marking Demonstration Program."

§ 920.3 Objective.

The objective of the Pavement Marking Demonstration Program is to improve the pavement marking of all highways and to demonstrate the value of such markings in providing greater vehicle and pedestrian safety.

§ 920.5 Eligibility.

Pavement Marking Demonstration Program funds are eligible for expenditure on all public highways (except Interstate) and may be used for the following:

(a) Application of markings on highways which have never been marked, or upgrading to current standards those existing markings which do not conform to the Manual on Uniform Traffic Control Devices (MUTCD),[1]

(b) Restoration of markings on highways previously marked if the previous markings have been substantially obliterated for a sufficient period to provide adequate base data for evaluation,

(c) Renewal of pavement markings placed under this program in order to maintain their effectiveness for a 2-year evaluation period,

(d) Installation of materials or devices having a design life longer than conventional paint markings,

(e) Installation of delineators,

[1]The Manual on Uniform Traffic Control Devices (Stock Number 5001-0021) may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(f) Materials, labor, and equipment rental or depreciation charges associated with the placement of pavement markings and delineators under this program, and

(g) Surveys of pavement marking and delineation needs and the collection, analysis, and evaluation of data to determine the safety benefits attributable to this program.

§ 920.7 Procedures.

(a) *Programing.* Pavement marking projects shall be included in the Federal-aid highway program developed in accordance with 23 CFR Part 630, Subpart A (Federal-Aid Programs Approval and Authorization). The States shall give priority to projects on highways in rural areas.

(b) *Implementation.* Pavement marking projects shall be implemented using normal Federal-aid project procedures modified to incorporate such timesaving procedures as may be developed by the State highway agency and the Federal Highway Administration (FHWA) including the use of abbreviated plans, grouping of projects, and simplified inspection procedures. In addition, the FHWA finds it to be in the public interest to permit a State or local government to use its own forces to implement pavement marking projects, if so requested.

(c) *Release of Funds.* Funds for this program may be released by the Federal Highway Administrator for other safety projects as specified in 23 U.S.C. 151(f). Funds will not be considered for release until all rural public highways in the State with an average daily traffic volume of 250 vehicles or more have been marked with a centerline when the paved surface is 16 feet (4.88 meters) or wider and marked with a center line and edgelines when the paved surface is 20 feet (6.10 meters) or wider. Projects using such released funds shall be developed and implemented in accordance with 23 CFR Part 655, Subpart E (Highway Safety Improvement Program).

§ 920.9 Standards.

Pavement markings or devices placed under this program shall conform to the standards in the Manual on Uniform Traffic Control Devices.[2]

§ 920.11 Reports.

Annually, each State shall submit to the FHWA Division Administrator a report (OMB 04-R2450 and RCS HHS-20-02) on the progress being made in implementing this program and the effectiveness of the improvements made under it. Each State's annual report shall be prepared as follows:

(a) *Content.* The State's report shall include: (1) Data on the progress made in completing the pavement marking demonstration effort. These data shall include current year information on the number of miles marked (centerline and edgeline); railroad-highway grade crossings, pedestrian crossings, and other special area markings completed; and the nature of the work yet to be completed in the program.

(2) An evaluation of the pavement markings placed by comparing accident data for the period following application of the markings with similar data for the period prior to application of the markings. This analysis shall consider the change in number, rate (per million vehicle miles), and severity of accidents, and present a cost-benefit ratio for the improvements accomplished under this program.

(b) *Submission.* The State's report shall be submitted to the FHWA Division Administrator by August 31 of each year until the end of the second year following completion of the total demonstration program in the State.

Issued on: April 24, 1978.

KARL S. BOWERS,
Deputy Administrator.

[FR Doc. 78-11861 Filed 5-1-78; 8:45 am]

[2]The Manual on Uniform Traffic Control Devices (Stock Number 5001-0021) may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[4210-01]

Title 24—Housing and Urban Development

CHAPTER II—ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-467]

PART 200—INTRODUCTION

Subpart S—Minimum Property Standards

REVISION NO.6 TO HUD'S MINIMUM PROPERTY STANDARDS

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This notice incorporates new standards and reference standards to prevent condensation on metal frame windows, for plastic siding, for ceramic tile, to establish minimum bathtub width, and to establish a minimum distance between the bottom of subsurface absorption fields and water tables. Energy conservation is achieved through permissible reduction of minimum window area requirements for single family housing and through increasing requirements for tightly sealing air ducts. Requirements are also introduced for vapor barriers on cold water piping to reduce condensation problems.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard A. Gray, Chief, Standards Branch, Office of Housing, Department of Housing and Urban Development, Washington, D.C. 20410, telephone 202-755-6590.

SUPPLEMENTARY INFORMATION: HUD Minimum Property Standards are published in handbooks: Minimum Property Standards for One- and Two-Family Dwellings 4900.1, Multifamily Dwellings 4910.1, and Care-Type Housing 4920.1. The Minimum Property Standards are incorporated by reference into 24 CFR 200.929. All substantive changes in the Minimum Property Standards are required by 24 CFR 200.933 to be published in the FEDERAL REGISTER using the same procedure as for the publication of regulations. The Minimum Property Standards for which these changes are proposed are available for examination in all HUD Field Offices and in Room 6170, Headquarters at the above address during business hours.

On October 14, 1977, (42 FR 55229) HUD proposed changes to Minimum Property Standards. Interested persons were given until November 11, 1977, to comment on the proposed amendment. Sixteen comments were received in response to the proposed changes. There is no significant difference between this final notice and the proposal.

DISCUSSION OF MAJOR COMMENTS

The following is a discussion of major comments on the proposed revisions to the Minimum Property Standards for One- and Two-Family Dwellings, Multifamily Housing and Care-Type Housing.

Comments were received concerning the inclusion of the AAMA 1502.6 for improving the performance of metal windows. One commenter was concerned about the shortage of insulating materials. As the material used in manufacturing insulating metal frames is generally some type of plastic which is a low heat conductor, this is not the type of insulating material which is in short supply. A comment from a major wood window manufacturer questioned the validity of requiring compliance to AAMA 1502.6 which they contend may be misleading to the consumer. Although at present the AAMA standard does not include requirements for U values, work is proceeding to establish such criteria. In

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the meantime metal windows complying to the present AAMA 1502.6 standard will perform better than those that do not. One aspect of better performance expected from windows complying to AAMA 1502.6 is that they will have fewer condensation problems. This was a major reason for recognizing the AAMA standard.

Two comments pertained to the new criteria in paragraph 515-3.1 which require air ducts in unconditioned spaces to have the seams taped. The objection was centered around the problem of taping longitudinal seams of return air ducts created by the space enclosed by joists and a metal sheet attached to the joists. The intent was to reduce the air leakage from ducts. Taping is a method of doing this but we recognize that it is just one method. To permit other ways of reducing leakage such as using gaskets, this paragraph is changed by dropping the word "taped" and adding the words "tightly sealed."

On Section 615-5.3i of the Minimum Property Standards for Multifamily Dwellings and the MPS for Care-Type Housing, a commenter pointed out that we should require a maximum not a minimum C value to be energy conserving. This confusion has been corrected. Also suggested was to include the English units behind the C value. This, however, is taken care of in Appendix A—Definitions. This commenter also suggested that more specific language be included on how long periods of no flow conditions exist in hot and cold water piping. The requirement for pipe insulation is added not only for freeze protection but for energy conservation and to reduce condensation problems.

Also received were questions on paragraph 401-4.2a which applies to the Minimum Property Standards for One- and Two-Family Dwellings and Multifamily Dwellings.

One question raised was whether the requirement for a bathtub is reasonable. This commenter stated that elderly units are currently exempt from this requirement but no mention is made of an exception for units designed for the handicapped. This is incorrect as the italic type in the MPS applies to housing for both the elderly and handicapped. Further clarification of this is found in paragraph 100-1.2.

Another commenter was concerned with the lack of the inclusion of tolerances. The allowable tolerances are specified in our referenced standard for bathtubs, ANSI A112-19, and need not be repeated in the MPS text.

We received most of the comments on the MPS for Single Family Dwellings paragraph 403-3 concerning the reduction of minimum window sizes. Contrary to the views of some of the commenters, this revision does not require a reduction in window size but it allows such a reduction. Most commenters pointed out the possible energy gains larger windows have over smaller windows. Unfortunately, these grains are realized only when window location and use are properly integrated into the heating and cooling system of the living unit and the occupant adheres to the system's constraints. Also, a consideration for good window design is given in Footnote 3 of Table 6-7.1 of the MPS for Single Family Dwellings. Another commenter pointed out that this change may affect the egress provision of the MPS or model codes. This is not so. Although both egress and light and ventilation requirements have criteria stated in minimums, neither prohibit the use of larger areas or dimensions.

Finally, some reviewers took this opportunity to comment on an issue not included in the proposed revision. These concerns were for the 15% maximum glass to wall area requirement found in paragraph 607-3.3 of the Single Family MPS. Again, Footnote 3 to Table 6-7.1 gives consideration to the well designed residence.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

For clarity, the Handbook section will be cited followed by the revised language. Accordingly, Handbooks 4900.1, 4910.1 and 4920.1 incorporated by reference in 24 CFR 200.933 are revised as follows:

The following technical changes apply to the Minimum Property Standards for Single Family Dwellings, 4900.1; Multifamily Dwellings, 4910.1; and Care-Type Housing, 4920.1.

Section 508-5.1 is changed to read:

General. In areas where experience indicates that condensation on windows is a problem, windows with insulating frames shall be used. Windows conforming to the recommendations of AAMA 1502.6 for the climatic conditions in the area are considered as meeting this requirement. Where wood is used as the insulator, it shall be water repellent preservative treated.

Section 515-3.1 is amended as shown below:

Duct insulation. When supply or return air ducts used for heating, cooling, or both are installed in unconditioned spaces, they shall have the longitudinal and transverse seams tightly sealed to reduce air leakage and shall be insulated with or have thermal characteristics equivalent to: • • •

Appendix A is changed to read:

Conductance, thermal. The time rate of heat flow through a unit area of a material, of given thickness, per unit of temperature difference. Value is expressed in Btu/(hr×sq ft×F). (symbol C).

Conductivity, thermal. The time rate of heat flow through a unit area of a homogeneous material under the influence of a unit temperature gradient. Value is expressed in (Btu×in.)/(hr×sq ft×F). (symbol k).

Appendix C.

Section 509-2 Rigid PVC (polyvinyl chloride) plastic siding PS-55 is added.

Section 509-4 and 509-5 Ceramic tile standard TCA 137 replaces ANSI 137.1.

The following changes apply to the Minimum Property Standards for Multifamily Dwellings, 4910.1 and Care-Type Housing 4920.1.

Section 615-5.3i is amended as shown below:

Cold water piping installed in locations of the building subject to freezing temperatures, or where pipe sweating may create a problem shall be insulated and covered with a vapor barrier. All circulating domestic hot water piping shall be insulated with a material having a maximum thermal conductance (C value) of 0.50.

The following changes apply to the Minimum Property Standards for One- and Two-Family Dwellings, 4900.1 and Multifamily Dwellings, 4910.1.

Section 401-4.2a is amended as follows:

Each dwelling unit shall have one bathroom containing a bathtub with a minimum outside width of 30 in., a lavatory and water closet. In other bathrooms showers may be substituted for bathtubs. Bathrooms shall provide for comfortable access to, and use of, each fixture. Bathrooms shall be convenient to the bedrooms.

The following changes apply to the Minimum Property Standards for One- and Two-Family Dwellings, 4900.1.

Section 403-3 Requirements for minimum natural light glazed area and natural ventilation opening as a percentage of room floor area in living units are changed from 10 percent to 8 percent and 5 percent to 4 percent respectively.

Section 615-5.3i is amended to read as follows:

Cold water piping installed in locations of the building subject to freezing temperatures, or where pipe sweating may create a problem shall be insulated and covered with a vapor barrier.

Section 615-9.6

Added requirement for 3 ft minimum from bottom of subsurface absorption field to water table.

(Sec. 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., April 20, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-11961 Filed 5-1-78; 8:45 am]

[4210-01]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4085]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligiblity

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATE: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made affordable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since publication of a flood insurance map. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Dates[1]
Connecticut	New Haven	Guildford, town of.	090077-A	Oct. 20, 1972, emergency; May 1, 1978, regular; May 1, 1978, suspended.	Aug. 2, 1974	May 1, 1978.
Georgia	Tift	Tifton, city of.	130171-B	Dec. 27, 1973, emergency; May 1, 1978, regular; May 1, 1978, suspended.	Jan. 17, 1975 July 9, 1976	Do.
Do	Mitchell	Camilla, city of.	130137-B	Nov. 28, 1973, emergency; May 1, 1978, regular; May 1, 1978, suspended.	Apr. 17, 1974 Jan. 16, 1976	Do.
Illinois	Cook	Arlington Heights, village of.	170056-A	Jan. 28, 1972, emergency; May 1, 1978, regular; May 1, 1978 suspended.	Nov. 16, 1973	Do.
Indiana	Spencer	Unincorporated areas.	180237-A	Aug. 18, 1972, emergency; May 1, 1978, regular; May 1, 1978, suspended.	Jan. 3, 1975	Do
Maine	Penobscot	Milford, town of.	230110-B	May 30, 1975, emergency; Apr. 3, 1978, regular; May 1, 1978, suspended.	May 3, 1974 Oct. 15, 1976	Do.
Do	....do	Old Town, city of.	230112-A	June 25, 1974, emergency; Apr. 17, 1978, regular; May 1, 1978, suspended.	Aug. 2, 1974	Do.
Maryland	Washington	Unincorporated areas.	240070-A	June 18, 1973, emergency; May 1, 1978, regular; May 1, 1978, suspended.	Mar. 21, 1975	Do.
Massachusetts	Norfolk	Canton, town of.	250235-A	Nov. 26, 1973, emergency; Apr. 3, 1978, regular; May 1, 1978, suspended.	Sept. 13, 1974	Do.
Do	....do	Milton, town of.	250245-B	Jan. 14, 1974, emergency; Apr. 3, 1978, regular; May 1, 1978, suspended.	June 28, 1974 Oct. 22, 1976	Do.
Do	Hampshire	Northampton, city of.	250187-A	Apr. 7, 1972, emergency; Apr. 3, 1978, regular; May 1, 1978, suspended.	May 31, 1974	Do.
Do	Hampden	Westfield, city of.	250153-B	May 10, 1973, emergency; May 1, 1978, regular; May 1, 1978, suspended.	July 26, 1974 Feb. 18, 1977	Do.
Minnesota	Wright	Unincorporated areas.	270534-A	Oct. 6, 1972, emergency; May 1, 1978, regular; May 1, 1978, suspended.	May 1, 1978	Do.
Mississippi	Claiborne	....do	280201-A	Feb. 14, 1974, emergency; May 1, 1978, regular; May 1, 1978, suspended.	....do	Do.
Do	Sunflower	Ruleville, town of.	280187-B	May 14, 1973, emergency; May 1, 1978, regular; May 1, 1978, suspended.	May 10, 1974	Do.
Missouri	St. Louis	Clayton, city of.	290341-E	Dec. 23, 1971, emergency; Feb. 14, 1978, regular; May 1, 1978, suspended.	Apr. 5, 1974 Dec. 20, 1974 May 14, 1976 July 23, 1976 July 22, 1977	Do.
Do	Jefferson	Festus, city of.	290191-A	Sept. 3, 1971, emergency; Feb. 14, 1978, regular; May 1, 1978, suspended.	Oct. 18, 1974	Do.
Nebraska	Lancaster	Lincoln, city of.	315273-A	Apr. 17, 1970, emergency; Apr. 23, 1971, regular; May 1, 1978, suspended.	Apr. 27, 1971	Do.

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State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Dates[1]
New Hampshire	Sullivan	Claremont, city of.	330154-B	Feb. 8, 1974, emergency; Apr. 17, 1978, regular; May 1, 1978, suspended.	Mar. 8, 1974 Nov. 5, 1976	Do.
North Carolina	Edgecombe and Nash	Rocky Mount, city of.	370092-B	Jan. 17, 1974, emergency; May 1, 1978, regular; May 1, 1978, suspended.	Mar. 1, 1974 May 21, 1976	Do.
Oregon	Tillamook	Manzanita, city of.	410199-A	Nov. 8, 1974,emergency; May 1, 1978, regular; May 1, 1978, suspended.	May 1, 1978	Do.
Do	Umatilla	Pendleton, city of.	410211-B	Mar. 3, 1972, emergency; July 13, 1976, regular; May 1, 1978, suspended.	May 4, 1973 Sept. 26, 1975	Do.
Do	Tillamook	Tillamook, city of.	410202-B	Mar. 30, 1973, emergency; May 1, 1978, regular; May 1, 1978, suspended.	June 7, 1974 July 30, 1976	Do.
Pennsylvania	Allegheny	Carnegie, borough of.	420019-B	July 23, 1973, emergency; May 1, 1978, regular; May 1, 1978, suspended.	Feb. 8, 1974 May 7, 1976	Do.
Do	do	Hampton, township of.	420978-B	Sept. 17, 1973, emergency; May 1, 1978, regular; May 1, 1978, suspended.	Mar. 15, 1974 May 28, 1976	Do.
Do	Perry	Juniata, township of.	421140-B	Mar. 26, 1974, emergency; May 1, 1978, regular; May 1, 1978, suspended.	Aug. 9, 1974 Sept. 24, 1976	Do.
Do	Northumberland	Kulpmont, borough of.	420736-B	Feb. 1, 1974, emergency; May 1, 1978, regular; May 1, 1978, suspended.	May 31, 1974 June 4, 1976	Do.
Do	Montgomery	Lansdale, borough of.	420951-B	Dec. 19, 1973, emergency; May 1, 1978, regular; May 1, 1978, suspended.	June 28, 1974	Do.
Vermont	Bennington	Manchester, town of.	500015-A	Jan. 28, 1972, emergency; Apr. 3, 1978, regular; May 1, 1978, suspended.	Aug. 2, 1974	Apr. 3, 1978.
Do	Addison	New Haven, town of.	500009-A	Oct. 2, 1972, emergency; Apr. 3, 1978, regular; May 1, 1978, suspended.	Oct. 25, 1974	May 1, 1978.
Do	Rutland	Rutland, city of.	500101-C	Aug. 30, 1973, emergency; Apr. 17, 1978, regular; May 1, 1978, suspended.	Mar. 15 1974 Sept. 19, 1975 Oct. 8, 1976	Do.
Do	Windham	Wilmington, town of.	500142-B	May 25, 1973, emergency; May 1, 1978, regular; May 1, 1978, suspended.	May 31, 1974 Mar. 4, 1977	Do.

[1]Certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11641 Filed 5-1-78; 8:45 am]

[1505-01]

Title 41—Public Contract and Property Management

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

PART 60-4—CONSTRUCTION CONTRACTORS—AFFIRMATIVE ACTION REQUIREMENTS

Correction

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Correction.

SUMMARY: On April 7, 1978, the U.S. Department of Labor published a final rule in the FEDERAL REGISTER (43 FR 14888) to establish specific affirmative action standards for women in construction and consolidate and standardize requirements for construction contractors and subcontractors subject to Executive Order 11246, as amended (30 FR 12319, 32 FR 14303), to promote equal employment opportunity in the construction industry. This document is published to correct critical errors made in the final rule.

EFFECTIVE DATE: The effective date of the regulations was published as May 8, 1979. The correct effective date is May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

William Raymond, Associate Director, OFCCP, 202-523-9477.

Part 60-4 is corrected as follows: In FR Doc. 78-9083, published on April 7, 1978, (43 FR 14888), the last sentence in paragraph e on page 14896 which reads: "The Contractor shall provide notice of these programs to the sources compiled under 7b above" should be corrected to read, "The Contractor shall provide notice of these programs to the sources compiled under 7b above."

On page 14897, the last sentence in § 60-4.4 (a) which reads:

> Until the Director has issued an order pursuant to § 60-4.6 of this part establishing goals and timetables for minorities in the appropriate geographical areas or for a project covered by Special Bid Conditions, the goals and timetables for minorities to be inserted in the Notice require by 41 CFR 60-4.2 shall be the goals and timetables contained in the Hometown Plan, Imposed Plan or Special Bid Conditions presently covering the respective geographical area or project involved

should be corrected to read:

> Until the Director has issued an order pursuant to § 60-4.6 of this part establishing goals and timetables for minorities in the appropriate geographical areas or for a project covered by Special Bid Conditions, the goals and timetables for minorities to be inserted in the Notice required by 41 CFR 60-4.2 shall be the goals and timetables contained in the Hometown Plan, Imposed Plan or Special Bid Conditions presently covering the respective geographical area or project involved.

On page 14897, the last sentence in § 60-4.6 should be corrected by inserting the word "in" between the words "notices" and "the" so that the sentence reads:

> The goals shall be applicable to each construction trade in a covered contractor's or subcontractor's entire workforce which is working in the area covered by the goals and timetables, shall be published as notices in the FEDERAL REGISTER, and shall be inserted by the contracting officers and applicants, as applicable, in the Notice required by 41 CFR 60-4.2.

[6820-24]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-219]

PART 101-25—GENERAL

Subpart 101-25.3—Use Standards

USE STANDARDS FOR OFFICE FURNITURE AND CARPETING

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation updates the use standards for office furniture and carpeting to delete references to a volume of the GSA Supply Catalog that has been discontinued and a Bureau of the Budget circular that has been rescinded.

EFFECTIVE DATE: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

1. Section 101-25.302-1(a) is revised as follows:

§ 101-25.302-1 Executive type office furniture and furnishings.

(a) The use of executive type wood office furniture, whether new or rehabilitated, shall be limited to personnel in grade GS-15 and above (or the equivalent, including military rank) except as provided for in (b), below. Executive type wood office furniture consists of the unitized, traditional, and modern items of executive wood office furniture listed in the GSA Furniture Catalog. Furnishings matching executive type office furniture are subject to the same grade limitations as executive type office furniture except that carpeting may be supplied for use of other personnel when it is determined to be justified in accordance with the provisions of § 101-25.302-5.

. . . . .

2. Section 101-25.302-5 is revised as follows:

§ 101-25.302-5 Carpeting.

(a) Carpeting is authorized for use where it can be justified over other types of floor covering on the basis of cost, safety, insulation, acoustical control, the degree of interior decoration required, or the need to maintain an environment commensurate with the purpose for which the space is allocated, as when executive or unitized office furniture is authorized under § 101-25.302-1.

(b) In connection with new construction or alteration of space, if it is known that the area will eventually require carpeting, then resilient floor covering should be omitted and the carpeting installed initially.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Dated: April 21, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-11863 Filed 5-1-78; 8:45 am]

[6820-24]

[FPMR Amdt. E-218]

PART 101-30—FEDERAL CATALOG SYSTEM

Standard Form 1303, Request for Federal Cataloging/Supply Support Action

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation announces the redesignation of GSA Form 1303, Request for Federal Cataloging/Supply Support Action, as Standard Form 1303, Request for Federal Cataloging/Supply Support Action. The impending use of the form by the Department of Defense and civilian agencies has necessitated this change. This regulation changes the FPMR to reflect the redesignation of this form.

EFFECTIVE DATE: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

The table of contents for Part 101-30 is amended to revise the caption for § 101-30.4901, add § 101-30.4901-1303, reserve § 101-30.4902, and delete § 101-30.4902-1303, as follows:

Sec.
101-30.4901 Standard forms.
101-30.4901-1303 Standard Form 1303, Request for Federal Cataloging/Supply Support Action.
101-30.4902 GSA forms. [Reserved]
101-30.4902-1303 [Deleted]

Subpart 101-30.3—Cataloging Items of Supply

Section 101-30.303(b) is revised as follows:

§ 101-30.303 Responsibility.

. . . . .

(b) Agencies not having the capabilities cited in paragraph (a) of this section shall prepare Standard Form 1303, Request for Federal Cataloging/Supply Support Action (illustrated at § 101-30.4901-1303), or an EAM card of formatted actions for submission to GSA (or to the appropriate Defense Logistics Agency (DLA) supply center for maintenance actions as described in § 101-30.503). GSA of DLA will perform al cataloging functions and/or prepare and transmit data to DLSC. Instructions on the preparation and submission of Standard Form 1303 for requesting Federal cataloging and/or supply support actions and EAM cards for volume add/delete user requests are contained in the GSA Handbook, Federal Cataloging System-Logistics Data (FPMR 101-30.3), issued by the Commissioner, Federal Supply Service.

. . . . .

Subpart 101-30.5—Maintenance of the Federal Catalog System

Section 101-30.503(d) is revised as follows:

§ 101-30.503 Maintenance actions required.

. . . . .

(d) All civilain agencies not authorized to submit catalog data to DLSC shall use Standard Form 1303, Request for Federal Cataloging/Supply Support Action, to request maintenance action. Proposed maintenance requests shall be submitted to GSA for collaboration and submission to DLSC, except that civilian agencies receiving supply support from DLA supply centers, as expressed in the DLSC user record by major organizational entity (MOE) rule, should submit proposed maintenance requests to the appropriate DLA supply center for collaboration and submission to DLSC. When GSA receives maintenance requests for these items, they will be referred to the appropriate DLA supply center.

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Subpart 101-30.49—Illustrations of Forms

1. Section 101-30.4901 is revised as follows:

§ 101-30.4901 Standard forms.

(a) Standard forms are illustrated in this § 101-30.4901 to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this § 101-30.4901 correspond with the Standard form numbers.

(b) Standard forms illustrated in this § 101-30.4901 may be obtained by submitting a requisition in FEDSTRIP format to the GSA regional office providing support to the requesting activity.

2. Section 101-30.4901-1303 is added as follows:

§ 101-30.4901-1303 Standard Form 1303, Request for Federal Cataloging/Supply Support Action.

§ 101-30.4902 GSA forms. [Reserved]

3. Section 101-30.4902 is reserved as set forth above.

§ 101-30.4902-1303 [Deleted]

4. Section 101-30.4902-1303 is deleted.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

NOTE.—The form illustrated in § 101-30.4901-1303 is filed with the original document and does not appear in the FEDERAL REGISTER.

Dated; April 24, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-11864 Filed 5-1-78; 8:45 am]

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

PART 182—COOPERATIVE EDUCATION PROGRAMS

Rules Governing Awards for Planning, Establishing, Expanding or Carrying Out Programs

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This document sets forth rules governing awards for planning, establishing, expanding, or carrying out programs of Cooperative Education, and for support of training, research, or demonstration projects. The document amends the existing Cooperative Education Program regulation in order to implement the legislative changes required by the Education Amendments of 1976 and to simplify the language of the regulation. The principal legislative changes are the provision of Federal assistance for cooperative education programs over a period of five years (formerly three) at annually decreasing percentages, and the inclusion of part-time students in cooperative education programs.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. John L. Chase, Chief, Cooperative Education Branch, Bureau of Higher and Continuing Education, Room 3053, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202, 202-245-2146.

SUPPLEMENTARY INFORMATION:

1. *Background.* The purpose of this program is to enrich the quality and scope of postsecondary education through educationally-related work experiences which afford students an opportunity to earn funds needed for their education, while enabling them to become better prepared to achieve their educational or career objectives. Under the Cooperative Education Program, the Commissioner makes awards to eligible institutions of higher education or combinations of those institutions for planning, establishing, expanding, or carrying out programs of Cooperative Education, and for the support of training, research, or demonstration projects.

The Education Amendments of 1976 amend the Higher Education Act by inserting the Cooperative Education Program under Title VIII (formerly title IV-D), and making certain technical amendments to its provisions. These technical amendments allow alternating periods of work and school attendance to be on other than a full-time basis, and authorize the Commissioner to make grants for up to five fiscal years, instead of three.

2. *Applicability.* Awards for the Cooperative Education Program for Fiscal Year 1978 are being made in accord with the notice published in the FEDERAL REGISTER, November 28, 1977. Awards for Fiscal Year 1979 and thereafter will be made in accordance with these regulations.

3. *Summary of Comments and Responses.* The Commissioner published in the FEDERAL REGISTER, on September 9, 1977, a notice of proposed rulemaking to incorporate the technical changes resulting from the Education Amendments of 1976 into existing program regulations. Both written and oral comments were invited regarding the proposed regulations for the Cooperative Education Program. These comments and the Commissioner's responses are as follows:

Comment: A number of comments were received stating that the wording in § 182.2 of the proposed regulation omits any statement of the objectives of the program. It was suggested that language similar to that in the existing program regulation be added to indicate that the purpose of the program is to enrich the quality and scope of postsecondary education through educationally-related work experience which affords students an opportunity to earn funds needed for their education while enabling them to become better prepared to achieve their educational or career objectives.

Response: The regulation has been changed to reflect this comment. Language to indicate the purpose of the program has been included in § 182.2.

Comment: One commenter suggested that the proposed regulation be examined to assure that it is free of sex bias or sex stereotyping.

Response: No change has been made in the regulation. In the development of this regulation a deliberate effort was made to avoid the use of single sex pronouns and adjectives. This regulation contains no statement which implies the preference of one sex over another.

Comment: One commenter suggested that the proposed regulation be amended to include a definition and guidelines for "educationally-related work experience".

Response: No change is made in the regulation. The regulation is sufficient and a definition is not necessary.

Comment: One comment was received urging that § 182.16(a)(1) should include some condition that the placement of students be supervised by the applicant in order to assure work-school ties.

Response: No change has been made in the regulation. The wording in § 182.16(a) (2) and (3) sufficiently addresses this concern. Therefore, the recommended modification is not necessary.

Comment: One commenter suggested that the regulation be revised to provide assurances that the needs of disadvantaged and handicapped students, particularly the needs of women and racial and ethnic minorities are addressed by the applicants for funding. The commenter also suggested that in order to protect the needs of women, minorities, and handicapped, a statement should be included to point out that other applicable regulations assuring equal access to these groups are binding on recipients of program funds.

Response: No change has been made in the regulation. However, projects under this regulation, as is true of projects under all other program regulations, are subject to Title VI of the Civil Rights Act, the section 504 regulation assuring access and participation by the handicapped, and the Title IX regulation prohibiting discrimination on the basis of sex.

Comment: Several comments were received which suggested that § 182.17(b), permitting cooperative education students to work at less than comparable pay rates, be modified by inserting the word "non-profit" before "social work" in the last sentence of the subsection. It was further suggested that the sentence relating to work without pay should also be lengthened to add the phrase "provided that the position is not one for which other persons would be paid a salary by that organization," and that the words "at a lesser rate" be omitted.

Response: The regulation has been modified to incorporate the first and second suggestions in § 182.17. The third comment was not adopted because the option to receive some pay, as well as experience, could be a valuable option to the student.

Comment: One commenter suggested that the wording in § 182.18(a)(4) which states that Federal funds may not be used to pay teaching salaries is confusing. The commenter questioned whether faculty evaluation of a student's learning under the Cooperative Education Program and the faculty's coordination and supervision of students at work could be regarded as teaching.

Response: No change was made in the regulation. Under § 182.19 an allowable cost is explained as including release time for faculty to help administer the program through activities such as student counseling and supervision, job location and placement, and promotional activities. For the purposes of this program, the conduct of these activities shall not be classified as "teaching."

Comment: There were a number of commenters who objected to the weighting of criteria in § 182.16. It was the opinion of some of the commenters that, while they support the notion of clearly defined criteria, the proposed point system may ultimately penalize the newer, smaller, and developing Cooperative Education Programs. In addition, other commenters stated that the use of weighted criteria amounts to over-regulation by the Federal government; discourages institutions from being innovative by inhibiting the diversity of programs; and makes proposal evaluation a mechanical procedure.

Response: No change has been made with respect to weighting the criteria. Weighted criteria provide a more objective review and evaluation of proposals. Moreover, weighted criteria provide guidance to applicants in the preparation of applications and the conduct of projects.

Comment: One commenter suggested that § 182.17 of the proposed rules should be amended to remove language which seemed to contradict other provisions of the regulation and to clarify the rate at which cooperative education students should be compensated. It was pointed out that § 182.17(a) implied that student work experience has to be directly related to his or her academic major, contradicting § 182.16(a)(2). In addition, the commenter suggested that § 182.17(b) be changed to require that a student's rate of compensation be comparable to that of trainee employees who do similar work.

Response: The regulation has been changed to incorporate these suggestions in both § 182.17(a) and (b).

Comment: Several commenters pointed out that the funding criteria in § 182.32 address only the training needs of certain groups of individuals at institutions of higher education. It was suggested that training is necessary for cooperative education directors and coordinators, for high school and college guidance counselors, institutional administrators, personnel officials in business enterprises, and community representatives.

Response: The regulation has been amended to incorporate these suggestions with the exception of high school counselors in § 182.32(a). The criteria used in evaluating proposals will include the extent to which the applicant addresses the special responsibilities of institutional representatives in modifying curricula and teaching practices as well as the special needs of student guidance counselors, employer personnel staffs and community representatives. The extent to which the proposed project will train individuals to operate programs in higher education and improve articulation between two- and four-year colleges, employer cooperative education programs, and college community relations, will also be evaluated.

Comment: One commenter suggested that the emphasis on regional training in § 182.32(e) should be lessened. The commenter stated that there are few if any real regional differences in training needs and that the subsection as proposed ignores the special capabilities unique to certain institutions.

Response: The regulation has been amended by adding the phrase "or for training of a specialized nature addressed to a nationwide clientele" to § 182.32(e) in response to the comment. Since only a limited number of centers may be funded, the intent of the proposed criterion had been to encourage training centers to focus their efforts on regional needs not being met by other programs or being offered in places difficult to reach. However, some training centers may devise specialized programs focusing on national concerns.

Comment: One commenter expressed concerns with the funding criteria for research and demonstration projects outlined in § 182.33. One of the concerns was that four of the proposed criteria representing 75 of the 100 points, focused upon content or substantive intent of the proposed research. A second concern of the commenter was that is was unlikely that a single research proposal could be responsive simultaneously to all of the substantive criteria. The commenter suggested a new list of criteria for consideration which are designed to assign greater importance to the methodologies, operating plans, dissemination plan, time frame, and project staff proposed.

Response: Section 182.33 of the proposed regulations has been rewritten entirely to address the concerns which were raised by the commenter.

Comment: Several comments were received suggesting that the funding criteria under § 182.16 permit no discretion on the part of the Commissioner in making awards. It was suggested that the Commissioner be allowed up to 20 points for factors known to the Office of Education, such as an institution's ability to carry out its commitment to establish or maintain its proposed or existing program, its financial viability, accreditation status, and stability of personnel.

Response: No change was made in the regulation. This suggestion is addressed in part by the points awarded for the criteria in 45 CFR 100a.26(b).

Comment: Several comments were also received urging the addition of a funding criterion relating to an applicant's plans for project evaluation. It was suggested that an applicant should be expected to include plans for an external review and evaluation of the program at appropriate times.

Response: The regulation has been modified to make program evaluation an integral part of a program plan by

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adding § 182.16(h) to the list of funding criteria.

Comment: A number of commenters urged minor modifications in the wording of several of the funding criteria. It was suggested that: the words "and quality" be inserted in § 182.16(a)(1) after "size and scope"; the words "or will develop" be added after "the applicant has" in § 182.16(c)(6); and "and carrying out" be placed after "specialists in planning" in § 182.16(c). It was further suggested that some adjustments be made in the points assigned to the criteria.

Response: The proposed regulation has been modified to reflect those word and point assignment changes in both the content of the regulation and the funding criteria.

Comment: One commenter suggested that the wording in § 182.18(c) could be interpreted to mean that the expenditure of grant funds for such things as transparencies for use with an overhead projector was forbidden without prior approval by the Commissioner.

Response: The regulation has been modified to allow the development of transparencies or other illustrative materials for small scale classroom use. Prior approval is required, however, of any expenditure for large scale production of audio visual materials for which program funds are to be spent.

NOTE: The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.510; Cooperative Education Institutional Grants)

Dated: March 14, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: April 26, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

1. Part 100a is amended by revising § 100a.10 to read as follows:

§ 100a.10 Scope.

(a) *Programs.* Unless inconsistent with a statute or regulation, the regulations in this part apply to the following programs:

* * * * *

(25) Cooperative Education programs under Title VIII of the Higher Education Act of 1965 (20 U.S.C. 1133–1133b).

2. Part 182 is revised to read as follows:

Subpart A—General

Sec.
182.1 Scope of part.
182.2 Purpose of the program.
182.3 Definitions.
182.4 General provisions regulations.
182.5 Applications—general.
182.6 Performance reports.

Subpart B—Cooperative Education Programs

182.11 Eligible parties.
182.12 Eligible programs.
182.13 Limit on number of grants.
182.14 Limit on amounts of grants.
182.15 Content of application.
182.16 Funding criteria.
182.17 Student work experience.
182.18 Ineligible costs.
182.19 Allowable costs of administration.

Subpart C—Training, Research, and Demonstration Projects

182.30 Eligible parties.
182.31 Eligible projects.
182.32 Funding criteria for training projects.
182.33 Funding criteria for research and demonstration projects.
182.34 Duration of awards.

AUTHORITY: Title VIII of the Higher Education Act of 1965, as amended, 90 Stat. 2144–2146 (20 U.S.C. 1133–1133b), unless otherwise noted.

Subpart A—General

§ 182.1 Scope of part.

The regulations in this part apply to the Cooperative Education Program (Title VIII of the Higher Education Act of 1965, as amended).

(20 U.S.C. 1133, 1133a, 1133b.)

§ 182.2 Purpose of the program.

(a) The purpose of this program is to enrich the quality and scope of postsecondary education through educationally related work experiences which afford students an opportunity to earn funds needed for their education, while enabling them to become better prepared to achieve their educational or career objectives.

(b) To achieve this purpose, the Commissioner is authorized to make awards to institutions of higher education and combinations thereof, for planning, establishing, expanding, or carrying out programs of cooperative education, and for support of training, research, or demonstration projects for cooperative education.

(20 U.S.C. 1133, 1133a, 1133b.)

§ 182.3 Definitions.

As used in this part:

(a) "Act" means Title VIII of the Higher Education Act of 1965, as amended.

(b) "Cooperative education" means a program of study at an institution of higher education under which students undertake academic study for specified periods of time alternating with work experience in government, industry, business, or social welfare or educational agencies. In cooperative education, work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time.

(c) "Student" means a person who is carrying at least a half-time academic load of course work at an institution of higher education, other than by correspondence. Whether a person comes within this definition must be determined by the institution of higher education on the basis of work loads normally required of students who are full-time degree candidates.

(d) "Institution of higher education" means an institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965, as amended.

(e) "Combination of institutions of higher education" means a group of institutions of higher education which have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private non-profit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(20 U.S.C 1133a-1133b, 1141.)

§ 182.4 General provisions regulations.

Assistance provided under this part is subject to the regulations in 45 CFR Parts 100 and 100a (relating to fiscal, administrative, property management, reporting requirements, and other matters).

(20 U.S.C. 1133b, 1133c.)

§ 182.5 Applications—general.

(a) Each applicant under this part shall submit an application which meets the requirements of 45 CFR Part 100a (subpart B).

(b) In addition, each applicant for a continuation award, must submit a satisfactory performance report, as set forth in § 182.6, for each fiscal year for which an award under this part has been previously received.

(20 U.S.C. 1133a, 1133b.)

§ 182.6 Performance reports.

Each recipient under this part shall submit the following performance reports to comply with 45 CFR Part 100a (Subpart Q):

(a) An interim progress report at the end of six months from the beginning of the award period which must include information on:

(1) The extent to which the objectives of the project have been accomplished;

(2) What factors, if any, have prevented the accomplishment of project objectives, and what, if any, corrective measures are being taken; and

(3) Any highly significant aspects of the project.

(b) A final report which must be submitted with the final financial status report.

(20 U.S.C. 1133a, 1133b; H. (Conf.) Rept. 94-1701 at 199 (1976).)

Subpart B—Cooperative Education Programs

§ 182.11 Eligible parties.

An institution of higher education or a combination of institutions of higher education may apply for an award under this subpart.

(20 U.S.C. 1133(a), 1133a(a).)

§ 182.12 Eligible programs.

The Commissioner may make awards under this subpart to plan, establish, expand, or carry out a progam of cooperative education.

(20 U.S.C. 1133(a), 1133a(a).)

§ 182.13 Limit on number of grants.

No institution of higher education, individually or as a participant in a combination of institutions of higher education, may receive grants under this subpart for more than five fiscal years.

(20 U.S.C. 1133a(c).)

§ 182.14 Limit on amounts of grants.

(a) An institution of higher education may not receive an award of more than $175,000 for any fiscal year. A combination of institutions of higher education may not receive in any fiscal year an award of more than $125,000 multiplied by the number of institutions which apply as participants in the combination.

(20 U.S.C. 1133a(a).)

(b) Each award under this subpart may not include more than the following amounts for administering the program of cooperative education:

(1) 100 percent of the total cost of administering the program in the first fiscal year for which an award is made.

(2) 90 percent of the total cost of administering the program in the second fiscal year for which an award is made.

(3) 80 percent of the total cost of administering the program in the third fiscal year for which an award is made.

(4) 60 percent of the total cost of administering the program in the fourth fiscal year for which an award is made.

(5) 30 percent of the total cost of administering the program in the fifth fiscal year for which an award is made.

(20 U.S.C. 1133a(c).)

§ 182.15 Content of application.

Each application under this subpart must meet the requirements of section 802(b) of the Act.

(20 U.S.C. 1133a(b).)

§ 182.16 Funding criteria.

The Commissioner evaluates applications under this subpart in accordance with the criteria in 45 CFR 100a.26(b) (5 points) and with the following additional criteria (maximum of 115 points):

(a) The extent to which the applicant shows in its application that:

(1) The applicant will use its own resources to increase the size, scope and quality of its cooperative education program during the period of Federal support (15 points);

(2) The applicant has arranged for employment opportunities which to the extent practicable are related to its students' educational, professional, or occupational objectives (10 points);

(3) The applicant supervises its students during the work experience (5 points);

(4) The applicant makes continuing efforts to promote close interaction between its students' work experiences and academic study (5 points);

(5) The President and first-line administrators of the applicant support the program (10 points); and

(6) The applicant has or will develop a record-keeping system that keeps track of each student's status, attendance periods, and work periods (5 points);

(b) Whether the length of work experience is sufficient to make a significant contribution toward meeting the students' educational, professional, and occupational objectives (10 points);

(c) The extent to which the applicant has involved administrators, faculty, students, employers, and cooperative education specialists in both planning and, if the program is already in existence, carrying out the program (5 points);

(d) Whether the applicant has procedures for making curriculum and calendar changes as necessary to meet the partricular needs of students (10 points);

(e) Whether the applicant has a written cooperative education philosophy appropriate to the needs and characteristics of the applicant (5 points);

(f) The extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by employers (10 points);

(g) The extent to which the applicant demonstrates its intention and ability to continue its cooperative education program after Federal financial assistance ends (10 points); and

(h) Whether the applicant includes plans for an outside review and evaluation by independent consultant-evaluators at appropriate times in the development of the program (15 points).

(20 U.S.C. 1133(a), 1133a(b), 1133a(d).)

§ 182.17 Student work experience.

The recipient of an award under this subpart must insure that:

(a) Each student's work experience is related, where practicable, to the student's program of study; and

(b) The student receives compensation from the employer at a rate comparable to trainee employees who do similar work. However, a student may choose to work without pay or at less than the prevailing rate for full-time employees if the student works for a non-profit, social welfare, or educational organization, *Provided,* That the position is not one for which other persons are or have been paid a higher salary by that organization.

(20 U.S.C. 1133 (a), (c).)

§ 182.18 Ineligible costs.

(a) A recipient may not use funds provided under this subpart to:

(1) Compensate any student for his or her work experience or to provide financial assistance to any student to meet the costs of his or her education;

(2) Purchase or lease equipment, unless specifically authorized by the Commissioner in writing;

(3) Purchase or lease land, or purchase, lease, construct, or improve any building; or

(4) Pay teaching salaries or purchase capital equipment.

(b) A recipient may not use funds provided under this subpart for any program which involves sectarian training or which is intended primarily to prepare students to be ministers or teachers of theological subjects.

(c) A recipient may not use funds provided under this subpart for the development and production of audiovisual materials unless specifically authorized by the Commissioner in writing. This is not intended to exclude the costs of reproducing illustrative materials for small-scale classroom use.

(20 U.S.C. 1133(c), 1133a.)

§ 182.19 Allowable costs of administration.

The costs of administering the project may include the following:

(a) Salaries of the director, any coordinators, and secretaries;

(b) Release time for faculty to help administer the program, including student counseling and supervision, job location and placement, and promotional activities;

(c) Salaries of administrative personnel such as job placement staff, or admission counselors who publicize the programs and recruit students;

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(d) Travel costs of administrative staff, and necessary subsistence costs for them; and

(e) Expendable office supplies and promotional literature.

(20 U.S.C. 1133a(c)); H. (Conf.) Report No. 94-1701 at 199 (1976).)

Subpart C—Training, Research, and Demonstration Projects

§ 182.30 Eligible parties.

The Commissioner may make awards under this subpart as follows:

(a) To institutions of higher education or combinations of institutions of higher education; and

(b) To other public or private nonprofit agencies or organizations, if the awards will make an especially significant contribution to attaining the objectives of this subpart.

(20 U.S.C. 1133b.)

§ 182.31 Eligible projects.

The Commissioner may make awards under this subpart for:

(a) Projects to train persons in planning, establishing, administering, or coordinating programs of cooperative education;

(b) Projects to demonstrate or explore the feasibility or value of innovative methods of cooperative education; or

(c) Projects for research into methods of improving, developing, or promoting the use of programs of cooperative education in institutions of higher education.

(20 U.S.C. 1133b.)

§ 182.32 Funding criteria for training projects.

The Commissioner evaluates applications for training projects under this subpart in accordance with the criteria in 45 CFR 100a.26(b) (5 points) and with the following additional criteria (maximum score of 95 points):

(a) The extent to which the applicant proposes to address the responsibilities of (1) cooperative education directors at institutions of higher education to modify existing undergraduate teaching practices, academic calendars and curricula in order to administer cooperative education programs more effectively; (2) undergraduate guidance counselors to understand the relationship of the work experience to the student's academic program; (3) personnel officers of private or public employers to assist in placing and supervising cooperative education students in work situations; or (4) community representatives (15 points);

(b) The extent to which the applicant has based its project on its experience in cooperative education or on successful cooperative education programs, or on innovations which have been used successfully in a cooperative education program (20 points);

(c) The extent to which the applicant has clearly defined procedures that give evidence of comprehensive planning (20 points);

(d) The extent to which the proposed project has promise of developing trainees who can apply their expertise in more than one type of cooperative education program; or in more effective articulation between two and four-year institutions; or in improved employer participation in cooperative education programs; or in improved college-community relations affecting cooperative education programs (20 points); and

(e) The extent to which the applicant provides evidence of a need for the training in its geographical area or for training of a specialized nature addressed to a nationwide clientele (20 points).

(20 U.S.C. 1133b.)

§ 182.33 Funding criteria for research and demonstration projects.

The Commissioner evaluates applications for research or demonstration projects under this subpart in accordance with the criteria in 45 CFR 100a.26(b) (5 points) and with the following additional criteria (maximum of 100 points):

(a) The extent to which the applicant demonstrates that the proposed research is responsive to a real problem or need in cooperative education and, further, that the findings would be of potential value to the cooperative education community, including directors of cooperative education and other institutional administrators (25 points);

(b) The extent to which the proposal includes:

(1) clear and well-delineated research objectives;

(2) well-defined experimental or data collection methodologies;

(3) a well-defined data analysis plan; and

(4) a well-defined plan for dissemination the research findings (50 points);

(c) The extent to which the applicant presents clear and realistic work schedules for the conduct and completion of the proposed research (10 points); and

(d) The extent to which the applicant demonstrates the availability of competent staff and other resources for conducting the proposed research (15 points).

(20 U.S.C. 1133b.)

§ 182.34 Duration of awards.

(a) Awards made under this subpart will be for a period of up to one year.

(b) Applications may be filed proposing a project with a duration in excess of one year. Such application must be accompanied by an explanation of the need for multi-year support, an overview of the objectives and activities proposed, and estimated budgets to obtain these objectives in any proposed subsequent year. If the Commissioner finds that an application demonstrates that multi-year support is needed to carry out the proposed project, the Commissioner may, in the initial notification of award for the project, indicate an intention to assist the project of an appropriate multi-year basis through continuation awards.

(c) (1) Subject to availability of funds, where the Commissioner has made an initial award to support a project proposal requiring more than one year for completion, continuation awards may be made.

(2) An application for a continuation award will be reviewed to determine:

(i) If the applicant has complied with the terms and conditions of the award, the Act, and the regulations;

(ii) The effectiveness of the project to date based on the criteria found in § 182.32 or § 182.33.

(20 U.S.C. 1133b.)

[FR Doc. 78-11964 Filed 5-1-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Editorial Amendments Concerning Transmitter Power

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Commission is amending § 81.134 of its rules to permit certain radio stations the use of increased transmitter power to overcome power losses between the transmitter and the antenna. Over the years this has been the practice in licensing stations and the rules are being amended to reflect this.

EFFECTIVE DATE: May 5, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Kemp J. Beaty, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: April 20, 1978.

Released: April 21. 1978.

Order. In the matter of editorial amendment of 81.134(d) of the Commission's rules.

1. Section 81.134(d) limits VHF coast stations to 50 watts carrier power; however, over the years the Commission has allowed licensees of Class III coast stations to use transmitters with an output power of greater than 50 watts to overcome transmission system losses as long as the power into the input terminals of the antenna did not exceed 50 watts.

2. Accordingly, §81.134(d) of the Commission's rules is being amended to reflect this policy. Authority for this amendment is contained in sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended and § 0.231(d) of the Commission's rules. Since the amendment is editorial in nature and reflects a long standing policy the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. In view of the above, *It is ordered*, That the rule amendment set forth below is adopted effective, May 5, 1978.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

Part 81 of chapter I of title 47 of the Code of Federal Regulations is amended to read as follows:

In part 81—Stations on Land in the Maritime Services, in §81.134, paragraph (d) table is amended and footnote 2 is added to read as follows:

§ 81.134 Transmitter power.

• • • • • •

(d) • • •

Frequency band (megahertz)	Carrier power (watts)[1]	
	Coast stations[2]	Marine utility stations
156.2625 to 157.4375...	50	10
161.575 to 162.0125.....	50	.....

[1]Higher power may be authorized where a satisfactory showing of need has been made.

[2]Where losses are incurred in the transmission system, between transmitter output terminals and input terminals to the antenna, higher power may be used to compensate for the losses in that transmission system. However, power into the input terminals of the antenna shall not exceed 50 W.

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[FR Doc. 78-11898 Filed 5-1-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Lake Ilo National Wildlife Refuge, North Dakota, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Lake Ilo National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: May 6, 1978, through September 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Rolland J. Krieger, Acting Project Leader, Des Lacs NWR Complex, Kenmare, N.D. 58746, 701-385-4046.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas

Sport fishing is permitted on the Lake Ilo National Wildlife Refuge, North Dakota, only on the areas designated by signs as being open to fishing. These areas comprising 1050 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. Fishing shall be limited to daylight hours only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: April 24, 1978.

ROLLAND J. KRIEGER,
Acting Project Leader, Lake Ilo National Wildlife Refuge, Dunn Center, North Dakota, 58626.

[FR Doc. 78-11809 Filed 5-1-78; 8:45 am]

[4110-35]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—GRANTS

PART 50—POLICIES OF GENERAL APPLICABILITY

Abortions and Related Medical Services in Federally Assisted Programs of the Public Health Service

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 449—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Federal Financial Participation in State Claims for Abortions

AGENCY: Public Health Service (PHS), and Health Care Financing Administration (HCFA), HEW.

ACTION: Final rules with comment period; extension of date of Department response.

SUMMARY: This Notice extends the date by which the Department will respond to comments on its regulations governing the Federal funding of abortions. Those regulations were published in final form on February 2, 1978 (43 FR 4570), and republished on February 3, 1978 (43 FR 4832), and the public was given an opportunity to comment. The preamble indicated that the Department would respond to the comments and amend the regulations, if warranted, by publication in the FEDERAL REGISTER no later than May 3, 1978. The Department received a substantial number of comments on this issue, a number of which were comprehensive.

DATE: In order to carefully review and consider all the comments on this extremely important issue, the Department is extending the date by which it will respond in the FEDERAL REGISTER to June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Cook, Room 4423, Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-245-0962 (GC).

AUTHORITY: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302); sec. 101 of Pub. L. 95-205, 91 Stat. 1461, December 9, 1977.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

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Dated: April 28, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-12113 Filed 5-1-78; 11:03 am]

[4110-12]

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS); DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 228—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

Federal Financial Participation in State Claims for Abortions

AGENCY: Administration for Public Services (APS), Office for Human Development Services (OHDS), Department of Health, Education, and Welfare.

ACTION: Final rules, with comment period; extension of date of Department response.

SUMMARY: This Notice extends the date by which the Department will respond to comments on its regulations governing the Federal funding of abortions. Those regulations were published in final form on February 2, 1978, (43 FR 4570) and republished on February 3, 1978, (43 FR 4832), and the public was given an opportunity to comment. The preamble indicated that the Department would respond to the comments and amend the regulations, if warranted, by publication in the FEDERAL REGISTER no later than May 3, 1978. The Department received a substantial number of comments on this issue, a number of which were comprehensive.

DATE: In order to carefully review and consider all the comments on this extremely important issue, the Department is extending the date by which it will respond in the FEDERAL REGISTER to June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Cook, Room 4423, Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-245-0962 (GC).

AUTHORITY: Sec. 101, Pub. L. 95-205, 91 Stat. 1461, December 9, 1977.

(Catalog of Federal Domestic Assistance Program No. 13.771, Social Services for Low Income and Public Assistance Recipients.)

Dated: April 28, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-12112 Filed 5-1-78; 11:03 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons on opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-37]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[9 CFR Part 318, 320]

COOKING REQUIREMENTS FOR COOKED BEEF ROAST

Notice of Proposed Rulemaking

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to provide alternatives to the minimum cooking requirements for cooked beef roast. The existing rule, published September 2, 1977 (42 FR 44217), requires that all cooked beef roast be prepared by a cooking procedure that producers a minimum internal temperature of 145° F. (63° C.). Since it was published, the rule has apparently accomplished its intended purpose, which was the elimination of Salmonella food poisoning caused by consumption of commerically precooked beef roast. A number of alternative processing procedures have been recently developed which appear to be equally effective. If adopted, this proposed rule would permit the use of these alternative procedures.

DATES: Comments must be received on or before June 1, 1978.

ADDRESSES: Comments to: Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Agriculture Building, Washington, D.C. 20250. See also "Comments" under Supplementary Information.

FOR FURTHER INFORMATION CONTACT:

Dr. Ronald E. Engel, Director, Scientific Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-2326.

SUPPLEMENTARY INFORMATION:

COMMENTS

Interested persons are invited to submit comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk and should bear a reference to the date and page number of this issue of the FEDERAL REGISTER. All comments submitted pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business.

BACKGROUND

Cooking requirements for cooked beef roast were published by the Administrator on September 2, 1977 (42 FR 44217), as an emergency measure to prevent outbreaks of human salmonellosis caused by the consumption of commercially prepared cooked beef roast. The regulation requires that cooked beef roast be prepared by a cooking procedure that produces a minimum temperature of 145° F. (63° C.) in all parts of each roast. This procedure was deemed necessary to destroy all Salmonella bacteria present in the roast.

Salmonella are common bacteria which are often associated with warm blooded animals including man. Many animals which are not clinically ill are nevertheless carriers of these organisms. The physical nature of raw beef roasts in such that the penetration of micro-organisms, including Salmonella, into the deepest portions of the roasts may occur. Gaps in intermuscular fascia, knife cuts and deep folds are some of the physical features that contribute to such penetration. Deep inoculation of Salmonella bacteria and other micro-organisms may also occur during boning, packing, defrosting and precook handling of the raw roasts or by the flow of natural juices during the cooking process. A significant public health hazard is created when the cooking procedure for the product fails to kill the Salmonella.

Although the 145° F. cooking temperature required by the rule published on September 2, 1977, eliminates the public health hazard, it also results in a product which is overcooked. Many consumers prefer "rare" roasts and the popular item of trade is a rare roast. Because they want to preserve this rare appearance, seven trade associations have funded studies conducted by the American Bacteriological and Chemical Research Corp., which operates an independent research laboratory, to determine safe alternative processing procedures. The experimental design of these studies was reviewed and approved by meat and poultry inspection personnel before they were undertaken. The firm issued two reports— "Fate of Salmonella Inoculated into Beef for Cooking" (December 19, 1977) and "Addendum, Fate of Salmonella Inoculated into Beef for Cooking" (January 12, 1978). These documents may be obtained free of charge by writing to Dr. Ronald E. Engel, Director, Scientific Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

These reports demonstrate that alternative processing procedures can provide a number of acceptable time and temperature combinations for cooking beef roast in such a manner that Salmonella bacteria are eliminated. Each alternative processing procedure provided in these reports is equal in Salmonella destruction to the procedure now required. The proposed regulations would allow a processor to choose one of these alternative processing procedures in producing cooked roast beef. The proposal also includes the requirement that records of these alternative processing procedures be kept, and that processors have sufficient monitoring equipment to assure the accuracy of such processing.

Thermal destruction of bacteria is a function of both time and temperature. At higher temperatures bacterial death occurs within a short time, whereas at lower temperatures longer exposures to the lower temperatures are required to destroy equivalent bacterial numbers. The reports provide data on alternative cooking procedures which yield equivalent lethalities for salmonellae to that achieved when roasts are cooked to an internal temperature of 145° F. Consequently, paragraph (b) of the proposed regulations would include a Table of Alernative Processing Procedures for Cooked Beef Roast. Processors could comply with the procedures specified in this table as an alternative to the minumum current temperature requirement, which is retained in paragraph (a) of the proposed regulations.

Though the rate of thermal destruction of Salmonella is a function of time and temperature, as explained above, the change in color from red to gray of muscle myoglobin is affected by a different time temperature relationship. A temperature of 145° F. (63° C.) causes a rapid change of color of the myoglobin, whereas a temperature of 135° F. for prolonged periods produces little color change. Thus it is possible to destroy Salmonella by exposing roasts to low heat for extended time periods

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without causing the meat to turn gray or appear overcooked.

In addition to the documentation of these time and temperature relationships, these studies showed that moisture is also important in the death of Salmonella. Salmonella are much more resistant to heat in a dry environment. This becomes very important in beef that is being dry roasted in ovens operated at low temperatures. Because of this factor, the proposed regulations would also require, during dry cooking, the maintenance of either oven temperatures at or above 250° F. (121° C.) or high relative humidities at temperatures below 250° F. The proposed regulation would also require that dry cooked roasts prepared without high relative humidity must weigh 10 pounds or more before processing. This is required because the data in the reports indicate that all Salmonella may not be destroyed in dry cooked roasts of less than 10 pounds when cooked for the time period specified in the table included in paragraph (b). This is so because the smaller roasts reach the proposed mimimum internal temperatures more rapidly than the larger ones. Consequently, bacteria at or near the surface of the smaller roast are not exposed to heat for a sufficient period of time to assure the destruction of these bacteria in a dry environment.

The proposed regulation would also require that moist cooked roasts be vacuum-packaged in impermeable film prior to water immersion or oven cooking. This is designed to insure that roasts processed in this fashion are cooked in their own juices, thereby facilitating convection heating and proper distribution of heat throughout the roast.

Accordingly, it is proposed that the Federal Meat inspection regulations be amended as follows:

1. Section 318.17 (9 CFR 318.17) would be amended to read as follows.

§ 318.17 Cooking requirements for cooked beef roast.

(a) Cooked beef roast shall be prepared by a cooking procedure that produces a minimum temperature of 145° F. (63° C.) in all parts of each roast or prepared as provided in paragraphs (b) and (c) of this section.

(b) Cooked beef roast may also be prepared by any one of the cooking procedures described in the following table provided that the procedure produces and maintains the minimum temperature required, in all parts of each roast, for at least the stated period:

TABLE FOR ALTERNATIVE PROCESSING PROCEDURES FOR COOKED BEEF ROAST

Minimum internal temperature		Minimum processing time in minutes
°F.	°C	
128	53.3	195
129	53.9	153
130	54.4	121
131	55.0	97
132	55.6	77
133	56.1	62
134	56.7	47
135	57.2	37
136	57.8	32
137	58.4	24
138	58.9	19
139	59.5	15
140	60.0	12
141	60.6	10
142	61.1	8
143	61.7	6
144	62.2	5

(c) Cooked beef roast prepared under the procedures specified in paragraph (b) of this section must also meet one of the following criteria for moist or dry cooking:

(1) Each roast which is moist cooked shall be vacuum-packaged in impermeable films prior to immersion cooking in a water bath or cooking in an oven.

(2)(i) Roasts processed entirely by dry heat must weigh 10 pounds or more before processing and must be dry cooked in an oven maintained at 250° F. (121° C.) or higher throughout the process; or

(ii) An oven temperature less than 250° F. (121° C.) may be used for dry cooking of roasts of any size provided that the relative humidity of the oven in which they are prepared is greater than 90 percent for at least 25 percent of the total cooking time for the process, but in no case for a lesser period than 1 hour. This relative humidity may be achieved by use of steam injection or by sealed ovens capable of producing and maintaining the required 90 percent relative humidity.

(d) A processor who selects any of the alternative procedures specified in paragraphs (b) and (c) of this section shall have sufficient monitoring equipment to assure that the time (within 1 minute), temperature (within 1° F.) and relative humidity (within 5 percent) limits required by his process are being met. The processor shall make and keep a record, using a log, recording device, or other method, of these data and shall make such record available to Food Safety and Quality Service inspection officials upon request, as provided in Part 320 of the regulations in this subchapter.

2. Section 320.1(b) would be amended by adding the following subparagraph (4):

§ 320.1 Records required to be kept.

• • • • •

(b) • • •

(4) Records of alternative processing procedures for cooked beef roast as required in § 318.17(d).

The Food Safety and Quality Service has determined that his document contains a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044 and certifies that a Regulatory Analysis has been prepared.

Done at Washington, D.C., on April 25, 1978.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service.

[FR Doc. 78-11777 Filed 5-1-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. RN 50-7]

[10 CFR Parts 11, 50 and 70]

AUTHORITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

Notice of Hearing and Related Matters

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Hearing and Related Matters.

SUMMARY: On April 5, 1978 (43 FR 14672, April 7, 1978) the Commission constituted a Hearing Board (hereinafter "Board") in the above-captioned matter and authorized the Board to adopt procedures for hearing, set the date and location of the hearing, and provide for a procedural planning session or prehearing conference, as the Board deems necessary. This notice discusses each of these matters. It also contains a statement from the presiding officer.

The hearing is scheduled for the week of July 10 to 15, 1978, at the Commission's offices in Washington, D.C.; a procedural planning session is set for May 10, 1978. After familiarizing itself with the proposed rule and the comments submitted to date in this proceeding, the Board is of the belief that the substantive and procedural issues involved do not require the convening of a formal prehearing conference.

The expense such a conference would entail for the participants seems unwarranted and the delay it would cause, unnecessary. Therefore the Board is serving a notice which incorporates in one document the matters that must be set out prior to hearing. To permit suggestions, questions and criticisms to the matters covered in this notice, a procedural planning session is schedued at which participants can make their views known in one of three ways: by written submission, by personal appearance or by telephone communication.

DATES: A procedural planning session will be held on May 10, 1978; a public hearing will be held on July 10, 1978.

ADDRESS: The procedural planning session will be held in Room 1167, 1717 H Street NW., Washington, D.C.; the location of the Public Hearing will be announced later.

FOR FURTHER INFORMATION, CONTACT:

C. W. Reamer, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, phone 202-634-1465.

SUPPLEMENTARY INFORMATION:

HEARING PROCEDURES

The hearing will be conducted as a legislative-type, informal rulemaking hearing, with the opportunity provided for written testimony to be submitted and for questions about the testimony to be proposed to the Board in advance of the hearing. The framework of and general procedures for the hearing were set forth in the Commission's Notice of Hearing on December 28, 1977 (42 FR 64703).

The Board's goal is fully to ventilate all issues in order to provide the Commission with a comprehensive record on which it can decide whether and in what form to issue the proposed rule. Participants should prepare their statements for the hearing with particular attention to the relevant issues identified in the Commission's December notice (42 FR 64704). No questions will be permitted from participants or witnesses during the informal hearing, but an opportunity is provided to request Board permission to conduct cross-examination at the close of the informal hearing (42 FR 64704). The informal hearing process will be conducted by the Board according to the following rules of practice.

1. *Quorum.* A majority of the Board members shall constitute a quorum so long as the presiding officer is present.

2. *Responsibilities and authority of the Board.* The charter of the Board is to conduct a fair and impartial hearing and develop a record that will contribute to informed decisionmaking by the Commission. The Board will take appropriate action to avoid unnecessary delay and maintain order, with the objective of completing the proceedings by the latter part of 1978. The Board has all authority necessary to accomplish these ends, including specifically the authority to:

(a) Rule on offers of proof and receive evidence;

(b) Dispose of procedural requests or similar matters;

(c) Ask questions of witnesses as provided in paragraph 3;

(d) Order consolidation of participants, including panel presentations by witnesses;

(e) Require participants to provide a statement of their positions at an early stage;

(f) Establish an order of presentation by the participants which, if appropriate, may provide for an order of presentation on the basis of subject matter;

(g) Hold conferences before or during the hearing for any proper purpose;

(h) Establish reasonable time limits for the conduct of the proceeding;

(i) Entertain suggestions from participants as to questions which the Board should ask of witnesses for one or more of the other participants as provided in paragraph 3;

(j) Limit the number of witnesses for participants whose testimony may be cumulative;

(k) Strike cumulative or irrelevant evidence of participants;

(l) Certify questions or refer rulings to the Commission for its determination, on the board's initiative, or in its discretion on request by a participant;

(m) Rule on discovery matters as provided in paragraph 4; and

(n) Regulate the course of the hearing and the conduct of the participants.

3. *Evidence and representation.* All participants will be permitted to present evidence at the hearing on matters relevant to the following determination: whether certain individuals in the licensed private sector shall be approved by the Commission for access to or control over special nuclear material under the conditions and implementing regulations as proposed by the Commission (42 FR 14880). Except as provided below, participants' witnesses will be subject to questioning by the Board, either orally at the hearing or in writing before or after the hearing, or both. Questions may be addressed either to individual witnesses or to panels of witnesses. In addition, participants may submit questions to the Board (according to the schedule set out below) which they would like to have answered by the witnesses for other participants. The Board may, in its discretion, refer the questions to the witnesses for response and/or conduct its own examination of the witnesses in the subject areas. No questions will be permitted by the participants or their representatives at the hearing itself. No subpoenas will be granted for attendance and testimony of witnesses or the production of evidence except upon a showing of exceptional circumstances. Any request by a participant for a subpoena shall be in the form of a motion under paragraph 5, but shall be addressed to the Commission. The Board may, for good cause, receive into evidence on behalf of a participant the written testimony of a person who is unable to appear at the hearing. In such cases, the Board may request (but not order) that the person respond to written questions by the Board.

4. *Discovery.* The following rules regarding discovery shall apply:

(a) Pursuant to the Commission's December 28, 1977 notice (42 FR 64703) and except as provided in subparagraph (b) below, there shall be no discovery by document production or otherwise. The NRC staff will make available for public inspection and copying, in a timely fashion, documents which were relied upon in the prepared of its testimony. Documents pertinent to the proposed rule are presently available for inspection and copying in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Participants are encouraged to confer informally for the purpose of exchanging information and documents relied upon in the preparation of their testimony.

(b) Participants seeking Commission documents which they deem relevant but which have not been made publicly available for inspection and copying pursuant to subparagraph (a) may seek documents pursuant to this paragraph. Requests for production of any such additional documents may be served on the NRC staff without leave of the Board. The Board may rule on disputed requests, order production of relevant documents, and grant protective and other appropriate relief.

(c) No request under subparagraph (b) may be served on the NRC staff after the hearing has commenced except by leave of the Board.

5. *Motions or requests.* Except as provided in paragraphs 3 and 4, all motions or requests shall be addressed to the Board. All written motions or requests shall be filed with the Secretary of the Commission and served on participants to the hearing. Service shall be as provided in 10 CFR 2.712. Within 5 days after service of a written motion, or such other times as may be fixed by the Board, any participant may file a written answer in support of, or in opposition to the motion or request. However, the NRC may file such an answer within 10 days after service. Computation of time shall be as provided in 10 CFR 2.710.

6. *Interlocutory appeals; effect of motions, certifications, and referrals.* The Commission's December 1977 and April 1978 notices (42 FR 64703, 43 FR 14672) do not provide for an interlocutory appeal to the Commission from a ruling of the Board. When in the judgment of the Board prompt decision is necessary to prevent detriment to the public interest or unusual delay or expense, the Board may on its own initiative, or in its discretion on request by a participant, refer the ruling or certify the question promptly to the Commission, and notify the partici-

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pant either by announcement on the hearing record or by written notice if the hearing is not in session. Unless otherwise ordered, neither the filing of a motion nor the certification of a question or referral of a ruling shall stay any aspect of the proceeding or extend the time for the performance of any act.

7. *Filing of documents; docket; transcripts; public notice of hearing.* Filing of documents in this proceeding by participants shall be as provided in 10 CFR 2.701. All documents shall be served on participants to the hearing, and service shall be as provided in 10 CFR 2.712. A docket for the proceeding shall be maintained as provided in 10 CFR 2.702, and the provisions of 10 CFR 2.750 and 2.751 regarding official reporter, transcript, and public nature of the hearing shall apply.

8. *Requests for additional hearings to permit cross-examination.* It may be that some factual issues in this proceeding cannot be resolved adequately on the basis of a record developed in the manner provided above. As provided for in the Commission's December 1977 notice (42 FR 64704), if any participant believes after completion of the legislative-type hearing provided above that cross-examination on one or more specific factual issues is needed for a sound decision, the participant may request permission for cross-examination. A written request for additional hearings to permit cross-examination should be filed with the Board within 20 days after completion of the legislative-type hearing, or within such greater or lesser time as may be fixed by the Board. Such requests should: (a) Specify with particularity the factual issue or issues as to which cross-examination is requested; (b) identify the witness or witnesses involved; and (c) demonstrate why in the participant's view the legislative-type procedures have not proved adequate for a sound decision with respect to the particular issue and testimony. Other participants, including NRC staff, may file written responses to such requests within 15 days after service, or within such greater or lesser time as may be fixed by the Board. Should any such request be granted by the Board, a supplemental notice of hearing which identifies the factual issue(s) and any necessary additional procedures will be issued by the Board.

9. *Supplementary statements; certification of record.* (a) Within 30 days after completion of the hearing (including any hearing provided under paragraph 8), a participant may file with the Board such supplementary written statement as may be deemed appropriate in light of the hearing record. Participants who are only interested in one or more aspects of the proceeding may confine their supplementary statements to such aspects. Supplementary statements shall include appropriate citations to the transcript of record and exhibits in support thereof.

(b) Following completion of the hearing (including any hearing provided under paragraph 8), and after the 30-day period referenced in paragraph (a) expires, the Board will certify the hearing record to the Commission for decision without rendering any decision or making any recommendations of its own with regard thereto.

10. *Record.* The hearing record will include the transcript of testimony and exhibits, the transcript of oral and written statements and all papers and requests filed in the proceeding.

HEARING SCHEDULE

May 10, 1978: Procedural planning session at the Commission's offices 1717 H Street NW., Washington, D.C. The purpose of this session is for the Board to receive objections, questions or suggestions about the hearing procedures and hearing schedule here proposed and described. In order to facilitate non-time-consuming and low-cost participation, three alternative ways of making views known to the Board are offered: (I) Participants may submit written comments on the above matters, to be filed with the Board by May 10, 1978. (II) Participants may appear in person or by representatives before the Board from 10 a.m. to 1 p.m. (EDT) on May 10, 1978, in Room 1167. (III) Participants may communicate with the Board members by telephone from 2 p.m. to 5 p.m. (EDT) on May 10, 1978, by calling 202-254-7654 or 202-254-8636. Participants also may attend—but not participate in—the afternoon session (Room 1167). A transcript will be kept for both sessions of the May 10 meeting. Participants should choose the method of communication that best meets needs and capacities, having in mind that oral or telephonic appearances should be thought out in advance and concisely delivered. All comments that can be reduced to writing should be made in that fashion. Participants are requested not to utilize more than one method of communication. The Board will rule promptly on objects or suggestions, if any, that require an amendment to the procedures or schedule herein proposed.

May 15, 1978: Submission of written testimony of Commission staff and other proponents of the proposed rule. The staff and other proponents will circulate their testimony to all participants. The staff will make available for public inspection all documents and other materials on which its testimony relies. Each submission shall be introduced by a concise Statement of Position and shall be cross-referenced, as appropriate, to the relevant issue identified in the Commission's December notice (42 FR 64704).

June 1, 1978: Submission of written testimony of opponents of proposed rule, including rebuttal of proponents' testimony. Written testimony from those who consider themselves neither proponents no opponents of the proposed rule is also due at this time. Each submission shall be introduced by a concise Statement of Position, and shall be cross-referenced, as appropriate, to the relevant issue identified in the Commission's December notice.

June 20, 1978: A. Submission of written proposals from all participants for questions to be propounded by the Board to witnesses at the hearing. Each proposed question should contain a clear and concise explanation of its purpose in order to assist the Board in determining its probity and relevance, and should be cross-referenced, as appropriate, to the relevant issue identified in the Commission's December notice.

B. Submission of rebuttal testimony by proponents to opponents' testimony. (There will not be further opportunity for opponents to submit rebuttal testimony.) Rebuttal testimony shall be cross-referenced in the manner described above.

C. Submission of consolidation of positions and requests for hearing times. Participants should wherever possible consolidate their positions with others of like persuasion. Where prior coordination is impossible, participants should recommend to the Board other participants with whom they might appear in a panel presentation. Hearing times should be limited to no more than one (1) hour, except where exceptional circumstances are stated. Dates and specific times will be assigned within the period of July 11-15, 1978.

June 30, 1978: (a) Submission of written objections to proposed questions; (b) the Board will announce consolidation of positions and schedule of witnesses and any other matters to be determined prior to hearing. This announcement will appear in the FEDERAL REGISTER on July 5, 1978. Participants who desire to be informed of the hearing schedule and who have supplied the Board a telephone number for that purpose, will be called on the afternoon of June 30, 1978.

July 10, 1978: Hearing commences at 9 a.m. (EDT) at 1717 H Street NW., Washington, D.C., room (to be announced). Staff presentation will be first and is anticipated to consume the entire day of July 10. All participants and their representatives are invited to observe the staff's presentation but are reminded that they will not be recognized by the Board for any purpose during the hearing. The presentations of the other participants will follow beginning on July 11 or as soon thereafter as the staff has completed its presentation. Precise times for appearances will have been previously announced by the Board, but it is anticipated that all of the proponents to the proposed rule will come after the staff, followed by opponents, and then those who have still not taken firm positions on the merits. The Board may call for conferences during the hearing but will state its plans in that regard at the outset of the hearing on July 10.

EX PARTE COMMUNICATIONS

The Notice of Hearing calls upon the Board to conduct a legislative-type hearing. However, it offers the possibility of later cross-examination on specific issues. (par. 8) Given the hybrid nature of the proceeding, the Board expects all participants (and anyone acting in behalf of any of them) to refrain from offering to Board members any evidence or argument concerning any fact or opinion which is material to this proceeding except through the procedures for submission of written statements, testimony, motions or other documents set forth in the Notice of Hearing.

STATEMENT OF PAUL R. VERKUIL

Upon being named presiding officer of the hearing board, I learned that I have a relationship with two participants to this proceeding. I am a member of the American Civil Liberties Union, and I am employed by the University of North Carolina at Chapel Hill, a constituent institution of the University of North Carolina, as is North Carolina State University which is a participant. I have resolved for myself that these connections create no conflict of interest. First of all, the role I am performing here is not one of deciding the merits of the proposed rule, but only that of ensuring that a full and accurate record is prepared on which the Commission can render a sound judgment. Thus, I am in no sense taking positions or exercising judgments that could benefit individual participants in the proceedings. Beyond those considerations, however, my relationship to the ACLU is that of a sustaining, nonpolicy-making member, and I have no contact with officials at North Carolina State University who might be involved in this proceeding. I have not received any communications from these organizations concerning the matters under scrutiny. For these reasons, I do not believe it necessary for me formally to resign from the ACLU during these proceedings or to alter my relationship with the University of North Carolina. I would be pleased to receive any reactions in writing from the participants to the matters I have here discussed.

Dated: April 27, 1978.

For the Hearing Board.

PAUL R. VERKUIL,
Chairman.

[FR Doc. 78-11998 Filed 5-1-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 732-3312]

AUSTRALIAN LAND TITLE, LTD., ET AL

Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Los Angeles, Calif. seller of undivided interests in Australian land to cease advertising, selling, transferring or collecting payments on such land. Additionally, the firm would be required to return all payments received on or after July 1, 1977; pay property taxes and other charges levied against the tracts as they become due; and provide consumer redress to eligible parties.

DATE: Comments must be received on or before June 29, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Albert H. Kramer, Director, Bureau of Consumer Protection, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 732- 3312]

AUSTRALIAN LAND TITLE, LTD., SAFEGUARD INDUSTRIES, INC. AND MORLAN INTERNATIONAL, INC., CORPORATIONS

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of Australian Land Title, Ltd., Safeguard Industries, Inc., and Morlan International, Inc., corporations, hereinafter sometimes referred to as "proposed respondents," and it now appearing that proposed respondents are willing to enter into an Agreement containing an Order;

It is hereby agreed by and between proposed respondents by their duly authorized officers and their counsel, and counsel for the Federal Trade Commission that:

1. This Agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the facts as alleged in the draft of complaint attached hereto are true or that any law has been violated.

2. Proposed respondent Australian Land Title, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 9060 Santa Monica Boulevard, Los Angeles, Calif.

Proposed respondent Safeguard Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 630 Park Avenue, King or Prussia, Pa.

Proposed respondent Morlan International, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at Philmont Avenue and Byberry Road, Philadelphia, Pa.

3. For settlement purposes only proposed respondents admit all the jurisdictional facts set forth in the draft of Complaint here attached.

4. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's Decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

5. This Agreement shall not become a part of the official record of the proceeding unless and until it is accepted

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by the Commission. If this Agreement is accepted by the Commission it, together with the draft of Complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within thirty (30) days after the sixty (60) day period, comments or views submitted to the Commission disclose facts or considerations which indicate that the Order contained in the Agreement is inappropriate, improper, or inadequate.

6. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to the proposed respondents, (1) issue its Complaint corresponding in form and substance with the draft of Complaint here attached and its Decision containing the following Order in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other Orders. The Order shall become final upon service. Mailing of the Complaint and Decision containing the agreed-to Order to proposed respondents' addresses as stated in this Agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The Complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the Order.

7. Proposed respondents have read the proposed Compliant and Order contemplated hereby, and they understand that once the Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order, and that they may be lable for a civil penalty in the amount provided by law for each violation of the Order after it becomes final.

8. It is agreed that the relief set forth in the Order contained herein fully satisfies any claim for redress which the Commission has under sections 5(b) and 19 of the Federal Trade Commission Act, as amended, arising out of the acts and practices alleged in the Complaint. By its final acceptance of this Agreement, with such modifications, if any, which the parties may make prior to said final acceptance, the Commission waives its right to commence a civil action under section 19 of the Federal Trade Commission Act, as amended, with respect to the acts and practices alleged in the Commisison's Complaint.

ORDER

For the purpose of this Order, the following definitions apply, unless otherwise specified herein:

A. "Respondents" mean Australian Land Title, Ltd. ("ALT"), Morlan International, Inc., ("Morlan") and Safeguard Industries, Inc., ("Safeguard") and include their successors and assigns.

B. "Tract" means each parcel of land located in Western Australia identified in Appendix A.

C. "Sales Agreement" means any agreement entered into by ALT or any agent, representative or subsidiary of ALT for the sale of any undivided interest (tenancy in common) in any Tract.

D. "Purchaser" means any person or entity that entered into any Sales Agreement, or the person or entity that received the purchaser's interest in any Sales Agreement by transfer, assignment, inheritance, or otherwise, or the person or entity, that purchased an interest in a Tract other than from any respondent or its representatives or agents, but shall not include any person or entity, other than one who has made all Purchase Payments, whose last Purchase Payment pursuant to any Sales Agreement was received by ALT prior to January 1, 1977, or who has arbitrated, settled, released or litigated to final judgment all claims and rights relating to the purchase of an interest in a Tract.

E. "Defaulter" means any person or entity that entered into any Sales Agreement, or the person or entity that received the purchaser's interest in any Sales Agreement by transfer, assignment, inheritance, or otherwise, or the person or entity, that purchased an interest in a Tract other than from any respondent or its representatives or agents, whose last Purchase Payment pursuant to any Sales Agreement was received by ALT on or after January 1, 1974, but before January 1, 1977, but does not include any person or entity who has made all purchase payments or any Defaulter who has arbitrated, settled, released or litigated to final judgment all claims and rights relating to purchase of an interest in a Tract.

F. "Net Sales Price" means the gross sales price of any Tract less the seller's customary share of state or local sales or transfer taxes, transfer of title fees, and brokerage fees (*Provided*, That a broker has in fact been used and that his fees are not more than the prevailing rate for comparable services in Western Australia); no deduction from gross sales price shall be made for attorneys' fees, sellers' pro rata share of property taxes, payoff of mortgages or other liens or charges against the land, cost of appraisal, advertising costs or court costs associated with a judicial proceeding, or other costs of sale.

G. "Purchase Payments" means all sums including downpayments, and periodic payments of principal and interest paid pursuant to any Sales Agreement and dated and received by ALT prior to July 1, 1977.

H. "Purchase Price" means the total purchase price (including interest or finance charges if any) stated in any Sales Agreement.

The acts and practices, prohibitions, affirmative undertakings, requirements and activities subject to this Order are those in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended.

I. *It is ordered*, That ALT, Morlan and Safeguard, directly or indirectly, through any corporation, subsidiary, division, or other device, do forthwith cease and desist from advertising, offering for sale, selling, or transferring any undivided interest in land in Australia to any consumer in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, except as permitted by this Order or as otherwise may be permitted by written approval of the Commission. For the purposes of this part, "consumer" shall mean a natural person to whom rspondents offer to sell any undivided interest in land or other real property; *Provided, however*, That the term"consumer" shall not include a natural person who purchases an interest in land in a single transaction for a sum in excess of $50,000.

II. *It is further ordered*, That ALT:

A. Cease and desist from collecting, directly or indirectly, payments, including principal and interest, due from any Purchaser pursuant to any Sales Agreement and return to any Purchaser, within five (5) days of receipt, any payment received from such Purchaser on or after the date this Order becomes final.

B. Return to each Purchaser all payments, including principal and interest, made by such Purchaser pursuant to any Sales Agreement, that were dated and received by ALT, or its representatives or agents, on or after July 1, 1977, but before the date this Order becomes final.

C. Cease and desist from cancelling any Sales Agreement of any Purchaser except where permitted or required by Part III of this Order.

D. Cease and desist from failing to pay all property taxes, mortgages, liens or charges against any Tract on a timely basis as each becomes due.

III. *It is further ordered*, That ALT, consistent with the procedures set forth below and the laws of Western Australia, sell each Tract and distribute the proceeds. For the purposes of this part, the definition of Purchaser shall not include any person or entity who has sold, devised, assigned, or otherwise transferred his interest in a Tract.

A. Each Tract may be sold by consent of the Purchasers of that Tract or partition and judicial sale pursuant to the Laws of Western Australia: *Provided, however*, That any sale other than by partition and judicial sale shall be made only with the express consent of the Purchasers whose Sales Agreements account for a majority of the undivided interests in that Tract.

B. On or before two years from the date this Order becomes final ALT shall initiate proceedings in the appropriate courts of Western Australia for partition and judicial sale with respect to ten (10) Tracts less the number of Tracts which have been previously sold, or which are already the subjects of partition actions, or which have been excluded pursuant to Paragraph L of this part.

C. On or before three years from the date this Order becomes final ALT shall initiate proceedings in the appropriate courts of Western Australia for partition and judicial sale with respect to twenty (20) Tracts less the number of Tracts which have been previously sold, or which are already the subjects of partition actions under Paragraph B of this part as of that date, or which have been excluded under Paragraph L of this part.

D. On or before four years from the date this Order becomes final ALT shall initiate proceedings in the appropriate courts of Western Australia for the partition and judicial sale of all Tracts which remain unsold and which are not already the subjects of partition actions under Paragraphs B and C of this part as of that date, or which have not been excluded under Paragraph L of this part.

E. ALT shall pursue all such actions for partition and judicial sale pursuant to Paragraphs B–D of this part as expeditiously as possible consistent with the laws and judicial procedures of Western Australia. ALT shall inform the court of the provisions of Part III of this Order at the time any proceeding for partition and judicial sale of a Tract is commenced, and shall provide a copy of Part III of this Order if the court agrees to accept the Order in camera.

F. All Tracts shall be sold and the proceeds distributed within five (5) years from the date this Order becomes final. *Provided, however*, The Commission shall extend the period as to any particular Tract where ALT can establish to the satisfaction of the Commission that a partition action with respect to such Tract was brought and pursued as provided by this part, but that sale and distribution of proceeds cannot reasonable be expected to occur within the period. Upon the granting of such an extension, ALT shall file reports with the Commission every six months until sale and distribution of proceeds have been completed, describing the status of such pending proceeding and any measures taken by ALT to conclude such proceeding. ALT shall bear the costs of the sale of any Tract except such costs as may be duducted from the gross sales price as provided in the definition of Net Sales Price.

G. Except as otherwise provided herein, a share of the Net Sales Price of each Tract shall be distributed to each Purchaser of such Tract in proportion to the percentage interest in the Tract set forth in such Purchaser's Sales Agreement. Each Defaulter who, prior to January 1, 1977, paid one-third or more of the Purchase Price set forth in such Defaulter's Sales Agreement shall receive a cash payment, to be distributed from the remaining proceeds of the Net Sales Price, such payment to be based on the proportion of the Net Sales Price allocable to the percentage interest in the Tract set forth in such Defaulter's Sales Agreement multiplied by the percentage of the Purchase Price actually paid by such Defaulter. *Provided, however*, That any distribution to a Purchaser who is not a citizen or resident of the United States, its territories, or the District of Columbia shall be paid to such Purchaser in an amount equal to the total of his Purchase Payments, and any remainder shall be paid to ALT in an amount equal to the unpaid balance of the Purchase Price, and thereafter any remainder shallbe paid to such Purchaser. *Provided further*, That no Defaulter shall receive from the distribution provided for herein an amount in excess of the total of his Purchase Payments less the distribution provided for in Paragraph B of Part IV of this Order. ALT shall be entitled to the balance of the Net Sales Price remaining after distribution of proceeds to Purchasers and Defaulters under this part.

H. Distributions from the Net Sales Price resulting from the sale of each Tract shall be made to the Purchasers and Defaulters of that Tract within sixty (60) days after the receipt of such proceeds by ALT, except at such other time as the Purchasers may consent to in accordance with paragraph I(ii) of this part or as may be ordered by a court in a proceeding for partition and judicial sale of any Tract.

I. Any Tract may be sold on terms which provide that the buyer will pay the purchase price in installments, or that any payment by the buyer will be deferred for a period in excess of 120 days after the date the sale is consummated: *Provided*, That (i) ALT shall nevertheless distribute to the Purchasers and Defaulters of the Tract, as provided in Paragraph G of this part, an amount equal to the Net Sales Price (not including interest) within sixty (60) days after the sales transaction is consummated, or (ii) ALT shall have first obtained the express consent of the Purchasers whose Sales Agreements account for a majority of the undivided interests in the Tract to the terms of the sale and to distribution of the proceeds of the sale within a specified period exceeding 120 days after the date the sale is consummated. *Provided, however*, ALT shall distribute proceeds received from the installment sale of any Tract in accordance with Paragraph G of this part within sixty (60) days of the receipt of each installment: *And provided further*, That in the event of any default by any buyer, ALT will notify the Commission and promptly initiate proceedings for partition and judicial sale of such Tract.

J. ALT shall not solicit the consent of any Purchaser to any sale of a Tract or any terms of sale without first having obtained, within six (6) months prior to the solicitation, an appraisal from an appraiser licensed in Western Australia who, prior to December 31, 1977, shall not have been employed, retained or otherwise associated with any Respondent, and without having adequately and accurately disclosed to all Purchasers of the Tract whose current addresses have been identified pursuant to the procedures set forth in Part V of this Order (i) the name, address and business of a proposed buyer or buyers; (ii) the nature and extent of any prior or existing relationship—including overlapping ownership interests or business dealings—between the buyers and any of the Respondents; (iii) what efforts, if any, have been made to sell the Tract on cash terms or more favorable terms of sale (including efforts to obtain a higher price or shorter payout) than that offered by the buyers; (iv) what other offers have been made for the Tract; (v) any appraised value of the Tract made within the six month period, and the date of each such appraisal; (vi) the minimum price and conditions upon which the Tract would be sold to any buyer; (vii) that if the Purchasers whose Sales Agreements account for a majority or the undivided interests in the Tract do not consent to such sale, ALT remains obligated to sell the Tract, by partition and judicial sale or otherwise, within five (5) years of the date this Order becomes final.

K. Respondents shall not, directly or indirectly, purchase or acquire any Tract, from any Purchaser, except as follows:

1. In disposing of any Tract through partition and judicial sale, any Re-

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spondent may purchase such Tract only if (i) both the Court administering such sale and the Commission are notified at least thirty (30) days in advance of sale of such Respondent's intention to purchase and the terms of the purchase and (ii) such Respondent reports to the Commission, within sixty (60) days after any such purchase, the amount paid by the Respondent and provides the Commission with such other relevant information concerning the sale as the Commission may request.

2. In disposing of any Tract by consent of the Purchasers of the Tract, any Respondent may purchase such Tract only if (i) within six (6) months prior to such purchase an appraisal shall have been obtained from an appraiser licensed in Western Australia who, prior to December 31, 1977, shall not have been employed, retained, or otherwise associated with any Respondent, (ii) the purchase price paid by the Respondent is not less than the appraised value of the Tract, (iii) the Respondent shall have disclosed to the Purchasers the information set forth in Paragraph J of this part, (iv) the Respondent, at least thirty (30) days in advance notifies the Commission of its intention to purchase and provides to the Commission a copy of the appraisal, (v) the Respondent reports to the Commission within sixty (60) days after sale the amount paid by the Respondent and furnishes such other relevant information regarding the sale as the Commission may request.

3. Except as otherwise may be permitted by written approval of the Commission, no Respondent may purchase the individual interest of a Purchaser in a Tract unless such Purchaser—

(a) Has executed a written document acknowledging receipt of the letter required by Paragraph A of Part IV of this Order and declining to dispose of his interest in the manner provided therein, or

(b) Is represented by legal counsel, either individually or as a member of a class in a class action which has been filed in State or Federal court.

L. Notwithstanding Paragraphs A–K of this part, if the Purchasers whose Sales Agreements account for a majority of the undivided interests in a Tract expressly consent to retain their interests in the Tract and to forego permanently disposition of the Tract pursuant to Part III of this Order, the Commission shall entertain a petition to that end. Such a petition shall set forth sufficient information to demonstrate:

1. The procedure used to ascertain that Purchasers whose Sales Agreements account for a majority of the undivided interests in the Tract have expressly consented to forego disposition of the Tract pursuant to Part III of this Order, and the results of such procedure.

2. The risks, benefits, and burdens of such continued ownership in the Tract and the procedures used to ensure that Purchasers were adequately and accurately informed of such information prior to expressing their consent.

3. That prior to any Purchaser's expression of consent, an appraisal of the Tract was obtained from an appraiser (licensed in Western Australia and who, prior to December 31, 1977, had not been employed, retained or otherwise associated with any Respondent) and such appraisal was provided to the Purchasers in the Tract;

4. That adequate provision has been made for Purchasers to dispose of the Tract in the future;

5. That any Purchaser who does not concur in the majority decision was informed of such Purchaser's right to institute, and the required procedure for instituting, an action for judicial partition or sale;

6. That, for the purposes of Parts 4 and 5 of this Paragraph, adequate provision has been made to enable Purchasers who hold only equitable rights in the Tract to exercise full rights of ownership in the Tract.

If the Commission is satisfied that the prerequisites of this Paragraph have been met, and that there is no countervailing public interest to be served by rejection of the petition, the Commission shall grant the petition.

M. The provisions of this part regarding sale of the Tracts and distribution of the proceeds are subject to the laws of Western Australia, and to any judicial decrees or orders thereunder; *Provided, however,* That to the extent that any Respondent might otherwise have rights in connection with the sale of any Tract, or to the proceeds thereof, different from those provided herein, it has waived such rights and shall proceed according to the terms of this Order.

IV. *It is further ordered,* That ALT make cash payments to Purchasers and Defaulters who are citizens or residents of the United States, its territories, or the District of Columbia, in accordance with the following procedures:

A. Within sixty (60) days after this Order becomes final, ALT shall mail, in accordance with the procedures set forth in Part V of this Order, two (2) copies of the letter set forth in Appendix B to all such Purchasers and two (2) copies of the letter set forth in Appendix C to all such Defaulters. *Provided, however,* With prior approval of the Commission, appropriate modifications or deletions may be made in letters to be sent to Purchasers or Defaulters whose rights under this Order are different from those delineated in the letters set forth in Appendices B and C. Enclosed with each pair of letters shall be a postage-prepaid return envelope for the return of the release form.

B. The amount to be offered to each eligible Purchaser and Defaulter, as indicated in the letter to such Purchaser or Defaulter, shall be the percentage of $2,000,000 equal to the percentage that the total Purchase Payments made by that Purchaser or Defaulter is of the total Purchase Payments made by all eligible Purchasers and Defaulters. Moreover, any Purchaser who purchased an interest in a Tract other than from ALT or its representatives or agents (transferee Purchaser), shall participate in the foregoing payment provided, in calculating the amount of the payment to be made, any consideration paid by a transferee Purchaser to a transferor Purchaser shall, if the transferee Purchaser has first furnished to ALT adequate documentation of such Purchaser's purchase of the interest and the amount paid therefor, be treated as a deduction from the Purchase Payments of the transferor Purchaser and treated as an addition to the Purchase Payments of the transferee Purchaser (in no event, however shall a transferee Purchaser be credited with total Purchase Payments in excess of the total Purchase Payments paid to ALT for such interest.)

C. In calculating Purchase Payments, ALT shall attempt to reconcile with its records any response to the letters required by Paragraph A of this part that contest the accuracy of those records.

D. ALT shall make payments to each such Purchaser and Defaulter who shall have elected to participate by tendering the release set forth in Appendices B and C in a total amount equal to the amount calculated pursuant to paragraphs B and C of this part. The first payment shall be made no later than two-hundred and forty (240) days after the date this Order becomes final, with subsequent payments to be made at least annually over a period not to exceed forty-eight (48) months from the date of the first payment. The payments will be made to each such Purchaser or Defaulter in equal installments, except that the first payment may be larger than the succeeding payments and the last payment will include any additional amounts due by reason of the recalculation provided for in paragraph C of this part.

E. Seven years after the date on which the letters required by Paragraph A of this part shall have been mailed, ALT shall distribute an additional payment in the following circumstance. If, as of such date, less than $1,500,000 shall have been distributed pursuant to this part, and if as of such date no class action litigation against any of the Respondents

shall be pending on behalf of any eligible Purchaser or Defaulter, ALT shall distribute to all Purchasers and Defaulters who shall have tendered the release provided in Appendices B and C the balance of $1,500,000 less such amounts as, subsequent to the date this Order becomes final, shall have been paid pursuant to any arbitration, settlement, release, litigation, or judgment relating to the purchase of any interest in a Tract. In the event that any class action litigation is pending on such date, this distribution shall be deferred until ninety (90) days after such action is dismissed or settled, or any judgment thereon is satisfied, and the amount of such distribution shall be reduced by such amounts as may have been paid pursuant to such settlement, litigation or judgment. Payment of the amounts to be paid under this Paragraph shall be made to each Purchaser and Defaultor in the same proportion as payments under Paragraph B of this part; *Provided, however,* That no Purchaser or Defaulter shall receive from this distribution an amount in excess of the total of his Purchase Payments less the distributions provided for in this part.

V. *It is further ordered,* That;

A. Any mailings or communications required by Parts III and IV of this Order shall be by first-class mail, postage-prepaid and address correction requested, directed to each Purchaser and Defaulter at the most recent address for such Purchaser or Defaulter contained in ALT's files.

B. Sixty (60) days after the mailing required by Paragraph A of Part IV of this Order, ALT shall make a second mailing of such letters by certified first-class mail, postage-prepaid, address correction requested, return-receipt requested with delivery to addressee only, to all Purchasers and Defaulters, directed to their most recent addresses contained in the ALT files, except those Purchasers and Defaulters whose first mailing was returned undelivered or who have tendered either the release or the election not to participate.

C. Within twenty (20) days after return to ALT of any undelivered letter mailed pursuant to Paragraphs A or B or within thirty (30) days after mailing any letter mailed pursuant to Paragraph B of this part for which no return receipt has been received, ALT shall attempt to obtain a current or more recent address for the Purchaser or Defaulter to whom such letter was addressed by requesting the Purchaser's or Defaulter's current mailing address from any relative or representative of the Purchaser or Defaulter whose address appears in ALT's files by sending a communication by first-class mail, postage-prepaid and address correction requested, directed to the most recent address for such relative or representative appearing in ALT's files, and by requesting a current address for the Purchaser or Defaulter from a credit reporting agency located nearby the most recent address for the Purchaser or Defaulter appearing in ALT's files, the current or more recent address to be provided by the credit reporting agency within a reasonable time after the request. If a current or more recent address is received through these procedures, a copy of the appropriate letter required by Paragraph A of Part IV of this Order shall be sent within ten (10) days after receipt of the new address to the Purchaser or Defaulter at the new address by certified first-class mail, postage-prepaid, address correction requested, return-receipt requested and delivery to addressee only.

D. After completion of the procedures set forth in Paragraphs A–C of this part, ALT shall maintain such records as will disclose as to each Purchaser and Defaulter, whether such Purchaser or Defaulter (i) signed a release, (ii) elected not to participate, (iii) did not respond to the letter, but received it as evidenced by a signed certified mail return-receipt, (iv) was not reached by any mailing; and the most recent address in ALT's files or obtained through the procedures set forth in Paragraph C of this part.

E. If at any time prior to the fulfillment of the obligations imposed by this Order, ALT learns of the current address of any Purchaser or Defaulter whose letters were returned undelivered or from whom a record of receipt was not obtained, ALT shall send such Purchaser or Defaulter the letters required by certified first class mail, postage-prepaid, address correction requested, return-receipt requested and delivery to addressee only, and such Purchaser or Defaulter shall be entitled to the benefits provided under Parts III and IV of this Order under the terms and conditions provided therein. Except as provided in Paragraph F of this part, ALT shall not thereafter bear any affirmative duty to seek out Purchasers or Defaulters.

F. All payments or distributions to Purchasers or Defaulters pursuant to Parts III or IV of this Order shall be sent by first-class mail, postage-prepaid, address correction requested to the most recent address for each Purchaser or Defaulter appearing in ALT's files. If any such payment is returned undelivered, ALT shall employ the procedures set forth in Paragraph C of this part in an effort to obtain a current address for such Purchaser or Defaulter.

G. If, at the time of the last payment to eligible Purchasers and Defaulters pursuant to paragraph D of Part IV of this Order, less than $1,500,000 shall have been distributed pursuant to Part IV of this Order, ALT shall inform such Purchasers and Defaulters that they may receive an additional payment pursuant to paragraph E of Part IV of this Order and request such Purchasers and Defaulters to advise ALT of any change of address.

VI. *It is further ordered,* That Respondents shall, subsequent to the date this Order becomes final, for a period of six (6) years or until one year after Respondents have complied fully with all parts of this Order, whichever is later, or such shorter period as the Commission may approve in writing:

A. Grant any duly authorized representative of the Federal Trade Commission access to and the right to copy any records required to be maintained by this Order.

B. Maintain records which show the efforts taken to insure continuing compliance with the terms and provisions of this order, including but not limited to the following:

1. All records used by any Respondent in determining whether any person or entity is a Purchaser or Defaulter, as each term is defined in this Order.

2. All records used by any Respondent in determining the amount of money due any Purchaser or Defaulter pursuant to Parts II, III, and IV of this Order.

3. All records evidencing that any Purchaser or Defaulter has arbitrated, settled, released or litigated to final judgment all claims and rights relating to the purchase of an interest in a Tract and that such Purchaser or Defaulter has received payment pursuant to such arbitration, settlement, release or litigation.

4. All records relating to the purchase or transfer of any Purchaser's undivided interest in a Tract, including all documents filed with or issued by any Australian court pursuant to Part III of this Order.

5. Copies of all written communications between any Respondent and any Purchaser or Defaulter, including any communication which is returned to any Respondent as nondeliverable by the U.S. Postal Service, except those between counsel for a Respondent and counsel for such Purchaser or Defaulter.

C. Obtain prior approval by the Commission of any written communication to any Purchaser or Defaulter which is initiated by any Respondent pursuant to Paragraphs I or K of Part III of this Order, except for any communication written pursuant to Paragraph K(3)(b). Such Respondent shall provide to the Commission such relevant information within its possession, custody or control as the Commission may request to evaluate any such communication. If, within 20 days after mailing such communica-

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tion to the Commission, the Respondent has received no written notice that the Commission has determined that the communication fails to conform with the provisions of this Order or that the Commission needs additional time to evaluate the communication, the Respondent may send the communication. Otherwise the Commission shall approve the communication or indicate the changes necessary for such approval within 30 days after the submission of such correspondence or as soon thereafter as possible.

D. Send, within 3 days after mailing, copies to the Commission of any written communication, the substance of which has not previously been approved or authorized by the Commission, to any Purchaser or Defaulter which (a) interprets or defines the obligations imposed by this Order, or (b) is written in response to any inquiry from any Purchaser or Defaulter relating to a written communication from any Respondent initiated pursuant to Paragraphs I, K or L of Part III of this Order.

VII. *It is further ordered*, That:

A. Morlan shall be responsible for ALT's compliance with the provisions of this Order and shall be liable for any final judgment against ALT for violating any provision of this Order.

B. Safeguard shall provide such funds on a timely basis as are required for compliance with the provisions of this Order.

C. In the event that ALT is sold, assigned or otherwise disposed of, the agreement for such disposition shall contain a provision requiring the purchaser or assignee to assume the obligations imposed on ALT under this Order.

D. In the event the Commission determines that ALT has failed to comply, or has become incapable of complying, with any provision of this Order, and if the required action is not taken within 30 days after written notice to ALT and Safeguard of such determination, or in the event that the Commission is enjoined, stayed or otherwise prohibited from enforcing any provision of this Order against ALT or Morlan by a bankruptcy court, Safeguard shall assume all obligations (including obligations that have become due, but have not been fulfilled by ALT) remaining to be fulfilled by ALT under this Order; *Provided, however*, That Safeguard shall not be liable for civil penalties by reason of ALT's failure to fulfill such obligations prior to the date of such written notice; *And provided further*, That, in any event, Safeguard shall fulfill the obligations remaining unfulfilled under Part III of this Order either on the dates set forth in such part or twelve (12) months from the date of such written notice, whichever time period is longer. After Safeguard assumes the unfulfilled obligations under this Order by operation of this Paragraph, and upon submission of a petition by Safeguard, the Commission will review each deadline for any unfulfilled obligation and will extend, where appropriate, any deadline which has been established by Safeguard as imposing, under the prevailing circumstances, an unreasonable hardship or burden in its application to Safeguard; *Provided, however*, The Commission need not extend any deadline when extension of the deadline would be contrary to the public interest. The Commission will respond to such petition within 45 days of its submission by Safeguard or as soon thereafter as is possible. Nothing contained in this paragraph shall be construed as otherwise limiting the Commission's authority to pursue against any non-complying Respondent any action for such non-compliance with this Order.

E. ALT shall immediately transfer to Safeguard ownership of one undivided interest in each Tract.

F. Each Respondent herein shall, within ninety (90) days after service upon them of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the applicable provisions of this Order and, commencing 180 days after filing the initial report, shall file semi-annual reports thereafter until it has complied fully with all parts of this Order.

G. For the purposes of this Order, the "Commission" shall include, and all notices, reports, and requests for approval shall be directed to, the Director of the Bureau of Consumer Protection, or his designee, or successor.

H. Should any duty required to be performed on a day certain under this Order fall upon a non-business day, such duty may be performed on the next following business day.

I. The Commission may extend any deadline contained in this Order for good cause shown, and such extension shall not be unreasonably withheld.

J. Each Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure, such as dissolution, assignment or sale resulting in the emergency of a successor corporation, the creation or dissolution of any subsidiary corporation or any other change in the corporation which may affect compliance obligations arising out of this Order.

APPENDIX A.—*Listing of parcels of land in Western Australia owned by ALT in which consumers currently hold undivided interests*

Tract No.	Consisting of Victoria location or portions of Victoria locations	Also identified as lot No.
I	10293	
II	10295	

APPENDIX A.—*Listing of parcels of land in Western Australia owned by ALT in which consumers currently hold undivided interests*—Continued

Tract No.	Consisting of Victoria location or portions of Victoria locations	Also identified as lot No.
III	10144	
IV	10609	
V	10574	
VI	10148	
VII	9907	
VIII	10006	
IX	4484	
X	4485	
XI	4584	
XII	3511	
XIII	10001	
XIV	2716	
XV	2545, 2709	9
XVI	9790	13
XVII	1924, 952, 1458	14
XVIII	2796, 1924, 1458, 2317, 9721	15
XIX	2798, 9791, 2737	16
XX	755, 9791, 2737, 8348, 2796	17
XXI	755, 695, 2798	18
XXII	956, 476, 1258, 2170	19
XXIII	1258, 2169	20
XXIV	1258, 2169, 907	21
XXV	907, 2169	22
XXVI	2169, 2716	23
XXVII	2169, 2170, 2718, 476	24
XXVIII	476, 2170, 2718	25
XXIX	2718, 2170	26
XXX	2718	27

APPENDIX B

[ALT Letterhead]

(Name) (Address) (City and State)

Re: Sale of Land in Western Australia and Cash Payments

Dear (Name):

Australian Land Title, Ltd., ("ALT") has entered into an Agreement with the Federal Trade Commission which provides certain benefits for which you are eligible. The Agreement basically provides (a) for the sale of the tract of land in which you hold an interest within 5 years, (b) that no further payments need be made by you, (c) that those payments dated and received by the company on or after July 1, 1977, will be returned to you, (d) that your sales agreement will be treated as paid in full—you will receive a full share in the proceeds of the sale of the land in accord with your sales agreement, and (e) a cash payment will be made to you each year for the next five years upon your signing the Release set forth below agreeing to release any claims that you may have arising out of your acquisition of the undivided interest in land located in Western Australia.

Our records show that you hold a ——— percent interest in [description of land] ———, and that as of June 30, 1977, $——— was paid to ALT on your contract. If your records conflict with any of this information please notify us at once, and provide copies of whatever documents you may have which will help in resolving any conflicts. As mentioned above, all payments you made to ALT after July 1, 1977, are being returned to you.

Sale of Land. ALT will, within the next 5 years, arrange for the sale of the land in Australia in which you hold an interest. You will receive a share of the net sales price of the land based upon the percentage interest set forth in your sales agreement. It is not possible at this time to estimate the price for which the land will be sold. Before this happens, however, you will be sent complete details concerning how the land will be sold.

Discontinue Payments. ALT is not collecting any further payments due under your contract for the purchase of an undivided interest in land in Western Australia. Accordingly, do not send any additional payments to ALT. ALT will send back to you any payments you made which were dated and received by ALT on or after July 1, 1977. This will not affect your right to participate in the proceeds from the sale of the land in which you hold an undivided interest. You will receive the full share set forth in your sales agreement.

Eligibility for Cash Payment. You are eligible to receive a cash payment from ALT. Cash payments will be made only to purchasers who agree in writing to release any claims they may have arising out of the sale of undivided interests in land in Western Australia. A copy of this letter containing the Release is being provided for your signature. If you sign the Release, you will receive $ ——— which will be paid in five installments. The first payment will be made by [date] ———, and will be in the amount of $ ———. The four subsequent payments will be made annually. In order to receive the cash payment you must sign the Release and return it in the enclosed postage-paid envelope. You may wish to consult an attorney to determine your rights before signing the Release, and you should be aware that the Federal Trade Commission has expressed no opinion as to whether you should sign the Release.

Even if you do not wish to sign the Release and receive the cash payment, you will still receive you share of the proceeds of the sale of the land in which you have purchased an interest. You should not make any additional payments to ALT and ALT will return any payments you have made since July 1, 1977. If you do not wish to release all claims and participate in the cash payment, sign the statement "I Do Not Wish To Participate In The Cash Payment" and return the copy in the enclosed postage-paid envelope.

Please sign and return the copy of this letter as soon as possible and in no event later than 60 days. Please note your current address and keep us advised of any future change of address, so that we may send you further information, as well as future payments. If you have any questions about this letter, please write to us at once.

Sincerely,

[Title] ———
Australian Land Title, Ltd.

RELEASE

In consideration of the cash payments described above, totaling $ ——— , I hereby release Australian Land Title, Ltd., Safeguard Industries, Inc., and Morlan International, Inc., their subsidiaries, predecessors, and affiliates, and their officers, directors, employees, and agents from any and all claims, known or unknown, that I may have against any of them in connection with my purchase of an interest in land as described above.

[Date] ——— [Signature] ———.

Remember, you must sign and date the above Release and return this letter to receive the Cash Payments.

———

I Do Not Wish To Participate in the Cash Payment.

[Date] ——— [Signature] ———.

APPENDIX C

[ALT Letterhead]

(Name)
(Address)
(City and State)

Re: Eligibility for Cash Payments

Dear (Name):

Australian Land Title, Ltd., ("ALT") has entered into an Agreement with the Federal Trade Commission which provides certain benefits for which you are eligible.

Cash Payments. Cash payments will be made to persons whose last payment on their contracts was received by ALT on or after January 1, 1974, but not later than December 31, 1976. According to our records, your last payment to ALT was made on [date] ———. At this time you had paid $——— on your contract of a ——— percent interest in the following land: [description of land] ———. If your records conflict with any of this information, please notify us at once, and provide copies of whatever documents you may have which will help in resolving any conflicts.

Based on the foregoing, you are eligible for a cash payment of $ ——— from ALT. You can receive this amount only if you agree to release any claims you may have arising out of the sale of undivided interests in land in Western Australia. A copy of this letter containing the Release is being provided for your signature.

The payment will be made in five installments. The first payment will be made by [date] ———, and will be in the amount of $———. The four subsequent payments will be made annually. In order to receive the cash payment you must sign the Release and return it in the enclosed postage-paid envelope. You may wish to consult an attorney to determine you rights before signing the Release, and you should be aware that the Federal Trade Commission has expressed no opinion as to whether you should sign the Release.

If you do not wish to release all claims and participate in the cash payment, sign the statement "I Do Not Wish To Participate In The Cash Payment" and return the copy in the enclosed postage-paid envelope.

Sale of Land. Even if you do not agree to release all claims and participate in the cash payment described above, you will still be eligible to receive a payment from the proceeds of the sale of the land in which you contracted to purchase an interest. The amount of this payment cannot now be estimated, since it will be based on the sales price of the land, as well as the amount you paid on your contract.

Whether or not you choose to participate in the cash payments, the amount you will receive is limited to the amount that you have paid to ALT. In no event will you receive more than the amount you paid.

Please sign and return the copy of this letter as soon as possible and in no event later than 60 days. Please note your current address, and advise us of any future change of address, so that we may send you further information, as well as future payments.

If you have any questions about this letter, please write us at once.

Sincerely,

Australian Land Title, Ltd.
By ———

Release

In consideration of the cash payments described above, totaling $ ———, I hereby release Australian Land Title, Ltd., Safeguard Industries, Inc., and Morlan International, Inc., their subsidiaries, predecessors, and affiliates, and their officers, directors, employees, and agents from any and all claims, known or unknown, that I may have against any of them in connection with my purchase of an interest in land as described above.

[Date] ———[Signature] ———.

Remember, you must sign and date the above Release and return this letter to receive the Cash Payments.

I Do Not Wish To Participate In The Cash Payment

[Cash] ———[Signature] ———.

AUSTRALIAN LAND TITLE, LTD., ET AL FILE No. 732-3312

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from Australian Land Title, Ltd. (ALT), Morlan International, Inc. (Morlan) and Safeguard Industries, Inc. (Safeguard), the named respondents.

The agreement has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will review the agreement and the comments received and will decide whether it should withdraw from the agreement of make final the proposed order.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

THE ALLEGATIONS IN COMPLAINT

The complaint accompanying the agreement alleges that ALT, Morlan (ALT's parent corporation as of December 1972) and Safeguard (ALT's parent corporation from February 1970, to December 1972) have engaged in unfair and deceptive practices in connection with the sale of undivided interests (tenancies in common) in land located in western Australia. These practices include the unfair creation and sale of, and the collection and receipt of payments for such undivided interests. The unfairness results from the application of Australian law, the number of tenacies in common, the diversity of citizenship of cotenants and the lack of any means to manage, develop or dispose of the land. These factors make it virtually impossible for the land to be sold or beneficially used. Also, purchasers of the undivided interests were never told of the detrimental legal and practical effects of buying such interests. Moreover, the purchase contracts contain provisions which allowed ALT in the event of default of purchasers to retain payments in excess of its actual damages which imposed unfair penalties on such defaulters.

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THE PROPOSED ORDER

A. *Prohibition of Future Sale of Undivided Interests in Australian Land.* The proposed order prohibits the respondents from advertising or offering for sale any undivided interests in land in Australia execpt for non-consumer sales exceeding $50,000.

B. *Classes Entitled to Redress.* The proposed order provides consumer redress to certain persons who previously purchased undivided interest in thirty (30) tracts of land in western Australia. For purposes of the order, categories of eligible persons are created: (1) "purchaser"—any person who completed payments for his or her interest or made a payment on or after January 1, 1977; and (2) "defaulter"—any person who made any payment on or after January 1, 1974, but before January 1, 1977. Anyone who has settled, arbitrated, released or litigated to final judgment all claims relating to purchase of an undivided interests is excluded from being a purchaser or defaulter under the proposed order.

C. *Prohibition of Collection of Contract Payments and Payment of Charges Levied against Australian Land.* The proposed order prohibits any collection of payments, including principal and interest, from purchasers after the order is final. Any payment that is received must be returned within five (5) days of receipt. Also, ALT must return all payments which were dated and received on or after July 1, 1977. Those payments have been placed in an escrow fund which will be distributed to purchasers as part of the proposed order. ALT is required to pay all property taxes and other charges levied against any of the tracts as they become due.

D. *Sale of Australian Property.* Under the proposed order, ALT is required to sell all the tracts within 5 years from the date the order is final. Sale of a tract can be either by consent of a weighted majority of purchasers of the tract or under supervision of an Australian court. However, the Commission can grant an extension of time to sell a tract or agree to the removal of a tract from the mandatory sale provisions of the proposed order. In event of a sale, ALT can only deduct specified costs from the sales price, such as the seller's share of transfer taxes and fees. Furthermore, the proceeds from any sale must be distributed to purchasers and defaulters within sixty (60) days of receipt of the proceeds by ALT. Any other deferred payment of the proceeds must be approved by weighted majority of purchasers. Purchasers are entitled to receive shares of the proceeds equal to their percentage interests in the tracts as set forth in their contracts. Defaulters, who paid in one-third or more of the purchase price of their undivided interests, are entitled to receive shares of the proceeds equal to the percentages of the purchase prices of their contracts which they paid, multiplied by their percentage interests in the tracts as set forth in their contracts. Distribution to foreign purchasers is initially limited to the amount of their total purchase payments. Any additional amounts would go first to ALT, up to the amount of the unpaid purchase price, and then to the foreign purchasers. No defaulter may receive a share of the proceeds in excess of the total amount he or she paid to ALT, less any other refund received under the proposed order.

The proposed order allows respondents to purchase a tract or an interest in a tract from purchasers only under specified and limited circumstances.

Respondents have agreed to waive any rights under Australian law relating to the sale of any tracts or the proceeds from such sale where their rights are different from the terms of the proposed order. To the extent that those person who have purchased from ALT may have greater rights under Australian law then are provided by the proposed order, any rights arising under such law will not be reduced by any provision of the order.

E. *Cash Payments from Redress Fund.* Purchasers and defaulters, who are non-foreign, are eligible to receive cash payments from a $2 million redress fund. The amount of each cash payment will be determined by the amount each person paid on his or her contract when compared to the total amount paid by all eligible purchasers and defaulters. To receive a cash payment, a purchasers or defaulter must sign a statement releasing respondents from any liability arising from the purchase of an undivided interest in Australian land. Before the purchasers and defaulters are asked to sign the release, they will be advised, by letter, of the amount of the cash payment, and of the facts that future contract payments will not be collected, and the land will be sold as provided in the proposed order. Those persons who refuse to sign the release still will be excused from future contract payments, and will be entitled to receive shares of the proceeds from the sale of the land. ALT will being making payments to purchasers and defaulters who sign releases within two hundred and forty (240) days after the date the order is final, with subsequent payments to be made annually over the next 4 years.

Moreover, the proposed order provides that at least $1.5 million of the $2 million fund will be distributed, either as a result of cash payments made to eligible purchasers and defaulters or from monies paid pursuant to settlement, arbitration or litigation arising from the sale of the Australian land. If less than $1.5 million has been paid to purchasers and defaulters who sign releases, or pursuant to settlement arbitration or litigation, the unpaid balance will be paid to purchasers and defaulters who sign releases approximately seven years from the date the order becomes final, unless at that time a class action litigation is pending against any respondent. In such an event, the payment will be deferred until ninety (90) days after completion of the litigation. No additional payment will be made to eligible purchasers or defaulters if the class action litigation results in a judgment which exceeds the unpaid balance of the $1.5 million minimum fund.

F. *Procedures for Locating Purchasers and Defaulters.* Under the proposed order, ALT is to inform purchasers and defaulters of the provisions of the order by sending letters to their most recent address contained in ALT's files. For those persons who do not respond to the letters but whose letters were not returned undelivered, ALT must send a second letter by certified mail. ALT is required to attempt to obtain more current addresses for persons whose letters were undelivered by requesting new addresses from any relatives or representatives appearing in ALT's files and requesting more current addresses from credit reporting companies. If at any time prior to fulfilling the obligations imposed by the proposed order ALT learns of current addresses of persons who could not be previously located, they will be entitled to receive the benefits provided under the order.

G. *Liability of Respondents.* ALT is obligated to comply with the provisions of the proposed order. Morlan is responsible for ALT's compliance and is liable for any judgment against ALT for violating the order.

Safeguard is required to supply all the funds necessary for full compliance with the order. Furthermore, it must assume all the remaining unfulfilled obligations of the proposed order if the Commission determines that ALT is unable to comply with any provisions of the order and such non-compliance is not corrected within thirty (30) days after receipt by Safeguard of notice from the Commission, or if a bankruptcy court prohibits enforcement of the order against ALT or Morlan. Upon assuming the unfulfilled obligations of the order, Safeguard will be allowed one year to sell the tracts and distribute the proceeds or it can fulfill the obligations and meet the time deadlines set forth in the order. However, Safeguard is permitted to petition the Commission seeking extensions of deadlines where they will impose an unreasonable hardship or burden.

H. *Procedures to Ensure Compliance.* The respondents are required to maintain records and grant Commission personnel access to them until one year after compliance with all the provisions of the proposed order. These records include information used by respondents to determine the amounts due purchasers and defaulters from the redress fund and sale of the Australian land. Also, the Commission is given the right to approve the contents of certain letters regarding the sale of the Australian land prior to their mailing to purchasers and defaulters. In addition, copies of all letters to purchasers and defaulters which explain the requirements of the order must be sent to the Commission within three (3) days of mailing.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-11832 Filed 5-1-78; 8:45 am]

[1505-01]

[16 CFR Part 461]

CHILDREN'S ADVERTISING

Proposed Trade Regulation Rulemaking and Public Hearing

Correction

In FR Doc 78-11323 appearing at page 17967 in the issue for Thursday, April 27, 1978, the eighth line of the third paragraph in column three, the room number now reading, "120," should be "130."

[8120-01]

TENNESSEE VALLEY AUTHORITY

[18 CFR Part 307]

NONDISCRIMINATION WITH RESPECT TO HANDICAP IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

Implementation of Section 504 of the Rehabilitation Act of 1973

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new Part 307 to TVA's regulations. The new part concerns nondiscrimination with respect to the handicapped in programs receiving Federal financial assistance from TVA. These proposed regulations set forth enforcement procedures, standards for determining which persons are handicapped, and guidelines for determining what practices are discriminatory, in accordance with section 504 of the Rehabilitation Act of 1973, as amended.

DATE: Comments must be received on or before May 31, 1978.

ADDRESS: Comments on the proposal may be sent to Justin M. Schwamm, Sr., Assistant General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B25, Knoxville, Tenn. 37902.

FOR FURTHER INFORMATION CONTACT:

Edward F. Hilton, Jr., Division of Personnel, 235 Millers Building, 423 Gay Street, Knoxville, Tenn. 37902, telephone 615-632-2755.

SUPPLEMENTARY INFORMATION: TVA was created by the Tennessee Valley Authority Act of 1933, as amended, as a corporate agency and instrumentality of the Federal Government, with "the duty of constantly studying the whole situation presented by the Tennessee River Valley, and the adjoining territory, with the view of encouraging and guiding in the orderly and balanced development of the diverse and rich resources of that section" (H.R. Rep. No. 130, 73d Cong., 1st Sess. 19 (1933)). Under it broad statutory mandate, TVA engages in a number of programs including experiments and demonstrations concerned with the provision of an ample supply of power for the advancement of the national defense and the physical, social and economic development of the area, the development of agriculture and fertilizers, the improvement of navigation and control of destructive floods, the fostering of recreation, industrial development, and many other things.

The TVA Act does not provide for grants to State or local agencies, as do many Federal social development or welfare programs. However, TVA does carry out many aspects of its programs by contracts which in TVA's view involve the provision of Federal financial assistance within the meaning of section 504 of the Rehabilitation Act of 1973, as amended. The contracts include such activities as providing fertilizer materials to land grant colleges for farm test demonstrations; granting land to State and local entities for recreational purposes; providing recreational planning and other technical services; and providing a variety of other types of assistance to meet the needs of individual communities, including mitigating the effects upon local housing, schools, public health, and law enforcement services, of the construction by TVA of electric power generating plants. Characteristically, the funds and value of property and services involved are relatively small, and the assistance is provided in isolated areas, rather than in regional or statewide areas. Moreover, assistance is often provided on an ad hoc basis as contrasted with the long-range financial assistance programs administered by some Federal departments and other agencies.

The purpose of the proposed regulation is to state the rules which will govern TVA financial assistance contracts in implementing section 504 of the Rehabilitation Act of 1973, as amended, and the enforcement provisions and guidelines which will govern. TVA has generally worked at the local level as the best way of implementing its statutory goals, and understanding and meeting the needs of the people it serves. In the proposed regulation, TVA has paralled the guidelines adopted by the Department of Health, Education and Welfare, so far as is practicable in light of the nature of TVA's programs, the small amount of funds, property or services involved in its financial assistance contracts, and the highly localized impacts.

TVA has attempted to insure sufficient flexibility in the proposed regulations to avoid creating situations in which administrative and other costs required of recipient communities with very limited resources would result in decisions by those communities that these costs exceed the value of the assistance which TVA can provide. Such decisions, of course, would impair the usefulness of both the substantive program carried out by TVA and the purposes of section 504.

All persons who desire to comment on the proposed regulation are encouraged to do so. Comments should be addressed to Justin M. Schwamm, Sr., Assistant General Counsel, 400 Commerce Avenue, E11B25, Knoxville, Tenn. 37902. All communications received on or before May 31, 1978, will be considered before action is taken on the proposed rule, which may be changed in light of the comments. All comments submitted will be available for public inspection at the office of the Director of Information, 400 Commerce Avenue, E12A4, Knoxville, Tenn. 37902, between the hours of 9 a.m. and 4 p.m. Monday through Friday, except federal holidays.

In consideration of the foregoing, it is proposed, under the authority of 16 U.S.C. 831-831dd and section 504 of the Rehabilitation Act of 1974, as amended, 29 U.S.C. 794, to add part 307 to chapter 11 of Title 18 of the Code of Federal Regulations, to read as set forth below.

Dated: April 26, 1978.

H. N. STROUD, Jr.,
Acting General Manager.

Part 307 would be added to read as follows:

PART 307—NONDISCRIMINATION WITH RESPECT TO HANDICAP

Sec.
307.1 Definitions.
307.2 Purpose.
307.3 Application.
307.4 Program discrimination guidelines.
307.5 Employment discrimination guidelines.
307.6 Program accessibility guidelines.
307.7 Assurances required.
307.8 Compliance information.
307.9 Conduct of investigations.
307.10 Procedure for effecting compliance.
307.11 Hearings.
307.12 Decisions and notices.
307.13 Effect on other regulations; supervision and compliance.
307.14-25 [Reserved]

AUTHORITY: TVA Act, 48 Stat. 58 (1933) as amended, 16 U.S.C. secs. 831-831dd (1976), sec. 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794.).

§ 307.1 Definitions.

As used in this part, the following terms have the stated meanings, unless the context otherwise requires.

(a) "Section 504" means section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, as amended.

(b) "Recipient" means any individual, any state or its political subdivision, or any instrumentality of either, and any public or private agency, institution, organization, or other entity to which financial assistance is extended by TVA directly or through another recipient, including any successor, assignee, or transferee of a recipient as hereinafter set forth, but excluding the ultimate beneficiary of the assistance.

(c) "Financial assistance" means the grant or loan of money; the donation of real or personal property; the sale, lease, or license of real or personal property for a consideration which is nominal or reduced for the purpose of assisting the recipient; the waiver of charges which would normally be

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made, in order to assist the recipient; the entry into a contract where a purpose is to give financial assistance to the contracting party; and similar transactions.

(d) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(e) "Federal agency" means any department, agency, or instrumentality of the government of the United States, other than TVA.

(f) "Handicapped person" means any individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment, as further defined below:

(1) "Physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; and drug addiction and alcoholism.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a physical or mental impairment that substantially limits one or more major life activities.

(4) "Is regarded as having such an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but which is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward the impairment; or (iii) does not have a physical or mental impairment as defined paragraph (f)(1) of this section but is treated by a recipient as having such an impairment.

(g) "Qualified handicapped person" means (1) with respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question, and (2) with respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

§ 307.2 Purpose.

The purpose of this part is to effectuate section 504 to the end that no otherwise qualified handicapped individual shall, solely be reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to the discrimination under any program or activity receiving financial assistance from TVA.

§ 307.3 Application.

This part applies to any program in which financial assistance is provided by TVA, except that this part does not apply to any (a) TVA procurement contracts, contracts with other federal agencies, or contracts of insurance or guaranty, (b) money paid, property transferred, or other assistance extended to a recipient under any program before the effective date of this part, or (c) assistance to any individual or entity which is the ultimate beneficiary under any such program.

§ 307.4 Program discrimination guidelines.

(a) *Scope.* This section sets forth guidelines as to general and specific actions which may be found to consititute discrimination on the basis of handicap in programs subject to this part.

(b) *General.* No qualified handicapped person, shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity to which this part applies.

(c) *Specific discriminatory actions.* (1) A recipient under any program to which this part applies shall not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or services available under the program;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others under program;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others under the program;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to other, unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to other under the program;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or entity that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards with respect to the program; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment under the program of any right, privilege, advantage, or opportunity enjoyed by others under the program.

(2) A recipient shall not deny a qualified handicapped person the opportunity to participate under the program in activities that are not separate or different, despite the existence of permissibly separate or different activities.

(3) A recipient shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common adminstrative control.

(4) A receipient shall not, in determining the site or location of a facility under the program, make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(d) The exclusion of nonhandicapped persons from the benefits of a program limited by federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(e) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§ 307.5 Employment discrimination guidelines.

(a) *Scope.* This section sets forth guidelines as to general and specific actions which may be found to constitute discrimination in employment on the basis of handicap in programs subject to this part.

(b) *General.* No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity subject to this part.

(c) *Specific discriminatory actions.* With respect to a program or activity subject to this part, a recipient shall not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(d) A recipient shall make all decisions concerning employment under any program or activity subject to this part in a manner which ensures that discrimination on the basis of handicap does not occur, including the following activities:

(1) Recruitment, advertising, and processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(e) A recipient shall not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this part, including relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(f) *Reasonable accommodation.* A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of the program or activity subject to this part.

(g) *Employment criteria.* A recipient shall not use employment tests or criteria that discriminate against handicapped persons and shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills.

(h) *Preemployment inquires.* A recipient shall not conduct a preemployment medical examination or make a preemployment inquiry as to whether an applicant was a handicapped person or as to the nature or severity of a handicap except under the circumstances described in 45 CFR 84.14.

§ 307.6 Program accessibility guidelines.

(a) *Scope.* This section sets out guidelines with respect to general and specific actions which may be found to constitute discrimination with respect to program accessibility on the basis of handicap in programs subject to this part.

(b) *General.* No qualified handicapped person shall, because facilities are inaccessible to or unusuable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program subject to this part.

(c) *Existing facilities.* (1) Each program subject to this part shall be operated so that, viewed in its entirety, it is readily accessible to and usable by qualified handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons.

(2) If the financial assistance from TVA is expected to extend for at least three years, and structural changes will be necessary to make covered programs or activities in existing facilities accessible, such changes shall be made as soon as practicable, but in no event later than three years from the effective date that financial assistance is extended by TVA. If structural changes are necessary, the recipient shall develop, within one year, a transition plan setting forth the steps necessary to complete the changes. The transition plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. TVA may, in its discretion, require structural changes with respect to financial assistance expected to last less than three years, in which case the contract or agreement with the recipient shall specify the date of development of the transition plan.

(3) Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to an usable by handicapped persons.

(d) *New construction.* New facilities required under a program subject to this part shall be designed and constructed to be readily accessible to and usable by handicapped persons.

§ 307.7 Assurances required.

(a) TVA contributes financial assistance only under agreements which contain a provision which specifically requires compliance with this part and the guidelines contained herein. If the financial assistance involves the furnishing of real property, the aggreement shall obligate the recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property is used for a purpose for which the financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where the financial assistance involves the furnishing of personal property, the agreement shall obligate the recipient during the period for which ownership or possession of the property is retained. In all other cases the agreement shall obligate the recipient for the period during which financial assistance is extended pursuant to the agreement. TVA shall specify the form of the foregoing agreements, and the extent to which an agreement shall be applicable to subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program.

(b) In the case of real property, structures or improvements thereon, or interests therein, acquired through a program of Federal financial assistance, or in the case where Federal financial assistance was provided in the form of a transfer by TVA of real property or interest therein, the instrument effecting or recording the transfer of title shall contain a covenant running with the land assuring compliance with this part and the guidelines contained herein for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained by transfer from TVA, the covenant against discrimination may also include a condition coupled with a right to be reserved by TVA to revert title to the property in the event of a breach of the covenant where, in the discretion of TVA, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee, In such event, if a transferee of real property proposes to mortgage or otherwise en-

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cumber the real property as security for financing construction of new, or improvement of existing facilities, on such property for the purposes for which the property was transferred, TVA may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

§ 307.8 Compliance information.

(a) *Cooperation and assistance.* TVA shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to TVA timely, complete and accurate compliance reports at such times, and in such form and containing such information, as TVA may determine to be necessary to enable it to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by TVA during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as TVA may require to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and set forth the efforts it has made to obtain the information.

(d) *Information to employees, beneficiaries and participants.* Each recipient shall make available to employees, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives financial assistance, and shall make such information available to them in such manner, as TVA finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this part.

§ 307.9 Conduct of investigations.

(a) *Periodic compliance reviews.* TVA shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any individual who claims (individually or on behalf of any specific class of individuals) to have been subjected to discrimination prohibited by this part may, personally or by a representative, file with TVA a written complaint. A complaint must be filed not later than ninety (90) days from the date of the alleged discrimination, unless the time for filing is extended by TVA.

(c) *Investigations.* TVA will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation shall include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, TVA will so inform the recipient and the matter will be resolved by informal means whenever possible. If TVA determines that the matter cannot be resolved by informal means, action will be taken as provided for in § 307.10.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph, TVA will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 504 or this part, or because the individual had made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 307.10 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States, (2) institution of appropriate proceedings by TVA to enforce the provisions of the agreement of financial assistance or of any deed or instrument relating thereto, and (3) any applicable proceeding under State or local law.

(b) *Noncompliance with § 307.7.* If any entity requesting financial assistance from TVA declines to furnish the assurance required under § 307.7, or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, financial assistance may be refused in accordance with the procedures of paragraph (c) of this section; and for such purposes, the term "recipient" includes one who has been denied financial assistance. TVA shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that TVA shall continue assistance during the pendency of such proceedings where such assistance was due and payable pursuant to an agreement therefor entered into with TVA prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue financial assistance.* No order suspending, terminating or refusing to grant or continue financial assistance shall become effective until (1) TVA has advised the recipient of the failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the recipient to comply with a requirement imposed by or pursuant to this part, including any act of discrimination on the basis of handicap in violation of the guidelines in this part, and (3) the action has been approved by the TVA Board pursuant to § 307.12. Any action to suspend or terminate or to refuse to grant or to continue financial assistance shall be limited to the particular recipient as to whom such a finding had been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance had been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) TVA has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least ten (10) days from the mailing of such notice to the recipient or other person. During this period of at least ten (10) days additional efforts will be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 307.11 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 307.10, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected recipient. This notice shall advise the recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and shall either (1) fix a date not less than twenty (20) days after the date of such notice within which the recipient may request of TVA that the matter be scheduled for hearing or (2) advise the recipient that the matter in question has been set down for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. A recipient may waive a hearing and submit written information and argument for the record. The failure of a recipient to request a hearing under this subsection or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and a consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the time and place fixed by TVA unless it determines that the convenience of the recipient requires that another place be selected. Hearings shall be held before the TVA Board or before a "hearing officer" who shall be either a member of the TVA Board or, at the discretion of the Board, a person designated by the Board who shall not be employed in or under the TVA division through or under which the financial assistance has been extended by TVA to the recipient involved in the hearing.

(c) *Right to counsel.* In all proceedings under this section, the recipient and TVA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both TVA and the recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence will not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. That officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal agencies issued under section 504, the TVA Board may, by agreement with such other agency, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 307.12.

§ 307.12 Decisions and notices.

(a) *Decision by a member of the TVA Board or a hearing examiner.* If the hearing is held before a "hearing officer" as defined in § 307.11(b), that hearing officer shall either make an initial decision, if so authorized, or certify the entire record including recommended findings and proposed decision to the TVA Board for a final decision. A copy of such initial decision or certification shall be mailed to the recipient. Where the initial decision is made by a hearing officer, the recipient may file with the TVA Board exceptions to the initial decision, which shall include a statement of reasons therefor. Such exceptions shall be filed within thirty (30) days of the mailing of the notice of initial decision. In the absence of exceptions, the TVA Board may on its own motion within forty-five (45) days after the initial decision serve on the recipient a notice that it will review the decision. Upon the filing of such exceptions or of such notice of review, the TVA Board shall review the initial decision and issue its own decision thereon including the reasons therfor. In the absence of either exceptions or a notice of review, the initial decision shall constitute the final decision of the TVA Board.

(b) *Decisions on record or reivew by the TVA Board.* Whenever a record is certified to the TVA Board for decision or it reviews the decision of a hearing officer pursuant to paragraph (a) of this section, or whenever the TVA Board conducts the hearing, the recipient shall be given reasonable opportunity to file with the Board briefs or other written statements of its contentions, and a copy of the final decision of the Board shall be given in writing to the recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived, a decision shall be made by the TVA Board on the record and a copy of such decision shall be given to the recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision shall set forth a ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part (including violations of guidelines) with which it is found that the recipient has failed to comply.

(e) *Approval by TVA Board.* Any final decision (other than a decision by the TVA Board) which provides for the suspension or termination of, or the refusal to grant or continue financial assistance, or the imposition of any other sanction available under this part or section 504 shall promptly be transmitted to the TVA Board which may approve such decision, vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of section 504 and this part, including provisions designed to assure that no financial assistance will thereafter be extended under such program to the recipient determined by such decision to have failed to comply with this part, unless and until it corrects its noncompliance and satisfied TVA that it will fully comply with this part.

(g) *Posttermination proceedings.* (1) A recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive financial assistance upon satisfaction of the terms and conditions for such eligibility contained in that order, or if the recipient otherwise comes into compliance with this part and provides reasonable as-

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surance of future full compliance with this part.

(2) Any recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request that TVA fully restore the recipient's eligibility to receive financial assistance. Any such request shall be supported by information showing that the recipient has met the requirements of subparagraph (1) of this paragraph. If TVA determines that those requirements have been satisfied, it shall restore such eligibility.

(3) If TVA denies any such request, the recipient may submit a request for a hearing in writing, specifying its reasons for believing TVA to have been in error. The recipient shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by TVA. The recipient, upon proving at such a hearing that the requirements of subparagraph (1) of this paragraph are satisfied, will be restored to such eligibility. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 307.13 Effect on other regulations; supervision and coordination.

(a) *Effect on other regulations.* Nothing in this part shall be deemed to supersede or affect any of the following (including future amendments thereof): (1) regulations by TVA and other Federal agencies issued with respect to section 503 of the Rehabilitation Act, or (2) any other regulations or instructions, insofar as they prohibit discrimination on the ground of handicap in any program or situation to which this part is inapplicable, or which prohibit discrimination on nay other ground.

(b) *Supervision and coordination.* TVA may from time to time assign to officials of other Federal agencies, with the consent of such agencies, responsibilities in connection with the effectuation of the purposes of section 504 and this part (other than responsibility for final decision as provided in § 307.12), including the achievement of effective coordination and maximum uniformity within the Executive Branch of the Government in the application of section 504 and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Federal agency acting pursuant to an assignment of responsibility under this part shall have the same effect as though such action had been taken by TVA.

[FR Doc. 78-11901 Filed 5-1-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

[Reg. No. 16]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Evaluating Resources on Basis of Equity Value

AGENCY: Social Security Administriation, HEW.

ACTION: Notice of proposed rule making.

SUMMARY: These proposed rules change the basis for evaluating resources from the current marked values to equity value under the supplemental security income (SSI) program. As the result of a review of the Social Security Administration's (SSA) policy on the evaluation of resources, the Secretary has approved the use of equity value. It is expected that these proposed amendments to the regulations will provide for more euitable determinations regarding eligibility for SSI benefits.

DATE: Comments must be received on or before June 16, 1978.

ADDRESSES: Prior to final adoption of the proposed amendments to the regulations, consideration will be given to any data, comments, or arguments pertaining to the amendments which are submitted in writing to the Acting Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203. Copies of all comments received in response to these proposed amendments will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION, CONTACT:

Mr. Henry D. Lerner, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7336.

SUPPLEMENTARY INFORMATION: In the past, the Social Security Administration (SSA) has valued resources on the basis of their current market value, which is the price for which the item would sell on the open market, and SSA regulations reflect that policy. However, regulations pertaining to resources for purposes of the aid to families with dependent children (ADFDC) program permit each State to decide whether to use current market value or equity value in evaluating resources for AFDC. At present, a majority of the States use equity value. Therefore, the Secretary reviewed SSA's former policy and directed that resources be valued on the basis of their equity value when a determination is made regarding an individual's eligibility for supplemental security income benefits. The amendments to the SSA regulations reflect the Secretary's decision.

On Friday, April 28, 1978, SSA published a notice of proposed rule making in the FEDERAL REGISTER (43 FR 18206) increasing the reasonable value of household goods and personal effects from $1,500 to $2,000 and the reasonable value of an automobile from $1,200 to $2,000 (i.e., the extent to which they can be excluded from a person's resources when the person's eligibility for SSI benefits is determined). The subject proposed rules also show the reasonable values as proposed by the previously published notice of proposed rulemaking and in addition change the basis for evaluating household goods, personal effects, and an automobile from market value to equity value.

The proposed amendments are to be issued under the authority in sections 1102, 1613(a), 1614(f), and 1631 of the Social Security Act, as amended; 49 Stat. 647, as amended, 86 Stat. 1470, as amended, 86 Stat. 1471, and Stat. 1475; 42 U.S.C. 1302, 1382b(a), 1382c(f), and 1383.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: February 23, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: April 24, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 416.1201 is amended by revising paragraphs (b) and (c) to read as follows:

§ 416.1201 Resources; general.

• • • • •

(b) *Liquid resources; defined.* Liquid resources are those assets that are in cash or are financial instruments which are convertible to cash. Liquid resourecs include cash on hand, cash in savings accounts or checking accounts, stocks, bonds, mutual fund shares, promissory notes, mortgages, and similar properties. Liquid resources, other than cash, are evaluted according to their equity value.

(c) *Nonliquid resources; defined.* (1) Nonliquid resources include all other properties. The term includes both real and personal property. Nonliquid resources are evaluated according to their equity value except as otherwise provided.

(2) For purposes of this Subpart L, the "equity value" of an item is defined as:

(i) The price that item can reasonably be expected to sell for on the open market in the particular geographic area involved; minus

(ii) Any encumbrances.

2. Paragraph (b) of § 416.1216 is revised to read as follows:

§416.1216 Exclusion of household goods and personal effects.

• • • • •

(b) *Limitation on household goods and personal effects.* In determining the resources of an individual (and spouse, if any), household goods and personal effects are excluded if their total equity value is $2,000 or less. If the total equity value of household goods and personal effects is in excess of $2,000, the excess is counted against the resource limitation.

• • • • •

3. Paragraphs (b) and (d) of § 416.1218 is revised to read as follows:

§ 416.1218 Exclusion of the automobile.

• • • • •

(b) *Limitation on automobile.*—(1) *General.* In determining the resources of an individual (and spouse, if any), an automobile is excluded if its equity value is $2,000 or less. If the equity value of the automobile exceeds $2,000, the excess is counted against the resource limitation.

(2) *Total exclusion.* An automobile is totally excluded:

(i) If it is used for employment; or

(ii) If it is used for the medical treatment of a specific of regular medical problem of the individual; or

(iii) If it is used for the medical treatment of a specific or regular medical problem of a member of the individual's household, or

(iv) If it has been modified for operation by a handicapped person; or

(v) If it has been modified for transportation of a handicapped person.

• • • • •

(d) *Equity value.* The "equity value" of an automobile is:

(1) The average price an automobile of that particular year, make, model, and condition will sell for on the open market (to a private individual) in the particular geographic area involved, minus

(2) Any encumbrances.

[FR Doc. 78-11595 Filed 5-1-78; 8:45 am]

[4110-07]

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME BENEFITS

Replacement of Damaged, Lost, or Stolen Excluded Resources; Decision to Develop Regulations

AGENCY: Social Security Administration, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Social Security Administration is planning to publish proposed regulations which will exclude from income and resources any assistance received from any source to repair or replace a damaged, lost, or stolen resource (e.g., home, automobile) the value of which is wholly or partially not countable for the purpose of determining eligibility for supplemental security income benefits. Any interest earned on such assistance will be also excluded from income and resources. The exclusions will apply for specified temporary periods.

FOR FURTHER INFORMATION CONTACT:

Mr. Henry D. Lerner, Room 457, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, Telephone: 301-594-7336.

Dated: March 30, 1978.

Approved:

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-11960 Filed 5-1-78; 8:45 am]

[1505-01]

DEPARTMENT OF LABOR

Employment Standards Administration

[20 CFR Part 718]

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED

Standards for Determining Coal Miner's Total Disability or Death Due to Pneumoconiosis

Correction

In FR Doc. 78-11086 appearing at page 17722 of the issue for Tuesday, April 25, 1978, the first line of the fifth paragraph of the first column should read, "written comments may also be submitted by interested persons on or before June 26, 1978."

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 182, 184, 186]

[Docket No. 78N-0023]

AMMONIUM BICARBONATE, AMMONIUM CARBONATE, AMMONIUM CHLORIDE, AMMONIUM HYDROXIDE, AND MONO AND DIBASIC AMMONIUM PHOSPHATE

Proposed Affirmation of GRAS Status as Human Food Ingredients

Correction

In FR Doc. 78-8590 appearing on page 14064 in the issue for Tuesday, April 4, 1978, in the first line of the second paragraph under "Supplementary Information" the symbol "(NH;)" should have appeared as "(NH;)".

[4110-03]

[21 CFR Part 801]

[Docket No. 77N-0354]

MEDICAL DEVICES

Impact Resistant Lenses in Eyeglasses and Sunglasses; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of comment period on proposed rule.

SUMMARY: This document extends the comment period on a proposed rule which would amend present Food and Drug Administration regulations that require use of impact resistant lenses in most eyeglasses and sunglasses. The proposed rule would allow for technological alternatives in testing to assure that lenses are impact resistant.

DATES: The deadline for written comments was March 7, 1978; it is now extended to June 1, 1978.

ADDRESS: Written comments (preferably four copies) to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Peter B. Carstensen, Bureau of Medical Devices (HFK-210), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7222.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 6, 1978 (43 FR 1106); FDA published a

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proposal to amend § 801.410 (21 CFR 801.410) to allow for technological alternatives in the testing of impact resistant lenses for use in eyeglasses and sunglasses. The deadline for written comments was March 7, 1978.

The Food and Drug Administration has received two written requests for an extension of the comment period. The Commissioner has decided that it is appropriate to extend the period for comment on the proposal to June 1, 1978.

Dated: April 26, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-11808 Filed 5-1-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No FI-4086]

CITY OF SAN LUIS OBISPO, SAN LUIS OBISPO COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Tenchnical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of San Luis Obispo, San Luis Obispo County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualifed for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the City Engineer, Community Development Department, 990 Palm Street, San Luis Obisop, Calif. Send comments to: Mr. Richard Miller, Administrative Officer, City of San Luis Obispo, P.O. Box 321, San Luis Obispo, Calif. 93406.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (110-year) flood elevations for the city of San Luis Obisop, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies extablished by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stenner Creek	North Pomo St.*	187
	U.S. Route 101**	189
	U.S. Route 101*	199
	Santa Rosa St*	230
	Foothill Blvd.**	240
	Foothill Blvd.*	254
	Foothill Blvd.* (0.3 mi)	264
Old Garden Creek	Broad and Lincoln Sts.*	199
	Mission Ave.*	217
	Ramona Dr.*	233
	Center of Felton Way	252
Prefumo Creek	U.S. Route 101*	108
	Madonna Rd.*	125
	Los Osos Valley Rd.**	128
	Los Osos Valley Rd.*	137
San Luis Obisop Creek.	Confluence with Froom Creek.	98
	Prado Road Bridge*	135
	Bianci Lane Bridge*	169
	Broad Street Bridge*	195
	Johnson Avenue Bridge*	236
	Andrews Street Bridge*	275
	U.S. Route 101**	303
	U.S. Route 101*	319
East fork San Luis Obisop Creek.	Broad St.*	160
	Private Dr. approximately 0.16 mi. upstream of Broad St.	186

*Upstream side.
**Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11654 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4087]

CITY OF DURANGO, LA PLATA COUNTY, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Durango, La Plata County, Colo.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Planner, 965½ Maine Avenue, Durango, Colo.

Send comments to: Honorable Maxine Peterson, Mayor, City of Durango, P.O. Box 221, Durango, Colo. 81301.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator give notice of the proposed determinations of base (11-year) flood elevations for the City of Durango, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat, 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Animas River	Old U.S. Highway 160 [1]	6,485
	Old U.S. Highway 160 [2]	6,484
	Main Ave. (U.S. Highway 550) [1]	6,509
	Main Ave. (U.S. Highway 550) [2]	6,504
	Denver & Rio Grande Western RR.	6,513
	32d St. [1]	6,542
	32d St. [2]	6,540
Dry Gulch Creek	Columbine Ave.	6,603
	Borrego Dr. [1]	6,688
	Borrego Dr. [2]	6,683
Junction Creek	Denver & Rio Grande Western RR [1]	6,526
	Denver & Rio Grande Western RR [2]	6,520
	West 2d Avenue Bridge [1]	6,569
	West 2d Avenue Bridge [2]	6,566
	Clovis Drive Bridge [1]	6,627
	Clovis Drive Bridge [2]	6,623

[1]Upstream side.
[2]Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28,1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11655 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4088]

LA PLATA COUNTY, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in La Plata County, Colo.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Land Use Administration, La Plata County Courthouse, 1060 Second Avenue, Durango, Colo.

Send comments to: Mr. Patrick Conley, Chairman, La Plata County Board of Commissioners, La Plata County Courthouse, P.O. Box 1711, Durango, Colo. 81301.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for La Plata County, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Animas River near Durango.	Along Denver & Rio Grande Western RR (river side of railroad) approximately 0.2 mile north along U.S. Route 550 from hospital in Durango.	6,553
	Durango corporate limits at Station 66.28 [1].	6,547
	Durango corporate limits at Station 62.40 [2].	6,462
	La Posta Rd (new bridge) [1].	6,454
	La Posta Road (old bridge) [2].	6,453
Junction Creek	Private drive bridge No. 5 [1].	6,624
	Private drive bridge No. 4 [2].	6,772
	Private drive bridge No. 3 [1].	6,763
	Private drive bridge No. 2 [1].	6,758
	Private drive bridge No. 2 [2].	6,755
	Private drive bridge No. 1 [1].	6,749
Dry Gulch Creek	0.8 mile north along dirt road from an intersection in Durango; dirt road is parallel to Dry Gulch Creek River Side Rd.	6,830
	Corporate limits at Station 3750 [2].	6,606
Lightner Creek	Bridge No. 11 [2]	7,160
	Bridge No. 9 [1]	6,916
	Bridge No. 8 [2]	6,771
	Bridge No. 4 [1]	6,579
	Bridge No. 3 [1]	6,539
	Bridge No. 1 [2]	6,485
Vallecito Creek	Upper County Road Bridge [1].	7,835
	Upper County Road Bridge [2].	7,833
	Lower County Road Bridge [1].	7,690
	Lower County Road Bridge [2].	7,689
Los Pinos River at Bayfield.	Highway 160 Bridge [1]	6,888
	Highway 160 (alternate) Bridge [1].	6,865
Los Pinos River at Ignacio.	Bridge No. 2 [1]	6,460
	Bridge No. 2 [2]	6,477
	Bridge No. 1 [1]	6,441
Grimes Creek	First private drive downstream of Upper County Rd.	7,775
	Lower County Road Bridge [1].	7,693

[1]Upstream side.
[2]Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33

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FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974)).

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11656 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4089]

Proposed Flood Elevation Determinations

TOWN OF NUNN, WELD COUNTY, COLO.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Nunn, Weld County, Colo.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 755 Third Street, Nunn, Colo.

Send comments to: Mayor Wayne Foster, P.O. Box 171, Nunn, Colo. 80648.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Nunn, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be constructed to mean the community must change any existing ordiances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Spring Creek tributary.	Weld County Rd No. 98	5,165
	5th St.	5,182
	Roosevelt Ave.	5,187
Western flow path to Spring Creek tributary.	Roosevelt Ave.	5,187

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11657 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4090]

TOWN OF LITTLE CREEK, DENT COUNTY, DEL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Little Creek, Kent County, Del.

These base (100-year) flood elevations are basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Post Office, Little Creek, Del.

Send comments to: Mayor Dorothy K. Wright, Little Creek, Del. 19961.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Little Creek, Del., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordiances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on is own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delware Bay	Intersection of Lowe and Main Sts.	9

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968) as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, amended (39 FR 2787, Jan. 24, 1974).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11658 Filed 5-1-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR PART 1917]

[Docket No. FI-4091]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR CITY OF SEAFORD, SUSSEX COUNTY, DEL.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Seaford, Sussex County, Del. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

Dates: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Seaford, Del. Send comments to: Honorable William Slatcher, Mayor of Seaford, 302 East King Street, Seaford, Del. 19972.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Seaford, Sussex County, Del. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Herring Run	State Route 20	12
	U.S. Route 13	23

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11659 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4092]

CITY OF AURORA, KANE, AND DU PAGE COUNTIES, ILL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Aurora, Kane, and Du Page Counties, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for particiaption in the National Flood Insurance Progam (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 44 East Downer Street, Aurora, Ill. Send comments to: Hon. Albert McCoy, Mayor of Aurora, 44 East Downer Street, Aurora, Ill. 60504.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Aurora, Kane, and Du Page Counties, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be constructed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet national geodetic vertical datum
Fox River	Downstream corporate limit at Ashland Ave.	622
	Elgin, Joliet & Eastern RR.	623
	Burlington Northern RR. at west channel.	626
	North Ave.	628
	Burlington Northern RR.	628
	Convergence of east and west channel.	629
Fox River, west channel.	Holbrook St. at west channel Downer St. at west channel.	629 630

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Source of Flooding	Location	Elevation in feet national geodetic vertical datum
	Galena St. at west channel.	630
	Downstream Aurora Dam at west channel.	630
	Upstream Aurora Dam at west channel.	635
	New York St. at west channel.	635
Fox River, east channel.	Benton St. at east channel.	630
	Fox St. at east channel ..	630
	Main St. at east channel	630
	Downstream Aurora Dam at east channel.	630
	Upstream Aurora Dam at east channel.	635
	New York St. at east channel.	635
Fox River	Divergence of east and west channel.	635
	Confluence of Indian Creek.	636
	Illinois Ave	636
	Indian Trail Rd	637
Indian Creek	Confluence with Fox River.	636
	Chicago Aurora & Elgin RR.	637
	Private bridge 100 ft downstream of Broadway St.	642
	Broadway St	645
	Burlington Northern RR. sidings upstream of Broadway St.	645
	Burlington Northern RR. 300 ft downstream of High St.	649
	High St	654
	Wood St	667
	Ohio St	672
	Rural St	684
	Austin Ave	691
	Farnsworth Ave	692
	Private bridge 1,300 ft upstream of Austin Ave.	693
	Private bridge 1,400 ft upstream of Austin Ave.	695
	Sheffer Rd	699
	Private bridge 500 ft downstream of Farnsworth Ave.	703
	Farnsworth Ave. downstream crossing.	704
	Reckinger Rd	706
	Marshall Blvd	709
	Farnsworth Ave. upstream crossing.	710
	Molitor Rd	713
	Confluence of Selmarten Creek.	715
	East-West Tollway	716
	Bilter Rd	724
Selmarten Creek	Confluence with Indian Creek.	715
	Seminary Creek Dam	716
	Seminary Rd	716
	Upstream corporate limits approximately 4,200 ft upstream of Seminary Rd.	716
Waubansee Creek	Downstream corporate limits approximately 2,500 ft downstream of Kautz Rd.	672
	Kautz Rd.	674
	Montgomery Rd	675
	Upstream corporate limits approximately 160 ft downstream of Elgin Joliet & Eastern RR.	683

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11660 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3173]

CITY OF MISSION HILLS, JOHNSON COUNTY, KANS.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appear on page 42 FR 38297 of the FEDERAL REGISTER of July 27, 1977.

EFFECTIVE DATE: July 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brush Creek	Mission Hill Country Club Rd..	653

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brush Creek	700 ft. downstream of Mission Hill Country Club Rd.	853

(National Flood Insurance Act 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11662 Filed 5-1-78; 8:45 am]

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11661 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3765]

CITY OF ATTLEBORO, BRISTOL COUNTY, MASS.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 42 FR 64280 of the FEDERAL REGISTER of December 22, 1977.

EFFECTIVE DATE: December 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Tenmile River	At Olive St	112
Sevenmile River	Water Works Dam	104
Chartley Brook	At town boundary of North Attleborough.	105

Should be corrected to read:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Ten Mile River	1,200 ft downstream of Olive St.	112
Sevenmile River	Water Works Dam	103
Chartley Brook	At town boundary of Norton.	105

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11662 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4094]

TOWN OF MAYNARD, MIDDLESEX COUNTY, MASS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Maynard, Middlesex County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk's Office, Maynard, Mass. Send comments to: Mr. Alfred T. Whitney, Chairman, Board of Selectmen, Town Hall, Maynard, Mass. 01754.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gived notice of the proposed determinations of base (100-year) flood elevations for the town of Maynard, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4 (a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Assabet River	At Acton-Maynard town line.	146
	120 ft downstream of Waltham St.	146
	700 ft upstream of Waltham St.	152
	At Walnut St	155
	Just downstream of Florida Rd.	160
	1,500 ft upstream of Florida Rd.	165
	100 ft downstream of Mill St.	169
	100 ft upstream of Mill St.	170
	130 ft upstream of Great Rd.	174
	Just downstream of American Woolen Co. Dam.	175
	Just upstream of American Woolen Co. Dam.	179
	At western corporate limits.	180
Fort Pond, brook branch.	160 ft upstream of Stone Culvert.	200
	60 ft upstream of Rockland St.	205
Taylor Brook	At confluence with Assabet River.	179
	20 ft upstream of abandoned Boston & Main RR.	180

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11663 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4095]

CITY OF GRAND RAPIDS, KENT COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Grand Rapids, Kent County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to quality or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 300 Monroe Avenue, Grand Rapids, Mich.

Send comments to: Mr. John L. Hornbach, City Engineer, city of Grand Rapids, City Hall, 300 Monroe Avenue, Grand Rapids, Mich. 49503.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Grand Rapids, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Grand River	North Park St [1]	619
	Ann St [1]	617
	Sixth St [1]	615
	Bridge St [1]	611
	Conrail [1]	609
	Interstate Highway 296 [2]	607
	New York Central RR [1]	606
Plaster Creek	Corporate limits at Station 45700 [1]	678
	Kalamazoo Ave [1]	672
	Kalamazoo Ave [2]	671
	Eastern Ave [1]	660
	Madison St [1]	650
	Buchanon St [1]	640
	Kirkland Ave [1]	630
	Burton St [1]	627
	Chicago Dr [1]	616
	Market St [1]	608

[1]Upstream side.
[2]Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11664 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4096]

THE TOWNSHIP OF KAWKAWLIN, BAY COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Kawkawlin, Bay County, Mich.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP)

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, 1379 East Beaver Road, Kawkawlin, Mich.

Send comments to: Mr. Lloyd Pajot, Township Supervisor, Township of Kawkawlin, Township Hall, 1379 East Beaver Road, Kawkawlin, Mich. 48631.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Kawkawlin, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kawkawlin River (North Branch).	M-13 Expressway	590
	Beaver Rd	595
Saginaw Bay	Le Bourdais Rd (extended).	585
	Boutell Rd (extented)	585
Railroad Drain	Detroit and Mackinac RR.	585
	Elevator Rd	585
	Expressway M-13	592
Rosebush Drain	Detroit & Mackinac RR.	585
	Linwood Rd	585
Tap-Gove Drain	M-13 Expressway	594
	Linwood Rd	596

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11665 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4097]

TOWNSHIP OF PORTSMOUTH, BAY COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Portsmouth, Bay County, Mich.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, 310 Sheridan Court, Bay City, Mich.

Send comments to: Mr. Donald Krzewinski, Township Supervisor, township of Portsmouth, 110 Stanley Drive, Bay City, Mich. 48706.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Portsmouth, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saginaw River	Russell Rd. between Trumbull and Lincoln Rds.	588
	Munger Rd. between Scheurman and Green Rds.	586
	Intersection of German Rd. and Michigan Ave.	586

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11666 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4098]

CITY OF ZILWAUKEE, SAGINAW COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Zilwaukee, Saginaw County, Mich.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 319 Tittabawassee Drive, Saginaw, Mich.

Send comments to: Mr. Jack Tany, Director of Public Works, city of Zilwaukee, City Hall, 319 Tittabawassee Drive, Saginaw, Mich. 48604.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Zilwaukee, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4 (a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain managment requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saginaw River	Interstate Highway 75	588
	Upstream corporate limit.	589

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974)).

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11667 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4099]

TOWNSHIP OF ZILWAUKEE, SAGINAW COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Zilwaukee, Saginaw County, Mich.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Home of the Township Supervisor, 7600 Melborne Road, Saginaw, Mich.

Send comments to: Mr. David Bradt, Township Supervisor, township of Zilwaukee, 7600 Melborne Road, Saginaw, Mich. 48601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line

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800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Zilwaukee, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saginaw River	Downstream corporate limit.	586
	Interstate Highway 75	588

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974)).

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11668 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3559]

CITY OF BELLEFONTAINE NEIGHBORS, ST. LOUIS COUNTY, MO.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 11792 of the FEDERAL REGISTER of March 21, 1978.

EFFECTIVE DATE: March 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stormwater Creek	At Forest Home Dr	445

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stormwater Creek	At Forest Home Dr	444

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective Janurary 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

Issued: April 12, 1978.

GLORIA M. JIMENEZ.
Federal Insurance Administrator.

[FR Doc. 78-11669 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4100]

TOWN OF BOW, MERRIMACK COUNTY, N.H.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Bow, Merrimack County, N.H.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to quality or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Bow, N.H.

SEND COMMENTS TO:

Mr. Walter E. Jones, Administrative Assistant, town of Bow, Selectmen's Office, 10 Grandview Road, Bow, N.H. 03301.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Bow, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River	South corporate limit	198
	500 ft downstream of Garvins Falls Dam.	205

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	500 ft upstream of Garvins Falls Dam.	225
	North corporate limit	230

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11670 Filed 5-1-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4101]

TOWN OF CANTERBURY, MERRIMACK COUNTY, N.H.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Canterbury, Merrimack County, N.H.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Offices, Canterbury, N.H.

Send comments to: Ms. Mary E. Fifield, Chairwoman, Board of Selectmen, Town Offices, Canterbury, N.H. 03224.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Canterbury, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River	South corporate limit	254
	Just upstream of West Road Bridge.	260
	West corporate limit	266

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-11671 Filed 5-1-78; 8:45 am]

[4510-47]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 575]

WAIVER OF CHILD LABOR PROVISIONS FOR AGRICULTURAL EMPLOYMENT OF 10 AND 11 YEAR OLD MINORS IN HAND-HARVESTING OF SHORT SEASON CROPS

Hearing Concerning Provisions Governing Application for and Issuance of a Waiver

NOTE.—This document originally appeared in the FEDERAL REGISTER for Monday May 1, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

AGENCY: Wage and Hour Division.

ACTION: Notice of hearing concerning proposed rule.

SUMMARY: The Administrator of the Wage and Hour Division has proposed regulations to implement section 13(c)(4) of the Fair Labor Standards Amendments of 1977. This proposed regulation would provide a waiver from the child labor provisions of the Act for the agricultural employment of 10 and 11 year old minors in the hand-harvesting of short season crops under certain conditions as provided in the proposal published in the FEDERAL REGISTER on April 4, 1978, at page 14068. This hearing will provide an additional forum for comment.

DATES: All comments are due on or before the close of the hearing. The hearing will commence on May 11, 1978, at 9:30 a.m., e.d.t.

ADDRESS: The hearing will be held in Room S-5215 A, B, and C, New Department of Labor Building, 200 Constitution Ave, NW. Washington, D.C. 202110.

FOR FURTHER INFORMATION CONTACT:

Lucille C. Pinkett, Wage and Hour Division, Room S-3022, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C., 20210, telephone 202-523-8412.

SUPPLEMENTARY INFORMATION: In order to give all interested parties an opportunity to present supporting and contrary views and to assist the Administrator in reaching a decision in this matter the Administrator of the Wage and Hour Division, has determined that an informal hearing is desirable.

Beginning at 9:30 a.m., e.d.t., on May 11, 1978, the presiding officer will hold a prehearing conference in order to establish the order and time for the presentations and in order to settle any other matters relating to the proceedings. All persons intending to make presentations should attend the prehearing conference, which is open to

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the public. The public hearing will immediately follow the prehearing conference.

The oral proceedings shall be reported verbatim. The use of prepared statements by witnesses is encouraged. An original and two copies of all documents to be used should be submitted at the hearing.

Comments submitted in accordance with the notice of April 4,1978, need not be resubmitted as they will be incorporated in and made a part of this record.

The presiding officer shall have all the powers necessary or appropriate to conduct a full and fair informal hearing, including the powers:

(a) To regulate the course of the hearing;

(b) To dispose of procedural requests, objections, and comparable matters;

(c) To confine the presentations to matters pertinent to the requested information;

(d) To regulate the conduct of those present at the hearing by appropriate means;

(e) To permit and to limit cross examination; and

(f) In his discretion, to keep the record open for a short, stated period of time to receive written data from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding officer shall certify the record thereof to the Administrator of the Wage and Hour Division. The Administrator of the Wage and Hour Division shall, after consideration of the record and other pertinent information, take such action as he deems appropriate.

A copy of the record or portions thereof as it becomes available will be open for public inspection and examination at the office of Xavier M. Vela, Administrator, Room S-3502, Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210. The entire record or any part thereof may be purchased as provided in 29 CFR 70.62(c) at the actual cost of duplication as computed pursuant to the fee schedule in 29 CFR 70.62(b).

The harvest season during which the 10 and 11 year old minors will be employed commences about June 1. In order that appropriate action may be promptly taken it is necessary that less than 15 days notice of the hearing be given.

Signed at Washington, D.C., on this 27th day of April 1978.

HERBERT J. COHEN,
Assistant Administrator,
Wage and Hour Division.

[FR Doc. 78-11963 Filed 4-28-78; 8:45 am]

[4510-43]

Mine Safety and Health Administration

[30 CFR Part 75]

USE OF FILTER TYPE AND SELF-CONTAINED SELF-RESCUERS IN UNDERGROUND COAL MINES

Public Hearing

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of Public hearing.

SUMMARY: A public hearing will be held under the provisions of the Federal Mine Safety and Health Act of 1977 (Mine Act). The hearing is being conducted in response to requests for a hearing filed with comments and objections concerning proposed amendments to Labor's regulations on availability of approved self-rescue devices; instruction in use and location. The proposed changes would, after a two-year phase-in period, require the use of self-contained self-rescuers in underground coal mines. The proposed amendments would also permit several alternative methods of utilizing and providing access to these self-rescue devices and impose inspection, testing and maintenance requirements.

DATES: The hearing will be held on June 1, 1978, beginning at 9 a.m. Requests to make oral statements for the record at the hearing should be received by May 26, 1978.

ADDRESS: The hearing will be held at the Bureau of Mines Auditorium, 4800 Forbes Avenue, Pittsburgh, Pa. 15213. Persons wishing to make statements at the hearing should make their requests in writing to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 831, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Office of Standards, Regulations and Variances, 4015 Wilson Boulevard, Arlington, Va. 22203, phone 703-235-1910.

SUPPLEMENTARY INFORMATION: On November 16, 1977, the Mining Enforcement and Safety Administration, Department of the Interior, published in the FEDERAL REGISTER (42 FR 59300) proposed amendments to 30 CFR Part 75 that would govern the use of filter type and self-contained self-rescuers. Interested persons were afforded a period of 49 days to submit written comments, suggestions, objections and requests for hearing.

Under the Federal Mine Safety and Health Amendments Act of 1977 (Amendments Act), the responsibilities of the Secretary of the Interior under section 101 of the Federal Coal Mine Health and Safety Act of 1969 (Coal Act), were transferred to the Secretary of Labor on March 9, 1978. Rulemaking commenced by the Department of the Interior under the Coal Act was authorized to be continued by the Department of Labor under the provisions of the Amendments Act.

Therefore, a public hearing will be held, pursuant to section 101(a)(3) of the Mine Act, in order to receive relevant evidence including oral statements, written comments and data. The following issues have been raised by the written comments received in response to the November 16, 1977, proposed rule:

GENERAL

1. Whether the self-contained self-rescuers, as they have been developed to this point, are reliable and safe to use and store in underground mines.

2. Whether there are viable options, in addition to those contained in the proposed rules, for making the self-contained self-rescuer available for use by miners.

3. Whether an Economic Impact statement should have been prepared under Executive Orders 11821 and 11949. (Note also E.O. 12044, 43 FR 12661.)

SECTION 75.1714

4. Whether the term "person" in paragraph (a) should be changed to "miner" in order to exclude government agency inspectors and visitors from this requirement.

5. Whether the words "and train" in paragraph (b) should be deleted on the grounds that the training of miners is covered under section 115 of the Mine Act and will be the subject of other regulations, and that other persons, such as visitors to the mine, are not subject to the training requirements.

SECTION 75.1714-1

6. Whether the standard should permit self-contained self-rescue devices with a greater capacity then ten minutes to be used in conjunction with a one-hour device as such devices may be developed and approved.

SECTION 75.1714-2

7. Whether the requirement in paragraph (c) that the self-rescue shall be located no more than 25 feet from the person is unreasonable under some circumstances and should be revised.

8. Whether the term "hazardous to the person" in paragraph (c) should be clarified.

9. Whether the term "available at all times" in paragraph (e)(2) should be clarified.

10. Whether the Mine Safety and Health Administration (MSHA) should set forth specific requirements for the use of a ten minute self-contained self-rescuer used in conjunction with a one hour self-contained self-rescuer, which would be applicable to all underground coal mines, in lieu of individual operator plans submitted for approval by the District Manager in paragraph (e)(2).

11. Whether the applicability of the eye protection requirement contained in paragraph (f) should be clarified.

SECTION 75.1714-3

12. Whether there should be a requirement that each self-contained self-rescuer have a visual indicator to determine the integrity of the seal.

13. Whether the proposed requirement in paragraph (b) that a specially trained person perform the inspections should be revised to require each miner to be trained to perform such inspections.

14. Whether the 90-day testing cycle required by paragraph (c) should be revised to permit less frequent testing.

15. Whether paragraph (d) should be revised to clarify that manufacturers will be required to submit testing instructions to MSHA for approval and that operators must test the devices in accordance with the manufacturer's approved instructions.

16. Whether the requirement that test results be recorded in a book should be deleted.

The hearing will be conducted by Frank A. White, Office of Standards, Regulations and Variances. MSHA, and Herschel H. Potter, Chief, Division of Safety, Coal Mine Safety and Health, MSHA. It will be conducted in an informal manner. Each oral presentation will be limited to 20 minutes. There will be no cross-examination of those persons making statements, although at the discretion of the chairman, supplemental statements by those presenting evidence may be permitted. Although formal rules of evidence will not apply, the chairman may, in his discretion, exclude irrelevant or unduly repititous material. A verbatim transcript of the proceedings will be taken. All written comments and data shall be included in the record. The transcript of the proceedings shall be available for public inspection. The record shall remain open until June 15, 1978, for the submission of supplementary statements or data. Within 90 days after the certification of the record, the Secretary of Labor shall promulgate, modify or withdraw the proposed amendments and shall publish his reasons therefor.

Dated: April 24, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 11737 Filed 5-1-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 121i]

MEDIA SERVICES

Decision to Develop Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposed to make technical changes in the regulations which govern the Media Services and Captioned Films Program. The purposes are to: Eliminate sections of the regulations in Subpart E Area Learning Resource Centers and Subpart G Special Offices which regulated projects that no longer exist; amend Subpart D Research and Training to provide for award of discretionary grants as well as contracts as prescribed by recent legislation; amend Subpart F National Center for Educational Media and Materials for the Handicapped to permit multiple centers as prescribed by the Education for all Handicapped Act; and clarify ambiguous language in Supart A General, Supart B Loan Services for the Deaf and Subpart C Loan Service for Other Handicapped. The regulations increase flexibility in administration of the program and increase the number of grant recipients.

FOR FURTHER INFORMATION CONTACT:

Barry E. Katz, Division of Media Services, Office of Education, 400 Maryland Avenue SW., Room 4819-Donohoe, Washington, D.C. 20202, 202-472-4640.

(Catalog of Federal Domestic Assistance Number 13.446; Handicapped Media Services and Captioned Films.)

Dated: March 1, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-11965 Filed 5-1-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 63]

[CC Docket No. 78-72]

MTS AND WATS MARKET STRUCTURE

Order Extending Time for Filing Suggestions on Issues and Areas of Explorations

AGENCY: Federal Communications Commission.

ACTION: Extension of time. The FCC has extended the time for filing suggestions on issues and areas of exploration in Common Carrier Docket 78-72 from April 25, 1978 to May 24, 1978.

DATE: Comments must be filed on or before May 24, 1978.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Ruth Reel, 203-632-6363.

SUPPLEMENTARY INFORMATION:

Adopted: April 20, 1978.

Released: April 21, 1978.

Order. In the matter of MTS and WATS Market Structure, CC Docket No. 78-72.

1. Pursuant to the Notice of Inquiry and Proposed Rulemaking issued in this proceeding on March 3, 1978 (FCC 78-144) (43 FR 9505), comments suggesting issues and areas of exploration are presently due by April 25, 1978. On April 14, 1978 the U.S. Court of Appeals for the District of Columbia Circuit granted a motion by MCI Telecommunications Corp. et al. for an order directing the Commission and American Telephone and Telegraph Co. to comply with the Court's mandate in *MCI Telecommunications Corp. v. FCC*, 561 F. 2d 365 (D.C. Cir. 1977), cert. denied, U.S., 46 U.S.L. Week 3446 (January 16, 1978). In view of the possible relevance of this judicial action to issues which may be pertinent for consideration in this Docket, we have decided to extend, on our own motion, the April 25 deadline for suggestions by the parties.

2. *Accordingly, it is ordered*, Pursuant to §0.303 of the Commission's rules and regulations, that the time for filing suggestions on issues and areas of explorations is extended to May 24, 1978.

WALTER HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc. 78-11899 Filed 5-1-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[Docket No. 21109; RM-2748; RM-2853]

TELEVISION BROADCAST STATIONS IN MEDFORD AND GRANTS PASS, OREG

Order Extending Time for Filing Replies to Opposition to Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing replies to the oppostion to the petition for reconsideration concerning television assignments in Medford, and Grants Pass, Oreg. Counsel for petitioner, Oregon Broadcasting Co., states that the addi-

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tional time is needed because the National Association of Broadcasters Convention intervened, thereby delaying the work of preparing material for reply.

DATE: Replies to opposition must be filed on or before May 3, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 21, 1978.

Released: April 24, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Medford and Grants Pass, Oreg., Docket No. 21109, RM-2748, RM-2853.[1]

1. On February 9, 1978, petitions for reconsideration were filed by Sierra Cascade Communications, Inc., licensee of television Station KTVL, and Oregon Broadcasting Co., licensee of television Station KOBI, both of Medford, Oreg., concerning the above-captioned matter. The date for filing replies to oppositions is April 18, 1978.

2. On April 11, 1978, counsel for Oregon Broadcasting Co., filed a request for an extension of time to and including May 3, 1978, to file a reply to a Limited Opposition to Petition for Reconsideration filed by the Oregon State Board of Higher Education. Counsel states that additional time is needed because the national convention of the National Association of Broadcasters intervened, thereby delaying the work of preparing the material for KOBI's reply. Counsel states that counsel for the Oregon State Board of Higher Education interposes no objection to the request for additional time.

3. We are of the view that the public interest would be served by granting the additional time so that Oregon Broadcasting Co., may file any information which may be helpful to the Commission in resolving the issues in this proceeding.

4. *Accordingly, it is ordered,* That the date for filing replies to the opposition to the petition for reconsideration in Docket 21109, is extended to and including May 3, 1978.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-11720 Filed 5-1-78; 8:45 am]

[1]See 43 FR 13629, March 31, 1978.

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1056]

[Ex Parte No. MC-19 (Sub-No. 23)[1]]

PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

Investigation into Estimating Practices

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: As a result of the investigation into estimating practices of household goods carriers which the Interstate Commerce Commission has conducted in this proceeding, the Commission proposes to amend its regulations governing estimating. The proposed regulations would make estimates binding on carriers when those estimates are provided for individual c.o.d. shippers of household goods. The Commission also proposes to amend other regulations to conform to the modified estimating requirements. New estimating forms would also be adopted.

DATES: Comments are due on or before June 30, 1978.

ADDRESS: Send comments to Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7292.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission has concluded its investigation into the estimating practices of motor common carriers of household goods. That investigation was instituted in Ex Parte No. MC-19 (Sub-No. 23), Practices of Motor Common Carriers of Household Goods (Experiment for Improving the Accuracy of Estimates—Reentitled—Investigation into Estimating Practices), 125 MCC 307 (1976), and all motor common carriers were made parties to the proceeding. Motor carriers and other participants in that investigation were directed to answer a series of questions concerning estimating, with a view toward determining what changes in the Commission's estimating regulations (49 CFR 1056.8) should be adopted to make estimating more meaningful for the household goods shipper.

After examining the submissions of various motor carrier parties, interested transportation and other regulatory agencies and members of the shipping public, the Commission proposes to modify its estimating regulations substantially and to adopt new estimating documents. The proposed amendments reflect the Commission's concern with the intolerable number of underestimates being provided by motor common carriers of household goods, and the inability of the individual c.o.d. shipper to comprehend fully the so-called "110 percent rule" (49 CFR 1056.8(b)). Under the terms of that rule, carriers may collect no more than 110 percent of an estimate upon delivery of a shipment and must defer collection of any remaining charges for a period of 15 working days. The Commission has found that in many instances carriers fail to explain the implications of that rule to individual c.o.d. shippers, with the result that individual shippers select the carrier that provides the lowest estimate with the expectation that charges will be no more than 110 percent of that estimate, Although the 110 percent rule was intended to protect the individual household goods shipper from abusive estimating practices, that rule has not had that effect. Rather, that rule has permitted carriers to hold out the illusory promise of competitive pricing without requiring them to meet the expectations generated.

The Commission, therefore, intends to make estimates binding upon the carriers which provide them when those estimates are provided for individual c.o.d. shippers of household goods, and to that end, it proposes to adopt the rules set forth in the appendix to this notice. The proposed regulations would provide that charges for shipments tendered by individual c.o.d. shippers would be the lesser of (i) the charges as determined by application of the carrier's published tariffs, or (ii) the charges stated in the estimate given to the shipper. The estimate would be binding upon the carrier furnishing it. In the Commission's opinion, the adoption of this rule would tend to eliminate some of the problems associated with "weight bumping" (the use of various devices to increase artificially the weight of a household goods shipment) and to protect consumers from the higher charges which result from weight bumping. The entire text of proposed § 1056.8 (including portions which would not be amended) is set forth in the appendix.

Section 1056.8(a)(1) would continue the requirement that estimates be both mandatory and free. The Commission found no reason to permit carriers to select those persons for whom it would provide estimates and no reason to require potential customers to pay for what amount to sales solicitations by carriers.

[1]The Commission's report in this proceeding embraces its discussion of uniform household goods transportation documentation in Ex Parte No. MC-19 (Sub-No.20) Practices of Motor Common Carriers of Household Goods (Limitations of Liability).

If proposed § 1056.8(a)(2) is adopted, the Commission would discontinue the requirement that a volume/weight conversion factor of not less than 7 pounds per cubic foot be used to determine the estimated weight of a shipment. In place of that requirement, the regulations would specify that an estimator must use a variable density factor (between 4 and 12 pounds per cubic foot) and must apply that factor to each article included in the estimate. As the regulations concerning the use of the proposed estimating forms and the instructions issued with those forms make clear, the estimator would be required to estimate the volume and weight of each article and to indicate on the estimating form the number of pieces into which the article will be divided or broken down for shipment. Proposed § 1056.8(a)(2) would also limit the validity of an estimate to a period not exceeding 60 days. The 60-day expiration period is proposed in order to eliminate problems arising when shippers rely on estimates which no longer reflect the conditions surrounding the move.

Modified § 1056.8(a)(4) would describe the circumstances under which the carrier or the shipper may request that an additional estimate be performed. This provision is intended to emphasize to both shipper and carrier the importance of updating the estimating document to reflect changed transportation conditions, and is designed to implement the Commission's policy to place responsibility for the contents and quality of an estimate fully and exclusively upon the carrier.

Proposed § 1056.8(a)(5) contains the basic, operative rule making estimates binding. The provisions of this subsection would not apply to so-called "national account" shippers (generally corporations which arrange or pay for transportation of their employees' household goods). Although the Commission found that making estimates binding would be a suitable remedy for problems of underestimating encountered by individual c.o.d. shippers, it also found that making estimates binding when provided for national account shippers would be detrimental to competition between those shippers and within the household goods transportation industry. In the event that estimates were made binding when provided for national account shippers, favored shippers would be able to extract undue favors from carriers in return for the furnishing of "low-ball" estimates. Because of the competitive relationship between these national account shippers, a concession to one such shipper would be prejudicial to its competitor and would result in the second shipper's being placed at a competitive disadvantage. Under these circumstances, making estimates binding when furnished for national account shippers would be contrary to the purposes of the Interstate Commerce Act (49 U.S.C. 1 et seq. to prevent unjust, undue, and unreasonable preference and prejudice as between shippers and carriers.

Accordingly, proposed § 1056.8(a)(5) would not apply to national account shippers. For the purposes of that subsection, a national account shipper is identified as a shipper whose employer is responsible, directly or indirectly, for arranging or paying for transportation of the employee's household goods.

Different circumstances surround the shipments of individual c.o.d. shippers. Those shippers do not maintain competitive relationships with one another, nor do they have the economic leverage to extract concessions from carriers as national account shippers can. Making estimates binding is an appropriate remedial measure to alleviate the problems of underestimating, and the Commission is of the view that no preference to one individual or prejudice to another could result *solely* from the operation of the proposed rules. Proposed § 1056.8(a)(5) would also require carriers to publish a tariff rule specifying that estimates will be binding when shipments are transported for individual c.o.d. shippers when the transportation of their household goods is neither arranged nor paid for by their employers.

In order to call attention to the fact that these regulations are not intended to permit carriers to engage in unfair or anticompetitive practices under the guise of compliance with these regulations, the Commission proposes to adopt § 1056.8(a)(6). This subsection would essentially prohibit unfair or anticompetitive acts or practices in connection with the furnishing or use of an estimate.

In light of the proposal to make estimates binding when furnished for individual c.o.d. shippers, the Commission declined to impose a penalty for inaccurate estimates. A penalty system would offer no additional protection for the individual shipper, and under these circumstances the Commission is reluctant to assume the additional burded of administering such a penalty system.

If § 1056.8(a)(7) is adopted, carriers would be required to give potential shippers written notice if the carrier intended to change its rates between the time of the estimate and the time the shipment is tendered to the carrier. That proposed subsection would require carriers to give potential shippers brief notice of the fact that carriers intended to change their rates and of the nature of that rate change and the effective date.

The provisions of § 1056.8(a)(5), which make estimates binding when furnished for individual c.o.d. shippers, would serve the same purpose as the present 110 percent rule. Corporate shippers and others identified as national account shippers for the purpose of this proceeding may obtain credit from motor common carriers of household goods under the provisions of 49 CFR Part 1322. Accordingly, present § 1056.8(b), which contains the 110 percent rule, would be eliminated from the Commission's estimating regulations. However, persons commenting on the proposed regulations are requested to address the issue of whether the 110 percent rule would continue to serve a purpose for employees of national account shippers when those employees are required to pay full charges for transportation of their shipments subject to subsequent reimbursement by their employers. Under the proposed regulations, such an employe would be required to arrange financing for additional charges not stated in an estimate, and the Commission questions whether the 110 percent rule should continue in force to protect such employees in the event that an estimate substantially understated the applicable charges.

No substantive changes have been proposed to present § 1056.8(c), which permits carriers to supply self-estimating forms for the use of potential shippers, or to present § 1056.8(d), which requires the carrier to notify the shipper of actual charges due upon request of that shipper. However, § 1056.8 (c) and (d) would be relettered (b) and (c), respectively, to reflect the deletion of present § 1056.8(b).

Present § 1056.8(d) requires carriers to file quarterly reports of over- and under-estimates. Although that reporting requirement has assisted the Commission in spotlighting problems arising from the estimating practices of motor common carrier of household goods, it would serve little purpose if the proposed regulations were adopted. Accordingly, present § 1056.8(d) would be deleted from the Commission's estimating regulations. Present § 1056.7(b) (ii) and (iii), which require carriers to list the number of over- and under-estimates as part of their performance reports, would also be deleted. The remaining subsections of § 1056.7(b) would be appropriately renumbered.

New estimating forms and printing specifications for those forms would also be adopted. New § 1056.8(d), as proposed, provides minimum printing specifications for household goods transportation estimating forms. The Commission intends to request the Government Printing Office (GPO) to print and sell the forms we prescribe.

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While carriers will be permitted to arrange for printing of these forms through the firms whose services they now use, the availability of GPO-printed forms will eliminate many problems which this Commission has encountered in attempting to ensure uniformity between the estimating forms of various carriers and will permit all carriers to purchase proper estimating documents on a uniform basis. Proposed § 1056.8(d)(1) provides that estimating documents purchased from GPO will be deemed to comply with the printing requirements specified in that subsection.

Section 1056.8(d)(2) would contain the estimating form which the Commission intends to prescribe. Page 1 of that form includes appropriate blocks for insertion of an expiration date for the estimate provided and continues the requirement that the shipper acknowledge receipt of a copy of ICC Form BOp 103, Summary of Information for Shippers of Household Goods. In addition, the proposed forms contain conspicuous notices and warnings that the estimate covers only the articles and services listed, that shippers are responsible for charges for additional services requested, and that the shipper should independently examine the estimate to ensure its accuracy.

Blocks are provided on page 2 of the form for the estimator to indicate the method by which charges due for the shipment will be calculated. Estimators will be required to sign their names on page 2 of the form and to indicate their full name, the name of their employer, and their business address and telephone number. Requiring this information on the estimating form will eliminate the need to register estimators, since the information to be recorded as part of a registration process could readily be obtained from the estimating document in the event problems arise concerning that estimate.

Page 2 also contains a description of the valuation charges imposed by carriers.

Pages 3 through 5 of the estimating form contain a list of commonly-requested household goods transportation services. Carriers will be required to complete the description of each line number by indicating both the item number applicable to the service requested and by providing a complete description of the charges imposed for that service. Although the proposed estimating documents contain what the Commission believes to be a list of the most commonly requested services, parties and other participants are encouraged to suggest other generally-required services which might properly be included in that list.

Page 6 of the form includes a list of containers and a separate statement of both packing and unpacking charges. This page of the form reflects the proposed amendment to § 1056.3(b) of the Commission's household goods regulations to provide that labor charges for packing and unpacking be separately stated in a carrier's tariffs as an amount per hour and that charges for containers be separately stated in amounts per container. Use of hourly rates for packing and unpacking services (as opposed to rates stated in amounts per container) will eliminate many of the problems associated with "balloon packing" (use of excess packing materials) and will permit a more appropriate allocation of charges for those services. No change is contemplated to the requirement that charges for containers themselves be stated as amounts per container.

Space is provided on the proposed estimating forms for the carrier to indicate the estimated cubic measurements of each article, the volume/weight conversion factor used for that article, the number of articles of each type, the weight of those articles, the number of pieces into which those articles will be broken down or divided for shipment, and the total volume of all articles in a particular class.

The most significant change to the estimating form is the use of generic descriptions for household articles. Elimination of the Commission's presently-required room-by-room list of household items will considerably simplify the estimator's task by eliminating many superfluous items from the list of items included in the estimate. Ample space is provided on the proposed forms for estimators to indicate articles which are not to be shipped. The proposed estimating form may also be used as an inventory document, and sufficient space is provided for the carrier's employees to indicate articles loaded and unloaded.

A set of instructions is included with the proposed estimating forms.

The proposed estimating forms (9 pages in addition to instructions) are longer than the Commission's presently-required estimating forms (2 pages). However, despite their increased length, the proposed forms require little information not now required on existing forms. A great deal of the increased length is accounted for by the application of the proposed minimum printing specifications to those estimating documents.

In the Commission's opinion, that increase in length is more than justified by the increased readability of those forms.

In response to the Commission's order in Ex Parte No. MC 19 (Sub-No. 20), Practices of Motor Common Carriers of Households Goods (Limitations of Liability), Allied Van Lines, Inc., and the American Movers Conference submitted comments on the matter of uniform household goods transportation documents. Essentially, Allied and AMC ask whether the public would be better served if the Commission were to require uniform, simplified language to be used in household goods transportation rather than specifying both the form and contents of those documents. They argue that specifying the format of all household goods transportation documents might interfere with carrier data processing operations and would not necessarily guarantee that shippers better understand the terms and conditions of their shipments.

The uniform estimating form proposed in this proceeding meets many of the objections raised by the parties to the estimating proceeding, and the Commission believes that this form clearly provides the information necessary for the shipper to understand the estimating process and to verify the information placed on that form. That estimating form is subject to further revisions in the public interest, and further comments on that proposed form are invited. The comments of Allied and AMC on the matter of uniform household goods transportation documents have been incorporated in the record in this proceeding, and further consideration will be given to the issue of uniform household goods transportation documentation after final estimating regulations are adopted.

The Commission also proposes to modify slightly certain other regulations governing transportation of household goods.

The Commission's regulation governing weighing of shipments (49 CFR 1056.6) would be modified to permit the person paying the freight charges, the shipper, or the representative of either of them, upon request, to require the carrier to inform that person of the numbers of the vehicles which will be used for transportation of that shipment and to permit that person to observe the weighing of the vehicle both before and after loading. This added requirement will permit household goods shippers to protect themselves from unscrupulous weight practices (including weight bumping).

Minor changes are also contemplated to the regulations governing the order for service (49 CFR 1056.9) and the bill of lading (49 CFR 1056.10). Amendments to § 1056.9(a) (9) and (10) would reflect the fact that applicable charges to be computed under proposed § 1056.8(a)(5) and listed on the order for service. The order for service regulations would also be amended to require carriers to indicate whether the shipper had an opportunity to obtain an estimate under the provisions of 49 CFR 1056.8 but declined to do so.

The Commission also proposes to add a new § 1056.9(d) to the order for

service requirement. This subsection essentially would require that when a carrier has provided an estimate, it must amend that estimate prior to modifying the order for service. It is the Commission's intention to make the estimate the controlling document, and the carrier will be expected to indicate to the shipper the reason for any change in the applicable charges subsequent to the completion of that estimate.

Sections 1056.10(b) (7) and (8) would be modified to require carriers to indicate on the bill of lading the method by which charges will be computed under the provisions of § 1056.8(a)(5), when that provision is applicable.

Section 1056.10(b)(9) would be modified to provide that when an individual c.o.d. shipper receives an estimate under the provisions of proposed § 1056.8(a)(5), that shipper must certify on the bill of lading, in his own handwriting, that he is solely responsible for arranging and paying for the transportation of that shipment.

Although the Commission does not now intend to certify estimators or to regulate the contents of estimator training programs, the administration of estimator training programs by an industry association such as the National Institute of Certified Moving Consultants raises several complex problems. Of particular concern is the possibility that carriers which are influential in the operation of the NICMC may attempt to use that agency to engage in anticompetitive practices. The Commission, therefore, has made NICMC a party to this proceeding and has directed that organization to answer the following questions.

(1) Should standards be developed for or restrictions placed on organizations engaged in training and certification of estimators to prevent those organizations from engaging in unfair competitive practices and from engaging in acts which might be deceptive to the shipping public?

(2) Are organizations such as the NICMC so constituted as to be subject to the exemption from the antitrust laws which the Commission may approve under the provisions of section 5(a) of the Interstate Commerce Act (49 CFR § 5(b))?

NICMC has been requested to include with its response copies of its articles of incorporation, its by-laws and rules of procedure and its canons of conduct and to furnish a complete description of its training programs, a description of the standards used by NICMC to certify estimators, and a description of the measures used by NICMC to enforce those certification requirements. We have also requested the Federal Trade Commission which has been working with the NICMC to improve its program, to participate in this proceeding and to suggest methods by which the Commission can prevent such organizations from engaging in unfair competitive tactics and in practices which deceive the public. Other interested persons are invited to comment on the matter of estimator training and certification by organizations of motor carriers such as the NICMC.

The Commission's Form BOp 103, Summary of Information for Shippers of Household Goods, and its Public Advisory No. 4 require revision in light of several changes which the Commission has recently made to its household goods transportation regulations. The Commission intends to combine these two documents and to simplify them considerably. Because of the importance of the estimating investigation and the significant changes which the Commission proposes to make to those regulations, revisions of these documents will not be made until revisions to final estimating regulations are adopted. Persons commenting on the proposed estimating regulations are, however, encouraged to suggest revisions which might be made to Form BOp 103 and Public Advisory No. 4 to make them simpler and more meaningful to household goods shippers.

Copies of the order in this proceeding, which contains a full discussion of each of the proposed provisions, are available through the Secretary of the Commission.

Persons and parties interested in filing representations and comments as to the matters referred to above and the regulations proposed in this proceeding are hereby invited to comment by the submission of written data, views, statements, or argument. Data, views, statements, or argument should be submitted to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. When possible, an original and 15 copies should be filed. All submissions become part of the record in this proceeding, and interested persons or parties may view these submissions at the Commission's office in Washington, D.C., during normal business hours. No oral hearings will be scheduled for the receipt of testimony at this time.

This notice of proposed rulemaking is issued under the authority of part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.) and of 5 U.S.C. 552, 553, and 559 (the Administrative Procedure Act).

Issued in Washington, D.C., on the 10th day of April 1978.

H. G. HOMME, Jr.
Acting Secretary.

PROPOSED REGULATIONS

The Interstate Commerce Commission proposes to amend its household goods transportation regulations (49 CFR Part 1056) in the following manner. If the proposed regulations are adopted, § 1056.8 would read as follows:

§ 1056.8 Estimates; charges when estimates furnished.

(a) *Estimates by the carrier.* (1) Every motor common carrier engaged in the transportation of household goods, in interstate or foreign commerce, shall upon request of a shipper of household goods cause to be given to such shipper at no charge an estimate of the charges for proposed services, including specific tariff authority for such charges, in the manner and form specified below.

(2) The estimate shall be made only after a visual inspection of the goods by the estimator. The person performing the estimate shall include, in the appropriate spaces provided on the estimating form described in § 1056.8(d), the estimate volume in (cubic feet) of each article to be shipped and must apply to each article a weight factor of between 4 and 12 pounds per cubic foot. The weight of each article and the total weight of the shipment must be calculated and included on that estimating form, and the estimator must specify the number of pieces into which each article listed in the estimate will be broken down or divided for shipment. The estimate shall be prepared on the form described in § 1056.8(d) in accordance with the instructions printed on that form. No estimate shall be valid for more than 60 days. An estimate shall be binding upon the carrier in the manner specified in § 1056.8(a)(5) if, during the period in which the estimate is valid, the prospective shipper transmits to the carrier a request to perform the services described in that estimate or signs a written order for service.

(3) The estimating form specified in this section shall be fully executed as appropriate in each case and in accordance with this paragraph shall be delivered to the shipper, and a copy of that form shall be retained by the carrier as part of its record of shipment.

(4) A prospective shipper for whom an estimate has been provided may request that an additional estimate be performed, and the carrier must perform such an estimate. If the prospective shipper requests the carrier to perform such an estimate, the carrier may, after completion of that additional estimate, cancel any previous estimates and substitute the additional estimate for its previous estimates. If no order for service has been completed, the carrier may, without the shipper's consent, substitute an additional estimate for a previous estimate only if (i) the prospective shipper requests the carrier to perform additional services not specified in the previous estimate or requests the carrier to transport additional goods not included in that previous estimate and (ii) the car-

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rier, in writing, provides the shipper a complete description of the changes made to the previous estimate and a complete statement of the differences in costs which such changes may have caused. If an order for service has been signed, a carrier may amend that order for service only if it modifies the estimate upon which that order for service was based in the manner specified in paragraph (a)(4) (i) and (ii) of this section.

(5) The lawful charges for any shipment on which an estimate has been requested and performed shall be (i) the total tariff charges determined in accordance with the carrier's tariffs, or (ii) the charges stated in the written estimate given to the shipper by the carrier, whichever will result in the lowest charge to the shipper, whether or not the charges stated in that estimate are based upon a misquotation of the tariff provisions. The provisions of this subsection shall only apply to the determination of charges due when those charges are to be collected upon delivery and shall only apply to transportation of household goods as defined in § 1056.1(a)(1). The provisions of this subsection do not apply to the transportation of shipments of household goods when the employer of the owner of those household goods is responsible, directly or indirectly, for arranging or paying for such transportation. When charges due for transportation of a shipment are calculated under the provisions of this subsection, those charges shall be calculated on the basis of the estimated or actual weight of the shipment, whichever is lower. Every motor common carrier of household goods shall publish, as part of its tariffs, a rule which reads as follows: "The charges for any shipment on which an estimate has been performed under the provisions of 49 CFR 1056.8(a) shall be either (*a*) the total tariff charges determined in accordance with the carrier's tariff, or (*b*) the charges stated in the written estimate given to the shipper by the carrier, whichever will result in the lowest charge to the shipper. The provisions of this rule shall only apply to the determination of charges due when those charges are to be collected upon delivery, and shall only apply to transportation of household goods as defined in 49 CFR 1056.1(a)(1). The provisions of this rule shall not appy to the transportation of shipments of household goods when the employer of the owner of those goods is responsible, directly or indirectly, for arranging or paying for such transportation. When charges due for transportation of a shipment are calculated under the provisions of this subsection, those charges shall be calculated on the basis of the estimated or actual weight of the shipment, whichever is lower."

(6) Each estimate shall be prepared in accordance with these regulations, but no person shall, in connection with the preparation, application, or use of such an estimate, engage in unjust, unfair, unreasonable or deceptive acts or practices.

(7) When there is pending before the Commission a proposed change in rates or charges which would affect the cost of a shipment for which an estimate is provided under this section, the carrier, in writing shall inform the person for whom an estimate is furnished of the proposed change in rates and charges and shall further inform that person of the time when the proposed changes in rates or charges are scheduled to become effective and of the general nature of the changes in those rates and charges.

(b) *Estimate form for shipper's use.* Carriers may furnish to shippers or prospective shippers an estimate form which may contain statements of the weights of average pieces of furniture and other household articles of various types for use by the shipper in making his own estimate of the total weight of his goods. Any instructions necessary to enable the shipper to use the estimate for shall be printed in the form. If cubic-foot measurements are used in arriving at the weight, the form shall state that a weight factor of 7 pounds per cubic foot shall be used.

(c) *Notification to shipper of charges.* Whenever the shipper specifically requests notification of the actual weight and charges on a shipment and supplies the carrier with an address or telephone number at which the communication will be received, the carrier shall comply with such request immediately upon determining the actual weight and charges. Such notification shall be made by telephone, telegraph, or in person at the carrier's expense unless the carrier provides in its tariff that the actual cost of such notification shall be collected from the shipper.

(d) *Estimating forms.* (1) Whenever an estimte must be furnished, that estimate shall be executed on the form specified in § 1056.8 (d)(2). All estimating forms shall be plainly printed, planographed, sterotyped, or prepared by other similar durable process, in black ink on white paper of good quality. All information required to be included in those forms shall be presented in a clearly eligible manner. The items included on each page of the estimating form in § 1056.8 (d)(2) shall be included on the corresponding page of each form used to prepare an estimate. The type used shall be of size not less than 8-point or its equivalent (if systems not employing the printers' points standards are used), but in no case may there be more than 9 lines to the vertical inch and 16 printed characters to the horizontal inch, with fractional inches of material to be in proportion. Characters, words, and lines shall be spaced in an uncrowded manner to assure easy readability of the material. The Interstate Commerce Commission reserves the right to require discontinuance of the use of any form if, upon examination of that form it appears that the form in question does not comply with the provisions of this subsection. Forms printed by the Government Printing Office under the direction of the Interstate Commerce Commission shall be deemed to comply with the provisions of this subsection.

(2) The following form shall be used to prepare each estimate.

COMPUTATION OF CHARGES DUE UPON DELIVERY *(Check the provision applicable)*

1. [ ] This section applies to shipments of household goods by individual householders when charges are to be collected upon delivery and when the carrier is responsible for arranging for or paying for the transportation of the goods being shipped is responsible for arranging for their transportation.

   The total charges due for transportation of your shipment will be the lesser of (i) the charges computed in accordance with the carrier's tariffs, or (ii) the charges stated in this estimate.

   All charges are due upon delivery of your shipment.

2. [ ] This section applies when the employer of the owner of the goods being shipped is responsible, directly or indirectly, for arranging or paying for their transportation. The total charges applicable to a shipment when the employer of the owner of the goods being shipped is responsible for or paying for the transportation of such goods will be determined solely by reference to the carrier's tariffs and the actual services performed, which the carrier performs. This estimate is not a final statement of the charges applicable to this shipment; those charges will be determined only after completion of the move.

SIGNATURE OF ESTIMATOR | PRINT OR TYPE FULL NAME OF ESTIMATOR

NAME OF COMPANY EMPLOYING ESTIMATOR | BUSINESS ADDRESS OF ESTIMATOR *(Include Zip Code)*

TELEPHONE NUMBER OF ESTIMATOR *(Include Area Code)* | No. (Street, City, State, Zip Code)

NOTICE TO SHIPPER

SHOULD THE NUMBER OF ITEMS TO BE SHIPPED OR THE SERVICES REQUIRED FOR YOUR SHIPMENT CHANGE BETWEEN THE TIME THIS ESTIMATE IS PERFORMED AND THE TIME OF YOUR MOVE, YOU ARE ENTITLED TO A REVISED ESTIMATE IF YOU REQUEST THE CARRIER TO PERFORM ANOTHER ESTIMATE, AND THE CARRIER MUST PERFORM THAT ESTIMATE. THE CARRIER ALSO HAS THE RIGHT TO CANCEL A PREVIOUS ESTIMATE WHEN IT FINDS THAT THE CONDITIONS SURROUNDING YOUR MOVE HAVE CHANGED. THE CARRIER MUST THEN SUBSTITUTE A NEW ESTIMATE FOR THAT PREVIOUS ESTIMATE.

VALUATION CHARGES

(Line number 4 on page 3 of this estimate)

(1) Protection for your shipment up to, but not exceeding, 60 cents per pound per article is provided at no additional cost to you. Under this valuation provision, if the carrier damages an article weighing 40 pounds, its liability would be $25, or 60 cents times 40 pounds, the Mover's liability would be limited to $25, whether or not the article is worth more than that amount.

(2) If you wish to be paid full value for lost or damaged items, you must pay the extra charge described on line number 4 on page 3 of this estimate. If you do not declare a value or if you sign the valuation statement included in the bill of lading provided by the carrier upon signing an order for service, you will automatically receive the minimum protection provided by law. This is 60 cents per pound per item. Thus, if your shipment weighs 4,000 pounds, lump sum valuation would be $1,000; or $1.25 times 4,000 pounds.

You may also choose to declare a lump sum valuation you consider adequate to cover your shipment. The valuation cannot be less than $1.25 times the weight of your shipment. In the event you choose to state a lump sum valuation, the mover is responsible for the full value of that shipment.

In the event that you choose a valuation under paragraph (2) of this notice, you will be charged 50 cents per $100 valuation for this higher protection.

ESTIMATED COST OF SERVICE | DATE OF ESTIMATE

This is to certify that the following estimate of charges is based upon the following described shipment and the following described services to be performed by the undersigned carrier (or its agent) in connection therewith. This estimate is furnished in accordance with the provisions of 49 CFR 1056.8 and is based upon [ ] my personal inspection of the shipment on (date) _____ [ ] the following description furnished by me (or my agent) on (date) _____ [ ] the following description furnished by the shipper on (date) _____ [ ] the following description furnished by the shipper on (date) _____ [ ] the following description furnished by the shipper

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LINE NO.	TARIFF ITEM NO.	DESCRIPTION OF CHARGES	ESTIMATED CHARGES
14.		SERVICING OF APPLIANCES AT DESTINATION: $_____ for first article $_____ for each additional article Number of articles TOTAL APPLIANCE SERVICING CHARGES, DESTINATION.....	
15.		PIANO OR ORGAN HANDLING AND FLIGHT CARRY CHARGES: Type of piano or organ_____ Handling charge at origin $_____ Handling charge at destination $_____ TOTAL PIANO OR ORGAN HANDLING CHARGES.....	
		FLIGHT CARRY CHARGES, INDOOR, AT ORIGIN: $_____ each flight; number of flights_____ FLIGHT CARRY CHARGES, OUTDOOR, AT ORIGIN: $_____ each flight; number of flights_____ TOTAL FLIGHT CARRY CHARGES, OUTDOOR AT ORIGIN.....	
		FLIGHT CARRY CHARGES, INDOOR, AT DESTINATION: $_____ each flight; number of flights_____ TOTAL FLIGHT CARRY CHARGES, INDOOR AT DESTINATION.....	
		FLIGHT CARRY CHARGES, OUTDOOR, AT DESTINATION: $_____ each flight; number of flights_____ TOTAL FLIGHT CARRY CHARGES, OUTDOOR AT DESTINATION.....	
16.		ELEVATOR, STAIR, AND EXCESSIVE DISTANCE CARRY CHARGES: WEIGHT OF SHIPMENT (from page 8) _____ per 100 lbs. at origin; ELEVATOR CHARGES, ORIGIN..... _____ per 100 lbs. at destination; ELEVATOR CHARGES, DESTINATION..... STAIRS, INSIDE AT ORIGIN: $_____ per 100 lbs. per flight; number of flights_____ STAIR CHARGES, INSIDE AT ORIGIN..... STAIRS, OUTSIDE AT ORIGIN: $_____ per 100 lbs. per flight; number of flights_____ STAIR CHARGES, OUTSIDE AT ORIGIN..... STAIRS, INSIDE AT DESTINATION: $_____ per 100 lbs. per flight; number of flights_____ STAIR CHARGES, INSIDE AT DESTINATION..... STAIRS, OUTSIDE AT DESTINATION: $_____ per 100 lbs. per flight; number of flights_____ STAIR CHARGES, OUTSIDE AT DESTINATION..... EXCESSIVE DISTANCE CHARGE, ORIGIN: $_____ per 100 lbs. for each _____ feet or fraction thereof beyond the first _____ feet between vehicle and entrance to house or apartment TOTAL EXCESSIVE DISTANCE CHARGE, ORIGIN..... EXCESSIVE DISTANCE CHARGE, DESTINATION: $_____ per 100 lbs. for each _____ feet or fraction thereof beyond the first _____ feet between vehicle and entrance to house or apartment TOTAL EXCESSIVE DISTANCE CHARGE, DESTINATION.....	
17.		CONTAINERS (from page 9).....	
18.		PACKING (from page 9).....	
19.		CONCRETING (from page 9).....	

ESTIMATED COST OF SERVICES
COMPUTATION OF COSTS

NOTICE TO SHIPPER

THIS ESTIMATE COVERS ONLY THE ARTICLES AND SERVICES LISTED. THE COST OF YOUR SHIPMENT IS COMPUTED ON THE ACTUAL WEIGHT OF THE ARTICLES AND SERVICES CHARGES. FOR ADDITIONAL ARTICLES WHICH YOU INTEND TO SHIP OR FOR ADDITIONAL SERVICES WHICH YOU REQUEST WILL BE ADDED TO THE CHARGES LISTED IN THIS ESTIMATE.

NAME AND NUMBER OF TARIFF APPLICABLE _____ This Estimate is Based On _____ (W = T.C.C. No.)

LINE NO.	TARIFF ITEM NOS.	DESCRIPTION OF CHARGES	ESTIMATED CHARGES
1.		TRANSPORTATION: Estimated weight (from page 8): _____ lbs. _____ miles; @ $_____ per 100 lbs.	$
2.		TOTAL TRANSPORTATION CHARGES.....	
		EXPEDITED SERVICE: $_____ per 100 lbs.	
3.		TOTAL EXPEDITED SERVICE CHARGES.....	
		EXCLUSIVE USE OF VEHICLE: $_____ per 100 lbs.	
4.		TOTAL CHARGES, EXCLUSIVE USE OF VEHICLE.....	
		VALUATION CHARGE: for liability on part of carrier in excess of that assumed when its lowest rates are charged @ 60¢ per $100 valuation, or fraction thereof; TRANSPORTATION VALUATION CHARGE, _____	
		On Transportation: $_____ per 100 lbs. (10¢ @ per 100 lbs.)	
		On Storage-in-Transit: $_____ STORAGE-IN-TRANSIT VALUATION CHARGE.....	
		ORIGIN SURCHARGES: $_____ per 100 lbs.	
5.		TOTAL ORIGIN SURCHARGE.....	
		DESTINATION SURCHARGE: $_____ per 100 lbs.	
6.		TOTAL DESTINATION SURCHARGE.....	
		EMPTY MILEAGE CHARGE: $_____ per mile _____ miles;	
7.		TOTAL EMPTY MILEAGE CHARGE.....	
		BRIDGE, FERRY, TOLL AND TUNNEL CHARGES (list):	
8.		$_____	
		$_____	
		$_____	
		$_____	
		TOTAL BRIDGE, FERRY, TOLL AND TUNNEL CHARGES.....	
9.		PICKUP OR DELIVERY FOR STORAGE IN TRANSIT: _____ lbs. @ ¢ per 100 lbs., for each 30 days or fraction thereof;	
10.		TOTAL PICKUP OR DELIVERY FOR STORAGE IN TRANSIT CHARGES.....	
		STORAGE IN TRANSIT: Location _____	
11.		$_____ per 100 lbs. for each 30 days or fraction thereof;	
		WAREHOUSE HANDLING: _____ lbs. @ ¢ per 100 lbs. (one time charge)	
12.		TOTAL WAREHOUSE HANDLING CHARGES.....	
13.		EXTRA PICKUP OR DELIVERY AT _____	
		SERVICING OF APPLIANCES AT ORIGIN: $_____ for first article $_____ for each additional article Number of articles TOTAL APPLIANCE SERVICING CHARGES, ORIGIN.....	

LINE NO.	TARIFF ITEM NO.	DESCRIPTION OF CHARGES	ESTIMATED CHARGES
20.		OVERTIME LOADING OR UNLOADING: $_____ per person, per hour; number of persons required _____ number of hours required _____ TOTAL OVERTIME LOADING OR UNLOADING CHARGES.....	
21.		OTHER SERVICES: (Explain fully, including number of units of service required, and charges for each unit of service. Indicate total charges in right-hand column)	
22.		TOTAL ESTIMATED CHARGES (ENTER ON PAGE 1).....	

ESTIMATED COST OF CONTAINERS

TYPE	ESTIMATED NUMBER	COST EACH	TOTAL
BARREL, dish-pack, drum, et cetera.....			
BOXES, not over 5 cu. ft.....			
BOXES, over 5, not over 8 cu. ft.....			
BOXES, over 8 cu. ft.....			
CARTONS, less than 1-1/2 cu. ft.....			
CARTONS, 1-1/2 - 3 cu. ft.....			
CARTONS, 3 - 4-1/2 cu. ft.....			
CARTONS, 4-1/2 - 6 cu. ft.....			
CARTONS, 6-1/2 cu. ft. or more.....			
WARDROBE CARTON.....			
Crib Mattress Carton.....			
MATTRESS CARTON (not exceeding 54" x 75").....			
MATTRESS CARTON (exceeding 54" x 75").....			
MATTRESS COVER (plastic or paper).....			
NEWSPRINT AND OTHER PACKING MATERIAL.....			
CRATES AND CONTAINERS (designed for mirrors, paintings, glass or marble tops or similar fragile items).....			
GROSS MEASUREMENT OF CRATE OR CONTAINERS _____			
TOTAL ESTIMATED CONTAINER COSTS *(enter on page 4)*...			

PACKING COSTS

LABOR CHARGES: $_____ per person, per hour or fraction thereof
Number of hours required _____.

TOTAL ESTIMATED PACKING COSTS $_____ *(enter on page 4)*

UNPACKING COSTS

LABOR CHARGES: $_____ per person, per hour or fraction thereof
Number of hours required _____.

TOTAL ESTIMATED UNPACKING COSTS $_____ *(enter on page 4)*

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TABLE OF MEASUREMENTS AND INVENTORY (see Instructions)

ARTICLES LOADED	ARTICLES UNLOADED	ARTICLES NOT TO BE SHIPPED	ARTICLE	CUBIC FEET PER ARTICLE	POUNDS PER CUBIC FOOT	NUMBER OF ARTICLES	WEIGHT	No. OF PIECES PER ARTICLE	CUBIC FEET
			FURNITURE						
			Bar, Portable						
			Dathinette						
			Bed inc. sprg. & mattress						
			Double						
			Single						
			Hollywood						
			Bunk Bed (set of 2)						
			King						
			Hallway						
			Youth						
			Duty						
			Oly						
			Bench						
			Fireside						
			Picnic						
			Piano						
			Vanity						
			Bookcase						
			Book Shelves (Sec.)						
			Buffet						
			Cabinet, China						
			Corner						
			Filing						
			Kitchen						
			Chair, Arm						
			Executive						
			Breakfast						
			Child's						
			High						
			Occasional						
			Lawn						
			Overstuffed						
			Pouch						
			Rocker						
			Steamer						
			Chaise Lounge						
			Chest, Cedar						
			Toy						
			Clock, Grandfather						
			Clothes Dryer						
			Cot, Folding						
			Davenport/Hide-A-Bed						
			2 Cushion						
			3 Cushion						
			Love Seat						
			Desk, Flat						
			Secretary						
			Office						
			Dresser						
			Dresser, Triple						

ARTICLES LOADED	ARTICLES UNLOADED	ARTICLES NOT TO BE SHIPPED	ARTICLE	CUBIC FEET PER ARTICLE	POUNDS PER CUBIC FOOT	NUMBER OF ARTICLES	WEIGHT	No. OF PIECES PER ARTICLE	CUBIC FEET
			FURNITURE (Continued)						
			Fireplace Equipment						
			Foot Locker						
			Lamp, Floor						
			Magazine Rack						
			Organ, Small						
			Large						
			Piano, Upright						
			Baby Grand						
			Parlor						
			Spinet						
			Radio, Table						
			Phono						
			Rack, Large Ball, Pad						
			wood, Small Ball, Pad						
			Porch, Large						
			Server						
			Settee						
			Glider						
			Stool, Foot						
			Bar						
			Table						
			Breakfast						
			Card						
			Child's						
			Coffee, End or Nest						
			Drop Leaf						
			Occasional						
			Dining						
			Kitchen						
			Library						
			Desk						
			Picnic						
			Tea Cart						
			TV Comb.						
			TV/Radio Comb.						
			TV, Table Model						
			TV, Portable						
			Vanity						
			Wardrobe, Small						
			Large						
			APPLIANCES						
			Air Conditioner, Window						
			Dishwasher						
			Dryer, Electric or Gas						
			Ironer						
			Fan						
			Freezer, Cubic Capacity						
			10 or less						
			11 to 15						
			16 and over						

ARTICLES LOADED	ARTICLES UNLOADED	ARTICLES NOT TO BE SHIPPED	ARTICLE	CUBIC FEET PER ARTICLE	POUNDS PER CUBIC FOOT	NUMBER OF ARTICLES	WEIGHT	No. OF PIECES PER ARTICLE	CUBIC FEET
			APPLIANCES (Continued)						
			Heater, Gas or Electric						
			Lawn Mower, Hand						
			Power						
			Hamale						
			Stove, Electric or Gas						
			Refrigerator, Cubic Capacity						
			6 or Less						
			7 to 10						
			11 and Over						
			Vacuum Cleaner						
			Washing Machine						
			MISCELLANEOUS						
			Ash/Trash Can						
			Bar-B-Q						
			Bird Bath						
			Carriage, Baby						
			Fold-Up, Ugly						
			Child's Stool						
			Gym						
			Swing						
			Lawn						
			Garden Hose/Post						
			Golf Bag/Clubs						
			Bag/Clubs/Cart						
			Ironing Board						
			Ladder, Ext.						
			Step						
			Play Pen						
			Heater						
			Sand Box						
			Sled						
			Tool Chest						
			Tricycle						
			Umbrella						
			Wheelbarrow						
			Work Bench						
			MISCELLANEOUS (Other)						
			Automobile						
			Boat/Trailer						

ARTICLES LOADED	ARTICLES UNLOADED	ARTICLES NOT TO BE SHIPPED	ARTICLE	CUBIC FEET PER ARTICLE	POUNDS PER CUBIC FOOT	NUMBER OF ARTICLES	WEIGHT	No. OF PIECES PER ARTICLE	CUBIC FEET
			CONTAINERS						
			PACKED AT TIME OF ESTIMATE						
			Barrels						
			Cartons						
			Small						
			Medium						
			Large						
			Wardrobe						
			ESTIMATED TO BE PACKED BY MOVER						
			Barrels						
			Cartons						
			Small						
			Medium						
			Large						
			Wardrobe						
			ESTIMATED TO BE PACKED BY SHIPPER						
			Barrels						
			Cartons						
			Small						
			Medium						
			Large						
			Wardrobe						
			BULK CUBE IN						
			Attic						
			Basement						
			Garage						
			Utility Room						

Total weight, page 5 _____ Total cubic feet, page 5 _____

Total weight, page 6 _____ Total cubic feet, page 6 _____

Total weight, page 7 _____ Total cubic feet, page 7 _____

Total weight, page 8 _____ Total cubic feet, page 8 _____

TOTAL ESTIMATED WEIGHT *(add subtotals from pages 6, 7, 8, and 9; enter in Item 1, page 3)* _____

TOTAL CUBIC FEET _____

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1. Estimate the cubic measurement of each article to be shipped, enter these measurements in the column marked CUBIC FEET PER ARTICLE on pages 6 through 9.

2. Estimate the density of each article to be shipped in pounds per cubic foot. For each article, the estimator must use density of not less than 4 pounds per cubic foot nor more than 12 pounds per cubic foot. Do not use fractions. Enter the density of each article in the column marked POUNDS PER CUBIC FOOT on pages 6 through 9.

3. Indicate the number of articles of each type to be shipped in the column marked NUMBER OF ARTICLES on pages 6 through 9.

4. Multiply the numbers entered on each line in the column marked CUBIC FEET PER ARTICLE by the numbers entered on the same lines in that column marked POUNDS PER CUBIC FOOT. Then multiply that figure by the numbers entered on each line in the column marked NUMBER OF ARTICLES. Enter the total in the column marked WEIGHT.

5. In the column marked NO. OF PIECES PER ARTICLE on pages 6 through 9, enter for each article listed in the estimate the number of pieces into which that article will be broken down or divided for shipment.

6. Enter the total weight of the articles listed on each page in the spaces provided on page 9.

7. The estimator must multiply the cubic measurements shown on each line in the column marked CUBIC FEET PER ARTICLE on pages 6 through 9 by the number of articles shown in the column marked NUMBER OF ARTICLES shown on those lines to determine the estimated volume (cubic feet) of all shipment. Enter the total estimated volume of the articles listed on each page in the column marked CUBIC FEET on pages 6 through 9. Enter the total estimated volume of the articles listed on each page in the appropriate spaces provided on page 9.

This form may also be used as an inventory document. For each item loaded, place a mark in the ARTICLES LOADED column. When the item is unloaded, indicate the number of each type of article unloaded in the ARTICLES UNLOADED column.

Line numbers 1 through 20 on pages 3, 4, and 5 contain descriptions of various types of charges commonly applicable to household goods shipments. For each service requested, enter the item number governing that service and the charges in the appropriate columns. If applicable, the charges may include charges for valuation, number of articles, and other factors pertinent to that service. Enter on line numbers 17 through 19 the charges for containers, packing and unpacking computed on page 5 of this form. If a service is requested which is not listed in line numbers 1 through 20, indicate on line number 21 the tariff item governing that service and explain fully the type of service requested, the price per unit of service, and the number of units of service requested.

Indicate in the column marked ESTIMATED CHARGES the total charge for each service requested and described on line numbers 1 through 21.

Add the estimated charges listed in the ESTIMATED CHARGES column on line numbers 1 through 21 and enter the total amount on line number 22 on page 5 and in the appropriate space on page 1.

On page 5, indicate the number of cartons of each type required, the cost for each type of carton, and the total cost for cartons of each type. Also indicate the gross measurements of each carton. Additional space is provided to list the gross measurements of crates and containers designed for various fragile items.

Compute the total estimated container costs and enter that amount on line number 17 on page 4.

Indicate, in the spaces provided, the labor charges for packing and unpacking and the number of hours estimated for packing and unpacking. Enter the total estimated packing and unpacking costs on the appropriate lines. Also enter the total estimated packing costs on line number 18 on page 4, and enter the total estimated unpacking costs on line number 19 on page 4.

PAGES 6, 7, 8 and 9 (TABLE OF MEASUREMENTS AND INVENTORY):

To compute the estimated weight of a shipment, the estimator must follow these steps:

OTHER MODIFICATIONS TO COMMISSION REGULATIONS

§ 1056.3 [Amended]

Section 1056.3(b) would be modified by deleting present § 1056.3(b) and substituting for that subsection the following:

• • • • • •

(b) The tariff charges so established for containers, packing, and unpacking shall provide for separate charges for containers, for packing, and for unpacking, stated for containers as an amount per container, and for packing and unpacking as an amount per hour. Charges for other services shall be separately stated on a unit or hourly, basis whichever is appropriate.

§ 1056.6 [Amended]

Section 1056.6(a) would be modified by deleting the last two sentences from that subsection and substituting for those sentences the following:

(a) • • • The person paying the freight charges, the shipper, or the representative of either of them upon request, shall be permitted without charge to observe the determination of the tare weight of the vehicle into which that shipment will be loaded. The carrier shall, upon request, furnish in writing the vehicle numbers of the vehicles (including power unit) which will be used for the transportation of that shipment. The person paying the freight charges, the shipper, or the representative of either of them, upon request, shall be permitted without charge to accompany, in their own conveyance, the carrier to the weighting station and to observe the weighting use a certified scale which will permit any of the above named persons to observe the weighting of the shipment without causing delay, and the carrier must, prior to any weighing, inform the person paying the freight charges, the shipper, or the representative of either of them, in writing, of the location (including street address) of the scale upon which any such weighing will be performed. The weight upon which the actual charges due for a shipment for which an estimate is performed under § 1056.8(a)(5) of these regulations shall be the lower of the estimated weight of the actual weight of that shipment.

• • • • • •

§ 1056.7 [Amended]

Section 1056.7(b) would be modified by deleting § 1056.7(b) (ii) and (iii) from that section and by renumbering § 1056.7(b) (iv) through (xi) as § 1056.7(b) (ii) through (ix), respectively.

§ 1056.9 [Amended]

Section 1056.9(a) would be amended by deleting present § 1056.9(a) (9) and (10) and substituting for those subsections the following, and by adding to § 1056.9(a) a new § 1056.9(a)(12):

(a) • • •

(9) Amount of estimated charges and method of payment of applicable charges.

(10) Maximum amount required to be paid in cash, certified check, or money order to relinquish possession of c.o.d. shipment when the transportation of that shipment is neither arranged nor paid for by the employer of the owner of the goods.

(12) Whether the shipper had an opportunity to obtain an estimate under the provisions of 49 CFR 1056.8 but declined to do so.

Section 1056.9 would also be modified by adding to that section a new § 1056.9(d), as follows:

• • • • • •

(d) If a carrier provides an additional estimate under the provisions of § 1056.8(a) (4), it may amend any order for service which it may have prepared to reflect any changes in the amount of the charges listed in its previous estimate. The carrier must furnish an additional estimate or amend its previous estimate prior to amending the order for service with respect to the amount of charges to be collected from the shipper.

Section 1056.10 would be amended by deleting from that section § 1056.10(b) (7) and (8) and by substituting the following for those subsections:

• • • • • •

(b) • • •

(7) Amount of estimated charges and method of payment of applicable charges.

(8) Maximum amount required to be paid in cash, certified check, or money order to relinquish possession of c.o.d. shipment when the transportation of that shipment is neither arranged nor paid for by the employer of the owner of the goods being shipped.

• • • • • •

Section 1056.10(b)(9) would be modified to read as follows:

• • • • • •

(b) • • •

(9) Whether the shipper requests notification of actual charges and where such communication will be received. On the same line on which the tare weight is to be entered, there shall be printed the words, "Shipper: The tare weight of the vehicle must be entered on this line prior to loading your shipment on the vehicle." Immediately above the warning required in the next sentence of this subsection, each individual c.o.d. shipper for whom an estimate has been furnished under the provisions of § 1056.8(a)(5) of these regulations shall be required, in his own handwriting, to certify that he is solely responsible for the arrangement of and payment for the shipment in question and shall affix his signature to that certification. Across the bottom of the receipt or bill of lading, and any copies, there shall be printed in red letters not less than ⅛ inch high the words "Any motor carrier, or other person, or any officer, agent, employee, or representative thereof, who shall knowingly and willfully neglect or fail to make full, true, and correct entries or who shall knowingly and willfully falsify, destroy, mutilate, or alter this receipt or bill of lading, shall be subject to a penalty of $5,000 for each such offense. (Sec 222; 49 U.S.C. 322)."

[FR Doc. 78-11894 Filed 5-1-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation Number A601]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Louisiana Parishes as a result of drought May 2 through July 15, 1977, and excessive rainfall July 28 through November 30, 1977, in both East Feliciana and West Feliciana Parishes; and drought June 15 through September 10, 1977, in Richland Parish.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Edwin W. Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than October 17, 1978, for physical losses and April 20, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 24th day of April, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-11819 Filed 5-1-78; 8:45 am]

[3410-07]

[Designation Number A602]

MICHIGAN

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Michigan Counties as a result of drought May 1 through July 6, 1977, and excessive rainfall July 7 through November 30, 1977, in Emmet County; drought April 1 to July 18, 1977, excessive rainfall July 19 to October 21, 1977, and late spring frost May 7, May 9, June 3, and June 9, 1977, in Kalkaska County; and drought April 1 through July 31, 1977, and excessive rainfall August 1 through October 31, 1977, in Mackinac County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor William C. Milliken that such designation be made.

Applications for emergency loans must be received by this Department no later than October 17, 1978, for physical losses and April 20, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 24th day of April, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-11820 filed 5-1-78; 8:45 am]

[3410-07]

[Designation Number A603]

NEW MEXICO

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Roosevelt County, New Mexico, as a result of hot weather and dry winds causing abnormal infestation of the Banks grass mite and other insects May 31 through October 31, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, exhibit D, Paragraph V B, including the recommendation of Governor Jerry Apodaca that such designation be made.

Applications for emergency loans must be received by this Department no later than October 17, 1978, for physical losses and April 20, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 24th day of April, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-11821 Filed 5-1-78; 8:45 am]

[3410-11]

Forest Service

COOPERATIVE GYPSY MOTH SUPPRESSION AND REGULATORY PROGRAM—1978 ACTIVITIES

Notice of Availability of Final Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the forest Service, and Animal and Plant Health Inspection Service, Department of Agriculture, have prepared for the 1978 activities, a Final Environmental Statement for the Cooperative Gypsy Moth Suppression and Regulatory Program, USDA-FS-APHIS (Adm.) 78-02.

The Final Statement concerns a cooperative suppression program with the States of Pennsylvania and New Jersey to protect forests and forest resources on about 171,079 acres of high-value, high-use forest land from unacceptable damage by the gypsy moth. Most areas will be sprayed with carbaryl, trichlorfon, and Dimilin insecticides. The cooperative regulatory program is designed to prevent artificial long-distance spread and to eradicate remote infestations in the United States.

This Final Statement was filed with EPA on April 26, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th and Independence Ave. SW., Washington, D.C. 20013.
USDA Animal and Plant Health Inspection Service, Administration Building, Room 302-E, 12th and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, 370 Reed Road, Broomall, Pa. 19008.

A limited number of single copies are available upon request to John R. McGuire, Chief, U.S. Forest Service, South Agriculture Building, 12th and Independence Avs. SW., Washington, D.C. 20013.

Copies of the Final Environmental Statement have been sent to various Federal, State, and local agencies as outlined in the EPA guidelines.

Date: April 24, 1978.

R. MAX PETERSON,
Deputy Chief, Forest Service.

[FR Doc. 78-11825 Filed 5-1-78; 8:45 am]

[3410-11]

LAND MANAGEMENT PLAN KING PLANNING UNIT—KLAMATH NATIONAL FOREST

Availability of Draft Supplement to the Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft supplement to the final environmental statement for the Land Management Plan, King Planning Unit, Klamath National Forest, California, USDA-FS—R5-FES(Adm)-76-03(S). The draft supplement adds to and revises information contained in the final environmental statement.

The final environmental statement proposed a land management plan for 49,000 acres of the Klamath National Forest known as the King Planning Unit, Siskiyou County, Calif. In addition to the 11,100 acres within the marble Mountain Wilderness, a total of 28,200 acres within the King Planning Unit has been inventoried as roadless and undeveloped lands, 1,800 acres of which is proposed for Wilderness study. Under the preferred alternative, about 17,600 acres will be managed intensively, primarily for the production of timber. The remaining 18,500 acres will be managed for the protection and development of watershed, recreational, visual, cultural, and other resource values. These include the Klamath River area, the Pick-Ya-Wish cultural area, and the Ukonom Creek management area. The proposed plan does not apply to the 500 acres of private land within the Planning Unit boundary.

The draft supplement develops an additional land management alternative; considers a variation of one alternative; and corrects inaccurate or incomplete information in the final environmental statement. The preferred alternative is the same as in the final environmental statement.

The final environmental statement was transmitted to the Council on Environmental Quality on April 5, 1977. The draft supplement to the final environmental statement was transmitted to the Environmental Protection Agency (EPA) on April 24, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20250.
Forest Supervisor, Klamath National Forest, 1215 South Main Street, Yreka, Calif. 96097.
Regional Forester, U.S. Forest Service, Room 529, 630 Sansome Street, San Francisco, Calif. 94111.
District Ranger, Happy Camp Ranger District, Happy Camp, Calif. 96039.
District Ranger, Ukonom Ranger District, Somes Bar, Calif. 95568.

A limited supply of single copies of the final environmental statement and draft supplement are available upon request from the Forest Supervisor, Klamath National Forest, 1215 South Main St., Yreka. Calif. 96097.

Copies of the enviromental statement and the draft supplement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments on the draft supplement are invited from the public, from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental effects for which comments have not been specifically requested.

Comments and requests for additional information should be addressed to Forest Supervisor Dan B. Abraham, Klamath National Forest, 1215 South Main Street, Yreka, Calif. 96097. Comments must be received within 60 days after transmittal to EPA in order to be considered in the preparation of the final supplement.

Dated: April 24, 1978.

ROBER W. CERMAK,
Acting Regional Forester.

[FR Doc. 78-11796 Filed 5-1-78; 8:45 am]

[3410-11]

Forest Service

FOREST SERVICE POLICY ON PESTICIDE USE

Revised Policy

AGENCY: Forest Service.

ACTION: Notice.

SUMMARY: The Forest Service, in response to concerns raised at the National Symposium on the Use of Herbicides in Forestry, is revising its policy on pesticide use to emphasize quality control, special aerial application considerations, and environmental monitoring. Policy changes will be published as an Interim Directive in the Forest Service Manual.

FOR FURTHER INFORMATION CONTACT:

David Graham, Forest Insect and Disease Management Staff, telephone: 703-235-8209.

SUPPLEMENTARY INFORMATION: The Forest Service uses an integrated approach to managing pests and vegetation in forests and rangelands. This can include the use of pesticides along with biological, silvicultural, manual, and mechanical methods in a fully coordinated program which achieves acceptable effectiveness and environmental safety. However, pesticides will only be used in accordance with the following policies:

1. Pesticides may be recommended and used in operational projects only after consideration of alternatives—based on competent analyses of effectiveness, specificity, environmental impacts, and benefit-cost—clearly demonstrates that use of the pesticide is essential to meet management goals. The full range of alternatives—including manual, mechanical, and silvicultural methods—must be considered. High-priority attention should be given to the utilization of employment opportunity programs and other opportunities to create jobs.

2. The requirements of Title I of the National Environmental Policy Act of 1969 (Pub. L. 91-190) must be met by following the process required in FSM 1950. Title I of NEPA requires Federal agencies to "* * * maintain conditions under which man and nature can exist in productive harmony."

3. Only pesticides registered by the U.S. Environmental Protection Agency (EPA) in full accordance with Federal Insecticide, Fungicide, and Rodenticide Act, as amended, may be used, except as otherwise provided in regulations, orders, or permits issued by EPA. All such exceptions will be closely monitored. EPA-approved label instructions will be followed to the letter.

4. The herbicides 2,4,5-T, Silvex, or other materials containing TCDD may be used only where no other environmentally acceptable and economically feasible alternative, nonchemical or chemical, is registered or available. Cost-effectiveness will not be the sole criterion. When a decision is made to use these pesticides, the Assistant Secretary for Conservation, Research and Education shall be provided the oppor-

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tunity to review the decision prior to implementation.

5. Where endangered or threatened animal or plant species habitat is involved, pesticides may be used only after it is determined, in conjunction with Federal and State wildlife management agencies through the environmental impact statement process, that such use will adversely affect neither the species nor its critical habitat.

6. Pesticides will not be used in Wildlife areas; exceptions to this prohibition may be only where necessary to prevent the loss of significant aspects of the Wilderness area or to prevent significant losses to resource values on public or private lands bordering the Wilderness. The use of pesicides in a designated Wilderness must be approved by the Chief.

7. Pesticide application and use must be controlled in a manner that assures adequate safety. Spills, accidents, misapplication, and any other contamination are to be avoided. Quality control monitoring will include a determination of the adequacy of application procedures and accomplishments of objectives. Treated areas will be posted with appropriate signs indicating the name of the material used and date of application to insure that potential forest users, such as berrypickers, are informed of possible exposure to pesticides. In addition, the project officer will confirm that all persons in or near the treatment area are notified in time to leave the area.

8. Pesticides and pesticide containers will be transported, stored, and disposed of in accordance with Federal, State, and local laws and regulations in a manner which will safeguard public health and wildlife, prevent damage to plants, and prevent soil and water contamination.

9. All Forest Service project applications will be supervised by Forest Service personnel trained in pesticide use and with authority to suspend operations, such as when atmospheric conditions change abruptly or other factors make it necessary.

10. The rights-of-way management plans of highway, road, transmission line, railroad maintenance departments and others, and County weed control plans will be reviewed and approved by the Forest Supervisor to ensure that all uses of pesticides on National Forest System lands conform to this Directive and Department policy, and that chemical treatments are necessary and properly applied. Use of alternatives to chemical herbicide treatment may be required.

11. When applying pesticides in sensitive situations, appropriate environmental monitoring will be carried out to determine amount of drift, if any, into nontarget areas and to detect unanticipated nontarget effects.

12. A comparison of ground and aerial applications—including costs, safety, effectiveness, and possible consequences of drift to adjacent lands or water—must be made whenever herbicides are to be used. Aerial application methods shall be used only when advantages over ground methods are significant. Herbicide aerial applications should be made with invert emulsions, particulating agents, or similar materials to ensure positive placement. The possibilities of drift to nontarget areas will be minimized in all applications.

13. Special attention will be given to all restricted-use pesticide handling and use precautions. Restricted-use pesticides shall be used only by personnel who are certified or who are under the direct supervision of a certified applicator (FSM 2143.2).

In addition, it is Forest Service policy to conduct and support research to develop and to evaluate the effectiveness and environmental safety of pest management technology—including new and improved pesticides, formulations, application timing, pest management tools, and methods—and to effectively transfer this technology to minimize costs and adverse environmental and health impacts.

JOHN R. MCGUIRE,
Chief.

[FR Doc. 78-11949 Filed 5-1-78; 8:45 am]

[3410-02]

Packers and Stockyards Administration

FARMERS AND RANCHERS LIVESTOCK AUCTION, INC., CHARLOTTE, ARK., ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), it was ascertained that the livestock markets named below were stockyards within the difinition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No., name, and location of stockyard	Date of posting
AR-158, Farmers and Ranchers Livestock Auction, Inc., Charlotte, Ark.	Apr. 8, 1978.
FL-125, Madison Stockyard, Inc., Madison, Fla.	Feb. 21 1978.
KY-163, New Farmers Livestock Market, Somerset, Ky.	Jan. 4, 1978.
MO-243, Adair County Livestock Market Center, Inc., Kirksville, Mo.	Mar. 22, 1978.
VA-150, Lynchburg Livestock Market, Inc., Lynchburg, Va.	Arp. 11, 1978.

Done at Washington, D.C. this 25th day of April, 1978.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch Livestock Marketing Division.

[FR Doc. 78-11823 Filed 5-1-78; 8:45 am]

[3410-02]

VALLEY LIVESTOCK AUCTION COMPANY, FRUITA, COLO, ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards, Agriculture Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in Section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisons of the Act.

CO-148, Valley Livestock Auction Company, Fruita, Colo.
MO-246, Tina Feeder Pig Auction, Tina, Mo.
MO-245, MFA Livestock Association, Inc., West Plains Concentration Point, West plains, Mo.
TX-315, Southwest Livestock Exchange, Inc., Uvalde, Tex.
VA-151, Abingdon Livestock Market, Inc., Abingdon, Va.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C.181 et seq.), propose to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in Section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards, Agriculture Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, by May 17, 1978.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 25th day of April, 1978.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch Livestock Marketing Division.

[FR Doc. 78-11822 Filed 5-1-78; 8:45 am]

[3410-02]

MONTROSE AUCTION CO., MONTROSE, COLO., ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
CO-133, Montrose Auction Co., Montrose, Colo.	Mar. 11, 1957.
IL-119, Heinold Livestock Sales, El Paso, Ill..	Nov. 20, 1959.
IA-216, Spencer Livestock Sales, Inc.,.	Apr. 16, 1958.
NY-144, Wallkill Livestock Market, Walden, N.Y.	Aug. 8, 1960.
NC-139, West Jefferson Livestock Market, West Jefferson, N.C.	Apr. 8, 1959.
TX-101, Ranchers and Farmers Livestock Commission Company, Abilene, Tex.	Nov. 19, 1948.
TX-123, Bridgeport Auction Barn, Bridgeport, Tex.	Feb. 15, 1960.
TX-275, Southwest Livestock Exchange, Inc. (Yard B), Uvalde, Tex.	June 12, 1957.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective May 2, 1978.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C. this 25th Day of April, 1978.

EDWARD L. THOMPSON,
Chief Registrations, Bonds, and Reports Branch Livestock Marketing Division.

[FR Doc. 78-11824 Filed 5-1-78; 8:45 am]

[3410-15]

Rural Electrification Administration

WESTERN FARMERS ELECTRIC COOPERATIVE, ANADARKO, OKLA.

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider: (a) Providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $26,143,000 to Western Farmers Electric Cooperative of Anadarko, Okla., and (b) supplementing such a loan with an insured REA loan at 5-percent interest in the approximate amount of $10,000,000 to this cooperative. These loan funds will be used to finance a project consisting of approximately 320 miles of 138 kV transmission line and related facilities. Also included are funds for additional headquarters facilities at Anadarko and McAlester, Okla.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Maynard Human, Manager, Western Farmers Electric Cooperative, P.O. Box 429, Anadarko, Okla. 73005.

In order to be considered, proposals must be submitted on or before June 1, 1978, to Mr. Human. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Western Farmers and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C., 20250.

Dated at Washington, D.C., this 24th day of April 1978.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc. 78-11733 Filed 5-1-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 30697]

CARIBBEAN AREA SERVICE INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 1, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before May 15, 1978, and the other parties on or before May 30, 1978. The submisions of the other parties shall be limited to points on which they differ with the Bureau of Pricing and Domestic Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., April 25, 1978.

WILLIAM A. KANE, JR.,
Adminsitrative Law Judge.

[FR Doc. 78-11902 Filed 5-1-78; 8:45 am]

[6320-01]

[Dockets 28515, 28604 and 28578; Order 78-4-151]

VARIOUS AIR CARRIERS

Order Relating to Approval of Various Control Relationships Under Section 408 of the Act or an Exemption Therefrom

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of April 1978.

By Order 77-11-42, we granted final approval to the proposals of various air carriers to acquire control of tour operator subsidiaries abroad which would market foreign-originating, nonexclusive tour type charters. By that order, we deferred action, however, on the requests of three carriers—Pan American, Trans International (TIA), and World—for additional and expanded authority.[1] By these requests, in Dockets 28515, 28604, and 28578, respectively, Pan American is seeking expanded authority to control its subsidiary in the United Kingdom to the extent that the subsidiary would market inclusive tours in conjunction with its scheduled services; TIA is seeking authority to control additional wholly owned tour operator subsidiaries to market foreign-originating, nonexclusive tour type charters in Luxemburg and Switzerland; and World is seeking blanket authority to acquire control of such tour operator subsidiaries in any country in which the flag-carrier of that nation already controls a tour operator.

In support of these requests for further authority, Pan American states

[1]These requests were filed subsequent to the issuance of our show cause order, Order 77-6-34, and therefore, were not considered on their merits in our final order, Order 77-11-42.

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that it needs expanded authority to market inclusive tours in scheduled service through its subsidiary in the United Kingdom because of the requirement of the Association of British Travel Agents that these programs be marketed through a separate subsidiary, rather than on an inhouse basis; TIA states that both Switzerland and Luxemburg have followed liberal policies with respect to the marketing of charters originating in those countries, and that it believes it would be competitively desirable for it to integrate vertically in those countries; and World submits that a grant of blanket authority would enable it to respond more promptly to competitive threats abroad.

We are tentatively prepared to approve the requests of Pan American and TIA for further authority, but have decided to deny World's request for a blanket authorization. Although no answers or comments were received in response to the former requests and although these requests do not appear to raise any significant questions of law, policy or material fact not considered previously by us in Orders 77-6-34 and 77-11-42, we, nonetheless, believe that interested persons should be provided with an opportunity to comment on these proposals and our tentative decision to approve them. As indicated, Pan American is seeking authority to employ its subsidiary in the United Kingdom to market inclusive tours in conjunction with its scheduled services. It states it requires this authority because the Association of British Travel Agents permits the marketing of inclusive tours only through a separate subsidiary, rather than on an in-house basis. Thus, for Pan American, such control is a prerequisite for it to market inclusive tours in the United Kingdom.

Scheduled airlines are already permitted to market inclusive tours on their regularly scheduled flights. By Order 76-12-101, we denied two petitions for rulemaking aimed at precluding such activity. In so doing, we did not find the marketing of these tours to be either adverse to the public interest or anticompetitive. In essence, as far as we are concerned, Pan American is merely seeking authority to do through a subsidiary what it is already permitted to do directly. Moreover, as was the case with the control relationship which we considered in Orders 77-6-34 and 77-11-42, the primary competitive effects of Pan American's expanded control of its subsidiary will take place in the United Kingdom. In view of the foregoing, we tentatively find that Pan American's request for this expanded authority should be granted. Consistently with our earlier findings, we tentatively find that a grant of this authority to Pan American will not affect the control of any air carrier directly engaged in the operation of aircraft in air transportation, result in creating a monopoly or otherwise tend to restrain competition.[2]

TIA is requesting authority to control additional tour operator subsidiaries in Switzerland and Luxemburg. By Order 77-11-42, we permitted the company to acquire control of wholly owned tour operator subsidiaries in Belgium, France, the Federal Republic of Germany, Italy, the Netherlands and the United Kingdom to market noninclusive tour type charters originating in those countries. TIA is now seeking identical authority for similar subsidiaries in Switzerland and Luxemburg. We believe that the policy considerations which prompted us to conclude that it should be permitted to control the other subsidiaries are equally applicable here. Moreover, the primary competitive effect of TIA's control of these additional subsidiaries will take place in foreign markets. Thus, we tentatively find that TIA's request to control these additional subsidiaries should be approved. A grant of such authority would appear to be consistent with the action we took in Order 77-11-42. Moreover, it does not appear that a grant of this additional authority would affect the control of any air carrier directly engaged in the operation of aircraft in air transportation, result in creating a monopoly or otherwise tend to restrain competition.

All interested persons will be given twenty (20) days following the date of service of this order to show cause why our tentative findings, set forth above, should not be made final. Answers to these objections will be due ten (10) days after the time for filing objections to support their objections with legal precedent, detailed facts and economic analysis. If further hearing procedures are requested, the objecting party should state in detail why such procedures are considered necessary, and what relevant and material facts can be expected to be established through such procedures which cannot be established through written pleadings. General, vague or unsupported allegations will not be considered.

We see some merit to World's request for blanket authority to acquire tour operators in countries where the national carrier already controls a tour operator. Many foreign countries allow such control relationships to be established quickly, with only a minimum of government review. If U.S. carriers are subject to formal proceedings before such relationships can be established, they may suffer a competitive disadvantage until the proceedings are completed. This seems all the more unfortunate in light of our findings here and in Order 77-11-42 that the experience in a number of countries failed to demonstrate that such control relationships have adverse consequences for the public. Nevertheless, the World request is rather broad, and it comes at a particularly difficult time for us to make sweeping changes in the relationships between air carriers and tour organizers.

The Board will be receiving public comments soon on very significant liberalizations of the rules governing charter air transportation. A final charter rule is expected by this summer. Many of the proposed liberalizations—elimination of advance purchase and roundtrip requirements, for example—would remove differences between charter and scheduled air transportation that have been cited as factors in the legal distinction between the two types of air transportation. The fact that charter transportation is marketed and sold to the public by a tour operator also has been considered quite relevant to this legal distinction. If we are to allow generalized changes in the relationships between tour organizers and air carriers, it would seem wiser to do so only after the legal implications of our new charter rules are somewhat clearer.

For these reasons, we will deny World's request at this time. At the same time, we emphasize that we do not intend to impose an unnecessary marketing handicap on U.S. air carriers' overseas operations. We will give the speediest possible consideration to specific requests for approval of control relationships of this type in the future.

Accordingly, *It is ordered* That: 1. All interested persons be directed to show cause why the Board should not issue an order making final its tentative findings and conclusions set forth in this order;

2. Any interested person having objection to the issuance of an order making final any of the proposed findings or conclusions set forth in this order shall, within twenty (20) days after the date of service of this order, file with the Board and serve upon all the parties noted in paragraph 5 a statement of objections supported by legal precedent, detailed facts and economic analysis; answers to the objections will be due ten (10) days after the time for the filing of objections has expired;

3. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

[2] We will grant the motion Pan American filed requesting that an order be issued pursuant to Order 77-11-42.

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4. The outstanding request of World Airways, Inc., in Docket 28578, for further authority be denied; and

5. The motion of Pan American that an order be issued pursuant to Order 77-11-42 be granted.

This order shall be published in the FEDERAL REGISTER, and served on all parties of record in Dockets 28515, 28604 and 28578.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,[3]
Secretary.

[FR Doc. 78-11903 Filed 5-1-78; 8:45 am]

[3] All Members concurred.

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

EXPORT MONITORING REPORT FOR COAL AND COKE OF COAL

Week Ending March 31, 1978

Total bituminous coal exports for this week were 214,163 short tons compared with 550 short tons exported the preceding week. All exports for the week were of metallurgical grade. The weighted average price of coal exports for this week was $52.07 per short ton with a high and low price of $60 and $48.73 per short ton, respectively. With the current level of export activity, only a small number of firms reported coal shipments during the week. A breakdown of these exports by volatility and area of destination is, therefore, withheld from this report to prevent disclosure of information deemed to be confidential pursuant to section 7(c) of the Export Administration Act of 1969, as amended.

Exports of coke manufactured from coal for this week were 4,317 short tons compared with 4,488 short tons exported the preceding week and a weekly average of 11,600 short tons for the preceding 6 weeks. The weighted average price of this commodity for the week was $127.48 per short tons with a reported high and low price of $142.79 and $122 per short ton, respectively. Coke of coal export prices for the week indicate no price changes.

Domestic coal production for the week was 11,945,000 short tons, and increase from the 8,355,000 short tons produced the preceding week. On March 24, 1978, the United Mine Workers of America and the Bituminous Coal Operators Association approved a new labor contract which officially ended the coal strike that started on December 6, 1977. This week's increase in production reflects the resumption of mining operations with the end of the strike.

Total bituminous coal consumption for this week was estimated to be 9,655,000 short tons compared with 9,431,000 short tons consumed the preceding week. Total end-of-week coal inventories were estimated to be 81,314,000 short tons, a decrease of 745,000 short tons from the preceding week. This relatively small decrease in total coal inventories indicates that domestic consumer receipts and consumption of coal are approaching a balance.

No movement in domestic coal prices is noted for the week ending March 31, 1978.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

TABLE 1.—*U.S. exports of bituminous coal and coke of coal, in short tons*

[For week ending Mar. 31, 1978]

EXPORTS

Commodity	Weekly average December 1975	Weekly average December 1976	Weekly average November 1977	Week ending Dec. 9, 1977	Week ending Dec. 16, 1977	Week ending Dec. 23, 1977	Week ending Dec. 30, 1977
Low volatile metallurgical coal [1]	NA	NA	***133,877	199,136	96,895	(*)	(*)
Medium volatile metallurgical coal [2]	NA	NA	NA	283,420	118,632	(*)	(*)
High volatile metallurgical coal [3]	NA	NA	NA	47,055	176,827	(*)	(*)
Total metallurgical coal	NA	NA	889,125	*550,459	**436,605	521,109	128,822
Other bituminous coal	NA	NA	158,326	129,424	351,869	59,500	0
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

Commodity	Average January 1976	Average January 1977	Week ending Jan. 6, 1978	Week ending Jan. 13, 1978	Week ending Jan. 20, 1978	Week ending Jan. 27, 1978
Low volatile metallurgical coal [1]	NA	NA	(*)	(*)	(*)	(*)
Medium volatile metallurgical coal [2]	NA	NA	(*)	(*)	(*)	(*)
High volatile metallurgical coal [3]	NA	NA	(*)	(*)	(*)	(*)
Total metallurgical coal	NA	NA	174,709	311,331	97,800	262,585
Other bituminous coal	NA	NA	0	0	0	0
Total bituminous coal	834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal	12,326	20,514	4,466	5,062	29,143	30,634

Commodity	Weekly average February 1976	Weekly average February 1977	Week ending Feb. 3, 1978	Week ending Feb. 10, 1978	Week ending Feb. 17, 1978	Week ending Feb. 24, 1978
Low volatile metallurgical coal [1]	NA	NA	(*)	(*)	(*)	(*)
Medium volatile metallurgical coal [2]	NA	NA	(*)	(*)	(*)	(*)
High volatile metallurgical coal [3]	NA	NA	(*)	(*)	(*)	(*)
Total metallurgical coal	NA	NA	251,327	72,569	139,143	206,762
Other bituminous coal	NA	NA	0	(*) [R]	0	0
Total bituminous coal	736,138	769,840	251,327	72,569	139,143	206,762
Coke of coal	22,185	12,805	3,998	75,173	43,315	8,595

Commodity	Weekly average March 1976	Weekly average March 1977	Week ending Mar. 3, 1978	Week ending Mar. 10, 1978	Week ending Mar. 17, 1978	Week ending Mar. 24, 1978	Week ending Mar. 31, 1978
Low volatile metallurgical coal [1]	NA	NA	(*)	(*)	(*)	0	(*)
Medium volatile metallurgical coal [2]	NA	NA	(*)	(*)	(*)	0	(*)
High volatile metallurgical coal [3]	NA	NA	(*)	(*)	(*)	0	(*)
Total metallurgical coal	NA	NA	162,451	102,698	*24,182	0	214,163
Other bituminous coal	NA	NA	(*) [R]	0	0	550	0

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TABLE 1.—*U.S. exports of bituminous coal and coke of coal, in short tons*

Commodity	Exports: Weekly average March 1976	Weekly average March 1977	Week ending Mar. 3, 1978	Mar. 10, 1978	Mar 17, 1978	Mar. 24, 1978	Mar. 31, 1978
Total bituminous coal	898,473	765,515	162,451	102,698	24,182	550	214,163
Coke of coal	19,541	24,320	4,998	4,651	3,359	4,488	4,317

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[5] Subject to revision. Less than 10,000 short tons of additional bituminous coal may have been exported; the Department of Commerce is seeking to verify this information.
* Includes 20,848 short tons of metallurgical grade coal not identified as to volatility.
** Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
*** Partial, in content tons.
[R] Revised.

NA—Not available.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 2.—*Contracts for export of bituminous coal and coke of coal, in short tons*

[For week ending Mar. 31, 1978]

Commodity	Contracts Week ending Apr. 7, 1978	Apr. 14, 1978	Apr. 21, 1978	Apr. 28, 1978	May 5, 1978	May 12, 1978	Next 6 weeks	Total for 12 weeks
Low volatile metallurgical coal [1]	204,849	90,955	90,953	110,253	188,753	108,953	945,808	1,740,524
Medium volatile metallurgical coal [2]	160,694	205,890	304,619	412,658	411,136	219,588	2,299,739	4,014,324
High volatile metallurgical coal [3]	22,608	22,608	30,610	152,440	31,510	31,510	246,676	537,962
Total metallurgical coal	388,151	319,453	426,182	675,351	631,399	360,051	3,492,223	6,292,810
Other bituminous coal	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Coke of coal	3,228	3,228	2,963	2,853	2,793	2,733	38,896	56,694

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 3.—*U.S. exports by commodity and area of destination, in short tons*

[For week ending Mar. 31, 1978]

Commodity and area of destination	Exports: Weekly average December 1975	December 1976	November 1977	Week ending Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile metallurgical coal: [1]							
Asia			7,458	111,525	24,808	(*)	(*)
Europe			43,463	40,893	69,440	(*)	(*)
Western Hemisphere			82,956	46,718	2,647	(*)	(*)
Total	NA	NA	**133,877	199,136	96,895	(*)	(*)
Medium volatile metallurgical coal: [2]							
Asia				102,906	93,291	(*)	(*)
Europe				173,711	15,958	(*)	(*)
Western Hemisphere				6,803	9,383	(*)	(*)
Total	NA	NA	NA	283,420	118,632	(*)	(*)
High volatile metallurgical coal: [3]							
Asia				11,331	0	(*)	(*)
Europe				0	76,532	(*)	(*)
Western Hemisphere				35,724	100,295	(*)	(*)
Total	NA	NA	NA	47,055	176,827	(*)	(*)
Total metallurgical coal:							
Asia			377,151	225,762	118,099	134,389	(*)
Europe			269,606	214,604	161,930	206,831	(*)
Western Hemisphere			224,411	*110,093	*112,325	136,928	(*)
Total	NA	NA	***889,125	*550,459	*436,605	521,109	128,822

TABLE 3.—*U.S. exports by commodity and area of destination, in short tons*—Continued

Commodity and area of destination	Exports: Week ending Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Low volatile metallurgical coal: [1]							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Medium volatile metallurgical coal: [2]							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)
High volatile metallurgical coal: [3]							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total metallurgical coal:							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	174,709	311,331	97,800	262,585	251,327	72,569	139,143

Commodity and area of destination	Week ending Feb. 24, 1978	Mar 3, 1978	Mar. 10, 1978	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978
Low volatile metallurgical coal: [1]						
Asia	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)
Medium volatile metallurgical coal: [2]						
Asia	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)
High volatile metallurgical coal: [3]						
Asia	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)
Total metallurgical coal:						
Asia	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)
Total	206,762	162,451	102,698	*24,182	0	214,163

	Weekly average December 1975	December 1976	November 1977	Week ending Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	0
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	788,274	580,509	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

	Week ending Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Other bituminous coal	0	0	0	0	0	0	0
Total bituminous coal	174,709	311,331	97,800	262,585	251,327	72,569	139,143
Coke of coal	4,466	5,062	29,143	30,634	3,998	75,173	43,315

	Week ending Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978
Other bituminous coal	0	0	0	0	550	0

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TABLE 3.—*U.S. exports by commodity and area of destination, in short tons*—Continued

Commodity and area of destination	EXPORTS Week ending Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978
Total bituminous coal	206,762	162,451	102,698	[3]24,182	550	214,163
Coke of coal	8,595	4,998	4,651	3,359	4,488	4,317

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[5] Subject to revision. Less than 10,000 short tons of additional bituminous coal may have been exported; the Department of Commerce is seeking to verify this information.
*Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
**Partial, in content tons.
***Includes 17,957 short tons of metallurgical grade coal to destinations not listed above.
NA—Not available.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 4.—*Anticipated exports by commodity and area of destination, in short tons*

[For week ending Mar. 31, 1978]

Commodity and area of destination	Contracts—Week ending Apr. 7, 1978	Apr. 14, 1978	Apr. 21, 1978	Apr. 28, 1978	May 5, 1978	May 12, 1978	Next 6 weeks	Total for 12 weeks
Total metallurgical coal: [1]								
Asia	135,598	73,342	125,862	333,912	201,042	155,642	1,377,723	2,403,121
Europe	210,560	220,918	274,125	275,294	326,914	170,314	1,402,930	2,881,055
Western Hemisphere	41,993	25,193	26,195	66,145	103,443	34,095	424,570	721,634
Total	388,151	319,453	426,182	675,351	631,399	360,051	*3,492,223	*6,292,810
Other bituminous	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Total bituminous coal								(2)
Coke of coal	3,228	3,228	2,963	2,853	2,793	2,733	38,896	56,694

[1] Volatility data by destination have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[2] Less than 100,000 tons. Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[3] Data withheld to avoid disclosure of data withheld above. See footnote 2.
*Includes 287,000 tons to destinations not listed above.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 5.— *Export prices of bitumionous coal and coke of coal, in dollars per short ton*

[Week ending Mar. 31, 1978]

Commodity	Average March 1976	March 1977	November 1977	Weighted	High	Low
Low volatile metallurgical coal [1]	NA	NA	NA	(*)	(*)	(*)
Medium volatile metallurgical coal [2]	NA	NA	NA	(*)	(*)	(*)
High volatile meallurgical coal [3]	NA	NA	NA	(*)	(*)	(*)
Total metallurgical coal	NA	NA	53.84	52.07	60.00	48.73
Other bituminous coal	NA	NA	35.01			
Total bituminous coal	50.79	50.64	50.99	52.07	60.00	48.73
Coke of coal	62.97	57.19	79.70	127.48	142.79	122.00

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter
[4] Due to a limited number of firms reporting this data, precise figures have been witheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

[1] NA—Not available.

TABLE 6.—*U.S. trade in bituminous coal and coke of coal, in short tons*

[For week ending Mar. 31, 1978]

	Weekly average December 1975	December 1976	November 1977	Week ending Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Imports:							
Bituminous coal [1]	20,097	21,452	31,158	NA	NA	NA	NA
Coke of coal	20,774	28,903	41,267	NA	NA	NA	NA

TABLE 6.—*U.S. trade in bituminous coal and coke of coal, in short tons*—Continued

	Weekly average December 1975	December 1976	November 1977	Week ending Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Exports:							
Bituminous coal [1]	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

	Average January 1976	January 1977	Week ending Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Imports:						
Bituminous coal [1]	16,346	27,198	NA	NA	NA	NA
Coke of coal	3,483	5,987	NA	NA	NA	NA
Exports:						
Bitiminous coal	834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal	12,326	20,514	4,466	5,062	29,143	30,634

	Weekly average February 1976	February 1977	Week ending Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978
Imports:						
Bituminous coal [1]	NA	NA	NA	NA	NA	NA
Coke of coal	NA	NA	NA	NA	NA	NA
Exports:						
Bituminous coal [1]	736,138	769,840	251,327	72,569	139,143	26,762
Coke of coal	22,185	12,805	3,998	75,173	43,315	8,595

	Weekly average March 1976	March 1977	Week ending Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978
Imports:							
Bituminous coal [1]	NA	NA	NA	NA	NA	NA	NA
Coke of coal	NA	NA	NA	NA	NA	NA	NA
Exports:							
Bituminous coal [1]	898,473	765,515	162,451	102,698	[2]24,182	550	214,163
Coke of coal	19,541	24,320	4,998	4,651	3,359	4,488	4,317

[1] Includes both metallurgical grade and steam coal.
[2] Subject to revision. Less than 10,000 short tons of additional bituminous coal may have been exported; the Department of Commerce is seeking to verify this information.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 7.—*Bituminous coal and coke of coal * production, consumption, and stocks, in thousand short tons*

[For week ending Apr. 1, 1978]

	Weekly average December 1975	December 1976	November 1977	Week ending Dec. 10, 1977	Dec. 17, 1977	Dec. 24, 1977	Dec. 31, 1977
Total bituminous coal production**	12,019	12,593	14,798	9,100	5,080	(R)5,515	5,700
Consumption:							
Metallurgical***	1,519	1,568	NA	1,290	1,368	1,364	1,324
Other bituminous:							
Electric utility	8,414	9,387	NA	9,228	9,550	9,398	8,928
General industry	1,358	1,421	NA	1,330	1,252	1,163	1,146
Total other	9,772	10,808	NA	10,558	10,802	10,561	10,074
Total bituminous	11,291	12,376	NA	11,848	12,170	11,925	11,398
Bituminous coal stocks (end of specified periods):							
Metallurgical***	8,671	9,804	NA	(R)15,084	14,776	13,982	13,088
Other bituminous:							
Electric utility	109,707	117,468	NA	(R)146,171	141,691	136,993	131,308
General industry	8,504	6,900	NA	9,495	9,248	8,896	8,425
Total other	118,211	124,368	NA	155,666	150,939	145,889	139,713
Total bituminous	126,882	134,172	NA	170,750	165,715	159,871	152,801

	Weekly average January 1976	January 1977	Week ending Jan. 7, 1978	Jan. 14, 1978	Jan. 21, 1978	Jan. 28, 1978	Feb. 4, 1978
Total bituminous coal production**	11,627	9,520	5,755	(R)5,260	(R)5,045	(R)4,970	5,440
Consumption:							
Metallurgical***	1,505	1,428	1,291	1,192	1,221	1,161	1,129

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TABLE 7.—*Bituminous coal and coke of coal* production, consumption, and stocks, in thousand short tons*—Continued

	Weekly average		Week ending				
	January 1978	January 1977	Jan. 7, 1978	Jan. 14, 1978	Jan. 21, 1978	Jan. 28, 1978	Feb. 4, 1978
Other bituminous:							
Electric utility	9,009	9,730	9,359	9,652	9,763	9,765	9,386
General industry	1,211	1,442	1,220	1,298	1,199	1,152	1,185
Total other	10,220	11,172	10,579	10,950	10,962	10,917	10,571
Total bituminous	11,725	12,600	11,870	12,142	12,183	12,078	11,700
Bituminous coal stocks (end of specified periods):							
Metallurgical***	8,115	8,107	11,992	10,900	9,771	8,821	(R)7,772
Other bituminous:							
Electric utility	104,456	103,883	126,268	119,399	112,535	105,945	(R)99,244
General industry	6,425	5,960	8,046	7,579	7,246	6,811	6,484
Total other	110,881	109,843	134,314	126,978	119,781	112,756	(R)105,728
Total bituminous	118,996	117,950	146,306	137,878	129,552	121,577	(R)113,500

	Week ending							
	Feb. 11, 1978	Feb. 18, 1978	Feb. 25, 1978	Mar. 4, 1978	Mar. 11, 1978	Mar. 18, 1978	Mar. 25, 1978	Apr. 1, 1978
Total bituminous coal production**	(R)6,110	6,570	6,680	(R)7,330	7,580	(R)8,335	(R)8,355	11,945
Consumption:								
Metallurgical***	1,069	1,035	970	969	926	866	880	932
Other bituminous:								
Electric utility	9,479	8,923	8,660	8,360	8,034	7,474	7,450	7,614
General industry	1,189	1,188	1,167	1,222	1,183	1,179	1,101	1,109
Total other	10,668	10,111	9,827	9,582	9,217	8,653	8,551	8,723
Total bituminous	11,737	11,146	10,797	10,551	10,143	9,519	9,431	9,655
Bituminous coal stocks (end of specified periods):								
Metallurgical***	6,888	6,024	(R)5,479	(R)4,834	(R)4,353	(R)3,993	(R)3,673	3,360
Other bituminous:								
Electric utility	92,937	87,892	(R)83,421	(R)79,604	(R)76,697	(R)74,883	(R)73,183	72,757
General industry	6,121	5,882	5,706	5,483	5,352	5,245	5,203	5,197
Total other	99,058	93,574	(R)89,127	(R)85,087	(R)82,049	(R)80,128	(R)78,386	77,954
Total bituminous	105,946	99,598	(R)94,606	(R)89,921	(R)86,402	(R)84,121	(R)82,059	81,314

* Data on coke of coal production, consumption, and stocks are not available on a weekly basis.
** More detailed production data are not available.
*** More detailed date in terms of volatile content are not available.
(R) Revised.

Data source: Department of Energy.

[FR Doc. 78-11747 Filed 5-1-78; 8:45 am]

[3510-08]

National Oceanic and Atmospheric Administration

PUBLIC HEARINGS ON DRAFT Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement for the Coastal Management Program of the State of Maine.

The hearings will be held on May 22, 1978, in the Council Chambers at the Hampden Town Hall on Main Road, in Hampden, Maine; on May 23, 1978, in Room 113 of the State Office Building on Capitol Street, in Augusta, Maine; and on May 24, 1978, in Room 318 at the Greater Portland Council of Governments, at 331 Veranda Street, in Portland, Maine. Each of the hearings will begin at 7:30 p.m.

The views of interested persons and organizations are solicited. These may be expressed orally or in written statements.

Presentations will be scheduled on a first-come, first-serve basis, but may be limited to a maximum of 10 minutes or as otherwise appropriate. Priority will be given to those with written statements. Time will be available at the end of the meeting for persons without statements to present their views orally. The Office of Coastal Zone Management staff may question any speaker following presentation of his/her statement. No verbatim transcript of the hearing will be maintained; but staff present will record the general thrust of the remarks.

Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management as soon as possible so that an appearance schedule may be drawn up and definite times established for presentations. Please contact:

June Cradick, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven St. NW, phone: 202-634-4242, Washington, D.C. 20235.

Written comments may also be submitted by mail to the Office of Coastal Zone Management. Such comments should be received before June 12, 1978, to assure adequate consideration for inclusion in the Final Environmental Impact Statement.

Copies of the Draft Environmental Impact Statement may be obtained by contacting the Office of Coastal Zone Management or:

Esther Lacognata, State Planning Office, Resource Planning Division, 189 State Street, phone: 207-289-3155, Augusta, Maine 04333.

Comments may address the adequacy of the impact statement and/or the nature of the Maine Coastal Management Program.

Following consideration of the comments received at these hearings, as well as written comments submitted, the Office of Coastal Zone Management will prepare the final environmental impact statement pursuant to the National Environmental Policy Act of 1969 and implementing guidelines.

Dated: April 26, 1978.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

[FR Doc. 78-11858 Filed 5-1-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

National Marine Fisheries Service

SEA WORLD, INC.

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take and import marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: (a) Name: Sea World, Inc., Dr. Lanny Cornell, Vice President. (b) Address: 1720 South Shores Road, Mission Bay, San Diego, Calif. 92109.

2. Type of permit: Public Display and Scientific Research.

3. Name and number of animals: Killer whales (*Orcinus orca*), 4.

4. Type of take: To capture and maintain in a permanent facility. Animals will be utilized for public display, opportunistic research and captive propagation.

5. Location of activity: North Atlantic waters, Iceland or Scandinavia.

6. Period of activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: April 24, 1978.

ROLAND FINCH,
Acting Deputy Assistant, Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc. 78-11958 Filed 5-1-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20314.

Patent 3,995,792: Laser Missile Guidance System; filed Oct. 15, 1974; patented Dec. 7, 1976; not available NTIS.

Patent 4,001,287: Reaction Product of Normal Lead Beta Resorcylate and Monobasic Cupric Salicylate; filed Feb. 18, 1972; patented Jan. 4, 1977; not available NTIS.

Patent 4,002,064: Rifled Soft Recovery System; filed Feb. 19, 1976; patented Jan. 11, 1977; not available NTIS.

Patent 4,002,123: Dual Channel Redundant Fuze; filed July 11, 1975; patented Jan. 11, 1977; not available NTIS.

Patent 4,003,659: Single Plane Corner Reflector Guidance System; filed Nov. 15, 1974; patented Jan. 18, 1977; not available NTIS.

Patent 4,003,953: Purification of TNT with Magnesium Sulfite-Bisulfite Mixtures; filed Feb. 23, 1976, patented Jan. 18, 1977; not available NTIS.

Patent 4,004,754: High-Speed, High-G Air Bearing Optical Mount for Rosette Scan Generator; filed July 11, 1974; patented Jan. 25, 1977; not available NTIS.

Patent 4,005,931: Sealed Cassette for Optical Sound Projection; filed Jan. 15, 1974, patented Feb. 1, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research and Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent 4,056,354: Process for Rapid Dyeing of Textiles. Filed Feb. 10, 1976; patented Nov. 1, 1977; not available NTIS.

Patent 4,064,283: Preparation of Protein Concentrates from Whey and Seed Products; filed June 14, 1976; patented Dec. 20, 1977; not available NTIS.

Patent 4,069,106: Immobilization of Enzymes on Keratin; filed Jan. 13, 1977; patented Jan. 17, 1978; not available NTIS.

U.S. DEPARTMENT OF COMMERCE, National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161.

Patent application 868,356: Inverse Fourth Power Photometric Calibrator; filed Jan. 10, 1978.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 4,016,242: Salts of the Iodine Oxyacids in the Impregnation of Adsorbent Charcoal for Trapping Radioactice Methyliodide; filed Feb. 26, 1976; patented Apr. 5, 1977; not available NTIS.

Patent 4,016,304: Method for Applying Pyrolytic Carbon Coatings to Small Particles; filed June 17, 1975, patented Apr. 5, 1977; not available NTIS.

Patent 4,017,253: Fluidized-Bed Calciner with Combustion Nozzle and Shroud; filed Sept. 16, 1975; patented Apr. 12, 1977; not available NTIS.

Patent 4,017,417: Immobilization of Iodine in Concrete. Filed July 30, 1976; patented Apr. 12, 1977; not available NTIS.

Patent 4,020,004: Conversion of Radioactive Ferrocyanide Compounds to Immobile Glasses; filed Nov. 21, 1975; patented Apr. 26, 1977; not available NTIS.

Patent 4,020,692: Ultrasonic Thermometer Isolation Standoffs; filed Sept. 26, 1975; patented May 3, 1977; not available NTIS.

Patent 4,020,693: Acoustic Transducer for Nuclear Reactor Monitoring; filed Apr. 12, 1976; patented May 3, 1977; not available NTIS.

Patent 4,021,300: Improved Nuclear Fuel Assembly Grid Spacer; filed May 23, 1975; patented May 3, 1977; not available NTIS.

Patent 4,021,676: Waste Canister for Storage of Nuclear Wastes; filed May 7, 1976; patented May 3, 1977; not available NTIS.

Patent 4,025,602: Recovery of Transplutonium Elements from Nuclear Reactor Waste; filed May 25, 1976; patented May 24, 1977; not available NTIS.

Patent 4,026,763: Liquid-Metal Dip Seal with Pneumatic Spring; filed Apr. 12, 1976; patented May 31, 1977; not available NTIS.

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Patent 4,027,156: X-ray Source Safety Shutter; filed May 25, 1976; patented May 31, 1977; not available NTIS.
Patent 4,028,180: Support Grid for Fuel Elements in a Nuclear Reactor; filed Mar. 16, 1976; patented June 7, 1977; not available NTIS.
Patent 4,028,265: Process for Converting Sodium Nitrate Coptaining, Caustic Liquid Radioactive Wastes to Solid Insoluble Products; filed Aug. 25, 1975; patented June 7, 1977; not available NTIS.
Patent 4,028,545: Method of Simulating Spherical Voids for Use as a Radiographic Standard; filed Feb. 17, 1976; patented June 7, 1977; not available NTIS.
Patent 4,028,811: Tubular Gage for a Liquid-Metal-Cooled Fast Breeder Reactor; filed Mar. 2, 1976; patented June 14, 1977; not available NTIS.
Patent 4,029,123: Pump Tank Divider Plate for Sump Suction Sodium Pumps; filed Aug. 20, 1975; patented June 14, 1977; not available NTIS.
4,031,387: Method of Determining Whether Radioactive Contaminants Are Inside or Outside a Structure; filed Aug. 5, 1976; patented June 21, 1977; not available NTIS.
Patent 4,032,400: Nuclear Reactor Fuel Element with Vanadium Getting on Cladding; filed Feb. 17, 1976; patented June 28, 1977; not available NTIS.
Patent 4,032,614: Process for the Disposal of Alkali Metals; filed Oct. 20, 1975; patented June 28, 1977; not available NTIS.
Patent 4,032,615: Method for the Safe Disposal of Alkali Metal; filed Jan. 27, 1976; patented June 28, 1977; not available NTIS.
Patent 4,033,813: Method of Detecting Leakage of Reactor Core Components of Liquid Metal Cooled Fast Reactors; filed Oct. 22, 1975; patented July 5, 1977; not available NTIS.
Patent 4,036,688: Apparatus for Controlling Molten Core Debris; filed Apr. 9, 1975; patented July 19, 1972; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent application 817,377: Preparation of 2,4,5,6-Tetraaminopyrimidine from 2,4,6-Triaminopyrimidine; filed July 20, 1977.
Patent application 823,142: Slide Valve; filed Aug. 9, 1977.

[FR Doc. 78-11845 Filed 5-1-78; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the patent application number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20314.

Patent 4,011,014: Polarization Rotation Analyzer; filed March 8, 1974; patented March 8, 1977; not available NTIS.
Patent 4,011,788: Stripper/De-linking Mechanism; filed January 16, 1976; patented March 15, 1977; not available NTIS.
Patent 4,012,465: Alkyl and Cycloalkyl Methylphosphonofluoridothioates; filed November 13, 1962; patented March 15, 1977; not available NTIS.
Patent 4,012,640: X-Ray Generator; filed August 30, 1973; patented March 15, 1977; not available NTIS.
Patent 4,015,266: Radar Dipole Antenna Array; filed March 5, 1976; patented March 29, 1977; not available NTIS.
Patent 4,015,532: Energy Generator for Rotating Projectiles; filed February 11, 1976; patented April 5, 1977; not available NTIS.
Patent 4,017,743: Elimination of Crosstalk in Two Sequentially Operated Darlington Amplifier Channels; filed September 26, 1975; patented April 12, 1977; not available NTIS.
Patent 4,018,534: Aerosol Average-Density Determining System; filed May 21, 1975; patented April 19, 1977; not available NTIS.
Patent 4,021,760: EMP Circuit Board Filter Using MOV Devices; filed January 19, 1976; patented May 3, 1977; not available NTIS.
Patent 4,021,814: Broadband Corrugated Horn with Double Ridged Circular Waveguide; filed January 19, 1976; patented May 3, 1977; not available NTIS.
Patent 4,023,103: Synchronizer for Frequency Hopping Receiver; filed January 26, 1976; patented May 10, 1977; not available NTIS.
Patent 4,023,110: Pulse Comparison System; filed December 4, 1975; patented May 10, 1977; not available NTIS.
Patent 4,025,921: Technique for Obtaining Wide Bandwidth with Optically Fed Array; filed November 19, 1975; patented May 24, 1977; not available NTIS.
Patent 4,027,168: Rapid Shutter Mechanism; filed September 9, 1975; patented May 31, 1977; not available NTIS.
Patent 4,027,256: Low Level Broadband Limiter having Ferrite Rod Extending through Dielectric Resonators; filed July 9, 1976; patented May 31, 1977; not available NTIS.
Patent 4,027,264: Phase Lock Loop Multitone Interference Canceling System; filed February 24, 1976; patented May 31, 1977; not available NTIS.
Patent 4,027,948: Low Loss Laser Modulater; filed March 15, 1976; patented June 7, 1977; not available NTIS.
Patent 4,028,534: Automatic Span Circuit; filed April 14, 1976; patented June 7, 1977; not available NTIS.
Patent 4,028,645: Automatic Impedance Matching Using Resistive and Reactive Diodes; filed June 21, 1976; patented June 7, 1977; not available NTIS.
Patent 4,028,673: Crosswind Measurements through Pattern Recognition Techniques; filed October 31, 1975; patented June 7, 1977; not available NTIS.
Patent 4,040,686: Anti-Friction Bearing; filed October 23, 1975; patented August 9, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 868,360: An Excimer-Pumped Blue-Green Laser; filed January 10, 1978.
Patent 3,693,440: Electromagnetic Flowmeter; filed March 21, 1969; patented September 26, 1972; not available NTIS.
Patent 4,010,250: Radioactive Iodine (1251) Labeling of Latex Particles; filed March 6, 1975; patented March 1, 1977; not available NTIS.
Patent 4,022,602: Method of fabrication Low-Loss Channel Optical Waveguides; filed October 30, 1975; patented May 10, 1977; not available NTIS.
Patent 4,031,005: controllable Sorbent Broadcaster; filed August 23, 1976; patented June 21, 1977; not available NTIS.
Patent 4,031,488: Multiple Polarization Switch; filed April 5, 1976; patented June 21, 1977; not available NTIS.
Patent 4,034,611: Particulate Sampling Probe; filed December 3, 1976; patented July 12, 1977; not available NTIS.
Patent 4,036,581: Igniter; filed September 3, 1976; patented July 19, 1977; not available NTIS.
Patent 4,039,494: Fungus Resistant Protective Coatings; filed February 26, 1976; patented August 2, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application SN 858,765: Apparatus and Method for Stabilized Phase Detection for Binary Signal Tracking Loops; filed December 8, 1977.
Patent application 853,676: Rotary Target V-Block; filed November 21, 1977.
Patent application 853,705: Simultaneous Treatment of SO_x Containing Stack Gases and Waste Water; filed November 21, 1977.
Patent application 856,461: Fluid Velocity Measuring Device; filed November 30, 1977.
Patent application 856,464: External Bulb Variable Volume Maser; filed November 30, 1977.
Patent application 858,764: Time Domain Phase Measuring Apparatus; filed December 8, 1977.
Patent application 858,770: Low Profile Circularly Polarized Antenna; filed December 8, 1977.

Patent 4,061,812: Honeycomb-Laminate Composite Structure; filed June 22, 1976; patented December 6, 1977; not available NTIS.
Patent 4,061,856: Trimerization of Aromatic Nitriles; filed October 10, 1974; patented December 6, 1977; not available NTIS.
Patent 4,061,974: Ultra Stable Frequency Distribution System; filed June 21, 1976; patented December 6, 1977; not available NTIS.
Patent 4,062,227: Cw Ultrasonic Bolt Tensioning Monitor: filed December 23, 1976; patented December 13, 1977; not available NTIS.
Patent 4,062,347: Solar Heating System; filed August 24, 1976; patented August 24, 1976; not available NTIS.
Patent 4,062,650: Thermoluminescent Aerosol Analysis; filed December 29, 1976; patented December 13, 1977; not available NTIS.
Patent 4,062,996: Transmitting and Reflecting Diffuser; filed June 18, 1973; patented December 13, 1977; not available NTIS.
Patent 4,063,088: Method of and Means for Testing a Glancing-Incidence Mirror System of an X-Ray Telescope; filed November 25, 1975; patented December 13, 1977; not available NTIS.
Patent 4,063,092: Selective Image Area Control of X-Ray Film Exposure Density; filed April 9, 1976; patented December 13, 1977; not available NTIS.

[FR Doc. 78-11846 Filed 5-1-78; 8:45 am]

[3510-13]

Office of the Secretary

NATIONAL LABORATORY ACCREDIATION CRITERIA COMMITTEE FOR THERMAL INSULATION MATERIALS

Open Meeting

The National Laboratory Accreditation Criteria Committee for Thermal Insulation will hold its first meeting on May 22-23, 1978, in the Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. (public entrance to the building is on 14th Street, between Constitution Avenue and E Street NW.). The Committee will meet from 10 a.m. to 7 p.m. on May 22 in Room 6802 and from 9 a.m. to 1 p.m. in Room 4833 on May 23.

The Committee was established on October 12, 1977 (42 FR 55020) to develop and recommend to the Secretary of Commerce, general and specific criteria for accrediting testing laboratories that test thermal insulation materials. The Committee consists of 21 members; 10 of whom represent producers, distributors, users, consumers, academia, testing laboratories, and general interests in the private sector; 6 of whom represent Federal agency interests; and 4 of whom represent state and local government interests. The Committee is chaired by Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, of the Department of Commerce.

Tentative agenda items include:

1. Discussion of Committee objectives and schedules.
2. Background of the National Voluntary Laboratory Accreditation Program for Thermal Insulation Materials.
3. The role of the National Bureau of Standards (NBS) and a discussion of the practical aspects of evaluating laboratories.
4. Concepts used in preparing suggested laboratory evaluation criteria.
5. Suggestions for general and specific criteria.
6. Sources of and criteria for laboratory assessors.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of the minutes and material distributed will be made available for reproduction, following certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Department of Commerce Central Reference Service and Inspection Facility, Washington, D.C. 20230.

Additional information may be obtained from Mr. John W. Locke, Coordinator, National Voluntary Laboratory Accreditation Program, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202-377-5872.

Dated: April 27, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-11968 Filed 5-1-78; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

REPUBLIC OF CHINA

Announcing an Additional Exempt Textile Product

APRIL 27, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Exempting traditional Chinese caps from the levels of restraint established under the terms of the bilateral textile agreement between the Governments of the United States and the Republic of China.

SUMMARY: The Governments of the United States and the Republic of China have agreed to exempt traditional Chinese caps from the levels of restraint established under the terms of the Interim Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 16, 1977, as amended, in addition to other handmade and traditional textile products, previously designated (See 41 FR 30212). Accordingly, there is published below a letter of April 27, 1978 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, directing that traditional Chinese caps be added to the list of items which are currently exempt from the agreement. A complete list of exempt items is published as an enclosure to that letter.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Judith L. McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, 202-377-5423.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

APRIL 27, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive of April 19, 1973 from the Chairman, Committee for the Implementation of Textile Agreements, which established a certification procedure to exempt certain traditional textile products from the levels of restraint of bilateral textile agreements between the Governments of the United States and the Republic of China.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 16, 1977, as amended, between the Governments of the United States and the Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, the directive of April 19, 1973, is further amended, effective on May 1, 1978, to exempt traditional Chinese caps, in addition to those items previously designated, when they are properly certified. A complete list of currently exempt items is enclosed.

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DESIGNATED EXEMPT TEXTILE PRODUCTS FROM THE REPUBLIC OF CHINA

1. Pincushions.

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2. Embroideries (needlework), of man-made fabrics with designs embroidered with wool thread.
3. Handmade carpets, i.e., in which the pile was inserted or knotted by hand.
4. Christmas or Easter ornaments having a non-textile core or an non-textile structured frame and man-made fiber textile covering.
5. Toy (novelty) animals, birds or insects with a plastic, wire, or other non-textile core that are covered or decorated with textile thread or fiber.
6. Judo Uniforms.
7. Karate Uniforms.
8. Kung Fu Uniforms.
9. Traditional Chinese Padded Jackets.
10. Traditional Chinese Caps.

[FR Doc. 78-11987 Filed 5-1-78; 8:45 am]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

PROPOSED FUTURES CONTRACTS

Notice of Availability

The Commidity Futures Trading Commission ("Commission") is making available and requesting public comment on three proposed futures contracts:

1. A cattle contract submitted by the Mid-America Commodity Exchange;
2. A 30 day commercial paper contract submitted by the Chicago Board of Trade; and
3. A Government National Mortgage Association—backed certificate delivery contract submitted by the Chicago Board of Trade.

These Exchanges have applied to the Commission, pursuant to section 6 of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 8 (1976), for contract market designation to trade futures contracts in these three commodities under sections 5 and 5a of the Act, 7 U.S.C. 7 and 7a (1976).

Copies of these proposed contracts will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco. The Commission will also furnish copies upon request made to the Executive Secretariat.

Any person interested in expressing views on the terms and conditions of any of these proposed contracts should send comments by July 3, 1978 to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.D., 20581. 202-254-6316. Copies of all comments will be available for inspection at the Commission's Washington office.

Issued in Washington on April 27, 1978.

WILLIAM T. BAGLEY,
Chairman.

[FR Doc. 78-11838 Filed 5-1-78; 8:45 am]

[6351-01]

PROPOSED FUTURES CONTRACTS

Notice of Availability

The Commodity Futures Trading Commission ("Commission") is making available and requesting public comment on the proposed futures contract in Government National Mortgage Association-backed certificates ("GNMA's") submitted by the newly formed Amex Commodities Exchange, Inc. ("ACE"). ACE has applied to the Commission, pursuant to section 6 of Commodity Exchange Act, as amended (Act"), 7 U.S.C. 8 (1976), for contract market pursuant to sections 5 and 5a of the Act 7 U.S.C. 7 and 7a (1976). The ACE is in its formative stages and the GNMA contract, if approved, will be the first futures contract to trade on that exchange. In making the proposed contract available to the public, the Commission is not passing upon the merits of the ACE designation request.

Copies of the proposed GNMA contract will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City, and San Francisco. The Commission will also furnish copies upon request to the Executive Secretariat.

Any person interested in expressing views on the terms and conditions of this proposed contract should send comments by July 3, 1978, to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-6316. Copies of all comments will be available for inspection at the Commission's Washington office.

Issued in Washington on April 27, 1978.

WILLIAM T. BAGLEY,
Chairman.

[FR Doc. 78-11839 Filed 5-1-78; 8:45 am]

[6351-01]

PROPOSED FUTURES CONTRACTS

Notice of Availability

The Commodity Futures Trading Commission ("Commission") is making available and requesting public comment on the proposed futures contracts in milled rice, cotton, and soybeans submitted by the now forming New Orleans Cotton and Commodity Exchange ("NOCCE"). The NOCCE has applied to the Commission, pursuant to section 6 of Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 8 (1976), for contract market designation to trade futures in these three commodities under sections 5 and 5a of the Act 7 U.S.C. 7 and 7a (1976). The NOCCE is in its formative stages. In seeking public comment on these three contracts, the Commission is not passing upon the merits of the designation request.

Copies of the proposed contracts will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City, and San Francisco. The Commission will also furnish copies upon request made to the Executive Secretariat.

Any person interested in expressing views on the terms and conditions of these proposed contracts should send comments by July 3, 1978, to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-6316. Copies of all comments will be available for inspection at the Commission's Washington office.

Issued in Washington on April 27, 1978.

WILLIAM T. BAGLEY,
Chairman.

[FR Doc. 78-11840 Filed 5-1-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1115]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

APRIL 26, 1978.

Docket or RM No.	Rule No.	Subject	Date received
19995, RM-2275	Pt. 76, subpt. F	Amendment of subpt. F of pt. 76 of the Commission's rules and regulations with respect to network program exclusivity protection by cable television systems. Filed by Arthur B. Goodkind, attorney for Amaturo Group, Inc., KCST, Inc., McGraw-Hill Broadcasting Co., Inc., and NEP Communications, Inc.	Apr. 12, 1978

Docket or RM No.	Rule No.	Subject	Date received
21116	Pt. 2	Amendment of pt. 2 of the Commission's rules to prohibit the marketing of external radio frequency amplifiers capable of operation on any frequency from 24 to 35 MHz. Filed by C. G. Sullivan, attorney for the Heath Co.	Apr. 19, 1978

NOTE.—Oppositions to petitions for reconsideration must be filed on or before May 17, 1978. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION.
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-11860 Filed 5-1-78; 8:45 am]

[6315-01]

COMMUNITY SERVICES ADMINISTRATION

SUMMER YOUTH RECREATION PROGRAM

Acceptance of Applications

Notice is hereby given that the Community Services Administration is accepting applications from eligible agencies for the Summer Youth Recreation Program funded under Section 222(a)(13) of the Economic Opportunity Act of 1964, as amended.

Eligible agencies, application procedures, and rules and regulations governing this program are the same as those promulgated for last year's program with the exception that deadline for submission of applications is extended to May 10, 1978. They can be found in 42 FR 13292 (March 10, 1977) and in CSA Instruction 6168-2b.

Applicants are reminded that the Clearinghouse notification and review process is applicable to this program and, therefore, it is in their best interest to file their notice of intent immediately upon determination to apply for funds from CSA under this program.

Copies of CSA Instruction 6168-2b with an updated list of State School Lunch Directors will be forwarded to SYRP grantees in approximately three to four weeks.

GRACIELA (GRACE) OLIVAREZ,
Director.

[FR Doc. 78-11852 Filed 5-1-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

PRIVACY ACT OF 1974

Systems of Records; Proposed Amendment to System FEA 14

AGENCY: Department of Energy

ACTION: Proposal to revise existing system of records.

SUMMARY: Pursuant to section (3)(o) of the Privacy Act of 1974, 5 U.S.C. 552a(o); the Office of Management and Budget (OMB) Guidelines issued thereunder; and OMB Circular No. 108, September 30, 1975, the Department of Energy (DOE) hereby publishes a notice of proposed revision of an existing System of Records.

DOE has submitted to Congress and to OMB a New System Report, as required by the Privacy Act and the OMB Guidelines. A copy of the report is available for inspection at the DOE Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

The system to be revised was established by the former Federal Energy Administration (FEA) as FEA System 14. Public notice of the existence and character of the system was last previously published on September 30, 1977. 42 FR 53488 (1977). At that time a notice of proposed amendment to FEA 14 was also published. 42 FR 52483 (1977). No comment was received which resulted in a change and the system became effective as therein amended. The authority to maintain FEA 14 was transferred to the Department of Energy, effective October 1, 1977, by notice published on October 11, 1977. 42 FR 54856 (1977). The system will continue to be known as FEA 14 until a consolidated DOE system of records is developed and notice of any changes are published.

The system description, including the proposed revisions, is published in its entirety. The "system location" is amended to indicate that the System of Records is now partially located at the Richland Operations Office. "Categories of individuals" covered by the system is amended to include employees of the Richland Operations Office, of DOE contractors and of other nearby employees. The Headquarters portion of the system is amended to include all DOE employees in the Washington D.C. Metropolitan area.

"Categories of records" in the system is expanded to include participants' payroll or other assigned number, telephone number, and carpooling information. "Routine uses" of records maintained in the system is amended to indicate that the information will be made available to individuals seeking to join a carpool which operates from their residence area. "Storage" is amended to indicate that magnetic tape is used as a storage medium.

"Retrievability" is amended to add address, license number and payroll or other assigned number as retrieval methods. The description of "safeguards" is amended to indicate that magnetic tapes will be stored in a restricted area and paper records in lockable file cabinets. Access to the records is limited to DOE personnel who need the information to perform their official duties. "Retention and disposal" is amended to indicate that carpool records will be retained for two years and that parking records will be retained until new parking assignments are made (approximately six months).

"System manager" is amended to add, for records at the Richland Operations Office, Manager, Richland Operations Office, Department of Energy, P.O. Box 550, Richland, Wash. 99352. The "system manager" for Headquarters is Director, Office of Administrative Services, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

Interested persons who wish to submit written comment or suggestions for consideration in connection with this notice should send them to George Barrow, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545. Comments on the proposed document may be examined at the Richland Operations Office, Department of Energy, Richland, Wash. and the DOE Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. If no comments are received, the DOE will institute the system as amended on June 1, 1978. Should DOE receive any comments in response to this notice of proposed revision which would result in a change in the amended system description as published herein, DOE will publish notice of such changes and amend the description of the system of records.

In consideration of the foregoing DOE hereby proposes to amend the notice of September 30, 1977 last previously publishing FEA System 14 (42 FR 53488 (1977)) to read as set forth below.

Issued in Washington, D.C., April 26, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

FEA-14

System name:

Employee Carpool Parking.

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Security classification:

Unclassified.

System location:

For Headquarters the location of records is:

Office of Administrative Services, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

For the Richland Operations Office the location of records is:

Richland Operations Office, Department of Energy, P.O. Box 550, Richland, Wash. 99352.

Categories of individuals covered by the system:

All DOE employees located in Washington D.C. Metropolitan area who apply as members of a carpool of DOE controlled parking spaces; and employees of DOE, of DOE contractors and of nearby employers at Richland, Wash.

Categories of records in the system:

Name; Federal service computation date; payroll or other assigned number; office address and telephone; home address and telephone; make, year, state of registration, and tag number of pool vehicles; and number of days per week in the carpool; and carpooling information.

Authority for maintenance of the system:

Department of Energy Organization Act, Pub. L. 95-91; Federal Management Circular 1-74.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Dissemination to individuals seeking to join a carpool which operates from their residence area. Other routine uses are listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records and magnetic tape.

Retrievability:

Name, location of parking assignment, home address, payroll or other assigned number, and license number.

Safeguards:

Paper records are maintained in a lockable metal file cabinet. Magnetic tapes are stored in a restricted area. Access is limited to DOE and contractor personnel who need the information to perform their official duties.

Retention and disposal:

Parking records are retained until new parking assignments are made (approximately six months). Carpool records are retained for two years.

System manager(s) and address:

For records at Headquarters:

Director, Office of Administrative Services, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

For records at the Richland Operations Office:

Manager, Richland Operations Office, Department of Energy, P.O. Box 550, Richland, Wash. 99352.

Notification procedure:

Requests by an individual to determine if a system of records contains information about him should be directed to the Privacy Act Officer, Department of Energy, Washington, D.C. 20461, in accordance with DOE's Privacy Act Regulations (10 CFR 206.3, 42 FR 53578 (September 30, 1977)).

Record access procedures:

Requests by an individual for access to a system of records that contains information about him should be directed to the Privacy Act Officer, Department of Energy, Washington, D.C. 20461, in accordance with DOE's Privacy Act Regulations (10 CFR 206.3, 42 FR 53578 (September 30, 1977)).

Contesting record procedures:

Request by an individual to correct or amend the content of a record containing information about him should be directed to the Privacy Act Officer, Department of Energy, Washington, D.C. 20461, in accordance with DOE's Privacy Act Regulations (10 CFR 206.7, 42 FR 53581 (September 30, 1977)).

Record source categories:

The individual who is the subject of the record.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 78-11835 Filed 5-1-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP78-49]

ALABAMA-TENNESSEE NATURAL GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Initiating Hearing, and Establishing Procedures

APRIL 24, 1978.

On March 24, 1978, Alabama-Tennessee Natural Gas Co. (Alabama-Tennessee) tendered for filing in the captioned docket proposed changes to its FERC Gas Tariff[1] which would increase its jurisdictional rates by approximately $1,100.00 based on costs and sales volumes for the 12 months ended December 31, 1977, as adjusted for known and measureable changes through September 30, 1978. Alabama-Tennessee requests that the proposed increase be permitted to become effective on April 25, 1978. For the reasons stated below, the Commission shall accept the proposed rate increase for filing, suspend it for five months, and set the matter for hearing.

Public notice of Alabama-Tennessee's filing was issued on April 10, 1978, providing for protests or petitions to intervene to be filed on or before April 21, 1978.

Alabama-Tennessee states that the principal reasons for its proposed rate increase are (1) increases in its operating costs, (2) the need to recover fixed costs over the reduced volumes of gas available for sale, and (3) the need for increases in its allowed depreciation rate and rate of return. Alabama-Tennessee claims an increase in its depreciation rate from 4 percent to 5.75 percent, and an overall rate of return of 13.65 percent, including a return of 15.50 percent on common equity.

Based on a review of Alabama-Tennessee's filing herein, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Alabama-Tennessee's proposed rate increase for filing, suspend its use for five months or until September 25, 1978, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing, as hereinafter conditioned.

Alabama-Tennessee has included in its filing costs associated with certain facilities which have not been certificated and placed in service at this time. Consequently, Alabama-Tennessee shall be required to file revised rates and supporting materials reflecting the elimination of costs associated with facilities not certificated and placed in service by September 25, 1978, the effective date of the rates suspended by this order.

For purposes of its filing, Alabama-Tennessee has used the Atlantic-Seaboard[2] method of cost classification in determining rates. The Commission believes that the use of the Atlantic Seaboard method may be inadequate and contrary to the public interest under the present conditions of gas supply shortages and resulting curtailments of service. The Commission also notes that because of successive pipeline rate filings which create locked-in periods, the Commission's efforts to adopt a just and reasonable cost classification, allocation, and rate design differing from Atlantic Seaboard may be frustrated. To the extent that the rate structure found just and reasonable for Alabama-Tennessee after hearing and decision departs from the Atlantic Seaboard methodology by assigning additional fixed costs to the commodity component of its rates, undercollections may occur. Alabama-Tennessee is hereby placed on notice that it may be subject to undercollections if, after hearing and decision, the Commission finds its proposed use of the Atlantic Seaboard method to be improper.

We note that section 21.1 of the General Terms and Conditions of Alabama-Tennessee's Tariff provides that Alabama-Tennessee shall refund to its resale customers only those amounts "• • • which have been received by Seller from Supplier pursuant to final and non-appealable action by the Commission or the Courts in any pending or other proceeding." This tariff provision may not be in the public interest in that it could be used to prevent the timely flow-through of supplier refunds which have been ordered by the Commission. Accordingly, we direct the parties to this proceeding to address the issue of whether this tariff provision is just and reasonable.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates propposed by Alabama-Tennessee and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, 9, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Alabama-Tennessee.

(B) Pending hearing and decision, Alabama-Tennessee's proposed rate increase is accepted for filing and suspended until September 25, 1978, when it shall be permitted to become effective, subject to refund, upon motion filed by Alabama-Tennessee in accordance with the provisions of the Natural Gas Act.

(C) Alabama-Tennessee shall file revised tariff sheets on or before September 25, 1978, reflecting the elimination of costs included in the proposed rates associated with facilities which have not been certificated and placed in service by September 25, 1978. Alabama-Tennessee shall also submit supplemental cost and revenue data reflecting the elimination of such costs from its cost of service.

(D) The Commission Staff shall prepare and serve top sheets on all parties on or before August 4, 1978.

(E) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practive and procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission. Chairman Curtis voted present.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-11870 Filed 5-1-78; 8:45 am]

[6740-02]

[Docket No. CP78-123]

ALCAN PIPELINE CO. (NORTHWEST ALASKAN PIPELINE CO.)

Filing for Succession in Interest, Transfer of Conditional Certificate, and Approval of Partnership Agreement

APRIL 24, 1978.

Take notice that on April 19, 1978, Northwest Alaskan Pipeline Co. (Northwest Alaskan) and Alaskan Northwest Natural Gas Transportation Co., a partnership formed under the laws of the State of New York (the Partnership), filed in the above-captioned proceeding a document entitled "Notice of Succession in Interest and Application for Transfer of Certificate of Public Convenience and Necessity (Application)." The Application recites that it is being filed pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976 (ANGTA), the Natural Gas Act and the Rules and Regulations of the Federal Energy Regulatory Commission (FERC).

By order issued December 16, 1977, the Commission, acting pursuant to ANGTA and in accordance with the President's Decision and Report to Congress on the Alaska Natural Gas Transportation System, issued conditional certificates of public convenience and necessity to the sponsors of the Alcan Pipeline Project Alcan Pipeline Co. received such a certificate in Docket No. CP78-123 to construct and operate that portion of the Alaskan pipeline project lying within the State of Alaska.

The instant Application states that, effective January 1, 1978, the name of "Alcan Pipeline Co." was changed to "Northwest Alaskan Pipeline Co." The Application further states that, on March 3, 1978, Northwest Alaskan Pipeline Co. entered into an agreement which provided for the formation of a partnership effective January 31, 1978 to act as a successor to the rights, titles and interests of Alcan Pipeline Co. under ANGTA, the President's Decision and Report, and related Commission proceedings and orders. A copy of this partnership agreement is appended to the instant Application.

In light of the circumstances described above, Applicants request appropriate orders from the Commission transferring the conditional certificate heretofore issued to Alcan Pipeline Co. to the successor Partnership, and approval of the Partnership arrangements. Applicants further request an order by the Commission that the Partnership provided for in the Partnership Agreement, and the manner of its formation, is in all things and in all respects consistent with and in conformity with the Presidential Decision and Report and related FERC orders and as such is accepted and approved.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-11871 Filed 5-1-78; 8:45 am]

[6740-02]

[Project No. 2821]

CITY OF PORTLAND, OREG.

Extension of Time

APRIL 21, 1978.

On April 18, 1978, the Northwest Environmental Defense Center and John T. Gibbon filed a motion to extend the time for filing petitions to intervene in

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[1] The following revised sheets to FERC Gas Tariff Third Revised Volume No. 1 were tendered: Twenty-fifth Revised Sheet No. 3-A, Second Revised Sheet No. 5, Second Revised Sheet No. 6, Second Revised Sheet No. 11, First Revised Sheet No. 13-B, Second Revised Sheet No. 14, and Third Revised Sheet No. 36-F.

[2] Atlantic Seaboard Corporation, 11 FPC 43 (1953).

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the above-referenced proceeding. By Notice issued February 9, 1978, the Commission established April 17, 1978, as the deadline for filing petitions to intervene or protests to the captioned license application.

The instant motion states that recent developments indicate that the City of Portland, Oreg., intends to modify and supplement its application in order to reduce the project's potential impact on water quality. The motion further states that such modifications may significantly reduce the number of contested issues in this proceeding.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 15, 1978, within which to file petitions to intervene or protests in the above referenced proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-11872 Filed 5-1-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-19 (Phase I) and ER78-81]

FLORIDA POWER & LIGHT CO.

Briefing Schedule

APRIL 24, 1978.

The Initial Decision in this proceeding was filed with the Secretary on April 24, 1978. As provided by §§ 1.30(a) and 1.31 of the rules of practice and procedure, Briefs On Exceptions would be due on or before May 24, 1978, and Briefs Opposing exceptions would be due on or before June 13, 1978.

As the Presiding Judge pointed out in a memorandum to the Secretary accompanying the Initial Decision, it is stated in the Initial Decision that the parties agreed to file Briefs On exceptions on or before May 8, 1978, and Briefs Opposing Exceptions on or before May 12, 1978, because of the expiration of the suspension period in this case on June 1, 1978. Notice is hereby given that the briefing schedule is shortened as the parties have agreed.

The parties are reminded, however, that the proper method for altering dates for briefs on an Initial Decision is through a formal motion to the Commission as provided for in the Commission's Rules, so that the Commission has an opportunity to rule on matters coming before it and so that the change and reasons therefor are formally called to the attention of the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-11873 Filed 5-1-78; 8:45 am]

[6740-02]

[Docket No. RI77-128]

HERBERT S. WOODS & ASSOCIATES

Amended Petition for Special Relief

APRIL 25, 1978.

Take notice that on April 1, 1978, Herbert S. Woods & Associated (Woods), P.O. Box 1367, El Dorado, Ark. amended his petition for special relief to a reduced rate of $1.55/Mcf for the sales of his estimated 200,000 Mcf of remaining recoverable reserves to Natural Gas Pipe Line Co. of America.

Woods' original petition pursuant to 18 CFR 2.76 was noticed September 29, 1977.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 15, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-11874 Filed 5-1-78; 8:45 am]

[6740-02]

[Docket No. ES78-22]

IOWA PUBLIC SERVICE CO.

Order Authorizing the Issuance of Common Stock

APRIL 24, 1978.

On February 21, 1978, Iowa Public Service Co. (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of up to 100,000 shares of Common Stock (par value $5 per share), in the manner, and at prices determined pursuant to a formula, described below.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central and east central Iowa and a few small communities in South Dakota.

Applicant proposes to sell the Common Stock pursuant to its Dividend Reinvestment and Stock Purchase Plan, a voluntary plan whereby employees and stockholders are able to (a) have dividends on their shares of Common and/or Preferred Stock automatically reinvested in additional shares of the Applicant's Common Stock or (b) continue to receive their cash dividends on shares registered in their names and invest in the Applicant's Common Stock by making optional cash payments of not less than $10 per payment nor more than $10,000 per quarter or (c) invest both their cash dividends and such optional cash payments. Employee participants are able to make optional cash payments through payroll deductions. No service charge or commission is paid by participants in connection with purchases under this plan, and no underwriting fee is involved. The purchase price of shares is the average of the high and low sales prices of Applicant's Common Stock on the New York Stock Exchange on each investment date (or the next preceding day on the investment date). If no trading occurs in the Applicant's Common Stock on the investment date, the purchase price is the average of the reported bid and asked prices on the New York Stock Exchange on that date. Participants are able to withdraw from the plan at any time.

The net proceeds from the sale of the Common Stock will be used to reduce existing short-term loans and those to be incurred prior to the sales. The revenue will also be used for construction purposes or for other lawful corporate purposes.

Applicant requests an exemption from the competitive bidding requirements of § 34.1a of the Commission's regulations. Applicant argues that the lack of underwriting fees, the sale of stock based upon the market price, and the ability of the small investor to purchase shares without payment of a brokerage commission or service charge warrants an exemption from competitive bidding pursuant to § 34.1a(a)(4) of the regulations.

Written notice of this application has been given to the Public Service Commissions of South Dakota and Iowa and to the Governors of those States. Notice was also given by publication in the FEDERAL REGISTER stating that any person desiring to be heard or to make any protest with reference to said application, shall file petitions or protests on or before March 15, 1978, with the Federal Energy Regulatory Commission, Washington, D.C. No petition, protest, or request to be heard in opposition has been received.

The Commission finds: (1) Iowa Public Service Company, a corporation, is a public utility within the meaning of section 204 of the Federal Power Act, subject to the jurisdiction of the Federal Energy Regulatory Commission as heretofore described and set forth in the Federal Power Commission Order issued August 22, 1963, *Iowa Public Service Company*, Docket No. E-7115 (30 FPC 536).

(2) The proposed issuance and sale of Common Stock as described above, will constitute an issuance of securities within the purview of section 204 of the Federal Power Act.

(3) Applicant is not organized and operating under the laws of a state in which the security issue here involved is regulated by a State Commission within the meaning of section 204(f) of the Federal Power Act. The proposed issuance of securities is, therefore, not exempt by virtue of that section from the requirements of section 204 of the Federal Power Act.

(4) Under the circumstances of the case, sufficient cause has been shown for exempting the proposed issuance of Common Stock from the competitive bidding requirements of § 34.1a(b) and (c) of the regulations under the Federal Power Act.

(5) The proposed issuance and sale of Common Stock, as hereinafter authorized, will be for a lawful object within the corporate purposes of the Applicant and compatible with the proper performance by Applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purposes.

(6) The period of public notice given in this matter is reasonable.

The Commission orders: (A) The proposed issuance and sale of 100,000 additional shares of Common Stock, par value $5 per share, upon the terms and conditions and for the purposes specified in the application, as described above, is hereby authorized subject to the provisions of this order.

(B) The proposed issuance of Common Stock shall be exempted from compliance with the competitive bidding requirements of § 34.1a(b) and (c) of the regulations under the Federal Power Act.

(C) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates, or determinations of cost or any other matter whatsoever now pending or which may come before this Commission.

(D) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States with respect to any securities to which this order relates.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-11875 Filed 5-1-78; 8:45 am]

[6740-02]

[Docket No. RI77-26]

J & J ENTERPRISES, INC. ET AL.

Order Accepting Settlement Agreement, Granting Special Relief and Permitting Intervention

APRIL 25, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR—provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On January 14, 1977, J & J Enterprises, Inc., Fairman Drilling Co., Castle Gas Co. Inc. (Original Producers) filed a petition seeking special relief pursuant to § 2.56a(g) and § 2.76 of the General Policy and Interpretations and § 154.107(e) of the Commission's[1] regulations from the area rates for the Appalachian Basin Area prescribed in Order No. 411, as amended, to collect a rate of 55.02 cents per Mcf at 14.73 psia. Also the original producers sought relief from the national rates prescribed by Opinion No. 699-H, as amended, and Opinion Nos. 770 and 770-A to collect a rate of 177.99 cents per Mcf at 14.73 psia for post-January 1, 1973 sales.

The special relief petition was noticed by the Commission on January 31, 1977. Columbia Gas Transmission Corp. and Consolidated Gas Supply Corp. filed timely interventions. National Fuel Gas Supply Corp. filed for leave to intervene out of time.

On February 18, 1977, the Original Producers filed to amend their petition by the inclusion of Additional Parties,[2] (Additional Producers). The petition for inclusion of Additional Parties was noticed by the Commission on March 14, 1977.

On February 13, 1978, J & J Enterprises, Inc., *et al*, (Petitioners), thirty-three independent small producers[3] (as defined in § 157.40 of the regulations) in Pennsylvania who are selling gas in jurisdictional transactions to three interstate pipelines[4] filed a settlement agreement and a motion to waive hearing with the Commission in the above-captioned docket.

In the settlement agreement, the Petitioners have agreed to request a rate of 61 cents per Mcf for all gas sold from Eligible Stripper Gas Wells[5] (Old

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[1]Prior to October 1, 1977, "The Commission" refers to the Federal Power Commission; subsequent to that date, it refers to the Federal Energy Regulatory Commission.

[2]Boyd & Shriver, Mid-East Oil Co., Harry Brunt, Lee E. Minter, Ohio Lease Operating Co., Zenith Exploration Co., A. A. Lollar, I. L. Greer & Sons, Union Drilling Company, Joseph L. Dunn, Reeves Lewenthal, D. A. Dorwood, Dorvo Corp. and Pennsylvania Oil & Gas Association who seeks to be made a party on behalf of all its members who are small producers of natural gas having jurisdictional sales in Pennsylvania. Ohio Lease Operating Co. and I. L. Greer & Sons are not included as Petitioners in the final settlement agreement.

[3]J & J Enterprises, Inc.; Fairman Drilling Co.; Castle Gas Co., Inc.; Boyd & Shriver; Mid-East Oil Co.; Armclar Gas Co.; Arthur H. Denton; B. J. Oil Company; Butcher & Singer; D. A. Dorward, et al.; Fox Oil & Gas, Inc.; Harry Brunt; J. Gerald Ackley; Joseph L. and Betty Dunn; Kalb & Kalb; Lawrence Faes; Lee E. Minter; Mays Gas & Coal Co.; Natural Resources Development Division, U.G.I. Development Company; I.P.S.C.O.; R. Nelson & A. Johnson; N. Y. Petro-Min Corp.; Orville Eberly, William E. Snee, Robert E. Eberly; Reeves Lewenthal; Union Drilling, Inc.; W. F. Glover; W. C. Hurtt Drilling Co.; W. R. Maxson; Zenith Exploration Co.; A. F. Carino Oil & Gas Interests; A. A. Lollar; R. Taylor Mosier; and Weir Walker.

[4]Columbia Gas Transmission Corp. (Columbia), Consolidated Gas Supply Corp. (Consolidated), National Fuel Gas Supply Corp. (National).

[5]Eligible Stripper Gas Wells (Old Gas Stripper Wells) shall mean those wells first commencing production prior to January 1, 1973, from which gas is sold to the Buyers under the Contracts and which continously produced or shall have produced an average of 60 Mcf per day or less per well during any continuous 12-month period commencing with the 12-month period ended December 31, 1975, or any continuous 12-month period thereafter; provided, however that the average production volume for each well whose production is measured by a single multiwell meter shall be determined for any such 12-month period by dividing the aggregate production of all wells measured by such meter by the number of wells whose production is so measured. If a well shall once have qualified for purposes hereof as an Eligible Strip-

Footnotes continued on next page

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Gas Stripper Wells) and to the applicable area or national rates per Mcf for all gas from all other wells from which gas is sold pursuant to the contracts[6] subject to adjustments for production or severance taxes, Btu content, gathering allowances, escalation and other similar matters sanctioned by the Commission. In addition, the Petitioners request an annual escalation of 1 cent per Mcf commencing as of January 1, 1978, for gas purchased from Old Gas Stripper Wells. The settlement agreement, inter alia, also sets forth provisions for Petitioners to file for an increase in rates should the Old Gas Stripper Well rate prove to be uneconomical; however, should the Commission approve this settlement agreement and grant special relief, the Petitioners have agreed not to seek increased rates for gas sold pursuant to the contracts earlier than January 1, 1979 (unless eligible for special pricing arrangements under future Federal legislation or regulation applicable to such gas).

The settlement agreement was noticed by the Commission on March 7, 1978; Columbia, Consolidated, and National filed timely comments in support of the settlement agreement.

Cost Data

Data from four[7] of the thirty-three producers was used by Staff as a cost sample for pre-1973 wells. These four producers have sales encompassing over 50 percent of the total small producer jurisdictional sales in Pennsylvania. As well, this cost sample represents the cost, production and reserve experience of 240 gas wells. The other small producers have inadequate or imcomplete records with the resultant inability to furnish the data necessary for cost and gas reserve estimates. The accounting firm of Arthur Anderson & Co. and geologic consultants, Huntley & Huntley Inc. were hired by Petitioners and worked with Staff to obtain and verify the necessary basic cost, production and reserve data.

Staff also relied on the case record developed in IOGA in which the Commission approved the request of threehundred West Virginia small producers for special relief based on the same cost methodology at a base price of 2.85 cents plus 1 cent annual escalations for pre-1973 wells. It should be noted that there is a similarity between the geology and gas well drilling of West Virginia and Pennsylvania.

The Cost Method

The method approved by the Commission in IOGA and employed by Staff in this case, permits recovery of and return on net remaining investment averaged over the remaining 13.81 year life of the 240 well sample. This cost consists of the drilling and equipping cost of the gas wells as other investment costs such as lease acquisition are insignificant. For purposes of determining a return allowance, a rate base consistent with *Permian I*[8] methodology was employed which means a 15 percent rate of return is applied to 50 percent of net remaining investment for each year of the average remaining life of the wells. Other methods such as the DCF method require more precise projections of annual production data which is difficult to determine for 240 pre-1973 drilled wells of various age spud dates involved herein. Staff estimated that the remaining gas reserves as of 1975 were about 20 Bcf or 27.16 percent of the original reserves and that on the average the pre-1973 wells would produce for another 13.81 years.

Staff noted that the projected 13.81 years of operating expense of $4,264,680 is very conservative. This amount represents $309,811 per year for 240 gas wells or $1,287 per well per year or $107 per well per month. This is hardly an adequate amount if proper labor and maintenance is to be applied to these wells; in fact, the rental of one compressor would cost from $1,000 to $1,500 per month depending on the size. The subject wells are known to have poor deliverability averaging about 40 Mcf per day.

The Petitioners initially sought a Federal Income Tax (FIT) allowance at the full statutory corporate rate of 48 percent contending that the Petitioners consist mainly of partnerships with hundreds of individual taxpayers in the 50 percent tax bracket. Staff and Arthur Anderson and Co. reviewed some of the tax returns and partnership agreements and found it would be virtually impossible to determine an actual effective tax rate projected into the future for the hundreds of small individual investors in the subject wells. Staff therefore agreed to an effective tax rate of 38 percent as the "typical investor" within the Pennsylvania group. See attached Appendix A.

On the basis of this investigation, Staff agrees with Petitioners that the settlement provisions for a rate of 61 cents per Mcf for all gas sold from Old Gas Stripper Wells plus an annual escalation of 1 cent per Mcf commencing on January 1, 1978 is cost justified.

Staff believes that a 61 cent price for stripper gas wells will serve many purposes benefitting both the consumer and the producer. The higher price is particularly beneficial in Pennsylvania where small producers and low deliverability wells are commonplace. Most importantly the higher price should be compensatory of future costs such as increased unit operating costs by virtue of added maintenance and declining production as well as provide incentive to producers to invest in workovers, facilities etc., necessary to save production. The higher price would be a preventive measure which would eliminate where possible premature abandonment requests and special relief applications where producers have the resources to comply with the requirements. However, many small producers do not have the necessary resources for special relief. The Pennsylvania producers will receive about a $5 million cash flow above operating costs and FIT over about the next 14 years to repair, workover or replace well equipment and facilities for 240 wells. This amounts to about $21,000 per well which is very conservative compared to those indicated in special relief cases.

Upon consideration of the data submitted and Staff's analysis thereof, we conclude that the settlement should be accepted and special relief granted.

The Commission orders: (A) The settlement agreement filed by the Petitioners on February 13, 1978 is approved.

(B) Effective upon the date of issuance of this order, Petitioners are authorized to collect a total rate of 61 cents per Mcf at 14.73 psia for all gas sold from Old Gas Stripper Wells plus an annual escalation of 1 cent per Mcf commencing on January 1, 1978.

(C) Columbia, Consolidated and National are permitted to intervene in the above-captioned proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of said intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene: and *Provided, further,* That the admission of said intervenors shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding and that said intervenors agree to accept the record as it now stands.

Footnotes continued from last page

per Gas Well, subsequent changes in its production or metering shall not thereafter disqualify it as an Eligible Stripper Gas Well.

[6]Contracts shall mean those contracts, whether or not now in existence, by and between the Petitioners and each of the Buyers for the sale of gas by the Petitioners to the Buyers in jurisdictional transactions for wells in Pennsylvania.

[7]J & J Enterprises, Inc., Fairman Drilling Co., Boyd & Shriver, Mid-East Oil Co; 1975 test year data was used.

[8]*Opinion and Order Determining Just and Reasonable Rates For Natural Gas In The Permain Basin (1965)* 34 FPC 159, affirmed, in re. *Permian Basin Area Rate Cases,* 390 U.S. 747.

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By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

J&J Enterprises, Inc. et al., Docket No. RI77-26 Estimated Average Unit Cost of Gas Wells Commenced Prior to January 1, 1973 for the Period 1975 to Depletion (240 well sample)

(1) Volume thousands cubic feet at 14.73 lb/in² a
(2) Remaining gas reserves, G.W.I. 100 percent 19,977,355 1,000 ft³
(3) Remaining gas reserves, N.W.I. 86.07 percent 17,194,509 1,000 ft³

Cost summary	Amount (a)	Unit cost, cents per 1,000 ft³ (b)
(4) Production expense	$4,264,680	24.80
(5) D.D.&A. expense	[2]2,400,324	13.96
(6) Return allowance at 15 percent.	[2]2,566,098	14.92
(7) Regulatory expense	17,195	0.10
(8) Federal income tax at 38 percent effective rate.	[3]1,572,770	9.15
(9) Total Cost	10,821,067	62.93

Cost elements

(10) Remaining gas reserves as a percent of original reserves, 27.16 percent.
(11) Average remaining life from 1975 of pre-1973 wells, 13.81 yrs.
(12) Gross investment in the 240 wells, $8,837,717.
(13) Average net remaining investment, $8,837,717 × 27.16 percent ÷ 2 = $1,200,162.
(14) Average working capital, $4,264,680 ÷ 13.81 yrs. × ⅛ = $38,601.
(15) Total rate base, line 13 + 14 = $1,238,763.

[1]$8,837,717 (line 12) × 27.16 percent (line 10).
[2]$1,238,763 (line 15) × 15 percent × 13.81 yrs. (line 11).
[3]$2,566,098 (line 6) × .38/.62.
[4]Amounts in Col. (a) divided by line 3.

[FR Doc. 78-11876 Filed 5-1-78; 8:45 am]

[6740-02]

[Docket Nos. CP77-368; CS72-1181]

LONE STAR GAS CO. (A DIVISION OF ENSERCH CORP. AND GORDON OIL CO., INC.)

Order Deferring Hearing and Instituting Investigation

APRIL 25, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.[1]

[1]The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On March 13, 1978, Commission counsel, on behalf of the Commission's Office of Enforcement, filed a motion requesting the Commission to indefinitely defer hearings in the above-referenced consolidated proceeding and to institute an investigation therein to be conducted by the Office of Enforcement.

This proceeding involves a Commission-ordered hearing into possible violations of the Natural Gas Act by Lone Star Gas Co. (Lone Star) and Gordon Oil Co. (Gordon). Lone Star is alleged to have diverted gas produced from the Sherman Field, Grayson County, Tex., from its interstate transmission line to its intrastate system during the period 1961-1976. Gordon, one of a number of producers in the Sherman Field, appears to have abandoned certain previously certificated sales to Lone Star in the Sherman Field for a period of 40 days commencing on January 1, 1977, without receiving approval of this Commission pursuant to section 7(b) or the Natural Gas Act.

On April 22, 1977, Lone Star filed in Docket No. CP77-368 a petition for a declaratory order requesting the Commission to declare exempt from its jurisdiction natural gas proposed to be taken by Lone Star from its intrastate system to pay back any deficiencies caused by past diversions of gas from its interstate syste,. On September 12, 1977, Lone Star filed a supplement to its petition for a declaratory order proposing to pay back approximately 17 Bcf of gas over a three year period. In response to Lone Star's petition, the Commission on November 4, 1977, issued an order which consolidated the captioned dockets and initiated a hearing into the matter in order to establish the facts surrounding Lone Star's apparent violation of the Natural Gas Act. The order also directed Gordon to show cause why it should not be held in violation of section 7(b) of the Act. Procedural dates in the case have been previously deferred and no hearings have been held.

In its motion, the Office of Enforcement states that the case was referred to it on December 19, 1977, and that on February 15, 1978, it transmitted a data request to Lone Star. However, after reviewing the documents submitted by Lone Star in response to its data request, the Office of Enforcement states that "signficant unanswere questions remain." The Office of Enforcement further states that the development of the issues in this proceeding can best be accomplished in an "investigatorial setting" and that this procedure will permit it to "either further refine the present issues or expand the scope of the proceeding as the facts dictate."

On March 20, 1978, Lone Star filed an answer to the staff's motion, stating that while it does not oppose the deferral of hearings, it does question the need to institute a formal investigation. Lone Star argues that the issues involved in this proceeding can be resolved informally through discussion and stipulations with the Commission staff, and that it would be more expeditious to proceed on the basis of a cooperative effort than to convert the proceeding into a formal investigation. In support of its position Lone Star in its answer states as follows:

As indicated in the Staff motion filed March 13, not only did Lone Star bring this situation to the Commission's attention last April through the filing of its petition, and subsequently proposed a specific method to restore the balance between its intrastate and interstate lines, but also Lone Star has willingly provided vast quantities of documents and responses to Staff data requests. These were furnished within the 10-day and 20-day periods, respectively, as requested by the Staff.

. . . . . .

Lone Star has previously requested the opportunity to discuss with the Staff appropriate means to restore the balance, or otherwise resolve the proceeding. It is entirely possible that this can be accomplished after adequate opportunity is avilable for completion of the Staff's analysis, together with additional data, if any, that may be needed.

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In view of the foregoing, Lone Star does not object to the postponement of further proceedings, but is anxious to bring the matter to an appropriate conclusion as soon as possible. We believe this can be accomplished more readily through the flexible procedure initiated by the Staff through its data and information requests, to be followed hopefully by an agreed-upon disposition, rather than instituting a formal investigation.

These proceedings involve serious questions regarding possible violations

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of the Natural Gas Act and the appropriate remedy or remedies therefor. We believe it is important that sufficient flexibility be provided the Commission's Office of Enforcement to investigate the background facts and issues in this matter before moving into formal hearing procedures should that be deemed necessary after full investigation and consideration of appropriate remedies, if any. The Commission finds that the Office Of Enforcement should be accorded some latitude in developing procedures for carrying out its assigned responsibilities. Therefore the motion of the Office of Enforcement for deferral of hearings and for an investigation shall be granted. Moreover, we will appoint officers pursuant to section 14(c) of the Natural Gas Act. Such officers shall have the authority to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant and material to the inquiry and to perform all other duties in connection therewith as prescribed by law.

The investigation herein ordered shall involve any and all matters related to the activities surrounding the above cited alleged violations of the Natural Gas Act by Lone Star Gas Co. and Gordon Oil Co., and their affiliates and/or subsidiaries. Upon completion of its investigation, the Office of Enforcement shall report its findings with recommendations to the Commission.

Lone Star and Gordon are entitled to a prompt resolution of the allegations which have been made against them. Lengthy delay have been experienced in this proceeding and the investigative phase necessary to the preparation of the staff's case has not according to staff's motion, yet been completed. The investigation ordered herein should therefore be carried out without further delay and completed as soon as possible.

The Commission orders: (A) Pursuant to the Natural Gas Act, particularly section 14, and the Commission's rules and regulations, an investigation is hereby directed to be instituted by the Office of Enforcement to determine whether the actions of Lone Star and Gordon referred to in this order and in the order of November 4, 1977, were in violation of the Natural Gas Act or any rule, regulation, or order of the Commission.

(B) In carrying out its investigation, the Office of Enforcement is authorized to exercise fully the powers specified in section 14(c) of the Natural Gas Act. More specifically, it is ordered, pursuant to the provisions of section 14(c) of the Natural Gas Act that for the purpose of this investigation, Jeanne M. Zable, Joel F. Zipp, and James L. Lewis, and each of them, are hereby designated officers of this Commission and are empowered to administer oaths, and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant and material to the inquiry and to perform all other duties in connection therewith as prescribed by law.

(C) Hearings in this proceeding are deferred pending completion of the investigation instituted by this order and further Commission order.

(D) Upon completion of its investigation, the Office of Enforcement shall report its findings with recommendations to the Commission.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-11877 Filed 5-1-78; 8:45 am]

[6740-02]

[Docket Nos. G-6083 et al.]

MESA PETROLEUM CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates; Correction

APRIL 24, 1978.

Tabulation, Page 4, Docket No. CI78-556—Cotton Petroleum Corp. (successor in interest to Manning Gas & Oil Co. and Northwest Production Corp:

In FR Doc 78-8311 issued March 24, 1978, and appearing at page 13610 of the issue of Friday, March 31, 1978, on page 13611, under column headed "Purchaser and location" insert "Northwest Pipe Line Co." as purchaser in lieu of "El Paso Natural Gas Co."

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-11878 Filed 5-1-78; 8:45 am]

[6740-02]

[Docket Nos. RI77-102; CI65-421; FERC Gas Rate Schedule No. 551]

SUERTE OIL CO. (OPERATOR), ET AL., AND ATLANTIC RICHFIELD CO.

Order Granting Special Relief and Amending Certificate To Delete Assigned Acreage

APRIL 25, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977) and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On June 8, 1977, Suerte Oil Co. (Suerte)[1] filed in Docket No RI77-102 a petition for special relief pursuant to § 2.76 of the Commission's General Policy and interpretations (18 CFR 2.76) with respect to a sale of natural gas to Kansas-Nebraska Natural Gas Co., Inc. (Kansas-Nebraska) from the F. E. Good No. 1 Well located in Hamilton County, Kans. Suerte also requested waiver of § 157.40(c) of the Commission's regulations (18 CFR 157.40(c)) in order to amend its small producer certificate to cover sales of natural gas previously covered under Atlantic Richfield Co.'s (ARCO's) FERC Gas Rate Schedule No. 551.[2]

Suerte is the operator of the F. E. Good No. 1 Well and owns a 45 percent working interest in the well. Western owns the remaining 55 percent working interest. Suerte was issued a small producer certificate in Docket No. CS74-248 on April 15, 1974, and Western was issued a small producer certificate in Docket No. CS72-307 on January 17, 1972.

On July 1, 1970, Suerte and Western acquired Skelly Oil Co.'s 50 percent interest in the subect well, and have since been making sales of gas attributable to such interest to Kansas-Nebraska pursuant to a gas sales agreement dated May 28, 1963. On January 1, 1977, Suerte and Western succeeded to ARCO's 50 percent interest in the subject well, and propose to continue sales of gas attributable to such interest to Kansas-Nebraska pursuant to a gas sales agreement dated October 20, 1964. Prior to the assignment of its intrerest to Suerte and Western, ARCO had been making sales of gas to Kansas-Nebraska under its FERC Gas Rate Schedule No. 551. ARCO filed a copy of the assignment with the Commission on March 28, 1977, as a supplement to its rate schedule.

The F. E. Good No. 1 well is currently shut-in. In order to restore the well to production, Suerte proposes to install well pumping equipment and to rework the well to repair a casing leak. Suerte requests authorization to collect a rate of 60.58 cents per Mcf[3] for the sales to Kansas-Nebraska to compensate for the proposed work. On April 1, 1977, Suerte and Kansas-Nebraska executed an amendment to their contracts by which Kansas-Nebraska agreed to pay a rate approved by the Commission for the subject sales.

Notice of Suerte's petition for special relief was issued on July 6, 1977, and appeared in the FEDERAL REGISTER on July 13, 1977, at 42 FR 36028. No protests or petitions to intervene have been filed.

Suerte proposes to invest $25,800 to perform the operations necessary to restore the well to production. Based on data submitted by Suerte, Staff accepts as resonable Suerte's remaining net book investment of $3,455, its proposed investment of $25,800, and its estimated production expenses, which Staff projects to be $42,436 over the remaining life of the well, using a 5 percent annual inflation factor. Staff estimates that a total of 96,960 Mcf of gas reserves remain to be produced from the subject well over a period of five years.

Using the above costs and reserves in a traditional cost study, Staff has determined that the requested rate is cost-supported

Upon consideration of the data submitted and Staff's analysis thereof, we conclude that it is in the public interest to grant special relief to Suerte and Western.

On January 30, 1978, the Commission issued an order in Docket No. RM76-15[4] in which the Commission granted all requests for waiver of § 157.40(c) involving sales made by small producer certificate holders from developed reserves acquired in place from large producers that were pending at the time of issuance of Order No. 568. Although Suerte and Western were not included in the appendices which listed all known pending requests for waiver, the Commission's order effectively granted their requests for waiver, effective as of the date of motion for waiver, June 8, 1977. Suerte and Western may therefore make under their small producer certificates sales of gas from the F. E. Good No. 1 Well attributable to the acreage acquired from ARCO, effective June 8, 1977, subject to the condition that between June 8, 1977 and the effective date of the special relief rate authorized herein, Suerte and Westen are entitled to collect for the sales of such gas rates that are no higher than those which ARCO would be entitled to collect for sales from such reserves.

Suerte's contract amendment with Kansas-Nebraska authorizing the special relief rate contains impermissible indefinite pricing provisions. We will waive § 154.93 of the Commission's regulations to the extent necessary to permit the filing of the contract amendment.

The Commission orders: (A) the petition for special relief filed by Suerte on June 8, 1977, is hereby granted.

(B) Suerte and Western are authorized to collect a total rate of 60.58 cents per Mcf at 14.65 psia, inclusive of Btu adjustment, for the sale of natural gas to Kansas-Nebraska from the F. E. Good No. 1 well located in Hamilton County, Kans., effective as of the date of issuance of this order or the date of completion of the reworking of the well and the installation of the well pumping equipment, whichever is later, subject to the conditions set forth in Ordering Paragraphs (C) and (D).

(C) Within 30 days of the effective date of the rate authorized herein, Suerte shall file a statement signed by Kansas-Nebraska that the proposed work has been completed to the satisfaction of Kansas-Nebraska.

(D) Within 30 days of the date of issuance of this order, Suerte shall file an appropriate notice of rate change reflecting the rate authorized herein in accordance with § 154.94 of the Commission's Regulations under the Natural Gas Act (18 CFR 154.94).

(E) The contract amendment between Suerte and Western and Kansas-Nebraska, dated April 1, 1977, is accepted for filing, to be effective as of the effective date specified in Ordering Paragraph (B). Section 154.93 of the Commission's regulations is hereby waived to accept for filing the contract amendment, which contains impermissible pricing provisions. The granting of such waiver, however, does not constitute approval of such provisions, and any rate increase based on said pricing provisions to the extent it is inconsistent with the provisions of § 154.93 of the Commission's regulations is subject to rejection.

(F) The assignment dated February 28, 1977, and filed by ARCO on March 28, 1977, pursuant to which Suerte and Western acquired interests from ARCO, is accepted for filing as Supplement No. 6 to ARCO's FERC Gas Rate Schedule No. 551 effective as of January 1, 1977, the date of transfer of the property involved, and the subject acreage is hereby deleted from dedication under the related certificate issued to ARCO in Docket No. CI65-421.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-11879 Filed 5-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-205]

UTAH POWER & LIGHT CO.

Cancellation

APRIL 24, 1978.

Take notice that Utah Power & Light Co. (Utah), on April 5, 1978, tendered for filing, proposed changes in its FERC Electric Service Tariff, Volume No. 1.

Utah states that these changes were necessitated by a change in voltage, from 46 Kv to 138 Kv, for Utah's delivery to Strawberry Water Users Association. Utah further states that Utah has been delivering Colorado River Storage Project power to Stawberry at 46 Kv under a wheeling agreement with the United States Government and recently has been supplying Strawberry's requirements in excess of CRSP amounts under Utah's FERC Electric Tariff. Utah indicates that Utah has also been delivering power and energy to the City of Springville, Utah, at 46 Kv under the same circumstances. Utah further indicates that with the increase in delivery voltage to Strawberry, the contract with Springville was terminated, since Strawberry will hereafter furnish Springville's requirements.

Utah proposed an effective date of December 20, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Captiol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 1, 1978. Protests will be

[1] Suerte filed on behalf of itself and Western Petroleum Co., Inc. (Western).

[2] Suerte requested waiver of § 157.40(c) as that provision existed prior to July 14, 1977, the date of issuance of Order No. 568, Order Amending and Clarifying Small Producer Regulations, in Docket No. RM76-15. Order No. 568 eliminated prospectiveiy the need for a waiver in a situation such as is presented here.

[3] In a letter filed with the Commission on July 15, 1977, Suerte specified that its requested rate is 60.58 cents per Mcf inclusive of Btu adjustment.

[4] "Order Granting Motion For Supplemental Order," Regulation of Small Poducers, Docket No. RM76-15.

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considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Secretary.

[FR Doc. 78-11880 Filed 5-1-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

1979 WARC

Eighth Notice of Inquiry

The Federal Communications Commission on April 18 adopted an "Eighth Notice of Inquiry" in its preparation for the 1979 World Administrative Radio Conference (WARC) of the International Telecommunication Union to be convened in Geneva, Switzerland, on September 24, 1979.

The document consists of approximately 180 pages. Because of the cost of printing so voluminous a text, it will not be published in the FEDERAL REGISTER. However, the FCC has prepared a limited number of copies that are available upon request at its Public Information Office, Room 202, 1919 M Street NW., Washington, D.C. 20554.

The Commission said the eighth notice was designed to present for comment, revisions to the table of frequency allocations as contained in article 5 of the international radio regulations. This notice of inquiry is a coordinated effort between the FCC and the Office of Telecommunications Policy (now National Telecommunications and Information Administration—NTIA).

The Commission invited public comments on the proposed table of frequency allocations, highlighting a number of problem areas affecting public and Federal Government needs. These included: High frequency (HF) requirements; mobile requirements between 27.5 and 1215 MHz; and mobile satellite requirements and feeder links between 1215 MHz-10.7 GHz.

Comments are due by June 30 and reply comments July 21, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-11726 Filed 5-1-78; 8:45 am]

[6712-01]

[Docket No. 20271; FCC 78-263]

PREPARATION FOR A GENERAL WORLD ADMINISTRATIVE RADIO CONFERENCE OF THE INTERNATIONAL TELECOMMUNICATION UNION

Revision of the International Radio Regulation; Sixth Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Sixth Notice of Inquiry (Docket No. 20271) issued seeking comments from interested parties about proposed changes in the International Radio Regulations and Additional Radio Regulations regarding methods of accounting and operating for public correspondence in maritime mobile service.

SUMMARY: The CCITT has adopted provisional Recommendations for presentation to the 1979 World Administrative Radio Conference (WARC) concerning methods of accounting and operating for public correspondence in maritime mobile service. The purpose of the Sixth Notice of Inquiry is to determine whether the Commission should recommend that the U.S. continue to support adoption of the recommendations by the 1979 WARC or whether it should submit alternative proposals.

DATES: Interested persons may file comments on or before June 2, 1978, and reply comments on or before June 19, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Earl S. Barbely, International Programs Staff, Common Carrier Bureau, 202-632-3214.

Adopted: April 18, 1978.

Released: April 25, 1978.

In the matter of an inquiry relative to preparation for a General World Administrative Radio Conference of the International Telecommunication Union to consider revision of the International Radio Regulations, Docket No. 20271.[1]

1. The Commission initiated this proceeding for the purpose of preparing U.S. Proposals for the General World Administrative Radio Conference (WARC) of the International Telecommunication Union (ITU) to be held in 1979. Five notices of inquiry have been adopted seeking comments about proposed changes in the International Radio Regulations and Additional Radio Regulations.[1] This Sixth Notice of Inquiry seeks comments from interested parites regarding proposals of the Joint Working Party for Maritime Mobile Service (SMM) of the International Telegraph and telephone Consultative Committee (CCITT) for changes in the methods of accounting and operating for public correspondence in maritime mobile service.[2]

2. The proposals consist of two draft CCITT Recommendations (see Appendix A and Appendix B) and draft Regulatory Provisions (see Appendix C) to be considered by the WARC as amendments to the ITU Radio Regulations and Additional Radio Regulations. The draft Recommendations were prepared as a result of a study conducted by a CCITT Study Group (Joint Working Party SMM) to determine improvements on current methods of accounting and operating for public correspondence in maritime mobile service. That study was requested by the World Maritime Administrative Radio Conference (Geneva, 1974) in its Resolutions Nos. Mar 2-22 and Mar 2-23 asking the CCITT to determine:

(1) What Amendments to the principles and methods of accounting for public correspondence in maritime radio communications are necessary to improve present methods, including accounting for ship charges, and to provide for foreseeable future developments?

(2) To what extent is it useful and desirable to revise those parts of Chapter IX of the Radio Regulations and those of the Additional Radio

[1]Notice of Inquiry, FCC 75-6 No. 29504, January 10, 1975, (40 FR 3245, January 20, 1975); Second Notice of inquiry, FCC 75-990, No. 36758, September 19, 1975 (40 FR 44606, September 29, 1975); Third Notice of Inquiry, FCC 26-1099, No. 43086, December 6, 1976, (41 FR 54309, December 13, 1976); Fourth Notice of Inquiry, FCC 77-285, May 17, 1977, Fifth Notice of Inquiry, FCC 77-349, No. 69533, May 23, 1977 (42 FR 27756, May 31, 1977). See also 42 FR 55641, October 18, 1977.

[2]The CCITT is an international consultative committee of the ITU concerned with the study of technical, operating and tariff question relating to telephone and telegraphy, including data communication. All ITU member countries and certain private companies operating telecommunications services can participate in its work. The CCITT may entrust the study of questions put before it to Study Groups composed of experts from different countries. The Study Groups draw up Recommendations which are submitted to a CCITT Plenary Assembly for adoption and publication. The bulk of the CCITT Recommendations specify standard design parameters and operating procedures for international communication facilities and services. Unlike the ITU Convention, which has treaty status, the Recommendations are not legally binding on the administrations of ITU member countries. However, compliance is virtually universal in actual practice since they provide the technical and operational basis for a unified global communications network.

Regulations not already included in the study carried out under Resolution No. Mar 2-22 and to transfer them to the CCITT Recommendations?

The Resolutions recommended that the requested CCITT report include a complete set of basic and detailed accounting rules to be produced as a CCITT Recommendation and that administrations and recognized private operating agencies bring these draft rules into use as soon as possible following their approval as Recommendation by CCITT VIth Plenary Assembly, October, 1976, Geneva, Switzerland. They also recommended that Administrations make proposals to the next competent World Administrative Radio Conference as to which, if any, of the draft rules should be included in the Radio Regulatons.

3. The Joint Working Party SMM initially prepared two draft Recommendations for submittal to the CCITT VIth Plenary Assembly in 1976 which the VIth Plenary Assembly adopted in principle with the exception of points relating to ship station charges and a single accounting authority.[3] The VIth Plenary Assembly requested the Joint Working Party SMM to further consider these points. The Joint Working Party SMM continued its studies and, as a result, prepared the draft Recommendations now before us for consideration. It determined that the Recommendations should not enter into force until any conflicting Articles in the Radio Regulations and the Additional Radio Regulations have been amended or revoked by the 1979 WARC. To this end, it prepared the draft Regulatory Provisions also now before us.

4. The Joint Working Party decided to circulate the draft Recommendations to Adminsitrations of ITU member countries for provisional approval since Plenary Assembly approval could not be obtained before the 1979 WARC. The United States cast its vote in favor of provisional approval during the worldwide letter balloting. Provisional approval was announced by the CCITT on November 7, 1977. The Recommendations therefore now have a status as if they had been approved in full by a CCITT Plenary Assembly and can be presented by the ITU Secretary-General to the 1979 WARC for consideration. The purpose of this inquiry is to determine whether this Commission shoud recommend that the U.S. continue to support adoption of the Joint Working Party's draft Recommendations and the draft Regulatotry Provisions by the 1979 WARC or whether it should submit alternative proposals.

5. Generally, the draft Recommendations and Regulatory Provisions would restructure the framework in which ITU Accounting Provisions currently exist. They would remove most of those provisions in the Radio Regulations and Additional Radio Regulations relating to accounting and transfer them to CCITT Recommendations. Only certain basic provisions considered to require continued regulatory status would remain in the Radio Regulations including provisions involving accounting responsibility, exchange and verification of maritime accounts, payment of balances, and period of retention of accounting records. This approach is intended to permit easier amendment of most of the accounting provisions to meet changing circumstances and, where possible, allow the elimination of many differences concerning accounting procedures and operations that now exist between the Radio Regulations and Additional Radio Regulations and the Telegraph and Telephone Regulations.

6. Additionally, the draft Recommendations and Radio Regulations would effectuate specific changes in accounting and operating procedures for public correspondence in maritime mobile service. In particular, they would (1) reduce the number of accounting authorities in each country to which accounts for the services of maritime mobile stations may be sent by setting a maximum number of 25, (2) define the responsibility of each Administration for payment of bad debts incurred by ship stations licensed by it, (3) eliminate by 1988 ship station charges for shore-to-ship traffic from all international accounts, and (4) propose uniform rates for ship stations charges that would be effective until such charges are eliminated in 1988. The rates proposed, of course, could be imposed by ship stations only pursuant to the authority of the Administration that has issued their license.

7. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before June 2, 1978, and reply comments on or before June 19, 1978. All relevant and timely comments and reply comments, along with any pertinent information which the Commission may have available, will be considered.

8. Although § 1.419 of the Commission's Rules requires that an original and five copies of all statements, briefs or comments be filed in response to a Notice, the Commission's conference preparatory organization necessitates the filing of an original and nineteen copies. All responses received will be available for public inspection during regular business hours in the Comission's Public Reference Room at its headquarters in Washington, D.C.

9. This Notice is issued pursuant to the authority set forth in section 4(i) of the Communications Act of 1934, as amended 47 U.S.C. 154(i).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[3]In addition to providing comprehensive recommendations regarding maritime accounting and charging, the draft Recommendations provided, that accounting for mobile station charges should be specified more accurately, including a limitation on the number of accounting addresses.

APPENDIX A

DRAFT RECOMMENDATION D. 90/F. 111 ("X")

Charging, Accounting and Refunds in the Maritime Mobile Service

INTRODUCTORY NOTES

1. For the purposes of this Recommendation, the term Maritime Mobile Service should be understood to embrace the Maritime Mobile Satellite Service as well as the MF, HF and VHF radio media, unless specifically stated otherwise.

2. Throughout this Recommendation the Asterisk * used after "Administration(s)" means that recognized private operating agency/agencies are included.

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PREAMBLE

The CCITT

considering

(a) Resolution No. Mar 2-22 of the World Maritime Administrative Radio Conference (Geneva, 1974) relating to accounting for public correspondence in maritime radiocommunications;

(b) Recommendation No. Mar 2-18 of the same conference relating to the same subject;

(c) Resolution No. Sat-10 of the World Administrative Radio Conference for the planning of the Broadcasting Satellite Service in the 12 GHz band (Geneva, 1977) relating to the possible rearrangement of the Radio Regulations and the Additional Radio Regulations;

(d) That the provisions of the Telegraph Regulations and the Telephone Regulations (Geneva, 1973) and the Protocols annexed thereto, taking into account CCITT Recommendations (particularly those in the E and F Series) shall apply to radiocommunications;

(e) That the VIth Plenary Assembly of the CCITT (Geneva, 1976) adopted the Recommendation below, with the exception of the points relating to mobile station charges and a single accounting authority, which points have now been considered further and have resulted in amendments being carried into the texts given below;

(f) That the provisions for charging, accounting and refunds in the Maritime Mobile Service and in the Maritime Mobile Satellite Service are presently contained in the Radio Regulations and the Additional Radio Regulations, which will remain in force until they are reviewed by the World Administrative Radio Conference (1979).

recommends

That Administrations take this Recommendation into account when formulating their proposals for consideration at the World Administrative Radio Conference for the General Revision of the Radio Regulations and the Additional Radio Regulations (Geneva, 1979). Annex 2 shows the correspondence between the 1976 edition of the Radio Regulations and the Additional Radio Regulations and the provisions of this recommendation. Annex 3[1] offers a preliminary draft Article that includes all the basic provisions considered to require regulatory status. A consequence of this is that Article 40A of the Radio Regulations and Articles 4A, 5A, 5B, 6A and 8 of Section I of the Additional Radio Regulations would no longer be required.

NOTE.—Administrations may also wish to consider whether Article 40 of the Radio Regulations and those parts of the Additional Regulations not listed above would also no longer be required.

Division A

INTRODUCTION

I. Definitions

A1 1. *Accounting authority.*
The administration of the country that has issued the license for a mobile station (or the recognized private operating agency or other entity/entities designated by the Administration in accordance with C1 to C6) to whom maritime accounts in respect of mobile stations licensed by that country may be sent.

[1]Appendix C herein.

A2 2. *Maritime account*
The account issued by the Admininstration* operating a land station in respect of telecommunication traffic exchanged between the land station and a mobile station.

A3 3. *Landline charge*
The charge relating to transmission over the general network of telecommunication channels, national and international.

A4 4. *Land station charge*
The charge relating to the use of facilities provided by the land station.

A5 5. *Mobile station charge*
The charge relating to the use of facilities provided by the mobile station.

Division B

CHARGING

I. General

1. *General*

B1 1.1 The charges for radiocommunications consist of:

B2 (a) the landline charges;

B3 (b) the land station charges;

B4 (c) the mobile station charges (if any);

B5 (d) any charges for special services for telegrams that have to be considered in the accounting; and

B6 (e) any special charges for special facilities.

B7 1.2 The landline charge for national telecommunication channels applicable to readiocommunications between a mobile station and the country of the land station is notified in gold francs to the Secretary-General of the ITU by the land station Administration*.

B8 1.3 The landline charges applicable to radiocommunications between a mobile station and a country other than that of the land station, are the collection charges fixed or applied for telecommunication services in the international relation concerned; they shall be notified in gold francs to the Secretary-General of the ITU by the land station Administration*.

B9 1.4 The land station charges shall be expressed in gold francs; Adminstrations* shall notify to the Secretary-General of the ITU the charges fixed by them.

B10 1.5 The landline and land station charges notified to the Secretary-General of the ITU in accordance with B7 to B9 will be published in Part IV of ITU List IV, the List of Coast Stations.

NOTE.—For countries that have not introduced banded collection charges for international services, only a limited number of charges, for routes in frequent use, will be published. Adminstrations* of these countries should indicate to the Secretary-General of the ITU which charges should be published in the List of Coast Stations.

B11 1.6 Where mobile station charges are applied, the Adminstration of the country that has issued the licence shall so notify the Secretary-General of the ITU for inclusion of this information in the List of Ship Stations.

B12 1.7 Mobile station charges may be applied in the radiotelegram, radiotelephone and radiotelex services in the MF and HF bands. They shall not be applied in any of the VHF services nor in any of the Mobile Satellite Services, nor in any service with automatic operation; however, mobile station charges may also be applied for radiotelegrams transmitted via VHF.

B13 1.8 Mobile station charges shall be abolished for traffic exchanged after 2359 hours GMT 31 December 1987.

B14 1.9 Until 31 December 1987, the following standardized mobile station charges shall be applied worldwide:

B15 (a) radiotelegrams, 0.40 gold francs per ordinary word;

B16 (b) radiotelephone calls in the MF band, 1.50 gold francs per minute;

B17 (c) radiotelephone calls in the HF band, 2.00 gold francs per minute;

B18 (d) radiotelex calls in the MF and HF bands, 1.50 gold francs per minute.

B19 1.10 The Adminstration of the country that has issued the license for a mobile station may authorize it to collect on board and to retain mobile station fees when mobile station charges are no longer applicable. The Administration may set an upper limit to these fees.

B20 1.11 Mobile stations must be acquainted with the tariffs necessary for charging. However, they are authorized, where necessary, to obtain such information from land stations. Charges furnished by land stations are expressed in gold francs.

2. *Tariff changes*

B21 2.1 New or modified charges shall not come into effect for international traffic for countries other than that which establishes the charges until the first day of the month following the expiry of the following periods, counted from the day after the despatch of the first notification by the Secretary-General of the ITU:

B22 (a) for traffic from mobile station to land, 1 month and 15 days;

B23 (b) for traffic from land to mobile station, 15 days, except that for changes to bring charges into line with those on competing routes the period shall be 10 days.

3. *Radiocommunications between mobile stations*

B24 3.1 When a single land station is used as an intermediary between mobile stations, two land station charges are collected. If the land station charge applicable to traffic with the origin mobile station is different from that applicable to traffic with the destination mobile station, the sum of these two charges is collected.

B25 3.2 When it is necessary to use two land stations as intermediaries between two mobile stations, the land station charge for each station is collected and also the landline charge for the section between the two land stations.

II. Radiotelegrams

1. *General*

B26 1.1 The land station charge and the mobile station charge are fixed on the basis of a word charge.

B27 1.2 The total charge for radiotelegrams is collected from the sender, with the exception of charges applicable to radiotelegrams to be redirected as the request of the addressee (as provided in Recommendation F.1).

B28 1.3 No additional charge shall be made when acknowledgement of receipt of a radiotelegram is made through another mobile station or land station by service advice, or when an intermediate mobile station assists in the forwarding of a radiotelegram.

2. *Special charging arrangements*

2.1 *Radiotelegrams of immediate general interest*

B29 2.1.1 No charge for radio transmission in the mobile service is made for radiotelegrams of immediate general interest, provided that they are:

B30 (a) distress radiotelegrams or replies thereto;

B31 (b) radiotelegrams originating in mobile stations notifying the presence of icebergs, derelicts, mines and other dangers to navigation, or announcing cyclones and storms;

B32 (c) radiotelegrams announcing unexpected phenomena threatening air navigation or the sudden occurrence of obstacles at airports;

B33 (d) radiotelegrams originating in mobile stations notifying sudden changes in the position of buoys, the working of lighthouses, devices connected with buoyage, etc.; or,

B34 (e) service radiotelegrams relating to the mobile service.

2.2 *Radiotelegrams relating to medical advice*

B35 2.2.1 No charge for radio transmission is made for radiotelegrams relating to medical advice provided that:

B36 (a) they are exchanged directly between mobile stations and land stations that are shown in the List of Radiodetermination and Special Service Stations as providing such a service, and,

B37 (b) they are addressed in accordance with the conditions indicated in that List.

2.3 *Meteorological radiotelegrams*

B38 2.3.1 Land station charges and mobile station charges applicable to meteorological readiotelegrams (see Recommendation F.1) should be reduced by at least 50 percent in all relations.

2.4 *Radiotelegrams concerning persons protected in time of war*

B39 2.4.1 Radiotelegrams concerning persons protected in time of war by the Geneva Conventions of 12 August 1949, are accepted under the conditions specified in number 4 of the Annex to the Telegraph Regulations (Geneva, 1973) taking into account CCITT Recommendation (F.1).

B40 2.4.2 The land station charges and the mobile station charges for these RCT radiotelegrams shall be decreased in the same proportion as the charges for transmission on the general network of telecommunication channels.

2.5 *Press radiotelegrams*

B41 2.5.1 For those land stations that accept press radiotelegrams, for the relations admitted the land station charge and the mobile station charge should be the same as those for ordinary private radiotelegrams reduced by 50 percent.

B42 2.5.2 Press radiotelegrams are subject to any landline press rate that may be in force in the land station country or between the land station and destination countries.

3. *Radiomaritime letters*

B43 3.1 Except as otherwise provided in B44 to B47, radiomaritime letters may be accepted, taking into account CCITT Recommendations relating to letter telegrams, if the telegram service is used to convey radiomaritime letters.

B44 3.2 The total charge shall include the postal charge (by ordinary letter or airmail letter) due for delivery in the land station country.

B45 3.3 An additional charge may be collected where delivery is to be made to a country other than that of the land station.

B46 3.4 The following charges are added where applicable:

B47 (a) charges due for special services;

B48 (b) the landline charge when transmission on the land section is exceptionally by telegraph.

III. Radiotelephone and radiotelex calls

1. *Land station and landline charges*

B49 1.1 If no uniform charges apply in respect of the land stations of a country, different land station charges shall be fixed for the MF, HF and VHF bands.

B50 1.2 The unit charge is the charge for an ordinary private call of one-minute duration.

B51 1.3 The minimum charge for a call with manual or semi-automatic operating is three charge units.

B52 1.4 Fully automatic calls should be charged by one of the following two methods, taking into account CCITT Recommendations:

B53 (a) charging minute by minute;

B54 (b) charging by periodic pulses of the type used in the national automatic service.

B55 1.5 The charge for a call is normally collected from the calling party with the exception of collect calls (if collect calls are admitted). For collect calls, the charge shall be payable by the called party.

B56 1.6 When handled through a land station, the chargeable duration of a call will be fixed at the end of the call by the land station; if two land stations are participating in the handling of the call, the opinion of that land station will prevail which has accepted the call from the originating mobile station.

B57 1.7 The decision of this land station will also be valid for international accounting.

2. *Special charges*

B58 2.1 The special charges for personal radiotelephone calls (from mobile station to land) and collect calls, if admitted, shall be applied.

B59 2.2 The charge for special call facilities shall be calculated on the basis used for an international call, applied to either:

B60 (a) the landline charge only; or

B61 (b) all components of the call charge.

B62 2.3 When the booking of a radiotelephone call that is liable to the payment of a special charge (for example, a collect call) is accompanied by a booking of a personal call, only one special charge shall be collected.

Division C

ACCOUNTING

I. General

C1 1. Charges for radiocommunications from ship-to-shore are in principle, and subject to national law and practice, to be collected from the maritime mobile station licensee:

C2 (a) by the Administration that has issued the licence, or

C3 (b) by a recognized private operating agency, or

C4 (c) by other entity or entities designated by the Administration to carry out this accounting.

C5 2. The Administration or the recognized private operating agency or the designated entity (or entities) is referred to in this Division as the "accounting authority".

C6 3. The name(s) and address(es) of the accounting authority(ies) shall be notified to the Secretary-General of the ITU for inclusion in the List of Ship Stations; the number of such names shall be limited as far as possible and should not exceed 25.

C7 4. For responsibility for payment of accounts rendered in accordance with C1 to C6, see C46 to C49.

II. Establishment of accounts

1. *Maritime accounts*

C8 1.1 In the case of radiocommunications originating in mobile stations, the land station Administration* shall depit the accounting authority for the origin mobile station with:

C9 (a) the land station charges;

C10 (b) the landline charges;

C11 (c) the total charges collected for prepaid replies;

C12 (d) any charges for special services for telegrams;

C13 (e) where appropriate, the special charges for radiotelephone calls with special facilities;

C14 (f) where appropriate, postal charges on radiomaritime letters.

C15 1.2 In the case of radiocommunications addressed to mobile stations and originating in a country other than that of the land station, the land station's Administration* shall debit the Administration* of the country from which the radiocommunication originated with:

C16 (a) the land station charges; and

C17 (b) the mobile station charges (if any).

C18 1.3 In the case of a radiotelegram that has been forwarded by means other than radio (see Recommendation E.190/F.110; B57 and B58), only the land station charge shall be debited.

C19 1.4 In the case of a completed radiocommunication in the direction to a mobile station, the land station Administration* credits the accounting authority for the destination mobile station with:

C20 (a) the mobile station charge (if any), and

C21 (b) the total charge collected for or prepaid reply, if occasion arises.

C22 1.5 In the case of radiocommunication exchanged between mobile stations:

C23 1.5.1 through the medium of a single land station: the land station Administration* debits the accounting authority for the origin mobile station with the appropriate charges. Thereafter, if occasion arises, the provisions of C19 to C21 are applied.

C24 1.5.2 through the medium of two land stations: the first land station Administration* debits the accounting authority for the origin mobile station with the appropriate charges, taking into account C8 to C14. Thereafter, C15 to C18 and C19 to C21 are applied by the second land station, the first land station being regarded as the office of origin as far as the accounts are concerned.

C25 1.6 For accounting purposes, collect calls shall be regarded as originating in the destination country or mobile station.

C26 1.7 Accounts are prepared monthly by the land station Administration* and rendered by it to the accounting authority responsible for the mobile station, with the exception referred to in C30.

2. *International accounts*

C27 2.1 The international landline charges shall be included in the international

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telegraph and telephone accounts and shall be accounted for in accordance with the provisions of the Telegraph Regulations and Telephone Regulations, taking into account CCITT Recommendations. The agreed international accounting rates shall apply.

C28 2.2 The country on whose territory is established a land station serving as intermediary for the exchange of radiocommunications betwen a mobile station and another country, is considered, as far as the application of landline charges is concerned, as the origin or destination country and not as a transit country.

C29 2.3 In principle, land station charges and mobile station charges shall not be entered in the international telegraph and telephone accounts.

C30 2.4 However, by previous agreements, Administrations* may establish a system by which the land station charges and the mobile station charges are included in the international accounts by the origin Administration*.

3. *Accounting for Single-operator Service*

C31 3.1 Except as otherwise provided, the following provisions apply to single-operator radiotelephone and radiotelex services, in which land subscribers and land station operators of different countries call each other without the aid of an intermediate operator.

C32 3.2 The operating and charging procedures are described in Recommendation E.190/F.110.

C33 3.3 The billing and settlement procedures for single-operator radio-maritime calls to mobile stations are as follows:

C34 3.3.1 Except as provided for in C36, the call details are forwarded at least monthly to the Administration* in question in the caller's country.

C35 3.3.2 The Administration* charges the call in its internal billing system and includes the total amount in a quarterly statement of accounts to the credit of the land station Administration*.

C36 3.3.3 In the case of collect radiotelephone calls to a mobile station in the international maritime mobile service (if admitted by the land station Administration*), the total amount of the bill shall be debited to the mobile station licensee in the maritime accounts (see C8 to C14).

C37 3.3.4 If bilaterally agreed between the Administrations* concerned, the land station Administration* may collect the charge by presenting a bill directly either to the foreign subscriber who booked the call or to his registered representative in the land station country.

III. Exchange and verification of maritime accounts

C38 1. Exchange and verification of accounts shall be carried out in accordance with the Telegraph Regulations and the Telephone Regulations, taking into account CCITT Recommendations.

C39 2. The accounts, in duplicate, are forwarded before the end of the third month following that to which they relate.

C40 2. Radiotelegrams, radiotelephone calls and radiotelex calls shall be entered individually with all necessary particulars in the monthly accounts that serve as a basis for the accounting mentioned in this division.

C41 4. The entries in accounts shall be spaced in such a way that the duplicate of the account can be divided and used for the accounting with the mobile station licensee by the accounting authority for the mobile stations. The entries shall be grouped under mobile station name and call sign, with a total charge shown for each mobile station.

C42 5. However, Administrations* may establish accounts for each mobile station with all necessary particulars mentioned above. These individual accounts shall be included in a recapitulatory statement.

C43 6. A specimen statement is given in Annex 1.

C44 7. In principle, an account shall be considered as accepted without the need for specific notification of acceptance to the Administration* that sent it.

C45 8. However, any accounting authority shall have the right to question the contents of an account for a period of six months after dispatch of the account.

C46 9. All maritime accounts shall be paid by the accounting authority without delay and in any case within 6 months after dispatch of the account.

C47 10. If international maritime accounts remain upaid after 6 months, the Administration that has licensed the mobile station shall on request take all possible steps, within the limits of applicable national law, to ensure settlement of the accounts from the licensee.

C48 11. In the case referred to in C45, if the account is seriously delayed in transit, the receiving accounting authority should at once notify the originating Administration* that queries and payment may be delayed. However, the delay shall not exceed 3 months from the date of receipt of the account.

C49 12. The debtor accounting authority may refuse the settlement and adjustment of accounts presented more than eighteen months after the date of handing-in of the radiotelegrams or the date of establishment of the radiotelephone calls or radiotelex calls to which the accounts relate.

IV. Payment of balances

C50 1. Payment of balances shall be carried out in accordance with the Telegraph Regulations and the Telephone Regulations.

V. Archives

C51 1. The originals of radiotelegrams and documents relating to radiotelegrams, radiotelephone calls and radiotelex calls retained by the Administrations* shall be held, with all necessary precautions from the point of view of secrecy, until the settlement of the relative accounts and, in any case, for at least six months counting from the month in which the accounts were sent. Administrations* may preserve the information by any other means, e.g. magnetic or electronic records.

C52 2. However, should an Administration* deem it desirable to destroy such documents before the above-mentioned period, and hence is not in a position to carry out an inquiry in respect of the services for which it is responsible, such Administration* shall bear all the consequences both as regards refund of charges and any difference in the accounts in question that might otherwise have been observed.

Division D

REFUNDS

I. Radiotelegrams

1. *General*

D1 1.1 The provisions of Recommendation F.42, Division C shall apply with the following exceptions.

2. *Radiomaritime letters*

D2 2.1 When a radiomaritime letter fails to reach its destination due to the failure of the postal service, only the charges in respect to the services not carried out are refunded.

D3 2.2 Refund of charges is admitted when, through the fault of the telegraph or radiotelegraph service, a radiomaritime letter has not reached its destination, as well as in the cases provided for in Article 12 of the Telegraph Regulations (Geneva, 1973), taking into account CCITT Recommendations.

II. Radiotelephone and radiotelex calls

D4 1. When, through any fault of the service, the booking of a call is not followed by the calling and called stations being placed in communication, no charge shall be payable. If the amount of the charge has been paid, it shall be refunded.

D5 2. In order to simplify operating and accounting procedures, Administrations* may decide that no charge shall be payable when a requested connection has not been set up, whatever the reason.

D6 3. However, Administration* may decide to collect charges in cases where there is no fault of service. In that case the basis of charging shall be notified to the Secretary-General of the ITU for inclusion in the List of Coast Stations.

D7 4. When, through any fault of the service, difficulty is experienced in the course of a call, the chargeable duration of the call shall be reduced to the total time during which transmission conditions have been satisfactory, taking into account CCITTRecommendations.

ANNEX 1

[To recommendation D.90/F.111]

Specimen form of statement of maritime accounts

Account between country A and country B in respect of radiotelegrams, radiotelephone calls, and radiotelex calls sent through the land stations of country A during the month of——

Date	Land station	Origin	Call sign	Destination	Number of		Category	Credit or debit for country A (gold francs)		Remarks
					Words	Minutes		Credit	Debit	

[To recommendation D.90/F.111]

Correspondence between the 1976 edition of the radio regulations and the additional radio regulations and the provisions of recommendation D.90/F.111

Radio regulations		Status	Recommendation D.90/F.111	Remarks
Article	Provision			
37A	1496A			See the annex to recommendation E.190/F.110.
38	1497 to 1499			Do.
39	1500 to 1504			Do.
40A	1559AA	SUP		
	1559AAA	MOD	A1	
	1559AAB	MOD	A3	
	1559AB	NOC	C29	C30 added to cover special agreements.
	1559AC to AE	MOD	B1 to B6	Combined with 2062 AA to AE, 2087 AB to AF, and 2087 BB to BF.
	1559AF	MOD		Covered in considering d.
	1559AG	MOD	C27	Combined with 1559 BH, BL, and BP.
	1559AH and AH.1	MOD	C29 and C30	
	1559AI	MOD	C26	
	1559AJ	MOD	C28	
	1559AK	SUP		See C1 to C7.
	1559AL	MOD	C26	
	1559AM	MOD	C47	
	1559AN	MOD	C6	
	1559AO	MOD	C8 to C14	Expanded to cover radiotelex and radiotelephone and to include postal charges for radiomaritime letters; combined with 1559 BC and BK.
	1559AP	SUP		See 1559 AF and AG above.
	1559 AQ and AR	MOD	B8	Combined with 1559 BE and BM.
	1559AS	SUP		Covered in recommendations F.1 and F.42.
	1559AT	MOD	C15 to C18	Combined with 1559 BG and BO.
	1559AU	MOD	C19	Radiotelex and radiotelephone included (1559 BN and BF).
	1559AV	MOD	C20	Do.
	1559AW	MOD	C21	Do.
	1559AX	SUP		Covered in recommendations F.1 and F.42; see also C25.
	1559AY	MOD	C22	Includes radiotelex and radiotelephone.
	1559AZ	SUP		
	1559BA	MOD	C23	Do.
	1559BB	MOD	C24	Do.
	1559BC	MOD	C8 to C14	Expanded to cover radiotelegrams and radiotelex; combined with 1559 AO and BK.
	1559BD	SUP		See 1559 AF and AG.
	1559BE	MOD	B8	Combined with 1559 AQ, AR, and BM.
	1559BF	MOD	C19 and C20	Combined with 1559 AU, AV, and BN.
	1559BG	MOD	C15 to C17, C19, and C20	Combined with 1559 AT and BO.
	1559BH	SUP		See 1559 AF and AG.
	1559BI	SUP		See 1559AY-BB.
	1559BJ	MOD	C25	Combined with 1559BR.
	1559BK	MOD	C8 to C10	Combined with 1559 AO and BC.
	1559BL	SUP		See 1559 AF and AG.
	1559BM	MOD	B8	Combined with 1559 AQ, AR, and BE.
	1559BN	MOD	C19 and C20	Combined with 1559 AU, AV, and BF.
	1559BO	MOD	C15 to C17, C19, and C20	Combined with 1559 AT and BG.
	1559BP	SUP		See 1559 AF and AG.
	1559BQ	SUP		See 1559 AY to BB.
	1559BR	MOD	C25	Combined with 1559BJ.
	1559BS	MOD	C38 and C50	
	1559BT	MOD	C39	
	1559BU	MOD	C40 to C43	
	1559BV	MOD	C44	
	1559BW	MOD	C45	
	1559BX	MOD	C48 and C49	
	1559BY	MOD	C51	Provision made for magnetic or electrical recording of accounting data.
	1559BZ	NOC	C52	
App. 21A		MOD	C43	See annex 1 to this recommendation.
Additional radio regulations				
1A	2004A-D			See recommendation E.190/F.110.
2	2005 to 2014			Do.

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Correspondence between the 1976 edition of the radio regulations and the additional radio regulations and the provisions of recommendation D.90/F.111—Continued

Radio regulations Article	Provision	Status	Recommendation D.90/F.111	Remarks
3	2015 to 2017			See recommendation E.190/F.110.
4A	2062AA	MOD	B1	Combined with 1559AC-AE, 2087AB-AF, and 2087BB-BF.
	2062AB	MOD	B4	Do.
	2062AC	MOD	B3	Do.
	2062AD	MOD	B2	Do.
	2062AE	MOD	B5	Do.
	2062AF	MOD	B26	Minimum numbers of words for the various telegram classes are shown individually in recommendation F.1.
	2062 AG and AH	MOD	B7 to B10 and B11	Combined with 2087 AJ and BK.
	2062AI	MOD	B24	Combined with 2087 AK, AL, BL, and BM.
	2062AJ	MOD	B25	Do.
	2062AK	SUP		See recommendation E.190/F.110.
	2062AL	MOD	B7	Combined with 2087 AH and BI.
	2062 AM and AN			See recommendation E.190/F.110.
	2062AO-AR	MOD	B27	Alined with recommendation F.1 (express delivery delcted, inadmissible combinations or alterations of words no longer applicable).
	2062AS	MOD	B20	Combined with 2087 AT and BU.
	2062AT	SUP		See B9 and B20.
	2062AU to AY	MOD	B21 to B23	
	2062AZ	MOD	B29 to B34	Based on art. 4, 2046 to 2051; see also recommendation F.1.
	2062BA	MOD	B35 to B37	Based on art. 4, 2052.
	2062BB	MOD	B38	Based on art. 4, 2053 to 2057 but see recommendation F.1 for the detailed conditions of acceptance.
	2062 BC to BF	MOD	B41 and B42	Detailed provisions in recommendation F.1.
	2062BG	MOD	B39	Do.
	2062BH	MOD	B40	Do.
5A	2087AA	SUP		
	2087 AB to AF	MOD	B1 to B6	Combined with 1559 AC to AE, 2062 AA to AE, and 2087 BB to BF.
	2087AG	MOD	B49 to B51	Combined with 2087BG.
	2087AH	MOD	B7	Combined with 2067AL and 2087BI.
	2087AI	MOD	B12, B16, and B17	
	2087AJ	MOD	B9 and B11	Combined with 2062AG, 2062AH, and 2087BK.
	2087AK	MOD	B24	Combined with 2062 AI and AJ; 2087 BL and BM.
	2087AL	MOD	B25	Do.
Additional radio regulations				
	2087AM	MOD	B56 and B57	Combined with 2087BN.
	2087AN	SUP		
	2087AO	MOD	D4	Combined with 2087BP.
	2087AP	MOD	D5	Combined with 2087BQ.
	2087AQ	MOD	D6	Combined with 2087BR.
	2087AR	MOD	D7	Combined with 2087BS.
	2087AS	MOD	B55	Combined with 2087BT.
	2087AT	MOD	B20	Combined with 2062AS and 2087BU.
	2087AU	SUP		See 2062 AU to AY.
	2087 AV to AZ	MOD	B58 to B62	Combined with 2087 BW to BZ.
5B	2087BA	SUP		
	2087 BB to BF	MOD	B1 To B6	Combined with 1559 AC to AE, 2062 AA to AE, and 2087 AB to AE.
	2087BG	MOD	B49 to B51	Combined with 2087AG.
	2087BH	MOD	B52 to B54	
	2087BI	MOD	B7	Combined with 2062AL and 2087AH.
	2087BJ	MOD	B12 and B18	
	2087BK	MOD	B9 and B11	Combined with 2062 AG and AH, 2087AJ.
	2087BL	MOD	B24	Combined with 2062 AI and AJ, 2087 AK and AL.
	2087BM	MOD	B25	Do.
	2087BN	MOD	B56 and B57	Combined with 2087AM.
	2087BO	SUP		
	2087BP	MOD	D4	Combined with 2087AO.
	2087BQ	MOD	D5	Combined with 2087AP.
	2087BR	MOD	D6	Combined with 2087AQ.
	2087BS	MOD	D7	Combined with 2087AR.
	2087BT	MOD	B55	Combined with 2087AS.
	2087BU	MOD	B20	Combined with 2062AS and 2087AT.
	2087BV	SUP		See 2062 AU to AY.
	2087 BW to BZ	MOD	B58 to B62	Combined with 2087 AV to AZ.
6A	2106A-F			See recommendation E.190/F.110.
	2106G	MOD	B43	See also recommendation E.190/F.110 B72.
	21 OH and I			See recommendation E.190/F.110.
	2106J	MOD	B44 and B45	
	2106K-M	MOD	B46 to B48	
	2106N			Do.
	2106O	SUP		Covered in division C.
	2106P	NOC	D2	
	2106Q	MOD	D3	
7a	2123			See recommendation E.190/F.110.
8	2124 to 2136			Do.
9	2137 to 2151			Do.
10A	2158A to 2158D			Do.
11	2159 and 2160			Do.

Notes

1. Under "status," MOD=modified, SUP=suppressed, and NOC=no change (except for the cases in note 2).
2. Where necessary the term "coast station" has been replaced with "land station," "aeronautical station" with "land station," "ship" with "mobile station," and "message" with "telegram."

APPENDIX B

DRAFT RECOMMENDATION E.190/F.110 ("Y")

Operational Provisions for the Maritime Mobile Service

INTRODUCTORY NOTES

1. For the purposes of this Recommendation, the term "Maritime Mobile Service" should be understood to embrace the Maritime Mobile Satellite Service as well as the MF, HF, and VHF radio media, unless specifically stated otherwise.

2. Throughout this Recommendation the asterisk * used after "Administration (s)" means that recognized private operating agency/agencies are included.

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3. Routing of calls.
4. Information to be supplied by the calling party.
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Chapter II Traffic from mobile stations:
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2. Single-operator service.
3. Automatic service.
4. Procedures.
Chapter III Traffic to mobile stations:
1. Manual procedure.
2. Single-operator procedure.
3. Automatic procedure.
Annex—Correspondence between the 1976 Edition of the Radio Regulations and the Additional Radio Regulations and the Provisions of Recommendation E.190/F.110

PREAMBLE

The CCITT

considering

(a) Resolution No. Mar2-23 of the World Maritime Adminstrative Radio Conference (Geneva, 1974) relating to the interpretation of the provisions affecting the public correspondence services;

(b) Resolution No. Sat-10 of the World Administrative Radio Conference for the planning of the broadcasting satellite service in the 12 GHz band relating to the possible re-arrangement of the Radio Regulations and the Additional Radio Regulations;

(c) That the provisions of the Telegraph Regulations and the Telephone Regulations (Geneva, 1973) and the Protocols annexed thereto, taking into account CCITT Recommendations (particularly those in the E and F series) shall apply to radiocommunications;

(d) That the VIth Plenary Assembly of the CCITT (Geneva, 1976) adopted the Recommendation below, with the exception of the points relating to mobile station charges and a single accounting authority, which points have now been considered further and have resulted in amendments being carried into the texts given below;

(e) That the operational provisions for the Maritime Mobile Service and the Maritime Mobile Satellite Service are presently contained in the Radio Regulations and the Additional Radio Regulations, which will remain in force until they are reviewed by the World Administrative Radio Conference (1979),

recommends

That Administrations take this Recommendation into account when formulating their proposals for consideration at the World Administrative Radio Conference for the General Revision of the Radio Regulations and the Additional Radio Regulations (Geneva, 1979). The Annex shows the correspondence between the 1976 edition of the Radio Regulations and the Additional Radio Regulations and the provisions of this Recommendation. It is considered that all the basic operating provisions in this Recommendation are covered in the Telegraph and Telephone Regulations (Geneva, 1973) and therefore the only provision that requires regulatory status is one requiring observance of those Regulations in the Maritime Mobile Service (see section I of the preliminary draft Article in Annex 3[5] of Recommendation D.90/F.111[6]). A consequence of this is that Articles 37A, 38 and 39 of the Radio Regulations and Articles 1A, 7A and 10A of the Additional Radio Regulations would no longer be required.

NOTE.—Administrations may also wish to consider whether Article 37 of the Radio Regulations and those parts of the Additional Radio Regulations not listed above would also no longer be required.

Division A

GENERAL

I. Order of priority

A1. 1. The order of priority for communications[7] in the maritime mobile service shall be as follows, except where technically impracticable:

A2 1.1 Distress calls, distress messages and distress traffic;

A3 1.2 Communications preceded by the urgency signal;

A4 1.3 Communications preceded by the safety signal;

A5 1.4 Communications relating to radio direction-finding;

A6 1.5 Communications relating to the navigation and safe movement of aircraft engaged in search and rescue operations;

A7 1.6 Communications relating to the navigation, movements and needs of ships, and weather observation messages destined for an official meteorological service;

A8 1.7 Radiotelegrams relative to the application of the United Nations Charts (ETATPRIORITENATIONS);

A9 1.8 Government radiotelegrams with priority (ETATPRIORITE) and government calls for which priority has been expressly requested;

A10 1.9 Service communications relating to the working of the telecommunication service or to communications previously exchanged;

A11 1.10 Government communications other than those shown in A9, ordinary private communications, RCT radiotelegrams and press radiotelegrams;

A12 1.11 Radiomaritime letters.

[5] Appendix C herein.
[6] Published in GM SMM-No. 16.
[7] The term *communication* as used in A1 to A12 means radiotelegram, radiotelephone calls and radiotelex calls.

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Division B

RADIOTELEGRAMS

I. Preparation and handing-in of radiotelegrams

1. *Plain language*

B1 1.1 Groups of letters and figures from the International Code of Signals are considered as plain language in radiotelegrams.

2. *Indication of station of origin*

B2 2.1 When, because of duplication of names, the name of a station is followed by it call sign, the latter shall be joined to the name of the station by a fraction bar. Examples: OREGON/OZOC (not OREGONOZOC); ROSE/DDOR (not ROSEDDOR).

B3 2.2 When a land station retransmits over the general network of telecommunication channels a radiotelegram received from a mobile station, it shall transmit, as office of origin, the name of the mobile station in which the radiotelegram originated as this name appears in the appropriate list of stations, followed by its own name. Where appropriate, B2 shall also apply.

B4 2.3 In order to avoid any confusion with a telegraph office or a fixed station of the same name, the land station may, if desirable, complete the indication of the name of the mobile station of origin by the work SHIP of AIRCRAFT, placed before the station of origin.

3. *Time of handing-in*

B5 3.1 In the transmission of radiotelegrams originating in a mobile station, the date and time of handing-in at this station are given by two groups of figures in the preamble line, the first indicating the day of the month (1 to 31) and the second consisting of a group of figures (0001 to 2400) indicating the hours and the minutes.

B6 3.2 The time of handing-in is indicated in Greenwich Mean Time (GMT).

4. *Address*

B7 4.1 The address of radiotelegrams destined for mobile stations must be as complete as possible and must include:

B8 (a) the name or the designation of the addressee, with supplementary particulars, if necessary;

B9 (b) the name of the mobile station followed, when necessary, by its call sign, the letter joined by a fraction bar to the name of the station as shown in the List of Ship Stations;

B10 (c) the name of the land station through which the radiotelegram is to be forwarded, as it appears in the appropriate list of stations.

B11 4.2 If the mobile station does not appear in the List of Ship Stations, the sender should, if possible, indicate the nationality and route followed by the mobile station.

B12 4.3 However, the name and call sign required under B9 may be replaced, at the risk of the sender, by particulars of the passage made by such mobile station, indicated by the names of the ports or airports of departure and of destination, or by any equivalent indication.

B13 4.4 Mobile stations not suplied with the international List of Telegraph Offices may add to the telegraph office of destination:
the name of the territorial subdivision;
the destination or country;
both of the above;
if it is doubtful whether, without such addition, the radiotelegram could be correctly routed without difficulty.

B14 4.5 The land station operator receiving the radiotelegram retains or deletes these particulars, or further amends the name of the office of destination as is necessary or sufficient for forwarding the radiotelegram to its proper destination.

II. Counting of words

B15 1. The word count of the office of origin is decisive in the case of radiotelegrams destined for mobile stations, and that of the land station is decisive in the case of radiotelegrams originating in mobile stations.

B16 2. If two land stations participate in the handling of a radiotelegram, the opinion of the land station that has accepted the radiotelegram from the originating mobile station will prevail. The decision of this land station will also be valid for international accounting.

III. Routing of Radiotelegrams

B17 1. Radiotelegrams should be routed via the land station that is considered most suitable in relation to the mobile station concerned.

B18 2. However, to expedite or to facilitate the routing of radiotelegrams to a land station, a mobile station may transmit them to another mobile station. The latter shall dispose of such radiotelegrams in the same manner as if they originated with itself (see B38 to B41).

B19 3. If the sender of a radiotelegram handed in at a mobile station has indicated the land station to which he desires his radiotelegram to be sent, the mobile station shall, in order to effect this transmission to the land station indicated wait, if necessary until the conditions specified in B17 and B18 are fulfilled.

B20 4. In order to facilitate disposal of traffic, and subject to such restrictions as individual Administrations may impose, land stations may, in exceptional circumstances and with discretion, without incurring additional charges, exchange radiotelegrams and service messages relating thereto.

IV. Transmission of Radiotelegrams

1. *Doubtful reception*

B21 1.1 In the mobile service, when communication becomes difficult, the two stations in communication make every effort to complete the radiotelegram in course of transmission. The receiving station may request not more than two repetitions of a radiotelegram of which the reception is doubtful.

B22 1.2 If this triple transmission is ineffective, the radiotelegram is kept on hand in case a favourable opportunity for completing its transmission occurs.

B23 1.3 If the transmitting station considers that it will not be possible to re-establish communication with the receiving station within twenty-four hours, it proceeds as follows:

B24 1.3.1 If the transmitting station is a mobile station, it immediately informs that sender of the reason for the non-transmission of his radiotelegram. The sender may then request:

B25 (a) that the radiotelegram be transmitted through another land station or through other mobile stations; or

B26 (b) that the radiotelegram be held until it can be transmitted without additional charge; or

B27 (c) that the radiotelegram be cancelled.

B28 1.3.2. If the transmitting station is a land station, it applies the provisions of B42 to B58 to the radiotelegram.

B29 1.4 When a mobile station subsequently transmits a radiotelegram thus held to the land station that incompletely received it, this new transmission must bear the service instruction AMPLIATION at the end of the preamble line of the radiotelegram.

B30 1.5 However, if the radiotelegram is transmitted to another land station subject to the same Administration*, the new transmission must bear, at the end of the preamble line, the service instruction AMPLIATION VIA . . . (insert here the call sign of the land station to which the radiotelegram was transmitted in the first instance) and the Administration* in question may claim only the charges relating to a single transmission.

B31 1.6 The other land station, which thus forwards the radiotelegram, may claim from the origin mobile station any additional charges resulting from the transmission of the radiotelegram over the general network of telecommunication channels between itself and the office of destination.

B32 1.7 When the lans station designated in the address as the station by which the radiotelegram is to be forwarded cannot reach the destination mobile station and has reason to believe that such mobile station is within the service area of another land station of the Administration* to which it is itself subject, it may, if no additional charge is incurred thereby, forward the radiotelegram to this other land station.

B33 1.8 A station of the mobile service that has received a radiotelegram and has been unuable to acknowledge its receipt in the usual way, must take the first favourable opportunity to give such acknowledgement.

B34 1.9 When the acknowledgement of receipt of a radiotelegram transmitted between a mobile station and a land station cannot be given direct, it is forwarded through another mobile or land station by service advice if the latter is able to communicate with the station that has transmitted the radiotelegram is question. In any case, no additional charge shall result.

2. *Long distance radiocommunications*

B35 2.1 Administrations* reserve the right to organize a long-distance radiocommunication service between land stations and mobile station, with deferred acknowledgement of receipt or without any acknowledgement of receipt.

B36 2.2 Each Administration* designates the land station or stations participating in the long-distance radio service. An indication to this effect shall appear in the list of Coast Stations.

B37 2.3 When there is doubt about the accuracy of any part of a radiotelegram transmitted under either of the systems mentioned in B35, the indication "doubtful reception" is entered on the copy delivered to the addressee, and the doubtful words or groups of words are underlined. If words are missing, blanks are left in the places where these words should be.

3. *Routing retransmission by mobile stations*

B38 3.1 When a land station cannot reach the mobile station for which a radiotelegram is destined, the land station may, in order to forward the radiotelegram to its destination, have recourse to the help of another mobile station provided that the latter consents. The radiotelegram is then transmitted to this other mobile station. The help of the latter is given free of charge.

B39 3.2 The same provision is also applicable to traffic from mobile stations to land stations, when necessary.

B40 3.3 The station assisting in the free retransmission in accordance with B38 and B39 must enter the service abbreviation QSP . . . (name or call sign of the mobile station) at the end of the preamble line of the radiotelegram.

B41 3.4 In order that a radiotelegram thus forwarded may be considered as having reached its destination, the station that has made use of this indirect route must have obtained the regular acknowledgement of receipt, either direct or by an indirect route, from the mobile station for which the radiotelegram was destined or from the land station to which it was to be forwarded, as the case may be.

4. *Period of retention of radiotelegrams at land stations*

B42 4.1 The sender of a radiotelegram destined for a mobile station may specify the number of days during which the land station may hold the radiotelegram.

B43 4.2 In that case, the service indication Jx (x days), specifying the number of days (ten at the most) exclusive of the day of handing-in of the radiotelegram, shall be shown before the address.

B44 4.3 When it has not been possible for a land station to transmit to a mobile station:
(a) a radiotelegram bearing the service indication Jx within the prescribed period, or
(b) a radiotelegram not bearing this service indication up to the morning of the fourth day following the date of handing-in,
the land station informs the office of origin, which notifies the sender.

B45 4.4 The sender of the radiotelegram may then ask, by paid service advice addressed to the land station, either that his radiotelegram be cancelled as regards the section between the land station and the mobile station or that further attempts at transmitting it to the mobile station be made during a period of another seven days at the most.

B46 4.5 Failing such a request, the radiotelegram is treated as undelivered by the land station three days after the dispatch of the advice of non-transmission.

B47 4.6 The same applies upon the expiry of any period for further attemtps that may have been requested by the sender if it has been impossible to reach the mobile station.

B48 4.7 The office of origin shall be immediately advised if the land station transmits the radiotelegram during the period of three days mentioned in B46. The same shall apply if the land station transmits the radiotelegram during any additional period that may have been requested by the sender.

B49 4.8 On the morning of the day following that day on which a radiotelegram to a mobile station, is treated as undelivered by the land station, the latter shall advise the office of origin, which notifies the sender.

B50 4.9 The periods mentioned in B44 to B47 shall be ignored if the land station is sure that the mobile station will soon come within its service area.

B51 4.10 On the other hand, the lapse of those periods is not awaited when the land station is sure that the mobile station, being in course of a voyage, either has definitely left its service area or will not enter it.

B52 4.11 If there is reason to believe that no other land station of the Administration* to which it is subject is or will be in touch with it, the land station cancels the radiotelegram as far as concerns the section between itself and the mobile station and informs the office of origin, which notifies the sender.

B53 4.12 In the contrary case, the land station forwards the radiotelegram to the land station believed to be in touch with the mobile station, provided, however, that no additional charge results therefrom.

B54 4.13 The land station that carries out the redirection alters the address of the radiotelegram by placing after the name of the mobile station that of the new land station charged with the transmission and adding at the end of the preamble line the service instruction REDIRECTED FROM . . . RADIO, which must be transmitted throughout the course of the radiotelegram.

B55 4.14 If, within the limits of the requisite period of retention of radiotelegrams, the land station that has redirected a radiotelegram to another land station is subsequently in a position to transmit the radiotelegram direct to the destination mobile station, it does so by inserting the service instruction AMPLIATION at the end of the preamble line.

B56 4.15 It shall then transmit to the land station to which the radiotelegram had been redirected a service advice informing the latter of the transmission of the said radiotelegram.

B57 4.16 When a radiotelegram cannot be transmitted to a mobile station owing to the arrival of the latter in a port near the land station, the latter station may, according to circumstances, forward the radiotelegram to the mobile station by other means of communication, at the same time informing the office of origin by service advice of the delivery.

B58 4.17 In this case (B57), the land station charge is retained by the Administration* to which the land station is subject and the mobile station charge is refunded to the sender by the origin Administration*.

V. Advice of Non-delivery

B59 1. When, for any reason, a radiotelegram originating in a mobile station and destined for a place on land cannot be delivered to the addressee, an advice of non-delivery is addressed to the land station that received the radiotelegram.

B60 2. After checking the address, the land station forwards the advice, when possible, to the mobile station, if necessary by way of another land station of the same country or of a neighbouring country, as far as existing conditions or special agreements permit.

B62 4. In the case of a radiotelegram originating on land, this service advice is sent, whenever possible, to the land station through which the radiotelegram passed, or, if necessary, to another land station of the same county or of a neighbouring country, as far as existing conditions or special arrangements permit.

B63 5. In such cases the name or call sign of the station from which the radiotelegram was received is quoted.

VI. Radiomaritime Letters

B64 1. Each Administration* may organize a service of radiomaritime letters between mobile stations and its land stations.

B65 2. Such correspondence is transmitted by radio between the mobile and the land stations.

B66 3. They may be forwarded on the land section:

B67 (a) wholly or partly by post (ordinary or airmail);

B68 (b) exceptionally by telegraph, in which case delivery is subject to the periods of delay fixed for letter telegrams.

B69 4. Radio retransmission of radiomaritime letters is not permitted in the mobile service.

B70 5. Radiomaritime letters shall be addressed only to places in the country in which the land station is situated, unless it is indicated in the List of Coast Stations that the station concerned will accept such traffic for onward transmission by post to places in other countries.

B71 6. Radiomaritime letters bear the service indication SLT. This indication precedes the address.

B72 7. Except as otherwise provided in B64 to B74, radiomaritime letters may be accepted, taking into account CCITT Recommendations relating to letter telegrams, if the telegram service is used to convey radiomaritime letters.

B73 8. The address must enable delivery to be effected without enquiry or requests for information. Registered or abbreviated addresses are admitted when, exceptionally, radiomaritime letters are forwarded telegraphically on the land section.

B74 9. Radiomaritime letters rank for radio transmission after ordinary radiotelegrams on hand. Those that have not been transmitted within 24 hours of handing-in are sent concurrently with ordinary radiotelegrams.

VII. Special Services

B75 1. Telegrams with special services are admitted, provided that the Administrations* concerned accept them.

B76 2. Refer to Recommendation F.1 A362 to A422 for the provisions concerning special services that may be applied for telegrams.

Division C

RADIOTELEX

I. General

1. *Routing of calls*

C1 1.1 A radiotelex call should be set up via the land station that is considered most suitable in relation to the mobile station concerned.

C2 1.2 For radiotelex calls in the direction land station to mobile station, the caller should give the geographical position if possible and may also indicate the land station to be used. Such requests should be respected as far as is practicable.

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C3 1.3 For radiotelex calls in the direction mobile station to land station, the mobile station shall call the land station it desires to use. The land station shall either handle the call itself or advise the mobile station to use another land station that is more suitable to the mobile station.

2. *Information to be supplied, as necessary, by the calling party*

C4 2.1 Calls to a mobile station:
(a) telex number and/or answerback code of the calling subscriber;
(b) telex number of the mobile station;
(c) name or call sign of the mobile station; (d) telex number and/or name of the land station to be used, or the approximate geographical position of the mobile station.

C5 2.2 Calls from a mobile station:
(a) telex number of the mobile station;
(b) destination country and/or network;
(c) called subscriber's telex number and/or answerback code.

3. *Call duration*

C6 3.1 When handled through a land station, the chargeable duration of a call will be fixed at the end of the call by the land station.

C7 3.2 If two land stations participate in the handling of the call, the opinion of the land station that has accepted the call from the originating mobile station shall prevail.

C8 3.3 When, through any fault of the service, difficulty is experienced in the course of a call, the chargeable duration shall be reduced automatically or manually to the total time during which transmission conditions were satisfactory, taking into acount CCITT recommendations (F.60 and F.61).

4. *Validity of requests*

C9 4.1 If it becomes obvious that the required mobile station is outside the coverage area of the land station, the caller shall be informed as soon as possible in order to have the call cancelled.

5. *Exchange of radiotelegrams by radiotelex*

C10 5.1 Stations of the maritime service that are equipped for radiotelex may transmit and receive radiotelegrams by means of radi telex.

II. Traffic from mobile stations.

1. *Manual service*

C11 1.1 The land station operator applies manual procedures; i.e. he will contact the international telex centre in his own country if neither single-operator (C12) nor automatic working is possible.

2. *Single-operator service*

C12 2.1 The land station operator applies semi-automatic procedures; i.e. he selects the called subscriber directly via the automatic telex network if fully automatic working is not possible.

3. *Automatic service*

C13 3.1 Whenever possible fully automatic procedures should be used; i.e. the calling subscriber should contact the called subscriber directly without the aid of an operator.

C14 3.2 After connection with the*desired land station is established, the mobile station operator should select directly the appropriate telex destination code (Recommendation F.69) and the number of the subscriber of an Administraton's* telex network.

4. *Procedures*

C15 4.1 The manual, semi-automatic and fully automatic procedures for the terrestrial telex network, as laid down in Recommendations F.60 and F.61, should be taken into account.

III. Traffic to mobile stations

1. *Manual procedure*

1.1 *Booking*

C16 1.1.1 The subscriber should make his booking at the international telex centre of the outgoing country or network.

C17 1.1.2 If conditions permit, the international telex position should select the foreign land station in question directly. Otherwise the international telex position of the land station country should be selected to give the necessary assistance to obtain contact with the land station in question.

1.2 *Setting up*

C18 1.2.1 The land station operator obtains the caller directly or with the assistance of his own international telex position, which selects the caller. Otherwise he selects his own international telex position in order to be connected to the international telex position of the outgoing country, which then selects the caller.

C19 1.2.2 Within 24 hours of the call's termination, the land station shall pass the following information to the international telex centre of the origin country, where it is recorded for charging and accounting purposes:
(a) the calling subscriber's telex number;
(b) the mobile station's call sign;
(c) the chargeable duration of the call;
(d) the landstation charge to be collected;
(e) the mobile station charge to be collected.

2. *Single-operator procedure* (direct access by the calling subscriber to a foreign land station)

2.1 *Booking*

C20 2.1.1 The subscriber selects the foreign land station in question using automatic direct selection and submits the call details to the land station operator.

C21 2.1.2 Where an Administration* permits its subscribers to book a call directly with a land station in another country, the charges set by the land station must be levied by the calling subscriber's Administration*.

C22 2.1.3 In addition to the information in C4, the calling subscriber must designate his national telex network.

C23 2.1.4 As an alternative to C21 and C22, land stations may accept direct calls from foreign subscribers provided that the calling subscriber supplies the name and address of a party in the land station's country that will take responsibility for the payment of charges.

C24 2.1.5 The procedures described in C21 and C23 may only be applied when an appropriate bilateral agreement exists between the two Administrations* concerned. If such an agreement does not exist, the land station should refuse such calls to avoid accounting difficulties.

C25 2.1.6 In C20 and C23 above, the call to the foreign land station will be charged as an ordinary international telex call for its entire duration, regardless of whether it merely serves the purpose of booking the radiotelex call or whether the land station can extend the connection to the mobile station without having to recall the originating subscriber.

2.2 *Setting-up*

C26 2.2.1 When demand operation cannot be used, the caller will be disconnected until the mobile station is available. The land station operator then recalls the caller using automatic direct selection; the land station's country being considered as the outgoing country for the call.

C27 2.2.2 In case C26, the land station includes in the bill:
(a) the landline charge;
(b) the land station charge;
(c) the mobile station charge.

C28 2.2.3 When demand operation has been used, the bill made out by the land station operator includes only:
(a) the land station charge;
(b) the mobile station charge.

C29 2.2.4 All information regarding collection of charges for single-operator calls (see C12) should be submitted by the land station Administration* on a regular basis to be determined by the Aministrations* involved.

C30 2.2.5 The methods to be used in collecting the charges are described in Recommendation D.90/F.111.

3. *Automatic procedure* (direct access by the calling subscriber to the called subscriber)

C31 3.1 Whenever possible fully automatic procedures should be used; i.e. the calling subscriber should contact the called subscriber directly without the aid of an operator.

C32 3.2 The subscriber of an Administration's* telex network should select the appropriate address code, if necessary including the ocean area and mobile station number, to connect him through a land station with which his Administration* has established routing of maritime traffic for the ocean area desired.

C33 3.3 If for some technical reason contact cannot be established with the mobile station, the subscriber may select the international telex position of his Administration* to determine if alternate routing is available.

C34 3.4 On international telex links the destination code 58x will be used in accordance with Recommendation F.69, unless otherwise agreed bilaterally.

DIVISION D

RADIOTELEPHONE

I. General

1. *Language to be used*

D1 1.1 Where applicable and where language difficulties exist, the abbreviations and signals in appendix 13A of the Radio Regulations and the Phonetic Alphabet and Figure Code in Appendix 16 of the Radio Regulations should be used in radiotelephone communications between land stations and mobile stations.

2. *Priority*

D2 2.1 Apart from the general order of priority shown in A1 to A12, radiotelephone calls shall have precedence, so far as possible, over other telephone calls of the same class.

3. *Routing of calls*

D3 3.1 A radiotelephone call should be set up via the land station that is considered most suitable in relation to the mobile station concerned.

D4 3.2 For radiotelephone calls in the direction land station to mobile station, the caller should give the geographical position if possible and may also indicate the land station to be used. Such requests should be respected as far as is practicable.

D5 3.3 For radiotelephone calls in the direction mobile station to land station, the mobile station shall call the land station it desires to use. The land station shall either handle the call itself or advise the mobile station to use another land station that is more suitable to the mobile station.

4. *Information to be supplied by the calling party*

D6 4.1 Calls to a mobile station:
(a) complete telephone number of the calling subscriber;
(b) appropriate identification of the mobile station;
(c) name of the land station to be used or the approximate geographical position of the mobile station;
(d) name of the called party.

D7 4.2 Calls from a mobile station:
(a) appropriate identification of the mobile station;
(b) the information specified in Article 60 of the Instructions for the International Telephone Service.

5. *Call duration*

D8 5.1 When handled through a land station, the chargeable duration of a call will be fixed at the end of the call by the land station.

D9 5.2 If two land stations participate in the handling of the call, the opinion of the land station that has accepted the call from the originating mobile station shall prevail.

D10 5.3 When, through any fault of the service, difficulty is experienced in the course of a call, the chargeable duration shall be reduced automatically or manually to the total time during which transmission conditions were satisfactory, taking into account CCITT Recommendations.

6. *Validity of Requests*

D11 6.1 In principle the provisions of Article 74 of the Instructions for the International Telephone Service shall apply.

D12 6.2 However, if it becomes obvious that the required mobile station is outside the coverage area of the land station, the caller shall be informed as soon as possible in order to have the call cancelled.

7. *Exchange of Radiotelegrams by Radiotelephony*

D13 7.1 Stations of the maritime mobile service that are equipped for radiotelephony may transmit and receive radiotelegrams by means of radiotelephony.

II. Traffic from mobile stations

1. *Manual service*

D14 1.1 The land station operator applies manual procedures; i.e. he will contact the international telephone centre in his own country if neither single-operator (D15) nor automatic working is possible.

2. *Single-operator service*

D15 2.1 The land station operator applies semi-automatic procedures; i.e., he selects the called subscriber directly via the automatic telephone network if fully automatic working is not possible.

3. *Automatic service*

D16 3.1 Whenever possible, fully automatic procedures should be used; i.e. the calling subscriber should contact the called subscriber directly without the aid of an operator.

D17 3.2 After connection with the desired land station is established, the mobile station operator should select directly the appropriate telephone country code (Recommendation E.160) and the number of the subscriber of an Administration's* telephone network.

4. *Procedures*

D18 4.1 The manual, semi-automatic and fully automatic procedures for the terrestrial telephone network, as laid down in Recommendation E. 141 and the Instruction for the International Telephone Service should be taken into account.

III. Traffic to mobile stations

1. *Manual procedure*

1.1 *Booking*

D19 1.1.1 The subscriber should make his booking at the international centre of the outgoing country.

D20 1.1.2 If conditions permit, the international position should select the foreign land station in question directly. Otherwise the international position of the land station country should be selected to give the necessary assistance to obtain contact with the land station in question.

1.2 *Setting up*

D21 1.2.1 The land station operator obtains the caller directly or with the assistance of his own international telephone centre which selects the caller. Otherwise he selects his own international telephone centre in order to be connected to the international telephone centre of the outgoing country, which then selects the caller.

D22 1.2.2 After the call's termination, the land station shall pass the following information to the international telephone centre of the origin country, where it is recorded for charging and accounting purposes:
(a) the calling subscriber's telephone number;
(b) the mobile station's call sign;
(c) the chargeable duration of the call;
(d) the land station charge to be collected;
(e) the mobile station charge to be collected.

D23 1.2.3 Otherwise all information regarding collection of charges should be submitted to the caller's Administration* on a regular basis to be determined by the Administrations* involved.

2. *Single-operator procedure* (direct access by the calling subscriber to a foreign land station).

2.1 *Booking*

D24 2.1.1 The subscriber selects the foreign land station in question using automatic direct selection. The land station operator records the call details.

D25 2.1.2 Where an Administration* permits its subscribers to book a call directly with a land station in another country, the charges set by the land station must be levied by the calling subscriber's Administration*.

D26 2.1.3 In addition to the information in D6, the calling subscriber must designate his country and national telephone number.

D27 2.1.4 As an alternative to D24 and D25, land stations may accept direct calls from foreign subscribers provided that the calling subscriber supplies the name and address of a party in the land station's country that will take responsibility for the payment of charges.

D28 2.1.5 The procedures described in D25 and D27 may only be applied when an appropriate bilateral agreement exists between the two Administrations* concerned. If such an agreement does not exist, the land station should refuse such calls to avoid accounting difficulties.

D29 2.1.6 In D24 and D27 above, the call to the foreign land station will be charged as an ordinary international telephone call for its entire duration, regardless of whether it merely serves the purpose of booking the radiotelephone call or whether the land station can extend the connection to the mobile station without having to recall the originating subscriber.

2.2 *Setting up*

D30 2.2.1 When demand operation cannot be used, the caller will be disconnected until the mobile station is available. The land station operator then recalls the caller using automatic direct selection; the land station country being considered as the outgoing country for the call.

D31 2.2.2 In case C26, the land station includes in the bill:
(a) the landline charge;
(b) the land station charge;
(c) the mobile station charge.

D32 2.2.3 When demand operations has been used, the bill made out by the land station operator includes only:
(a) the land station charge;
(b) the mobile station charge.

D33 2.2.4 All information regarding collection of charges for single-operator calls (see D15) should be submitted by the land station Administration* on a regular basis to be determined by the Administrations* involved.

D34 2.2.5 The methods to be used in collecting the charges are described in Recommendation D.90/F.111.

3. *Automatic procedure* (direct access by the calling subscriber to the called subscriber)

D35 3.1 Whenever possible, fully automatic procedures should be used; i.e. the calling subscriber should contact the called subscriber directly without the aid of an operator.

D36 3.2 The subscriber of an Administration's* telephone network should select the appropriate address code, if necessary including the ocean area and the mobile station number, to connect him through a land station with which his Administration* has established routing of maritime traffic for the ocean area desired.

D37 3.3 If for some technical reason contact cannot be established with the mobile station, the subscriber may select the international telephone centre of his Administration* to determine if alternate routing is available.

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ANNEX

[To recommendation E.190/F.110]

Correspondence between the 1967 edition of the radio regulations and the additional radio regulations and the provisions of recommendation E.190/F.110

Article	Provision	Status	Recommendation E.190/F.110	Remarks
Radio regulations				
37A	1496A	MOD	A1 to A12	Aligned with recommendation F.1; radiomaritime letters added.
38	1497	MOD	B2	Aligned with recommendation F.1.
	1498	NOC	B3	
	1499	NOC	B4	
39	1500	MOD	B17	
	1501	NOC	B18	
	1502	SUP		See RR 937 to 976 and 1007 to 1011.
	1503	MOD	B19	
	1504	MOD	B20	
40A	1559AA-BZ			See recommendation D.90/F.111.
Additional radio regulations				
1A	2004A, B			Covered in "considering" (c)
	2004C	MOD	B1	
	2004D	SUP		
2	2005	NOC	B7	
	2006	NOC	B8	
	2007	MOD	B9	Aligned with recommendation F.1.
	2008	SUP		Concerns aircraft stations.
	2009	NOC	R10	
	2010	NOC	B11	
	2011	NOC	B12	
	2012	SUP		Contrary to recommendation F.1.
	2013	NOC	B13	
	2014	SUP		Contrary to recommendation F.1.
3	2015, 2016	MOD	B5, B6	
	2017	SUP		
4A	2062AA to AL			See recommendation D.90/F.111.
	2062AM	MOD	B15, B16	Aligned with recommendation F.1.
	2062AN	SUP		See simplified work counting rules in recommendation F.1.
	2062AO-BH			See recommendation D.90/F.111.
5A	2087AA-AZ			Do.
5B	2087BA-BZ			Do.
6A	2106A	NOC	B64 to B66	
	2106B	NOC	B67	
	2106C	NOC	B68	
	2106D	NOC	B69	
	2106E	NOC	B70	
	2106F	NOC	B71	
	2106G	MOD	B72	See also recommendation D.90/F.111B43.
	2106H	MOD	B75, B76	Combined with 2123A.
	2106I	NOC	B73	
	2106J to M			See recommendation D.90/F.111.
	2106N	NOC	B74	
	2106O to Q			See recommendation D.90/F.111.
7A	2123A	MOD	B75	Combined with 2106H.
8	2124	MOD	B42	
	2125	MOD	B43	Aligned with recommendation F.1.
	2126	NOC	B44 to B48	
	2127	MOD	B49	
	2128	NOC	B50	
	2129	MOD	B51 to B53	
	2130	NOC	B54	
	2131	MOD	B55, B56	
	2132	MOD	B57, B58	
	2133 to 2136	SUP		Concerns radiotelegrams for aircraft in flight.
9	2137	NOC	B21, B22	
	2138	NOC	B23	
	2139	NOC	B24	
	2140	NOC	B25	
	2141	NOC	B26	
	2142	NOC	B27	
	2143	MOD	B28	
	2144	MOD	B29 to B31	
	2145	MOD	B32	
	2146	NOC	B33	
	2147	NOC	B34	
	2148	NOC	B35	
	2149	NOC	B37	
	2150	SUP		
	2151	NOC	B36	
10A	2158A	NOC	B38	
	2158B	NOC	B39	
	2158C	MOD	B40	
	2158D	NOC	B41	
11	2159	NOC	B59, B60	
	2160	NOC	B61 to B63	

NOTES

1. Under "Status" below, MOD=modified, SUP=suppressed and NOC=no change (except for the cases in Note 2.)
2. Where necessary the term "coast station" has been replaced with "land station," "aeronautical station" with "land station," "ship" with "mobile station," "message" with "telegram" and "preamble" with "preamble line."

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APPENDIX C

DRAFT REGULATORY PROVISIONS

Radio Regulations Article "Z"

Public Correspondence in the Maritime Mobile Service

Section I. General

1. The provisions of the Telegraph Regulations and the Telephone Regulations and the Protocols annexed thereto, taking into account CCITT Recommendations; shall apply to radiocommunications in so far as the provisions of the Radio Regulations do not provide otherwise.

Section II. Accounting Authority

1. Charges for radiocommunications from ship-to-shore are in principle, and subject to national law and practice, to be collected from the maritime mobile station licensee:
(a) by the Administration that has issued the license; or
(b) by a recognized private operating agency; or
(c) by other entity or entities designated by the Administration to carry out this accounting.
2. The Administration or the recognized private operating agency or the designated entity (or entities) is referred to in this Article as the "accounting authority".
3. The name(s) and address(es) of the accounting authority(ies) shall be notified to the Secretary-General of the ITU for inclusion in the List of Ship Stations; the number of such names and addresses shall be limited as far as possible, taking into account CCITT Recommendations.

Section III. Accounting

1. Exchange and verification of accounts shall be carried out in accordance with the Telegraph Regulations and the Telephone Regulations, taking into account CCITT Recommendations.
2. The accounts shall be sent as promptly as possible but in any case before the end of the third month following that to which they relate.
3. In principle, an account shall be considered as accepted without the need for specific notification of acceptance to the Administration* that sent it.
4. However, any accounting authority shall have the right to question the contents of an account for a period of six months after dispatch of the account.
5. All maritime accounts shall be paid by the accounting authority without delay and in any case within 6 months after dispatch of the account.
6. If international maritime accounts remain unpaid after 6 months, the Administration that has licensed the mobile station shall on request take all possible steps, within the limits of applicable national law, to ensure settlement of the accounts from the licensee.
7. In the case referred to in 4 above, if the account is seriously delayed in transit, the receiving accounting authority should at once notify the originating Administration* that queries and payment may be delayed. The delay shall, however, not exceed 3 months from the date of receipt of the account.
8. The debtor accounting authority may refuse the settlement and adjustment of accounts presented more than eighteen months after the date of handing-in of the radiotelegrams or the date of establishment of the radiotelephone calls or radiotelex calls to which the accounts relate.

Section IV. Payment of Balances

1. Payment of balances shall be carried out in accordance with the Telegraph Regulations and the Telephone Regulations.

Section V. Archives

1. The originals of radiotelegrams and documents relating to radiotelegrams, radiotelephone calls and radiotelex calls retained by the Administrations* shall be held, with all necessary precautions from the point of view of secrecy, until the settlement of the relative account and, in any case, for at least six months counting from the month in which the accounts were sent. Administrations* may preserve the information by any other means, e.g. magnetic or electronic records.
2. However, should an Administration* deem it desirable to destroy such documents before the above-mentioned period, and hence is not in a position to carry out an inquiry in respect of the services for which it is responsible, such Administration* shall bear all the consequences both as regards refund of charges and any difference in the accounts in question that might otherwise have been observed.

*or recognized private operating agency/agencies.

[FR Doc. 78-11727 Filed 5-1-78; 8:45 am]

[6712-01]

[Docket No. 20271; FCC 78-264]

PREPARATION FOR A GENERAL WORLD ADMINISTRATIVE RADIO CONFERENCE OF THE INTERNATIONAL TELECOMMUNICATION UNION

Revision of the International Radio Regulations; Seventh Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Seventh Notice of Inquiry (Docket No. 20271) issued seeking comments from interested parties concerning proposed changes to the International Radio Regulations relating to the procedural provisions of advance publication, coordination, notification and recording of frequency assignments.

SUMMARY: The 1979 World Administrative Radio Conference (WARC) will review Articles 9 and 9A, and related Appendices. The purpose of the Seventh Notice of Inquiry is to obtain public comments on draft proposed changes to these provisions and to determine if other changes should be proposed.

DATES: Interested persons may file comments on or before June 9, 1978, and reply comments on or before June 23, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Donald F. Weiland, International and Operations Division, Office of Chief Engineer, 202-632-7054.

Adopted: April 18, 1978.

Released: April 26, 1978.

In the matter of an inquiry relative to preparation for a General World Administrative Radio Conference of the International Telecommunication Union to consider revision of the International Radio Regulations, Docket No. 20271.[1]

1. The Commission instituted this Docket in January 1975 for the purpose of eliciting public comments for consideration in the development of our national proposals to be considered at the World Administrative Radio Conference to be convened in Geneva, Switzerland on September 24, 1979. Six Notices of Inquiry have been issued to date.

2. The emphasis of previous Notices has been on possible changes to the in-

[1] See 42 FR 55641, Oct. 18, 1977.

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ternational table of frequency allocations and technical matters related to the use of the spectrum. The purpose of this Notice is to solicit comments on the procedural provisions of the International Radio Regulations relating to the requirements for the advance publication, co-ordination and notification of frequency assignments. These procedures, the bulk of which are contained in Articles 9 and 9A, afford protection to administrations who follow certain prescribed steps. Article 9 specifies the procedures for terrestrial frequency assignments. The Commission believes that the procedures which deal with the determination of the status of a terrestrial assignment with respect to other terrestrial assignments is satisfactory and substantial changes are therefore not proposed. Nevertheless, the Commission would consider any new ideas which may be offered in response to this Notice.

3. The procedures relating to frequency assignments to stations in the space services and also to terrestrial stations in bands shared with the space services are the primary concern of this Notice. These procedures are embodied in section IIB of Article 9, Article 9A and Resolution Spa2-3 of the International Radio Regulations. Although they are lengthy and complex, they are also important, useful and allow for the orderly introduction of satellite technology. In the absence of a viable alternative, it is not only desirable to maintain these procedures but also to improve and clarify those provisions for which there is some degree of uncertainty as to their intent. The proposals which appear in the attached Appendix 1 of this Notice were drafted with this in mind, and comments on them are requested.

4. Comments are also sought as to the desirability of retaining the Amateur-Satellite Service under the provisions of Article 9A. Administrations authorizing stations to operate in the Amateur-Satellite Service are currently required to send data to the International Frequency Registration Board on the basic characteristics of their systems as outlined in Appendices 1A and 1B to the international Radio Regulations for the purpose of advance publication of the information, co-ordination (if a geostationary satellite is to be used), and subsequent notification, just as in all other satellite services. If this is considered to be an unnecessary requirement for the Amateur-Satellite Service, substantial justification should be provided in light of the position of most administrations at the 1971 WARC for Space Telecommunications that the Article 9A procedures apply to all satellite systems.

5. Comments are also solicited concerning the adequacy of the data currently required for the co-ordination and notification of terrestrial and space frequency assignments as set forth in Appendices 1, 1A and 1B of the international Radio Regulations. It should be realized that when frequency assignments are registered internationally pursuant to the procedures of Articles 9 and 9A, this data is the basis for determining the international status of those assignments and is published by the International Telecommunication Union (ITU) in the form of a list (International Frequency List) for use by administrations in their frequency management activities.

6. The ITU publishes a number of lists, as shown in Appendix 4 to this Notice, which are derived from much of the data obtained through the procedures of Articles 9 and 9A. List I is the International Frequency List (already mentioned) and is of primary interest to administrations. List II through VIIIA relate to specific services and contain information of interet to those operating stations in these services. The Commission therefore solicits comments from those receiving these publications with regard to their usefulness in their present form; should they be improved or are they not needed? If improvements are desired, what are they and how would they best be incorporated into these publications? The Commission believes that Lists IIIA and IIIB relating to HF Broadcasting no longer serve a useful purpose and is therefore proposing that they be discontinued for the reasons set forth in the Fifth Notice in this proceeding.

7. In addition to the procedural provisions of the Radio Regulations, there are several related technical matters which impact Article 9A. For example, the maximum interference level in a telephone channel of the Fixed-Satellite Service would be raised to 1500 pWOp (pw, psophometrically weighted) or 2000 pWOp if revised CCIR Recommendation 466 (attached Appendix 2) is adopted by the CCIR XIV Plenary Assembly. This relaxation of the maximum total interference level would permit the placement of more satellites in orbit. Individual satellite capacity would be slightly reduced; however, overall orbit efficiency would increase. Comments on the advisability of incorporating into the International Radio Regulations a CCIR draft recommendation (attached Appendix 3), which specifies the maximum interference level in a telephone channel of the Fixed-Satellite Service using digital emission, and Recommendation 466 are requested.

8. In response to the Fourth Notice of Inquiry of this proceeding, several parties have commented on the permissible level of interference into a satellite from another satellite. The single entry level could be independent of the orbital separation or could be a function at the orbital separation subject to a 400 pWOp maximum. Another possibility would have satellites of like characteristics clustered together with interference into another satellite specified as some equitable function of orbital separation; satellites which are grouped irrespective of characteristics could have an interference level into unlike satellites limited to 400 pWOp regardless of orbital separation. Further comments are invited on this subject, particularly concerning the interference from one satellite into another and its variation with orbital separation and satellite characteristics. New ideas and thoughts, rather than a repetition of material already submitted in this docket are invited.

9. Appendix 28 of the International Radio Regulations prescribed the procedures for determining of the co-ordination area around an earth station sharing frequency bands with terrestrial services. This procedure is fairly complex and time consuming. There are cases where this procedure may be overly complex and where more simplified procedures might be applied. For example, for reception of video signals, reception of a satisfactory signal can be based on a desired carrier to interference (C/I) ratio. This simplifies calculations and results in a smaller co-ordination area. Rainfall can disperse signals, and there are procedures which determine the co-ordination distance for rain-scatter. In ares where there is sufficiently small precipitation and for emissions which can tolerate interference for more than .01 percent of the time, the rain-scatter co-ordination might be omitted. Also, there are situations when it may be necessary to move an earth station from place to place and to operate it at fixed locations only. Although the locations cannot be precisely identified in advance, the operational area of the earth station could be specified in advance. In such cases, an earth station may be co-ordinated, in advance, with all terrestrial stations located within the area under consideration. This could be called an "area co-ordination". Comments are thus solicited on simplified procedures which might be less burdensome, particularly for such systems as low capacity earth stations, and would still result in reasonable protection of both earth and terrestrial station frequency assignments.

10. Comments are solicited regarding possible changes to Appendix 29 of the International Radio Regulations, "Method of Calculation to Evaluate the Degree of Interference between Geostationary Satellite Networks Sharing the Same Frequency Bands." Some confusion concerning the purpose of this Appendix has resulted and may be attributed, in part, to its title which is perhaps misleading. Since the purpose of the calculation is only to serve as a "trigger" for determining when the co-ordination procedures of Article 9A should be initiated, it may be more accurate if the title were modified to read "Method for Determining When Co-ordination is Required Between Geostationary Satellite Networks Sharing the Same Frequency Bands." Some have expressed the view that the 2 percent increase in noise temperature criterion set forth in this Appendix is too stringent and results in the initiation of co-ordination in an unnecessarily large number of cases. Others feel that this calculation does not adequately protect some of the sensitive low capacity systems and have suggested that a satellite orbital separation angle of about 15 degrees should determine when detailed co-ordination sould be initiated for these systems. Further thoughts and ideas on establishing a new criterion or set of criteria for the purpose of determining when the international co-odination procedures should be initiated for the variety of satellite systems to be employed over the next twenty years are desired.

11. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before June 9, 1978, and reply comments on or before June 23, 1978. All relevant and timely comments and reply comments, along with any pertinent information which we may have available, will be considered. When commenting, it sould be borne in mind that this effort is directed toward international and not domestic issues.

12. Although § 1.419 of the Commission's Rules requires that an original and five copies of all statements, briefs or comments be filed in response to a Notice, our conference preparatory organization necessitates the filing of an original and nineteen copies. All responses received will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

13. This Notice is issued pursuant to the authority set forth in section 4(I) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX 1—DRAFT PROPOSALS FOR ARTICLES 9 AND 9A OF THE INTERNATIONAL RADIO REGULATIONS

ARTICLE 9

NOC

Notification and Recording in the Master International Frequency Register of Frequency Assignments[1] to Terrestrial Radiocommunication Stations[2]

NOC

Section I. Notification of Frequency Assignments and Co-ordination Procedure to be Applied in appropriate Cases

NOC

Footnote 1 and Footnote 2.

Reason: These provisions are time-proven and meet foreseeable needs.

NOC 486, 486.1, 486.2

NOC 487 through 492A, 492A.1

Reason: These provisions are time-proven and meet foreseeable needs.

MOD 492B

An administration with which co-ordination is sought under No. 492A shall acknowledge receipt of the coordination data immediately by telegram. If no acknowledgement is received within fifteen days of dispatch, the administration seeking co-ordination may dispatch a telegram requesting acknowledgement of receipt of the co-ordination data, to which the receiving administration shall reply. Upon receipt of the co-ordination data an administration shall promptly examine the matter with regard to interference[1] which would be caused to the services rendered by its earth stations operating in accordance with the Convention and these Regulations (*especially the Table of Frequency Allocations*) or to be so operated within the next three years, with the proviso that in this latter case coordination specified in No. 639AN has been effected or that the coordination procedure has already been initiated; and shall, within an overall period of sixty days from dispatch of the co-ordination data, either notify the administration requesting coordination of its agreement to the proposals or, if this is not possible, indicate the reasons therefor and make such suggestions as it may be able to offer with a view to a satisfactory solution of the problem.

Reason: To align with the provisions of Nos. 501 and 639BM.

492B.1

[1]The criteria to be employed in evaluating interference levels shall be based upon relevant C.C.I.R. Recommendations or, in the absence of such Recommendations, shall be agreed between the administrations concerned.

NOC 492C through 492FC

Reason: These provisions are time-proven and meet foreseeable needs.

ADD *492FCA*

The time limits set forth in Nos. MOD 492B, 492D and 492FC may be extended only where the concurrence of the administration seeking coordination has been secured.

Reasons: To provide for an extension where a genuine need may exist without running the risk of contravening the letter of the Radio Regulations, and to preclude an extension should the administration seeking coordination not agree thereto.

NOC 492G through 492GB

Reason: These provisions are time-proven and meet foreseen needs.

NOC 493 through 496

Reason: These provisions are time-proven and meet foreseeable needs.

MOD 497

Upon receipt of a complete notice, the Board shall include the particulars thereof, with the date of receipt, in a weekly circular sent by airmail to Administrations. Members [and Associate Members] of the Union; this circular shall contain the particulars of all such notices received since the publication of the previous circular.

Reason: Editorial.

NOC 498 through 539

Reason: These provisions are time-proven and meet foreseeable needs.

MOD 540

The provisions of Nos. 537 to 539 do not apply to frequency assignments which are in conformity with the Allotment Plans appearing in Appendices 25 Mar. 2, 26, [and] 27 *and 27 Revised* to these Regulations; such frequency assignments shall be entered in the Master Register on receipt of the notice by the Board.

Reason: To take cognizance of the Final Acts of the 1978 World Administrative Radio Conference for the Aeronautical Mobile (R) Service.

NOC 541

NOTE.—This and other provisions may require editorial adjustment if Article 5 is changed.

SUP 541.1

Reason: Consequential to suppression of Resolution Mar 2-12.

NOC 542 through 546

Reason: These provisions are time-provisions are time-proven and meet foreseeable needs.

NOC 547

NOTE.—SEE No. 541.

SUP 547.1

Reason: Consequential to suppression of Resolution Mar 2-12.

NOC 548 through 551

Reason: These provisions are time-proven and meet foreseeable needs.

NOC 552

NOTE.—See No. 541.

NOC 553 through 560

Reason: These provisions are time-proven and meet foreseeable needs.

NOC 561

NOTE.—See No. 541.

NOC 562 through 570AC

Reason: These time-proven provisions meet foreseeable needs.

MOD 570AD

(c) where appropriate, with respect to the probability of harmful interference to the service rendered by an earth receiving station for which a frequency assignment already recorded in the Master Register *either*

(i) *bears a favorable finding*, or

(ii) *lacks a favorable finding although it* is in conformity with the provisions of No. 639BM, and [if] the corresponding frequency assignment to the space transmitting station has not, in fact, caused harmful interference to any frequency assignment in conformity with No. 501 or 570AB, as appropriate, previously recorded in the Master Register.

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Reason: See reason for MOD 639BQ.

NOC 570AE through 570AL

NOC 570AN through 570BH

NOC 571, 572

NOC 573

NOTE.—This and other provisions may require editorial adjustment if Article 5 is changed.

NOC 574, 575

NOC 576, 577

NOTE.—This and other provisions may require editorial adjustment if Article 5 is changed.

Reason: These provisions are time proven and meet foreseeable needs.

SUP 577.1

Reason: We are proposing suppression of Resolution No. Mar 2-12.

NOC 578 through 581

NOC 582

NOTE.—This and other provisions may require editorial adjustment if Article 5 is changed.

Reason: These provisions are time proven and meet foreseeable need.

SUP 582.1

Reason: We are proposing suppression of Resolution No. Mar 2-12.

NOC 583 through 586

NOC 587

NOTE.—This and other provisions may require editorial adjustment if Article 5 is changed.

NOC 588 through 599

NOC 600

NOTE.—This and other provisions may require editorial adjustment if Article 5 is changed.

NOC 601, 602

NOC 603

NOTE.—This and other provisions may require editorial adjustment if Article 5 is changed.

NOC 604 through 625

Reason: These provisions are time proven and meet foreseeable needs.

MOD 626

(c) In cases where, due to harmful interference, two or more frequencies of the same [megacycle] *megahertz* order are being used alternately to maintain communication on a circuit requiring only one frequency of that order; and

Reason: Editorial.

NOC 627 through 638

Reason: These provisions are time proven and meet foreseeable needs.

MOD 639

§ 51. In case a Member [or Associate Member] of the Union avails itself of the provisions of Article 50 of the Convention, the Board shall, upon request, make its records available for such proceedings as are prescribed in the Convention for the settlement of international disputes.

Reason: Editorial.

ARTICLE 9A

Co-ordination, Notification and Recording in the Master International Frequency Register of Frequency Assignments[1] to Radio Astronomy and Space Radiocommunication Stations except Stations in the Broadcasting-Satellite Service.

NOC

Footnote 1.

NOC

Section I. Procedure for the Advance Publication of Information on Planned Satellite Systems.

NOC 639AA through 639AH

Reason: These provisions are time-proven and meet foreseeable needs as drafted.

MOD 639AI

An administration on behalf of which details of planned satellite networks in its system have been published, in accordance with the provisions of Nos. 639AA to 639AC, shall periodically inform the Board whether or not comments, *envisioned by the provisions of No. 639AD,* have been received and of the progress made, with other administrations, in resolving any difficulties. The Board shall publish this information in a special section of its weekly circular and shall also, when the weekly circular contains such information, so inform all administrations by circular telegram.

Reason: To remove any ambiguity as to what comments are to be made known to the Board. For example, there would appear to be no useful purpose served by an administration's informing the Board that another administration had advised that it had no comment.

NOC

Section II. Co-ordination Procedures to be applied in appropriate Cases.

MOD 639AJ

Before an administration notifies to the Board or brings into use any frequency assignment to a space station on a geostationary satellite or to an earth station that is to communicate with a space station on a geostationary satellite, it shall effect coordination of the assignment with any other administration whose assignment in the same band for a space station on a geostationary satellite or for an earth station that communicates with a space station on a geostationary satellite is recorded in the Master Register *with a finding favorable with respect to No. 639BM as a minimum,* or has been coordinated or is being coordinated under the provisions of this paragraph. For this purpose, the administration requesting coordination shall send to any other such administration the information listed in Appendix 1A.[1]

Reason: To preclude the possibility that any assignment to a geostationary system which is proposed to be in accordance with ther Convention, the Table of Frequency Allocations and the other provisions of the Radio Regulations except those relating to the probability of harmful interference need be coordinated with an administration having an assignment to a geostationary space system which is *not* in accord with the Convention, the Table of Frequency Allocations and/or the other provisions of the Radio Regulations.

ADD 639AJ.1

[1] *Where coordination is requested for a space station assignment, the administration shall supply the information listed in Sections B and C of Appendix 1A for a typical earth station if coordination is not being simultaneously requested for the earth stations to communicate with the space station.*

Reason: Interference calculations with respect to inter-satellite interference needed to effect coordination of a space station frequency assignment can not be done without the earth station parameters listed in Sections B and C of Appendix 1A.

MOD 639AK

(2) No co-ordination under No. 639AJ is required:

(a) when the use of a new frequency assignment will cause, to any service of another administration, an increase in the noise temperature of any space station receiver or earth station receiver, or an increase in the equivalent satellite link noise temperature, as appropriate, not exceeding the predetermined increase of noise temperature calculated in accordance with the method given in Appendix 29; [or]

(b) when an administration proposes to change the characteristics of an existing assignment in such a way as will, in respect of any service of another administration, meet the requirements of sub-paragraph (a) above, or, where this assignment has previously been coordinated, will cause an increase in [noise temperature] *the level of interference* not exceeding the value agreed during coordination; or

(c) *when an administration proposes to add a new earth station to an existing satellite network for which coordination has already been successfully effected pursuant to No. 639AJ and the assignment will not cause an increase in the level of interference which exceeds the value agreed during coordination.*

Reason: (1) As a practical matter, coordination agreements are not based on increases in noise temperature, which is a trigger to determine when coordination is required between space systems, but on interference levels or other operating parameters such as which frequencies are used by particular types of carriers.

(2) As a satellite network grows with the addition of new earth stations, it should not be necessary to coordinate each station under No. 639AJ if the technical parameters or potential interference levels are within the limits agreed to during the initial coordination of the network.

NOC 639AL through 639AM

Reason: These provisions are time-proven and meet foreseeable needs as drafted.

NOC 639AN.1, 639AN.2

Reason: The basis for updating these provisions and/or expanding them does not exist as yet. (See narrative paragraph 9.)

NOC 639AO, 639AO.1

NOC 639AP, 639AP.1

Reason: The basic provisions are time-proven and appear to meet foreseeable needs adequately. No basis now exists to amend the footnotes to the basic provisions.

NOC 639AQ through 639BH, 639BF.1

Reason: These provisions are time-proven and appear to meet foreseeable needs.

MOD 639BI

Upon receipt of a complete notice, the Board shall include the full particulars thereof, with the date of receipt, in the weekly circular referred to in No. 497, which shall contain the particulars of all such notices received since the publication of the previous circular.

Reason: To ensure that all ancillary details forwarded to the Board as part of a complete notice are included in the weekly circular referred to in No. 497.

NOC 639BJ through 639BL, 639BF.1

Reason: These provisions are time-proven and meet foreseeable needs.

NOC 639BM through 639BO

Reason: These provisions are in many respects analogous to Article 9 procedures which are entirely satisfactory, and in and of themselves time-proven, and will continue to meet future needs.

MOD 639BP

(d) where appropriate, with respect to the probability of harmful interference to the service rendered by a space radiocommunication station for which a frequency assignment already recorded in the Master Register *either bears a favorable finding or* is in conformity with the provisions of No. 639BM if this frequency assignment has not in fact caused harmful interference to any frequency assignment in conformity with No. 639BM previously recorded in the Master Register;

Reason: Same as for No. 639BQ.

MOD 639BQ

(e) where appropriate, with respect to the probability of harmful interference to the service rendered by a terrestrial radiocommunication station for which a frequency assignment already recorded in the Master Register *either bears a favorable finding or* is in conformity with the provisions of No. 501 or 570AB, as appropriate, if this frequency assignment has not, in fact, caused harmful interference to any frequency assignment in conformity with No. 639BM previously recorded in the Master Register;

Reason: As presently drawn, these provisions would preclude an existing space (639BP) or terrestrial (639BQ) operation which has received an entirely favorable finding and has been recorded in the MIFR from consideration by the Board as a possible recipient of harmful interference from the station or system(s) subject of the notices in hand if the recorded operation had at any time caused harmful interference. This irrational circumstance does not parallel those analogous Article 9 provisions which date from not later than 1959. Later, the modified provisions above are thought to have been the intent of the WARC-ST, 1971. (Note: No. 570AD, also written by the WARC-ST, is similarly defective, does not date from 1959 or earlier, and must be similarly amended.)

NOC 639BR

Reason: This provision is time-proven and appears to meet foreseeable needs.

NOTE.—With reference to the two immediately preceding proposals, 639BR does not require that the existing terrestrial radiocommunication station never have been the source of harmful interference for protection to accrue. This circumstance would tend to lend support to the immediately preceding Reason.

NOC 639BS through 639CD

Reason: These provisions are time-proven and appear to meet foreseeable needs.

Where the Board finds that either of the co-ordination procedures mentioned in Nos. 639BN and 639BO has not been applied, and the notifying administration requests the Board to effect the required co-ordination, the Board shall take appropriate action and shall inform the administrations concerned of the results obtained. If the Board's efforts *toward securing agreement* are successful, the notice shall be treated in accordance with No. 639CD. If the Board's efforts *toward securing agreement* are unsuccessful, the notice shall be examined by the Board with respect to the provisions of Nos. MOD 639BP, MOD 639BQ and 639BR, as appropriate.

Reason: To preclude the possibility that an administration might interpret the Board's having received a response, as opposed to the Board's having received a favorable response, as the satisfactory culmination of the co-ordination process, thereby perhaps leading to a protracted situation in respect to determining the status of the entry once it reaches the Master Register.

NOC 639CF through 639CX

Reason: These provisions are time-proven and appear to meet foreseeable needs.

MOD 639CY

If, within thirty days after the projected date of bringing into use, the Board receives confirmation from the notifying administration of the date of putting into use, the special symbol shall be deleted from the Remarks column. [In the case where the Board,] [i] *In* the light of a request from the notifying administration received before the end of the thirty-day period, *the Board shall grant an extension of this period not to exceed 120 days. In the case where an administration requests an extension longer than 120 days and the Board* finds that exceptional circumstances warrant *such* an extension of this period, the extension shall in no case exceed *a total of 500 days from the original projected date of bringing into use* [one hundred and fifty days].

Reason: Unforeseen circumstances involving booster failures, launch windows, weather conditions, labor strikes, and the like may result in delays of many months before a successful launch takes place.

NOC 639CZ through 639DN

Reason: These provisions are time-proven and meet foreseeable needs.

MOD 639DO

Whenever it appears to the Board from the information available that a recorded assignment has not been brought into regular operation in accordance with the notified basic characteristics, [or] is not being used in accordance with those basic characteristics or *has been in use for a period or not less than five years without the Board having received reconfirmation from the notifying administration that the assignment is in regular use with the basic characteristics unchanged,* the Board shall consult the notifying administration and, subject to its agreements, shall [either] cancel, [or] suitably modify or *confirm the basic characteristics of* the entry.

Reason: To provide for automatic review of space radiocommunication entries in the Master International Frequency Register. This will tend to eliminate entries which might not otherwise appear to the Board to be inactive and will tend to keep entries accurate.

NOC 639DP through 639DW

Reason: These provisions are time-proven and meet foreseen needs.

MOD 639DX

In case a Member [or Associate Member] of the Union avails itself of the provisions of Article 50 of the Convention, the Board shall, upon request, make its records available for such proceedings as are prescribed in the Convention for the settlement of international disputes.

Reason: Editorial.

APPENDIX 2

WORKING GROUP 4-C

DRAFT REVISION OF RECOMMENDATION 466-1 (REV. 76)

MAXIMUM LEVEL OF INTERFERENCE IN A TELEPHONE CHANNEL OF A GEOSTATIONARY SATELLITE NETWORK IN THE FIXED-SATELLITE SERVICE EMPLOYING FREQUENCY MODULATION WITH FREQUENCY-DIVISION MULTIPLEX, CAUSE BY OTHER NETWORKS OF THIS SERVICE

(Draft Study Programme 2J-1/4 (Rev. 76))

The CCIR,

CONSIDERING

(a) That geostationary-satellite networks in the fixed satellite service operate in the same frequency bands;

(b) That interference between networks in the fixed satellite service contributes to the noise in the network;

(c) That it is desirable that the interference noise in the telephone channels of networks in the fixed satellite service caused by transmitters of different networks in that service should be such as to give a reasonable orbit utilization efficiency;

(d) That the overall performance of a network should essentially be under the control of the system designer;

(e) That it is necessary to protect a network in the fixed satellite service from interference by other such networks;

(f) That it is necessary to specify the maximum permissible interference power in a telephone channel, to determine space-station and earth-station characteristics;

(g) That the value selected for the maximum permissible single entry of interference noise should not result in too wide a minimum orbital spacing;

(h) That for coordination between two satellite networks, it is necessary to know the maximum permissible level of interference in a telephone channel of the wanted network caused by transmitters of the other network;

(j) That networks in the Fixed-Satellite Service may receive interference both into the space-station receiver and into the earth-station receiver;

(k) that the mean interference noise power should be an appropriate fraction of the total noise power permitted in the hypothetical reference circuit;

(l) That in many cases the largest interference contributions to a geostationary-satellite network will be from the networks using geostationary satellites nearby in orbit and serving an overlapping coverage area and the value of interference from any other network will generally be less;

(m) that the accumulation of interference from many entries from other satellite net-

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works and from terrestrial stations is not likely to be equal to the arithmetic sum of the individual interference entries at their maximum value across the band, and the total interference noise level in any single channel may be significantly less;

(n) That the levels of interference between geostationary-satellite networks in the fixed satellite service operating in frequency bands below 10 GHz are not expected to exhibit a large variation with time;

RECOMMENDS

1. That different geostationary-satellite networks in the fixed satellite service operating in the same frequency bands, below 10 GHz, be designed in such a manner that the interference noise power at a point of zero relative level in any telephone channel of a hypothetical reference circuit of a network in the fixed satellite service, employing frequency modulation, caused by the aggregate of the earth-station and space-station transmitters of other networks, should not exceed:

1.1 In frequency bands in which the network does not practice frequency re-use; 2,000 pW, psophometrically weighted one minute mean power for 20% of any month;

1.2 In frequency bands in which the network practices frequency re-use; 1,500 pW, psophometrically weighted one minute mean power for 20% of any month;

2. That the maximum level of the interference noise power at a point of zero relative level in any telephone channel of the hypothetical reference circuit of a geostationary satellite network in the Fixed-Satellite Service employing frequency modulation, caused by the transmitters of another network, should not exceed 400 pW, psophometrically weighted one minute mean power, for more than 20% of any month;

3. That the maximum level of interference noise power caused to that network should be calculated on the basis of the following values for the receiving earth station antenna gain in a direction at an angle θ (in degrees) referred to the main beam direction:

$$G = 32 - 25 \log \theta \text{ (dB) } 10 < 48$$

$$G = -10 \text{ (dB) } 48 \theta 0 180$$

except when the actual gain is known and is less than the above value, in which case the actual value should be used.

4. That the following Notes should be regarded as part of this Recommedation:

NOTE 1.—The values quoted in §§ 1.1 and 1.2 do not apply to networks for which an advance publication has been submitted to the IFRB by the time of the XIVth Plenary Assembly; for such networks the aggregate interference power in any telephone channel should not exceed 1,000 pW psophometrically weighted one minute mean power for 20% of any month.

NOTE 2.—Only a small fraction of the channels of a network will experience the maximum value of interference from any single network and therefore the aggregate level for many channels will be less than the totals contained in § 1. System designers may provide for a lower value in their noise budgets for a large portion of the spectrum. The way in which the aggregate values are to be taken into account in the general noise objectives for networks in the Fixed-Satellite Service is defined in Note 8 of draft Recommendation 353-2 (Rev. 76).

NOTE 3.—In some cases it may be necessary to limit the single entry value to less than the value quoted in § 2 above in order that the total value recommended in § 1 may not be exceeded. In other cases, particularly in congested arcs of the geostationary satellite orbit, administrations may agree bilaterally to use higher single entry interference value than those quoted in § 2 above, subject to evidence being available that the aggregate value recommended in § 1 is not exceeded.

NOTE 4.—There is a need for urgent study to be given to means of increasing the single entry interference level quoted in § 2 above without causing the total interference noise level to exceed the values quoted in § 1; this study should include, for example, the feasibility of reconciling the inhomogeneity of satellite signals which interfere with one another.

NOTE 5.—There is an urgent need for study of the acceptability of an increase in the maximum total interference noise values recommended in § 1 and more particularly that given § 1.2 for satellite networks in which frequency re-use is practised.

NOTE 6.—In segments of the geostationary satellite orbit not likely to be crowded, interference allowances less than those recommended in § 1 above, may be utilized, allowing a corresponding increase in other noise contributions within total acceptable noise limits.

WORKING GROUP 4-C

DRAFT REVISION OF RECOMMENDATION 466-1 (REV. 76)

MAXIMUM LEVEL OF INTERFERENCE IN A TELEPHONE CHANNEL OF A GEOSTATIONARY SATELLITE NETWORK IN THE FIXED-SATELLITE SERVICE EMPLOYING FREQUENCY MODULATION WITH FREQUENCY-DIVISION MULTIPLEX, CAUSED BY OTHER NETWORKS OF THIS SERVICE

(Draft Study Programme 2J-1/4 (Rev. 76))

(a) In §(n), the text should begin "that the levels of interference* * *".

(b) In § 1, the sixth line of the English text (and as appropriate in the French and Spanish texts) should be amended to read "* * * earth-station and space-station transmitters of other *fixed-satellite* networks, * * *".

(c) In § 2, the fourth line of the English text (and as appropriate in the French and Spanish texts) should be amended to read "* * * caused by the transmitters of another *fixed-satellite* network, * * *".

(d) In Note 1, the beginning of the text should be amended to read "The values quoted in §§ 1.1 and 1.2 do not apply to networks for which *a complete* advance publication * * *".

(e) In Note 3, the last two lines should be amended to read "* * * higher single entry interference values than those quoted in § 2 above, but any interference noise power in excess of the value recommended in § 2 should be disregarded in calculating whether the total value recommended in § 1 is exceeded".

(f) In Note 4, the second half of the sentence should be amended to read "this study should include, for example, the feasibility of *overcoming problems of interference which result from inhomogeneous network parameters.*"

(g) In Note 5, the second line of the English text (and as appropriate in the French and Spanish texts) should be amended to read "* * * interference noise values recommended* * *".

APPENDIX 1

WORKING GROUP 4-C

DRAFT NEW RECOMMENDATION

MAXIMUM PERMISSIBLE LEVELS OF INTERFERENCE IN A GEOSTATIONARY-SATELLITE NETWORK IN THE FIXED-SATELLITE SERVICE USING 8-BIT PCM ENCODED TELEPHONY CAUSED BY OTHER NETWORKS OF THIS SERVICE

(Study Programme 2J-1/4)

The CCIR,

CONSIDERING

(a) That geostationary-satellite networks in the Fixed-Satellite Service operate in the same frequency bands;

(b) That interference between networks in the Fixed-Satellite Service degrades the bit error-rate performance relative to its value in the absence of frequency sharing;

(c) That it is desirable that the bit-error-rate in networks in the Fixed-Satellite Service caused by transmitters of different networks in that service should be such as to give a reasonable orbit utilization efficiency;

(d) That the overall performance of a network should essentially be under the control of the system designer;

(e) That it is necessary to protect a network in the Fixed-Satellite Service from interference by other such networks;

(f) That it is necessary to determine the maximum permissible interfering radio frequency power in a satellite system to establish space-station and earth-station characteristics such as required protection ratios and minimum orbital spacing;

(g) That networks in the Fixed-Satellite Service may receive interference both into the space-station receiver and into the earth-station receiver;

(h) That it is desirable that the increase in bit error-rate due to interference from other satellite networks should be a controlled fraction of the total bit error-rate as set out in draft Recommendation AA/4;

(j) That where adjacent satellites serve networks with similar characteristics the largest interference contributions to a geostationary-satellite network will be from the networks using those adjacent satellites; but this may not be true where network characteristics are inhomogeneous;

(k) That the levels of interference between geostationary-satellite networks in the Fixed-Satellite Service below 10 GHz are not expected to exhibit a large variation with time and under these conditions it is preferable to define the permissible interference limit as a fraction of the pre-demodulator noise power, as this allows multiple interference entries to be superimposed on each other on the basis of RF power addition:

RECOMMENDS

1. That networks in the Fixed-Satellite Service operating in the same frequency bands below 10 GHz, and using geostationary satellites be designed and operated in such a manner that the total interference to an 8-bit PCM telephony system in the Fixed-Satellite Service caused by the earth-station and space-station transmitters of all other networks should conform provisionally to the following limits;

1.1 In frequency bands in which the network does not practise frequency re-use the interference power level, averaged over any ten minutes, should not exceed, for more than 20% of any month, 20% of the total noise power level at the input to the demodulator that would give rise to a bit error rate of 1 in 10^6.

1.2 In frequency bands in which the network practises frequency re-use the interference power level, averaged over any ten minutes, should not exceed, for more than 20% of any month, 15% of the total noise power level at the input to the demodulator that would give rise to a bit error rate of 1 in 10^6;

2. That the maximum level of interference power in any such 8-bit PCM telephony system caused by the transmitters of another fixed-satellite network, averaged over any ten minutes, should not exceed, for more than 20% of any month, 4% of the total noise power level at the input to the demodulator that would give rise to a bit error rate of 1 in 10^6;

3. That the maximum level of interference noise power caused to that network should be calculated on the basis of the following values for the receiving earth station antenna gain in a direction at an angle θ (in degrees) referred to the main beam direction:

$$G = 32 - 25 \log \theta \text{ (dB) } 1 0 \theta < 48$$

$$G = -10 \text{ (dB) } 48 0 \theta 0 180$$

except when the actual gain is known and is less than the above value, in which case the actual value should be used;

4. That the following notes should be regarded as part of this Recommendation:

NOTE 1.—It is assumed in this Recommendation that the interference from other satellite networks is of a continuous nature; further study is required in respect of cases where interference is not of a continuous nature.

NOTE 2.—The values quoted in §§ 1.1 and 1.2 do not apply to networks for which a complete advance publication has been submitted to the IFRB by the time of the XIVth Plenary Assembly; for such networks the aggregate interference power level, averaged over any ten minutes, should not exceed, for more than 20% of any month, 10% of the total noise power level at the input to the demodulator that would give rise to a bit error rate of 1 in 10^6.

NOTE 3.—In some cases it may be necessary to limit the single entry value to less than the value quoted in § 2 above in order that the total value recommended in § 1 may not be exceeded. In other cases, particularly in congested arcs of the geostationary satellite orbit, administrations may agree bilaterally to use higher single entry interference values than those quoted in § 2 above, but any interference noise power in excess of the value recommended in § 2 should be disregarded in calculating whether the total value recommended in § 1 is exceeded.

NOTE 4.—There is a need for urgent study to be given to means of increasing the single entry interference level quoted in § 2 above without causing the total interference noise level to exceed the values quoted in § 1; this study should include, for example, the feasibility of overcoming problems of interference which result from inhomogeneous network parameters.

NOTE 5.—There is an urgent need for study of the acceptability of an increase in the maximum total interference noise values recommended in § 1 and more particularly that given in § 1.2 for satellite networks in which frequency re-use is practised.

NOTE 6.—In segments of the geostationary satellite orbit not likely to be crowded, interference allowances less than those recommended in § 1 above, may be utilized, allowing a corresponding increase in other noise contributions within total acceptable noise limits.

APPENDIX 4

SERVICE DOCUMENTS PUBLISHED BY THE INTERNATIONAL TELECOMMUNICATION UNION PURSUANT TO ARTICLE 20 OF THE INTERNATIONAL RADIO REGULATIONS.

List	Title
I	International Frequency List.
II	List of Fixed Stations Operating International Circuits.
IIIA	List of Broadcasting Stations Operating in Bands below 5950 kHz.
IIIB	List of Broadcasting Stations Operating in Bands between 5950 and 26100 kHz.
IV	List of Coast Stations.
V	List of Ship Stations.
VI	List of Radiodetermination and Special Service stations.
VIIA	Alphabetical List of Call Signs of Stations used by the Maritime Mobile Service (Coast, Ship, Radiodetermination and Special Service Stations), Ship Station Selective Call Numbers or Signals and Coast Station Identification Numbers or Signals.
VIIB	Alphabetical List of Call Signs of Stations other than Amateur Stations, Experimental Stations and Stations of the Maritime Mobile Service.
VIII	List of International Monitoring Stations.
VIIIA	Lists of Stations in the Space Service and in the Radio Astronomy Service.

[FR Doc. 78-11728 Filed 5-1-78; 8:45 am]

[6712-01]

NATIONAL INDUSTRY ADVISORY COMMITTEE

Citizens Band Radio Communications Subcommittee; Meeting

APRIL 27, 1978.

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Citizens Band Radio Communications Subcommittee of the National Industry Advisory Committee to be held Thursday, May 25, 1978, beginning at 10 a.m. The Subcommittee will meet at the Federal Communications Commission annex building, 1229 20th Street NW., Washington, D.C. in room A-110.

Purpose: To consider emergency communications matters.

Agenda: As follows:

Items:

1. Chairman's opening remarks.
2. Review and approve minutes of the March 28, 1978 meeting.
3. Members' reports on cooperating organizations.
4. Discussion of existing resources.
5. Draft outline for national plan.
6. Recommendations and assignments for additional study.
7. Other business.
8. Establish date for next meeting.
9. Closing comments and adjournment.

Any member of the general public may attend or file a written statement with the committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, 202-632-7232.

FEDERAL COMMUNICATIONS COMMISSION
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-11859 Filed 5-1-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

FIRST STATE BANCSHARES, INC.

Formation of Bank Holding Company

First State Bancshares, Inc., Raytown, MO., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.18 percent of the voting shares of First State Bank of Raytown, Raytown, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

First State Bancshares, Inc., Raytown, Mo., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c) (8)) and § 225.4(b) (2) of the Board's Regulation Y (12 CFR 225.4(b) (2)), for permission to acquire an insurance agency business offering the sale of life, accident, and health insurance directly related to extensions of credit by First State Bank of Raytown, Raytown, Mo. Notice of the application was published on April 7, 1978, in The Kansas City Star, a newspaper circulated in Kansas City, Mo.

Applicant states that the proposed subsidiary would engage in the activities described above. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be excepted to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence

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the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 26, 1978.

Board of Governors of the Federal Reserve System, April 26, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-11841 Filed 5-1-78; 8:45 am]

[6210-01]

HAWKEYE BANCORP., DES MOINES, IOWA

Acquisition of Bank

Hawkeye Bancorp., Des Moines, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (3)) to acquire 100 per cent of the voting shares of First State Bank, Chariton, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 26, 1978.

Board of Governors of the Federal Reserve System, April 26, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-11842 Filed 5-1-78; 8:45 am]

[6210-01]

NORTHEAST UNITED BANCORP, INC. OF TEX.

Acquisition of Bank

Northeast United Bancorp., Inc. of Texas, Forth Worth, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less director's qualifying shares) of American National Bank of Dallas, Dallas, Tex., a *de novo* bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 25, 1978.

Board of Governors of the Federal Reserve System, April 26, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-11843 Filed 5-1-78; 8:45 am]

[6210-01]

FEDERAL OPEN MARKET COMMITTEE

Longer Run Ranges for Monetary Aggregates

On April 18, 1978, the Federal Open Market Committee adopted the following ranges for rates of growth in monetary aggregates for the period from the first quarter of 1978 to the first quarter of 1979: M-1, 4 to 6½ percent; M-2, 6½ to 9 percent; and M-3, 7½ to 10 percent. The associated range for bank credit is 7½ to 10½ percent.

By order of the Federal Open Market Committee, April 25, 1978.

ARTHUR L. BROIDA,
Secretary.

[FR Doc. 78-11844 Filed 5-1-78; 8:45 am]

[6820-25]

GENERAL SERVICES ADMINISTRATION

[FCC Docket No. CC-78-72; Intervention Notice 61]

FEDERAL COMMUNICATIONS COMMISSION

PROPOSED INTERVENTION IN COMMUNICATIONS RULEMAKING PROCEEDING; INQUIRY INTO MTS AND WATS MARKET STRUCTURE

The General Services Administration (GSA) seeks to intervene in a proceeding before the Federal Communication Commission (FCC) concerning the Notice of Proposed Rulemaking concerning MTS and WATS Market Structure announced by the FCC on February 23, 1978, 43 FR 9505. The GSA represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any person parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: April 19, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-11854 Filed 5-1-78; 8:45 am]

[6820-24]

[Docket No. 1776; Intervention Notice 62]

PUBLIC UTILITY COMMISSION OF TEXAS

Proposed Intervention in Alternative Rate Designs

The Adminstrator of General Services seeks to intervene in a proceeding before the Public Utility Commission of Texas involving alternative rate designs in light of their economic impact, conservation impact, and other consequences. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, within thirty (30) days of the publication of this notice in the FEDERAL REGISTER, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: April 19, 1978.

JAY SOLOMON,
Administrator.

[FR Doc. 78-11853 Filed 5-1-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of June 1978:

PSYCHIATRY EDUCATION REVIEW COMMITTEE

Date, time, and place: June 12-13, 10 a.m., Conference Room F, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Type of meeting: Open.
Contact: Ms. Connie Verney, Room 8C-12, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2120.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychiatry education and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 10 a.m., June 12, through early afternoon, June 13, the meeting will be open for discussion of administrative announcements, program developments and review criteria in the light of new initiatives and priorities of the Institute.

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish, upon request, summaries of the meeting and rosters of the committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, National Institute of Mental Health, Room 15C-17 Parklawn Building, 5600 Fishers Lane, Rockville, Md. 301-443-3473.

Dated: April 25, 1978.

CAROLYN T. EVANS,
Committee Management Officer Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 11701 Filed 5-1-78; 8:45 am]

[4110-88]

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of June 1978:

EPIDEMIOLOGIC STUDIES REVIEW COMMITTEE

June 12-13, 9 a.m., University of Iowa, 500 Newton Road, Iowa City, Iowa. Open: June 12, 9 to 10 a.m. Closed: Otherwise. Contact: Lavinia Walsh, Room 10C-09, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3774.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities in the field of epidemiology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m., June 12, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4573.

Dated: April 26, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-11803 Filed 5-1-78; 8:45 am]

[4110-03]

Food and Drug Administration

ARTHRITIS ADVISORY COMMITTEE

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 1770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Arthritis Advisory Committee by the Secretary, Department of Health, Education, and Welfare.

DATE: Authority for this committee will expire on April 5, 1980, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

Dated: April 24, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-11704 Filed 5-1-78; 8:45 am]

[4110-03]

TRANSFER OF ADMINISTRATIVE RESPONSIBILITY FOR DENTAL DEVICES PREVIOUSLY CONSIDERED OVER-THE-COUNTER DRUGS

Implementation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces that the Food and Drug Administration (FDA) has transferred administrative responsibility for over-the-counter (OTC) dental devices from the Bureau of Drugs to the Bureau of Medical Devices (BMD). In addition, data and information developed by, and all submissions to, the Advisory Review Panel on OTC Dentifrices and Dental Care Agents on dental devices have been transferred to BMD. This action was taken to implement the medical device amendments of 1976, under which several products previously regarded as drugs now come within the definition of a medical device intended for human use.

FOR FURTHER INFORMATION CONTACT:

Joseph L. Hackett, Bureau of Medical Devices (HFK-403), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7443, or
William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of January 30, 1973 (38 FR 2781), the Commissioner of Food and Drugs requested the submission of data and information on all OTC dental care drug products. The data and information received in response to the notice have been reviewed by the FDA Advisory Review Panel on OTC Dentifrices and Dental Care Agents under the procedures in § 330.10 (21 CFR 330.10) for classifying OTC drugs as generally recognized as safe and effective and not misbranded and for establishing on OTC drug monograph for the products. On May 28, 1976, the medical device Amendments of 1976 (Pub. L. 94-295) were enacted and several products previously regarded as drugs and under review by the Panel were placed within the definition of a device under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)). The Commissioner has reviewed the articles previously regarded as drugs and has concluded that the following fall within the definition of a device: Denture cushions, dental adhesives, dental reliners and repair kits, denture cleansers, and plaque-disclosing kits.

In a notice published in the FEDERAL REGISTER of December 16, 1977 (42 FR 63472), the Commissioner issued a notice of implementation of the transitional provisions of the medical device amendments for articles previously considered new drugs or antibiotic drugs. The notice explained the transitional provisions of the amendments, listed generic types of medical devices previously regarded as drugs, explained which of these types are to be

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subject to premarket approval requirements, indicated which Bureau in FDA regulates the products, and explained how manufacturers and importers can petition for changes in the regulatory classification of medical devices intended for human use.

This present notice announces that FDA has transferred the administrative responsibility for OTC dental care devices from the Bureau of Drugs to the Bureau of Medical Devices. In addition, the Advisory Review Panel on OTC dentifrices and dental care agents has recommended that the Commissioner transfer that portion of its report concerning articles now regarded as medical devices intended for human use, together with the data and information submitted in response to the January 30, 1973, notice to BMD. The Panel has prepared a summary representing its conclusions concerning the safety, effectiveness, and labeling, as OTC drugs, of denture cushions, dental adhesives, dental relliners and repair kits, denture cleansers (all of which were reviewed by the Panel as "denture aids"), and plaque-disclosing kits. After it is approved by the Panel, the summary will be available as an appendix to the minutes of the appropriate Panel meeting. The summary has been prepared independently of FDA and does not necessarily represent the agency's position on these articles.

The data and information received by FDA in response to the January 30, 1973, notice which were classified by the Panel as applying to denture aids and dental plaque-disclosing agents have been transferred to BMD with the related data and information developed by the Panel. Persons will be notified by letter of the transfer to BMD of the data or information which they submitted on these products.

Dated: April 24, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-11703 Filed 5-1-78; 8:45 am]

[4110-03]

[Docket No. 75N-0139; DESI No. 9955]

CERTAIN ORAL PROTEOLYTIC ENZYMES

Denial of Hearing; Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs (1) denies a hearing and withdraws approval of two proteolytic enzyme products whose sponsor had requested a hearing but did not submit any data to support those requests and (2) withdraws approval of one proteolytic enzyme product whose sponsor did not request a hearing. The products have been used to control edema and inflammation associated with various disorders.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific drug product should be directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, 5600 Fishers Lane, Rockville, Md. 20857.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Nathan J. Treinish, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 9955) published in the FEDERAL REGISTER of June 25, 1970 (35 FR 10393), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of reports received from the National Academy of Sciences-National Research Council (NAS-NRC), Drug Efficacy Study Group concerning oral proteolytic enzymes. The drugs were classified as possibly effective and lacking substantial evidence of effectiveness. The notice also stated that additional evidence was required to fully establish their effectiveness.

Data and clinical studies that were subsequently submitted by the sponsors were found not to support the effectiveness of the drugs, and in a notice of opportunity for hearing published in the FEDERAL REGISTER of July 24, 1975 (40 FR 30995) (DESI 9955) (Docket No. 75N-0139, formerly FDC-D-588), the Director of the Bureau of Drugs reclassified the drugs to lacking substantial evidence of effectiveness for all indications and proposed to withdraw approval of the new drug applications for the products. The holders of the new drug applications named below requested hearings and submitted supporting material concerning their drug products. The hearing requests are under review and will be the subject of a future FEDERAL REGISTER notice. Marketing of these drug products may continue pending a ruling on the hearing requests.

NDA 11-783; Orenzyme Enteric-coated Tablets containing 50,000 or 100,000 units of trypsin and 4,000 or 8,000 units of chymotrypsin; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., 100 East Amity Rd., Cincinnati, Ohio 45215.

NDA 12-178; Chymoral enteric-coated Tablets containing trypsin and chymotrypsin equivalent to 50,000 or 100,000 units enzyme activity; Armour Pharmaceutical Co.

NDA 12-293; Papase Tablets containing enzymes extracted from carica papaya equivalent to 10,000 units enzyme activity; Warner-Chilcott Laboratories, Division of Warner-Lambert Pharmaceutical Co., 201 Tabor Rd., Morris Plains, N.J. 07950.

NDA 12-527; Ananase Enteric-coated Tablets containing bromelains equivalent to 50,000 or 100,000 units enzyme activity; William H. Rorer, Inc., 500 Virginia Dr., Fort Washington, Pa. 19034.

NDA 12-626; Avazyme Enteric-coated Tablets containing 20 mg chymotrypsin; Wampole Laboratories, Division of Denver Chemical Manufacturing Co., 35 Commerce Rd., Stamford, Conn. 06904.

NDA 12-724; that part of NDA 12-724 pertaining to Wilzyme Enteric-coated Tablets contalning 50,000 units of proteolytic activity (approximately 3 to 1 ratio of trypsin activity to chymotrypsin activity); Wilson Laboratories, Division of Wilson Pharmaceutical and Chemical Corp., 2600 Bond St., Park Forest South, Chicago, Ill. 60466.

NDA 12-724; that part of NDA 12-724 pertaining to Chymolase Enteric-coated Tablets containing 50,000 units of protoeolytic activity (approximately 3 to 1 ratio of trypsin to chymotrypsin activity); distributed by the Warren-Teed Products Co., subsidiary of Rohm & Haas Co., 582 W. Goodale St., Columbus, Ohio 43215.

The current notice pertains only to the following drugs which were also included in the notice of July 24, 1975.

I. THE DRUGS

NDA 9-955; Cytolav Capsules containing 7,000 Armour units chymotrypsin; formerly marketed by Armour Pharmaceutical Co., Division of Armour & Co., Greyhound Tower, Phoenix, Ariz 85077. Armour requested a hearing but did not submit any supporting data or argument.

NDA 11-908; Chymar Buccal Tablets containing 10,000 Armour units chymotrypsin; formerly marketed by Armour Pharmaceutical Co. Armour requested a hearing but did not submit any supporting data or arguments.

NDA 12-724; that part of NDA 12-724 pertaining to Haugase Enteric-coated Tablets, containing 50,000 units of proteolytic activity (approximately 3-to-1 ration of trypsin activity to chymotrypsin activity) distributed by Madland Laboratories, Inc., 125 W. Wisconsin Ave., Milwaukee, Wis 53203. Madland did not request a hearing.

No other person filed a written appearance of election as provided for by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

All drug products that are identical, related, or similar to the drugs named above and are not the subject of an approved new drug application are covered by the new drug applications reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Divison of Drug Labeling Compliance (address given above).

II. FINDINGS

On the basis of the foregoing, the Commissioner finds that (1) there is a lack of substantial evidence that Armour's Cytolav Capsules, and Chymar Buccal Tablets and Madland's Haugase Enteric-coated Tablets have the effects they are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling, and (2) there is a lack of substantial evidence that each component of Haugase Enteric-coated Tablets, a combination product, contributes to the total effects claimed. In addition, Armour has failed to offer any data or legal reason to demonstrate the existence of a genuine and substantial issue of fact requiring a hearing concerning Cytolav or Chymar.

Therefore under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under the authority delegated to the Commissioner (21 CFR 5.1), the request for a hearing for Cytolav Capsules (NDA 9-955) and Chymar Buccal Tablets (NDA 11-908) is denied, and approval of the new drug applications for these drugs and that part of NDA 12-724 pertaining to Haugase Enteric-coated Tablets is withdrawn, effective May 12, 1978.

Dated: April 24, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-11702 Filed 5-1-78; 8:45 am]

[4110-03]

[Docket No. 78N-0081]

DRUGS FOR HUMAN USE

Drug Efficacy Study Implementation; Revocation of Exemption

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice revokes the temporary exemption for continued marketing of two poorly absorbed sulfonamides for oral use. Under the exemption, the drugs have been allowed to remain on the market beyond the time limit scheduled for implementation of the drug efficacy study.

EFFECTIVE DATE: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary E. Catchings, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice appearing elsewhere in this issue of the FEDERAL REGISTER, the Food and Drug Administration is reclassifying the possibly effective indications for the two poorly absorbed sulfonamides (succinylsulfathiazole and phthalylsulfacetamide) described below (DESI 5803) to lacking substantial evidence of effectiveness. These products have been allowed to remain on the market beyond the time limit established for implementation of the drug efficacy study (DESI) on the condition that manufacturers undertake additional clinical studies to determine the products' effectiveness. The temporary exemption to permit continued marketing was announced in a notice published in the FEDERAL REGISTER of August 8, 1973 (38 FR 21442). Because no person has submitted additional data or expressed an intent to perform additional studies for the drugs described below, the temporary exemption granted by the August 8, 1973 notice, as it pertains to these two drugs, is hereby revoked.

1. NDA 4-687; that portion of the NDA pertaining to Sulfasuxidine Tablets, containing succinylsulfathiazole; Merck, Sharp & Dohme, Division of Merck & Co., Inc., West Point, Pa. 19486.

2. NDA 6-593; Thalmyd Tablets, containing phthalylsulfacetamide; Schering Corp., Galloping Hill Road, Kenilworth, N.J. 07003.

The phthalylsulfathiazole products (Cremothalidine Suspension and Sulfathalidine Tablets) named in the August 8, 1973 notice remain exempt for the present because a study to determine the effectiveness is being conducted by Merck, Sharp & Dohme.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: April 24, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-11801 Filed 5-1-78; 8:45 am]

[4110-03]

[Docket No. 78N-0081; DESI 5803]

CERTAIN POORLY ABSORBED SULFONAMIDES FOR ORAL USE

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice reclassifies certain poorly absorbed sulfonamides for oral use to lacking substantial evidence of effectiveness, proposes to withdraw approval of the new drug applications, and offers an opportunity for a hearing on the proposal.

DATE: Hearing requests due on or before June 1, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 5803 and the docket number appearing in the heading of this notice, and addressed to the Food and Drug Administration, 5700 Fishers Lane, Rockville, Md. 20857. Request for Hearing: Hearing Clerk, Food and Drug Administration (HFC-20), Room 4-65. Request for opinion of the applicability of this notice to a specific product: division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration.

FOR FURTHER INFORMATION CONTACT:

Mary E. Catchings, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 5803; Docket No. FDC-D-379 (now Docket No. 78N-0081)) published in the FEDERAL REGISTER of September 19, 1970 (35 FR 14666), the Food and Drug Administration classified poorly absorbed sulfonamides for oral or rectal use as possibly effective or lacking substantial evidence of effectiveness for their various indications for gastrointestinal use, such as adjunctive therapy in the management of ulcerative colitis.

Subsequently, in a notice published in the FEDERAL REGISTER of August 8, 1973 (38 FR 21441), poorly absorbed oral sulfonamides were temporarily exempted from the time limit established for completing certain phases of the Drug Efficacy Study (DESI) program. The exemption was granted because there is believed to be a definable population who have an intolerance to salicylazosulfapyridine, the drug that is effective for use as adjunctive therapy in the management of ulcerative colitis. The purpose of the exemption was to allow time for studies to be conducted to determine the effectiveness of the poorly absorbed sulfonamides.

No person has submitted data or portocols or has expressed an intention to perform additional clinical studies on the drug products described below, and the drugs are now reclassified to lacking substantial evidence of effectiveness. The temporary exemption granted by the August 8, 1973

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notice, as it pertains to these drugs, is revoked in a notice appearing elsewhere in this issue of the FEDERAL REGISTER.

1. NDA 4-687; that portion of the NDA pertaining to Sulfasuxidine Tablets, containing succinylsulfathiazole; Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, Pa. 19486.

2. NDA 6-593; Thalamyd Tablets, containing phthalylsulfacetamide; Schering Corp., Galloping Hill Road, Kenilworth, N.J. 07003.

Other drugs included in the September 19, 1970 notice are not affected by this notice.

On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug(s).

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the affect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to the drug product(s) named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products named above and of all identical, related, or similar products.

An applicant or any other person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing shall file (1) in or before June 1, 1978, a written notice of appearance and request for hearing, and (2) on or before July 3, 1978, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: April 6, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-11802 Filed 5-1-78; 8:45 am]

[4110-12]

Office of the Secretary

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Directive on the Application of Title IX to Intercollegiate Athletics

AGENCY: Office for Civil Rights, HEW.

ACTION: Notice of Directive on the implementation of the Title IX requirements and an opinion from the General Counsel.

SUMMARY: The Department has received requests from colleges and university officials and interested groups on the implementation of the Title IX athletic requirements. On April 25, 1978, the Secretary issued a directive to the General Counsel and the Director and Deputy Director of the Office for Civil Rights asking them to arrange for a review of the implementation of Title IX with respect to revenue-producing sports to assure that practical guidance and technical assistance are available. Persons wishing to relate any experiences with respect to Title IX should send their comments to the address below.

Attached to the directive is an opinion from the General Counsel, dated April 18, 1978, which concludes that institutions of higher education receiving Federal financial assistance must comply with Title IX in the administration of their revenue-producing athletic activities.

FOR FURTHER INFORMATION CONTACT:

Director, Office for Civil Rights, HEW, 330 Independence Avenue SW., Washington, D.C. 20201.

Dated: April 27, 1978.

DAVID TATEL,
Director, Office for Civil Rights.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C. April 25, 1978.

MEMORANDUM

To: Peter Libassi, General Counsel; David Tatel, Director, Office for Civil Rights; Cynthia Brown, Deputy Director, Office for Civil Rights.

Subject: Application of Title IX to Intercollegiate Athletics.

The three-year transition period for achieving compliance with Title IX in the area of athletics will end on July 25, 1978. I have received and am attaching an opinion from the General Counsel which concludes that institutions of higher education receiving Federal financial assistance must comply with Title IX in the administration of their revenue-producing athletic activities. The opinion also concludes that the current Title IX regulations and Department policies allow flexibility in their application to those activities.

Colleges and university officials and interested groups have requested additional clarification on the implementation of the athletic requirements. You, therefore, should arrange for a review of the implementation of Title IX with respect to intercollegiate athletics with particular attention to revenue-producing sports. The purposes of this review are to assure that practical guidance and technical assistance on the application of the Title IX regulations and Department policies are available to college and university officials, and to determine if the development of further policies is necessary.

As part of this effort the review should include the experiences of colleges and universities over the last three years in achieving compliance with Title IX. We need to learn of the achievements of these institutions in expanding athletic opportunities for women, as well as any difficulties they have encountered.

You should conduct this review by relying, to the greatest extent possible, on the people who are involved in these issues. In particular, I would like you to explore with representatives of the university community, women's groups and other interested parties the active roles they might play in providing guidance and technical assistance in connection with the implementation of Title IX.

A central concern of your review should be to preserve what flexibility now exists under the regulations and to avoid the issuance of the kind of detailed regulations and guidelines that are counterproductive to the objectives of non-discrimination we all share. This Department has issued far too many and detailed regulations in the past and we must avoid doing so in the future.

In light of the widespread interest in the issue of implementing Title IX with respect to intercollegiate athletics, I am asking that you have this directive and the opinion of the General Counsel published in the FEDERAL REGISTER.

Please keep me informed of developments.

JOSEPH A. CALIFANO, JR.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, THE OFFICE OF THE SECRETARY,
Washington, D.C. 20201.
April 18, 1978.

MEMORANDUM

To: The Secretary.
From: F. Peter Libassi.
Subject: Applicability of Title IX of the Education Amendments of 1972 to Revenue Producing Intercollegiate Athletics.

ISSUE

You have asked our opinion as to whether an institution of higher education which is receiving Federal financial assistance must comply with the prohibition against sex discrimination imposed by Title IX of the Education Amendments of 1972 and the regulations promulgated thereunder (45 CFR Part 86) in the administration of its revenue producing intercollegiate athletic activities.

CONCLUSION

Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) prohibits sex discrimination in any "education program or activity" receiving Federal financial assistance. In our opinion, a revenue producing intercollegiate athletic program is (a) an education program or activity within the meaning of Title IX, and (b) an integral part of the general undergraduate education program of an institution of higher education. Accordingly, in our opinion, an institution of higher education must comply with the prohibition against sex discrimination imposed by that title and its implementing regulations in the administration of any revenue producing intercollegiate athletic activity if either the athletic activity or the general education program of which the athletic activity is a part is receiving Federal financial assistance.

DISCUSSION

Section 901(a) of Title IX of the Education Amendments of 1972 provides as follows:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. . . ."

There is no reference anywhere in Title IX to revenue producing athletics, and the term "education program or activity" is not defined. There is, however, some indication that Congress intended that term to have an expansive meaning. Section 901(a) of Title IX provides a series of exemptions from the general prohibition. Among them are exemptions for the Boy Scouts, the Girl Scouts, and social fraternities and sororities. we assume that absent the exemptions, each of these groups of organizations would be subject to the prohibition against sex discrimination as an education program or activity. In our view as definition of "education program or activity" that encompasses social fraternities and sororities also encompasses intercollegiate athletics, including revenue producing athletics as well.

The limited legislative history for Title IX tends to support a broad view of what is an education program or activity, but is less clear with respect to whether athletics, and particularly revenue producing intercollegiate athletics, are included in the term. In the only comments of any length on the subject, Senator Bayh, the Senate sponsor of Title IX, stated:

"What we are trying to do is provide equal access for women and men students to the educational process and the extracurricular activities in a school, where there is not a unique facet such as football involved. We are not requiring that intercollegiate football be desegregated, nor that the men's locker room be desegregated." Cong. Rec. S. 13554 (daily ed. August 6, 1971).[1]

However, any ambiguity as to whether revenue producting intercollegiate athletics are an education program or activity under Title IX was eliminated in 1974 by the enactment of section 844 of the Education Amendments of 1974. The language of that section and its history make it clear that it is Congress' intent that revenue producing intercollegiate athletics be included in the term.

On May 20, 1974 Senator John Tower of Texas introduced an amendment to Titl IX exempting revenue producing athletics. It stated:

"(T)his section [§ 901 of Title IX] shall not apply to an intercollegiate athletic activity to the extent such activity does or may provide gross receipts or donations to the institution necessary to support that activity."Cong. Rec. S. 8488 (daily ed. May 20, 1974).

The amendment was adopted on the floor of the Senate by voice vote. The Conference Committee on the Education Amendments of 1974 deleted Senator Tower's amendment. Instead the Conference adopted what was to become section 844 of the 1974 Amendments, commonly referred to as the "Javits Amendments." It provides as follows: "The Secretary [of HEW] shall prepare and publish . . . proposed regulations implementing the provisions of Title IX of the Education Amendments of 1972 relating to the prohibition of sex discrimination in Federally assisted education programs *which shall include with respect to intercollegiate athletic activities reasonable provisions considering the nature of the particular sports.*" (Emphasis added.)

In our judgment, Congress has made it clear, by rejecting an exemption from Title IX for revenue producing athletics and adopting section 844, which requires the promulgation of Title IX regulations that include reasonable provisions concerning intercollegiate athletic activities, that revenue producing intercollegiate athletics are an "education program or activity" within the

[1]Other comments in the debates refer, in passing, to the possible need to maintain separate physical education facilities, S. 1769 (daily ed., Feb. 15, 1972), 92d Cong., 2d Sess., comments of Sen. Bayh; and S. 2747 (daily ed., Feb. 28, 1972), 92d Cong., 2d Sess., comments of Sen. Bayh.

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meaning of Title IX.[2] An institution of higher education must, therefore, comply with the prohibition against sex discrimination imposed by Title IX in the administration of any revenue producing intercollegiate athletic activity if the activity is receiving Federal financial assistance, directly or indirectly.

There are some revenue producing intercollegiate athletic activities that clearly receive direct Federal financial assistance. Funds provided under Title VII of the Higher Education Act, for example, may be used to build facilities that are used, in part, for revenue producing athletics. While it is clear that assistance of this kind which directly supports an intercollegiate athletic program would subject the program to the requirements of Title IX and the implementing regulations, such direct assistance is not common. Other kinds of assistance that bear a less direct relationship to revenue producing intercollegiate athletics, particularly student financial assistance, are more common.

It is well established that general student financial assistance, such as guaranteed student loans and grants, provided by the Federal Government to assist a student in paying the cost of attending an institution of higher education is Federal financial assistance to the institution. *Bob Jones University* v. *Johnson*, 396 F. Supp. 597 (D.S.C. 1974), *aff'd sub nom., Bob Jones University* v. *Roudebush*, 529 F. 2d 514 (4th Cir. 1975). Historically, intercollegiate athletics have been described as an integral part of general undergraduate education. For example, the 1976-77 Manual of the National Collegiate Athletic Association, the private association that regulates much of the nation's intercollegiate athletics, contains the following statement of fundamental policy:

"The competitive athletic programs of the colleges are designed to be a vital part of the educational system. A basic purpose of this Association is to maintain intercollegiate athletics as an integral part of the educational program and the athlete as an integral part of the student body, and, by so doing, retain a clear line of demarcation between college athletics and professional sports." *Manual*, at 5.

In our view, therefore, student financial assistance is Federal financial assistance to the revenue producing athletic programs of the student's institution of higher education.

The inclusion of revenue-producing intercollegiate athletics within the education programs and activities receiving Federal financial assistance is not the only basis on which an institution of higher education is required to comply with Title IX in the administration of such programs. It is well settled, with respect to the prohibition against discrimination on the basis of race, religion, color, or national origin imposed by title VI of the Civil Rights Act of 1964, that Federal financial assistance may not be provided to any program or activity which is either administered in a discriminatory manner or "infected by a discriminatory environment." *Board of Public Institution of Taylor County, Florida* v. *Finch*, 414 F. 2d 1068, 1078 (5th Cir. 1968).

Under this infection doctrine, a Federal grantee is required to comply with Title VI in the administration of an activity that does not receive Federal financial assistance if that activity is so closely related to, and such an integral part of, a program or activity that does receive Federal financial assistance that discrimination in the administration of the former would infect the latter.

The infection doctrine is as applicable to Title IX of the Education Amendments of 1972 as it is to Title VI of the Civil Rights Act of 1964. As indicated previously, historically intercollegiate athletics have been described as an integral part of general undergraduate education. In our view, revenue producing intercollegiate athletics are so integral to the general undergraduate education program of an institution of higher education that sex discrimination in the administration of a revenue producing athletic activity would necessarily infect the general undergraduate education program of the institution.

Therefore, in our opinion, an institution of higher education which is receiving Federal financial assistance for its general undergraduate education program must comply with the prohibitions against sex discrimination imposed by Title IX in the administration of its revenue producing intercollegiate athletic activities regardless of whether those athletic activities are themselves receiving Federal financial assistance.

The Secretary, in fulfilling his obligation to assure that institutions of higher education receiving Federal financial assistance comply with Title IX, is authorized to promulgate regulations and policies defining what constitutes discrimination prohibited by that title. In our opinion, the provisions of the current Title IX regulations and the Department's policies that deal specifically with athletics, including revenue producing intercollegiate athletics, are consistent with the statute and are a proper exercise of the Secretary's discretion. The text of the regulations. 45 CFR 86.41, is attached at Tab B.

It should also be noted that in our view the current Title IX regulations and policies allow flexibility in their application to revenue producing intercollegiate athletics.

Congressional Attempts To Exempt Revenue-Producing Sports From Title IX

The following is a brief description of attempts by Congress, all of which were unsuccessful, to exempt revenue-producing sports from coverage of Title IX.

A. *Amendments or Proposed Amendments of Statute.*

May 20, 1974, Senator Tower introduced an amendment to the Education Amendments of 1974 to exempt revenue-producing sports from Title IX. [Adopted by the Senate but deleted by the Conference Committee.]*

June 1975, Representative O'Hara introduced H.R. 8394 to allow revenue-producing sports to use their profits to maintain their own teams before diverting any profits to other men's or women's teams. [Bill was referred to the House Subcommittee on Postsecondary Education, considered, and reported to the full Committee, which voted 30-8 to recommit it to the Subcommittee where no further action was taken.]

July 15, 1975, Senator Tower, Bartlett and Hruska co-sponsored S2106, a bill to exclude coverage of revenue-producing sports from Title IX. [Referred to the Senate Subcommittee on Education, was considered in hearings on September 18 and 18, 1975, but was never reported out of committee.

B. *Proposed Concurrent Resolutions Disapproving the HEW Title IX Regulation.* Under Section 431 (d) and (f) of the General Education Provisions Act, HEW was required to submit any Title IX regulation to Congress for review 45 days before its effective date. During the 45-day period, the law allows Congress, by concurrent resolution, to disapprove the regulation in whole or in part. On June 4, 1975, the present Title IX regulation was transmitted to Congress. Several concurrent resolutions were proposed, some of which concerned revenue-producing sports.

June 5, 1975, Senator Helms introduced S. Con. Res. 46 disapproving the entire Title IX regulation. [No action was taken.]

June 17, 1975, Representative Martin introduced H. Con. Res. 310, disapproving the entire Title IX regulation, and H. Con. Res. 311, disapproving the regulation's provisions on intercollegiate athletics. [Both resolutions were considered and rejected by the House Postsecondary Education Subcommittee.]

July 16, 1975, Senators Laxalt, Curtis, and Fannin co-sponsored S. Con. Res. 52, disapproving the application of Title IX to intercollegiate athletics. [Resolution was referred to the Subcommittee on Education of the Senate Committee on Labor and Public Welfare where no action was taken on it.]

C. *Independent Bills on the Subject of Athletics.* In addition to the foregoing proposed amendments to Title IX, two independent bills have been introduced that would have, or would have had, the effect of exempting intercollegiate athletics from Title IX.

July 21, 1975, Senator Helms introduced S2146, a bill that prohibited federal agencies from enforcing regulations pertaining to athletics where participation in those athletic activities was not a required part of the curriculum of an educational institution. [No action taken on this bill during the 94th Congress.]

January 31, 1977, Senator Helms reintroduced what had been S2146 (see previous item) as S535. [No action has yet been taken on this bill.]

Tab B

45 Code of Federal Regulations 86.41 and 86.37(c)

§ 86.41 *Athletics.*

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose of major activity fo which involves bodily contact.

(c) *Equal opportunity.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Director will consider, among other factors:

(1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(2) The provision of equipment and supplies;

(3) Scheduling of games and practice time;

(4) Travel and per diem allowance;

(5) Opportunity to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Provision of locker rooms, practice and competitive facilities;

(8) Provision of medical training facilities and services;

(9) Provision of housing and dining facilities and services;

(10) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Director may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the elementary school level shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the secondary or post-secondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; and Sec. 844, Education Amendments of 1974, Pub. L. 93-380, 88 Stat. 484.)

[40 FR 21428, June 4, 1975; 40 Fr 39506, Aug. 23, 1975]

§ 86.37 *Financial assistance.*

(c) *Athletic scholarships* (1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with this paragraph and § 86.41 of this part.

(Secs. 901, 902. Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682, and Sec. 844, Education Amendments of 1974, Pub. L. 93-380, 88 Stat. 484.)

[FR Doc. 78-11959 Filed 5-1-78; 8:45 am]

[2] The history of Congressional action on other proposals for amending Title IX with respect to intercollegiate athletics and on proposals for Congressional disapproval of the Department's regulations implementing that Title tend to further support this conclusion. A brief summary of that history is attached at Tab A.

*In lieu of the proposed Tower Amendment, in July 1974 Senator Javits proposed to the Conference Committee an amendment to require HEW to include in its Title IX regulation with respect to intercollegiate athletics, "reasonable provisions considering the nature of particular sports." This amendment was included in the Education Amendments of 1974 enacted in August 1974.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT DES 78-9]

WYOMING

Correction

Notice of availability of draft Regional Environmental Statement and holding of Public Hearings for proposed development of coal resources in Southwest Wyoming.

This Notice corrects the notice of availability which appeared on page 14747 of the FEDERAL REGISTER dated April 7, 1978. The last paragraph of the Notice is corrected to read as follows:

Written requests to testify orally at the public hearings should be submitted to the Team Leader, Coal ES Team, Bureau of Land Management, P.O. Box 1869, 205 Broadway, Lea Building, Rock Springs, Wyo. 82901 prior to close of business May 15, 1978. Persons wishing to give oral comments are requested to limit their testimony to ten (10) minutes. Copies of complete oral statements or other written comments are encouraged and will be accepted at the hearings and made part of the official record.

Dated: April 27, 1978.

GEORGE L. TURCOTT,
Director,
Bureau of Land Management.

[FR Doc. 78-11805 Filed 5-1-78; 8:45 am]

[4310-84]

Bureau of Land Management

ALASKA

Application for Pipeline Right-of-Way, AA-13573

APRIL 24, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by Pub. L. 93-153 approved November 16, 1973 (87 Stat. 575), the Alaska Pipeline Company, P.O. Box 6288, Anchorage, Alaska 99502, has applied for a thirty (30) foot wide permanent pipeline right-of-way across the following public lands:

T. 6 N., R. 11 W., Seward Meridian
Sec. 3.
T. 7 N., R. 11 W., Seward Meridian
Secs. 33 and 34.

The proposed pipeline is located for the most part within an existing electric transmission line right-of-way to Homer Electric Company (A-057316), and is located northeast of Kenai, Alaska.

The 8-inch buried pipeline will convey natural gas across approximately 3 miles of public land.

The purpose of this notice is to inform the public that the United States Department of the Interior, Bureau of Land Management will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send them to the State Director, Alaska State Office, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

ROBERT E. SORENSON,
Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 78-11855 Filed 5-1-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before April 21, 1978. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by May 12, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALASKA

Juneau Division

Juneau, *Alaskan Hotel*, 167 S. Franklin St.

ARIZONA

Pima County

Tucson, *Fort Lowell Multi-Cultural District*, Craycroft and Fort Lowell Rds.

CALIFORNIA

Los Angeles County

Sierra Madre vicinity, *Old Shortcut Ranger Station*, N of Sierra Madre in Angles National Forest.

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DELAWARE

New Castle County

Middletown, *Middletown Historic District*, roughly bounded by Redding, Scott, Lockwood, and Catherine Sts.

Sussex County

Millsboro vicinity, *Nanticoke Indian Community*, E of Millsboro.

ILLINOIS

Cook County

Chicago, *Michigan-Wacker Historical District*, Michigan Ave. and Wacker Dr. and environs.
Chicago, *New Masonic Building and Oriental Theater*, 20 W. Randolph St.
Evanston, *Ridgewood*, 1703-1713 Ridge Ave.

McLean County

Hudson, *Hubbard House*, 310 Broadway.
Towanda vicinity, *Duncan Manor*.

Marshall County

Sparland, *Waugh, Robert, House*, 202 School St.

Monroe County

Maeystown, *Maeystown Historic District*, SR 7.
Waterloo, *Waterloo Historic District*, roughly bounded by Moore, Magnolia, Market and Park Sts.

Rock Island County

Rock Island, *Rodman, Gen. Thomas, House*, 2532 8½ Ave.

Scott County

Naples, *Naples Archeological District*, central Illinois.

MAINE

Somerset County

Hinckley vicinity, *Quincy Building (L. C. Bates Museum)*, S of Hinckley.

MARYLAND

Washington County

Boonsboro vicinity, *Ingram-Schipper Farm, N of Boonsboro.*

NEW HAMPSHIRE

Merrimack County

Northfiled, *Hall Memorial Library*, Park St.

NEW JERSEY

Bergen County

Edgewater, *Alcoa Edgewater Works*, 700 River Rd.

TENNESSEE

Greene County

Greeneville vicinity, *New Bethel Cumberland Presbyterian Church*, NW of Greeneville on TN 70.

VERMONT

Windsor County

Springfield, *Hartness House*, 30 Orchard St.

WEST VIRGINIA

Harrison County

Clarksburg, *Waldomore*, W. Pike and N. 4th Sts.

Ohio County

Wheeling, *List, Henry K., House*, 827 Main St.

Pocahontas County

Huntersville, *Huntersville Presbyterian Church*, WV 39 and SR 21.

[FR Doc. 78-11764 Filed 5-1-78; 8:45 am]

[4310-03]

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 7, 1978, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

WILLIAM J. MURTAGH,
Keeper of the National Register.

The following list of properties have been added to the National Register of Historic Places since notice was last given in the February 7, 1978, FEDERAL REGISTER. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; properties recorded by the Historic American Engineering Record are designated by HAER; properties receiving grants-in-aid for historic preservation are designated by G.

ALABAMA

Mobile County

Mobile, *Emanuel Building* (Bank of Mobile), 100 N. Royal St. (3-21-78).

ALASKA

Anchorage Division

Anchorage vicinity, *Buluga Point Site*, S of Anchorage (3-30-78).

Sitka Division

Sitka, *See House (Peter Trimble Rowe House)*, 611 Lincoln St. (3-30-78).

ARIZONA

Coconino County

Flagstaff, *Weatherford Hotel*, 23 N. Leroux St. (3-30-78).
Flagstaff, vicinity, *Fern Mountain Ranch*, N of Flagstaff (3-29-78).

Yavapai County

Poland vicinity, *Poland Tunnel*, W of Poland off AZ 69 (3-29-78).

ARKANSAS

Lafayette County

Lewisville, *King-Whatley Building*, 2nd and Maple Sts. (3-30-78).

Quachita County

Camden vicinity, *Oakland Farm (Tate House)*, S of Camden at Tate and Oakland Sts. (3-24-78).

Pope County

Russellville, *Wilson House*, 214 E. 5th St. (3-29-78).

Van Buren County

Fairfield Bay vicinity, *Lynn Creek Shelter* (3-21-78).

CALIFORNIA

Alameda County

Berkeley, *Golden Sheaf Bakery*, 2069-2071 Addison St. (3-31-78).

Fresno County

Fresno, *Southern Pacific Passenger Depot*, 1033 H St. (3-21-78).
Fresno, *Warehouse Row*, 722, 744, and 764 P St. (3-24-78).

Los Angeles County

Los Angeles, *Stimson House*, 2421 S. Figueroa St. (3-30-78).

Marin County

Larkspur, *Green Brae Brick Yard*, 125 E. Sir Francis Drake Blvd. (3-24-78).

Mariposa County

El Portal vicinity, *Yosemite Village Historic District*, E of El Portal in Yosemite National Park (3-30-78).

Napa County

Napa, *Migliavacca House*, Division St. (3-30-78).

Riverside County

Riverside, *Riverside Municipal Auditorium and Soldier's Memorial Building*, 3485 7th St. (3-31-78).

Sacramento County

Carmichael vicinity, *Nisenan Village Site*, SE of Carmichael at Oak and California Sts. (3-21-78).
Sacramento, *Sacramento Memorial Auditorium*, 16th and J Sts. (3-29-78).

San Diego County

Ramona vicinity, *Castle, The*, W of Ramona (3-30-78).

San Mateo County

Atherton, *Watkins-Cartan House*, 25 Isabella Ave. (3-30-78). HABS.

Shasta County

Mineral vicinity, *Prospect Peak Fire Lookout*, NE of Mineral (3-30-78).
Redding, *Pine Street School*, 1135 Pine St. (3-21-78).

Solano County

Rio Vista vicinity, *Delta King*, 3 mi. (4.8 km) N of Rio Vista on CA 84 (3-31-78).

Tulare County

Mineral King vicinity, *Barton-Lackey Cabin*, N of Mineral King in Kings Canyon National Park (3-30-78).
Three Rivers vicinity, *Groenfeldt Site*, Sequoia and Kings Canyon National Parks (3-30-78).

COLORADO

Boulder County

Boulder, *Colorado Chautauqua*, Chautauqua Park (3-21-78).

Denver County

Denver, *Elitch Theatre*, W. 38th Ave. and Tennyson St. (3-21-78).

Rio Blanco County

Meeker, *St. James Episcopal Church*, 368 4th St. (3-30-78).

CONNECTICUT

Hartford County

Hartford, *Keney Tower*, Main and Ely Sts.(3-30-78).

Windham County

Killingly vicinity, *Daniel's Village Archeological Site*, N of Killingly (3-30-78).

DELAWARE

New Castle County

Middletown vicinity, *Rumsey Farm*, W of Middletown on DE 4 (3-30-78).

Sussex County

Bethany Beach vicinity, *Wilgus Site*, NW of Bethany Beach (3-30-78).

GEORGIA

Baldwin County

Milledgeville vicinity, *Rutherford, John, House*, 550 Allen Memorial Dr. (3-21-78).
Milledgeville vicinity, *Thalian Hall*, Allen Memorial and Ivey Drs. (3-21-78).

Fulton County

Atlanta, *Atlanta Waterworks Hemphill Avenue Station*, 1210 Hemphill Ave., NW. (3-29-78).

Jenkins County

Millen vicinity, *Camp Lawton*, N of Millen (3-24-78).

HAWAII

Hawaii County

Hilo, *Lyman, Rev. D. B., House*, 276 Haili St. (3-24-78).
Kapaau vicinity, *Bond District*, SE of Kapaau off HI 27 (3-30-78).

Kauai County

Lihue vicinity, *Lihue Hongwanji Mission*, N of Lihue at HI 56 (3-21-78).

IDAHO

Bonneville County

Idaho Falls, *First Presbyterian Church*, 325 Elm St. (3-29-78).

Idaho County

Dixie vicinity, *Moore, Jim, Place*, Salmon River Canyon (3-29-78).

Lemhi County

Salmon, *Shoup Building*, Center and Main Sts. (3-31-78).

Twin Falls County

Twin Falls, *Smith, C. Harvey, House*, 255 4th Ave. E.(4-3-78).
Twin Falls, *Twin Falls City Park Historic District*, 2nd N., 2nd E., and Shoshone Sts., 4th and 6th Aves. (3-30-78).

ILLINOIS

Cook County

Chicago, *Orchestra Hall*, 220 S. Michigan Ave. (3-21-78).

Kane County

Aurora, *Chicago, Burlington, & Quincy Roundhouse and Locomotive Shop*, Broadway and Spring Sts. (2-16-78).
Aurora, *Copley, Col. Ira C., Mansion*, 434 W. Downer Pl. (3-29-78).

Woodford County

Metamora, *Metamora Courthouse, 113 E. Partridge St. (3-30-78).*

INDIANA

Decatur County

Greensburg, *Knights of Pythias Building and Theatre*, 215 N. Broadway (3-28-78).

Marion County

Indianapolis, *Northside Historic District*, roughly bounded by I-65, 16th Bellefontaine, and Pennsylvanis Sts. (3-24-78).

IOWA

Dubuque County

Dubuque, *German Bank*, 342 Main St. (3-28-78).

Jefferson County

Fairfield, *Beck, James A., House*, 401 E. Burlington Ave. (3-29-78).

Johnson County

Iowa City, *Pentacrest*, bounded by Clinton, Madison, Jefferson, and Washington Sts. (3-29-78).

Linn County

Cedar Rapids, *Peoples Savings Bank*, 101 3rd Ave., SE. (3-29-78).

Muscatine County

Nichols vicinity, *Nichols, Samuel, House*, E of Nichols off IA 22 (3-31-78).

Tama County

Tama, *Lincoln Highway Bridge*, E. 5th St. (3-30-78).

KANSAS

Clark County

Ashland vicinity, *Bear Creek Redoubt*, N of Ashland (3-30-78).

KENTUCKY

Boone County

Francisville vicinity, *Moore, John, House*, 6 mi. (9.6 km) NW of Francisville (3-29-78).

Franklin County

Frankfort vicinity, *Dills Site (Site 15 Fr 302 A)*, NW of Frankfort (3-21-78).
Harvieland vicinity, *Archeological Site 16 FR 26*, E of Harvieland (3-31-78).
Polsgrove vicinity, *Hutcherson Site (Site 15 Fr 7)*, S of Polsgrove (3-21-78).

Gallatin County

Warsaw, *Montz, Dr. Lucy Dupuy, House*, 200 W. High St. (3-30-78).

Jefferson County

Louisville, *Fifth Ward School*, 743 S. 5th St. (3-31-78).
Louisville, *Hikes Family Houses*, 4118 Taylorsville Rd., 2806 Meadow Dr., 3026 Hikes Lane (3-21-78).
Louisville, *Levy Brothers Building*, 235 W. Market St. (3-24-78).
Louisville, *Loew's and United Artists State Theatre*, 625 S. 4th St. (3-28-78).
Louisville, *Old Presbyterian Theological Seminary (Jefferson Community College)*, 109 E. Broadway (3-24-78).

Lincoln County

Stanford, *Baughman's Mill and Stanford Railroad Depot*, Depot and Mill Sts. (3-29-78).

Mercer County

Harrodsburg vicinity, *Greek Revival Houses of Mercer County: Lynnwood, Walnut Hall, Glenworth*, N and E of Harrodsburg off U.S. 127 (3-30-78).

Shelby County

Shelbyville, *Shelby County Courthouse and Main Street Commercial District*, roughly bounded by Washington, Clay, 4th and 6th Sts. (3-21-78).

LOUISIANA

Lafourche Parish

Thibodaux vicinity, *Laurel Valley Sugar Plantation*, NE of Thibodaux off LA 308 (3-24-78).

Orleans Parish

New Orleans, *Tulane University of Louisiana*, St. Charles Ave., S. Claiborne, Broadway, and Calhoun Sts. (3-24-78).

MAINE

Androscoggin County

Lewiston, *Trinity Episcopal Church*, Bates and Spruce Sts. (3-30-78).

Cumberland County

Falmouth vicinity, *Hall's Tavern*, W of Falmouth at 377 Gray Rd. (3-30-78).

Hancock County

Bar Harbor, *Redwood*, Barberry Lane (4-3-78).
Southwest Harbor, *Claremont Hotel*, Claremont Rd. (3-29-78).

Lincoln County

South Bristol vicinity, *Sproul Homestead*, N of South Bristol on ME 129 (3-21-78).

Washington County

Dennysville, *Lincoln House*, U.S. 1 (3-29-78).

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York County

Saco, *Seavey, A. B., House,* 90 Temple St. (3-31-78).
South Berwick, *Berwick Academy,* Academy St. (3-29-78).

MARYLAND

Dorchester County

Cambridge vicinity, *Yarmouth,* SE of Cambridge (3-29-78).

Talbot County

Bellevue vicinity, *Orem's Delight,* S of Bellevue off Ferry Neck Rd. (4-4-78).

Washington County

Hagerstown vicinity, *Paradise Manor,* N of Hagerstown at 2550 Paradise Dr. (3-31-78).

MASSACHUSETTS

Bristol County

Taunton, *Bristol County Courthouse Complex,* 9, 11, 15 Court St. (3-28-78).

Essex County

Newburyport, *Dalton House,* 95 State St. (3-29-73).

Middlesex County

Arlington, *Butterfield-Whittemore House,* 54 Massachusetts Ave. (3-30-78).
Arlington, *Cutter, Ephraim, House,* 4 Water St. (3-29-78).
Bedford, *Page, Nathaniel, House,* 89 Page Rd. (3-29-78).
Cambridge, *Harvard Lampoon Building,* 44 Bow St. (3-30-78).

Norfolk County

Brookline, *Cottage Farm Historic District,* roughly bounded by Amory, Dummer, Lenox, Brookline and Beacon Sts. (3-29-78).

Plymouth County

Brockton, *Bixby Block-Home Bank Building,* 106 Main St. (3-29-78).
Duxbury, *King Caesar House,* King Caesar Rd. (3-29-78).

Worcester County

Worcester, *Worcester City Hall and Common,* 455 Main St. (3-29-78).

MICHIGAN

Mackinac County

Pointe Aux Pins vicinity, *Juntunen Site,* Bois Blanc Island (3-21-78).

Marquette County

Marquette, *Marquette County Courthouse,* 400 S. 3rd St. (3-29-78).

Menominee County

Menominee vicinity, *Riverside Site,* southern Menominee County (3-24-78).

Shiawassee County

Perry, *Calkins, Charles H., House,* 127 E. 1st St. (3-29-78).

Washtenaw County

Ypsilanti, *Ypsilanti Historic District,* irregular pattern along Huron River with boundaries extending to Forest Ave., Grove, Buffalo, and Hamilton Sts. (4-11-78).

MINNESOTA

McLeod County

Hutchinson, *Maplewood Academy,* 700 N. Main St. (3-31-78).

Rice County

Northfield, *Baker, Laura, School,* 211 Oak St. (3-29-78).

Winona County

Winona, *Sugar Loaf Brewery,* jct. U.S. 14/61 and MN 43 (3-31-78).

MISSISSIPPI

Adams County

Natchez, *Smith-Buntura-Evans House,* 107 Broadway St. (3-29-78) HABS.

DeSoto County

Hernando, *Labauve, Felix, House,* 235 Magnolia Dr. (3-29-78).

Lowndes County

Columbus, *Gatchell, Kenneth, House,* 1411 College St. (3-21-78).

Panola County

Como vicinity, *Fredonia Church,* 6 mi. (9.6 km) E of Como on Old Union Rd. (3-30-78).

Tallahatchie County

Philipp vicinity, *Jacks Site,* SE of Philipp (3-24-78).

Wilkinson County

Woodville, *Branch Banking House,* Bank St. (3-30-78).

MISSOURI

Jackson County

Kansas City, *Scarritt, William Chick, House,* 3240 Norledge Ave. (3-21-78).

Ripley County

Currentview vicinity, *Price Site,* W of Currentview (4-3-78).

NEBRASKA

Adams County

Hastings, *Burlington Station,* 1st St. and St. Joseph Ave. (3-29-78).

Valley County

Elyria vicinity, *Fort Hartstuff,* N of Elyria (3-24-78).

NEVADA

Carson City (independent city)

Nevada State Printing Office, 101 S. Fall St. (3-29-78) HABS.

Storey County

Virginia City vicinity, *Lagomarsino Petroglyph Site,* N of Virginia City (3-24-78).

NEW JERSEY

Essex County

Nutley, *Kingsland Manor,* 3 Kingsland St. (3-24-78) HABS.

Mercer County

Hopewell vicinity, *Vandyke, Jeremiah, House,* Featherbed Lane (3-29-78).

Monmouth County

Long Branch, *Guggenheim, Murry, House,* Cedar and Norwood Aves. (3-28-78).
West Long Branch, *Shadow Lawn,* Cedar and Norwood Aves. (3-28-78).

NEW MEXICO

Bernalillo County

Albuquerque, *Southwestern Brewery and Ice Company,* 601 Commercial St., NE. (3-30-78).

Santa Fe County

Santa Fe, *Second Ward School,* 312 Sandoval St. (3-30-78).

NEW YORK

Bronx County

Bronx, *Valentine Varian House,* 3266 Bainbridge Ave. (3-21-78).

Oneida County

Waterville, *Waterville Triangle Historic District,* Stafford Ave., Main and White Sts. (4-4-78).

Saratoga County

Saratoga Springs, *Union Avenue Historic District,* Union Ave. (4-4-78).

Sullivan County

Liberty, *Liberty Village Historic District,* N. Main, Academy, and Law Sts. (4-11-78).

NORTH CAROLINA

Alleghany County

New Haven vicinity, *Gambill, J. C., Site,* N of New Haven (4-3-78).

Ashe County

Crumpler vicinity, *Brinegar Sites,* N of Crumpler (3-21-78).

Buncombe County

Asheville, *Church of St. Lawrence,* 97 Haywood St. (3-24-78).

Dare County

Buxton vicinity, *Cape Hatteras Light Station,* SE of Buxton off NC 12 (3-29-78).

Martin County

Jamesville, *Burras House,* on U.S. 64 (3-30-78).

NORTH DAKOTA

Wilton, *Soo Line Depot,* 1st St. and McLean Ave. (3-29-78).

OHIO

Ashland County

Hayesville, *Vermilion Institute,* Main and College Sts. (3-29-78).

Ashtabula County

Coneaut, *Harwood Block,* 246, 250, 256 Main St. (3-21-78).

Auglaize County

New Bremen vicinity, *Boesel, Julius, House,* N of New Bremen on Quellhorst Rd (3-30-78).

Brown County

Georgetown, *Buckner, Dr. Philip, House and Barn,* 610 S. Main St. (3-30-78).

Butler County

Middletown, *South Main Street District,* S. Main St. (3-21-78).

Clermont County

Batavia vicinity, *East Fork Site,* S of Batavia (3-30-78).
Felicity vicinity, *Bullskin Creek Site,* S of Felicity (3-30-78).
Goshen vicinity, *Devanney Site,* W of Goshen (3-30-78).

Crawford County

Galion, *Howard, Adam, House,* 230 S. Boston St. (3-30-78).

Cuyahoga County

Cleveland, *Crawford-Tilden Apartments,* 1831-1843 Crawford Rd. and 1878-1888 E. 84th St. (3-21-78).

Fairfield County

Lancaster, *Medill, William, House,* 319 N. High St. (3-30-78).

Franklin County

Westerville, *Alkire House,* 259 N. State St. (3-30-78).

Huron County

Greenwich vicinity, *Mead-Zimmerman House,* E of Greenwich on OH 13 (3-30-78).

Lake County

Painesville, Morley, Lewis, House, 231 N. State St. (3-30-78).

Lorain County

Lorain, *Palace Theatre Building,* Broadway and 6th St. (3-30-78).
Lorain vicinity, *Burrell Fort,* N of Lorain (4-4-78).

Lucas County

Maumee, *Hull, Isaac, Store,* 114 E. Harrison St. (3-30-78).

Medina County

Sharon Center vicinity, *Chandler, Matthew, House,* S of Sharon Center at 6908 Ridge Rd. (3-30-78).

Meigs County

Middleport, *Grant, William H., House,* 453 Grant St. (3-30-78).

Montgomery County

Clayton vicinity, *Flory, Joseph, House,* NW of Clayton on Diamond Mill Rd. (3-29-78).

Muskingum County

Norwich vicinity, *West Union School,* S of Norwich on SR 200 (3-30-78).
Roseville, *Roseville High School,* Stokeley and Perry Sts. (3-30-78).
Zanesville, *Seborn, Frederick Augustus, House,* 1115-1119 Maysville Pike (4-4-78).

Warren County

Harveysburg vicinity, *Hatton Farm,* E of Harveysburg on OH 73 (3-29-78).
Morrow vicinity, *Stubbs Earthworks,* W of Morrow (4-4-78).
Oregonia vicinity, *Taylor Mound and Village Site,* N of Oregonia (3-31-78).

Wood County

Bowling Green vicinity, *Dodge Site,* N of Bowling Green (3-29-78).

OKLAHOMA

Oklahoma County

Oklahoma City, *Hales, W. T., House,* 1521 N. Hudson Ave. (3-29-78).
Oklahoma City, *Oklahoma County Home for Girls,* 6300 N. Western Ave. (3-21-78).

OREGON

Wasco County

The Dalles, *Indian Shaker Church and Gulick Homestead,* jct. U.S. 80-N and U.S. 197 (4-4-78).

PENNSYLVANIA

Adams County

Gettysburg vicinity, *Black Horse Tavern,* W of Gettysburg on PA 116 (3-30-78) HABS.

Armstrong County

Cowansville vicinity, *St. Patrick's Roman Catholic Church,* W of Cowansville off PA 268 (3-21-78).

Bucks County

Cornwells Heights, *St. Elizabeth's Convent,* 1663 Bristol Pike (3-21-78).

Centre County

State College, *Thompson, Gen. John, House,* E. Branch Rd. (3-29-78).

Chester County

Birchrunville, *Birchrunville General Store,* Hollow and Flowing Springs Rds. (3-21-78).
Phoenixville vicinity, *Hare's Hill Road Bridge,* W of Phoenixville on Hare's Hill Rd. (3-28-78).

Erie County

Erie, *Erie Land Lighthouse,* Dunn Blvd., Lighthouse Park (3-30-78) HABS.

McKean County

Kane, *Kane, Thomas L., Memorial Chapel,* 30 Chestnut St. (3-29-78).

Payette County

Belle Vernon vicinity, *Cook, Col. Edward, House,* E of Belle Vernon (3-29-78).

Westmoreland County

Greenburg, *Westmoreland County Courthouse,* N. Main St. (3-30-78).

Newport County

Portsmouth, *Oak Glen,* 745 Union St. (3-29-78).

Providence County

North Scituate, *Smithville Seminary,* Institute Lane (3-29-78).

SOUTH CAROLINA

Charleston County

Charleston vicinity, *Magnolia Cemetery,* N of Charleston off U.S. 52 (3-24-78).

Marlboro County

Clio vicinity, *McLaurin House,* E of Clio on SR 40 (3-24-78).

Sumter County

Sumter, *White, Elizabeth, House,* 421 N. Main St. (3-21-78).

Union County

Union, *Central Graded School,* 309 Academy St. (3-30-78).

SOUTH DAKOTA

Brookings County

Brookings, *SDSU Extention Building,* Rotunda Lane (3-21-78).

Butte County

Belle Fourche, *Wide Awake Grocery Building,* 520 State St. (3-30-78).

Clay County

Hub City vicinity, *Anderson Homestead,* E of Hub City (3-30-78).

Codington County

Watertown vicinity, *Emminger, Corson, Round Barn,* S of Watertown on U.S. 81 (3-30-78).

Douglas County

Armour, *Douglas County Courthouse and Auditor's Office,* U.S. 281 (3-21-78).

Hyde County

Highmore, *Hyde County Courthouse,* 412 Commercial St., SE. (3-30-78).

Lyman County

Presho, *Vernon, Edgar, House,* off U.S. 16 (3-30-78).

Spink County

Redfield, *Redfield Light Plant and Fire Station,* 614 1st St. E. (3-21-78).

Turner County

Hurley, *Brough-Martinson House,* off SD 19 (3-30-78).
Hurley, *Farrar House,* off SD 19 (3-21-78).
Hurley, *Graves, Dr. Harry S., House,* Center Ave. and Monroe St. (3-21-78).

TENNESSEE

Davidson County

Nashville, *Eighth Avenue South Reservoir,* 8th Ave. S. (3-30-78).

Knox County

Knoxville, *Ag. U. T., Farm Mound,* Neyland Dr. (3-30-78).

Loudon County

Lenoir City vicinity, *Bussell Island Site,* S of Lenoir City (3-29-78).

TEXAS

Blanco County

Round Mountain, *Round Mountain Stagecoach Inn and Stable,* Sr 962 off U.S. 281 (3-31-78).

Burnet County

Marble Falls vicinity, *Page, Louis, Archeological Site,* E of Marble Falls (3-30-78).

Dallas County

Dallas, *Waples-Platter Coffee Roaster Building,* 2211 N. Lamar St. (3-24-78).

Galveston County

Galveston, *Elissa,* Seawolf Park (3-21-78).

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Harris County

Houston, *Houston Turn-Verein*, 5202 Almeda Rd. (3-21-78).

Jim Wells County

Alice vicinity, *Hinojosa Site*, N of Alice (3-30-78).

Lamar County

Pin Hook vicinity, *Ellis II Site*, N of Pin Hook (3-30-78).
Pin hook vicinity, *Loma Alto Site*, N of Pin Hook (3-29-78).
Pin Hook vicinity, *Swindle Site*, W of Pin Hook (3-29-78).

Travis County

Austin, *Millett Opera House*, 110 E. 9th St. (3-21-78).

TRUST TERRITORY OF THE PACIFIC ISLANDS

Truk District

Tol Island, *Fauba Archeological Site*, Truk Lagoon (3-21-78).

UTAH

Salt Lake County

Salt Lake City, *McDonald, J. G., Chocolate Company Building*, 155-159 W. 300 South (3-29-78).
Salt Lake City, *Whitaker, John M., House*, 975 Garfield Ave. (3-30-78).

Wasatch County

Midway, *Midway School*, 1st North and 1st West (3-29-78).

Weber County

Ogden, *Shupe-Williams Candy Company Factory*, 2605 Wall Ave. (3-30-78).

VIRGIN ISLANDS

St. John Island

Cruz Bay vicinity, *Cathrineberg-Jockumsdahl-Herman Farm*, E of Cruz Bay (3-30-78).

VIRGINIA

Augusta County

Crimora vicinity, *Coiner House*, NW of Crimora off VA 865 (3-30-78).

WASHINGTON

Clallam County

Pysht vicinity, *Hoko River Archeological Site*, W of Pysht (3-21-78).
Sequim vicinity, *Manis Mastodon Site*, S of Sequim (3-21-78).

Grays Harbor County

Aberdeen, *Sierra (motor ship)*, 1401 Sargent Blvd. (3-29-78).

Walla Walla County

Waitsburg, *Waitsburg Historic District*, Main St. (3-31-78).

WISCONSIN

Ashland County

La Pointe vicinity, *Basswood Island Brownstone Quarry*, N of LaPointe on Basswood Island (3-29-78).

Brown County

Wrightstown, *Mueller-Wright House*, Washington and Mueller Sts. (3-29-78).

Green County

Monroe, *Green County Courthouse*, Courthouse Sq. (3-21-78).

Rock County

Beloit, *St. Paul's Episcopal Church*, 212 W. Grand Ave. (4-4-78).

Trempealeau County

Galesville vicinity, *Arnold, Capt. Alexander A., Farm*, N of Galesville off U.S. 53 (3-21-78).

WYOMING

Albany County

Laramie, *Wyoming Territorial Penitentiary*, off WY 130/230 (3-29-78).

Carbon County

Saratoga, *Saratoga Masonic Hall*, 1st and Main Sts. (3-29-78).
Saratoga vicinity, *Ryan Ranch*, S of Saratoga off WY 130 (3-29-78).

Fremont County

Riverton vicinity, *Delfelder Schoolhouse (Delfelder Hall)*, N of Riverton off U.S. 26 (3-29-78).

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The following is a list of corrections to properties previously listed in the FEDERAL REGISTER.

MICHIGAN

Keweenaw County

Isle Royale National Park, *Minong Mine Historic District*, W of McCargoe Cove (11-11-77) (formerly listed as Copper Harbor vicinity).

NEW YORK

New York County

New York, *New York County Courthouse*, 52 Chambers St. (9-25-74) NHL (formerly listed as Tweed Courthouse).

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The following properties have been demolished and/or removed from the National Register of Historic Places.

NEBRASKA

Pawnee County

Pawnee City, *Hotel Pawnee*, 700 G St.

PENNSYLVANIA

Philadelphia County

Philadelphia, *Odd Fellows Hall*, 800 N. 3rd St.
Philadelphia, *Wannamaker, John, House*, 2032 Walnut St.

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Determinations of eligibility are made in accordance with the provisions of 36 CFR 63, procedures for requesting determinations of eligibility, under the authorities in section 2(b) and 1(3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR part 800. Properties determined to be eligible under section 63.3 of the procedures for requesting determinations of eligibility are designated by (63.3).

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before any agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

The following list of additions, deletions, and corrections to the list of properties determined for inclusion in the National Register is intended to supplement the cumulative version of that list published in February of each year.

ARIZONA

Mohave County

Mt. Trumbull vicinity, *Temple Trail*, Old wagon trail from Mt. Trumbull, AZ, to St. George, MT.

Pinal County

Kohatk vicinity, Vekol Hills Archeological sites, Vekol Hills Cooper Mining Project.

ARKANSAS

Boone County

Harrison, *U.S. Post Office-Courthouse, Rush Ave. and Vine St. (63.3).*

CALIFORNIA

Humbolt County

Orleans vicinity, *Karok Panamenil World Renewal Ceremony District.*

Lassen County

Susanville vicinity, *Archeological Site PS-05-06-58-25*, Pikes Point Marina Development Project.

COLORADO

Douglas County

South Platte Canyon, *Deansburry Bridge*, Foothills Project 7.7 mi. (12.3 km) W from gate at Kassler Treatment Plant along access road (also in Jefferson County).

Jefferson County

South Platte vicinity, *Denver and Rio Grande Rockwork and Railroads*, Foothills Project.

GEORGIA

Barlow County

Cartersville, *Old Barlow County Courthouse*, 4 E. Church St. (63.3).

Forsyth County

Cumming vicinity, *Buffington Tavern*, Hightower Rd. (63.3).
Cumming vicinity, *Sherrill House*, Hightower Rd. (63.3).

Gilmer County

Ellijay vicinity, *Substation Site 9Gi (DOT) 3*, 5.5 mi. (8.8 km) S of Ellijay on GA5.
Ellijay vicinity, *White Path Site 9Gi (DOT) 5*, 6 mi. (9.6 km) N of Ellijay on GA5.

Pickens County

Talking Rock, *Kirk House*, off GA5 (63.3).

Union County

Blairsville, *Haralson-Carr house*, jct. of GA2 and U.S. 129 (63.3).

INDIANA

Tippecanoe County

Lafayette, *Big Four Depot*, jct. of 2nd and South Sts. (63.3).
Lafayette, *Capitol Hotel*, 9 S. 2nd St. (63.3).
Lafayette, *8 North Third St.*, Lafayette Railroad Relocation Project (63.3).
Lafayette, *Former Monon Railroad Building*, 500 Salem St. (63.3).
Lafayette, *112 North Third St.*, Lafayette Railroad Relocation Project (63.3).
Lafayette, *Purdue Block*, 8 N. 2nd St. (63.3).

Wayne County

Richmond, *Richmond Gas Company Building*, Between Whitewater River and C & O RR. Tracks N of Main St. Bridge.
Richmond, *Starr Piano Factory District*, Roughly bounded by C & O RR. tracks, G St. Bridge, and Whitewater River.

MICHIGAN

Houghton County

Houghton, *Soo Line Railway Company Depot*, Lake and Huron Sts. (63.3).

MISSOURI

Clay County

Kansas City vicinity, *Smithville Multi-Resource Area (archeological resources)*, NW Missouri (also in Clinton County) (63.3).

Jefferson County

House Springs vicinity, *Archeological District 23JE392-23JE395, 23JE400, and 23JE401*, Route W Project (63.3).

Maries County.

Gasconade River vicinity, *Archeological Sites 23MS12, 23MS35, 23MS57, 23MS77, 23MS78, 23MS79, 23MS80, 23MS81 and unverified rock cairn*, (63.3).

MONTANA

Glacier County

St. Mary vicinity, *St. Mary Ranger Station.*

Granite County

Garnet, *Garnet Ghost Town*, (63.3).

Roosevelt County

Culbertson vicinity, *Bemer Coal Mine Structures*, 6 mi. (9.6 km) SE of Culbertson.

NEW JERSEY

Middlesex County

Piscataway, *Landing Lane Archeological District*, (63.3).

Morris County

Morristown, *Morristown Aqueduct Distribution Reservoir*, Court and Ann Sts.
Morristown, *Residences on Court Street*, 30, 32, 36, 38, 40, and 42 Court St.

NORTH DAKOTA

Dunn County

Halliday vicinity, *Archeological Site 32DU2*, Highway 8 Project, (63.3).

OHIO

Fairfield County

Richland, *R. F. Baker Bridge*, Thornville Rd. and Little Rush Creek.

PENNSYLVANIA

Berks County

Wernersville, *Staudt Farm, The*, R.D. No. 1.

Lancaster County

Lititz, *Mueller, Johannes, House*, 146 E. Main St. (63.3).

Philadelphia County

Philadelphia, *Stetson, John B., Company*, 1801 Germantown Ave. (63.3).

SOUTH CAROLINA

Fairfield County

Winnsboro vicinity, *Archeological Sites 38 FA 161 and 38 FA 162*, Jackson-Mill Creeks Watershed (63.3).

SOUTH DAKOTA

Corson County

Mobridge vicinity, *Jake White Bull (39C06) Archeological Site*, (63.3).

TENNESSEE

Hamilton County

Chattanooga, *Amnicola House*, Amnicola Hwy.
Chattanooga, *East Tennessee Iron Manufacturing Company*, Walnut St.
Chattanooga, *Guid, Jo Conn, House*, 950 Vine St.
Chattanooga, *Thomas, Benjamin F., House*, 938 McCallie Ave.

VIRGIN ISLANDS

St. John Island

Cruz Bay, *Trunk Bay Sugar Factory*, Cruz Bay Quarter.

VIRGINIA

Bath County

George Washington National Forest vicinity, *Archeological Areas 1, 2, and 3*, (63.3).
George Washington National Forest vicinity, *Archeological Sites A-4, A-5, A-6, A-7, A-8, A-9, A-10*, (63.3).
George Washington National Forest vicinity, *Zion Hill Church*, (63.3).
George Washington National Forest vicinity, *Pine Grove House Site*, (63.3).
George Washington National Forest vicinity, *Posey Hall Farm*, (63.3).
George Washington National Forest vicinity, *Hacken Run Site Complex Sites A-4 through A-10*, (63.3).

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The following is a list of corrections to properties previously listed in the FEDERAL REGISTER as determined eligible for inclusion in the National Register of Historic Places:

MARYLAND

Baltimore City County

Canton Historic District, Eastern Ave., Conkling St., Boston St. between Conkling and Canton Sts., line through Northwear Harbor, and Chester St. (boundary revision).

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The following properties have been either demolished or placed on the National Register and are therefore removed from the Determinations for Eligibility Listing:

INDIANA

Monroe County

Bloomington, *Carnegie Library.*

NEW YORK

Ulster County

Saugerties, *Upper Dock Site.*

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[FR Doc. 78-11765 Filed 5-1-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-3]

DOXYCYCLINE

Order Dismissing a Respondent, Adding a Respondent, and Accepting a Revised Amended Complaint

This matter comes before the Commission as a result of the recommendation of the presiding officer to dismiss USV Pharmaceutical Corp., add Danbury Pharmacal, Inc., and to replace complainant's April 13, 1973, complaint with its revised amended complaint of March 10, 1978, as modified by parts 4 and 5 of the presiding officer's Recommendation and Order of March 31, 1978.

After considering the presiding officer's recommendations hereinabove stated, his Recommendation and Order of March 31, 1978, the Preliminary Conference Report of March 31, 1978, Complainant's motions 3-2 and 3-3 with its accompanying support papers, as well as other relevant evi-

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dence in the record, the Commission has decided to adopt the above three recommendations by approving motions 3-2 and 3-3 as modified by parts 4 and 5 of the pending officer's Recommendation and Order of March 31, 1978.

It is, therefore, hereby *Ordered*, That: 1. The motion of Pfizer, Inc. (M3-2) to replace its April 13, 1973, complaint with its revised amended complaint of March 10, 1978, as modified by parts 4 and 5 of the presiding officer's Recommendation and Order of March 31, 1978, is Granted.

(a) As part of this motion, Danbury Pharmacal is added as a respondent; and

(b) only claim 10 of U.S. Letters Patent 3,200,149 will be in issue.

2. The motion of Pfizer, Inc. (M3-3) to dismiss USV Pharmaceutical Corp. as a respondent, is Granted.

Issued: April 21, 1978.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc. 78-11969 Filed 5-1-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-2949]

ALABAMA BY-PRODUCTS CORP., TARRANT, ALA.

Negative Determination Regarding Eligibility To Apply for Worker Admustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2949: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 25, 1978 in response to a worker petition received on January 10, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing coke at the Tarrant, Ala. plant of the Alabama By-Products Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7068). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Alabama By-Products Corp., the United Steelworkers of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The investigation revealed that layoffs did occur at the Tarrant, Ala. plant from January 6, 1977, one year prior to the date of this petition to the present. Pollution control problems and some mechanical repair work resulted in the temporary shutdown of plant operations in October and November 1977 and January 1978. The layoffs at the Tarrant plant from January 6, 1977 to the present were due to environmental control shutdowns and maintenance shutdowns.

CONCLUSION

After careful review, I conclude that all workers at the Tarrant, Ala. plant of Alabama By-Products Corp. are denied eligibility to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11908 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-3023]

ANDAVE SPORTSWEAR, INC., PENNS GROVE, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 2, 1978 in response to a worker petition received on January 30, 1978 which was filed by the International Ladies Garment Workers Union on January 19, 1978 on behalf of workers and former workers producing women's dresses at Andave Sportswear, Inc. (formerly Pennsgrove Dress Co.) Penns Grove, N.J. The investigation revealed that the name of the company was Andave Sportswear, Inc.

Notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The petitioner, International Ladies Garment Workers Union, requested withdrawal of this petition. In a letter the Business Agent of the ILGWU cited no adverse impact of imports on workers at Andave Sportswear as the reason for the withdrawal. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 14th day of April 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-11909 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2757]

THE ARROW CO., ALBERTVILLE, ALA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2757: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 12, 1977 in response to a worker petition received on December 6, 1977 which was filed by The Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress shirts at the Albertville, Ala. plant of The Arrow Co.

The notice of investigation was published in FEDERAL REGISTER on December 30, 1977 (42 FR 65306). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of The Arrow Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's and boys' woven dress and business shirts increased from 30,800,000 units in 1975 to 64,283,000 units in 1976, representing an increase of 108.7 percent. During the first half of 1977, imports were recorded at 32,443,000 units and represented an increase of 20.6 percent compared to 26,906,000 units in the first half of 1976.

The ratio of imports to domestic production increased from 36.2 percent in 1975 to 67.1 percent during 1976.

Company imports of men's dress shirts increased in quantity in 1975 compared to 1974 and decreased in 1976 compared to 1975. During the first three quarters of 1977, company imports of men's dress shirts increased 150.7 percent compared to the first three quarters of 1976. The ratio of company imports to company sales increased from 5.2 percent in the first three quarters of 1976 to 12.3 percent in the same period of 1977.

A survey of customers of The Arrow Co. indicated that some decreased purchases of men's dress shirts from Arrow while increasing purchases of imported shirts in 1976 and the first nine months of 1977. Price was the main factor influencing the decision to purchase imported shirts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress shirts produced at the Albertville, Ala. plant of the Arrow Co. contributed importantly to the decrease in production and to the total or partial separations of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Albertville, Ala. plant of the Arrow Co. who became totally or partially separated from employment on or after June 18, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11910 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-3004]

ARMOR-SAN FRANCISCO GALVANIZING, INC., SAN FRANCISCO, CALIF.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3004: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 2, 1978 in response to a worker petition received on January 19, 1978 which was filed by the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (AFL-CIO), on behalf of workers and former workers engaged in hot dip galvanizing at Armor-San Francisco Galvanizing, Inc., San Francisco, Calif.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7066). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Armor-San Francisco Galvanizing, Inc., the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation revealed that Armor-San Francisco Galvanizing, Inc., San Francisco, Calif., which closed February 1, 1977, provided a galvanizing service to iron fabricators and jobbers. Workers at the firm did not produce an article within the meaning of section 222 of the Act.

Armor-San Francisco Galvanizing, Inc. is not financially or corporately involved in the business of any of its customers. The workers on whose behalf this petition was filed were hired and paid by and subject to the control of Armor-San Francisco Galvanizing, Inc. personnel only. All employment benefits enjoyed by the workers were provided and maintained by Armor. Thus, Armor-San Francisco Galvanizing, Inc. must be considered the workers' firm.

CONCLUSION

After careful review, I conclude that all workers at Armor-San Francisco Galvanizing, Inc., San Francisco, Calif. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11911 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-3069]

ARTHUR WINER AND CO., GARY, IND.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 7, 1978 in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers' Union on January 10, 1978 on behalf of workers and former workers producing men's trousers.

Notice of investigation was published in the FEDERAL REGISTER on February 26, 1978 (43 FR 7744). No public hearing was requested and none was held.

During the course of investigation, it was established that all workers of Arthur Winer & Co. were previously certified eligible to apply for adjustment assistance on June 15, 1976 (See TA-W-735).

The existing certification remains in effect until two years from its date of issuance, unless terminated by the Secretary of Labor, Workers newly separated totally or partially are covered by the existing certification provided such separation occurred on or after the impacted date (March 9, 1975) and before the certification expiration date (June 15, 1978).

Thus, a new investigation would serve no purpose; consedquently, the investigation has been terminated.

Signed at Washington, D.C. this 14th day of April, 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-11912 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2873]

THE BALTIMORE & OHIO RAILROAD CO., SUBDIVISION 6, BENWOOD, W.VA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2873: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 9, 1978 in response to a worker petition received on December 19, 1977 which was filed on behalf of workers and former workers engaged in transport operations at Subdivision 6 of Baltimore & Ohio Railroad, Benwood, W. Va.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3778). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Baltimore & Ohio Railroad Co. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The Department has de-

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termined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm".

The Department's investigation revealed that The Baltimore & Ohio Railroad Co. is a rail transport firm founded in 1827 and incorporated in Maryland. The B & O Railroad Co. including all regions, divisions, and subdivisions thereof, is licensed and regulated by the Interstate Commerce Commission as a rail common carrier. Workers at the company are engaged in transport operations and perform no production operations.

Workers at The Baltimore & Ohio Railroad Co. do not produce an article within the meaning of section 222(3) of the Act. This Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Determination in *Pan American World Airways, Incorporated* (TA-W-153, 40 FR 54639). The only question in this case is whether any of The Baltimore & Ohio Railroad's customers, i.e., firms which produce an article and for whom the service is provided, can be considered the "workers' firm." See Notice of Determination in *Nu-Car Driveaway, Incorporated* (TA-W-393, 41 FR 12749).

The Baltimore & Ohio Railroad Co., including all regions, divisions, and subdivisions thereof, is not financially, corporately, or otherwise involved in the business of any of its customers. The Baltimore & Ohio Railroad Co. is solely and directly controlled by the Chesapeake & Ohio Railway Co.

The workers on whose behalf this petition was filed were hired by and are paid by the subject to the control of B & O Railroad Co. personnel only. All employment benefits enjoyed by the workers are provided and maintained by The B & O Railroad Co. Thus, The B & O Railroad Co. must be considered the workers' firm.

Conclusion

After careful review, I conclude that all workers at the Baltimore & Ohio Railroad Co., Subdivision 6, Benwood, W. Va. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11913 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2647]

BETHLEHEM MINES CORP., DIVISION OF BETHLEHEM STEEL CORP., HANOVER QUARRY, HANOVER, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2647: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 23, 1977 in response to a worker petition received on November 14, 1977, which was filed on behalf of workers and former workers producing processed limestone and metallurgical stone for the direct production of steelmaking at the Hanover Quarry, Hanover, Pa. of Bethlehem Mines Corp., division of Bethlehem Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on December 6, 1977 (42 FR 61695). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bethlehem Steel Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The investigation has revealed that all of the requirements have been met.

The Hanover Quarry operates within the Bethlehem Mines Corporation Division of Bethlehem Steel Corp. The metallurgical stone produced is used principally by the Sparrows Point, Md. and Johnstown, Pa. plants of the Bethlehem Steel Corp. in steelmaking, and accounts for approximately 61 percent of shipments from the Hanover Quarry. Production and shipments of metallurgical stone from Hanover are directly related to the steel operating rate at Sparrows Point and Johnstown.

In a determination issued on December 20, 1977, workers at the Sparrows Point plant producing carbon steel plate, continuous weld pipe, electric weld pipe, carbon steel rods, tin plate, hot and cold rolled sheet, galvanized sheets, and wire strand were certified as eligible to apply for adjustment assistance.

In a determination issued on February 13, 1978, all workers at the Johnstown plant were certified as eligible to apply for adjustment assistance.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the steel products produced at the Johnstown, Pa. and Sparrows Point, Md. plants of Bethlehem Steel Corp. contributed importantly to the decline in sales and production and to the total or partial separations of workers producing processed limestone and metallurgical stone at the Hanover Quarry, Hanover, Pa., of Bethlehem Mines Corp. In accordance with the provisions of the Act, I make the following certifications:

All workers at the Hanover Quarry, Hanover, Pa., of the Bethlehem Mines Corp. who became totally or partially separated from employment on or after January 1, 1977 are certified as eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11914 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2750]

C & P SPORTSWEAR, PATERSON, N.J.

Certifcation Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2750: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 8, 1977, in response to a worker petition received on November 29, 1977, filed on behalf of workers and former workers producing women's coats at C & P Sportswear in Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65307). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of C & P Sportswear and its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

Imports of the category including women's, misses', and children's coats and jackets increased from 1,478 thousand dozen in 1974 to 1,517 thousand dozen in 1975, then increased 48.5 percent to 2,252 thousand dozen in 1976. Imports increased 23.9 percent from 1,680 thousand dozen in the first three-quarters of 1976 to 2,081 thousand dozen in the first three-quarters of 1977. The ratio of imports to domestic production increased from 38.9 percent in 1975 to 57.5 percent in 1976.

C & P Sportswear produces women's coats under contract for a number of manufacturers of women's apparel. These manufacturers had either increased their contracts placed for the production of women's coats with foreign contractors or had increased their purchases of imported finished women's coats while at the same time reducing contracts placed with the subject firm in 1977 compared with 1976.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's coats produced by C & P Sportswear of Paterson, N.J. contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at C & P Sportswear of Paterson, N.J. who became totally or partially separated from employment on or after November 25, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11915 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2666]

CF & I STEEL CORP., MAXWELL MINE, WESTON, COLO.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on January 27, 1978, applicable to workers and former workers producing coal at the Maxwell Mine of the CF & I Steel Corp., Weston, Colo. The Notice of Certification was published in the FEDERAL REGISTER on February 7, 1978 (43 FR 5085).

At the request of the petitioner, a further investigation was instituted by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that a significant number of the workers were placed on partial weeks near the end of October 1977. These workers were not covered by the original impact date of October 30, 1977.

The intent of the certification is to cover those workers at the Maxwell Mine, CF & I Steel Corp., Weston, Colo., who were affected by the decline in the production of coal related to import competition. The certification, therefore, is revised providing a new impact date of October 21, 1977.

The revised certification applicable to TA-W-2666 is hereby issued as follows:

All workers at the Maxwell Mine of CF & I Steel Corp., Weston, Colo., who became totally or partially separated from employment on or after October 21, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11916 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-3169]

COHEN CLOTHES, BROOKLYN, N.Y.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing & Textile Workers Union on January 31, 1978, on behalf of workers and former workers producing men's and boys' tailored clothing at Cohen Clothes, Brooklyn, N.Y.

Notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The petitioner, Amalgamated Clothing & Textile Workers Union, requested withdrawal of this petition. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 13th day of April 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-11917 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2435]

COLONIAL WOOD HEEL CO., LYNN, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Departmentof Labor herein presents the results of TA-W-2435: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 11, 1977 in response to a worker petition received on October 4, 1977, which was filed on behalf of workers and former workers producing finished heels for ladies' shoes at the Colonial Wood Heel Co., Inc., Lynn, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56375). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Colonial Wood Heel Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

A survey of shoe manufacturers which contracted orders for covered heels from Colonial Wood Heel Co., Inc., revealed that none of these manufacturers purchased imported covered heels for use in the production of women's shoes.

Some manufacturers reported decreased orders for covered heels because of increaed imports of women's shoes.

Imports of shoes which incorporate heels are not "like or directly competitive" with heels within the meaning of section 222(3) of the Trade Act of 1974.

Conclusion

After careful review, I conclude that all workers at Colonial Wood Heel Co., Inc., Lynn, Mass., are denied eligibility to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

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Signed at Washington, D.C. this 19th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11918 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2941]

CONSOLIDATED RAIL CORP., MARTINSFERRY, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2941: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 23, 1978, in response to a worker petition received on January 3, 1978, which was filed on behalf of workers and former workers engaged in employment related to transporting freight at the Martinsferry, Ohio, subdivision of the Consolidated Rail Corp., Pittsburgh, Pa.

The notice of investigation was published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4696). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Consolidated Rail Corp. and the Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm".

The Department's investigation revealed that the Consolidated Rail Corp. (Conrail), a Pennsylvania corporation based in Pittsburgh, is a railroad company operating throughout 17 Eastern states. Conrail is licensed and regulated by the Interstate Commerce Commission as a common carrier. The company offers its transportation services to a wide variety of customers in the market area through which its railroad network extends. Conrail is not engaged in any production operations. The Martinsferry, Ohio, subidivison of Conrail provided transportation services for customers in southeastern Ohio and in West Virginia. Workers in this subdivision are engaged in transportation operations.

Workers at the Martinsferry, Ohio, subdivision of Conrail do not produce an article within the meaning of section 222(3) of the Act. This Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Determination in *Pan American World Airways, Incorporated* (TA-W-153, 40 FR 54639). The only question in this case is whether any of Conrail's customers i.e., firms which produce articles, and for whom the service is provided, can be considered the "workers firm." See Notice of Determination in *Nu-Car Driveaway, Incorporated* (TA-W-393, 41 FR 12749).

The Martinsferry, Ohio, subidivison of Conrail is not financially, corporately, or otherwise involved in the business of any of its customers. The workers on whose behalf this petiton was filed were hired and are paid by and subject to the control of Conrail personnel only. All employment benefits are provided and maintained by Conrail. Thus, Conrail must be considered the workers' firm.

CONCLUSION

After careful review, I conclude that all workers at the Martinsferry, Ohio, subdivision of the Consolidated Rail Corp., Pittsburgh, Pa. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-11919 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2842]

CONSOLIDATED RAIL CORP., LOGANSPORT SUBDIVISION OF FORT WAYNE DIVISION, LOGANSPORT, IND.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2842: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 4, 1978, in response to a worker petition received on December 15, 1977, which was filed on behalf of workers and former workers engaged in transport operations at Consolidated Rail Corp., Logansport Subdivision of the Fort Wayne Division, Logansport, Ind.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3777). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Consolidated Rail Corp. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation revealed that Consolidated Rail Corporation is a rail transport firm based in Philadelphia, Pa. The Corporation is a consolidation of several Northeastern railroads which was established April 1, 1976, pursuant to Title II of Pub. L. 93-236, the Regional Rail Reorganization Act of 1973.

Consolidated Rail Corp., including all regions, divisions, and subdivisions thereof, is licensed and regulated by the Interstate Commerce Commission as a rail common carrier. Workers at the firm are engaged in transport operations and perform no production operations.

Workers at Consolidated Rail Corp. do not produce an article within the meaning of section 222(3) of the Act and this Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Determination *Pan American World Airways, Incorporated* (TA-W-153, 40 FR 54639). The only question in this case is whether any of the Consolidated Rail Corp.'s customers, i.e., firms which produce an article and for whom the service is provided, can be considered the "workers' firm." See Notice of Determination in *Nu-Car Driveaway, Incorporated* (TA-W-393, 41 FR 12749).

Consolidated Rail Corp. is not financially, corporately, or otherwise involved in the business of any of its customers. The workers on whose behalf this petition was filed were hired by and are paid by and subject to the control of Consolidated Rail Corp personnel only. All employment benefits enjoyed by the workers are provided and maintained by Consolidated Rail Corp. Thus, Consolidated Rail Corp. must be considered the workers' firm.

CONCLUSION

After careful review, I conclude that all workers at Consolidated Rail Corp., Logansport Subdivision of the Fort Wayne Division, Logansport, Ind., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11920 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2815]

CONSOLIDATED RAIL CORP., EASTERN REGION, READING DIVISION, READING, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2815: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 27, 1977, in response to a worker petition received on December 9, 1977, which was filed on behalf of workers and former workers engaged in transportation of freight by rail at the Eastern Region, Reading Division of Consolidated Rail Corp., Reading, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1555). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Consolidated Rail Corp. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation revealed that Consolidated Rail Corp. is a rail transport firm based in Phildelphia, Pa. The Corporation is a consolidation of several Northeastern railroads which was established April 1, 1976, pursuant to Title II of Pub. L. 93-236, the Regional Rail Reorganization Act of 1973.

Consolidated Rail Corp., including all regions, divisions, and subdivisions thereof, is licensed and regulated by the Interstate Commerce Commission as a rail common carrier. Workers at the firm are engaged in transport operations and perform no production operations.

Workers at Consolidated Rail Corp. do not produce an article within the meaning of section 222(3) of the Act and this Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Determination in *Pan American World Airways, Incorporated* (TA-W-153, 40 FR 54639). The only question in this case is whether any of Consolidated Rail Corp.'s customers, i.e., firms which produce an article and for whom the service is provided, can be considered the "workers' firm." See Notice of Determination in *Nu-Car Driveaway, Incorporated* (TA-W-393, 41 FR 12749).

Consolidated Rail Corp. is not financially, corporately, or otherwise involved in the business of any of its customers. The workers on whose behalf this petition was filed were hired by and are paid by and subject to the control of Consolidated Rail Corp. personnel only. All employment benefits enjoyed by the workers are provided and maintained by Consolidated Rail Corp. Thus, Consolidated Rail Corp. must be considered the worker's firm.

CONCLUSION

After careful review, I conclude that all workers at the Eastern Region, Reading Division of Consolidated Rail Corp., Reading, Pa. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11921 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2602]

FLORSHEIM SHOE CO., PADUCAH, KY.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2602: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 14, 1977 in response to a worker petition received on November 3, 1977, which was filed by the Boot & Shoe Workers Union on behalf of workers and former workers producing men's shoes at the Paducah, Ky., plant of the Florsheim Shoe Co.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63484). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Florsheim Shoe Co., the Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's dress and casual footwear increased, in absolute terms, from 1972 to 1973, declined from 1973 to 1974, and increased from 1974 to 1975. Imports increased 23.6 percent from 1975 to 1976, and declined 1.6 percent in the first nine months of 1977 compared to the same period of 1976. The ratios of imports to domestic production and consumption increased from 58.7 percent and 37.0 percent, respectively, in 1975 to 70.4 percent and 41.3 percent, respectively, in 1976. The same ratios increased from 69.1 percent and 40.9 percent, respectively, in the first nine months of 1976, to 75.0 percent and 42.8 percent, respectively, in the same period of 1977.

The U.S. International Trade Commission recently found that certain footwear articles, including men's dress and casual shoes, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing such articles. In the case of men's dress and casual footwear, the ratio of imports to domestic production has been greater than 50 percent in each of the past five years, reaching a peak level of 75.0 percent in the first nine months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's dress and casual shoes produced at the Paducah, Ky., plant of the Florsheim Shoe Co. contributed importantly to the decline in production and to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Paducah, Ky., plant of the Florsheim Shoe Co. who became totally or partially separated from employment on or after October 6, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-11922 Filed 5-1-78; 8:45 am]

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[4510-28]

[TA-W-2798]

FLORSHEIM SHOE CO., MOUNT VERNON, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2798: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 21, 1977 in response to a worker petition received on December 8, 1977, which was filed by the United Shoe Workers of America on behalf of workers and former workers producing women's shoes at the Mount Vernon, Ill., plant of the Florsheim Shoe Co.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Florsheim Shoe Co., the Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's nonrubber footwear, except athletic, increased in absolute terms from 1972 to 1973, declined from 1973 to 1974, and increased from 1974 to 1975. Imports increased 0.2 percent from 1975 to 1976 and declined 8.9 percent in the first nine months of 1977 compared to the same period of 1976. The ratios of imports to domestic production and consumption declined from 119.1 percent and 54.4 percent, respectively, in 1975 to 117.9 percent and 54.1 percent, respectively, in 1976. The same ratios increased from 119.9 percent and 54.5 percent, respectively, in the first nine months of 1976 to 124.9 percent and 55.5 percent, respectively, in the first nine months of 1977.

The U.S. International Trade Commission recently found that certain footwear articles, including women's shoes, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing such articles. The Commission had considered factors other than imports that have been alleged as more important causes of injury, but concluded that, although such factors may have contributed in part, imports have been the most important cause of injury.

In the case of women's nonrubber footwear, the ratio of imports to domestic production has been greater than 99 percent in each of the past five years, reaching a peak level of 124.9 percent in the first nine months of 1977.

Florsheim Shoe Co. began importing women's shoes in November 1975. The company increased its imports from 1976 to 1977.

CONCLUSION

After careful review of the facts obtained in the investigaton, I conclude that increases of imports like or directly competitive with women's shoes produced at the Mount Vernon, Ill., plant of the Florsheim Shoe Co. contributed important to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Mount Vernon, Ill., plant of the Florsheim Shoe Co. who became totally or partially separated from employment on or after December 3, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-11923 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2471]

FLORSHEIM SHOE CO., DAVIE DRIVE, ANNA, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2471: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 17, 1977 in response to a worker petition received in October 4, 1977 which was filed by the Retail Clerk's International Union on behalf of workers and former workers producing fitted shoe uppers for men's shoes at the Davie Drive, Anna, Ill. plant of the Florsheim Shoe Co. The Notice of Investigation incorrectly stated that the petition had been filed by the United Shoe Workers of America.

The Notice of Investigation was published in the FEDERAL REGISTER on November 8, 1977 (42 FR 58210). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Florsheim Shoe Co., the Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

The footwear "uppers" produced at the Davie Drive plant are used by other Florsheim plants in producing men's shoes. The plant, therefore, is part of an integrated production process by Florsheim resulting in men's dress and casual shoes.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's dress and casual footwear increased 23.6 percent from 1975 to 1976, and declined 1.6 percent in the first nine months of 1977 compared to the same period of 1976. The ratios of imports to domestic production and consumption increased from 58.7 percent and 37.0 percent, respectively, in 1975 to 70.4 percent and 41.3 percent, respectively, in 1976. The same ratios increased from 69.1 percent and 40.9 percent, respectively, in the first nine months of 1976, to 75.0 percent and 42.8 percent, respectively in the same period of 1977.

The U.S. International Trade Commission recently found that certain footwear articles, including men's dress and casual shoes, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing such articles. In the case of men's dress and casual footwear, the ratio of imports to domestic production has been greater that 50 percent in each of the past five years, reaching a peak level of 75.0 percent in the first nine months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's dress and casual shoes produced by the Florsheim Shoe Co. contributed importantly to the decline in production of men's shoe uppers and to the total or partial separation of workers at the Davie Drive, Anna, Ill. plant. In accordance with the provisions of the Act, I make the following certification.

All workers at the Davie Drive, Anna, Ill. plant of the Floresheim Shoe Co. who became totally or partially separated from employment on or after September 22, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11924 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2009]

GENERAL MOTORS CORP., CHEVROLET TRANSMISSION PLANT MUNCIE, IND.

Revised Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 222 of the Trade Act of 1974 and in accordance with section 223(a) of such Act, the Department of Labor issued on September 19, 1977 a notice of determinations regarding eligibility to apply for adjustment assistance that applied to workers and former workers who produce component parts for subcompact cars at twenty-one (21) plants of the General Motors Corp., Detroit, Mich. (TA-W-2002-2022).

Pursuant to that notice, workers at the Muncie, Ind. Chevrolet transmission plant (TA-W-2009) were denied eligibility to apply for trade adjustment assistance.

The notice of determinations was published in the FEDERAL REGISTER on September 30, 1977 (42 FR 52509).

Subsequent to the publication of the determinations, the Office of Trade Adjustment Assistance received an inquiry from the International Union, United Automobile, Aerospace and Agriculture Implement Workers of America (U.A.W.) on behalf of workers and former workers who produce 70 MM transmissions for use in subcompact cars at the Muncie, Ind. Chevrolet transmission plant of the General Motors Corp.

Workers at the Muncie Ind. Chevrolet transmission plant were denied eligibility to apply for trade adjustment assistance because the Department's investigation revealed that: (1) Only subcompact car production at General Motors was adversely affected by increased imports; (2) workers at the Muncie plant produce parts for use in various automotive vehicles in addition to subcompact cars; (3) workers at the Muncie plant cannot be identified by product line; and (4) parts for use in subcompact cars did not constitute a significant proportion of total plant output.

A further investigation revealed that the 70 MM transmission produced at the Muncie, Ind. plant is used solely for the Chevette and Acadian car lines (both subcompact car lines) and that workers can be identified by product line. Employees in Departments 20, 21, 22, 23, 24, 25, 26, and 28 of the Muncie, Ind. plant work exclusively on the 70 MM transmission and contribute more than half of the total labor content of this transmission.

Workers in other departments which account for the remaining labor content of the 70 MM transmission are involved in the production of all component lines at the Muncie plant. An insignificant proportion of these components is used in the production of subcompact cars.

CONCLUSION

Based on additional evidence, a review of the entire record, and in accordance with the provisions of the Act, I make the following revised determination

All workers exclusively engaged in employment related to the production of 70 MM transmissions, in departments 20,21, 22, 23, 24, 25, 26 and 28, at the Muncie, Ind. Chevrolet transmission plant of the General Motors Corp. who became totally or partially separated from employment on or after March 28, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that all remaining employees at the Muncie, Ind. Chevrolet transmission plant of the General Motors Corp. are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 25th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11925 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2844]

INGERSOLL STEEL CO., NEW CASTLE, IND.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2844: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 4, 1978 in response to a worker petition received on December 13, 1977 which was filed by the United Auto Workers on behalf of workers and former workers producing stainless plate steel. Subsequent investigation revealed that the New Castle plant also produced plow steel and saw steel.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3777). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ingersoll Steel Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

A survey was conducted of customers representing a majority of the Ingersoll Co.'s sales in 1977. Most customers reported no import purchases at all. Those customers that did purchase imports also increased purchases from Ingersoll.

Company officials attributed declines in sales of plow steel to the lack of demand for such products by agricultural users. They attributed their decline in sales of stainless steel plate to a shift in preference by purchasers of this product to a wider size plate.

CONCLUSION

After careful review I conclude that all workers at the New Castle, Ind. plant of Ingersoll Steel Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11926 Filed 5-1-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision

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thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meetings these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 15, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 15, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 18th day of April 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Airco Industrial Gases, Division of Airco, Inc., (USWA).	Johnstown, Pa	Apr. 10, 1978	Apr. 1, 1978	TA-W-3,514	Oxygen and nitrogen.
Alabama Casual Co., Inc. (workers).	Uniontown, Ala	Apr. 6, 1978	Apr. 3, 1978	TA-W-3,515	Contractor of ladies' jeans.
Anchor Motor Freight, Inc. (Teamsters).	Wilmington, Del	do	do	TA-W-3,516	Contract carrier for General Motors, hauls new cars.
Asarco, Inc., Ground Hog Unit (USWA).	Vanadium, N. Mex	Apr. 5, 1978	Mar. 30, 1978	TA-W-3,517	Mines zinc ore.
Asarco, Inc., Deming Mill (USWA).	Deming, N. Mex	do	do	TA-W-3,518	Produces lead and zinc concentrate.
Boeing Vertol Co., Service Transportation Systems Branch (workers).	Riddley Township, Pa	Apr. 4, 1978	Mar. 31, 1978	TA-W-3,519	Light rail vehicles.
Boyn-Tan Leathers, Inc. (company).	Milton Mills, N.H	Apr. 10, 1978	Apr. 5, 1978	TA-W-3,520	Lambskins and sheepskin for linings for men and women's shoes.
Brawer Brothers, Inc., Empire Dyeing Division (ACTWU).	Haledon, N.J	do	Apr. 4, 1978	TA-W-3,521	Dye and print yarn used for cloth, rugs, and tapestry, etc.
G & G Food Corp., Inc. (company).	Newark, N.J	do	Mar. 17, 1978	TA-W-3,522	Smoke, cure, and bone meats.
Helga, Inc. (ILGWU)	Los Angeles, Calif	do	Apr. 5, 1978	TA-W-3,523	Ladies, ready-to-wear clothing.
G. LeBlanc Corp. (workers)	Kenosha, Wis	Apr. 5, 1978	Apr. 3, 1978	TA-W-3,524	Saxaphones, flutes, and piccolo's.
Newark Boneless Meat Products, Inc. (company).	Newark, N.J	Apr. 10, 1978	Mar. 17, 1978	TA-W-3,525	Smoke, cure, and bone meat.
Norristown Apparel Co. (Eastern Pennsylvania Clothing Workers Joint Board).	Norristown, Pa	Apr. 6, 1978	Apr. 3, 1978	TA-W-3,526	Men's suit coats.
Penn Meat Fabricators (company).	Pittston, Pa	Apr. 10, 1978	Mar. 17, 1978	TA-W-3,527	Bone and fabricate meat.
Pori, Inc. (USWA)	Baltimore, Md	do	Apr. 5, 1978	TA-W-3,528	Reclaim rolling oil.
Rosenkranz Brothers, Inc. (workers).	Brooklyn, N.Y	Apr. 11, 1978	Mar. 31, 1978	TA-W-3,529	Ladies' slacks and skirts.
Victory Beef Company, Inc. (workers).	Paterson, N.J	do	Apr. 4, 1978	TA-W-3,530	Meat packaging.
Do	Bordentown, N.J	do	do	TA-W-3,531	Slaughtering of meat.
Viner Brothers, Inc. (workers).	Bangor, Maine	do	do	TA-W-3,532	Women's casual shoes.

[FR Doc. 78-11906 Filed 5-1-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 15, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 15, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 11th day of April 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Asarco El Paso Smelting Works (USWA).	El Paso, Tex	Mar. 31, 1978	Mar. 30, 1978	TA-W-3,484	Buys or tolls ores and concentrates and produces impure metal products.
The Bunker Hill Co., Pan American Mine & Caselton Concentrator (workers).	Pioche, Nev	Mar. 30, 1978	Mar. 27, 1978	TA-W-3,485	Mining and concentrating of zinc.
City Clothing Co. Inc. (ILGWU).	Newburgh, N.Y	Mar. 31, 1978	Mar. 22, 1978	TA-W-3,486	Women's rainwear.
City Terrace Sportswear, Inc. (ILGWU).	do	do	do	TA-W-3,487	Ladies' coats and raincoats.
Cross Country Clothes, Inc. (ACTWU).	Egypt, Pa	Feb. 21, 1978	Jan. 31, 1978	TA-W-3,488	Men's tailored clothing.
Do	Easton, Pa	do	do	TA-W-3,489	Do.
Do	Northampton, Pa	do	do	TA-W-3,490	Do.
Do	Geneva, Ohio	Jan. 27, 1978	Jan. 4, 1978	TA-W-3,491	Do
Darling & Co. (Amalgamated Meat Cutters & Butcher Workmen of North America).	Chicago, Ill	Apr. 3, 1978	Mar. 16, 1978	TA-W-3,492	Bone glue and related products from animal bones.
Favorite Overall Co., Inc. (company).	Boston, Mass	Mar. 29, 1978	Mar. 24, 1978	TA-W-3,493	Boy's jeans.
Haspel, Inc. (ACTWU)	Tylertown, Miss	Mar. 31, 1978	do	TA-W-3,494	Men's suits and sportscoats.
Horace T. Potts Steel Service (workers).	Philadelphia, Pa	Mar. 24, 1978	Mar. 17, 1978	TA-W-3,495	Selling, buying and cutting of steel.
Loring Coat Co., Inc. (ILGWU).	Newburgh, N.Y	Mar. 31, 1978	Mar. 22, 1978	TA-W-3,496	Ladies' rainwear.
S & P Coat Co., Inc. (ILGWU).	Beacon, N.Y	do	do	TA-W-3,497	Do.
Sea-Land Service, Inc. (Teamsters Union).	Miami, Fla. (37th Ave.)	Mar. 27, 1978	Mar. 21, 1978	TA-W-3,498	Ocean carriage of freight.
Do	Miami, Fla. (12th St.)	do	do	TA-W-3,499	Do.
Tick Tock Frocks, Inc. (workers).	Fall River, Mass	do	Mar. 24, 1978	TA-W-3,500	Ladies' dresses.
Tima, Inc. (workers)	Greensboro, N.C	do	Mar. 15, 1978	TA-W-3,501	Knits polyester and cotton yard into fabrics for garment industries.
Zenith Radio Corp. of New York (workers).	New York, N.Y. (5th Ave.)	Mar. 20, 1978	do	TA-W-3,502	Wholesaler and distributor for Zenith Radio Corp. products.
Do	New York, N.Y. (West 13th St.).	do	do	TA-W-3,503	Repairing and warehousing of all Zenith Radio Corp. products.

[FR Doc. 78-11907 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-3000]

KENTUCKY ELECTRIC STEEL CO., COALTON, KY.

Negative determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3000: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 31, 1978, in response to a worker petition received on January 10, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at Kentucky Electric Steel Co. in Coalton, Ky. The investigation revealed that only hot and cold rolled carbon bars and bar-size light shapes are produced at Kentucky Electric Steel.

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The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7067). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kentucky Electric Steel, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

The Coalton, Ky. plant of Kentucky Electric Steel Co. produces only two products: hot and cold rolled carbon bars and bar-size light shapes.

Sales of hot and cold rolled carbon bars and bar-size light shapes increased in value in 1977 compared to 1976. Production increased in quantity in 1977 compared to 1976.

CONCLUSION

After careful review I conclude that all workers at the Kentucky Electric Steel Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-11927 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2393]

MEDFORD KNITWEAR MILLS, INC., MEDFORD, N.J., WRIGHTSTOWN, N.J., LEBANON, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2393: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 28, 1977 in response to a worker petition received on September 23, 1977 which was filed on behalf of workers and former workers producing girls' sportswear and women's tops at Medford Knitwear Mills, Inc., Medford, N.J. The investigation was expanded to include branch facilities at Wrightstown, N.J. and Lebanon, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55316). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Medford Knitwear Mills, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The investigation has revealed that all of the requirements have been met.

Imports of women's, misses' and children's slacks and shorts increased 10 percent from 1975 to 1976 and increased 6 percent from January–September 1976 to January–September 1977. The ratio of imports to domestic production increased from 35.2 percent in 1975 to 36.4 percent in 1976.

Imports of women's, misses' and children's skirts increased 53 percent from 1975 to 1976. Imports declined 36 percent January–September 1976 to January–September 1977. The ratio of imports to domestic production increased from 10.8 percent in 1975 to 11.2 percent in 1976.

Imports of women's, misses' and children's blouses and shirts increased 16 percent from 1975 to 1976. Imports increased 1 percent from January–September 1976 to January–September 1977. The ratio of imports to domestic production increased from 70.4 percent in 1975 to 74.8 percent in 1976.

A survey of customers revealed that most respondants decreased purchases from Medford Knitwear Mills, Inc. in 1976 and 1977 and increased purchases of imported women's tops and girls' sportswear during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's tops and girls' sportswear produced at Medford Knitwear Mills, Inc., Medford, N.J. and its branch facilities at Wrightstown, N.J. and Lebanon, Pa. contributed importantly to declines in sales or production and to total or partial separations of workers at that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Medford Knitwear Mills, Inc., Medford N.J. and its branch facilities at Wrightstown, N.J. and Lebanon, Pa. (also known as Demford Manufacturing Co., Inc.) who became totally or partially separated from employment on or after September 16, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-11928 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2638]

PITTSBURGH ANNEALING BOX CO., PITTSBURGH, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2638: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 21, 1977 in response to worker petition received on November 10, 1977, which was filed by the United Steelworkers of America on behalf of worker and former workers producing annealing covers and general metals fabrication at Pittsburgh Annealing Box Co., Pittsburgh, Pa.

The notice of investigation was published in the FEDERAL REGISTER on December 6, 1977 (42 FR 61696). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pittsburgh Annealing Box Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or division have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that imports of fabricated platework in general and annealing covers in particular are negligible when compared to domestic production. Imports of fabricated platework represented less than one percent of domestic production from 1972 through the third quarter of 1977. A survey by this Office of the major domestic steel companies accounting for more than 75 percent of raw steel production in 1976, revealed that there are no significant imports of annealing covers into the United States.

CONCLUSION

After careful review, I conclude that all workers at Pittsburgh Annealing Box Co., Pittsburgh, Pa. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-11929 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2737]

PITTSBURGH METALS PURIFYING CO., SAXONBURG, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2737: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 8, 1977, in response to a worker petition received on November 28, 1977, which was filed by International Molders' & Allied Workers' Union on behalf of workers and former workers producing hot tops, Soffelex insulator board and exothermic compounds at the Saxonburg, Pa., plant of the Pittsburgh Metals Purifying Co.

The notice of investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65308). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Pittsburgh Metals Purifying Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the decline in sales or production.

The petition contends that the importation of steel products has adversely affected production and production-related employment at the Saxonburg plant of the Pittsburgh Metals Purifying Co.

However, imported steel cannot be considered to be like or directly competitive with hot tops, Soffelex insulator board or exothermic compounds. Hot tops, insulator board and exothermic compounds must be considered in determining import injury to workers producing hot tops, Soffelex insulator board or exothermic compound at the Saxonburg plant.

There is no separately identifiable import data on hot tops, insulator board and exothermic compound in the TSUSA. A Department survey of the major domestic steel companies, accounting for approximately 75 percent of raw steel produciton in 1976, revealed that there are no significant imports of hot tops, insulator board or exothermic compounds into the United States. Transportation costs are a major component of the total costs of production and, as such, limit the geographical market area available to producers, effectively excluding all significant import competition.

Additionally, the Department surveyed customers of Pittsburgh Metals who purchased hot tops, insulator board or exothermic compounds. Respondents to the survey do not purchase imported hot tops, insulator board or exothermic compounds and do not know of any imports of these products.

Production of hot tops, Soffelex insulator board and exothermic compounds increased respectively from 1976 to 1977. A decrease in the produciton of hot tops occuring in the first quarter of 1977 was offset by an increase in the production of Soffelex insulator board, a competitive substitute for hot tops, during that same period of time.

CONCLUSION

After careful review, I conclude that all workers at the Saxonburg, Pa. plant of the Pittsburgh Metals Purifying Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of April 1978.

JAMES F. TAYLOR
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-11930 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2584]

RCA CORP., MEADOW LANDS, PA.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2584: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 9, 1977, in response to a worker petition received on November 1, 1977, which was filed by three workers on behalf of workers and former workers producing handheld transmitter/receiver units, language laboratory units, and citizens band transceiver units at the Meadow Lands, Pa., plant of RCA Corp. The investigation revealed that citizens band units and language laboratory units are not produced at the Meadow Lands plant.

The notice of investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59565). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of RCA Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

The Department's investigation revealed that imports of articles like or directly competitive with the TACTEC portable transmitter/receiver produced by RCA Corp. of Meadow Lands, Pa., have been negligible since 1972. The principal factor that affected sales of TACTEC units in 1977 was strong domestic competition.

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CONCLUSION

After careful review I conclude that all workers at the RCA Corp., Meadow Lands, Pa., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-11931 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-3299]

RTE CORP., WAUKESHA, WIS.

Notice of Negative determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3299: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 2, 1978, in response to a worker petition received on February 1, 1978, which was filed by three individuals on behalf of workers and former workers producing computer programs, drawings, specifications, methods, and assembled transformers at the RTE Corp., Waukesha, Wis.

Notice of Investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11276). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the RTE Corp., Waukesha, Wis., and the petitioners. In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, it must be found that a significant number of the workers have been or are threatened to become totally or partially separated from employment.

In the present instance, it was determined that two of the workers petitioning for assistance had been separated from employment more than one year from the date of the petition, and the third worker was employed at a different company facility. Also, monthly employment levels at the firm had increased substantially since February 1976. Employment in February 1978 was more than 60 percent greater than the same month in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers of the firm have not been and are not threatened to become totally or partially separated from the firm as required in section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C., this 24th day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-11934 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2464]

RICHARD TANNING COMPANY, INC., SALEM, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2464: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 13, 1977, in response to a worker petition received on October 6, 1977, which was filed on behalf of workers and former workers producing tanned sheepskin suede garmet leather at Richard Tanning Co., Salem, Mass.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (43 FR 205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Richard Tanning Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following cirterion has not been met:

That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production workers and the average weekly hours worked at the subject firm increased in 1976 compared to 1975, increased in 1977 compared to 1976, and increased in the first two months of 1978 compared to the same period in 1977. The layoffs that do occur at the subject firm are seasonal in nature.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that all workers at Richard Tanning Co., Inc., Salem, Mass., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11932 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2770]

ROCHESTER SHOE CORP., ROCHESTER, N.H.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2770: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 12, 1977, in response to a worker petition received on December 5, 1977, which was filed on behalf of workers and former workers producing women's dress and casual shoes at Rochester Shoe Corp., Rochester, N.H.

The Notice of investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65306). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rochester Shoe Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 22 of the Trade Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in the sales or production.

A survey of one of Rochester Shoe's customers which accounted for over 90 percent of Rochester's sales revealed that the customer's purchases from Rochester in 1977 were the same as in 1976 while its purchases of other domestic footwear increased in 1977 and of imported footwear decreased in 1977.

Further, average employment at Rochester Shoe Corp. declined by less than one percent in 1977 compared to 1976. The average hours worked per worker increased in 1977 over the previous year. There is no threat of separations of a significant number or proportion of workers.

CONCLUSION

After careful review, I conclude that all workers at Rochester Shoe Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11933 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2771]

SAN FRANCISCO SHIRT WORKS, INC., SAN FRANCISCO, CALIF.

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2771: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 12, 1977, in response to a worker petition received on December 1, 1977, which was filed on behalf of workers and former workers cutting material for women's, misses', and children's blouses and T-shirts in the Cutting Division of the San Francisco Shirt Works, San Francisco, Calif.

The notice of investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65306). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the San Francisco Shirt Works, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. With respect to workers performing warehousing, shipping, administrative, executive, and designing duties without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Since 1976, over 80 percent of total sales of the San Francisco Shirt Works are of imported apparel items. Employees in the Warehousing, Shipping, Administrative, Executive, and Designing Divisions are engaged in employment related to the importation of shirts.

With respect to workers cutting material for women's, misses', and girl's blouses and T-shirts in the Cutting Division all of the group eligibility requirements of section 222 of the Act have been met.

Imports of women's, misses', and children's blouses and shirts increased annually from 20,549 thousand dozen in 1974 to 30,273 thousand dozen in 1976. Imports increased from 24,016 thousand pairs in the first 9 months of 1976 to 24,036 thousand pairs in the first 9 months of 1977. Imports as a percentage of production increased annually from 54.6 percent in 974 to 74.8 percent in 1976.

In November 1977 the Cutting Division was phased out of operation by the San Francisco Shirt Works. This termination of production is attributable to the company's decision to import all of its products. With the closing of the Cutting Division, 100 percent of the blouses and shirts sold by San Francisco Shirt Works are imported.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's, misses' and children's blouses and T-shirts cut by the Cutting Division, San Francisco Shirt Works, San Francisco, Calif., contributed importantly to the decline in production and to the separation of workers in the division. In accordance with the provisions of the Act, I make the following certification:

All workers at the Cutting Division, San Francisco Shirt Works, San Francisco, Calif. who became totally or partially separated from employment on or after October 18, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers engaged in employment related to the processing of imported shirts in the Warehousing, Shipping, Administrative, Executive, and Designing Divisions of San Francisco Shirt Works are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 19th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11935 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2822]

SERVOMATION CORP., WARREN-YOUNGSTOWN DICTRICT, WARREN, OHIO

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2822: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 27, 1977, in response to a worker petition received on December 9, 1977, which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousemen, and Helpers of America (Ind.) on behalf of workers and former workers of Servomation, Warren, Ohio providing food canteens and vending machine operation. During the course of the investigation it was determined that the firm is Servomation Corp., Warren-Youngstown District, Warren, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1555). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Servomation Corp., Warren-Youngstown District and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The Department has determined that services are not "articles" within the meaning of Section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation revealed that Servomation Corp., Warren-Youngstown District, Warren, Ohio is a vending and food service company which is part of Servomation Corp., a New York, N.Y. based firm also engaged invending and food service.

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Workers at Servomation Corp., Warren-Youngstown District do not produce an article within the meaning of section 222(3) of the Act. This Department has already determined tha the performance of services is not covered by the admustment assistance program. See Notice of Determination in *Pan American World Airways, Incorporated* (TA-W-153, 40 FR 54639). The only question in this case is whether Youngstown Sheet & Tube Co., i.e., a firm which produces an article, namely steel, and for whom the service is provided, can be considered the "workers' firm." See Notice of Determination in *Nu-Car Diveaway, Incorporated* (TA-W-393, 41 FR 12749).

Servomation Corp. is not financially, corporately or otherwise involved in the business of Youngstown Sheet & Tube Co. The workers on whose behalf this petition was filed were hired and are paid by and subject to the control of Servomation Corp., Warren-Youngstown District personnel only. All employment benefits enjoyed by the workers are provided and maintained by Servomation Corp., Warren-Youngstown District. Thus, Servomation Corp., Warren-Youngstown District must be considered the workers' firm.

CONCLUSION

After careful review, I conclude that all workers at Servomation Corp., Warren-Youngstown District, Warren, Ohio are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11936 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2251]

SHELDAHL, INC., EAST PROVIDENCE, R.I.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2251: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act

The investigation was initiated on August 10, 1977 in response to a worker petition received on August 5, 1977, which was filed on behalf of workers and former workers producing Polyethelene Bag Making Machines, Ritesize Box Machines and Laminators at the East Providence, R. I. plant of Sheldahl, Inc., Packaging Machinery Division.

The notice of investigation was published in the FEDERAL REGISTER on August 27, 1977 (42 FR 27330). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Sheldahl, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of plastic bag making machines increased in value from $3,360,000 in 1975 to $4,033,000 in 1976 and to $4,435,000 in 1977.

The imports to domestic production ratio for plastic bag making machines increased from 21.0 percent in 1975 to 22.1 percent in 1976 and then declined to 20.2 percent in 1977.

U.S. imports of machines for making paper boxes, cartons, and similar rigid containers increased in value from $14,484,000 in 1975 to $23,952,000 in 1976 and increased to $25,519,000 in the first ten months of 1977, compared to $19,427,000 in the same period of 1976.

The imports to domestic production ratio for machines for making paper boxes, cartons, and similar rigid containers increased from 13.4 percent in 1975 to 21.8 percent in 1976.

The Packaging Machinery Division of Sheldahl, Inc. lost several bids to foreign competitors for production of poly bag making machines during fiscal year 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with packaging machines produced by Sheldahl, Inc., Packaging Machinery Division, East Providence, R. I., contributed importantly to the decrease in sales and production and to the total or partial separation of workers at that division. In accordance with the provisions of the Act, I make the following certification:

All workers at Sheldahl, Inc., Packaging Machinery Division, East Providence, R. I., who became totally or partially separated from employment on or after August 2, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11937 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2347]

STANDARD RUBBER PRODUCTS, INC., HANOVER, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2347: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 12, 1977, in response to a worker petition received on September 12, 1977, which was filed on behalf of workers and former workers producing rubber soling compound at Standard Rubber Products, Inc. in Hanover, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Standard Rubber Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Evidence developed during the Department's investigation revealed that Standard Rubber Co. produces shoe soles from rubber soling compound and rubber sheets from rubber soling compound. The value of the rubber sheets increased in the first 9 months of 1977 compared to the same period of 1976. Rubber sheets are produced exclusively for one company, which does not purchase imported rubber sheets for shoe soles.

Sales of rubber soles decreased in the first 9 months of 1977 compared to the same period of 1976. The decline in sales was the result of Standard Rubber's major customer discontinuing the manufacture of completed shoes in early 1977. Although workers at this shoe manufacturer were certified as eligible to appply for adjustment assistance, imports of shoes which incorporate bottom stock of the same origin are not like or directly competitive with bottom stock (shoe soles) produced by Standard Rubber Products. This shoe manufacturer did not import bottom stock.

CONCLUSION

After careful review, I conclude that all workers at Standard Rubber Products, Inc. in Hanover, Mass. be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11938 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2863]

SUPERIOR CUTTING DIE CO., ST. LOUIS, MO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2863: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 5, 1978, in response to a worker petition received on December 20, 1977, which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing cutting dies used in the production of leather garments and shoes at Superior Cutting Die Co., St. Louis, Mo.

The Notice of Investigation was published in the FEDERAL REGISTER on January 20, 1978 (43 FR 2952). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Superior Cutting Die Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

During the five year period from 1973 through 1977, imports of cutting dies remained less than one-half of one percent (0.5) of domestic production. The impact of imported cutting dies on domestic production can be termed "negligible". Declines in domestic production can be attributed to declines in aggregate domestic production of shoes, the production of which employs cutting dies.

CONCLUSION

After careful review, I conclude that all workers at Superior Cutting Die Co., St. Louis, Mo. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed. at Washington, D.C. this 25th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11939 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2775]

TENNESSEE FORGING STEEL CORP., NEWPORT, ARKANSAS DIVISION

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2775: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 22 of the Act.

The investigtion was initiated on December 14, 1977, in response to a worker petition received on December 6, 1977, which was filed on behalf of workers and former workers producing carbon steel structural shapes and re-shapes and re-bars at the Newport, Ark., Division of Tennessee Forging Steel Corp. During the course of the investigation it was determined that the workers produced carbon steel structural shapes and carbon steel bar-size light shapes.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tennessee Forging Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 22 of the Act must be met. The investigation has revealed that all of the requirements have been met.

Imports of carbon steel bar-size light shapes increased from 164 thousand tons in 1976 to 263 thousand tons in 1977. Imports of carbon steel bar-size light shapes relative to domestic production increased from 19.5 percent in 1976 to 26.5 percent in 1977. Imports of carbon steel structural shapes increase from 1311 thousand tons in 1976 to 1604 thousand tons in 1977. Imports of carbon steel structural shapes relative to domestic production increased from 38.8 percent in 1976 to 45.0 percent in 1977.

Customers of the Newport, Tenn., Division of Tennessee Forging Steel increased purchases of carbon steel bar-size light shapes and carbon steel structural shapes from foreign suppliers in 1977 while reducing purchases from Tennessee Forging Steel Corp.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with carbon steel bar-size light shapes and carbon steel structural shapes the Newport, Ark., Division of the Tennessee Forging Steel Corp., contributed importantly to the decline in sales or production at those facilities. In accordance with the provisions of the Act, I make the following certification:

All workers at Newport, Ark., Division of Tennessee Forging Steel Corp., who became totally or partially separated from employment on or after September 23, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11941 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-3155]

TOWER FASHIONS, NEW YORK, N.Y.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 3, 1978 in response to a worker petition received on that date which was filed by the International Ladies Garment Workers Union on December 14, 1977, on behalf of workers and former workers producing ladies coats at Tower Fashions, New York, N.Y.

Notice of investigation was published in the FEDERAL REGISTER on

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March 3, 1978 (43 FR 8863). No public hearing was requested and none was held.

During the course of the investigation it was established that the ILGWU does not represent the workers at Tower Fashions. The ILGWU represented workers employed at Latest Fashions, Inc. Evidence developed indicates that all workers were separated from employment at Latest Fashions, Inc., on November 6, 1975, more than one year from the filing date of this petition (Dec. 14, 1977).

In a letter dated March 17, 1978, the petitioner, the ILGWU, requested that this petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 18th day of April, 1978.

MARVIN M. FOOKS,
Director, Office
Trade Adjustment Assistance.

[FR Doc. 78-11942 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2563]

UNION CARBIDE CORP., METALS DIVISION, SHEFFIELD, ALA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2563: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 3, 1977, in response to a worker petition received on October 27, 1977, which was filed on behalf of workers and former workers producing ferroalloys at the Sheffield, Ala., Metals Division plant of Union Carbide Corp. The investigation revealed that the workers produced ferrosilicon.

The Notice of Investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59583). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Union Carbide Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of ferrosilicon increased in absolute terms from 1972 to 1973, increased from 1973 to 1974 and decreased from 1974 to 1975. Imports increased 40 percent from 1975 to 1976 and increased 18 percent in the first 11 months of 1977 compared to the first 11 months of 1976. The ratios of imports to domestic production and consumption increased from 11.9 percent and 11.2 percent, respectively, in 1975 to 15.3 percent and 13.5 percent, respectively in 1976 and from 15.1 percent and 13.3 percent, respectively, in the first 11 months of 1976 to 18 percent and 15.5 percent respectively, in the first 11 months of 1977.

Customers of Union Carbide Corp., were surveyed for their purchases of ferrosilicon. Customers had decreased purchases from Union Carbide Corp., in 1977 from the previous year and increased purchases of imported ferrosilicon.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ferrosilicon produced at the Sheffield, Ala., Metals Division plant of Union Carbide Corp. contributed importantly to the total or partial separation of workers at that plant.

In accordance with the provisions of the Act, I make the following certification:

All workers at the Sheffield, Ala., Metals Division plant of Union Carbide Corp. who became totally or partially separated from employment on or after November 13, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-11943 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2866]

U.S. STEEL CORP., SAXONBURG, PA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2866: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 5, 1978, in response to a worker petition received on December 9, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel products at the Saxonburg, Pa., and Rankin, Pa., plants of U.S. Steel Corp. The investigation revealed that sintered iron ore is produced at the Saxonburg plant. The investigation also revealed that all workers at the Rankin plant were previously certified eligible to apply for adjustment assistance on September 22, 1977 (see TA-W-1562).

The notice of investigation was published in the FEDERAL REGISTER on January 20, 1978 (43 FR 2952). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of U.S. Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following cirterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Average annual employment at the Saxonburg plant increased from 1975 to 1976 and from 1976 to 1977. Layoffs which occurred at the plant during this time were seasonal in nature and were not related to imports.

CONCLUSION

After careful review, I conclude that all workers at Saxonburg, Pa., plant of U.S. Steel Corp., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11944 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2779]

U.S. STEEL CORP., JOHNSTOWN-CANTON WORKS, JOHNSTOWN, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2779: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 14, 1977, in response to a worker petition received on December 9, 1977, which was filed by the United Steelworkers of America on behalf of workers engaged in employment related to the production of steel products at the Johnstown, Pa., plant of the Johnstown-Canton Works of the U.S. Steel Corp. The investigation revealed that castings and specialty fabricated products are produced at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation has revealed that all of the criteria have been met.

The evidence developed during the investigation revealed that the Johnstown plant produces specialty fabricated products and castings. Almost all of the production of each product category is used in the production of steel products at other company manufacturing facilities. A large amount of the castings and the specialty fabricated products produced at the Johnstown plant in 1977 were shipped to U.S. Steel manufacturing facilities for which certifications of eligibility to apply for adjustment assistance have previously been issued by the Department.

Employment at the Johnstown plant declined in 1976 compared to 1975 and continued to decline in the first 11 months of 1977 compared to the like period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the steel products produced at various plants of the U.S. Steel Corp. have contributed importantly to the total or partial separation of workers at the Johnstown, Pa., plant of the U.S. Steel Corp. as required for certification under section 222 of the Trade Act of 1974. In accordance with the provisions of the Act, I make the following certification:

All wokers at the Johnstown, Pa., plant of the U.S. Steel Corp., who became totally or partially separated from employment on or after December 7, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11945 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2778]

U.S. STEEL CORP., JOHNSTOWN-CANTON WORKS, CANTON, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2778: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 14, 1977, in response to a worker petition received on December 9, 1977, which was filed by the United Steelworkers of America on behalf of workers engaged in employment related to the production of steel products at the Canton, Ohio, plant of the Johnstown-Canton Works of the U.S. Steel Corp. The investigation revealed that iron rolls are produced at the Canton plant.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Steel Corp., and its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analyst, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the criteria have been met.

The evidence developed during the investigation revealed that almost all of the total production of iron rolls at the Canton, Ohio, plant in 1977 were shipped to other company facilities for which certifications have previously been issued by the Department. The rolls are used in bar mills where steel bars are produced.

Employment at Canton declined 3 percent in 1977 compared to 1976. In the fourth quarter of 1977, employment decline significantly compared to the like period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the steel products produced at various plants of the U.S. Steel Corp. have contributed importantly to the total or partial separation of workers at the Canton, Ohio, plant of the Johnstown-Canton Works of the U.S. Steel Corp. as required for certification under section 222 of the Trade Act of 1974. In accordance with the provisions of the Act, I make the following certification:

All workers at the Canton, Ohio, plant of the U.S. Steel Corp. who became totally or partially separated from employment on or after October 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11946 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2551, 2552]

WIDE AWAKE SHIRT CO., READING, PA.; POTTSTOWN, PA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2551, 2552: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 1, 1977, in response to a worker petition received on October 20, 1977, which was filed by the Amalgamated Clothing & Textile Workers Union on behalf of workers and former workers producing uniform shirts at the Reading, Pa., and Pottstown, Pa., plants of Wide Awake Shirt Co.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wide Awake Shirt Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have

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been met, the following cirterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that there are no separately identifiable imports of uniform shirts. The product is not listed as a separate item of any U.S. Tariff Schedule grouping. However, industry sources have indicated that there are negligible imports of civilian uniform shirts. There are no imports of U.S. Military uniforms due to Armed Service Procurement Regulations.

None of the customers of Wide Awake Shirt Co. that were surveyed purchased imported uniform shirts. Customers confirmed that import influence in the uniform shirt industry is negligible and that uniform shirts are not competitive with other shirt styles.

CONCLUSION

After careful review I conclude that all workers at the Reading, Pa., and Pottstown, Pa., plants of Wide Awake Shirt Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11947 Filed 5-1-78; 8:45 am]

[4510-28]

[TA-W-2747]

WITTEMAN STEEL MILLS, FONTANA, CALIF.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2747: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 7, 1977 in response to a worker petition received on November 28, 1977 which was filed on behalf of workers and former workers producing steel reinforcing rod at Witteman Steel Mills, Fontana, Calif.

The notice of investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65308). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Witteman Steel Mills, its customers, the American Iron and Steel Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with those produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

Most customers which decreased purchases of rebars from Witteman also decreased purchases of imported rebars. Witteman attempted to improve its competitiveness by shifting from ingot mold production to continuous casting. However, the depressed state of the construction industry combined with lowered prices offered by major domestic rebar manufacturers made it diffiucult for independent rebar firms to operate profitably and Witteman was forced to close.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that all workers at Witteman Steel Mills, Fontana, Calif. are denied eligibility to apply for trade adjustment assistance.

Signed at Washington, D.C. this 21st day of April 1978.

HARRY J GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-11948 Filed 5-1-78; 8:45 am]

[1410-03]

LIBRARY OF CONGRESS

AMERICAN FOLKLIFE CENTER BOARD OF TRUSTEES

Open Meeting

As required by Pub L. 92-463, notice is hereby given that a meeting of the Board of Trustees of the American Folklife Center will be held beginning at 9:30 a.m., Tuesday, May 23, 1978, in the Whittall Pavilion of the Library of Congress.

This meeting is a regularly scheduled meeting of the Board. The meeting is open to the public. Any member of the public wishing to attend or to obtain additional information should contact Raymond L. Dockstader, Deputy Director of the American Folklife Center, 202-426-6590 by close of business, May 12.

RAYMOND L. DOCKSTADER,
Deputy Director, American Folklife Center.

MAY 5, 1978.

[FR Doc. 78-11818 Filed 5-1-78; 8:45 am]

[7536-01]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

HUMANITIES PANEL ADVISORY COMMITTEE

Meeting

APRIL 26, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in Room 807, from 9 a.m. to 5:30 p.m. on May 22, 1978.

The purpose of this meeting is to review NEH Archaeology Program applications submitted to the National Endowment for the Humanities for projects beginning after September 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 78-11866 Filed 5-1-78; 8:45 am]

[7536-01]

HUMANITIES PANEL ADVISORY COMMITTEE

Meeting

APRIL 20, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 807, from 9 a.m. to 5:30 p.m. on May 24, 1978.

The purpose of the meeting is to review NEH College Library Program applications submitted to the National Endowment for the Humanities for projects beginning after October 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 78-11867 Filed 5-1-78; 8:45 am]

[7536-01]

HUMANITIES PANEL ADVISORY COMMITTEE

Meeting

APRIL 21, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5 p.m. on May 25 and 26, 1978.

The purpose of the meeting is to review NEH Pilot Grant applications submitted to the National Endowment for the Humanities for projects beginning after October 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 78-11868 Filed 5-1-78; 8:45 am]

HUMANITIES PANEL ADVISORY COMMITTEE

Meeting

APRIL 26, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in Room 807, from 9 a.m. to 5:30 p.m. on June 2, 1978.

The purpose of this meeting is to review NEH History Program applications submitted to the National Endowment for the Humanities for projects beginning after September 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 78-11869 Filed 5-1-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

AD HOC SUBCOMMITTEE ON RIVFLO

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Subcommittee on Riverine Flux to the Oceans (RIVFLO) of the Advisory Committee for Ocean Sciences.
Date and time: 19 May 1978—9 a.m. to 5 p.m.
Place: National Science Foundation, 1800 G Street NW., Room 643, Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Lauriston R. King, Acting Head, International Decade of Ocean Exploration Section, Room 605, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7356.
Purpose of subcommittee: To provide advice and recommendations concerning support for research on RIVFLO.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 19, 1977.

Dated: April 27, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-11836 Filed 5-1-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR INFORMATION SCIENCE AND TECHNOLOGY

Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463); it is hereby determined that the establishment of the Advisory Committee for Information Science and Technology is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, National Science Foundation (NSF) by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Committee Management Secretariat, pursuant to the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

Name of committee: Advisory Committee for Information Science and Technology.
Purpose: To provide advice, recommendations, and oversight concerning support for activities related to the Foundation's programs in information science and technology.
Effective date of establishment and duration: The establishment of the Committee is effective upon filing the charter with the Director, NSF, and the standing committees of Congress having legislative jurisdiction of the NSF. The Committee will operate on a continuing basis contingent upon its renewal every two years.
Membership: The Committee will consist of up to 15 distinguished persons. Members of the Committee will include information scientists, information managers, and

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users of information. Specific expertise will be sought from many disciplines and fields including: basic and applied information science research, information science research applications, economics, behavioral and social sciences, computer science, information and communication policy, library science, publishing and communication services, scientists, engineers, and R&D management.

Operation: The Committee will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463); NSF policy and procedures, OMB Circular No. A-63, Revised, and other directives and instructions issued in implementation of the Act.

Dated: April 27, 1978.

RICHARD C. ATKINSON,
Director.

[FR Doc. 78-11837 Filed 5-1-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-528, STN 50-529, STN 50-530]

ARIZONA PUBLIC SERVICE CO., ET AL

Issuance of Amendment to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit Nos. CPPR-141, CPPR—142 and CPPR-143 issued to the Arizona Public Service Co. Salt River Project Agricultural improvement and Power District, El Paso Electric Co., Southern California Edison Co. and the Public Service Co. of New Mexico. The amendment reflects a change in the ownership of the Palo Verde Nuclear Generating Station, Units 1, 2 and 3 (the facilities) located in Maricopa County, Ariz. The amendment is effective as of its date of issuance.

The amendment provides for the deletion of Arizona Electric Power Cooperative, Inc., as an applicant for all licenses previously requested for the facilities and the transfer of 1.0 percent ownership interest to Arizona Public Service Co., 1.0 percent interest to Salt River Project Agricultural Improvement and Power District, and 0.4 percent ownership interest to Southern California Edison Co., of the 2.4 percent ownership interest held by Arizona Electric Power Cooperative, Inc. in the facilities.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendment.

For further details with respect to this action, see (1) the application for amendment contained in a letter dated July 8, 1977, (2) Amendment No. 1 to Construction Permit Nos. CPPR-141, CPPR-142 and CPPR-143, and (3) the Commission's related Safety Evaluation supporting Amendment No. 1 to the above construction permits. All of these items and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C., and the local Public Document Room located in the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Ariz.

A copy of items (2) and (3) may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, ATTN: Director, Division of Project Management.

Dated at Bethesda, Md. this 19 day of April 1978.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-11866 Filed 5-1-78; 8:45 am]

[7590-01]

[Docket Nos. 50-329A 50-330A]

CONSUMERS POWER CO.

Order

APRIL 26, 1978.

On April 19, 1978 in ALAB-468, the Appeal Board entered an Order in this proceeding vacating the schedule established by the Licensing Board for a prehearing conference and the commencement of an evidentiary hearing related to the framing of appropriate antitrust license conditions. The Board was directed to take those steps which it believed appropriate to encourage a settlement and thus to avoid unnecessary litigation. It was assumed that the Board will wish to obtain regular progress reports from the parties to satisfy itself that the negotiations are being diligently carried on, and to insure that if settlement should be unlikely, the evidentiary hearing will then take place with no unnecessary further delay.

In accordance with ALAB-468, our notice and order dated April 17, 1978 is canceled, and the prehearing conference scheduled for May 12 and the evidentiary hearing to commence on June 6, 1978 are vacated. The briefs and other documents specified in our prior order will not be required at this time.

In order to monitor the progress of the pending negotiations and to obtain progress reports at regular intervals, a conference with counsel will be held at 9:30 a.m., local time, on May 31, 1978 in the Nuclear Regulatory Commission's Hearing Room, 5th Floor, East West Towers, located at 4350 East West Highway, Bethesda, Md. 20014.

Dated at Bethesda, Md. this 26th day of April 1978.

It is so ordered.

For the Atomic Safety and Licensing Board.

HUGH K. CLARK,
Chairman.

[FR Doc. 78-11887 Filed 5-1-78; 8:45 am]

[7590-01]

[Dockets Nos. 50-245 and 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL

Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Provisional Operating License No. DPR-21 and Amendment No. 40 to Facility Operating License No. DPR-65 to Northeast Nuclear Energy Co., The Connecticut Light and Power Co., The Hartford Electric Light Co., and Western Massachusetts Electric Co., which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Units Nos. 1 and 2, located in the Town of Waterford, Conn. The amendments are effective as of their date of issuance.

These amendments modify the Environmental Technical Specifications to incorporate restrictions on the radioactive waste effluent which could potentially be discharged from the condensate polishing waste neutralizing sumps into the Long Island Sound.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings are required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for

amendments dated February 17, 1978, (2) Amendments Nos. 48 and 40 to Licenses Nos. DPR-21 and DPR-65, respectively, and (3) the Commission's letter transmitting these amendments. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 21st day of April 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-11888 Filed 5-1-78; 8:45 am]

[7590-01]

[Docket No. 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-65 to Northeast Nuclear Energy Co., the Connecticut Light & Power Co., the Hartford Electric Light Co., and Western Massachusetts Electric Co., which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2, located in the town of Waterford, Conn. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to allow reactor start- up with the reed switch position indicator channel inoperable on Control Element Assembly A-42.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings are required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 20, 1978, (2) Amendment No. 39 to License No. DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. A copy of items (2) and (3) may obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 21st day of April 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-11889 Filed 5-1-78; 8:45 am]

[7590-01]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. NPF-1 issued to Portland General Electric Co., the city of Eugene, Oreg., and Pacific Power & Light Co. which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oreg. The amendment is effective as of its date of issuance.

The amendment revises the Design Features section of the Technical Specifications to indicate that the spent fuel pool is designed with siphon breakers in the piping extending into the pool which prevent inadvertent draining of the pool below elevation 83'-11".

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amnedment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 15, 1978, as supplemented March 24, 1978, (2) Amendment No. 25 to License No. NPF-1, and (3) the Commission's related Safety Evaluation. All of these items are available for pulic inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oreg. 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 10th day of April 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-11890 filed 5-1-78; 8:45 am]

[7590-01]

[Docket No. 50-272]

PUBLIC SERVICE ELECTRIC & GAS CO.

Hearing on Amendment of Facility Operating License

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board to consider the application of the Public Service Electric & Gas Co. (the Licensee) for an amendment to its Facility Operating License No. DPR-70, which presently authorizes the Licensee to possess, use and operate the Salem Nuclear Generating Station, Unit 1, located in Salem County, N.J. The proposed amendment would allow modification of the spent fuel storage pool of this facility so as to increase its capacity from 264 to 1,170 fuel assemblies in accordance with Licensee's revised application for amendment dated February 14, 1978. Approval of the proposed

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modification would result in issuance of an amendment to the above license revising the technical specifications for the facility in order to reflect its increased capacity to store spent fuel.

The hearing, which will take place in the vicinity of the facility, will be conducted by an Atomic Safety and Licensing Board (the Licensing Board) which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Mr. Glenn O. Bright and Dr. James C. Lamb III, Members, and Mr. Gary L. Milhollin, Chairman.

A notice entitled "Proposed Issuance of Amendment to Facility Operating License" was published by the Nuclear Regulatory Commission in the FEDERAL REGISTER on February 8 1978 (43 FR 5443). The notice provided that any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene. Petitions were filed by the township of Lower Alloways Creek (Salem County, N.J.), by Alfred C. Coleman, Jr. and Eleanore G. Coleman (the Colemans), by "the Sun People"—Alternative Energy Advocates (South Dennis, N.J.), and by the State of New Jersey. The township of Lower Alloways Creek was admitted as a party to the proceeding, but the petitions of the Colemans and the Sun People were denied with leave to amend within ten (10) days from the date of service of this Board's order. The State of New Jersey was granted leave to participate under 10 CFR 2.715(c).

A prehearing conference or conferences will be held by the Licensing Board designated to preside over this matter. The date and place of the hearing will be set at or after the prehearing conference. Notices of the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER. The Licensing Board will determine the specific issues to be considered at the hearing.

For further details with respect to the matters under consideration, see the Licensee's revised application for amendment dated February 14, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and the Salem Free Public Library, 112 West Broadway, Salem, N.J.

Any person who wishes to make an oral or written statement in this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearance will be permitted at the time of the hearing in the discretion of the Licensing Board, within such limits and on such conditions as that Board may determine. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, not later than June 1, 1978. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered, provided that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless he has been granted the right to make a limited appearance or to intervene as a party.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 must be filed by the parties to this proceeding (other than the Regulatory Staff) not later than May 22, 1978.

Papers required to be filed in this proceeding may be filed by mail or telephone addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Licensing Board designated for this proceeding, the parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Rules of Practice, an original and twenty (20) conformed copies of each such paper with the Commission.

It is so ordered

Dated at Madison, Wis., this 26th day of April 1978.

For the Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene.

GARY L. MILHOLLIN,
Chairman.

[FR Doc. 78-11891 Filed 5-1-78; 8:45 am]

[7590-01]

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO., AND SAN DIEGO GAS AND ELECTRIC CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Provisional Operating License No. DPR-13, issued to Southern California Edison Co. and San Diego Gas and Electric Co. (the licensee), which revised condition 3.E of License No. DPR-13 for the San Onofre Nuclear Generating Station, Unit No. 1 (SO-1), (the facility) located in San Diego County, Calif. The amendment is effective as of its date of issuance.

The amendment changes license condition 3.E to permit the resumption of power operation of SO-1 and the continuation of power operation for twelve cumulative months with the primary coolant temperature greater than 350° F from April 20, 1978. This action is based on the results of the steam generator denting inspection program described in the licensee's April 17, 1978 submittal and request for approval to resume power operation.

The request complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment Nos. 25 and 32 to License No. DPR-13 dated April 1, 1977 and March 24, 1978, respectively and the related Safety Evaluations, (2) the licensee's submittal dated April 17, 1978, and the report enclosed thereto entitled "Steam Generator Denting Inspections", (3) Amendment No. 34 to License No. DPR-13, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, Calif. 92676. A single copy of items (1), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 20th day of April, 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-11892 Filed 5-1-78; 8:45 am]

[7590-01]

[Docket No. 50-281

VIRGINIA ELECTRIC AND POWER CO.

Order for Modification of License

I

Virginia Electric and Power Co. (the licensee), is the holder of Facility Operating License No. DPR-37 which authorizes the operation of the nuclear power reactor known as Surry Power Station, Unit No. 2 (the facility) at steady state reactor power levels not in excess of 2441 thermal megawatts (rated power). The reactor is a pressurized water reactor (PWR) located at the licensee's site in Surry County, Va.

II

On April 1, 1977, the NRC staff issued an Order for Modification of License No. DPR-37 which addressed operation of Surry Power Station Unit No. 2 under conditions in which steam generator tubes have been plugged as a result of tube denting caused by corrosion of the tube support plate in the annular spaces between tube and the tube support plate. On August 17, 1977, an Order was issued to permit continued operation of unit No. 2, to September 15, 1977, under the conditions of the April 1, 1977 Order. The licensee was required to perform an inspection after the September 15, 1977 shutdown. The licensee's fuel cycle for Surry Unit No. 2 ended before September 15, 1977, and during the resulting shutdown the licensee performed the required inspection. On October 8, 1977, an Order was issued to permit continued operation of Unit No. 2 for six equivalent months of operation beyond October 8, 1977. On March 20, 1978, Surry Unit No. 2 shut down for steam generator tube inspection and the results were submitted on April 4, 1978 as supplemented April 6, 1978. The data derived from the inspection demonstrates that the denting has followed the pattern predicted by the preventive plugging criteria established by the licensee with the NRC staff. The additional plugging performed as a result of the inspection using the preventive plugging criteria will provide adequate steam generator integrity under the conditions of this Order for continued operation for an additional six month period. The NRC staff has evaluated the results of this inspection and repair program and has assessed continued safe operation of the facility. This evaluation is set forth in the staff's concurrently issued Safety Evaluation relating to steam generator tube integrity.

Continued growth of the tube support plate continues to impose stresses on the tubes and may result in the development of stress corrosion cracks in denting locations. The NRC staff has considered the effect of the development of stress corrosion cracking during the course of operation of this facility, and has assessed the effect of such cracks in conjunction with the steam line break and loss of coolant accident events. The NRC staff has concluded that under the limitations on tube leakage set forth in this Order, the effect of continued denting on LICA events or on the consequences of the steam line break event would continue to be within those considered in connection with the April 1, 1977 Order. The limitations set forth in this Order will provide reasonable assurance that the public health and safety will not be endangered.

The licensee has proposed in its April 4, 1978, submittal to continue the limitations applicable to this facility in the manner set forth in this Order. The NRC staff believes that the licensee's actions, under the circumstances are appropriate and should be confirmed by NRC Order.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Swen Library, College of William and Mary, Williamsburg, Va., (1) licensee's submittal of April 4, 1978, (2) Orders for Modification of License, dated April 1, 1977, August 17, 1977, and October 8, 1977, (3) this Order for Modification of license, In the Matter of Virginia Electric and Power Co., Surry Power Station, Unit No. 2, Docket No. 50-281, and (4) the Commission's concurrently issued Safety Evaluation supporting this Order.[1]

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *it is ordered* That Facility Operating License No. DPR-37 is hereby amended by replacing in its entirety existing paragraph 3.E. of the license with the following:

E. STEAM GENERATOR INSPECTION

(1) Unit No. 2 shall be brought to the cold shutdown condition in order to perform an inspection of the steam generators within six months of equivalent operation from April 7, 1978.

Nuclear Regulatory Commission approval shall be obtained before resuming power operation following this inspection.

Equivalent operation is defined as operation with th reactor coolant at or above 350° F.

(2) Reactor coolant leakage from the reactor coolant system (RCS) to the secondary system (SS) through the steam generator tubes shall be limited to 0.3 gpm per steam generator, as described in the NRC Safety Evaluation of April 1, 1977. With any steam generator tube leakage greater than this limit the reactor shall be brought to the cold shutdown condition within 24 hours. Nuclear Regulatory Commission approval shall be obtained before resuming reactor operation.

(3) Reactor operation will be terminated if RCS to SS leakage which is attributable to 2 or more steam generator tubes occurs during a 20 day perod. Nuclear Regulatory Commission approval shall be obtained before resuming reactor operation.

(4) The concentration of radioiodine in the reactor coolant shall be limited to 1 μCi/gram during normal operation and to 10 μCi/gram during power transients as defined in Appendix A-1 to the Technical Specifications of the license. Appendix A-1 was issued with the April 1, 1977 Order and shall remain in effect for six equivalent months from April 7, 1978.

Dated at Bethesda, Md. this 7th day of April 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-11893 Filed 5-1-78; 8:45 am]

[1] A copy of items identified in (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating reactors.

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE MAINE YANKEE NUCLEAR PLANT

Meeting Postponed

The May 2, 1978 meeting of the ACRS Subcommittee on the Maine Yankee Nuclear Plant scheduled to be held in Washington, D.C. has been postponed indefinitely. (Notice of this meeting was made in the FEDERAL REGISTER on April 17, 1978.)

Dated: April 26, 1978.

JOHN C. HOYLE,
Advisory Committee, Management Officer.

[FR Doc. 78-12085 Filed 5-1-78; 9:10 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

PREVENTING WAGE BUSTING FOR PROFESSIONALS

Procedures for Evaluating Contractor Proposals for Service Contracts

AGENCY: Office of Federal Procurement Policy (OFPP, Office of Management and Budget).

ACTION: Notice of a policy concerning procedures for evaluating contractor proposals for service contracts.

SUMMARY: The following letter was signed and issued on March 29, 1978, by Mr. Lester A. Fettig, Administrator for Federal Procurement Policy. It is

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to be effective on an interim basis and will be implemented through regulatory guidance to be issued under both the Defense Acquisition Regulation and Federal Procurement Regulations. It is being published simultaneously in the FEDERAL REGISTER for comment prior to implementation of permanent regulations.

POLICY

The Federal Government has for many years contracted with American industry for a variety of services in support of Federal programs. In most cases the contracts have been entered into as a result of competitive procurement procedures and they normally are subject to periodic recompetition.

Unwarranted reductions in salaries and fringe benefits can occur during competition for Government service contracts. Since the costs of wage and fringe benefits constitute the largest cost element in a service contract, competitors often have driven down wage rates to unrealistically low levels, even though the employees that will perform the work under the new contract are the same performing the work under the predecessor contract.

The Service Contract Act of 1965 (Pub. L. 89-286), as amended, was enacted to prevent such "wage busting" practices with respect to blue collar and some white collar workers. The Department of Labor sets and maintains wage determinations for these service contract employees. Federal laws setting minimum standards for wages, working conditions or other labor standards do not, however, apply to professional employees. In addition, professional employees traditionally have not been represented by union collective bargaining agreements.

The Government shares a deep concern for inequities such as "wage busting" practices generated in our procurement system. The Government should not inadvertently contribute to unwarranted, severe, and abrupt reductions in compensation provided to Federal service contract employees. This has happened to some professional employees, especially in areas of concentrated Federal support such as Cape Canaveral, Fla., Houston, Tex., Huntsville, Ala., and several areas of California. In these and other areas, experience has in some cases been bad; the potential for further problems is worse.

The Federal Government cannot allow the protracted labor instability, loss of morale, and undermined mission performance that comes from the fact or fear or "wage busting." The human impact on longstanding careers, family dislocations, and personal economic distress makes the problem even more compelling, even if it could be confined to isolated locales.

Therefore, pursuant to the authority vested in me under Pub. L. 93-400, it is the declared policy of the Federal Government that all service employees, including professional employees, employed by contractors providing services to the U.S. Government, be fairly and properly compensated. Federal procurement procedures shall be developed to assure equitable compensation for all such employees. This policy clearly recognizes the fact that there is a predictable and essential link between personnel compensation and work performance. Therefore, evaluation of bids and proposals for service contract work shall take into account the realism of the offeror's proposed personnel compensation plan to assure that the offeror has a proper understanding of the resources required to perform high quality work on an uninterrupted basis.

Therefore, all future solicitations shall include the language contained in the attachment to this Policy whenever professional employees are expected to be needed to perform the services. If the procuring agency feels that a particular procurement covered by this policy statement does not warrant the use of such language in the solicitation, the agency shall request approval from the Administrator, Office of Federal Procurement Policy (OFPP) before omitting the criteria from any solication.

Implementation of the policy to be effective April 1, 1978, shall be made through regulatory guidance to be issued under both the Defense Acquisition Regulation and Federal Procurement Regulations.

This Office has a statutory responsibility to promote uniformity in procurement regulations to the extent it is feasible to do so. Accordingly, each agency is required, not later than 6 months from the date of this Policy, to submit a report to this Office for our review and assessment as to the actions which have been taken to implement this important policy. Following this review and assessment, we will determine whether additional guidance from this Office is required.

INSTRUCTIONS TO BIDDERS

Total compensation (salary and fringe benefits) of professional employees under service contracts may in some cases be lowered by recompetition of such contracts. Such lowering of compensation can be detrimental in obtaining the necessary quality of professional services needed for adequate performance of service contracts. It is therefore in the best interest of the Government that professional employees be properly and fairly compensated in such contracts. The following evaluation factors and criteria, therefore, will be used in assessing the total compensation package submitted by each bidder.

EVALUATION FACTORS AND CRITERIA

Understanding the Requirement: In establishing compensation levels for employees not otherwise covered by the Service Contract Act, the total compensation (both salaries and fringe benefits) proposed, shall reflect a clear understanding of the requirements of the work to be accomplished and the suitability of the proposed compensation structure to obtain and retain qualified personnel to meet mission objectives. The salary rates or ranges must recognize the distinct differences in professional skills and the complexity of varied disciplines as well as job difficulty. They shall reflect the professional contributions, abilities, professional status, responsibility, and value of the education and experience of such professional employees.

Cost Factor: Proposals which are unrealistically low or do not reflect a reasonable relationship of compensation to the job categories so as to impair the contractor's ability to recruit and retain competent personnel may be deemed reflective of failure to comprehend the complexity of the contract requirement. This agency is concerned with the quality and stability of the work force to be employed on this contract. The compensation data required will be used in evaluation of your understanding of the contract requirement. An assessment of the potential for adverse effect upon performance and maintenance of harmonious labor relations with employees resulting from an unrealistic low compensation structure will also be made.

Evaluation of Bids: This agency will evaluate the total compensation (both salaries and fringe benefits) to be paid to professional employees to assure that such compensation reflects an understanding of the requirements to be performed as outlined above. It will include an assessment of the bidder's ability to provide uninterrupted work of high quality. The total compensation proposed will be evaluated in terms of enhancing recruitment of personnel and its realism and consistency with a total plan for compensation (both salary and fringe benefits).

Bids offering total compensation levels less than currently being paid by the predecessor contractor for the same work will be evaluated, in addition to the above, on the basis of maintaining program continuity and availability of required competent professional personnel. Bidders are cautioned that instances of lowered compensation for essentially the same work may be an indication of lack of sound management.

Negotiations: During written and oral discussions, if provided for, bidders will be afforded an opportunity to clarify and support their total compensation plans. Supporting information will include data such as recognized national and regional compensation surveys and studies of professional public and privatre organizations used in establishing the total compensation structure. Failure to correct compensation weaknesses disclosed by agency evaluation may be cause for rejection of the bid.

The Contract: The bidder's proposed total compensation plan will be incorporated into any contract resulting from this solicitation. This will serve to lend authenticity to the plan proposed and reflect a commitment of the bidder to pay the compensation stated therein.

FOR FURTHER INFORMATION AND COMMENTS CONTACT:

Mr. Thomas F. Williamson, Associate Administrator for Acquisition Law, 202-395-3100.

VELMA BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-11800 Filed 5-1-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[Pub. Notice CM-8/51]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on safety of navigation of the Shipping Coordinating Committee's Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on Tuesday, May 23, 1978 in Room 7202 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of this meeting is to:

Discuss the results of last year's twentieth session of the Subcommittee on Navigation of the Intergovernmental Maritime Consultative Organization's (IMCO) Maritime Safety Committee (MSC), and

Prepare for the twenty-first session of the IMCO Subcommittee, which will address matters relating to, inter alia, ships' routing, navigational aids and equipment, single-handed voyages, and the 1972 Regulations for the Prevention of Collisions at Sea (1972 COLREGS).

Requests for further information on the SOLAS working group meeting should be directed to either Commander D.L. Parr or Lt. Commander J.D. Bannan, Commandant (G/WLE-4/73), U.S. Coast Guard, 400 Seventh Steet SW., Washington, D.C. 20590, telephone 202-426-4958.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

APRIL 24, 1978.

[FR Doc. 78-11856 Filed 5-1-78; 8:45 am]

[4710-01]

[Public Notice CM-8/53[

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW—STUDY GROUP ON MARITIME LAW MATTERS

Notice of Meeting

A meeting of the Study Group on Maritime Law Matters, a subgroup of the Secretary of State's Advisory Committee on Private International Law, will be held at 10:30 a.m. on Tuesday, May 23, 1978, in room 5519 of the Department of State. Members of the general public may attend up to the limits of the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The purpose of the meeting will be to hear the report of the United States delegation to the Hamburg Conference on the Carriage of Goods by Sea, and to consider future action with respect to the Convention produced by the Conference.

Entrance to the Department of State building is controlled, and members of the general public should use the C Street entrance. Entry will be facilitated if arrangements are made in advance, and it is requested that members of the general public who plan to attend the meeting inform their name, affiliation, and adress to Ms. Dorothy Fagan, Office of the Legal Adviser, Department of State, prior to May 23, 1978. The telephone number is area code 202-632-8134.

Dated: April 27, 1978

RICHARD D. KEARNEY
Chairman.

[FR Doc. 78-11950 Filed 5-1-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN FOOTWEAR FROM INDIA

Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been started to determine if benefits are paid by the Government of India to manufacturers or exporters of certain footwear which constitute the payment of a bounty or grant within the meaning of the U.S. Countervailing Duty Law. A preliminary determination will be made not later than September 10, 1978, and a final determination not later than March 10, 1979.

EFFECTIVE DATE: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on March 10, 1978, alleging that benefits conferred by the Government of India upon the manufacture, production or exportation of certain footwear from India constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice "certain footwear" includes footwear classifiable in items 700.05 through 700.85 inclusive, of the Tariff Schedules of the United States Annotated (except items 700.28, 700.51, 700.52, 700.53, 700.54, 700.60, and 700.8510). It also includes other leather articles cut or partly manufactured into forms or shapes suitable for conversion into footwear, classifiable in item 791.25 of the Tariff Schedules of the United States Annotated. Alleged bounties or grants as provided in the petition include the following:

1. Direct cash assistance provided to exporters of footwear upon exportation ranging up to 20 percent of f.o.b. value of the export product.

2. Direct tax credits of 15 percent of export value which may be applied against payment of any outstanding income or business taxes.

3. Deduction of 150 percent of overseas expenses for export promotion from taxable income. Through the Market Devlopment Fund, the Indian Government may make outright grants for export promotion to individual firms.

4. Remission of Customs duties and excise taxes on machinery and equipment used in export production.

5. Comprehensive export insurance and low rate export credits available to Indian exporters for overseas market development, available through the Export Credit and Guarantee Corporation and the Industrial Development Bank of India, both Indian Government entities.

6. Favorable treatment with respect to import licenses and foreign exchange as a reward for export performance.

7. Special foreign exchange concessions and financial assistance for purchase of equipment to firms located in the Kandla Free Trade Zone.

The unfinished footwear from India specified in the petition which is classifiable under item 791.25 of the Tariff

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Schedules of the United States annotated (TSUSA) is eligible for duty-free entry under the Generalized System of Preferences. In the event that it becomes necessary to refer this matter to the United States International Trade Commission (ITC) pursuant to section 303(a) (2), Tariff Act of 1930, as amended, (19 U.S.C. 1303(a) (2)), there is evidence on record concerning injury to, or likelihood of injury to, an industry in the United States.

This evidence includes information indicating that in recent years a sharp rise in foot-wear imports has occurred, causing employment in foot-wear manufacturing to decline substantially. In addition, there is information contained in the petition which indicates that the unempolyment rate in the footwear industry is double the national average. However, information of greater specificity may be required by the ITC before countervailing duties are assessed linking imports of the product defined by a single TSUS number to the alleged injury or threatened injury to the domestic industry, in the event that Treasury determines a bounty or grant is being paid or bestowed on the manufacture, production or exportation of this product.

Pursuant to section 303(a) (4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not a bounty or grant is being bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than September 10, 1978, as to whether or not the alleged payments or bestowal conferred by the Government of India upon the manufacture, production or exportation of the merchandise described above constitutes a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than March 10, 1979.

This notice is published pursuant to section 303(a) (3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a) (3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 to 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of the Treasury Department Order No. 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

APRIL 25, 1978.

[FR Doc. 78-11895 Filed 5-1-78; 8:45 am]

[4810-22]

Office of the Commissioner of Customs

[TD 78-127]

AURORA STEEL PRODUCTS

Notice of Recordation of Trade Name

APRIL 26, 1978.

On March 10, 1978, there was published in the FEDERAL REGISTER (43 FR 9911), a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Aurora Steel Products used by Aurora Steel Products, division of Hupp, Inc. and a wholly owned subsidiary of White Consolidated Industries, Inc. The notice advised that prior to final action on the application, filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than June 1, 1978. No responses were received in opposition to the application.

The name "Aurora Steel Products" is hereby recorded as the trade name of Aurora Steel Products, division of Hupp, Inc., a corporation organized under the laws of the State of Delaware, located at 580 South Lake Street, Aurora, Ill. 60507, when applied to desks, chairs, bookcases, tables, shelving, and storage equipment namely, lockers, library shelving, storage cabinets and shelf storage cabinets and shelf filing systems, manufactured in the United States. No foreign person, partnership, subsidiary, related company or parent company is authorized to use the trade name.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc. 78-11881 Filed 5-1-78; 8:45 am]

[4810-22]

[T.D. 78-126]

DAWN IMPORTS INTERNATIONAL, INC.

Recordation of Trade Name

APRIL 26, 1978.

On March 10, 1978, there was published in the FEDERAL REGISTER (43 FR 9911-9912), a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Dawn Imports International, Inc. used by Dawn Imports International, Inc. The notice advised that prior to final action on the application, filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than 30 days from the date of publication of the notice. No response were received in opposition to the application.

The name "Dawn Imports International, Inc." is hereby recorded as the trade name of Dawn Imports International, Inc., a corporation organized under the laws of the State of New York, located at 500 Seventh Avenue, New York, N.Y. 10018, when applied to ladies outerwear coats and ladies outerwear sweaters, in various fabrics and styles manufactured in Taiwan and Korea. No foreign parent, subsidiary or any company under common ownership or control is authorized to use the trade name.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc. 78-11882 Filed 5-1-78; 8:45 am]

[4810-35]

Fiscal Service

[Dept. Circ. 570, 1977 Rev., Supp. No. 18]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

Change in State of Incorporation

On December 31, 1977, Puritan Insurance Company, Stamford, Connecticut changed its State of incorporation from New York to Connecticut. The company was last listed as an acceptable surety on Federal bonds at 42 FR 34077, July 1, 1977.

A certificate of authority as an acceptable surety on Federal bonds is hereby issued by the Secretary of the Treasury, under Sections 6 to 13 of Title 6 of the United States Code, to Puritan Insurance Company, incorporated in the State of Connecticut. This new certificate replaces the company's former Treasury certificate, effective December 31, 1977. An underwriting limitation of $805,000 has been established for the company. The underwriting limitation is the same as was established as of July 1, 1977, under the certificate issued to the company in its previous State of incorporation.

Certificates of authority expire on June 30, each year, unless sooner revoked, and new certificates are issued on July 1, so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1, in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: April 25, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 78-11904 Filed 5-1-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[AB 34 (SDM)]

ST. JOSEPH & GRAND ISLAND RAILROAD CO.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in title 49 of the Code of Federal Regulations, Part 1121.23, that the St. Joseph & Grand Island Railroad Co., has filed with the Commission its amended color-coded system diagram map in Docket No. AB 34 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on march 29, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

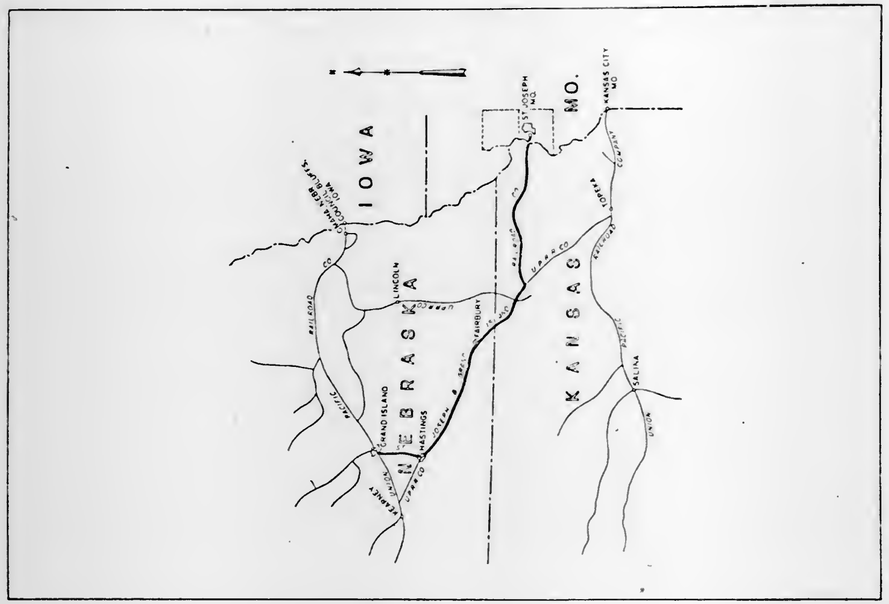
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 34 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-11779 Filed 5-1-78; 8:45 am]

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[7035-01]

[AB 121 (SDM)]

SPOKANE INTERNATIONAL RAILROAD

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in the Title 49 of the Code of Federal Regulations, Part 1121.23, that the Spokane International Railroad Co., has filed with the Commission its amended color-coded system diagram map in Docket No. 121 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on March 29, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

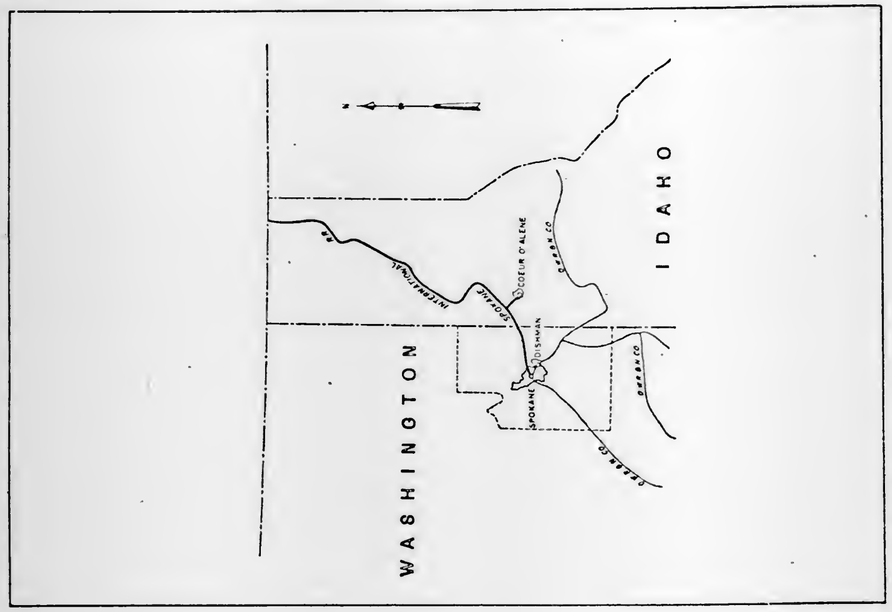
Color-coded copies of the map have been served on the Governor of each state in which the railroad operated and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting Docket No. AB 121 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.

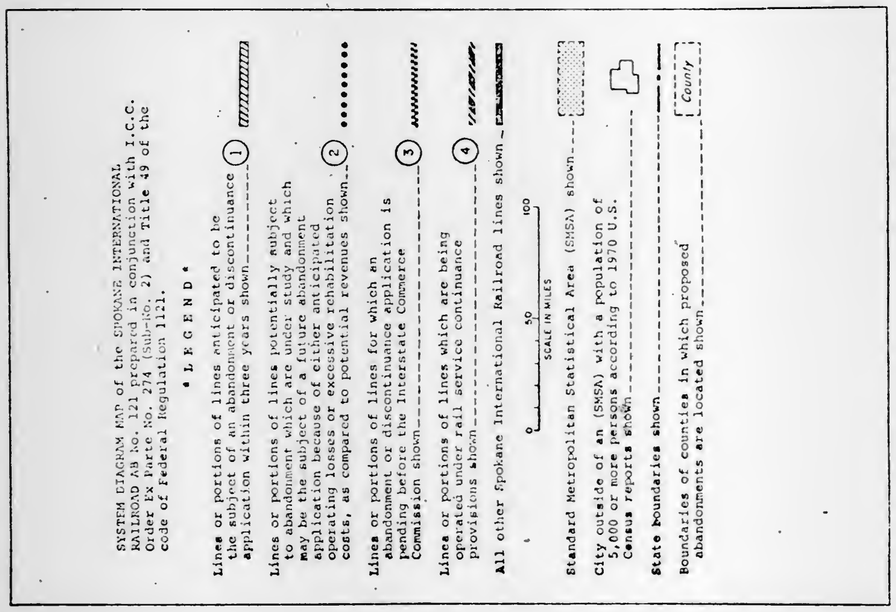
[FR Doc. 78-11778 Filed 5-1-78; 8:45 am]

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[1505-01]

[Volume No. 83]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 78-10605 appearing at page 16855 in the issue for Thursday, April 20, 1978, in the third column of page 16855, change "No. MC 11994 (Sub-No. 6)" to read "No. MC 119944 (Sub-No. 6)".

[1505-01]

[Notice No. 58]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-10307 appearing at page 16242 in the issue for Monday, April 17, 1978, make the following corrections:

(1) On page 16243, first column, the *second* reference to No. MC 82492 (the second full paragraph of the column), change "No. MC 82492 (Sub-No. 184TA)" to read "No. MC 82492 (Sub-No. 185TA)".

(2) On page 16244, third column, change "No. MC 123225 (Sub-No. 150TA)" to read "No. MC 123255 (Sub-No. 150TA)".

(3) On page 16245, first column, change "No. MC 124997 (Sub-No. 50TA)" to read "No. MC 124887 (Sub-No. 50TA)".

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 27, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC on or before May 17, 1978.

FSA No. 43535, Sea-Land Service, Inc., No. 97, on intermodal rates on general commodities, between rail terminals at Portland, Ore., and Seattle, Wash., on the one hand, and ports in the Caribbean Sea, Central America, South America, and West Indies, on the other, by way of New Orleans, La., and Houston, Tex., in its tariff 277, ICC No. 114, and other schedules named in the application, to become effective May 24, 1978.

Grounds for relief—water competition.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-11957 Filed 5-1-78; 8:45 am]

[7035-01]

[Rev. S.O. No. 1322]

DISTRIBUTION OF GRAIN CARS

At a session of the Interstate Commerce Commission, Railroad Service Board, acting as an appellate board, held at its office in Washington, D.C., on the 20th day of April, 1978.

Upon consideration of the petitions filed by Beker Industries Corp. and by Owens-Illinois, Inc., on April 14, 1978, both seeking revocation or exceptions to Service Order No. 1322 with respect to the transportation of their traffic.

Service Order No. 1322 was issued by the Railroad Service Board in accordance with applicable law upon its determination that an acute shortage of covered hopper cars and boxcars for transporting grain exists throughout the western part of the United States and that these shortages are particularly prevalent at country grain elevators.

As a result of a review of the massive volume of comments received from the railroads named in the order and from shippers dependent upon these railroads for their car supplies, the order was revised effective 12:01 a.m., April 17, 1978, to eliminate its appliction to boxcars. In addition exceptions were granted to the Union Pacific Railroad Co. (UP) which is the origin carrier mentioned in Owens-Illinois' petition and is also the carrier serving the Idaho, Nebraska and Wyoming points named in Beker's petition, and to the Missouri Pacific Railroad Co. (MP) the railroad serving Taft, La., the remaining origin point provided by Beker. These exceptions require the MP and the UP to use fifty-five (55) percent of their serviceable ownerships of jumbo covered hopper cars in grain service in lieu of the seventy (70) percent requirement of the order.

In the opinion of the Railroad Service Board, the relief requested by the petitioner has been substantially granted by revision of the order and by the exceptions granted to the UP and to the MP.

It is ordered, That the petitions be, and they are, denied

By the Commission, Railroad Service Board, acting as an appellate board. Joel E. Burns, Robert S. Turkington and John R. Michael.

JOEL E. BURNS,
Chairman.

[FR Doc. 78-11952 Filed 5-1-78; 8:45 am]

[7035-01]

Office of Proceedings

[Notice No. 63]

MOTOR CARRIERS TEMPORARY AUTHORITY APPLICATIONS

APRIL 18, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official name in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIER OF PROPERTY

No. MC 6078 (Sub-No. 87TA) (Correction), filed February 16, 1978, and published in the FEDERAL REGISTER issue of March 29, 1978, and republished as corrected this issue. Applicant: D. F. BAST, INC., P.O. Box 2288, 1425 North Maxwell Street, Allentown, PA 18001. Applicant's representative: Eugene M. Malkin, 5 World Trade Center, Suite 6193, New York, NY 10048. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Zincrometal steel coils,* from facilities of Enamel Products & Plating, Inc., at or near Portage, IN, to Hamilton, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Enamel Prod-

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ucts & Plating Co., P.O. Box 279, Portage, IN 46368. Send products to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106. The purpose of this republication is to correct the commodity description.

No. MC 8472 (Sub-No. 3TA), filed March 21, 1978. Applicant: SOUTH END CARTAGE CORP. OF DELAWARE, 4222 South Knox Avenue, Chicago, IL 60632. Applicant's representative: Abraham A. Diamond, 29 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, restricted to shipments in steamship and rail containers having a prior or subsequent movement by rail or by water, from rail yards and steamship piers and facilities in the Chicago Commercial Zone as defined by the Commission to the facilities of Vista Corporation in or near Kenosha, WI, and empty steamship or rail containers and chassis on return movements to the Chicago Commercial Zone as defined by the Commission, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alltransport Incorporated, Philip R. Carvatta, Vice President, 300 South Wacker Drive, Chicago, IL 60606. Send protests to: Patricia A. Roscoe Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 27089 (Sub-No. 6TA), filed March 20, 1978. Applicant: CHIWAUKEE TRUCK LINES, INC., 1501 West Pershing Road, Chicago, IL 60609. Applicant's representative: George T. Drake, 1501 W. Pershing Road, Chicago, IL 60609; David G. Abraham, 6400 Goldsboro Road, Washington, D.C. 20034. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt, carbonated and cereal beverages, beverage containers, and advertising matter*, from Minneapolis-St. Paul, to Chicago, IL, and *empty malt, carbonated and cereal beverage containers*, and rejected shipments of the above-specified commodities, from Chicago, IL, to Minneapolis-St. Paul, MN; (2) *cleaning, scouring or washing compounds, noi, prepared food, noi, candy or confectionary, noi, toilet preparations, noi, plastic articles, Magazine or periodicals, parts thereof, paper*, from Chicago, IL, to Minneapolis-St. Paul, MN; (3) *Freight*—All Kinds (FAK, forwarder traffic), between Chicago, IL, and Milwaukee, WI, and from Chicago, IL to Minneapolis-St. Paul, MN, under a continuing contract, or contracts, with Metropolitan Distributors, Shaklee Corporation, and Moran Freight Systems, Inc., for 180 days. Supporting Shipper(s): Metropolitan Distributors, Frederick E. Lieber, President, 4444 W. Berteau, Chicago, IL 60641. (2) Shaklee Corporation, Tom H. Adams, Transportation Manager, P.O. Box 3625, Hayward, CA 94540. (3) Moran Freight Systems, Inc., Tom Moran, President, P.O. Box 1293, Milwaukee, WI 53201. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 47583 (Sub-No. 68 TA), filed March 20, 1978. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, (1) from the plantsite and storage facilities of Kal Kan Foods, Inc., located at or near Columbus, OH, to all points and places in the states of AR, CO, CT, DE, IL, LIA, KS, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, OK, PA, RI, TX, VT and WI; and (2) from the plantsite and storage facilities of Kal Kan Foods, Inc., located at or near Indianapolis, and Terre Haute, IN, to all points and places in the states of CT, DE, IL, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI and VT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA 90058. Send protests to: Vernon V. Coble District Suervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 55896 (Sub-No. 66 TA), filed March 23, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Applicant's representative: George E. Batty, 20225 Goddard Road, Taylor, MI 48180. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Castings*, from East Jordan, MI, and Fort Atkinson, WI, to Siloam Springs, AR, and (2) *Castings, wheels, wheel assemblies and accessories, and materials, equipment and supplies* used in the manufacture of castings, wheels, and wheel assemblies and accessories, between Lebanon, IN, on the one hand, and, on the other, Siloam Springs, AR, and Fort Atkinson, WI, restricted in (1) and (2) above to traffic originating at or destined to the plantsite or storage facilities utilized by Webb Division, Marmon Industries, Inc., at the named points, for 180 days. Supporting shipper(s): Marmon Industries, Inc., Webb Division, 510 Indianapolis Avenue, Lebanon, IN 46502. John T. Donahue Materials Manager. Send protests to: Timothy S. Quinn District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, MI 48226.

No. MC 55896 (Sub-No. 67TA), Filed March 23, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goodard Road, Taylor, MI. 48180. Applicant's representative: George E. Batty, 20225 Goddard Road, Taylor, MI. 48180. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, plastic products, materials and supplies* used in the manufacturing and packaging of chemicals and plastic products (except commodities in bulk), between facilities utilized by Dow Chemical Co. at or near Midland, MI, on the one hand, and , on the other, points in Il and WI., for 180 days Supporting Shipper (s): Dow Chemical Co., 690 Building, Midland, MI. 48640. (Harry J. Ignatowski, Senior Traffic Analyst). Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 231 West Lafayette Boulevard, 604 Federal Building and U.S. Courthouse, Detroit, MI. 48226.

No. MC 56679 (Sub-No. 104TA), filed March 1, 1978. Applicant: BROWN TRANSPORT CORP., 352 University Avenue SW., Atlanta, GA 30315. Applicant's representative: John T. Coon, 352 University Avenue, SW., Atlanta, GA 30315. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities in bulk, and those requiring special equipment), to serve the Georgia Power Co.'s Nuclear Generating Plant (Plant Vogtle), located in Vogtle, Burke County, GA, as an off-route point in connection with carrier's existing regular routes, between Savannah, GA, and Augusta, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia Power Co, 270 Peachtree Street NW., P.O. Box 4545, Atlanta, GA 30303. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 63417 (Sub-No. 133TA (Correction), filed March 7, 1978, and published in the FEDERAL REGISTER issue of April 3, 1978, and republished as corrected this issue. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447 Roanoke, VA 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Gas and electrical appliances and parts, materials, supplies and equipment used in the manufacture, distribution or repair of appliances* (restricted against the transportation of commodites in bulk) between the facilities of Whirlpool Corp. at or near Clyde, Findlay and Marion, OH and Evansville, IN on the one hand and on the other points in AL, AR DE, DC, FL, GA, IL, IN, KY, LA, MD, MI, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper (s): Whirlpool Corp. Benton Harbor, MI. Send protests to: Irene W. Yost, Secretary, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, VA 2411. The purpose of this republication is to coorect the territorial description.

No. MC 63417 (Sub-No. 143TA), filed March 23, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, accessories and materials, equipment and supplies* used in the manufacture and distribution of glass containers, and container accessories, from the facilities of Brockway Glass Co. located at Lapel, Marion County, IN, and Zanesville, Muskigam County, OH, to the NC Counties of Rockingham, Stokes, Coswell, Guilford, Alamance, Forsyth, and Vance and the VA Counties of Pittsylvania, Henry and Halifax, for 180 days. supporting shipper(s): Brockway Glass Co., Inc., Brockway, PA 15824. Send protests to: Herman R. White, Acting District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, VA 24011.

No. MC 81412 (Sub-No. 34TA), filed March 23, 1978. Applicant: VALLEY TRANSFER & STORAGE CO., INC., P.O. Box 2101, Bethlehem, PA 18001. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadalphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel transmission poles and parts and accessories therefor*, between facilities of Meyer Industries, Division of International Telephone & Telegraph Corp., in the borough of West Hazelton and the township of Hazle, Luzerne County, PA, on the one hand, and, on the other, Canton, OH, and from facilities of Meyer Industries, Division of International Telephone & Telegraph Corp., in the borough of West Hazelton and the township of Hazle, Luzerne County, PA, to points in NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Meyer Industries, a Division of International & Telegraph Corp., P.O. Box L, Hazelton, PA 18201. Send protests to: T. M. Esposito Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106. The purpose of this republication is to correct the territory description.

No. MC 100666 (Sub-No. 383TA) (Correction), filed February 28, 1978, and published in the FEDERAL REGISTER issue of March 29, 1978, and republished as corrected this issue. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets*, from Bearden, AR, to Memphis, TN, and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Arkansas Pallet Manufacturing Co., P.O. Box 157, Bearden, AR 71720. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113. The purpose of this republication is to correct the territorial description.

No. MC 110563 (Sub-No. 223TA), filed March 23, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Applicant's representative: Victor J. Tambascia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carriers Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities of United Packing Co., located at or near Denver, CO, to Calhoun, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): United Packing Co., 5000 Clarkson Street, Denver, CO 80216. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 113908 (Sub-No. 430TA), filed March 23, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180 G.S.S., 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead, P.O. Box 3180 G.S.S., Springfield, MO 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverage bases, beverages, beverage concentrates, fruit emulsions, and fruit juices*, (in bulk), in three (3) compartment, stainless steel, insulated tank vehicles, from Chicago, IL, and the commercial zone thereof, to North East, PA, and the commercial zone thereof, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. E. Staley Manufacturing Co., 2222 Kensington Court, Oak Brook, IL 60521. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 114211 (Sub-No. 352 TA), filed March 21, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 210 Beck Street, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South La Salle, Chicago IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, plastic pipe fittings, and accessories* used in the installation thereof, (except commodities in bulk, in tank vehicles, and plastic pipe and fittings

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used in or in connection with the discovery, development, distribution of natural gas and petroleum and their products and by-products), from the facilities of Creek ne Plastic Pipe Co., Inc., at Council Bluffs, IA, to points in the United States, (except AK, AZ, CO, HI, NM and UT), and (2) *Materials, supplies and accessories* used in the manufacture and distribution of plastic pipe, plastic fittings, and acessories used in the installation thereof, (except commodities in bulk, in tank vehicles), from all points in the United States, (except AK, AZ, CO, HI, NM and UT), to the facilities of Cresline Plastic Pipe Co., Inc., at Council Bluffs, IA, for 180 days. Supporting shipper(s): Crestline Plastic Pipe Co., Inc., 955 Diamond Avenue East, Evansville, IN 47717. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 114632 (Sub-No. 150 TA), filed February 27, 1978, and published in the FEDERAL REGISTER issue of March 23, 1978, and republished as corrected this issue. Applicant: APPLE LINES, INC., 212 S.W. Second Street, P.O. Box 287, Madison, SD 57024. Applicant's representative: Michael L. Carter (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: (1) *Irrigation systems* and *pipe, and parts and accessories of irrigation systems*, from Elk Point, SD to points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NE, NM, ND, OH, OK, SD, TN, TX, and WI. (2) *Materials, parts and supplies* used in the manufacture, assembly, and distribution of irrigation systems and pipe form points named in (1) above to Elk Point, SD. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Terra Chemical International, Inc., 4th Jackson, Sioux City, IA 51101, Robert A. Stone, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Bldg., Pierre, SD 57501. The purpose of this republication is to correct the territorial description.

No. MC 117119 (Sub-No. 679TA), filed March 23, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Applicant's representative: L. M. McLean, P.O. Box 188, Elm Springs, AR 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail discount, variety, and department stores, (except commodities in bulk, and foodstuffs), from Charlotte, NC, to the facilities of Howard Bros., Discount Stores at Monroe, LA, and the facilities of TG&Y Stores at Shreveport, LA, for 180 days. Supporting shipper(s): (1) Howard Bros., Discount Stores, Inc., 3030 Aurora, Monroe, LA 71201. (2) TG&Y Stores, P.O. Box 25967, Oklahoma City, OK 73125. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 127840 (Sub-No. 61TA), filed March 8, 1978 (Correction) and published in the FEDERAL REGISTER issue of April 3, 1978, and republished as corrected this issue. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Applicant's representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Diethylene Glycol, Dipropylene Glycol and Recovered Glycols*, from Tallulah, LA, to Chicago, IL; Covington, KY; Hicksville, NY; Collierville, TN; Saukville, WI; and Chatham, VA, for 180 days. Supporting shipper(s): Resource Economics Corporation, Dawn Butler, Traffic Coordinator, 1742 Sherman Avenue, Evanston, IL 60201. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604. The purpose of this republication is to correct the territorial description.

No. MC 133318 (Sub-No. 10TA), filed March 23, 1978. Applicant: VAN DE HOGEN CARTAGE LIMITED, 2590 Dougall Avenue, Windsor, Ontario, Canada. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, NY 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rough and dressed lumber and waferboard*, for the account of Empire Wholesale Lumber Co., from ports of entry on the International Boundary Line between the United States and Canada, located in MI and NY, to points in DE, IL, IN, KY, MD, MI, NJ, NY, NC, OH, PA, VA, WV, and DC, restricted to traffic originating at Windsor and St. Catherines, Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Empire Wholesale Lumber Co., Miami and Gault Street, Akron, OH 44311. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

No. MC 134150 (Sub-No. 16TA), filed March 21, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Applicant's representative: Patrick E. Quinn, 2931 South Market Street, P.O. Box 9696, Chattanooga, TN 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nutritional supplements*, from Elgin and Greenville, IL; to Kenner, LA; East Brunswick, NJ; Dallas, TX; Tukwila, WA; Ogden, UT; and Chattanooga, TN. Restrictions: Restricted against the transportation of commodities in bulk, further restricted to traffic destined to the facilities of Cutter Laboratories, Inc., further restricted to a transportation service to be performed, under a continuing contract, or contracts, with Cutter Laboratories, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cutter Laboratories, Inc., 4th and Parker Streets, Berkeley, CA 94710. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 134286 (Sub-No. 51TA), filed March 23, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Applicant's representative: Charles J. Kimball, Suite 350, Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferrous sulfate, fertilizer and feed grade, other than USP grade* (except commodities in bulk, restricted to transportation in vehicles equipped with mechanical refrigeration), from the plantsite and/or storage facilities of Quality Chemicals, Ltd., located at or near Baltimore, MD, to Quincy, Rock Island, and Chicago, IL; Marian, Ladora, Sioux City, Council Bluffs, and Des Moines, IA; Omaha, NE; and Manistee, MI, and all points in the commercial zones of each city named above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Donald Gordon, President, Quality Chemicals, Ltd., 4800 Boston Street, Baltimore, MD 21224. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 135078 (Sub-No. 21TA), filed March 24, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Applicant's representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or sold by retail department or discount stores, including precious jewels and jewelry featuring precious gems (except commodities in bulk), from the commercial zones of Boston, MA; Jersey City, NJ; New York, NY; and Philadelphia, PA, to the facilities of Mid-West Pool Car Shipping Association, Inc., located at or near Denver, CO, for 180 days. Supporting shipper(s): A. R. McKean, Executive Vice President, Mid-West Car Pool Shipping Association, Inc., 1911 Nineteenth Street, P.O. Box 5686, Terminal Annex, Denver, CO 80217. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 135861 (Sub-No. 28TA), filed March 23, 1978. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, 2715 Ellis Avenue, Ft. Worth, TX 76106. Applicant's representative: Billy R. Reid, P.O. Box 9093, Ft. Worth, TX 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Medicines and related advertising materials and display racks*, (1) from New Brunswick, Somerset and South Plainfield, NJ, to Michigan City, IN; (2) from Michigan City, IN, to La Mirado, CA, and (3) from New Brunswick, Somerset and South Plainfield, NJ, to Sharonville, OH, under a continuing contract, or contracts, with E. R. Squibb & Sons, Inc., for 180 days. Supporting shipper(s): E. R. Squibb & Sons, Inc., 5 Georges Rd., New Brunswick, NJ 08903. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor St., Ft. Worth, TX 76102.

No. MC 136650 (Sub-No. 3TA) (Correction), filed January 30, 1978, and published in the FEDERAL REGISTER issue of February 28, 1978, and republished as corrected this issue. Applicant: FOOTE & DAVIES TRANSPORT CO., 3101 McCall Drive, Doraville, GA 30340. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. NE., Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dated printed matter;* from the warehouse and storage facilities utilized by Magazine Shippers Association, Inc., at or near Bridgeport, CT to points in the states of GA, NC, FL, AL, MS, LA, SC, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Magazine Shippers Association, Inc., 955 Union Avenue, Bridgeport, CT 06607. Send protests to: Sara K. Davis, Transportation Assistant, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309. The purpose of this republication is to correct the territorial description.

No. MC 136981 (Sub-No. 6TA), filed March 23, 1978. Applicant: BLAIR CARTAGE, INC., 13658 Auburn Road, P.O. Box 52, Newbury, OH 44065. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, and chain grocery and food business houses, from the plantsite of the Clorox Company at or near Chicago, IL, to points and places in the State of IN, under a continuing contract, or contracts, with The Clorox Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Clorox Company, P.O. Box 24305, Oakland, CA. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Bldg., 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 138126 (Sub-No. 25TA), filed March 23, 1978. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Old Denton Road, Federalsburg, MD 21632. Applicant's representative: Chester A. Zyblut, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pizza*, from the plantsite of Ore-Ida Foods, Inc., at Massillon, OH, to Greenville, MI, and points in NY, NJ, PA and DE, for 150 days. Applicant has also filed an underlyng ETA seeking up to 90 days of operating authority. Supporting shipper(s): Donald C. Fowle, Senior Manager, Traffic, Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 138313 (Sub-No. 30TA), (correction), filed January 9, 1978, and published in the FEDERAL REGISTER issue of March 14, 1978, and republished as corrected this issue. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street NW., Great Falls, MT 59404. Applicant's representative: Miss Irene Warr, 430 Judge Bldg., Salt Lake City. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard, joint systems and materials and supplies* used in the application thereof, from the Great Falls, MT, to the ports of entry located on the International Boundary line between the United States and Canada located at Blaine, Sumas, Oroville, Ferry, Danville, Laurier, Frontier and Metaline Falls, WA; Porthill and Eastport, ID; and Roosville, Gateway, Piegan, Sweetgrass, Simpson, Morgan, Opheim, Scobey and Raymond, MT; restricted to traffic destined to the provinces of Alberta, Saskatchewan and British Columbia, CD, for 180 days. Interlining is sought at Great Falls, MT. Supporting shipper(s): Scott A. Keller, transportation Specialist, Georgia Pacific Corporation, 900 S.W. 5th Ave., Portland, OR 97204. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 1st Ave. North, Billings, MT 59101. The purpose of this republication is to add a statement concerning interlining.

No. MC 138627 (Sub-No. 26 TA) (Correction), filed March 6, 1978, and published in the FEDERAL REGISTER issue of April 3, 1978, and republished as corrected this issue. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Route 4, Fort Dodge, IA 50501. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins and pelts*, and *pieces therefrom*, (except commodites in bulk), from the hide plant of Iowa Beef Processors, Inc., at or near Dakota City, NE; to points in AR, IL IN, KS, KY, LA, MO, MI, OH, NC, TN, TX, VA, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Peocessors, Inc., Dakota City, NE 68731. Send protests to: Herbert W. Allen, District Supervisor, Intestate Commerce Commission, Bureau of Operations, 518 Federal Building, Des Moines, IA 50309. The purpose of this republication is to correct the territorial description.

No. MC 139482 (Sub-No. 43TA), filed March 23, 1978. Applicant: NEW ULM FRIEGHT LINES, INC., County Road 29 West, New Ulm, MN 56073 Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, (except commodities in bulk), from Counties of Dodge, Fon du Lac, Jefferson, Washara, Milwaukee and Columbia, WI; destined to all points in the states of IL, IN, OH, MI, KY, TN, and MO, and (2) *Foodstuffs*, (except commodities in bulk), from Belvidere, IL, and its commercial zone, to all points in the states of OH, IN, MI, KY, WV, WI, MO, TN, MS, NJ, Sharon, Pa, and New York, NY, for 180 days. Supporting shipper(s): Green Giant Company, Le

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Suerur, MN 56058. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 140024 (Sub-No. 92TA), filed March 23, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, CO 80022. Applicant's representative: John DeCock, 5565 East 52nd Avenue, Commerce City, CO 80022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods, frozen*, from the facilities of White Castle System, Inc., at or near Carteret, NJ, to the facilities of White Castle System, Inc., at or near Chicago, IL, and St. Louis, MO, for 180 days. Supporting shipper(s): White Castle System, Inc., 110 Raskulinecz Road, Carteret, NJ 07008. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, Denver, CO 80202.

No. MC 141776 (Sub-No. 23TA), filed March 23, 1978. Applicant: FOOD-TRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Applicant's representative: Pauline E. Myers, Suite 407 Walker Building, 734 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in mechanically refrigerated equipment (except in bulk), from the facilities of Ore-Ida Foods, Inc., at Greenville, MI, to points in the States of CT, DE, ME, MD, NH, NJ, NY, PA, VA, VT, WV and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 25 days of operating authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503.

No. MC 142485 (Sub-No. 3TA), filed March 20, 1978. Applicant: KENDRICK MOVING AND STORAGE, INC., P.O. Box 209, Lebanon, OH 45036. Applicant's representative: James M. Burtch, 100 East Broad Street, Columbus, OH 54215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials, and materials* used in the installation and application of such commodities (except commodities in bulk), from Franklin, OH, to points in IL, IN, KY, MI, PA, TN and WV; and (2) *materials, equipment and supplies* used in the manufacture, instalation or application of roofing or building materials (except commodities in bulk), from points in IL, IN, KY, MI, PA, TN and WV, to Franklin, OH, for 180 days. Supporting shipper(s): Georgia-Pacific Corp., Robert A. Cronk, Transportation Supervisor, 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 142672 (Sub-No. 18TA), filed March 23, 1978. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric lamps, lighting fixtures, Christmas Tree Lamp Outfits, electric cord sets, dry cell batteries and portable battery chargers;* and (2) *Materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, from Bellevue, Cleveland, Warren, Youngstown, Ravenna, Bucyrus and Circleville, OH, to points in AZ, Ca, UT, ID, Co, NM, NV, WY, MT, OR, and WA, for 180 days. Supporting shipper(s): General Electric Co., Nela Park, Cleveland, OH 44112. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 143267 (Sub-No. 12TA), filed March 2, 1978, and published in the FEDERAL REGISTER issue of March 29, 1978, and republished as corrected this issue. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Applicant's representative: Peter A. Green, 900 17th Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products*, from the facilities of Harbison-Walker Refractories, Division of Dresser Industries, Inc., at or near Hammond, IN; Fulton and Vandalia, MO; Windham and Portsmouth, OH; Templeton, PA; and Baltimore, Jennings and Leslie, MD; to points in IL, IN, IA, KY, MD, MI, NY, OH, PA, TN, VA, WV and Kenosha, Milwaukee, Racine, and Waukesha Counties, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Harbinson-Walker Refractories, Division of Dresser Industries, Inc., 2 Gateway Center, Pittsburgh, PA 15222. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199. The purpose of this republication is to correct the territorial description.

No. MC 143794 (Sub-No. 2TA) (Correction), filed December 19, 1978, and published in the FEDERAL REGISTER issue of March 3, 1978, and republished as corrected this issue. Applicant: EAST-WEST MOTOR FREIGHT, INC., 7270 Hobgood Road, Fairburn, GA 30312. Applicant's representative: Richard M. Tettelbaum, Serby & Mitchell, P.C., Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Central heating and air conditioning units, furnaces, air coolers, water evaporators, condensing units, compressors*, and (2) *parts, equipment, and supplies* used in the manufacture and installation of the commodities in (1) above, from the facilities of Heil-Quaker Corp. in Davidson County, TN, to points in CA, MT, UT, and WA, under a continuing contract or contracts with Heil-Quaker Corp., for 180 days. Supporting shipper(s): Heil-Quaker Corp, 1714 Heil-Quaker Boulevard, Lavergne, TN 37080 Send protests to: E. A. Bryant, District Supervisor, Interstate Commerce Commission, Room 300, 1252 West Peachtree St. NW., Atlanta GA 30309. The purpose of this republication is to correct the authority requested which is contract, in lieu of common authority, which was previously published in error.

No. MC 144041 (Sub-No. 6TA) (Correction), filed March 7, 1978, and published in the FEDERAL REGISTER issue of March 29, 1978, and republished as corrected this issue. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Applicant's representative: Ralph B. Matthews, 1200 Atlanta Gas Light Tower, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Footwear, department store findings, and footwear display cabinets*, from the facilities of of Meldisco Shoe Corp. at or near Morrow, GA, to points in the states of AR, LA, MO, OK, MS, and TX, for 180 days. Supporting shipper(s): Meldisco Shoe-Division of Melville Shoe Corp., Morrow Industrial Park, Morrow, GA 30260. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree St. NW., Room 300, Atlanta, GA 30309. The purpose of this republication is to correct the territorial description.

No. MC 144482 TA, filed March 23, 1978. Applicant: ANTONIO FLORES SANCHEZ, d.b.a. TRANSPORTES MEXICO-BAJA CALIFORNIA, S.A. de C.V., Hidalgo Y Salazar 150, Tecate, Baja California Norte, Republic of Mexico. Applicant's representative: William J. Monheim, 13710 E. Whittier Blvd., Suite 203, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical capacitors and materials, equipment and supplies* used in the manufacture, sale and distribution of electrical capacitors, between the port of entry between the United States and the Republic of Mexico at Nogales, AZ, and Ogallala, NE, under a continuing contract, or contracts, with TRW Capacitors, division of TRW, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): TRW Capacitors, Division of TRW, Inc., 301 West O Street, Ogallala, NE 69153. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 144485 TA, filed March 24, 1978. Applicant: WEST COAST DISTRIBUTING CO., INC., 539 N. 170th Place, Seattle, WA 98133. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Business, office, and school supply paper, including, but not limited to, pads, tablets, machine tape and drawing papers*, from Everett, WA, to Los Angeles, Compton, Riverside, Pomona, Santa Monica, Santa Barbara, Garden Grove, Costa Mesa, Pasadena, Culver City, San Francisco, Davis, Berkeley, Brisbane, Sacramento, Santa Clara, San Jose, Stockton, and San Diego, CA, under a continuing contract, or contracts, with Everett Pad & Paper Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Everett Pad & Paper Co., Inc., 2216 36th Street, Everett, WA 98201. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle WA 98174.

No. MC 144518 (Sub-No. 1TA), filed March 27, 1978. Applicant: LEE'S READY MIX & TRUCKING, INC., 130 North State, North Vernon, IN 47265. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Bldg., Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Forgings, castings, and steel*, from the plantsite of North Vernon Forge, Inc., in North Vernon, IN, to Detroit, Dearborn, and Tecumseh, MI; Sidney and Marion, OH; and Louisville, and Somerset, KY, restricted to a contract or continuing contracts, with North Vernon Forge, Inc., for 180 days. Supporting shipper(s): North Vernon Forge, Inc., Hoosier Street, North Vernon, IN 47265. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 144558 (Sub-No. 1TA), filed March 27, 1978. Applicant: EARL WILLIAMS & SON TRUCKING, INC., 3033 Losee Road, Las Vegas, NV 89030. Applicant's representative: Norman Ty Hilbrecht, Esq., 600 E. Charleston Blvd., Las Vegas, NV 89104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cinders (volcanic ash)* used in the manufacture of building blocks, in bulk, in dump trucks, from Cima, CA, to Las Vegas, NV, under a continuing contract or contracts with W. M. K. Builders Products, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): W. M. K. Builders Products, 3900 Cheyenne Rd., Las Vegas, NV 89109. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-11954 Filed 5-1-78; 8:45 am]

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[7035-01]

[Notice No. 66]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 25, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interestate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5470 (Sub-No. 143TA), filed March 28, 1978. Applicant: TAJON, INC., R.D. 5, P.O. Box 146, Mercer, PA 16137. Applicant's representative: Richard W. Sanguigni (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brass residue* for recycling only, in dump trucks, from Waterbury, CT to Kearny, NJ, for 180 days. Supporting shipper(s): Interstate Metals Separating Corp., 275 Dukes Street, Kearny, NJ 07032. Sent protests to: John J. England, District Supervisor, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 8472 (Sub-No. 4 TA), 4 filed March 22, 1978. Applicant: SOUTH END CARTAGE CORPORATION OF DELAWARE, 4222 South Knox Avenue Chicago, IL 60603; Applicant's representative: Abraham A. Diamond, 29 South LaSalle Street, Chicago, IL 60603 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, restricted to shipments in steamship and rail demountable containers, without chassis, from rail and steamship facilities in the Chicago Commercial Zone as defined by the Commission, to points in IL, IN, MI, WI, IA and MN, and empty steamship and rail demountable containers, without chassis, from point in IL, IN, MI, WI, IA and MN, to steamship and rail facilities in the Chicago Commercial Zone as defined by the Commission, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): Cast North America, Ltd., Guenther Quellmalz, General Manager, One Westmount Square, Montreal, P.Q. Canada. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604

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No. MC 51146 (Sub-No. 588 TA), filed March 28, 1978. Applicant: SCHNEIDER TRANSPORT, INC. P.O. Box 2298, 2661 South Broadway, Green Bay, WI 54306. Applicant's representative: John R. Patterson 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Authority sought operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds and fabric softeners* from Lima, OH to points in IL (except Will, Lake, Cook, Kane, DuPage, and Kendall Counties), IA, WI, MN and ND, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Proctor & and Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201, (Norman Homleid). Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 63417 (Sub-No. 148TA), filed March 29, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container accessories and materials, equipment, and supplies* used in the manufacture and distribution of glass containers and container accessories, from the facilities of Brockway Glass Co., Inc., located in Washington County, PA, and Montgomery County, AL, to the NC counties in Rockingham, Stokes, Caswell, Guilford, Alamance, Forsyth, and Vance and the VA, counties of Pittsylvania, Henry, and Halifax, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Brockway Glass Co., Inc., Brockway, PA. Send protests to: Herman R. White, Acting District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, VA 24011.

No. MC 69833 (Sub-No. 128TA), filed March 28, 1978. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, MI 49503. Applicant's representative: Harry Pohlad (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (regular routes): (1) *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Evart Products, Evart, MI as an off-route point in connection with carrier's authorized regular route authority. Irregular routes: (2) *Auto parts and related articles*, from the facilities of Evart Products, Evart, MI to American Motors Corp., Kenosha, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Evart Products Co., 601 West 7th Street, Evart, MI 49631. (2) American Motors Corp., 5626 25th Avenue, Kenosha, WI 53140. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 225 Federal Building, Lansing, MI 48933. .

No. MC 78228 (Sub-No. 78TA), filed March 30, 1978. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Applicant's representative: William A. Gray, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime* (in dump vehicles), from Huron, OH, to Detroit, MI, for 180 days. Applicant has also fied an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Federal Lime & Stone Co., 20600 Chagrin Boulevard, Room 420, Shaker Heights, OH 44122. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 82492 (Sub-No. 193TA), filed March 28, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk) from the facilities of Welch Foods, Inc., at or near Lawton, MI to points in KS, MO, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Welch Foods, Inc., 2 South Portage Street, Westfield, NY 14787. Send protests to: C. R. Fleming, District Supervisor, Interstate Commerce Commission, Room 225 Federal Building, Lansing, MI 48933.

No. MC 95540 (Sub-No. 1012TA), filed March 29, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, P.O. Box 1636, Lakeland, FL 33801. Applicant's representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery products, and foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of Standard Brands, Inc., located at or near Chicago and Franklin Park, IL, located within the Chicago, IL, commercial zone, to Morrow, GA, and Jacksonville, FL, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Standard Brands Confectionery, Division of Standard Brands, Inc., 3401 Mt. Prospect Road, Franklin Park, IL 60131. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, 8410 N.W., 53rd Terrace, Monterey Building, Room 101, Miami, FL 33166.

No. MC 105566 (Sub-No. 165TA), filed March 16, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Suite 406, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heating and air conditioning equipment and parts and accessories* used in the manufacture or installation thereof (except commodities the transportation of which because of size or weight requires the use of special equipment), from Elyria, OH, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Luxaire, Inc., Filbert Street, Elyria, OH 44035. Send protests to: Peter E. Binder, District Supervisor, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 109689 (Sub-No. 335TA), filed March 28, 1978. Applicant: W. S. HATCH CO., a Utah corporation, 643 South 800 West, Woods Cross, UT 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone*, in bulk, from Caselton, NV, to Utah Power & Light plants near Huntington and Castle Dale, UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sierra Chemical Co., 1490 East 2nd Street, Reno, NV 89502 (Stanley K. Kinder, President). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 112573 (Sub-No. 9TA), filed March 30, 1978. Applicant: RYE McILLWAIN, 127 East Main Street, Parsons, TN 38363. Applicant's representative: Rye McIllwain, 127 East Main Street, Parsons, TN 38363. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Untreated cross ties and untreated lumber*, from points in Wayne, Hardin, Decatur, Perry, Lewis, Hickman, Humphreys, Benton, Henderson, and Carroll Counties, TN, to Guthrie, KY, under a continuing contract, or contracts, with Koppers Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Koppers Co., Inc., 850 Koppers Building, Pittsburgh, PA 15219. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

No. MC 112962 (Sub-No. 11TA), filed March 29, 1978. Applicant: CRUPPER TRANSPORT CO., INC., 25 South Third, Kansas City, KS 66118. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Building, 101 West 11th Street, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building and insulating materials*, (1) from the plantsite of CertainTeed Corp., in Kansas City, MO, to points in TX; and (2) from the plantsite of CertainTeed Corp., in Dallas, TX, to Kansas City, MO, restricted to traffic originating at said origin points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): CertainTeed Corp., 1248 Crystal, Kansas City, MO. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 113908 (Sub-No. 432TA), filed March 30, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180 G.S.S., 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead, P.O. Box 3180 G.S.S., Springfield, MO 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors* (in bulk), from Silverton, OH, and the commercial zone thereof, to Peoria, IL, and the commercial zone thereof, for 180 days. Supporting shipper(s): Hiram Walker & Sons, Inc., P.O. Box 479, Peoria, IL 61601. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 114332 (Sub-No. 9TA), filed March 29, 1978. Applicant: O. C. TRANSPORTATION CO., INC., P.O. Box 8, Collingswood, NJ 08108. Applicant's representative: Robert B. Einhorn, 3220 PSFS Building, 12 South 12th Street, Philadelphia, PA 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, packaged in bags, bundles, or cartons, between the plantsite of National Sugar Refining Co., Philadelphia, PA, and the plantsite of Food Packaging, Inc., Xenia, OH, under a continuing contract, or contracts, with National Sugar Refining Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Sugar Refining Co., 1037 North Delaware Avenue, Philadelphia, PA 19125. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 114457 (Sub-No. 363TA), filed March 15, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills 2102 University Avenue St. Paul MN 55114. Authority sought to operate as a *common carrier* , by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products; dairy products; articles distibuted by meat packinghouses; and such commodities* as are used by meat packers in the conduct of their business when distined to and for use by meat packers (except hides and comodities in bulk), as described in section A, B, C, and D of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from Mason City, IA, and its Commercial Zone to CT, DE, DC, IL, IN, ME, MD, MA, MI, (lower peninsula) Kansas City and St. Joseph, MO, NH, NJ, NY, Fargo and Grand Forks, ND, PA, RI, VT, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Armour Food Co., P.O. Box 341, Mason City, IA 50401. Sent protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 114896 (Sub-No. 63TA), filed March 28, 1978. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Applicant's representative: Elizabeth L. Henoch, Assistant Secretary (same as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foreign and domestic currency*, from Baltimore, MD, to New York, NY, and all points in its Commercial Zone, under a continuing contract, or contracts with I. C. Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: I. C. Inc., Suite 305, 1107 Kenilworth Drive, Towson, MD, 21204. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 115311 (Sub.-No. 278TA), filed March 30, 1978. Applicant: J&M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: K. Edward Wolcott, Watkins & Daniell, Atlanta Gas Light Tower, Suite 1200, 235 Peachtree Street, NE., Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from the facilities of Diamond Crystal Salt Co. at St. Clair, MI, and Jefferson Island, LA, to points in NC, SC, TN, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Diamond Crystal Salt Co., 916 South Riverside Avenue, St. Clair, MI 48079. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 115311 (Sub-No. 279TA), filed March 30, 1978. Applicant: J&M TRANSPORTATION CO. INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: K. Edward Wolcott, Suite 1200, Gas Light Tower, 235 Peachtree Street, NE., Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Armco Steel Corp., at Ashland, KY, to points in AL, AR, GA, FL, LA, MS, NC, SC, TN, TX, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Armco Steel Corp., 24 North Main Street, Middletown, OH 45043. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 11564 (Sub-No. 86TA), filed March 30, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail grocery houses, from Fostoria and Cincinnati, OH, to

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points in KY and WV, restricted to traffic originating at the facilities of Fostoria Distribution Service Co., Inc., at Fostoria, OH, for 180 days. Supporting shipper: Fostorial Distribution Service Co., Inc., P.O. Box D, Jones Road, Fostoria, OH 44830. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 115826 (Sub-No. 303TA), filed March 30, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, P.O. Box 5088, Terminal Annex, Denver, CO 80217. Applicant's representative: Howard Gore, 1960 31st Street, Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in CA, to points in CO for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (12) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Herbert C. Ruoff, District Supervisor, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 115826 (Sub-No. 304TA), filed March 30, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, P.O. Box 5088, Terminal Annex, Denver, CO 80217. Applicant's representative: Howard Gore, 1960 31st Street, Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and ingredients* used in the manufacture of pet foods (except commodities in bulk), from Fillmore, UT, to Hillsboro, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nielsen Pet Foods, Star Route Box 171, Fillmore, UT 84631. Send protests to: H. C. Ruoff, District Supervisor, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 116254 (Sub-No. 201TA), filed March 29, 1978. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35630. Applicant's representative: Randy C. Luffman, P.O. Box 339, Florence, AL 35630. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar products* (in bulk, in tank vehicles), from Detroit, MI, to Pell City, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Riverside Clay Company, P.O. Box 551, Pell City, AL 35125. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 116474 (Sub-No. 38TA), filed March 29, 1978. Applicant: L. AVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, OR 97477. Applicant's representative: David C. White, 2400 S.W., Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Treated poles and piling*, from the facilities of McCormick and Baxter Creosoting Co., at Portland, OR, to points in CA, NV, and WA, under a continuing contract or contracts, with McCormick and Baxter Creosoting Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): McCormick & Baxter Creosoting Co., P.O. Box 3048, Portland, OR 97208. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W., Yamhill Street, Portland, OR.

No. MC 117815 (Sub-No. 285TA), filed March 29, 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E., 20th Street, Des Moines, IA 50317. Applicant's representative: Dewey Marsell, 405 S.E., 20th Street, Des Moines, IA 50317. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper articles, and polyethylene articles* (except commodities in bulk), from the plantsite and storage facilities of Jemco Packaging Products, Inc., at Jackson, TN, to points in IL, IN, IA, KS, MI, MN, MO, NE, OH, and WI, restricted to the transportation of traffic originating at the above named origin an destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jemco Packaging Products, Inc., Bonwood Industrial Park, Jackson, TN 38301. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 118130 (Sub-No. 86TA), filed March 28, 1978. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Ft. Worth, TX 76115. Applicant's representative: Billy R. Reid, P.O. Box 9093, Ft. Worth, TX 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Fruits, canned in containers*, from Delta, CO, to points in AZ, CA, KS, NM, OK and TX, for 180 days. Supporting shipper(s): Skyland Food Corp., P.O. Box 250, Delta, CO 81416. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

No. MC 124170 (Sub-No. 84TA), filed March 27, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and related products*, from the plantsite or storage facilities of M. & M. Mars, a Division of Mars, Inc., at or near Elizabeth, NJ, Hackettstown, NJ and Elizabethtown, PA, to points in the States of OH, IL, MI, and from Chicago, IL, to points in the States of OH and MI, in vehicles equipped with mechanical refrigeration, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M. & M. Mars, Division of Mars, Inc., High Street, Hackettstown, NJ 07840. (Daniel B. Craver Traffic Manager). Send protest to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 605 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 125777 (Sub-No. 217TA), filed March 29, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Applicant's representative: Duane O'Donnell, 4600 East 15th Avenue, Gary, IN 46403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys*, in dump vehicles, from Erie, PA, and East Liverpool, OH, to points in IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Minerals & Chemicals Corp., Inc., Sid Lapidus General Traffic Manager, 245 Park Avenue, New York, NY 10017. Send protest to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 126358 (Sub-No. 16TA), filed March 30, 1978. Applicant: BENNETT TRUCKING CO., P.O. Box 526, Hawkinsville, GA 31036. Applicant's representative: Paul M. Daniell, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree Street, Atlanta, GA 30303. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, (except plywood and veneer), and wooden pallets, from Abbeville, GA, to points in FL, AL, SC, NC, VA and TN.; and (2) *Lumber* (except plywood and

veneer), from Perry, GA, to points in AL, MS, SC, NC, FL, KY, TN, and VA, for 180 days. Supporting shipper(s): (1) Clements Hardwood Lumber Co., P.O. Box 325, Abbeville, GA 31001. (2) Tolleson Lumber Co., Inc., P.O. Drawer E. 903 Jernigan, Perry, GA 31069. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 126706 (Sub-No. 4TA), filed March 28, 1978. Applicant: KLEYSEN TRANSPORT LTD., 2100 McGillivary Boulevard, Winnipeg, Manitoba, Canada. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard, and materials and supplies* used in the installation thereof, from ports of entry on the United States-Canada boundary line in MN., and ND, to points in MN, ND, and SD. Restriction: Restricted to traffic originating at the facilities of Westroc Industries, Ltd., located at or near Winnipeg, Manitoba, Canada, and moving in foreign commerce, under a continuing contract, or contracts, with Westroc Industries, Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Westroc Industries, Ltd., 2650 Lakeshore Hwy, Mississauga, Ontario, Canada. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

No. MC 133566 (Sub-No. 107TA), filed March 28, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Applicant's representative: Charles W. Beinhauer, One World Trade Center, Suite 4959, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs* (except commodities in bulk) in vehicles, equipped with mechanical refrigeration, from the plantsite and storage facilities of La Choy Food Products, Inc., at or near Archbold, OH to points in the states of IL, IA, WI, NE, MN, MO, CO, KS and TN, for 180 days. Supporting shipper(s): La Choy Food Products, P.O. Box 220, Archbold, OH 43502. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 135121 (Sub-No. 3TA), filed March 28, 1978. Applicant: DODSWORTH, INC., P.O. Box 366, 928 West 19th Street, Erie, PA 16512. Applicant's representative: Robert E. McFarland, McFarland & Bullard, 990 West Big Beaver Road, Suite 1002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, limited to individual articles not exceeding 100 pounds in weight, moving as shipments not exceeding 500 pounds in weight, from one consignor to one consignee in a single day, on bills of lading of surface, interstate freight forwarders. Between Mahoning, Ashtabula, Trumbull and Cuyahoga Counties, OH; Erie, Crawford, Mercer, Venango, Warren, Lawrence, Butler, Beaver and Alleheny Counties, PA; and Chautauqua and Cattaraugus Counties, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Delivery Systems, Inc., 300 East Seven Mile Road, Detroit, MI. Send protests to: John J. England, District Supervisor Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 135283 (Sub-No. 35TA), filed March 28, 1978. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 South Stuhr Rd., Grand Island, NE 68801. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Internal combustion engines*, from Milwaukee, WI, to the facilities of Ag Tronic, Inc., at or near Kearney, NE. (2) *Power shafts*, from Clinton, IA, to the facilities of Ag Tronic, Inc., at or near Kearney, NE. (3) *Wheels and semi-pneumatic tires*, from Chicago Ridge, IL, to the facilities of Ag Tronic, Inc., at or near Kearney, NE. (4) *Cardboard cartons* from Butler, IN, to the facilities of Ag Tronic, Inc., at or near Kearney, NE. (5) *Gears*, from Dubuque, IA, to the facilities of Ag Tronic, Inc., at or near Kearney, NE. (6) *Generator parts*, from Chicago, IL, to the facilities of Ag Tronic, Inc., at or near Kearney, NE., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bernard L. Domandle, Purchasing Agent, Ag Tronic, Inc., R.R. 1 Airport Road, Kearney, NE 68847. Send protests to: Max H. Johnson, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 136343 (Sub-No. 130TA), filed March 28, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, R.D. No. 1, Milton, PA 17847. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NY 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the sites of International Paper Co., at or near Corinth and Ticonderoga, NY, to points in IL, IN, MI, and OH, for 180 days. Supporting shipper: International Paper Co., 220 East 42nd Street, New York, NY 10017. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

BY the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-11955 Filed 5-1-78; 8:45 am]

[7035-01]

[Notice No. 67]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

April 25, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the Completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 126844 (Sub-No. 48TA), filed March 30, 1978. Applicant: R.D.S.

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TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Applicant's representative: Terrence D. Jones, 2033 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and frozen foodstuffs*, from Archbold, OH, to points in CT, MD, MA, NJ, NY, PA and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): LaChoy Food Products, 901 Stryker Street, P.O. Box 220, Archbold, OH. 43502. Send protests to: District Supervisor, Interstate Commerce Commission, 428 State Street, Room 204, Trenton NJ 08608.

No. MC 127096 (Sub-No. 8TA), filed March 30, 1978. Applicant: HENNES TRUCKING CO., 338 South 17th Street, Milwaukee, WI 53233. Applicant's representative: Beery & Spurlock Co., LPA, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement* (in bulk), from the plantsite of Medusa Cement Co. at Wampum, PA, to points in OH, restricted to shipments moving on bills of lading issued by Columbia Cement Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Columbia Cement Corp., 3059 East Mound Street, Columbus, OH 43209 (Darrell Miller). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 128217 (Sub-No. 22TA), filed March 30, 1978. Applicant: REINHART MAYER, d.b.a. MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, ND 58401. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural, industrial, and construction machinery and equipment, and parts and subassemblies* for agricultural, industrial and construction machinery and equipment, from the facilities of clark Equipment Co., Melrose Division, located at or near Gwinner, ND, to points in ID, IL, IN, MI, MT, OH, OR, WA and WI, under a continuing contract, or contracts, with Clark Equipment Co., Melrose Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clark Equipment Co., Melrose Division, Gwinner, ND 58040. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268, Federal Building and U.S. Post Office, 657 2d Avenue North, Fargo, ND 58102.

No. MC 129032 (Sub-No. 46TA), filed March 30, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 South 40th West Avenue, Tulsa, OK 74107. Applicant's representative: David R. Worthington, 6015 South 49th West Avenue, Tulsa, OK 74107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* for human consumption, in mechanically refrigerated equipment (except commodities in bulk, in tank vehicles), from Kraft, Inc., plant facilities to Garland, TX, to points in the States of LA, MS, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 134134 (Sub-No. 26TA), filed March 29, 1978. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, NE 68107. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers, tree and weed killing compounds, insecticides and fungicides*, in bags and containers, from the facilities of Swift Agricultural Chemical Co., at or near East St. Louis, IL, to points in IA, KS, MN, NE, ND, OK and SD, restricted to traffic originating at the above-named facility and destined to the above-named destination States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mike Raymond, Regional Transportation Manager, Swift Agricultural Chemical Co., P.O. Box 338, East St. Louis, IL 62202. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 136161 (Sub-No. 11TA), filed March 29, 1978. Applicant: ORBIT TRANSPORT, INC., Box 163, Spring Valley, IL 61362. Applicant's representative: William B. Welbers, P.O. Box 163, Spring Valley, IL 61362. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mill supplies, windows, sash, doors, and materials* used in the manufacture and installation thereof, between Oglesby, IL, on the one hand, and all points in the United States in and east of the Rocky Mountains, to include MT, WY, CO, and MN, other than bulk, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Illinois Millwork Corp., John F. Ryan, Traffic Manager, 517 Walnut, Oglesby, IL 61348. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 136268 (Sub-No. 12TA), filed March 29, 1978. Applicant: WHITEHEAD SPECIALTIES, INC., 1017 Third Avenue, Monroe, WI 53566. Applicant's representative: Michael J. Wyngaard, 150 E. Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles*, from Warren, IL, to points in WI; Coffeyville, KS; Madison Heights and St. Joseph, MI; Evansville and Seymour, IN; Herndon, PA; Wayne, NJ; and Fayetteville, NC, and (2) *Plastic articles*, from Mt. Horeb, WI, to points in IL, Coffeyville, KS; St. Joseph, MI; Herndon, PA; and Fayetteville, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Janlin Plastic of Wisconsin, Inc., 1204 East Lincoln Street, Mt. Horeb, WI 53572. Send Protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 136553 (Sub-No. 58TA), filed March 30, 1978. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, IA 52001. Applicant's representative: Thomas E. Leahy, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from the facilities of the Certain Teed Corp., at Chicago Heights, IL, to points in IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Certain Teed Corp., P.O. Box 860, Valley Forge, PA 19482. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 138627 (Sub-No. 28TA), filed March 29, 1978. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Route 4, Fort Dodge, IA 50501. Applicant's representative: Arylyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wall paneling and accessories*, from Elkhart, IN, to Newton and Emporia, KS; Boonville, MO; West Bend, WI, and New Ulm, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Panel Decor, Inc., 23789 Cooper Drive, Elkhart, IN 46514. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 138882 (Sub-No. 60TA), filed March 29, 1978. Applicant: WILEY SANDERS, INC., P.O. Drawer 707, Troy, AL 36081. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (except frozen and in bulk), (1) from the plantsite of the Joan of Arc facilities at or near Hoopeston and Princeville, IL, to points in AL, AR, CT, FL, GA, LA, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, and WV, and (2) from the plantsite of the Joan of Arc facility at Mayville, WI, to points in AL, AR, CT, FL, GA, LA, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, and IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joan of Arc Co., Inc., 2231 West Altorfer Drive, Peoria, IL 61614. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 139482 (Sub-No. 48TA), filed March 30, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, County Road 29 West, New Ulm, MN 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except meat and meat products), from Cameron, Vesper, Menominee, Eau Claire and Wisconsin Rapids, WI, and their commercial zones, to points in the states of IA, NE, KS, MO, and AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sanna Division, Beatrice Foods Co., 2801 West Beltline Highway, Madison, WI 53701. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 139482 (Sub-No. 49TA), filed March 30, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, County Road No. 39 West, New Ulm, MN 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (except commodities in bulk), from New Ulm, MN, and its commercial zone to points in FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Associated Milk Producers, Inc., New Ulm, MN 56073. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 139658 (Sub-No. 24TA), filed March 30, 1978. Applicant: HARRY POOLE, INC., 2322 Kensington Road, Macon, GA 31201. Applicant's representative: William Addams, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials* (in bulk, in dump trucks), between the plantsites of Pelham Phosphate Co., at or near Pelham, GA, and Kerr-McGee Co. at or near Cottondale, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Pelham Phosphate Co., Box 468, Pelham, GA 31779. (2) Stoller Chemical Co., Inc., 8705 Katy Freeway, Suite 400, Houston, TX 77024. (3) Chemical Enterprises, Inc., 8705 Katy Freeway, Suite 307, Houston, TX 77024. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, Ga 30309.

No. MC 140756 (Sub-No. 3TA), filed March 29, 1978. Applicant: FANN McKELVEY, d.b.a. McKELVEY TRUCKING, 5240 West Missouri, Glendale, AZ 85301. Applicant's representative: Baldo J. Lutich, 1441 E. Thomas Road, Phoenix, AZ 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cartons for packing fruits and vegetables*, from Compton, CA, to points and places in Maricopa County, AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Service Container Co., 301 W. Walnut Street, Compton, CA 90220. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 140883 (Sub-No. 17TA), filed March 30, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Applicant's representative: K. Edward Wolcott, Watkins & Daniell, Suite 1200, Peachtree Center Gas Light Tower, 235 Peachtree St. NE., Atlanta, GA 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquettes and fireplace logs*, from Marion, OH, to points in the United States on and east of Hwy 85 (except AK and HI), under a continuing contract, or contracts, with Great Lakes Carbon Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great Lakes Carbon Corp., 299 Park Avenue, New York, NY 10017. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 141823 (Sub-No. 5TA), filed March 30, 1978. Applicant: GLASS CONTAINER TRANSPORT, INC., Route 1, Box 271, Ridgeway, SC 29130. Applicant's representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container accessories*, from the facilities of Kerr Glass Manufacturing Corp., located at or near Dunkirk (Jay County), IN, to points in MI, under a continuing contract, or contracts, with Kerr Glass Manufacturing Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kerr Glass Manufacturing Corp., P.O. Box 97, Sand Springs, OK. Send protests to: E. E. Strotheid, District Supervisor, Room 302, Interstate Commerce Commission, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

No. MC 141914 (Sub-No. 34TA), filed March 29, 1978. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Applicant's representative: Kathrena J. Franks, Route 1, Box 108A, Big Cabin, OK 74332. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden products*, such as ice cream sticks and spoons, coffee stirrers, cocktail forks, skewers, tongue depressors, and cervical scrapers, from Guilford, ME, to points in CA, CO, ID, IL, IA, MT, NV, NM, OK, OR, SD, UT, WA, and WY (except Los Angeles, CA, San Francisco, CA, and Seattle, WA), for 180 days. Supporting shippers(s): Hardwood

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Products Co, School Street, Guilford, ME, 04443. Send protests to: Connie Stanley Transportation Assistant, Room 240 Old Post Office & Courthouse Building, 215 N.W., 3rd, Oklahoma City, OK 73102.

No. MC 142152 (Sub-No. 3TA), filed March 27, 1978. Applicant: N.A.T. TRANSPORTATION, INC., 229 North Main Street, Bradner, OH 43406. Applicant's representative: Robert J. Gill, Abraham A. Diamond, Ltd., 29 South LaSalle Street, Chicago, IL. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment and apparatus* used in the analysis, movement and treatment of gasses, liquids and solids, and (2) *parts, materials, equipment, accessories and supplies* (except commodities in bulk), used in the manufacture, operation and installation of the commodities in (1) above, between the facilities of Application Engineering Corp. at or near Elk Grove Village, IL, on the one hand, and, on the other, all points in the United States, (except AK and HI), under a continuing contract, or contracts, with Application Engineering Corp. for 180 days. Supporting shipper(s): Application Engineering Corp., 850 Pratt Boulevard, Elk Grove Village, IL 60007. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building 234 Summit Street, Toledo, OH 43604.

No. MC 142368 (Sub-No. 11TA), filed March 30, 1978. Applicant: DANNY HERMAN TRUCKING, INC., 15252 Valley Boulevard, P.O. Box 3048, City of Industry, CA 91744. Applicants's representative: William J. Monheim, 13710 East Whittier Boulevard, P.O. Box 1756, Whittier, CA 90609. Authority sough to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Inedible pet food ingredients, frozen*, (2) *empty pallets*, (1) from Amarillo, TX, and points in its commercial zone to Vernon, CA (2) from Vernon CA, to Amarillo, TX, and points in its commercial zone, for 180 days. Supporting shippers (s): Consolidated Pet Food, Inc., P.O. box 30488, Amarillo, TX 79120. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 142606 (Sub-No. 6TA), filed March 30, 1978. Applicant: WESCO TRANSPORTATION, INC., 2222 West Garvey, Suite L, West Covina, CA 91790. Applicant's representative: William J. Monheim, 13710 East Whittier Boulevard, Suite 203, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts*, (a) from Georgetown, KY, to Vernon, CA, (b) from Delaplain, KY, to points in AZ, CA, CO, MA, MN, MO, NJ, OR, and TX, under a continuing contract, or contracts, with Hoover Universal, Spring Systems Division, for 180 days. Supporting shipper(s): Hoover Universal spring systems Division, Route 2, Tri Port Road, Georgetown, KY 40324. Send protests to: Irene Carlos Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 144221 (Sub-No. 1TA), filed March 29, 1978. Applicant: KINGSWAY FREIGHTLINES LTD., 212 24 Street NE., Calgary, AB, Canada. Applicant's representative: Jerome Anderson, 100 Transwestern Building, 404 North 31st Street, Billings, MT 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Sweetgrass, MT, and the boundary of the United States and Canada: From Sweetgrass, MT, over Interstate Hwy 15 to the boundary of the United States and Canada, and return over the same route, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wayne S. Green, Vice President-Commerce, Garrett Freightlines, Inc., P.O. Box 4048, Pocatello, ID 83201. Send protests to: Paul J. Labane District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

NO. MC 144341 (Sub-No. 1TA), filed March 30, 1978. Applicant: DONALD W. HARMON, Route 2, Orlando, OK 73073. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W., 58th Street, Oklahoma City, OK. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Perry, OK, on the one hand, and, on the other, points in Garfield, Logan, Noble and Payne Counties, OK, restricted to traffic having a prior or subsequent movement by rail, for 180 days. Supporting shipper(s): Mercury Marine, division of the Brunswick Corp., 1 Brunswick Plaza, Skokie, IL 60076. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Courthouse Building, 215 N.W., 3rd, Oklahoma City, OK 73102.

No. MC 144349 (Sub-No. 1 TA), filed March 30, 1978. Applicant: RONALD L. MILLER, d.b.a. MILLER TRUCKING CO., Route 6, Box 110, Merrill, WI 54452. Applicant's representative: Donald L. Miller Route 6, Box 110 Merrill, WI 54452. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Peoria, IL, to Hurley, Rhinelander, and Merrill, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (1) Ament & Sons, Inc., 601 S. Alexander, Merrill, WI (2) Santini Distributing Co., Inc., 505 Copper Street, Hurley, WI. (3) Jeds Distributing Co., Inc., Route 3, Rhinelander, WI. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 144484 (TA), filed March 24, 1978. Applicant: FREIGHTWAYS, INC. 512 East Second Street, Eldon, MO 65026. Applicant's representative: Darrell Webery, 412 East Second Street, Eldon, MO 65026. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by manufacturers or distributors of heat transfer, refrigeration, and air-conditioning units; and (2) *parts and attachments* for the commodities described in Part (1) above; and (3) *equipment, materials and supplies* for commodities described in Part (1) above, to and from the plantsite of Sundstrand Corp. in Camdenton, MO, on the one hand, and all points in the states of TX, OK, KS, AR, MI, IN, TN, AL, OH, NE, ND, SD, WI, IL, MS, GA, on the other hand, for 180 days. Supporting shipper(s): Sundstrand Corp., Camdenton, MO. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64105.

No. MC 144496 (TA), filed March 27, 1978. Applicant: ECKS TRUCKING, INC., 1081 Pleasant Street, Norwood, MA 02062. Applicant's representative: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beverages and beverage supplies*, between Walpole, MA, and points in NY, NJ, RI, CT, ME, NH, VT, and PA, as a contract carrier, under a continuing contract, or contracts, with Walpole Bottling Co., Walpole, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Charles V. Zarba, Inc., d.b.a. Walpole Bottling Co., 1600 Boston Providence Highway, Walpole, MA 02081. Send protests to: John B. Tomas, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

No. MC 14515 (Sub-No. 1TA), filed March 30, 1978, Applicant: CENTRAL PIGGYBACK SERVICE, INC., P.O. Box 134, Lugoff, SC 29078. Applicant's representative: Henry P. Willimon, P.O. Box 1075, Greenville, SC 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* having a prior or subsequent movement in rail piggyback service, between the railhead in Camden, SC, on the one hand, and, on the other, points in Bethune, Elgin, Lugoff, and Pontiac, SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. I. duPont De Nemours Co., Inc., 1007 Mraket Street, Wilmington, DE. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

No. MC 144527 (Sub-No. 1TA), filed March 27, 1978. Applicant: BULS EYE TRANSPORT, INC., Suite 2424, 33 North Dearborn Street, Chicago, IL 60602. Applicant's representative: Patrick H. Smyth, 19 South LaSalle Street, Suite 521, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packing-house products and commodities used by packing-houses*, as described in Appendix I of the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk, section D, and hides), from the facilities of Swift & Co. at Bradley, Chicago, IL (including its commercial zone), Rockelle and St. Charles, IL, to CT, DE, ME, MD, MA, NH, NJ, OH, PA, RI, VT, VA, WV, and DC, under a continuing contract, or contracts, with Swift & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift & Co., John H. Groth, manager, Claims and Service, 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinely Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary

[FR Doc. 78-11953 Filed 5-1-78; 8:45 am]

[7035-01]

[Ex Parte No. 297 (Sub-No. 4)]

REOPENING OF SECTION 5a APPLICATION PROCEEDINGS TO TAKE ADDITIONAL EVIDENCE

Clarification of Procedural Rules

AGENCY: Interstate Commerce Commission.

ACTION: Clarification of procedural rules.

SUMMARY: The Commission has received various requests for clarification of procedural rules governing the filings in this proceeding. This notice provides for statements of intent to participate, and the preparation of service lists by the Commission and clarifies the notice served January 6, 1978, and published in the Federal Register on January 11, 1978, at pages 1666 to 1668.

DATES: Statements of intent to participate are due 25 days before the initial statement in each review proceeding is due.

ADDRESS: Statements of intent to participate should be sent to Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Deputy Director Janice Rosenak or Assistant Deputy Harvey Gobetz, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7693.

SUPPLEMENTARY INFORMATION: Comment from various parties has revealed a need to clarify the rules of procedure governing proceedings instituted by Notice published in the Federal Register on January 11, 1978 at pages 1666 to 1668 as corrected by Notice published in the Federal Register on January 31, 1978 at page 4154. The clarifications are as follows:

1. *Consolidation of proceedings.* In its Notice published in the Federal Register on January 11, 1978, the Commission required that all approved and pending agreements, under section 5a of the Interstate Commerce Act be reopened for the purpose of taking evidence to determine whether those agreements still qualify for Commission approval. In view of this proceeding, all new and amendatory agreements currently being considered for approval by the Commission will be consolidated for decision with the appropriate Ex Parte No. 297 (Sub-No. 4) proceeding.

2. *Statements of intent to participate.* All carrier parties to agreements, or their representative, intending to submit an initial statement shall indicate their intent to the Commission no later than 25 days prior to the date the initial statement is due. Due dates are set forth in the notice published in the Federal Register on January 11, 1978 at p. 1668. All other parties intending to participate in a review proceeding shall also indicate to the Commission their intent to participate no later than 25 days before the initial statement in that proceeding is due. The Commission will prepare a service list for each proceeding and distribute the list in time to enable parties filing initial statements to serve the other parties. Parties intending to participate in more than one proceeding may indicate their intent in a single statement. Statements of intent to participate, in an original and one copy, should be sent to the address provided above.

This document was approved April 24, 1978.

By the Commission, Chairman O'Neal.

Reopening of Section 5a Application Proceedings To Take Additional Evidence

For the reasons set forth in the attached notice,

It is ordered. That the rules of procedure and other instructions set forth in the attached Notice, as well as the Interstate Commerce Commission Rules of Procedures not displaced in the attached notice, govern the review proceedings instituted by Order entered December 30, 1977, in this proceeding.

Decided April 24, 1978.

By the Commission, Chairman O'Neal.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-11971 Filed 5-1-78; 8:45 am]

[7035-01]

Office of Hearings

[Notice No. 649]

ASSIGNMENT OF HEARINGS

April 27, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

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No. MC 44914 (Sub-No. 3), Willamette Valley Transfer Co., now assigned May 1, 1978, at Salem, Oreg., is postponed indefinitely. MC 28536 Sub 16, Fox & Ginn, Inc., is now assigned for prehearing conference May 8, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 144004, John Treff, Jr., d.b.a. Treff Trucking, now being assigned May 22, 1978 (2 days), at Kansas City, Mo., in Room No. 609, Federal Office Building, 911 Walnut Street.

MC 142268 Sub 28, Gorski Bulk Transport, Inc., is assigned for continued hearing on August 9, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 141776 Sub 12, Foodtrain, Inc., now assigned May 4, 1978, at Philadelphia, Pa., is canceled; application dismissed.

MC-F-13106, Branch Motor Express Co.—Control—Great Lakes Express Co.; MC-F-13096, Herriott Trucking Co., Inc.—Purchase (Portion)—Great Lakes Express Co.; MC-F-13233, Arkansas Best Freight—Purchase (Portion)—Great Lakes Express Co.; MC-F-13116, Gra-Bell Truck Line, Inc.—Purchase (Portion)—Great Lakes Express Co.; MC-F-13100, the Cleveland Columbus & Cincinnati Highway, Inc.—Purchase (Portion)—Great Lakes Express Co.; MC-3419 Sub 11, the Cleveland, Columbus & Cincinnati Highway, Inc.; MC-F-13101, Red Star Express Lines of Auburn, Inc., d.b.a. Red Star Express Lines—Purchase (Portion)—Great Lakes Express Co.; MC-F-13102, Malers Motor Freight Co.—Purchase (Portion)—Great Lakes Express Co.; and MC-F-13103, United Trucking Service, Inc.—Purchase (Portion)—Great Lakes Express Co., now assigned June 13, 1978 at Washington, D.C., is postponed to July 11, 1978 at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 136371 Sub 24, Concord Trucking Co., Inc., is now assigned for hearing June 5, 1978 (1 day) at New York, N.Y., at a location to be later designated.

No. MC 115841 (Sub-No. 599), Colonial Refrigerates Transportation, Inc., now being assigned May 11, 1978 (2 days), at Omaha, Nebr., in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 33641 Sub 96M1, IML Freight, Inc., is now assigned for hearing July 11, 1978 (4 days) at San Francisco, Calif., at a location to be later designated.

MC 58522 Sub 11, River Trails Transit Lines, Inc., is now assigned for hearing July 17, 1978 (1 week) at Davenport, Iowa, at a location to be later designated.

MC 113855 Sub 396, International Transport, Inc., is now assigned for hearing July 24, 1978 (2 days) at Chicago, Ill., at a location to be later designated.

MC 142069 Sub 1, Camionetas Modernas, is now assigned for hearing July 26, 1978 (3 days) at Chicago, Ill., at a location to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-11956 Filed 5-1-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6325-01]

1

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 1:30 p.m., Wednesday, May 10, 1978.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The National Association of Air Traffic Specialists has requested a meeting with the Commissioners for further discussion of the reclassification of the GS-2152 series Air Traffic Control Specialist/Station positions. The Commissioners have scheduled the requested meeting as shown above.

CONTACT PERSON FOR MORE INFORMATION:

Georgia Metropulos, Office of the Executive Assistant to the Commissioners, telephone 202-632-5556.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[S-904-78 Filed 4-28-78; 10:50 pm]

[6714-01]

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF CHANGE IN SUBJECT MATTER OF AGENCY MEETING

At the commencement of its open meeting held at 11:30 a.m. on April 25, 1978, the Corporation's Board of Directors determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the following changes in the subject matter of the meeting and that no earlier notice of the changes was practicable:

Addition of a request by Jamaica Savings Bank, New York (Jamaica), N.Y., for a hearing in connection with the Corporation's interpretation of its regulations regarding the advertising and compounding of interest on deposits in a leap year.

Deletion of a resolution proposing a reorganization of the Office of Corporate Planning.

Dated: April 25, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-906-78 Filed 4-28-78; 10:50 am]

[6714-01]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF CHANGE IN SUBJECT MATTER OF AGENCY MEETING

At the commencement of its closed meeting held at 11 a.m. on April 25, 1978, the Corporation's Board of Directors determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), with Director William M. Isaac concurring with the motion, that Corporation business required the following changes in the subject matter of the meeting and that no earlier notice of the changes was practicable:

Addition of an application of Commerce Bank of New Jersey, Evesham Township (P.O. Marlton), N.J., for consent to establish a branch on Stokes Road at Skeet Road, Medford, N.J.

Addition of a request of an insured bank for financial assistance from the Corporation pursuant to section 13(c) of the Federal Deposit Insurance Act.

Addition of a request by Bank Leumi Trust Co. of New York, New York, N.Y., for modification of certain provisions of the capital note purchased by the Corporation in conjunction with the bank's purchase of certain assets and assumption of the deposit liabilities of American Bank & Trust Co., New York, N.Y.

Addition of a recommendation (Case No. 43,495-L) regarding the liquidation of assets acquired by the Corporation from Banco Credito y Ahorro Ponceno, Ponce, P.R.

Addition of a resolution creating an Office of Congressional Relations and establishing the office's organization and Manning Table.

Deletion of a recommendation (Legal Division memorandum dated April 14, 1978) regading the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, N.Y.

The Board further determined by the same unanimous vote, on the basis of certifications furnished by the Corporation's General Counsel, that the matters added to the agenda were eligible for consideration in a meeting closed to the public observation, pursuant to subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act," since the public interest did not require consideration of the matters in a meeting open to public observation.

Dated: April 25, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-907-78 Filed 4-28-78; 10:50 am]

[6714-01]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:00 a.m. on Friday, May 5, 1978, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (6), (8), (9)(A)(ii), (9)(B), and (10) of title 5, United States Code, to consider the following matters:

Applications for consent to establish branches:

Unity Bank & Trust Co., Boston (Roxbury), Mass., for consent to establish branches at 592 Washington Street, Boston (Dorchester), Mass., and at 1630 Blue Hill Avenue, Boston (Mattapam), Mass.

Application for consent to change a main office location:

Unity Bank & Trust Co., Boston (Roxbury), Mass., for consent to change the location of its main office from 416 Warren Street to 2343 Washington Street, both locations within Boston (Roxbury), Mass.

Application for consent to reduce outstanding capital stock:

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Home Bank & Trust Co., Meriden, Conn.

Application for reversal of Division of Bank Supervision finding that 1978 financial reports subject to Part 335 of the Corporation's rules and regulations were improperly prepared:

Industrial Valley Bank & Trust Co., Jenkintown, Pa.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involing dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Application for consent to merge and establish branches:

Flagship Bank of Sanford, Sanford, Fla., an insured State nonmember bank, for consent to merge under its charter, and with the title of "Flagship Bank of Seminole," with Flagship U.S. Bank of Seminole, Sanford, Fla., also an insured State nonmember bank, and for consent to establish the two offices of Flagship U.S. Bank of Seminole as branches of the resultant bank.

Applications for consent to purchase or acquire assets, assume liabilities, and establish branches:

The Town & Country Bank, Raritan Township (P.O. Flemington), N.J., an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Phillipsburg and Pohatcong branches of New Jersey Bank (National Association), Clifton, N.J., and for consent to establish those two branches as branches of the Town & Country Bank.

The Commercial Savings Bank, Upper Sandushky, Ohio, an insured State nonmember bank, for consent to acquire the assets of and assume liability to pay deposits made in the Harpster Bank, Harpster, Ohio, also an insured State nonmember bank, and for consent to establish the sole office of the Harpster Bank as a branch of the Commercial Savings Bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,468-L—South Texan Bank, Houston, Tex.

Case No. 43,486-SR—Sharpstown State Bank, Houston, Tex.

Case No. 43,487-L—First State Bank of Northern California, San Leandro, Calif.

Case No. 43,488-NR—San Francisco National Bank, San Francisco, Calif.

Case No. 43,490-L—American City Bank & Trust Co., National Association, Milwaukee, Wis.

Case No. 43,491-L—Northeast Bank of Houston, Houston, Tex.

Case No. 43,493-SR—Sharpstown State Bank, Houston, Tex.

Case No. 43,498-L—American Bank & Trust, Orangeburg, S.C.

Memorandum re Franklin National Bank, New York, N.Y.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Request for authorization to examine a branch of a national bank in connection with the application of a proposed new bank for Federal deposit insurance and for consent to purchase the assets and assume liabilities of the branch:

Names and locations of banks authorized to be exempt from disclosure pursuant to subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act (5 U.S.C. (c)(8) and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, seperations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in Room 6135 of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

Dated: April 28, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-911-78 Filed 4-28-78; 3:20 pm]

[6714-01]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 11:30 a.m., Friday, May 5, 1978, to consider the following matters:

Disposition of minutes of previous meetings.

Recommendation regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,485-L—First Citizens Bank & Trust Co. of Utica, Utica, N.Y.

Recmmendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Morgan, Lewis & Bocklus, Philadelphia, Pa., in connection with the liquidation of Centennial Bank, Philadelphia, Pa.

Recommendation with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the final adoption of amendments to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," so as to permit preauthorized, automatic transfers from savings to other deposit accounts.

Memorandum proposing the payment of a second dividend of 15 percent in connection with the receivership of Coronado National Bank, Denver, Colo.

Memorandum proposing the adoption of a Corporation Merit Promotion Plan.

Memorandum proposing the adoption of a Corporation Training Policy.

Memorandum and resolutions proposing the delegation to the Administrative Counsel of the responsibility for processing grievances and discrimination complaints filed by employees of the Office of Employee Relations.

Memorandum proposing the appointment of an agent for service of process in the State of Indiana.

Memorandums proposing the amendment of leases in order to expand the Kansas City and Omaha Regional Offices.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Chief, Division of Liquidation, detailing all disbursements in excess of $10,000 and all sales of real estate properties in connection with the liquidation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn., during the period February 16, 1978 through April 16, 1978.

Reports of security transactions authorized by the Chairman.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation at 202-389-4446.

Dated: April 28, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-912-78 Filed 4-28-78; 3:21 pm]

[6740-02]

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: To be published, May 1, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 3, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

RP-4.—RP75-30, United Gas Pipe Line Co.

RP-5.—RP73-3 (PGA76-2), RP73-69 and RP72-99 (EPGA76-3), Transcontinental Gas Pipe Line Corp.

CI-5.—RI78-4, Superior Oil Co.

CP-5A.—CP75-362, El Paso Natural Gas Co.

CP-5B.—CP77-140, Delhi Gas Pipeline Corp., CP77-307, Northern Natural Gas Co., CP77-328, Natural Gas Pipeline Co. of America.

CP-6A.—CP78-171, Southern Natural Gas Co., Texas Gas Transmission Corp. and United Gas Pipe Line Co.

CP-6B.—CP77-612, Texas Gas Transmission Corp.

M-4.—Contract Provisions under section 154.93.

M-5.—Inflated rate increase filings.

ER-5.—ES78-42, Pacific Power & Light Co.

P-5.—Project No. 199, South Carolina Public Service Authority.

KENNETH F. PLUMB,
Secretary.

[S-910-78 Filed 4-28-78; 2:27 pm]

[3510-13]

7

UNITED STATES METRIC BOARD.

APRIL 28, 1978.

TIME AND DATE: 10 a.m., Wednesday, May 10, 1978.

PLACE: Room 6802, Commerce Building, 14th Street and Constitution Avenue, Washington, D.C. 20230.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO CONSIDERED:

Portions open to the public:
(1) Budget review.
(2) Program review.

Portions closed to the public:
(1) Personnel matters.

CONTACT PERSON FOR MORE INFORMATION:

Alban Landry, 301-921-3815.

LOUIS POLK,
Chairman,
United States Metric Board.

[S-909-78 Filed 4-28-78; 2:27 pm]

[7590-01]

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, May 4, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

9:30 A.M.

1. Discussion of petition for rulemaking regarding pat-down physical searches (approximately 1 hour—public meeting).
2. Discussion of reconsideration of Board notification procedure (approximately 1 hour—public meeting).
3. Affirmation items (approximately 5 minutes—public meeting):
   a. Subsidiary arrangements to the US/IAEA safeguards agreement.
   b. Action plan for modifying the ECCS rule in 10 CFR § 50.46 and Appendix K.

1:30 P.M.

1. Discussion of Nuclear Nonproliferation Act including changes to Part 110 (approximately 1 hour—public meeting).

NOTE.—May be affirmed without discussion.

2. Joint NRC/ACRS MEETING (approximately 1 hour)—open and closed:
   a. Review of operations at "Stretch" Power.
   b. ACRS comments concerning the establishment of a statutorily independent, quasi-judicial board for evaluation of reactor accidents.
   c. Planned meetings with FRG Reactor Safety Committee and French Groupe Permanent.
   d. Proposed use of "Class 9" Accidents in Site Comparisons (78-137).
   e. ACRS fellowship program.
   f. Recent papers by Dr. Ernest Sternglass concerning the effects of normal releases of radioactive materials on the health of the general public living in the vicinity of nuclear power plants.

NOTE:—The Committee will not report on the above item but will be prepared to answer questions, if any. (above items will be open.)

g. New members (closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

[S-905-78- Filed 4-28-78; 10:50 am]

[7910-01]

9

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, May 9, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 10 are open to public observation. Matters 11 and 12 are closed to public observation. Matters 13 and 14 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held May 2, 1978, and other Board meetings, if any.
2. Report of the Chairman concerning:
   a. Budget.
   b. Case Processing.
   c. Personal Actions.
   d. Organization Progress of the Staff.
   e. Rulemaking and Regulations.
3. Partial mandatory exemption of new durable productive equipment:
   Eastman Kodak Co., fiscal years ended December 29, 1968, and December 28, 1969.
4. Partial mandatory exemption of new durable productive equipment:
   Kearney & Trecker Corp., fiscal year ended September 30, 1967.
5. Recommended clearances without assignment (list 1902):
   A. Triangle Refineries, Inc., fiscal year ended December 31, 1974.
   B. Kerr McGee Chemical Corp., fiscal year ended December 31, 1974.
   C. Kerr McGee Nuclear Corp., fiscal year ended December 31, 1974.
   D. Southwestern Refining Corp., fiscal year ended December 31, 1974.
   E. Cato Oil and Grease Co., fiscal year ended December 31, 1974.
6. Recommended clearances without assignment (list 1903):
   A. Williams Research Corp., fiscal year ended December 31, 1975.
   B. Swedlow, Inc., fiscal year ended March 28, 1976.
   C. Alcan Aluminum Corp., fiscal year ended December 31, 1975.
   D. Esterline Corp., fiscal years ended October 31, 1974 and 1975.
7. Claim for partial mandatory exemption of new durable productive equipment:
   Buffalo Forge Co., fiscal year ended November 30, 1975.
8. Recommended clearances without assignment (list 1904):
   A.CapTech Inc., fiscal year ended December 31, 1975.
   B. Intermetrics, Inc., fiscal year ended February 29, 1976.
   C. Ainslie Corp., fiscal years ended July 31, 1975 and 1976.
   D. Hydronautics, Inc., fiscal year ended June 30, 1976.
   E. Carleton Controls Corp., fiscal year ended September 30, 1975.
   F. Dyna-Empire, Inc., fiscal year ended July 31, 1976.
   G. A. C. Ball Co., fiscal year ended August 31, 1976.
   H. Thames Valley Steel Inc., fiscal year ended May 31, 1975.
   I. Auto Specialties Manufacturing Co., fiscal year ended August 1, 1976.
9. Assignment to division:
   Kaiser Aerospace & Electronics Corp., fiscal year ended December 31, 1972.
10. Recommended clearance:
   A. Kaiser Steel Corp., fiscal years ended December 31, 1970, 1971, and 1972.
   B. Myers Drum Co., fiscal year ended December 31, 1972.
   C. Kaiser Industries Corp., fiscal year ended December 31, 1972.
   D. Kaiser Engineers, Inc., fiscal year ended December 31, 1972.
   E. Henry J. Kaiser Co., fiscal year ended December 31, 1972.
11. Organization and operations of the regional boards.
12. Personnel matter.
13. Approval of agenda for meeting to be held May 23, 1978.
14. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M

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Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: April 26, 1978.

GOODWIN CHASE,
Chairman.

[S-908-78 Filed 4-28-78; 2:27 pm]

[8010-01]

10

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 16883, April 20, 1978.

STATUS: Open meeting; closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, April 27, 1978, 10 a.m.

RESCHEDULED TIME: Thursday, April 27, 1978, 9 a.m.

CHANGES IN THE MEETING: The following additional items will be considered by the Commission at the open meeting scheduled for Thursday, April 27, 1978, at 9 a.m.:

1. Consideration of rules and interpretations relating to transactions by members of national securities exchanges under Section 11(a) of the Securities Exchange Act of 1934. (Section 11(a) prohibits a member from effecting a transaction for its own account.)
2. Consideration of proposed rule changes filed by the New York Stock Exchange, Inc., and the American Stock Exchange, Inc., concerning floor trading.
3. Proposed transmittal of comments to the House Committee on Government Operations regarding H.R 10749, the Federal Acquisition Act of 1977.
4. Proposed transmittal of comments to the Senate Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs regarding S. 1815, the Small Business Venture Capital Act of 1977.

The following item will not be considered by the Commission at the open meeting scheduled for Thursday, April 27, 1978, at 9 a.m.;

Proposed submission of the Commission's Annual Report to Congress for the fiscal year ended September 30, 1977, and transition quarter to the Government Printing Office for publication.

The following additional items will be considered by the Commission at the closed meeting scheduled for Thursday, April 27, 1978, immediately following the open meeting:

Formal orders of investigation.
Referral of investigatory files to Federal, State or Self-Regulatory authorities.
Regulatory matters bearing enforcement implications.
Consideration of amicus participation.
Other litigation matters.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)A and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, and Karmel determined the Commission business required the above changes and that no earlier notice thereof was possible.

APRIL 26, 1978.

[S-902-78 Filed 4-28-78; 9:46 am]

[8010-01]

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be printed May 1, 1978.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

TIME AND DATE PREVIOUSLY ANNOUNCED: Thursday, April 27, 1978, 9 a.m.

The following additional item was considered by the Commission at the open meeting scheduled for Thursday, April 27, 1978, at 9 a.m., which was delayed, in part, until 10:10 a.m.:

Proposed delay in effective date of Rule 11Acl-1 under the Securities Exchange Act of 1934. The rule governs dissemination of quotation information as to which last sale information is reported.

Chairmam Williams, Commissioners Loomis, Evans, and Karmel determined that Commission business required consideration of this item and that no earlier notice thereof was possible.

APRIL 27, 1978.

[S-903-78 Filed 4-28-78; 9:46 am]

federal register

TUESDAY, MAY 2, 1978
PART II



DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

FOOD STAMP ACT OF 1977

V 4 3 — 1 8 5

[3410-30]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Parts 271, 272, 273, 274, 278, 279, 282]

[Amdt. No. 132]

FOOD STAMP ACT OF 1977

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking discusses major aspects of the Food Stamp Act of 1977, including the issuance of allotments at no cost, eligibility criteria, certification and issuance procedures, research and demonstration authority, fraud disqualification requirements, and retailer/wholesaler participation. The changes are intended to tighten eligibility criteria, to facilitate participation by eligible households, to strengthen program administration, and to reduce program fraud and abuse.

DATES: Comments should be received on or before June 16, 1978.

ADDRESS: Comments should be submitted to: Nancy Snyder, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Alberta Frost, Food Stamp Regulation Task Force, Food and Nutrition Service, Washington, D.C. 20250, 202-447-6993.

SUPPLEMENTARY INFORMATION:

INTRODUCTION

The Food Stamp Act of 1977 (the Act) is the most comprehensive and detailed statutory revision of the Food Stamp Program (FSP) since its inception. That Act, as reported by the House Committee on Agriculture, "* * * represents the culmination of two and one-half years works by the Committee," and is a "* * * tightly inter-related package of provisions that accomplishes several major objectives." These objectives include simplifying and tightening program administration, facilitating access to the program for eligible and potentially eligible households, eliminating households with high gross incomes, and reducing the potential for errors and program fraud or abuse.

In preparing this regulatory proposal, the Department actively sought the advice and assistance of other Federal agencies, State public assistance departments, State and local food stamp agencies, food advocacy groups, public interest organizations, and the general public. The Department was especially interested in soliciting the views of persons likely to be substantially affected by these massive program changes. Some of the procedures employed to encourage public participation in this unique and extensive program revision are taken from the official recommendations of the Administrative Conference of the United States (Administrative Conference). This organization, which is authorized under Federal law (5 U.S.C. 571-576),[1] as a "* * * permanent independent agency, * * *" is composed of Federal "* * * agency heads, other Federal officials, private lawyers, university professors, and other experts in administrative law and government * * *." 1 CFR 301.2[2] In this regard,[3] the Department sponsored 17 public hearings in October 1977.[4] The hearings were publicized through the media, the display of posters and FEDERAL REGISTER notice.[5] (42 FR 44251, Sept. 2, 1977).[6] Numerous invitations were sent to individuals and organizations from mailing lists prepared by the Department's national and regional offices.[7] 862 individuals testified at these public hearings. To insure the adequate representation of the poor at these hearings, the Department paid the personal expenses of certain persons to enable them to testify.[8] Person unable to present comments at the hearings were invited to submit written suggestions. A total of 7,191 transcript pages were generated and 316 letters were received pursuant to Departmental efforts to encourage public participation.

The Department also met with various organizations with technical expertise, experience or knowledge concerning more specific aspects of the program such as the National District Attorneys' Association, the American Public Welfare Association, the Southern California Grocery Association, the Food Research and Action Center,[9] retail food chain representatives and various Federal agencies and Departments. Additionally, copies of a working draft[10] of proposed regulations were issued to participants at the Third Annual Food Stamp Conference (Jan. 29-Feb. 1, 1978). Participants included Food and Nutrition Service Regional Administrators and staff, representatives of various State and county agencies, public interest law and nutritional advocacy organizations, and staff from the FNS headquarters in Washington, D.C.

[1] This reference is to Title 5 of the United States Code (U.S.C.), sections 571 to 576. The U.S.C. should be available in all law libraries and most public libraries.

[2] This reference is to Title 1 of the Code of Federal Regulations (CFR), section 301.2. The CFR should be available in law libraries.

[3] Recommendation 68-5 of that Administrative Conference provides:

1. Federal agencies should engage more extensively inaffirmative, self-initiated efforts to ascertain directly from the poor their views with respect to rulemaking that may effect them substantially.

(a) Agencies should seek to inform the poor of all rulemaking proposals that may affect them substantially and should provide opportunities for the poor to submit their views concerning these and related proposals.

(b) Agencies should hold formal public hearings or informal conferences in close geographic proximity to the poor substantially affected by contemplated rulemaking.

(c) Agencies should take care to invite individuals constituting a representative cross-section of the poor to submit their views orally or in writing as to proposed rules substantially affecting the poor.

(d) Agencies should conduct field surveys among the poor to discover their attitudes concerning particular government policymaking substantially affecting them.

(e) Agencies should use advisory committees made up of representatives of the poor as continuing consultants for all programs having a substantial effect on such persons.

(f) When necessary to assure adequate representation for the poor, agencies should pay the personal expenses and wage losses incurred by individuals incident to their participation in rulemaking hearings * * * 1 CFR 305.68-5 (Jan. 1, 1977).

[4] See Administrative Conference Recommendation 68-5(A)(2)(b). Moreover, the Administrative Conference recommends two cycles of notice and comment rulemaking where complex issues are involved. 1 CFR 305.76-2. The Department modified this Recommendation by holding public hearings and reviewing the extensive public input in preparing this proposal for further public scrutiny.

[5] The Administrative Conference has recommended that: Each agency should utilize such methods as may be feasible, in addition to the FEDERAL REGISTER's official public notice, to inform the public and citizen groups about proceedings . . . where their participation is appropriate. Among the techniques which should be considered are factual press releases written in lay language, public service announcements on radio and television, direct mailings, and advertisements where the affected public is located, and express invitations to groups which are likely to be interested in and able to represent otherwise unrepresented interests and views. 1 CFR 305.71-6. (Jan. 1, 1977).

[6] 42 F.R. 44251 refers to Volume 42 of the FEDERAL REGISTER, page 44251. The FEDERAL REGISTER should be available in many law libraries.

[7] See Administrative Conference Recommendation 71-6(E) and 68-5(A)(2)(c).

[8] See Administrative Conference Recommendation 68-5(a)(2)(f).

[9] The Food Research and Action Center is a legal advocacy group representing program participants in litigation against the Department.

[10] Copies of that working draft have been made available upon request. 43 F.R. 10568 (March 13, 1978).

The public hearing transcripts[11] and suggestions from State and local agencies, public interest organizations, advocacy groups, and other Federal Departments, were carefully considered in drafting these proposals.

The legislative history was closely examined to determine the purpose and intent of statutory provisions.[12] *Nonetheless, the written comment period which follows this notice represents the critical opportunity to affect final regulatory policies. The Department, therefore, encourages careful public scrutiny of this proposal and welcomes detailed written criticism and comment.*

While the current regulations are approximately thirty pages in length, those current regulations are interpreted by a "Food Stamp Certification Handbook" (FNS Instruction 732-1), which is one hundred forty-five pages in length, in addition to hundreds of pages of other written instructions. To insure that the public has an opportunity to comment on all significant aspects of these massive statutory changes, the Department has decided to publish a detailed, explicit and extensive proposal. It is hoped that intensive public scrutiny, even of rules which merely interpret and explain statutory provisions, will assist the Department in drafting final regulations. Provisions of the proposed regulations which are unlikely to significantly affect the public may not have been analyzed in the preamble. However, comments on all aspects of the proposed rules will be considered.

ELIMINATION OF THE PURCHASE REQUIREMENT

The Act of 1977 will result in the issuance of food stamp benefits to eligible households at no charge. While no provision or section of the Act of 1977 specifically eliminates the charge for coupons required by the Act of 1964, the regulatory implementation of certain provisions of the Act of 1977 will result in the issuance of coupons at no cost. This should result in program simplification, reduced administrative costs, increased access to the program and the elimination of the potential for fraud in the handling of cash.

The Department wishes to make clear that, under the Act, most households will receive a smaller allotment than would have been provided under the Act of 1964. Under the Act of 1964 households received the full value of the "Thrifty Food Plan"[13] upon payment of the purchase requirement. Under the new Act, households will receive coupons equal in value to the Thrifty Food Plan reduced by 30 percent of net income as defined under the new Act. Only the poorest households will receive allotments equivalent to the full cost of Thrifty Food Plan. All other households will have to spend cash, in addition to the stamps, to purchase the equivalent of the Thrifty Food Plan.

IMPLEMENTATION

The Act contains no specific implementation schedule. It does, however, direct the Secretary to implement the Act "* * * as expeditiously as possible consistent with the efficient and effective administration of the food stamp program." Many of the proposed changes are closely interrelated and should be concurrently implemented to achieve a smooth and orderly transition to the new program. To expedite the implementation of significant statutory revisions which directly affect households, the Department has divided the implementation of the Act into at least two major notice and comment rulemaking packages. This first package contains the major legislative changes affecting eligibility and benefit levels, as well as related certification, issuance and hearing procedures necessary for a coherent implementation of these new provisions.

Implementation of the first package requires careful timing. It will take place in two distinct phases. The first phase occurs after publication of final regulations. During this phase, States must prepare, print and distribute the necessary instructions and forms, train staff on the new procedures, reprogram data-processing equipment, and inform the public of the new program regulations.

The second phase involves converting the current caseload to the new program, as well as certifying all applicants under the new procedures. As households come due for recertification, they will be converted according to the new regulations. All households which would not normally have been recertified during phase two shall be converted through State agency reviews of each case file (desk reviews).

In general, States agencies would be allowed between 3 and 4 months from the publication date of final regulations for phase one implementation and an additional 120 days to complete phase two conversion. While the Department would have preferred to simultaneously convert the entire caseload in one month, that is not feasible. Under normal circumstances, local food stamp offices handle less than one-third of the caseload in any given month. It would be impossible to triple that workload, especially while using new income computation, issuance and certification procedures. Moreover, an increased influx of applicants, complaints and inquiries is anticipated during that initial conversion period.

Based on an examination of prior rulemakings, as the House Report pointed out, the House Committee "somewhat optimistic[ally]" discussed a 90-day conversion period. The Department believes that 120 days is more realistic considering the extent of this program revision.[14] However, the Department believes that staggered implementation of the free coupon issuance provisions would be administratively impossible. State agencies have indicated that computer and data systems limitations mandate a single free coupon conversion date. Moreover, a gradual phase out of the purchase requirement will prolong and complicate cash accountability for FNS and coupon issuers. A gradual phase out may discourage current coupon issuers from continuing to provide service to participants. Issuance of free coupons to some households, and not others, will induce confusion, information requests and program dissatisfaction. Numerous households are likely to demand free issuances while others will forward unneeded money orders or checks. Many households could fail to send in needed purchase requirements, thus delaying the receipt of coupons. To avoid these and other problems, and for the effective and efficient conversion to a new program, the Department will authorize free coupon issuances for all households simultaneously with the completion of phase one implementation. As a result, some currently participating households will temporarily receive the old bonus amount until the desk review or recertification is done. Thus, until converted to the new program, currently participating households will continue to receive the level of benefits (only

[11] These transcripts are available for public inspection and copying during regular business hours at 500 12th St., S.W., Room 698, Washington, D.C.

[12] The legislative history includes, among other documents, the extensive and through report of the House Committee on Agriculture (H. Rept. 95-464; June 24, 1977); the report of the Senate Committee on Agriculture, Nutrition and Forestry (S. Rept. 95-180; May 16, 1977); and the Conference Committee Report (H. Rept. 95-599; Sept. 12, 1977).

[13] The Thrifty Food Plan is the diet required to feed a family of four persons. The Department has adjusted this diet for different household sizes.

[14] A gradual food stamp program conversion affecting levels of program benefits was recently upheld. The Federal district court note: "The defendants [USDA] decided to implement the utility standard on a case-by-case basis, as recipients were certified or recertified, because this was * * * administratively convenient * * * A mass review of all [State] recipients would have involved substantially more work and time, delaying the date when the utility standard could be made available to *any* recipient." The court found that this gradual conversion was "eminently rational," did not violate the equal protection clause, and was consistent with due process. *Newberry v. Bergland*, USDC, S.D. Ga, Civ. No. 277-67 (Mar. 3, 1978).

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the bonus amount) authorized by the Act of 1964, as amended. Currently participating households, which are converted, all recertified households and *all new applicants* will receive the level of benefits authorized by the Act of 1977. The Department recognizes that *currently participating households*, not yet converted, could temporarily receive benefits less than or greater than those benefits which would have been provided a similar household under the Act of 1977. Nonetheless, no household would receive a level of benefits not authorized by either Act of 1964 or 1977. No new applicant could receive the bonus allotment under the Act of 1964, as amended. Providing bonus amounts, under the Act of 1964, to new applicants without charging a purchase requirement would expand the food stamp program in a manner not contemplated by either Act. The Department believes that this gradual conversion is a legitimate response to the inability to convert every household in the same month.[15] The Department proposes the following specific implementation procedures.

Phase 1. Not later than the first of the month beginning no less than 3 nor more than 4 months after publication of final regulations, State agencies must implement the new eligibility criteria, application processing procedures and timeliness standards (including expedited certification), reporting requirements, recertification procedures, notice and fair hearing requirements for all new applicants and households undergoing recertification. The joint recertification procedures, for households receiving public assistance and general assistance, the fraud disqualification procedures and all other recertification and issuance related procedures, except as noted below, must also be in effect at this time. All forms and notices, including the standard application form, must also be in use by the above date.

Phase 2 It is proposed that all currently certified households be converted to the new program within 120 days after the start of phase 2. implementation. Households coming due for recertification during this time will be converted to the new program at the recertification review. Remaining households must be converted by a desk review during phase two. The new income definition, deductions, and allotment calculations must be completed for all households which are desk reviewed. Formerly exempt household members who must register for work under the new regulations shall be advised of the need to register and be provided a reasonable opportunity to comply. To the extent that the case file and other information available to the State so permits, other eligibility factors (such as resources, tax dependency, and alien status) shall be considered during the desk review. Otherwise, nonincome changes shall be deferred until the household is recertified. In no event will a household's certification period be extended at the desk review. Subsequent recertification action for these households must be in accord with all provisions of the final regulations.

Other changes. It is proposed that the outreach requirements for the transition period must be in effect one month prior to the implementation of phase 1. Within six months of the publication date of final regulations, the State agency must have implemented any remaining portions of these regulations.

In addition, within six months of the publication of final regulations, State agencies without a currently approved utility standard must have an FNS approved utility standard in use for all new applicants as of the first of the month following FNS approval. Currently certified households will be advised of the standard and will be allowed to use the standard in lieu of actual utility costs. Otherwise, actual utility costs will continue to be used until the household is recertified or desk reviewed, whichever comes first. The Department will provide technical assistance to those States which request help in developing a utility standard methodology.

Regulations regarding retailer/wholesaler provisions will be effective as of the date the final rulemaking on these proposed regulations is published.

Extensions. FNS may grant extensions to some, but not all, of the above implemention schedules. In particular, implementation of the basic financial and nonfinancial eligibility criteria and free coupon issuance shall not be extended for any reason. For other provisions, extensions may be granted by FNS upon submission by the State agency of compelling justification and an acceptable alternative schedule.[16] When extensions are granted, the current relevant Department regulations will remain in effect until superseded by implementation of the new rules. For example, if an extension is granted for expedited action on zero income applicants, the State agency must continue the current rules pertaining to waiving verification for zero income households and the special rules for migrant income mandated by *Gutierres* v. *Bergland*, 415 F. Supp. 827 (D.C. 1976). In no event will the Department grant an extension in excess of 120 days, from the specified implementation date.

The Department is particularly interested in receiving comments regarding the proposed timetable for implementation of new regulations. The remaining sections of the preamble discuss policies and procedures in the same order in which they are presented in the proposed regulations.

General Purpose and Scope

Coupons as Obligations of U.S. Crimes and Offenses

Coupon issuer penalties and the monitoring of coupon issuer activity received considerable attention prior to passage of the Food Stamp Act of 1977. The Emergency Food Stamp Vendor Accountability Act, Pub. L. 94-339, was enacted in 1976 in response to reports of vendor abuses involving the loss, embezzlement and theft of coupons and cash. As noted in the House Report, the need for strict controls will be greatly reduced by implementation of the Act of 1977 since coupon issuers will handle a reduced volume of stamps and will not handle any cash. The Department hereby withdraws the proposed regulations regarding Pub. L. 94-339 published at 42 FR 1479, January 7, 1977, and instead proposes new regulatory standards for coupon and inventory security. These proposals are discussed under the heading "Issuance and Use of Food Coupons."

Penalties. In accord with the Act, the proposed regulations require coupon issuers and bulk storage points to submit monthly activity reports to FNS through the State agency. The State agency will be required to closely monitor the day-to-day activities of all of its coupon issuers and bulk storage points and report any violations to FNS. The Act and regulations provide that any coupon issuer or bulk storage point convicted of failing to provide required monthly reports shall be subject to a fine of not more than $1,000 or imprisoned for not more than one year, or both. In addition, as required by the Act, any coupon issuer or bulk storage point convicted of knowingly providing false information on the required reports shall be subject to a fine of not more than $10,000 or imprisoned for not more than five years, or both.

[15] The total conversion of the current caseload on one date, as compared to a phase in beginning on that date, would reduce the overall level of benefits provided those households during that period. The Act of 1964, *for most of the existing caseload*, provides a level of benefits in excess of that provided under the Act of 1977. The legislative history does not seem to prohibit this proposed gradual conversion. In making its budget predictions to the Senate and House Committees the Department assumed, as it now proposes, that States would issue all coupons at no cost beginning on an exact date and would gradually phase in other regulatory provisions.

[16] Under the Supremacy Clause of the U.S. Constitution, State notice and comment rulemaking requirements (State Administrative Procedure Acts) may not delay implementation of this program beyond deadlines set forth in the final Federal regulations. States desiring local input to formulate optional rules and operating procedures may wish to provide for comment periods, in advance of implementation requirements, so as not to impede or delay that process.

Requirements for Participating State Agencies

Program Administration and Personnel Requirements

Staffing standards. The Department intends, after appropriate study, to develop comprehensive standards aimed at improving the quality, timeliness and efficiency of services while recognizing the diversity of program operations from project area to project area. The standards will be published as proposed rulemaking and comments will be solicited and analyzed prior to adoption of final rules. Until that final publication, it is proposed that State agencies employ sufficient staff to certify and issue benefits to eligible households and process fair hearing requests within the appropriate timeliness standards as required by the Act and final regulations.

Bilingual requirements. The legislation requires that State agencies "• • • use appropriate bilingual personnel and printed material in the administration of the program in those portions of political subdivisions in the State in which a substantial number of members of low-income households speak a language other than English."

The House Report states that, at a minimum, bilingual printed material would include "• • • all application forms, instruction sheets, and outreach and nutrition education material." While that report stresses that hiring quotas are not mandated by the Act, neither the report nor the Act is explicit regarding the caseload concentrations that trigger the need for bilingual services.[17] The Department is concerned that data on the numbers of low-numbers of low-income non-English-speaking households may not be readily available for many areas. States will have to use a variety of sources to secure pertinent information.

The proposed regulations require bilingual service based on the total number of households needing that service compared to the number of low-income households in a given project area. bilingual service is mandated where, at least, 150 households of a single language low income group[18] reside in projects with 3,000 or more low-income households. Project areas with fewer than 3,000 low-income households, in which at least 50 single-language low-income households reside, must also provide bilingual service.

The Department rejected a uniform percentage test since that could require bilingual service in areas with few low-income households where only very few single non-English language households resided.

Theoretically, the presence of one household could exceed a percentage test. Even worse, in densely populated low-income areas significant concentrations of non-English-speaking households might not be entitled to bilingual service.

Under the Department's proposal, no matter how low a percentage 150 same-language non-English-speaking households constituted (as compared to the total number of low-income households), those 150 or more households would receive bilingual service. Conversely, concentrations of fewer than 50 same-language non-English-speaking households, no matter how high a percentage of low-income households that represented, would not be entitled to bilingual service. If this standard is adopted, the Department intends to closely monitor its effectiveness to develop data on which to base possible future rulemaking.

States may provided bilingual service under stricter numerical requirements than are provided in the proposed regulations where the State believes this would be appropriate. Imposition of bilingual service does not mean that certification staff would have to be released and other staff hired to meet the criteria. It does mean, however, that States must have a staffing plan that would move toward meeting the minimum Federal requirements as expeditiously as possible. Paid or volunteer interpreters may be used to meet the need where appropriate.

Areas that anticipate an influx of non-English-speaking households during certain seasons must be prepared to respond with bilingual staff and program materials. The use of interpreters or temporary employees for these periods is acceptable. The proposed numerical standards for determining the need for bilingual staff and materials apply during influx periods.

States may find, in large project areas with more than one certification office, that bilingual capabilities are not needed in all offices. In these situations bilingual staff can be concentrated in those offices where the need exists. Bilingual materials must be developed and distributed for use by program participants and the potentially eligible as expeditiously as possible.

Divisons of responsibilities. The current requirements (FNS(FS) Instruction 734-2 and FNS Notice 77-30) on the division of certification and issuance responsibilities are included in these proposed regulations. While the Department recognizes that limitations in staff and funding may necessitate the combining of certification and issuance functions, such a combination of responsibilities seriously weakens controls and involves risks of losses. The proposed regulations require that the State agency divide the responsibility for eligibility determinations and coupon issuance between certification, data management and issuance units. However, with prior Departmental approval, a project area may combine unit responsibilities where other alternatives have been explored and determined to be not feasible. The conditions under which such approvals will be provided are spelled out in the proposed regulations.

Training. The Act requires the State agency to provide a "• • • continuing, comprehensive program of training for all personnel undertaking [Food Stamp] certification." The proposed regulations expand the training requirement beyond the certification worker to help ensure more effective and efficient program operations. Those included in the expanded training program are outreach workers and others who pre-screen or provide other services to applicants.

The proposed regulations require States to designate a training coordinator to develop training materials, supervise training sessions, ensure that appropriate personnel receive training, and monitor compliance with the standards for public participation in training sessions. States shall also designate additional staff at either the State or local level to provide training.

The House Report expressed an interest in allowing "• • • community groups and volunteers • • • to participate in training sessions so that they can more accurately perform prescreening and assist in completing application forms." A minimum of 10 percent of the training slots or 10 training slots, whichever number is smaller, at State, region, or city-wide sessions must be reserved for the public.

The effectiveness of State and local training will be evaluated through the performance reporting system and appropriate corrective action will be taken.

Outreach

The outreach provisions of the new law require comprehensive informa-

[17] This phrase refers to households which speak the same non-English language and which do not contain adults fluent in English as a second language.

[18] The 5 percent staring point (150/3,000) is reflected in the voting Rights Act of 1965, as amended, which requires bilingual materials where 5 percent of the voting age population speak a language other than English. Localities might have developed useful statistical analyses based on implementation of that Act.

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tional activities to advise low-income households of the benefits of program participation. Proposed regulations to implement the outreach requirements will be published in subsequent rulemaking. However, there is a critical need during the transition from the current to the new program for the dissemination of clear and accurate information.

The House Report states "• • • this legislation will drastically change eligibility requirements and procedures. Low-income families should be informed about how the 'new' food stamp program would work and about participant duties and responsibilities under the new program." The Department proposes special outreach procedures for the transition period to avoid confusion and misunderstanding during implementation. These procedures would be an addition to existing requirements contained in FS regulations and FNS(FS) Instruction 732-6(Rev. 1). Current requirements, as well as the special outreach procedures, would be in effect until such time as the changes in outreach required by the Act are implemented.

These special procedures direct the States to place emphasis on informing current food stamp participants of program changes. The special procedures also include distribution of printed materials describing program changes and the installation of toll-free hotlines to facilitate the answering of questions. The proposal requires that written notices be provided to participating households, recipients of public assistance, and recipients of a State-administered SSI supplemental payments at least once prior to implementation. Other printed materials describing the new program would be available in local food stamp and welfare offices and may be available through local social security, State employment security, and unemployment compensation offices. Printed materials would be made available to the public upon request. The Department will provide a basic publication on program changes which State agencies may supplement.

At the same time information efforts are initiated, State agencies would begin the operation of State level toll-free hotlines which can be used by participants and potential participants to secure information. The proposal permits the use of hotlines in local areas where large numbers of low-income households reside. Individuals staffing the hotlines must be knowledgeable in program rules and procedures and must ensure that complaints are referred to the proper officials. Hotlines are to operate, at a minimum, during normal business hours. There must be at least one hotline for caseloads of less than 100,000 people, two hotlines when the caseload is between 100,000 and 500,000, three hotlines where the caseload is between 500,000 and 1,000,000 and four hotlines where the caseload exceeds 1,000,000. In situations where local hotlines are used, the above requirements for State level hotlines could be reduced accordingly, except that there must continue to be at least one toll-free hotline at the State agency level. Hotline numbers must be extensively publicized. In addition, the proposal requires the use of press releases and radio spots to publicize program changes and permits the use of TV spots.

These procedures, and particularly the use of hotlines, were chosen as the most expeditious way of disseminating information without greatly burdening local project areas.

Non-Discrimination Compliance

Non-discrimination. The proposal includes non-discrimination criteria required by the Food Stamp Act and Title 6 of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Most of these requirements are now imposed by Departmental regulation and FNS Instruction. Reporting and monitoring requirements will be included in a later publication of regulations.

Complaints. The complaint procedure provides that individuals who believe that they have suffered discriminatory treatment while applying for or participating in the program may direct complaints to the Administrator, FNS or the Secretary. State agency personnel must also accept all such complaints and forward them to the Administrator or the Secretary. This ensures a review of each complaint at a high level of authority and experience and will provide a uniform and consistent review process. The location of all files at one site will facilitate effective review of civil rights policies in relation to the Food Stamp Program. The 180 day time period for filing a complaint is in accord with current Departmental regulations (7 CFR 15.6). These are not significant changes but provide more specific direction to program administrators.

Public notification. The proposed requirement to publicize civil rights complaint procedures is a part of an overall effort to inform applicants and recipients of program rights.

Civil rights data. The data standards require numerical measures of racial and ethnic factors regarding potential eligibles, participation rates, applications, certifications, denials, fair hearings and office staffing. These data will provide program administrators with a useful tool for analyzing the impact of racial or ethnic factors and for identifying possible civil rights abuses. While legitimate factors may explain seemingly disparate treatment of certain groups of individuals, examination of exact data may alert administrators to situations needing closer review.

Certification of Eligible Households

Household Concept

Cooking facilities. The common cooking facilities requirement imposed by the Food Stamp Act of 1964 has been omitted from the new Act. The House Report appropriately noted that there "• • • is no nutritional necessity to eat hot or cooked food."

Economic unit. The Act of 1977 does not include the provision in the Food Stamp Act of 1964 that permitted persons sharing living quarters, but who were separate economic units, to apply for food stamps as separate households. The House Report notes that what household members do with food money is more relevant to the household concept than how they handle nonfood costs. The primary concern of the new Act is with "food units" rather than economic units. The Act provides that person living together who both purchase food and prepare meals together constitute a food stamp household, provided they are not residents of institutions or commercial boarding houses. Persons who do not perform these two functions together, or persons who purchase food and prepare meals with others but are boarders by virtue of paying compensation for such meals, constitute separate households.

Household definition. A new definition of household was written into law. As is currently the case, residents of federally subsidized housing for the elderly and residents of FNS approved drug or alcoholic treatment centers are the only residents of institutions that may participate in the program. Other than ineligible residents of commercial boarding houses or institutions, any of the following individuals or groups of individuals may make up a household: (1) An individual living alone; (2) An individual living with others, but who customarily purchases food and prepares meals for home consumption separate and apart from the others; (3) An individual who is a boarder, in a noncommercial boarding house, living with others and paying reasonable compensation to the others for meals for home consumption; (4) A group of individuals living together and customarily purchasing food and preparing meals together for home consumption; or (5) A group of individuals who are boarders, in a noncommercial boarding house living with others as a group and paying reasonable compensation to the others for meals for home consumption.

The Department proposes that State agencies accept household statements regarding household status and that

home visits not be required for verification. Unless the reported household status is inconsistent with other information known to the State agency, it would seem that the cost and effort expended in verification would not be justified in most circumstances. The House Report notes that, "[i]f a group of persons sharing living quarters state that they do purchase food and prepare meals together and do not pay compensation for the meals, they should be treated as a household • • • without any significant burden of proof unless the State agency has good cause to believe that the applicants are misrepresenting the facts." The report further states that if individuals state that they do not meet the household criteria, they should be treated as separate households.

Nonhousehold members. The Department proposes to continue disregarding the following individuals as household members when determining household size and allotment: Roomers, boarders, live-in-attendants, ineligible aliens, SSI recepients in "cash-out" States, ineligible student tax dependents, disqualified individuals, and individuals who share living quarters with the household, but who do not customarily purchase food and prepare meals with the household. The proposed definition allows boarders or groups of boarders in noncommercial boarding situations to participate in the program. The Department proposes prohibiting the assignment of boarder status to spouses, including common-law spouses, or to minors under 18 years of age if they are under the parental control of a member of the household. In such instances it is very likely that the spouses and the children are integral members of the primary household as opposed to being boarders. Application of these specific provisions will provide a uniform national policy.[19]

The Department proposes to maintain certain requirements on the amount which must be paid for meals to qualify household members as boarders. Boarders will be classified as members of the primary household unless they contribute one of the following monthly amounts for meals:

(1) An amount which equals or exceeds the amount of the Thrifty Food Plan for the appropriate household size, for example, under current coupon allotment standards these amounts would be $52 for a single boarder, or $96 for two boarders.

(2) An amount which is less than the appropriate Thrifty Food Plan if the local community has a prevailing rate for board which is less than the amount of the Thrifty Food Plan, and the boarder is paying an amount equal to or in excess of that local rate. The Department proposes that State standards for board be prohibited because local rates for board may vary from one project area to another or may vary within neighborhoods in one project area.

(3) An amount which corresponds to the number of meals the boarder eats with the primary household. Thus, if the boarder routinely eats meals outside of the board arrangement, the State agency must prorate the board payment to determine if that payment is adequate to properly compensate for the meals eaten under the board arrangement. It is proposed that the amount be calculated by multiplying the number of meals routinely eaten outside of the board arrangement by a standard 60 cents per meal. The proposed 60 cents per meal is the approximate average amount allotted by the program for each meal.

Boarding house. The Department proposes defining boarding houses as establishments that are recognized by the community as commercial enterprises which offer meals and lodging for compensation. Current policy defines a boarding house as a place where three or more individuals are funished meals, or lodging and meals, for compensation. The House Report indicated that the strictly numerical approach to the definition should be abandoned in favor of considering the commercial nature of the boarding house. The report notes that "[t]he Committee does not want the Department to allow States to assume that any time three or more persons contribute to a household's meal costs, the household automatically becomes a boarding house regardless of the relationship of the parties involved. If the contribution to food costs involves friends or relatives and is not part of a commercial enterprise, the home is not a boarding house, and those who eat there remain eligible for food stamps if they satisfy the other eligibility criteria." The Department decided not to use licensing to determine if a particular residence is in fact a boarding house because there is little uniformity in licensing ordinances and because commercial boarding houses may be functioning in some States without licenses or licensing requirements.

The Department proposes to eliminate the current restrictions which prevent the households of boarding house operators from participating in the program since, as the House Report notes, the source of a household's income should not determine its eligibility for food stamps.

Head of household. The title "head of household" is currently assigned to the person in whose name application is made for the program. The Department proposes that the State agency shall classify as head of household that household member who "• • • was responsible for acquiring the greatest amount of financial support within the last 60 days." The change is proposed in response to the statutory requirement that a household not already certified be ineligible for program benefits for 60 days after the "head of household" voluntarily quits a job without good cause. This statutory disqualification places new importance on the definition of household head. The Congressional purpose is to prevent the family bread winner from voluntarily quitting work and then immediately relying on the program for support. The Department's proposed head of household definition enforces that purpose.

Residents of institutions. Residents of federally subsidized housing for the elderly and drug addicts or alcoholics residing in FNS approved treatment and rehabilitation centers will continue to be the only individuals who may qualify for program benefits while residing in an institution. The Act specifically allows these two exceptions and no others.

Authorized representatives. The legislation requires "• • • that any applicant household may be represented in the certification process • • • by a person other than a member of the household so long as that person has been clearly designated • • • and, where the certification process is concerned, the representative is an adult who is sufficiently aware of the relevant household circumstances."

The proposed regulations would implement this policy, and represent little change from the current approach. Authorized representatives are allowed to make application, obtain coupons and purchase food on behalf of the household because of employment, health, transportation or other problems.

Because of the special needs of addicts and alcoholics, employees of approved addict/alcoholic treatment centers shall act as authorized representatives for eligible resident members of the center. Additionally, in an effort to limit program abuse as recommended by the House Report, authorized retailers and employees of public welfare departments are prohibited under this proposal from acting as authorized representatives unless they are specifically allowed to do so by the local welfare director.

Application Processing

Food stamp application form. The new law requires that the Secretary design a simplified, uniform national application form which contains, in understandable terms and in promi-

[19]Common law marriage standards do vary from State to State. Nonetheless, since many States define this status and accordingly impose marital support obligations, the Department proposes to treat common law marriages in the same manner as formal marriage relationships.

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nent bold face lettering, a description of the civil and criminal penalties for violating provisions of the Act.

The Department has contracted out the design of this application form along with the application worksheet, the participant reporting form, the notice of eligibility/denial, the notice of adverse action, the notice of expiration, the tax dependency form, and the demand letters for claims against households.

Since several State agencies have requested that they be involved in the design of the application form, the Department plans to invite persons from outside the Department to assist in evaluating the forms designed by the contractor. The contract requires that the forms be tested on volunteer food stamp participants and volunteer workers in several food stamp offices.

Once the model forms are designed and tested, State agencies will be expected to print State forms using the same format and design, unless a deviation is granted by the Department. The Act specifies that a deviation from the model application form may be granted only where: (1) the State agency plans to use a combined public assistance/food stamp application form for all households; (2) the requirements of a computer system necessitate a different format; or (3) the deviation is required by "• • • other exigencies as determined by the Secretary." The Department also proposes that all other FNS model forms be adopted on a uniform basis, with deviations granted only under the same conditions as would permit a deviation on the application form. The Act requires that State agencies use bilingual forms in those areas in which a substantial number of low-income households speak a language other than English. Therefore, State agencies will be required to provide bilingual application forms in certain areas.

Household cooperation. The Act requires that "[n]o household shall be eligible to participate • • • if it refuses to cooperate in providing information • • • necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility." The legislation emphasizes the importance of the household's cooperation in the certification process by enforcing the current practice of denying applications for refusal to cooperate at initial or subsequent certification, as well as disqualifying households which do not cooperate in subsequent reviews of eligibility, such as quality control reviews. However, the House Report makes clear that such denials or terminations can only be for refusals to cooperate, "• • • not merely a negligent omission to provide information, but a positive denial of requested data." For example, the application can be denied if the household refuses to be interviewed, but not because the household failed to keep a scheduled interview.

The proposed regulations include an obligation for the State agency to assist households which are unable to complete the certification or review process. As such, the State agency is directed to assist households in overcoming an inability to cooperate. Suggested aids include out-of office certification procedures, assistance in obtaining needed verification, and use of foreign language materials and staff.

Interview. The Department currently requires, with few exceptions, that all food stamp households, including those who submit applications by mail, be personally interviewed prior to certification. The interview represents a critical exchange between the State agency and the household and serves to satisfy the eligibility worker and the applicant household that all necessary information has been provided. The interview provides a mechanism for the eligibility worker to understand the household's circumstances and provides an avenue for the household to obtain a basic understanding of the program. On the basis of past experience, the Department believes that the interview is critically important to the certification process and must be carefully monitored and regulated. Proposed rules which impact on the interview process are discussed throughout the preamble.

The regulations provide that the interview "[f]acilities • • • be of adequate size and layout to preserve privacy and confidentiality • • •," and to protect the dignity of the applicants. It also requires that "[h]ouseholds shall be advised of their rights and responsibilities during the interview." To protect the integrity of the program, the Department proposes that the interview process "• • • explore and resolve • • • unclear and incomplete information." While the face-to-face interview will remain the primary interview technique, modifications to the interview process are proposed under certain special circumstances, as required by the Act.

Upon household request, the State agency is required to waive the office interview if the household is unable to appoint an authorized representative and has no adult member able to visit the office because of age (65 or older) or mental or physical handicap. In addition, the State agency may waive the office interview for households unable to appoint an authorized representative and which have no responsible member able to come to the food stamp office because of hardships such as illness, lack of transportation, bad weather or work hours that preclude in-office certification.

Where an office interview is waived, the proposal requires a home visit or a telephone interview. This rule should increase program accessibility without inviting program abuse. To ensure equal treatment for these households, it is proposed that States not be allowed to alter the length of the certification period solely because of waiver of the office interview. Since verification may become even more critical without face-to-face interviews, waivers will not exempt households from verification requirements, although special procedures may be developed to facilitate timely verification compliance. Moreover, State agencies are required to schedule all interviews promptly, to meet the 30 day benefit delivery standard.

Verification and documentation. The Act provides that nonexempt gross income must be verified along with "• • • such other eligibility factors as the Secretary determines necessary • • •." Presently, States are required to verify income and other eligibility factors that are unclear, incomplete or inconsistent. Some States utilize the "prudent worker concept" and allow individual eligibility workers to decide what should be verified and how much verification is needed. Others have expanded verification requirements on a statewide basis to mandate uniform verification of eligibility factors, in addition to income.

Under the proposed rules, all gross nonexempt income shall be verified. If all attempts by the State agency and the household to verify income have been unsuccessful (such as where an employer refuses to provide a wage statement to the applicant), the eligibility worker shall determine an amount to be used for certification purposes based on the best available information. Nonfinancial and resource information will be verified only if inconsistent with other information known to the State agency and if the applicant is unable to satisfactorily explain the apparent inconsistency or contradiction. The reason for additional verification must be noted in the case file to allow for subsequent review.

The proposals limit verification requirements concerning citizenship status and certain deductible expenses. Only utility or other shelter cost components which exceed State standards shall be verified. The proposals also limit verification to expenses which would actually result in a deduction. It is unnecessary, for example, to verify shelter expense components in excess of the $75 maximum limit.

The Department proposes that asserted alien status be verified since many aliens may not know into which technical Federal alien category they have been placed. A person's exact alien classification is critical, under the Act, to program eligibility. The Department further proposes to verify statements concerning citizenship only when there is good cause to believe that the citizenship of a household member is being misrepresented. The proposed regulations prohibit States from routinely requiring applicants to produce verification of citizenship. While the law mandates that illegal aliens not participate in the program, the House Report notes that this specific statutory exclusion should not be used as an excuse to harass "• • • applicants who appear to be of foreign extraction, be they urban residents or seasonal farmworkers."

These proposed standards afford States sufficient flexibility to develop appropriate verification standards but insure that applicants will not be harassed or suffer delays over items with little or no bearing on eligibility or level of benefits. At recertification, it is proposed that unchanged information, as determined by a participant's statement, and previously verified income and expenses which have changed by less than $25, not be routinely verified.

Documentary evidence provided by the household will, in most cases, be accepted by the State agency. However, acceptance of such documentation does not preclude the State agency from initiating an investigation, if the State agency has reason to believe the evidence is fraudulent.

Normal processing standards. In accord with the statute, the proposed regulations specifically prohibit the withholding of applications until an interview can be scheduled. Applications must be immediately provided to all persons who "• • • make what may reasonably be interpreted as an oral or written request for food stamp assistance • • •." However, the regulations do not require States to provide same day interviewing. Households whose initial contact with the office is on the telephone or by mail shall have an application mailed to them the day the request for assistance is received. The regulations stress that application forms must be accessible to potentially eligible households at the certification office and require that forms be made available to outreach groups. To ensure households are advised of this rule, the same day filing requirement and procedures shall be clearly indicated on the application forms and outreach materials and be posted in certification offices.

The regulations provide for the 30-day benefit delivery standard specified in the Act. The 30-day processing standard begins with receipt of an identifiable application. An identifiable application contains the applicant's name, address, and the signature of either a responsible member of the household or the household's authorized representative. The application need not be complete to start the 30-day standard. For households exercising the same day filing rights, the 30 days will begin the day of initial contact with the certification office. For households which decide not to file an application that day or which contact the office by mail or telephone, the 30 days will start when an identifiable application is returned to the office.

Within the 30 days following the filing of an application, the household must complete the application, be interviewed, have certain information verified, be notified of eligibility or ineligibility, and, if eligible, be provided an opportunity to participate. Providing an opportunity to participate is not merely the mailing of an ATP card. Eligible households must be allowed at least two days to receive mailed ATP cards so as to be able to exchange them at an issuance office within the 30 days. The regulations stress that 30 days is a maximum standard and that all applications should be processed as quickly as possible.

Expedited service. The Act requires that households with no income, after appropriate exclusions and deductions, be provided expedited certification and issuance services. The House Report also suggests use of expedited service for households whose ATP cards or coupons are lost or stolen.

The proposed regulations identify two different types of "no income" situations—(1) households with zero net income for the month, and (2) households that are destitute of income at the time the application is filed, but expect to receive or have received income at some other time during the month. Expedited service must be provided to both types of households.

Households that are destitute of income at the time the application is filed are those households who currently have no income although they may start receiving some new income later in the month, and those households who lost their sole income source earlier in the month and now are without income.

To be considered destitute of income at the time the application is filed, the household's only income during the month of application must be "nonrecurring"[20] and must not be received in the same quarter of the month the application is filed. For households that have lost a source of income, income will be considered nonrecurring if it will not be received again from the same source during the balance of the month of application and the following month. For households that currently have no income but anticipate a new source of income later in the month, the income will be considered nonrecurring if income, from that same source, has not been received within 30 days prior to the date the application was filed. To determine whether the nonrecurring income is received in the same quarter of the month the application is filed, the month will be divided into four quarters (1-7, 8-15, 16-22, 23—end of month). For households that anticipate but have not yet received a new source of income, the Department is proposing that these households be entitled to a special calculation of their income in addition to being entitled to expedited service. These special procedures are explained in more detail under the section entitled "Determining Household Eligibility and Benefit Levels."

For those households which are eligible for expedited service and which are in especially dire straits because they (1) have insufficient food to enable them to wait even two working days and (2) have liquid resources less than the value of the Thrifty Food Plan for a one-person household, an opportunity to participate must be provided the same day the application is filed. (This same-day service does not apply to residents of drug addict or alcoholic treatment centers.) Generally, households entitled to same day service should have an opportunity to obtain the full monthly allotment. However, if an issuance facility is not immediately available or open, the food stamp office shall provide the household with at least one-fourth of its entitlement on the same day the application is filed and shall provide the remainder within five working days. The use of limited issuance will preclude food stamp offices from having to maintain a large supply of coupons in their office.

Same day service for all zero income households was rejected because the increased risks to ATP and coupon security did not warrant the marginal increase in service, except for the few households whose immediate need dictates a same day response.

In accord with the House Report and to prevent abuse of this provision a collateral contact or other verification of the household's identity and residence is mandated. The State agency is responsible for promptly acting on the collateral contacts provided by the household. Households certified under expedited procedures shall be certified for the month of application only. However, if the household provides the verification which was postponed within 30 days of the date the application was filed, the State agency shall extend the certification period as appropriate. In this way, households would not be required to submit a new application. Eligibility

[20]The distinction between recurring and nonrecurring income is made because recurring income typically represents the income which the household should be required to budget.

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for future coupons based on that application will be determined by normal processing standards, including normal verification requirements. Successive certification under expedited standards is permitted, provided that verification postponed by the initial expedited service has been provided before the next expedited issuance. Households denied expedited service shall be eligible for an expedited fair hearing under § 273.15, upon request.

The Department proposes emergency replacements for coupons which have been lost or stolen after the household has received its coupons. To guard against possible program abuse, the household must report the loss or theft to the police and provide the State agency with a copy of the official report or shall provide other information showing that the loss was reported to the police. To reduce the potential for abuse, replacements will be allowed only once in each three month period. If adopted, the effectiveness and usefulness of this three month limit will be monitored. Replacement of lost or stolen ATP cards is addressed in part 274 of the proposed regulations.

Delays in processing. The Department proposes that applications be denied at the end of 30 days if a certification determination cannot be reached solely because the household failed to take a required action after a reasonable period of time. If verification is lacking, the State agency shall deny the application only if the household has had at least 10 days from the date of the State agency's last request for verification and the State agency has met all of its responsibilities to help the household obtain the verification. The denial notice must advise the household exactly what information is needed to complete the application, and that the State agency will reopen the case without requiring a new application if the household provides the requested information within the additionsl 30 days. Households that take the necessary action within the additional 30-day period and are found to be eligible will be provided an opportunity to obtain benefits retroactive to the month of application.

This procedure allows State agencies to close the casefile in situations where it appears the household has abandoned its application and requires that households initiate action to reopen its case. This procedure protects the household in that it avoids jeopardizing a household's entitlement to benefits, retroactive to the month of application, if the household takes the required action within the additional 30 days. The household is not required to file a new application.

If, however, the certification process is not completed due to failure or inaction on the part of the State agency, the State agency must take whatever additional processing time is required to make an eligibility determination. If a determination of eligibility is reached and an opportunity to participate is provided to the household within 60 days of the date of application, the household will receive a lump-sum payment of coupons back to the original month of application. Should the certification be completed beyond 60 days from the date of application, the household will receive its current month's entitlement and retroactive benefits back to the month of application, as provided in § 273.17. State agencies are out of compliance if they do not fulfill all of their responsibilities and, as a result, exceed the 30-day processing standard.

Requiring that States hold applications pending, when the State is at fault, eliminates unnecessary reapplications by the household and maintains the household's entitlement to benefits retroactive to the period of application.

If deductions are questionable and not verified, the household will not be denied or held pending if otherwise eligible. The application should be processed without allowing the unverified expense. Only if such expense is the difference between eligibility and ineligibility should the application be pended. If the household can demonstrate that the State agency contributed to its inability to properly verify such expenses (such as scheduling the interview or asking for verification too late in the process for the household to timely comply), and the household subsequently provides the necessary verification within 60 days of the initial date of application, the household will be entitled to any benefits lost as a result of the disallowance of the expense.

RESIDENCY

The proposed regulations continue to prohibit any durational residency requirement and yet require that an individual live in a project area to receive food stamp benefits. The proposed regulations emphasize that a fixed residence is not required. Physical presence within a project area coupled with the intention to reside there at least temporarily is sufficient, except that persons in a project area solely for vacation purposes are not to be considered residents for food stamp eligibility. Thus, presence at a migrant camp site would meet the residency requirement.

CITIZENSHIP AND ALIEN STATUS

Citizenship. The Act establishes five categories of aliens eligible for program benefits. Among those omitted from the list are aliens not lawfully present, alien visitors, tourists, diplomats, temporary laborers, and trainees.

The proposed regulations require verification when the applicant declares that a member of the household is an alien. The Immigration and Naturalization Service (INS) has assured the Department that eligible aliens should have no difficulty in providing proper identification for verification purposes. Actual documentation is necessary when the applicant declares a household member to be an alien since many aliens might not know into which technical alien category they fall under Federal law.

Income and resources. In accord with the House Report, the proposed regulations disregard the income and resources of an ineligible alien when determining eligibility for the other household members. Likewise, the individual is not counted in determining the applicable eligibility limits or level of benefits for the household. Consideration of those resources and income could result in the reduction of food stamp benefits for the remainder of the household because of the technical alien status of the ineligible member, even though the reaminder of the household is already receiving reduced benefits since the ineligible member is not counted in determining the vaule of the allotment.

TAX DEPENDENCY

The Act of 1977 has made the current tax dependency critieria as amended, more stringent by declaring that a student 18 years of age or older is ineligible if the student is properly or *could be properly claimed* as a dependent by a taxpayer in an ineligible household, whether or not the taxpayer intends to claim the student as a dependent.

The House Report notes that, "• • • what matters is the actual fact of considerable support of the person applying for food stamps and not how that support is handled for income tax purposes by a person not seeking eligibility." The report explains that the "• • • complexity of the tax dependency critieria was singled out as a major concern of state and local administrators • • •." In addition "• • • community groups cited • • • certification delays caused by the tax dependency criteria as a significant problem for student applicants." To avoid these delays and complications, the Department proposes that information provided by the student can be sufficient for a determination of tax dependency. Verification of tax dependency status is required if information provided on the application is inconsistent, contradictory or other documented evidence indicates likely tax dependency stauts. A review of the student's source of income for educational and living expenses will assist in determining if the information provided is inconsistent or indicates likely tax dependency.

Only when an application indicates that the student is a tax dependent, or other information would indicate that the student could be claimed as a tax dependent,[21] would the student be asked to supply the taxpayer's household size and gross income. If the student does not know the tax dependent status or is unable to provide the taxpayer's household size and gross income, a simplified verification form will be used in corresponding with the taxpayer household. The verification form will require the taxpayer to state whether the student is claimed or could be claimed as a tax dependent. If the student is or could be claimed as a dependent, the taxpayer will be required to provide basic information that will facilitate a determination of the taxpayer household's potential eligibility for food stamps based on gross income. This gross income analysis should expedite certification and reduce the detail required of the eligibility worker as well as the taxpayer.

Income and resources. In situations where additional verification is required, remaining household members may be certified while awaiting the student member's verification. In such instances, the income and resources of the student are not considered in determining eligibility or coupon allotment levels. This eliminates the possibility of penalizing the remaining household members because of tax dependency complications.

This procedure strikes a fair balance between the need to enforce the statutory tax dependency restrictions and the student's interest in a timely determination of eligibility while taking into consideration the food needs of the rest of the student's household.

Taxpayer failure to supply requested verification may result in a denial of program benefits to the student. However, students will be allowed to present other evidence to support their program eligibility despite taxpayer failure to cooperate.

[21] "The Act of 1977 focuses on whether the student is a "• • • dependent child for Federal income tax purposes • • •." Normally, a child is a dependent of the taxpayer's household if that household supplies over half of the child's support. That support includes cash payments, a place to live, clothes, medical and dental care, and the cost of education. IRS does not count scholarships in determining the total amount of support provided to the student.

Federal income tax law also may define a child as a dependent when less than half of the support is provided by the taxpayer's household. These situations involve students receiving support under multiple support agreements or under separation or divorce arrangements. These circumstances will be resolved by use of the special verification form when appropriate.

WORK REGISTRATION

Congress retained the requirement that able-bodied household members must register for and accept suitable employment as a condition of eligibility. Hence, with only very specific exceptions, all household members between the ages of 18 and 60 must register for work at the time of application and every six months thereafter. The House Report explains that the provision was designed to strenthen the work requirement through some modifications but to retain its current structure. The report notes that, to the extent that the Employment Service is involved, joint regulations between USDA and the Department of Labor (DOL) should be established concerning the manner in which work registration requirements shall be administered. However, transferring the point of actual registration to ES Offices was prohibited. Those parts of the legislation that require joint rulemaking with DOL will be covered in subsequent rulemaking.

In most cases, the work registration provisions contained in these regulations are required by the Act or specifically addressed in the legislative history.

Exemptions from work registration. Several changes were made in defining those required to register for work and those exempt. Congress lowered the maximum work registration age from 65 to 60, exempted persons registered for work under the AFDC-WIN program or the unemployment insurance (or unemployment compensation) programs; provided an exemption to the caretaker of a child as long as another member in the household is work-registered, and exempted those working at least 30 hours per week or working less than 30 hours but earning an amount equivalent to 30 hours times the Federal minimum wage. In addition, the law allows an exemption to those who care for dependent children under the age of 12 (previously under 18), requires students 18 or over to register for full-time work during any school recess of more than 30 days and further requires college students to register for 20 hours of work per week or to earn an amount equivalent to 20 hours times the Federal minimum wage during the school year. College students who are participating in Federally financed work study programs and certain students who are heads of households or are otherwise exempt from work registration would not have to register for 20 hours work per week.

Providing exemptions to unemployment compensation insurance (UI) recipients and persons in households, where one member is a already work-registered, and decreasing the maximum work registration age from 65 to 60 avoids duplicative work registration efforts unlikely to lead to any increased employment. Lowering the age of the dependent child from 18 to 12 means fewer people will be able to claim an exemption from work registration to care for a dependent child. College students who were previously totally exempt must now fulfill work registration requirements.

With regard to students, Congress passed two requirements. First, a student 18 years of age or older and enrolled at least half-time at the high school or college level must register for and accept full time employment whenever any recess or vacation exceeds thrity days. The second requirement applies only to students enrolled in institutions of higher learning. During the regular school year, students enrolled at least half-time must register for 20 hours work per week. Exceptions to this requirement apply to students already working 20 hours or working less than 20 hours if they are earning an equivalent of 20 hours times the Federal minimum wage. Additionally, students participating in a federally financed work-study program, or students who are heads of households containing one or more other persons to whom the student supplies more than half of the individuals' support, or students already exempt for another reason, such as being a WIN registrant, are also exempt.

Additionally, the Department has reviewed the work exempt status of Volunteers in Service to America (VISTA) program participants. Since VISTAs receive compensation for the service provided, and are considered to be employed, no change in VISTA work registration status is proposed.

Voluntary quit. Congress added a provision to disqualify for sixty days a household where the household head quits a job without good cause, unless the household was on the Food Stamp Program at the time of the quit. This provision will be discussed in subsequent rulemaking.

Job search. Implementation of this provision will be accomplished in subsequent rulemaking.

Failure to comply. The Department proposes that the penalty for failure to comply with the work registration requirements without good cause be set at sixty days, or until the household has come back into compliance with those work registration requirements. This proposal is consistent with the House Report and with the 60-day disqualification specified in the Act for voluntarily quitting a job.

Additionally, the Act distinguishes between all students over 18 who fail to comply during a 30-day recess and college students who fail to meet the 20 hours work requirement during the school year. In the former case, as provided by the Act, failure to comply results in disqualification of the entire

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household; in the latter, disqualification pertains to the individual student.

Good cause. The House Report indicates that the current regulations on good cause be retained except that the proposed regulations allow a household member to reestablish eligibility for refusal to accept a bonafide offer of employment by accepting employment of less than 30 hours if the weekly earnings are equivalent to 30 hours times the Federal minimum hourly wage. The household can also reestablish eligibility by accepting other employment of less than 30 hours a week, as long as the earnings are equivalent to the job refused. This recommendation seems appropriate so as not to punish household members that obtain employment at the minimum wage, or higher, even though they refuse a job referred by the Employment Service.

Suitable employment. For a job offer to be considered suitable, the Act requires that the wage offered be at least the applicable Federal or State minimum wage, or if neither applies, 80 percent of the Federal minimum wage. Previously, a job paying as low as $1.30 could have been considered suitable work. Suitable work does not include any employment which interferes with "religious observances, convictions or beliefs." The House Report emphasizes that the "* * * Department should administer the work registration requirement in such a fashion so as to avoid infringing upon any individuals religious convictions and beliefs." For college students, work which disrupts class hours or that requires over 20 hours work per week may be considered unsuitable. Interference with class room attendance or the reduction in available study time beyond 20 hours may seriously impede the person's ability to obtain an education.

The House Report noted that *Jaramillo* v. *Santa Clara County*[21] "* * * held invalid the Department's regulation and instruction limiting the term 'strike' to mean only strikes which have not been determined to be unlawful by a court decision (injunction or other order) currently in force * * *. The court noted that Congress in the Act of 1964 had not itself made any distinction between lawful and unlawful strikers, but instead had expressly, unqualifiedly, and mandatorily provided that households with a striking member not be denied participation on that ground alone. Accordingly, the court found that the Department had exceeded its authority in adopting such a rule."

The House Report observes that the House Committee failed to make "any distinction between lawful and unlawful strikers" in the Act of 1977. In fact, the 1977 statutory language is basically identical to that 1964 statutory language which was determined, by *Jaramillo* not to allow for the disqualification of "unlawful" strikers. In consideration of these developments, the Department decided to carefully reexamine its regulatory position on strikers regarding the Act of 1977.

Under the current regulations, the Department has experienced difficulty in defining and fairly applying the phrase "unlawful strike." Court orders about a particular labor dispute often concern only a particular union. Sympathy strikers, not under court order, can be eligible while original strikers are declared ineligible. Courts have not been consistent in determining whether a given strike was "unlawful." Moreover, similarly situated strikers in adjacent States could be subject to variously worded injunctions issued by different courts. The same court could issue several decrees, one after the other, regarding the same dispute. Thus, persons working in the same industry a few miles from each other could be subject to different and changing court decrees. Each of these injunctions would have to be carefully reviewed to determine food stamp eligibility.

To avoid the inequities and uncertainties caused by the current policy, the Department recommends a much more precise and uniform striker disqualification provision.

The Department proposes that "suitable employment" include employment at a site or plant subject to a strike which has been enjoined pursuant to court order issued under section 208 of the Labor-Management Relations Act (29 U.S.C. 178), commonly known as the Taft-Hartley Act. To enjoin a strike under the Taft-Hartley Act the appropriate Federal court must determine, upon petition of the President of the United States through the Attorney General, that a "* * * threatened or actual strike affecting an entire industry or a substantial part thereof * * *" will "* * * imperil the national health or safety * * *." (29 U.S.C 178). The U.S. Supreme Court has explained that the Taft-Hartley Act recognizes "* * * certain rights in the public to have unimpeded for a time production in industries vital to the national health or safety." *United Steel Workers of America* v. *U.S.*, 361 U.S. 37 (1962).

The Department proposes, in those critical and unusual situations, that the entire household of the work registrant who refuses an offer of employment at the struck plant shall be disqualified. Even a limited issuance to the household could undermine the intent of the Taft-Hartley Act, at a time of national crises and could prolong the strike enjoined by court order.[22]

Registrants for other programs. Public assistance households residing in project areas with no available WIN program must register for work as any other food stamp household. However, State agencies may be granted an exception to this requirement for public and general assistance households if they have work registration procedures at least as strict as those for regular food stamp work registrants. Sanctions against household members which fail to comply must be equivalent to those in the Act. These procedures would avoid "double" registration for work by these households while assuring that equal or more stringent work requirements are being applied.

RESOURCES

Uniform standards. The Food Stamp Act of 1977 establishes uniform household resource limits which must be applied to all households, including those in which all members receive public assistance and/or supplemental security income.

Maximum allowable resources. The Act raises the maximum resource limit from $1,500 to $1,750 for all households except those consisting of two or more persons when at least one person is 60 years of age or older. The statutory resource limit for these elderly households will remain at $3,000.

Definition of resources. The Act requires that the Department, in establishing inclusions and exclusions from resources, shall "* * * follow the regulations in force as of June 1, 1977, and shall, in addition * * *", include as resources certain specified types of vehicles and mobile or vacation homes. Those June 1 regulatory exclusions include, among other resource exclusions: (1) income producing property which is producing income consistent with its fair market value; (2) property deemed essential to the employment of a household member; (3) the fair market value, less encumbrances, of one licensed vehicle; (4) household goods and personal effects; and (5) resources whose cash value is not accessible to the household.

A major concern of Congress was the treatment of the value of automobiles and other licensed vehicles in determining a household's eligibility. The Act and the House Report provide a

[21] United States District Court, N.D. Calif., April 19, 1976 (No. 75-1445 WTS).

[22] The legislative history of that labor statute notes that the emergency provisions "* * * provide for the extreme cases which threaten national paralysis." 93 Congressional Record 4281. U.S. Supreme Court Justices Frankfurter and Harlan explained that those provisions "* * * were the comprehensive interest of the community [and] * * * they must be construed to give full effect to the protections they seek to afford," 381 U.S. at 54.

detailed framework for determining the resource value and exempt status of vehicles.

The law requires that licensed vehicles will be totally exempt if used "to produce earned income." To qualify for this exemption, the vehicle must actually be involved in generating income, e.g., a taxi, tractor, or truck. Vehicles used only for transporting household members to work will not qualify as income producing vehicles.

The Department has some discretion in determining which vehicles qualify for the exemption as "income producers." The proposed regulations define income producing vehicles as those vehicles which are used primarily (over 50 percent of the time the vehicle is used) to produce income or those which annually produce income consistent with their fair market value. If necessary to determine if a vehicle is exempt, income produced by the vehicle on a seasonal basis will be averaged over the year to determine the annual income. The exemption will also apply during temporary periods of unemployment when the vehicle is not in use. This defintion is fair to households as it allows an exemption for vehicles used mostly for producing income, even if the business enterprise is not earning a profit at the time of certification. It also exempts vehicles annually earning income consistent with the fair market value, even if used less than 50 percent of the time for income producing purposes. This definition should protect the program from abuse by setting specific and uniform standards for income producing vehicles, rather than extending the exemption to all vehicles which are occasionally used to produce income, e.g., a snowmobile or boat which is used by the household mostly for recreation and which is rented occasionally.

The law requires that all nonincome producing licensed vehicles will be individually evaluated for fair market value. The portion of the value which exceeds $4,500 will be counted in full toward the household's resource level, regardless of any encumbrances on the vehicle. To determine the fair market value of vehicles, the Department proposes, in accord with the House Report, using the publications written for the purpose of providing guidance to automobile dealers. The publications are usually referred to as "blue books." The "average trade in value" or "wholesale value" as listed in blue books will be considered the fair market value if the car in question is in average condition for its age. If the car is in less than average condition for any reason, such as body damage or inoperability, the household will be given the opportunity to present evidence of the actual value from a reliable source. If such an appraisal shows that the car is worth less than blue book value, the State agency will assign the lesser value as the fair market value.

The "blue books" referred to in the House Report, such as the "NADA Used Car Guide Book," are updated monthly and are universally available for reference. The Department proposes that the "blue books" used by the State agencies be updated at least once every six months. Reliance on these estimates greatly simplifies cost determinations and program administration. Use of "the average trade in value" or "wholesale value," instead of the average retail value, establishes an appraisal the best reflects the price that most households would likely receive for vehicles sold or traded in.

The law also requires that nonincome-producing licensed vehicles, other than the household's primary vehicle, also be evaluated for equity value (fair market value minus encumbrances), if the vehicles are not necessary for household members to seek employment or to transport household members to and from employment. As is currently the case, the equity value will be counted toward the household's resource level, except in those few cases where both equity and fair market value for the same vehicle must be considered. This situation is dealt with below.

In summary, the Act requires that each licensed vehicle be handled as follows: First, it will be evaluated to determine if it is exempt as an income producer. If not exempt, it will be evaluated to determine if its fair market value is more than $4,500. If worth more than $4,500, the portion in excess of $4,500 for each vehicle will be attributed to the household's resources. The vehicle will also be evaluated, to see if it is equity exempt as the household's only vehicle *or* if it is equity exempt as necessary for transportation to work. If not exempt, these regulations approved by Congress require that the value the household has invested in the vehicle (fair market value less encumbrances) will be considered as a resource. If both the fair market value, in excess of $4,500, and the equity value are considered for a particular vehicle, the amount counted as a resource shall be the greater of the two. Otherwise, if a household's "second car" were worth $5,000 and were not necessary to transport a household member to work, the State agency would have to consider not only the $500 excess fair market value, but also the equity value of the car. To avoid this double counting (excess value plus equity value) it is proposed that the greater of the two amounts will be counted as a resource.

Home and lot exclusion. In the past, The Department has received numerous comments regarding difficulties State agencies have encountered administering the Department's current resource exemption for "* * * the home and lot normal to the community". There has been no uniformity or consistency in the application of this exemption. This area is targeted for review as part of the Department's study of assets, which is mandated by the new Act. In the interim, for purposes of consistency and program efficiency, the Department proposes to exempt the home and all surrounding property which adjoins the plot on which the home is located. This standardized and revised definition of home and lot normal to the community is easy to apply and will eliminate the need for State agencies to establish acreage limits or lot size limits. It will also establish a uniform national policy and eliminate the need for the Department to determine if State-approved acreage limits are appropriate.

Income-producing property exclusion. As required by the regulations in force on June 1, 1977, which were incorporated by the Act, the Department proposes that property (such as land used for farming or houses used for rental purposes) be allowed a resource exemption if annually producing income consistent with fair market value, or if essential to the employment or self-employment of a member of the household.

The Department proposes allowing an exemption for vacation homes only if the home is annually producing income consistent with the fair market value. If the vacation home is not producing adequate income, the household will not be able to claim an employment exemption for the property as it would with non-vacation property. This proposal is consistent with the House Report which favored a restrictive approach to vacation home exclusions.

Also excluded from resources would be any other property which is needed for purposes of employment, such as the tools of a tradesman or the machinery of a farmer, which are deemed essential to the employment of a household member. Property sold under an installment contract, even where the title is temporarily retained, would be exempt as an inaccessible resource to the seller since the property could not be sold again. The value of the installment contract, itself, is also exempt since it would be producing income consistent with its value.

Disaster payment exclusion. The Department proposes a resource exemption for governmental payments which are made to a household to restore the household's home which has been damaged in a disaster. This exemption will not apply unless the household is subject to a legal sanction if the funds are not used as intended. Under the

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proposed regulations, governmental payments which are made to restore property damaged in a disaster are already exempt as income in the month received. The effects of the disaster and the shortage of supplies or service often make it not possible for households to repair damaged homes the same month the governmental payment is received. Therefore, the Department feels that the household should not have the funds, which are earmarked for that purpose, counted as a resource in the following months if the household is unable to purchase the necessary replacement or repairs. Counting such funds as resources could disqualify needy households which have recently suffered disaster damage which has caused both a loss of income and a loss of property.

Trust funds. The Department proposes to continue the exemption for resources which have a cash value that is inaccessible to the household. To prevent confusion regarding trust funds, a new paragraph has been added to the regulations to explain when a trust fund will be considered inaccessible.

Federal law exclusions. The Department proposes allowing exclusions for only those funds which are cited in Federal law as specifically exempt or intended to be exempt as resources for the Food Stamp Program. A list of these statutory resource exclusions is contained in the regulations.

Handling of excluded funds. The Department also proposes a system for identifying excluded resources if the funds are commingled in a bank account with other resources which are not excluded. Excluded resources will retain the exclusion indefinitely, if kept in a separate account easily identified by the State agency. If exempt resources are commingled in an account with other funds, the exempt resources will retain an exempt status for six months from the date of deposit. If the household's total resources exceed the allowable limits after that time, the following method is proposed to determine what portion of the total resources are exempt funds. The household will establish for the State agency the total amount of exempted funds which were deposited, the total amount of withdrawals subsequent to the date of deposit, and the current balance. All withdrawals after the deposit of exempt funds will be treated as withdrawals from all remaining exempt funds. The earliest deposited exempt funds will be considered exhausted first. Suppose $400 of exempt funds is deposited on December 1, into an account with $200 in nonexempt funds, and $100 more of exempt funds is deposited into that account on December 15. If $300 is withdrawn on June 1, $200 worth of exempt funds remain. When the amount withdrawn equals or exceeds the amount of the exempted funds, the exempted funds will be considered spent. The Department feels that this method is equitable because it allows the participant to provide evidence that the exempt funds have not been spent; and yet in most situations should not be overly complex. In effect, this rule assumes that commingled excludable resources are exhausted after a six-month time limit. The participant is then, however, free to provide evidence that the exempt funds have not been spent. This may be accomplished by presentation of a current bank book or any other verification that would support the participant's statement.

Transfer of resources. The Act prohibits households from transferring resources for the purpose of qualifying or attempting to qualify for food stamp benefits. However, this rule does not restrain the bona fide sale of property for a price at or near fair market value or any sale of property not done in an attempt to qualify for benefits. Likewise, the transfer of assets which would not otherwise affect eligibility is not affected by this provision. For example, transferring a family heirloom to a non-household member would not affect eligibility since that particular property is exempt as a personal effect. Also, a household gift of $500 to a relative would not be an improper transfer unless that $500 (or a portion thereof) would have affected the household's eligibility by reducing the household's assets to within the resource limit and the transfer was made with the intent of qualifying for program benefits. The Department also proposes that households be permitted to transfer assets to other members of the household, because such transfers would not affect eligibility.

The transfers to be considered are those which involve non-exempt resources, which affect eligibility and which are transferred for less than fair market value for the purpose of qualifying for food stamps.

The first issue to arise concerning asset transfers is the length of time which has expired between the time the asset was transferred and the time the household makes application for food stamps. Far ranging investigations of asset transfers are likely to greatly delay the certification process and unreasonably burden certification offices. For that reason and because of the difficulties in establishing intent, the Department proposes that the assets transferred in the three months prior to application or during the prior certification period be taken into consideration. At the time of application, initial applicants will be asked if they have transferred any assets in the past three month period. At recertification, households will be asked about transfers during the previous certification period. If a household reports that it has transferred assets which would have affected eligibility, the State agency must then explore the basis for the transfer to determine if it was knowingly made to qualify for program benefits.

The proposed regulations require State agencies to evaluate each transaction individually to determine whether or not the transfer affects eligibility, and the reason for the transfer. If it appears that the transaction was for fair market value, detailed verification should not be required for program eligibility.

If it is established that a household knowingly transferred non-exempt assets to qualify or attempt to qualify for program benefits, the law requires that the household be disqualified for a period of up to one year from the date of the discovery. The Department proposes that the period of the disqualification be directly related to the value of the asset transferred. A chart demonstrating the proposed periods of disqualification is printed in the proposed rules. The period of disqualification increases as the value of the resource transferred increases. The establishment of strictly defined periods of disqualification will eliminate the need to deliberate over a suitable period of disqualification and will ensure uniform national disqualification periods. The sliding scale establishes an appropriate relationship between the value of the transfer and the period of disqualification.

INCOME AND DEDUCTIONS

Income eligibility standards. The Act provides that the income standards of eligibility shall be the annual nonfarm income poverty guidelines prescribed by the Office of Management and Budget (OMB). To insure that these guidelines are current, the Act requires the Department to make an annual adjustment in the OMB poverty guidelines effective July 1, 1978. The adjustment is computed by multiplying the most recent income poverty guideline by the change between the average 1977 Consumer Price Index (CPI) and the CPI for March 1978 and rounding the result in accordance with procedures prescribed by OMB. The income poverty guidelines for future periods are to be similarly adjusted.

The adjustment is necessary to correct an inequity produced by the current method of establishing income poverty guidelines. The new poverty lines are announced each spring, based on the previous calendar year's average CPI. The poverty line announced in the spring of 1978 will reflect prices during the calendar year 1977. Since those poverty lines would be used in the Food Stamp Program from July 1978 through June 1979, they could be two years behind by the end of the time period. The adjustment lessens this problem by using the more recent data on changes in price.

Below are the income eligibility standards, prior to rounding, which would have existed on January 1, 1978, if the legislation had been implemented at that time. These standards were derived by taking the OMB nonfarm income poverty guidelines published in May 1977 and increasing them by the percent change between the average 1976 CPI and the CPI for March 1977.

	Monthly	Annual
1	$259	$3,104
2	342	4,107
3	426	5,111
4	510	6,114
5	593	7,118
6	677	8,121
7	760	9,124
8	844	10,128

Add $84 monthly or $1,003 annually for each additional household member.

The income eligibility standards which will be effective after July 1978 cannot be computed until the OMB poverty guidelines are published in May 1978, and then increased by the percent change between the average 1977 CPI and the CPI for March 1978. These income limits apply to household income *after* application of all income exclusions and deductions. Thus, households with gross income in excess of the guidelines would be eligible for program benefits.

For outlying areas. The Department proposes to use the same income eligibility standards in Puerto Rico, Guam, and the Virgin Islands as in the contiguous United States. This proposal is consistent with the practices of other federal programs that use eligibility standards based on the poverty line. If separate eligibility standards were calculated for these outlying areas employing the same methodology used to determine the poverty line for the contiguous United States, the standards for Puerto Rico, Guam, and the Virgin Islands would be higher because of the high cost of food in these areas. However, the Food Stamp Act requires that the income eligibility limit in Puerto Rico, Guam, and the Virgin Islands not exceed the OMB poverty guidelines for the 48 States. Therefore, a separate calculation for these areas would be pointless. The Department will monitor use of the established poverty guideline in the outlying areas and may propose changes in the future, if appropriate.

For Alaska and Hawaii, the regulations follow the statutory directive that the net income limits be based on the OMB poverty guidelines specifically issued for those States.

Definition of Income. The Act states that household income "• • • shall include all income from whatever source • • •," except for specified exclusions and deductions. The House Report notes that its "• • • broad-guaged definition of income [is] rational and equitable, since [the Committee] intends to measure income as broadly as possible to be fair to all recipients as well as the tax-paying public and not simply by reference to purchasing power available for food." The proposed regulatory definition of income follows the all encompassing language of the statute. Monies not specifically cited as includable will be considered as income, unless specifically excluded.

The regulations distinguish between earned and unearned income to allow application of the statutory deduction for 20 percent of earned income. The regulations continue to define training allowances as earned income. The House Report notes that "• • • the term 'earned income' • • • appl[ies] to any household member who is involved in any training program recognized by any Federal, State, or local government agency." To simplify program administration, the proposed regulations limit the definition of a training allowance to those payments received directly from a training program recognized by the Federal, State or local government, such as WIN. Allowances received by trainees from other sources will be treated as unearned income. The House Report emphasizes that the earned income deduction applies only to nonexcluded earnings. For example, any portion of the training allowance which is excluded as a reimbursement for work-related expenses shall be disregarded prior to computing the deduction.

The regulations also propose treating certain assistance payments as earned income. This policy applies to assistance payments which are provided in lieu of wages or salary, to individuals required to work as a condition of receiving the assistance. In some areas, persons seeking general assistance must take public service jobs, without compensation other than the assistance payment and, perhaps, an additional work allowance. In such cases, since the individual actually works for the assistance payments, the household will receive the deduction for work related expenses the same as any other employed household.

While the statutory definition of income is broad, the Department believes that there are two instances of "payments" which are not encompassed in the income definition and are, therefore, disregarded under the proposal. These payments are recoupments of prior overpayments and the surrender of child support payments to the Title IV-D agency (Child Support Enforcement Program). In the typical recoupment situation, a household may be overpaid cash benefits in another program for a period of time. The agency which issued that overpayment then lowers the amount of its current payment below the proper level to recoup the full amount of the overpayment over a period of time. Thus, an AFDC household entitled to $100 per month, which received $120 per month for five months, might then be issued only $80 per month for the next five months. Under the proposed regulations, the household should have the entire $120 considered income during those months that the household is receiving the excessive payment of $120 per month. When the household's payment is reduced to $80 per month, the Department proposes to count the household's income as $80 a month. Since the $20 recoupment had previously been counted in income, computing benefit levels based on $100 per month would result in double counting of the $20 per month. In certain situations, the prior overpayment might not have been actually used to calculate food stamp income because the household did not apply for food stamps until after the recoupments began. However, to simplify program administration and avoid certification delays, the Department proposes the general rule that recoupments not be considered as income.

Title IV-D of the Social Security Act involves the Federal and State governments in the enforcement of collection of child support payments. Under the terms of Title IV-D, a child support payment due to an AFDC household must go directly to the Title IV-D agency rather than to the family. The State agency then forwards the child support payment to the household by adjusting the household's AFDC payment to reflect the amount of child support received by the Title IV-D agency. For food stamp purposes, the AFDC payment to the household, but not the child support payment which went directly to the Title IV-D agency, is considered income to the household. However, there are limited situations in which the AFDC household receives the child support payment directly. The household must then turn the payment over to the Title IV-D agency to maintain their AFDC eligibility. The child support payment is then used by the State agency to adjust the AFDC payment in the same manner as if the Title IV-D agency had received the payment directly. To maintain equity between these households, the Department proposes not to count as income child support payments surrendered by households to the Title IV-D agency.

The definition of income specifies that the income of individuals disqualified from program participation,

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less that member's prorated share, shall continue to be attributed to the household from which the member was disqualified. The regulations provide that the prorated share is computed by dividing the disqualified member's gross income, less exclusions, equally among all household members, including the individual being disqualified. The disqualified member's prorated share is then subtracted from the individual's gross income and the remaining amount is attributed to the household as available income. This procedure is explained more fully under the section of the preamble entitled "Certifying Households with Special Income Circumstances."

INCOME EXCLUSIONS

1. *Inkind benefits and vendor payments.* The Act provides for the exclusion of "• • • any gain or benefit which is not in the form of money payable directly to the household." As the House Report notes, this provision would exclude from income "• • • inkind benefits, such as meals, clothing, or shelter, [and] • • • money payments made on behalf of a household to another party by a third party • • •," commonly known as vendor payments. Neither the statute nor the legislative history makes any distinction between public and private vendor payments, nor do they limit the vendor payment exclusion by the type of expense being paid. Therefore, the proposed regulations exclude any payments made on the household's behalf by a third party from that party's funds. For example, rent subsidies from the Department of Housing and Urban Development (HUD), payments to service providers under Title XX of the Social Security Act, and mortgage payments by a nonhousehold member, such as an absent spouse, are all excludable vendor payments.

The House Report makes it clear that "• • • any money *payable* to a household, but diverted from it to a third party, either of the household's own free will (e.g., an arrangement with an employer to deduct the rent and mail it to the landlord) or involuntarily (e.g., a court-ordered garnishment of wages) would be counted as income. • • •" Even though the household does not directly receive these monies, the entire wage is considered income and no exclusion is allowed as a vendor payment. Otherwise, households could intentionally alter their financial arrangements so as to increase food stamp benefits.

Similarly, money deducted or otherwise diverted from the household's public assistance grant for purposes of managing the household's expenses shall be treated as income and not excluded as a vendor payment. These situations (sometimes termed protective payments) typically arise where the household has demonstrated inability to properly budget the grant. As with garnishments, this policy prevents households from increasing food stamp benefits by altering their financial arrangements. This policy does not apply to payments over and above the AFDC grant which are paid directly to service providers by the State agency, such as payments under Title XX.

Except for these diverted payments the regulations will exclude payments which go directly to a third party, but will not exclude monies actually received by the household, even though earmarked or legally obligated for a particular expense. An exception is proposed for certain experimental HUD programs in which a rent subsidy is paid to the household. In order to maintain a consistent policy on treatment of HUD housing subsidies, and to avoid interfering with the results of these existing experimental projects, the regulations propose to exclude as vendor payments both the HUD housing subsidies which go directly to the landlord and the payments, in those few experimental projects, which go through the household to the landlord.

2. *Irregular income.* The Act excludes "• • • any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of $30 in a quarter." As the House Report notes, this "• • • exclusion is reasonable because counting and documenting such income • • • would present administrative difficulties and because the amounts of money involved are too small to justify [the needed administrative time]." The proposed regulatory provision follows the language of the Act.

3. *Tuition and mandatory fees.* The legislation continues to count scholarships, deferred education loans, fellowships, veteran's educational benefits, and the like as income. Instead of the current education deduction, the Act substitutes an income exclusion to the extent that the above benefits are used for "tuition and mandatory school fees at an institution of higher education or school for the handicapped." The House Report points out that the "• • • idea is to count as income that portion of a scholarship that goes for living expenses, but not to count the portion that is clearly unavailable because it is used for tuition and fees." The Senate and House Reports, read together, indicate that the statutory phrase "institution of higher education" would include vocational, correspondence or technical schools. The Department proposes adopting this broad definition so as to treat students receiving the above educational benefits in a similar fashion.

Additionally, the House Report provides that the statutory phrase mandatory fees "• • • would encompass an *expense required* by a school in order to attend or enroll in a particular course. • • •" [Emphasis added.] The House Report recognizes that lab fees and expenses for equipment (e.g., a microscope) which are required for *all* students taking a particular course would be an excludable mandatory fee. However, expenses for books, transportation and personal "maintenance" are listed by the House Report as examples of nonmandatory expenses. Normally, uniform expenses for these items would not be required by institutions. For example, books that are required reading for courses may be borrowed or purchased used.

While this regulatory provision may seem unfair to some students, on balance, the requirement that the expense, itself, be uniformly required by the school should reduce program abuse and avoid the administrative inconvenience and the delay of determining and verifying disparate individual costs to each student for numerous items. However, reimbursements for certain educational expenses which are not mandatory fees are excludable under § 273.9(c)(5) of the proposed regulations.

4. *Loans.* The legislation continues the current income exclusion for "all loans other than educational loans on which repayment is deferred." The exclusion for loans covers monies obtained from both private and commercial sources. The purpose for which the money is borrowed will not affect the exempt status of the money. In accord with the House Report, the proposed regulations mandate that, when verification of a loan from private sources is needed, a signed statement by both parties attesting to the loan is sufficient. No formal payment schedule is necessary.

5. *Reimbursements.* The Act excludes reimbursements "• • • which do not exceed expenses actually incurred and which do not represent a gain or benefit to the household." The legislation extends the current exclusion for volunteer reimbursements to others, such as employees and trainees who receive work or training related reimbursements.

The House Report makes clear that flat allowances received in advance of an expected expense should be treated as a reimbursement, as well as monies paid after the expense has been incurred. It is equitable that the timing of compensation for expenses borne by the participant not determine whether or not the compensation should be excluded. Monthly travel allowances provided to students or trainees are, therefore, excludable as reimbursements.

The House Report does place two clear limitations on what monies can

be excluded as a reimbursement. The first limitation is that the reimbursement not exceed the actual expense. However, to avoid verification complications, the House Report suggests that reimbursements not be considered excessive unless the household or the provider of the reimbursement indicates the amount may be in excess of actual costs. Since most reimbursements are for small amounts, the State agency is not obligated to check with providers about the level of reimbursements or the amount of actual expenses, but should do so in cases where the claimed reimbursement is inconsistent with other known information. Serious delays could result if the State agency had to verify numerous individual expenses covered by reimbursements. In those cases of excessive reimbursement, however, the amount up to the actual expense is excludable; the amount in excess of actual costs is income.

The second statutory limitation is that the reimbursement not be a gain or benefit to the household. The phrase "gain or benefit" raised issues unresolved by the legislative history. How should "indirect" or "intangible" benefits (education, travel, or practical experience) be treated? If the person retains a tangible item (book, uniform or tool), is there a gain and what is the amount of the gain? Is there always a "benefit" if the reimbursement covers an expense that particular household would normally have borne on its own? If a uniform can be worn off the job, is there a gain and what is the amount of the gain?

The Department believes that payments received for normal living expenses of the household, such as rent, mortgage, personal clothing, or food eaten at home, will always represent a direct benefit to the household and therefore, should not be excluded. Most of these households would save money which would have otherwise been spent to cover these typical household costs.

However, to simplify program administration, reimbursements for intangible benefits other than normal living expenses and even reimbursements where the person retains a tangible item, such as a book, will not be considered a gain to the household. To involve the State agency in the complex problems of valuing indirect benefits or tangible goods would not be cost effective considering the small value usually associated with reimbursements. The regulations cite common examples of excludable reimbursements or allowances, such as the out-of-pocket expenses of volunteers, or job and training expenses for travel, per diem, or uniforms.

6. *Third-party funds.* The Act exempts ". . . money received and used for the care and maintenance of a third-party beneficiary who is not a household member." Such money flows through the household to the nonhousehold member and is spent for the nonhousehold member's maintenance. To the extent that the money is not used for the nonhousehold member's benefit, it must be included in household income.

This provision of the legislation does not exclude all monies paid to a third party, such as support or alimony payments. The legislation clearly provides an exclusion only for money which is received by the household on behalf of a nonhousehold member and is then used for the care and maintenance of that nonhousehold member. The provision excludes, for example, social security, public assistance or other payments received by the household for the care and maintenance of a nonhousehold member, e.g., a person receiving institutionalized care. In the event the State agency is unable to determine the amount of the payment that has been allotted for the nonhousehold member, the exclusion will apply on a prorated basis to payments received jointly where the nonhousehold member was intended as a beneficiary of the payment.

7. *Earnings of children.* The legislation continues the exclusion for monies received by a child under 18 who is at least a half-time student. As the House Report notes ". . . any attempt to include child earnings would create administrative complexity and result in the counting of small and difficult to document sums of money." The regulations, in conformance with the House Report, provide that the exclusion continues during school breaks, if the student intends to resume schooling at least half-time after the break. However, emancipated minors or students living alone are not allowed the exclusion as they do not qualify as children living with the household.

The Department recognizes that migrant families containing students may present an unusual problem. In some cases, the entire family may be paid for labor without differentiating which member earned what amount. Therefore, the student's earnings could not be identified and excluded. To simplify this problem, the regulations require that if the earnings of or amount of work performed by the student cannot be separated from that of other household members, the total earnings shall be prorated evenly among the working members and the student's prorated share will be excluded.

8. *Lump-sum payments.* The Act provides an exclusion ". . . for monies received . . . as nonrecurring lump sum payments." The House Report notes that the ". . . list of . . . nonrecurring lump sum payments is intended to be openended." Lump-sum payments made from other programs, such as AFDC, are excluded under this provision. While excluded as income, the Act requires that lumpsum payments be counted as a resource when received, unless they are otherwise excluded.

9. *Cost of self-employment.* The legislation continues the current regulatory exclusion for the costs of producing self-employment income. These exclusions are discussed in section 273.11, "Certifying Households With Special Income Circumstances."

10. *Income excluded by other laws.* The legislation recorgnizes an exclusion for "• • • any income that any other law specifically excludes from consideration as income for the purpose of determining eligibility for the food stamp program." The other Federal statutory exclusions need not mention the Food Stamp Program by name so long as it is clear that the exclusion applies to the Program. For example, section 356 of the Youth Employment and Demonstration Projects Act of 1977 provides: "Earnings received by any youth under this part [Youth Employment Demonstration Programs] shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs." Since that language excludes earnings from being considered for all Federal eligibility or benefit level computation purposes, the Department believes that it must be excluded for Food Stamp Program purposes.[24]

As new legislation is enacted it will be reviewed in light of its specific terms and the associated intent of Congress to determine if exclusion from food stamp income is appropriate. The list of legislative income exclusions found in the regulations will then be revised as required. State agencies will be immediately notified of any statutory changes which affect food stamp benefit computations. To insure uniform standards, State agencies are required to abide by the Department's interpretation of Federal law.

The list of legislative exclusions contained in the regulations does not include benefits excluded under the provisions of their own legislation if they are also excluded under other income

[24] An examination of the legislative history of the Youth Employment and Demonstration Projects Act of 1977 confirms the Departmental analysis that the all exclusive statutory language would apply to food stamp benefits. House Report 95-314 (May 13, 1977) notes that "[w]ithout such a provision, youth might be deterred from entering these programs by the prospect that their families' welfare or food stamp benefits would be reduced because of their participation."

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exclusions of the Food Stamp Act of 1977. For example, the value of supplemental food assistance provided under the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), the National School Lunch Act (42 U.S.C. 1960(e)), and the Nutrition Program for the Elderly (Title VII, Older Americans Act of 1965), is excluded under the Food Stamp Act as an in-kind benefit, although those three laws also exclude their benefits from treatment as income by the Food Stamp Program. Similarly, refunds of Federal income taxes, including earned income tax credits, are excluded as nonrecurring lump sum payments.

Income deduction. The Act specifies deductions which will be allowed in computing a household's net income for determining eligibility and the level of benefits. The statutory deductions eliminate current itemized deductions for medical expenses in excess of $10 a month; ten percent of earned income, up to $30 a month; court-ordered support and alimony payments; mandatory payroll deductions; employment related child care payments; disaster or casualty losses; shelter costs in excess of 30 percent of income; and tuition and mandatory school fees.

Instead of these itemized deductions, the Act provides a monthly standard deduction for all households, a deduction of 20 percent of earned income, and a limited dependent care deduction for working households, and a limited shelter deduction for costs in excess of 50 percent of income after all other deductions. In the 48 States and the District of Columbia, the standard deduction will be $60 and the dependent care and shelter deductions will be limited to $75 a month. The $75 maximum will apply singly to either the dependent care or shelter deduction, or, if the same household is claiming both expenses, the combined deductions cannot exceed $75. In Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands, the amount of the standard deduction will be adjusted by a ratio of current average itemized deductions for each of those areas to the average itemized deductions in the 48 States and the District of Columbia. Similarly, the limit on the shelter/dependent care deduction will be adjusted for each of these areas based on a similar comparison of shelter costs.

20 percent of earned income. Households with earned income recieve a deduction of 20 percent of gross earnings. This standardized deduction replaces itemized deductions for taxes and other mandatory withholdings, as well as the former deduction of 10 percent of earnings, up to the maximum of $30 per household per month. As noted earlier, the regulations specify that the 20 percent earned income deduction applies not only to wages and salaries, but also to certain training allowances, self-employment income, and certain general assistance payments.

Dependent care deduction. The Act allows a deduction for the actual costs of dependent care "* * * when such care enables a household member to accept or continue employment, or training or education which is preparatory for employment," subject to a $75 maximum.

As the House Report makes clear, this statutory dependent care deduction applies only to direct compensation to the care provider. If a live-in attendant provides these services, only direct payments to the attendant will be permitted, not the cost of in-kind benefits, such as meals and lodging.

The report explains that this deduction also covers dependent care expenses which allow "job search" activities. To ensure uniform application of this rule and to reduce possible abuse, the Department proposes that a dependent care deduction for job seekers only be allowed if the effort meets the job search requirements, regardless of whether the job seeker is required to comply with job search requirements as a condition of eligibility or is doing so voluntarily.

Shelter deduction. The Act provides a deduction for shelter expenses to the extent that the allowable shelter costs exceed 50 percent of household income after all other income exclusions and deductions are allowed. The maximum excess shelter cost deduction is $75. However, if the household also claims dependent care expenses, the statute provides that the combined dependent care and shelter cost deductions for any household cannot exceed $75 in any given month. The proposal encompasses all the current allowable shelter costs such as rent, mortgage, insurance, taxes, and utilities such as, electricity, heating, cooling, and water costs. In addition, it has been broadened to include initial installation fees for utilities.

The proposed regulations also continue the use of standard utility allowances in lieu of actual utility expenses in computing the shelter deduction. Although the House Report would appear to prohibit utility standars, the House bill was amended in conference and the Act, as passed, allows the Department the flexibility of continuing the current standard utility allowance.

Congressman Foley noted in the *Congressional Record* (H. 9534; September 16, 1977) that the "* * * shelter deduction does not have to reflect as it did in the House version of the bill actual expenses paid * * * standard utility allowances could ease the paperwork burden on both recipient and administrator. * * *"

This standardization can also expedite the certification process and reduce errors and administrative costs. The Department proposes to mandate that all States establish a utility standard under guidelines provided by the Department. The regulations continue the present practice of allowing participants the option of choosing the standard utility allowance or providing verification of actual costs. The regulations propose that households be allowed to switch between actual utility costs and the utility standard at any time.

The regulations also propose two situations in which shelter costs would be allowed on a home not currently occupied by the household. If the home is temporarily not being used as a residence because of employment away from home, such as households involved in migrant labor, or abandonment of the home caused by a natural disaster or casualty loss, the household may claim both the costs of its actual residence and the costs of the unoccupied home for purposes of computing the shelter deduction. The household is still subject to the maximum $75 ceiling on total excess shelter/dependent care costs.

To claim these shelter costs the household must intend to return to the home and must demonstrate that the current occupants of the home, if any, are not claiming the same shelter costs for food stamp purposes. Additionally, the household is not entitled to an excess shelter cost deduction for homes which are rented. Leased homes are treated as self-employment property and, therefore, certain expenses of the home (but not payments on the principal) would be excluded as a cost of doing business rather than as part of the household's current shelter costs. (See the section of the preamble on self-employment income for a detailed treatment of this issue.)

Adjustment of deductions. In order to keep allowable deductions as up-to-date as possible, the legislation provides for cost of living adjustments. Starting July 1, 1978, standard deductions shall be adjusted semiannually every July 1 and January 1 to the nearest $5. The adjustments are to reflect changes in the Consumer Price Index for items other than food for the six months ending the preceding March 31 and September 30, respectively. The House Report specifies that amounts below $2.50 should be rounded down to the nearest $5 and amounts of $2.50 and above should be rounded upward.

The legislation provides that the combined shelter/dependent care deductions shall be adjusted only annually, beginning on July 1, 1978. The adjustments shall be to the nearest $5 increment to reflect changes in the shelter, fuel, and utilities components of housing costs in the Consumer Price Index for the twelve-month period ending the preceding March 31.

DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS

Period of application. The Act requires that a household's initial benefits be issued within 30 days of the filing of an application and be retroactive to the period of application. The Act itself does not define the period of application. However, the House Report implies that the Department should review various accounting periods for eligibility determinations including consideration of periods of time of less than a month.

The proposed regulations define the period of application as the calendar month in which the household applies. The household's initial eligibility will be determined based on income received, expenses billed, and other relevant circumstances during the month of application. The calendar month is a convenient, easily understood and explained, measure of time. Households customarily incur, budget and pay expenses on a monthly basis. The month of application provides a workable time frame within which to determine household income and expenses. However, use of the month of application can adversely affect certain households which have no income at the time of application, but are anticipating income later in the month. Rather than alter the period of application for these households, to concentrate benefits only in the that portion of month when they are without income, the Department proposes special income handling rules to cover those situations. These rules are described in the preamble under the section entitled "Destitute households anticipating income."

The period of application is, in most circumstances, also the first month of the household's certification period. In rare instances, the household may be ineligible for the period of application, but anticipate, at time of application, changes which will result in eligibility for subsequent months, such as an anticipated loss of income. In those instances, the household will not be required to return in the subsequent month to file a new application, but may be both denied for the period of application and certified for a subsequent certification period based on a single application. In this way, households do not have to file an additional application and the State agency can save administrative time and cost. Additionally, if income is expected to change from one month to another during the certification period, the State agency may vary the household's benefit level from month to month within that certification period rather than assigning a shorter certification period.

Determining income. The Act requires the State agencies to consider both the income received in the 30 days prior to application as well as the income anticipated for the remainder of the certification period to determine the income to be used in determining eligibility and the level of benefits. According to the House Report, the income from the last 30 days is used "* * * solely to find out whether the income actually received in those 30 days offers a sufficiently strong basis to predict precisely what income would be actually available in the upcoming certification period. * * * The past is thus not totally excluded from the purview of the certifier, but it is subordinate to the central task of reasonably predicting the future availability of funds."

The regulations continue the current policy of basing eligibility and benefits on anticipated income. However, the regulations make clear that if the amount or date of receipt of income is uncertain, the income should not be counted. Income will be counted only in the month in which it is received. Averaging of income over the certification period is permitted at the household's option, provided the difference between the highest and lowest total monthly income received during the certification period does not exceed $50. The greater the difference in monthly income, the greater the likelihood that benefit levels based on average monthly income would not be representative of the household's food needs in any given month. While the Department proposes that $50 be used to determine when averaging may be used, it will monitor the effectiveness of that choice in balancing household and administrative convenience against the importance of focusing on exact monthly income.

The Act provides different requirements for determining the income of students and those households which derive annual income in periods of time shorter than one year, such as certain self-employed persons and teachers. Students receiving deferred education loans, scholarships, or other such lump-sum education payments shall have that income averaged over the period it is intended to cover.

For the self-employed and those under contract which derive annual incomes in periods less than a year, the Act requires that income be averaged over twelve months. To attribute the annual income of these households only in the months received would result in overstating their financial circumstances when the income is received, since it must be used not only for expenses that month but also for expenses in future non-income months. Similarly, it would understate their financial circumstances in the non-income months. A farmer who sells one crop each year does not spend the income from that crop only in the month received. Therefore, the regulations propose that the gross income from the sale of the crop, minus the cost of producing that crop, be averaged over the next twelve months. The regulations propose the use of past income and costs for these households as it is the net income from the sale of the most recent crop which the household actually has available to defray current expenses, not the anticipated profit from the sale of a future crop.

Determining deductions. On November 30, 1977, the Department published final rules (42 FR 60916) which changed FNS provisions for determining allowable deductions as far as utility and heating costs are concerned. Those regulations allowed the costs of utilities on an "as billed" basis (rather than the previous "as paid" method) in calculating excess shelter costs. For the kinds of expenses that are allowed as deductions under the new Act, "paying" and "billing" are virtually synonymous. Additionally, it is easier to verify a bill as opposed to verifying when the bill was in fact paid. The "as billed" approach is more convenient for program participants and administers alike. Expenses billed on other than a monthly basis shall be averaged forward over the period the billing is intended to cover or deducted at the household's option in the month billed. The household cannot claim an expense more than once, even if billed more than once. The regulation also proposes that households may elect to have expenses averaged over the certification period if the anticipated difference between the highest and lowest amounts if $25 or less. This household option should simplify the certification process. To ensure more equitable treatment among households with similar financial circumstances an expense will not be deductible if covered by vendor payments or reimbursements. If otherwise deductible expenses were allowed to households meeting these expenses through a vendor payment or reimbursement, these households would, in effect, receive a double benefit.

Determining eligibility and benefits. The proposed regulations provide certain criteria for rounding computations in eligibility calculations. All cents shall be dropped at various stages in the computation, with the exception of shelter expenses. Exact shelter costs will be computed and any cents in the total figure will then be dropped prior to subtracting from 50 percent of income. It was determined that use of whole dollars except in shelter computations would facilitate the income calculation process without significantly affecting households. However, because of the number of

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components included in shelter computations, rounding each shelter expense down, and then summing them, could reduce the total figure by several dollars.

Destitute households anticipating income. The proposed regulations provide for special eligibility and benefit calculation procedures for households which have no current income, but which anticipate income from a new source during the month. Without these procedures temporarily destitute households could be without income and coupons for that portion of the month when the need for food assistance is the greatest. For example, a household may anticipate income from a new job late in a month, but have no income at the time of application. Basing eligibility and benefits on total anticipated monthly income could result in the household being ineligible for the month or in providing too few coupons to meet food needs until the income from the new job is received.

The House Report indicates that one method of meeting the needs of destitute households which anticipate income later in the month would be to expand the rules currently applicable to destitute migrants under the *Gutierrez* v. *Butz*, 415 F. Supp 827 (D.C. 1976) court order. The *Gutierrez* procedures require a half-month certification for newly arrived destitute migrants anticipating income prior to the 15th of the month, and the disregard of that initial payment for the first period of eligibility. Destitute migrants, under that order, receive a half or full month allotment at no cost, depending on how late in the month they anticipate income from a new source.

The Department has determined that the continuation of these procedures is inappropriate under the new Act. The *Gutierrez* court was concerned with situations in which the anticipation of income resulted in coupon purchase requirements which destitute migrants could not pay since the income was not currently available. The purchase-requirement, however, will be eliminated under the 1977 Act and proposed regulations. Moreover, these proposed regulations specify that only reasonably anticipated income may be counted in determining eligibility.

The total disregard of income from a new source, particularly if the household anticipates receipt within a few days, would significantly understate the household's financial circumstances for the month compared to another household anticipating the same amount of income, but from a recurring source. In addition, continuation of the *Gutierrez* half-month certification periods is complicated because the standard deduction and shelter and dependent care limits are, by law, monthly amounts. It is unclear if these amounts would be divided between the two half-month periods or applied only in the period in which income is received. Eligibility limits and processing standards make half-month certifications a further administrative problem. While some households would benefit, others, such as those households applying only in the second half of the month, would lose benefits under half-month certification. Finally, even with half-month certification periods, the household anticipating significant income toward the very end of the certification period could be determined ineligible or be eligible for only a minimal amount of benefits.

In light of all these factors, the Department proposes a special eligibility and benefit calculation which provides destitute households with coupons for periods of the month when they are without income. The proposed procedures preserve the responsiveness of the program to households in special need while also applying these procedures to nonmigrant households.

Under the special income calculation procedure, the food stamp adjusted net income is calculated using monthly income and expense figures. However, the amount of the food stamp benefit level received by the household is dependent on the household's adjusted net income and on the day in the month income from a new source is anticipated to be received.

For purposes of the special income procedure, the month is divided into two distinct periods. The first period encompasses the time in which the household is without the new income (the pre-income period); the second (the post-income period) includes that portion of the month in which the new income is anticipated to be received. For administrative convenience in determining how much of the month will fall into the pre-income and post-income periods, the month is divided into four quarters (1st-7th, 8th-15th, 16th-22nd, 23rd-the end of the month). The pre-income period will take into account those quarter(s) prior to anticipated receipt of income. The post-income period will encompass the quarter in which the new income is received and all subsequent quarters remaining in the month. For example, if income from the new source is anticipated on the 10th of the month, the pre-income period would consist of one quarter (1-7) and the post-income period would include three quarters (8-15, 16-22, 23-end of the month). The allotment levels are then distributed evenly over these quarters, i.e., one quarter corresponds to ¼ an allotment, two quarters compares with ½, three quarters corresponds with ¾ and four quarters equals a fully Thrifty Food Plan allotment.

In determining the household's entitlement to benefits, the State agency would first compute the adjusted net income in the normal fashion (gross monthly income minus allowable exclusions and deductions equals the food stamp adjusted net income). The adjusted net income will then be multiplied by 30 percent, as is also normally the case in figuring food stamp benefits levels.

In a normal income computation the resulting amount is then subtracted from the monthly cost of the Thrifty Food Plan to determine the household's benefit level. It is here, however, that a somewhat different procedure is followed for the special households. The amount equal to 30 percent of the household's net income is compared to that portion of the Thrifty Food Plan (¼, ½, or ¾) that corresponds to the number of quarters in the household's post-income period. If the amount equal to 30 percent of net income *exceeds* the portion of the Thrifty Food Plan corresponding to the number of quarters in the post-income period, then the household receives no benefits for the post-income period, but receives full benefits for the pre-income period. This is accomplished simply by providing the household with an allotment equal to the portion of the Thrifty Food Plan that corresponds to the number of quarters in the pre-income period.

For example, assume a one-person household expects to receive income from a new source in the fourth quarter of the month, and has no other income for the month. The household thus has a pre-income period of three quarters and a post-income period of one quarter. Also assume that the amount of income expected from the new source, after exclusions and deductions, is $140. The $140 is multiplied by 30 percent to yield an amount of $42. This amount of $42 is compared to one quarter of the Thrifty Food Plan for a one-person household, or $13. Since the $42 exceeds $13, the household is not entitled to benefits for the final quarter of the month (the post-income period), but it is entitled to full benefits for the other three quarters (the pre-income period). The household receives, for these other three quarters, ¾ or the Thrifty Food Plan for a one-person household, or $39. This will provide the household with food until the new income is actually available.

Had benefits for this same household been calculated in the normal fashion, the household would have received only $10 in benefits. This special income calculation procedure thus is responsive to the needs of households that otherwise might have received few if any food stamps during a

period when they actually had no income with which to buy food.

It should be noted that if the State agency finds that 30 percent of the household's net income for the month *is equal to or less than* the portion of the Thrifty Food Plan corresponding to the number of quarters in the post-income period, then no special calculation is needed. In such instances, the household's benefits can be figured in the normal fashion. For example, assume that a one-person household is expecting net income of $30 from a new source in the fourth quarter. The houshold has a pre-income period of three quarters and a post-income period of one quarter. The $30 of net income is multiplied by 30 percent to yield an amount of $9. This amount is compared to one-quarter of the Thrifty Food Plan for a one-person household, or $13. Since $9 is less than $13, no special income calculation is necessary. The $9 is simply substracted in the normal fashion from the full Thrifty Food Plan level of $52, and the household's benefits are $43. No special calculation is used in this situation because it would not make any difference. If the household had received the difference between $13 (one quarter of the Thrifty Food Plan) and $9 for the post-income period, and also received three-quarters of the Thrifty Food Plan ($39) for the pre-income period, it would end up with exactly the same benefit level of $43.

Households that have no income at the time of application for food stamps because they have recently lost their sole source of income, but that did receive final income from this source earlier in the month, are eligible for expedited service but are not eligible for the special income calculation. The Department has chosen not to provide these households with a special calculation of their income, since income received early in the month is as available for the remainder of the month for these households as for households receiving like amount from sources which have not been terminated.

Thrifty Food Plan. The Act bases benefits on the value of the Thrifty Food Plan reduced by 30 percent of household income. The value of this plan, as the Act specifies, is the cost of the "• • • diet required to feed a family of four persons," taking into account adjustments for different size families. The Act requires that the Secretary make cost adjustments for Alaska and Hawaii to reflect the cost of food in those States. The Act provides that a Thrifty Food Plan for Alaska and Hawaii may be higher than the amount in the other 48 States. The Thrifty Food Plan for Guam, Puerto Rico, and the Virgin Islands will also be adjusted to reflect the cost of food in those areas, provided that their Thrifty Food Plans not exceed the cost of food for the 50 States. The Thrifty Food Plan, by law, shall be adjusted semiannually to reflect increases in the price of food. The semiannual adjustments shall be rounded to the nearest whole dollar.

Certification periods. For the most part, the Act places into law current policy regarding the length of certification periods. This current policy places emphasis on the probability of changes in household circumstances. Under the proposed regulations, the minimum certification period will be one month and the maximum will remain one year.[25]

In accord with the intent expressed in the House Report, it is proposed that all households be assigned the longest certification period possible in light of household circumstances. As a general rule, short certification periods create an administrative burden upon State agency staff and result in unnecessary inconvenience to participating households. Given the inconvenience to households, especially in rural areas where distance and transportation problems create additional hardships, the Department believes that households should not be scheduled for recertification any more often than is absolutely necessary, as determined by individual circumstances. Consequently, these regulations propose that, at the time of certification, the State agency may increase certification periods of three months or less by one month, if the certification process is completed after the 15th day of the month of application. For example, if a household makes application in January and a determination of eligibility is not completed until the end of that month or early February, the certification period should include both January and February, if it appears the household is also eligible for February benefits. This one month increase will postpone the household's return to the certification office and will lessen the State agency's administrative burden.

The Act provides that certification periods shall not be less than three months except for households where there is a "• • • substantial likelihood of frequent and significant changes in income or household status • • •" The Department believes that the assignment of certification periods of less than three months may be appropriate for the following types of households: Migrant farm workers, especially when they initially arrive at a worksite or when employment opportunities are uncertain; strikers; initial applicants whose circumstances are subject to change; and any other household with extremely uncertain circumstances. Those procedures are described in § 273.10(f)(3).

Additionally, State agencies have, in the past, encountered many difficulties coordinating the reviews of public assistance (PA) and general assistance (GA) households with recertification interviews for food stamps.

Those State agencies which review the PA/GA caseload on a timely basis may assign definite certification periods which expire the month after the PA/GA review. Most AFDC households will therefore, receive a 7-month certification period.

However, for those State agencies which, due to staffing problems or other difficulties, are unable to accurately predict the month in which each PA/GA review will be conducted, the Department proposes the following method of assigning certification periods. Upon approval for PA/GA and food stamps, the household will be notified that its certification period will expire the month after the next PA/GA review, or in one year, whichever comes first. Since a definite expiration date is not assigned, the food stamp certification period will not expire in advance of the PA/GA review date, unless that review is not done within a year. In that event, recertification of food stamps must be accomplished prior to the continuation of food stamp benefits. However, under usual circumstances, the PA/GA review will be accomplished within a year and the household will complete a joint interview for the PA/GA review and the food stamp recertification.

To comply with the requirement for notices of expiration for PA/GA households, as explained in section 273.14(b), it is essential that State agencies develop a system for determining, in advance, when a certification period will end. State agencies must also develop a system for completing the recertification in time to prevent an interruption in food stamp benefits. The assignment of certification periods that expire the month after the month of the PA/GA review should enable State agencies to accomplish timely recertifications. In addition, State agencies should use safeguards to ensure that food stamp eligibility and basis of issuance are examined each time a PA/GA grant is changed or terminated.

The Department proposes retaining the maximum one year certification period for all households consisting entirely of elderly or disabled members whose income and other circumstances are not likely to change.

Certification notices to households. The proposed regulations make specific references to notices which must be sent to applicants and participants.

[25] The House Report indicated that even for public or general assistance households the maximum certification period should be one year.

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The proposed regulations specify the information which must be included on such notices and when they must be sent. In addition, the Department is currently working with a private contractor to develop model notices for use by State agencies. Deviations from use of the model forms will be granted only under the same conditions as would permit a deviation on the application form. (See "Application processing" in this preamble.)

Identification cards. In response to concerns about the lack of security over the identification (ID) cards, the proposed regulations would require that ID cards be serialized and handled by the State agency as accountable documents. The ID cards should contain the names of persons most likely to use the card to obtain food coupons.

The proposed regulations allow State agencies to use photo ID cards, if the household consents. The unwillingness or inability to be photographed will not affect eligibility or benefit levels.

CERTIFYING HOUSEHOLDS WITH SPECIAL INCOME CIRCUMSTANCES

Self-employed households. The new Act continues the current regulatory provision of excluding the costs of producing self-employment income. The kinds of expenses that are currently allowable as a cost of producing self-employment income have remained basically the same under the proposed regulations, with two exceptions.

The Department proposes to count depreciation as an allowable cost of producing self-employment income.[36] The House Reports suggests that simplified schedules of depreciation "covering entire categories of equipment," be provided for administrative ease. The Department proposes to base depreciation on the household's federal tax form, regardless of whether the household claimed a straight-line or accelerated form of depreciation. After reviewing IRS rules on depreciation, the Department decided, for administrative ease and the convenience of applicants, to rely strictly on amounts claimed for federal income tax purposes. In cases where the federal tax form is not available, the proposed regulations provide a calculation methodology for depreciation using IRS guidelines (the Asset Depreciation Range tables) for assigning the useful life of the asset. The Department will supply State agencies with appropriate depreciation tables. The second change from the current rules is the proposal to compensate self-employed households for taxes, retirement costs, and other work-related personal expenses (such as transportation to and from work) through the 20 percent earned income deduction rather than allowing itemized exclusions as a cost of producing self-employment income. This approach is endorsed by the House Report and simplifies and expedites the calculation of these costs.

Households with boarders. The House Report states that since "• • • the income received from a boarder for meals or meals and lodging would be self-employment income • • •" there would be an income exclusion for the expenses incurred in producing that income • • •." For households that own and operate a commercial boarding house, the Department proposes that the cost of producing income be calculated in the same manner as any other self-employed household. However, since many households with boarders may not keep itemized records of the cost of providing meals, the Department proposes that the value of the Thrifty Food Plan for a household size that is equal to the number of boarders be used as the cost of producing the income, unless the household can demonstrate higher actual costs. This approach is endorsed by the House Report and will expedite the certification process.

Boarders as households. The Act specifies that a boarder may be eligible as a food stamp household as long as the boarder is not a resident of a boardinghouse. The Department proposes that the boarder household receive a deduction for identifiable shelter costs or, if it makes a single payment for both room and board, for the amount of the boarder payment which exceeds a reasonable payment for board, as defined in § 273.1(b)(ii).

Treatment of income and resources of a disqualified member. Under the new Act, individuals can be disqualified for fraud or for failure to comply with the student work registration requirement during the school year. Although the House Report states that the income and resources of disqualified members are to be excluded, Senator Dole subsequently pointed out (*Congressional Record*, September 9, 1977; S. 14578) that it was not intended that a household benefit if one or more of its member was disqualified for fraud. Disallowing the income and resources of disqualified persons would significantly hinder the Department's ability to deter fraud or noncompliance with the student work registration requirements. Since the head of the household and primary wage earner will, in most cases, be the individual disqualified, excluding that income would leave the remaining household members with increased benefits. As a result, the household and the disqualified individual could benefit by intentionally defrauding the program or intentionally failing to comply with the student work registration requirements. The Department believes that adoption of such a policy could serve to encourage fraud and noncompliance with the student work registration requirements and would thus contravene the intent of the Act. The Department is, therefore, proposing that a pro rata share of the income of the disqualified member be counted when determining the eligibility of the remaining members.

This pro rata share is calculated by subtracting allowable exclusions from the disqualified member's income and dividing this amount evenly among the household members, including the disqualified member. All but the disqualified member's share is counted as income to the remaining members. In addition, the Department proposes that any allowable shelter or dependent care expenses paid by or billed to the disqualified member be prorated in the same way that the income is prorated. If the prorated income was earned by the disqualified member, the household would also receive the 20 percent earned income deduction.

Under the proposal, the remaining members would not be provided a notice of adverse action, if the benefits are reduced or terminated within the certification period because one of the households members has been disqualified for fraud. The rationale for not providing a notice of adverse action in these cases is discussed in "Notice of Adverse Action."

Treatment of income and resources of other nonhousehold members. The Department proposes that the income and resources of all nonhousehold members, except disqualified members, be entirely disregarded. Since the ineligibility of certain aliens, tax dependents, and SSI recipients in cash-out States is predetermined by the Act and is not intended to be a penalty, the Department believes no penalty should be suffered by the remaining eligible household members by having a pro rata share of the ineligible member's income counted.

Addicts and alcoholics. The proposed regulations permit participation by narcotics addicts or alcoholics who reside in a treatment and rehabilitation center, in accordance with provisions of the Act. As recommended by the House Report, the proposed regulations continue the current provision that requires the center to designate an authorized representative to apply on behalf of the addict or alcoholic and to spend the coupon allotment for the meals of such addict or alcoholic.

[36]The House Report indicates that the Department should allow depreciation since "• • • some factor for wear and tear of machinery and buildings, obsolescence and accrued replacement costs should be inherent in doing business, • • • (although) the accelerated forms of depreciation afforded under the Internal Revenue Code as a matter of legislative grace would not necessarily constitute costs of doing business • • •".

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The proposed regulations place responsibility upon the institution for providing the appropriate information at certification and for the accurate and prompt reporting of changes in household circumstances. The regulations hold the institution liable for food coupons held on behalf of resident participants and for all overissuances. The proposed regulations authorize FNS to disqualify the institution as an authorized firm when a finding is made that the institution has misappropriated coupon allotments or has used the coupons for purposes other than for food for its household.

Narcotics addicts or alcoholics residing in a drug addict or alcoholic treatment center will be entitled to one half of their authorized coupon allotment upon leaving the treatment program prior to the 16th day of the allotment month. Since a coupon allotment is an entitlement of the household, not the institution, it is appropriate that there be some return to the household. A prorated return based on the exact number of days a household resided in an institution was discarded. That approach would require complicated calculations and ignores the fact that centers need to purchase food for future meals to take advantage of economies of scale.

In addition, the proposed regulations state that addicts or alcoholics residing in an authorized treatment and rehabilitation program are entitled to notice of adverse action, fair hearings, and lost benefits in the same manner as any other food stamp household.

REPORTING CHANGES

Household responsibility to report. The Act gives the Secretary discretion in the area of reporting requirements. Departmental regulations have, in the past, required households to report changes of $25 or more in income or deductions to the State agency within ten days of the date the change becomes known to the household. This policy was adopted because the current income brackets are in increments of $10. Therefore, changes of less than $25 frequently do not affect the household's level of benefits. Additionally, State agencies could avoid diverting administrative time to process insignificant changes that did not affect household benefit levels.

However, it has been brought to the Department's attention that the $25 reporting requirement is difficult for households to understand and causes confusion. For example, if the household has two sources of income each of which increases by $13, those changes *cumulatively* exceed $25 and must be reported under current regulations. Most households would, however, look at each change separately and fail to report them as each is under $25.

In addition, the $25 rule does not conform to AFDC reporting rules which require that all changes be reported. Therefore, PA households are, in effect, required to report all changes while nonassistance households are required to report only those changes over $25. This results in disparate treatment between assistance and nonassistance households.

The Department proposes that households be required to report all changes in income. This proposal is consistent with AFDC income reporting requirements and can be readily understood by households. Since even the smallest change in income can affect the household's benefits under the 30 percent benefit reduction rate, this policy also assures that benefits are determined by the statutory formula.

In addition to public comment on the proposed regulatory provision for reporting of and State action on all income changes, the Department solicits public comment on two alternative requirements which are also under consideration:

1. The household reports all income changes, but the state agency does not have to act on monthly changes of $10 or less. Action would be required when a single change in income was more than $10, when multiple changes cumulatively exceed $10, or at recertification, whichever is earlier.

2. The household is only required to report monthly changes in income of $20 or more. This requirement differs from the current reporting requirement in that the $20 would apply separately to each income source and would not be cumulative in nature. The State would have to act on any changes reported.

While the Department's preliminary analysis led to the proposal of reporting and acting on all income changes, additional comment is sought on the administrative efficiency, cost effectiveness, and affect on households' benefits of all three alternatives.

The Department further proposes that households be *required* to report changes in dependent care or shelter costs only at recertification. To require a report each month on changes such as monthly fluctuations in utility bills would result in an enormous amount of paperwork and would not be cost effective. Changes of this nature are generally small and the $75 cap limits both the number of changes that would affect a household's benefit level and the degree to which such changes would affect benefits. Households are, of course, free to report these changes if they wish.

Report form. The Act requires that households report changes in income or household circumstances on a form designed or approved by the Secretary. The Department has contracted for the design of a model form for use by State agencies. Deviations from this design would only be approved on the same basis under which deviations on application forms would be granted. (See section 273.2(b) "Food Stamp Application Form".)

State action on changes. The Act does not specifically address the issue of State action on changes reported by the household. However, the House Report indicates that States are expected to act promptly, particularly if income anticipated at the start of the certification period later turns out to be unavailable. The House Report states that "[i]f anticipation does not comport with reality and no income or less income than projected appears, then anticipation must be scrapped and swiftly in favor of operating on the basis of what has occurred." Inresponse to these concerns, the Department proposes that State agencies expedite action on changes which have a significant impact on the household's circumstances and result in an increase in benefits. Significant changes are defined as those which reduce a household's total gross monthly income by more than $50 or result from the addition of a new household member. If the reduction in gross monthly income of $50 or more also reduces the household's net monthly income to zero, the proposed regulations require even faster action. In most of these case, the household will be entitled to an adjustment in the current month's allotment if the household had not already participated, or to a supplemental ATP card if the household has already transacted its ATP. In this way, the household would not be left without income or coupons to meet food needs until the next normal allotment is received.

For those changes which do not require expedited action and those changes which result in a decrease in benefits, the Department proposes that current procedures remain in effect.

The Department proposes that households be disqualified for failure to report only if the failure to report was fraudulent, as determined by either an administrative fraud hearing or a court of law. However, whether or not fraud is involved, the State agency shall establish a claim against the household. It is proposed that liability for the overissuance begin in the month the change became known to the household. This policy assures that households which fail to report are not better off than households that timely report changes. Making participating households aware of this policy could help to preclude intentional failure to report and operate as an incentive for reporting changes promptly.

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Mass changes. The Department proposes that overall adjustments in PA payments, Federal adjustments in the food stamp eligibility standards and deductions, and State adjustments to the utility standards be handled as mass changes. Mass adjustments to GA payments will also be handled as a mass change if the State agency administers the GA program. Although households are not entitled to a notice of adverse action for mass changes the regulations propose that States send households an individual notice which informs the household of the change but does not grant the household continuation rights if the household appeals the State agency action. In this way, households are advised of the change and can adjust household budgets accordingly.

For those mass changes in Federal benefits, such as Social Security or SSI, the household has primary responsibility for reporting changes. The State agency may not get enough information concerning these changes to make the change effective when it occurs. In addition, States have experienced problems in obtaining accurate information on these mass changes. States that have the capability may, however, use mass change procedures to adjust food stamp benefit levels as a result of changes in SSI and SSA benefits.

PA households. In accordance with current procedures, State agencies are required to establish procedures and controls to ensure that communication is maintained among PA, food stamp and issuance offices to assure that timely action is taken on changes reported by PA participants to PA workers. Since a termination of the PA grant does not necessarily result in a termination of food stamp benefits, the proposed regulations require that State agencies review the household's circumstances to determine the effect of the termination on the household's food stamp eligibility and benefit level. If there is not enough information to determine how the termination of the PA grant affects the household's food stamp benefits, the proposed regulations require that State agencies send the household a notice of expiration. The use of these procedures for handling changes in the PA grant should ensure that a household's food stamp benefits are not interrupted if the household remains eligible for the Food Stamp Program.

NOTICE OF ADVERSE ACTION

Use of Notice. The Department estimates that when State agencies apply the eligibility criteria as mandated by the new law, many households will receive decreases in benefits or will be terminated from the program. The Department proposes, as recommended by the House Report, that State agencies send an individual notice of adverse action to each household that will receive a reduced bonus allotment or that will be terminated as a consequence of implementation of the new Act. The proposed adverse notice must explain the reason for the forthcoming reduction or termination of benefits and the amount of the new allotment, if any. The proposed notice must also include an explanation of the household's right to request a fair hearing and should explain that the reduction or termination of benefits is the result of changes in Federal law. The notice will advise that benefits will not be continued while the household awaits the fair hearing, unless the issue raised is that the household is being adversely affected by State misinterpretation or misapplication of Federal law or that benefits have been miscalculated. The Department does not believe that all those households which experience a reduction or termination of benefits under the new Act, and request a fair hearing, should be entitled to a continuation of the level of benefits provided under the Act of 1964.

After the mass implementation is accomplished, routine reductions or terminations of benefits will be treated as follows:

State agencies, with the exception described below, will continue to provide a 10 day advance notice period before reducing or terminating a household's benefits. It is proposed that adverse notices which are mailed should allow for an additional two days from the postmarked date to compensate for delivery time. Also, if the adverse notice period ends on a weekend or holiday, the notice period must be extended to the next work day.

The Department also proposes to offer each State agency the option of adopting the adverse notice period it uses for the public assisance caseload, provided that period is no shorter than the minimum 10-day advance notice requirement. For example, those States which use a 15 day adverse notice period for AFDC recipients may also apply that notice period to food stamp households. This should enable State agencies to better coordinate and manage both programs.

The Department proposes to expand the adverse notice to include, in understandable language, the following information: the proposed action; the reason for the proposed action; the household's right to request a fair hearing; the name and telephone number of the person to contact for additional information; the availability of continued benefits; and the potential liability of the household for any overissuance received while awaiting a fair hearing. Additionally, if free legal advice is available in the community the State should advise the household of the presence of this service.

The Department is working with a private firm to develop a standard national adverse action form. Since State agencies may, under certain conditions, request exemptions from the national form, the Department believes it necessary to include in the regulations all adverse notice form requirements.

The Department proposes to maintain the current exemption for an adverse action notice when the household provides a written statement that benefits are no longer desired or which acknowledges that information it has provided will lead to a reduction or termination of benefits.

The Department proposes new exemptions for the adverse action notice under certain circumstances. Households that have been receiving an increased allotment to restore lost benefits should not receive a notice of adverse action to indicate that all lost benefits have been restored to the household. It is proposed that these households simply be notified in writing of the anticipated termination of the increased allotment. This reduction in benefits does not represent an actual decrease in the household's basic eligibility and, therefore, those households should not be entitled to a continuation of benefits pending a hearing.

Adverse action notices would not be required for households which receive a variable basis of issuance within the certification period, if the household was notified at the time of certification of the forthcoming changes. This policy would facilitate the issuance of coupon allotments on a variable basis of issuance. Variable issuances are assigned to households to tailor the benefit levels to anticipated income in specific future months. State use of variable bases of issuance will increase the length of certification periods and reduce the number of times households have to reapply for benefits. Adverse notice requirements, for changes meant to accommodate household circumstances, could discourage State agencies from providing variable issuance.

The Department proposes that adverse action notices not be required for households which make joint application for PA and food stamp benefits and receive food stamp benefits pending approval of the PA grant, if the household was notified at the time of certification that food stamp benefits would be reduced upon approval of the PA grant. This exemption will allow State agencies to assign longer certification periods and thus reduce the number of times households have to reapply for benefits. Without this exemption, households awaiting the approval of a PA grant would likely be certified for only one or two months.

Household members disqualified for fraud, and the remaining household members whose benefits are reduced or terminated as a result of the fraud disqualification, would be sent special notices under subsection 273.16. The individual disqualified for fraud has already received a hearing prior to termination of benefits, which reduces the need for a fair hearing under the regular notice of adverse action provisions.

In addition, providing a notice of adverse action to the remaining household members would negate the fraud disqualification if the household requested a fair hearing and received a continuation of benefits pending the appeal.

Finally, adverse action notices would not be required for households containing a striker or a person subject to a lockout, when the strike or lockout ends and the household is again receiving income, if a waiver of the adverse notice was signed by the household at the time of certification. This waiver would enable the State agency to assign a longer certification period than is normally allowed for such households, because the State agency could reduce or terminate benefits immediately upon resumption of income because the strike or lockout has been settled. These households should, nonetheless, receive a notice of termination or reduction in benefits to advise the household of changes in future assistance levels.

RECERTIFICATION

Notice of expiration. The Act requires the State agency to notify households, prior to the expiration of the current certification period, that a new application must be submitted in order to renew eligibility for benefits. Households which file an application by the 15th of the last month of certification shall, if determined eligible, receive uninterrupted benefits. The statute further provides that households determined ineligible or eligible for fewer benefits shall not continue to participate at the former basis of issuance level once the current certification expires, even if a timely fair hearing request is made.

Public concern over recertification procedures were recently aired in response to a proposed rulemaking published in June 1977. These concerns were resolved with the publication of final rulemaking on December 23, 1977 (42 FR 64357-64360), which is in general conformity with the provisions of the Food Stamp Act of 1977. Those regulations are essentially republished in this package for further public comment, except that the Department eliminated the State agency's option to set the date for timely reapplication. In accord with the Act, the 15th will be the date used in all States, except in cases where the notice of expiration is provided at the time of application.

The proposed regulations require that the notices be mailed far enough in advance of the 15th to provide the household a reasonable opportunity to comply. Therefore, notices of expiration must be received by the household no later than the 1st of the last month of certification and no earlier than the 15th of the prior month. This notice schedule provides the household adequate opportunity to file a timely reapplication and maximizes the State agency's processing time, without delaying benefits. The final regulations published on December 17, 1977, specified that households certified for one month are to be provided a notice of expiration at the time of certification, since it is impossible to provide these households with a notice of expiration by the 1st of the last month of the household's certification period. If the State agency assigns a two-month certification period but the household is not certified until the month following the month of application it would also be impossible for States to provide the notice of expiration prior to the 1st of the last month. Therefore, the Department proposes that these households also be provided a notice of expiration at the time of certification. A timely reapplication for such households will be 15 days from the date the notice is received (allowing two days for mail lag if the notice is mailed). Households redetermined eligible shall have an opportunity to participate no later than 30 days after the date the household first had an opportunity to obtain its last allotment.

In the past, the Department has been asked to permit the use of an abbreviated application form for reapplication which would focus on changes in circumstances rather than redocumenting all factors of eligibility. The Act requires households to file a "new application" in order to renew eligibility. The Department does not believe that filing a change report will satisfy that requirement. However, the proposed regulations do not prohibit States from designing a form more appropriate for reapplications than the uniform application form. Departmental approval would be required to insure that the forms meet minimum Federal requirements.

As with initial applications, the State agency is required by the Act to promptly process reapplications and provide timely benefits. However, the Act does not authorize extensions of the former basis of issuance for households which are not timely processed. These regulations, therefore, require that the State agency take extraordinary means, if necessary, to provide households whose timely reapplications have been delayed in processing an immediate opportunity to participate once eligibility is determined. Any benefits lost by such households due to the State agency's untimely processing shall be restored as part of future issuances.

FAIR HEARINGS

While Act does not require any specific changes to the current fair hearing procedures, the following proposals are made in an effort to improve existing hearing procedures.

Timely action on hearings. The House Report notes that the bill "* * * would retain the fair hearings provision of the (food stamp) law intact and would encourage the Department to enforce its excellent regulations and instructions on the subject." The report suggests, however, that the Department "* * * reduce the sixty day maximum decision period should that prove to be administratively feasible."

The Department is concerned that the 60 day period for processing appeals is too lengthy and results in hardships to households. However, the Department recognizes that upon implementation of these new regulations States will have the tremendous task of redetermining the eligibility or basis of issuance of every household. Also, States are likely to encounter an increase in fair hearing requests as a result of reductions or terminations of benefits resulting from implementation of new eligibility criteria. Thus, blanket acceleration of fair hearing procedures at this time would be difficult. A reduction in the time allowed for most State level fair hearings is not proposed in this rulemaking. However, a study of the fair hearing procedures is being conducted to determine the feasibility of reducing the time limit on processing appeals.

For the present, the Department proposes that State agencies which choose to use the local level hearing system, with appeal rights to a State level hearing, must complete the local hearing process within 45 days of the hearing request. In addition, if the local level decision is appealed, the State level hearing process must also be completed within 45 days of that appeal. This reduction in the time limits allowed for the two tiered hearing system enables households to receive a final decision on an appeal within 90 days, as compared with the current 120 days. State agencies will also be required to expedite fair hearing procedures for those households which are denied emergency benefits under the expedited certification procedures described in § 273.2(i). The expedited hearing provisions require State agencies to schedule an agency

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conference within two working days of the request for a hearing, unless the household wishes to waive the conference and instead be scheduled for a hearing. These agency conferences will seek an informal resolution of grievances and, if successful, will eliminate the need for further action. However, the agency conferences are not intended to replace hearing procedures for those households which do not wish to attend the conferences or which are dissatisfied with the results of the conferences. The expedited hearing regulations require a State level hearing as soon as is reasonably possible so that a hearing decision can be rendered within 15 working days after the hearing request. If the hearing official reaches a decision in favor of the household, the State agency will be required to provide that household with an opportunity to participate within two working days of receipt of the decision. The Department feels that this requirement will ensure that households with little or no income will not be subjected to lengthy waiting periods before the hearing is completed.

Note that the time limits on regular fair hearing procedures will not apply to the time within which a decision must be rendered, but to the time within which the household must be provided an opportunity to participate at the benefit level determined by the hearing decision.

Time period for requesting hearing. The Department proposes to allow households a standard period of one year within which to appeal an adverse action. A household may request a hearing on any action by the State agency or any loss of benefits which occurred in the past 12 months. The policy currently in effect allows households "• • • a reasonable period of time • • •" to appeal an adverse action. Most State agencies have incorporated the State public assistance standard into the State food stamp manual. Those standards usually allow a household between 30 and 90 days within which to appeal an adverse action. The adoption of a uniform national standard will avoid the disparity of time limits currently imposed by States, and should afford adequate time to file appeals.

Hearing official. The Department proposes using the term "hearing official" to describe what the current regulations refer to as both the hearing authority and the hearing official. The two terms unnecessarily lead to confusion. Criteria for who may act in the capacity of a hearing official are proposed along with the proposed powers and duties of the hearing official.

Attendance at hearing. It is proposed that each hearing be attended by the household and/or its representative and by a representative of the State agency who initiated the action being challenged.

Conduct of hearing. To ensure household access to all necessary information prior to scheduled fair hearings, the proposed regulations require the State agency to make the contents of the case record available to the household and/or its representative. If requested, the State agency must also provide free copies of the relevant documents. However, the Department proposes to permit the State agency to withhold information which is confidential in nature such as information regarding pending criminal investigations, or the names of informants that may have provided information about the household. Confidential information not provided to a household or its representative shall not be considered in deciding the case. Thus, while the State agencies will have to identify the verification which determined the reduction or termination of benefits, such as a wage stub, it would not be necessary to provide the name of the person who provided the name of the employer.

Hearings decisions. The Department proposes standards for the implementation of both local level and State level decisions. These standards were introduced to ensure that all decisions are acted upon in a timely fashion, equitable to both the household and the State agency. The proposed regulations expand the current policy to ensure that local agency administrators, as well as households, may appeal to the State agency level the hearing decisions made by local level hearing officials.

The Department proposes that State agencies with local level hearing systems be required to routinely review those hearing decisions. If excessive numbers of local level decisions are appealed and reversed, the State agency must evaluate the situation and take appropriate corrective action.

The Department is also considering procedures for Regional office review of certain fair hearing decisions. Those procedures will be published as proposed rulemaking at the same time that the procedures for review of State claims, required by section 13 of the Act, are proposed.

FRAUD DISQUALIFICATIONS

Under the current regulations, State agencies may disqualify a household for fraud for a period of time specified by the State. Fraud disqualification procedures and punishments vary widely from State to State. The proposed regulations, in accordance with the Act, would limit these variations by establishing disqualification time ranges, requiring that fraud determinations be made at administrative or judicial hearings, and prohibiting the disqualification of innocent household members. Individuals suspected of fraud will be allowed to participate pending the fraud hearing determination if they are otherwise eligible, but will be subject to a claim for any overissued benefits resulting from the continued participation if the hearing results in a fraud disqualification.

Fraud disqualification penalties. The Act requires that individuals found guilty of fraud at an administrative hearing shall be ineligible to participate in the Food Stamp Program for three months, and individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than six months and not more than twenty-four months, as determined by the court.

Definition of fraud. While no definition of fraud can guarantee uniform application and treatment, the Department proposes a definition which provides some guidance to hearing authorities and participants. The critical element of the definition is that the fraud must be committed "• • • knowingly, willfully and with deceitful intent." The mere failure, for example, to report a change in circumstances does not automatically mean that fraud has been committed. Before such action can be considered fraudulent, the State agency must prove that the individual intentionally failed to report the change in an attempt to get food stamp benefits which the person knew would exceed the proper level. The proposed definition also includes a catch-all provision which covers "• • • any other fraudulent act • • •" to obtain unauthorized food stamp benefits and other acts related to the misuse of coupons. The Department believes this broad language is necessary to avoid technical legal defenses regarding intentional and deliberate deceptive schemes. In addition, the proposed regulations specify that any disqualification must be based on clear and convincing evidence.

Administrative disqualifications. The Act does not specify the kind of administrative hearing that should be conducted to determine fraud. The Department proposes that the procedures for conducting administrative fraud hearings be similar to those for hearings requested by households. Those hearing procedures were commended by the House Report and seem fully applicable to fraud determinations. The Department expects that most State agencies will simply expand the system used to provide fair hearings to include fraud hearings. There are, however, a few ways in which the proposed fraud hearing procedures would differ from the proposed fair hearing procedures. These differences are as follows:

(1) *Fraud hearing procedures.* Unlike fair hearings, administrative fraud hearings are initiated by the State agency. In addition, for a fraud hearing the individual must be eligible and participating when the hearing is initiated.

(2) *Advance notice.* The household member suspected of fraud must be provided a written notice of the date of the hearing and other pertinent information. The notice must be received by the household member at least 30 days in advance of the hearing and the State agency must mail the notice by certified mail, return receipt requested.

(3) *Scheduling of hearings.* Fraud hearings can be conducted without the household member or representative, if the household member or representative cannot be located or fails to appear at the hearing without good cause. However, the hearing official cannot draw any negative inference because the household member was not present or represented. If the household member demonstrates good cause for that absence, the previous adverse hearing decision is void and a new hearing must be conducted.

(4) *Participation during appeal.* In the case of fair hearings, a household's benefits can be continued at the benefit level authorized immediately prior to the notice of adverse action if the adverse action is to be taken during its certification period. In this way, households are not harmed by an adverse action if the fair hearing official later rules the adverse action is incorrect. In the case of fraud hearings, the household member cannot be disqualified prior to the fraud hearing. However, the eligibility and benefit level of the household must be determined the same as any other household. For example, the State agency shall reduce or terminate the household's benefits if the State agency has facts to substantiate that the household is ineligible or eligible for fewer benefits even if these facts led to the suspicion of fraud and the resulting fraud hearing. If benefit levels could not be appropriately reduced pending the fraud hearing, then households containing persons accused of fraud would be more favorably treated than other households.

(5) *Appeal rights of household members.* A household appealing a local fair hearing can receive a new or "de novo" hearing at the State level only if the household specifically requests one. However, in fraud hearings, a de novo hearing will be conducted every time an individual appeals a local level decision to the State level. In a de novo hearing, the prior hearing decision is not taken into consideration.

The regulations propose that an individual can be disqualified based on an administrative finding of fraud at a local hearing only if the individual fails to timely appeal that decision to a hearing at the State level. Therefore, unlike fair hearings, adverse decisions made at a local administrative fraud hearing do not take effect if the individual appeals the local level decision within 15 days of the date the individual receives the notice. For the State to accurately calculate the date the notice is received, States are required to send the notice by certified mail, return receipt requested.

Court imposed disqualifications. The Act and the proposed regulations make clear that individuals found to have committed fraud by a court can be disqualified only if the court orders disqualification and only for the length of time specified by the court. State agencies should encourage State or county attorneys to request this judicial disqualification determination. In the event the court does not address disqualification, State agencies cannot impose a period of disqualification based on that fraud determination. However, administrative disqualification may be pursued in addition to, or independently of, judicial action.

Entitlement to lost benefits. The proposed regulations specify that a disqualified household member may be entitled to lost benefits if the decision to disqualify a household is subsequently vacated or reversed. This is explained in the preamble under "Restoration of Lost Benefits."

RESTORATION OF LOST BENEFITS

Entitlement. The current food stamp regulations specify that lost benefits are to be restored only if the loss was caused by an administrative error on the part of the State agency. The Department proposes that lost benefits be restored whenever the loss was not caused by an intentional act or omission on the part of the household. For example, when a household fails to timely apply for recertification with good cause, the household would be entitled to restoration of any resulting lost benefits.

Time limit for establishing entitlement to lost benefits. After carefully considering the advantages and disadvantages of establishing a time limit for discovering and requesting lost benefits, the Department decided to propose a 12 month time limit. Under the proposed regulations, benefits shall not be restored if they were lost more than 12 months prior to the date the State agency receives information or a notice which indicates that coupons may have been underissued to a household. This information may come from the State's own review system, the Department's Office of Audit, the participant or a variety of other sources.

The 12 month limit should provide adequate opportunity to discover suspected lost benefits and yet establish a definite limit which avoids the problem of computing and documenting claims from periods far in the past. Additionally, since the Food Stamp Program is designed to respond to immediate food needs, compensation for failure to provide for those needs more than a year after the loss does not seem justified in light of the difficulty for both State agencies and households in establishing such old claims. The proposed 12 month time limit is also consistent with the time limit for establishing nonfraud claims.

The proposed rulemaking retains the current provision which allows State agencies to offset the amount to be restored against any unpaid claim owed by the household. Since the offset is only against amounts to be restored and will not affect the current entitlement to food coupon assistance, the household is not nutritionally harmed by the offset.

Disputed benefits. The Department believes that households should not be required to request a fair hearing to receive a restoration of lost benefits if the State agency and household agree on the amount of benefits owed to the household. This approach was adopted by the Department in final regulations published in the FEDERAL REGISTER on March 19, 1976 (41 FR 11464). The Department proposes to continue that policy. In this way, the household and the State agency would be free to resolve these cases without conducting pointless fair hearings.

Computing the amount to be restored. In cases where benefits have been wrongfully denied or terminated, it is difficult to compute the amount to be restored since it is difficult to predict how long the erroneous action acted as a barrier to participation. To assure that States uniformly calculate the length of time affected by erroneous denials and terminations, the Department proposes that the erroneous action not be considered to be in effect the first month the error is corrected, the first month the household is correctly found to be ineligible, or the first month the household reapplied. For example, if a household's benefits were erroneously denied in May, and the State agency, after calculating the correct allotment the household would have been eligible to receive during May and all subsequent months, finds the household is ineligible in September, the household would be entitled to restoration of lost benefits for May through August. If there is no information in the household's case file to document that the household was actually eligible during those months, the proposed regulations specify that it is the household's responsibility to provide the necessary information to determine eligibility. Otherwise, the household will be considered ineligible for the month documentation is not provided.

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The House Report specifies that when benefits are delayed, benefits are to be provided retroactive to the period of application. However, to avoid providing households with large sums of coupons at one time and thus inviting the exchange of coupons for cash, the Department proposes that eligible households be provided benefits retroactive to the period of application only if benefits are delayed less than 60 days from the date the application was filed. If benefits are delayed more than 60 days by the State agency, the benefits lost are to be restored under the normal procedures for restoring lost benefits.

Lost benefits to individuals disqualified for fraud. Both the legislation and the House Report are silent on the issue of whether a disqualifed household member is entitled to a restoration of lost benefits if the decision to disqualify for fraud is subsequently reversed.

The Department proposes that lost benefits be provided to individuals only if the specific action which resulted in disqualification is reversed. Therefore, if a conviction for criminal fraud is reversed on appeal by the appropriate appellate court, or is otherwise overturned by the proper judicial authorities, lost benefits should be provided. However, this same reversal of a criminal conviction would not affect a determination of fraud at an administrative fraud hearing. Inability of the State to satisfy the stringent criminal burden of proof does not demonstrate that the administrative hearing burden of proof has not been met. In other words, even though the evidence may not be strong enough to support a criminal conviction, this finding would not invalidate the administrative determination and disqualification. The administrative finding, itself, would have to be specifically reversed or overturned to entitle the household to lost benefits.

Method of restoring lost benefits. The Act requires that States promptly restore in coupons any food stamp benefits that were wrongfully denied. Although the legislation does not indicate how many coupons a household can receive at one time, the Conference Report does allow "* * * that the Secretary may distribute these restored benefits over such period of time as the Secretary determines to be appropriate."

The proposed regulations state that households will receive not more than 100 percent of the maximum allotment, according to household size, *in addition to* the allotment the household is normally eligible to receive. Therefore, if a four person household is entitled to $300 in lost benefits and is eligible to receive $137 in coupons each month, the household would receive $170 in lost benefits during the first month, assuming $170 is the maximum allotment for the household's size. When added to the household's normal allotment of $137, the household would receive a total of $307 in food stamp benefits for the first month. In the second month the household would receive the remaining $130 in lost benefits plus its normal allotment of $137 which would total $267 in food stamp benefits during the second month. This procedure requires little computational effort by the eligibility worker and can be easily computerized. Also, this method is equitable to all households, regardless of income or current eligibility.

Furthermore, it restores lost benefits in a reasonable amount of time without providing households with more coupons than might be used for food in one month, thus minimizing the potential for abuse.

Another significant change in the way benefits are currently restored is the Department's proposal to promptly restore lost benefits to ineligible households rather than waiting until the household is once again eligible. This proposed change is endorsed by the House Report and appears equitable in that it provides all households that have lost benefits with the same remedy.

CLAIMS AGAINST HOUSEHOLDS

The Act provides broad authority for the Department to establish, settle, adjust or compromise fraud and nonfraud claims against households. The Act specifically provides that this broad settlement and adjustment authority regarding claims against participants may be delegated to the State agencies. To reduce the current duplication of effort between State and Federal levels on the handling of claims, the proposed regulation delegates this settlement and compromise authority to State agencies. In turn, the Department will focus its attention on monitoring each State's overall activities in handling all fraud and nonfraud claims. States will, however, be required to follow certain minimum requirements specified in these proposed regulations for handling claims. These minimum requirements generally follow the guidelines established under the Federal Claims Collection Act of 1966 for collecting claims owed the Federal Government. However, modifications to these general guidelines have been made, when appropriate, to take into consideration the low income levels of most households owing claims for food stamp overissuances.

Nonfraud claims—Procedural errors. In some instances, households are technically ineligible to participate in the program even though the household is eligible for needed food benefits based on all other financial and nonfinancial eligibility standards.

For example, a household may be eligible to participate in the program based on the household's income and resources even though the State failed to ensure that the required work registration form was completed or that the application was signed. Collection of claims for procedural errors is unfair where the household was in need of food assistance and would have been determined eligible except for the procedural error. Therefore, the Department proposes that States not establish claims against households for amounts which the household would have been entitled to receive but for the unintentional technical error.

Nonfraud claims—Agency errors. The Department proposes that households be liable for non-procedural agency errors even if the household is not at fault. Since the household has received the benefit of the State's error, the Department proposes that the household be required to return this benefit. Other Federal programs do not automatically decline collection of losses caused solely by agency error. This procedure is consistent with the general guidelines provided in the joint regulations published by the General Accounting Office and the Department of Justice under the authority of the Federal Claims Collection Act. Eliminating collection activity on all agency errors would have the net effect of writing off significant amounts of potentially collectible money owed the Federal Government.

However, the Department believes, in some circumstances, that the cost of collection activities may exceed the possible returns. Therefore, the Department proposes that State agencies not be required to initiate collection action on agency errors or errors caused by household misunderstanding if the amount of the claim is less than $35 or if the State agency has information which documents that the household cannot be located. (The $35 amount is the current minimum amount for claims against retailers and wholesalers.) Additionally, the proposed regulations allow State agencies to terminate collection of nonfraud claims in situations where there is little likelihood that the household will pay or where the claim has been held in suspense for more than 3 years.

The Department also proposes a 12-month time limit for establishing nonfraud claims. This time limit eliminates the administrative burden of documenting and computing errors that occurred more than a year prior to discovery and is consistent with the 12-month limit proposed for restoring lost benefits. In those cases where auditors discover errors dating back several years, the Department believes it would be more cost efficient to concentrate on correcting the cause of the error, rather than trying to compute a claim which could be difficult to collect.

Fraud claims. The Department proposes that a fraud claim be established if a determination of fraud has been made by either a court, an administrative fraud hearing or by the State agency's fraud investigators. Prior to the fraud finding, the claim shall be handled as a nonfraud claim. In cases where the determination of fraud was made by the State's fraud investigators, the proposed regulations specify that the State agency is not allowed to coerce a household into paying a claim by threatening to initiate an administrative fraud hearing or by threatening to prosecute.

The proposed procedures for establishing and collecting fraud claims are similar to nonfraud procedures except that there is no 12-month time limit for establishing a fraud claim and States are required to send additional demand letters. The length of time needed to prosecute and investigate fraud claims makes imposition of a 12-month time limit unwarranted.

Criteria for suspending action—Fraud and Nonfraud. The Department proposes that States suspend but not terminate collection action on any claim if the household is financially unable to currently pay the claim but may be able to pay the claim at some future time. For example, nearly all claims which currently participating households are financially unable to pay will be held in suspense, since a possibility exists that the household may be entitled to restoration of lost benefits which could be used to offset the claim. States can also hold a claim in suspense until the household's circumstances have improved. States will not be required to hold any claim in suspense for more than 3 years. This rule benefits both States and households in that households can arrange for repayment at a time when it will cause the household the least hardship and States need not continue sending demand letters to households that are financially unable to pay at the present time.

Submission of payments. In the past, the Department has allowed States to submit to FNS individual claims checks received from households. This procedure, together with the delays in the receipt of payments, has created problems in that the checks are often stale and will no longer be honored by banks. In addition, the likelihood is increased that there are insufficient funds to cover the payment. Therefore, the Department proposes that each State submit a single consolidated check, draft, or warrant to FNS which consolidates all of the payments collected at the State or local level during the previous calendar month. To assure timely submission of payments, the Department proposes that the consolidated check be due no later than the 15th of each calendar month and that no more than 45 days elapse between the date a household makes a payment on a claim and the date the payment is submitted.

To effectively monitor State claims activities, the Department proposes that each State agency submit a report to FNS which summarizes the State's activities relating to claims during the previous calendar month. This report is also due on the 15th of each calendar month and shall be submitted even if the State agency has not collected any payments. A draft of this report form is included in the proposed rulemaking.

The proposed procedures for establishing and collecting fraud claims are similar to nonfraud procedures except that there is no 12-month time limit for establishing a fraud claim and States are required to send additional demand letters. The length of time needed to prosecute and investigate fraud claims makes imposition of a 12-month time limit unwarranted.

60-DAY CONTINUATION OF CERTIFICATION

The Act of 1977 provides that certified households moving between project areas will remain certified for participation in the new project area for sixty days after the move. The House Report emphasizes the need for States to comply with this requirement even though other provisions of the new Act will expedite certification in the new project area. The House Report, in quoting testimony supporting the 60 day continuation, noted that without that provision and "* * * despite the family's need and dependency upon food stamps, that family would not be eligible [because of administrative delays] to participate in the program."

The Department is aware of a need to make the availability of the transfer procedure better known to households. The Department is considering a requirement that information on this provision be printed on the food stamp application and change report forms, and be included in outreach materials. These regulations propose that households be advised that they have the option in the new project area of using the transferred eligibility, or of reapplying under emergency certification provisions if their income has been substantially reduced.

The proposed regulations retain the current requirements governing the transfer of eligibility, except that one change from current procedures has been introduced. Recent audits have indicated that households certified under these procedures may begin receiving substantial income in the new project area which would otherwise render them ineligible. Similarly, households may not be using the current transfer procedures because income in the new project is less than shown on the transfer form. Therefore, the regulations require that when the household submits a transfer form in the new project area, it must report any changes in circumstances. The State agency shall then process these changes as described below.

Unless the household is eligible for expedited participation in the new project area, the first month's benefits will be based on the information provided on the transfer document. The second issuance will be based on the reported changes. Households which receive significant increases in income after the move could receive zero benefits during the second month, whereas households with reductions in income could receive an increased allotment. The Department believes that this approach is consistent with the intent of the Act as a whole and is in accord with the 60 day certification for participation statutory language.

The transfer form will be redesigned to facilitate updating the household's circumstances in the new project area. As the Department has encountered complaints from State agencies that States are required to maintain larger supplies of accountable transfer documents than actually needed, the Department will take steps to ensure that States are not overburdened with unnecessary supplies of transfer forms.

ISSUANCE AND USE OF FOOD COUPONS

This part of the proposed regulations deals with more technical aspects of program administration and should be of special interest to State agencies, coupon issuers, bulk storage points and the U.S. Postal Service. The sections concerning the use or redemption of coupons by eligible households, the close-out of coupon issuers and the return of coupons are of more general interest. Briefly, this section discusses (1) State agency issuance responsibilities, (2) types of issuance systems that shall be used, (3) mail issuance standards, (4) distribution of bulk supplies of coupons, (5) responsibilities of coupon issuers and bulk storage points, (6) reconciliation of issuance records and their retention and security, (7) State agency reporting, (8) procedures for the close out of coupon issuers, and (9) requirements concerning the use and return of coupons. The Department encourages interested parties to carefully examine this proposed regulatory language and make specific and detailed comments.

In large part, these proposed regulations are based on past experience with various coupon issuance methods. Those procedures which the Department believes have worked well in the past are being proposed in this rulemaking. As a result, much of the proposal is similar or identical to existing Departmental requirements. Some of the proposed regulations, however, represent changes from current requirements because a cash purchase

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requirement will no longer be collected from participants.

STATE AGENCY RESPONSIBILITIES

State Financial Protection. Under the Act, State agencies are "• • • responsible • • • for any financial losses involved in the acceptance, storage and issuance of coupons." The Department proposes to change the current policy of requiring State agencies to carry bonding and allow States the additional option of self-insuring. The Department believes that States should be accorded flexibility to appropriately tailor insurance and security standards according to State priorities.

State monitoring of coupon issuers. The Act requires the Department to develop procedures for determining and monitoring the level of coupon inventories held by coupon issuers. To fulfill this requirement, the proposed regulations require State agencies to establish accountability systems to monitor the day-to-day activities of all coupon issuers. In addition, the State agency is required to conduct an on site review, including a count of coupons on hand, of each coupon issuer and bulk storage point at least once a year.

ISSUANCE SYSTEMS

System classification. States may issue food coupons through a variety of methods, including a direct coupon mailing system. A direct coupon mailing system does not utilize an authorization document. This system is an outgrowth of an earlier policy which allowed States to send food coupons to zero purchase households without using Authorization To Participate (ATP) cards.

The Department will encourage direct coupon mailing in rural areas due to limited access to issuance facilities; and will discourage its use in high risk urban areas, due to on-going problems with thefts of coupons. Direct coupon mailing, when used appropriately, will simplify issuance procedures and will improve State agency accountability.

Household Issuance Record (HIR) Issuance. The proposed regulations would provide that States with an HIR issuance system may stagger issuance of coupons to households through the 15th of the month, as long as each household can obtain coupons on or about the same day of the month during the certification period. In an HIR system, the State agency must also provide households that are certified after the 25th of the month with the option of obtaining the coupon allotment for the month of certification in the next month. This will insure that households have an opportunity to obtain benefits for which they were certified.

ATP Issuance. Currently, most States use ATP cards as the means by which households obtain food stamp coupons. Expiration dates on ATP cards facilitate the State agencies ability to reconcile issuance while still providing the houshold with a reasonable opportunity to obtain the full coupon allotment in the period of certified need.

Since households no longer have to coordinate income flow with coupon purchasing, the proposed regulations require that normally only one ATP be issued per month and that each ATP be clearly marked with an expiration date. The expiration date insures that coupon receipt coincides with periods of documented need for food assistance. Use of undated ATP's could encourage the exchange of coupons for cash. The ATP shall be valid only for the month of issuance unless an ATP has been issued after the 25th day of the month. In such situations the ATP shall not expire until the end of the following month.

To avoid crowded issuance offices and long waits by participants to obtain the coupons, the proposed regulations provide that the State agency may stagger the issuance of ATP's to certified households through the 15th day of the month, provided that each household cycle is established so that it receives its ATP at the same time each month in its certification period.

Issuance of coupons to special households. Instructions currently provide that, at the participant's request, blind persons may be issued coupon allotments in coupon books of one denomination. It is proposed that this policy be extended to any visually handicapped participants.

ISSUANCE OF COUPONS THROUGH THE MAIL

Types of mail issuance systems. The Act imposes the responsibility for the issuance, control and accountability of coupons to States. The proposed regulations allow States to issue all or part of the coupon allotments either by "regular mail issuance" or direct coupon mailing. A regular mail issuance system is one which uses as an intermediate step an authorization document which must be redeemed before coupons can be issued. A direct coupon mailing system, as its name implies, consists of the direct mailing of coupons to households.

Coupons lost in the mail. The Department is concerned over current loss rates of coupons in "high risk" urban areas and over the difficulties which participants encounter when attempting to obtain replacement issuances. The proposed regulations require State agencies to use certified mail for regular or direct mailing programs when the value of monthly coupon replacements for an area exceeds the monthly cost of certified mail.

Nonetheless, the Department will continue to accept liability for losses of coupons placed in the mail if the allotments are mailed in accordance with FNS requirements. However, State agencies must take corrective action to report, trace and eliminate mail losses. If State agencies fail to initiate corrective action or if the action taken fails to significantly reduce the losses, FNS may notify the State that the loss rate is unacceptable. Financial liability may then be transferred to the State and all further mailings shall be at the risk of the State agency. States which refuse to use certified mail as required by FNS shall be held liable for future mail issuance losses.

Mail issuance controls and records. States with direct mailing systems must, under the Department's proposal, stagger the mailing of coupons to certified households through the 10th day of the month and may stagger mailings through the 15th, provided that each household's cycle is established so that it receives coupons at the same time each month. As an additional means of curtailing losses, States are prohibited from mailing coupons to large concentrations of households with the same zip code on the same day. Waivers from these requirements will be considered, for example where the mail issuance caseload is so small that a staggered mail system is unnecessary.

RECONCILIATION

Reconciliation of ATP's with the HIR Master File. New procedures for replacement of lost or stolen coupons and for valid coupon issuance into a subsequent month mandate certain changes in reconciliation procedures. Currently, States must merge the records of the emergency and replacement ATP issuances with the HIR master file prior to posting and reconciling the transacted ATP's. However, because ATP's issued after the 25th of the month can be redeemed in the following month, States will now be required to establish a mechanism for the redemption of two valid ATP's in one month, and the reconciliation and posting to the correct month of issuance. In addition, replacement ATP's issued as a result of lost or stolen coupons, as well as the original ATP's, must be reported and posted on the HIR master file as valid issuances for the month.

STATE AGENCY REPORTING AND DESTRUCTION OF UNUSUABLE COUPONS

State agency reporting. The Department is currently reevaluating all reporting requirements to determine if any of the reporting burdens on State agencies can be alleviated. The results

of the study may lead to further changes in the reporting requirements beyond those reflected in the proposed regulations. In the proposed regulations, due dates of certain issuance activity reports are extended to allow State agencies additional time to submit correct and complete reports. The Department has added a new report for all State agencies with ATP systems. This report will record the results of the reconciliation of transacted ATP's to the HIR master file. The identification of all unreconciled ATP's will enable the States and the Department to establish the liabilities for those cards and will allow the Department to monitor any corrective action or claims action taken by the State agencies.

State agency destruction of unusable coupons. Coupons that are unusable because they have been mutilated or improperly manufactured are currently returned to the Department through the mail. To allow for improved accountability and control over these coupons and for savings on postage fees, the proposed regulations require the State agency to destroy the coupons and to report the destruction to the Department. This destruction authority is limited to not more than $200 per coupon issuer or bulk storage point per month. If the value of the coupons to be destroyed exceeds $200, the Department must be consulted prior to destruction, to determine what steps should be taken.

CLOSE-OUT OF A COUPON ISSUER

Maintenance of participant service. Proposed regulations will prohibit State agencies from using an issuer or bulk storage point any longer than 30 days from the date a decision to terminate a coupon issuer for noncompliance with contractual requirements has been reached. States will further be required to perform on site reconciliation of the issuer's activity on a weekly basis. Food stamp participants using a coupon issuer that is to be terminated must be notified 30 days prior to the close-out of the issuer. Additionally, the State must take whatever action is necessary to maintain participant service. Notification of participants is proposed to ensure that States remain responsive to the needs of participants and that participants continuously receive timely service.

PARTICIPATION OF RETAILER FOOD STORES, WHOLESALE FOOD CONCERNS, AND BANKS

This section of the preamble discusses changes required as a result of the new Act regarding participation by food retailers and wholesalers. Because existing provisions regarding retailer/wholesaler activities have generally been considered successful, major portions of this section are a restatement of existing regulations, instructions or procedures. The Department encourages detailed comments on this section, especially from organizations, businesses or persons likely to be directly affected by its provisions.

Staple food. The proposed regulations implement language in the Act defining staple food as food intended for "• • • home preparation and consumption, such as meat, poultry, fish, bread, cereals, vegetables, fruits, dairy products, and the like, but not including accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices • • •." The statute provides that retail food stores would be authorized to accept food stamps only if food sales are more than 50 percent staple foods. The list of staple food items in the proposed regulations includes fruit and vegetable juices, which are not specifically mentioned in the list of staple food items in the Act. This is a logical extension of the kinds of items named in the Act, but would not necessarily be readily inferred from that list. The staple food list is only relevant to the definition of "retail food store" and does not limit the types of foods households may purchase with food coupons.

Eligible food. The proposed regulations implement the statutory requirement that "• • • hot foods or hot food products ready for immediate consumption • • •" no longer be eligible for purchase with food stamps.

Approval of retail food stores and wholesale food concerns. The proposed regulations implement the statutory requirement that retail food stores have a food sales volume that is more than half staple foods. FNS does not expect this requirement to adversely affect any large group of retail food stores. The House Report explains that retailers should not be required to set up any elaborate system of record keeping to prove to FNS that the sales of staple foods warranted authorization. The intention is to eliminate certain stores, such as candy and ice cream stores, spice stores, donut shops which do not also sell bread products, and house-to-house delivery routes which sell primarily food items that are not staple foods.

Concern has been expressed that these changes would withdraw the authorization of large numbers of small rural groceries, convenience stores, health food stores, or dairies and other stores which sell a single kind of food. Such fears are unfounded. The House report notes that "• • • there should be no question that the retail food store definition would not disqualify such places as gasoline stations that handle food items as a recognized separate line or department • • • or drug stores that stock eligible food items or specialty stores, such as bakeries, that sell a line of staple products • • •."

The Act does not change the present criteria regarding retail store authorizations, except for the requirement that retailers must have food sales that are more than 50 percent staple foods. The Department has, however, clarified authorization requirements in the proposed regulations to provide more guidance concerning specific participation criteria. In addition, the location of a store may be considered when determining whether the store could be expected to attract food stamp business.

The proposed regulations list farmers markets "• • • which are involved in the direct marketing of farmers' produce to the public • • •" as one category of food store which can be expected to be authorized. Where farmers rent space on a routine basis in these markets, each farmer would be authorized individually. In addition, where a roadside stand or market is operated by a single farmer the farmer would be authorized individually. However, where farmers participate in a farmers market but do not rent space on a routing basis, the market itself (rather than the individual farmers) would be authorized. A farmer who is certified to receive food stamps as a participating household may also be authorized to accept food stamps as a retailer.

When reviewing a firm's authorization request, the Department may consider records of criminal convictions, removal from other programs, civil suits reflecting on business integrity, and fraudulent misuse of food stamps.

Concern has been expressed that stores which raise prices when welfare checks or food coupons are issued should not be allowed to participate. The Act prohibits the Department from specifying the prices at which food may be sold. However, if there is evidence that a store is manipulating its prices to increase profits at the expense of program participants, the proposed regulations, as well as present regulations, allow the Department to consider that evidence in reevaluating the store's authorization. Further, compliance with the local and State regulations on sanitation and food safety should be considered in determining a firm's business integrity.

The proposed regulations authorize wholesalers only if staple foods make up over 50 percent of the total food sales and an authorized retailer (retail food store, meal service, nonprofit food purchasing venture, or drug addict or alcoholic treatment and rehabilitation center) depends on the wholesaler to redeem food stamps. This provision will remove a number of wholesalers from participation in the program. The Act states that no

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firm may be simulateneously authorized as both a retailer and a wholesaler. This requirement will require firms, which meet the criteria for both retailers and wholesalers, to choose whether they wish to be authorized to redeem food stamps as retailers or as wholesalers.

These changes in the criteria for authorizing wholesalers are warranted by program changes that have taken place over the years. In the early days of the program, authorizing numerous wholesalers served an important function by making it easier for retailers, without access to banks, to redeem food stamps. This, in turn, encouraged retailers to participate in the program. Retailers currently have better access to banks, and wholesalers are, for the most part, not a vital part of the redemption process. Moreover, the authorization of large numbers of wholesalers increases administrative and enforcement burdens.

Participation of retail food stores. The Act states that participating households may receive cash in change in amounts less than $1. The proposed regulations implement this directive. The House Report notes that the intent was to replace credit slips and tokens with cash change. Mandating cash change will relieve retailers of the burdens of providing, issuing, and accounting for credit slips or tokens. Food stamp participants will be relieved of the burden of returning to the stores where credit slips or tokens were issued.

In order to minimize any potential for abuse, the regulations provide that store personnel may not knowingly enter into a series of small transactions for less than $1 with the same food stamp participant when such transactions are designed to allow the food stamp participant to accumulate cash change.

The proposed regulations implement language in the Act which allows private nonprofit food purchasing ventures to accept and redeem coupons before delivering the food orders bought with the coupons. The proposed regulations require that private nonprofit food purchasing ventures deliver the food bought with coupons within 10 days of receiving the member's coupons for the order. This added requirement will protect participating households without interfering with the operations of private nonprofit food-purchasing ventures which may have capitalization problems.

Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications. To implement the Act, the proposed regulations state that FNS may fine a firm up to $5,000 per violation in lieu of disqualifying the firm for violations, if a disqualification would cause hardship to participating households. It has been suggested that the Department establish a table of specific fines for various kinds of violations, increasing in severity with the increase in the seriousness of the violation. This approach was rejected because it does not allow for differences in ability to pay among stores, or for differences in the effect of disqualification on profits. The method adopted takes into account that a disqualified firm will lose regular food and nonfood sales, as well as food stamp sales, and that the firm's overhead will not necessarily drop in proportion to the drop in business as a result of disqualification.

In conjunction with the guidelines on determining the amounts of the civil money penalties, the proposed regulations list the standard periods of disqualification and the criteria used to determine which period of disqualification should be used. The sliding scale of disqualification periods provides for longer periods of disqualification for violations which are considered more serious.

Demonstration, Research, and Evaluation Authority

Legislative authority. The Department has been provided with statutory authority to conduct demonstration, research, and evaluation projects. While developing the proposed regulations, contacts were made with representatives from the Departments of Labor; Health Education and Welfare; and Housing and Urban Development to determine how these Departments administer demonstration, research and evaluation projects. The Department obtained significant guidance in the development of the proposed regulations and on the subject of actual project operations. These proposed regulations supersede proposed rules on demonstration projects which were published in the Federal Register on June 11, 1976 (41 FR 23720).

Demonstration projects. The demonstration project authority allows the Department to waive specific requirements of the Act and regulations to conduct tests designed to improve program administration and benefit delivery. As required by the law, no project will be undertaken if it would lower or further restrict the income or resource standards or benefit levels established in the Act.

Research projects. Such projects are authorized to study means to improve both program administration and the effectiveness of the program in delivering nutrition related benefits.

Evaluation projects. The law mandates an annual evaluation of the program's impact on the nutritional and economic status of participating households, the agricultural economy, and the program's fairness to program participants.

In establishing demonstration project priorities for fiscal year 1979 (FY 1979), the Department will review the proposals already received and the specific comments on project operations made during proposed rulemaking. This publication, however, is not intended to solicit comments on particular demonstration projects. The Department will take the initiative in determining the types of demonstration and evaluation projects that should be undertaken, either through publication of a Notice of Intent in the Federal Register or a solicitation made in conformance with the Federal Procurement Regulations. This should assure that the Department achieves its demonstration project priorities given the limited availability of funds for this purpose.

Approval of proposals. Proposals will be evaluated by a panel consisting of Departmental and Agency personnel. Selection will be based on the bidder's responsiveness to both general and specific project criteria.

Pre-Operational rulemaking procedures. Applicable rulemaking requirements contained in the Administrative Procedure Act will be followed prior to project implementation.

Federal financial participation. The Department will assume up to 100 percent of State agency costs involved in demonstration projects, to the extent that such costs exceed those usual and customary to program operations.

All cross-referenced "reserved" sections of the proposed regulations refer to future rulemaking. Current regulations relevant to reserved sections will remain in force until revoked, superseded or modified by future regulatory language.

All comments received on sections of the proposed rulemaking that impact on current HEW regulations will be taken into consideration in analyzing and developing the final proposal.

Reorganization of the Regulations

The food stamp regulations have been extensively revised and restructured. When reviewing the reorganized material, please note that several new provisions are reserved since these provisions will be proposed rulemaking in a second package of regulations. In addition, several provisions in the current regulations are expected to change when the second package of proposed rulemaking is published. To show that these current provisions have not been deleted but will remain in force and effect until the second package is published as final rulemaking, these provisions in the current regulations are retained by reference but are not restated.

Certain sections of the Food Stamp Act are effective without publication of regulations. These sections include: 4(c) (notice and comment rulemaking requirements, advance copies of rules to the Committees); 7(c) (coupon design); and 11(g) (injunctive relief against State agencies).

To help in relating the current regulations to the proposed regulation, the following table of redesignations has been compiled:

Table of Redesignations

Old	New
	270 Reserved.
270.1(a)	271.1(a).
270.1(b)	271.1(b).
270.2(a)[1]	271.2
270.2(b)	Deleted.
270.2(c)	271.2
270.2(d)	Deleted.
270.2(e)	271.2
270.2(f)–(l)	Deleted.
270.2 (m) and (n)	271.2
270.2 (o) and (p)	Deleted.
270.2(q)–(s)	271.2
270.2(t)	Deleted.
270.2 (u) and (v)	271.2
270.2 (w) and (x)	Deleted.
270.2(y)	271.2
270.2 (z) and (aa)	Deleted.
270.2 (bb)	271.2
270.2 (cc) and (dd)	Deleted.
270.2(ee)	271.2
270.2(ff)–(ll)	Deleted.
270.2 (mm), (oo), and (pp)	271.2
270.2 (qq) and (rr)	Deleted.
270.2(ss)	271.2
270.2(tt)	Deleted.
270.2 (uu) and (vv)[1]	271.2
270.2(ww)–(yy)	Deleted.
270.2(zz)	271.2
270.3(a)	271.3(a).
270.3(b)	271.4(a).
270.3(c)	272.4(a)(2).
270.4(a)	271.8(a).
270.4(b)	271.8(b).
270.4(c)	271.8(c).
270.4(d)	273.16 (a) and (b); 271.5(b).
270.5(a)	271.3(b).
270.5(b)	271.6(b)
270.5(c)	Deleted.
271.1(a)[1]	272.6 Reserved.
271.1(b)	272.1(a).
271.1(c)[1]	272.1(b).
271.1(d)	272.7(a).
271.1(e)	273.2 (f)(1)(iv) and 273.3.
271.1(f)	272.1(c).
271.1(g)	272.4(a)(1).
271.1(h)[1]	277 Reserved.
271.1(i)[1]	272.2 Reserved; 272.3 Reserved.
271.1(j)	271.4(a).
271.1(k)[1]	272.6(a)–(c) Reserved.
271.1(l)	272.1(e).
271.1(m)	272.1(f) and 274.7.
271.1(n)(1)	273.13(a) (1) and (2).
271.1(n)(2)	273.13(b).
271.1(n)(3)	273.12(e) (1)(ii); (2)(ii).
271.1(n)(4)	273.15(k).
271.1(o)	273.15.
271.1(p)	273.17(i).
271.1(q)	273.17.
271.1(r)[1]	272.1(d) Reserved.
271.1(s)	272.1(g).
271.1(t)[1]	276 Reserved.
271.2[1]	277 Reserved.
271.3(a)(1)	273.1 (a) and (b).
271.3(a)(1) (i) and (ii)	273.2(d).
271.3(a)(1)(iii)	273.12.
271.3(a)(2)	274.10(b).
271.3(a)(3)	274.10(c).
271.3(a)(4)	274.10(d); 273.11(e); 273.1(f)(iv).
271.3(a)(5)	274.10(e).
271.3(b)	Deleted.
271.3(c)—Introductory paragraph	273.8(a) and 273.9(a).
271.3(c)(1)(i)	273.9(b).
271.3(c)(1)(i)(a)	273.9(b)(1)(i).
271.3(c)(1)(i)(b)	273.9(b)(1)(ii); 273.9(c)(9); 273.11(a).
271.3(c)(1)(i)(c)	273.9(b)(1)(ii); 273.9(c)(9); 273.11(a).
271.3(c)(1)(i)(d)	273.9(b)(1)(ii); 273.9(c)(9); 273.11(b).
271.3(c)(1)(i)(e)	273.9(b)(2)(ii).
271.3(c)(1)(i)(f)	273.9(b)(2)(i).
271.3(c)(1)(i)(g)	273.9(b)(2)(v).
271.3(c)(1)(i)(h)	273.9(c)(1)(ii).
271.3(c)(1)(i)(i)	273.9(b)(2)(iv).
271.3(c)(1)(i)(j)	273.9(b)(2)(iv).
271.3(c)(1)(i)(k)	273.9(b)(2)(iii).
271.3(c)(1)(i)(l)	Deleted.
271.3(c)(1)(i)(m)	Do.
271.3(c)(1)(ii)(a)	273.9(c)(7).
271.3(c)(1)(ii)(b)	273.9(c)(10)(i).
271.3(c)(1)(ii)(c)	273.9(c)(1)(i).
271.3(c)(1)(ii)(d)	273.9(c)(2).
271.3(c)(1)(ii)(e)	273.9(c)(8).
271.3(c)(1)(ii)(f)	273.9(c)(4).
271.3(c)(1)(ii)(g)	273.9(c)(10)(iii).
271.3(c)(1)(ii)(h)	273.9(c)(10)(iv).
271.3(c)(1)(iii)(a)	273.9(d)(2).
271.3(c)(1)(iii)(b)	Deleted.
271.2(c)(1)(iii)(c)	Do.
271.3(c)(1)(iii)(d)	273.9(d)(3).
271.3(c)(1)(iii)(e)	Deleted.
271.3(c)(1)(iii)(f)	273.9(c)(3).
271.3(c)(1)(iii)(g)	Deleted.
271.3(c)(1)(iii)(h)	273.9(d)(4).
271.3(c)(2)(i)–(iv)	273.10(c).
271.3(c)(3)	273.9(a).
271.3(c)(4)(i)	273.8(b).
271.3(c)(4)(ii)	273.8(c).
271.3(c)(4)(iii)	273.8(e).
271.3(c)(4)(iv)	273.8(g).
271.3(d)	273.7.
271.3(e)	273.3.
271.3(f)	Deleted.
271.4(a)(1)	273.2(k).
271.4(a)(2)(i)	273.2 (a) and (b).
271.4(a)(2)(ii)	273.2(e).
271.4(a)(2)(iii)	273.2(f); 273.2(d)(4)(i).
271.4(a)(3)(i)	273.2(g); 273.10(g)(1); 273.2(h)(2).
271.4(a)(3)(ii)—Introductory paragraph	273.14(a).
271.4(a)(3)(ii)(a)	273.14(b).
271.4(a)(3)(ii)(b)	273.14(c).
271.4(a)(3)(ii)(c)	273.14(c).
271.4(a)(3)(ii)(d)	273.14(d).
271.4(a)(3)(ii)(e)	273.14(f).
271.4(a)(4)	273.10(f).
271.4(a)(5)	273.19.
271.4(a)(6)	273.10(g)(3).
271.4(a)(7)[1]	272.5 Reserved.
271.5	273.10(e).
271.6(a)	274.4(e).
271.6(b)	274.4(c).
271.6(c)	274.4 (a) and (b).
271.6(d)—Introductory paragraph	274.1.
271.6(d)(1)	274.3.
271.6(d)(2)	Deleted.
271.6(d)(3)	Do.
271.6(d)(4)	Do.
271.6(d)(5)	274.2(d)(3).
271.6(e)	Deleted.
271.6(f)	274.6.
271.6(g)[1]	272.5 Reserved.
271.6(h)	274.1(d).
271.6(i)	274.11(e).
271.7(a)–(d)[1]	276 Reserved.
271.7(e)	273.16 and 273.18.
271.7(f)	273.18.
271.8[1]	272.3 Reserved.
271.9(a)	274.10(a).
271.9(b)	274.10(f).
271.9(c)	274.10(g).
271.9(d)	274.10(h).
271.9(e)	273.16.
271.9(f)–(j)	274.11.
271.9(k)	Deleted.
271.10	273.6.
272	278.
273	279.
274[1]	280 Reserved.
275[1]	277 Reserved.

[1]The language in these paragraphs of the old regulations will remain in full force and effect.

The proposed structure of subchapter C is as follows:

SUBCHAPTER C—FOOD STAMP PROGRAM

Part
270 [Reserved]
271 General information and definitions.
272 Requirements for participating State agencies.
273 Certification of eligible households.
274 Issuance and use of food coupons.
275 Program monitoring systems (reserved).
276 State agency liabilities and federal sanctions (reserved).
277 Payment of certain administrative costs of State agencies (reserved).
278 Participation of retail food stores, wholesale food concerns and banks.
279 Administrative and judicial review—food retailers and food wholesalers.
280 Emergency food assistance for victims of disasters (reserved).
281 Designation of Indian tribes as State agencies (reserved).
282 Demonstration, research, and evaluation projects.

PART 270 [RESERVED]

1. Part 270 is revised and redesignated as Part 271. The new Part 270 is reserved. The definitions in paragraphs (a), (uu), and (vv) of former section 270.2 remain in force and effect but are redesignated in Part 271. The new Part 271 reads as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

Sec.
271.1 General purpose and scope.
271.2 Definitions.
271.3 Delegations to FNS for administration.
271.4 Delegations to States for administration.
271.5 Coupons as obligations of the United States, crimes, and offenses.
271.6 Complaint procedures.

Authority: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 271.1 General purpose and scope.

(a) *Purpose of the Food Stamp Program.* The Food Stamp Program is designed to promote the general welfare and to safeguard the health and well being of the Nation's population by raising the levels of nutrition among low-income households. Section 2 of the Food Stamp Act of 1977 states, in part:

Congress hereby finds that the limited food purchasing power of low-

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income households contributes to hunger and malnutrition among members of such households. Congress further finds that increased utilization of food inestablishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of the Nation's agricultural abundance and will strengthen the Nation's agricultural economy, as well as result in more orderly marketing and distribution of foods. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation.

(b) *Scope of the regulations.* Part 271 contains general information, definitions and other material applicable to all parts of this subchapter. Part 272 sets forth policies and procedures governing State agencies which participate in the Program. Part 273 describes the eligibility criteria to be applied by State agencies and related processing requirements and standards. Part 274 provides requirements for the issuance of coupons to eligible households and establishes related issuance responsibilities. Part 275 sets forth guidelines for monitoring the Food Stamp Program, analyzing the results and formulating corrective action. Part 276 establishes State agency liability and certain Federal sanctions. Part 277 outlines procedures for payment of administrative costs of State agencies. Part 278 delineates the terms and conditions for the participation of retail food stores, wholesale food concerns, meal services and banks. Part 279 establishes the procedures for administrative and judicial reviews requested by food retailers, food wholesalers and meal services.. Part 280 explains procedures for issuing emergency coupon allotments to certain victims of disasters unable to purchase adequate amounts of food. Part 281 sets forth guidelines for designating Indian tribes as State agencies. Part 282 provides guidelines for initiation, selection and operation of demonstration, research and evaluation projects.

§ 271.2 Definitions.

"Affidavit" (reserved).

"Allotment" means the total value of coupons a household is authorized to receive during each month or other time period.

"Application for participation" means the application to participate in the program, as designed or approved by FNS, which is completed by a household member or authorized representative.

"Authorization to participate card (ATP)" means a document which is issued by the State agency to a certified household to show the allotment the household is authorized to receive on presentation of such document.

"Bulk storage point" means an office of the State agency or any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has assigned responsibility for, the security and storage of food coupons.

"Communal dining facility" means a public or nonprofit private establishment, approved by FNS, which prepares and serves meals for elderly persons, or for Supplemenmtal Security Income (SSI) recipients, and their spouses. It shall include senior citizens' centers, apartment buildings occupied primarily by elderly persons or SSI households, public or private nonprofit establishments (eating or otherwise) that feed elderly persons or SSI recipients, and federally subsidized housing for the elderly at which meals are prepared for and served to the residents. It shall also include private establishments that contract with an appropriate State or local agency to offer meals at concessional prices to elderly persons or SSI recipients.

"Coupon" means any coupon, stamp, or certificate provided pursuant to the provisions of this subchapter for the purchase of eligible food.

"Coupon issuer" means any office of the State agency or any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has assigned responsibility for, the issuance of coupons to households.

"Drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholic and drug addicts puruant to Pub. L. 91-616, "Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970" and Pub. L. 92-255, "Drug Abuse Office and Treatment Act of 1972" as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

"Elderly person" means a person 60 years of age or older.

"Eligible food" means: (1) any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption; (2) seeds and plants to grow foods for the personal consumption of eligible households; (3) meals prepared and delivered by an authorized meal delivery service, or served by a communal dining facility for the elderly or SSI households, to elderly persons, SSI households, and their spouses, and to households eligible to use coupons under § 274.10 (b) or (c); (4) Meals prepared and served by an authorized drug addict or alcoholic treatment and rehabilitation center to households eligible to use coupons under § 274.10(d) and (5) in the case of certain eligible households living in areas of Alaska as specified in § 274.10(e), equipment for the purpose of procuring food for eligible households, including nets, lines, hooks, fishing rods, harpoons, knives, and other equipment necessary for subsistence hunting and fishing but not equipment for the purpose of transportation, clothing, or shelter nor firearms, ammunition, or other explosives.

"Federal fiscal year" means a period of 12 calendar months beginning with each October 1 and ending with September 30 of the following calendar year.

"FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.

"Food Stamp Act" means the Food Stamp Act of 1977 (P.L. 95-113), including any amendments.

"General assistance (GA)" means cash assistance which is financed entirely by State or local funds and which is administered by the State agency, as defined in this section.

"Identification (ID) card" means a serially numbered card which identifies the bearer as eligible to receive and use food coupons.

"Immigration and Naturalization Service (INS)" means the Immigration and Naturalization Service, U.S. Department of Justice.

"Institution of higher education" means any institution providing post-high school education, including but not limited to, colleges, universities, and vocational and technical schools at the post-high school level.

"Low-income household" means a household whose annual income does not exceed 125 percent of the Office of Management and Budget poverty guidelines.

"Meal delivery service" means a political subdivision, a private nonprofit organization, or a private establishment with which a State or local agency has contracted for delivered meals, which prepares and delivers meals and meets the requirements of § 278.1(d).

"Medicaid" means medical assistance under title XIX of the Social Security Act, as amended.

"Nonprofit cooperative food purchasing venture" means any private nonprofit association of consumers whose members pool their resources to buy food.

"Overissuance" means the amount by which coupons issued to a household exceed the amount it was eligible to receive.

"Program" means the Food Stamp Program conducted under the Food Stamp Act and regulations.

"Project area" means the county or geographic entity designated by a State as the administrative unit for program operations. Upon FNS approval, a county, city, Indian reservation, welfare district, or any other entity with clearly defined geographic boundaries, or any combination of such entities, may be designated as a project area, or States as a whole may be designated as single project areas.

"Public assistance (PA)" means any of the following programs authorized by the Social Security Act of 1935, as amended: Old-Age Assistance, Aid to Families with Dependent Children (AFDC), including AFDC for children of unemployed fathers, Aid to the Blind, Aid to the Permanently and totally Disabled and Aid to Aged, Blind or Disabled.

"Regulations" means the provision of this subchapter. Regulatory citations refer to provisions of this subchapter unless otherwise specified.

"Retail food store" means: (1) an establishment or recognized department of an establishment, or a house-to-house trade route, whose food sales volume is more than 50 percent staple food items for home preparation and consumption; (2) public or private communal dining facilities and meal delivery services and drug addict or alcoholic treatment and rehabilitation programs; (3) any store selling equipment for procuring food by hunting and fishing to eligible households in Alaska, as specified in the definition of eligible food; (4) any private nonprofit cooperative food purchasing venture, including those whose members pay for food prior to receipt of the food; and (5) a farmers market.

"Secretary" means the Secretary of the U.S. Department of Agriculture.

"Staple food" means those food items intended for home preparation and consumption, which include meat, poultry, fish, bread, cereals, vegetables, fruits, fruit and vegetable juices, and dairy products. Accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices are not staple foods for the purpose of qualifying a firm to participate in the program as a retail food store.

"State" [Reserved].

"State agency" [Reserved].

"Supplemental security income (SSI)" means monthly cash payments made by the Social Security Administration to an aged, blind or disabled individual who meets the requirements for such aid under title XVI of the Social Security Act, as amended, and also includes State supplementary payments made by a State on a regular basis.

"Thrifty Food Plan" means the diet developed by the Department that includes specific foods, in quantities, the cost of which is the basis for the allotments issued to households according to household size and income.

"Wholesale food concern" means an establishment which sells eligible food to retail food stores or to meal services for resale to households.

§ 271.3 Delegations to FNS for administration.

(a) *Delegation.* Within the Department, FNS shall act on behalf of the Department in the administration of the program. When authority is delegated to FNS, it may be carried out by the Administrator or by another official of FNS as designated. The Secretary reserves the right at any time to withdraw, modify, or amend any delegation of authority to FNS.

(b) *Claims settlement.* FNS shall have the power to determine the amount of and to settle and adjust any claim arising under the provisions of the Act or this subchapter, and to compromise or deny all or part of any claim.

(c) *Demonstration authority.* FNS is authorized to undertake demonstration projects which test new methods designed to improve program administration and benefit delivery. FNS is authorized to initiate program research and evaluation efforts for the purposes of improving and assessing program administration and effectiveness. The procedure for initiating and conducting these projects is established in Part 282.

§ 271.4 Delegations to State agencies for administration.

(a) *General delegation.* The State agency shall be responsible for the administration of the program within the State, including, but not limited to: (1) Certification of applicant households; (2) Issuance, control, and accountability of coupons; (3) Outreach activities; (4) Developing and implementing complaint procedures; (5) Developing, implementing, and evaluating training; (6) Conducting reviews; (7) Keeping records necessary to determine whether the program is being conducted in compliance with these regulations; and (8) Submitting accurate and timely financial and program reports.

(b) *Claims delegation.* FNS delegates to the State agency, subject to the standards in § 273.18, the authority to determine the amount of, and settle, adjust, compromise, or deny all or part of any claim which results from fraudulent or nonfraudulent overissuances to participating households.

§ 271.5 Coupons as obligations of the United States, crimes and offenses.

(a) *Coupons as obligations.* Pursuant to section 15(d) of the Food Stamp Act, coupons are an obligation of the United States within the meaning of 18 United States Code (U.S.C.) 8. The provisions of title 18 of the United States Code, "Crimes and Criminal Procedure," relative to counterfeiting, misuse and alteration of obligations of the United States are applicable to coupons.

(b) *Penalties.* Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of coupons or ATPs may subject any individual, partnership, corporation, or other legal entity to prosecution under sections 15 (b) and (c) of the Food Stamp Act or under any other applicable Federal, State or local law, regulation or ordinance.

Sections 15 (b) and (c) of the Food Stamp Act read as follows:

(b) Whoever knowingly uses, transfers, acquires, alters, or possesses coupons or authorization cards in any manner not authorized by this Act or the regulations issued pursuant to this Act shall, if such coupons or authorization cards are of the value of $100 or more, be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, or, if such coupons or authorization cards are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

(c) Whoever presents, or causes to be presented, coupons for payment or redemption of the value of $100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Act or the regulations issued pursuant to this Act shall be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, or, if such coupons are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

(c) *Security for coupons and ATPs.* All individuals, partnerships, corporations, or other legal entities including State agencies and their delegatees (referred to in this paragraph as "persons") having custody, care and control of coupons and ATPs shall at all times take all precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit coupons and ATPs and to avoid any unauthorized use, transfer, acquisition, alteration or possession of coupons and ATPs. These persons shall safeguard coupons and ATPs from theft, embezzlement, loss, damage, or destruction.

(d) *Fraud.* Participant fraud is defined in § 273.16.

(e) *Coupon issuers.* (1) Any coupon issuer or any officer, employee or

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agent, thereof convicted of failing to provide the monthly reports required in § 274.5 or convicted of violating Part 274 shall be subject to a fine of not more than $1,000, or imprisoned for not more than one year, or both.

(2) Any coupon issuer or any officer, employee or agent, thereof, convicted of knowingly providing false information in the reports required under § 274.5 shall be subject to a fine of not more than $10,000, or imprisoned not more than five years, or both.

§ 271.6 Complaint procedure.

(a) *State agency responsibility.* (Reserved)

(b) *Regional office responsibility.* (1) Persons or agencies desiring program information or wishing to file a complaint may contact the appropriate FNS Regional Office.

(i) For Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, the Virgin Islands of the United States, and West Virginia: Mid-Atlantic Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 1 Vahlsing Center, Route 526, Robbinsville, New Jersey 08691.

(ii) For Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 1100 Spring Street, N.W., Room 200, Atlanta, Georgia 30309.

(iii) For Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 536 South Clark Street, Chicago, Illinois 60605.

(iv) For Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 1100 Commerce Street, Suite 5-C-30, Dallas, Texas 75242.

(v) For Alaska, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon and Washington: Western Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 550 Kearny Street, Room 400, San Francisco, California 94108.

(vi) For Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 33 North Avenue, Burlington, Mass. 01803.

(vii) For Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 2420 West 26th Avenue, Suite 430-D, Denver, Colo. 80211.

(2) Complainants shall be advised by Regional Office personnel of the appropriate State complaint handling and fair hearing procedures. Discrimination complaints shall be handled by FNS. Other complaints shall be pursued by FNS, rather than the State agency, upon household request, unless the complaint is one upon which the complainant wishes to request a fair hearing.

2. Part 271 is extensively revised and the contents redesignated among the new Parts 272 through 277. The following paragraphs of former Part 271 remain in force and effect but are redesignated:

271.1(a) as 272.8; 271.1(c) as 272.1(b); 271.1(h) as 277.16; 271.1(i) as 272.2; 271.1(k) as 272.6(b); 271.1(r) as 272.1(d); 271.1(t) as 276; 271.2 as 277; 271.4(a)(7) as 272.5(a); 271.6(g) as 272.5(b); 271.7(a)–(d) as 276; and 271.8 as 272.3.

The new Part 272 reads as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

Sec.

272.1 General terms and conditions.
272.2 Federal/State agreement (Reserved).
272.3 Plans of Operation (Reserved).
272.4 Program administration and personnel requirements.
272.5 Operating guidelines (Reserved).
272.6 Outreach.
272.7 Nondiscrimination compliance.
272.8 Dual operations (Reserved).

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 272.1 General terms and conditions.

(a) *Coupons as income.* The allotment provided any eligible household shall not be considered income or resources for any purpose under any Federal, State, or local laws including, but not limited to, laws on taxation, welfare, and public assistance programs.

(b) *No aid reduction.* (Reserved)

(c) *Disclosure.* Use or disclosure of information obtained from applicant households, exclusively for the Program, shall be restricted to persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or Regulations.

(d) *Information available to the public.* (Reserved)

(e) *records and reports.* Each State agency shall keep such records and submit such reports and other information as required by FNS.

(f) *Retention of records.* Each State agency shall retain all program records in an orderly fashion, for audit and review purposes, for a period of three years from the month of origin of each record. The State agency shall retain fiscal records and accountable documents for three years from the date of fiscal or administrative closure. Fiscal closure means that obligations for or against the Federal government have been liquidated. Administrative closure means that the State agency has determined and documented that no further action to liquidate the obligation is appropriate. Fiscal records and accountable documents include, but are not limited to claims, documentation of lost benefits, and form FNS-286, "Certification of Transfer of Household Benefits." Retention methods for ATP cards are provided in Part 274.

(g) *Implementation.* The implementation schedule for any amendment to the regulations shall be specified in the amendment.

§ 272.2 Federal/State Agreement [Reserved]

§ 272.3 Plans of Operations [Reserved]

§ 272.4 Program administration and personnel requirements.

(a) *Merit personnel.* (1) State agency personnel used in the certification process shall be employed in accordance with the current standards for a Merit System of Personnel Administration or any standards later prescribed by the United States Civil Service Commission under section 208 of the Intergovernmental Personnel Act of 1970.

(2) State agency employees meeting the standards outlined in paragraph (1) of this section shall perform the interviews required in § 273.2(e). Exceptions to the use of State Merit System personnel in the interview and certification process are SSI households certified under § 273.2(1) and disaster victims certified under Part 280. Volunteers and other non-State agency employees shall not be used for certification interviews or to certify food stamp applicants. Volunteers may be used in related activities such as outreach, prescreening, assisting applicants in completing the application, and securing needed verification. Individuals and organizations who are parties to a strike or lockout, and their facilities, may not be used in the certification process except as a source of verification for information supplied by the applicant. Only authorized employees of the Sate agency, coupon issuers, coupon bulk storage points and federal employes involved in administration of the program shall be permitted access to food coupons, ATPs or other issuance documents.

(b) *Staffing standards.* The State agency shall employ sufficient staff to certify and issue benefits to eligible households and process fair hearing requests within the timeliness standards set forth in these regulations. Outreach activities and other program functions shall be performed as specified in these regulations.

(c) *Bilingual requirements.* State agencies shall provide bilingual staff and materials as required by this subsection.

(1) The requirements for use of bilingual staff and materials are based on the estimated total number of low income households in a project area compared to the number of low income households which speak the same non-English language (a single-language minority). Single language minority refers to households which speak the same non-English language and which do not contain adult(s) fluent in English as a second language. These households shall include both participating and nonparticipating low income households. When there are 150 or more low income households of a single-language minority in a project area with 3000 or more low income households, bilingual service shall be provided. Bilingual service is also required in project areas with less than 3,000 low income households, where there are 50 or more single-language minority low income households.

(2) State agencies shall use sufficient bilingual certification staff or interpreters, and bilingual materials in projects meeting the criteria in paragraph (c)(1) of this section. In large project areas that have more than one certification office and that are subject to the requirements of paragraph (c)(1) of this section, bilingual needs must be appraised and service provided on the basis of need at specific sites.

(3) Bilingual services shall be provided in project areas with seasonal influxes of non-English speaking households, if during the seasonal influx the project area meets the requirements of paragraph (c)(1) of this section.

(4) State agencies shall ensure that projects meeting the population criteria outlined in paragraph (c)(1) of this section provide sufficient bilingual capability for the timely processing of non-English speaking applicants.

(5) Bilingual materials shall include application forms, required notices and basic program information material.

(6) State agencies and local offices shall develop estimates of the numbers of low income single language-minority households and their ratios to the total number of low income households for each project area by utilizing census data (including the Census Bureau's *Current Population Report: Population Estimates and Projections,* Series p. 25, No. 627) and knowledge of project areas. Local Bureau of Census offices, Community Services Administration offices, Community Action Agencies, planning agencies, and school officials may be important sources of information in determining the scope of bilingual need.

(7) State agencies shall provide FNS with the data used to determine the need for bilingual services.

(d) *Divisions of responsibilities.* (1) *Requirements.* The State agency shall divide the responsibility for eligibility determinations and food coupon issuance between certification, data management, and issuance units. The certificaiton unit shall be responsible for the determination of household eligibility and the creation of records and documents to authorize the issuance of coupons to eligible households. The data management unit, in response to input from the certificaiton unit, shall create and maintain the household issuance record (HIR) master file on cards, computer discs, tapes, or similar memory devices. The issuance unit shall provide certified households with the authorized allotments.

(2) *Exceptions.* With prior written FNS approval as a part of its Plan of Operation, a project area may combine unit responsibilities where all other alternatives have been explored and found to be administratively infeasible.

(i) To approve combined operations, the State agency shall establish special review requirements which at a minimum shall include:

(A) Biweekly reconcilation and verification of transactions; and

(B) Semiannual comparison of HIR cards and case records as required by § 274.6(d) and, at least once every other month, second party review of certification actions.

(ii) The State agency shall annually determine whether each combined operation continues to be justified and shall so advise FNS in writing. If the combined operation is to continue, the reasons for the determination shall be provided.

(e) *Training.* The State agency shall institute a comprehensive and continuing training program for all personnel who are assigned responsibility for the certification of applicant households, outreach staff including hotline operators, and individuals involved in prescreening activities.

(1) *Minimum Requirements.* (i) The State agency shall designate a State training coordinator who develops training materials, supervises the conducting of training sessions, ensures that appropriate personnel receive training and assures compliance with the public participation standards specified in paragraph (e)(1)(iv) of this section. In addition, the State agency shall designate additional staff at either the State or local level to provide training to the appropriate personnel.

(ii) State agency training programs shall cover eligibility criteria, certification procedures, household rights and responsibilities, and other job-related responsibilities concerning the certification of households. The content of training programs shall be reviewed on a semiannual basis in light of performance deficiencies identified through the State agency's performance reporting system and modifications made where warranted. Changes in policy or procedures stemming from court actions or revisions to legislation and regulations shall be promptly reflected in State training programs.

(iii) Training shall be provided to all new employees who are assigned responsibility for the certification of households prior to the assumption of those duties and shall also be provided periodically to existing staff. Periodic training to existing staff shall be provided based on individual performance, performance data drawn from the Performance Reporting System, and the degree to which policy changes occur.

(iv) The State agency shall allow public attendance at formal certification training sessions that are conducted on a statewide, citywide or regional (multiproject area) basis. Public attendance at these training sessions shall be allowed for ten percent of the total attendance at the session, or ten training slots, whichever number is smaller. The State training coordinator shall notify the public of these training sessions through appropriate means.

(v) Training shall also be provided to State agency outreach workers, including hotline operators, and others who pre-screen or provide other services to applicants. Although this training need not be as comprehesive as that for certification personnel, it should be in sufficient detail and frequency to ensure that low income households have access to accurate program information and that accurate pre-screening determinations are made.

(vi) Training shall also be provided to volunteers and to staff of other organizations and agencies involved in outreach, pre-screening, and disbursement of program information. The training should be in sufficient detail and frequency to ensure that information provided to low income households is accurate.

(vii) Training shall be provided to each State agency hearing official at least once during the first year of official's tenure. This training shall represent a detailed and comprehensive study of the Act, regulations and State agency hearing procedures.

(2) *FNS Review.* (i) FNS will review and approve State agency procedures for training as a part of the review of the Plan of Operation required by § 272.3.

(ii) FNS will review the effectiveness of State agency training based on information obtained from the Performance Reporting System, audits and other sources.

(f) *Locations and hours of certification and issuance service.* (reserved)

§ 272.5 Operating guidelines [Reserved]

§ 272.6 Outreach.

(a) *General purpose.* [Reserved]

(b) *Minimum requirements.* [Reserved]

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(c) *Staff.* [Reserved]
(d) *Monitoring.* [Reserved]
(e) *Outreach plan.* [Reserved]
(f) *Additional minimum procedures for the transition.* State agencies shall develop special procedures for informing low-income households about the program changes required by these regulations.

(1) *Printed information.* (i) *Notices.* Participating households shall be provided with at least one notice explaining the program changes. The notice may be mailed separately or with the ATP or may be otherwise given to each household. At a minimum, the notice shall describe the new financial eligibility requirements, elimination of the purchase requirement, participant hearing and appeal rights, and the timing of program changes. Notices shall be provided to individual households no later than one month prior to implementation of new eligibility and other regulation changes, and shall also be available at all certification offices for a minimum of six months thereafter.

In addition, a similar notice shall be provided to all recipients of public assistance and SSI if the State administers a supplemental payments program. These notices shall be provided according to the same schedule as the notices to food stamp households and shall also be available at all public assistance offices. When the project area meets the criteria described in § 272.4(c), notice shall be provided in languages other than English.

(ii) *Other printed materials.* State agencies shall also make available written information, such as brochures or pamphlets that describe all financial and nonfinancial eligibility criteria, benefit levels, the application process and participant rights and responsibilities. This written information shall be provided at food stamp certification offices and public assistance offices and shall be made available to local social security offices, State employment services offices, and local offices that administer unemployment compensation programs. This written information shall be available no later than one month prior to implementation.

(2) *Other publicity efforts.* State agencies shall publicize program changes through use of press releases issued in each project area and radio spots. State agencies are also encouraged to use TV spots to alert low-income households to these changes. These publicity efforts shall be initiated no later than one month prior to implementation and shall continue for six months thereafter.

(3) *Hotlines.* During the time period described in paragraph (f)(1)(i) of this section, State agencies shall operate toll-free hotlines at the State level that can be used to secure information on program changes. Project areas may also operate hotlines. Hotlines shall be staffed by employees or volunteers who are generally knowledgeable in food stamp requirements and procedures so that accurate information is provided and complaints are referred to the appropriate officials for resolution. State agencies shall install an adequate number of telephone lines that operate during normal business hours to ensure that callers have reasonable access to program information. At a minimum, State agencies shall install one telephone line for caseloads of less than 100,000 people, two lines for caseloads between 100,000 and 500,000, three lines for caseloads of between 500,000 and one million, and four lines for caseloads of over one million. State agencies may substitute project area lines for State level lines provided that the project area lines meet the minimum requirements contained in this subsection and there is at least one toll-free hotline at the State level. The hotline number shall be posted in certification offices and included in the printed materials required in paragraph (f)(1)(ii) of this section. In addition, State agencies may publicize the hotline number through radio and TV.

(4) *Volunteers.* State agencies shall notify groups and organizations identified in outreach plans as well as other groups and organizations that can assist in contacting low-income households of the availability of training and printed materials on the new program requirements. State agencies shall provide training and printed materials described in paragraph (f)(1) of this section to interested groups and organization upon request.

§ 272.7 Nondiscrimination compliance.

(a) *Requirement.* State agencies shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, sex, religious creed, national origin or political beliefs.

(b) *Complaints.* (1) People who believe that they have been subject to discrimination as specified in paragraph (a) of this section may file a complaint with the Secretary or the Administrator, FNS.

(2) A complaint must be filed no later than 180 days from the date of the alleged discrimination. However, the time of filing may be extended by the Secretary.

(3) The State agency shall accept all complaints of discrimination, written or verbal, and forward them promptly to the Secretary or the Administrator, FNS.

(4) In the event an individual verbally alleges that a discriminatory act has been committed but the individual does not put it in writing, the person receiving the complaint shall do so. If possible, the following information shall be solicited from the complainant:

(i) Name, address and telephone number or other means of contacting the person alleging discrimination.

(ii) Location and name of the organization or office which is accused of discriminatory practices.

(iii) The nature of the incident, action, or the aspect of program administration that led the person to allege discrimination.

(iv) The reason for the alleged discrimination (age, race, sex, religious creed, national origin or political belief).

(v) Names, titles (if appropriate), and addresses of persons who may have knowledge of the discriminatory acts.

(vi) The date or dates on which the alleged discriminatory actions occurred.

(5) Written complaints will be accepted by the Secretary or the Administrator, FNS, even if the information specified in paragraph (b)(4) of this section is not complete. Persons who file written complaints are encouraged to provide this information to facilitate investigation. Investigations will be conducted only if information concerning paragraphs (b)(4) (ii), (iii), (iv) of this section is provided.

(6) Discrimination is prohibited on the basis of § 11(c) of the Food Stamps Act and additionally discrimination on the basis of race, color or national origin is prohibited by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought pursuant to either or both authorities. Matters brought pursuant to Title VI shall be processed in accord with 7 CFR part 15.

(c) *Reviews.* (Reserved)

(d) *Public notification.* State agencies shall: (1) Publicize the procedures described in paragraph (b) of this section.

(2) Ensure that all offices involved in administering the program and that also serve the public, display the nondiscrimination poster "• • • And Justice for All."

(3) Ensure that participants and other low income households have access to information regarding nondiscrimination statutes and policies, complaint procedures, and the rights of participants, within ten days of the date of a request.

(e) *Data Collection.* (1) The State agency shall require the eligibility worker to record the racial/ethnic category of the household. The racial/ethnic categories are: American Indian or Alaskan Native, Asian or Pacific Islander, Black (not of Hispanic origin), Hispanic, and White (not of Hispanic origin). The assigned category will be based on the eligibility worker's observation during the certification interview.

(2) State agencies shall develop and implement a recordkeeping system that contains data by project area and racial/ethnic category for the following:

(i) Total population;
(ii) Low income caseload;
(iii) Applications received;
(iv) Applications certified;
(v) Applications denied;
(vi) Actual participation;
(vii) Fair hearings requested;
(viii) Fair hearings decided in favor of complainant; and
(ix) Staff employed by food stamp offices.

(f) *Reports.* (Reserved)

§ 272.8 Dual Operation [Reserved]

3. Parts 272 and 273 are revised and redesignated as Parts 278 and 279, respectively. The new Part 273 reads as follows:

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Sec.
273.1 Household concept.
273.2 Application processing.
273.3 Residency.
273.4 Citizenship and alien status.
273.5 Tax dependency.
273.6 SSI cash-out States.
273.7 Work registration requirement.
273.8 Resource eligibility standards.
273.9 Income and deductions.
273.10 Determining household eligibility and benefit levels.
273.11 Certifying households with special income circumstances.
273.12 Reporting changes.
273.13 Notice of adverse action.
273.14 Recertification.
273.15 Fair hearings.
273.16 Fraud disqualification.
273.17 Restoration of lost benefits.
273.18 Claims against households.
273.19 Sixty day continuation of certification.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 273.1 Household concept.

(a) *Household definition.* A household may be composed of any of the following individuals or groups of individuals, provided that such individuals or groups are not residents of an institution, except as otherwise specified in § 273.1(d), or commercial boarding house:

(1) An individual living alone;

(2) An individual living with others, but who customarily purchases food and prepares meals for home consumption separate and apart from the others;

(3) An individual who is a boarder, living with others and paying reasonable compensation to the others for meals for home consumption;

(4) A group of individuals living together and customarily purchasing food and preparing meals together for home consumption; or

(5) A group of individuals who are boarders, living with others and paying reasonable compensation to the others for meals for home consumption.

(b) *Nonhousehold members.* The following individuals residing with a household shall not be considered household members in determining the household's eligibility or allotment:

(1) *Roomers.* Individuals to whom a household furnishes lodging, but not meals, for compensation.

(2) *Boarders.* Individuals to whom a household furnishes lodging and meals with the following restrictions:

(i) Boarder status shall not be extended to a spouse (or to a common law spouse) of a member of the household; or to children under 18 years of age, if under the parental control of a member of the household.

(ii) Boarder status shall not be extended to persons paying less than a reasonable monthly payment for meals. An individual furnished both meals and lodging by the household, but paying compensation of less than a reasonable amount, will be considered a member of the household which provides the meals and lodging. When the boarder's payments for room are distinguishable from the payments for meals, only the amount paid for meals will be evaluated to determine if reasonable compensation is being paid for meals. A reasonable monthly payment for meals shall be any of the following:

(A) An amount which equals or exceeds the Thrifty Food Plan for the appropriate size of the boarder household;

(B) An amount recognized by the State agency as the prevailing local rate for board in the low income area, if less than the amount of the Thrifty Food Plan;

(C) An amount which corresponds to the number of meals for which the boarder is paying compensation to the household. Boarders may pay less than the Thrifty Food Plan because they do not receive all their meals through the board arrangement. In that event, a reasonable monthly amount shall be computed by multiplying the number of meals eaten under the board arrangement by 60 cents per meal.

(3) *Live-in-attendants.* Individuals who reside in a household to provide medical, housekeeping, child care or other similar personal services.

(4) *Ineligible aliens.* Individuals who do not meet the citizenship or permanent alien status in § 273.4(a).

(5) *SSI recipients in "cash-out" States.* Recipients of SSI benefits who reside in a State designated by the Secretary of Health, Education, and Welfare to have specifically included the value of the coupon allotments in its State supplemental payments.

(6) *Student tax dependents.* Students who are or could be properly claimed as tax dependents for Federal income tax purposes by a member of a household which is not eligible to participate in the Food Stamp Program, in accordance with § 273.5.

(7) *Disqualified individuals.* Individuals disqualified for fraud, as set forth in § 273.16, or college students disqualified for failure to meet the school year work registration requirements, as set forth in § 273.7(b)(7)(i).

(8) *Others.* Other individuals who share living quarters with the household but who do not customarily purchase food and prepare meals with the household.

(c) *Boarding house.* Residents of boarding houses are not eligible for program benefits. For program purposes, a boarding house shall be defined as an establishment which is recognized by the community as a commercial enterprise which offers meals and lodging for compensation. The number of boarders residing in a boarding house shall not be used to determine if a boarding house is a commercial enterprise. The household of the proprietor of a boarding house may participate in the program separate and apart from the residents of the boarding house, if that household meets all of the eligibility requirements for program participation.

(d) *Head of household.* The household member who was responsible for acquiring the greatest amount of earned income within the previous 60 days shall be classified as the head of the household. For example, if a person who earned the household's greatest amount of income in the 60 days prior to applying for benefits is unemployed at the time of application and temporarily has less income than another household member, the unemployed person would still be classified as the head of household. This classification is made primarily for enforcing § 273.7(c) which imposes a 60-day disqualification period upon households if it is established that the head of household voluntarily quit a job without good cause. State agencies shall not impose additional requirements based on the classification of head of household, such as requiring that the head of household, rather than another responsible member of the household, appear at the certification office to make application for benefits. In the event no member of the household had earned income the applicant shall designate the head of the household.

(e) *Residents of institutions.* Individuals shall be considered residents of

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an institution when the institution provides them with the majority of their meals as part of the institution's normal services. Residents of institutions are not eligible for participation in the Program, with the following two exceptions:

(1) Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 or section 236 of the National Housing Act.

(2) Narcotic addicts or alcoholics who for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program reside at a facility or treatment center as described in paragraph (f)(1)(iv) of this section.

(f) *Authorized representatives.* (1) The head of the household, spouse, or any other responsible member of the household may designate an authorized representative to act on behalf of the household in one or all of the following capacities:

(i) *Making application for the program.* When the head of the household or the spouse cannot make application, another household member may apply or an adult nonhousehold member may be designated as the authorized representative for that purpose. The head of the household or the spouse should prepare or review the application whenever possible, even though another household member or the authorized representative will actually be interviewed. The State agency shall inform the household that it will be held liable for any overissuance which results from erroneous information given by the authorized representative, except as provided in § 273.11(e)(6). Adults who are nonhousehold members may be designated as authorized representatives for certification purposes only under the following conditions:

(A) The authorized representative has been designated in writing by the head of the household, or the spouse, or another responsible member of the household; and

(B) The authorized representative is an adult who is sufficiently aware of relevant household circumstances.

(ii) *Obtaining the coupons.* An authorized representative may be designated to obtain coupons. These designations shall be made at the time the application is completed and any authorized representative shall be named on the ID card. The authorized representative for coupon issuance may be the same individual designated to make application for the household or may be another individual. Even if a household member is able to make application and obtain coupons, the household should be encouraged to name an authorized representative for obtaining coupons in case of illness or other circumstances which might result in an inability to obtain coupons. The household may also designate an emergency authorized representative at a later date. An emergency authorized representative is someone not already listed on the ID card who obtains coupons when neither a household member nor the authorized representative is able to obtain them because of unforeseen circumstances. State agencies shall provide for a system that permits the designation, in writing, of an emergency authorized representative to obtain coupons with a particular ATP. A separate written designation is needed each time an emergency authorized representative is used.

(iii) *Using the coupons.* The authorized representative may use coupons to purchase food for the household, with the full knowledge and consent of the household, provided the authorized representative has the household's ID card.

(2) *Drug addict/alcoholic treatment centers as authorized representatives.* Narcotics addicts or alcoholics who regularly participate in a drug or alcoholic treatment program on a resident basis may elect to participate in the Food Stamp Program if the treatment center in which they reside has been authorized by FNS to accept food coupons. The residents shall apply and be certified for Program participation through the use of an authorized representative who shall be an employee of and designated by the private nonprofit organization or institution that is administering the treatment and rehabilitation program. The organization or institution shall apply on behalf of each addict or alcoholic and shall receive and spend the coupon allotment for food prepared by and/or served to the addict or alcoholic. The organization or institution shall also be responsible for complying with the requirements set forth in § 273.11(e).

(3) In the event the only adult living with a household is classified as a nonhousehold member as defined in paragraph (b) of this section, that individual may be the authorized representative for the minor household members.

(4) The following restrictions apply to authorized representatives:

(i) State agency employees who are involved in the certification and/or issuance processes and retailers that are authorized to accept food coupons may not act as authorized representatives without the specific written approval of the designated State agency official and only if that official determines that no one else is available to serve as an authorized representative.

(ii) Individuals disqualified for fraud shall not act as authorized representatives during the period of disqualification except as provided in paragraph (f)(3) of this section.

(iii) The State agency shall ensure that authorized representatives are properly designated. The name of the authorized representative shall be contained in the household's case file. Limits shall not be placed on the number of households an authorized representative may represent. Each certification office shall maintain a current listing of authorized representatives who are not members of the households they represent. This listing will facilitate periodic reviews, which the State agency should conduct, to ensure that authorized representatives with access to large numbers of ATPs or coupons are handling them in conformance with these regulations.

§ 273.2 Application processing

(a) *General purpose.* The application process includes filing and completing an application form, being interviewed, and having certain information verified. The State agency shall act promptly on all applications and provide food stamp benefits retroactive to the period of application to those households that have completed the application process and have been determined eligible. Expedited service shall be available to households in immediate need. Specific responsibilities of households and State agencies in the application process are detailed below.

(b) *Food stamp application form.* All State agencies shall use an application form designed by FNS. FNS may approve a deviation from that form to accommodate the use of a combined PA/food stamp application form, the requirements of a computer system, or other exigencies for which the State agency can submit adequate justification, provided the form is understandable to applicants and easy to complete. Each application form shall contain a description in understandable terms in prominent and bold face lettering of the civil and criminal provisions and penalties for violations of the Food Stamp Act.

(c) *Filing an application.* (1) *Household's right to file.* Households must file a food stamp application by submitting the form to the food stamp office either in person, through an authorized representative or by mail. The amount of time a State agency has to deliver benefits is calculated from the date the application is filed. Each household has the right to file an application form on the same day it contacts any food stamp office during office hours in the project area in which it resides. The household shall be advised that it does not have to be interviewed before filing the application and may file an incomplete application form as long as the form contains the applicant's name and address, and is signed by a responsible

member of the household or the household's authorized representative. Where there is more than one certification office in a project area, any office must accept applications when filed, but may subsequently refer the household to another office for the eligibility determination.

(2) *Contacting the food stamp office.* State agencies shall encourage households to file an application form the same day the household or its representative contacts the food stamp office in person or by telephone and expresses interest in obtaining food stamp assistance. If the household has contacted the food stamp office by telephone but does not come to the office to file the application that same day, or the household has requested food assistance in writing, the State agency shall mail an application form to the household on the same day the written request or telephone call is received.

(3) *Availability of the application form.* The State agency shall make application forms readily accessible to potentially eligible households and those groups and organizations involved in outreach efforts.

(4) *Notice of right to file.* The State agency shall post signs in the certification office which explain the application processing standards and the right to file an application on the day of initial contact. The State agency shall include similar information about same day filing in outreach materials and on the application form.

(d) *Household cooperation.* To determine eligibility, the application form must be completed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. If the household refuses to cooperate with the State agency in completing this process, the application shall be denied at the time of refusal.

To be denied, the household must refuse to cooperate, not merely fail to cooperate or be unable to do so. The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes, recertifications, or as part of program review and evaluation. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates.

(e) *Interviews.* (1) All applicant households, including those submitting applications by mail, shall have a face-to-face interview in a food stamp office or other certification site, with a qualified eligibility worker prior to initial certification and all recertifications. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized representative. The interviewer shall not simply review the information that appears on the application, but shall explore and resolve with the household unclear and incomplete information. Households shall be advised of their rights and responsibilities during the interview. The interview shall be conducted as an official and confidential discussion of household circumstances and shall be limited strictly to facts that relate directly to food stamp eligibility criteria. The applicant's right to privacy shall be protected during the interview. Facilities shall be of adequate size and layout to preserve the privacy and confidentiality of the interview.

(2) The office interview shall be waived if requested by any household which is unable to appoint an authorized representative and which has no household members able to come to the food stamp office because they are 65 years of age or older, or are mentally or physically handicapped. The State agency may waive the office interview on a case by case basis for any household which is unable to appoint an authorized representative and which has no household members able to come to the food stamp office because of transportation difficulties or similar hardships. These hardship conditions include, but are not limited to: illness, care of a household member, bad weather, or work hours which preclude in-office certification. The State agency shall determine if the transportation difficulty or hardship reported by a household warrants a waiver of the office interview and shall document this determination in the case file.

(i) The State agency shall offer households for whom the office interview is waived either a telephone interview or a home visit. Home visits shall be used only if the time of the visit is scheduled in advance with the household.

(ii) Waiver of the face-to-face interview does not exempt the household from the verification requirements, although special procedures may be used to permit the household to provide verification and thus obtain its benefits in a timely manner.

(iii) Waiver of the face-to-face interview shall not affect the length of the household's certification period.

(3) The State agency shall schedule all interviews as promptly as possible to ensure eligible households receive an opportunity to participate within 30 days after the application is filed.

(f) *Verification.* Verification is the use of third party information or documentation to establish the accuracy of statements on the application.

(1) *Verification requirements.* (i) Gross nonexempt income shall be verified for all households prior to certification. However, where all attempts to verify the income have been unsuccessful, either because the person or organization providing the income has failed to cooperate with the household and the State agency, or because other sources of verification are unavailable, the eligibility worker shall determine an amount to be used for certification purposes based on the best available information.

(ii) Resource information or the exempt status of income shall be verified prior to certification only if inconsistent with other information on the application, previous applications, or other documented information known to the State agency. In the case of loans, a legally binding agreement is not required to verify that income is exempt as a loan. A simple statement, signed by both parties, shall be sufficient to verify loans.

(iii) Nonfinancial information, except for statements concerning citizenship, shall be verified prior to certification only if inconsistent with other information on the application, previous applications, or other documented information known to the State agency. The State agency shall verify the alien status of those household members identified on the application as aliens. INS documentation in the possession of the household member shall be used to establish eligibility. Verification of a household's statement that its members are U.S. citizens is discussed in paragraph (f)(iv) of this section.

(iv) U.S. citizenship shall be verified only when the citizenship statement is inconsistent with other information on the application, previous applications, or other documented information known to the State agency. For example, verification would be required where a household presented an apparently counterfeit social security card, an employment office report stated that an individual was denied a job due to lack of U.S. citizenship, or a student reported that tax dependency was not an issue because the parents resided in another country. When verification is required, the household shall be asked to provide the appropriate verification. Appropriate verification of citizenship may consist of birth certificates, religious records, or certificates of citizenship or naturalization provided by INS, such as Identification Cards for Use of Resident Citizens in the United States, (INS Form I-179 or INS Form I-197) or U.S. Passports. If the household cannot provide any of these forms of verification, the State agency may accept other forms of verification. If the household is unable to acquire the necessary verification, the State agency shall assist the household by contacting the proper sources. Benefits shall not be delayed for lack of verification of citizenship if the household meets all

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other eligibility criteria. The State agency shall deny or terminate a household's benefits only if the State agency can substantiate that a household member is not a U.S. citizen and does not qualify as an eligible alien.

(v) Deductible expenses shall only be verified when the expense claimed would actually result in a deduction and one of the following criteria are met:

(A) The household wishes to claim utility expenses in excess of the State agency's utility standard. In the absence of verification, the standard utility allowance shall be used, provided the household is billed for utilities other than the telephone, separately from other shelter costs.

(B) Shelter costs, other than utilities, exceed an amount established by the State agency as reasonable for that shelter component.

(C) Other documented information is inconsistent with the household's claim that it incurs a dependent care expense or that the expense is incurred for reasons specified in § 273.9.

(2) *Sources of verification.* (i) *Documentary evidence.* State agencies shall use documentary evidence as the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts and utility bills. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to a single document and may be obtained through the household or other source. Where information from another source contradicts statements made by the household, the household shall be immediately afforded the opportunity to resolve the discrepancy. Whenever documentary evidence cannot be obtained, State agencies shall use alternate sources of verification such as collateral contacts and home visits.

(ii) *Collateral contacts.* A collateral contact is a verbal confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made either in person or over the phone. the acceptability of a collateral contact shall not be restricted to a particular individual but may be anyone that can be expected to provide an accurate third party verification of the household's statements. Examples of acceptable collateral contacts are employers, community action groups, migrant service agencies and neighbors of the household.

(iii) *Home visits.* Home visits shall be used as verification only if documentary evidence cannot be obtained and the visit is scheduled in advance with the household.

(3) *Responsibility for obtaining verification.* (i) The household has primary responsibility for providing documentary evidence to support its income statements and to resolve any inconsistent information. Households may supply documentary evidence in person, through the mail, or through an authorized representative. The State agency shall accept any reasonable documentary evidence provided by the household and shall be primarily concerned with how adequately the verification proves the statements on the application. If it would be difficult or impossible for the household to obtain the documentary evidence in a timely manner, the State agency shall offer assistance to the household in obtaining the documentary evidence.

(ii) Whenever documentary evidence cannot be obtained, the State agency shall substitute a collateral contact or a home visit. The State agency shall rely on the household to provide the name of the collateral contact. The household may request assistance in designating a collateral contact. However, the State agency is not required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide an accurate third party verification. If the collateral contact designated by the household is unacceptable, the State agency shall ask the household to designate another collateral contact. The State agency is responsible for obtaining verification from acceptable collateral contacts.

(4) *Documentation.* Case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination. Where verification was required to resolve inconsistent information, the State agency shall document why the information was considered inconsistent and what documentation was used to resolve the inconsistent information. The State agency shall also document the reason why an alternate source of verification, such as a collateral contact or home visit, was needed, and the reason a collateral contact was rejected and an alternate requested.

(5) *Bendex.* If documentary evidence of social security benefits is not readily available from the applicant, the State agency may verify the income through the Beneficiary Data Exchange (Bendex). The amount of social security benefits reported on the application shall be used to compute the household's eligibility and benefit level pending receipt of verification from Bendex. Any household member whose social security benefits will be verified through Bendex must sign an information release form prior to submission of the request for verification.

(6) *State Data Exchange (SDX).* (Reserved)

(7) *Verification subsequent to initial certification.* (i) *Recertification.* Unchanged information shall not be verified at recertification unless the State agency has reason to believe the information has changed because of inconsistent information on the application form or other documented information known to the State agency. Changes reported at the time of recertification shall be subject to the same verification procedures as apply at initial certification, except that previously verified income and expenses which have changed by $25 or less since the last time they were verified shall not be verified again.

(ii) *Changes.* Changes reported during the certification period shall be subject to the same verification procedures as apply at initial certification, except that previously verified income or expenses which change by $25 or less since the last time they were verified shall not be verified again.

(g) *Processing standards.* The State agency shall provide eligible households that complete the initial application process an opportunity to participate as soon as possible, but not later than 30 days after the application was filed. If the 30th day falls on a weekend or holiday, the 30 day standard shall be extended to the next working day. An application is filed the day the State agency receives an application containing the applicant's name and address, which is signed by either a responsible member of the household or the household's authorized representative.

(1) *Opportunity to participate.* An opportunity to participate consists of providing households with an ATP or other authorization and having an issuance facility open and available for the household to obtain its allotment.

If the ATP or coupons are mailed, two days shall be allowed for delivery before determining if the household has been provided an opportunity to participate. A household has not been provided an opportunity to participate within 30 days of application if the ATP or allotment is mailed on the 29th or 30 day. Neither has an opportunity to participate been provided if the ATP is mailed on the 28th day but no issuance facility is open on the 30th day where the household can obtain coupons. The household must both have two days in which to receive a mailed ATP and be able to transact the ATP after receipt.

(2) *Unverified deductible expenses.* If a deductible expense cannot be verified before the 30 days expires, the State agency shall determine the household's eligibility and benefit level without providing a deduction for the claimed but unverified expense. The utility standard shall be used if the household wishes to claim utility expenses in excess of the

State's standard but the higher amounts cannot be verified. If the household is eligible without allowing the expense, an allotment which does not reflect a deduction of the expense shall be provided within 30 days after the application was filed. Once the expense is verified, the household shall be entitled to restoration of any benefits lost as a result of the disallowance of the expense, if the State agency contributed to the inability to verify the expense within the initial 30 day period. If the household would be ineligible unless the expense is allowed, the household's application shall be handled as provided in § 273.2(h) of this section.

(h) *Delays in processing.* If it appears that the State agency will not be able to determine a household's eligibility and provide an opportunity to participate within 30 days of the date the application was filed, the State agency shall take the following action:

(1) *Delays caused by the household.* (i) If the State agency cannot take any further action on the application solely because of some action the household is responsible for taking, and the State agency has documented that it has met all of its responsibilities to assist the household in completing the application process, the State agency shall issue a notice of denial to the household on the 30th day after the application was filed. The State agency shall, however, reopen the case without requiring a new application if the household takes action to complete the application process within 30 days of the date the notice of denial was mailed. However, if verification is incomplete, the State agency shall not deny the application unless the household has had at least 10 days to provide verification, from the date of the State agency's last request for verification, and the State agency has provided appropriate verification assistance. Otherwise, the application shall be held pending as provided in paragraph (h)(2) of this section. The notice of denial requirements are explained in § 273.10 (g)(1)(ii).

(ii) Households which take the necessary action to complete the application process within 30 days from the notice of denial and are found to be eligible shall be provided an opportunity to obtain benefits retroactive to the period of application within 60 days of the date the household originally filed the application.

(2) *Delays caused by the State agency.* Whenever the State agency is out of compliance with the 30 day processing standard, it must take immediate corrective action. The State agency shall not deny the application but shall instead notify the household by the 30th day that the application process has not been completed and that the application is being processed. If the State agency still needs information the State agency shall continue to process the application until it determines if the household is eligible.

If an eligible household's benefits are delayed less than 60 days from the date the application was filed, the State agency shall provide benefits retroactive to the period of application. If benefits are delayed more than 60 days, the State agency shall restore any benefits that were lost back to the period of application in accordance with § 273.17.

(i) *Expedited service.* (1) *Two day service.* State agencies shall provide an opportunity to participate within two working days of the date the application is filed to those households that are otherwise eligible and have zero net monthly income, as computed in § 273.10, or are destitute of income, as defined in this paragraph. To be considered destitute, the household's only income during the period of application must be from a nonrecurring source and must not be received or anticipated in the quarter of the month the application is filed. The quarter of the month the application is filed shall be determined by dividing the period of application into quarters as follows: 1st-7th, 8th-15th, 16th-22nd, and 23rd through the end of the month. Destitute households are divided into the following categories to determine if the income is nonrecurring:

(i) *Households losing a source of income.* Income from a terminated source shall be considered nonrecurring if it will not be received again during the balance of the month of application and the following month, or, if normally received less often than monthly, during the balance of the month of application and the normal interval between payments. For example, if income is normally received once every three months, the income is considered nonrecurring if it is not anticipated during the balance of the month of application and is not anticipated within three months of its last receipt.

(ii) *Household's anticipating new income.* Income anticipated from a new source after the quarter of the month the application is filed shall be considered nonrecurring if it has not been received from that source 30 days prior to the date the application was filed. However, if income is normally received less often than monthly, the normal interval between payments shall be substituted for the preceding 30 days to determine if the income is nonrecurring. In addition to being entitled to expedited service, households that are destitute because they are anticipating a new source of income shall be entitled to a special income calculation as provided in § 273.10.

(2) *Same day service.* State agencies shall provide destitute households and households with zero net monthly income an opportunity to participate the same day the application is filed provided:

(i) The household states that it does not have sufficient food through the next two working days;

(ii) The household's liquid resources, as defined in § 273.8, are less than the value of the Thrifty Food Plan for a one-person household; and

(iii) The household is not a resident of a drug addict or alcoholic treatment center. Residents of drug addict or alcoholic treatment centers may, however, be eligible for expedited service within two working days.

(3) *Identifying households needing expedited service.* The State agency's application procedures shall be designed to identify households eligible for expedited service at the time the household requests assistance. For example, a receptionist, volunteer, or other employee may be responsible for screening applications as they are filed or as individuals come in to apply.

(4) *Special procedures for expediting service.* The State agency shall use the following procedures when expediting certification and issuances:

(i) To expedite the certification process, the State agency shall postpone the verification required by § 273.2(f). However, the household's identity and residency shall be verified through a collateral contact or readily available documentary evidence. If possible, the household's income statements should also be verified at the same time.

(ii) Once the household has supplied the name of a collateral contact or has asked the State agency for assistance in locating a collateral contact, the State agency shall promptly contact the collateral contact or otherwise assist the household in obtaining the necessary verification.

(iii) When a household is eligible for same day service but normal issuance services cannot provide an opportunity to participate on the same day or the State agency has failed to complete the collateral contact, the State agency shall issue at least one-fourth of the allotment on the same day. Similarly, where a household is eligible for service within two working days but the State agency has failed to complete the collateral contact, the State agency shall provide at least one-fourth of the allotment within the two working days. In such instances, the collateral contact shall be promptly completed and the balance of the allotment shall be issued within five working days.

(iv) Households certified on an expedited basis shall be certified only for the month of application. The household shall receive no further benefits until the household completes the ver-

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ification requirements which were postponed to expedite initial issuance. If verification is obtained within 30 days of the date the application was filed and the household is eligible for subsequent months, the State agency shall extend the certification period as appropriate without requiring that the household submit a new application and without interrupting the household's benefits.

(v) There is no limit to the number of consecutive times a household can be certified under expedited procedures, so long as, prior to each expedited certification, the household completes the verification requirements that were postponed at the last expedited certification.

(vi) Households requesting, but not entitled to, expedited service shall have their applications processed according to normal standards.

(j) *Households requesting replacement allotments.* (1) Households may request a replacement allotment for that portion of the allotment which has been lost, stolen or destroyed after receipt. Households requesting a replacement allotment shall report the loss to the local police and sign a statement at the food stamp office attesting to the loss of the allotment. Households shall obtain either a copy of the police report or provide other information showing that the loss was reported to the police.

(2) State agencies shall provide the household an opportunity to obtain a replacement allotment within two working days of the day a loss is reported, to the State agency, provided the household filed the police report and the household has signed the statement attesting to the loss. The State agency shall not issue a replacement allotment to any household more often than once within a three-month period.

(k) *PA and GA households.* To facilitate their participation in the program, households in which all members are applying for public assistance (PA) or State agency administered general assistance (GA) shall be allowed to apply for food stamp benefits at the same time they apply for PA or GA benefits. The household's food stamp eligibility and benefit level shall be based solely on food stamp eligibility criteria and the household shall be certified in accordance with notice, procedural and timeliness requirements of the food stamp regulations.

(1) *PA households.* (i) The application for AFDC or other public assistance shall contain all the information necessary to determine a household's food stamp eligibility and level of benefits. Information only relevant to food stamp eligibility shall be contained in the PA form or shall be an attachment to it. The PA application shall have a place for the household to indicate if it does not wish to apply for food stamps. The application shall clearly indicate that the household is providing information for both program purposes, is subject to the criminal penalties for false statements of both programs, and waives the notice of adverse action as specified in paragraph (k)(1)(v) of this section. The joint PA/food stamp application used for PA households may also be used for all food stamp households, provided the application form is approved by FNS.

(ii) PA applications, except those on which the household has indicated it does not want food stamps, shall be processed as a food stamp application in accordance with all timeliness standards and procedures specified in this section. If the application is unclear as to the household's desire for food stamps, the State agency shall determine at the interview, or in prior contact with the household, whether or not the household wants the PA application processed for food stamp purposes.

(iii) The State agency shall conduct a single interview at initial certification for both public assistance and food stamp purposes. PA households shall not be required to see a different eligibility worker or otherwise be subjected to two interview requirements in order to obtain the benefits of both programs. Following the single interview, the application may be processed by separate workers to determine eligibility and benefit levels for food stamps and public assistance. A household's eligibility for food stamp out-of-office interview procisions in § 273.2(e)(2) does not relieve the household of any responsibility for a face-to-face interview to be certified for PA.

(iv) If verification requirements for PA differ from the verification required in § 273.2(f), the determination of food stamp eligibility shall not be delayed or denied for failure to comply with PA verification requirements.

(v) As a result of differences in PA and food stamp application processing procedures and timeliness standards, the State agency may have to determine food stamp eligibility prior to determining the household's eligibility for PA payments. Action on the food stamp portion of the application shall not be delayed nor the application denied on the grounds that the PA determination has not been made. If the State agency can anticipate the amount and the date of receipt of the initial PA payment, but the payment will not be received until a subsequent month, the State agency shall vary the household's food stamp benefit level according to the anticipated receipt of the payment and notify the household. Portions of initial payments intended to retroactively cover a previous month shall be disregarded as a Lump sum payment under § 273.9(c)(8). If the amount or date of receipt of the initial PA payment cannot be reasonably anticipated at the time of the food stamp eligibility determination, the PA payments shall be handled as a change in circumstances. However, the State agency is not required to send a notice of adverse action if the receipt of the PA grant reduces or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced or terminated when the grant is received. Households whose PA applications are denied shall not be required to file a new food stamp application but shall have their food stamp eligibility determined or continued on the basis of the original application filed jointly for PA and food stamp purposes and any other documented information obtained subsequent to the application which may have been used in the PA determination and which is relevant to food stamp eligibility or level of benefits.

(vi) Households may be required to file a separate application for food stamps if the food stamp household contains members which are not included in the unit filing for public assistance.

(2) *GA households.* State agencies which operate GA programs with formalized application procedures and eligibility criteria that test the level of income and resources shall permit GA applicants to apply for food stamp benefits using the procedure outlined in paragraph (k)(1) of this section. Use of joint application procedures for GA households and any application forms must be approved by FNS. Households receiving benefits through GA programs that do not meet the above criteria should be advised of the availability of food stamp benefits.

(l) *SSI households.* (Reserved).

§ 273.3 Residency.

A household must be living in the project area in which it files an application for participation. No individual may participate as a member of more than one household or in more than one project area in any month. Residency shall not mean domicile nor shall the State impose any durational residency requirements. Residency shall not mean an intent to permanently reside in the State or project area; however, persons in a project area solely for vacations shall not be considered residents. A fixed residence is not required; for example, migrant campsites satisfy the residency requirement.

§ 273.4 Citizenship and alien status.

(a) *Citizenship.* State agencies shall prohibit participation in the program by any person who is not:

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(1) A resident of the United States, and

(2) One of the following:

(i) A United States citizen.

(ii) An alien lawfully admitted for permanent residence as an immigrant pursuant to sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act.

(iii) An alien who entered the United States prior to June 30, 1948, or some later date as required by law, and has continuously maintained residency in the United States since then, and is not ineligible for citizenship, but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act.

(iv) An alien who qualified for conditional entry because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by a catastrophic natural calamity pursuant to section 203(a)(7) of the Immigration and Nationality Act. Many of the Vietnamese refugees were admitted under this statutory provision.

(v) An alien lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act. A majority of the Vietnamese and Cuban refugees were admitted under this statutory provision.

(vi) An alien living within the United States to whom the Attorney General has withheld deportation pursuant to section 243 of the Immigration and Nationality Act.

(b) *Ineligible aliens.* No aliens other than those described above shall be eligible to participate in the program as a member of any household. Among those excluded are aliens who are visitors, tourists, diplomats and students.

(c) *Verification.* The State agency shall verify lawful permanent resident alien status (as defined in paragraphs (a)(2) (i) and (ii) of this section by using Immigration and Naturalization Service (INS) Form I-151 or I-551, "Alien Registration Receipt Card," or the "Reentry Permit," a passport booklet for lawful permanent resident aliens. The other three resident alien categories, as defined in paragraphs (a)(2) (iv), (v), and (vi) of this section, are identified by INS Form I-94, Arrival-Departure Record. This form should state that the bearer is either a refugee granted conditional entrance status, or paroled for an indefinite period, or granted indefinite voluntary departure or entitled to an indefinite stay of deportation; and is usually stamped "Employment Authorized." Aliens unable to furnish the above identification are ineligible. These aliens shall be advised that upon presentation of the proper INS forms, they will be eligible to apply for program benefits.

(d) *Income and resources.* The income and resources of an ineligible alien living in a household shall not be considered in determining eligibility or level of benefits of the household.

§ 273.5 Tax dependency.

(a) *Tax dependent.* No individual who is a member of a household otherwise eligible to participate in the Program shall be eligible to participate as a member of that or any other household if the individual:

(1) Has reached age eighteen;

(2) Is enrolled at least half time in an institution of higher education; and

(3) Is properly claimed or could be properly claimed for the current tax year as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household. "Child" and tax "dependent" are defined in §§ 151 and 152 of the Internal Revenue Code (I.R.C.) of 1954, as amended.

(b) *Eligibility of taxpayer's household.* (1) Prior to determining the eligibility of students who are or could be properly claimed tax dependents, the eligibility of the taxpayer's household shall be determined. A proper claim of tax dependency exists when the taxpayer provides or will provide over half of the student's support for the current tax year. A proper claim also exists when the taxpayer is or will be treated as having provided over half of the student's support under Internal Revenue Service (IRS) rules for "Children of divorced or separated parents" (§ 152(e) I.R.C.) or dependents supported by two or more taxpayers (§ 152(c) I.R.C.). "Support" is defined in §§ 151-152 of the I.R.C.

(2) The eligibility of the taxpayer's household shall be based on information provided by the student or the taxpayer. If the taxpayer's household is not currently certified for food stamps, its eligibility shall be determined by the household's size and monthly gross income. The allowable gross income limits shall be calculated by increasing the current net income eligibility limits in § 273.9(a) by the standard deduction in § 273.9(d), the maximum shelter deduction in § 273.9(d), and the 20 percent earned income deduction in § 273.9(d). Self-employed households shall have their gross income determined on an annual, rather than a monthly basis, minus the cost of doing business, but prior to deducting taxes. FNS shall provide gross income eligibility tables by household size.

(c) *Verification.* (1) Tax dependency status and the eligibility of the taxpayer's household shall be verified for students when information provided in the application is inconsistent, contradicts other documented evidence, or indicates likely tax dependency status. Verification shall be accomplished by mailing a simple form to the student's parent. The verification form will require the taxpayer to state whether the student is claimed or could be claimed as a tax dependent. If the student is or could be claimed as a tax dependent, the parent will be requested to indicate whether the parent's household is currently certified for food stamps. If the parent's household is not certified, the parent will be asked to provide household size and gross income figures so an eligibility determination can be made based on the FNS gross income tables, discussed in § 273.5(b).

(2) If the student is or could be claimed as a tax dependent then information must be provided on the taxpayer household. The application should state whether or not the taxpayer household is certified and if it is not the taxpayer's household size and gross income must be provided. The student may provide the needed information or request the State to use the verification form mentioned in paragraph (c)(1) of this section to obtain the needed information.

(3) In some instances, a student may not be aware of his or her tax dependency status. In such cases the student must provide verification or he/she may request that the State use the verification form cited in paragraph (c)(1) of this section.

(4) The parents failure to supply requested information, or a parental response which indicates student ineligibility, is grounds for declaring a student ineligible. Students shall have an opportunity to appeal a decision of ineligibility under § 273.15.

(d) *Certifying the household.* (1) While awaiting student tax dependency verification from the parent taxpayer(s), the remaining household members shall be certified based on household size minus the student.

(2) An ineligible student or a student awaiting verification of information is not a member of the household and the student's income and resources are not considered in determining eligibility or the coupon allotment for the remaining household members.

(3) If remaining members of a student's household have been certified while the student is awaiting tax dependency verification, then the result of the verification can affect the participating household in two ways. If the student is or could be the tax dependent of an ineligible household, the participating household will continue participating on the same basis that it was certified. If the student is not and could not be claimed as a tax dependent, or if the student is or could be claimed but the taxpayer house-

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hold is eligible for food stamps, then the participating household's eligibility and benefits must be redetermined to include the student.

§ 273.6 SSI Cash-Out States.

(a) *Ineligibility.* No individual who receives supplemental security income benefits and/or State supplementary payments and resides in the States of California or Massachusetts is eligible to receive food stamp benefits. The Secretary of Health, Education, and Welfare has determined that the SSI payments in these States have been specifically increased to include the value of the food stamp allotment.

(b) *Income and resources.* In California and Massachusetts the income and resources of the SSI recipient who resides with an applicant household shall not be considered available to the household for eligibility or coupon allotment purposes. The SSI recipient's presence in the household shall not be considered in determining eligibility and the level of benefits.

§ 273.7 Work registration requirement.

(a) *Persons required to register.* Each household member who is (1) physically and mentally fit, (2) 18 years of age or over, but not 60 years or over, and (3) not exempted by paragraph (b) of this section shall register for employment prior to certification and once every six months after initial registration. Household members shall register at the food stamp office by completing the work registration form provided by the State agency. The State agency shall forward work registration forms to the appropriate State employment service office.

(b) *Exemptions from work registration.* The following persons are exempt from the work registration requirement:

(1) A household member subject to and participating in the Work Incentive Program (WIN) under Title IV of the Social Security Act, as amended.

(2) A parent or other household member responsible for the care of a dependent child under 12 or an incapacitated person.

(3) A parent or other caretaker of a child under 18 in a household where another able-bodied parent is registered for work, or is exempt as a result of employment.

(4) A person receiving unemployment compensation. Persons who have applied for, but are not yet approved for unemployment compensation shall not qualify for this exemption.

(5) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program.

(6) A person who is employed or self-employed and working a minimum of thirty hours weekly or receiving weekly earnings equal to the Federal minimum wage mutiplied by thirty hours.

(7) A student enrolled at least half time in any recognized school, training program, or institution of higher education except that:

(i) During the regular school year, students enrolled at least half time in an institution of higher education must register for 20 hours of work per week by completing the work registration form provided by the State agency unless they are: (A) employed for a minimum of 20 hours per week or participating in a federally financed work study program; (B) employed less than 20 hours per week but earning an amount at least equal to the Federal minimum wage multiplied by 20 hours; (C) the head of a household containing one or more other persons to whom the student supplies more than one-half of their total support; or (D) otherwise exempt from the work registration requirement.

(ii) When any school, training program or institution of higher education recess or vacation will exceed thirty days, individuals otherwise exempt because of their student status shall register for full time work by completing the work registration form provided by the State agency, and must comply with the requirements of paragraphs (d) and (e) of this section.

(iii) Students 18 or over, enrolled in an institution of higher education at least half time, and who could be claimed as tax dependents must also meet the requirements of § 273.5 to be eligible.

(c) *Voluntary quit.* [Reserved]

(d) *Job search.* [Reserved]

(e) *Additional work requirements.* Work registrants shall also:

(1) Report for an interview upon the reasonable request of the appropriate State employment service office;

(2) Respond to a request from the State employment service office for supplemental information regarding employment status or availability for work;

(3) Report to an employer to whom referred by the State employment service office;

(4) Accept a bona fide offer of suitable employment, as defined in paragraph (i) of this section, to which referred by the State employment service office; and

(5) Continue suitable employment to which referred by the State employment service office. Household members shall continue such employment until it is no longer considered suitable in accordance with paragraph (i) of this section, until they are terminated from employment due to circumstances beyond their control, or until they become exempt from the work registration requirement as provided in paragraph (b) of this section.

(f) *Failure to comply.*

(1) If the State agency determines that a household member, except any student as defined in paragraph (b)(7)(i) of this section, has refused or failed without good cause to comply with the requirements of this section, the household shall be ineligible to participate until the member complies with the requirements in paragraph (h) of this section, the member becomes exempt, or for 60 days, whichever is earlier.

(2) Any student which the State agency determines has failed or refused without good cause to comply with the requirements of paragraphs (b)(7)(i) or (e) of this section to register for and accept 20 hours work per week during the regular school year shall be ineligible to participate as a member of any household. The disqualification shall apply to the individual student alone and not to the entire household. The disqualified student shall be ineligible until the student complies with the requirements in paragraph (h) of this section, the student becomes exempt, or for 60 days, whichever is earlier.

(g) *Determining good cause.* In determining if good cause existed for failure to comply with any registration requirement, the State agency shall consider all facts and circumstances, including information submitted by the State employment service office, the household member involved and the employer. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency or unavailability of transportation.

(h) *Ending disqualification.* Following the end of the 60-day disqualification period, a household or student may apply again to establish eligibility. Eligibility may be established or reestablished within a disqualification period if the household or student is otherwise eligible and the member or student becomes exempt from the work requirement or the member or student complies as follows:

(1) Refusal to register—registration by the household member or student.

(2) Refusal to report for interview to the State employment service office—reporting for the required interview.

(3) Refusal to respond to a request from the State employment service office requiring supplemental information regarding employment status or availability for work—compliance with the State employment service office request.

(4) Refusal to report to an employer to whom referred by the State employment service office—reporting to this employer or another employer to whom referred.

(5) Refusal to accept a bona fide offer of suitable employment to which referred by the State employment service office—acceptance of this employment, of any other employment which yields earnings per week equivalent to the refused job, of any other employment of at least 30 hours per week, or of any employment of less than 30 hours per week with weekly earnings equal to the Federal minimum wage multiplied by 30 hours.

(6) Refusal to continue suitable employment to which referred by the State employment service office—returning to this employment, or acceptance of any other employment which yields earnings per week equivalent to the refused job, or of any other employment of at least 30 hours per week or of less than 30 hours per week but with weekly earnings equal to the Federal minimum wage multiplied by 30 hours.

(i) *Suitable employment.* (1) Any employment shall be considered unsuitable if:

(i) The wage offered is less than the highest of:

(A) The applicable Federal minimum wage;

(B) The applicable State minimum wage; or

(C) Eighty percent (80%) of the Federal minimum wage.

(ii) The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wages specified in paragraph (i)(1)(i) of this section.

(iii) The household member, as a condition of employment or continuing employment, is required to join, resign from, or refrain from joining any legitimate labor organization.

(iv) The work offered is at a site subject to a strike or lockout at the time of the offer unless the strike has been enjoined under § 208 of the Labor-Management Relations Act (29 U.S.C. 178).

(2) In addition, employment shall be considered suitable unless the household member involved can demonstrate or the State agency otherwise becomes aware that:

(i) The degree of risk to health and safety is unreasonable.

(ii) The member is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.

(iii) The employment offered within the first 30 days of registration is not in the member's major field of experience.

(iv) The distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting. Employment shall not be considered suitable if daily commuting time exceeds 25 percent of daily work time.

(v) The working hours or nature of the employment interferes with the member's religious observances, convictions or beliefs. For example, a Sabbatarian could refuse to work on the Sabbath and not affect the household's eligibility.

(vi) For students, the employment is offered during class hours or is more than 20 hours per week.

(j) *Participation of strikers.* No household shall be denied participation solely on the grounds that a member of the household is not working because of a strike or a lockout at his or her place of employment unless the strike has been enjoined under § 208 of the Labor-Management Relations Act (29 U.S.C. 178).

(k) *Registration of PA and GA households.* (1) In project areas where a WIN program is in operation, registrants for the WIN program are exempt from food stamp work registration as provided in paragraph (b) of this section.

(2) In project areas where there is no WIN program, PA households shall register for work as provided in paragraph (a) of this section, unless the household members are exempt as provided in paragraph (b) of this section. The State agency may request a waiver of this procedure for PA and GA households under the conditions described in paragraph (k)(3) of this section.

(3) State agencies may request approval from FNS to substitute State procedures for work registration for PA households in project areas with no WIN program and for GA households. To receive approval, State agencies must demonstrate that:

(i) The PA or GA work registration procedures are at least equivalent to food stamp work registration requirements.

(ii) Registrants' activities are monitored so that appropriate sanctions as required by these regulations will be applied.

(iii) All PA or GA household members which are not exempt under the regulations are either registered for work under the PA or GA work requirement procedures or are registered for work as provided in paragraph (a) of this section.

(4) Household members who are required to register for work under WIN or unemployment compensation and fail to comply with the work registration requirements of those programs shall not be denied food stamp benefits solely for this failure. These members lose their exemption under paragraph (b) of this section and must register for work if required to do so in paragraph (a) of this section.

§ 273.8 Resource eligibility standards.

(a) *Uniform standards.* Each State agency shall apply the uniform national resource standards of eligibility to all applicant households, including those in which members are recipients of federally aided public assistance, general assistance or supplemental security income.

(b) *Maximum allowable resources.* The maximum allowable resources, including both liquid and nonliquid assets, of all members of the household shall not exceed $1,750 for the household, except that, for households of two or more members including a member or members age 60 or over, such resources shall not exceed $3,000.

(c) *Definition of resources.* In determining the resources of a household, the following shall be included and documented by the State agency in sufficient detail to permit verification in the event it becomes necessary because of inconsistent information or for quality control review:

(1) Liquid resources, such as cash on hand, money in checking or savings accounts, savings certificates, stocks or bonds; and

(2) Nonliquid resources, personal property, licensed vehicles, buildings, land, recreational properties and any other property, not specifically excluded under paragraph (e) of this section.

(d) *Jointly owned resources.* Resources held jointly by separate households shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household.

(e) *Exclusions from resources.* In determining the resources of a household, only the following shall be excluded:

(1) The home and surrounding property which is not separated from the home by intervening property owned by others. Public rights of way, such as roads which run through the surrounding property and separate it from the home, will not affect the exemption of the property. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, illness, vacation, or inhabitability caused by casualty or natural disaster, if the household intends to return.

(2) Household goods, personal effects, including one burial plot per household member, and the cash value of life insurance policies and pension funds, including funds in pension plans such as a Keogh Plan or an Individual Retirement Account (IRA) as long as the funds are not withdrawn from the pension plans.

(3) The entire value of any licensed vehicle, such as, but not limited to, a taxi, tractor, or fishing boat, if the vehicle is used primarily (over 50 percent of the time the vehicle is used) for income producing purposes, or, if the vehicle annually produces income con-

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sistent with its fair market value, even if only used on a seasonal basis. This exemption will apply when the vehicle is not in use because of temporary unemployment.

(4) One licensed vehicle, other than vehicles excluded under paragraph (3) of this section, to the extent that the fair market value is less than $4,500, and additional licensed vehicles necessary for household members to seek employment or to transport household members to and from employment, to the extent that the fair market value of each vehicle is less than $4,500. A vehicle customarily used to transport household members to and from employment shall be covered by this exclusion during temporary periods of unemployment.

(5) Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis.

(6) Property, such as farm land and rental homes, or work related equipment, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member, except that rental homes which are used by households for vacation purposes at some time during the year shall be counted as resources unless excluded by paragraph (5) of this section.

(7) Installment contract for the sale of land or other property if the contract or agreement is producing income consistent with its fair market value and the value of any property sold under contract or held as security in exchange for a purchase price consistent with the fair market value of that property.

(8) Any governmental payments, such as those made by the Individual and Family Grant Program or the Small Business Administration, which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended.

(9) Resources whose cash value is not accessible to the household, such as but not limited to, irrevocable trust funds, property in probate and property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. In such cases, the State agency shall establish that the property is for sale and that the household will accept a reasonable offer. Any funds transferred to a trust, and the income produced by that trust, shall be considered accesible to the household unless:

(i) The trust is under the control and management of an institution, corporation or organization (the trustee) which is not under the direction or ownership of any household member;

(ii) That trustee acts in a fiduciary capacity and uses the funds solely to make investments on behalf of the trust or to pay the educational expenses of any person named by the household creating the trust;

(iii) The trust investments do not directly involve or assist any business or corporation under the control, direction or influence of a household member;

(iv) The trust arrangement will not likely cease during the certification period; and

(v) No household member has the power to revoke the trust arrangement or change the name of the student beneficiary during the certification period.

(10) Resources, such as those of students or self-employed persons, which have been counted as income under § 273.9. The handling of student income is explained in § 273.10(c) and the handling of self-employment income is explained in § 273.11(a).

(11) Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs; and

(12) Resources which are excluded for food stamp purposes by express provision of Federal law. The following is the current listing of resources excluded by Federal law:

(i) Payments received under the Alaska Native Claims Settlement Act (Pub. L. 92-203, section 21(a)) or the Sac and Fox Indian claims agreement (Pub. L. 94-189);

(ii) Payments received by certain Indian tribal members under Pub. L. 94-114, section 6, regarding submarginal land held in trust by the United States;

(iii) Benefits received from the Special Supplemental Food Program for Women, Infants and Children (WIC) (Pub. L. 92-443, section 9);

(iv) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Pub. L. 91-646, section 216);

(v) Earned income credits received as a result of the Tax Reform Act of 1976 (Pub. L. 94-455, section 402), the Revenue Readjustment Act of 1975 (Pub. L. 94-164, section 2(d)) and payments received under section 102 of the Tax Reduction Act of 1975 (Pub. L. 94-12);

(vi) Payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and the Youth Employment and Training Programs under the Youth Employment and Demonstration Project Act of 1977 (Pub. L. 95-93), but not payments from the Young Adults Conservation Corps under that Act nor any payments under the Comprehensive Employment and Training Act (CETA) (Pub. L. 93-203).

(f) *Handling of excluded funds.* Excluded monies that are kept in a separate account, and that are not commingled in an account with nonexcluded funds, shall retain the resource exclusion for an unlimited period of time. Those excluded monies which are commingled in an account with nonexcluded funds shall retain their exemption for six months from the date they are commingled. If the household's total resources including all funds in the commingled account exceed the allowable limit after that time, the following method shall be used to determine what portion of the total resources are exempt funds. Each withdrawal of funds, after deposit of exempt funds into an account, shall reduce any exempt funds in that account by the value of the withdrawal. When the total amount withdrawn from an account equals or exceeds the total amount of exempted funds deposited into that account, the exempted funds will be considered totally spent. Households desiring to exempt commingled funds, six months after commingling, must document: the dates and amounts of exempt fund deposits and subsequent withdrawals; the amounts and dates of withdrawals after the date of first commingling; and the current account balance.

(g) *Value of resources.* (1) The value of resources shall be determined at fair market value less encumbrances, except for licensed vehicles which shall be handled as follows:

(i) Licensed vehicles are totally exempt if the vehicles' primary use (over 50 percent of the time it is used) is for income producing purposes, if the vehicle annually produces income consistent with its fair market value, or if exempt under § 273.8(e)(1).

(ii) All licensed vehicles not exempt under paragraph (g)(1)(i) of this section shall individually be evaluated for fair market value and that portion of the value which exceeds $4,500 shall be attributed in full toward the household's resource level, regardless of any encumbrances on the vehicles. For example, a household owning an automobile with a fair market value, as defined in paragraph (2) below, of $5,500 shall have $1,000 applied toward its resource level. Any value in excess of $4,500 shall be attributed to the household's resource level, regardless of the amount of the household's investment in the vehicle, and regardless of whether or not the vehicle is used to transport household members to and from employment. Each vehicle shall be appraised individually. The values of two or more vehicles shall not be added together to reach a total fair market value in excess of $4,500.

(iii) All non-income producing licensed vehicles, other than the household's primary vehicle and vehicles necessary for household members to seek employment or to transport household members to and from employment shall also be evaluated for equity value. The equity value shall be attributed toward the household's resource level.

(iv) In the event a licensed vehicle is assigned both a fair market value in excess of $4,500 (under paragraph (g)(1)(ii) of this section) and an equity value (under paragraph (g)(1)(iii) of this section) only the greater of the two amounts shall be counted as a resource. For example, a second car which is not used to transport a household member to work will be evaluated for both fair market value and for equity value. If the fair market value is $5,000 and the equity value is $1,000, the household shall be credited with only the $1,000 equity value.

(2) The fair market value of licensed automobiles, trucks, and vans will be determined by the "average trade-in value" or the "wholesale value" of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies. Publications listing the value of vehicles are usually referred to as "blue books." The State agency shall ensure that the blue book used to determine the value of licensed vehicles is updated a minimum of once every six months. The National Automobile Dealers Association's (NADA) Used Car Guide Book is a commonly available and frequently updated publication. The State agency shall assign the blue book value to vehicles, unless a household indicates that for some reason, such as body damage or inoperability, the vehicle is in less than average condition. Any household which claims that the blue book value does not apply to its vehicle shall be given the opportunity to acquire verification of the true value from a reliable source. Also, households shall be asked to acquire verification of the value of licensed antique, custom made, or classic vehicles, if the State agency is unable to make an accurate appraisal.

(h) *Transfer of resources.* (1) At the time of application, households shall be asked to provide information regarding any resources which any household member has transferred within the three month period immediately preceding the date of application. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamp benefits shall be disqualified from participation in the program for up to one year from the date of the discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the three month period prior to application or if they are transferred knowingly after the household is determined eligible for benefits. An example of the latter would be assets which the household acquires after being certified for benefits and which are then transferred to prevent the household from exceeding the maximum resource limit.

(2) Eligibility for the program will not be affected by the following transfers: (i) Resources which would not otherwise affect eligibility, for example, resources consisting of excluded personal property such as furniture or of money that, when added to other household resources, totalled less at the time of the transfer than the allowable resource limits; (ii) Resources which are sold or traded at, or near, fair market value; (iii) Resources which are transferred between members of the same household; and (iv) Resources which are transferred for reasons other than qualifying or attempting to qualify for food stamp benefits, for example, a parent placing funds into an educational trust fund described in paragraph (e)(9) of this section.

(3) The length of the disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceed the allowable resource limits. For example, if a one person household with $1,500 in a bank transferred ownership of a car worth $5,000, $250 of that transfer would be considered because the first $4,500 of the car's value was exempt and an additional $250 of the transferred asset was applied toward the $1,750 resource limit. The following chart will be used to determine the period of disqualification:

Amount in excess of the resource limit	Period of disqualification
0 to $249	1 mo.
$250 to $999	3 mo.
$1,000 to $2,999	6 mo.
$3,000 to $4,999	9 mo.
$5,000	12 mo.

(i) *Resources of nonhousehold members.* The resources of nonhousehold members, as provided in § 273.1(b), shall not be counted as available to the household, unless the member:

(1) Is disqualified from the program, in accordance with § 273.16 for fraud; or

(2) Is a student and is disqualified from the program, in accordance with § 273.7(e)(2), for failing to comply with the work registration requirement during the school year.

§ 273.9 Income and deductions.

(a) *Income eligibility standards.* Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet.

(1) The income eligibility standards for the Food Stamp Program shall be uniform for the contiguous 48 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam. The income eligibility standards are derived from the Office of Management and Budget (OMB) nonfarm income poverty guidelines for the 48 States and the District of Columbia. The income eligibility standards for Alaska and Hawaii are derived from separate OMB nonfarm income poverty guidelines. The annual income poverty guidelines shall be devided by 12 to determine the monthly net income eligibility standards.

(2) The monthly income eligibility standards shall be adjusted annually on July 1, by multiplying the most recent OMB nonfarm poverty income guidelines by the change between the average Consumer Price Index (CPI) for the 50 States and the District of Columbia for the preceding calendar year and the CPI for March of the current year.

(3) The income eligibility standards for the 48 States the District of Columbia, Puerto Rico, the Virgin Islands and Guam; for Alaska; and for Hawaii will be published as an appendix to this section.

(b) *Definition of income.* Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.

(1) Earned income shall include:

(i) All wages and salaries for services performed as an employee. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves shall be considered earned income to the extent that the payments actually subsititute for wages or salaries.

(ii) The total gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business. Payments from a roomer or boarder and returns on rental property shall be considered self-employment income.

(iii) Training allowances from vocational and rehabilitative programs recognized by Federal, State or local governments, such as the Work Incentive Program, and programs authorized by the Comprehensive Employment and Training Act, to the extent they are not a reimbursement.

(2) Unearned income shall include, but not be limited to:

(i) Assistance payments from Federal or federally aided public assistance programs, such as Supplemental Security Income (SSI) or Aid to Families with Dependent Children (AFDC), general assistance (GA) programs, or other assistance programs based on need except as provided in paragraph (b)(1)(i) of this section.

(ii) Annuities; pensions; retirement, veteran's, or disability benefits; work-

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man's or unemployment compensation; old-age, survivors, or social security benefits; strike benefits; foster care payments for children or adults.

(iii) Support or alimony payments made directly to the household from nonhousehold members.

(iv) Scholarships, educational grants, fellowships, deferred payment loans for education, veteran's educational benefits and the like in excess of amounts excluded under § 273.9(c).

(v) Payments from government-sponsored programs such as Agricultural Stabilization and Conservation Service programs, dividends, interest, royalties, and all other direct money payments from any source whatever which can be construed to be a gain or benefit.

(3) The earned or unearned income of an individual disqualified from the household for fraud in accordance with § 273.16 or for failing to comply with the student work registration requirements in § 273.7(b)(7)(i) shall continue to be counted as income, less the pro rata share for the individual. Procedures for calculating this pro rata share are described in § 273.11.

(4) Income shall not include the following:

(i) Monies withheld from an assistance payment, earned income, or other income source, or monies received from any income source which are voluntarily or involuntarily returned to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under paragraph (c) of this section.

(ii) Child support payments received by AFDC recipients which must be transferred to the agency administering Title IV-D of the Social Security Act of 1935, as amended, to maintain AFDC eligibility.

(c) *Income exclusions.* Only the following items shall be excluded from household income and no other income shall be disregarded:

(1) Any gain or benefit which is not in the form of money payable directly to the household, including:

(i) *In-kind income.* Nonmonetary or in-kind benefits, such as meals, clothing, public housing, or produce from a garden.

(ii) *Vendor payments.* A payment made in money on behalf of a household shall be considered a vendor payment whenever a person or organization outside of the household uses its own funds to make a direct payment to either the household's creditors or a person or organization providing a service to the household. For example, if a relative, who is not a household member, pays the household's rent directly to the landlord, the payment is considered a vendor payment and is not counted as income to the household. Wages garnished by employers, or money deducted or otherwise diverted from a household's public assistance grant by a State for purposes of managing the household's expenses shall not be considered a vendor payment, since the person or organization making the payment is using money payable to the household rather than its own funds. Payments made directly to the household are counted as income and are not excluded as a vendor payments; except that rent or housing subsidies paid to a landlord by the Housing and Urban Development (HUD) Department shall be considered a vendor payment regardless of whether the payment is made directly to the landlord or paid to the landlord through the household.

(2) Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of $30 in a quarter.

(3) Educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits and the like to the extent that they are used for tuition and mandatory school fees at an institution of higher education, a correspondence school or a school for the physically or mentally handicapped. Mandatory fees are those charged to all students or those charged to all students within a certain curriculum. For example, uniforms, lab fees, or equipment charged to all students in order to enroll in a chemistry course would be excluded. However, transportation, supplies and text book expenses are not uniformly charged to all students and, therefore, would not be excluded as mandatory fees.

(4) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(5) Reimbursements for past or future expenses, to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household. Reimbursements for normal household living expenses such as rent or mortgage, personal clothing, or food eaten at home are a gain or benefit and, therefore, are not excluded. To be excluded, these payments must be provided specifically for an identified expense, other than normal living expenses, and used for the purpose intended. When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses. The amount by which a reimbursement exceeds the actual incurred expense shall be counted as income. However, reimbursements shall not be considered to exceed actual expenses, unless the provider or the household indicates the amount is excessive. Examples of excludable reimbursements which are not considered to be a gain or benefit to the household are:

(i) Reimbursements or flat allowances for job or training related expenses such as travel, per diem, uniforms, and transportation to and from the job or training site. Reimbursements for these expenses are excluded; however, these expenses, if not reimbursed, are not otherwise deductible.

(ii) Reimbursements for out-of-pocket expenses of volunteers incurred in the course of their work.

(iii) Medical or dependent care reimbursements.

(iv) Reimbursements or allowances to students for specific education expenses, such as travel or books, but not allowances for living expenses, such as food or clothing. Portions of a general grant or scholarship must be specifically earmarked for education expenses rather than for living expenses to be excludable as a reimbursement.

(v) Reimbursements received by households to pay for services provided by Title XX of the Social Security Act.

(6) Monies received and used for the care and maintenance of a third-party beneficiary who is not a household member. If the intended beneficiaries of a single payment are both household and nonhousehold members, any identifiable portion of the payment intended and used for the care and maintenance of the nonhousehold member shall be excluded. If the nonhousehold member's portion cannot be readily identified, the payment shall be evenly prorated among intended beneficiaries and the exclusion applied to the nonhousehold member's pro rata share or the amount actually used for the nonhousehold member's care and maintenance, whichever is less.

(7) The earned income (as defined in paragraph (b)(1) of this section) of children who are members of the household, who are students at least half-time, and who have not attained their eighteenth birthday. The exclusion shall continue to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings or amount of work performed cannot be differentiated from that of other household members, the total earnings shall be prorated equally among the working members and the child's prorata share excluded. Individuals are not considered children for purposes of this provision if they are emancipated.

(8) Money received in the form of a nonrecurring lump sum payment, including, but not limited to, income tax refunds, rebates, or credits; retroactive lump-sum social security, SSI, public assistance, railroad retirement benefits or other payment; or retroactive lump-sum insurance settlements. These payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource by other Federal laws.

(9) The cost of producing self-employment income. The procedures for computing the cost of producing self-employment income are described in § 273.11.

(10) Any income that is specifically excluded by any other law from consideration as income for the purpose of determining eligibility for the Food Stamp Program. The following laws provide such an exclusion:

(i) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Pub. L. 91-646, Section 216).

(ii) Payments received under the Alaska Native Claims Settlement Act (Pub. L. 92-203, Section 21(a));

(iii) Any payment to volunteers under programs covered by the Domestic Volunteer Services Act of 1973 (Pub. L. 93-113) as amended. Included under this Act are Title I (VISTA), Title II (RSVP, Foster Grandparents, and others) and Title III (SCORE and ACE).

(iv) Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Pub. L. 94-114, Section 6).

(v) Payments from the Special Crisis Intervention Program (SCIP), the Crisis Intervention Program (CIP) and the Emergency Energy Assistance Program (EEAP) administered by the Community Services Administration (CSA).

(vi) Payments received from the Youth Incentive Entitlement Pilot Projects, The Youth Community Conservation and Improvement Projects, and the Youth Employment and Training Programs under the Youth Employment and Demonstration Project Act of 1977 (Pub. L. 95-93), but not payments from the Young Adults Conservation Corps under that Act nor any other payments under the Comprehensive Employment and Training Act.

(d) *Income deductions.* Deductions shall be allowed only for the following household expenses:

(1) *Standard deduction.* A standard deduction of $60[1] per household per month for the 48 contiguous States and the District of Columbia. The standard deductions applicable in Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands will be published as an appendix to this section.

(2) *Earned income deduction.* Twenty percent of gross earned income as defined in paragraph (b)(1) of this section, less earnings exluded in paragraph (c) of this section.

(3) *Dependent care.* Payments for the actual costs for the care of a child or other dependent when necessary for a household member to accept or continue employment, seek employment in compliance with the job search criteria (or an equivalent effort by those not subject to job search), or attend training or pursue education which is preparatory to employment. This deduction shall not exceed $75[1] in the 48 contiguous States and the District of Columbia, or an amount that will be specified in the appendix to this section for Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands.

(4) *Shelter costs.* Monthly shelter costs in excess of 50 percent of the household's income after all other deductions in § 273.9(d) (1), (2), and (3) have been allowed. The shelter deduction alone, or in combination with the dependent care deduction in § 273.9(d)(3), shall not exceed $75 in the 48 contiguous States and the District of Columbia, or an amount that will be specified in the appendix to this section for Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands. Shelter costs shall include only the following:

(i) Continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.

(ii) Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

(iii) Charges for heating and cooking fuel; cooling and electricity; water and sewer; garbage and trash collection fees; the basic service fee for one telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility. One time deposits shall not be included as shelter costs.

(iv) The shelter costs for the home if not occupied by the household because of employment away from home, illness or abandonment caused by a natural disaster or casualty loss. For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for food stamp purposes; and the home must not be leased or rented during the absence of the household. To facilitate certification, the household may be certified taking into account the costs on the unoccupied home pending verification of these costs. However, verification must be obtained prior to recertification.

(5) *Standard utility allowances.* The State agency shall develop a method, subject to FNS approval, for calculating a standard utility allowance for use in calculating shelter costs of those households which incur utility costs, other than telephone costs, separate and apart from their rent or mortgage. The household shall be advised that actual utility costs which exceed the standard shall be deducted if the household can verify these costs. Households may change between actual utility costs and the utility standard at any time. Households shall be reminded on the change report form of the right to claim actual utility costs if they exceed the standard at any time. The State agency shall review, at least annually, and adjust the utility standard as necessary to reflect changes in the costs of utilities. State agencies may use data gathered through quality control sampling, surveys of utility company rates, or another method for establishing and updating the standard developed by the State and approved by FNS. The amount of the standard shall vary seasonally unless the State agency can demonstrate that such variations are not warranted. In addition, the State agency may have other variations in its standard to reflect other differences, such as geographical variations or separate standards for each utility.

(6) *Semiannual adjustment of standard deductions.* Effective July 1, 1978, the standard deductions shall be adjusted on January 1 and July 1 to the nearest $5. The adjustment shall reflect changes in the CPI for items other than food for the six months ending the preceding September 30 and March 31, respectively. The semiannual adjustment shall be based on the previous half year's unrounded number, and the result of the adjustment rounded to the nearest $5.

(7) *Annual adjustment of shelter deduction.* Effective July 1, 1978, the maximum limit on shelter and dependent care deductions shall be adjusted on July 1 to the nearest $5. The adjustment shall reflect changes in the shelter, fuel, and utilities components of the CPI for the 12-month period ending the preceding March 31. The annual adjustment shall be based on the previous year's unrounded numbers, and the result rounded to the nearest $5.

[1]The actual amounts of the standard deduction and of the limit on the child care and shelter deduction that will apply when these regulations are implemented will be determined according to the cost of living adjustments described in this section and will be published as an appendix to these regulations.

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APPENDIX (RESERVED)

§ 273.10 Determining household eligibility and benefit levels.

(a) *Period of application.* (1) The period of application for all households submitting an initial application is the calendar month in which the household filed its application. In most cases, the month of application will be the first month of the household's initial certification period. The State agency shall determine a household's eligibility and benefit level during the month of application based on the household's circumstances for the entire calendar month, even if the household filed its application on the last day of that calendar month.

(2) There is no "period of application" for applications for recertification filed during the current certification period. Eligibility and the basis of issuance for recertifications shall be determined based on circumstances anticipated for the calendar month following the expiration of the current certification period. If an application for recertification is not received until after the current certification period has expired, the period of application shall be the month in which the application was filed, as for any initial application.

(3) As a result of anticipated changes, a household may be eligible for the month of application, but ineligible in subsequent months. The household shall be entitled to benefits for the month of application even if the processing of its application results in the benefits being issued in a subsequent month. Similarly, a household may be ineligible for the month of application, but eligible in subsequent months due to anticipated changes in circumstances. Even though denied for the month of application, the household does not have to reapply in the subsequent month. The same application shall be acted on both for the denial for the month of application and the determination of eligibility for subsequent months, within the timeliness standards in § 273.2, provided that benefits are not issued prior to the start of the household's certification period.

(b) *Determining resources.* The household's resources at the time the application is filed shall be used to determine whether or not the household's resources are below the maximum allowable resources described in § 273.8.

(c) *Determining income.* (1) *Anticipating income.* (i) For the purpose of determining the household's eligibility and basis of issuance, the State agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency. For example, a household anticipating income from a new source, such as a new job or public assistance benefits recently applied for, may be uncertain as to the timing and amount of the initial payment. These monies shall not be anticipated by the State agency unless there is reasonable certainty concerning the month in which the payment will be received or in what amount. Households are required in § 273.12 to report the income when it is received.

(ii) Income received during the past thirty days shall be used as an indicator of anticipated income. However, past income shall not be used for any month in which a change in income has occurred or can be anticipated.

(iii) As a result of anticipating changes, the household's allotment for the month of application may differ from its allotment in subsequent months. The State agency shall establish a certification period for the longest possible period over which the household's circumstances can be reasonably anticipated. The household's allotment shall vary month to month within the certification period to reflect changes anticipated at the time of certification, unless the household elects the averaging techniques in paragraphs (c)(3) and (d)(3) of this section.

(2) *Income only in month received.* (i) Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15. Nonrecurring lumpsum payments shall be counted as a resource starting in the month received and shall not be counted as income.

(ii) Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. However, wages held by the employer as a general practice, even if in violation of law, shall not be counted as income to the household, unless the household anticipates that it will ask for and receive an advance, or the household anticipates that it will receive income from previously held wages. Advances on wages shall only count as income if reasonably anticipated as defined in paragraph (c)(1) of this section.

(3) *Income averaging.* (i) Households may elect to have income averaged if the difference between the anticipated highest and lowest amounts during the certification period is $50 a month or less.

(ii) Households that derive their annual income in a period of time shorter than one year shall have that income averaged over a 12-month period, provided the income is not received on an hourly or piecework basis. These households may include school employees, share croppers, farmers, and other self-employed households. However, these provisions do not apply to migrant or seasonal farm workers. The procedures for averaging self-employed income are described in § 273.11.

(iii) Households receiving scholarships, deferred educational loans, or other educational grants shall have such income, after exclusions, averaged over the period for which it was provided.

(d) *Determining deductions.* Deductible expenses include only certain costs of dependent care and shelter as described in § 273.9.

(1) *Disallowed expenses.* (i) An expense covered by an excluded reimbursement or vendor payment shall not be deductible. For example, the portion of rent covered by excluded vendor payments shall not be calculated as part of the household's shelter cost.

(ii) Expenses shall only be deductible if the service is provided by someone outside of the household and the household does not provide compensation for the service through an in-kind benefit. For example, a dependent care deduction shall not be allowed if another household member provides the care, or compensation for the care is provided in the form of an in-kind benefit, such as food.

(2) *Billed expenses.* Except as provided in paragraph (d)(3) of this section, a deduction shall be allowed only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. For example, rent which is due each month shall be included in the household's shelter costs, even if the household has not yet paid the expense. Amounts carried forward from past billing periods are not deductible, even if included with the most recent billing and actually paid by the household. In any event, a particular expense may only be deducted once.

(3) *Averaging expenses.* Households may elect to have an expense averaged if the anticipated difference between the highest and lowest amounts during the certification period is $25 a month or less. Households may elect to have expenses which are billed less often than monthly averaged forward over the interval between scheduled billings, or, if there is no scheduled interval, averaged forward over the period the expense is intended to cover. For example, if a household receives a single bill in February which covers a three-month supply of fuel oil, the bill may be averaged over February, March, and April. The household may elect to have one-time only expenses averaged over the entire certification period in which they are billed.

(4) *Anticipating expenses.* The State agency shall calculate a household's expenses based on the expenses the household expects to be billed for during the certification period. Anticipation of the expense shall be based on the most recent month's bills, unless the household is reasonably certain a change will occur. When the household is not claiming the utility standard, the State agency may anticipate changes during the certification period based on last year's bills from the same period updated by overall price increases; or, if only the most recent bill is available, utility cost increases or decreases over the months of the certification period may be based on utility company estimates for the type of dwelling and utilities used by the household. The State agency shall not average past expenses, such as utility bills for the last several months, as a method of anticipating utility costs for the certification period.

(e) *Calculating net income and benefit levels.* (1) *Net monthly income.* (i) To determine a household's net monthly income, the State agency shall:

(A) Add the gross monthly income earned by all household members minus earned income exclusions, to determine the household's total gross earned income.

(B) Multiply the total gross earned income by 20 percent and subtract that amount to determine the net monthly earned income (or multiply the total gross earned income by 80 percent).

(C) Add to net monthly earned income the total monthly unearned income of all household members, minus income exclusions.

(D) Subtract the standard deduction.

(E) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed for the area (see appendix to § 273.9). If dependent care costs equal or exceed the maximum amount allowed, the household's net monthly income has been determined. If not, the household's adjusted income has been determined and shall be used to compute excess shelter expenses in subparagraph (F) of this section.

(F) Total the allowable shelter expenses to determine shelter costs. Subtract from total shelter costs 50 percent of the adjusted income (the household's monthly income after all the above deductions have been subtracted). The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction in subparagraph (G) of this section.

(G) Subtract from the adjusted income in subparagraph (E) of this section the excess shelter cost up to the maximum amount allowed for the area. The maximum amount allowed for shelter is the maximum used in subparagraph (E) of this section, minus the amount of dependent care expenses, if any. The household's net monthly income has been determined.

(ii) In calculating net monthly income, the amounts shall be rounded down to whole dollar amounts by dropping all cents. Such rounding shall occur before and after each calculation, except for the computation of shelter costs. For example, any cents in gross weekly earnings shall be dropped prior to the application of the weekly conversion factor. Any cents resulting from that multiplication shall then be dropped prior to the computation of the 20 percent earned income deduction. The cents shall be dropped from this deduction prior to being subtracted from earned income. However, because these procedures could result in a signficant decrease in the shelter expenses the household may be entitled to use in determining excess shelter cost, the individual costs used in paragraph (e)(1)(i)(F) of this section shall be computed using exact dollars and cents. The cents will be dropped from the total shelter costs prior to determining the shelter deduction for the household's net monthly income.

(2) *Eligibility and benefits.* (i) Except for households considered destitute in paragraph (e)(3) of this section the household's net monthly income as calculated in paragraph (e)(1) of this section shall be compared to the monthly income eligibility standards for the appropriate household size to determine eligibility for the month.

(ii) The household's monthly allotment shall be equal to the Thrifty Food Plan for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. After multiplying the net income by 30 percent, the result shall be rounded by dropping all cents prior to subtracting that amount from the Thrifty Food Plan. All eligible one and two person households shall receive a minimum monthly allotment of $10.

(3) *Elibility and benefits for destitute households.* A special eligibility and benefit determination shall be used for households which anticipate income from a new source later in the month, but which do not have any income available for their current food needs. Households which anticipate income from a new job or are awaiting benefits from public assistance, unemployment compensation, social security, SSI, or the like may be totally without income for one to three weeks before the new income begins. If these households are destitute, as defined in paragraph (e)(3)(i) of this section, the new income will be anticipated, but it will not be used to deny or reduce benefits for the period of the month prior to the anticipated receipt of the new income.

(i) To determine if a household is to receive the special eligibility and benefit determination, the State agency shall use the following procedures:

(A) The month is divided into four quarters and the quarters arranged into two accounting periods to identify that portion of the month in which the household is without income. The quarters of the month are 1st-7th; 8th-15th; 16th-22nd; 23rd to the end of the month. The first accounting period shall contain the one, two or three quarters prior to the quarter in which the new income is received. The second accounting period shall contain the quarter in which the new income is first received and all subsequent quarters in the month. For example, if the new income is not anticipated until the 20th (which falls in the third quarter), each accounting period will contain two quarters. If the income is not anticipated until the 25th (which is in the fourth quarter), the first accounting period will contain three quarters, and the second accounting period will contain the one quarter remaining in the month.

(B) A household will be considered destitute and eligible for the special procedures if its only income in the month is from a new source and that income will be received after the quarter in which the application is filed. Income shall be considered from a new source if it was not received from that source in the preceding 30 days. However, if the income is normally received less often than monthly, the normal interval between payments shall be subsituted for the preceding 30 days to determine if the income is from a new source.

(C) If otherwise eligible, households determined to be destitute shall have their applications processed on an expedited basis and their benefits calculated in accordance with paragraph (e)(3)(ii) of this section.

(ii) Destitute household shall have their benefits calculated as follows:

(A) The Thrifty Food Plan shall be divided between accounting periods based on the number of quarters in each period. If income is anticipated

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for the second quarter, one-fourth of the Thrifty Food Plan will be assigned to the first accounting period and the remaining three quarters to the second period. If income is anticipated in the third quarter, one-half of the Thrifty Food Plan will be assigned to each accounting period. If income is not anticipated until the final quarter, three-quarters of the Thrifty Food Plan will be assigned to the first accounting period and one fourth to the second.

(B) The household's net monthly income shall be calculated in accordance with prargraph (e)(1) of this section as for any other household. The household's net monthly income shall be multiplied by 30 percent and the result rounded as in paragraph (e)(1)(ii) of this paragraph.

(C) If 30 percent of the household's net monthly income is less than or equal to the portion of the Thrifty Food Plan assigned to the second accounting period in paragraph (e)(3)(ii)(A) of this section, the household's benefits shall be calculated for the whole month as for any other household. Because their monthly income is so low, the normal procedures will result in the same allotment as the special benefit calculation.

(D) If 30 percent of the household's net monthly income exceeds the portion of the Thrifty Food Plan assigned to the second accounting period, the household shall receive only the amount of the Thrifty Food Plan assigned to the first accounting period. Even if the household's net monthly income exceeds the monthly income eligibility standard, destitute households shall receive the portion of the Thrifty Food Plan assigned to the first accounting period, since the household has no income in this period.

(iii) The above procedures shall apply not only for initial applications, but for any month during the certification period or at recertification if the only income anticipated for that month is from a new source. To be eligible for the special procedures during the certification period or at recertification, the only income in the month must be from a new source as defined in paragraph (e)(3)(i)(B) of this section, and must be anticipated after the quarter in which the household's ATP or coupon allotment is normally received.

(iv) A household eligible for any portion of the month under these special procedures shall be considered eligible for the whole month for reporting and notice purposes.

(4) *Thrifty Food Plan.* (i) *Level of the thrifty Food Plan.* The Thrifty Food Plan shall be uniform by household size throughout the 48 contiguous States and the District of Columbia. The Thrifty Food Plans for Alaska and Hawaii shall be the Thrifty Food Plan for the 48 States adjusted by the price of food in Alaska and Hawaii. The Thrifty Food Plans for Guam, Puerto Rico, and the Virgin Islands shall be adjusted by the cost of food in those areas provided that the costs of these plans shall not exceed the cost of the Thrifty Food Plan for the 50 States. The Thrifty Food Plan in each area will be provided in the appendix of this subchapter.

(ii) *Semiannual adjustment.* The Thrifty Food Plan shall be adjusted semiannually to reflect changes in the price of food. The semiannual adjustments shall be rounded to the nearest whole dollar. The semiannual adjustments shall occur on July 1 based on the change in the price of the Thrifty Food Plan over a six-month period ending the preceding March 31; and on January 1 based on the change in a six-month period ending the preceding September 30.

(f) *Certification periods.* The State agency shall establish definite periods of time within which households shall be eligible to receive benefits. At the expiration of each certification period, entitlement to food stamp benefits ends. Further eligibility shall be established only upon a recertification based upon a newly completed application, an interview, and such verification as required by § 273.2(f). Under no circumstances shall benefits be continued beyond the end of a certification period without a new determination of eligibility.

(1) Certification periods shall conform as much as possible to calendar months. The month of application shall be the first month in the certification period of initial applicants; for example, if a household submits an application in January and the application is not processed until February, a six-month certification period would include January through June. Upon recertification, the certification period will begin with the month following the last month of the previous certification period.

(2) Households in which all members are included in a PA or GA grant and which are eligible for joint application procedures, as described in § 273.2(k), shall be assigned certification periods which coincide with the period of the review for the assistance grant. In no event shall such certification periods exceed one year. Recertifications shall be scheduled to enable households to be recertified when their eligibility for PA/GA is reviewed. State agencies which accomplish PA/GA reviews in a timely fashion may routinely assign definite certification periods to expire the month after the PA/GA review. State agencies which, due to staffing problems or other difficulties, are unable to accurately predict the month of each PA/GA review may assign undetermined certification periods which do not exceed one year in length. However, a recertification shall be accomplished simultaneously with the PA/GA review. All State agencies shall advise PA/GA households of the length of the certification period as required by paragraph (g)(1)(i) of this section, and of the expiration of the certification period as required by § 273.14(b).

(3) Other households shall be assigned the longest certification periods possible based on the predictability of the household's circumstances. Households shall be certified for three months, except as follows:

(i) Households eligible for a certification period of three months or less shall, at the time of certification, have their certification periods increased by one month, if the certification process is completed after the 15th day of the month of application and the household's circumstances warrant the longer certification period. For example, if a household which is eligible for a three-month certification period makes application in June and is not certified until late June or early July, the certification period would include June through September.

(ii) Households containing one or more persons subject to a lockout or on strike from their place of employment shall not be certified for periods of more than one month, if the household is certified before the 15th day of the month of application; otherwise, the maximum certification period shall be for two months unless the State agency wishes to assign a longer certification period and the household signs a waiver of notice of adverse action, as specified in § 273.13(b)(9).

(iii) Households may be certified for one or two months as appropriate when the household cannot reasonably predict what its circumstances will be in the near future, or when there is a substantial likelihood of frequent and significant changes in income or household status; for example, day laborers and migrant workers during the work season when income is uncertain and subject to extreme fluctuations due to the availability of employment or due to bad weather and other circumstances.

(iv) Households may be certified for up to six months if there is little likelihood of changes in income and household status; for example, households with a stable income record and for which major changes in income, deductions or composition are not anticipated.

(v) Households consisting entirely of unemployable or elderly persons with very stable income may be certified for up to 12 months provided other household circumstances are expected to remain stable; for example, social security recipients, SSI recipients and persons who receive pensions or disability payments.

(vi) Households whose primary source of income is from self-employment (including self-employed farmers) or from regular farm employment with the same employer may be certified for up to 12 months, provided income can be readily predicted and household circumstances are not likely to change. Annual certification periods may be assigned to farm workers who are provided their annual salaries on a scheduled monthly basis which does not change as the amount of work changes.

(g) *Certification notices to households.* (1) *Initial applications.* State agencies shall provide applicants with one of the following written notices as soon as a determination is made, but no later than 30 days after the date of the initial application:

(i) *Notice of eligibility.* (A) If an application is approved, the State agency shall provide the household with written notice of the amount of the allotment and the beginning and ending dates of the certification period. The household shall also be advised of variations in the benefit level based on changes anticipated at the time of certification. If the initial allotment contains benefits for both the month of application and the current month's benefits, the notice shall explain that the initial allotment includes more than one month's benefits, and shall indicate the allotment amount for the remainder of the certification period. The notice shall also advise the household of its right to a fair hearing and of the name and telephone number of the person to contact for additional information. If there is an individual or organization available that provides free legal representation, the notice shall also advise the household of the availability of the services. The State agency may also include in the notice a reminder of the household's obligation to report changes in circumstances and of the need to reapply for continued participation at the end of the certification period. Other information which would be useful to the household may also be included.

(B) State agencies that do not assign definite certification periods to PA or GA households, as provided in paragraph (f)(2) of this section, will not be required to provde those households with an exact expiration date for the certification period. Instead, the notice shall state that the certification period will expire the month after the next review for the assistance grant or in one year, whichever comes first.

(C) In cases where a household's application is approved on an expedited basis without verification, as provided in § 273.2(i)(4)(iv), and the application indicates the household is eligible in subsequent months, the notice shall explain that if the household provides verification within 30 days of the date the application was filed, the household will not have to reapply at the end of its certification period and will not receive an interruption of benefits.

(D) For households provided a notice of expiration at the time of certification, as required in § 273.14(b), the notice of eligibility may be combined with the notice of expiration or separate notices may be sent.

(ii) *Notice of denial.* If the application is denied, the State agency shall provide the household with written notice explaining the basis for the denial, the household's right to request a fair hearing, and the name and telephone number of the person to contact for additional information. If there is an individual or organization available that provides free legal representation, the notice shall also advise the household of the availability of the service. In cases where the denial was caused by the household's failure to take action to complete the application process, as provided in § 273.2(h)(1), the notice of denial shall also explain: the action that the household must take to reactivate the application; that the case will be reopened without a new application if action is taken within 30 days of the date the notice of denial was mailed; and that the household must submit a new application if, at the end of the 30-day period, the household has not taken the needed action and wishes to participate in the program.

(iii) *Notice of pending status.* If the application is to be held pending because some action by the State is necessary to complete the application process, as specified in § 273.2(h)(2), the State agency shall provide the household with a written notice which informs the household that its application has not been completed and is being processed. If some action by the household is also needed to complete the application process, the notice shall also explain what action the household must take and that its application will be denied if the household fails to take the required action within 60 days of the date the application was filed.

(2) *Applications for recertification.* The State agency shall provide households that have filed an application by the 15th of the last month of their certification period with either a notice of eligibility or a notice of denial by the end of the current certification period. The State agency shall provide households that have received a notice of expiration at the time of certification and have timely reapplied with either a notice of eligibility or a notice of denial not later than 30 days after the date the household had an opportunity to obtain its last allotment.

(3) *Identification (ID) cards.* (i) The State agency shall issue a serially numbered ID card to each certified household as proof of program eligibility. The ID card shall be issued in the name of the household member to whom the ATP is issued. That household member and any authorized representatives shall sign the ID card prior to using it.

(A) The State agency shall limit issuance of ID cards to the time of initial certification with replacements made only in instances of loss, mutilation, destruction, or changes in persons authorized to obtain or use coupons.

(B) The State agency shall place an expiration date only on those ID's issued to households that have been certified for delivered meals for a temporary period.

(ii) ID cards delivered to households by mail shall not be mailed in the same envelope with an ATP or coupons.

(iii) If the household does not name an authorized representative, the State agency shall indicate on the ID card that no designation was made.

(iv) Specially marked ID cards shall be issued as follows:

(A) Any household eligible for and interested in using delivered meal services shall receive an ID card marked with the letter "M".

(B) Any household residing in a remote section of Alaska which has been determined by FNS to be an area in which food coupons may be used to purchase hunting and fishing equipment shall receive an ID card marked with the letters "HF".

(v) Upon household consent, the State agency may use photo ID's to facilitate identification of program participants, except that the State agency shall not deny benefits because household members are unable or refuse to be photographed.

§ 273.11 Certifying households with special income circumstances.

(a) *Self-employment income.* The procedures for handling income received from boarders by a household that does not own and operate a commercial boarding house are described in paragraph (b) of this section. For all other households receiving self-employment income, including those households that own and operate a commercial boarding house, the State agency shall calculate the self-employment income as follows:

(1) *Annualizing self-employment income.* (i) Self-employment income which represents a household's annual support shall be annualized over a 12-month period, even if the income is received in only a short period of time. For example, self-employment income received by farmers shall be averaged over a 12-month period, if the income represents the farmer's annual support. This self-employment income

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shall be annualized even if the household receives income from other sources in addition to self-employment.

(ii) Self-employment income which is received on a monthly basis but which represents a household's annual support shall normally be averaged over a 12-month period. If however, the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the State agency shall calculate the self-employment income based on anticipated earnings.

(iii) Self-employment income which represents only part of a household's annual support shall be averaged over the period of time the income is intended to cover. For example, self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year shall have their self-employment income averaged over the summer months rather than a 12-month period.

(iv) If a household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise shall be averaged over the period of time the business has been in operation, and the monthly amount projected for the coming year. However, if the business has been in operation for such a short time that there is insufficient data to make a reasonable projection, the household may be certified for less than a year until the business has been in operation long enough to base a longer projection.

(2) *Determining monthly income from self-employment.* (i) For the period of time over which self-employment income is determined, the State agency shall add all gross self-employment income (including capital gains), exclude the cost of producing the self-employment income, and divide the self-employment income by the number of months over which the income will be averaged.

(ii) For those households whose self-employment income is not averaged but is instead calculated on an anticipated basis, the State agency shall add any capital gains the household anticipates it will receive in the next 12 months, starting with the date the application is filed, and divide this amount by 12. This amount shall be used in successive certification periods during the next 12 months, except that a new average monthly amount shall be calculated over this 12 month period if the anticipated amount of capital gains changes. The State agency shall then add the anticipated monthly amount of capital gains to the anticipated monthly self-employment income, and subtract the cost of producing the self-employment income. Except for depreciation, the cost of producing the self-employment income shall be calculated by anticipating the monthly allowable costs of producing the self-employment income. Like capital gains, depreciation will be anticipated for the next 12 months and a monthly average excluded as a cost of doing business.

(iii) The monthly net self-employment income shall be added to any other earned income received by the household. The total monthly earned income less the 20 percent earned income deduction shall then be added to all other monthly income received by the household. The standard deduction, dependent care and shelter costs shall be computed as for any other household and subtracted to determine the adjusted monthly net income of the household.

(3) *Capital gains.* The proceeds from the sale of capital goods or equipment shall be calculated in the same manner as a capital gain for Federal income tax purposes. Even if only 50 percent of the proceeds from the sale of capital goods or equipment is taxed for Federal income tax purposes, the State agency shall count the full amount of the capital gain as income for food stamp purposes.

(4) *Allowable costs of producing self-employment income.* (i) Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor, stock, raw material, seed and fertilizer, interest paid to purchase income producing property, insurance premiums, and taxes paid on income producing property.

(ii) Depreciation shall be allowed as a cost of producing self-employment income for equipment, machinery or other capital investments necessary to the self-employment enterprise.

(A) *Use of Federal tax forms.* If the self-employment income from the last year is annualized, depreciation as indicated on the household's most recent Federal tax form shall be used as a cost of doing business. If the self-employment income is anticipated, the Federal tax form shall be used as a basis to anticipate the coming year's depreciation. When depreciation is anticipated, adjustments are required if the use of the asset as depreciated on the tax form will likely differ from the use anticipated. For example, the depreciation amount would be increased or decreased, as appropriate, for newly acquired assets or assets which will be retired or sold during the coming year.

(B) *Calculating depreciation.* If the tax form is not available, annual allowable depreciation shall be calculated by dividing the asset's cost by its useful life in years. The cost of the asset is its purchase price or the cost of materials if the asset was built by the household. The cost of the asset shall be reduced by any portion of the cost which is otherwise excludable as a cost of doing business. For example, a tool which was fully deducted as a cost of doing business possesses no remaining cost to be depreciated. The useful life of an asset is the "asset guideline period" from the IRS Asset Depreciation Range (ADR) Tables. Assets which annually produce income consistent with fair market value or which are essential for the self-employment of a household member may be depreciated over the entire year if owned for the entire year, even if not used for portions of the year. The "asset guideline period" starts from the month in which the asset is acquired. Once an asset has been in use in the household's enterprise, or held by the household, for the full "asset guideline period," no further depreciation shall be allowed even if the asset continues to be used.

(C) *Insufficient information.* If neither the tax form nor sufficient information about the asset's cost and use is available from the household, no depreciation shall be allowed.

(iii) The following items shall not be excluded as a cost of producing self-employment income:

(A) Payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery and other durable goods;

(B) Net losses from previous periods; and

(C) Federal, State, and local income taxes, money set aside for retirement purposes, and other work related personal expenses (such as transportation to and from work), as these expenses are accounted for by the 20 percent earned income deduction specified in § 273.9(d)(2).

(5) *Assigning certification periods.* (i) Households that receive their annual support from self-employment and have no other source of income may be certified for up to 12 months. For those households that receive other sources of income or whose self-employment income is intended to cover a period of time that is less than a year, the State agency shall assign a certification period appropriate for the household's circumstances.

(ii) For those self-employed households that receive their annual income in a short period of time, the initial certification period shall be assigned to bring the household into the annual cycle. For example, the State agency may provide for a recertification at the time the household normally receives all or a majority of its annual income or the State agency may prefer to have the annual cycle coincide with the filing of the household's income tax.

(b) *Boarders.* (1) *Household with boarders.* Persons paying a reasonable amount for room and board as specified in § 273.1(b) shall be excluded from the household when determining the household's eligibility and benefit level. The income of households owning and operating a commercial boarding house shall be handled as described in paragraph (a) of this section. For all other households, payments from the boarder shall be treated as self-employment income and the household's eligibility determined as follows:

(i) *Income from the boarder.* The income from boarders shall include all direct payments to the household for room and meals, including contributions to the household for part of the household's shelter expenses. Shelter expenses paid directly by boarders to someone outside of the household shall not be counted as income to the household.

(ii) *Cost of doing business.* After determining the income received from the boarders, the State agency shall exclude that portion of the boarder payment which is a cost of doing business. The cost of doing business shall be equal to:

(A) The cost of the Thrifty Food Plan for a household size that is equal to the number of boarders, unless the amount paid for meals is less than this amount;

(B) The amount paid for meals, if this amount is less than the cost of the Thrifty Food Plan for a household size that is equal to the number of boarders; or

(C) The actual documented cost of providing room and meals. If actual costs are used, only separate and identifiable costs of providing room and meals to boarders shall be excluded.

(iii) *Deductible expenses.* The net income from self-employment shall be included with other earned income and the 20 percent earned income deduction taken. Shelter costs the household actually incurs, even if the boarder contributes to the household for part of the household's shelter expenses, shall be computed to determine if the household will receive a shelter deduction. However, the shelter costs shall not include any shelter expenses directly paid by the boarder to a third party, such as the landlord or utility company.

(2) *Boarders as households.* Boarders may be eligible as a food stamp household in their own right, as long as they are not residents of a commercial boarding house. When determining the eligibility and benefit level of a boarder, the State agency shall determine the boarder's shelter expenses by including any identifiable shelter expenses paid by the boarder. If a single payment is made for both room and board, the amount of the payment which is more than the Thrifty Food Plan for the number of persons in the boarder's household shall be considered a shelter expense. The boarder receives no exclusion or deduction for the amount paid for board itself.

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for fraud or for failure to meet the student work registration requirements during the school year. During the period of time a household member is disqualified, the eligibility and benefit level of any remaining household members shall be determined as follows:

(1) *Resources.* The resources of the disqualified member shall continue to count in their entirety to the remaining household members;

(2) *Income.* A pro rata share of the income of the disqualified member shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the disqualified member's income and dividing the income evenly among the household members, including the disqualified member. All but the disqualified member's share is counted as income to the remaining household members.

(3) *Deductible expenses.* The 20 percent earned income deduction shall apply to the prorated income attributed to the household as it was earned by the disqualified member. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified member shall be divided evenly among the household members, including the disqualified member. All but the disqualified member's share is counted as a deductible shelter expense for the remaining household members.

(4) *Eligibility and benefit level.* The disqualified member shall not be included when determining the household's size for purposes of assigning a benefit level to the household or for purposes of comparing the household's net monthly income with the income eligibility standards.

(5) *Reduction or termination of benefits within the certification period.* Whenever an individual is disqualified within the household's certification period, the state agency shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file and shall take the following action:

(i) *Student disqualification.* If a household's benefits are reduced or terminated within the certification period because one of its members has been disqualified for failure to meet the student work registration requirement, the State agency shall issue a notice of adverse action which informs the household that one of its members has been disqualified, the reason for the disqualification, and the eligibility and benefit level of the remaining members.

(ii) *Fraud disqualification.* If a household's benefits are reduced or terminated within the certification period because one of its member has been disqualified for fraud, the State agency shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member is notified of its disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits.

(d) *Treatment of income and resources of other nonhousehold members.* For those nonhousehold members that have not been disqualified, such as ineligible aliens or SSI recipients in cash-out States, the income and resources of the nonhousehold member shall not be considered available to the household. If the household shares deductible expenses with the nonhousehold member, only the amount actually paid or contributed by the household shall be deducted as a household expense. If the payments or contributions cannot be differentiated, the expenses shall be prorated evenly among persons actually paying or contributing to the expense and only the household's pro rata share deducted.

(e) *Residents of drug/alcoholic treatment and rehabilitation programs.* (1) Narcotics addicts or alcoholics who regularly participate in FNS authorized drug or alcoholic treatment and rehabilitation programs on a resident basis may voluntarily elect to participate in the Food Stamp Program. The State agency shall certify residents of addict/alcoholic treatment centers by using the same provisions that apply to all other applicant households except that certification must be accomplished through an authorized representative as described in § 273.1(f)(iv). The guidelines for issuing FNS authorizations to these treatment centers are set forth in § 278.1(e).

(2) Each treatment and rehabilitation center shall provide the State agency on a monthly basis with a certified list of currently participating residents. In addition, the State agency shall conduct periodic random on-site visits to the center to assure the accuracy of the listings and that the State agency's records are consistent and up-to-date.

(3) The following provisions apply to residents of treatment centers:

(i) When expedited processing standards as described in § 273.2(i) are necessary, eligibility for the initial application shall be processed on an expedited basis, and the State agency shall complete verification and documentation requirements prior to issuance of a second coupon allotment;

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(ii) When normal processing standards apply, the State agency shall complete the verification and documentation requirements prior to making an eligibility determination for the initial application;

(iii) The State agency shall process changes in household circumstances and recertifications by using the same standards that apply to all other food stamp households; and

(iv) Resident households shall be afforded the same rights to notices of adverse action, to fair hearings, and to entitlement to lost benefits as are all other food stamp households.

(4) The treatment center shall provide resident addicts or alcoholics with their ID card and one half of their monthly coupon allotment when the household leaves the treatment and rehabilitation program prior to the sixteenth day of the allotment month. Once the household leaves the treatment center, the center is no longer allowed to act as that household's authorized representative. The household shall be provided a change report form and advised by the center to return the form within 10 days to the appropriate office of the State agency.

(5) The treatment center shall notify the State agency, as provided in § 273.12(a), of changes in the household's income or other household circumstances and of when the addict or alcoholic leaves the treatment center. The treatment center shall return any ATPs or coupons received on behalf of households which are no longer residents of the center.

(6) The organization or institution shall be responsible for any misrepresentation or fraud which it knowingly commits in the certification of center residents. As an authorized representative, the organization or institution must be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The organization or institution shall be strictly liable for all losses or misuse of food coupons held on behalf of resident households and for all overissuances which occur while the households are residents of the treatment center.

(7) The organization or institution may be penalized or disqualified, as described in § 278.6, if it is determined administratively or judicially that coupons were misappropriated or used for purchases that did not contribute to a certified household's meals. State agency penalties and/or disqualifications shall not be imposed without prior approval from FNS. The State agency shall promptly notify FNS when it has reason to believe that an organization or institution is misusing coupons in its possession.

§ 273.12 Reporting changes.

(a) *Household responsibility to report.* (1) Certified households are required to report the following changes in circumstances within 10 days of the date the change becomes known to the household:

(i) All changes in income, except changes in the public assistance grant;

(ii) All changes in household composition, such as the addition or loss of a household member;

(iii) Changes in residence and the resulting change in shelter costs; and

(iv) The acquisition of a licensed vehicle not fully excludable under § 273.8(e).

(2) Changes shall be considered to be reported by the household on the date the report is received by the State agency, or if mailed, the date of the household's report is postmarked.

(3) State agencies shall not impose any reporting requirements on households except as provided in paragraph (a)(1) of this section.

(b) *Report form.* (1) The State agency shall provide households with a form for reporting the changes required in paragraph (a) of this section and shall pay the postage for the household to mail in the request. All State agencies shall use the reporting form designed by FNS, unless FNS approves a deviation. Deviations shall be granted under the same conditions deviations are granted for the application form, as specified in § 273.2(b). The reporting form shall, at a minimum, include the following:

(i) The amount of gross income used to certify the household which has been itemized by household member, and the source and the frequency of the income;

(ii) The civil and criminal penalties for violations of the Act in understandable terms and in prominent and boldface lettering; and

(iii) A reminder to the household of its right to claim actual utility costs if its costs exceed the standard.

(2) The submission of a change report shall not be construed to be a waiver of the household's right to a notice of adverse action. The State agency may provide for a waiver of that right on the report form for the household to sign. This waiver shall warn the household that, upon signing, it waives its right to a notice of adverse action and continuation of benefits if adversely affected by the reported change.

(3) Changes reported over the telephone or in person by the household shall be acted on in the same manner as those reported on the change report form.

(4) A change report form shall be provided to newly certified households at the time of certification and a new form shall be sent to the household whenever a change is reported.

(c) *State agency action on changes.* The State agency is required to take prompt action on all changes to determine if the change affects the household's eligibility or allotment. If the change was reported by the household, the date a change was reported on a change report form shall be computed from the postmark of the change report form, plus two days for mailing time, or whenever the change was actually received by the State agency, whichever is earlier. Even if there is no change in the allotment, the State agency shall document the change in the case file, return another change report form to the household, and notify the household of the effect of the change, if any, on its benefits. Restoration of lost benefits shall be provided to any household if the State agency fails to take action on a change which increases benefits within the time limits specified in paragraph (c)(1) and (2) of this section.

(1) *Increase in benefits.* (i) *Normal processing of changes.* For changes which result in an increase in benefits and which are not handled on an expedited basis, the State agency shall make the change effective for the first allotment issued 10 days after the date the change was reported to the State agency.

(ii) *Expedited action on certain changes.* (A) If a household reports a change in its circumstances which reduces its gross monthly income by $50 or more and reduces its net monthly income to zero, the State agency shall make the change effective within two working days of the date the change was reported.

(B) If the household reports a change which results in an increase in benefits due to either the addition of a new household member that is not a certified member of another household, or due to a reduction in total gross monthly income counted for food stamp purposes of $50 or more, and the change is reported by the 20th of the month, the State agency shall make the change effective no later than 10 days after the change was reported. If the new household member is already a certified member of another household in the month the change is reported, the State agency shall make the change effective no later than the next allotment which will be issued after the change is reported.

(C) For those changes which must be made effective in the same month the household reported the change, the State agency shall make the change effective by either adjusting the household's allotment or, if the household has already participated, by issuing a supplementary allotment. In areas where ATP cards are used and have already been issued when the household reports the change, the State agency shall, if the household has not yet participated, either replace the household's ATP with an adjusted

card or issue a supplementary ATP. If the household has already participated, the State agency shall issue a supplementary ATP.

(2) *Decreases in benefits.* If the household's benefit level decreases or the household becomes ineligible as a result of the change, the State agency shall issue a notice of adverse action within 10 days of the date the change was reported. The decrease in the benefit level shall be made effective with the first allotment to be issued after the 10 day notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested.

(d) *Failure to report.* If the State agency discovers that the household failed to report a change required by paragraph (a) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with § 273.18. Individuals shall not be terminated for failing to report a change, unless the individual is disqualified in accordance with the fraud disqualification procedures specified in § 273.16.

(e) *Mass changes.* Certain changes are initiated by the State or Federal government which may affect the entire caseload or significant portions of the caseload. These changes include annual adjustments to the net income eligibility standards and the shelter/dependent care deduction; semiannual adjustments to the Thrifty Food Plan and standard deduction; annual and seasonal adjustments to the State's utility standard; periodic cost-of-living adjustments to social security, SSI and other Federal benefits; periodic adjustments to AFDC or GA payments; and other changes in the eligibility criteria based on legislative or regulatory actions.

(1) *Federal adjustments to eligibility standards, allotments, and deductions, State adjustments to utility standards.* (i) These adjustments shall go into effect for all households at a specific point in time. Semiannual adjustments to the Thrifty Food Plan and the standard deduction shall be effective for all issuances in January and July. Annual adjustments to the shelter/dependent care deduction and the eligibility standards shall be effective for all July issuances.

State agencies may wish to consider timing the annual adjustments to their utility standard to coincide with the Federal shelter deduction adjustment.

(ii) Although a notice of adverse action is not required, State agencies may send an individual notice to households of these changes. State agencies shall publicize these mass changes through the news media; posters in certification, issuance offices or other sites frequented by certified households; or general notices mailed to households. Households whose certification periods overlap a seasonal variation in the utility standard shall be advised at the time of initial certification when the adjustment will occur and what the variation in the benefit level will be.

(2) *Mass changes in public assistance.* (i) When the State agency makes an overall adjustment to public assistance payments, corresponding adjustments to the household's food stamp benefits shall be handled as a mass change. When the State agency has at least 30 days advance knowledge of the amount of the public assistance adjustment, the State agency shall recompute food stamp benefits to be effective in the same month as the public assistance change. If the State agency does not have sufficient notice, the food stamp change shall be effective not later than the month following the month in which the public assistance change was made.

(ii) A notice of adverse action is not required when a household's food stamp benefits change as a result of a mass change in the public assistance grant. However, State agencies shall send individual notices to households to inform them of the change. If a household requests a fair hearing, benefits shall be continued at the former level only if the issue being appealed is the computation of benefits and not the fact that benefits are reduced because of the mass change.

(iii) State agencies which also administer a general assistance program shall handle mass adjustments to GA payments in the same manner as public assistance adjustments. However, in States which do not administer both programs, mass changes in GA payments will be handled according to procedures in paragraph (e)(3) of this section.

(3) *Mass changes in Federal benefits.* Households are responsible for reporting changes in federal benefits such as social security and SSI payments. States which have the capability, and elect to, may treat adjustments as a mass change in accordance with the procedures in paragraph (e)(2) of this section. If not handled as a mass change, individual advance notice of adverse action shall be required according to § 273.13.

(4) *Mass changes resulting from implementation of the Food Stamp Act of 1977.* State agencies shall send individual notices of adverse action to each household that receives a reduction or termination in benefits during its certification period due to the new eligibility requirements prescribed in these regulations. The notice of adverse action shall explain to the household that the change is the result of changes in Federal law and that, although the household has the right to request a fair hearing, benefits will be continued pending the fair hearing, only if the household believes its eligibility and benefit level were computed incorrectly, or that the new law is being misapplied or misinterpreted.

(f) *PA households.* (1) PA households have the same reporting requirements as any other food stamp household, and shall use the food stamp change report form, unless a similar form used in the PA program is approved by FNS for this purpose. PA households which report a change in circumstances to the PA worker shall be considered to have reported the change for food stamp purposes.

(2) Whenever a change results in the reduction or termination of a household's PA grant within its food stamp certification period, and the State agency has sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, the State agency shall take the following action:

(i) If a change in household circumstances requires both a reduction or termination in the PA payment and a reduction or termination in food stamp benefits, the State agency shall issue a single notice of adverse action for both the PA and food stamp actions. If the household requests a fair hearing within the period provided by the notice of adverse action, the household's food stamp benefits shall be continued on the basis authorized immediately prior to sending the notice. However, the household must reapply for food stamp benefits if the food stamp certification period expires before the fair hearing process is completed. If the household does not appeal, the change shall be made effective in accordance with the procedures specified in paragraph (c) of this section.

(ii) If the household's food stamp benefits will be increased as a result of the reduction or termination of the PA grant, the State agency shall issue the PA notice of adverse action, but shall not take any action to increase the household's food stamp benefits until the household decides whether it will appeal the adverse action. If the household decides to appeal and its PA grant is continued, the household's food stamp benefits shall continue at the previous basis. If the household does not appeal, the State agency shall make the change effective in accordance with the procedures specified in paragraph (c) of this section, except that the time limits for the State agency to act on changes which increase a household's benefits shall be calculated from the date the PA notice of adverse action period expires.

(3) Whenever a change results in the termination of a household's PA grant within its food stamp certification period, and the State agency does not

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have sufficient information to determine how the change affects the household's food stamp eligibility and benefit level (such as when an absent parent returns to a household, rendering the household categorically ineligible for public assistance, and the State agency does not have any information on the income of the new household member), the State agency shall not automatically terminate the household's benefits but shall instead take the following action:

(i) Where a PA notice of adverse action has been sent, the State agency shall wait until the household's notice of adverse action period expires or until the household requests a fair hearing, whichever occurs first. If the household requests a fair hearing and its PA benefits are continued pending the appeal, the household's food stamp benefits shall be continued at the same basis.

(ii) If a PA notice of adverse action is not required, or the household decides not to request a fair hearing and continuation of its PA grant, the State agency shall send the household a notice of expiration which informs the household that its certification period will expire at the end of the month following the month the notice of expiration is sent and that it must reapply if it wishes to continue to paticipate. The notice of expiration shall also explain to the household that its certification period is expiring becuase of changes in its circumstances which may affect its food stamp eligibility and benefit level.

(4) A notification of change shall be provided the household whenever its benefits are altered as a result of changes in its PA grant or whenever the household's certification period is shortened to reflect changes in the household's circumstances. If the certification period is shortened, the household's certification period shall not end any earlier than the month following the month in which the State agency determines that the certification period should be shortened, thus allowing adequate time for the State agency to send a notice of expiration and for the household to timely reapply. If the PA grant is terminated but the household is still eligible for food stamp benefits, members of the household shall be advised of food stamp work registration, if applicable, as their WIN registration exemption no longer applies.

§ 273.13 Notice of adverse action.

(a) *Use of notice.* Prior to any action to reduce or terminate a household's program benefits within the certification period, the State agency shall, except as provided in paragraph (b) of this section, provide the household timely and adequate advance notice before the adverse action is taken.

(1) The notice of adverse action shall be considered timely if it: (i) Conforms to that period of time defined by the State agency as an adequate notice period for its public assistance caseload, except that the period shall not be shorter than the period provided by paragraph (a)(1)(ii) of this section; or (ii) is received by the household 10 days before the date of the adverse action. If the notice is mailed, the State agency shall add to the adverse notice period an additional two days from the postmarked date is to compensate for mail delivery time. Also, if the adverse notice period ends on a weekend or holiday, the notice period shall be extended to the next work day.

(2) All State agencies shall use a notice of adverse action form designed by FNS. FNS may approve a request from a State agency for a deviation from that form because of the requirements of a computer system or other exigencies for which the State agency can submit adequate justification. The notice of adverse action shall be considered adequate if it explains in easily understandable language: the proposed action; the reason for the proposed action; the household's right to request a fair hearing; the name and telephone number of the person to contact for additional information; the availability of continued benefits; and the liability of the household for any overissuances received while awaiting a fair hearing if the hearing official's decision is adverse to the household. If there is an individual or organization available that provides free legal representation, the notice shall also advise the household of the availability of the service.

(b) *Exemptions from notice.* Individual notices of adverse action are not required when: (1) The State initiates a mass change as described in § 273.12(e).

(2) The State agency receives a written statement from the household or the authorized representative which either states that food stamp benefits are no longer desired or which acknowledges that information the household has provided will result in a reduction or termination of benefits and waives the right to notice of adverse action.

(3) The State agency receives notification of the death of all members of a household.

(4) The State agency receives notification that the household has moved from the project area.

(5) The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of when the increased allotment would terminate.

(6) The household's allotment varies from month to month within the certification period to take into account changes which were anticipated at the time of certification and the household was so notified at the time of certification.

(7) The household jointly applied for PA/GA and food stamp benefits and has been receiving food stamp benefits pending the approval of the PA/GA grant and was notified at the time of certification that food stamp benefits would be reduced upon approval of the PA/GA grant.

(8) A household member is disqualified for fraud, in accordance with § 273.16, or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The notice requirements for individuals or households affected by fraud disqualifications are explained in § 273.16.

(9) The household contains a member subject to a lockout or strike and, for purposes of receiving a longer certification period than is otherwise allowed for such households, signs a waiver of its right to notice of adverse action to enable the State agency to reduce or terminate benefits when the lockout or strike is settled and the household has begun receiving income from employment again.

§ 273.14 Recertification.

(a) *Action on applications for recertification.* The State agency shall complete the application process and approve or deny timely applications for recertification prior to the end of the household's current certification period and shall provide eligible households with an opportunity to participate by the household's normal issuance cycle in the month following receipt of a timely application. The State agency shall not continue benefits to the household beyond the end of the certification period unless the household has been recertified.

(b) *Notice of expiration.* The State agency shall provide each household, including PA households, with a notice of the expiration of its certification just prior to or at the start of the last month of the household's certification period.

(1) Households shall receive the notice of expiration not earlier than 15 days prior to, nor later than the first day of, the household's last month of certification. If it is impossible for the State agency to provide the notice of expiration by the first day of the last month of the household's certification period because the household is certified for one month or because the household was initially certified for two months during the month following the month of application, the notice of expiration shall be provided at the time of certification. The State agency shall not require the household to submit an application or

appear for an interview before the last month of its current certification period.

(2) The notice of expiration shall contain the date the current certification period ends; the date by which the household must file an application to receive uninterrupted benefits; the household's right to request an application and have the State accept an application as long as it is signed and contains a legible name and address; the address of the office where the application must be filed; the consequences of failure to comply with the notice of expiration; the household's right to file the application by mail or through an authorized representative; and the household's right to a fair hearing if the State agency refuses to accept as good cause the household's reasons for failure to comply with the notice of expiration. The State agency is encouraged to include an application form with the notice of expiration and/or an appointment for an interview. Regardless of when the interview date is assigned, the household has timely applied if the application is received by the 15th of the last month of certification.

(3) Households provided a notice of expiration at the time of certification, in accordance with paragraph (b)(1) of this section, shall have 15 days from the date the notice is received to file a timely application for recertification. All other households which submit an identifiable application by the 15th of the last month of the certification period shall be considered to have made timely application for recertification. To aid the State agency in determining if adequate time has been permitted, the State agency shall use the postmark on the notice of expiration, plus two days for mailing time. In cases of dispute, the household may demonstrate that the notice of expiration was not, in fact, received in a timely manner.

(c) *State action on timely reapplications.* Households that have timely reapplied and have been determined eligible shall not experience an interruption in benefits. State agencies shall take action on timely reapplications within the following time standards, even if, to meet these standards, the State agency must provide an opportunity to participate outside of the normal issuance system:

(1) Households that were provided a notice of expiration at the time of certification and have timely reapplied shall be notified of their eligibility or ineligibility and provided an opportunity to participate, if eligible, not later than 30 days after the date the household had an opportunity to obtain its last allotment.

(2) For those households that have filed an application by the 15th of the last month of their certification period, the State agency shall approve or deny the application and notify the household of its determination by the end of the current certification period. In addition, for households determined eligible, the State agency shall provide an opportunity to participate by the household's normal issuance cycle in the month following receipt of the timely reapplication. Households which have timely reapplied, but due to State agency error are not determined eligible in sufficient time to provide for issuance in the household's normal issuance cycle for the following month, shall receive an immediate opportunity to participate upon being determined eligible, even if the State agency must provide an opportunity to participate outside of the normal issuance system.

(d) *State agency failure to act.* State agency failure to provide eligible households which filed a timely application for recertification with an opportunity to participate in accordance with the above provisions shall be considered an administrative error. These households shall be entitled to restoration of lost benefits if, as a result of such error, the household was unable to participate for the month following the expiration of the certification period.

(e) *Failure to submit a timely reapplication.* A household which fails to submit a timely application for recertification without good cause shall lose its right to uninterrupted benefits. Households which refuse to cooperate in providing required information shall be denied. Any application not submitted in a timely manner shall be treated as an application for initial certification, except that previously verified income or expenses which change by $25 or less shall not be verified if the application is received within 30 days after the certification period expires.

(f) *Good cause for failure to timely reapply.* If the State determines that the household's failure to make timely application, or to otherwise complete the certification process in a timely manner, was for good cause, the household shall be entitled to restoration of lost benefits, if as a result of its failure, the household was unable to participate in the month following the expiration of its certification period. The determination of good cause shall be made on a case-by-case basis, and shall include, but not be limited to, failure to receive timely notice of expiration or personal illness.

§ 273.15 Fair hearings.

(a) *Availability of hearings.* Each State agency shall provide a fair hearing to any household aggrieved by any action of the State agency which affects the participation of the household in the Program.

(b) *Hearing system.* Each State agency shall provide for either a fair hearing at the State level or for a hearing at the local level which permits either the household or the local agency to further appeal a local decision to a State level fair hearing. State agencies may adopt local level hearings in some project areas and maintain only State level hearings in other project areas.

(c) *Timely action on hearings.* (1) *State level hearings.* Within 60 days of receipt of a request for a fair hearing, the State agency shall conduct the hearing, arrive at a decision, and reflect that decision on the coupon allotment.

(2) *Local level hearings.* Within 45 days of receipt of a request for a fair hearing, the State agency shall conduct the hearing, arrive at a decision, and reflect that decision on the coupon allotment.

(3) *Appeals of local level decisions.* Within 45 days of receipt of any request for a State level review of a decision or for a new State level hearing, the State agency shall conduct the review or the new hearing, arrive at a decision, and reflect that decision on the coupon allotment.

(4) *Expedited hearings.* Expedited fair hearing procedures shall be conducted as required by paragraph (d) of this section.

(5) *Household requests for postponement.* The household may request and is entitled to receive a postponement of the scheduled hearing. The postponement shall not exceed 30 days and the time limit for action on the decision may be extended for as many days as the hearing is postponed. For example, if a State level hearing is postponed by the household for 10 days, the final action will be required within 70 days from the date of the request for a hearing.

(d) *Expedited hearings.* Households which indicate that they wish to present their case to a higher authority after being denied benefits under the expedited certification procedures set forth in § 273.2(i) shall be given special expedited handling as follows:

(1) An agency conference shall be scheduled within two working days, upon household consent. The conference may be attended by the eligibility worker who denied the benefits and shall be attended by the agency director, or the eligibility supervisor responsible for the agency action, or both. Agency conferences may lead to an informal resolution of the dispute. However, unless the household makes a written withdrawal of its request for a hearing, the agency conference shall in no way replace the fair hearing process.

(2) If the request for a hearing is pursued after or instead of the agency conference, State agencies shall dis-

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pense with the local level hearing and shall schedule a State level hearing as soon as reasonably possible.

(3) The State level hearing official's decision shall be issued within 15 working days of receipt of the request for a hearing.

(4) If the State agency action is not upheld, the State agency shall provide the household an opportunity to participate in the program within two working days of the receipt of the hearing official's decision.

(e) *Consolidated hearings.* State agencies may respond to a series of individual requests for hearings by conducting a single group hearing. State agencies may consolidate cases where related issues of State and/or Federal law, regulation or policy are being raised. In all group hearings, the policies governing individual hearings must be followed. Each individual household shall be permitted to present its own case or have the case presented by a representative.

(f) *Notification of right to request hearing.* At the time of application, each household shall be informed in writing of its right to a hearing, of the method by which a hearing may be requested, and that its case may be presented by a household member or a representative, such as a legal counsel, a relative, a friend or other spokesperson. If there is an individual or organization available that provides free legal representation, the household shall also be informed of the availability of that service. Hearing procedures shall be published by the State agency and made available to any interested party.

(g) *Time period for requesting hearing.* A household shall be allowed to request a hearing on any action by the State agency or loss of benefits which occurred in the prior 12 months. The 12 month period includes the month in which the hearing is requested.

(h) *Request for hearing.* A request for a hearing is defined as any clear expression, oral or written, by the household or its representative that it wishes to present its case to a higher authority. The freedom to make such a request must not be limited or interfered with in any way.

(i) *State agency responsibilities on hearing requests.* (1) Upon request, the State agency shall make available without charge the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing. Upon request, the State agency shall also help the household with its hearing request and with preparation of its case. Households shall be advised of any legal services available that can provide representation at the hearing.

(2) The State agency shall process each request for a hearing under uniform rules of procedure. The uniform rules of procedures shall be available for public inspection and copying. At a minimum, the uniform rules of procedure shall include all filing limits for requests and appeals, advance notification requirements, expedited and other hearing timeliness standards, rules of conduct at the hearing, and the rights and responsibilities of persons requesting a hearing.

(j) *Denial or dismissal of request for hearing.* The State agency shall not deny or dismiss a request for a hearing unless:

(1) The request is not received within the time period specified in paragraph (g) of this section;

(2) The request is withdrawn in writing by the household or its representative; or

(3) The household or its representative fails, without good cause, to appear at the scheduled hearing.

(k) *Continuation of benefits.* (1) If a household requests a fair hearing and continuation of benefits within the period provided by the notice of adverse action, as set forth in § 273.13, and its certification period has not expired, the household's participation in the Program shall be continued on the basis authorized immediately prior to the notice of adverse action. The period provided by the notice of adverse action as described in § 273.13(a)(1)(i) begins with the postmark or the date of receipt of the notice, whichever is earlier. If a hearing request is not made within the period provided by the notice of adverse action, benefits shall be reduced or terminated as provided in the notice. However, if the household establishes that its failure to make the request within the advance notice period was for good cause, the State agency shall reinstate the benefits to the prior basis. When benefits are reduced or terminated due to a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that food stamp eligibility or benefits were improperly computed or that Federal law or policy is being misapplied or misinterpreted by the State agency.

(2) Once continued or reinstated, benefits shall not be reduced or terminated prior to the receipt of the official hearing decision unless:

(i) The certification period expires. The household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the State agency;

(ii) The hearing official makes a preliminary determination, in writing and at the hearing, that the sole issue is one of Federal law, regulation or policy and that the household's claim that the State agency improperly computed the benefits or misinterpreted or misapplied such law, regulation or policy is invalid;

(iii) A change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of adverse action; or

(iv) A mass change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending.

(3) The State agency shall promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

(l) *Notification of time and place of hearing.* The time, date, and place of the hearing shall be convenient to the household. Advance written notice shall be provided to all parties involved to permit adequate preparation of the case. The notice shall:

(1) Advise the household or its representative of the name, address, and phone number of the person to notify in the event it is not possible for the household to attend the scheduled hearing.

(2) Specify that the State agency will dismiss the hearing request if the household or its representative fails to appear for the hearing without good cause.

(3) Include the State agency hearing procedures and any other information that would provide the household with an understanding of the proceedings and that would contribute to the effective presentation of the household's case.

(4) Explain that the household or representative may examine the case file prior to the hearing.

(m) *Hearing official.* Hearings shall be conducted by an impartial official(s) who does not have any personal stake or involvement in the case and who was not directly involved in the initial determination of the action which is being contested. State level hearings shall be conducted by state level personnel and shall not be conducted by local level personnel.

(1) *Designation of hearing official.* The hearing official shall be:

(i) An employee of the State agency;

(ii) An individual under contract with the State agency;

(iii) An employee of another public agency designated by the State agency to conduct hearings;

(iv) A member or official of a statutory board or other legal entity designated by the State agency to conduct hearings; or

(v) An executive officer of the State agency, a panel of officials of the State agency or a person or persons expressly appointed to conduct State level hearings or to review State and/or local level hearing decisions.

(2) *Power and duties.* The hearing official shall:

(i) Administer oaths or affirmations if required by the State;

(ii) Ensure that all relevant issues are considered;

(iii) Request, receive and make part of the record all evidence determined necessary to decide the issues being raised;

(iv) Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing;

(v) Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the State agency;

(vi) Render a hearing decision in the name of the State agency, in accordance with paragraph (p) of this section, which will resolve the dispute.

(n) *Attendance at hearing.* The hearing shall be attended by a representative of the State agency which initiated the action being contested and by the household and/or its representative. The hearing may also be attended by friends or relatives of the household and the public, upon household consent.

(o) *Conduct of hearing.* The household may not be familiar with the rules of order and it may be necessary to make particular efforts to arrive at the facts of the case in a way that makes the household feel most at ease. The household or its representative must be given adequate opportunity to:

(1) Examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the State agency to establish the household's ineligibility or eligibility and allotment shall be made available, provided that confidential information is protected from release. The State agency shall provide free copies of the relevant portions of the case file if requested by the household or its representative. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official's decision.

(2) Present the case or have it presented by a legal counsel or other person.

(3) Bring witnesses.

(4) Advance arguments without undue interference.

(5) Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(p) *Hearing decisions.* (1) Decisions of the hearing official shall comply with Federal law, regulations or policy and shall be factually based on the hearing record. The verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding shall constitute the exclusive record for a final decision by the hearing official. This record shall be retained in accordance with § 272.2(f). This record shall also be available, for copying and inspection, to the household or its representative at any reasonable time.

(2) A decision by the hearing official shall be binding on the State agency and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent FNS regulations or policy. The decision shall become a part of the record.

(3) The household and the local agency shall each be notified in writing of: the decision; the reasons for the decision in accordance with paragraph (p)(2) of this section; and the available appeal rights. The notice shall advise that an appeal request will not affect the hearing official's decision, but that an appeal may result in a reversal of the decision which could ultimately result in either a claim against the household for an overissuance or in the restoration to the household of any lost benefits. The following are the available appeal rights:

(i) After a State level hearing decision which upholds the State agency action, the household shall be notified of the right to pursue judicial review of the claim.

(ii) After a local level hearing decision which upholds the state agency action, the household shall be advised of the right to appeal to the State agency for a review of the decision based on the hearing record, and of the right to request a completely new State agency level hearing, and of the difference between the two appeal procedures to enable the household to make the proper choice if it wishes to appeal.

(iii) After a local level hearing which is decided in favor of the household, the local agency shall be advised of the right to appeal to the State agency for a review of the decision based on the hearing record, and of the right to request a completely new State agency level hearing.

(4) If the household or the State agency wishes to appeal a local level hearing decision, the appeal request must be filed within 15 days of receipt of the hearing decision notice. The notice is considered received two days after the postmark date. Within 45 days of receipt of any request for a State level review of the decision or for a new State level hearing, the State agency must conduct the review or the hearing, arrive at a decision and reflect the decision on the coupon allotment. Unless a new hearing is specifically requested by the household or the local agency, the State agency hearing official will review the local level hearing record to determine if the local decision was supported by substantial evidence. State agency review procedures shall provide for notifying the local agency and the household, by Certified Mail-Return Receipt Requested, that each may file a summary of arguments which shall become a part of the record if timely received. Both parties shall be advised that failure to file a summary will not be considered in deciding the case and that the summary must be postmarked within 10 days of receipt of the notice.

(5) All State agency hearing records and decisions shall be available for public inspection and copying, subject to the disclosure safeguards provided in § 272.2(c).

(q) *Implementation of local level hearing decision.* (1) In the event the local hearing decision upholds the State agency action, any benefits to the household which were continued pending the hearing shall be discontinued beginning with the next scheduled issuance, regardless of whether or not an appeal is filed. Collection action for any claims against the household for overissuances shall be postponed until the 15 day appeal request period has elapsed, or if an appeal is requested, until the State agency upholds the decision of the local hearing official.

(2) In the event the local hearing official decides in favor of the household, benefits to the household shall be reinstated, as required by the decision, within the time limits specified in paragraph (c) of this section, regardless of whether or not a appeal is filed. Action to issue lost benefits to the household shall be postponed until it is determined that the local agency will not appeal the decision, or until the State agency upholds the decision of the local hearing official.

(r) *Implementation of final State agency decisions.* The State agency is responsible for ensuring that all final hearing decisions are reflected in the household's coupon allotment within the time limits specified in paragraph (c) of this section.

(1) When the hearing official determines that a household has been improperly denied program benefits or has been issued a lesser allotment than was due, lost benefits shall be provided to the household in accordance with § 273.17.

(2) When the hearing official upholds the State agency's action, a claim against the household for any overissuances shall be prepared in accordance with § 273.18.

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(s) *Review of appeals of local level decisions.* State agencies which adopt a local level hearing system shall establish a procedure for monitoring local level hearing decisions. The number of local level decisions overturned upon appeal to a State level hearing shall be examined. If the number of reversed decisions is excessive, the State agency shall take corrective action.

(t) *FNS review of decisons contrary to federal law or regulations.* [Reserved]

§ 273.16 Fraud disqualification.

(a) *Fraud disqualification penalties.* Individuals found to have committed fraud at an administrative fraud hearing shall be ineligible to participate in the Program for three months. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than six months and not more than twenty-four months as determined by the court. State agencies shall disqualify only the individual and not the entire household.

(b) *Definition of fraud.* Fraud includes any action by an individual to knowingly, willfully and with deceitful intent:

(1) Make a false statement to the State agency, either orally or in writing, to obtain benefits to which the household is not entitled;

(2) Conceal information to obtain benefits to which the household is not entitled;

(3) Alter coupons or authorization cards;

(4) Use coupons to buy ineligible items such as alcohol or tobacco;

(5) Use improperly obtained coupons or authorization cards;

(6) Give or sell coupons or authorization cards to someone not authorized to accept them and who does not use them entirely for the benefit of the household; or

(7) Commit, or conspire to commit, any other fraudulent act to get food stamp benefits in a manner not authorized by Federal law or regulation.

(c) *Notification to applicant households.* The State agency shall inform the household in writing of the disqualification penalties for committing fraud each time it applies for program benefits. The penalties shall be written in clear, prominent, and boldface lettering on the application form.

(d) *Administrative disqualification.* An administrative fraud hearing shall be initiated by the State agency whenever the State agency has documented evidence to substantiate that a currently participating household member has committed fraud as defined in paragraph (b) of this section and the State agency believes the household member should be disqualified. Fraud hearings shall not be conducted if the amount the State agency suspects has been fraudulently obtained is less than $35. The burden of proving fraud is on the State agency. If the household member is not eligible or is not certified when the suspected fraud is discovered, the State agency shall initiate the hearing when the household member becomes eligible and is participating. Even though other legal action is planned against the household member, the hearing may still be conducted.

(1) *Consolidation of administrative fraud hearing with fair hearing.* The State agency may combine a fair hearing and an administrative fraud hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice.

(2) *Fraud hearing procedures.* (i) State agencies may adopt a system of providing administrative fraud hearings only at the State level or it may adopt a system of providing a local hearing in some or all of its project areas with a right to appeal to a State level hearing. The system adopted need not be the same as the system adopted for providing fair hearings requested by households.

(ii) The provisions of § 273.15 (m), (o), and (p)(1) are also applicable for fraud hearings.

(iii) Within 60 days of the date the household member is notified in writing that the hearing has been scheduled, or within 60 days of the date the household appeals its case to a State level hearing, the State agency shall conduct the hearing, arrive at a decision and initiate administrative action which will make the decision effective. The household member or representative is entitled to a postponement of up to 30 days. If the hearing is postponed, the 60 day time limit shall be extended for as many days as the hearing is postponed.

(3) *Advance notice of hearing.* (i) The State agency shall provide written notice to the household member suspected of fraud at least 30 days in advance of the hearing. The notice shall be mailed Certified Mail—Return Receipt Requested and shall contain, at a minimum:

(A) The date, time, and place of the hearing;

(B) The charge against the household member;

(C) A summary of the evidence, and how and where it can be examined;

(D) A warning that the decision will be based solely on information provided by the food stamp office if the household member fails to appear at the hearing;

(E) A warning that a determination of fraud will result in a three month disqualification;

(F) A Listing of the household member's rights as contained in § 273.15(o); and

(G) A statement that the hearing does not preclude the State or Federal Government from prosecuting the household member for fraud in a civil or criminal court action, or from collecting the overissuance.

(ii) A copy of the State's published hearing procedures shall be attached to the advance notice.

(iii) The following advance notice is a model format and shall be used unless FNS approves a deviation. Deviations shall be granted under the same conditions deviations from the application form are granted in § 273.2(b).

FOOD STAMP PROGRAM

ADVANCE NOTICE OF FRAUD HEARING

Date _____
Case No. _____
To: (Name of Household Member)
(address)
(City, State Zip Code)

We have reason to believe you may have committed FRAUD because: _____
(Sumarize evidence) _____

A HEARING has been scheduled to examine the facts of your case. The hearing will be held at:
Time _____
Date _____
Place _____

If the hearing finds that you have committed fraud, you will not get food stamps for THREE MONTHS. Therefore, it is important that you be at the hearing. If you are not there, a decision will be based on information provided by the food stamp office. Please call the food stamp office if you cannot be at the hearing for a good reason, and we will try to get the date changed. A copy of the steps involved in a hearing is enclosed. Even though this hearing is scheduled, this does not prevent the State or Federal Government from prosecuting you for fraud in a court or from asking that you pay back in cash the value of any coupons your household was not eligible to receive. If you have any questions or you need the name and phone number of someone who can give you free legal advice (if available), please call the Food Stamp Office at _____.

_____
Signature of State agency representative

YOU HAVE THE RIGHT TO—

1. Look at the evidence that will be used at the hearing, both before and during the hearing. Please call the Food Stamp Office if you wish to look at the evidence before the hearing.
2. Present your own case or have someone present your case for you, such as a lawyer, a friend, relative, or a community worker.
3. Bring your own witnesses.
4. Argue your case freely.
5. Question any statements or evidence made against you.
6. Bring any evidence you may have that would support your case.

(4) *Scheduling of hearing.* Reasonable efforts shall be made to schedule the hearing at a time and place convenient to the household member suspected of fraud. If the household member or its representative cannot be located or fails to appear at the hearing without good cause, the hearing shall be conducted without the household member represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if fraud was commited based on clear and convincing evidence. If the household member is found to have committed fraud but a hearing official later determines that the household member or representative failed to appear with good cause, the previous decision shall no longer remain valid and the State agency shall conduct a de novo hearing. The household member has 10 days from receipt of the fraud notice to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

(5) *Participation while awaiting a hearing.* Since the State agency cannot disqualify a household member for fraud until the hearing official finds that the individual has committed fraud, the State agency shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. For example, the household's benefits shall be terminated if the certification period has expired and the household after receiving its notice of expiration, fails to reapply. The State agency shall also reduce or terminate the household's benefits if the State agency has facts to substantiate that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of fraud and the resulting fraud hearing) and the household fails to contest. For example, the State agency may have facts to substantiate that a household failed to report a change in its circumstances even though the State agency has not yet demonstrated that the failure to report was caused by fraud.

(6) *Criteria for determining fraud.* The hearing authority shall base the determination of fraud on clear and convincing evidence which demonstrates that the household member knowingly, willfully and with deceitful intent committed fraud, as defined in paragraph (b) of this section.

(7) *Decision format.* The hearing official's decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent regulation or policy, and respond to reasoned arguments made by the household member or representative.

(8) *Appeal rights of the household member.* If the hearing official rules that the household member has committed fraud, the household member may appeal the decision, as follows:

(i) *Appeal after local hearing.* (A) A household member found to have committed fraud by a local hearing authority has 15 days after the member receives the local hearing decision notice to appeal the decision to a State level hearing. State agencies shall mail the notice by Certified Mail—Return Receipt Requested. If a State level hearing is not requested within the 15-day period, the household member shall be disqualified for three months beginning with the first calendar month after the 15-day period has expired. If, however, the household member requests a State level hearing within the 15-day period, the household member shall not be disqualified unless the State level hearing also finds the household member has committed fraud.

(B) If a State level hearing is requested, a de novo hearing shall be conducted in every case and a decision rendered within 60 days of the request. In a de novo hearing the prior decision is not taken into consideration.

(ii) *Appeal after State level hearing.* After a household member has been found to have committed fraud by a State level hearing official, the household member shall be disqualified for three months beginning with the first calendar month which follows the date the household member has received the State level hearing notice. No further administrative appeal procedure exists after an adverse State level hearing. The determination of fraud made by a fraud hearing official cannot be reversed by a subsequent fair hearing decision. The household member is, however, free to appeal the case to a court. The period of disqualification may be subject to stay or injunction in a court of appropriate jurisdiction.

(9) *Notification of hearing decision.* (i) If the hearing finds that the household member did not commit fraud, the State agency shall provide a written notice which informs the household member of the decision.

(ii) If the administrative fraud hearing finds that the household member committed fraud, the State agency shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision, the reason for the decision and notify the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11. For State level decisions, the notice shall inform the household member of the date disqualification will take effect. For local level decisions, the notice shall inform the household member of the deadline for requesting a State level hearing, the date disqualification will take effect unless a State level hearing is requested and that benefits will be continued pending a State level hearing if the household is otherwise eligible. A list of the household member's rights as contained in § 273.15(o) and the State level hearing procedures shall be enclosed with the local fraud hearing decision notice.

(iii) The following are model forms for notifying individuals that they have been found to have committed fraud at an administrative fraud hearing:

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NOTICE OF STATE FRAUD HEARING DECISION

TO: (Name of Household Member) DATE:
(Address) CASE NO.:
(City, State Zip Code)

You have been found GUILTY OF FRAUD at the hearing conducted on _____ (date of hearing). Therefore, you will not get food stamps during _____ (1st month) - _____ (2nd month) _____ (3rd month). If your are not satisfied with this decision you can appeal this decision to the courts. See the box below to find out if the rest of your household can get food stamps while you are ineligible.

This hearing decision does not prevent the State or Federal government from prosecuting you for fraud in a court or from asking that you pay back in cash the value of any extra coupons your household was not eligible to receive.

If you have any questions, please call the Food Stamp Office at _____.

Signature of State agency representative

NOTICE TO REMAINING HOUSEHOLD MEMBERS

We've reviewed your case to see if you can get food stamps while (name of disqualified member) is not allowed to participate. Here's what we've found:

☐ You will receive _____ amount of food stamp during (1st - 3rd month).

☐ You will receive _____ amount of food stamps during _____. After that, you will need to reapply in order to get food stamps since your certification period will be over.

☐ Although your certification period is over, you may be eligible. To see if you are eligible please call, write, or visit the food stamp office and ask to file an application.

☐ You are no longer eligible for food stamps.

If you are not satisfied with the decision, you may ask for a fair hearing.

NOTICE OF LOCAL FRAUD HEARING DECISION

TO: (Name of Household Member) DATE:
(Address) CASE NO.:
(City, State Zip Code)

The hearing conducted on _____ (date of hearing) found that you committed fraud.

You have two choices:

1. If you are satisfied with the decision and do not want a new hearing, you will not get food stamps for _____ (1st month) _____ (2nd month) _____ (3rd month). See the box below to find out if the rest of your household can get food stamps while you are ineligible.

2. If you are NOT satisfied with the decision, you can ask for a new hearing at a higher level by calling the Food Stamp Office or by signing your name below and returning this form to the Food Stamp Office. If you ask for a new hearing within 15 days after you receive this notice, you will continue to get your food stamps until the new hearing if you are eligible. (Be sure to include weekends and holidays when counting the 15 days).

☐ Yes, I want a new hearing. _____ (Sign your name here)

A list of your rights and the steps involved in a hearing is enclosed.

This hearing decision does not prevent the State or Federal Government from prosecuting you for fraud in a court or from asking that you pay back in cash the value of any extra coupons your household was not eligible to receive. If you have any questions, please call the Food Stamp Office at _____.

Signature of State agency representative

NOTICE TO REMAINING HOUSEHOLD MEMBERS

We've reviewed your case to see if you can get food stamps while (name of disqualified member) is not allowed to participate. Here's what we've found:

☐ You will receive _____ in food stamps during _____.

☐ You will receive _____ in food stamps during _____. After that, you will need to reapply in order to get food stamps since your certification period will be over.

☐ Although your certification period is over, you may be eligible. To see if you are eligible, please call, write, or visit the food stamp office and ask to file an application.

☐ You are no longer eligible.

If you are not satisfied with the decision, you may ask for a fair hearing.

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(e) *Court imposed disqualifications.* (1) A court or appropriate jurisdiction, with either the State, a political subdivision of the State, or the United States as prosecutor or plaintiff, may order an individual disqualified from participation in the Program for not less than six months and not more than twenty-four months if the court finds that individual guilty of civil or criminal fraud. Court ordered disqualifications may be imposed separate and apart from any action taken by the State agency to disqualify the individual through an administrative fraud hearing.

(2) State agencies are encouraged to prosecute food stamp fraud under State or local fraud statutes whenever possible. The State agency shall confer with its legal representative to determine the types of cases which will be accepted for possible prosecution. State agencies shall also encourage State and local prosecutors to recommend to the courts that a disqualification penalty as provided in section 6(b) of the Food Stamp Act be imposed in addition to any other civil or criminal fraud penalties.

(3) State agencies shall disqualify an individual found guilty of fraud by the courts only if the court orders disqualification and only for the length of time specified by the court. If disqualification is ordered but a date for initiating the disqualification period is not specified, the State agency shall initiate the disqualification period with the first calendar month following the date the disqualification was ordered. A court ordered disqualification may run concurrently with the three month period of disqualification imposed as a result of an administrative fraud hearing. The State agency shall not initiate or continue a court imposed or administratively imposed fraud disqualification period contrary to a court order.

(f) *Overturned fraud disqualifications.* In cases where the determination of fraud is overturned or reversed by a court of appropriate jurisdiction, the State agency shall reinstate the individual in the Program if the household is eligible. The State agency shall restore any benefits that were lost as a result of the disqualification in accordance with the procedures specified in § 273.17(e).

§ 273.17 Restoration of lost benefits.

(a) *Entitlement.* (1) Whenever a household receives fewer benefits than it is entitled to receive, and the loss was not caused by the household, the State agency shall restore to the household those benefits which were lost, except that benefits shall not be restored if lost more than 12 months prior to:

(i) The month the State agency was notified by the household or by another person or agency in writing or orally of the possible loss to that specific household;

(ii) The month the State agency discovers in the normal course of business that a loss to a specific household has occurred; or

(iii) The date the household requested a fair hearing to contest the adverse action which resulted in the loss.

(2) Benefits shall be restored even if the household is currently ineligible.

(b) *Errors discovered by the State agency.* If the State agency determines that a loss of benefits has occurred, and the loss was not caused by the household, the State agency shall automatically take action to restore any benefits that were lost. No action by the household is necessary. However, benefits shall not be restored if the benefits were lost more than 12 months prior to the month the loss was discovered by the State agency in the normal course of business, or were lost more than 12 months prior to the month the State agency was notified in writing or orally of a possible loss to a specific household. The State agency shall notify the household of its entitlement, the amount of benefits to be restored, any offsetting that was done, the method of restoration, and the right to appeal through the fair hearing process if the household disagrees with any aspect of the proposed lost benefit restoration.

(c) *Disputed benefits.* (1) If the State agency determines that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the State agency or any other action taken by the State agency to restore lost benefits, the household may request a fair hearing within 12 months of the month the household is notified of its entitlement to restoration of lost benefits. If a fair hearing is requested prior to or during the time lost benefits are being restored, the household shall receive the lost benefits as determined by the State agency pending the results of the fair hearing. If the fair hearing decision is favorable to the household, the State agency shall restore the lost benefits in accordance with that decision.

(2) If a household believes it is entitled to restoration of lost benefits but the State agency, after reviewing the casefile, does not agree, the household has 12 months from the date of the State agency determination to request a fair hearing. The State agency shall restore lost benefits to the household only if the fair hearing decision is favorable to the household. Benefits lost more than 12 months prior to the date the State agency was initially informed of the household's possible entitlement to lost benefits shall not be restored.

(d) *Computing the amount to be restored.* After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the 12 month time limits described in paragraph (b) and (c) of this section, the State agency shall calculate the amount to be restored as follows: (1) If the loss resulted in an incorrect allotment, but the household was determnined to be eligible, the loss of benefits shall be calculated only for those months the household participated. If the loss was caused by an incorrect delay, denial, or termination of benefits, the months affected by the loss shall be calculated as follows:

(i) If an eligible household's application was erroneously denied, or the State agency delayed benefits to an eligible household more than 60 days after the initial application was filed, the month the loss initially occurred shall begin with the month of application. If benefits are delayed less than 60 days from the date the application was filed, the State agency shall provide benefits retroactive to the month of application rather than in the form of lost benefits. If an eligible household that timely reapplied was not provided an opportunity to participate in the month following the expiration of its certification period, the month loss initially occurred shall be the first month following the receipt of the household's last allotment.

(ii) If a household's benefits were erroneously terminated, the month the loss initially occurred shall begin with the first month benefits were not received as a result of the erroneous action.

(iii) After computing the date the loss initially occurred, the loss shall be calculated for each month subsequent to that date until either the first month the error is corrected, the first month the household is found ineligible, or the first month the household reapplied.

(2) For each month affected by the loss, the State agency shall determine if the household was actually eligible. In cases where there is no information in the household's case file to document that the household was actually eligible, it is the household's responsibility to provide the necessary information to determine eligibility for these months. For each month the household cannot provide the necessary information to demonstrate its eligibility, the household shall be considered ineligible.

(3) For the months the household was eligible, the State agency shall calculate the allotment the household should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotments equals the amount to be restored.

(4) If a claim against a household is unpaid or held in suspense as provided

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in § 273.18, the amount to be restored shall be offset against the amount due on the claim before the balance, if any, is restored to the household. In cases where the initial allotment is received within 60 days of the date the application is filed and is paid retroactive to the month of application, the retroactive payment shall not be reduced to offset claims.

(e) *Lost benefits to individuals disqualified for fraud.* Individuals disqualified for fraud are entitled to restoration of any benefits lost during the months they were disqualified only if the decision which resulted in disqualification is subsequently overturned or reversed. For example, an individual would not be entitled to restoration of lost benefits for the three-month period it was disqualified based solely on the fact that a criminal conviction could not be obtained, unless the individual successfully challenged the three-month disqualification in a separate court action. For each month the individual was disqualified, the amount to be restored, if any, shall be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored. Benefits shall be restored regardless of the length of time that has elapsed since the household was disqualified.

(f) *Method of restoration.* Regardless of whether a household is currently eligible or ineligible, the State agency shall restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost, provided that the amount restored in any one month does not exceed 100 percent of the maximum allotment for the household's size. The amount restored shall be issued in addition to the allotment currently eligible households are entitled to receive. The State agency shall honor reasonable requests by households to restore lost benefits in amounts of less than 100 percent of the Thrifty Food Plan per month if, for example, the household fears the excess coupons may be lost or stolen.

(g) *Transferring households.* A household that moves from the project area or State where the administrative error occurred shall not lose its entitlement to restoration of lost benefits. To continue receiving its restoration of lost benefits the household must present to its new project area Form FNS-286, Certification of Transfer of Household Benefits. The form must be prepared by the former project area and contain the necessary lost benefits information. Households due lost benefits, but which have neglected to obtain a Form FNS-286 prior to the move, shall be informed by the new project area how to obtain the necessary forms and shall assist the household in doing so, if necessary.

(h) *Changes in household composition.* Whenever lost benefits are due a household and the household's membership has changed, the State agency shall restore the lost benefits to the household containing the individual who was head of the household at the time the error occurred. If the head of the household is no longer living or cannot be located, the State agency shall restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred.

(i) *Losses of benefits that occurred prior to elimination of the purchase requirement.* Households assigned a purchase requirement that was too high shall be entitled to restoration of lost benefits if the household received fewer bonus stamps as a result. The amount to be restored is equal to the difference between the bonus stamps the household received and the correct amount the household should have received. State agencies shall restore the lost benefits in accordance with the procedures outlined in this section.

(j) *Accounting procedures.* Each State agency shall be responsible for maintaining an accounting system for documenting a household's entitlement to restoration of loss benefits and for recording the balance of lost benefits that must be restored to the household. Each State agency shall develop a form that, at a minimum, documents how the amount to be restored was calculated and the reason lost benefits must be restored. The accounting system shall be designed to readily identify those situations where a claim against a household can be used to offset the amount to be restored.

§ 273.18 Claims against households.

(a) *Establishing claims against households.* Each State agency shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive. Instances which may result in a claim include, but are not limited to, the following:

(1) The household failed to provide the State agency with correct or complete information.

(2) The household failed to report to the State agency changes in its household circumstances.

(3) The household altered its ATP.

(4) The household transacted both the original and its replacement ATP.

(5) The State agency assigned an incorrect allotment.

(6) The State agency failed to take prompt action on a change reported by the household.

(7) The State agency incorrectly computed the household's income, deductions, or both.

(8) The State agency incorrectly issued duplicate ATPs to a household which were subsequently transacted.

(9) The household was found to be ineligible or eligible for fewer benefits than it received pending a fair hearing appeal.

(b) *Nonfraud claims.* Nonfraud claims are those claims established against households for overissuances which were not caused by fraud, such as, but not limited to, overissuances caused by administrative error on the part of the State agency or a misunderstanding or inadvertent error on the part of the household.

(1) *Criteria for establishing a nonfraud claim.* If less than 12 months have elapsed between the month a nonfraud overissuance occurred and the month the State agency discovered a specific case involving an overissuance, the State agency shall take action to establish a claim against the household that received the overissuance. A claim shall not be established against households that have transacted expired ATPs unless the households have altered their ATPs. In addition, a nonfraud claim shall not be established against a household otherwise eligible for the benefits it received if the State agency failed to ensure that the household: (i) signed the application form, (ii) completed a current work registration form, (iii) was certified in the correct project area, or (iv) did not receive food stamp benefits after its certification period had expired.

(2) *Calculating the amount of the nonfraud claim.* (i) After excluding those months that are more than 12 months prior to the date the overissuance was discovered, the State agency shall determine the correct amount of food stamp benefits the household should have received for those months the household participated while the overissuance was in effect. In cases involving reported changes, the State agency shall determine the month the overissuance initially occurred as follows:

(A) If, due to a misunderstanding or inadvertent error on the part of the household, the household failed to report a change in its household circumstances within 10 days of the date the change became known to the household, the first month affected by the household's failure to report shall be the month the change occurred.

(B) If the household timely reported a change, but the State agency did not timely act on the change, the first month affected by the State's failure to act shall be the first month the State agency should have made the change effective. Therefore, if a notice of adverse action was required but was

not sent, the State agency shall assume that the maximum advance notice period as provided in § 273.13(a)(1) would have expired without the household requesting a fair hearing.

(ii) If the household received a larger allotment than it was entitled to receive, the State agency shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

(iii) After calculating the amount of the nonfraud claim, the State agency shall offset the amount of the claim against any amounts which have not yet been restored to the household in accordance with § 273.17. The State agency shall then initiate collection action for the remaining balance, if any.

(3) *Collecting nonfraud claims.* (i) State agencies shall initiate collection action on all nonfraud claims unless the claim is collected through offset or one of the following conditions apply:

(A) The total amount of the nonfraud claim is less than $35.

(B) The State agency has documentation which shows that the household cannot be located.

(ii) State agencies shall initiate collection action by sending the household a written demand letter which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the State agency's determination. In addition, the demand letter for nonfraud claims must include a statement which specifies that payment of the claim is voluntary and that refusal to pay the claim will not affect the household's eligibility. If the household agrees to pay the claim, payments shall be accepted and submitted to FNS in accordance with the procedures outlined in paragraphs (e) and (f) of this section. If the household does not respond to the first demand letter, additional demand letters shall be sent at 30-day intervals until the household has responded by paying or agreeing to pay the claim, or until the criteria for suspending or terminating collection action, as specified in paragraph (b)(4) of this section, have been met.

(4) *Criteria for suspending collection of a nonfraud claim.* Where the claim cannot be presently collected, but there is a likelihood that the claim can be collected in the future, the State agency shall suspend collection of the claim. The claim shall be held in suspense until the claim is collected or until the claim has been held in suspense for three years, whichever occurs first. If a possibility exists that the household will be entitled to restoration of lost benefits at a later date which could be used to offset the amount of the claim, the State agency shall suspend rather than terminate collection of the claim. State agencies shall also suspend rather than terminate collection action if the household's financial circumstances are expected to change for the better.

(5) *Terminating collection of a nonfraud claim.* The State agency shall terminate collection action if at least one demand letter has been sent to the household and one of the following criteria is met:

(i) The household is financially unable to pay the claim;

(ii) There is little likelihood that the household will pay the claim;

(iii) The household cannot be located;

(iv) The cost of further collection action is likely to exceed the amount that can be recovered; or

(v) The claim has been held in suspense for three years.

(c) *Fraud claim.* A claim shall be handled as a fraud claim only if an administrative fraud hearing or a court of appropriate jurisdiction has found a household member guilty of fraud as defined in § 273.16(b) or the State agency's fraud investigators have determined and documented that fraud, as defined in § 273.16(b), exists. Prior to the determination of fraud, the claim against the household shall be handled as a nonfraud claim.

(1) *Establishing a fraud claim.* For each month that a household member fraudulently participated, the State agency shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the fraud claim shall be calculated back to the month the fraudulent act occurred, regardless of the length of time that elapsed until the determination of fraud was made. If the household member is determined to have committed fraud by knowingly, willfully and with deceitful intent failing to report a change in its household circumstances, the first month benefits were overissued shall be the month the change occurred. Once the amount of the fraud claim is established, the State agency shall offset the claim against any amount of lost benefits that have not yet been restored to the household in accordance with § 273.17.

(2) *Collecting fraud claims.* (i) If the household is found to have committed fraud at either an administrative fraud hearing, a court of appropriate jurisdiction or by the State's investigative unit, the State agency shall initiate collection action unless the amount of the claim is less than $35, the State agency has documentation which shows the household cannot be located, or the legal representatives prosecuting a member of the household for fraud advise in writing that collection action will prejudice the case. In cases where the household was found guilty of fraud by a court, the matter of restitution shall be brought before the court by the State agency. Collection action must be taken, however, for the full amount of the loss even if the court's decision does not address restitution, the amount of restitution ordered is less than the amount of the loss, or prosecution results in imprisonment. The expiration of the State's statute of limitations does not relieve the State agency from making the required collection efforts.

(ii) Collection action shall be taken by sending the household a written demand letter which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the State agency's determination. In addition to the written demand letter, a personal contact shall be made, if possible. In those cases where the claim is being handled as a fraud claim based solely on a determination of fraud by the State's fraud investigators, the State agency shall not coerce a household into paying a claim by threatening to initiate an administrative fraud hearing or by threatening to prosecute. The State agency shall not disqualify a household solely because the household has refused to pay the fraud claim.

(iii) If the household agrees to pay the claim after the first demand letter, the State agency shall follow the procedures for collecting and submitting payments as prescribed in § 273.18 (e) and (f). If the household does not respond to the first demand letter, additional demand letters shall be sent at 30-day intervals until the household agrees to pay the claim, or the criteria for suspending or terminating collection action as specified in paragraph (c)(3) of this section have been met.

(3) *Criteria for suspending collection action.* If the household is financially unable to pay the claim but there is a likelihood that the claim can be collected in the future, the State agency shall suspend collection of the claim until either the claim can be collected or until the claim has been held in susense for three years, whichever occurs first. Therefore, if a possibility exists that the household will be entitled to restoration of lost benefits at a later date which could be used to offset the amount of the claim, the State agency shall suspend collection rather than terminate the fraud claim. State agencies shall also suspend col-

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lection action if the household's circumstances are expected to change for the better.

(4) *Criteria for terminating collection of fraud claims.* If the State agency has sent at least one demand letter for fraud claims of less than $100, two demand letters for fraud claims of between $100 and $400, and three demand letters for fraud claims of more than $400, the State agency may terminate further collection action provided one of the following criteria is met:

(i) The household is financially unable to pay the claim;

(ii) There is little likelihood that the State agency can collect or enforce collection of any significant sum from the household;

(iii) The household cannot be located;

(iv) The cost of further collection action is likely to exceed the amount that can be recovered; or

(v) The claim has been held in suspense for three years.

(d) *Changes in household composition.* If a household's membership has changed since the overissuance occurred, the State agency shall initiate collection action against the head of the household. If the head of the household is no longer living or cannot be located, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred.

(e) *Methods of collecting payments.* State agencies shall collect fraud or nonfraud claims in one of the following ways:

(1) *Lump Sum.* State agencies shall collect payments from households in one lump sum if the household is financially able to pay the claim in one lump sum.

(2) *Installments.* If the household has insufficient liquid resources or is otherwise financially unable to pay the claim in one lump sum, payments shall be accepted by the State agency in regular installments. If the full amount of the claim cannot be liquidated in three years without creating a financial hardship on the household, the State agency shall compromise the claim by reducing it to an amount that will allow the household to pay the claim in three years. Before any household signs an agreement to make installment payments the State agency must inform the household in writing that its food stamp benefits cannot be denied if the sole reason for the denial is the fact that it has either refused to sign a payment schedule or fails to make the agreed payments. State agencies may, however, initiate civil court action to obtain payment of the claim.

(f) *Submission of payments.* (1) No later than the 15th of each calendar month, each State agency shall submit to FNS a single check, draft or warrant which consolidates all of the payments collected at the State or local level during the previous calendar month. State agencies shall not allow more than 45 days to elapse between the date a household makes a payment on a claim and the date the payment is submitted to FNS. Each State agency shall also submit a monthly report to FNS which details the State's activities relating to claims against households. This report is also due on the 15th of each calendar month and shall be submitted even if the State agency has not collected any payments. The following form is the proposed monthly report each State agency will be required to submit to FNS.

(2) In cases where FNS has billed a State agency for negligence, any amounts collected from households in payment of overissuances which were caused by the State's negligence will be credited by FNS. When submitting these payments, the State agency shall include a note in the remarks section of the monthly reporting form specified in paragraph (e)(1) of this section which shows the amount that should be credited against the State's bill.

(g) *Claims discharged through bankruptcy.* State agencies shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing food stamp claims. State agencies shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distributions of assets, to the same extent as FNS. Acting as FNS, State agencies shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to FNS as provided in paragraph (f) of this section.

FORM FNS-209 (DRAFT)

U.S. DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION SERVICE

FORM APPROVED OMB NO. (Propos-1) 350

STATUS OF CLAIMS AGAINST HOUSEHOLDS

INSTRUCTIONS: *Each State agency shall prepare an original and 2 copies by the 15th of each month. Submit the original and 1 copy to Finance and Program Accounting Division, Food and Nutrition Service, USDA, Washington, D.C. 20250. The report shall cover the State's activities relating to claims during the previous calendar month. The State's consolidated check draft or warrant shall be attached to the original of the report if payments were collected during the previous calendar month. Retain remaining copy for your record.*

STATE	AMOUNT SENT TO FNS		MONTH	
	$			
	AMOUNTS		NUMBER OF CLAIMS	
	FRAUD	NONFRAUD	FRAUD	NONFRAUD
1. BALANCE FOR ACTIVE CLAIMS AT BEGINNING OF MONTH	$	$		
2. BALANCE FOR SUSPENDED CLAIMS AT BEGINNING OF MONTH				
3. NEW CLAIMS ESTABLISHED DURING MONTH				
SUBTOTAL (1 + 2 + 3)	$	$		
4. AMOUNT COLLECTED BY CHECK, CASH OR MONEY ORDER DURING MONTH	$	$		
5. AMOUNT COLLECTED BY OFFSETTING LOST BENEFITS TO BE RESTORED				
6. AMOUNT FOR WHICH COLLECTION ACTION WILL NOT BE PURSUED				
SUBTOTAL (4 + 5 + 6)	$	$		
7. TOTAL NUMBER OF CLAIMS CLOSED DURING MONTH				
8. BALANCE FOR ACTIVE CLAIMS AT END OF MONTH	$	$		
9. BALANCE FOR SUSPENDED CLAIMS AT END OF MONTH				
SUBTOTAL (8 + 9)	$	$		

REMARKS

I certify that the above information is true and correct

DATE	TITLE

No further monies or other benefits may be paid out under this program unless this report is completed and filed as required by existing regulation (7 C.F.R. 273).

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(h) *Accounting procedures.* Each State agency shall be responsible for maintaining an accounting system for monitoring claims against households. At a minimum, the accounting system shall be designed to readily accomplish the following:

(1) Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods used to collect the claim and, if applicable, the circumstances which resulted in suspension or termination of collection action.

(2) Identify those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household.

(3) Identify those households that have failed to make installment payment on their claims.

(4) Document how much money was collected in payment of a claim and how much was submitted to FNS.

§ 273.19 Sixty day continuation of certification.

(a) *Eligibility criteria.* The State agency shall provide for continuation of the certification of any household for 60 days after the date the household moves from one project area to another within the State or between States if the household:

(1) Membership does not change;

(2) Continues to meet the definition of a household as provided in § 273.1(a);

(3) Was not certified under disaster eligibility standards as provided in Part 280 or was not certified under expedited procedures in § 273.2(i) unless the verification that was initially postponed was subsequently completed; and

(4) Does not contain as SSI member when moving into the cash-out States of California or Massachusetts.

(b) *Former project area.* The project area from which the household is moving shall prepare the Form FNS-286, Certification of Transfer of Household Benefits. If the household has received its coupon allotment for the month in which the move takes place, the project area shall authorize the extension of certification for the two months subsequent to the move. The Form FNS-286 is given to the household for delivery to the new project area office.

(c) *New project area.* (1) The project area to which the household moves shall accept the Form FNS-286 and issue the allotment authorized by the form to households which report compliance with the criteria in paragraph (a) (1), (2), and (4) of this section. At the time the household provides the form to the new project area, the household shall report any changes in circumstances. The new project area will act on changes according to § 273.12, except in no event would the changes reported affect the initial issuance under the Form FNS-286. However the second issuance in the new project area, if any, shall reflect changes reported.

(2) If the household has participated in the former project area in the month of the move, and presents the Form FNS-286 to the new project area that same month, it shall be accepted and acted on in time for the next month's issuance. The first issuance shall be based on the income reflected on the Form FNS-286.

(3) If the household has not participated in the former project area in the month of the move and presents the transfer form to the new project area that same month, the household will be provided an opportunity to participate in that month. The first issuance shall be based on the income reflected on the transfer form.

(4) If the household's income has decreased to zero net monthly income upon its arrival in the new project area, an exception shall be made to the use of the transfer form and recorded income figures. The household shall be provided with expedited service and the appropriate change shall be reflected in the allotment for the first issuance.

(d) *Subsequent actions.* (1) Households participating on the basis of a Form FNS-286 shall be intitled to all procedural rights of any other food stamp household, including notice of adverse action on reported changes, and notice of expiration prior to the expiration of the second month of issuance authorized by the Form FNS-286.

(2) Households may elect to be certified in the new project area at any time during their participation under the Form FNS-286.

(3) Households which move during the two months covered by the Form FNS-286 shall be issued:

(i) A Form FNS-286 for the balance of the period covered by original form, and which reflects the changes reported at the time the form was accepted in the new project area;

(ii) A new Form FNS-286 for an additional two months if the household was recertified in the new project area and otherwise qualifies for a transfer of certification as outlined in paragraph (a) of this section.

(e) *Project areas that encompass more than one political subdivision.* Provision must be made to provide unbroken service to eligible households that move from one political subdivision to another in States where the State has been designated as a project area or where project areas encompass more than one political subdivision. This may be accomplished by transferring records or providing the household with Form FNS-286.

(f) *Control of forms.* The State agency shall provide for the secure storage of Form FNS-286, and shall maintain controls to prevent or detect unauthorized issuance, acquisition, acceptance, use, transfer, or alternation of this form.

4. Part 274 remains in force and effect but is redesignated as Part 280. The new Part 274 reads as follows:

PART 274—ISSUANCE AND USE OF FOOD COUPONS

Sec.

274.1. State agency issuance responsibilities.
274.2 Issuance systems.
274.3 Issuance of coupons through the mail.
274.4 Distribution of coupons.
274.5 Responsibilities of coupon issuers and bulk storage points.
274.6 Reconciliation.
274.7 Issuance record retention and security.
274.8 State agency reporting and destruction of unusable coupons.
274.9 Close-out of a coupon issuer.
274.10 Use or redemption of coupons by eligible households.
274.11 Return of coupons.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 274.1 State agency issuance responsibilities.

(a) *Basic issuance requirements.* Each State agency is responsible for the timely and accurate issuance of coupons to eligible households in accordance with these regulations. Each State agency shall establish an issuance and accountability system which will ensure that (1) only certified households receive benefits; (2) coupons are accepted, stored, and protected after delivery to receiving points within the State; (3) program benefits are timely distributed in the correct amounts; and (4) coupon issuance and reconciliation activities are properly conducted and accurately reported to FNS.

(b) *Contracting or delegating issuance responsibilities.* The State agency may assign to other parties such as banks, savings and loan associations, the postal service, community action agencies and migrant service agencies with adequate security, the responsibility for issuance and storage of coupons.

(1) Any assignment of issuance functions shall clearly delineate the responsibilities of both parties. The State agency remains responsible, regardless of any agreements to the contrary, for ensuring that assigned duties are carried out in accordance with these regulations. In addition, the State agency is strictly liable to FNS for all losses of coupons, even if those losses are the result of the performance of issuance, security or accountability duties by another party.

(2) All issuance contracts shall follow procurement standards set forth in Part 277. The State agency shall contract only with responsible contractors who possess the ability to perform successfully under the terms and conditions of the proposed procurement. In making its selection, the State agency shall consider contractor integrity, the record of past performance, financial, and technical resources, and the availability of other necessary resources. State agencies may permit subcontracting of assigned issuance responsibilities. However, the primary contractor shall remain responsible and liable to the State agency for ensuring that the terms of the contract are carried out.

(3) The State agency shall not assign the issuance of coupons to any retail grocery store authorized to redeem coupons from participant households. This restriction may be waived if the State agency can demonstrate, to the satisfaction of FNS, that such an arrangement would be in the best interests of the program.

(4) FNS does not encourage assignment of issuance activities to any entity in the same interrelated corporate structure with an authorized retail food store. However, such entities may be coupon issuers if they are fiscally autonomous, physically separate and employ a different trade name from the retail food store. FNS does not encourage the assignment of issuance activities to firms located within the confines of retail food stores. However, the State agency may contract with a bank or credit union located in such facilities provided that it is financially independent of the retail grocer and is chartered under Federal or State law.

(5) The State agency may contract with the U.S. Postal Service for the issuance of food coupons. The Department and the Postal Service have signed a Memorandum of Understanding which shall govern contracts for coupon issuance between State agencies and the Postal Service, and have developed a model contract. State agencies and the Postal Service may agree to modifications to the model contract so long as the modifications do not conflict with these regulations.

(c) *State monitoring of coupon issuers.* (1) The State agency's accountability system shall include procedures for monitoring the day-to-day operation of all coupon issuers to assure compliance with these regulations, to identify and correct deficiencies and to report violations of the Act or regulations to FNS.

(2) The State agency shall conduct an onsite review of each coupon issuer and bulk storage point at least once a year. This review requirement may be fulfilled in part or in total by the Performance Reporting Review System, Part 275. The State agency shall base each review on the specific activities performed by each coupon issuer or bulk storage point. A physical inventory of coupons shall be taken at each location and that count compared with perpetual inventory records and the monthly reports of the coupon issuer or bulk storage point. This review may be conducted at the offices of subissuers or at each issuance office when a coupon issuer or bulk storage point operates more than one office. The State agency may delegate this review responsibility to another unit of the State government or contract with an outside firm with expertise in auditing and accounting. Except in unusual circumstances, the Postal Inspection Service will conduct onsite reviews of post office issuance operations.

§ 274.2 Issuance systems.

The State agency shall arrange for the issuance of coupons to eligible households.

(a) *System classifications.* State agencies may issue food coupons through (1) a Household Issuance Record (HIR) card system in which the authorizing document is maintained at the issuance office, (2) an Authorization to Participate (ATP) system in which an authorizing document is distributed on a monthly basis to the household and surrendered to the coupon issuer when coupons are obtained, or (3) a direct coupon mailout system. In addition, the State agency may develop an automated issuance system, such as one using online issuance terminals, which cannot be readily categorized as either an HIR card or ATP system. Such alternative or modified systems shall meet the accountability requirements established in these regulations.

(b) *Advance planning documentation.* Prior to implementation of new systems or changes to current systems, the State agency shall submit all procedures in writing for approval by FNS. Plans for upgrading or establishing automated data processing (ADP) systems, including the acquisition, design, development, or installation of ADP equipment, shall be submitted in writing to the FNS Regional Office for prior approval if State and Federal combined costs are $10,000 or more in any calendar quarter. Such plans shall be detailed in an Advance Planning Document, prepared in accordance with the requirements of Part 277.

(c) *Certification documentation.* The State agency shall use either a notice of change or an HIR card to document and transmit information on household eligibility or participation from the certification unit to the data management unit of the State agency.

(d) *HIR master file.* (1) The State agency shall establish an HIR master file which is a composite of the issuance records of all certified food stamp households. The State agency shall establish the HIR master file in a manner compatible with the system used for maintaining case records and divide the HIR master file into active and inactive HIR's. The HIR master file shall contain all the information needed to identify certified households, issue ATPs, record the participation activity for each household and supply all information necessary to fulfill the reporting requirements of FNS.

(2) The HIR master file shall be kept current and accurate. HIR's will be updated, suspended, or terminated based upon notices of change and controls for expired certification periods and nonparticipation.

(3) Before establishing an HIR for a participant household, the State agency shall check the HIR master file to ensure that the household is not currently participating, disqualified or suspended. If the ATP is issued under the expedited service requirements of § 273.2(i), the State agency shall complete as much of the HIR master file check as possible prior to issuance of the ATP. Any uncompleted checks shall be completed after issuance of the ATP and appropriate corrective action shall be taken.

(4) In an ATP issuance system, the State agency shall review the HIR master file monthly for households that have failed to participate in the Program for two consecutive months. For all such households, the State agency shall suspend the printing of ATPs until the household indicates a desire to participate. The State agency shall notify the household of the suspension and advise the household to contact the State agency to continue participation. The State agency shall arrange for the resumption of issuance if the household wishes to continue participation. A suspended household shall not be terminated prior to the expiration of the certification period if otherwise eligible.

(e) *ATP issuance.* (1) ATPs issued by the State agency shall contain at a minimum:

(i) Serial number;

(ii) Case name, address and food stamp case number;

(iii) Coupon allotment of the household;

(iv) Expiration date;

(v) Project area for which that ATP is issued;

(vi) Space for the signature of the household member or the authorized representative; and

(vii) Spaces for household designation of an emergency authorized representative.

(2) The State agency may stagger the issuance of ATPs to certified households through the 15th day of the month provided that each house-

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hold's cycle shall be established so that it receives its ATP at the same time every month and it has an opportunity to obtain its coupons prior to the end of the month.

(3) The State agency shall clearly mark each ATP with an expiration date. The ATP shall be valid for the entire month of issuance unless an ATP has been issued after the 25th day of the month. If the State agency issues an ATP, on the 26th day of the month or later, it shall not expire until the end of the following month.

(4) The State agency shall void all ATPs mutilated or otherwise rejected during the preparation process. The voided ATPs shall either be filed for audit purposes or destroyed, provided destruction is witnessed by at least two persons and the State agency maintains a list of all destroyed ATP's.

(5) The State agency shall mail the ATP to the household in a first-class, nonforwarding envelope.

(6) The State agency shall exercise the following security and controls for ATPs returned as undeliverable by the Postal Service;

(i) Record the ATP serial number, household name, and case number in a control log.

(ii) Keep the returned ATPs in secure storage with access limited to authorized personnel while attempts are made to locate the household.

(iii) Record the final disposition of the ATP in the control log.

(iv) Destroy returned ATPs not reissued prior to their expiration date. Destruction shall be witnessed by at least two persons and noted on the original listing of returned ATPs.

(7) Prior to coupon issuance, the cashier shall ask the person requesting food stamps for identification as the certified participant, authorized representative or emergency representative. This person shall present to the cashier both the Food Stamp ID card and ATP. The cashier shall examine the ATP for authenticity, alteration and date of expiration. If the ATP is valid the person requesting food stamps shall sign the ATP in the presence of the cashier. The cashier shall compare the signature on the ATP with the signature on the ID card. In cases where an emergency representative obtains the coupons, the signature and identification check shall be governed by local agency policy. If the person requesting coupons has already signed the ATP, the person shall be required to sign a separate piece of paper for signature comparison. If the signatures agree, coupons shall be issued in accordance with paragraph (h) of this section.

(8) The State agency shall clearly differentiate between initial, supplemental, and replacement ATP issuances in its accountability system.

(9) The coupon issuer shall reconcile its issuance on a daily basis.

(10) The State agency shall provide for the issuance of coupon replacements due to improper manufacture, mutilation, or loss.

(f) *HIR card issuance system.* In an HIR card issuance system, the State agency shall divide the issuance responsibilities among a receptionist, cashier and supervisor.

(1) The receptionist shall maintain a separate daily tally sheet in duplicate for each cashier in the issuance unit to record the individual daily issuance transactions.

(2) The issuance supervisor shall prepare daily, or as appropriate, a cashier's daily report for each cashier to account for coupons issued.

(3) The receptionist shall check the ID card of the person wishing to obtain coupons against the HIR card from the HIR master file. An emergency representative must present a signed written statement from the head of the household or spouse authorizing the issuance of food stamps for the certified household. If satisfied with the identification, the receptionist shall select the daily tally sheet of the cashier from whom the household will receive the allotment, enter information about the transaction, and initial the HIR card before it goes to the cashier.

(4) Upon receipt of the HIR card from the receptionist, the cashier shall enter the amount of coupons issued and intiial the HIR card. The cashier shall also obtain the participant's signature on the HIR card and compare the signature with that on the ID card. If the signatures agree, the cashier shall issue coupons in accordance with paragraph (h) of this section.

(5) The coupon issuer shall reconcile daily its issuances using the daily tally sheet and the cashier's daily report.

(6) The State agency may stagger the issuance of coupons to certified households through the 15th of the month.

(7) The State agency shall provide a household certified for program participation after the 25th of the month the opportunity to obtain its allotment in the following month.

(8) The State agency shall provide for the issuance of coupon replacements due to improper manufacture, mutilation, or loss.

(g) *Expedited service.* (1) The State agency shall manually prepare and issue ATPs at the local level if necessary to provide an opportunity to participate to households certified on an expedited basis in accordance with § 273.2(i), to comply with the processing standards for initial and recertifications and for action on reported changes, and to replace lost or stolen ATPs or allotments. To minimize the possibility of misuse of manually-prepared ATPs, the State agency shall:

(i) Divide responsibility for the issuance of the ATP between at least two persons to prevent a single individual from having complete control over both the documents which authorize the issuance of ATPs and the ATPs themselves.

(ii) Record, immediately, on the HIR master file, the serial number and other issuance information from the ATP.

(2) For initial certifications, the State agency shall prevent duplicate or unauthorized participation by checking its records prior to issuing the manual ATP to assure the household is not currently certified for that month or is not disqualified from participation.

(3) The State agency shall issue an emergency replacement ATP only if the original ATP is reported lost or stolen in the period for which it was intended.

(i) Prior to authorizing the issuance of a replacement ATP, the State agency shall determine if:

(A) The household is currently certified.

(B) Sufficient time has elapsed for delivery to have been completed. Sufficient time shall not exceed five days from the miling date.

(C) The lost or stolen ATP was valid for the current month.

(ii) The participant must sign an affidavit stating that the original ATP will be returned to the State agency if recovered by the household. The affidavit shall be filed in the case file.

(iii) After two consecutive reported mail losses by a household, the State agency shall consider other means to deliver ATP's to the household.

(iv) On a monthly basis, the State agency shall provide a list of all ATPs reported as lost or stolen from the mail to the appropriate Postal Inspection service. The State agency should assist the Postal Inspection Service during the investigation and shall, upon request, supply the service with a facsimile of the original and replacement ATP's and a copy of the nonreceipt affidavit. The State agency shall advise the service if the original ATP is transacted.

(h) *Issuance of coupons to households.* The State agency shall issue coupon books in accordance with a table for coupon book issuance provided by FNS. The table provides participants with an efficient and economical distribution of the available coupons and coupon book types and assists FNS in maintaining proper inventory levels. The State agency may deviate from the table if the specified coupon books are unavailable. Exceptions from the table are authorized for blind and visually handicapped participants who request that all coupons be of one denomination. The State agency shall issue the coupon books in

consecutive serial number order whenever possible, starting with the lowest serial number in each coupon book denomination. A household member whose name appears on the ID card shall sign the coupon books.

§ 274.3 Issuance of coupons through the mail.

(a) *Types of mail issuance systems.* The State agency may issue some or all of the coupon allotments through the mail. State agencies shall determine whether to use a regular mail issuance system or a direct coupon mailing system. A regular mail issuance system is one which uses an authorization document as an intermediate step in mail issuance. A direct coupon mailing system is one which does not use an authorization document. The system, controls and forms designed by the State agency to operate a regular or direct coupon mail issuance system must be approved by FNS.

(b) *Mail issuance controls and records.* (1) The State agency shall establish and maintain a mail issuance log to record requests for mail issuance and the date and amount of coupons issued.

(2) All operations involving the maintenance of coupon inventory records, assembly of coupon allotments, envelope stuffing, and preparation of envelopes for mailing shall, if at all possible, be performed by at least two persons. If these functions are performed by one person, a second party review shall be made to verify coupon inventory, the reconciliation of the mail issuance log, and the number of mailings prepared. Offices using prestuffing methods must provide for dual accountability during the stuffing and addressing operations and maintain a perpetual coupon inventory control and mail issuance logs.

(3) The State agency shall establish controls which prevent a participant from obtaining coupons through both the mail and over-the-counter issuance systems.

(4) The State agency shall inform appropriate postal officials of the schedule for mailing coupons, the approximate volume and value of the mailings, and the type of envelopes to be used.

(5) At least first-class mail shall be used in mailing coupon allotments. The coupons shall be mailed in sturdy nonforwarding envelopes or other nonforwarding mailing packages.

(6) To minimize mail theft exposure, direct mail issuances shall be staggered through the 10th day of the month, and may be staggered through the 15th day provided that each household will likely receive its coupons on the same date every month. The State agencies shall ensure that coupons are not mailed to concentrations of households with the same zip code on the same day. FNS may provide waivers to State agencies that present adequate documentation to indicate that thefts from the mail will not represent a significant problem.

(7) State agencies which rely exclusively on mail issuance shall ensure that participants receive allotments on a timely basis and can receive timely replacement issuances either from the mailing center or local facilities. The State agency shall also ensure that it has an alternative issuance system to provide expedited service in accordance with § 273.2(i) and § 274.2(g).

(c) *Coupons lost in the mail.* (1) When a household reports the nondelivery of coupons issued through the mail, the State agency shall:

(i) Determine if the coupons were actually mailed;

(ii) Determine that sufficient time has elapsed for the coupons to have been received by the participant, but not more than five days;

(iii) Review the mail issuance log for the return of undelivered coupons;

(iv) Report all losses to the postal authorities. States shall also report to the postal authorities all patterns of losses in particular project areas or neighborhoods;

(v) Prepare and have the participant sign an affidavit;

(vi) Issue replacement coupons to the household within five days after the report of nondelivery has been received;

(vii) Record the report of nondelivery and the date of replacement on the mail issuance log; and

(viii) Take other action warranted by the reported nondelivery.

(2) After two consecutive reports of nondelivery concerning the same household, the State agency shall employ other issuance methods. These include:

(i) Using special delivery, certified or registered mail;

(ii) Arranging for the household to pick up its coupon allotment at the local post office; or

(iii) Moving the households from the mail issuance system to a regular over-the-counter system.

(3) If there is an increase in the loss of coupons issued through the mail, either in a particular area or throughout the mail issuance caseload, the State agency shall take corrective action to reduce the financial loss rate and improve service to participants.

(4) The State agency shall use certified mail issuance for its regular or direct mail program when the value of coupon replacements for an area exceeds the cost of using certified mail unless the State agency demonstrates to FNS that other corrective action is satisfactory. The State agency may also use certified mail where neighborhoods or individual households are experiencing loss problems.

(5) Coupons are "in the mail" when deposited with the Postal Service. FNS will assume financial liability for all coupons lost in the mail if the coupons were issued in accordance with FNS policies and procedures, unless FNS notifies the State agency that the loss rate has become unacceptable to FNS and that all further mailings shall be at the risk of the State agency. A State agency which refuses to establish certified mail when required to do so by FNS shall be held strictly liable for future mail issuance losses in the project areas concerned.

(d) *Mail issuance reporting on the Food Coupon Accountability Report.* (1) All mail issuance activity, including coupon mail issuance replacements, shall be reported on the Form FNS-250, Food Coupon Accountability Report.

(2) The coupon issuer shall attach copies of all replacement affidavits to Form FNS-250.

(3) Original allotments subsequently recovered by the issuance office during the current month shall be returned to inventory and noted on the mail issuance log. The replacement issuance shall not be reported on the Form FNS-250. The coupon issuer shall notify the post office of the return of coupon allotments previously reported as lost in the mail.

§ 274.4 Distribution of coupons.

(a) *Coupon inventory management.* The State agency shall establish a coupon inventory management system which ensures that coupons are requisitioned and inventories are maintained in accordance with the requirements of these regulations.

(1) The State agency shall monitor the coupon inventories of the coupon issuers and bulk storage points to ensure inventories are at proper levels and are not in excess of the reasonable needs of coupon issuers. The State agency shall consider, among other things, in detemining the reasonable inventory needs, the ease and feasibility of resupplying such inventories from storage supplies within the State as well as from the manufacturer. The inventory levels at coupon issuers and bulk storage points should not exceed a six-month supply, taking into account coupons on hand and on order.

(2) The State agency shall establish an accounting system for monitoring the inventory activities of coupon issuers. The State agency shall review the Form FNS-250, from coupon issuers, and the Form FNS-250-1, Food Coupon Book Reports, from bulk storage points, to determine the propriety and reasonableness of the inventories. Forms FNS-261, Advices of Shipment, Form FNS-300, Advices of Transfer, or an approved State agency form, and reports of returned mail issued coupons, reports of replacements of mail

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issued coupons, reports of improperly manufactured or mutilated coupons, reports of shortage or overage of food coupon books and physical inventory controls shall be used by the State agency to assure the accuracy of monthlky reports and their compliance with required inventory levels and the accuracy and reasonableness of coupon orders.

(b) *Coupon controls.* The State agency shall establish control and security procedures to safeguard coupons, similar to those used to protect currency. The State agency and all persons or organizations acting on its behalf, shall take the necessary precautions to: (1) safeguard coupons from theft, embezzlement, loss, damage, or destruction; (2) avoid unauthorized transfer, negotiation or use of coupons; and (3) avoid issuance and transfer of altered or counterfeit coupons. The exact nature of security arrangements will depend on State agency evaluation of local coupon issuance and storage facilities. These arrangements must permit the timely issuance of coupons while affording a reasonable degree of coupon security.

(c) *State coupon requisitioning.* The State agency shall arrange for the ordering of coupons and the prompt verification and written acceptance of the contents of each coupon shipment. The State agency shall furnish FNS with appropriate delivery hours and the names of the persons authorized to sign delivery acknowledgements.

(d) *FNS review of requisitions.* FNS will assess the reasonableness and propriety of food stamp requisitions submitted by State agencies based on prior inventory changes and will notify the State agency of any adjustments made to requisitions.

(e) *FNS shipment of coupons.* FNS will ship coupons, printed in such denominations as it may determine necessary, directly to State agency designated receiving points. FNS will promptly advise the State agency in writing when coupons are shipped to receiving points using Form FNS-261. Coupons shall be considered delivered to the State agency when FNS or its carrier has a signed receipt.

(f) *Shipment of coupons by the State agency.* (1) Once coupons have been accepted by receiving points within the State, any further movement of the coupons between coupon issuers and bulk storage points within the State is at the risk of the State agency. To minimize the risk of loss, coupons are usually shipped by armored car, armored vehicle, armored tractor/trailer, air, or the Postal Service. Movement of coupons by any of these methods of transportation is normally appropriate because stringent security is applied and the risk of loss is usually borne by the carrier.

(2) In every instance when coupons are transported the person(s) transporting coupons shall:

(i) Acknowledge their receipt, in writing;

(ii) Accord the coupons much protection as is reasonable;

(iii) Advise issuance supervisors of the routes to be taken, the shipment departure time and the estimated arrival time.

(g) *Specimen coupons.* FNS will provide non-negotiable specimen coupons to State agencies and firms upon written request for the purpose of educating and training employees on program operations.

(1) The State agency or firm shall store specimen coupons in secure storage with access limited to authorized personnel. The State agency or firm shall keep a perpetual record of specimen coupon inventory.

(2) Specimen coupons that are mutilated, improperly manufactured, or otherwise unusable, shall be destroyed by the State agency or firm. Such destruction shall be witnessed by two persons and noted on the perpetual inventory record maintained for specimen coupons.

§ 274.5 Responsibilities of coupon issuers and bulk storage points.

(a) *Receipt of coupons.* Coupon issuers and bulk storage points shall promptly verify and acknowledge, in writing, the contents of each coupon shipment delivered to them and shall be responsible for the custody, care, control, and storage of coupons.

(b) *Inventory levels.* Coupon issuers and bulk storage points shall maintain a proper level of coupon inventory not in excess of reasonable needs, taking into consideration the ease and feasibility of resupplying such coupon inventories. Such inventory levels should not exceed the six-month supply provided for in § 274.4(a).

(c) *Monthly reporting.* Coupon issuers and bulk storage points shall report monthly to FNS, through the State agency, using Form FNS-250 of Form FNS-250-1. The State agency shall prescribe a report due date, taking into consideration the time needed to perform the functions required in § 274.8. These reports shall be signed by the coupon issuer or appropriate corporate official, certifying that the information is true and correct to the best of that person's knowledge and belief. Reports shall be submitted to FNS by the State agency by the 45th day following the end of the report month.

(d) *Supporting documentation.* Coupon issuers and bulk storage points shall submit to the State agency supporting documentation which will allow verification of the monthly report. At a minimum, such documentation shall include documents supporting coupon shipments, transfers, and issuances. In those states using an ATP issuance system, coupon issuers shall submit transacted ATP's batched according to each day's activity, in accordance with the schedule prescribed by the State agency but, in any case, not less often than monthly.

(e) *Improperly manufactured or mutilated coupons.* Coupon issuers and bulk storage points shall cancel improperly manufactured or mutilated coupons or coupon books by writing or stamping "canceled" across the face of the coupon(s) and coupon book(s) and shall forward them with the appropriate documentation to the State agency.

§ 274.6 Reconcillation.

(a) *Verification of ATP issuance.* (1) In ATP issuance systems the State agency shall verify the number of ATP's received from the coupon issuers and the total value of authorized coupon issuances.

(2) ATP batches not reconciled shall be maintained intact by the State agency until the discrepancy is resolved with the coupon issuer.

(3) Following receipt and verification of the final batch of ATP's for the month, the State agency shall determine the total value of authorized issuances for each coupon issuer. Any expired or out-of-State ATP's shall be handled as coupon issuer errors and shall not be included in authorized issuance figures.

(b) *Reconciliation of ATP's with the HIR master file.* The State agency shall post and reconcile all transacted ATP's against the HIR master file. This posting and reconciliation shall, at a minimum, include for each ATP a comparison of the total coupon allotment. The State agency shall merge the records of the manually prepared initial, supplemental, and replacement ATP issuances with the HIR master file prior to posting and reconciling the transacted ATP's. Because ATP's issued after the 25th of the month may be redeemed in the following month and because supplemental ATP's may be issued during the month, the State agency shall establish a mechanism for the redemption of two valid ATP's in one month, and for the reconciliation and posting to the correct month of issuance. However, ATP's issued to replace ATP's reported lost or stolen shall be separately identifiable, as the transaction of both the original and replacement ATP represents a duplicate issuance which must be reported on a reconciliation report required in § 274.8(a).

(c) *Identification of unreconciled ATP's.* The State agency shall identify all transacted ATP's that are not reconciled with the HIR master file as expired, duplicated, altered, stolen, counterfeit, or out-of-State. This identification shall be used to establish the liabilities of the State agency and FNS on a reconciliation report and for determination of corrective or claims action.

(d) *HIR reconciliation to the case files.* In an HIR issuance system, the State agency shall conduct a semiannual comparison of the active and inactive HIR cards against the case files. At a minimum, 20 percent of all active and inactive HIR cards shall be selected at random for the comparison. If the State agency discovers an HIR card during the review for which a case file cannot be located, the State agency shall conduct a total review of the active case files. The State agency shall immediately document and report any discrepancies discovered during the semiannual review to FNS.

§ 274.7 Issuance record retention and security.

(a) *Availability of issuance records.* The State agency shall maintain issuance records for a period of three years, following the end of the fiscal year of origin. This period may be extended at the written request of FNS.

(1) Issuance records shall include, at a minimun: notices of change, HIR cards, inventory records, transacted ATP's or similar authorizing documents, Forms FNS-250, Forms FNS-250-1 and substantiating documents, cashier's daily reports, receptionist's daily tally sheets, and the HIR master file.

(2) In lieu of the records themselves, microfilm, microfiche, or computer tapes may be maintained, as long as they are easily retrievable for audit review purposes.

(b) *Control of issuance documents.* The State agency shall control all issuance documents which establish household eligibility while the documents are transferred and processed within the State agency. The State agency shall use numbers, batching, inventory control logs or similar controls from the point of initial receipt through the issuance and reconciliation process. The State agency shall also ensure the security and control of ATP's in transit from the manufacturer to the State agency.

(c) *Accountable documents.* HIR cards, ATP's, ID cards, and Forms FNS-286 shall be considered accountable documents. The State agency shall provide the following minimum security and control procedures for these documents:

(1) Preprinted serial numbers;

(2) Secure storage;

(3) Access limited to authorized personnel;

(4) Bulk inventory control records;

(5) Subsequent control records maintained through the point of issuance or use; and

(6) Periodic review and validation of inventory controls and records by parties not otherwise involved in maintaining control records.

(d) *Notice of change security.* For notices of change which initiate, update, suspend, or terminate the HIR, the State agency shall at a minimum, provide secure storage and limit access to authorized personnel.

§ 274.8 State agency reporting and destruction of unusable coupons.

(a) *State agency reporting.* (1) The State agency shall report to FNS when a project area, reconciliation point, or coupon shipment receiving point is created, changed or terminated at least 30 days prior to the effective date of the action. A reconciliation point is that point in the State agency where transacted ATP's are reconciled with the HIR master file. Although initial notification may be made by telephone, the State agency shall confirm the information in writing as soon as possible.

(2) The State agency shall review Form FNS-250, and Form FNS-250-1, received monthly from coupon issuers and bulk storage points for accuracy, completeness, and reasonableness. The State agency shall attest to the accuracy of these reports and submit them to FNS so that they will be received in FNS by the 45th day following the end of the report month.

(3) The State agency shall submit to FNS a Form FNS-259, Food Stamp Mail Issuance Report, for each project area using a mail issuance system. The State agency shall verify the issuance and replacement figures by a comparison with the issuance and replacement figures on the appropriate coupon issuer's Form FNS-250. This report shall be submitted to FNS so that it will be received in FNS by the 45th day following the end of each quarter.

(4) FNS shall review each Form FNS-250 and FNS-250-1, submitted through the State agency for completeness, accuracy, and reasonableness and shall reconcile inventory with shipping records. FNS will review State agency verification of coupon issuer and bulk storage point monthly reports. FNS may supplement this review by unannounced spot checks of inventory levels and coupon security arrangements at selected coupon issuers and bulk storage points.

(5) Any State agency having an ATP issuance system shall report monthly to FNS on the reconciliation of the transacted ATP's against the HIR master file on a Food Stamp Reconciliation Report. This report shall be prepared at the level of the State agency where the actual reconciliation of the transacted ATP's to the HIR master file takes place. This report shall be submitted to FNS so that it will be received in FNS by the 45th day following the end of the report month.

(6) The State agency shall submit to FNS Form FNS-256, Monthly Report of Participation and Coupon Issuance, for each project area. The State agency shall compile figures after the end of the issuance month based on HIR card data or transacted ATP's. These figures shall be detailed by project area and include all issuances supported by issuance documents including expired, altered, stolen, counterfeit and duplicate issuances. This report shall be submitted to FNS so that it will be received in FNS by the 35th day following the report month.

(b) *Destruction of unusable coupons.* (1) After verification of the reports received from the coupon issuers and bulk storage points, the State agency shall destroy improperly manufactured or mutilated coupons or coupon books received from coupon issuers and bulk storage points, and unusable coupons or coupon books returned by households, provided that:

(i) It has been determined that the value of coupons does not exceed $200 per coupon issuer or bulk storage point for any month; and

(ii) The State agency has determined that the coupons were in fact improperly manufactured or mutilated.

(2) The State agency shall destroy the coupons and coupon books by burning, shredding, tearing or cutting so they are not negotiable. Two State agency officials shall witness and certify the destruction and forward the Form FNS-136, Certificate of Destruction of Food Coupons, with the Form FNS-250 or Form FNS-250-1.

(3) If the value of the coupons to be destroyed exceeds $200 per coupon issuer, the State agency shall request FNS approval prior to any destruction of the coupons.

(4) If either the coupon issuer, the bulk storage point or the State agency cannot determine whether coupons or coupon books were in fact improperly manufactured or establish the value of the coupons involved, the State agency shall promptly forward a written statement of findings and the canceled coupon(s) or coupon book(s) to FNS for a determination.

§ 274.9 Close-out of a coupon issuer.

(a) *Definition of responsibilities.* Whenever the services of a coupon issuer or bulk storage point are terminated, the State agency shall perform the responsibilities described below. If a coupon issuer or bulk storage point has more than one functioning unit and one of these facilities is terminated, the coupon issuer or bulk storage point shall fulfill the responsibilities described in paragraphs (b) and (c) of this section. The coupon issuer or bulk storage point shall notify the State agency of the pending termination of any of its services prior to the actual termination. The State agency shall promptly notify FNS.

(b) *Close-out accountability.* The State agency shall perform a close-out

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audit of a coupon issuer or bulk storage point within 30 days of termination of the issuance or storage point. The State agency shall report the findings of the audit to FNS immediately upon its completion. If the audit determines that the final FNS-250 or 250-1 is incorrect, the State agency shall promptly provide a corrected report to FNS.

(c) *Transfer of coupon inventory.* (1) Prior to the transfer of coupon inventory to another coupon issuer or bulk storage point, the State agency shall perform an actual physical count of coupons on hand.

(2) The State agency shall transfer the inventory to another coupon issuer or bulk storage point preferable within the same project area. The transfer of coupons shall be properly reported and documented by both the point being terminated and the point receiving the inventory.

(d) *Maintenance of participant service.* (1) At least 30 days before actual termination of a coupon issuer, the State agency shall notify project area participants of the impending closure. Notification shall include identification of alternative issuance locations and available public transportation.

(2) If closure of the issuer will affect a substantial portion of the caseload or a specific geographic area, the State agency shall take whatever action is necessary to maintain participant service.

(3) If a coupon issuer of bulk storage point is to be closed for noncompliance with contractual requirements and alternative issuance facilities or systems are not readily available, the State agency may continue to use the coupon issuer or bulk storage point for a limited time. In these situations, the State agency shall perform weekly on-site reconciliations of coupon issuance. The State agency shall continue to actively seek other issuance or storage alternatives and shall, in no case, use the coupon issuer or bulk storage point for more than 30 days from the date the decision is made to terminate its operations.

§ 274.10 Use or redemption of coupons by eligible households.

(a) *Eligible food.* A household member should sign each coupon book issued to the household. The coupons may be used only by the household, or other persons the household selects, to purchase eligible food for the household, which includes, for certain households residing in certain designated areas of Alaska, the purchase of hunting and fishing equipment with coupons. Uncanceled and unendorsed coupons of 1-dollar denomination, returned as change by authorized retail food stores, may be presented as payment for eligible food. All other detached coupons may be accepted only if accompanied by the coupon book which bears the same serial number as the detached coupons. It is the right of the household or the authorized representative to detach the coupons from the book.

(b) *Meals-on-wheels.* Eligible household members 60 years of age or over or members who are housebound, physically handicapped or otherwise disabled to the extent that they are unable to adequately prepare all their meals, and their spouses, may use coupons to purchase meals prepared for and delivered to them by a nonprofit meal delivery service authorized by FNS.

(c) *Communal dining.* Eligible household members 60 years of age or over and their spouses, or those receiving SSI and their spouses, may use coupons issued to them to purchase meals prepared especially for them at communal dining facilities authorized by FNS for that purpose.

(d) *Addict/alcoholics.* Members of eligible households who are narcotics addicts or alcoholics and who regularly participate in a drug or alcoholic treatment and rehabilitation program may use coupons to purchase food prepared for them during the course of such program by a private nonprofit organization or institution authorized by FNS.

(e) *Alaskan hunting/fishing equipment.* Eligible households residing in areas of Alaska determined by FNS as areas where access to retail food stores is difficult and who rely substantially on hunting and fishing for subsistence may use all or any part of the coupons issued to them to purchase hunting and fishing equipment such as nets, hooks, rods, harpoons and knives, but excluding firearms, ammunition and other explosives.

(f) *Use of ID cards.* Upon request, the household or the authorized representative shall present the household's ID card to the retail food store or meal service when exchanging food coupons for eligible food.

(g) *Prior payment prohibition.* Coupons shall not be used to pay for any eligible food purchased prior to the time at which the coupons are presented to authorized retail food stores or meal services. Neither shall coupons be used to pay for any eligible food in advance of the receipt of food, except when prior payment is for food purchased from a nonprofit cooperative food purchasing venture.

(h) *Cash change.* When change in an amount less than 1 dollar is required in a coupon transaction, the household shall receive the change in cash not to exceed 99 cents.

§ 274.11 Return of coupons.

(a) *Refund of purchase requirement.* In the event of voluntary termination of participation in the program by a household or death of the head of the household, properly issued coupons may be returned to FNS for a refund on the same ratio of cash to coupons as was applied by the State agency in the issuance of the coupons to the household.

(b) *Filing refund request.* A request for a refund shall be submitted to the State agency. The request for such a refund shall be made in accordance with the following requirements: (1) It shall be in ink or typed, (2) it shall contain the claimant's address, (3) it shall be dated and signed, and (4) the unused coupons shall be attached.

(c) *FNS payments.* State agencies shall forward claims to FNS for payment. The claimant's request for a refund, a completed Form FNS-287, Request for Reimbursement or Notification of Return of Unused Food Coupons for Refund, and the unused coupons shall be forwarded to FNS by the State agency.

(d) *Limit on refunds.* Six months after elimination of the purchase requirement, no refunds shall be paid for coupons returned to FNS. Coupons will be accepted by FNS for accounting and disposition only. Households should be reminded that even if they are not currently eligible, properly issued coupons may be redeemed by them at any time in authorized retail stores.

(e) *Old series coupon exchange.* Households which still have old series coupons shall be entitled to a dollar for dollar exchange of old series coupons for new series coupons. When only a 50-cent coupon is offered for exchange or the coupons offered include an odd number of 50-cent coupons, a new series one dollar coupon will be given for the odd 50-cent coupon. Households in possession of old series coupons shall submit the coupons and a request for exchange to the State agency. State agencies may make direct exchange to claimants or request FNS to make the exchange.

5. Part 275 remains in force and effect but is redesignated as a new Part 277. The new Part 275 is reserved except that § 275.10 of former Part 275 remains in force. A new part 276 is added and reserved. As noted previously, former paragraphs 271.1(t) and 271.7(a)-(d) remain in force and effect and are redesignated in the new Part 276. A new Part 277 is added and contains the redesignated Part 275. Former paragraphs 271.1(h), 271.2, 271.5-275.9, 275.11-275.16, and Appendix A of former Part 275 remain in force and effect in the new Part 277. The titles of the new Parts 275, 276, and 278 read as follows:

PART 275—PROGRAM MONITORING SYSTEM

(Reserved. Section 275.10 of the current regulations remains in force.)

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PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

(Reserved. Sections 271.1(t) and 271.7(a)-(d) of the current regulations remain in force and effect.)

PART 277—PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

(Reserved. Sections 271.1(h), 271.2, 275.1-275.9, 275.11-275.16, and Appendix A of Part 275 in the current regulations remain in force and effect.)

6. A new Part 278 contains the redesignated Part 272 and is revised to read as follows:

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND BANKS

Sec.

278.1 Approval of retail food stores and wholesale food concerns.
278.2 Participation of retail food stores.
278.3 Participation of wholesale food concerns.
278.4 Procedures for redeeming coupons.
278.5 Participation of banks.
278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.
278.7 Determination and disposition of claims—retail food stores and wholesale food concerns.
278.8 Administrative review—retail food stores and wholesale food concerns.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 278.1 Approval of retail food stores and wholesale food concerns.

(a) *Application.* Any firm desiring to participate in the program shall file an application as prescribed by FNS. FNS shall deny or approve authorization, or request more information, within 30 days of receipt of the application.

(b) *Determination of authorization.* An applicant shall provide sufficient data on the nature and scope of the firm's business for FNS to determine whether the applicant's participation will further the purposes of the program. In making this determination FNS shall consider all of the following:

(1) *The nature and extent of the food business conducted by the applicant.* (i) Retail food stores which sell primarily food for home preparation and consumption and in which one or more staple food items, as defined in § 271.2, make up more than 50 percent of food sales shall normally be considered to have food business of a nature and extent which will further the purposes of the program. These stores shall include: full-line grocery stores; stores which sell meat, poultry, or fish; stands which sell agricultural commodities; farmers markets; milk routes; bread routes; day-old bread stores; bakeries and pastry shops which sell bread; and nonprofit cooperative food-purchasing ventures which meet any applicable local requirements for retail firms and name a manager to deal with FNS, even though they accept coupons before delivering the food orders brought with the coupons.

(ii) Firms whose primary business is not the sale of food for home preparation and consumption, but who have recognized grocery departments in which staple food make up more than 50 percent of foods sales, shall normally be considered to have food business of a nature and extent which will qualify the store for participation in the program. In determining whether a store's staple food business is sufficient for the store to qualify for participation in the program, FNS shall also consider:

(A) The volume of staple food business the store does;

(B) The amount of sales of staple foods compared to other business conducted by the firm; and

(C) The availability of other authorized food stores in the area.

(iii) Wholesale food concerns whose primary business is the sale of eligible food at wholesale, and in which one or more staple food items, as defined in § 271.2, make up more than 50 percent of food sales, shall normally be considered to have food business of a nature and extent which will further the purposes of the program.

(2) *The volume of coupon business which FNS may reasonably expect the firm to do.* FNS may consider such factors as the location of a store in evaluating the ability of an applicant firm to attract food stamp business.

(3) *The business integrity and reputation of the applicant.* FNS may consider:

(i) Criminal conviction records reflecting on the honesty or integrity of officers or managers of the applicant firm;

(ii) Official records of removal from other Federal, State, or local programs;

(iii) Judicial determinations in civil litigation adversely reflecting on the integrity of officers or managers of the applicant firm;

(iv) Evidence of an attempt to circumvent a period of disqualification from the Food Stamp Program for violations of the Food Stamp Act and the provisions of this part;

(v) Evidence of prior fraudulent behavior of officers, managers of employees of the applicant firm; and

(vi) Any other evidence reflecting on the business integrity and reputation of the applicant.

(4) *Other factors.* Any other factors which FNS considers pertinent to the application under consideration.

(c) *Wholesalers.* A wholesale food concern may be authorized if it meets the requirements of paragraphs (a) and (b) of this section. In addition, a wholesale food concern may be authorized only if an authorized retail food store depends on that concern as a coupon redemption outlet. In addition, no firm may be authorized to accept and redeem coupons both as a retail food store and a wholesale food concern at the same time, nor may a firm be authorized as a wholesale food concern if its owner or owners also own a firm which is authorized as a retail food store.

(d) *Meal Services.* A meal delivery service or communal dining facility desiring to prepare and serve meals to households eligible under § 271.3(a) (2) and (3), in addition to meeting the requirements of paragraphs (a) and (b) of this section, must establish that:

(1) It is recognized as a tax exempt organization by the Internal Revenue Service; or

(2) It is a private establishment operating under a contract with a State or local agency to prepare and serve (or deliver) meals to elderly persons (and, in the case of meal delivery services, to elderly persons, or handicapped persons, or both) and their spouses, at concessional prices.

(e) *Treatment programs.* Drug addict or alcoholic treatment and rehabilitation programs wishing to prepare and serve meals to households eligible under § 271.3(a) (2) must, in addition to meeting requirements of paragraphs (a), (b), and (d)(1) of this section, be certified by the State agency or agencies designated by the Governor as responsible for the State's programs for alcoholics and drug addicts under Public Law 91-616, "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970" And Public Law 92-555, "Drug Abuse Office and Treatment Act of 1972," as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics. In addition, the certification must show that the treatment program meets the standards required of treatment programs under the supervision of the State agency or agencies designated by the Governor as responsible for the State's programs for alcoholics and drug addicts. Approval to participate is automatically canceled at any time that a program loses its certification from the State agency or agencies.

(f) *Authorization card.* Upon approval, FNS shall issue a nontransferable authorization card to the firm. The authorization card shall be retained by the firm until superseded, surrendered, or revoked as provided in this part.

(g) *Denying authorization.* FNS shall deny the application of any firm if it determines that:

(1) The firm does not qualify for participation in the program as speci-

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fied in paragraphs (b), (c), (d), and (e) of this section; or

(2) The firm has failed to pay in full any civil money penalty under § 278.6 or any fiscal claim assessed against the firm under § 278.7 FNS shall issue a notice to the firm by certified mail or personal service of any authorization denial and shall advise the firm that it may request review of that determination.

(h) *Withdrawing authorization.* FNS shall withdraw the authorization of any firm authorized to participate in the Program if it determines that the firm's continued participation will not further the purposes of the Program. FNS shall issue a notice to the firm by certified mail or personal service to inform the firm of the determination and of the review procedure. FNS shall remove the firm from the Program if the firm does not request review within the period specified in § 279.5.

(i) *Updating information.* FNS may require, from time to time, but not more than once each Federal fiscal year, a firm to update any or all of the information on the original application form. Failure to provide this information may result in the withdrawal of the firm's approval to participate in the Program.

(j) *Applications containing false information.* The filing of any application containing false or misleading information may result in the denial or withdrawal of approval to participate in the Program and may subject the firm and persons responsible to civil or criminal action.

(k) *Administrative review.* Any withdrawal or denial of authorization to participate in the program shall be subject to administrative review under § 278.8.

(l) *Safeguarding privacy.* The contents of applications or other information furnished by firms, including information on their gross sales and food sales volumes and their redemptions of coupons, may not be used or disclosed to anyone except for purposes directly connected with the administration and enforcement of the Food Stamp Act and these regulations.

§ 278.2 Participation of retail food stores.

(a) *Official Food List.* Authorized retail food stores shall post in the store the "Official Food List" issued by FNS.

(b) *Use of coupons.* Coupons shall be accepted by an authorized retail food store only in exchange for eligible food. Coupons may not be accepted in exchange for cash, except when cash is returned as change in a transaction in which coupons were accepted in payment for eligible food, under paragraph (e) of this section. Coupons may not be accepted in payment of interest on loans, or for any other nonfood use.

(c) *Equal treatment for coupon customers.* Coupons shall be accepted for eligible foods at the same prices and on the same terms and conditions applicable to cash purchases of the same foods at the same store. However, nothing in this part may be construed as authorizing FNS to specify the prices at which retail food stores may sell food. No retail food store may single out coupon users for special treatment in any way.

(d) *Accepting coupons.* No authorized retail food store may accept coupons marked "paid," "canceled," or "specimen," coupons bearing the name of any bank, or coupons of other than the 1-dollar denomination which have been detached from the coupon books prior to the time of purchase or delivery of eligible food unless the detached coupons are accompanied by the coupon books which bear the same serial numbers that appear on the detached coupons. It is the right of the household member or the authorized representative to detach the coupons from the book.

(e) *Making change.* An authorized retail food store shall use, for the purpose of making change, uncanceled and unmarked 1-dollar coupons which were previously accepted for eligible foods. If change in an amount of less than 1 dollar is required, the eligible household shall receive the change in cash. At no time may cash change in excess of 99 cents be returned in a coupon transaction. An authorized retailed may not engage in a series of coupon transactions of less than $1 the purpose of which is to provide the same food stamp customer an amount of cash change greater than the maximum 99 cents cash change allowed in one transaction.

(f) *Accepting coupons before delivery.* Food retailers may not accept coupons before delivering the food, retain custody of any unspent coupons, or in any way prevent an eligible household from using coupons in making purchases from other authorized firms. However, a nonprofit cooperative food purchasing venture may accept coupons from a member of the cooperative at the time the member places a food order. The food ordered must be made available to the member within 10 days from the day the cooperative receives the member's coupons.

(g) *Paying credit accounts.* Coupons may not be accepted by an authorized retail food store in payment for any eligible food sold to a household on credit.

(h) *Redeeming coupons.* Authorized retail food stores may exchange coupons in accordance with this part for face value, upon presentation through the banking system or through a wholesale food concern authorized to accept coupons from that retailer. Authorized drug addict and alcoholic treatment and rehabilitation programs may present coupons for redemption only through authorized retail stores or wholesale food concerns. Authorized drug addict and alcoholic treatment and rehabilitation programs may not present coupons directly to a bank for redemption.

(i) *Identifying coupon users.* Coupons may not knowingly be accepted from persons who have no right to possession of coupons for use as prescribed in this part. If a food retailer has any cause to believe that a person presenting coupons has no right to use the coupons, the food retailer should request the person to show the ID card of the household to establish the right of that person to use the coupons.

(j) *Checking meal delivery service recipients.* A nonprofit meal delivery service shall require the recipient of a delivered meal to show the marked ID card establishing the recipient's right to use coupons for that service the first time that the recipient offers coupons in payment for the service, and shall request the marked ID card at any time the nonprofit meal delivery service has cause to question the continued eligibility of the recipient to use coupons for delivered meals.

(k) *Checking hunting and fishing equipment users.* Authorized Alaskan retailers shall require coupon customers wanting to purchase hunting and fishing equipment with coupons to show their ID cards to determine that they live in an area designated by FNS as one in which persons are dependent upon hunting and fishing for subsistence.

§ 278.3 Participation of wholesale food concerns.

(a) *Accepting coupons.* A wholesale food concern may redeem endorsed coupons from an authorized retail food store or authorized drug addict or alcoholic treatment program, if the coupons are accompanied by a properly filled-out signed redemption certificate, and are not marked "paid," "canceled," or "specimen."

(b) *Accepting legally obtained coupons.* No authorized wholesale food concern may accept coupons if the wholesaler knows or has reasonable cause to believe that the coupons were not legally obtained for eligible food.

(c) *Redeeming coupons.* An authorized wholesale food concern may redeem coupons, properly accepted from retailers, through the banking system, upon presentatioin of the coupons with:

(1) The authorized retail food store's properly filled-out and signed redemption certificate for the coupons; and

(2) The authorized wholesale food concern's properly filled-out and signed redemption certificate.

(d) *Handling retailer redemption certificates.* No authorized wholesale food concern may alter, prepare, or complete an authorized retail food store's redemption certificate.

§ 278.4 Procedure for redeeming coupons.

(a) *Coupons accepted without authorization.* Coupons accepted by a retail food store or a wholesale food concern before the receipt by the firm of an authorization card from FNS may not be presented for redemption unless the FNS Officer In Charge has approved the redemption under § 278.7(b). Burned or mutilated coupons shall be presented for redemption to the FNS Officer In Charge as provided in § 278.7(c).

(b) *Endorsing coupons.* Each authorized retail food store or authorized wholesale food concern shall mark its authorization number or name on each coupon before it presents the coupons for redemption.

(c) *Using redemption certificates.* Authorized firms will be provided by FNS with redemption certificates which the firms, except for drug addict and alcholic treatment and rehabilitation programs, shall use in presenting coupons to commercial banks for credit or for cash. Authorized retail food stores, including meal services, may also use the certificates in presenting coupons to authorized wholesale food concerns for redemption.

§ 278.5 Participation of banks.

(a) *Accepting coupons.* Banks may redeem coupons only from authorized retail food stores, meal services, and wholesale food concerns in accordance with this part and the instructions of the Federal Reserve Banks. Coupons submitted to banks for credit or for cash must be properly endorsed in accordance with § 278.4 and shall be accompanied by a properly filled-out and signed redemption certificate. Banks may require persons presenting coupons for redemption to show their authorization cards. Redemption certificates accepted by receiving banks shall be forwarded at least once a week to:

Minneapolis ADP Field Center, Food and Nutrition Service, USDA, 3930 West 65th Street, Minneapolis, Minn. 55435.

Coupons redeemed must be canceled by or for the first bank receiving the coupons by indelibly marking "paid" or "canceled" together with the name of the bank, or its routing symbol transit number, on each coupon. A portion of a coupon consisting of less than three-fifths of a whole coupon may not be redeemed by banks. Banks which are members of the Federal Reserve System, nonmember clearing banks, and nonmember banks which have arranged with a Federal Reserve Bank to deposit coupons for credit to the account of a member bank on the books of the Federal Reserve Bank may forward canceled coupons directly to the Federal Reserve Banks. Other banks may forward canceled coupons through ordinary collection channels.

(b) *Role of Federal Reserve Banks.* Federal Reserve Banks, acting as fiscal agents of the United States, will receive canceled coupons for collection as cash items from armed forces installations, member banks of the Federal Reserve System, nonmember clearing banks, and nonmember banks which have arranged with a Federal Reserve Bank to deposit coupons for credit to the account of a member bank on the books of the Federal Reserve Bank, and will charge those items to the general account of the Treasurer of the United States.

(c) *FNS liability for loss in transit.* (1) FNS shall be liable for losses of shipments of canceled coupons while the transit to Federal Reserve or correspondent banks, except that:

(i) Coupons are not in transit while in the custody of the transmitting bank, the Federal Reserve, the correspondent bank, or their employees.

(ii) The bank must be unable to recover the loss from the carrier, and when there is a partial loss, there must be evidence that the package was tampered with or damaged in transit. The Federal Reserve and correspondent bank shall record the condition of packages which on receipt appear to have been tampered with or damaged in transit.

(iii) The Federal Reserve or correspondent bank must provide a statement that the shipment or part of the shipment was not received. In the event of a partial loss, this statement shall specify the condition of the package upon receipt and state whether it appeared to have been tampered with or damaged in transit.

(2) The commercial bank shall give a prompt written report of loss or damage to the post office, or other carrier.

(3) Commercial banks shall submit the following documents to FNS in support of any claim for payment for coupons lost in transit:

(i) A copy of the notification of loss to the post office or other carrier;

(ii) An affidavit detailing the facts and the bank's procedures for making the shipment, the expected recovery from the carrier, and for partial losses, the condition of the package upon receipt and the basis for asserting whether it appeared to have been tampered with or damaged in transit;

(iii) A statement from the Federal Reserve or correspondent bank that the shipment or part of the shipment was not received. In the event of a partial loss, this statement shall state the basis for asserting whether the loss resulted from the package being tampered with or damaged in transit;

(iv) A copy of the cash letter which transmitted the shipment.

(4) FNS will obtain copies of the redemption certificates corresponding to claims.

(d) *FNS use of coupons to detect violations.* Regardless of any other provision in these regulations, coupons may be issued to, purchased by, or redeemed by persons authorized by FNS to use those coupons in examining and inspecting program operations, and for other purposes determined by FNS to be required for proper administration of the Program. Coupons which have been so issued and used, as well as any coupons which have been issued under paragraph (f) of this section, or which FNS believes may have been issued, transferred, negotiated, used, or received in violation of this subchapter or of any applicable statute, shall at the request of FNS and on issuance of a receipt for them by that person, be turned over to FNS by the bank receiving the coupons, or by any other person to whom the request is addressed, together with any certificate(s) of redemption accompanying the coupons. Any coupons so requested shall not after the request be eligible for redemption through Federal Reserve Banks or other collection channels.

However, FNS may redeem the coupons from any bank or person by payment of the face amount of the coupons upon determination by FNS that this direct redemption of coupons is warranted. FNS shall determine the proper disposition of any coupons held by FNS on completion of the examination or inspection in which the coupons were used. Claims or demands for unredeemed coupons surrended to FNS may be mailed to the local FNS Field Office for the project area involved.

(e) *Selling coupons to stores for internal checks.* FNS may sell coupons at face value to any authorized retail food store which wishes to use coupons to conduct internal checks of coupon transactions. The retail food store must submit a written request to FNS which shall include a certification that the store recognizes that its use of coupons will not affect FNS action to enforce program regulations and that the requested coupons will be used only for internal checks of the store's employees and only to uncover sales of items other than eligible foods. The request shall also include the name of the city or county in which the stores to be checked through the use of the requested coupons are located and the name and address of any outside agency with which the retail food store has or will have a contract to conduct checks of the store's employees using coupons. The request shall be directed to the Federal Operations Division, FNS, U.S. Department of Agriculture, Washington, D.C. 20250, and shall be

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accompanied by a check or money order made payable to the Food and Nutrition Service to cover the face value cost of the coupons requested. Coupons bought by retail food stores for use in internal checks may be later redeemed for full value in accordance with § 278.4, and in redeeming those coupons, retail food stores are authorized to make the certification required for redemption.

(f) *Continued participation of households under investigation.* Upon the written request of Federal, State, or local government agencies which have authority to investigate, and are investigating, suspected violations of Federal or State statutes concerning the enforcement of the Food Stamp Act or the regulations, the State agency may allow ineligible households to continue program participation. The State agency may allow the households to continue participation in the program until the earlier of (1) expiration of the period of 90 days after the request is received or any longer period which FNS, upon request of the State agency, may approve in a particular case, or (2) receipt of notification from the investigative agency that participation may be terminated or that the investigation has been completed. Regardless of any other provision of these regulations, FNS may not hold the State agency liable for the value of any coupons issued to households under this paragraph.

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

(a) *Authority to disqualify or subject to a civil money penalty.* FNS may disqualify any authorized retail food store or authorized wholesale food concern from further participation in the program for a reasonable period of time, not to exceed 3 years, as FNS may determine, if the firm fails to comply with the Food Stamp Act or this part. Any firm which has been disqualified and which wishes to be reinstated at the end of the period of disqualification or at any later time shall file a new application so that FNS may determine whether reinstatement is appropriate. The application may be filed starting 10 days before the end of the period of disqualification. FNS may, in lieu of a disqualification, subject the firm to a civil money penalty of up to $5,000 for each violation if FNS determines that a disqualification would cause hardship to participating households.

(b) *Charge letter.* Any firm considered for disqualification or imposition of a civil money penalty under paragraph (a) of this section shall have full opportunity to submit to FNS information, explanation, or evidence concerning any instances of noncompliance before FNS makes a final administrative determination. The FNS Regional Office shall send the firm a letter of charges before the determination. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification or imposition of a civil money penalty. The letter shall inform the firm that it may respond either orally or in writing to the charges contained in the letter within 10 days of receiving the letter. The firm's response shall set forth a statement of evidence, information, or explanation concerning the specified violations or acts. The firm shall make its response, if any, to the Officer In Charge of the FNS Field Office which has responsibility for the project area in which the firm is located.

(c) *Review of evidence.* The letter of charges, the response, and any other information available to FNS shall be reviewed and considered by the appropriate FNS Regional Office, which shall then issue the determination.

(d) *Basis for determination.* The FNS Regional Office making a disqualification or penalty determination shall consider: (1) the nature and scope of the violations committed by personnel of the firm, (2) any prior action taken by FNS to warn the firm about the possibility that violations are occurring, and (3) any other evidence that shows the firm's intent to violate the regualtions.

(e) *Penalties.* FNS shall take action as follows against any firm determined to have violated the Act or regulations. The FNS Regional Office shall:

(1) Disqualify the firm for 3 years if:

(i) The firm has engaged in fraudulent schemes to illegally acquire or redeem large amounts of couponis; or

(ii) Personnel of the firm have committed flagrant violations of this part, such as buying large amounts of coupons or trafficking in ATP cards, which have resulted in major diversions of food stamp funds from their intended purpose.

(2) Disqualify the firm for 1 year if: (i) Personnel of the firm have bought coupons at a discount,

(ii) Personnel of the firm have sold expensive or conspicuous nonfood items, cartons of cigarettes, or alcoholic beverages in exchange for coupons, or

(iii) The firm's redemptions for a specified period of time have exceeded its food sales for the same period of time.

(3) Disqualify the firm for 6 months if: (i) Personnel of the firm have committed violations such as the sale of common nonfood items in the amounts which are normally found in a shopping basket, and

(ii) The evidence shows that the violations are encouraged by the firm.

(4) Disqualify the firm for 90 days if management personnel of the firm have committed violations such as described in paragraph (3)(i) of this subsection, and there is no indication that FNS has specifically warned the firm about the possibility that violations are occurring and of the possible consequences of violating the regulations.

(5) Disqualify the firm for 60 days if the evidence shows that violations such as those described in paragraph (e)(3) (i) of this section occurred, but that the violations resulted from carelessness or poor supervision by the firm's management.

(6) Disqualify the firm for 30 days if the evidence shows that: (i) Violations such as those described in paragraph (e)(3) (i) of this section occurred as a result of carelessness or poor supervision by the firm's management, but FNS has not specifically warned the firm about the possibility that violations are occurring and of the possible consequences of violating the regulations, or

(ii) The violations are limited in nature and scope, and FNS has made a specific attempt to warn the firm that violations may be occurring and of the possible consequences of violating the regulations.

(7) Send the firm a warning letter if violations occurred, but the evidence of violations is too limited to warrant a disqualification.

(f) *Previous penalties.* The FNS Regional Office may assign a penalty that is more severe than the penalty normally warranted by the evidence of violations if the firm has been previously disqualified or has been previously assigned a civil money penalty.

(g) *Criteria for civil money penalty.* FNS may impose a civil money penalty only when the firm subject to a disqualification is selling a substantial variety of staple food items, and there is no other authorized retail food store in the area selling as large a variety of staple food items at comparable prices.

(h) *Amount of civil money penalty.* FNS shall determine the amount of the civil money penalty as follows:

(1) Determine the firm's average monthly redemptions of coupons for the most recent 12-month period;

(2) Multiply the average monthly redemption figure by 5 percent to represent the loss of profits that would result from the loss of coupon business and related cash business;

(3) Multiply the product arrived at in subparagraph (2) by the number of months for which the firm would have been disqualified under paragraph (e) of this section. The civil money penalty may not exceed $5,000 times the number of violations.

(i) *Notifying the firm of civil money penalty.* FNS shall inform the firm in writing that it has 15 days in which to pay the fine or notify the Regional Office in writing of its intent to pay in installments specified by the FNS Regional Office. In any event, the fine must by paid in full by the end of the period for which the firm would have been disqualified. FNS shall disqualify the firm for:

(1) The period determined to be appropriate under paragraph (e) of this section if the firm refuses to pay the fine; or

(2) A period corresponding to the unpaid part of the fine, if the firm does not pay the fine in full by the end of the period determined.

(j) *Review of determination.* The determination of the FNS Regional Office shall be final and not subject to further administrative or judicial review unless a written request for review is filed within the period stated in § 279.5.

(k) *Delivery of notice.* The delivery by certified mail or personal service of any notice required of FNS by this part will constitute notice to the addressee of its contents.

§ 278.7 Determination and disposition of claims—retail food stores and wholesale food concerns.

(a) *Claims against violators.* FNS may establish a claim against an authorized firm which has accepted coupons in violation of the Food Stamp Act or of this part. If a firm fails to pay the claim, FNS may collect the claim by offset against the amounts due the firm on redemption of other coupons, or deny an application for reauthorization by a firm which has been disqualified and has failed to pay a claim.

(b) *Coupons accepted without authorization.* (1) The FNS Officer In Charge may approve the redemption under § 278.4 of coupons accepted by firms before the receipt of an authorization card from FNS if the following conditions exist:

(i) The coupons were received in accordance with the requirements of this part governing acceptance of coupons except the requirement that the firm be authorized before acceptance;

(ii) The coupons were accepted by the firm in good faith, and without intent to circumvent this part; and

(iii) The firm receives authorization to participate in the program.

(2) Firms seeking approval to redeem coupons accepted without authorization shall present a written application for approval to the local FNS Field Office. This application shall be accompanied by a written statement signed by the firm of all the facts about the acceptance of the coupons. The statement shall also include a certification that the coupons were accepted in good faith, and without any intent to circumvent this part.

(c) *Burned or mutilated coupons.* FNS may redeem burned or mutilated coupons only to the extent that the Bureau of Engraving and Printing of the United States Treasury Department can determine the value of the coupons. The firm presenting burned or mutilated coupons for redemption shall submit the coupons to the local FNS Field Office with a properly filled-out redemption certificate. In the section of the redemption certificate for entering the amount of coupons to be redeemed, an estimate of the value of the burned or mutilated coupons submitted for redemption shall be entered if the exact value of the coupons is unknown. The phrase "Deputy Administrator for Fiscal Management, FNS, USDA," should be entered in the section of the redemption certificate for entering the name and address of the bank or wholesaler.

(d) *Old series coupons.* FNS shall redeem the old series food coupons issued in 50-cents, 2-dollar, and 5-dollar denominations when they are presented for redemption. Firms presenting the coupons for redemption shall submit the coupons to the local FNS Field Office with a properly completed redemption certificate and a written statement, signed by a representative of the firm, detailing the circumstances of the acceptance of the coupons.

(e) *Denials of claims.* If a claim under the provisions of this section is denied in whole or in part, notification of this action shall be sent to the firm by certified mail or personal service. If the firm is aggrieved by this action, it may seek administrative review as provided in § 278.8.

(f) *Lost or stolen coupons.* FNS may not be held liable for claims from retail food stores, meal services, or wholesale food concerns for lost or stolen coupons.

§ 278.8 Administrative review—retail food stores and wholesale food concerns.

(a) *Requesting review.* A food retailer or food wholesaler aggrieved by administrative action under §§ 278.1, 278.6, or 278.7 may, within the period stated in § 279.5, file a written request for review of the administrative action with the Food Stamp Review Officer. On receipt of the request for review, the questioned administrative action shall be stayed pending disposition of the request for review by the Food Stamp Review Officer.

(b) *Addressing the request.* The request for review shall be filed with the Director, Administrative Review Staff, FNS, U.S. Department of Agriculture, Washington, D.C. 20250.

(c) *Review procedure.* The procedure for food stamp reviews is published in Part 279 and is available upon request from the Director, Administrative Review Staff.

7. A new Part 279 contains the redesignated Part 273, and is revised to read as follows:

PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

Subpart A—Administrative Review—General

Sec.
279.1 Scope and purpose.
279.2 Food stamp review officer.
279.3 Authority and jurisdiction.
279.4 Rules of procedure.

Subpart B—Rules of Procedure

279.5 Manner of filing requests for review.
279.6 Contents of requests for review.
297.7 Action upon receipt of a request for review.
279.8 Determination of the food stamp review officer.
279.9 Legal advice and extensions of time.

Subpart C—Judicial Review

279.10 Judicial review.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2001-2027).

Subpart A—Administrative Review—General

§ 279.1 Scope and purpose.

Subpart A sets forth the procedure for the designation of the Food Stamp Review Officers and the authority and jurisdiction of those officers. Subpart B states the rules of procedure to be followed in the filing and disposition of the requests for review provided for in § 278.8. Subpart C concerns the rights of food retailers and food wholesalers to judicial review of the final determinations of the Food Stamp Review Officer.

§ 279.2 Food stamp review officer.

(a) *Designation of Review Officers.* The Administrator, FNS, shall designate one or more person to act as Food Stamp Review Officers.

(b) *Assigning cases to Review Officers.* The officers shall serve for periods which the Administrator, FNS, shall determine. Changes in designations and additional designations may be made from time to time at the discretion of the Administrator, FNS. When more than one Food Stamp Review Officer has been designated, requests for review will be assigned for handling to individual Food Stamp Review Officers by a person designated by the Administrator, FNS. The names of the Food Stamp Review Officers shall be on file in the Office of the Administrator, FNS.

§ 279.3 Authority and jurisdiction.

(a) *Jurisdiction.* A Food Stamp Review Officer shall act for the Department on requests for review filed by firms aggrieved by any of the following actions:

(1) Denial of an application to participate in the program under § 278.1

(2) Disqualification from participation in the program or imposition of a civil money penalty under § 278.6; or

(3) Denial of all or any part of any claim under § 278.7.

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(b) *Authority.* The determination of the Food Stamp Review Officer shall be the final administrative determination of the Department, subject, however, to judicial review under section 14 of the Food Stamp Act and Subpart C of this part.

§ 279.4 Rules of procedures.

Rules of procedures for the orderly filing and disposition of requests for review of firms submitted in accordance with § 279.5 are issued in Subpart B of this part. The Administrator, FNS, may later issue amendments to any rules of procedure which are appropriate.

Subpart B—Rules of Procedure

§ 279.5 Manner of filing requests for review.

(a) *Addressing requests for review.* Requests for review submitted by firms shall be mailed to or filed with "Director, Administrative Review Staff, FNS, U.S. Department of Agriculture, Washington, D.C. 20250."

(b) *Content of requests.* Requests for review shall be in writing and shall state the name and business address of the firm involved, and the name, address and position with the firm of the person who signed the request. The request shall be signed by the owner of the firm, and officer or partner of the firm, or by counsel, and need not be under oath.

(c) *Time limit for requesting review.* A request for review shall be filed with the Director, Administrative Review Staff, within ten days of the date of delivery of the notice of the action for which review is requested. For purposes of determining whether a request was timely:

(1) The filing date shall be the postmark date of the request, or equivalent if the written request is filed by a means other than mail;

(2) In computing the ten day period, the day of delivery of the notice of the action for which review is requested may not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. In that case, the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. As used in this paragraph, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day deignated as a holiday by the President or the Congress of the United States.

§ 279.6 Content of request for review.

(a) *Identifying the request.* Requests for review shall clearly identify the administrative action from which the review is requested. This identification shall include the date of the letter or other written communication notifying the firm of the administrative action, the name and title of the person who signed the letter or other communication, and whether the action under appeal concerns a denial of an application or a withdrawal of authorization to participate, a disqualification from further participation, or a denial of all or any part of a claim.

(b) *Supporting the request.* The request shall include information in support of the request showing the grounds on which review is being sought, or shall state that supporting information will be filed in writing at a later date. In the latter case the Food Stamp Review Officer shall notify the firm of the date by which the information must be filed. The firm requesting review may ask for an opportunity to appear before the Food Stamp Review Officer in person. However, any information submitted in person shall, if directed by the Food Stamp Review Officer, be put in writing by the firm and filed with the Food Stamp Review Officer within a period which the Review Officer shall specify.

§ 279.7 Action upon receipt of a request for review.

(a) *Holding action.* Upon receipt of a request for review of a disqualification action or of a withdrawal of authorization to participate, the Food Stamp Review Officer shall notify the appropriate FNS Regional Office, in writing, of the action under review and shall direct that the administrative action shall be held in abeyance until the Food Stamp Review Officer has made a determination. Upon receipt of a request for review of a denial of application to participate in the program, or of a denial of a claim, the Food Stamp Review Officer shall notify the appropriate FNS Regional Office, in writing, of the action under review and shall direct that the firm shall not be approved for participation or paid any part of the disputed claim until the Food Stamp Review Officer has made a determination. In any case, notice to the appropriate FNS Regional Office shall be accompanied by a copy of the request filed by the firm.

(b) *Filing supporting information.* If the request filed by the firm includes a request for an opportunity to file written information in support of its position at a later date, the Food Stamp Review Officer shall promptly notify the firm of the date by which the information shall be filed. If the firm fails to file any information in support of its position by the designated date, the information submitted with the original request shall be considered to be the only information submitted by the firm. In that case, if no information in support of the firm's position was submitted with the original request, the action of the appropriate FNS Regional Office shall be final.

(c) *Failure to meet with Review Officer.* If the firm filing the request for review asks to appear before the Food Stamp Review Officer in person, the Review Officer shall promptly notify the firm of the date, time and place set for the appearance. If the firm fails to appear before the Food Stamp Review Officer as specified, any written information timely submitted in accordance with this section shall be considered to be the only information submitted by the firm.

(d) *Basis for Regional Office determination.* The Food Stamp Review Officer shall require the appropriate FNS Regional Office to promptly submit, in writing, all information which was the basis for the administrative action for which the review has been requested.

§ 279.8 Determination of the food stamp review officer.

(a) *Basis for Review Officer determination.* The Food Stamp Review Officer shall make a determination based upon:

(1) the information submitted by the FNS Regional Office;

(2) Information submitted by the firm in support of its position; and

(3) Any additional information, in writing, obtained by the Review Officer from any other person having relevant information.

(b) *Review of denial of application or withdrawal of approval.* In the case of a request for review of a denial of an application or withdrawal of approval to participate in the program, the determination of the Food Stamp Review Officer shall sustain the action under review or shall direct that the firm be approved for participation.

(c) *Review of disqualification or civil money penalty.* In the case of a request for review of action disqualifying a firm from participation in the program or assessing a civil money penalty against the firm, the determination of the Food Stamp Review Officer shall sustain the action under review or specify a shorter period of disqualification or a reduced civil money penalty, direct that an official warning letter be issued to the firm in lieu of any period of disqualification, or direct that no administrative action be taken. The Food Stamp Review Officer may change a disqualification of a firm selling a substantial variety of staple foods to a civil money penalty if the Review Officer receives information that the disqualification would cause a hardship to participating households because there are no other firms in the area selling as large a variety of staple food items at comparable prices, and this information was not available to the Regional Office when the Region Office made its determination to disqualify the firm. In such a case, the Food Stamp Review Officer shall provide the information to the Regional Office, which shall report to the Food Stamp Review Officer whether the new information warrants a civil money penalty in lieu of disqualification. If the Food Stamp Review Officer determines that a civil money penalty in lieu of a disqualification is warranted, the Review Officer shall determine the amount of the penalty in accordance with § 278.6.

(d) *Review of denial of claim.* In the case of a request for review of a denial of all or part of a claim of a firm, the determination of the Food Stamp Review Officer shall sustain the action under review or shall specify the amount of the claim to be paid by FNS.

(e) *Notice of Review Officer determination.* The Food Stamp Review Officer shall notify the firm of the determination by certified mail. The notification shall be sent to the representative of the firm who filed the request for review.

(f) *Notifying the Regional Office.* The Food Stamp Review Officer shall send a copy of the notification to the firm to the appropriate FNS Regional Office, which shall take any action which may be necessary to comply with the determination of the Review Officer.

(g) *Effective date.* The determination of the Food Stamp Review Officer shall take effect 15 days after the date of delivery of the determination to the firm.

§ 279.9 Legal advice and extensions of time.

(a) *Advice from Office of the General Counsel.* If any request for review involves any doubtful questions of law, the Food Stamp Review Officer shall obtain the advice of the Department's Office of the General Counsel.

(b) *Extensions of time.* Upon timely written request to the Food Stamp Review Officer by the firm requesting the review, the Food Stamp Review Officer may grant extensions of time if, in the Review Officer's discretion, additional time is required for the firm to fully present information in support of its positions. However, no extensions may be made in the time allowed for the filing of a request for review.

Subpart C—Judicial Review

§ 279.10 Judicial review.

(a) *Filing for judicial review.* A firm aggrieved by the determination of the Food Stamp Review Officer may obtain judicial review of the determination by filing a complaint against the United States in the U.S. District Court for the district in which the owner resides or its engaged in business, or in any court of record of the State having competent jurisdiction. The complaint must be filed within 30 days after the date of delivery or service upon the firm of the notice of determination of the Food Stamp Review Officer in accordance with § 279.8(e); otherwise the determination shall be final.

(b) *Summons and complaints.* Service of the summons and complaint in any such action shall be made in accordance with the Rules of Civil Procedure for the U.S. District Courts. The copy of the summons and complaint required by the Rules to be served on the officer or agency whose order is being attacked shall be sent by registered or certificated mail to the person in charge of the applicant Regional Office of FNS listed in § 271.6.

(c) *Trial de novo.* The suit in the U.S. District Court or in the State court, as the case may be, shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action. If the court determines that the administrative action is invalid, it shall enter a judgment or order which it determines is in accordance with the law and the evidence.

(d) *Stay of action.* Pending the judicial review, or any appeal from the judicial review, the administrative action under review shall remain in force, unless the firm makes application to the court and, after a hearing on the action showing irreparable injury, the court temporarily stays the administrative action under review pending disposition of the de novo trial or an appeal from the trial.

8. A new Part 280 is added, redesignated from Part 274, and reserved. Former Part 274 remains in force and effect. The title of the new Part 280 reads as follows:

PART 280—EMERGENCY FOOD ASSISTANCE FOR VICTIMS OF DISASTERS

(Reserved. Part 274 of the current regulations remains in force and effect.)

9. A new Part 281 is added and reserved. The title of the new Part 281 reads as follows:

PART 281—DESIGNATION OF INDIAN TRIBES AS STATE AGENCIES

(Reserved)

10. A new Part 282 is added and reads as follows:

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

Sec.
282.1 Legislative authority.
282.2 Project initiation.
282.3 Eligibility.
282.4 Approval of proposals.
282.5 Pre-operational rulemaking procedures for demonstration projects.
282.6 Federal financial participation.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 282.1 Legislative authority.

(a) *Demonstration projects.* Demonstration projects are those authorized by section 17(b)(1) of the Act which states in part:

> The Secretary is authorized to conduct on a trial basis, in one or more areas of the United States, pilot or experimental projects [hereafter called demonstration projects] designed to test program changes that might increase the efficiency of the Food Stamp Program and improve the delivery of food stamp benefits to eligible households.

The Secretary is further authorized to waive all or part of the requirements of the Act and implementing regulations to the degree necessary to conduct such projects, except that no project may be undertaken which would lower or further restrict the established income and resource standards or benefit levels.

(b) *Research projects.* Research projects are those authorized by section 17(a) of the Act which states:

> The Secretary may, by way of making contracts with or grants to public or private organizations or agencies, undertake research that will help improve the administration and effectiveness of the Food Stamp Program in delivering nutrition related benefits.

(c) *Evaluation projects.* Evaluation projects are those authorized by section 17(c) of the Act which states in part:

> The Secretary shall develop and implement measures for evaluating, on an annual or more frequent basis, the effectiveness of the Food Stamp Program in achieving its stated objectives.

§ 282.2 Project initiation.

The Secretary shall determine those areas of program operations which require demonstration, research or evaluation efforts. The Secretary shall, as appropriate, seek proposals for specific types of demonstration, research, and evaluation projects through either publication of a Notice of Intent in the FEDERAL REGISTER or in accordance with procedures prescribed in the Federal Procurement Regulations (41 CFR, Ch. 1).

§ 282.3 Eligibility.

States or public or other nonprofit agencies or organizations or individuals are eligible for grants. States or public or private agencies or organizations or individuals are eligible for contracts.

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§ 282.4 Approval of proposals.

(a) *Federal procedures.* (1) Proposals for demonstration, research or evaluation projects shall be reviewed by a panel consisting of appropriate FNS and Departmental representatives.

(2) Representatives from other Departments and agencies may be invited to participate in proposal review where proposed projects could affect their programs.

(3) Proposals shall be ranked based on the criteria established in paragraph (b) of this section.

(b) *Approval criteria.* (1) Proposals shall be reviewed for responsiveness to the specific requirements contained in the Notice of Intent or Request for Proposal.

(2) In addition, proposals will be evaluated according to the following general criteria:

(i) The conceptual development and clarity of measurable objectives.

(ii) Probable effectiveness of the proposal to achieve the project objectives based on:

(A) A complete description of the purpose; hypotheses; demonstration, research or evaluation design; and plans for implementation;

(B) The adequacy of the work plan, indicating tasks, scheduling and methodology; and

(C) A technical evaluation plan consistent with the objectives stated.

(iii) The capability of the applicant to conduct the project based on:

(A) A description of the qualifications of staff;

(B) Availability of necessary facilities, staff, and other resources;

(C) Administrative and supervisory capacity; and

(D) Knowledge of or previous experience in conducting demonstration, research or evaluation projects.

(iv) The projected cost of the project.

(v) For demonstration projects, potential benefits in relation to projected costs and potential nationwide application.

(vi) The relationship of the proposal to other similar demonstration, research or evaluation efforts.

§ 282.5 Pre-operational rulemaking procedures for demonstration projects.

Prior to the initiation of a demonstration project FNS shall publish proposed regulations in the FEDERAL REGISTER, if the project will likely have significant impact on the public. The regulations shall set forth the specific operational procedures for the demonstration project and the provisions of the Act and regulations which shall be waived. All public comments shall be considered and final regulations published prior to actual project operation.

§ 282.6 Federal financial participation.

(a) *Level of funding.* (1) *Grant awards.* FNS shall pay all costs up to the level established in the grant award. When a demonstration project involves an area of on-going State agency administrative responsibility, as established in § 271.4(a), FNS may pay up to 100 percent only of those administrative costs which exceed those usual and customary to program operations.

(2) *Contracts.* FNS shall pay all costs as established in the terms and conditions of the contract.

(b) *Limitations.* Federal financial participation shall be available to demonstration, research and evaluation projects only for:

(1) Those activities and projects awarded by FNS. Funds shall not be transferred from one project to another;

(2) Those costs specified in the grant or contract up to the amount approved in the grant or contract; and

(3) Costs incurred during the project, as established in the grant or contract. Time extensions of the project may be granted where sufficient justification has been submitted to and approved by FNS.

NOTE.—The Food and Nutrition Service has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Economic Impact Statement has been prepared.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: April 27, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-11810 Filed 5-1-78; 8:45 am]

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federal register

TUESDAY, MAY 2, 1978
PART III



DEPARTMENT OF THE TREASURY

Fiscal Service

federal

TREASURY TAX AND LOAN ACCOUNTS

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Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE; DEPARTMENT OF TREASURY

TREASURY TAX AND LOAN ACCOUNTS

Final Rule and Interim Rule

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Final rule and interim rule.

SUMMARY: The Treasury Department is amending its regulations to implement the investment provisions of Pub. L. 95-147 of October 28, 1977. The intent of that law is to permit the Treasury to earn interest by the investment of its operating cash balances and, at the same time, pay fees for certain services which have not heretofore been compensable. The law and these regulations also make certain savings and loan associations and credit unions eligible to participate in the Treasury tax and loan account system. Previously, only incorporated banks and trust companies were eligible. The interim regulations contain the standards for review of State-sponsored insurance arrangements. Such review will be made in order to determine if particular insurance arrangements are adequate to justify reduction of the amounts of collateral security required of a depositary to secure the balance in its Treasury tax and loan account.

EFFECTIVE DATES: The provisions of both the final and interim rules are effective July 6, 1978, provided the Congress has appropriated funds to cover the payment of fees for services rendered as provided in these regulations. If the Congress does not appropriate funds for fee payments by June 16, 1978, a notice will be published in the FEDERAL REGISTER postponing the effective date.

FOR FURTHER INFORMATION CONTACT:

Mr. John Kilcoyne, Assistant Fiscal Assistant Secretary (Banking), Office of the Fiscal Assistant Secretary, Department of the Treasury, Washington, D.C. 20220, 202-566-2849. Additionally, financial institutions having questions as to operating procedures may direct such questions to the Federal Reserve Bank or Branch serving the geographical area in which the institution is located.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking was published in the FEDERAL REGISTER on December 9, 1977 (42 FR 62308), (a) to revise regulations: 31 CFR part 203, Special Depositaries of Public Money, and 31 CFR part 214, Depositaries for Federal Taxes; and (b) to amend: 31 CFR part 317, Regulations Governing Agencies for Issue of U.S. Savings Bonds of Series E and U.S. Savings Notes, and 31 CFR part 321, Payments by Banks and Other Financial Institutions of U.S. Savings Bonds and U.S. Savings Notes (Freedom Shares).

A public hearing was held on January 12, 1978, during which testimony was given by trade associations representing banks and savings and loan associations and by individual financial institutions. In addition, 106 written responses were received during the comment period which ended on January 19, 1978. The Treasury wishes to express its appreciation to all who provided their views.

Many of the comments received are similar in nature and have been grouped into categories by subject matter. The Department's responses to the substantive public comments received appear below. Numerous minor changes have been made in the regulations some of which are editorial in nature while others are in response to public comment and will not be discussed herein.

COMMENTS RECEIVED AND TREASURY RESPONSES

I. 31 CFR PARTS 203 AND 214

INTEREST RATE

(a) *Rate of interest.* Section 203.14 of the proposed rules stated that the rate of interest to be used in connection with the Note Option and the Remittance Option would be a "* * * weighted average rate of repurchase agreements with a one-day maturity in U.S. Government securities, which are transacted in a national money market by a sample of money center banks and non-bank primary dealers in Government securities."

Many respondents took issue with the proposed rate of interest for a wide variety of reasons. The most significant negative factors cited were: (1) the high degree of instability in the spread between the proposed rate and the Federal funds rate, (2) a general uncertainty about the pattern of fluctuations in the proposed rate over time under all money market conditions, and (3) the general unfamiliarity of the banking and thrift industry with the proposed rate.

Upon reconsideration, the Treasury is of the view that a rate of interest which is equivalent to the Federal funds rate, less a fixed spread of 25 basis points (1/4 of 1 percent), would be a more appropriate rate. A rate of interest based upon this formula satisfies the prerequisites the Treasury had established from its own perspective for an earning rate on its investments in obligations of depositaries while at the same time introducing the elements of stability and relative certainty for depositaries.

Accordingly, the proposed § 203.14, now § 203.13, has been amended.

NOTE.—Several of the sections of the proposed 31 CFR part 203 have been renumbered due to the deletion of the Maximum Balances provisions appearing as proposed § 203.4.

(b) *Use of a retroactive rate.* Several financial institutions recommended that the rate of interest applicable to note balances during a given period of time be based upon a market rate which prevailed during a prior specified period. The intent of such recommendation was that the rate to be applied would be known in advance.

The adoption of this suggestion would sever the relationship for depositaries between the cost of Treasury funds held and the earning value of such funds. At times when money market rates move sharply up or down, while at the same time the amount of note balances moves in the opposite direction, depositaries could sustain substantial losses or gains thereby injecting a highly speculative element which the Treasury and, no doubt, most depositaries could consider to be undesirable. The Treasury is, therefore, retaining the concept under which the rate of interest on the notes is based upon market rates during the same period.

COLLATERAL

Many comments were received on specific, and general, issues involving the pledge of collateral for Treasury tax and loan account balances an for note balances. These comments have been categorized as follows:

(a) *Availability of collateral.* Several respondents, particularly large money center banks, expressed concern about their capacity to pledge collateral in amounts sufficient to cover balances in their note accounts during periods when Treasury operating cash is at peak levels. At this time the Treasury is not able to quantify the scarcity of collateral and is, therefore, developing additional data to determine the extent of the problem. At the same time, the Treasury is considering what action it can take to expand categories of eligible collateral. Treasury considerations involve an analysis of what assets financial institutions hold in significant amounts that would meet the basic requirements Treasury feels good collateral should have. If it is decided eligible collateral should be broadened, an amendment to part 203 will be issued.

(b) *Need for collateral.* Two respondents suggested that the requirements for collateral security be eliminated, and another suggested that collateral

requirements be established at less than 100 percent of a depositary's liability to the Treasury.

Pub. L. 95-147 provides that investments by the Treasury in obligations or depositaries maintaining Treasury tax and loan accounts shall be secured by a pledge of collateral acceptable to the Treasury as security for tax and loan accounts. While the statute allows wide discretion to the Secretary as to the particular type of collateral that may be required, the Department is of the opinion that there is substantial doubt whether, under the present law, the Secretary has the authority to eliminate altogether the requirement that collateral security be pledged. Furthermore, even if there were no such doubt, the Department is of the opinion that a number of other considerations make it unwise to eliminate or reduce the collateral requirements for Treasury tax and loan accounts.

(c) *Conventional mortgages as eligible collateral.* The suggestion was made to include conventional residential mortgages among the categories of collateral eligible to secure tax and loan funds.

The Treasury has carefully considered this suggestion and has concluded that conventional residential mortgages do not, at this time, meet the standards of liquidity that are required of eligible collateral. The secondary market for conventional residential mortgages is not sufficiently developed to provide the degree of liquidity required.

(d) *Custodians of collateral.* Comments were received indicating that § 203.16(c) of the proposed regulations is not clear as to what custodian arrangements will be permitted or that custodian arrangements will be uniform among all the Federal Reserve Districts.

The acceptable type of custodian arrangement involves the designation of a custodian by the Federal Reserve Bank of the District in which the depositary pledging the collateral is located, and the issue by that custodian to the Federal Reserve Bank of a receipt indicating that it holds, subject to the order of the Federal Reserve Bank, collateral pledged by the depositary. Federal Reserve Banks will be expected to exercise judgment in the approval of custodians and in establishing limits on the amounts of collateral a given custodian may hold. Additionally, for those categories of collateral requiring detailed analysis of attached documents or resolution of legal questions, Federal Reserve Banks may require that the pledge of such collateral be made directly with the Federal Reserve Bank. Other than for securities involving these judgments, custodian arrangements will be in effect in all Federal Reserve Districts under similar conditions.

(e) *Federal Home Loan Banks as custodians of collateral.* Representatives of the savings and loan industry suggested that regional Federal Home Loan Banks be permitted to act as custodians of the collateral to be pledged by savings and loan associations.

The Treasury favors such an arrangement, and the Federal Reserve Banks may designate Federal Home Loan Banks as custodians subject to, of course, the development of mutually acceptable custodian arrangements.

(f) *Uniformity among Federal Reserve Banks in accepting eligible collateral.* One financial institution asked if all Federal Reserve Banks will accept any of the classes of collateral that are eligible for pledging.

The ability of Federal Reserve Banks to accept the various classes of eligible collateral may be limited by such considerations as vault capacity. Because of such limitations, the use of third-party custodian receipts may be fostered wherever appropriate. Also, the Treasury will expect Federal Reserve Banks to work with depositaries in their Districts to reduce the pledge of those types of collateral requiring large amounts of vault space and substantial servicing costs when depositaries have adequate eligible collateral in their portfolios of types with lesser space and servicing requirements.

(g) *IRS views concerning interest paid deductions under section 265(2) of the Internal Revenue Code for carrying tax exempt municipals pledged to collateralize borrowed funds (i.e., TT&L Note Balance).* A number of respondents indicated that historically, the Internal Revenue Service has attempted to deny interest-paid deductions under section 265(2) of the Internal Revenue Code whenever there appeared to be some relationship between the funds borrowed and the carrying of tax exempt obligations. The respondents requested the Treasury (Fiscal Service) to seek a ruling of the Internal Revenue Service to ensure that the election of the note option is not inhibited by a Section 265(2) tax problem. The Fiscal Service has made such a request of the Internal Revenue Service. The Internal Revenue Service has concluded that section 265(2) of the Internal Revenue Code would not apply to disallow interest deductions in connection with the investment by the Treasury in obligation of Treasury tax and loan depositaries notwithstanding the fact that the note accounts are collateralized by tax exempt securities. The Internal Revenue Service is proposing to amend Rev. Proc. 70-20 in a manner consistent with the foregoing.

(h) *Operations of the TT&L System upon implementation.* If at the beginning of the new program there is still a concern about the over-all adequacy of collateral, the Treasury may use moderation in reducing its balances at Federal Reserve Banks and increasing its investments in obligations of depositaries.

MAXIMUM BALANCES

(a) *Maximum note balances.* Several suggestions were made to the effect that depositaries should be permitted to set a maximum limitation on their note balances so that any additions to the notes in excess of that limitation would be withdrawn immediately by the Federal Reserve Bank upon receipt of advices of credit creating the excess.

The Treasury favors the adoption of this suggestion and the Federal Reserve Banks have been asked to alter their administrative procedurs to provide for the establishment of such maximum balances. The Federal Reserve System has advised that all Reserve Banks will not be able to complete such changes before the effective date of the investment program inasmuch as this capability is a recent change which was introduced during the proposed rulemaking period. As each Reserve Bank completes its changes, it will notify depositaries in its District and give each depositary an opportunity to set a maximim balance. It is expected that all Reserve Banks will have completed the necessary changes within 6 months after the date of publication of the final regulations.

(b) *Imposition of maximum balances by Federal Reserve Banks.* Several respondents questioned the proposed § 203.4, which provides that each Reserve Bank may establish a maximum balance for the tax and loan or note account of any depositary in its District. The questions were based upon lack of specifics as to the circumstances under which such maximum would be established and the concern that the application of the section woud not be uniform among the Federal Reserve Districts.

The wording of § 203.4 as proposed was similar to the wording of § 203.3 of existing regulations which have been in effect since 1967. Prior to 1967, the regulations limited a depositary's maximum balance to a specified percentage of its capital or deposits. Section 203.3 has not been invoked since 1967 and we agree the comparable section of the proposed regulations, § 203.4, should be deleted. Collateral pledged by the depositary limits the funds that a depositary may hold and, as indicated above, depositaries will be permitted to establish self-imposed ceilings on the amount of Treasury funds held. Section 203.4 has, therefore, been eliminated from the final rules.

DIRECT INVESTMENTS

Several comments were made that the regulations should specifically

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state which Note Option depositaries would receive funds directly from the Treasury as described in § 203.10(b)(2).

The number of depositaries which will receive direct investments will necessarily be limited by the capacity of Federal Reserve Banks to communicate daily by telephone with each of such depositaries in order to: (1) inform the depositary of the amounts being directly invested with the depositary, and (2) to call funds from the depositary to replenish Treasury balances at Federal Reserve Banks.

Initially, the direct investments will be made only with those Class "C" depositaries willing to participate. Eventually, however, the Treasury may expand the number of participating depositaries to include 100 or so other Note Option depositaries having the largest capacity to receive direct investments. Capacity is defined as the amount of collateral the depositary is willing and able to pledge, less its note balance as generated by credits to its tax and loan account. The establishment of precise procedures for making direct investments is being deferred until the adequacy of collateral has been more clearly determined.

CALLS AND CALL PROCEDURES

(a) *Make calls on a regular basis and provide advance notice.* Several respondents objected to the proposed § 203.10(c) which states "• • • the amount of the note will be payable on demand without previous notice." Suggestions were made to the effect that the withdrawal of funds be made on a regularized basis and that calls be announced a specified number of days in advance of the date of withdrawal. Treasury expects that the timing and amount of the calls against note balances will evidence a regular pattern, reflecting the intramonthly and monthly seasonal patterns to which the Treasury's cash flows are subject. Thus, larger percentages of note balances will be called earlier in the month than later; and, therefore, note balances will tend to increase in the latter half of most months. It is believed that depositaries will, within a relatively short period, recognize a regular pattern of call actions.

As to whether advance notice of calls can be provided, it is expected that calls against class "A" and class "B" depositaries will normally be made for definite amounts for payment on a definite day in the future. However, the Treasury cannot guarantee that circumstances will not arise which will require calls for immediate payment of note balances from class "A" and class "B" depositaries in order to adequately fund Treasury balances at Federal Reserve Banks. To the extent feasible, advance notice will be given of the periods during which the regular pattern of calls might be varied.

(b) *Announce calls earlier in the day.* Several respondents suggested that the calls on class "C" depositaries should be announced earlier in the day. It is very unlikely that the procedures involved in determining the Treasury's daily cash needs, the time required for consultation with the Federal Reserve's Open Market Committee staff, and the process of communicating the call to class "C" depositaries, can be accelerated enough to allow an earlier announcement of a call action.

(c) *Wednesday calls.* Several respondents suggested that the Wednesday calls on class "C" depositaries be made not later than 10 a.m. The problems involved are the same as those mentioned in (b) above. Treasury recognizes the particular problems faced by member banks on Wednesdays due to reserve settlement requirements and, to the extent feasible, will, in consultation with the Federal Reserve Open Market Committee staff, indicate in advance the probable calls payable on Wednesdays.

(d) *Effecting withdrawals through reserve accounts.* Some respondents questioned the provisions of the rules which require that withdrawals are to be effected through the reserve account of the depositary or the reserve account of a member bank correspondent. Some suggested such alternatives as the wiring of Federal funds upon receipt of a call notice.

For many years, banks which were not members of the Federal Reserve System have been required to arrange for the payment of calls on the payment dates specified in the calls by a charge to the reserve account of a member bank correspondent so as not to put the Treasury in the position of waiting for the funds to be made available for its use. The Treasury must have the capability of withdrawing and using its operating cash when it is needed. Alternatives which require communications from the depositary in order to effect the withdrawal or place the depositary in the position of controlling the time of release of the funds are not acceptable.

(e) *Effecting calls for the withdrawal of funds from savings and loan associations through their accounts with Federal Home Loan Banks.* Several respondents suggested that withdrawal of funds from savings and loan associations be made through their accounts maintained with their respective Federal Home Loan Banks. If the savings and loan associations and the Federal Home Loan Banks can establish a procedure whereby the Treasury would have as immediate access to funds called as would be the case if charges were made to a member bank's account at a Federal Reserve Bank, then the Treasury would be agreeable to such a procedure.

NOTE OPTION

Certain characteristics of the Note Option elicited questions or responses as follows:

(a) *Characterization of the Note Option as a "purchase" of funds from the Treasury (§ 203.2(g) and § 203.10(a) and (b)(2)).* Section 203.2(g) of the proposed rules defined the Note Option to mean the "• • • choice available to depositaries under which a tax and loan depositary credits deposits to its Treasury Tax and loan account, *purchases funds* from the Treasury in the amount of such deposits to be evidenced by open-ended interest-bearing notes." [Emphasis added.] Two trade associations and a number of banking institutions requested that the word "purchases" be replaced by the word "retain" or "retains."

The Treasury is persuaded that the use of the term "purchases" may not have universal application. Accordingly, proposed § 203.2(g) has been modified to describe additions to a depositary's note account as additions to Treasury's investments in obligations of the depositary. A conforming change has been made to proposed § 203.10(a) and § 203.10(b)(2) (now § 203.9(a) and § 203.9(c)(2)).

(b) *Elimination of Tax and Loan Accounts.* One respondent suggested that in lieu of requiring funds to be placed in the tax and loan account for one day, depositaries be required to purchase funds from the Treasury on the day the tax and loan deposits are credited so that the "note" is created on that day. The purpose of the suggestion was to alleviate a potential problem under State law for some State-chartered thrift institutions in being able to function the tax and loan account. Another element of the suggestion was that no interest would be due on the note for the day of the deposit.

The Treasury feels that the adoption of the suggestion would not accurately describe the Treasury/depositary relationship, particularly for Remittance Option depositaries, and that it would not, therefore, be reasonable to adopt the suggestion.

DELIVERY REQUIREMENTS

(a) *Delivery requirements for Remittance Option—Class 2 Depositaries (§ 203.11(b)(2)(i)).* One respondent suggested that the wording of proposed § 203.11(b)(2)(i), which permitted a Remittance Option—Class 2 depositary to "• • • forward its advices of credit to the Federal Reserve Bank of the district via the most expeditious means available" created too strict a standard. The respondent stated that the section implies, for example, that if light aircraft were available, other means such as the U.S. mail would not be acceptable. The Treasury considers the use of the U.S. Postal Service to be an acceptable means of delivery for Remittance Option—Class 2 depositaries. Accordingly, § 203.10(b)(2)(i) of the final rule reads, in part, as follows: "• • • via an available expeditious means, which includes the U.S. Postal Service."

(b) *Delivery requirements for Note Option banks.* The Treasury inadvertently omitted a subsection entitled "Delivery" from § 203.10 of the proposed rules. Such subsection is included as § 203.9(b). The subsequent subsections are relettered accordingly.

(c) *Delivery requirements for Remittance Option—Class 1 depositaries.* Many respondents took issue with the delivery requirements for Class 1 depositaries stated at § 203.11(b)(1)(i) of the proposed rule. The rule requires a Remittance Option—Class 1 depositary to "• • • establish procedures to ensure the delivery of its advices of credit at the Federal Reserve Bank of the District prior to the Federal Reserve Bank's cut-off time for processing such credits the next business day after the date of credit. • • •" Some, citing their own experience with the U.S. Postal Service, stated that timely delivery at the Federal Reserve Bank would not be possible if they were to use the mail service. Many of the respondents suggested as a solution that timeliness be based upon the postmark of the remittance under the theory that if a postmark were timely, no penalty would be assessed.

The Treasury had given a great deal of thought to the delivery requirements of the Remittance Option—Class 1 depositaries before issuing the proposed rules. It was concluded that in order for the system to function properly, and in order to maintain equity within the system, it was necessary to limit the interest-free time to one business day. Otherwise, depositaries electing the Note Option would be required to pay interest as of the first business day after receipt of a deposit while a Remittance Option—Class 1 depositary could benefit from two, three or more interest-free days merely by using the mails. If the use of postmarks were permitted, the Note Option would not be selected in numbers to make the tax and loan system work.

There are certain options that may be available to depositaries to reasonably assure next day delivery of advices of credit to the Federal Reserve Bank of the District. These include the following:

(a) At any depositary location where the Federal Reserve Bank delivers checks by courier, depositaries can, at their discretion, arrange with such couriers to deliver advices of credit on their return trips to the Federal Reserve Bank.

(b) Federal Reserve Banks of the Districts may, at their discretion, permit Regional Check Processing Centers (RCPC's) within the Districts to serve as pick-up or trans-shipping points for the tax and loan system.

(c) All Federal Reserve Banks will permit Federal Reserve Branches not now serving as points of pick-up for tax and loan account advices of credit to do so under the investment program from Remittance Option—Class 1 depositaries.

(d) Any depositary may utilize the services of a correspondent in a Federal Reserve Bank or Branch city to prepare advices of credit and deliver such advices to the reserve bank or branch on its behalf. This would involve supplying the correspondent with blank originals of its advices of credit forms and communicating the amount to be entered by phone or wire.

FEES

Numerous comments were received concerning the fee of 50 cents for each Federal tax deposit form forwarded by the depositary and processed by the Internal Revenue Service Center covering the administration of the Treasury tax and loan account as well as the handling of Federal tax deposits. The comments are summarized as follows:

(a) It is unreasonable to base 1978 fees on a survey using 1972-1973 data which have not been adjusted for inflation.

(b) No indication has been given of the method used to determine the initial fee structure for compensable services.

(c) The final regulations should state the criteria for the establishment of fees and when such fees are to be reviewed to ensure they remain current.

Other comments received indicated that the proposed payments are adequate.

The schedule of fee payments is based on the findings presented in a Report of a Study of Tax and Loan Accounts, dated June 1974. The conclusions of that Report are based upon a survey of approximately 600 commercial banks specifically selected as representative of all depositaries in the Treasury tax and loan system. The fees as determined in that study are being adopted initially because they represent the product of the best and most comprehensive study on the subject available at this time. The methodology, rationale, and findings of the study are presented in detail in that Report. The findings of the study were publicly disclosed in that a copy of the Report was distributed during July 1974 to each of the tax and loan depositaries at the time.

The Treasury recognizes the deficiencies of that Report and is proceeding to restudy the Federal tax deposit per item fee as follows:

(a) Treasury staff will complete the review now underway of procedures involved in processing Federal tax deposits in financial institutions and establishing one or more models for efficient handling. The number of model systems will depend on the need to provide different systems for different categories of institutions. For example, it might be necessary to have significantly different procedures for an institution doing business at one location as compared to an institution with branches or offices spread over a wide geographical area.

The model systems will be reviewed with trade associations of the several classes of financial institutions functioning as depositaries in order to (a) determine if there are any reasons why the proposed systems are not workable, and (b) receive any suggestions for improvement.

(b) Once the model systems have been detailed, the Treasury will commission an independent study to determine the cost involved in operating the systems. The goal of the study will be to determine the unit cost for processing Federal tax deposits and to establish fees based upon costs and reasonable profit. If clear, simple guidelines for applying different fees for different institutions can be established, a multiple fee schedule may be created. If not, a unitary fee will be established based upon average costs.

(c) The fee schedule established as a result of the study will be reviewed from time to time for appropriate adjustment, taking into consideration changes in the depositaries' costs and any changes in regulations effecting the procedures followed by depositaries in processing Federal tax deposits.

COMPENSATION FOR OTHER SERVICES PROVIDED BY FINANCIAL INSTITUTIONS

Several comments were made that the schedule of fees does not cover other types of services that financial institutions provide for the Government. Specific services mentioned include the reporting of interest and dividends to the Internal Revenue Service on Form 1099, the cashing of Government checks, and the custody and sale of food stamps. The Treasury's analyses and conclusions regarding each of these services, and others not mentioned in the comments received, but performed by commercial banks are discussed in detail in the "Report on a Study of Treasury Tax and Loan Accounts" dated June 1974.

POSITIONS OF BANKING REGULATORS

(a) *Comptroller of the Currency.* Several of the respondents inquired as to whether the note balances retained by national banks under the Note Option will be included in computing the limitation on bank indebtedness under 12 U.S.C. 82. The Comptroller of the Currency has indicated that the notes will not be subject to the aggregate indebtedness limitation of 12 U.S.C. 82.

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(b) *Federal Reserve Board.* Numerous respondents questioned whether the note balances will be subject to reserve requirements. As indicated in the preamble to the proposed rules, at the present time, regulations of the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation define "deposits" as including promissory notes and other obligations of banks not specifically exempted. The Treasury has been advised that the Board of Governors of the Federal Reserve System has taken formal action to exempt notes issued by banks to the Treasury from the definition of deposits. There appears today, or will appear in the next few days, in the FEDERAL REGISTER notice of the Federal Reserve Board's final rulemaking effecting this change. The action of the Board of Governors of the Federal Reserve System exempts notes issued by member banks to the Treasury from the provisions of Regulations D and Q.

(c) *Federal Deposit Insurance Corporation.* The Board of Directors of the Federal Deposit Insurance Corporation has amended FDIC's interest rate regulations (12 CFR Part 329) so as to exempt from rate restrictions generally, an insured nonmember bank's liability on its promissory notes that evidence a short-term purchase of funds from the U.S. Treasury. The FDIC's amendments to its interest rate regulations were published on page 9789 of the FEDERAL REGISTER of March 10, 1978 (43 FR 9789).

REQUIREMENTS FOR DESIGNATION

Several of the respondents commenting on behalf of thrift institutions took issue with the wording of the proposed § 203.3(b)(1)(ii) which required a financial institution to have under its charter and regulations issued by its chartering authority either general or specific authority permitting the maintenance of the tax and loan account as a demand account in order to be eligible for designation.

The Department's paramount concern is its ability to draw on its operating cash accounts as needed to meet disbursing needs. The Treasury considers it essential for funds on deposit in tax and loan accounts or invested in note accounts to be subject to withdrawals which are payable immediately (i.e., on demand) without previous notice. Thus Treasury's basic concern is to be assured that all financial institutions, including the thrift institutions, possess the *authority* to function these accounts under the condition stated above.

Another respondent indicated that the use of the word "demand account" is imprecise in that several quite different legal meanings have been attached to that term. In view of the comments received, § 203.3(b)(1)(ii) is amended to require only "general or specific authority permitting the maintenance of the tax and loan account as an account the balance in which is payable on demand without previous notice of intended withdrawal."

Several of the respondents indicated that currently certain State-chartered thrift institutions may not be authorized under State law to maintain tax and loan accounts. Some of the same respondents further stated that in their opinion the Federal law (Pub. L. 95-147) superseded State law and carried with it the extension of any authority necessary for both Federally and State-chartered institutions to be tax and loan depositaries. Neither Pub. L. 95-147 nor its legislative history specifically address the matter of Federal preemption. The question is one which the courts will ultimately have to resolve. Treasury takes no final position on the issue at this time, however, the final rule is premised on no Federal preemption.

INSURANCE PROVISIONS

One respondent representing the credit union industry requested that the regulations expressively describe the standards of review for account insurance to be undertaken by the Secretary of the Treasury. Accordingly, the Secretary's regulations concerning the adequacy of insurance arrangements are issued at 31 CFR Part 226.

Such regulations are published here as interim rules in order to avoid delay in implementing the revised Treasury tax and loan program.

The Department is of the view that, because the interim regulations set standards for programs of insurance which cover depositaries' tax and loan accounts, and thereby affect the amounts of collateral which such depositaries are required to pledge to secure public funds in such accounts, they involve a matter relating to "public property" within the meaning of 5 U.S.C. 553(a)(2). In addition, it is believed that the interim regulations involve a matter relating to "contracts," as that term is used in 5 U.S.C. 553(a)(2). Each Treasury Tax and Loan Depositary enters into a depositary contract as stated at § 203.6 and § 214.4.

Consequently, it has been determined that the regulations are not subject to the rulemaking requirements, including notice of proposed rulemaking, which are contained in 5 U.S.C. 553. Nevertheless, in accordance with 5 U.S.C. 553, interested persons may submit written comments, suggestions, data or arguments to Mr. John Kilcoyne, Assistant Fiscal Assistant Secretary (Banking), Office of the Fiscal Assistant Secretary, Department of the Treasury, Washington, D.C. 20220, 202-566-2849. Material thus submitted will be evaluated and acted upon in the same manner as if these interim regulations were a proposal. However, the interim regulations shall become effective as specified in the "EFFECTIVE DATE" section of this preamble and shall remain in effect until such time as changes are made.

THE ABSORPTION OF FLOAT BY DEPOSITARIES

Several of the respondents commented upon § 214.6(a)(1) by which depositaries are required to accept from a taxpayer "• • • a check or draft drawn on and to the order of the depositary • • •." That section further states that "• • • A depositary may at its discretion accept a check drawn on another financial institution, but it does so purely on a voluntary basis and absorbs for its own account any float involved." The substance of such comments was to request the Treasury to make allowances for uncollected funds in the accounts after the first business day after deposit.

As a matter of policy, the Treasury does not recognize uncollected funds in the tax and loan system. That policy and the provisions of 31 CFR Part 214 implementing that policy are not new to the regulations in question, but have been in effect for more than 25 years. The Treasury has concluded that the policy of not making allowances for uncollected funds in the tax and loan account system should remain in effect.

EXTEND THE INTEREST-FREE PERIOD TO MORE THAN ONE BUSINESS DAY

Several respondents suggested for a variety of reasons that interest and late fees not be imposed until the second or third business day after deposit. The Treasury has concluded that any extension of the interest-free period beyond the one business day already provided would not be in the best interest of the Federal government or the tax and loan system.

TIMING OF CHANGES IN OPTIONS

The wording of § 203.13 of the proposed rules and paragraph No. 4 of the Synopsis of the Manual of Instructions and Procedures for Treasury Tax and Loan Depositaries is not explicit as to when a requested change in options will become effective. Accordingly, the wording of that section of the Procedural Instructions concerned with changes in options has been revised to include the following:

> A depositary may change from one option to another after due notice to the Federal Reserve Bank of the District. A change in option will become effective as of the first day of the next reporting cycle following receipt of such notice provided that notice is received by the Federal Reserve Bank of the District not later than the 20th of any month.

A number of respondents expressed the desire for changes in options to be permitted on a daily or a weekly basis. For reasons of an operational and an administrative nature, all changes in options will be effected only as of the first day of a reporting cycle.

TERMINATION OF CONTRACT NOTICE

Proposed § 203.17(b) and § 214.5(b) stated that a depositary may terminate its contract by submitting a notice, in writing, to the Federal Reserve Bank of the District 30 days before the date of the intended termination. Proposed § 203.17(a) and § 214.5(a) stated that the Secretary of the Treasury may terminate the contract of a Treasury tax and loan depositary at any time upon notice to that effect to that depositary. Upon reconsideration, the Treasury is of the view that the 30-day advance notice stated in § 203.17(b) and § 214.5(b) should be deleted. Accordingly, § 203.16(b) and § 214.5(b) do not require a 30-day advance notice by the depositary.

MANUAL OF INSTRUCTIONS AND PROCEDURES FOR TREASURY TAX AND LOAN DEPOSITARIES

Several respondents expressed the desire to review the Manual before it is published in final form.

In view of the relatively short time period remaining before the effective date of the investment program, the Treasury is issuing at this time through the Federal Reserve Banks a final version of the "Procedural Instructions for Treasury Tax and Loan Depositaries" (previously referred to as "Manual of Instructions and Procedures for Treasury Tax and Loan Depositaries"), with the understanding that the depositaries are free to comment on the provisions of that Procedural Instruction at any time.

SUGGESTION TO ESTABLISH AN ARRANGEMENT WHEREBY THE TAX DEPOSITS OF A REMITTANCE OPTION DEPOSITARY ARE ADDED DIRECTLY TO THE NOTE ACCOUNT OF A CORRESPONDENT DEPOSITARY

One respondent suggested that in view of the potentially large number of depositaries that would be electing the Remittance Option, the Treasury should give consideration to a tri-party arrangement involving (a) the Federal Reserve Bank, (b) a Note Option depositary bank serving as a correspondent for the Remittance Option depositary, and (c) the remittance Option depositary. Under the suggested arrangement, the Note Option depositary bank serving as correspondent for the Remittance Option depositary would, in effect, add to its note amounts which otherwise would be withdrawn from the Remittance Option correspondents. In other words, the Federal Reserve Bank, instead of withdrawing funds representing tax deposits received by a Remittance Option depositary would add those amounts to the note of the correspondent bank.

The treasury believes the suggestion has merit and may be beneficial in several respects. In particular, it offers an alternative to depositaries wishing to participate as Remittance Option—Class 1 depositaries and precluded from doing so because of the prescribed delivery requirements. The Treasury is actively studying the suggestion. Adoption of the suggestion would also give the Treasury better control of increases in the Federal Reserve Bank balance which is one of the objectives of the new system.

If it is decided to adopt the suggestion, the decision will be reflected in the FEDERAL REGISTER. Sufficient lead time will be required to permit programming changes by the Federal Reserve Banks.

SEASONAL BORROWING BY MEMBER BANKS OF THE FEDERAL RESERVE SYSTEM

One respondent representing the banking industry suggested that Federal Reserve Regulation 'A' should indicate that country banks borrowing seasonally at the discount window may simultaneously "sell" Note Option funds in the Federal funds market. This issue has been referred to the Federal Reserve Board and is under consideration by that Agency.

REGULATIONS COVERING FEES FOR ISSUING AND REDEEMING SAVINGS BONDS

II. 31 CFR PARTS 317 AND 321

DISCUSSION OF MAJOR COMMENTS

GENERAL STATEMENT

Financial institutions and others act as agents for the issue and payment of savings bonds under the provisions of application-agreements they execute and certificates of qualification issued by the Federal Reserve Banks, acting as fiscal agents of the United States, and subject to the applicable regulations governing such agents. The compensation to be paid to agents applies solely to the specific issuing and paying functions they perform under the terms of their agreements and the regulations. The regulations that govern issuing agents are set out in Department of the Treasury Circular, Public Debt Series No. 4-67 (31 CFR Part 317). The regulations that govern paying agents are set out in Department of the Treasury Circular No. 750 (31 CFR Part 321). The fee schedules will be incorporated into each of these circulars.

SAVINGS BOND REMITTANCE PROCEDURES

31 CFR, Part 203 contemplates that the interest and penalty provisions of the investment program will apply both to tax and loan deposits representing tax receipts and tax and loan deposits representing savings bond sales proceeds. However, as an interim measure, to facilitate implementation of the investment program, remittances of savings bond sales proceeds by credit to tax and loan accounts will initially be functioned as follows:

Note Option depositaries. The amount of credits covering savings bond sales proceeds will be added to notes as of the dates of processing of the credit advices by the Federal Reserve Banks.

Remittance Option—Class 1 depositaries. Penalty provisions will not be applied to savings bond sales proceeds remittances.

Remittance Option—Class 2 depositaries. For purposes of computing the analysis credit, the amount of credits covering savings bond sales proceeds will be added to the balances in the depositaries' tax and loan accounts as of the dates of processing by the Federal Reserve Banks.

About three months after implementation of the investment program, the Treasury will prescribe definitive procedures under which credit advices for savings bond sales proceeds will be handled on the same basis as credit advices for tax deposits. Before the definitive procedures are put into effect, a notice of their effective date will be published in the FEDERAL REGISTER and depositaries will be notified through the Federal Reserve Bank of the District.

ADEQUACY OF FEE SCHEDULE

A number of the organizations commented that the proposed fees for issuing and redeeming savings bonds were generally too low. Others specifically referred to the redemption fee and the over-the-counter issue fee as being too low. Reasons usually given for questioning the fee schedule were that (1) it was based on outdated data and did not consider the impact of inflation on salary and other processing costs, and (2) the compensable activities were to narrowly defined and did not consider costs of counseling time, postage, record-keeping, accounting and liability for stock.

The fees for over-the-counter issues and for redemptions were based essentially on a research study conducted in 1974. The fees for payroll issues were based essentially on the alternative costs of such issues by Federal agencies and Federal Reserve Banks.

The issue fees relate strictly to costs associated with obtaining and controlling bond stock and inscribing and delivering bonds to purchasers, exclusive of postage which is paid by the Treasury.

Counseling services relating to savings bonds, like counseling on other financial matters, have traditionally been provided to customers by financial institutions without compensation. These services are viewed essentially as customer services. Their value to the Savings Bond Program is clear-

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ly recognized and appreciated. However, services outside the issuing and paying agency regulations are not compensable; in addition, there is no practical way of measuring the services provided by individual institutions as the basis for establishing a standard fee.

In response to the comments mentioned above, a review of the fee schedule will be undertaken. It is necessary, however, to initiate the fee program on the basis of the proposed schedule to avoid further substantial delays in implementation. Funds for the payment of fees must be obtained through the appropriation process, and a funding request based on the original schedule has been submitted to and is under consideration by the Congress.

COMPENSATION FOR REISSUE TRANSACTIONS

Several respondents commented that agents should be compensated for handling reissue cases, which must be forwarded to the Federal Reserve Bank for processing.

Servicing applications for reissue is not one of the functions covered by the issuing and paying agent agreements referred to above. Historically, the Treasury has viewed such services as being within the scope of customer services provided by the institution. This is the principal reason no provision has been made to pay a fee for such services. A further reason is the difficulty in administering such a fee, inasmuch as Treasury would have no means of determining how much assistance, if any, had been provided by a financial institution on a reissue case.

COMPENSATION FOR EXCHANGE TRANSACTIONS

It was also suggested that agents should be compensated for handling exchanges of Series E for Series H bonds. In these transactins, all of the Series H bonds are issued by Federal Reserve Banks or the Treasury. However, the regulations governing such exchanges provide that paying agents may elect to redeem the Series E bonds and send the exchange application (Form PD 3253) to a Federal Reserve Bank for issue of the Series H bonds. If the transaction is handled in this manner, the agent receives a fee for each Series E bond that is redeemed. If the agent does not redeem the bonds, the entire transaction is forwarded to a Federal Reserve Bank and no fee is paid.

It is recognized that in a limited number of cases agents are not authorized to redeem Series E bonds submitted for exchange because of evidentiary requirements. A review will be made to determine whether it is feasible to amend the regulations to provide procedures under which agents might qualify for fees in handling these cases.

MISCELLANEOUS PROVISIONS FOR FEE CHARGES

Other proposals concerning fees included establishing regional fee schedules; basing fees on the percentage of dollar amounts handled in addition to per item fees; reexamining the fee difference between manual and computerized handling of payroll issues to provide more incentive to automate; and, compensating agents for the verification of the issuance of bonds later reported missing.

Regional fee schedules would create difficult administrative problems.

There appears to be no justification for basing a fee on dollar amounts, as well as item charges. Paying agents incur no risk of liability for erroneous payments if they follow the Treasury's identification guidelines (Form PD 3900).

The spread between the fees for bonds inscribed by computers and by other means recognized a cost differential between the two processing methods. This appeared to be equitable, although it might conceivable operate as a disincentive to the further automation of payroll issues. Decisions to automate are typically made on the basis of equipment availability, operational priorities and considerations of space, personnel and productivity. It is estimated that about half of the payroll issues by financial institutions are computer-inscribed. The number of issues that would be automated if the 10 cent fee per bond was raised is a matter of conjecture, as many of the payroll accounts are too small to justify automation, or the agent may not have access to a computer. In the subsequent review of the fee schedule, however, this matter will be further considered.

The verification by issuing agents of their issuance of bonds reported lost or stolen is limited to bonds not received by owners. Claims cases involving loss or theft after receipt are not referred to the issuing agents for verification. The number of non-receipt cases is about 10,000 a year. About half of all bonds are issued by financial institutions, so the number of referrals to an individual agent should be minimal. No fee for this service appears to be warranted, but the Treasury will review its procedures to determine whether the cases requiring referral to agents can be further reduced.

REVIEW OF FEE SCHEDULE

As mentioned, various respondents expressed the opinion that the Treasury study made in 1974, on which the fee schedule is largely based, has been outdated by inflation and that the study should be updated or a new study conducted.

Various proposals were made concerning the method to be used in conducting such a study. It was suggested that a new study consider the fully allocated costs of each functional and procedural element of issuing, redeeming and otherwise handling bonds; that the regulations provide for a periodic review of the fee schedule and the scope of compensable services; and that the regulations express the standards for establishing fees and the criteria for evaluating readjustments.

The Treasury recognizes the desirability of reexamining the adequacy of the fee schedule and will initiate such a review promptly. The review will include a reexamination of some of the proposals discussed elsewhere in this response. Provisions for the regular review of the schedule should be a part of any plan that is developed. It should be recognized, however, that any review will deal primarily with over-the-counter issues and redemptions. Fees for payroll issues will be governed largely by the alternative costs of such issues by Federal agencies and Federal Reserve Banks.

There is no assurance that savings bond fees can (or should) be based purely on costs. It may be necessary or advisable to establish fees for issuing and redeeming bonds that financial institutions would be free to accept or reject. In their comments on the schedule, agents reported costs as high as $2.66 for issuing bonds and $1.50 for redeeming bonds. The issue of a bond purchased for $18.75 does not justify fees of these amounts. Moreover, the question of recompense must be considered in the context of the effect on the Savings Bond Program as a whole.

The Treasury cannot implement changes in the fee schedule without first seeking Congressional approval through the regular appropriation process.

Any changes, including an explanation of their basis, will be published as revisions of the regulations.

CREDITS AND CHARGES TO TAX AND LOAN ACCOUNTS

Two respondents questioned the statement in the regulations that funds would be deposited into the tax and loan accounts in accordance with the instructions of the Federal Reserve Bank of the District. Both felt that instructions should be uniform throughout the country. Another respondent felt that if funds collected from the issuance of savings bonds are to be placed in interest-bearing tax and loan accounts, funds used to redeem bonds should be disbursed from those accounts.

The rules for depositing savings bond sale proceeds in tax and loan accounts are uniform. Instructions to issuing and paying agents are customarily issued by the qualifying Federal Reserve Banks, and the practice includes such activities as crediting sales proceeds. Except for minor local variations, the instructions issued by each Reserve Bank are standard.

The disbursement of tax and loan funds by depositaries in payment of savings bonds and notes would not be feasible because of the control and accounting problems such a procedure would create.

CHARGES TO CUSTOMERS

Questions were also raised about the collection of fees from customers.

No fee may be imposed by agents on bondowners for the redemption of bonds or on purchasers for the issue of bonds over-the-counter or through bond-a-month plans.

In the case of payroll issues by financial institutions for customers which operate payroll savings plans, the Department recognizes that the parties have often entered into compensatory arrangements, particularly when the bond issuance function is an interrelated part of a package of varied financial services, or when the issuing agent must perform preparatory work prior to inscribing the bonds.

The regulations prohibit the acceptance of dual compensation for obtaining and controlling bond stock and inscribing and delivering bonds. However, the regulations do not prohibit financial institutions from electing to continue compensatory arrangements with customers, in lieu of accepting a fee from the Treasury for bond issuance functions; nor do they prohibit such institutions from obtaining supplemental compensation for services not immediately concerned with inscribing and delivering bonds, such as converting data from hard copy to magnetic tape for bond inscription purposes.

PAYMENT OF FEES

One respondent indicated that the regulations did not address the way in which fees will be paid and stated that the reserve account should be used for fee payment, as well as penalty charges.

Given the diversity of issuing and paying agents, fees will be paid by checks issued quarterly by the Division of Disbursement, Bureau of Government Financial Operations, on the basis of data prepared by the Bureau of the Public Debt. Each agent eligible for a fee has been furnished with a pamphlet that explains, among other things, the calculation and payment of fees.

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In consideration of all of the foregoing, 31 CFR Chapter II is amended as follows:

PART 203—TREASURY TAX AND LOAN DEPOSITARIES

1. 31 CFR Part 203 (Department Circular No. 92) is revised to read as follows:

Subpart A—General Information

Sec.
203.1 Scope of regulations.
203.2 Definitions.
203.3 Designation of financial institutions as Treasury tax and loan depositaries.
203.4 Sources of deposit.
203.5 Directives regarding credits (deposits) to Treasury tax and loan accounts.
203.6 Parties to the Contract.
203.7 Obligations of the depositary.

Subpart B—Options

203.8 General requirement.
203.9 Note Option.
203.10 Remittance Option.
203.11 Election of option by previously authorized depositaries.
203.12 Change of options.

Subpart C—Interest and Compensation

203.13 Rate of interest.
203.14 Compensation for services rendered.

Subpart D—Collateral Security

203.15 Collateral security requirements.

Subpart E—Miscellaneous Provisions

203.16 Termination of contract.
203.17 Implementing instructions.
203.18 Effective date.

AUTHORITY: Sec. 8, Act of Sept. 24, 1917, Chapter 56, 40 Stat. 291, as amended (31 U.S.C. 771); Sec. 6302(c), Internal Revenue Code of 1954; and Secs. 1, 2, and 3, Pub. L. 95-147, 91 Stat. 1227 (31 U.S.C. 1038); unless otherwise noted.

Subpart A—General Information

§ 203.1 Scope of regulations.

The regulations in this part govern the designation of Treasury tax and loan depositaries and their contract with the Treasury Department to maintain and administer separate accounts to be known as Treasury tax and loan accounts in which funds representing payments for certain United States obligations and payments of Federal taxes are credited.

§ 203.2 Definitions.

As used in this part:

(a) "Advices of credit" means those Treasury forms, which are supplied to tax and loan depositaries to be used in supporting credits to Treasury tax and loan accounts.

(b) "Business day" means any day on which the Federal Reserve Bank of the district is open to the public.

(c) "Election of Option form" means a document, preprinted and supplied by the Federal Reserve Bank of each district, on which a tax and loan depositary indicates the option under which it will administer its Treasury tax and loan account after the effective date of this Part.

(d) "Federal funds rate" means the weekly Federal funds rate as published in the Federal Reserve Bulletin in Table A-27 entitled "Interest Rates, Money and Capital Markets".

(e) "Federal Reserve Bank of the district" means the Federal Reserve Bank which services the geographical area in which the tax and loan depositary is located. Tax and loan depositaries located in Puerto Rico, the Virgin Islands, and the Panama Canal Zone are included in the Second Federal Reserve District.

(f) "Federal tax deposit form" means a preinscribed form supplied to a taxpayer by the Treasury Department to accompany deposits of Federal taxes.

(g) "Federal taxes" means those Federal taxes specified by the Secretary of the Treasury or the Secretary's delegate as eligible for payment through the procedure prescribed in this part and Part 214.

(h) "Note Option" means that choice available to a tax and loan depositary under which funds debited to its Treasury tax and loan account are added by the Treasury to its investments in obligations of the depositary. The amount of such investments will be evidenced by an open-ended interest-bearing note maintained at the Federal Reserve Bank of the district.

(i) "Recognized Insurance Coverage" means the insurance provided by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Share Insurance Fund, and the insurance provided by insurance organizations specifically qualified by the Secretary of the Treasury pursuant to 31 CFR Part 226.

(j) "Remittance Option" means that choice available to a tax and loan depositary under which funds equivalent to the amount of deposits credited by the depositary to its Treasury tax and loan account will be withdrawn by the Federal Reserve Bank immediately upon receipt by the Federal Reserve Bank of the advices of credit supporting such deposits.

(k) "Reporting cycle" means the time period established for reporting and computation purposes. A reporting cycle begins on the first Thursday of each month and ends on the Wednesday preceding the first Thursday of the following month.

(l) "Reserve account" means that account every member of the Federal Reserve System maintains at the Federal Reserve Bank of its district for reserve purposes pursuant to 12 CFR Part 204.

(m) "Special depositary" means a depositary that had been designated under the provisions of 31 CFR Part 203 prior to the effective date of this revision. A depositary thereafter desig-

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nated under this Part shall be known as a Treasury tax and loan depositary.

§ 203.3 Designation of financial institutions as Treasury tax loan depositaries.

(a) *Previously authorized depositaries.* Every special depositary which, at the close of business on July 5, 1978, was authorized to maintain a Treasury tax and loan account is hereby redesignated as a Treasury tax and loan depositary. The agreements under which they were heretofore authorized as Special Depositaries of Public Money are continued in effect without further action, but subject to the provisions of the current Part 203.

(b) *New designations*—(1) *Requirements.*—(i) *Eligible institutions.* The following classes of financial institutions are eligible to be designated as Treasury tax and loan depositaries:

(A) Every incorporated bank and trust company in the United States, Puerto Rico, the Virgin Islands, the Panama Canal Zone, and every United States branch of a foreign banking corporation authorized by the State in which it is located to transact commercial banking business.

(B) Every institution insured by the Federal Savings and Loan Insurance Corporation.

(C) Every credit union insured by the Administrator of the National Credit Union Administration.

(D) Savings and loan, building and loan, homestead associations, and credit unions, created under the laws of any State, the deposits or accounts of which are insured by a State or agency thereof, or by a corporation chartered by a State for the sole purpose of insuring deposits or accounts of such financial institutions.

(ii) *Other requirements.* In order to meet Treasury requirements for designation, each financial institution is required to possess under its charter and regulations issued by its chartering authority either general or specific authority permitting the maintenance of the tax and loan account as an account, the balance in which is payable on demand without previous notice of intended withdrawal. Each financial institution is required to also possess the authority to pledge collateral to secure Treasury tax and loan funds.

(2) *Application procedures.* Any eligible financial institution seeking designation as a Treasury tax and loan depositary and, thereby, the authority to maintain a Treasury tax and loan account shall file with the Federal Reserve Bank of the district an "Offer to Contract and Application" accompanied by a resolution of its board directors authorizing the "Offer to Contract and Application" (both on forms prescribed and available on request from the Federal Reserve Bank).

(3) *Designation.* Each financial institution satisfying the eligibility requirements and the application procedures will receive from the Federal Reserve Bank of the district notification of its specific designation as a Treasury tax and loan depositary. A financial institution is not authorized to maintain a Treasury tax and loan account until it has been designated as a Treasury tax and loan depositary by the Federal Reserve Bank of the district.

§ 203.4 Sources of deposit.

A tax and loan depositary shall credit to its Treasury tax and loan account payments of such Federal taxes as the Secretary of the Treasury may from time to time by regulation authorize to be paid through Treasury tax and loan accounts, and may credit to its Treasury tax and loan account funds representing:

(a) Payments for United States Savings Bonds issued by the tax and loan depositary, in its issuing agent capacity;

(b) Payments for United States Savings Bonds subscribed for through the tax and loan depositary on behalf of its customers, but which may be issued only by Federal Reserve Banks and the United States Treasury Department.

§ 203.5 Directives regarding credits (deposits) to Treasury tax and loan accounts.

(a) Payments for United States Savings Bonds shall be credited in accordance with instructions prescribed by the Federal Reserve Bank of the district.

(b) Federal tax payments shall be credited in accordance with Part 214 of this Chapter and any instructions issued pursuant to that Part.

§ 203.6 Parties to the contract.

A financial institution which is designated as a Treasury tax and loan depositary enters into a depositary contract with the Department of the Treasury. The parties to this contract are the Treasury, acting through the Federal Reserve Banks as Fiscal Agents of the United States, and each financial institution designated under § 203.3. The terms of the contract include all of the provisions of this part.

§ 203.7 Obligations of the depositary.

A Treasury tax and loan depositary shall:

(a) Administer a Treasury tax and loan account in accordance with this Part and any amendments or supplements thereto, and instructions issued pursuant thereto, including the Procedural Instructions for Treasury Tax and Loan Depositaries;

(b) Comply with the requirements of section 202 of Executive Order 11246, entitled "Equal Employment Opportunity" (30 FR 12319) as amended by Executive Order 11375, entitled "Equal Employment Opportunity Clause," which is incorporated herein by reference, and the regulations issued thereunder at 41 CFR Chapter 60, as amended. The Secretary of the Treasury may terminate the contract with a tax and loan depositary for failure to comply with the terms of the contract set forth in this subsection, relating to equal employment opportunity, after following the procedures specified by the U.S. Department of Labor at 41 CFR Part 60-30, as amended.

(c) Comply with the requirements of section 503 of the Rehabilitation Act of 1973, 29 U.S.C. 793, and the regulations issued thereunder at 20 CFR Part 741, which are incorporated herein by reference, requiring Government contractors to take affirmative action to employ qualified handicapped individuals, and

(d) Comply with requirements of section 503 of the Veterans Employment and Readjustment Act of 1972, 38 U.S.C. 2012, Executive Order 11701, and the regulations issued thereunder at 41 CFR Subpart 1-12.11, which are incorporated herein by reference, for the promotion of employment of disabled and Vietnam era veterans.

Subpart B—Options

§ 203.8 General requirement.

A Treasury tax and loan depositary shall administer its Treasury tax and loan account under either the Note Option or the Remittance Option.

§ 203.9 Note Option.

(a) *Additions.* The Treasury will invest funds in obligations of depositaries selecting the Note Option. Such obligations shall be in the form of open-ended notes and additions and reductions will be reflected on the books of the Federal Reserve Bank of the district. A depositary electing the Note Option shall, as of the first business day after crediting deposits to its tax and loan account, debit its tax and loan account in the amount of such deposits and simultaneously credit the note thereby reflecting an increase in like amount in Treasury's investment in obligations of the depositary.

(b) *Delivery.* A depositary administering its tax and loan account under the Note Option shall forward at the close of business each day its advices of credit for that day to the Federal Reserve Bank of the district via the most expeditious means reasonably available including the U.S. Postal Service in instances where more positive delivery systems, in terms of date of delivery, are not being utilized by the depositary for other documents (e.g., checks) being remitted to the Federal Reserve Bank or Branch city.

(c) *Other Additions.* (1) A tax and loan depositary may be given the option of adding directly to its note the amounts of payments made by, or through, it for allotments on tenders and subscriptions for United States securities issued under the Second Liberty Bond Act, 40 Stat. 288, as amended when such method of payment is provided for under the terms of the Treasury's offering circulars. The amounts of payments shall be added to the amount of the note on the dates of settlement.

(2) In addition, other funds from the Treasury's operating cash may be offered from time to time to certain Note Option depositaries. Each such Note Option depositary shall have the opportunity to decide whether it wishes to receive from the Treasury such additional investments in its notes.

(d) *Withdrawals.* The amount of the note shall be payable on demand without previous notice. Calls for payments on the note will be by direction of the Secretary of the Treasury through the Federal Reserve Banks. A depositary shall arrange for the payment of calls on the payment dates specified in the calls by a charge to the reserve account of a depositary or the reserve account of a member bank correspondent.

(e) *Interest.* A note shall bear interest at the rate specified in § 203.13. Such interest is payable monthly by a charge to the reserve account of the depositary or through the reserve account of a member bank correspondent. Specific details about the computation of the amount of interest due, the means of payment, payment dates, Federal Reserve Bank responsibilities, and other related details are described in the Procedural Instructions for Treasury Tax and Loan Depositaries.

(f) *Maximum Balance.* As of the date specified by each Federal Reserve Bank, each depositary selecting the Note Option may establish a maximum balance for its note account by providing notice to that effect in writing to the Federal Reserve Bank of the district. That portion of any advice of credit when posted at the Federal Reserve Bank which would cause the note balance to exceed the amount specified by the depositary will be automatically withdrawn by the Federal Reserve Bank.

§ 203.10 Remittance Option.

(a) *Withdrawals.* For a depositary selecting the Remittance Option, funds equivalent to the amount of deposits credited by a depositary to its Treasury tax and loan account will be withdrawn by the Federal Reserve Bank upon receipt by the Federal Reserve Bank of the advices of credit supporting such deposits. A depositary shall arrange for the payment of withdrawals by an immediate charge to its reserve account or the reserve account of a member bank correspondent.

(b) *Remittance Option Classes.* Depositaries electing this option will be subdivided into Remittance Option Class 1 or Class 2 depending upon the volume of deposits credited to their tax and loan accounts during the previous calendar year, as specified in the Procedural Instructions for Treasury Tax and Loan Depositaries. Each depositary shall be subject to the provisions applicable to the class into which it is placed.

(1) *Remittance Option—Class 1 requirements.*—(i) *Delivery.* A Remittance Option—Class 1 depositary shall establish and maintain procedures to ensure timely delivery of its advices of credit at the Federal Reserve Bank of the district prior to the Federal Reserve Bank's cutoff time for processing such credits the next business day after the date of credit. If a depositary, whose volume of credits is higher than the amount specified in the Procedural Instructions for Treasury Tax and Loan Depositaries, does not arrange to forward its advices of credit so that they regularly arrive at the Federal Reserve Bank prior to the designated cutoff hour, it should elect the Note Option.

(ii) *Late fee.* If an advice of credit does not arrive at the Federal Reserve Bank before the designated cutoff hour for receipt of such advices, a late fee in the form of interest at the rate specified at § 203.13 will be assessed for each day's delay in receipt of such advice. Such late fee assessments will be effected on a monthly basis through a depositary's reserve account or the reserve account of a member bank correspondent. Specific details and procedures are included in the Procedural Instructions for Treasury Tax and Loan Depositaries.

(2) *Remittance Option—Class 2 requirements.*—(i) *Delivery.* A depositary administering its tax and loan account under the Remittance Option—Class 2 shall forward its advices of credit to the Federal Reserve Bank of the district via an available expeditious means, which includes the U.S. Postal Service.

(ii) *Analysis credit.* All tax and loan balances which are in excess of a current day's credits will be subject to an analysis credit, as explained in § 203.14 and the Procedural Instructions for Treasury Tax and Loan Depositaries.

(iii) *Excessive flow.* A depositary may continue as a Class 2 depositary if the rate of flow of deposits it accepts does not exceed the limitation prescribed therefor in the Procedural Instructions for Treasury Tax and Loan Depositaries. If a depositary's flow exceeds that limitation, it shall administer its tax and loan account as a Remittance Option—Class 1, or a Note Option depositary. Specific details and procedures concerning the excessive flow of deposits are described in the Procedural Instructions for Treasury Tax and Loan Depositaries.

§ 203.11 Election of option by previously authorized depositaries.

(a) *General.* A depositary which, as of the close of business on July 5, 1978, was authorized to maintain a tax and loan account and which wishes to administer a tax and loan account under the Note Option or the Remittance Option shall file with the Federal Reserve Bank of the district an Election of Option form signed by an official authorized to act on behalf of the depositary. The depositary will receive from the Federal Reserve Bank notice as to the effective date of that election. Until July 6, 1978, each authorized depositary shall continue to administer its tax and loan account under its authorization prior to that date.

(b) *Depositaries not filing an Election of Option form, yet accepting tax deposits.* A depositary authorized prior to July 6, 1978, to administer a Treasury tax and loan account, but which has not filed an Election of Option form by that date, or having filed that form, has not received from the Federal Reserve Bank prior to that date notice as to the effective date of that election shall on and after July 6, 1978, if it continues to credit deposits to the Treasury tax and loan account by entering such credits, be presumed to have assented to all terms and provisions of this part and to be administering the tax and loan account under the Remittance Option.

(c) *Inactive depositaries.* The authority of a depositary, authorized prior to July 6, 1978, to administer a Treasury tax and loan account, which depositary has not filed an Election of Option form and whose tax and loan account has had no credits for six months after July 6, 1978, will be revoked automatically. Thereafter, to accept deposits for credit to a Treasury tax and loan account, the financial institution shall seek new designation in accordance with § 203.3.

§ 203.12 Change of options.

A depositary is subject to the provisions of the option it has selected until such time as it provides notice to the Federal Reserve Bank requesting a change in option and receives formal notification from the Federal Reserve Bank of the effective date of the change of option. Specific details regarding changes in option are included in the Procedural Instructions for Treasury Tax and Loan Depositaries.

Subpart C—Interest and Compensation

§ 203.13 Rate of interest.

The rate of interest to be used in connection with the Note Option and

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the Remittance Option will be equal to the Federal funds rate less twenty-five basis points (i.e., ¼ of 1 percent). Details about the computation are included in the Procedural Instructions for Treasury Tax and Loan Depositaries.

§ 203.14 Compensation for services rendered.

(a) *General.* Depositaries will not be separately compensated for servicing the tax and loan account, but the bookkeeping costs of maintaining that account are considered in establishing the per-item fee for each Federal tax deposit, as prescribed at § 214.6(b) of this chapter.

(b) *Remittance Option—Class 2 depositaries.* Fees payable to Remittance Option—Class 2 depositaries for Federal tax deposits will be reduced by an analysis credit representing the value of the balances in tax and loan accounts in excess of a current day's credits. Specific details regarding the determination of the amount of compensation due are discussed in the Procedural Instructions for Treasury Tax and Loan Depositaries.

Subpart D—Collateral Security

§ 203.15 Collateral security requirements.

(a) *Note Option.* Prior to crediting deposits to its Treasury tax and loan account, a Note Option depositary shall pledge collateral security in accordance with the requirements and valuations of paragraph (d) of this section, to cover 100 percent of the amount of the note balance and the closing balance in its Treasury tax and loan account which exceeds recognized insurance coverage.

(b) *Remittance Option.* Prior to crediting deposits to its Treasury tax and loan account, a Remittance Option depositary shall pledge collateral security in accordance with the requirements and valuations of paragraph (d) of this section in an amount which is sufficient to cover the maximum balance in the tax and loan account at the close of business each day, less recognized insurance coverage.

(c) *Deposit of securities.* Collateral security required under paragraphs (a) and (b) of this section shall be deposited with the Federal Reserve Bank of the district, or with a custodian or custodians within the United States designated by the Federal Reserve Bank, under terms and conditions prescribed by the Federal Reserve Bank.

(d) *Acceptable securities.* Unless otherwise specified by the Secretary of the Treasury, collateral security pledged under this section may be transferable securities of any of the following classes:

(1) Obligations issued or fully insured or guaranteed by the United States or any U.S. Government agency, and obligations of Government-sponsored corporations which under specific statute may be accepted as security for public funds: At face value.

(2) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank or the Asian Development Bank: At face value.

(3) Obligations partially insured or guaranteed by any U.S. Government agency: At a value equal to the amount of the insurance or guaranty.

(4) Notes representing loans to students in colleges or vocational schools which are insured either by Federal insurance or by a State agency or private nonprofit institution or organization administering a student loan insurance program in accordance with a formal agreement with the Commissioner of Education under the provisions of the Higher Education Act of 1965 or the National Vocational Student Loan Insurance Act of 1965: At face value.

(5) Obligations issued by States of the United States: At 90 percent of face value.

(6) Obligations of Puerto Rico: At 90 percent of face value.

(7) Obligations of counties, cities, and other governmental authorities and instrumentalities which are not in default as to payments on principal or interest: At 80 percent of face value.

(8) Obligations of domestic corporations which may be purchased by banks as investment securities under the limitations established by Federal bank regulatory agencies: At 80 percent of face value.

(9) Commercial and agricultural paper and bankers' acceptances approved by the Federal Reserve Bank of the district and having a maturity at the time of pledge of not to exceed one year: At 90 percent of face value.

(e) *Assignment of securities.* A tax and loan depositary that pledges securities which are not negotiable without its endorsement or assignment may, in lieu of placing its unqualified endorsement on each security, furnish and appropriate resolution and irrevocable power of attorney authorizing the Federal Reserve Bank to assign the securities. The resolution and power of attorney shall conform to such terms and conditions as the Federal Reserve Bank shall prescribe.

Subpart E—Miscellaneous Provisions

§ 203.16 Termination of contract.

(a) *Termination by the Treasury.* The Secretary of the Treasury may terminate the contract of a Treasury tax and loan depositary at any time upon notice to that effect to that depositary effective at a prospective date set forth in the notice.

(b) *Termination by the tax and loan depositary.* A tax and loan depositary may terminate its depositary contract by submitting notice to that effect in writing to the Federal Reserve Bank of the district effective at a prospective date set forth in the notice.

§ 203.17 Implementing instructions.

Each Federal Reserve Bank is authorized to issue implementing instructions consistent with this part, which instructions shall be binding upon tax and loan depositaries located in its district.

§ 203.18 Effective date.

This revision of this part is effective on July 6, 1978.

2. 31 CFR Part 214 (Department Circular No. 1079) is revised to read as follows:

PART 214—DEPOSITARIES FOR FEDERAL TAXES

Sec.
214.1 Scope of regulations.
214.2 Definitions.
214.3 Designation.
214.4 Depositary Contract.
214.5 Termination of contract.
214.6 Deposits of Federal taxes with depositaries.
214.7 Deposits of Federal taxes with Federal Reserve Banks.
214.8 Additional instructions.
214.9 Effective date.

AUTHORITY: Sec. 10, 56 Stat. 356, as amended (12 U.S.C. 265); sec. 15, 38 Stat. 268 (12 U.S.C. 391); sec. 8, 40 Stat. 291, as amended (31 U.S.C. 771); sec. 6302(c), Internal Revenue Code of 1954, as amended; secs. 1, 2 and 3, Pub. L. 95-147, 91 Stat. 1227 (31 U.S.C. 1038).

§ 214.1 Scope of regulations.

The regulations in this revision of this part govern the designation of financial institutions as depositaries for Federal taxes and the handling of deposits of Federal taxes by such depositaries and by Federal Reserve Banks.

§ 214.2 Definitions.

As used in this part:

(a) "Depositary" means a depositary for Federal taxes.

(b) "Federal Reserve Bank of the district" means the Federal Reserve Bank serving the geographical area in which the financial institution is located. For this purpose, depositaries located in Puerto Rico, the Virgin Islands and the Panama Canal Zone are included in the Second Federal Reserve District.

(c) "Federal tax deposit form" means a preinscribed form supplied to a taxpayer by the Treasury Department to accompany deposits of Federal taxes made under the procedure prescribed by this part.

(d) "Federal taxes" means those Federal taxes specified by the Secretary of the Treasury or the Secretary's delegate as eligible for payment through the procedure prescribed by this part.

(e) "Immediate credit item" means a check or other payment instrument for which immediate credit is given in accordance with the check collection schedule of the receiving Federal Reserve Bank or Branch of the district.

(f) "Qualified depositary for Federal taxes" means a previously designated depositary for Federal taxes that, at the close of business July 5, 1978, was qualified by the Federal Reserve Bank of the district under the provisions of the former Part 214 of this chapter.

§ 214.3 Designation.

(a) *Previously designated depositaries.* (1) The designation of each qualified depositary for Federal taxes which, at the close of business on July 5, 1978, was authorized to maintain a Treasury tax and loan account under the provisions of the former Part 203 of this chapter is hereby extended. The agreements under which they were heretofore authorized as Special Depositaries of Public Money are continued in effect without further action, but subject to the provisions of the current Part 203 of this chapter.

(b) *New designations.*—(1) *Eligibility.* Each financial institution designated as a Treasury tax and loan depositary under the provisions of Part 203 of this chapter is eligible for designation as a depositary for Federal taxes.

(2) *Application for designation.* Any eligible financial institution seeking designation as a depositary for Federal taxes shall file with the Federal Reserve Bank of the district an "Offer to Contract and Application" accompanied by a resolution of its Board of Directors authorizing the "Offer to Contract and Application," both on forms preinscribed by and available on request from the Federal Reserve Bank. Any financial institution not already designated as a Treasury tax and loan depositary may make simultaneous application with the Federal Reserve Bank for such designation as provided in § 203.3 of this part.

(3) *Designations.* Each financial institution satisfying the eligibility requirements and the application procedures will receive from the Federal Reserve Bank of the district notification of its specific designation as a depositary for Federal taxes.

§ 214.4 Depositary Contract.

The designation of a depositary under this part creates a contract between the depositary and the Treasury Department, acting through the Federal Reserve Bank as Fiscal Agent of the United States. The terms of this contract include:

(a) All of the provisions of this part except § 214.7.

(b) Any instructions issued pursuant to this part by the Treasury or by Federal Reserve Banks as Fiscal Agents of the United States.

(c) The provisions prescribed in section 202 of Executive Order 11246, entitled "Equal Employment Opportunity" (30 FR 12319) as amended by Executive Order 11375, entitled "Equal Employment Opportunity Clause."

(d) The requirements of section 503 of the Rehabilitation Act of 1973, 29 U.S.C. 793, and the regulations issued thereunder at 20 CFR Part 741, which are incorporated herein by reference, requiring Government contractors to take affirmative action to employ qualified handicapped individuals, except that depositaries which under this Part receive on an annual basis fee payments of less than $2,500 are exempt from compliance with these regulations.

(e) The requirements of section 503 of the Veterans Employment and Readjustment Act of 1972, 38 U.S.C. 2012, Executive Order 11701, and the regulations issued thereunder at 41 CFR Subpart 1-12.11, which are incorporated herein by reference, for the promotion of employment of disabled and Vietnam era veterans, except that depositaries which under this part receive on an annual basis fee payments of less than $10,000 are exempt from compliance with these regulations.

§ 214.5 Termination of contract.

(a) *By Treasury.* The Secretary of the Treasury may terminate the contract with any depositary at any time upon notice to that effect to be effective at a prospective date set forth in the notice.

(b) *By depositary.* A depositary may terminate its depositary contract by submitting a notice to that effect, in writing, to the Federal Reserve Bank of the district effective at a prospective date set forth in the notice.

§ 214.6 Deposits of Federal taxes with depositaries.

(a) *Deposits with depositaries.* A depositary shall, through any of its offices that accept deposits:

(1) Accept from a taxpayer cash, a postal money order drawn to the order of the depositary, or a check or draft drawn on and to the order of the depositary, covering an amount to be deposited as Federal taxes when accompanied by a Federal tax deposit form on which the amount of the deposit has been properly entered in the space provided. A depositary may at its discretion accept a check drawn on another financial institution, but it does so purely on a voluntary basis and absorbs for its own account any float involved.

(2) When requested to do so by a taxpayer who makes a deposit of Federal taxes in cash over the counter, issue a counter receipt.

(3) Regardless of the form of payment, in every instance place in the space provided on the face of each Federal tax deposit form a stamp impression reflecting the date on which the tax deposit was received by the depositary, by reference to which the timeliness of the tax payment will be determined, and the name and location of the depositary.

(4) Credit on the date of receipt all deposits of Federal taxes to the treasury tax and loan account and administer that account pursuant to the provisions of Part 203 of this Chapter.

(5) Forward each day to the Internal Revenue Service Center servicing the geographical area in which the depositary is located, the Federal tax deposit forms for all tax deposits received that day. Each submission of deposit information shall be on the prescribed Treasury form and in the aggregate amount of the Federal tax deposit forms.

(6) Establish, prior to transmittal to the Internal Revenue Service Center, an adequate record of all deposits of Federal taxes so that it will be able to identify deposits in the event tax deposit forms are lost in shipment between it and the Internal Revenue Service Center. For this purpose, a record shall be made of each deposit showing as a minimum the date of deposit, the taxpayer's identifying number, and the amount of the deposit. The depositary's copies of transmittal letters may be used to provide the necessary information if individual deposits are listed separately showing date, taxpayer's identifying number, and amount.

(7) Not accept compensation from taxpayers for accepting deposits of Federal taxes and handling them as required by this section.

(b) *Compensation for services.* The Treasury will compensate depositaries for Federal taxes at a uniform fee of 50 cents for each Federal tax deposit form forwarded by the depositary and processed by the Internal Revenue Service Center. This fee covers the bookkeeping costs of maintaining the Treasury tax and loan account as well as the handling of Federal tax deposits. Fees payable may be reduced by the analysis credits described in § 203.14 of this chapter.

§ 214.7 Deposits of Federal taxes with Federal Reserve Banks.

A Federal Reserve Bank shall, through any of its offices:

(a) Accept a tax deposit directly from a taxpayer when such tax deposit is:

(1) Mailed or delivered by a taxpayer located within that Bank's territorial boundaries; and

(2) In the form of cash, a check drawn to the order of that Bank and considered to be an immediate credit

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item by that Bank, a postal money order drawn to the order of that Bank, or Treasury bills, as authorized in Part 309 of this Chapter, covering an amount to be deposited as Federal taxes; and,

(3) Accompanied by a Federal tax deposit form on which the amount of the tax deposit has been properly entered in the space provided.

(b) When requested to do so by a taxpayer who makes a deposit of Federal taxes in cash over the counter, issue a counter receipt.

(c) When a deposit of Federal taxes is made in accordance with the requirements of paragraph (a) of this section, a Bank shall place in the space provided on the face of each Federal tax deposit form accepted directly from a taxpayer, a stamp impression reflecting the name of the Bank and the date on which the tax deposit was received by the Bank so that the timeliness of the Federal tax payment can be determined. However, if such a deposit is mailed to a Bank, it shall be subject to the "Timely mailing treated as timely filing and paying" clause of section 7502 of the Internal Revenue Code (26 U.S.C. 7502).

(d) When a deposit of Federal taxes is not in accordance with the requirements governing form of payment set forth in paragraph (a) of this section, a Bank shall place in the space provided on the face of each Federal tax deposit form a stamp impression reflecting th name of the Bank and the date on which the proceeds of the accompanying payment instrument are collected by the Bank. This date shall be used for the purpose of determining the timeliness of the Federal tax payment.

§ 214.8 Additional instructions.

Federal Reserve Banks are authorized to issue instructions consistent with these regulations for carrying out the requirements of this part.

§ 214.9 Effective date.

The provisions of this part, as revised, become effective as of July 6, 1978.

PART 317—REGULATIONS GOVERNING AGENCIES FOR ISSUE OF U.S. SAVINGS BONDS OF SERIES E AND U.S. SAVINGS NOTES

3. 31 CFR Part 317 (Department Circular, Public Debt Series No. 4-67) is amended by revising § 317.5 to read as follows:

§ 317.5 Issuance of bonds.

(a) *General.* Issuing agents shall comply with all regulations and instructions issued by the Department of the Treasury or the Federal Reserve Banks concerning the sale, inscription, dating, validation and issue of the bonds, and disposition of the issue records. No issuing agent shall have authority to sell bonds other than as provided in the offering circulars and the governing regulations.[1]

(b) *Fees.* Issuing agents, other than Federal agencies which for the purpose of this section include Government corporations and independent establishments, will be paid for each savings bond issued during a calendar quarter as follows:

70 cents for each bond issued on sale by a financial institution on the basis of an application received over-the-counter or by mail, or under a bond-a-month plan;

30 cents for each bond issued on sale by a financial institution under a payroll plan, if the bond is inscribed by any means other than a computer;

10 cents for each bond issued on sale by a financial institution under a payroll plan, if the bond is inscribed by computer;

10 cents for each bond issued on sale by a non-financial institution; and

5 cents for each bond reissued to effect distribution to a participant in a pension, retirement, savings, vacation or similar plan.

(c) *Basis for payment of fees.* A fee will be paid for each Series E savings bond issue included in transmittals of registration stubs or magnetic tape to the Bureau of the Public Debt for the account of an eligible agent during each calendar quarter, based on the transfer dates assigned to the transmittals by a Federal Reserve Bank.

(d) *No charge to customers.* Financial institutions accepting fees from the Treasury for issuing savings bonds shall not make any charge to customers for the same service.

(e) The provisions of this section, as amended, are effective as of July 6, 1978.

PART 321—PAYMENTS BY BANKS AND OTHER FINANCIAL INSTITUTIONS OF UNITED STATES SAVINGS BONDS AND UNITED STATES SAVINGS NOTES (FREEDOM SHARES)

4. 31 CFR Part 321 (Department Circular No. 750, Second Revision) is amended by revising § 321.5 to read as follows:

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Subpart B—Authority To Act

§ 321.5 Paying agent fees and charges.

(a) *Scale or rate and procedures.* Each paying agent shall receive reimbursement at the rate of 30 cents for each bond or note paid hereunder which is received by a Federal Reserve Bank and forwarded for the agent's account to the Department of the Treasury during each calendar quarter.

(b) *No charge to owners.* Paying agents shall not make any charge whatever to owners of savings bonds and savings notes in connection with payments hereunder.

(c) The provisions of this section, as amended, are effective as of July 6, 1978.

5. 31 CFR Chapter II is revised to add a new Part 226 to read as follows:

INTERIM RULE

PART 226—RECOGNITION OF INSURANCE COVERING TREASURY TAX AND LOAN DEPOSITARIES

Sec.
226.1 Scope.
226.2 General.
226.3 Application—termination.
226.4 Adequacy of security—how computed.
226.5 Examinations.
226.6 Financial reports.
226.7 Effective date.

AUTHORITY: Secs. 2 and 3, Pub. L. 95-147, 91 Stat. 1227 (31 U.S.C. 1038).

§ 226.1 Scope.

The regulations in this part apply to insurance covering public money of the United States held by banks, savings banks, savings and loan associations, building and loan associations, homestead associations, or credit unions designated as Treasury tax and loan depositaries under 31 CFR Part 203. Approval of the adequacy of the insurance coverage provided to Treasury tax and loan funds shall be governed by the regulations contained herein, which will be supplemented by guidelines issued by the Treasury and updated from time to time to meet changing conditions in the industry.

§ 226.2 General.

(a) Deposit or account insurance provided by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Share Insurance Fund, is hereby recognized. Deposits or accounts which are insured by a State or agency thereof, or by a corporation chartered by a State for the sole purpose of insuring deposits or accounts of financial institutions eligible to be Treasury tax and loan depositaries (hereinafter referred to as Insurance Arrangement), shall be approved as provided herein. Such approval constitutes recognition for the purpose of reducing the amount of collateral required of a tax and loan depositary by the amount of recognized insurance coverage pursuant to 31 CFR 203.15.

(b) Generally, these regulations and their associated guidelines require that an organization providing insurance maintain a corpus of sufficient value and liquidity, and/or that it have sufficient State borrowing authority, in relation to its liabilities and total insured savings (or deposits) to provide adequate security to the Government's deposits and that adequate monitoring of the financial condition of the insured institutions is conducted.

§ 226.3 Application—termination.

(a) Every Insurance Organization applying for recognition as a qualified insurer of financial institutions designated as Treasury tax and loan depositaries shall address a written request to the Assistant Comptroller for Auditing, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226, who will notify the applicant of the data which is necessary to make application. If the Secretary of the Treasury is satisfied that (1) one or more institutions insured by the applicant otherwise meet the Secretary's requirements for designation as a Treasury tax and loan depositary or Federal tax depositary, (2) the insurance provided by the applicant covers public money of the United States, and (3) the insurance coverage provided affords adequate security to the Government's deposits, the Secretary shall recognize the applicant as a qualified insurer of financial institutions designated as Treasury tax and loan depositaries.

(b) If and when the Secretary of the Treasury determines that a qualified insurance organization's financial condition is such that it no longer provides adequate security or that it is not complying with the regulations of this part, the Secretary will notify the Insurance Organization of the facts or conduct which cause him to make such determination, and in those cases where the safety of the Government's funds allows, provide the Insurance Organization with an opportunity to correct the deficiency. When any deficiency has not been corrected to his satisfaction or, where the safety of Government funds makes immediate revocation imperative, the Secretary will revoke the recognition previously granted.

§ 226.4 Adequacy of security—how computed.

(a) In qualifying Insurance Organizations, the Treasury will use a ratio (equity (net worth) of the insurance organization divided by insured accounts or deposits) to determine if the security is adequate. The ratio will be computed as determined by the Treasury, and is required to equal 0.0045 or greater for an Insurance Organization to be recognized (i.e., net worth is required to equal 0.45 of 1 percent of insured accounts or deposits).

(b) If, in the judgment of the Secretary of the Treasury, any of the Insurance Organization's assets which cannot be liquidated promptly or are subject to restriction, encumbrance, or discredit, all or part of the value of such assets may be deducted from equity in making the computation. The Secretary of the Treasury may value the assets and liabilities in his discretion.

(c) An Insurance Organization's unqualified borrowing authority from its sponsoring State will be added to its equity in making the computation because such authority is equivalent to additional capitalization. An Insurance Organization's commercial borrowing authority and its reinsurance will be disregarded in making the computation, because these are not adequate substitutes for undercapitalization.

§ 226.5 Examinations.

(a) Examinations by State regulatory authorities or audits by CPA firms of Insurance Organizations shall be performed in accordance with, and at intervals prescribed by, State regulatory procedures. Copies of the reports shall be submitted to the Treasury.

(b) Examinations by State regulatory authorities or audits by CPA firms of insured financial institutions shall be performed in accordance with, and at intervals prescribed by, State regulatory procedures. In addition, an adequate monitoring system shall be employed to detect those institutions with financial problems.

§ 226.6 Financial reports.

Financial reports of Insurance Organizations shall be submitted to the Treasury at the same intervals they are submitted to State regulatory authorities. However, they need not be submitted more frequently than quarterly but, as a minimum, shall be submitted annually. The Treasury may prescribe the format of such reports.

§ 226.7 Effective date.

The provisions of this part become effective as of July 6, 1978.

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The foregoing revisions and/or amendments are effective as of July 6, 1978.

Dated: April 27, 1978.

PAUL H. TAYLOR,
Acting Fiscal Assistant Secretary.

[FR Doc. 78-11814 Filed 5-1-78; 8:45 am]

[1] Department of the Treasury Circulars No. 530, current revision (31 CFR Part 315), and No. 653, current revision (31 CFR Part 316).

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federal register

TUESDAY, MAY 2, 1978
PART IV



DEPARTMENT OF STATE

EMPLOYEE RESPONSIBILITIES AND CONDUCT

Revised Regulations

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[4710-13]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER B—PERSONNEL

[Dept. Reg. 108.754]

PART 10—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Revised Regulations

AGENCY: Department of State.

ACTION: Final Rule.

SUMMARY: These regulations revise existing standards of conduct and responsibilities for certain employees of the Department of State, the Agency for International Development (AID), and the International Communication Agency (ICA). The revisions are necessary to conform to a change in legislation establishing new dollar ceilings for honorariums. The revisions also are responsive to certain problems of administration, including a reduction in the information required from employees, by providing that employees need not disclose certain types of financial interests. It is the intent of the revisions to provide conformity with the law and more flexibility in administering the regulations.

EFFECTIVE DATE: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

For State: Knute E. Malmborg, Assistant Legal Adviser, 202-632-2350; For AID: Pauline G. Johnson, Office of the General Counsel, 202-632-8277; For ICA: C. Normand Poirier, Deputy General Counsel, 202-724-9168.

SUPPLEMENTARY INFORMATION: The following summary highlights the major revisions to Part 10 of Title 22, Code of Federal Regulations.

1. A new § 10.735-217, Requesting Exceptions From Certain Statutory Prohibitions, is added to Subpart B.

2. A new § 10.735.411, Disqualification Procedures, is added to Subpart D.

3. Section 10.735-102(f) is revised to include "in-law relations" in the definition of "Member of an employee's family."

4. Section 10.735-202(d) is revised to provide stricter guidelines for acceptance of gifts, entertainment, and favors by AID employees.

5. In § 10.735.205, paragraphs (c) and (d) are added to provide that certain financial interests are exempted from the prohibitions in 18 U.S.C. 208 (a) and (b)(1) as being too remote or inconsequential to affect the integrity of the services of an employee.

6. Section 10.735-206(c) is revised to conform to the requirements of sec. 413(c), Pub. L. 95-105 (91 Stat. 856; 22 U.S.C. 2693) for employment of Foreign Service spouses.

7. Section 10-735-209 is revised to include as a just financial obligation one imposed by law such as Federal, State, or local taxes.

8. Section 10.735-213(b) is revised to include present or former employees, their spouses and/or members of their families among those for whom an employee may make a personal recommendation in connection with employment.

9. Section 10.735-216(a) is revised to add a prohibition against officers or employees accepting any honorarium in excess of $2,000 or honoraria aggregating more than $25,000 in any calendar year, as required by Pub. L. 94-283, (90 Stat. 494; 2 U.S.C. 441i).

10. A new § 10.735-217 is added to provide a procedure for requesting exceptions from certain statutory prohibitions.

11. Section 10.735-401 is updated to include an amended list of employees required to submit statements of employment and financial interests.

12. Section 10.735-405(e) is revised to provide that an employee need not disclose financial interests described in § 10.735-205(c) which are too remote or too inconsequential to affect the integrity of employees' services.

13. Section 10.735-410 is revised to provide that except for those financial interests excepted from the conflict of interest prohibitions, employees must disqualify themselves from participating in any matter in which they have a financial interest.

14. A new 10.735-411 is added to provide procedures for employees to follow to disqualify themselves from participating in any matter in which they have a financial interest.

Compliance with 5 U.S.C. 553 (80 Stat. 383) as to notice of proposed rulemaking and delayed effective date is unnecessary because the revisions to 22 CFR 10 are beneficial to personnel of the Department of State, the Agency for International Development, and the International Communication Agency, and involve functions of agency management and personnel which are exempt from 5 U.S.C. 553.

This revision to 22 CFR Part 10 was approved by the Civil Service Commission on February 14, 1978.

Dated: March 31, 1978.

BEN H. READ,
Deputy Under Secretary for Management, Department of State.

Dated: April 5, 1978.

KENNETH E. DAWSEY,
Director, Office of Personnel and Training, Agency for International Development.

Dated: April 6, 1978.

ANGIE GARCIA,
Director of Personnel Services, International Communication Agency.

Subpart A—General Provisions

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10.735-102 Definitions.
10.735-103 Interpretation and advisory service.
10.735-104 Applicability to detailed employees.
10.735-105 Disciplinary action.

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10.735-201 General.
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AUTHORITY: EO 11222 of May 8, 1965, as amended; 5 CFR 735.104.

Subpart A—General Provisions

§ 10.735-101 Purpose.

The maintenance of the highest standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts the regulations in this part prescribe standards of conduct and responsibilities for employees and special Government employees and require statements reporting employment and financial interests.

NOTE.—These regulations are codified in State 3 FAM 620, AID Handbook 24, and ICA MOA V-A 550.

§ 10.735-102 Definitions.

(a) "Agency" means the Department of State (State), the Agency for International Development (AID), and the International Communication Agency (ICA).

(b) "Employee" means an officer or employee at home or abroad, of an agency named in paragraph (a) of this section, but does not include a special Government employee or a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, or Public Health Service.

(c) "Executive order" means Executive Order 11222 of May 8, 1965, as amended.

(d) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(e) "Special Government employee" means an officer or employee of an agency who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis.

(f) "Member of an employee's family" means a spouse, minor child, or other member of an employee's immediate household. For the purpose of these regulations "member of an employee's immediate or in-law household" means those blood relations who are residents of the employee's household.

(g) "Counselor" means the agency's Counselor on Ethical Conduct and Conflicts of Interest.

§ 10.735-103 Interpretation and advisory service.

(a) Counseling services on employee responsibilities and conduct are available in each agency. These services are to be coordinated by a Counselor appointed by the agency head. The Counselors are for State: the Legal Adviser; for AID: The Deputy General Counsel; and for ICA: the General Counsel. The Counselor serves as the agency's designee to the Civil Service Commission on matters covered by the regulations in this part and is responsible for coordination of the agency's counseling services under paragraph (b) of this section and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by these sections are available to deputy counselors designated under paragraph (b) of this section.

(b) Each agency head may designate deputy counselors for the agency's employees and special Government employees. Deputy Counselors designated under this section must be qualified and in a position to give authoritative advice and guidance to each employee and special Government employee who seeks advice and guidance on questions of conflicts of interest and on other matters covered by the regulations in this part. A Washington employee or special Government employee should address any inquiries concerning the regulations in this part to the Counselor. At missions abroad the chief of each agency's establishment designates an officer, preferably the legal officer where one is available, to provide counseling services under the guidance of the Counselor; a single officer may serve all agencies. An employee or special Government employee serving abroad should submit inquiries to the officer designated.

(c) Each agency shall periodically notify its employees and special Government employees of the availability of counseling services and how and when these services are available. A new employee or special Government employee shall be notified at the time of entrance on duty.

§ 10.735-104 Applicability to detailed employees.

All the regulations of Subparts A, B, and D of this part are applicable to an employee of another U.S. Government agency who may be serving on detail or assignment, formally or informally, on a reimbursable or nonreimbursable basis through a Participating Agency Service Agreement or otherwise, with an agency named in § 10.735-102(a). However, disciplinary action shall be taken against such an employee only by the employing agency.

§ 10.735-105 Disciplinary action.

A violation of the regulations in this part by an employee or special Government employee may be cause for appropriate disciplinary action, including separation for cause, which may be in addition to any penalty prescribed by law.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

§ 10.735-201 General.

(a) *Proscribed actions.* An employee shall avoid any action, whether or not specifically prohibited by the regulations in this part, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

(b) *Applicability to members of families of employees.* A U.S. citizen employee shall take care that certain responsibilities placed on the employee are also observed by members of the employee's family. These are the restrictions in regard to: Acceptance of gifts (§§ 10.735-202 and 10.735-203); economic and financial activities abroad (§ 10.735-206); teaching, lecturing, and writing (§ 10.735-204(c)); participation in activities of private organizations (§ 10.735-211(c)); and political activities abroad (§ 10.735-211(g)).

§ 10.735-202 Gifts, entertainment, and favors.

(a) *Acceptance prohibited.* Except as provided in paragraphs (b), (c), and (d) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the employee's agency;

(2) Conducts operations or activities that are regulated by the employee's agency;

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(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duty; or

(4) Appears to be offering the gift with the hope or expectation of obtaining advantage or preferment in dealing with the U.S. Government for any purpose.

(b) *Acceptance permitted.* The provisions of paragraph (a) of this section do not apply to:

(1) Gifts, gratuities, favors, entertainments, loans, or any other thing of monetary value received on account of close family or personal relationships when the circumstances make it clear that it is that relationship rather than the business of the persons concerned which is the motivating factor;

(2) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans;

(3) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value;

(4) Acceptance of rates and discounts offered to employees as a class.

(c) *Acceptance permitted for State and ICA employees.* For State and ICA employees the provisions of paragraph (a) of this section do not apply to: Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance.

(d) *Acceptance permitted for AID employees.* For AID employees the provisions of paragraph (a) of this section do not apply in the following situations:

(1) Acceptance of food, refreshments, or entertainment of nominal value on infrequent occasions offered in the ordinary course of luncheons, dinners, or other meetings and gatherings hosted by foreign governments or agencies and officials thereof, embassies, and international organizations, where the primary purpose of the function is representational or social, rather than the transaction of business. Where the primary purpose of the function is the transaction of business, acceptance is not permitted, except if there is justification and reporting in accordance with paragraph (d)(4) of this section.

(2) Participation in widely attended lunches, dinners, and similar gatherings sponsored by industrial, technical, and professional associations for the discussion of matters of mutual interest to Government and industry.

(3) Acceptance of food, refreshments, or entertainment in the unusual situation where the employee, by virtue of the location of the person, firm, corporation, or other entity, or the regulations governing its dining facilities, finds it inconvenient or impracticable not to accept the offer. Each case of acceptance shall be reported in accordance with the requirement of paragraph (d)(4) of this section. In no other case shall employees accept food, refreshments, or entertainment from private corporations, entities, firms, or individual contractors at occasions which are other than widely attended functions whose purposes are unrelated to Agency business.

(4) In exceptional circumstances where acceptance of food, refreshments, or entertainment is not authorized by paragraphs (d) (1), (2), and (3) of this section, but where, in the judgment of the individual concerned, the Government's interest would be served by such acceptance directly or indirectly from any foreign government, agency, or official thereof or a private person, firm, corporation, or other entity which is engaged or is endeavoring to engage in business transactions of any sort with AID, an employee may accept the offer: *Provided,* That a report of the circumstances, together with the employee's statement as to how the Government's interests were served, will be made within 48 hours to the employee's supervisor, or, if the employee is serving abroad, or on temporary duty abroad, to the Mission Director.

(e) *Gifts to superiors.* An employee shall for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than the employee (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(f) *Neither this section nor § 10.735-204* precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on the employee's behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967.

§ 10.735-203 Gifts from foreign governments.

An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342, and the regulations promulgated thereunder pursuant to E.O. 11320, 31 FR 15789. These regulations are set forth in Part 3 of this title (as added, 32 FR 6569, Apr. 28, 1967), and in 3 FAM 621.

§ 10.735-204 Outside employment and other activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for the employee's services to the Government (18 U.S.C. 209).

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, this part, or the agency regulations. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of Government employment, except when that information has been made available to the general public or will be made available on request or when the agency head gives written authorization for use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by section 401(a) of the Executive order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the employee's agency, or which draws substantially on official data or ideas which have not become part of the body of public information. Employees are referred to the detailed rules of their agency with respect to clearance and acceptance of compensation (3 FAM 628; for AID see Handbook 18).

(d) [Reserved]

(e) An employee shall not render any services, whether or not compensated, to any foreign government, state, province, or semigovernmental agency, or municipality of any foreign government, or to any international organization of states. However, this shall not prevent the rendering of such services by employees acting on behalf of the United States. Nor shall this provision prevent the rendering of services to an international organization of states when otherwise consistent with law and when authorized by the appropriate officer. The appropriate officer for State is the Director General and Director of Personnel; for AID the Assistant Administrator for Program and Management Services; and for ICA the Director of Personnel Services.

(f) [Reserved.]

(g) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law.

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 10.735-205 Financial interests.

(a) An employee shall not: (1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially with the employee's Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law or the regulations in this part.

(c) Pursuant to the provision of 18 U.S.C. 208(b) the following described financial interests of an employee are hereby exempted from the requirements of 18 U.S.C. 208(a) and 208(b)(1) as being too remote or too inconsequential to affect the integrity of the services of an employee. The exemption applies to the financial interests held directly by an employee, by the employee's spouse or minor child whether individually or jointly with the employee, or by an employee and any partner or partners as joint assets of the partnership:

(1) Investments in State and local government bonds; and stocks, bonds, or policies in a mutual fund, investment company, bank or insurance company, provided that in the case of a mutual fund, investment company, or bank, the fair value of such stock or bond holding does not exceed one percent of the value of the reported assets of the mutual fund, investment company, or bank. In the case of a mutual fund or investment company, this exemption applies only where the assets of the fund or company are diversified; it does not apply where the fund or company specializes in a particular industry or commodity.

(2) Interest in an investment club or other group organized for the purpose of investing in equity or debt securities: *Provided,* That the fair value of the interest involved does not exceed $10,000 and that the interest does not exceed one-fourth of the total assets of the investment club or group. Where an employee covered by this exemption is a member of a group organized for the purpose of investing in equity or debt securities, the interest of the employee in any enterprise in which the group holds securities shall be based upon the employee's equity share of the holdings of the group in that enterprise.

(3) If an employee, or the employee's spouse or minor child has a present beneficial interest or a vested remainder interest under a trust, the ownership of stocks, bonds, or other corporate securities under the trust will be exempt to the same extent as provided in paragraphs (c)(1) and (2) of this section for the direct ownership of such securities. The ownership of bonds other than corporate bonds, or of shares in a mutual fund or regulated investment company, under the trust will be equally exempt and to the same extent as under paragraphs (c) (1) and (2) of this section.

(4) If an employee is an officer, director, trustee, or employee of an educational institution, or if the employee is negotiating for, or has an arrangement concerning prospective employment with such an institution, a direct financial interest which the institution has in any matter will not itself be exempt, but any financial interest that the institution may have in the matter through its holdings of securities issued by business entities will be exempt: *Provided,* The employee is not serving as a member of the investment committee of the institution or is not otherwise advising it on its investment portfolio.

(5) An employee may continue to participate in a bona fide pension, retirement, group life, health or accident insurance plan, or other employee welfare or benefit plan that is maintained by a business or nonprofit organization by which the employee was formerly employed. Such financial interest in that organization will be exempt, except to the extent that the welfare or benefit plan is a profit-sharing or stock-bonus plan and the employee's financial interest thereunder exceeds $10,000. This exemption extends also to any financial interests that the organization may have in other business activities.

(d) Nothing in this part shall be deemed to prohibit an employee from acting, with or without compensation, as agent or attorney for the employee's parents, spouse, child, or any person for whom, or for any estate for which, the employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary, except in those matters in which the employee has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of the employee's official responsibility, as defined in 18 U.S.C. 202(b): *Provided,* The head of the employee's division approves in writing.

§ 10.735-206 Economic and financial activities of employees abroad.

(a) *Prohibitions in any foreign country.* A U.S. citizen employee abroad is specifically prohibited from engaging in the activities listed below in any foreign country.

(1) Speculation in currency exchange.

(2) Transactions at exchange rates differing from local legally available rates, unless such transactions are duly authorized in advance by the agency.

(3) Sales to unauthorized persons (whether at cost or for profit) of currency acquired at preferential rates through diplomatic or other restricted arrangements.

(4) Transactions which entail the use, without official sanction, of the diplomatic pouch.

(5) Transfers of funds on behalf of blocked nationals, or otherwise in violation of U.S. foreign funds and assets control.

(6) Independent and unsanctioned private transactions which involve an employee as an individual in violation of applicable control regulations of foreign governments.

(7) Acting as a intermediary in the transfer of private funds from persons in one country to persons in another country, including the United States.

(8) Permitting use of one's official title in any private business transactions or in advertisements for business purposes.

(b) *Prohibitions in country of assignment.* (1) A U.S. citizen employee shall not transact or be interested in any business or engage for profit in any profession or undertake other gainful employment in any country or countries to which the employee is assigned or detailed in the employee's

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own name or through the agency of any other person; exceptions may be made with respect to chiefs of mission only in writing by the Deputy Under Secretary for Management and for all other State employees by the appropriate chief of mission; for AID employees by the assistant administrator of the regional bureau or head of the nonregional organization, as appropriate; and for ICA employees by the Director of Personnel Services, or their designees (see 22 U.S.C. 805).

(2) A U.S. citizen employee shall not invest in real estate or mortgages on properties located in the employee's country of assignment. The purchase of a house and land for personal occupancy is not considered a violation of this subparagraph.

(3) A U.S. citizen employee shall not invest money in bonds, shares or stocks of commercial concerns headquartered in the country of assignment or conducting a substantial portion of their business in such country. Such investments, if made prior to knowledge of assignment or detail to such country or countries, may be retained during such assignment or detail when approved in writing by the appropriate official named in subparagraph (1) of this paragraph. If retention is authorized, such stocks, shares, or bonds may not be sold while the employee is assigned or detailed to the country or countries, unless the agency approved the sale in writing.

(4) A U.S. citizen employee shall not sell or dispose of personal property, including automobiles, at prices producing profits to the employee which result primarily from import privileges derived from the employee's official status as an employee of the U.S. Government. Employees of State and ICA are referred to Foreign Affairs Manual Circular 378; for AID see Handbook 23, Attachment 1B.

(c) *Acceptance of employment by members of family abroad.* Family members of Foreign Service personnel may accept gainful employment in a foreign country unless such employment (1) would violate any law of such country or of the U.S.; or (2) could damage the interests of the U.S., as certified in writing to the family member by the Chief of the U.S. Diplomatic Mission in such country. A copy of such certification will be sent to the Family Liaison Office (M/FLO), Department of State. Family members accepting employment abroad should bear in mind that they may not enjoy immunity from judicial process and would be subject to the payment to taxes derived from their nondiplomatic employment.

(d) *Business activities of non-U.S. citizen employees.* A non-U.S citizen employee abroad may engage in outside business activities with the prior approval of the head of the overseas establishment on the basis of the standards expressed in § 10.735-204(a).

§ 10.735-207 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to the employee.

§ 10.735-208 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in § 10.735-204(c) directly or indirectly use, or allow the use of, official information obtained through or in connection with Government employment which has not been made available to the general public.

§ 10.735-209 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgement by a court or one imposed by law such as Federal, State, or local taxes, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as the employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§ 10.735-210 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927 and similar agency-approved activities.

§ 10.735-211 Activities relating to private organizations and politics.

(a) *Definition.* For the purpose of this section, the term "private organization" denotes any group of persons or associations organized for any purpose whatever, except an organization established by the Government of the United States, or officially participated in by State, AID, or ICA.

(b) *Participation in activities of employee organizations.* An employee may join or refrain from joining employee organizations or associations without interference, coercion, restraint, or fear of discrimination or reprisal.

(c) *Participation in activities of private organizations.* In participating in the program and activities of any private organization, an employee shall make clear that the employee's agency has no official connection with such organization and does not necessarily sponsor or sanction the viewpoints which it may express.

(d) *Legal restrictions on membership in certain organizations.* An employee shall not have membership in any organization that advocates the overthrow of our constitutional form of Government in the United States, knowing that such organization so advocates (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) *Private organizations concerned with foreign policy or other matters of concern to agencies.* (1) Limitation on participation. When a private organization is concerned primarily with foreign policy or international relations or other matters of concern to an employee's agency, an employee shall limit connection therewith as follows: Unless specifically permitted to do so, the employee may not serve as advisor, officer, director, teacher, sponsor, committee chairman, or in any other official capacity or permit the employee's name to be used on a letterhead, in a publication, in an announcement or news story, or at a public meeting, regardless of whether the employee's official title or connection is mentioned. The provisions of this section are not intented to prohibit the normal and active participation of an employee in professional organizations such as the American Political Science Association, the American Economic Association, the American Foreign Service Association, and similar organizations, since such participation is in the interest of both the employee and the Government. Employees are expected, however, to exercise discretion in such activities and are held personally accountable for any improper use of their relationship with State, AID, and ICA.

(2) Request for special permission. Special permission to assume or continue a connection prohibited by subparagraph (1) of this paragraph may be granted in cases where the public interest will not be adversely affected. To request such permission, or to determine whether the provisions are applicable to a particular case, the employee shall address a memorandum setting forth all of the circumstances to the appropriate officer. The appropriate officer is for State, the Director General and Director of Personnel; for AID, the Senior Personnel Officer under whose jurisdiction the employee serves; and for ICA, the Director of Personnel Services.

(3) Application to senior officers. Because of the prominence resulting from their official positions, chiefs of mission and other senior officers should recognize the particular bearing of the provisions of subparagraph (1) of this paragraph upon their activities. They should restrict association with any organizations involving foreign nations and the United States to simple membership and should not accept even honorary office in such organizations except with the specific prior approval as provided in subparagraph (2) of this paragraph.

(f) *Private organizations not concerned with foreign policy.* When the purpose and program of the organization do not fall primarily within the field of foreign policy or international relations, the employee's activity is limited only to the following extent:

(1) The employee's official title or connection may be used to identify the employee, as in a civic association election, but may not be used on a letterhead, in a publication, or otherwise so as to employ the prestige of the U.S. Government to enhance that of the organization or to imply official sponsorship.

(2) When the employee is a representative of an association consisting of State, AID, or ICA employees, or of a group of such employees, the employee's connection with the agency may be freely used so long as there is no implication of official sponsorship beyond that which may have been officially approved.

(g) *Political activities abroad.* A U.S. citizen employee shall not engage in any form of political activity in any foreign country.

(h) *Activities relating to U.S. politics.* The law (5 U.S.C. 7324, formerly the Hatch Act) provides in summary that it is unlawful for any Federal employee of the executive branch to use the employee's official authority or influence for the purpose of interfering with an election or affecting the result thereof, or to take any active part in political management or in political campaigns. These restrictions do not in any way affect the right of a Federal employee (1) to vote as the employee chooses; (2) to express personal political opinions, except as part of a campaign; (3) to make or refrain from making contributions to political organizations, provided contributions are not made in a Federal building or to another Federal officer or employee (see 18 U.S.C. 602, 603, 607, and 608); (4) to participate in local, nonpartisan activities.

§ 10.735-212 Wearing of uniforms.

(a) An employee of the Foreign Service may not wear any uniform except as may be authorized by law or as a military commander may require civilians to wear in a theater of military operations (22 U.S.C. 803). When an employee is authorized by law or required by a military commander of the United States to wear a uniform, care shall be taken that the uniform is worn only at authorized times and for authorized purposes.

(b) Conventional attire worn by chauffeurs, elevator operators, and other miscellaneous employees are not considered uniforms within the meaning of this section except that, for ICA, MOA VII 917.2b prohibits the purchase from Agency funds of uniforms or any item of personal wearing apparel other than special protective clothing.

§ 10.735-213 Recommendations for employment.

(a) *Making recommendations in official capacity.* In general, an employee shall not, in the employee's official capacity, make any recommendations in connection with the employment of persons unless the position concerned are with the Government of the United States and the recommendations are made in response to an inquiry from a Government official authorized to employ persons or to investigate applicants for employment. A principal officer in answer to a letter of inquiry from outside the U.S. Government concerning a former employee assigned to the post, may state the length of time the person was employed at the post and the fact that the former employee performed duties in a satisfactory manner, if such is the case. Also, an AID Mission Director may provide names of persons or firms from which a cooperating government may select an employee or firm to be used in some phase of the AID program.

(b) *Making personal recommendations.* An employee may make a personal recommendation in connection with the employment of any person, including present or former employees, their spouses and/or members of their families, except for employment in a position of trust or profit under the government of the country to which the employee is accredited or assigned (22 U.S.C. 806(b)): *Provided,* That the employee does not divulge any information concerning the person derived from official sources. When a letter of introduction or recommendation is written by an employee, precautionary measures should be taken to prevent its being construed as official correspondence and used by an unscrupulous individual to impress American or foreign officials. Accordingly, official stationery should not be used for this purpose. The letter may, however, show the recommending employee's status as an employee of the U.S. Government. Every personal letter of recommendation shall contain a statement clearly indicating that the letter constitutes a personal recommendation and is not to be construed as an official recommendation by the Government of the United States.

§ 10.735-214 Transmitting communications and gifts.

(a) *Correspondence.* In corresponding with anyone other than the proper official of the United States with regard to the public affairs of a foreign government, an employee shall use discretion and judgment to ensure that neither the United States nor the employee will be embarrassed or placed in a compromising position (22 U.S.C. 806(a)).

(b) *Communications.* An employee shall not act as an agent for the transmission of communications from private persons or organizations in foreign countries to the President or to Federal, State, or municipal officials in the United States. A chief of mission may, however, accept communications of this nature and forward them to the Department of State for such further action as may be appropriate, whenever the chief of mission determines it to be clearly in the public interest to do so.

(c) *Gifts.* An employee shall not act as an agent for the transmission of gifts from persons or organizations in foreign countries to the President or to Federal, State, or municipal officials of the United States. However, principal officers may, according to regulations prescribed by the President, accept, and forward to the Office of Protocol of the Department of State, gifts made to the United States or to any political subdivision thereof by the Government to which they are accredited or from which they hold exequaturs. Employees shall not, without the approval of the Secretary of State, transmit gifts from persons or organizations in the United States to heads or other officials of foreign states.

§ 10.735-215 General conduct prejudicial to the Government.

(a) An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

(b) An employee abroad is also obligated to obey the laws of the country in which the employee is present.

(c) An employee shall observe the requirements of courtesy, consideration, and promptness in dealing with or serving the public.

§ 10.735-216 Miscellaneous statutory provisions.

Each employee shall become acquainted with each statute that re-

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lates to the employee's ethical and other conduct as an agency employee of and of the Government.

(a) The attention of employees is directed to the following statutory provisions:

(1) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service."

(2) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(3) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(4) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).[1]

(5) The prohibitions against (i) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (ii) the disclosure of confidential information (18 U.S.C. 1905).

(6) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(7) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(8) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(9) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(10) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(11) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(12) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(13) The prohibition against (i) embezzlement of Government money or property (18 U.S.C. 641); (ii) failing to account for public money (18 U.S.C. 643); and (iii) embezzlement of the money or property of another person in the possession of an employee by reason of the employee's employment (18 U.S.C. 654).

(14) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(15) The prohibition against political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(16) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(17) The prohibition against discrimination because of politics, race, religion, or color (22 U.S.C. 807).

(18) The prohibition against officers or employees accepting any honorarium in excess of $2,000 or honoraria aggregating more than $25,000 in any calendar year (sec. 112, Pub. L. 94-283, 90 Stat. 494 (2 U.S.C. 441i)).

(b) The attention of consular officers is directed to the following statutory provisions:

(1) The provisions relating to the duty to account for fees received (22 U.S.C. secs. 9, 812, 1194), liability for exaction of excessive fees (22 U.S.C. secs. 1182, 1189), and liability for failure to collect proper fees (222 U.S.C. 1190).

(2) The provisions relating to liability for failure to give bond and for embezzlement (22 U.S.C. 1179), liability for embezzlement of fees or effects of American citizens (22 U.S.C. 1198), and liability for falsely certifying as to the ownership of property (22 U.S.C. 1200).

(3) The prohibition against profiting from dealings with discharged seamen (22 U.S.C. 1187).

(4) The provision relating to liability for failure to collect the wages of discharged seamen (46 U.S.C. 683).

§ 10.735-217 Requesting exceptions from certain statutory prohibitions.

(a) Any employee desiring a written advance determination that the prohibitions of 18 U.S.C. 208(a) do not apply will prepare a written request addressed to an appropriate agency official. For purposes of this section, the appropriate agency official is: The Deputy Under Secretary for Management for State, the Administrator for AID, and the Director for ICA. The request will describe the particular matter giving rise to the conflict of interest, the nature and extent of the employee's anticipated participation in the particular matter, and the exact nature and amount of the financial interest related to the particular matter.

(b) The employee will forward the request to the appropriate agency official through the immediate supervisor and the assistant agency head in charge of the organizational agency component to which the employee is assigned, or will be assigned in the case of a new employee. The assistant agency head will forward the written request to the appropriate agency official through the agency's Counselor. The Counselor shall attach a written opinion to the request, prepare a recommended written determination in final form for signature by the appropriate agency official, and shall forward all documents to that official.

(c) The determination of the appropriate agency official will be sent to the employee by the Counselor. If the appropriate agency official grants the requested exception, the original written advance determination will be sent to the employee. A duplicate original shall be retained among the appropriate agency records under the control of the Counselor.

Subpart C—Ethical and Other Conduct and Responsibilities of Special Government Employees

§ 10.735-301 Conflicts of interest.

Special Government employees are subject to the conflicts of interest statutes (18 U.S.C. 202). An explanation of these conflicts of interest statutes their effects upon special Government employees and guidelines for obtaining and utilizing the services of special Government employees are in Appendix C of Chapter 735 of the Federal Personnel Manual. A special Government employee shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with Government duties and responsibilities.

§ 10.735-302 Use of Government employment.

A special Government employee shall not use Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for the employee or another person, particularly one with whom the employee has family, business, or financial ties.

§ 10.735-303 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of Government employment for private gain for the employee or another person either by direct action on the employee's part or by counsel, recommendation, or suggestion to another person, particularly one with whom the employee has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) A special Government employee may engage in teaching, lecturing, or writing that is not prohibited by law, Executive Order 11222 or the restrictions in this part; however, a special Government employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available, or when the head of the agency gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. A special Government employee who wishes to request the agency head to authorize the use of nonpublic information should submit such request through the Counselor. The request should contain complete information concerning the nonpublic information which the employee wishes to disclose and should contain in addition an indication of the intended use of such information and how disclosure of it would be in the public interest.

§ 10.735-304 Coercion.

A special Government employee shall not use Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to the employee or another person, particularly one with whom the employee has family, business, or financial ties.

§ 10.735-305 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with Government employment, shall not receive or solicit from a person having business with the employee's agency anything of value as a gift, gratuity, loan, entertainment, or favor for the employee or another person, particularly one with whom the employee has family, business or financial ties.

(b) The exceptions to the prohibition against the acceptance of gifts which have been granted to employees in § 10.735-202 (b), (c), and (d) are also applicable to special Government employees.

(c) A special Government employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342, and the regulations promulgated thereunder pursuant to E.O. 11320; 31 FR 15789. These regulations are set forth in Part 3 of this title (as added, 32 FR 6569, April 28, 1967), and in 3 FAM 621.

(d) A special Government employee shall avoid any action, whether or not specifically prohibited by these sections on special Government employees, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

§ 10.735-306 Miscellaneous statutory provisions.

Each special Government employee shall become acquainted with each statute that relates to the employee's ethical and other conduct as a special Government employee of an agency and of the Government. The attention of special Government employees is directed to the statutes listed in § 10.735-216.

Subpart D—Statements of Employment and Financial Interests

§ 10.735-401 Employees required to submit statements.

The following employees of State, AID, and ICA shall submit statements of employment and financial interests:

(a) All special Government employees including experts or consultants serving on a full-time or intermittent basis, except when waived under § 10.735-402(c).

(b) Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code, except as provided in § 10.735-402(b).

(c) Except as provided in § 10.735-402, employees classified at GS-13, FSO-4, FSR-5, FSS-2, AD-13, FC-5, or above, who are in positions hereby identified either as positions the basic duties of which impose upon the incumbent the responsibility for a Government decision or taking a Government action in regard to:

(1) Contracting or procurement;

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprise;

(4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise, or as positions which have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflict of interest situation and carry out the purpose of law, Executive order, and the agency's regulations:

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Director General; of the Foreign Service and the Director of Personnel; Director of the Policy Planning Staff; Inspector General; Director, FSI; Special Assistant to Secretary; Deputy Secretary, Under Secretaries, or Deputy Under Secretary; Deputy Assistant Secretary and others at this level or above; Assistant Legal Adviser for Management; Director, Office of Operations; Office Director; Country Director; Division Chief in Bureau of Economic and Business Affairs, in the Office of Operations, (O/OPR), or in the Office of Foreign Buildings; Executive Director; Deputy Chief of Mission; Principal Officer; Economic Counselor; Commercial Counselor; Administrative Counselor; Civil Air Attache; Petroleum Officer; Minerals Officer; Contracting Specialist; Procurement Specialist; Despatch Agent; Traffic Manager; and Traffic Management Specialist.

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Deputy Director, Associate Directors, Directors and Deputy Directors of Offices or Services, Executive or Special Assistants to the Director; Chief Inspector; Associate Chief Inspector; Commissioner General, Deputy Commissioner General, Staff Director (Advisory Commission), Director of Engineering and Technical Operations; Director of Audio-Visual Procurement and Production; Country Public Affairs Officer, Deputy Country Public Affairs Officer, Public Affairs Counselor, Deputy Public Affairs Counselor, Director or Manager of Regional Service Center, Radio Relay Station, Radio Program Center or Radio Relay Station Construction Site, Administrative Officer or Executive Officer at a post abroad, Administrative Officer, Executive Officer and Business Manager (occupational codes 301, 340, 341, and 1101, or FAS code 200); Contracting Specialist and Procurement Specialist (occupational code 1102, or FAS code 210 and 211); Auditor and Accountant (occupational code 510, or FAS code 207); General Counsel, Deputy General Counsel, or Attorney (occupational code 905, or FAS code 512).

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(1) AID/W: Deputy Assistant Administrators, Associate Assistant Administrators, Deputy Associate Assistant Administrators; Heads and Deputy Heads of Offices, Staffs, and Divisions; Desk Officers and Deputy Desk Officers.

(2) Overseas: Mission Directors, Deputy Directors, Assistant Directors, AID Representatives, Aid Affairs Officers, Chairman, Development Assistance Committee; U.S. Representative to Development Assistance Committee; Development Coordination Officer.

(3) Any person serving as chief of an operational branch responsible for housing, loans, guarantees, or other commercial type transactions with the public.

(4) In addition, employees in AID/W or overseas whose positions fall within the following series or position titles (occupational code given in parenthesis): Economist Series (0110); International Cooperation Series (0136); Auditor General (0301.21); Supervisory Housing Development Officer (0301.31); Chief, Housing and Urban Development (0301.35); Contract Compliance Specialist (0301.48); Director for Regional Activities (0340.08); Development Officer (0340.09); Regional Development Officer (0340.10); Executive Officer (0341.01); Deputy Executive Officer (0341.02); Regional Executive Officer (0341.03); Administrative Officer (0341.05); Executive Officer—Administrative Support (0341.15); Executive Officer, Operations (0341.16); Executive Officer, Real Property (0341.18); Executive Officer, Personnel (0341.19); General Services Officer (0342.01); Assistant General Services Officer (0342.03); Assistant General Services Officer, Property and Supply (0342.20); Assistant General Services Officer, Procurement (0342.23); Assistant General Services Officer, Housing (0342.25); Program Officer (0345.01); Deputy Program Officer (0345.02); Food and Agriculture Officer (0401.01); Deputy Food and Agriculture Officer (0401.02); Budget and Accounting Series (0504); Financial Management Series (0505); Accounting Series (0510); Budget Administration Series (0560); General Attor-

[1] The Courts have stricken from the Code any prohibition against assertion of the right to strike on the basis that such an assertion is a protected right under the First Amendment to the Constitution.

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ney Series (0905); General Business and Industry Series (1101); Contract and Procurement Series (1102); Property Disposal Series (1104); Purchasing Series (1105); Trade Specialist Series (1140); Private Resources Development Series (1150); Financial Analysis Series (1160); General Investigating Series (1810); Criminal Investigating Series (1811); Import Specialist Series (1889); General Supply Series (2001); Supply Program Management Series (2003).

§ 10.735–402 Employees not required to submit statements.

(a) Employees in positions that meet the criteria in paragraph (c) of § 10.735–401 may be excluded from the reporting requirement when the agency head or designee determines that:

(1) The duties of the position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote;

(2) The duties of the position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over incumbent or the inconsequential effect on the integrity of the Government.

(b) a statement of employment and financial interests is not required by the regulations in this part from an agency head, or a full-time member of a committee, board, or commission appointed by the President. These employees are subject to separate reporting requirements under section 401 of Exective Order 11222.

(c) Special Government employees not required to submit statements. An agency head may waive the requirement of this section for the submission of a statement of employment and financial interest in the case of a special Government employee who is not a consultant or an expert when the agency finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include a physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients.

§ 10.735–403 Employee's complaint on filing requirement.

Each employee shall have the opportunity for review through agency grievance procedure of the employee's complaint that the employee's position has been improperly included within § 10.735–401 as one requiring the submission of a statement of employment and financial interests. Employees are reminded that they may obtain counseling pursuant to § 10.735–103 prior to filing a complaint.

§ 10.735–404 Time and place of submission, and forms.

(a) An employee or special Government employee shall submit a statement to the Counselor (in the case of a State employee, through the employee's Bureau) no later than:

(1) Ninety days after the effective date of this part if the employee has entered on duty on or before that effective date; or

(2) At least 10 days prior to entrance on duty, if the employee enters on duty after that effective date; except that an employee or special Government employee who enters on duty within 90 days of the effective date of this part may submit such statement within 90 days after entrance on duty.

(b) Only the original of the statement or supplement thereto required by this part shall be submitted. The individual submitting a statement should retain a copy for the individual's own records.

§ 10.735–405 Information required.

(a) *Employees.* Employees' statement of employment and financial interests required by the regulations in this part shall be submitted on the form, "Confidential Statement of Employment and Financial Interests (for use by Government Employees)", Form OF-106, and shall contain all the information therein required.

(b) *Special Government employees.* All special Government employees shall submit statements of employment and financial interest on the form, "Confidential Statement of Employment and Financial Interests (for use by Special Government Employees)", Form OF-107 for State and ICA, Form AID 4-450 for AID, and shall contain all the information therein required.

(c) *Interests of employee's relatives.* The interest of a member of an employee's family is considered to be an interest of the employee. The term "member of an employee's family" is defined in § 10.735-102(f).

(d) *Information not known by employees.* If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in the employee's behalf.

(e) *Interests not required to be reported.* An employee need not disclose those financial interests described in § 10.735–205(c) as being too remote or too inconsequential to affect the integrity of employees' services.

(f) *Information not required.* The regulations in this part do not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants or money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

§ 10.735–406 Submission of position description.

Each Statement of Employment and Financial Interests or annual supplement thereto must be accompanied by a full description of the employee's principal governmental duties. The description should be particularly detailed in regard to those duties which might possibly be an element in a conflict of interest. If the statement indicates that the employee has no outside employment or financial interests, the employee need not submit a description of duties. For a special Government employee, the employing office shall submit the description.

§ 10.735–407 Supplementary statements.

(a) Employees, as defined in paragraphs (b) and (c) of § 10.735–401, shall report changes in, or additions to, the information contained in their statements of employment and financial interests in supplementary statements as of June 30 each year. If no changes or additions occur, a negative report is required.

(b) All special Government employees, as defined in paragraph (a) of § 10.735–401, shall submit a current statement at the time their appointments are extended. A supplementary report indicating any changes in, or additions to the information already submitted will be accepted in lieu of a full submission. If there are no changes or additions, a negative report is required. For AID, no action to extend an appointment will be taken unless such supplementary report is submitted not later than 10 days prior to the expiration of said appointment.

(c) Notwithstanding the filing of reports required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or subpart B of this part.

(d) An employee is also to keep current the employee's description of

principal duties as to changes or additions which might possibly be an element in a conflict of interest. The employing office shall submit descriptions of changes in the principal duties of a special Government employee as they occur.

§ 10.735.408 Review of statements and determination as to conflicts of interest.

(a) On the basis of the Statement of Employment and Financial Interests submitted by each employee or special Government employee, or on the basis of information received from other sources, the Counselor shall determine, in the light of the duties which that employee or special Government employee is or will be performing, whether any conflicts of interest, real or apparent, are indicated. The Counselor shall make this determination based on the applicable statutes, the Executive order, and the applicable regulations of the Civil Service Commission, and of the agency.

(b) Where the Counselor's determination in a particular case is that a conflict of interest, real or apparent, is indicated, the Counselor shall initiate informal discussions with the employee or special Government employee concerned. These discussions shall have as their objectives:

(1) Providing the individual with a full opportunity to explain the conflict or appearance of conflict; and

(2) Arriving at an agreement (acceptable to the Counselor, the individual and the individual's immediate superior) whereby the conflict of interest may be removed or avoided. Such an agreement may include, but is not limited to: (i) Changes in assigned duties; (ii) divestiture of the financial or employment interest creating the conflict or apparent conflict; or (iii) disqualification for a particular assignment.

(c) Where an acceptable agreement cannot be obtained pursuant to paragraph (b) of this section, the Counselor shall present findings and recommendations to the officer designated by the agency head, who shall decide which remedy is most appropriate to remove or correct that conflict or apparent conflict. Remedial action under this paragraph may include disciplinary action, including separation for cause, or any of the actions enumerated in subparagraph (2) of paragraph (b) of this section and shall be effective in accordance with applicable laws, Executive orders, and regulations.

(d) Written summaries of all agreements and decisions arrived at pursuant to paragraph (b) or (c) of this section shall be placed in the Counselor's files. Copies shall also be made available to the employee or special Government employee concerned.

§ 10.735–409 Confidentiality of employees' statements.

An agency shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality only the Counselor and Deputy Counselors are authorized to review and retain the statements. The Counselor and Deputy Counselors are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. An agency may not disclose information from a statement except as the Civil Service Commission or the agency head may determine for good cause shown.

§ 10.735–410 Effect of employees' statements on other requirements.

The statements of employment and financial interests and supplementary statements required for employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit the employee or any other person to participate in a matter in which the employee or the other person's participation is prohibited by law, order, or regulation. Save with respect to those financial interests excepted from the conflict of interest prohibitions of 18 U.S.C. 208(a) pursuant to a written advance determination under § 10.735–217 or exempted by the provisions of § 10.735–205(c), an employee must disqualify himself or herself from participating in any matter in which the employee has a financial interest.

§ 10.735–411 Disqualification procedures.

(a) Where an employee is prohibited from participating in a matter because of a conflicting financial interest that is not exempt under § 10.735–205(c) or has not been specifically excepted by the appropriate agency official pursuant to § 10.735–217 in advance of the employee's participation in the particular matter, the employee shall conduct himself or herself in accordance with the following provisions:

(1) The employee shall promptly disclose the financial interest in such matter to the employee's immediate superior. The superior will thereupon relieve the employee of duty and responsibility in the matter.

(2) In foreign posts, it may be impossible or highly impracticable for an employee, who has a disqualifying financial interest, to assign the matter for official action to anyone other than a subordinate. In this event, the employee must instruct the subordinate to report fully and directly to the immediate superior to whom the employee himself or herself would normally report. The employee must concurrently direct such subordinate to take such action as may be appropriate in the matter, and without thereafter revealing to the disqualified employee in any way any aspect of the particular matter.

(b) Nothing herein precludes the employee from disposing of such disqualifying financial interest, thereby wholly eliminating the conflict of interest. In some circumstances, where the employee may not obtain an exception under § 10.735–217, or may not disqualify himself or herself and refer or assign the matter to another employee, the performance of duty may even require divestiture.

(c) Where a supervisor has reason to believe that a subordinate employee may have a conflicting financial interest, the supervisor should discuss the matter with the employee. If the supervisor finds that a conflict of interest does exist, the supervisor must relieve the subordinate employee of duty and responsibility in the particular matter.

(d) The obligation to avoid conflicts of interest is upon each employee. It is a continuing obligation calling for alert vigilance.

(e) Notwithstanding any other provision of this part to the contrary, if a employee's holdings rise in value above the amount exempted by § 10.735–205(c), then the statutory and regulation prohibitions apply in a conflict of interest situation.

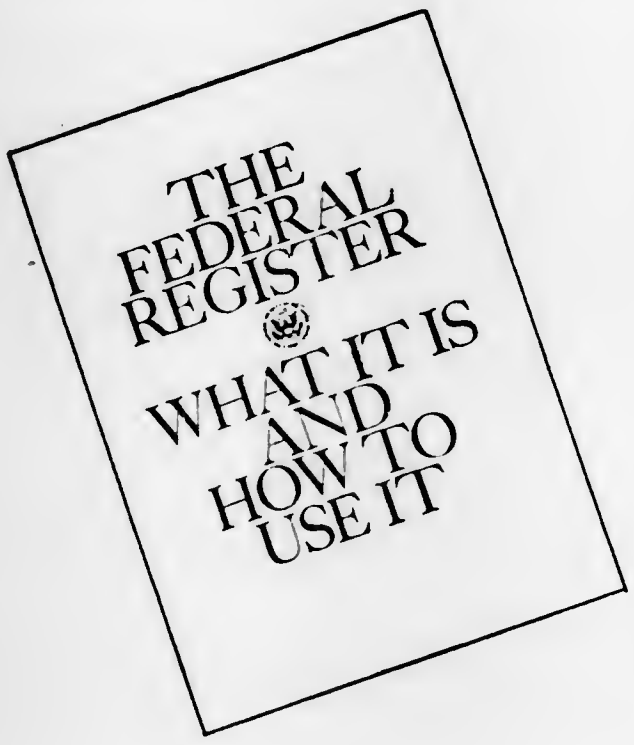
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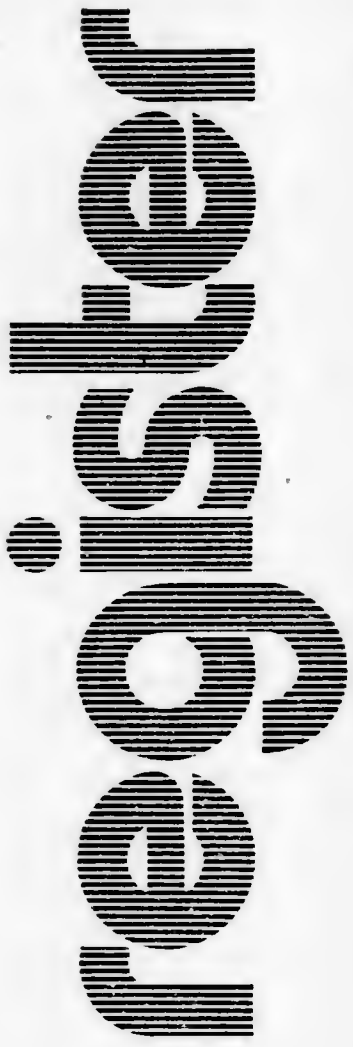
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WEDNESDAY, MAY 3, 1978

highlights

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 4]

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This order suspends an order provision affecting the regulatory status of fluid milk distributing plants. The suspension was requested by two cooperative associations to continue the association of producers' milk with the order. The suspension is for the period April through August 1978.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of proposed suspension—issued April 10, 1978, published April 17, 1978 (43 FR 16185).

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Middle Atlantic marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 16185) concerning a proposed suspension of certain provisions of the order. Interested persons had an opportunity to comment on the proposed suspension in writing. Six cooperatives and a proprietary handler filed comments supporting the suspension. A proprietary handler opposed the suspension.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, the comments received and other available information, it is found and determined that for the months of April through August 1978, the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1004.7(a) the words "not less than 50 percent".

STATEMENT OF CONSIDERATION

The suspension will make inoperative for the period April through August 1978 the provision that at least 50 percent of the receipts of milk at a pool distributing plant be disposed of as Class I milk.

The suspension was requested by Maryland Cooperative Milk Producers Association, Inc., and Lehigh Valley Cooperative Farmers. The suspension is supported by four other cooperative associations and a proprietary handler. A proprietary handler opposed the suspension.

Substantially increased milk production by Middle Atlantic producers is not being matched by Class I sales. This will jeopardize the pooling of some distributing plants during the April through August period. This will occur because less than 50 percent of the receipts at such plants would be disposed of as Class I milk. The suspension will remove this percentage of distribution as a requirement for pooling a distributing plant.

There is every likelihood that milk production for the market will increase in the months ahead, without much prospect that Class I sales will strengthen materially.

Specific instances reflecting general marketing conditions were cited by two cooperative associations and a proprietary handler.

The Maryland Cooperative Milk Producers supplies Class I milk to distributing plants serving the Baltimore segment of the market. The continuing impact of substantially lower Class I sales that resulted when a major customer closed a distributing plant last year will jeopardize the pooling of some of the plants in the coming months of heavy milk production. This will occur because the reserve milk resulting from the reduced Class I sales, and the increased milk production, must be associated with distributing plants for pooling.

The Lehigh Valley Cooperative Farmers distributes fluid milk through its own distributing plant. Increased milk production from its producers will jeopardize the pooling of the plant because Class I sales are not matching the increased production.

Milk deliveries by producers supplying a pool distributing plant operated by a proprietary handler have increased. The handler's Class I sales have decreased, and he anticipates further decline in Class I sales during the period April through August, including those resulting from school closings. Without the suspension, the handler anticipates that his pool distributing plant may shortly fail to qualify for pooling. This would jeopardize the producer status of dairy farmers who have regularly supplied his plant.

A proprietary handler opposed the suspension because one of the cooperatives that proposed it is soliciting additional producers. Apparently, he believes that resulting increased milk volume may be jeopardizing the continued pool status of the cooperative's distributing plant. In his view, the suspension should not be made to accommodate this situation.

Comments that were filed in response to the notice of proposed suspension established that the problem of continued pooling for some distributing plants during the months of April through August is more widespread than the opposing handler indicated. Such problem is attributable primarily to substantially increased milk production for the market that is not being matched by increased Class I sales.

It is concluded that the suspension is necessary to assure that producers who are regular suppliers of milk for the fluid market will continue to have their milk pooled under the order during the period April through August 1978.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that the suspension does not require of persons affected substantial or extensive preparation prior to the effective date, and notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

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It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of April through August 1978.

(Secs. 1-19, 48 Stat. 31 as amended (7 U.S.C. 601-674).)

Effective date: May 3, 1978.

Signed at Washington, D.C., on April 28, 1978.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc. 78-12028 Filed 5-2-78; 8:45 am]

[3410-05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1438—NAVAL STORES

Subpart—1978 Crop Gum Naval Stores Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the Commodity Credit Corporation's ("CCC") determinations and regulations concerning a loan program for the 1978-crop gum naval stores, which is authorized by the Agricultural Act of 1949, as amended. The loan program stabilizes market prices and protects producers, processors, and consumers. The program enables producers to obtain price support on 1978-crop gum naval stores.

DATE: Effective May 3, 1978.

ADDRESS: Producer Associations Division, Agricultural Stablilzation and Conservation Service, P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Roger Cooley ASCS, 202-447-7405.

SUPPLEMENTARY INFORMATION: On February 6, 1978, CCC published a notice in the FEDERAL REGISTER (43 FR 4865) that CCC proposed to make determinations and issue regulations concerning a loan program for 1978-crop gum naval stores. No purchase program was under consideration. All comments received from the American Turpentine Farmers Association and producers were favorable.

Accordingly, the regulations appearing in this subpart, which were published at 42 FR 43961, are revised to read as follows, effective as to 1978-crop gum naval stores. The material previously appearing in this subpart remains in full force and effect as to the crop years to which it was applicable.

Subpart—1978 Gum Naval Stores Loan Program

Sec.
1438.1636 General statement and administration.
1438.1637 Definitions.
1438.1638 Loan to ATFA.
1438.1639 Advances to producers.
1438.1640 Rate of advance to producers.
1438.1641 Maturity of loan.
1438.1642 Redemption by ATFA.
1438.1643 Net gains.
1438.1644 Right of CCC upon maturity.
1438.1645 Personal liability.

AUTHORITY: Sec. 4(d), 62 Stat. 1070 (15 U.S.C. 714 b); sec. 5(a), 62 Stat. 1072 (15 U.S.C. 714c), and secs. 301, 401, 63 Stat. 1053, 1054 (7 U.S.C. 1421, 1447).

Subpart—1978 Gum Naval Stores Loan Program

§ 1438.1636 General statement and administration.

CCC will make loans available to producers of gum naval stores during the calendar year 1978 through the American Turpentine Farmers Association (herein referred to as ATFA), under the terms and conditions described in these regulations. The Producer Associations Division, ASCS, will supervise the administration of the program.

§ 1458.1637 Definitions.

(a) "Eligible producer" means, a producer who: (1) Is a member of ATFA in good standing under membership requirements approved by CCC (no producer who is otherwise eligible may be excluded from membership in ATFA), (2) is a participant in the Naval Stores Conservation Program for 1978 or otherwise follows one or more forestry conservation practices established by State and Federal Forestry services, as determined by ATFA, (3) has made satisfactory arrangements to pay an indebtedness to the U.S. Department of Agriculture or any of its agencies, as evidenced by the debt records maintained by the Agricultural Stabilization and Conservation County Committees of the U.S. Department of Agriculture, and (4) has executed, and has not breached his obligations under, the Producer's Marketing Agreement (ATFA Form 1-1978), or any other similar agreement.

(b) "Eligible naval stores" means eligible rosin and rosin content in eligible oleoresin.

(c) "Eligible oleoresin" means oleoresin (1) which was produced in 1978 in the United States by an eligible producer, (2) which is free and clear from all liens and encumberances, (3) the rosin content in which has not been previously pledged for a loan under this or any similar program, and in which the beneficial interest is and always has been in the producer, and (4) which will yield rosin of the grades and quality prescribed in paragraph (d) of this section.

(d) "Eligible rosin" means gum rosin which (1) was processed by the Olustee or similar method from eligible oleorosin, (2) grades "K" or better, (3) is free and clear from all liens and encumbrances, (4) has not previously been pledged for a loan under this or any similar program, and in which the beneficial interest is and always has been in the producer: *Provided,* that, when a producer's eligible oleoresin was commingled in the processing operation with oleoresin produced in the United States by other producers, the rosin tendered for advance by the producer, as representing the processed equivalent of his eligible oleoresin, will be deemed to be, if otherwise eligible, rosin produced by such producer, (5) is packed to a net weight of 517 pounds, in eligible metal drums, (6) is transparent, (7) is free from visible foreign materials and contains no extraneous matter resulting from chemical or other treatment of the rosin, or of the oleoresin or the trees from which it came, and (8) conforms as to softening point to not less than Federal Specifications LLL-R-626b, wit: 158° Fahrenheit (American Society for Testing Materials No. E-28-67). Rosin must be federally graded, inspected and weighted or the weights checked by Federal Inspectors employed or licensed by CCC.

(e) "Eligible metal drums" means drums conforming to the specifications for metal drums approved by CCC, obtainable from and on file in the office of ATFA.

§ 1438.1638 Loan to ATFA.

Under a Loan Agreement, CCC will make a loan to ATFA which will enable ATFA to make loan advances to eligible producers on eligible naval stores. As security for such loan, ATFA will pledge such naval stores to CCC; CCC has the right to establish a maximum aggregate disbursement at any time upon written notice to ATFA, but no such limitation shall apply with respect to naval stores tendered to ATFA by producers prior to such notice. The loan will be in an amount equal to (a) the amount of the loan advances made by ATFA to producers, except that the loan will be made only on full drums of eligible naval stores, (b) the administrative and operating expenses, approved by CCC, incurred by ATFA in making advances available to producers, and in the handling, preservation, and redemption of pledged naval stores, and (c) storage charges or other charges on pledged naval stores up to the time of acquisition of title thereto by CCC. The loan by CCC to ATFA shall bear interest at the rate of six (6) percent per annum or such other rate as may be determined applicable by CCC to 1978 loans.

§ 1438.1639 Advances to producers.

ATFA will make advances to eligible producers on eligible naval stores only when such naval stores have been (a) processed (except where CCC and ATFA determine that unprocessed rosin content in oleoresin may be offered for advance), (b) placed in storage in the custody of an approved warehouseman who has entered into and is fully complying with a Warehouse Agreement (ATFA Form 2-19750) with ATFA, or in the custody of ATFA acting under a Storage Agreement with CCC, and (c) offered for an Advance on a Producer's Offer (ATFA Form 4), the date of which, unless a first offer and dated not later than September 1, 1978, shall be not later than thirty days from the date of delivery of eligible oleoresin to a processor, but in no event later than December 31, 1978, by the producer of the oleoresin, the rosin content of which or processed rosin from which has been so placed in storage. No warehouseman will be authorized to store pledged unprocessed rosin except upon approval by CCC of ATFA's written recommendation therefor and written demonstration by ATFA that there exists an immediate and substantial need for such storage. If there are any liens or encumbrances on the naval stores offered for advance, proper waivers are required on a Lienholder's Waiver and Agreement (ATFA Form 3). All processing charges, including the cost of eligible metal drums for rosin, and storage and other warehouse charges to the date of tender for advance, will be borne by the producer.

§ 1438.1640 Rate of Advance to producers.

ATFA will make advances to eligible producers on eligible rosin or rosin content only, based on the support level of $65.00 per standard barrel (435 lbs. net weight each) of oleoresin (crude pine gum), processed basis. Although no advance is made on turpentine, an allowance is made for the estimated 1978 market value of the turpentine content in a barrel of oleoresin in determining the advance rate for rosin or rosin content. The loan rates on rosin are $21.40 for grade WG, $22.20 for grades X and WW, $21.00 for Grade N, $20.60 for Grade M, and $20.00 for Grade K, per hundred pounds net, packed in eligible metal drums. CCC reserves the right to reduce rosin loan rates if the actual turpentine market price during 1978, when added to such rosin loan rates, results in a support level for crude pine gum in excess of 90 percent of parity. Also, CCC may increase or decrease grade premiums and discounts whenever market conditions warrant. ATFA will make advances to any eligible producer on the basis of the applicable advance rates in effect on the date of the applicable Producer's Offer.

§ 1438.1641 Maturity of loan.

The loan made by CCC to ATFA will be due and payable upon demand.

§ 1438.1642 Redemption by ATFA.

ATFA's right to redeem naval stores pledged by ATFA to CCC shall be subject to the terms and conditions of the Loan Agreement and any amendments thereto. Redemption shall be made upon payment of the redemption cost. The redemption cost will be determined by CCC and will be the amount outstanding under the Loan Agreement, including any unpaid accrued expenses and charges, plus interest applied ratably to the naval stores to be redeemed. Any naval stores redeemed will not be thereafter eligible for loan.

§ 1438.1643 Net gains.

ATFA will disburse in cash on a fair and equitable basis to participating producers all net gains, less cost of disbursement, resulting from ATFA's sale of redeemed naval stores, unless a disposition other than cash disbursement has been approved by CCC. For example, when net gains are insufficient to justify disbursement expense, ATFA may upon request to and approval of CCC, utilize such net gains for and in behalf of all of its producer member.

§ 1438.1644 Right of CCC upon maturity.

Upon maturity and nonpayment of the loan, CCC will take title to any unredeemed naval stores, without a sale thereof, and CCC will have no obligation to pay or account to ATFA for any market value which such naval stores may have in excess of the amount of the loan, plus interest and charges.

§ 1438.11645 Personal liability.

Any fraudulent representation by ATFA or the producer in the program documents will render ATFA or the producer subject to criminal prosecution under applicable law, and personally liable for the amount by which the proceeds received upon the disposition of the naval stores involved are less than the amount of indebtedness incurred by ATFA with respect to such naval stores.

Signed at Washington, D.C., on April 26, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-12037 Filed 5-2-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

EXPORT AND IMPORT OF NUCLEAR FACILITIES AND MATERIALS

Approval by Comptroller General

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Final rule. Approval of reporting and record keeping requirements by Comptroller General.

SUMMARY: On February 17, 1978, the Nuclear Regulatory Commission published in the FEDERAL REGISTER a notice of rulemaking, effective May 3, 1978, issuing a new part providing for standards, procedures, and rules of practice for licensing the export and import of utilization facilities, source, byproduct, and special nuclear materials. Conforming changes were made also to other parts of the regulations relating to export and import matters.

The notice included a note as follows:

NOTE.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for such reviews as may be appropriate under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of this rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45-day period which that statute allows for such review (44 U.S.C. 3512 (c)(2).)

The reporting and record keeping requirements set out in the rule have been approved by the U.S. General Accounting Office under number B-180225 (R0 519).

EFFECTIVE DATE: May 3, 1978.

The reporting and record keeping requirements set out in 10 CFR Part 110 which was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 6915) have been approved by the U.S. General Accounting Office under number B-180225 (R0 519) and the effective date of the rule is May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-492-7211

Dated at Bethesda, Md. this 28th day of April 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-12183 Filed 5-2-78; 8:45 am]

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[6450-48]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 213—OIL IMPORT REGULATIONS

Oil Import Allocations for 1978–1979

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: Presidential Proclamation 3279, as amended, provides for an annually decreasing quantity of oil imports not subject to the license fees otherwise imposed by the Proclamation. For the next allocation period, which begins on May 1, 1978 and ends on April 30, 1979, the quantity of oil which may be imported without being subject to the fee is thirty-five percent of the level which was originally established in 1973. This rulemaking revises the Oil Import Regulations to conform them to the allocation levels established by the Proclamation for the next allocation year.

EFFECTIVE DATE: Date of issuance.

FOR FURTHER INFORMATION CONTACT:

Robert D. R. de Sugny, Office of General Counsel, Department of Energy, Room 5116, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9380.

Robert R. Moore, Office of Oil Imports, Department of Energy, Room 6114, 2000 M Street NW., Washington, D.C. 20461, 202-254-8620.

Gerald P. Emmer, Allocation Regulations, Department of Energy, Room 2304, 2000 M Street NW., Washington, D.C. 20461, 202-254-7200.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comparison With Proposed Rule
III. Evaluation of Comments
IV. Regulation Prescribed

I. Background

Under the Mandatory Oil Import Program established pursuant to Presidential Proclamation No. 3279, as amended, the next allocation period for imports not subject to license fees under section 3(a)(1)(i)-(ii) of the Proclamation will commence on May 1, 1978. Section 8 of the Proclamation provides that for this allocation period the maximum levels of imports subject to allocation and license to which license fees under section 3(a)(1)(i)-(ii) shall not be applicable shall be reduced to thirty-five percent (35%) of the levels established during the calendar year 1973.

II. Comparison With Proposed Rule

On March 24, 1978, the Economic Regulatory Administration of the Department of Energy issued proposed amendments to part 213 of Chapter II, title 10 of the Code of Federal Regulations (43 FR 13386, March 30, 1978), to provide for the commencement of the next allocation period and to reduce the levels of fee-exempt allocations in accordance with Presidential Proclamation 3279, as amended. It was also proposed that one paragraph be added to §§ 213.12(b) and 213.13(b) to provide for the contingency that the aggregates of the individual allocations derived from the formulae might exceed the levels of fee-free allocations permitted by the Proclamation. In such an event the additional paragraphs provided for a pro-rata reduction in each individual allocation. No other substantive changes were proposed.

The proposed rule provided for the submission of written comments and a public hearing which was subsequently cancelled after no requests to speak were received. After an evaluation of these comments it has been determined to adopt the proposal without change.

III. Evaluation of Comments

Of the five comments submitted, only two addressed the specific changes which had been proposed and both comments were favorable. The other comments addressed general issues arising from the Oil Import and Entitlements Programs which were beyond the purview of this rulemaking which merely conforms the Department's regulations to the levels established in Presidential Proclamation 3279 for the next allocation year. The issues raised in the comments continue to be studied by the Department and may result in additional proposed rulemakings in the future. Such issues, however, have no bearing on the proposal at hand.

IV. Regulation Prescribed

After careful consideration of the comments, the Economic Regulatory Administration has decided not to make any changes in the amendment as proposed.

In consideration of the foregoing, part 213 of chapter II, title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., on April 28, 1978.

HAZEL R. ROLLINS,
Deputy Administrator Economic Regulatory Administration.

§ 213.5 [Amended]

1. Section 213.5 is amended in paragraph (a) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting the term "April 29, 1977" and by substituting therefor "April 28, 1978".

§ 213.9 [Amended]

2. Section 213.9 is amended in paragraphs (a) and (b) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting the terms "1976" and ".50" and by substituting therefor "1977" and ".35" respectively.

3. Section 213.12 is amended in paragraph (a) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; in paragraph (b) by deleting the terms "1976" and "366" and by substituting therefor "1977" and "365" respectively; and by adding the following at the end of the paragraph (b):

§ 213.12 Allocations; refiners; Districts I-IV and the Virgin Islands.

* * * * *

(b) * * * In the event the individual allocations, as determined by the respective schedules set forth in this paragraph, result, in the aggregate, in a total volume of crude oil which would exceed the total volume permitted to be entered without payment of license fees by the pertinent sections of Presidential Proclamation 3279, as amended, each applicant's allocation shall be reduced by an amount equal to the product of the following two factors: (1) The proportion that each applicant's individual allocation bears to the total volume of imports as determined by the respective schedules; and (2) the amount by which the volume of such total individual allocations exceed the total fee-free volume permitted by the Proclamation.

4. Section 213.13 is amended in paragraph (a) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; in paragraph (b) by deleting the terms "1976" and "366" and by substituting therefor "1977" and "365" respectively; and by adding the following at the end of paragraph (b):

§ 213.13 Allocations; refiners; district V, Guam, and American Samoa.

* * * * *

[1] Editorial Note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

(b) * * * In the event the individual allocations, as determined by the respective schedules set forth in this paragraph, result, in the aggregate, in a total volume of crude oil which would exceed the total volume permitted to be entered without payment of license fees by the pertinent sections of Presidential Proclamation 3279, as amended, each applicant's allocation shall be reduced by an amount equal to the product of the following two factors: (1) The proportion that each applicant's individual allocation bears to the total volume of imports as determined by the respective schedules; and (2) the amount by which the volume of such total individual allocations exceed the total fee-free volume permitted by the Proclamation.

§ 213.15 [Amended]

5. Section 213.15 is amended in paragraph (d) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting the term "1,450,000 bbl/d" and by substituting therefor "1,015,000 bbl/d".

§ 213.16 [Amended]

6. Section 213.16 is amended in paragraph (a) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; by deleting the terms "10,000" and "3,750" and by substituting therefor "7,000" and "2,625" respectively; and by deleting completely the second sentence.

§ 213.20 [Amended]

7. Section 213.20 is amended in paragraph (a)(2) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting the term "113,611 bbl/d" and by substituting therefor "79,527 bbl/d."

§ 213.21 [Amended]

8. Section 213.21 is amended in paragraph (a)(2) and (b)(2) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; in paragraph (a)(2) by deleting the term "719 bbl/d" and by substituting therefor "503 bbl/d"; and in paragraph (b)(2) by deleting the term "825 bbl/d" and by substituting therefor "577 bbl/d".

§ 213.32 [Amended]

9. Section 213.32 is amended in paragraph (c) by deleting, in the first sentence the term "but subject to supplemental fee"; and in paragraph (d) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting the term "37,800 bbl/d" and by substituting therefor "26,460 bbl/d".

§ 213.35 [Amended]

10. Section 213.33 is amended in paragraph (c) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; by deleting the term "620,000" and by substituting therefore "434,000"; in paragraph (d)(1) by deleting the term ".50" and by substituting therefor "0.35"; in paragraph (d)(2) by deleting the term "July 29, 1977" and by substituting therefor "May 1, 1978"; and by deleting the term "April 30, 1978" and by substituting therefore "April 30, 1979"; in paragraph (f) by deleting the term "August 31, 1977" wherever it appears and by substituting therefor "August 31, 1978"; by deleting the term "May 1, 1976 through April 30, 1977" and by substituting therefor "May 1, 1977 through April 30, 1978"; and by deleting the term "July 1, 1977" and by substituting therefor "July 1, 1978"; and in paragraph (h) by deleting the term "July 28, 1977" and by substituting therefor "April 28, 1978".

§ 213.34 [Amended]

11. Section 213.34 is amended in paragraphs (b) and (e) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting the term "25,000" and by substituting therefor "17,500".

§ 213.36 [Amended]

12. Section 213.36 is amended in paragraph (c) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting the term "620,000" and by substituting therefore "434,000"; in paragraph (d)(1) by deleting the term ".50" and by substituting therefor ".35"; in paragraph (d)(2) by deleting the term "July 29, 1977" and by substituting therefor "May 1, 1978"; and by deleting the term "April 30, 1978" and by substituting therefor "April 30, 1979"; in paragraph (f) by deleting the term "August 31, 1977" wherever it appears and by substituting therefor "August 31, 1978"; by deleting the term "May 1, 1976 through April 30, 1977" and by substituting therefor "May 1, 1977 through April 30, 1978"; and by deleting "July 1, 1977" and by substituting therefor "July 1, 1978"; and in paragraph (h) by deleting the term "July 28, 1977" and by substituting therefor "April 28, 1978".

§ 213.37 [Amended]

13. Section 213.37 is amended in paragraphs (a) and (c) by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and in paragraph (a) by deleting the term "16,250" and by substituting therefor "11,375".

[FR Doc. 78-12099 Filed 5-1-78; 10:06 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 379—TECHNICAL DATA

Revision of References Due to Change in Technical Data Regulations

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: As a result of an amendment to § 379.4, published February 22, 1978 (43 FR 7311-5), paragraph (e) in that Section was relettered as paragraph (f). This rule makes technical amendments in § 379.4 by correcting the references in that Section to paragraph (e), to read paragraph (f).

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4196.

Accordingly, Part 379 of the Export Administration Regulations (15 CFR Part 379) is amended as follows:

1. In the first sentence of § 379.4, "§ 379.4(e)" is amended to read "§ 379.4(f)".

2. In the first sentence of § 379.4(f)(1), "§ 379.4(e)(1)(i) is amended to read "§ 379.4(f)(1)(i)", and "§ 379.4(e)(1)(ii)" is amended to read "§ 379.4(f)(1)(ii)".

3. In the sixth sentence of § 379.4(f)(1), "§ 379.4(e)(1)(i)" is amended to read "§ 379.4(f)(1)(i)".

4. In the first sentence of § 379.4(f)(1)(ii), "§ 379.4(e)(1)" is amended to read "§ 379.4(f)(1)".

5. In the first sentence of § 379.4(f)(2)(i), "§ 379.4(e)(1)" is amended to read "§ 379.4(f)(1)"; "§ 379.4(e)(2)(v)" is amended to read "§ 379.4(f)(2)(v)"; and "§ 379.4(e)(2)" is amended to read "§ 379.4(f)(2)".

6. In the Note following § 379.4(f)(2)(ii)(c), the following amendments are made:

(a) In the first sentence, "§§ 379.4(e)(2)(ii) (b) and (c)" is amended to read "§§ 379.4(f)(2)(ii) (b) and (c)";

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(b) In the first sentence of numbered paragraph two, "§ 379.4(e)(2)(ii)(b)" is amended to read "§ 379.4(f)(2)(ii)(b)"; and

(c) In the first sentence of the final paragraph, "§§ 379.4(e)(2)(ii) (b) and (c)" is amended to read "§§ 379.4(f)(2)(ii) (b) and (c)".

7. In the first sentence of § 379.4(f)(2)(iv), "§ 379.4(e)(2)" is amended to read "§ 379.4(f)(2)".

8. In the first sentence of § 379.4(f)(2)(v), "§ 379.4(e)(2)" is amended to read "§ 379.4(f)(2)".

9. In the first sentence of the Note following § 379.4(f)(2)(v)(c), "§§ 379.4(e) (1) or (2)" is amended to read "§§ 379.4(f) (1) or (2)".

10. In § 379.8(a)(3), "§ 379.4(e)" is amended to read "§ 379.4(f)".

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: April 26, 1978.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-12032 Filed 5-2-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER XIII—FEDERAL DISASTER ASSISTANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-495]

PART 2205—FEDERAL DISASTER ASSISTANCE

In-Lieu Contributions; Final Amendments

AGENCY: Federal Disaster Assistance Administration, Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The final rule amends the regulations pertaining to small project applications (in-lieu contributions) for the repair or restoration of public facilities which were damaged or destroyed in a major disaster. The amendment redesignates certain paragraphs to improve the presentation of the material. These amendments are needed to set forth policies for the easing of final inspection requirements, the adjustment of the level of Federal funding, and the disposition of unused Federal funds.

EFFECTIVE DATE: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert J. Adamcik, Public Assistance Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7835.

SUPPLEMENTARY INFORMATION: On December 23, 1977 the Department published a proposed rule (42 FR 64371) amending Section 419 of the Disaster Relief Act of 1974. During the comment period two commentators submitted the comments which are discussed below.

RETURN OF UNUSED FUNDS

One comment suggested that the last two sentences of § 2205.54(i)(2) be deleted since the cost of recovering the funds would be greater than the amount returned and virtually all expenditures made by applicants are authorized. This is not entirely correct. There are certain types of work such as maintenance and the repair of facilities not damaged in the disaster which are not eligible for reimbursement. The only eligibility requirements for Section 419 Grants are that the funds be spent for an authorized purpose and that they be spent within certain time limitations. FDAA cannot assure that the provisions of the law are being met without imposing these controls. If the funds are not spent within these eligibility constraints, they must be returned. Therefore we do not agree that the last two sentences of § 2205.54(i)(2) should be deleted.

PROJECT LISTING

A comment proposed that the word "listing" in § 2205.54(i)(3) be defined. The listing required by the regulation is developed by the FDAA Regional Director and contains a Summary of the Applicant's approved projects based on the Damage Survey Reports. FDAA does not intend that a standardized form be created or that the State or Applicant need develop an independent form. Each of the FDAA Regional Directors will be furnished with a suggested format for the listing and the States will receive guidance from the appropriate Regional Director. We feel that the listing is adequately described in § 2205.54(i)(3) and no further definition is necessary.

ADJUSTMENTS TO FUNDING AMOUNTS

A comment suggested that a change which would specify that the identification of eligible damage which was overlooked during the initial surveys of a disaster-affected area could be a permissible basis for requesting increased project funding. FDAA does accept Damage Survey Reports on sites which have been overlooked if they are submitted on a timely basis. We intend that the phrase, "omission in defining the approved scope of work," applies to those situations where additional eligible work is identified and therefore, we see no need to change the wording of § 2205.54(i)(4).

ADJUSTMENTS TO FUNDING AMOUNTS

Another comment proposed amending this paragraph to provide for an increase when the actual costs or the low bids on the project exceed the estimated amount. FDAA feels that this is contrary to the law which specifies that the amount of the grant is based on a Federal Estimate. The proposed procedure would require another stage of review and would delay unnecessarily the funding of the grant. Therefore, this suggested change to § 2205.54(i)(4) is not adopted.

A finding of inapplicability with respect to environmental impact has been prepared in accordance with HUD Handbook 1390.1.

Copies of the finding are available for inspection and copying in the Office of the Rules Docket Clerk.

The amendments are adopted without change, as set forth below.

(Sec. 419, Pub. L. 93-288, 88 Stat. 159 (42 U.S.C. 5189), Executive Order 11795 as amended by Executive Order 11910, 39 FR 25939, Delegation of Authority, 39 FR 28227.)

Issued at Washington, D.C., April 20, 1978.

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

§ 2205.54 [Amended]

Paragraph (h)(1) is redesignated (h).

Paragraphs (h)(1)(i) through (h)(1)(iv) are redesignated as (h)(1) through (h)(4) respectively.

Paragraphs (i), (j) and (k) are redesignated (j), (k) and (l) respectively.

Paragraph (h)(2) is deleted and replaced by paragraph (i)

Paragraph (i) to read as follows:

* * * * *

(i) *Small project applications (in-lieu contributions).* (1) Where the Federal estimate of total cost approved by the Regional Director for reimbursement to the applicant is less than $25,000 under Sections 306, 402, and 403 of the Act, the in-lieu contribution will be based on 100 percent of such approved total estimated cost. Direct Federal assistance, and any assistance requested by an applicant on behalf of a private non-profit organization, shall not be included in determining the amount of the in-lieu contribution under Section 419 of the Act. However, the Regional Director may approve Federal funding under Sections 306, 402, or 403 in any instance where he determines that the circumstances do not justify an in-lieu contribution under Section 419 of the Act.

(2) Funds contributed under this subsection may be expended either to repair, restore, reconstruct or replace certain selected damaged or destroyed public facilities; to construct new public facilities which the applicant determines to be necessary to meet its needs for governmental services and functions in the disaster affected areas; or to undertake the disaster work authorized under Sections 306 and 403 of the Act upon which the Federal estimate of damages is based. Any funds which remain unused after the applicant has exercised the available option shall be returned. The Regional Director shall apply current applicable procedures to issue a Bill for Collection or to recover the funds by the offset of Federal funds to which the State would otherwise be entitled under the Act to assure that all such unexpended funds are returned.

(3) The Regional Director shall furnish the applicant through the Governor's Authorized Representative with a listing of projects which have been approved. This listing shall include a brief description, location and estimate of cost approved for each project. Within 30 days following completion of the work performed under this subsection, the applicant shall complete and return this listing through the Governor's Authorized Representative to the Regional Director covering those originally approved projects and those alternate projects that were completed. This listing shall also include the applicant's certification that all work on the listing has been completed and all funds were expended in accordance with the purpose of Section 419 of the Act and with these regulations. There shall be such final inspection and audit as deemed necessary by the Regional Director to assure that the funds were expended in accordance with the purposes of Section 419 of the Act.

(4) If an applicant subsequently submits a supplement to its project application that would increase the grant under Section 419 of the Act to an amount exceeding $25,000, the entire contribution shall revert to a categorical grant or to a 90 percent contribution under § 2205.54(h) as approved by the Regional Director. The only permissible basis for increasing Federal funding is an error or omission in defining the approved scope of work or in the approved estimated reasonable costs of such work. Federal funding may be reduced where the applicant fails to comply with the applicable laws, regulations, and procedures of the Department, including but not limited to: non-compliance with assurances, illegal contracting methods, duplication of benefits, and non-conformity with applicable codes, specifications and standards.

[FR Doc. 78-12016 Filed 5-2-78; 8:45 am]

[1505-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7541]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Election With Respect to Recovery of Intangibles Under Section 57(d) of the Code

Correction

In FR Doc. 78-11334 appearing at page 17815 in the issue for Wednesday, April 26, 1978, in the middle column of page 17816, in the last line of paragraph (b)(1) of § 7.57(d)-1, the date now reading ". . . June 26, 1978." should have read ". . . July 25, 1978."

[3620-01]

Title 32—National Defense

CHAPTER XII—DEFENSE LOGISTICS AGENCY

SUBCHAPTER A—DEFENSE LOGISTICS PROCUREMENT REGULATION

[DLAR 4105.1]

REVISION OF REGULATIONS

AGENCY: Defense Logistics Agency.

ACTION: Final.

SUMMARY: The Defense Logistics Procurement Regulations (DLPR) implements the Armed Services Procurement Regulation (ASPR) and other Department of Defense Publications. It establishes procedures and delegations of authority governing the procurement of supplies and services by the Defense Logistics Agency under chapter 137, title 10 of the United States Code or other statutory authority.

DATE: Effective date, January 31, 1978.

ADDRESS: Defense Logistics Agency, Cameron Station, Alexandria, Va. 22314.

FOR FURTHER INFORMATION CONTACT:

Mr. Dean Fogle, 202-274-6431.

J. J. MCALEER, Jr.,
Colonel, U.S.A., Staff Director, Administration.

This subchapter supersedes subchapter A issued in volume 41, No. 43, March 3, 1976.

The provisions of this subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DoD Directive 5105.22, January 5, 1977.

Subchapter A, chapter XII of title 32 of the Code of Federal Regulations is revised to read as follows:

Part
1201 General provisions.
1202 Procurement by formal advertising.
1203 Procurement by negotiation.
1204 Special types and methods of procurement.
1205 Interdepartmental and coordinated procurement.
1206 Foreign purchases.
1207 Contract clauses, and solicitation provisions.
1208 Termination of Contracts.
1209 Patents, data, and copyrights.
1210 Bonds, insurance, and indemnification.
1212 Contractor industrial labor relations.
1213 Government property.
1214 Procurement quality assurance.
1215 Contract cost principles and procedures.
1216 Procurement forms.
1217 Extraordinary contractual actions to facilitate the national defense.
1219 Transportation.
1220 Administrative matters.
1221 Procurement management reporting system.
1225 Production surveillance and reporting.
1250 Supplemental procedures.

PART 1201—GENERAL PROVISIONS

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1201.101 Purpose of subchapter.
1201.102 Applicability of subchapter.
1201.103 Arrangement of subchapter.
1201.103-2 Numbering.
1201.103-4 Citation.
1201.104 Content of subchapter.
1201.104-50 DLPR.
1201.104-51 Procurement letters.
1201.104-52 Multiple Address letters.
1201.105 Amendment of subchapter.
1201.107 Dissemination and effective date of the subchapter (including appendices, revisions, supplementals and manuals).
1201.108 Departmental procurement instructions and ASPR implementations.
1201.109 Deviations from this subchapter and Department of Defense publications governing procurement.
1201.109-1 Applicability.
1201.109-2 Deviations affecting one contract or transaction.
1201.109-50 Deviations to mandatory clauses.
1201.109-51 Submission of requests for deviations (Dev.).
1201.109-52 Control of deviations.
1201.110 Reports of purchases and contracts.
1201.110.50 Advance notification of proposed awards.

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1201.150 Administration and interpretation.
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1201.201 Definitions.
1201.201-14 Procuring activity.

Subpart C—General Policies

1201.307 Priorities, allocations, and allotments.
1201.307-50 Notice to bidders.
1201.310 Liquidated damages.
1201.314 Disputes and appeals.
1201.318 Contracts conditioned upon the availability of funds.
1201.324 Warranties.
1201.324-50 Warranty actions.
1201.325 Variation in quantity.
1201.325-50 Delivery of excess quantities of $25 or less.
1201.332 Minority business enterprises.
1201.332-5 Minority business enterprise subcontracting program.
1201.350 Changes in procurement processes, techniques or methods.
1201.350-1 General.
1201.350-2 Concept of notification.
1201.350-3 Examples of significant changes.
1201.350-4 Data to support request.
1201.351 Delivery status information on procurements for the international logistics program (ILP).
1201.352 Extended procurment delays.

Subpart D—Procurement Responsibility and Authority

1201.401 Responsibility of each procuring activity.
1201.401-50 Delegation of authority.
1201.401-51 Limited purchasing authority.
1201.402 Authority of contracting officers.
1201.402-50 General responsibilities of contracting officers.
1201.402-51 Procedure for closing contracts with inconsequential amounts undelivered.
1201.403 Requirements to be met before entering into contracts.
1201.403-50 Legal review.
1201.405 Selection, appointment, and termination of appointment of contracting officers.
1201.405-1 Selection.
1201.405-2 Appointment.
1201.405-3 Termination of appointment.
1201.450 Selection, appointment, and termination of appointment of contracting officers' representatives.
1201.451 [Reserved]
1201.452 Review and approval requirements.
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1201.452-8 Cancellation requirements.
1201.452-9 Letter contracts.
1201.452-10 Requests for waiver HQ DLA preaward review and approval.
1201.452-11 Confirmation of quantity and technical requirements.
1201.452-12 Report of procuring actions requiring HQ DLA preaward review and approval by the close of fiscal year.
1201.453 Review and approval requirements at the procuring activity.
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1201.601-1 General.
1201.601-3 Joint consolidated list.
1201.601-50 Attempted evasions.
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1201.704-51 Participation in industrial assistance events, business opportunity/Federal procurement conferences, procurement clinics, fairs, etc.
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Subpart L—Specifications, Plans and Drawings

1201.1203 Availability of specifications, standards, plans and drawings.

Subpart M—Procurement Planning

1201.2100 Procurement planning.
1201.2100-2 Applicability.
1201.2102 Sample format and content of procurement plans.

Subpart N—Industrial Preparedness Production Planning

1201.2205 Existing authority affecting the industrial base.
1201.2206 Applicable procedures.
1201.2206-50 Industrial preparedness planning packages.

Subpart O—Environmental Protection

1201.2302 Administration and enforcement.
1201.2302-3 Compliance responsibilities.
1201.2302-5 Withholding award.

AUTHORITY: The provisions of this subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DoD Directive 5105.22, January 5, 1977.

Subpart A—Introduction

§ 1201.101 Purpose of subchapter.

The Defense Logistics Procurement Regulation (DLPR) is issued by the Executive Director, Procurement, HQ DLA by authority of the Director, Defense Logistics Agency (DLA). Armed Services Procurement Regulation (ASPR) and other Department of Defense publications and, pursuant to Subchapter A, Chapter I of this title, establishes for DLA procedures relating to the procurement of supplies and services under the authority of Chapter 137, Title 10 of the United States Code, or other statutory authority.

§ 1201.102 Applicability of subchapter.

(a) This subchapter is applicable to the purchasing function at all DLA activities, but is not applicable to the performance of field contract administration assigned to Defense Contract Administration Services (DCAS).

(b) Whenever revisions to ASPR are published which make coverage in this subchapter obsolete or contradictory to that in ASPR, the provisions in ASPR shall apply.

(c) Whenever DLA Regulations, containing policies and procedures relating to procurement conflict with ASPR or this subchapter, the policies and procedures in ASPR and this subchapter shall govern.

§ 1201.103 Arrangement of subchapter.

§ 1201.103-2 Numbering.

The numbering system in DLPR follows the numbering system in ASPR. Where a section of the DLPR does not implement a particular section but pertains to the general subject matter covered in a particular part of the ASPR, the added section shall be numbered starting with the digits "50" (e.g., in subpart A of part I, this would be § 1201.150). Likewise where the DLPR has material implementing a main ASPR section, but not fitting under the ASPR point numbers and titles, such material is numbered to end in .50, .51, etc., such as 1-110.50, 1-110.51, etc.

§ 1201.103-4 Citation.

The DLPR shall be referred to as the Defense Logistics Procurement Regulation and any paragraph may be cited as DLPR followed by the paragraph number. Thus, this paragraph would be cited as DLPR 1-103.4.

§ 1201.104 Content of subchapter.

§ 1201.104-50 DLPR.

This subchapter contains all Departmental policies, procedures and instructions relating to procurement of supplies and services within the Defense Logistics Agency, except those contained in ASPR and the DLAR or DLAM series of DLA regulations. DLPR does not duplicate or paraphrase ASPR and is issued only to cover delegations of authority, assign responsibilities, and other procedures consonant with § 1-108 of this title which are essential to DLA.

§ 1201.104-51 Procurement letters.

Numbered procurement letters (PROCLTRS) include policy statements of general interest to procurement personnel, re-emphasis of existing policy and information of a temporary nature. They are generally directed to procurement staff levels within the Defense Supply Centers (DSCs) but wider attention within the Procurement Directorates may be directed upon the face of the letter. Procurement letters will normally be cancelled within six months.

§ 1201.104-52 Multiple address letters.

Unnumbered multiple address letters will be issued for one-time requests for comments or reports, announcements of Procurement and Production Directors' Conferences and other meetings, etc. No implementation beyond the action requested is contemplated. They are self-canceling when they have served their purpose.

§ 1201.105 Amendment of subchapter.

Recommendations for revision of ASPR and DLPR shall be submitted, through channels, to the Executive Director, Procurement, Defense Logistics Agency, Cameron Station, Alexandria, Va. 22314, Attn: DLA-PPR.

§ 1201.107 Dissemination and effective date of the subchapter (including appendices, revisions, supplements and manuals).

(a) Heads of Procuring Activities shall insure that copies of the ASPR and DLPR, including revisions, are distributed to all interested activities and individuals.

(b) Compliance with the DLPR, including any revision to the DLPR, shall be permissive effective with the date of issuance thereof (as indicated by the page revision date) and shall be mandatory effective 90 days thereafter, unless otherwise provided in such revision.

§ 1201.108 Departmental procurement instructions and ASPR implementations.

(a) Implementations of ASPR and DLPR may be issued by Heads of Procuring Activities provided they are consistent with § 1-108 of this title. In addition, the Executive Director, Procurement, HQ DLA has delegated this authority to the Commander, Defense Industrial Plant Equipment Center (DIPEC). Implementations shall not duplicate or paraphrase ASPR or DLPR, modify or revise the policy in ASPR or DLPR, or contain deviations to ASPR or DLPR unless authorized by the procedures of § 1-109 of this title and § 1201-109. The format, general plan, and numbering system of implementations shall be the same as ASPR/DLPR.

(b) Heads of Procuring Activities and DIPEC shall furnish the HQ DLA, Attn: DLA-PPR, one copy of each implementing instruction properly referenced to the ASPR or DLPR paragraph to which it pertains.

§ 1201.109 Deviations from this subchapter and Department of Defense publications governing procurement.

§ 1201.109-1 Applicability.

Actions which constitute deviations from ASPR or Department of Defense publications governing procurement as set forth in § 1-109.1 of this title shall also constitute deviations from the provisions of DLPR.

§ 1201.109-2 Deviations affecting one contract or transaction.

Deviations from ASPR, a Department of Defense Directive, or the DLPR which affect only one contract or transaction, will be made only after prior approval by the Executive Director, or Deputy Executive Director, Procurement, HQ DLA.

§ 1201.109-50 Deviations to mandatory clauses.

Prior to requesting an ASPR deviation, one-time or otherwise, the Commander or Deputy Commander shall make a determination on a case-by-case basis whether or not to personally negotiate with contractors who have refused to accept mandatory ASPR clauses in an attempt to obtain contractor acceptance. In those cases where it is determined that the Commander should not personally conduct negotiations, a detailed memorandum setting forth the rationale shall be forwarded with the referral to HQ DLA, Attn: DLA-PP.

§ 1201.109-51 Submission of requests for deviations (Dev).

(a) Requests for authority to deviate from the provisions of ASPR, Department of Defense Directives, or the DLPR will be submitted (in original and four copies) to HQ DLA, Attn: DLA-PPR. Deviation requests shall be in the format of: I. Problem, II. Recommendation, and III. Discussion.

(b) For those deviations which have originated in any DLA field activity, it will be the responsibility of the originator to initiate action for renewal or extension, when appropriate, at least 90 days prior to the expiration date. If no request is received in DLA-PPR, it will be assumed the need for the deviation no longer exists and the deviation will automatically expire.

§ 1201.109-52 Control of deviations.

Separate registers shall be maintained by the Executive Director, Procurement, HQ DLA of the deviations granted from ASPR and DLPR. Each deviation shall be recorded in its appropriate register and shall be assigned a control number as follows: an abbreviation of the regulation involved and the word deviation; fiscal year; and the serial number assigned to the particular deviation; e.g., ASPR Dev. 76-1, DLPR Dev. 76-1. The control number shall be embodied in the document authorizing the deviation and shall be cited in all references to the deviation.

§ 1201.110 Reports of purchases and contracts.

§ 1201.110-50 Advance notification of proposed awards.

(a) Data on all proposed contract awards of $1 million or more shall be submitted to the HQ DLA contract point by telephone at least 48 hours (two full working days) prior to 1,100 hours of the date the Center proposes to make the contract award (excluding those contracts made with the Small Business Administration under authority of Section 8(a) of the Small Business Act). Mandatory orders to be placed with the Federal Prison Industries, the National Industries for the Blind and Agencies for the Severely Handicapped are not included in this reporting requirement. However, nonmandatory orders to be placed with the Industries for the Blind are included. This report will be known as "contract announcement" and will carry Reports Control Symbol DO-LA(AR)1279.

(b) Definitions. (1) Contract awards as used herein include any contractual instrument that obligates funds where the total amount of the contract is $1 million or is expected to reach or exceed $1 million. Requirements contracts that do not obligate funds at the time of award are not "contract awards" for the purpose of this paragraph. Delivery orders in the amount of $1 million or more issued against these requirements contracts are "contract awards." Where a requirements contract does obligate an amount of less than $1 million at the time of award and it is estimated that the cumulative amount of the contract will exceed $1 million such type of requirements contract is a "contract award."

(2) Contractual instrument includes but is not limited to notices of awards, definitive contracts, letter contracts, orders placed against requirements or indefinite delivery type contracts, sup-

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plemental agreements, change orders, provisioning orders, contract modifications, letters of intent, and funding action.

(c) The HQ DLA contact point is DLA-PC, Autovon No. 284-6461.

(d) Data submitted to the HQ DLA contact point shall be verified for accuracy by a responsible DLA field activity official prior to submission to HQ DLA. This data is used to provide information outside the Department of Defense, therefore, accuracy is of paramount importance.

(e) The following data shall be provided (in this sequence) to the HQ DLA contact point:

(1) Name and address of purchasing activity;

(2) Proposed release date;

(3) Contract number;

(4) Amount;

(5) Name and location of proposed contractor (include street address, zip code, and county, size of business, i.e., large or small), and labor surplus area designation;

(6) Item and quantity to be awarded;

(7) Name and location of facility to perform contract, indicating if a division or affiliate of contractor in paragraph (5) of this section, (include street address, zip code, county and labor surplus area designation);

(8) Type of contract, e.g., firm fixed price; fixed price with escalation;

(9) Amount previously obligated (if this announcement is a modification to an existing contract);

(10) Number of concerns solicited and number of concerns submitting bids/proposals;

(11) Using Service;

(12) Name of official in field activity familiar with award;

(13) Information as to any proposed local press release or any local Congresssional interest; and

(14) A statement of whether or not EEO clearance has been obtained.

(f) Awards and release of information on contract awards of $1 million or more shall not be made before the date and time agreed upon by the HQ DLA contact point and the field activity. Any proposed local press release should also be withheld. If for any reason, clearance is not received by HQ DLA, the Defense Supply Center will be notified promptly to withhold award until clearance has been obtained. If following agreement as to date and time of contract award announcement, the award will not be made, the HQ DLA contact point shall be notified by telephone immediately.

§ 1201.150 Administration and interpretation.

The administration and interpretation of DLPR is the responsibility of Executive Director, Procurement, DLA (DLA-P).

§ 1201.151 Procurement and Production Director's Conference.

A Procurement and Production Directors' Conference will be convened on a semi-annual basis or at the call of the Executive Director, Procurement, DLA, under the monitorship of the Programs & Analysis Office (DLA-PA). The conference provides a forum for discussion of current problems, discussion of management improvements, exchange of information on latest developments in the fields of procurement and production, and for other matters, which assist in the development of procurement and production policies and procedures. Attendance at these conferences will comprise as a minimum the Executive Director or Deputy Executive Director, Procurement, (DLA-P/PD), representatives from Headquarters, Procurement and Production Divisions and Offices, and Procurement and Production Directors and/ Deputy Directors from DLA Supply Centers.

Subpart B—Definition of Terms

§ 1201.201 Definitions.

§ 1201.201-14 Procuring activity.

The Executive Director, Procurement, HQ DLA, shall exercise the functions, not otherwise delegated, of Head of Procuring Activity for any DLA Supply Centers or Activities not under an HPA and not designated as "Procuring Activities" pursuant to § 1-201.14 of this title. This includes the: (a) Defense Industrial Plant Equipment Center; (b) Defense Logistics Services Center; (c) Defense Depot Memphis; (d) Defense Depot Ogden; (e) Defense Depot Tracy; and (f) Defense Logistics Agency Administrative Support Center.

Actions required by the Armed Services Procurement Regulation, this subchapter, or other directives involving the functions of the Head of the Procuring Activity not otherwise delegated shall be referred to the HQ DLA, Attn: DLA-PP.

Subpart C—General Policies

§ 1201.307 Priorities, allocations, and allotments.

§ 1201.307-50 Notice to bidders.

The following notice shall be included in a prominent place, with each bid package distributed to industry for procurement action:

SECTION C, INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS/QUOTERS

PRIORITY RATING (DLA 1974 JUL)

Any contract awarded under this solicitation will be assigned a priority rating (DO or DX as applicable) and will include a certification for national defense use under regulations issued by the Department of Commerce in implementation of the Defense Production Act of 1950, as amended. Contractors are required to utilize said rating in obtaining the products, materials and supplies needed to fill their contracts. In the event the contractor is unable to obtain the necessary products, materials and supplies to complete his contract, he shall immediately advise the Defense Contract Administration Services Region (DCASR) or the appropriate Defense Supply Center (DSC) DMS Officer through the cognizant Administrative Contracting Office (ACO) or Procuring Contracting Officer (PCO). The DMS Officer or the DCASR Industrial Specialist will provide necessary assistance or will provide the necessary instructions to complete the Form BDSAF-138, Request for Special Priorities Assistance. The Form BDSAF-138 will be processed through appropriate channels to the Department of Commerce which upon receipt will take action to make the needed supplies available to the applicant.

§ 1201.310 Liquidated damages.

Recommendations concerning the remission of liquidated damages shall be transmitted to HQ DLA, Attn: DLA-G.

§ 1201.314 Disputes and appeals.

(d) All appeals will be presented to the Armed Services Board of Contract Appeals by trial attorneys of the DLA Defense Supply Center involved. Direct communication with the Board is authorized. The charter and rules of the Armed Services Board of Contract Appeals are set forth in Appendix A, ASPR. All official correspondence with the Board will be addressed to the Recorder, Armed Services Board of Contract Appeals, 200 Stonewall Street, Alexandria, Va. 22332. At the time of filing with the Board or receipt by the trial attorney, a copy of each Notice of Appeals, Complaint, Answer, Rule 4 Memorandum (without enclosures), Brief, and Motion for Reconsideration, if any, shall be forwarded to the Counsel, DLA.

(e) In all cases except those to be disposed of under Rule 12, the trial attorney shall forward to the Counsel, DLA, copies of the Trial Memorandum, documents that have been filed under Rule 4 or are to be introduced in evidence at the hearing, and, if not included in the Trial Memorandum, a summary of the testimony of proposed witnesses. This information shall be forwarded ten days prior to date set for the hearing.

(f) If, after review of a Board decision on contracts of his procuring activity, Counsel for the activity is of the opinion that the decision is erroneous, a Motion for Reconsideration should be filed. If the Board denies the motion or sustains its previous decision and a decision by the Comptroller General is desired prior to payment, the request for such a decision shall be forwarded to HQ DLA, ATTN: DLA-G.

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§ 1201.318 Contracts conditioned upon the availability of funds.

It is recognized that there may be instances, other than those described in ASPR 1-318, where it will be necessary to initiate a procurement prior to the availability of funds. In such instances, the action will only be taken after the facts concerning the proposed solicitation are presented to DLA-P for review as to the necessity for such action and the obtaining of the required ASPR deviation permitting use of the provisions set forth in § 7-104.91 of this title.

§ 1201.324 Warranties.

§ 1201.324-50 Warranty actions.

When warranty actions have been initiated under procurement instruments containing warranty clauses in accordance with ASPR 1-324, it is essential all DSCs maintain a record of these warranty actions. This record is necessary to help determine the usefulness of the warranty clause versus the cost of administering the warranty actions. The record will be maintained in a central location on a fiscal year basis. No more than two prior fiscal years will be retained. The record shall contain as a minimum the following information:

(a) Date and reason warranty was invoked;

(b) Contract number;

(c) Contractor;

(d) Dollar value of material covered by warranty;

(e) Disposition of material or other considerations obtained; and

(f) Date warranty action completed.

§ 1201.325 Variation in quantity.

§ 1201.325-50 Delivery of excess quantities of $25 or less

Unless there is a valid reason to the contrary, the clause set forth below shall be included in all contracts, purchase orders and Blanket Purchase Agreements.

DELIVERY OF EXCESS QUANTITIES OF $25 OR LESS (DSA 1972 NOV)

The contractor is responsible for the delivery of each item or sub-item quantity within allowable variations, if any, required by the contract or order. If the contractor delivers and the Government receives quantities of any item or sub-item in excess of the quantity called for by the contract or order (after considering any allowable variation in quantity) and the dollar value of such excess quantity amounts to $25 or less, the excess quantity will be treated as being delivered for the convenience of the contractor; and the Government may retain such excess quantities without compensating the contractor therefor; and the contractor waives all right, title, or interests therein.

§ 1201.332 Minority business enterprise.

§ 1201.332-5 Minority business enterprise subcontracting program.

When the Utilization of Minority Business Enterprises clause in § 1207.104-36(a) is used, and the contract is expected to exceed $500,000, the contracting officer shall make a determination of subcontracting potential on a case-by-case basis. When it is determined that substantial subcontracting possibilities do exist, the clause in § 7-104.36(b) of this title shall be included. If it is determined that substantial subcontracting possibilities do not exist, the procedures in 1-707 shall apply.

§ 1201.350 Changes in procurement processes, techniques or methods.

§ 1201.350-1 General.

Whenever a procuring activity contemplates a significant change in a procurement process, technique or method which may reasonably be expected to have a substantial impact on industry and/or the Government, the activity shall notify promptly HQ DLA, ATTN: DLA-PPR, of the contemplated change and the reasons and basis therefore.

§ 1201.350-2 Concept of notification.

Headquarters DLA requires notification of contemplated changes which are of significant nature prior to initiation of action to accomplish such changes. This prior notification is necessary in order that Headquarters may become conversant with the matter in the event there is any reaction from industry, the Congress, or the using Military Departments. In addition, Headquarters has access to, and knowledge of, information which may not be available at the field level and as such, is in a position to evaluate the significance of the proposed action to the Agency as a whole. Accordingly, it is essential that HQ DLA know what is contemplated before the initiation of a significant change is publicized. This requires that all notifications be submitted as far in advance of public disclosure as possible, in order that HQ DLA clearance may be obtained, and the intended purpose of this requirement be served.

§ 1201.350-3 Examples of significant changes.

Representative types and categories of contemplated changes which are of a significant nature and which necessitate prior notification to HQ DLA are (but not limited to) a change in:

(a) a longstanding inspection requirement or procedure;

(b) the method of providing and/or accounting for Government-furnished property;

(c) a type of contract which constitutes a significant departure from the procurement technique previously utilized;

(d) solicitation techniques and the elements used in evaluation of offers;

(e) the region/area from which procurement of an item has been previously accomplished;

(f) the location of a buying/purchasing office; or

(g) item specification which prompts a major change in manufacturing and/or processing techniques.

§ 1201.350-4 Data to support request.

In order that the impact of a contemplated change in procurement method may be determined, requests for approval of a proposed change in a procurement method should contain the following information:

(a) A description of the present and proposed procurement methods;

(b) A statement of the difficulties encountered in the use of the presented method and/or the improvements foreseen as the result of a change;

(c) A statement as to the degree of impact of the change expected on industry and/or the Government; and

(d) A statement as to the net benefits accruing to the Government as a result of the change.

§ 1201.351 Delivery Status Information on Procurements for the International Logistics Program (ILP).

Contracts and purchase orders awarded in support of requisitions from the Navy International Logistics Control Office, Bayonne, New Jersey, for the ILP shall:

(a) Identify the requirement as a separate contract line item or sub-line item in accordance with § 20-304.2 of this title. If the purchase request does not contain this information, the contracting officer shall contact the originator to obtain the necessary data. The applicable requisition number shall be entered immediately under the line or sub-line item. (ILP requisitions are identified by the letter P or K preceding requisition number).

(b) Provide for the designated contract administration services component to distribute to the Navy International Logistics Control Office, (Bayonne, New Jersey) a copy of any report or document which indicates an anticipated or actual delay in delivery of line or sub-line items for the ILP. Copies of such reports distributed to Navy International Logistics Control Office shall include the requisition number applicable to the line or sub-line item involved and shall be in addition to any other distribution required by the contract or directives applicable to the contract administration services component.

§ 1201.352 Extended procurement delays.

The purchasing office shall immediately notify Supply Operations when

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extended delays are anticipated in contract award and, when possible, also advise of the anticipated length of the delay in the proposed delivery schedule.

Subpart D—Procurement Responsibility and Authority

§ 1201.401 Responsibility of each procuring activity.

§ 1201.401-50 Delegation of authority.

Authority conferred upon the Heads of Procuring Activities under any paragraph of DLPR may be delegated with power of redelegation to other officers or civilian officials of DLA, except when specifically limited by law or the provisions of the pertinent DLPR paragraph.

§ 1201.401-51 Limited purchasing authority.

The Commander, Defense Logistics Agency Administrative Support Center is granted limited purchasing authority for the following:

(a) Small Purchase authority, i.e., accomplishment of small purchases ($10,000 or less) as provided for in Part 3, Subpart F of this title and of this subchapter.

(b) The use of a Blanket Purchase Agreement (BPA) without monetary restriction except that each call under a BPA may not exceed $5,000. (§ 3-605 of this title).

(c) Unlimited ordering authority for:

(1) Common use classes of supplies and services under Federal Supply Schedule (FSS) contracts.

(2) Supplies from General Services Administration (GSA) Stores Depot (Part 5, Subpart A of this title).

(3) Repairs and Refinishing Services on GSA and FSS contracts (§ 5-205 of this title).

(4) Prison-made and blind-made supplies (§ 5-400 and § 5-500 of this title).

(5) Printing and related supplies under GPO contracts (§ 5-601 of this title).

§ 1201.402 Authority of contracting officers.

Contracting officers may enter into, amend, modify, and take other action with respect to contracts, provided:

(a) Approval of award has been obtained, if required, and the contract embodies the award as approved;

(b) The contract is written on a standard or an approved form of contract;

(c) The contract is authorized by law and complies with the provisions of ASPR and DLPR with respect to the use of contract clauses and does not contain any clause or involve matters in conflict with the established policy of higher authority;

(d) Compliance has been made with all other requirements of law, the ASPR, the DLPR, and the applicable procuring activity instructions; and

(e) The contract is adequately funded.

§ 1201.402-50 General responsibilities of contracting officers.

(a) Contracting officers are responsible for:

(1) The safeguarding of the interests of the United States in contractual relationships;

(2) Their acts as contracting officers under law and regulations;

(3) Maintaining constant cognizance with respect to contract compliance on the part of the contractor;

(4) Obtaining the necessary legal, technical, and administrative review of the contracts they make; and

(5) Knowing the scope and limitation of their authority.

(b) Contracting officers shall personally sign all contracts and modifications entered into in their name. The Contracting Officer cannot designate anyone to sign for him.

(c) Contracting officers shall be bound in all their actions to exercise reasonable care, skill, and judgment. They must assure themselves that the contract is authorized by law, that funds are available, and of their authority to subject the Government or its property to any risk. Contracting officers shall neither act as nor perform the duties of a contracting officer with respect to any contractual instrument obligating only nonappropriated funds. However, contracting officers may act in an advisory capacity with respect to the aforementioned instruments.

§ 1201.402-51 Procedure for closing contracts with inconsequential amounts undelivered.

The Procuring Contracting Officer (PCO) is authorized on a case-by-case basis to consider a contract completed when an inconsequential amount not falling within the variation in quantity clause remains undelivered or, in the case of brand name subsistence or less than carload lots of perishable subsistence items, the undelivered amount is no longer requested by the using activity, provided all of the following conditions exist:

(1) Payment is provided for on a unit price basis, and the contractor advises that no further deliveries will be made;

(2) Payment is made for the units actually received;

(3) The undelivered portion is inconsequential, or in the case of brand name subsistence or LCL perishable subsistence items, the undelivered amount is no longer required by the using activity, and the cost of executing a supplemental agreement (including, but not limited to taking termination action) is excessive in relation to the benefits to the Government from such action; and

(4) The PCO includes in the file a memorandum stating that no rights of the Government are being waived by this procedure and a termination for default is not unwarranted. The PCO shall execute and distribute a Standard Form 30 (or other unilateral instrument) as an Administrative Change to the contract to deobligate funds. The Change shall indicate that the above criterial have been met and the contract is considered complete, and shall reference the contractor's communication which advised that no further deliveries will be made.

§ 1201.403 Requirements to be met before entering into contracts.

§ 1201.403-50 Legal review.

(a) Legal advice and assistance of assigned legal counsel shall be obtained in the preparation of clauses other than standard clauses which are to be contained in solicitations, and on any questionable legal areas in the preparation and/or execution of contractual documents.

(b) Procuring activities within the Defense Logistics Agency shall issue instructions on the legal review of solicitations and contractual documents issued by their activities.

§ 1201.405 Selection, appointment, and termination of appointment of contracting officers.

The Authority in § 1-405 of this title has been delegated by the Executive Director, Procurement, DLA, (DLA-P) to the Commander of each of the following activities:

(1) Defense Depot Memphis.

(2) Defense Depot Ogden.

(3) Defense Depot Tracy.

(4) Defense Industrial Plant Equipment Center.

(5) Defense Logistics Services Center.

(6) Defense Logistics Agency Administrative Support Center.

§ 1201.405-1 Selection

High qualification standards must be maintained for the appointment of contracting officers. Authority to execute and administer contracts of $100,000 or greater should be given only to civilian personnel of Grade GS-12 or above, and to military personnel with at least three years specialized experience in procurement and three years experience in related fields. Exceptions to these minimum qualifications may be granted on a case-by-case basis by the Head of a Procuring Activity and the Commanders of the activities enumerated in § 1201.405 where exceptional circumstances necessitate appointment of an individual.

§ 1201.405-2 Appointment.

(a) Contracting Officer Appointment Documentation Sheet, DLA Form 581, shall be used to facilitate the documentation of recommendations for appointment. This form shall be completed by the official recommending an individual for appointment. Properly prepared, the form will assist the appointing authority, normally the HPA, in determining whether or not the nominee is qualified for appointment. Also, it will provide HQ DLA a current profile of contracting officers.

(b) One copy of each appointment Documentation Sheet shall be sent to HQ DLA ATTN: DLA-PPR.

§ 1201.405-3 Termination of appointment.

(b) *Revocation.* One copy of each revocation of an appointment shall be sent to HQ DLA, ATTN: DLA-PPR.

§ 1201.450 Selection, appointment, and termination of appointment of contracting officers' representatives.

(a) *Designation.* The selection, appointment, and termination of appointment of Contracting Officers' Representatives (COR) shall be made by the contracting officer. Such appointments shall take into consideration the ability, training, and experience of COR designees and shall assure that designees are appropriately qualified to act as an authorized representative of the contracting officer. The COR designations shall be in writing and shall define the scope and limitations of the authorized representative's authority. Appointment shall be made by letter substantially in the form set forth in (d) of this section. Unless the appointment of a COR contains other provisions for automatic termination, the appointment shall be effective, unless sooner revoked, until the COR is reassigned, or his employment is terminated. Revocation of a COR apppointment may be effected at any time by the appointing authority, or higher authority, or any successor to either. Revocation shall be made by letter reading substantially as shown in (e) of this section.

(b) *Authority.* CORs will be responsible to and under supervision of the contracting officer for those actions delegated by the Contracting Officer and unless specifically prohibited by the terms of the contractual instument involved may, at the discretion of the contracting officer, be empowered to take any and all actions which could be lawfully taken by the contracting officer consistent with the scope and limitations of the appointment. Compliance with the Standards of Conduct prescribed in DOD Directive 5500.7 and DLAR 5500.1 shall be maintained.

(c) *Documentation.* Supplementing the normal supervision of the COR by the contracting officer, the contracting officer shall maintain an "activity" file on each COR. The purpose of this file is to record and maintain the results of periodic reviews of the COR's procurement activities conducted annually by the contracting officer. The contents of the activity file will include but are not limited to:

(1) A copy of the COR's letter of appointment;

(2) Examples of in-depth reviews of the COR's performance with appropriate identification of the work performed including DO's issued; and

(3) Documentation by the contracting officer of the date, substance, and extent of the reviews conducted.

(d) *Sample Form of Suggested Letter for Appointing COR's.*

Subject: Appointment as Contracting Offcer's Representative.

To: (Address to individual, indicating rank or grade, branch, division, activity and location.)

1. Under the authority vested in me by the ————, 1 January 1975 subject: Delegation of Authority, you are hereby designated Contracting Officer's Representative with authority conferred by the Contracting Officer.

2. This order shall be in full force and effect until revoked by me or my successor in the same manner as it is hereby granted, or upon your being transferred from the (include branch, division, activity and location).

/s/ CONTRACTING OFFICER.

(e) *Sample Form of Suggested Letter for Terminating Appointment as Contracting Officer's Representative.*

Subject: Termination of Appointment as Contracting Officer's Representative.

To: (Address to individual, indicating rank or grade, branch, division, activity and location.)

Your appointment as Contracting Officer's Representative contained in letter appointment dated ——, is hereby terminated effective ——.

/s/ CONTRACTING OFFICER.

§ 1201.451 [Reserved]

§ 1201.452 Review and approval requirements.

§ 1201.452-1 General.

Every proposed contractual document and supporting file shall be reviewed by the contracting officer prior to signature of the document and prior to forwarding the file for review by higher authority. The contracting officer is responsible for the completeness and accuracy of the file as well as for the soundness of the contractual action. Each file must contain the applicable information, or cross reference thereto, contemplated by ASPR Supplement No. 2 "Contract File Maintenance, Closeout and Disposition" in sufficient detail to permit reconstruction of all significant actions by a subsequent reviewer without referrals to the individuals who consummated the procurement.

§ 120.452-2 Actions requiring HQ DLA review and approval prior to award.

(a) The actions (the term actions as used herein includes both contracts and contract modifications effecting new procurement) listed below require the review and approval of the Executive Director or Deputy Executive Director, Procurement, HQ DLA, or other DLA official so delegated prior to award. Actions are to be submitted to HQ DLA, ATTN: DLA-PC. For review purposes, the dollar amount of an action shall be the sum of the estimated or actual amount of obligation and the amount of any option included in the action.

(1) All actions other than firm fixed-price or fixed-price with escalation;

(2) All actions providing for special performance incentives;

(3) All actions involving—

(i) Architectural-engineering services;

(ii) Management engineering services;

(iii) Management surveys and studies;

(iv) Personal or professional services, not covered by applicable civilian personnel instructions;

(v) Services for maintenance of or for manufacture in Government-owned, contractor-operated facilities. (Not applicable to the Defense Fuel Supply Center.);

(vi) Services and materials for the repair, maintenance, rehabilitation, alteration or modification of Government installations and utilities of $100,000 or more;

(vii) Proposed lease of Government property for non defense use;

(viii) Acquisition of automatic data processing equipment and software in accordance with DLAR 4710 and;

(ix) Acquisition of facilities.

(4) All actions resulting from an invitation for bids (including Balance of Payments and Small Business Restricted Advertising types) when award is proposed to a sole responsive, responsible bidder, and the total dollar amount of the sole bid items being awarded is $100,000 or more, except subsistence items which, by industry practice, are normally subject to 72 hours or less acceptance time, e.g., coffee, flour, sugar;

(5) All negotiated actions including orders under Basic Ordering Agreements with a value of $100,000 or more, when award is proposed to a sole offeror;

(6) All actions which involve construction of petroleum facilities;

(7) All negotiated actions (excluding actions resulting from Balance of Payments and Small Business Restricted Advertising and actions covering the set-aside portion of a procurement made by formal advertising) in an amount equal to or in excess of:

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Defense Construction Supply Center	$750,000
Defense Electronics Supply Center—FSC 5960	500,000
All other supply classes	100,000
Defense Fuel Supply Center:	
Supplies	5,000,000
Services	100,000
Defense General Supply Center	750,000
Defense Industrial Supply Center	75,000
Defense Personnel Support Center:	
Clothing and Textiles	500,000
Medical	500,000
Subsistence	1,000,000
Defense Depot Memphis	50,000
Defense Depot Ogden	50,000
Defense Depot Tracy	50,000
Defense Industrial Plant Equip. Center	50,000
Defense Logistics Services Center	50,000
DLA Administrative Support Center	10,000

(8) Each exercise of an option, regardless of whether the basic contract was advertised or negotiated, and each order under a basic ordering agreement, when the action is in an amount equal to or in excess of that stated in § 1201.452(a)(7) for the activity concerned;

(9) Each order under an indefinite delivery type contract in which the amount of the order is equal to or in excess of that stated in § 1201.452(a)(7) for the activity concerned, except where the basic contract was approved by HQ DLA.

(10) All actions incorporating the Life Cycle Costing concept.

(b) Orders placed against requirements contracts, other Federal agencies, or the National Industries for the Blind or Agencies for the Severely Handicapped are excluded from these review requirements. Contracts negotiated with the Small Business Administration pursuant to Section 8(a) of the Small Business Act are also excluded.

§ 1201.452-3 Information to be furnished.

The complete contract file of those actions subject to HQ DLA review and approval shall be transmitted for review upon completion of negotiations but prior to award. DLA Form 677, "Request for Contract Review/Approval," signed by the contracting officer and by the Commander, his deputy, or the principal officer responsible for procurement shall be used to request review and approval. The file, including a copy of the current specification covering the basic item(s) or service(s), shall be arranged in accordance with ASPR supplement No. 2 and individual documents numbered and assembled in accordance with DLA Form 678, "File Content List," which shall be attached to DLA Form 677. All documents shall be securely fastened in the file which shall be assembled so as to permit viewing of each document without disassembling the file. A carbon copy of the DLA Form 677 and 678, together with copies of (a) the proposed contract (including the solicitation and all amendments thereto), (b) the review comments of the procuring activity review office, (c) determination and findings, (d) field pricing report, (e) cost/price analysis, (f) prenegotiation briefing memorandum, and (g) price negotiation memorandum shall be furnished for retention by HQ DLA. The purchasing office will be notified immediately by telephone when significant information is missing from the file or the available information is inadequate to permit review. Further review action will be withheld pending receipt of the required information. When a solicitation results in two or more proposed awards, one or more of which requires approval, the quantities, prices and names of proposed awardees shall be submitted with requests for approval and all awards will be withheld pending advice of required approval. Telephonic notification of approval, qualified approval, or disapproval will be furnished immediately with written approval evidenced on the original of DLA Form 677, "Request for Contract Review/Approval," which shall be made part of the contract file.

§ 1201.452-4 Release of information.

Prospective suppliers are not to be advised that awards have been forwarded to HQ DLA for approval.

§ 1201.452-5 Proposed shifts in procurements from a competitive to a noncompetitive basis.

Procurements of $1 million and over where it is proposed to shift from a competitive to a noncompetitive status shall be approved in advance by the Head of the Procuring Activity.

§ 1201.452-6 Post award review.

Selected contracts will be subject to post award review. This review may be accomplished by a request for the contract file or during a visit to the applicable purchasing activity by HQ DLA contract review personnel. The results of these reviews and the results of the reviews accomplished prior to award will be utilized to determine future review levels for the activity involved.

§ 1201.452-7 Actions approved but not awarded.

If for any reason action subject to the requirements of § 1201.452-2 are reviewed and approved and subsequently not awarded, HQ DLA, ATTN: DLA-PC, shall be so advised. A complete explanation of the failure to make the award shall be provided.

§ 1201.452-8 Cancellation requirements.

(a) In order to insure that supply discipline and financial stability are not attained at the expense of sound procurement methods and the responsibility of this Agency to its suppliers, the following review system is in effect:

(1) Each partial or total cancellation of an invitation for bids after opening shall be effected only with the approval of the Head of the Procuring Activity.

(2) Reprocurement of an item within 90 days after cancellation under (1) of this section, where the cancellation was occasioned by a revision of requirements or by funding limitations, shall have prior approval of the Head of the Procuring Activity.

(b) Except as specified in (c) of this section, this procedure shall apply to cancellations for any reason other than failure to obtain coverage or unreasonableness of offered prices.

(c) This procedure shall not apply to procurements of nonstocked items or to procurements originated by a MIPR.

§ 1201.452-9 Letter contracts.

(a) Approval of the Executive Director or Deputy Executive Director, Procurement, HQ DLA, or other HQ DLA offical so delegated is required prior to award of letter contracts when the resulting definitive contracts will be subject to HQ DLA preaward review and approval under any of the criteria set forth in § 1201.452-2(a). Requests for such authority are to be made by the Center Director, Procurement and Production and may be transmitted by electronic means (ATTN: DLA-PC) and shall include, as a minimum:

(1) The facts supporting the requirement for a letter contract (§ 3-108 (b) and (c) of this title):

(i) Why the interests of national defense demand that a contractor be given a binding commitment so that work can be commenced immediately;

(ii) Why negotiation of a definitive contract in sufficient time to meet the procurement need is not possible; and

(iii) The written determination that no other type of contract is suitable.

(2) A determination of the contractor's responsibility in accordance with § 1-904 of this title;

(3) The proposed unit price and total price ceilings for the definitive contract;

(4) The limit of the Government's liability under letter contract;

(5) Any requirement for progress payments, provisional payments, and options for increased quantity;

(6) The proposed definitization schedule which shall include the dates for:

(i) Receipt of the contractor's proposal;

(ii) Commencement of negotiations;

(iii) Completion of negotiations;

(iv) Target date for definitization.

(7) The following additional milestone dates are to be submitted:

(i) Receipt of filed pricing report;

(ii) Receipt of the center price analysis;

(iii) Submission of the definitive contract and supporting file for HQ DLA preaward review and approval.

(b) HQ DLA authorization is required prior to modification of all letter contracts which required HQ DLA authorization when the proposed modification affects the:

(1) Unit price or total price ceilings of the definitive contract;

(2) Limit of the Government's liability under the letter contract;

(3) Definitization date;

(4) Progress or provisional payments as initially proposed;

(5) A copy of the signed letter contract or modification shall be forwarded to HQ DLA, ATTN: DLA-PC, within 1 week after its execution; and

(6) Any anticipated or actual slippage in the definitization schedule or the additional milestones must be reported in writing to DLA-PC. The reasons for the slippage and the revised schedule or milestone dates shall also be provided.

§ 1201.452-10 Requests for waiver of HQ DLA preaward review and approval.

(a) In the event extraordinary circumstances are present and immediate award of a procurement action is required, Directors or Deputy Directors of Procurement and Production may request the waiver of Headquarters' preaward review and approval requirements (see § 1201.452-2). Request for waivers from other than "procuring activities" (see § 1201.201-14) shall be made by the Chief of the Purchasing Office. Requests are to be transmitted to the attention of the Chief, Contract Review Office, HQ DLA (DLA-PC) and, when immediate action is required, request may be telephoned.

(b) The granting of a waiver by the Executive Director or Deputy Executive Director of Procurement, HQ DLA (DLA-PC), does not constitute approval of the award or any deviations from applicable laws and regulations. All actions for which preaward review and approval is waived, shall be forwarder to HQ DLA, ATTN: DLA-PC, for post award review within fourteen (14) days subsequent to award or such other mutually acceptable date.

(c) As a minimum, the following information shall be provided to support waiver requests:

(1) The extraordinary circumstances that require the immediate award of the procurement action (this should include a general chronology of events from receipt of the requirement to submission of the request);

(2) Description of the item (and quantity) being procured;

(3) The solicitation and contract number;

(4) The contractor's name;

(5) The total dollar value of the proposed award;

(6) The extent of competition (if award is proposed to other than the low bidder/offeror, the rationale for not accepting the low bid/offer); and

(7) A statement that the contractor is responsible, preaward survey has been performed or waived by appropriate authority; and that, if required, EEO clearance has been obtained.

§ 1201.452-11 Confirmation of quantity and technical requirements.

Immediately prior to the award of any contract which includes war reserve requirements, the contracting officer shall insure that the cognizant Chiefs of appropriate Divisions within Supply and Technical Operations Directorates (Chiefs of appropriate Branches within Supply and Technical Operations Divisions at DPSC) have confirmed that the quantities therein are still required and that the technical requirements specified are still current and not likely to be changed in the near future. Immediately prior to award shall be construed as that point in time when all required approvals have been obtained and the contract is ready for release to the contractors. With respect to eligible awards consummated as a result of MIPRs, confirmation of quantity and technical requirements shall be effected verbally with the MIPR Liaison/Coordination or item manager levels of the requiring departments. Appropriate documentation shall then be included in the contract file. Procuring activities are encouraged to establish similar procedures for significant awards below $100,000 as may be appropriate for their types of procurements.

§ 1201.452-12 Report of procurement actions requiring headquarters DLA preaward review and approval by the close of the fiscal year (RCS: DLA(A)1720(P)).

(a) Each Defense Supply Center and each activity named in § 1201.201-14 shall submit a list of procurement actions which will require Headquarters DLA pre-award review and approval pursuant to § 1201.452-2 by October 1. The initial report shall be submitted by letter on August 1 and will include only those procurement actions to be forwarded subsequent to August 15. The report will be updated by letters on August 15 and September 1. Telephone updatings are required on each Monday subsequent to September 1 and prior to October 1. Negative reports are required.

(b) The report shall include the following for each procurement:

(1) Contract number, RFP/IFB number or other identification;

(2) Contractor's name;

(3) Dollar value, including the value of any option;

(4) Whether advertised or negotiated;

(5) If negotiated, whether cost or pricing data was obtained; and

(6) Week to be submitted for HQ DLA pre-award review and approval.

(c) The letter reports shall be signed by either the Director/Deputy Director of Procurement and Production of the purchasing activity. With respect to those activities named in § 1201.201-14, the letter reports may be signed by the Chief of the Procurement Office. Telephonic updatings may be made by the Chief of the Contract Review Office of the DSC procuring activities and the Chief of the Procurement Office at the other activities.

§ 1201.453 Review and approval requirements at the procuring activity.

(a) Each DLA procuring activity shall establish and maintain requirements and procedures for review and approval of proposed contractual actions to assure conformance with law, regulations and established policy, and the exercise of good business judgment. The scope and depth of the review will be determined by Heads of Procuring Activities based on workload and available manpower, but as a minimum will encompass a representative number of actions, including sole bids/offers and complex or high dollar value procurements. In addition, randomly selected procurement actions including noncompetitive small purchases will be reviewed after award. A summary record of such post award reviews and the results thereof shall be maintained by the activity.

(b) The Contract Review Office, organized in conformance with DLAM 5810.1, shall perform the review function. The review shall be performed as a full time duty where workload requires one or more people for the review. The person selected as the Chief of the Contract Review Office, in addition to possessing the qualifications set forth for a contracting officer in ASPR and § 1201.405, shall be a strong personality with demonstrated technical proficiency and capability of exercising sound business judgment. Personnel from other areas such as counsel, small business, technical operations, production, etc., may serve in an advisory capacity, as appropriate. Personnel may be rotated at intervals to ameliorate workload problems and to afford the individuals an opportunity to utilize the experience so gained.

§ 1201.454 Review and approval requirements for a procurement office not designated as a "Procuring Activity" (see § 1201.201-14).

The dollar threshold under § 1201.452-2(a)(3)(vi) and (5).

Subpart F—Debarment, Ineligibility, and Suspension

§ 1201.601 Establishment and maintenance of records and lists of firms or individuals debarred, ineligible, or suspended.

§ 1201.601-1 General.

The Counsel, DLA shall maintain the DLA list which will contain only

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the names of firms and individuals located in the United States, its territories and possessions.

§ 1201.601-3 Joint consolidated list.

The Counsel, DLA shall furnish to the Department of the Army a listing of all additions, deletions, or modifications to the Joint Consolidated List resulting from DLA action.

§ 1201.601-50 Attempted evasions.

In some instances, firms or individuals have attempted to evade the prohibitions contained in ASPR and § 1201.604 and § 1201.605 by change of address or by formation of a new company. In such cases where it can be reasonably established that the suspended or debarred firm or individual has the controlling or active interest in a new company, or that the address is the same as that of the suspended or debarred firm or individuals, a report shall be submitted through channels to the Counsel, DLA.

§ 1201.603 Grounds for listing and treatment to be accorded listed concerns.

§ 1201.603-50 Total restrictions.

If an offer is tendered by a debarred or suspended contractor it shall be received and recorded. When an offer is rejected, the reason shall be stated in the certificate to the General Accounting Office as follows:

The bid of ——— is rejected pursuant to ASPR 1-603.

§ 1201.604 Administrative debarment of firms or individuals (type A).

§ 1201.604-3 Notice of debarment.

Upon the debarment or removal from debarment of a contractor prior to termination of the specified period, the Counsel, DLA shall furnish advice of such action to the contractor, and to the General Services Administration in accordance with ASPR 1-604.3(b).

§ 1201.605 Suspension of firm or individual.

(a) *Payments.* Where suspension is recommended or a contractor is suspended, no payments shall be made without the prior approval of the Counsel, DLA. Upon receipt of a notice of suspension, disbursing officers shall retain all administratively approved vouchers in favor of the contractor pending instructions from the contracting officer. Offices holding or in receipt of proper invoices covering amounts due to suspended contractors shall prepare and administratively approve the necessary vouchers and shall forward the certified vouchers to their assigned disbursing officers, inviting attention to the fact of suspension. This procedure shall be followed whenever any additional or new amounts become due during the period of suspension. When in the opinion of the Head of the Procuring Activity concerned, the circumstances surrounding either the procurement or the suspicion of fraud or criminal conduct are of such a nature as to permit or require complete or partial release of withheld funds due the suspended contractor, a recommendation for such release including a full statement supporting such recommendation shall be made to the Counsel, DLA.

(b) *Terminations.* Negotiations toward settlement of terminated contracts shall cease with the suspension of a contractor. Negotiations must likewise cease with respect to terminated subcontracts either awarded or held by a suspended contractor. All authorizations granted to such a contractor under section VIII, ASPR or Part 1208 of this subchapter shall be revoked immediately.

(c) *Awards.* Bids submitted by suspended contractors shall not be rejected by contracting officers solely because of the suspension but will be received, recorded, and retained in accordance with established procedures. When a suspended contractor is the low bidder or offeror (or, in the case of surplus and salvage sales, the high bidder), and the procuring activity considers it in the interest of the Government to accept the bid or offer, information relating to: (1) The low (or high) bid or offer and the next lowest (or highest) bid or offer; (2) expirations of options and whether such options may be extended; and (3) the desirability or necessity of acceptance of the suspended contractor's bid or offer shall be reported together with recommended action in the same manner as set forth in ASPR 1-608 for a determination as to the placement of any awards with the suspended contractor.

(d) *Inquires.* Inquiries by procuring activities concerning the status of reported cases shall be transmitted in triplicate to the Counsel, DLA.

§ 1201.608 Reporting.

Heads of Procuring Activities shall submit the reports described in ASPR 1-608, which shall be designated "For Official Use Only" unless the details included warrant a security classification.

§ 1201.650 Review of past contractual relationships.

When the name of a concern has been added to the consolidated listing in ASPR 1-601, or a report is submitted requesting suspension or debarment, a review shall also be made of contractual relationships with the company and its affiliates for the previous 2 years, or longer if considered necessary to determine whether the Government may have any basis for recovery of damages, or payments from the contractor.

Subpart G—Small Business Concerns

§ 1201.702 General policy.

(a) The Small Business program shall be conducted as an integral element in the DLA mission to achieve effective and efficient military supply.

(b) A continuing effort shall be made to stimulate the maximum qualified competition for DLA contracts, with special emphasis directed toward promoting that of small business firms. Contracting personnel should prepare all solicitations so as to preclude insertion of provisions that may limit competition from small business firms.

(c) Procurement officials and Small Business Specialists shall take all possible and reasonable actions to inform small business firms of subcontracting opportunities being offered by prime contractors.

§ 1201.704 Small business officials.

§ 1201.704-50 Counseling activities.

(a) This subpart covers the general objectives of counseling and provides guidance to the Small Business Specialist in the conduct of his counseling activities. It also covers the materials that may be used in counseling practice.

(b) Each Small Business Specialist shall develop a personalized approach to, and pattern for, his counseling activities, to include the following concepts:

(1) The basic attitude toward counseling must be that of "service" to the businessman. Each DLA Small Business Specialist is a counselor for all DLA centers. Under no circumstances is an inquiry to be handled casually in an endeavor to dispose of the problem with the least amount of effort, nor should an inquirer be told to get in touch with another DSC. When a Small Business Specialist determines that an inquirer's problem can best be handled in another DSC he should make the necessary contact, introduction, and appointment. To the maximum extent possible, the same approach should be taken when the inquirer's problem must be handled by another element of the Department of Defense or by another Government agency. In short, industry inquires shall, whenever possible, be handled on a "one-stop-service" basis.

(2) The major objective of counseling is to attract the maximum number of qualified competitors for DLA contracts.

(3) A supporting objective of counseling is to provide as complete as possible service to all inquiries. Whether or not a businessman is found to be a potential bidder for DLA contracts, efforts shall be made to identify for him other Government agencies which might be interested in what he has to offer.

(c) In counseling, the primary role of the Small Business Specialist is to assist a businessman in his attempt to do business with DLA and, secondarily, with other elements of the United States Government. The Small Business Specialist, however, must not attempt to interpret invitations for bid, requests for proposals, specifications, or related documents. If the need for such interpretation becomes evident, the Small Business Specialist shall arrange an interview for the businessman with the appropriate contracting officer or his designee.

(d) The Small Business Specialist shall maintain adequate stocks of all Government publications designed to assist the operator of a small business in his approach to selling to DLA and to other elements of the United States Government. The Specialists must have available for reference the cataloging handbooks, Federal Supply Classifications, regulations, and directories necessary to provide adequate information to inquiring businessmen.

(e) The HQ DLA Small Business Advisor shall serve as a focal point for arranging for the initial distribution and replenishment stockage of those publications made available by Government agencies; and shall assist, if requested, in arranging for replenishment of these documents.

(f) Centers are urged to develop pamphlets and brochures describing the opportunities for businessmen which they provide. When these documents are published, provisions shall be made to supply the HQ DLA Small Business Specialists in the other supply centers and the HQ DLA Small Business and Economic Utilization Advisor with an initial stock of 50 copies. The initial distribution shall be accompanied by instructions for replenishment. The provision of copies for the HQ DLA Special Assistant for Public Affairs should be coordinated with the local Public Affairs Office.

§ 1201.704-51 Participation in industrial assistance events, business opportunity/Federal procurement conferences, procurement clinics, fairs, etc.

(a) The office of the HQ DLA Small Business and Economic Utilization Advisor will act as the overall coordinator for DLA participation in industrial assistance events (IAEs) and other business opportunity conferences. All events will be coordinated with the Office of the Special Assistance for Public Affairs, HQ DLA.

(b) Requests for DLA participation in events being sponsored by Federal or local Governments, or Chambers of Commerce involving more than the local DLA office will be coordinated with the DLA Advisor's office. For local events involving the local activity only, reports as to the type and kind of Agency participation will be provided to the Advisor's office or as soon as practicable after the event is held.

(c) For Business Opportunity/Federal Procurement conferences sponsored by Congressional offices, with DLA participation requested by the Office of the Director, Defense, Research and Engineering (ODDR & E), OSD, the office of the HQ DLA Small Business and Economic Utilization Advisor will coordinate the Agency's participation requesting assistance and participation by appropriate DLA field activities. Participation in these events will be conducted as directed by the DLA Advisor's office.

(d) To the maximum extent practicable, each DSC shall, as requested, participate in IAEs, and shall budget, on a yearly basis, funds necessary to cover travel costs for these events. On the basis of past experience, this would involve approximately seven trips per year. These include procurement clinics, small business/federal procurement conferences, expositions, and similar activities designed to increase the competition of qualified small business and other firms for DLA and other Government activity contracts.

(e) Participation in these events shall consist primarily of attendance by small business specialists and procurement personnel for the purpose of counseling and advising businessmen on how they may do business with DLA. Exhibits of DLA items, talks by DLA officials, and the showing of relevant DLA films may be included when appropriate. Whenever the DLA Advisor is the DOD Coordinator of the event, the DSC Specialist will be requested to conduct the seminar on "How To Prepare Bids."

(f) The type of participation by each DSC shall be as directed by the DLA Small Business and Economic Utilization Advisor and should reflect the extent to which the businessmen attending the event may be potential sources of supply for DLA. Efforts should be made to announce procurements and items of interest to these businessmen in time to permit appropriate counseling at the event.

(g) Individual supply centers may also develop and sponsor industrial assistance events oriented exclusively to the individual procurement programs. Planning for such events should be effected in close coordination with the office of the HQ DLA Small Business and Economic Utilization Advisor and the Center and the HQ DLA Special Assistant for Public Affairs.

§ 1201.705 Cooperation with the Small Business Administration.

§ 1201.705-4 Certificates of Competency.

(a) When a small business is determined nonresponsible because of lack of capacity or credit, but it is determined under the authority of ASPR 1-705.4(c)(iv) that the expediency of the requirement precludes referral to the Small Business Administration (SBA) for Certificate of Competency (COC) action, award to the next lowest responsible bidder must be made within the 15 working day period established in ASPR 1-705.4(c) for SBA COC action. If such award cannot be made in this period, SBA should be given an opportunity to consider the issuance of the Certificate of Competency. All efforts should be made through proper procurement planning to provide sufficient time for COC action by SBA, should such action become necessary. This includes: (1) The issuance of procurement requests at a time early enough to allow sufficient time for orderly procurement, (2) the earliest possible request for pre-award survey, (3) the handling of COC referrals by telephone where appropriate and (4) expeditious follow-up of COC referrals.

(b) When the urgency situation contemplated by ASPR 1.705.4(c)(iv) clearly exists, the requiring activity shall fully document the urgency involved, indicating exact dates, quantities, usage data, etc. these determinations shall be coordinated with the Small Business Specialist and approved in accordance with ASPR 1-705.4 before the low small business bid is bypassed and award made to a higher bidder.

(c) ASPR 1-705.4(c)(vi) requires that when a contracting officer makes a determination that a small business concern is not responsible for reasons other than deficiencies in capacity or credit, his decision must be supported by substantial evidence documented in the contract file. When such a determination is made, the documentation shall be reviewed to assure that the evidence presented substantiates the decision as to the concern's lack of integrity, business ethics or persistent failure to apply the necessary tenacity and perseverance to do an acceptable job. For DSCs, this review shall be made by the HPA, or his designee. For other purchasing activities, the review shall be made by the Activity Commander or his designee. In addition, for each case where a determination is made under ASPR 1-705.4(c)(vi), a copy of all pertinent information, including supporting documents, shall be forwarded to HQ DLA, ATTN: DLA-PS, for informational purposes.

(d) Contracts involving a contractor to whom a COC was issued by SBA, or to whom loans were made with SBA

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participation, shall not be terminated for default without prior approval by the HPA.

(e) ASPR 1-705.4(f)(iii) provides that in cases where the Contracting Officer requires the issuance of a COC by SBA as a prerequisite to contract award, approval of such action will be obtained at a level above the Contracting Officer. For those cases where this situation exists, Contracting Officers will obtain approval from the Director, Procurement and Production prior to informing the SBA Field Office that a certificate must be issued.

§ 1201.705-5 Contracting with the Small Business Administration.

(a) *Authority.* (1) Single Point of Contact Between SBA and DSC. The Small Business/Labor Surplus Area Specialist (hereafter referred to as Specialist) of the purchasing office is designated as the initial and primary point of contact for all inquiries associated with this program. To the extent requested by a prospective section 8(a) subcontractor, or by an SBA representative on its behalf, the Specialist will take appropriate action to set up meetings or discussions which may be required with technical, supply, and procurement personnel.

(2) The Specialist is hereby authorized to perform the duties of the DLA Advisor as set forth in ASPR 1-705.5. This includes authority to receive requests for a commitment to support SBA approved plans, authority to issue commitments to the SBA in support of firms in the 8(a) Business Development Program and authority to grant approval to proceed with the negotiation of proposed section 8(a) contracts. Direct communication between the Specialist and all SBA offices is authorized and encouraged.

(b) *Policy.* (2) *Business development expense (BDE.)* By agreement with SBA, the SBA will generally provide the DOD an order for BDE in advance of the placing of a prime contract with SBA. The amount to be covered by the order is determined in advance of contract award by a comparison of the total price negotiated with SBA and the subcontractor (in accordance with existing procedures in ASPR 1-705.5) with the current fair market price developed in accordance with ASPR 1-705.5 (b)(2) and (c)(1)(L) as agreed with SBA. The prime contract price placed by DOD with that Agency will include those expenses as a part of the cost of the items ordered and will not be separately identified in the contract. DOD funds, which will include the anticipated reimbursement from SBA, will be cited on the contract. Upon award of the contract, SBA will be billed against their reimbursement order under procedures set by the Comptroller, HQ DLA.

(3) *Contract assistance.* Requests for technical and/or management assistance which are in excess of DSC or DCAS capability and resources shall be referred to DLA-PS or DLA-AS as appropriate. Through agreement between HQ DLA and SBA, technical and management assistance teams can, under certain circumstances, be made available to augment assistance provided by the PCO and/or ACO.

(4) *Identification of items and requirements for section 8(a) contracting.*

(i) In addition to responding to SBA requests for potential requirements to support an approved business plan of a disadvantaged firm in accordance with ASPR 1-705.5(c) (1) and (2), and paragraph (c) of this section, it is the policy of DLA to identify other requirements which are considered by the procuring activity as suitable for placement with SBA under the section 8(a) contract program.

(ii) Contracting Officers will consider the section 8(a) contract program as a possible method of satisfying all new requirements being processed for procurement action. Special attention will be given to those commodities and services which are anticipated to be recurring requirements and for which there is a limited number of prospective small business sources. Production and technical operations personnel should participate in this review when appropriate.

(iii) Whenever a current requirement is identified as a possible candidate for accomplishment under the section 8(a) contract program, the following actions will be taken:

(A) Where the "desired" or "required" delivery criteria permits section 8(a) consideration, the requirement shall be referred in writing to the Director, Office of Business Development, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, for national-buy items and the appropriate SBA regional office for local-buy items. The SBA Procurement Center Representative (PCR) assigned to the purchasing office shall be informed in every case by copy of the written offer. A reasonable due date for a reply from SBA shall be established, and will be stated in the offering letter. If no response is received from the SBA by the due date, the requirement may be withdrawn or the time extended at the option of the purchasing office.

(B) Where delivery criteria requires immediate procurement action, the appropriate SBA office, as outlined in § 1201.705-5, shall be notified in writing that future requirements may be made available for section 8(a) contracting. Such notification should include an estimate of future requirements and of the probable date when the next procurement action will be initiated. In addition, the Materiel Manager will be requested to flag the item for processing as outlined in (iv) of this section.

(C) A copy of notifications submitted to SBA in accordance with § 1201.705-5(b)(4)(i) of this section shall be furnished to DLA-PS.

(iv) The Materiel Manager will maintain a method for flagging those items identified by SBA as being currently procured under this program and will insure that the Specialist is notified of any planned procurements of those items so flagged at the earliest possible date; i.e., after the determination of a firm requirement, and, if possible, prior to the preparation of a purchase request.

(c) *Procedures.* (1) *Supplies, services, and research and development.*

(i) The SBA has been requested to submit requests for requirements to support approved business plans directly to the Specialist of the DLA activity responsible for the procurement and management of the commodities required with an information copy to DLA-PS.

(ii) Every effort will be made to support the SBA request with the specific commodities solicited or with appropriate substitute items. Such reviews will be coordinated with the Supply, Technical, Production, and Procurement staffs, as appropriate, for concurrence and procurement planning.

(iii)(A) Within 30 days of the receipt of the request, SBA will be notified of the extent of support that can be provided, indicating the date requirements will be available and reserved for section 8(a) contracting, and milestone dates for solicitation, completion of negotiations and contract award. This notification represents a firm DLA commitment to the extent outlined in ASPR 1-705.5(c)(1)(C). Information copies of this notification will be provided to DLA-PS. In the event the purchasing office is unable to support the SBA request with the item requested and no substitute items can be offered, complete data in support of the purchasing office position is to be forwarded by the Sepcialist to DLA-PS for further action with SBA.

(B) Concurrent with the commitment notification to the SBA, the purchasing office will develop a procurement plan to assure prompt solicitation, negotiation and contract execution.

(*1*) ASPR 1-2100 advance procurement planning and § 1201.2102, will be used as guidelines for developing procurement plans. Planning shall include projected requirements for follow-on contracts for the length of the nominated subcontractor's approved business plan, so as to preclude, if possible, a break in production.

(*2*) Realistic milestones shall be established to assure timely procurement actions. When it becomes apparent that established milestones will not be met, problems causing potential slippage shall be identified and examined. Problems not resolved locally shall be expeditiously elevated to DLA-PS by the Specialist.

(*3*) Should the DLA procuring contracting officer need to retain approval authority on subcontract requests in special instances (e.g., health and safety items involving the QPL, etc.), a clause similar to the provisions below may be incorporated into the contract awarded to SBA.

Subcontracting for Contracts Awarded Pursuant to section 8(a), Small Business Act (DLA 1973 Oct). The subcontractor shall not further subcontract the manufacture/performance of any of the supplies or services required under this contract without prior written approval of the cognizant DLA procuring contracting officer.

The prohibition against further subcontracting is intended to apply only to that part of the work required by the contract, and represented to be performed by the SBA subcontractor. The subcontractor should not be precluded from purchasing raw materials, or other items, which, in accordance with industry practice, are normally purchased/subcontracted. This clause may be revised/modified as necessary to comply with the intent of this paragraph, and should be limited to special programs.

(*4*) Companies nominated to receive contracts awarded under section 8(a) of the Small Business Act have the same problems as established contractors, and in some instances may have even greater problems. Accordingly, DLA contracting officers must take particular care to include an appropriate economic price adjustment provision in section 8(a) contracts when the circumstances so warrant. Borderline cases should be resolved in favor of including an adjustment provision. In addition, pricing arrangements included in section 8(a) contracts (i.e. price adjustment provisions) shall be at least equal to those which would normally be included in contracts for like or similar items placed with regular commercial sources.

(*5*) ASPR section 1, part 19, stipulates that the requirement for first article testing and approval may be included in contracts as appropriate. Extensive use of this requirement will assist section 8(a) contractors in providing supplies conforming to specification requirements.

(*6*) When circumstances arise indicating a need to withdraw requirements previously committed for section 8(a) contracting, the purchasing office will seek SBA agreement for such withdrawal. If the SBA does not agree with such withdrawal, complete data supporting such proposed withdrawal shall be provided to the DLA Advisor's office for review and decision concerning the proposed withdrawal.

(vii) Review and approval of section 8(a) contracts have been delegated to DLA field procuring activities. Such review and approval actions shall be accomplished in accordance with § 1201.453.

(viii) The purchasing office will assure that follow-on section 8(a) contract support will be provided for that period of time reflected in the SBA approved business plan. To avoid the possibility of costly breaks in production, a supplemental procurement plan shall be established for each section 8(a) contract awarded to assure that additional follow-on requirements are made available as needed. A new SBA letter requesting the reservation of these follow-on requirements shall be requested by the Specialist and obtained from SBA at least 60 days prior to the day a follow-on contract is required to avoid a break in production. Milestones for accomplishment of the follow-on award will be established and followed. Where there is an indication that slippage might occur which will endanger meeting established milestones, DLA-PS, and the cognizant SBA regional office, will be immediately notified for resolution of the problem.

(ix) *Contract administration.* (A) ASPR section 1, part 18, stipulates that post-award orientation conferences with contractors be initiated to assure a clear understanding of the scope of the contract, the technical reqirements, and the rights and obligations of the parties. In the case of section 8(a) contractors, the contracting officer, or technical represenative of the purchasing office, should in all cases initiate a request for such a conference to assure that all matters requiring clarification or resolution are considered and contractual requirements are explained. Specific attention will be given to the requirements of statutes, executive orders, regulations and determinations establishing labor provisions and standards of the contract.

(B) Early notification to the SBA of deficiencies in contract performance by a section 8(a) firm is particularly important in the administration of 8(a) contracts.

(C) Whenever the subcontractor encounters problems which could jeopardize performance, DLA-PS and the cognizant SBA regional office shall be notified. The contracting officer or his authorized representative shall provide all reasonable assistance to the subcontractor to correct deficiencies which may arise.

(D) DLA-PS and the SBA regional office shall be notified at least ten days prior to the initiation of any adverse action against any SBA subcontractor.

(x) A copy of each section 8(a) contract, excluding general provisions, shall be mailed to DLA-PS within 10 days after date of award.

(xi) Appropriate clearance should be requested as early as possible on 8(a) contracts subject to the Equal Opportunity Clause to preclude delays in awards.

(2) *Construction.* The authorities, procedures and guidelines established in § 1201.705-5(c)(1) are equally applicable to DLA section 8(a) contract program covering construction procurements.

§ 1201.706 Set-asides.

§ 1201.706-1 General.

(b) ASPR 1-704.3(b)(iii) provides that Small Business Specialists shall, prior to issuance of solicitations or contract modifications in excess of $2,500, determine that small business concerns will receive adequate consideration including initiation of set-asides. This portion of ASPR also provides that set-aside determinations may be made jointly with PCOs or may be in the form of recommendations to them. Within DLA, PCOs shall assume primary responsibility for initiation of set-aside actions. The Small Business Specialists' responsibilities with respect to examining procurements for potential set-asides are to review actions proposed by PCOs taking into consideration the varied judgment factors involved, and to assist in resolving problems and overcoming impediments noted in connection with the establishment of set-asides. The review of all procurements over $10,000 and all class set-asides shall be accomplished by use of DLA Form 1360, Record of Set-Aside Action (see § 1216.854). As indicated on the form, its use is optional for procurements valued from $2,500 to $10,000. If the DLA Form 1360 is not used for this category of procurement, a local form shall be used.

§ 1201.706-3 Review, withdrawal, or modification of set-asides or set-aside proposals.

(e) Regarding the small business set-aside appeal procedures provided to the SBA Procurement Center Representative, ASPR 1-706.3(e) provides that appeals shall be made to the Chief of the Purchasing Office. Within DLA, in the event the decision of the Chief of the Purchasing Office would approve the action of the contracting officer, the appeal shall be elevated to the Center or Depot Commander for final decision. If the Commander's decision also approves the action of the contracting officer, the SBA representative shall be advised and may proceed with further appeal actions as prescribed in ASPR 1.706.3(e).

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§ 1201.707 Subcontracting with small business concerns.

§ 1201.707-3 Required clauses.

(a) When the provisions of ASPR 1-707.3(b) are applicable, the contracting officer shall make a determination of subcontracting potential on a case-by-case basis. Those cases where it is determined that the clause in ASPR 7-104.14(b) will not be included because of substantial subcontracting possibilities do not exist, should be coordinated with and concurrence obtained from the activity Small Business and Economic Utilization Specialist and, where available, the Small Business Administration (SBA) Procurement Center Representative (PCR), before the procurement action is released.

(b) If it is determined that all procurements for a particular product or service will not include the clause in ASPR 7-104.14(b), the determination and supporting data shall be coordinated with and concurrence obtained from the activity Small Business and Economic Utilization Specialist and the SBA PCR. Prior to the application of the determination to an actual procurement, a copy of such blanket determination, with supporting data, shall be furnished to HQ DLA, ATTN: DLA-PS, for coordination with SBA.

Subpart I—Responsible Prospective Contractors

§ 1201.905 Procedures for determining responsibility of prospective contractors.

§ 1201.905-1 General.

When the contracting officer makes a determination regarding the prospective contractor's responsibility that is contrary to that recommended in the preaward survey report, the reason for not following the preaward survey report recommendation shall be included in the contract file. In each instance wherein the preaward survey report recommendation is not followed, the case must be reviewed and concurred in at a level no lower than the Director of Procurement and Production. Procuring contracting officers shall advise the DCAS office performing the preaward survey as to the reason for not following the DCAS preaward survey recommendation.

§ 1201.905-4 Pre-award surveys.

(a) Preaward surveys shall be accomplished in accordance with ASPR 1-905.4, ASPR appendix F 200.1524, ASPR appendix K, and DLAM 4100.2, section VIII.

(b) A preaward survey shall be requested only when an award is contemplated to a firm from which a bid or proposal has been received. Concurrent requests for preaward surveys on the same procurement will not be made except in emergency situations and/or when multiple awards are contemplated.

(c) Preaward surveys on sole source suppliers shall be limited to partial surveys. Factors requested for investigation shall be those that actually affect the contract, such as production backlog, financial, and quality.

(d) A preaward survey shall be made unless there is current quality, production and financial information available to waive the requirement. Even if the prospective contractor is currently producing or has successfully performed under a recent contract (within 1 year) and is being considered for an award of a similar undertaking, i.e., similar item and similar size contract, a partial survey may be required to determine current financial capability and capacity. However, if the same contractor is being considered for a much larger contract or a contract involving a fundamentally different undertaking, a complete or partial survey, as indicated by the circumstances, shall be requested. If the prospective contractor is newly entering into the manufacture of the goods sought by the Government or has no recent history of performance of a similar undertaking, a complete survey shall be requested.

(e) When limited information is required such as capacity and financial data, under the circumstances outlined in paragraphs (c) and (d) of this section, information can often be obtained through telephonic contact with the preaward monitor at the cognizant CAO, precluding the administrative effort associated with a partial preaward survey request.

(f) When a decision is made not to request a preaward survey, an explanatory memorandum will be included in the contract file establishing the contracting officer's decision to waive the preaward survey on proposed awards of $100,000 and over.

(g) Quality Assurance Division personnel shall assist in the determination to request or waive preaward surveys, evaluate QA portions of preaward survey reports, and participate in preaward surveys when the contract will be for a complex item, the potential contractor has a poor quality history or when requested by DLA.

§ 1201.905-50 Capability surveys for workshops for the blind and other severely handicapped.

(a) The purchasing office, upon request from the Committee for Purchase from the Blind and Other Severely Handicapped, shall request a capability survey to determine the capability of the Workshop(s) to produce specific items being considered for addition to the Procurement List.

(b) The purchasing office, when requesting a capability survey, shall make the request on DD Form 1524, Pre-Award Survey of Offeror—General. The purchasing office should emphasize factors concerned primarily with production capabilities (e.g., Factors 1, 2, 3, 5, 7, and 13 listed in Section III, DD Form 1524). The financial capability and accounting system factors will be excluded. When a capability survey is being requested, Section III, Remarks, DD Form 1524, shall clearly indicate the request is for a "Capability Survey" only.

(c) The purchasing office shall forward requests for capability surveys to the appropriate office, in accordance with ASPR K-201(c). The purchasing office shall furnish a copy of the completed survey to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped.

(d) Capability surveys will be executed by the cognizant contract administration office in accordance with DLAM 8300.1, Section 3-1100.

Subpart L—Specifications, Plans and Drawings

§ 1201.1203 Availability of specifications, standards, plans and drawings.

The following modifications shall be made to the "Availability of Specifications and Standards" provision referenced in ASPR 1-1203.2(a):

(a) Renumber paragraph (b) to (c).

(b) Insert new paragraph (b):

(b) The minimum processing time required by the U.S. Naval Publications and Forms Center for mailing requested documents is seven (7) days after receipt of written requests and two (2) working days after receipt of telephone requests.

Subpart M—Procurement Planning

§ 1201.2100 Procurement planning.

§ 1201.2100-2 Applicability.

Procurement Plans will be required for all procurements other than those effected under ASPR section III, part 6. Procurement Planning will (a) be initiated at the time the Purchase Request is received by the Buyer (b) be prepared substantially in accordance with the sample format shown in § 1201.2102 and (c) be approved at a level higher than the Buyer, the approval level to be established by each DSC.

§ 1201.2102 Sample format and content of procurement plans.

PROCUREMENT PLAN

PR/MIPR Number: _____ *Date Received:* _____ *Buyer:* _____

Item Description: _____

Quantity: _____ *Est. Unit Price:* _____ *Est. Total Price:* _____

Delivery Schedule: _____

Supply Criticality (Priority): _____

Purchase History

Date	Quantity	Unit Price	Method of Procurement: Adv.	Method of Procurement: Neg.	Competitive Bids/Offers: Number	Competitive Bids/Offers: $ Range

Considerations

Set Aside: *Small Business* 100% ___ Partial ___ None ___ *Labor Surplus:* 100% ___ Partial ___ None ___

Quantity Option: ____ *% Price Escalation:* ____ *% First Article Test:* ____

	DD Form 633	DD Form 633-7	Not Required	
Cost/Pricing Data:	____	____	____	*Open Contracts:* Yes ____ No ____

Warranty: Yes ____ No ____ *GFP Involved:*

Proposed Method of Procurement

	Written	Oral	
a. *Negotiate:*	____	____	10 USC 2304(a) ____ *Advertise:* ____ *PIN:* ____

b. *Schedule:*

	Date
Issue Solicitation	
Open/Close Solicitation	
Evaluate/Review	
Award	

Remarks:

Signature Buyer: _____ *Date:* _____

Signature Approving Official: _____ *Date:* _____

Subpart N—Industrial Preparedness Production Planning

§ 1201.2205 Existing authority affecting the industrial base.

(a) (1) (i) As part of the Industrial Preparedness Planning (IPP) Program, ASPR 3-216 authorizes the negotiation of contracts for selected supplies with certain planned producers. Negotiation is limited to those producers who have in effect, or those offerors who will agree to execute a DD Form 1519 (Production Planning Schedule). Though not legally binding on the parties, this document signifies the Government's intention when authorized to convert such planned mobilization production schedules to contracts in order to minimize material shortages during national emergencies.

(ii) Pursuant to 10 U.S.C. 2304(a)(1), as implemented by ASPR 3-201, the Secretary of Defense may authorize IPP contract negotiation. In such event, the Chief, DLA-PR, shall notify the Defense Supply Centers to issue Standard Letter contracts (§ 1207.850) in accordance with their emergency procurement plans to all producers having a current DD Form 1519 in effect. The Letter Contract will require the recipient to commence production immediately. Thereafter, the parties shall negotiate a definite contract in accordance with the Letter Contract's definitization schedule.

§ 1201.2206 Applicable procedures.

§ 1201.2206-50 Industrial preparedness planning packages.

(a) *General.* (1) The principal objective of IPP is not the completion of planning, but rather its final implementation. The implementation of plans for emergency procurement will depend on the degree of mobilization.

(2) DSCs shall develop and maintain the IPP packages for use during mobilization. IPP elements at the DSCs should maintain close coordination with procurement elements to ensure that contracting officers and other procurement personnel are familiar with the objectives of the program, and are aware of the existence of mobilization procurement plans.

(b) *Composition of the Package.* The IPP packages shall be established and maintained for all planned items. The package should include the Industrial Preparedness Plans (DLA Forms 1344 and 1345) and Standard Letter Contract.

(c) *Industrial Preparedness Plan.* (1) Industrial Preparedness Plans shall be established and maintained for planned items. The plan shall consist of information for the operation of DLA field activities, progress and status information for HQ DLA, ATTN: DLA-PR; and the necessary information required for an alternate to perform under emergency conditions.

(2) Continuous review shall be made to ensure inclusion of current data regarding requirements, planned producers, and production schedules. DSCs shall update or revise the plan at least yearly, or more frequently as changes warrant. Recipients of this plan shall be provided revised editions as appropriate.

(3) The IPP shall contain mobilization requirements and production data and shall reflect the specific planned procedures, their phased production schedules and other information relating to these schedules. Where plans are developed for several or many similar items, consideration should be given to grouping the data for such items into one plan. This will consist of consolidating the requirements for

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all the items and the production for all the items scheduled with each planned producer. Normally, only unclassified data will be included in this plan. In the event a DSC desires to include classified data, HQ DLA, ATTN: DLA-PR, shall be advised of the necessity of such data prior to its inclusion.

(4) DLA Form 1345, Industrial Preparedness Plan, and DLA Form 1344, Planned Producers and Schedules, have been developed for use by all DSC's.

(d) *Standard Letter Contract (IPP).* (1) The basic IPP implementing document shall be the Letter Contract (7-850). DSC's shall prepare the Letter Contracts as data becomes available and decisions made as to selected sources of supply and production schedules.

(2) DD Forms 1519 are informal production agreements not legally binding on either the Government or planned producers. These documents indicate the Government's intention to convert planned mobilization production schedules to contracts by negotiating on a selective basis as may be required to minimize material shortage during a limited war. Therefore, an additional procedural step is necessary to authorize the contractor to initiate his planned production.

(3) The authority for negotiating procurement in the event of a national emergency is 10 U.S.C. 2304(a)(1) cited in ASPR 3-201. Upon receipt of advice from the Secretary of Defense that expanded use of negotiated procurement under a national emergency is authorized, the Chief, DLA-PR, will notify DSC's to implement their emergency plans. The document to do this is the Letter Contract.

(4) Adequate cross-reference should be included to identify producers who are scheduled to produce more than one item. In such cases, only one Letter Contract should be furnished to the producer, listing all the items scheduled for production.

(5) Attachments such as specification, should be readily available to be included with the contract mailed to the producer. A letter, explaining the implementation procedure, shall be forwarded to each planned producer upon completion of planning to ensure that manufacturers are aware of this procedure.

(e) *Implementation of Plans.* (1) Plans shall be implemented only to the degree necessary to support a specific emergency. Full implementation of plans for mobilization procurement and release of Letter Contracts for planned items are contemplated under *full* mobilization.

(2) Under partial mobilization where the use of full Approved Force Level is not required, the DOD policy will be to acquire military support with minimum impact on commercial production. The need for imposing economic controls on the civilian segment of the nation will depend on the ability to obtain the required military suppliers without disturbing the civilian economy.

(f) *Alternate Files Maintenance.* (1) Copies of each IPP package shall be furnished to HQ DLA, ATTN: DLA-PRS; to the Alternate Files, Emergency Relocation Site; to the DLA Central File Repository; and to the Procurement Files at the Alternate National Military Command Center (ANMCC). Appropriate mailing addresses can be found in the DLA Field Activity War and Emergency Support Plan (FAWESP) by July 15 of each year. Since the prime objective of IPP is implementation, DSC's should ensure that these files are kept current. HQ DLA (DLA-PR) will annually inspect these files to ensure that they are being properly maintained for use in an emergency.

(2) DSC's should also furnish a copy of each items specification/drawing to the Alternate File, Emergency Relocation Site (ERS). Address for this file is contained in the War Emergency Support Plan (WESP).

Subpart O—Environmental Protection

§ 1201.2302 Administration and enforcement.

§ 1201.2302-3 Compliance responsibilities.

The procuring contracting officer shall report violations of the clean air or water standards which come to his attention in the performance of his regular duties to HQ, DLA, ATTN: DLA-PPR.

§ 1201.2302-5 Withholding award.

(a) If, pursuant to the certification in ASPR 7-2003.71, the successful offeror informs the contracting officer that the facility he proposes to use is being considered for inclusion in the EPA list of Violating Facilities, the contracting officer shall provide the following information telephonically to DLA-PPR (AUTOVON 284-6431). Written confirmation will be requested if needed:

(1) Solicitation number;

(2) Product or service being procured;

(3) Quantity and dollar amount of proposed contract;

(4) Name and address of proposed awardee;

(5) Address and owner of facility being considered for listing by EPA;

(6) Date of communication from EPA; and

(7) Basis for proposed inclusion in the EPA list of Violating Facilities.

(b) In the event that EPA requests a fifteen day delay in award, and such delay would be prejudicial to the Government's interest, as stated in ASPR 1-2302.5, the contracting officer shall execute a Determination and Findings (D&F) to that effect. Upon approval of the D&F by the Chief of the Purchasing Office, DLA-PPR shall be notified, and will inform EPA of the decision to proceed with award.

PART 1202—PROCUREMENT BY FORMAL ADVERTISING

Subpart A—Use of Formal Advertising

Sec.
1202.104 Types of Contracts.

Subpart B—Solicitation of Bids.

1202.201 Preparation of Invitation for Bids.
1202.201-50 Right to Apply FOB Origin Offer.
1202.203 Methods of Soliciting Bids.
1202.203-50 Other Distribution.
1202.205 Bidders Mailing Lists.
1202.205-2 Removal of Names from Bidders Mailing Lists.
1202.205-4 Excessively Long Bidders Mailing Lists.
1202.205-6 Pre-Invitation Notices.

Subpart C—Submission of Bids.

1202.303 Late Bids, Modifications of Bids or Withdrawals of Bids.
1202.303-5 Hand-carried Bids.

Subpart D—Opening of Bids and Award of Contract.

1202.404 Rejection of Bids.
1202.404-1 Cancellation of Solicitation.
1202.406 Mistakes in Bids.
1202.406-3 Other Mistakes.
1202.406-4 Disclosure of Mistakes After Award.
1202.406-50 Actions Referred to Higher Authority.
1202.407 Award.
1202.407-1 General.
1202.407-3 Discounts.
1202.407-6 Equal Low Bids.
1202.407-8 Protests Against Award.
1202.407-50 Other Factors to be Considered in Determining Price Reasonableness.
1202.408 Information to Bidders.
1202.408-1 Unclassified Awards.
1202.450 Requests for Decision by the Comptroller General.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DoD Directive 5105.22, January 5, 1977.

Subpart A—Use of Formal Advertising

§ 1202.104 Types of contracts. For economic price adjustment policy applicable to formally advertised procurements (see § 1203.404-3).

Subpart B—Solicitation of Bids

§ 1202.201 Preparation of invitation for bids.

§ 1202.201-50 right to apply FOB Origin offer.

SECTION D, EVALUATION FACTOR FOR AWARD

(i) A provision substantially as below may be included in invitations for bids when appropriate. The intent of the provision is to permit the Government to award FOB origin offers that otherwise could not be covered in a formally advertised procurement. Example—items 1 and 2 are for the same product, but different item numbers are used because of the different destinations. FOB origin offers are permitted. Bidders A and B bid FOB origin on item 1. No bids are received on item 2. Item 1 is awarded to Bidder A. Under present conditions, item 2 would have to be resolicited. With the below provision, and provided the bidder had not specified otherwise, the Bidder B offer could be applied against item 2. Assuming Bidder B's price was reasonable, item 2 could be awarded to Bidder B and the need for a resolicitation negated.

Right to Apply FOB Origin Offer. Unless otherwise specified by the Bidder, the Government may apply an FOB origin offer against any FOB origin item or subitem for the same product or supplies.

§ 1202.203 Methods of soliciting bids.

§ 1202.203-50 Other Distribution.

One information copy of each invitation for bids involving the production testing of items will be forwarded at time of issue to HQ DLA, ATTN: DLA-PR, and DLA-SER in accordance with DLAR 4125.1.

§ 1202.205 Bidders mailing lists.

§ 1202.205-2 Removal of names from bidders mailing lists.

Bidders mailing lists shall be reviewed and inactive suppliers removed.

§ 1202.205-4 Excessively long bidders mailing lists.

(b) *Rotation of Lists.* Mailing lists may be rotated or pre-invitation notices issued where there are a substantial number of solicitations and bidders lists which are used repetitively.

§ 1202.205-6 Pre-invitation notices.

Pre-Invitation notices may be used (a) to determine competitive interest, or (b) to avoid the reproduction and mailing of unnecessary quantities of solicitations.

Subpart C—Submission of Bids

§ 1202.203 Late bids, modifications of bids or withdrawal of bids.

§ 1202.303-5 Hand-Carried Bids.

Suppliers shall be notified that it is a responsibility of the bidder to place his bid in the bid depository if a bid is hand-carried. Each DLA activity shall establish procedures to ensure that Government personnel do not handle, stamp, or mark the bid envelopes prior to placement of the bids in the depository by the supplier.

Subpart D—Opening of Bids and Award of Contract

§ 1202.404 Rejection of Bids.

§ 1202.404-1 Cancellation of solicitation.

Determination to cancel invitations for bids made pursuant to ASPR 2-404.1 shall be in writing and shall describe the items solicited, quantities, number of bids received, prices, a discussion of the basis for cancelling and explanation of why it is a compelling reason.

§ 1202.406 Mistakes in bids.

§ 1202.406-3 Other mistakes.

Authority to make the determinations set forth in ASPR 2-406.3(a)(1) is delegated to Counsel at DLA procuring activities and purchasing offices without power of redelegation. Requests for the determinations required by ASPR 2-406.3(a) (2), (3), and (4) will be forwarded through Heads of Procuring Activities to the Counsel, DLA.

§ 1202.406-4 Disclosure of mistakes after award.

A copy of the determination and finding will be attached to all copies of the contract modification and a copy of the modification will be forwarded to the Counsel, DLA, when executed.

§ 1202.406-50 Actions referred to higher authority.

Mistakes in bids requiring action by higher authority or mistakes in bids in which the HPA desires that the determinations be made by higher authority shall be forwarded to the Counsel, DLA.

§ 1202.407 Award.

§ 1202.407-1 General.

It is particularly important that copies of the award document furnished for contract administration and finance purposes include detailed information as to acceptable additions or changes made by a bidder in the bid. The award document shall include the following data to the extent applicable:

(a) A list of the items or lots accepted with the quantity, unit price, and total price of each item;

(b) An indication of the extent to which award is made on the basis of f.o.b. destination or f.o.b. origin;

(c) Any discount offered by the successful bidder, whether or not such discount was considered in the evaluation of bids;

(d) When the invitation for bids authorizes bids on the basis of brand name or equal the brand, model, part number, and any other identifying characteristics of the item to be furnished by the successful supplier;

(e) The place of manufacture of the supplies or the performance of services awarded and the name of the supplier, when different from that of the contractor;

(f) The place of inspection and acceptance and the name of the activity authorized to effect inspection and acceptance on behalf of the Government;

(g) When the invitation for bids includes the requirement for minimum size of shipments or guaranteed maximum shipping weights (and dimensions, if applicable), and award is made f.o.b. origin, a clause as follows:

NOTE TO ADMINISTRATIVE CONTRACTING OFFICER

This award has been made on the basis of Guaranteed Maximum Shipping Weights or dimensions, and/or Minimum Size of Shipments as specified. Take action in accordance with DLAM 8105.1, Sec. 19-210, if it becomes evident that the guaranteed maximum shipping weights or dimensions will be exceeded, or if the contractor tenders delivery of less than the minimum size shipments specified, in order that action may be taken to adjust the contract price.

(h) The time of delivery;

(i) The place of delivery;

(j) The place for the submission of invoices and payment;

(k) A statement that the award confirms a notice of award;

(l) A statement that the progress payment clause is a part of the contract; and

(m) A provision for advance payments.

§ 1202.407-3 Discounts.

The clause in ASPR 7-2003.35 shall be included in all invitations for bids, using the minimum periods of 20 calendar days where delivery and acceptance are at point of origin and 30 days where delivery and acceptance are at destination, except for subsistence items for which DPSC retains the payment function which, by industry practice, the discount period is 10 calendar days.

§ 1202.407-6 Equal low bids. (See also ASPR 1-111).

Whenever identical or equal bids are received pursuant to formal advertising and, in the opinion of the contracting officers, are indicative of collusive bidding, follow-the-leader pricing, related low bids, division of business, uniform estimating systems, or other practices designed to eliminate competition or to restrain trade, a report of the facts and pertinent information available which might tend to establish possible violation of the antitrust laws shall be forwarded to the Counsel, DLA.

§ 1202.407-8 Protests against award.

(a) *Protests Before Award.* (1) When it is known that a protest against the

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making of award has been made to a higher Headquarters or to the Comptroller General, no award shall be made until the matter is resolved unless the determination required by ASPR 2-407.8(b)(3) has been made by the contracting officer and approved by the Executive Director, Procurement, DLA, after coordination with the Counsel, DLA. The Counsel, DLA, shall be responsible for obtaining the views of the Comptroller General in such cases in accordance with ASPR 2-407.8(b)(2).

(i) Requests for approval of the contracting officer's determination must include the following information:

(A) If the contracting officer's report has not been submitted to HQ DLA, a summary of the protest and the facts bearing on it;

(B) The name of the proposed awardee;

(C) The proposed award price and quantity;

(D) A statement as to fair and reasonable price;

(E) A statement as to whether the proposed award is to the low offeror;

(F) If the proposal awardee is not low, the reason award will be made to other than the low offeror; and

(G) A statement that award will be made immediately upon receipt of the requisite approval.

(ii) The determination itself must contain a full justification for proceeding with award. For example, a request based on urgency (ASPR 2-407.8(b)(3)(i)) shall include:

(A) The current supply status of the item;

(B) The procurement leadtime;

(C) If the procurement is for stock, the estimated monthly demand;

(D) An explanation of why the time cannot be temporarily foregone by requiring activities; and

(E) A discussion of the feasibility of temporarily filling the requirement by means of local purchase.

(iii) As another example, a request based on an expiring offer (ASPR 2-407.8(b)(3)(iii)) shall include:

(A) The price of the expiring offer;

(B) The price(s) of the next offeror(s) in line for award;

(C) The date of the most recent request to the offeror to extend his offer; and

(D) The offeror's response to the most recent request to extend.

The above examples are not the only situations in which award could be made, but are provided to show the degree of thoroughness required in documenting the justification for proceeding with award.

(2) Reports on protests submitted for final resolution to a level of authority above the Head of a Procuring Activity shall be forwarded in triplicate to the Counsel, DLA. Reports on such protests shall include the following information:

A signed statement from the person making the protest setting forth the facts on which the protest is based and any additional supporting evidence;

A signed statement when relevant, from other persons or bidders affected by or involved in the protest, setting forth the protest, setting forth the facts with respect to their position in the matter and any additional supporting evidence;

A copy of the bid submitted by the protesting bidder, and a copy of the bid of the bidder who is being considered for award, or whose bid is being protested;

A copy of the invitation for bids including, where practicable, pertinent specifications relevant to the protest;

A copy of the abstract of bids;

Any other documents which are relevant to the protest; and

A statement signed by the contracting officer setting forth his findings, actions and recommendations in the matter together with any additional evidence or information deemed necessary in determining the validity of the protest. If the award was made pending resolution of the protest, the contracting officer's statement will include the determination prescribed in ASPR 2-407.8(b)(3).

(c) *Protests After Award.* Where a protest is received after the award of the contract the following action will be taken:

(1) Where it reasonably appears that the award may be held invalid, and a delay in receiving the supplies or services is not prejudicial to the Government's interest, the contracting officer should seek a mutual agreement with the successful bidder to "stop work" on a no-cost basis.

(2) If the contractor refuses to enter into such a mutual agreement, the Head of the Procuring Activity may direct the contracting officer to issue a "stop work" order unless the Head of the Procuring Activity determines that receipt of the supplies or services is so urgent that such an order would be prejudicial to the interest of the Government.

(3) Where guidance from higher authority on the withholding of contractor performance is necessary the matter will be submitted to the Counsel, DLA.

(4) Where it is known by the purchasing activity that a protest after award has been lodged directly with the Comptroller General, the documents required by (b) above will be forwarded to the Counsel, DLA.

§ 1202.407-50 Other factors to be considered in determining price reasonableness.

If in the opinion of the contracting officer the formal advertising procedure in itself does not ensure competition sufficient for arriving at a fair and reasonable price, he will also consider valid criteria, such as, but not limited to:

(a) Prices paid by his or other Government purchasing activities on past procurements;

(b) Price trend information from the daily press, trade, or Government publications;

(c) Current market prices for comparable quantities;

(d) Extent of comparable pricing;

(e) Cost analysis of similar procurements; and

(f) Contractors' published commercial price lists.

In those instances, where this additional analysis is made, the contract file will be documented to reflect the actions taken to determine the reasonableness of bid prices.

§ 1202.408 Information to bidders.

§ 1202.408-1 Unclassified awards.

Notification to unsuccessful bidders should be given promptly after an award has been made. It should not be delayed pending preparation and distribution of contractual documents. Generally, a form postal card is adequate for notification to unsuccessful bidders. However, in cases where a bidder is apparently low based on a comparison of bid prices only, the notification should take the form of a letter including in addition to the minimum requirements set forth in ASPR 2-408, the specific reasons for rejection of the lower bid. This is especially important where rejection results from a transportation evaluation, a negative preaward survey, or for any reason not readily apparent to the bidder. The following is an example of such a letter. This letter may be modified to fit the specific circumstances of the procurement.

Gentlemen:

Receipt is acknowledged of your bid in response to our Invitation for Bid No. ——

This is to inform you that award was made to:

Contractor City State Item No. Price

Your interest in bidding on the requirements of this Center is appreciated; however, we were unable to make the required determination that your company is "responsible" within the meaning of that term as defined in paragraph 1-902 of the Armed Services Procurement Regulation. The information upon which our decision was based was contained in a preaward survey which was issued by —— (insert name of appropriate activity). Further details with respect to their findings will be furnished by that activity if you so request.

Your name will be retained on the bidders list to receive future solicitations.

A letter such as the above, if complete and issued promptly, should minimize further correspondence and result in improved contractor relations.

§ 1202.450 Requests for decision by the Comptroller General.

Where a decision by the Comptroller General is desired on procurement or disposal matters such as mistakes in bids, remission of liquidated damages, reformation of contracts or other contract issues, the request will be forwarded to the Counsel, DLA. Each case submitted for a Comptroller General decision will be accompanied by an administrative report which shall include a summary of the matter at issue, the recommendation of the procuring activity, and all documents and information deemed pertinent to the issue.

PART 1203—PROCUREMENT BY NEGOTIATION

Subpart A—Use of Negotiation

Sec.
1203.103 Records and Reports of Negotiated Contracts.

Subpart B—Circumstances Permitting Negotiation

1203.202 Public Exigency.
1203.202-2 Application.
1203.209 Perishable or Nonperishable Subsistence Supplies.
1203.209-50 Procurement of Fresh Fruits and Vegetables by Best Value Selection.
1203.215 Negotiation After Advertising.
1203.215-2 Limitation.

Subpart C—Determinations and Findings

1203.302 Determinations and Findings by the Secretary of a Department.
1203.303 Determinations and Findings Below the Secretarial Level.
1203.303-50 Determinations and Findings for Procurement Negotiated Under 10 U.S.C. 2304(a)(10).
1203.306 Procedure with Respect to Determinations and Findings.
1203.306-50 Class Determinations and Findings (CDFs).

Subpart D—Types of Contracts

1203.404 Fixed Price Contracts.
1203.404-3 Fixed Price Contracts with Economic Price Adjustment.

Subpart E—Solicitations of Proposals and Quotations

1203.501 Preparation of Request for Proposals or Request for Quotations.
1203.509 Protests Against Award.
1203.550 Distribution of Copies.

Subpart F—Small Purchase and Other Simplified Procedures

1203.604 Competition and Price Reasonableness.
1203.604-1 Purchases Not In Excess of $500.
1203.604-50 Pricing Techniques in the Absence of Adequate Pricing Competition.
1203.604-51 Minimum Billing and Service Charges.
1203.605 Blanket Purchase Agreement (BPA).
1203.605-2 Limitation on Use.
1203.605-50 Establishment of Blanket Purchase Agreements with Federal Supply Schedule (FSS) Contractors.
1203.605-51 Quantity Break Provision for Inclusion in Small Purchases.
1203.606-50 Fast Payment Procedure.

Subpart H—Price Negotiation Policies and Techniques

1203.801 Basic Policy.
1203.801-2 Responsibility of Contracting Officers.
1203.805 Written and Oral Discussions.
1203.805-1 General.
1203.807-2 Requirements for Price or Cost Analysis.
1203.807-3 Cost or Pricing Data.
1203.807-6 Refusal to Provide Cost or Pricing Data.
1203.807-50 Cost or Pricing Data for Indefinite Quantity and Requirements Type Contracts.
1203.811 Record of Price Negotiation.

Subpart L—Cost Accounting Standards

1203.1203 Prime Contractor Disclosure Statement(s).
1203.1204 Contract Clauses.
1203.1210 Cost Accounting Standards Board Report.
1203.1211 Waiver of Cost Accounting Standards, Rules and Regulations.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart A—Use of Negotiation

§ 1203.103 Records and reports of negotiated contracts.

An information copy of each negotiation document involving the production testing of items shall be forwarded at time of issue to HQ DLA, Attn: DLA-PR.

Subpart B—Circumstances Permitting Negotiation

§ 1203.202 Public exigency.

§ 1203.202-2 Application.

A procurement of material to effect necessary and emergency repairs to a broken water main would be appropriate under ASPR 3-202 and this section, *Provided*, That the emergency conditions require immediate replacement of defective materials. This authority could also properly be cited for the emergency procurement of packing material required to effect an emergency air or rail shipment. The fact bearing on the emergency situation must clearly be shown in the determination and findings in sufficient detail to explain clearly the necessity for purchasing without formal advertising. The contracting officer's justification must be supported by the existence of specific emergency circumstances which in themselves relate to the particular purchase being effected. The facts bearing on the situation must clearly support the compelling and unusual urgency and indicate the extent to which the Government would be injured, financially or otherwise.

§ 1203.209 Perishable or nonperishable subsistence supplies.

§ 1203.209-50 Procurement of fresh fruits and vegetables by best value selection.

(a) Fresh fruits and vegetables cannot be described in the usual manner and their specifications are normally inadequate to provide a basis for advertising for bids. It is in the best interest of the Government to procure fresh fruits and vegetables in growing and storage areas and terminal markets after visual inspection by experienced and knowledgeable personnel at the time and place such items are offered.

(b) In the application of (a) of this section, procurements shall be made on a competitive basis to the maximum extent practicable and the best value, price, quality, and other factors considered, shall be procured.

§ 1203.215 Negotiation after advertising.

§ 1203.215-2 Limitation.

ASPR 3-215.2 requires two Secretarial determinations and findings (a) for the general or preliminary authority to negotiate after advertising, and (b) with regard to the particular contract being negotiated and the fact that the negotiated price is lower than the lowest rejected bid price of a responsible bidder. (See ASPR J-502(e).) When the contracting officer considers that bid prices received after formal advertising are unreasonable as to all or part of the requirements, or were not independently reached in open competition, he shall, prior to initiating negotiations submit a proposed determination and findings, approximating in format shown in ASPR J-502(e), for Secretarial signature in accordance with the procedures in ASPR/DSPR 3-306. Partial awards made at bid prices considered reasonable should be indicated in the request for authority to negotiate. If the contracting officer considers that bid prices on all or part of the requirements were not independently reached in open competition, he shall, in addition to requesting Secretarial authority to negotiate under 10 U.S.C. 2304(a)(15), submit the report thereon required by ASPR 1-111.

Subpart C—Determinations and Findings

§ 1203.302 Determinations and findings by the Secretary of a Department.

All requests for Secretarial authority to negotiate, and their attached determination and findings, shall be submitted to HQ DLA, Attn: DLA-PP in triplicate.

§ 1203.303 Determinations and findings below the secretarial level.

(b) The authority to make class determinations with respect to authority

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to enter into contracts by negotiation pursuant to ASPR 3-210 is delegated to the Executive Director, Procurement, Headquarters Defense Logistics Agency, and the Heads of Procuring Activities (or Deputies in their absence). Redelegation of this authority is not authorized.

§ 1203.303-50 Determinations and findings for procurement negotiated under 10 U.S.C. 2304(a)(10).

Each determination and finding prepared by contracting officers to justify the use of 10 U.S.C. 2304(a)(10) for noncompetitive procurement due to lack of or inadequacy of technical data shall be supported by a written statement obtained from the requiring agency showing:

(a) The actions being taken (1) to avoid subsequent noncompetitive procurements of the items or services and (2) to obtain the data prescribed in ASPR 3-108(d); or

(b) A complete explanation of the reasons why efforts to obtain competitive procurements would be unavailing, and, therefore actions that would permit competition are not being taken.

§ 1203.306 Procedure with respect to determinations and findings.

(a) Requests for authority to negotiate individual contracts, or a class of contracts under the authorities of 10 U.S.C. 2304(a)(11) through 10 U.S.C. 2304(a)(16), as implemented by ASPR 3-211 through ASPR 3-216 and Appendix J, require the approval of the Assistant Secretary of Defense (MRA&L). Such requests shall (1) contain in the letter of transmittal of the submitting procuring activity, a complete statement of facts and other data necessary to support the applicability of the cited negotiation authority, and (2) include, on a separate plain paper, a determination and findings prepared for the appropriate signature.

(b) Requests for the granting of Secretarial authority to negotiate under 10 U.S.C. 2304(a)(13) or 10 U.S.C. 23-4(a)(16) will be signed by the Head of the Procuring Activity or his Deputy.

§ 1203.306-50 Class determinations and findings (CDFs).

(a) CDFs may be utilized when appropriate for negotiating a number of contracts for the same or related items where the use of individual determinations and findings would result in a repetition of the same set of facts or circumstances. CDFs should be submitted for Secretarial signature only when:

(1) Several procurements are to be effected within a reasonable period of time (normally one year or less) and are for items which are so related as to constitute a logical and distinctive category;

(2) The required suppliers or services are such that they can be secured only by negotiation, such as—

(i) Items of standardized supplies meeting the criteria set forth in ASPR 3-213; or

(ii) Research and development programs which have not reached the production state and for which, consequently, adequate drawings, specifications, or other technical data are not available for formal advertising; or

(3) The nature of the required supplies is such that it is not only technical or specialized but the presence of military urgency or limited numbers of qualified supplies (as related to previous investments by the Government of the supplies, extend periods required for preparation for manufacture, or continued availability of the suppliers in the event of a national emergency) preclude the use of formal advertising during the proposed effective period of the CDF.

(b) Class determinations and findings may not be extended beyond their effective periods as approved by the Secretary. When the authority of such CDF is required for an additional period, a new request therefor, together with a new CDF shall be submitted in accordance with this Regulation. Such new requests shall set forth a summary of the procurement actions completed under the earlier CDF as well as those actions contemplated under the new request.

(c) Heads of Procuring Activities should periodically review the necessity for continued use of a CDF during its effective period to assure that circumstances supporting the granted negotiation authority continue to be present.

Subpart D—Types of Contracts

§ 1203.404 Fixed-price contracts.

§ 1203.404-3 Fixed-price contracts with economic price adjustments.

(a) When none of the ASPR economic price adjustment clauses are applicable, a special economic price adjustment clause may be developed in accordance with ASPR 2-104 or 3-404.3(c). Hereafter, however, such new clauses and revisions thereto (including revisions to clauses already in use) shall be submitted to HQ DLA (DLA-PPR) for pre-solicitation review and approval. This requirement does not apply to the one-time revision of a clause during the contract negotiation process.

(b) The Chief of the Purchasing Office shall approve any ceiling exceeding 10 percent in any local EPA clause. Such approval may cover more than one contract over a definitely stated period of time not to exceed one year. This authority (as applied to ASPR EPA clauses as well) shall not be delegated.

Subpart E—Solicitations of Proposals and Quotations

§ 1203.501 Preparation of request for proposals or request for quotations.

(b) Contract Forms and Uniform Contract Format.

(2) The SAMMS Automated Small Purchase System (SASPS) Phase II provides for the mechanical printing of solicitations (RFQs) by SAMMS for procurements with an estimated value of $10,000 or less. The system is designed to issue RFQs using DLA Form 1231, Request for Quotation.

SECTION C, INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS/QUOTERS

(iv) The following Products Offered provision is for use in the negotiated procurement of replacement parts and assemblies which are identified only by the manufacturer's name, part number, and a brief description. The purpose is to negate paragraph 2(d) of SF 33A which reads:

"Offers for supplies or services other than those specified will not be considered unless authorized by the solicitation." When the provision is applicable, the following will be inserted after the item description:

Offer based on:
Manufacturer's name ———— Part No. ——.

The provision will not be included in solicitations covering parts or assemblies which are being negotiated under such authorities as ASPR 3-202, 3-210.2(i) (xiii) or (xv) 3-212 when it is necessary to restrict the procurement to a particular manufacturer or the certain approved sources (see ASPR 1-313(c). The provision, when used, shall be verbatim, except that the acronym CLIN may be substituted for the word "item".

PRODUCTS OFFERED (1970)

(a) Products offered must either be identical or functionally, physically, mechanically, and electrically interchangeable with the products cited in each procurement identification description of this solicitation.

(b) For evaluation purposes offerors must indicate, by marking the appropriate block(s), which of the following situations is applicable to each item which they are offering and furnish whatever supporting information is required below. "Failure to furnish complete data and information required to support situations (2), (3) and (4) below may preclude consideration of your proposal."

□ (1) For items ——— will furnish the cited manufacturer's product bearing the number specified.

NOTE.—If more than one manufacturer's number is specified in the schedule, the offeror must insert beneath the applicable item(s) of the schedule the manufacturer's name and number which he is offering.

□ (2) For items ——— will furnish a product manufactured in accordance with the cited manufacturer's drawing or specification, and certified identical to, but bearing a different number.

NOTE.—This block must be completed only by offerors manufacturing the item described in the schedule for the company or firm whose name and number is specified. Offerors must insert beneath the applicable item of the schedule the substituted manufacturer's name and part number. In addition, the offferor must furnish a copy of the drawing or specification for the part number as originally cited in the schedule, or other information to establish that the offeror will furnish the same item as described in the schedule, but having a different number.

□ (3) For items ——— will furnish a product determined under prior military contracts, either as a prime or subcontractor to be functionally, physically, mechanically and electrically interchangeable with the product cited in this solicitation though not manufactured in accordance with the cited manufacturer's drawing or specification.

NOTE.—Offerors relying on this paragraph (3) must insert beneath the applicable item of this solicitation the substituted manufacturer's name and part number, and in addition, furnish sufficient data to suitably substantiate the item as acceptable. As a minimum, the following data must be furnished (1) copy of Contract or Purchase Order under which furnished, and (2) copy of a drawing to which made.

□ (4) For items ——— will furnish a product which is equal in all material respects to the product referenced in the item description. The following Note is applicable:

Note (a) □ Note (b) □.

NOTE.—(a) The Government does not have detailed data for the item referenced in the procurement identification description. Therefore, offerors relying on this paragraph (4) must furnish with their offers drawings and other data which will clearly describe the characteristics and features of their product. In addition, offerors must furnish drawings or other data covering design, materials, performance, etc., of the product cited in the schedule sufficient to enable the Government to determine the offeror's product is equal to the product named in the schedule.

NOTE.—(b) Offerors relying on this paragraph (4) must furnish with their offers drawings and other data which will clearly describe the characteristics and features of their product.*

NOTICE.—Offers relying on this paragraph (4) must insert beneath the applicable item of this solicitation the substituted manufacturer's name and number.

SECTION D, EVALUATION FACTORS FOR AWARD

(iii) Discount provisions (see § 1202-407.3);

§ 1203.509 Protests against award.

In any protest to the General Accounting Office of a negotiated procurement where a written Determination and Findings (D&F) is required to support negotiation, a copy of the D&F will be included with the protest report.

§ 1203.550 Distribution of copies.

In addition to the distribution of requests for proposals and requests for quotations in ASPR 1-1002, one information copy of each such solicitation document for the production testing of items will be forwarded, at time of issue, to HQ DLA, Attn; DLA-PR.

Subpart F—Small Purchase and Other Simplified Purchase Procedures

§ 1203.604 Competition and price reasonableness.

§ 1203.604-1 Purchases not in excess of $500.

Action to verify and document the reasonableness of the price of purchases not in excess of $500 need be taken only when the buyer or contracting officer suspects, or has information to indicate that the price may not be reasonable, e.g., comparison to previous price paid, personal knowledge of the item involved or appearance of the item on the SAMMS Automated Small Purchase System (ASPS) Report F-108. When action is taken to verify reasonableness of price, DD Form 1784, "Small Purchase Pricing Memorandum" shall be used.

§ 1203.604-50 Pricing techniques in the absence of adequate price competition.

(a) The techniques of comparing the items to a similar competitive or catalog item offers the best assurance of fair and reasonable pricing in small purchases. In the majority of cases over $500 involving noncompetitive and non-catalogued items, this method should be employed to determine price reasonableness. It is not necessary to locate an identical item or to compare every feature of the two items. Quantity, packaging and other factors must be considered in arriving at an independent estimate of a reasonable price for the individual procurement. Abstracts of bids maintained by the purchasing office may be useful in this regard. Commercial catalogs and price lists should also be used.

(b) Visual examination of warehouse samples, drawings and/or DD 146 descriptions can be of considerable value in determining that a price is fair and reasonable. Often the actual manufacturer is revealed by this examination. Sources solicited will include any manufacturer(s) revealed by visual examination.

(c) When other methods available to procurement personnel through use of the Decision Logic Chart (See ASPM No. 2) are unproductive, technical assistance by the Directorate of Technical Operations should be obtained for use as a factor in the buyer's pricing determination.

§ 1203.604-51 Minimum billing and service charges.

(a) Procurement personnel should avoid placing orders with vendors who have a "minimum billing" or "service charge" policy wherever possible. In sole source situations, the following alternatives should be explored before placing an order:

(1) Make a concerted effort to consolidate orders with other buys from the same vendor; or

(2) With customers' permission, increase the quantity of the buy.

(b) If the foregoing efforts are to no avail, DLA buying activities when writing orders with vendors having such policies, will identify the unit price and amount for each item ordered and the minimum billing or service charge.

(c) When a responsible, responsive offeror is low on an individual procurement, even though he includes a DD 250 charge in his price, he clearly should receive award. However, no indefinite delivery type contracts (IDTCs), blanket purchase agreements (BPAs), or basic ordering agreements (BOAs) shall be executed containing a provision for reimbursement of contractors for preparation of the DD 250.

§ 1203.605 Blanket purchase agreement (BPA).

§ 1203.605-2 Limitation on use.

The maximum aggregate amount, if any, of all requests to be issued against one BPA shall be prescribed by the HPA.

§ 1203.605-50 Establishment of blanket purchase agreements with Federal supply schedule (FSS) contractors.

(a) While BPAs may be established with FSS contractors for both non-FSS items and FSS items, a distinction between such items should be made.

(b) A BPA with a FSS contractor for non-FSS items which can be interpreted to cover FSS items because of a generic item description should contain a statement to the effect that the BPA excludes all items on FSSs.

(c) If it is desired to establish a BPA with a FSS contractor for items on a FSS, the agreement shall be consistent with the provisions of the applicable FSS, i.e., period of agreement, terms, and conditions. The agreement should be limited to a simplification of purchasing techniques such as placing of orders orally and obtaining monthly consolidated billings.

§ 1203.605-51 Quantity break provision for inclusion in small purchases.

(a) As used herein "quantity break" is a reduction in unit price for a specified larger quantity.

*If offerors desire to restrict the Government's use of data submitted with their proposals for evaluation purposes, the data must bear the legend prescribed by ASPR 3-507.1(a). In the event an award is made to an offeror submitting such data, the Government will have unlimited rights to use such data, unless the data submitted bears the legend set forth in ASPR 3-507.1(a).

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(b) To obtain the lowest possible prices in small purchases, it is necessary that the Government take advantage of quantity breaks wherever practicable.

(c) For the purpose of establishing that a quantity break does or does not exist, a provision substantially as follows should be included in small purchase solicitations, except (i) where the contracting officer decides that it is impractical and would serve no useful purpose, or (ii) where the procurement will be effected by automation:

QUANTITY BREAK

The quoted price is effective for quantities from —— to ——. Price for next higher quantity break would be ——.

(d) Should it appear that it is in the best interest of the Government to procure a larger quantity, so as to take advantage of a lower unit price, the item manager should immediately be provided the details and an amendment to the purchase directive requested. If the item manager indicates that the quantity cannot be increased, then the contracting officer should document the contract file accordingly and proceed with purchase of the originally specified quantity.

§ 1203.606-50 Fast payment procedure.

All DLA purchasing activities awarding procurement authorizing "FAST PAY" shall specify inspection and acceptance at distination. If either inspection or acceptance at origin is required or authorized the use of "FAST PAY" is NOT authorized.

Subpart H—Price Negotiation Policies and Techniques

§ 1203.801 Basic policy.

§ 1203.801-2 Responsibility of contracting officers.

(c) Prior to referral to HQ DLA, the Commander, or in his absence, the Acting Commander, shall make a determination on a case-by-case basis whether or not to personally negotiate with the contractor involved and attempt to delete those elements of the contractor's offer that render his price or profit unreasonable. In those cases where it is determined that the Commander should not personally conduct negotiations, a detailed memorandum setting forth the rationale shall be forwarded with the referral to HQ DLA, Attn: DLA-PP. While it is recognized that the magnitude of the effort must be commensurate with the value of the procurement it is imperative the best effort be made at each successive level of authority prior to forwarding cases to this Headquarters because this Headquarters intends to actively enter into the negotiation at that point in time. In appropriate cases where Headquarters efforts fail the problem will be escalated to the Office of the Assistant Secretary of Defense.

(d) Occasionally, there may be instances where the price is not as close to the negotiation objective as the Contracting Officer would like to be but may not be judged unreasonable. In such cases the file should contain a positive statement that the price is considered fair and reasonable under the circumstances. The circumstances should then be fully enumerated so as to provide any reviewer with a full understanding of what transpired and why the price is indeed fair and reasonable. On any price reasonableness determination, however, the Contracting Officer shall determine the price either to be reasonable or unreasonable.

§ 1203.805 Written and oral discussions.

§ 1203.805-1 General.

(a) A prenegotiation briefing shall be conducted for all negotiated procurements over $10,000 so that each will have had a prenegotiation objective review. The briefing level and content for negotiated procurements between $10,000 and $100,000 shall be set by the Director, Procurement and Production. For all negotiated procurements except subsistence estimated to amount to $100,000 or more, the briefing shall be for the Director/Deputy Director, Procurement and Production. The threshold for subsistence procurements requiring a review by the Director/Deputy Director, Procurement and Production will be established at a level designated by the HPA. Procurements, other than those for perishable subsistence, consummated at a Defense Subsistence Region (DSR) may be reviewed by the Chief of the Purchasing Division at the DSR. As a minimum, the briefing for negotiated procurements estimated to amount to $100,000 or more shall cover:

(1) The procurement situation.

(2) Previous price history.

(3) Analytical methods utilized in establishing the price objective.

(4) For procurements requiring the submission of cost or pricing data, the major differences between the proposed negotiation objective and the contractor's proposed price, DCAS input and audit recommendation and the proposed negotiation objective with supporting rationale.

(5) For all other procurements, the major differences between the contractor's proposed price and the proposed negotiation objective, together with rationale supporting the negotiation objective.

(6) Negotiation plan, whether phone or face to face.

(7) Anticipated negotiation problems and proposed solutions.

(b) A memorandum summarizing the principal elements of the briefing, attendees and results shall be prepared for incorporation into the contract file.

(c) The following are exempt from the requirement for prenegotiation briefings:

(1) Perishable subsistence procurements.

(2) Subsistence Commodity Market items which are geared to marketing exigencies, such as coffee, flour, and salad oil.

(3) When a petroleum procurement consists entirely of unrelated line items (those which are consolidated solely for administrative purposes) the briefing may be conducted at a level lower than the Director/Deputy, Procurement and Production, when no single line item is $100,000 or more, even though the total procurement is $100,000 or more.

§ 1203.807-2 Requirements for price or cost analysis.

(a) *General.* The cost/price analysis element will prepare an evaluation of the contractor's proposal in every procurement requiring the use of cost or pricing data or a field pricing support report.

(b) *Cost/price analysis.* (1) The cost/price element shall prepare a cost/price analysis for formally advertised procurements of $100,000 or more when a sole responsive bid is received and for negotiated procurements of $100,000 or more.

(2) The requirement for cost/price analysis by the cost/price analysis element may be waived by the Contracting Officer for a negotiated procurement resulting in adequate price competition when the initial offer is to be accepted under the circumstances set forth in ASPR 3-805.1(a). Except when cost or pricing data is required, the Contracting Officer may also waive the requirement for cost/price analysis by the cost/price analysis element when a sole bid or sole offer is received if recent awards for the item or service have been made on a price competitive basis and such award prices and current market trends clearly indicate that the offered price is reasonable.

(3) If the Contracting Officer elects to waive the requirement for cost/price analysis by the cost/price analysis element under the circumstances specified above, the contract file will be documented with the facts supporting the Contracting Officer's determination.

(4) In addition to the requirements for an analysis by the cost/price analysis element, the Contracting Officer may request assistance from the cost/price analysis element in any other procurement as deemed necessary. On any procurement on which an analysis is not performed by the cost/price analysis element, a price analysis will be performed in accordance with ASPR 3-807.

§ 1203.807-3 Cost or pricing data.

(a)(1) If an option is priced at the time of award it is subject to the requirements of PL 87-653 at that time and the price of the option must be considered in determining whether the proposed contract is expected to exceed $100,000 in amount.

(b) Distribution of each exemption authorized shall be effected by HQ DLA. Six copies of each exemption shall be provided HQ DLA, ATTN: DLA-PPP.

§ 1203.807-6 Refusal to provide cost or pricing data.

Prior to referral to HQ DLA, the Commander, or in his absence, the Acting Commander, shall make a determination whether or not to personally negotiate with the contractor involved and attempt to obtain the necessary cost or pricing data. In those cases where it is determined that the Commander should not personally conduct negotiations, a detailed memorandum setting forth the rationale shall be forwarded with the referral to HQ DLA, ATTN: DLA-PC.

§ 1203.807-50 Cost or pricing data for indefinite quantity and requirements type contracts.

ASPR 3-409.2(a) and 3-409.3(a) state that estimated total quantities to be ordered under requirements and indefinite quantity contracts respectively should be as realistic as possible. Accordingly, when cost or pricing data must be obtained under these types of contracts, the quantity of the item or service for which such data is to be obtained is the total quantity as specified in the solicitation. To avoid delay in the receipt of the required cost or pricing data the solicitation should specify the quantitative requirements for which such data shall be submitted.

§ 1203.811 Record of price negotiation.

(a) The Price Negotiation Memorandum (PNM) must be written so as to permit reconstruction of all of the major considerations of the particular procurement. While excessive detail should be avoided, it is this PNM, standing alone, which must convince any and all reviewers of the procurement that the price is fair and reasonable and arrived at properly. Although the content will vary depending on the magnitude of the contract, the contract type, the cost or pricing data obtained, the extent of negotiations, etc., the format should be standard. The PNM should have the following subdivisions: Subject: "Introductory Summary, Particulars, Procurement Situation, Negotiation Summary, and Miscellaneous." The detailed content of each of these subdivisions is spelled out in ASPM No. 1 (1975 Edition), pages 7B16 through 7B24.

Subpart L—Cost Accounting Standards

§ 1203.1203 Prime contractor disclosure statement(s).

(e) *Determination of Secretary that it is Impractical to Secure Disclosure Statement(s).* Prior to referral to HQ DLA, of a proposed waiver of the requirement for a Disclosure Statement(s), the Commander, or in his absence, the Deputy or Acting Commander, shall personally negotiate with the proposed contractor and attempt to obtain the required statement(s). In those cases where it is determined that the Commander should not personally conduct negotiations, a detailed memorandum setting forth the rationale shall be forwarded with the referral to HQ DLA, ATTN: DLA-PC.

§ 1203.1204 Contract clauses.

(a)(ii) The analysis of the information furnished by the offeror in support of his claim for exemption from the requirements of the Cost Accounting Standards Clause must demonstrate that the criteria of ASPR 3-807.1(b)(2) have been met. The results of such an analysis shall be separately documented in the contract file. In addition, when a determination is made that a catalog or market price exemption applies, the contract file documentation pertaining to the pricing aspects of the procurement (i.e., the price analysis, the prenegotiation briefing memorandum and the PNM) shall indicate that pricing is based on adequate price competition. (See 21-126, Item 18.)

§ 1203.1210 Cost Accounting Standards Board Report.

(a) Comments requested in ASPR 3-1210(c) for each full calendar year shall be provided to HQ DLA, ATTN: DLA-PP, within 40 days following the end of each calendar year. RCS DD-I&L(A)1222 applies.

§ 1203.1211 Waiver of cost accounting standards, rules and regulations.

(a) Prior to referral of a waiver request to HQ DLA, the Commander, or in his absence, the Acting Commander, shall personally negotiate with the contractor involved and attempt to obtain acceptance of the Cost Accounting Standards, Rules and Regulations. The request for waiver should be forwarded by covering letter of the Commander or his Deputy with a statement concerning the above negotiation and recommendations to HQ DLA (ATTN: DLA-PP).

(b) The Cost Accounting Standards Regulation 4 CFR 331.30, subparagraph (c)(1) and (c)(2) (ASPR Appendix O) contains a listing of specific information to be furnished when requesting waivers. Waiver requests should reference these requirements and list, in order, the specific responses to each. The waiver request must cite the date by which a Board decision is needed and the reasons therefor.

(c) The request for waiver should be on plain paper. Five complete sets of the request and its supporting documentation should be furnished.

PART 1204—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart C—Contracts with Requirements for Provisional Items

Sec.
1204.302 Procurement requirements.
1204.302-50 Waiver of provisioning technical requirements.
1204.302-51 Contracting officer's representative-provisioning.
1204.302-52 Errata sheets.

Subpart H—Paid Advertisements

1204.802 Authority and delegation to place advertisements.
1204.802-2 Requests for authority to place advertisements.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart C—Contracts With Requirements for Provisional Items

§ 1204.302 Procurement requirements.

§ 1204.302-50 Waiver of provisioning technical requirements.

The following clauses are for use in the acquisition of provisioning technical documentation. The clauses shall be used when Military Standards 1552 and 1561 are cited in solicitations.

(a) Waiver/Reduction of Provisioning Technical Documentation and Supplementary Provisioning Technical Documentation Requirements (DLA 1975 July).

Award for Provisioning Technical Documentation (PTD) Requirements and Supplementary Provisioning Technical Documentation (SPTD) Requirements will be made only to the offeror who receives an award for the applicable end item(s) of equipment.

The Government reserves the right to eliminate or reduce PTD/SPTD requirements for line items in the solicitation if such documentation has been previously furnished by the offeror and accepted by the Government and the Contracting Officer determines that such PTD/SPTD or changes thereto are acceptable for the immediate requirement.

In addition to pricing PTD/SPTD requirements, offerors are requested to provide information as to PTD/SPTD previously submitted to the Department of Defense believed to be appropriate, with or without changes, for this solicitation:

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STATEMENT OF PRIOR SUBMISSION

PRIOR GOVERNMENT ACCEPTANCE OF PROVISIONING TECHNICAL DOCUMENTATION/SUPPLEMENTARY PROVISIONING TECHNICAL DOCUMENTATION

Date Previously Submitted, Contract No., Contract Item No.

Equipment Nomenclature, Name/Address of Accepting Activity, Provisioning Specification.

Changes to previously submitted PTD/SPTD (Type III Provisioning in accordance with DLA Addendum to Provisioning Requirements Statement) are those items added, deleted, changed or modified in the end item which must be recorded in the previous provisioning lists to update the list to the configuration of the end item procured as covered by paragraph 5.3.11 of Military Standard 1561.

The offeror hereby certifies that previously submitted (PTD/SPTD) ( ) does ( ) does not require changes. (Check One)

If the PTD/SPTD previously furnished requires changes, indicate a list of the changes required with a price for furnishing the changes: (See example, Note 1 at end of clause.)

PTD element	Number of line item changes	Price [1]
Total		

[1]Per type III provisioning PTD element.

If the Government determines that Type III Provisioning will fulfill its needs, eligible offers will be evaluated as to price based on Type III Provisioning and, if low, award will be made for Type III Provisioning. PTD/SPTD changes shall be furnished by the Contractor within 30 days after award, or when first article testing is required within 30 days after first article approval.

PTD/SPTD is as specified in the DD Form 1423 (Contract Data Requirements List) and DD Forms 1949-1, Provisioning Technical Documentation Data Selection Sheet and 1949-2, Provisioning Requirements Statement will be required unless award is made specifically for Type III Provisioning.

NOTE 1.—For example, if previous submission of PTD was Type I in accordance with DLA Addendums to the Provisioning Requirements Statement and several changes are needed to update the various PTD elements for the present equipment configuration, these would be recorded as follows:

PTD element	Number of line item changes	Price [1]
Provisioning parts lists.	10	$xx.xx
Long lead time item list.	2	xx.xx
Repairable items list.	1	xx.xx
Screening	50 part numbers to be screened.	xx.xx
Supplementary provisioning technical documentation.	13 dwgs, sketches, description, etc.	xx.xx
Total	13	xx.xx

[1]For type III provisioning per PTD element.

(b) DO5—Data Pricing, Evaluation and Award.

(1) If the offeror does not indicate a charge for data, the Government will consider and the offeror agrees that the data charge is included in the price of the end item.

(2) The Government reserves the right to waive one or more data CLINs in evaluating each offer and in awarding the contract, as the best interests of the Government may require. Each offer will be evaluated on the basis of only those data CLINs required of that offeror.

(3) Separate awards will not be made for data CLINs.

§ 1204.302-51 Contracting officer's representative-provisioning.

The Chief Provisioning Coordination Office, Directorate of Technical Operations, DSC and additional personnel within this office shall be designated as Contracting Officer's Representative for Provisioning for the purpose of providing technical assistance to offerors/contractors with regard to requirements for equipment support and provisioning for DSC procured end items/components. Delegation of responsibility shall include authority for actions to be taken by the Provisioning Coordination Office as set forth in DLAR 4100.8, "Surveillance of the Contractual Aspects of the Provisioning Cycle in the Defense Supply Centers." For example, the COR for Provisioning is responsible for reviewing PR/MIPR provisioning requirements to insure compliance with provisioning policy and procedures and proper presentation of provisioning requirements in solicitations and contracts, conducting Pre-Provisioning Guidance and Source Coding Conferences when required by the contract, negotiating reductions in provisioning technical documentation requirements including recommendations for equitable adjustments in the contract price or delivery terms based on technical provisioning considerations, surveillance necessary to assure receipt of provisioning technical documentation, and notifying the contractor of required corrections (rejection) or acceptance of provisioning technical documentation. The delegation will not include any authority to modify or change the terms of the contract or to make any agreement which will result in an increase in the contract amount or extend the time for delivery of the end items.

§ 1204.302-52 Errata sheets.

The authorized changes to MIL-STD 1552 and MIL—STD-1561 are listed below.

(a) MIL—STD-1552.

Paragraph 2.1 Delete the reference to the M1 series of Supply Cataloging manuals and replace with reference to DOD 4100.38-M, DOD Provisioning and Other Preprocurement Screening Manual and DOD 4100.39-M, Defense Integrated Data System (DIDS) Procedures Manual.

Paragraph 5.1.5.1.4. In the last five examples of the PLISN on page 7, the change letters (M, D, T, Q, L) should be moved one space to the right to the sixth position of the field.

Paragraph 5.1.5.4.1. Change reference to DOD 4100.38-M (paragraph 1.220.74).

Paragraph 5.1.5.6. Delete reference to M1-4 for Code 3.

Paragraph 5.1.5.6. Do not enter Codes E, F and G. If the item is altered or selected it may be so noted in the remarks block.

Paragraph 5.1.5.7. For Code 1 change to, "Number is formatted in accordance with DOD 4100.38-M, paragraphs 4.100.4 and 4.400 (i.e., DIDS in the clear)."

Paragraph 5.1.5.8. Change Maximum space allocation to read "19" positions.

Paragraph 5.1.5.11. Change the reference to "M1-7" to "Appendix 3-E-2.52 of DOD 4100.39-M."

Paragraph 5.1.5.19. Change "M1-7 Cataloging Handbook" to "Appendix 3-E-2.10 of DOD 4100.39-M DIDS Procedures Manual."

Paragraph 5.1.5.28. Change "Cataloging Manual M1-7" to "Appendix 3-E-2.22 of DOD 4100.39-M."

Paragraph 5.2.4. Delete "as described in the Cataloging Manual M1-6 shall be used" and replace with "will be formatted in accordance with Chapter 2, Section 4, Subsection 10, DOD 4100.39-M or Chapter IV, DOD 4100.38-M."

Page 25, Card ID "E" cc 52-57 Change Data Block Title to read "Replaced or Superseding PLISN."

Paragraph 5.3.4.5.1. Change the word "Superseded" in the paragraph title to read "Replaced". Change the word "superseded" in sub-paragraph (a) to read "replaced". Change the word "Replacing" in sub-paragraph (b) to read "Replaced". Change the word "superseded" in sub-paragraph (c) to read "replaced."

Paragraph 5.3.4.5.2. Change the word "Replacing" in the paragraph title to read "Superseding". Change the words "Replacing/Superseded" in sub-paragraph (b) to read "Replaced/Superseding PLISN." Change the word "replacing" in sub-paragraph (c) to read "superseding."

(b) MIL—STD-156.

Paragraph 5.2.1.1. Change the word "meeting" to "conference."

Paragraph 5.3.3.1. Change the word "screens" to "screws."

Subpart H—Paid Advertisements

§ 1204.802 Authority and delegation to place advertisements.

§ 1204.802-2 Requests for authority to place advertisement.

(b) Requests for authority to place advertisements in newspapers publicizing procurement information shall be submitted, in quadruplicate, through channels, to HQ DLA, ATTN: DLA-PP, for appropriate action.

PART 1205—INTERDEPARTMENTAL AND COORDINATED PROCUREMENT

Subpart A—Procurement under General Supply Schedule Contracts

Sec.
1205.101 Federal supply schedule contracts.

Sec.
1205.101-50 Use of Federal supply schedules.

Subpart D—Procurement From Federal Prison Industries, Inc.

1205.406 Procurement procedure.
1205.406-50 Pricing policies for awards to Federal Prison Industries, Inc.

Subpart F—Procurement of Printing and Related Supplies

1205.601 Printing and related supplies.

Subpart G—Procurement Under the Economy Act

1205.750 Procurement of items from Commodity Stabilization Service (CSS), Department of Agriculture.

Subpart K—Coordinated Procurement

1205.1106 Purchase authorization.
1205.1106-2 Use of advance MIPR's.

Subpart L—Commodity Assignments

1205.1201 Assignment authority.
1205.1201-2 Exclusions—DLA and GSA assignments.
1205.1201-50 Items in the DLA Civil Agency catalog.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart A—Procurement Under General Supply Schedule Contracts

§ 1205.101 Federal Supply Schedule Contracts.

§ 1205.101-50 Use of Federal Supply Schedules.

Items procured by DOD activities from Federal Supply Schedules containing the following contractural provision under the provisions of ASPR Section V, Part I, should, where applicable, cite the priority rating on each delivery order placed under the Federal Supply Schedules.

Priorities, Allocations and Controlled Material:

"If any order is placed against this contract is rated and certified for National Defense, the contractor is required to follow the provisions of DPS Regulation 1 (formerly BDSA Regulation 2) and/or DMS Regulation 1 in obtaining materials needed to fulfill the requirement of this contract."

Subpart D—Procurement from Federal Prison Industries, Inc.

§ 1205.406 Procurement Procedure.

§ 1205.406-50 Pricing Policies for Awards to Federal Prison Industries, Inc. (FPI)

(a)(1) Prices in awards to FPI for the partial or entire quantity of a procurement shall not exceed current market prices.

(2) On procurements involving multiple awards to both commercial contractors and to FPI of a mandatory item, the current market price will be a price considered by the contracting officer to reflect current market levels but in no event a unit price higher than the highest award price made on the unrestricted portion adjusted for the applicable cost factors designated herein, unless it is determined that the price was the result of a distressed bid, bidder's mistake, or inflated because of Department of Defense requirements. In awards involving multiple destination, each destination, for purposes of determining the price to be paid FPI, shall be considered a separate award. The term "unrestricted" as used in this Part refers to the portion of the procurement not procured from Federal Prison Industries whether or not a small business or labor surplus area set-aside has been made thereon.

(3) When a procurement action involves allotment to FPI of the entire quantity of the required item and current market quotations are not available, prior procurement prices (adjusted to reflect changes in market prices of components since the last procurement and differences in any other cost factors, e.g., labor, operating supplies, employee fringe benefits) shall be used as the basis for determining the current market price.

(4) A quotation from FPI at or less than the determined current market price shall be accepted.

(5) Awards to FPI shall be on an f.o.b. origin basis unless otherwise specified.

(6) Prices for FPI contracts shall be rounded off to the nearest mill.

(b) The cost of transportation of Government-furnished property to both FPI and to commercial contractors shall be excluded. Differences in Government transportation costs of end items to the same destination point under FPI award and under awards to commercial contractors shall be included. Also, variation in the cost of Government-furnished property, based on stated percentages of usage of Government-furnished property allowances shall be included.

(c) Firm delivery orders shall be given to FPI promptly upon determination of the quantity to be awarded FPI. The following procedures are to be utilized in determining prices to be included on these delivery orders:

(1) When a concurrent commercial procurement is being made, the price quoted by FPI shall be cited on the delivery and the statement set forth below shall be included on the order. In the event the current market price determined by the contracting officer under the "unrestricted" procurement is lower than the quoted FPI price, adjustment shall be made to the lower price; provided, however, that in the time elapsed between the delivery order to FPI and the opening date on the "unrestricted" portion, there has been no significant change in market conditions. Should there have been a significant change in market conditions, the current market price for FPI order will be determined under the provisions of (a)(3) of this section.

(2) When the circumstances described in (a)(3) of this section exist, immediate action shall be taken to determine the current market price. Should that price be lower than the quoted price, prompt contact shall be made by the most expeditious means with the FPI and the circumstances and factors used in the determination explained. Should an agreement not be reached as to the current market price within five consecutive days from the date of contact, the order shall be promptly issued on the basis of the current market price determined by the contracting officer, and the statement provided below shall be included on the delivery order.

(3) After issuance of a delivery order containing the statement set forth below, every effort will be made by the purchasing office to reach an agreement as to the current market price applicable to the order. Agreements reached shall be confirmed by a revision to the delivery order stating the price applicable to the order and deleting the below statement.

(4) Efforts to obtain agreement, to include exchange of data on which the current market price was based, may continue up to the time of inspection and acceptance of the first delivery for payment. If agreement should not be reached by that time, the case shall be submitted to HQ DLA, ATTN: DLA-P, as unresolvable and shall contain a detailed explanation of the factors determining the current market price which was not acceptable to the FPI.

The statement to be included on the delivery order to FPI pending determination of current market price is as follows:

The price in this contract is subject to later adjustment between the Commissioner of the Federal Prison Industries, Inc., and the Executive Director, Procurement, HQ DLA, and the arbitration provisions of Section 4124 of Title 18, United States Code, shall not be invoked except in the case of a disagreement on the part of the Commissioner of the Federal Prison Industries, Inc., and the Executive Director, Procurement, HQ DLA. (1962 JUL.)

Subpart F—Procurement of Printing and Related Supplies

§ 1205.601 Printing and related supplies.

Policy and procedures for the procurement or production of printing are contained in DLAR 5330.1—Procurement or Production of Printing.

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Subpart G—Procurement Under the Economy Act

§ 1205.750 Procurement of items from Commodity Stabilization Service (CSS), Department of Agriculture.

(a) The CSS shall be contacted concerning the supply of at least carlot requirements of items listed in the Commodity Credit Corporation (CCC) monthly inventories in order to obtain an f.o.b. destination offer from CCC.

Office, Deputy Administrator, Price Support, Commodity Stabilization Service, Room 350W—Administration Building, Department of Agriculture, Washington, D.C. 20025.

(b) Requests for offers shall state:
(1) Commodity and quantity desired;
(2) Applicable specification;
(3) Packaging and packing requirements;
(4) Required delivery dates;
(5) Grade and crop year; and
(6) Destination.

In all communications with CSS/CCC relative to proposed procurements, advice shall be furnished that the procurement information is not to be disclosed to unauthorized sources.

(c) If the Department of Agriculture advises that no quotation will be submitted or that they are unable to meet specifications requirements, the procurement will be placed with commercial sources in the usual manner.

(d) If a quotation is received from the Department of Agriculture, and the commodity meets the specifications and requirements, a comparative price analysis shall be made to determine whether the price quoted exceeds current market prices from commercial sources. The comparative analysis shall take into consideration applicable adjustments for crop or pack year, packing, shipping, and handling charges.

(e) If the analysis indicates that the price quoted exceeds current market price, CCC shall be advised with a view to obtaining a price not in excess of current market price.

(f) If the CCC price is equal to or lower than the current market price, the order shall be placed with CCC.

(g) If it is determined that procurement will be made commercially because of price or specification consideration, the CCC shall be so advised.

(h) If it is determined that offers from commercial sources will result in a higher cost than acceptance of the CCC offer, negotiations shall be reopened with CCC.

(i) Inspection of items procured from CSS shall be made in conformance with established inspection procedures.

(j) The following shall apply to all procurements of bagged commodities from CSS:

An official weighmaster's certificate based on origin weights shall accompany each shipment and a copy shall be attached to the CCC invoice. CCC invoice shall be for the number of pounds shown on the official weighmaster's certificate. Quantity receipted for by receiving officer at destination shall be the same quantity less damage in transit, except where a different quantity is actually received. In either event receiving officer will prepare SF 361 or SF 363, as applicable, and attach to receiving report submitted to paying office. Over or short shipment adjustment to be requested in instances where number of bags unloaded differs from number shown on documents accompanying shipment in which case receiving officer shall accompany report with bag tally, or with an official weighmaster's certificate in instances where origin and destination bag counts are identical but quantity receipted for is different from quantity shipped. Paying office upon receipt will forward Over, Shortage and Damaged Report (OS&D), accompanied with bag tally or weighmaster's certificate, if applicable to CCC office and request invoice adjustment.

Subpart K—Coordinated Procurement

§ 1205.1106 Purchase authorization.

§ 1205.1106-2 Use of advance MIPRs.

(f) Under the provisions of ASPR 5-1106.2 the following actions may be taken by a DSC upon receipt of an Advance MIPR (or similar type purchase request) provided the purchase request contains a statement reading essentially as follows: "A firm requirement exists for the item(s) contained in this MIPR; purchase of the items will be supported by the commitment of funds which are expected to be made available (within the next —— days)/(prior to the end of this fiscal year)." Any other written advice from the Requiring Activity that the requirement is firm and that there is a reasonable expectation that funds will be made available for obligation purposes against the specific advance MIPR, may be accepted in lieu of a statement embodied in the MIPR. This advice will be used as the basis to proceed with the purchase action up to and including receipt of responses to an IFB or RFP.

(1) IFB's or RFP's issued on the basis of unfunded Advance MIPRs shall clearly state that no awards will be made until such time as funds become available for obligation purposes. (See ASPR/DLPR 1-318.) The solicitation will also state that the offers shall not be opened until such time as funds have been made available for obligation purposes.

(2) In instances such as those authorized herein, the requiring activity will be notified of the scheduled opening date of the IFB (or closing date of the RFP) and that if funds are not made available by those dates that the solicitation may be cancelled. The scheduled opening or closing date may be extended at the discretion of the procuring activity.

(3) If a requiring activity indicates that funds will not be forthcoming, the solicitation will be cancelled. All offerors will be notifed immediately of such cancellation and their unopened offers will be returned to them.

Subpart L—Commodity Assignments

§ 1205.1201 Assignment authority.

§ 1205.1201-2 Exclusions—DLA and GSA assignments.

(c) *Exclusions to Defense Logistics Agency or General Services Administration Assignments by Agreement.* All proposed agreements in accordance with paragraph VII A5 of DOD Instruction 4115.1, DOD Coordinated Procurement program—Purchase Assignments to permit a Military Service to procure Military Service managed items for which the estimated obligation of a one-time authorization will exceed $100,000.00 or when the annual obligations are expected to exceed $100,000.00 for a continuing authorization shall be submitted for review and approval by HQ DLA ATTN: DLA-PP, prior to consummation of the agreement. Continuing authorizations will not be granted for periods exceeding twelve months notwithstanding the amount of estimated annual obligations. Requests will be submitted in triplicate (letter form) in sufficient detail to support the proposed agreement and will be signed at a level no lower than the Executive Director, Procurement, or his Deputy.

§ 1205.1201-50 Items in the DLA Civil Agency catalog.

After stock of a nonstandard item is exhausted and where DOD standardization action provides for a replacement item, the civilian agencies will be encouraged to use the replacement item by the applicable DLA Center. When the replacement item is not acceptable to a civil agency as evidenced by the requisition advice code, or when there is no replacement item, procurement of the DOD nonstandard item is authorized to meet the civil agency requirement.

PART 1206—FOREIGN PURCHASES

Subpart A—Buy American Act—Supply and Service Contracts

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1206.103 Exceptions.
1206.103-2 Nonavailability in the United States.
1206.103-5 Canadian Supplies.
1206.103-50 Shipping Instructions to Canadian Vendors.
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1206.304-1 Procurement of Food, Clothing, Woven Silk and Woven Silk Blends, Spun Silk Yarn for Cartridge Cloth, Synthetic Fabric, or Coated Synthetic Fabric, or Items Containing Mohair or Cotton or Specialty Metals.

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1206.603 Emergency Purchases of War Materials Abroad.
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1206.1310-2 General.
1206.1310-3 Procedures.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DoD Directive 5105.22, January 5, 1977.

Subpart A—Buy American Act—Supply and Service Contracts

§ 1206.103 Exceptions.

§ 1206.103-2 Nonavailability in the United States.

(a) The required determination shall be prepared in substantially the following form:

DETERMINATION

DATE ——.

Pursuant to the authority contained in Section 2, Title III of the Act of March 1933, commonly called the Buy American Act (41 U.S. Code 10 a-d), and authority delegated to me by paragraph 6-103.2 of the Armed Services Procurement Regulation, I hereby find:

a. (*Description of the item or items to be procured, including unit, quantity, and estimated cost inclusive of duty and transportation costs to destination*).

b. (*Brief statement of the necessity for the procurement*).

c. (*Statement of facts establishing the nonavailability of a similar item or items of domestic origin*).

Based upon the above showing of fact, it is determined that the above described item(s) is(are) not mined, produced, or manufactured, or the articles, materials, or supplies from which it(they) is(are) manufactured, are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Accordingly, the requirement of the Buy American Act that procurement be made from domestic sources and that it be of domestic origin is not applicable to the above described procurement, since said procurement is within the nonavailability exception stated in the Act. Authority is granted to procure the above item(s) of foreign origin (*Country of origin*) at an estimated cost of $—— including duty and transportation costs to destination.

—————— Signature

(b) A copy of the validation of the procurement requirement in accordance with DLAM 4140.3 shall be made a part of the contract file.

(c) Where approval of the determination of nonavailability is required at a level above the HPA, a copy of the validation of the procurement requirement shall be included with the request for approval.

(d) When the restrictions of the Buy American Act are determined to be inapplicable to the end products, the contractor shall be notified of that determination by such means as an appropriate notation in the body of the contract.

(e) For purposes of determining the approval level necessary in ASPR 6-103.2(b), option totals shall not be added to basic award amounts. Prior to exercising the option, however, a new determination of nonavailability (for the option total only) shall be made.

§ 1206.103-5 Canadian supplies.

The Director DLA, has determined that the following supplies are of a military character or are involved in programs of mutual interest to the United States and Canada. Notwithstanding the listing of a Federal Supply Class below, all provisions and restrictions of the Annual DoD Appropriation Act (ASPR 6-300) are applicable.

FSC group	Descriptions	FSC classes
22	Railway equipment	2230.
24	Tractors	2410, 2420.
25	Vehicular equipment components	2510, 2520, 2530, 2540, 2590.
28	Engines, turbines, and components	2805, 2815, 2895.
29	Engine accessories	2910, 2920, 2930, 2940, 2990.
30	Mechanical power transmission equipment	3010, 3020, 3030, 3040.
31	Bearings	3110, 3120, 3130.
34	Metalworking machinery	All classes.
35	Service and trade equipment	3520.
36	Special industry machinery	All classes.
38	Construction, mining, excavating, highway maintenance equipment	3805, 3810, 3815, 3820, 3825, 3830, 3835, 3895.
39	Materials handling equipment	All classes.
40	Rope, cable, chain, and fittings	4010, 4020, 4030.
41	Refrigeration and air conditioning and air circulatory equipment	4110, 4120, 4130, 4140.
42	Firefighting, rescue, and safety equipment	4210, 4220, 4240.
43	Pumps and compressors	4310, 4320, 4330.
45	Plumbing, heating, and sanitation equipment	4510, 4520, 4530, 4540.
46	Water purification and sewage treatment equipment	4610, 4620, 4630.
47	Pipe, tubing, hose, and fittings	4710, 4720, 4730.
48	Valves	4810, 4820.
49	Maintenance and repair shop equipment	4930.
52	Measuring tools	5280.
53	Hardware and abrasives	All classes except 5345 and 5350.
54	Prefabricated structures and scaffolding	5410, 5420, 5430, 5440, 5445, 5450.
55	Lumber, millwork, plywood, and veneer	5510, 5520, 5530.
56	Construction and building materials	All classes except 5630, 5640, and 5650.
58	Communication, detection, and coherent radiation equipment	All classes.
59	Electrical and electronic equipment	Do.
61	Electric wire and power distribution equipment	6105, 6110, 6115, 6125, 6130, 6120, 6145, 6140, 6150.
62	Lighting fixtures and lamps	6210, 6220, 6230, 6240, 6250, 6260.
63	Alarm and signal systems	6350.
65	Medical, dental, and veterinary equipment and supplies	6505, 6515, 6520.

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FSC group	Descriptions	FSC classes
66	Instruments and laboratory equipment	6630, 6640, 6635, 6655, 6670, 6645, 6660, 6675, 6680, 6685, 6695.
67	Photographic equipment	All classes.
68	Chemicals and chemical products	6810, 6820, 6830, 6840, 6850.
70	General purpose automatic data processing equipment, software, supplies, and support equipment.	All classes.
72	Household and commercial furnishings and appliances	7240 (cans, water, military only).
75	Stationery and record forms	7530.
76	Books, maps, and other publications	7610.
81	Containers, packaging, and packing supplies	8105, 8110, 8120, 8115, 8125.
83	Textiles, leather, furs, apparel and shoe findings, tents and flags	8340 (to the extent restrictions of DOD Appropriation Act are not applicable).
84	Clothing and individual equipment and insignia	8405 (beret, man's, wool only); 8415 (steel helmets only); 8465 as indicated: (1) snowshoes, trail, metal; (2) canteen, water, plastic; (3) cup, water canteen, steel; (4) frame, field pack, without straps; and (5) shelf, cargo support; 8470.
93	Nonmetallic fabricated materials	9320, 9330, 9340, 9350, 9390, 9310 (MAP paper only).
95	Metal bars, sheets, and shapes	All classes.
96	Ores, minerals, and their primary products	9620.

Parts for the above listed supplies are considered to be included in the list, even though not separately listed, when they are produced under a contract that also calls for listed supplies.

§ 1206.103-50 Shipping instructions to Canadian vendors.

Shipping instructions provided Canadian vendors furnishing DOD supplies shall designate a CONUS destination or Canadian port marked for a CONUS destination. No Canadian vendor is to be requested to make shipments of DOD supplies addressed to an overseas destination. On urgent requirements for shipment to overseas destinations, the shipping instructions shall be forwarded to the Defense Contract Administration Office, 6th Floor, Canadian Building, 219 Laurier Avenue, West, Ottawa, Ontario, Canada (K1A055), who will make necessary arrangements.

§ 1206.104 Procedures.

§ 1206.104-50 Procedure for submission to Executive Director, Procurement, DLA.

Proposed Awards not within the approval authority of the Head of the Procuring Activity shall be submitted to HQ DLA, ATTN: DLA-PP, for approval with a recommendation supported by relevant facts, including the amount of applicable duty as verified by the U.S. Customs Service, and the information required to be furnished by § 1201-452.3. The requirement shall be carefully screened against Department of Defense excess and surplus materials before submission. The results of this screening shall be reported in the statement of facts. Appropriate provision shall be made for extending the date of acceptance of bids, offers, or proposals to permit sufficient time for orderly transmission and consideration.

§ 1206.104-51 Contract clause.

The following clause may be used in formally advertised or negotiated procurements when it is anticipated that offers on items of foreign origin will be received.

EVALUATION OF OFFERS ON ITEMS OF FOREIGN ORIGIN (DLA 1970 DEC)

a. Offerors offering other than domestic source end products, as defined in ASPR 7-104.3 Buy American Act, must include in the price offered all applicable import duty and, for evaluation purposes, furnish the following for each item:

Item No. _____
Amount of Duty per Unit _____

b. If this solicitation is formally advertised (an IFB), failure of an offeror to furnish the data required above will result in the rejection of his offer when such failure results in the Government's inability to evaluate the offer.

c. The Government reserves the right to award on a duty-free basis by reducing the unit price offered by the amount of the duty. If award on a duty free basis is made, the clause set forth in ASPR 7-104.31(a) Duty-Free Entry for Certain Specified Items, is incorporated herein by reference and made a part thereof.

Subpart C—Appropriation Act Restrictions

§ 1206.303 Exceptions.

(x) As provided for in Section 6-303(x) of the Armed Services Procurement Regulation, the Heads of DLA Procuring Activities are delegated, without the power of redelegation, authority to make determinations, where appropriate that the restrictions of Section 6-302 do not apply to purchases of specialty metals when a satisfactory quality and sufficient quantity melted in the United States or its possessions cannot be procured as and when needed at United States market prices.

§ 1206.304 Procedures.

§ 1206.304-1 Procurement of food, clothing, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric, or coated synthetic fabric, or items containing mohair or cotton or specialty metals.

Where prices for domestic supplies are considered unreasonable within the purview of ASPR 6-304.1 the contracting officer shall forward a request for determination, through channels, to HQ DLA, ATTN: DLA-PP. Each such request, in addition to complete information on all factors pertinent to the requested action, shall contain a proposed determination. The format of the determination in § 1206.103-2(a) may be used as a guide.

Subpart D—Purchases From Rhodesia and Certain Communist Areas

§ 1206.403 Exceptions.

(a) Determinations may be made by contracting officers under ASPR 6-403(a) for purchases not exceeding $2,500; and such determination shall be reduced to writing and made a part of the appropriate contract file.

(b) Requests for the approval required by ASPR 6-402(a) for purchases exceeding $2,500, shall be forwarded to HQ DLA, ATTN: DLA-PP, and shall contain full justification, with all pertinent details, for effecting the proposed procurement from a source within a communist-controlled area.

Subpart F—Duty and Customs

§ 1206.603 Emergency purchases of war materials abroad.

§ 1206.603-4 Customs entries and duty-free certificates.

The HPA is hereby delegated, with the power to redelegate, the authority to execute duty-free entry certificate in the form set forth in ASPR 6-603.4 for emergency purchases of war materials, as defined in ASPR 6-603.1.

§ 1206.603-5 Immediate Release Permits.

The HPA is hereby delegated, with the power to redelegate, the authority to issue "Immediate Release Permits" as prescribed in ASPR 6-603.5.

§ 1206.604 Supplies for Vessels or Aircraft Operated by the United States.

(b) Authority is delegated to the Commander, Defense Fuel Supply Center, with the power of redelegation to execute duty-free entry certificates in the form set forth in ASPR 6-604(b) for the classification of supplies in ASPR 6-604(a).

Subpart G—Military Assistance Program Procurements

§ 1206.703-50 Use of domestic sources for MAP procurements.

MAP requirements will be procured in accordance with ASPR Section VI, Part 7 and DOD Directive 2125.1, Military Assistance Program Offshore Procurement (MAP.OSP), dated 18 June 1970. DOD Directive 2125.1 sets forth policies and procedures for procurement of Defense articles and Defense services from suppliers delivering from sources located outside the U.S., its possessions and Puerto Rico for the Military Assistance Program. The DOD Directive requires that MAP procurements be restricted to domestic sources unless, for purchases of $10,000 or less, such action is clearly undesirable, or for MAP purchase in excess of $10,000, the cost of domestic source end products, or services of domestic concerns located in the United States, is estimated to be more than 50% in excess of the cost from foreign sources. Prior to the solicitation of MAP requirements, procuring contracting officers shall consider the ciretria of Section IV, paragraph B.4, of DOD Directive 2125.1. In all cases where the preliminary judgment is that the procurements should not be restricted to domestic end sources, the proposed procurements shall be rederred to the Executive Director, Procurement, HQ DLA, ATTN: DLA-PP.

§ 1206.703-51 Exceptions.

(a) In any case where a procurement has been restricted to domestic source end products and a foreign offer is, nonetheless, received which meets the criteria in Section IV, paragraph B.4 of DOD Directive 2125.1, the procurement will be referred to the Executive Director, Procurement, HQ DLA, ATTN: DLA-PP.

(b) Notwithstanding the above, DPSC is referred to the restriction in Section 606(c) of the Foreign Assistance Act of 1961, as amended, against the procurement of patented drugs from foreign sources when MAP funds are used.

Subpart H—Balance of Payments Program

§ 1206.805 Supply and service contracts.

§ 1206.805-2 Procurement limitations.

(b) For procurements estimated not to exceed $100,000, the authority in ASPR 6-805.2(b)(1) is redelegated to HPAs within DLA. This authority may be delegated to the principal staff officer responsible for procurement within the Procuring Activity. DGSC is authorized to redelegate this authority to purchase foreign books and publications not to exceed $10,000 to the contracting officer concerned.

(e) The documentation referred to in ASPR 6-805.2(e) shall be prepared in the form of a Determination and Findings and shall be forwarded to the Executive Director, Procurement, HQ DLA, Attn: DLA-PP. When the procurement is justified under ASPR 6-805.2(a)(v), the Determination and Findings shall include a statement of facts establishing nonavailability and an indication of the consideration given to foregoing the requirement or providing a domestic made substitute. The following specific information shall be furnished in letter transmitting the Determination and Findings:

(1) Stock number;
(2) Item nomenclature;
(3) Description (to include pertinent specification citations);
(4) Backorder situation;
(5) Average monthly demand;
(6) Due-in quantities by date;
(7) Average price paid during the previous year;
(8) Latest procured quantity and price;
(9) Quantity and delivery schedule recommended for offshore procurement (OSP);
(10) Fund availability;
(11) Offshore source, if known; and
(12) Any other pertinent data for justifying the proposed procurement.

Subpart I—International Agreements and Coordination

§ 1206.902 International agreements.

§ 1206.902-50 Procurement services for the FRG.

(a) *General.* Based on principles expressed in the Mutual Defense Agreement between the USA and the Federal Republic of Germany (FRG) of 8 October 1976 (TIAS 3660) and its subsequent amendments of 24 October 1960 (TIAS 4599) and 24 November 1961 (TIAS 4903), the U.S. Government has agreed to sell to the FRG certain military equipment, materials and services pursuant to Sec. 106 of the Mutual Security Act of 1954 as amended. The 1961 amendment broadened the Agreement to provide U.S. Government procurement for the FRG of items not previously procured. These procurement services include sale to or purchase for the FRG of certain articles and services which are not standard military items but which are directly related to or essential for the operational capability of the Armed Forces of the FRG.

(b) *Definitions.*

(1) *Nonstandard Items.* The Military Services will make the determination of whether an item is nonstandard. However, in cases where the determination has not been made and where the item has not previously been purchased as a standard item, the determination of whether the item is standard or nonstandard will be made by Plans and Operations Branch, Procurement Division, Directorate of Procurement, HQ DLA, (DLA-PPP).

(2) *Procurement Services.* The purchase, inspection, processing, financing, and delivery of nonstandard items to the FRG.

(c) *Policies.* The furnishing of procurement services for nonstandard military items will be provided the FRG by DSCs according to the following policies.

(1) Contract clauses and procedures will be in accordance with the Armed Services Procurement Regulation (ASPR). In no event will contracts be awarded at other than prices which are determined to be reasonable.

(2) Items not covered by U.S. Government specifications will be procured according to manufacturers' specifications and warranties, unless the FRG requests other specifications, qualifications, and warranties. If the specifications and warranties of the manufacturer are considered inadequate for procurement purposes, such specifications and warranties may be adequately supplemented by the U.S. Government after consultation with FRG.

(d) *Responsibilities.*

(1) The DSCs will render prompt procurement services to the FRG for

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nonstandard items essential for the operational capability of the Armed Forces of the FRG.

(2) The questions or problems that cannot be resolved will be referred to HQ DLA, Attn: DLA-PPP.

Subpart M—Procurements for Foreign Military Sales

§ 1206.1303 Preparation of DOD offer and acceptance (DD Form 1513).

§ 1206.1303-1 Procedures.

(a) When new procurement over $10,000 is contemplated, requests from a Military Service International Logistics Control Office (ILCO, the activity normally responsible for submitting the DOD Offer and Acceptance, DD Form 1513, to a foreign country), for Price and Availability data, will be referred to the Directorate of Procurement and Production in each Center. The Directorate of Procurement and Production will obtain information relating to price and production leadtime; identify and review sales commissions and fees which may be involved; and identify any unusual contractual requirements or provisions which may impact on the procurement. This information shall be forwarded to the Supply Office which, in turn, will respond to the ILCO request.

(b) The Directorate of Procurement and Production in each Center will furnish whatever assistance it can reasonably give in identifying known or potential U.S. commercial suppliers for particular items being sought by foreign government authorities when the inquiry is received from an ILCO. In addition, such assistance shall be given directly to government authorities of Latin American countries.

§ 1206.1303-50 *FMS shipping instructions.*

(a) To reduce misdirected shipments of FMS materiel, no shipping addresses will be placed on FMS orders or contracts. Instead, a notice shall be placed in the order requiring the contractor to contact the transportation officer at the contract administration office for shipping instructions. A clause substantially as follows shall be used:

FMS Shipping Instructions (DLA 1977 Jul). Contractor will contact the transportation officer at the cognizant contract administration office for shipping instructions prior to shipment.

(b) A shipping address may be placed in FMS orders or contracts if complete shipment is anticipated within 120 days of award.

(c) Contracts or orders contemplating the use of the defense transportation system rather than a freight forwarder may include a firm shipping address.

(d) Additional contract provisions may be appropriate for requisitions which contain a "Z" or "Y" card column 46 to satisfy unique requirements of these requisitions. The clauses currently being used by DSCs for these requisitions may continue to be used. However, care should be taken to assure that freight forwarder or embassy addresses are not listed on the order/contract.

§ 1206.1310 Implementation of offset arrangements included in foreign military sales agreements.

§ 1206.1310-2 *General.* The U.S. Government has entered into general offset agreements with the Governments of Norway, the United Kingdom, Switzerland and Australia which in general attempt to ensure that, to the maximum extent possible, purchases by these countries of major weapons systems and associated defense equipment from U.S. sources are offset by purchases of items produced in these countries.

§ 1206.1310-3 *Procedures.*

(a) Offset procurements will be conducted in accordance with ASPR and normal procurement procedures. Eligible foreign sources will be provided the same technical information and help that is normally provided U.S. sources, insofar as this assistance is consistent with National Disclosure Policy and U.S. Industrial Security Regulations. Their names will be placed on the appropriate Bidders Mailing Lists in accordance with the procedures in ASPR 2-205.7. The normal criteria for making small business and labor surplus area set-asides are to be utilized without regard to the fact that there are potential foreign sources for the items. Procurements from foreign sources will not be made where prohibited by law (e.g., the DoD Appropriation Act).

(b) Solicitations on which a response is anticipated from a foreign source under an offset program should contain a Notice of Potential Foreign Source Competition and a Duty-Free Entry clause. The Notice of Potential Foreign Source Competition clause in ASPR 7-2003.75 may be used except that solicitations anticipating a response from a UK source should contain the clause in § 1206.1310-3(d)(2).

(c) As soon as it is determined that a bid or proposal involving a foreign product from one of the countries identified in DLPR 6-1310.2, other than the United Kingdom, would be accepted but for the Buy American or Balance of Payments Program evaluation factors prescribed by ASPR 6-104.4, the contracting officer shall prepare a statement of the facts surrounding the procurement in sufficient detail to permit judgement as to whether an exception from the Buy American or Balance of Payments restrictions should be authorized. The statement shall be referred to HQ DLA, Attn: DLA-PPR, for appropriate action. Procedures for UK bids or proposals are provided in (d) below.

(d) The Secretary of Defense has executed a Determination and Findings authorizing waiver of the Buy American Act differentials (ASPR 6-104.4) for United Kingdom items. In addition, the Secretary has stated that the Balance of Payments price differentials (ASPR 6-104.4) are inapplicable to UK items. Thus, bids or proposals from UK firms which would be accepted but for the Buy American or Balance of Payments Program will normally be awarded to the UK firm. No further approval of the exception to the Buy American Act is required.

(1) *Exceptions.* There are three exceptions to the above policy.

(i) Restrictions other than the Buy American Act, such as the DOD Appropriation Act, continue to apply to UK items.

(ii) Restricted items set forth in ASPR 1-2207 are excepted.

(iii) Items for which contracts are negotiated pursuant to the authority of ASPR 3-216 are excepted.

(2) *Solicitation provisions.* Solicitations which anticipate competition from UK sources will contain the notice below in lieu of or in addition to the clause set forth in ASPR 7-2003.75:

NOTICE OF POTENTIAL FOREIGN SOURCE COMPETITION

Bids or proposals for this procurement are being solicited from sources in the United Kingdom of Great Britain and Northern Ireland (UK). It has been determined by the Secretary of Defense that the restrictions of section 2 of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a; Buy American Act) shall not apply to items of Defense equipment described in this solicitation when produced or manufactured by UK sources.

(3) *Rejection of acceptable UK bids or proposals.* Otherwise acceptable UK bids or proposals may be rejected when the head of a Defense Agency considers it necessary for reasons of the national interest. Requests for a decision to reject UK offers on this basis should be sent to HQ DLA, Attn: DLA-PPR.

(e) To ensure that these programs are effective, each DSC will designate a contact point who shall be responsible for monitoring the programs. These contact points must be conversant with the policy of selective competitive procurement from foreign sources in the event that they are contacted by foreign officials or prospective foreign contractors. In addition, each contact point shall be prepared to advise DLA-PPP of the current status of the programs and furnish reports as required.

(f) When an Australian source is solicited, two copies of the complete bid/proposal package (including the necessary specifications and/or drawings) should be sent to:

Chief, U.S. DOD Procurement Information Office, c/o Department of Supply, Constitution Avenue, Canberra, Australia 2600.

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PART 1207—CONTRACT CLAUSES AND SOLICITATION PROVISIONS

Subpart A—Fixed-Price Supply Contracts

Sec.
1207.103 Required clauses.
1207.103-8 Assignment of claims.
1207.103-12 Disputes.

Subpart H—Letter Contracts

1207.850 Letter Contract for DLA Industrial Readiness Planning Program.
1207.850-1 Format.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart A—Clauses for Fixed-Price Supply Contracts

§ 1207.103 Required clauses.

§ 1207.103-8 Assignment of claims.

In cases where special circumstances make it advisable in the best interest of the Government, HPAs may authorize deletion of the last sentence of paragraph (a) of the Assignment of Claims clause set forth in ASPR 7-103.8.

§ 1207.103-12 Disputes.

(c) The Disputes clauses contained in ASPR 7-103.12 shall not be modified to provide for an intermediate appeal board.

Subpart H—Letter Contracts

§ 1207.850 Letter contract for DSA Industrial Preparedness Planning Program.

§ 1207.850-1 Format.

CONTRACT NO. ————.

Gentlemen:

This Letter Contract, upon acceptance by your firm will constitute a contract on the terms and conditions stated herein and signifies the intention of the Defense Logistics Agency to enter into a firm fixed-price contract with you for the deliveries of the supplies and performance of the services listed on DD Form 1519 which was executed on ———— in furtherance of the Industrial Preparedness Program.

Schedule of Supplies or Services

The supplies and services to be furnished and the time and place of delivery are as follows:

Contract For ————————————————

———————————————————————

———————————————————————

———————————————————————

———————————————————————

Specification Number ————————————

Appropriation and other Administrative Data

The supplies and services to be obtained under this Letter Contract are chargeable to the following allotments, the available balances of which are sufficient to cover the cost of same————.

F.O.B. ————————————————————

Execution, Commencement of Work and Priority Rating

The Contractor's acceptance of this order will be indicated by affixing its signature to three copies thereof and returning the executed copies to the Contracting Officer not later than ————. Upon acceptance by both parties, the Contractor shall proceed with performance of the work described herein, including procurement of necessary materials. An appropriate priority rating, in accordance with the Department of Defense Priority and Allocation Manual, will be assigned to this Letter Contract. (ASPR 7-802.2).

Priority Rating

DO or DX ———— (appropriate program code symbol) Certified for national defense use under Defense Materials System Regulation 1.

DEFINITIZATION

(a) A firm fixed-price type definitive contract is contemplated. To accomplish this result, the Contractor agrees to enter into negotiation promptly with the Contracting Officer over the terms of a definitive contract, which will include all clauses required by the Armed Services Procurement Regulation on the date of execution of the letter contract, all clauses required by law on the date of the execution of the definitive contract and such other clauses, terms, and conditions as may be mutually agreeable. The Contractor agrees to submit a fixed-price proposal (cost and fee proposal), and cost or pricing data supporting that quotation.

(b) The schedule for definitization of this contract is set forth below:

———————————————————————

———————————————————————

———————————————————————

———————————————————————

Target Date for Definitization: ————————

(c) If agreement on a definitive contract to supersede this letter contract is not reached by the target date set forth in (b) above or any extension thereof by the Contracting Officer, the Contracting Officer may, with the approval of the Head of the Procuring Activity, determine a reasonable price or fee in accordance with ASPR Section III, Part 8, and Section XV, subject to appeal by the Contractor as provided in the "Disputes" clause of this contract. In any event, the Contractor shall proceed with completion of the contract, subject only to the "Limitation of Government Liability" clause. After the date of the Contracting Officer's determination of price or fee, the contract shall be governed by:

(1) all clauses required by the Armed Services Procurement Regulation on the date of execution of this letter contract for either a fixed price type contract or a cost reimbursement type contract as determined by the Contracting Officer under this paragraph (c);

(2) all clauses required by law as of the date of the Contracting Officer's determination; and

(3) such other clauses, terms and conditions as may be mutually agreed upon.

To the extent consistent with the foregoing, all clauses, terms and conditions included in this letter contract except which by their nature are applicable only to a letter contract shall continue to be effective.

Limitation of Government Liability

(a) The Contractor is not authorized to make expenditures or to incur obligations, in performance of this contract, which exceed ———— *dollars* ($————).

(b) The maximum amount for which the Government shall be liable if this contract is terminated is ———— dollars ($————).

(c) Unless otherwise provided herein no progress paymnent to the Contractor will be made under this contract.

The enclosed forms, with the exception of Enclosure(s) ——— and clause(s) ——— are hereby incorporated into this letter contract which is entered into pursuant to 10 U.S.C. 2304(a)(1) and any required determination and findings have been made.

Sincerely yours.

Enclosures.

Accepted ————

————————
(Contractor)

————————
Contracting Officer

By ————————

————————
(Name—Official Title)

PART 1208—TERMINATION OF CONTRACTS

Subpart B—General Principles

Sec.
1208.201 Authority of Contracting Officers.

Subpart F—Termination for Default

1208.601 General.
1208.602 Termination of Fixed-Price Supply Contracts for Default.
1208.602-3 Procedure for Default.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart B—General Principles

§ 1208.201 Authority of contracting officers.

(a) The Head of the Procuring Activity shall prescribe procedures under

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which contracting officers may terminate contracts for the convenience of the Government and in the case of cost-reimbursement type contracts for the default of the contractor. Notwithstanding a change in requirements a contract is not to be terminated for convenience (except at no cost to the Government as provided in ASPR 8-602.4(iii)) if the contractor is in unexcusable default and the Government has a legal right to terminate such contract for default.

(b) The settlement of contracts terminated for the convenience of the Government is the responsibility of the cognizant Defense Contract Administration Office (DCAS). A contract may be terminated for the convenience of the Government by the procuring contracting officer (PCO) at no cost to the Government and without referral to DCAS or the issuance of a notice of termination when the PCO is aware that (1) the contractor will accept a no-cost settlement, (2) Government property was not furnished, and (3) there are no outstanding payments, claims or other contractor obligations. In all other cases a notice of termination for the convenience of the Government shall be issued and a copy forwarded to DCAS for action as specified in ASPR 8-203(b).

Subpart F—Termination for Default

§ 1208.601 General.

The decision as to the type of termination action to be taken (i.e., for default, for convenience, or a no-cost settlement) shall be made only after a review of cognizant experienced procurement and technical personnel, and by counsel assigned or available to the particular procuring activity or purchasing office. Under no circumstances should any notice of termination be furnished to the contractor until this review has been made. Careful consideration should be given to the Government's interests whenever small business guaranteed loans (see § 1201.705-4(d)), progress payments, or advance payments are involved.

§ 1208.602 Termination of fixed-price supply contracts for default.

§ 1208.602-3 Procedure for default.

The following procedures, prescribed by the General Services Administration, shall be followed in terminating for default delivery orders placed against Federal Supply Schedule contracts.

(a) *Ordering Office.* Before declaring a contractor in default, ordering offices should ordinarily notify the contractor in writing that unless satisfactory performance occurs by a specified date, which should allow a reasonable time for performance, his right to proceed further under the delivery order will be considered terminated and he will be held liable for any excess costs resulting from purchasing the supplies or services elsewhere. This step will not be taken when the default involves an attempted fraud on the United States, or when it obviously would be futile, as for example, when the contractor has already declined to perform. Where excess costs are anticipated, the ordering office may withhold sufficient funds due to contractor as offset security. Ordering offices will endeavor to minimize excess costs to be charged against the contractor and to collect, by check or setoff, excess cost owed.

(b) *Federal Supply Service (FSS).* Where ordering offices are notified by the Federal Supply Service that it has declared the contractor in default, ordering offices will thereafter refuse to accept further performance by the contractor or place further delivery orders with it. Ordering offices will thereafter purchase against the account of the contractor from replacing contractors designated by the FSS or in such other manner as directed by the FSS.

(c) *Notification.* Ordering offices shall furnish to the Purchase Branch, FSS, Room 809, Crystal Mall, Building 4, Washington, D.C. 20406, the details concerning all material instances of unsatisfactory performance by the contractor, whether or not properly adjusted and settled. Ordering offices also shall report, as may be directed by the FSS, all purchases made against the account of a contractor placed in default by the FSS.

PART 1209—PATENTS, DATA, AND COPYRIGHTS

Sec.
1209.000 Scope of Section.
1209.000-50 Authority.
1209.000-51 Supply of Patented Components as GFP.

Subpart A—Patents

1209.103 Patent Indemnification of Government by Contractor.
1209.103-4 Waiver of Indemnity by the Government.
1209.110 Reporting of Royalties—Anticipated or Paid.
1209.112 Adjustments of Royalties.

Subpart B—Rights in Technical and Other Data and Copyrights

1209.202 Acquisition of Rights in Technical Data.
1209.202-50 Reporting of Improper Use of Data or Technical Data.

Subpart C—Foreign License and Technical Assistance Agreements

1209.304 Foreign License and Technical Assistance Agreements Between a Domestic Concern and a Foreign Government or Concern.
1209.304-2 Review of Agreements.

Subpart D—Processing Licenses, Assignments, and Infringement Claims

1209.401 Policy.
1209.401-50 Processing of Infringement Claims.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

§ 1209.000 Scope of section.

§ 1209.000-50 Authority.

The Counsel, DLA, is authorized to act for the Director, DLA, on all patent, copyright, rights in data and trademark matters arising in the DLA. Any question on such matters shall be referred to the Counsel, DLA.

§ 1209.000-51 Supply of patented components as GFP.

Where patented or proprietary components are required in end items purchased by DLA activities, particularly military type items, consideration may be given to furnishing such components as Government-furnished property.

Subpart A—Patents

§ 1209.103 Patent indemnification of government by contractor.

§ 1209.103-4 Waiver of indemnity by the government.

Specific patents may be excluded in accordance with ASPR 9-103.4 only with the prior approval of the Counsel, DLA, or the Patent Counsel, DLA.

§ 1209.110 Reporting of royalties—anticipated or paid.

Counsel for the procuring activity concerned will forward to the Counsel, DLA, a copy of each royalty report received in accordance with ASPR 9-110 which indicates that royalties in excess of $250 have been paid or are to be paid to any person or firm.

§ 1209.112 Adjustment of royalties.

The report required by ASPR 9-112 shall be made to Counsel for the procuring activity concerned who shall forward the report to the Counsel, DLA, for appropriate action.

Subpart B—Rights in Technical and Other Data and Copyrights

§ 1209.202 Acquisition of rights in technical data.

§ 1209.202-50 Reporting of improper use of data or technical data.

Any direct or indirect charge of improper use of data of technical data received by any procuring activity, shall be referred to Counsel for the activity who will notify and coordinate all actions on such cases with the Counsel, DLA.

Subpart C—Foreign License and Technical Assistance Agreements

§ 1209.304 Foreign license and technical assistance agreements between a domestic concern and a foreign government or concern.

§ 1209.304-2 Review of agreements.

Proposed foreign license and technical assistance agreements between domestic concerns and foreign governments or concerns forwarded to the DLA under the provisions of ASPR 9-304.1 shall be referred to the Counsel, DLA, for action in accordance with ASPR 9-304.2.

Subpart D—Processing Licenses, Assignments, and Infringement Claims

§ 1209.401 Policy.

§ 1209.401-50 Processing of infringement claims.

(a) Any direct or indirect charge or threat of patent, trademark or copyright infringement received by any procuring activity, shall be referred to Counsel for the activity who will notify and coordinate all actions on such cases with the Counsel, DLA.

(b) The Counsel, DLA, or the Patent Counsel, HQ DLA, are hereby authorized to make acquisitions in accordance with 10 U.S.C. 2386 and to enter into agreements in settlement of claims under the Foreign Assistance Act of 1961 (22 U.S.C. 2356) and 35 U.S.C. 181-188. Coordination with the Departments of the Army, Navy and Air Force in the processing and final disposition of each claim shall be effected by the Counsel, DLA or the Patent Counsel, HQ DLA.

PART 1210—BONDS, INSURANCE, AND INDEMNIFICATION

Subpart A—Bonds

Sec.
1210.112 Execution and Administration of Bonds and Consents of Surety.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart A—Bonds

§ 1210.112 Execution and administration of bonds and consents of surety.

(b) *Administration.* All bonds and all consents of surety will be reviewed by counsel of the activity for legal sufficiency. The original signed bond shall subsequently be retained with the original copy of the contract where practical.

PART 1212—CONTRACTOR INDUSTRIAL LABOR RELATIONS

Subpart A—Basic Labor Policies

Sec.
1212.101 Labor Relations.
1212.101-1 General.
1212.101-3 Reporting of Labor Disputes.
1212.107 Labor Standards Enforcement Report.

Subpart F—Walsh-Healey Public Contracts Act

1212.604 Eligibility of a Bidder or Offeror.
1212.650 Exception Not Stated in the Publications Furnished Contracting Officers.

Subpart G—Fair Labor Standards Act of 1938

1212.702 Suits Against Government Contractors.

Subpart H—Equal Employment Opportunity

1212.804 Equal Opportunity Clauses.
1212.804-50 Equal Employment Opportunity Compliances Responsibilities.
1212.807 Affirmative Action Programs.
1212.808 Compliance Reviews and Clearances.
1212.808-50 Contractor Compliance.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart A—Basic Labor Policies

§ 1212.101 Labor relations.

§ 1212.101-1 General.

Whenever labor representatives request permission to enter a DLA installation on which private contract employees are engaged in contract work to conduct union business during working hours, the commanding officer may admit such representatives, provided (a) the presence and activities of the labor representatives will not interfere with the progress of the contract work involved, and (b) the entry of such representatives to the installation shall not violate pertinent safety or security regulations. Commanding officers shall take all necessary action to enforce the above policy and facilitate ready access to worksites within military installations. One method which has met with success in appropriate situations is the maintenance by commanding officers of a list of labor representatives, who have been cleared with regard to safety and security considerations and who may be admitted into respective installation to conduct union business. The determination as to who are appropriate labor representatives should be made by the commanding officer on recommendation of the contracting officer and representatives of the DLA Industrial Labor Relations Office after consultation with local union officials. Business offices or desk space for labor organizations for solicitation of membership, collection of dues, or other business of the labor organization not directly connected with the contract work, shall not be permitted on the installation except for the routine functions of the working steward whose union duties are incidental to his assigned job. In the event that a commanding officer of an installation or the contracting officer or his representative denies entry to a labor representative for any reason such officer shall notify, through channels, the DLA Industrial Labor Relations Advisor, HQ DLA, ATTN: DLA-HR. Such notification shall include the reasons for denial, including names, addresses, of representatives denied entry, and union affiliation, if known, of such representatives. An information copy of each notification shall be forwarded to HQ DLA, ATTN: DLA-PRS.

§ 1212.101-3 Reporting of labor disputes.

The report of labor disputes on DD Form 1507, Work Stoppage Report, in accordance with ASPR 12-101.3(c), is assigned Reports Control Symbol DD I&L(AR)1153.

§ 1212.107 Labor Standards Enforcement Report.

The semiannual report of compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and Contract Work Hours and Safety Standards Act shall be prepared in accordance with ASPR 12-107 and forwarded to HQ DLA, ATTN: DLA-PRS, so as to arrive not later than 15 days after the close of the reporting period (31 December and 30 June).

Subpart F—Walsh Healey Public Contracts Act

§ 1212.604 Eligibility of a bidder or offeror.

(a) In those instances where the contracting officer makes a determination of ineligibility as a manufacturer or regular dealer, such determination, together with supporting documentation, shall be submitted to the Head of the Procuring Activity or his designee for review and approval.

(b) In the case of DDMT, DDTC, DDOU, DIPEC, DLSC and DASC, the review responsibility set forth in § 1212.604 is hereby delegated to the Commander concerned, or his designee, in accordance with § 1201.201-14.

§ 1212.650 Exception not stated in the publications furnished contracting officers.

Certain of the exceptions stated in the publications furnished contracting officers which contain no specific expiration date may have been rescinded by the Secretary of Labor since date of publication. In case of doubt, inquiry may be directed to the appropriate Regional Director, Wage and Hour and

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Public Contracts Divisions, Department of Labor indicated in ASPR 12-607.

Subpart G—Fair Labor Standards Act of 1938

1212.702 Suits against Government contractors.

Cost-plus-a-fixed-fee contractors and subcontractors should be advised that immediately upon receipt of process in any legal action filed against them they must furnish a copy of all papers to the contracting officer. An immediate report of the legal action shall be made direct to the Counsel, HQ DLA.

Subpart H—Equal Employment Opportunity

§ 1212.804 Equal opportunity clauses.

§ 1212.804-50 Equal employment opportunity compliances responsibilities.

(a) In all cases in which a Center or Depot retains the administration of a contract which contains the Standard Equal Opportunity clause or an approved local plan bid conditions, a letter of notification of such award shall be sent to the cognizant DCASR which includes the location in which the work is to be performed. The DCASR Contract Compliance Office (CCO) has the responsibility for insuring contractor compliance with the EEO provisions. The letter of notification will be marked to the attention of the Compliance-Office and will contain the following information.

(1) Contract number and dollar value.

(2) Contractor name and address.

(3) Nature of services to be performed.

(4) Site of work.

§ 1212.807 Affirmative action programs.

§ 1212.807-2 Construction contracts.

The DCASR CCO shall be notified of the date, time and place of any preconstruction conferences so that the Compliance Office may have an opportunity to review the EEO requirements with the contractor.

§ 1212.808 Compliance review and clearances.

§ 1212.808-50 Contractor compliance.

(a) Policy Branch, Procurement Division, Directorate of Procurement (DLA-PPR) will issue semi-monthly a list of contractors found not in compliance with current Equal Employment Opportunity (EEO) regulations. This list shall be utilized by DLA contracting elements to determine, from an EEO standpoint, the eligibility of a contractor for an award.

(b) DLA PPR will maintain a master list of contractors who, for reasons of noncompliance with EEO regulations, have been debarred. Notices of debarment/reinstatement will be issued by DLA-PPR as they are received.

(c) Any questions relating to the eligibility of a contractor for award should be directed to HQ DLA, ATTN: DLA-PPR.

PART 1213—GOVERNMENT PROPERTY

Subpart C—Providing Government Property to Contractors

Sec.

1213.301 Providing facilities.

Subpart E—Competitve Advantage

1213.501 Policy.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart C—Providing Government Property to Contractors

§ 1213.301 Providing facilities.

(a)

(1)

(i) Requests for new facilities will be forwarded to HQ DLA, Attn: DLA-P, for approval by the Executive Director or Deputy Executive Director, Procurement. Sufficient documentation will be provided with the request to show that the need for supplies or services cannot be met by any other practical means or that the furnishing of facilities will be in the public interest. Commanders of Defense Supply Centers, DIPEC, DDMT, DDOU and DDTC are authorized to provide existing facilities under the conditions set forth in ASPR 13-301.

(ii) A copy of the contractor's written statement, expressing his unwillingness or financial inability to acquire the necessary facilities with his resources, will be included as a part of requests for new facilities. A copy of the written statement obtained in connection with provision of existing facilities will be furnished to HQ DLA, Attn: DLA-PR, within 15 days after receipt from contractor.

The foregoing actions are not required when Government facilities to be utilized in the performance of a DLA contract are in the contractor's possession under a prior authorization. (ASPR Case 72-2-2).

(b) When determination is made that solicitations should include an offer to furnish existing Government facilities because adequate price competition cannot be otherwise obtained, the case will be fully documented to indicate the basis for such determination. Referral to HQ DLA, Attn: DLA-PR is not required prior to inclusion of an offer to provide existing facilities except for Approved Plant Equipment Packages. Requests for use of equipment included in such packages will be processed in accordance with procedures set forth in paragraph 10-403, DLAM 4005.1.

Subpart E—Competitve Advantage

§ 1213.501 Policy.

It is DOD policy to eliminate the competitive advantage that might otherwise arise from acquisition or use of Government production and research property. This is accomplished by charging rental or by use of rental equivalents in evaluating bids and proposals. Within the Defense Logistics Agency, the more desirable procedure is to develop an evaluation factor equal to the rent (ASPR 13-502.2), obtain the necessary approvals to authorize rent-free use of the Government property and award less the evaluation factor. A lower unit cost is thereby achieved and procurement funds are conserved. Rental monies eventually flow back into the U.S. Treasury but at the expense of the DLA budget. Accordingly, the rental procedure will be utilized only when absolutely necessary.

PART 1214—PROCUREMENT QUALITY ASSURANCE

Subpart C—Contract Provisions

Sec.

1214.305 Places of performance of Government procurement quality assurance actions.

1214.305-2 Government procurement quality assurance at source.

1214.305-3 Government procurement quality assurance at destination.

1214.306 Acceptance of supplies or services.

Subpart D—Government Procurement Quality Assurance Actions

1214.406 Nonconforming supplies and services.

1214.406-50 Nonconforming supplies and services.

1214.406-51 Definitions.

1214.406-52 Processing of requests for waiver.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart C—Contract Provisions

§ 1214.305 Places of performance of Government procurement quality assurance actions.

§ 1214.305-2 Government procurement quality assurance at source.

In addition to the provisions of ASPR 14-305.2, Government procurement quality assurance actions will be performed at source for supplies having a critical application. When a critical application item is procured from a sole source and the supplier will not permit source inspection, recommend this matter be negotiated with adequate consideration flowing to the Government, on a case-by-case basis, for the added cost of performance of the necessary technical inspection at destination at a designated Government laboratory or at the using activity.

§ 1214.305-3 Government procurement quality assurance at destination.

Prior to designating that Government procurement quality assurance actions will be performed at destination the contracting officer shall determine that the:

(a) depot or receiving activity has the technical ability to perform the inspections;

(b) necessary technical data, specifications, blue prints, etc., are available at the receiving point or will be furnished the receiving activity prior to receipt of the supplies; and

(c) equipment required to perform the inspection is available at the receiving point.

§ 1214.306 Acceptance of supplies or services.

(c) When it is desirable, based upon the criteria contained in ASPR 14-306(c), to use a contractor's certification that supplies conform to contract requirements either as additional assurance to inspection or as the sole basis for acceptance without prior Government inspection, the following will apply:

(1) A clause worded substantially as follows will be inserted in the contract:

Certificate of Conformance (DLA 1975 MAY).

(a) Unless specified otherwise in the contract award, the contractor is required to deliver the supplies to be furnished hereunder with a "Certificate of Conformance" when inspection and acceptance is at destination, and, at the option of the Government Contract Administration Office, may be required to deliver the supplies with a "Certificate of Conformance" when inspection and acceptance is at source. The contractor signed certificate shall be attached to or included on the top copy of the DD 250 or 1155 copies distributed to the payment office. Where acceptance is at destination, a copy of the signed certificate shall also be attached to or entered on copies of the DD 250, DD 1155 or other appropriate documents accompanying the shipment. This certificate shall read as follows:

"I hereby certify that on (Date) ——— the (contractor's name) ——————— shipped the supplies called for by Contract No. DLA ——— via (carrier) ——————— on (Bill of Lading or Shipping Document) ———————

in accordance with all applicable requirements for shipment. I further certify that the supplies are of the quality specified and are in all respect in conformance with the contract requirements, including specifications and/or drawings, preservation, packaging, packing and marking requirements; physical item identification (part number), and in the quantity shown on this, or the attached acceptance document."

Date of Execution: ———————

Signature ———————

Title: ———————

(2) The execution of the COC as a condition for acceptance by the Government is advantageous because of the reduction in time and cost of Government inspection without reducing the quality of supplies received. The contractor's COC is used principally (i) as an alternative to Government procurement quality assurance at source, (in this instance the contract should specify inspection and acceptance at destination); (ii) at the option of the Government Contract Administration Office when inspection and acceptance are at source and the value of supplies or the condition of purchase, delivery, or receipt or use thereof makes it desirable to have additional assurance that supplies conform to contract requirements; and (iii) at the option of the Government Contract Administration Office, when inspection and acceptance are at source and COC is used as the sole basis for acceptance for supplies shipped directly to bases in CONUS and overseas.

(3) The inclusion of post acceptance remedies in the COC clause is not appropriate. Post acceptance remedies for purchase orders (ASPR 3-608) are limited to the commercial warranty on the reverse side of DD Form 1155. For other contracts which include the inspection clause in ASPR 7-103.5, inspection rights of the Government are cut off after acceptance of supplies except as regard latent defects, fraud or such gross mistakes as amount to fraud. If post acceptance rights are desired, warranty clauses should be prepared in accordance with criteria of ASPR 1-324 for inclusion in the contract.

(4) The use of such terminology as "inspection and acceptance by COC" is improper and is not authorized. The place of acceptance, as determined under the criteria set forth in ASPR 14-305, 14-307, and 14-308, shall be clearly stated on the contract or purchase order. Except as authorized under Fast Pay procedures, acceptance by the contracting officer is required prior to payment. The COC and the Fast Pay procedure, ASPR 3-606 are separate and distinct concepts and will not be combined in any manner.

(5) When a contract or purchase order is assigned to a Contract Administration Office (CAO) for inspection and acceptance at source, the CAO's right to base its acceptance upon actual inspection of the supplies shall not be abridged. The insertion of a COC clause that requires the CAO to accept the supplies based solely upon a COC is not authorized. The CAO shall be given the options of performing inspection and/or based upon contractor's reputation or past performance, requiring the contractor to furnish a COC for use as additional assurance or as the sole basis for acceptance of supplies and services.

Subpart D—Government Procurement Quality Assurance Actions

§ 1214.406 Nonconforming supplies and services.

§ 1214.406-50 Nonconforming supplies and services.

(a) ASPR 14-406 states that it is Government policy that supplies which do not conform in all respects to the contract requirements should be rejected, but provides for exceptions when acceptance of such nonconforming supplies is in the interests of the Government (e.g., for reasons of economy or urgency). This ASPR guidance provides the basis for the contractor practice of requesting waiver of nonconformances in supplies that have been tendered to and rejected by a Government quality assurance representative.

(b) It is DLA policy that the granting of waivers shall be emphatically discouraged in all cases where the contractor is at fault in producing the nonconforming supplies.

(c) For supplies having minor nonconformances, as defined below, contractor requests for waiver shall be rejected except in those few cases where it is clearly advantageous to the Government to accept the nonconforming supplies and they are suitable "as is" for the intended use or the nonconformance results in a superior product.

(d) For supplies having major nonconformances, as defined below, the final determination as to their suitability for use is the responsibility of the activity responsible for technical requirements. The concurrence of such technical activity shall be obtained before waiver of a major nonconformance is granted.

§ 1214.406-51 Definitions.

(a) *Nonconforming Supplies.* Those supplies which contain one or more departures from contractual requirements. Nonconformances are categorized as follows:

(1) *Major Nonconformance.* The failure to conform adversely affects one or more of the following major areas: (i) performance; (ii) durability; (iii) reliability, interchangeability or maintainability of the item or its repair parts; (iv) effective use or operation;

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(v) weight or appearance (where a factor); or (vi) health or safety.

(2) *Minor Nonconformance.* The failure to conform does not adversely affect any of the major areas listed above. However, when several minor nonconformances exist on a single item, a determination will be made as to whether the cumulative effect is, in reality, a major nonconformance.

(b) *Request for Waiver.* A request for acceptance of nonconforming supplies or services which is prepared by a contractor on his own form or letterhead, unless a specific form is designated by contract.

(c) *Waiver.* A written authorization to accept an item which during production or upon being offered to the Government for inspection and acceptance is found to depart from specified requirements, but nevertheless is considered suitable for use "as is."

§ 1214.406-52 Processing of requests for waiver.

The procuring contracting officer (PCO) shall:

(a) Process requests for waiver expeditiously to avoid production delays and possible claims against the Government, and to assure full utilization of the technical information obtained as a result of waivers.

(b) Ascertain whether the contractor's request for waiver was forwarded through the administrative contracting officer (ACO) and includes the ACO's recommendations for approval or disapproval. The PCO must have the ACO's comments and recommendations in order to properly evaluate a request for waiver. Conversely, the ACO must be fully apprised of the request for waiver in order to assure that the contractor has taken action to correct and prevent recurrence of the conditions causing the nonconformance. Therefore, requests for waiver submitted directly to the PCO shall be returned to the contractor for resubmission through the ACO, except in those situations where time is an essential element. In such cases, the ACO's recommendations will be obtained by the most expeditious means available.

(c) Ascertain the supply position of the item and the effect that rejecting the request for waiver will have on the delivery schedule.

(d) Refer the request for wavier to the quality element of the DSC for evaluation and recommendations. The quality element shall serve as the technical support focal point for waiver actions at the DSC's.

(e) Make a determination, based on the above, as to whether the request for waiver should be accepted (if a minor nonconformance), rejected or referred to the appropriate technical activity for concurrence.

(f) Modify those contracts under which nonconforming supplies are accepted to provide for an equitable price reduction or other consideration. In the case of minor nonconformances, the contract shall not be modified except when it appears that the price reduction or other consideration accruing to the Government will exceed the administrative cost to the Government of processing a contract modification (normally $100), or the best interests of the Government otherwise require that the contract be modified.

(g) Consider repetitive requests for waiver as a factor when making determination of a contractor's responsibility.

PART 1215—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart A—Applicability

Sec.
1215.107 Advance agreements on particular cost items.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DoD Directive 5105.22, January 5, 1977.

Subpart A—Applicability

§ 1215.107 Advance agreements on particular cost items.

(e) The ASPR Committee will cause a master list to be published annually which will contain the names of commercial contractors, nonprofit institutions, and educational organizations operating under negotiated overhead rates (ASPR 3-700) for cost reimbursement type contracts and contractors selected for tri-service departmental negotiation of advance agreements for independent research and development and bid and proposal costs (ASPR 15-107, 15-205.35 and 15-205.3). Interim changes will be published as required and will show only the specific additions, deletions, or changes that have occured.

(f) HQ DLA receives and will retain copies of reports/amendments of negotiated overhead rates and advance agreements for independent research and development, and bid and proposal costs for the entities on this master list. HQ DLA (DLA-PPP) will provide copies to DSCs upon request.

PART 1216—PROCUREMENT FORMS

Subpart A—Forms for Supply and Services Contracts

Sec.
1216.104 Instructions for preparation of forms for advertised and negotiated supply and services contracts (standard forms 33, 26, 30 and 18).
1216.104-1 General.
1216.104-2 Solicitation, offer, and award (standard form 33).

Subpart C—Purchase and Delivery Order Forms

1216.350 Blanket purchase agreement delivery ticket (DLA Form 470).
1216.350-1 General.
1216.350-2 Procedure.
1216.350-3 General instructions for preparing the blanket purchase agreements delivery ticket.

Subpart H—Miscellaneous Forms

1216.850 Special quality assurance instructions.
1216.850-1 General.
1216.850-2 Conditions for use.
1216.850-3 Procedures.
1216.850-4 General instructions for preparing the special quality assurance instruction form.
1216.851 Request for contract review/approval (DLA Form 677).
1216.851-1 General.
1216.851-2 General instructions for preparation of DLA Form 677.
1216.852 Contract file content list (DLA Form 678).
1216.852-1 General.
1216.852-2 General instructions for preparation and use of DLA Form 678.
1216.853 Loan agreement for government property (DLA Form 491).
1216.854 Record of set-aside action (DLA Form 1360).
1216.854-1 General.
1216.854-2 General instructions for preparation and use of DLA Form 1360, May 1976.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart A—Forms for Supply and Services Contracts

§ 1216.104 Instructions for preparation of forms for advertised and negotiated supply and services contracts (standard forms 33, 26, 30 and 18).

§ 1216.104-1 General.

(a) "Continental United States" is as defined in JCS Pub. 1; i.e., CONUS is limited to the 48 contiguous states and the District of Columbia, and excludes Alaska and Hawaii.

§ 1216.104-2 Solicitation, offer and award (standard form 33).

Instructions for block entries are as follows:

Block Number, Title and/or Instructions

9—Time for receipt of offers. The terms "Standard Time" and "Daylight Savings Time" or abbreviations thereof shall not be used in DLA Solicitations. In lieu thereof, the terms "Local time at the place of bid opening" or "local time at the place where proposals are received" shall be used. The first sentence of Block 9 on the SF 33 (For an IFB would now read as follows: "Sealed offers in original and . . . copies for furnishing the supplies or services described in the schedule will be received at the place specified in Block 8, OR IF HAND CARRIED, IN THE DEPOSITORY LOCATED IN Building 4, 4D175, until 1:00 PM, local time at the place of bid opening, 25 May 1977."

Subpart C—Purchase and Delivery Order Forms

§ 1216-350 Blanket purchase agreement delivery ticket (DLA Form 470).

This form may be used when supplies or services are procured by means of a blanket purchase agreement (BPA). (See ASPR 3-605.3(f)(vi).)

§ 1216.350-1 General.

The Blanket Purchase Agreement Delivery Ticket is a cut sheet form and is designed to be used by the vendor as an acknowledgment of a call, notice of shipment, packing list, and invoice. This form eliminates the need for preparation by the contractor of separate forms for these purposes. Also, Government personnel requiring information on these forms will receive it on a standard format.

§ 1216.350-2 Procedure.

A supply of the forms may be provided by the Center to each contractor who has entered into a blanket purchase agreement with the Center. Upon the placing of a call the contractor may be required to complete the BPA delivery ticket based on information contained in the written or oral call in accordance with detailed instructions to be provided by the Center.

§ 1216.350-3 General instructions for preparing the blanket purchase agreement delivery ticket.

After the placing of each call, complete the call, complete the form in accordance with the general instructions below and any specific instructions you may receive with the placing of the call. Entries should be typed.

(a) Block 11. This is the date the supplies are to reach destination, not the date you make shipment. Convert the number of delivery days you offered to an actual date. For example, if you offered a 30 day delivery and received the oral or written call on October 1, enter 10/31/76 as the required date.

(b) Block 12. This is the date the supplies are to be shipped, not delivered.

(c) Blocks 13 through 19. Information for these blocks will be furnished by the Center at the time of the call. Enter the name and address of the consignee in Block 15.

(d) Blocks 21 through 23. Entries in these blocks will be made at the time of shipment. Enter actual date shipped or delivered. No partial shipments to a particular destination may be made. If more than one shipment is made against a call, prepare 2 copies of this form for each shipment. Copies of the shipping documents may be attached as an alternative to completing Blocks 21 and 22.

(e) When using the form as an ACKNOWLEDGMENT OF CALL. Place a check mark on "•" copies of the form in the box "ACKNOWLEDGMENT OF CALL" (Block 9).

(f) When using this form as a NOTICE OF SHIPMENT. Place a check mark in the box "PACKING LIST" (Block 9) on "•" copies of the form in the box "NOTICE OF SHIPMENT" (Block 9).

(g) When using the form as a PACKING LIST. Place a check mark in the box "PACKING LIST" (Block 9) on "•" copies of the reproduced form for each consignee. Be sure Blocks 21 through 23 have been completed, as applicable, on the forms used. Send "•" copies to each consignee by placing copies inside the container or in an envelope attached to the exterior of the container.

(h) When using this form as an INVOICE. At the end of the billing period, fill in "•" copies of the reproduced form which includes the shipment data for all destinations of that call as follows:

(1) Place a check mark in the box marked INVOICE (Block 9) of each copy of the form.

(2) Sign and date Blocks 24 and 25 of the top copy only of the form. If the Blanket Purchase Agreement under which this call was issued does not provide for the fast payment procedure, the top copy must contain the signature and date (Blocks 27A and 27B) of the authorized Government representative receiving and/or accepting for the Government.

"•" The number required shall be in accordance with the needs of the Center.

Subpart H—Miscellaneous Forms

§ 1216.850 Special quality assurance instructions.

§ 1216.850-1 General.

The special quality assurance instruction form is designed to be used by the procurement contracting officer (PCO) and his quality assurance technical specialist to inform the Quality Assurance Representative (QAR), through the contract administration office (CAO), to whom the contract is assigned, of pertinent contract requirements and to provide him with the available quality history of the product and the contractor. The form also provides the QAR with the name, address and phone number of the cognizant technical specialist in the Center.

§ 1216.850-2 Conditions for use.

The Special Quality Assurance Instruction Form (DLA Form 970) is to be used on all procurements of critical items.

§ 1216.850-3 Procedures.

When items that have been identified as having a critical application in accordance with DLAR 3200.3, Identification, Processing and Procurement of Items with Critical Application, are to be procured, the appropriate Defense Contract Administration Services (DCAS) field activities or other agencies having inspection cognizance shall be alerted through use of DLA Form 970, regardless of the dollar value of the item or contract. Two copies of the completed form will be forwarded to the appropriate DCAS field activity as shown in DOD 4105.59-H, Directory of Contract Administration Services Components. The copies will be sent to the cognizant CAO quality assurance staff or attached to DCASR copies of the contracts at the time of contract distribution.

§ 1216.850-4 General instructions for preparing the special quality assurance instruction form.

Instructions for block entries are as follows (Entries should be typed):

Block Number, Title and/or Instructions

8—*Contract Quality/Inspection Requirements*—Identify the contract quality/inspection requirements using ASPR 14-301 as a guide.

9—*Certificate of Conformance*—Indicate "Required" when the contract states that COC may be used as the sole basis for acceptance. Indicate "Optional" when the contract states that COC may be used as an element incident to acceptance by the CAO.

10—*Item Use*—Use when applicable.

11—*Authority for Acceptance of Nonconforming Supplies and Services is Withheld in Accordance with ASPR 14-406(b)(ii)*—In accordance with ASPR 14-406(b)(ii) use only when PCO retains authority.

12—*Special Contractor Examinations and Tests*—Identify any special contractor examinations and tests the QAR should witness or monitor closely. Also, identify any special contractor examinations and tests for which the DSC quality assurance element desires to be present.

13 and 13a—To inform the QAR when and for what purpose DSC technical representatives will participate in the contractor test program.

14 and •14a—To provide verification test requirements and laboratory address.

15—*Product Quality History*—To provide QAR with pertinent details of product that would alert him to possible trouble areas.

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16—*Contractor Quality History*—To provide QAR with a pertinent, general summary of the contractor's past performance, where the performance may affect the quality of the supplies or services being procured. Statements which because of their sensitive nature, would have to be classified as "For Official Government Use Only" will be avoided. If sensitive data must be provided the QAR, a statement to the following effect will be included: "The QAR should contact the individual shown in Block 18 for specific details relating to the quality history of the contractor".

17—*Remarks*—Identify any additional information or clarifying remarks which may be useful to the QAR that are not provided elsewhere on the form".

18—*DSC Contract for Quality Assurance*—Enter name, address and phone number of DSC specialist in Technical Operations assigned to the commodity.

§ 1216.851 Request for contract review/approval (DLA Form 677).

§ 1216.851-1 General.

DLA Form 677, shall be used as prescribed in § 1201.542-3. Requests for contract review/approval shall be addressed to the attention of DLA-PC.

§ 1216.851-2 General instructions for preparation of DLA form 677.

Instructions for block entries are as follows:

1/1a—Insert the subparagraph number of § 1201.452-2(a) that is applicable to the type of action for which approval is being requested. Place an "X" in the appropriate block to signify that the proposed action is either a new contract or a modification of an existing contract and, if the latter, the basis for the modification.

2/2a—Insert the date of expiration of the bid or proposal, or the date by which existing contract terms require exercise of the option. If the date entered allows less than thirteen calendar days from date of dispatch of the request (as entered in Block 16a), the request is to be considered a request for expedited review, and the block provided (2a) is to be checked. The reason for requiring expedited review is to be given in Block 14; e.g., explain why an extension of the bid or proposal cannot be obtained or should not be requested. If the date entered allows thirteen calendar days or more, but an expedited review is desired, the same procedure should be followed.

3—Describe the type of contract briefly to identify the terms governing quantity, price and delivery, e.g., Firm Fixed Price (FFP), Requirements—Fixed Price, with EPA (Rqmts—FP w/EPA).

4/4a/4b/4c—If more than one CLIN is applicable because of different destinations (FOB destination), cite total quantity and give the unit price range. If both fob origin and fob destination prices are applicable, give the total quantity applicable to each, with the applicable prices/price ranges. When services are described, include the location of performance and the period during which services will be performed.

5/5a/5b—Check the applicable block to indicate whether the authority for purchase is a Center generated purchase request (PR) or a service generated military interdepartmental purchase request (MIPR). IOM's requesting establishment of requirement contracts are to be considered as PRs. Requests for procurement action by a military service on other than the prescribed MIPR form are to be considered as MIPRs. The receipt dates desired in 5a and 5b are: (a) for PRs the date of receipt in Procurement; (b) for MIPRs the date of receipt in the Center.

6a/6b/6c—Solicitation number(s) and amendment number(s) are to be listed, with issue and opening/closing dates applicable.

7/7a/8—Self-explanatory.

9/9a/9b—If the action proposed is on a definite quantity, firm fixed price basis, check "actual". For all other types, check "estimate". The total dollar value to be entered is that shown on the face of the proposed contract as the total amount, or total estimated amount of the action. If the action is a modification, only the amount, actual or estimated, of the modification is to be entered. Under 9b give the fixed dollar amount to be obligated by the contract execution for which funds have been committed.

9c/9d—If Government facilities are to be provided under the contract, check the GFP block. If facilities are being furnished rent free, insert "Rent Free" in lieu of dollar value. If facilities are being furnished on a rental basis, give the anticipated dollar amount of rental based on the proposed contract delivery schedule. If material is to be furnished, check the GFM block. If the material is being furnished by the bailment method, give the total estimated value of the material included in the total contract price. If GFM is not being provided by the bailment method, insert "N/A" in block 9d.

10—For Small Business Restricted Advertising, check negotiated, insert the applicable authority and add "SBRA". For options, enter the information applicable to the basic contract.

11—If option is to a service contract to be extended without change in quantity of work covered, insert N/A after maximum %.

12a/12b—In block 12a, include the number of concerns to whom solicitations were sent as the result of individual requests, after issuance of the initial solicitation. Note that 12b requires the number of responsive bids/proposals.

13a/13b—Self-explanatory.

13c/13d—The price analysis, whether prepared by the cost and pricing element or by the contracting element, will be inserted under TAB 22 of the contract file and will include (i) the quantities, unit prices, fob points of preceding procurements (at least two); (ii) the basis for determining price reasonableness on the preceding procurements listed; and (iii) the increase/decrease in prices of the proposed contract as compared to the preceding procurements. The percentage relationship of the proposed price to the immediately preceding procurement will be shown in Block 13d. If the procurement is the first by DLA and information on prior procurements is not obtainable, a brief description of the efforts made to obtain prior procurement information will be included in Remarks (Block 14) and any back-up documentation included under TAB 22.

14-16—Self-explanatory.

17—Enclosure blocks to the DLA 677 have been prechecked. The contract file forwarded will contain all documents/papers which comprise the official contract file up to the date of the request, HQ DLA will review on the basis that there are no other applicable documents to be added to the official contract folder, unless the DLA Form 677 (Remarks Block 14) indicates that additional documentation is being obtained. The HQ DLA file copy to be provided is to contain the following: (A complete duplicate file *will not be provided.*).

(a) A copy of the DLA Form 677 request to include the names of signatures to the request, and the dates of the signatures.

(b) A copy of the DLA Form 678 which is *identical* to that in the contract file.

(c) A COMPLETE copy of the proposed contract, modification. When the request covers a proposed contract modification to a contract (or modification) which has been previously reviewed and approved by HQ DLA, the basic contract, or previously approved modification need not be provided; however, any modifications made subsequent to the last HQ DLA review will be included.

(d) When applicable, a copy of the determination and findings authorizing negotiation.

(e) A copy of the price analysis/contracting officer's determination of price reasonableness and, where applicable, a copy of the record of prenegotiation review and the price negotiation memorandum. Should any of these documents refer to other documents in the official contract file for detail information, or depend on such documentation as the source of information a copy of those documents will also be included (this includes DCAS/DCAA reports, and preaward survey reports if applicable).

General

1. Should the space allotted on the DLA Form 677 be insufficient, the additional information is to be included on a plain sheet of paper identified as Sheet Nr.2, etc., to DLA 677, Contract Nr. (as shown under Block Nr. 8). The total number of pages will be shown in the space provided at the bottom of DLA Form 677.

2. The reverse of DLA Form 677 will be used both for replies to requests for preaward approvals (Section I) and to return contract files submitted as requested for post award review (Section II). When a post award review has been made, remarks previously furnished by separate letter will be included in the "Remarks" space on the DLA Form 677 reverse.

§ 1216.852 Contract file content list (DLA Form 678).

§ 1216.852-1 General.

DLA Form 678 shall be used as prescribed in § 1201.452-3.

§ 1216.852-2 General instructions for preparation and use of DLA Form 678.

(a) *Filing Instructions.*

(1) Contract file sections will be identified by inclusion of a divider annotated with the Section Identification and Title, e.g., "Section A—Planning and Solicitation." Sections A and B will be filed on the *left* side of the file folder with Section A on the *bottom*. Sections C and D will be filed on the *right* side of the file folder with Section C on the *bottom*.

(2) The lowest numbered TAB within each Section will be placed at the *bottom* of that Section. When multiple documents are present under a number TAB, i.e., correspondence, memoranda, etc., they will be filed chronologically with the *most recent* document on top.

(3) It is impossible to enumerate all of the factors or conditions which may require specific documentation over and above that normally required. Therefore, as circumstances dictate, contracting officers will describe, under the appropriate "blank" TAB Nos., e.g., Nos. 14-17; 29-32, etc., such documentation as may be peculiar to the procurement involved and file same in the analagous contract file section.

(b) *Contract Documentation*—

(1) The documents identified on DLA Form 678 are those which are normally required to support an advertised/negotiated procurement action, other than a small purchase. The file sections provided establish the logical procurement cycle sequence of documentation. The completed file will constitute a complete chronological history of the transaction and permit ready reconstruction of the actions taken in processing the procurement.

(2) The following Sections discuss those elements of contract documentation which merit special attention and indicate documentation requirements which are most frequently "overlooked":

(i) Section A—*Planning and Solicitation:*

(A) *Tab No. 1 PR/MIPR.* The contract file must reflect the manner and extent to which the needs of the requiring activity have been met. It is essential, therefore, that in addition to the basic purchase authority, any changes and justification therefor be included under this Tab. In the case of amendments, the basis for change must be evidenced, e.g., in those instances where items on the purchase request have been completely lined out or quantities changed, indication *must* be made of the identity or authority of the individual or activity which requested/authorized the change. In other instances where contracts have been issued calling for something other than that specified on the PR/MIPR explanation must be included as to the authority/approval for the change and from whom received. Memoranda must adequately identify individuals referred to in memoranda, e.g., statements such as "this was discussed with and concurred in by Mr. Smith in Supply" are inadequate. An individual's full name, title or position and his relationship to the subject matter of the memorandum must be clearly established; this is of particular importance should post award questions arise. Requirements should be revalidated in those instances where excessive time has elapsed between the issuance of the Purchase Directive and consummation of the contract.

(B) *Tab No. 2 Specification/Drawing.* These documents in many instances either dictate source selection or indicate to the contracting officer the extent of possible competition. Any change either prior or subsequent to solicitation may affect final source selection. When such changes are effected, explanatory memorandum (or actual documentation supporting the change) must be included in the file indicating as a minimum (*1*) the basis and authority for initiating specification/drawing change (*2*) coordination received from appropriate technical personnel and (*3*) approval/concurrence of the requiring activity. When specification/drawing changes are initiated/confirmed by the requiring agency on a PR/MIPR amendment, the documentation should be included in Tab No. 1 with an annotation in Tab No. 2 identifying the amendment number.

(C) *Tab No. 3 Procurement Plan (1201.2102-1).* The Procurement Plan will include, as a minimum, the information included in § 1201.2102. The use of preprinted forms for this purpose is acceptable.

(D) *Tab No. 4 Determination and Findings (Authority to Negotiate).* The determination to negotiate is governed by specific facts inherent in a proposed procurement; the D&F must include those facts which will clearly and convincingly establish that the use of formal advertising would not be practical. The information provided must be *explicit, current* (revised in those instances where requirements have changed subsequent to issuance of the initial D&F) and *accurate* as to (i) format (ASPR, Appendix J, Part 503, (ii) citation of appropriate negotiation authority ASPR 3-201 through 3-217), (iii) estimated dollar amount, including where applicable, the value of proposed option quantities and (iv) appropriate signatory authority and date. Each D&F must reflect the circumstances peculiar to the instant procurement. The use of previous D&Fs as a "model" often results in inaccuracies and the necessity to reaccomplish the D&F.

(E) *Tab No. 5 Nonpersonal Services Determination.* A statement by the contracting officer that the services proposed for procurement have been determined to be nonpersonal in nature is *not* sufficient to meet the requirements of ASPR 22-102.4. Such determination must include the reasons and *all* of the facts which were deemed to substantiate the nonpersonal aspect of the services; examples of criteria for characterizing services as nonpersonal rather than personal are set forth in ASPR 22-102.3.

(F) *Tab No. 6 DOL Wage Determination.* Department of Labor Wage Determinations are normally effective for a period of 120 days after issuance and *must* be in effect at the time of solicitation and at the time of award. When it is necessary to obtain extensions on determinations in order to carry them through the period until award is to be made, the documentation authorizing such extension by the

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Department of Labor must be included under this Tab.

(G) *Tab No. 7 Small Business/Labor Area Determination.* The determinations required under ASPR 1-706 and 1-804.1 must be accurate and complete insofar as the reason given for not having a small business or labor surplus area set aside. Statements such as "a set-aside was not considered because of insufficent quantity" must be supported. Statements such as "no known source located in labor surplus area" must be based on historical and current facts. The information included in this determination must accurately reflect the consideration given to compliance with ASPR 1-706.1 and 1-804.1; the information included therein imposes, in turn, a responsibility to make a realistic evaluation of requirements and a current review of possible sources to substantiate the information used in determining the proposed procurement method.

(H) *Tab No. 10 Source List.* The list of sources initially solicited *and* those to whom solicitations were subsequently issued as a result of requests are to be included; in the latter case, the date requested solicitation was issued will be indicated. Where it is *clear* that a single source of supply exists, the reason for soliciting any additional firms will be included under this Tab.

(I) *Tab No. 13 IFB/RFP & Amendment.* The contract file must include the solicitation document and, as applicable, any amendments thereto. With respect to the latter, it is of utmost importance that amendments accurately reflect their issuance date. Inclusion of this date in Block 2, "Effective Date" of Standard Form 30 is extremely important if for no other reason than to preclude any controversies which might arise as to whether offerors were provided sufficient time to respond to the amendment. In case of oral solicitations, the requirements of ASPR 3-501(d)(ii) must be satisfied, i.e., with documentation supporting the fact that use of oral solicitation had been approved at a level higher than the contracting officer. As the use of oral solicitation requires careful monitoring, such documentation is extremely important.

(ii) *Section B—Preaward Support Data:*

(A) *Tab No. 18 Abstract of Bid Proposal.* Generally, abstracts on formally advertised solicitation are found to be complete and accurate. The same care must be taken in the preparation of an abstract on negotiated procurements, i.e., any conditions of the offers which are related to their evaluation must be included on the abstract; if lengthy, the "Remarks" column should be annotated with information indicating the location in the offer of the condition, e.g., "See page ——— of the proposal for exception to specification."

(B) *Tab No. 19 Packaging/Transportation/Freight Rate Data.* Inclusion of Transportation/Freight Rate Data, normally provided the contracting officer by the Center transportation activity, is essential as it enables a ready means of determining the manner in which transportation costs were applied in arriving at the evaluated prices. Files must also include sufficient information to substantiate the equitability of packaging costs. Statements in the price analysis or PNM indicating that a price increase is not unreasonable because the contracting officer has found it to be "attributable to the requirement for Government specification pack in lieu of normal commercial pack" must be supported, i.e., must indicate what the differential is and that technical personnel have, in fact, reviewed the costs associated with Government packaging requirements versus commercial packaging to arrive at figures which support the price reasonableness conclusion.

(C) *Tab No. 20 Cost/Pricing Data.* All cost or pricing data received from the offeror in support of his proposal is to be included under this Tab. If any *data* should be included in correspondence dealing with other matters which are pertinent to the final contract, e.g., delivery schedule, contract clauses, etc., the original correspondence will be filed under this Tab and a cross reference (or copy of such correspondence) placed in Tab No. 44. Submission/acceptance of inadequate or incomplete cost or pricing data is a recurring problem. To establish completeness, each data element must be identified as to (1) what it is, (2) where it is, (3) what it represents and (4) how it was used. A *fully completed "Reference"* column on the DD Form 633 is the key to these four points. If the data are not complete, that required must be obtained from the offeror; it is neither the responsibility of DCAS or the auditor to obtain the data. The review of data for adequacy and any requirement placed on the contractor to submit additional data required must be made *prior* to forwarding request to DCAS for audit. In those instances where time is of the essence, it is permissible to request the contractor to submit copies of any additional data direct to the cognizant DCAS/DCAA activity; the original of such documents to be provided the purchasing activity. Immediately upon receipt of such additional required data, it must be reviewed to assure it is adequate. The cost/price analysis element is charged with responsibility for determining the adequacy of data received; however, the final responsibility rests with the contracting officer.

(D) *Tab No. 21 Field Pricing Report/Waiver.* When field pricing support is requested from the cognizant contract administration services activity pursuant to ASPR 3-801.5, the report obtained, together with any attached assist reports will be included under this Tab. If the authority contained in ASPR 3-801.5 to waive field pricing support is exercised by the contracting officer, his determination and the supporting available information on which the determination is based will be included, e.g., should part of the available information include a recent, prior field pricing support report, a copy of the prior field pricing support report will be included.

(E) *Tab No. 25 Certificate of Current Cost/Pricing Data.* Often a contractor will provide a Certificate of Current Cost or Pricing Data at the close of the negotiation session and will subsequently confirm, by letter, details of the agreements reached. In some instances, the confirming letter will include data which although previously discussed and accepted, have not previously been presented in writing. In such cases, the Certificate of Current Cost of Pricing Data presented at the close of negotiations becomes invalid; a new Certificate must be obtained to reflect the contractor's last data submission upon which the final price agreement was concluded.

(F) *Tab No. 26 Government Facilities Use Approval.* ASPR 13-402 requires a determination that the Government will receive adequate compensation for the contractor's use of Government property through reduced costs or otherwise. This determination is mandatory to support a proposal to provide a contractor with Government facilities.

(G) *Tab No. 29.* This tab will be used to incorporate, when applicable, information received from a cognizant ACO relative to the acceptability of the contractor's Disclosure Statement when the firm has indicated submission of same under ASPR clause 7-2003.67 of the contract schedule.

(iii) *Section C—Other Support Data:*

(A) *Tab No. 34 Unsuccessful Bid/Proposal.* Required under this Tab along with the unsuccessful bid/proposal itself, is the notification to the offerors (either that already issued or that proposed to be issued) that bids/offers were unacceptable and the reasons therefor.

(B) *Tab No. 36 Determination of Late/Bid Proposal.* All actions taken in accordance with the procedures prescribed under ASPR 2-303 and 3-506 will be included under this Tab.

§ 1216.853 Loan agreement for Government property (DLA Form 491).

DLA Form 491 is authorized for use in lending Government-owned property to prospective bidders or offerors in accordance with § 1250.101.

§ 1216.854 Record of set-aside action (DLA Form 1360).

§ 1216.854-1 General.

DLA Form 1360 shall be used as prescribed in § 1201.706-1.

§ 1216.854-2 General instructions for preparation of DLA Form 1360.

The header portion of this form includes check-off boxes within the block, "Type of Action." The appropriate box should be checked off to indicate whether action contemplates an initial set-aside determination; modification of an existing determination; or withdrawal of an existing determination. The remaining blocks within the header portion of the form are self-explanatory. Instructions for section/item/block entries are as follows:

§ 1216.854-2 General instructions for preparation and use of DLA Form 1360, May 1976.

Section, Item/Block Number, and Instructions

Section I, Item 1—Enter date bids/offers were opened on last procurement.

Section I, Item 1a—Enter total numbers of bids received on most recent procurement, broken out by bidder preference status or other status in the blocks provided; i.e., small business concerns which are also LSA concerns; small business concerns which are not LSA concerns; or large business concerns which are either LSA qualified or are not LSA qualified.

Section I, Item 1b—Enter numbers of bids/offers received on the most recent procurement which were determined to have fallen within a competitive price range. Breakout by bidder preference status or other status, as appropriate.

Section I, Item 2—Enter numbers of firms to be solicited on current procurement (through review of bidders lists and/or personal contracts). Breakout by bidder preference status or other status.

Section II—Self-explanatory.

Section III—Use in conjunction with remarks block to support unrestricted procurement or the use of a lower priority set-aside in accordance with the order of preference set forth in ASPR 1-706.1. Individual check-off items are self-explanatory.

Sections IV and V—Self-explanatory.

PART 1217—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

Subpart B—Requests for Contractual Adjustment

Sec.
1217.201 Authority of the Director.
1217.203 Authority of other officers and officials.
1217.207 Submission of requests by contractors.
1217.207-3 Records.
1217.208 Processing cases.
1217.208-2 Disposition below secretarial level.
1217.208-3 Submission of cases to the Contract Adjustment Board.
1217.208-5 Maintenance of records.
1217.208-6 Interdepartmental coordination.

Subpart C—Residual Powers

1217.301 Delegation of authority.
1217.304 Maintenance of records.

Subpart D—Records of Requests and Dispositions

1217.403 Sample format for preliminary and final records.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart B—Requests for Contractual Adjustment

§ 1217.201 Authority of the Director, DLA.

Authority vested in the Director under ASPR 17-201(b) has been delegated to Counsel and Assistant Counsel, DLA.

§ 1217.203 Authority of other officers and officials.

The authority in ASPR 17-203(a) (i) and (ii) has been delegated to HPAs. This authority may be redelegated only to a staff official reporting directly to the HPA. Two copies of any redelegation shall be furnished the Counsel, DLA, one copy of which will be transmitted to the Office, Secretary of Defense (ODDR&E).

§ 1217.207 Submission of requests by contractors.

§ 1217.207-3 Records.

Records required by ASPR 17-207.3 shall be forwarded to the Counsel, DLA.

§ 1217.208 Processing cases.

§ 1217.208-2 Disposition below secretarial level.

The documents required by ASPR 17-208.2(b) shall be forwarded to the Counsel, DLA. When a procuring activity denies a request, a copy of the letter of explanation to the contractor shall be included.

§ 1217.208-3 Submission of cases to the Contract Adjustment Board.

Cases not within the approval authority of HPAs and any doubtful or unusual cases shall be forwarded to Counsel, DLA, for further processing. The forwarding letter shall contain the information and evidentiary materials outlined in ASPR 17-208.3.

§ 1217.208-5 Maintenance of records.

The records required by ASPR 17-207.3, 17-208.2(b) and 17-208.4(a) and (b) shall be maintained by the Counsel, DLA.

§ 1217.208-6 Interdepartmental coordination.

The procuring activity responsible for processing a contractor's request for contractual adjustment shall be responsible for establishing liaison and joint action with other Military Departments and other departments and agencies of the Government, except that the Counsel, DLA, shall have such responsibility after any case is forwarded for further processing.

Subpart C—Residual Powers

§ 1217.301 Delegation of authority.

Authority vested in the Director under ASPR 17-201 has been delegated to Counsel and Assistant Counsel, DLA.

§ 1217.304 Maintenance of records.

Counsel, DLA, shall be responsible for maintaining the records required by ASPR 17-303(b) (RCS DD-I&L(A)597).

Subpart D—Records of Requests and Dispositions

§ 1217.403 Sample format for preliminary and final records.

Record of the field activity responsible for the case when submitting preliminary and final records described in ASPR 17-401 and 402.

PART 1219—TRANSPORTATION

Subpart A—Introduction

Sec.
1219.104 F.O.B. Point.
1219.104-2 Determination of F.O.B. Terms of Procurement of Items Originating in the Continental United States.

Subpart B—Planning and Solicitation

1219.213 Shipments to Ports.
1219.213-50 Designation of Ports for Bid Evaluation.

Subpart C—Evaluation of Bids and Proposals

1219.301 Transportation Rates and Related Costs to be Use.
1219.301-1 General.
1219.301-50 Port Handling and Ocean Costs in Bid Evaluation.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301—2314; DOD Directive 5105.22, January 5, 1977.

Subpart A—Introduction

§ 1219.104 f.o.b. point.

§ 1219.104-2 Determination of f.o.b. terms of procurement of items originating in the Continental United States.

Each requirement considered for purchase of an f.o.b. destination only

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basis under the authority of ASPR 19-104.2(d)(1)(VI) shall be considered on its own merits. If it is decided to effect purchases on an f.o.b. destination only basis, the contract file shall be documented to reflect the basis on which the decision was reached.

Subpart B—Planning and Solicitation

§ 1219.213 Shipments to ports.

§ 1219.213-50 Designation of ports for bid evaluation.

When a contract will not generate any shipments destined overseas for which an Export Release is required (less than 10,000 lb., etc., Military Traffic Management Regulation paragraph 20205), offers shall be solicited only f.o.b. appropriate ports published in Appendix G of DOD Regulation 4500.32-R (MILSTAMP). The supporting provision in ASPR 7-2003.20 shall be included in the solicitation and be modified to:

(a) Delete paragraph B pertaining to f.o.b. origin basis;

(b) Delete the following from paragraph C(2) "Unless bids (or offers) are applicable only to f.o.b. origin delivery under Government bills of lading (see B above)";

(c) Include the applicable port handling and ocean charges adjacent to the port(s) listed in paragraph D; and

(d) Delete paragraph E pertaining to ports nominated by bidder (offeror).

Subpart C—Evaluation of Bids and Proposals

§ 1219.301 Transportation rates and related costs to be used.

§ 1219.301-1 General.

§ 1219.301-50 Port handling and ocean costs in bid evaluation.

Those port handling and ocean charges available at time of issuance of a solicitation shall be published in those solicitations for the procurement of supplies for overseas shipment. The provision set forth below, advising that these charges are tentative and not necessarily those that will be used in the evaluation, shall also be included in the solicitation, just below any charges published. This provision will preclude the need for extension of opening dates or cancellation of solicitations and will still permit award to that bidder who is, in fact, low at time of bid opening as a result of any change in charges after issuance of the solicitation.

Port Handling and Ocean Costs in Bid Evaluation (DLA APR 1975)

The above tentative port handling and ocean freight charges are set forth for the information of offerors. In evaluating offers received in response to this solicitation, the Government will utilize those charges which are on file as of the date of bid opening (or closing time specified for receipt of proposals) and effective for the date of expected initial shipment. A list of port handling and ocean freight charges actually used in evaluation, if substituted for any listed above, will be furnished interested offerors upon request.

PART 1220—ADMINISTRATIVE MATTERS

Subpart B—Uniform Procurement Instrument Identification Numbers

Sec.
1220.203 Uniform procurement instrument identification numbers.
1220.203-1 Elements of number.
1220.204 Supplementary procurement instrument identification numbers.
1220.204-50 First delivery orders against indefinite delivery type contracts.

Subpart G—Assignment of Contract Administration

1220.703 Retention of contract administration by the purchasing office.
1220.703-50 Support administration.
1220.706 Designation of the disbursing office.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart B—Uniform Procurement Instrument Identification Numbers

§ 1220.203 Uniform procurement instrument identification numbers.

§ 1220.203-1 Elements of number.

(a) The letter Y in the ninth position of the basic PII number is reserved to identify imprest fund orders posted to the Standard Automated Materiel Management System (SAMMS) or other DLA automated systems.

§ 1220.204 Supplementary procurement instrument identification numbers.

§ 1220.204-50 First delivery orders against indefinite delivery type contracts.

A delivery order number shall be established for the first order quantity by issuing a separate DD Form 1155. Where it is necessary to order an initial quantity at the time of establishing an indefinite delivery type contract such as when using the incremental purchasing system, the DD Form 1155 should be issued concurrently and be cross-referenced with the indefinite delivery type contract.

Subpart G—Assignment of Contract Administration

§ 1220.703 Retention of contract administration by the purchasing office.

§ 1220.703-50 Support administration.

If the PCO retains administration of a contractor order and a need subsequently arises to delegate supporting contract administration to a CAO, the contract or order shall be assigned for performance of all contract administration functions.

§ 1220.706 Designation of the disbursing office.

(b) All contracts assigned to a Service Plant Cognizance Representative for administration shall designate the disbursing office supporting the purchasing office as disbursing office for the contract except for contracts resulting from MIPRs, which will cite the disbursing office in accordance with DLAR 4115.3, paragraph VI A 13.

PART 1221—PROCUREMENT MANAGEMENT REPORTING SYSTEM

Subpart A—Individual Procurement Action Report (DD Form 350)

Sec
1221.102 Applicability and coverage.
1221.103 Due date and distribution.
1221.106 Item 1B, (No title).
1221.108 Item 2, contract number.
1221.117 Item 10B, system or equipment code.
1221.119 Item 11, description of commodity or service.
1221.120 Item 12, coordinated procurement.
1221.123 Item 15, contract placement.
1221.125 Item 17, negotiated under 10 U.S.C. 2304(a) exception.
1221.126 Item 18, extent of competition in negotiation.
1221.130 Item 22, date of this action.
1221.131 Item 23, estimated completion date.

Subpart B—Monthly Procurement Summary (DD Farm 1057)

1221.201 Applicability and coverage.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DoD Directive 5105.22, January 5, 1977.

Subpart A—Individual procurement action report (DD Form 350)

§ 1221.102 Applicability and coverage.

(a) To assure that the procurement statistics prepared at HQ DLA, and furnished to the Office of the Secretary of Defense, correspond with the data of the reporting activities, each purchasing office shall furnish HQ DLA, ATTN: DLA-PA, within one day following the close of each month, with the first and last report number of the DD Forms 350 that were issued in the preceding month's report period, listing any exceptions to the consecutive numbering pattern. In addition, furnish the total dollar value involved in these DD Forms 350.

(b) Each item on the DD Form 350 shall contain only one entry.

§ 1221.103 Due date and distribution.

The DLA Form 556 must be submitted so as to reach HQ DLA within 3 workdays following the end of each month. To meet this due date, the cutoff for the DLA Form 556 shall be the 25th calendar day of the month being reported on. RCS DD-I&L (M) 1014 applies to this report.

§ 1221.106 Item 1B, (No title). leave blank

§ 1221.108 Item 2, contract number.

(a) *Sub-Item A. Dept.* Enter the alphabetic characters in the contract number which denote the Department or Agency executing the contract as follows:

(1) For departments within DOD, enter—DLA(S) for Defense Logistics Agency, DA(A) for Army, (N) for Navy, (F) for Air Force, and (D) for all other Defense Agencies.

(2) For orders under contracts awarded by General Services Administration (Federal Supply Schedule contracts) enter GS(G), and for orders under contracts awarded by the Government Printing Office enter GP(P). Enter five zeros in Sub-Item B.

(3) For orders covering purchases from other Federal agencies (see ASPR 21-108(a)(iii)), enter X in parentheses. Enter five zeros in Sub-Item B.

§ 1221.117 Item 10B, system or equipment Code.

Not applicable to DLA. Leave blank.

§ 1221.119 Item 11, description of commodity or service.

In addition to or as a part of the regular item description, place in parentheses an abbreviated description which must not exceed 10 typewritten characters, including spaces but omitting punctuation marks, e.g., Pallet Aircraft, Cargo HCU-6/S (Pallet), Coal, Bituminous (Coal Bitum), Yellow Fever Vaccine (Y1 Fev Vac), Tetanus and Diphtheria Toxoids (Toxoid TD), Handbag, Women's, Brown, Calfskin (Handbag Wmn), (Fuel Oil).

If action involves more than one item, enter in Item 11 the one having the greatest dollar value. Additional items may be entered on the reverse side of the form; abbreviated descriptions are not required for these additional items.

§ 1221.120 Item 12, coordinated procurement.

Codes 3 and 6 are the only codes applicable to DLA.

§ 1221.123 Item 15, contract placement.

(f) *Code J. Military Assistance Sales.* The ASPR instruction for separate reporting where a single action is partly for Military Assistance Sales applies only when each of the individual parts exceeds $10,000. If one or both of the parts are less than $10,000 but the sum of both parts is more than $10,000, the total shall be reported as one action on a single DD Form 350, and reporting based on the part of the action that involves the greatest dollar value.

§ 1221.125 Item 17, negotiated under 10 U.S.C. 2304(a) exception.

Enter code as follows: For codes 1A through 1E, enter as 01A0 through 01E0; For codes 2 through 9, enter as 0200 through 0900; For codes 10-1 through 10-9, enter as 1001 through 1009; For codes 11 through 16 and 17A and 17B, enter as 1100 through 1600; 17A0 and 17B0.

§ 1221.126 Item 18, extent of competition in negotiation.

When the exemption of ASPR 3-1204(a)(ii) applies, the contract award shall be reported as having been made on the basis of adequate price competition.

§ 1221.130 Item 22, date of this action.

Enter this following alphabetical code for the month: A-Jan; B-Feb; C-Mar; D-Apr; E-May; F-Jun; G-Jul; H-Aug; I-Sept; J-Oct; K-Nov; and L-Dec.

For example: Date of this Action: 77/G/5 for 5 July 1977.

§ 1221.131 Item 23, estimated completion date.

Same as 21-130 above. For example: Estimated Completion Date: 77B for February 1977.

Subpart B—Monthly Procurement Summary (DD Form 1057)

§ 1221.201 Applicability and coverage.

Defense Personnel Support Center Defense Subsistence Regions shall submit separate DD Forms 1057 for perishable and nonperishable subsistence activity.

PART 1225—PRODUCTION SURVEILLANCE AND REPORTING

Subpart A—Production Surveillance

Sec.
1225.103 Assignment of Criticality Designator by Purchasing Office.
1225.103-50 Criticality Designator "A".

Subpart B—Production Reporting

1225.202 Production Progress Reporting by Contractors.
1225.204 Special Production Progress Reports.
1225.204-50 Contract Acceleration/Status Requests.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart A—Production Surveillance

§ 1225.103 Assignment of criticality designator by purchasing office.

General criteria for designator assignments are included in ASPR 25-103. The lowest Surveillance Criticality Designator consistent with Government requirements shall be assigned. The increased flexibility provided to the Defense Supply Centers (DSCs) in the assignment of Surveillance Criticality Designators is not to be misused. Misuse will create an overall degradation of the production support provided, rather than an improvement.

§ 1225.103-50 Criticality designator "A".

Criteria for Contracts/Purchase Orders in support of a Department of Defense (DOD) or Military Service Directed Critical Program.

(a) Items in direct support of the DOD Master Urgency List (MUL), DX rated contracts (BRICK-BAT 01).

(b) Items or programs designated critical by Departmental Headquarters or HQ DLA.

(c) Items in support of programs designated in writing as critical by DSC Commander.

Subpart B—Production Reporting

§ 1225.202 Production progress reporting by contractors.

The requirement for Production Progress Reports (DD Form 375) will be limited to the following and then only when circumstances make such reporting appropriate:

(a) Items required to satisfy requisitions bearing UMMIPS priority 01 through 06.

(b) Items that have been designated by the DSC Commanders as being in a critical supply position.

(c) Items on the DOD, Military Service, or DLA critical list.

(d) Items in direct support of the DOD MUL categories.

(e) Items which require Material Readiness Studies under DLAR 4140.3.

(f) Contractors on"the Military Services Contractor Experience Lists.

(g) When requested by the DOD Project Manager.

§ 1225.204 Special production progress reports.

§ 1225.204-50 Contract acceleration/status requests.

As a general policy, the Directorates of Procurement and Production (D/PP) will initate contract acceleration/status requests to contractors and DCAS activities as appropriate. However, to facilitate the handling of special emphasis and high priority items,

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Centers may, at their option, establish local procedures which will permit the Directorate of Supply Operations (D/SO) to initiate contract acceleration/status requests to DCAS activities. Those Centers using this option must assure that local procedures are jointly developed by the D/PPs and D/SOs and contain the following controls and provisions:

(a) Strong prohibitions against Center D/SO personnel contacting contractors directly.

(b) Strict controls to preclude identical requests for the same item being sent by D/O and D/PP to DCAS activities.

(c) A procedure whereby information obtained by the D/SO from DCAS is fed to the D/PP for updating the active contract file.

(d) In accordance with the intent of ASPR 20-801(a), direct communications between D/SO personnel and DCAS offices shall normally be by letter or message. Under the most urgent of circumstances (UMMIPS priorities 01s thru 03s), telephone requests for acceleration/status are permitted after the D/SO determines that the D/PP is not working the same items. D/SO telephone requests for contract acceleration will be immediately followed by confirming documentation to DCAS activities.

(e) In accordance with the intent of ASPR 25-204, requests for contract status/acceleration will be kept to a minimum and specify, at a minimum, contract number, contractor, and location. In addition, such requests shall contain sufficient information to convey the urgency of the circumstances and minimum quantities needed to satisfy high priority requisitions and/or backorders. Requests for contract status/acceleration will not be initiated for convenience or for non-critical items.

PART 1250—SUPPLEMENTAL PROCEDURES

Subpart A—Sale, Loan, Gift of Property

Sec.

1250.101 Sale, loan or gift of certain property (10 U.S.C. 4506).

Subpart B—Reserved

Subpart C—Training

1250.301 Training of procurement personnel.
1250.301-1 General.
1250.301-2 Policy.
1250.301-3 Small purchase orientation course for "new" buying personnel (44 hours).
1250.302 Attendance of civilian contractor personnel at defense management courses.
1250.302-1 General.
1250.302-2 Policy.
1250.302-3 Administration.

Subpart D—Selection of Contracts to be Terminated for Convenience in Event of Unexpected Deceleration in Military Requirements

1250.401 General.
1250.402 Policy.
1250.403 Priority of termination type.
1250.404 Responsibilities.
1250.405 Complete and partial terminations.
1250.406 Procedures.
1250.406-1 Operational procedures.

Subpart E—Recovery and Utilization of Precious Metals (Silver, Gold, Platinum, Palladium) from Scrap Materials

1250.501 General.
1250.502 Policy.
1250.503 Responsibilities.
1250.504 Procedures.

Subpart F—Contract Review Checklist

1250.601 General.
1250.602 Contract review checklist.

Subpart G—The DLA Master Solicitation Program

1250.701 General.
1250.702 Scope.
1250.703 Definitions.
1250.704 Format.
1250.705 Policy.
1250.705-1 The master solicitation.
1250.705-2 The individually numbered solicitations.
1250.706 Incorporation by reference.
1250.706-1 Incorporation of ASPR provisions.
1250.706-2 Incorporation of standard Forms 32 and 33A.
1250.707 Termination for convenience clause.
1250.708 Distribution.
1250.708-1 Copies to DCAS.
1250.708-2 Copies to suppliers.
1250.708-3 Copies to GAO.

AUTHORITY: The provisions of this Subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DOD Directive 5105.22, January 5, 1977.

Subpart A—Sale, Loan, Gift of Property

§ 1250.101 Sale, loan, or gift of certain property (10 U.S.C. 4506).

(a) The HPAs and their authorized designees are authorized to sell, give, or lend drawings, manufacturing and other information, and samples of supplies and equipment to be manufactured or furnished, to contractors and private firms which are or may likely be manufacturers or furnishers of supplies and equipment for use under approved production plans, whenever they determine that such action is necessary in the interest of national defense.

(b) Such drawings, manufacturing and other information, and samples of supplies and equipment to be manufactured or furnished shall be sold, given or loaned by appropriate written agreement, reciting the above determination (10 U.S.C. 4506).

(c) The foregoing determination and requirement for a written agreement will not be mandatory in the case of invitations for bids and requests for proposals. Drawings, specifications and data furnished need not be returned unless otherwise directed by the contracting officer.

(1) The determination to request the return of such specifications, drawings, or any other data furnished the contracting officer should take into consideration the following factors:

(i) The current or probable future need of the Government for the items.

(ii) The residual value of such items.

(iii) Administrative and other expenses incident to handling and storage of such items.

(iv) The probable cost of reproduction of such items in event of future procurement.

(2) Classified material as a general rule will be required to be returned regardless of the criteria established above.

Subpart B—Reserved

Subpart C—Training

§ 1250.301 Training of procurement personnel.

§ 1250.301-1 General.

DOD Manual 1430.10-M-1 is very specific as to the training required for people working in the procurement career field. Every effort must be made to follow the concepts outlined in this manual. This will help assure the availability of a trained work force and will allow for normal job progression in this important function.

§ 1250.301-2 Policy.

In addition to providing adequate training at Service sponsored schools, all newly employed professional personnel in the procurement and production area (i.e., buyers) will be given a minimum of about forty-four hours of orientation in Small Purchases. All new buyers shall be required to read the ASPR Small Purchase Manual (ASPM No. 2) prior to beginning Phase I of the orientation course. See 50-301.3 for proposed course outline. This instruction should include clear guidance on the necessity for making buys at reasonable prices. This orientation course will be conducted in two phases. Phase I will be completed before any work assignments are made. Phase II will be given four to six weeks later. This will permit new employees to have a better grasp of the actual duties to be performed. In addition to the new buying personnel, any persons currently assigned to buying tasks, who have not had formal procurement training, will also be given this orientation. For these people, only Phase II may be required.

§ 1250.301-3 Small Purchase Orientation Course for "New" Buying Personnel (44 Hours).

PHASE I

Agenda	Time
1. Organization (hour)	1
(a) DOD	
(b) DLA	
(c) DSC	
2. Ethics and standards of conduct (hour)	1
3. Basic procurement policies/statutes (hours)	2
(a) Delegation of authority	
(b) Contracting officers	
4. ASPR section III, part 6 (hours)	2
(a) Competition	
(b) Purchase orders	
(c) Imprest funds	
(d) BPA's	
(e) Fast pay	
(f) Unpriced orders	
5. Standard automated materiel management system (SAMMS)	
(a) General SAMMS orientation (minutes)	30
(b) Automated small purchase procedures, ASPS phase I (hour)	1
(c) Aaard input procedures (hour)	1
(d) SAMMS reports and output products affecting small purchase operation (hour)	1
(e) SAMMS modification to small purchase awards (minutes)	30
6. Local procurement forms (hours)	4
(a) How to prepare	
(b) When to use	
(c) Records-documentation	
7. Sources of supply-general (hours)	2
8. Soliciting and evaluating quotes (hours)	2
9. Cost and price analysis techniques (hours)	4
(a) Catalogs	
(b) Price reasonableness	
10. Adequacy of purchase request (hours)	2
(a) Technical data	
(b) Priorities	
(c) Quantities required	
Phase I, Total (hours)	24

PHASE II

Agenda	Time
1. Administration of small purchases (hours)	2
(a) Change orders	
(b) Terminations	
2. Sources of supply (hour)	1
(a) Federal supply schedules	
(b) Federal prison industries	
(c) Industries for blind	
3. ASPR section III, part 6 (hours)	4
4. Cost and price analysis price reasonableness (hours)	4
5. Orientation by technical operations (hours)	4
(a) Technical data	
(b) Specifications	
6. Local procurement forms (hour)	1
7. Review overall orientation (as required) (hours)	4
Phase II, Total (hours)	20

§ 1250.302 Attendance of civilian contractor personnel at defense management courses.

§ 1250.302-1 General.

Employees of private organizations performing on contracts with the Defense Logistics Agency are authorized to attend Defense Management Courses when it is certified that a valid requirement exists for the training. Such courses are contained in the Defense Management Education and Training Catalog (DOD 5010.16-C).

§ 1250.302-2 Policy.

Attendance of civilian contractor personnel at Defense Management Courses will be considered only when the HPA finds in writing that such attendance is in the best interest of the Government. The finding must demonstrate the relationship between the requested training and the successful performance of the DLA contract(s) reviewed. Also, a determination as to whether the cost of the training should be borne by the employer or the Government shall be made by the HPA. This determination will be based upon whether the course is primarily advantageous to the Government or to the contractor. Requests for quota will be processed as prescribed in DLAR 1430.10.

§ 1250.302-3 Administration.

Details related to administration of the Defense Management Education and Training Program are contained in DOD 5010.16-C.

Subpart D—Selection of Contracts to be Terminated for Convenience In Event of Unexpected Deceleration in Military Requirements

§ 1250.401 General.

(a) References

(1) ASPR, Section 1, Part 4.
(2) ASPR, Section VIII.
(3) ASPR, Section XXIV.
(4) DLAM 8110.1, Termination Manual for Contract Administration Services.
(5) DLAM 8130.1, Contractor Inventory Management Manual for Contract Administration Services.

§ 1250.402 Policy.

Terminations for convenience will be based on individual decisions resulting from a comparison of costs for termination and excess position of items versus the need for release of obligated funds for higher priority use.

§ 1250.403 Priority of Termination Type.

A termination for default gives the Government certain rights that should be surrendered only when this is to the Government's best interest. Whenever unsatisfactory performance occurs, the possibility of terminating for default should be examined; this should be done before considering other means of ending the contract.

§ 1250.404 Responsibilities.

The decision to terminate a contract for the convenience of the Government is the joint responsibility of the commodity manager and the PCO at the cognizant DSC. In those cases where the contract resulted from a MIPR, the decision to terminate for convenience is the responsibility of the MIPR initiator; however, the PCO upon request must inform the initiator of all elements which have any bearing on the status of the contract.

§ 1250.405 Complete and Partial Terminations.

Terminations may be complete or partial. A complete termination requires the contractor to stop all work under the contract upon receipt of the Notice of Termination or on the date specified in the Notice. A partial termination discontinues only a portion of the uncompleted work under a contract. (The part of the work that the contractor must continue to perform is called the continued portion. The part of the contract that has been completed and accepted before the effective date of the termination is called the completed portion. The terminated portion of the contract is any part that does not relate to either the completed or the continued work.)

§ 1250.406 Procedures.

Upon receipt of a request for a cutback in contract quantities from the cognizant commodity manager, the following information will be utilized in selecting the contracts for termination:

(a) Ascertain all current contracts for items involved.

(1) Determine the undelivered portion of each contract.

(2) Consider suppliers in transit (F.O.B. destination contract) as deliveries, unless contract is delinquent and a notice to terminate for default has been sent to the contractor.

(3) Determine what deliveries, if any, are delinquent.

(4) Determine whether the delinquency is excusable or inexcusable.

(5) Contractual quantities scheduled for direct delivery to users are not subject to termination action unless specifically so designated.

(b) If delinquency is considered inexcusable, terminate for default where appropriate.

(c) Where Termination for Default is not appropriate or where additional quantities remain to be cut back after Termination for Default, proceed in the selection of contracts to be terminated for convenience.

(1) First Choice should be where contractors are agreeable to total or partial termination (voluntary or no cost settlement).

(2) Consider the following factors:

(i) Contracts involving contractors' commercial item.

(ii) Contracts awarded as rated orders [ASPR 1-307.3].

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(iii) Contracts for mandatory procurement. [ASPR Section V].

(iv) Contracts most recently awarded and those providing for longest production lead time where production has not progressed to an appreciable degree.

(v) Contracts awarded at the highest price and work down pricewise.

(vi) Partial termination of all contracts where two or more contractors are involved in lieu of total termination of a few.

(d) The dollar amount of potential settlement claims should be estimated with the assistance of DCAS. Consider:

(1) Unit price of undelivered items.

(2) Raw material on hand and/or on order.

(3) Components on hand or on order.

(4) Work in process.

(5) Unamortized start up costs.

(6) Percentage of completion.

(7) Current commercial value and saleability of the item involved.

(8) Disposal actions required taking into consideration recoupment through sales of items to be disposed.

§ 1250.406-1 Operational Procedures.

(a) The Directorate of Supply Operations or the MIPR initiator will advise Procurement and Production to cancel an item by quantities and consignee. The Directorate of Supply Operations or the MIPR initiator will be required to indicate all open purchase requests and/or contracts when requesting information upon which to base a termination decision or when requesting cancellation by item and consignee.

(b) Procurement and Production, using procedures in § 1250.406 will determine what portion of each open contract (or contracts) should be terminated.

(c) If Procurement and Production decision indicates that Supply Operations original request should be revised, decision will be coordinated with Supply Operations. The final authority for deciding whether or not to terminate, when substantial claims are involved, is the Center Commander.

(d) Upon completion of above actions, Procurement and Production will issue the Termination Notice with a copy to DCAS for termination settlement action.

Subpart E—Recovery and Utilization of Precious Metals (Silver, Gold, Platinum, Palladium) from Scrap Materials

§ 1250.501 General.

The critical shortage of precious metals from United States sources, the large amount of precious metals required in the manufacture of items for defense, and the need to reduce procurement costs of material with precious metal content dictated the need for DOD to establish and monitor a program to (a) reclaim precious metals from precious metal bearing scrap and waste materials, and (b) to utilize reclaimed precious metals as Government Furnished Material (GFM) in procurement of items containing precious metals. This Section implements DOD Directive 4160.22 (as revised) and establishes DOD policy governing the management of the recovery and the use of precious metals derived from precious metals bearing scrap and waste materials generated by all elements of DOD world-wide. The DLA is assigned the responsibility for managing the overall program and has designated the Defense Property Disposal Service (DPDS), Battle Creek, Michigan, as the activity charged with the responsibility for managing the retrieval and refining of precious metals. DISC has been assigned the supply management function for precious metals.

§ 1250.502 Policy.

(a) All DLA elements generating precious metal bearing scrap and waste materials will establish and monitor an internal program to assure the economical reclamation of precious metals, consistent with the overall DOD policy of effecting maximum use of excess property to meet DOD needs.

(b) Recovered precious metals, after refinement, will be made available to DOD elements for their use as GFM to reduce new procurement costs.

§ 1250.503 Responsibilities.

Commanders of each DLA field activity are responsible for the following:

(a) Reporting precious metal bearing scrap and waste materials to the DPDS Manager for disposition and shipment to destination upon notification by the DPDS Manager.

(b) Using the refined precious metals maintained in storage by the DISC Precious Metals Inventory Manager, as GFM, whenever feasible, for contracts requiring precious metals bearing materials.

§ 1250.504 Procedures.

(a) Prior to soliciting bids for award of contracts requiring precious metals contact the DISC Precious Metals Inventory Manager, DISC-ODCA/TD, indicating the item, quantity and grade of precious metal required for the procurement. The precious metals are identified as follows:

NSN	Nomenclature	Unit of issue
9660-00-042-7768	Platinum	Troy ounce
9660-00-042-7733	Gold	do
9660-00-042-7765	Palladium	do
9660-00-106-9432	Silver	do
9660-01-010-2625	Rhodium	do
9660-01-011-1937	Iridium	do

If the required amount is available, forward a letter or TWX to DISC-ODCA/TD, requesting that the required quantity be reserved to cover the procurement including the estimated delivery schedule.

(b) When a contract is awarded, a MILSTRIP requisition is to be submitted to DISC-ODCA/TD. The requisition must cite full Troy ounces (partial ounces shall be rounded off to the nearest whole ounce). Exception data are to be cited. The exception data are (1) the exact "ship to" address, the DoDAAC sometimes cites post office boxes or is not always accurate; (2) the contract number on which the precious metals are committed for use, this is necessary for control and audit purposes; (3) the end item application, the NSN, part number or any other identifying data which is necessary in order that the precious metal may be recovered from the item when it reaches the end of its life cycle, and (4) a contact point with phone number at the requisitioning activity, this is required in case it is necessary to resolve any problems.

(c) Transportation charges are included in the unit price. Transportation is usually accomplished by premium method (armored van); therefore, multiple requisitions to the same destination should be consolidated whenever possible. Delivery normally will be accomplished within three weeks after receipt of the requisition by the DISC Inventory Manager.

Subpart F—Contract Review Checklist

§ 1250.601 General.

The following contract review checklist has been developed for use as a guide by DLA contracting officers and buyers in their individual contract reviews. The checklist may be modified to suit the needs of the procurement activity. A standard DLA-wide form is not prescribed in order to permit development of a local checklist.

§ 1250.602 Contract Review Checklist.

Contractor:

Contract No.: Dollar value: $

Brief description of supplies or services

Quantity Unit Price ($) Extension ($)

☐ PR ☐ MIPR

YES ☐ NO ☐ N/A

1. In file?

2. Are amendments approved by appropriate authority and are they attached?

3. Adequately funded?

4. Is sole source justification adequate?

5. Option quantity included?

Procurement plan

6. Is information sufficient to support proposed method of procurement? (Advertised-Negotiated)

7. Was the procurement plan approved at a level above the buyer in accordance with DLPR 1-2100?

8. Is procurement administrative leadtime realistic?

9. If option proposed, is its use authorized/appropriate?

10. If nonpersonal services involved, was determination issued per ASPR 22-102.4?

11. If provision for progress payments contemplated, is it appropriate? (ASPR Appendix E)

Determination and findings (negotiation)

12. Proper format? (ASPR Appendix J)

13. Option quantity included/value noted?

14. Proper negotiating authority cited?

15. Any changes requiring determination and findings amendment?

16. If so, properly executed?

17. Signed and dated?

Small business/labor surplus area set-aside determination

18. Does information provided support the determination?

19. Is withdrawal/modification of the initial set-aside determination explained?

Source list

20. Is the list excessively long?

21. Should preinvitation notice have been used?

22. Is list annotated as to "no bids" received?

23. If history of sole source, are reasons given for soliciting additional firms?

Synopsis

24. Evidence in file?

25. No synopsis; justification adequate? (ASPR 1-1003.1(c))

Solicitation—IFB/RFP

26. Was solicitation issued in a timely manner?

27. Do solicitation provisions reflect PR/MIPR requirements?

28. If oral solicitation, does file contain justification for its use? (ASPR 3-501(d))

29. Bidding time/RFP response time adequate?

30. Format in accordance with ASPR 2-201 (IFB) or 3-501 (RFP)?

31. Were amendments sent to all originally solicited?

32. Were amendments properly dated?

33. Are contract clauses and provisions current/complete?

34. Was cost or pricing data (DD Form 633) requested in the initial solicitation?

35. Was DD Form 633-7 requested in initial solicitation?

36. If cost or pricing data was or was not requested, does the file include an explanation? (ASPR 3-811(a))

37. Is a disclosure statement on cost accounting practices and certification required? (ASPR 3-1203)

38. If required, did the contractor:

(1) Submit same?

(2) Execute a certificate of monetary exemption?

(3) Execute a certificate of previously submitted disclosure statement?

Evaluation

39. Abstract of bids/proposals: (ASPR 1-308, 2-403, 3-109)

(1) Signed and dated?

(2) All bids/offers entered properly?

(3) Exceptions noted?

40. Nonresponsive determinations checked with counsel; file documented as to causes?

41. Disposition of late bids/proposals adequately documented?

42. Unsuccessful bids/proposals included in the file?

43. Were unsuccessful offerors notified promptly?

44. If sole bid/offer received, file documented as to why previous suppliers failed to offer?

45. If small business determined to be nonresponsive, was certificate of competency obtained? If not, why not?

46. Packaging/transportation/freight rate data obtained and determined to be adequate?

47. If DD Form 633-7 submitted, is it complete and does it support commerciality? (Quantities comparable?)

48. If cost of pricing data (DD Form 633) submitted, was it reviewed by the cost/price analysis element?

49. Was it found to be acceptable?

50. Was field pricing support obtained (DCAA audit; DCAS pricing/technical report)?

51. If not, was waiver executed?

52. Was independent price analysis performed by the cost/price analysis element?

53. If not, was waiver executed? (PROCLTR 75-10)

54. Were auditor's recommendations accepted?

55. Was weighted guideline analysis prepared?

56. Were realistic negotiation objectives established?

57. Was prenegotiation briefing presented to appropriate authority before commencement of negotiations?

58. Does prenegotiation briefing memorandum clearly establish basis for negotiating position?

59. Does it include all of the required elements? (§ 1203.805)

60. Was basis for decision to negotiate, or decision to accept the initial offer without discussion, documented?

61. Is prenegotiation briefing memorandum signed and dated?

Negotiations

62. Were negotiations conducted with all responsible offerors within a competitive range?

63. If changes occurred in requirements, were prospective contractors notified in accordance with ASPR 3-805.4?

64. Was an amendment to the solicitation issued?

65. Were acknowledgements of changed requirements confirmed in writing by offerors?

66. If negotiation objectives were changed or exceeded, was prenegotiation briefing authority notified?

67. Were negotiations conducted on an individual cost element basis?

68. Was option quantity considered in negotiations?

69. Was rent-free use of Government property considered in the negotiations?

70. Was authority obtained for rent-free use from cognizant administrative contracting officer?

71. Was common cut-off date for negotiations established with all offerors?

72. Was certificate of current cost or pricing data obtained?

73. If so, does it reflect date of contractor's last data submission/final agreement as to price?

74. Does price negotiation memorandum format conform with § 1203.811?

75. Does the price negotiation memorandum clearly and conclusively support price reasonableness determination?

76. Is statement of same included in the price negotiation memorandum?

77. Is the price negotiation memorandum signed and dated?

Pre-award and other support data

78. Was pre-award survey conducted?

79. If no pre-award survey, was waiver executed by appropriate authority? (§ 1201.905-4)

80. Were requirements revalidated per § 1201.452-11?

81. If $1,000,000 or more, was equal employment opportunity clearance report obtained?

82. Is Individual Procurement Action Report (DD Form 350) in file?

83. Is it in accordance with ASPR and DLPR Sections XXI?

84. If royalty payments involved, did DLA-G concur?

Contract

85. Was proper award document utilized (SF26-SF33)?

86. Does contract agree in all respects with contractor's bid/proposal?

87. If single signature document, does it reflect contractor's letter/message amendments?

88. Is contract being awarded within bid/proposal acceptance period?

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89. Is arithmetic correct? (Extensions and totals)

Remarks

Subpart G—The DLA Master Solicitation Program

§ 1250.701 General.

In most purchasing offices, solicitations have been constructed to show all the requirements, terms, and conditions involved in one package, which was then sent to potential suppliers. When many thousands of purchases were made, the repetitive preparation and issuance of the millions of sheets of paper which made up the solicitations became significant not only to purchasing offices, but also to contractors who had to receive, consider, and respond to these solicitations. The Master Solicitation Program was developed in an effort to reduce the paperwork flowing between DLA buying offices and potential suppliers, to simplify solicitation and award documents, and to achieve time and dollar savings for DLA and industry. Authority for the Program is ASPR Deviation No. 73-1, granted on 16 June 1972 by the ASPR Committee. It pertains to ASPR 2-200, 3-501, and 16-101.2 and extends through 30 June 1978.

§ 1250.702 Scope.

Master solicitations may be tailored in scope according to the needs and judgments of each purchasing activity. If it is advantageous to utilize separate Master Solicitations for large and small purchases, geographic regions or major commodities, a purchasing activity may wish to use several Master Solicitation documents rather than one. The Program may be applied to any appropriate solicitation process as determined by the purchasing activity. It is applicable to both large and small purchases.

§ 1250.703 Definitions.

(a) *Master Solicitation (MS)* is a document containing provisions repetitively used in any type of solicitation. It is prepositioned with all potential sources.

(b) *Individually Numbered Solicitation (INS)* covers specific requirements of a particular solicitation. It includes only those required provisions which are not in the MS and incorporates applicable provisions of the MS by reference.

(c) Change to the MS is an alteration of, addition to, or deletion from the clauses of the MS for one particular solicitation only.

(d) *Incorporation by Reference (IBR)* is the inclusion of the clauses of one document in another by stating the proper reference numbers of those clauses in the second document.

§ 1250.704 Format.

(a) The preferred format (print size, numbering system and two column display) for MS documents is that of the SF 33A. If in-house capability does not exist and time or monetary considerations dictate a departure, this format is optional as determined by the purchasing activity.

(b) Clauses shall be segregated to conform with the Uniform Contract Format Sections. However, the most frequently used clauses shall be placed at the beginning of each section.

§ 1250.705 Policy.

§ 1250.705-1 The master solicitation.

(a) The MS shall include essential and frequently used material as determined by individual Centers on the basis of the cost effectiveness of inclusion in the MS rather than the INS. Convenience to industry and to DLA shall also be a consideration. There shall be no interim changes, revisions or amendments to the master solicitation itself. The only approved method of revising the master solicitation is by reissuing the entire master solicitation or by interim changes contained in the individually numbered solicitations. All interim changes must be entitled: "FOR THIS SOLICITATION ONLY; the following changes are hereby made to D( )SC Master Solicitation, (Date)." Large numbers of interim changes will indicate a need for reissuance of the master.

(b) All new and/or revisions to Master Solicitations and copies of local implementing amplifying instructions, including revisions thereto, shall be submitted to this Headquarters, ATTN: DLA-PPR, for review and approval prior to implementation. The Headquarters review will concentrate primarily on solicitation format and the appropriateness/legality of local clauses. The correct usage of ASPR clauses is a responsibility of the field activity. In the event the new or revised MS contains a new or revised clause requiring separate review and approval pursuant to ASPR/DLPR, such clause shall be identified in the letter transmitting the MS to DLA.

(c) The master solicitation should be kept as brief as possible (typically not exceeding 25 or 30 pages). Local clauses should be combined, condensed, or eliminated wherever possible. Locally developed manuals, packing/consignment instruction, etc., should be included in the master solicitation when such documents are used repetitively.

§ 1250.705-2. The individually numbered solicitations.

The INS shall contain all information pertinent to a specific solicitation. It shall incorporate the appropriate provisions of the MS by reference and shall be prepared in a manner which provides for award to be made without physically attaching the MS.

§ 1250.706 Incorporation by reference (IBR)

§ 1250.706-1 Incorporation of ASPR provisions.

(a) Mandatory UCF Section L, ASPR Section VII clauses shall be incorporated by reference in either the MS or the INS, as decided by each buying activity.

(b) Clauses other than mandatory UCF Section L, ASPR Section VII clauses which are not fill-in clauses shall be incorporated by reference by title, number, and date, or in full text in either the MS or the INS, according to the judgments of each Center.

(c) Fill-in clauses shall be placed in full text in either the MS or the INS at the discretion of each Center.

§ 1250.706-2 Incorporation of standard forms 32 and 33A.

Standard Forms 32 and 33A shall be incorporated by reference.

The SF 33A shall be incorporated by reference by including in Section B Uniform Contract Format a notification substantially as follows:

"Paragraph 1 of Block 9 to the SF 33 is deleted and the following is substituted therefor: Solicitation instructions and conditions, SF 33A is incorporated herein by reference".

§ 1250.707 Termination for convenience clause.

ASPR Deviation No. 74-14 with respect to ASPR 3-608.2(b)(1)(ix) permits the Termination for Convenience Clause to be included in the schedule of the purchase order at the time of issuance so that additional paperwork involved in obtaining the contractor's signature may be avoided. The clause may either be set forth verbatim or incorporated by reference.

§ 1250.708 Distribution.

§ 1250.708-1 Copies to DCAS.

An initial distribution of the appropriate MS to each DCAS component shall be made as follows:

DCASR—30 copies
DCASMA—15 copies
DCASPRO—6 copies

Additional copies shall be furnished upon request.

§ 1250.708-2 Copies to suppliers.

All potential suppliers shall be provided with copies of the appropriate MS.

§ 1250.708-3 Copies to GAO.

Copies of contracts sent to the GAO shall include a copy of the Master Solicitation.

Appendix E—DLA Contract Financing Regulations

Sec.
E-001 Purpose.
E-003 Implementation.

Subpart B—Basic Policies

E-200 Scope of Part.
E-200.50 Submission of Contractual Instruments for Audit by the U.S. General Accounting Office.
E-218 Deviations—Amendments.
E-218.50 Submission of Request for Deviations.
E-219 Interpretations.
E-220 Foreign Procurement.
E-220.50 Use of Foreign Currencies.

Subpart C—Guaranteed Loans

E-303 Procedure on Application of a Private Financing Institution.
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E-306 Guaranteeing Agency.
E-306.50 Account, Accounting Office, Disbursing Office.

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E-412 Action by Contracting Officer—Approval.
E-412.50 Transmittal of Documents.
E-412.51 Accounting and Disbursing Procedures.

Subpart E—Progress Payments Based on Costs

E-505 Unusual Progress Payments—Standards—Procedures.
E-505.50 Submission of Requests.
E-506 Accounting System and Controls.
E-506.50 Accounting and Disbursing Procedures.

Subpart F—Contract Debts—Interest—Deferred Payments

E-001 Purpose.

This appendix outlines the methods by which the provisions of ASPR Appendix E will be applied in DLA (other than DCASRs).

E-003 Implementation.

Changes and additions to, as well as interpretations of, this appendix will be developed within the Accounting and Finance Division, Office of the Comptroller, HQ DLA.

Subpart B—Basic Policies

E-200 Scope of Part.

E-200.50 Submission of contractual instruments for audit by the U.S. General Accounting Office.

DLA contractual instruments required by the U.S. General Accounting Office for audit purposes must be submitted to one of the Military Service finance centers. The appropriate center for a specific DLA contractual instrument can be determined by reference to the accounting and finance (disbursing) office designated to make payment under the basic contractual instrument, e.g., if the disbursing office operates under an Army disbursing station number, the contractual instruments should be transmitted to Indianapolis. The addresses of these centers are as follows:

Army

Processing and Disposal Branch, Retained Accounts Division, Settlement Operations, Finance Center, U.S. Army, Indianapolis, Ind. 46249.

Air Force

Air Force Accounting and Finance Center, Attn: SAA, 3800 York Street, Denver, Colo. 80205.

Navy

Navy Finance Center, Administrative Services Department, Code SSP, Federal Office Building, 1240 East QM Street, Cleveland, Ohio 44199.

Marine Corps

Commandant, Marine Corps, Headquarters, Washington, D.C. 20380.

E-218 Deviations—amendments.

E-218.50 Submission of request for deviations.

Request for authority to deviate from the provisions of ASPR Appendix E will be submitted (in an original and four copies) to HQ DLA, Attn: DLA-CF.

E-219 Interpretations.

Problems of interpretations and applications of the type indicated in ASPR E-219 should be transmitted to HQ DLA, Attn: DLA-PP. This office will effect any necessary coordination with the DLA Contract Financing Officer and determine whether dissemination to the other procuring activities is appropriate.

E-220 Foreign procurement.

E-220.50 Use of foreign currencies.

Foreign currencies owned by the United States Government shall be used, when feasible, to make payments under contracts in foreign countries. The provisions of DLAR 7000.2, Use of United States-owned Foreign Currencies for Payment of Contracts in Foreign Countries, will govern.

Subpart C—Guaranteed Loans

E-303 Procedure on application of a private financing institution.

E-303.50 Submission of applications and supporting documents.

Any application based on a contract which cites or will cite DLA funds will be transmitted to HQ DLA, Attn: DLA-CF. This address will be used regardless of the office responsible for administration of or payment under the contract.

E-306 Guaranteeing agency.

E-306.50 Account, accounting office, disbursing office.

(a) The following revolving fund account has been established on the books of the Treasury for receipts and expenditures under the DLA guaranteed loan program:

Symbol—97X4080.

Title—Defense Production Guarantees, DLA.

To assure proper processing through accounting and finance reporting channels of the Military Departments, the subhead .5149 will be added to the symbol.

(b) The single central accounting office responsible for maintaining the accounting records of the DLA's guaranteed loan program is the Office of the Comptroller (Contract Financing Office), HQ DLA.

(c) The single disbursing office which shall be responsible for taking up all collections and making all disbursements incident to DLA's guaranteed loan program is the Accounting and Finance Office, Disbursing Symbol 5016, DASC, Cameron Station, Alexandria, Va. 22314.

Subpart D—Advance Payments

E-412 Action by contracting officer—approval.
E-412.50 Transmittal of documents.

The contracting officer's report should be forwarded in original and two copies in the format and outline indicated by ASPR E-412. Unless otherwise requested, the contracting officer should furnish the items indicated by ASPR E-412(v) and (vi); this action will normally obviate the need for the separate comments required by ASPR E-412(vii). If the contracting officer recommends disapproval (ASPR E-412.1) he should include suggestions as to alternate financing methods. The documents should be transmitted to HQ DLA, Attn: DLA-CF, if the contracts cites DLA funds; the office administering or making payments under the contracts or maintaining the allotment records to which the payment will finally be charged are not pertinent.

E-412.51 *Accounting and Disbursing Procedures.*

Each of the three Military Departments employs different accounting and disbursing procedures for making and recouping advance payments. The prescribed procedures of each Department meet the requirements for advance payments and recoupments made under contracts citing DLA funds; therefore, the paying office designated in the contract and/or the allottee or suballottee, depending upon the local arrangement, should utilize the procedures outlined by the Military Department under which paying office operates.

Subpart E—Progress Payments Based on Costs

E-505 Unusual Progress Payments—Standards—Procedures.
E-505.50 *Submission of Requests.*

The documents indicated in the third subparagraph ASPR E-505, if the request concerns a contract which cites DLA funds, will be submitted for coordination and approval to HQ DLA, ATTN: DLA-CF. The command jurisdiction of the office administering the contract, making payments on the contract or maintaining accounting records of the allotment or suballotment which will be charged for the payment is not pertinent.

E-506 Accounting System and Controls.
E-506.50 *Accounting and Disbursing Procedures.*

Each of the three Military Departments employs different accounting and disbursing procedures for making progress payments. The prescribed procedures of each Department meet the requirements for progress payments made under contracts citing DLA funds; therefore the paying office cited in the contract and/or the allottee or suballottee should utilize the procedures outlined by the Military Department under which the paying office operates. Allottees and suballottees of DLA funds, whose allotments or suballotments are charged with progress payments, will render the same type of report to the allottor or suballottor as are required by the Military Department procedures under which the disbursing

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office, which services the allottee or suballottee, operates. The "same type report" means the same format, form, content and due dates prescribed by the appropriate Military Department directive. Allottees may consolidate the reports of suballottees or transmit them as received. Reports on progress payments should be submitted in accordance with paragraph 51, Section VII, Chapter 5, DLAM 700.1.

Subpart F—Contract Debts—Interest—Deferred Payments

Follow directions contained in DLAM 7000.1, Chapter 12, Sections I and II and Figures 12-1, 12-2, 12-4, and 12-11.

SUPPLEMENT NO. 2—CONTRACT FILE MAINTENANCE, CLOSEOUT AND DISPOSITION

Subpart A—Documentation of Contract Actions

S-2101.2 Contractor General File.

Subpart A—Documentation of Contract Actions

S-2101.2 *Contractor General File.*

The basic purpose of the contractor general file is to provide complete and current information on a contractor's capability or responsibility within a single reference. The file on each contractor should include financial statements and reports, scope of work he performs, personnel data, quality of his operations, and any other correspondence and reports relating to the contractor generally and considered worthy of management's attention. These files shall be maintained at one central point within the purchasing activity.

[FR Doc. 78-11865 Filed 5-2-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Disposition of Books and Sound Recordings Found Loose in the Mails

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule amends postal regulations to permit the release, after a 30-day retention period, of undeliverable books and sound recordings bearing a particular trade name, company name, or other organizational identification to a publisher or distributor of such books or sound recordings who formally requests such release. Books and sound recordings found loose in the mail that cannot be traced to a particular firm or mailing or that can be traced to a firm which does not request their release will, as before, be sold at public auction. The Postal Service has made this change in the regulations because it has reason to believe that over 90 percent of all books and sound recordings found loose in the mailstream are mailed by commercial mailers. In the opinion of the Postal Service, this change in the regulations will have the expected effects of returning books and sound recordings to their rightful owners and avoiding the present expense to the Postal Service of processing and selling this material. The rights of individual mailers to recover lost books or sound recordings will continue to be protected by the 30-day holding period, during which time the Postal Service can respond to inquiries on lost items. It should be noted that the revised rule will not apply to articles other than books and sound recordings found loose in the mails, because there is an insufficient statistical basis for making it generally applicable to other mailed merchandise at this time.

EFFECTIVE DATE: June 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Ed McClure, 202-245-4530.

SUPPLEMENTARY INFORMATION: On February 14, 1978, the Postal Service published for comment in the FEDERAL REGISTER proposed changes to Part 159 of the Postal Service Manual as described above (43 FR 6263). The proposed changes were intended to establish more practicable criteria for the release of books and sound recordings from custody of the Postal Service without adversely affecting the rights of individual mailers.

Interested persons were invited to submit written comments concerning the proposed regulations by March 16, 1978. Seventeen letters of comment were received, of which fourteen were in support and three were opposed. Eleven commenters made no specific recommendations; the remaining six commented on specific features of the proposed rules as follows:

One commenter seemed to be concerned that the Postal Service would have to exert an excessive amount of effort to determine the proper party to whom books and sound recordings should be released. Under existing rules, which are not being changed, books and sound recordings will continue to be released during a 30-day holding period to customers who identify missing material by specific quantities and titles. Books and sound recordings still on hand at the end of the holding period will, under the new rule, be released on request to publishers or distributors who are identified by means of the trade names, company names, or other organizational identification appearing on the material. Rather than an excessive effort, the Postal Service believes less effort will be required to identify the party to whom material should be released.

Another commenter generally favored the rule change but offered four separate objections to the following specific provisions:

(1) The commenter believes that books and sound recordings found loose in the mail at a BMC should continue to be held at the BMC for the 30-day retention period instead of being sent to the dead parcel branch post office for such retention. Limited space at some BMCs is the reason the change in the rule was deemed necessary. However, we believe the solution is to allow the 30-day retention of all loose articles, not merely books and sound recordings, either at the BMC or the dead parcel branch post office, with the decision to be made by the regional postmaster general of the region in which the BMC is located. The final rule so provides.

(2) The commenter requested that the Postal Service define the meaning of "certify" in proposed 159.814a(3), which states in part that "requesters must certify that they have a legal right to books and sound recordings bearing a particular trade name, company name, or other organizational identification." Another commenter, who objected to the use of the term "legal right" on the ground that it is a new, unnecessarily vague concept, suggested that the rule be changed to require requesters to certify that they are the "senders" of books and sound recordings. We have amended the rule to accommodate both these concerns. As revised, the provision will read: "Requesters must include a statement that they are a publisher or distributor of books or sound recordings bearing a particular trade name, company name, or other organizational identification." We used the terms "publisher or distributor" instead of "senders", because those terms specifically designate the kinds of commercial mailers dealt with by the regulation.

(3) The commenter stated that the concluding sentence in proposed section 159.814d, which states that "dead parcel branches will attempt to adhere to these special separation requests to the maximum extent practicable", leaves a great deal to the subjective evaluation of unit managers. We disagree. The language of the concluding sentence requires maximum effort, and would excuse nonperformance only if not practicable.

(4) The commenter took exception to the six-month waiting period in proposed 159.814j before a cancelled request may be renewed, and interpreted this as a provision to allow for "administrative inertia". The rule has nothing to do with inertia. It is intended to ensure that requesters pick up books and sound recordings at dead parcel branches as they have agreed to do, or accept shipments of such materials at the locations they have designated. Failure to do either would impose undesirable costs on the Postal Service and justify cancellation of requests and resumption of auction sales of

such material. The rule would thus protect the Postal Service from the occasional requester who is not seriously interested in participating in this program to release books and sound recordings.

A distributor of books and audio visual materials, who was otherwise in favor of the proposed rule, said that books which he mails as a distributor would not usually bear his name or trademark and would be returned to the publisher. He suggested that a provision be included in the new rule to permit customer requests for return of specific missing titles. There is no need to add a provision to this rule, since existing rules already permit customers who are able to identify missing items by specific quantities and titles to request return of such items during the 30-day holding period. To the extent that the distributor includes its name or trademark, the new procedure would authorize an additional option leading to the return after the 30-day holding period of materials bearing its trade name.

Another commenter took exception to the provision in section 159.814b, that books which did not appear to be new would not be released. He was fearful that shopworn books, which had not been sold but were being returned for credit by retail dealers, would be excluded from return under this provision. The rule, as proposed, is a practical compromise aimed at excluding books which show obvious evidence of private ownership. The presence of scuffed or badly worn covers, dogeared pages, broken spines, bookplates, names of individuals, etc. would justify exclusion from release under this rule, but a lesser, shopworn appearance would not. Since any rule adopted is still subject to subsequent revision, the Postal Service has adopted section 159.814b as written. Revision will subsequently be considered if circumstances warrant.

This same commenter requested that the practice be continued of stamping books to indicate purchase at a USPS auction. This procedure will be discontinued when the new rules are adopted. The procedure of stamping books was originally instituted as a temporary measure to serve only while alternatives to disposal through auction sales were explored. Stamping books is a costly, time-consuming procedure which should be unnecessary when those customers who are concerned with it, will, through the new procedure, be able to obtain release of books in which they have an interest.

One commenter, an industry representative of a retail bookstore trade association, who was opposed to the new rule, took specific exception to the following two features of the proposed regulation:

(1) The commenter expressed his exception to the Postal Service "claim that 90 percent of all such (loose) books are rightfully owned by the publishing firm." We made no such claim. What we said was that "evidence shows that more than 90 percent of all books and sound recordings in the mailstream are mailed by commercial mailers * * *." Retail book stores would seem to fall in the category of commercial mailers. Accordingly, they have the same right as publishers or distributors to request that books and sound recordings bearing their particular trade name, company name, or other organizational identification be held for or sent to them.

(2) This commenter also took exception to the 30-day holding period and felt a much longer time was desirable. The 30-day period is contained in pre-existing 159.721g(1) of the Postal Service Manual and is not part of this proposed rule change. However, the 30-day holding period rule was published for comment in the FEDERAL REGISTER when it was originally proposed in December 1976 (41 FR 53677), as amended and corrected (41 FR 55524). A special management study recommended the 30-day holding period after finding that approximately 95 percent of loose mail inquiries are received and processed within the first 30 days. Accordingly, the 30-day rule was adopted on March 23, 1977 (42 FR 15681); we see no reason to change that determination.

As a result of comments received, we have made a number of revisions in the rules as discussed above. We also have made certain editorial changes aimed primarily at increased clarity. In view of these considerations, the Postal Service hereby adopts, as amended, the following revision of the Postal Service Manual:

PART 159—UNDELIVERABLE MAIL

1. In 159.4 revise .441 to read as follows:

159.4 Disposal of Undeliverable Mail and Unclaimed Articles

* * * * *

.44 Articles Found Loose in the Mail

.441 Process articles found loose in the mail in accordance with this section (159.44) at the facility designated in 159.721g(1). Before transferring loose articles to another location:

a. Make every reasonable effort to match such articles with the envelope or wrapper from which lost.

b. Loose articles which are transferred to another facility must be treated in accordance with 159.443 to remove items of no value before the transfer.

2. In 159.7 revise .721g and .724c(3) to read as follows:

159.7 Dead Mail

* * * * *

.721 Disposition

* * * * *

g. *Articles Found Loose in the Mail.* Articles found loose in the mail, which cannot be delivered or returned after the initial handling prescribed in 159.44, are treated as dead mail and processed as follows:

(1) *Location.* (a) Process loose articles found in any post office at the office where found.

(b) Process loose articles found in any BMC (bulk mail center) either at the BMC where found or at the dead parcel branch post office which serves that BMC service area (see 159.724c). The Regional Postmaster General of the region in which the BMC is located will decide whether the BMC or the dead parcel branch post office will process such articles. Loose articles which are transferred from the BMC where found to a dead parcel branch post office for processing, must be treated at the processing office as loose mail in accordance with 159.724c(3).

(2) *Holding Period.* Hold loose articles at the location where processed for 30 days after the initial handling prescribed in 159.44 and then send to the appropriate dead parcel branch designated in 159.724c at weekly intervals.

(3) *Sorting.* If the volume at any location during the 30-day holding period requires a plan of sorting to facilitate search and disposal on schedule, proceed as follows:

(a) Separate the articles into general groups, such as books, clothing, hardware, etc. Store by weeks to facilitate location and disposal.

(b) Only if the volume makes it necessary, assign a serial number to each category referred to in (a); assign a serial number to each parcel within each category; make a card or book list of the parcels, by category and parcel numbers, with a brief description of the articles.

(4) *Wrapping.* Do not wrap or box loose articles during the holding period except when necessary to keep together several articles known to be from the same parcel.

* * * * *

.724 Dead Letter and Dead Parcel Branches

* * * * *

c. Dead Parcel Branches

* * * * *

(3) *Separate Activities.* Each post office with a dead parcel branch must provide a separate activity for processing undeliverable and loose matter found within its own operation or loose matter designated by the regional postmaster general under 159.721g(1)(b) to be sent from a BMC for processing at the dead parcel branch post office. A physical separation must be provided between the work areas devoted to loose and undeliverable processing and to dead mail activities. Mail subject to a holding period may cross the separation into the dead parcel area only after the applicable holding period has expired.

(3) *Separate Activities.* Each post office with a dead parcel branch must provide a separate activity for processing undeliverable and loose matter found within its own operation or loose matter designated by the regional postmaster general under 159.721g(1)(b) to be sent from a BMC for processing at the dead parcel branch post office. A physical separation must be provided between the work areas devoted to loose and undeliverable processing and to

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dead mail activities. Mail subject to a holding period may cross the separation into the dead parcel area only after the applicable holding period has expired. Dead matter which has been held for the appropriate holding period at other facilities must be taken directly into the dead parcel unit and immediately prepared for auction or other appropriate disposal. Activities for each of these operations must be reported separately. Form 3731, *Quarterly Report of Dead Parcel Post Branch*, must not include any volume or work hour statistics for mail matter which has not been held for the prescribed holding period.

3. In 159.8 revise .813b and add new .814 reading as follows:

159.8 Treatment in Dead Parcel Branches

. . . . . .

.813 Other Parcels.

. . . . . .

b. Except for books and sound recordings (see 159.814), prepare other parcels, including ordinary, insured, and COD, for disposal as soon as received if sender or addressee cannot be identified. Do not list contents.

. . . . . .

.814 *Books and Sound Recordings.* Prepare books and sound recordings for disposal in accordance with 159.85, except for those that may be withheld from sale for release to a publisher or distributor under the following conditions:

a. A publisher or distributor may request, in the manner set forth below, that books and sound recordings bearing a particular trade name, company name, or other organizational identification, be released to the requester, or to the requester's authorized representative.

(1) The requester must apply in writing to the postmaster at each dead parcel branch where release of material is desired.

(2) The request must be in quadruplicate.

(3) Requesters must include a statement that they are a publisher or distributor of books or sound recordings bearing a particular trade name, company name, or other organizational identification.

(4) More than one trade name, company name, or other organizational identification may be listed in the same request.

(5) The request must specify whether the books and sound recordings are to be picked up at the dead parcel branch or whether delivery to another location is desired. If delivery to another location is desired, the address must be specified and must be one used by the requester as a return address. A requester may select only one such address for each dead parcel branch. The specified address may be changed at any time by submitting a written request to the postmaster at the dead parcel branch office.

(6) After approval, the postmaster will retain the original request and send one copy each to the requester, the Inspector in charge of the Division in which the installation is located, and the General Manager, Special Services Division, Office of Mail Classification, U.S. Postal Service, Washington, D.C. 20260.

(7) An approved request will remain in effect until cancelled in writing by either the requester or the Postal Service (see 159.814j).

b. A book or sound recording will be sold at auction and will not be released to the requester if, although it bears an applicable trade name, company name, or other organizational identification, it does not appear to be new, or was involved in the settlement of a postal indemnity claim, or if it is known that the requester was not the mailer or addressee.

c. A request for release of books or sound recordings will be granted except where a written protest, or a conflicting request from another party, is presented to the postmaster at the dead parcel branch post office. Merchandise involved in such a dispute will be sold at auction in the normal course of business, unless written notice from both parties advising of settlement of the dispute is received prior to the prescribed sale deadline (see 159.814g). The postmaster at the dead parcel branch post office will notify both parties in writing when such disputes arise or are settled and of the consequences to the merchandise in such disputes.

d. Upon approval of a request under 159.814a, dead parcel branches will establish special separations or bins, for segregation of books and sound recordings which bear the specified trade name, company name, or other organizational identification. Such identification must consist of a readily identifiable name and be easily read. Dead parcel branches will attempt to adhere to these special separation requests to the maximum extent practicable.

e. Except where delivery to another location is desired (see 159.814a(5) and .814h), dead parcel branches will release books and sound recordings to requesters or their authorized representatives at the dead parcel branch at a time and in a manner mutually agreeable between the requester and the postmaster, consistent with the instructions in this section (159.814). Such merchandise must be picked up at least once before each auction, but may be picked up more often by mutual agreement between the postmaster and the requester.

f. When books and sound recordings are to be released at the dead parcel branch, the following procedures apply:

(1) Ten days before each dead parcel auction, or more often, if warranted by volume, the dead parcel branch will send a written notice to each requester who has specified release of such merchandise at the dead parcel branch, advising of the quantity of books and sound recordings on hand. Merchandise which is to be released at the dead parcel branch will not be listed in the sale catalog.

(2) Requesters or their representatives may pick up books and sound recordings at the dead parcel branch upon presentation of a letter from the requester authorizing the Postal Service to release such merchandise to the bearer. This letter of authorization must be executed in triplicate. Upon release of the merchandise, all copies of the letter of authorization will be receipted in bulk by the person accepting delivery. One copy will be given out with the merchandise, one copy will be mailed directly to the requester, and the original will be retained by the dead parcel branch.

g. Books and sound recordings must be picked up at the dead parcel branch before the close of the business day immediately preceding the public display of auction sale merchandise. Failure to do so will result in cancellation of a request (see 159.814j).

h. As to books and sound recordings, which are to be released at another location under 159.814a(5), dead parcel branches will make up individual packages for shipment to the other location desired by the requester, unless hampers or other types of containers would be more advantageous.

(1) *Individual Packages.* Individual packages will be as large as possible subject to the weight and size limitations for fourth-class mail in 135.3. Each package will be prepared to comply with the requirements of 135.24, sent under a penalty label, and delivered at the destination as ordinary mail.

(2) *Containers.* Books and sound recordings from dead mail branches may be delivered in hampers, or other containers, where this means is more advantageous than making up individual packages, and adequate security against pilferage can be maintained. Postmasters at dead parcel branches and postmasters at delivery offices may coordinate suitable arrangements for containment, labeling, movement, and security of such merchandise through their respective transportation management officers.

i. Failure to accept delivery of any shipment under 159.814h will result in cancellation of a request (see 159.814j).

j. When a request is cancelled (see 159.814a(7), .814g, and .814i), the requester must be notified by the postmaster in writing. A cancelled request may not be renewed for six months after the date of cancellation. At that time, an application must be re-submitted in writing, as if it were a new request. Copies of any cancellation notice must be sent to the General Manager, Special Services Division, Office of Mail Classification, U.S. Postal Service, Washington, D.C. 20260. Merchandise on hand at the time of a cancellation will be included in the next auction.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401(2).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-12018 Filed 5-2-78; 8:45 am]

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[4310-84]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT; DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[A-7950; Public Land Order 5637]

ARIZONA

Prior Amendment of Executive order No. 8039; Prior Revocation of Public Land Order No. 5492; Clarification of Administration and Management Under National Wildlife Refuge System Administration Act; Change of Name to Kofa National Wildlife Refuge

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This public land order changes the name of the Kofa Game Range to the Kofa National Wildlife Refuge. Also, it affords notice of prior statutory action taken to revoke or revise public land orders or Executive orders, as necessary, to change the administration and management of the refuge area in accordance with Pub. L. 94-223.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-8731.

By virtue of the authority that is vested in the Secretary of the Interior by law, including the authority that is vested in him by section 204 of the Act of October 21, 1976 (Pub. L. 94-579, 90 Stat. 2751), and in accordance with the Act of February 27, 1976 (Pub. L. 94-223, 90 Stat. 199), which amended section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), it is ordered as follows:

1. The Act of February 27, 1976 (Pub. L. 94-223, 90 Stat. 199), which amended Section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), provides that units of the National Wildlife Refuge System, including the Kofa Game Range, shall be administered by the Secretary of the Interior exclusively through the United States Fish and Wildlife Service. Accordingly, notice is hereby given that effective as of February 27, 1976 and by virtue of Pub. L. 94-223, supra:

(a) Public Land Order No. 5492 of March 21, 1975 (40 FR 14054), which provided for the transfer of all of the Secretary's delegable authority for the operation and administration of the Kofa Game Range, as described in the aforesaid orders, to the Bureau of Land Management, was revoked; and such authority was, and is now, vested solely in the United States Fish and Wildlife Service;

(b) The operation and administration of the Kofa Game Range, including grazing, was to be administered, and is now being administered, in accordance with the National Wildlife Refuge System Administration Act, as amended, except that those holding grazing privileges, validly issued by the Bureau of Land Management and in effect on Feburary 27, 1976, are permitted to continue such privileges under terms and conditions imposed by the Taylor Grazing Act, and implementing regulations, until those privileges expire. The renewal or initiation of grazing privileges subsequent to February 27, 1976, is in accordance with the National Wildlife Refuge System Administration Act, as amended, and implementing regulations.

(c) Executive Order No. 8039 of January 25, 1935 (4 FR 438), which established the Kofa Game Range, was modified to the extent necessary for it to conform to the provisions of (a) and (b), above.

2. The name of the Kofa Game Range, as so designated by Executive Order No. 8039 of January 25, 1939 (4 FR 438), is hereby changed to the Kofa National Wildlife Refuge.

3. This order does not affect or alter in any respect the Notice of Proposed Withdrawal, A-7950 of February 26, 1974, relating to the Kofa Game Range, as published at 39 FR 8640.

Dated: April 25, 1978.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 78-12035 Filed 5-2-78; 8:45 am]

[4310-84]

[A-7951; Public Land Order 5636]

ARIZONA

Prior Amendment of Executive Order No. 8038; Cabeza Prieta National Wildlife Refuge; Clarification of Administration and Management Under National Wildlife Refuge System Administration Act

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This public land order affords notice of prior statutory action taken to revise Executive Order No. 8038, as necessary, to change the administration and management of the Cabeza Prieta National Wildlife Refuge in accordance with Pub. L. 94-223.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-8731.

By virtue of the authority that is vested in the Secretary of the Interior by law, including the authority that is vested in him by section 204 of the Act of October 21, 1976 (Pub. L. 94-579, 90 Stat. 2751), and in accordance with the Act of February 27, 1976 (Pub. L. 94-223, 90 Stat. 199), which amended section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), it is ordered as follows:

1. The Act of February 27, 1976 (Pub. L. 94-223, 90 Stat. 199), which amended section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), provides that units of the National Wildlife Refuge System, including the Cabeza Prieta Game Range, the name of which was changed to the Cabeza Prieta National Wildlife Refuge by Public Land Order No. 5493 of March 21, 1975 (40 FR 14315), as amended by Public Land Order No. 5502 of June 10, 1975 (40 FR 25593), shall be administered by the Secretary of the Interior exclusively through the United States Fish and Wildlife Service. Accordingly, notice is hereby given that effective as of February 27, 1976 and by virtue of Pub. L. 94-223, supra:

(a) The operation and administration of the Cabeza Prieta National Wildlife Refuge, including grazing, was to be administered, and is now being administered, in accordance with the National Wildlife Refuge System Administration Act, as amended, except that those holding grazing privileges, validly issued by the Bureau of Land Management and in effect on February 27, 1976, are permitted to continue such privileges under terms and conditions imposed by the Taylor Grazing Act, and implementing regulations, until those privileges expire. The renewal or initiation of grazing privileges subsequent to February 27, 1976, is in accordance with the National Wildlife Refuge System Administration Act, as amended, and implementing regulations.

(b) Executive Order No. 8038 of January 25, 1939 (4 FR 437), which established the Cabeza Prieta National Wildlife Refuge as the Cabeza Prieta Game Range, was modified to the extent necessary for it to conform to the provisions of (a), above.

2. This order does not affect or alter in any respect the Notice of Proposed Withdrawal, A-7951 of February 26, 1974, relating to the Cabeza Prieta National Wildlife Refuge, as published at 39 FR 8640.

Dated: April 25, 1978.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 78-12036 Filed 5-2-78; 8:45 am]

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[4310-84]

[M-30912; Public Land Order 5635]

MONTANA

Prior Amendment of Executive Order No. 7509; Prior Revocation of Public Land Order No. 5498; Change of Name to Charles M. Russell National Wildlife Refuge; Clarification of Administration and Management Under National Wildlife Refuge System Administration Act

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This public land order changes the name of the Charles M. Russell National Wildlife Range to the Charles M. Russell National Wildlife Refuge. Also, it affords notice of prior statutory action taken to revoke or revise public land orders or Executive orders, as necessary, to change the administration and management of the refuge area in accordance with Pub. L. 94-223.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-8731.

By virtue of the authority that is vested in the Secretary of the Interior by law, including the authority vested in him by section 204 of the Act of October 21, 1976 (Pub. L. 94-579, 90 Stat. 2751), and in accordance with the Act of February 27, 1976 (Pub. L. 94-223, 90 Stat. 199), which amended section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), it is ordered as follows:

1. The Act of February 27, 1976 (Pub. L. 94-223, 90 Stat. 199), which amended section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), provides that units of the National Wildlife Refuge System, including the Fort Peck Game Range, the name of which was changed to the Charles M. Russell National Wildlife Range by Public Land Order No. 2951 of February 25, 1963 (28 FR 1871), shall be administered by the Secretary of the Interior exclusively through the United States Fish and Wildlife Service. Accordingly, notice is hereby given that effective as of February 27, 1976 and by virtue of Pub. L. 94-223, supra:

(a) Public Land Order No. 5498 of April 25, 1975 (40 FR 18996), as amended by Public Land Order No. 5500 of May 23, 1975 (40 FR 23472), which provided for the transfer of all of the Secretary's delegable authority for the operation and administration of Charles M. Russell National Wildlife Range, as described in the aforesaid orders, to the Bureau of Land Management, was revoked; and such authority was, and is now, vested solely in the United States Fish and Wildlife Service;

(b) The operation and administration of the Charles M. Russell National Wildlife Range, including grazing, was to be administered, and is now being administered, in accordance with the National Wildlife Refuge System Administration Act, as amended, except that those holding grazing privileges, validly issued by the Bureau of Land Management and in effect on February 27, 1976, are permitted to continue such privileges under terms and conditions imposed by the Taylor Grazing Act, and implementing regulations, until those privileges expire. The renewal or initiation of grazing privileges subsequent to February 27, 1976, is in accordance with the National Wildlife Refuge System Administration Act, as amended, and implementing regulations.

(c) Executive Order No. 7509 of December 11, 1936 (1 FR 2149), which established the Charles M. Russell National Wildlife Range as the Fort Peck Game Range, was modified to the extent necessary for it to conform to the provisions of (a) and (b), above.

2. The name of the Charles M. Russell National Wildlife Range, as so designated by Public Land Order No. 2951 of February 25, 1963 (28 FR 1871), is hereby changed to the Charles M. Russell National Wildlife Refuge.

3. This order does not affect or alter in any respect the Notice of Proposed Withdrawal, M-39021 of March 4, 1975, relating to the Charles M. Russell National Wildlife Range, as published at 40 FR 11365.

Dated: April 25, 1978.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 78-12034 Filed 5-2-78; 8:45 am]

[4310-84]

[Nev. 051742; Public Land Order 5634]

NEVADA

Prior Amendment of Executive Order No. 7522; Prior Revocation of Public Land Order No. 5497; Consolidation of Charles Sheldon Antelope Range and Charles Sheldon Wildlife Refuge; Change of Name to Sheldon National Wildlife Refuge; Clarification of Administration and Management Under National Wildlife Refuge System Administration Act

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This public land order changes the names of the Charles Sheldon Antelope Range and the Charles Sheldon Wildlife Refuge and combines them as the Sheldon National Wildlife Refuge. Also, it affords notice of prior statutory action taken to revoke or revise public land orders or Executive orders, as necessary, to change the administration and management of the area in accordance with Pub. L. 94-223.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-7831.

By virtue of the authority that is vested in the Secretary of the Interior by law, including the authority that is vested in him by section 204 of the Act of October 21, 1976 (Pub. L. 94-579, 90 Stat. 2751), and in accordance with the Act of February 27, 1976 (Pub. L. 94-223, 90 Stat. 199), which amended section 4(a) of the National Wildlife Refuge Administration Act of 1966 (16 U.S.C. 668dd(a)), it is ordered as follows:

1. The Act of February 27, 1976 (Pub. L. 94-223, 90 Stat. 199), which amended section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), provides that units of the National Wildlife Refuge System, including the Charles Sheldon Antelope Range, shall be administered by the Secretary of the Interior exclusively through the United States Fish and Wildlife Service. Accordingly, notice is hereby given that effective as of February 27, 1976 and by virtue of Pub. L. 94-223, supra:

(a) Public Land Order No. 5497 of April 25, 1975 (40 FR 18997), as amended by Public Land Order 5508 of June 23, 1975 (40 FR 27659), which provided for the transfer of all the Secretary's delegated authority for the operation and administration of the Charles Sheldon Antelope Range, as described in the aforesaid orders, to the Bureau of Land Management, was revoked; and such authority was, and is now, vested solely in the United States Fish and Wildlife Service;

(b) The operation and administration of the Charles Sheldon Antelope Range, including grazing, was to be administered, and is now being administered, in accordance with the National Wildlife Refuge System Administration Act, as amended, except that, those holding grazing privileges validly issued by the Bureau of Land Management and in effect on February 27, 1976, are permitted to continue such privileges under terms and conditions imposed by the Taylor Grazing Act, and implementing regulations, until those privileges expire. The renewal or initiation of grazing privileges subsequent to February 27, 1976, is in accordance with the National Wildlife Refuge System Administration Act, as amended, and implementing regulations.

(c) Executive Order No. 7522 of December 21, 1936 (1 FR 2184), which established the Charles Sheldon Antelope Range, was modified to the extent necessary for it to conform to the provisions of (a) and (b), above.

2. For increased administrative efficiency, the lands and interests in land comprising the Charles Sheldon Wildlife Refuge, as established by Executive Order No. 5540, of January 26, 1931, and the adjoining Charles Sheldon Antelope Range, as established by Executive Order No. 7522 of December 21, 1936, are hereby consolidated into one administrative unit. Insofar as it combines these two units of the National Wildlife Refuge System, this order is not intended to alter or modify in any respect either of the aforementioned Executive Orders. As consolidted, the Charles Sheldon Wildlife Refuge, the name of which was so designated by Executive Order No. 5540, and the Charles Sheldon Antelope Range, the name of which was so designated by Executive Order No. 7522, shall hereafter be designated and known as the Sheldon National Wildlife Refuge.

3. This order does not affect or alter in any respect the Notice of Proposed Withdrawal, Nev-051742, relating to the Charles Sheldon Antelope Range, as published at 40 FR 8368.

APRIL 25, 1978.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 78-12033 Filed 5-2-78; 8:45 am]

[4910-22]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[Amendment No. 77-4]

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER SAFETY PROCEEDINGS

Service of Responses to Claims; Amendment

AGENCY: Federal Highway Administration, DOT.

ACTION: Amendment to final rule.

SUMMARY: On October 4, 1977, the Federal Highway Administration issued certain amendments to the rules of practice. Among the changes was a requirement that replies in civil forfeiture cases be served on certain named persons. The service specified should only be required in proceedings under the Hazardous Materials Transportation Act because these are the only civil forfeiture cases that are assigned docket numbers and go to hearing. This amendment corrects the rules of practice by eliminating the service requirements for civil forfeiture claims not processed under the Hazardous Materials Transportation Act.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald M. Tierney, Office of the Chief Counsel (HCC-20), 202-426-0346, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. e.t., Monday-Friday.

Therefore, 49 CFR 386.13(b) is amended to read as follows:

§ 386.13 Petitions to review, replies.

* * * * *

(b) * * *

(iii) In proceedings under the Hazardous Materials Transportation Act, certification that the reply has been served in accordance with § 386.38.

* * * * *

(49 U.S.C. 304; Pub. L. 93-633, 88 Stat. 2156; 49 U.S.C. 1801, et seq.; 49 CFR 1.48, 301.60.)

Issued this 25th day of April 1978, in Washington, D.C.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 78-11995 Filed 5-2-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amendment No. 3 to Service Order No. 1262]

PART 1033—CAR SERVICE

North Stratford Railroad Corp. Authorized To Operate Over Certain Tracks Owned by the State of New Hampshire

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 3 to Service Order No. 1262).

SUMMARY: Service Order No. 1262 authorizes the North Stratford Railroad Corp. to operate a line of railroad between North Stratford, N.H., and Beecher Falls, Vt., owned by the State of New Hampshire. Resumption of Operation over this line restores rail service to shippers affected by its abandonment by the Maine Central, its former owner. Amendment No. 3 to Service Order No. 1262 extends for six months the emergency authority granted to the North Stratford Railroad for operation to this line.

DATES: Effective 11:59 p.m., April 30, 1978. Expires 11:59 p.m., October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: This amendment is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of April, 1978.

Upon further consideration of Service Order No. 1262 (42 FR 16780, 43637, and 57317), and good cause appearing therefor:

It is ordered, That:

Service Order No. 1262 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

§ 1033.1262 Service Order No. 1262.

(a) *North Stratford Railroad Corp., authorized to operate over certain tracks owned by the State of New Hampshire* * * *

* * * * *

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Wash-

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ington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12071 Filed 5-2-78; 8:45 am]

[7035-01]

[Amendment No. 1 to Service Order No. 1296]

PART 1033—CAR SERVICE

Substitution of Refrigerator Cars for Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 1 to Service Order No. 1296).

SUMMARY: There is a substantial shortage of boxcars on the Atchison, Topeka and Santa Fe Railway for shipments of cotton. The ATSF has an available supply of certain refrigerator cars that may be subsitituted for this traffic at the ratio of two refrigerator cars for each boxcar. Service Order No. 1296 authorizes ATSF, with consent of the shipper, to substitute two refrigerator cars for each boxcar ordered for shipments of cotton from any station on ATSF in Texas or New Mexico and destined to any other station on ATSF. Amendment No. 1 extends to the order an additional three months.

DATES: Effective 11:59 p.m., April 30, 1978. Expires 11:59 p.m., July 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C.C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The Amendment is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of April, 1978.

Upon further consideration of Service Order No. 1296 (43 F.R. 3125), and good cause appearing therefor:

It is ordered, That:

Service Order No. 1296 is hereby amended by subsituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1296 Service Order No. 1296

(a) *Substitution of refrigerator cars for boxcars* • • •

• • • • •

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12072 Filed 5-2-78; 8:45 am]

[7035-01]

[Amendment No. 2 to Revised Service Order No. 1301]

PART 1033—CAR SERVICE

Distribution of Grain Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 2 Revised Service Order No. 1301).

SUMMARY: There are serious shortages of 40-foot, narrow-door plain boxcars and of covered hoppers on the lines of the Burlington Northern and of the Chicago & North Western. Revised Service Order No. 1301 requires return of narrow-door, 40-foot, plain boxcars and of covered hoppers owned by these two railroads. Loading to stations on the lines of the Car owners is permitted. Amendment No. 2 extends Revised Order No. 1301 for an additional month.

DATES: Effective 11:59 p.m., April 30, 1978. Expires 11:59 p.m., June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The amendment is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of April 1978.

Upon further consideration of Revised Service Order No. 1301 (43 FR 12326 and 14475), and good cause appearing therefor:

It is ordered, That:

Revised Service Order No. 1301 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.130 Service Order No. 130.

(a) *Distribution of grain cars* • • •

• • • • •

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the Amercian Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12070 Filed 5-2-78; 8:45 am]

[7035-01]

[Amendment No. 1 to Corrected Service Order No. 1304]

PART 1033—CAR SERVICE

Distribution of Covered Hopper Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 1 to Corrected Service Order No. 1304).

SUMMARY: There is a shortage of jumbo covered hopper cars for transporting shipments of grain. A large number of these cars have been placed in unit-train service. Corrected Service Order No. 1304 provides that no common carrier by railroad shall permit the use in unit-grain train service of more than twenty percent of its ownership of jumbo covered hopper cars. Amendment No. 1 extends Corrected Service Order No. 1304 for two months.

DATES: Effective 11:59 p.m., April 30, 1978. Expires 11:59 p.m., June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The Amendment is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of April 1978.

Upon further consideration of Corrected Service Order No. 1304 (43 F.R. 9281), and good cause appearing therefor:

It is ordered, That:

Corrected Service Order No. 1304 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

§ 1033.1304 Service Order No. 1304.

(a) *Distribution of covered hopper cars* • • •

• • • • •

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12066 Filed 5-2-78; 8:45 am]

[7035-01]

[Amendment No. 1 to Revised Service Order No. 1308]

PART 1033—CAR SERVICE

Distribution of Covered Hopper Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 1 to Revised Service Order No. 1308).

SUMMARY: The Union Pacific is unable to furnish individual shippers with lots of 25 or 50 jumbo covered hoppers cars for three consecutive shipments of grain from Kansas and Nebraska origins to destinations on the West Coast. Revised Service Order No. 1308 waives the three-consecutive-trip provision of the applicable tariff, enabling the Union Pacific to make a more equitable distribution of its supply of covered hopper cars among all potential users of these cars. Amendment No. 1 extends the order an additional two months.

DATES: Effective 11:59 p.m., April 30, 1978. Expires 11:59 p.m., June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The Amendment is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of April 1978.

Upon further consideration of Revised Service Order No. 1308 (43 FR 12693), and good cause appearing therefor:

It is ordered, That:

Revised Service Order No. 1308 is hereby amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1308 Service Order No. 1308.

(a) *Distribution of covered hopper cars.*

• • • • •

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12069 Filed 5-2-78; 8:45 am]

[7035-01]

[Amendment No. 1 to Service Order No. 1314]

PART 1033—CAR SERVICE

St. Louis-San Francisco Railway Co. Authorized to Transport Shipments of Soybean Meal of Less Than 2,000 Tons

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (amendment No. 1 to service order No. 1314).

SUMMARY: Because of severe shortages of freight cars the St. Louis-San Francisco Railway is unable to furnish sufficient cars at one time to transport minimum weights of 2,000 tons of soybean meal between origins and destinations named in item 7420 series of Southern Ports Foreign Freight Committee Freight Tariff 1016-P, ICC No. 237. Service Order No. 1314 authorizes the SLSF to transport partial shipments of 2,000 tons of soybean meal between origins on its line and Gulf ports listed in item 7420 of that tariff. Amendment No. 1 to service order No. 1314 extends this service order for 2 months.

DATES: Effective 11:59 p.m. April 30, 1978. Expires 11:59 p.m., June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The amendment is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of April 1978.

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Upon further consideration of service order No. 1314 (43 FR 14474), and good cause appearing therefor:

It is ordered, That: Service order No. 1314 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

§ 1033.1314 Service order No. 1314.

(a) *St. Louis-San Francisco Railway Co. authorized to transport shipments of soybean meal of less than 2000 tons.* • • •

• • • • • •

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., April 30, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12068 Filed 5-2-78; 8:45 am]

[7035-01]

[Revised Service Order No. 1315]

PART 1033—CAR SERVICE

Demurrage and Free Time on Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (revised service order No. 1315).

SUMMARY: Because of a severe shortage of freight cars it is necessary to reduce the time used by shippers and receivers to load and unload freight cars. Revised service order No. 1315 increases the penalties for detention of freight cars by shippers and receivers beyond the free time periods published in the applicable tariffs. The order applies to boxcars, hopper cars, gondola cars, flat cars, and covered hopper cars.

DATES: Effective 7 a.m., May 1, 1978. Expires 6:59 a.m., June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of April 1978.

An acute shortage of certain types of freight cars exists throughout the country. Certain carriers are unable to furnish adequate supplies of such freight cars to shippers located on their lines. These shortages of freight cars are impeding the movement of many commodities. Many freight cars are held by shippers for excessive periods awaiting loading, unloading, or disposition instructions immobilizing large numbers of freight cars needed by shippers for the transportation of other freight. Existing demurrage and detention rules, regulations, and practices of the railroads are ineffective to control such use of freight cars. It is, therefore, the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, we find that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1315 Service Order No. 1315.

(a) *Demurrage and free time on freight cars* • • • Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application.* (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars which are listed in the official railway equipment register, ICC R.E.R. No. 407, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designations shown on pages 1167-1169 inclusive, under the following headings:

"Class 'X'—Box Car Type," except ••• mechanical designation 'XLI' and 'XT'
"Class 'G'—Gondola Car Type."
•"Class 'H'—Hopper Car Type."
"Class 'L'—Special Car Type" mechanical designation 'LO,' covered hopper, only.

••• Mechanical designation 'XLI' and 'XT' eliminated.

•"Class 'H'—Hopper Car Type" added.

(iii) This order shall apply to all detention of freight cars subject to freight car demurrage or detention rules which occurs on or after the effective date of this order and which may have been shipped, placed or constructively placed prior to that date.

(iv) *Exception.* #This order shall not apply to cars while such cars are subject to section 1900, items 1900-1950, inclusive, or to section 2000, items 2000-2005, inclusive, of general car demurrage tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(v) *Exception.* This order shall not apply to cars held at or outside of ocean, Great Lakes, or river ports, for loading or unloading with freight requiring transfer between rail and water carriers.

(vi) *Exception.* This order shall not apply to freight cars of Mexican ownership while held by or for shippers at Mexican border crossings, viz:

Brownsville, Tex.
Laredo, Tex.
Eagle Pass, Tex.
Presidio, Tex.
El Paso, Tex.
Douglas, Ariz.
Naco, Ariz.
Nogales, Ariz.
Calexico, Calif.

(vii) *Exception.* # This order shall not apply to cars subject to items 710, 720, 725, 730, 740, 750, 755, 760, or 765 of general car demurrage tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissue thereof.

(viii) *Exception.* The provisions of section 1400, items 1400-1440, inclusive, of general car demurrage tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or similar provisions of other applicable demurrage, detention, or storage tariffs shall govern the adjustment, cancellation, or refund of demurrage assessed as a result of the causes described in such rules.

(ix) *Exception.* Exceptions to this order may be authorized to carriers by the Railroad Service Board. Requests for exceptions must be submitted in writing to Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423. Each such request must specifically identify the type of cars for which an exception is desired and must clearly state the reasons why such cars cannot be utilized in other services.

(x) The terms "loading," "unloading," "constructive placement," and "forwarding directions" as defined in general car demurrage reissues thereof, shall apply to cars subject to this order.

(xi) The term "holidays" means holidays as listed in item 525 of general car demurrage tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(2) *Free time.* (i) Not more than a total of 48 hours' free time, computed in accordance with the provisions of the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for the complete unloading of each car.

(ii) Not more than a total of 24 hours' free time, computed in accordance with the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for loading or for any purpose other than complete unloading.

(iii) If the maximum free time authorized in applicable tariffs is less than the periods described in paragraphs (i) or (ii) of this section, the free-time periods, if any, provided in such tariffs shall apply.

(3) *Demurrage, detention, or storage charges—Cars not subject to average demurrage basis.* (i) After the expiration of the free-time period described in Part (2) of this order, or without free-time allowance when none is provided, demurrage charges shall be assessed at the following rates, until car is released:

$10 per car per day, or fraction of a day, for each of the first 2 days.
$20 per car per day, or fraction of a day, for each of the next 2 days.
$30 per car per day, or fraction of a day, for each of the next 2 days.
$50 per car per day, or fraction of a day, for each subsequent day.

(ii) Except as provided in item 1225, general car demurrage tariff 4-K, ICC H-74, the applicable demurrage charges provided herein will accrue on all Saturdays, Sundays, and holidays subsequent to the free time, or without free time when none is provided, including a Saturday, Sunday, or holiday immediately following the day on which the last day of free time begins, provided such last day of free time begins to run at or before 7 a.m., or expires at or before 11:59 p.m., of the day immediately prior to the Saturday, Sunday, or holiday.

(iii) If the demurrage rates published in applicable tariffs is greater than the demurrage rates named in paragraph (i) of this section, the rates provided in such tariffs shall apply.

(4) *Cars subject to average demurrage basis.* (i) One credit will be allowed for each car released before the expiration of the first twenty-four (24) hours of free time. After the expiration of the free time (or the adjusted free time if provided in applicable tariffs), one debit per car per day, or fraction of a day, will be charged for each of the first 2 days. In no case shall more than one credit be allowed on any one car, and in no case shall more than four credits be applied in cancellation of debits accruing on any one car. When a car has accrued two debits, a charge of $20 per car per day, or fraction of a day, will be made for each of the next 2 days; $30 per car per day, or fraction of a day for each of the next 2 days; and $50 per car per day, or fraction of a day, will be made for all subsequent detention. In computing time under this rule, all Saturdays, Sundays, and holidays will be counted after the free time, including a Saturday, Sunday, or holiday immediately following the day on which the last day of free time begins.

(ii) Credits earned on cars held for loading shall not be used in offsetting debits accruing on cars held for unloading, nor shall credits earned on cars held for unloading be used in offsetting debits accruing on cars held for loading.

(iii) An average agreement may not include cars held for:

(a) Purposes other than loading and unloading.

(b) Loading or unloading in intraplant switching service.

(iv) Credits cannot be earned by private cars subject to section 700, item 765, of general car demurrage tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or subject to similar rules in other tariffs, but debits charged on such cars while under constructive placement may be offset by credits earned on other cars.

(v) At end of the calendar month the total number of applicable credits will be deducted from the total number of debits at the ratio of two credits for one debit, and $10 per debit will be charged for the remainder (see note). If the total number of debits are offset by credits through deduction at the above ratio of two credits for one debit, no charge will be made for the detention of the cars except as otherwise provided herein for detention beyond the second debit day, and no payment will be made by the railroad on account of such excess of credits; nor shall the credits in excess of the debits of any 1 month be considered in computing the average detention for another month.

NOTE.—For the purpose of applying part (v) of this paragraph, when an odd number of credits is earned, one of such credits will be disregarded in the computation.

(vi) Credits earned on cars subject to this order shall not be used in offsetting debits accruing on cars not subject to this order; nor shall debits accruing on cars subject to this order be offset by credits earned on cars not subject to this order.

(5) Existing tariff rules requiring the placement or release, as a unit, of all cars in a multiple-car shipment shall remain in effect.

(6) The demurrage, detention, or storage rates provided herein shall supersede all published storage charges expressed in cents per hundredweight, per bushel, or other unit of measure, for all freight held in cars in excess of the free-time periods provided in paragraph (2) herein.

(7) If the demurrage, detention, or storage rates authorized in the applicable tariffs are greater than those described herein, such higher rates shall apply.

(8) *Notices of arrival, constructive placement, etc.* (i) Existing tariff provisions defining constructive placement and establishing the requirements for the placement, the giving of arrival or constructive placement notice of freight destined for unloading or transshipment, shall apply.

(ii) If no such rules with respect to arrival, or regarding constructive placement are published in the applicable tariffs, the rules published in general car demurrage tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, including rates, rules and free-time periods granted by authority of Part 1, section 22 of the Interstate Commerce Act, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Notification of shipper required.* (1) Carriers shall send or deliver a written notice to shippers or consignees of the requirements of this order at or prior to the time of actual or constructive placement of cars for loading or unloading or at the time notice of arrival or of constructive placement is given. On cars held for instructions from the shipper or qualified owner of the freight, such notices must accompany or precede the arrival notice.

(2) If a notice described in paragraph (1) of this section has been given to a shipper or receiver at origin, destination, or hold point, no further notices of the requirements of this order need be given.

(3) Carriers are required to maintain a copy of all notices of the requirements of this order sent to shippers, receivers, or qualified owners of freight, at the station or point from which sent.

(4) Failure of a carrier to send and preserve copies of the notices required by paragraph (1) of this section shall not be deemed as nullifying the requirements of sections (a) and (b) of this order.

(d) *Effective date.* This order shall become effective at 7 a.m., May 1, 1978.

(e) *Expiration date.* This order shall expire at 6:59 a.m., June 1, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order and direction shall be

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served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commision at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12067 Filed 5-2-78; 8:45 am]

[7035-01]

[Amendment No. 1 to Revised Service Order No. 1322]

PART 1033—CAR SERVICE

Distribution of Grain Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 1 to Service Order No. 1322).

SUMMARY: Because of a shortage of covered hopper cars for loading grain emergency action to increase the supply of covered hopper cars used for transporting grain is required. Revised Service Order No. 1322 requires eleven selected railroads operating in the grain producing areas west of the Mississippi River to place a stated percentage of their ownership of jumbo covered hopper cars in grain service. Of these cars at least half must be furnished to country elevators. By a series of exceptions the following percentages have been established.

ATSF, 55 percent; BN, 55 percent; CNW, 55 percent; Milw, 70 percent; RI, 60 percent; ICG, 40 percent; MKT, 55 percent; MP, 55 percent; SLSF, 70 percent; SooLine, 40 percent; UP, 55 percent.

Amendment No. 1 extends this order one additional week.

DATES: Effective 11:59 p.m., April 30, 1978; expires 11:59 p.m., May 7, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The amendment is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of April 1978.

Upon further consideration of Revised Service Order No. 1322 (43 FR 16342 and 16979), and good cause appearing therefor:

It is ordered, That: Revised Service Order No. 1322 be, and it is hereby, amended by substituting the following paragraph (j) for paragraph (j) thereof:

§ 1033.1322 **Service Order No. 1322.**

(a) *Distribution of grain cars* • • •

• • • • • •

(j) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 7, 1978, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12065 Filed 5-2-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 30, 40, 50 and 70]

DECOMMISSIONING CRITERIA FOR NUCLEAR FACILITIES

Extension of Comment Period

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Extension of comment period on advance notice of proposed rulemaking.

SUMMARY: On March 13, 1978, the U.S. Nuclear Regulatory Commission published an advance notice of proposed rulemaking relating the the development of decommissioning criteria for nuclear facilities. The Commission has been requested to extend the comment period of the advance notice in order to provide more time to submit public comments. This notice extends the comment period of the March 13, 1978 notice.

DATES: Comment period expires July 15, 1978.

ADDRESSES: Interested persons are invited to submit written comments and suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert M. Bernero, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington D.C. 20555, phone 301-443-3573.

SUPPLEMENTARY INFORMATION: On March 13, 1978, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (43 FR 10370) an advance notice of proposed rulemaking to invite advice and recommendations on several questions concerning decommissioning nuclear facilities.

In the notice, the Commission explained present requirements and practices relating to the decommissioning of nuclear facilities. The Commission further described ongoing studies at the Battelle Pacific Northwest laboratory to provide bases for the reevaluation and development of decommissioning criteria and guidelines for light water reactors and their supporting fuel cycle facilities. Comments were requested on several specific issues and questions in order to invite advice and recommendations on the matter of overall decommissioning policy development. Interested persons were invited to submit comments on the notice by May 15, 1978.

In view of a request for additional comment time from Debevoise & Liberman on behalf of Arkansas Power & Light Co., Dallas Power & Light Co., Jersey Central Power & Light Co., Metropolitan Edison Co., Pacific Gas & Electric Co., Pennsylvania Electric Co., Southern California Edison Co., Texas Electric Service Co., Texas Power & Light Co., Texas Utilities Generating Co., Virginia Electric & Power Co., and Yankee Atomic Electric Co., the Commission is hereby extending the time for submitting written comments or suggestions concerning the notice to July 15, 1978. Any written submissions should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Dated at Washington, D.C. this 27th day of April 1978.

For the Nuclear Regulatory Commission,

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-11997 Filed 5-2-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 772-3032]

PUBLIC SERVICE CO. OF COLORADO

Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Denver, Colo., utility company to cease, in connection with the advertising and sale of non-utility products and services, failing to properly provide consumers with credit disclosures required by Federal Reserve System regulations.

DATE: Comments must be received on or before June 30, 1978.

ADDRESS: Comments should be directed to Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Paul C. Daw, Director, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis Street, Denver, Colo. 80202, 303-837-2271.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with the provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

In the matter of Public Service Co. of Colorado, a corporation. File No. 772 3032 Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission having initiated an investigation acts and practices of Public Service Co. of Colorado, a corporation, and it now appearing that Public Service Co. of Colorado, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

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It is hereby agreed by and between Public Service Co. of Colorado, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

(1) Proposed respondent Public Service Co. of Colorado is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Colorado, with its offices and principal place of business located at 550 15th Street, in the city of Denver, State of Colorado.

(2) Proposed respondent admits all the proposed findings of fact attached hereto as appendix A.

(3) Proposed respondent waives: (a) Any further procedural steps; (b) the requirement that the Commission's decision contain a statement of conclusions of law; and (c) all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

(4) This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. Thereafter, the Commission may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such other action as it may consider appropriate, or proceed as specified in paragraph 5 hereof.

(5) This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist, incorporating the findings of fact attached hereto as appendix A, in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision, containing the agreed-to order, to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

(6) Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

(7) The signing of this agreement is for settlement purposes only and does not constitute an admission by any party that the law has been violated as alleged in the proposed complaint.

ORDER

It is ordered, That respondent Public Service Co. of Colorado, a corporation, its successors and assigns and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with any extension or arrangement for the extension of consumer credit, or in connection with any advertisement to aid, promote, or assist, directly or indirectly, any extension of consumer credit, as "consumer credit" and "advertisement" are defined in regulation Z (12 CFR 226) of the Truth-in-Lending Act (15 U.S.C. §1601, et seq., as amended) do forthwith cease and desist from:

(1) Entering into any credit transaction, including, but not limited to, transactions for the installation of insulation, in which a security interest, as "credit" and "security interest" are defined in section 226.2 of regulation Z, is or will be retained or acquired in real property with is used or is expected to be used as the principal residence of a consumer customer, without giving the customer notice of his or her right to rescind said transaction, without penalty, until midnight of the third business day following the date of consummation of the transaction or delivery of all material disclosures, whichever is later, as required by section 226.9 of regulation Z and in the manner and form set forth therein.

(2) Stating in any credit advertisement the rate of finance charge unless said rate is expressed as an annual percentage rate (using the term "annual percentage rate"), as "finance charge" and "annual percentage rate" are defined in section 226.2 of regulation Z, as required by section 226.10(d)(1) of regulation Z.

(3) Stating in any credit advertisement that no downpayment is required, or stating the amount of the downpayment or of any installment payment required (either in dollars or as a percentage), the dollar amount of any finance charge, the number of installments or the period of repayment, or stating that there is no charge for credit, unless all of the following items are also clearly and conspicuously set forth in terminology prescribed by § 226.8 of regulation Z, as required by § 226.10(d)(2) of regulation Z: (a) The cash price; (b) the amount of the downpayment required or that no downpayment is required, as applicable; (c) the number, the amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended; (d) the amount of the finance charge expressed as an annual percentage rate; and (e) the deferred payment price.

(4) Failing in any consumer credit transaction or advertisement, to make all disclosures that are required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of regulation Z in the manner, form, and amount specified therein.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent shall forthwith distribute a copy of this order to each of its operating divisions, to each person responsible for or connected with preparation of its advertisements, and to each person responsible for or connected with solicitation and sale of residential insulation for respondent, and that respondent secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondent Public Service Co. of Colorado shall, within sixty (60) days after this order becomes final, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

APPENDIX A—FINDINGS OF FACT

FINDINGS

1. Proposed respondent is now and for many years has been, engaged in the generation, purchase, transmission, distribution, and sale of electricity, and in the purchase, transmission, distribution, and sale of natural gas. Respondent also advertises for sale and/or sells to consumers products and services not provided through pipe, wire, or other connected facilities. In order to promote the conservation of energy, proposed respondent has initiated an insulation program in connection with which it advertises for sale and sells to consumers insulation for, and the installation of insulation in, residential premises.

2. In the ordinary course and conduct of its business as aforesaid, proposed respondent regularly extends or arranges for the extension of consumer credit, and is a creditor, as "consumer credit" and "creditor" are defined in § 226.2 of regulation Z (12 CFR 226, the implementing regulation of the Truth-in-Lending Act (15 U.S.C. § 1601, et seq., as amended), duly promulgated by the Board of Governors of the Federal Reserve System.

3. Subsequent to September 1, 1975, proposed respondent has entered into credit transactions with consumer customers for the installation of insulation in residential premises, in which transactions, under the provisions of Colo. Rev. Stat. §§ 38-22-101, et seq., a security interest, as "security interest" is defined in §226.2 of regulation Z, is or will be used as the principal residence of the customer.

4. There have not been waivers of lien rights by all potential security interest claimants in connection with the credit transactions referred to in paragraph 3; however, proposed respondent has never attempted to enforce such lien rights.

5. Proposed respondent's entry into the transactions described in paragraph 3, in which a security interest is or will be retained by proposed respondent or other potential lien claimants, entities proposed respondent's consumer customers to proper notification of their right to rescind such transactions, without penalty, through midnight of the third business day following consummation of the transaction or delivery of all material disclosures, whichever is later, pursuant to § 226.9 of regulation Z.

6. In connection with the credit transactions referred to in paragrah 3, proposed respondent notified its customers of their right to rescind the transactions within 3 days; however, such notice did not completely comply with the requirements of § 226.9 of regulation Z in that it failed to include substantive information and follow the form set forth therein. Once the matter was brought to proposed respondent's attention, its forms were revised to comply with § 226.9 of regulation Z.

7. Subsequent to September 1, 1975, in the ordinary course and conduct of its business as aforesaid, proposed respondent has caused to be published advertisements for goods and services, which advertisements aid, promote, or assist, directly or indirectly, credit sales and other extensions of other than open end credit, as "advertisement" and "credit sale" are defined in § 226.2 of regulation Z.

8. In one of the advertisements referred to in paragraph 7, proposed respondent stated the rate of the finance charge as "annual interest rate," rather than as an "annual percentage," as required by the provisions of § 226.10(d)(1) of regulation Z.

9. In the same advertisement referred to in paragraph 7, proposed respondent stated the amount of the downpayment (as a percentage of the sales price) without also stating, as required by § 226.10(d)(2) of regulation Z, the deferred payment price.

10. Proposed respondent has cooperated fully in the Commission's investigation and has made available all records and documents requested by the Commission during the course of such investigation.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Public Service Co. of Colorado.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Public Service Co. of Colorado is an investor owned public utility company providing electric and gas service to over 2 million customers in and around Denver, Colo. The complaint alleges that the company also provides non-utility products and services, including the installation of insulation in residential premises. It is alleged that the contracts for insulating residential premises, entered into between the company and its consumer customers, gave rise to mechanic's and materialmen's liens on such premises in favor of the company and its subcontractors. It is further alleged that the creation of such liens imposed upon the company the obligation to give each customer proper notice of a right to cancel the insulation contract within 3 days after the contract was signed. The complaint alleges that the company failed to give such notice in the required manner and form. It is also alleged that the company published credit advertisements for its home insulation program which used improper credit terminology and failed to disclose required credit terms. The complaint alleges that such conduct is a violation of the Truth-in-Lending Act and of section 5 of the Federal Trade Commission Act.

Through this agreement Public Service Co. of Colorado admits the facts substantially as alleged in the complaint but does not admit any violation of law. The agreed-to order prohibits the company from entering into any credit transaction in which a lien or security interest is retained in a customer's principal residence without giving proper notice of the customer's right to cancel the transaction. The order also prohibits the company from publishing any credit advertisements which do not contain proper terminology or which fail to include all required credit terms and disclosures. The company is also required to distribute the order to personnel responsible for advertising and for solicitation of insulation contracts, and to file reports with the Commission setting forth the manner and form in which they have complied with the order.

The purpose of this analysis is to facilitate public comment on the proposed order; it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-11967 Filed 5-2-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 141]

[FRL 889-2]

INTERIM PRIMARY DRINKING WATER REGULATIONS

Proposed Regulations for Control of Organic Chemical Contaminants in Drinking Water

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period and change of public hearing date.

SUMMARY: On February 9, 1978, the Environmental Protection Agency published proposed regulation (43 FR 5756 et seq.) for the control of organic chemical contaminants in drinking water. At that time, the Agency stated that comments on the proposed regulations should be submitted by May 31, 1978. It also established a schedule of dates on which public hearings would be held. The final hearing of the series of seven was set for May 5, 1978, in Washington, D.C. Today, the Agency extends the period for submission of comments on these proposed regulations for an additional 60 days and reschedules the public hearing of May 5, 1978.

DATES: The comment period for the proposed regulations to control organic chemical contaminants in drinking water is extended until July 31, 1978. The public hearing originally scheduled in Washington, D.C., has been canceled and is rescheduled at the same location on July 11-12, 1978.

ADDRESS: Submit comments to: Victor J. Kimm, Deputy Assistant Administrator for Water Supply, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Cotruvo, Director, Criteria and Standards Division, Office of Drinking Water (WH-550), Room 1111, WSME, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-5643 or 202-472-5016.

SUPPLEMENTARY INFORMATION: This notice extends until July 31, 1978, the period for public comment with respect to the notice, published February 9, 1978 (43 FR 5756 et seq.), proposing regulations for the control of organic chemical contaminants in drinking water. This notice also announces a change in the date of the hearing to be held in Washington, D.C., with respect to these proposals. It is now to be held July 11-12 instead of May 5.

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A petition for an extension of time was submitted in behalf of a group of water utilities including Indianapolis Water Co., Louisville Water Co., and others. They asked that the original deadline of May 31, 1978, be extended until October 31, 1978. The petitioners argued that for them to make informed comment additional time was needed due to the unavailability of supporting documents and other references and for the retention of and consultation with experts knowledgable with regard to the proposed regulations. Other commenters such as the National League of Cities, have also indicated the desirability of more time.

I have determined that a reasonable extension of the comment period for sixty (60) days, is in the public interest. This will result in a total comment time of 180 days. The comment period is therefore hereby extended to July 31, 1978. I believe that this provides for ample opportunity for obtaining any remaining unlocated documents and for review of the material, including consultation with experts, if necessary. Anyone having difficulty in obtaining copies of supporting documentation should contact Dr. Joseph Cotruvo, Director, Criteria and Standards Division, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-472-5016.

In addition, the petitioners requested that additional public hearings be scheduled. I believe that seven nationwide as well as a regional hearing in Dallas and other public forums attended by Agency officials knoledgable with respect to the proposed regulations have provided sufficient opportunity for the public to be heard. In conjunction with this extension of the comment period for 60 days, however, I have decided to delay the final hearing in Washington, D.C., originally scheduled for May 5, 1978, to a time to the end of the comment period. The final hearing in Washington, D.C., is therefore hereby rescheduled for July 11 and 12, 1978, at 9 a.m. The precise location of the hearing will be published in the FEDERAL REGISTER as soon as that information is finalized.

A substantial number of comments has already been received on the proposed regulation. Based on our initial review of those comments, we have found that several issues raised in the notice for proposed rulemaking warrent particular attention. Therefore, we wish to solicit again the public's views on the following issues:

1. The soundness and reasonableness of the three criteria specified for determining the design parameters for the GAC treatment technique. These three criteria relate to breakthrough of volatile organohalogen compounds and total organic carbon as indicators of the efficient performance of granular activated carbon for removal of synthetic organic chemicals generally. The selection and magnitude of these or other parameters will significantly impact the operating and cost characteristics of the carbon treatment system.

2. The criteria which the Agency or State will consider in evaluating a request for a variance from the treatment technique requirement. Is the demonstration now required to be made by a system seeking a variance too strigent or too lenient? These criteria will be used to judge the contamination potential of specific drinking water sources. Their application will determine which public water systems will ultimately be required to install granular activated carbon treatment for removal of synthetic organic chemicals. Should these criteria be more specific or quantitive, and if so, how?

3. The reasonableness of the estimated costs of compliance by affected public water systems with respect to either or both the MCL for total trihalomethanes and/or the GAC treatment technique. A wide range of cost estimates for installation and operation of granular activated carbon for removal of synthetic organic chemicals has already been presented to the Agency. Commenters are urged to submit more detailed information in support of their cost estimates during this extended comment period so that the Agency can properly evaluate such information.

The Agency expects that if substantial new information in support of the proposed regulation is developed during the comment period, such documentation will be made available to the public by further notice in the FEDERAL REGISTER and appropriate comment time provided.

Dated: April 25, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc. 78-11988 Filed 5-2-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

WOOLSEY MEMORIAL AIRPORT LAND DRAINAGE, R.C. & D. MEASURE, MICHIGAN

Intent Not To Prepare an Evironmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Woolsey Memorial Airport Land Drainage R.C. & D. Measure, Leelanau County, Mich.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for land drainage. The planned works of improvement include a grassed waterway and underground tile drainage system to remove water from 2,100 feet of sod runway. Total construction costs are approximately $36,038; $18,019 R.C. & D. funds and $18,019 local funds.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Mich. 48823, 517-372-1910, extension 242. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 2, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: April 25, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR DOC. 78-12030 Filed 5-2-78; 8:45]

[6320-01]

CIVIL AERONAUTICS BOARD

COMPANIA MEXICANA DE AVIACION, S.A.

[Docket No. 32296; Order 78-4-165]

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of April, 1978.

Compania Mexicana de Aviacion, S.A. (Mexicana) is the holder of a foreign air carrier permit[1] authorizing: (a) foreign air transportation of persons, property, and mail over ten separate routes between a point or points in Mexico and a total of twelve different U.S. terminal point cities[2]; and (b) the performance of charter trips in foreign air transportation pursuant to Part 212 of the Board's Economic Regulations.

Mexicana currently operates scheduled combination services to all the twelve U.S. points authorized in its foreign air carrier permit except Corpus Christi and Laredo, utilizing B-727 and 727S equipment.

By application filed on March 24, 1978,[3] Mexicana requests amendment of its foreign air carrier permit so as to authorize foreign air transportation of persons, property, and mail over a total of thirteen separate routes between a point or points in Mexico and several new U.S. points.

The operations for which Mexicana seeks authority are provided for in the United States-Mexico Air Transport Services Agreement of August 15, 1960, as recently amended,[4] and Mexicana has been designated by the Government of Mexico.[5]

No answers to the application have been filed.

Mexicana's application requests amendment of the carrier's permit by making additions, deletions, and realignments of its authority pursuant to the carrier's designation under the United States-Mexico Air Transport Services Agreement, as amended. The principal additions, include new authority to thirteen additional U.S. cities: Atlanta, Baltimore, Cleveland, Detroit, Harlingen, Memphis, Minneapolis/St. Paul, Oakland, Philadelphia, San Francisco, Seattle, Tampa, and Washington. The deletions are Corpus Christi and Laredo. Moreover, Mexicana would obtain authority to serve Montreal and Toronto, Canada beyond the United States.

In granting Mexicana its existing routes to the United States, the Board found that the carrier was substantially owned and effectively controlled by the citizens of Mexico, that it was financially and operationally fit, and that it was in the public interest to grant the carrier authority to the United States.[6] Mexicana's application indicates that no changes in its corporate structure or operations have occurred which would cast doubt upon the continued accuracy of the Board's previous findings.

In view of the foregoing and all the facts of record, the Board tentatively finds and concludes:

1. That Compania Mexicana de Aviacion, S.A. is substantially owned and effectively controlled by citizens of Mexico;

2. That it is in the public interest to amend the foreign air carrier permit held by Compania Mexicana de Aviacion, S.A., to authorize the carrier, subject to conditions, (a) to engage in foreign air transportation of persons, property, and mail:

(1) Between the coterminal points Mexico City, Acapulco, Guadalajara, Puerto Vallarta, Mazatlan, Mexicali,

[1] Order 77-12-52, approved December 8, 1977.

[2] Chicago, Corpus Christi, Dallas, Denver, Fort Worth, Kansas City, Laredo, Los Angeles, Miami, St. Louis, San Antonio, and San Juan.

[3] A copy of the application has been transmitted to the President pursuant to section 801 of the Act.

[4] Memorandum of Consultations and amendments of December 19, 1977, implemented on January 20, 1978.

[5] By diplomatic note dated January 30, 1978.

[6] Order 77-12-52, approved December 8, 1977.

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and Hermosillo, Mexico, and the coterminal points Los Angeles, San Francisco, and Oakland, Calif., and Seattle, Wash.;

(2) Between the coterminal points Mexico City, Gauadalajara, Ciudad Juarez, Acapulco, Zihuatanejo, Manzanillo, Puerto Vallarta, Mazatlan, San Jose del Cabo, La Paz, and Loreto, Mexico, and the terminal point Denver, Colo.

(3) Between the coterminal points Mexico City, Acapulco, Gradalajara, Zihuatanejo, Manzanillo, Puerto Vallarta, Mazatlan, San Jose del Cabo, La Paz, Loreto, Oaxaca, Monterrey, and Tampico, Mexico, and the coterminal Points Harlingen, San Antonio, and Dallas/Fort Worth, Tex., and Memphis, Tenn.;

(4) Between the coterminal points Gradalajara, Manzanillo, Puerto Vallarta, Mazatlan, San Jose del Cabo, La Paz, and Loreto, Mexico, and the terminal point Chicago, Ill.

(5) Between the coterminal points Mexico City, Acapulco, Oaxaca, Zihuatanejo, and Monterrey, Mexico, and the coterminal points Kansas City and St. Louis, Mo., Chicago, Ill., and Minneapolis/St. Paul, Minn., and beyond any of the U.S. coterminals to Toronto and Montreal, Canada;

(6) Between the coterminal points Mexico City, Acapulco, Gradalajara, Zihuatanejo, Manzanillo, Puerto Vallarta, Mazatlan, San Jose del Cabo, La Paz, and Loreto, Mexico, and the terminal point Atlanta, Ga.;

(7) Between the coterminal points Mexico City, Acapulco, Guadalajara, and Monterrey, Mexico, and the coterminal points Detroit, Mich., Cleveland, Ohio, Washington, D.C./Baltimore, Md., and Philadelphia, Pa., and beyond any of the U.S. coterminals to Toronto and Montreal, Canada;

(8) Between the coterminal points Mexico City, Merida, Cozumel, and Punta Canucun, Mexico, and the terminal point San Juan, Puerto Rico;

(9) Between the coterminal points Cozumel, and Punta Cancun, Mexico, and the terminal point Miami, Fla.;

(10) Between the coterminal points Mexico City, Merida, Cozumel, and Punta Cancun, Mexico, and the terminal point Tampa, Fla.;

(11) Between the coterminal points Merida, Cozumel, and Punta Cancun, Mexico, and the terminal point Dallas/Fort Worth, Tex.;

(12) Between the coterminal points Merida, Cozumel, and Punta Cancun, Mexico, and the coterminal points Chicago, Ill., and Minneapolis/St. Paul, Minn.; and

(13) Between the coterminal points Merida, Cozumel, and Punta Cancun, Mexico, and the coterminal points Detroit, Mich., Cleveland, Ohio, and Philadelphia, Pa.; and

(b) to engage in charter trips in foreign air transportation subject to the terms, conditions, and limitations prescribed in Part 212 of the Board's Economic Regulations;

3. That the public interest requires that the exercise of the privileges granted by such amended permit shall be subject to the terms, conditions, and limitations contained in the specimen form of permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

4. That Compania Mexicana de Aviacion, S.A. is fit, willing, and able properly to perform the air transportation proposed in its application, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board;

5. That an oral hearing is not required in the public interest;

6. That except to the extent granted, the application of Compania Mexicana de Aviacion, S.A. in Docket 32296 should be denied; and

7. That the amendment of Compania Mexicana de aviacion, S.A.'s foreign air carrier permit is not a "Major federal action significantly affecting the quality of the human environment" within the meaning of section 102 (2)(C) of the National Environmental Policy Act of 1969, and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 (EPACA), as defined in section 313.4 (a)(1) of the Board's Regulations.[1]

IT IS THEREFORE ORDERED THAT:

1. All interested persons are directed to show cause why the Board should not, subject to the approval of the President under section 801 of the Act, make final its tentative findings and conclusions and issue a foreign air carrier permit in the form attached to Compania Mexicana de Aviacion S.A.;

2. Any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and issuing the permit shall, within 15 days after the adoption of this order, file with the Board and serve upon the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data and such evidence expected to be relied upon in support of the statement of objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be given the matters and issues raised by the objector before further action is taken by the Board; *Provided*, That the Board may proceed to enter an order in accordance with its tentative findings and conclusions set forth in the order if it determines that there are no factual issues present that warrant the holding of an oral hearing;[2]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which, subject ot the approval of the President, (1) shall make final the Board's tentative findings and conclusions set forth in this order, and (2) shall issue an amended foreigh air carrier permit to the applicant in the specimen form attached; and

5. This order shall be served upon Compania Mexicana de Aviacion, S.A.; the Ambassador of Mexico in Washington, D.C.; the United States Departments of State and Transportation; American Airlines, Inc.; Braniff Airways, Inc.; Eastern Air Lines.; Frontier Airlines; Hughes Airwest; Pan American World Airways, Inc.; Texas International Airlines, Inc.; and Western Air Lines, Inc.

This order will by published in the FEDERAL REGISTER and will be transmitted to the President.

All Members concurred except Chairman Kahn who did not participate.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Compania Mexicana De Aviacion, S.A. is authorized, subject to the following provision, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued under it, to engage in foreign air transportation of persons, property, and mail, as follows:

(1) Between the coterminal points Mexico City, Acapulco, Guadalajara, Puerto Vallarta, Mazatlan, Mexicali, and Hermosillo, Mexico, and the coterminal points Los Angeles, San Francisco, and Oakland Calif., and Seattle, Wash.;

(2) Between the coterminal points Mexico City, Guadalajara, Ciudad Juarez, Acapulco, Zihuatanejo, Manzanillo, Puerto Vallarta, Mazatlan, San Jose del Cabo, La Paz, and Loreto, Mexico, and the terminal point Dever, Colo.;

(3) Between the coterminal points Mexico City, Acapulco, Guadalajara, Zihuatanejo, Manzanillo, Puerto Vallarta, Mazatlan, San Jose del Cabo, La Paz, Loreto, Oaxaca, Monterrey, and Tampico, Mexico, and the coterminal points Harlingen, San Antonio, and Dallas/Fort Worth, Tex., and Memphis, Tenn.;

(4) Between the coterminal points Guadalajara, Manzanillo, Puerto Vallarta, Mazatlan, San Jose del Cabo, La Paz, and Loreto, Mexico, and the terminal point Chicago, Ill.;

(5) Between the coterminal points Mexico City, Acapulco, Oaxaca, Zihuatanejo, and Monterrey, Mexico, and the coterminal points Kansas City and St. Louis, Mo., Chicago, Ill., and Minneapolis/St. Paul, Minn., and beyond any of the U.S. coterminals to Toronto and Montreal, Canada;

(6) Between the coterminal points Mexico City, Acapulco, Guadualajara, Zihuatanejo, Manzanillo, Puerto Vallarta, Mazatlan, San Jose del Cabo, La Paz, and Loreto, Mexico, and the terminal point Atlanta, Ga.;

(7) Between the coterminal points Mexico City, Acapulco, Guadalajara, and Monterrey, Mexico, and the coterminal points Detroit, Mich., Cleveland, Ohio, Washington, D.C./Baltimore, Md., and Philadelphia, Pa., and beyond any of the U.S. coterminals to Toronto and Montreal, Canada;

(8) Between the coterminal points Mexico City, Merida, Cozumel, and Punta Cancun, Mexico, and the terminal point San Juan, P.R.;

(9) Between the coterminal points Cozumel, and Punta Cancun, Mexico, and the terminal point Miami, Fla.;

(10) Between the coterminal points Mexico City, Merida, Cozumel, and Punta Cancun, Mexico, and the terminal point Tampa, Fla.;

(11) Between the coterminal points Merida, Cozumel, and Punta Cancun, Mexico, and the terminal point Dallas/Fort Worth, Tex.;

(12) Between the coterminal points Merida, Cozumel, and Punta Cancun, Mexico, and the coterminal points Chicago, Ill., and Minneapolis/St. Paul, Minn.; and

(13) Between the coterminal points Merida, Cozumel, and Punta Cancun, Mexico, and the coterminal points Detroit, Mich., Cleveland, Ohio, Philadelphia, Pa.

The holder shall be authorizeed to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

This permits shall be subject to the condition that on routes 5 and 7 any flight which serves a point beyond the United States shall originate or terminate at a point in Mexico.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Mexico for Mexican international air service.

This permit shall be subject to applicable provisions of any treaty, convention, or agreements affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Mexico shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation of persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; *However*, This limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted here shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on ———. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the routes here authorized from the routes which may be operated by airlines designated by the Government of Mexico (or in the event of the elimination of any part of a route or routes here authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Mexico in lieu of the holder hereof, or (3) upon the termination or expiration of the Air Transport Services Agreement between the Government of the United States and the Government of Mexico, effective August 15, 1960, as amended and extended: *Provided, however*, That if prior to the occurrence of the event specified in clause (3) of this paragraph, the operation of the foreign air transporation here authorized becomes the subject of any treaty, convention, or agreement to which the United States and Mexico are or shall become parties, then this permit is continued in effect during the period provided in such treaty, convention, or agreement.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed the seal of the Board on ———.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-12053 Filed 5-2-78; 8:45 am]

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[1] Our tentative finding is based upon the fact that the proposed amendment will not result in any significant change in the level of service at any United States point. Thus, our action will not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969. Moreover, Mexicana's projected near-term implementation of the authority sought would not result in a net annual increase in fuel consumption over 10 million gallons.

[2] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[6320-01]

[Docket No. 30598]

COSTELLO TRAVEL SERVICE, INC. AND BUREAU OF ENFORCEMENT; CIE TOURS INTERNATIONAL, INC. AND EMERALD INTERNATIONAL TRAVEL, INC.; ENFORCEMENT PROCEEDING

Postponement of Hearing Suspension of Further Procedural Steps

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on May 2, 1978 (43 FR 13597, March 31, 1978), is indefinitely postponed at the request of the Bureau of Enforcement which has reported that it will submit to the Judge a stipulation of settlement and Order under Rule 215, which have been agreed to in principle but not, as yet, formalized.

Further, at the request of counsel for CIE Tours International, one of the respondence to this action, all additional procedural steps, including the requirement for the respondents to file witness lists, and the need of witnesses to comply with outstanding subpenas issued at the request of the Bureau are indefinitely suspended.

Dated at Washington, D.C., April 27, 1978.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc. 78-12052 Filed 5-2-78; 8:45 am]

[1505-01]

[Order No. 78-4-67]

NATIONAL AIRLINE'S, INC.

Service at Tallahassee

Correction

In FR Doc. 78-10763 appearing at page 16790 of the issue of Thursday, April 20, 1978, in the second column directly above the heading "National Airlines, Inc." please insert "Order No. 78-67".

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[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

CREWCO, INC., BRAVCO PRODUCTS, INC., AND CONAWAY-WINTER, INC.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from three firms: (1) Crewco, Inc., Highway 115, Cornelius, N.C. 28031, a producer of men's and boys' shirts (accepted April 26, 1978); (2) Bravco Products, Inc., 601 Washington Street, Lynn, Mass. 01901, a producer of soles for footwear (accepted April 27, 1978); and (3) Conaway-Winter, Inc., Park Street, P.O. Box 280, Willow Springs, Mo. 65793, a producer of infants' shoes (accepted April 27, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no latter than the close of business of the tenth calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-12026 Filed 5-2-78; 8:45 am]

[3510-03]

Maritime Administration

[Docket No. S-604]

DELTA STEAMSHIP LINES, INC.

Application

Notice is hereby given that Delta Steamship Lines, Inc. (Delta), by letter dated April 7, 1978, as supplemented on April 12, 1978, in connection with its application to acquire certain vessels and services from Prudential Lines, Inc. (Prudential), has requested interchange and transfer rights of vessels between services as they presently exist in the respective operating-differential subsidy contracts and between Delta's existing and prospective services as follows:

Four M-Class combination passenger-cargo vessels between services on Trade Routes Nos. TR 20, 2, and 4, and the service on TR 23, 24, and 25.

Eight C3 type and eight C4 type freight vessels (breakbulk) and three C9 and one C8 LASH type freight vessels between services on TR 14-2, 20, 2, and 4, and the service on TR 23, 24, and 25.

The specific services to which Delta's request would be applicable are as follows:

Trade Route No. 20—U.S. Gulf Coast/East Coast of South America—service provided by LASH and C3 type freight ships on minimum sailings of 26 and overall maximum of 77 for this service and Trade Route No. 14-2.

Trade Route No. 14-2—U.S. Gulf Coast/West Coast of Africa—service provided by C3 type freight ships with minimum of 24 sailings.

Trade Route No. 4—U.S. Atlantic/Venezuela—Netherlands West Indies—North Coast of Colombia range, Jamaica, Dominican Republic, Haiti, and Cuba (excluding Guantanamo Bay)—service provided by one LASH ship and C4 freight ships as required with minimum of 22 and maximum of 33 sailings.

Trade Route No. 2—U.S. Atlantic/West Coast of South America—service provided by C4 type freight ships with a minimum of 48 and maximum of 62 sailings.

Trade Routes Nos. 23, 24, and 25—U.S. Pacific/Pacific, Atlantic, and Caribbean areas of South America—service provided by C4 type freight ships and C4 type combination passenger-cargo ships with a minimum of 25 and a maximum of 42 sailings.

Existing vessel assignments and interchange and transfer privileges are as follows:

Delta: Three C9 LASH vessels assigned to TR 20 service Eight C3 type freight ships unassigned to specific service but may be interchanged or transferred between services on TR 14-2 and 20.

Prudential: One C8 LASH vessel assigned to TR 4 service Eight C4 type freight ships unassigned to specific service but may be interchanged or transferred between services on TR 2 and 4 and the service on TR 23, 24, 25. Four C4 combination passenger/cargo vessels (M-Class) assigned to the service on TR 23, 24, 25.

As used in this Notice the term "interchange" means the approximately simultaneous substitution of vessels. The term "transfer" means removal of a vessel from one service and placement into another. Delta proposes to exercise the interchange and transfer privileges in such a manner as to comply with the minimum and maximum sailing requirements specified for each subsidized service.

Any person, firm, or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on May 11, 1978.

The Maritime Subsidy Board will consider views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Maritime Subsidy Board.

Dated: April 26, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-11974 Filed 5-2-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

ATLANTIC GROUNDFISH

Revision of Quarterly Quotas

This is to announce that the Assistant Administrator for Fisheries has determined from statistics maintained by the National Marine Fisheries Service that the quarterly quotas for cod, haddock, and yellowtail flounder (west of 69° W. longitude) were exceeded during the first quarter (January 1-March 31) of 1978. The amounts by which the quotas were exceeded were: Haddock, 1,705 metric tons; cod, Gulf of Maine, 392 metric tons; cod, other than the Gulf of Maine, 1,602 metric tons; and yellowtail flounder west of 69° W. longitude, 92 metric tons. Therefore, to ensure that the catch quotas for 1978 are not exceeded, the amount of the overage is deducted equally from the remaining three quarters of 1978. This action is effective immediately on May 3, 1978.

The revisions to the quarterly quotas made pursuant to 50 CFR 651.3(b)(2) (see FEDERAL REGISTER, March 31, 1978, page 13579) are as follows:

CATCH QUOTA

[In metric tons]

1. Haddock—	
Quarter:	
Apr. 1 to June 30	2,591
July 1 to Sept. 30	1,092
Oct. 1 to Dec. 31	1,362
2. Cod—	
GULF OF MAINE	
Quarter:	
Apr. 1 to June 30	1,629
July 1 to Sept. 30	1,289
Oct. 1 to Dec. 31	1,290
GEORGES BANK AND SOUTHERN NEW ENGLAND	
Quarter:	
Apr. 1 to June 30	5,596
July 1 to Sept. 30	5,096
Oct. 1 to Dec. 31	5,106
3. Yellowtail flounder (west of 69° West Longitude)—	
Quarter:	
Apr. 1 to June 30	800
July 1 to Sept. 30	730
Oct. 1 to Dec. 31	928

Dated: April 27, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-12020 Filed 5-2-78; 8:45 am]

[6315-01]

COMMUNITY SERVICES ADMINISTRATION

EMERGENCY ENERGY ASSISTANCE PROGRAM

Funding Declarations

The Director of the Community Sevices Administration (CSA) has found, based on criteria indicated in Column[1] (5) of Appendix A that Energy Related Emergencies have existed since the dates indicated in Column (3).

Therefore, eligible grantees who cover those areas indicated in Column (2) will proceed as follows:

[1]All references to "column" refer to Appendix A to this Notice.

Grantees who receive funds by Letter of Credit may withdraw and expend funds in the amount approved in Column (4) or that portion of that amount which have been granted to them under Program Account 80, Emergency Energy Assistance Program.

OR

Grantees who normally receive checks are being informed that their checks are being forwarded by the Treasury Department for the total amount of the EEAP grant. However, these grantees immediately may begin obligating funds against this grant in the amount appropriated in Column (4) and from the date indicated in Column (3).

Column (3) contains the earliest date to our knowledge which provided the basis for a finding by the Director of CSA that an Energy Related Emergency existed. However, any eligible grantee within those areas covered in Column (2) may submit evidence to support the existence of Energy Related Emergencise which existed between December 31,1977, and the date given in Column (3) for a finding by the Director of CSA. (See CSA Notice 6143-7, Section 4 or § 1061. 51-3 in the FEDERAL REGISTER (43 FR 9476).)

Request for supplemental (additional) funds shall be made in accordance with the provisions of Section 11.c. of CSA Notice 6143-7.

WILLIAM W. ALLISON,
Acting Director.

[FR Doc. 78-12017 Filed 5-02-78; 8:45 am]

STATE(S) DECLARED (1)	AREAS COVERED (2)	EMERGENCY DECLARATION DATE (3)	APPROVED ALLOCATION For Area Covered (4)	BASIS FOR DETERMINATION * (5)
Region IV				
Florida	Counties of: Hernando	March 20, 1978	5,507	4.b.(2)(a)
	Pinellas	March 28, 1978	33,360	4.b.(2)(a)
	Seminole	March 14, 1978	10,000	4.b.(2)(a)
	Volusia	April 18, 1978	11,223	4.b.(2)(a)
	Manatee	April 10, 1978	8,443	4.b.(2)(a)
	Escambia	April 19, 1978	10,674	4.b.(2)(a)
	Duval	April 13, 1978	24,398	4.b.(2)(a)
	Columbia Hamilton Lafayette Suwannee	April 10, 1978	22,531	4.b.(2)(a)
North Carolina	Carteret County	January 01, 1978	5,919	4.b.(2)(a)
Georgia	Counties of: Carroll Coweta Heard Meriweather Troup	April 06, 1978	21,300	4.b.(2)(a)
	Chathtam	March 21, 1978	21,300	4.b.(2)(a)
	Houston Monroe Peach Twiggs	March 16, 1978	21,300	4.b.(2)(a)
	Bryan Camden Glynn Liberty Long McIntosh	April 13, 1978	21,300	4.b.(2)(a)
	Bibb	March 24, 1978	28,400	4.b.(2)(a)
	Douglas Fulton Gwinnett Rockdale	April 12, 1978	49,700	4.b.(2)(a)
	Appling Bulloch Candler Evans Jeff Davis Tattnal Toombs Wayne	March 30, 1978	35,500	4.b.(2)(a)

* Reference CSA Notice 6143-7, Section 4, Federal Register 1061,51-4(b).

STATE(S) DECLARED (1)	AREAS COVERED (2)	EMERGENCY DECLARATION DATE (3)	APPROVED ALLOCATION For Area Covered (4)	BASIS FOR DETERMINATION * (5)
Georgia	Counties of: Chattahochee Clay Harris Muscogee Quitman Randolph Stewart Talbot	March 21, 1978	28,400	4.b.(2)(a)
	Burke Richmond Screven	April 03, 1978	35,500	4.b.(2)(a)
	Crisp Dooly Macon Marion Schley Sumter Taylor Webster	March 30, 1978	21,300	4.b.(2)(a)
	Atkinson Bacon Brantley Charlton Clinch Coffee Pierce Ware	March 27, 1978	35,500	4.b.(2)(a)
	Clayton	March 23, 1978	21,300	4.b.(2)(a)
	Bleckley Dodge Laurens Montgomery Pulaski Telfair Treutlin Wheeler Wilcox	March 30, 1978	35,500	4.b.(2)(a)
REGION VIII				
Colorado	Counties of: Baca Bent Crowley Kiowa Otero Prowers	02/09/78	70,000	4.b.(2)(a)
	El Paso	02/09/78	70,000	4.b.(2)(a)
	Arapahoe	02/09/78	30,000	4.b.(2)(a)
	Logan Morgan Phillips Segwick Washington Yuma	02/09/78	50,000	4.b.(2)(a)
North Dakota	Entire State	01/01/78	1,093,365	4.b.(1) and 4.b.(2)(a)

* Reference CSA Notice 6143-7, Section 4, Federal Register 1061,51-4(b).

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[3810-70]

DEPARTMENT OF DEFENSE

OFFICE OF THE SECRETARY

DEFENSE SCIENCE BOARD TASK FORCE ON CRUISE MISSILES

Advisory Committee Meeting

The Defense Science Board Task Force on Cruise Missiles will meet in closed session on June 8 and 9, 1978, at the Pentagon, Arlington, Va.

The Mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the major issues concerning strategic cruise missile employment, and potential defenses to the U.S. deployment of cruise missile systems.

In accordance with section 10(d) of Appendix I, Title 5, U.S. Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5 of the U.S. Code, specifically subparagraph (1) thereof, and that accordingly, this meeting will be closed to the public.

Dated: April 28, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DOD/WHS.

[FR Doc. 78-12003 Filed 5-2-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Major Fuel Burning Installations

The Department of Energy (DOE) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended, and title 10, Code of Federal Regulations (10 CFR), parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-1112-1	Ash Grove Cement Co.,	Chanute Plant	1	Chanute, Kans.
OCU-1112-2	do	do	2	Do.

DOE hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding the proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to an installation, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4(b) require that DOE find that the installation had the capability and necessary plant equipment to burn coal as of June 22, 1974, or thereafter acquired or was designed with the capability and necessary plant equipment to burn coal. A Prohibition Order may not be issued unless DOE can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. DOE's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for the above-named the installations are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by DOE pursuant to this notice and other information available to DOE. The findings, conclusions and rationale will be included, with any amendments, in any Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, DOE may determine to issue Prohibition Orders to both or either one of the above-named installations. The Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies DOE, in accordance with section 2 of the Energy Supply and Environmental Coordination Act of 1974 and section 112(b) of the Clean Air Act (CAA) Amendments of 1977, that the installations are able to burn coal and to comply with all applicable air pollution control requirements without a delayed compliance order under section 113(d)(5) of the Clean Air Act, as amended, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974 and section 112(b) of the Clean Air Act (CAA) Amendments of 1977, is the earliest date that the installations will be able to comply with all applicable requirements of the Clean Air Act, as amended, and (2) DOE has considered the environmental impact of making the orders effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installations with Notices of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b), and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Electiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, DOE shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by DOE of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If DOE prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the installation that has been issued an order. It is expected that an installation to which a Prohibition Order is issued may be eligible to apply for a delayed compliance order pursuant to section 113(d) of the CAA, 42 U.S.C. 7413(d). If EPA decides to issue a delayed compliance order, it must also provide an opportunity for a public hearing. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition

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of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (a) and (d) and 305.5, DOE hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 10 a.m., on May 18, 1978, at the Federal Building, Room 140, 601 East 12th Street, Kansas City, Mo. 64106. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Jane E. Miller, DOE Region VII, 324 East 11th Street, Kansas City, Mo. 64106, 816-374-3116. The request should be received before 4:30 p.m., May 11, 1978. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 17, 1978. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Jane E. Miller, Department of Energy, Region VII, 324 East 11th Street, Kansas City, Mo. 64106, before 4:30 p.m., May 16, 1978. Speakers will be contacted by a DOE representative before 4:30 p.m., May 15, 1978, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While DOE will endeavor to provide adequate opportunity to all who desire to speak, DOE reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. DOE will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

A DOE official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all intitial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the intitial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by DOE and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the DOE Regional Office, 324 East 11th Street, Kansas City, MO. 64106, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed prohibition orders to Public Hearing Management, Box TC, Department of Energy, Room 2313, 2000 M Street NW., Washington D.C. 20461.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Orders for the Chanute Plant Installations." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., June 5, 1978, all oral presentations, and all other relevant information submitted to or available to DOE will be considered by DOE prior to issuance of a prohibition Order.

Any information or data considered to be confidential by the preson furnishing it must be so identified and submitted in writing in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following DOE Regional Offices:

Region, Address, and Phone

I—Robert W. Mitchell, Acting Regional Representative, 150 Causeway Street, Room 700, Boston, Mass. 02114, 617-223-3701.

II—William W. Wood, Acting Regional Representative, 26 Federal Plaza, Room 3206, New York, N.Y. 10007, 212-264-1021.

III—Bernard Snyder, Acting Regional Representative, 1421 Cherry Street, Room 1001, Philadelphia, Pa. 19102, 215-597-3390.

IV—Donald Allen, Acting Regional Representative, 1655 Peachtree Street NE., 8th Floor, Atlanta, Ga. 30309, 404-526-2837.

V—William Peterson, Acting Regional Representative, Federal Office Building, 175 West Jackson Boulevard, Room A-333, Chicago, Ill. 60604, 312-353-0540.

VI—Curtis E. Carlson, Acting Regional Representative, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235, 214-749-7345.

VII—James R. Newman, Acting Regional Representative, 324 East 11th Street, Kanasas City, Mo. 64106, 816-374-2061.

VIII—C. Dale Eriksen, Acting Regional Representative, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226, 303-234-2420.

IX—William C. Arntz, Acting Regional Representative, 111 Pine Street, San Francisco, Calif. 9411, 415-556-7216.

X—Jack B. Robertson, Acting Regional Representative, 1992 Federal Building, 915 Second Avenue, Seattle, Wash. 98174, 206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

Major fuel burning installation (MFBI) prohibition order candidates are selected in a two-part process which commenced in 1975 with an identification of the potential universe of MFBI's in order to determine which MFBI's might be subject to such orders. Analysis of individual potential MFBI prohibition order candidates selected from this universe proceeds on a continuous basis.

I. DETERMINATION OF CANDIDATE UNIVERSE

By FEDERAL REGISTER notice of March 20, 1975 (40 FR 12706) MFBI's with design firing rates in excess of 100 MMBTU's per hour were required

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to provide basic identifying information so that the universe of potential prohibition order candidates could be determined. (Regulations published on May 9, 1975 (40 FR 20463) adopted the 100 MMBTU's per hour design firing rate as the minimum size MFBI that would be eligible for a prohibition order.)

On April 18, 1975 (40 FR 17328), notice was published in the FEDERAL REGISTER indicating that a questionnaire entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-O), would be addressed to each then known MFBI for the purpose of obtaining additional information needed to help determine whether the MFBI's would be candidates for prohibition orders. Questionnaires were mailed to those MFBI's who responded to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by the regional personnel of the Federal Energy Administration, the Environmental Protection Agency (EPA), by other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The initial survey provided historical information on quantity and characteristics of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of this information led to development of a supplemental questionnaire (Form FEA C-602-S-1) to obtain data on the financial condition of owners of MFBI's, including information from which the effects of a prohibition order on an individual company basis could be ascertained. Form FEA C-602-S-1 was also designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a prohibition order, operating cost differentials, and coal transportation availability.

An initial mailing of this supplemental questionnaire was sent in June 1976 to owners of 161 installations encompassing 281 individual units. Most of the supplemental questionnaires (involving 138 installations and covering 246 individual units) were sent to owners of MFBI's identified in the first questionnaires (Form FEA C-602-S-O) as having coal burning capability, and which in 1974 burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas, or a Btu equivalent combination. Those MFBI's identified on the first questionnaires (Form FEA C-602-S-O) as having coal burning capability but which reported fuel consumption of less than 150,000 barrels of oil, or 921,000,000 cubic feet of natural gas, or a Btu equivalent combination in 1974, were not required to complete the supplemental questionnaires at that time, but were deferred in view of the limited resources available to the program office to review the anticipated responses. These MFBI's may be required to submit supplemental information in the future. The 246 individual MFBI's were considered first because of their potential for large fuel savings.

Additional supplemental questionnaires were sent to owners of 23 installations consisting of 35 individual units were the initial questionnaires (Form FEA C-602-S-O) had indicated the MFBI's intention to discontinue use of coal.

In September 1976, following receipt of responses to the supplemental questionnaire, the program office consulted with EPA to obtain their best estimate as to the means by which each reporting MFBI could burn coal while complying with all applicable air pollution control requirements. At that time, EPA indicated whether particular MFBI's would require upgrading or installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or whether the MFBI could burn coal that would conform to air pollution control requirements without pollution control equipment.

II. SITE SPECIFIC ANALYSIS.

DOE has continued to collect supplemental data relating to the 161 subject sites and is conducting, on a continuing basis, technical analyses to determine whether individual MFBI's can be considered as potential candidates for issuance of a notice of intention (NOI) to issue a prohibition order. As part of its individual analyses, DOE considers the following data regarding an MFBI's potential amenability to receipt of an NOI:

(a) The expected remaining useful life of the combustor, including both DOE's and the potential candidate's estimates;

(b) The combustor unit's capacity;

(c) Fuel consumption for 1975 and for other years, where available;

The last year coal was burned by the combustor;

(e) Costs of converting to coal, including pollution control equipment costs, of any, that would be required (potential candidate's and DOE's estimates);

(f) Type of pollution control equipment, if any, required (potential candidate's and EPA's estimates); and

(g) Other relevant factors, such as the percent of sulfur content in coal that would be required to insure compliance with environmental standards.

In June 1977, proir to the issuance of several prohibition orders to MFBI's the program office published in the FEDERAL REGISTER notices setting forth the methodology employed in selection the initial list of MFBI candidate facilities. The number of potential candidate facilities at the time was a function of two factors: First, the number of potential candidates was limited so as to be commensurate with the resources available to the program office, and second, the largest consumers of oil and natural gas which were potentially convertible to coal as their primary energy source were to be analyzed first, while consideration of the remainder of the original coal-capable universe was deferred.

In June 1977 certain MFBI's were specifically deferred from consideration as potential candidates because (a) their remaining useful life on January 1, 1978, was less than 1 year; (b) their utilization factor was less than 20 percent; (c) space required for coal use at the installation was inadequate or unavailable; (d) since filing the FEA C-602-S-O, the MFBI had been converted to coal as its primary energy source or the owner had certified that it would be so converted in the near future; (e) the MFBI had used significantly less than 2×10^{12} BTU's of oil or natural gas in the latest year for which fuel data was available, and which if converted to coal, would use less than 100, 000 tons of coal annually.

Certain other MFBI's were deferred for other reasons, e.g. the proposed findings required by 10 CFR 305.4 could not be established with the information available at that time. Those MFBI's which were not deferred for any of the foregoing reasons were considered as potential candidates for prohibition orders. NOI's were issued where proposed findings were made and prohibition orders were issued to those MFBI's for which the proposed findings were perfected.

Since June 1977 the program office has continued to analyze individual MFBI's which were deferred at that time. All MFBI's which have previously received NOI's have been eliminated from further consideration, whether or not a prohibition order was subsequently issued. Those MFBI's which are now being reviewed as potential candidates include:

(a) All units which have not previously received NOI's and which were explicitly deferred from consideration in the June 1977 methodology;

(h) All units deferred from consideration as potential candidates for various technical or other reasons not specifically mentioned in the June 1977 methodology.

DOE has determined that MFBI's to which the following criteria are applicable are appropriately deferred from consideration as prohibition order candidates at this time:

(a) The remaining useful life of the MFBI on January 1, 1979, will be less than 1 year;

(b) The utilization factor of the unit is less than 20 percent;

(c) The space required for coal use at the installation is inadequate or unavailable;

(d) Since filing the original questionnaire (FEA C-602-S-O), the MFBI has been converted to coal as its primary energy source, or the owner has certified that the unit will be so converted in the near future;

(e) Compliance with a prohibition order by the MFBI would result in the use of less than 60,000 tons of coal per year.

Items (a) or (b) above would prevent DOE from finding that the burning of coal by the MFBI would be practicable. With respect to criteria (a) specifically, DOE assumes a 40-year useful life for a combustor, based on general industry averages, unless the owner reports a longer useful life. DOE has decided not to analyze MFBI's that have already converted to coal since the basic purposes of ESECA have already been accomplished by such conversions and DOE has concluded that its resources would be better spent by concentrating on those MFBI's which are not now burning coal as their primary energy source and which do not plan to convert within the near future. DOE has deferred MFBI's which do not have the potential for large savings of natural gas or petroleum.

If, upon consideration, DOE determines through analysis of the summary information submitted, that issues have been raised which will require further investigation, DOE has in the past conducted, and will continue in the future to conduct site specific visits. Site visits are employed in circumstances in which large discrepancies are observed to exist between DOE's and the MFBI's cost estimate, where unusual technical problems have been presented by the MFBI with respect to using coal and when other disparities exist between the information submitted to DOE by the MFBI and that developed independently by DOE. Information developed during a site visit may serve either as evidence that the combustor should be eliminated or deferred or that the situation warrants DOE's continuation of its analysis.

For MFBI's not eliminated through any of the above criteria, DOE calculates the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of: (1) Annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, DOE performs calculations in determining the net operating cost differential, using cost figures supplied by the MFBI and using DOE's own estimates. When the MFBI's figures are within a reasonable range of DOE's estimates, DOE generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by DOE to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part of the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase in fixed costs to the owner resulting from such capital investment, DOE calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows:

a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.

b. Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed.

DOE presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, DOE will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows:

a. New and refurbished equipment costs minus the investment tax credit, plus

b. Twice the cost of land acquisitions required for conversions to coal burning.

c. The total of a. and b. is divided by 2 and then multiplied by a 10 percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD is calculated on the basis of actual fuel usage.) DOE has generally accepted the coal price reported by the MFBI's. If DOE considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of likely coal sources. Projected coal use after conversion was calculated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by the MFBI's.

3. *Potential tax effects.* Federal and State tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI is positive, i.e., projects an increase in annual costs, then a calculation of the cost per barrel of oil saved is performed by dividing the NOCD by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent BTU basis). This figure (cost per barrel of oil saved) is then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by DOE to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

The decision whether to issue an NOI is made as the calculations and analyses described above are completed. Following the issuance of an NOI are hearings and a comment period designed to elicit data, views and arguments pertinent to the findings ESECA requires DOE to make prior to the issuance of a Prohibition Order. If no reason not to issue an order is presented to or discovered by DOE, a Prohibition Order is issued to the candidate.

Any questions regarding this Notice should be directed to DOE National Headquarters as follows: Mr. Walter Romanek, Director, Division of Coal Utilization, Department of Energy, Code OCU (Prohibition Orders: Ash Grove Cement Co., Chanute Plant, Chanute, Kansas Installations, Docket Numbers OCU-1112-1 and 1112-2), Washington, D.C. 20461, telephone 202-254-3910.

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(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 95-70; Department of Energy Organization Act (Pub. L. 95-91); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C. April 27, 1978.

BARTON R. HOUSE,

Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE PROHIBITION ORDERS

ESECA and DOE regulations implementing the statute (10 CFR 303 and 305) require DOE to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI).[1] DOE's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

[1]Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 pursuant to the Department of Energy Organization Act, from the Federal Energy Administration (FEA) to the Department of Energy (DOE).

Docket No.	Owner	Installation	Unit No.	Location
OCU-1112-1	Ash Grove Cement Co.	Chanute Plant	1	Chanute, Kans.
OCU-1112-2	do	do	2	Do.

These findings, which are now proposed by DOE, are based on the information that has been provided to and developed by DOE prior to the issuance of this Notice of Intention (NOI) to issue Prohibition Orders.

Ash Grove Cement Co. shall be referred to as the "owner" and as "Ash Grove." The Chanute Plant Units 1 and 2 shall be referred to as the "MFBI's" and as "Chanute 1 and 2."

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL.

DOE proposes to find that on June 22, 1974, Chanute 1 and 2 had, or thereafter acquired or were designed with, the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Ash Grove, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12-14, (Form FEA C-602-S-0) dated May 20, 1975, indicated that the MFBI's had in place on June 22, 1974, kilns that were capable of burning coal. The kilns had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, and thereafter, these MFBI's may not have burned coal as their primary energy source.

B. Based on information Ash Grove filed with DOE dated July 28, 1976, and other information available to DOE, the following plant equipment and facilities at Chanute 1 and 2 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Front-end Loader.
2. Additional Storage.
3. Upgraded Precipitator.

C. DOE proposes to find that on June 22, 1974, Chanute 1 and 2 had or thereafter acquired all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the absence of any one or a combination of the equimpent or facilities listed in paragraph B, above, is not grounds for concluding that Chanute 1 and 2 lacked the capability and necessary plant equipment to burn coal on June 22, 1974, or were not designed with, or did not thereafter acquire, such capability.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA.

DOE proposes to find that the burning of coal in lieu of petroleum products or natural gas at Chanute 1 and 2 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by DOE of the fuel consumption of these kilns for the period 1973-1975, the remaining useful service life of the kilns after conversion, the net operating cost differential that would result from compliance with Prohibition Orders, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable*—1. *Anticipated fuel supplies, curtailment of natural gas supply.* Based on information obtained from the Federal Energy Regulatory Commission, the natural gas supplier, and in certain cases, the owner, DOE believes that the MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in their increased reliance on alternate fuels.

2. *Costs associated with burning coal*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Chanute 1 and 2 have been determined.

This determination was based on existing DOE information and analysis as well as information filed with DOE by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by DOE.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon DOE's fuel cost estimates, DOE has determined that the burning of coal in lieu of natural gas at Chanute 1 and 2 will result in an increase in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.2.a.–c., above, as well as the expected remaining useful life of the kilns after conversion, DOE has determined that the net annual operating cost differential ("NOCD") (which represents the difference between operating the kilns with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Chanute 1 and 2 will represent an annual cost increase of $233,140.

3. *Reasonableness of costs of conversion.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed orders is not unreasonable.

In calculating the NOCD, DOE considered the present annual feul usage. The net annual operating cost increase for these MFBI's resulting from operating on coal as the primary energy source, instead of natural gas, will be approximately $233,140.

Although conversion to the burning of coal would be expected to increase the costs incurred by Chanute 1 and 2 by $233,140 per year, DOE proposes to find that such increased cost, per MCF of natural gas saved, is not unreasonable, given the purposes of ESECA. This determination is based on consideration of the substantial potential natural gas savings that would result from conversion to coal. The determination that the costs of burning coal instead of natural gas would not be unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the MFBI's, the size and resources of the owner as examined in the following discussion of financial capacity, and the nature of the expected operations of the MFBI's.

The additional costs that would be incurred if DOE were to prohibit the burning of natural gas or petroleum products as the primary energy source at Chanute 1 and 2 would only be incurred for a limited period of time in view of the anticipated availability of natural reserves of and productive capacity for natural gas. These factors point up the likelihood that Chanute 1 and 2 will experience a significant curtailment of its present natural gas supply in the future, so that DOE has concluded that the cost of burning coal in lieu of natural gas is not unreasonable. (*Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II*, Federal Energy Administration, October 1975.)

4. *Finanical capability of the owner.*—a. *Recovery of capital investment.* DOE proposes to find that compliance with Prohibition Orders by Chanute 1 and 2 would be economically feasible. DOE's analysis took into consideration the financial capability of the owner and is based upon the owner's finanical position as reported in Dun and Bradstreet. Where necessary, DOE performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other outstanding Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Ash Grove. DOE related these additional capital investment costs to the total capitalization of Ash Grove and the remaining useful life after conversion of Chanute 1 and 2.

DOE does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Ash Grove to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. DOE has also taken into consideration total annual costs resultintg from compliance with all other outstanding Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Ash Grove MFBI's.

Ash Grove's total annual costs after conversion will increase by $233,140.

B. *Consistency with the purposes of ESECA.* Because the issuance of Prohibition Orders to Chanute 1 and 2 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, DOE proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable invironmental protection requirements, DOE proposes to conclude that Prohibition Orders to Chanute 1 and 2 would be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the Unites States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*

A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 Billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 100 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient prodiction of coal to meet the total national demand through 1980. Beyond 1980, DOE does not have data fully developed for new production plans because few coal producers have firm expansion plans that extend that far into the future. The statistics supporting more recent mine developments and enumerating updated data are currently in the process of revision.

a. *National coal production.* It is conservatively estimated that it will be possible to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1978	791.8
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.8

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential. Another FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976 (hereafter "Coal Market Survey") and a DOE study, "Coal Availability by Characteristics for Fuel Conversion Orders," April 17, 1978, indicate current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National coal demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from DOE action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other currently projected industrial candidates for NOI's, from all other outstanding Notices of Intention to issue Prohibition Orders to date, and from all Prohibition Orders issued to date under authority of Section 2(a) of ESECA is approximately the following (Coal and Transportation Availability for Major Fuel Burning Installations Coal Conversion Orders: Methods and Approach, May 20, 1977, as amended April 10, 1978) (hereafter "Methods Report"):

Year:	*Demand (million tons)*
1978	10.050
1979	14.492
1980	21.064
1981	23.607
1982	30.043
1983	30.043
1983	30.043

3. *Characteristic coal production and demand.* FEA's "Coal Market Survey" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplies useful information on 96 mining units. Responses from these companies identified planned production of coal which was not committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* DOE has determined that kilns of the type used at Chanute 1 and 2 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.—12,500 min.
Ash—12% max.
Volatile—33% min.
Ash softening temp.—2,200 (°F) min.
Sulfur—2-3% max. (approx.)

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would be used by these MFBI's is estimated to be as follows:

Year:	*Demand (1,000 tons/yr)*
1980 (and after)	72.74

c. *National planned production, characteristic coal.* DOE's "Method Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (1,000 tons)*
1978	124,300
1979	243,100
1980	293,300
1981	350,000
1982	369,900
1983	396,200
1984	475,500

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other currently projected industrial candidates for NOI's from all other outstanding notices of intention to issue prohibition orders to date, and from all prohibition orders issued to date under authority of section 2(a) of ESECA. Nation-

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al ESECA prohibition order demand as previously stated in paragraph A.2.c., above, is not more than the following ("Methods Report"):

Year:	Demand (thousand tons)
1978	10,050
1979	14,492
1980	21,064
1981	23,807
1982	30,043
1983	30,043
1984	30,043

e. Regional planned production, characteristic coal. Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 9, 10, 11, 12, 14, and 15 as follows ("Methods Report"):

Year:	Production (thousand tons)
1978	37,948
1979	77,249
1980	88,805
1981	106,335
1982	112,249
1983	119,974
1984	146,886

f. Regional ESECA prohibition order demand for coal, regardless of characteristic. The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 9, 10, 11, 12, 14, and 15 expected to result from this NOI, from all other currently projected industrial candidates for NOI's, from all other outstanding notices of intention to issue prohibition orders to date, and from all prohibition orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in DOE's "Methods Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	807
1979	1,218
1980	1,654
1981	2,306
1982	2,306
1983	2,306
1984	2,306

g. Regional ESECA prohibition order demand for coal by sulfur characteristic. The potential regional demand for coal from BOM Districts 9, 10, 11, 12, 14, and 15 with a >2.21 percent sulfur content (which includes the 3.0 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other currently projected industrial candidates for NOI's, from all other outstanding notices of intention to issue prohibition orders to date, and from all prohibition orders issued to date under authority of section 2(a) of ESECA is estimated in DOE's "Methods Report" to be no more than the following:

Year:	Demand (thousand tons) percent sulfur>2.21
1978	807
1979	1,218
1980	1,558
1981	1,728
1982	1,728
1983	1,728
1984	1,728

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*

DOE has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion.*

DOE's "Methods Report" has identified nationally and in BOM Districts 9, 10,11, 12, 14, and 15 uncommitted coal production that meets the requirements of Chanute 1 and 2 as described in paragraph A.3.a., above, DOE, therefore, proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other currently projected industrial candidates for NOI's from all other outstanding notices of intention to issue prohibition orders to date, and from all prohibition orders issued to date under authority of section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 9, 10, 11, 12, 14, and 15. DOE observes, however, that these MFBI's could purchase coal in other markets as such production becomes available. "The Feasibility of Considering Espanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond," School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*

1. *Location of MFBI's and coal supply.*

Based on a DOE study, "Coal Transportation Availability Report," January 1978 (hereafter "Transportation Availability Report)", coal for Chanute 1 and 2 would probably come from Bureau of Mines (BOM) District 15 as a primary source and from BOM District 10 as an alternate source. Other sources of complying coal are available within the United States. However, the following analysis of transportation availability is based on the most likely, or primary, route from the BOM supply areas stated above, as well as on two alternate routes.

2. *Route of coal shipment.*

The primary route for coal delivery to Chanute 1 and 2 is to originate coal in the Pittsburg area, Cherokee County, Kans., in BOM District 15. The Atchison, Topeka and Santa Fe (AT&SF) would deliver to Chanute 1 and 2. The total rail distance is approximately 54 miles.

The alternate route for coal delivery from the primary supply area would originate coal in the Moberly area in Randolph County, Mo., in BOM District 15. Norfolk and Western Railroad (N&W) would move the coal to Kansas City, MO., where the AT&SF would pick up the coal and deliver it to Chanute 1 and 2 via Ottawa, Kans. The total rail mileage is approximately 245 miles.

The alternate route for coal delivery from the alternate supply area would originate coal in Carlinville, Ill., in BOM District 10 from mines served by the Illinois Central Gulf (ICG). ICG would move the coal to St. Louis, Mo., where the St. Louis-San Francisco (SLSF) would pick it up and move it west across Missouri via Springfield, Mo. to Fort Scott, Kans. The SLFS would then move the coal south to Girard, Kans., where AT&SF would pick it up and deliver it to Chanute 1 and 2. The total rail mileage is approximately 467 miles.

3. *Originating trunk carrier.*

The AT&SF, which would originate coal from the primary source, has approximately 5,214 hopper cars with an average capacity of 83 tons. Using an average number of 20 deliveries per year per 83-ton car, the AT&SF might require 44 additional cars by 1980 to handle the increased demand expected from Chanute 1 and 2. The company has indicated that it foresees no difficulty in handling the additional demand.

The N&W, originator on the alternate route of coal delivery from the primary supply area for Chanute 1 and 2, has approximately 54,000 hopper cars with an estimated average capacity of 83 tons. Using an average number of 20 deliveries per year per 83-ton car, the N&W would need 44 additional cars by 1980 to handle the increased demand from Chanute 1 and 2. N&W indicated that the retirements from their hopper fleet are not expected to exceed 1,200 per year and that they have shop capacity to build 1,500 to 5,000 new cars per year, depending on the demand for coal from their supply areas. Shipments would probably be by general train.

The originator of coal for the alternate route from the alternate supply area, ICG, has approximately 12,000 cars with an average capacity of 82 tons. Using an average number of 20 trips per year, the ICG would need 45 additional cars by 1980 to meet the coal demand from Chanute 1 and 2. ICG has indicated there would be no problems in handling the additional business.

DOE had not found nor has it been informed of any apparent constraints to carrying coal for any originating, alternate, or intermediate carriers should they be used.

4. *Destination carrier and plant facilities.* Freight service in the past, including coal deliveries, have been made to Chanute 1 and 2 by AT&SF. It is expected that this mode of transportation would be used in the future and that coal receiving, storage, and handling equipment are now in place or can and will be installed prior to the effective date for coal burning.

5. *Conclusion.* Based on the foregoing analysis, DOE proposes to find that coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Chanute 1 and 2 presently exist, and alternate routes are available.

[FR Doc. 78-12074 Filed 5-2-78; 8:45]

[3128-01]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Major Fuel Burning Installations

The Department of Energy (DOE) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended, and title 10, Code of Federal Regulations (10 CFR), parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-0514-1	Martin Marietta Corp.	Martin Marietta Cement.	1	Atlanta, Ga.
OCU-0514-2	....do	....do	2	Do.

DOE hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding the proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4(b) require that DOE find that the installation had the capability and necessary plant equipment to burn coal as of June 22, 1974, or thereafter acquired or was designed with the capability and necessary plant equipment to burn coal. A Prohibition Order may not be issued unless DOE can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. DOE's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for the above-named installations are set out in the Appendix to this notice. These findings, conclusions, and rationale may be amended as a result of comments received by DOE pursuant to this notice and other information available to DOE. The findings, conclusions and rationale will be included, with any amendments, in any Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, DOE may determine to issue Prohibition Orders to both or either one of the above-named installations. The Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies DOE, in accordance with Section 2 of the Energy Supply and Environmental Coordination Act of 1974 and Section 112(b) of the Clean Air Act (CAA) Amendments of 1977, that the installations are able to burn coal and to comply with all applicable air pollution control requirements without a delayed compliance order under Section 113(d)(5) of the Clean Air Act, as amended, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 and Section 112(b) of the Clean Air Act Amendments of 1977, is the earliest date that the installations will be able to comply with all applicable requirements of the Clean Air Act, as amended, and (2) DOE has considered the environmental impact of making the orders effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installations with Notices of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, DOE shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by DOE of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If DOE prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the installation that has been issued an order. It is expected that an installation to which a Prohibition Order is issued may be eligible for a delayed compliance order pursuant to Section 113(d) of the CAA, 42 U.S.C. 7413(d). If EPA decides to issue a delayed compliance order, it must also provide an opportunity for a Public Hearing. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views and arguments. comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (a) and (d) and 305.5, DOE hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9:30 a.m., on May 16, 1978, at the Atlanta Civic Center, Room 104, 395 Piedmont Avenue NE., Atlanta, Ga. 30308. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Warren Zurn, DOE Region IV, 1655 Peachtree Street NE., Atlanta, Ga. 30309, 404-881-4463. The request should be received before 4:30 p.m., May 9, 1978. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 15, 1978. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case

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only one copy is required, to Warren Zurn, Department of Energy, Region IV, 1655 Peachtree Street NE., Atlanta, Ga. 30309, before 4:30 p.m., May 12, 1978. Speakers will be contacted by a DOE representative before 4:30 p.m., May 11, 1978, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While DOE will endeavor to provide adequate opportunity to all who desire to speak, DOE reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number or persons requesting to be heard. DOE will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

A DOE official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by DOE and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the DOE Regional Office, 1655 Peachtree Street NE., 8th Floor, Atlanta, Ga. 30309, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed Prohibition Orders to Public Hearing Management, Box TD, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Orders for the Martin Marietta Installations." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., June 5, 1978, all oral presentations, and all other relevant information submitted to or available to DOE will be considered by DOE prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing in accordance with 10 CFR 303.9(f).

DOE reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following DOE Regional Offices:

REGION I

Robert W. Mitchell, Acting Regional Representative, 150 Causeway Street, Room 700, Boston, Mass. 02114, 617-223-3701.

REGION II

William W. Wood, Acting Regional Representative, 26 Federal Plaza, Room 3206, New York, N.Y. 10007, 212-264-1021.

REGION III

Bernard Snyder, Acting Regional Representative, 1421 Cherry Street, Room 1001, Philadelphia, Pa. 19102, 215-597-3390.

REGION IV

Donald Allen, Acting Regional Representative, 1655 Peachtree Street NE., Eighth Floor, Atlanta, Ga. 30309, 404-526-2837.

REGION V

William Peterson, Acting Regional Representative, Federal Office Building, 175 West Jackson Boulevard, Room A-333, Chicago, Ill. 60604, 312-353-0540.

REGION VI

Curtis E. Carlson, Acting Regional Representative, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235, 214-749-7345.

REGION VII

James R. Newman, Acting Regional Representative, 324 East 11th Street, Kansas City, Mo. 64106, 816-374-2061.

REGION VIII

C. Dale Eriksen, Acting Regional Representative, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226, 303-234-2420.

REGION IX

William C. Arntz, Acting Regional Representative, 111 Pine Street, San Francisco, Calif. 94111, 415-556-7216.

REGION X

Jack B. Robertson, Acting Regional Representative, 1992 Federal Building, 915 Second Avenue, Seattle, Wash. 98174, 206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

Major fuel burning installation (MFBI) Prohibition Order candidates are selected in a two-part process which commenced in 1975 with an identification of the potential universe of MFBI's in order to determine which MFBI's might be subject to such Orders. Analysis of individual potential MFBI Prohibition Order candidates selected from this universe proceeds on a continuous basis.

I. DETERMINATION OF CANDIDATE UNIVERSE

By FEDERAL REGISTER notice of March 20, 1975 (40 FR 12706) MFBI's with design firing rates in excess of 100 MMBTU's per hour were required to provide basic identifying information so that the universe of potential Prohibition Order candidates could be determined. (Regulations published on May 9, 1975 (40 FR 20463) adopted the 100 MMBTU's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order.)

On April 18, 1975 (40 FR 17328), notice was published in the FEDERAL REGISTER indicating that a questionnaire intitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-O), would be addressed to each than known MFBI for the purpose of obaining additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those MFBI's who responded to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by the regional personnel of the Federal Energy Administration, the Environmental Protection Agency (EPA), by other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The initial survey provided historical information on quantity and characteristics of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of this information led to development of a supplemental questionnaire (Form FEA C-602-S-1) to obtain data on the financial condition of owners of MFBI's, including information from which the effects of a Prohibition Order on an individual company basis could be ascertained. Form FEA C-602—S-1 was also designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials, and coal transportation availability.

An initial mailing of this supplemental questionnaire was sent in June 1976 to owners of 161 installations encompassing 281 individual units. Most of the supplemental questionnaires (involving 138 installations and covering 246 individual units) were sent to owners of MFBI's identified in the first questionnaires (Form FEA C-602-S-O) as having coal burning capability, and which in 1974 burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas, or a BTU equivalent combination. Those MFBI's identified on the first questionnaires (Form FEA C-602-S-O) as having coal burning capability but which reported fuel consumption of less than 150,000 barrels of oil, or 921,000,000 cubic feet of natural gas, or a BTU equivalent combination in 1974, were not required to complete the supplemental questionnaires at that time, but were deferred in view of the limited resources available to the program office to review the anticipated responses. These MFBI's may be required to submit supplemental information in the future. The 246 individual MFBI's were considered first because of their potential for large fuel savings.

Additional supplemental questionnaires were sent to owners of 23 installations consisting of 35 individual units where the initial questionnaires (Form FEA C-602-S-O) had indicated the MFBI's intention to discontinue use of coal.

In September 1976, following receipt of responses to the supplemental questionnaire, the program office consulted with EPA to obtain their best estimate as to the means by which each reporting MFBI could burn coal while complying with all applicable air pollution control requirements. At that time, EPA indicated whether particular MFBI's would require upgrading or installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or whether the MFBI could burn coal that would conform to air pollution control requirements without pollution control equipment.

II. SITE SPECIFIC ANALYSIS

DOE has continued to collect supplemental data relating to the 161 subject sites and is conducting, on a continuing basis, technical analyses to determine whether individual MFBI's can be considered as potential candidates for issuance of a Notice of Intention (NOI) to issue a Prohibition Order. As part of its individual analyses, DOE considers the following data regarding an MFBI's potential amenability to receipt of an NOI:

(a) The expected remaining useful life of the combustor, including both DOE's and the potential candidate's estimates;

(b) The combustor unit's capacity;

(c) Fuel consumption for 1975 and for other years, where available;

(d) The last year coal was burned by the combustor;

(e) Costs of converting to coal, including pollution control equipment costs, if any, that would be required (potential candidate's and DOE's estimates);

(f) Type of pollution control equipment, if any, required (potential candidate's and EPA's estimates); and

(g) Other relevant factors, such as the percent of sulfur content in coal that would be required to insure compliance with environmental standards.

In June 1977, prior to the issuance of several Prohibition Orders to MFBI's, the program office published in the FEDERAL REGISTER notices setting forth the methodology employed in selecting the initial list of MFBI candidate facilities. The number of potential candidate facilities at that time was a function of two factors: first, the number of potential candidates was limited so as to be commensurate with the resources available to the program office, and second, the largest consumers of oil and natural gas which were potentially convertible to coal as their primary energy source were to be analyzed first, while consideration of the remainder of the original coal-capable universe was deferred.

In June 1977, certain MFBI's were specifically deferred from consideration as potential candidates because (a) their remaining useful life on January 1, 1978, was less than one year; (b) their utilization factor was less than 20 percent; (c) space required for coal use at the installation was inadequate or unavailable; (d) since filing the FEA C-602-S-O, the MFBI had been converted to coal as its primary energy source or the owner had certified that it would be so converted in the near future; (e) the MFBI had used significantly less than 2×10^{12} Btu's of oil or natural gas in the latest year for which fuel data was available, and which if converted to coal, would use less than 100,000 tons of coal annually.

Certain other MFBI's were deferred for other reasons, e.g. the proposed findings required by 10 CFR 305.4 could not be established with the information available at that time. Those MFBI's which were not deferred for any of the foregoing reasons were considered as potential candidates for Prohibition Orders. NOI's were issued where proposed findings were made and Prohibition Orders were issued to those MFBI's for which the proposed findings were perfected.

Since June 1977 the program office was continued to analyze individual MFBI's which were deferred at that time. All MFBI's which have previously received NOI's have been eliminated from further consideration, whether or not a Prohibition Order was subsequently issued. Those MFBI's which are now being reviewed as potential candidates include:

(a) All units which have not previously received NOI's and which were explicitly deferred from consideration in the June 1977 methodology;

(b) All units deferred from consideration as potential candidates for various techinical or other reasons not specifically mentioned in the June 1977 methodology.

DOE has determined that MFBI's to which the following criteria are applicable are appropriately deferred from consideration as Prohibition Order candidates at this time:

(a) The remaining useful life of the MFBI on January 1, 1979, will be less than 1 year;

(b) The utilization factor of the unit is less than 20 percent;

(c) The space required for coal use at the installation is inadequate or unavailable;

(d) Since filing the original questionnaire (FEA C-602-S-O), the MFBI has been converted to coal as its primary energy source, or the owner has certified that the unit will be so converted in the near future;

(e) Compliance with a prohibition order by the MFBI would result in the use of less than 60,000 tons of coal per year.

Items (a) or (b) above would prevent DOE from finding that the burning of coal by the MFBI would be practicable. With respect to criteria (a) specifically, DOE assumes a 40-year useful life for a combustor, based on general industry averages, unless the owner reports a longer useful life. DOE has decided not to analyze MFBI's that have already converted to coal since the basic purposes of ESECA have already been accomplished by such conversions and DOE has concluded that its resources would be better spent by concentrating on those MFBI's which are not now burning coal as their primary energy source and which do not plan to convert within the near future. DOE has deferred MFBI's which do not have the potential for large savings of natural gas or petroleum.

If, upon consideration, DOE determines through analysis of the summary information submitted, that issues have been raised which will require further investigation, DOE has in the past conducted, and will contin-

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ue in the future to conduct site specific visits. Site visits are employed in circumstances in which large discrepancies are observed to exist between DOE's and the MFBI's cost estimate, where unusual technical problems have been presented by the MFBI with respect to using coal and when other disparities exist between the information submitted to DOE by the MFBI and that developed independently by DOE. Information developed during a site visit may serve either as evidence that the combustor should be eliminated or deferred or that the situation warrants DOE's continuation of its analysis.

For MFBI's not eliminated through any of the above criteria, DOE calculates the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of: (1) Annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, DOE performs calculations in determining the net operating cost differential, using cost figures supplied by the MFBI and using DOE's own estimates. When the MFBI's figures are within a reasonable range of DOE's estimates, DOE generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by DOE to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part of the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase in fixed costs to the owner resulting from such capital investment, DOE calculates the annual depreciation of equipment costs over the expected remaining useful sevice life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows:

a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.

b. Divide the figure in a., above, by the expected remaining useful life of the MFBI after conversion is completed.

DOE presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, DOE will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows:

a. New and refurbished equipment costs minus the investment tax credit, plus

b. Twice the cost of land acquisitions required for conversions to coal burning.

c. The total of a. and b. is divided by 2 and then multiplied by a 10-percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD is calculated on the basis of actual fuel usage.) DOE has generally accepted the coal price reported by the MFBI's. If DOE considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of likely coal sources. Projected coal use after conversion was calculated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by the MFBI's.

3. *Potential tax effects.* Federal and State tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a prohibition order.

If the NOCD for an MFBI is positive, i.e., projects an increase in annual costs, then a calculation of the cost per barrel of oil saved is performed by dividing the NOCD by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent BTU basis). This figure (cost per barrel of oil saved) is then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a prohibition order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by DOE to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

The decision whether to issue an NOI is made as the calculations and analyses described above are completed. Following the issuance of an NOI, are hearings and a comment period designed to elicit data, views, and arguments pertinent to the findings ESECA requires DOE to make prior to the issuance of a prohibition order. If no reason not to issue an order is presented to or discovered by DOE, a prohibition order is issued to the candidate.

Any questions regarding this Notice should be directed to DOE National Headquarters as follows: Mr. Walter Romanek, Director, Division of Coal Utilization, Department of Energy, Code OCU (Prohibition Orders: Martin Marietta Corp., Martin Marietta Cement, Atlanta, Ga., Installations, Docket Nos. OCU-0514-1 and 0514-2), Washington, D.C. 20461, telephone 202-254-3910.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 95-70; Department of Energy Organization Act (Pub. L. 95-91); E.O. 11790 (39 FR 23185); EO 12009 (42 FR 46267).)

Issued in Washington, D.C., April 27, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE PROHIBITION ORDERS

ESECA and DOE regulations implementing the statute (10 CFR 303 and 305) require DOE to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI).[1] DOE's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0514-1	Martin Marietta Corp.	Martin Marietta Cement.	1	Atlanta, Ga.
OCU-0514-2	do	do	2	Do.

[1]Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 pursuant to the Department of Energy Organization Act, from the Federal Energy Administration to the Department of Energy.

These findings, which are now proposed by DOE, are based on the information that has been provided to and developed by DOE prior to the issuance of this Notice of Intention (NOI) to issue Prohibition Orders.

Martin Marietta Corp. shall be referred to as the "owner" and as "Martin Marietta." Martin Marietta Cement Units 1 and 2 shall be referred to as the "MFBI's" and as "Martin Marietta 1 and 2."

I. *Capability and necessary plant equipment to burn coal.* DOE proposes to find that on June 22, 1974, Martin Marietta 1 and 2 had, or thereafter acquired or were designed with, the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Martin Marietta, in a major fuel burning installation coal conversion report, section II, questions 6, and 12-14 (Form FEA C-602-S-0), dated may 19, 1975, indicated that the MFBI's had in place on June 22, 1974, kilns that were capable of burning coal. The kilns had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, and thereafter, these MFBI's may not have burned coal as their primary energy source.

B. Based on information Martin Marietta filed with DOE dated July 22, 1976, and other information available to DOE, the following plant equipment and facilities at Martin Marietta 1 and 2 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source: 1. Unloaders. 2. Conveyors. 3. Railroad track system.

C. DOE proposes to find that on June 22, 1974, Martin Marietta 1 and 2 had or thereafter acquired all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and regulations promulgated pursuant thereto, the absence of any one or a combination of the equipment or facilities listed in paragraph B, above, is not grounds for concluding that Martin Marietta 1 and 2 lacked the capability and necessary plant equipment to burn coal on June 22, 1974, or were not designed with, or did not thereafter acquire, such capability.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* DOE proposes to find that the burning of coal in lieu of petroleum products or natural gas at Martin Marietta 1 and 2 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by DOE of the fuel consumption of these kilns for the period 1973-1975, the remaining useful service life of the kilns after conversion, the net operating cost differential that would result from compliance with prohibition orders, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Anticipated fuel supplies, curtailment of natural gas supply.* Based on information obtained from the Federal Energy Regulatory Commission, the natural gas supplier, and in certain cases the owner, DOE believes that the MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in their increased reliance on alternate fuels.

2. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Martin Marietta 1 and 2 have been determined.

This determination was based on existing DOE information and analysis as well as information filed with DOE by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by DOE.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon DOE's fuel cost estimates, DOE has determined that the burning of coal in lieu of natural gas at Martin Marietta 1 and 2 will result in an increase in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.2.a.–c., above, as well as the expected remaining useful life of the kilns after conversion, DOE has determined that the net annual operating cost differential ("NOCD") (which represents the difference between operating the kilns with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Martin Marietta 1 and 2 will represent an annual cost increase of $433,338.

3. *Reasonableness of costs of conversion.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed orders is not unreasonable.

In calculating the NOCD, DOE considered the present annual fuel usage. The net annual operating cost increase for these MFBI's resulting from operating on coal as the primary energy source, instead of natural gas, will be approximately $433,338.

Although conversion to the burning of coal would be expected to increase the costs incurred by Martin Marietta 1 and 2 by $433,338 per year, DOE proposes to find that such increased cost, per MCF of natural gas saved is not unreasonable, given the purposes of ESECA. This determination is based on consideration of the substantial potential natural gas savings that would result from conversion to coal. The determination that the costs of burning coal instead of natural gas would not be unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the MFBI's, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of the MFBI's.

The additional costs that would be incurred if DOE were to prohibit the burning of natural gas or petroleum products as the primary energy source at Martin Marietta 1 and 2 would only be incurred for a limited period of time in view of the anticipated availability of national reserves of and productive capacity for natural gas. These factors point up the likelihood that Martin Marietta 1 and 2 will experience a significant curtailment of its present natural gas supply in the future, so that DOE has concluded that the cost of burning coal in lieu of natural gas is not unreasonable. (*Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II*, Federal Energy Administration, October 1975.)

4. *Financial capability of the owner.*—a. *Recovery of capital investment.* DOE proposes to find that compliance with Prohibition Orders by Martin Marietta 1 and 2 would be economically feasible. DOE's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in Moody's Industrial Manual. Where necessary, DOE performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other outstanding Notice of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESEDA to MFBI's owned by Martin Marietta. DOE related these additional capital investment costs to the total capitalization of Martin Marietta and the remaining useful life after conversion of Martin Marietta 1 and 2.

DOE does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Martin Marietta to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. DOE has also taken into consideration total annual costs resulting from compliance with all other outstanding Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Martin Marietta MFBI's.

Martin Marietta's total annual costs after conversion will increase by $433,338.

B. *Consistency with the purposes of ESECA.* Because the issuance of Prohibition Orders to Martin Marietta 1 and 2 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, DOE proposes to conclude that this action would be consistent with the purposes of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of a

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Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, DOE proposes to conclude that Prohibition Orders to Martin Marietta 1 and 2 would be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984.

A. *Coal availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 100 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980 DOE does not have data fully developed for new production plans because few coal producers have firm expansion plans that extend that far into the future. The statistics supporting more recent mine developments and enumerating updated data are currently in the process of revision.

a. *National coal production.* It is conservatively estimated that it will be possible to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential. Another FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976 (hereafter "Coal Market Survey") and a DOE Study, "Coal Availability by Characteristics for Fuel Conversion Orders," April 17, 1978, indicate current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National coal demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from DOE action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other currently projected industrial candidates for NOI's, from all other outstanding Notices of Intention to issue Prohibition Orders to date, and from all Prohibition Orders issued to date under authority of Section 2(a) of ESECA is approximately the following (*Coal and Transportation Availability for Major Fuel Burning Installations Coal Conversion Orders: Methods and Approach*, May 20, 1977, as amended April 10, 1978) (hereafter "Methods Report"):

Year:	*Demand (million tons)*
1978	10.050
1979	14.492
1980	21.064
1981	23.607
1982	30.043
1983	30.043
1984	30.043

3. *Characteristic coal production and demand.* FEA's "Coal Market Survey" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which was not committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* DOE has determined that kilns of the type used at Martin Marietta 1 and 2 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's per pound (minimum)	12,500
Ash (percent, maximum)	8
Volatile (minimum percent)	30
Ash softening temperature (°F) (minimum)	2,200
Sulfur (percent, maximum) (approximate)	2.5

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would be used by these MFBI's is estimated to be as follows:

Year:	*Demand (thousand tons per year)*
Year: 1979 (and after)	84.27

c. *National planned production, characteristic coal.* DOE's "Methods Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	124,300
1979	243,100
1980	293,300
1981	350,000
1982	369,900
1983	396,200
1984	475,500

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other currently projected industrial candidates for NOI's, from all other outstanding Notices of Intention to issue Prohibition Orders to date, and from all Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is not more than the following ("Methods Report"):

Year:	*Demand (thousand tons)*
1978	10,050
1979	14,492
1980	21,064
1981	23,607
1982	30,043
1983	30,043
1984	30,043

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8, and 13 as follows ("Methods Report"):

Year:	*Production (thousand tons)*
1978	26,934
1979	52,077
1980	58,396
1981	67,882
1982	71,985
1983	77,668
1984	89,345

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8, and 13 expected to result from this NOI, from all other currently projected industrial candidates for NOI's, from all other outstanding Notices of Intention to issue Prohibition Orders to

date, and from all Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in DOE's "Methods Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	2,767
1979	5,374
1980	9,733
1981	10,994
1982	14,979
1983	14,979
1984	14,979

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8, and 13 with a >2.21 percent sulfur content (which includes the 2.5 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other currently projected industrial candidates for NOI's from all other outstanding Notices of Intention to issue Prohibition Orders to date, and from all Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in DOE's "Methods Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur, >2.21*
1978	0
1979	199
1980	345
1981	421
1982	421
1983	421
1984	421

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceed this potential ESECA regional demand for coal by sulfur characteristec.

4. *State or local laws.* DOE has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion.* DOE's "Methods Report" has identified nationally and in BOM Districts 7, 8, and 13 uncommitted coal production that meets the requirements of Martin Marietta 1 and 2 as described in paragraph A.3.a., above. DOE, therefore, proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other currently projected industrial candidates for NOI's, from all other outstanding Notices of Intention to issue Prohibition Orders to date, and from all Prohibition Orders issued to date under authority of Section 2(a) of ESECA. Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8, and 13. DOE observes, however, that these MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on a DOE study, *Coal Transportation Availability Report*, January 1978, (hereafter *Transportation Availability Report*) coal for Martin Marietta 1 and 2 would probably come from Bureau of Mines (BOM) District 8 both as a primary source of supply and as the alternate supply area. Other sources of complying coal are available within the United States. However, the following analysis of transportation availability is based on the most likely, or primary, route from the BOM suply area stated above, as well as on two alternate routes.

2. *Route of coal shipment.* The primary route for coal delivery to Martin Marietta 1 and 2 is to originate in the Corbin, Kentucky area, BOM District 8, on the Louisville and Nashville Railroad (L&N) which would move it via Knoxville, Tenn. to Atlanta, Ga. Total rail mileage is approximately 300 miles.

The alternate route for coal delivery from the primary supply area would originate coal in the Madisonville, Kentucky area on the L&N which would carry it via Nashville, Tenn. to Chattanooga, Tenn. Central of Georgia Railroad Co. (CGA, a part of Southern Railway Co., SOU) would pick it up there and move it via Rome, Ga. to Atlanta, Ga. Total distance is 406 miles by rail.

The alternate route for coal delivery from the alternate supply area would originate coal in the Devon, W. Va. area in BOM District 8 on the Norfolk and Western Railroad (N&W) line. N&W would move the coal east to Martinsville, Va. and south to Winston-Salem, N.C. where Southern Railway would pick it up and move it via Charlotte, N.C. to Greeville, S.C. and west to Atlanta, Ga. Total mileage is approximately 648 miles by rail.

3. *Originating trunk carrier.* The L&N, originator of coal on the primary route and one alternate route for Martin Marietta 1 and 2, has about 34,000 hopper cars with an estimated average capacity of 75 tons. Using an average number of 20 deliveries per year per 75-ton car, the L&N would need 56 additional cars by 1979 to handle the increased demand of Martin Marietta 1 and 2. Between January 1975 and January 1976, L&N has increased total coal carrying capacity by about 10 percent and intends to expand its capacity to the level needed to handle new business. The shipment would probably be done by general train.

The N&W, originator of coal on the alternate route from the alternate supply area, has approximately 54,000 hopper cars with an estimated average capacity of 83 tons. Using an average number of 20 deliveries per year per 83-ton car, the N&W would need 51 additional cars by 1979 to handle the increased demand from Martin Marietta 1 and 2. The N&W indicated that the retirements from their hopper fleet are not expected to exceed 1,200 per year and that they have shop capacity to build between 1,500 and 5,000 new cars per year, depending on the demand for coal from their supply areas. Shipments would probably be by general train.

DOE has not found nor has been informed of any apparent constraints to carrying coal for any originating, alternate, or intermediate carriers should they be used.

4. *Destination carrier and plant facilities.* The company has indicated coal has been delivered to Martin Marietta 1 and 2 in the past L&N and the Southern Railway and it is expected that this mode of transportation would be used in the future. The owner reported that storage capacity for coal was acquired in 1975. The anticipated effective date of the proposed Prohibition Orders allow sufficient time to add coal handling and receiving equipment and a railroad track system.

5. *Conclusion.* Based on the foregoing analysis, DOE proposes to find that coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Martin Marietta 1 and 2 presently exist, and alternate routes are available.

[FR Doc. 78-12073 Filed 5-2-78; 8:45 am]

[1505-01]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER 78-279]

NIAGARA MOHAWK POWER CORP.

Notice of Filing

Correction

In FR Doc. 78-9670 appearing at page 15357 in the issue for Wednesday, April 12, 1978, the docket number in the heading should be changed from "(Docket No. ER78-278)" to "(Docket No. ER78-279)".

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 890-4; PF-99]

PESTICIDE AND FOOD/FEED ADDITIVE PETITIONS

Filing

Pursuant to the provisions of sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration

PP 8F2070. Monsanto Agricultural Products Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166. Proposes that 40 CFR 180.364 be amended by the establishment of a tolerance for the combined residues of the herbicide glyphosate [N-(phosphomomethyl)glycine] and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity asparagus at 0.2 part per million (ppm). Proposed analytical method for determining residues is by gas liquid chromatography using a phosphorous specific flame photometric detector. PM 25. (202-426-2632)

FAP 8H5182. Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 4913, Hawthorn Road, Kansas City, Mo. 64120. Proposes that 21 CFR 193 be amended by the establishment of a regulation permitting the use of the insecticide *O*-ethyl *O*-[4-(methylthio)-phenyl] *S*-propyl phosphorodithioate and its cholinesterase-inhibiting metabolites on the commodity cottonseed oil with a tolerance limitation of 1.0 ppm resulting in food. PM12. (202-426-9425)

FAP 8H5182. Mobay Chemical Corp. Proposes that 21 CFR 561 be amended by the

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establishment of a regulation permitting the use of the insecticide *O*-ethyl *O*-[4-(methylthio)phenyl] *S*-prophyl phosphorodithioate and its cholinesterase-inhibiting metabolites on the commodity cottonseed hulls with a tolerance limitation of 1.0 00m resulting in feed. PM12.

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington D.C. 20460. Inquiries concerning these petitions may be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8.30 a.m. to 4 p.m. Monday through Friday.

Dated: April 25, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-11977 Filed 5-2-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 15, 1978. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T-3640.

Filing party: Frederick M. Lowther, Counsel, Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.

Summary: Agreement No. T-3640, between Mitsui & Co. (U.S.A.), Inc., (Mitsui), and Cook Industries, Inc., Bayside Warehouse Co. and St. John Shipping Co., Inc., (Sellers), is an Asset Purchase Agreement whereby, subject to the terms and conditions set forth in the agreement, Mitsui agrees to purchase the grain storage and handling facility and related assets from Sellers located in Reserve, La.

Dated: April 27, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12045 Filed 5-2-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 466]

B. H. SOBELMAN & CO., INC.

Reinstatement of License

By Federal Maritime Commission Order served and published in the FEDERAL REGISTER, B. H. Sobelman & Co., Inc.'s Independent Ocean Freight Forwarder License No. 466 was revoked, effective January 11, 1978, for failure to maintain a valid surety bond on file with the Commission. The Order of Revocation was served on January 23, 1978.

An appropriate surety bond has been received in favor of B. H. Sobelman & Co., Inc. and compliance pursuant to Section 44, Shipping Act, 1916, and Section 510.9 of the Commission's General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01(a), dated August 8, 1977, Independent Ocean Freight Forwarder License No. 466R shall be reissued to B. H. Sobelman & Co., Inc. effective January 16, 1978. A copy of this Notice of Reinstatement shall be published in the FEDERAL REGISTER and served upon B. H. Sobelman & Co., Inc.

ROBERT M. SKALL,
Deputy Director, Bureau of
Certification and Licensing.

[FR Doc. 78-12043 Filed 5-2-78; 8:45]

[6730-01]

[Independent Ocean Freight Forwarder License No. 1325]

C. & J. FORWARDING INC.

Order of Revocation

On April 20, 1978, C. & J. Forwarding Inc., 8697 21st Avenue, Brooklyn, N.Y. 11214, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1325 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1325, issued to C. & J. Forwarding Inc., be and is hereby revoked effective May 13, 1978 without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon C. & J. Forwarding Inc.

ROBERT M. SKALL,
Deputy Director, Bureau of
Certification and Licensing.

[FR Doc. 78-12041 Filed 5-2-78; 8:45 am]

[6730-01]

[Independent Freight Forwarder License No. 648]

GATEWAY SHIPPING CO., INC.

Reinstatement of License

By Federal Maritime Commission Order served and Published in the FEDERAL REGISTER, Gateway Shipping Co., Inc.'s Independent Ocean Freight Forwarder License No. 648 was revoked effective March 22, 1978, for failure to maintain a valid surety bond on file with the Commission. The Order of Revocation was served on April 5, 1978.

An appropriate surety bond has been received in favor of Gateway Shipping Co., Inc., effective March 22, 1978, and compliance pursuant to Section 44, Shipping Act, 1916, and Section 510.9 of the Commission's General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission Order No.201.1 (Revised) Section 5.01(a) dated August 8, 1977, Independent Ocean Freight Forwarder License No. 648 shall be reissued to Gateway Shipping Co., Inc., effective March 22, 1978. A copy of this notice of reinstatement shall be published in the FEDERAL REGISTER and served upon Gateways Shipping Co., Inc.

For the Commission.

ROBERT M. SKALL,
Deputy Director, Bureau of
Certification and Licensing.

[FR Doc. 78-12044 Filed 5-2-78; 8:45 am]

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[6730-01]

[Docket No. 78-13]

OLD BEN COAL CO. v. SEA-LAND SERVICE, INC.

Filing of Complaint

Notice is hereby given that a complaint filed by Old Ben Coal Co. against Sea-Land Service, Inc. was served April 25, 1978. Complainant alleges that it has been subjected to the payment of charges for services which are unjustly discriminatory or prejudicial in violation of Section 17 of the Shipping Act, 1916. The charges were assessed for reworking of overloaded containers and for demurrage which accrued while they were being reworked.

Hearing in this matter, if any is held, shall commence on or before October 25, 1978. The hearing shall include oral testimony and cross-examination in the descretion of the presiding officer only upon a showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR DOC. 78-12042 Filed 5-2-78; 8:45]

[6210-01]

FEDERAL RESERVE SYSTEM

FIRST ARKANSAS BANKSTOCK CORP.

Acquistion of Bank

First Arkansas Bankstock Corp., Little Rock, Ark., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to retain 91.2 percent or more of the voting shares of First National Bank in Mena, Mena, Ark. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 27, 1978.

Board of Governors of the Federal Reserve System, April 27, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the Board.

[FR Doc. 78-12004 Filed 5-2-78; 8:45 am]

[4110-85]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

PRIVACY ACT OF 1974

Deletion of Systems of Records

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notification of termination or deletion of systems of records which were last published in the FEDERAL REGISTER, vol. 41, No. 183, September 20, 1976, on the pages indicated below.

SUMMARY: 1. The following system notice has been deleted because it duplicates a system being reported by the Coast Guard under system notice DOT/CG 572:

HSA/BMS 0032.01, PHS Beneficiary (Coast Guard) Contract Medical Care Records (page 40924).

2. The following system notices have been deleted because they were consolidated into a single notice, 09-35-0034, Health Manpower.

Inventories and Surveys (National Center for Health Statistics): HRA/BHM 0004.01, National Register of Dentists (page 40889); HRA/BHM 0036.01, National Register of Licensed Dental Hygienists (page 40899).

3. The following system notices have been deleted because the systems are no longer in use:

HRA/BHM 0008.01, Dental Patient Records (page 40891); CDC/NIOSH 0037.01, Toll Booth Operators Exposed to Auto Exhausts (page 40831); CDC/NIOSH 0072.02, Biodynamics of Lifting in the Sagittal Plane (page 40849); CDC/NIOSH 0081.01, Metabolic Costs and Physiological Response to Heat in Lab Studies (page 40853); CDC/NIOSH 0124.01, Mortality of Dairymen (page 40873); CDC/NIOSH 0128.01, Development of Biologic Standards by Breath Analysis (page 40875).

4. The following system notices have been deleted because records are no longer retrieved by personal identifier:

HRA/BHM 0010.01, Survey of Non-Licensed Dental Personnel (page 40891); HRA/BHM 0029.01, Operation MEDIHC (page 40897); NIH/NCL 0167.01, Administration: Visitor Location (page 40945); NIH/NCI 0293.02, Clinical Research: Urinary Steroid Levels in Breast Cancer Patients (page 40959); NIH/NICHD 0006.02, Contract Administration (page 40926).

5. The following system notice has been deleted because management of the system has been transferred from the Health Resources Administration to the National Institutes of Health, where it has been subsumed under system notice 09-25-132, Research Studies Dealing with Prevention of Dental Carries, Plaque, and Gingivitus:

HRA/BHM 0018.01, Plaque Study in a School Setting (page 40893).

6. The following system notice has been deleted because the records are covered by an existing notice of the Civil Service Commission, CSC/Government 3:

NIH/FIC 0124.02, Personnel Agreements (page 40938).

7. The following system notice has been deleted because it duplicates system number 09-20-0056, which has the same title:

CDC/NIOSH 0066.02, Metabolic Costs and Physiological Response to Heat in Industrial Workers (page 40845).

8. The following system notice has been deleted because the records are covered by system notice 09-20-0136, Epidemiologic Studies of Special Disease Problems:

CDC/BE 0104.01, Ravies Serum Antibody Study (page 40863).

Effective Date: September 29, 1977.

Dated: April 27, 1978.

LEONARD SCHAEFFER,
Assistant Secretary for
Management and Budget.

[FR Doc. 78-11992 Filed 4-28-78; 10:22 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Dockets 350- C and D]

THREE AFFILIATED TRIBES OF FORT BERTHOLD RESERVATION

Plan for the Use and Distribution of Judgment Funds Awarded Before the Indian Claims Commission

APRIL 21, 1978.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 210 DM 1.2.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of any Indian tribe. Funds were appropriated by the Act of June 1, 1976, 90 Stat. 629, in satisfaction of the awards granted to the Three Affiliated Tribes of the Fort Berthold Reservation in Indian Claims Commission Dockets 350- C and D. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated November 9, 1977, and was received (as recorded in the Congressional Record) by the House of Representatives on November 15, 1977, and by the Senate on November 29, 1977. Neither House of Congress having adopted a resolution disapprov-

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ing it, the plan became effective on March 13, 1978, as provided by section 5 of the 1973 Act, supra.

The plan reads as follows:

The funds appropriated by the Act of June 1, 1976, 90 Stat. 629, in satisfaction of awards granted to the Three Affiliated Tribes in Dockets 350- C and D before the Indian Claims Commission, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be utilized as herein provided.

Per Capita Payment Aspect

The Three Affiliated Tribes' latest approved membership roll shall be brought current to include all eligible members born on or prior to and living on the effective date of this plan. Subsequent to the preparation and approval of the membership roll, the Secretary of the Interior (hereinafter 'Secretary') shall make a per capita distribution of eighty (80) percent of the funds, in a sum as equal as possible, to each tribal enrollee.

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be handled pursuant to 25 CFR 104.5. The per capita shares of minors shall be handled pursuant to 25 CFR 60.10 (a) and (b)(1) and 104.4, as amended November 5, 1976 (41 FR 48735, 48736). The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, part 4, subpart D.

The per capita shares of adults who are determined by the tribal governing body and the Agency Superintendent to be in arrears in debts to the tribe shall be placed in individual Indian money (IIM) accounts. Subsequent to the placement of such shares in IIM accounts, the Agency Superintendent shall have authority to collect all or part of such shares and apply the collections to the payment of the delinquent debts pursuant to 25 CFR 104.9.

Programing Aspect

Twenty (20) percent of the funds, and any amounts remaining after the per capita payment provided above, shall be invested by the Secretary and the interest and investment income accrued shall be utilized on an annual budgetary basis, subject to the approval of the Secretary, for the following purposes:

1. *Scholarship Fund.*—Three (3) percent of the annual income shall be utilized to fund graduate and post-graduate studies in the fields of medicine, law, and the physical sciences, including engineering.

2. *Farmers Home Administration Loan.*—Fourteen (14) percent of the annual income shall be applied to the principal of the tribal loan for a land purchase program under the Farmers Home Administration. Subsequent to the payment of the loan in full, this portion of the annual income shall continue to be utilized in the Tribal Land Purchase Program.

3. *Community Development.*—Thirty-five (35) percent of the annual income shall be divided on a local resident tribal member basis among the five reservation communities or segments for community development projects as approved by the tribal governing body.

4. *Tribal Administration.*—Forty-eight (48) percent of the annual income shall be utilized for tribal attorneys' fees and expenses and for the payment of insurance premiums on tribal property.

Should any funds in any of the above-cited program categories not be needed or be found in excess of programing goals in any given annual budget, such funds may be transferred by the tribal governing body, with the approval of the Secretary, to another of the above-cited program categories.

RICK LAVIS,
Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 78-11978 Filed 5-2-78; 8:45 am]

[4310-84]

Bureau of Land Management

[Colorado 26349]

MOUNTAIN FUEL SUPPLY CO.

R/W Application for Pipeline

Effective Date: April 26, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Mountain Fuel Supply Co., 180 East First South, Salt Lake City, Utah 84139, has applied for a right-of-way for a 3½" o.d. surface lateral natural gas pipeline approximately 0.41 of a mile long for the Sugar Loaf State Land Well No. 1, across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, MOFFAT COUNTY, COLO.

T. 11 N., R. 101 W.,
Section 4: Lot 5
T. 12 N., R. 101 W.
Section 33:SE¼SE¼

The facilities will enable the applicant to convey natural gas from Sugar Loaf State Land Well No. 1 to meet customer demand for increased natural gas supply in the applicant's service area. The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Mountain Fuel Supply Co.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, JR.,
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-12031 Filed 5-2-78; 8:45 am]

[1410-03]

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

MEETING

The National Commission on New Technological Uses of Copyrighted Works (CONTU) will hold its 22d meeting in Minneapolis, Minn., on Thursday, May 18, and Friday, May 19, 1978.

The meetings will be held in the Dean's Conference Room at the University of Minnesota Law School, 229 19th Avenue South, Minneapolis and will convene at 2 p.m. on Thursday and 9:30 a.m. Friday. The Commission will be considering the reports of the Photocopy and New Works Subcommittees on Thursday and will discuss the Final Report on Friday.

Both sessions will be open to the public.

ARTHUR J. LEVINE,
Executive Director, National Commission on New Technological Uses of Copyrighted Works.

[FR Doc. 78-12021 Filed 5-2-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR SCIENCE EDUCATION

Amendment to Notice of Meeting

The notice of meeting for the Thirty-Eighth Meeting of the Advisory Committee for Science Education, which was published in the FEDERAL REGISTER on April 14, 1978, 43 FR 15809, has been amended to read:

Agenda: Thursday, May 4: Update on FY 1979 Budget Hearings; Status of NSF/NIE Collaborative Research Program; Oversight Activities—General Discussion and Meetings of Subcommittees.

Friday, May 5: Reports of Oversight Subcommittees; General Discussion of Subcommittee Reports; Meetings of Oversight Subcommittees to Plan Further Work.

M. REBECCA WINKLER,
Committee Management Coordinator.

APRIL 28, 1978.

[FR Doc. 78-12025 Filed 5-2-78; 8:45am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE DAVIS BESSE NUCLEAR POWER STATION, UNITS 2 AND 3

Meeting

The ACRS Subcommittee on the Davis Besse Nuclear Power Station will hold a meeting on May 18, 1978, in Room 1046, 1717 H Street NW., Washington, D.C. 20555 to review the application of the Toledo Edison Co. for a permit to construct Units 2 and 3 of this Station.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

THURSDAY, MAY 18, 1978

8:30 a.m. until the conclusion of business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Toledo Edison Co., and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Ragnwald Muller, telephone 202-634-1413, between 8:15 a.m. and 5 p.m., e.s.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452.

Dated: April 27, 1978.

JOHN C. HOYLE,
Advisory Committee, Management Officer.

[FR Doc. 78-11884 Filed 5-2-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Revised Notice of Meeting

The meeting notice for the meeting previously scheduled on May 4-6, 1978 (published on April 19, 1978—FEDERAL REGISTER, Volume 43, p. 16575) is revised as detailed below. This revision incorporates schedule changes due to the cancellation of the sessions for the Maine Yankee Atomic Power Station and Indian Point Nuclear Generating Station, Unit 3. The changes include cancellation of the session on Saturday, May 6, 1978.

The agenda for the subject meeting will be as follows:

THURSDAY, MAY 4, 1978

8:30 a.m.—9 a.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

9 a.m.—10:30 a.m.: Report on DOE Task Force Report on Review of Nuclear Waste Management (DOE/ER-0004/D) (Open)—The Committee will hear and discuss a report by representatives of the Department of Energy regarding plans for interim storage and long-term disposal of radioactive wastes.

10:45 a.m.—12 Noon: Executive Session (Open)—The Committee will hear and discuss reports of Subcommittees, Working Groups, and members on a number of generic matters related to reactor safety including procedures for review of proposed operations at increased power levels, ACRS comments regarding the establishment of a quasi-judicial board to investigate reactor accidents, and calculation of off-site consequences from large atmospheric releases of radioactivity. Qualifications of candidates proposed for appointmnet to the Committee will also be discussed. The Committee will discuss a proposed report to the Nuclear Regulatory Commission regarding the Liquid Pathway Generic Study.

This session will be open to the public except for those portions which must be closed to protect information the release of which would represent an unwarranted invasion of personal privacy.

1 p.m.—2:30 p.m.: Executive Session (Open)—The Committee will discuss matters for the meeting with the NRC Commissioners including the following matters:

Review of proposed nuclear plant operations at "stretch" power.

ACRS consideration of the establishment of a statutory quasi-judicial board for investigation of reactor accidents.

ACRS Fellowship Program.

Evaluation of the effects of low-level radiation on nuclear plant workers and the general public in the vicinity of reactors.

Proposed use of nuclear plantsite comparisons based on calculations of the consequences of large releases of radioactive materials.

Candidates for appointment to the ACRS.

Portions of this session will be closed as required to protect information the release of which would represent an unwarranted invasion of personal privacy.

2:30 p.m.—3:30 p.m.: Meeting with NRC Commissioners (Open)—The Committee will meet with the NRC Commissioners to discuss the items noted above. Portions of this session will be closed as required to protect information the release of which would represent an unwarranted invasion of personal privacy.

3:30 p.m.—5 p.m.: Executive Session (Open)—The Committee will hear and discuss reports of ACRS Subcommittee activity regarding Anticipated Transients Without Scram, reevaluation of NRC siting policies and practices, and Regulatory Activities.

The Committee will also discuss a proposed ACRS report to the Nuclear Regulatory Commission regarding the Liquid Pathway Generic Study.

FRIDAY, MAY 5, 1978

8:30 a.m.—12:30 p.m.: Meeting with NRC Staff (Open)—The Committee will hear presentations from and hold discussions with members of the Nuclear Regulatory Commission Staff regarding recent licensing actions and operating experience including environmental evaluation of the Floating Nuclear Plant, review of proposed safe shutdown system for the Oconee Nuclear Plant, and review of LNG storage facilities at a site near the Calvert Cliffs Nuclear Plant. The NRC Staff will also report to the ACRS on generic matters related to nuclear powerplant safety including criteria for combination of seismic and other dynamic loads, proposed reliability data collection system for nuclear powerplants, proposed revision of 10 CFR Part 100, Appendix A; Seismic Considerations, and regulatory/safety practices and policies in the Union of Soviet Socialist Republics. The future schedule for ACRS activities and topics proposed for consideration by the Committee will also be discussed.

1:30 p.m.—4 p.m.: Executive Session (Open)—The Committee will complete preparation of its reports to the NRC regarding the Liquid Pathway Generic Study.

The Committee will discuss reports of its members regarding miscellaneous ACRS ac-

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tivities such as proposed reorganization of ACRS Subcommittees and Working Groups and proposed meetings of the ACRS with members of the FRG Reactor Safety Committee and the Groupe Permanent of the Republic of France.

The Committee will complete its consideration of items discussed during this meeting.

Procedures for the conduct of and participation in ACRS meetings were outlined in the FEDERAL REGISTER on October 31, 1977, page 56972. In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

I have determined in accordance with Subsection 10(d) of Pub. L. 92-463 that it is necessary to close portions of the meeting to protect information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). Separation of factual information from information considered exempt from disclosure during closed portions of the meeting is not considered practical.

Background information concerning items to be considered during this meeting can be found in documents on file and available for public inspection in the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statments and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, 202-634-1371, between 8:15 a.m. and 5 p.m. e.s.t.

Dated: May 1, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-12172 Filed 5-2-78; 8:45 am]

[7590-01]

[Dockets Nos. 50-269, 50-270, and 50-287]

DUKE POWER CO., OCONEE NUCLEAR STATION, UNITS NOS. 1, 2, and 3

Order for Modification of License

I. The Duke Power Co. (the licensee), is the holder of Facility Operating Licenses Nos. DPR-38, 47, and 55, which authorize the operation of the nuclear power reactors known as Oconee Nuclear Station, Units Nos. 1, 2, and 3 (the facility), at steady reactor power levels not in excess of 2,568 megawatts thermal (rated power) for each unit. The facility consists of Babcock & Wilcox Co. designed pressurized water reactors (PWR) located at the licensee's site in Oconee County, S.C.

II. In accordance with the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR 50.46, the licensee submitted on July 9, 1975, an ECCS evaluation for the facility. The ECCS performance submitted by the licensee was based upon an ECCS Evaluation Model developed by the Babcock & Wilcox Co. (B&W), the designer of the Nuclear Steam Supply System for this facility. The B&W ECCS Evaluation Model had been previously found to comform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR part 50.46 and appendix K. The evaluation indicated that with the limits set forth in the facility's technical specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

On April 12, 1978, B&W informed the NRC that it had determined that in the event of a small break LOCA on the discharge side of a reactor coolant pump, high pressure injection (HPI) flow to the core could be reduced somewhat. Subsequent calculations indicated that in such a case the calculated peak clad temperature might exceed 2200F.

Previous small break analyses for B&W 177 fuel assembly (FA) lowered loop plants had identified the limiting small break to be in the suction line of the reactor coolant pump. Recent analyses have shown that the discharge line break is more limiting than the suction line break.

Each Oconee Nuclear Station unit has an ECCS configuration which consists of two high pressure injection (HPI) trains which are supplied by three HPI pumps. Each train injects into two of the four reactor coolant system (RCS) cold legs on the discharge side of the RCS pump.

The two parallel HPI trains are connected but are kept isolated by manual valves (known as the cross-over valves) that are normally closed.

Duke Power has proposed to maintain all three pumps in an operable status. The Oconee emergency power system is designed with sufficient capacity for this mode of operation. Upon receiving a safety injection signal the HPI pumps are started and valves in the injection lines are opened. Assuming loss of offsite power and the worst single failure (the HPI pump C or the HPI valve HP26), two HPI pumps would still be available and only one of the two injection valves would fail to open.

If a small break is postulated to occur in the RCS piping between the RCS pump discharge and the reactor vessel, the high pressure injection flow injected into this line (about 50 percent of the output of two high pressure pumps) could flow out the break. Therefore, for the worst combination of break location and single failure, 50 percent of the flow rate of two high pressure ECCS pumps would contribute to maintaining the coolant inventory in the reactor vessel. This situation had not been previously analyzed and B&W had indicated that the limits specified in 10 CFR 50.46 may be exceeded.

B&W has stated that they have analyzed a spectrum of small breaks in the pump discharge line and have determined that to meet the limits of 10 CFR 50.46 operator action is required to open the two manual operated crossover valves and to manually align the motor driven isolation value which had failed to open. This would allow the flow from the two HPI pumps to feed all four reactor coolant legs. B&W has assumed that 30 percent of the flow would be lost through the break and 70 percent would refill the core. The licensee has committed to provide for the necessary operator actions within the required time frame. That is, in the event of a small break and a limiting single failure, manual action will be taken to begin opening these valves within 5 minutes and have them fully opened and an adequate flow split obtained within the following 10 minutes. The analyses performed by B&W assumed that the flow split was established at 650 seconds by operator action. We conclude that the analyses are a reasonable approximation of the operator action that actually will be taken, provided specific procedures are prepared and followed to assure such action.

B&W has stated that a .15 ft.^{2} discharge line break, with the aforementioned operator actions, is the most limiting case. To arrive at this conclusion, B&W has performed analyses at break sizes of .3, .2, .15, .1, and .04 ft.^{2}, using an approved appendix K model for blowdown. Additional analyses for the Oconee plants at 2,568 Mwt indicate no core uncovery for the 0.15 ft.^{2} limiting break. For this break size B&W has conservatively estimated the peak clad temperature to be well below the limits of 10 CFR 50.46(b).

B&W has indicated the manner in which the calculational methods have been revised and has indicated that their revised calculations are wholly in conformance with the requirements of 10 CFR 50.46. However, B&W has not yet had the opportunity to fully present the result of its calculations to the licensee for submittal to the NRC staff, and the staff has accordingly not had the opportunity to fully assess the new calculations.

Therefore, until the staff has had the opportunity to fully assess the B&W revised calculations operation in accordance with the operating procedures specified in this order, will assure that the ECCS will conform to the performance requirements of 10 CFR 50.46(b). Accordingly, such procedures provide reasonable assurance that the public health and safety will not be endangered. Upon notification by the NRC staff, the licensee committed to provide the staff with B&W's reevaluation of ECCS performance applicable to the licensee's facility as promptly as possible, and to submit a technical specification requiring appropriate operating procedures to assure required operator action as discussed herein. Such procedures were described and the commitments confirmed by the licensee's letter of April 21, 1978. The staff believes that the licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC order. Upon satisfactory completion of our assessment of the revised evaluation, we will accordingly modify the authorization to operate the facility.

Copies of the following document are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and are being placed in the Commission's local public document room at the Oconee County Library, 201 South Spring, Walhalla, S.C. 29691.

(1) Letter from Mr. William O. Parker, Jr. to Mr. Edson G. Case, Acting Director, Office of Nuclear Reactor Regulation, dated April 21, 1978.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR parts 2 and 50, *It is ordered* That Facility Operating Licenses Nos. DPR-38, 47, and 55, are hereby amended by adding the following new provisions:

(1) As soon as possible, the licensee shall submit a reevaluation wholly in conformance with 10 CFR 50.46 of ECCS cooling performance calculated in accordance with the B&W Evaluation Model for operation with operating procedures described in its letter of April 21, 1978, and

(2) Until further authorization by the Commission, the licensee shall operate in accordance with the procedures described in its letter of April 21, 1978.

Dated at Bethesda, Md., this 26th day of April 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-11991 Filed 5-2-78; 8:45 am]

[7590-01]

[NUREG-0450]

MATERIAL CONTROL AND MATERIAL ACCOUNTING TASK FORCE REPORT

Availability

This is to announce that an NRC staff Task Force Report on Material Control and Material Accounting is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, Washington, D.C., and at the Commission's Local Public Document Rooms.

The Task Force was chartered to do the following:

1. Define the roles and objectives of material control and material accounting in the NRC safeguards program;

2. Recommend goals for licensee material control and material accounting systems;

3. Assess the extent to which the current regulatory base meets the proposed goals; and

4. Provide direction for material control and material accounting development, including both near and long-term upgrades.

The scope of the report is limited to licensees possessing significant amounts of strategic special nuclear material (SSNM) in unsealed form.

The Task Force found that the primary role of material control should be to provide continual cognizance of status of nuclear material and that the primary role of material accounting should be to provide long-term assurance that material is present in assigned locations and in correct amounts.

The material control goals developed by the Task Force emphasize timely detection of the loss of five formula kilograms of SSNM through shift item checks, tight custodial control, and the use of process information for safeguards. The material accounting goals emphasize trend analysis of cumulative inventory differences and shipper-receiver differences, and improved measurement and record systems.

The Task Force recommends promulgation of a two-phased Material Control and Material Accounting Upgrade Rule based upon subsequent value-impact analysis of the proposed goals. The Task Force also recommends that action criteria (investigation, reinventory, shutdown) or inventory differences be based upon detecting with high probability the loss of a fixed quantity (5 formula kilograms) of material, rather than upon a percentage of throughput.

As part of its consideration process, the Commission invites the views of the public. All interested persons who desire to submit written comments on the report and its recommendations should send them by July 15, 1978 to the Director, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the comments received in response to this notice will be placed in the Commission's Public Document Room in Washington, as received.

The report consists of an Executive Summary (7 pages), a Summary (34 pages) and three other volumes (totaling 434 pages). Single copies of the Executive Summary and the Summary, or of the entire report, may be obtained without charge, to the extent of supply, by writing to the Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

After the existing stock is exhausted, copies are available from the National Technical Information Service, Springfield, Va. 22161, at current rates.

Dated at Silver Spring, Md., this 24th day of April 1978.

For the Nuclear Regulatory Commission.

ROBERT F. BURNETT,
Director, Division of Safeguards

[FR Doc. 78-12171 Filed 5-2-78; 8:45 am]

[7590-01]

RISK ASSESSMENT REVIEW GROUP

Meeting

Pursuant to the Federal Advisory Committee Act (Pub L. 92-463), notice is hereby given of a 2-day open meeting of the Risk Assessment Review Group of the U.S. Nuclear Regulatory Commission (NRC), to be held at 8:30 a.m., on May 23 and 24, 1978, in Room 1167 of 1717 H Street NW., Washington, D.C. The purposes of this meeting are to continue the review of the final report of the Reactor Safety Study (WASH-1400) and the peer comments thereon and to discuss subjects that might be included in the report of the Review Group. This meeting may be extended a day or so if deemed necessary by the Chairman.

The Risk Assessment Review Group is an independent group established by the NRC (42 FR 34955) for the purpose of providing advice and information to the Commission regarding the final report of the Reactor Safety Study, WASH-1400 (NUREG-75/014), and the peer comments on the study, advice, and recommendations on developments in the field of risk assessment methodology and courses of action

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which might be taken on future development and use of risk assessment methodology. This advice and information will assist the Commission in establishing policy regarding the use of risk assessment in the regulatory process. It will also clarify the achievements and limitations of the Reactor Safety Study. The Review Group will submit a report to the Commission on or before July 1, 1978.

In carrying out these assignments, it is anticipated that a number of working sessions will be scheduled at different locations, with notification to the public well in advance of each meeting. With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 10 readily reproducible copies to the Review Group at the beginning of the meeting. Comments should be limited to areas within the Group's purview. Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than May 16, 1978, to Dr. John H. Austin, Office of Policy Evaluation, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting. Of course, comments not received in time for this meeting will be circulated to the members of the Review Group for consideration at a future meeting. Comments should pertain to the field of risk assessment methodology or should be based on the final report of the Reactor Safety Study, copies of which are available for public inspection at:

The NRC Public Document Room, 1717 H Street, NW.,Washington, D. C. 20555,

or

NRC's five Regional Offices of Inspection and Enforcement

REGION I

631 Park Avenue, King of Prussia, Pa. 19406.

REGION II

Suite 1217, 230 Peachtree Street, Atlanta, Ga. 30303.

REGION III

799 Roosevelt Road, Glen Ellyn, Ill. 60137.

REGION IV

Suite 1000, 611 Ryan Plaza Drive, Arlington, Tex. 76012.

REGION V

Suite 202, 1990 North California Boulevard, Walnut Creek, Calif. 94596.

Copies of the Final Report may be obtained from:

U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Probabilistic Analysis Staff, Attn: Melea S. Fogle, telephone: 301-492-8377, 7735 Old Georgetown Road, Bethesda, Md. 20014.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The time allotted for such statements will be at the discretion of the Chairman. The Review Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on May 22, 1978, to the Office of Policy Evaluation, telephone 202-254-5184, Attn: John Austin, between 8:15 a.m. and 5 p.m. e.d.t.

(d) Questions may be asked only by members of the Review Group.

(e) Statements of views or expressions of opinion made by members of the Review Group at open meetings are not intended to represent final determinations or beliefs.

(f) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(g) A copy of the minutes of the meeting will be available for inspection on or after June 30, 1978, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. Copies may be obtained upon payment of appropriate charges.

Dated at Washington, D.C., this 27th day of April 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-11990 Filed 5-2-78; 8:45 am]

[7590-01]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT, RANCHO SECO NUCLEAR STATION, UNIT NO. 1

Order for Modification of License

I.—The Sacramento Municipal Utility District (the licensee), is the holder of Facility Operating License No. DPR-54 which authorizes the operation of the nuclear power reactor known as Rancho Seco Nuclear Station, Unit No. 1 (the facility) at steady reactor power levels not in excess of 2772 megawatts thermal (rated power). The facility consists of a Babcock & Wilcox Co. designed pressurized water reactor (PWR) located at the licensee's site in Sacramento County, Calif.

II.—In accordance with the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR 50.46, the licensee submitted on July 8, 1975, an ECCS evaluation for the facility. The ECCS performance submitted by the licensee was based upon an ECCS Evaluation Model developed by the Babcock & Wilcox Co. (B&W), the designer of the Nuclear Steam Supply System for this facility. The B&W ECCS Evaluation Model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR part 50.46 and appendix K. The evaluation indicated that with the limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable-geometry, and long-term cooling.

On April 12, 1978, B&W informed the NRC that it had determined that in the event of a small break LOCA on the discharge side of a reactor coolant pump, high pressure injection (HPI) flow to the core could be reduced somewhat. Subsequent calculations indicated that in such a case the calculated peak clad temperature might exceed 2,200 F.

Previous small break analyses for B&W 177 fuel assembly (FA) lowered loop plants had identified the limiting small break to be in the suction line of the reactor coolant pump. Recent analyses have shown that the discharge line break is more limiting than the suction line break.

The Rancho Seco Nuclear Station, Unit No. 1, has an ECCS configuration which consists of Two high pressure injection (HPI) trains. Each train has a HPI pump and the train injects into two of the four reactor coolant system (RCS) cold legs on the discharge side of the RCS pump. (There is also a third HPI pump installed.) The two parallel HPI trains are connected but are kept isolated by manual valves (known as the cross-over valves) that are normally closed. Upon receiving a safety injection signal the HPI pumps are started and valves in the four injection lines are opened. Assuming loss of offsite power and the worst single failure (failure of diesel to start) only one HPI pump would be available and two of the four injection valves would fail to open.

If a small break is postulated to occur in the RCS piping between the

RCS pump discharge and the reactor vessel, the high pressure injection flow injected into this line (about half of the output of one high pressure pump) could flow out the break. Therefore, for the worst combination of break location and single failure, only one-half of the flow rate of a single high pressure ECCS pump would contribute to maintaining the coolant inventory in the reactor vessel. This situation had not been previously analyzed and B&W had indicated that the limits specified in 10 CFR 50.46 may be exceeded.

B&W has stated that they have analyzed a spectrum of small breaks in the pump discharge line and have determined that to meet the limits of 10 CFR 50.46, operator action is required to open the two manual operated crossover valves and to manually align the two motor driven isolation valves which had failed to open. This would allow the flow from the one HPI pump to feed all four reactor coolant legs. B&W has assumed that 30 percent of the flow would be lost through the break and 70 percent would refill the core. The licensee has committed to provide for the necessary operator actions within the required time frame. That is, in the event of a small break and a limiting single failure, manual action will be taken to begin opening these valves within 5 minutes and have them fully opened and an adequate flow split obtained within 10 minutes. To facilitate this operation the licensee has committed to maintain one of the series-connected, manually operated cross-over valves normally open. The analyses performed by B&W assumed that the flow split was established at 650 seconds by operator action. We conclude that the analyses are a reasonable approximation of the operator action that actually will be taken, provided specific procedures are prepared and followed to assure such action.

B&W has stated that a 0.15 ft^2 discharge line break, with the aforementioned operator actions, is the most limiting case. To arrive at this conclusion, B&W has performed analyses at break sizes of 0.3, 0.2, 0.15, 0.1, and 0.04 ft^2. The results, which were obtained using an approved appendix K model for blowdown, indicate core uncovery for about 500 seconds for the 0.15 ft^2 break. For this break size B&W has conservatively calculated the peak clad temperature to be approximately 1,760 F; well below the limits of 10 CFR 50.46(b).

B&W has indicated the manner in which the calculational methods have been revised and has indicated that their revised calculations are wholly in conformance with the requirements of 10 CFR 50.46. However, B&W has not yet had the opportunity to fully present the result of its calculations to the licensee for submittal to the NRC staff, and the staff has accordingly not had the opportunity to fully assess the new calculations. Until the licensee and the staff have an opportunity to review the B&W revised calculations, the staff has recommended and the licensee has agreed, that operating conditions be limited to a range in which ECCS performance for small break conditions is less sensitive to specific calculation inputs.

For this facility with operation up to 2,311 Mwt, ECCS performance calculations for the limiting small break does not even result in core uncovering, if appropriate operator action is properly taken (as described above), thus providing a very substantial margin on peak clad temperature below the limits of 10 CFR 50.46(b). For other reasons which are not safety-related, however, the plant is limited to a maximum power of about 2,080 megawatts thermal until approximately August 1978. At this lower power level, the safety margin on peak clad temperature will be even greater.

Therefore, until the staff has had the opportunity to fully assess the B&W revised calculations, operation of the facility at the power level specified in this Order, and in accordance with the operating procedures specified in this Order, will assure that the ECCS will conform to the performance requirements of 10 CFR 50.46(b). Accordingly, such limits provide reasonable assurance that the public health and safety will not be endangered. Upon notification by the NRC staff, the licensee committed to provide the staff with B&W's reevaluation of ECCS performance applicable to the licensee's facility as promptly as possible, to submit a technical specification requiring appropriate operating procedures to assure required operator action as discussed herein, and affirmed that plant operation was limited to the maximum power level secified herein. Such procedures were described and the commitments confirmed by the licensee's letter of April 14, 1978, suplemented by letter dated April 21, 1978. The staff believes that the licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order. Upon satisfactory completion of our assessment of the revised evaluation, we will accordingly modify the authorization to operate the facility.

III.—Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and are being placed in the Commission's local public document room at the Sacramento City-County Library, Sacramento, Calif.

(1) Letters from J. J. Mattimoe to Mr. R. W. Reid, Chief, Operating Reactors Branch No. 4, dated April 17 and 21, 1978.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended and the Commission's rules and regulations in 10 CFR parts 2 and 50, *It is ordered*, That Facility Operating License No. DPR-54 is hereby amended by adding the following new provisions:

(1) As soon as possible, the licensee shall submit a reevaluation wholly in conformance with 10 CFR 50.46 of ECCS cooling performance calculated in accordance with the B&W Evaluation Model for operation with operating procedures described in its letters of April 14, and April 21, 1978, except that the time for completion of operator action shall be 10 minutes after initiation of the event.

(2) Until further authorization by the Commission, the power level shall not exceed 2,080 Mwt, and

(3) Until further authorization by the Commission, the licensee shall operate in accordance with the procedures described in its letter of April 14, 1978, supplemented by letters dated April 21, 1978, except that the maximum time for completion of operator action shall be 10 minutes after initiation of the event.

Dated at Bethesda, Md., this 26th day of April 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, JR.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-11993 Filed 5-2-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14703; SR-CBOE-78-5]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Approving Proposed Rule Change

APRIL 25, 1978.

On February 28, 1978, the Chicago Board Options Exchange, Inc. ("CBOE"), La Salle at Jackson, Chicago Ill. 60603, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which provides a means by which CBOE members may lease their Exchange memberships to qualified broker-dealers.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 34-14551, March 10, 1978) and by publication in the FEDERAL REGISTER (43 FR 11629, March 20,

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1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-11980 Filed 5-2-78; 8:45 am]

[8010-01]

[Release No. 34-14704; File No. SR-CBOE-1978-8]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 31, 1978, Chicago Board Options Exchange, Inc. ("CBOE") filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 7.6. A Board Broker's Duty to Report Unusual Activity.

Interpretations and Policies:

[Italics indicate new material]

.01 *To the extent unusual activity is apparent only through the inspection of trade tickets, a Board Broker is not responsible for reporting such activity unless the trade tickets are brought to his attention.*

Exchange's Statement of Basis and Purpose

The purpose of the proposed rule change is to clarify the general obligation of a Board Broker to report unusual conditions as described in CBOE Rule 7.6. This clarification of a Board Broker's general reporting obligation is required in light of planned changes in the CBOE price reporting system.

The typical method of price reporting on the floor of the CBOE calls for a seller to time stamp a price reporting ticket, and to place the ticket in a tray located at the Board Broker station. This ticket is then removed by the Board Broker or his staff, last sale information is updated on the screens on the trading floor, and the ticket is then forwarded to an Exchange price reporter for public dissemination of last sale information. Under this procedure, a Board Broker has the opportunity, which he may or may not take, to review every ticket before its dissemination; however, the system is prone to inefficiencies, especially in very active markets in which Board Brokers find it difficult to both forward price reporting tickets and to operate their book. Any delay in the forwarding of the trade tickets by the Board Broker to the price reporter causes tickets to be handed to the price reporter in large bunches, which in turn may cause late dissemination of price reports and sequencing difficulties.

In view of such possible problems resulting from the manual method of forwarding price reporting tickets, the CBOE's Board of Directors has approved the installation of a conveyor belt around each half of a trading post. The conveyor belt will accept price reporting tickets from the trading crowd, and will move these tickets directly to the end of the post where last sale information is disseminated by an Exchange employee. The use of the belt system will result in a quicker, more accurately sequenced public record of trading activity. The belt system will, however, remove from the Board Broker his opportunity to inspect every price report before it is disseminated. There are compensatory safeguards for the loss of immediate Board Broker inspections built into the price reporting system: for example, if a price reporting ticket shows a price outside the Board Broker's book, or a price which matches the bids or offers displayed by such book, a "See Board Broker" message appears on the terminal. These trade tickets are then brought to the attention of the Board Broker by Exchange staff, and require the Board Broker's approval before being entered into the system. A selective options monitor is also planned for display to the trading crowd so that a record of every reported transaction will be visible to all traders in the trading crowd, and exposes every reported transaction to self-policing by the crowd.

The proposed rule change does not relieve the Board Broker from all responsibility to report unusual activity, but rather that activity which is *only* apparent by reviewing trade tickets. It remains incumbent upon the Board Broker to monitor the crowd by all other available means, e.g., the planned selective options monitor and personal observation of traders' activity. If the Board Broker suspects unusual activity, trading tickets are available at the post for his review.

The basis of this proposed rules change is Section 6(b)(5) of the Act, for the proposal facilitates the transmission of information with respect to options transactions to the public which operates to protect investors and the public interest. Moreover, the introduction of improved means of transmitting options price information, and the clarification of existing rules so as to expedite the implementation of such improvements is consistent with the Congressional position stated in Section 11A(a)(1)(C)(iii) of the Act.

No comments were solicited from members regarding this proposed change.

The Exchange does not believe that this proposal will impose any burden upon competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 23, 1978.

For the Commission by the Division of market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 25, 1978.

[FR Doc. 78-11985 Filed 5-2-78; 8:45 am]

[8010-01]

[Release No. 20518; 70-6155]

GEORGIA POWER CO.

Proposed Acquisition of Electric Distribution System

APRIL 26, 1978.

Notice is hereby given that Georgia Power Company ("Georgia"), 270 Peachtree Street, NW., Atlanta, Ga. 30303, an electric utility subsidiary of The Southern Company, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Mississippi proposes to acquire from the United States of America, acting by and through the Administrator of General Services (the "Government"), the electrical distribution system located at and serving the area which was formerly the Glynco Naval Air Station, located near Brunswick in Glynn County, Georgia. Such electrical distribution system includes all primary and secondary overhead lines, street lights, poles with attachments, transformers, switches, easements, and rights appurtenant thereto located at the site of such naval air station, other than the airfield runway lighting and other electrical equipment directly related to the operation of the air terminal and airport facilities located upon such site.

Georgia is to pay the Government in respect of such distribution system a purchase price of $117,000 in cash, as was determined by negotiations between the parties. The original cost to the Government of such system was $1,504,904. The Government does not maintain any records as to the depreciation of such property. Georgia estimates that the current value of such distribution system is approximately $190,000.

Georgia has historically served the Glynco Naval Air Station through one metering point. When the U.S. Navy closed the air station, the distribution system was conveyed to the Government as surplus property. Georgia's purchase of such distribution system will enable Georgia to continue to service its customers upon the site of the air station without having to construct a new system.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Information as to fees and expenses to be incurred in connection with the proposed transaction are to be filed by amendment.

Notice is further given that any interested person may, not later than May 25, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-11981 Filed 5-2-78; 8:45 am]

[8010-01]

[File Nos. 2-61324, 22-9576, 3-5436]

GENERAL AMERICAN TRANSPORTATION CORP.

Application and Opportunity for Hearing

MAY 1, 1978.

Notice is hereby given that General American Transportation Corp. (the "Company") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of Citibank, N.A. (the "Bank") under three indentures heretofore qualified under the Act, and a new indenture, which is to be qualified under the Act, is not as likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under any of the indentures.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing, thereon, that trusteeship under the qualified indenture and such other indenture is not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

The Company alleges that:

1. Applicant was incorporated in June 1975 as a wholly-owned subsidiary of GATX Corp. (formerly known as General American Transportation Corp.). On July 1, 1975, in connection with the restructuring of GATX Corp. from a combined operating and holding company to a holding company, Applicant was assigned the rights of GATX Corp. under its 17 then existing Equipment Trust Agreements (including the Series 61, 64, and 67 Equipment Trust Agreements referred to in paragraph 2 below) and assumed the obligations of GATX Corp. thereunder. Since July 1, 1975, two equipment trusts have been fully paid and terminated, and Applicant has issued equipment trust certificates under its Series 73 and Series 74 Equipment Trust Agreements.

2. It has outstanding three Equipment Trust Agreements for General American Transportation Corp. Equipment Trusts Series 61, 64, and 67 which are three of the 17 presently existing equipment trusts referred to above. Of the $40 million principal amount of Series 61 certificates issued, $14 million remains outstanding. The Series 61 Indenture was filed December 13, 1963. Of the $25 million principal amount of Series 64 certificates issued, $12.5 million remains outstanding. The Series 64 Indenture was filed July 13, 1967. Of the $60 million principal amount of Series 67 certificates issued, $42 million remains outstanding. The Series 67 Indenture was filed October 30, 1970.

3. It proposes to issue and sell approximately $60,000,000 in principal amount of General American Transportation Corp. Equipment Trust, Series 75, to be issued under an Indenture ("new indenture") which will be qualified under the Act.

4. The indenture dated as of May 15, 1978, is, and the new indenture will be,

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secured by a separate lot of identified railroad cars, so that should the Bank have occasion to proceed against the security under one of these trusts, such action would not affect the security, or the use of any security, under any other trust.

5. The differences in the provision of the four indentures are not so likely to involve the Bank in a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of the indentures.

The Company waives notice of hearing and waives hearing and waives any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice with respect to the application.

The period of notice hereinafter specified appears to be reasonable in the circumstances.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at 500 North Captiol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than May 10, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issued of law of fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue on order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A FITZSIMMONS,
Secretary.

[FR Doc. 78-12235 Filed 5-2-78; 8:45 am]

[8010-01]

[Release No. 20519; 54-258]

LYKES BROS., INC.

Filing of Plan for Compliance With Divestiture Order

APRIL 26, 1978.

Notice is hereby given that Lykes Bros., Inc. ("Lykes"), P.O. Box 1690, Tampa, Fla. 33601, a holding company, has filed a plan ("Plan") pursuant to Section 11(e) of the Public Utility Holding Company Act of 1935 ("Act") for the divestiture by Lykes of its interest in the common stock of Peoples Gas System, Inc. ("Peoples"), a gas utility company. All interested persons are referred to the Plan, which is summarized below, for a complete description of Lykes' proposals.

Lykes and its several nonutility subsidiaries are engaged in a diversified line of ranch and farm product operations throughout Florida and in parts of Georgia and Texas. The company also controls a major commercial bank in Florida. Lykes has issued an outstanding 18,792 shares of common stock held by approximately 177 shareholders. The stock is not actively traded.

In June 1976, Lykes acquired substantially all of the voting and nonvoting common stocks of Peoples, a retail natural gas distribution company incorporated in Florida and serving approximately 124,000 customers in two separate areas of that state. Peoples' rates and service are subject to the jurisdiction of the Florida Public Service Commission. At September 30, 1977, Peoples reported net utility plant of $35,351,031, and, for the twelve months then ended, gross revenues of $29,929, 376.

In anticipation of its acquisition of Peoples, Lykes filed with the Commission a statement under Rule 2 claiming the benefit of an exemption under Section 3 (a)(1) of the Act. The Commission terminated Lykes' exemption under Rule 2 on December 22, 1976, pursuant to Rule 6, after concluding that there was a "substantial question" as to Lykes' entitlement to such claimed exemption. In accordance with the Commission's notification, Lykes thereupon filed a formal application under Section 3(a) for an unqualified order of exemption. The Commission's Division of Corporate Regulation ("Division") contested the application. The Division and Lykes agreed to a stipulated record, and the parties filed their opposing briefs. (File No. 31-758; Administrative Proceeding File No. 3-5234).

After briefing the issues, but before a decision on the merits of the case, Lykes amended its application to request a qualified exemption under Section 3(a)(1), and to consent to the entry of an order under Section 11(b)(1) directing Lykes to dispose of its interest in Peoples. In its Memorandum Opinion and Order of April 6, 1978, the Commission approved the terms of Lykes' amended application and entered the appropriate order under Section 11(b)(1) and directed Lykes to file a plan for compliance with that order as soon as practicable. (HCAR No. 20487). Lykes has registered as a holding company pursuant to Section 5(a) of the Act for the limited purpose of complying with the divestiture order under Section 11(b)(1). Its Plan for compliance is a voluntary plan under Section 11(e). Under the Plan, Lykes proposes to distribute to its shareholders all of the common stock of Peoples now owned by Lykes, comprising 1,111,924.53 shares, or approximately 99%, of all of the issued and outstanding common stock of Peoples. In anticipation of the distribution, the articles of incorpoation of Peoples were amended to change Peoples' voting and nonvoting common stock to a single class of voting common stock. Peoples' stock will be distributed to Lykes' shareholders on the basis of 59.1701 shares of Peoples for each share of Lykes.

The Plan further provides that no more than one-third of the members of the board of directors of Peoples (to consist initially of six members) may serve concurrently as members of the board of directors of Lykes; that upon the divestiture, there will be no common operating officers of Peoples and Lykes, with the exception of one individual, who will serve as Comptroller of Lykes and Senior Vice President and Comptroller of Peoples; and that, with the exceptions noted, no person, nor any immediate member of such person's family, who has served as an officer or director of Lykes or any of its subsidiaries, shall be eligible to serve in either capacity with Peoples, until the expiration of the three year period from the date such persons ceased to serve with Lykes or any of its subsidiaries.

It is stated that no state or federal commission, other than this Commission, has jurisdiction over the distribution of Peoples stock in compliance with the Commission's Section 11(b)(1) order. A statement of the fees in connection with the Plan will be supplied by amendment.

Notice is further given that any interested person may, not later than May 15, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said Plan which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon Lykes at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the Plan, as filed or as it may be amended, may be approved in the manner provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including notice of the date of the hearing (if ordered) or any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-11982 Filed 5-2-78; 8:45 am]

[8010-1]

[Release No. 20517; 70-6154]

MIDDLE SOUTH UTILITIES, INC. AND LOUISIANA POWER & LIGHT CO.

Proposal by Subsidiary Company To Issue and Sell Common Stock to Holding Company

APRIL 26, 1978.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, La. 70112, a registered holding company, and its electric utility subsidiary company, Louisiana Power & Light Co. ("Louisiana"), 142 Delaronde Street, New Orleans, La. 70174, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10, and 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Louisiana proposes to issue and sell to Middle South, and Middle South proposes to acquire 3,788,000 additional shares of its presently authorized but unissued common stock, no par value, for an aggregate cash purchase price of $25,000,000. Louisiana presently has outstanding 46,200,000 shares of common stock, no par value, having an aggregate stated value on its books of $303,900,000, all of which shares are owned by Middle South. Louisiana intends to apply the proceeds of such sale to the payment of short-term indebtedness incurred for the partial financing of Louisiana's construction program, estimated at $206,800,000 for 1978, and for other corporate purposes.

Louisiana and Middle South believe it is preferable for sales of the new common stock to be timed to coincide with Louisiana's cash needs from time to time, which are primarily determined by the nature and pace of its construction program. Accordingly, Louisiana and Middle South have requested that the Commission's order permit the sale of the new common stock to occur from time to time at any time through and including December 31, 1978, in increments to be determined by Louisiana and Middle South.

It is stated that no special or separate expenses are anticipated in connection with the proposed transaction except for the filing fee paid to this Commission and for legal fees estimated at $2,000. It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 25, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-11983 Filed 5-2-78; 8:45 am]

[8010-01]

[Release No. 34-14689; File No. SR-NYSE-78-20]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 23, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The rule as proposed to be amended would essentially retain existing requirements regarding training and examination but would add a new flexibility in accommodating the needs of registered representatives who intend to limit their activities to such specialized areas as investment company securities and variable contracts, real estate securities, and direct participation programs. Accordingly, such persons would qualify in accordance with the functions they will perform and the services they will afford. The rule contemplates acceptance of qualification requirements imposed by other (self) regulatory bodies.

TEXT OF PROPOSED RULE CHANGE

The text of Rule 345.15 as proposed to be amended is attached as Exhibit 1-A.

EXCHANGE'S STATEMENT OF THE PURPOSE OF THE PROPOSED RULE CHANGE

The purpose of the proposed change is to permit registered representatives to qualify with the Exchange in accordance with their activities and functions. The proposed Rule change is in harmony with the approach reflected in proposed SEC Rule 15b7-1 under the Exchange Act. Among specialized activities to be recognized are: investment company securities and variable contracts, real estate securities, and direct participation programs. In order to accommodate future developments, the Rule anticipates recognition for other specializations, subject to appropriate qualification. The provisions proposed for deletion are either redundant or unnecessary in light of the proposed revised language.

The proposed rule would continue the concept of a registered representative who would be qualified to solicit the sale or purchase of all securities or other similar instruments. The usual training requirement for such registered representative candidate, without actual experience, would continue to be four months after which passing a qualification examination acceptable to the Exchange is required.

Registered Representative candidates who intend to engage solely in specialized activities must qualify by meeting such training and examination requirements acceptable to the Exchange for the specific security or financial service involved. The Rule envisions the acceptance of qualification requirements imposed by other (self) regulatory bodies and retains the language in the existing Rule concerning training and examination waivers.

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EXCHANGE'S STATEMENT OF THE BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

(i) The proposed rule change gives the Exchange the capacity to carry out the purposes of the Act set forth in sections 6(c)(3)(A) and 6(c)(3)(B) which deal with standards of training, experience and competence. Additionally, the proposed rule change is intended to accord with Proposed SEC Rule 15b7-1 which permits qualification in accordance with specialized functions.

(ii) The proposed rule change will have the effect of widening opportunities for access by persons desiring to become associated with a member organization.

(iii) Not applicable.

(iv) Not applicable.

(v) The proposed rule is consistent with the Exchange's obligation to promote just and equitable principles of trade in that it will bring salespersons in specialized areas under the supervisory umbrella of Exchange standards. The proposed rule fosters cooperation and coordination with others engaged in regulation in that favorable consideration will be given to the training and/or examination requirements or practices of other (self) regulatory bodies, in lieu of those imposed by the Exchange.

The proposed rule removes impediments to and will aid in perfecting the mechanism of a free and open market and a national market system by the recognition of specialized functions presently permissible under NASD provisions and contemplated by proposed SEC Rule 15b7-1.

The protection of investors and of the public interest will be furthered by the proposed rule change in that these persons will be regulated under the high standards of conduct already set forth in the Exchange's rules.

(vi) Once registered, all persons to whom the Rule is applicable become subject to the Exchange's jurisdiction to impose discipline for violation of the provisions of the Act, the rules or regulations thereunder and the Constitution and Rules of the Exchange.

(vii) Not applicable.

(viii) Not applicable.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

While comments were not solicited in regard to this proposal, E. F. Hutton & Co., Inc. made a formal request that the Exchange adopt a change such as is now proposed to set different qualifications for persons who would engage solely in a specialized area.

BURDEN ON COMPETITION

This proposal will not impose any burden on competition and is likely to diminish any burden which would exist were the Exchange not to recognize specialized functions.

On or before June 7, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 24, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 20, 1978.

New language italicized. Deleted language in [brackets].

EXHIBIT 1-A

Rule 345.15 As Proposed To Be Amended

.15 Acceptability.

(1) Each registered representative, whatever the nature or extent of his activity, must qualify by meeting the training requirement and by passing a qualification examination acceptable to the Exchange.

(2) Applications for registered representative candidates will be considered by the Exchange for those duly qualified persons whose activities are limited solely to the solicitation of the sale or purchase of: investment company securities and variable contracts, real estate securities, and direct participation programs.

(3) Additionally, the Exchange will consider applications for registered representative candidates engaged in limited activities other than those enumerated in (2) above.

(4) (a) [Training—] The usual requirement for training candidates without previous actual experience is four months. The training period may be reduced or waived by the Exchange if the candidate for registration has had some previous actual experience in the securities business as a principal or employee, or in a closely allied field (such as a bank trust officer).

[Examinations—Near the close of the training period, candidates for registration are normally required to pass a qualifying Exchange examination. A Study Outline for Registration Examination describes the qualifying examination in detail. The work of most registered representatives demands a depth of knowledge of corporate securities especially stocks. The examination is designed to meet this demand. It tests on a broad range of securities knowledge, and in depth on corporate stocks.

Any individuals who are engaged in the solicitation or handling of business in, or the sale of, commodities future contracts must demonstrate their competency by satisfying a solicitors examination requirement of a national commodities exchange, which examination is acceptable to the New York Stock Exchange. Any individual engaged in the purchase or sale of securities, or other instruments for the account of his employer must demonstrate his competency by satisfying an examination requirement acceptable to the New York Stock Exchange.

(See Rule 342.13 Para. 2342.13 for examination requirements of supervisors).]

(b) If the candidate is advanced in years, or suffers from a physical infirmity or health condition which might be seriously aggravated by a required examination, the examination requirement may be waived at the discretion of the Exchange: *Provided,* The firm certified that the candidate has been adequately trained.

(See Rule 342.13 Para. 2342.13 for examination requirements of supervisors.)

(c) Consideration will also be given to the training and/or examination requirements or practices of other (self) regulatory bodies, and satisfaction of such requirements may be accepted by the Exchange in lieu of those imposed by it.

(5) Individuals who are engaged in the solicitation or handling of business in, or the sale of, commodities futures contracts must demonstrate their competency by satisfying a solicitors examination requirement of a national commodities exchange, which examination is acceptable to the Exchange. Individuals engaged in the purchase or sale of securities, or other similar instruments for the account of their employer must demonstrate their competency by satisfying an examination requirement acceptable to the Exchange.

[FR Doc. 78-11986 Filed 5-2-78; 8:45 am]

[8010-01]

[Release No. 14705]

PACIFIC STOCK EXCHANGE, INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 26, 1978.

The Pacific Stock Exchange, Inc. ("PSE") has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 (the "Act") and Rule 12f-1 thereunder for unlisted trading privileges in the securities of the companies as set forth below, which securities are registered with the Commission pursuant to Section 12 of the Act or which would be required to be so registered except for the exemption from registration provided in subsection (g)(2)(B) or (g)(2)(G) of section 12.[1]

United Canso Oil & Gas, Ltd., common stock, $1 par value (Canadian), File No. 7-5022.

Canada Southern Petroleum, Ltd., common stock, $1 par value (Canadian), File No. 7-5023.

United Canso Oil & Gas, Ltd. and Canada Southern Petroleum, Ltd. are currently listed on the PSE and the Boston Stock Exchange, Inc. ("BSE"). These companies have filed applications to withdraw from listing and registration on the PSE and BSE, which applications are currently pending before the Securities and Exchange Commission.

Upon receipt of a request, on or before May 23, 1978, from any interested person, the Commission will determine whether the applications with respect to the companies named shall be set down for hearing. Any such request should include a brief statement as to the title of the security in which the person is interested, the nature of his interest in making the request, and the position which he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to the particular applications, such applications will be determined by order of the Commission on the basis of the facts therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-11984 Filed 5-2-78; 8:45 am]

[1] These are not the first applications for unlisted trading privileges pursuant to section 12(f)(1)(C) of the Act to be filed with the Commission. The Commission currently has pending before it a PSE application for unlisted trading privileges pursuant to section 12(f)(1)(C) in the common stock of Pacific Resources, Inc. (File No. 7-4933).

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1462]

ARKANSAS

Declaration of Disaster Loan Area

Lonoke County and adjacent counties within the State of Arkansas constitute a disaster area as a result of damage caused by a Tornado which occurred on April 11, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on June 26, 1978, and for economic injury until the close of business on January 26, 1978, at:

Small Business Administration, District Office, 611 Gaines Street, Suite 900, Little Rock, Ark. 72201,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 26, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-12055 Filed 5-2-78; 8:45 am]

[8025-01]

[License No. 01/01-0289]

CAPITAL ASSISTANCE CORP. OF CONNECTICUT

Issuance of License to Operate as a Small Business Investment Company

On March 13, 1978, a notice was published in the FEDERAL REGISTER that Capital Assistance Corp. of Connecticut, 33 Brook Street, West Hartford, Conn. 06110, had filed an application with the Small Business Administration (SBA) pursuant to section 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1977)) for a license to operate as a small business investment company.

Interested parties were given until the close of business on March 28, 1978, to submit written comments on the application to the SBA.

Notice is hereby given that no written comments were received, and having considered the application and all other pertinent information, the SBA approved the issuance of License No. 01/01-0289 on April 24, 1978, to Capital Assistance Corp. of Connecticut pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalogue of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: April 25, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-12061 Filed 5-2-78; 8:45 am]

[8025-01]

[Amendment No.; Declaration of Disaster Loan Area No. 1413]

KANSAS

Declaration of Disaster Loan Area

The above numbered declaration (see 43 FR 2966), amendment No. 1 (see 43 FR 4892), amendment No. 2 (see 43 FR 8604), amendment No. 3 (see 43 FR 12140), and amendment No. 4 (see 43 FR 16232), are amended by adding the following county:

County	Natural disaster(s)	Dates
Leavenworth	Drought conditions in the north one-third of the county.	Jan. 1 to Sept. 30, 1977.
Do	Excessive rainfall in two-thirds of the county	June 20 to Nov. 30, 1977.

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and adjacent counties within the State of Kansas due to natural disasters as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on August 31, 1978, and for economic injury until close of business on November 30, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 22, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12056 Filed 5-2-78; 8:45 am]

[8025-01]

[License No. 04/04-0137]

LaBARON CAPITAL CORP.

Application for License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA), pursuant to section 107.102 of the regulations (13 CFR 107.102 (1977)), under the name of LaBaron Capital Corp., 4900 Bayou Boulevard, Suite 106, Pensacola, Fla. 32503, for a license to operate in the State of Florida as a Small Business Investment Company (SBIC) under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors, and major stockholders are as follows:

Roy Hess, Chairman of the Board and President, 4900 Bayou Boulevard, Suite 106, Pensacola, Fla. 32503.
Edward K. Edwards, Vice President and Director, 4900 Bayou Boulevard, Suite 106, Pensacola, Fla. 32503.
Malcolm K. Pfeiffer, Secretary and Treasurer, 4900 Bayou Boulevard, Suite 106, Pensacola, Fla. 32503.
James R. Redmond, Vice President and Director, 4900 Bayou Boulevard, Suite 106, Pensacola, Fla. 32503.
Charles S. Liberis, Director and General Counsel, 4900 Bayou Boulevard, Suite 106, Pensacola, Fla. 32503.

The Applicant will begin operations with a capitalization of $525,000 which will be a source of long-term loans and equity investments for qualified small business concerns.

The Applicant will conduct its operations principally within a 200 mile radius of the city of Pensacola, Fla., and in other areas within the United States of America and its territories and possessions as may from time to time be approved by the SBA as its operating territory.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than fifteen (15) days from the date of publication of this notice, submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 27, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-12063 Filed 5-2-78; 8:45 am]

[8025-01]

[Amendment No. 4; Declaration of Disaster Loan Area No. 1407]

MICHIGAN

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 61347), Amendment No. 1 (See 42 FR 634510), Amendment No. 2 (See 43 FR 8605), and Amendment No. 3 (See 43 FR 16233) are amended by adding the following counties:

County	Natural disaster(s)	Dates
Emmet	Drought	May 1, 1977 to July 6, 1977
Do	Excessive rainfall	July 7, 1977 to Nov. 30, 1977
Kalkaska	Drought (crop season started with ground water low due to 1976 drought).	
Do	Late spring frost	May 7, 1977, May 9, 1977, June 3, 1977, and June 9, 1977
Do	Drought	April 1, 1977 to July 18, 1977
Do	Excessive rain	July 19, 1977 to October 21, 1977
Luce	Drought	May 1, 1977 to July 31, 1977
Mackinac	....do	April 1, 1977 to July 31, 1977
Do	Excessive rain	August 1, 1977 to August 31, 1977

and adjacent counties within the State of Michigan as a result of natural disaster as indicated and the time for filing applications for physical damage until the close of business on September 29, 1978, and for economic injury until the close of business on December 29, 1978. Amendment No. 3 and No. 4 have the same termination dates.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: April 21, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12057 Filed 5-2-78; 8:45]

[8025-01]

[Amendment No. 2; Declaration of Disaster Loan Area No. 1453]

NEBRASKA

Declaration of Disaster Loan Area

The above numbered declaration (see 43 FR 14368) and amendment No. 1 (see 43 FR 16584) are amended in accordance with the President's declaration of March 24, 1978, to include Knox and Pierce. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named counties and adjacent counties within the State. The termination date for filing applications for physical damage is extended to the close of business on June 12, 1978, and for economic injury the close of business on January 12, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 22, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12058 Filed 5-2-78; 8:45 am]

[8025-01]

NEW COURT VENTURES, INC.

[Proposed License No. 02/02-0349]

Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a Small Business Investment Company under the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.), has been filed by New Court Ventures, Inc. (the Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102.

The applicant with its principal place of business at One Rockefeller Plaza, New York, 10020, will begin operations with $500,000 of paid-in capital and surplus. The applicant will be the wholly owned subsidiary of New Court Private Equity Fund, Inc. (NCPEF), a closed-end investment company with 87 beneficial owners. The securities sold to NCPEF by the licensee will account for one percent of NCPEF's assets. NCPEF will also manage the applicant.

The officers and directors of the applicant will be as follows:

John P. Birkelund, Chairman of the Board, Director, 1020 Fifth Avenue, New York, N.Y. 10028.
Charles L. Lea, Jr., President, Director, 77 Park Avenue, Greenwich, Conn. 06830.
George F. Dinneen, Senior Vice President, Director, 20 Club Drive, Summit, N.J. 07901.
Francis X. Driscoll, Senior Vice President, Director, 8 Hansen Lane, Huntington Station, N.Y. 11746.
Charles T. Sager, Vice President, Director, 15 West 72d Street, Apartment No. 4C, New York, N.Y. 10020.
Albert S. Gluck, Secretary, Treasurer Director, 60 East End Avenue, New York, N.Y. 10028.

The above individuals have extensive experience in the venture capital field. They are also officers of NCPEF and New Court Securities, Inc. (NCS). The applicant will use office space furnished at no cost by NCS which will also serve as the applicant's investment advisor.

Officers of the applicant propose to become members of the board of directors of small concerns in which the applicant may invest. It will be the general policy of the applicant to work closely with its clients.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA rules and regulations.

The applicant will conduct its business primarily in New York City. The applicant intends to provide a source of equity (rather than collateral) oriented financing for small concerns. The early investments of the licensee will often be in convertible debt instruments which will provide current income while maintaining a potential equity interest.

Any person may, on or before (15 days from the date of this notice), submit to SBA written comments on the proposed Licensee. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York City.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 28, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-12062 Filed 5-2-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1460]

NORTH DAKOTA

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Adams, Billings, Bowman, Burleigh, Cass, Dickey, Dunn, Emmons, Golden Valley, Grand Forks, Grant, Hettinger, La Moure, Logan, McIntosh, Mercer, Morton, Pembina, Richland, Sioux, Slope, Stark, Traill, and Walsh Counties constitute a disaster area because of damage resulting from severe storms, ice jams, snowmelt, and flooding beginning about March 11, 1978. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above-named counties and adjacent counties within the State of North Dakota. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on June 16, 1978, and for economic injury until the close of business on January 17, 1979, at:

Small Business Administration, District Office, Federal Office Building, Room 218, 653 Second Avenue North, Fargo, N. Dak. 58102.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 22, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12059 Filed 5-2-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1458]

RHODE ISLAND

Declaration of Disaster Loan Area

The area of 38, 42, 44, 46, and 48 High Street in the town of Westerly, Washington County, R.I., constitutes a disaster area because of damage resulting from a fire which occurred on March 26, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on June 22, 1978, and for economic injury until the close of business on January 22, 1979, at:

Small Business Administration, District Office, 57 Eddy Street, Providence, R.I. 02903,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 22, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12060 Filed 5-2-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

[Public Notice CM-8/52]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on international multimodal transport and containers of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting from 9:30 a.m. to 5 p.m., on Wednesday, June 7, 1978, in room 9232 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting is to discuss matters germane to multimodal transport and containers. The following specific issues will be addressed in the order indicated:

Discussion of preparations for June intersessional OECD meeting of the Intergovernmental Preparatory Group on International Multimodal Transport;

Discussion of regulations for the International Convention on Safe Containers (CSC);

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Briefing on present U.S. status regarding TIR Convention, 1975, and Customs Convention on Containers, 1972;

Discussion of the following matters as addressed by the ECE, Group of Rapporteurs on Container Transport:

Proposed Convention on Container Standards International Multimodal Transport International Convention on Safe Containers (CSC);

Hamburg Conference (March 1978), on Maritime Bill of Lading;

Discussion of preparations for the 19th IMCO Subcommittee on Containers and Cargoes, July 24-28, London.

Necessary documents will be distributed as early as possible.

Any questions concerning this meeting should be directed to Mr. Richard E. Johe, Department of State, 202-632-1313.

Comments from the public will be welcomed.

Dated: April 25, 1978.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

[FR Doc. 78-11940 Filed 5-2-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

PUBLIC INSPECTION OF WRITTEN DETERMINATIONS

Intention to Disclose

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of intention to disclose.

SUMMARY: This document provides notice that the Service intends to make open to public inspection certain written determinations. This notice also explains how any person may determine whether any of the described written determinations pertain to that person, and explains the procedures that person may follow if there is disagreement regarding the proposed deletions.

DATES: Persons wanting to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice are requested to contact the Service by May 18, 1978.

Requests for additional deletions must be submitted by June 7, 1978. A petition in the United States Tax Court must be filed by July 18, 1978. Except for the disputed portion of any document that is the subject of an action brought in the United States Tax Court, the written determinations described in this notice will be made open to public inspection on August 28, 1978.

ADDRESS: Any questions or correspondence regarding this notice should be sent to: Internal Revenue Service, Attention: T:FP:R, Ben Franklin Station, P.O. Box 7604, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT:

George E. Freeland of the Rulings Disclosure Branch, Tax Forms and Publications Division, Office of the Assistant Commissioner, Technical, 202-566-4378 or 202-566-6272.

SUPPLEMENTARY INFORMATION: Section 6110(h) of the Internal Revenue Code of 1954 provides that certain written determinations (letter rulings and technical advice memoranda) issued in response to requests submitted before November 1, 1976, shall be open to public inspection. Accordingly, the Service is preparing to open to public inspection the written determinations issued after December 31, 1953, but before January 1, 1968, classified as reference and that originated in the Individual Tax Division, Office of the Assistant Commissioner (Technical), or predecessor divisions, and that involve issues falling within the jurisdiction of that Division. A written determination classified as reference is one the Commissioner has determined to have significant reference value.

Issues falling within the jurisdiction of the Individual Tax Division are those involving:

(a) Income taxes of noncorporate taxpayers (including individuals, partnerships, estates and trusts);

(b) Political organizations under section 527 of the Internal Revenue Code (except section 527(f));

(c) Employment taxes and taxes on self-employment income;

(d) Estate, gift, and certain excise taxes;

(e) Procedure and administrative provisions of the Internal Revenue Code, except those specifically applicable to employee plans, exempt organizations, and actuarial determinations.

The Division also has jurisdiction over issues involving both noncorporate and corporate taxpayers with respect to:

(f) Charitable contributions; tenant-stockholders of cooperative housing corporations;

(g) Employee stock option and stock purchase plans;

(h) Real estate investment trusts;

(i) Election of certain small business corporations as to tax status and related matters, except the rules relating to certain qualified pension plans. The Division does not have jurisdiction over issues involving excise taxes under Chapters 42 and 43 of the Internal Revenue Code, nor did it issue written determinations prior to October 1, 1973, involving Interest Equalization Tax.

The Division is composed of three Branches: Individual Income Tax Branch (T:I:I); Estate and Gift Tax Branch (T:I:EG); and Wage, Excise and Administrative Provisions Branch (T:I:WEA). All reference written determinations issued during the prescribed time periods discussed in this notice and originating in these branches or predecessor branches are intended to be within the scope of this notice.

DELETIONS

Section 6110(c) of the Code requires the Internal Revenue Service to delete certain information from the documents described in this notice. The Service intends to delete names, addresses, and taxpayer identifying numbers, and will also attempt to recognize and delete other identifying details, trade secrets, and the other information described in section 6110(c), before making the written determination open to public inspection.

Persons to whom the written determinations described in this notice pertain (or successors in interest, executors, or authorized representatives of these persons) may contact the Internal Revenue Service to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice. These persons may request a copy of their written determinations with the proposed deletions indicated. Such requests should be submitted by May 18, 1978. Such requests must indicate the specific name of the party to which the written determination pertains, for example, a corporation acting on behalf of one or more subsidiaries must indicate the name of such subsidiary or subsidiaries. If such a person disagrees with the proposed deletions, that person may indicate any additional information that person believes should be deleted. Any request for additional deletions must be submitted by June 7, 1978, and must include a statement indicating which of the exemptions provided in section 6110(c) of the Code is applicable to each additional deletion requested. If the Service feels it cannot make any or all of the additional deletions requested, the Service will so advise the requester. The requester will then have the right to file a petition in the United States Tax Court. This petition must be filed by July 18, 1978.

ADDITIONAL DISCLOSURE

After the deleted copy of a written determination is made open to public inspection in the National Office Reading Room, any person may request the Service to make additional portions of the written determination open to public inspection. If the Service receives a request that involves disclosure of names, addresses, or taxpayer identifying numbers, the Service will deny the request. If the request involves disclosure of anything other than names, addresses, or taxpayer identifying numbers, the Service will contact the person to whom the written determination pertains before further action is taken.

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BACKGROUND FILE DOCUMENTS

After the deleted copy of a written determination is made open to public inspection, any person may request copies of related background file documents. Notice will be provided to the person to whom the written determination pertains if a request for related background file documents is received. The notice and any other notice or correspondence relating to public inspection of written determinations will be mailed to the latest address in the Service's written determination file, unless a later address is provided to the Service in connection with these matters.

The written determinations described in this notice will be made open to public inspection by being placed in the National Office Reading Room, Room 1564, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, D.C., on August 28, 1978. However, the disputed portion of any document that is the subject of any action brought in the United States Tax Court shall not be made available until after a court determination regarding such portion is made.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-11975 Filed 5-2-78; 8:45 am]

[4830-01]

[Delegation Order No. 156, Amdt. 6]

REGIONAL COMMISSIONERS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: This Amendment permits Regional Commissioners, District Directors and Assistant to the Commissioner (Public Affairs) to disclose certain taxpayer identity information to the press and other media for purposes of notifying persons entitled to undelivered tax refunds. The text of this Amendment appears below.

EFFECTIVE DATE: April 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Howard T. Martin, CP:D, 1111 Constitution Avenue NW., Room 1603, Washington, D.C. 20224, Telephone Number, 202-566-3908, not a toll-free telephone number.

HOWARD T. MARTIN,
Director, Disclosure Operations Division.

DISCLOSURE OF IDENTITY INFORMATION OF TAXPAYERS ENTITLED TO UNDELIVERED TAX REFUNDS

The authority vested in the Commissioner of Internal Revenue by IRC 6103 (m)(1) and Treasury Department Order No. 150-37 to disclose taxpayers' names and the city, state and zip code of their mailing addresses to the press and other media for purposes of notifying persons entitled to undelivered tax refunds, is delegate to all Regional Commissioners, District Directors, and the Assistant to the Commissioner (Public Affairs).

This authority may not be redelegated.

This Order supplements paragraph 9 of Delegation Order No. 156, issued May 19, 1976, which is printed in the FEDERAL REGISTER dated May 21, 1976, Vol. 41, Number 100, page 20898.

JEROME KURTZ,
Commissioner.

APRIL 19, 1978.

[FR Doc. 78-11976 Filed 5-2-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Office of the Secretary

STEEL WIRE ROPE FROM THE REPUBLIC OF KOREA

Antidumping Extension of Investigatory Period

AGENCY: United States Treasury Department.

ACTION: Extension of Antidumping Investigatory Period.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has determined that a tentative determination as to whether sales at less than fair value of steel wire rope from the Republic of Korea have occurred cannot reasonably be made in 6 months. This decision will be made in not longer than 7 months from the date of the initiation of the investigation.

Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Leon McNeill, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C., 202-566-5492.

SUPPLEMENTARY INFORMATION: On September 27, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26 and 153.27) from counsel acting on behalf of Broderick and Bascom Rope Company of St. Louis, Missouri alleging that steel wire rope is, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (hereinafter referred to as "the Act"). On the basis of this information, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of November 1, 1977 (42 FR 57202).

For purposes of this notice, the term "steel wire rope" means ropes, cables, and cordage other than wire strand, of steel, other than brass plated, not fitted with fittings, not made up into articles and not covered with textiles or other nonmetallic materials.

Pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)), notice is hereby given that the Secretary concludes that the determination provided for in section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)) cannot reasonably be made within 6 months. The determination under section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)) will, therefore, be made within no more than 7 months.

A one-month extension of the investigatory period is required in this case in view of the volume and complexity of the information submitted by the respondents relating to numerous varying sizes and specifications of the subject merchandise, and the additional time needed to analyze and verify such information before a tentative determination can be made.

This notice is published pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

APRIL 28,1978.

[FR Doc. 78-12185 Filed 5-2-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

CAREER DEVELOPMENT COMMITTEE

Reestablishment

Notice is hereby given of a determination by the Administrator of Veterans Affairs to reestablish the Career Development Committee which terminated on December 31, 1977. This determination follows consultation with the Committee Management Secretariat, pursuant to the Federal Advisory Committee Act (Pub. L. 92-463) and OMB Circular No. A-63, Revised, March 27, 1974. The Career Development Program has operated to the benefit of the Veterans Administration by recruiting and retaining in its system many good physicians, clinical psychologists, and dentists. It is a major attracting device for talented young physicians. Over the years the Career Development Committee has provided very astute advice concerning the types of candidates that we should support in these positions. The Veterans Administration retains 46 percent of the graduates of this program, which is remarkably high for such a program. We believe that we cannot

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operate such a program without the independent judgment and advice of the Committee, which is contributory to the high quality of the system and to the respect and prestige that the program holds within the academic medical community.

Interested persons may submit comments regarding the reestablishment of the Career Development Committee to the Committee Management Officer, Veterans Administration Central Office, Room 1001, 810 Vermont Avenue NW., Washington, D.C. 20420.

Dated: April 27, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-12023 Filed 5-2-78; 8:45 am]

[8320-01]

CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Meeting

The Veterans Administration gives notice pursuant to Pub. L.92-463 that a meeting of the Central Office Education and Training Review Panel, authorized by Section 1790(b), Title 38, United States Code, will be held in Room A-53, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C. on May 24, 1978 at 10 a.m. The meeting will be held for the purpose of reviewing the decision of the Director, Veterans Administration Regional Office, Baltimore, Md., that education allowances to all veterans and eligible persons enrolled in Maryland School for Education, Business and Vocational Skills, located at 5420 Harford Road, Baltimore, Md. 21214 and 212 South Ritchie Highway, Glen Burnie, Md. 21011 be discontinued effective December 31, 1977.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Bernard D. Duber, Chief Field Operations Education and Rehabilitation Service, Veterans Administration Central Office (phone 202 389-2850) prior to May 15, 1978.

Dated: April 27, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Admininstrator.

[FR Doc. 78-12022 Filed 5-2-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 650]

ASSIGNMENT OF HEARINGS

APRIL 28, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested:

MC 114211 (Sub-No. 317), Warren Transport, Inc., now being assigned May 31, 1978, (3 days), at Denver, CO, in a hearing room to be later designated.
MC 105006 (Sub-No. 5), L. K. Smith Trucking, a corporation, now being assigned June 5, 1978 (5 days), at Denver, CO, in a hearing room to be later designated.
MC 128270 (Sub-No. 24), Rediehs Interstate Inc., now being assigned June 12, 1978 (3 days), at Denver, CO., in a hearing room to be later designated.
MC 115651 (Sub-No. 30), Kaney Transportation, Inc., now assigned May 11, 1978, at Chicago, IL, is canceled and application dismissed.
MC 41404 (Sub-No. 130), Argo-Collier Truck Lines, Corp., now assigned May 15, 1978, at Chicago, IL, is postponed indefinitely.
MC 113855 (Sub-No. 413), now assigned May 8, 1978, at Chicago, IL, will be held in Room 572, Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC 143059 (Sub-No. 4), Mercer Transportation Co., and MC 141804 (Sub-No. 95), Western Express, Division of Interstate Rental, Inc., are now assigned for hearing May 31, 1978 (1 day), at San Francisco, CA, at a location to be later designated.
MC 141871 (Sub-No. 5), WNI, Inc., is now assigned for hearing June 1, 1978 (2 days), at San Francisco, CA. at a location to be later designated.
MC 134768 (Sub-No. 2), Lexington-Paris Motor Freight, Inc., and MC 121649 (Sub-No. 4), Milan Express, Inc., are now assigned for continued hearing July 25, 1978 (2 days), at the Executive Plaza Inn, 1471 East Brooks Road at Interstate-55 in Memphis, TN.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12050 Filed 5-2-78; 8:45 am]

[7035-01]

[Notice No. 651]

ASSIGNMENT OF HEARINGS

APRIL 28, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION

FD-28697, for which hearing dates and locations were published in the FEDERAL REGISTER on April 11 on page 15212 and April 26, 1978, on page 17902, showed the case title incorrectly. The correct case title is: Southern Railway Co. Discontinuance of Trains Nos. 1 and 2 between Washington, DC, and New Orleans, LA. Also, in the publication of April 26, 1978, the May 19, 1978, hearing location is incorrrectly shown as Charlottesville, WV. Charlottesville, VA, is correct.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12049 Filed 5-2-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 28, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43536, Southwestern Freight Bureau, Agent's No. B-741, annual volume rates on styrene butadiene emulsion and diethylbenzene, from Freeport, Tex., to Midland, Mich., in sup. 34 to its tariff 12-K, ICC 5272, to become effective May 27, 1978. Grounds for relief—rate relationship and kindred articles.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12048 Filed 5-2-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

APRIL 21, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rule (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 15, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

No. MC 40215 (Sub-No. E11) (Correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of November 3, 1976, and partially republished, as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North 5th Avenue, Salina, KS 67401. Applicant's representative: James F. Flint, Ephraim and Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods*, as defined by the Commission, (1)(a) From points in IA to points in CA. (Garden City, KS*). (F)(1) From points in IA to points in NM. (Garden City, KS*). (F)(2) From points in IA to points in NV. (Garden City, KS*). (G) From points in IA to points in OK. (Wichita, KS*). (H) From points in IA to points in TX. (points in KS and Kansas City, MO*). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this partial republication is to correct the origin destinations. The remainder of this letter-notice remains as previously published.

No. MC 40215 (Sub-No. E35), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North 5th Avenue, Salina, KS 67401. Applicant's representative: James Flint, suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods*, as defined by the Commission, (1) From points in NM to points in AR on and north of a line beginning at the OK-AR State line at Siloam Springs, AR, and extending along AR Hwy 16 to junction AR Hwy 23 near St. Paul, then southeast along AR Hwy 23 to junction Interstate Hwy 40, then along Interstate Hwy 40 to the AR-TN State line. (Galena, or Arkansas City, AR*). (2) From points in NM to those points in KS on and north of a line beginning at the KS-MO State line, and extending along U.S. Hwy 24 to Topeka, KS, then along KS Hwy 4 to Eskridge, KS, then along KS Hwy 99 to Emporia, KS, then along U.S. Hwy 50 (formerly U.S. Hwy 50S) to Garden City, KS, and then along U.S. Hwy 50 to junction KS-CO State line. (points in KS*). (3) From those points NM on and north of a line beginning at the NM-CO State line near Raton, and extending along Interstate Hwy 25 to junction Interstate Hwy 40 near Albuquerque, then west along Interstate Hwy 40 to the CO-AZ State line, to those points in OK on and west of a line beginning at the KS-OK State line, and extending south on U.S. Hwy 54 to the OK-TX State line. (Liberal, KS*). The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 40215 (Sub-No. E36), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Avenue, Salina, KS 67401. Applicant's representative: James E. Flint, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods*, as defined by the Commission, (1)(A) From those points in IA on and north and east of line beginning at the IA-IL State line near Fort Madison, IA, and extending west along IA Hwy 2 to junction Interstate Hwy 35, then north along Interstate Hwy 35 to junction U.S. Hwy 20 at Williams, IA, then west along U.S. Hwy 20 to the IA-NE State line at Sioux City, IA, to points in ID on and south and west of a line beginning at the ID-OR State line at Payetta, ID, and extending east along Interstate Hwy 80 to junction ID Hwy 51 near Mountain Home, then south on ID Hwy 51 to the ID-NV State line. (B) From those points in IA on and south and east of a line beginning at the IA-MO State line, and extending along IA Hwy 5, then along IA Hwy 5 to junction IA Hwy 2 at Centerville, IA, then east along IA Hwy 2 to the IA-IL State line near Fort Madison, IA, to points in ID. (Garden City, KS*). (2) From those points in IA north and east of a line beginning at the IA-NE State line, and extending along Interstate Hwy 80 near Loveland, then east along Interstate Hwy 80 to the junction of U.S. Hwy 65 at Des Moines, then south along U.S. Hwy 65 to IA-MO State line near Lineville, to points in KS beginning at the KS-NE State line, and extending along U.S. Hwy 77, then south on U.S. Hwy 77 to junction U.S. Hwy 24, then along U.S. Hwy 24 to Manhattan, KS, then along U.S. Hwy 18 (formerly U.S. Hwy 40) to Junction City, KS, then along U.S. Hwy 77 to junction U.S. Hwy 56 (formerly U.S. Hwy 40) to Larned, KS, then west along U.S. Hwy 156 (formerly U.S. Hwy 50N) to Garden City, KS, then east on U.S. Hwy 50 to Emporia, then north along KS Hwy 99 to junction KS Hwy 4 at Eskridge, then along KS Hwy 4 to U.S. Hwy 24 at Topeka, then east along U.S. Hwy 24 to the KS-MO State line. (Hutchison, KS, or Kansas City, MO*). (3) From points in IA on and east and south of a line beginning at the IA-MO State line, and extending along U.S. Hwy 63 to junction U.S. Hwy 30, to junction IA Hwy 64, then along IA Hwy 64 to the IA-IL State line, to points in UT. (Garden City, KS*). (4) From Payne, IA, to points in MD. (Marysville, KS, Kansas City, MO, and Akron, OH*). The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 40215 (Sub-No. E37), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North 5th Street, Salina, KS 67401. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods*, as defined by the Commission, (1)(A) From points in MI to those points in WY on and south of a line beginning at the WY-NE State line, and extending along Interstate Hwy 80, then along Interstate Hwy 80 to the WY-ID State line. (B) From Detroit, MI, to those points in WY on and south and west of a line beginning at the WY-NE State line, and extending along Interstate Hwy 80 to junction U.S. Hwy 287, then along U.S. Hwy 287 to junction WY Hwy 789, then along WY Hwy 789 to junction WY Hwy 120, then along WY Hwy 120 to the WY-MT State line. (Garden City, KS*). (2) From points in MI to those points in KS on and east of a line beginning at the KS-NE State line, and extending along U.S. Hwy 77 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction KS Hwy 18, then along KS Hwy 18 to junction U.S. Hwy 77, then along U.S. Hwy 77 to junction U.S. Hwy 56, then along U.S. Hwy 56 to junction U.S. Hwy 156 at Garden City, KS, then along U.S. Hwy 156 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to Emporia, KS, at KS Hwy 99, then north along KS Hwy 99 to junction KS Hwy 4, then along KS Hwy 4 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the KS-MO State line. (Eldoredo, KS, or Kansas City, MO*). The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 55898 (Sub-No. E5), filed December 9, 1975. Applicant: DECATO BROS., INC., Heater Road, Lebanon, NH 03766. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, MA 01103. *Lumber*, from points in Grafton, Coos, Carroll, Belknap, and Strafford Counties, NH, to points in WI, MI, IN, IL, and KY. The purpose of this filing is to eliminate the gateway of points in VT.

No. MC 55898 (Sub-No. E6), filed December 9, 1975. Applicant: DECATO

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BROS., INC., Heater Road, Lebanon, NH 03766. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, MA 01103. *Lumber,* from points in VT to points in RI. The purpose of this filing is to eliminate the gateway of Merrimack, Cheshire, Hillsboro, Sullivan, and Grafton Counties, NH.

No. MC 55898 (Sub-No. E10), filed December 9, 1975. Applicant: DECATO BROS., INC., Heater Road, Lebanon, NH 03766. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, MA 01103. *Lumber,* from points in ME to points in MA, CT, and RI. The purpose of this filing is to elimate the gateway of Rollinsfore, NH, and York and Cumberland Counties, ME.

No. MC 55898 (Sub-No. E12), filed December 9, 1975. Applicant: DECATO BROS., INC., Heater Road, Lebanon, NH 03766. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, MA 01103. *Lumber,* from points in ME to Trenton, NJ, and points in that part of NJ on and north of a line extending eastward along NJ Hwy. 33 from Trenton through Robbinsville, Hightstown, Jerseyville, and Hamilton, NJ, to Ocean Grove, NJ. The purpose of this filing is to eliminate the gateways of Rollinsford, NH, and points in VT.

No. MC 55898 (Sub-No. E15), filed December 9, 1975. Applicant: DECATO BROS., INC., Heater Road, Lebanon, NH 03766. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, MA 01103. *Lumber,* from points in MA to points in ME. The purpose of this filing is to eliminate the gateways of Merrimack, Cheshire, Hilisboro, and Sullivan Counties, NH.

No. MC 61825 (Sub-No. E1247), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture,* from points in FL on and west of a line beginning at the AL-FL State line, and extending south along U.S. Hwy 231 to junction U.S. Hwy 90, to junction FL Hwy 71, junction FL Hwy 20, to junction FL Hwy 12, to junction FL Hwy 65 to Green Point, FL, and then to the Gulf of Mexico, and points on and south of a line beginning at Coldwater, FL, and extending east along FL Hwy 60 to junction U.S. Hwy 27, to junction U.S. Hwy 98, to junction FL Hwy 70, to junction FL Hwy 710 to Riviera Beach, FL, and then to the Atlantic Ocean, to points in CT, MA and RI and points in ME, NH, and VT on and south of a line beginning at Burlington, VT, and extending east along VT Hwy 15 to junction U.S. Hwy 2, to junction VT Hwy 18, to junction NH Hwy 18, to junction U.S. Hwy 302 to Portland, ME, and then to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Pulaski, VA, Martinsville, VA, and Elizabeth City, NC.

No. MC 107002 (Sub-No. E339), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representatives: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205, and John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, MS 39204. *Petroleum products,* in bulk, in tank vehicles, from Cordova, AL, to points in MO. The purpose of this filing is to eliminate the gateway of Memphis, TN.

No. MC 96324 (Sub-No. E1), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr., Esq., 118 North Saint Asaph Street, Alexandria, VA 22314. *Containers and closures therefor,* from points in WV, to points in ME, NH, CT, RI, MA, and VT, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of points in WV within the commercial zone of Cumberland, MD.

No. MC 96324 (Sub-No. E4), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr., Esq., 118 North Saint Asaph Street, Alexandria, VA 22314. *Glass containers and pottery containers,* from points in Allegheny, Westmoreland, Washington, Fayette, Greene, and Beaver Counties, PA, to points in VT, MA, CT, RI, NH, and ME. Restriction: Restricted against service from Beaver and Allegheny Counties, PA, to VT. The purpose of this filing is to eliminate the gateway of Harrson County, WV, and points in WV.

No. MC 96324 (Sub-No. E5), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr. Esq., 118 North Saint Asaph Street, Alexandria, VA 22314. *Glass containers and pottery containers,* from Chattanooga, TN, to points in DE. The purpose of this filing is to eliminate the gateways of Clarksburg, WV and Winchester, VA.

No. MC 96324 (Sub-No. E6), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr. Esq., 118 North Saint Asaph Street, Alexandria, VA 22314. *Glass containers and containers* used in building and highway construction, from points in KY to points in DE, MD, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of Harrison County, WV and Short Gap, WV.

No. MC 96324 (Sub-No. E10), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr. Esq., 118 North Saint Asaph Street, Alexandria, VA 22314. *Glass containers and containers used in the manufacture and shipping thereof,* from Chattanooga, TN, to points in CT, ME, MA, NH, RI, and VT. The purpose of this filing is to eliminate the gateway of Fairmont, WV.

No. MC 96324 (Sub-No. E11), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr. Esq., 118 North Saint Asaph Street, Alexandria, VA 22314. *Glass containers, fibreboard boxes, and wooden bottle carriers,* from Chattanooga, TN, to points in NY, NJ, MD (except Baltimore), and PA. The purpose of this filing is to eliminate the gateway of Fairmont, WV.

No. MC 96324 (Sub-No. E13), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr. Esq., 118 North Saint Asaph Street, Alexandria, VA 22314. *Containers and closures therefor,* from points in Fayette and Greene Counties, PA, to points in NC. The purpose of this filing is to eliminate the gateways of Morgantown and Short Gap, WV.

No. MC 96324 (Sub-No. E14), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr., Esq., 118 North Saint Asaph Street, Alexandria, VA 22314. *Glass containers and pottery containers,* from Chattanooga, TN, to Baltimore MD. The purpose of this filing is to eliminate the gateway of Clarksburg, WV.

No. MC 96324 (Sub-No. E17), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr., Esq., 118 North Saint Asaph Street, Alexandria, VA 22314. *Glass containers and closures therefor and fibreboard boxes,* from Winchester, VA, Cumberland, MD, and Short Gap and Martinsburg, WV, to Terre Haute, IN, and Pekin and Joliet, IL. The purpose of this filing is to eliminate the gateway of Star City, WV.

No. MC 96324 (Sub-No. E20), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr., Esq., 118 North Saint Asaph Street, Alexandria, VA 22314. *Glass containers and closures therefor, fibreboard boxes, and wooden carriers,* from Chattanooga, TN, to points in that portion of PA east of U.S. Hwy 219 and west of a line beginning at the MD-PA State line, and extending north along U.S. Hwy 11 to Montgomerys Ferry, PA, then along a straight line to Millersburg, PA, then along U.S. Hwy 209 to the PA-NY State line, and to points in that portion of NY on and east of a line beginning at the PA-NY State line, and extending north along U.S. Hwy 16 to junction NY Hwy 78, and then along NY Hwy 78 to Lake Ontario, and west of a line beginning at the PA-NY State line, and extending north along U.S. Hwy 209 to Kingston, NY, then along an unnumbered highway to junction NY Hwy 199, and then along NY Hwy 199 to the NY-CT State line. The purpose of this filing is to eliminate the gateway of Charleston, WV.

No. MC 96324 (Sub-No. E21), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr. Esq., 118 North St. Asaph Street, Alexandria, VA 22314. *Glass containers and closures therefor and fibreboard boxes,* from Chattanooga, TN, to Dunkirk and Fredonia, NY. The purpose of this filing is to elimnate the gateway of Star City, WV.

No. MC 96327 (Sub-No. E22), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr. Esq., 118 North St. Asaph Street, Alexandria, VA 22314. *Glass containers and pottery containers,* (1) from points in and west of Carroll, Pulaski, and Giles Counties, VA, to points in Mineral Hampshire, Morgan, Berkley, and Jefferson Counties, WV, points in NY, NJ, CT, RI, MA, VT, and NH. (2) from points in Craig, Floyd, Roanoke, Botetort, Montgomery, and Bedford Counties, VA, to points in Mineral, Hampshire, Berkley, and Jefferson and Morgan Counties, WV and points in Erie, Crawford, and Warren Counties, PA. (3) from points in Franklin, Henry, Pittsylvania, and Patrick Counties, VA, to Mineral, Hampshire, Berkley, Morgan, and Jefferson Counties, WV. The purpose of this filing is to eliminate the gateways of Harrison County, WV, and points in WV within the commercial zone of Cumberland, MD.

No. MC 96324 (Sub-No. E24), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr. Esq., 118 North St. Asaph Street, Alexandria, VA 22314. *Containers and closures for containers,* from Jefferson, Berley, Morgan, Hampshire, Mineral, Grant, and Hardy Counties, WV, to points in NC east of Surry, Wilkes, Alexander, Catawba, Lincoln, and Cleveland Counties. The purpose of this filing is to eliminate the gateway of Short Gap, WV or Martinsburg, WV or points in WV within the commercial zone of Cumberland, MD.

No. MC 96324 (Sub-No. E27), filed February 9, 1976. Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Applicant's representative: Harold G. Hernly, Jr. Esq., 118 North St. Asaph Street, Alexandria, VA 22314. *Containers and closures for containers,* from points in Marshall, Ohio, Brooke, and Hancock Counties, WV, to points in NC east of Alleghany, Wilkes, Alexander, Catawba, and Cleveland Counties, NC. The purpose of this filing is to eliminate the Gateway of points in WV within the commercial zone of Cumberland, MD.

No. MC 141364 (Sub-No. E1) (partial correction), filed December 24, 1975, published in the FEDERAL REGISTER issue of March 9, 1978, and partially republished, as corrected, this issue. Applicant: AFFILIATED VAN LINES, INC., 2124 Washington Street, Lawton, OK 73501. Applicant's representative: Charles J. Kimball, 350 Capital Life Center, 1600 Sherman Street, Denver, CO 80203. *Household goods,* as defined by the Commission, • • • (4) between those points in KS beginning at the KS-OK State line, then along the western boundaries of Sumner and Sedgwick Counties, KS, the northern boundary of Sedgwick County, KS, and the eastern boundary of Sedgwick County, KS, to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction U.S. Hwy 77, then along U.S. Hwy 77 to the OK-KS State line, on the one hand, and, on the other, • • • The purpose of this filing is to eliminate the gateway of points in OK on and east of U.S. Hwy 77.

NOTE.—The purpose of this partial correction is to state the correct origin territory. The remainder of this letter-notice remains as previously published.

No. MC 108341 (Sub-No. E15), filed November 9, 1977. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Jack F. Counts (same as above). *Source, special nuclear, and byproduct materials, radioactive materials, related equipment, component parts, and associated materials,* restricted to the transportation of commodities which because of size or weight do not require the use of special equipment, when transported as part of the same shipment with commodities which because of size or weight require the use of special equipment, (1) between points in FL in and east of Gadsden, Leon, and Wakulla Counties, on the one hand, and, on the other, points in ME, NH, VT, OH, WV, those in PA west of the Susquehanna River and those in the United States in and west of TX, AR, MO, IL, IN, and MI; (2) between points in Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Liberty, and Franklin Counties, FL, on the one hand, and, on the other, points in ME, NH, VT, OH, WV, those in PA west of the Susquehanna River, and those in the United States in and west of MI, IN, IL, MO, AR, and TX (except those in TX south of U.S. Hwy 80); and (3) between points in FL west of Holmes, Washington, and Bay Counties, on the one hand, and, on the other, points in ME, VT, MI, IN, OH, WV, those in PA west of the Susquehanna River, those in IL on and north of U.S. Hwy 460, those in MO on and north of U.S. Hwy 50, those in KS on and north of U.S. Hwy 56, those in OK on and north of U.S. Hwy 56, those in NM on and north or west of U.S. Hwy 54, and those in the United States in and north or west of AZ, CO, NE, IA, and WI. The authority granted in this letter-notice is limited to a 5-year term. The purpose of this filing is to eliminate the gateway of points in GA.

No. MC 108341 (Sub-No. E16), filed November 9, 1977. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Jack F. Counts (same as above). *Source, special nuclear, and byproduct materials, radioactive materials, related equipment, component parts, and associated materials,* restricted to the transportation of commodities which because of size or weight require the use of special equipment, and contractor's materials, supplies, and equipment moving in connection therewith which do not necessarily require the use of special equipment, between points in DC, on the one hand, and, on the other, points in ME, NH, VT, WV, OH, those in PA west of the Susquehanna River, and those in the United States in and west of MI, IN, IL, MO, AR and TX. The authority granted in this letter-notice is limited to a 5-year term. The purpose of this filing is to eliminate the gateway of points in VA within the DC commercial zone.

No. MC 108341 (Sub-No. E17), filed November 9, 1977. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Jack F. Counts (same as above). *Source, special nuclear, and byproduct materials, radioactive materials, related equipment, component parts, and associated materials,* restricted to the transportation of commodities which

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because of size or weight require the use of special equipment, and contractor's materials supplies, and equipment moving in connection therewith which do not necessarily require the use of special equipment, (1) between points in MD west of U.S. Hwy 522, on the one hand, and, on the other, points in ME, NH, VT, and those in the United States in and west of ND, MT, WY, CO, NM, and TX; (2) between points in that part of MD on and east of U.S. Hwy 522 and in and west of Frederick County, on the one hand, and, on the other, points in ME, NH, VT, and those in the United States in and west of the Upper Peninsula of MI, WI, IL, MO, AR, and TX; (3) between points in that part of MD east of Frederick County and west of U.S. Hwy 301, on the one hand, and, on the other, points in ME, NH, VT, OH, those in WV west of Grant and Hardy Counties, and those in the United States in and west of MI, IN, IL, MO, AR, and TX; (4) between points in MD east of U.S. Hwy 301, on the one hand, and, on the other, points in OH and WV and those in the United States in and west of MI, IN, IL, MO, AR, and TX; and (5) between points in MD on and east of U.S. Hwy 301, on the one hand, and, on the other, those in MD on and west of U.S. Hwy 15, those in PA on and west of U.S. Hwy 15, and those in NY on and west of NY Hwy 14. The authority granted in this letter-notice is limited to a 5-year term. The purpose of this filing is to eliminate the gateway of points in VA within the DC commercial zone.

No. MC 108341 (Sub-No. E18), filed November 9, 1977. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Jack F. Counts (same as above). *Source, special nuclear, and byproduct materials, radioactive materials, related equipment, component parts, and associated materials,* restricted to the transportation of commodities which because of size or weight require the use of special equipment, and contractor's materials, supplies, and equipment moving in connection therewith which do not necessarily require the use of special equipment, (1) between points in DE, on the one hand, and, on the other, points in OH, WV, and those in the United States in and west of MI, IN, IL, MO, AR, and TX; (2) between points in Sussex County, DE, on the one hand, and, on the other, points in that part of NY on and west of U.S. Hwy 15, that part of MD on and west of U.S. Hwy 15 and those in PA west of Bradford, Lycoming, Union, Snyder, Juniata, Cumberland, and Adams Counties; (3) between points in Kent County, DE, on the one hand, and, on the other, those points in NY on and west of NY Hwy 98, those in MD on and west of U.S. Hwy 15, and those in PA in and west of McKean, Elk, Clearfield, Blair, Huntingdon, and Franklin Counties; and (4) between points in New Castle County, DE, on the one hand, and, on the other, points in MD on and west of U.S. Hwy 522 and those in PA in and west of Erie, Crawford, Venango, Clarion, Armstrong, Westmoreland, and Somerset Counties. The authority granted in this letter-notice is limited to a 5-year term. The purpose of this filing is to eliminate the gateway of points in VA within the DC commercial zone.

No. MC 108341 (Sub-No. E19), filed November 9, 1977. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Jack F. Counts (same as above). *Source, special nuclear, and byproduct materials, radioactive materials, related equipment, component parts, and associated materials,* restricted to the transportation of commodities which because of size or weight require the use of special equipment, and contractor's materials, supplies, and equipment moving in connection therewith which do not necessarily require the use of special equipment, (1) between points in PA east of the Susquehanna River on the one hand, and, on the other, points in the United States in and west of ND, SD, NE, KS, OK, AR, and TX; (2) between points in Bucks, Chester, Delaware, Lancaster, and Montgomery Counties, PA, on the one hand, and, on the other, points in IN, IL, IA, MI, MN, MO, and WI, and those in that part of OH west of a line beginning at Lake Erie, and extending along U.S. Hwy 250 to junction OH Hwy 60, then along OH Hwy 60 to the OH-WV State line, and that part of WV on and south of U.S. Hwy 33; (3) between points in Berks, Clarion, Dauphin, Lebanon, Lehigh, Monroe, Northampton, Pike, and Schuylkill Counties, PA, on the one hand, and, on the other, points in IA, MN, MO, WI, the Upper Peninsula of MI, and those in IL on and south of U.S. Hwy 52, those in IN on and south of a line beginning at the IN-IL State line, and extending along U.S. Hwy 52 to junction U.S. Hwy 40, then along U.S. Hwy 40 to the IN-OH State line, those in OH on and south of a line beginning at the OH-IN State line, and extending along U.S. Hwy 35 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the OH-WV State line, and those in WV on and south of U.S. Hwy 33; and (4) between points in Lackawanna, Northumberland, Luzerne, and Wayne Counties, PA, on the one hand, and, on the other, points in IA, MN, MO, those in IL on and south of IL Hwy 9, those in IN on and south of Interstate Hwy 74, those in OH on and south of U.S. Hwy 50, and those in WV on and south of U.S. Hwy 33. The authority granted in this letter-notice is limited to a 5-year term. The purpose of this filing is to eliminate the gateway of points in VA within the DC commercial zone.

No. MC 108341 (Sub-No. E20), filed November 9, 1977. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Jack F. Counts (same as above). *Source, special nuclear, and byproduct materials, radioactive materials, related equipment, component parts, and associated materials,* restricted to the transportation of commodities which because of size or weight require the use of special equipment, and contractor's materials, supplies, and equipment moving in connection therewith which do not necessarily require the use of special equipment, (1) between points in NJ, on the one hand, and, on the other, points in the United States in and west of WI, IL, MO, AR, TX, and the Upper Peninsula of MI; (2) between points in NJ (except those in Passaic, Sussex, and Warren Counties) on the one hand, and, on the other, points in IN; (3) between points in Passaic, Sussex, and Warren Counties, NJ, on the one hand, and, on the other, points in IN on and south of U.S. Hwy 35; (4) between points in Hunterdon, Morris, Passaic, Sussex, and Warren Counties, NJ, on the one hand, and, on the other, points in OH on and south of a line beginning at the OH-IN State line, and extending along U.S. Hwy 35 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the OH-WV State line; (5) between points in Bergen, Mercer, Middlesex, Somerset, and Union Counties, NJ, on the one hand, and, on the other, points in MI and those in OH on and south or west of OH Hwy 14; (6) between points in NJ in and south of Burlington, Ocean, and Monmouth Counties, on the one hand, and, on the other, points in MI and OH; (7) between points in Hunterdon, Morris, Passaic, Sussex, and Warren Counties, NJ, on the one hand, and, on the other, points in that part of WV south and east of a line beginning at the WV-OH State line, and extending along U.S. Hwy 50 to the WV State line; (8) between points in Bergen, Mercer, Middlesex, Somerset, and Union Counties, NJ, on the one hand, and, on the other, points in WV, those in MD on and west of U.S. Hwy 15, and those in PA on and south of U.S. Hwy 30 and west of PA Hwy 75; and (9) between points in NJ in and south of Burlington, Ocean, and Monmouth Counties, on the one hand, and, on the other, points in WV, those in MD on and west of U.S. Hwy 15, and those in PA on and south of U.S. Hwy 322 and west of U.S. Hwy 522. The authority granted in this letter-notice is limited to a 5-year term. The purpose of this filing is to eliminate the gateway of points in VA within the DC commercial zone.

No. MC 115826 (Sub-No. E86), filed February 14, 1978. Applicant: W. J. DIGBY, INC., P.O. Box 5088, Denver, CO 80217. Applicant's representative: Charles J. Kimball, Suite 350, 1600 Sherman Street, Denver, CO 80203. *Frozen foods,* in vehicles equipped with mechanical refrigeration, from the facilities of Holloway House, Inc., at Lafayette, IN, to points in OR on and west of a line beginning at the junction of U.S. Hwy 395 with the CA-OR State line, then along U.S. Hwy 395 to its junction with U.S. Hwy 26, then along U.S. Hwy 26 to its junction with OR Hwy 19, then along OR Hwy 19 to its junction with OR Hwy 206 near Condon, OR, then along OR Hwy 206 to its junction with U.S. Hwy 97, then along U.S. Hwy 97 to the OR-WA State line; and points in WA on and west of a line beginning at the junction of U.S. Hwy 97 with the OR-WA State line, then along U.S. Hwy 97 to its junction with U.S. Hwy 12 near Yakima, WA, then along U.S. Hwy 12 to its junction with WA Hwy 410, then along WA Hwy 410 to its junction with WA Hwy 169, then along WA Hwy 169 to U.S. Interstate Hwy 405, near Renton, WA, then along U.S. Interstate Hwy 405 to its junction with WA Hwy 522, then along WA Hwy 522 to its junction with WA Hwy 9, then along WA Hwy 9 to the WA-BC, Canada International Boundary, including service to all points in the commercial zones of cities located on the above line. Restriction: The authority granted herein is restricted to traffic originating at the above-named plantsite and storage facilities. The purpose of this filing is to eliminate the gateway of Alturas, CA.

No. MC 115826 (Sub-No. E87), filed February 14, 1978. Applicant: W. J. DIGBY, INC., P.O. Box 5088, Denver, CO 80217. Applicant's representative: Charles J. Kimball, Suite 350, 1600 Sherman Street, Denver, CO 80203. *Frozen meats, and frozen meat products,* in vehicles equipped with mechanical refrigeration, from the facilities of Holloway House, Inc., at Lafayette, IN, to points in OR on and west of a line beginning at the junction of U.S. Hwy 395 with the CA-OR State line, then along U.S. Hwy 395 to its junction with OR Hwy 31 near Valley Falls, OR, then along OR Hwy 31 to its intersection with U.S. Hwy 97, then south along U.S. Hwy 97 to its junction with OR Hwy 58, then along OR Hwy 58 to its junction with U.S. Interstate Hwy 5, then along U.S. Interstate Hwy 5 to its junction with OR Hwy 22 near Salem, OR, then along OR Hwy 22 to its junction with OR Hwy 18, then along OR Hwy 18 to its junction with U.S. Hwy 101, then along U.S. Hwy 101 to Neskowin, OR, then along an imaginary line drawn to the Pacific Ocean, including service to all points in the commercial zones of cities located on the above-named line. Restriction: The authority granted herein is restricted to traffic originating at the above-named plantsite and storage facility. The purpose of this filing is to eliminate the gateway of Fredonia, AZ.

No. MC 115826 (Sub-No. E88), filed February 14, 1978. Applicant: W. J. DIGBY, INC., P.O. Box 5088, Denver, CO 80217. Applicant's representative: Charles J. Kimball, Suite 350, 1600 Sherman Street, Denver, CO 80203. *Frozen meat, frozen poultry, frozen fish, frozen butter, frozen eggs,* from the facilities of Holloway House, Inc., at Lafayette, IN, to points in TX on and west and on and south of a line beginning at the TX-MX International Boundary line near Laredo, TX, then along U.S. Hwy 83 to its junction with U.S. Hwy 70 near Paducah, TX, then along U.S. Hwy 70 to its junction with U.S. Hwy 87, then along U.S. Hwy 87 to Amarillo, TX, then along U.S. Hwy 66 to the TX-NM State line; points in NM on and west and on and south of a line beginning at the junction of U.S. Hwy 66 and the TX-NM State line, then along NM HWY 66 to Tucumcari, NM, then along NM Hwy 104 to Las Vegas, NM, then along NM Hwy 3 to its junction with U.S. Hwy 64, then along U.S. Hwy 64 to its junction with U.S. Hwy 84, then along U.S. Hwy 84 to the NM-CO State line; points in AZ; and points in CA on and west and on and south of a line beginning at the junction of U.S. Hwy 395 and the NV-CA State line, then along U.S. Hwy 395 to Johnstonville, CA, then along CA Hwy 36 to its junction with CA Hwy 44, then along CA Hwy 44 to its junction with U.S. Hwy 89, then along U.S. Hwy 89 to its junction with U.S. Interstate Hwy 5, then along U.S. Interstate Hwy 5 to the CA-OR State line, including service to all points in the commercial zones of cities located on the above line. Restriction: The authority granted herein is restricted to traffic originating at the above-named plantsite and storage facilities. The purpose of this filing is to eliminate the gateway of Lubbock, TX.

No. MC 117815 (Sub-No. E2), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, IA 50309. *Such commodities* as are manufactured, sold, or distributed by persons engaged in the manufacturing, processing, and milling of grain products (except frozen foods), from Hillsdale, MI, to points in IL within the territory bounded by a line beginning at Galena, IL, and extending in a southeasterly direction to Savanna, IL, then south to Galesburg, IL, then east over U.S. Hwy 150 to junction IL Hwy 78, then north over IL Hwy 78 to Lyndon, IL, then northeast over IL Hwy 2 to Sterling, IL, then north over IL Hwy 88 to junction unnumbered highway, then north over unnumbered highway to junction IL Hwy 72, then north over IL Hwy 72 to junction IL Hwy 73, then north over IL Hwy 73 to Winslow, IL, then west along a line through Warren, IL, to Galena, IL, restricted to movements from, to or between wholesale and retail grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Clinton, IA.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12051 Filed 5-2-78; 8:45 am]

[7035-01]

[Ex Parte No. MC 43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Order

B and P Motor Lines, Inc., (MC 106074), Shelby Motor Lines, Inc. (MC 96763), and Forest Dale, Inc (MC 12801), all under common control, have filed a petition for waiver of paragraphs (a)(3) and (c) of section 1057.4 of Lease and Interchange of Vehicles Regulations (49 CFR 1057).

We find: 1. That petitioners have an effective jointly administered safety program.

2. That petitioners will be able to more efficiently operate if permitted to trip lease.

3. That petitioners request for relief beyond that already provided by paragraph (c), as amended by Ex Parte MC 43 (Sub-No. 6), is not warranted.

It is ordered: 1. That waiver of paragraph (a)(3) is granted, provided petitioners remain in compliance with the motor carrier safety regulations of the U.S. Department of Transportation and under common control.

2. That waiver of paragraph (c) is denied.

Decided: April 11, 1978.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, and William F. Sibbald.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12047 Filed 5-2-78; 8:45 am]

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[7035-01]

[Ex Parte No. MC 43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Order

Cherokee Hauling & Rigging, Inc. (MC 127834 and numerous subs), Virginia Hauling Co. (MC 13806 and numerous subs), and Horne Heavy Hauling, Inc. (MC 35045 and numerous subs), all under common control, have filed a petition for waiver of paragraphs (a)(3) and (c) of section 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057).

We find: 1. That the Board has already considered and granted in part a similar petition seeking the identical waiver by the same petitioners.

It is ordered: 1. That waiver of paragraphs (a)(3) and (c) is denied.

Decided: April 5, 1978.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, and William F. Sibbald. Board Member Turkington not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12046 Filed 5-2-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Volume No. 70]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-6726 appearing at page 11011 in the issue for Thursday, March 16, 1978, on page 11015, first column, change "MC 109397 (Sub-No. 383F)" to read "MC 109397 (Sub-No. 393F)".

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

[M-126, April 27, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., May 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: The DHL Corporation to make a presentation regarding the operation of couriers.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-914-78 Filed 5-1-78; 9:26 am]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 82, April 27, 1978, page 18128.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., May 2, 1978.

CHANGES IN THE MEETING: The meeting is postponed until 10 a.m. on May 5, 1978.

[S-927-78 Filed 5-1-78; 4:00 pm]

[6570-06]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-885-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, May 2, 1978.

CHANGES IN THE MEETING: The date of the meeting is changed to Wednesday, May 3, 1978, and the time of the meeting is changed to 10 a.m. (eastern time).

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required these changes and that no earlier announcement was possible.

The vote was as follows:

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner.

Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued April 28, 1978.

[S-922-78 Filed 5-1-78; 2:23 pm]

[6712-01]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, April 25, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTER CONSIDERED:

Agenda, Item No., and Subject

Complaints and Compliance—1—Petition for declaratory ruling from station KOAA-TV, Pueblo, Colo., as to applicability of section 315 to recall election.

NOTE.—The prompt and orderly conduct of Commission business did not permit announcement prior to the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, 202-632-7260.

Issued: April 25, 1978.

[S-919-78 Filed 5-1-78; 11:08 am]

[6712-01]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 12 p.m., Tuesday, April 25, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Emergency closed Commission meeting.

MATTER CONSIDERED: Review of internal EEC practices.

The prompt and orderly conduct of Commission business did not permit announcement prior to the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: April 25, 1978.

[S-920-78 Filed 5-1-78; 11:08 am]

[6712-01]

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2 p.m., Thursday, May 4, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

Agenda, Item No. and Subject

Safety and Special Radio Services—1—Raymond Standring's application for review of order of revocation.

Common Carrier—1—Implementing accounting and reporting changes proposed in Docket 19129 (Phase II) rate case (Docket No. 21230).

Common Carrier—2—Amendment of section 21.13(f) of the Commission's Rules deferring state certification until after construction of DPLMRS station (Docket 20870, 61 FCC 2d 266).

Common Carrier—3—Petitions to reject and suspend Western Union's tariff filings,

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FCC Nos. 268 and 269, transmittal Nos. 7347 and 7348 (C C Docket 78-97).
Common Carrier—4—COMSAT rate case settlement proposal (Docket No. 16070).
Cable Television—1—Garland B. Pugh's petition for waiver of section 76.55(b), the "no deletion" segment, of the Commission's Rules.
Aural—1—Application for modification of WRFS-FM, Alexander City, Ala. (BPH-10,122) filed by Piedmont Service Corp.
Aural—2—Application for a construction permit filed by Por Favor, Inc. (KUKA, San Antonio, Tex.).
Television—1—Application (BPCT-4911) of Amaturo Group (KQTV, St. Joseph, Mo.) for "semi-satellite" TV station in Topeka, Kans.
Complaints and Compliance—1—ASI Communications' request that its sales network be found consistent with Commission policy.
Complaints and Compliance—2—Review of ruling directing Tuscola Broadcasting Co. to allow public inspection of WKYO and WIDL program logs.

Portions closed to the public:

Agenda, Item No. and Subject

Hearing—1—Draft order responding to comments in the Los Angeles, Calif., 1110kHz proceeding (Docket Nos. 15752, 15754-56, and 15764-66).
Hearing—2—Draft decision in renewal of WBRL, Berlin, N.H. (Docket No. 20457).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: April 27,1978.

[S-921-78 Filed 5-1-78; 11:08 am]

[6740-02]

7

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 18627, published May 1, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 3, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No. and Company

ER-6.—ER77-277, Pennsylvania Power Co.
ER-7.—ER77-331, Central Power & Light Co.

KENNETH F. PLUMB,
Secretary.

[S-924-78 Filed 5-1-78; 2:23 pm]

[6210-01]

8

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Monday, May 8, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the Senate Committee on Banking, Housing, and Urban Affairs regarding S. 50, a bill entitled the "Full Employment and Balanced Growth Act of 1978."

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: April 28, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[S-913-78 Filed 5-1-78; 9:26 am]

[7030-01]

9

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., May 10, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Dockets 15-C, 29-A and 71, *Potawatomi.*
Docket 59, *Saginaw Chippewa.*
Docket 332-C, *Yankton Sioux.*
Docket 343, *Cayuga Nation,* et al.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-926-78 Filed 5-1-78; 3:36 pm]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 43 No. 80, page 17629.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Wednesday, April 26, 2:45 p.m.

CHANGES IN THE MEETING: Meeting titled "Discussion of Proposed Licensing Legislation" (closed meeting) is Cancelled.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: April 28, 1978.

ROGER M. TWEED,
Office of the Secretary.

[S-925-78 Filed 5-1-78; 2:23 pm]

[7905-01]

11

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 8:30 a.m., May 11, 1978.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Ill., 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public.

(1) Request for temporary typing services.
(2) Remodeling of the first floor information office.
(3) Building security.
(4) Recommendation concerning Syracuse, N.Y., district office.
(5) Hearings and appeals backlog.
(6) Rewrite of regulations on erroneous payments.
(7) Delegation of functions by Board.
(8) Questionnaire on employer status of certain companies.
(9) General Services Administration proposal for commercial contractual cleaning service.
(10) Social Security benefit reduction of partial payments by IMPACT program.
(11) Technical amendments.
(12) 1978 National meeting.
(13) Soliciting applications under the Kalina decision.

Portions closed to the public:

(14) Appeal of denial of waiver of recovery of overpayment, Nellie R. Olson.
(15) Appeal of denial of waiver of recovery of overpayment, Marry L. Payne.
(16) Appeal from referee's denial of annuity application, Irving Taub.
(17) Appeal from referee's denial of disability annuity application, Francis J. Kankiewicz.
(18) Appeal from referee's denial of disability annuity application, Troy L. Green.
(19) Appeal from referee's denial of disability annuity application, Dallas L. Adkins.
(20) Appeal from referee's denial of disability annuity application, Joe. B. Garee.
(21) Appeal from referee's denial of disability annuity application, Samuel C. McCanless.
(22) Appeal from referee's denial of disability annuity application, Elba Fannin.
(23) Appeal from referee's denial of disability annuity application, John R. Sword.
(24) Appeal of denial of waiver of recovery of overpayment, Agnes Reynolds. A
(25) Appeal from referee's denial of disability annuity application, Vincent J. Michael.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, Com No. 312-751-4920; FTS No. 387-4920.

[S-923-78 Filed 5-1-78; 2:23 pm]

[7910-01]

12

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, June 7, 1978; 9:30 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED:

1. Howmet Corp., fiscal year ended December 31, 1971.
2. Eastalco Share, Inc., SII to Prime Aluminum & Steel Corp., fiscal year ended December 31, 1971.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: April 28, 1978.

GOODWIN CHASE,
Chairman.

[S-915-78 Filed 5-1-78; 10:55 am]

[7910-01]

13

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, June 14, 1978; 9:30 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED:

Lasko Metal Products, fiscal year ended April 30, 1972.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: April 28, 1978.

GOODWIN CHASE,
Chairman.

[S-916-78 Filed 5-1-78; 10:55 am]

[7910-01]

14

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, June 21, 1978; 9:30 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Bata Shoe Co., Inc., fiscal year ended December 31, 1972.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: April 28, 1978.

GOODWIN CHASE,
Chairman.

[S-917-78 Filed 5-1-78; 10:55 am]

[7910-01]

15

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, June 28, 1978; 9:30 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED:

1. The Entwistle Co., fiscal year ended September 29, 1968.
2. The Entwistle Co., SII to Van Zelm Associates, Inc., fiscal year ended September 29, 1968.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: April 28, 1978.

GOODWIN CHASE,
Chairman.

[S-918-78 Filed 5-1-78; 10:55 am]

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federal register

WEDNESDAY, MAY 3, 1978
PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

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[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 115—SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Final Regulation

AGENCY: Office of Education, Health, Education, and Welfare.

ACTION: Final regulation.

SUMMARY: This document sets forth certain requirements and criteria governing the awarding of Federal assistance to school districts for current expenditures in areas affected by Federal activities. The amended regulation presents to the public and applicants certain definitions and procedures used in the processing of such awards. These amendments are made necessary by Pub. L. 93-380.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Mrs. Edna Cave, Division of School Assistance in Federally Affected Areas, telephone: 202-245-1975.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 305(a)(1) of the Education Amendments of 1974 revised section 3, which covers the computation of entitlements based on numbers of federally-connected children. Section 305(a)(2) revised section 5, which covers the allocation of payments authorized under Pub. L. 81-874, the Impact Aid Program.

Although the matters of entitlement related to handicapped children and entitlements related to children from low-rent public housing were included in the notice of proposed rulemaking, they are not included in the regulation set forth below, but will be the subject of separate rulemaking.

The regulation set forth below encompasses the following: minor revision of the method of computing the federally-connected average daily attendance (ADA) as set forth in the definitions section (§ 115.3(e)(f)); addition of the term "county" to the definitions section (§ 115.3(p)); addition of the term "school year" to the definitions section (§ 115.3(q)); revision of sections in Subpart C concerning payments under section 3 when the percentage eligibility requirement is not met (§ 115.21); entitlements under amended section 3(e) (§ 115.22); reduction of financial assistance under section 5 of the Act due to insufficient appropriations (§ 115.25); and additions to Subpart C relating to the special savings clauses under Pub. L. 93-380 (§ 115.27). Certain sections of Part 115 are being republished without any major change being made other than revising references to Pub. L. 81-874 to reflect statutory changes, renumerating a regulatory section in one instance, and rewording for clarity. These sections are the final filing date for applications (§ 115.11(g)); changes in boundaries, classification, and governing authority of applicants (§ 115.20); payments under section 4(a) of the Act (§ 115.23); election under section 4(c) of the Act (§ 115.24); and determination of generally comparable local educational agencies (§ 115.30(a)(10), (b)(2)(iii)). The regulation does not include the matters of entitlements related to handicapped children (§ 115.28) and entitlements related to low-rent public housing children (§ 115.29); these matters will be the subject of separate rulemaking. The regulation also does not treat the matter of the prohibition against consideration by States of Pub. L. 81-874 payments in the administration of State aid (section 5(d) of the Act); that matter has been the subject of separate rulemaking (Subpart G of Part 115).

1. *Major amendments to the regulation.* A. *Definition of "county."* The term "county" has been defined in § 115.3(p) also to mean municipalities and other political subdivisions of a State that are not considered part of a county by the Secretary of Commerce in compiling data on counties.

B. *Continuation of eligibility when the 3 percent requirement is not met.* Section 3(c)(2)(A)(ii) of Pub. L. 81-874 provides eligibility for entitlement for two years immediately following the year in which a local educational agency meets the 3 percent requirement of section 3(c)(1)(B) of the Act, even though the agency fails to meet the 3 percent requirement during those two years. Section 115.21 sets forth the basis for eligibility under section 3(c)(2)(A)(ii), specifies the statutory limitation on the entitlement computation for the second year of continued eligibility under that section, and provides the benefits of the section to an applicant agency that was not in existence in one or both of the two school years before its application, or when an applicant is absorbed by a successor local educational agency in a school district reorganization.

C. *Section 3(e), Pub. L. 81-874.* Section 3(e) of Pub. L. 81-874 provides for adjustments to entitlements for reductions in the numbers of "A" or "B" children resulting from a decrease or cessation of Federal activities within the State in which the local educational agency is located. Section 3(e) requires: (1) The number of "A" and "B" children in the school district to be less than 90 percent of the number of these children in the school district during the previous fiscal year; and (2) That the decrease or cessation of Federal activities results in a substantial decrease in the number of "A" and "B" children in the school district. Section 115.22 sets forth the basic provisions of section 3(e) and establishes how the Commissioner shall make determinations under these provisions. In § 115.22(b)(2), a decrease is considered substantial when it equals 3 percent of the current year's total ADA and is at least 10 in ADA in number. Section 115.22(b)(3) requires an applicant school district to identify the particular decrease or cessation of Federal activity which occurred within the State in which the district is situated and which resulted in the "substantial decrease" in the number of "A" and "B" children. Also, the school district must obtain certification of this decrease or cessation from the Federal agency involved in the activity.

D. *Reduced payments because of insufficient appropriations.* Section 5(c) of Pub. L. 81-874 sets forth a schedule of payments when appropriations are insufficient to pay all entitlements in full. Section 115.25(a) references this section of the Act and describes the procedure for determining payments in such a circumstance. Section 115.25(b) provides that, where part of an entitlement is attributable to children who live in low-rent public housing, that part shall not be paid under section 5(c)(2) of the Act. This special treatment is made necessary by the provision of section 5(e) of the Act, which requires a determination by the Commissioner of that part of an entitlement attributable to the number of "A" and "B" children who live in low-rent public housing, and which further provides that that part of the entitlement for a local educational agency shall not be allocated or paid under section 5(c)(2) of the Act.

E. *Savings clauses under Pub. L. 93-380.* There are four savings clauses which affect applicants under Pub. L. 81-874 that are contained in Pub. L. 93-380. These savings clauses are not part of Pub. L. 81-874 but have a direct bearing on the payments of local educational agencies under the Act. In response to public comment on the notice of proposed rulemaking, the final regulation regarding the savings clauses has been reworded to provide clarity and to be specific regarding the provision of benefits under the savings clauses to applicants involved in reorganizations. Section 115.27 references these savings clauses and sets forth further provisions deemed necessary to clarify and implement them. Section 115.27(b) deals with section 305(b)(2)(A) of Pub. L. 93-380. This sentence clearly states that a local educational agency must be eligible for section 3, Pub. L. 81-874 entitlement in order to be eligible for payment under this savings clause, and it provides the benefits of this savings clause to certain applicants that were not in existence in earlier years (§ 115.27(b)(1)). A local educational agency which fails to meet the 3 percent eligibility requirement for an entitlement under section 3, Pub. L. 81-874 is continued as eligible for two more years. Although such an agency is eligible for a payment under this savings clause, it is subject nevertheless to a restriction on the amount of payment for the second year of continued eligibility (§ 115.27(b)(2)). Section 115.27(c) references the guaranteed payment provided by section 305(b)(2)(B) of Pub. L. 93-380 for school districts experiencing enrollment decreases because of military base closings. It describes the decrease of federally-connected children that is necessary for eligibility under this clause, explains that there must be a direct relationship between the decrease in the number of federally-connected children and an announced decrease or cessation of Federal activities on a military installation, and specifies what information must be provided to support the claim for the guaranteed payment. Also, it provides the benefits of this savings clause to certain applicants that were not in existence in the preceding year (§ 115.27(c)(4)). Section 115.27(d) references section 305(b)(2)(C) of Pub. L. 93-380 and explains that the number of "out of county" and "out of State" "B" children must equal at least 10 percent of the total number of "B" children for eligibility under the clause; it provides the benefits of this savings clause to certain applicants that were not in existence in the preceding year and provides that amounts attributed to this section in prior years are creditable to the current guarantee of this section. In § 115.27(e), relating to section 305(b)(2)(D) of Pub. L. 93-380, the method for computing the amount of payment under this savings clause is described.

2. *Comments on the proposed regulations.* Interested parties were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulation. A summary of the comments and responses to them is given. The comments are arranged in order of the sections of the final regulation to which they apply.

A. *General comments. Comment.* One commenter wrote that any tribe or tribal organization that operates an elementary or secondary school should be included among the local educational agencies eligible to receive financial assistance under Pub. L. 81-874.

Response. No change in the regulation is necessary. A tribe or a tribal organization recognized as a local educational agency is eligible. Section 403(6)(A) of Pub. L. 81-874 defines a local educational agency as a board of education "or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent or other school district located within a State." This definition can be altered only by amending the basic statute.

Comment. Two commenters objected because section 305(a)(1) of Pub. L. 93-380 does not include, among those to be counted in the computation of payment, children with a parent employed on Federal property situated in a State other than that of the applicant local educational agency.

Response. No change in the regulation is possible. The law can be changed by Congress but not by regulations.

Comment. Several commenters expressed difficulty in understanding the regulation.

Response. The wording of the regulation has been changed in many instances in an effort to make it more understandable. The new wording does not represent any change from the notice of proposed rulemaking in interpretation or implementation of the basic law.

B. § 115.3 *Definitions. Comment.* One commenter pointed out that sections 3(a) and 3(b) of Pub. L. 81-874 distinguished between residence in and out of the county in which the school district of a local educational agency is located, and that there was considerable inconsistency among definitions of counties by the Department of Commerce and other Federal and State agencies. The commenter said that the differences could work a substantial hardship on urban school districts not considered to be in the county, when the parents of students lived in those districts but worked on Federal property outside the city limits.

Response. The regulation has not been changed. According to section 403(11) of Pub. L. 81-874, the term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties. To consider municipalities and other political subdivisions as parts of counties when they are not considered as such by the Secretary of Commerce would be inconsistent with the law. The regulation clarifies the distinction between counties and other units of government that will be considered as counties for purposes of Pub. L. 81-874.

C. § 115.20 *Changes in boundaries, classification, and governing authority of applicants. Comment.* One commenter stated that the Office of Education lacked the authority to require the extensive reporting procedures outlined in § 115.20(a). The commenter said that the amendments in Pub. L. 93-380 did not affect § 115.20 and that legislative history had not authorized, nor had legislative intent been found to require, detailed reporting.

Response. No change has been made in the regulation. Since Subpart C was reworded, the entire subpart was repeated; substantial portions, including § 115.20, were changed only for greater clarity. Moreover, section 401(b) of Pub. L. 81-874 authorizes the Commissioner to promulgate regulations considered necessary to carry out the provisions of Pub. L. 81-874. Where changes in boundaries, classification, and governing authority of applicants occur, it is necessary to determine to whom payment of final entitlement is to be made and from whom any overpayment is to be collected. An applicant local educational agency that ceases to exist during a school year is not entitled to a payment that is based on an entire school year. The data requested are necessary to insure proper verification of the nature of the change that has taken place within an applicant school district.

D. *§ 115.22 Entitlements under section 3(e). Comment.* One commenter pointed out that section 305(a)(1) of Pub. L. 93-380 amended section 3 of Pub. L. 81-874 to require, under paragraph (f), that determinations made with respect to the number of children an applicant is eligible to claim under that section for any fiscal year should be made on the basis of estimates only whenever actual satisfactory data were not available. The commenter said that a statement to that effect should be added to § 115.22 on entitlements under section 3(e).

Response. No change has been made in the regulation, because paragraph (f) applies to all of section 3, including section 3(e).

Comment. One commenter referred to the clause in § 115.22(b)(3) that the Commissioner would require local educational agencies to submit a certified statement identifying the particular decrease in or cessation of Federal activities. The commenter felt that the requirement would place on the local educational agency a responsibility

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that belonged to the Commissioner of Education, that the Commissioner had the authority to get information from Federal agencies, and that the requirement was mandated neither by the statute nor by legislative history and must, therefore, be withdrawn.

Response. No change in the regulation has been made other than rewording for clarity. Section 401(b) of Pub. L. 81-874 authorizes the Commissioner to make regulations necessary to carry out the provisions of Pub. L. 81-874. A local educational agency is considered to be in a better position to be more aware of a particular decrease or cessation in local Federal activities than the Commissioner. However, the Commissioner is ready to render assistance to any applicant that explains in writing any difficulty in preparing or submitting the required statement.

E. § 115.25(a)(2) *Reduction of financial assistance. Comment.* One commenter pointed out a discrepancy between § 115.25(a)(2) of the proposed rule and section 5(c)(2) of Pub. L. 81-874, in which the former section excluded payments for section 2 entitlements from the second tier of payments, while the latter section expressly provided that they be paid at the rate of 35 percent of entitlement.

Response. The regulation would have been changed in accordance with the comment to provide for payment at the 35 percent rate. In the meantime, however, section 330(b) of Pub. L. 94-482, approved October 12, 1976, amended section 5(c) of Pub. L. 81-874 to provide that 100 percent of an entitlement for section 2 be paid under section 5(c)(1) (first tier of payments), thereby undoing the need for payment of any remaining portion of section 2 entitlement under sections 5(c)(2) and 5(c)(3). The regulation has been changed accordingly.

Comment. One commenter stated his interpretation of § 115.25(b) to mean that a local educational agency may classify a child who lives in a low-rent public housing unit with a parent who works on Federal property either under section 3(b) or as a low-rent housing student under section 3(a).

Response. No change in the regulation is necessary. The interpretation of the commenter is correct. A child eligible under section 3(a) may be claimed under that section or under one section 3(b) subcategory, but may not be claimed under both.

F. § 115.27 *Special savings clause. Comment.* One commenter complained that § 115.27 of the proposed rule provided little help in determining the amounts of entitlement under section 305(b)(2) of Pub. L. 93-380. The commenter said that the law left some question as to how entitlements under the section were to be computed, how the different entitlements were related to each other and to section 3 of Pub. L. 81-874, and to what extent the Federal government was not obligated under them. The commenter also expressed a need for definition of the terms "payment" and "entitlement" as interpreted by the Office of Education.

Response. In response to the comment, the regulation has been changed to state clearly the guarantees provided by section 305(b)(2) of Pub. L. 93-380. The different savings clauses and section 3 of Pub. L. 81-874 are interrelated. Each clause specifically references section 3 in a manner which indicates that any payments computed under the clauses are related to the payments that have been computed already on the basis of entitlements under section 3. Each clause seeks to insure a level of guarantee for each eligible school district, to the extent that authorizing legislation can guarantee funds that are dependent on an appropriation. Each clause sets a different level of guarantee for which various school districts will be eligible. Some school districts will be eligible under more than one clause, but the clauses do not operate as unique entitlements to be added to the basic payment. Once a level of guarantee for a particular clause is achieved, then not only has the purpose of that clause been satisfied, but that same level does not also require satisfaction under another clause. Guarantees are satisfied by payments under section 3 of Pub. L. 81-874 and any additional amount under section 305(b)(2) of Pub. L. 93-380 necessary to reach the level of guarantee. In the context of Pub. L. 81-874, "entitlement" means the maximum amount of money the local educational agency has a legal right to receive as computed under section 3(d), and "payment" means the amount of money computed under section 5 that actually is tendered to the local educational agency.

Comment. One commenter expressed the belief that the regulation should include a reasonable time schedule for payments under section 305(b)(2) of Pub. L. 93-380, so that school districts entitled to those funds could anticipate the receipt of them.

Response. The regulation has not been changed. It is not considered appropriate to include payment schedules of entitlements in a regulation, because these schedules vary from year to year. No one can be certain when an appropriation will be available. Furthermore, sections 305 (b)(2)(A) and (D) of Pub. L. 93-380 may sometimes require supplemental appropriations.

Comment. One commenter argued that § 115.27(b) was in error in stating that a local educational agency had to be entitled to a payment under section 3 of the Act in order to qualify in section 305(b)(2)(A) of Pub. L. 93-380. The commenter stated that, on the contrary, the agency, in order to be eligible, had to establish its right to payment under section 3 only once in any of the fiscal years 1974 through 1977.

Response. The regulation has not been changed. The first sentence of section 305(b)(2)(A)(i), "the amount paid to such agency * * * on the basis of the entitlement of that agency," implies that the agency shall have established its entitlement under section 3 before entitlements under section 305 (b)(2)(A) apply to that agency. Section 3(c)(2)(A)(ii) of Pub. L. 81-874 provides that an eligible local educational agency shall continue to be eligible under section 3 for two succeeding fiscal years in which it fails to meet that requirement. Therefore, to require, in § 115.27(b), eligibility under section 3 does not defeat the purpose of section 305(b)(2)(A)(i). Most school districts adversely affected by the revisions in section 3 made by Pub. L. 93-380 will have the ill effects lessened in some fashion by these provisions of section 305(b)(2)(A). An agency that was eligible in fiscal year 1975 continues to be eligible in 1976 and 1977, unless it fails to apply.

Other changes. A. The term "school year" has been added to the definitions in § 115.3(q) to distinguish in certain instances between "school year" and "fiscal year."

B. The reference to section 305(b)(2) of Pub. L. 93-380 has been omitted from § 115.11(g) as inappropriate to the topic of discussion. The paragraph refers to requirements for the amendment of a timely filed application for additional or alternative financial assistance. The information necessary for making determinations under section 305(b)(2) should be contained in the initial application document.

C. The phrase "following that" has been removed from § 115.11(g)(1) to reflect the change in the fiscal year which used to end on June 30 but which now ends on September 30.

D. For the purpose of clarification, the phrase "for the fiscal year two years or one year before the year for which application is made" has been inserted after the phrase "of the Act" in § 115.21(c)(1).

E. The old § 115.21(e) has been changed to § 115.21(f), and a new § 115.21(e) has been added to clarify that section 3(c)(2)(A)(ii) of Pub. L. 81-874 applies to certain applicants after June 30, 1975.

F. The last sentence which reads "This election is not subject to change after, and shall become final upon, the date of final payment for the fiscal year involved" has been deleted from § 115.24(b) to be consistent with § 115.11, which requires amendments to be filed no later than September 30 of the fiscal year for which assistance is sought.

G. Section 115.25 has been changed to reflect the amendment made by section 330(b) of Pub. L. 94-482, approved October 12, 1976, which provides 100 percent of entitlement to section 2 under section 5(c)(1) of Pub. L. 81-874.

H. Section 115.26 concerning the "failure or refusal of a local educational agency to educate children living on Federal property" has been withdrawn because it does not sufficiently clarify or add to the language of section 6(f) of Pub. L. 81-874. A review of section 6(f) will be undertaken and if necessary a rule will be proposed.

I. The original § 115.27(e)(2) has been deleted. That section concerned internal administrative procedures related to the use of estimated entitlements and payments under section 305(b)(2)(D) of Pub. L. 93-380. Since it may be necessary on occasion to adjust those procedures, it is deemed inadvisable to set them forth in the form of a regulation.

NOTE.—The Office of Education has determined that this document does not contain a proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 13.478, School Assistance in Federally Affected Areas—Maintenance and Operation.)

Dated: January 5, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: April 26, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 115 of Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 115.3 is amended by revising paragraphs (e) and (f) and by adding paragraphs (p), and (q) to read as follows:

§ 115.3 Definitions.

* * * * *

(e) "Average daily attendance of federally-connected pupils" in each pertinent subcategory of federally-connected children under sections 3(a), 3(b), and 4(a) means the number determined in the manner described in this paragraph.

(1) At some specific date after the third day of the legal school session of the regular school year and before the cutoff date for filing Form RSF-1, a membership count of all pupils claimed in the various federally-connected subcategories must be made either by:

(i) Conducting a parent-pupil survey to determine the parent's employment on Federal property or active duty assignment in the uniformed services and the child's residence on Federal property; or by

(ii) Obtaining certifications from the various employers and the appropriate housing officials as to the employment of the parents of the children claimed or residence of the children on the specific date involved.

The membership count of all pupils made as of this specific date constitutes the official membership report of the applicant local educational agency for that date.

(2) The average daily attendance (hereinafter referred to as ADA) of federally-connected pupils shall then be obtained in the following manner.

(i) For the purposes of the application OE Form 4019 (Form RSF-1), the membership in each federally-connected subcategory shall be multiplied by the ratio of total ADA on the date of the membership count to the total membership as reported in the official membership and ADA report of the applicant district for the reporting period; and

(ii) For the purposes of the final report OE Form 4037 (Form RSF-3) the membership in each federally-connected subcategory shall be multiplied by the ratio of the total ADA for the period July 1 to the following June 30 to the total membership. This total ADA may include ADA based upon free public education provided in summer school as determined in accordance with State law.

(3) At the option of the applicant, a second membership count may be made. Procedures for a second membership count are set out in paragraph (f) of this section.

(20 U.S.C. 283(2)(b), 239(a), 244(10))

(f) "Average daily attendance of federally-connected pupils when determined by two counts of all pupils" means the number determined in the manner described in this paragraph.

(1) A first count of membership of each subcategory of federally-connected children must be made as described in paragraph (e) of this section. If conducted, a second count of membership must be made during the last quarter of the regular school year and uniformly for the entire local educational agency.

(2) A membership count of all pupils, made as of the same dates as the counts of federally-connected children, constitutes the official membership report of the applicant school district for those dates.

(3) Add the total membership for each count and divide the sum by two to compute an average total membership for both counts.

(4) Add the total federally-connected membership for each subcategory for both counts and divide the sum by two to compute an average federally-connected membership for each subcategory.

(5) Divide the total ADA for the period July 1 to the following June 30 by the average total membership obtained in paragraph (3) to obtain the ratio of ADA to membership.

(6) For the purposes of the final report OE Form 4037 (Form RSF-3), the average federally-connected membership for each subcategory obtained in subparagraph (4) shall be multiplied by the ratio of the total ADA to the average total membership. This total ADA may include ADA based upon free public education provided in summer school as determined in accordance with State law.

(20 U.S.C. 238(a)(b), 239(a), 244(10))

* * * * *

(p) "County" means, for the purpose of computing entitlement under section 3 of the Act and payments under section 5 of the Act as well as for the purpose of this part, those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties, subject to the following qualifications:

(1) Where a municipality or other political subdivision of a State is not treated as part of a county by the Secretary of Commerce in compiling and reporting data regarding counties, those municipalities and other political subdivisions are regarded as separate counties; and

(2) Where a local educational agency is situated in more than one county, the term "county" in the phrase "in the county in which the school district of such agency is located" includes any county in which the local educational agency is situated in whole or in part.

(20 U.S.C. 238(a)(b) and note; 20 U.S.C. 244(11); 88 Stat. 534)

(q) "School year" as used in this part, means the period between July 1 of one year and June 30 of the subsequent year.

(20 U.S.C. 242)

2. Section 115.11 is amended by revising paragraph (g) to read as follows:

§ 115.11 Final date for filing applications.

* * * * *

(g) A timely filed application may be amended to apply for additional or alternative financial assistance under sections 3(d)(2)(B), 3(d)(3)(B)(ii), 3(e) or section 4(d) of the Act, if the amendment is:

(1) Filed no later than September 30 of the fiscal year for which assistance is sought; and

(2) Accompanied by a detailed statement setting forth the basis of the claim and a justification for the requested entitlement.

(20 U.S.C. 240(a)(1))

3. Part 115 is amended by revising subpart C to read as follows:

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Subpart C—Payments

Sec.
115.20 Changes in boundaries, classification, and governing authority of applicants.
115.21 Payments under section 3 when percentage eligibility requirement is not met.
115.22 Entitlements under section 3(e).
115.23 Payments under section 4(a).
115.24 Election under section 4(c).
115.25 Reduction of financial assistance under sections 2, 3, and 4 due to insufficient appropriations.
115.26 [Reserved]
115.27 Adjustments to payments related to special savings clauses under Pub. L. 93-380.

AUTHORITY: 20 U.S.C. 238-240, 244(11).

Subpart C—Payments

§ 115.20 Changes in boundaries, classification, and governing authority of applicants.

(a) If the applicant is a party to any merger, consolidation, annexation, deconsolidation, or other similar action which may affect its boundaries, identity, governing authority, classification, or control, it must notify the Commissioner as soon as practicable of the effective date of that action, its extent and character, and the legal authority under which the action was or is to be effected. This notification must include the following information:

(1) The effective date of change in boundaries or organization, for all purposes, including administrative and fiscal;

(2) Identification by name, district, number and address of all former agencies involved and the application number for each applicant involved in any change;

(3) A statement describing the specific type of change, with a citation of the section or sections of the State law under which the change was accomplished;

(4) The legal name of the resulting successor agency (even if the name and legal classification of the applicant agency are retained after a change);

(5) A statement whether assets and liabilities of the former agency or agencies have been transferred to the successor agency, or whether a settlement agreement has been made and, if so, the effective date of this action;

(6) A statement whether a new board of education has or will assume control and management of the successor agency and, if so, the effective date; and

(7) The name and address of the authorized representative for purposes of the Act, who shall be duly designated by the governing body of the successor agency. Evidence of this official designation must be submitted in the form of a copy of the resolution duly recorded in the minutes of the proceedings of the governing body.

(b) A local educational agency is not entitled to any payment on the basis of an application under sections 3 or 4 of the Act (except as provided in paragraph (d) of this section) if:

(1) The change in the organization of the local educational agency is effective within the school year covered by the application and occurs prior to the close of the regular school term of that year; and

(2) The local educational agency thereby ceases to be a legally consituted local educational agency.

(c) Except as provided in § 115.21(d), a local educational agency which assumes administrative control and direction of free public education in all or a portion of the area of the previously existing applicant, may (if it is not already an applicant under the section involved or if it files an application in accordance with § 115.11(d) have its entitlement under section 3(d)(1) or 4(a)(1) of the Act for the entire fiscal year determined by either of the following, whichever is more favorable to it:

(1) On the basis of the entire area under its jurisdiction on the last day of that year; or

(2) On the basis only of the area acquired by the local educational agency from the previously existing local educational agency, except that the latter basis may only be used:

(i) For an application under section 3 of the Act for which a favorable finding has been made (or would have been made in due course but for the change in district organization) on the basis of the estimates required under section 3(c)(1) of the Act with respect to the previously existing agency; and

(ii) For an application under section 4 of the Act for which such a favorable finding has been made (or would have been made in due course but for the change in district organization) under section 4(a)(1).

(d) Any payment made before the Commissioner considered the change in the organization of the local educational agency must be repaid to the United States except to the extent that:

(1) It is accounted for by the adjustments made in the entitlements of any successor applicant local educational agency under either paragraph (c) of this section or paragraph (d) of § 115.21; and

(2) Any balance remaining or the entire payment made is found by the Commissioner not to be in excess of the amount to which the pre-existing local educational agency would have become entitled on the basis of the number of federally-connected children:

(i) Who were not covered by any other application; and

(ii) To whom free public education was provided by the previously existing local educational agency or by any successor non-applicant local educational agency.

(20 U.S.C. 237(c), 244(6)(A))

§ 115.21 Payments under section 3 when percentage eligibility requirement is not met.

(a) Under the exception provided in section 3(c)(2)(A)(ii) of the Act, an applicant continues to be eligible for payment under the Act, even if it fails to meet the 3 percent eligibility requirement of section 3(c)(1)(B) of the Act, for two years following any fiscal year in which it: (1) was determined to be eligible under that requirement and (2) received a net payment under section 3.

(b) The number of children determined for the purpose of establishing the amount of entitlement under section 3 in the second fiscal year of the two-year period specified in paragraph (a) may not exceed 50 percent of the number of children in each federally-connected subcategory for the last fiscal year during which the applicant met the eligibility requirement of section 3(c)(1)(B) of the Act.

(c) If an applicant local educational agency was not in existence in either one or both of the two fiscal years preceding that for which application is made, that agency may nevertheless receive the benefit of the provisions of paragraph (a) of this section if that agency is:

(1) Composed only of territory which was formerly included in a predecessor agency or agencies which were determined to have met the percentage eligibility requirement contained in section 3(c)(1)(B) of the Act for the fiscal year two years or one year before the year for which application is made; and

(2) The predecessor agency or agencies received a net payment under section 3 of the Act for the fiscal year two years or immediately before that for which application is made.

(20 U.S.C. 238(c)(2)(A)(ii))

(d) If any local educational agency which had filed an application in a timely manner under section 3 of the Act and was entitled to payment by virtue of paragraph (a) or (c) of this section ceases to be a legally constituted local educational agency as a result of a district reorganization which is effective before the close of the regular school term within the fiscal year covered by the application (thereby becoming subject to the provisions of § 115.20(b)), a successor local educational agency which:

(1) Files an application in accordance with § 115.11(d) (unless already an applicant under section 3); and

(2) Assumes administrative control and direction of free public education

in all or a portion of the area of the previously existing applicant before the close of the applicant's regular school term, may have its application processed on the basis of the:

(i) Area acquired from the previously existing local educational agency, and

(ii) Rights of that agency, without regard to the 3 percent requirement, subject to appropriate adjustment on account of payments made to the previously existing local educational agency.

(20 U.S.C. 238, 244(6)(A).)

(f) Section 305(b)(2)(A) of Pub. L. 93-380 governs the case of any applicant that was determined to have met the 3 percent eligibility requirement before July 1, 1975, but which fails to meet this requirement in any school year ending before July 1, 1977.

(88 Stat. 553; Sen. Rep. No. 93-763, 205.)

§ 115.22 Entitlements under section 3(e).

(a) An applicant eligible under section 3(e) of the Act is entitled to receive, for the fiscal year in which eligibility is determined and for any of the three succeeding fiscal years, not less than 90 percent of the amount to which the applicant was entitled under section 3 of the Act for the preceding fiscal year.

(b) For an applicant to be eligible under section 3(e) of the Act:

(1) The number of children determined with respect to an applicant under sections 3(a) and 3(b) of this Act must be less than 90 percent of the number of children determined under those sections of the Act for the applicant during the preceding fiscal year. In making that determination, the Commissioner shall divide the current fiscal year's sections 3(a) and 3(b) ADA by the preceding fiscal year's ADA for those sections.

(2) There must have been a substantial decrease in the number of children determined under sections 3(a) and 3(b) of the Act resulting from a decrease or cessation of Federal activities, in the State within which the applicant is located, during the year for which an application is filed. A decrease is substantial when it equals 3 percent of the current fiscal year's total ADA and at least 10 in ADA.

(3) The applicant must submit a statement to the Commissioner identifying the particular decrease in or cessation of Federal activities; the statement must be certified as to its accuracy by an authorized official of the Federal agency associated with the conduct of the affected activities.

(c) Any section 3(e) payments to an applicant are considered for all other purposes as payments attributable to determinations of children under section 3(b)(2)(A) of the Act.

(20 U.S.C. 238(e).)

§ 115.23 Payments under section 4(a).

(a) Payment under section 4(a) is intended to compensate a local educational agency for sudden and substantial increases in pupils whose attendance in school during the current school year is a direct result of Federal activities. This payment may be made only when the Commissioner determines that, although the applicant has made a reasonable tax effort, the education of the increased number of children places a substantial and continuing financial burden on the applicant, and the applicant cannot secure funds from other sources adequate to provide these children a level of education equivalent to that maintained in generally comparable school districts in the same State.

(b) In the first fiscal year following payment under section 4(a), a payment not to exceed 50 percent of the entitlement in this preceding year under section 4(a) will be made, subject to the availability of funds. The payment may not include any entitlement due to those increases in section 3(a) or 3(b) of the preceding year for which payment was made.

(20 U.S.C. 239(a).)

(c) No payments will be made under section 4(a) of the Act unless:

(1) The increase in ADA of federally-connected pupils in the current year over the ADA of those children in the preceding year is at least equal to 5 percent of non-Federal ADA in the preceding year, and

(2) The increase in the current total ADA over the preceding year's total ADA is at least 5 percent of the preceding year's total ADA.

(20 U.S.C. 293(a)(1).)

(d) No payments will be made under section 4(a) of the Act unless the parents of the pupils entering the schools of the local educational agency for the first time during the current school year enter the area of that agency to accept employment because of Federal activities on or after February 1 of the preceding year. An increase in activities of the United States for the purpose of section 4(a) of the Act may be found to have occurred in circumstances which include the following:

(1) Activities resulting from Federal contracts in the current fiscal year when the number of employees engaged in the Federal activity increased over the preceding fiscal year; and

(2) Activities where production resulting from Federal contracts changed so as to require employees with new skills for this production; therefore, new employees migrated into the area of the local educational agency.

(e) Activities of those persons not employed by the United States or by a contractor of the United States shall not be considered to be a direct result of activities of the United States for the purposes of section 4(a).

(20 U.S.C. 239(a)(1); 83-703, House Report No. 703, July 3, 1953, 12.)

§ 115.24 Election under section 4(c).

Under section 4(c) of the Act, a local educational agency may elect to count for eligibility and payment under section 4(a) of the Act the entire increase in the number of children who are:

(a) In average daily attendance at its schools during the school year; and

(b) Otherwise eligible to be counted under section 3 of the Act. This election may be made only if an application under section 4 is filed in a timely manner on Form RSF-1 in accordance with § 115.11.

(20 U.S.C. 239(c).)

§ 115.25 Reduction of financial assistance under sections 2, 3, and 4 due to insufficient appropriations.

(a) Section 5(c) of the Act determines the portions of entitlements that will be allocated and paid when an appropriation for a fiscal year is not enough to fund in full all entitlements under sections 2, 3, and 4. It establishes funding priorities as follows:

(1) Before any other allocation is made, funds will be allocated to provide 100 percent of entitlements under section 2 and 25 percent of entitlements under section 3.

(2) Funds will be allocated to provide varying percentages (ranging from 28 to 75 percent) of entitlements under section 3; the varying percentages, as provided in section 5(c)(2) of the Act, are as follows:

(i) Seventy-five (75) percent for section 3(a) children in local educational agencies where those children comprise 25 percent or more of the total number of children in average daily attendance,

(ii) Sixty-three (63) percent for section 3(a)(1) (children residing on Federal property with a parent employed on Federal property in the same State as the local educational agency),

(iii) Sixty-five (65) percent for section 3(a)(2) (children who reside on Federal property and have a parent in one of the uniformed services or children residing on Indian lands),

(iv) Thirty-two (32) percent for section 3(b)(1) (children residing on Federal property),

(v) Thirty-two (32) percent for section 3(b)(2)(A) (children residing with a parent employed on Federal property within the county of the local educational agency),

(vi) Twenty-eight (28) percent for section 3(b)(2)(B) (children residing with a parent employed on Federal property outside the county but in the same State of the local educational agency), and

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(vii) Thirty-five (35) percent for section 3(b)(3) (children with a parent in one of the uniformed services).

However, these allocations are subject to two restrictions. First, none of these allocations will be made unless all of them can be made. Second, entitlements attributable to children residing on, or residing with a parent employed on, low-rent public housing property (described in section 403(1)(C) of the Act) are excluded from these allocations under section 5(c)(2).

(3) Remaining portions of entitlements under section 3 and all entitlements under section 4 will be allocated on a prorated basis to the extent permitted by available funds.

(b) Any part of an entitlement determined under section 3 of the Act attributable in whole or in part to children residing on, or residing with a parent employed on low-rent public housing property, is considered to be attributable in its entirety to these children. Thus, payments for entitlements based in whole or in part on low-rent public housing children are to be excluded in their entirety under section 5(c)(2).

(20 U.S.C. 240(c)(e); 20 U.S.C. 244(1)(c); Sen. Rep. No. 93-1026, 162 (1974))

§ 115.26 [Reserved]

§ 115.27 Adjustments to payments related to special savings clauses under Pub. L. 93-380.

(a) Special savings clauses in section 305(b)(2) of Pub. L. 93-380 guarantee, to the extent of available appropriations, an overall payment to eligible applicant local educational agencies. These special savings clauses do not create separate entitlements to be added individually to the basic Pub. L. 81-874 payment. The amount of payment under this section is computed by subtracting any payment under section 3 of the Act from the overall payment that is guaranteed by section 305(b)(2) of Pub. L. 93-380. Any remainder is then allocated among the savings clauses for which the applicant is eligible in whatever order the Commissioner considers appropriate.

(b) *Section 305(b)(2)(A) of Pub. L. 93-380.* (1) The first sentence of clause (A)(i) of section 305(b)(2) insures that any local educational agency which is entitled to receive a payment under section 3 of the Act for a current year will not receive less than 80 percent or 90 percent, as determined below, of the payment that was received under section 3 for the preceding year.

(i) The guarantee of 90 percent applies to any local educational agency which was eligible for a payment under section 3 of the Act for fiscal year 1973 that was equal to 10 percent or more of the agency's total current expenditures for fiscal year 1973.

(ii) The guarantee of 80 percent applies to any other local educational agency entitled to receive a payment under section 3 for a current year.

(iii) If an applicant local educational agency was not in existence in fiscal year 1973, it may nevertheless receive the 90 percent guarantee if:

(A) It is composed only of territory which was the entire territory of a predecessor agency or agencies which received a payment under section 3 for fiscal year 1973 and met the 10 percent eligibility requirement; and

(B) Either the applicant local educational agency or all of the predecessor agencies comprising it received a net payment under section 3 for the preceding fiscal year that determines the amount of the guarantee.

(iv) If an applicant local educational agency was not in existence in the preceding fiscal year, it may nevertheless receive the 80 percent guarantee if it is composed only of territory which was formerly included in a predecessor agency or agencies which met the section 3 eligibility requirements and received a net payment under that section for the preceding fiscal year.

(2) The second sentence of clause (A)(i) of section 305(b)(2) is effective only in fiscal years 1976 and 1977. It permits an applicant local educational agency to be eligible for payment under section 3 of the Act, even if the agency fails to meet the 3 percent eligibility requirement of section 3(c)(1)B) of the Act, for two years after the fiscal year the agency last met that requirement and received a payment under section 3. For the second year of payment under this provision, payment may not exceed 50 percent of the payment that was received for the last fiscal year in which the percentage eligibility requirement was met.

(i) Applicants subject to the maximum payment limitations under the second sentence of clause (A)(i) may not receive more than that maximum payment under the guaranteed payment provisions in the first sentence of clause (A)(i).

(ii) Payments to eligible applicants based on the second sentence of section 305(b)(2)(A)(i) of Pub. L. 93-380 are not subject to the special funding requirement of section 305(b)(2)(A)(ii) of the Act.

(88 Stat. 553; Sen. Rep. 93-1026, 163-164; Sen. Rep. No. 93-763, 57.)

(c) *Section 305(b)(2)(B) of Pub. L. 93-380.*

(1) Clause (B) of section 305(b)(2) guarantees a level of payment to applicants which have suffered a decrease in section 3 ADA as a direct result of decreases in or cessations of Federal activities on military installations that were announced after April 16, 1973. The level of payment for the first year of eligibility and each succeeding year for which an application is filed is 90 percent of the agency's entitlement under section 3 for the preceding year.

(i) For the purposes of this clause, the term "military installation" means a facility, camp, or base operated by or under the jurisdiction of the Armed Forces of the United States.

(ii) The announcement of a decrease or cessation of Federal activities must be an official announcement or order issued by the Federal government.

(2) No payment will be made under clause (B) unless:

(i) The decrease in section 3 ADA is at least 10 percent for any one of the following:

(A) Fiscal year 1974 section 3 ADA compared to fiscal year 1973 section 3 ADA, or

(B) Fiscal year 1975 section 3 ADA compared to fiscal year 1974 section 3 ADA, or

(C) Fiscal year 1975 section 3 ADA compared to fiscal year 1973 section 3 ADA,

(ii) The decrease in section 3 ADA was a direct result of a decrease in or cessation of Federal activities on a military installation, and

(iii) The decrease in or cessation of Federal activities was due to a specific announcement issued by the Federal government on or after April 16, 1973.

(3) In order to receive a payment under clause (B), an applicant must provide to the Commissioner whatever data and information that the Commissioner considers necessary and appropriate to establish the basis for payment.

(4) If an applicant local educational agency was not in existence in the preceding fiscal year, it may nevertheless receive the guarantee under clause (B) if it is composed only of territory which was formerly included in a predecessor agency or agencies which were determined eligible under clause (B) and received a net payment under either section 3 or clause (B) for the preceding fiscal year.

(88 Stat. 534; Sen. Rep. No. 93-763, 57-58, 206-207 (1974).)

(d) *Section 305(b)(2)(C) of Pub. L. 93-380.*

(1) Clause (C) is designed to offset the immediate reduction in payments affected by the amendments to section 3(b) of the Act under Pub. L. 93-380. Those amendments eliminated payments based on children residing with a parent employed on property which is outside the State of the applicant and reduced payments for children residing with a parent employed on Federal property which is outside the county of the applicant but within the same State. Clause (C) guarantees that a payment for section 3(b) children will not be less than 90 percent of the amount the applicant received for section 3(b) children for the preceding fiscal year. The amount received for 3(b) children may have been received through 3(b) and the hold harmless benefits (section 305(b)(2) of Pub. L. 93-380).

(2) An applicant is eligible under Clause (C) if, during the year of application, the number of children who either:

(i) Reside with a parent employed on Federal property in a State other than the State in which the applicant is situated, but which is within reasonable commuting distance of the applicant, or

(ii) Reside with a parent employed on Federal property in a county outside the county in which the applicant is situated but within the same State,

is equal to 10 percent or more of the number of children eligible under section 3(b) of the Act for that year.

In determining whether a particular Federal property is within "reasonable commuting distance", any prior determination for that property under Pub. L. 81-874 is controlling, unless the applicant presents new information justifying, in the Commissioner's opinion, a reconsideration of that determination. Any Federal property located in the same State as the applicant is considered to be within reasonable commuting distance.

(3) If an applicant local educational agency meets the eligibility requirements for Clause (C) but was not in existence in the preceding fiscal year, it may receive the Clause (C) guarantee based on the net amount paid for the preceding year under section 3(b) to any predecessor agency or agencies; however, all of the territory of the predecessor agency or agencies must be part of the applicant local educational agency.

(88 Stat. 535; Sen. Rep. No. 93-763, 206-207 (1974.))

(e) *Section 305(b)(2)(D) of Pub. L. 93-380.* (1) Payment under clause (D) is designed to compensate a local educational agency, which is eligible to receive a payment under section 3 of the Act, for having to share an appropriation with low-rent public housing entitlements.

(2) The amount of payment under clause (D) is computed by subtracting the applicant's payment for section 3 (as allocated under section 5(c) of the Act) from the amount of funds that the applicant would have received for section 3 had there been no payments under the current appropriation for low-rent public housing entitlements.

(88 Stat. 534, 535.)

4. § 115.30 is amended by revising paragraphs (a)(10) and (b)(2)(iii) to read as follows:

§ 115.30 Determination of generally comparable local educational agencies.

(a) • • •

(10) Estimated current fiscal year per pupil cost for the State (in those States in which an applicant requests an entitlement under section 3(d)(2)(B) or 4 of the Act). The actual per pupil costs shall be submitted to the Commissioner at such time as they become available for each group.

(20 U.S.C. 238(d), 255(5).)

(b) • • •

(2) • • •

(iii) The estimated percent of change in per pupil cost for all local educational agencies in the State, in the aggregate, for the current fiscal year from the second preceding fiscal year, for each State wherein an applicant requests an entitlement under section 3(d)(2)(B) or section 4. Since comparable district data are submitted for the second year preceding, the estimated percent of increase factor for adjusting the per pupil cost to the current year will suffice for all purposes prior to the final payment. However, the State shall submit actual data to the Commissioner for the purpose of computing final payments.

(20 U.S.C. 238(d), 244(5).)

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Federal Register

WEDNESDAY, MAY 3, 1978
PART III



CONSUMER PRODUCT SAFETY COMMISSION

Federal

MINIATURE CHRISTMAS TREE LIGHTS

Proposed Safety Standards

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[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1208]

MINIATURE CHRISTMAS TREE LIGHTS

Proposed Safety Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes a consumer product safety standard for miniature Christmas tree lights and similar miniature decorative lights in order to eliminate or reduce unreasonable risks of injury from electrical shock and fires that the Commission has preliminarily determined are associated with the lights. The Commission also proposes for public comment recommendations regarding materials, labeling, and provisions to address special hazards to children presented by plugs and connectors of the lights.

DATES: (1) The Commission proposes that the standard be applicable to all miniature Christmas tree lights manufactured after December 1, 1979.

(2) Written comments on the proposal must be received by the Commission by July 3, 1978.

(3) Interested persons will have an opportunity to make an oral presentation of data, views, or arguments on June 7, 1978 at 9:30 a.m. Those wishing to make oral presentations should notify the Office of the Secretary (202-634-7700) by May 31, 1978. A summary or copy of testimony is to be submitted to the Office of the Secretary by June 2, 1978.

(4) The time during which the Commission must either publish a final rule or withdraw this proposal is extended to March 15, 1979.

ADDRESSES: Written comments should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. All material which the Commission has that is relevant to this proceeding, including any comments that may be received on this proposal, may be seen in, or copies obtained from, the Office of the Secretary, 3rd Floor, 1111 18th Street, NW., Washington, D.C. 20207. The oral presentation will be conducted in the Commission's 3rd floor hearing room, 1111 18th Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Carl W. Blechschmidt, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

A. Background

In this document the Commission proposes a comprehensive standard to address the unreasonable risks of injury from electrical shock and fires that the Commission has preliminarily determined are associated with miniature Christmas tree lights and similar miniature decorative lights. The proposed standard is comprehensive and complete as a result of the many ways in which these products can result in electrical fire and shock. Although the proposed standard contains many performance tests and many requirements, a large number of these requirements and tests can be met by manufacturers by using components that are made of certain known, available materials and are built to certain existing specifications. Therefore, for purposes of complying with the certification provisions of section 14(a)(1) of the act (15 U.S.C. 2063(a)(1)), the Commission believes that manufacturers will be able to base certification for miniature Christmas tree lights, in large part on certification of components by component suppliers. (See Section H of this preamble for a more comprehensive discussion of certification.)

Since its formation in 1973, the Consumer Product Safety Commission has received reports of incidents and injuries due to electrical shocks and fires associated with miniature Christmas tree lights and similar miniature decorative lights. In 1974, a number of manufacturers voluntarily undertook recall of certain decorative lighting as a result of the reports received at that time and the encouragement of the Commission's staff.

The Commission's decision to initiate the standard development proceeding for miniature Christmas tree lights and similar miniature decorative lights, as a result of the shock and fire hazards associated with these products, was based primarily on the CPSC 1975 Christmas Decorative Light Survey and technical analyses of Christmas light products. The 1975 Christmas Decorative Light Survey involved Commission inspection of manufacturers, importers and major retailers of miniature Christmas tree lights to identify hazardous products. Based on information obtained from this survey, the Commission was made aware that defects such as exposed live electrical conductors in miniature Christmas tree light products could very likely lead to hazardous situations. For example, when a miniature Christmas tree light string with an exposed electrical conductor, such as a bare wire or a dislodged lampholder contact, is plugged into a standard receptacle outlet, the probability that a person will contact a live part and receive a dangerous electric shock is significantly higher when compared to a miniature Christmas tree light string with no such exposed electrical conductor.

The Commission also has other information about injuries associated with miniature Christmas tree lights and similar miniature decorative lights that indicates a need for remedial action, including:

1. Reports of in-depth investigations of injuries, conducted by the Consumer Product Safety Commission (CPSC).
2. National Electronic Injury Surveillance System (NEISS) surveillance data.
3. CPSC Bureau of Epidemiology Special Report: Christmas Tree Lights—August 1976.
4. CPSC Bureau of Epidemiology Special Report—Christmas Tree Lights—December 1976.
5. Engineering Analysis of Miniature Christmas Lights with Regard to Safety Hazards, by the CPSC Bureau of Engineering Sciences—December 20, 1976.
6. Fire Marshal's reports—Dallas, Tex. (1969-1975).
7. Statistics furnished to the Commission by the National Fire Protection Association.
8. Information obtained from the International Association of Electrical Inspectors and originally furnished by electrical inspectors in 63 jurisdictions (1973-1974).
9. CPSC 1975 Christmas Decorative Light Survey.

Copies of all these sources may be obtained from the Office of the Secretary.

After considering the foregoing information, the Commission preliminarily determined that the following unreasonable risks of injury are associated with miniature Christmas tree lights and similar miniature decorative lights:

1. *Shock hazards.* Shock hazards can be caused by direct contact with exposed live electrical conductors or by contact with an intervening conductive object (such as metallic tree ornament or accessory) that is in contact with the exposed conductor. The following are examples of characteristics of these lights which can create shock hazards:

a. Bare wire exposed where the wire enters lampholders (sockets) or plugs.

b. Plug and receptacle fittings that readily come apart.

c. Exposed lamp leads.

d. Cracked lampholders.

e. Lampholder contacts which come out when the bulb is removed, thereby exposing the live contacts.

2. *Fire hazards.* Fire hazards can be caused by certain characteristics of the subject lights. The following are examples of characteristics of these lights that can create fire hazards:

a. An exposed conductor which shorts to a grounded object, thereby causing arcing and/or excessive heating of flammable materials. The short may not trip the circuit breaker or blows the circuit fuse in time to prevent a fire caused by the lights because the short may be intermittent or may not draw sufficient short-circuit current. The conductor can be exposed due to the features explained in the description of shock hazards in items 1 (a), (c), (d), and (e) above.

b. A flammable grade of thermoplastic material that becomes heated by abnormal current flow, defective lamps or other characteristics of these lights that result in excessively high temperatures. This class of material melts when heated and can flame. Melting can result in exposure of live parts, or molten, burning material dripping on tree branches, paper, carpets, or other flammable material near the lights.

c. Wire without proper overcurrent protection. Wire smaller in size than No. 20 American Wire Gauge (AWG) can overheat under short circuit conditions before the house wiring branch circuit overcurrent protective device can open. Wire smaller than No. 20 AWG is commonly used on the subject lights.

On the basis of the above information the Commission preliminarily determined that a consumer product safety standard is necessary to eliminate or reduce the specified unreasonable risks of injury associated with miniature Christmas tree lights and similar miniature decorative lights.

The Commission received information about two existing voluntary standards which are relevant to miniature Christmas tree lights and similar miniature decorative lights:

a. Underwriters Laboratories Inc. (UL)—"Standard for Christmas Tree and Decorative-Lighting Outfits—UL 588" (13th edition, November 15, 1974 revised December 30, 1974 and February 4, 1976).

b. National Ornament and Electric Lights Christmas Association (NOEL)—"NOEL Standard Midget Sets, September 16, 1975."

The voluntary standards include many beneficial features. It appeared to the Commission, however, that application of these standards would not eliminate or sufficiently reduce the unreasonable risks of injury associated with the miniature Christmas tree lights and other miniature decorative lights. The Commission believed that requirements in addition to those set forth in the voluntary standards were reasonably necessary to adequately protect the public against these risks of injury. In addition, the Commission recognized that it may be difficult to ensure continuing compliance with the voluntary standards, especially since the miniature Christmas tree light industry is composed mainly of small manufacturers located outside the United States.

As the result of these concerns, the Commission began the proceeding to develop a consumer product standard applicable to miniature Christmas tree lights by publishing a notice in the FEDERAL REGISTER of March 31, 1977 (41 FR 17154). In that notice, which was published in accordance with section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056), the Commission invited interested persons to submit an existing standard as a proposed consumer product safety standard or to submit an offer to develop a recommended safety standard. In addition, the Commission made specific observations about the adequacy of the voluntary standards to address the identified hazards and suggested promising approaches for provisions that could be used in a standard to reduce the risks of injury.

In response to the March 31 FEDERAL REGISTER notice, the Commission received two offers to develop a recommended standard applicable to miniature Christmas tree lights, from Underwriters Laboratories Inc., Melville, N.Y., and from National Consumers League, Washington, D.C. The Commission also received a submission as an existing standard from the National Ornament and Electric Lights Christmas Association (NOEL), New York.

The Commission subsequently accepted the offer of the National Consumers League (NCL), 1028 Connecticut Avenue, NW., Suite 522, Washington, D.C. 20036, to develop a consumert product safety standard applicable to miniature Christmas tree lights. On June 30, 1977, the Commission published in the FEDERAL REGISTER (42 FR 33354) a notice of acceptance of the offer, a summary of the terms of the offer, and an invitation to interested persons to participate in NCL's development of the recommended standard.

The period for NCL's development of the recommended standard ended on November 16, 1977. On that date NCL submitted material, including the following:

(1) NCL's proposed safety standard, (2) a conceptual rationale, which describes the basis on which the offeror's reviews panel determined the content of the standard submitted to the Commission, (3) a report which provides a section by section technical rationale for the specific language of the standard presented by the offeror to the Commission, and (4) an Economic Analysis Report.

The Commission's staff conducted an extensive evaluation of the standard which NCL recommended. It was necessary to conduct additional tests to determine the feasibility and effectiveness of some of the recommended requirements to address the electric shock and fire hazards associated with the product.

Copies of all materials which the Commission has considered during this process may be obtained from, or inspected in, the Office of the Secretary, 3rd Floor, 1111 18th Street NW., Washington, D.C. 20207.

In the FEDERAL REGISTER of January 16, 1978 (43 FR 2185), the Commission extended by 75 days the time allowed it to either publish a proposed standard or withdraw the notice of proceeding. The Commission extended the time because of the need for further development of one test in the proposed standard, the need to resolve several technical areas where the Commission staff and offeror may disagree, and the need for additional time to include packaging and labeling requirements in the proposal. In the FEDERAL REGISTER of April 5, 1978 (43 FR 14322) the Commission further extended by 30 days the time allowed it to either publish a proposed standard or withdraw the notice of proceeding. The additional extension was necessary in order to allow for review of this complex and lengthy document. The time period for publishing the proposed standard or withdrawing the notice of proceeding expires May 3, 1978.

As a result of its consideration and evaluation of the recommended standard submitted by NCL, the Commission has determined that some changes and additional requirements were necessary in order to reduce risks of injury from electrical fire and shock. In addition, the recommended standard was re-written to provide additional technical clarity for the requirements and to put the standard in a form suitable for publication in the Code of Federal Regulations. Therefore, the standard proposed below differs from the recommended standard submitted by the offeror. The major changes, and the reasons for the changes are discussed in this preamble.

B. The Proposed Standard

The standard which is proposed below is designed to reduce or eliminate the unreasonable risks of injury that the Consumer Product Safety Commission has preliminarily determined are associated with miniature Christmas tree lights.

The specifications of the standard will be Subpart A of Part 1208. In the interests of clarity, tests constituting an integral part of the standard have been placed in Subpart B. At Subpart C, the Commission has included recommendations concerning materials and provisions to address special hazards to children presented by plugs and connectors as well as recommended labeling. Although these provisions are recommendations rather than requirements and are not part of the standard, the Commission has includ-

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ed them in the the proposal for reference and welcomes comments on these recommendations. The Commission intends to add compliance provisions (including a certification rule under section 14 of the CPSA) in the future. These will be set forth as Subpart D.

For the provisions of the standard recommended by NCL which the Commission has proposed in Part 1208, the Commission, except as noted below, adopts the rationale for these provisions that was submitted to the Commission by NCL. The rationale for the changed and additional provisions of the proposal is given below in the discussion of the requirements of each section of the standard. The proposed Part 1208 will be enforced using the U.S. Customary units for length, force, etc. that are given in the part. However, for convenience, the Metric equivalents are also given.

Subpart A of the proposed standard consists of 10 sections covering the following subject matter:

Sec.
1208.1 Purpose, Scope, and Application.
1208.2 Effective Date.
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(The effective date of the proposed standard is discussed at section G of this preamble.) An explanation of the scope of the proposal and the technical provisions of the proposed standard (§§ 1208.5–1208.10) is given below.

At subpart B, the standard contains 29 tests to reduce the identified risks of injury associated with minature Christmas tree lights. A brief summary and explanation of these tests is also given below.

SCOPE OF THE PROPOSAL (SECTION 1208.1(B))

The requirements set forth in the proposed standard for Miniature Christmas Tree Lights, 16 CFR Part 1208, apply to lighting units intended for use with Cristmas trees or other Decorative applications. As defined at § 1208.3(i), miniature Christmas tree lights are lighting units which (1) have lamps or lampholders electrically connected by wires in series or in combinations of series path, (2) are equipped with or intended to be used with lamps that dissipate four watts of power or less per lamp when the product is connected to a 120 volt rms source, and (3) are intended to be supplied electric power from a nominal 120 volt receptacle. Strings of lamps or lampholders which are sold as part of rigid decorations, such as wreaths or frames, are covered by the standard. In addition, a lighting unit meeting these requirements would be covered by the standard even if it contains additional electrical elements other than lamps, such as switches, or an additional lamp or lamps which dissipate more than four watts of power.

MATERIALS (1208.5)

Section 1208.5 of the proposed standard is one of several sections in the standard designed to protect consumers from electrical fire and shock hazards that may result from contact with improperly or insufficiently insulated electrical conductors. The requirements are based on the function of the insulating material, since the function of the material is a significant factor in determining the likelihood of injury resulting from failures of the material. Section 1208.5(a) of the proposal divides insulating materials into three categories, and prescribes requirements for materials in each category.

The first category, Class X, is for parts of the lighting unit that do not directly contact, enclose, or support electrically live parts. Examples of these parts are shades, diffusers, reflectors, simulated needles, leaves, and supporting or decorative frames. Section 1208.5(a)(1) requires that these materials pass the Decorative Part Downward Burning Rate Test, at § 1208.37, to ensure that they are not highly flammable. Their proximity to the electrical circuit which is a potential ignition source, is the reason for the test. These parts are usually decorative in nature, and could propagate a local flaming condition into a major conflagration if highly flammable. The Decorative Part Downward Burning Rate test distinguishes materials which have rapid flaming characteristics as provided in § 1208.37. Class X materials must also pass the Cascade Failure Simulation Test, at § 1208.29, and the Short Circuit Simulation Test, at § 1202.28. These tests evaluate the overall performance of the lighting unit under stress conditions that may be encountered while in use. The Cascade Failure Simulation Test and the Short Circuit Simulation Test simulate what might occur, for example, in a situation where a short or fault occurs and decorative parts ignite.

The second and third categories, Classes Y and Z, are for materials which contact or are relied upon to enclose or support electrically live parts.

The requirements of § 1208.5(a) (2) and (3) applicable to Class Y and Z materials are intended to ensure that materials which contact or are relied on to enclose or support electrically live parts do not deteriorate or lose their effectiveness as barriers (1) between the potentially dangerous, available electrical energy and the consumer, (2) between the available electrical energy and the surrounding objects which may be electrically conductive and grounded, and (3) between electrically live parts of different polarity which could short together. Class Y materials are insulating materials contacting live parts in instances where the electrical energy is limited by fuses or similar devices. Examples of these materials are lamp bases, lampholders, and certain shades and diffusers that are integrally molded as part of the lamp bases. Class Y materials are not required to be flame retardant, since the materials are used with limited-energy live parts.

The recommended standard submitted by NCL distinguished Class Y and Class Z materials based on the normal operating current of the circuit. The proposed standard distinguishes Class Y and Z materials based on the maximum current rating of the overcurrent protective device. The purpose of this change is to ensure that flammable materials are not used as insulation for electrical components except where the electrical energy is limited by a special fuse or other protective device.

Although Class Y materials are used with limited-energy live parts, these parts can present a potential lethal shock hazard if the materials deteriorate or otherwise lose their effectiveness. Melting of the materials could occur, presenting a fire and shock hazard in use while under conditions well within the energy limit permitted by the overcurrent protection of the fuse of similar device. Section 1208.5(a)(2) requires that Class Y materials not melt to expose live parts at a temperature of 248° F (120° C) by requiring that these materials meet the Heating Test for Lamps and Lampholders at § 1208.38. The temperature value is based on readily attainable temperatures on materials near the lamps, the primary heat source. This temperature can result from the heat of the bulbs and can lead to exposed live parts when the lights are clustered. This temperature can also be obtained when an improper replacement lamp is placed in a light string. Class Y materials must also meet the tests prescribed for Class X materials at § 1208.5(a)(1), since highly flammable materials could also present a hazardous condition.

Class Z materials contact or are relied upon to enclose or support electrically live parts whose steady current flow under normal operating conditions is either not limited by an overcurrent protective device or is limited by an overcurrent protective device rated at more than 300 milliamperes. In addition, Class Z materials are insulation for wire, plugs, fuseholders, and connectors regardless of the presence of the overcurrent protective device. Class Z insulating materials on lampholders can be exposed to the energy

that fuses or similar devices rated 300 milliamperes can let through. The 300 milliampere value far exceeds the normal 100-200 milliampere current flow for a single series circuit of lights and is indicative of a serious overcurrent condition which, even when slightly exceeded, could cause localized high-heat conditions that might be incipient causes for fire and shock hazards. Section 1208.5(a)(3) requires Class Z materials to be flame retardant since the potentially available energy they insulate may otherwise cause serious overheating leading to fires and exposed live parts. These materials must pass the appropriate component flammability tests, at §§ 1208.21 and 1208.27. The test in § 1208.27 which does not apply to wire insulation, is based on a standard material flame test for judging flame retardant characteristics (Underwriters Laboratories Standard UL 94). The test for wire insulation flammability is based on a test in the Underwriters Laboratories Bulletin UL 62, dated February 24, 1978.

Additional requirements for insulating materials including wire insulation material at § 1208.7(a)(3), are contained under particular component requirements in the proposal, at § 1208.7. In § 1208.7(b)(5), insulating materials for plugs and connectors can be phenolic or urea composition thermosetting materials (materials that are inherently flame retardant and do not flow when heated) or one of the other specified Class Z materials when tested for flammability.

In § 1208.9, insulating materials used for lamps and lampholders must have insulating qualities to withstand the applied 1250 volts of the Dielectric Test for Lampholder and Lamp Assembly, § 1208.25. This value of voltage is a typical value used in material and assembly testing and is generally based on the formula: Two times the maximum voltage for the appliance (125 volts for Christmas lights) plus 1000 volts.

The proposed standard contains design specifications for conductive materials at § 1208.5(b). The Commission believes that it would be impractical to develop a performance specification for conductive materials, since extensive evaluation of the metallurgical, mechanical, electrical and chemical properties of all possible conductive materials would be needed in order to determine the appropriate tests. Copper and copper alloys (brass) have traditionally been used in appliances and are required for miniature Christmas tree lights by § 1208.5(b). Other conductors, such as iron, aluminum, gold, and silver may have serious economic or safety related drawbacks for application in miniature Christmas tree lights. Section 1208.5(b) provides that electrically live parts except for lamps and wire must be copper or have at least 60 percent copper by weight in the alloy (at least 80 percent for screw shell holders for lamps, fuses and other parts.) These percentages are consistent with minimums for electrical conductor brass of Underwriters Laboratories (UL) and industry standards.

If the Commission receives comments indicating that manufacturers wish to use another specified conductive material that does not present a hazard when used in miniature Christmas tree lights the Commission will consider changing the provisions of § 1208.5(b).

At § 1208.5(b) the proposal requires that metallized tinsel and other conductive flexible strips and threads, 0.25 in. (6.4 mm) and longer, and located within 1 in. (25.4 mm) of a lampholder, fuseholder, plug or connector shall pass the Conductive Tinsel Test (1208.41). The purpose of the test is to protect against exposed conductive materials that contact live parts from transmitting potentially hazardous current levels of 5 milliamperes and higher to people who might contact the material. Live parts are accessible to contact by strips and threads at lampholder and fuseholder openings, particularly during lamp and fuse servicing, and at plugs and connectors, particularly plug blades and receptacle openings. The Conductive Tinsel Test was added to the proposal by the Commission after a review by the Commission staff of the construction of miniature Christmas tree lights indicated the extensive use of metallized tinsel.

WIRING AND ASSEMBLY REQUIREMENTS (1208.6)

At § 1208.6 the proposal lists several requirements concerning the method of wiring of light strings in order to minimize overheating or the chance of having an exposed live part that could result in fire or shock.

Contact surfaces that are used to routinely make and break electrical circuits must be of adequate size and shape for proper mating of electrical parts in order to avoid overheating. Wire strands if used for contact surfaces would be of indeterminate or variable size and shape. This condition could result in overheating. Therefore, the proposal at § 1208.6(a) prohibits the use of wire as a contact mating mechanism.

The proposal, at § 1208.6(b) requires the wire connecting two components to be continuous and free of splices or taps. Such connections are a source of electrical failure which could lead to the exposure of live parts of other electrical abnormalities.

At § 1208.6(c), the proposal requires wire within components to be secured so that conductors are not exposed and will not become exposed when tension is applied to the wire as provided in the performance tests for components, §§ 1208.23 and 1208.35.

The proposal, at § 1208.6(d), requires, lights to be designed so that wire current ratings are not exceeded at normal operating currents. If wire current ratings are exceeded, wire insulation may be degraded, thus resulting in the exposure of live parts and possible short circuits.

Section 1208.6(e) requires overcurrent protection for wires of cross-sectional area less than No. 20 AWG to provide protection against fire when short circuit conditions exist in a light string.

Section 1208.6(f) requires each minature Christmas tree light to have an attachment plug or an add-on connector for connection to the power supply source. Miniature Christmas tree lights without attachment plugs or add-on connectors could present risks of injury from fire and shock. This requirement would eliminate the situation in which lights falling within the definition of the product covered by this standard were not provided with suitable means for electrical interface with the supply source.

Section 1208.6(g) requires that strings of lights with relatively small gauge wire (smaller in size than No. 20 AWG) must be routed in a pair of two or more wires twisted together longitudinally, except between components mounted on a frame, such as lampholders fixed in a tree-top star decoration. The purpose of this requirement is to give the wiring added strength against breakage with the resulting exposure of live parts.

The proposed standard at § 1208.6 (h) and (i) included requirements applicable to the assumbly of miniature Christmas tree lights. The purpose of these requirements is to protect consumers from exposure to live parts and shorts. At § 1208.6(h) the proposal requires separation of live parts. Opposite polarity conductors must be separated to prevent across-the-line shorts. Live parts must be separated from exposed dead metal parts in order to prevent shorts to outside dead metal parts. The parts must be separated by a spacing of at least 0.047 inch (1.19 mm) in order to adequately withstand the potential of 120 volts from bridging or tracking across the gap and creating the short.

Section 1208.6(i) of the proposal requires live parts to be insulated or otherwise enclosed so that they cannot be contacted by the probe in figure 1 of the regulation. The probe is the tip portion of a probe developed by Underwriters Laboratories to judge the accessibility of live parts based on testing a large sample of adults and children. The purpose of the requirement is to prevent persons from contacting live parts.

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The recommended standard submitted by NCL did not contain requirements for separating live and dead metal parts and did not contain general requirements concerning the accessibility of live parts. However, the proposed standard includes these as general provisions in order to address fire and shock hazards that may arise where additional components, such as switches, are used.

COMPONENT REQUIREMENTS (1208.7)

The proposal at § 1208.7 includes design and performance requirements for components of miniature Christmas tree lights.

WIRE (1208.7) (a))

Wire construction requirements at § 1208.7(a) and performance tests at § 1208.13-22 are based almost entirely on tests in the Underwriters Laboratories (UL) Standard UL 62 for Types XT and FXT wire, the types of wire used in miniature Christmas tree lights that meet the UL specifications. However, the performance test for wire insulation flammability is based on UL Bulletin, Subject 62, dated February 24, 1978.

Section 1208.7(a)(1) requires copper wire to be used. Breaking strength requirements are included at § 1208.7(a)(1) in order to establish that soft annealed copper is used for flexibility and bendability. The recommended standard submitted by NCL contained a requirement that specified the use of "soft annealed" copper wire. In order to more accurately measure the desired characteristics of the wire, the Commission has added the maximum breaking strength requirement for the copper wire.

Wire gauge requirements are included at § 1208.7(a)(2) and Table B in order to ensure that the wire has proper current carrying capability.

At section 1208.7(a)(3) the proposal requires wire insulation to be composed of polyvinyl chloride or a copolymer of vinyl chloride and vinyl acetate. These are the materials for general, applicance wiring insulation, and the ones on which the performance tests are based. These materials are the only known ones presently being used for miniature Christmas tree lights. At this time the Commission believes that it would be impractical to develop performance tests for different materials. If the Commission receives comments indicating that manufacturers wish to use another material for wire insulation that does not present a hazard when used in miniature Christmas tree lights, the Commission will consider changing this provision in the final standard.

This section also provides for minimum average insulation thickness and minimum insulation thickness at any point. The purpose of these specification is to ensure adequate wire coverings for protection against shorts and contact with live parts.

The proposal, at § 1208.7(a)(4) includes requirements for the separation of parallel conductors by at least 1.5 times the required minimum average insulation thickness for a single conductor wire. The purpose of this requirement is to ensure adequate separation of conductors of parallel cord and still permit a common web of insulaltion joining the two conductors. Section 1208.7(a)(5) requires that a minimum of 0.013 inches (0.33 mm) of insulation should remain on each conductor after the parallel cord has been torn apart to separate the conductors. The purpose of this requirement is to prevent live parts from being exposed when the conductors are separated, thereby presenting a shock or shorting hazard.

The proposal, at § 1208.7(a)(6), also requires wire to pass tests for insulation resistance (1208.13), elongation and tensile strength (1208.14), heat-shock (1208.15), deformation (1208.16), cold-bend (1208.17), weathering (1208.18), dielectric (1208.19), abrasion (1208.20), flammability (1208. 21), and flexing (1208.22).

PLUGS AND CONNECTORS (1208.7 (b))

At § 1208.7(b), the proposal includes detailed design and performance requirements for plugs and connectors. These requirements are based on provisions in the Underwriters Laboratories (UL) Standard for Attachment Plugs and Receptacles (UL 498).

At § 1208.7(b)(1) the proposal includes requirements concerning the size and locations of plug blades. These requirements are included to protect consumers against electrical fire and shock hazards, since the blades must properly engage the standardized power supply recepticles of wall outlets and extension cords with a fit that does not result in exposed or misplaced live parts. Special thickness specifications are included in § 1208.7(b)(2) to protect consumers from shock where plug blades are constructed of folded-over metal stock.

At § 1208.7(b)(3), the proposal includes requirements for minimum plug body dimensions. The purposes of these dimensions is to provide an adequate distance between the blades and surfaces likely to be gripped during plug insertion and removal.

Section 1208(b)(4) includes requirements concerning the size and location of receptacle slots. These requirements are included to protect against fire and shock hazards since receptacles must properly accept the standardized blades of plugs with a fit that does not result in exposed or misplaced live parts.

As previously noted in the discussion of insulating materials, the insulating materials for plugs and connectors in § 1208.7(b)(5) are required to be certain specified flame retardant materials: Phenolic; urea; pliable, molded, natural or synthetic rubber, or a combination thereof; a polymer of vinyl chloride; or a copolymer of vinyl acetate. These materials are the only known ones presently being used. At this time the Commission believes that it would be impractical to develop performance tests for different materials. If the Commission receives comments indicating that manufacturers wish to use another material for insulating plug and connector live parts that does not present a hazard when used in miniature Christmas tree lights the Commission will consider changing this provision in the final standard.

Section 1208.7(b)(6) of the proposal requires plugs and connectors to be capable of withstanding a 75 pound force crush test, as provided in the crush test for plugs and connectors § 1208.34. This test is included since attachment components are particularly susceptible to being stepped on, thus shorting or exposing live parts or otherwise damaging the component. The 75 pound force test value is representative of accidental adult crush force values.

The proposal, at§§ 1208.7(b) (7), (8), (9), and (10), requires plugs and connectors to pass a series of mechanical tests to evaluate the integrity of these bodies to enclose live parts. Plugs and connectors must pass a wire pull test, § 1208.35, a wire insulation pull test, § 1208.36, and a blade push test, § 1208.33 and a blade pull test, § 1208.32.

The proposal, at § 1208.7(b)(11), requires electrically live parts within receptable openings to be enclosed so that they are inaccessible when tested by a probe (figure 1) that represents contact by persons to protect against electric shock.

Section 1208.7(b)(12) of the proposal prohibits openings in enclosures of plugs and connectors except for the slots of receptacles and the openings from which blades project. In addition, this section prohibits the use of parts of plug and connector bodies that are solely held together by friction. If friction only is relied on, the parts may readily come apart, exposing live parts to shorts and contact by persons. The proposal requires positive detent action, latches, screws, or other fasteners in order to hold together plug and connector insulating parts that are relied upon to enclose live parts.

The proposal, at § 1208.7(b)(13) requires receptacles to permit full insertion of the mating blades of plugs or add-on connectors. This requirement is intended to avoid the exposure of live parts. Receptacles must pass the Receptacle Insertion-Withdrawal Test, § 1208.31.

The proposal, at § 1208.7(b)(14) prohibits parts of plugs and connectors from having a temperature rise in exces of 30° C (54° F) when operated under maximum current conditions. Such a temperature rise indicates either a high resistance connection or an inadequate conductor. This condition could lead to dangerously high temperatures which could ultimately short, expose live parts, or ignite. The recommended standard submitted by NCL did not include an overload condition as part of the heating test for receptacles. The proposed standard includes an overload condition in the heating test for receptacles based on that contained in UL 498 in order to test receptacles under the conditions of making and breaking contact with a plug while under load.

Section 1208.7(b)(15) of the proposal requires plugs and connectors to pass each of the following tests: Plug and Connector Blade Pull Test (1208.32), Plug and Connector Blade Push Test (1208.33), Receptacle Insertion-Withdrawal Test (1208.31), Strain Relief Test for Plug and Connector Connections (1208.35), Security of Insulation at Plugs and Connectors (1208.36), Crush Test for Plugs and Connectors (1208.34), Temperature Test for Plugs, Connectors, and Fuseholders (1208.30), and Flammability Tests for Class Z Applications (Except Wire) (1208.27).

OVERCURRENT PROTECTION (1208.8)

The proposal, at § 1208.8, requires miniature Christmas tree lights to have fuses or similar protective devices to prevent overcurrent conditions that could cause degradation of materials leading to fire and shock hazards. The overcurrent protective devices are required for the following specific reasons:

(1) To provide protection during short circuit conditions for small size conductors (wire of cross-sectional area less than No. 20 AWG).

(2) To provide protection during short circuit conditions against bulbs rupturing and causing ignition of surrounding materials (one or more bulbs in the shorted circuit).

(3) To provide protection against melting lampholder materials in order to pass the Cascade Failure Simulation Test (§ 1208.29). The overcurrent protective device may be relied upon to provide protection when the current increases due to lamp filament burnouts, the burned out lamps passing current through the shunt feature within the miniature lamps.

(4) To meet a qualification for Class Y use of an insulating material (referred to as "close fusing") ad described in § 1208.5.

The proposal, at § 1208.8(b) establishes the method for rating an overcurrent protective device. The rated value is one-half of that which causes the device to open within 2 minutes when operated at room temperature. It may be necessary to determine that the rating of an overcurrent protective device is 300 milliamperes or less in connection with § 1208.5(a)(2), or 3 amperes or less in connection with § 1208.6(e).

The proposal, at § 1208.8(c) requires that live parts of a fuse or fuseholder not be accessible when tested by the accessibility probe (Figure 1). This requirement has been included since replaceable fuses could present a shock hazard if a person were able to contact live parts during removal and replacement of a fuse from its holder.

The recommended standard submitted by NCL assigned insulation materials used for overcurrent protection devices and their holders to Class Z, with the exception of special fuse-lamp devices and their holders. In the proposed standard at § 1208.8(d) the Commission has removed this exception and requires overcurrent protection device enclosures or holders to be Class Z materials as provided in § 1208.5(a)(3) (that is flame retardant materials) for all types and locations of the protective device. This requirement has been included since a fault that results in shorting of live parts on the supply side of any overcurrent device could cause ignition of flammable insulating materials. The overcurrent device only provides protection aganist faults which result in current going through the device element and would not provide protection against faults which do not send current through the overcurrent protection element. If special fuse lamp devices and their holders were exempt, a fault that results in shorting of live parts on the supply side of the device or holder could cause ignition of flammable insulating materials.

The proposal does not restrict the form of an overcurrent protective component. An overcurrent protective device may take the form of a special lamp that also provides fusing. Such a device should be provided with a holder which does not permit the entry of non-fuse type ordinary lamps from the string, so that the purpose of the special lamp is not defeated. This is required in § 1208.8(e).

If fuses of the string are replaceable, at least one spare fuse, of the original fuse type, must be provided in accordance with § 1208.8(f). This requirement reduces the likelihood that a consumer will attempt to defeat this important protective component by bypassing or shorting the fuse where a replacement is not readily at hand.

Section 1208.8(g) of the proposal requires overcurrent protective devices to pass each of the following tests as applicable: Temperature Test for Plugs, Connectors and Fuseholders (1208.30), Flammability Test for Class Z Applications (1208.27), Strain Relief Test for Lampholders, Fuseholders and Other Bodies Except Plugs and Connectors (1208.23) and Crush Test for Lampholders and Fuseholders (Other Than Types Which Are Incorporated in Plugs and Connectors) (1208.26).

LAMPS AND LAMPHOLDERS (1208.9)

The proposal, at § 1208.9(a), requires that lampholders must provide a spacing of not less than 0.030 inch (0.76.mm) through air and over surfaces between electrically live parts of differing electrical potential, and between electrically live parts and dead metal parts. Spacings less than the required amount result in designs wherein lampholper contacts could readily be bridged resulting in shorting conditions that could lead to overcurrent, heating, melting, fire and exposure of live parts. The proposal also requires that live parts of lampholders be recessed at least 0.20 inch from the lamp entery end of the lampholder. This minimum dimension is based on a requirement in the NOEL Standard; it is intended to isolate lampholder contacts so that the likelihood of having exposed lamp contacts (particularly extra-long lamp leads of push-in replacement lamps) when lamps are energized is reduced. In addition, the proposal at § 1208.9(b) requires that no live parts of either the lamps or lampholders be accessible before, during, or after insertion of a bulb. The purpose of this requirement is to protect live parts against accidental contact by persons. The Commission believes the opening in lampholders for inserting lamps must not permit live parts to be readily accessible to contact by a probe, especially since the lights are decorative attractions for children. As a result of the relatively small size of lamps, it is difficult to hold a lamp or lampholder and remain away from the electrical contacts. Therefore, no live parts of either the lamps or lampholders must be accessible before, during, or after insertion of a bulb.

Section 1208.9(c) refers to the Dielectric Test for Lampholders and Lamps (1208.25). As previously noted in the disussion of Materials (§ 1208.5), the Dielectric Test for Lampholder and Lamp Assembly is a measure of the insulating quality of the lampholder and lamp insulating materials. In addition, it is a check to assure adequate separation of opposite polarity live parts within the lampholder and lamp assembly to prevent shorting conditions that could ultimately lead to fire or exposure of live parts if the basic designs were inadequate.

Sections 1208.9 (d), (e), and (f) refer to performance tests (1208.26, 1208.24, 1208.23) for lampholders and lamp assemblies. See the discussion of the

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tests in this preamble for additional information regarding these requirements.

At § 1208.9(g), the proposal requires that each miniature Christmas tree light must have lamps that are intended to operate at the same voltage. The purpose of this requirement is to avoid dangerously overheating lampholders. This condition results when lamps for use at one particular voltage are accidentally inserted into lampholders in circuits designed for lamps that operate at a different voltage.

The proposal, at § 1208.9(h) provides that lamps that have shunts must not be used in series circuits having fewer than 10 lamps or lampholders. Series circuits of lamps with fewer than 10 lamps are intended to operate at voltages in excess of 12 volts. If lamps with shunts were used and a lamp with a shunt had the filament burn out, the shunt would bypass the open filament to keep the remaining lamps lit. This condition would subject remaining lamps to significant overvoltage conditions which could lead to dangerous overheating, melting of materials and other degradations of the string.

The proposal, at § 1208.9(i) refers to the Decorative Part Downward Burning Rate Test (1208.37) which requires that all lampholder and lamp assembly materials meet the minimum burning rate. This is to ensure that these materials are not highly flammable.

The proposed standard at § 1208.9(1) includes a requirement to eliminate lamp bulbs that could generate extremely high surface temperatures (approaching the self-ignition temperatures of materials that may be used in and around Christmas tree lights) either when lamp bulbs are incorrectly used in light sets not designed for them, or when overcurrent conditions are present but there is not enough current to open the lamp filament or any overcurrent protective device provided. Although this provision was not included in the recommended standard submitted by the offeror, the Commission believes that it is necessary in order to ensure that fires do not result from using lamp bulbs that generate extremely high surface temperatures.

The proposed standard, at § 1208.9(m), requires lamps and lampholders to pass each of the following tests: The Cascade Failure Simulation Test (1208.29); the Short Circuit Simulation Test (1208.28); the Heating Test for Lamps and Lampholders (1208.38); the Millivolts Drop Test for Lampholders (1208.39); the Strain Relief Test for Lampholders and Fuseholders (and other bodies except plugs and connectors) (1208.23); the Secureness of Lampholder Contacts Test (1208.24); the Crush Test for Lampholders and Fuseholders (Other than types which are incorporated in plugs and connectors) (1208.26); the Dielectric Test for Lampholders and Lamp Assembly (1208.25); the Flammability Test for Class Z Applications (Except Wire) (1208.27); the Maximum Wattage Test for Lamps (1208.40); and the Decorative Part Downward Burning Rate Test (1208.37).

As a result of additional research and testing conducted by the National Bureau of Standards (NBS) for the Commission after the submission of the recommended standard, the Commission has added additional requirements to the section of the proposal concerning lamps and lampholders (§ 1208.9). The offeror's recommended standard provided that lamps and lampholders must meet the Cascade Failure Simulation (CFS) Test (at 1208.29), which is a test intended to simulate the hazardous conditions which could occur during normal and failure operating modes of miniature Christmas tree lights.

The purpose of the Cascade Failure Simulation Test is to determine whether the lamp circuit is sufficiently protected against lampholder melting and subsequent exposure of live parts from overcurrent in the lamp circuit as bulbs burn out. However, laboratory tests at NBS have indicated that melting of certain lampholders can occur either from conditions that do not result in overcurrent or that result in overcurrent that is not sufficient to blow even a fuse that is rated at or slightly above the normal circuit current.

The original CFS Test in the recommended standard submitted by the offeror did not address the following credible hazard conditions of an operating light string where temperatures could be high enough to melt certain materials but where overcurrent conditions are not significant:

(1) Improper insertion of a lamp or lamps not designed for the light string under observation (e.g. substitutions of bulbs intended for a 10 lamp light string as replacement for burned out bulbs in a 35 or 50 lamp light string) can present a hazard without an overcurrent condition if a high voltage bulb designed for a 10 lamp circuit is inserted into a 35 or 50 lamp circuit. The 35 or 50 lamp circuit, which operates at higher currents (130 ma-150 ma) than the 10 lamp circuit (100 ma), will force higher current through the high voltage lamp. This will cause the lamp to burn hotter than normal. Although there are no significant overcurrent conditions present, the hot lamp bulb could melt its own socket or another lampholder if direct contact is made. The hot lamp could also ignite external materials.

(2) Lamps bunched together for a unique decorative effect can present a hazard without an overcurrent condition. This arrangement can result in lampholder melting and later exposure of conductors without an overcurrent condition being present.

(3) Placement of decorative attachments over the lamp assembly can result in melting and exposure of conductors without an overcurrent condition being present.

(4) Variability of contact resistance at the wire-to-lampholder connection within some types of lampholders can present a hazard without an overcurrent condition. The CFS Test does not adequately test this condition because of the variability of contact resistance with contact pressure and the relatively long period of time the condition can be present before a hazardous condition materializes.

(5) Defective lamps that run hot or shunts that do not open can result in melting and exposure of conductors without an overcurrent condition being present.

In order to address these hazard areas that are not included in the original CFS test, the Commission has both modified the CFS Test, at § 1208.29 and included three additional test requirements in the proposal, at § 1208.9 (j), (k), and (l). These tests are § 1208.38, Heating Test for Lamps and Lampholders, § 1208.39, Millivolt Drop Test for Lampholders, and § 1208.40, Maximum Wattage Test for Lamps. The CFT Test cannot readily be modified to simulate those hazardous situations resulting from usage of parts not designed for the light string or from events which may require a long period of time to become apparent; hence, there is a need for a minimum component performance level as provided by these tests. These modifications to the CFS Test and additional tests are intended to reveal hazardous conditions that may be present in the absence of a significant overcurrent condition. The Heating Test for Lamps and Lampholders requires lampholder assemblies to withstand a temperature of 248° F (120° C) for 2 hours without exposing conductors. The Millivolts Drop Test for Lampholders has been included to evaluate the integrity of wire to lampholder connections and to address overheating hazards presented by contact resistance within some types of lampholders. The Maximum Wattage Test for Lamps has been included to address the hazard of bulb surface temperatures which can exceed the self-ignition point of materials used on and around Christmas trees.

PACKAGING AND LABELING (1208.10)

The proposed standard, at § 1208.10, includes packaging and labeling requirements. The packaging and labeling requirements address the shock hazards which can be caused by direct contact with exposed live electrical conductors or by contact with an intervening conductive object. The requirements also address the fire hazards which can be caused by excessive heating of flammable materials.

After reviewing the NCL Review Panel recommendations, the Commission concluded that guidelines are necessary to ensure that the placement, type size, and prominence of the requisite labeling statements would make them conspicuous to the consumer. Because of the similarities between the labeling presently required for hazardous substances under the Federal Hazardous Substances Act (FHSA) and that required by this proposal, the proposed standard, at § 1208.10, provides that 16 CFR 1500.121, governing the prominence and conspicuousness of FHSA labeling, may be used as guidance for the labeling required by this section.

The proposal would require that miniature Christmas tree lights have a label containing cautionary information permanently affixed to the light string and located between the plug and the first lampholder. A permanent label is necessary since the fire and shock hazards addressed by the labeling could occur throughout the life of the product. The location of the label (between the plug and the first lampholder) is necessary since the consumer is likely to handle the product at this point when the product is used, and thus is likely to read the label if it is placed in this location.

The proposal would require that the permanently affixed label and the package have the signal word "Caution" or "Warning" as well as the statement of hazard "to avoid fire or shock hazards". The signal word is necessary to draw attention to the cautionary information on the label. The statement of hazard is necessary to state the purpose of the cautionary information.

The proposal would also require the following cautionary information: "Do not use on trees with metal or metallic needles, leaves or branch covering."

"Do not use staples or sharp-edge fasteners which can damage insulation."

"Use only decorations over lamps if provided with light set."

Metallic trees pose a potential shock hazard or fire hazard resulting from shorting if metal needles or other such conductive parts of trees penetrate the insulation of the light string as it is being installed on the tree, or work their way into bulb sockets or other openings in the string's insulation so as to contact live conductor parts.

Similarly, staples or sharp-edged fasteners may expose the user to electric shock or fire resulting from shorting if the fasteners contact live parts of the light string by penetration of the insulation as they are installed.

Attaching decorations to the bulbs, unless they are specifically designed to eliminate any potential hazard when employed with a particular pattern of light string, can pose a potential shock hazard when metallic parts of the decoration are pushed down into the bulb socket or are pushed through the insulation so as to contact live parts of the string. In addition, potential fire hazards occur if combustible or non-fire retardant materials present in the decoration are overheated by the bulb, and if the decoration overheats the lampholder.

The proposal would also require the permanently affixed label and the package to contain the complete name and mailing address of the domestic manufacturer, domestic importer, distributor, or private brand seller and the manufacturer's identification number (which may be in code), indicating the style number or name, the lot number, and the year of manufacture. This information is necessary in order to allow the Commission and consumers to identify the manufacturer and the product.

The proposal would require lamp and fuse replacement information on the permanent string label and package. The proposal would also require voltage and manufacturer information on the packet of spare bulbs if provided. Replacement information is necessary since installation of bulbs intended for use in light strings with a greater or smaller number of series bulbs than the string in which the bulb burn out has occurred will result in overheating, thus increasing the likelihood of fire hazard. Therefore, bulb replacement information for the string is required on the permanent string label. Since present day technology does not provide an economical, acceptable means to mark the voltage rating directly on the miniature light bulbs, voltage-rating information is required on the container of spare replacement bulbs to try to forestall installation of these bulbs in an inappropriate string, thus increasing the possibility of fire. In addition to the voltage rating of the bulbs, the spare-bulb container carries a manufacturer-identification to provide traceability of the manufacturer in case of safety or other problems with the bulbs.

Fuse replacement information is required for replaceable fuses since this information is necessary to ensure the continued effectiveness of this overcurrent protective device.

The offeror recommended that the Commission require the inclusion of the Commission's Hot Line number (a toll free number established to receive consumer complaints about product hazards and disseminate information about product safety) on the permanently attached label. The Commission has not included this provision in the proposed standard since inclusion of the number could lead to many calls unrelated to safety, such as calls concerning broken or burned out bulbs. This practice could also overburden the Commission's small hotline staff.

The Commission believes that the labeling included in this section also constitues performance and technical data authorized by Section 27(e) of the Consumer Product Safety Act (15 U.S.C. 2076(e)). Consequently, the Commission is also relying on this section as authority for these requirements.

The Commission is publishing with the proposed standard at § 1208.53 of Subpart C labeling recommendations concerning care and use instructions. While the labeling provisions of this section are not requirements of the standard, the Commission encourages manufacturers to follow these recommendations.

TESTS

The proposed standard, at Subpart B, includes tests applicable to miniature Christmas tree lights. These tests have been included in order to allow the Commission to test for compliance purposes. A brief summary of these tests is provided below. Failure to meet the performance requirements can generally result in exposure of live parts and short circuit conditions, or other conditions which are further explained below in connection with each test.

WIRE INSULATION RESISTANCE (1208.13)

The purpose of this test is to ensure that the material covering the wire conductor will provide adequate insulation. The test is widely applied to appliance wiring insulating materials.

WIRE INSULATION ELONGATION AND TENSILE STRENGTH (1208.14)

The purpose of this test is to evaluate the characteristics of the wire insulation by performing comparative strength tests before and after accelerated aging of specimens. This test has been widely applied to thermoplastic insulation which has polyvinyl chloride as the basic constituent.

HEAT-SHOCK TEST FOR WIRE INSULATION (1208.15)

The purpose of this test is to evaluate the behavior of wire insulation in terms of whether it will crack should it come in contact with hot surfaces up to 121° C for up to one hour.

DEFORMATION TEST (1208.16)

The purpose of this test is to evaluate the flow characteristics of wire insulation under mechanical pressure when it undergoes a rise in temperature.

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COLD-BEND TEST (1208.17)

The purpose of this test is to evaluate the bendability of the wire insulation without cracking while being subjected to the coldest outdoor conditions likely to be encountered.

WEATHERING TEST (1208.18)

The purpose of this test is to evaluate the wire insulation for strength and aging after exposure to simulated rain and sun (ultra-violet light) conditions.

The proposed standard includes a weathering test for wire insulation in which specimens of wire are exposed in a xenon arc Weather-Ometer for a period of 1248 hours. Use of the xenon arc Weather-Ometer as opposed to other Weather-Ometers is proposed because the spectrum of radiation achievable with a xenon arc device more closely approximates the spectrum of solar radiation than do the spectra of other Weather-Ometers. Therefore, the xenon arc device has the potential for providing a fairer, more universal and more representative test than do the other available devices.

DIELECTRIC TEST FOR WIRE INSULATION (1208.19)

The purpose of this test is to locate any defects in the completeness of the insulation by placing a high voltage between the outer surface of the wire insulation and the wire conductor.

ABRASION TEST FOR WIRE INSULATION (1208.20)

The purpose of this test is to evaluate the wear characteristics of the wire insulation.

FLAMMABILITY TEST FOR WIRE INSULATION (1208.21)

The purpose of this test is to evaluate the horizontal burning rate of the finished insulation. The test requires that slow burning wire be used.

FLEXING TEST FOR WIRE (1208.22)

The purpose of this test is to evaluate the mechanical flexing characteristics of the wire. The test requires that the stranding of the conductors resist breakage as a result of flexing which is likely to be encountered while in service.

STRAIN RELIEF TEST FOR LAMPHOLDERS, FUSEHOLDER AND COMPONENT BODIES OTHER THAN PLUGS AND CONNECTORS (1208.23)

The purpose of this test is to evaluate the secureness of the attachment of wires to the component bodies of a string (other than the plugs and connectors). The test includes wire-to-wire pulls and wire-to-component pulls.

SECURENESS OF LAMPHOLDER CONTACTS (1208.24)

The purpose of this test is to evaluate the secureness of the lampholder electrical contacts to resist mechanical forces which tend to lift them out from the lampholder upon removal of a lamp or upon pushing the wires where the wires enter the lampholder.

DIELECTRIC TEST FOR LAMPHOLDER AND LAMP ASSEMBLY (1208.25)

The purpose of this test is to evaluate the separation of lampholder and lamp contacts by applying a 1250 volt potential across the contacts. If not adquately separated, bulbs could short out and result in overheating other components.

CRUSH TEST FOR LAMPHOLDERS AND FUSEHOLDERS (1208.26)

The purpose of this test is to evaluate the strength of the component bodies to resist breakage which could expose live parts or short circuit. The 16 pound force value represents a maximum thumb and forefinger pressure of the 95th percentile adult male as defined by Dreyfus in "The Measure of Man".

FLAMMABILITY TEST FOR CLASS 2 APPLICATIONS (EXCEPT WIRE) (1208.27)

This test evaluates the flame retardant characteristics of materials and is based on that contained in Underwriters Laboratories Standard UL 94 for 94 VO rated materials.

SHORT CIRCUIT SIMULATION TEST (1208.28)

The purpose of this test is to evaluate the overcurrent protective device in terms of its ability to interrupt circuits having the short curcuit current capacity likely to be encountered in the field without causing hazardous situations such as ignition of materials in proximity to the device. The test also determines whether the protective device will operate to prevent a lamp(s) from rupturing and igniting combustible surroundings when a short in the wiring occurs with one or more lamps in the shorted circuit.

CASCADE FAILURE SIMULATION TEST (1208.29)

The purpose of this test is to simulate the overcurrent conditions which could occur during the normal and failure operating modes of the miniature light string or decorations when lamp filaments burn out and the circuit current increases due to operation of the shunt feature contained within the lamps. With the Commission modification, the test is also intended to uncover hazardous situtations resulting from the accidental contact between a lamp and another lampholder, and from the bunching of the lamps together for unique decorative effect. The test is intended to uncover conditions where bare conductors or ignition hazards might result from lampholder melt down.

TEMPERATURE TEST FOR PLUGS, CONNECTORS, AND FUSEHOLDERS (1208.30)

Under maximum current conditions, the conductors of plugs, connectors and fuseholders should not result in temperature rises that indicate relatively high resistance paths. The purpose of this test is to evalute the adequacy of the conductors in terms of size, conductivity, and contact resistance. The test also evaluates connectors in terms of the adequacy of the receptacle contacts to resist burning or pitting.

RECEPTACLE INSERTION-WITHDRAWAL TESTS (1208.31)

The purpose of this test is to evaluate the characteristics of receptacles for retaining the blades of attachment plugs and add-on connectors.

PLUG AND CONNECTOR BLADE PULL TEST (1208.32)

The purpose of this test is to evaluate the security of the blades within the body of the plug or connector to resist pull forces. If a blade is displaced or dislodged it could expose live parts to contact by persns.

PLUG AND CONNECTOR BLADE PUSH TEST (1208.33)

The purpose of this test is to evaluate the integrity of the blades within the body of the plug or connector to resist push forces. A test failure occures if a blade is displaced or the enclosure opened to expose live parts.

CRUSH TEST FOR PLUGS AND CONNECTORS (1208.34)

This test evaluates the ability of the plug and connector bodies to resist breakage which could expose live parts or short circuit. The 75 pound force represents the crushing force under foot and is derived from a crush test in Underwriters Laboratories Standard UL 498.

STRAIN RELIEF TEST FOR PLUGS AND CONNECTOR CONNECTIONS (1208.35)

The purpose of this test is to evaluate the attachment of the wires to the plugs and connectors to resist pull forces that could expose live parts.

SECURITY OF INSULATION AT PLUGS AND CONNECTORS TEST (1208.36)

The purpose of this test is to evaluate whether insulation can slip away from the conductors of wire when pulled. If this condition exists, live parts could be exposed.

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DECORATIVE PART DOWNWARD BURNING RATE TEST (1208.37)

The purpose of this test is to evaluate whether materials are relatively slow burning. All materials used on miniature Christmas tree lights and decorations should, as an absolute minimum, meet the burning rate requirements of this test. The test does not rule out most paper, flock, fiber, plastic and other materials unless they are very flammable.

HEATING TEST FOR LAMPS AND LAMPHOLDERS (1208.38)

The purpose of this test is to simulate additional credible failure modes that cannot be determined by using the Cascade Failure Simulation Test. The temperature of 248° F (120° C) is the minimum for lamp bases and lampholders to withstand.The heat can be generated under conditions including: (a) Placing over the lamp assembly a decorative attachment not supplied with the lighting unit, (b) defective lamps that run abnormally hot, and (c) incorrect replacement of lamps into the light string by consumers that result in high-heat conditions. The two hour period allows for a full thermal soaking so that the ultimate effects on materials will become apparent.

MILLIVOLTS DROP TEST FOR LAMPHOLDERS (1208.39)

The purpose of this test is to evaluate the electrical integrity of the wire-to-lampholder connections to ensure that relatively low-resistance connections are used which will not add excessive heat to the lamp/lampholder assembly.

MAXIMUM WATTAGE TEST FOR LAMPS (1208.40)

The purpose of this test is to eliminate lamp bulbs that could generate extremely high surface temperatures (approaching the self-ignition temperature of materials used in and around Christmas tree lights). While this test is not expected to affect most presently known bulb designs, it is an important limitation to prevent future designs which could present a hazard when used as replacement bulbs in miniature Christmas tree lights.

CONDUCTIVE TINSEL TEST (1208.41)

The purpose of this test is to protect consumers against electric shock when they contact metallized tinsel and other conductive strips and threads near string components.

C. RECOMMENDATIONS (SUBPART C)

The Commission is publishing with the proposed standard several recommendations concerning miniature Christmas tree lights. Although these recommendations at Subpart C are not part of the proposed standard and would not, if published by the Commission with any final standard, be binding, the Commission believes that these recommendations are in the public interest and could improve the safety of the product. The Commission encourages manufacturers to follow these recommendations in making miniature Christmas tree lights.

At § 1208.50 the Commission recommends that materials be used which are appropriate to the functions of the parts they comprise. Although this provision is of a generalized nature, it has been included as a recommendation in order to further emphasize to manufacturers the importance of using the proper materials for miniature Christmas tree lights.

At § 1208.51, the proposal includes general recommendations to protect against corrosion of parts of the lights that enclose, or support or secure enclosures of electrically energized parts. The section recommends that parts be of stainless steel, or plated or coated iron or steel. Corrosion or rust of these parts could lead to failure of the part, resulting in exposure of live metal parts.

At § 1208.52 the proposal includes recommendations that address the mouthburn and other electrical shock hazards that plugs and connectors present to children. These recommendations are based on the provisions in the Underwriters Laboratories (UL) Standard for Cord Sets and Power Supply Cords (UL 817 A). The extension cord provisions have been included as recommendations for minature Christmas tree lights since the potential hazards from fire and shock with extension cords are also present in miniature Christmas tree lights. The Commission believes that plugs and receptacles on minature Christmas tree lights may be at least as inviting to small children as they are on extension cords. The CPSC has decided that a mandatory standard is not necessary at this time to address the mouthburn and shock hazards associated with extension and power supply cords since the provisions of the UL Standard (UL 817 A) appear to be adequate. The Commission believes that the recommendations at Section 1208.52, which are similar to provisions in the existing voluntary standard (UL 817 A) would, if followed, adequately address the mouthburn and shock hazards associated with miniature Christmas tree lights. The Commission does not at this time believe that it is necessary to include these provisions as requirements. However, if the Commission receives information idicating that mouthburns and electric shocks to childern are occurring in spite of these recommendations because of a failure to follow them, the Commission would consider amending the standard to include these provisions as requirements.

The recommendation for faces of attachment plugs and add-on connectors at § 1208.52(a) is intended to provide greater distances between the blades and the surfaces likely to be contacted by the small fingers of children. At § 1208.52(b) the Commission recommends that plug bodies provice a finger grip of finger gripping area to reduce the likelihood that a plug can be gripped at the periphery of the face where the blades project. If plugs are gripped at this point, contact with the live blades may result. The Commission also recommends that wires not project from the plug or add-on connector in the finger grip, so that wires are not damaged when the plug is gripped.

At § 1208.52(c) the proposal recommends that live parts within receptacle openings be recessed at least ¼ inch (6.35mm) from the receptacle face. This distance would ensure a separation to prevent bridging by saliva, where children place the receptacle in their mouth.

At § 1208.52(d) the proposal recommends that all receptacle openings be reliably and effectively closed with insulating material. The purpose of this recommendation is to provide additional precautions against contact and bridging by saliva of children with live parts within receptacle openings. This recommendation is generally consistent with provisions in the UL Standard for extension cord sets. This recommendation differs from the UL provision since it includes all receptacle openings. whereas the UL extension cord set standard permits one receptacle to remain open. This difference is based on the fact that extension cord sets are generally only energized when at least one receptacle is used, so that one receptacle could remain with a closure. By contrast, Christmas tree lights are often operated when no receptacles are used, so that all receptacles should be closed.

The Commission is publishing with the proposed standard labeling recommendations at § 1208.53 of Subpart C. These labeling recommendations involve care and use instructions, including instructions for testing and inspecting the light strings before use, instructions for the proper replacement of blubs and fused. instructions for proper storage, special precautions for outdoor use, a cautionary message to keep young children away from light strings and bulbs, and (if the light string has a separate and connector receptacle) a statement indicating that only other miniature lights or decorations with miniature lights should be attached to the receptacle.

The Commission encourages interested persons to comment on the rec-

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ommendations that have been included at Subpart C of this proposal.

D. OTHER CONSIDERATIONS

Findings. Section 9(c) of the act requires that prior to promulgating a consumer product safety rule the Commission shall consider and make appropriate findings as to:

(1) The degree and nature of the risk of injury which the rule is designed to eliminate or reduce;

(2) The approximate number of consumer products, or types or classes thereof, subject to such rule;

(3) The need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such products to meet such need;

(4) Any means of achieving the effect of the rule while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety;

(5) That the rule (including its effective date) is reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with miniature Christmas tree lights and similar miniature decorative lights; and

(6) That promulgation of the rule is in the public interest (15 U.S.C. 2058 (b) and (c)).

The Commission must also include these findings in the final rule.

Section 9(b) of the act (15 U.S.C. 2058(b)) requires that in promulgating a consumer product safety rule, the Commission shall also consider and take into account the special needs of elderly and handicapped persons to determine the extent to which such persons may be adversely affected by the rule.

The Commission welcomes comments from interested parties relating to all aspects of the subject matter of these findings.

THE DEGREE AND NATURE OF THE RISK OF INJURY THE RULE IS DESIGNED TO ELIMINATE OR REDUCE

The proposed standard is intended to reduce electrical fire and shock hazards associated with miniature Christmas tree lights. Based on the CPSC 1975 Christmas Decorative Light Survey, the Commission's technical analyses of hazards associated with miniature Christmas tree lights (Engineering Analysis of Miniature Christmas Tree Lights—December 20, 1976), and also on information about injuries associated with this product, the Commission has determined that potentially fatal fire and electrical shock hazards may result from using these products. The Commission has preliminarily determined that miniature Christmas tree lights present an unreasonable risk of injury. Technical analysis of hazards associated with miniature Christmas tree lights by the Commission staff indicates that shock hazards can be caused by direct contact with exposed live electrical conductors or by contact with an intervening conductive objective (such as a metallic tree ornament or accessory) that is in contact with the exposed conductor. The following are examples of characteristics of these lights which can create shock hazards: Bare wire where the wire enters the lampholders or plugs; plug and receptacle fittings that readily come apart; exposed lamp leads; cracked lampholders; and lampholders contacts which come out when the bulb is removed, thereby exposing the live contacts. Fire hazards can result from certain characteristics of light strings that may allow an exposed conductor to short to a grounded object, causing arching or excessive heating of flammable materials. The conductor can be exposed from bare wire at the entrance to lampholders of plugs, exposed lamp leads, cracked lampholders, or lampholders contacts that come out when the bulb is removed. Fire hazards can result from easily flammable grades of thermoplastic material heated by excessive current flow or arching. In addition, fire hazards can also result from the use of wire without proper overcurrent protection.

Approximately 20 percent of the incidents associated with miniature Christmas tree lights reported during the 1977 Christmas season involved fire; 70 per cent involved smoking, overheating or melting without evidence of actual ignition; and 10 percent involved reports of exposed current-carrying wires.

From 1974-1976, a total of 183 incidents involving Christmas tree lights were reported to the Commission from all sources, including in-depth investigations, consumer complaints received by the Commission and newspaper clippings provided by various clipping services available to the Commission. In about 40 percent of these incidents miniature Christmas tree lights were identified as the product. In about 20 percent of the incidents, larger size light strings were identified as the product. In the other 40 percent of the incidents, the product was identified only as "Christmas tree lights." Fifty of the incidents resulted in personal injury. The primary hazard was fire: More than two thirds of the injuries were burns, either from direct contact with a burning light string or as a result of an extensive fire. Twelve of the 50 injuries were definitely attributed to miniature Christmas tree lights. Eleven of the injuries were definitely attributed to larger size strings. The remaining 27 injuries could not be attributed to a light string of a definite size. In many cases where there was extensive fire damage, the kind of light string involved could not be identified.

The Commission has received several newspaper clippings reporting fires known or suspected to involve Christmas lights that occurred during the 1977 Christmas season. Most of these fires involved extensive property damage.

Economic analysis. The Commission has considered the potential economic effects of this proposed standard on the industry and on consumers, including possible changes in the production cost and retail price of some lighting units and effects on the utility and availability of miniature Christmas tree lights. The National Consumers League submitted with its recommended standard an economic analysis report which provides a substantial amount of information about the potential impact of this proposed standard, which is similar in most respects to NCL's recommended standard. The Commission believes that the conclusions of the report are generally applicable to this proposal. Their analysis estimates that some 30 to 40 million miniature Christmas tree lights and similar miniature decorative lights produced each year are potentially subject to a standard, and that the provisions of the submitted standard would probably lead to an increase in the average total cost of manufacturing miniature Christmas lights of approximately 8 to 12 percent. This may result in an increase in the retail price of some sets. It is expected that necessary changes to lights can be made within the limits of existing manufacturing practices and technology. The cost increase may be smaller for products now conforming to the Underwriters Laboratories' voluntary provisions, since the proposal includes many requirements that are similar to the UL provisions. Since the majority of Christmas tree lights are produced in Taiwan and since the Taiwan government has decided to require that all Christmas lights exported to the United States be UL listed after July 31, 1978, the economic effect of the standard may be minimized.

Changes and additions to the NCL recommended standard made by the Commission may add further to the estimated increases in production costs and retail prices and may affect the availability of certain kinds of products. The addition of the heating test for lamps and lampholders (1208.38), for example, may result in the discontinuation of the use of low-density polyethylene as a lampholder material. Some models of strings, particularly those with certain 12 volt lamps, may no longer be available as a result of changes made to the Cascade Failure Simulation Test (1208.29). Certain models of lamps such as ballast lamps or twinkle lamp designs may no longer be available as a result of the maximum wattage test for lampholders (1208.40).

An economic analysis report on the proposal will be made available for interested persons to comment on before the Commission decides whether to issue a final standard. This report will also treat the economic issues associated with product testing and any certification rule the Commission may propose.

The Commission has considered available information concerning the degree and nature of the risk of injury summarized above from the CPSC 1975 Christmas Decorative Light Survey, the Commission's technical analyses of hazards associated with miniature Christmas tree lights, and information about injuries associated with this product. The Commission has also considered presently available information concerning the potential economic effect of this proposed standard on industry and on consumers. The Commission will make available for public comment any additional economic information and analysis that is relevant and relied upon in the final standard. At the present time the Commission believes that the potential benefits associated with the proposed standard appear to outweigh the effect of the proposed rule on the cost, utility, and availability of the product. The Commission preliminarily determines that miniature Christmas tree lights and similar miniature decorative lights present an unreasonable risk of injury from electric shock and fire.

E. STOCKPILING

The Commission has not included an antistockpiling provision in the proposed standard since, as a result of the nature of the miniature Christmas tree light industry, the Commission does not believe that such a provision is necessary to prevent the intentional buildup of noncomplying inventories. For most firms, a substantial and costly deviation from normal production, and distribution practices and shipping schedules would have to be made in order to have non-complying merchandise in the U.S. before the effective date. The Commission believes that most firms will not have sufficient economic incentive to make these changes. If the Commission later determines that an antistockpiling provision is necessary, the Commission will issue such a rule.

F. ENVIRONMENTAL CONSIDERATIONS

The Commission has conducted an environmental assessment of the regulatory alternatives concerning miniature Christmas tree lights, addressing the potential effects of action on the production, distribution, consumption, and disposal of products subject to the standard. The effects of these alternatives will not lead to any significant impact on air and water quality, solid waste disposal, land use, energy use, or any other aspect of the physical environment. Since the proposed standard would not have a significant adverse effect on the quality of the human environment, an Environmental Impact Statement is not required. A copy of the environmental assessment may be seen in, or obtained from, the Office of the Secretary.

G. EFFECTIVE DATE

The Commission is proposing that the standard become effective on December 1, 1979. Miniature Christmas tree lights that are manufactured after the effective date of this standard must meet its requirements if the product is manufactured for sale, offered for sale, or distributed in commerce within the United States or if the product is imported into the United States.

The Commission is interested in implementing the standard in the shortest period of time consistent with the need to protect the public that will not create major market disruptions. Since many of the provisions in the proposed standard are currently being met by manufacturers, the Commission believes that the proposed effective date is consistent with the need to protect the public. In proposing this effective date, the Commission has taken into consideration the nature of the overseas production cycle for this product, since most of the light strings are manufactured abroad. Information presently available to the Commission indicates that the foreign manufacturing cycle, including raw material or component part acquisition, begins as early as fifteen to eighteen months before a given Christmas for some firms.

Assembly of the product for many firms may continue until seven or eight months before Christmas. The Commission believes that the December 1, 1979 effective date is reasonable and necessary to allow all manufacturers to comply with the standard with a minimum amount of disruption to their production cycles and manufacturing practices; products to be sold in the 1979 Christmas season would have been imported by the December 1, 1979 effective date. In addition, the Commission believes that the effective date is reasonable since presently available information indicates that most manufacturers would be able to make any necessary changes in their production process within the period between the anticipated publication of the final standard (March 15, 1979) and the proposed effective date, December 1, 1979. Also, since the foreign manufacturing cycle for the 1980 season would not begin before June 1979 for most firms, the anticipated publication of the final standard should provide most manufacturers with sufficient time to acquire raw materials and component parts for the 1980 Christmas season. If additional data show that it is in the public interest to extend or shorten the proposed effective date, the effective date could be changed. The Commission encourages the submission of data and arguments concerning the most appropriate effective date.

H. CERTIFICATION AND LABELING

Manufacturers and private labelers of miniature Christmas tree lights will be required to comply with the certification provisions of section 14(a)(1) of the act (15 U.S.C. 2063(a)(1) after the effective date of the miniature Christmas tree light safety standard. Section 14(a)(1) requires manufacturers (and private labelers, if the product bears a private label) to issue a certificate which states that the product conforms to all applicable consumer product safety standard and specifies any applicable standard. The certificate shall be based on a test of each product or upon a reasonable testing program and must state the name of the manufacturer or private label issuing the certificate and include the date and place of manufacture. Section 14(b) provides that, at the option of the person required to certify the product, testing may be conducted by an independent third party qualified to perform such tests or testing programs.

In addition, section 14 (b) and (c) of the act allows, but does not required, the Commission to issue regulations which would (1) prescribe a reasonable testing program, (2) specify which manufacturer shall issue the certificate when a product has more than one "manufacturer," and (3) require labeling of products subject to the safety standards. (Manufacturers of products subject a consumer product safety standard are required to issue a certificate under section 14(a)(1) based on a test of each product or on a reasonable testing program, even if the Commission has not issued regulation section 14 (b) and (c). Specific certification and labeling requirements of the type authorized by section 14 (b) and (c) of the Consumer Product Safety Act are not included in the proposed standard, but the Commission anticipates that they will be developed in the near future. The rule on certification and labeling will be separately proposed for public comment in accordance, with the requirements of the Administrative Procedure Act (5 U.S.C. 553). However, the Commission anticipates at this time that the proposed standard will not be issued in final form until the certification rule is also issued.

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Until such time as the Commission proposes a rule on certification, the following is offered as an indication of how the Commission staff believes that the Commission's certification rule should be structured. Interested persons may wish to use this as guidance for the development and conduct of a reasonable testing program and as guidance in commenting on the provisions of the standard itself.

The proposed standard includes many requirements and tests for components at subpart B. The Commission recognizes the impracticability of testing each item of an assembled product against each requirement of the standard. Therefore, the Commission offers the following guidance. The Commission believes that using certain known available materials of given specifications might provide a high degree of assurance that many of the components will meet the general requirements of the standard and will pass the performance tests in subpart B. Examples of such components are wire, fuses, plugs, and connectors. The following performance tests at subpart B of the standard address wire components: 1208.13-22. Plugs and connectors are covered by the following tests: 1208.30-36. Consequently, a manufacturer of a miniature Christmas tree light string should be able to be assured that the light string will meet many of the requirements of the standard, including many of the performance tests in subpart B of the standard, if appropriate component materials are purchased. The Commission believes that certification for miniature Christmas tree lights could in part be based on certification of components by component suppliers. The component supplier would certify the components as meeting the applicable requirements of the standard after an inspection or test of each component or by performance of a reasonable testing program.

The person issuing the certificate of performance for the assembled strings would rely on testing and inspection records from the component supplier as one of the basis for certification that the assembled string meets those requirements of the standard applicable to the certified components.

For some requirements of the standard manufacturers may not have any reasonable assurance that the requirements can be met by design or material choice. Instead, the ability to meet these requirements depends on the quality of workmanship or assembly practices. For these requirements the Commission believes that it will be necessary for the manufacturer to actually test the completed product. This may be necessary in order to ensure compliance with the requirements of the standard applicable to lampholders. As a result of the impracticability of testing each product, conformance to the standard may be demonstrated by the use of a lot acceptance sampling plan, where a lot to be inspected or tested is a quantity of production items manufactured during some specified time interval. The quantity of production in the lot or the interval of time of production used to define the lot is left as a choice of the manufacturer, or of the party responsible for issuing the certificate. For example, the manufacturer might choose to inspect or test each day's production of a given model, or each week's; or each month's. As guidance to the manufacturer, if experience has demonstrated that the production items are not highly variable so that requirements can be met with ease, then defining a lot in terms of a large quantity of production is justified and will minimize testing costs. If the production items are variable and, at times may not conform to the requirements, then smaller lot sizes are desirable. By identifying products by lot, on the box, manufacturers may be able to ensure that the Commission will not be forced to take action against a larger quantity of product to protect the consumer against a hazard associated with a particular lot.

The Commission staff is now drafting a proposed certification rule including a reasonable testing program. Although several months may be required before this certification rule could be published as a proposal, the Commission recognizes that the content of the Commission's certification rule and the final form of the standard are interrelated. The Commission does not intend to issue a final standard before the certification rule is issued, so that the effects of the certification rule and the standard on each other can be considered.

Although the Commission does not intend to issue a certification regulation as part of the standard that is being proposed in this notice, the Commission believes that it would be helpful to solicit comments on issues related to this subject so that these comments can be considered in drafting a proposed certification regulation. The following questions are among those that will be considered in the process of issuing a certification regulation.

1. Who should be required to certify? To what extent should component manufacturers be required to certify their components? To what extent should manufacturers be allowed to rely upon the certification of component manufacturers?

2. Concerning the requirement for a "reasonable" testing program:

(a) Should the Commission specify a reasonable testing program? Should compliance with the program be mandatory on those who are required to issue certificates of compliance? Or should the program be issued as a guideline?

(b) If the Commission does issue a document on reasonable testing, would it be sufficient to specify the levels of quality to be maintained and verified by a reasonable testing program? Or,

(c) Should the Commission prescribe the specific steps required for sampling and testing?

3. What would be the most appropriate and effective testing programs? Is design qualification testing sufficient to demonstrate compliance to the standard? Should production testing by means of inspection and testing of samples from production be a part of a reasonable testing program?

4. Should manufacturers be required to retain the samples that are tested? If so, for how long?

5. What records should be kept of the manufacturer's testing programs, the tests performed, and the test results? How long should such records be maintained?

6. What are the expected cost or other economic effects of practices or procedures manufacturers are likely to demonstrate compliance to testing and certification requirements?

In addressing these questions, commentors should keep in mind the nature of the miniature Chirstmas tree light industry and the cost and effects of any contemplated testing program.

Comments that solely concern certification issues will not be addressed in the preamble to any final consumer product safety standard for miniature Christmas tree lights that may be issued by the Commission. Rather, these comments will be considered by the Commission prior to proposing a certification regulation. The substantive comments that are received on that proposal will be addressed in the preamble to the final certification regulation when it is issued.

I. Extension of Time To Publish Final Rule

Section 9(a)(2) of the CPSA (15 U.S.C. 2058(a)(2)) requires the Commission to publish a notice of proposed rulemaking in the Federal Register and to provide interested persons with an opportunity to participate in the rulemaking through submission of written data, views, or agruments. In addition to these written comments, interested persons must also be given an opportunity for the oral presentation of data, views, or arguments.

Section 9(a)(1) of the CPSA provides that within 60 days after publication of a proposed rule, the Commission shall promulgate a final rule or withdraw the proposal. The Commission may extend the 60-day period for good cause and must publish its reasons for extension in the Federal Register.

The process of issuing a consumer product safety rule or withdrawing the applicable notice of proceeding requires the Commission to consider the substantive comments that are received on the proposal, decide if any changes to the proposed rule are required, make the findings required by section 9 of the act, and prepare an appropriate Federal Register notice. In the case of the proposed standard for miniature Christmas tree lights the Commission intends to issue a certification rule under section 14(b) of the act along with a final standard. The certification rule must also be proposed for public comment, and the public comments must be considered, before the certification rule can be issued in final form. As a result of these factors the Commission does not believe that a final standard can be issued until March 15, 1979. Accordingly, the Commission hereby extends until March 15, 1979, the date on which it must either publish a consumer product safety rule addressing the risk of injury from fire and shock associated with minature Christmas tree lights or withdraw by rule the applicable notice of proceeding. This period may be further extended for good cause shown.

Conclusion and Proposal

Having considered NCL's recommended safety standard for miniature Christmas tree lights and the supporting material submitted therewith, together with other relevant information, the Commission concludes that the recommended standard, changed as described above should be proposed as a consumer product safety standard.

Accordingly, pursuant to provisions of the Consumer Product Safety Act (7(f), 27(e), Pub. L. 92-573, 86 Stat. 1215, 1227, 15 U.S.C. 2056(f), 2076(e)), the Commission proposes that title 16, chapter II of the Code of Federal Regulations be amended by adding to subchapter B a new part 1208, as follows:

PART 1208—STANDARD FOR MINIATURE CHRISTMAS TREE LIGHTS AND SIMILAR MINIATURE DECORATIVE LIGHTS

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1208.26 Crush test for lampholders and fuseholders (other than types which are incorporated in plugs and connectors).
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1208.28 Short circuit simulation test.
1208.29 Cascade failure simulation test.
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1208.39 Millivolts drop test for lampholders.
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Subpart C—Recommendations

1208.50 General materials.
1208.51 Conductive materials.
1208.52 Plugs and connectors.
1208.53 Recommended labeling.

Authority: Sec. 2, 3, 7, 9, 14, 19, 27(e), Pub. L. 92-573, 86 Stat. 1207, 1208, 1212-17, 1220, 1224, 1227 (15 U.S.C. 2051, 2052, 2056, 2058, 2063, 2068, 2076(e).)

Subpart A—General Requirements of the Standard

§ 1208.1 Purpose, scope, and application

(a) *Purpose.* The purpose of this subpart A and subpart B, which together comprise the safety standard for miniature Christmas tree lights and other similar miniature decorative lights, is to set forth requirements to address the hazards of electric shock and fire, which are associated with the use of miniature Christmas tree lights and similar miniature decorative lights, and which may cause injury or death.

(b) *Scope and application.* (1) This part 1208 applies to all miniature Christmas tree lights as defined in § 1208.3(i) that are produced or distributed for sale to or for the personal use, consumption, or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise. This part does not apply to miniature Christmas tree lights that are not customarily produced or distributed for sale to, use or consumption by, or enjoyment of a consumer.

(2) Miniature Christmas tree lights manufactured after the effective date of this standard must meet the requirements of this standard if the miniature Christmas tree light is manufactured for sale, offered for sale, or distributed in commerce within the United States of if the miniature Christree tree light is imported into the United States.

(3) For enforcement purposes the requirements of this part 1208 are based on the U.S. customary units for measurement, that are given in the part. However, for convenience, the metric (SI) equivalents are also given.

§ 1208.2 Effective date.

This part 1208 becomes effective as to products manufactured after December 1, 1979.

§ 1208.3 Definitions.

For purposes of this part:

(a) "Add-On connector" means a combination attachment plug and receptacle device that may be attached to the electrical conductors of an appliance (including a miniature Christmas tree light), designed to accept the electrical attachment plug(s) of other appliances (including a miniature Christmas tree light), without adding additional current to the wires of the appliance of which it is a part. An add-on connector is also known as a "current tap".

(b) "Attachment plug" means a device attached to electrical conductors of an appliance (including a miniature Christmas tree light), which, by insertion into a receptacle, establishes electrical connection between the appliance and the receptacle conductors. See also the definition of add-on connector.

(c) "Connector" means a receptacle device that may be a part of an appliance (including a miniature Christmas tree light) and is used for the connection of an attachment plug. It may be integral with the plug, in which case it is an add-on connector; or it may be a pendant on the wires, in which case it is an end connector.

(d) "Decorative part" means any attachment to a string that is not a part relied upon for enclosing or supporting electrically live parts.

(e) "End connector" means a receptacle device that is a pendant on the wires and may be used on an appliance including a miniature Christmas tree light) for the connection of an attachment plug. Also known as a "cord connector body."

(f) "Lamp base" means the part of an electric light bulb that supports the bulb envelope and separates the elec-

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trical contacts that mate with a lampholder. The lamp base may or may not be a permanent part of the bulb envelope.

(g) "Lampholder" means a socket for the insertion of an electric light bulb. A lampholder is attached to the wires of a string.

(h) "Lay" means the distance between the points in which the wire or wire conductor strands complete one cycle of twist.

(i) "Miniature Christmas tree light or similar miniature decorative light" means a lighting unit intended for use with Christmas trees or other decorative applications, which: (1) has lamps or lampholders electrically connected by wires in series or in combinations of series paths, (2) is equipped with or intended to be used with lamps that dissipate 4 watts of power or less per lamp when the product is connected to a 120 volt rms source, and (3) is intended to be supplied electric power from a nominal 120 volt receptacle. Strings of lamps or lampholders which are sold as part of rigid decorations, such as wreaths or frames, are included with—this definition. In addition, a lighting unit meeting these requirements would be within the definition even it contains additional electrical elements other than lamps, such as switches, or an additional lamp or lamps with dissipate more than 4 watts of power.

(j) "Overcurrent Protective Device" means a component such as a fuse or circuit protector that opens a circuit when the current becomes excessive.

(k) "Parallel Cord" means distinct wire conductors, with insulation between conductors, formed together in a single un-twisted cable.

(l) "Plug" See the definition of Attachment Plug.

(m) "Pole" means each of two parts of an electrical circuit at which opposite electrical forces are manifested.

(n) "Receptacle" means a contact device for connection of an attachment plug.

(o) "Series Circuit" means the connection of two or more lamps or lampholders in sequence in which one lamp or lampholder is electrically joined to the next such that all the circuit current will flow through each lamp and return to the source, and removal of any lamp would open the circuit and interrupt the current.

(p) "Shunt" means a device within a lamp which is intended to become operative upon failure of the filament. It provides a secondary current path and allows the string to continue to operate.

(q) "Socket"—See the definition of Lampholder.

(r) "String" means lampholders interconnected with wires terminating in an attachment plug or an add-on connector. The string may include other electrical components and/or decorative parts.

(s) "Wire" means a flexible, insulated electrical conductor.

(t) The definitions in Section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) apply to this Part 1208.

§ 1208.4 Abbreviations.

The following is a list of some abbreviations used in this part.

AWG=American Wire Gauge
°C=Degree Celsius
°F=Degree Fahrenheit
ft=Foot
in=Inch
lbf=Pound Force
m=Meter
mm=Millimeter
N=Newton
rms=Root Mean Square

§1208.5 Materials.

(a) *Electrically Insulating Materials.* This subsection provides requirements for insulating materials. Other requirements for these materials are found in §§ 1208.7 and 1208.9. In this subsection, insulating materials are divided into three categories related to the functions of the insulating materials. The following is a description of the three categories and requirements for insulating materials which comprise each category.

(1) Class X—Class X materials do not directly contact, enclose, or support electrically live parts. Class X materials are used as shades, diffusers, reflectors, simulated needles and leaves, and supporting or decorative frames. Materials used for Class X purposes shall pass the Decorative Part Downward Burning Rate Test (1208.37), the Cascade Failure Simulation Test (1208.29), and the Short Circuit Simulation Test (1208.28) of Subpart B of this part.

(2) Class Y—Class Y materials contact or are relied upon to enclose or support electrically live parts whose steady current flow under normal operating conditions is limited by an overcurrent protective device rated at no more than 300 milliamperes. Class Y materials may include materials used as lamp bases, lampholders and certain shades and diffusers that are integrally molded as part of the lamp bases. Materials used for Class Y purposes shall pass the Decorative Part Downward Burning Rate Test (1208.37), the Cascade Failure Simulation Test (1208.29), the Short Circuit simulation Test (1208.28) and the Heating Test for Lamps and Lampholders (1208.38) of Subpart B of this part.

(3) Class Z—Class Z materials contact or are relied upon to enclose or support electrically live parts whose steady current flow under normal operating conditions is either not limited by an overcurrent protective device or is limited by an overcurrent protective device rated at more than 300 milliamperes. In addition, Class Z covers all materials, regardless of overcurrent protection, when used as insulation for wire, plugs, fuseholders and connectors. It also covers materials used for lampholders, lamp bases and other assemblies that are not Class X or Class Y applications. Materials used for Class Z purposes shall pass the appropriate component flammability tests (1208.21; 1208.27), the Cascade Failure Simulation Test, (1208.29) the Short Circuit Simulation Test (1208.28) and the Heating Test for Lamps and Lampholders (1208.38) of Subpart B of this part.

(b) *Conductive Materials.* (1) Electrically live parts, except for lamps, wire, and screwshell holders for lamps, fuses and other parts, shall be copper or an alloy that contains at least 60 percent copper by weight. For screwshell holders for lamps, fuses, and other parts, the materials shall be copper or an alloy that contains at least 80 percent copper by weight.

(2) Metallized tinsel and other conductive flexible strips and threads, 0.25 in (6.3 mm) and longer, and located within 1 in (25.4 mm) of a lampholder, fuseholder, plug or connector, shall pass the Conductive Tinsel Test of Subpart B (1208.41).

§ 1208.6 Wiring and assembly requirements.

(a) Wire conductors shall terminate in permanent electrical connections; that is, wire conductors shall not be used to routinely make and break electrical circuits. For lampholders with lamps removable by consumers, this means that wire conductors shall terminate at stationary plates, bars, or other connectors within lampholders which serve as the electrical contacts for making and breaking the electrical circuit whem lamps are inserted and removed from lampholders.

(b) The wire connecting two components shall be continuous and free of splices or taps.

(c) Wire within components shall be secured so that the conductor is not exposed and will not become exposed when tension is applied to the wire as described in the performance tests for components: Strain Relief Test for Plug and Connector Connections (1208.35), and Strain Relief Test for Lampholders, Fuseholders, and Other Bodies Except Plugs and Connectors (1208.23) of Subpart B of this part.

(d) The maximum non-transient current flow shall not exceed the value indicated in Table A for the corresponding wire size.

TABLE A.—*Wire current ratings*

Wire size, in American Wire Gauge (AWG):						
18	19	20	21	22	23	24
Current, in amperes:						
7	5	3	2.5	1.5	1.3	1.0

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(e) A string having any wire conductors of cross-sectional area less than No. 20 AWG shall be provided with overcurrent protection so that there are two protective devices, one for each pole, located in the circuit between the attachment plug or add-on connector and the points where the conductor becomes smaller in size than No. 20 AWG. The rating of the devices shall not exceed 3 amperes. See also § 1208.8 for additional overcurrent protection requirements.

(f) Each miniature Christmas tree light set shall have an attachment plug or an add-on connector for connection to the power supply source.

(g) Wire that is not parallel cord, and has a conductor cross-sectional area less than that of No. 20 AWG wire, shall have two or more wires twisted together longitudinally except between components, such as lampholders, mounted on a frame. The maximum length of the lay of the longitudinally twisted wires shall be not more than 10 times the sum of the outside diameters of the wires which are twisted together.

(h) Except where otherwise specified, uninsulated live parts of opposite polarity shall be separated as specified herein. Also uninsulated live parts shall be separated from dead metal parts which are likely to be exposed to contact by persons as specified herein. The parts shall be separated by a space through air, and over surface of not less than 0.047 inch (1.19 mm). For purposes of this measurement, an unexposed dead metal part interposed between live parts of opposite polarity or between a live part and exposed dead metal is considered to reduce the spacing by an amount equal to the dimension of the unexposed metal part in the direction of the measurement.

(i) All electrically live parts (except for live parts of plug blades for power supply connection) shall be insulated or otherwise enclosed so that they cannot be contacted by the probe in figure 1.

§ 1208.7 Component Requirements.

This section sets forth the design and performance requirements for components of miniature Christmas tree lights.

(a) *Wire.* Wire shall conform to the specifications in table B.

(1) Wire conductors shall consist of individual copper conductor strands. The wire conductor shall meet the maximum breaking strength requirements as indicated in table B.

(2) The cross-sectional area of wire conductor shall not be less than 391 circular mils (0.198 square mm) and shall be one of the AWG numbers in table B. The allowable area tolerance is minus 3 percent. If the minus tolerance is exceeded, the wire will be considered to be the next higher AWG number. The AWG number signifies the total circular mil area, which is the sum of the circular mil areas of the individual conductor strands.

(3) Wire insulation shall be composed of polyvinyl chloride or a copolymer of vinyl chloride and vinyl acetate, with a minimum average insulation thickness and a minimum insulation thickness at any point of the wire, as indicated in table B.

(4) The distance between distinct conductors of parallel cord shall be at least 1.5 times the required minimum average thickness for the insulation given in table B.

(5) The thickness of insulation for conductors of a parallel cord shall be a minimum of 0.013 in. (0.33 mm) after the distinct conductors have been intentionally torn apart in either direction to separate the conductors.

TABLE B.—*Wire specifications*

AWG size of conductor	Cross sectional area		Maximum breaking strength (a)		Minimum average insulation thickness (b)		Minimum insulation thickness at any point	
	Circular mils	Square millimeters	Pound-force	N	Inches	Millimeters	Inches	Millimeters
18	1,620	0.823	49.1	218.0	0.023	0.58	0.021	0.53
19	1,290	.653	39.0	174.0	.023	.58	.021	.53
20	1,020	.518	31.0	138.0	.023	.58	.021	.53
21	812	.410	24.6	109.0	.023	.58	.021	.53
22	640	.326	19.4	86.3	.020	.51	.018	.46
23	511	.258	15.4	68.5	.020	.51	.018	.46
24	404	.205	12.7	56.5	.020	.51	.018	.46

(a) Based on a maximum pull rate of 12 in (305 mm) per minute with the conductor insulation removed.
(b) Average insulation thickness is the average of maximum and minimum thickness measured at each of five separate locations along the wire.

(6) Wire shall pass each of the following tests in table C:

TABLE C.—*Tests for wire*

Test	Paragraph
Insulation resistance	1208.13
Elongation and tensile strength	1208.14
Heat-shock	1208.15
Deformation	1208.16
Cold-bend	1208.17
Weathering	1208.18
Dielectric	1208.19
Abrasion	1208.20
Flammability	1208.21
Flexing	1208.22

(b) *Plugs and connectors.* (1) Attachment plugs and add-on connectors shall have their blades located parallel to one another spaced 0.500±0.005 inch (12.7±0.13 mm) on centers, and extending out from the face of the plug or connector at least 0.625 inch (15.88 mm) and no more than 0.718 inch (18.24 mm). The blade width shall be 0.250±0.010 inch (6.35±0.25 mm). Except as required in 1208.7(b)(2), the thickness of a blade shall be 0.060±0.005 inch (1.524±0.127 mm).

(2) Plugs and connectors with folded blades shall meet these additional requirements. Except for that portion of a blade within 0.25 inch (6.25 mm) of the face, the thickness of the blade shall be 0.060±0.005 inch (1.524±0.127 mm). Within 0.25 inch (6.35 mm) of the face the thickness of the blade shall not be greater than 0.065 inch (1.65 mm). In an attachment plug or add-on connector having spring-blades, in which only one end of each folded-over blades is secured, the metal stock shall be 0.028-0.032 inch (0.711-0.013mm) thick. In an attachment plug or an add-on connector having spring type folded-over blades in which both ends of each blade are se-

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cured, the thickness of the metal stock shall not be less than 0.020 inch (0.508 mm).

(3) The face of attachment plugs and add-on connectors in which the blades project shall be in a plane perpendicular to the major axis of the blades. The face shall be a minimum of 0.50 inch (12.7 mm) by 0.875 inch (22.2 mm), with the blades centered and with a maximum radius of 0.22 inch (5.56 mm) at the corners. The 0.875 inch (22.2 mm) minimum dimension shall be perpendicular to the width of the blades. The blades shall be located in the middle of the face with maximum off-center distance of 0.0625 inch (1.59 mm) in any direction.

(4) The parallel slots in the receptacle faces of add-on connectors and end connectors shall be spaced 0.500±0.005 inch (12.70±0.13 mm) on centers. Slots shall be a minimum of 0.075 inch (1.90 mm), a maximum of 0.095 inch (2.41 mm) in width, and a minimum of 0.265 inch (6.73 mm) and a maximum of 0.285 inch (7.24 mm) in length. The distance across a receptacle face (for example, the diameter of a round face, or distance between opposite sides of a hexagonal face) of an add-on connector and an end connector shall be a minimum of 0.875 inch (22.22 mm). The receptacle slots shall be located in the middle of the face with a maximum off-center distance of 0.0625 inch (1.59 mm) in any direction.

(5) With the exception of phenolic or urea polymeric materials, electrically insulating materials shall be flame retardant as determined by the Flammability Tests for Class Z Applications of subpart B (1208.27). Pliable, molded, natural, or synthetic rubber, a combination thereof, the polymeric materials noted above, a polymer of vinyl chloride or a copolymer of vinyl chloride and vinyl acetate, shall be used for the insulating body of attachment plugs and connectors.

(6) Plugs and connectors shall be capable of withstanding a compressive load of 75 lbf (333.7 N) applied at right angles to the major axis of the plug blades or connector receptable cavities, as described in the Crush Test for Plugs and Connectors of subpart B (1208.34).

(7) Strings shall be capable of withstanding a pull on the wires leading to a plug or connector without detachment of the wire, exposure of live parts so that they can be contacted by the probe in figure 1, or cutting through wire insulation, as indicated by the Strain Relief Test for Plug and Connector Connections of subpart B (1208.35).

(8) Insulation on wires to plugs and connectors shall be prevented from slipping away from the plug or connector and exposing bare wire as determined by the Security of Insulation Test at Plugs and Connectors of subpart B (1208.36).

(9) Plug or add-on connectors shall enclose electrically energized parts, preventing them from being contacted by the probe depicted by figure 1 when sujected to blade push forces of the Plug and Connector Blade Push Test of subpart B (1208.33).

(10) Each blade of a plug or add-on connector, and the parallel blades tested together, shall be capable of withstanding a tensile force as determined by the Plug and Connector Blade Pull Test of subpart B (1208.32).

(11) Live parts within receptacle openings of add-on and end connectors shall not be capable of being contacted by the probe shown in figure 1.

(12) All wire terminations and other live parts of plugs and connectors shall be completely enclosed, except for receptacle openings on add-on and end connectors and blades projecting from plugs and add-on connectors. There shall be no dependence upon the use of separable covers or discs and parts which perform no function other than to provide strain relief. For purposes of this requirement separable covers and discs are those held in place by only friction without any positive detents, latches, screws, or fasteners.

(13) Receptacles shall enable a mating attachment plug or add-on connector to seat properly without exposing the blades between the plane of the face in which the blades project and the plane of the rim of the receptacle face as determined by the Receptacle Insertion-Withdrawal Tests in subpart B (1208.31).

(14) Plugs and connectors shall not have a temperature rise that exceeds 54° F (30° C), measured as described in the Temperature Test for Plugs, Connectors and Fuseholders of subpart B (1208.30).

(15) Plugs and connectors shall be capable of passing each of the following tests in table D:

TABLE D.—*Plug and connector tests*

Test	Paragraph
Plug and connector blade pull test	1208.32
Plug and connector blade push test	1208.33
Receptacle insertion-withdrawal test	1208.31
Strain relief test for plug and connector connections	1208.35
Security of insulation test at plugs and connectors	1208.36
Crush test for plugs and connectors	1208.34
Temperature test for plugs, connectors, and fuseholders	1208.30
Flammability tests for class Z applications (except wire)	1208.27

§ 1208.8 Overcurrent protection.

(a) In addition to the overcurrent protection requirement in § 1208.6(e), lamps shall be protected by overcurrent protective devices that prevent ignition under short circuit conditions with one or more lamps in the shorted circuit as determined by the Short Circuit Simulation Test of subpart B (1208.28). The shorted circuit may be between electrically live parts of opposite polarity or between electrically live parts and ground. In figure 2, overcurrent protective device pair A, A′ serves the entire string; overcurrent protective device pair B, B′ serves the group of lamp series circuits; and each overcurrent protective device pair C, C′ serves an individual lamp series circuit.

(b) Overcurrent protective devices shall be rated at ½ of the current that causes the protective device to open within 2 minutes when operated at room temperature.

(c) If replaceable fuses are used there shall be no electrically live parts of the fuse or holder that can be contacted by the probe in figure 1 during removal and replacement of the fuse.

(d) Insulation materials used for enclosures or holders of overcurrent protection devices must comply with the requirements for class Z materials at § 1208.5(a)3.

(e) Holders for replaceable fuses shall not accommodate the bases of non-fuse lamps used in the string.

(f) If fuses of the string are replaceable, at least one spare fuse, of the original fuse type, shall be provided with the product.

(g) Overcurrent protective devices are subject to the following tests in table E:

TABLE E.—*Tests for overcurrent protection device holders*

Test	Paragraph
Temperature test for plugs, connectors, and fuseholders	1208.30
Flammability test for class Z applications (except wire)	1208.27
Strain relief test for lampholders, fuseholders, and other bodies (except plugs and connectors)	1208.23
Crush test for lampholders and fuseholders (other than types which are incorporated in plugs and connectors)	1208.26

§ 1208.9 Lamps and Lampholders.

(a) Lampholders shall provide a spacing of not less than 0.030 inch (0.76 mm) through air and over surfaces between electrically live parts and dead metal parts. Electrically live parts of a lampholder shall be recessed at least 0.20 inch (5.08mm) from the lamp entry end of the lampholder.

(b) Lampholders shall have no conductive parts, live and dead (nonenergized), that can be contacted by the probe shown in Figure 1, before, during, or after the insertion of a lamp for which the lampholder is intended with the lamp and lamp contacts in any position permitted by the design.

(c) Lampholders and lamps shall withstand a dielectric breakdown between the electrically live parts and the outer surfaces of the assembly in accordance with the Dielectric Test for Lampholder and Lamp Assembly of Subpart B (1208.25).

(d) Lampholders, without lamps, shall not crack or expose electrically live parts when subjected to crush forces in accordance with the Crush Test for Lampholders and Fuseholders (Other Than Types Which Are Incorporated in Plugs and Connectors) of Subpart B (1208.26).

(e) Lampholders contacts shall be affixed within the lampholders in a way that will not permit displacement in accordance with the Secureness of Lampholder Contacts Test of Subpart B (1208.24).

(f) Wires within the lampholder shall be affixed so that when forces are exerted on the wires, there will be no exposure of electrically energized parts as specified by the Strain Relief Test for Lampholders, Fuseholders and Other Bodies Except Plugs and Connectors of Subpart B (1208.23).

(g) Miniature Christmas tree lights and decorations shall have lamps with only one operating voltage, unless the lamps are fuse lamps.

(h) Lamps that have shunts shall not be used in series circuits having fewer than 10 lamps or lampholders.

(i) Miniature Christmas tree lights and decorations shall have insulating materials, in accordance with § 1208.5(a). All materials are subject to the Decorative Part Downward Burning Rate Test of Subpart B (1208.37).

(j) The insulating body of a lamp and lampholder shall withstand thermal conditioning at a temperature no lower than 248° F (120° C) for no less than 2 hours with no softening or melting of the material that exposes electrically live parts in accordance with the Heating Test for Lamps and Lampholders of Subpart B (1208.38).

(k) The millivolts drop between the terminals of a lampholder shall not exceed 200 millivolts in accordance with the Millivolts Drop Test for Lampholders of Subpart B (1208.39).

(l) A lamp shall not be able to dissipate a wattage equal to 2.5 times the area of the outside glass bulb surface above the base in square centimeters or 1.25 times the minimum diameter of the lamp (the outside surface of the bulb) in the location of the filament in millimeters, whichever value is less, for more than 2 minutes in accordance with the Maximum Wattage Test for Lamps of Subpart B (1208.40).

(m) Lamps and lampholders shall be capable of passing each of the following tests in Table F:

TABLE F.—*Lamps and lampholders tests*

Test	Paragraph
Cascade failure simulation test	1208.29
Short circuit simulation test	1208.28
Heating test for lamps and lampholders	1208.38
Millivolts drop test for lampholders	1208.39
Strain relief test for lampholders, fuseholders and other bodies except plugs and connectors	1208.23
Secureness of lampholder contacts test	1208.24
Crush test for lampholders and fuseholders (other than types which are incorporated in plugs and connectors)	1208.26
Dielectric test for lampholder and lamp assembly	1208.25
Maximum wattage test for lamps	1208.40
Flammability tests for class Z applications (except wire)	1208.27
Decorative part downward buring rate test	1208.37

§ 1208.10 Required Packaging and Labeling.

(a) *Scope.* Miniature Christmas tree lights and similar miniature decorative lights shall meet the packaging and labeling requirements of this section. All cautionary statements required by this section to appear on any package or tag, shall be prominent and shall be conspicuous and legible and in contrast by typography, layout, or color with other printed matter. CPSC regulations at 16 CFR 1500.121 provide type size, placement, and other requirements for cautionary labeling under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261). Those regulations indicate how labeling can meet the requirements of the FHSA that labeling appear prominently and conspicuously on the label of a hazardous substance. The Commission suggests that the FHSA regulations at 16 CFR 1500.121 be used as guidelines as to whether labeling required in this standard is prominent, conspicuous and legible.

(b) *Labeling on Light String and Package.* Miniature Christmas tree lights shall have the following information on a label located between the plug and the first lampholder and permanently affixed to the light string: (16 CFR 1500.121(f) may be referred to for determining placement and conspicuousness for these statements).

(1) On one side of the permanently affixed label the following information must appear:

(i) The signal word "Caution or Warning";

(ii) The following statement of hazard: "To avoid fire or shock hazards";

(iii) The additional cautionary information

"Do not use on trees with metal or metallic needles, leaves or branch covering."

"Do not use staples or sharp-edge fasteners which can damage insulation."

"use only decorations over lamps if provided with light set."

(iv) Complete name and mailing address of the domestic manufacturer, domestic importer, distributor, or private brand seller;

(v) The manufacturers identification number (may be in code), indicating the style number or name, the lot number, and the year of manufacture;

(vi) The following statement or parts thereof, as applicable: "Use the following chart to safely replace bulbs and/or fuses:

Lamp: —— volts.
Fuse (when fuseholder can accommodate glass tube cartridge type fuse): —— amps, —— min. volts.
Fuse (when fuseholder designed to accommodate fuse other than glass tube cartridge type): replacement model number or equivalent.

(2) The labeling which is required by paragraph (b)(1) of this section shall also appear together prominently and conspicuously on the display panel of the package in which miniature Christmas tree lights and similar miniature decorative lights are displayed for sale to the public.

(c) *Labeling for Spare Bulb.* The following information shall appear on an envelope containing any spare bulb that is provided with the miniature Christmas tree light or similar miniature decorative light:

(1) The voltage of the bulbs;

(2) The manufacturer's identification number (may be in code).

Subpart B—Tests

NOTE.—Unless specified elsewhere in this subpart, tests are to be conducted at ambient air temperatures within the range 66°F (18.9°C) to 84°F (28.9°C) inclusive.

§ 1208.13 Wire Insulation Resistance.

The conductor length of the test specimen shall be a maximum of 5,000 ft (1,524 m). The test voltage shall be between 200 and 1,000 volts direct current inclusive. The measurement shall be made after 1 minute at the test voltage. Measured in room temperature tap water, when the specimen has been immersed for a minimum of six hours, the insulation resistance shall be at least 2.5 (1000)/L megohms, where L is the conductor length of the test specimen in feet, or 2.5 (304.8)/L megohms, where L is the length of the test specimen in meters.

§ 1208.14 Wire Insulation Elongation and Tensile Strength.

(a) For purposes of this test, a specimen consists of not less than a 6 inch (152 mm) length of complete tube formed by the insulation, except that in the case of parallel cords the specimen is the unseparated multiple tube. In order to prepare the specimen remove individual strands of the conductor from the insulation without damaging the insulation specimen.

(b) For purposes of this test, an aged sample is one which has been placed

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in a circulating-air oven, suspended vertically so that it does not touch the oven sides or other specimens, and maintained at an oven temperature not less than 212°F (100°C) for 168 hours.

(c) After aging some of the samples, remove them from the oven and keep them at a room temperature of 75.2±14.4°F (24.0±8.0° C) for at least 16 and not more than 96 hours. The unaged samples must be kept at this room temperature for at least 30 minutes.

(d) Use an apparatus that indicates the actual maximum load at which a specimen breaks. If an apparatus with a spring balance is used, be certain that recoil of the spring is prevented.

(e) Clamp each specimen in position with two gauge marks, 2 in (51 mm) apart, located outside of and between the grips. Adjust the movable grip to make the specimen taut, but not under tension. Then adjust the grip so that it moves at a speed of at least 20 inches (510 mm) per minute. In as must as the width of a mark increases when a specimen is stretched, make the measurement of elongation with reference to the center of each guage mark; that is, a point halfway between the edges of each mark. Allow the apparatus to separate the grips until the specimen breaks. Note the distance between the gauge marks at the time of the break. For an unaged specimen to pass the test, the elongation must be a minimum of 4 inches (102 mm) (200 per cent), and the minimum tensile strength of the wire insulation must be 1600 lbf/in (11.03 magepascals). For an aged specimen to pass the test, the minimum elongation of the wire insulation must be 50 percent of the result obtained with the unaged specimens, and the minimum acceptable tensile strength must be 85 percent of the result obtained with unaged specimens.

(f) For purposes of this test, elongation is the increase in distance between the guage marks, and tensile strength is the measured load which ruptures the specimen divided by the cross sectional area of the unaged specimen.

§ 1208.15 Heat-Shock Test for Wire Insulation.

(a) Each specimen of wire is to be wound tightly for six complete turns around a mandrel having a diameter of 0.094 in (2.4 mm). Successive turns are to be in contact with one another, and both ends of the specimen are to be securely held in place by friction tape.

(b) Each mandrel with wire attached shall be subjected to a temperature of not less than 250°F (121°C) in a circulation air-oven for one hour. The wire insulation shall be inspected for cracks while the wire is on the mandrel when it is removed from the oven. The wire insulation must not show any cracks on the surface as determined by the use of 0.002 inch (0.051 mm) guage. If the guage enters the plane of the surface when inserted into cracks located on the wire, the wire does not pass.

§ 1208.16 Deformation Test for Wire Insulation.

For purposes of test, the insulation thickness of an insulated conductor is the average diameter over the insulation minus the diameter of the conductor, with the difference divided by two. The average diameter is the average of maximum and minimum diameters measured at each of five separate locations along the wire. On a 1 inch (25.4 mm) or longer length of insulated conductor, measure the insulation thickness with a loading mechanism consisting of a dead-weight dial micrometer with a presser foot 0.375 inch (9.52 mm) in diameter that exerts a force of at least 0.1808 lbf (0.805 N) on the specimen. Following this, place the test specimen and the loading mechanism so that they are not in contact with each other in a circulating-air oven, maintained at a temperature not less than 250°F (121°C). After one hour, the micrometer is to be placed on the specimen with the force exerted by the micrometer plus additional force to equal a total of 0.552 lbf (2.46 N) for wire with conductors smaller in size than No. 20 AWG, and 0.882 lbf (3.93 N) for wire conductors No. 20 AWG and larger in size. After one hour at this force, and while in the oven, measure the insulation thickness. To pass the test the insulation thickness under the force must not be less than 50 percent of the initial measurement.

1208.17 Cold-Bend Test for Wire Insulation.

Subject a wire specimen and a 0.25 inch (6.35 mm) diameter mandrel to a temperature of −31°F (−34.9°C) for one hour. While maintaining the wire specimen and mandrel at that temperature, wind the wire tightly for six complete turns around the mandrel, at the rate of about 3 seconds per turn (18 ± 3 seconds for six turns). Successive turns are to touch one another. Maintain the wire tightly wrapped around the mandrel. To pass the test, wire insulation must show no cracks when inspected with the wire on the mandrel as determined by the use of a 0.002 inch (0.051 mm) guage. If the gauge enters the plane of the surface when inserted into cracks located on the wire, the wire does not pass.

§ 1208.18 Weathering Test for Wire Insulation.

(a) To pass this test, wire insulation that has been subjected to simulated outdoor weathering shall exhibit tensile strength and ultimate elongation not less than 80 percent of those of unweathered specimens. For this test, outdoor weathering shall be simulated by exposure of wire to a source of ultraviolet light and water spray in an artificial weathering apparatus as described in the following paragraph.

(b) The weathering test equipment shall be xenon are (water-cooled) Weather-Ometer employing a lamp rated at 6500 watts and automatic light monitoring and control systems. Borosilicate inner and outer filters shall be used. The wire specimens shall be mounted verticially on the inside of the specimen drum. The specimen drum is to rotate at one revolution per minute. The specimens shall be exposed to a radiant flux of 323 microwatts per square inch (50 microwatts per square centimeter or 12 calories per second per square centimeter) while monitoring at a wave length of 3400 angstroms (340 nanometers). A continous water spray cycle of 3 minutes on followed by 17 minutes off shall be used throughout the test. The temperature within the apparatus while in operation but with the spray off shall be 145.±9.0° F (63.0±5.0° C). The specimens are to be retained in the Weather-Ometer for a period of 1253 hours.

(c) After 1253 hours have elapsed, cool the samples to room temperature and then remove them from the apparatus. Remove the conductors from the insulation, and then test the insulation for tensile strength and elongation as directed in the test by that name.

§ 1208.19 Dielectric Tests for Wire Insulation.

(a) The insulation on wire must withstand without breakdown for a period of 1 minute the application of a 60 hertz sinusoidal potential of 1250 volts rms between the conductor and conductive foil tightly wrapped over the wire (except not wrapped over the ends of the wire).

(b) The insulation on the individual conductors which are joined together to form an integral multiconductor cords must withstand for one minute without breakdown between conductors the application of a 60 hertz sinusoidal potential of 1250 volts. The test potential is to be applied between each ciricuit conductor and every other circuit conductor. For each test, the applied potential is to be increased from zero at a uniform rate that is not less than 125 volts in 60 seconds, and is not more than 500 volts per second. The increase is to continue in this manner until the voltage reaches the level specified above. If this level is reached without breakdown, the voltage is to be held constant at the specified level for 60 seconds and is then to be reduced to zero at the rate mentioned above. If the wire insulation withstands these tests without breakdown, the wire insulation passes.

§ 1208.20 Abrasion Test for Wire Insulation.

(a) The insulation on wire must not wear through to expose the conductor in 400 or fewer cycles of the abrasion procedure described in the following paragraphs.

(b) Straight specimens of insulated wire are to be tested without any conditioning. One end of each specimen is to be attached to a reciprocating table or equivalent while the table is at one end of its travel. The other end of each specimen is to be attached so that there is a tensile force not less than 0.25 lbf (1.11 N). Each specimen is to be placed over a quarter cylinder to whose outer surface an unused sheet of medium grade emery cloth (½) is attached. The radius of the surface of the emery cloth is to be 3.5±0.25 inches (89±6 mm). The longitudinal axis of the quarter cylinder is to be perpendicular to each of the planes that contain the specimens as they move on, and are abraded by, the emery cloth. The table or equivalent is to be started in its reciprocating motion (simple harmonic motion) at the rate of between 20 and 30 cycles per minute inclusive, each cycle consisting of one complete back and forth motion with a stroke of not less than 6.25 inches (159 mm). The table is to be stopped every 50 cycles and the emery cloth is to be shifted slightly to one side so that in subsequent cycles each specimen is abraded by a fresh surface of the cloth. The wire is not acceptable in the size being tested if the strands are exposed anywhere on any of the specimens in 400 or fewer cycles of the abrasion.

§ 1208.21 Flammability Test for Wire Insulation.

(a) A length of wire is to be held taut in a horizontal position between two supports in a chamber approximately 24 inches (610 mm) long, approximately 12 inches (305 mm) wide, and approximately 12 inches (305 mm) high, open at the top and on one long side to permit an air flow of not greater than 30 ft (9.14 m) per minute. Dry absorbent surgical cotton is to be placed over the bottom of the test chamber, with no more than 9 inches (229 mm) between the cotton and the test specimen. The specimen is to be marked at distances of 2 inches (51 mm), 7 inches (178 mm), and 13 inches (330 mm) from one point of support of the wire. The flame from a Bunsen or Tirrill burner using methane gas is to be applied for 30 seconds to the sample at the 2 inch (51 mm) mark with the burner in a vertical position, and the tip of the blue inner flame applied to the underside of the wire. The barrel of the burner, having a bore of 0.375 inch (9.52 mm) and a length of approximately 4 inches (102 mm) above the primary air inlets, is to be adjusted to give a 2 inch (51 mm) flame with the blue inner cone equal to one third of the flame height. If the sample flames, the time of flaming is to be recorded as the time required for the flame to progress along the marked 6 inch (152 mm) section (between the 7 inch (178 mm) and 13 inch (330 mm) marks).

(b) If the sample does not flame, or if the flaming extinguishes before reaching the 13 inch (330 mm) mark, or if the finished wire shows a rate of flaming no greater than 1 inch (25.4 mm) per minute, and no flaming particles or drips falling from the sample ignite the cotton, the test is passed.

§ 1208.22 Flexing Test for Wire.

(a) Bend each specimen into the form of a flat-bottomed, square-cornered U with the legs of the U straight and of equal length. Tape the bottom of the U to the side of a movable round rod (A in Figure 3) with the axis of the conductor or conductors parallel to the longitudinal axis of the movable rod and the legs of the U extending perpendicular to the longitudinal axis of the movable rod between a pair of fixed round rods (B in Figure 3) that are 0.25 inch (6.35 mm) in diameter. Apply full force of 0.75 ounce force (0.209 N) to the free end of each leg. The longitulnal axes of the two fixed rods are to be equidistant from the movable rod before the flexing motion begins, and continually parallel to one another and to the longitundinal axis of the movable rod to which the speciments are taped. The distance between the two fixed rods is to result in the specimens being midway between the rods with a space from specimen to rod of not less than 0.0156 inch (0.397 mm), and not more than 0.0625 inch (1.59 mm).

(b) While passing the current that is indicated in Table A through the conductors, operate the movable rod in the pivoted motion (simple harmonic motion) depicted by the broken lines in Figure 3, at the rate of between 10 and 15 cycles per minute inclusive, each cycle consisting of one complete back and forth motion through an angle of 180 degrees centering about the points of flexure. After 6000 cycles stop the motion. Cut each specimen open and examine for broken strands at the points of flexure against the two fixed rods. The wire is acceptable in the size tested if half or fewer than half of the strands are broken in each leg of the specimens tested.

§ 1208.23 Strain relief test for lampholders, fuseholders and other bodies except plugs and connectors.

(a) The connection of wires to a body must be capable of withstanding a single pull of 8 lbf (35.6 N) applied to each of the wires individually, and to all possible combinations of the wires, in any direction. Each pull is to last for at least one minute. If a knot in the wires is provided outside the body, the pull is to be applied to each of the wires, with the knot between the point of application of the pull force and the body, without undoing the knot. Lampholders are to have lamps inserted and fuseholders are to have fuses inserted during the tests of those bodies.

(b) *Wire Pull—Method 1.* The body is to be secured in a manner that does not additionally support the wire connection, an example of which is shown in Figure 4.

(c) *Wire Pull—Method 2.* (1) The pull is to be applied between all combinations of any two wires to the body. The body shall not be secured for this test. See Figure 5.

(2) The results are considered acceptable if no live part becomes exposed as a result of a pull. Exposure means being contacted by the probe in Figure 1 before, during or after a pull on the conductor. In addition, a wire conductor is considered to be exposed before, during and after the pull if the end of the wire insulation does not enter the plane of the wire entry opening. Breakage of the wire conductor constitutes a failure, unless the break occurs at the jaws or attachment of the wire to a pulling device, in which case the results are to be discarded and another sample tested.

§ 1208.24 Secureness of lampholder contacts test.

(a) The reliability of the secureness of the contacts is to be determined in their as-received condition, following 7 hours of normal operation of the string in a position tending to cause the greatest heating of the lampholder, and then cooling to room temperature. The test force of 2 lbf (8.9 N) is to be applied for no less than 1 minute in a direction tending to force the contacts out of the lampholder after removing the lamp. The force is to be applied to each of the wires individually, and to all possible combinations of the wires exiting from the lampholder 0.125±0.031 inch (3.18±.79 mm) from their point of entry into the lampholder body.

(b) To pass the test, there must be no displacement of the contact in excess of 0.031 inch (0.79 mm) or which allows an electrically live part to be touched by the probe shown in Figure 1.

(c) Exception: If a knot in the wires is provided outside the body of the lampholder as a means of securing the contacts, preventing the attachment of the clamping device 0.125 inch (3.18 mm) from the lampholder body, the clamp is to be secured immediately adjacent to the knot on the side away from the lampholder.

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§ 1208.25 Dielectric test for lampholder and lamp assembly.

(a) To pass this test, the assembly of a lampholder and lamp must withstand without breakdown, for a period of 1 minute, the application of a 60-hertz sinusoidal potential of 1,250 volts, with the voltage increased from zero at a rate not to exceed 500 volts per second, between the electrical conductors and metal foil placed over the assembly and arranged to conform to its shape. The wire leads to the lampholder may serve as the electrode for the electrical conductors within the assembly.

§ 1208.26 Crush test for lampholders and fuseholders (other than types which are incorporated in plugs and connectors).

(a) A complete lampholder without a lamp or fuseholder without a fuse, with wires attached, shall be tested.

(b) A lampholder or fuseholder is placed between two flat surfaces parallel to each other and parallel to the major axis of the holder. Apply 16 lbf (71.2 N) compressive force perpendicular to the major axis and to the plane of the flat surfaces against the holder. For lampholders and fuseholders with open ends for lamp or fuse insertion, the force is to be applied at the open end for 1 minute and distributed along the holder body from the edge of the opening to a point no further than 0.20 inch (5.08 mm) from the edge. To pass the test, there must be no cracks or exposure of electrically energized parts that can be contacted with the probe in Figure 1.

§ 1208.27 Flammability tests for class Z applications (except wire).

(a) Test specimens are to be conditioned for at least 40 hours at a temperature of 73.4±3.6° F (23.0±2.0° C) and a relative humidity of 50±5 percent prior to testing. Other test specimens are to be conditioned in a circulating air oven for not less than 168 hours at 158° F (70° C) and then cooled in a desicator, over anyhdrous calcium chloride, for at least 4 hours at room temperature prior to testing. The test is to be conducted in a chamber, with an air flow no greater than 30 ft (9.14 m) per minute.

(b) Each specimen is to be supported from the upper 0.25 inch (6.4 mm) of the specimen, with the longitudinal axis vertical, by a clamp on a ring stand or the equivalent so that the lower end of the specimen is 0.375 inch (9.5 mm) above the top of the burner tube during flame application and 12 inches (305 mm) above a horizontal layer of dry absorbent surgical cotton (2 by 2 inch (51 by 51 mm) swatch thinned to a maximum free standing thickness of 0.25 inch (6.4 mm)).

(c) A Bunsen or Tirrill burner having a bore of 0.375 inch (9.52 mm) and a length of approximately 4 inches (101.6 mm) above the primary air inlets, using methane gas, is then to be ignited and adjusted to produce a blue flame 0.75 inch (19 mm) high. The flame should be obtained by adjusting the gas supply and the air ports of the burner until a 0.75 inch (19 mm) yellow-tipped blue flame is produced and then an increase in the air supply is to be made until the yellow tip disappears. The height of the flame is to be measured again and corrected to 0.75 inch (19 mm) if necessary.

(d) The test flame is to be brought to a central location under the lower end of the test specimen and allowed to remain for 10 seconds. The test flame is then to be withdrawn at least 6 inches (152 mm) away and the duration of flaming of the specimen noted. When flaming of the specimen ceases, the test flame is to be immediately placed again under the specimen. After 10 seconds, the test flame is again to be withdrawn, and the duration of flaming and glowing is to be noted. The illumination in the area when the test is performed shall not exceed 0.3 foot-candles.

(e) If the specimen drips molten or flaming material during either flame application, the burner may be tilted to an angle up to 45 degrees and also slightly withdrawn away from one of the sides of the specimen during the flame application to avoid materials dripping into the tube of the burner. If the specimen drips molten or flaming material or is consumed during the test, the burner is to be hand-held, and the 0.375 inch (9.5 mm) distance between the bottom of the specimen and the top of the burner tube is to be maintained during the flame application. Any molten strings of the material are to be ignored, and the flame is to be applied to the major portion of the specimen.

Observe and record the following:

(A) Duration of flaming after first flame application.

(B) Duration of flaming after second flame application.

(C) Duration of flaming plus visible glowing after second flame application.

(D) Whether or not specimen drips flaming particles which ignite cotton swatch.

(f) To pass the test, a test sample must not burn with flaming combustion for more than 10 seconds after each application of the test flame; no specimen may drip flaming particles that ignite the dry absorbent surgical cotton located 12 inches (305 mm) below the test specimen; and no specimen may have glowing combustion which persists beyond 30 seconds after the second removal of the test flame.

§ 1208.28 Short circuit simulation test.

(a) Electricial supply circuits of 125 volts, 60 hertz, calibrated to deliver 200 amperes to the string under short circuit conditions; and 125 volts, 60 hertz, calibrated to deliver 1,000 amperes to the string under short circuit conditions; each protected by a 20 ampere circuit breaker shall be used.

(b) This test is to be conducted on a string placed on a bed of dry absorbent surgical cotton. If the string has more than one lamp series circuit, the test must be performed using only one of those circuits the one with the longest length of wires between the plug and the first lampholder in the circuit. The test must be conducted with lamps having shunts (if used).

(c) Trace one wire from the plug to the first lampholder in the lamp series circuit that is provided with or can accommodate a lamp having a shunt (if used). Cut the wire midway between that lampholder and the next lampholder in the series circuit. If lamps without shunts are used exclusively, cut wire midway between the second and third lampholder. Strip the insulation from the wire extending from the first lampholder. Cut the wire between the plug and the last lampholder of the series string. Strip insulation from the wire extending from the plug. Twist the ends of the two stripped wires firmly together. Place dry absorbent surgical cotton over the complete test sample. Connect the plug to the 200 ampere electricial supply circuit, and by means of a switch, energize the test circuit. Repeat the test on another sample with one less lampholder in the circuit until only the overcurrent protective device is in the test circuit.

(d) Repeat the above steps on the 1,000 ampere electrical supply circuit. The test is passed if there is no breakage of the glass envelope of a lamp or fuse (if used), no expulsion of fragments from the test sample, and no ignition of the surrounding cotton.

§ 1208.29 Cascade failure simulation test.

(a) In this simulation, a lamp series circuit is represented by a single lamp, lamp base, and lampholder with wires attached, and a variable resistor or equivalent. The lamp, lampbase and lampholder together comprise a lamp assembly. The circuit is operated with the overcurrent protective devices which normally serve the circuit.

(b) Figure 6 shows a schematic diagram of the test circuit for the simulation of a cascade failure in a string where a pair of overcurrent protective devices serves only one lamp series circuit. For the simulation where a pair of overcurrent protective devices serves more than one lamp series circuit, the lamp series circuits that are in addition to the one circuit being represented by the lamp assembly and variable resistor, are to be electrically connected in parallel to the lamp assembly and variable resistor. At least

one of the additional lamp circuits is to be open circuited during the test.

(c) In general, the test will require the use of components from more than one string. Select the lamps for the string under test that have the hottest operating bulb surface temperatures. Decorative parts around the lamp, lampbase, and lampholder are to be in place during the test except as noted below. Additional fuses (if used) are to be obtained from other strings of the identical type.

(d) An unenergized lamp assembly from the same string or one of the identical type must be rested on top of the lamp assembly under test such that the part of the unenergized lampholder at which the internal contacts are closest to the surface is touching the bulb envelope of the tested assembly at a point as close as possible to the lamp filament. This may require rotating the lamp assembly under test so that the point at which its lamp filament is closest to the bulb envelope is also the point that contacts the unenergized lampholder. Maintenance of this contact is required throughout the test. For a string supported on a frame where the lampholders are separated to prevent lamps from contacting adjacent lampholders, the unenergized lamp assembly placement step noted herein may be omitted.

(e) For light strings with decorative parts around the lamp, lampbase, or lampholder that can be removed, the Cascade Failure Simulation Test must be performed both with and without the parts in place. In this situation, the above requirement that an unenergized lamp assembly be placed over the lamp assembly under test applies only when the decorative parts are not in place.

(f) To determine the normal current flow in a lamp series circuit, replace all lamps that operate intermittently (for example, bulbs that have thermally actuated internal contacts to alternatively open and close the series lamp circuit) with steadily burning lamps, and connect the string to a 120 volt, 60 hertz power supply. Measure the current. For multiple series circuit strings, measure the current in each lamp series circuit and calculate its average value. This is considered to be the normal lamp current. The variable resistor must have a resistance range up to at least 10 percent greater than the operating resistance of a lamp series circuit.

(g) Remove lamp assemblies by cutting the wires between each assembly selected and the nearest adjacent assemblies. Connect one assembly in the appropriate test circuit as shown in Figure 6. With the variable resistor at the maximum setting, connect the test circuit to the power supply. Increase the current through the assembly by adjusting the variable resistor until the previously determined normal lamp circuit current is reached and hold this value for a 5 minute±20 second period. After this period, increase the current to a value that is 20±1 percent below the maximum current that either the overcurrent protective devices or the lamp filament would pass (whichever is lower) if the current were increased from the normal current at a rate approximately 10 milliamperes every 10 seconds; these points having been previously determined by successive trials.

(h) If there is no discernable physical change in appearance, such as melting or dripping of materials, after 10-11 minutes increase the current in successive steps of 5 percent of the previous value, maintaining each step for a 5-6 minute period. If there is discernable physical change in appearance at any step, continue operation at that step for an additional 5-6 minutes. Continue this stepping process until either the lamp filament or the overcurrent protective device opens the circuit. For a valid test, the filament must operate for at least 10 minutes at a current above the normal value. If repeated samples open-circuit before the required 10 minute operating period is complete, reduce the value of the first over-current step by 5 percent and repeat the test on additional samples.

(i) If the lamp filament opens and the lamp shunt and overcurrent protective devices are still operational, increase the current in successive steps equal to 10 percent of the overcurrent protective device rating, maintaining each step for a 3-4 minute period. If there is discernable physical change in appearance at any step, continue operation at that step for an additional 10-11 minutes. Continue this stepping process until either the lamp shunt or the overcurrent protective device opens. If desired to save time, the lower current steps which begin after the filament opens, may be omitted so long as at least three consecutive steps are passed through just prior to opening either the lamp shunt or the overcurrent protective device.

(j) To pass the test, there must be no exposure of electrical conductors either in the lamp assembly under test or in the unenergized lampholder over it such that they can be contacted by the probe in Figure 1 and there shall be no ignition of any parts of the string during the test.

§ 1208.30 Temperature Test for Plugs, Connectors and Fuseholders.

(a) To pass this test, wire terminations and other live parts of plugs, connectors, and fuseholders must operate at 15 amperes with a maximum temperature rise of 54°F (30°C), except that: (1) Attachment plugs, and connectors and fuseholders (but not add-on connectors) are to be operated at the current rating of the connecting wire with a maximum temperature rise as set forth above; and (2) circuits protected by non-replaceable or non-interchangeable overcurrent protection devices are to be operated at the maximum value at which the device will operate continuously for at least two hours without the overcurrent protection devices opening the circuit (except as provided under paragraph (a) of this section), with a maximum temperature rise as set forth above.

(b) When testing plugs and add-on connectors, the connections to the blades are to be made to minimize heating from the connection. When testing receptacles, the receptacle contacts are to be tested together by means of an inserted attachment plug. They are to be tested after having been subjected to the overload test described in the following paragraph.

(c) Overload Test: Insert and withdraw an attachment plug having rigidly secured solid blades which are connected through a flexible cord to a load. Cause the connector to make and break 22.5 amperes (except that end connectors are to make and break 150 percent of the current rating of the connecting wire) for 50 cycles of operation at a rate no faster than 10 cycles per minute. The blade of the plug is to mate with the receptacle contact for no more than 1 second during each cycle.

(d) The unrestricted attachment plug is to be inserted and withdrawn with an average velocity of 30±3 inches (762±76 mm) per second in each direction during a 2.5 inch (63.5 mm) stroke measured from the fully inserted position. The potential of the test circuit is to be 120 volts ac, with the power factor between 0.75 to 0.80 inclusive.

(e) To pass this test, there must be no electrical or mechanical failure of the connector, or undue burning or pitting of the receptacle contacts.

§ 1208.31 Receptacle Insertion-Withdrawal Tests.

(a) This test is to be conducted using an attachment plug or add-on connector having solid blades which are 0.260 inch (6.60 mm) wide, 0.065 inch (1.651 mm) thick, and extend out 0.718 inch (18.24 mm) from the face of the plug or connector.

(b) The force needed for initial insertion of the blades of an attachment plug and add-on connector into the receptacle of a connector to within at least 0.0313 inch (0.793 mm) of full insertion must not exceed 20 lbf (89 N). The force needed to withdraw the blades after the first insertion and subsequent insertions must not exceed 15 lbf (66.75 N). The force needed for subsequent insertions of the blades to within at least 0.0313 inch (0.793 mm)

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of full insertion must not exceed 15 lbf (66.75 N). After 10 conditioning cycles of insertion and withdrawal of the blades, a pull of 3 lbf (13.35 N) in a direction normal to the face of the receptacle body and tending to withdraw the blades is to be applied for one minute. The results are acceptable if there are no exposed live parts that can be contacted by the probe in Figure 1.

(c) To pass the test, electrically live parts of a connector must remain insulated or enclosed as a result of the insertion and withdrawal forces so that they can not be contacted with the probe in Figure 1.

(d) In addition, to pass the test, the blades must not be accessible following the application of the insertion forces described in the previous paragraph using a 0.0313 inch (.793 mm) thick feeler gauge whose width is not less than 0.20 inch (5.08 mm).

§ 1208.32 Plug and Connector Blade Pull Test.

(a) Support plugs and add-on connectors so that tensile forces can be applied to the blade or blades along their longitudinal axes without restricting possible displacment of the blades and/or breakage of the enclosure of electrically live parts.

(b) Apply a 20 lbf (89 N) to each blade in succession and to the two blades tested together. Maintain each force for two minutes.

(c) The test is passed if a blade is not displaced more than 0.094 inch (2.38 mm). Measurements are to be made not less than 2 minutes nor more than 4 minutes after removal of the force.

§ 1208.33 Plug and Connector Blade Push Test.

(a) Support plugs and add-on connectors so as not to restrict possible displacement of the receptacle contacts and/or breakage of the enclosure of electrically live parts. Subject each blade, in turn, to a force of 35 lbf (155.6 N) applied gradually along the longitudinal axis of the blade in a direction toward the face of the plug or connector in which the blades project. Maintain the force for a period of one minute. This test is passed if neither blade is displaced more than 0.094 inch (238 mm) and the enclosure is not opened to expose electrically live parts so that they can be contacted by the probe in Figure 1 (except for the blades projecting as intended from the face of the plug or connector) as a result of the applied force.

§ 1208.34 Crush test for plugs and connectors.

A force of 75 lbf (333.7 N) is to be applied gradually to the surface of the plug or connector body at a right angle to the major axis of the plug blades or receptacle cavities for a period of 1 minute. The test is to be repeated on a different sample with the compressive force applied from a direction perpendicular to the direction of the previously applied force, and also perpendicular to the major axis of the plug blades or receptacle cavities. To pass the test there must be no cracking of the plug or connector body to expose electrically live parts as determined using the probe of Figure 1, and no contact made between conductor parts of opposite polarity.

§ 1208.35 Strain relief test for plug and connector connections.

(a) With the plug or connector body securely anchored (by the blades in the case of a plug), the wires are to be pulled together steadily for 1 minute in the direction normal to the plane of the cord entrance with a force of 30 lbf (133.5 N) for No. 18 AWG wires and 20 lbf (89 N) for wires smaller in size than No. 18 AWG.

(b) If no conductor is detached and if no bare conductor is beyond the plane of the wire entry opening or can be contacted by the probe in Figure 1, the construction passes the test.

§ 1208.36 Security of insulation test at plugs and connectors.

(a) To determine that the wire insulation is secured as required, the plug or connector is to be tested with at least 6 inch (152 mm) lengths of wires.

(b) The insulation on each conductor of the wires is to be split parallel to the conductor for a short distance at a point approximately 1 inch (25.4 mm) from its entry into the plug or connector and all strands of the conductor are to be severed at the split portion. With the plug or connector body securely anchored (by the blades in the case of a plug), a direct pull of 15 lbf (66.75 N) for No. 20 AWG and larger size wires and 10 lbf (44.50 N) for wires less than No. 20 AWG is to be applied to the free ends of the wires together for 2 minutes.

(c) The test is passed if there is no detachment of the insulation from within the plug or connector, no baring of the conductors at the entry to the plug or connector that can be contacted with the probe in Figure 1, and no bare conductor beyond the plane of the wire entry opening.

§ 1208.37 Decorative part downward burning rate test.

(a) The decorative part is to be supported on a noncombustible surface in a location having an air flow no greater than 30 ft (9.14 m) per minute. With the specimen positioned so as to place one of its major surfaces in a substantially vertical plane, the uppermost edge or surface is then to be ignited through the use of any convenient open flame such as an ordinary paper bookmatch. (To facilitate ignition, in the case of molded form or figure not having an exposed edge, it may be necessary to cut a slit or opening in the desired area.) Once the decorated part is ignited, the ignition flame is to be removed and the vertical downward burning rate is to be determined by measurement of burning distance in inches and time in seconds. Usually a vertical downward burning distance of 6 inches (152 mm) is sufficient to determine the burning rate; however, in the case of parts less than 6 inches (152 mm) in height, a shorter distance may be used. Where the finished part is too small to permit determination of the vertical downward burning rate, it is necessary to test larger test specimens of the same material and minimum thickness.

(b) If repeated attempts to ignite the material fail to sustain combustion, the material is considered to comply with the requirements.

(c) Where the decorative part consists of a combination of two or more materials the burning rate is to be determined on the combination unless it is determined that each material, when tested by itself, complies with the maximum allowable burning rate.

(d) To pass the test, the vertical downward burning rate must be less than or equal to 4 inches (102 mm) per 60 seconds.

§ 1208.38 Heating test for lamps and lampholders.

A circulating-air oven maintained at a uniform temperature of no less than 248° F (120° C) is to be used for the heating test. Lampholders with non-energized lamps are to be suspended in the oven by the wires to them. Additional lampholders with non-energized lamps are to be placed in the oven on their sides on flat surface(s). After a minimum of two hours of heating, the samples are to be removed and, after cooling to room temperature, examined for exposure of electrically live parts as determined by contact with the probe in Figure 1.

§ 1208.39 Millivolts drop test for lampholders.

A lampholder is to be fitted with a lamp base in which the lamp has been replaced by a short length, not more than 1 inch (25.4 mm), of No. 30 AWG solid copper wire. The lampholder assembly is to be placed in the position of the lamp assembly shown in Figure 7. The overcurrent protective devices are to be short circuited and the current is to be increased to 135 percent of the rating of the overcurrent protective device. The voltage between the wires coming from the assembly is to be measured. To pass this test, the drop between the wire is not to exceed 200 millivolts.

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§ 1208.40 Maximum wattage test for lamps.

The lamp is to be inserted into the lamp assembly shown in Figure 7. With the variable resistor at the maximum setting, connect the test circuit to the power supply. Adjust the variable resistor until the product of the current (in amperes) and the voltage across the lamp in volts is no greater than the wattage specified in § 1208.9(1). This adjustment should be completed within 60 seconds after power application. To pass this test, the lamp filament must open within two minutes after the specified wattage is achieved.

§ 1208.41 Conductive tinsel test.

(a) Metallized tinsel and other conductive flexible strips and threads, 0.25 inch (6.4 mm) and longer, and located within 1 inch (25.4 mm) of a lampholder, fuseholder, plug or connector shall be tested.

(b) Strips or threads of material shall be secured between two copper alloy clamps which are separated by not less than 0.25 inch (6.4 mm). Enough strips or threads are to be used to result in a single layer of material adding up to a total width of not less than 0.25 inch (6.4 mm).

(c) With an adjustable power supply, starting from zero, the applied voltage shall be gradually increased up to 120 volts ac.

(d) To pass the test, the material shall result in a current of less than 5 milliamperes or the material shall cause the circuit to open before this value is attained.

Subpart C—Recommendations

§ 1208.50 General materials.

Materials should be used which are appropriate to the functions of the parts they comprise.

§ 1208.51 Conductive materials.

Parts that are not electrically energized, but serve to enclose, or support, or secure enclosures of, electrically energized parts, should be of stainless steel, or plated or coated iron or steel, or otherwise protected against corrosion.

§ 1208.52 Plugs and connectors.

(a) *Faces of attachment plugs and add-on connectors.* The faces of attachment plugs and add-on connectors should be 0.75 (plus 0.0, minus 0.020) inch (19.05 (plus 0.0, minus 0.51) mm) by 1.0 (plus 0.0, minus 0.025) inch (25.4 (plus 0.0, minus 0.64) mm), with the blades centered and with a maximum 0.22 inch (5.56 mm) radius at the corners; the 1.0 inch (25.4 mm) dimension should be perpendicular to the width of the blades.

(b) *bodies of attachment plugs and add-on connectors.* The bodies of attachment plugs and add-on connectors should be of a shape that is not likely to be grasped at the periphery of the face at which the blades project, but rather is conducive to being gripped at a section formed for that purpose. The gripping area should extend over a distance of a least 0.687 inch (17.46 mm) located between two higher sections. The section at the rear should have a sharply defined projection at least 0.094 inch (2.38 mm) high, with a base of at least 0.063 inch (1.59 mm). In place of the gripping area, a finger grip in the form of a closed loop capable of accommodating fingers may be provided. Plugs and add-on connectors should not have wire(s) that projects from the plug or add-on connector in the finger grip area.

(c) *Recessed live parts.* Add-on and end connectors should have live parts within receptacle openings recessed at least 0.25 inch (6.35 mm) from the receptacle face.

(d) *Closures for receptacle openings.* Add-on connectors and end connectors should have receptacle openings that are reliably and effectively closed with insulating material. The closing means:

(1) Should, when in closed position, prevent a straight steel wire, 0.010 inch (0.254 mm) in diameter (No. 30 AWG), from touching any receptacle electric contact.

(2) Should be removable from the receptacle, but should not be removable from the string.

(3) Should be capable of normal displacement from (complete removal if appropriate), and return to (insertion if appropriate), the receptacle without breakage or damage, both before and after the connector and closing means have been conditioned for 7 hours at 158.0° F (70° C) in a circulating-air oven. The displacement and return operation after conditioning should be conducted after the parts have cooled to room temperature. If the closing means is removable from the receptacle, the conditioning should be conducted with the closing means positioned in the connector. A closing means not positioned in the receptacle should also be subjected to the conditioning.

(4) Should not impair the performance of the connector as determined after three simulated cycles of use, each cycle consisting of normal displacement and return of the closing means.

(5) Should not serve as a tab or handle that can be used to open another closing means on the connector.

(6) Should not be provided with handles, loops, knobs, or the like that might facilitate removal.

(7) Should be capable of withstanding a straight pull of no less than 1 pound applied perpendicular to the face of the receptacle, without the closure being removed from the receptacle.

(e) *Exposure of plug blades.* Receptacles should accommodate plug blades without exposure of the blades between the faces of the plug and receptacle as follows: The determination should be made using plug blades which extend out 0.718 inch (18.24 mm) from the face of the plug and after full insertion should not be accessible using a 0.010 inch (0.254 mm) thick feeler gauge whose width is not less than 0.020 inch (5.08 mm).

§ 1208.53 Recommended labeling.

(a) At least the following care and use instructions should appear as additional cautionary labeling on either a display panel of the package or on a separate notice inserted in the package to assist consumers:

(1) Instructions for testing and inspecting the light strings prior to use;

(2) Instructions for the proper replacement of bulbs and fuses;

(3) Instructions for proper storage;

(4) Special precautions for outdoor use;

(5) A cautionary message to keep young children away from light strings and bulbs;

(6) If the light string has a separate end connector receptacle, a statement indicating that only other miniature lights or decorations with miniature lights should be attached to the receptacle.

(b) The Commission regulations at 16 CFR 1500.121 (a), (c), and (d) may be used as guidance in determining the placement and conspicuousness of these statements.

(c) If the care and use instructions are provided on a separate insert notice, all information that is required by § 1208.10(c) to appear on the permanent label and packaging should also appear on the insert sheet immediately preceding the directions for use.

Interested persons are invited to submit written data, views, or arguments regarding any aspect of the proposed standard on or before July 3, 1978. Comments submitted after this date will be considered to the extent practicable. Commentors are requested to cite the specific sections of Part 1208 being commented upon and to identify the specific portions of other documents to which they refer.

The Commisssion is particularly interested in obtaining, either by written comment or by oral presentation, additional data, views, and arguments on the following matters:

(a) The degree and nature of the risk of injury the rule is designed to eliminate or reduce;

(b) The approximate number of consumer products, or types or classes thereof, subject to the rule;

(c) The need of the public for consumer products subject to such rule,

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and the probable effect of such a rule upon the utility, cost, or availability of such products to meet that need;

(d) Any means of achieving the objective of the rule while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety;

(e) The necessity of the rule to eliminate or reduce the unreasonable risk of injury associated with the consumer products subject to the rule;

(f) Whether the rule is in the public interest;

(g) Any adverse effects that this proposed rule will have on elderly and handicapped persons;

(i) Whether the proposed effective date of the rule is reasonable and necessary.

Comments should be accompanied, to the extent possible, by supporting data or documentation. Requests for confidentiality of documentation will be handled in accordance with the Freedom of Information Act as amended (5 U.S.C. 552), the Commission's proposed interim regulations under that Act (39 FR 30298), and the provisions of section 6(a)(2) of the CPSA (15 U.S.C. 2055(a)(2)).

Written submissions and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be supported by a memorandum or brief.

Interested persons will be afforded an opportunity to make an oral presentation of data, views, or arguments on any aspect of the proposed standard on June 7, 1978, at 9:30 a.m., in the Commission hearing room, third floor, 1111 18th Street NW., Washington, D.C.

The Commission's Procedural Regulations for Oral Presentations Concerning Proposed Consumer Product Safety Rules (16 CFR Part 1109) will govern this proceeding.

Those wishing to make oral presentations should notify the Office of the Secretary, 202-634-7700 by May 30, 1978. In addition, a summary or copy of the presentation, preferably in 5 copies is to be submitted to the Office of the Secretary by June 2, 1978.

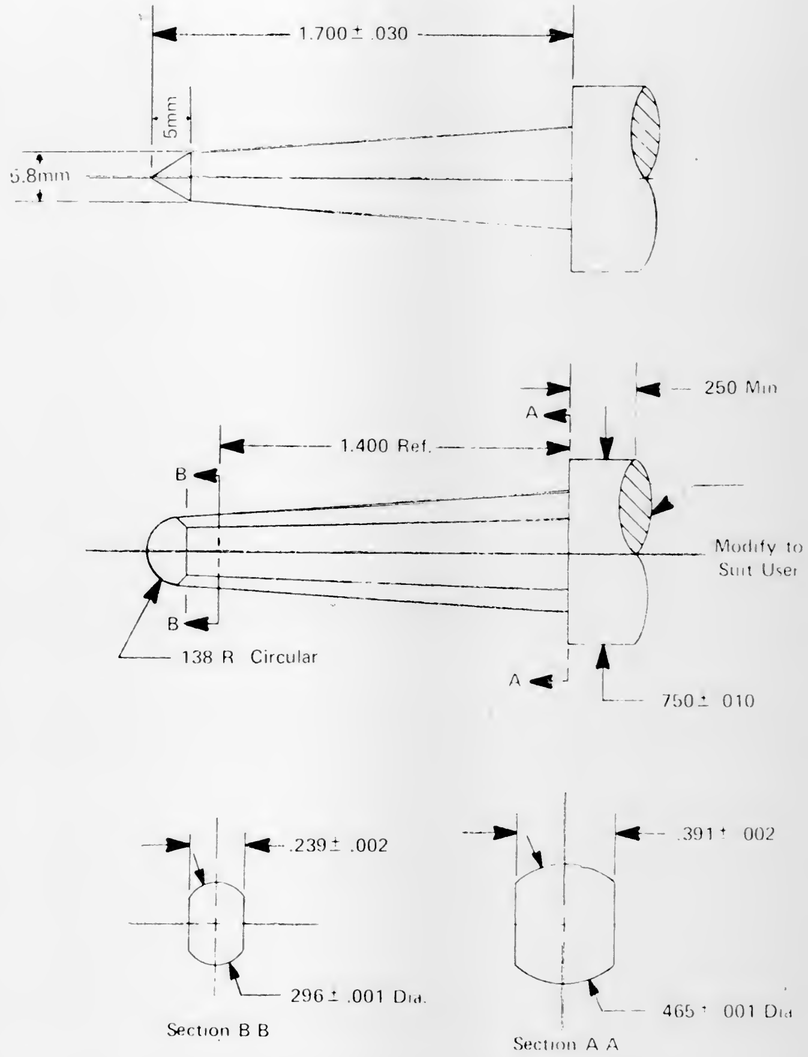
The official transcript of the oral presentations of data, views, or arguments, any written comments that are received, and all other material which the Commission has that is relevant to this proceeding may be seen in, or copies obtained from the Office of the Secretary, third floor, 1111 18th Street NW., Washington, D.C. 20207.

Dated: April 28, 1978.

SADYE DUNN,
Acting Secretary, Consumer Product Safety Commission.

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Figure 1
PROBE



Note. All dimensions are in inches unless otherwise specified

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Figure 2

POSSIBLE OVERCURRENT PROTECTIVE DEVICE LOCATIONS

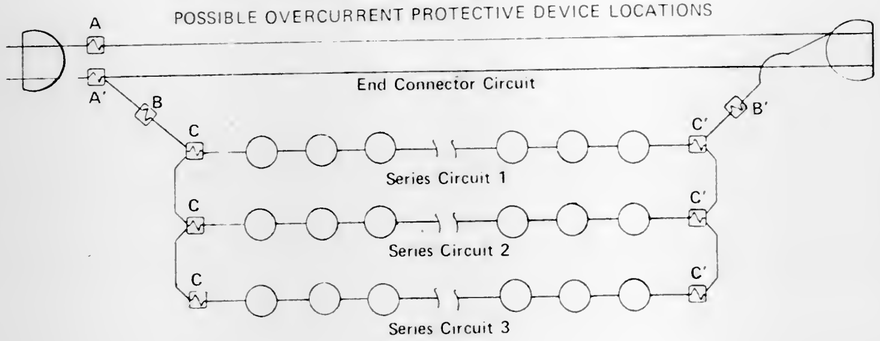
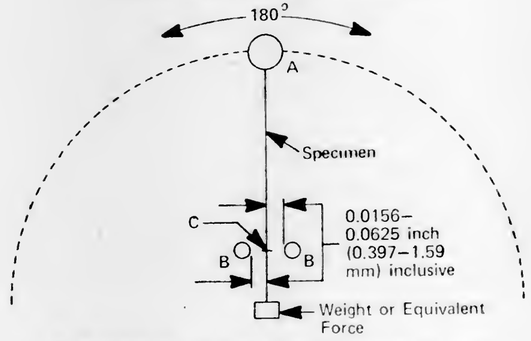


Figure 3

END VIEW OF FLEXING APPARATUS



A--Movable Rod. B--Fixed Rods. C--Point of Flexure.

Figure 4

TYPICAL TEST SET UP STRAIN RELIEF METHOD I

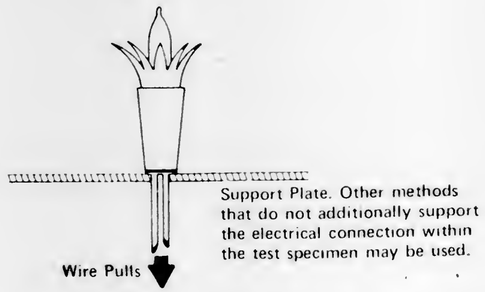


Figure 5

TYPICAL TEST SET UP – STRAIN RELIEF METHOD 2

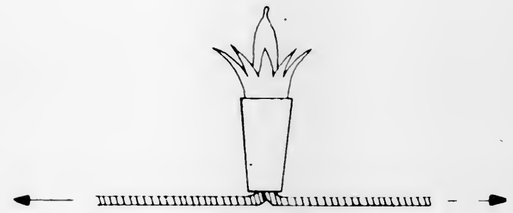
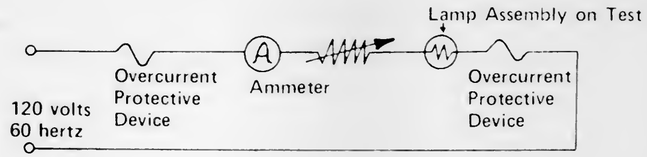
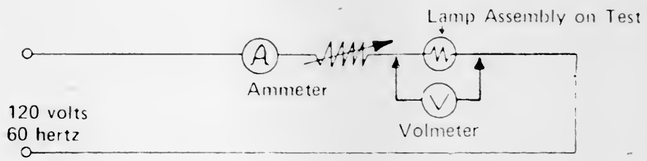


Figure 6



CASCADE FAILURE SIMULATION CIRCUIT

Figure 7



LAMP ASSEMBLY TEST CIRCUIT

[FR Doc. 78-12005 Filed 5-2-78; 8:45 am]

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Federal Register

WEDNESDAY, MAY 3, 1978
PART IV



VETERANS ADMINISTRATION

NONDISCRIMINATION ON BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Proposed Rules

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VETERANS ADMINISTRATION

[38 CFR Part 18d]

NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Proposed Regulations

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: These proposed regulations, which apply to all recipients of Federal financial assistance from the VA (Veterans Administration), are intended to ensure that their programs and activities are operated without discrimination on the basis of handicap. The regulations define and forbid acts of discrimination against qualified handicapped individuals in employment and in the operation of programs and activities receiving assistance from the VA. As employers, recipients must make reasonable accommodation to the handicaps of applicants and employees unless the accommodation would cause the employer undue hardship. As providers of services, recipients are required to make programs and activities operated in existing facilities accessible to handicapped persons, to ensure that new facilities are constructed so as to be readily accessible to handicapped persons, and to operate their programs in a nondiscriminatory manner. These proposed regulations implement the Rehabilitation Act of 1973.

DATES: Comments must be received on or before July 3, 1978. The proposed effective date will be the date the final requirements are published in the FEDERAL REGISTER.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until July 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles Clark, Veterans Administration, Office of Human Goals (09), 1425 K Street NW., Room 1116, Washington, D.C. 20420, 202-389-2012.

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 704, provides that "No otherwise qualified handicapped individual * * * shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Under Executive Order 11914 (41 FR 17871, April 29, 1976) HEW (Department of Health, Education, and Welfare) was required to issue general standards for other agencies and departments to follow in writing their regulations to implement section 504. The standards were published at 43 FR 2132, January 13, 1978. Generally, the standards set forth enforcement procedures, standards for determining which persons are handicapped, and guidelines for determining what practices are discriminatory.

The VA's proposed regulations are similar to the regulations issued by HEW (45 CFR Part 84). Changes were made to meet specific organizational, procedural or program requirements of the VA. Some recipients will be subject to the regulations of both the VA and HEW. To eliminate the duplication it is anticipated that a delegation of section 504 responsibility will be effected between the two agencies. It is expected that the delegation will parallel the delegations of responsibility with regard to title VI of the Civil Rights Act of 1964 that are currently in effect between the VA and HEW. Under the title VI delegations of responsibility, HEW has responsibility for institutions of higher learning, public schools, hospitals, and other health facilities, and the VA is responsible for proprietary schools.

Appendix A lists the VA programs which are subject to the requirements of section 504. Although the application of section 504 may seem rather inappropriate with regard to such programs as burial benefits or programs designed to assist certain disabled veterans (specially adapted housing and automobiles and adaptive equipment), it must be remembered that the law applies to employment practices of recipients as well as the provision of services.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until July 12, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: April 27, 1978.

By the direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

A new Part 18d is added to read as follows:

PART 18d—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Subpart A—General Provisions

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18d.1 Purpose.
18d.2 Application.
18d.3 Definitions.
18d.4 Discrimination prohibited.
18d.5 Assurances required.
18d.6 Remedial action, voluntary action and self-evaluation.
18d.7 Designation of responsible employee.
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18d.9 Administrative requirements for certain recipients.
18d.10 Effect of State or local law or other requirements and effect of employment opportunities.

Subpart B—Employment Practices

18d.11 Discrimination prohibited.
18d.12 Reasonable accommodation.
18d.13 Employment criteria.
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Subpart C—Program Accessibility

18d.21 Discrimination prohibited.
18d.22 Existing facilities.
18d.23 New construction.

Subpart D—Elementary, Secondary, and Adult Education

18d.31 Application.
18d.32 Location and notification.
18d.33 Free appropriate public education.
18d.34 Educational setting.
18d.35 Evaluation and placement.
18d.36 Procedural safeguards.
18d.37 Nonacademic services.
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Subpart E—Postsecondary Education

18d.41 Application.
18d.42 Admissions and recruitment.
18d.43 General treatment of students.
18d.44 Academic adjustments.
18d.45 Housing.
18d.46 Financial and employment assistance to students.
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Subpart F—Health and Social Services

18d.51 Application.
18d.52 Health and other social services.
18d.53 Drug and alcohol addicts.
18d.54 Education of institutionalized persons.

Subpart G—Procedures

18d.61 Procedures.

Appendix A—Statutory Provisions to Which This Part Applies.

AUTHORITY: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 704); E.O. 11914, 41 FR 17871, April 29, 1976)

Subpart A—General Provisions

§ 18d.1 Purpose.

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 18d.2 Application.

This part applies to each recipient of Federal financial assistance from the Veterans Administration and to each program or activity that receives or benefits from such assistance.

18d.3 Definitions.

As used in this part, the term: (a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(b) "Section 504" means section 504 of the Act.

(c) "Education of the Handicapped Act" means that statute as amended by the Education for all Handicapped Children Act of 1975, Pub. L. 94-142, 20 U.S.C. 1401 et seq.

(d) "Agency" means the Veterans Administration.

(e) "Administrator" means the Administrator of Veterans Affairs.

(f) "Recipient" means any State or its political subdivision, any instrumentality or a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(g) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by an Agency official or by a recipient as a condition to eligibility for Federal financial assistance.

(h) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract of or a contract insurance or guaranty), or any other arrangement by which the Agency provides or otherwise makes available assistance in the form of:

(1) Funds, including funds extended to any entity for payment to or on behalf of students admitted to that entity, extended directly to those students for payment to that entity, or extended directly to those students contingent upon their participation in a program of education or training of that entity;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including;

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(i) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(j) "Handicapped person." (1) Handicapped persons means any person who:

(i) Has a physical or mental impairment which substantially limits one or more major life activities;

(ii) Has a record of such an impairment; or

(iii) Is regarded as having such an impairment.

(2) As used in paragraph (j)(1) of this section; the phrase:

(i) "Physical or mental impairment" means:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs including speech organs; respiratory; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(B) Any mental or psychological disorder, such as mental retardation; organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means:

(A) Has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation;

(B) Has none of the impairments defined in paragraph (j)(2)(i) of this section, but is treated by a recipient as having such an impairment.

(k) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to elementary, secondary, or adult educational services, a handicapped person:

(i) Of an age during which nonhandicapped persons are provided such services;

(ii) Of any age during which it is mandatory under State law to provide such services to handicapped persons; or

(iii) To whom a State is required to provide a free appropriate public education under section 612 of the Education of the Handicapped Act; and

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity;

(4) With respect to training in Veterans Administration health care facilities, a handicapped person who with reasonable accommodation can function within facility requirements for patient and staff safety and well being;

(5) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(l) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (j) of this section.

§ 18d.4 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate

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as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) Aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must give handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that:

(i) Have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap.

(ii) Defeat or substantially impair accomplishment of the objectives of the recipient's program with respect to handicapped persons, or

(iii) Perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determing the site or location of a facility, an applicant for assistance or a recipient may not make selections that:

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity that receives or benefits from Federal financial assistance, or

(ii) Defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefitting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) *Programs limited by Federal law.* The exlusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

§ 18d.5 Assurances required.

Assurances required. An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance on a form specified by the Administrator, that the program will be operated in compliance with this part.

(b) *Duration of obligation.* (1) When Federal financial assistance is extended in the form of real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provisions of similar services or benefits.

(2) Where Federal financial assistance is extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Extent of application to institution or facility.* An assurance shall apply to the entire institution or facility. The Administrator may waive this requirement if the institution or facility can establish that the practices in designated parts and programs will not affect its practices in the program for which Federal financial assistance is being received or requested. If the assistance is being received or requested for the construction of a facility or part of a facility, the assurance shall apply to the entire facility and to facilities operated by the institution or facility.

(d) *Outside individuals or organizations.* A recipient shall not use the services of an individual or organization that discriminates against the handicapped or permit such an individual or organization to use its facilities. The recipient shall provide the Administrator with written assurance from individuals and organizations that such discrimination will not take place while they are providing services for the recipient or using his or her facilities.

(e) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Agency, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (b)(2) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Agency, the covenant shall also include a condition coupled with a right to be reserved by the Agency to revert title to the property if there is a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purpose for which the property was transferred, the Administrator may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as he or she considers appropriate, agree to forbear the exercise of the right to revert title as long as the lien of the mortgage or other encumbrance remains effective.

§ 18d.6 Remedial action, voluntary action and self-evaluation.

(a) *Remedial action.* (1) If the Administrator finds that a recipient has discriminated against qualified persons on the basis of handicap in violation of section 504 or this part, the recipient shall take such remedial action as the Administrator considers necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against qualified persons on the basis of handicap in violation of section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Administrator, where appropriate, may require either or both recipients to take remedial action.

(3) The Administrator may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action with respect to:

(i) Handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred; or

(ii) Handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) A recipient shall, within 1 year of the effective date of this part:

(i) Evaluate with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects of the policies and practices that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient that employs fifteen or more persons shall, for at least 3 years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Administrator upon request:

(i) A list of the interested persons consulted;

(ii) A description of areas examined and any problems identified; and

(iii) A description of any modifications made and of any remedial steps taken.

§ 18d.7 Designation of responsible employee.

A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part.

§ 18d.8 Notice.

(a) A recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment, or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated under § 18d.7. A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazianes, placement of notices in recipient's publication, and distribution of memorandums or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this section either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 18d.9 Administrative requirements for certain recipients.

(a) The Administrator may require any recipient with fewer than fifteen employees, or any class of such recipients, to comply with §§ 18d.7 and 18d.8 in whole or in part, when the Administrator finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

(b) The Administrator may at his or her discretion exempt certain recipients from compliance with §§ 18d.6(c) and 18d.7.

§ 18d.10 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any State law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

Subpart B—Employment Practices

§ 18d.11 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this part applies.

(2) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(3) A recipient may not participate in a contractual or other relationship that subjects qualified handicapped applicants or employees to discrimination in employment. The relationships referred to in this section include relationships with employment and referral agencies, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Specific activities.* Nondiscrimination in employment applies to:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, award of tenure, demotion, transfer, layoff, and rehiring;

(3) Rates of pay or other forms of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activites, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) *Collective bargaining agreements.* A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 18d.12 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of a handicapped applicant or employee in order to determine if he or she is qualified to perform essential job skills unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include:

(1) Making facilities used by employees readily accessible to and usable by handicapped persons; and

(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters and other similar actions.

(c) In determining under paragraph (a) of this section whether an accommodation would impose an undue

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hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 18d.13 Employment criteria.

(a) A recipient may not use any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless:

(1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and

(2) Alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Administrator to be available.

(b) A recipient shall select and administer tests concerning employment to best ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except when those skills are the factors that the test purports to measure).

§ 18d.14 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a medical examination or may not inquire of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, inquire as to an applicant's ability to perform job-related functions.

(b) A recipient may invite applicants for employment to indicate whether and to what extent they are handicapped if:

(1) It is taking remedial action to correct the effects of past discrimination under § 18d.6(a);

(2) It is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its Federally assisted program or activity under § 18d.6(b); or

(3) It is taking affirmative action under section 503 of the Act.

(i) The recipient shall state clearly on any written questionnaire used for this purpose or make clear orally, if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(ii) The recipient shall state that:

(A) The information is being requested on a voluntary basis;

(B) The information will be kept confidential as provided in paragraph (d) of this section;

(C) Refusal to provide the information will not subject the applicant or employee to any adverse treatment; and

(D) The information will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior the the employee's entrance on duty, if:

(1) All entering employees are subjected to such an examination regardless of handicap; and

(2) The results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be given confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

Subpart C—Program Accessibility

§ 18d.21 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 18d.22 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirement of paragraph (a) of this section through redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with § 18d.23 or any other methods that make its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in making its programs or activities readily accessible to handicapped persons. In choosing among available methods for complying with paragraph (a) of this section, a recipient shall give priority to methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Small health, welfare or other social service providers, and recipients that operate other than educational programs or activities.* If a recipient with fewer than fifteen employees, finds after consultation with a handicapped person seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the qualified handicapped person to other providers whose services are accessible.

(d) *Time period.* A recipient shall comply with paragraph (a) of this section within 60 days of the effective date of this part except that when structural changes in facilities are necesary, these changes shall be made as soon as possible, but not later than 3 years after the effective date of this part.

(e) *Transition plan.* If structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop a transition plan within 6 months of the effective date of this part. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than 1 year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) *Notice.* The recipient shall implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information concerning the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 18d.23 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient, after the effective date of this part, shall be designed and constructed so that the facility or part of the facility is readily accessible to and usable by handicapped persons.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that effects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered so that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1-1961(R1971),[1] which is incorporated by reference in this part, shall constitute compliance with paragraphs (a) and (b) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility is provided.

Subpart D—Elementary, Secondary, and Adult Education

§ 18d.31 Application.

This Subpart D applies to elementary, secondary, and adult education programs and activities that receive or benefit from Federal financial assistance.

§ 18d.32 Location and notification.

A recipient that operates a public elementary or secondary educational program shall annually:

(a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and

(b) Notify handicapped persons and their parents or guardians of the recipient's duty under this subpart.

§ 18d.33 Free appropriate public education.

(a) *General.* A recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.

(b) *Appropriate education.* (1) The provision of an appropriate education is the provision of regular or special education and related aids and services that:

(i) Are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met; and

(ii) Are based upon adherence to procedures that satisfy the requirements of §§ 18d.34, 18d.35, and 18d.36.

(2) Implementation of an individualized education program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

(3) A recipient may place a qualified handicapped peson in or refer that person to a program other than the one that it operates as its means of carrying out the requirements of this subpart. The recipients remain responbile for ensuring that the requirements of this subpart are met with respect to any qualified handicapped person so placed or referred.

(c) *Free education.* (1) The provision of a free education is the provision of educational and related services without cost to the handicapped person or to his or her parents or guardian, except for those fees that are imposed on nonhandicapped persons or their parents or guardian. It may consist either of the provision of free services if a recipient places a handicapped person in or refers that person to a program not operated or, by the recipient as its means of carrying out the requirements of this subpart, of payment for the costs of the program. Funds available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a handicapped person.

(2) If a recipient places a handicapped person in or refers that person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the program is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were placed in the program operated by the recipient.

(3) If placement in a public or private residential program is necessary to provide free appropriate public education to a handicapped person because of his or her handicap, the program including non-medical care and room and board, shall be provided at no cost to the person or his or her parents or guardian.

(4) If a recipient has made available, in conformance with this section and § 18d.34, a free appropriate public education to a handicapped person and the person's parents or guardian chooses to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a recipient regarding whether the recipient has made such a program available or regarding the question of financial responsibility are subject to the due process procedures of § 18d.36.

(d) *Compliance.* A recipient may not exclude any qualified handicapped person from a public elementary or secondary education after the effective date of this part. A recipient that is not, on the effective date of this part, in full compliance with the requirements of paragraphs (a) through (c) of this section shall meet those requirements at the earliest practicable time, but not later than September 1, 1978.

§ 18d.34 Educational setting.

(a) *Academic setting.* A recipient shall educate, or shall provide for the education of, each qualified handicapped person in its jurisdiction with persons who are not handicapped to the extent appropriate to the needs of the handicapped person. A recipient shall place a handicapped person in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. If a recipient places a person in a setting other than the regular educational environment, it shall consider the proximity of the alternate setting to the person's home.

(b) *Nonacademic settings.* In providing or arranging for the provision of nonacademic and extracurricular services and activities, a recipient shall ensure that handicapped persons participate with nonhandicapped persons in those activities and services to the

[1] Copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

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maximum extent appropriate to the needs of the handicapped person in question.

(c) *Comparable facilities.* If a recipient in compliance with paragraph (a) of this section operates a facility for handicapped persons, the recipient shall ensure that the facility and the services and activities provided in that facility are comparable to the other facilities, services, and activities of the recipient.

§ 18d.35 Evaluation and placement.

(a) *Preplacement evaluation.* A recipient that operates a public elementary or secondary education program shall conduct an evaluation of any qualified person who, because of handicap, needs or is believed to need special education or related services before taking any action concerning the initial placement of the person in a regular or special program and any subsequent change in placement.

(b) *Evaluation procedures.* Elementary, secondary, and adult education programs and activities that receive or benefit from Federal financial assistance shall establish standards and procedures which ensure that:

(1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;

(2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and

(3) Tests are selected and administered to best ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the students aptitude or achievment level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factor that the test purports to measure).

(c) *Placement procedure.* In interpreting evaluation data and in making placement decisions, a recipient shall:

(1) Draw upon information from a variety of sources;

(2) Establish procedures to ensure that information obtained from all sources is documented and carefully considered;

(3) Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data and the placement options; and

(4) Ensure that the placement decision is made in accordance with § 18d.34.

(d) *Reevaluation.* A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement.

§ 18d.36 Procedural safeguards.

(a) A recipient that operates a public elementary or secondary education program shall implement a system of procedural safeguards with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services. The system shall include:

(1) Notice;

(2) An opportunity for the parents or guardian of the person to examine relevant records;

(3) An impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel; and

(4) A review procedure.

(b) Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement.

§ 18d.37 Nonacademic services.

(a) *General.* (1) Elementary, secondary, and adult education programs that receive or benefit from Federal financial assistance shall provide nonacademic and extracurricular services and activities in a manner which gives handicapped students an equal opportunity for participation in these services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups and clubs sponsored by the recipient, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

(b) *Counseling services.* Elementary, secondary, and adult education programs that receive or benefit from Federal financial assistance and that provide personal, academic, or vocational counseling, guidance, or placement services to its students shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.

(c) *Physical education and athletics.* In providing physical education courses and athletics and similar programs and activities to any of its students, an elementary, secondary, or adult education program or activity that receives or benefits from Federal financial assistance may offer to handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if:

(1) Separation or differentiation is consistent with § 18d.34; and

(2) No qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

§ 18d.38 Adult education programs.

A recipient that operates an adult education program or activity may not, on the basis of handicap, exclude qualified handicapped persons from the program or activity. The recipient shall take into account the needs of these persons in determining the aid, benefits, or services to be provided under the program or activity.

§ 18d.39 Private education programs.

(a) A recipient that operates a private elementary or secondary education program may not on the basis of handicap, exclude a qualified handicapped person from that program if the person can, with minor adjustments, be provided an appropriate education, as defined in § 18d.33(b)(1), within the recipient's program.

(b) A recipient may not charge more for providing an appropriate education for handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient.

(c) A recipient to which this section applies that operates special education programs shall operate those programs in accordance with §§ 18d.35 and 18d.36. Each recipient to which this section applies is subject to §§ 18d.34, 18d.37, and 18d.38.

Subpart E—Postsecondary Education

§ 18d.41 Application.

This Subpart E applies to postsecondary education programs and activities that receive or benefit from Federal financial assistance.

§ 18d.42 Admissions and recruitment.

(a) *General.* Qualified handicapped persons may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment by a recipient.

(b) *Admission.* In administering its admission policies, a recipent:

(1) May not apply limitations on the number or proportion of handicapped persons who may be admitted;

(2) May not use any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons or any class of handicapped persons unless:

(i) The test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question; and

(ii) Alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Administrator to be available;

(3) Shall assure itself that:

(i) Admissions tests are selected and administered to best ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure);

(ii) Admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and

(iii) Admissions tests are administered in facilities that, on the whole, are accessible to handicapped persons; and

(4) Except as provided in paragraph (c) of this section, may not inquire as to whether an applicant for admission is a handicapped person. After admission, the recipient may inquire on a confidential basis as to handicaps that may require accommodation.

(c) *Preadmission inquiry exception.* When a recipient is taking remedial action to correct the effects of past discrimination under § 18d.6(a) or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its Federally assisted program or activity under § 18d.6(b), the recipient may invite applicants for admission to indicate whether and to what extent they are handicapped.

(1) The recipient shall state clearly on any written questionnaire used for this purpose or make clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and

(2) The recipient shall state clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

(d) *Validity studies.* For the purpose of paragraph (b)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct periodic validity studies against the education program or activity in question to monitor the general validity of the test scores.

§ 18d.43 General treatment of students.

(a) No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other program or activity operated by a recipient.

(b) A recipient that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons.

(c) A recipient shall operate its programs and activities in the most integrated setting appropriate.

§ 18d.44 Academic adjustments.

(a) *Academic requirements.* A recipient shall make necessary modifications to its academic requirements to ensure that these requirements do not discriminate or have the effects of discriminating, on the basis of handicap, against a qualified handicapped applicant or student. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaption of the manner in which specific courses are conducted. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by the student or to any directly related licensing requirements will not regarded as discriminatory within the meaning of this section.

(b) *Other rules.* A recipient may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or guide dogs in campus buildings, that limit the participation of handicapped students in the recipient's education program or activity.

(c) *Course examinations.* In its course examinations or other procedures for evaluating students' academic achievement in its program, a recipient shall provide methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills that will best ensure that the results of the evaluation represent the students' achievement in the course, rather than reflect the students' impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

(d) *Auxiliary aids.* (1) A recipient shall ensure that no qualified handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

(2) Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 18d.45 Housing.

(a) *Housing provided by a recipient.* A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to quailifed handicapped students at the same cost as to others. At the end of the transition period provided for in § 18d.22(e), this housing shall be available in sufficient quantity and variety so that the scope of handicapped students' choice of living accommodations is, as a whole, comparable to that of nonhandicapped students.

(b) *Other housing.* A recipient that assists any agency, organization, or person in making housing available to any of its students shall assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.

§ 18d.46 Financial and employment assistance to students.

(a) *Provisions of financial assistance.* (1) In providing financial assistance to qualified handicapped persons, a recipient may not:

(i) On the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate; or

(ii) Assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped persons on the basis of handicap.

(2) A recipient may administer or assist in the administration of scholar-

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ships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of handicap.

(b) *Assistance in making available outside employment.* A recipient that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself that these employment opportunities, as a whole, are made available in a manner that would not violate Subpart B of this part if the opportunities were provided by the recipient.

(c) *Employment of students by recipients.* A recipient that employs any of its students may not do so in a manner that violates Subpart B of this part.

§ 18d.47 Nonacademic services.

(a) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient may not discriminate on the basis of handicap.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of § 18d.43(c) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(b) *Counseling and placement services.* A recipient that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that may present obstacles to handicapped persons in their pursuit of particular careers.

(c) *Social organizations.* A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of these organizations do not permit discrimination otherwise prohibited by this subpart.

Subpart F—Health and Social Services

§ 18d.51 Application.

This Subpart F applies to health, and other social service programs and activities that receive or benefit from Federal financial assistance.

§ 18d.52 Health and other social services.

(a) *General.* In providing health, or other social services or benefits, a recipient may not, on the basis of handicap:

(1) Deny a qualified handicapped person these benefits or services;

(2) Give a qualified handicapped person an opportunity to receive benefits or services that is not equal to that offered nonhandicapped persons;

(3) Provide a qualified handicapped person with benefits or services that are not as effective (as defined in § 18d.4(b)(2)) as the benefits or services provided to others;

(4) Provide benefits or services in a manner that limits or has the effect of limiting the participation of qualified handicapped persons; or

(5) Provide different or separate benefits or services to handicapped persons except where necessary to provide qualified handicapped persons with benefits and services that are as effective as those provided to others.

(b) *Notice.* A recipient that provides notice concerning benefits or services or written material concerning waivers of rights or consent to treatment shall ensure that qualified handicapped persons, including those with impaired sensory or speaking skills, are not denied effective notice because of their handicap.

(c) *Auxiliary aids.* (1) A recipient that employs fifteen or more persons shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to give these persons an equal opportunity to benefit from the service in question.

(2) The Administrator may require recipients with fewer than fifteen employees to provide auxiliary aids where the provision of aids would not significantly impair the ability of the recipient to provide its benefits or services.

(3) Auxiliary aids may include brailled and taped material, interpreters, and aids for persons with impaired hearing or vision.

§ 18d.53 Drug and alcohol addicts.

A recipient that operates a general hospital or outpatient facility may not discriminate, with regard to a drug or alcohol abuser or alcoholic who is suffering from a medical condition, in the admission of that person for treatment of the medical condition, or in the treatment of the medical condition because of the person's drug or alcohol abuse or alcoholism.

§ 18d.54 Education of institutionalized persons.

A recipient that operates or supervises a program or activity for persons who are institutionalized because of handicap and is responsible for providing training shall ensure that each qualified handicapped person, as defined in § 18d.3(k)(2), in its program or activity is provided an appropriate education, as defined in § 18d.33(b). Nothing in this section shall be interpreted as altering in any way the obligations of recipients under subpart D.

Subpart G—Procedures

§ 18d.61 Procedures.

The procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§ 18.6 through 18.11 and Part 18b of this chapter.

APPENDIX A—STATUTORY PROVISIONS TO WHICH THIS PART APPLIES

1. Payments to State Homes (38 U.S.C. 641-643).
2. State home facilities for furnishing domiciliary, nursing home, and hospital care (38 U.S.C. 5031-5037).
3. Community nursing home care (38 U.S.C. 620).
4. Sharing of medical facilities, equipment, and information (38 U.S.C. 5051-5057).
5. Assistance in establishing new state medical schools, grants to affiliated medical schools; assistance to health manpower training institutions (38 U.S.C. ch. 82).
6. Approval of educational institutions (38 U.S.C. 104).
7. Medical care for survivors and dependents of certain veterans (38 U.S.C. 613).
8. Space and office facilities for representatives of State employment service (38 U.S.C. 244(4)).
9. Space and office facilities for representatives of recognized national service organizations (38 U.S.C. 3402(a)(2)).
10. Vocational rehabilitation, post-Vietnam era veterans educational assistance, veterans educational assistance, dependents educational assistance, and administration of educational assistance (38 U.S.C. chs. 31, 32, 34, 35 and 36 respectively).
11. Automobile and adaptive equipment for certain disabled veterans and members of the Armed Forces (38 U.S.C. ch. 39).
12. Specially adapted housing for disabled veterans (38 U.S.C. 801-805).
13. Veterans housing—direct loans (38 U.S.C. 1811).
14. Burial benefits (38 U.S.C. ch. 23).

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federal register

WEDNESDAY, MAY 3, 1978
PART V



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

STATUS OF NATIVE SPECIES PROTECTED BY ENDANGERED SPECIES CONVENTION

Advance Notice of Potential Rulemaking

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[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

STATUS OF NATIVE SPECIES PROTECTED BY THE ENDANGERED SPECIES CONVENTION

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of potential rulemaking.

SUMMARY: The Service is surveying the status of all species of wildlife native to the United States that are listed in Appendices I and II of the Endangered Species Convention in order to determine if they are appropriately listed. Each of the nations party to the convention is to conduct a similar survey and submit proposals for appropriate changes that will be considered at the next meeting of the Parties. This notice summarizes the preliminary results of the United States survey, and invites the public to supply information that will assist the Service in determining the status of certain native wildlife species. A public meeting will be held on May 31, 1978, in Washington, D.C. to discuss the issues raised in this survey.

DATES: The Service will consider all comments received by July 3, 1978.

ADDRESSES: Please send comments to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, phone 202-254-8100.

SUPPLEMENTARY INFORMATION: The Convention on International Trade in Endangered Species of Wild Fauna and Flora has three appendices listing species that are subject to regulation. According to Article II of the Convention:

1. Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.

2. Appendix II shall include:

(a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and

(b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.

3. Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other parties in the control of trade.

Appendices I and II were developed in 1973 when the Convention was negotiated at a plenipotentiary conference of 80 nations in Washington, D.C. The International Union for Conservation of Nature and Natural Resources (IUCN), which prepared the original draft of the Convention, also developed a list of wildlife species in need of protection. The final composition of Appendices I and II (containing about 419 and 264 taxa respectively) was negotiated at the Conference, with many nations proposing changes in the original list (41 FR 24367).

Subsequent changes in Appendices I and II were not made until the nations party to the Convention met in November 1976 in Berne, Switzerland. The 122 changes in the listed taxa made at Berne became effective on February 4, 1977, 90 days after their adoption. No further changes have occurred since the list of species in 50 CFR, Part 23 was published. (42 FR 10462).

The Parties decided to adopt criteria for adding or deleting species after reviewing the more than 600 proposals to amend Appendices I and II that were submitted in 1976. The criteria stress the need to consider both the biological status and the trade status of the species. The Service's proposed rule on the procedure for changing the appendices includes these criteria. (43 FR 12349). They are reprinted below.

§ 23.21 Criteria for amending the appendices.

(a) *Additions, general rule.* Species may only be added to Appendix I, II or III if they meet the following internationally agreed criteria. In determining the appropriate appendix in which a species should be included, the biological and trade status of the species should be evaluated together. Trade in this context means any import, export or re-export.

(b) *Additions to Appendix I.* Appendix I shall include species threatened with extinction which are or may be affected by trade.

(1) *Biological status.* To qualify for Appendix I, a species must be currently threatened with extinction. Information of any of the following types is required, in order of preference: (i) scientific reports on the population size or geographic range of the species based on single surveys; (ii) reports by reliable observers other than scientists on the population size or geographic range of the species over a number of years; or (iv) reports from various sources on habitat destruction, heavy trade or other potential causes of extinction. Genera are included if most of their species are threatened with extinction and if identification of individual species within the genus is diffucult. The same applies to the listing of any smaller taxa within larger ones. If most of the smaller taxa are not threatened, but identification of individual species is difficult, the entire larger taxon should be placed on Appendix II. Species included an Appendix I because of difficulty in distinguishing them from threatened species in the same higher taxon should be annotated as such in the appendix.

(2) *Trade status.* Species meeting the biological criteria should be listed in Appendix I if they are or may be affected by international trade. This includes any species that might be expected to be traded for any purpose, scientific or otherwise. Particular attention should be given to any species for which such trade might, over a period of time, involve numbers of specimens constituting a significant portion of the total population size necessary for the continued survival of the species. The biological status and trade status of a species are obviously related. When biological data show a species to be declining seriously, there need be only a probability of trade. When trade is known to occur, information on the biological status need not be as complete. This principle especially applies to groups of related species, where trade can readily shift from one species that is well-known to another for which there is little biological information.

(c) *Additions to Appendix II.* Appendix II shall include species which although not necessarily now threatened with extinction may become so unless trade in wildlife and plants of such species is subject to strict regulation in order to avoid utilization incompatible with their survival, and other species which must be subject to regulation in order that trade in such species of wildlife and plants may be brought under effective control.

(1) *Biological status.* To qualify for Appendix II, a species need not currently be threatened with extinction, but there should be some indication that it might become so. Such an indication might be a decreasing or very limited population size or geographic range of distribution. Information on biological status should be one of the types required for Appendix I species. Genera should be listed if some of their species are threatened and identification of individual species within the genus is difficult. The same should apply to listing any smaller taxa within larger ones.

(2) *Trade status.* Species meeting the biological criteria should be listed if they presently are subject to trade or are likely to become subject to trade. The latter situation can arise where heavy trade in one species is extended to include similar species if the demand grows or if supplies of the one species are depleted. The amount of trade that a species can sustain without threat of extinction generally will be greater for species in Appendix II than for those in Appendix I, so there should be evidence of actual or expected trade in such a volume as to constitute a potential threat to survival of the species. Appendix II serves in part as a monitoring tool to gather trade data. The monitoring of a species in Appendix II can indicate if similar species not listed in Appendix I or II are likely to be subject to trade.

(d) *Additions to Appendix III.* Appendix III shall include species which any party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other parties in the control of trade.

(e) *Deletions and transfers from Appendices I and II.* Species may only be deleted from Appendix I or II, or transferred from Appendix I to Appendix II if the following internationally agreed criterion is met. There must be positive scientific evidence

that the species can withstand the exploitation resulting from the removal of protection afforded by the present listing. This evidence must transcend informal or lay evidence of changing biological status and any evidence of commercial trade which may have been sufficient to require the species to be placed on an appendix intially. Such evidence should include at least a well-documented population survey, an indication of the population trend of the species, showing recovery sufficient to justify deletion or transfer, and an analysis of the potential for commercial trade in the species.

(f) *Deletions from Appendix III.* Any party that has submitted a species for inclusion in Appendix III may withdraw it at any time.

A Special Working Session was held in October 1977 in Geneva, Switzerland, to discuss certain issues concerning implementation of the Convention that the Parties were unable to resolve at their first meeting. The participants in the Special Working Session recommended that the Parties supply certain types of information in any future proposals to change Appendix I or II. The Service included these types of information in the requirements for petitions in the proposed rule on the procedure for changing the appendices (43 FR 12349). The participants also recommended that the Parties review the species of wildlife listed in the current appendices in order to make any necessary corrections at the next meeting.

Under the terms of ths review, each Party is to survey the status of all species of wildlife listed in Appendices I and II that are native to its country. In cases where a species occurs in more than one Party country, the Secretariat of the Convention has designated one of the Parties to coordinate the review. The Service identified 134 species of wildlife in Appendices I and II that are native to the United States, and published a notice in the FEDERAL REGISTER on March 6, 1978, requesting information on them (43 FR 9169). The Service also communicated this list to the Secretariat for purposes of coordination and to other countries with a request for information on species in common.

The Secretariat has requested that Parties submit formal proposals to amend Appendices I and II by August 15, 1978, in order that they may be considered at the next meeting of the Conference of the Parties. The meeting is to be held March 19-31, 1979, in San Jose, Costa Rica.

The purposes of the present notice are to announce the preliminary results of the survey of 134 wildlife species in the United States and to request additional comments and information. The present results are based on a study of all information available to the Service at the time this notice was prepared. It should be emphasized that the findings are preliminary and may be modified in light of significant new information.

Following receipt of additional information and comments, the Service will review these findings and prepare formal proposals to make appropriate changes in the appendices. Any proposals that the Service communicates to the Secretariat will be announced simultaneously as a proposed rulemaking in the FEDERAL REGISTER. Information and comments received subsequent to the proposed rulemaking will assist the Service in determining if its formal proposals should be modified before they are considered by the Parties. A final rulemaking will be published after the meeting of the Parties, announcing those amendments to Appendices I and II that the Parties adopt.

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Summary of Recommendations
(See explanation at end of table)

Species	Current Appendix Listing	Recommended Appendix Listing	Basis for Recommendation
MAMMALIA			
RODENTIA			
Heteromyidae			
Dipodomys phillipsii phillipsii (Phillip's Kangaroo rat)	II	II	3
CETACEA			
Eschrichtidae			
Eschrichtius robustus (glaucus) (Gray whale)	I	1	1
Balaenopteridae			
Balaenoptera borealis (Sei whale)	I and II	I and II	1
Balaenoptera musculus (Blue whale)	I	I	1
Balaenoptera physalus (Fin whale)	I and II	I and II	1
Megaptera novaeangliae (Humpback whale)	I	I	1
Balaenidae			
Balaena mysticetus (Bowhead whale)	I	I	1
Eubalaena glacialis (Right whale)	I	I	1
Eubalaena australis (Right whale)	I	I	1
CARNIVORA			
Canidae			
Canis lupus (Gray wolf)	II	II	2*
Vulpes velox hebes (Northern kit fox	I	I	3
Ursidae			
Ursus arctos (Grizzly & brown bears)	II	II	2*
Ursus (Thalarctos) maritimus (polar bear)	II	II	1
Mustelidae			
Enhydra lustris nereis (Southern sea otter)	I	II	4 and 6
Lutra canadensis (River otter)	II	II	6 and 7*
Mustela nigripes (Black-footed ferret)	I	I	3
Felidae			
Felis concolor coryi (Florida puma)	I	I	3
Felis concolor cougar (Eastern puma)	I	I	3
Felis concolor (Puma)	II	II	3
Lynx canadensis (Lynx)	II	II	7*
Lynx rufus (Bobcat)	II	II	7
Felis pardalis (Ocelot)	I	I	7
Felis wiedii (Margay)	I	I	7
Felis yagouaroundi cacomitli (Jaguarundi)	I	I	7
Felis yagouaroundi tolteca (Jaguarundi)	I	I	7
Panthera onca (Jaguar)	I	I	7

*The Service has received substantial information on these species too late to be considered in the present notice, but it will be considered in the subsequent findings.

*The Service has received substantial information on these species too late to be considered in the present notice, but it will be considered in the subsequent findings.

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Otariidae			
Arctocephalus townsendi (Guadelupe fur seal)	II	II	3
Phocidae			
Mirounga angustirostris (Northern elephant seal)	I	0	4 and 5
Monachus tropicalis (West Indian monk seal)	I	0	4
Monachus schauinslandi (Hawaiian monk seal)	I	I	3
SIRENIA			
Dugongidae			
Dugong dugon (Dugong)	I	I	1
Trichechidae			
Trichechus manatus (Florida manatee)	I	I	1
ARTIODACTYLA			
Antilocapridae			
Antilocapra americana mexicana (Mexican pronghorn)	II	II	3 and 6
Antilocapra americana sonoriensis (Sonoran pronghorn)	I	I	1
Bovidae			
Ovis canadensis (Bighorn sheep)	II	II	2
AVES			
ANSERIFORMES			
Anatidae			
Anas diazi (Mexican duck)	I	0	4
Anas laysanensis (Laysan teal)	I	I	1
Anas oustaleti (Marianas mallard)	I	I	3

Anser albifrons gambelli (Tule white-fronted goose)	II	II	7
Branta canadensis leucopareia (Aleutian Canada goose)	I	I	1
Branta sandvicensis (Hawaiian goose)	I	I	1
Cygnus buccinator (Trumpeter swan)	II	II	1
FALCONIFORMES			
Cathartidae			
Gymnogyps californianus (California condor)	I	I	3
Accipitridae			
Accipiter gentilis (Goshawk)	II	II	1
Aquila chrysaetos (Golden eagle)	II	II	2 and 6
Circus cyaneus (Marsh hawk)	II	II	3
Haliaeetus leucocephalus (Bald eagle)	I	I and II	1 and 2
Pandionidae			
Pandion haliaetus (Osprey)	II	II	3
Falconidae			
Falco columbarius (Merlin)	II	II	1
Falco femoralis (Aplomado falcon)	II	II	7
Falco mexicanus (Prairie falcon)	II	II	1
Falco peregrinus (Peregrine falcon)	I	I	1
Falco rusticolus (Gyrfalcon)	II	II	1

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Falco sparverius (American kestrel)	II	0	4 and 5
Caracara cheriway (Caracara)	II	II	3
GALLIFORMES			
Tetraonidae			
Tympanuchus cupido attwateri (Attwater's greater prairie chicken)	I	I	3
Tympanuchus cupido pinnatus (Greater prairie chicken)	II	0	4
Phasianidae			
Colinus virginianus ridgwayi (Masked bobwhite)	I	I	1
Cyrtonyx montezumae mearnsi (Mearn's quail)	II	II	2
GRUIFORMES			
Gruidae			
Grus americana (Whooping crane)	I	I	3
Grus canadensis pulla (Mississippi sandhill crane)	I	I	3
Grus canadensis pratenis (Florida sandhill crane)	II	II	3
CHARADRIIFORMES			
Scolopacidae			
Numenius borealis (Eskimo curlew)	I	I	3
PSITTACIFORMES			
Psittacidae			
Amazona vittata (Puerto Rican parrot)	I	I	1
Rhynchopsitta pachyrhyncha (Thick-billed parrot)	I	I	1

STRIGIFORMES			
Strigidae			
Otus nudipes newtoni (Virgin Islands screech owl)	II	II	3
Nyctea scandiaca (Snowy owl)	II	II	2
REPTILIA			
TESTUDINATA			
Emydidae			
Clemmys muhlenbergi (Bog turtle)	II	II	7
Testudinidae			
Gopherus agassizii (Gopher tortoise)	II	II	7
Gopherus berlandieri (Gopher tortoise)	II	II	7
Gopherus flavomarginatus (Gopher tortoise)	II	II	7
Gopherus polyphemus (Gopher tortoise)	II	II	7
Geochelone carbonaria (Red-footed tortoise)	II	II	7
Cheloniidae			
Caretta caretta (Loggerhead sea turtle)	I	I	1
Chelonia mydas (Green sea turtle)	I	I	1
Eretmochelys imbricata (Hawksbill sea turtle)	I	I	1
Lepidochelys kempii (Atlantic ridley sea turtle)	I	I	1
Lepidochelys olivacea (Olive ridley sea turtle)	I	I	1
Dermochelyidae			
Dermochelys coriacea (Leatherback sea turtle)	I	I	1

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CROCODYLIA			
Alligatoridae			
Alligator mississippiensis (American alligator)	I	II	4*
Crocodylidae			
Crocodylus novaeguineae mindorensis (Philippine crocodile)	I	I	7
Crocodylus acutus (American crocodile)	II	I (U.S. population) II (other populations)	4 and 5 7
Crocodylus novaeguineae (New Guinea crocodile)	II	II	7
Crocodylus porosus (Saltwater crocodile)	II	II	7
SAURIA			
Iguanidae			
Iguana iguana (Iguana)	II	II	7
Cyclura cornuta (Ground iguana)	II	II	7
Phrynosoma coronatum blainvillei (San Diego horned lizard)	II	II	7
Teiidae			
Cnemidophorus hyperythrus (Orange-throated whiptail lizard)	II	II	7
Helodermatidae			
Heloderma suspectum (Gila monster)	II	II	7
Varanidae			
Varanus indicus (Monitor lizard)	II	II	7
SERPENTES			
Boidae			

*The Service has received substantial information on this species too late to be considered in the present notice, but it will be considered in the subsequent findings.

Epicrates inornatus (Puerto Rican boa)	I	I	7
Epicrates monensis (Mona Island boa)	II	II	7
Charina bottae (Rubber boa)	II	II	7
Lichanura trivirgata (Rosy boa)	II	II	7
Candoia carinatus (Pacific island boa)	II	II	7
Colubridae			
Thamnophis couchi hammondi (Two-striped garter snake)	II	II	7
AMPHIBIA			
SALIENTIA			
Bufonidae			
Bufo retiformis (Sonoran green toad)	II	II	7
PISCES			
ACIPENSERIFORMES			
Acipenseridae			
Acipenser brevirostrum (Shortnose sturgeon)	I	I	1
Acipenser oxyrhynchus (Atlantic sturgeon)	I	I	2
Acipenser fulvescens (Lake sturgeon)	II	II	1
SALMONIFORMES			
Salmonidae			
Coregonus alpenae (Longjaw cisco)	I	0	4
CYPRINIFORMES			
Catostomidae			
Chasmistes cujus (Cui-ui)	I	I	3
Cyprinidae			

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Plagopterus argentissimus (Woundfin)	II	II	3
Ptychocheilus lucius (Colorado squawfish)	II	II	3
PERCIFORMES			
Percidae			
Stizostedion vitreum glaucum (Blue pike)	I	0	4
MOLLUSCA			
NAIADOIDA			
Unionidae			
Conradilla caelata (Birdwing pearly mussel)	I	I	7
Cyprogenia aberti (Edible pearly mussel)	II	II	7
Dromus dromas (Dromedary pearly mussel)	I	I	3
Epioblasma (=Dysnomia) florentina curtisi (Curtis' pearly mussel)	I	I	7
Epioblasma (=Dysnomia) florentina florentina (Yellow-blossom pearly mussel)	I	0	4
Epioblasma (=Dysnomia) sampsoni (Sampson's pearly mussel)	I	0	4
Epioblasma (=Dysnomia) sulcata perobliqua (White cat's paw mussel)	I	I	7
Epioblasma (=Dysomia) torulosa gubernaculum (Green-blossom pearly mussel)	I	I	7
Epioblasma (=Dysnomia) torulosa rangiana (Tan-blossom pearly mussel)	II	II	7
Epioblasma (=Dysnomia) torulosa torulosa (Tuberculed-blossom pearly mussel)	I	I	7

Epioblasma (=Dysnomia) turgidula (Turgid-blossom pearly mussel)	I	I	7
Epioblasma (=Dysnomia) walkeri (Brown-blossom pearly mussel)	I	1	7
Fusconaia cuneolus (Fine-rayed pigtoe mussel)	I	I	7
Fusconaia edgariana (Shiny pigtoe mussel)	I	I	7
Fusconaia subrotunda (Long solid mussel)	II	II	7
Lampsilis brevicula (Ozark lamp pearly mussel)	II	II	7
Lampsilis higginsi (Higgins eye mussel)	I	I	7
Lampsilis orbiculata orbiculata (Pink mucket mussel)	I	I	7
Lampsilis satura (Plain pocketbook mussel)	I	I	7
Lampsilis virescens (Alabama lamp pearly mussel)	I	I	7
Lexingtonia dolabelloides (Slab-sided pearly mussel)	II	II	7
Pleorobema clava (Club pearly mussel)	II	II	7
Plethobasis cicatricosus (White wartyback mussel)	I	I	7
Plethobasis cooperianus (Orange-footed pimpleback mussel)	I	I	7
Pleurobema plenum (Rough pigtoe mussel)	I	I	7
Potamilus capax (Fat pocketbook mussel)	I	I	7

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Quadrula intermedia (Cumberland monkey face mussel)	I	I	7
Quadrula sparsa (Appalachian monkey face mussel)	I	I	7
Toxolasma (=Carunculata) cylindrella (Pale lilliput pearly mussel)	I	I	7
Villosa (=Micromya) trabilis (Cumberland bean mussel)	I	I	7

Key to bases for recommendations: (1) Available biological and trade information indicates the species is now appropriately listed because of its biological and international trade status; (2) available biological and trade information does not meet requirements to effect a change under the criteria, but it suggests the species should be reclassified because of its biological status; (3) available biological and trade information does not meet requirements to effect a change under the criteria, but it suggests the species should be reclassified because of its trade status; (4) available biological and trade information meets the criteria to indicate the species should be reclassified because of its biological status; (5) available biological and trade information meets the criteria to indicate the species should be reclassified because of its trade status; (6) available biological and trade information indicates the species should be listed because of its similarity in appearance to other listed species, subspecies or populations of the same species; and (7) available biological and trade information does not meet requirements of the criteria to effect a change and it does not suggest the species should be reclassified.

The reasons for the preliminary findings presented in this table are explained below. Discussions of species are grouped according to the basis for the recommended listing.

(1) Species for which the available biological and trade information indicate that they are now appropriately listed because of their biological and trade status.

There are 12 mammals, 13 birds, 6 reptiles, and 2 fishes, or 33 of the 134 listed native species that appear to fit this category, according to information examined by the Service. This information on present and historical abundance and range of geographic distribution, and on the extent of international trade appears sufficient to warrant the current listings of these species in the appendices. There is actual or potential trade in each species, and each is currently (Appendix I) or potentially (Appendix II) threatened with extinction according to the most recent data.

The mammals recommended for retention in their current listings on this basis include the whales, polar bear, dugong, and manatee.

Among the species of birds recommended for retention in their current listings on the basis that they fit the criteria are several raptors. The bald eagle in most of the 48 conterminous United States is reduced in abundance to the extent that it qualifies for Appendix I, but populations in Canada and Alaska are not currently threatened with extinction (see discussion below). The Convention provides that geographically separate populations of a biological species or subspecies may be treated as separate "species" for purpose of control, provided they are listed as such in the appendices.

The Prairie falcon, merlin, gyrfalcon and goshawk are commonly used in falconry. Information on their abundance is either slight or conflicting, but the high potential for trade indicates they should be retained on Appendix II.

The decline of the peregrine falcon in Europe and North America has been closely studied, and is linked to pesticides. Recent surveys throughout much of North America found that at best the decline has slowed or stopped, but in many places the breeding rate was continuing to drop. Banding studies and counts of migratory hawks indicate increase but so far do not provide statistically sufficient data for analysis. If populations were at normal levels, the demand for falconry birds might be insignificant relative to the total population. Because of their reduced present level, any trade needs to be strictly controlled.

All of the listed sea turtles are recommended to remain in Appendix I because population trends indicate rapid declines, some of the species have very low breeding populations, and the commercial harvest of adults and destruction of nests are continuing threats to their survival.

(2) Species for which the available biological and trade information does not meet requirements of the criteria to effect a change, but suggests that the species should be reclassified because of its biological status.

The criteria for deletion of a species from Appendix I or II, or transfer from Appendix I to Appendix II, require scientific evidence of population size and trend showing recovery of the species and an analysis of the potential for commercial trade. The criteria for deletion of a species from the appendices or its transfer from Appendix I to Appendix II are more rigorous than those for addition of a species because the Parties recognized that prematurely reducing the protection afforded a species could result in permanent loss of the resource. Errors in listing, if any, were to favor the wildlife or plant rather than its exploitation. The basic test for such transfer or deletions is whether or not the species can withstand the exploitation that would follow this reduction or loss of protection. There are 3 mammals, 4 birds and 1 fish among the listed native species for which the data show substantial populations, but these data do not meet the requirements of the criteria for deletion or transfer from Appendix I to Appendix II. It appears that if more complete information on the biological status of these species becomes available, it might be appropriate to effect such changes, in light of our current knowledge of international trade in them.

While the natural range of the Atlantic sturgeon apparently has been severly limited, this fish has been reported in numbers sufficient not to be considered currently threatened with extinction.

Trophy hunting of the bighorn sheep continues in the United States, Canada, and Mexico with little knowledge of the recovery rate of this species. It's range has been greatly reduced and the current population has been reported at no more than 18,000 to 20,000, down from an estimated 1.5 million to 2 million in the last century. New herds have been introduced into many areas to re-establish the species and in some instances these introductions have been successful. Habitat protection is the basic need because, except for a few fragments that have escaped overgrazing by domestic livestock, the habitat of the bighorn has been destroyed.

Reported increasing in population in the United States, the Mearn's quail has recovered sufficiently in part of its range to withstand controlled hunting, but the status is unknown over the greater part of its range in Mexico.

The Alaskan and Canadian grizzly or brown bears continue to be taken by trophy hunters from various parts of the world. The pelt of the gray wolf is extremely warm and used in the manufacture of cold weather clothing. Substantial populations of both species occur in Alaska and Canada. While current biological data are not complete on these species, the Service has received substantial information on these animals too late to be considered in the present notice, but it will be included in the subsequent findings.

The golden eagle is a widespread species, of which the United States populations do not appear to be potentially threatened with extinction in spite of persecution and some utilization for falconry, taxidermy and feathers. However, it is very difficult to distingush U.S. specimens from specimens entering international trade from other countries where the species requires strict protection.

The snowy owl is periodically abundant in Alaska and Canada, and is frequently sighted in northern parts of the 48 conterminous United States during those periods of abundance farther north. The bird does not appear to be potentially threatened with extinction, although accurate population data are unavailable. Trade appears to be limited to taxidermy and local use for food.

(3) Species for which the available biological and trade information does not meet requirements of the criteria to effect a change, but suggests that

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the species should be reclassified because of its trade status.

There are 9 mammals, 11 birds, 3 fishes, and 1 mollusc or 24 of the 134 listed native species for which no positive evidence of current national or international trade is available. In addition, each of these species is protected under state or Federal law, which greatly reduces the potential for trade. Knowledge of the present and historical abundance and geographic range is variable and in no case does it appear to meet the requirements of the criteria for deletion or transfer of a species from Appendix II. However, the lack of evidence for, and unlikelihood of, trade in these species suggests that their listing in the appendices serves no useful purpose in a Convention intended to regulate international movement of wildlife and plants. Any reduction in protection afforded by the Convention is not expected to harm these species.

The puma, for example, is widespread in distribution although it has been extirpated in many of the settled portions of North America and two subspecies are threatened with extinction. The species still persists in wilder regions of the New World, and is regularly sport-hunted in the western states except California, and in Mexico and central and South America. The species appears to be adequately managed for a sustained sport harvest in certain western states, but there has been a general decline in its abundance. The potential for international trade in the puma is slight and is unlikely to present a threat to its survival.

The marsh hawk is apparently numerous in the United States wherever suitable marshland is available. The U.S. Fish and Wildlife Service Breeding Bird Survey shows this species has declined 5 percent per year over the past 10 years, but numbers of individuals are still large. There is little likelihood of trade; the species is unimportant in falconry. Current information on the biological and trade status of the bird thus suggests it should not be listed in Appendix II, but this information does not meet the requirements of the criteria for deletion.

(4) Species for which the available biological and trade information meets the criteria to indicate they should be reclassified because of their biological status.

Biological status alone is not sufficient to effect a change in listing under the criteria; it must be considered along with trade status to evaluate the impact that any reclassification might have on the species. However, for some species it is biological status, rather than trade status, that primarily indicates the need for reclassification.

This survey indicates that there are 3 mammals, 3 birds, 2 reptiles, 2 fishes and 2 mussels for which the information on biological status appears sufficient to effect a change in the listing, given what is known about trade status. Certain of these species are believed to be extinct since no living specimens have been found after many years of searching. The criteria do not specifically address this situation, but it is clear that the listing of the species is not appropriate in view of the fundamental principles of the Convention.

The West Indian monk seal, the longjaw cisco and the blue pike of the Great Lakes, and the yellow-blossom and Sampson's pearly mussels fit this category of apparent extinction as no specimens have been found in recent years. For example, no living specimen of the longjaw cisco has been seen since 1952.

The Mexican duck has recently been reclassified as a subspecies of the mallard duck (*Anas platyrhynchos*); current nomenclature for this subspecies is *Anas platyrhynchos diazi*. The U.S. population of *diazi*-like ducks contains only about 10% pure individuals. Recent surveys in Mexico indicate the taxon is secure there.

There currently appears to be no potential trade in the northern elephant seal, and its population is increasing under protective measures.

The greater prairie chicken has recovered in such numbers that it may now be taken legally by hunters within parts of its range.

A reported 46 percent increase between 1970 and 1974 enlarged the total U.S. population of American alligators to almost 750,000 individuals. This species should, therefore, no longer be considered as currently threatened with extinction.

Surveys report the U.S. population of the American kestrel to exceed 300,000 individuals. The U.S. Fish and Wildlife Service Breeding Bird Survey shows it to have increased in abundance in the United States over the past 10 years. The species is widespread throughout North and South America. While there is limited local use of this species for falconry it cannot be considered as endangered or in significant international trade.

There are only 200-400 known individuals of the American crocodile in the United States. Furthermore, respondents suggest this population has only 25 known breeding females and practically no current survival of the hatchlings. The United States population of this species should be placed in Appendix I to receive the protection afforded a species threatened with extinction, for which there is a high risk that specimens could illegally enter the extensive trade in crocodilian hides. The biological status of other populations of this species in the Caribbean and Mexico is poorly known, and they should be retained in Appendix II.

(5) Species for which the available biological and trade information meets the criteria to indicate they should be reclassified because of their trade status.

There are a mammal, a bird and a reptile among the listed species for which the information on present and historical abundance and range of geographic distribution, and on the extent of international trade apears sufficient to warrant reclassification. When it is suggested that a species should be reclassified because of trade status, this means that trade status, rather than biological status, primarily indicates the need for reclassification. However, trade status alone is not sufficient to effect a change in listing under the criteria.

The northern elephant seal, for example, is completely protected from trade in the United States under Federal law, and its population has made a well-documented recovery in recent years. Current information indicates that it is not threatened with extinction, and that there is little likelihood of trade to justify retaining it in the appendices.

(6) Species for which the available biological and trade information indicates they should be listed because of similarity in appearance to other listed species, subspecies or geographically separate populations of the same species.

The fundamental principles of the Convention provide that species may be listed in Appendix II, subjecting them to regulation in order that trade in other species meeting the biological and trade criteria may be brought under effective control. The reason is that it can be difficult to distinguish between a species needing protection and a close relative that does not need protection, especially if the specimen is a part or derivative. There are three mammals and a bird among the listed native species that qualify for listing on this basis. They are difficult for persons trained in wildlife identification to distinguish from other listed species, subspecies or geographically separate populations of the same species.

The southern sea otter, which has recovered in abundance and is protected from trade by state and Federal law, so closely resembles the northern sea otter when processed as a pelt that it should be retained in Appendix II.

The pelt of the river otter likewise is very difficult to distinguish from that of other species of otters that are currently or potentially threatened with extinction. This is one basis for recommending that the otter be retained in Appendix II; another basis for its proposed retention is discussed below.

The Mexican subspecies of the pronghorn exists in sufficient numbers

to be subject to controlled hunting in the U.S. Trophy specimens of the Mexican pronghorn closely resemble those of the Sonoran pronghorn, which is treatened with extinction and listed in Appendix I.

(7) Species for which the available biological and trade information does not meet requirements of the criteria to effect a change and does not suggest the species should be reclassified.

This survey confirmed that there are a number of species listed in the appendices about which very little is known. The available information on population size and trends, or on the extent of international trade in certain of these species is so incomplete that it is very difficult to determine if they should be retained in their current listing or if they should be reclassified or deleted from the appendices. If they were not now listed, it is doubtful that many of these species would meet the current criteria for addition to Appendices I and II. This finding applies to 8 mammals, 4 birds, 21 reptiles, 1 amphibian and 30 molluscs, or 64 of the 134 listed species. There is evidence of substantial trade in some of these species, but little indication of the impact it has on the survival of wild populations. The criteria emphasize that deletion or transfer from Appendix I to Appendix II should require scientific evidence of population size and trend showing recovery of the species and an analysis of the potential for commercial trade, showing that the species could withstand the exploitation resulting from a reduction of protection afforded by the Convention.

The secretive nature of the wild cats has made it difficult to determine their biological status. Many of them are heavily hunted for their pelts and there is little information on population levels or on recovery rates of exploited population.

Information on the population biology of the bobcat is fragmentary, despite a number of recent studies to determine the status of this species. Information from various sources indicates that substantial numbers of bobcats occur in the United States, and that the species occupies much of its original geographic range. However, it is easily trapped and the market value of its fur has increased greatly in the last few years. The effect of the expected increase in trapping on populations cannot be predicted with any certainty. The basis for listing species of the family Felidae in Appendix was as follows. "All cats are potentially involved in the fur trade, and the scale of this trade is such that all species must be considered as vulnerable, few populations now remaining unaffected. All wild species not in Appendix I should be on Appendix II, so that the scale of their occurrence in trade can be monitored." Given our current knowledge of this species and the basis for its inclusion in the appendices, the Service recommends that it be kept in Appendix II to aid in monitoring and that the listing be annotated to indicate this. Otherwise, it might be appropriate to transfer this species to Appendix III, where exports could be monitored without necessarily placing limits on the quantity of pelts that are shipped until the impact of trade is known.

The lynx was listed in Appendix II for the same reason as the bobcat. The species is in high demand for its pelts, and its abundance is poorly documented except in a few localities. Lynx have cycles of abundance and scarcity linked to abundance of the snowshoe hare, and it is possible that heavy trapping of lynx in a period of scarcity could harm their populations. Evidence is inadequate to determine if international trade in this species should be controlled. The Service has received substantial information on the lynx too late to be considered in the present notice, but it will be considered in the subsequent findings.

The river otter is found and harvested in many areas of the United States and Canada, but knowledge of its population biology and the impact of the fur trade is very incomplete. As with the bobcat, studies are underway to clarify its status in parts of the United States. This species was listed along with others of its subfamily because of heavy fur trade and similarity in appearance among the pelts of different species. The Service has also received substantial information on this species too late to be considered in the present notice.

The Tule white-fronted goose also fits this situation. There is little information on its population, aside from the general knowlede that it is small. The potential for trade is low and would most likely involve hunting and aviculture.

The Sonoran toad is a species for which there are no population data and no evidence of international trade although there might be some potential for pet trade.

Many of the listed reptiles are known to be subject to trade: crocodilians, boas, and monitor lizards for their skins; tortoises, lizards and snakes for use as pets. This trade is extensive, but its impact on the survival of the wildlife populations is poorly known. There is little reliable information on past or present population levels or on changes in geographic ranges of distribution of these species.

The numerous species and subspecies of freshwater mussels listed in the appendices are known to have small ranges of distribution and low population sizes, but there are few well-documented population surveys. Freshwater mussels are commercially harvested for their shells, which are exported, and some of the listed species are likely to be harvested along with other more abundant species. However, there are no data on the extent to which the listed species are included in commercial harvests.

This survey of native species is being conducted to determine if the species are appropriately listed, given the criteria adopted by the Party nations. It is evident that certain of the listed species do not benefit from inclusion in Appendix I or II, and that the criteria for deletion or transfer prevent some appropriate changes from being made. Therefore, the Service is considering the possibility of proposing not only changes in the listings of certain species, but also changes in the criteria that would allow the Parties to develop appendices that reflect the best available biological and trade information.

The Service welcomes additional information and comments that will assist in evaluating these preliminary findings and the criteria, and in preparing appropriate proposals to amend the appendices. All materials that are received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in Room 546, 1717 H Street NW., Washington, D.C.

Public Meeting

In addition to considering all written comments, received by July 3, 1978, the Fish and Wildlife Service will hold a public meeting on the issues discussed in this advance notice of proposed rulemaking. The public meeting will be conducted from 9 a.m. to 12 noon on May 31, 1978, in the Secret Service Auditorium, located on the first floor of the Matomic Building, 1717 H Street NW., Washington, D.C.

So that adequate time may be allocated for the views of all interested parties, those planning to attend the public meeting are encouraged to notify Ms. Joan Caton, Chief, Management Operations Branch, Federal Wildlife Permit Office, Washington, D.C. 20240, 202-632-8796, of their participation not later than Friday, May 19, 1978.

The primary author of this notice is Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

Note.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: April 28, 1978.

Harvey K. Nelson,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-12205 Filed 5-2-78; 8:45 am]

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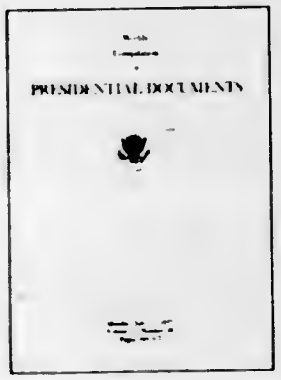
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THURSDAY, MAY 4, 1978

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for May are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202-523-3517.

SUNSHINE ACT MEETINGS 19330

DISABILITY CLAIMS
HEW/SSA extends comment period on proposed rules for adjudicating disability claims in which vocational factors must be considered; comments by 6-8-78 19238

BROKERS AND DEALERS
SEC announces final extension of temporary exemption from the Investment Advisers Act; effective 4-27-78; comments on "special compensation" by 6-30-78 19224

FEDERAL DISASTER ASSISTANCE
HUD/FDAA sets forth policies providing legal services to eligible low-income individuals; effective 6-5-78 19229

OFFSITE RESPONSE TO RADIATION ACCIDENTS
NRC gives notice of availability of draft manual of guidance; comments by 6-1-78 19305

SPENT LIGHT WATER POWER REACTOR FUEL
NRC extends comment period to 6-8-78 on draft generic environmental impact statement on handling and storage 19305

TELECOMMUNICATIONS SERVICES FOR DEAF AND HEARING IMPAIRED
FCC extends comment period on inquiry to 6-26-78; reply comments by 7-31-78 19292

VOLUNTARY STANDARDS
CPSC revises policy on its involvement in voluntary standards activities in response to comments received; effective 5-4-78 . 19216

MOTOR VEHICLE SAFETY STANDARDS
DOT/NHTSA proposes to amend taillamp requirements; comments by 6-19-78 19251

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 587; Valencia Orange Reg. 586, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 5-May 11, 1978, and increases the quantity of such oranges that may be so shipped during the period April 28-May 4, 1978. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective May 5, 1978, and the amendment is effective for the period April 28-May 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and order No. 908, as amended (7 CFR part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of Valencia oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on May 1 and 2, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges continues strong.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Section 908.887 is added as follows:

§ 908.887 Valencia orange regulation 587.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 5, 1978, through May 11, 1978, are established as follows:

(1) District 1: 285,000 cartons;
(2) District 2: 456,000 cartons;
(3) District 3: 209,000 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

2. Paragraphs (a) (1), (2), and (3) in § 908.886 Valencia Orange Regulation 586 (43 FR 17935), are hereby amended to read:

§ 908.886 Valencia orange regulation 586.

(a) • • •

(1) District 1: 266,000 cartons;
(2) District 2: 418,000 cartons;
(3) District 3: 266,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: May 4, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-12411 Filed 5-3-78; 11:34 am]

[3410-05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1427—COTTON

Subpart—Seed Cotton Loan Program Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to change the eligibility requirements for upland seed cotton and provide that interest rates shall be set quarterly to conform to the regular cotton loan program. This rule is necessary to inform producers of these changes. This rule will permit cooperators to participate in the seed cotton loan program.

DATE: Effective May 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Dalton J. Ustynik, ASCS, 202-447-6611, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking concerning the detailed operation provisions to carry out the upland and extra long staple seed cotton loan program, was published in the FEDERAL REGISTER on December 22, 1977 (42 FR 644126). No comments were received. It has been determined that the program will be continued and that operating provisions will remain basically the same as under past programs. However, two changes have been made: (1) eligiblity requirement have been changed, and (2) interest rates are set quarterly. The regulations issued by Commodity Credit Corporation and published in 7 CFR part 1427—Cotton as "Subpart—Seed Cotton Loan Program Regulations" in the FEDERAL REGISTER (37 FR 14816 and 16631) are hereby revised to read as set forth below, effective for the 1978 and subsequent crops of cotton. The material previously appearing in this subpart remains in full force and

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effect as to the crops to which this material was applicable.

Subpart—Seed Cotton Loan Program Regulations

Sec.

1427.160 General statement.
1427.161 Administration.
1427.162 Availability of loans.
1427.163 Disbursement of loans.
1427.164 Eligible producer.
1427.165 Eligible seed cotton.
1427.166 Insurance.
1427.167 Liens.
1427.168 Forms, authorizations, and other documents.
1427.169 Loan rate and quality.
1427.170 Quantity for loan.
1427.171 Approved storage.
1427.172 Loan service fee.
1427.173 Interest rate.
1427.174 Restrictions in use of agents.
1427.175 Setoffs.
1427.176 Loss or damage to the cotton.
1427.177 Maturity.
1427.178 Settlement.
1427.179 Fraud and unlawful disposition.
1427.180 Foreclosure.
1427.181 Definitions.

AUTHORITY: Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c).

Subpart—Seed Cotton Loan Program Regulations

§ 1427.160 General statement.

The regulations in this subpart, including any amendments hereto, set forth the requirements with respect to recourse loans on eligible upland and extra long staple seed cotton of the 1978 and subsequent crops of cotton for which a seed cotton loan program is authorized. Recourse loans will be made available by CCC through county offices to eligible cotton producers and approved cotton cooperative marketing associations at approved locations.

§ 1427.161 Administration.

(a) *Responsibility.* The Price Support and Loan Division, Agricultural Stabilization and Conservation Service, will administer the provisions of this subpart under the general supervision and direction of the Deputy Administrator, State and County Operations, Agriculture Stabilization and Conservation Service, in accordance with program provisions and policy determined by the CCC Board of Directors and the President or Executive Vice President, CCC. In the field, the program in this subpart will be administered by the Agricultural Stabilization and Conservation State and county committees and the Management Field Office.

(b) *Limitation of authority.* County executive directors, State and county committees, the Management Field Office, and employees thereof do not have authority to waive or modify any of the provisions of the regulations in this subpart.

(c) *State committee.* The State committee may take any action authorized or required by the regulations in this subpart to be taken by the county committee which has not been taken by such committee. The State committee may also: (1) correct or require a county committee to correct any action taken by such county committee which is not in accordance with the regulations in this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the applicable regulations in this subpart.

(d) *Executive Vice President, CCC.* No delegation herein to a State or county committee or the Management Field Office shall preclude the President or Executive Vice President, CCC, or the Executive Vice President's designee, from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee or the Mangement Field Office.

§ 1427.162 Availability of loans.

(a) *Locations.* Loans on eligible seed cotton shall be available only at locations where conditions make it feasible, subject to the approval of the County committee of the county in which the gin is located. Approval of such locations will be based upon the climatic conditions of the area, the type storage suitable for the area, and other conditions that are determined necessary in order to protect the interest of CCC and producers. A ginner who desires approval and desires to participate in the program shall submit an application for a determination of eligibility. An application form, related questionnaire, and copy of these regulations may be obtained from the State or county office. Such applications should be filed as soon as possible, before the ginning season starts.

(b) *Period of availability.* Loans will be available from the beginning of harvest through March 31 following the calendar year in which such crop is grown.

§ 1427.163 Disbursement of loans.

(a) *Where to request loans.* A producer or the producer's agent shall request a loan at the local county office for the county where the cotton is stored, which will assist the producer in completing the loan documents, except that approved cooperatives and approved financially responsible commercial ginning companies designated by producers to obtain loans in their behalf may obtain loans through a central county office.

(b) *Disbursement of loans.* Disbursement of each loan will be made by the county office of the county in which the cotton is stored by means of drafts drawn on CCC by the county office, except that approved cooperatives or commercial ginning companies designated by producers to obtain loans in their behalf may obtain disbursement of loans at a central county office. Service charges shall be deducted from the loan proceeds. The producer or the producer's agent shall not present the loan documents for disbursement unless the cotton is in existence and in good condition. If the cotton is not in existence and in good condition at the time of disbursement, the producer or the agent shall immediately return the draft issued in payment of the loan or, if the draft has been negotiated, shall promptly return the proceeds.

§ 1427.164 Eligible producer.

(a) *Producer.* An eligible producer is any individual, partnership, corporation, association, trust, estate, or other legal entity, a State or political subdivision thereof, or an agency of such State or political subdivision producing eligible upland or eligible extra long staple seed cotton in the capacity of landowner, landlord, tenant, or sharecropper. If eligible seed cotton is produced on a farm by a landlord and the share tenant or sharecropper, a loan may be obtained only as follows:

(1) If the seed cotton is divided among the producers entitled to share in such cotton, each landlord, tenant, or sharecropper may obtain a loan on their separate share.

(2) If the seed cotton is not divided, all producers having a share in the seed cotton may obtain a joint loan on such cotton.

(b) *Estates and trusts.* A receiver of an insolvent debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of the estate of a ward or an incompetent person, and a trustee of a trust estate shall be considered to represent the insolvent debtor, the deceased person, the ward or incompetent person, and the beneficiaries of the trust, respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person represented. Loan documents executed by any such person will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for a loan only if the minor meets one of the following requirements: (1) The right of majority has been conferred on the minor by court proceedings or by statute; (2) a guardian has been appointed to manage the minor's property and the applicable loan documents are signed by the guardian; (3) any note signed by the minor is cosigned by a financially responsible person; or (4) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had the minor been a adult.

(d) *Approved cooperative.* A cooperative marketing association which is approved by the Executive Vice President, CCC, pursuant to part 1425 of this chapter, to obtain loan(s) on a crop of cotton, may obtain loans on eligible production of such crop on behalf of its members provided the marketing agreement between the producer and the cooperative gives the cooperative such authority. The term "producer" as used in this subpart and on applicable forms shall refer both to an eligible producer as defined in paragraphs (a), (b), and (c) of this section and to an approved cooperative marketing association unless the content otherwise requires.

§ 1427.165 Eligible seed cotton.

Upland and extra long staple seed cotton produced by eligible producers is eligible cotton if it meets the following requirements:

(a) Such cotton must be tendered for a loan within the availability period of § 1427.162.

(b) Upland cotton must have been produced on a farm by a "cooperator" as defined in the Agricultural Act of 1949, as amended, who has complied with the set-aside and normal crop acreage requirements, if any as prescribed in Parts 718, 722, 728, 775, and 791 of this title and any amendment thereto. Extra long staple cotton must have been produced by a "cooperator" as defined in section 408(b) of the Agricultural Act of 1949, as amended, on a farm on which it has been determined that the acreage planted to such cotton does not exceed the established allotment as prescribed in Part 718, 722, and 791 of this title and any amendments thereto.

(c) Such cotton must be in existence and in good condition.

(d) The producer tendering the cotton for loan must have the legal right to pledge it as security for a loan.

(e) Such cotton must not have been produced on land owned by the Federal Government if such land is occupied without a lease, permit or other right of possession.

(f) The producer tendering such cotton must not have previously sold and repurchased such cotton or placed it under CCC loan and redeemed it.

(g) The beneficial interest in the cotton must be in the producer tendering the cotton for a loan and must have always been in the producer or in the producer and a former producer whom the producer succeeded before it was harvested. To meet the requirements of succession to a former producer, the right, responsibilities, and interest of the former producer with respect to the farming unit on which the cotton was produced shall have been substantially assumed by the person claiming succession. Mere purchase of the crop prior to harvest without acquisition of any additional interest in the farming unit shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met. A producer shall not be considered to have divested himself of the beneficial interest in the cotton of the producer enters into a contract to sell, or gives an option to buy the cotton, if, under the contract or option, the producer retains control and risk of loss of and title to the cotton, and retains controls of its production. If a loan is made available through an approved cooperative marketing association, the beneficial interest in the cotton must always have been in the producer-members who delivered the cotton to the approved cooperative or its member cooperative or must always have been in them and former producers whom they succeeded before the cotton was harvested. Cotton so delivered to a cooperative marketing association shall not be eligible for a loan if the producer-members who delivered the cotton to the cooperative or its member cooperative do not retain the right to share in the proceeds from the cotton as provided in part 1425 of this chapter.

(h) If the person tendering the cotton for a loan is a landowner, landlord, tenant, or sharecropper, the cotton must be the landowner, landlord, tenant, or sharecropper's separate share of the crop and must not have been acquired by such person directly or indirectly from a landowner, landlord, tenant, or sharecropper, or have been received in payment of fixed or standing rent.

(1) The cotton must be stored in identity preserved lots in approved storage meeting requirements of 1427.171.

§ 1427.166 Insurance.

The cotton must be insured at the full loan value against loss or damage by fire.

§ 1427.167 Liens.

If there are any liens or encumbrances on the cotton, waivers that will fully protect the interest of CCC must be obtained even though the liens or encumbrances are to be satisfied from the loan proceeds, except in the case of approved cooperatives who agree to hold CCC harmless from liability to prior lienholders. In lieu of waiving his prior lien on the cotton tendered as security for a loan, a lienholder may execute a Lienholder's Subordination agreement (form CCC-864) with CCC in which the lienholder subordinates the security interest to the rights of CCC in the cotton. A fraudulent representation as to prior liens or otherwise will render the producer liable under the civil frauds statutes and subject the producer and any other person who causes the fraudulent representation to be made to criminal prosecution under the provisions of the Commodity Credit Corporation Charter Act.

§ 1427.168 Forms, authorizations, and other documents.

The documents to be delivered by producers in connection with each loan shall be as follows: A note, chattel mortgage, and security agreement, and required lien waiver or subordination agreement, and such other documents as may be required by CCC.

§ 1427.169 Loan rate and quality.

(a) *Loan rate.* The loan rate applicable to each quality of seed cotton placed under loan shall be the loan rate as specified in the applicable crop supplement to this Subpart 1427, "Cotton Loan Program Regulations", for that quality of cotton in the county where stored.

(b) *Quality.* The quality to be used in determining the loan rate shall be the estimated quality of lint cotton in each lot of seed cotton as determined by the county office, except that if a control sample of the lot of cotton is classed by a USDA Board of Cotton Examiners, the quality for the lot shall be the quality shown on the form 1 or form 3 classification card issued for the control sample.

§ 1427.170 Quantity for loan.

(a) *Quantity.* The quantity of lint cotton in each lot of seed cotton tendered for loan shall be determined by the county office by multiplying the weight or estimated weight of seed cotton by the lint turnout factor determined in accordance with paragraph (b) of this section.

(b) *Lint turnout factor.* The lint turnout factor for any lot of seed cotton shall be the percentage determined by the county committee representative during the initial inspection of the lot. If a control portion of the lot is weighed and ginned, the turnout factor determined for the portion of cotton ginned will be used for the lot. If a control portion is not weighed and ginned, the lint turnout factor shall not exceed 32 percent for machine picked cotton and 22 percent for machine stripped cotton unless acceptable proof is furnished showing that the lint turnout factor is greater.

(c) *Maximum quantity for loan.* Loans shall not be made on more than a percentage established by the county committee of the quantity of lint cotton determined as provided in this section. If the seed cotton is weighed, the percentage to be used shall not be more than 95 percent. If

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the quantity is determined by measurement, the percentage to be used shall not be more than 90 percent. The percentage to be used in determining the maximum quantity for any loan may be reduced below such percentages by the county committee when determined necessary to protect the interests of CCC on the basis of one or more of the following risk factors: (1) Condition or suitability of the storage site or structure, (2) condition of the cotton, (3) location of the storage site or structure, and (4) other factors peculiar to individual farms or producers which relate to the preservation or safety of the loan collateral. Loans may be made on a lower percentage basis at the producer's request.

§ 1427.171 Approved storage.

Approved storage shall consist of storage located on or off the producer's farm (excluding public warehouses) which is determined by a county committee representative to afford adequate protection against loss or damage and which is located within a reasonable distance, as determined by CCC, of an approved gin. If the cotton is stored off the producer's farm, the producer must furnish satisfactory evidence that the producer has the authority to store the cotton on such property and that the owner of such property has no lien for such storage against the cotton.

§ 1427.172 Loan service fee.

A producer shall pay a loan service fee of $10 per loan, plus $1 for each additional rick or other individual lot in storage over one, for each loan disbursed, except that in the case of loans to approved cooperatives or to producer through approved ginning companies acting in the producer's behalf, the fee shall be $7.25 per loan if the cooperative or approved ginning company prepares the loan documents. This fee is not refundable.

§ 1427.173 Interest rate.

Loans shall bear interest at the rate in effect on date of disbursement through maturity of the loan. Such rates will be determined quarterly and announced at the same time as rates are announced for warehouse stored cotton loans in a separate notice published in the FEDERAL REGISTER.

§ 1427.174 Restrictions in use of agents.

A producer who desires to appoint an attorney-in-fact to act in the producer's place and stead in obtaining and repaying loans may use Power of Attorney, Form ASCS 211 (referred to in this subpart as "Form 211"), except that a power of attorney on another form will be accepted if it is determined by CCC to be legally sufficient. The original or facsimile of the power of attorney or a copy certified by a notary public as a true and correct copy must be filed with the county office. An attorney-in-fact shall not make any purchase of the seed cotton redeemed from a loan or the producers' equity in such cotton for the attorney-in-fact's account or as agent for others, or sell any such cotton or equities therein to any person by whom the attorney-in-fact is employed or who has the right to control or direct the attorney-in-fact's sales of the seed cotton, the equity therein, or the lint cotton produced therefrom. Any delegation of authority given in violation of this paragraph shall be without force and effect and shall not be recognized by CCC.

§ 1427.175 Setoffs.

(a) *Facility and drying equipment loans.* If any installment or installments on any loan made by CCC on farm storage facilities or drying equipment are due and payable under the provisions of the note evidencing such loan out of any amount due the producer under the regulations in this subpart, the amount due the producer, after deduction of applicable fees and charges and amounts due prior lienholders, shall be applied to satisfy the amounts due and payable on such installment(s).

(b) *Producers listed on county claim control record.* If the producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the county claim control record, amounts due and payable to the producer under the regulations in this subpart, after deduction of amounts due and payable on farm storage facilities or drying equipment and other amounts provided in paragraph (a) of this section, shall be applied as provided in the Secretary's "Setoff Regulations", part 13 of this title, to such indebtedness.

(c) *Producer's right.* Compliance with the provisions of this section shall not deprive the producer of any right that would otherwise have to contest the justness of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 1427.176 Loss or damage to the cotton.

The producer is responsible for any loss in quantity or quality of the cotton under loan.

§ 1427.177 Maturity.

Loans on seed cotton are due and payable on May 31 following the calendar year in which such crop is grown, or upon such earlier date as CCC may make written demand for payment in order to be in a position to conform to State or local quarantine regulations or for other reasons.

§ 1427.178 Settlement.

(a) *Release of chattel mortgage.* The chattel mortgage shall not be released until the loan has been satisfied in full. After satisfaction of a loan, the county executive director shall release the chattel mortgage.

(b) *Repayment of loan.* A producer may, at any time prior to maturity of the loan, obtain release of all or any part of the loan cotton by paying the amount of the loan thereon, plus interest and charges to CCC.

(c) *Removal of loan cotton.* A producer or the producer's agent shall not remove from storage any cotton covered by a chattel mortgage until prior written approval has been received from the county committee for removal of such cotton. Any such approval shall be subject to the terms and conditions set out in the approval form. If a producer or the producer's agent obtains such approval, they may remove such cotton from storage, sell the seed cotton, have it ginned, and sell the lint cotton and cottonseed obtained therefrom. The ginner shall inform the county office in writing immediately after the cotton removed from storage has been ginned and furnish the county office the loan number, producer's name, and applicable gin bale numbers. If the seed cotton is removed from storage, the loan, interest, and charges thereon must be satisfied not later than (1) the date established by the county committee, (2) promptly after the producer received the class cards (and the warehouse receipts, if the cotton is delivered to a warehouse), representing such cotton, or (3) the loan maturity date, whichever is earliest. If the seed cotton or lint cotton is sold, the loan, interest, and charges must be satisfied immediately. A producer (except a cooperative) may obtain a warehouse storage loan on the lint cotton, but the loan, interest, and charges on the seed cotton must be satisfied out of the proceeds of the warehouse storage loan. An approved cooperative must repay the seed cotton loan, interest, and charges before pledging the cotton for a warehouse storage loan. If approved cooperatives and commercial ginning companies authorized by producers to obtain loans in their behalf remove seed cotton from storage prior to obtaining approval to move such cotton, such removal shall constitute conversion of such cotton unless the cooperative or commercial ginning company notifies the county office in writing the following morning by mail or otherwise that such cotton has been moved and is on the gin yard, furnished CCC an irrevocable letter of credit if requested, and repays the loan within the time specified by the county committee. Any removal from storage shall not be deemed to constitute a release of CCC's security interest in the cotton or to release the producer or approved cooperative from liability for the loan, interest, and charges if full payment of such amount is not received by the county office.

(d) *Cotton going out of condition.* If, either before or after maturity, the producer discovers that the cotton is going out of condition or is in danger of going out of condition, the producer shall immediately so notify the county office and confirm such notice in writing. If the county committee determines that the cotton is going out of condition or is in danger of going out of condition, the county committee will call for repayment of the loan on or before a specified date. If the producer does not repay the loan or have the cotton ginned and obtain a warehouse storage loan on the lint cotton produced therefrom within the period as specified by the county committee, the cotton shall be considered abandoned.

(e) *Need for removal from storage.* If the producer has control of the storage site and if the producer subsequently loses control of the storage site or there is danger of flood or damage to the cotton or storage structure making continued storage of the cotton unsafe, the producer shall immediately either repay the loan or move the cotton to the nearest approved gin for ginning and shall, at the same time, inform the county office. If the producer does not do so, the cotton shall be considered abandoned.

§ 1427.179 Fraud and unlawful disposition.

The making of any fraudulent representation by a producer in the loan documents, in obtaining a loan, or in connection with settlement, or the unlawful disposition of any portion of the cotton by the producer, shall render the producer and any other person who causes such fraudulent representation to be made subject to criminal prosecution or action under civil frauds statutes under Federal law.

§ 1427.180 Foreclosure.

Any seed cotton pledged to CCC as security for loan which is abandoned or which has not been removed from storage by loan maturity may be removed from storage by CCC and ginned and the resulting lint cotton warehoused for the account of CCC. The lint cotton and cottonseed may be sold, at such time, in such manner, and upon terms as CCC may determine at public or private sale. CCC may become the purchaser of the whole or any part of such cotton and cottonseed. If the proceeds are less than the amount due on the loan (including interest, ginning charges, and any other charges incurred by CCC), the producer shall be liable for such difference. Any overplus remaining from the proceeds received therefrom, after deduction from such proceeds the amount of the loan, interest, ginning charges and any other charges, shall be paid to the producer or the producer's personal representative without right of assignment to or substitution of any other person.

§ 1427.181 Definitions.

As used in the regulations in this subpart, and in all instructions, forms, and documents in connection therewith, the words and phrases listed in this section shall have the meaning assigned to them herein unless the context or subject matter otherwise requires:

(a) *General.* The following words or phrases: "Person," "State committee," "State executive director," "county committee," "county executive director," and "farm," respectively, shall each have the same meaning as the definitions of such terms in the "Regulations Governing Reconstitution of Farm and Allotments," part 719 of this title, and any amendments thereto.

(b) *CCC.* The term "CCC" shall mean Commodity Credit Corporation.

(c) *Management Field Office.* The term "Management Field Office," shall mean Management Field Office, P.O. Box 205, Kansas City, Mo. 64141.

(d) *County committee.* The term "county committee" shall mean only the county committee and not its representative.

(e) *County office.* The term "county office" shall mean the Agricultural Stabilization and Conservation county office.

(f) *Chattel mortgage.* The term "chattel mortgage" means any security instrument which secures a loan under this subpart.

(g) *Charges.* The term "charges" means all fees, cost, and expenses incident to insuring, carrying, handling, storing, ginning, conditioning and marketing the cotton and cottonseed and otherwise protecting the interest in the loan collateral of CCC or the producer.

(h) *Representative of the county committee and county committee representative.* The terms "representative of the county committee" and "county committee representative" means a member of the county committee, the county executive director, or a person designated by the county executive director to act in the county executive director's behalf.

(i) *Seed cotton.* The term "seed cotton" shall mean cotton which has not passed through the ginning process.

(j) *Lint cotton.* The term "lint cotton" shall mean cotton which as passed through the ginning process.

Signed at Washington, D.C., on April 26, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-12130 Filed 5-3-78; 8:45 am]

[3410-05]

PART 1427—COTTON

Subpart—Specifications for Bale Packaging Materials

WRAPPING OF COTTON

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the specifications governing cotton bale packaging materials used for 1978 and subsequent crops cotton pledged for price support loans. This rule is needed in order that producers and others will know what materials are acceptable to CCC. Bales of cotton will be acceptable for price support loans only if they conform to these specifications.

EFFECTIVE DATE: May 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik, ASCS, 202-447-6611, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On October 7, 1977, Commodity Credit Corporation (CCC) published in the FEDERAL REGISTER (42 FR 54660) a notice that the Department proposed to make certain determinations concerning the 1978 crops of upland and extra long staple cotton. Such determinations included a determination of the specifications for bale packaging materials applicable to 1978 crop cotton pledged to CCC for price support loans. Five comments were received, all favoring bagging specifications. Three recommended amending specifications as recommended by the Cotton Industry Bale Packaging Committee, one recommended elimination of polypropylene material and adoption of a pound bagging for standard density bales and one recommended that only 100 percent cotton bagging be used. After consideration of all responses to the notice and recommendations made by the Cotton Industry Bale Packaging Committee at its meeting on September 11 and 12, 1977, and March 2, 1978, it has been determined that the specifications should be amended to provide that (1) each bundle of ties shall bear a certification by the manufacturer that the ties were manufactured according to the

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specifications, (2) joints on 10 gauge square knot type and crosshead type wire ties used to wrap flat bales and bales compressed to standard density and universal density at a warehouse may be on sides of bales, (3) T2 type new jute bagging be permitted for use on flat and gin standard and universal density bales and, (4) eliminates polyethylene panels and half-bag and sheet combinations from the list of approved packaging materials except that carryover materials from the 1977 crop may be used in 1978.

Accordingly, the Specifications for Bale Packaging Materials Used in Wrapping Cotton published in 42 FR 29849 on June 10, 1977, as amended, are revised to read as set forth below, effective with the 1978 crop of cotton. The material previously appearing in these regulations remains in full force and effect as to the crop to which it was applicable.

Subpart—Specifications for Bale Packaging Materials

Sec.
1427.1901 Purpose.
1427.1902 Specifications for bale ties and buckles.
1427.1903 Specifications for bagging.
1427.1904 Test methods.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 (b) and (c); secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421).)

Subpart—Specifications for Bale Packaging Materials

§ 1427.1901 Purpose.

This subpart is for the purpose of announcing the specifications applicable to bale packaging materials for packaging the 1978 and subsequent crops of cotton tendered to CCC for loans, unless otherwise approved by the Executive Vice President, CCC, or his designee: *Provided, however,* That all bales of cotton packaged and identified with the testing programs of the Cotton Industry Bale Packaging Committee sponsored by the National Cotton Council of America will be exempt from the provisions of this subpart, and any bale packaging materials carried over from 1977 which were eligible for packaging 1977 crop loan cotton also may be used to package 1978 crop cotton pledged for loans.

§ 1427.1902 Specifications for bale ties and buckles.

Any fixed length bale ties used on flat bales shall not exceed 10 feet 3 inches in length, exclusing overlap. All ties and buckles or fasteners must be coated or finished with a rust inhibitor.

(a) *General requirements—(1) Number of ties required.* (i) Flat bales (bales having densities of less than 20 pounds per cubic foot) must have not less than 6 ties.

(ii) Standard density bales (bales having densities of at least 20 pounds but less than 28 pounds per cubic foot) must have not less than 8 ties.

(iii) Universal density bales (bales having densities of 28 pounds or more per cubic foot) must have not less than 8 ties.

(2) *Flat bales packaged with nonreuseable ties.* Except for bales stored only in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia, if the ties on a bale are not suitable for reuse when the bale is compressed, the ties will not be deemed to meet these specifications unless the producer has prepaid any warehouse charge for furnishing new bale ties. If the bale is stored at a warehouse not having compress facilities and bales shipped from the warehouse are normally compressed in transit, the warehouse receipt must show that the bale ties are not suitable for reuse when the bale is compressed and the charge assessed by the nearest compress in line of transit for furnishing new bale ties will be deducted from the loan proceeds.

(b) *Conventional hot rolled steel ties and buckles.* The total weight of bale ties and buckles to tie each bale of cotton shall not be less than 8½ pounds.

(c) *Cold rolled high tensile steel strapping.* The supplier's name or trademark must be printed or embossed on every 36 inches of strapping.

(1) *For use on flat bales and standard density and universal density bales compressed at a warehouse.* The strapping shall have a minimum width of three-fourths of an inch and minimum thickness of 0.025 inch with zero tolerance, minimum weight of 1 pound per 15.7 linear feet of strapping or 4 pounds per bale of cotton, minimum breaking strength of 2,400 pounds with a joint strength of not less than 2,040 pounds.

(2) *For use on gin standard density and gin universal density bales.* The strapping shall have a minimum width of three-fourths of an inch and minimum thickness of 0.031 inch with zero tolerance, minimum weight of 1 pound per 12.7 linear feet of straping or 5 pounds per bale of cotton and minimum breaking strength of 3,200 pounds with a joint strength of not less than 2,720 pounds for gin standard density bales or 4,000 pounds with a joint strength of not less than 3,400 pounds for gin universal density bales.

(3) *Keylock type fixed length tie for use on flat bales and universal density bales compressed at a warehouse.* The bale tie must have a minimum width of 0.74 inches and a minimum thickness of 0.025 inches, minimum weight of 4 pounds per bale of cotton, minimum breaking strength of 3,200 pounds with a joint strength of not less than 2,700 pounds. The tie shall be constructed so as not to disengage at the joint while tucking or while being handled with clamp trucks.

(d) *Wire Ties.* Ties must be manufactured from wire which conform to ASTM-A-510 issued by the American Society for Testing Materials (ASTM). Each bundle of wire shall bear a certification that the wire ties have been manufactured according to the specifications for Bale Packaging Materials as published in Part 1427, Chapter XIV, Title 7 of the Code of Federal Regulations. The certification shall also show the name and address of the wire tie manufacturer and contain a quality control code which will permit the ties to be identified to the 2,000 pound lot and/or wire carrier.

Wire tie manufacturers shall follow a regular procedure of testing and inspection which involves a minimum of one break test on a sample from each 2,000 pound lot and/or wire carrier. Wire ties shall be fabricated within the United States. The tare weight for 10-gauge wire shall be 3 pounds per bale and the tare weight for 9-gauge wire shall be 4 pounds per bale.

(1) *For use on flat bales and bales compressed to standard density and universal density at a warehouse.*

(i) *Square knot type wire.* The ties shall not be smaller than 10-gauge with a minimum joint strength of 1,850 pounds. Joints may be on side of bales.

(ii) *Crosshead type wire.* The ties shall not be smaller than 10-gauge with a minimum joint strength of 1,650 pounds. The minimum elongation of the wire shall be [one inch] per 10 inches. Joints may be on side of bales.

(2) *For use on gin standard density and gin universal density bales.* The ties shall be not smaller than 9-gauge. The breaking strength of the wire must not be less than 3,400 pounds with a joint strength of not less than 2,100 pounds with the joints placed on the tops of the bales. If the joints are placed on the sides of the bales, the breaking strength of the wire must not be less than 3,200 pounds with a joint strength of not less than 3,040 pounds.

§ 1427.1903 Specifications for bagging.

Except in cases where shrink-pack polyethylene bags, poly-propylene half-bag panel combinations, or spiral sewn bags of burlap and/or polypropylene are used, each bale must be wrapped with a pattern of bagging consisting of two pieces (panels) of bagging material. All bagging material must be clean, in sound condition, and of sufficient strength to adequately protect the cotton. The material must not have salt of other corrosive material added and must not contain sisal or other hard fiber or any other material which will contaminate or adversely affect cotton as determined by the President or Executive Vice President, Commodity Credit Corporation.

(a) *New jute bagging used to wrap flat bales (32 ounces per linear yard).* Each one-half pattern (panel) of new jute bagging used to wrap flat bales must not be less than 108 inches or more than 115 inches in length and must not be less than 47 inches or more than 56 inches in width. The bagging must contain not less than 41 warp yarns per 12 inches of bagging of a size equal to or larger than the weft (filling) yarns and must contain not less than 25 weft (filling) yarns per 12 inches of bagging. The bagging must weigh not less than 11¼ and not more than 13¼ pounds per pattern (two panels) at 13.75 percent moisture content (not moisture regain).

(b) *New jute bagging used to wrap gin standard density and gin universal density bales.* Each one-half pattern (panel) of new jute bagging used to wrap standard gin universal density bales must not be less than 96 inches or more than 100 inches in length for gin universal density bales and not less than 100 inches or more than 102 inches for gin standard density bales and must not be less than 40 inches or more than 150 warp yarns per 40 inches of bagging of a size equal to or larger than the weft (filling) yarns, must contain not less than 25 weft (filling) yarns per 12 inches of bagging and must weigh not less than 7½ and not more than 8½ pounds per pattern (two panels) at 13.75 percent moisture content (not moisture regain). A marker warp yarn of the same size as the remaining warp yarns, made of jute of plied cotton, dyed dark green with a colorfast, nonbleeding dye of a type which will not be subject to permanent staining of cotton fiber under normal weathering conditions must be placed in the center of each panel to designate the 8-pound tare weight of the bagging. *Provided,* That new jute bagging material meeting the warp and weft requirements for jute bagging used on flat bales and weighing not less than 8¾ and not more than 11¼ pounds per pattern at 13.75 percent moisture content (not moisture regain) may be used to wrap gin standard density and gin universal density bales.

(c) *Compact center type new jute bagging—(1) Used to wrap flat bales (24 ounces per linear yard).* Each one-half pattern (panel) of compact center type new jute bagging used to wrap flat bales must not be less than 108 inches or more than 115 inches in length and must not be less than 46 inches in width. The bagging must contain a center panel not less than 32 inches wide and contain not less than 110 warp yarns and an outer edge not less than 7 inches wide containing not less than 13 warp yarns including salvage. The warp yarn must be a size equal to or larger than the weft (filling) yarns. The bagging must contain not less than 25 weft (filling) yarns per 12 inches of bagging with a minimum weft yarn weight of 40 pounds per spindle (14,400 yards). The bagging must weigh not less than 8½ and not more than 9½ pounds per pattern (two panels) at 13.75 percent moisture content (not moisture regain). A marker warp yarn of the same size as the other warp yarns, made of jute or a plied cotton yarn, dyed dark blue with a colorfast, non-bleeding dye of a type which will not be subject to permanent staining of cotton fiber under normal weathering conditions must be palced in the center of each panel to designate the 9-pound tare weight.

(2) *Used to wrap gin standard and universal density bale.* Compact center type new jute bagging (24 ounces per linear yard) meeting the same width and fabric construction requirements for compact center type new jute bagging as used on flat bales cut to a length of not less than 98 inches or more than 101 inches in length, weighing not less than 7½ and not more than 8½ pounds per pattern (two paneis) at 13.75 percent moisture content (not moisture regain) and containing a dark green center market yarn to designate the 8 pounds tare weight of the bagging may be used to wrap gin standard and gin universal density bales.

(d) *T2 type new jute bagging—(1) Used to wrap flat and modified flat bales.* Each one-half pattern of T2 type new jute bagging used to wrap flat and modified flat bales must be not less than 108 inches in length and must not be less than 46 inches in width. The bagging must contain not less than 108 two-ply warp yarns per 12 inches of bagging and not less than 48 weft (filling) yarns per 12 inches of bagging with a minimum weft yarn weight of 14 pounds per spindle (14,400 yards). The bagging must weigh not less than 6.65 and not more than 7.75 pounds per pattern (two panels) at 13.75 percent moisture content (not moisture regain). A market warp yarn made of jute or cotton either plied or single of a size not less than the other warp yarn dyed red with a colorfast non-bleeding dye of a type which will not be subject to permanently staining of cotton fiber under normal weathering conditions, must be placed in the center of each panel to designate the 7 pound tare weight of the bagging. The average tensil breaking strength shall not be less than 295 kilograms (650 pounds) and 60 kilograms (132 pounds) in the weft way with a tolerance of minus 10 kilograms (22 pounds) (10 centimeters by 20 centimeters) ravel strip method.

(2) *Used to wrap gin standard and universal density bales.* T2 type new jute bagging meeting the same fabric construction requirements for T2 type new jute bagging as used on flat and modified flat bales cut to a length of not less than 98 inches or more than 101 inches and not less than 40 inches in width, weighing not less than 5.5 pounds and not more than 6.5 pounds per pattern (two panels) at 13.25 percent moisture content (not moisture regain), and containing a black center marker yarn to designate the 6 pound tare weight of the bagging may be used to wrap gin standard and gin universal density bales.

(e) *Salvage jute (burlap) bagging—(1) General requirements.* Salvage jute (burlap) bagging must be processed specifically for cotton bale coverings from once-used good quality closely woven heavy jute bags previously used for sugar, coffee, cocoa, or other products approved by the President or Executive Vice President, CCC. Each one-half pattern (panel) must be composed of not more than three pieces of used bag cloth of the same construction and weight. There must not be more than two crosswise sewn seams and no lengthwise sewn seams in any one-half pattern (seams, hems, and necessary patches in the original bags from which the bagging is made will not be considered sewn seams). Overlap at seams and patches must not be greater than 3½ inches. Overlaps, patches, and hems sewn into bagging to increase the weight of lightweight material will not be permitted. Sewn seams must be such that the edges of the joined pieces coincide to make a symmetrical one-half pattern without appreciable displacement of the edge of one piece of bagging relative to the edge of the adjoining piece in the seam. Sewing must be with strong thread with not larger than ⅜-inch stitching.

(2) *To wrap flat bales.* Each one-half pattern (panel) used to wrap flat bales must not be less than 108 inches or more than 115 inches in length and must be not less than 47 inches or more than 56 inches in width. The bagging must weigh not less than 11¼ and not more than 13¼ pounds per pattern (two panels) at 13.75 percent moisture content (not moisture regain).

(3) *To wrap gin standard density and gin universal density bales.* Each one-half pattern (panel) used to wrap gin standard and gin universal density must not be less than 40 inches or more than 48 inches in width and must be not less than 96 inches or more than 102 inches in length. The bagging must weigh not less than 7½ and not more than 11¼ pounds per pattern (two panels) at 13.75 percent moisture content (not moisture regain).

(f) *Spiral sewn burlap bags used to wrap gin standard and gin universal density bales and bales compressed to standard density and universal density at a warehouse.—(1) Material.* Spiral sewn burlap bags used to wrap

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gin standard and gin universal density bales and bales compressed to standard density and universal density at a warehouse must be spiral sewn from new burlap which is not less than 60 inches wide before sewing and weighs not less than 13.25 ounces per linear yard (this corresponds to burlap weighing 8.9 ounces per 40-inch width). The material must have a true selvage on each side. Spiral sewn bags made from split burlap with raw edges will not be acceptable.

(2) *Bag size.* The bag size must be tailored to individual bale size at each location. Bags shall git bales tightly, but must be large enough to minimize bursting and long enough to completely cover and secure heads of bales.

(3) *Seams.* Seams must be sewn in accordance with standand government specifications for sewing flat burlap, which are as follows: Typed SSA-1 seam, type 401 stitch, minimum four stitches per inch, and 4/12 or 5/12 cotton thread, or 1,000 denier polypropylene thread meeting ultraviolet inhibitor concentration requirements of paragraph (i) (2) (iii) of this section, with breaking strength of 5 grams per denier. Sewing thread shall be white to designate the 3 pound tare weight of the bag.

(g) *Cotton bagging.*—(1) *General requirements.* Bagging made from 100 percent cotton may be used to wrap flat bales stored only in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia, and on gin standard density and gin universal density bales stored in all States. The bagging must weigh not less than 7.7 ounces per square yard with a minimum weight of 4 pounds per pattern for flat bales, 3.1 pounds for gin standard density bales, and 3 pounds for gin universal density bales, at 8.5 percent moisture content (not moisture regain). Each panel of bagging must not be less than 48 inches in widths, and 112 inches in length for flat bales, 100 inches in length and 42 inches in width for gin standard density bales and 96 inches in length and 42 inches in width for gin universal density bales. Each panel must be constructed with true selvages on each side.

(2) *Woven.* The bagging must contain not less than 120 warp yarns (plied or single) per 12 inches of bagging of a size equal to or larger than the weft (filling) yarns and must contain not less than 78 weft (filling) yarns (plied or single) per 12 inches of bagging.

(3) *Warp knitted.* The bagging must be constructed with not less than two guide bars. The bagging must contain not less than 5 wales per inch and not less than six courses per inch. All yarns (plied or single) must be form connected with each other. The bagging must have stabilized construction with elongation or stretch not than 15 percent or more than 30 percent. Variation in tensile strength in wale and course direction must not exceed 20 percent. The bagging must have a minimum bursting strength of 75 pounds.

(h) *Polyethylene shrink-pack bags used to wrap gin standard density and gin universal density bales.* Polyethylene shrink-pack bags used to wrap gin standard and gin universal density bales must meet the following requirements:

(1) *Density.* The bag must be low density virgin polyethylene.

(2) *Color.* The bag must be clear.

(3) *Gauge.* The gauge shall be not less than 8 mil.

(4) *Gauge tolerance.* The average of any 20 evenly spaced points around the length and width of a bag must be within plus or minus 10 percent of 8 mil. Yield on any order of 2,000 pounds or more shall not vary more than plus or minus 3 percent from the nominal yield.

(5) *Tensile strength.* For machine (length) and transverse (cross) direction the tensile strength must be not less than 2,500 pounds per square inch, and for transverse (cross) direction, not less than 2,000 pounds per square inch.

(6) *Elongation.* For both machine (length) and transverse (cross) direction the elongation must be not less than 400 percent.

(7) *Impact resistance.* The impact resistance must be not less than 450 grams.

(8) *Slip characteristics.* Bags must be low slip (coefficient of friction not less than 0.50) with not anti-block or slip additive included.

(9) *Tagging.* A piece of woven yarn scrim not less than 5 inches by 7 inches and laminated on each side with polyethylene must be placed inside the bag on the head of bale and heat welded to the cover, or some other suitable reinforcing material must be bonded to the bag.

(10) *Tare weight.* Tare weight shall be not less than 2 pounds per shrink-pack bag.

(11) *Sealing head of bales.* Extra precaution must be taken in sealing heads of bales to provide maximum coverage and protection.

(12) *Shrink ratio.* The ratio of machine (length) direction shrink to the transverse (cross) direction shrink must not exceed 1.5:1.

(13) *Total tare weight.* The total tare weight (i.e. bag and ties) shall be printed on the bag. Printing shall read "total tare = —— lbs." and the bale tare weight shall be included in the appropriate space.

(14) *Bag size.* Each bag shall be not less than 87 inches in length when used on 54 inch by 20 inch presses and not less than 83 inches in length when used on 50 inch by 20 inch presses.

(1) *Polypropylene material*—(1) *General.* Polypropylene material used to wrap bales shall be new polypropylene fabric manufactured in the United States from yarn and resins produced in the United States and woven specifically for use on cotton bales. The bale covers shall be uniform in size and color, clean, unstained, and free of any extraneous material.

(2) *Yarns.* No scrap, reground, or reworked polymer shall be used, except that unoriented edge trim may be reground and directly recycled during operation of extruder.

(i) *Type.* The yarn shall be crystalline or isotatic polypropylene tape yarn.

(ii) *Dimension.* Yarn dimensions shall be 2.1 mils thick, plus or minus 0.2 mil and 95 mils wide, plus or minus 2 mils.

(iii) *Inhibitor concentration.* The yarn shall be stabilized by a system containing organo-nickel complex ultraviolet light inhibitor. The yarn shall contain organo-nickel complex at a concentration of not less than 0.1 percent nickel as metal from the inhibitor. The Cotton Industry Bale Packaging Committee will have samples checked periodically by a private laboratory at manufacturers; expense.

(3) *Fabric woven from stabilized yarns*—(i) *Minimum weight.* The fabric must weigh an average of not less than 3 ounces per square yard and no test sample shall weigh less than 2.8 ounces per square yard.

(ii) *Yarn count.* There must be 12 warp yarns, plus or minus 1, per inch; and 10 weft yarns, plus or minus 1, per inch.

(iii) *Color.* The color of the fabric shall be translucent light gold, unless otherwise approved by the Cotton Industry Bale Packaging Committee. A different colored warp yarn meeting ultraviolet inhibitor concentration must be inserted in the center of each panel by the fabric manufacturer. The center of each panel must be marked in the weft direction with a clearly visible line running across the entire width of the panel or with a series of three lines having a minimum of 12 inches on each edge and a minimum of 6 inches in the center. The lines must be within one inch of the true center of the length of the panel.

(iv) *Tensile strength.* Minimum tensile strength shall be 125 pounds per inch average in the warp direction and 100 pounds per inch average in the weft direction. Ten samples shall be tested in each direction for this determination and no single test shall be more than 10 pounds per inch below the specified average.

(v) *Elongation.* Fabric shall have an elongation to break of not less than 15 percent average in both warp and weft directions. Ten samples shall be tested in each direction for this determination and no single test value shall be below 12 percent.

(vi) *Selvage.* Each outer edge of the fabric shall be a tucked selvage or natural selvage containing not less than the number of warp ends prevalent in the body of the fabric. A heat cut selvage will not be acceptable. Ends of cut sheets and spiral sewn bags must be finished by heat cutting to give a pin test value of at least 40 pounds per inch.

(vii) *Air permeability.* The fabric in an unstressed state must permit not less than 5 cubic feet per minute per square foot, nor more than 50 cubic feet per minute per square foot of air flow.

(viii) *Weathering resistance.* The fabric shall retain not less than 70 percent of its original tensile breaking strength after 1,200 hours exposure to accelerated weathering.

(4) *Coatings.* Any coating added to the fabric to reduce gloss, fibrillation, slippage, or for other technical reasons, shall be as stable as the fabric to which it has been applied when exposed to accelerated weathering. Such coating must not adversely affect cotton which it is to contact.

(5) *Minimum panel size.* (i) Each panel of bagging must be not less than 52 inches in width and 112 inches in length for use on nonmodified flat presses (28 inch width bales).

(ii) Each panel of bagging must be not less than 48 inches in width and 112 inches in length for use on modified flat presses (25 inch width bales).

(iii) Each panel of bagging must be not less than 44 inches in width and 100 inches in length for use on gin standard density bales.

(iv) Each panel of bagging must be not less than 44 inches in width and 96 inches in length for use on gin universal density bales.

(6) *Additional specifications for spiral sewn bags.* Spiral sewn polypropylene bags must meet the following requirements:

(i) Fabric shall conform the specifications for woven polypropylene fabric specifications.

(ii) The fabric from which each bag is sewn shall be a minimum of 60 inches in width.

(iii) The bag size must be tailored to individual bale size at each location. Bags shall fit bales tightly, but must be large enough to minimize bursting and long enough to completely cover and secure heads of bales.

(iv) Seams must be sewn in accordance with the following: Type SSN-1 Seam, type 401 stitch, minimum four stitches per inch, and 4/12 or 5/12 cotton thread, or 1,000 denier polypropylene thread meeting ultraviolet inhibitor concentration requirements of paragraph (i)(2)(iii) of this section, with breaking strength of 5 grams per denier. Sewn seams at botton of bags must be a minimum of ¾ inch from heat cut edges and be of type SSA-1

(7) *Additional requirements for half-bag panel combinations.* Half-bag panel combinations must meet the following requirements:

(i) Fabric shall conform to specifications for woven polypropylene fabric specifications.

(ii) The half-bag size must be tailored to individual bale size at each gin location. (*a*) *Flat presses.* For flat presses each half-bag shall be not less than 36 inches in depth and each panel shall be not less than 48 inches in width and 112 inches in length. (*b*) *Gin universal presses.* For 54 inch by 20 inch gin universal presses, each half-bag shall be not less than 32 inches in depth and each panel shall be not less than 40 inches in width and 98 inches in length. For 50 inch by 20 inch presses, each half-bag shall be not less than 34 inches in depth and each panel shall be not less than 40 inches in width and 96 inches in length. (c) *Gin standard presses.* For gin standard presses, each half-bag shall not be less than 40 inches in width and 100 inches in length.

(iii) Seams must be sewn in accordance with the following: Type SSN-1 seam, type 401 stitch, minimum four stitches per inch, and 4/12 or 5/12 cotton thread or 1,000 denier polypropylene thread meeting ultraviolet inhibitor concentration requirements of paragraph (i)(2)(iii) Of this section, with breaking strength of 5 grams per denier. All cuts shall be heat cut or shall be rolled to prevent ravelling.

(8) *Identification markings.* Each panel and/or spiral sewn bag must have the name or trademark of the fabric manufacturer (that is, the company weaving the material) suitably printed no more than 36 inches apart and 8 to 12 inches from the panel selvage. Each identification mark shall be at least three-fourths inch in height but not more than one inch in height. The identification markings shall be placed on record with the Cotton Industry Bale Packaging Committee and CCC.

(9) *Inspection and certification requirements*—(i) *Responsibility for inspection.* The fabric manufacturer and the supplier are both responsible for performance of all inspection requirements as specified herein. They may use their own or any other facilities suitable for the performance of such inspection requirements, unless such facilities are disapproved by the Cotton Industry Bale Packaging Committee or CCC.

(ii) *Right to perform inspection or testing.* Reasonable inspection or tests deemed necessary may be performed by the Cotton Industry Bale Packaging Committee and/or CCC to assure that materials conform to prescribed specifications.

(iii) *Inspection or testing expense.* Expense for such inspection or testing shall be borne by the fabric manufacturer or supplier.

(iv) *Certification required by the Cotton Industry Bale Packaging Committee*—(*a*) *Submission of samples.* All manufacturers of polypropylene must submit samples to a private testing laboratory selected by the Cotton Industry Bale Packaging Committee or CCC for certification that materials meet all prescribed specifications.

(*b*) *Approved list.* Upon receipt of testing results, the Cotton Industry Bale Packaging Committee will publicize throughout the cotton industry a list of approved manufacturers and their trademarks.

(*c*) *Responsibility for components and materials.* The supplier and fabric manufacturer are responsible for insuring that components and materials used are manufactured, examined, and tested in accordance with approved specifications and standards.

(*d*) *Certification of fabric furnished.* Fabric manufacturers shall certify to customers that the fabric furnished has been manufactured in the United States from yarn and resins produced in the United States for use as cotton bale covers, and which meet the material specifications herein, and that the manufacturer is on the Cotton Industry Bale Packaging Committee's approved list.

§ 1427.1904 Test methods.

The following testing methods will be used by CCC in determining whether bagging and bale ties and buckles or fasteners used to package cotton tendered for CCC loans beginning with the 1978 crop of cotton meets the above specifications. Except for polyethylene shrink-pack bags, spiral sewn burlap bags and bagging manufactured from polypropylene material, each sample of bagging selected for testing will consist of one-half pattern. (Each sample of polyethylene shrink-pack bag and spiral sewn burlap bags will consist of one bag. Polypropylene material selected for testing will consist of a minimum of ten randomly selected panels or spiral sewn bags or an equivalent amount of flat goods in cases where the material is tested before it is in panel or spiral sewn bag form.)

(a) *Weight and strength of bale ties and buckles.* The bale ties and buckles will be weighed on suitable accurate scales and the weight determined to the nearest one-half pound. A bundle or package of ties and buckles may be weighed and averaged to determine the weight of ties and buckles necessary to package a bale of cotton. For high tensile steel strapping, a given number of feet of strapping will be weighed to determine the number of feet of strapping per pound. Breaking

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strength and joint strength tests will be made only when determined to be necessary.

(b) *Length.* The length of the sample will be measured directly using a measuring stick, steel tape, or other suitably graduated device. The sample will be laid out flat on a smooth horizontal surface and the length measured. Both selvages for jute and cotton panels will be measured and the length of each side of polyethylene shrink pack bags will be measured. The length of the sample will be the average of the two measurements rounded to the nearest inch. Jute and cotton measurements will be made on the sample in equilibrium with standard atmospheric conditions as specified in A.S.T.M. D 1776 62-T.

(c) *Width.* The width of the sample will be measured directly using a measuring stick, steel tape, or other suitably graduated device and will include the selvages. The sample will be laid out flat on a smooth horizontal surface and the measurements made perpendicular to the lengths (selvages in the case of jute and cotton). Three width measurements will be taken on each sample. One measurement will be made at the center of the sample and two other measurements will be made approximately 12 inches in from each end of the sample. The average of the three measurements rounded to the nearest inch, will be the width. For compact center type new jute, the compact center shall be measured between the outer edges of the outermost yarns in the more compact area. The loosely woven edges shall be measured from the outer edge of the outer-most warp yarn of the compact area to the outside edge including selvage. Three width measurements will be taken at locations described above for other width measurements and averaged. Jute and cotton measurements will be made on the sample in equilibrium with standard atmospheric conditions as specified in A.S.T.M. D 1776 62-T.

(d) *Warp yarn count.* For new jute (except for the compact center type new jute) and woven cotton bagging, the number of warp ends in the width of the sample including the selvages will be counted at each end of the sample. The average of the two counts will be divided by the width, as determined above. This figure will be multiplied by 12 to determine warp yarns per 12 inches of bagging or by 40 to determine warp yarns per 40 inches of bagging. For compact center type new jute bagging, the number of warp ends in the denser center area will be counted at each end of the sample and averaged. The average of the two counts will be the warp yarn count for the compact center section. The number of warp ends in the outer edges will be counted at each end and at each edge including selvages and averaged. The average of the two counts will be the warp yarn count for the outer edges. For T2 type new jute bagging, the number of 2 ply warp yarns will be counted in width of the sample including the selvages. The average of the two counts will be divided by the width in inches and multiplied by 12 to determine warp yarn per 12 inches. For polypropylene bagging, the number of warp ends in a 12 inch width of the sample will be counted. This figure will be divided by 12 to determine the warp yarns per inch of bagging.

(e) *Weft yarn count.* The number of weft (filling) yarns over a measured length of 36 inches on each sample of new jute, including T2 new jute, and woven cotton bagging will be counted. The number counted divided by 3 will be the weft yarn count per 12 inches. For polypropylene bagging, the number of weft ends in a 12 inch length of the sample will be counted. This figure will be divided by 12 to determine the weft yarns per inch of bagging.

(f) *Weight of bagging.* The weight of bagging, except for polypropylene material, will be determined by weighing on suitable accurate scales, and the weight per pattern will be determined to the nearest one-tenth pound. Several patterns (or bales of bagging patterns) may be weighed simultaneously and the weight averaged. The weight for jute bagging will be calculated on the basis of 13.75 percent moisture content (not moisture regain) and for cotton bagging on the basis of 8.5 percent moisture content (not moisture regain). (Polypropylene fabric weight will be determined as prescribed in subparagraph (k)(3) of this section.)

(g) *Wale count of warp knitted cotton bagging.* The number of wales or ribs running lengthwise of the sample from wrap knitted cotton bagging will be counted over a measured width (relaxed state) of 12 inches on each sample. The number counted divided by 12 will be the wale count per inch.

(h) *Course count of warp knitted cotton bagging.* The number of courses or loops which form a line horizontal to the wales or ribs will be counted over a measured length (relaxed state) of 12 inches on each sample of warp knitted cotton bagging. The number counted divided by 12 will be the course count per inch.

(i) *Additional tests on warp knitted cotton bagging.* Elongation or stretch properties of warp knitted cotton bagging will be tested at one pound per inch static load using methods as specified in A.S.T.M. D 2594. Bursting strength will be tested on an approved type of constant rate of traverse machine equipped with a bursting attachment (ball burst) as specified in A.S.T.M. D 231.

(j) *Additional tests for polyethylene material.* The gauge and gauge tolerance of polyethylene material shall be tested in accordance with A.S.T.M. D 374. The tensile strength and elongation shall be tested in accordance with A.S.T.M. D 882-67. Impact resistance shall be tested in accordance with A.S.T.M. method B 1709-67. Slip characteristics shall be tested in accordance with A.S.T.M. D 1894. The ratio of machine direction shrink to transverse direction shrink will be calculated in accordance with A.S.T.M. D 2732.

(k) *Additional test procedures for polypropylene material*—(1) *Yarn dimensions.* Polypropylene material shall also be tested as follows: Yarn dimensions will be tested as specified in A.S.T.M. D 3218-73T.

(2) *Inhibitor concentration.* Yarn shall be removed from the warp direction of each test sample and analyzed for ultraviolet inhibitor concentration by following applicable analytical test procedure as specified in method Military—B 52472B (ME) paragraph 4.4.2.7.2.2. atomic absorption method. Specimen yarns shall likewise be removed from the weft or fill direction and tested for inhibitor concentration. Values obtained less than 0.1 percent nickel as metal for the inhibitor in either warp or weft direction of the fabric shall be deemed nonconformance and constitute failure of this test.

(3) *Fabric weight.* The fabric weight per square yard shall be determined as specified in Federal Test Method Standard No. 191, method 5041.

(4) *Tensile strength and elongation.* A minimum of ten randomly selected samples will be tested for tensile strength and elongation to break at standard conditions and in accordance with Federal Test Method Standard No. 191.

(5) *Accelerated weathering*—(i) *Preparation of specimens.* The sample unit will be one finished panel or spiral sewn bag or an equivalent amount of flat goods. Three swatches 4 inches by 12 inches shall be cut from each principal direction (warp and weft) of the fabric. Each swatch shall be cut into two 4 inch by 6 inch test specimens: One specimen to be used for initial break strength and the other specimen to be used for break strength after accelerated weathering. The specimens shall be marked to indicate which are cut with the long dimension in the warp direction and which have the long dimension in the weft direction.

(ii) *Initial tensile breaking strength.* The marked control specimens shall be conditioned for 24 hours at the standard condition specified in Federal Test Method Standard No. 191 and shall be tested for breaking strength in accordance with Federal Test Method Standard No. 191, method 5100.1. The result shall be averaged for specimens in warp direction and averaged for specimens in weft direction and the averages shall be recorded as the initial breaking strength in warp and weft directions. An average in warp of less than 125 pounds or less than 100 pounds in the weft direction shall constitute failure of this test.

(iii) *Breaking tensile strength after accelerated weathering.* The balance of the specimens shall be tested in accordance with Federal Test Method Standard No. 191, method 5804 for not less than 1,200 hours, except that the black panel temperature shall be maintained at 155° F, plus or minus 3° F. The black panel temperature shall be read during the final 10 minutes of a cycle just before the water spray period starts. At the completion of 1,200 hours exposure to accelerated weathering, the specimens shall again be conditioned for 24 hours at the standard conditions specified in Federal Test Method Standard No. 191. After conditioning, the exposed specimens shall be tested for breaking strength in accordance with Federal Test Method Standard No. 191, method 5100.1. An average breaking strength of less than 70 percent of the initial average breaking strength recorded for its respective warp or fill yarn direction shall constitute failure of this test.

(6) *Ends of heat cut sheets and/or spiral sewn bags.* Heat cut ends of cotton bale cover sheets and spiral tubing shall be evaluated for heat cut strength as specified in ASTM Method D 751. Pin test values of less than 40 pounds, as per this method, shall constitute failure of this test.

(7) *Air permeability.* The fabric shall be tested for air permeability as specified in ASTM D 737-46. Air permeability values of less than 5 or more than 50 cubic feet per minute per square foot will constitute failure of this test.

(l) *Additional test procedures for T2 type new jute bagging.* Tensile strength, breaking loan shall be determined for T2 type new jute bagging by a ravel strip method. Strip tests shall be performed on a pendulum type strength tester (or equivalent) having a constant rate of traverse operated at 46 cm (18 inches) per minute, with test specimen dimensions between the grips of the tester being 20 cm by 10 cm.

This subpart is effective for all loans made on the 1978 and subsequent crops of cotton.

Signed at Washington, D.C., on April 26, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-12131 Filed 5-3-78; 8:45 am]

[3410-05]

PART 1430—DAIRY PRODUCTS

Subpart—Price Support Program For Milk

1977-1978 PRICE SUPPORT

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: Pursuant to the Food and Agriculture Act of 1977 and based on an estimated 4.8 percent increase in the parity index from October 1, 1977, to April 1, 1978, the support price was increased from $9 per hundredweight to $9.43, effective April 1, 1978. The announced price is for milk with the national average milkfat content of 3.67 percent. The equivalent support price for milk with 3.5 percent milkfat is $9.21.

The manufacturing margins used in calculating CCC purchase prices for butter-nonfat dry milk and cheese also were increased by 10 cents per hundredweight to reflect increases in manufacturing costs since the margins were last changed on October 1, 1976.

EFFECTIVE DATE: April 1, 1978.

ADDRESS: Procurement and Sales Division, ASCS, USDA, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Donald E. Friedly, Agricultural Economist, Dairy Branch, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013, 202-447-3571.

SUPPLEMENTARY INFORMATION: Section 201 of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, requires that the price of milk be adjusted at midyear to reflect any estimated change in the parity index during the first six months of the marketing year. In that regard, it was estimated that the parity index would increase 4.8 percent between October 1, 1977, the beginning of the marketing year, and April 1, 1978.

On January 31, 1978, a notice was published in the FEDERAL REGISTER (43 FR 4049) inviting comments concerning the semiannual adjustment in the support price for milk and the prices and terms of purchase by CCC of butter, cheese, and nonfat dry milk. A similar notice was also issued in a USDA press release.

DISCUSSION OF COMMENTS

The Department received 49 written comments from dairy farmers, dairy cooperatives and associations, farm organizations, dairy product dealers, consumers, other farm-interested persons and organizations. Thirty-three comments included recommendations to increase the support price. Of these, two commenters recommended an increase to 80 percent of parity, six to 90 percent of parity, and ten to 100 percent of parity (one comment had 24 signatures). Fifteen commenters recommended an increase without specifying the amount. In addition, three commenters recommended continuing the $9 support price, four commenters were against a support price increase, and three commenters recommended lowering the support price. Of the 14 dairy farmer cooperatives and associations responding, their recommendations are summarized as follows: Eight recommended announcing the support price on a 3.5 percent butterfat basis (the announced price is for milk with the national average butterfat content of 3.67 percent), eight recommended increasing the manufacturing margins used in calculating Commodity Credit Corporation's (CCC's) purchase prices, eight recommended increasing CCC's prices for unrestricted use sales of dairy products to 115 percent of their current purchase prices, seven recommended purchasing process cheese at an announced price, five recommended dividing the support increase equally between the purchase prices for butter and nonfat dry milk, and two recommended establishing a purchase price for butter at the West Coast equal to that announced for Chicago. Recommendations were received from three consumers concerning the level of support, one recommended lowering the support price, and two were against increasing support.

SUPPORT PRICE ADJUSTMENT

The parity index was 685 on October 1, 1977, and 716 on February 1, 1978. In March, the parity index was estimated to be 718 on April 1, 1978, a 4.8 percent increase over the index during the first six months of the marketing year. Thus, a 4.8 percent increase in the $9 support price resulted in a $9.43 per hundredweight support price for milk effective April 1, 1978.

The results of the semiannual support price adjustment were described in a USDA press release. The latest available statistics of the Federal Government were used in making determinations under this rule.

MANUFACTURING MARGINS

A USDA multi-agency report, "Dairy Product Manufacturing Margins," was submitted to the CCC Board of Directors on March 1, 1978. The report indicated that the costs to manufacturers had increased about 10 cents per hundredweight since October 1, 1976, the last time the margins were changed.

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Therefore, the manufacturing margins were increased 10 cents for butter-nonfat dry milk and 10 cents for cheese in order to provide greater assurance that the U.S. average price received by farmers will equal the announced support price.

CCC PURCHASE PRICE FOR BUTTER ON THE WEST COAST

The CCC purchase price for butter in the West was decreased 2 cents per pound in 1974. Butter purchases in the Pacific Coast States increased substantially in the early 1970's, and such purchases in the 1973-74 marketing year represented about two-thirds of the total CCC butter purchases in the U.S. The purpose of the 2-cent reduction was as an incentive to keep the butter in commercial channels. Since April 1, 1974, CCC purchases of butter on the West Coast have averaged only about 15 percent of U.S. purchases.

The maximum freight rate deduction subtracted from the CCC purchase price for butter at New York City was reduced from 3 cents to 2.5 cents per pound, effective April 1, 1978. As a result, CCC purchase prices of butter in the South and West are now approximately the same as CCC's purchase prices in the heart of the midwestern butter production area.

RELATIVE INCREASES IN THE CCC PURCHASE PRICES FOR BUTTER AND NONFAT DRY MILK

Since nonfat dry milk and butter are made from the same whole milk, manufacturers must receive enough revenue from the sale of both products to pay a given price for milk to producers. Since 1970, the relative support increases have been divided between the two products based on the relative demand and supply for the two products. The support increase on April 1, 1977, was divided equally between the two products and in the year ending September 30, 1977, CCC purchased quantities of fat and nonfat solids roughly in proportion to their respective production. This indicates that the purchase prices were in about the proper relationship to each other. Therefore, effective April 1, 1978, the increases in the support price and the manufacturing margins were divided about equally per hundredweight of milk between the purchase prices of butter and nonfat dry milk.

FINAL RULE

Based on the $9.43 support price, subparagraphs (a)(1), (b)(1), and (b)(2) of 7 CFR § 1430.282 are revised to read as follows:

§ 1430.282 Price support program for milk.

(a) (1) The general level of prices to producers for milk will be supported from April 1 through September 30, 1978, at $9.43 per hundredweight for manufacturing milk, subject to adjustment as provided for by law.

* * * * *

(b) (1) Commodity Credit Corporation will consider offers of butter, Cheddar cheese, and nonfat dry milk in bulk containers meeting specifications in the announcements at the following prices:

(Dollars per pound)

Commodity and location	Produced before Apr. 1, 1978	Produced on or after Apr. 1, 1978
Cheddar cheese—Standard moisture 37.8 to 39.0 percent:[1]		
40-lb blocks, U.S. grade A or higher	0.9800	1.0325
500 lb in fiber barrels, U.S. extra grade[2]	.9500	1.0025
Nonfat dry milk, spray process, U.S. extra grade:[3]		
Unfortified	.6800	.7100
Fortified (vitamins A and D)	.6950	.7250
Butter—U.S. grade A or higher: New York, N.Y., and Jersey City, Newark, and Secaucus, N.J.	1.0275	1.0875

[1] The price per pound for cheese which contains less than 37.8 pct moisture shall be as specified in form ASCS-150. Copies are available in offices listed in (a)(4).

[2] Also includes granular cheese.

[3] If upon inspection bags do not fully comply with specifications, the price paid will be subject to a discount of 0.50 ct (½ cent) per pound of nonfat dry milk.

(2) Offers to sell butter at any location for which a price is not specifically provided for in this section will be considered at the price set forth in this section for New York City, less 80 percent of the lowest published domestic railroad through freight rate for frozen butter per pound gross weight for a 60,000 pound carlot, in effect at the beginning of the 1977-78 marketing year (October 1), from such other point to New York City. The minimum price at any location shall be the price at New York City minus 3.0 cents per pound before April 1, 1978, and minus 2.5 cents per pound on or after that date. Bulk butter offered in the area consisting of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, must have been produced in such States. Butter produced elsewhere is ineligible for offering to CCC in such States.

(Sec. 201, 401, Pub. L. 439, 81st Cong., 63 Stat. 1052, 1054, as amended (7 U.S.C. 1446, 1421) Secs.4,5, Pub. L. 806, 80th Cong., 62 Stat. 1070, 1072, as amended (15 U.S.C. 714b, (c)).)

Signed at Washington, D.C., on April 26, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-12129 Filed 5-3-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 78-ASW-15, Amdt. 39-3203]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Model 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) requiring modification of Bell Model 212 helicopters, equipped with emergency float kits, prior to further flight under conditions that require ditching capability or aircraft flotation devices. The modification must assure that the passenger emergency exists may be opened in the event of ditching and deployment of the emergency floats. After ditching of two Bell Model 212 helicopters, it was reportedly found that the passenger emergency exits were partially obstructed and could not be opened by the occupants. It is essential to passenger safety that the required passenger exits be operable and usable after ditching.

EFFECTIVE DATE: May 9, 1978. Modification of the forward and aft passenger emergency exits is required before further operation in situations that require ditching capability.

ADDRESSES: Design information and data for modification of the exits to comply with the AD may be submitted to Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Tex. 76101. Bell Helicopter Textron service information may be obtained from Service Manager, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Tex. 76101.

FOR FURTHER INFORMATION CONTACT:

J. H. Major, Airframe Section, ASW-212, Engineering and Manufacturing Branch, FAA, 4400 Blue Mound Road, Fort Worth, Tex. 76101, telephone No. 817-624-4911, extension 515.

SUPPLEMENTARY INFORMATION: As a result of two ditchings, reports were received of alleged partial obstruction of the passenger emergency exits on Bell Model 212 helicopters equipped with Bell emergency floats. This partial obstruction allegedly prevented prompt opening of the required emergency exits. A recent demonstration confirmed that the present Bell design passenger emergency exits are partially obstructed by the float bags and cannot be opened. It is essential to passenger safety that the required passenger exits be readily usable after a ditching for prompt evacuation of the helicopter.

Since the passenger emergency exits are likely to be obstructed and cannot be opened after ditching the Bell Model 212 equipped with emergency float kits 212-706-021 or 212-706-042, an airworthiness directive (AD) is being issued which precludes further operation of the Model 212 helicopters in situations that require ditching capability unless the forward and aft passenger exits are modified to assure their usefulness after a ditching. The exit modifications must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

The FAA has approved design changes to the passenger emergency exits, including STC No. SH2746SW issued April 4, 1978, which move the present Bell exit fixed pins from the top to the bottom edge of the exit and the retractable pins and their mechanism from the bottom to the top part of the exits. This design change assures the exits may be promptly opened and are usable after a ditching even though the exit may be partially obstructed.

Since a situation exists that requires immediate adoption of the amendment, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days. The Helicopter Association of America verbally concurs with the agency's action.

DRAFTING INFORMATION

The principal authors of this document are James H. Major, Aerospace Engineer, Flight Standards Division, and James O. Price, General Attorney, Southwest Region, FAA.

ADOPTION OF THE AMENDMENT

BELL. Applies to Bell Model 212 helicopters, certificated in all categories, that are equipped with emergency float kits 212-706-021 or 212-706-042 and that are operated under conditions that require ditching capability or aircraft flotation devices.

Compliance required as indicated.

To permit opening of the passenger emergency exits in the event of a ditching and deployment of the emergency float bags, accomplish the following, unless already accomplished in accordance with data previously approved by the FAA (including STC No. SH2746SW issued April 4, 1978):

Prior to further flight, after the effective date of this AD, modify the forward and aft passenger emergency exit on each side of the helicopter in accordance with information and/or data approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region, except that the helicopter may be flown in accordance with FAR 21.197 to a base where the work may be performed.

This amendment becomes effective May 9, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on April 24, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-12125 Filed 5-3-78; 8:45 am]

[4910-13]

[Docket No. 78-GL-2; Amdt. 39-3207]

PART 39—AIRWORTHINESS DIRECTIVES

Detroit Diesel Allison, Model 501-D13/D13A/D13D/D13E/D13H Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires that third stage turbine wheels Part Number (P/N) 6788833, 6842143, 6841223, and 6846553 and fourth stage turbine wheels P/N 6738424 and 6843014 installed in Detroit Diesel Allison 501-D13 series engines be inspected and replaced as necessary in accordance with maximum cyclic life limits specified herein. This AD is being adopted in response to two instances of third stage turbine wheel failure in 501-D13 series engines. Compliance with this AD will significantly reduce the probability of turbine wheel failure due to low cycle fatigue which may result in non-containment of turbine wheel fragments.

DATE: Effective May 12, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Copies of Detroit Diesel Allison service information referenced herein may be obtained by contacting: Detroit Diesel Allison, Division of General Motors Corp., P.O. Box 894, Indianapolis, Ind. 46206. Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Ill. 60018, and at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

W. Ashworth, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: There recently have been two instances of third stage turbine wheel failure on 501-D13 series turboprop engines. In each instance non-containment of turbine wheel fragments was experienced.

In at least one of these instances the cause of failure was determined to be the existence of a carbide precipitation network in the microstructure of the wheel which has been linked to accelerated fatigue crack propagation. Since stop/start cyclic stresses are directly related to this failure mode and because it has been determined that this condition is likely to exist in third and fourth stage turbine wheels on other engines of this type design, an airworthiness directive is being issued which imposes new cyclic life limits on third and fourth stage turbine wheels with certain carbide precipitation classifications.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, and evaluation of the anticipated impacts has been made and it is expected that within a normal range of pertinent considerations the proposal will be neither costly nor controversial.

DRAFTING INFORMATION

The principal authors of this document are W. Ashworth, Flight Stand-

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ards Division, Great Lakes Region, and J. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

DETROIT DIESEL ALLISON. Applies to 501-D13/501-D13A/501-D13D/501-D13E, and 501-D13H engines equipped with third stage turbine wheel P/N's 6788833, 6842143, 6841223, and 6846553 or fourth stage turbine wheel P/N's 6738424 and 6843014 installed in aircraft certificated in all categories.

Compliance required as follows unless previously accomplished: To preclude possible engine failure resulting from third or fourth stage turbine wheel failure: Remove and classify all third and fourth stage turbine wheels with unknown carbide precipitation classifications in accordance with the compliance times specified in (a) and (b) below, and the procedures specified in Detroit Diesel Allison Commercial Overhaul Information Letter No. 349 Rev. 1 or later FAA approved revision. Wheels both newly and previously classified with carbide precipitation classifications of "Heavy" must be removed from service in accordance with the maximum life limits specified in (a) and (b) below. Wheels both newly and previously classified with carbide precipitation classifications of "Medium Heavy" must be removed from service in accordance with the maximum life limits specified in (c) through (h) below. Wheels of all other classifications may be returned to service and operated in accordance with the existing hourly life limits.

(a) For wheels of "Heavy" and unknown carbide precipitation classification which exceed 8000 total cycles upon the effective date of this AD, compliance is required within 300 cycles.

(b) For wheels of "Heavy" and unknown carbide precipitation classification which do not exceed 8000 total cycles upon the effective date of this AD, compliance is required prior to reaching 8300 total cycles.

(c) For wheels of "Medium Heavy" carbide precipitation classification which exceed 16,000 total cycles upon effective date of this AD, compliance is required within 200 cycles.

(d) For wheels of "Medium Heavy" carbide precipitation classification which have from 14,000 to 16,000 total cycles upon the effective date of this AD, compliance is required within the next 400 cycles or prior to exceeding 16,200 cycles whichever occurs first.

(e) For wheels of "Medium Heavy" carbide precipitation classification which have from 10,500 to 14,000 total cycles upon the effective date of this AD, compliance is required within the next 1000 cycles or prior to exceeding 14, 400 total cycles whichever occurs first.

(f) For wheels of "Medium Heavy" carbide precipitation classification which have from 8000 to 10,500 total cycles on the effective date of this AD, compliance is required within the next 2000 cycles or prior to exceeding 11,500 total cycles whichever occurs first.

(g) For wheels of "Medium Heavy" carbide precipitation classification which have from 7000 to 8000 total cycles on the effective date of this AD, compliance is required prior to exceeding 10,000 cycles.

(h) For wheels of "Medium Heavy" carbide precipitation classification which do not exceed 7000 total cycles upon the effective date of this AD, compliance is required prior to exceeding 8000 cycles.

NOTE.—For purposes of this airworthiness directive a cycle is defined as one takeoff.

The Detroit Diesel Allison Commercial Overhaul Information Letter identified in this directive is incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1). The Detroit Diesel Allison Commercial Overhaul Information Letter incorporated herein may be obtained upon request to Detroit Diesel Allison, Division of General Motors Corp., P.O. Box 894, Indianapolis, Ind. 46206. This document may also be examined at the FAA Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018 and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and the Great Lakes Region. (Detroit Diesel Allison Commercial Service Letter 501-D13 CSL-253 also pertains to this subject.)

This amendment becomes effective: May 12, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on April 24, 1978.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on June 19, 1967.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc. 78-12127 Filed 5-3-78; 8:45 am]

[4910-13]

[Docket No. 77-GL-13; Amdt. 39-3208]

PART 39—AIRWORTHINESS DIRECTIVES

Champion Spark Plug Company Part Numbers CH48108 and CH48109 Oil Filters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies an existing airworthiness directive (AD) by allowing affected filters which have been inspected and reidentified to be utilized in service. This notice amends airworthiness directive 77-12-05 which required the inspection and removal from service of certain oil filters identified by manufacturing codes. The FAA has determined that the manufacturer's inspection procedures, which was developed for this purpose, would provide an acceptable verification of the integrity of the affected oil filters.

DATES: Effective May 12, 1978. Compliance schedule—Not applicable.

FOR FURTHER INFORMATION CONTACT:

Kevin Mullin, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: This notice amends Amendment 39-2923, 42 FR 31151, AD 77-12-05 which required the inspection and removal from service to two models of oil filters identified by a specific manufacturing code. After issuing Amendment 39-2923, 42 FR 31151, AD 77-12-05 the FAA determined that the manufacturer's inspection procedure, which was developed for this purpose, would provide an acceptable verification of the integrity of the affected oil filters. Therefore, the FAA is amending Amendment 39-2923 by changing the applicability to exclude affected filters which have been reidentified in accordance with this amendment.

Since this amendment relieves a restriction and imposes no additional burden on the public, notice and public procedure hereon are unnecessary and this amendment may be made effective in less than 30 days.

In accordance with Departmental Regulatory Reform, dated March 23, 1976 an evaluation of the anticipated impacts has been made and it is expected that within a usual range of pertinent considerations the proposal will be neither costly nor controversial.

DRAFTING INFORMATION

The principal authors of this document are Kevin Mullin, Flight Standards Division, Great Lakes Region, and Joe McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-2923, 42 FR 31151, AD 77-12-05 by revising its applicability statement to read:

CHAMPION SPARK PLUG COMPANY. Applies to Part Numbers CH48108 and CH48109 oil filters as installed in aircraft certified in all categories, identified by the following manufacturing date codes, 1A7E and 2A7C for the Part Number CH48108 filters, and 1A7G and 1A7I for the Part Number CH48109 oil filters, except for those affected filters which are identified with the symbol "Insp OK 5G7A" stamped adjacent to the manufacturing date code. The manufacturing date code is located on the outside of the filter housing adjacent to the filter installation instructions. Champion Spark Plug Company Aviation Sales Bulletin No. 77-13 also pertains to this subject.

This amendment becomes effective: May 12, 1978

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on April 26, 1978.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.78-12186 Filed 5-3-78; 8:45 am]

[4910-13]

[Docket No. 77-WE-11-AD; Amdt. 39-3197]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8-62, -62F, -63 and -63F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently affective airworthiness directive (AD) which requires inspection and repair of the wing structural components on certain McDonnell Douglas Model DC-8 airplanes. This amendment requires additional inspections and is needed because experience has revealed that inspection procedures specified in the original AD were not adequate to detect cracks in a critical area.

DATE: Effective Date: May 1, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Persons affected by this AD may obtain copies of applicable McDonnell Douglas service information cited in this AD by writing to: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: L. A. Eisenberg, CI-750-60. Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: Amendment 39-2979 (42 FR 24751), AD 77-15-11 as amended by Amendment 39-3029 requires inspection and repair of cracks in the wing lower skin, tee doubler and lower front spar cap at the pylons attach points on McDonnell Douglas Model DC-8-62, -62F, -63 and -63F airplanes.

After issuing Amendment 39-3029 the FAA has concluded, based on service experience that the X-ray inspections presently specified do not adequately detect cracks in a critical area of the lower spar cap forward tang. Therefore the FAA is superseding AD 77-15-11 with a new AD which requires additional ultrasonic inspection procedures and expands X-ray inspection procedures of the wing structure on McDonnell Douglas Model DC-8-62 and -63 series airplanes.

Since a situation exists requiring immediate adoption of this regulation, notice and public procedure thereon are impracticable and good cause exists for making the airworthiness directive effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Everett W. Pittman, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) Amendment 39-2979 (42 FR 24751) AD 77-15-11 as amended by Amendment 39-3029, (42 FR 44981) is superseded by adding the following new airworthiness directive:

MCDONNELL DOUGLAS: Applies to Model DC-8-62, -62F, -63, and -63F airplanes, certificated in all categories.

Compliance required as indicated.

To detect cracks and prevent failure of the wing lower forward spar cap, tee doubler, and wing skin, comply with the following:

(a) For airplanes with 35,000 or more hours time in service on the effective date of this AD, within the next 800 hours time in service, unless already accomplished within the last 2,400 hours, and thereafter at intervals not to exceed 3,200 hours time in service, accomplish paragraph (d).

(b) For airplanes with 25,000 to 34,999 hours time in service on the effective date of this AD, within the next 2,000 hours time in service, unless already accomplished within the last 1,200 hours, and thereafter at intervals not to exceed 3,200 hours time in service, accomplish paragraph (d).

(c) For airplanes with 15,000 to 24,999 hours time in service on the effective date of this AD, within the next 3,200 hours time in service, and thereafter at intervals not to exceed 3,200 hours time in service, accomplish paragraph (d).

(d) Perform an X-ray and ultrasonic inspection of lower wing structure at all four pylon areas for cracks as specified in Phase I of McDonnell Douglas DC-8 Service Bulletin 57-83, Revision 2 dated March 30, 1978, or later FAA approved revision; (hereinafter referred to as SB 57-83.)

(e) Within the next 3,200 hours time in service after July 28, 1977, (the effective date of superseded AD 77-15-11), unless already accomplished within the last 3,200 hours, and thereafter at intervals not to exceed 6,400 hours time in service, perform an X-ray inspection of the lower wing structure at all four pylon areas for cracks as outlined in Phase II of McDonnell Douglas DC-8 SB 57-83.

(f) If cracks are found in the wing spar cap and/or wing skin as a result of the inspections of paragraph (d) and (e), repair before further flight in accordance with the provisions of either McDonnell Douglas DC-8 Service Bulletin 57-83, or Option I of Service Bulletin 57-84, dated August 12, 1977, or later FAA approved revision. Cracked pylon tee doublers shall be replaced before further flight if the cracks exceed the limits in McDonnell Douglas DC-8 Service Bulletin 54-58, dated May 15, 1970, or later FAA approved revision.

(g) Airplanes modified in accordance with Option I of McDonnell Douglas DC-8 Service Bulletin 57-84 dated August 12, 1977, or later FAA approved revision are no longer subject to the repetitive inspection requirements of this AD.

(h) If no cracks are found as a result of the inspections of paragraph (d) and (e), operators may rework the airplane in accordance with Option II of McDonnell Douglas Service Bulletin 57-84 dated August 12, 1977, or later FAA approved revision, and may then discontinue the repetitive inspection requirements of this AD for a period not to exceed 15,000 hours time in service after rework. Before accumulating, 15,000 hours time in service after the rework and thereafter at intervals not to exceed 4,000 hours time in service, accomplish the inspection requirements of paragraph (e).

(i) Equivalent inspections and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(j) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

This supersedes Amendment 39-2979 (42 FR 24751), AD 77-15-11 as amended by Amendment 39-3029.

This amendment becomes effective May 1, 1978.

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(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on April 17, 1978.

ROBERT H. STANTON,
Director,
FAA Western Region.

[FR Doc. 78-11849 Filed 5-3-78; 8:45 am]

[4910-13]

[Docket No. 77-WE-27-AD; Amdt. 39-3198]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to McDonnell Douglas Model DC-8 series airplanes by requiring that a specific pre-takeoff operational procedure be used to detect and prevent takeoff with a jammed elevator, pending incorportion of an elevator position indicator system.

DATE: Effective date: June 1, 1978. Compliance schedule—As prescribed in body of AD.

ADDRESSES: Persons affected by this AD may obtain copies of applicable McDonnell Service information by writing to: McDonnell Douglas Aircraft Co., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: L. A. Eisenberg, C1-750, 54-60. Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591; or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3118 (43 FR 1299), AD 78-01-15; which currently requires the installation of an elevator position indicator system and modifications to improve clearances on McDonnell Douglas Model DC-8 series airplanes. After issuing Amendment 39-3118, the FAA has determined that a preflight elevator operational check procedure should be instituted as an interim safeguard to detect jamming until such time as an elevator position indicator system is installed. Based on this, a notice was issued in the FEDERAL REGISTER at 43 FR 6807 which proposed to amend the existing AD by requiring a specific preflight elevator operational check procedure on McDonnell Douglas Model DC-8 series airplanes.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Several of the comments received suggested that a pre-takeoff check was already standard procedure as covered in the operating manual and that many operators currently utilize adequate procedures. The AD as adopted includes recognition of operations manual instructions in conjunction with a pre-flight check list as a satisfactory alternate means of compliance with the intent of the AD as regards a placard.

One commenter suggested the placard be reworded to reflect permanent advisory information to the crew in the event the elevator position indicator, even though installed, should become inoperative. The FAA does not believe such information is necessary, as the present AD contains provisions to be followed to allow the flight to continue with an inoperative elevator position indicator until a base is reached where the repair can be accomplished.

Two commenters felt the control check during the takeoff roll would degrade safety. The FAA disagrees. The freedom-of-movement check is to be accomplished during the takeoff roll only if it is impossible to turn the airplane into the wind to do the check while taxiing. Additionally, the FAA believes that the takeoff roll check can be done safely if the procedures and restrictions in Alert Service Bulletin A27-264 are followed.

Several commenters thought the placard was confusing and that the wording was not acceptable, primarily because the pilot wouldn't have Service Bulletin A27-264 available in the cockpit. They suggested that the operations manual was a better place to call out such a procedure. The FAA expects that each operator will develop his own method for advising the crew of the requirements of Service Bulletin A27-264. The AD as adopted includes a provision allowing the operator to use an operations manual instruction plus a check list item in lieu of a placard installation.

DRAFTING INFORMATION

The principal authors of this document are Everett W. Pittman, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3118 (43 FR 1299) AD 78-01-15, by adding the following new paragraph (f):

(f) Within 30 days after the effective date of this AD as amended, unless already accomplished, and until paragraph (b) of this AD is accomplished, either:

(1) Install the following placard in full view of both pilots:

PRIOR TO EACH TAKEOFF, PERFORM AN ELEVATOR CONTROL SYSTEM CHECK IN ACCORDANCE WITH DC-8 SERVICE BULLETIN A27-264.

(2) or, include an instruction in the DC-8 Operations Manual and a check list item which specifies those control checks identified in SB A27-264.

This AD becomes effective June 1, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on April 17, 1978.

ROBERT H. STANTON,
Director,
FAA Western Region.

[FR Doc. 78-11857 Filed 5-3-78; 8:45 am]

[4910-13]

[Docket No. 73-WE-9-AD; Amdt. 39-3201]

PART 39—AIRWORTHINESS DIRECTIVES

Rockwell International Model NA-265 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to Rockwell International NA-265 series airplanes by

amending the aircraft effectivity. The FAA has determined that inspection of wing spars and related areas for stress corrosion cracking is not required in airplanes whose spars have been manufactured from 7049-T73 aluminum.

DATES: Effective May 5, 1978. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from: Rockwell International, Sabreliner Division, 827 Lapham Street, El Segundo, Calif. 90245.

Also, a copy of the service bulletin may be reviewed, at or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: This notice amends Amendment 39-1707 (38 FR 23513), AD 73-18-3, which currently requires inspection of the wing spars and related areas for stress corrosion cracking on Rockwell International Model NA-265 series airplanes. After issuing Amendment 39-1707, Rockwell International changed the material used in the manufacture of the wing spar and related areas to 7049-T73 aluminum, which is less susceptible to stress corrosion cracking than the original 7079-T6 aluminum. Therefore, the FAA is amending Amendment 39-1707 to require inspections only on the Rockwell International Model NA-265 series airplanes, with 7079-T6 aluminum wing spars and related areas.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Stanton R. Wood, Aircraft Engineering Division, and Mark T. McDermott, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending the applicability statement of Amendment 39-1707 (38 FR 23513), AD 73-18-3 as follows:

ROCKWELL INTERNATIONAL. Applies to Model NA-265-40 Serial Nos. 282-1 and subsequent; Model NA-265-50 Serial No. 287-1; Model NA-265-60 Serial Nos. 306-1 through -139; Model NA-265-70 Serial Nos. 370-1 through -9; and Model NA-265-80 Serial Nos. 380-1 through -61.

This amendment becomes effective May 5, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on April 20, 1978.

W. R. FREHSE,
Acting Director,
FAA Western Region.

[FR Doc. 78-11962 Filed 5-3-78; 8:45 am]

[4910-13]

[Docket No. 77-EA-45, Amdt. 39-3205]

PART 39—AIRWORTHINESS DIRECTIVES

Bendix

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) requires an inspection and replacement where necessary of the impulse coupling components of Bendix S-20, S-1200 Series, and D-2000/D-2200 Series magnetos. This procedure will preclude magneto impulse coupling failure which may cause engine failure. There have been reports of such failures due to wear beyond serviceable limits.

EFFECTIVE DATE: May 9, 1978.

ADDRESSES: Bendix Service Bulletins may be acquired from the manufacturer at the Bendix Electrical Components Division, Sidney, N.Y. 13838.

FOR FURTHER INFORMATION CONTACT:

A. T. Farrar, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: There have been reports of Bendix S and D Series magnetos whose magneto impulse coupling cam assembly, when worn beyond serviceable limits tends to lock up and prevent magneto rotation. This can result in engine failure. Since this is a deficiency which can exist or develop in similar type designed magnetos, an airworthiness directive is being issued which will require repetitive inspection or replacement of the components. Since the deficiency affects air safety, notice or public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are A. T. Farrar, Flight Standards Division, and Thomas C. Halloran, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, as follows:

Applies to Bendix S-20 Series, S-1200 Series and D-2000/D-2200 Series magnetos.

Compliance required as indicated unless previously accomplished.

To preclude magneto or engine failure resulting from magneto impulse coupling failure, accomplish the following:

a. On magnetos having less than 975 hours in service since new or overhaul on the effective date of this AD, accomplish the provisions of paragraph "C", of this AD prior to 1,000 hours in service and each 1,000 hours in service thereafter.

b. On magnetos having 975 or more hours in service since new or overhaul on the effective date of this AD, accomplish the provisions of paragraph "C", of this AD within the next 25 hours in service and each 1,000 hours in service thereafter.

c. Inspect and replace, if necessary, impulse coupling components in accordance with paragraph "Detailed Instructions" contained in Bendix Electrical Components Division, Service Bulletin Number 599 or an equivalent inspection or procedure.

d. After accomplishing the instructions of this AD, make a log book entry showing the compliance time. Include the magneto make, model and serial number. Except for new or zero time overhauled magnetos, any magneto not accompanied by a record of operating time must be in compliance with paragraph "C" upon installation on an approved engine.

e. Equivalent inspections and procedures must be approved by the Chief of the Engineering & Manufacturing Branch, FAA Eastern Region.

f. As permitted by FARs 21.197 and 21.199, aircraft may be flown to a base where maintenance required by this Airworthiness Directive can be accomplished.

Effective date. This amendment is effective May 9, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document

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does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on April 25, 1978.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 78-12009 Filed 5-3-78; 8:45 am]

[4910-13]

[Docket No. 78-WE-5-AD, Amdt. 39-3204]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed 188A and 188C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections, provides a terminating action for the inspection requirements and provides for repair if necessary of the wing front spar lower cap on the Lockheed 188. The purpose of this AD is to detect fatigue cracks and thus preclude failure that could result in loss of strength capability of the wing.

DATES: Effective date: May 9, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Co., P.O. Box 551, Burbank, Calif. 91520, Attention: Commercial Support Contracts, Department 63-11, U33, B-1. Also, a copy of the service information may be reviewed, at or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board. Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: There has been a reported instance of a fatigue crack in the wing front spar lower cap and adjacent wing plank on a Lockheed L-188 aircraft that results in a reduction of the wing strength capability. The manufacturer has issued Alert Service Bulletin 88/SB-699 which details an inspection procedure to detect fatigue cracks in the front spar lower cap and adjacent wing plank, repair instructions if a crack is detected and a modification that reinforces the cap thus reducing the susceptibility to fatigue cracking. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires repetitive inspections, repair if a crack is detected and provides a terminating action for the inspection requirements.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Stanton R. Wood, Aircraft Engineering Division, and Mark T. McDermott, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

LOCKHEED-CALIFORNIA COMPANY: Applies to all Model 188A and 188C airplanes certificated in all categories.

To present loss in strength capability of the wing due to fatigue cracking accomplish the following; unless previously accomplished:

(a) Before accumulating 25,000 hours time in service or within the next 100 hours time in service on those airplanes with 35,000 or more hours time in service, unless accomplished within the last 400 hours:

(1) Inspect wing front spar lower cap per paragraph (d) and:

(2) Reinspect per paragraph (d) prior to accumulating 500 hours time in service since the inspection required by paragraph (a)(1).

(b) Within 400 hours time in service since the inspection required in (a)(2) and thereafter at intervals not to exceed 2,000 hours time in service inspect per paragraph (e).

(c) When the inspections per paragraph (a) (1) and (2) are required by this AD the operator may conduct inspection per paragraph (b), (including the 2,000 hour repetitive inspection), in lieu of inspection per paragraph (a) (1) and (2).

(d) Inspect per paragraph 2.B., Method (1) of Lockheed Alert Service Bulletin 88.SB-699 dated March 23, 1978 or later FAA approved revision, (hereinafter referred to as ASB 88/SB-699).

(e) Inspect per paragraph 2.B. Method (2), or per paragraph 2.C or per paragraph 2.D of Lockheed ASB 88/SB-699.

(f) Repair any detected crack prior to further flight per Lockheed ASB 88/SB-699. Upon accomplishment of this repair the inspection requirements of this AD are terminated.

(g) The inspection requirements of this AD may be terminated upon accomplishment of modification per Lockheed-California Drawing Number 842185 dated March 8, 1978, or later FAA approved revision.

(h) Equivalent inspections and/or repair procedures may be used when approved by Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective May 9, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on April 24, 1978.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc. 78-12006 Filed 5-3-78; 8:45 am]

[4910-13]

[Docket No. 74-WE-32-AD, Amdt. 39-3206]

PART 39—AIRWORTHINESS DIRECTIVES

General Dynamics Models 340 and 440 Series Airplanes Including those modified for Turbo-Propeller Power

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) by modifying the inspection requirements of fuselage stringers and by extending the third and subsequent repetitive inspection intervals on certain General Dynamics Model 340 and 440 series airplanes. The amendment is necessary to provide relief by conditionally extending certain repetitive inspections, without compromising safety.

DATE: Effective May 4, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESS: The applicable service bulletin may be obtained from: General Dynamics, P.O. Box 80877, San Diego, Calif. 92138, Attention: Larry Hayes, Manager Product Support, Convair Division. Also, a copy of the service bulletin may be reviewed, at or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone: 213-536-6398.

SUPPLEMENTARY INFORMATION: This notice amends Amendment 39-1904, AD 74-16-01, which currently requires repetitive inspections of the fuselage stringers in areas adjacent to beltframe attachments on General Dynamics Model 340 and 440 series airplanes.

The FAA has been requested to extend the third and subsequent inspection intervals. This proposed extension is based upon data that shows the reinspection interval after the second inspection for stringer cracks in all areas except the aft, lower fuselage may be extended to 7,500 hours time in service. This is applicable to aircraft operated up to a maximum gross weight of 55,000 pounds without a main deck cargo door.

Therefore, the FAA is amending Amendment 39-1904 by modifying the third and subsequent repetitive inspection intervals on certain General Dynamics Model 340 and 440 series airplanes.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Stanton R. Wood, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending Amendment 39-1904 (39 FR 27314), AD 74-16-01 as follows:

1. Amend paragraph (a) to read, as follows:

(a) For airplanes with more than 52,000 hours time in service as of the effective date of this AD, perform an initial inspection of the stringer to frame attachments per (g)(1), within 300 hours additional time in service, unless already accomplished within the last 4,700 hours time in service, in addition:

(1) Aircraft certificated at a maximum gross weight of 55,000 pounds or less, and without a main deck cargo door, within 5,000 hours time in service from the initial inspection, inspect per paragraph (g)(2), and thereafter:

(i) Within 5,000 hours time in service from the inspection accomplished per paragraph (g)(2), and thereafter at intervals not to exceed 5,000 hours time in service from the last inspection, inspect per paragraph (g)(3); and,

(ii) Within 7,500 hours time in service from the inspection accomplished per paragraph (g)(2), and thereafter at intervals not to exceed 7,500 hours time in service from the last inspection, inspect per paragraph (g)(4).

(2) Aircraft with a main deck cargo door and aircraft certificated at a maximum gross weight of more than 55,000 pounds, within 5,000 hours time in service from the initial inspection and thereafter at intervals not to exceed 5,000 hours time in service from the last inspection, inspect per paragraph (g)(2).

2. Amend paragraph (b) to read as follows:

(b) For airplanes with more than 42,000 hours time in service, up to and including 52,000 hours time in service as of the effective date of this AD, perform an initial inspection of the stringer to frame attachments per (g)(1), within 1,500 hours additional time in service, unless already accomplished within the last 3,500 hours time in service, and reinspect in accordance with paragraph (a)(1) or (a)(2).

3. Add a new paragraph (g)(3) as follows:

(g)(3) Perform a close visual inspection of all stringer to frame attachment for evidence of cracks below the floor between stations 681 and 889.

4. Add a new paragraph (g)(4) as follows:

(g)(4) Perform a close visual inspection of all stringer to frame attachment for evidence of cracks between stations 140 and 889 above the floor and between stations 140 and 681 below the floor.

5. Reidentify old paragraph g(3) as g(5).

This amendment becomes effective May 4, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on April 25, 1978.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc. 78-12007 Filed 5-3-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ANW-02]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Controlled Airspace, Transition Area

AGENCY: Federal Aviation Commission.

ACTION: Final rule.

SUMMARY: This amendment alters the designation of controlled airspace in the vicinity of Twin Falls, Idaho. This rule designates additional airspace as 1,200-foot-transition area. This action is necessary to provide controlled airspaced for a planned VOR/DME RWY 7 standard instrument approach procedure to the Twin Falls City-County Airport.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Dale C. Jepsen, Airspace Specialist (ANS-533), Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108; telephone 206-767-2610.

SUPPLEMENTARY INFORMATION:

HISTORY

A notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER on Tuesday, February 21, 1978, which described the proposed Twin Falls, Idaho, transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. Three comments were received, two favorable, and one which objected to the proposal.

The comment which objected to the proposal was submitted by the Idaho Air National Guard (IDANG). This objection was based upon the fact that the proposal transition area extension would overlap the edge of a low altitude training route, TR-409.

An analysis of this objection disclosed that TR-409 is a VFR route only and is scheduled to be terminated on January 1, 1979. Based upon the fact that TR-409 is strictly a VFR route, it has been determined that this airspace overlap would not adversely affect the proposed transition area extension.

THE RULE

This amendment to part 71 of the Federal Aviation Regulations (FAR) designates additional 1,200-foot-transi-

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tion are as controlled airspace to encompass aircraft executing the proposed VOR/DME RWY 7 standard instrument approach to the Twin Falls City-County Airport.

DRAFTING INFORMATION

The principal authors of this document are Dale C. Jepsen, Airspace Specialist, Operations, Procedures and Airspace Branch, and Jonathan Howe, Regional Counsel, Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, the Twin Falls Transition Area in § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, July 13, 1978, as follows:

TWIN FALLS, IDAHO

By amending the fourth and fifth lines of the description contained at 43 FR 613 (January 3, 1978) to read as follows:

"• • • of the VORTAC; that airspace extending upward from 1,200 feet above the surface within a 16.5-mile radius of the Twin Falls VORTAC, extending clockwise from the VORTAC 121° radial to the VORTAC 311 radial; within • • •".

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on April 26, 1978.

C. B. WALK, JR.,
Director, Northwest Region.

[FR Doc. 78-12126 Filed 5-3-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-GL-5]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Federal Airways, Reporting Points, Area High Routes and Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments change the name of the Milwaukee, Wis., VORTAC (an air navigation aid) to Badger, Wis., VORTAC in the description of airways, reporting points, jet routes and area high routes. These actions will eliminate the possible confusion of using the same name for two locations. These amendments contain no changes in the designation of airspace or its use.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of these amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) is to change the name Milwaukee to Badger wherever it appears in the following airways, reporting points, jet routes and area high routes:

1. Airways: V-2, V-9, V-30, V-63, V-170, V-191 and V-217.
2. Reporting Points: Domestic Low Altitude Reporting Points and Domestic High Altitude Reporting Points.
3. Jet Routes: J-16, J-34, J-36, J-68, J-70, J-89, J-101 and J-105.
4. Area High Routes: J805R, J821R, J822R, J846R, J866R, J883R, J884R, J887R, J937R and J940R.

Because these actions merely rename an existing air navigation aid without changing the designation of any airspace or its use, these amendments are a minor matter on which the public would have no particular interest; therefore, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (43 FR 307, 3548, 4421, 42 FR 58930, 43 FR 631, 638, 714, 730) are amended, effective 0901 G.m.t., July 13, 1978, as follows:

1. In § 71.123 (43 FR 307, 3548, 4421, 42 FR 58930) "Milwaukee" is deleted and "Badger" is substituted therefor, wherever it appears in airways numbered V-2, V-9, V-30, V-63, V-170, V-191 and V-217.
2. In § 71.203 (43 FR 631) "Milwaukee, Wis." is deleted and "Badger, Wis." is substituted therefor.
3. In § 71.207 (43 FR 638) "Milwaukee, Wis." is deleted and "Badger, Wis." is substituted therefor.
4. In § 75.100 (43 FR 714) "Milwaukee" is deleted and "Badger" is substituted therefor, wherever it appears in jet routes numbered 16, 34, 36, 68, 70, 89, 101 and 105.
5. In § 75.400 (43 FR 730) "Milwaukee" is deleted and "Badger" is substituted therefor wherever it appears in area high routes numbered J805R, J821R, J822R, J846R, J866R, J883R, J884R, J887R, J937R and J940R.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on April 25, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-11851 Filed 5-3-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-EA-94]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: State College, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the State College, Pa., transition area. This alteration will provide protection to aircraft executing a new instrument approach which has been developed for the University Park Airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 G.m.t., August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking was published in the FEDERAL REGISTER on February 13, 1978 (43 FR 6095). Interested parties were given 30 days in which to submit comments on the proposal. No objections were received.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, effective 0901 G.m.t., August 10, 1978, as published.

(Sec. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(c)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on April 20, 1978.

L. J. CARDINALI,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the State College, Pa., transition area by inserting after the phrase, "extending clockwise from a 280° bearing to a 020° bearing from the airport;", the following; "within 3.5 miles each side of the University Park Airport ILS Runway 24 localizer course, extending from the OM to 10.5 miles northeast of the OM;"

[FR Doc. 78-12010 Filed 5-3-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-EA-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Georgetown, Del.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will establish additional controlled airspace (transition area) so as to protect aircraft using a revised RNAV RWY 22 instrument approach procedure for Sussex County Airport, Georgetown, Del. The revision of the approach is small and only requires a minimum amount of additional controlled airspace.

EFFECTIVE DATE: 0901 G.m.t. June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The addition to the transition area is approximately 2 square miles. As a result, the effect of the rule is minor in nature and thus notice and public procedure hereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. June 1, 1978, as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the Georgetown, Del., 700-foot floor transition area by adding the following to the description: "and within 2.5 miles each side of a 033° bearing from a point 38°41'42" N., 75°21'18" W., extending from said point to 7 miles northeast of said point."

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on April 19, 1978.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 78-12011 Filed 5-3-78; 8:45 am]

[4910-13]

[Docket No. 78-SO-29]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Mobile, Ala., Control Zone (Formerly Aerospace Airport) and Mobile, Ala., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Mobile, Ala., Control Zone (formerly Aerospace Airport) and the Mobile, Ala., transition area. The name of the Mobile Aerospace Airport has been changed to Brookley Airport. This action of the City of Mobile, officially changing the name, requires this to be reflected in the control zone and transition area descriptions.

EFFECTIVE DATE: 0901 G.m.t., July 13, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; telephone 404-763-7646.

SUPPLEMENTARY INFORMATION: In a regular meeting, the City of Mobile officially changed the name of the Mobile Aerospace Airport to Brookley Airport. Therefore, it is necessary to alter the description of the Mobile, Ala. (Aerospace Airport), Control Zone and Transition Area to reflect the name change. Since this alteration is editorial in nature, notice and public procedures hereon are not necessary.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Keith S. May, Office of Regional Counsel.

ADOPTION OF AMENDMENT

Accordingly, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., July 13, 1978, as hereinafter set forth:

In Subpart F, § 71.171 (43 FR 355), the Mobile, Ala. (formerly Aerospace Airport, now Brookley Airport), control zone is amended as follows:

"• • • Mobile Aerospace Airport is deleted and Brookley Airport • • •" is substituted therefor.

In Subpart G, § 71.181 (43 FR 440), the Mobile, Ala., transition area is amended as follows:

"• • • Mobile Aerospace Airport • • •" is deleted and

"• • • Brookley Airport • • •" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

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Issued in East Point, Ga., on April 24, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-12012 Filed 5-3-78; 8:45 am]

[4910-13]

[Docket No. 17890, Amdt. No. 1110]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *effective July 13, 1978.*

Sitka, AK—Sitka, VOR-A, Amdt. 7
Pueblo, CO—Pueblo Memorial, VOR Rwy 25R (TAC) Amdt. 19
Kansas City, KS—Fairfax Muni., VOR Rwy 17, Amdt. 10

* * * *effective June 29, 1978.*

Spencer, IA—Spencer Muni., VOR Rwy 11, Amdt. 3
Spencer, IA—Spencer Muni., VOR Rwy 29, Amdt. 3

* * * *effective June 15, 1978.*

Hayden, CO—Yampa Valley, VOR Rwy 10, Amdt. 2
Naples, FL—Naples Muni., VOR/DME-A, Amdt. 2
Panama City, FL—Panama City-Bay County, VOR Rwy 14 (TAC), Amdt. 11
Panama City, FL—Panama City-Bay County, VOR Rwy 32 (TAC), Amdt. 6
Panama City, FL—Panama City-Bay County, VOR-A (TAC), Amdt. 9
Boise, ID—Boise Air Terminal (Gowen Field) VOR/DME or TACAN, Rwy 28L, Amdt. 7
Terre Haute, IN—Hulman Field, VOR Rwy 5, Amdt. 10
Columbia, MS—Columbia-Marion County, VOR/DME Rwy 23, Amdt. 1
Indianola, MS—Indianola Municipal, VOR/DME-A, Amdt. 5
Indianola, MS—Indianola Municipal, VOR/DME-B, Original
Tulsa, OK—Tulsa International, VOR Rwy 26, Amdt. 19
McGregor, TX—McGregor Municipal, VOR/DME Rwy 17, Amdt. 3

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *effective July 13, 1978.*

Petersburg, AK—Petersburg, LDA/DME-D, Amdt. 1
Sitka, AK—Sitka, LDA/DME Rwy 11, Amdt. 5

Wrangell, AK—Wrangell, LDA/DME-C, Amdt. 4
Wrangell, AK—Wrangell, LDA/DME-D Amdt. 3
Pueblo, CO—Pueblo Memorial, LOC BC Rwy 25R, Amdt. 11
Whitefield, NH—Whitefield Regional, LOC Rwy 10 Amdt. 1

* * * *effective June 15, 1978.*

Rocky Mount, NC—Rocky Mount-Wilson, LOC(BC) Rwy 22, Original
Beaumont-Port Arthur, TX—Jefferson County, LOC BC Rwy 29, Amdt. 13

* * * *effective April 21, 1978.*

Decatur, IL—Decatur, LOC(BC) Rwy 24, Amdt. 4

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *effective July 13, 1978.*

Pueblo, CO—Pueblo Memorial, NDB Rwy 7L, Amdt. 11
Pueblo, CO—Pueblo Memorial, NDB Rwy 25R, Amdt. 8
Kansas City, KS—Fairfax Muni., NDB-B, Amdt. 11
Whitefield, NH—Whitefield Regional, NDB Rwy 10, Amdt. 4

* * * *effective June 29, 1978.*

Spencer, IA—Spencer Muni., NDB Rwy 29, Amdt. 3
Topeka, KS—Forbes Field, NDB Rwy 31, Amdt. 2
Fall River, MA—Fall River Muni., NDB Rwy 24, Amdt. 5
Wilmington, OH—Wilmington Industrial Airpark, NDB Rwy 22, Amdt. 1
Morrisville, VT—Morrisville-Stowe State, NDB-A, Amdt. 4

* * * *Effective June 15, 1978.*

Conway, AR—Conway Municipal, NDA-A, Original
Crossett, AR—Crossett Municipal, NDB Rwy 23, Amdt. 3
Chico, CA—Chico Muni., NDB Rwy 13L, Original
Lancaster, CA—Gen. Wm J Fox Airfield, NDB-B, Original
Terre Haute, IN—Hulman Field, NDB Rwy 5, Amdt. 11
Chillicothe, MO—Chillicothe Muni., NDB Rwy 14, Amdt. 2
Glendive, MT—Dawson Community, NDB Rwy 12, Amdt. 3
Jackson, TN—McKellar Field, NDB Rwy 2, Amdt. 4
Andrews, TX—Andrews County, NDB Rwy 15, Original

* * * *Effective April 19, 1978.*

York, PA—York, NDB-A, Amdt. 7

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * *Effective July 13, 1978.*

Pueblo, CO—Pueblo Memorial, ILS Rwy 7L, Amdt. 14
Pueblo, CO—Pueblo Memorial, ILS Rwy 25R, Amdt. 4
Kansas City, KS—Fairfax Muni., ILS-A, Amdt. 14

* * * *Effective June 29, 1978.*

Topeka, KS—Forbes Field, ILS Rwy 31, Amdt. 2
Burlington, VT—Burlington Intl. ILS Rwy 15, Amdt. 17

* * * *Effective June 15, 1978.*

Chico, CA—Chico Municipal, ILS Rwy 13L, Amdt. 2
Lewiston, ID—Lewiston-Nez Perce County, ILS Rwy 26, Amdt. 5
Terre Haute, IN—Hulman Field, ILS Rwy 5, Amdt. 15
Jackson, TN—McKellar Field, ILS Rwy 2, Amdt. 4
Beaumont-Port Arthur, TX—Jefferson County, ILS Rwy 11, Amdt. 15

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *effective July 13, 1978.*

Pueblo, CO—Pueblo Memorial, RADAR-1, Amdt. 1

* * * effective June 15, 1978.

Greer, SC—Greenville-Spartanburg, RADAR-1, Amdt. 2

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *effective July 13, 1978.*

Kansas City, KS—Fairfax Muni., RNAV 17, Amdt. 4

* * * *effective June 15, 1978.*

Phoenix, AZ—Phoenix Sky Harbor Int'l, RNAV 8L, Amdt. 1
Phoenix, AZ—Phoenix Sky Harbor Int'l, RNAV 26R, Amdt. 1
Wichita, KS—Beech Factory, RNAV Rwy 36, Amdt. 4
Meridian, MS—Key Field, RNAV Rwy 19, Original

(Secs. 307, 313(a), 601, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on April 28, 1978.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 78-12013 Filed 5-3-78; 8:45 am]

6355-01]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER A—GENERAL

PART 1009—GENERAL STATEMENTS OF POLICY OR INTERPRETATION

Policy Regarding the Granting of Emergency Exemptions from Commission Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of Policy on which comment is solicited.

SUMMARY: This document sets forth the policy of the Commission regarding the granting of emergency exemptions to companies which inadvertently produce products that do not conform to Commission regulations. The policy statement lists several criteria which the Commission considers in deciding whether to grant or deny any exemption request. While the Commission is reluctant to grant such requests, it believes that the public should be apprised of the manner in which it rules on exemption requests and therefore is publishing the policy for codification.

DATES: The policy is effective May 4, 1978. Comments may be submitted to the Office of the Secretary of the Commission until June 5, 1978.

ADDRESS: Comments to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Carole Roth, Office of the General Counsel, Consumer Product Safety Commission, 1111 18th St. NW., Washington, D.C. 20207, 202-634-7770.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to set forth the policy of the Consumer Product Safety Commission with respect to emergency requests for exemptions from companies which inadvertently produce products that do not conform to Commission regulations issued under the five acts the Commission administers. The notice lists criteria the Commission considers in deciding whether to grant or deny a request for exemption and therefore, should provide guidance to companies on the types of information to be submitted with requests. In addition, published Commission procedures regarding petitioning for amendments to regulations may assist companies in determining what supporting data to submit with a request. (See, for example, existing Commission procedures at

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16 CFR Part 1110, 16 CFR 1607.14, 16 CFR 1500.82, and 16 CFR 1500.201). The exemption requests themselves should be filed with the Office of the Secretary of the Commission.

The policy is effective on an interim basis, May 4, 1978. However, the Commission is interested in public views as to this policy and solicits comments on the policy until June 5, 1978. Since this matter is a general statement of policy, it is exempt from the notice and public procedure provisions of the Administrative Procedure Act (5 U.S.C. 553). However, in view of the importance of the policy, the Commission has decided to solicit public comment and may amend the policy as a result of the comments. In publishing this policy for comment, the Commission does not intend to set a precedent for future policy statements.

The Consumer Product Safety Commission issues the following policy effective May 4, 1978, under the provisions of the Consumer Product Safety Act (15 U.S.C. 2051), the Federal Hazardous Substances Act (15 U.S.C. 1261), the Flammable Fabrics Act (15 U.S.C. 1191), the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471), and the Refrigerator Safety Act (15 U.S.C. 2111). Accordingly, the Commission amends Title 16 of the Code of Federal Regulations by adding to Chapter II, Part 1009 a new § 1009.9 as follows:

§ 1009.9 Policy regarding the granting of emergency exemptions from Commission regulations.

(a) This document states the Consumer Product Safety Commission's policy with respect to emergency requests for exemptions from companies which inadvertently produce products that do not conform to Commission regulations issued under the five acts the Commission administers. These acts are the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, the Poison Prevention Packaging Act of 1970 and the Refrigerator Safety Act. While the Commission is reluctant to grant such requests, it believes that the public should be apprised of the manner in which it rules on exemption requests and therefore is publishing the policy to provide guidance to industry and others making such requests. The publication of the policy will also serve to inform the public of the criteria that the Commission uses in ruling upon such requests. This policy is intended to cover emergency requests for exemptions and, while relevant, is not intended to limit the discretion of CPSC staff to close or not to open cases in the routine enforcement of CPSC regulations.

(b) The policy governs requests for exemption from any regulation under any act the Commission administers. The policy lists criteria the Commission considers in deciding whether to grant or deny an exemption request and therefore, should provide guidance to companies on the types of information to be submitted with requests. In addition, published Commission procedures regarding petitioning for amendments to regulations may assist companies in determining what supporting data to submit with a request. (See, for example, existing Commission procedures at 16 CFR Part 1110, 16 CFR 1607.14, 16 CFR 1500.82 and 16 CFR 201). The exemption requests themselves should be filed with the Office of the Secretary of the Commission.

(c) It is the general policy of the Commission that when a particular exemption request is made and granted, all similarly situated persons are accorded the same relief as the person who requested the exemption. Therefore, when any amendment to a Commission regulation is proposed or a statement of enforcement policy is issued, the document to the extent practicable will be phrased in objective terms so that all similarly situated persons will be able to determine whether their products would fall within the relief.

(d) In deciding whether to grant or deny an exemption request, the Commission considers the following general criteria:

(1) *The degree to which the exemption if granted would expose consumers to an increased risk of injury.* The Commission does not believe it should exempt products which would present a significantly greater risk to consumers than complying products. Therefore, the Commission will not grant exemption requests in such cases.

(2) *The cost to the Commission of granting emergency requests.* Granting emergency exemption requests will in most cases require drafting a proposed and a final amendment or a statement of enforcement policy for publication in the FEDERAL REGISTER. Such action may also require the Commission to monitor the sale or distribution of the products. These activities consume scarce Commission resources. In some instances, the costs to the Commission may exceed the benefit to be derived by a company and similarly-situated companies. If so, the Commission may deny the request on this ground.

(3) *The precedential effect of exempting some products.* The Commission recognizes that decisions to exempt some products set precedents in at least two ways. First, they indicate to companies that the CPSC will permit deviations to a given regulation. Second, they indicate to companies that the CPSC will permit deviations to regulations in general. Both precedents, if set carelessly by the CPSC, could result in many requests for exemption and could undermine the stability and integrity of the Commission's regulations.

(e) In deciding whether to grant or deny an exemption request, the Commission also considers the following factors which relate specifically to the company making the request: (If the request is granted, however, all similarly-situated companies will be accorded the same relief).

(1) *The nature of the emergency exemption request.* The Commission will not reward bad quality control or faulty design work by permitting companies to market their mistakes. Although it is difficult to detail specific instances, the Commission is sympathetic to companies that produced noncomplying products due to factors beyond their immediate control or despite their best efforts.

(2) *The economic loss which a company will suffer if its emergency request is denied.* The greater the loss a company may suffer the more likely the Commission will favorably consider an exemption. However, the Commission does not believe economic loss alone should be determinative of an emergency exemption request.

(3) *The fairness to competitors.* The Commission is reluctant to grant relief if it could place the company at an unfair competitive advantage over other companies which have successfully complied with the same regulation. Therefore, the Commission will afford the same relief to similarly-situated companies, and will decline to grant a request where unfair competitive advantage may result.

All interested persons are invited to submit written comments, preferably with five copies, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, by June 5, 1978. Comments received after that date will be considered insofar as practicable. Received comments will be available for inspection in the Office of the Secretary, third floor, 1111 18th St. NW., Washington, D.C. during working hours Monday through Friday.

Effective date: May 4, 1978.

Dated: April 28, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-12215 Filed 5-3-78; 8:45 am]

[6355-01]

PART 1032—COMMISSION INVOLVEMENT IN VOLUNTARY STANDARDS ACTIVITIES

General Statement of Policy

AGENCY: Consumer Product Safety Commssion.

ACTION: Revisions to Statement of Policy.

SUMMARY: The Commission in this document responds to comments on its statement of policy on Commission Involvement in Voluntary Standards Activities published in the FEDERAL REGISTER of November 10, 1977. The Commission also makes several revisions to the policy statement based on the comments. The revisions include establishing a time limit on the three meeting limitations for Commission involvement at the liaison level; requiring the Office of Program Management to include in its quarterly summary of voluntary standards activities a description of the extent to which the guidelines for Commission involvement in voluntary standards activities is being met; and establishing a procedure for organizations to submit to the Commission an existing voluntary standard for evaluation, with a request that the Commission make a commitment to defer mandatory standard development for the product addressed by the voluntary standard.

EFFECTIVE DATE: As amended, the policy takes effect on May 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. MacKay, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: On November 10, 1977, (42 FR 58726), the Consumer Product Safety Commission published in the FEDERAL REGISTER a statement of policy for the Commission's involvement in the development of voluntary consumer product safety standards and the role of voluntary standards activities in the development of mandatory standards by the Commission. The policy provides for three levels of Commission involvement in voluntary standards activities: Liaison, monitoring, and participating. It describes the level of support the Commission offers to voluntary standards activities and establishes guidelines for Commission participation. It also addresses the situation where the Commission is considering development of a mandatory standard for a product and there is an existing voluntary standard or a voluntary standard under development which addresses the same risk of injury associated with the product.

Although the statement is a statement of policy and thus did not require the Commission to solicit public comment, the Commission nevertheless sought such comment and provided 60 days for the submission of comments. (The policy became effective May 4, 1978, and the Commission indicated it might make changes in the policy based on the comments received.) The Commission received 25 comments on the policy statement. Comments were submitted by consumers, voluntary standards organizations, trade associations, testing laboratories, and manufacturers of consumer products. The commentors, with one exception, generally supported the Commission's policy statement.

The substantive comments with the Commission's response are discussed below.

EXTENT AND FORM OF COMMISSION INVOLVEMENT IN THE DEVELOPMENT OF VOLUNTARY STANDARDS

Part A of the policy statement (codified as § 1032.2) describes the form and extent of Commission involvement in the development of voluntary standards. The policy establishes three levels of Commission involvement: liaison, monitoring and participation. Several commentors specifically supported the statement concerning the three levels of involvement. No commentors opposed these levels of involvement.

One commentor suggests in regard to Commission dissemination of information as part of its liaison function that it specifically recognize in its policy statement the rights of manufacturers under section 6(b) of the Consumer Products Safety Act, 15 U.S.C. 2055(b) (CPSA) when it disseminates information on consumer products.

Section 6(b) generally provides that the Commission must notify a manufacturer or private labeler in advance of publicly disclosing product safety information from which its identity will be readily ascertainable by the public. The Commission believes that all of its disseminations of information comply with the provisions of section 6(b) and that there is no need to include specific reference to that section of the CPSA in the policy statement. The Commission has published proposed regulations under section 6(b) (42 FR 54304), that specifically address the rights of manufacturers and private labelers under that section of the CPSA and provides a means for them to object to disseminations of information they believe to be inaccurate or misleading.

One commentor urges the Commission to establish a procedure whereby a voluntary standards group could formally petition the Commission for CPSC involvement in a voluntary standard development activity, and that there be a mechanism to appeal an unfavorable decision by the Executive Director on CPSC involvement.

The Commission suggests that any organization that desires CPSC involvement in a voluntary standards activity may request such involvement through the Office of the Executive Director. The Executive Director is responsible for the day-to-day operations of the Commission and in consultation with the Office of Program Management would consider the appropriateness of the request, the availability of staff resources, and Commission priorities. If the Executive Director determines that the staff should not be involved in a particular voluntary standards activity, the requesting organization can always request the Commission to reconsider the request. The Commission believes this informal procedure, which has been followed in the past, has worked effectively. Therefore, the Commission does not consider it necessary at this time to adopt a formal procedure for seeking CPSC staff involvement in voluntary standards activities or for appealing an adverse decision on involvement by the Executive Director.

The description of liaison activities in the policy statement (codified as § 1032.2(b)(1)) limits staff attendance at meetings concerning the development of voluntary standards to not more than three meetings. One commentor suggests that there be a time limit imposed on the three meeting limit for Commission involvement at the liaison level.

The Commission agrees that a time limitation is appropriate in order to ensure that liaison functions which involve a minimal commitment of Commission resources can be effectively carried out. Without a time limitation, a request by a voluntary standards organization for a fourth meeting over an extended period of time would be deemed "monitoring" even though the involvement sought by the organization would, in fact, fall within the definition of "liaison." To minimize the possibility of this situation occurring, the Commission has imposed a 3-year time period on the three meeting limitation. The Commission believes the 3-year period for attendance at meetings for the purpose of liaison is reasonable because many committees meet on an annual basis and it is unlikely that staff attendance at these voluntary standards activities would be necessarily more than once a year. It should be noted that if the Commission wishes at the outset of a voluntary standards development activity to be more involved than provided by liaison, it may decided to monitor or participate without going through the liaison process as long as the staff obtains approval for monitoring or participating in accordance with § 1032.3.

One commentor suggests that the Commission establish a specific time period for responding to requests for Commission involvement in the development of voluntary standards. Additionally, the commentor suggests that the Commission should make known to the committee making the request its reasons for denying any request for involvement.

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The Commission appreciates the concern of a committee for receiving a timely response to a request for Commission involvement in voluntary standards development activities. It is unlikely, however, that a decision to provide either "liaison" or "monitoring" will consume any great amount of time since the Executive Director has the authority to make such decisions. A request for "participation" may require the staff to obtain additional information to support a staff request to the Commissioners for approval to participate in a voluntary standards effort. This additional information may be necessary to justify commitment of Commission resources. Once the Commission has adequate information to make a decision on participation it is unlikely that it would take the Commission a great deal of time to reach a decision. Thus, the Commission does not believe it is necessary to establish a time limit in this policy statement at this time.

In handling requests for Commission involvement in voluntary standards development activities, the Commission will normally explain its reasons for the denial of any requests and, therefore, does not believe it necessary to incorporate such a requirement in the policy statement.

DETERMINATION OF COMMISSION INVOLVEMENT IN VOLUNTARY STANDARDS ACTIVITIES

The Commission received two comments concerning the contents of section B, (codified as § 1032.3) "Determination of Commission Involvement in Voluntary Standards Activities". This section provides that the Executive Director shall approve Commission activities that are within the definition of "liaison" and "monitoring", and that the Commissioners shall approve activities defined as "participating". It also provides that the Commission's Office of Program Management (OPM) is responsible for filing with the Commission a quarterly summary of its voluntary standards activities.

One commentor suggests that the quarterly summary that the Office of Program Management provides the Commission on its voluntary standards activities include a statement as to the extent to which the guidelines set out in section D of the policy (now § 1032.5) governing Commission participation in voluntary standards activities are being met. The Commission agrees with this recommended change and the policy statement has been revised to incorporate this change.

Another commentor requests that the requirement that the Commissioners approve activities within the definition of "participation" be clarified. The commentor suggests this provision could be read to mean approval must be given by all of the Commissioners then in office.

The Commission acts by vote of a majority of its members except in those situations where there are only three sitting Commissioners. When there are 4 or 5 Commissioners in office, a majority vote of the Commissioners would be sufficient to approve participation activities. Where there are only three sitting Commissioners, the Commission's internal voting policy provides that an action can be approved with two affirmative votes and one abstention. The Commission does not believe it is necessary to explain its voting procedure in the policy statement.

COMMISSION SUPPORT OF VOLUNTARY STANDARDS PROGRAMS

Section C of the policy statement (codified as § 1032.4) describes the actions the Commission may take to support voluntary standards programs.

One commentor expresses the view that the policy statement is an attempt to create product safety standards outside the provisions of section 7 of the CPSA, 15 U.S.C. 2056. Section 7 authorizes the Commission to issue mandatory consumer product safety standards. The commentor bases this view on section C of the policy statement which states in relevant part that the Commission may support voluntary standards activities by encouraging the initiation of voluntary standards activities and encouraging state and local governments to reference or incorporate the provisions of a voluntary standard in their regulations or ordinances. The commentor apparently equates these activities with issuance of a mandatory standard under section 7 of the CPSA. Apparently the commentor has misconstrued the intent of the policy with regard to the use of voluntary standards in reducing injury associated with consumer products. The Commission's involvement in voluntary standards activities is not equivalent to issuing a mandatory standard under section 7 of the CPSA since the Commission through this involvement is not issuing mandatory standards.

One commentor suggests that the Commission revise its policy to openly invite the development of voluntary standards by industries as a means of avoiding a mandatory standard proceeding.

The Commission has always encouraged the development of voluntary consumer product safety standards to improve the level of safety associated with consumer products. Section C(2) of the policy statement (now § 1032.4(b)(2)) specifically provides for Commission encouragement of the initiation of voluntary standards for specific consumer products. The Commission does not believe it is necessary to specifically invite the development of voluntary standards in this policy statement.

Two commentors suggest that the Commission should have a program to educate consumers in the safe use of various consumer products.

The Commission's information and education program is directed to providing information to consumers on hazards associated with the use of specific consumer products and the safe selection and maintenance of consumer products.

One commentor suggests that the Commission provide a more detailed statement of actions it would take in the dissemination of information and educational materials regarding a voluntary standard or its use. Another commentor suggests that the Commission should, in cooperation with voluntary standards groups and others, "design and implement" methods of disseminating information and education about the voluntary standard, as well as the product covered by the voluntary standard and the standards use.

The Commission, in issuing its policy statement, considered the role it would play in disseminating information concerning a voluntary standard. The Commission believes that it would generally not be appropriate for it to promote a voluntary standard through dissemination of information and education programs, or to design or implement programs which are intended to provide information to the public about voluntary standards or their uses. Rather that is a function more appropriately carried on by standards organizations, trade associations and individual manufacturers. The Commission in its policy statement did agree that it could provide assistance on methods of disseminating information and education about the voluntary standard or its use. The Commission believes this provision is sufficient at this time as a general policy.

GUIDELINES FOR COMMISSION PARTICIPATION IN VOLUNTARY STANDARDS ACTIVITIES

Section D of the policy statement (codified as § 1032.6) identifies criteria to be considered by the Commission in evaluating requests for staff participation in voluntary standards development activities. This section now provides that a Commission decision to participate in a voluntary standards activity will be dependent upon the extent to which the guidelines specified are met. One commentor suggests that these criteria also apply throughout the voluntary standards development activity, and not just when reviewing requests to participate. The Commission agrees with this comment and the suggested change has been made.

Two commentors state it was their understanding that the criteria in section D are only intended to be used for

"participation" activities. This view is correct.

One commentor questions the criteria for Commission participation in voluntary standards activities in D(1) (now § 1032.5(a)) which provides for "meaningful representation for small business and ultimate consumers" and the further requirement that such individuals have "technical expertise in the areas under consideration." The commentor suggests that it is not always possible to find such persons with the necessary expertise to work on these committees. The commentor suggests that the statement be revised to require the "opportunity" for these persons to have representation.

The Commission wishes to clarify its stated policy. It is not necessary that consumers or small businessmen or women themselves have the necessary technical expertise. Rather, the Commission believes it necessary that the persons representing the consumer or small business point of view have that expertise. Thus, consultants with appropriate expertise could be utilized to represent the consumer or small business point of view.

The Commission believes that merely providing an "opportunity" for consumers and small business to be represented is not sufficient for those voluntary standards development activities where the Commission is going to "participate". Therefore, no change in the policy statement is deemed necessary at this time.

One commentor suggests that the criteria in D(2) (now § 1032.5(b)), which conditions Commission participation in voluntary standards activities on voluntary standards not having requirements which will create undue anticompetitive effects or promote restraints of trade, are not completely appropriate for voluntary standards activities that concern safety matters. This commentor expressed the view that manufacturers who comply with the requirements of a voluntary safety standard are at a competitive disadvantage in the market place with those manufacturers who produce less expensive and more hazardous products that do not comply with a voluntary standard. The commentor argues that the production of safer products places some manufacturers in an anticompetitive position because of their increased costs.

The Commission recognizes that the development and implementation of voluntary safety standards may create, to some extent, anticompetitive effects or promote restraints of trade. The Commission also recognizes that requirements of voluntary safety standards that have such an effect may not necessarily be contrary to the public interest because of the increased safety benefits that are provided by those standards. Accordingly, the Commission has revised the criteria statement in subsection D(2) (now § 1032.5(b)) so that it provides that anticompetitive effects shall be excluded to the extent consistent with the public interest and the goal of product safety.

One commentor questions the authority of the Commission in section D(3) (now § 1032.5(c)) to review existing voluntary standards for anticompetitive effects. Apparently, the commentor did not realize that this provision was directed towards the standards development, organization. Thus, the Commission's statement in this area provides that the Commission, in deciding whether to participate in a voluntary standards development activity, will consider the extent to which the standards development group had made provisions for periodic and timely review of a voluntary standard including review for anticompetitive effects.

One comment concerns the guideline in D(4) (now § 1032.5(d)) for Commission participation in voluntary standards acitivities which provides that voluntary standards must be performance oriented and not design restrictive, to the maximum extent practical. The commentor suggests a performance oriented requirement may also be design restrictive and, therefore, recommends that the CPSC solicit private sector views as to the extent to which a performance oriented standard is design restrictive.

The Commission recognizes that performance oriented standards can be design restrictive. However, that is why the criteria provides for performance oriented and not design restrictive requirements "to the maximum practical extent." The Commission does not believe this comment necessitates any change in the policy statement.

One comment concerns the criteria in D(7) (now § 1032.5(g)) which provides that products identified as conforming to voluntary safety standards in which the Commission may participate, will be subjected to a testing and certification prodcedure that will provide assurance that the products conform to the standard. The commentor expresses the view that the standards writing committee should not be held accountable for compliance with the voluntary standards.

The Commission did not intend that the standards writing committee be responsible for the conformance of individual products to voluntary standards. The Commission was only attempting to encourage industry associations involved in the development of voluntary safety standards in which the Commission agreed to participate, to establish voluntary testing and certification programs that would provide the public, as well as the Commission, with the assurance that products that are identified as conforming to a voluntary standard actually meet the requirements of that standard. Indeed, in this provision the Commission states that self-certification of conformance in lieu of certification by independent testing laboratories may be an acceptable assurance of conformance.

EFFECT OF VOLUNTARY STANDARDS ACTIVITIES ON COMMISSION ACTIVITIES

Section E of the policy statement (codified as § 1032.6) describes the manner in which voluntary standards will be considered and reviewed in connection with mandatory standards activities.

EXISTING VOLUNTARY STANDARDS

Section E(1) (now § 1032.6(a)) discusses the effect of a voluntary standard on the Commission determination of whether a mandatory standard is necessary; describes circumstances under which the Commission may encourage conformance to a voluntary standard in lieu of initiating a mandatory standard development activity; and describes generally how the Commission will evaluate a voluntary standard for adequacy.

One commentor suggests that the Commission publish guidelines as to the basic elements that must be present in a voluntary standard for it to be acceptable to the Commission in lieu of a mandatory standard. These basic elements are described in section E(1) of the policy statement (now § 1037.6) and do not appear to need further description at this time.

The same commentor also suggests that it might be helpful for the Commission to set forth publicly its basic criteria for selecting candidates for a mandatory standard. The Commission has previously issued a policy that sets forth guidelines the Commission uses in establishing its priorities for action including the development of mandatory standards, 16 CFR 1009.8. The Commission believes its policy on priorities addresses this comment.

In section E(1) (now § 1032.6(a)(2)) of the policy statement, the Commission acknowledges that there are situations in which adequate voluntary standards in combination with independent certification programs may support a conclusion that a mandatory standard is not necessary. One commentor has suggested deletion of the word "independent" because that commentor believes "independent" laboratory certification does not warrant special consideration and such a requirement is anti-competitive and a restraint of trade.

In using the term "independent certification program," the Commission did not intend to restrict the acceptability of a voluntary standard to in-

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stances where only "independent" certification programs were used. A voluntary standard in combination with an appropriate, though not necessarily independent, certification program may be sufficient to support a conclusion that a mandatory standard is not necessary. For this reason the Commission has replaced the word "independent" with the term "appropriate."

One commentor suggests that before the Commission finds that a mandatory standard is not necessary because an adequate voluntary standard exists, it also determine that the voluntary standard was drafted in a manner such that the criteria governing Commission participation in the development of voluntary standards (section D, now § 1032.5) were met. These criteria concern such things as openness of standards development meetings to all interested persons, meaningful participation by representatives of all affected interests, degree of industry conformance, and the like.

The Commission believes each of the criteria listed in section D (now § 1032.5) of the policy statement are important for Commission participation in the development of voluntary standards. The extent to which the criteria in section D (§ 1032.5), have been met, will be considered by the Commission in evaluating a voluntary standard. The Commission does not believe, however, particularly in regard to the procedural criteria in section D, that these criteria should necessarily be controlling factors in determining the acceptability of existing voluntary standards. If this were not the case, a voluntary standard that in fact eliminates or reduces an identified risk of injury but that was developed without widespread public participation, could not be considered to be adequate by the Commission. In view of foregoing, the requested change is not deemed appropriate.

One commentor suggests that Commission evaluation of voluntary standards specifically include input from the organization that developed the standard. Another commentor suggests that there be industry input in the evaluation of the voluntary standard.

In evaluating voluntary standards, the Commission staff will consider all relevant information including information provided by the oranization that developed the standard. Under the Commission's openness policy, such an organization or any other organization or individual would have the opportunity to discuss the standard with the staff and make written submissions concerning the voluntary standard prior to any formal evaluation being transmitted to the Commissioners. The Commission believes that since there already exists an adequate opportunity for interested persons to provide input into Commission evaluation of voluntary standards, no revision in the policy statement is necessary at this time.

One commentor suggests that in evaluating voluntary standards, the Commission specifically include input from staff members who have developed a technical expertise concerning the standard under evaluation through work in the development of that voluntary standard.

As the commentor recognized in his comment, the descriptions in the policy statement of the staff personnel to be involved in the evaluation of voluntary standards is not intended to be all inclusive or restrictive. As a general rule, those Commission staff with technical expertise in the area under evaluation including persons with standards development experience will normally be involved in the evaluation process. Thus, no change in this area of the policy statement is deemed necessary.

One commentor suggests that any Commission evaluation of a voluntary standard include a review of the extent to which the voluntary standard incorporates "state of the art" technology. The Commission believes any evaluation of a voluntary standard must by necessity include consideration of whether the voluntary standard reflects at least the current "state of the art." Therefore, the Commission does not consider any change to be necessary.

One commentor suggests that the evaluation of a voluntary standard completed by the staff be "turned over to the appropriate standards committee."

The Commission, operating under a liberal freedom of information policy, would make a document evaluating a voluntary standard available upon request to any interested party in accordance with the Commission's regulations (16 CFR Part 1015) under the Freedom of Information Act, 5 U.S.C. 552. Rather than burden the Commission with a requirement that the evaluation be transmitted to the appropriate voluntary standards committee, the Commission believes that any voluntary standards committee interested in the Commission's activities can request a copy of any document it desires. There may be situations, however, where the staff takes the initiative to send such a document to a standards committee with a request for review and comment or with a request for a response as to the action contemplated by the committee. The policy, as it is currently written, does not preclude such staff initiatives.

Two commentors suggest that there may be an existing voluntary standard that adequately addresses most of the identifiable risks of injury associated with a consumer product, but may not adequately address a few areas. In such a situation, one commentor suggests that the Commission give the developer of the voluntary standard an opportunity to revise the existing standard so that it adequately addresses these other areas.

The Commission believes that in some cases it may be appropriate to allow a voluntary standards organization to revise an existing voluntary standard so that it adequately addresses those areas deemed by the Commission to be inadequately addressed. The Commission agrees this approach may achieve the objective of injury reduction with minimal use of the Commission's limited resources. Accordingly, additional language has been added to section E(1) (now § 1032.6)(a)(4)) reflecting this suggestion.

Voluntary Standards Under Development

Section E(2) of the policy statement (codified as § 1032.6(b)) provides that the Commission will not delay beginning a mandatory rulemaking proceeding in order to permit the initiation of the development of a voluntary standard. The Commission believes a contrary policy might encourage industries to delay work on voluntary standards until mandatory government action seemed likely.

Several commentors suggest that the Commission should consider deferring mandatory standard development activities even where a voluntary standard development begins after the Commission determines that a product presents an unreasonable risk of injury. These commentors contend that a voluntary standard can be developed expeditiously and can accomplish as much as a mandatory standard and at a substantial savings in time and money.

The Commission continues to believe that a policy of always delaying the commencement of rulemaking to allow for the initiation of the development of a voluntary standard would not serve the public interest because industries may tend to delay work on voluntary standards until mandatory government action seemed imminent. The Commission recognizes, however, that before issuing a mandatory standard it must find that such a standard is necessary. If an adequate voluntary standard is developed prior to the issuance of a mandatory standard, even though the development of the voluntary standard was commenced after Commission determination that a product presents an unreasonable risk of injury, the Commission could decide not to issue the mandatory standard.

Section E(2) (now § 1032.6(b)(2)) also provides that the Commission may consider delaying the initiation of a mandatory standard if there is "clear evidence" to show that a voluntary standard was commenced prior to a Commission determination of unreasonable risk of injuries. Two commentors recommended deletion of the term "clear evidence" because in their view the term is ambiguous and unnecessary. The Commission agrees the term "clear" is not needed and that word has been deleted.

Deferral of Mandatory Standards

Section E(3) of the policy statement (codified as § 1032.6(c)) discusses the situation where the Commission may make a revocable commitment to refrain from beginning mandatory standards development for a specified period of time not to exceed three years. One commentor requests that procedures be established so that a group would know how to present a voluntary standard to the Commission for evaluation.

The Commission agrees that some procedure is appropriate and has modified section E(3) (now § 1032.6(c)(1)) to provide that requests that the Commission evaluate a voluntary standard and make a commitment to defer mandatory standard development shall be submitted to the Office of the Secretary. Any organization submitting such a request must provide the Commission with information that at least identifies the risk of injury addressed by the voluntary standard, analyses how the voluntary standard adequately addresses the identified risk of injury and provides a technical rationale statement that supports the provisions of the standard.

One commentor suggests that if the Commission makes a commitment to defer development of a mandatory standard, the Commission should actively work with the voluntary standards organization to insure the effectiveness of the voluntary standard.

When the Commission makes a commitment to defer mandatory standards development for a product addressed by a voluntary standard, it may take those actions described in section C and E of this policy statement (now §§ 1032.4 and 1032.6) to assure the effectiveness of the voluntary standard in reducing identified risks of injury. These actions may include providing assistance on methods of disseminating information and education about the voluntary standards, and its use; encouraging State and local governments to reference or incorporate the provisions of a voluntary standard in regulations or ordinances; monitoring the conformance of products subject to a voluntary safety standard; encouraging conformance to the voluntary standard and subsequently evaluating the effectiveness of the standard in terms of accident and injury reductions; and taking other actions the Commission believes appropriate. Section E(3) (now § 1032.6(c)(3)) has been expanded to reference these provisions.

Several commentors suggest that the 3-year maximum commitment to defer development and issuances of mandatory standards may be too short to adequately evaluate the effectiveness of a voluntary standard particularly with regard to products with a long life expectancy. These commentors recommend that a case-by-case approach to the deferral time period be used.

The Commission agrees that in some instances a 3-year deferral period may not be adequate for all products although it generally seems to be appropriate. The Commission will set a deferral period on a case-by-case basis up to a maximum of 3 years. The Commission, however, has modified the statement to provide that at the end of the deferral period, it will reevaluate its decision to defer a mandatory standard activity and decide whether a further deferral is appropriate. During the deferral period, the Commission will, of course, monitor the effectiveness of the voluntary standard in terms of accident prevention and injury reduction. If the Commission believes that a voluntary standard is effective in reducing or eliminating risks of injury associated with a product, it may, rather than renewing or extending the deferral period, drop consideration of the product addressed by the voluntary standard from consideration for mandatory standards development activity.

One commentor suggests not specifying any period of time during which the Commission makes a revocable commitment to defer mandatory standards activities.

The Commission believes it is appropriate and reasonable to specify the period of time during which it will defer mandatory standards activities. By specifying a period of time, the affected industry will have some incentive to undertake any retooling necessary to conform to the voluntary standard without fear of further retooling costs necessitated by a mandatory standard within the deferral period. Therefore, the Commission does not believe the change suggested is appropriate.

Development of Mandatory Standards

Section E(4) (now § 1032.6(d)) provides that once the Commission has initiated a mandatory standard proceeding for a product which is addressed by a voluntary standard, the Commission will encourage the offeror to accept for the mandatory standard those provisions of the voluntary standard deemed by the Commission to be adequate.

One commentor suggests that in the event the voluntary standard is revised to address the inadequate provisions, the Commission should also consider those revised sections of the voluntary standard for inclusion in the mandatory standard. The Commission is not precluded from taking such action. However, once a mandatory standard development proceeding is initiated, the Commission would encourage the voluntary standards organization to participate through the offeror process in the development of a mandatory standard rather than proceeding independently. Those provisions of a voluntary standard that are inadequate could be addressed during the offeror process.

Miscellaneous

Several commentors suggested the Commission recognize and/or endorse voluntary standards found by the Commission to be adequate in eliminating or reducing an identified risk of injury.

The Commission has not agreed on whether it should officially "recognize" or "endorse" voluntary safety standards that adequately address identified risks of injury. The Commission is continuing to study this matter.

Having considered the public comments on the policy statement, the Commission issues a revised, codified policy statement as set forth below:

Therefore, pursuant to the Consumer Product Safety Act, (Pub. L. 92-573, 86 Stat. 1207 *et seq.*; 15 U.S.C. 2051 *et seq.*) a new Part 1032 is added to Title 16, Chapter II, Subchapter A, as follows:

Sec.

1032.1 Background.
1032.2 Extent and form of Commission involvement in the development of voluntary standards.
1032.3 Determination of Commission involvement in voluntary standards activities; summary of activities.
1032.4 Commission support of voluntary standards programs
1032.5 Guidelines for Commission participation in voluntary standards activities.
1032.6 Effect of voluntary standards activities on Commission activities.
1032.7 Attendance at meetings.

Authority: Consumer Product Safety Act, Pub. L. 92-573, 86 Stat. 1212 *et seq.*; (15 U.S.C. 2051 *et seq.*)

§ 1032.1 Background.

(a) The Commission recognizes that there are many voluntary standard development activities that are directed toward the establishment of safety specifications for consumer products, both at the domestic level and at the international level. Such activities were reviewed in 1968-1970 by the National Commission on Product Safety, which reached generally critical conclusions regarding the performance of the voluntary standards system in the

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field of consumer product safety. However, it is the Commission's perception that voluntary standards organizations have made progress since 1970 in the development of voluntary standards. For example, there has been an increase in the involvement of consumers in the development and review of voluntary standards for consumer products, procedures have been used to expedite the development of voluntary safety standards, a number of substantive revisions in existing voluntary consumer product safety standards have been made and new standards have been established to better address risks of injury associated with consumer products.

(b) The Commission thus recognizes the contribution which voluntary standards have made to increase consumer product safety and will not ignore the potential future contributions which voluntary standards can make in reducing hazards associated with consumer products. While there might be circumstances in which a particular voluntary standard can substitute for a mandatory standard, the Commission generally views voluntary standards as complementary to and not a substitute for mandatory standards. The Commission realizes that mandatory standards generally can only address unreasonable risks of injury associated with a product but that voluntary standards can address any level of risk of injury. Therefore, the Commission believes that a proper combination of voluntary and mandatory standards can have a higher "payoff" in increased product safety than either mandatory or voluntary activities alone will have. Moreover, the Commission believes that by encouraging the development and use of voluntary safety standards, the level of product safety in the marketplace can be increased with a relatively small expenditure of Commission resources, particularly when compared to the resources necessary to issue mandatory safety standards for consumer products.

(c) And finally, even though the Commission supports an effective voluntary standards program, encourages the initiation and development of safety standards, and supports the adoption and use of such standards, it does not give up the option to promulgate a consumer product safety rule in accordance with the provisions of the Consumer Product Safety Act, and the other acts which the Commission administers.

§ 1032.2 Extent and form of Commission involvement in the Development of Voluntary Standards.

(a) The extent of Commission involvement in the development and support of voluntary safety standards for consumer products will be dependent upon the Commission's interest in the particular standards development activity.

(b) The Commission's interest in a specific voluntary standards activity will be based in part on the frequency and severity of injuries associated with the product, the involvement of the product in the accident, the susceptability of the hazard to correction through standards, and the overall priorities of the Commission. Commission involvement in voluntary standards activities generally will also be guided by the Commission's Operating Plan, budget documents and hazard index. There are three levels of Commission interactions in voluntary standards activities, each of which reflects a different level of Commission involvement as set forth below:

(1) *Liaison.* Liaison involves responding to requests from voluntary standards organizations, standards development committees, trade associations and consumer organizations, by providing information concerning the risks of injury associated with particular products, NEISS data, summaries and analyses of in-depth investigation reports; discussing Commission goals and objectives with regard to voluntary standards and improved consumer product safety; responding to requests for information concerning Commission programs; and initiating contacts with voluntary standards organizations to discuss cooperative voluntary standards activities. Responding to requests for liaison may include the attendance of Commission staff at two or three meeting of an outside organization within a three year period. Attendance by Commission staff at more than three such meetings will be considered "monitoring" or "participation" and will require appropriate approval of the Executive Director or the Commission.

(2) *Monitoring.* Monitoring involves maintaining an awareness of the voluntary standards development process through oral or written inquiries, receiving and reviewing minutes of meetings and copies of draft standards, and attending meetings for the purpose of observing and commenting during the standards development process.

(3) *Participating.* Participating involves regularly attending meetings of the standards development committee or group and taking an active part in the discussions of the committee and in developing the standard, in accordance with the Commission's policy published in 16 CFR Part 1031. Under certain conditions, the Commission will contribute to the deliberations of the committee by expending resources to provide technical assistance including research, engineering support, and information and education programs which would support the development and implementation of voluntary standards.

§ 1032.3 Determination of Commission involvement in voluntary standards activities; summary of activities.

(a) The Executive Director shall approve Commission activities that are within the definitions of "liaison" and "monitoring".

(b) The Commissioners shall approve activities that are within the definition of "participation."

(c) The Office of Program Management is responsible for preparing a quarterly summary of such activities for the Commission. The summary shall set forth, among other things, voluntary standards meetings attended, dates of the meetings, staff members in attendance, location of the meetings, the status of the CPSC involvement, and the extent to which each of the criteria set out in section 1032.5 for staff participation is being met for each proceeding.

§ 1032.4 Commission support of voluntary standards programs.

(a) The Commission's support of voluntary safety standards development activities may include any one or a combination of actions. The level of support will be dependent upon the degree of Commission involvement as described in § 1032.2 above.

(b) These actions may include:

(1) Providing epidemiological information and explanations of hazards for consumer products.

(2) Encouraging the initiation of the development of voluntary standards for specific consumer products.

(3) Indentifying specific risks of injury to be addressed in voluntary standards.

(4) Performing or subsidizing technical assistance, including research and engineering support, in the development of a voluntary standards activity in which the Commission is participating.

(5) Providing assistance on methods of disseminating information and education about the voluntary standard or its use.

(6) Performing a staff evaluation of a voluntary standard to determine its adequacy and efficacy in reducing the risks of injury that have been identified by the Commission as being associated with the use of the product.

(7) Encouraging state and local governments to reference or incorporate the provisions of a voluntary standard in regulations or ordinances.

(8) Monitoring the conformance of products subject to a voluntary safety standard.

(9) Listing voluntary standards that address specific hazards associated with the use of consumer products.

(10) Taking other actions that the Commission believes appropriate in a particular situation.

§ 1032.5 Guidelines for Commission participation in voluntary standards activities.

The Commission will consider the extent to which the following criteria are met in evaluating requests for staff "participation" in the development of voluntary safety standards for consumer products and in determining whether to continue to allow such staff participation throughout the process.

(a) Openness to all interested parties and procedures which will provide for meaningful participation by representatives of producers, distributors, consumers, and general interests, with appropriate meaningful representation for small business and ultimate consumers. Meaningful representation by consumers and small business means, as a minimum, that among those representing such points of view are individuals having technical expertise in the areas under consideration.

(b) Exclusion to the maximum extent possible of the incorporation of requirements which will create undue anti-competitive effects or promote restraints of trade, which are contrary to the public interest and the goal of product safety.

(c) Provisions for periodic and timely review of the standard, including review for anti-competitive effects and revision or amendment as the need arises.

(d) Performance-oriented and not design-restrictive requirements to the maximum practical extent in any standards developed.

(e) Degree of industry conformance to the voluntary standard once it is issued, and ascertainability of conformance.

(f) Provisions in the standard for marking products conforming to the standard so that future in-depth investigation reports of the Commission can indicate the involvement of such products in accidents and injury patterns.

(g) Provisions for insuring that products identified as conforming to such standards will be subjected to a testing and certification (including self-certification) procedure which will provide assurance that the products conform to the standard.

§ 1032.6 Effect of voluntary standards activities on Commission activities.

(a) *Existing voluntary standards.* (1) The Commission, in determining whether to begin proceedings to develop mandatory standards under the acts it administers, considers whether mandatory regulation is necessary. In determining whether mandatory regulation is necessary, it considers whether there is an existing voluntary standard that adequately addresses the problem and the extent to which that voluntary standard is conformed to by the affected industry.

(2) The Commission acknowledges that there are situations in which adequate voluntary standards in combination with appropriate certification programs may support a conclusion that a mandatory standard is not necessary. The Commission may find that a mandatory standard is not necessary where an existing voluntary standard appears to be reasonably adequate to eliminate or reduce the risk of injury associated with the product, contains requirements and test methods that have been evaluated and found acceptable by the Commission, and there is a sufficiently high degree of conformance to the voluntary standard. Under such circumstances, the Commission may agree to encourage conformance to the voluntary standard and subsequently evaluate the effectiveness of the standard in terms of accident and injury reduction for products produced in conformance with the standard.

(3) In evaluating voluntary standards, the Commission will relate the requirements of the standard to the identified risks of injury and evaluate the requirements in terms of their effectiveness in eliminating or reducing the risks of injury. The evaluation of voluntary standards will be conducted by Commission staff members, including representatives of legal, epidemiological, engineering, and human factors interests. The staff evaluation will be conducted in a manner similar to evaluations of standards being considered for promulgation as mandatory standards.

(4) In the event that the Commission has evaluated an existing voluntary standard and found it to be adequate in all but one or two areas, the Commission may defer the initiation of a mandatory rulemaking proceeding and request the standards developed organizations to revise the standard to address the identified inadequacies expeditiously. In such cases, the Commission will monitor or participate in the development of these revisions.

(b) *Voluntary standards under development.* (1) As a general rule, once the Commission has made a determination to commence a standard development proceeding under section 7 of the CPSA, it will not delay the commencement of mandatory rulemaking in order to permit an outside party to develop a voluntary standard. The Commission believes that such a policy would simply encourage industries to relay work on voluntary standards until mandatory government action seemed likely.

(2) However, the Commission may consider delaying the initiation of a mandatory standard if there is clear evidence to show that development of a voluntary standard that adequately addresses the risk of injury presented by a consumer product was commenced prior to a Commission determination that a product presents an unreasonable risk of injury and development of the voluntary standard will be completed expeditiously. Under such circumstances, the Commission may agree to support and participate in the development of that voluntary standard.

(c) *Deferral of mandatory standards.* (1) Any organization may submit to the Commission an existing voluntary standard for evaluation, with a request that the Commission make a commitment to defer mandatory standard development for the product addressed by the voluntary standard. Such requests shall be submitted to the Office of the Secretary. The Commission will consider such requests on a case-by-case basis. The organization submitting a voluntary standard under this section, shall include with its submission, at a minimum, an identification of the risk of injury addressed by the voluntary standard, an analysis explaining how the voluntary standard adequately addresses the identified risk of injury; and a statement of technical rationale that supports the provisions of the standard.

(2) For purposes of this policy, a "commitment" to defer mandatory standards development shall be a Commission decision—revocable at any time—to refrain from commencing mandatory standards development for a specified period of time, not to exceed three (3) years. The commitment must be based upon a finding by the Commission that the voluntary standard adequately reduces risk(s) of injury associated with a product and that the standard was drafted in a manner such that the criteria in section D of this policy were satisfactorily met.

(3) When the Commission makes a committment to defer mandatory standards development for the product addressed by the voluntary standard, it may take actions described in §§ 1032.4 and 1032.6 of this policy statement to ensure the effectiveness of the voluntary standard in reducing the identified risks of injury.

(4) At the end of each three year period, the Commission may extend the committment to defer mandatory standards development if a review indicates that insufficient time has transpired in which to properly evaluate the effectiveness of the voluntary standard or for other appropriate reasons.

(d) *Development of mandatory standards.* The Commission will consider those provisions of a voluntary standard that have been reviewed, evaluated, and deemed to be adequate in addressing the specified unreasonable risks of injury when initiating a mandatory standard development proceeding under section 7 of the Con-

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sumer Product Safety Act. Comments will be requested in the Notice of Proceeding on the adequacy of those provisions and the offerors will be encouraged to accept those provisions deemed adequate and to develop other provisions deemed necessary to complete the proposed regulation.

§ 1032.7 Attendance at meetings.

All meetings between Commission personnel and outside organizations shall be subject to the Commission's open meetings policy, 16 CFR Part 1012. The approval and authorization for attendance of Commission staff at meetings of standards groups and the participation of staff members in standards development activities shall be in accordance with the policy on "Employee Membership and Participation in Voluntary Standards Organization", 16 CFR Part 1031.

Dated: April 28, 1978.

SADYE E. DUNN,
Acting Secretary,
Consumer Product Safety Commission.

[FR Doc. 78-12203 Filed 5-3-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. IA-626, 34-14714]

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Final Extension of Temporary Exemption From the Investment Advisers Act for Certain Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Final extension of temporary rule.

SUMMARY: Because some broker-dealers might have decided, as a result of the May 1, 1975 elimination of fixed commission rates on securities transactions, to impose charges for their investment advisory services which might have caused such broker-dealers to lose their exemption from the Investment Advisers Act of 1940 ("Advisers Act"), the Commission on a temporary basis exempted certain broker-dealers from the Advisers Act. The Commission now has determined that the temporary exemption will be allowed to expire at the end of an additional six-month period and that no permanent exemption will be adopted. Current staff views on the meaning of the term "special compensation" are also set forth and public comments are solicited on those views and on the question whether brokers or dealers who have discretionary authority over customers' accounts should, per se, be considered investment advisers with respect to such accounts.

DATES: Effective date of final extension—April 27, 1978; comments must be received on staff views on the meaning of "special compensation" and other issues on or before June 30, 1978.

ADDRESSES: Interested persons should submit their views and comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-740, and will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT:

Michael Berenson, Esq., Office of the Chief Counsel, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-376-20549.

SUPPLEMENTARY INFORMATION:

I. SYNOPSIS

The adoption of Rule 19b-3 (17 CFR 240.19b-3)[1] under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) ("Exchange Act"), if followed by the "unbundling" of brokerage commission charges and charges for research and other investment advice, could cause those brokers or dealers who unbundle to become investment advisers as that term is defined in the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) ("Advisers Act"). Believing that the change from fixed to negotiated rates was itself a very significant change for brokers and dealers, the Commission adopted a series of temporary exemptions from the Advisers Act for certain brokers and dealers who had been registered pursuant to Section 15 of the Exchange Act prior to the May 1, 1975 effective date of Rule 19b-3 and who were not then registered as an investment adviser. The latest of such exemptions expires on April 30, 1978.

An adequate period has elapsed for broker-dealers to become familiar with the provisions of the Advisers Act and to adjust to the unfixing of commission rates. The Commission has considered the impact of the Advisers Act on all broker-dealers, including those previously exempt, and does not believe compliance with the Advisers Act is overly burdensome. This is especially true since the Commission has taken several actions since the temporary exemptions were first initiated to reduce the burdens regulation under the Advisers Act imposes on broker-dealers. In addition, the Commission believes that the Advisers Act provides individuals with certain protections not available under the Exchange Act. Accordingly, the Commission has concluded that neither a continuation of the temporary exemption, beyond a final extension to October 31, 1978, permitting broker-dealers to prepare for compliance with the Advisers Act, nor adoption of a permanent exemption from the Advisers Act for any or all broker-dealers is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act.

II. BACKGROUND

On April 23, 1975, the Commission published notice of the adoption of temporary Rule 206A-1(T) (17 CFR 275.206A-1(T)) under the Advisers Act[2] effective May 1, 1975, to coincide with the effective date of Rule 19b-3 under the Exchange Act. The rule was adopted in order to allow brokers and dealers to become familiar with the Advisers Act and to afford them an adequate period of time to develop and test new pricing practices after May 1, 1975, without at the same time having to register under and comply with the Advisers Act. The rule also was adopted to provide for a thorough consideration by the Commission and the public of questions related to the applicability of the Advisers Act to brokers and dealers. Registration under and compliance with the Advisers Act might otherwise have been required of a broker or dealer who made a separate charge for investment advice since by doing so he might lose the benefit of the exclusion from the definition of investment adviser in Section 202(a)(11) (15 U.S.C. 80b-2(a)(11)) of the Advisers Act[3] provided by Section

[1]Rule 19b-3 prohibits any national securities exchange from adopting or retaining any rule that requires, or from otherwise requiring, its members to charge fixed rates of commission for transactions executed on, or by the use of the facilities of, such exchange after May 1, 1975 (May 1, 1976 as to rules of an exchange relating to floor brokerage commissions).

[2]Securities Exchange Act Release No. 11368, Investment Advisers Act Release No. 455, 40 FR 18424 (April 28, 1975).

[3]Section 202(a)(11) of the Advisers Act defines the term "investment adviser" to mean, with certain exclusions—any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability

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202(a)(11)(C) (15 U.S.C. 80b-2(a)(11)(C)) for "any broker or dealer whose performance of such (investment advisory) services is solely incidental to the conduct of his business as a broker or dealer and who receives no special compensation therefor."

Rule 206A-1(T) provided a four-month exemption from the Advisers Act for any broker or dealer who was registered as such on May 1, 1975 pursuant to Section 15 (15 U.S.C. 78o) of the Exchange Act and who was not then registered with the Commission as an investment adviser. On August 20, 1975, the exemptive period was extended to April 30, 1976, and at that time the exemption was narrowed to exclude after November 30, 1975, broker-dealers performing investment supervisory services or investment management services for special compensation or not solely incidental to their business as broker-dealers.[4] Subsequently, the Commission amended Rule 206A-1(T) to provide two additional extensions of the rule, expiring April 30, 1977,[5] and April 30, 1978.[6]

III. STATUTORY PROTECTIONS PROVIDED BY THE ADVISERS ACT AND THE RULES THEREUNDER WHICH MAY NOT BE AVAILABLE UNDER THE EXCHANGE ACT AND THE RULES THEREUNDER

Both the Advisers Act and the Exchange Act provide a regulatory framework designed to protect investors and the public interest while permitting the provision of professional services in the financial marketplace. While the two statutes are similar, there are some differences, particularly with respect to their antifraud provisions. Both investment advisers and broker-dealers are subject to general antifraud provisions under their respective Acts. In light of several recent Supreme Court decisions, however, the Commission believes that the protections afforded investors under Rule 10b-5 (17 CFR 240.10b-5), the general antifraud rule adopted pursuant to Section 10(b) (15 U.S.C. 78j(b)) of the Exchange Act, may not be so broad as those afforded under the comparable provisions in Section 206 (15 U.S.C. 80b-6) of the Advisers Act, particularly with regard to a person who is not a purchaser or seller of securities. These differences are appropriately related to the obligations of persons required to be registered under the Advisers Act.

Other provisions of the Advisers Act have no equivalents in the Exchange Act. There are not any general requirements under the Exchange Act comparable to the consent requirement in Section 206(3) of the Advisers Act, nor are there specific provisions relating to contracts as in Section 205 (15 U.S.C. 80b-5) of the Advisers Act.[7]

IV. THE FEASIBILITY OF COMPLIANCE BY BROKERS AND DEALERS WITH BOTH THE ADVISERS ACT AND EXCHANGE ACT

A. GENERAL BURDENS

Public commentators on Rule 206A-1(T) have stated that it would be burdensome for brokers and dealers to become subject to the Advisers Act. There are, however, currently over 300 firms which are dually registered, apparently including fourteen of the fifteen largest brokers and dealers doing a primarily public business. The number and size of the dual registrants suggest that registration under and compliance with the Advisers Act is not unduly burdensome. Furthermore, as indicated below, the Commission has significantly alleviated certain burdens which have been brought to its attention.

B. SPECIFIC BURDENS

1. *Disclosures dual registrants must make in connection with securities transactions with clients.* A number of commentators on Rule 206A-1(T) suggested that it is not feasible for broker-dealers who are also investment advisers to comply with the standards set forth in two Commission pronouncements, Advisers Act Release No. 40, February 5, 1945, and *In the Matter of Arleen W. Hughes*, 27 SEC 629 (1948), *aff'd sub nom. Hughes* v. *S.E.C.*, 174 F. 2d 969 (D.C. Cir. 1949). In Advisers Act Release No. 40, the Commission set forth comprehensive disclosures it believed were necessary in circumstances to which Section 206(3) of the Advisers Act (15 U.S.C. 80b-6(3)) is applicable, i.e., when an investment adviser, acting as such, proposes either to act as principal, or as broker for another person, in a transaction with a client. The *Arleen Hughes* case was a proceeding based primarily on a broker-dealer/investment adviser's failure to make the disclosures required by Advisers Act Release No. 40.

The Commission has already recognized "that some modification is appropriate (of the position set forth in Release No. 40), which now appears inappropriate in light of the investment advisory business as it has evolved to the present time" and indicated that in any such situation the extent of the detailed disclosure required would depend on the facts of each case.[8]

Not only has the Commission adopted a more flexible approach concerning the disclosures a dual registrant must make when acting in a dual capacity in a transaction with a client, but, when persuasive arguments have been presented that Section 206(3) is unduly burdensome in particular circumstances, it has also adopted rules, such as Rules 206(3)-1 and 206(3)-2 (17 CFR 275.206(3)-1 and 206(3)-2) to eliminate those burdens.[9] The Commission would give serious and prompt consideration to providing further relief from any other undue burden that might be imposed by Section 206(3) or any other provision of the Advisers Act or the rules thereunder on brokers and dealers who are registered as investment advisers.

2. *Fiduciary Obligations of Brokers and Dealers who are Investment Advisers.* Another reason some broker-dealers have given for desiring an exemption from the Advisers Act is their

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of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities.

[4]Securities Exchange Act Release No. 11807, Investment Advisers Act Release No. 471 (August 20, 1975), 40 FR 38157 (August 21, 1975).

[5]Securities Exchange Act Release No. 12297, Investment Advisers Act Release No. 506 (April 1, 1976), 41 FR 14507 (April 6, 1976).

[6]Securities Exchange Act Release No. 13454, Investment Advisers Act Release No. 581 (April 20, 1977), 42 FR 21769 (April 29, 1977).

[7]There are also advertising rules (Rule 206(4)-1 (17 CFR 275.206(4)-1)) and certain recordkeeping rules under the Advisers Act, e.g., Rules 204-2(a) (12) and (13) (17 CFR 275.204-2(a) (12) and (13)), for which there are no parallel provisions in the Exchange Act. Because of differences in the manner in which broker-dealers and investment advisers conduct their respective businesses, and because of certain common law protections and certain rules of self-regulatory organizations adopted pursuant to the Exchange Act, these differences may in some instances reflect alternative regulatory approaches under the two Acts and not necessarily differing levels of investor protection.

[8]Advisers Act Release No. 470 (August 20, 1975).

[9]Rule 206(3)-1 states that a broker or dealer will not be construed to be acting as an investment adviser with respect to a particular transaction (and therefore the disclosure obligations of Section 206(3) will not attach) if its advice has been furnished only by means of (1) publicly distributed written statements or publicly made oral statements; (2) statements or materials which are not directed to the needs of a specific individual; (3) statistical information which does not comment on the investment merits of a particular security; or (4) a combination of the foregoing services.

Rule 206(3)-2 provides an alternative means of compliance with Section 206(3) for those advisers who wish to effect agency cross transactions for their clients. The rule allows clients to provide advance consent authorizing such transactions for a period not exceeding one year, but requires the investment adviser to furnish the client certain disclosures concerning the compensation received in connection with such transactions on a transaction-by-transaction basis, as well as a cumulative basis, within thirty days prior to the expiration of the period covered by the blanket consent the rule envisions.

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belief that an investment adviser, as such, may be held to have higher duties to his clients than does a broker or dealer to his customers. To the extent this may be true, no persuasive reason has been given to lower standards imposed by law. Moreover, since a dual registrant is not an investment adviser to brokerage clients to whom it provides advisory services on a solely incidental basis and without special compensation,[10] it does not appear that a dual registrant will owe such higher duties to any clients other than its advisory clients.

3. *ERISA.* Some commentators expressed concern that if broker-dealers were required to register as investment advisers, problems might arise with respect to the Employee Retirement Income Security Act of 1974 ("ERISA") (29 U.S.C. 1001 et seq.). In particular, those commentators were concerned that registration under the Advisers Act might bear on whether a broker-dealer would be deemed to be a "fiduciary" for purposes of ERISA. Determination of a broker-dealer's obligations under ERISA would not appear, however, to turn on whether the broker-dealer is also registered under the Advisers Act. The term "fiduciary" is defined in ERISA[11] and has been further refined in regulations adopted by the Department of Labor and the Internal Revenue Service.[12] The Commission will, of course, continue to work with the Department of Labor and the Internal Revenue Service regarding the interrelationship of ERISA and the federal securities laws.

4. *State regulation.* The Commission has also given attention to the concerns of some brokers and dealers that if they are required to register under the Advisers Act various states may impose their investment adviser regulations on such previously exempt brokers and dealers and that this will result in unnecessary, duplicative regulation. The Commission, of course, is anxious to avoid unnecessary regulatory burdens. It would be improper, however, for the Commission to conclude not to act in a manner necessary for the protection of investors on the ground that some States, whose actions are beyond the Commission's scope of authority, may as a consequence apply regulations which members of the brokerage industry believe are unnecessary.

V. Scope of Exclusion Provided by Section 202 (a)(11)(C)

When the temporary rule expires, a broker or dealer would still be excluded from the definition of investment adviser to the extent he could meet the statutory standards in Section 202(a)(11)(c) relating to the furnishing of advisory services solely incidental to the conduct of his business as a broker-dealer and without special compensation therefor.

The relationship of a broker or dealer to his brokerage customers does not become an investment advisory relationship merely because the broker or dealer is registered as an investment adviser. A broker or dealer who is registered as an investment adviser is not by reason of that fact an investment adviser to those of his brokerage clients to whom he provides advisory services on a solely incidental basis and without special compensation.

As early as October 28, 1940, the Commission, in Investment Advisers Act Release No. 2, made known the opinion of its General Counsel as to the meaning of the term "special compensation" in various circumstances in which a broker-dealer provided investment advice solely incidental to the conduct of his business as a broker or dealer.

The examples treated in this release suggest that "special compensation" for investment advice is compensation to the broker-dealer in excess of that which he would be paid for providing a brokerage or dealer service alone. However, because the existence or non-existence of "special compensation" in any particular circumstance may not be clear, the Commission considers it desirable that the current views of the Division of Investment Management on this subject be provided to broker-dealers for their guidance, while also calling for comment on this question.

The Division of Investment Management regards special compensation as existing only where there is a clearly definable charge for investment advice. This reflects the Division's position that a client who perceives that he is paying a charge specifically for investment advice is entitled to the protections of the Advisers Act.

The Division would not look outside the fee structure of a given firm to determine whether special compensation exists. That is, just because a "discount" firm offered lower rates than a "full-service" firm, the Division would not call the "full-service" firm's charges "special compensation."

If a firm negotiates different fees with its clients for similar transactions, the Division would not regard the differences in charges "special compensation" for investment advice since whether they were or were not based on the presence or absence of investment advice appears too hypothetical.

Nor would the Division regard as "special compensation" general differentials which exist because a firm provided, on the one hand, an unrestricted execution service and, on the other hand, a restricted execution service, such as one in which customers must have the necessary cash in their accounts at the time a purchase order is placed and must accept execution at the next day's opening price.

However, if a broker-dealer has in effect, either formally or informally, two general schedules of fees available to a customer, the lower without investment advice and the higher with investment advice and the difference is primarily attributable to this factor, or if a broker-dealer should separately bill a particular customer with a specific charge for investment advice, the Division would regard the extra charge as "special compensation" for investment advice. This is the position that was taken by the General Counsel in 1940 and it is the position that the Division believes would be taken by a court today. This would be the case even in a situation, currently nonexistent, in which a current "full-service" firm implements a "discount" or "execution-only" service. If the differential in general rate structure offered to a particular client could be said to be primarily attributable to the rendering of investment advice, the Division would deem at least part of the differential to be "special compensation" for investment advice.

The recently adopted Rule 11a2-2(T) under the Exchange Act (17 CFR 240.11a2-2(T)) in certain circumstances permits a broker-dealer (the "initiating broker-dealer") to retain compensation in connection with effecting transactions for an account as to which he exercises investment discretion. The rule requires the initiating broker-dealer to forward the orders to other broker-dealers for execution and also requires the initiating broker-dealer to furnish to a discretionary account at least annually a statement setting forth the total amount of transactional compensation retained by the initiating broker-dealer, exclusive of amounts paid to the executing broker-dealer.

The Division believes that, as indicated by Investment advisers Act Release No. 2, unless an initiating broker charged specifically for investment advice, the mere fact that he received compensation for advice and other services, in addition to the compensation paid to an executing broker, would not make such compensation "special compensation." Moreover, the mere report of such compensation should not cause such retained amounts to be "special compensation."

The views set forth above are the Division of Investment Management's current views on the meaning of the term "special compensation." The Commission requests comments and

[10] See Section V, infra.

[11] Section 3(21)(A) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1002(21)(A) (1974).

[12] 29 CFR 2510.3-21 (1977).

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suggestions from all interested persons on these views. The Commission also requests comments on whether the meaning of "special compensation" should be expanded or narrowed, by rule or interpretation, and the impact such action would have on brokers and dealers who would be affected thereby.

For example, on the one hand, the term "special compensation" might be interpreted to apply to a part of the fee negotiated between a broker-dealer and a customer if the fee is higher than the fee that would have been negotiated for an execution service alone and one reason the fee is higher is that it includes a fee for investment advice.[13] On the other hand, the meaning of special compensation might be interpreted as not includiing any charge for investment advice that is made on a transactional basis as part of a charge for a broker or dealer service.[14]

Under previous interpretations of the scope of the exclusion provided by Section 202(a)(11)(C) of the Advisers Act, broker-dealers who have exercised discretionary authority over the accounts of some of their customers were generally regarded as providing investment advice incidental to their business as a broker-dealer and were not considered subject to the Advisers Act with respect to these activities so long as the customers did not pay special compensation for these services.[15]

It appears, however, that relationships which include discretionary authority to act on a client's behalf have many of the characteristics of the relationships to which the protections of the Advisers Act are important. Accordingly, the Commission is considering whether it should take action, by rule or otherwise, to interpret the scope of the exclusion provided by Section 202(a)(11)(C) of the Advisers Act so that it is not available to a broker-dealer who exercises "investment discretion," as defined in Section 3(a)(35) of the Exchange Act[16] (15 U.S.C. 78c(a)(35)), **and so that all customers of a broker-dealer whose accounts are managed on a discretionary basis would be considered advisory clients. The Commission requests comments on the advisability of such action and the effects such action would have on brokers and dealers.**

VI. Conclusion

The Commission has considered the public comments received on Rule 206A-1(T) and has concluded that the temporary exemption from the Advisers Act should not be extended beyond October 31, 1978, and that no permanent exemption should be adopted. The Commission believes it is not onerous for an entity to register under and comply with the Advisers Act and it does not believe that those registered brokers or dealers who will be required to register as investment advisers will find the requirements of the Advisers Act unduly burdensome. Furthermore, the Advisers Act and the rules thereunder provide investors certain protections which are not available under the Exchange Act and the rules thereunder.

Authority

The amendment to Rule 206A-1(T) is adopted pursuant to Sections 206A, 211(a) and 211(b) of the Advisers Act (15 U.S.C. 80b-6a, 80b-11(a) and 80b-11(b)).

§ 275.206A-1(T) [Amended]

Accordingly, § 275.206A-1(T), paragraph (a), Part 275 of Chapter II of Title 17 of the Code of Federal Regulations is hereby amended to change the expiration date of the temporary exemption contained therein from April 30, 1978, to October 31, 1978.

The Commission finds, in accordance with the requirements of the Administrative Procedure Act (5 U.S.C. 553(d)), that notice of the amendment to Rule 206A-1(T) prior to adoption and public procedure thereon is unnecessary, and publication for 30 days prior to the effective date may be omitted, since the amendment continues an exemption from statutory requirements which otherwise would be applicable, and since it is in the public interest to facilitate compliance with the Advisers Act by those brokers and dealers who previously were exempt from the Advisers Act. Accordingly, the amendment to Rule 206A-1(T) shall become effective on the date hereof.

By the Commission.

George A. Fitzsimmons,
Secretary.

April 27, 1978.

[FR Doc. 78-12227 Filed 5-3-78; 8:45 am]

[13] This interpretation might most clearly give effect to the view that a person who clearly perceives that he is paying for investment advice should receive the protections of the Advisers Act.

[14] This interpretation might tend to reduce to the greatest extent any disincentive (because of potential Advisers Act regulation) for a "full-service" brokerage firm to introduce a discount service or for a discount house to introduce a "full-service" brokerage package.

[15] The staff of the Commission has taken the position that a broker-dealer whose business consists almost exclusively of managing accounts on a discretionary basis is not providing investment advice solely incidental to his business as a broker-dealer.

[16] Section 3(a)(35) states:
"A person exercises 'investment discretion' with respect to an account if, directly or indirectly, such person (A) is authorized to determine what securities or other property shall be purchased or sold by or for the account, (B) makes decisions as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions, or (C) otherwise exercises such influence with respect to the purchase and sale of securities or other property by or for the account as the Commission, by rule, determines, in the public interest or for the protection of investors, should be subject to the operation of the provisions of this title and the rules and regulations thereunder."

[4210-01]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-532]

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Applicants Lacking Legal Capacity to Assume NEPA Responsibilities

AGENCY: Department of Housing and Urban Development.

ACTION: Interim rule.

SUMMARY: This rule clarifies Department regulations to provide that special purpose units of Government, while being eligible to receive discretionary grants in behalf of new communities under the Block Grant Program, are deemed by HUD to lack the legal capacity to assume the environmental review responsibilities of that Program.

DATES: Effective date: May 4, 1978. Comments due: June 5, 1978.

ADDRESS: File all comments with the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Robert B. Warner, New Community Development Corp., HUD, Room 7138, 451 7th Street SW., Washington, D.C. 20410; 202-755-6092.

SUPPLEMENTARY INFORMATION: Part 58 sets forth procedures governing the carrying out of the environmental review responsibilities by Community Development Block Grant (CDBG) applicants which would otherwise be the responsibility of the Secretary of HUD, under the National Environmental Policy Act of 1969 (NEPA). It is the policy of HUD, pursuant to section 104(h) of Title I of

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the Housing and Community Development Act of 1974, to require CDBG applicants to assume and carry out such responsibilities, unless the applicants lacks legal capacity to do so. If an applicant lacks such legal capacity, these environmental responsibilities remain the responsibilities of HUD.

HUD has previously determined in section 58.5(b) that private non-profit community associations and private developers approved under Title IV of the Housing and Urban Development Act of 1968 and Title VII of the Housing and Urban Development Act of 1970 are considered to lack the legal capacity to assume or carry out environmental review responsibilities.

HUD has now further determined, in consultation with CEQ, that the delegation of environmental responsibilites should be limited to general purpose governments having broad and comprehensive governmental powers. Section 58.5(b) provides exceptions to HUD's general policy that all applicants shall be required to assume responsibility for carrying out the environmental responsibilities.

The purpose of this rule is to expand these exceptions to include special purpose units of government as an additional class of applicants for discretionary grants in behalf of new communities which are deemed to lack the legal capacity to assume the environmental review responsibility.

HUD's ability to approve applications submitted by special purpose units of government on the basis of HUD's environmental review is technically restricted until this clarification is implemented; therefore, and on the basis that this amendment does not diminish any responsibilities under NEPA, the Secretary has determined that good cause exists for making this an interim rule to be effective on date of publication. However, the Department invites interested persons to submit comments with respect to this amendment. All comments should be filed with the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

Section 104(h) of the Housing and Community Development Act of 1974 requires that this regulation may be issued only after consultation with the Council on Environmental Quality. Such consultation has been accomplished. Also, a Finding of Inapplicability with respect to any environmental impact of this regulation has been made in accordance with HUD Handbook 1390.1 (38 FR 19182). A copy of that finding and of all comments received respecting this regulation will be available for public inspection during business hours in the Office of the Rules Docket Clerk at the address indicated above.

Accordingly, § 58.5(b) appearing at 24 CFR Part 58 is amended by adding a new subparagraph (3), to read as follows:

§ 58.5 General policy.

* * * * *

(b) *Exception.* * * *

(3) Community associations, other applicants which are eligible for assistance pursuant to 24 CFR section 570.403(b)(4) unless such applicant is also described in the first sentence of 24 CFR section 570.3(v), and private developers approved under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the HUD Act of 1968, are considered by HUD to lack the legal capacity to assume or carry out environmental review responsibilities.

(Title I Housing and Community Development Act 1974 (42 U.S.C. 5301 et seq.); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., April 26, 1978.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc. 78-12232 Filed 5-3-78; 8:45 am]

[4210-01]

CHAPTER V—OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-533]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Applications and Criteria for Discretionary Grants—New Communities

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule amends Department regulations to clarify that HUD will perform the environmental review for projects and activities proposed for funding under the Secretary's Discretionary Funds for New Communities where the applicant is a special purpose unit of government. This amendment reflects a corresponding clarification to the Environmental Review Procedures for the Community Development Block Grant Program (24 CFR Part 58).

EFFECTIVE DATE: May 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert B. Warner, New Community Development Corp., Room 7138, 451 7th Street SW., Washington, D.C. 20410, 202-755-6092.

SUPPLEMENTARY INFORMATION: Section 102(a)(1) of the Housing and Community Development Act of 1974 includes State or local public bodies or agencies as defined in Section 711(e) of the Housing and Urban Development Act of 1970, under the term "unit of general local government" for the purposes of awarding grants under the Block Grant Program. Section 570.403(b)(4) of the Block Grant Regulations (24 CFR Part 570) implements Section 102 of the Act for the purposes of discretionary grants in behalf of new communities.

Section 104(h) of the 1974 Act provides for the delegation of HUD's environmental protection procedures to applicants under the Block Grant Program. The regulations implementing this provision are contained at 24 CFR Part 58 (Environmental Review Procedures for the Community Development Block Grant Program). Section 58.5(b) of the Environmental Review Procedures establishes a procedure by which an applicant may claim legal incapacity to assume the environmental review responsibility and also specifically sets forth those entities which are deemed by HUD to lack legal capacity to assume or carry out environmental review responsibilities. These include private new community developers and community associations.

HUD has determined that the delegation of environmental responsibilities should be limited to general purpose governments having broad and comprehensive governmental powers. Therefore, the exceptions currently included at 24 CFR §58.5(b) are being expanded by an amendment which will include special purpose units of government, as defined in 24 CFR §570.403(b)(4) of the Block Grant Regulations as being excepted from the delegation of environmental review responsibilities.

A change to 24 CFR §58.5 also requires this corresponding change to 24 CFR §570.403. The Secretary has determined that good cause exists for making this a final rule to be effective on date of publication since the new material does not extend or modify existing procedures, but rather, serves as a clarification. This clarification is urgently needed so that HUD can undertake the environmental review responsibilities in conjunction with grants to be awarded to special purpose units of government under the discretionary fund for new communities.

A finding of inapplicability of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. It is available for public inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

Accordingly, paragraph (c)(4) of 24 CFR §570.403 is amended to read as follows:

§ 570.403 New communities.

* * * * *

(c) * * *

(4) *Environmental review requirements.* (i) For activities proposed by an applicant eligible under section 570.403(b)(2)(3) or (4), other than an applicant which is also eligible under the first sentence of the definition contained in section 570.3(v), no new environmental review or clearance will be required by virtue of any such activity's proposed funding under this part if the activity is a part of a previously approved project for which environmental review clearances have been completed, which clearances adequately covered such activity, and for which circumstances including the availability of additional data or advances in technology have not changed significantly.

(ii) Applicants eligible under section 570.403(b) which are defined in the first sentence of the definition contained in Section 570.3(v) or are included in section 570.403(b)(1) shall conduct environmental review pursuant to 24 CFR Part 58.

(iii) For all other eligible applicants under 570.403(b), NCDC shall determine the need for environmental review in accordance with paragraph (i), and shall conduct any such reviews pursuant to HUD Handbook 1390.1 (38 FR 19182).

(Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), and Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., April 26, 1978.

ROBERT C. EMBRY, JR.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-12233 Filed 5-3-78; 8:45 am]

[4210-01]

CHAPTER XIII—FEDERAL DISASTER ASSISTANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-445]

PART 2205—FEDERAL DISASTER ASSISTANCE

Disaster Legal Services

AGENCY: Federal Disaster Assistance Administration.

ACTION: Final rule.

SUMMARY: This rule sets forth policies governing provision of legal services to eligible low-income individuals as provided by section 412 of the Disaster Relief Act of 1974. The rule will assist eligible individuals in securing benefits provided by the Act and in resolving claims arising out of a major disaster.

EFFECTIVE DATE: June 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Agnes C. Mravcak, Federal Disaster Assistance Administration, Room B-133, 451 7th Street SW., Washington, D.C. 20410, 202-634-7860.

SUPPLEMENTARY INFORMATION: The Federal Disaster Assistance Administration published a proposed rule on January 10, 1977 (42 FR 5093) concerning promulgation of final regulations for disaster legal services. Five comments were received and have been evaluated carefully. The major comments and changes are covered in the following discussion.

DISCUSSION OF MAJOR COMMENTS

TIME LIMITATIONS

Two commenters urged that time limitations be set for the provision of disaster legal services. This suggestion has not been adopted because the need for legal services may not become known until some time after the disaster, and the setting of a time limit would eliminate the flexibility required to provide the needed services.

DEFINITION OF DISASTER LEGAL SERVICES

In response to two comments relative to providing a definition of "disaster legal services", paragraph (a) has been revised to include the types of legal services to be rendered.

FEE-GENERATING CASES

Several comments were received on the subject of fee-generating cases.

1. One commenter felt that paragraph (b), dealing with fee-generating cases, was overbroad in that "it would exclude any matter that 'would not ordinarily be rejected by local attorneys' even if in a given situation no local attorney could be found". It was suggested that provision be made so that disaster legal services could be provided in such circumstances. The Administrator feels that revised paragraph (b) offers the flexibility for this decision and for subsequent referral to the private sector.

2. The definition of "fee-generating case" has been shortened to clarify its meaning.

3. The regulation has been revised to show that the Regional Director makes the determination as to whether or not a case is fee-generating only in those situations where a question is raised and not, as interpreted by one commenter, in every instance.

4. The regulation has been revised to provide for referral of fee-generating cases by the Regional Director to private lawyers through existing lawyer referral services or, where that is impossible, the Regional Director may provide the disaster victim with a list of lawyers from which he or she may make a selection.

5. A provision added to paragraph (b) permits a lawyer who has provided volunteer disaster legal assistance to accept a fee-generating case as a private lawyer, when the case is referred in the manner discussed in paragraph 4 above.

LOW-INCOME INDIVIDUALS

1. In response to a comment, the definition of "low-income individuals" has been changed to provide that "low-income individuals" includes those persons who have insufficient resources to seek legal services, whether the insufficiency existed prior to the disaster or was the result of the disaster.

2. It is intended that the lawyer operating under these regulations will make the eligibility decision based upon professional judgment and the parameters of the Act.

The Regional Director shall make the determination of eligibility only in cases where the question of eligibility cannot be determined by the lawyer.

CONGRESSIONAL INTENT

One comment suggested that paragraph (e) be deleted. This suggestion was not adopted because paragraph (e), which confined the provision of disaster legal services to the securing of benefits under the Act and claims arising out of a major disaster, reflects the intent of Congress as spelled out in the legislative history of the Act.

METHOD OF PROVIDING SERVICES

A number of comments dealt with the manner in which the Administrator provides lawyers under the disaster legal services program. One State felt that it could provide adequate disaster legal services under its own authorities and through the use of State and community resources. Another State asked that decisions on implementation and delivery of disaster legal services follow consultation with the State.

The FDAA agrees that the States should decide whether they will provide the needed legal services or whether the Federal Government should implement the Section. Paragraph (c) has been revised to require the Regional Director to consult with the State Coordinating Officer to determine if implementation of this Section is necessary.

Two commenters requested that their organizations be given a role in providing disaster legal services. The

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provisions of paragraph (c), particularly (1) and (4), would provide the Regional Director with a wide range of sources for legal services, including the commenters' organizations.

One commenter questioned possible conflicts of interests for Federal lawyers who provide legal services. Two provisions have been added to subparagraph (c)(2) to address this concern. Nothing here relieves individual lawyers from having to determine for themselves, in conformity with applicable rules of conduct, whether providing legal services in each case will create a conflict of interest.

Paragraph (c) has also been revised to provide that the Administrator coordinate with the appropriate Federal agencies and appropriate national, state and local bar associations, as necessary, in the implementation of the disaster legal services program.

Findings of inapplicability regarding environmental and economic impact were prepared for the proposed rule ands copies are available in the Office of Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Since the Department has previously determined that adoption of this rule will not affect the quality of the human environment or the national economy, and since no change adopted herein changed that determination, no further environmental or economic determination is being made.

Since republication of the temporary housing assistance regulations (24 CFR 2205.45) has made 24 CFR 2205.46 available, this rule is designated § 2205.46 and adopted as follows:

§ 2205.46 Disaster legal services.

(a) Legal services, including legal advice, counseling, and representation in non fee-generating cases, except as provided in paragraph (b) of this Section, may be provided to low-income individuals who require them as a result of a major disaster. For the purpose of this Section, "low-income individuals" means those disaster victims who have insufficient resources to secure adequate legal services, whether the insufficiency existed prior to or results from the major disaster. In cases where questions arise about the eligibility of an individual for legal services, the Regional Director or his/her representative shall make a determination.

(b) Disaster legal services shall be provided free to such individuals. Fee-generating cases shall not be accepted by lawyers operating under these regulations. For purposes of this section, a fee-generating case is one which would not ordinarily be rejected by local lawyers as a result of its lack of potential remunerative value. Where any question arises as to whether a case is fee-generating as defined in this section, the Regional Director or his/her representative, after any necessary consultation with local or State bar associations, shall make the determination. Any fee-generating cases shall be referred by the Regional Director or his/her representative to private lawyers, through existing lawyer referral services, or, where that is impractical or impossible, the Regional Director may provide a list of lawyers from which the disaster victim may choose. Lawyers who have rendered voluntary legal assistance under these regulations are not precluded from taking fee-generating cases referred to them in this manner while in their capacity as private lawyers.

(c) When the Regional Director determines after any necessary consultation with the State Coordinating Officer, that implementation of this section is necessary, provision of disaster legal services may be accomplished by:

(1) Use of volunteer lawyers under the terms of appropriate agreements;

(2) Use of Federal lawyers, provided that these lawyers do not represent an eligible disaster victim before a court or Federal agency in a matter directly involving the United States, and further provided that these lawyers do not act in a way which will violate the standards of conduct of their respective agencies or departments;

(3) Use of private lawyers who may be paid by the Federal Disaster Assistance Administration when the Regional Director has determined that there is no other means of obtaining adequate legal assistance for qualified disaster victims; or

(4) Any other arrangement the Regional Director deems appropriate.

The Administrator shall coordinate with appropriate Federal agencies and the appropriate national, state and local bar associations, as necessary, in the implementation of the disaster legal services program.

(d) In the event it is necessary for the Federal Disaster Assistance Administration to pay lawyers for the provision of legal services under these regulations, the Regional Director, in consultation with State and local bar associations, shall determine the amount of reimbursement due to the lawyers who have provided disaster legal services at the request of the Regional Director. At the Regional Director's discretion, administrative costs of lawyers providing legal services requested by him or her may also be paid.

(e) Provision of disaster legal services is confined to the securing of benefits under the Act and claims arising out of a major disaster.

(f) Any disaster legal services shall be provided in accordance with § 2205.13, Non-discrimination in disaster assistance, of these regulations.

(Sec. 412, Pub. L. 93-288, 88 Stat. 157 (42 U.S.C. 5182); Sec. 601, Pub. L. 93-288 (42 U.S.C. 5201); Executive Order 11795 as amended by E.O. 11910 at 41 FR 15681; Delegation of Authority, 41 FR 19365; amended by 43 FR 3627.)

Issued at Washington, D.C., April 26, 1978.

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-12234 Filed 5-3-78; 8:45 am]

[3910.01]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

[AF Reg. 12-35]

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Review of Initial Refusals

AGENCY: Department of the Air Force.

ACTION: Final rule.

SUMMARY: This rule gives individuals who have been denied access to their records a way to appeal that denial to the Secretary of the Air Force. The procedure parallels one that currently exists for appealing refusals to amend records. Our intent is to offer individuals an internal appeal procedure as an alternative to litigation.

EFFECTIVE DATE: May 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Captain Robert N. Veeder, Air Force Privacy Act Office, HQ USAF/DADMP, Washington, D.C. 20330, phone: 202-767-4545.

SUPPLEMENTARY INFORMATION: On February 16, 1978, the Department of the Air Force published a proposed rule (43 FR 6813) to provide a process for appealing initial refusals to grant access. Interested persons were invited to participate in the proposed rulemaking change; however, no public comments were received. Accordingly, the proposed amendment is hereby adopted, as set forth below.

1. § 806b.13 of title 32 of the CFR is revised as follows:

§ 806b.13 Denial of access.

If, in the judgment of the Systems Manager, a legitimate purpose exists for denying access, within five workdays from receipt (not counting Saturday, Sunday, and legal holidays), the manager will forward a copy of the request, together with a copy of the record involved and the reason(s) for recommending denials, to the appropriate Denial Authority identified in § 806b.5(b). The Systems Manager will promptly notify the requesting individual of the referral. Only a Denial Authority is authorized to deny access. A Denial Authority who decides to deny access will:

(a) Promptly notify the requesting individual that the request has been denied and give the reasons for the denial.

(b) Tell the individual that he or she may ask for a review of the decision by sending an appeal, through the Denial Authority, to the Secretary of the Air Force.

(c) Send a copy of the refusal letter to the Systems Manager who has the records.

2. § 806b.18 of Title 32 of the CFR is revised as follows:

§ 806b.18 Review of initial refusals of access or amendment.

(a) An individual may request a review of the initial refusal in writing from the Office of the Secretary of the Air Force within 45 days of the denial. The request should be addressed to the Secretary of the Air Force, Washington, D.C. 20330, and sent through the Denial Authority. The Denial Authority will forward to HQ USAF/DA, Washington, D.C. 20330, a complete file consisting of: (1) The request for review and any reasons in support; (2) The request for access or amendment; (3) The initial refusal; (4) A copy of the record or portions involved; (5) Any records or coordination actions that relate to the initial refusal; (6) Denial Authority comments on any statements of reasons, arguments, or evidence submitted by the requester.

(b) The Chairman, who will be a representative of the directorate of Administration (HQ USAF/DA), or another official designated by the Vice Chief of Staff (HQ USAF/CV), will convene the Air Force Privacy Board to review the initial denial. Other members of the Board will be a representative from the office of The Judge Advocate General (HQ USAF/JA), and from an Air Staff function not having primary responsibility for the record in question. If the record is the primary responsibility of HQ USAF/DA or HQ USAF/JA, the Vice Chief of Staff will designate a member from another Air Staff organization to substitute on the Board. The Chairman may, when deemed appropriate, request the assistance of subject matter experts to advise the Board.

(c) Functions of the Board include:

(1) Reviewing requests submitted in accordance with § 806b.18(a); and (2) Providing recommendations to the Office of the Vice Chief of Staff of the Air Force.

(d) If the Office of the Vice Chief of Staff of the Air Force determines that:

(1) Access should be granted, the individual will be notified promptly, and the appropriate Systems Manager will be directed through the Denial Authority, to grant the individual access.

(2) The record should be amended, the individual will be advised promptly, and the appropriate Systems Manager will be directed, through the Denial Authority, to amend the record and direct previous recipients to amend their copies (§ 806b.17(b)).

(e) If the Office of the Vice Chief of Staff determines that a denial of either access or amendment is appropriate, the request will be forwarded through the Office of the Air Force General Counsel (SAF/GC) to the Office of the Administrative Assistant to the Secretary of the Air Force (SAF/AA) for a final decision.

(f) If SAF/AA determines that:

(1) Access should be granted, the individual will be notified promptly and the appropriate Systems Manager will be directed, through the Denial Authority, to grant the individual access to his or her records.

(2) The record should be amended, the individual will be advised promptly, and the appropriate Systems Manager will be directed, through the Denial Authority, to amend the record and direct previous recipients to amend their copies (§ 806b.17(b)).

(g) If, after conducting the review, SAF/AA upholds the Denial Authority's refusal to grant access or amend the record, SAF/AA will notify the individual that:

(1) The access or amendment request has been refused after review, with reasons for the refusal.

(2) For refusals of amendment only: that the individual has a right to file with the Systems Manager, a concise statement of why he or she disagrees with the Air Force's decision, and

(3) The disagreement statement will become a part of the record and will, thus, be available to anyone who subsequently uses the record, and

(4) Known prior recipients of the disputed record will be given a copy of the disagreement statement.

(h) A final determination of an individual's request for review of an initial refusal of access or amendment must be completed within 30 workdays (except Saturdays, Sundays, and legal holidays) after receipt by HQ USAF/DA, unless it is determined that a fair and equitable review cannot be completed in that time: If additional time is required, the individual will be told in writing the reasons for the delay and a date when he or she may expect the results of the review.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MAY 1, 1978.

[FR Doc. 78-12180 Filed 5-3-78; 8:45 am]

[4310-84]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5633; CA-26501]

CALIFORNIA

Partial Revocation of Public Land Order No. 2301

AGENCY: Bureau of Land Management, Interior.

SUMMARY: This action will remove an administrative site restriction on 40 acres of forest land in Alpine County and restore them to such disposition as may be made of national forest land.

EFFECTIVE DATE: May 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2751 (43 U.S.C. 1714), it is ordered as follows:

1. Public Land Order No. 2301 of March 14, 1961, which withdrew national forest land as administrative sites and recreation areas, is hereby revoked insofar as it affects the following described Heenan Lake Administrative Site (inadvertently shown as Menon Lake in PLO No. 2301):

TOIYABE NATIONAL FOREST

Mount Diablo Meridian

T. 9 N., R. 21 E.,
Sec. 4, NE¼SE¼.

The area described contains 40 acres in Alpine County.

2. At 10 a.m. on May 31, 1978, the land shall be open to such forms of disposition as may by law be made of national forest land.

GUY R. MARTIN,
Assistant Secretary of the Interior.

APRIL 25, 1978.

[FR Doc. 78-12123 Filed 5-3-78; 8:45 am]

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[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING REGULATIONS

Amendment of Foreign Fishing Fee Schedule and Codification of Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment and codification of foreign fishing regulations.

SUMMARY: This document amends the foreign fishing fee schedule under provisions of the Fishery Conservation and Management Act of 1976 by adding five new species to the previously published list, provides an additional basis for determining vessel permit fees in nonretention fisheries, and incorporates the entire fee schedule into the foreign fishing regulations.

EFFECTIVE DATE: This amendment will become effective April 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard H. Schaefer, Chief, Fishery Management Operations Divisions, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, telephone 202-634-7454.

SUPPLEMENTARY INFORMATION: Pursuant to section 204(b)(10) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended, a fee schedule was published in the FEDERAL REGISTER on October 7, 1977, at 42 FR 54588. This schedule, which is applicable for 1978, lists the fees charged foreign governments for species of fish taken by their flag vessels which fish in the fishery conservation zone (FCZ) of the United States. This schedule also lists fees payable to the United States for foreign flag vessels which conduct or support fishery activities within the FCZ.

This schedule was first published as a draft fee schedule on June 15, 1977 (42 FR 30529). That publication solicited written comments or suggestions "from the public, concerned governmental agencies, the scientific community, industry, private interest, or any other interested party concerning any aspect of the proposed fee schedule • • •" This schedule was published as a final document in the FEDERAL REGISTER in the notice section on October 7, 1977 (42 FR 54588). It has since been determined, however, that the schedule should be incorporated into the foreign fishing regulations which appear in 50 CFR Part 611. One purpose of this publication is to correct earlier practice by republishing the fee schedule as a rule. A second purpose is to amend the October 7, 1977, fee schedule by adding five new species to the species list. This amendment was first published January 25, 1978 (43 FR 3420), as a proposed amendment. Comments were received from the Government of Japan in response to that publication. They urged that Japanese values for billfish and sharks, which are considerably lower than the prices in the United States, be substituted in computing the fees to be paid to the United States. This suggestion cannot be accepted because prices used in computing fees are based on U.S. landings data whenever possible. Only in the rare situation where no U.S. ex-vessel price data exist for a particular species are foreign prices used.

A third purpose is to publish a second amendment which establishes an appropriate permit fee for foreign fishing vessels engaging in "nonretention" fisheries within the fishery conservation zone (FCZ). This provision has been discussed with the foreign governments involved. Those governments contend that since the act does not control the taking of highly migratory species of tuna within the FCZ, it is unnecessary for foreign fishing vessels desiring to take only highly migratory species of tuna to apply for or to have on board a permit for that purpose.

Their position is not consistent with section 201(a) of the act which states, in part, "• • • no foreign fishing is authorized within the fishery conservation zone • • • unless such foreign fishing • • • is conducted under and in accordance with, a valid and applicable permit • • •". "Fishing" is defined, in relevant part, as "the catching, taking, or harvesting of fish; • • • any other activity which can *reasonably be expected to result in the catching, taking or harvesting of fish* • • •" [emphasis added].

Under the act, it is immaterial whether foreign fishermen desire to catch only tunas; intent of the fishermen is not relevant. Longline fishing gear, comprised as it is of a series of baited hooks suspended from a central "longline" which may extend for many miles, is inherently attractive to many species of fish (including billfishes and sharks) in addition to highly migratory species of tuna. It is inevitable that some of those other species, subject to U.S. jurisdiction under the act, will be caught. Setting a longline is thus an "activity which can reasonably be expected to result in the catching • • • of fish • • •". Therefore, it is clear that all foreign fishing vessels with nonselective gear operating within the FCZ must have a permit whether they have allocations or not. There is, moreover, a need to have information about the presence, the movements, and the catches of these other species by foreign longline vessels for conservation and management purposes.

The schedule of vessel permit fees charges $1 per gross registered ton for catching vessels, and is based on the premise that the fishing power (capacity to remove fish from the sea) of such vessels is related to the vessel's tonnage. Thus, a vessel of greater tonnage would be expected to pay a higher fee. That premise is inapplicable to vessels engaged in a fishery in which they may not retain the regulated species. Accordingly, for such vessels, appropriate vessel permit fees should be those charged to other vessels that neither catch nor process fish, namely, $200. This figure represents the approximate cost to process and issue a permit. Foreign longliners of nations with allocations will be charged vessel permit fees on the same basis as all other foreign vessels which catch fish (i.e., $1 per gross registered ton).

All nations having any interest in these fee schedules have already been individually notified of them. This schedule, which applies only to foreign nations and their fishermen, comes within the foreign affairs exemption of the Administrative Procedure Act.

NOTE.—The National Marine Fisheries Service has determined that this publication does not constitute a major action requiring preparation of an economic impact analysis under E.O. 11821 and 11949. The National Marine Fisheries Service has further determined that this publication does not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969 requiring the preparation of an environmental impact statement.

AUTHORITY: 16 U.S.C. 1801 et seq.

Signed at Washington, D.C., this 19th day of April 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

1. Amend 50 CFR Part 611 by inserting new § 611.22:

§ 611.22 Fee schedule for foreign fishing permits.

(a) The fee charges for fishing by foreign flag vessels for fish over which the United States exercises exclusive fishery management authority required by section 204(b)(10) of the act and § 611.3(c)(3) of this part are specified as follows:

(1) *Permit fees.* The owners and operators of all foreign vessels engaging in fishing as defined in § 611.2(p), are required to pay appropriate fees as specified in the following table. In the case of vessels described in more than one category, the highest applicable fee will be charged. Permit fees must be paid in advance and are not refundable. However, on a case-by-case basis, the Assistant Administrator for Fisheries may allow the substitution of like vessels when the original vessel has become disabled or otherwise cannot participate in the fishery.

TABLE I

Vessel activity	Permit fee
Catching (activities described in § 611.2(p) (1) or (2)) with an applicable national allocation (per gross registered ton)	$1.00
Catching (activities described in § 611.2(p) (1) or (2)) without an applicable national allocation, i.e., a nonretention fishery (per vessel)	200.00
Processing (activities described in § 611.2(p)(3)(i)) (per gross registered ton) (up to $2,500)	.50
Other support (activities described in § 611.2(p)(3) (ii) or (iii)) (per vessel)	200.00

(2) *Poundage fees.* (i) The poundage fee for each allocated species is calculated at 3.5 percent of the actual landed value per metric ton of the species to U.S. fishermen where U.S. landing data are available in 1976, the most recent year for which such data are available.

(ii) This fee must be paid in advance on the entire national allocation if the nation receiving the allocation chooses to accept it.

(3) *Method of payment.* (i) All payments received must be drawn in U.S. dollars, payable at a bank in the United States, and be made payable to the U.S. Department of Commerce, NOAA. In addition, payments from private firms or individuals should be in the form of a certified check.

(ii) Remittances should be sent to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235, Attention: F3. To facilitate processing, each remittance should be accompanied by a copy of the applicable bill for collection for identification purposes.

(iii) Refunds of poundage fees will be made only upon written application to the address mentioned in (3)(ii) above. Refund requests should contain the following information:

(A) A statement that the amount involved is more than $100.

(B) An explanation of the difference between the amount of actual catch and the amount of catch authorized, and the reasons for the difference.

(b) The following ex-vessel prices to be used for computing fees are based on U.S. commercial landings as published in "Fisheries of the United States, 1976, Current Fishery Statistics No. 7200, National Marine Fisheries Service, April 1977," except where noted:

Species:	*Average ex-vessel value (per metric ton)*
Butterfish	$622
Cod, Pacific	282
Crab, tanner (snow)	441
Flounders Pacific	287
Hake, Pacific	32
Hake, red	185
Hake, silver (whiting)	184
Herring, Atlantic	67
Herring, Pacific	[1]100
Herring, river (alewives)	96
Mackerel, atka	[2]138
Mackerel, Atlantic	259
Mackerel, jack	110
Other billfish, Pacific	[3]875
Other finfish, Atlantic	[4]334
Other groundfish, Pacific	[4]48
Pollock, Alaska	[5]84
Pacific Ocean perch	280
Rockfish	298
Sablefish	399
Seamount groundfish	[2]172
Sharks, Atlantic (except dogfish)	140
Sharks, Pacific (except dogfish)	134
Snails (meat)	[6]600
Squid, Atlantic	[6]414
Squid, Pacific	[6]55
Striped marlin, Pacific	1,579
Swordfish, Pacific	4,040

[1]Price for roeless herring, which will constitute the foreign harvest. Provided by the Embassy of Japan in Washington, D.C., and validated by NMFS, Division of Data Management and Statistics.

[2]Source: Suisanbutsu Ryutsu Tokei Geppo (Monthly Statistical Report on Distribution of Fish and Fish Product). Issued by the Ministry of Agriculture and Forestry, Japan.

[3]Includes blue marlin, black marlin, and sailfish.

[4]Average price from U.S. Atlantic landings of bluefish, cusk, scup, sea trout, sharks, white hake, and wolffish. Source: Division of Data Management and Statistics, NMFS.

[5]Used for production of fish meal. Price based on U.S. landings of anchovy and Pacific hake.

[6]Average price in 1976 for dressed frozen fish taken in U.S. waters, landed in Japan, converted to raw fish price (round weight). Source: U.S. Fishery Attache in Tokyo.

[7]Includes armorheads and alphonsins. Average price in 1976 for dressed frozen fish landed in Japan, converted to raw fish price (round weight). Source: U.S. Fishery Attache in Tokyo.

[8]Ex-vessel price provided by the Embassy of Japan.

[9]"Separate prices for Atlantic and Pacific squids are based on raw data used to develop the value for squid in "Fisheries of the United States, 1976." (Division of Data Management and Statistics, NMFS).

[FR Doc. 78-12121 Filed 5-3-78; 8:45 am]

[3510-22]

PART 651—ATLANTIC GROUNDFISH (COD, HADDOCK, YELLOWTAIL FLOUNDER)

Interim Emergency Regulations and Request for Comments; Correction

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Correction of regulation.

SUMMARY: Emergency regulations governing the Atlantic groundfish fisheries (cod, haddock, and yellowtail flounder) were published in the FEDERAL REGISTER on March 31, 1978 (43 FR 13578). Those regulations were amended on April 10, 1978 (43 FR 14968). One part of the amendment which relates to fishermen engaging in fisheries other than the cod, haddock, or yellowtail flounder fisheries, but who catch those species incidental to their purposeful fisheries for other species, was inadvertently changed. The purpose of this correction is to delete that part of the amendment which was inadvertently changed and to reinstate the rule in effect before March 31, 1978.

EFFECTIVE DATE: This correction becomes effective May 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Director, Northeast Region, National Marine Fisheries, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTAL INFORMATION: On March 31, 1978, interim emergency and proposed regulations implementing the fishery management plan for Atlantic groundfish (cod, haddock, and yellowtail flounder) were published in the FEDERAL REGISTER (43 FR 13578). Subsection 651.6(c) of those regulations and the amendment to the regulations published on April 10, 1978 (43 FR 14969), changed the incidental catch allowance which had been in effect since March 14, 1977 (42 FR 13999), of 5,510 pounds or 10 percent of the weight of all fish on board per trip, whichever is greater. This change inadvertently resulted in allowing vessels using small-mesh nets primarily for species other than regulated species to catch and land the same quantities of regulated species as vessels using large mesh nets primarily for regulated species. The restriction for small-mesh vessels of 5,510 pounds or 10 percent of all fish on board, whichever is greater, is therefore reinstated.

Fishermen should note that the landing restriction section of the regulations makes it unlawful for any vessel to land more cod, haddock, or yellowtail flounder than the stated amounts. Thus, the landing restrictions apply to vessels using small-mesh nets as they do to vessels of similar size using large-mesh nets and engaged in the fishery for the regulated species.

Fishermen are cautioned that the restrictions on landing cod, haddock, and yellowtail flounder are subject to revision by the Assistant Administrator for Fisheries and will be revised from time to time.

Signed at Washington, D.C., this 28th day of April, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

Correct 50 CFR 651.6(c), as amended, by striking the paragraph in its entirety and substituting the following:

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(c) This mesh size regulation will not apply to vessels taking haddock, cod, or yellowtail flounder as by-catch so long as such vessels do not have on board (either at sea or at the time of off-loading) cod, haddock, or yellowtail flounder in amounts in excess of 5,510 pounds (2.5 metric tons) for each species or 10 percent by weight of all fish on board such vessel for each species, whichever is greater.

[FR Doc. 78-12086 Filed 5-3-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contoins notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Part 632]

RURAL ABANDONED MINE PROGRAM

Public Hearings; Extension of Comment Date

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of public hearings; extension of dates for comments.

SUMMARY: The Soil Conservation Service previously proposed at 43 FR 15312, April 11, 1978, policy and requirements to carry out the rural abandoned mine program (RAMP) providing long-term Federal, technical, and financial assistance to land users to reclaim, conserve, and develop certain abandoned coal-mined lands in rural areas. This document announces three public hearings to be held on the proposed rules for implementing section 406 of Pub. L. 95-87, 91 Stat. 460 (30 U.S.C. 1236).

DATES: Because of the dates of the public hearings, the deadline for receiving comments on the proposed RAMP rules is extended to June 5, 1978. Public hearing dates: May 23, 1978—Denver, Colo.; May 26, 1978—St. Louis, Mo.; May 30, 1978—Washington, D.C.

ADDRESSES: Send comments to David P. Overholt, Director, Conservation Operations Division, Soil Conservation Service, USDA, Room 6132-S, P.O. Box 2890, Washington, D.C. 20013.

The RAMP public hearings will be held at the following locations:

Denver, Colo., May 23, 1978: Wyer Auditorium, Denver Public Library, 1357 Broadway, 8 a.m. to 4 p.m.

St. Louis, Mo., May 26, 1978: Federal Building (MART), 405 South 12th Street, 12th and Spruce Streets, 8 a.m. to 4 p.m.

Washington, D.C., May 30, 1978: South Agriculture Building, Jefferson Auditorium, Independence Avenue between 12th and 14th Streets SW., 8:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT:

David P. Overholt, telephone 202-447-7145.

(Catalog of Federal Domestic Assistance Programs number to be assigned.)

Dated: April 27, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources.

[FR Doc. 78-12214 Filed 5-3-78; 8:45 am]

[3410-02]

Agricultural Marketing Service

[7 CFR Part 915]

HANDLING OF AVOCADOS GROWN IN SOUTH FLORIDA

Notice of Proposed Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Consideration is being given to a proposal to add a new paragraph to the section Avocados not subject to regulation of the Rules and Regulations currently in effect under Marketing Order No. 915. The purpose of the proposal would be to permit the handling of avocados to be used for seed purposes exempt from assessments, regulations, and inspection and certification. The amendment to exempt avocados used for seed is needed because such avocados are immature, and it would require certification by the receiver that such avocados were used for the intended purpose, as a safeguard to prevent avocados so handled from entering commercial channels of trade.

DATES: Comments must be received on or before May 19, 1978.

ADDRESSES: Comments may be addressed to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the Office of the Hearing Clerk during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATON CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department is considering a proposed amendment, as hereinafter set forth, of the Rules and Regulations (7 CFR Part 915.110-915.155; Subpart—Rules and Regulations) currently in effect pursuant to the applicable provisions of the marketing agreement and Order No. 915, both as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment of the rules and regulations was proposed by the Avocado Administrative Committee, established under the amended marketing agreement and order as the agency to administer the terms and provisions thereof. The amendment would revise § 915.140 Avocados not subject to regulation by adding a new paragraph (d), so that after such revision such section reads as follows:

§ 915.140 Avocados not subject to regulation.

. . . . . .

(d) *Avocados for seed.* Any handler may ship avocados to be used for seed purposes exempt from the provisions of §§ 915.41, 915.51, and 915.54, and the regulations issued thereunder: *Provided,* That such handler make application to the committee for an exemption prior to the loading of each shipment and that the receiver of each such shipment shall certify, on a form provided by the committee, that such fruit was used for the intended purpose, and that the residue from the seed separation process will not be allowed to enter fresh channels of trade.

Dated: April 28, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegatable Division, Agricultural Marketing Service.

[FR Doc. 78-12238 Filed 5-3-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-AL-1]

GALENA, ALASKA

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

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SUMMARY: This notice (NPRM) proposes to alter the Galena, Alaska, transition area by expanding the 700-foot portion to provide adequate controlled airspace to move and control terminal aircraft operations using radar ATC procedures. This action would lower the base of controlled airspace from 1,200 to 700 feet within a 19-mile radius of the Galena VORTAC. The present 700-foot floor of controlled airspace, extending from the control zone extension west boundary to 19 miles west and from the control zone extension east boundary to 12 miles east, has been found to provide less than optimum controlled airspace for radar ATC procedures.

DATE: Comments must be received on or before June 1, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 78-AL-1, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

The official docket may be examined at the following location: Office of the Regional Counsel, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, at the above address.

FOR FURTHER INFORMATION CONTACT:

John G. Costello, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501, telephone 907-265-4271.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaska Region, attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before June 1, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska, or by calling 907-265-4271. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations, (14 CFR Part 71) to redescribe the Galena, Alaska, transition area. This proposal would expand the 700-foot portion of the transition area to provide the flexibility needed to give more efficient ATC services beyond the limits of the control zone in a radar environment. There would be no change to the 1,200-foot portion of the transition area.

Drafting Information

The principal authors of this document are John Costello, Air Traffic Division, and Donald H. Boberick, Esq., Regional Counsel.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) by redescribing the 700-foot portion of the Galena, Alaska, transition area, as, "That airspace extending upward from 700 feet above the surface within a 19-mile radius of the Galena VORTAC."

(This amendment is proposed under the authority of § 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); § 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Anchorage, Alaska, on April 21, 1978.

LYLE K. BROWN,
Director, Alaskan Region.

[FR Doc. 11850 Filed 5-3-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-EA-21]

NEW CASTLE, PA.

Proposed Designation of Transition Area:

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to designate a New Castle, Pa., transition area, over New Castle Municipal Airport, New Castle, Pa. This designation will provide protection to aircraft executing the new NDB RWY 22 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before June 29, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before June 29, 1978, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-9955-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over New Castle Municipal Airport, New Castle, Pa. The area will commence at 700 feet above the surface extending out to a 5-mile radius around the center of the airport. There will be an extension to the northeast extending approximately 13 miles from the airport and 6 miles in width.

Drafting Information

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a New Castle, Pennsylvania, 700-foot floor transition area as follows:

New Castle, Pa.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°01'30" N., 80°24'45" W., of New Castle Municipal Airport, New Castle, Pa.; within 3.5 miles each side of the 042° bearing from the New Castle, Pa. RBN (41°04'06" N., 80°21'49" W.), extending from the 5-mile radius area to 11.5 miles northeast of the RBN.

Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; (49 U.S.C. 1348 (a))) sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on April 19, 1978.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 78-12014 Filed 5-3-78; 8:45 am]

[4910-13]

[14 CFR PART 71]

[Airspace Docket No. 78-EA-16]

LEHIGHTON, PA.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to designate a Lehighton, Pa., transition area. This designation will provide protection to aircraft executing a new instrument approach which has been developed for the Carbon County Airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before June 29, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, ARE-7, Federal Building, J. F. K. International Airport, Jamica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430. All communications received on or before June 29, 1978, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Carbon County Airport, Lehighton, Pa. The designation will control an area varying from 10 miles to the southwest to 12 miles to the west to 5 miles to the north. Additional area will be controlled to the northeast for a distance of approximately 17 miles extending over Beltzville, Pa. and Neeb Airport.

Drafting Information

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Lehighton, Pa. 700 foot floor transition area as follows:

Lehighton, Pa.

That airspace extending upward from 700 feet above the surface within a 8-mile radius of the center, 40°48'34" N, 75°45'43" W of Carbon County Airport, Lehighton, Pa.; within a 12-mile radius of the center of the airport, extending clockwise from a 182° bearing from the airport to a 270° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 270° bearing from the airport to a 339° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 339° bearing from the airport to a 024° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 024° bearing from the airport to a 060° bearing from the airport; within a 12-mile radius of the center of the airport, extending clock-

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wise from a 060° bearing from the airport to a 121° bearing from the airport; within 9.5 miles north and 4.5 miles south of a 070° bearing from the Carbon RBN (40°48'43" N, 75°45'34" W) extending from the RBN to 18.5 miles east of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; (49 U.S.C. 1348(a))); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Ecomomic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on April 19, 1978.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 78-12015 Filed 5-3-78; 8:45 am]

[4910-13]

[14 CFR Part 73]

[Airspace Docket No. 78-WE-9]

SPECIAL USE AIRSPACE

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to increase the periods of designation of two restricted areas identified as R-2304, Gila Bend, Ariz., and R-2305, Gila Bend, Ariz. This proposed action will provide the additional hours of U.S. Air Force training programs while providing for the safe and efficient use of the navigable airspace by probibiting unauthorized flight operations within the designated area during those periods.

DATES: Comments must be received on or before June 1, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 78-WE-9, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before June 1, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to alter two restricted areas identified as R-2304, Gila Bend, Ariz., and R-2305, Gila Bend, Ariz. This proposed amendment would increase the time of designation of R-2304 from sunrise to 2400 local time, Monday through Friday, to continuous and R-2305 from sunrise to sunset to continuous. Extending the time of designation would permit the Department of the Air Force to more effectively use these restricted areas by providing additional training hours in the existing restricted areas. R-2304 and R-2305 would continue to be designated as joint use and IFR/VFR operations in the areas may be authorized by the controlling agency when it is not being utilized by the using agency.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 659) as follows:

In § 73.23 (43 FR 664), under R-2304, Gila Bend, Ariz., "Sunrise to 2400 local time, Monday through Friday." would be deleted and "Continuous." would be substituted therefor; under R-2305, Gila Bend, Ariz., "Sunrise to sunset." would be deleted and "Continuous." would be substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on April 27, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 78-12008 Filed 5-3-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Parts 404, 416]

[Regs. No. 4, 16]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Rules for Adjudicating Disability Claims in Which Vocational Factors Must Be Considered; Extension of Comment Period

AGENCY: Social Security Administration, HEW.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comments to the notice of proposed rulemaking, published in the FEDERAL REGISTER on March 7, 1978 (43 FR 9284), which proposed rules for adjudicating disability claims in which vocational factors must be considered.

Several legal advocacy groups have requested an extension of time for submitting comments on these proposed rules. These groups believe that a 60-day comment period is inadequate in view of the importance and controversial nature of these proposed rules.

The Social Security Administration is asking for maximum public participation in the evaluation of these rules for adjudicating disability claims. In order to obtain the views and opinions of members of the public, three public meetings were held to discuss these proposed regulations prior to their publication in the FEDERAL REGISTER as a notice of proposed rulemaking. The Social Security Administration has also invited comments from many different segments of the public to provide for more extensive public participation. To insure that all interested parties will have sufficient time to submit data, views, and arguments, the comment period is being extended an additional 30 days as shown below.

DATES: Comments must be received on or before June 8, 1978.

ADDRESSES: Prior to final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION:

William J. Ziegler, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7415.

Dated: April 24, 1978.

DON WORTMAN,
Acting Commissioner
of Social Security.

Approved: May 1, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health,
Education, and Welfare.

[FR Doc. 78-12201 Filed 5-3-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 888-1]

STATE AND FEDERAL ADMINISTRATIVE ENFORCEMENT OF IMPLEMENTATION PLAN REQUIREMENTS AFTER STATUTORY DEADLINES

Proposed Approval of a Delayed Compliance Order Issued by the New York Department of Environmental Conservation to the United States Gypsum Co. Oakfield, N.Y.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an Administrative Order issued by the Commissioner of the New York State Department of Environmental Conservation (DEC) to the United States Gypsum Co. The order requires the company to bring air emissions from its gypsum mill in Oakfield, N.Y., into compliance with certain provisions of the federally-approved New York State Implementation Plan (SIP) by August 1, 1978. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act. If approved by EPA, the Order will constitute an addition to the SIP and will alter the rights of persons to bring judicial actions against the source for violations of the SIP. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a delayed compliance order.

DATES: Written comments must be received on or before June 5, 1978.

ADDRESSES: Comments should be submitted by writing to: Eckardt C. Beck, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007. The State Order, material supporting the order, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter Mugdan, Attorney, General Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007, 212-264-4434.

SUPPLEMENTARY INFORMATION: The United States Gypsum Co. operates a gypsum mine and manufacturing plant in Oakfield, Genessee County, N.Y. The Order under consideration concerns emissions from emission points No. 3, 5 through 10, 13 and 14 of the company's Mill Building, which are subject to the requirements of Part 212, Title 6, Official Compilation of Codes, Rules and Regulations of the State of New York. This regulation limits the emission of particulate matter, and is part of the federally-approved State Implementation Plan for the Air Quality Control Region in which the source is located. The Order requires that, on or before November 1, 1977, the source shall award purchase contracts for major pollution control equipment; on or before April 1, 1978, it shall obtain delivery of such equipment; on or before May 1, 1978, it shall commence construction and installation of such equipment; on or before August 1, 1978, it shall complete construction and attain operational level; and on or before October 1, 1978, it shall submit an approvable stack test report to the DEC if it is required by that Department to do so. The source has consented to the issuance of the Order and to its terms, and it has satisfied those increments of progress which have fallen due as of this date.

The purpose of this notice is to invite public comment on EPA's proposed approval of this Order as a DCO. If approved, the Order would constitute an addition to the New York State Implementation Plan for the purposes of sections 110 ("Implementation Plans"), 304 ("Citizen Suits"), and 307 ("General Provisions Relating to Administrative Proceedings and Judicial Review") of the Act. After the public comment period, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65. The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, or disapproval of an order under section 113(d) of the Act. In addition, Part 65 will contain sections listing or including orders issued, approved, or disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

Because this Order has been issued to a major source of particulate emissions and permits a delay in compliance with the requirements of 6 NYCRR Part 212, it must be approved by EPA before it becomes effective as a delayed compliance Order under section 113(d) of the Act. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

This Agency believes that the Order does satisfy the applicable requirements of section 113(d), and therefore proposes to approve it as a delayed compliance Order. If the Order is approved, source compliance with its terms would preclude further EPA enforcement against it for violation of 6 NYCRR Part 212 during the period the Order is in effect (so long as the source complies with terms). Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should approve the Order as a delayed compliance Order. Final action on this proposal will be published in the FEDERAL REGISTER.

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Dated: March 28, 1978.

ERIC B. OUTWATER,
Acting Regional Administrator Environmental Protection Agency, Region II.

[FR Doc. 78-12084 Filed 5-3-78; 8:45 am]

[6560-01]

[40 CFR Part 180]

[PP 8F2067/P85; FRI 891-7]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerance for the Pesticide Chemical Chlorothalonil

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the fungicide chlorothalonil on bananas. The amendment to the regulations was requested by Diamond Shamrock Corp. This proposed rule would establish a maximum permissible level for residues of chlorothalonil on bananas.

DATE: Comments must be received by May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Eugene Wilson, Product Manager (PM) 21, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-426-2456.

SUPPLEMENTARY INFORMATION: On April 18, 1978, notice was given (43 FR 16400) that Diamond Shamrock Corp., 1100 Superior Avenue, Cleveland, Ohio 44114, had filed a pesticide petition (PP 8F2067) with the EPA.

This petition proposed that 40 CFR 180.275 be amended to establish tolerances for residues of the fungicide chlorothalonil (tetrachloroisophthalonitrile) and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodities bananas and plantains at 0.5 part per million (ppm) with no more than 0.05 ppm of combined residues in the edible pulp of banana and plantain fruit. No comments were received in response to this notice of filing. It is noted, however, that plantains are included in the definition of bananas as set forth in 40 CFR 180.1(h). For purposes of this notice, therefore, the proposed tolerances on bananas and plantains and the edible pulps of their fruit are expressed as bananas and the edible pulp of the banana fruit.

The tolerance of 0.5 ppm in or on bananas with no more than 0.05 ppm of combined residues in the edible pulp of banana fruit is being proposed at this time because the Agency wishes to provide information in addition to that provided in the April 18, 1978 notice published earlier.

The data submitted in the petition and other relevant material have been evaluated, and the pesticide is considered to be useful for the purpose for which the tolerance is sought.

The toxicological data considered in support of the proposed tolerance included two-year rat and dog feeding studies with no-observable-effect levels (NOEL) of 60 ppm with a 100-fold safety factor, a rat acute toxicity study, a rabbit teratogenicity study, and a three-generation rat reproduction study. An oncogencity study in a second mammalian species is missing. However, the existing toxicology data do not show any evidence of an undue human health hazard and thus support establishment of the proposed tolerance.

The acceptable daily intake (ADI) of chlorothalonil and its metabolite has been established at 0.015 milligram (mg/kilogram. (kg) of body weight (bw) based on the two-year dog feeding study with an NOEL of 60 ppm. Existing tolerances result in a maximum theoretical exposure of 81.05 percent of the ADI. Establishment of the proposed tolerance would not exceed the ADI and a maximum permissible intake (NPI) of 0.9 mg/day/60-kg human. The proposed tolerance in or on bananas will not contribute a significant amount (approximately 0.001 mg/day) to the daily diet. The ADI will be practically unaffected by this amount.

Tolerances have previously been established for residues of chlorothalonil and its 4-hydroxy metabolite in or on a variety of raw agricultural commodities, ranging from 15 ppm to 0.1 ppm. Adequate analytical methods (gas liquid chromatography) are available to enforce the tolerance established by this amendment. Tolerances currently pending for residues of chlorothalonil and its metabolite in or on raw agricultural commodities include mint at 500 ppm; spinach at 42 ppm; chicory, endive, garden beet greens, mustard greens, peaches, and turnip greens at 25 ppm; cherries at 15 ppm; garden beet roots, parsnip roots, and turnip roots at 1 ppm; and soybeans at 0.2 ppm.

Meat and milk tolerances are not necessary to cover secondary residues resulting from the proposed use because there are no feed items involved. It has been determined that the tolerance established by amending 40 CFR 180.275 will protect the public health, and it is proposed, therefore, that the tolerance be established as set forth below.

Interested persons are invited to submit written comments on the proposed regulation. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the time for the comment period is shortened to less than 30 days because (1) the notice of filing of April 18, 1978 (43 FR 16400) invited the submission of written comments on the proposed tolerance, and (2) there is an epidemic of banana leaf spot disease (Black Sigatoka) in Honduras against which chlorothalonil is effective. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 8F2067/P85". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

AUTHORITY: Section 408(d) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(d)].

Dated: May 1, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

It is proposed that Part 180, Subpart C, section 180.275 be amended by alphabetically inserting in the table a tolerance on bananas at 0.5 ppm to read as follows:

§ 180.275 **Chlorothalonil tolerances for residues.**

. . . . . .

Commodity:	*Parts per million*
Bananas (NMT 0.05 ppm in edible pulp)	0.5

. . . . . .

[FR Doc. 78-12247 Filed 5-3-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-139; RM-3064]

FM BROADCAST STATION IN BEAVERTON, MICH.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Beaverton, Mich., as that community's first FM assignment, in response to a petition filed by Mid West Communications. The proposed assignment could bring a first FM service to Beaverton.

DATES: Comments must be filed on or before June 20, 1978. Reply comments must be filed on or before July 10, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTAL INFORMATION

Adopted: April 21, 1978.

Released: April 27, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Beaverton, Mich., BC Docket No. 78-139, RM-3064.

1. *Petitioner, proposal, comments.* (a) Petition for rule making,[1] filed by Mid West Communications, proposing the assignment of FM Channel 249A to Beaverton, Mich., as that community's first FM assignment. No responses to the petition were filed.

(b) The channel could be assigned in conformity with the minimum distance separation requirements.

2. *Community Data*— (a) *Location.* Beaverton, in Gladwin County, is located approximately 64 kilometers (40 miles) northwest of Bay City, Mich.

(b) *Population.* Beaverton, 945; Gladwin County, 13,471.[2]

(c) *Local broadcast service.* There is no local aural broadcast service in Beaverton.

(d) *Economic considerations.* Petitioner states that Beaverton is the second largest community in Gladwin County, and according to a recent Beaverton school survey, it has had a substantial gain in resident population. We are told that its present industries include plastic thermo-forming equipment, plastics maufacturing, precision cutting tools, lumbering and livestock and dairy farming. In support of its proposal, petitioner has submitted information with respect to population, form of government, medical and recreational facilities, transportation and education. Petitioner asserts there is only one weekly newspaper to serve the county and the proposed station would provide residents with news of interest in the area in addition to entertainment and educational benefits.

3. Since Beaverton is located 420 kilometers (250 miles) of the U.S.-Canada border, proposed Channel 249A to Beaverton, Mich., requires coordination by the Canadian Government.

4. In light of the above information and the fact that the proposed FM channel assignment would provide for a first local aural broadcast service to Beaverton, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with regard to Beaverton, Mich., as follows:

City and Channel No.		
Beaverton, Mich.;	Present:—;	Proposed: 249A.

5. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before June 20, 1978, and reply comments on or before July 10, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filing in this proceeding.

(a) Counterproposals advanced in this proceedilng itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons action on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-12105 Filed 5-3-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-138; RM-3067]

FM BROADCAST STATION IN GREENSBORO, GA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Greensboro, Ga. The proposal for that community's first FM assignment was made in a petition filed by Boswell and Dingler.

DATES: Comments must be filed on or before June 20, 1978. Reply comments must be filed on or before July 10, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 21, 1978.

Released: April 27, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Greensboro, Ga.), BC Docket No. 78-138, RM-3067.

1. *Petitioner, proposal, comments.* (a) Petition for rule making[1] filed by Boswell and Dingler ("petitioner"), seeking the assignment of Class A FM Channel 280A to Greensboro, Ga., as its first FM assignment. No responses to the petition were received.

[1]Public Notice of the petition was given on March 7, 1978, Report no. 1106.

[1]Public Notice of the petition was given on March 7, 1978, Report No. 1106.

[2]Population figures are taken from the 1970 U.S. Census.

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(b) The channel could be assigned in conformity with the minimum distance separation requirements.

(c) Petitioner states that if the channel is assigned, it will apply for authority to construct and operate the FM broadcast facility.

2. *Community data.*—(a) *Location.* Greensboro, the seat of Greene County, is located in the east central part of Georgia, approximately 109 kilometers (68 miles) east of Atlanta and 104 kilometers (65 miles) northeast of Macon, Ga.

(b) *Population.* Greensboro, 2,583; Greene County, 10,212.[2]

(c) *Local broadcast service.* There is no local aural broadcast service in Greensboro or Greene County.

3. *Economic considerations.* Petitioner states that Greensboro and Greene County have been experiencing a change in population and employment trends over the past few years. It asserts that the area which is now supporting a gradual and economically sound transition to manufacturing, industry and services, has had, between 1960-1970, and 18 percent growth in services, 25 percent growth in wholesale and retail trade, a 63 percent growth in contract construction, and a 176 percent growth in finance, insurance and real estate. Petitioner has submitted detailed information in support of the need for a first local full-time broadcast service in Greensboro and Greene County.

4. In view of the fact that the proposed FM station could provide the community as well as Greene County with a first FM service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, with regard to Greensboro, Ga., as follows:

City and Channel No.	
Greensboro, Ga.:	Present: —; Proposed: 280A.

5. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before June 20, 1978, and reply comments on or before July 10, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[2]Population figures are taken from the 1970 U.S. Census.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

(5) *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-12104 Filed 5-3-78; 8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CRF Parts 172, 173, 174, 175, 176, 177, 178]

[Docket No. HM-161; Notice No. 78-4]

COMMERCIAL DETONATORS AND DETONATING PRIMERS

Proposed Rulemaking

AGENCY: Materials Transportation Bureau, Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to provide more suitable and proper shipping descriptions and classifications of many detonators which are widely used commercially. The need for this action is the lack of proper shipping descriptions for many small explosive devices and the fact that blasting caps are not divided into class A explosives and class C explosives on a technically firm basis. Many explosives producers have complained about these deficiencies in the DOT regulations. The intended effect of this action is to correct the deficiencies noted above.

DATES: Comments must be received on or before September 1, 1978.

ADDRESS COMMENTS TO: Docket Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 2nd Street SW., Washington, D.C. 20590, 202-426-0656.

SUPPLEMENTARY INFORMATION: The purpose of this notice of proposed rulemaking is to propose amendments to Parts 172, 173, 174, 175, 176, 177, and 178 of the Department of Transportation's hazardous materials regulations applicable to blasting caps, electric blasting caps and other commercial detonating devices. These amendments are being proposed for the following reasons:

1. The present division of blasting caps into class A explosives and class C explosives, based on whether there are more than 1,000 caps in a shipment, is unrealistic from the point of view of safety. Fuse caps, as now packaged, will explode en masse, if one cap is set off, regardless of the number of caps in the package. On the other hand, testing has shown that electric blasting caps having leg wires 4 feet or more in length will not explode en masse when packaged as presently required.

2. There is no provision in the regulations for properly describing many types of small detonating devices. These devices must be described as "Detonation fuze, Class C explosive" even though they do not meet the definition for that shipping name. This proposal would make it possible to properly describe and classify products of this type. Provision would be made for adequate time to reclass items now described as "Detonating fuzes, Class C explosives."

The most significant aspects of this proposal are:

1. Class A, type 7 explosives in § 173.53(g) would be retitled "Initiating Devices" since this description best defines their function. Three categories of initiating devices would be defined:

(a) *Commercial detonator.* This would include all commercial initiating devices that contain not more than 10 grams of explosives per unit.

(b) *Detonating primer.* This would include all commercial initiating devices that contain more than 10 grams of explosives per unit.

(c) *Detonating fuze.* This description would be reserved for ordnance items that are used in military rather than commercial applications.

2. Provision has been made for classifying commercial detonators and detonating primers which comply with certain requirements relating to maximum explosive weight and limited propagation effects as class C explosives, instead of basing the class on the number of devices in a shipment.

3. In revising the packaging regulations, the requirements of existing § 173.67 would be incorporated in the revised § 173.66 which covers commercial detonators. Section 173.67 would be deleted. Section 173.68 would be revised and continue to apply to detonating primers.

It is proposed to revise the packaging regulations in order to:

(a) Simplify the present regulations;

(b) Coordinate them with the newly defined "commercial detonator" and "detonating primer"; and

(c) Include the packaging requirements of certain DOT exemptions so that their use will no longer be necessary. These exemptions are identified as Nos. E-5243, E-6466, and E-6477.

The primary drafters of this document are Charles W. Schultz, Technical Services Branch, Office of Hazardous Materials Operations, and Evan C. Braude, Office of the Chief Counsel, Research and Special Programs Directorate.

In consideration of the foregoing, Parts, 172, 173, 174, 175, 176, 177, and 178 of 49 CFR would be amended as follows:

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. Section 172.101 would be amended as follows:

§ 172.101 Hazardous materials table.

(1)	(2)	(3)	(4)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments		
				(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or rail car	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	(Delete)									
	Blasting caps - electri (1,000 or less) (show actual number)	Class C explosive	Explosive C	None	173.103	Forbidden	Forbidden	1,2	5	Portable magazine or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.
	Blasting caps - electric more than 1,000) (show actual number)	Class A explosiv	Explosive A	None	173.66	Forbidden	Forbidden	6	5	Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.
	Blasting caps - (1,000 or less) (show actual number)	Class C explosive	Explosive C	None	173.103	Forbidden	Forbidden	1,2	5	Portable magazine or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.
	Blasting caps - (more than 1,000) (show actu number)	Class A explosiv	Explosive A	None	173.66	Forbidden	Forbidden	6	5	Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.
	Blasting caps with metal clad mild detonating fuse, (1,000 or less) (show actual number)	Class C explosive	Explosive C	None	173.103	Forbidden	Forbidden	1,2	5	Portable magazine or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are loaded.
	Blasting caps with metal - clad mild detonating fuse (more than 1,000) (sho actual number)	Class A explosive	Explosive A	None	173.66 173.67	Forbidden	Forbidden	6	5	Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.

(1)	(2)	(3)	(4)	(5) Packaging		(6) Maximum quantity in one package		(7) Water shipments		
				(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or rail car	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Blasting caps with safety fuse - (1,000 or less) (show actual number)	Class C explosiv	Explosive C	None	173.103	Forbidden	Forbidden	1,2	5	Portable magazine or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.
	Blasting caps with safety fuse - (more than 1,000) (show actual number)	Class A explosiv	Explosive A	None	173.66 173.67	Forbidden	Forbidden	6	5	Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.
	Detonating primer	Class A explosive	Explosive A	None	173.68	Forbidden	Forbidden	6	5	
	(Add) Blasting caps, See Commercial detonators. Blasting caps, electric, See Commercial detonators Blasting caps, percussio primed, See Commercial detonators. Blasting caps with metal clad mild detonating fuse, See Commercial detonators. Blasting caps with 8.0 or less grains/ft. detonating cord See Commercial detonators and detonating primers. Blasting caps with safety fuse, See Commercial detonators.									

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(1) 9/ W/ A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label (s) required (if not excepted	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum quantity in one package (a) Passenger carrying aircraft or rail car	(6) Maximum quantity in one package (b) Cargo only aircraft	(7) Water shipment (a) Cargo vessel	(7) Water shipment (b) Passenger vessel	(7) Water shipment (c) Other requirements
	Blasting caps with shock tube, See Commercial detonators									
	Caps, blasting, See Commercial detonators									
	Commercial detonators, Class A explosives See 173.53	Class A explosive	Explosive A	None	173.66	Forbidden	Forbidden	6	5	Do not stow commercial detonators, Class A explosive with any high explosive. Do not handle at the same time high explosives are being loaded.
	Commercial detonator Class C explosive, See 173.100	Class C explosive	Explosive C	None	173.66	50 lbs.	150 lbs.	1,2	1,2	The maximum net quantity in one package for this material shipped aboard passenger vessel is limited to 50 pounds. Portable magazine or metal locker. Do not stow commercial detonators, Class C explosive with high explosives. Do not handle at the same time high explosives are being loaded.
	Delay connectors, See Commercial detonators and detonating primers									
	Detonating primers, Class A explosives. See 173.53	Class A explosive	Explosive A	None	173.66	Forbidden	Forbidden	6	5	Do not stow detonating primers, Class A explosive with any high explosives. Do not handle at the same time high explosives are being loaded.
	Detonating primers, Class C explosives. See 173.100	Class C explosive	Explosive C	None	173.66	50 lbs.	150 lbs.	1,2	1,2	The maximum net quantity in one package for this material shipped aboard passenger vessel is limited to 50 pounds. Portable magazine or metal locker. Do not stow detonating primers Class C explosives with high explosives. Do not handle at the same time high explosives are being loaded.
	Detonators, Class A explosive, See Commercial detonators									
	Electric blasting caps, See Commercial detonators									
	Primers, detonating, See Detonating primers.									

2. In § 172.203 paragraph (c) would be deleted as follows:

§ 172.203 Additional description requirements.

• • • • • •

(c) [Deleted]

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PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

3. In § 173.53 the introductory text of paragraph (g) would be revised; paragraph (g)(1) would be deleted; paragraph (g)(2) would be redesignated (g)(3) and new paragraphs (g)(1) and (g)(2) would be added; notes 1 through 5 following paragraph (h)(1) would be moved to the end of the section following paragraph (v); note 5 would be revised and a new note 6 would be added to read as follows:

§ 173.53 Definition of class A explosives.

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(g) *Type 7.* An initiating device is a metal or plastic casing containing initiating or priming explosives, Class A—Type 4, either with or without other explosives. It is activated by any of the several means, including an electrical pulse, a flame, a shock or detonation wave, mechanical impact (percussion), pressurized gas, or high intensity light beam. It produces an explosive output that may be used to initiate another explosive or to perform work. A time delay may be incorporated in the means of applying the stimulus, or in the initiating device itself. Any device of this type which was previously approved by the Bureau of Explosives may be transported under the description and class assigned at that time until January 1, 1980.

(1) A commercial detonator (see note 5) is an initiating device for commercial use which contains not more than 10 grams of total explosives weight, excluding ignition and delay charges per unit. There are several different kinds of detonators such as the following:

(i) Blasting caps which are activated by safety fuse.

(ii) Blasting caps which are percussion activated.

(iii) Blasting caps which are activated by flexible detonating cord. This type can be further subdivided into four types as follows:

(A) Delay connectors in plastic sheaths which consist of a plastic sleeve that contains a suitable delay system with receptor and donor explosive charges in the center portion. Each end of the sleeve is made so that flexible detonating cord can be inserted into and locked to the connector;

(B) Delay connectors in metal tubes which consist of a system with a receptor and donor charge positioned between two detonators with the entire assembly placed in a metal tube having both ends open for the insertion of flexible detonating cord;

(C) Delay connectors with detonating cord pigtails which consist of delay connectors as described in paragraph (g)(1)(iii)(B) of this section that have short lengths of detonating cord inserted into both ends and crimped in place; and

(D) Nonelectric instantaneous and delay caps which consist of blasting caps to which is assembled a length of 8.0 or less grains/ft. detonating cord that may have a transfer explosive charge at the opposite end.

(iv) Blasting caps which are activated by gas pressurization or reaction.

(v) Blasting caps which are activated by a shock tube.

(vi) Electric blasting caps which are activated by an electric current.

(2) A detonating primer (see note 6) is an initiation device for commercial use which contains more than 10 grams of total explosive weight, excluding ignition and delay charges per unit.

• • • • • •

NOTE 5.—See § 173.100(gg) for criteria that determine whether a particular type of commercial detonator can be classed as Class C explosive.

NOTE 6.—See § 173.100(hh) for criteria that determine whether a particular type of detonating primer can be classed as a Class C explosive.

4. § 173.66 would be deleted and a new § 173.66 would be added to read as follows:

§ 173.66 Commercial detonators.

(a) Blasting caps (including percussion activated) and delay connectors in metal tubes must be snugly packed in strong inside containers. When blasting caps or delay connectors in metal tubes are packed vertically in metal inside containers, their open ends must be covered by a suitable cushioning material. The inside containers must then be snugly packed in intermediate packagings consisting of paper, plastic, or pasteboard cartons or wrappings. All intermediate packages must be packed in an outside packaging specified in paragraph (e) of this section. The intermediate packages must be separated from the outside container by at least 1 inch of tightly packed sawdust, excelsior, or equivalent cushioning material.

(1) The maximum number of these devices containing not more than 3.0 grams of explosives each, excluding ignition and delay charges, that may be packed in one inside container is 110 and in one outside packaging is 5,000. The gross weight of the package may not exceed 110 pounds, or the maximum gross weight allowed in the specification for the outside packaging used, whichever is less.

(2) The maximum number of these devices containing more than 3 but not more than 10 grams of explosives each, excluding ignition and delay charges, that may be packed in one inside container is 50 and in one outside packaging is 500. The gross weight of the package may not exceed 100 pounds or the maximum gross weight allowed in the specification for the outside packaging used, whichever is less.

(b) Electric blasting caps, delay connectors in plastic sheaths, and blasting caps with empty plastic tubing must be packed in pasteboard carton type inside containers. An inside container is not required for electric blasting caps that are contained in inside pasteboard tubes, or which have their leg wires wound on spools with the caps either placed inside the hub of the spool, or securely taped to the wire on the spool. The inside container, tubes, or spools must be packed in an outside packaging specified in paragraph (e) of this section.

(1) The maximum number of these devices, containing not more than 3.0 grams of explosives each, excluding ignition and delay charges, that may be packed in one inside container is 100 and in one outside container is 1,000. The gross weight of the package may not exceed 150 pounds, or the maximum gross weight allowed in the specification for the outside packaging used, whichever is less.

(2) The maximum number of these devices containing more than 3, but not more than 10 grams of explosives each, excluding ignition and delay charges, that may be packed in one inside container is 50 and in one outside packaging is 500. The gross weight of the package may not exceed 150 pounds or the maximum gross weight allowed in the specification for the outside packaging used, whichever is less.

(c) Blasting caps with safety fuse, blasting caps with metal clad mild detonating cord, blasting caps with 8.0 or less grains/ft. detonating cord, and blasting caps with shock tubes may be packed in inside containers, although this is not required. The blasting caps with attachments, or blasting caps in inside containers must be packed in an outside packaging specified in paragraph (e) of this section. No hand holes are permitted in outside packagings. The blasting cap and corresponding configuration should be such as to restrict freedom of movement of the cap and to protect it from impact forces. The blasting caps are not required to be attached to the safety fuse, metal clad mild detonation cord, shock tubes, or 8.0, or less, grain/ft.

(1) The maximum number of these devices, containing not more than 3

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grams of explosives each, excluding ignition and delay charges, that may be packed in one inside container, if used, is 50 and in one outside packaging is 500. The gross weight of the package may not exceed 100 pounds or the maximum gross weight allowed in the specification for the outside packaging used, whichever is less.

(2) The maximum number of these devices, containing more than 3, but not more than 10 grams of explosives each, excluding ignition and delay charges, that may be packed in one inside container, if used, is 10 and in one outside packaging is 100. The gross weight of the package may not exceed 100 pounds or the maximum gross weight allowed in the specification for the outside packaging used, whichever is less.

(d) Delay connectors with detonating cord pigtails must be snugly packed in pasteboard cartons, or pasteboard tube inside containers. The inside containers must be packed in an outside packaging specified in paragraph (e) of this section.

(1) The maximum number of these devices containing not more than 3.0 grams of explosives each, excluding ignition and delay charges, that may be packed in one inside container is 50 and in one outside packaging is 500. The gross weight of the package may not exceed 150 pounds or the maximum gross weight allowed in the specification for the outside packaging used, whichever is less.

(2) The maximum number of these devices containing more than 3, but not more than 10 grams of explosives each, excluding ignition and delay charges, that may be packed in one inside container is 50, and in one outside packaging is 500. The gross weight of the package may not exceed 150 pounds or the maximum gross weight allowed in the specification for the outside packaging used, whichever is less.

(e) Commercial detonators either with or without inside containers, as provided for in this paragraph, must be packed in one of the following outside packagings:

(1) DOT specification 14, 15A, or 16A (§§ 178.165, 178.168, 178.185 of this subchapter) wooden box.

(2) DOT specification 12H, 23F, or 23H (§§ 178.209, 178.214, 178.219, of this subchapter) fiberboard box.

(f) Each outside packaging of commercial detonators must pe plainly marked "Commercial Detonators—Handle Carefully" and must bear the appropriate explosives label specified in § 172.411 of this subchapter.

(g) Nothing in this section shall prohibit the consolidation of properly prepared packages by banding together, palletizing, or placing in an overpack or freight container, providing all applicable requirements of this subchapter are met.

§ 173.67 [Amended]

5. § 173.67 would be deleted in its entirety.

6. § 173.68 would be deleted and a new § 173.68 would be added to read as follows:

§ 173.68 Detonating primers.

(a) Blasting caps with 8.0 or less grains/ft. detonating cord must be packed in on outside packaging specified in paragraph (d) of this section. No hand holes are permitted in outside packaging. No inside container is required. The blasting cap and its corresponding coil configuration shall be such as to restrict freedom of movement of the cap and to protect it from impact forces.

(1) The maximum number of these devices that may be packed in one outside packaging is 500. The gross weight of the package may not exceed 150 pounds, or the maximum gross weight allowed in the specification for the outside packaging, whichever is less.

(b) Delay connectors with detonating cord pigtails must be snugly packed in pasteboard cartons or pasteboard tube inside containers. The inside containers must be packed in an outside packaging specified in paragraph (d) of this section.

(1) The maximum number of these devices that may be packed in one inside container is 50 and in one outside packaging is 500. The gross weight of the package may not exceed 150 pounds or the maximum gross weight allowed in the specification for the outside packaging used, whichever is less.

(c) All other unspecified types of detonating primers must be packed in pasteboard cartons or in individual pasteboard, metal, plastic or wooden tube inside containers. The inside containers must be packed in an outside packaging specified in paragraph (d) of this section.

(1) The maximum number of unspecified detonating primers that may be packed in one inside container is 50 and in one outside packaging is 500. The gross weight of the package may not exceed 150 pounds or the maximum gross weight allowed in the specification for the outside packaging used, whichever is less.

(d) Detonating primers either with or without inside containers, as provided for in this paragraph, must be packed in one of the following outside packagings:

(1) DOT specification 14, 15A, or 16A (§§ 178.165, 178.168, 178.185 of this subchapter) wooden box.

(2) DOT specification 12H, 23F, or 23H (§§ 178.209, 178.214, 178.219 of this subchapter) fiberboard box.

(e) Each outside packaging of detonating primers must be closed or sealed in such a manner as to discourage pilferage and to prevent loss of the contents.

(f) Each outside packaging of detonating primers must be plainly marked "Detonating Primers—Handle Carefully," and must bear the appropriate label specified in § 172.411 of this subchapter.

(g) Nothing in this section shall prohibit the consolidation of properly prepared packages by banding together, palletizing, or placing in an overpack or freight container providing all applicable requirements of this subchapter are met.

7. In § 173.100 paragraph (bb) would be amended by removing the words "or commerical users" in the third sentence; paragraphs (gg), (hh), and (ii) would be added to read as follows:

§ 173.100 Definition of Class C explosives.

• • • • • •

(gg) Commercial detonators (§ 173.53 (g)(1)), that contain an explosive charge, excluding delay and ignition charges, of not more than 3.0 grams per unit and when packed for shipment will undergo only limited propagation care classed as Class C explosives. Limited propagation means that if one commercial detonator, near the center of a shipping container is exploded, the aggregate weight of explosives, excluding ignition and delay charges in this and all additional commerical detonators in the shipping container that explode may not exceed 25 grams. Commercial detonators which mass detonate in the shipping container may not be classed as Class C explosives.

(hh) Detonating primers (§ 173.53 (g) (2)) in which the total explosive charge per unit does not exceed 25 grams and, which when packed for shipment, will undergo only limited propagation, are classed as Class C explosives. Limited propagation means that if one detonating primer near the center of a shipping container is exploded, the aggregate weight of explosives, excluding ignition and delay charges, in this and all additional detonating primers in the shipping container that explode may not exceed 25 grams. Detonating primers which mass detonate in the shipping container may not be classed as Class C explosives. For the purposes of this paragraph, "mass detonate" means that more than 90 percent of the devices tested in a package explode practically simultaneously.

(ii) It must be demonstrated by actual tests that commercial detonators and detonating primers which are to be offered for transportation as Class C explosives meet the requirements of paragraph (gg) or (hh) of this section, as appropriate. Testing must be done or approved by:

(1) Bureau of Explosives, or

(2) Department of Energy.

(3) A copy of the test data must be filed with the Office of Hazardous Materials Operations before any type of commercial detonator or detonating primer is offered for transportation as a Class C explosive.

8. § 173.103 would be deleted and a new 173.103 would be added to read as follows:

§ 173.103 Commercial detonators, Class C explosives and detonating primers, Class C explosives.

Commercial detonators, Class C explosives and detonating primers, Class C explosives must be packed according to the applicable requirements of § 173.66 and § 173.68.

PART 174—CARRIAGE BY RAIL

9. In § 174.81(a), the table would be amended by deleting the heading "blasting caps, with or without safety fuze (including electric blasting caps), detonating primers" in the fourth entry of both vertical and horizontal columns and substituting therefor "commercial detonators, detonating primers;" footnotes a and e would be revised to read as follows:

§ 174.81 Segregation and separation requirements for hazardous materials in rail cars.

(a) • • •

•Commercial detonators, Class C explosives may also be loaded and transported with articles named in vertical and horizontal columns 3, 9, 10, 11, 12, and 13. Loading and transportation of commercial detonators, or detonating primers in any quantity with articles named in vertical or horizontal columns b, c, e, or f is prohibited.

• • • • • •

•Does not include nitro carbo nitrate or ammonium nitrate, fertilizer grade, which may be loaded, transported, or stored with high explosives, or with commercial detonators containing not more than 3 grams of explosives each, excluding ignition and delay charges.

• • • • • •

10. In § 174.101 the first sentence of paragraph (h) would be amended; paragraph (m) would be deleted as follows:

§ 174.101 Loading explosives.

• • • • • •

(h) At stations or other loading points, packages containing any explosives for which a certified and placarded car is prescribed (see § 174.104), any commercial detonators or detonating primers must be securely blocked and braced to prevent the packages from changing position, falling to the floor, or sliding into each other, under conditions normally incident to transportation. • • •

(m) Deleted

• • • • • •

11. § 174.106 paragraphs (a) and (b) would be revised to read as follows:

§ 174.106 "Order-Notify" or "C.O.D." shipments, Class A explosives.

(a) A carrier may not accept for transportation Class A explosives, commercial detonators, or detonating primers in any quantity when consigned to "order-notify" or "C.O.D.," except on a through bill of lading to a place outside the United States.

(b) A carrier may not accept for transportation Class A explosives, commercial detonators, or detonating primers which the shipper consigns to himself unless the shipper has a resident representative to receive them at the delivery point.

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12. In § 174.115 paragraph (a) would be revised to read as follows:

§ 174.115 Loading Class C explosives.

(a) Class C explosives may be loaded into any closed car in good condition, or into any container car in good condition. No car certificates are required. Packages of Class C explosives must be blocked and braced to prevent their movement and possible damage due to movement of other freight during transportation. For methods of recommended blocking and bracing, see Bureau of Explosives pamphlet No. 6.

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PART 175—CARRIAGE BY AIRCRAFT

13. In § 175.320 paragraph (a), the table would be amended by deleting the first two entries and adding the following in place thereof:

§ 175.320 Cargo-only aircraft; only means of transportation.

(a) • • •

Material description	*Class and conditions*
Commercial detonators and detonating primers.	Class A explosives—Permitted only when no other cargo is aboard the aircraft. However, if the commercial detonators or detonating primers are packed in an IME 22 container (see 49 CFR 171.7(d)(9), of this subchapter), they may be transported in the same aircraft with materials that are not classed as hazardous materials.
Do	Class C explosives—Permitted only when no other cargo is aboard the aircraft. However, if the commercial detonators or detonating primers are packed in a DOT MC 201 container (see 178.318 of this subchapter) or an IME 22 container (see 171.7(d)(9) of this subchapter), they may be transported in the same aircraft with materials other than class A or class B explosives.

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PART 176—CARRIAGE BY VESSEL

14. In § 176.9 the introductory text of paragraph (a) would be revised to read as follows:

§ 176.9 "Order-Notify" or "C.O.D." shipments.

(a) A carrier may not transport Class A explosives, commercial detonators, or detonating primers which are——

• • • • • •

§ 176.83 [Amended]

15. In § 176.83 paragraph (a), the table would be amended by deleting the words "blasting caps, with or without safety fuse, (including electric blasting caps)" in the fourth entry of both the vertical and horizontal columns and in place thereof add the words "commercial detonators."

16. In § 176.105 paragraph (d) would be revised to read as follows:

§ 176.105 Loading and unloading explosives.

• • • • • •

(d) Commercial detonators, detonating primers, detonating fuzes, fulminate of mercury, and other initiating or priming explosives defined in this subchapter constitute a distinct type of explosives. They must be handled with extreme care. A chute and mattress may not be used when loading or discharging this type of explosives.

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17. In § 176.177 paragraphs (c) and (e) would be revised to read as follows:

§ 176.177 Magazine vessels.

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(c) *Location of explosives.* Class A and Class B explosives in excess of 5,000 pounds stored in any magazine vessel must be stowed below deck. No explosive may be stowed on deck unless the vessel is fitted with a deck house having a stowage area which meets the requirements in this subpart for the stowage of explosives. Commercial detonators, Class A explosives and detonating primers, Class A explosives, may not be stored on the same magazine vessel with other Class A explosives or Class B explosives.

• • • • • •

(e) *Initiating explosives, commercial detonators and detonating primers.* No initiating or priming explosive may be stowed in the same compartment with any other explosives when there is any high explosive on the same magazine vessel. Commercial detonators and

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detonating primers must be stowed at least 25 feet from any bulkhead forming a boundary of a compartment containing any other explosives.

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PART 177—CARRIAGE BY PUBLIC HIGHWAY

18. In § 177.835 the introductory text of paragraph (g), paragraphs (g)(2) (i), and (m) would be revised to read as follows:

§ 177.835 Explosives.

. . . . .

(g) No detonating primer may be transported on the same motor vehicle with any other type of Class A explosive or any Class B explosive. No commercial detonator may be transported on the same motor vehicle with any other type of Class A explosive or any Class B explosive unless——

. . . . .

(2) • • •

(i) The commercial detonators are in packagings as prescribed in § 173.66 of this subchapter which in turn are loaded into suitable portable containers or separate compartments. Both the detonators and the container or compartment must meet the requirements of the Institute of Makers of Explosives Standard entitled, "IME Standard for the Safe Transportation of Electric Blasting Caps in the Same Vehicle With Other Explosives" dated November 5, 1971 (IME Safety Library Publication No. 22)."

(m) *Commercial detonators or other explosives.* Any explosive, including desensitized liquid explosives as defined in § 173.53(e) of this subchapter, other than liquid nitroglycerin, desensitized nitroglycerin or diethylene glycol dinitrate, transported on any motor vehicle transporting liquid nitroglycerin, desensitized liquid nitroglycerin or diethylene glycol dinitrate, must be segregated, each kind from every other kind, and from tools or other supplies. Commercial detonators must be packed in specification MC 201 (§178.318 of this subchapter) containers.

19. In § 177.848 paragraph (a), the table would be amended by deleting the words "blasting caps, with or without safety fuse (including electric blasting caps)," in the fourth entry of both the vertical and horizontal columns and in place thereof add the words "commercial detonators;" footnotes a and e would be revised to read as follows:

§ 177.848 **Loading and storage chart of hazardous materials.**

(a) • • •

•Commercial detonators, Class C explosives may also be loaded and transported with articles named in vertical and horizontal columns 3, 9, 10, 11, 12, and 13. Loading and transportation of commercial detonators or detonating primers except as prescribed in § 177.835, in any quantity with articles named in vertical or horizontal columns b, c, e, or f is prohibited.

. . . . .

•Does not include nitro carbo nitrate or ammonium nitrate, fertilizer grade, which may be loaded, transported, stored with high explosives, or with commercial detonators, containing not more than 3 grams of explosives each, excluding ignition and delay charges.

. . . . .

20. In § 177.870 paragraph (d) would be revised to read as follows:

§ 177.870 Regulations for passenger carrying vehicles.

. . . . .

(d) *Hazardous materials on passenger carrying vehicles; quantity.* Where no other practicable means of transportation are available, the following articles in the quantities as shown may be transported in motor vehicles carrying passengers for hire in a space other than that provided for passengers: Not to exceed 100 pounds gross weight of any or all of the kinds of explosives permitted to be transported by passenger-carrying aircraft or rail car may be transported on a motor vehicle transporting passengers: *Provided, however,* That samples of explosives for laboratory examination, not to exceed two samples, or a total of not more than 100 commercial detonators, Class C explosives at one time in a single motor vehicle, may be transported in a motor vehicle transporting passengers.

. . . . .

PART 178—SHIPPING CONTAINER SPECIFICATIONS

§ 178.318 **[Amended]**

21. § 178.318 would be amended by deleting the words "blasting caps" or "electric blasting caps" in Heading, § 178.318-1(a), § 178.318-2(a) and (b) and replace them with the words "commercial detonators."

AUTHORITY: 49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR 1.53(e)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C. on April 27, 1978.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc. 78-12075 Filed 5-3-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 78-08; Notice 1]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Lighting

AGENCY: National Highway Traffic Safety Administration DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes amendments of Motor Vehicle Safety Standard No. 108 that would increase the maximum permissible candlepower for single compartment taillamps while extending requirements for contrast between stop (signaling) and tail (marking) functions at test points below the horizontal in dual compartment lamps. This action is taken in response to a petition for rulemaking from industry. The candlepower limitation was established some years ago as an engineering design standard. The effect of the rule will be to relieve a burden on manufacturers who must monitor production to comply with the existing regulation.

DATES: Comments must be received on or before: June 19, 1978. Proposed effective date: Date of publication of final rule (single compartment lamps); 6 months after date of publication of final rule (dual compartment lamps).

FOR FURTHER INFORMATION CONTACT: Charles Kaehn, Crash Avoidance Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1315.

SUPPLEMENTARY INFORMATION: A limit on photometric output of 15 candlepower at test points on or above the horizontal is imposed on single compartment taillamps by 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment. The intent of this limitation is to eliminate the possibilitiy of excessive glare, and to insure that the ratio between stop lamp and taillamp output offers sufficient contrast that the stop function can be readily identified when it is actuated.

On February 18, 1977, Truck Safety Equipment Institute (TSEI) petitioned for rulemaking to amend Standard No. 108 to increase the permissible maximum output to 18 candlepower. This figure is derived from SAE Recommended Practice J256a Service Performance Requirements for Motor Vehicle Lighting Devices and Components, June 1972, which permits taillamp output to be 120 per cent of the maximum value specified in SAE Standard J585d Tail Lamps (Rear Position Light) August 1970. The reason for the request is that the 15 candlepower limitation was established about 15 years ago as an engineering design standard and has become "an unnecessary burden on manufacturers who must attempt to monitor their production in an attempt to insure strict compliance with this maximum output". TSEI argues that an increase will have no detrimental effect upon safety because there has been no limitation on candlepower output below the horizontal and it is reasonable to assume that there must be countless driving situations every day "where the following driver is exposed to lamp candlepower outputs from approximately 15 cp to 22 cp" without any evidence of hazardous driving conditions because of glare. The basis of the petition therefore is that a restriction should be relaxed for economic reasons, and that the relaxation will have a neutral effect upon safety. The NHTSA has granted TSEI's petition for rulemaking and is proposing that the maximum output of single compartment taillamps be raised to 18 candlepower, and that the current ratio of candlepower output by stop and taillamps in combination lamps be maintained at test points above the horizontal and extended to test points below the horizontal to minimize problems of glare. NHTSA is proposing the extension of the ratio to tests points below the horizontal to provide protection equivalent to that at points above the horizontal. Standard No. 108 allows combination stop and taillamps to be mounted as high as 72 inches above the road surface while in today's passenger cars the driver eye point is much lower, only 38 inches to 48 inches above the road surface.

In consideration of the foregoing it is proposed that 49 CFR 571.108 Motor Vehicle Safety Standard No. 108 be amended in the following respects:

§ 571.108 [Amended]

1. In Figure 1, in the last line "Maximum rear lamps only" the figure "15" under the column headed "Tail Lamp One" would be changed to "18".

2. A new paragraph S4.1.1.13 (presently reserved) would be added to read:

S4.1.1.13 Taillamps shall be designed to conform to SAE Standard J585d Tail Lamp (Rear Position Lamps) August 1970, except that the photometric output of a single compartment lamp at test points on or above the horizontal shall not exceed 18 candlepower. On a motor vehicle manufactured on or after —— 1, 1978, [6 months after date of publication of final rule] when a taillamp is combined with the turn signal lamp or stop lamp, the candlepower output of the turn signal lamp or stop lamp shall not be less than three times the candlepower of the taillamp at any test point, except that at test points H-V, H-5L, H-5R and 5U-V the candlepower output of the turn signal lamp or stop lamp shall not be less than five times the candlepower of the taillamp.

In accordance with Department of Transportation policy encouraging adequate analysis of the costs and other consequences of regulatory actions (41 FR 16201, April 16, 1976), the NHTSA has evaluated the economic and other consequences of this proposal on the public and private sectors and has concluded that there is no cost increase required by an allowance of an increase in candlepower in single compartment taillamps. While there should be no cost increase associated with maintenance of contrast ratios at test points below the horizontal in dual compartment lamps, the NHTSA requests comments on this factor.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

In the case of comments that contain materials for which confidential treatment is requested, those materials should be deleted from the copies submitted to the docket. A copy of the complete comments should be submitted to the Office of Chief Counsel of the above address, with an indication of which portions of the comments are the subject of the request for confidentiality.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The program official and lawyer responsible for the development of this proposal are Charles Kaehn and Taylor Vinson, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on April 27, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-12038 Filed 5-3-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

NATIONAL FOREST SYSTEM ADVISORY COMMITTEE

Notice of Meeting

The National Forest System Advisory Committee will meet at 9 a.m. on June 6 and 7 in Room 3840-46, South Agriculture Building, U.S. Department of Agriculture, Washington, D.C.

This Committee, comprised of 12 members from a broad spectrum of geographic and interest areas, advises the Secretary of Agriculture and the Forest Service on the planning and management of the National Forests. Current management issues that will be discussed include RARE II, land management planning, timber harvest scheduling, and grazing fees. Dr. M. Rupert Cutler, Assistant Secretary for Consevation, Research and Education, will chair the meeting.

The meeting will be open to the public. Persons who wish to attend should notify the Committee's Executive Secretary, James C. Overbay, USDA-Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone 202-447-6341. Written statements may be filed with the Committee before or after the meeting.

CHESTER A. SHIELDS,
Associate Deputy Chief.

APRIL 28, 1978.

[FR Doc. 78-12124 Filed 5-3-78; 8:45 am]

[3410-11]

SAM HOUSTON UNIT PLAN

Availability of Draft Environmental Statement; Correction

On March 23, 1978 (43 FR 12052), a notice of availability was published pertaining to the Draft Unit Plan-Environmental Impact Statement for the Sam Houston Unit of the Sam Houston National Forest, Texas (USDA-FS-R8-DES[Adm]-78-01).

The last sentence of that notice is corrected to read: Comments must be received by June 1, 1978, in order to be considered in the preparation of the final environmental statement.

Dated: April 24, 1978.

ROBERT F. WILLIAMS,
Regional Environmental Coordinator.

[FR Doc. 78-12187 Filed 5-3-78; 8:45 am]

[3410-16]

Soil Conservation Service

CLEARWATER R-1 SCHOOL CRITICAL AREA TREATMENT RC&D MEASURE, MISSOURI

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Clearwater R-1 School Critical Area Treatment RC&D Measure, Wayne County, Mo.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Kenneth G. McManus, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include critical area planting, concrete lined waterways and outlets, and diversions to control water.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Mo. 65201, 314-442-2271, extension 3145. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: April 21, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-12088 Filed 5-3-78; 8:45 am]

[3410-16]

DRAINAGE DISTRICT NO. 8, PEMISCOT COUNTY CRITICAL AREA TREATMENT RC&D MEASURE, MISSOURI

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Drainage District No. 8, Pemiscot County Critical Area Treatment RC&D Measure, Pemiscot County, Mo.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Kenneth G. McManus, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include critical area planting and the installation of structures to conduct water from the field elevation to a lower elevation within the drainage ditch.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Mo. 65201, 314-442-2271, extension 3145. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

Dated: April 21, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-12089 Filed 5-3-78; 8:45 am]

[3410-16]

EAST CARROLL WATERSHED, LOUISIANA

Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the East Carroll Watershed, East Carroll Parish, La.

The environmental assessment of this federally-assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Alton Mangum, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection, flood prevention, and drainage. The planned works of improvement include the installation of 300 miles of channels and appurtenances, 14 grade stabilization structures, and 4 water control structures (weirs).

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Alton Mangum, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, La. 71301; 317-448-3421.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566 (16 U.S.C. 1001-1008).)

Dated: April 26, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-12090 Filed 5-3-78; 8:45 am]

[3410-16]

EASTERN CARTER COUNTY R-2 SCHOOL DISTRICT CRITICAL AREA TREATMENT R.C. & D. MEASURE, MISSOURI

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Eastern Carter County R-2 School District Critical Area Treatment R.C. & D. Measure, Missouri.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Kenneth G. McManus, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include critical area planting, lined waterways and outlets, and diversions.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Mo. 65201, 314-442-2271, extension 3145. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

Dated: April 21, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-12091 Filed 5-3-78; 8:45 am]

[3410-16]

NEWLAN CREEK WATERSHED, MONTANA

Intent To Prepare a Supplement to the Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that a supplement to the final environmental impact statement is being prepared for the Newlan Creek Watershed, Meagher County, Mont.

An environmental impact statement was prepared for this project and filed with the Council on Environmental Quality on August 11, 1970. Project construction is partially complete. The environmental reassessment of the remaining measures of this federally-assisted action indicates that there may be additional significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Van K Haderlie, State Conservationist, has determined that the final environmental impact statement previously prepared for this project now needs to be supplemented.

The project concerns a plan for irrigation, flood prevention, recreation, and fish and wildlife. The planned works of improvement include a multipurpose reservoir on Newlan Creek, enlargement and stabilization of the Sheep Creek Diversion Canal, improved irrigation delivery canals, and recreational facilities. The multipurpose reservoir has been constructed.

The supplement to the final environmental impact statement will be prepared and circulated to agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in preparation of the supplemental environmental impact statement. The supplemental environmental impact statement will be developed by Mr. Van K Haderlie, State Conservationist, Soil Conservation Service, Federal Building, P.O. Box 970, Room 410, Bozeman, Mont. 59715, 406-587-5271, extension 4322.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566 (16 U.S.C. 1001-1008).)

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Dated: April 26, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-12095 Filed 5-3-78; 8:45 am]

[3410-16]

RUMFORD-SMITH CROSSING FLOOD PREVENTION R.C. & D. MEASURE, MAINE

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Rumford-Smith Crossing Flood Prevention R.C. & D. Measure, Oxford County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Warwick M. Tinsley, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement include two side hill diversions, two surface inlet structures, a subsurface closed conduit system with impact basin, and vegetative stabilization of the disturbed areas.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Warwick M. Tinsley, Jr., State Conservationist, Soil Conservation Service, USDA Office Building, Orono, Maine 04473, 207-866-3132. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. (590a-f,q).)

Dated: April 21, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-12092 Filed 5-3-78; 8:45 am]

[3410-16]

SOUTHERN SEQUOYAH COUNTY CRITICAL AREA TREATMENT R.C. & D. MEASURE, OKLAHOMA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Southern Sequoyah County Critical Area Treatment R.C. & D. Measure, Sequoyah County, Okla.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include gully shaping and vegetation. Drop structures, erosion control dams, diversion terraces, and fencing will also be installed.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Farm Road and Brumley Street, Stillwater, Okla. 74074, 405-624-4360. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

Dated: April 21, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-12093 Filed 5-3-78; 8:45 am]

[3410-16]

WESTFIELD BOROUGH FLOOD PREVENTION RC&D MEASURE PENNSYLVANIA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council On Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Westfield Borough Flood Prevention RC&D Measure, Tioga County, Pa.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement include 2,500 feet of diversion with subsurface drains; 700 feet of waterways; and stabilization of the disturbed area with rock riprap and vegetation.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pa. 17108, 717-782-2202. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, (16 U.S.C. 590 a-f, q).)

Dated: April 21, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-12094 Filed 5-3-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[DOCKET 30080]

CAYMAN AIRWAYS, LTD.

Continuance of Prehearing Conference and of Hearing

Applicant through its Counsel has requested that the prehearing conference and hearing herein be postponed for one week and has shown good cause for such request. Counsel for the Bureau of International Aviation has orally consented to the postponement. Accordingly, all parties are hereby notified that the prehearing conference and hearing herein will be held on 11 May 1978 at the time and place heretofore set (43 FR 15346, April 12, 1978).

Dated at Washington, D.C., 28 April 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-12222 Filed 5-3-78; 8:45 am]

[6320-01]

SAN ANTONIO-DENVER ROUTE PROCEEDING

[Docket 32376]

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 20, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues, (2) proposed stipulations, (3) proposed requests for information and evidence, (4) statements of position, and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before May 23, 1978, and the other parties on or before June 6, 1978.

Dated at Washington, D.C., May 1, 1978.

KATHERINE A. KENT,
Administrative Law Judge.

[FR Doc. 78-12221 Filed 5-3-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

JOHNS HOPKINS UNIVERSITY ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before May 24, 1978.

Regulations (15 CFR 301.9) issued under the cited act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00144. Applicant: The Johns Hopkins University, School of Hygiene and Public Health, 615 North Wolfe Street, Baltimore, Md. 21205. Article: Electron Microscope, Model JEM 100S, and accessories. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used in conducting the following research projects:

(1) Enzymatic repare of damaged DNA.
(2) Ongoing study of basophil leukocytes and mast cells in human allergic diseases.
(3) Replication of bacteriophage DNA.
(4) Cloning the human gene for hypoxanthine phosphoribosyltransferase in defective polyoma virus.
(5) Physical location of single genes by in situ hybridization at both methaphase chromosome level and at the DNA level.
(6) Ultrastructure of macrophages in tuberculous granulomas: Digestive and secretory enzymes and residual bacillary components, visualized by the peroxidase-antiperoxidase antibody technique.
(7) Biochemical and genetic study of human chromosomal diseases.
(8) Regulation of phosphatide metabolism in lung type II alveolar cells.
(9) Molecular mechanisms in DNA transport.
(10) The influence of membrane alterations on hepatic transport.

In addition, the article will be used for training of graduate students in the modern biochemical techniques of electron microscopy. Application received by Commissioner of Customs: April 18, 1978.

Docket No. 78-00172. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Double Flash Photographic System. Manufacturer: University of Sheffield, United Kingdom. Intended use of article: The article is intended to be used to investigate the rate of fuel nitrogen emission under atmospheres of varying temperature, composition and relative velocity. The experiments will be conducted to determine the size and velocity of an atomized liquid fuel under pyrolysis and combustion conditions and their relationship to nitrogen oxide pollution. The article will also be used for educational purposes in the courses Graduate Thesis (10 ThG), Graduate Research Project (10.91). Application received by Commissioner of Customs: April 14, 1978.

Docket No. 78-00187. Applicant: University of California School of Medicine, San Francisco, Calif. Department of Anatomy, 3rd and Parnassus Avenue, San Francisco, Calif. 94143. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the research areas of the structure, function, and inherited degeneration of the retina and the cell biology of retrograde axonal transport in the central nervous system, in both intact and injured axons. Investigations will be conducted with the following objectives:

(a) To better understand normal photoreceptor-pigment epithelial cell interactions, particularly that of rod outer segment renewal.
(b) To define the cellular mechanisms that are vulnerable to mutant gene action so as to produce several of the forms of inherited retinal degeneration in mice and rats.
(c) To determine what and when secondary changes occur in the inner retina subsequent to photoreceptor cell degeneration in order to know at what stage(s) the disorders must be arrested to preserve functional vision.
(d) To work out the details of several cellular mechanisms of retrograde axonal transport in both normal a d injured neurons.

The article will also be used for research training by graduate and postgraduate students. Application received by Commissioner of Customs: April 14, 1978.

Dockct No. 78-00189. Applicant: Minnesota Department of Health, 717 Delaware Street SE., Minneapolis, Minn. 55440. Article: Hitachi Model HK-6 Large Angle Tilting Device with accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used for studies of environmental samples of micro-particulates including asbestos and other mineral particles. The crystal structure of the minerals will be

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identified through analysis of electron diffraction patterns taken at specific angles of specimen tilt. Application received by Commissioner of Customs: April 14, 1978.

Docket No. 78-00191. Applicant: Washington State University, Division of Purchasing, Pullman, Wash. 99164. Article: Particle Electrophoresis Apparatus, Mark II, and Accessories. Manufacturer: Rank Brothers, United Kingdom. Intended use of article: The article is intended to be used to examine cells from a variety of sources (red blood cells, bacterial cells and lymphocytes). Surface charge of the outer cell surface will be investigated. In addition, the article will be used by graduate students conducting Ph. D. thesis research in biochemistry. Application received by Commissioner of Customs: April 14, 1978.

Docket No. 78-00192. Applicant: The Pennsylvania State University, Department of Biology, 208 Life Sciences I, University Park, Pa. 16802. Article: Model M85 Microdensitometer with Complan and Microplan Objectives. Manufacturer: Vickers Instruments, Inc., United Kingdom. Intended use of article: The article is intended to be used for the investigation of embryonic derivation, morphological classification, and sequential maturation of hematopoietic cells found in several organs of embryonic leopard frogs. Experiments are conducted by transplanting tissue anlagen between diploid and triploid frog embryos 2 to 3 days of age. Application received by Commissioner of Customs: April 14, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-12102 Filed 5-3-78; 8:45 am]

[3510-25]

MEDICAL UNIVERSITY OF SOUTH CAROLINA

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 301.8 of the Regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period. * * * If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11.

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

> * * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket No. 77-00251. Applicant: Medical University of South Carolina, 171 Ashley Avenue, Charleston, S.C. 29403. Article: Gas Chromatograph-Mass Spectrometer, Model MAT 112 and accessories. Date of denial without prejudice to resubmission: November 30, 1977.

Docket No. 77-00260. Applicant: Sandia Laboratories, Albuquerque, N. Mex. 87115. Article: Scanning Electron Microscope, Model Hiscan S-500 and accessories. Date of denial without prejudice to resubmission: December 12, 1977.

Docket No. 77-00271. Applicant: University of North Carolina, Department of Anatomy, 111 Swing Building 217H, Chapel Hill, N.C. 27514. Article: Scanning Electron Microscope, Model JSM-35U and accessories. Date of denial without prejudice to resubmission: November 4, 1977.

Docket No. 77-00353. Applicant: New York Zoological Society, Weston Road, Lincoln, Mass. 01773. Article: Continuous Recording Oscilloscope Camera (Model PC-3A) and accessories. Date of denial without prejudice to resubmission: January 19, 1978.

Docket No. 77-00366. Applicant: Rochester Institute of Technology, One Lomb Memorial Drive, Rochester, N.Y. 14623. Article: Phase Control Unit and AC-DC Conversion Unit. Date of denial without prejudice to resubmission: January 18, 1978.

(Catalog of Federal Domestic Assistance Programs No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-12103 Filed 5-3-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

AQUARIUM OF CAPE COD, INC.

Issuance of Permit to Take Marine Mammals

On March 14, 1978, Notice was published in the FEDERAL REGISTER (43 FR 10615), that an application had been filed with the National Marine Fisheries Service by Aquarium of Cape Cod, Inc., Route 28, West Yarmouth, Mass. 02673, for a Permit to take two (2) Atlantic harbor seals (*Phoca vitulina vitulina*) for the purpose of public display.

Notice is hereby given that on April 20, 1978, and as authorized by the provisions of the Marine Mammals Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Aquarium of Cape Cod, Inc., subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Date of issuance: April 20, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-12242 Filed 5-3-78; 8:45 am]

[3510-22]

LICENSING PROCEDURES FOR U.S. VESSELS DESIRING TO FISH IN MEXICAN WATERS

Applications for permits to authorize U.S. vessels to fish shrimp or snapper/grouper in the Mexican Zone (12 to 200 miles off the Mexican coast) for August 1, 1978 through July 31, 1979 are now available. Applications for entering vessels in this fishery may be obtained by contacting the Fisheries Management Division (FSE72), National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Fla. 33702, telephone number, 813-893-3722. Applications are available also from the Brownsville Trawlers Association, Star Route Box 5, Brownsville, Tex. 78521, telephone number, 512-831-4862; the Southeastern Fisheries Association, 124 West Jefferson Street, Tallahassee, Fla. 32301, telephone number, 904-224-0612; and the Texas Shrimp Association, 403 Vaughn Building, 807 Brazos, Austin, Tex. 78701, telephone number, 512-476-8446.

Completed application forms must be received by the National Marine Fisheries Service or any of the three associations no later than May 30, 1978 for transmittal to the Mexican Government. License fees and charges per vessel for the fishing season are as follows:

	Permit fee	Catch charge	Performance bond or deposit
	SHRIMP		
Tampico	$80	$2,006	Up to $1,600.
Contoy	80	1,538	Do.
Campeche	(1)	(1)	
	SNAPPER AND GROUPER		
Mexican zone	$80	$500	Up to $1,600.

[1] No shrimp fishing permitted.

Signed at Washington, D.C., this 28th day of April-1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-12082 Filed 5-3-78; 8:45 am]

[3510-22]

MONTREAL ZOOLOGICAL PARK

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: (a) Name, Montreal Zoological Park, Mr. Raymond Roth, director.

(b) Address, Montreal, Quebec, Canada.

2. Type of permit: Public display.

3. Name and number of animals: California sea lions (Zalophus californianus), 4.

4. Type of take: To obtain beached and stranded animals for permanent display.

5. Location of activity: Animals currently maintained at approved facilities.

6. Period of activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammal involved.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such application (40 FR 11614, March 12, 1975).

In this regard, the application: (a) Was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the Fishing Services Directorate, Fisheries and Marine Service, Environment Canada, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity;

(b) Includes: i. a verification from the Fishing Services Directorate, of the information set forth in the application;

ii. a certification from the Ministry of Tourism, Hunting and Fishing that the Government of the Province of Quebec is prepared to monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

iii. a statement that the Fishing Services Directorate will have no objection to a NMFS decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statement of the Fishing Services Directorate and the Ministry of Tourism of the Province of Quebec have been found appropriate and sufficient to allow consideration of this permit application.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: April 3, 1978.

ROLAND FINCH,
Acting Deputy Assistant, Director for Fisheries Management.

[FR Doc. 78-12239 Filed 5-3-78; 8:45 am]

[3510-22]

NORTHWEST AND ALASKA FISHERIES CENTER

Modification of Permit

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammal (50 CFR Part 216), and § 222.25 of the regulations governing endangered species permits (50 CFR Part 222), Permit No. 180 issued to Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, NE., Seattle, Wash. 98115 on April 6, 1977 (42 FR 23675), is modified in the following manner:

Section B-2 is supplemented with,

d. Of the 220 animals authorized to be tagged in 1978, ten (10) healthy animals from French Frigate Shoals and ten (10) healthy animals from Laysan Island may be

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physically restrained to obtain blood samples and tagged. Any moribund monk seals which are found may be tagged, examined and specimen samples collected.

This modification is effective May 4, 1978.

The permit as modified, and documentation pertaining to the modification are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731; and Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Wash. 98109.

Dated: April 27, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-12240 Filed 5-3-78; 8:45 am]

[3510-22]

PACIFIC FISHERY MANAGEMENT COUNCIL AND SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting With Partially Closed Session

Pursuant to section 10(a)(2) of the Federal Advisory Committee, 5 U.S.C. Appendix I, as amended, notice is hereby given of a meeting of the Pacific Fishery Management Council established by section 302(a) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and its Scientific and Statistical Committee established under section 302(g) of the Act.

The Council meeting will take place Thursday and Friday, June 8-9, 1978, at the Arcata Ramada Inn located at 4975 Valley West Boulevard, Arcata, Calif.

The Scientific and Statistical Committee will meet on Wednesday and Thursday, June 7-8, 1978, also at the Arcata Ramada Inn in Arcata, Calif., convening at 1 p.m. and adjourn about 10 p.m. on June 7. The Committee will tentatively reconvene, dependent on Council developments, at 8 a.m. and adjourn about 5 p.m. on June 8. The proposed agenda for the Committee is as follows:

(1) Consideration of development of fishery management plans;

(2) Organization of the Council, including fishery advisory panel and management development teams, and operational procedural matters;

(3) Other Committee business.

The Pacific Fishery Management Council will convene at 10 a.m. and adjourn about 5 p.m. on June 8. The Council will convene at 10 a.m. and adjourn about 5 p.m. on June 9. The meeting may be extended or shortened depending on progress on the agenda. The proposed agenda is as follows:

June 8

1. Closed 2-hour session (8 a.m. to 10 a.m.) to discuss classified material on the status of current maritime boundary and resource negotiations between the United States and Canada.

2. Organization of the Council, including its staff, advisory panels, and committees, and operational and procedural matters.

3. Consideration of reports from ad hoc committees.

4. Review of communications from other agencies and organizations.

5. consideration of fishery management plans under development.

June 9

1. Organization of the Council, including its staff, advisory panels, and committees, and operational procedural matters.

2. Consideration of reports from ad hoc committees.

3. Review of communications from other agencies and organizations.

4. Consideration of fishery management plans under development.

The SSC meeting will be open to the public, as will all but the first agenda item of the Council meeting. For more information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 Southwest Mill Street, Second Floor, Portland, Oreg. 97201, telephone: 503-221-6352.

The closed session of the Council is planned for the early morning of the first day, June 8, from 8 a.m. through 10 a.m. to hear and discuss Department of State security classified material on the status of current maritime boundary and resource negotiation between the United States and Canada. Only those Council members and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined, on April 27, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in closed session be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as information which is properly classified pursuant to Executive Order 11652. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.)

Dated: April 28, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-12224 Filed 5-3-78; 8:45 am]

[3510-22]

MARINELAND OCEANARIUM AND AQUARIUMS

Issuance of Permit to Take Marine Mammals

On March 14, 1978, notice was published in the FEDERAL REGISTER (43 FR 10614), that an application had been filed with the National Marine Fisheries Service by Marineland Oceanarium and Aquariums, Morecambe, England, for a Permit to take two (2) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for public display.

Notice is hereby given that on April 20, 1978, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Marineland, subject to certain conditions set forth therein. The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

Date of Issuance: April 20, 1978.

WINFRED H. MEIBOHM,
Associate Director, National
Marine Fisheries Service.

[FR Doc. 78-12187 Filed 5-3-78; 8:45 am]

[3510-22]

PACIFIC TUNA FISHERIES

Season Closure

The Director of Investigations of the Inter-American Tropical Tuna Commission recommended to the representatives of all member nations having vessels operating in the regulatory area defined in 50 CFR 280.1(g) that the yellowfin tuna fishing season be closed at 0001 hours local time, on May 6, 1978, to assure that the established catch limit of 175,000 short tons for 1978 will not be exceeded.

As authorized by 50 CFR 280.5, notice is hereby given that the 1978 season for taking yellowfin tuna without restriction as to quantity by persons and vessels subject to the jurisdiction of the United States will terminate at 0001 hours, local time, in the regulatory area, May 6, 1978.

Issued at Washington, D.C., and dated April 28, 1978.

WINFRED H. MEIBOHM
Associate Director, National
Marine Fisheries Service.

[FR Doc. 78-12083 filed 5-3-78; 8:45 am]

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[3510-12]

REFINEMENT OF THE CALIFORNIA COASTAL MANAGEMENT PROGRAM TO INCORPORATE THE CALIFORNIA LNG TERMINAL ACT OF 1977

Opportunity for Comment

Notice is hereby given of opportunity for interested parties to comment on a recent action taken by the Office of Coastal Zone Management (OCZM) to incorporate as a refinement the California Liquified Natural Gas (LNG) Terminal Act of 1977 (SB1081) into the State of California's approved coastal management program.

Comment period. Interested parties have 30 days from date of issuance of this notice to submit comments. Comments should be addressed to:

Carol Sondheimer, Acting Pacific Regional Manager, Office of Coastal Zone Management, Page Building No. 1, 3300 Whitehaven Street NW., Washington, D.C. 20235, 202-634-1672.

Background. On January 31, 1978, the Acting Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, approved a refinement to the California Management Program (CMP), which program originally was approved on November 7, 1977.

Notice of this action was issued in the FEDERAL REGISTER on Wednesday, February 22, 1978 (FR, Vol. 43, No. 36, page 7339, No. 3510-08).

The basis for treating this action as a refinement is contained in a finding signed by the Acting Assistant Administrator for Coastal Zone Management on January 31, 1978. This finding states, in part, that the request from the California Coastal Commission, dated January 16, 1978, is in accordance with (then) proposed OCZM procedures for refining an approved coastal management program (15 CFR 923.93, FEDERAL REGISTER, August 29, 1977; since superseded by 15 CFR 923.82, FEDERAL REGISTER, MARCH 1, 1978) FOR THE FOLLOWING REASONS:

1. The change does not affect the State's policy of permitting an initial LNG terminal to be sited in a remote area of the coastal zone, but relates primarily to techniques for carrying out this policy;

2. The change will not have a significantly different environmental impact in that the siting policy remains essentially the same, the resource policies of the Coastal Act will be considered and the State's environmental impact review procedures will be followed; and,

3. Although the change alters the intergovernmental relationships in the siting process described in the CMP, these new relationships between the Coastal Commission, the Public Utilities Commission, the Energy Commission and local governments for purposes of implementing the LNG Terminal Act have been approved by the State by virtue of its enactment of this new law.

OCZM's analysis of the State's request indicated that the effect of incorporation of the LNG Act would be to establish more specific procedures for carrying out the State's policy on siting an initial LNG terminal in California's coastal zone but not to change the State's basic policy with regard to preferred sites for such facility. The State's policy originally was established in section 30261(b) of the California Coastal Act of 1976 (SB 1277) and now is included in the California LNG Act of 1977 which, inter alia, supersedes section 30261(b) of the California Coastal Act.

The more detailed procedures established in the California LNG Terminal Act of 1977 can be summarized as follows:

1. In order to construct and operate an LNG terminal in the California coastal zone, any person must apply for and receive a permit from the California Public Utilities Commission (CPUC), which permit will be in lieu of all other State or local authorizations;

2. On or before March 15, 1978, the Energy Commission must complete and transmit to the CPUC a study of natural gas supplies and demands in the State;

3. On or before May 31, 1978, the Coastal Commission must complete and transmit to the CPUC a report which evaluates and ranks potential onshore sites in accordance with the LNG Terminal Act's policies on population density and the policies and objectives of Chapter 3 of the Coastal Act;

4. Not later than July 31, 1978, the CPUC must make a decision on a permit application for the initial LNG terminal which, in turn, must be based on the Coastal Commission's evaluation of the highest ranked site and must incorporate conditions recommended by the Coastal Commission, unless to do so would significantly curtail natural gas deliveries; and,

5. Within 12 months of the LNG Terminal Act's effective date, the Coastal commission must complete and transmit to the CPUC, the Energy Commission, the Governor and the Legislature, a study of the feasibility of offshore LNG terminals and an evaluation of potential offshore terminal sites.

Since issuance of notice on February 22, 1978, of the action of the Assistant Administrator for Coastal Zone Management, OCZM has received a number of objections to (1) the procedure followed in approving California's refinement request, and (2) the decision to treat that request as a refinement rather than an amendment (15 CFR 923.92, FEDERAL REGISTER, August 29, 1977; now 15 CFR 923.81, FEDERAL REGISTER, March 1, 1978).

PUBLIC REVIEW AND COMMENT

OCZM has reviewed its decision to treat incorporation of the California LNG Terminal Act into the California Coastal Management Program as a refinement and, based on information available at the time of the State's request and additional information provided subsequently, is satisfied that treatment of California's request as a refinement was appropriate. To assure, however, that all interested parties have a formal opportunity to comment on the appropriateness of treating this request as a refinement rather than an amendment, OCZM is providing this comment period.

The Assistant Administrator will review comments received with a view to reconsideration and possible recision of the refinement decision. Notice of the Assistant Administrator's decision will be published in the FEDERAL REGISTER.

FUTURE ACTIONS

To assure an open and informed process for changes to State coastal management programs, hereafter OCZM will issue notice of such changes in the FEDERAL REGISTER that will provide (i) a description of the proposed change(s) to a State's approved coastal management program, (ii) the Assistant Administrator's proposed treatment of the change(s) (i.e., refinement or amendment), and (iii) an opportunity for comment on the Assistant Administrator's proposed course of action.

Dated: April 25, 1978.

R. L. CARNAHAN,
Acting Assistant Administrator
for Administration.

[FR Doc. 78-12188 Filed 5-3-78; 8:45 am]

[3510-22]

WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL

Public Meeting With Partially Closed Session

Pursuant to section 10(a)(2) of the Federal Advisory Committee, 5 U.S.C. Appendix, as amended, notice is hereby given of a meeting of the Western Pacific Fishery Management Council established by section 302(a) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The meeting will take place Monday and Tuesday, May 22-23, 1978, in the Conference Center, at the Rainmaker Hotel located in Pago Pago, American Samoa, convening at 1 p.m. and adjourn about 5 p.m. on May 22. The Council will reconvene at 9 a.m. and adjourn about 4 p.m. on May 23. The meeting may be extended or shortened depending on progress on the agenda. The proposed agenda is as follows:

May 22

1. Closed 2-hour session (9 a.m. to 11 a.m.) to discuss classified material on the status of current discussions between the United States and the United Kingdom concerning the Line and Gilbert Islands.

2. Administrative and financial reports.

3. Report on the last meeting of the Scientific and Statistical Committee.

4. Progress of fishery management plan for billfish.

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May 23

1. Review of progress on fishery management plans for spiny lobster and precious coral.

2. Review of preparations on seamount groundfish and bottomfish fisheries.

3. Other Council business.

With the exception of the first agenda item on May 22, the meeting is open to the public. For more information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Wilvan G. Van Campen, Executive Director, Western Pacific Fishery Management Council, Room 1506, 1164 Bishop Street, Honolulu, Hawaii 96813, telephone 808-523-1368.

The closed session of the Council is planned for the early morning of the first day, May 22, from 9 a.m. through 11 a.m. to hear and discuss Department of State security classified material on the status of discussions between the United States and the United Kingdom concerning the Line and Gilbert Islands. Only those Council members and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined, on April 27, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as information which is properly classified pursuant to Executive Order 11652. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.)

Dated: April 28, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-12225 Filed 5-3-78; 8:45 am]

[3510-17]

Office of the Secretary

TRANSFER OF RESPONSIBILITY FOR CERTAIN STATISTICAL STANDARDS FROM OMB TO COMMERCE

Notice is here given that implementation of certain responsibilities under section 103 of the Budget and Accounting Procedures Act of 1950 (64 Stat. 834, 31 U.S.C. 18b), including establishment and enforcement of statistical standards, having been transferred from the Office of Management and Budget (OMB) to the U.S. Department of Commerce pursuant to Executive Order 12013, October 7, 1977, the following OMB Circulars are discontinued:

1. OMB Circular No. A-39, "Providing of Statistical Information to Intergovernmental Organizations;"
2. OMB Circular No. A-46, "Standards and Guidelines for Federal Statistics;"
3. OMB Circular No. A-65, "Reports to the Department of Commerce on International Transactions;" and
4. OMB Circular No. A-91, "Prompt Compilation and Release of Statistical Information."

The standards associated with these circulars are hereby reissued and will be enforced by the Department of Commerce. A corresponding notice issued by OMB discontinuing these circulars and transferring their enforcement to the Department of Commerce appears in today's FEDERAL REGISTER.

The Department will soon be issuing the Statistical Policy Handbook which includes the standards (now called "Statistical Policy Directives") discontinued as OMB circulars.

Copies of the Statistical Policy Handbook will be available from the Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-673-7959.

The statistical policy directives as reissued and enforced by the Department of Commerce are as follows: [Directives for the Conduct of Federal Statistical Activities.]

JUANITA M. KREPS,
Secretary of Commerce.

DIRECTIVES FOR THE CONDUCT OF FEDERAL STATISTICAL ACTIVITIES

Introduction.
Directive No. 1. Standards for Statistical Surveys.
Directive No. 2. Standards for the Publication of Statistics.
Directive No. 3. Guidelines for the Release of Principal Federal Economic Indicators.
Directive No. 4. Prompt Compilation and Release of Statistical Information.
Directive No. 5. Standard Reference Base Period for Federal Government General-Purpose Index Numbers.
Directive No. 6. Standard Federal Administrative Regions.
Directive No. 7. Standard Metropolitan Statistical Areas.
Directive No. 8. Standard Industrial Classification of Establishments.
Directive No. 9. Standard Industrial Classification of Enterprises.
Directive No. 10. Standard Occupational Classification.
Directive No. 11. Standard Data Source for Statistical Estimates of Labor Force and Unemployment.
Directive No. 12. Standard Definition of Payroll Periods for Employment Reports.
Directive No. 13. Standard Data Source of Total Population Used in Distributing Federal Benefits.
Directive No. 14. Definition of Poverty for Statistical Purposes.
Directive No. 15. Race and Ethnic Standards for Federal Statistics and Administrative Reporting.
Directive No. 16. Standard Classification of Fields of Science and Engineering.
Directive No. 17. Standard Gas Pressure Base.
Directive No. 18. Providing of Statistical Information to International Organizations.
Directive No. 19. Standard Reporting on International Transactions.

[FR Doc. 78-12040 Filed 5-3-78; 8:45 am]

INTRODUCTION

These Directives[1] establish uniform statistical standards and guidelines for the collection and compilation of statistical data and for the release and publication of Federal statistics. The Directives are supplemented by other guidelines and specifications issued by the Office of Federal Statistical Policy and Standards on selected statistical topics.

Any given statistical activity may be affected by several of the Directives. For example, a general standard such as Directive No. 2, "Standards for the Publication of Statistics" should be used with other Directives that contain a standard for classification of data such as No. 15, "Race and Ethnic Standards for Federal Statistics and Administrative Reporting" or No. 6, "Standard Federal Administrative Regions."

AUTHORITIES

Section 103 of the Budget and Accounting Procedures Act of 1950 contains the basic authorities for determining statistical policy. Executive Orders No. 10033 of 1949 and No. 10253 of 1951 as amended by No. 12013 of 1977, provide for the implementation of Section 103 by the Secretary of Commerce.

COVERAGE

The standards and guidelines prescribed by the Directives are to be followed by agencies in the executive branch of the Federal Government and by federally sponsored contractors and grantees in the direct collection, compilation, and publication of statistical data.

A Federal agency is considered to "sponsor" the collection of information under the following circumstances, subject to the qualifications and explanations indicated:

(1) *Collection by a contractor.*—A plan or report form used by a contractor to a Federal agency is deemed to be sponsored by the agency which awards the contract, except when the data collection is neither required by nor implied by the terms of the contract and no representation of Federal sponsorship or association is made to the respondents.

(2) *Collection by recipient of a grant.*—A plan or report form used by a recipient of a Federal grant is not deemed to be sponsored by an agency, except when:

(a) The recipient of a grant represents to respondents that the information is being collected for or in association with a Federal agency (However, this exception is not intended to preclude mention of Federal support in response to an inquiry, or acknowledgement of assistance from a Federal grant in any publication of the data.); or

(b) The recipient of a grant uses the plan or report form to collect information that the agency has requested for the planning, operation, or evaluation of its program; or

(c) The terms and conditions of the grant provide for approval by the agency of the survey design, questionnaire content, or data collection procedures; or

(d) The terms and conditions of the grant provide for either submission to the agency of the data for individual respondents or the preparation and submission of tabulations requested by the agency.

(3) *Other types of sponsorship.*—When a person or organization is requested by a Federal agency to collect specific information to be made available to the agency, the plan or report form or the part thereof used to collect this information must be regarded as sponsored, even though no contract or grant is involved. When a plan or report form is promulgated by a Federal agency as a standard for use by State or local governmental agencies, such a plan or report form is deemed to be sponsored, even though it is not used for reporting to the Federal agency. In the case of doubt as to whether a plan or report form is sponsored, inquiry should be made to the Office of Management and Budget.

These Directives should be brought to the attention of all offices and divisions of each agency, including offices in the field, which have statistical responsibilities. When so requested, the Secretary of Commerce will provide guidance to departments and agencies in interpreting and applying the standards and guidelines. Adherence to these Directives will be monitored by the Office of Federal Statistical Policy and Standards.

OBJECTIVES

Compliance with the Directives should result in the following benefits: greater efficiency in the design and conduct of statistical surveys; reduction in the reporting burden on respondents; greater uniformity and comparability among statistical series and studies; and improved accuracy and timeliness of Federal statistics.

RELATION TO OTHER STANDARDS AND GUIDELINES

Federal standards for data elements and representations to be used and interchanged in automated Federal data systems, issued as Federal Information Processing Standards (FIPS), should be used in the collection and processing of statistics where applicable. The National Bureau of Standards in the U.S. Department of Commerce provides FIPS codes for data elements in most statistical standards. It also develops standards in areas where no agency has responsibility for promulgating them. These standards approved for Government-wide use include Federal General Standards, such as for calendar dates and for country, State and county abbreviations and codes; and Federal Program Standards, which are prescribed for use in a particular program or system. The register of these standards is maintained by the National Bureau of Standards. Any questions on their interpretation or inquiries on their availability should be addressed to the Institute for Computer Sciences and Technology, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234.

Agencies compiling statistics on physical quantities, such as energy, weight, volume, etc., should consider possible use of metric standards. Information regarding such standards may be obtained from the Office of Weights and Measures, National Bureau of Standards.

Federal data collection activities are subject to approval by the Office of Management and Budget (OMB) or the General Accounting Office. The Federal Reports Act, as implemented by OMB Circular No. A-40, permits the Director of OMB to disapprove any request from a Federal agency for collecting identical information from 10 or more respondents or a similar recordkeeping requirement. Specified independent Federal regulatory agencies request approval of their data collection plans from the General Accounting Office. Information on these requirements may be obtained from the Regulatory Policy and Reports Management Division, Office of Management and Budget, Washington, D.C. 20503 or from Regulatory Reports Review, General Accounting Office, Washington, D.C. 20548.

INQUIRIES

Inquiries regarding statistical Directives or other statistical guidelines should be addressed to the Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-673-7965.

DIRECTIVE NO. 1.[2] STANDARDS FOR STATISTICAL SURVEYS

The standards in this Directive apply primarily to statistical surveys. As used here, a "statistical survey" is one in which the primary purpose of the individual returns is to supply data which can be aggregated to provide statistical or numerical information needed on a particular class, segment, activity or geographic area. Certain of the standards and recommended practices apply also to the compilation of statistics based on data from forms used in applying a Federal law or regulation to an individual or firm (such as tax returns or the financial and operating reports required by regulatory commissions), or applications and registrations, or administrative records. These standards have only limited relevance for administrative surveys designed to collect summary information needed by an agency in administering a specific program (such as summaries or procurements or production status, or fiscal accounting reports from the States or grant-in-aid programs).

Standards cannot be applied uniformly or precisely in all situations. Special considerations may be involved in exploratory, experimental, or methodological surveys or in pilot or preliminary surveys where the primary purpose is to test feasibility or to evaluate alternative approaches or techniques. Sponsors should be prepared, however, to justify any significant departures from these standards.

The standards in this Directive are minimal. The statistical agencies are encouraged to develop their own standards for surveys, which may be more detailed and in some cases more stringent.

1. PURPOSE OF THE SURVEY

Before any other steps are taken in planning a survey there must be a clear understanding of the precise purposes to be served in terms of information to be collected, hypotheses to be tested, or problems to be solved. Consultation with users may be helpful in defining these purposes. It may be necessary to modify the initial goal of measurement of a concept in order to define an objective statistic which can be measured; e.g., "health" is not objectively measurable, but "bed-days" may be. It is helpful in reaching an understanding to prepare a concise statement of the information needed and the purpose or purposes to be served.

2. RELATION TO OTHER SURVEYS OR PROGRAMS

Before the scope and content of a survey are determined, prior work and

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[1] These Directives supersede OMB Circular No. A-46, with its Exhibits A through K, OMB Circular No. A-39, OMB Circular No. A-65, and OMB Circular No. A-91.

[2] Directive No. 1 supersedes section 7(a) and Exhibit A of OMB Circular No. A-46 dated May 3, 1974.

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current activities in the field should be reviewed. Those planning the survey should satisfy themselves that part or all of the data (or approximations) which are needed are not available from some existing source (published or unpublished) either within or outside the Government or could not more appropriately be obtained by adding questions to an existing survey or by some other agency. If there were a previous survey, it may reveal deficiencies which can be corrected in the new survey.

3. DEVELOPMENT OF THE SURVEY PLAN

Decisions should be made on points noted in the subsections below in terms of the purposes to be served, costs involved, time required, degree of precision needed, and administrative limitations (established practices, location of field offices, etc.). When these decisions have been made it is useful to prepare a detailed technical description of specifications for the survey for use of analysts and other survey personnel and to facilitate the preparation of a technical appendix or bulletin (if the survey is of sufficient importance) for publication along with survey findings.

a. *Target populations and extent of coverage.* The target population or universe (i.e., all the people, establishments or other units that the survey designer wants to learn about) should be defined. Within the target population it must be decided whether coverage should be complete or partial. Consideration should be given to best ways of handling small units where these are likely to account for a very small proportion of the sales, consumption, cost or other value to be measured so no essential information will be lost by substantially reducing the coverage of such units.

Sample surveys have many advantages for most purposes over those involving complete enumeration. If the universe to be surveyed is large or geographically widespread and data are not required for small groups or areas, or if the report form or procedure is complex, sampling can be more economical for the agency, with consequent reduction in the reporting burden. Also, with sampling, nonresponse can usually be handled more effectively, the data can be processed more quickly, and in some instances the quality of the response can be improved. More attention can be given to developmental aspects of the survey since less time need be spent processing large numbers of responses.

Reasons for selection of a particular method of sampling should be included in the description of the survey plan.

b. *Sampling.* The first step is to develop and describe a frame, or sets of frames, i.e., the set of materials (lists, directories, records, maps, etc.) to enable the survey designer to deal with the universe. Ideally, the frame should include all the units in the universe. If the undercoverage in the frame is more than trivial a bias may be present in the survey results.

If the purpose of a survey is to develop estimates for a universe based upon a sample of the universe, the selection of the sample should be made in accordance with probability theory—that is, every sampling unit in the frame should have a known, nonzero probability of being chosen, although the probabilities may be unequal. In such cases, probability sampling is necessary to avoid unknown biases of selection and to permit one to arrive at estimates for the universe with accompanying measures of reliability. However, where the sample is restricted to a small number of respondents or geographic areas, as in pilot studies, pretests, or some types of feasibility studies, a judgment or purposive sample may be indicated.

When the nature of a survey or study indicates the need for probability sampling, the particular method to be used should be administratively feasible and should provide maximum precision for the funds available. The size of the sample and the nature of the sample design (including estimation procedures) will depend not only on available funds, but also on such considerations as the amount of detail required in the statistical estimates, the precision desired for key items, the variability of the data being sampled, availability of other data resources, and the size of the universe. Once the sample units have been selected, no substitutions can be permitted for reasons of convenience or because of nonresponse unless provision is specifically made in the basic survey for acceptable alternatives.

Because of the technical nature of sampling and the many ways of development of estimates from a sample, agencies proposing sample surveys should have available a statistician or a consultant trained in sampling theory with experience in the conduct of surveys. In the case of departments having primary statistical agencies this may be a person on the staff of one of these agencies. A trained statistician is also necessary for contractors or grantees conducting federally sponsored sample surveys.

The description of the sample design should cover such items as the primary units (description and number in universe), the sampling unit used (at each stage if there is multistage or multiphase sampling), the sampling frame (including any exclusion or constraints), and the criteria or stratification and clustering (if the sample is stratified or clustered). It should also include cost estimates, determination of size of sample, variance estimates used in the optimum allocation of the sample, the method of drawing the sample at each stage, the method of estimation, and the method of estimating sampling variances. The description should indicate methods for controlling and measuring nonsampling error and biases in data collection, processing and tabulating.

c. *Frequency and timing.* It must be determined whether the survey is to be single time, irregularly recurrent, or periodic. If periodic, consideration should be given to using a rotating sample basis at monthly, quarterly, annual or other intervals. The timing of a survey should be considered in relation to what is known about cyclical, seasonal or other variations over time in the data being studied, so that the survey results may be of maximum use.

d. *Method of collection.* A decision must be made as to whether the data are to be collected by mail, personal interview, telephone, telegraph, or other method, or by some combination of these methods. Nonsampling errors which can be expected in each of the methods should be considered and ways of measuring and minimizing them should influence the selection of the collection method. Experience from past experiments and surveys should be reviewed in making these decisions. If past experience is not helpful a pilot study to test alternatives may be advisable. The results of such a study should be made available to other interested agencies.

e. *Consideration of sampling and nonsampling errors.* If probability sampling is used, sampling error should be estimated, and whenever possible, total mean square error should be constructed in approximate terms. Potential nonsampling errors, including reporting errors, response variance, interviewer and respondent bias, nonresponse, imputation error and errors in processing the data should be carefully considered. This is important in designing the survey, in establishing controls over survey operations, and for the information of users of the data when they are published.

f. *Evaluation of survey data.* It is desirable to provide for the evaluation of survey results. This is especially important for repetitive surveys where the evaluation could provide future improvement of the data. Resources should be provided to carry out such evaluations.

g. *Plans for processing and tabulating the data.* The basic design of the survey plan should provide procedures (including quality control) for editing, coding, and tabulating the data. These are necessary to ensure uniform processing and to measure quality. Copies of editing instructions, codes, etc.

should be retained in the agency's files to answer inquiries and for possible use in future surveys. A decision, which will affect the form design, must be made on the manner in which the data will be processed—i.e., by use of punch cards, computer, optical scanning devices, etc. Tabulation plans, including dummy tables, should be worked out at this stage. This compels the agency to think through what it expects to get from the survey, and can result in changes in the survey design. The method of handling "unknowns" and refusals (e.g., whether distributed or shown separately) should be described. If the agency decides to have the data processing done under contract, the procedures to be followed must be clearly understood by both parties.

h. *Allowance for pretests.* It is desirable to test the feasibility of most new survey plans in advance, and the survey plan should include time and funds for this. A pilot study may be necessary to determine whether the survey is practicable or useful at all. The relative effectiveness and cost of alternative questionnaires, instructions, and operating procedures can be evaluated by means of a small-scale pretest. Pretesting can provide information on the probable refusal rate; the intelligibility to respondents (and interviewers) of the questions and instructions; and problems in compiling the survey results. The pretest is sometimes also used to provide estimates of variance which may aid in developing a more efficient sample design. The tabulations from the pretest should be limited to those necessary to answer the specific questions for which the pretest was designed, and generally should include additional tabulations for research purposes or preliminary findings only to the extent it is essential to allow sufficient time to make any changes indicated by the results of the pretest.

i. *Provision for follow-up.* In most surveys the response to the first attempt to collect the information is insufficient for final estimates and a plan for follow-up is needed. Usually, if the survey is conducted by mail, one or more mail follow-ups are made to the nonrespondents. If the rate of nonresponse is still unsatisfactory in terms of the nature and purposes of the survey, provision must be made for a more intensive type of follow-up, such as telephone calls or personal visits to a subsample of nonrespondents.

j. *Proposed calendar.* Approximate dates for the following steps in the conduct of the survey, as well as the estimated manhours for each step, should be determined in advance. This tests the feasibility of the survey as well as helping to ensure its orderly completion.

Beginning and completion of the preliminary survey design.
OMB clearance of pretest.
Beginning and completion of one or more pretests.
Analysis of the pretest results and modification of the survey design and questionnaire if indicated.
OMB clearance of survey.
Beginning of field work or mailing of questionnaires.
Completion of field work or due date for questionnaires.
Beginning and completion of follow-ups.
Completion of the editing and coding.
Completion of the tabulations.
Completion of the preliminary report.
Completion of the final report.

k. *Cost estimates.* An estimate should be made of the cost of the survey, including costs of personnel, travel, equipment, and supplies, etc. The total should include the costs of pretests and follow-ups; preparing and printing the forms; compilation of the list of respondents; mailing or enumeration; and editing, coding, tabulation, and publication of the data. When appropriate an allowance for research should also be included, as should the estimated share of overhead costs. A more detailed description of costs to be included, together with suggested methods for developing these costs, is included in the "Guide to Estimating Reporting Costs" issued by the Office of Records Management of the National Archives and Records Service, General Services Administration.

4. QUESTIONNAIRE AND INSTRUCTIONS

Even the best designed survey will produce disappointing results if the respondents do not understand the questions. The type and characteristics of the respondents should always be kept in mind. For example, particular care should be taken to keep questions simple when addressed to persons of limited education. In general, legal or technical terminology should be avoided unless the respondents are lawyers or technicians.

A clear, easy-to-read, and easy-to-complete form is important for a successful survey. If it is to be self-administered, the questions should be as brief and self-evident as possible.

The questions or items on a form should be arranged in logical order, with related items generally grouped together. It is sometimes desirable to guide the thoughts of the respondents from the general to the specific. If the data are to be transcribed or machine processed, this should also be considered in the questionnaire format, the arrangement of items, and in provision for responses.

Separate instructions included with mail surveys are sometimes ignored. If possible the questions should be self-explanatory or brief parenthetical instructions should be associated with each question in order to avoid separate instructions.

The title of the questionnaire or form is generally the first thing the respondent reads and care should be given to its selection. It should be sufficiently informative to be used in lists of forms compiled for publication. Subtitles may be used where necessary to supplement the title or to cite the authority under which the form is issued. Forms and other documents approved by the Office of Management and Budget under the Federal Reports Act must carry an OMB number. Other identification such as an agency form number or control symbol may be desirable.

Instructions for return should be on the questionnaire or form itself in a mail survey, as the form may become separated from the transmittal letter and the return envelope. These instructions should give the address to which the completed form is to be returned, and ordinarily should specify a target date for return. The importance of a response should be emphasized.

Persons planning surveys may find helpful the Household Survey Manual[3] issued in 1969 by the Office of Management and Budget. This Manual presents the major concepts and definitions and some of the questions used by Federal agencies to collect data on personal and family characteristics, education, employment and unemployment, income, and quality of housing.

Guidelines for the design of forms contained in the Records Management Handbook, Forms Design, issued by the National Archives and Records Service (NARS) of the General Services Administration in 1960, may be useful. This manual covers the mechanics of form design, including size, margins and spacing, type faces and rules for printing, and forms construction (type of paper, ink, perforating, etc.). The 1960 Handbook has very limited applicability to forms used in automatic data processing. The NARS Handbook, "Specialty Forms," may be useful for forms used in automated systems.

5. PRELIMINARY CLEARANCE

Although it is not necessary for an agency to request clearance until it is ready to collect data or promulgate recordkeeping requirements, many agencies have found it advantageous to take advantage of the proviso in OMB Circular No. A-40 which permits an agency to request "preliminary clearance" after they have formulated

[3]The Office of Federal Statistical Policy and Standards now has responsibility for this publication.

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their plan but before they have signed a data collection contract. A disapproval of a clearance request can be costly to an agency after a contract has been let. While preliminary clearance does not guarantee a final clearance, it does indicate to the agency that the data collection or recordkeeping requirements will not be disapproved on the basis that the need for the data has not been established.

6. CONTROL OF SURVEY OPERATIONS

For a successful operation, it is necessary not only that a good survey design be chosen, but also that the conduct of the survey be faithful to that design. Every phase of survey operation is subject to risks of deviation from intention. Positive procedures must be established to assure that these deviations are kept within tolerable limits. If sampling is used additional controls are needed to ensure that the selection of the sample, the collection of the data, and the tabulation and estimation are carried out as specified. Strenuous efforts should be made to collect data from every unit in the sample, using follow-ups where necessary. If the data are obtained by field enumeration the interviewer should not be permitted to make substitutions (see 3b, Sampling).

Allowance should be made for sufficient time to train enumerators if the data are collected by personal or telephone interview. For large-scale surveys manuals should be prepared for use of field workers and persons doing the editing and coding as well as carrying out quality control operations in order to ensure consistency and adherence to the survey design. Provision for adequate supervision must be made. Procedures should be prescribed for progress reporting. Quality control procedures consistent with the nature of the survey should be part of the planning process. This may include validity checks with subsamples of respondents. If a longitudinal survey is conducted, it is especially important to keep detailed records, because of probable attrition in the group studied and in the staff conducting the survey.

7. PREPARATION AND PUBLICATION OF FINAL REPORT

Good statistical practice for the conduct of a survey includes careful presentation of results. Graphic presentations, as well as statistical tables, are often desirable, particularly in reports intended for laymen. Graphs and charts should be clearly labeled with a title, the time period to which the data refer, the geographic area included, and the units used on the vertical and horizontal scales. Conventional types of tables are text tables, summary tables and detailed (or reference) tables. For easy legibility the printed copy should be no smaller than newsprint and preferably larger. Either the title or the subtitle should contain information on "what," "how classified," "where," and "when," for the data in the table.

In preparing the final report attention should be given to Directive No. 2, "Standards for the Publication of Statistics."

8. RELATIONS WITH THE PUBLIC

Finally, maintenance of good relations with the public is essential if Federal statistics are to continue to merit public support. Objectivity and integrity in the compilation and presentation of statistics is the surest means of obtaining such support. Particular attention, however, should be given to relations with respondents and users of the statistics.

a. *Respondents.* Good relations with respondents involve obtaining the information needed with the minimum burden, reassurring respondents that their interests are being protected, and in general dealing with them fairly and honestly.

As noted above, the burden on respondents must be considered in designing the survey. In drafting the questionnaire, avoid questions which do not contribute to the purposes of the survey. The reportability of the data from the respondent's knowledge or from his records must be considered and particular attention should be paid to requests for information for prior periods or dates long past. When a new or substantially changed request is made for data which may be difficult to provide, it is sometimes helpful to give advance notice to prospective respondents. Agencies are encouraged to consult with potential respondents or their representatives in developing survey plans and forms.

To the extent possible respondents should be reassured that their interests are being protected. Agencies collecting data for general statistical purposes are usually in a position to assure respondents that the information they supply will be used only for statistical tabulations, and that individual returns will be kept confidential. Respondents to other types of surveys should be informed of the users of the data and the extent of disclosure. Agencies collecting data from business respondents particularly should be aware of the provisions of the Freedom of Information Act Pub. L. 89-487) and may need to consult legal counsel on the extent to which confidentiality may be pledged. Agencies collecting data from individuals should be aware of the provisions of the Privacy Act of 1974 Pub. L. 93-579).

The Office of Management and Budget requires special justification for surveys coming under the Federal Reports Act which involve questions of a sensitive nature. This justification should include the reasons why the agency considers the questions necessary and the specific uses to be made of the data obtained. While the meaning of "sensitive" will vary, depending on the respondent and the circumstances, questions on sex behavior and attitudes, mental illness and psychological problems, religious beliefs, and income and assets are generally regarded as sensitive by individuals. Business respondents often regard as sensitive questions on profits and wage and salary scales—particularly executive scales, as well as questions which may involve trade secrets. If an individual or firm is given all relevant information about a project and is completely free to participate or not, invasion of privacy as such may not be a problem, but response may be affected. Where a survey calls for information of a sensitive nature the feasibility of anonymous replies should also be considered.

Care must be taken to avoid giving respondents the impression that they must respond to surveys which are voluntary. For this reason the Office of Management and Budget has prohibited a statement on the form or in the letter of transmittal that this survey is authorized by law in surveys where response is not mandatory. Where response is mandatory this should be indicated and the applicable statute should be cited.

If response is voluntary, cooperation can best be obtained by explaining the purposes for which the data are to be used and by stating clearly and persuasively the need for the data by the Government or the public. Even where an agency has mandatory authority it is better to secure the willing cooperation of the respondents. Where the respondents are business firms or institutions, a commitment to provide a copy of the published report is frequently useful.

b. *Users.* Consultation with users is important to ensure maximum usefulness of the survey. In developing the survey plan users often can make contributions not only on the data to be collected, but also on the timing and frequency of repetitive surveys, and the degree of precision needed. In the case of important statistical series it also is desirable occasionally to obtain user comments on the usefulness of the published data by means of user questionnaires, establishment of advisory committees, or in other ways.

A description of the survey plan, an assessment of the accuracy of the data published, and a statement explaining any limitations should be available to users of the data (see Directive No. 2, "Standards for the Publication of Statistics").

DIRECTIVE NO. 2.[4] STANDARDS FOR THE PUBLICATION OF STATISTICS

The growing use of Federal statistics in the determination and appraisal of public and private policies emphasizes the responsibility of Federal statistical agencies to maintain standards governing the publication of statistical data. Many users of Government statistics, particularly those who use the data infrequently, are not familiar with the basic characteristics of the data. To help guard against misunderstanding and misuse of the data, full information should be available to users about sources, definitions, and methods used in collecting and compiling statistics, and their limitations.

The following standards and procedures for the publication of statistics describe practices which should be followed whenever applicable. Because they cover many kinds of data and various types of publications, including single-time reports as well as historical series, they are necessarily somewhat general in character, and every standard and procedure is not applicable in every case. The statistical agencies are encouraged to issue their own supplimentary standards.

1. LABEL DATA AND DEFINE TERMS

Every release and publication of statistics, whether recurring or single-time, must clearly indicate the nature of the data and make reference to any detailed technical description. Forecasts and projections must be clearly labeled and preliminary figures noted. Data taken from other sources should be identified. The date of publication and the time period to which the data refer should be shown. Technical terms (except in publications designed solely for technicians) should be defined and the use of standard classifications should be noted, either in the report itself or in a separate technical source. In economic or social analyses there should be a clear distinction between actual data and inferences or interpretations drawn from the data.

2. DESCRIBE THE SURVEY DESIGN

If the data to be published are part of a statistical series, or present the results of a statistical survey, a description of the survey design and methods used in implementing the design should be available. If this is not done in the release or report, the reader should be referred to a technical source. The amount of detail in this description will depend upon the importance and complexity of the data. The description should include what is measured, the source(s) of information, the sampling plan if sampling is used, the method of collecting the data, the extent of nonresponse and other sources of bias, and the methods used to deal with the problem. (See Directive No. 1, "Standards for Statistical Surveys".) It is desirable to include a copy of the form and instructions used.

3. APPRAISE THE DATA

There should be available to the user an appraisal of the statistics which would make it possible to evaluate their appropriateness for any intended use. Conceptual or other limitations of the data should be pointed out, and comparison made with any statistics of similar title or scope with which the data are related or which they might be confused.

Accuracy of the data should be stated as far as possible. This should include not only the sampling error (where probability sampling is used) but also the nature and extent of nonsampling errors. "Standards for Discussion and Presentation of Errors in Survey and Census Data," published as Part II of the September 1975 Journal of the American Statistical Association presents the need to discuss the error information of published data, as well as illustrates methods of presenting error information. This information and illustrations should be taken into account by Federal agencies publishing statistical data. (The publication on "Standards for Discussion and Presentation of Errors in Survey and Census Data" can be obtained from the Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C. 20230.)

4. REVIEW BEFORE PUBLICATION

Before publication every statistical report of any importance should be reviewed by persons who are familiar with the subject matter to detect inconsistencies or other errors, as well as omissions. Such reports should also be reviewed by a statistical expert from the standpoint of the validity and reliability of statistical statements and conclusions. Analytical reports based on data from sample surveys should be carefully reviewed to avoid inclusion of statements which fail to take proper account of sampling errors and other limitations of the data.

5. EXPLAIN REVISIONS

When an established statistical series is revised, the character of the revision and its effect upon the series must be explained. If at all possible a full explanation should be availble with the first publication of such data. If part of the historical series is revised, data for both the old and the new series should be published for a suitable overlap period for the use of analysts.

DIRECTIVE NO. 3.[5] GUIDELINES FOR THE RELEASE OF PRINCIPAL FEDERAL ECONOMIC INDICATORS

These guidelines refer to the Principal Federal Economic Indicators listed in the Schedule of Release Dates in the Statistical Reporter. The objectives of the guidelines are to improve the accuracy of estimates of the indicators and to reduce the number of revisions issued on a current basis. Accomplishing these objectives may require balancing accuracy needs against controlling frequency of revisions. It is not intended that vital information important for making current policy decisions be withheld merely to reduce frequency of revisions, nor that stringent accuracy considerations result in delaying the issuance of important statistical information. Agencies are encouraged to develop their own guidelines for the release of principal current economic indicators in accordance with the broad guidelines noted below.

1. In general, no more than two estimates for a principal economic indicator should be regularly issued within 60 days after the end of the reference period.

2. Each survey regularly resulting in two estimates for the same reference period should be organized so that average differences between preliminary and revised figures for the principal aggregates are small relative to average month-to-month changes in the series. More relaxed standards may be applied, if necessary, to subaggregations.

3. If revisions in preliminary estimates tend to occur significantly more frequently in one direction than another, efforts should be made to reduce bias, or, if this is not feasible, adjustments for bias in the preliminary figures should be developed.

4. Revisions occurring for various reasons, such as benchmark revisions, annual updating of seasonal factors, and replacement of preliminary by revised figures, should, as far as policy and decisionmaking needs permit be consolidated and released simultaneously.

5. Irregularity in each series resulting from sampling error and measurement error should be reduced as much as budgetary and time constraints allow.

DIRECTIVE NO. 4.[6] PROMPT COMPILATION AND RELEASE OF STATISTICAL INFORMATION

The purpose of this Directive is to ensure that the principal statistical series which are issued by agencies to the public annually or more frequent-

[4] Directive No. 2 supersedes section 7(b) and Exhibit B of OMB Circular No. A-46 dated May 3, 1974.

[5] Directive No. 3 supersedes section 7(m) and Exhibit H of OMB Circular No. A-46, dated May 3, 1974.

[6] Directive No. 4 supersedes OMB Circular No. A-91 dated October 21, 1974.

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ly are released without unnecessary delay and that the publication dates for the principal weekly, monthly, and quarterly indicators are made publicly available in advance. Such prompt release of official statisitcs on a regular schedule is conducive to the proper management of both private and public affairs.

1. PROMPT RELEASE

The shortest practicable interval should exist between the date or period to which the data refer and the date when compilation is completed. Prompt public release of the figures should be made after compilation. In the case of principal indicators, the goal is to accomplish compilation and release to the public within 20 working days. Within this period no more than two working days should be allowed for the public release of data, unless other arrangements are approved by the Secretary of Commerce.

2. RELEASE SCHEDULE

Release dates for principal economic indicators will appear each month in the Office of Federal Statistical Policy Standards publication, *Statistical Reporter.* Care should be taken in scheduling these release dates so that they can be met and so that they do insure prompt release of the series as specified above.

3. RELEASE PROCEDURE

Unless otherwise authorized by the Office of Federal Statistical Policy and Standards, there shall be no release of data estimates prior to official press notification at either 10 a.m. or 4 p.m. on these specified release dates. An exception is the Chairman of the Council of Economic Advisers, who will receive pre-released information when available on behalf of the President. However, at the time of distribution of the materials to the press offices, statistical agencies are responsible for distribution of the full press release to the principal economic policymakers such as the Chairman of the Council of Economic Advisers, the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, and the Director of the Office of Management and Budget. Each statistical agency is responsible for establishing procedures to assure that there will be no premature release of statistical series during the period of time required for preparation and duplication of press releases.

Figures which becomes available earlier than the published release date should be released when available unless specifically directed otherwise by the Secretary of Commerce. Economic advisers who receive a press release at the time it goes to the press-room should be alerted if early release is anticipated.

Initial release of statistical series should be made by the statistical agency in a written report. A press release should be issued if it would significantly speed up the release of the data to the public. For widely used series such as unemployment and other major economic indicators, a press conference may be scheduled to permit discussion of important technical features of the data being released. There should be a one-hour separation between the press conference or the issuance of the release by the statistical agency and related commentary by officials other than those discussing technical features.

4. RESPONSIBILITIES

Each agency is directed to review continually its practices in releasing statistical series to the public and to take such action as may be necessary to carry out the objectives of this Directive.

DIRECTIVE NO. 5.[7] STANDARD REFERENCE BASE PERIOD FOR FEDERAL GOVERNMENT GENERAL-PURPOSE INDEX NUMBERS

The year 1967 shall be the standard reference base period for general-purpose index numbers prepared by Federal agencies. This requirement conforms to Government practice of establishing a standard reference base period for use by Federal agencies. The base period is revised approximately every ten years.

1. CONVERSION FOR EARLIER YEARS

Each index should be converted to the 1967 reference base from the beginning of the index, where practicable.

2. WEIGHTS

The weight base period for an index should be as close as possible to the reference base period but they do not need to coincide. The relationship between reference and weight base periods should be indicated by appropriate description.

DIRECTIVE NO. 6.[8] STANDARD FEDERAL ADMINISTRATION REGIONS

Agencies which publish regional data compiled from information published by States and the District of Columbia shall as soon as practicable, publish these data on the basis of the ten Standard Federal Administrative Regions as established by the President and set forth in OMB Circular No. A-105, April 4, 1974. The names of the States composing each region are presented below.

Standard Federal Administration Regions

Region I—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont
Region II—New York, New Jersey, Puerto Rico, and the Virgin Islands
Region III—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia
Region IV—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee
Region V—Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin
Region VI—Arkansas, Louisiana, New Mexico, Oklahoma and Texas
Region VII—Iowa, Kansas, Missouri, and Nebraska
Region VIII—Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming
Region IX—American Samoa, Arizona, California, Guam, Hawaii, and Nevada
Region X—Alaska, Idaho, Oregon, and Washington

Agencies may also publish data for regions composed of different groupings of States whenever necessary for special analytical purposes or to maintain continuity of historical series.

DIRECTIVE NO. 7.[9] STANDARD METROPOLITAN STATISTICAL AREAS

The general concept of a metropolitan area is an integrated economic and social unit with a recognized urban population nucleus of substantial size. A standard metropolitan statistical area (SMSA) is a statistical construct used to define metropolitan areas statistically in a standard way. Its purposes is to facilitate the production, analysis, and publication of statistical information on metropolitan areas by Federal agencies.

Two or more contiguous SMSA's which satisfy certain criteria of size, urban character, integration, and contiguity of urbanized areas may be designated as a standard consolidated statistical area (SCSA). The criteria followed in establishing and defining SMSA's and SCSA's are presented in the OFSPS publication, *Standard Metropolitan Statistical Areas,* revised edition 1975. This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Stock No. 041-001-00101-8.

1. USE FOR FEDERAL PROGRAM PURPOSES

Standard Metropolitan Statistical Areas shall not be used in the administration of any nonstatistical program unless the head of the agency has determined that such use is appropriate to achieve the program's objectives. Where the term "metropolitan area" is used in the definitions section of legislation or administrative regulations and reference is to SMSA's, the following language should be used to assure flexibility:

"A metropolitan area shall mean a standard metropolitan statistical area as defined by the Office of Federal Statistical Policy and Standards subject to such modifications as the head of the agency may determine to be appropriate for the purposes of the act (regulation)."

If the term "standard metropolitan statistical area" is used in a law or regulation without being separately defined, similar qualifying language should be used parenthetically immediately following "standard metropolitan statistical area."

2. TITLES, DEFINITIONS AND CODES

The titles, definitions, and codes for the SMSA's and the SCSA's as March 1978 are contained in Appendix C. Any future revisions to this list are available from the Office of Federal Statistical Policy and Standards.

DIRECTIVE NO. 8.[10] STANDARD INDUSTRIAL CLASSIFICATION OF ESTABLISHMENTS

The Standard Industrial Classification is to be used to classify reporting establishments by types of industrial activity in which engaged. Details are presented in the *Standard Industrial Classification Manual, 1972,* issued by the Office of Management and Budget as amended by the *Supplement* issued by the Office of Federal Statistical Policy and Standards, and any further revisions. A revision has been scheduled for 1982.

1. USE FOR FEDERAL NONSTATISTICAL PROGRAM PURPOSES

The Standard Industrial Classification shall not be used in the administration of any regulatory, administrative, or tax program unless the Secretary (Administrator) has first determined that the use of such industry definition is appropriate to the implementation of the program's objectives.

If the term, "Standard Industrial Classification" (SIC) is to be used in the operative text of the law or regulation to define industry (or trade or commerce), language similar to the following should be used to assure sufficient flexibility:

"An industry shall mean a Standard Industrial Classification industry or group of industries as defined by the Office of Federal Statistical Policy and Standards subject to such modifications with respect to individual industries as the Secretary (Administrator) may determine to be appropriate for the purpose of this Act (regulation)."

2. TITLES AND DESCRIPTIONS

The *Standard Industrial Classification Manual* includes titles and descriptions of the industries and alphabetic indexes to nonmanufacturing and to manufacturing industries. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Stock No. 4101-0066. The Stock No. for the Supplement is 003-005-00176-0.

DIRECTIVE NO. 9.[11] STANDARD INDUSTRIAL CLASSIFICATION OF ENTERPRISES

The Enterprise Standard Industrial Classification is to be used to classify enterprises by kind of economic activity in which engaged. The classification of enterprises, rather than their constituent establishments, is required for purposes of compiling and analyzing financial and related statistics (such as income, expense and balance sheet items) which are commonly available only on an enterprise basis. The structure of the classification makes it possible to publish data on enterprises by industry on a division, two-digit, three-digit, or four-digit basis, according to the degree of industrial detail available and needed. The details of the classification are presented in *Enterprise Standard Industrial Classification 1974,* issued by the Office of Management and Budget and available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Stock No. 4101-00093.

DIRECTIVE NO. 10. STANDARD OCCUPATIONAL CLASSIFICATION

The Standard Occupational Classification is to be used in statistical analysis, collection, and presentation of data on workers that are classified by type of occupational activity in which they are engaged. The classification should be used wherever occupational distinctions are needed in labor force, employment, personal income, and other demographic information programs. Its use will provide better analytic comparability to other occupational related data.

1. USE FOR FEDERAL NON-STATISTICAL PROGRAM PURPOSES

The Standard Occupational Classification shall not be used in the administration of any regulatory, administrative or tax program unless the Secretary (Administrator) has first determined that the use of such definitions are appropriate to the implementation of the program's objectives. The system was not developed to define any particular category of occupations that may be affected by existing or future administrative programs.

If the term, "Standard Occupational Classification" (SOC) is to be used in the operative text of the law or regulation to define occupations, language similar to the following should be used to assure sufficient flexibility:

"An occupation shall mean a Standard Occupational Classification group as defined by the Office of Federal Statistical Policy and Standards, Department of Commerce, subject to such modifications with respect to individual occupations as the Secretary (Administrator) may determine to be appropriate for the purposes of this Act (regulation)."

2. TITLES AND DESCRIPTIONS

Details on the classification system are presented in the *Standard Occupational Classification Manual, 1977* issued by the Office of Federal Statistical Policy and Standards, Department of Commerce. This Manual includes titles and descriptions of the occupational groups and is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Stock No. 041-001-00153-1.

DIRECTIVE NO. 11.[12] STANDARD DATA SOURCE FOR STATISTICAL ESTIMATES OF LABOR FORCE AND UNEMPLOYMENT

Accurate, consistent, publicly available estimates of the labor force and of unemployment in the Nation, the States, and local areas are needed for use in the formulation, implementation, and evaluation of public policy.

1. SOURCE OF DATA

Federal executive branch departments, agencies, and establishments (hereinafter Federal executive branch agency) shall use the most current National, State, or local area labor force or unemployment data published by the Bureau of Labor Statistics, United States Department of Labor, with respect to all program purposes, including the determination of eligibility for and/or the allocation of Federal resources, requiring the use of such data unless otherwise directed by statute. In order to maintain equity among local areas, comparable data series are to be used for all program purposes. Further, unless otherwise required by statute, data adjusted for seasonal

[7] Directive No. 5 supersedes section 7(h) of OMB Circular No. A-46 dated May 3, 1974.
[8] Directive No. 6 supersedes section 7(g) and Exhibit D of OMB Circular No. A-46 dated May 3, 1974.
[9] Directive No. 7 supersedes section 7(f) and Exhibit C of OMB Circular No. A-46 dated May 3, 1974.
[10] Directive No. 8 supersedes section 7(d) of OMB Circular No. A-46, dated May 3, 1974.
[11] Directive No. 9 supersedes section 7(e) of OMB Circular No. A-46 dated May 3, 1974.
[12] Directive No. 11 supersedes Exhibit J of OMB Circular No. A-46 dated December 22, 1975.

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variation shall be used for all program purposes as soon as the Bureau of Labor Statistics shall have published such data for local areas being examined for the program purpose then under consideration.

No Federal executive branch agency shall begin or continue collecting or using State or local area labor force or unemployment data other than that published by the Bureau of Labor Statistics, without the written approval of the Secretary of Commerce. This does not preclude the collection of labor force and unemployment data by the Bureau of the Census, United States Department of Commerce, for the Bureau of Labor Statistics or in its conduct of a periodic or other census or statistical survey, and the publication or other distribution thereof.

2. DATA CONSISTENCY

With respect to any month, a consistent reference time period shall be used for all national, State, and local area labor force and unemployment data. The data for each State and area, to the extent technically feasible, shall be conceptually consistent with the data for the Nation as a whole and the State totals shall sum, within a range of acceptable sampling error, to the national total.

3. DATA PUBLICATION

The Bureau of Labor Statistics, in accordance with the provisions of Directive No. 4, Prompt Compilation and Release of Statistical Information, shall establish a monthly release date or dates for all regularly published labor force and unemployment data and shall provide the release date schedule to the Office of Federal Statistical Policy and Standards for publication in the *Statistical Reporter*.

The monthly publication or publications by the Bureau of Labor Statistics shall contain data for the Nation as a whole, and for each State and each local area for which the Bureau of Labor Statistics has agreed to publish data. No agreement between the Bureau of Labor Statistics and other Federal executive branch agencies shall be used to limit the number or types of areas for which data are developed and/or published by the Bureau of Labor Statistics. The data published by area shall at a minimum provide the current estimates before seasonal adjustment, and as soon as possible, and to the extent technically feasible, shall also provide the estimate adjusted for seasonality.

4. NOTIFICATION OF DATA NEED

Federal executive branch agencies requiring State and local area labor force or unemployment data shall notify the Commissioner, Bureau of Labor Statistics, United States Department of Labor, of their need for such data. The notification shall include information about the purpose for which the data are needed and the specification(s) (i.e., statistical reliability, geographic and other) for the the data.

Any Federal executive branch agency required by legislation to use labor force or unemployment data other than that directed by this Directive and any Federal executive branch agency notified by the Commissioner, Bureau of Labor Statistics that the needed data cannot be provided according to specification shall notify the Director, Office of Federal Statistical Policy and Standards, Department of Commerce of that fact. The notification shall include identification of the program(s) affected, legislation implemented by those programs, data specifications, and a report on consultations with the Bureau of Labor Statistics in respect to such data.

5. DEFINITIONS

a. *Labor Force and Unemployment Data.* The term labor force and unemployment data is defined to include all counts or estimates of the total labor force, the civilian labor force, total employment, total civilian employment, total unemployment, and total unemployment rates. The term excludes data, obtained solely from administrative records of the unemployment insurance system, pertaining to counts of covered employment, the insured unemployed, and to the insured unemployment rate.

b. *Current Data.* For the purposes of this Directive the term current data means the most current, complete data published by the Bureau of Labor Statistics.

c. *Local Area.* A local area, for purposes of this Directive, is any geopolitical unit of the United States of America and any combination or part of any such unit or units.

DIRECTIVE NO. 12.[13] STANDARD DEFINITION OF PAYROLL PERIODS FOR EMPLOYMENT REPORTS

Requests made to employers for statistical information from their payroll records on the number of employees, payrolls, hours worked, or related items should refer to the payroll period containing the 12th of the month.

DIRECTIVE NO. 13.[14] STANDARD DATA SOURCE OF TOTAL POPULATION USED IN DISTRIBUTING FEDERAL BENEFITS

The purpose of this Directive is to assure use of standard data on total population for all Federal programs which make use of total population data in the distribution of Federal benefits.

1. CURRENT DATA

For the purposes of this Directive the term current data means the most current, complete national series as published by the Bureau of the Census in *Current Population Reports*, P-25, P-26, or related series, except where data from a decennial census conducted by the Bureau of the Census is more current.

2. USE OF DATA OF TOTAL POPULATION

Executive departments and establishments, in distributing and/or determining eligibility for the benefits of an appropriation for a single year on the basis of data on total population, shall use data which refer to the same point or period of time for each class of eligible government. The data on total population shall be the most current and comprehensive published by the Bureau of the Census. Where total population is used as the denominator of a fraction, the data for both numerator and denominator will be the most recent for which both are available. Where total population is used as the numerator of a fraction, the data for both numerator and denominator will be the most recent for which both are available.

3. JUSTIFICATION FOR EXCEPTION

Agencies shall request approval by the Secretary of Commerce for use of data on total population other than the most current data published by the Bureau of the Census. The request will include indentification of the program(s) affected, legislation implemented by those programs, justification for use of alternative data, and a report on consultations with the Bureau of the Census in respect to data sources.

Any agency required by legislation to use data on total population other than those required by this Directive shall notify the Secretary of Commerce prior to such use.

4. PROPOSED LEGISLATION

Agencies developing proposed legislation involving the use of population data will be responsible for assuring that the provisions of such legislation are consistent with the principles outlined in this Directive or for identifying and justifying any departures from such principles at the time the proposed legislation is submitted to the OMB for review pursuant to OMB Circular No. A-19. As part of its review process under that Cirular, the OMB may request additional information and justification relating to the population data and their proposed use.

[13]Directive No. 12 supersedes section 7(c) of OMB Circular A-46 dated May 3, 1974.

[14]Directive No. 13 supersedes Exhibit I of OMB Circular No. A-46 dated June 6, 1975.

DIRECTIVE NO. 14 [15] DEFINITION OF POVERTY FOR STATISTICAL PURPOSES

For the years 1959-1968 the statistics on poverty contained in the Census Bureau's *Current Population Reports*, Series P-60, No. 68, shall be used by all executive departments and establishments for statistical purposes. For the years 1969 and thereafter, the statistics contained in subsequent applicable reports in this series shall be used.

A number of Federal agencies have been using statistical series on the number of persons and families in poverty, and their characteristics, in analytical and program planning work. The basis for these series has been the classification of income data collected by the Bureau of the Census in accordance with a definition of poverty developed by the Social Security Administration and revised by a Federal Interagency Committee in 1969. This definition provides a range of income cutoffs adjusted by such factors as family size, sex of family head, number of children under 18 years of age, and farm-nonfarm residences.

The Bureau of the Census series continues the Social Security Administration definition for the base year, 1963, except that the differential between poverty levels for farm and nonfarm families is reduced from 30 percent to 15 percent. Annual adjustments in Census series are based on changes in the average annual total consumer Price Index (CPI) instead of changes in the cost of the U.S. Department of Agriculture's Economy Food Plan.

The establishment of this standard data series does not preclude departments and agencies from more detailed analyses or from publication of tabulations for specialized needs although, where applicable, totals must agree with totals published by the Bureau of the Census. Other measures of poverty may be developed for particular research purposes, and published, so long as they are clearly distinguished from the standard data series.

The poverty levels used by the Bureau of the Census were developed as rough statistical measures to record changes in the number of persons and families in poverty and their characteristics, over time. While they have relevance to a concept of poverty, these levels were not developed for administrative use in any specific program and nothing in this directive should be construed as requiring that they should be applied for such a purpose.

[15]Directive No. 14 supersedes section 7(1) and Exhibit G of OMB Circular No. A-46 dated May 3, 1974.

DIRECTIVE NO. 15. [16] RACE AND ETHNIC STANDARDS FOR FEDERAL STATISTICS AND ADMINISTRATIVE REPORTING

This Directive provides standard classifications for recordkeeping, collection, and presentation of data on race and ethnicity in Federal program administrative reporting and statistical activities. These classifications should not be interpreted as being scientific or anthropological in nature, nor should they be viewed as determinants of eligibility for participation in any Federal program. They have been developed in response to needs expressed by both the executive branch and the Congress to provide for the collection and use of compatible, nonduplicated, exchangeable racial and ethnic data by Federal agencies.

1. DEFINITIONS

The basic racial and ethnic categories for Federal statistics and program administrative reporting are defined as follows:

a. *American Indian or Alaskan Native.* A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

b. *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.

c. *Black.* A person having origins in any of the black racial groups of Africa.

d. *Hispanic.* A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

e. *White.* A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

2. UTILIZATION FOR RECORDKEEPING AND REPORTING

To provide flexibility, it is preferable to collect data on race and ethnicity separately. If separate race and ethnic categories are used, the minimum designations are:

a. *Race:*
American Indian or Alaskan Native
Asian or Pacific Islander
Black
White

b. *Ethnicity:*
Hispanic origin
Not of Hispanic origin

When race and ethnicity are collected separately, the number of White and Black persons who are Hispanic must be identifiable, and capable of being reported in that category.

If a combined format is used to collect racial and ethnic data, the minimum acceptable categories are:
American Indian or Alaskan Native
Asian or Pacific Islander
Black, not of Hispanic origin
Hispanic
White, not of Hispanic origin.

The category which most closely reflects the individual's recognition in his community should be used for purposes of reporting on persons who are of mixed racial and/or ethnic origins.

In no case should the provisions of this Directive be construed to limit the collection of data to the categories described above. However, any reporting required which uses more detail shall be organized in such a way that the additional categories can be aggregated into these basic racial/ethnic categories.

The minimum standard collection categories shall be utilized for reporting as follows:

a. *Civil rights compliance reporting.* The categories specified above will be used by all agencies in either the separate or combined format for civil rights compliance reporting and equal employment reporting for both the public and private sectors and for all levels of government. Any variation requiring less detailed data or data which cannot be aggregated into the basic categories will have to be specifically approved by the Office of Federal Statistical Policy and Standards for executive agencies. More detailed reporting which can be aggregated to the basic categories may be used at the agencies' discretion.

b. *General program administrative and grant reporting.* Whenever an agency subject to this Directive issues new or revised administrative reporting or recordkeeping requirements which include racial or ethnic data, the agency will use the race/ethnic categories described above. A variance can be specifically requested from the Office of Federal Statistical Policy and Standards, but such a variance will be granted only if the agency can demonstrate that it is not reasonable for the primary reporter to determine the racial or ethnic background in terms of the specified categories, and that such determination is not critical to the administration of the program in question, or if the specific program is directed to only one or a limited number of race/ethnic groups, e.g., Indian tribal activities.

c. *Statisical reporting.* The categories described in this Directive will be used as a minimum for federally sponsored statistical data collection where race and/or ethnicity is required, except when: the collection involves a sample of such size that the data on

[16]Directive No. 15 supersedes section 7(h) and Exhibit F of OMB Circular No. A-46 dated May 3, 1974, and as revised May 12, 1977.

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the smaller categories would be unreliable, or when the collection effort focuses on a specific racial or ethnic group. A repetitive survey shall be deemed to have an adequate sample size if the racial and ethnic data can be reliably aggregated on a biennial basis. Any other variation will have to be specifically authorized by OMB through the reports clearance process (see OMB Circular No. A-40). In those cases where the data collection is not subject to the reports clearance process, a direct request for a variance should be made to the Office of Federal Statistical Policy and Standards.

3. EFFECTIVE DATE

The provisions of this Directive are effective immediately for all *new* and *revised* recordkeeping or reporting requirements containing racial and/or ethnic information. All *existing* recordkeeping or reporting requirements shall be made consistent with this Directive at the time they are submitted for extension, or not later than January 1, 1980.

4. PRESENTATION OF RACE/ETHNIC DATA

Displays of racial and ethnic compliance and statistical data will use the category designations listed above. The designation "nonwhite" is not acceptable for use in the presentation of Federal Government data. It is not to be used in any publication of compliance or statistical data or in the text of any compliance or statistical report.

In cases where the above designations are considered inappropriate for presentation of statistical data on particular programs or for particular regional areas, the sponsoring agency may use:

(1) The designations "Black and Other Races" or "All Other Races," as collective descriptions of minority races when the most summary distinction between the majority and minority races is appropriate;

(2) The designations "White," "Black," and "All Other Races" when the distinction among the majority race, the principal minority race and other races is appropriate; or

(3) The designation of a particular minority race or races, and the inclusion of "Whites" with "All Other Races," if such a collective description is appropriate.

In displaying detailed information which represents a combination of race and ethnicity, the description of the data being displayed must clearly indicate that both bases of classification are being used.

When the primary focus of a statistical report is on two or more specific identifiable groups in the population, one or more of which is racial or ethnic, it is acceptable to display data for each of the particular groups separately and to describe data relating to the remainder of the population by an appropriate collective description.

DIRECTIVE NO. 16[17] STANDARD CLASSIFICATION OF FIELDS OF SCIENCE AND ENGINEERING

Federal agencies collecting financial data on research and development are expected to use the classification scheme below when requesting information on fields of science. The entire classification is not required in every case, however. For some purposes, only major categories, such as physical sciences or life sciences, may be sufficient; for others, a more detailed breakdown may be needed. In either case, the titles and definitions used by the agency should conform to the standard, thus the data may be combined to produce compatible major field totals.

STANDARD CLASSIFICATION OF FIELDS OF SCIENCE AND ENGINEERING

	Code
Physical Sciences	
Astronomy	11
Chemistry	12
Physics	13
Physical sciences, not elsewhere classified[1]	19
Mathematics	21
Environmental Sciences (Terrestrial and Extrater restrial)	
Atmospheric sciences	31
Geological sciences	32
Oceanography	33
Environmental sciences, NEC[1]	39
Engineering	
Aeronautical	41
Astronautical	42
Chemical	43
Civil	44
Electrical	45
Mechanical	46
Metallurgy and materials	47
Engineering, NEC[1]	49
Life Sciences	
Biological	51
Clinical medical	52
Other medical	53
Life sciences, NEC[1]	59
Psychology	
Biological aspects	61
Social aspects	62
Psychological sciences, NEC[1]	69
Social Sciences	
Anthropology	71
Economics	72
History	73
Linguistics	74
Political science	75
Sociology	76
Social sciences, NEC[1]	79
Other Sciences, NEC[2]	99

[1]To be used for multidisciplinary projects within the primary field and for single discipline projects for which a separate discipline code has not been assigned.

[2]To be used for multidisciplinary and interdisciplinary projects which cannot be classified within a primary field.

DISCIPLINES INCLUDED IN THE FIELDS OF SCIENCES AND ENGINEERING

Code

Physical Sciences

11 Astronomy: Laboratory astrophysics; optical astronomy; radio astronomy; theoretical astrophysics; X-ray, gamma-ray, neutrino astronomy

12 Chemistry: Inorganic; organometallic; organic; physical

13 Physics: Acoustics, atomic and molecular; condensed matter; elementary particles; nuclear structure; optics; plasma

21 Mathematics: Algebra; analysis; applied mathematics; computer science; foundations and logic; geometry; numerical analysis; statistics; topology

Environmental Sciences (Terrestrial and Extraterrestrial)

31 Atmospheric sciences: Aeronomy; solar; weather modification; extraterrestrial atmospheres; meteorology

32 Geological sciences; Engineering geophysics; general geology; geodesy and gravity; geomagnetism; hydrology; inorganic geochemistry; isotopic geochemistry; organic geochemistry; laboratory geophysics; paleomagnetism; paleontology; physical geography and cartography; seismology; soil sciences

33 Oceanography: Chemical oceanography; geological oceanography; physical oceanography; marine geophysics

Engineering

41 Aeronautical: Aerodynamics

42 Astronautical: Aerospace; space technology

43 Chemical: Petroleum; petroleum refining; process

44 Civil: Architectural; hydraulic; hydrologic; marine; sanitary and environmental; structural; transportation

45 Electrical: Communication; electronic; power

46 Mechanical: Engineering mechanics

47 Metallurgy and materials: Ceramic; mining; textile; welding

49 Engineering, NEC: Agricultural; industrial and management; nuclear; ocean engineering; systems

Life Sciences

Note: The Life Sciences include the following disciplines:

Anatomy; animal sciences; bacteriology; biochemistry; biogeography; biological oceanography; biophysics; dentistry; ecology; embryology; entomology; evolutionary biology; genetics; immunology; internal medicine; microbiology neurology; nutrition and metabolism; opthalmology; parasitology; pathology; pharmacology; pharmacy; physical anthropology; physical medicine and rehabilitation; physiology; plant sciences; podiatry; preventive medicine and public health; psychiatry; radiobiology; radiology; surgery; systematics; veterinary medicine

Research in some of these disciplines may be classed as biological, clinical medical, or medical, depending upon the nature of the particular project. Reference should be made to the following definitions in the classification of data on the funding of research in the Life Sciences:

Life

51 Biological: Those sciences which, apart from the clinical medical and other medical sciences as defined below, deal with the origin, development, structure, function, and interaction of living things.

52 Clinical medical: Study of the pathogenesis, diagnosis or therapy of a particular disease or abnormal condition in living human subjects under controlled conditions.

53 Other medical: Studies of the causes, effects, prevention, or control of abnormal conditions in man or in his environment as it relates to health, except for the clinical aspects as defined above.

(The above three classes exclude the psychological sciences as defined elsewhere.)

Psychology

61 Biological aspects: Experimental psychology; animal behavior; clinical psychology; comparative psychology; ethology

62 Social aspects: Social psychology; educational, personnel, vocational psychology and testing; industrial and engineering psychology; development and personality

Social Sciences

71 Anthropology: Archaeology; cultural and personality; social and ethnology; applied anthropology

72 Economics: Econometrics and economic statistics; history of economic thought; international economics; industrial, labor and agricultural economics; macroeconomics; microeconomics; public finance and fiscal policy; theory; economic systems and development

73 History: Cultural; political; social; history and philosophy of science

74 Linguistics: Anthropological—archaeological; computational; psycholinguistics; sociolinguistics

75 Political science: Area of regional studies; comparative government; history of political ideas; international relations and law; national political and legal systems; political theory; public administration

76 Sociology: Comparative and historical; complex organizations; culture and social structure; demography; group interactions; social problems and social welfare; sociological theory

79 Social sciences, NEC: Research in law and education, NEC; socioeconomic geography

Other Sciences, NEC

99 Other sciences, NEC: To be used for multidisciplinary and interdisciplinary projects which cannot be classified within a primary field

Questions on the interpretation of the classification or proposed changes in the classification should be referred to the Division of Science Resources Studies, National Science Foundation.

DIRECTIVE NO. 17.[18] STANDARD GAS PRESSURE BASE

The standard gas pressure base for Government use is 14.73 pounds per square inch absolute at 15.6° celsius (60° Fahrenheit). This base will be used by all Federal agencies when collecting or publishing information on natural gas.

DIRECTIVE NO. 18.[19] PROVIDING OF STATISTICAL INFORMATION TO INTERNATIONAL ORGANIZATIONS

This Directive outlines the procedure to be followed by all departments and establishments in dealing with official requests from international organizations for statistical information.

[17]Directive No. 16 supersedes section 7(j) and Exhibit E of OMB Circular No. A-46 dated May 3, 1974.

[18]Directive No. 17 supersedes section 7(i) of OMB Circular No. A-46, dated May 3, 1974.

[19]Directive No. 18 supersedes OMB Circular No. A-39, dated August 24, 1967.

1. DEFINITIONS

The following definitions will apply for purposes of this Directive.

a. "Statistical information" means any kind of summary numerical data other than technical data in engineering, physical, or biological science fields.

b. "International organization" means any intergovernmental organization of an international nature in which the United States is a member.

c. "Official request" means any statistical questionnaire, or any other form of request or inquiry from an international organization calling for statistical information, including ad hoc (single time) requests as well as repetitive or periodic requests.

d. "Director" refers to the Director of the Office of Federal Statistical Policy and Standards, Department of Commerce.

2. AUTHORITY OF DIRECTOR

The Director may waive requirements of this Directive, with certain exceptions. Requirements pertaining to requests from international financial institutions may be waived only with the concurrence of the National Advisory Council on International Monetary and Financial Policies. The Director may also revoke or modify any approval granted or determination made by him under the Directive. In making determinations authorized under this Directive, the Director is responsible for necessary consultation and clearance with appropriate Federal executive agencies.

3. PROCESSING OF REQUESTS

Any department or establishment furnishing statistical information to an international organization in response to an official request will do so only when pursuant to a prior determination by the Director. Exceptions to this provision, discussed below, concern the following: advance determinations; requests from international financial institutions; and special arrangements. All other requests subject to prior determination by the Director will be dealt with in the following manner:

a. *Submittal of requests.* Information concerning all such requests will be submitted promptly to the Director, including, as appropriate, the identity of the organization making the request; the nature of the information requested; the views, if any, of the department or establishment on whether or how the request should be answered; and identification of any statistics which the department or establishment proposes to submit in response to the request (but not necessarily the actual statistics).

Such information will ordinarily be submitted by letter or memorandum to the Director, but may be submitted orally in special circumstances or in the case of simple or routine requests.

b. *Director's action regarding requests.* The Director will determine—with the concurrence of the Secretary of State—what statistical information will be provided in response to such requests and will determine which departments and establishments will supply the information. Such determination may cover the continuing transmittal of recurrent data (for example, the transmittal of monthly data as they become available), and will continue in effect until otherwise determined by the Director.

The Director will promptly inform the departments and establishments concerned of his determination.

4. ADVANCE DETERMINATIONS

Statistical information may be provided in response to official requests, without further action under this Directive, whenever: (a) The statistical information requested is contained in a published document, or (b) the request is clearly informal in character and does not call for data for publication, citation in official documents, direct use in international conferences or negotiations, or other specific uses of a formal character.

5. REQUESTS FROM THE INTERNATIONAL MONETARY FUND, THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, AND OTHER INTERNATIONAL FINANCIAL INSTITUTIONS

Under the provisions of Executive Order No. 10033, as amended, and Executive Order No. 11269, the National Advisory Council on International Monetary and Financial Policies is responsible for determining—after consultation with the Director of the Office of Federal Statistical Policy and Standards—what information is essential in order that the United States Government may comply with official requests for information received from the International Monetary Fund, the International Bank for Reconstructin and Development, and other international organizations the policy coordination of which is the responsibility of the National Advisory Council. The definitions and provisions concerning advance determinations as contained in this directive apply to determinations by the National Advisory Council. Requests subject to determination by the National Advisory Council will be dealt with in the following manner:

a. Any department or establishment which receives an official request for information from such an international organization will send promptly to the Council a statement or outline of the request, in duplicate. It may also send the Council its recommendations as to the response to be made.

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b. The National Advisory Council will determine what information is essential in order that the United States Government may comply with such requests, and will notify the department or establishment concerned.

c. The Director will determine which department or establishment will collect or make available such information. Such department or establishment will consult with the Council as to the manner and form in which the information will be collected and prepared.

d. After the information has been collected and prepared in the manner and form prescribed by the Council, it will be submitted to the Council for presentation to the international organization concerned.

6. SPECIAL ARRANGEMENTS

The Director may make special arrangements relating to requests from international organizations for U.S. data with any department or establishment of any international body which has been assigned special responsibility relating to an international organization.

7. CHANNELS FOR COMMUNICATION

Section 1 of Executive Order No. 10033 provides that statistical information prepared in response to official requests from international organizations will be transmitted to the requesting international organizations through established channels by the Secretary of State or by the Federal executive agency authorized by the Secretary to transmit such information. Requests from the International Monetary Fund, the International Bank for Reconstruction and Development, and other international financial institutions are excepted from this provision. The Department of State will maintain established channels of communication for this purpose. The Director will notify the affected departments and establishments, in connection with his responsibilities under this Directive, of any changes by the Department of State with respect to channels of communication.

8. MATERIAL REQUESTED BY DIRECTOR

Each department or establishment will furnish to the Director such additional material pertaining to requests for information which are within the purview of this Directive as he may from time to time require. The department or establishment will notify the Director in writing of any budgetary restrictions, requirements of military security or confidentiality, or any other limitation which prevents substantial compliance with a determination by the Director under this Directive.

9. PLANS AND REPORT FORMS

A determination or approval by the Director under this Directive with respect to any matter involving the use of a plan or report form does not include clearance of the plan or report form. Plans or report forms are subject to clearance by OMB under Circular No. A-40.

DIRECTIVE NO. 19.[20] REPORTS OF THE DEPARTMENT OF COMMERCE ON INTERNATIONAL TRANSACTIONS

This Directive sets forth procedures for reporting to the Balance of Payments Division, Bureau of Economic Analysis, U.S. Department of Commerce, on international transactions, assets, and liabilities for use in compiling reports on balance of payments, international investments, and foreign grants and credits.

1. AGENCY COVERAGE

The provisions of this Directive apply to all agencies (executive departments and establishments where one or more of the following conditions prevail: (a) Reportable international transactions total $1,000,000 or more per year; (b) balances of foreign assets for liabilities total $500,000 or more; (c) transactions involving foreign grants or credits total $100,000 or more per year; or (d) balances of foreign credits total $100,000 or more.

2. AGENCY RESPONDENT

The head of each agency will designate an officer responsible for coordinating the activities of the agency in response to this Directive. The name, title, address, and telephone number of such officer (and of officers authorized to sign the Standard Form (see paragraph 5)) will be furnished to the Balance of Payments Division, Bureau of Economic Analysis, Department of Commerce.

3. REPORTING UNITS

Reports will be based on reporting units agreed upon by the agency and the Bureau of Economic Analysis and approved by the Office of Federal Statistical Policy and Standards. The reporting units must cover all bureaus or comparable organization components of the agency which have total international transactions of $50,000 or more of the following types in any quarter:

a. Expenditures from or reimbursements to U.S. dollar appropriation and fund accounts (general and special funds, public enterprise funds, trust funds, and deposit funds).

b. Receipts deposited to miscellaneous receipts (general and special funds) or trust funds.

c. Expenditures or receipts of foreign currencies charged or credited to other than U.S. dollar appropriation and fund accounts (such as to "FT" accounts).

d. Nonappropriated fund activities, such as commissaries, post exchanges, and officers clubs.

e. U.S. dollar balances held in foreign banks.

f. Foreign currency balances held under dollar or other accountability (such as in "FT" accounts).

g. Receipt or donations of commodities or services.

Generally, separate reporting units should be established for each major program area, which may represent a combination of appropriations or funds. As a minimum, programs which involve U.S. Government grants and credits must be reported separately from other programs of the bureau or agency concerned.

Whenever a change in reporting units is proposed, it should be submitted to the Office of Federal Statistical Policy and Standards. Such proposals should identify the coverage of each reporting unit.

4. REPORTS REQUIRED

Quarterly reports are required on Standard Form 13 for each established reporting unit showing transactions in total, on a world-wide basis. Negative reports should be submitted for any established reporting unit for which transactions in the quarter were less than $50,000. A Standard Form 13 will also be required for any transactions of $50,000 or more not covered by established reporting units which take place in any quarter. In cases where such a report is submitted, negative reports (unless there are further transactions to report) should be submitted for the remainder of that fiscal year, but need not be submitted thereafter.

The following supporting schedules may be required:

Tabular listing by country and international organization for each item reported on the summary Standard Form 13 (Exhibit A).
Reconciliation of foreign loan transactions (Exhibit B).
Private exports under Government contracts and agreements (Exhibit C).
Merchandise transactions (Exhibit D).
Government grants and credits (Exhibit E).
Changes in Government financial assets and liabilities abroad (Exhibit F).

Detailed reporting instructions and examples of supplemental exhibits that may be required for some types of international transactions are available from the Balance of Payments Division, Bureau of Economic Analysis, U.S. Department of Commerce.

[20] Directive No. 19 supersedes OMB Circular No. 65 dated March 5, 1968.

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In addition, one copy of each report that is required by the Treasury Fiscal Requirements Manual (part 2, chapter 4500), issued pursuant to Treasury Department Circular No. 1080 on foreign grants, loans, and credits should be submitted with Standard Form 13.

5. TRANSMITTAL OF REPORTS

An original and one copy of the reports under this Directive should be transmitted to the Balance of Payments Division, Bureau of Economic Analysis, U.S. Department of Commerce, not later than 45 days after the close of the reporting period.

The original copy of the Standard Form 13 submitted for each reporting unit should be signed by an officer duly authorized by the head of the agency. The FTS telephone number of such authorized officer should be indicated on the Standard Form 13. Signatures and identifications on other sheets and copies may be affixed by stamp, typing, or other means.

6. ALTERNATIVE REQUIREMENTS

Substitute alternative requirements for those included in this Directive may be approved by the Office of Federal Statistical Policy and Standards, either upon request from the agency or on its own initiative. Such alternative requirements may include additional information to be provided on a continuing basis, or the substitution of other reports in lieu of those prescribed.

[FR Doc. 78-12040 Filed 5-4-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held at the Pentagon, Washington, D.C. on: Thursday & Friday, 6 & 7 July 1978.

The entire meetings commencing at 0900 hours are devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MAY 1, 1978.

[FR Doc. 78-12122 Filed 5-3-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

SOLAR ENERGY CONFERENCE

Public Meeting

The George Washington University of Washington, D.C., under a contract with the U.S. Department of Energy, will conduct a conference on the role of utilities in Solar Energy Commercialization.

This conference, open to invitees and the general public on a space-available basis, will be held May 10 and 11, 1978, at the Marvin Center in Washington, D.C., from 8 a.m. until 5 p.m. each day.

This will be a working conference to discuss the alternative roles of public and investor-owned utilities in the commercialization of solar energy technology. Invitees, including representatives from the solar industry, utilities, public utility commissions, and consumer organizations will seek consensus on what role the Federal Government can play to encourage the most apropriate action on the part of utilities interested in solar energy development.

A copy of the final report will be available at the Department of Energy Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, for review by the public.

Issued in Washington, D.C., May 2, 1978

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-12286 Filed 5-3-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. CP78-305]

ARKANSAS LOUISIANA GAS CO.

Extension of Time

APRIL 25, 1978.

On April 13, 1978, thirteen landowners of the Ada Gas Storage Facility (Petitioners) filed a petition to intervene and a motion for further time to plead to the amended application filed by Arkansas Louisiana Gas Co. (ArkLa) on March 10, 1978, in the above referenced proceeding. By notice issued March 23, 1978, the Commission established April 12, 1978, as the date by which interested persons should file a petition to intervene or protest in this proceeding. The motion states that Petitioners had previously requested a copy of ArkLa's amended application, but such copy had not been received. In accordance with section 157.10 of the Commission's Regulations, ArkLa should promptly supply the Petitioners with a copy of the amended application.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 12, 1978, within which Petitioners shall file an amendment to the petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12162 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. CP78-283]

BEACON GASOLINE CO.

Application

APRIL 26, 1978.

Take notice that on April 12, 1978, Beacon Gasoline Co. (Applicant), P.O. 1156, Minden, La. 71055, filed in Docket No. CP78-283 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities necessary to gather gas for United Gas Pipe Line Co. (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that United has contracted with Art Machin & Associates, Inc., et al., to acquire natural gas from the Red Rock Field in Columbia County, Ark., and the North Shongaloo Field in Webster, La. It is indicated that United would pay Art Machin & Associates, Inc., et al., for the subject gas a base price per Mcf of $1.509634 for the period ending April 1, 1978, and that this price would be increased $0.0102 upon the expiration of the April 1, 1978 period and would thereafter be increased $0.0102 each July 1, October 1, January 1, and April 1 from such date. It is stated that the reserves covered by the subject contract are estimated at 1,012,000 Mcf and that at the present gas produced from those reserves is being flared by the producer at the approximate rate of 2,000 Mcf per day.

Applicant indicates that United does not have a pipeline connection in either field and cannot take delivery of the gas from the producer without expensive and time-consuming construction. Applicant further indicates that United does have a pipeline connection at Applicant's gasoline plant

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in Webster Parish, La., and a secondary connection with Applicant's pipeline in Webster Parish, La. Applicant states that it has a gathering system located in the vicinity of the wells producing the gas in question and can gather the gas which is subject to the contract. Applicant is willing to do so if it is reimbursed for the cost of extending its system, it is said. Consequently, Applicant and United have entered into an agreement dated February 13, 1978, providing for the proposed construction of facilities at an estimated cost of $150,000.00, which cost United would finance, it is said.

It is indicated that Applicant at present operates a gathering system consisting of approximately 115 miles of pipeline located in Columbia and Lafayette Counties, Ark., and in Western and Claiborne Parishes in Louisiana and a gasoline plant located in Webster Parish, La., which has the capacity to process 70,000 Mcf of gas per day. Applicant proposes to construct 6,300 feet of 2-inch, 10,500 feet of 3-inch, 8,300 feet of 4-inch O.D. pipeline and related facilities to connect Applicant's existing facilities with the wells producing the gas subject to the gas purchase contract.

The application states that the proposed construction and service is required for the following reasons:

a. The gas is being flared and would continue to be flared unless the proposed construction and service is provided;

b. There is a critical shortage of natural gas and United's customers are and will be severely curtailed; and

c. The proposed construction and service would result in an increase of the supply of natural gas to interstate commerce.

Applicant states that it would charge United 10 cents per Mcf for each Mcf of gas delivered to United at the tailgate of the Beacon Plant until the lesser of the sum of $150,000.00 or a sum equal to the actual cost of construction of the proposed facilities has been paid by United to Applicant, and that thereafter, the charge will cease.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12150 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. CP78-44]

COLUMBIA GULF TRANSMISSION CO.

Proposed Changes in FERC Gas Tariff

APRIL 26, 1978.

Take notice that on April 3, 1978, Columbia Gulf Transmission Co. (Columbia Gulf) tendered for filing the following proposed changes in its FERC Gas Tariffs, to be effetive May 3, 1978:

ORIGINAL VOLUME NO. 1

Fourth Revised Sheet No. 4C

ORIGINAL VOLUME NO. 2

Fourth Revised Sheet No. 1#, and Original Sheet Nos. 589 through 618

A copy of this filing was served on Tennessee Gas Pipeline Co. and Amoco Production Co.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 10, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12151 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. CP78-288]

COLUMBIA GULF TRANSMISSION CO. AND CONSOLIDATED GAS SUPPLY CORP.

Application

APRIL 26, 1978.

Take notice that on April 14, 1978, Columbia Gulf Transmission Co. (Columbia), 3805 West Alabama Avenue, Houston, Tex. 77027, and Consolidated Gas Supply Corp. (Consolidated), 445 West Main Street, Clarksburg, W. Va. 26031 (Applicants), filed in Docket No. CP78-288 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Columbia to transport natural gas for Consolidated and authorizing the exchange of natural gas by Applicants, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia requests authorization to transport through existing facilities gas for Consolidated pursuant to a transportation and exchange agreement dated April 3, 1978, between the two companies. It is stated that the subject gas would be received into existing facilities of Columbia at the terminus of a pipeline system owned by Sea Robin Pipeline Co. (Sea Robin) near Erath, La., and transported to Columbia's Rayne, La., Compression Station (Rayne Exchange Point) at which point Columbia would retain said gas as exchange gas. It is indicated that Columbia would deliver to Consolidated at the outlet of the existing measurement facilities of Columbia connecting to Consolidated's pipeline near Egan, La., the thermal equivalent of the gas received by Columbia at the terminus of the Sea Robin pipeline, less a pro rata share of the volume of gas unaccounted for and/or used as fuel in the facilities through which the gas is transported to the Rayne Exchange Point.

The application states that Consolidated would pay Columbia for the transportation portion of the service described herein a rate of 2.32 cents per Mcf (at 14.73 psia) of the gas (thermally adjusted as provided in the agreement) actually received by Columbia at the Consolidated Delivery Point or such other charge as may be determined by the Commission in an appropriate proceeding.

Applicant indicates that the natural gas volumes proposed to be transported and exchanged would be purchased

by Consolidated in South Marsh Island Blocks 142 and 143, offshore Louisiana, from its affiliate, CNG Producing Co., pursuant to authorizations granted in Docket No. CI78-234 and from Texas Gas Exploration Corp. (Exploration) pursuant to authorizations requested at Docket No. CI78-576.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12152 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. RP78-54]

EL PASO NATURAL GAS CO.

Tariff Filing

APRIL 26, 1978.

Take notice that on April 7, 1978, El Paso Natural Gas Co. ("El Paso") tendered for filing and acceptance the following tariff sheets to special Rate Schedule X-31 contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2:

Fifth Revised Sheet No.493
Third Revised Sheet No. 494
Fifth Revised Sheet No. 498
Fourth Revised Sheet No. 499

Special Rate Schedule X-31 is comprised of the San Juan Gathering Agreement ("Gathering Agreement") dated January 31, 1974, as amended, between El Paso and Northwest Pipeline Corp. ("Northwest") providing for the gathering of natural gas in the San Juan Basin area of northwestern New Mexico and southwestern Colorado.[1] El Paso states that the tendered tariff sheets will revise Exhibits A, B, C and D attached to special Rate Schedule X-31, and will add wells and units to the Gathering Agreement to reflect changes which have occurred in each party's respective operations during the twelve (12) month period preceding February 1, 1978. The basis for said additions is a Letter Agreement between the parties dated February 1, 1978, amending the Gathering Agreement.

El Paso states that inasmuch as the Gathering Agreement comprises special Rate Schedule X-31 to El Paso's Third Revised Volume No. 2 tariff and as well, special Rate Schedule X-24 to Northwest's Original Volume No. 2 tariff, the concurrent effectiveness of the revised Exhibits to El Paso's and Northwest's said special rate schedules is desirable. El Paso further states that Northwest will file its tariff tender of the identical revisions to Exhibits A, B, C and D to Northwest's special Rate Schedule X-24 on April 7, 1978, and will request therein an effective date coincident with the effective date authorized for El Paso's revised tariff sheets tendered as a part of the instant filing. El Paso has requested that the tariff sheets tendered herewith, as well as the aforementioned tariff sheets tendered by Northwest on April 7, 1978, be made effective as of May 7, 1978.

El Paso states that a copy of each of the tendered tariff sheets has been mailed to Northwest Pipeline Corp.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before May 4, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12173 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket Nos. CS71-876, *et al.*]

JONES-O'BRIEN, INCORP., ET AL.

Order Conditionally Accepting Small Producer Statement of Eligibility

APRIL 28, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of Section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR—, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On June 20, 1977, Jones-O'Brien (CS71-876), George L. Logan (CS71-812), B. C. McKeever (CS71-694), Dudley P. Meier (CS72-278), S. Lee Ware, Jr. (CS72-277), Nemours Corp. (CS72-213), Wheless Industries, Inc. (CS71-305), Butler-Johnson, Inc.

[1] The Gathering Agreement was necessitated by the divestiture of El Paso's former Northwest Division System to Northwest effective as of January 31, 1974. Authorization for such gathering arrangement was granted by Federal Power Commission order issued September 21, 1973, at Docket Nos. CP73-331, *et al.*

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(CS72-482), Lyons Petroleum, Inc., Agents for Succession of C. H. Lyons, Sr. (CS71-523), Sklar & Phillips Oil Co. (CS72-187) and Dr. J. S. Shelby (CS77-615), (hereinafter Jones-O'Brien) submitted a statement of eligibility, pursuant to Section 2.56a(p) of the Statements of General Policy and Interpretations of the Commission, for the sale of gas from the Davis SU'C' Unit, Tremont Field, Lincoln Parish, LA.

Jones-O'Brien spudded the O'Neal No. 1 Well on April 3, 1972, in the Davis SU'C' Unit, Tremont Field, Lincoln Parish, LA. An initial deliverability test at the time indicated that the well was capable of producing 770 Mcf of gas per day. Production subsequently declined so that by August 1976, the well produced an average of 457 Mcf per day.

Later development of the Tremont Field north of the O'Neal No. 1 Well, resulted in initial well capabilities ranging from 1,224 to 3,078 Mcf per day. Citing this fact as evidence of poor natural permeability in the formation underlying the O'Neal No. 1 Well, Jones-O'Brien filed on October 26, 1976, an applicaiton with the Louisiana Department of Conservation for permission to drill a substitute well in a more favorable portion of the proration unit. On November 19, 1976, the Department of Conservation issued an order establishing the new well, designated the O'Neal No. 2, as the substitute unit well for the Davis SU'C Unit.

Jones-O'Brien spudded the O'Neal No. 2 Well on March 1, 1977, and completed it on April 17. The initial deliverability test indicated a production capability of 2,704 Mcf per day and on April 27, 1977, the Department of Conservation granted a unit allowable of 3,000 Mcf per day. The O'Neal No. 1 was shut-in[1] and deliveries from the O'Neal No. 2 commenced on May 3, 1977. The O'Neal No 2 should add approximately 1.6 MMcf of additional recoverable reserves. Gas from this well is currently being sold at the small producer ceiling rate for old gas of 35 cents per Mcf at 14.73 psia, plus applicable adjustments.

Pursuant to Section 2.56a(p), Jones-O'Brien has now submitted a statement of eligibility requesting "that the Commission find it eligible to collect the rates established by Section 2.56a(a)(1) for gas produced from the Davis SU'C' O'Neal No. 2 Well".[2] The original well was producing 457 Mcf of gas per day at 35 cents an Mcf before being shut-in and now the same reserves will be produced from the replacement well at $1.48 an Mcf resulting in increased annual revenues of approximately $190,000.

If we were to allow all of the gas from the O'Neal No. 2 Well to be priced at the new gas price established in Opinion No. 770, as amended, our action may tend to encourage producers to drill new wells merely for the purpose of shutting-in old wells in the same proration unit where the old wells are still capable of some production.

We recognize, however, that Jones-O'Brien's actions have resulted in the development of an estimated 1.6 MMcf of additional recoverable reserves which could not have been produced by the O'Neal No. 1 Well.

Of the total recoverable reserves underlying the Davis SU'C' Unit, a certain amount was amount was originally developed, produced and brought onto the interstate marked by the O'Neal No. 1 Well. The remainder of the recoverable reserves were developed and brought onto the market through the drilling of the O'Neal No. 2 Well. The unit production should be priced at two separate rates because of the two different dates in which the underlying reserves were developed.

The method which we will require to allocate the unit production between the two base rates is based upon the estimated volumes of reserves developed by the individual wells. The volume of unit production attributable to the reserves developed by the O'Neal No. 1 Well and consequently sold at the 35 cents base rate will be calculated as a fraction of the total unit production, the numerator of which will be the amount of recoverable reserves in place prior to the completion of the O'Neal No. 2 Well, and the denominator of which will be the total amount of recoverable reserves subsequent to the completion of the O'Neal No. 2 Well. The remainder of the unit production will be attributable to the additional reserves developed through the drilling of the O'Neal No. 2 Well and will be considered as "new" gas which could be sold at the $1.48 base rate prescribed in Section 2.56a(a)(1). Such a pricing formula both rewards the producer for developing additional recoverable reserves and maintains the existing supply of lower-priced "old" gas previously sold in the interstate market.

The Commission Orders:

(A) The statement of eligibility filed June 20, 1977, by Jones-O'Brien, *et al.*, is accepted conditioned as stated hereinafter.

(B) The method of allocating the unit production between the two base rates will be based upon the estimated volume of reserves developed by the individual wells as hereinbefore described.

(C) Within 30 days of the issuance of this order Jones-O'Brien, *et al.*, will file with this Commission a statement setting forth the results of the application of the method set forth above.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12163 Filed 5-3-78; 8:45 am]

[1] In a letter dated May 6, 1977, to the Department of Conservation, Jones-O'Brien explained they did not want the O'Neal No. 1 Well plugged and abandoned because "if we encounter mechanical difficulties with the O'Neal No. 2 * * *, we will request that the O'Neal No. 1 be named the alternate unit well with production coming from the O'Neal No. 1 instead of the O'Neal No. 2".

[2] $1.49 per Mcf at 14.73 psia plus applicable adjustments effective April 1, 1978.

[6740-02]

[Docket No. CP77-176]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Amendment to Application

APRIL 27, 1978.

Take notice that on April 17, 1978, Kansas-Nebraska Natural Gas Co., Inc. (Applicant), P.O. Box 608, Hastings, Nebr. 68901, filed in docket No. CP77-176 an amendment to its application filed January 28, 1977, pursuant to section 7 of the Natural Gas Act so as to authorize Applicant to reclaim approximately 1.7 miles of 6-inch gathering pipeline beginning at a point in sectin 1, township 38 north, range 91 west, of Fremont County, Wyo., and extending south to a point in section 12, township 38 north, range 91 west, and to take up and salvage the subject facilities, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

The new facilities and the abandonment of existing facilities proposed in the original application, as first amended were as follows:

(a) Install approximately 22 miles of 12-inch gathering pipeline beginning at a point in section 23, township 37 north, range 90 west of Fremont County, Wyo., and extending in a southerly direction to a point in section 36, township 34 north, range 90 west of Fremont County together with necessary pipeline appurtenances.

(b) Abandon approximately 2.3 miles of 4-inch and 29.3 miles of 6-inch gathering pipelines beginning at a point in section 5, township 38 north, range 90 west of Fremont County and extending west and south to section 1, township 33 north, range 91 west of Fremont County, Wyo.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12154 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. CP78-280]

MOUNTAIN FUEL SUPPLY CO.

Application

APRIL 26, 1978.

Take notice that on April 10, 1978, Mountain Fuel Supply Co. (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in docket No. CP78-280 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of up to 10,000 Mcf of natural gas per day with Northwest Pipeline Corporation (Northwest), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Applicant has entered into a gas purchase, transportation and exchange agreement dated November 14, 1977, with Northwest, which agreement provides for the transportation and exchange of up to 10,000 Mcf of natural gas per day with Northwest, and the purchase of up to 25 percent of the gas received for exchange. Applicant states that it has agreed to make available existing pipeline tap facilities on its main transmission lines in order to receive and transport gas for Northwest, and that it would redeliver the gas to Northwest at an existing point of pipeline interconnection located near Green River, Wyo.

It is stated that in return for Applicant's providing of this transportation service, Northwest has granted Applicant the right to purchase up to 25 percent of the volumes delivered for exchange. It is further states that the source of the natural gas which is to be exchanged is located in the Stateline area of Carbon County, Wyo., and Moffat County, Colo., and is being produced by Rainbow Resources, Inc., a small producer (docket No. CS74-388). Northwest would gather and transport the subject gas to the existing transmission line tap facilities of Applicant, it is said.

It is indicated that Applicant would pay Northwest a reasonable cost of service based gathering fee for gas which Applicant elects to purchase under the option arrangement, which initial such gathering charge is 23.44 cents per Mcf. It is stated that Applicant would pay Northwest the same purchase price for such volumes as is paid by Northwest to the producer. Northwest would pay Applicant 5.5 cents per Mcf for the volumes which Applicant transports and redelivers to Northwest, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12155 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. RP78-56]

NORTHERN NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

APRIL 26, 1978.

Take Notice that Northern Natural Gas Co. on April 21, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2. The proposed changes would increase revenues from jurisdictional sales by $104,381,044 annually, based on sales volumes and costs for the 12 months ended December 31, 1977, as adjusted for the test period. Northern states the principal reasons for the proposed rate increase are: (1) Increased costs of obtaining new gas supplies, (2) increased costs associated with a growing need for additional storage capacity required to maintain peak day and winter period deliveries to high priority customers, (30 the need to provide a return of 11.375 percent on its utility investment, (4) increased annual depreciation expense, and (5) increased costs of operations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before May 17, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12156 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket Nos. RP72-154, (PGA78-1), RP76-115, (AP78-1), RP72-74, (DCA78-1)]

NORTHWEST PIPELINE CORP.

Filing of Revised Tariff Sheets

APRIL 26, 1978.

Take notice that on April 10, 1978, Northwest Pipeline Corp. ("Northwest") filed copies of the following two tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Designation	*Effective date*
Substitute 19th revised sheet No. 10.	Apr. 1, 1978.
First substitute 19th revised sheet No. 10.	Apr. 2, 1978.

Northwest states that the instant filing is made pursuant to the Commission's order of March 31, 1978, in the above-captioned proceeding which order, inter alia, suspended for 1 day the tariff sheet (19th revised sheet No. 10) which Northwest had filed on February 15, 1978, to be effective April 1, 1978. Said sheet provided for a net rate increase resulting from: (1) increased purchase gas costs; (2) a net decrease in the level of advance pay-

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ments; and (3) reduced demand charge credits.

In its order of March 31, 1978, the Commission found that a portion of the rate adjustment attributable to the advance payment of $425,000 to Provident Resources, Ltd., on October 21, 1977, had not been adequately justified, and so set that aspect of Northwest's filing for hearing.

Ordering paragraph (B) of the March 31, 1978, order permits Northwest to file, within 15 days of issuance thereof, a revised tariff sheet, to be effective April 1, 1978, without refund liability, in which is eliminated the rate effect of the advance payment of $425,000 made to Provident Resources, Ltd., referred to above. Northwest states that substitute 19th revised sheet No. 10 reflects such change and is otherwise consistent with the revised tariff sheet, as originally filed on February 15, 1978.

First substitute revised sheet No. 10, on the other hand, reflects inclusion of the subject advance payment adjustment and, with the exception of the April 2, 1978, effective date, is assertedly identical in all respects to Northwest's 19th revised sheet No. 10.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12157 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. RP78-50]

NORTHWEST PIPELINE CORP.

Proposed Changes in FERC Gas Tariff

APRIL 26, 1978.

Take notice that Northwest Pipeline Corp. ("Northwest") tendered for filing, on March 31, 1978, a proposed general rate increase applicable to rate schedules contained in its FERC Gas Tariff, volume No. 1. The proposed rate increase would increase revenues for jurisdictional sales and service by $32,621,067 annually based upon the 12-month period ending December 31, 1977, as adjusted. Northwest also proposes to increase its rates for transportation services rendered under rate schedules contained in volume No. 2 of its FERC Gas Tariff. Northwest has requested that the increased rates be made effective on May 1, 1978.

Northwest states that the requested rate increase is to recover its jurisdictional cost of service for the 12 months ended December 31, 1977, as adjusted for changes through September 30, 1978. Northwest claims that the principal reasons for the requested increase are:

(a) Increased cost associated with expansion of the Clay Basin Storage Project;
(b) Increased costs associated with expansion of gas supply and other facilities;
(c) Increased operation and maintenance expenses and taxes;
(d) Increase in rate of return to 11.26 percent in order to compensate for high cost of capital.
(e) Decreased sales volumes.

Copies of the filing were served on the Company's jurisdictional customers and affected state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1978. Protests will be considered by the Commission in determining the action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12158 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. CP78-284]

SOUTHERN NATURAL GAS CO.

Pipeline Application

APRIL 26, 1978

Take notice that on April 13, 1978, Southern Natural Gas Co. (Applicant), P.O. Box 2563, Birmingham, Ala. 35202, filed in docket No. CP78-284 an application in accordance with the provisions of section 7(c) of the Natural Gas Act, as amended, and the rules and regulations of the Federal Energy Regulatory Commission (Commission), for a permanent certificate of public convenience and necessity authorizing the transportation of gas, all as fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it seeks a permanent certificate of public convenience and necessity authorizing the transportation of up to approximately 9,400 Mcf of natural gas per day (at 14.73 psia) and such additional volumes as Applicant may have capacity to transport from time to time on the best efforts basis for United Gas Pipe Line Co. (United). United has requested Applicant to take receipt of volumes of gas for United's account from the block 57 field, Eugene Island area, offshore Louisiana and transport said gas through Eugene Island area, offshore Louisiana and transport said gas through Applicant's capacity in facilities proposed to be constructed from the block 57 field to United's existing authorized facilities in block 32, Eugene Island area, offshore Louisiana. The transportation of gas for United's account will be on an Mcf-for-Mcf basis.

Pursuant to a transportation agreement dated April 5, 1978, United gas agreed to compensate Applicant for performing the transportation service described herein by paying Applicant a monthly demand charge transportation rate calculated to reimburse Applicant for that portion of Applicant's investment in the facilities proposed to be constructed from the block 57 field to block 32, Eugene Island area, offshore Louisiana, attributable to United's use of said facilities.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate if required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12160 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. RP72-121; PGA78-2]

SOUTHWEST GAS CORP.

Change in Rates Pursuant to Purchased Gas Adjustment Clause

APRIL 26, 1978.

Take notice that Southwest Gas Corp. ("Southwest") on April 20, 1978, tendered for filing substitute 24th revised sheet No. 3A and 25th revised sheet No. 3A pursuant to section 9, purchased gas adjustment clause ("PGA"), of the general terms and conditions contained in its FERC gas tariff, original volume No. 1. The purpose of said filing is to: (1) Track the portions of Southwest's increased purchased gas costs effective on April 1, 1978, and April 2, 1978, in accordance with the Commission's letter order dated April 5, 1978, in docket No. RP72-121.

Southwest has requested waiver of its PGA provisions and applicable Commission regulations as necessary to permit Southwest to track each portion of its increased purchased gas costs on April 1, 1978, and April 2, 1978, respectively. Southwest states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Co., and California-Pacific Utilities Co.

Any person desiring to be heard, or to protest said filing, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12159 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. CP78-42]

UNITED GAS PIPE LINE CO.

Filing of Original Tariff Sheets

APRIL 26, 1978.

Take notice that on April 3, 1978, United Gas Pipe Line Co. (United) tendered for filing with the Federal Energy Regulatory Commission (Commission) original sheet Nos. 1067 through 1084 to its FERC gas tariff, original volume No. 2, being a transportation agreement dated October 19, 1977, with Amoco Production Co. It is proposed that these tariff sheets become effective on March 13, 1978.

United states that copies of these tariff sheets have been mailed to Amoco Production Co.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 10, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12161 Filed 5-3-78; 8:45 am]

[6450-48]

Economic Regulatory Administration

[ERA Docket No. 77-006-LNG, FPC Docket No. CP77-330, etc.]

EL PASO EASTERN CO., ET AL.

Time for Filing Written Comments and Availability of Transcript of Oral Argument

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of time for filing written comments and availability of transcript of oral argument.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of the time in which parties and other interested persons may file written comments responding to or supplementing statements made at the oral argument in ERA Docket No. 77-006-LNG in Houston, Tex., on April 17 and 18, 1978. ERA also gives notice of the times and places the transcript of the oral argument may be inspected by the public.

DATES: Written comments to be filed by 4:30 p.m., May 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen, Office of Fuels Regulation, 2000 M Street NW., Room 6318, Washington, D.C. 20461, 202-254-9730.

Martin S. Kaufman, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5116, Washington, D.C. 20461, 202-566-9380.

SUPPLEMENTARY INFORMATION: ERA hereby gives notice that it will accept filing of written comments, which will become part of the public file in *El Paso Eastern Company, et al.*, ERA Docket No. 77-006-LNG. These written comments should address, respond to, or supplement statements made during the oral argument in this case held on April 17 and 18, 1978, in Houston, Tex. Such written comments should be filed with Finn K. Neilsen, the Office of Fuels Regulation, Room 6318, 2000 M Street NW., Washington, D.C. 20461, no later than 4:30 p.m. on May 16, 1978. The envelope and first page of the written comment should contain the designation "El Paso Eastern Co., et al."

ERA hereby gives further notice that the transcript of the oral argument in ERA Docket No. 77-006-LNG will be available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except for Federal holidays, on April 25, 1978, at the following locations:

Department of Energy, Houston Joint Support Group, Suite 610, 1 Allen Center, 500 Dallas Street, Houston, Tex. Contact: Herbert F. Buchanan, Coordinator.
ERA Docket Room, 2000 M Street NW., Room 6317, Washington, D.C.

Issued in Washington, D.C., April 28, 1978.

DORIS J. DEWTON,
Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-12100 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. ER78-322]

Federal Energy Regulatory Commission

DUKE POWER CO.

Supplement to Electric Power Contract

APRIL 26, 1978.

Take notice that Duke Power Co. (Duke Power) tendered for filing on April 20, 1978 a supplement to the Company's Electric Power Contract with Rutherford Electric Membership Corp. Duke Power states that this contract is on file with the Commission

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and has been designated Duke Power Co. Rate Schedule FPC No. 139.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following new delivery point; Delivery Point No. 13 with a designated KW demand of 2600 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeding the effective date. Duke Power proposes an effective date of April 19, 1978.

According to Duke Power copies of this filing were mailed to Rutherford Electric Membership Corp. and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All Such petitions or protests should be filed on or before May 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12138 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. ID-1829]

EDWARD AUSTIN CROOKE

Application

APRIL 26, 1978.

Take notice that on April 13, 1978, Edward Austin Crooke, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President and Secretary, Baltimore Gas & Electric Co., Public Utility.

Director, Safe Harbor Water Power Corp., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12139 Filed 5-3-78; 8:45 am]

[6740-02]

[Project No. 2635]

GREATER NORTHERN NEKOOSA CORP.

Application for License

APRIL 26, 1978.

Public notice is hereby given that an application for license was filed under the Federal Power Act, 16 U.S.C. §§ 791a-825r, on January 3, 1967, and supplemented on August 4, 1967, December 16, 1968, February 5, 1971, and February 8, 1971, by Great Northern Paper Co., now known as Great Northern Nekoosa Corp. (correspondence to: Mr. Ronald D. Jones, LeBoeuf, Lamb, Leiby & Macrae, 140 Broadway, New York, N.Y. 10005) for the constructed Caucomogomoc Headwater Storage Project, FERC No. 2635, located on the Caucomogomoc Stream, West Branch of the Penobscot River in Piscataquis County, Maine. The Penobscot River is a navigable waterway of the United States.

The existing Caucomogomoc Headwater Storage Project consists of: (1) a composite dam about 905 feet long and 12 feet high, made of rock filled timber crib spillway section 105 feet long which is tied to the right abutment by an earth dike 500 feet long and to the left abutment by a similar dike 300 feet long; (2) a reservoir with surface area of 5,728 acres at an elevation 993 feet, and usable storage capacity of 32,400 acre-feet at a drawdown of 10 feet; and (3) four 12-foot wide timber gates and one 6-foot wide timber gate at spillway section.

Any person desiring to be heard or to make protest with reference to said application should, on or before June 30, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

The public should take further notice that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 05-91, 91 Stat. (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of these proceedings were specifically transferred to the FERC.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12140 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. ER78-317]

INDIANA & MICHIGAN ELECTRIC CO.

Extension of Duration of Initial Rate Schedule

APRIL 26, 1978.

Take notice that American Electric Power Service Corp. (AEP) on behalf of its affiliate, Indiana & Michigan Electric Co. (Indiana Co.) tendered for filing on April 19, 1978, an extension of duration of an initial rate schedule, Amendment No. 13 among Indiana Co., Consumers Power Co. (Consumers) and the Detroit Edison Co. (Detroit). AEP indicates that this Amendment provides for continuing the duration of Service Schedule H—Unit Power that is listed in Appendix I of Amendment No. 9, dated November 1, 1975. AEP states that Consumers and Detroit again desire to purchase Unit Power based on the availability of Gavin Station from Indiana Co. in the following amounts:

April 1, 1978—April 30, 1978..... 200,000KW
May 1, 1978—Sept. 30, 1978..... 400,000KW
Oct. 30, 1978—Oct. 31, 1978..... 200,000KW

Applicant has requested the Commission to accept the Amendment for filing to become effective on April 1, 1978 as it commenced the sale of Unit Power to the Michigan Co. on that date following the settlement of the coal strike, and in that connection has requested waiver of any requirements of the Commission's Regulations which may not have specifically complied with in the tendered filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before May 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12141 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. ER78-319]

IOWA PUBLIC SERVICE CO.

Proposed Interconnection Agreement

APRIL 26, 1978.

Take notice that Iowa Public Service Co. (IPS) on April 18, 1978, tendered for filing an Interconnection Agreement dated Mach 24, 1978, with the City of West Bend, Iowa.

IPS indicates that the Interconnection Agreement includes Service Schedules providing for transactions between the parties similar to those contained in Service Schedules under the Mid-Continent Area Power Pool Agreement. IPS further indicates that the Agreement contains one additional Schedule, in addition to those aforementioned, which provides for inadvertent energy exchange service.

IPS requests waiver of the Commission's notice requirements to allow for an effective date of May 1 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20425, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12142 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket Nos. E-8641, E-8476, E-8251 and E-8169]

NEW ENGLAND POWER CO.

Extension of Time

APRIL 25, 1978.

On April 4, 1978, New England Power Co. (NEPCO) filed a motion for an extension of time within which to flow-through to its customers the refunds from Boston Edison Co., as ordered by Opinion No. 803-B, issued February 6, 1978, in the captioned proceeding. By Opinion Nos. 809 and 809-A, issued July 6, 1977, and December 9, 1977, respectively, Boston Edison was ordered to refund to NEPCO and its other customers amounts collected, with interest, pursuant to the rates which were the subject of proceedings at Docket Nos. E-7738 and E-7784.

On February 23, 1978, the Commission noticed Boston Edison's revised tariff filings made February 10, 1978, in compliance with Opinion Nos. 809 and 809-A. No action has been taken to date by the Commission on Boston Edison's revised cost of service schedules and amendments.

In its April 4 motion NEPCO states that the amount of refunds, if any, which NEPCO is to receive from Boston Edison is unknown. Therefore, it is impossible to comply with the dates set by Opinion No. 803-B for the flow-through of refunds to NEPCO customers.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 2, 1978, within which to comply with Opinion No. 803-B by making the ordered flow-through refunds. If, however, compliance cannot be achieved by October 2, 1978, NEPCO shall promptly file a further request for an extension of time.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12164 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. ER78-321]

NEW YORK STATE ELECTRIC AND GAS CORP.

Filing

APRIL 26, 1978.

Take notice that New York State Electric and Gas Corp. on April 17, 1978, tendered for filing a fuel cost adjustment clause applicable to their agreement with Peach Lake Utilities, Inc. (FPC Rate Schedule No. 26).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12143 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. RP78-46]

NORTHERN NATURAL GAS CO.

Order Accepting for Filing and Suspending proposed Emergency Storage Surcharge, Subject to Conditions, and Establishing Hearing Procedures

APRIL 26, 1978.

On March 6, 1978, Northern Natural Gas Co. (Northern) tendered for filing a revised tariff sheet[1] reflecting a proposed 5.23¢ per Mcf surcharge to the commodity portion of Northern's jurisdictional rates. The proposed surcharge, which would be effective during the period April 27, 1978, through December 26, 1978, is designed to recover $13,673,925, the jurisdictional portion of the total costs of $16,484,339, for an emergency storage service rendered to Northern by Northern Illinois Gas Co. (NI-Gas) during a 60-day period during the months of January and February, 1978. The gas will be redelivered to NI-Gas during a second 60-day period during the months of July and August, 1978. The transaction was made pursuant to Section 2.68 of the Commission's General Policy and Interpretations.

The filing was noticed on March 13, 1978, with petitions or protests to be filed on or before March 29, 1978. Several responses thereto were received.[2] Four parties request a hearing to determine the reasonableness of the charges by Northern for the emergency service. One of those parties also requested a suspension of the surcharge in conjunction with its request for a hearing. The Greely Gas Co. and the Department of Water and Gas of the city of Duluth filed letters in support of Northern's application.

In response to the requests for suspension and hearing, Northern, on April 13, 1978, filed a motion for a one-

[1] Fifteenth revised Sheet No. 4a. Third Revised Volume No. 1 to Northern's FERC Gas Tariff.

[2] See attachment.

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day suspension of its proposed emergency storage service surcharge. In support of its need to recover the storage service costs, Northern incorporates by reference the "revenue and expense schedules" contained in Northern's Docket No. RP77-56 general rate increase (which went into effect October 27, 1977) and the proposed Stipulation and Agreement in such Docket which was certified to the Commission by the Administrative Law Judge on April 6, 1978. Northern also incorporates by reference the "revenue and expense schedules" which will be contained in the general rate increase filing which Northern stated it would file on April 21, 1978.[3] Northern believes that its filing of March 6, 1978, contains factors which demonstrate the reasonableness and lawfulness of the proposed surcharge. If, however, the Commission cannot determine the reasonableness of the NI-Gas storage service on the basis of the information before it, Northern urges the Commission to suspend the effectiveness of the filed tariff sheet for one day or until April 28, 1978, in order to avoid any further delay in collection of these costs. Northern contends that it is presently incurring losses resulting from the cost of carrying the payments to NI-Gas. Northern states that its distribution customers are in accord with the desirability of timely collection of these costs and have adjusted their rates accordingly. Northern requests that the Commission grant such waivers of its Rules and Regulations as would allow Northern to begin collecting the 5.23¢ per Mcf surcharge.

DISCUSSION

As Northern notes in its filing, this Commission denied Northern's requests to collect the charges associated with this service in its general rate case filing in Docket No. RP77-56 and in its most recent PGA rate increase filing because those requests required a pre-approval of the rates, terms, and conditions of a specific proposal under Section 2.68 of the Commission's General Policy and Interpretations.[4] However, the Commission did state that the proposed transaction generally fell within the definition of Section 2.68.[5] now that the service has been rendered. Northern requests permission to recover the amounts charged for the service.

We note that Northern has no tracking authority to collect the costs associated with such service. However, Northern has requested incorporation by reference cost and revenue data from either or both its filed general rate case in Docket No. RP77-56 as well from its latest general rate case filed on April 21, 1978. Northern's proposed incorporation by reference does not constitute satisfactory compliance with Section 154.63 of the Regulations. However, the Commission shall permit Northern to collect its surcharge subject to refund after a one day suspension upon condition that Northern file a cost of service based upon the 12 months of most recently available actual cost and revenue experience accompanied by supporting testimony and exhibits to justify the necessity of increasing its overall rates to collect the emergency storage service costs. The Commission shall establish hearing procedures to resolve this issue as well as the issue of the prudency of the costs paid by Northern for the emergency storage service. The filing by Northern of the cost and revenue data discussed above shall be deemed good cause for waiver of the filing requirements of Section 154.63 of the Regulations.

For good cause shown, the petitions to intervene shall be granted.

The Commission finds: (1) Good cause exists to accept for filing and suspend for one day Northern's proposed surcharge filing as hereinafter ordered and conditioned.

(2) Good cause exists to grant waiver of Section 154.63 of the Commission's Regulations, as hereinafter conditioned.

(3) Participation in this proceeding of the parties listed in the Attachment to the order who petitioned to intervene in this case may be in the public interest.

The Commission orders: (A) Northern's March 6, 1978, filing is hereby accepted for filing and suspended for one day until April 28, 1978, when they shall become effective, subject to refund, upon filing of a motion pursuant to Section 4 of the Natural Gas Act and as further conditioned in Ordering Paragraph (B).

(B) Within 30 days from the date of issuance of this order, Northern shall file direct evidence to support its proposed surcharge. Such evidence shall include actual cost and revenue data for the twelve months of most recently available actual cost and revenue experience accompanied by prepared testimony and exhibits to support the necessity of increaseing its overall rates to recover the emergency storage service costs.

(C) The filing by Northern of the cost and revenue data in satisfactory compliance with Ordering Paragraph (B) above shall be deemed good cause for waiver of the filing requirements of Section 154.63 of the Regulations.

(D) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 14, 15, and 16 thereof, and the Commission's Rules and Regulations, a hearing shall be held in this proceeding to determine (1) the prudency of the costs paid by Northern for the emergency service and (2) the necessity of the proposed surcharge to ensure that Northern will collect the prudent costs of the storage service.

(E) The Commission Staff shall prepare and serve top sheets on all parties within 90 days of the date of service of Northern's direct case in this proceeding.

(F) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge pursuant to 18 CFR 3.5(d), shall convene a prehearing conference in this proceeding within 10 days after the service of top sheets by the Staff, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, for the purposes of establishing procedures for the investigation and hearing to be held pursuant to this order. The Presiding Judge shall be authorized to modify all procedural dates and to establish further procedures as may in his judgment be required for purposes of the investigation and hearing pursuant to this order. The Presiding Judge shall also be authorized to rule upon all motions except motions to consolidate, sever, or dismiss, as provided for in the Rules of Practice and Procedure.

(G) The above-noted petitioners to intervene are permitted to intervene in this proceeding subject to the Commission's Rules and Regulations; *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

ATTACHMENT

A. List of petitioners to intervene:
Farmland Industries, Inc.[8]
Iowa Electric Light & Power Co.[8]
Iowa Power & Light Co.
Iowa Public Service Co.[8]
Iowa Southern Utilities Co.[7][8]
Metropolitan Utilities District of Omaha
Michigan Power Co.[8]
Michigan Wisconsin Pipe Line Co.
Minnesota Gas Co.[7]
Minnesota Municipal Utilities Association.[6][8]
The Nebraska Natural Gas Co.[8]
North Central Public Service Co., Division of Donovan Co.[7][8]
North Central Public Service Corp.[7][8]
Northwestern Public Service Co.[8]
Peninsular Gas Co.[8]
Terra Chemicals International, Inc.[6]
Wisconsin Gas Co.[7]
Iowa-Illinois Gas & Electric Co.[7]
Joint Petition of Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin)[7][8]
B. List of Parties Filing Notices of Intervention
The Michigan Public Service Commission.
The Public Utilities Commission of The State of South Dakota.[6][7]

[FR Doc. 78-12165 Filed 5-3-78; 8:45 am]

[3]The filing was subsequently tendered by Northern on April 21, 1978, in Docket No. RP78-56.
[4]Order issued December 5, 1977, *reh. denied,* order issued January 13, 1978.
[5]*Ibid.*

[6]Requested Hearing.
[7]Filed out of Time.
[8]Supports Northern.

[6740-02]

[Docket No. RM77-14]

NORTHERN NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

APRIL 25, 1978.

Take notice that Northern Natural Gas Co. (Northern) on April 14, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2. Northern states that such filing is in compliance with Opinion No. 11, in Docket No. RM77-14, issued on March 22, 1978 wherein the Commission approved the initial Research, Development and Demonstration Program of the Gas Research Institute (GRI).

Norhtern's filing consists of Second Revised Sheet Nos. 71 and 72, Third Revised Volume No. 1 and First Revised Sheet No. 1i and Original Sheet No. 1j for Original Volume No. 2. These tariff sheets establish a new section, "Annual Rate Adjustment to Reflect Gas Research Institute Charges," as a part of the General Terms and Conditions of Northern's tariff.

Northern has proposed a variation to the normal billing procedure for the 1978 payments to GRI by deferring the billing of the 1978 GRI payments until December 27, 1978, and to bill such amounts during 1979 to coincide with the next purchased gas cost adjustment. This is in compliance with a request of Northern's customers to avoid too frequent changes in their filed rates.

Northern further states that during the months of June through December, 1978, it proposed to apply the 1978 GRI surcharge to its "Program Funding Services" volumes and make payments to GRI of the resulting amounts. These amounts would be recorded in Account No. 186 (Miscellaneous Deferred Debts) and deferred.

Later in 1978, Northern will file to become effective December 27, 1978, the appropriate 1979 unit GRI surcharge as approved by the Commission plus the GRI surcharge to recover the actual amount of the GRI payments made for the months of June through September, 1978 and the estimated amounts for the GRI payments for the months of October through December, 1978.

Northern states that copies of its filing were served on all jurisdictional customers and affected State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12144 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. OR78-5 (formerly ICC Docket No. NOR 35794, et al.)]

NORTHVILLE DOCK PIPE LINE CORP. AND CONSOLIDATED PETROLEUM TERMINAL, INC., ET AL.

Extension of Time

APRIL 25, 1978.

On April 18, 1978, Staff Counsel filed a motion to extend the time for filing replies to the administrative appeals filed April 3, 1978, from orders issued by the Interstate Commerce Commission (ICC) on September 30, 1977. The motion states that none of the parties to this proceeding object to the requested extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 15, 1978, within which to file replies to the administrative appeals filed April 3, 1978, in the above referenced proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12166 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. ER78-318]

OTTER TAIL POWER CO.

Rate Filing

APRIL 26, 1978.

Take notice that on April 18, 1978, Otter Tail Power Co. (Otter Tail) tendered for filing rate schedules covering scheduling and dispatching service provided to Cooperative Power Association (Association) and Central Power Electric Cooperative (Central). An effective date of April 1, 1978, is requested for the increase, estimated at approximately $4,527 per year, in rates to be charged the Association per Supplement No. 3 to Otter Tail's Rate Schedule FERC No. 154. An effective date of March 20, 1978, is requested for the increase estimated at approximately $3.071, in rates to be charged Central per Supplement No. 3 to Otter Tail's Rate Schedule FERC No. 121.

Otter Tail requests waiver of the Commission's notice requirements to allow these two Schedules to become effective on April 1, 1978, and March 20, 1978, respectively.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12145 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. ID-1827]

RAYMOND E. DONOVAN

Application

APRIL 26, 1978.

Take notice that on April 4, 1978, Raymond E. Donovan, filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President, The Connecticut Light and Power Co., public utility.
Vice President, The Hartford Electric Light Co., public utility.
Vice President, Western Massachusetts Electric Co., public utility.
Vice President, Holyoke Water Power Co., public utility.

[8]Requested rate suspension.

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Vice President, Holyoke Power and Electric Co., public utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12146 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. CP78-281]

SOUTHERN NATURAL GAS CO. AND MID LOUISIANA GAS CO.

Joint Pipeline Application

APRIL 27, 1978.

Take notice that on April 11, 1978, Southern Natural Gas Co. (Southern), P.O. Box 2563, Birmingham, Ala. 35202, and Mid Louisiana Gas Co. (Mid Louisiana), 300 Poydras Street, New Orleans, La. 70130 (collectively referred to as Applicants), filed in Docket No. CP78-281 a joint application in accordance with the provisions of Section 7(c) of the Natural Gas Act as amended, and the rules and regulations of the Federal Power Commission as adopted by the Federal Energy Regulatory Commission (Commission), for temporary and permanent certificates of public convenience and necessity authorizing the exchange of gas, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The Applicants state that Mid Louisiana has arranged to purchase up to 6,000 Mcf of natural gas per day produced from the Block 71, Chandeleur Sound Area near the Eloi Bay Field, St. Bernard Parish, Offshore, Louisiana. Pursuant to an Exchange Agreement between Mid Louisiana and Southern, dated March 22, 1978, Southern will take delivery of the gas for Mid Louisiana's account through its existing 6-inch Eloi Bay pipeline. As more fully stated in the application, Southern will exchange the gas with Mid Louisiana by redelivering a thermally equivalent volume of gas to Mid Louisiana at the existing authorized exchange points between Southern and Mid Louisiana at the Cargas Exchange Point, which is located at the outlet of Ashland Oil, Inc.'s existing Cargas Compressor Station near Perryville in Ouachita Parish, Louisiana, where Southern has available gas from the Monroe Field, Louisiana, and the Perryville Exchange Point, which is located at the existing interconnection of the facilities of Southern and Mid Louisiana at Perryville in Ouachita Parish, Louisiana. The volumes of gas proposed to be exchanged under the application and the Exchange Agreement, dated March 22, 1978 will be exchanged on a thermally equivalent basis at no charge to either party.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12167 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket Nos. RP76-136 and RP77-26]

TRANSCONTINENTAL GAS PIPE LINE CO.

Order Remanding in Part Proposed Settlement Agreement

APRIL 26, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.[1]

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On November 1, 1977, Transcontinental Gas Pipe Line Co. (Transco) presented to the Presiding Administrative Law Judge in these proceedings a proposed settlement agreement which he certified to the Commission for its consideration on November 3, 1977. For the reasons stated below, the Commission shall remand the contested issues to the Presiding Judge for hearing and hold in abeyance the remainder for consideration later with the contested issues.

Proceedings in the captioned dockets were initiated on July 30, 1976, when Transco tendered for filing in Docket No. RP76-136 revised tariff sheets reflecting an $81.3 million rate increase, based on the twelve months ending April 30, 1976, as adjusted for known

[1] The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

and measurable changes through January 31, 1977. Transco requested that the proposed rate increase become effective on September 1, 1976. By order issued August 30, 1976, the Federal Power Commission accepted the revised tariff sheets for filing and suspended their use for five months until February 1, 1977, when they were permitted to become effective, subject to refund.

On December 30, 1976, Transco tendered for filing in Docket No. RP77-26 revised tariff sheets to increase its rates for interruptible transportation services rendered under Order No. 533[2] to various industrial consumers. Transco had been charging 22 cents per Mcf plus fuel and line loss for transporting "533" gas anywhere on its system and had not proposed to increase this rate in its filing in Docket No. RP76-136. In Docket No. RP77-26, Transco proposed to increase its rates for interruptible transportation to 28.2 cents per dekatherm (dth) in Transco's rate Zone 1, 29.8 cents per dth in Zone 2, and 31.5 cents per dth in Zone 3, plus fuel. Transco requested an effective date of January 31, 1977. By order issued on January 31, 1977, the FPC accepted for filing the revised tariff sheets tendered December 31, 1976, and suspended them for one day, permitting them to become effective, subject to refund on February 1, 1977. Docket No. RP77-26 was consolidated with Docket No. RP76-136 for purposes of hearing and decision.

In addition to certain formal hearings, settlement conferences were held intermittently in these proceedings since January 4, 1977, which resulted in the settlement agreement. The proposed agreement, if approved would resolve all issues which had arisen in this proceeding except four: (1) rate base treatment of certain advance payments, (2) rate base treatment for unsuccessful alternate gas supply costs, (3) rate of return on equity, and (4) carrying charges on unrecovered demand charge credits. The issue of rate base treatment for certain advance payments was severed from this proceeding by order issued October 21, 1977, and is to be resolved in the consolidated proceeding in Transcontinental Gas Pipe Line Corporation, Docket Nos. RP74-48 and RP75-3 (AP76-1), et al. The unsuccessful alternate gas supply costs issue is to be determined by the outcome of *Transcontinental Gas Pipe Line Corporation* v. *Federal Energy Regulatory Commission*, No. 77-1712 in the United States Court of Appeals for the District of Columbia Circuit. The remaining two issues of rate of return and carrying charges on unrecovered curtailment credits are reserved and are the subjects of an initial decision issued February 13, 1978, by Presiding Judge Stephen L. Grossman.

The settlement agreement, in summary, provides for the following:

Article I presents the procedural history in the consolidated dockets and the issues not covered by the instant agreement.

Article II references the settlement cost of service, attached as Appendix A, and the rates based on the settlement cost of service using both historical zone differentials and revised zone differentials. The tariff sheets track various rates changes effective from February 1, 1977.

Article III provides for the tracking of supplier rate increases and decreases and the flow-through of supplier refunds, except for suppliers' storage service rate changes and refunds, pursuant to Section 22 of the General Terms and Conditions of Transco's FPC Gas Tariff, Second Revised Volume No. 1.

Article IV provides that the propriety of inclusion in the settlement cost of service of $3,300,237, which represents amortization and rate base treatment of expenditures by Transco in the unsuccessful search for alternate gas supplies, is reserved pending judicial review of that issue in Opinion No. 801.

Article V provides that the issue of advance payments is reserved for hearing, inasmuch as that issue has been severed from the instant proceeding and consolidated with other unresolved advance payments dockets of Transco into a single proceeding. Pending resolution of the issue in such separate proceeding, Transco is collecting subject to refund amounts related to the costs of advance payments.

Article VI provides that the issues reserved for decision in the proceeding are (1) the proper rate of return and (2) whether carrying charges on unrecovered curtailment credits should be permitted. This article would also permit Transco to revise its tariff to provide tracking curtailment credits on a current basis.

Article VII provides that Transco will reduce its rates for long-haul interruptible transportation services to 23.0 cents, 23.5 cents and 24.0 cents per dth in zones 1, 2 and 3, respectively and that it will refund at 9 percent interest all amounts collected in excess of the reduced rates. This article also provides for a moratorium until July 1, 1979, as an affective date of any proposed change by either Transco or a party in its interruptible transportation rates.

Article VIII provides that Transco will file, as part of its tariff, transportation service rate schedules which will be applicable to all interruptible transportation services which qualify.

Article IX provides that the rates to be charged for the transportation of emergency gas shall bear the same rate levels as for interruptible transportation services. Transco will refund excess revenues collected for emergency transportation service at 9 percent interest.

Article X provides for increased zone differentials of 5.0 cents per dth between zone 1 and zone 2, and 6.4 cents per dth between zone 2 and zone 3, effective as of October 1, 1977. Moreover, the article provides that the agreement is so conditioned that if the Commission does not accept the proposed differentials, the issue of zone differentials must be remanded for hearing. If approved, the revised zone differentials would remain in effect without change until July 1, 1979.

Article XI permits Transco to revise its tariff to provide for monthly carrying charges to be credited or debited for overcollections or undercollections of unrecovered purchased gas costs.

Article XII provides that Transco will refund without interest any excess transportation revenues which are above the amount credited to the settlement cost of service.

Article XIII permits Transco to track in its rates increases or decreases reflected in its cost of service for changes in the Federal income tax rate of 48 percent.

Article XIV provides for additional refunds by Transco in the event the Commission's decision on the reserved issues so requires.

Article XV contains a general reservation in connection with the negotiated settlement.

Article XVI provides for effectiveness of the agreement upon the Commission's permitting the proposed revised tariff sheets to become effective and accepting, except as permitted in article X, the agreement without modification.

Initial comments supporting, or not opposing, the proposed settlement agreement were filed by numerous parties.[3] Initial comments opposing

[2] Policy With Respect to Certification of Pipeline Transportation Agreements, Docket No. RP75-25, FPC Order No. 533 (August 28, 1975) and FERC Order No. 2 (February 1, 1978).

[3] Elizabethtown Gas Co. (Elizabethtown); Consolidated Gas Supply Corp. (Consolidated); Corning Glass Works, Lithium Corp. of America, Sayles Biltmore Bleacheries, Inc., and the Farrington Co. (Corning, et al.); Dan River, Inc., and Philip Morris, Inc.; city of Danville, Va.; Atlanta Gas Light Co. (Atlanta); Cannon Mills Co., Cone Mills Corp., Nabisco, Inc., and Pine Hall Brick & Pipe Co. (industrial process users); Public Service Electric & Gas Co. (PSE&G); CNG Transmission Co.; Burlington Industries, Inc.; Piedmont Natural Gas Co., Inc., Public Service Co. of North Carolina, Inc., and North Carolina Natural Gas Corp. (North Carolina companies); Consolidated Edison Co. of New York (Con Edison); the North Carolina Utilities Commission; Owens-Cor-

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the settlement agreement were filed by the Public Service Commission of the State of New York (New York), Philadelphia Gas Works (PGW), and Mesa Petroleum Co. (Mesa) which also requested leave to intervene out of time in the proceeding.

New York states that it opposes Commission approval of the settlement agreement "* * * to the extent it purports in article X to enlarge the existing rate differentials between Transco's three zones, or otherwise reflects the provisions of article X." New York argues that the Commission could not lawfully prescribe a new and enlarged rate differential in a contested proceeding unless it can conclude that the existing rate differential is not just and reasonable. New York states that there is no substantial claim that there has been a change in circumstances to warrant changing the rate differentials. It is New York's position that the existing rate differentials should be maintained, not increased. Any increase in existing zone differentials, moreover, would be inconsistent with Commission policy favoring systemwide rates, according to New York.

Aside from the rate zone questions raised by article X, however, New York states that it finds the proposed settlement acceptable inasmuch as it would resolve certain cost of service issues, as well as the interruptible and emergency transportation rate issues. New York supports the settlement interruptible and emergency transportation rates, which with some minor increases, maintain the existing rate levels to Transco's customers. New York proposes that the Commission approve the settlement subject to the elimination of the zone allocation provisions of article X, and revision of appendices to reflect the existing rate zone differentials.

Philadelphia Gas Works (PGW) submitted comments opposing the settlement both as to the proposed transportation rates for long-haul interruptible service and the design of rates and zone rate differentials. PGW's objection to the interruptible transportation rate is predicated on what PGW states is its failure to recover the full cost of rendering such service. Adoption by the Commission of the settlement rates would cause the customers of Transco, through paying higher unit cost of transmission in Transco's rates, to subsidize those parties using the Transco system to transport interruptible and emergency gas, according to PGW, and would have a discriminatory effect. PGW argues additionally that the Commission's adopting the transportation rates would be contrary to the "national energy policy" inasmuch as the proposed settlement would subsidize the purchase of gas by commercial and industrial users and create an incentive to consume natural gas as opposed to an alternative source of fuel. PGW also contends that the settlement is contrary to Commission policy as set forth in *Crab Run Gas Company, et al.*, Docket Nos. CP76-24, et al., order issued July 22, 1976. PGW notes that in an order issued October 31, 1977, in the captioned proceeding, the Commission denied a motion of the North Carolina companies stating that it could not accept a rate of 22 cents per dth for interruptible transportation service because such rate would be less than fully compensatory. With respect to the proposed zone differentials, PGW asserts that the record does not support a finding that the rates currently in effect are unjust, unreasonable or discriminatory, nor does it contain substantial evidence supporting the revised zone differentials.

Mesa opposes the settlement on the ground that it would permit Transco to include in rate base an advance payment made to Mesa after the test year, as adjusted, in the instant proceeding. Mesa states that on February 4, 1977, Transco made an installment advance payment to Mesa in the amount of $1,325,568, pursuant to an advance payment agreement between the parties dated December 18, 1975. Mesa objects to Transco's inclusion in its rate base of advance payments booked between January 31 through August 31, 1977, a period extending 7 months beyond the test period as adjusted, which provides for a January 31, 1977, cut off date. Therefore, in addition to granting it leave to intervene in the proceedings, Mesa requests that the Commission deny Transco's proposed inclusion of the February 4, 1977 advance payment in its rate base, or alternatively, sever and direct a hearing on that portion of the settlement proposal.

We view Mesa's objection to the proposed settlement as without basis to support our rejecting the agreement as it relates to Mesa's advance payment. Nor would it be appropriate to sever the rate base treatment of that advance in order to hold a hearing on its propriety. As noted by several parties in their reply comments, a separate proceeding has been set for hearing on all Transco's pending advance payment matters,[1] including the tracker containing the contested Mesa advance.

Mesa's interests cited in its request for permission to intervene do not lie in this proceeding, but rather in the separate, consolidated proceeding which concerns advance payments issues. Accordingly, Mesa's petition to intervene out of time in this proceeding will be denied without prejudice to Mesa's petitioning to intervene in Docket Nos. RP74-48 and RP75-3 (AP76-1), et al.

Numerous parties filed reply comments urging the Commission's approval of the settlement agreement and in particular seeking to rebut the objections raised to the proposed interruptible transportation rates and zone differentials.

Prepared direct testimony was filed by several witnesses on these contested issues. On July 25, 1977, a hearing was convened for the purpose of submitting evidence and cross-examining witnesses. However, at the July 25, 1977, phase of the hearing, only testimony related to cost of service issues was cross-examined. Cross-examination of cost allocation and rate design issues, including the issue of interruptible transportation rates, was deferred until September. On September 27, 1977, the cost allocation and rate design phase of the hearing was convened. However, no cross-examination of those issues was held, and the hearing was recessed in order to permit the parties to continue settlement negotiations. On November 1, 1977, the parties requested that the presiding judge certify the subject settlement agreement to the Commission.

The prepared direct testimony on the issue of the proper interruptible transportation rate level reveals a wide variety of recommended rates ranging from less than 22 cents per Mcf, the rate Transco has historically charged, to the staff's recommendation that the rates be increased to 36.45 cents, 42 cents, and 47.48 cents per dth for zones 1, 2, and 3, respectively, including compressor fuel and line loss. In particular, the parties submitting testimony related to the interruptible long-haul transportation service disagree on the proper method of allocating fixed costs related to the transmission of gas.

Transco's witness Quinn recommends that the historic 22 cents per Mcf rate, plus fuel and line loss reimbursement, be continued systemwide for long-haul interruptible transportation rates (R-342). Transco argues that the historic rate represents a fair balancing of the interests of all customers in view of the significantly higher price of the separate gas supplies purchased by its customers pursuant to Order No. 533 in an attempt to ameliorate the effect of the heavy curtailment on the Transco system. Transco argues that the high priority uses of such gas, for which Transco provides transportation service, constrain Transco not to charge a transportation rate which would discourage use of the service.

Staff in its testimony, however, argues that the historic 22 cents per Mcf rate for transporting gas anywhere on Transco's system is inadequate to recover the costs to render that service and is unduly discriminatory and preferential toward Transco's customers (R- 128, 129). Whenever additional volumes of gas are transported, it adds, those volumes utilize the same facilities for the transmission of gas as other volumes and should share in the overall costs. Accordingly, staff objects to interruptible gas being given special consideration and contends that the transportation rate should be based on fully allocated transmission costs. Any additional volumes transported reduce the unit transmission cost to all customers, and the benefit resulting from greater utilization should be flowed back to each customer, asserts staff. Otherwise, a transportation rate which does not compensate for the costs of rendering that service is being subsidized by other customers not using the service. In addition, staff recommends that revenues received by Transco from these transportation services based on fully allocated rates be credited in Transco's PGA filing, when volumes exceed the total volumes estimated in this case (R-252).

Numerous customer groups also sponsored testimony on the proper rate level for interruptible transportation service. The North Carolina companies' witness Clay recommends rates developed on the basis of 40 percent of the fixed costs exclusive of fuel, resulting in charges of 1.1 cents per Mcf per 100 miles, or 21 cents per Mcf in Zone 2 (R-190). Mr. Clay argues that the rate should create an incentive to transport interruptible gas and that staff's assigning 100 percent of fixed costs to such transportation unduly penalizes the most heavily curtailed customers. Brooklyn Union recommends a rate of 25.5 cents per dth which represents a uniform systemwide rate based on Transco's fully allocated jurisdictional costs (R-203). A group of industrial customers of Transco which receive interruptible transportation service from Transco for gas they purchase in accordance with Order No. 533 recommends a rate for such services which includes 50 percent as much of the fixed costs per unit of gas transported as are included in the other rates of the pipeline. Their recommended rate, 23.19 cents per dth using Transco's cost of service, would also be applied systemwide (R-222). Their witness reasons that the pipeline capacity used for transportation of Order No. 533 gas would otherwise be idle and that it would be inequitable and contrary to the policy of Order No. 533 to charge purchasers of such gas a high transportation charge when they have already had to resort to purchasing higher priced natural gas. CNG Transmission Co., in its testimony, recommends that the rates charged by Transco for transporting Order No. 533 gas be set no higher than the historical 22 cents per Mcf level (R-228).

Similarly, with regard to the issue of zone differentials, the underlying record reveals a variety of positions. In its own direct case, Transco proposed no change from the historical zone differentials (R-86). The staff, however, in allocating jurisdictional costs to zones performed a two-step procedure: (1) Those costs related to volumes were allocated on the basis of gas sold and/or transported; and (2) those costs related to transmission of gas were allocated 50 percent on historical revenues and 50 percent on annual Mcf-miles (R-118). Staff states that it allocated 50 percent of the transmission costs on the basis of historical revenues to mitigate the impact of a straight Mcf-mile allocation and to give recognition to the contribution of each zone to the system (R-120). The North Carolina companies oppose maintaining historical zone differentials and favor adopting the Mcf-mile approach entirely in allocating transmission costs to zones (R-176). Brooklyn Union's witness, however, recommends retaining the historical rate zone differentials (R-196), as does the witness sponsoring rebuttal testimony on behalf of Brooklyn Union and seven other Transco customers in Zone 3 (R-271).

It is apparent from our review of the record, which reveals widely divergent testimony with respect to the contested issues under the settlement, that there is not sufficient investigation on the record of the contested issues to permit us to make a reasoned determination. Therefore, we shall establish a limited hearing for the purpose of taking evidence on the justness and reasonableness of the rate levels for emergency and interruptible transportation services and the revised zone differentials proposed in the settlement. Additional direct testimony should show what portion of the fixed transmission costs are allocated to solely transportation customers and what portion to sales customers. In addition, at the hearing parties will be afforded an opportunity to cross-exam those witnesses who have not yet been available for cross-examination on their direct testimony in the record. Any additional direct evidence should be filed on or before 30 days from the date of issuance of this order. Any rebuttal evidence should be served on or before 15 days from the date of service of direct evidence. A limited hearing on the justness and reasonableness of the contested portions of the settlement shall be scheduled by Presiding Judge Grossman. Following such hearing, the record shall be certified directly to the Commission.

The Commission will hold in abeyance consideration of the uncontested portions of the settlement agreement pending receipt of the record related to the limited hearing ordered herein. We are deferring action on the settlement to investigate and seek further evidentiary development of the contested issues addressed in the settlement agreement. However, the Presiding Judge may permit the parties to examine further the issues which have not been opposed in comments on the settlement, if the parties so desire. By holding in abeyance consideration of the uncontested issues, the Commission does not intend to impair any party's right to withdraw from the stipulation and agreement under article XVI, in the event it perceives the Commission's action herein to prejudice that party's position in the settlement.

The Commission finds: (1) It is necessary and appropriate in the public interest that hearing procedures be established for the purpose of receiving evidence and permitting cross-examination on the contested issues of the proposed settlement.

(2) Mesa's petition for leave to intervene out of time in this proceeding should be denied without prejudice to Mesa's seeking intervention in Docket Nos. RP74-48 and RP75-3 (AP76-1), et al.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission's rules of practice and procedure and the regulations under the Natural Gas Act, a public hearing shall be held concerning the justness and reasonableness of the proposed zone rate differentials and the proposed rates for long-haul interruptible transportation service under the settlement.

(B) Any additional direct testimony and exhibits concerning the issues set for hearing shall be filed on or before 30 days from the date of issuance of the order. Any rebuttal testimony and exhibits shall be filed on or before 15 days from the date of service of direct evidence. Presiding Judge Grossman shall establish a date for a limited hearing on those contested issues.

(C) Mesa's petition for leave to intervene out of time is hereby denied without prejudice to Mesa's petitioning to intervene in Docket Nos. RP74-48 and RP75-3 (AP76-1), et al.

(D) The secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

Footnotes continued from last page

ning Fiberglass Corp.; Washington Gas Light Co.; Brooklyn Union Gas Co.; Transco and the Commission staff.

[1] See notice issued October 21, 1977 in Docket Nos. RP74-48 and RP75-3 (AP76-1), et al.

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By the Commission. Commissioner Hall, dissenting, filed a separate statement appended hereto.

KENNETH F. PLUMB,
Secretary.

HALL, COMMISSIONER, DISSENTING

I respectfully dissent.

I believe rejection of the entire proposed settlement would be both fairer and more likely to expedite resolution of this matter.

GEORGE R. HALL,
Commissioner.

[FR Doc. 78-12147 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. ER78-323]

TUCSON GAS & ELECTRIC CO.

Filing

APRIL 26, 1978.

Take notice that Tucson Gas & Electric Co. ("TGE") on April 20, 1978, tendered for filing a Colorado-TGE 1978-1980 power sale agreement (the "agreement") dated March 3, 1978, between TGE and Public Service Co. of Colorado ("PSC"). Copies of the filing were served upon PSC on April 18, 1978.

The agreement is proposed to become effective June 1, 1978.

Any person desiring to be heard or to make application with reference to said agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20425, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12148 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. ID-1828]

VERNER H. CONDON

Application

APRIL 26, 1978.

Take notice that on April 12, 1978, Verner H. Condon filed an application, pursuant to section 305(b) of the Federal Power Act, to hold the following positions:

Vice president and director, Jersey Central Power & Light Co., public utility.

Vice president and director, Metropolitan Edison Co., public utility.

Any person desiring to be heard of to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12149 Filed 5-3-78; 8:45 am]

[6740-02]

[Docket No. CP78-293]

UNITED GAS PIPE LINE CO.

Application

APRIL 27, 1978.

Take notice that on April 17, 1978, United Gas Pipe Line Co. (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-293 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Transcontinental Gas Pipe Line Corp. (Transco), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport up to 4,000 Mcf of natural gas per day for Transco pursuant to an agreement dated March 17, 1978, between the two companies. The application states that Transco has acquired the right to purchase said volumes of gas from an affiliate, Transcontinental Exploration Co., which would make such sales pursuant to authorization issued in Docket No. CI77-515.

It is indicated that Transco would deliver the subject gas, or cause the subject gas to be delivered to Applicant at Applicant's existing pipeline in the North Hester Field, St. James Parish, La. Applicant states that it would redeliver equivalent volumes of gas to Transco, less an allowance for fuel and unaccounted for gas, at the following locations:

(1) The outlet side of Applicant's existing authorized measuring and regulating station located at Gibson, Terrebonne Parish, La.; or

(2) Other mutually agreeable existing authorized points of interconnection between the pipeline systems of Applicant and Transco located in Applicant's Southern Rate Zone.

It is stated that Transco would pay Applicant for gas transported hereunder an amount per Mcf equal to Applicant's average jurisdictional transmission cost of service in effect from time to time in Applicant's Southern Rate Zone, less any amount included in such average jurisdictional transmission cost of service which is attributable to gas consumed in the operation of Applicant's pipeline system. The current average Southern Zone jurisdictional transmission cost of service, exclusive of the cost of gas consumed in Applicant's operation, is 18.84 cents per Mcf, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be necessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12168 Filed 5-3-78; 8:45 am]

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[6740-02]

[Docket No. CP78-287]

WESTERN TRANSMISSION CORP.

Application

APRIL 26, 1978.

Take notice that on April 14, 1978, Western Transmission Corp. (Applicant), 2700 Fidelity Union Tower, Dallas, Tex. 75201, filed in Docket No. CP78-287 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Northwest Pipeline Corp. (Northwest), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Northwest has acquired new sources of gas in certain acreage in Carbon County, Wyo., and that Northwest desires Applicant to transport the subject gas from said acreage to an existing point of interconnection between Colorado Interstate Gas Co's (CIG) and Applicant's pipeline in Sweetwater County, Wyo. It is stated that Northwest has executed an agreement with CIG for the transportation by CIG and exchange with Northwest of the gas to be transported hereunder.

Pursuant to a transportation agreement dated January 26, 1978, between Applicant and Northwest, Northwest would deliver the subject gas under its control to Applicant at a mutually agreeable point on Applicant's pipeline located in Carbon County, Wyo., and at other points on Applicant's pipeline located in Carbon County, Wyo. Applicant states that the gas would then be transported into its existing pipeline and delivered to CIG for the account of Northwest at an existing point of interconnection with CIG's transmission facilities in Sweetwater County, Wyo.

It is stated that Northwest would pay Applicant a transportation charge equal to the differential rate set forth in Applicant's Rate Schedule F between Applicant's gas cost and Applicant's selling price to CIG, which differential rate is currently 12.2 cents per Mcf at 14.65 psia.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12169 Filed 5-3-78; 8:45 am]

[6450-48]

Intergovernmental and Institutional Relations

NATIONAL PETROLEUM COUNCIL

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the National Petroleum Council will meet Thursday, May 25, 1978, at 9 a.m. in the James Forrestal Building Auditorium, 1110 Independence Avenue SW., Washington, D.C.

The purpose of the National Petroleum Council is to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

The agenda for the meeting is as follows:

1. Opening remarks by Chairman of National Petroleum Council—Collis P. Chandler, Jr.
2. Guest speaker—Hon. Cecil D. Andrus, Secretary of the Interior.
3. Remarks and introduction of new members by Hon. James R. Schlesinger, Secretary of Energy.
4. Committee reports as appropriate.
5. Election of officers of the National Petroleum Council.
6. Memorial resolution: John M. Kelly; Harold M. McClure, Jr.
7. Discussion of any other matters properly brought before the National Petroleum Council.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management, 202-566-9969, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on May 1, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-12182 Filed 5-3-78; 8:45 am]

[6450-48]

[DOE/EIS-0011]

Western Area Power Administration

NEW MELONES 230 KV ELECTRICAL TRANSMISSION LINE, CENTRAL VALLEY PROJECT, CALIFORNIA

Availability of Final Environmental Statement

Notice is hereby given that the U.S. Department of Energy (DOE) has issued a final environmental statment, New Melones 230 kV electrical transmission line, Central Valley project, California, DOE/EIS-0011. The statement was prepared pursuant to implementation of the National Environmental Policy Act of 1969. The draft of this statement, INT-DES-77-33, was issued by the Bureau of Reclamation of the Department of Interior. The responsibility for this activity was transferred to DOE under the Department of Energy Organization Act of 1977.

The statement assesses the anticipated environmental impacts that may be associated with the construction and operation of a 23-mile 230 kV electrical transmission line system from the proposed New Melones switchyard to the Pacific Gas & Electric Co. transmission line near Oakdale, Calif. The proposed route transcends corridors in Calaveras, Stanislaus, and Tuolumne Counties, Calif.

Copies of the final environmental statement are available for public inspection at the DOE locations:

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DOE Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.

Department of Energy, Western Area Power Administration, Sacramento Office, 2800 Cottage Way, Room W-117, Sacramento, Calif.

Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, Calif.

Department of Energy, Denver Federal Center, Building 67, Room 1220, Denver, Colo.

Copies of the final statement have been furnished to those who commented on the draft statement that was issued by the Department of Interior.

A limited number of single copies are available for distribution by contacting the Western Area Power Administration at the address noted above or the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37380, 615-483-8611, extension 34672. The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

For the Department of Energy.

Dated at Washington, D.C., this 1st day of May 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-12182 Filed 5-3-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 890-8; OPP 30108B]

PESTICIDE PROGRAMS

Approval of Application to Register Pesticide Product Containing a New Active Ingredient

On February 27, 1976, notice was given (41 FR 8532) that Fisons Corp., Agricultural Division, 2 Preston Court, Bedford, Mass. 01730, had filed an application (EPA File Symbol No. 10065-L) with the Environmental Protection Agency (EPA) to register the pesticide product Nortron Herbicide containing 19 percent of the active ingredient 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate which was not previously registered at the time of submission. As stated in the February 27 notice, Fisons Corp. proposed that the product be classified for general use.

This application was approved on March 29, 1978 and the product has been assigned the EPA Registration No. 40546-5. As requested by the applicant, the pesticide product has been registered to Fisons Inc. under the product name of Nortron E.C. The company file number will now be 40548, instead of 10065. Nortron E.C. is classified for general use for the selective control of weeds in sugar beets.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW, Washington, D.C. 20460. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), will be available for public inspection in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of March 29, 1978. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St. SW, Washington, D.C. 20460. Such requests should: (1) Identify the product by name and registration number and (2) specify the data or information desired.

Dated: April 26, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-12076 Filed 5-3-78; 8:45 am]

[6560-01]

[FRL 890-5; PF 100]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

Shell Chemical Co., Suite 200, 1025 Connecticut Ave., NW., Washington, D.C. 20036, has submitted a petition (PP 7F2013) to the Environmental Protection Agency (EPA) which proposes that 40 CFR Part 180 be amended by establishing a tolerance for residues of the insecticide Cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodities cottonseed at 0.2 part per million (ppm), and fat of milk and the fat of livestock at 0.02 ppm. The proposed analytical method for determining residues is by gas liquid chromatographic procedure using an electron capture detector. Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW, Washington D.C. 20460. Inquiries concerning this petition may be directed to Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-426-9425. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: April 25, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-12079 Filed 5-3-78; 8:45 am]

[6560-01]

[FRL 890-6; OPP-30000/26A]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing 2,4,5-T; Correction

In FR Doc. 78-10340 appearing at page 17116 in the issue of April 21, 1978, the following corrections should be made:

1. On page 17117, the title of section IV (center column) should be changed from "Registrations and Products Subject to the Notice" to "Rebuttal Submission Procedures;" and

2. On page 17117 in section IV, the following new paragraph should be inserted after the second paragraph:

Evidence submitted in rebuttal should conform to § 162.11(a)(4) rebuttal criteria which are re-stated in section I of this FEDERAL REGISTER notice. Registrants or other persons submitting rebuttal information should provide data and references to support the statements made in their rebuttal submissions, and they should submit reproducible copies of those publications and other materials cited in support of their rebuttal statements, which are not cited in the position document.

Dated: April 25, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-12078 Filed 5-3-78; 8:45 am]

[6560-01]

[FRL 890-7; PW-16]

PESTICIDE PROGRAMS

Withdrawal of Pesticide Petition

On May 12, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 19373) that Shell Oil Co., Suite 200, 1025 Connecticut Avenue NW., Washington, D.C. 20036 had filed a petition (PP 6F1771). This petition proposed the establishemnt of a tolerance limitation of 4.0 parts per million (ppm) for residues of the insecticide Hexakis (2-methyl-2-phenylpropyl)-distannoxane in or on the raw agricultural commodity strawberries.

Shell Oil Co. has withdrawn this petition without prejudice in accordance with the regulations (40 CFR 180.8) pertaining to section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)).

Dated: April 25, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-12077 Filed 5-3-78; 8:45 am]

[6560-01]

[FRL 891-2]

RESOURCE CONSERVATION COMMITTEE

Change in Meeting Time

The Resource Conservation Committee staff will be holding monthly informal discussion forums so that interested parties may participate in the Committee's study of a wide range of proposals aimed at improving the use of materials in the United States. These informal discussions are in addition to the formal public meetings which have been and will be held by the Committee.

These meetings take place monthly at the Environmental Protection Agency, 401 M Street SW., Washington, D.C. The second open forum will be held May 9, 1978, from 12 to 2 p.m. in room 2814. For further information and to request that an item for discussion be placed on the agenda, contact Susan Mann, Public Participation Liaison at 202-755-9145.

The objective of these sessions is to provide an opportunity for the exchange of ideas relting to resource conservation between interestred parties. As such, the format will be informal and provide for discussion rather than formal statements. No official record will be maintained. Participants are encouraged to propose innovative policy options for discussion.

The Resource Conservation Committee is the interagency committee set up under section 8002(j) of the Resource Conservation and Recovery Act (Pub. L. 94-580). The Committee is chaired by EPA Administrator Douglas Costle and includes the Secretaries of Commerce, Labor, Interior, and Treasury, Council on Environmental Quality, Office of Management and Budget, Council of Economic Advisors, and Department of Energy. The Committee will make recommendations to the President and the Congress later this year on the desirability and possible design of policy options including solid waste disposal charges, resource conservation subsidies, direct product regulation, local solid waste user fees, and other policy proposals. They would like to include the public in the decisionmaking process and are soliciting views on these potential legislative initiatives.

Dated: April 28, 1978.

BARBARA BLUM,
Deputy Administrator, Environmental Protection Agency.

[FR Doc. 78-12081 Filed 5-3-78; 8:45 am]

[6560-01]

[FRL 891-1]

SCIENCE ADVISORY BOARD STUDY GROUP ON ARSENIC AS A HAZARDOUS AIR POLLUTANT

Open Meeting

Under Pub. L. 92-463, notice is herewith given that a meeting will be held by a Study Group of the Science Advisory Board dealing with Arsenic as a Hazardous Air Pollutant. The meeting will be on May 22-23, 1978, in Room 1112A of Crystal Mall Building No. 2 (1921 Jefferson Davis Highway, Arlington, Va. 22209). The meeting will begin each day at 9:30 a.m.

The purpose of the meeting will be to review Agency documents related to the listing of arsenic as a hazardous air pollutant as required by the Clean Air Act Amendments of 1977. Three documents are involved: a general health assessment document, a cancer assessment document, and a population at risk document. Availability of the documents to the public is through the Criterion Division of the Office of Research and Development of EPA in Washington, D.C.

The meeting is open to the public. Because seating is limited, persons desiring to attend should pre-register by contacting the Study Group Officer, Dr. Joel L. Fisher at 703-557-7710, by close of business on May 15, 1978, to assure a reserved seat. Persons desiring to present written materials to the Study Group should provide eight (8) copies of the materials to the Study Group Officer by close of business May 18, 1978, to assure proper distribution to the Study Group members. Materials should be substantive and documented, but bulky references should be avoided. If other arrangements are needed, please contact the Study Group Officer as soon as possible.

Dated: April 26, 1978.

RICHARD M. DOWD,
Staff Director, Science Advisory Board.

[FR Doc. 78-12080 Filed 5-3-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-459]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

APRIL 24, 1978.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1). Effective March 6, 1978, all applications accepted for filing will be assigned Call Signs. However these assignments are for administrative purposes only and do not in any way prejudice Commission actions.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

HI—303-CSG-P-78 Communication Satellite Corp., Paumalu, HI. Authority to construct a new 6/4 GHz Tracking Telementry Command and Monitoring (TTC&M) Antenna and associated equipment as part of the Communications Satellite earth station complex near Paumalu, HI. Lat. 21°40'29" N. Long. 158°02'12" W. Rec. Freq: 3700-4200 GHz. Trans. freq: 5925-6425 GHz Emissions F0, F5, F9, and P9, 98 dBW EIRP, With a 16 meter antenna.

SSA-5-78 American Telephone & Telegraph Co. and GTE Satellite Corp. Application for authority to conduct a commercial trial of SEE-WHILE-YOU-TALK-Service via the COMSTAR domestic satellite system for 18 months.

000517-DSE-P/L —78, KH56 L-W Communications System, Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of Station: Fixed earth station. Location: Luther Ranch, Burnet, Tex., 30°46'39" N. Lat., 98°16'52" W. Long. Particulars of operation: 3700.000-4200.000 MHz, 36000F9—dBW. Antennas: 6.0 meters USTC model Sat. Flec-2.

000518-DSE-P/L —78, KH57 Sumner Cable TV Co. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Wellington, Sumner, Kans., 37°16'40" N. Lat., 97°25'54" W. Long. Particulars of operation: 3700.000-4200.000 MHz, 36000F9—dBW. Antennas: 5.0 meters scientific Atlanta 8008.

000519-DSE-P/L —78, WH32 The Herald-Mail Co., Inc. d.b.a. Antietam Cable Television. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of

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station: Fixed earth station. Location: Hagerstown, Washington, Maryland, 39°37'33" N. Lat., 77°42'26" W. Long. Particulars of operation: 3700.000-4200.000 MHz, 36000F9—dBW. Antennas: 4.3 meters AFC model CH-14M.

[FR Doc. 78-12107 Filed 5-3-78; 8:45 am]

[6712-01]

[CC Docket No. 78-50]

TELECOMMUNICATION SERVICES FOR THE DEAF AND HEARING-IMPAIRED

Inquiry; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: Extension of time is being granted for the filing of comments and reply comments in the inquiry into the telecommunication needs of the deaf and hearing-impaired (CC Docket No. 78-50), which was published in the FEDERAL REGISTER of February 21, 1978 (43 FR 7263).

DATES: Comments must be received on or before June 26, 1978, and reply comments must be received on or before July 31, 1978.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James K. Smith, Common Carrier Bureau, 632-9342.

Adopted: April 27, 1978.

Released: April 27, 1978.

Order. In the matter of Telecommunication Services for the Deaf and Hearing-Impaired, CC Docket No. 78-50.

1. Petitions have been filed in this proceeding on behalf of the Hearing Industries Association (HIA) and the National Center for Law and the Deaf (NCLD) requesting that the time for filing comments and reply comments be extended from the current dates of May 1, 1978, and June 15, 1978, respectively.

2. HIA states that a meeting is currently scheduled for Wednesday, May 17, 1978, between it and representatives of the telephone industry. It believes that the Commission and the hearing-impaired will be better served if HIA is able to incorporate information drawn from this meeting in its comments, particularly with respect to the telephone/hearing aid incompatibility issue. NCLD requests a two month extension for the filing of comments due to the need to consult with members of the deaf community regarding the issues raised in the inquiry. It also notes that an extension is necessary in order to allow adequate time to publicize the Commission's TTY number in various publications of the deaf community.

3. An extension of time for the filing of comments would appear to be in the public interest. *Accordingly, it is ordered,* Pursuant to § 0.303 of the Commission's rules and regulations, that the time for filing comments and reply comments in this proceeding is extended. Comments may be filed on or before June 26, 1978, and reply comments may be filed on or before July 31, 1978.

WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc. 78-12106 Filed 5-3-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCIL OF ILLINOIS

Request for Nominations for Public Member Positions on the Council

Nominations are being accepted for public member positions on the Illinois Statewide Professional Standards Review Council. A statewide council is being established because there are now six professional standards review organizations (PSROs) in Illinois.

PSROs review medical care services paid for under the medicare, medicaid, and maternal and child health and crippled children services programs in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide councils are established in States that have three or more PSROs to: (1) Help to coordinate PSRO activities and disseminate information among them; (2) assist the Secretary in the development of uniform data gathering and operating procedures; (3) review certain determinations and recommendations made by PSROs as a result of their reviews of medical care; (4) work with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, and of acceptable quality; and (5) assist the Secretary to carry out several of his responsibilities, including the evaluation of the PSROs' review activities and the designation of replacement PSROs when necessary.

Nominees for public representatives are considered on the basis of whether they are:

(1) Knowledgeable about health care provided in Illinois under the medicare, medicaid, and maternal and child health and crippled children services programs;

(2) Willing and able to represent the interests of the public; and

(3) Willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals who are not affiliated with:

(1) Organizations and groups that must, under law, be represented on the Council (PSROs and physician groups); or

(2) Organizations and groups that are represented on the Council's Advisory Group (hospitals and other health care facilities and health care practitioners other than physicians).

Please include biographical data which demonstrate each nominee's qualifications, particularly their knowledge of health care in the State and their willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to:

George R. Holland, Regional Administrator, Health Care Financing Administration, 300 South Wacker Drive, Chicago, Ill. 60606.

After consideration of all nominations received within 60 days of this notice, including nominees of the Governor of Illinois, the Secretary will appoint four public representatives, two of whom will have been recommended by the Governor.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA, 312-353-8057.

Dated: April 28, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc. 78-12199 Filed 5-3-78; 8:45 am]

[4110-35]

STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCIL OF INDIANA

Request for Nominations for Public Member Positions on the Council

Nominations are being accepted for public member positions on the Indiana Statewide Professional Standards Review Council. A statewide council is being established because there are now five professional standards review organizations (PSROs) in Indiana.

PSROs review medical care services paid for under the medicare, medicaid, and maternal and child health and crippled children services programs in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide councils are established in States that have three or more PSROs to: (1) Help to coordinate PSRO activities and disseminate information among them; (2) assist the Secretary in the development of uniform data gathering and operating procedures; (3) review certain determinations and recommendations made by PSROs as a result of their reviews of medical care; (4) work with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, and of acceptable quality; and (5) assist the Secretary to carry out several of his responsibilities, including the evaluation of the PSROs' review activities and the designation of replacement PSROs when necessary.

Nominees for public representatives are considered on the basis of whether they are:

(1) Knowledgeable about health care provided in Indiana under the medicare, medicaid, and maternal and child health and crippled children services programs;

(2) Willing and able to represent the interests of the public; and

(3) Willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals who are not affiliated with:

(1) Organizations and groups that must, under law, be represented on the Council (PSROs and physician groups); or

(2) Organizations and groups that are represented on the Council's Advisory Group (hospitals and other health care facilities and health care practitioners other than physicians).

Please include biographical data which demonstrate each nominee's qualifications, particularly their knowledge of health care in the State and their willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to:

George R. Holland, Regional Administrator, Health Care Financing Administration, 300 South Wacker Drive, Chicago, Ill. 60606.

After consideration of all nominations received within 60 days of this notice, including nominees of the Governor of Indiana, the Secretary will appoint four public representatives, two of whom will have been recommended by the Governor.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA, 312-353-8057.

Dated: April 28, 1978.

ROBERT A. DERZON,
Administrator, Health Care, Financing Administration.

[FR Doc. 78-12200 Filed 5-3-78; 8:45 am]

[4110-39]

National Institute of Education

INFORMATION AND DATA ACQUISITION ACTIVITY

Collection; Opportunity for Comments

Pursuant to section 406g(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Institute of Education is proposing an information and data acquisition activity which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

This data acquisition activity as described below is also subject to review by the HEW Education Data Acquisition Council.

Written comments on the proposed activities are invited. Comments should refer to the form number and must be received on or before June 5, 1978, and should be addressed to the Administrator, National Center for Education Statistics, Attn: Management Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from the Project Officer, Susan Abramowitz, Finance and Productivity Group, National Institute of Education, 202-254-5500.

Dated: April 28, 1978.

RICHARD S. WERKSMAN,
Forms Clearance Officer, National Institute of Education.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Agency form Number.—NIE 190.

2. Title of proposed activity.—Secondary School Follow-up.

3. Agency/bureau/office.—National Institute of Education.

4. Legislative authority for this activity.—"The Institute shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on the following priority research and development needs:

(A) Improvement in student achievement in the basic educational skills, including reading and mathematics;

(B) *Overcoming problems of finance, productivity, and management in educational institutions* (emphasis added);

(C) Improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically, or educationally disadvantaged;

(D) Preparation of youths and adults for entering and progressing in careers; and

(E) Improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge." (Section 405(b)(2) of the General Education Provisions Act as amended, 20 U.S.C. 1221e.)

"In order to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes." (Section 405(e)(1) of the General Education Provisions Act as amended, 20 U.S.C. 1221e.)

5. Voluntary/obligatory nature of response.—Voluntary.

6. How information to be collected will be used.—The proposed study is a follow-up of the 1977 NIE/NASSP survey of Public Secondary Schools, in which a national stratified random sample of 2,000 high schools were surveyed in order to determine the nature of high school programs, organization, and management. An analysis of principal responses suggests that notions of bureaucracy are inadequate descripters of high school organization; rather high schools are better characterized as high participatory organizations in which formal mechanisms such as rules do not coordinate activity within the school. The purpose of the proposed study is to describe the nature of high school organization from the perspective of actors other than the principal, and to enhance our understanding of the nature of high school organization and work environment.

Research. The apparent inability of traditional rational models to capture high school organizational reality open up new fields of inquiry. To answer this requires the perspectives of teachers, counselors, students, and State officials. Therefore, follow-up studies with reports of these groups will take place in approximately one-third of the 1448 respondent schools. Examples of research questions to be addressed are: What is the nature of the secondary school organization as perceived by teachers, counselors, and students? Under what envoronmental conditions does the school attempt to organizationally control participant behavior or choose to allow occurrence to remain only loosely connected? Under what organizational conditions within the school are staff and students more satisfied or productive? To what extent do teacher, counselor, student, and principal perceptions differ or concur? Does the degree of congruence

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relate to the degree of looseness or tightness of structure, or to levels of satisfaction with school? Answers to such questions can help predict consequences of various reforms proposed for high schools.

Condition of education. Since this study generates information from actors other than principals we can describe teacher, counselor, and student perception of: (a) school organizational structure, (b) instruction and programs at the classroom level, (c) the effect of school rules at the classroom level, (d) participation in school decision making, and (e) SEA—LEA school relations in the implementation of statewide programs in high schools. The composite study and the report of its results will establish a wealth of information about American high schools from the perspectives of those most directly involved.

7. (a) Method of Collection: Mail, (b) time of collection: Fall 1978, (c) frequency: Single time.

8. (a) Type: Classroom teachers, public secondary schools, (b) number: sample (2,000), (c) estimated average person-hours per respondent: 0.5; (a) type: Guidance Counselors, public secondary schools, (b) number: 1,000, (c) estimated average person-hours per respondent: 0.5; (a) type: Students, public secondary schools, (b) number 60,000, (c) estimated average person-hours per respondent: 0.33; (a) type: Sex Education Teachers, public secondary schools, (b) number: 535, (c) estimated average person-hours per respondent: 0.33; (a) type: State Department of Education Official Responsible for Secondary School Programs, (b) number: 50, (c) estimated average person-hours per respondent: 0.33.

9. Information to be collected.—*Classroom teachers;* The survey of teachers will focus on three areas: (1) The discrepancy/congruence between teacher and principal perceptions, as indicated by teacher responses to some of the same items which principals had been asked; (2) technology at the classroom level will be explored, including questions about classroom organization and management, the level of teacher interdependence and teacher-principal contact in the area of instruction; (3) teacher satisfaction with their work environment will be investigated to determine how dependent teacher perceptions are on school structural arrangements.

Counselors. The counselor survey will investigate the extent to which the counselor's role is bureaucratized and the relationship between the counselor's role and school structure. Descriptive information will include the counselor's sources of information and their distribution of information to students and faculty. The nature and content of counselor-faculty communication will be explored. The survey will also inquire into control systems used to monitor or reward counselor behavior.

Students. The aim of the student survey is three-fold: (1) We want to examine student responses to some of the same questions asked of principals, teachers and counselors (this will give us an idea how students perceive school and classroom organization and managemenet and where their perceptions differ from the adults around them); (2) we want to know how student attitudes toward their school and classroom environments with regard to such variables as involvement, affiliation, competition, task orientation, order, organization, rule clarity, and innovation; (3) we will explore the nature of student participation in school life.

Teachers of sex education. 37 percent of the principals in the phase I sample reported that sex or family life education was offered as a separate course in their schools. NIE has been asked by the Office of Special Programs in OE if, in our follow-up work, we would survey these schools to determine the nature of the course offerings, the topics included in them and the clientele they serve. The product resulting from such a study would be a manual describing the state-of-the-art of sex education and family life courses.

State education agencies. The SEA survey will produce information on the variety of State-funded or State-initiated instructional programs operating in secondary schools, and on the nature and extent of State supervision and monitoring of such programs at the district and school levels. This survey will be administered through the National Center for Education Statistics' Fast Response Survey System.

[FR Doc. 78-10189 Filed 5-3-78; 8:45 am]

[4110-08]

Office of the Assistant Secretary for Health

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet next on June 9 and 10, 1978, in Conference Room 10, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. The meeting will convene at 9 a.m. each day and will be open to the public, subject to the limitations of available space. Topics included in the mandate to the Commission under the National Research Act (Pub. L. 93-348), as amended, including the basic ethical principles that should underlie the conduct of research involving human subjects, the protection of patients receiving health services under programs conducted or supported by the Department of Health, Education, and Welfare, the Special Study (section 203 of Pub. L. 93-348), and other matters identified in the legislative mandate to the Commission, will be the agenda for this meeting.

Written materials of any length may be submitted to the Commission at any time. Requests for information should be directed to Ms. Betsy Singer, Information Officer, 301-496-7776, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Md. 20016.

Dated: April 17, 1978.

MICHAEL S. YESLEY,
Staff Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

[FR Doc. 78-12204 Filed 5-3-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

AGENCY: National Advisory Council on Indian Education.

Action: Notice.

SUMMARY: The notice sets forth the schedule and proposed agenda of the forthcoming meeting of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix I, Section 10(a) (2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Full Council meeting: May 19-20, 1978, 9 a.m. to 5 p.m.—Open; and May 21, 1978, 9 a.m. to 3 p.m.—Closed.

ADDRESS: Student Union, Eastern Montana College, 1500 North 30th, Billings, Mont., on May 19-20, 1978, and Warbonnet Flag Inn, 2612 Belknap Avenue, Billings, Mont. 59101, on May 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Stuart A. Tonemah, Executive Director, National Advisory Council on Indian Education, Suite 326, 425 13th Street NW., Washington, D.C. 20004, 202-376-8882.

The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act, Title IV or Pub. L. 92-318 (20 U.S.C 1221g).

The Council is directed to: (1) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education/OE;

(2) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81-874) and section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92-318 and amended by Pub. L. 93-380), and with respect to adequate funding thereof;

(3) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81-874), section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and section 314, of the Adult Education Act (as added by Title IV of Pub. L. 92-318), and make recommendations to the Commissioner with respect to their approval;

(4) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) Assist the Commissioner of Education in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Pub. L. 81-874) as added by Title IV, Part A, of Pub. L. 92-318;

(7) Submit to Congress not later than June 30 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such program; and

(8) Be consulted by the Commissioner of Education regarding the definition of the term "Indian," as follows:

SEC. 453 [Title IV, Pub. L. 92-318]. For the purpose of this title, the term "Indian" means any individual who: (1) Is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member , or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo, or Aleut, or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian."

The May 19-20, 1978, meeting of the National Advisory Coucil on Indian Education will be open to the public. The May 21, 1978, session shall be closed to the public, since the Council members will be reviewing applications that must be held in confidence, under the authority of section 10(d) of the Federal Advisory Committee Act (5 U.S.C. Appendix I) and under the exemptions contained in the Government in the Sunshine Act, section 552b(c) (4) and (6) of Title 5 U.S.C.

The proposed agenda includes:

(1) Action on previous meeting minutes.
(2) Executive Director's report.
(3) Indian education in the proposed new Department of Education.
(4) Fifth annual report.
(5) Reauthorization of Title IV.
(6) Committee and task force reports and discussions.
(7) Special reports from the field.
(8) Review of NACIE's fiscal year 1978 budget.
(9) Plans for future NACIE activities.
(10) Regular Council business.
(11)Review the Indian education applications submitted under section 423(a) of the act as added by Pub. L. 93-380.
(12) Recommendations to the Commissioner with respect to their approval.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education. A summary of the closed session shall be available 14 days after the meeting to the public at the Office of the National Advisory Council on Indian Education located at 425 13th Street NW., Washington, D.C. 20004.

Date signed: Washington, D.C., April 27, 1978.

STUART A. TONEMAH,
Executive Director, National Advisory Council on Indian Education.

[FR Doc. 78-12108 Filed 5-3-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

BOISE, IDAHO, DISTRICT GRAZING ADVISORY BOARD

Meeting

In accordance with Pub. L. 92-463 and Pub. L. 94-579, notice is given that the Boise District Grazing Advisory Board will meet on June 7, 1978. The meeting will begin at 9 a.m. in the Bannock Room of the Rodeway Inn, 29th and Chinden Boulevard, Boise, Idaho.

The agenda for the meeting will include: (1) A discussion of the function of the Board; (2) the expenditure of range betterment and advisory board funds for range improvements; (3) a review of the current policy and program relating to allotment management plans; (4) election of officers; (5) discussion of the board's future involvement in the allotment management plan program; and (6) the arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 2 and 3 p.m. or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702, by June 1, 1978. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

D. DEAN BIBLES,
District Manager.

[FR Doc. 78-12192 Filed 5-3-78; 8:45 am]

[4310-84]

Bureau of Land Management

[CA 391]

CALIFORNIA

Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

APRIL 24, 1978.

The Department of Agriculture, Forest Service, filed application Serial No. CA 391 on May 10, 1973, for a withdrawal in relation to the following described lands:

SIX RIVERS NATIONAL FOREST

SAYLER ROADSIDE REST

HUMBOLDT MERIDIAN, CALIFORNIA

T. 6 N., R. 6 E.,
Portion of unsurveyed Section 19, described as follows:
Beginning at Corner 4B of Tract 51; then S. 0°14'00" E., 89.07 feet; then N. 69°03'53" W., 246.64 feet; then N. 32°09'30" W., 686.59 feet; then S. 25°20'30" W., 250.00 feet; then S. 40°34'19" W., 471.94 feet; then S. 0°14'00" E., 100.00 feet; then S. 89°46'00" W., 378.00 feet; then N. 56°40'00" W., 74.22 feet; then S. 53°41'43" W., 382.37 feet; then S. 62°40'07" W., 177.56 feet; then S. 49°11'02" W., 127.14 feet; then S. 17°25'56" W., 121.22 feet; then S. 72°34'04" E., 50.00 feet; then S. 17°25'56" W., 200.00 feet; then N. 72°34'04" W., 200.00 feet; then N. 17°25'56" E., 200.00 feet; then S. 72°34'04" E., 50.00 feet; then N. 17°25'56" E., 149.66 feet; then N. 49°11'02" E., 179.56 feet; then N. 62°40'07" E., 177.56 feet; then N. 53°41'43" E., 328.63 feet; then N. 56°40'00" W., 224.72 feet; then S. 51°31'30" W., 425.00 feet; then S. 84°00'00" W., 590.00 feet; then N. 0°00'00", 170.00 feet; then N. 79°00'00" E., 690.00 feet; then N. 51°31'30" E., 510.00 feet; then N. 1°55'30" E., 123.43 feet; then N. 73°54'20" E., 183.85 feet; then N. 51°31'30" E., 129.46 feet; then along a curve to the right with a radius of 690 feet through an angle of 44°56', for a distance of 541.12 feet; then along a nontangent course N. 17°39'40" E., 142.26 feet; then S. 80°11'50" E., 41.53 feet; then S. 7°12'10" E., 175.31 feet; then from a tangent that bears S. 73°59'30" E., along a curve to the right with a radius of 666 feet through an angle of 48°28', for a distance of 563.37 feet; then S. 25°31'30" E., 105.62 feet; then along a curve to the left with a radius of 384 feet through an angle of 33°57', for a distance of 227.54 feet; then S. 59°28'30" E., 75.05 feet; then S. 0°14'00"

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E., 111.08 feet to the point of beginning.

The area described totals 26.71 acreas in Trinity County, Calif.

The applicant desires that the land be made available to the State of California, and developed by the State as a roadside rest adjacent to California State Highway 299.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on December 19, 1973, FR Doc 73-26780, pages 34824 and 34825.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the undersigned, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825, on or before June 5, 1978. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before June 5, 1978.

The above described lands are temporarily segregated from the operation of the United States mining laws (30 U.S.C., Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with the pending withdrawal application should be addressed to the undersigned.

JOAN B. RUSSELL,
Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 78-12191 Filed 5-3-78; 8:45 am]

[4310-84]

[CA 5004]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Land

APRIL 26, 1978.

The Department of the Army submitted a withdrawal application for filing on March 27, 1978, serial number CA 5004, for the following described lands from location, or entry under all of the general land laws, including the mining laws, subject to valid existing rights:

MOUNT DIABLO MERIDIAN

T. 30 S., R. 43 E.,
Secs. 5 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 and 30;
Sec. 31 (except the south half of Lot 2 in the SW quarter);
Sec. 32, All.

The area described aggregates 7,545.80 acres within San Bernardino County, Calif.

The Department of the Army desires the continued use of the land to provide space necessary for air to ground gunnery training of air crews in the basic fundamentals of conventional and nuclear weapons employment at the Cuddeback Lake Air Force Range, Calif.

On or before June 5, 1978, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, section 2351.16.B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(C) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

For a period of two years from the date of publication of this notice in the FEDERAL REGISTER, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Congress, it will be segregated for a period of 20 years from date of approval, or for such period of time as designated in the Act.

All communications in connection with this proposed withdrawal should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 98525.

JOAN B. RUSSELL,
Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 78-12190 Filed 5-3-78; 8:45 am]

[4310-84]

[NM 33298 and 33299]

NEW MEXICO

Applications

APRIL 25, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 N., R. 12 W.,
Sec. 5, lot 3.
T. 29 N., R. 12 W.,
Sec. 14, E½SW¼ and SW¼SW¼.

These pipelines will convey natural gas across 0.552 of a mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Mineral Operations.

[FR Doc. 78-12193 Filed 5-3-78; 8:45 am]

[4310-84]

RAWLINS DISTRICT GRAZING ADVISORY BOARD

Meeting

APRIL 25, 1978.

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Rawlins District Grazing Advisory Board will be held on May 31, 1978, at 11 a.m., in the conference room of the Bureau of Land Management Office at 1300 Third Street, Rawlins, Wyo.

The agenda for the meeting will include: (1) A discussion of the function of the Board; (2) the expenditure of range betterment funds for range improvements; (3) a review of the current policy and program relating to allotment management plans including the ongoing and future grazing environmental statement effort; (4) election of officers; (5) discussion of the Board's future involvement in the allotment management plan program, and; (6) the arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 and 4:30 p.m., or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, by May 26, 1978. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FRED WOLF,
District Manager.

[FR Doc. 78-12195 Filed 5-3-78; 8:45 am]

[4310-84]

[W-62944]

WYOMING

Application

APRIL 27, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah has filed an application for a right-of-way to construct a 4½-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 111 W.,
Sec. 8, E½SE¼ and NW¼SE¼;
Sec. 16, N½NW¼, SE¼NW¼, NW¼SE¼ and NE¼SW¼;
Sec. 17, NE¼NE¼ and NW¼SE¼;
Sec. 25, W½E½.

The proposed pipeline will transport natural gas which will tie into the existing gathering systems within T. 24 N., R. 111 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12194 Filed 5-3-78; 8:45 am]

[4310-84]

[W-62924]

WYOMING

Application

APRIL 24, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, has filed an application for a right-of-way to construct a 4½ inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 111 W.,
Sec. 10, SW¼;
Sec. 14, S½NE¼ and NW¼ SE¼;
Sec. 15, NW¼NW¼;
Sec. 16, N½NE¼ and SW¼NE¼;
Sec. 18, SW¼SE¼;
Sec. 20, SW¼NE¼, NE¼SW¼, NW¼SE¼ and SE¼SE¼;
Sec. 21, S½SW¼, NE¼SW¼ and NW¼SE¼;
Sec. 28, SW¼SE¼;
Sec. 32, S½NE¼;
Sec. 33, NW¼NE¼ and NW¼.

The proposed pipeline will transport natural gas by tying into the existing gathering systems within T. 23 N., R. 111 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12096 Filed 5-3-78; 8:45 am]

[4310-84]

[W-63222]

WYOMING

Application

APRIL 25, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 15 N., R. 92 W.,
Sec. 22, S½SE¼;
Sec. 26, NW¼NW¼, S½NW¼, NE¼SW¼ and N½SE¼;
Sec. 27, NE¼NE¼.

The proposed pipeline will transport natural gas from the Sinclair-Hamilton Federal No. 26-1 well located in the SE¼ of section 26, to a point of connection with Colorado Interstate's proposed F13 natural gas pipeline in the SE¼ of section 22, all within T. 15 N., R. 92 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12097 Filed 5-3-78; 8:45 am]

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[4310-55]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Field Museum of Natural History, Roosevelt Road at Lake Shore Drive, Chicago, Ill. 60605.

The USFWS seeks public comment on the initial development of an Endangered Species "blanket" permit. The purpose of such a permit would be to facilitate the exchange of non-live museum specimens. The permit would authorize the export and import of non-live museum specimens already contained (accessioned) in the collection of a recognized museum. New accessions or loans from foreign institutions would require separate, more restricted and specific Endangered Species permits in order to prevent the unauthorized acquisition of new specimens from the wild.

Previous applications for blanket permits were denied because the applicants were not able to provide all the information required in 50 CFR 17.22 at the time of application. However, the Service recently has developed a method whereby USFWS Agents in the field would validate a copy of the blanket permit when the information is supplied at the time of export. The general permit issued to the museum would be invalid until an Agent has stamped and validated the permit copy. The primary difference between this type of permit and those issued in the past is the waiver of FEDERAL REGISTER publication before each shipment. Instead, the public will be invited to comment on the initial request for the "blanket" permit to export and import non-live museum specimens already accessioned into the museum's collection.

Since this application is the first of its kind to be processed, we are soliciting comments for an extended period of 60 days from the date of publication of this notice. A copy of the proposed permit is included below to indicate the types of conditions and authorizations that are contemplated.

Dated: May 1, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

H. This permit is not valid until the information required in Item K is completed by the permittee and the permit has been validated by an agent of the U.S. Fish and Wildlife Service at a port designated in Block 10.

I. To facilitate validation and clearance, the permittee should contact the appropriate SAC office (see enclosed list) prior to export or upon import and advise the SAC of the method of shipment, approximate arrival or exit date, and the country of export.

J. The container in which the authorized wildlife is shipped must be plainly marked giving the names and addresses of the shipper and consignee and an accurate description of the contents including the common and scientific names and number of each within.

K. The following information must be entered on the permit and a validated copy signed in the original shall remain with the shipment as this copy will constitute the import permit upon return of the shipment:

FOR EXPORT

Consignee: (Receiver)		
Species (Scientific Names)	Number of Specimens	Description of Specimens

FOR IMPORT

Consignor: (Sender)		
Species (Scientific Names)	Number of Specimens	Description of Specimens

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street, NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1565. Please refer to the file number when submitted comments.

DATED: _____

Chief, Permit Branch
Federal Wildlife Permit Office
U.S. Fish and Wildlife Service

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE PERMIT

1 PERMITTEE

2 AUTHORITY - STATUTES
16 USC 1539(a)
REGULATIONS (REQUIRED)
50 CFR 17.22
50 CFR 17.32

3 NUMBER
PRT 2-

4 RENEWABLE: ☒ YES ☐ NO

5 MAY COPY: ☒ YES ☐ NO

6 EFFECTIVE

7 EXPIRES

8 NAME AND TITLE OF PRINCIPAL OFFICER (Type or Print)

9 TYPE OF PERMIT
ENDANGERED and THREATENED SPECIES

10 LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
Export and import shall be through the designated ports listed here: New York, Miami, Chicago, San Francisco, Los Angeles, New Orleans, Seattle or Honolulu.

11 CONDITIONS AND AUTHORIZATIONS

A GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13 AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED ON PAGE 2 OF THIS PERMIT ARE INCORPORATED HEREIN. ALL ACTIVITY AUTHORIZED BY THIS PERMIT MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED CONDITIONS OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE REPORTING REQUIREMENTS OF 50 CFR 13.45 AND 13.46 INCLUDING SUBMISSION OF ALL REQUIRED DOCUMENTS AND REPORTS.

B THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN STATE LOCAL OR OTHER FEDERAL LAW.

C VALID FOR USE BY PERMITTEE NAMED ABOVE.

D. Authorized to export and import, as per Block 10, shipments of non-live museum specimens (excluding plants) previously legally accessioned into the permittee's collection.

E. Acceptance of this permit authorizes inspection in accordance with 50 CFR 13.47. The permittee must maintain records as required by 50 CFR 13.46.

F. Two copies of this permit and a completed Wildlife Declaration (Form 3-177) must be submitted to an agent of the U.S. Fish and Wildlife Service prior to export at the port of exit or upon import at the port of entry as designated in Block 10. This will constitute the reporting requirements of 50 CFR Section 17.22 and 17.32.

G. Import must be accompanied by foreign documentation as required in 50 CFR 14.41, and as required by 50 CFR 23.12 (for Convention imports other than import from the sea).
☒ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ON REVERSE ALSO APPLY

12. REPORTING REQUIREMENTS
See 11-F for reporting requirements.

ISSUED BY	TITLE	DATE
	Chief, Permit Branch	

DISTRIBUTION

[FR Doc. 78-12206 Filed 5-3-78; 8:45 am]

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[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Mr. Philip Ellsworth Andrews, Sr., Rt. 3, Box 55A, Denton, Md. 21629.

The applicant requests a permit to purchase in interstate commerce, 2 pairs of Laysan ducks (*Anas laysanensis*) from Jonathan Hanby of Allaway, N.J., for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2420. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 1, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12207 Filed 5-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Boiling Springs Zoo Park and Nature Center, Jack and Viola Kiracofe, Owners, R.D. No. 1, Boiling Springs, Pa. 17007.

The applicant requests a permit to purchase in interstate commerce, one pair of captive-bred Hawaiian geese (*Branta sandvicensis*) from the St. Louis, Mo. Zoo for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2320. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 1, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12208 Filed 5-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Duke University Primate Center, 3705 Erwin Road, Durham, N.C. 27705

The applicant requests a permit to import one male captive-born gray gentle lemur (*Hapalemur griseus*) from Tokyo University for enhancement of propagation and for scientific purposes. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street, NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2416. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 1, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12209 Filed 5-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Florida Game and Fresh Water Fish Commission, 620 South Meridian, Tallahassee, Fa. 32304.

The applicant requests an amendment to his current endangered species permit to take 25 Okalossa darters (*Etheostoma okaloosae*) per month for scientific purposes instead of the 10 now authorized.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2119. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 1, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12210 Filed 5-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: National Park Service, Hawaii Volcanoes National Park, Hawaii 96718.

The applicant requests a permit to take (capture) and band Hawaiian geese (*Branta sandvicensis*) in the Hawaiian Islands for scientific purposes.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2255. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 1, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12211 Filed 5-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Applicotion

Applicant: Patuxent Wildlife Research Center, U.S. Fish and Wildlife Service, Laurel, Md. 20811.

The applicant requests a permit to capture, study and release giant anoles (*Anolis roosevelti*) and St. Croix ground lizards (*Ameiva polops*) in their native habitats in the Caribbean for scientific purposes. The applicant also requests permission to capture, band, and release, and capture and hold for propagation, specimens of the Puerto Rican plain pigeon (*Columba inornata wetmorei*) and the Puerto Rico parrot (*Amazona vittata*) for enhancement of propagation and survival.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1740. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 1, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12212 Filed 5-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Dr. Ralph M. Wetzel, University of Connecticut, Storrs, Conn. 06268.

The applicant requests a permit to import 13 Brazilian tapir (*Tapirus terrestris*) skulls and 1 postcranial skeleton, 1 ocelot (*Felis pardalis*) skull and postcranial skeleton, and 3 jaguar (*Panthera onca*) skulls for scientific purposes.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2410. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 1, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12213 Filed 5-3-78; 8:45 am]

[4310-70]

National Park Service

APPALACHIAN NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Applachian National Scenic Trail Advisory Council New England Region will be held at 9 a.m. e.d.t. on May 22, 1978 in the Drake Room at the Hanover Inn, Hanover, N.H.

The purpose of the meeting is to discuss new developments in the Applachian Trail programs in Connecticut, Maine, Vermont, New Hampshire, and Massachusetts. The impact of the passage of the new Appalachian Trail legislation on New England will be reviewed as well as the plans for its implementation. Also, Draft Management Principles for the Trail will be reviewed.

The meeting will be open to the public, although space will be limited. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting or who will wish to submit written statements may contact David A. Richie, Project Manager, Appalachian Trail Project Office, National Park Service, Harpers Ferry, W.V. 25425; telephone, 304-535-6371, ext. 278.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the Appalachian Trail Project Office, 596 Fillmore Street, Harpers Ferry, W.V. Copies of the Minutes may also be obtained by writing to the Appalachian Trail Project Office, National Park Service, Harpers Ferry Center, Harpers Ferry, W. Va. 25425.

Dated: April 26, 1978.

DAVID A. RICHIE,
Project Manager, Appalachian Trail, National Park Service.

[FR Doc. 78-12217 Filed 5-3-78; 8:45 am]

[4310-70]

CHILDS ASSOCIATES, INC. ET AL

Intention to Extent Four Concession Permits

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on June 5, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to extend interim concession permits with the following concessioners authorizing them to continue to provide concession facilities and services for the public at Gateway National Recreation Area, New York, for a period of ten (10) months from January 1, 1978, through October 31, 1978:

Childs Associates, Inc., Robert F. Rogers, Mooringside Marina, Inc., Shields and Dean Concessions, Inc.

It has been determined that the proposed extension of these permits does not have potential for causing significant environmental impact and, therefore, preparation of an environmental assessment is not required.

The foregoing concessioners have performed their obligations under their former permits to the satisfaction of the National Park Service. Each of these permits provides that:

• • • the concessioner hereby relinquishes and waives its right of preference in the renewal or extension of this permit and in the negotiation of a new permit or authorization for (this) operation except that this permit may be extended at the discretion of the Superintendent as may be required to permit completion of planning for the continued operation of the facilities.

The Superintendent has determined that in order to provide continuity of operations and service to the public while prospectuses are issued inviting offers to provide these services beginning in 1979, extensions of permits as noted herein are necessary and in the public interest. However, pursuant to the Act of October 9, 1965, the Secretary is required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before June 5, 1978.

Interested parties should contact the Superintendent, Gateway National Recreation Area, Headquarters Building No. 69, Floyd Bennett Field, Brooklyn, N.Y., 11234, area code 212-252-9150, for information as to the requirements of the proposed extensions.

Dated: April 21, 1978.

DANIEL J. TOBIN, JR.,
Associate Director,
National Park Service.

[FR Doc. 78-12219 Filed 5-3-78; 8:45 am]

[4310-70]

GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. (PDS) on Tuesday, May 23, 1978, at Golden Gate National Recreation Area Headquarters (Visitor Center), Building 201, Fort Mason, San Francisco, Calif.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service system in Marin and San Francisco Counties.

Members of the Commission are as follows:

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Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Secretary
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. Joseph Mendoza
Mr. John Mitchell
Mr. Merritt Robinson
Mr. Jack Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The major agenda items will be presentation of the Fort Mason redesign plan and updates by Advisory Commission Committees on Fort Miley, Fort Mason, Pet Policy, Point Reyes field trip, Trails, and Transportation.

This meeting is open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact Lynn H. Thompson, General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, Calif. 94123, telephone 415-556-2920.

Minutes of the meeting will be available for public inspection by June 22, 1978, in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, Calif.

Date: April 27, 1978.

STANLEY T. ALBRIGHT,
Acting Regional Director,
Western Region.

[FR Doc. 78-12216 Filed 5-3-78; 8:45 am]

[4310-70]

MANAGEMENT POLICIES

Availability

The Management Policies of the National Park Service have been reviewed during the past year and revised to incorporate changes called for by recent legislation and the establishment of the Heritage Conservation and Recreation Service. The Service has also discontinued use of management categories in its administration of the Park System, and this is reflected throughout the policies. Even though still in loose-leaf format, the entire document was reprinted this year to accommodate these changes.

The Management Policies provide guidance to Service managers, and deals with the National Park Service's role in preserving and managing the Nation's natural and cultural resources. The table of contents is as follows: (attached).

Copies of the Management Policies can be obtained after April 30 by writing the nearest regional office:

Mid-Atlantic Regional Office, National Park Service, 143 South Third St., Philadelphia, Pa. 19106.
Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebr. 68102.
North Atlantic Regional Office, National Park Service, 15 State Street, Boston, Mass. 02109.
Pacific Northwest Regional Office, National Park Service, 601 Fourth and Pike Building, Seattle, Wash. 98101.
Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colo. 80225.
Southeast Regional Office, National Park Service, 1895 Phoenix Blvd., Atlanta, Ga. 30349.
National Capital Region, National Park Service, 1100 Ohio Drive SW., Washington, D.C. 20242.
Southwest Regional Office, National Park Service, P.O. Box 728, Santa Fe, N. Mex. 87501.
Western Regional Office, National Park Service, 450 Golden Gate Ave., Box 36063, San Francisco, Calif. 94102.

Dated: April 18, 1978.

IRA J. HUTCHISON,
Acting Director.

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[FR Doc. 78-12220 Filed 5-3-78; 8:45 am]

[4310-70]

ROCKY MOUNTAIN OUTFITTERS, INC.

Intention to Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on June 5, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Rocky Mountain Outfitters, Inc., authorizing it to provide concession facilities and services for the public at Glacier National Park for a period of five (5) years from January 1, 1978, through December 31, 1982.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Glacier National Park, West Glacier, Mont. 59936.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Rocky Mountain Outfitters, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if, thereafter, the offer of Rocky Mountain Outfitters, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before June 5, 1978.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: April 21, 1978.

DANIEL J. TOBIN, Jr.
Associate Director,
National Park Service.

[FR Doc. 78-12218 Filed 5-3-78; 8:45 am]

[4510-23]

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

PUBLIC HEARING

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public hearing on May 23, 1978, in Room 3560, 1515 Broadway, New York, N.Y. 10036.

The National Commission on Employment and Unemployment Statistics was established under section 13 of the Emergency Jobs Program Extension Act of 1976, Pub. L. 94-444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the procedures, concepts and methodology involved in employment and unemployment statistics, and suggesting ways and means of improving them.

Both producers and users of employment and unemployment statistics are invited to testify regarding the adequacy of current concepts and methods involved in producing these statistics for the nation, regions, states, and local areas. Testimony is invited on the usefulness of current statistics to policymaking and the specific needs of users.

The hearing will begin at 9:30 a.m. The public is invited to attend. Persons desiring to testify should submit a written request at least seven days before the hearing date. Written statements should be provided 24 hours in advance of the scheduled appearance. These materials and additional questions regarding the hearings or the National Commission on Employment and Unemployment Statistics may be addressed to:

Marc Rosenblum, Staff Economist, National Commission on Employment and Unemployment Statistics, 2000 K Street NW., Suite 550, Washington, D.C. 20006.

Signed at Washington, D.C., this 27th day of April 1978.

SAR A. LEVITAN,
Chairman.

[FR Doc. 78-12202 Filed 5-3-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON THE VERMONT YANKEE NUCLEAR POWER STATION

Meeting

The ACRS Subcommittee on the Vermont Yankee nuclear power station will hold a meeting on May 19, 1978, at the Governor Hunt House, Governor Hunt Road, Vernon, Vt., to review the operating history and fuel performance.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

FRIDAY, MAY 19, 1978, 10 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the Vermont Yankee Nuclear Power Corp., and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Elpidio G. Igne, telephone 202-634-1920, between 8:15 a.m. and 5 p.m., e.s.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vt. 05301.

Dated: April 28, 1978.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc. 78-12174 Filed 5-3-78; 8:45 am]

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[7590-01]

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME code, section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Commonwealth Edison Co. The relief relates to the inservice inspection (testing) program for the Dresden nuclear power station, unit No. 1 (the facility) located in Grundy County, Ill. The ASME code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief is granted, on an interim basis, pending completion of our detailed review, from those inservice inspection and testing requirements of the ASME Code that the licensee has determined to be impractical within the limitations of design, geometry, and materials of construction of components, because compliance would result in hardships and unusual difficulties without a compensating increase in the level of quality or safety.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR §51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see: (1) The request for relief dated November 2, 1977, and (2) the Commission's letter to the licensee dated April 24, 1978.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Ill. 60451. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 24th day of April 1978.

For The Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-12178 Filed 5-3-78; 8:45 am]

[7590-01]

[Docket Nos. 50-329 and 50-330]

CONSUMERS POWER CO.

Availability of Applicant's Environmental Report; Consideration of Issuance of Facility Operating Licenses; and Opportunity for Hearing

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has docketed the remainder of the application for facility operating licenses from Consumers Power Co. (the applicant) which would authorize the applicant to possess, use, and operate two light water nuclear reactors (the facilities), located on the applicant's site in Midland County, Mich. Each unit would operate at a core power level of 2,452 megawatts thermal with a combined output of approximately 1,300 megawatts electric.

In accordance with an exemption granted the applicant by the Commission on November 10, 1977, and pursuant to the National Environmental Policy Act of 1969, and the regulations of the Commission in 10 CFR Part 51, the applicant tendered his Environmental Report on March 1, 1978. The Environmental Report was docketed on April 14, 1978. The portion of the application docketed by the Commission on November 17, 1977, consisted of the Final Safety Analysis Report, which is currently undergoing review. A notice of receipt of this portion of the application was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8870). The Environmental Report, which discusses environmental considerations related to the proposed operation of the facility is being made available at the Office of Intergovernmental Relations, Department of Management and Budget, Lewis Cass Building, Lansing, Mich., for distribution to other State agencies that may wish to review the document.

After the Environmental Report has been analyzed by the Commission's Director of Nuclear Reactor Regulation or his designee, a Draft Environmental Statement will be prepared by the Commission's staff. Upon preparation of the Draft Environmental Statement, the Commission will cause to be published in the FEDERAL REGISTER a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

The Commission will consider the issuance of facility operating licenses to Consumers Power Co. which would authorize the applicant to possess, use and operate the Midland Plant, Units 1 and 2, in accordance with the provisions of the license and the technical specifications appended thereto, upon: (1) The completion of a favorable safety evaluation on the application by the Office of Nuclear Reactor Regulation; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicant's application for facility operating licenses by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I. Construction of the facilities was authorized by Construction Permits Nos. CPPR-81 and CPPR-82, issued by the Atomic Energy Commission on December 15, 1972. The applicant anticipates that construction of Unit 1 will be completed by October 1, 1982, and Unit 2 by October 1, 1981.

Prior to issuance of any operating licenses, the Commission will inspect each facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the construction permits. In addition, the licenses will not be issued until the Commission has made the findings reflecting its review of the application under the Act and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. As a condition to the licenses, the applicant will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

On or before June 5, 1978, the applicant may file a request for a hearing with respect to issuance of the facility operating licenses and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission or an Atomic Safety and Licensing Board,

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designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR § 2.714. As required in 10 CFR § 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how the interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any other which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularly both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by June 5, 1978. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael I. Miller, Esq., Isham, Lincoln & Beale, Suite 4200, One First National Plaza, Chicago, Ill. 60670, attorney for the applicant.

A petition for leave to intervene which is not timely will not be granted unless the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition determines that the petitioner has made a substantial showing of good cause for failure to file on time and after considering those factors specified in 10 CFR § 2.714(a)(1)-(4) and § 2.714(d).

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated August 29, 1977, and the applicant's Environmental Report dated March 1, 1978, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Grace Dow Memorial Library, 1710 West St. Andrews Road, Midland, Mich. 48640. As they become available, the following documents may be inspected at the above locations: (1) The Safety Evaluation Report prepared by the Office of Nuclear Reactor Regulation; (2) the Draft Environmental Statement; (3) the Final Environmental Statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

Copies of the proposed operating licenses and the ACRS report, when available, may be obtained by request to the Director, Division of Project Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff Safety Evaluation Report and Final Environmental Statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161.

Dated at Bethesda, Md., this 17th day of April 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactor Branch 4, Division of Project Management.

[FR Doc. 78-11885 Filed 5-3-78; 8:45 am]

[7590-01]

[Project No. M-4]

EXTENSION OF COMMENT PERIOD

Draft Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice has been given (March 24, 1978, 43 FR 12402) that a Draft Generic Environmental Impact Statement prepared by the Commission's Office of Nuclear Material Safety and Safeguards on Handling and Storage of Spent Light Water Power Reactor Fuel is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Notice of the Commission's intent to prepare such a statement was published in the FEDERAL REGISTER on September 16, 1975 (40 FR 42801). The Draft Environmental Statement has also been made available at the State Clearinghouses and local Public Document Rooms. Requests for single copies of the Draft Environmental Statement (identified as NUREG-0404) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

In response to numerous requests that the comment period for the Draft Environmental Statement be extended beyond the present date of May 8, 1978, the period is hereby extended to June 8, 1978.

Comments on the Draft Environmental Statement from interested persons should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Silver Spring, Md., this 28th day of April, 1978.

For the Nuclear Regulatory Commission.

RICHARD W. STAROSTECKI,
Chief, Fuel Reprocessing and Recycle Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 78-12173 Filed 5-3-78; 8:45 am]

[7590-01]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT MANUAL OF GUIDANCE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is sponsoring the development of a manual of guidance for use by government officials who are responsible for preparing plans to cope with the offsite consequences of radiation accidents at nuclear facilities.

An IAEA Advisory Group has been meeting and preparing drafts of the manual since 1975. Mr. Harold E. Collins of the Nuclear Regulatory Commission is the Chairman of the Advisory Group. He has been assisted by Messrs. F. Raymond Zintz, Department of Energy, and Joe E. Logsdon, Environmental Protection Agency; and by representatives from Austria, Belgium, Denmark, Egypt, France, Hungary, Federal Republic of Germany, Israel, Netherlands, Soviet Union, Switzerland, United Kingdom, and the Nuclear Energy Agency of the Organization for Economic Cooperation and Development.

The IAEA staff has produced the third draft of the manual of guidance based on work of the Advisory Group. This draft has been sent to the Chair-

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man of the Advisory Group and the chairmen of four Advisory Group working parties for review. As part of their review of the draft, the Chairman and the other U.S. representatives of the Advisory Group want to consider comments from Federal, State, and local government agencies, and private organizations and individuals.

For that reason, we are asking for comments from interested agencies, individuals and groups on AG-124, Planning for Offsite Response to Radiation Accidents in Nuclear Facilities, International Atomic Energy Agency, Third Revised Draft, February 1978. Comments should be forwarded to Mr. Harold E. Collins, Assistant Director for Emergency Preparedness, Office of State Programs (MS 7109), Nuclear Regulatory Commission, Washington, D.C. 20555, by June 1, 1978.

Copies of the document are available for review at the Nuclear Regulatory Commission Public Document Room, 1717 H Street NW., Washington, D.C. Single copies can be obtained from Mr. Collins, telephone 301-492-7210.

Dated at Bethesda, Md., this 28th day of April 1978.

For the Nuclear Regulatory Commission.

ROBERT G. RYAN,
Director,
Office of State Programs.

[FR Doc. 78-12175 Filed 5-3-78; 8:45 am]

[7590-01]

[Docket No. 50-277/278]

PHILADELPHIA ELECTRIC CO.

Granting an Exemption From the Requirements for Reporting of Defects and Noncompliance

The U.S. Nuclear Regulatory Commission (the Commission) has granted a temporary exemption from the requirements of section 21.31 of 10 CFR 21, "Reporting of Defects and Noncompliance," to Philadelphia Electric Co. (the Licensee).

This exemption relates to the procuring of "Agastat" relays, terminal blocks and locking springs, from the Control Product Division of the Amerace Corp. for installation at Peach Bottom Units 2 and 3. This exemption is effective as of the date of its issuance and will expire on January 27, 1979. The basis for this exemption is set forth in the letter to the licensee granting the exemption dated April 27, 1978.

The Commission has determined that an exemption is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest.

The Commission has determined that the exemption granted neither increases the probability or consequences of accidents previously considered nor decreases safety margins and that, therefore, it does not involve a significant hazards consideration. Thus, prior public notice of the exemption was not required.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's request dated March 22, 1978, as supplemented March 28, 1978, and (2) the Commission's letter to the licensee dated April 27, 1978.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 27th day of April 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-12179 Filed 5-3-78; 8:45 am]

[7590-01]

[Byproduct Material License No. 29-13613-02]

RADIATION TECHNOLOGY, INC.

Order Postponing Evidentiary Hearing

Radiation Technology, Inc. (Licensee), Lake Denmark Road, Rockaway, N.J. 07866, has through its President requested a postponement of one day of the evidentiary hearing scheduled to convene on May 3 to May 4, 1978, at the same time and place. The Regulatory Staff has no objection.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Nuclear Regulatory Commission, that the evidentiary hearing scheduled to convene on May 3, 1978, is postponed one day and the evidentiary hearing in this proceeding shall convene at 9 a.m. on Thursday, May 4, 1978, in Courtroom No. 4 in the Morris County Courthouse, Morristown, N.J.

Issued: May 2, 1978, Bethesda, Md.

For the Nuclear Regulatory Commission.

SAMUEL W. JENSCH,
Administrative Law Judge.

[FR Doc. 78-12384 Filed 5-3-78; 10:28 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-18]

STATISTICAL REPORT; SAFETY RECOMMENDATIONS; AND RESPONSES

Printed copies of the following report have recently been made available to the public by the National Transportation Safety Board:

Aircraft Accident Reports Brief Format, U.S. Civil Aviation, Issue No. 1 of 1977 Accidents (Report No. NTSB-BA-78-1).—This publication contains selected aircraft accident reports, in brief format, occurring in U.S. Civil aviation operations during calendar year 1977. The 897 General Aviation accidents contained in this publication represent a random selection. The brief format presents the facts, conditions, circumstances, and probable cause(s) of each accident. Additional statistical information is tabulated by type of accident, phase of operation, kind of flying, injury index, aircraft damage, conditions of light, pilot certificate, injuries, and casual factors.

NOTE.—The brief reports of accidents in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 25 cents per page for printed matter, $1.50 per page for black-and-white photographs, and $4 per page for color photographs, plus postage. Minimum reproduction charge is $1; an additional $4 user-service charge will be made for each order. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. The requester is asked to provide this information concerning the accident: (1) Date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot.

Copies of Issue No. 1 may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

SAFETY RECOMMENDATIONS

AVIATION

A-78-21-and 22.—During its investigation of the crash of a United Airlines cargoliner near Kaysville, Utah, on December 18, 1977, the Safety Board found that the cockpit voice recorder (CVR) had been inoperative during the entire flight. As a result, valuable accident-related information was lost. Further investigation revealed that the CVR unit, a Sundstrand Data Control, Inc., model V-557, had been inoperative for several days before the accident. Flightcrews are required to perform a preflight functional check; however, the Safety Board believes that current preflight testing procedures do not insure satisfactory operation of the CVR unit. Therefore, on April 13, the Safety Board recommended that the Federal Aviation Administration:

Review the adequacy of current cockpit voice recorder preflight testing procedures to assure satisfactory system operation. (Class II—Priority Action) (A-78-21)

Review the reliability of cockpit voice recorder units to assure that the mean time between failure is not excessive. (Class II—Priority Action) (A-78-22)

A-78-23 through 26.—On March 11, 1977, an Aerospatiale SA-318C Alouette II helicopter was involved in an accident near Coldfoot, Alaska. The Safety Board's investigation of the accident revealed a design feature of the cyclic grip which may compromise a pilot's ability to handle certain emergency situations. On April 13, the Board recommended that FAA:

Expand its proposed research plans on "Cockpit Human Factors Problems," particularly in the area of Human Capabilities and Limitations and Displays and Controls, to include problems peculiar to helicopter controls and displays. (Class II—Priority Action) (A-78-23)

Amend 14 CFR 133.23(c)(6) to require the pilot to demonstrate his ability to actuate the quick-release switch in normal and simulated emergency operations. (Class II—Priority Action) (A-78-24)

Issue an Advisory Circular advising rotorcraft external load operators that, whenever the cargo quick-release switch location or function on the pilot's primary control (usually the cyclic grip) is modified, the operators again have their pilots demonstrate their ability to actuate the switch in normal and simulated emergency operation without having to assume an unusual finger or thumb position which may induce unwanted control inputs. (Class II—Priority Action) (A-78-25)

Delete 14 CFR 133.23(d) which permits the Administrator to waive pilot test of skill. (Class II—Priority Action) (A-78-26)

A-78-30 through 32.—On September 22, 1976, a Grumman Gulfstream II, N500J, operated by Johnson & Johnson, Inc., crashed while making an instrument landing system approach to Ingalls Field Airport, Hot Springs, Va. During its investigation, the Safety Board discovered that the Johnson & Johnson flight department did not have, nor was it required to have, a flight operations manual which detailed the operational, administrative, and cockpit procedures which Johnson & Johnson required its flightcrew members to follow. Johnson & Johnson pilots conformed to well known, unwritten company procedures during the conduct of their flights. In view of the above, on April 24, the Safety Board recommended that FAA:

Develop the criteria to determine which corporate/executive flight departments are required to operate under formal flight operations manuals. (Class II—Longer Term Action) (A-78-30)

Amend 14 CFR Part 91 to require that corporate/executive flight departments which fall in certain categories be required to maintain and operate under a flight operations manual. (Class III—Longer Term Action) (A-78-31)

Amend 14 CFR Part 91 to establish the criteria for flight operations manuals for those corporate/executive flight departments which are required to have manuals. (Class III—Longer Term Action) (A-78-32)

A-78-33.—On August 25, 1977, the left main landing gear retracted on a Cessna 402, N9900F, as the aircraft turned off the runway onto a taxiway at Clovis Municipal Airport in New Mexico. The aircraft was owned and operated by Crown Aviation, Inc., an air taxi/commercial operator. Although there was no fire and the pilot and passengers were not injured, the aircraft was damaged substantially.

Because of the circumstances of this accident and the potential for future fatal accidents, the Safety Board, on April 27, recommended that the FAA:

Issue an Airworthiness Directive making the provisions of Cessna Service Letter ME 76-2 mandatory for 300/400 Series aircraft. (Class I—Urgent Action) (A-78-33)

PIPELINE

P-78-15, 16 and 17.—On October 14, 1977, an explosion and fire destroyed a two-family house at 4930 West Cortez Street in Chicago, Ill. One person was killed, three persons were injured, and two adjacent houses were damaged. Natural gas had entered the building through a broken service head adapter which was used to connect inserted plastic service lines to the riser and meter set on the inside of the building. The adapter was broken when a contractor, employed by the city to remove street curbs, pulled the 1¼-inch, plastic-encased service line operating at ¼ psig.

As a result of its investigation of this accident, the Safety Board on April 25, made recommendations to the Peoples Gas Light & Coke Co., and to the Mayor of Chicago, respectively.

To the Peoples Gas Light & Coke Co.:

Instruct its employees to respond immediately to reports of gas leaks that require prompt action to protect life and property and monitor its employees' response time to assure that these leaks reports receive immediate attention. (Class I—Urgent Action) (P-78-15)

Instruct its supervisors in each zone to schedule their servicemen so that emergencies can be handled promptly at all times. (Class I—Urgent Action) (P-78-16)

To the Mayor of Chicago:

Instruct its employees who monitor work of contractors performing construction for the city, to ascertain that the contractor has notified utilities of planned construction through use of the one-call notification system. (Class I—Urgent Action) (P-78-17)

RAILROAD

R-78-19 through 22.—On April 6, the Safety Board concluded a 3-day en banc hearing on railroad derailments and the carriage of hazardous materials. The hearing was prompted by the increasing number of derailments nationwide, especially those involving the release of hazardous materials from DOT 112A/114A "jumbo" tank cars. Forty-eight witnesses from the railroad industry, tank car builders and operators, shippers, other Federal agencies, and the public testified at the hearing.

Evidence at the hearing indicated that because tank car owners do not now bear the costs of accidents, they have no incentive to make their cars safe. The Safety Board believes that the Department of Transportation, in cooperation with the responsible regulatory agencies, should work to devise strategies to make safety profitable; and therefore, on April 24, recommended that the Department of Transportation:

Require that shelf couplers be installed on all DOT 112A/114A jumbo tank cars no later than December 25, 1978. (Class I—Urgent Action) (R-78-19)

Require that approved headshields be installed on all DOT 112A/114A tank cars by December 25, 1978. (Class I—Urgent Action) (R-78-20)

Require that thermal insulation be installed as soon as possible, but in no event later than the original deadline of January 1, 1982, contained in the Materials Transportation Bureau's Docket HM-144. (Class II—Priority Action) (R-78-21)

Assist the responsible Federal regulatory agencies to develop economic regulations that provide a strong economic incentive to install tank car safeguards quickly and a strong economic disincentive for delay. (Class I—Urgent Action) (R-78-22)

RESPONSES

A-76-105 through 115.—A Board letter of April 21 states that these recommendations were forwarded to the FAA as a result of its special study titled "General Aviation Accidents Involving Aerobatics, 1972-1974." Specifically, recommendations A-76-109, 114, and 115 discussed the problems associated with structural failures attributed to aerobatic maneuvers. FAA, on November 19, 1976, advised the Board that the failure rate did not justify action at that time.

The Board believes that the importance of the recommendations based on its study, and two studies on this subject conducted by NASA, merit further indepth review by the FAA, and therefore, requests that FAA reconsider its previous decision concerning these three recommendations.

M-77-7.—A Board letter of February 3, is a followup to the Commerce De-

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partment's letter of July 22, 1977. Recommendation M-77-7 asked the Department of Commerce to establish guidelines to provide for the use, at the earliest possible date, of Marine Radar Interrogation Transponders (MRIT) and Collision Avoidance Systems (CAS) by vessels that are navigating by radar on inland waters.

The Safety Board feels strongly that the evaluation of the use of existing CAS installations is necessary to identify problems that have been observed in the CAS equipment, its interface with other shipboard equipment, and in its operational patterns. The board also states that, even though MRIT may be used to augment the performance of both CAS and Vessel Traffic Systems (VTS), a conceptual plan or guide for the integrated use of these systems must be established before the development of MRIT can go further. The Board believes the Maritime Administration does have the proper authority to develop such a conceptual plan for MRIT use, is hopeful that the Maritime Administration will take the lead in developing these much needed guidelines, and awaits their further response.

P-77-24 and 25.—A Board letter of January 24 to the Connecticut Natural Gas Corp. acknowledges their prompt reply of October 31, 1977, to these recommendations, which resulted from the natural gas explosion at Greenwich, Conn., on May 25, 1977. The Board requests a copy of the revised written procedures, implemented by the Connecticut Natural Gas Corp., that require a complete review of existing records prior to beginning work and a previous determination as to whether or not a pipe is a gas carrier.

R-76-16.—In its letter of January 3, 1977, the Massachusetts Bay Transportation Authority (MBTA) responds to this recommendation by the Safety Board endorsing the recommendations made by the MBTA's investigating committee after investigation of the Red Line Collision in Boston on August 1, 1975. The Committee recommended corrections in each area which it determined to be causal in this accident.

MBTA states that dispatchers, master control operators, train starters, inspectors, motormen, guards, and signal maintainers have received reinstruction on operating rules, procedures, radio communications, equipment, emergency procedures, and flagging, as they relate to their specific areas. MBTA further states, among other responses to these recommendations, that the chief dispatcher constantly defines the authority and responsiblities of dispatchers to dispatchers and master control operators; instructors periodically check Rapid Transit personnel on their knowledge of rules, procedures and monitor their performance; flagmen from the Transportation Department flag for signal maintainers; and signal clerks record the actual time a call for a defective signal is received.

MBTA further states that, in the area of communications, attenuation and propagation tests were conducted and train radio reception and transmission is now excellent; and a video tape was prepared and is being used by the Training Department to train all personnel involved in the use of radio communications. New cars on order will be accessible from outside the cars, MBTS states; however, a means of opening side doors from outside the car has not been accomplished on existing equipment. Also, MBTA states that their rule book entitled "Rules for Rapid Transit and Other Employees" has been reviewed and updated.

NOTE.—The above notice summarizes Safety Board Documents recently released. The Board's safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge.

All requests to the Board for copies must be in writing, identified by the recommendation number and the date of publication of this notice in the FEDERAL REGISTER. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2171 (40 U.S.C. 1903, 1906)).)

BARBARA BUSH,
Acting Federal Register Liaison Officer.

MAY 1, 1978.

[FR Doc. 78-12266 Filed 5-3-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

TRANSFER OF RESPONSIBILITY FOR CERTAIN STATISTICAL STANDARDS FROM OMB TO COMMERCE

Notice is hereby given that implementation of certain responsibilities under section 103 of the Budget and Accounting Procedures Act of 1950 (64 Stat. 834) having been transferred from the Office of Management and Budget (OMB) to the U.S. Department of Commerce pursuant to Executive Order 12013, the following OMB Circulars are discontinued:

1. OMB Circular No. A-39, "Providing of Statistical Information to Intergovernmental Organizations";
2. OMB Circular No. A-46, "Standards and Guidelines for Federal Statistics";
3. OMB Circular No. A-65, "Reports to the Department of Commerce on International Transactions"; and
4. OMB Circular No. A-91, "Prompt Compilation and Release of Statistical Information."

The standards associated with these circulars will now be enforced by the Department of Commerce.

A corresponding submission including the statistical policy standards, now called Statistical Policy Directives, issued by the Department of Commerce, appears in today's FEDERAL REGISTER.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-12039 Filed 5-3-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

CERTAIN IMPORTED CERAMIC TABLEWARE

Change of Date of Public Hearings in Connection with Consideration of Articles for Modification or Continuance of U.S. Duties or Additional Duties

In the FEDERAL REGISTER of April 27, 1978 (43 FR 18076), there was an announcement that the Trade Policy Staff Committee (TPSC) would hold a public hearing on May 23, 1978, in connection with the current consideration by the TPSC of possible modifications or continuances of U.S. import duties, or possible additional import duties, for certain imported ceramic tableware items. This hearing has been rescheduled, and will now be held on May 31, 1978, in Room 730 at the Office of the Special Representative for Trade Negotiations, 1800 G Street NW, Washington, D.C. 20506.

This hearing will begin at 10 a.m. Information regarding the hearing may be obtained from Mrs. Carolyn Frank, Secretary, Trade Policy Staff Committee, at the address given above, and at telephone number 202-395-7210.

Persons requesting to appear at the hearing should so advise the Secretary of the Trade Policy Staff Committee, in writing, not later than the close of business on May 24, 1978. This deadline replaces the one announced previously, which was May 17, 1978.

WILLIAM B. KELLY, Jr.,
Chairman, Trade Policy Staff Committee.

[FR Doc. 78-12101 Filed 5-3-78; 8:45 am]

[7715-01]

POSTAL RATE COMMISSION

[Docket No. R78-1]

POSTAL RATE AND FEE INCREASES, 1978

United States Postal Service Filing of a Request for a Recommended Decision on a Surcharge for Nonstandard Mail

APRIL 27, 1978.

Notice is hereby given that on April 25, 1978, the United States Postal Service (Postal Service), pursuant to § 3622 of the Postal Reorganization Act (39 U.S.C. § 3622), filed a request with the Postal Rate Commission for a recommended decision on a surcharge for nonstandard mail. This filing has been assigned Docket No. R78-1.

The Postal Service states that its request is filed in accordance with the Commission's rules of practice and contains such information and data which explain the nature, scope, significance, and impact of the proposed surcharge. The Postal Service further states that the surcharge request of 13 cents per-piece for nonstandard first-class and single-piece third-class mail is designed to meet the additional attributable and reasonably assignable costs incurred in handling nonstandard mail, as defined in Domestic Mail Classification Schedules §§ 100.21 and 300.21. The Postal Service estimates that the implementation of the recommended surcharge will increase postal revenues by $86 million.

Hearings will be held on the proposal submitted by the Postal Service in Docket No. R78-1. Any person desiring to be heard with reference thereto and to become a party to the proceeding, or to participate as a party in any hearing thereon, should file a petition for leave to intervene. Petitions for leave to intervene must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268 on or before May 24, 1978, and must be in accordance with § 20 of the Commission's rules of practice (39 CFR § 3001.20). We direct specific attention to § 20(b) which provides that petitions for leave to intervene shall affirmatively state whether or not petitioner requests a hearing or, in lieu thereof, a conference; and further, whether or not the petitioner intends to participate actively in the hearing. Alternatively, persons seeking limited participation, but who do not wish to become parties may, on or before May 24, 1978, file a written request for leave to be heard as a "limited participator," pursuant to § 19a of the Commission's rules of practice (39 CFR § 3001.19a). In addition, persons wishing to express their views informally, and not desiring to become a party or limited participant, may file comments pursuant to § 19b of the Commission's rules, 39 CFR § 3001.19B.

The request of the Postal Service for a recommended decision on a surcharge for nonstandard mail is on file with the Commission and is available for public inspection during regular business hours.

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-12196 Filed 5-3-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

MIRA-PAK, INC.

Suspension of Trading

APRIL 26, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Mira-Pak, Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:15 p.m. (e.s.t.), April 26, 1978, through May 5, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12226 Filed 5-3-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the nineteenth meeting of the Board for International Food and Agricultural Development on May 25, 1978.

The purpose of the meeting is to receive and discuss progress reports of the Joint Research Committee and the Joint Committee on Agricultural Development; to discuss progress in the development of a methodology for Baseline Studies in research, education and extension capabilities in developing countries; and to receive a progress report on the development of a program to strengthen universities' capabilities to participate in Title XII activities.

The meeting will begin at 9 a.m., adjourn at 4:30 p.m., and will be held in Room 1107, State Department Building, 21st and C Street NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statement with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Director, Office of Title XII Coordination/University Relations, Development Support Bureau, A.I.D., is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-2243.

Dated: April 28, 1978.

ERVEN J. LONG,
A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 78-12135 Filed 5-3-78; 8:45 am]

[4710-02]

PROVISION OF PESTICIDES TO LIBERIA

Waiver of Certain Requirements

On March 1, 1978, the Agency for International Development (A.I.D.) provided notice in the FEDERAL REGISTER (43 FR 8320) of its intention to waive certain requirements for provision of pesticides as set forth in the Interim Pesticide Procedures published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1297). The reasons for the waiver were set forth in the notice and the public was requested to provide comments within twenty (20) days of publication. That time period has now elapsed and no comments have been received.

For the reasons set forth in the above mentioned notice published in the FEDERAL REGISTER on March 1, 1978 (43 FR 8320) and no new information having since come to my attention, I approve, under section (a) of the Interim Pesticide Procedures, the financing by A.I.D. of the following pesticides and uses:

Pesticide	Crop	Pest/disease
Cuprous oxide	Cocoa	Black pod disease.
Do	Coffee	Coffee berry disease.
Lindane	Cocoa	Cocoa mirids.

I determine that the benefits of

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using such pesticides for the purposes intended outweigh the potential adverse effects and that no preferably alternative is available.

This determination has been made in consultation with the Environmental Protection Agency as required under section (b) of the Interim Pesticide Procedures.

This determination shall be published in the FEDERAL REGISTER.

Dated: April 21, 1978.

JOHN J. GILLIGAN,
A.I.D. Administrator.

[FR Doc. 78-12098 Filed 5-3-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

CONSULTATIVE PLANNING CONFERENCE

Post-1980 Airport and Airway Development Legislation

The purpose of this notice is to announce a Consultative Planning Conference on Post-1980 Airport and Airway Development Legislation. (The establishment of annual consultative planning procedures was originally documented and publicized in 33 FR 1905, dated December 24, 1968, and 35 FR 17798, dated November 19, 1970.)

The Department of Transportation announces that this one day conference will commence at 9 a.m. on Thursday, June 1, 1978, in Room 2230 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The conference will be open to the public and persons who wish to present oral views on this future legislation should notify the FAA no later than the day before the conference. Presentations will be scheduled on a first-come-first-served basis as time permits.

In addition, persons may submit written viewpoints either at the conference or no later than July 14, 1978. Such communications, as well as requests to make presentations or to receive further information, should be addressed to:

Associate Administrator for Policy Development and Review, Attention: ASP-10, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3912.

BACKGROUND

Current legislative authority for several FAA programs and the Airport and the Airway Trust Fund which provides support for these programs will expire on September 30, 1980. The Trust Fund was created by the Airport and Airway Revenue Act of 1970 (Title II of Pub. L. 910-258) and provides slightly more than one third of FAA's total annual budget. It provides full support for the following agency programs:

Airport Development Aid Program (ADAP)
Planning Grant Program (PGP)
Facilities and Equipment (F&E)
Research, Engineering and Development (R.E. & D.)

It also provides partial support for maintenance of the airway system. If these programs are to be continued, new legislation will be required. Over the next several months, the Department will be formulating Post -FY 1980 Airport and Airway legislation through a high-level task force. The preliminary results of this effort will be briefly addressed at the June 1 conference and agency spokepersons will outline the various options or alternatives being considered and the significant issues which need to be addressed. However, the main purpose of the conference will be to solicit views from the aviation community and the general public on such matters as:

Estimates of future airport and airway system needs;

The appropriate roles for local, State, and Federal governments and for sponsors in planning, capital development, and operations and maintenance;

Financing and delivery systems which could support the level of estimated needs;

Opinions on FAA-developed alternatives or options;

Recommendations on particular legislative provisions (program requirements, administration, eligible items, etc.);

Any further issues that need to be addressed.

To pre-register for the conference, please write to the above address giving: (1) name, (2) address, and (3) company/association, if any.

Issued in Washington, D.C., on April 28, 1978.

MARY M. ANDERSON,
Associate Administrator for Policy, Development and Review.

[FR Doc. 78-12136 Filed 5-3-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. EX77-3; Notice 3]

BRISTOL CARS, LTD.

Petition for Temporary Exemption From Motor Vehicle Safety Standard

Bristol Cars Ltd. of London, England, has petitioned for a temporary exemption of Bristol 412 passenger cars from 49 CFR 571.215 Motor Vehicle Safety Standard No. 215, Exterior Protection, on the basis that compliance would cause it substantial economic hardship.

Petitioner is a manufacturer whose annual production of motor vehicles has not exceeded 150 units in the past 3 years. In 1977 it applied for (42 FR 16014) and received (42 FR 42942) temporary exemptions from five Federal motor vehicle safety standards. Its request for exemption from Standard No. 215, however, was denied without prejudice on the basis that insufficient information had been submitted to support a finding that the company had, in good faith, attempted to comply with the standard. The company has applied once more for a 3-year exemption from Standard No. 215. It has submitted a drawing which purports to show that its bumper heights meet the impact height requirements of the standard. The bumpers themselves are made of fiberglass backed at the major mounting points by steel spreader plates. The petitioner believes that it is unlikely to experience problems with engine movement damage at low speed impact since it uses a Chrysler engine and motor mounts, and has no radiator fan in the impact area. Cost of engineering and testing for compliance is estimated at $75,000. Bristol had a net loss of approximately $92,000 in 1975 with a total accumulated loss of approximately $156,000 as of the end of that year. It argues that an exemption would be in the public interest in allowing it to continue in business and to purchase engines, transmissions, and drive trains from a U.S. corporation.

This notice of receipt of a petition for temporary exemption is published in accordance with NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition. It should be noted that Standard No. 215 is revoked effective September 1, 1978, and that any exemption which may be granted to Bristol will expire at that time, and will not include exemption from 49 CFR Part 581, Bumper Standard.

Interested persons are invited to submit comments on the petition of Bristol Cars, Ltd. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received, are available for examination in the docket both before and after closing date. Comments received after the closing date will also be filed and will be considered to the extent possible. If the petition is granted, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

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Comment closing date: June 5, 1978.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on April 26, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-11833 Filed 5-3-78; 8:45 am]

[Docket No. LVM 77-05; Notice 1]

EXCALIBUR AUTOMOBILE CORP.

Petition for Exemption From Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Notice of receipt of a petition for exemption from average fuel economy standards.

SUMMARY: This notice announces the receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition submitted by Excalibur Automobile Corp. (Excalibur). The petition requests that the NHTSA exempt model year 1978-80 passenger automobiles manufactured by Excalibur from the generally applicable passenger automobile average fuel economy standards for those model years, and establish lower, alternative standards for those vehicles. In accordance with agency procedures, this notice summarizes the petition, describes the options available to the NHTSA in responding to the petition, and invites written public comment thereon.

COMMENT CLOSING DATE: May 29, 1978.

ADDRESS: Comments on the Excalibur petition should refer to Docket No. LVM 77-05 and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-755-9384.

SUPPLEMENTARY INFORMATION: Part A of title III of the Energy Policy and Conservation Act (Pub. L. 94-163) amended the Motor Vehicle Information and Cost Savings Act (hereinafter referred to as "the Act") by adding a new title V. That title requires the Secretary of Transportation to implement and administer a program for improving the fuel economy of new automobiles sold in the United States. Authority to administer the program was delegated by the Secretary to the Administrator of the NHTSA; 41 FR 25015, June 22, 1976.

Section 502(a)(1) of the Act establishes average fuel economy standards for passenger automobiles at 18 miles per gallon (mpg) for 1978, 19 mpg for 1979, and 20 mpg for 1980. They then steadily rise to a level of 27.5 mpg for 1985 and thereafter. Under 49 CFR, part 523, Vehicle Classification, published at 42 FR 38362, July 28, 1977, passenger automobiles include station wagons, sedans, coupes, and sport cars.

Section 502(a) of the Act provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards if those standards are more stringent than the maximum feasible average fuel economy achievable by the low volume manufacturer, and if the NHTSA establishes alternative standards for the low volume manufacturer at the manufacturer's maximum feasible level. A low volume manufacturer under the Act is one which manufactures (within or without the United States) fewer than 10,000 passenger automobiles in the model year for which the exemption is sought (hereinafter "the affected model year"), and which manufactured fewer than 10,000 passenger automobiles in the second model year preceding the affected model year. In its determination of the maximum feasible average fuel economy, the NHTSA is required by the Act to consider—

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

Part 525 of title 49, Code of Federal Regulations, establishes the format and content requirements for petitions requesting exemption from the generally applicable passenger automobile average fuel economy standards and describes the procedures that the NHTSA follows in acting on these petitions (42 FR 38374, July 28, 1977). Section 525.8 of that rule states that the NHTSA will publish a notice announcing receipt of a petition for exemption and summarizing the content of that petition. This notice is published in response to that section.

Publication of this notice of receipt of a petition does not represent any agency decision or other exercise of judgment concerning the merits of Excalibur's petition.

EXCALIBUR'S PETITION

Excalibur, formerly known as SS Automobiles, Inc., is an independent automobile manufacturer headquartered in Milwaukee, Wis. The company produces automobiles which are "reproductions of the classic touring vehicle, i.e., the Mercedes Benz models of 1930-1935". Annual production has been about 250 vehicles, of which about 40 are exported.

In all model years through 1980, the company will manufacture only one vehicle configuration. A vehicle configuration is a classification of automobiles that includes all automobiles produced by the same manufacturer with the same inertia weight and which are equipped with the same engine, emissions control system, transmission type (e.g., manual, automatic, or semi-automatic) and axle ratio. This is a simplification of the Environmental Protection Agency's definition of the term, which can be found at 40 CFR 600.002-77(a)(24). This vehicle will comply with the 49-State emissions standards during each of the affected model years. The average fuel economy of this configuration will be Excalibur's average fuel economy, since there are no other configurations to be averaged with it.

Excalibur has been manufacturing automobiles since 1964. It makes major design changes in its automobiles every 5 years. Excalibur states that it is unable to make major design changes more frequently than every 5 years, for a number of reasons. First, its design staff consists of the company's president and one draftsman. The small staff must be certain that it will be producing a "truly Quality vehicle" before it makes any changes, according to the company. Second, the costs of retooling and remachining in Excalibur's plant are said to make it necessary for Excalibur to use the tools and machines for a sufficiently long production run to allow the company to gradually amortize those costs, rather than absorbing the costs in the space of a few model years. Third, Excalibur urges that its size requires that it depend upon the major manufacturers for technological advances, and that these advances are not generally available to companies like Excalibur as soon as they are applied by the major manufacturers. This lag requires Excalibur to wait for the latest technology.

Excalibur began producing its Series III vehicles in the 1975 model year, and plans to continue producing these through the 1979 model year. No technological changes will be made to the vehicles in the 1978 or 1979 model years. The final fuel economy numbers for 1978 Excaliburs have been reported by the Environmental Protection Agency as 9.7 mpg for the city cycle and 14.7 for the highway cycle, for a combined fuel economy of 11.5 mpg. Hence, Excalibur's 1978 and, barring any test procedure changes, 1979 average fuel economy will be 11.5 mpg.

The Excalibur uses a 454 cubic inch displacement engine in its Series III

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vehicles. This engine was selected for use in Excalibur Series III automobiles after the Corvette drivetrain, which had been used in Excalibur before the 1975 model year, was changed to include a catalytic converter to pass the emissions standards for 1975. The design of the Excalibur would not allow Excalibur to simply incorporate the single converter used with the Corvette engine, because there would reportedly not be enough road clearance under the vehicle. Excalibur then modified the design of its cars to accommodate two catalytic converters with the Corvette engine, and prepared to conduct a 50,000 mile durability test. Before it conducted the 50,000 mile durability test on this vehicle, however, Excalibur discovered that General Motors produced a 454 cubic inch engine for its light trucks which would pass the emissions standards without the use of a converter. The company decided to use this engine in its Series III vehicles, since it would not then be required to run a 50,000 mile durability test on its vehicles. International Harvester reportedly told Excalibur that the cost for this test would be $80,000 to $85,000.

The other design factors of the Excalibur are constrained by the fact that the automobile is a full scale reproduction of the 1930-35 models of Mercedes-Benz, which limits changes in the body design or the concept of the vehicle. Excalibur also argues that it is unable to make any changes on its 1978 automobiles at this time, since it has ordered or bought all the components to be used on its 1978 vehicles. The value of the company's present inventory is estimated by the company to be $800,000.

For the 1980 model year, Excalibur projects an increase in its average fuel economy to 14.1 mpg. This increase will result from a redesign of the vehicle to permit the use of catalytic converters in that model year. The company did not specify any further improvements as necessary to achieve this increased fuel economy, although it did mention plans to use "catalytic converters and its greater designed efficiency systems in 1980."

Excalibur argues that its projected average fuel economy for each of the affected model years is its maximum feasible fuel economy for each model year. After pointing out its technological efforts, Excalibur notes that it already uses 222½ pounds of aluminum in its automobiles which is more than 5.1 percent of the vehicle curb weight. Further weight reduction is not possible, according to Excalibur, in the structural steel used in its automobiles. Excalibur uses type 1020 structural steel materials, which has relatively low strength values, and, therefore, requires greater section thickness and section size per piece to meet minimum strength requirements. Structural steel with greater strength, would would allow lesser thickness and size, is not available in standard tubing, channel, angle, and flat stock. Excalibur states that the costs associated with special ordering and tooling for the stronger structural steel would be prohibitive.

Excalibur presently uses a 2.73:1 axle ratio, which is the lowest gear ratio made by General Motors to fit the differential housing used by Excalibur. General Motors has discontinued use of the 2.73 ratio on new vehicles, but is still manufacturing it as replacement parts. Excalibur indicates in its petition that it will continue to use the lowest axle ratio manufactured by General Motors which is available to it and is compatible with the presently used differential housing.

The use of a smaller engine by Excalibur in the 1978 and 1979 model years is said to be impracticable because of leadtime considerations and the emissions certification situation described above. With respect to the 1980 model year, Excalibur states that it "has insufficient information at this time to indicate whether a reduction in engine displacement could be made consistent with 1980 emissions standards and the horsepower required to propel the vehicle."

Excalibur argues that it is unable to make any significant capital investments to improve fuel economy. It states that it showed a net loss of over $1,000,000 on the shareholders' original investment at the end of 1976. More current information was not provided.

Excalibur argues that other Federal standards have also reduced its potential fuel economy. Specifically, Excalibur argues that Federal safety and damageability standards have increased the weight of an Excalibur automobile by 1,325 pounds—causing increases of 875 pounds in the frame, 25 pounds in the bumpers, 150 pounds in the doors, 200 pounds in the engine, and 75 pounds in the side mount tire assembly.

Further, Excalibur urges that the Federal emissions standards have caused a decrease in its Series III automobiles' fuel economy, since it now must use a larger engine without a catalytic converter to comply with the emissions standards.

Regarding the need of the Nation to conserve energy, Excalibur states that it has conducted a survey of 200 owners of its automobiles which indicates that the average number of miles an Excalibur is driven annually is 5,000. Based on this figure, and a projected production of 250 vehicles in each of the affected model years, Excalibur estimates that its automobiles will consume approximately five additional barrels per day if they achieve the projected average fuel economy in each model year rather than the generally applicable average fuel economy standard.

Because of all these factors, Excalibur states that its currently planned average fuel economy is its maximum feasible average fuel economy for each of the affected model years, and thus petitions the NHTSA to exempt it from the generally applicable average fuel economy standards and establish alternative average fuel economy standards for Excalibur of 11.5, 11.5, and 14.1 mpg for model years 1978, 1979, and 1980, respectively.

NHTSA Options

The NHTSA will carefully evaluate the Excalibur petition and all comments received thereon. Following this evaluation, the NHTSA could find that Excalibur plans to use all reasonably available means and strategies for improving its average fuel economy and that its projected average fuel economy for each affected model year is its maximum feasible average fuel economy for that model year. Alternatively, the NHTSA could find that Excalibur has some additional means and strategies available to it to improve its average fuel economy above the projected level for one or all of the affected model years, and make a determination of the maximum feasible average fuel economy that could be achieved for each affected model year if those means and strategies were implemented.

If Excalibur's maximum feasible average fuel economy for any affected model year is determined by this agency to be equal to or greater than the generally applicable standard, Excalibur's petition will be denied for that model year. If Excalibur's maximum feasible average fuel economy for any affected model year is determined to be less than the generally applicable standard, Excalibur's petition may be granted for that model year.

If Excalibur's petition is granted for any affected model year, the NHTSA will establish an alternative average fuel economy standard applicable to Excalibur during that model year. The Act permits the NHTSA to establish that standard in one of three ways: (1) a standard may be established specifically for Excalibur; (2) classes, based on design, size, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

Copies of the Excalibur petition, as well as supporting materials, other information, and any comments received, are available for public inspection in the docket section between 8 a.m. and 4 p.m., Monday through Friday.

Comments on the Excalibur petition are invited from the public. These comments must be in writing, refer to Docket No. LVM 77-05, be submitted to the address for comments, and must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a sucinct and concise fashion. It is requested, but not required, that five copies of the comments be submitted.

All comments received before the close of business on the comment closing date indicated above will be considered. Comments received after the closing date will be considered to the extent practicable. Comments received too late for consideration in developing a proposed decision on this petition will be considered in reaching a final decision.

Issued in Washington, D.C. on April 28, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-12223 Filed 5-3-78; 8:45 am]

[4910-59]

[Docket No. IP78-5; Notice 1]

GENERAL MOTORS CORP.

Receipt of Petition for Determination of Inconsequentiality

General Motors Corp. of Warren, Mich., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.205 Motor Vehicle Safety Standard No. 205, Glazing Materials. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S6.4 of Standard No. 205 requires each manufacturer who cuts a section of glazing material to which S6 applies, for use in a motor vehicle, to mark that material in accordance with section 6 of American National Standard Requirements Z26. General Motors has manufactured 36 Rapid Transit System coaches between September 1977 and January 1978 incorporating a rigid plastic partition behind the driver's seat that it failed to mark. The correct designation is "AS5" and the material is represented as meeting all other requirements of Standard No. 205 applicable to AS5 glazing materials. The company argues that the protection from injury intended by the standard is provided by the plastic which was installed, and that the nonconformance is therefore inconsequential as it relates to motor vehicle safety.

Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corp. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: June 19, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on April 26, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-11834 Filed 5-3-78; 8:45 am]

[4910-60]

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Change in Meeting Time and Place

As published in the FEDERAL REGISTER on April 24, 1978, the National Highway Safety Advisory Committee's Executive Subcommittee is scheduled to meet on May 15. The time and place of the meeting has been changed from 3 to 7 p.m. on May 15. The meeting will be held at the Channel Inn, 650 Water Street SW., Washington, D.C., in room 250 in lieu of room 2230 of the DOT Headquarters Building as originally published.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C., on May 1, 1978.

WM. H. MARSH,
Executive Secretary.

[FR Doc. 78-12250 Filed 5-3-78; 8:45 am]

[4910-59]

WASHINGTON STATE COMMISSION ON EQUIPMENT

Denial of Petition for Rulemaking

This notice sets forth the reasons for denial of a petition for rulemaking to amend 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment. It is published in accordance with section 124 of the National Traffic and Motor Vehicle Safety Act which provides that the National Highway Traffic Safety Administration must grant or deny such petitions within 120 days, and that if a petition is denied the reasons for it shall be published in the FEDERAL REGISTER (sec. 124(d)).

On October 20, 1977, the Washington State Commission on Equipment petitioned for an amendment of Motor Vehicle Safety Standard No. 108 that would "allow the individual states to adopt ECE headlamp standards for motor vehicles registered with their State." The Commission was presented with the dilemma that the Washington Legislature had authorized it to approve such headlamps while NHTSA had informed it that the State was preempted from such authorization by 15 U.S.C. 1392(d). ECE headlamps do not meet the requirements of Standard NO. 108 in major respects. They are of unsealed construction, lack mechanical aiming capability, are available in such a proliferation of shapes and sizes that replacement may be difficult, and frequently exceed maximum allowable candlepower limits. Accordingly, the petition was denied on December 9, 1977, on the basis that to grant it would encourage States to adopt laws that differed from the Federal standards, with corresponding petitions to amend the standards to allow the States to maintain such laws, and that this would eventually result in a "multiplicity of diverse standards" rather than the "one set of criteria" envisioned as the beneficial result of the preemption clause (H. Rept. No. 1776, p 17, 89th Cong., 2nd Sess).

(Secs. 103, 119, Pub. L. 89-563, 80 Stat 718 15 U.S.C. 1392, 1907); Sec. 106 Pub. L. 93-492, 88 Stat. 1482 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on April 27, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-12029 Filed 5-3-78; 8:45 am]

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[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

(Delegation Order No. 100 (Rev. 1)]

ASSISTANT COMMISSIONER (PLANNING AND RESEARCH) ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order authorizes certain officials of the Internal Revenue Service to enter into agreements to provide statistical and other information, services, or training and training aids on a reimbursable basis pursuant to Internal Revenue Code sections 6108, 6103, and 7516. The text of the delegation order appears below.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Gayle Morin, 1111 Constitution Avenue NW., Room 3238, Washington, D.C. 20224, telephone 202-566-4693.

R. C. BLANKENSHIP,
Director, Legislative Analysis Division.

1. The authority to furnish information on a reimbursable basis, provided by 26 U.S.C. 6108 and delegated to the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, is hereby redelegated to the Assistant Commissioner (Planning and Research). Upon written request of any person and agreement by such person to pay the cost of the work or services to be performed, the Assistant Commissioner (Planning and Research) is authorized to provide special statistical studies and compilations involving return information (as defined in 26 U.S.C. 6103(b)(2)). Whereas these special statistical studies and compilations may be derived from return information, they do not, in and of themselves, constitute return information. No publication or disclosure of statistics or other information authorized under this delegation shall permit the disclosure of any information that would be associated with or otherwise identify, directly or indirectly, a particular taxpayer. This authority may not be redelegated below the level of Division Director.

2. The authority to enter into contracts to furnish information on a reimbursable basis under 26 U.S.C. 6103, and delegated to the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, is hereby redelegated to the Assistant Commissioner (Data Services) (Accounts, Collection, and Taxpayer Service) (Compliance) or (Planning and Research). Upon written request by any person and agreement by such person to pay the cost of work to be performed, the Assistant Commissioner having functional responsibility over the resources to be utilized in filling this request may authorize the providing of services or the furnishing of return and return information upon determination by the Commissioner or his/her delegate that information to be furnished is disclosable under 26 U.S.C. 6103. Any return or return information (as defined in 26 U.S.C. 6103(b)(1) and (2)) provided under this paragraph is subject to disclosure laws, regulations, and internal operating instructions covering 26 U.S.C. 6103. Joint authorization may be appropriate if filling the request requires utilization of resources in more than one Assistant Commissioner area. This authority may not be redelegated below the level of Division Director.

3. The authority delegated to the Commissioner of Internal Revenue by 26 CFR 301.7516-1 is hereby redelegated to the Assistant Commissioner (Administration), within his/her discretion, upon written request, to admit employees and officials of any State, the Commonwealth of Puerto Rico, any possession of the United States, any political subdivision or instrumentality of any of the foregoing, the District of Columbia, or any foreign government to training courses conducted by the Internal Revenue Service and to authorize that they be supplied with texts and other training aids. The Assistant Commissioner (Administration) may require payment from the party or parties making the request of a reasonable fee not to exceed the cost of the training and training aids supplied pursuant to such request. This authority may not be redelegated below the level of Division Director.

4. Delegation Order No. 100, issued January 26, 1965, is superseded.

Issued: May 1, 1978.

Effective: May 1, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 78-12237 Filed 5-3-78; 8:45 am]

[4830-01]

[Delegation Order No. 156, Amdt. 7]

DEPUTY COMMISSIONER ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This Amendment permits the Deputy Commissioner, Assistant Commissioner (Compliance), Deputy Assistant Commissioner (Compliance), and Director, Disclosure Operations Division, to disclose or authorize the disclosure of returns and return information to Committees of Congress and the Comptroller General pursuant to the provisions of IRC 6103 (f) and (i)(6). The text of the Amendment appears below:

EFFECTIVE DATE: April 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Howard T. Martin, CP:D, 1111 Constitution Avenue NW., Room 1603, Washington, D.C. 20224, telephone 202-566-3370 (not a toll-free telephone number).

HOWARD T. MARTIN,
Director, Disclosure Operations Division.

APRIL 27, 1978.

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, authority is hereby delegated as follows:

(1) The Deputy Commissioner, Assistant Commissioner (Compliance), Deputy Assistant Commissioner (Compliance), and the Director, Disclosure Operations Division:

(a) May disclose or authorize the disclosure of returns and return information to Congressional Committees, subject to the conditions prescribed in IRC 6103(f). This authority may not be redelegated.

(b) May disclose or authorize the disclosure of returns and return information to officers and employees of the General Accounting Office, subject to the conditions prescribed in IRC 6103(i)(6). This authority may not be redelegated.

(2) To the extent that authority previously exercised consistent with this Amendment may require ratification, it is hereby affirmed and ratified.

(3) This Amendment supplements Delegation Order No. 156. Delegation Order No. 156, issued May 19, 1976, is printed in the FEDERAL REGISTER dated May 21, 1976, Vol. 41, No. 100, Page 20898.

Issued: April 27, 1978.

Effective: April 27, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 78-12236 Filed 5-3-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 652]

ASSIGNMENT OF HEARINGS

MAY 1, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 141804 (Sub-No. 77), Western Express, Division of Interstate Rental, Inc., now assigned for hearing May 31, 1978, at San Francisco, Calif., is cancelled; application dismissed.

No. MC 109533 (Sub-No. 88), Overnite Transportation Co., is now assigned for continued hearing August 28, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 136786 (Sub-No. 113), Robco Transportation, Inc., now assigned May 16, 1978, at Des Moines, Iowa, June 13, 1978, at Greensboro, N.C., and June 26, 1978, at Washington, D.C., is cancelled and transferred to unopposed modified procedure.

No. MC 120781 (Sub-No. 6), Kraftours Corp., now assigned June 6, 1978, at Tulsa, Okla., is reassigned for June 6, 1978 (9 days), at Oklahoma City, Okla., in a hearing room to be later designated.

No. MC 94350 (Sub-No. 402), Transit Homes, Inc., now assigned May 9, 1978, at Washington, D.C., is cancelled and transferred to modified procedure.

No. AB 43 (Sub-No. 38), Illinois Central Gulf Railroad Co. abandonment near Rosedale and Greenville, in Washington and Bolivar Counties, Miss., now assigned June 5, 1978, at Rosedale, Miss., is postponed indefinitely.

No. MC-F-13314, Consolidated Freightways Corp. of Delaware—purchase (portion)—M & M Transportation Co.; MC 42487 (Sub-No. 873F), Consolidated Freightways Corp. of Delaware; MC-F-13333, Smith's Transfer Corp.—purchase (portion)—Nelson Freightways, Inc., and MC 110683 (Sub-No. 128F), Smith's Transfer Corp., are now assigned for hearing September 11, 1978 (2 weeks), at the Parker House, 60 School Street, Boston, Mass.

No. MC 138875 (Sub-No. 58), Shoemaker Trucking Co., now assigned May 3, 1978 at Portland, Oreg., is canceled and transferred to modified procedure.

No. MC 133841 (Sub-No. 4), Dan Barclay, now assigned June 5, 1978, at New York, N.Y., is postponed indefinitely.

No. MC 120981 (Sub-No. 24), Bestway Express, Inc., is assigned for hearing June 5, 1978 at Frankfort, Ky., and will be held at Holiday Inn, U.S. Highway 60 East.

No. MC 143589, Randleman's Pick-up & Delevery Service, Inc., is now assigned for hearing June 6, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12230 Filed 5-3-78; 8:45 am]

[7035-01]

DECISIONS VOLUME NO. 1

Order-Notice

The following applications are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement's of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission notice, order or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

We find preliminarily that, with the exception of those applications involving duly noted impediments (e.g., unapproved common control, unresolved fitness questions, and jurisdictional problems) to authorization or proposed services, each applicant has demonstrated, in accordance with the applicable provisions of the Interstate Commerce Act and with the Commission's rules and regulations, that its proposed service should be authorized. This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this order-notice (or, if at any prescribed time thereafter, the application becomes unopposed), an appropriate certifiate, permit, or license (which subsequently may reflect administratively acceptable restrictive amendments to the service proposed below) will be issued to each applicant upon compliance with certain requirements which will be set forth in a notification of effectiveness of this order-notice.

To the extent that the authority sought by each applicant below may duplicate its existing authority, such duplicating authorities shall be construed, for all purposes, as a single operating right. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Dated: April 24, 1978.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

H. G. HOMME, Jr.,
Acting Secretary.

No. MC 107403 (Sub-No. 1074F), filed April 10, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr., (same address as applicant). Authority granted to operate as a *common carrier,* over irregular routes, transporting: *Plastic granules, flakes, and powder,* in bulk, in tank vehicles, from Allyn's Point, CT, to points in MN, WI, IL, KY, TN, MS, AL, FL, GA, SC, LA, NC, VA, IN, OH, MI, PA, NY, WV, VA, MD, DE, NJ, CT, MA, RI, NH, VT, ME, and DC. (Hearing site: Washington, DC.)

No. MC 134369 (Sub-No. 10F), filed April 13, 1978. Applicant: CARLSON TRANSPORT, INC., P.O. Box R, Byron, IL 61010. Applicant's representative: Donald B. Levine, 39 South La Salle Street, Chicago, IL 60603. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foundry compound and premix,* from Neenah, WI to Waterloo, IA. (Hearing site: Chicago, IL.)

No. MC 141878 (Sub-No. 5F), filed April 3, 1978. Applicant: DIRECT COURIER, INC., 2780 South Jefferson Davis Hwy, Arlington, VA 22202. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Authority granted to operate as a

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common carrier, by motor vehicle, over irregular routes, transporting: *Biological research products and equipment, medical reagents, plasma, sera, cell and tissue cultures, and laboratory equipment and apparatus*, (1) from Kalamazoo, MI to points in IL. (2) Between Washington, DC, and points in Montgomery and Frederick Counties, MD, on the one hand, and, on the other, Cleveland and Cincinnati, OH, Indianapolis, IN, and Chicago, IL. (3) Between Chicago, IL, on the one hand, and, on the other, Indianapolis, IN, and points in IL. (4) Between Jacksonville, Tampa, Orlando, and Miami, FL, on the one hand, and, on the other, points in FL. (5) From Pittsburgh, PA, to points in OH. (6) Between St. Louis and Kansas City, MO, on the one hand, and, on the other, points in MO. (7) Between San Francisco, CA, on the one hand, and, on the other, points in Marin, Sonoma, Lake, Colusa, Sutter, Butte, Sierra, Yuba, Placer, El Dorado, Alpine, Sacramento, Contra Costa, Alameda, San Mateo, Santa Cruz, San Joaquin, Calaveras, Tuolumne, Stanislaus, Mariposa, Madera, Merced, Santa Clara, San Francisco, Fresno, San Benito, and Monterey Counties, CA. (8) From Wilmington, MA, to New York, NY, and Philadelphia, PA. (9) Between Seattle, WA, on the one hand, and, on the other, points in King, Pierce, Kitsap, Jefferson, Clallam, Mason, Grays Harbor, Pacific, Thurston, Lewis, Yakima, Kittitas, Chelan, Snohomish, Skagit, San Juan, Whatcom, Okanogan, Douglas, Skamania, Cowlitz, and Wahkiakum Counties, WA. (10) Between Los Angeles, CA, on the one hand, and, on the other, points in CA in and south of San Bernardino, Kern, and San Luis Obispo Counties, CA. (Hearing site: Washington, DC.)

No. MC 141878 (Sub-No. 6F), filed April 3, 1978. Applicant: DIRECT COURIER, INC., 2780 South Jefferson Davis Hwy, Arlington, VA 22202. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *live laboratory animals*, (1) from Kalamazoo, MI, to points in IL. (2) Between Washington, DC, and points in Montgomery and Frederick Counties, MD, on the one hand, and, on the other, Cleveland and Cincinnati, OH, Indianapolis, IN, and Chicago, IL. (3) Between Chicago, IL, on the one hand, and, on the other, Indianapolis, IN, and points in IL. (4) Between Jacksonville, Tampa, Orlando, and Miami, FL, on the one hand, and, on the other, points in FL. (5) From Pittsburgh, PA, to points in OH. (6) Between St. Louis and Kansas City, MO, on the one hand, and, on the other, points in MO. (7) Between San Francisco, CA, on the one hand, and, on the other, points in Marin, Sonoma, Lake, Colusa, Sutter, Butte, Sierra, Yuba, Placer, El Dorado, Alpine, Sacramento, Contra Costa, Alameda, San Mateo, Santa Cruz, San Joaquin, Calaveras, Tuolumne, Stanislaus, Mariposa, Madera, Merced, Santa Clara, San Francisco, Fresno, San Benito, and Monterey Counties, CA. (8) From Wilmington, MA, to New York, NY, and Philadelphia, PA. (9) Between Seattle, WA, on the one hand, and, on the other, points in King, Pierce, Kitsap, Jefferson, Clallam, Mason, Grays Harbor, Pacific, Thurston, Lewis, Yakima, Kittitas, Chelan, Snohomish, Skagit, San Juan, Whatcom, Okanogan, Douglas, Skamania, Cowlitz, and Wahkiakum Counties, WA. (10) Between Los Angeles, CA, on the one hand, and, on the other, points in CA in and south of San Bernardino, Kern, and San Luis Obispo Counties, CA. (Hearing site: Washington, DC.)

[FR Doc. 78-11780 Filed 5-3-78; 8:45 am]

[7035-01]

[Notice No. 35]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before June 5, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-F-C 77489, filed April 11, 1978. Transferee: GAIN'S EXPRESS, INC., 1635 Main Street, Jefferson, MA 01522. Transferor: Gain's Express, Inc., 84 Westborough Street, Worcester, MA 01604. Applicants' representative: Carl E. Baylis, 390 Main Street, Worcester, MA, 01608. Authority spught for purchase by transferee of the operating rights of transferor as set forth in certificate No. MC 55665, issued March 24, 1976, as follows: *General commodities*, with certain exceptions, over specified regular routes, between Jefferson, MA, and Worcester, MA, serving the intermediate point of Holden, MA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-C77607, filed April 3, 1978.

Transferee: DUANE E. WILKEN, doing business as DEW FILM SERVICE, Route No. 4, 110 North 4th, Norfolk, NE 68701. Transferor: Dale Hitz, Carol Gast, and Viola Retzlaff; a partnership, doing business as Pierce Film Service, 511 South 2nd Street, Pierce, NE 68767. Applicants' representative: Duane E. Wilken (same as transferee). Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate No. MC 107473, issued November 26, 1965, as follows: *Motion picture films, repairs, and supplies and magazines and motion picture advertising*, over specified regular and irregular routes in NE. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-C77609, filed April 3, 1978. Transferee: BARNETT TRANSPORTATION, INC., Route No. 2, Box 183, Talladega, AL 35160. Transferor: Consolidated Freightways Corp. of Delaware, 175 Linfield Drive, Menlo Park, CA 94025. Applicants' representative: John P. Carlton, Attorney at Law, 727 Frank Nelson Building, Birmingham, AL 35203. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in certificates No. MC 76177 and sub numbers 250, 264, 265, 289, 299, 316, 323, and 327 issued in the name of Baggett Transportation Co. and acquired by transferor pursuant to MC-F 13224 granted December 19, 1977, and consummated January 3, 1978, as follows: Irregular routes: *Packinghouse products, groceries, and fresh fruits and vegetables*, from Gadsden, AL, to points within 35 miles of Gadsden, AL; *cotton yarn* from Sylacauga and Talladega, AL, to

Port Ewen, NY; Reynolds, White Haven, Reading, and Hazleton, PA, and Pompton Lakes, Yardville, and Mount Holly, NJ; *fruit juices*, from points in FL and TX to Birmingham, AL; *methyl vinyl pyridine*, in bulk, in tank vehicles, from Pasadena, TX, to Decatur, AL; *methyl vinyl pyridine*, in bulk, in tank vehicles, between Pace, FL, and Pasadena, TX; *nylon salt solution*, in bulk, in tank vehicles equipped with mechanical temperature-control devices, from Gonzalez FL, to Decatur, AL; *synthetic fibre yarn and containers* used for the transportation thereof, between Gonzales and Pensacola, FL, on the one hand, and, on the other, Atlanta, GA, with service at Atlanta, restricted as an interchange point; *tire cord yarn and containers* used in the transportation thereof, between Gonzales and Pensacola, FL, on the one hand, and, on the other, Barnesville, GA; *synthetic fiber, synthetic fiber yarns, and tire cord yarn*, from Decatur, AL, to points in GA, LA, MS, and TN; *synthetic fiber and synthetic fiber yarn*, from the plantsites and warehouses of Monsanto Co. at Decatur and Huntsville, AL, to points in NC, SC, and VA; from the plantsites and warehouses of Monsanto Co. at Gonzalez and Pensacola, FL, to points in GA, NC, VA, and SC; *textiles, textile products, equipment, materials, and supplies* used in the manufacture and distribution of textiles (except commodities in bulk and those which require the use of special equipment), between the plantsite of Monsanto Co. in Marshall county, AL, on the one hand, and, on the other, points in AL, GA, LA, MS, NC, SC, TN, and VA, (1) textiles and textile products, and (2) equipment, materials, and supplies, used in the manufacture and distribution of textiles, (except commodities in bulk and commodities requiring the use of special equipment in both (1) and (2) above), from the facilities of Monsanto Textiles Co., a division of the Monsanto Co., at Gonzalez and Pensacola, FL, to points in GA, NC, SC, and VA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-C 77612, filed April 5, 1978. Transferee: CARGO TRANSPORT, INC., 3101 Vera Street, Baltimore, MD 21226. Transferor: Carlton Reay Allender, doing business as Cargo Transport, 3101 Vera Street, Baltimore, MD 21226. Applicant's representative: Edward G. Wyatt, 2 East Fayette Street, Suite 501, Jefferson Building, Baltimore, MD 21202. Authority sought for purchase of the operating rights set forth in certificates Nos. MC 110461 and MC 110461 (Sub-No. 2), issued February 1, 1954, and February 12, 1957, respectively, as follows: *Specified commodities*, from specified points in MD to points in VA, WV, PA, MD, NY, DE, KY, OH, SC, TN, NC, AL, CO, FL, GA, IL, IA, ME, MA, MI, MN, MS, MO, NH, RI, VT, WI, and DC. Transferee holds no Commission authority and does not seek section 210a(b) authority.

No. MC-F-C 77615, filed April 7, 1978. Transferee: DEATH VALLEY TRUCKING, INC., 130 South Washington, P.O. Box 296, Lone Pine, CA. Transferor: V. B. Morgan Co., a corporation, 6106 Paramount Boulevard, Long Beach, CA. Applicant's representative: R. Y. Schureman, Attorney at Law, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificates Nos. MC 106022 (Sub-No. 9) and MC 106022 (Sub-No. 12), issued January 16, 1973, and July 6, 1972, respectively, as follows: *Bentonite*, in dump vehicles, between the facilities of New Discovery Mine, at or near Beatty, NV; Blanco Mine, at or near Coaldale Junction (Esmeralda County), NV; Vanderbilt Mine, at or near Lovelock, NV; and the Vanderbilt Mine, near Las Vegas, NV, on the one hand, and, on the other, Dunn Siding, at Rail Mill, near Baker, CA; and *raw talc*, from the site of the Nevada Talc Mine near Lida, NV, to Dunn Siding at Rail Mill near Baker, CA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-C 77620, filed April 27, 1978. Transferee: L. D. FONTAINE, doing business as L. D. FONTAINE TRUCKING, 504 Riverview Boulevard, Great Falls, MT 59404. Transferor: Western General Trucking, Inc., Internal Revenue Service, successor in interest, P.O. Box 20374, Billings, MT 59104. Applicant's representative: L. D. Fontaine, 504 Riverview Boulevard, Great Falls, MT 59404. Authority sought for purchase of the operating rights set forth in certificate No. MC 138988 (Sub-No. 2), issued May 2, 1975, as follows: *Fresh and frozen meat and fresh and frozen packinghouse products* from points of entry on the international boundary line between the United States and Canada and or near Peace Garden and Pembina, ND, and Noyes, MN, to points in AZ, CA, ID, NV, OR, UT, and WA. Transferee hold authority as a common carrier under certificate No. MC 142543 and does not seek temporary authority under section 210a(b).

No. MC-F-C 77630, filed April 17, 1978. Transferee: DAVID LLOYD WALLACE, doing business as DAVID WALLACE TRUCKING, 1829 7th Avenue, Belle Fourche, SD 57717. Transferor: Robert Wallace, Rural Route 1, West National Street, Belle Fourche, SD 57717. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate Nos. MC 100404 and MC 100404 (Sub-No. 2), issued August 8, 1967, and September 18, 1969, as follows: *Bentonite*, in bulk, not milled, from points in MT south of U.S. Hwy 12, and those in Crook, Webster, and Campbell Counties, WY, to points in Pennington, Lawrence, Butte, Custer, and Meade Counties, SD; and *sand, gravel, aggregates, and crushed rock*, between points in Carter and Powder River Counties, MT, Crook County, WY, and Butte, Lawrence, Meade, and Pennington Counties, SD. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-12231 Filed 5-3-78; 8:45 am]

[7035-01]

[Volume No. 86]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Motor Carrier, Broker, Water Carrier and Freight Forwarder Operating Rights Applications

April 26, 1978.

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served con-

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currently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 340 (Sub-No. 48F), filed March 10, 1978. Applicant: QUERNER TRUCK LINES, INC., 1131-33 Austin Street, San Antonio, TX 78208. Applicant's representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint*, from Chicago, IL to Laredo, TX. (Hearing site: San Antonio, TX or Chicago, IL.)

No. MC 2202 (Sub-No. 557F), filed March 17, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment serving the Black Fox Nuclear Plant located at or near Inola, OK as an off-route point in connection with applicant's regular routes. (Hearing site: Oklahoma City, OK or Dallas, TX.)

NOTE.—Common control may be involved.

No. MC 2202 (Sub-No. 558F), filed March 16, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment serving the facilities of Electric Hose & Rubber Co. located at or near Olney, TX, as an off-route point in connection with applicant's present regular routes. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 2860 (Sub-No. 167F), filed March 10, 1978. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures and assessories, and materials, equipment and supplies* in the manufacture, sale and distribution of the described commodities (except commodities in bulk or those which because of size or weight require the use of special equipment), between Tempe, Phoenix and Tuscon, AZ, Fort Smith, Jacksonville, and Rogers, AR, Denver and Pueblo, CO, Kansas City and Lenexa, KS, Harahan, Kenner, Shreveport, New Orleans, and Port Allen, LA, Omaha, NE, Ponca City, OK, Carrolton, Arlington, Fort Worth, Dallas, Houston, Weslaco, Galveston, San Antonio, Longview, Jacinto City and Tyler, TX, on the one hand, and, on the other, points in AZ, AR, CO, KS, LA, NM, NE, OK and TX. (Hearing Site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 2900 (Sub-No. 330F), filed March 8, 1978. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn and garden products*, from the facilities of O. M. Scott & Sons at or near Marysville, and Columbus, OH, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV and WI. (Hearing site: Columbus, OH or Washington DC.)

NOTE.—Common control may be involved.

No. MC 2900 (Sub-No. 332F), filed March 16, 1978. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Applicant's representative: John Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air conditioning machines and machinery*, from Salisbury, NC to points in the United States (except AK and HI), restricted to the transportation of shipments originating at named origin and destined to points in named territory. (Hearing site: Charlotte NC or Atlanta, GA.)

NOTE.—Common control may be involved.

No. MC 29910 (Sub-No. 188F), filed March 13, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the Plant Vogtle facilities of GA Power Co., located in Burke County, GA, as an off-route point in connection with applicant's authorized regular route operations at Augusta, GA. (Hearing site: Atlanta, GA or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 41406 (Sub-No. 65F), filed March 15, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead oxides*, from Hammond, IN to Zanesville, OH and points in KS, IA, MO and PA. (Hearing site: Chicago, IL.)

No. MC 42487 (Sub-No. 874F), filed March 17, 1978. Applicant: CONSOLIDATED FREIGHTWAYS CORP., OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Authority is sought to operate as a *common carrier*, by motor vehicle, over regular routes transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving the site of the K-Mart Distribution Center in Coweta County, GA as an off-route point in connection with carrier's authorized regular route operations. (Hearing site: Detroit, MI or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 49387 (Sub-No. 52F), filed March 16, 1978. Applicant: ORSCHELN BROS. TRUCK LINES, INC., U.S. Hwy 24 East, P.O. Box 658, Moberly, MO 65270. Applicant's representative: George A. Vitt, P.O. Box 658, Moberly, MO 65270. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment), (1) Between Fort Madison, IA and Chicago, IL, as an alternate route for operating convenience only serving no intermediate points: from Chicago over Interstate Hwy 80 to junction Interstate Hwy 74, then over Interstate Hwy 74 to junction U.S. Hwy 34, then over U.S. Hwy 34 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Fort Madison, and return over the same route; from Chicago over Interstate Hwy 80 to junction U.S. Hwy 34, then over U.S. Hwy 34 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Fort Madison, and return over the same route; (2) between Peoria, IL and St. Louis, MO as an alternate route for operating convenience only serving no intermediate points: From Peoria over IL Hwy 29 to junction Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis and return over the same route; from Peoria over Interstate Hwy 74 to junction IL Hwy 121, then over IL Hwy 121 to junction Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, and return over the same route; and (3) between the junction of U.S. Hwy 65 and Interstate Hwy 70 and Sedalia, MO, as an alternate route for operating convenience only serving no intermediate points from the junction of Interstate Hwy 70 and U.S. Hwy 65, then over U.S. Hwy 65 to Sedalia, and return over the same route. (Hearing site: Kansas City or St. Louis, MO.)

No. MC 50069 (Sub-No. 533F), filed March 20, 1978. Applicant: REFINERS TRANSPORT & TERMINAL CORP., 445 Earlwood Avenue, Oregon, OH 43616. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases*, in shipper-owned trailers, from East Chicago, IN, and Muskegon, MI, to points in the United States (except AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, and WY). (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 50935 (Sub-No. 16F), filed March 14, 1978. Applicant: WOLVERINE TRUCKING CO., a corporation, 1020 Doris Road, Pontiac, MI 48057. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *Malt beverages and related advertising materials* (a) from the facilities of Pabst Brewing Co. at Peoria, IL, to Detroit, MI and points in its commercial zone; Saginaw, MI and points in its commercial zone; and Toledo, OH and points in its commercial zone; (b) and from the facilities of Pabst Brewing Co. at Milwaukee, WI, to Toledo, OH and points in its commercial zone; and, (2) *empty malt beverage containers, pallets and rejected shipments of malt beverages* (a) from Detroit, MI and points in its commercial zone; Saginaw, MI and points in its commercial zone; and Toledo, OH and points in its commercial zone to the facilities of Pabst Brewing Co. at Peoria, IL, (b) and from Toledo, OH and points in its commercial zone to the facilities of Pabst Brewing Co. at Milwaukee, WI. (Hearing site: Milwaukee, WI, Chicago, IL, or Detroit, MI.

No. MC 51004 (Sub-No. 9F), filed March 13, 1978. Applicant: PAUL H. LISKEY, R.F.D. 1, Kearneysville, WV 25430. Applicant's representative: Daniel B. Johnson, 4304 East-West Hwy, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Stone and stone products*, from Berkeley County, WV to points in PA, MD, WV, and DC; and (2) *water treatment plants*, (a) between Hagerstown and Frederick, MD, and Martinsburg, WV, and (b) from Martinsburg, WV to points in PA, MD, VA, WV, and DC. (Hearing site: Martinsburg, WV.)

No. MC 51146 (Sub-No. 586F), filed March 20, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal poultry feed*, prepared (except in bulk) from the facilities of Doane Products Co. located at or near Muscatine, IA to points in MD, PA, DE, NJ, NY, CT, RI, MA, VT, NH, ME, and DC. (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 52460 (Sub-No. 209F), filed March 10, 1978. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bags and polyethylene plastic rolls*, from the plantsite of Great Plains Bag Corp. at Jacksonville, AR, to points in AL, KS, LA, MS, MO, NM, OK, TN, and TX, and (2) *Equipment, materials, and supplies* used in the manufacture of bags and polyethylene plastic rolls, from points in AL, KS, LA, MS, MO, NM, OK, TN, and TX, to the plantsite of Great Plains Bag Corp. at Jacksonville, AR. (Hearing site: Little Rock, AR or Memphis, TN.)

No. MC 52460 (Sub-No. 210F), filed March 20, 1978. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Applicant's representative: Mr. Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Chickasha, OK to points in AL, AR, GA, KS, LA, MS, MO, TN, and TX. (Hearing site: St. Louis or Kansas City, MO.)

No. MC 52460 (Sub-No. 211F), filed March 20, 1978. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Applicant's representative: Mr. Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles* distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Dodge City, KS to points in AL, AR, FL, GA, LA, MS, MO, NM, NC, OK, SC, TN, and TX. (Hearing site: Oklahoma City, OK or Denver, CO.)

No. MC 52926 (Sub-No. 9F), filed March 16, 1978. Applicant: GREEN TRANSFER & STORAGE CO., a corporation, 9040 North Columbia Boulevard, Portland, OR 97203. Applicant's representative: John G. McLaughlin, Suite 1440-200 Market Building, 200 Southwest Market Street, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, between points in Multnomah, Clackamas, and Washington Counties, OR, and Clark and Cowlitz Counties, WA, on the one hand, and, on the other, points in OR and WA. (Hearing site: Portland, OR.)

No. MC 59367 (Sub-No. 118F), filed March 16, 1978. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Applicant's representative: William L. Fairbank, 1980

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Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from Chicago, IL to points in IA on and north of U.S. Hwy 30 and on and west of U.S. Hwy 63. (Hearing site: Chicago, IL or Des Moines, IA.)

No. MC 65941 (Sub-No. 51F), filed March 16, 1978. Applicant: TOWER LINES, INC., Third and Warwood Avenue (Box 6010), Wheeling, WV 27003. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of St. Joe Minerals Corp., Josephtown (Potter Township, Beaver County), PA, on the one hand, and, on the other, points in AL, FL, GA, KY, MS, NC, SC, and TN, (2) *zinc, zinc oxide and zinc dust*, from the facilities utilized by St. Joe Minerals Corp. at Chattanooga, TN, to points in AL, FL, GA, KY, and MS. Restriction: Restricted to the transportation of traffic originating at and destined to points named in (1) and (2) above. (Hearing site: Pittsburgh, PA.)

No. MC 67419 (Sub-No. 5F), filed March 17, 1978. Applicant: PHILIP STINGER, INC., northeast corner 35th and Moore Streets, Philadelphia, PA 19145. Applicant's representative: Raymond A. Thistle, Jr., Suite 1012, Four Penn Center Plaza, Philadelphia, PA 19103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials and supplies, and supplies and materials* used in the manufacture thereof from Philadelphia, PA, to points in CT, ME, MA, NH, NY, OH, RI, VT, VA, WV, NC, and SC, and the return of returned shipments under a continuing contract or contracts with the Celotex Corp. (Hearing site: Philadelphia, PA.)

No. MC 69116 (Sub-No. 201F), filed March 16, 1978. Applicant: SPECTOR INDUSTRIES, INC., doing business as Spector Freight System, 1050 Kingery Hwy, Bensenville, IL 60106. Applicant's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles* from Johnstown, PA, to points in TN. (Hearing site: Pittsburgh, PA, or Chicago, IL).

No. MC 82079 (Sub-No. 59F), filed March 17, 1978. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue SW., Grand Rapids, MI 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), in mechanically refrigerated vehicles, from the facilities of Ore-Ida Foods, Inc., in Massilon, OH, to the facilities of Ore-Ida Foods, Inc., in Greenville, MI. Authority is restricted to traffic originating at origin point and destined to destination point. (Hearing site: Lansing or Detroit, MI.)

NOTE.—Applicant holds motor contract carrier authority in MC 114608 and other subs, therefore, dual operations may be involved. Common control may also be involved.

No. MC 82492 (Sub-No. 186F), filed March 16, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper articles, and polyethylene articles*, from the facilities of Jemco Packaging Products Co. at or near Jackson, TN, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, those points in NY in and west of Allegany, Livingston, and Monroe Counties and those points in PA on and west of U.S. Hwy 219; (2) *materials, equipment, and supplies* useful or used in the manufacture, sale, or distribution of paper, paper articles, and polyethylene articles, from points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, those points in NY in and west of Allegany, Livingston, and Monroe Counties and those points in PA on and west of U.S. Hwy 219, to the facilities of Jemco Packaging Products Co. at or near Jackson, TN. (Hearing site: Washington, DC.)

No. MC 87103 (Sub-No. 24F), filed March 17, 1978. Applicant: MILLER TRANSFER & RIGGING CO., a corporation, P.O. Box 6077, Akron, OH 44312. Applicant's representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal working press, metal drawing press, metal rolling machinery, machine parts, wrought castings, weldings and gears, and materials and supplies* used in the manufacture of the above-named items, between Salem, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Applicant holds common carrier authority in No. MC 119302 and sub numbers thereunder, therefore dual operations may be involved. Common control may be involved.

No. MC 94201 (Sub-No. 159F), filed March 13, 1978. Applicant: BOWMAN TRANSPORTATION INC., P.O. Box 17744, Atlanta, GA 30316. Applicant's representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Meridian, MS, and the facilities of the Richardson Co. at or near Philadelphia, MS, over the following route and serving no intermediate points; from Meridian over MS Hwy 19 and return over the same route. Restricted to traffic originating at or destined to the facilities of the Richardson Co. at or near Philadelphia, MS. (Hearing site: Jackson, MS or Atlanta, GA.)

No. MC 95540 (Sub-No. 1001F), filed March 10, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Paramount Foods, Inc., at or near Louisville, KY, to points in AR, AL, FL, GA, LA, MS, NJ, NY, PA, TX, SC, TN, and VA. (Hearing site: Louisville, KY, Washington, DC, or Tampa, FL.)

NOTE.—Common control may be involved.

No. MC 95540 (Sub-No. 1002F), filed March 10, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles* distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities of Wilson Foods Corp. located at or near Cedar Rapids, IA, to points in AR. Restricted to the transportation of traffic originating at the above-named origins and destined to the named destinations. (Hearing site: Oklahoma City, OK, Washington, DC, or Tampa, FL.)

NOTE.—Common control may be involved.

No. MC 95540 (Sub-No. 1003F), filed March 20, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities of Chef Pierre, Inc., located at or near Forest, MS, to points in the United States (except AK and HI). (Hearing site: Detroit, MI, or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 103993 (Sub-No. 932F), filed March 17, 1978. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings, valves, hydrants, and materials and supplies* used in the installation thereof (except commodities in bulk), from the facilities of Clow Corp., at or near Buckhannon, WV, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL.)

No. MC 104149 (Sub-No. 201F), filed March 20, 1978. Applicant: OSBORNE TRUCK LINE, INC., 510 North 21st Street, Birmingham, AL 35203. Applicant's representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL, 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the facilities of Republic Steel Corp. at or near Gadsden, AL, to points in AL, GA, MS, TN, LA, SC, NC, KY, and FL; (2) *materials and supplies* used in the manufacture or production of iron and steel and iron and steel articles, from the destination territory, to the origin specified in paragraph (1) above. (Hearing site: Birmingham, AL.)

No. MC 106644 (Sub-No. 253F), filed March 20, 1978. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 916, Atlanta, GA 30301. Applicant's representative: Frank Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: (1) *Cranes, draglines, backhoes, shovels, and loaders;* (2) *incidental machinery, attachments, assessories, and parts* used in connection with the commodities in (1) above, between points in the United States (except AK and HI), in nonradial movements. Restricted to the transportation of shipments originating at or destined to the facilities of Gleason Equipment, Inc., Gleason Crane Rental Inc., Gleason Service, Inc., or their affiliates, subsidiaries, distributors, customers, or equipment lessees. (Hearing site: Chicago, IL.)

No. MC 106674 (Sub-No. 297F), filed March 17, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Scrap or waste paper* (1) from points in AL, CT, GA, KY, FL, LA, MD, MS, NJ, NY, PA, SC, TN, VA, WV, and DC to the facilities of the U.S. Fiber Corp. at Jonesville, NC and (2) from points in CT, NJ, NY, and PA to the facilities of the U.S. Fiber Corp. at Lee, MA. (Hearing site: Chicago, IL or Indianapolis, IN.)

No. MC 107107 (Sub-No. 463F), filed March 15, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 Northwest 42nd Avenue, Opa Locka, FL 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought as a *common carrier*, by motor vehicle over irregular route transporting: *Such commodities* as are used by, dealt in by, or distributed by wholesale, retail, or chain groceries or grocery houses (except commodities in bulk), from points in CT, MA, NJ, NY, RI, and those in PA east of the channel of the Susquehanna River extending from the NY State line near Sayre, PA, to the MD State line near Peach Botton, PA, to points in FL. (Hearing site: Miami, FL.)

No. MC 107107 (Sub-No. 464F), filed March 17, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 Northwest 42nd Avenue, Opa Locka, FL 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought as a *common carrier*, by motor vehicle over irregular routes transporting: *Candy and confectionery and related advertising and promotional materials and premiums* (including empty cartons) when shipped with candy and confectionery, in vehicles equipped with mechanical refrigeration, from Norwalk, OH to points in AL, FL, GA, LA, MS, NC, and SC. (Hearing site: Washington, DC.)

No. MC 107295 (Sub-No. 876F), filed March 17, 1978. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Buildings, building panels, building parts*, and *materials, accessories, and supplies* used in the installation, erection, and construction of buildings, building panels, and building parts (except commodities in bulk), from the facilities of Butler Manufacturing Co. at or near Annville, Lebanon County, PA, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TX, UT, WA, WI and WY. (Hearing site: Washington, DC.)

No. MC 108046 (Sub-No. 9F), filed March 20, 1978. Applicant: CURATOLA BROS. TRUCKING, INC., 180 Atlantic Avenue, Garden City Park, NY 11040. Applicant's representative: Edward M. Alfano, 550 Mamoroneck Avenue, Harrison, NY 10580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer of furniture, including equipment, materials, and supplies used in the conduct of such business (except commodities in bulk), between points in the States of AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MS, NH, NJ, NY, NC, OH, PA, RI, TN, and VA. Restriction: Under a continuing contract or contracts with Castro Convertible Corp. of New Hyde Park, NY. (Hearing site: New York, NY.)

No. MC 108341 (Sub-No. 91F), filed March 16, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon St., P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, hydrants, and materials and supplies* used in the installation thereof (except commodities in bulk), from the facilities of Clow Corp. at or near Birmingham, AL to points in FL, GA, KY, MD, NC, SC, TN, VA, and WV. (Hearing site: Chicago, IL or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 108341 (Sub-No. 92F), filed March 17, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon St., P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled vehicles, backhoes, cranes, and lift trucks;* (2) *attachments and accessories* for (1) above; and (3) *parts* for (1) and (2) above, from Tifton, GA to points in the United States (except AK and HI). (Hearing site: Atlanta, GA or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 109633 (Sub-No. 31F), filed March 20, 1978. Applicant: ARBET

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TRUCK LINES, INC., 222 East 135th Place, Chicago, IL 60627. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical and gas appliances, parts of electrical and gas appliances and equipment, materials and supplies* used in the manufacture, distribution and repair of electrical and gas appliances, from the facilities of Whirlpool Corp. at Evansville, IN; Clyde, OH; Marion, OH; Findlay, OH, and St. Joseph, MI to all points in the States of AR, IL, IA, IN, KY, MI, MN, MO, NJ, NY, OH, PA, TN, VA, WV and WI, on the other. (Hearing site: Chicago, IL.)

No. MC 110525 (Sub-No. 1231F), filed March 13, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicles over irregular routes transporting: *Anhydrous aluminum chloride*, in bulk, in hopper vehicles from (1) LaPorte, TX to West Elizabeth, PA and Baton Route, LA and (2) from Brainards, NJ to LaPorte, TX. (Hearing site: Houston, TX.)

No. MC 111201 (Sub-No. 29F), filed March 13, 1978. Applicant: J. N. ZELLNER & SON TRANSFER CO., P.O. Box 91247, East Point, GA 30364. Applicant's representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass and plastic containers and container accessories*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of glass and plastic containers and container accessories (except commodities in bulk), between the facilities of Brockway Glass Co. located in Pittsylvania County, VA on the one hand and, on the other, points in the States of AL, FL, GA, KY, MS, NC, SC, and TN. (Hearing site: Atlanta, GA.)

No. MC 111812 (Sub-No. 560F), filed March 17, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Applicant's representative: Ralph H. Jinks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment other than refrigerated equipment), from Berlin, CT and Springfield, MA to points in FL, GA, NC, and SC. Restricted to traffic moving on bills of lading of The Charter Oak Shippers Cooperative Association, Inc. (Hearing site: Boston, MA.)

NOTE.—Common control may be involved.

No. MC 111828 (Sub-No. 7F), filed February 21, 1978. Applicant: FETTES MOTOR FREIGHT, P.O. Box 1247, Fargo, ND 58101. Applicant's representative: Mike Miller, P.O. Box 1897, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* (1) between points in ND on the one hand and, on the other, points in DA, MN, IA, WI, IL, and IN; (2) between points in SD on the one hand and, on the other, points in ND, MN, IA, WI, IL, and IN; (3) between points in MN within 50 miles of Moorhead, MN on the one hand and, on the other, points in IA, WI, IL, and IN; (4) between points in MN within 50 miles of New York Mills, MN on the one hand and, on the other, points in IA, WI, IL, and IN; (5) between points in MN within 75 miles of Breckenridge, MN on the one hand and, on the other, points in IA, WI, IL, and IN. (Hearing site: Fargo, ND.)

Docket No. MC 112223 (Sub-No. 109 F), filed March 17, 1978. Applicant: QUICKIE TRANSPORT CO., A Corporation, 1700 New Brighton Boulevard, Minneapolis, MN 55413. Applicant's representative: Earl Hacking, 1700 New Brighton Boulevard, Minneapolis, MN 55413. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *Petroleum products*, in bulk, in tank vehicles, from Superior, WI to points in MN. (Hearing site: Minneapolis, MN, or St. Paul MN.)

No. MC 112963 (Sub-No. 73F), filed March 20, 1978. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Applicant's representative: Leonard E. Murphy, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid and dry commodities*, in bulk, in tank vehicles (except gasoline, cement, kerosene, lubricating oil, heating oils, jet fuel, fuel oil, liquified natural and petroleum gases, road oils asphalt and tars), (1) from Providence, RI and its Commercial zone, to points in CT, ME, MA, NH, and VT and (2) from Fall River, MA to points in CT. (Hearing site: Boston, MA or Providence, RI.)

No. MC 113434 (Sub-No. 91 F), filed March 14, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), (1) From Frankfort, IN to MI, KY, WV, and (2) From Rochelle, DeKalb and Mendota, IL to MI, OH, and that part of PA on and west of U.S. 15. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 113666 (Sub-No. 124F), filed March 14, 1978. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Daniel R. Smetanick, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *sulphuric acid*, in bulk, from Josephtown, Langeloth, and Newell, PA, to Front Royal, VA. (Hearing site: Washington, DC or Pittsburgh, PA.)

No. MC 113855 (Sub-No. 414F), filed March 20, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *compressors* and *compressor pumps;* (2) *attachments and parts* for (1) above, from Albany County, NY, to points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 114457 (Sub-No. 365F), filed March 20, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, Saint Paul, MN 55114. Applicant's representative: James H. Wills, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *containers and pulpboard*, from Atlanta, GA and Chattanooga, TN to points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OH, PA, SD, TX, and WI. (Hearing site: St. Paul, MN or Atlanta, GA.)

No. MC 114533 (Sub-No. 366F), filed March 6, 1978. Applicant: BANKERS DISPATCH CORP., 1106 West 35th Street, Chicago, IL 60609. Applicant's representative: Melvin L. Rosenbloom (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drinking water and wastewater samples, supplies, and business reports* (except in bulk or tank vehicles) between Topeka, KS, on the one hand, and, on the other, points in MO on and west of U.S. Hwy 63. (Hearing site: Topeka, KS.)

NOTE.—Applicant holds motor contract authority in MC 128616 and sub-numbers, therefore dual operations may be involved.

No. MC 114552 (Sub-No. 157F), filed March 17, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, concrete forms, accessories therefore, and materials and supplies* used in the manufacture or distribution of the foregoing commodities (except in bulk), between Dallas, TX, on the one hand, and, on the other, points in PA, MD, the DC, VA, KY, NC, SC, TN, GA, FL, AL, MS, AR, and LA. (Hearing site: Dallas, TX.)

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No. MC 115162 (Sub-No. 410F), filed March 21, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate, P.O. Drawer 500, Evergreen, AL 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, building board, insulation board, urethane and urethane products, roofing and roofing materials, insulating materials, gypsum products and materials used in the installation thereof, plywood and panels* (except chemicals and commodities in bulk, in tank vehicles) from Camden County, NJ, to points in the United States in and east of the States of ND, SD, NE, KS, OK, and TX (except AK and HI). (Hearing site: Washington, DC.)

No. MC 115311 (Sub-No. 271F), filed March 16, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials* (except in bulk), from the facilities of United States Gypsum Co. at Chamblee and Morrow, GA, to points in KY and WV. (2) *Materials, supplies, and equipment* used in the manufacture, installation or distribution of building materials from points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, NC, OH, PA, SC, TN, and VA to facilities of United States Gypsum Co. at Chamblee and Morrow, GA. (Hearing site: Atlanta, GA.)

No. MC 115311 (Sub-No. 272F), filed March 20, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except in bulk) and filters from Congo and St. Marys, WV to points in NC, SC, TN, MS, LA, AL, GA, and FL. (Hearing site: Norfolk, VA, or Pittsburgh, PA.)

No. MC 115570 (Sub-No. 11F), filed March 15, 1978. Applicant: WALTER A. JUNGE, INC., 2112 South 90th Street, Tacoma, WA 98444. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, over irregular routes in the transportation of: *Paper, paper products*, and such commodities as are manufactured or distributed by manufacturers or convertors of cellulose materials and products, between points in AZ, CA, ID, NV, OR, UT, and WA, under a continuing contract or contracts with St. Regis Paper Co. (Hearing site: Seattle, WA.)

NOTE.—Applicant holds common carrier authority under MC No. 141952 Sub 1; therefore, dual operations may be involved.

No. MC 115841 (Sub-No. 617F), filed March 20, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 110, Building 100, 9041 Executive Park Drive, Knoxville, TN 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, chain grocery, and food business houses (except in bulk), from the facilities of Kraft, Inc., at Atlanta, Decatur, and Tucker, GA, to points in AL, LA, and MS. (Hearing site: Atlanta, GA, or Chicago, IL.

NOTE.—Common control may be involved.

No. MC 115931 (Sub-No. 57F), filed March 20, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements, corn cribs, unmounted front end loaders, scraper blades, and parts and attachments* for the above from Richmond, IN, to points in UT, ID, MT, OR, and WA. (Hearing site: Indianapolis, IN, or Chicago, IL.)

No. MC 115931 (Sub-N. 58F), filed March 20, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Applicant's Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Agricultural material handling equipment, and parts and attachments* for agricultural material handling equipment from the facilities of Balzer Manufacturing Corp. located at or near Mountain Lake, MN, to points in the United States (except AK and HI). Restriction: Restricted to traffic originating and destined to the named points. (Hearing site: Minneapolis or St. Paul, MN.)

No. MC 116763 (Sub-No. 404F), filed March 13, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Applicant's representative: H. M. Richters, North West Street, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen and commodities in bulk, in tank vehicles), from Coloma, MI, to points in WI. Restricted to traffic originating at and destined to the named points. (Hearing site: Chicago, IL.)

No. MC 117068 (Sub-No. 92F), filed March 16, 1978. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air compressors and parts and attachments* for such articles from Michigan City, IN, to points in MO, KS, NE, SD, ND, CO, WY, and MT. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 117503 (Sub-No. 12), filed March 13, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* in packages weighing less than 100 lbs., with no more than 500 lbs. from one consignor to one consignee on any one day, restricted against the transportation of classes A and B explosives; between points in Washoe, Storey, Douglas, and Lyon Counties and Carson City, NV, on the one hand, and, on the other hand, points in the counties of Alameda, Butte, Colusa, Contra Costa, Glenn, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Shasta, Stanislaus, Sutter, Tehama, Yolo, and Yuba, CA. (Hearing site: Reno, NV or San Francisco, CA.)

No. MC 117574 (Sub-No. 299F), filed March 20, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Applicant's representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Bituminous fiber pipe and conduit, and accessories*,

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from West Bend, WI to points in FL and GA. (Hearing site: Chicago, IL or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 117820 (Sub-No. 20F), filed March 20, 1978. Applicant: AURELIA TRUCKING CO., 2136 Pine Grove Avenue, Port Huron, MI 48060. Applicant's representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of the Kitchens of Sara Lee at Deerfield, IL to points in CT, MA, NJ, and NY. Restricted to the transportation of traffic originating at and destined to the named origin and destination. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 118535 (Sub-No. 117F), filed March 16, 1978. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, MO 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Center, 3535 Northwest 58th, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, pet foods, dry feeds and feed ingredients* from, (1) Mattoon, IL to all points in AR, AZ, CO, IA, KS, LA, MN, MO, NE, ND, NM, OK, SD, TX, and WI, (2) Hutchinson, KS to all points in AR, AZ, CO, IA, IL, LA, MN, MO, NE, ND, NM, OK, SD, TX, and WI. (Hearing site: Kansas City, MO.)

No. MC 118569 (Sub-No. 7F), filed March 17, 1978. Applicant: HALBERG CONSTRUCTION & SUPPLY, INC., d.b.a. KIRSCHER TRANSPORT CO., a corporation, Virginia, MN 55792. Applicant's representative: Earl Hacking, 1700 New Brighton Boulevard, Minneapolis, MN 55413. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Superior, WI, to points in MN. (Hearing site: Minneapolis or St. Paul, MN.)

No. MC 118806 (Sub-No. 60F), filed February 23, 1978. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Boulevard, Suite No. 200, Winnipeg, Manitoba, Canada R25 3K4. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle Street Ste. 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by agricultural equipment, industrial equipment, and lawn and leisure products manufacturers and dealers (except commodities in bulk), from Canton, East Moline, Moline, and Rock Island, IL, Memphis, TN, and Louisville, KY, to all ports of entry on the international boundary line between the United States and Canada (except AK). Restriction: Restricted to traffic originating at the named origins and destined to the dealers of or the facilities utilized by International Harvester Co. of Canada, Ltd., and further restricted to traffic moving in foreign commerce. (Hearing site: Chicago, IL.)

No. MC 119399 (Sub-No. 76F), filed March 20, 1978. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Applicant's representative: David L. Sitton, P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass* from Dearborn, MI, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NE, NC, ND, OH, OK, SC, SD, TN, TX, and WI. (Hearing site: Detroit, MI or Tulsa, OK.)

No. MC 119496 (Sub-No 11F), filed March 20, 1978. Applicant: THE JAMES GIBBONS CO., 1700 Sutton Avenue, Baltimore, MD 21227. Applicant's representative: L. C. Major, Jr., Suite 400 Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oils (grades 1, 2, 4, 5, and 6)*, in bulk, in tank vehicles, from Baltimore, MD to points in the State of PA. (Hearing site: Baltimore, MD or Washington, DC.)

No. MC 121470. (Sub-No. 14F), filed March 13, 1978. Applicant: TANKSLEY TRANSFER CO., a corporation, 801 Cowan Street, Nashville, TN, 37207. Applicant's representative: Roy L. Tanksley, 801 Cowan Street, Nashville, TN, 37207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) (1) *zinc, zinc alloy and zinc products*, from Montgomery County, TN, to points in and east of ND, SD, NE, KS, OK, and TX; and (2) *equipment, machinery, materials and supplies* (except commodities in bulk), used in the manufacture, process, or distribution of commodities in (1) above, from points in and east of ND, SD, NE, KS, OK, and TX, to points in Montgomery County, TN, restricted to the transportation of traffic originating at or destined to the named origins and named destinations in (1) and (2) above, except traffic moving in foreign commerce. (Hearing site: Nashville, TN or Washington, DC.)

No. MC 123255 (Sub-No. 143F), filed March 20, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, OH 43055. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting *glass containers and container accessories and materials, equipment, and supplies* used in the manufacture and distribution of containers and container accessories, (except commodities in bulk), between the facilities of Brockway Glass Co., Inc., in Madison County, IN on the one hand and, on the other, points in NC and VA. (Hearing site: Columbus, OH.)

NOTE.—Common control may be involved.

No. MC 123407 (Sub-No. 445F), filed March 13, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Applicant's representative: H. E. Miller, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *flat glass*, from Toledo, OH, to the port of entry on the International Boundary line between the United States and Canada located at or near Detroit, MI for furtherance into ON, Canada. (Hearing site: Toledo, OH.)

NOTE.—Common control may be involved.

No. MC 124078 (Sub-No. 785F), filed March 20, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement mill waste*, from the plantsite of the Marquette Co. at or near Catskill, NY to points in CT, ME, MA, NH, NJ, NY, PA, RI and VT. (Hearing site: Nashville, TN.)

NOTE.—Common control may be involved.

No. MC 124078 (Sub-No. 787F), filed March 17, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid aluminum sulfate (alum)* from East Point, GA, to points in NC, SC and TN. (Hearing site: Charleston, SC.)

NOTE.—Common control may be involved.

No. MC 124170 (Sub-No. 81F), filed March 20, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *"Confectionery and Related Products*, from the facilities of M & M Mars, a Division of Mars, Inc. at or near Elizabeth, NJ; Hackettstown, NJ; and Elizabethtown, PA to points in OH, IL, MI; and from Chicago, IL to points in OH and MI in vehicles equipped with mechanical refrigeration." (Hearing site: New York City, NY.)

No. MC 124692 (Sub-No. 198F), filed March 14, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59801. Applicant's representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *aluminum sheet and metal*, from Trentwood, WA to points in CA. Restricted to shipments originating at the facilities of Kaiser Aluminum and Chemical Corp. (Hearing site: San Francisco, CA or Spokane, WA.)

No. MC 125433 (Sub-No. 152F), filed March 16, 1978. Applicant: F-B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) Bentonite, (except in bulk) and lignite coal, from the facilities of American Colloid Co., located in Crook County, WY, to points in the United States (except AK and HI); (2) Bentonite, (except in bulk) lignite coal, and foundation water impedance boards, from the facilities of American Colloid Co., located in Butte County, SD to PA, NY, VT, NH, ME, MA, RI, CT, NJ, DE, MD, DC, VA, NC, SC, GA, FL, KY, TN, AL, MS, LA, AR, OK, TX, NM, AZ, and CA; and (3) Bentonite, (except in bulk) and lignite coal, from the facilities of American Colloid Co., located in Weston County, WY to PA, NY, VT, NH, ME, MA, RI, CT, NJ, DE, MD, DC, VA, NC, SC, GA, FL, KY, TN, AL, MS, LA, AR, OK, TX, NM, AZ, and CA. (Hearing site: Salt Lake City, UT.)

NOTE.—Common control may be involved.

No. MC 125952 (Sub-No. 30F), filed March 16, 1978. Applicant: INTERSTATE DISTRIBUTOR CO., a corporation, 8311 Durango SW., Tacoma, WA 98499. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *contract carrier* over irregular routes in the transportation of *industrial chemicals* (except commodities in bulk), from Denver, CO, to points in CA, ID, NV, OR, UT and WA. Under a continuing contract, or contracts, with Van Waters & Rogers of Kent, WA. (Hearing site: Seattle, WA.)

NOTE.—Applicant holds motor common carrier authority in MC-117201 and Sub-No. 8, therefore, dual operations may be involved.

No. MC 127840 (Sub-No. 66F), filed March 17, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Applicant's representative: William H. Towle, 189 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *inedible fats and oils and fatty acids*, between Ft. Worth, TX on the one hand and, on the other, points in LA, AR, MS, AL, TN, OK, KS, MO, IL, IN, IA, NE, SD, MN, MI, NM and CO. (Hearing site: Dallas, TX.)

No. MC 128469 (Sub-No. 5F), filed March 17, 1978. Applicant: A & A TRANSFER & STORAGE, INC., 113 Hollywood Boulevard, NW., Fort Walton Beach, FL 32548. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, DC 20006. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Used household goods*, between (1) Jacksonville, FL on the one hand and, on the other, points in GA; (2) Pensacola and Fort Walton Beach, FL on the one hand and, on the other, points in AL, and (3) points in AL and GA, restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery services in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. (Hearing site: Fort Walton Beach, FL.)

No. MC 129624 (Sub-No. 14F), filed March 13, 1978. Applicant: ROUTE MESSENGERS OF PENNSYLVANIA, INC., 2425 Bainbridge Street, Philadelphia, PA 19146. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadephia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *household and industrial cleaning products, toilet preparations, insect control products, air fresheners, brooms, brushes, mops, and advertising material* related to the foregoing: from Philadelphia, PA to points in Adams, Carbon, Columbia, Cumberland, Dauphin, Franklin, Lebanon, Lycoming, Lancaster, Monroe, Northumberland, Luzerne, Montour, Schuylkill, and York Counties, PA. Restricted to traffic having a prior movement by motor carrier. (Hearing site: Washington, DC or Philadelphia, PA.)

No. MC 129631 (Sub-No. 61F), filed March 16, 1978. Applicant: PACK TRANSPORT, INC., 3975 South 300 West Street, Salt Lake City, UT 84107. Applicant's representative: G. D. Davidson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap paper* and *scrap paper products* and *scrap cardboard*, from points in UT to CA, OR, and WA. (Hearing site: Salt Lake City, UT.)

No. MC 129759 (Sub-No. 22F), filed March 17, 1978. Applicant: TRIANGLE TRUCKING CO., A Corporation, P.O. Box 490, McKees Rocks, PA 15136. Applicant's representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roof deck, bridge deck, Metal roofing* and *siding*, and *equipment, materials* and *supplies used in the manufacture and installation thereof* between Los Angeles, CA, Atlanta, GA, and Cambridge, OH, on the one hand, and, on the other, points in the United States (except AK and HI) restricted to service performed under a continuing contract or contracts with Elwin G. Smith Division, Cyclops Corp. (Hearing Site: Pittsburgh, PA.)

No. MC 133095 (Sub-No. 182F), filed March 21, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Applicant's representative: Rocky Moore, P.O. Box 434, Euless, TX 76039. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Doors material and supplies* used in the manufacture thereof, between Avery, TX, on the one hand, and on the other, points in LA, OK, and KS. (Hearing site: Dallas, TX.)

No. MC 134405 (Sub-No. 47F), filed March 16, 1978. Applicant: BACON TRANSPORT CO., P.O. Box 1134, Ardmore, OK 73401. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Crude tall oil*, in bulk, from Valliant, OK to Hattiesburg, MS. (Hearing site: Oklahoma City, OK).

No. MC 134574 (Sub-No. 28F), filed March 2, 1978. Applicant: FIGOL DISTRIBUTORS LTD., 11233—156 Street, Edmonton, Alberta, Canada T5M 1Y2. Applicant's representative: Richard S. Mandelson, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles by*

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meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration, from the port of entry on the international boundary line between the United States and Canada located at or near Sweetgrass, MT, to points in AZ, NE, NM AND UT. (Hearing Site: Great Falls or Billings, MT.)

NOTE.—Common control may be involved.

No. MC 134755 (Sub-No. 137F), filed March 16, 1978. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of American Home Foods Division of American Home Products Corp., at or near LaPorte, IN, to points in AR, MO, TN, OK, TX, KS, and East St. Louis, IL. (Hearing site: Kansas City, MO or Chicago, IL.)

NOTE.—Applicant holds motor contract carrier authority in No. MC 138398 (Sub-No. 2), therefore, dual operations may be involved. Common control may be involved.

No. MC 134922 (Sub-No. 250F), filed March 16, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy* and *confectionery* and *related products* (except in bulk) in vehicles equipped with mechanical refrigeration, from Hackettstown, NJ and Elizabethtown, PA, to points in LA, TX, NM, AZ, CA, OR, WA, UT, and NE. Restriction: Restricted to traffic originating at the plantsites and storage facilities of M&M/Mars at the named origin points and destined to points in the named destination States. (Hearing site: Washington, DC or Little Rock, AR.)

NOTE.—Common control may be involved. Applicant states the purpose of this application is to replace existing interline service it is now providing with it's affiliated company.

No. MC 135553 (Sub-No. 14F), filed March 13, 1978. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film*, in vehicles equipped with mechanical refrigeration, from the facilities of Reynolds Metals Co. at or near Grottoes, VA, to points in AZ; CA; ID; IL; IN; IA; MI; MN; MT; NV; NM; ND; OH; OR; SD; UT; WA; WV; WI; and WY, under a continuing contract or contracts with Reynold Metals Co., Richmond, VA. (Hearing site: Washington, DC.)

No. MC 135874 (Sub-No. 104F), filed March 15, 1978. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Petrick, 550 East Fifth Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the facilities of American Home Foods at or near LaPorte, IN, to points in IA, KS, MN, MO, NE, ND, SD, and WI. (Hearing site: New York City, NY or Minneapolis/St. Paul, MN.)

NOTE.—Common control may be involved.

No. MC 135874 (Sub-No. 105F), filed March 16, 1978. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Petrick, 550 East Fifth Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from East St. Louis and National Stockyards, IL and St. Louis, MO to points in CT, DE, DC, IN, KY, ME, MD, MA, Lower Peninsula of MI, NH, NJ, NY, OH, PA, RI, VT, VA, and WV. (Hearing site: St. Louis, MO.)

NOTE.—Common control may be involved.

No. MC 136268 (Sub-No. 8F), filed March 16, 1978. Applicant: WHITEHEAD SPECIALTIES, INC., 1017 Third Avenue, Monroe, WI 53566. Applicant's representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials, equipment, or supplies* used or useful in the manufacture, sale or distribution of plastic articles, between Warren, IL and Mount Horeb, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Madison, WI, Milwaukee, WI or Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 136268 (Sub-No. 9F), filed March 16, 1978. Applicant: WHITEHEAD SPECIALTIES, INC., 1017 Third Avenue, Monroe, WI 53566. Applicant's representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automobile, truck, and tractor parts*, and (2) *materials, equipment, and supplies* used in the manufacture, sale, distribution, and production of such parts between Edgerton and Janesville, WI, and Fort Wayne, IN, on the one hand, and, on the other, points in IL, IN, MI, OH, PA, MO, KY, and Morganton, NC. (Hearing site: Madison, WI, Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 136348 (Sub-No. 4F), filed March 15, 1978. Applicant: ANTHONY G. FRANCIS and JOSEPH G. FRANCIS, d.b.a. FRANCIS WHOLESALE CO., 101 Welborn Street, Greenville, SC 29601. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass cloth* from Anderson, SC to points in CA. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 136496 (Sub-No. 4F), filed March 17, 1978. Applicant: ALLEN F. SEESHOLTZ, Rural Delivery No. 3, Box 3755, Berwick, PA 18603. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulated electrical wire and electrical wiring devices* from Doylestown, PA to Los Angeles, CA, under a continuing contract, or contracts, with Triboro Electric Corp., of Doylestown, PA. (Hearing site: Harrisburg, PA or Philadelphia, PA.)

No. MC 136511 (Sub-No. 19F), filed March 15, 1978. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from Henry and Smyth Counties, VA to points in TX and OK. (Hearing site: Washington, DC.)

No. MC 136605 (Sub-No. 44F), filed March 14, 1978. Applicant: DAVIS BROS. DIST., INC., MC 136605, P.O. Box 8058, Missoula, MT 59807, Missoula, MT 59807. Applicant's representative: W. E. Seliski, P.O. Box 8058, Missoula, MT 59807. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Knocked down prefabricated homes* from Chehalis, WN to points in CA, NV, AZ, NM, CO, NE, and KS. (Hearing site: Seattle, WA or Billings, MT.)

No. MC 136605 (Sub-No. 45F), filed March 14, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Applicant's representative: Joe Gerbase, 100 Transwestern Building, Billings, MT 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel, a division of Nucor Corp., located at or near Norfolk, NE, to points in CO, WY, ID, MT, NV, CA, OR, UT, and WA. (Hearing site: Omaha or Lincoln, NE.)

No. MC 136828 (Sub-No. 21F), filed March 15, 1978. Applicant: COOK TRANSPORTS, INC., 214 South Tenth Street, Birmingham, AL 35233. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit and tubing* from Rosenberg, TX to points in and east of MN, IA, MO, AR, and LA. (Hearing Site: Dallas, TX or Washington, DC.)

No. MC 136828 (Sub-No. 22F), filed March 17, 1978. Applicant: COOK TRANSPORTS, INC., 214 South Tenth Street, Birmingham, AL 35233. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Post, poles, and parts, materials, equipment, supplies, and attachments* used in connection therewith, from Houston, TX to points in the United States in and east of MN, IA, MO, AR, LA. (Hearing site: Dallas, TX or Washington, DC.)

No. MC 138415 (Sub-No. 17F), filed March 16, 1978. Applicant: TRAILER EXPRESS, INC., P.O. Box 327, Topeka, IN 46571. Applicant's representative: Michael M. Yoder, P.O. Box 157, Topeka, IN 46571. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Truck campers* from the plantsite of The Coleman Co., Inc. at Somerset, PA to points in the United States (except AK and HI); (B) *camping trailers* between points in the United States (except AK and HI); under a continuing contract or contracts with The Coleman Co., Inc. (Hearing site: Chicago, IL; Indianapolis, IN; Washington, DC.)

NOTE.—Common control and dual operations may be involved.

No. MC 138875 (Sub-No. 82F), filed March 6, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Applicant's representative: F. L. Sigloh, 11900 Franklin Road, Boise, ID 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recyclables, (1) Scrap metals; (2) junk; (3) waste paper; (4) crushed automobiles, engines, and parts; (5) glass bottles*, from points in WA to points in OR. (Hearing site, Portland, OR.)

No. MC 139193 (Sub-No. 70F), filed March 17, 1978. Applicant: ROBERTS & OAKE, INC., 527 East 52nd Street North, Sioux Falls, SD 57101. Applicant's representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *(1) Such merchandise* as dealt in by discount and variety stores (except foodstuffs, furniture, and commodities in bulk) and *(2) foodstuffs* (except in bulk) and *furniture*, in mixed loads with the commodities in (1) above, from points in NC, and GA to points in KS, MO, IN, MI, OH, IL, TX, MN, WI, NE, IA, OK, AR and LA, restricted to the transportation of traffic originating at or destined to the facilities of K mart Corp. and restricted to a transportation service performed under a continuing contract or contracts with K mart Corp. (Hearing site: Washington, DC.)

No. MC 139193 (Sub-No. 70F), filed March 17, 1978. Applicant: ROBERTS & OAKE, INC., 527 East 52nd Street North, Sioux Falls, SD 57101. Applicant's representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *(1) Such merchandise* as dealt in by discount and variety stores (except foodstuffs, furniture, and commodities in bulk) and *(2) foodstuffs* (except in bulk) and *furniture*, in mixed loads with the commodities in (1) above, from points in NY, NJ, CT, PA, MA, ME, NH, VT, and RI, to points in KS, MO, IN, MI, OH, IL, TX, MN, WI, NE, and IA, restricted to the transportation of traffic originating at or destined to the facilities of K mart Corp. and restricted to a transportation service performed under a continuing contract or contracts with K mart Corp. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 322F), filed March 9, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Oklahoma City and Tulsa, OK, Amarillo, Dallas, and Ft. Worth, TX, Kansas City, MO, and Denver, CO to points in Seward County, KS and the commercial zone of Liberal, KS. (Hearing site: Liberal, KS.)

No. MC 139495 (Sub-No. 327F), filed March 16, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, aluminum products, and magnesium products* from Reed City, MI to points in CO, GA, IL, IN, IA, KS, KY, MA, MO, NJ, NY, OH, OK, PA, TN, and TX. (Hearing site: Washington, DC.)

No. MC 139577 (Sub-No. 15F), filed March 16, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Applicant's representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: A. *Foodstuffs* (except commodities in bulk), originating at the facilities utilized by the Green Giant Co. located in the counties of Dodge, Fond du Lac, Jefferson, Waushara, Milwaukee, and Columbia, WI destined to all points in the States of IL, IN, OH, MI, KY, TN, and MO; B. *foodstuffs* (except commodities in bulk), originating at the facilities of the Green Giant Co. located at or near Belvidere, IL, destined to all points in the States of OH, IN, MI, KY, WV, WI, MO, TN, MS, NJ, and Sharon, PA; C. *materials and supplies* used by canning factories and frozen food plants originating at the facilities utilized by the Green Giant Co. located in the counties of Dodge, Fond du Lac, Jefferson, Waushara, and Columbia, WI destined to Belvidere, IL. (Hearing site: Minneapolis, MN or Madison, WI.)

No. MC 139577 (Sub-No. 16F), filed March 20, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Applicant's representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and container ends* from Rockford, IL, to points in MI, MN, and WI. Restriction: Restricted to traffic originating at the facilities of Rockford Can Co. at Rockford, IL, and destined to the named States.

NOTE.—If a hearing is deemed necessary applicant requests it be held at either Madison, WI or Rockford, IL.

No. MC 139587 (Sub-No. 10F), filed March 20, 1978. Applicant: BROWN

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REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, KS 66701. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bedsprings, bedstead rails, cots and cot frames, unupholstered daybeds, bed frames, springs and spring assemblies, metal sleeper fixtures, and materials* used in the manufacture of the above commodities, (1) from Carthage, MO, to points in AL, FL, GA, MS, NC, SC, TN, and VA, (2) from Eaton Park, FL, to points in AL, GA, MS, NC, SC, TN, VA, and Carthage, MO, (3) from Brenham, TX, to points in MS, OK, and Atlanta, GA, and Carthage, MO. (Hearing site: Kansas City, MO.)

NOTE.—Applicant holds contract carrier authority in MC 134142 (Sub-No. 2), therefore, dual operations may be involved.

No. MC 139973 (Sub-No. 41F), filed March 13, 1978. Applicant: J. H. WARE TRUCKING INC. P.O. Box 398, Fulton, MO 65251. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment, and parts; and poleline hardware* (except commodities the transportation of which because of their size or weight require the use of special equipment), from the facilities of Central Electrical Co. at or near Fulton, MO, to points in IL, KS, OK, AR, KY, AL, GA, WI, IN, WY, ND, SD, LA, NY, and PA.

NOTE.—Applicant holds motor contract carrier authority in MC 138375 and sub numbers thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Kansas City or St. Louis, MO.

No. MC 140078 (Sub-No. 3F), filed March 3, 1978. Applicant: JAMES F. STRASSER AND JAMES A. STRASSER d.b.a. TRAVELERS LIMOUSINE SERVICE, 2222 West Sixth Street, Lawrence, KS 66044. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Packages*, weighing 100 pounds or less (1) between an area in Douglas County, KS, bounded on the south by U.S. Hwy No. 56 and in Jefferson County, KS, bounded on the north by KS State Hwy No. 92, on the one hand, and the Kansas City International Airport, Kansas City, MO, serving the intermediate point of Kansas City Municipal Airport, Kansas City, MO, on the other: From Lawrence, KS, over U.S. Hwys 24-40 to junction KS Hwy 32, thence over KS Hwy 32 to turnpike extension, thence over Interstate Hwy 70 to Kansas City, MO, thence over Broadway Street in Kansas City, MO, to junction Interstate Hwy 29, and thence over Interstate Hwy 29 to Kansas City International Airport, and return over the same route. (2) Between an area in Douglas County, KS, bounded on the south by U.S. Hwy No. 56 and in Jefferson County, KS, bounded on the north by KS State Hwy No. 92, on the one hand, and Kansas City International Airport, Kansas City, MO, serving no intermediate points, as an alternate route for operating convenience only in connection with carrier's authorized regular route operations: From Lawrence, KS, over KS Turnpike to Kansas City, MO, thence over Broadway Street in Kansas City, MO, to junction Interstate Hwy 29, thence over Interstate Hwy 29 to Kansas City International Airport, and return over the same route, restricted to traffic having prior or subsequent movement by air. (Hearing site: Kansas City, MO.)

No. MC 140389 (Sub-No. 25F), filed March 16, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Applicant's representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. Authority sought to operate as a *common carrier* over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in mechanically refrigerated equipment, from points in ID to facilities utilized by Kraft, Inc., at Atlanta, Decatur, and Tucker, GA. (Hearing site: Atlanta, GA.)

NOTE.—Common control may be involved.

No. MC 140452 (Sub-No. 10F), filed March 15, 1978. Applicant: ROSE BROTHERS TRUCKING, INC., 2425 U.S. Business Hwy 41 North, Suite 204, Evansville, IN 47711. Applicant's representative: David Konnersman, 5101 Madison Avenue, Indianapolis, IN 46227. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities in bulk*, in dump vehicles, between points in IN, IL, and KY, on the one hand; and, on the other hand, points in OH, TN, AR, MO, and IA. (Hearing site: Evansville or Indianapolis, IN or Louisville, KY.)

No. MC 140829 (Sub-No. 85F), filed March 13, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Abrasives—Natural or synthetic*, and *insultation*, from the facilities of the Carborundum Co. at or near Niagara Falls, NY, to IL, IN, KY, MI, MN, and WI, restricted to traffic originating at the named origin and destined to points in the named destination States. (Hearing site: Washington, DC.)

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder; therefore dual operations may be involved.

No. MC 140829 (Sub-No. 86F), filed March 15, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tape, tape products and materials, equipment and supplies* used in the manufacture of tape and tape products, (1) from Beacon, NY, and Passaic, NJ, to points in IL, OH, IN, MO, TX, AZ, CO, CA, and NV, and (2) from Carbondale, IL, to points in OH, MO, TX, AZ, CO, CA, NV, NY, NJ, MA, and PA, restricted to traffic originating at the named origins and destined to points in the named destination States. (Hearing site: Washington, DC.)

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder; therefore dual operations may be involved.

No. MC 141167 (Sub-No. 4-F), filed March 20, 1978. Applicant: LANGDON TRANSPORTATION, INC., 14625 Carmenita, Norwalk, CA 90650. Applicant's representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coil steel*, in vehicles equipped with mechanical refrigeration, from the facilities of Whittaker Steel Strip, Division of Whittaker Corp., located at or near Detroit, MI, to Los Angeles, Anaheim, and Irvine, CA, under a continuing contract or contracts with Whittaker Steel Strip, Division of Whittaker Corp., located at or near Detroit, MI. (Hearing site: Los Angeles, CA.)

No. MC 142062 (Sub-No. 10F), filed March 20, 1978. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box 62, Sellersburg, IN 47172. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier* over irregular routes, transporting: (1) *Liquid plastic materials* (except in bulk), *and such other commodities* as are manufactured, distributed, or dealt in by a manufacturer of liquid plastic materials (except in bulk), from the facilities of Celanese Polymer Specialties Co., Inc., at Louisville, KY, to points in CA, OR, WA, and AZ; and (2) *materials, equipment, and supplies* (except in bulk) used in the manufacture or distribution of commodities named in (1) above, from points in CA, OR, WA, and AZ to the facilities of Celanese Polymer Specialties Co., Inc., at Louisville, KY. Restriction: Restricted to the transportation of shipments under a continuing contract or contracts with Celanese Polymer Co., Inc. (Hearing site: Louisville, KY.)

No. MC 143259 (Sub-No. 1F), filed March 6, 1978. Applicant: TOM DURKIN TRUCKING, 36 East Chestnut, Walla Walla, WA 99362. Applicant's representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Floor coverings*—tile and linoleum, from the plantsite of Dowdflor Corp., at or near Miami, FL, to points in the States of UT, ID, OR, and WA, under a continuing contract or contracts with Dowdflor Corp. (Hearing site: Seattle, WA, or Miami, FL.)

No. MC 143616 (Sub-No. 7F), filed March 13, 1978. Applicant: M & S TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 93666. Applicant's representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Adhesive cements*, in containers, from New Philadelphia, OH, to points in the United States, in and west of MN, IA, MO, AR, and LA (except Portland, OR, Oklahoma City and Tulsa, OK, San Jose, Santa Clara, and San Leandro, CA, and El Paso and Lubbock, TX), under a continuing contract or contracts with Miracle Adhesives Co., at New Philadelphia, OH. (Hearing site: Pittsburgh, PA, or Washington, DC.)

No. MC 144041 (Sub-No. 8F), filed March 13, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and pipe fittings* (except in bulk) from Geneva County, AL, to points in the United States (except AK and HI); (2) *equipment, materials, and supplies* utilized in the manufacture and distribution of pipe and pipe fittings (except in bulk) from points in the United States (except AK and HI) to Geneva County, AL. (Hearing site: Atlanta, GA.)

NOTE.—Applicant holds contract carrier authority in MC 140883 and subs thereto; therefore, dual operations may be involved.

No. MC 144090 (Sub-No. 1F), filed March 13, 1978. Applicant: RED LETTER TRUCKING CO., a corporation, 250 Mount Lebanon Boulevard, Pittsburgh, PA 15234. Applicant's representative: Stanley E. Levine, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feed and feed ingredients*, from Frankfort, Indianapolis, Logansport, and Decatur, IN; Danville, IL; Bellevue, Delphos, Fostoria, Marion, Perrysburg, and Sidney, OH; Blissfield and Hillsdale, MI; and ports of entry on the international boundary line between Canada and the United States on the Detroit River, restricted to international traffic, to points in PA, points in Chatauqua, Cattaraugus, and Erie Counties, NY, and points in Washington and Frederick Counties, MD; (2) *fertilizer*, from Maumee and Washington Court House, OH, to the destination area described in (1) above, under a continuing contract or contracts with Jesse C. Stewart Co., of Pittsburgh, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12064 Filed 5-3-78; 8:45 am]

[7035-01]

Section 5a—Application No. 46; Amdt. No. 13]

SOUTHERN MOTOR CARRIERS RATE CONFERENCE, INC.

Agreement

APRIL 26, 1978.

The Commission is in receipt of an application in the above proceeding for approval of amendments to the approved agreement.

Filed April 16, 1978, by: L. Vernon Farriba, Attorney-in-Fact, Southern Motor Carriers Rate Conference, Inc., 1307 Peachtree Street, NE., Atlanta, Ga. 30309; Sherman D. Schwartzberg, General Counsel, Southern Motor Carriers Rate Conference, Inc., 1307 Peachtree Street, NE., Atlanta, Ga. 30309.

The amendments involve: Changes to comply with Ex Parte No. 297, 349 ICC 811 and 351 ICC 437.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Anny interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before May 24, 1978. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12229 Filed 5-3-78; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6210-01]

1

FEDERAL RESERVE SYSTEM (Board of Governors).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 17907, April 26, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, May 1, 1978.

CHANGES IN THE MEETING: Addition of the following closed item to the meeting:

Discussion of issues to be considered in the preparation of comments on H.R. 12208, the "Safe Banking Act of 1978."

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: May 1, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-929-78 Filed 5-2-78; 8:55 am]

[6750-01]

2

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, May 10, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, May 10, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-934-78 Filed 5-2-78; 2:11 pm]

[6750-01]

3

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, May 9, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Tuesday, May 9, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-933-78 Filed 5-2-78; 2:11 pm]

[7035-01]

4

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 4, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Short notice—Open special conference.

MATTERS TO BE CONSIDERED:

MANAGEMENT ISSUES BRIEFING

(1) Administrative technologies. Resource requirements and recommendations of RLA (Managing Director).

(2) Quarterly performance review (Office of Proceedings, Managing Director).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-930-78 Filed 5-2-78; 8:55 am]

[7590-01]

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of May 8, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

MONDAY, MAY 8, 2:30 P.M.

Discussion of testimony on proposed licensing legislation (approximately 1½ hours.) (Open and closed status to be determined.)

TUESDAY, MAY 9, 1:30 P.M.

1. Discussion of testimony on proposed licensing legislation (approximately 1½ hours). (Open and closed status to be determined.)

2. Discussion of OIA/OGC Investigation of Testimony of the Executive Director for Operations (approximately 1½ hours). (Closed—Exemption 1)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

MAY 1, 1978.

[S-931-78 Filed 5-2-78; 10:07 am]

[7910-01]

6

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 18401, April 28, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, May 2, 1978; 10 a.m.

CHANGE IN MEETING: Cancellation.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: May 1, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-932-78 Filed 5-2-78; 2:11 pm]

[8010-01]

7

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of May 8, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, May 9, 1978, at 10 a.m. and on Thursday, May 11, 1978, immediately following the open meeting. An open meeting will be held on Thursday, May 11, 1978, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Evans, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 9, 1978, at 10 a.m., will be:

Formal orders of investigation.
Referral of investigatory files to Federal, State, or Self-Regulatory authorities.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of injunctive actions.
Chapter XI proceeding.
Freedom of Information Act appeals.

Other litigation matters.

The subject matter of the closed meeting scheduled for Thrusday, May 11, 1978, immediately following the open meeting, will be:

Opinion.

The subject matter of the open meeting scheduled for Thursday, May 11, 1978, at 10 a.m., will be:

1. Proposed adoption of an amendment to Rule 145 under the Securities Act of 1933, which would eliminate the indefinite underwriter status attached to former affiliates of entities acquired under the rule, provided certain conditions are met.

2. Consideration of an application filed by Real Estate Investment Trust of California for an exemptive order from certain registration provisions of the Securities Exchange Act of 1934.

3. Consideration of a request by Liquid Transporters, Inc., for an extension of time within which to file an annual report on Form 10-K for the fiscal year ended December 31, 1977.

4. Affirmation of duty officer action concerning the extension of comment period on proposed Rule 17j-1 under the Investment Company Act of 1940 until May 30, 1978. The proposed rule would prohibit certain activities on the part of persons affiliated with registered investment companies or their investment advisers or principal underwriters.

5. Consideration of the issuance of an advance notice of proposed rulemaking, requesting public comment with regard to the conditions under which mutual funds might be permitted to bear distribution expenses.

6. Proposed issuance of a monitoring report incorporating data relating to recent financial experience of broker-dealers, trends in commission rates, and the financial condition of self-regulatory organizations.

7. Proposed release concerning the sale of foreign options in the United States.

FOR FURTHER INFORMATION CONTACT:

Lawrence A. Horn at 202-755-1286 or Margaret M. Topps at 202-376-8016

MAY 1, 1978.

[S-926-78 Filed 5-2-78; 8:55 am]

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Federal Register

THURSDAY, MAY 4, 1978
PART II



DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish off Coasts of U.S.

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[4710-09]

DEPARTMENT OF STATE

[Public Notice 607]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1978 have been received from the Governments of Korea and Mexico, and are published herewith.

Dated: April 25, 1978.

JAMES A. STORER,
Director,
Office of Fisheries Affairs.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) NO. MX-78-0027

1. Name of Vessel MONTE FURADO 2. Vessel Identifier (Call Sign) XCMV
3. Type of Vessel STERN TRAWLER 4. Length 44 MTS. (Maximum)
5. Gross Tonnage 512 Tons 6. Net Tonnage 440 7. Speed (knots) 15
8. Owner's Name and Address MEXICANA-ESPAÑOLA DE PESCA Y CONSERVAS, S.A.
HOMERO # 1804 7° PISO, MEXICO, D.F.
9. Types of Processing Equipment FREEZER

10. Fisheries for Which Permit is Requested:

Fishery	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	Long-finned squid	Bottom Trawl	X	X	
NWA	Short-finned squid	Mid-water Trawl	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) NO. MX-78-0028

1. Name of Vessel CARVISA II 2. Vessel Identifier (Call Sign) YEEV
3. Type of Vessel STERN TRAWLER 4. Length 29.9 mts. (Maximum)
5. Gross Tonnage 280 6. Net Tonnage 135 7. Speed (knots) 11
8. Owner's Name and Address MEXICANA-ESPAÑOLA DE PESCA Y CONSERVAS, S.A.
HOMERO # 1804 7° piso, MEXICO, D.F.
9. Types of Processing Equipment FREEZER

10. Fisheries for Which Permit is Requested:

Fishery	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	Long-finned SQUID	BOTTOM TRAWL	X	X	
NWA	Short-finned	Mid-water Trawl	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) NO. MX-78-0029

1. Name of Vessel CARVISA I 2. Vessel Identifier (Call Sign) XCCS
3. Type of Vessel STERN TRAWLER 4. Length 29.9 mts. (Maximum)
5. Gross Tonnage 280 6. Net Tonnage 135 7. Speed (knots) 11
8. Owner's Name and Address MEXICANA-ESPAÑOLA DE PESCA Y CONSERVAS, S.A.
Homero # 1804 7° piso, MEXICO, D.F.
9. Types of Processing Equipment FREEZER

10. Fisheries for Which Permit is Requested:

Fishery	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	Long-finned squid	Bottom Trawl	X	X	
NWA	Short-finned squid	Mid-water Trawl	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) NO. MX-78-0030

1. Name of Vessel MONTE GALIÑEIRO 2. Vessel Identifier (Call Sign) XCMV
3. Type of Vessel STERN TRAWLER 4. Length 44 mts. (Maximum)
5. Gross Tonnage 512 6. Net Tonnage 440 7. Speed (knots) 15
8. Owner's Name and Address MEXICANA-ESPAÑOLA DE PESCA Y CONSERVAS, S.A.
HOMERO # 1804 7° piso, MEXICO, D.F.
9. Types of Processing Equipment FREEZER

10. Fisheries for Which Permit is Requested:

Fishery	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	Long-finned squid	Bottom Trawl	X	X	
NWA	Short-finned squid	Mid-water Trawl	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN) NO. MV-78-0081

1. Name of Vessel MONTE CONFURCO 2. Vessel Identifier (Call Sign) XCMZ
3. Type of Vessel STERN TRAWLER 4. Length 44 mts. Maximum
5. Gross Tonnage 512 6. Net Tonnage 440 7. Speed (knots) 15
8. Owner's Name and Address MEXICANA-ESPAÑOLA DE PESCA Y CONSERVAS, S.A.; HOMERO # 1804 7°piso, MEXICO, D.F.
9. Types of Processing Equipment FREEZER

10. Fisheries for Which Permit is Requested:

Fishery	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	Long-finned squid	Bottom Trawl	X	X	
NWA	Short-finned squid	Mid-water Trawl	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

[illegible] No. MV-78-0082

1. Name of Vessel CAMPA DE TOPPES 2. Vessel Identifier Call Sign XCCY
3. Type of Vessel STERN TRAWLER 4. Length 47 M. Maximum
5. Gross Tonnage 455 6. Net Tonnage 162 7. Speed knots 11
8. Owner's Name and Address COMPAÑIA CALAMARERA DEL SURESTE, S. A. MONTE CAUCASO 915 - 4to Piso - MEXICO 10, D. F. - MEXICO
9. Types of Processing Equipment FREEZER

10. Fisheries for which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	LONG & SHORT FINNED SQUID	BOTTOM & OFF-BOTTOM TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

[illegible] No. MV-78-0083

1. Name of Vessel COSTA DE NORMANDIA 2. Vessel Identifier Call Sign XCCP
3. Type of Vessel STERN TRAWLER 4. Length 46.2 M. Maximum
5. Gross Tonnage 411 6. Net Tonnage 123 7. Speed knots 10
8. Owner's Name and Address COMPAÑIA CALAMARERA DEL SURESTE S. A. MONTE CAUCASO 915 - 4to PISO - MEXICO 10, D. F. - MEXICO
9. Types of Processing Equipment FREEZER

10. Fisheries for which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	LONG & SHORT FINNED SQUID	BOTTOM & OFF-BOTTOM TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☐ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

[FR Doc. 78-12019 Filed 5-3-78; 8:45 am]

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FRIDAY, MAY 5, 1978



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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
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	HEW/CDC			HEW/CDC
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	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce, National Endowment for the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a position at the Department of Commerce because it is confidential in nature, and (2) changes the title of a position at the National Endowment for the Arts and the Humanities to reflect the current title of the superior.

EFFECTIVE DATES: Department of Commerce April 26, 1978; National Foundation on the Arts and the Humanities April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3314(a)(28) is added and 213.3382(1) is amended as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* • • •

(28) One Private Secretary to the Deputy Chief Economist.

• • • • •

§ 213.3382 National Foundation on the Arts and the Humanities.

• • • • •

(1) One Staff Assistant to the Deputy Chairman for Policy, Planning and Public Affairs, National Endowment for the Humanities.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-12339 Filed 5-4-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Farm Credit Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment revokes the Schedule C exception for the position of Deputy Governor and General Counsel because the position has been cancelled.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION:

On Position Authority Contact: Hugh A. Strehle, Civil Service Commission, 202-632-4625.

On Position Content Contact: Stephen Kirby, Farm Credit Administration, 202-755-4130.

Accordingly, 5 CFR 213.3343(e) is revoked as set out below:

§ 213.3343 Farm Credit Administration.

• • • • •

(e) [Revoked]

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-12340 Filed 5-4-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of the Interior, Department of Labor

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of the Interior and the Department of Labor because they are confidential in nature.

EFFECTIVE DATES: Department of the Interior, Special Assistant—April 18, 1978; Department of the Interior, two Special Assistants and Department of Labor, one Motor Vehicle Operator and one Special Assistant—April 20, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 632-4533.

Accordingly, 5 CFR 213.3312(a)(28) and 213.3315 (a)(28) and (k)(2) are added to read as follows:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* • • •

(28) Three Special Assistants to the Assistant Secretary for Indian Affairs.

• • • • • •

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* • • •

(28) One Motor Vehicle Operator to the Secretary.

• • • • • •

(k) *Office of Workers' Compensation Programs.* • • •

(2) One Special Assistant to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-12338 Filed 5-4-78; 8:45 am]

[3410-08]

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. No. 93]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

CLOSING DATES

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This is an extension of the final dates for the filing of applications for crop insurance for the 1978 crop year on barley, corn, oats, potatoes, sweet corn, and wheat having an

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April 30 or earlier closing date in those counties where such insurance is otherwise authorized to be offered. The extension will be until May 1 for all crops listed, except potatoes in North Dakota only, the closing date for which will be May 6, 1978. This extension will coincide with the ASCS Acreage, Offsetting Compliance, and Signup Period of April 30 and allow farmers more time to make decisions on their insurance plans along with signup intentions.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: On January 12, 1978, the Agricultural Stabilization and Conservation Service (ASCS) issued notification of Acreage, Offsetting Compliance, and Signup Period, which indicates the signup period for filing an intention to participate on farms with a crop subject to set-aside will be March 1 through April 30. Since April 30 is on a Sunday, intentions will be accepted by ASCS the following Monday, May 1, 1978.

The ASCS set-aside announcement will have significant impact on farm operations and farmers are presently involved in decision making regarding the set-aside acreage. Since crop insurance is involved in the overall farm operation decision making process and the closing dates for many crops insured by the Federal Crop Insurance Corporation falls long before the end of the ASCS signup date of May 1, 1978, the Corporation has determined that the closing dates for filing applications for crop insurance on barley, corn, oats, sweet corn, and wheat, having an April 30 or earlier closing date, should be extended to coincide with the end of the ASCS signup period. The closing date for potatoes in North Dakota only will be May 6, 1978. This will allow farmers more time to include plans for crop insurance on those crops subject to set-aside.

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), and in accordance with the applicable provision contained in the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years (7 CFR 401.103(c), 32 FR 15911, November 21, 1967), allowing for such extensions, the Federal Crop Insurance Corporation is extending, effective for the 1978 crop year, the closing date for the acceptance of applications for crop insurance on barley, corn, oats, sweet corn, and wheat through May 1, 1978, and for potatoes in North Dakota only through May 6, 1978, as indicated below.

Since these extensions will benefit producers by providing more time to file applications for crop insurance, and since producers need to be informed of these extensions immediately, it is found and determined that compliance with the procedure for notice and public participation in the proposed rule making process would be impracticable and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Accordingly, 7 CFR 401.103(a) is amended by adding at the end thereof the following:

§ 401.103 Application for insurance.

(a) * * * The time for filing applications for the 1978 crop year on the following crops in those states and counties so indicated is hereby extended until the close of business on Monday, May 1, 1978, and on potatoes in North Dakota only until the close of business on Saturday, May 6, 1978. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

BARLEY

Modoc and Siskiyou Counties, Calif. All counties in Colorado, Minnesota, Montana, North Dakota, South Dakota, Utah, and Wyoming. Klamath and Malheur Counties, Oreg. All Idaho counties south of Idaho County.

CORN

All counties in all States.

OATS

All counties in all States.

POTATOES

(Closing Date—In North Dakota only: May 6, 1978) Grant County, Wash., and Canyon County, Ida.

SWEET CORN

Renville County, Minn. and Dodge County, Wis.

WHEAT

All counties in Minnesota and North Dakota. The following counties in South Dakota: Aurora, Beadle, Bon Homme, Brown, Campbell, Clark, Codington, Corson, Day, Deuel, Douglas, Edmunds, Grant, Hamlin, Hutchinson, Jerauld, Kingsbury, McPherson, Marshall, Miner, Perkins, Roberts, and Spink.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

Dated: April 26, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Approved: May 1, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-12293 Filed 5-4-78; 8:45 am]

[3410-05]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 7]

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), AND CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Subpart—Tobacco Allotment and Marketing Quota Regulations 1972–73 and Subsequent Marketing Years

LEASE AND TRANSFER OF TOBACCO ACREAGE ALLOTMENT—CIGAR-BINDER (TYPES 51 AND 52) AND CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, AND 53) TOBACCO

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule permits the lease and transfer (heretofore prohibited) of cigar-binder and cigar-filler and binder farm acreage allotment to a farm if the farm acreage allotment for the receiving farm has been reduced to zero due to a violation of the tobacco marketing quota regulations. This change is being made because the current rule is believed to be unduly restrictive and unnecessary to the effective administration of the Cigar-Binder (Types 51 and 52) and Cigar-Filler and Binder (Types 42, 43, 44, and 53) tobacco marketing quota programs.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice Reddick, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-4695.

SUPPLEMENTARY INFORMATION: Since the change provided in this rule is simply a relaxation of the eligibility requirements for transfer of acreage allotment to a farm and producers are making plans for leasing and transferring of allotment for the 1978 crop, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable, unnecessary, and contrary to the public interest.

FINAL RULE

§ 724.69 [Amended]

Accordingly, 7 CFR part 724 is amended by revoking and reserving paragraph (n) of § 724.69.

AUTHORITY: Sec. 301, 313, 314, 316, 317, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65-66, as amended, 72 Stat. 995; sec. 401, 63 Stat. 1054, as amended, sec. 106, 122, 125, 70 Stat. 191, 195, 198, as amended, sec. 16(e) 76 Stat. 606 (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372-1375, 1377, 1378, 1421, 1813, 1824, 1836) (16 U.S.C. 590p(e)).

Signed at Washington, D.C., on April 26, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-12134 Filed 5-4-78; 8:45 am]

[3410-05]

[Amdt. 8]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations, 1973–74, and Subsequent Marketing Years

TRANSFER OF FLUE-CURED TOBACCO FARM MARKETING QUOTAS BY LEASE

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule permits the lease and transfer (heretofore prohibited) of flue-cured tobacco farm marketing quota to a farm if the farm marketing quota for the receiving farm has been reduced to zero due to a violation of the tobacco marketing quota regulations. This change is being made because the current rule is believed to be unduly restrictive and unnecessary to the effective administration of the flue-cured tobacco marketing quota program.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice Reddick, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-4695.

SUPPLEMENTARY INFORMATION: Since the change provided in this rule is simply a relaxation of the eligibility requirements for transfer of marketing quota to a farm and producers are making plans for leasing and transferring of quota for the 1978 crop, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable, unnecessary, and contrary to the public interest.

FINAL RULE

§ 724.69 [Amended]

Accordingly, 7 CFR part 724 is amended by revoking and reserving paragraph (n) of § 724.69.

AUTHORITY: Sec. 301, 313, 314, 316, 317, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65-66, as amended, 72 Stat. 995; sec. 401, 63 Stat. 1054, as amended, sec. 106, 122, 125, 70 Stat. 191, 195, 198, as amended, sec. 16(e) 76 Stat. 606 (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372-1375, 1377, 1378, 1421, 1813, 1824, 1836) (16 U.S.C. 590p(e)).

Signed at Washington, D.C., on April 26, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-12132 Filed 5-4-78; 8:45 am]

[3410-05]

[Amdt. 10]

PART 726—BURLEY TOBACCO

Subpart—Burley Tobacco 1971–72 and Subsequent Marketing Years

TRANSFER OF BURLEY TOBACCO FARM MARKETING QUOTAS BY LEASE

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule permits the lease and transfer (heretofore prohibited) of burley tobacco farm marketing quota to a farm if the farm marketing quota for the receiving farm has been reduced to zero due to a violation of the tobacco marketing quota regulations. This change is being made because the current rule is believed to be unduly restrictive and unnecessary to the effective administration of the burley tobacco marketing quota program.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice Reddick, Production Adjustment Division, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-4695.

SUPPLEMENTARY INFORMATION: Since the change provided in this rule is simply a relaxation of the eligibility requirements for transfer of marketing quota to a farm and producers are making plans for leasing and transferring of quota for the 1978 crop, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable, unnecessary, and contrary to the public interest.

FINAL RULE

§ 726.68 [Amended]

Accordingly, 7 CFR part 726 is amended by revoking and reserving paragraph (q) of § 726.68.

AUTHORITY: Secs. 301, 312, 313, 314, 316, 318, 319, 362, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 46, as amended, 47, as amended, 48, as amended, 62, as amended, 75 Stat. 469, as amended, 81 Stat. 120, as amended, 52 Stat. 63, as amended, 85 Stat. 23, 70 Stat. 206, as amended, 72 Stat. 995, as amended (7 U.S.C. 1301, 1312, 1313, 1314, 1314b, 1314d, 1314e, 1363, 1372-1375, 1377, 1378).

Signed at Washington, D.C., on April 26, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-12133 Filed 5-4-78; 8:45 am]

[3410-05]

SUBCHAPTER D—PROVISIONS COMMON TO MORE THAN ONE PROGRAM

PART 795—PAYMENT LIMITATION

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the regulations which imposed a $20,000 payment limitation on disaster payments for the 1977 program year for wheat, feed grains, and upland cotton as required by the Agriculture Act of 1970 as amended by the Agriculture and Consumer Protection Act of 1973 and $55,000 for rice as required by the Rice Production Act of 1975.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert Coplin, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-4542.

SUPPLEMENTARY INFORMATION: This change will benefit producers who earned in excess of $20,000 in payments for wheat, feed grains, upland cotton and in excess of $55,000 for rice under the 1977 Disaster Program but because of the limitation imposed by

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the Agricultural Act of 1970 and the Rice Production Act of 1975 received only $20,000 for wheat, feed grains, and upland cotton and $55,000 for rice. Pub. L. 95-156, signed into law on November 8, 1977, exempted disaster payments from these limitations.

Since ASCS county offices are prepared to issue supplemental payments to producers earning payments in excess of these limitations it is essential that the amendment be made effective as soon as possible. It is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provision of 5 U.S.C. 553 is impractical and contrary to public interest. Therefore, this amendment shall become effective upon publication in the FEDERAL REGISTER.

FINAL RULE

Effective as to the 1977 and prior year crops, 7 CFR 795.1 (a) and (b) are amended to read as follows:

§ 795.1 Basis and purpose.

(a) Section 101 of the Agricultural Act of 1970, as amended by the Agriculture and Consumer Protection Act of 1973 and the Food and Agriculture Act of 1977, provides that the total amount of payments a person shall be entitled to receive under one or more of the annual programs for wheat, feed grains, and upland cotton for the 1974 through 1977 crops under the Act shall not exceed $20,000. Pub. L. 95-156, 91 Stat. 921, approved November 8, 1977, provides, however, that the term "payments" as used in the 1970 Act, shall not include any part of any payment which is determined by the Secretary to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, and upland cotton.

(b) Section 101 of the Agricultural Act of 1949, as amended by the Rice Production Act of 1975, provides that the total amount of payments which a person shall be entitled to receive during a crop year under the rice program for 1976 or 1977 under the Act shall not exceed $55,000. Pub. L. 95-156, 91 Stat. 921, approved November 8, 1977, provides, however, that the term "payments," as used in the 1970 Act shall not include any part of any payment which is determined by the Secretary to represent compensation for disaster loss with respect to the 1977 crop of rice.

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AUTHORITY: Sec. 101, Pub. L. 91-524, 84 Stat. 1358 (7 U.S.C. 1307), as amended by Pub. L. 93-86, 87 Stat. 221, and Pub. L. 95-113, 91 Stat. 913; sec. 101, Pub. L. 81-439, 63 Stat. 1051 (7 U.S.C. 1441), as amended by sec. 102, Pub. L. 94-214, 90 Stat. 181; Pub. L. 95-156, 91 Stat. 1264 (7 U.S.C. 1307) note.

Signed at Washington, D.C., on April 26, 1978.

RAY FITZGERALD,
Administrator.

[FR Doc. 78-12128 Filed 5-4-78; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 944—FRUITS; IMPORT REGULATIONS

Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule designates the Federal or Federal-State Inspection Service, Food Safety and Quality Service, United States Department of Agriculture as the agencies to perform required inspection and certification for compliance with regulations applicable to imported avocados, grapefruit, limes, and oranges, and provides instructions for obtaining inspection.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, requires that whenever specified commodities, including avocados, grapefruit, limes, and oranges are regulated under a Federal marketing order imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestic commodity. Inspection and certification for compliance by imports of such commodities is required. Heretofore, it has been customary to publish the detailed instructions for obtaining inspection in each import regulation. Publication of such procedure separate from the regulation will enable incorporation by reference and avoid the necessity of such publication each time a regulation is issued.

The designations and procedure are as follows:

§ 944.400 Designated inspection services and procedure for obtaining inspection and certification of imported avocados, grapefruit, limes, and oranges regulated under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(a) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality/Division, Food Safety and Quality Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados, grapefruit, limes and oranges that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of the specified fruit, is required on all imports. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados, grapefruit, limes, and oranges should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the fruit will be imported:

Ports, Office, and Advance Notice

All Texas points; Officer-in-Charge, 1301 West Expressway, Alamo, Tex. 78516, phone—512-787-4091, or Officer-in-Charge, 724 East Overland, El Paso, Tex. 79901, phone—915-543-7723; 1 day.

All New York points; Officer-in-Charge, Room 28A, Hunts Point Market, Bronx, N.Y. 10474, phone—212-991-7668 and 7669, or Officer-in-Charge, 176 Niagara Frontier Food Terminal, Room 8, Buffalo, N.Y. 14206, phone—716-824-1585; 1 day.

All Arizona points; Officer-in-Charge, 3150 Tucson-Nogales Highway, P.O. Box 1485, Nogales, Ariz. 85621, phone—602-287-4783; 1 day.

All Florida points; Officer-in-Charge, 1350 Northwest 12th Avenue, Room 530, Miami, Fla. 33136, phone—305-324-6116, or Officer-in-Charge, 550 Third Street NW., P.O. Box 1232, Winter Haven, Fla. 33880, phone—813-294-3511, extension 33, or Officer-in-Charge, Unit 46, 3335 North Edgewood Avenue, Jacksonville, Fla. 33205, phone—904-354-5983; 1 day.

All California points; Officer-in-Charge, 784 South Central Avenue, Room 266, Los Angeles, Calif. 90021, phone—213-688-2489; 3 days.

All Louisiana points; Officer-in-Charge, 5027 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, La. 70113, phone—504-589-6741; 1 day.

All other points; Chief, Fresh Products Branch, FVQD, FSQS, USDA, Washington, D.C. 20250, phone—202-447-5870; 3 days.

(b) Inspection certificates shall cover only the quantity of fruit that is being imported at a particular port of entry by a particular importer.

(c) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851). The cost of any inspection and certification shall be borne by the applicant therefor.

(d) Each inspection certificate issued with respect to any of the specified fruits to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper, or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, the name of the air carrier, or other identification of the shipment; and

(7) The following statement if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: May 2, 1978, to become effective June 15, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-12318 Filed 5-4-78; 8:45 am]

[3410-02]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 68]

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

Orders Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This order suspends a requirement under the Upper Midwest milk marketing order that handlers make a partial payment to producers by the 25th day of the month for milk received from them during the first 15 days of the month. Handlers indicated that their producers want such payments to be made about 8 days later so that their partial payments and final payments for milk will be spaced about 15 days apart. The proposed suspension would be for the period May 1978 through April 1979.

DATE: Effective upon publication in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of proposed suspension-issued March 30, 1978, published April 4, 1978 (43 FR 14025).

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Upper Midwest marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 14025) concerning a proposed suspension of certain provisions of the order. Interested persons had an opportunity to comment on the proposed suspension in writing. A trade association of proprietary plants, two proprietary handlers and a cooperative association filed comments supporting the suspension. Two producers commented in opposition to the suspension.

After consideration of all relevant material, including the proposal in the notice, the comments received and other available information, it is found and determined that for the months of May 1978 through April 1979 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1068.73(a), subparagraph (4) in its entirety.

STATEMENT OF CONSIDERATION

The Upper Midwest milk order, which became effective June 1, 1976, initially required a partial payment to producers and cooperative associations on the 25th day of the month for milk received during the first 15 days of the month. Final payment was due, and still is, by the 18th day of the following month. These were the dates provided in the prior order for the Minneapolis-St. Paul area.

Many of the producers who were brought under the merged order, particularly those in Wisconsin, had been accustomed to receiving payments 15 days apart. They preferred such payments to being paid on the 18th and 25th of the month. To accommodate this, the pertinent provisions of the order have been suspended since November 1976 (41 FR 51389, 42 FR 22360 and 42 FR 59747). As requested, the suspensions were limited to payments to producers for whom a cooperative was not collecting payments.

A continuation of the suspension through April 1979 is supported by a trade association of proprietary handlers, two proprietary handlers and a cooperative association.

Two producers commented in opposition to the suspension. Their views centered on the need, in their opinion, to provide a partial payment on the 20th of the month for milk received the first 15 days of the month and the final payment on the 5th of the following month. This change cannot be considered in connection with this suspension action, which can apply only to existing provisions for a temporary period. The payment dates preferred by the two producers might be appropriate for consideration at a future amendment hearing.

The suspension should be extended for an additional period of twelve months pending a hearing at which proposals to amend the partial payment provisions may be considered. The suspension will enable handlers to continue to accommodate their producers who request that their payments be spaced about 15 days apart.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that the suspension does not require of persons affected substantial or extensive preparation prior to the effective date and notice of proposed rulemaking was given interested parties and thay were afforded opportunity to file written data, views, or arguments concerning this suspension.

Therefore, good cause exists for making this order effective May 5, 1978.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of May 1978 through April 1979.

(Secs. 1-19, 48 Stat. 31 as amended; (7 U.S.C. 601-674))

Effective date: May 5, 1978.

Signed at Washington, D.C., on May 2, 1978.

P. R. "ROBBY" SMITH,
Assistant Secretary.

[FR Doc. 78-12294 Filed 5-4-78; 8:45 am]

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[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Administration Letter 856(440)]

PART 1811—BONDS AND NOTES FOR INSURED ASSOCIATION AND ORGANIZATION LOANS

Deletion

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations by deleting a regulation previously incorporated into another Part. The intended effect of this action is to eliminate duplicate regulations from the Code of Federal Regulations. This action is taken as a result of an administrative study by the Agency.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. LaVerne Isenberg, telephone: 202-447-2852.

SUPPLEMENTARY INFORMATION: Part 1811 of Subchapter A, Chapter XVIII, title 7 in the Code of Federal Regulations is deleted. The regulations contained in Part 1811 were previously incorporated into Part 1933, Subpart A of this chapter. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 533, with respect to such rules. This amendment however, is not published for proposed rulemaking since the purpose of the change is to remove duplication in the regulations and publication is therefore unnecessary.

Part 1811 is hereby deleted and reserved.

(Delegation of authority by the Secretary of Agriculture (7 CFR 2.23); delegation of authority by the Assistant Secretary for Rural Development (7 CFR 2.70).)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 14, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-12292 Filed 5-4-78; 8:45 am]

[3410-07]

SUBCHAPTER J—LOAN AND GRANT PROGRAMS (GROUP)

PART 1933—LOAN AND GRANT PROGRAMS (GROUP)

Subpart A—Community Facility Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule.

SUMMARY: The Farmers Home Administration amends its regulations regarding easements for cable television. This action is being taken because in some cases an applicant for a loan for a cable television facility cannot get the required easements to insure the security of the loan. The intended effect is to relax the easement requirements and to point out that applicants may hook their cables to poles of an existing utility by signing a joint use agreement with the utility.

EFFECTIVE DATES: May 5, 1978. However, comments must be received on or before June 5, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. John Bowles, 202-447-7667.

SUPPLEMENTARY INFORMATION: FmHA amends 1933.17(a)(6)(i)(E)(*1*) of Subpart A, Part 1933, Chapter XVIII, Title 7 in the Code of Federal Regulations. Even though § 1933.20 indicates that the guides are not published, this guide is being published in the daily issue, but not codified, entitled "Agreement for Joint Use of Electric System Poles" so that interested parties have an opportunity to review the specific implications of this amendment. There have been situations where an applicant for a loan for a cable television utility could not get the required easements thus placing a burden on the applicant and the agency. This situation will be corrected by relaxing the easement requirements and pointing out that joint use agreements between the applicant and an existing utility are authorized. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is being published effective on an interim basis. This action is being taken to relax an easement requirement on the public and at the same time permit public participation in the rulemaking process. Any delay in implementing this amendment would be contrary to the public interest because it would prevent certain members of the public from benefitting from this assistance. Comments made pursuant to this notice will be considered in the development of the final rule. Therefore, § 1933.17(a)(6)(i)(E)(*1*) is amended and a guide is published under § 1933.20 only in the daily issue and not codified and read as follows:

(1) Section 1933.17(a)(6)(i)(E)(*1*) is amended as follows:

§ 1933.17 Appendix A—Community facilities.

(a) • • •

(6) *Security.* • • •

(i) • • •

(E) *Public bodies and other than public bodies. (1) Title for right-of-way or easement.* (i) Applicants are responsible for obtaining continuous and adequate rights-of-way and interests in land needed for the construction, operation and maintenance of the facility. When a lien will be taken on a site for structures such as a reservoir or pumping station, and the applicant is able to obtain only a right-of-way or easement on such site rather than a fee simple title, the applicant will furnish a title report thereon by the applicant's attorney showing the ownership of the land and all mortgages or other lien defects, or encumbrances, if any. Consents, releases or subordinations will be obtained from the holders of outstanding liens or mortgages as may be necessary to give FmHA the required security. The applicant will take such title clearance steps as may be necessary or required by FmHA.

(ii) In those instances where it is feasible for Cable Television (CATV) to utilize poles of an existing utility through a joint use agreement this may be done in lieu of § 1933.17(a)(6)(i)(E)(*1*)(i). Such joint use agreement must be for a period not less than the terms of the loan and be approved by FmHA prior to its execution. Such an agreement does not relieve the borrower of its responsibility to assure FmHA that it can construct, operate, and maintain the facilities for which the loan is being sought. Appropriate permits should be obtained from public bodies. In the event difficulties ever arise relating to construction, operation or maintenance of any jointly used facilities the borrower must promptly take the necessary steps to adequately remedy the matter. The borrower's attorney will furnish an opinion that the borrower has fulfilled its responsibility under this paragraph and that any joint use agreement is sufficient and valid for its purpose. Section 1933.20 Guide 23

(available in any FmHA office) would be an acceptable agreement for this purpose.

• • • • •

(2) A guide is published under § 1933.20 only in the daily issue and not codified and reads as follows:

§ 1933.20 Guides—Community facilities.

FmHA Instruction 1733-A

AGREEMENT FOR JOINT USE OF ELECTRIC SYSTEM POLES

PREAMBLE

_____, a corporation organized under the laws of the State of _____, (hereinafter called the "Owner"), and _____, a corporation organized under the laws of the State of _____ (hereinafter called the "Licensee"), desiring to cooperate in the joint use of poles and right-of-way clearing incident thereto, whenever and wherever such use shall, in the estimation of both parties, be compatible with their respective needs, do hereby, in consideration of the premises and the mutual covenants herein contained, covenant and agree for themselves and their respective successors and assigns as follows:

ARTICLE I

SCOPE OF AGREEMENT

(a) This Agreement shall be in effect in the areas in which both of the parties render service in the State(s) of _____, and shall cover all poles of the Owner now existing or hereafter erected when said poles are brought under this Agreement in accordance with the procedure hereinafter provided.

(b) The Owner reserves the right to exclude any of its facilities from joint use.

(c) It is the intention of the parties that adequate _____ service shall be made available to the widest practicable number of rural users in the above areas.

ARTICLE II

SPECIFICATIONS

(a) The joint use of the poles covered by this Agreement shall at all times be in conformity with accepted modern methods, such as those set forth in Edison Electric Institute Publication No. M 12, and shall at all times conform to the requirements of the National Electrical Safety Code, Fifth Edition, and subsequent revisions thereof, except where the lawful requirements of public authorities may be more stringent, in which case the latter will govern.

(b) The strength of poles covered by this Agreement shall be sufficient to withstand the transverse and vertical loads imposed upon them under the storm loadings of the National Electrical Safety Code assumed for the area in which they are located, without exceeding fifty (50%) percent of their ultimate stress. In the case of existing pole lines, the strength of poles shall be assumed to be the same as when new.

ARTICLE III

ESTABLISHING JOINT USE OF POLES

(a) Before the Licensee shall make use of any of the poles of the Owner under this Agreement, it shall request permission therefor in writing on the application form attached hereto and identified as Appendix A, and shall comply with the procedure set forth therein and in this Article III.

(b) If, in the judgment of the Owner, joint use under the circumstances is undesirable, the Owner shall have the right to reject the application. In any event, within ___ ___ days after the receipt of such application the Owner shall notify the Licensee in writing whether the application is approved or rejected.

(c) After receipt of notice from the Owner that the application has been approved, the Licensee shall furnish the Owner detailed construction plans and drawings for each pole line, together with necessary maps, indicating specifically the poles of the Owner to be used jointly, the number and character of the circuits to be placed on such poles, any rearrangement of the Owner's fixtures and equipment necessary for joint use, any relocations or replacements of existing poles, and any additional poles that may be required. The Owner shall, on the basis of such detailed construction plans and drawings, submit to the Licensee within _____ days a cost estimate (including overhead and less salvage value of materials) for all changes that may be required in each such pole line, including an estimated completion date for such changes. Upon written notice by the Licensee to the Owner that the cost estimate is approved, the Owner shall immediately proceed with the necessary changes in the pole line covered by the cost estimate and shall diligently expedite the completion thereof within the time specified in the estimate. Nothing in the foregoing shall preclude the parties hereto from making any mutually agreeable arrangement for contracting for or otherwise accomplishing the necessary changes. Upon completion of all changes, the Licensee shall have the right hereunder to jointly use the poles and to make attachments in accordance with the terms of the application and of this Agreement. The Licensee shall, at its own expense, make attachments in such manner as not to interfere with the service of the Owner, and place guys and anchors to sustain any unbalanced loads caused by its attachments.

(d) Upon completion of all changes in each pole line to be used jointly, the Licensee shall pay to the Owner the actual cost (including overhead and less salvage value of materials) of making such changes but in no event, however, shall the Licensee be required to pay for such changes more than 120% of the cost estimate provided for in Section (c) of this Article. An itemized statement of the actual cost of all such changes shall be submitted by the Owner to the Licensee, in form mutually agreed upon.

(e) Any reclearing of existing rights-of-way and any tree trimming necessary for the establishment of joint use hereunder shall be performed by the parties as may be mutually agreed upon. The cost of any such right-of-way reclearing and trimming shall be borne by the parties as follows: for a right-of-way of up to twenty (20) feet in width, 50% by the Licensee and 50% by the Owner; for a right-of-way in excess of twenty (20) feet the Licensee shall pay the same proportion of the cost as ten (10) feet bears to the width of the right-of-way and the Owner shall pay the balance of the cost.

(f) All poles jointly used under this Agreement shall remain the property of the Owner, and any payments made by the Licensee for changes in pole lines under this Agreement shall not entitle the Licensee to the Ownership of any of said poles.

(g) In order that the parties may effectively coordinate their efforts with respect to joint use of any pole lines to be constructed in the future, the parties shall, insofar as practicable, make known to each other its plans for future construction. If joint use is contemplated with respect to such future construction, the parties shall cooperate in planning such construction so that joint use may be accomplished in a manner mutually satisfactory to the parties within the objectives of this Agreement.

ARTICLE IV

EASEMENTS AND RIGHTS-OF-WAY FOR LICENSEE'S ATTACHMENTS

While the Owner will cooperate as far as may be practicable in obtaining rights-of-way for joint use of poles, the Owner does not warrant or assure to the Licensee any rights-of-way privileges or easements, and if the Licensee shall at any time be prevented from placing or maintaining its attachments on the Owner's poles, no liability on account thereof shall attach to the Owner. Each party shall be responsible for obtaining its own easements and rights-of-way.

The Licensee during the term of this agreement shall have all the necessary rights to construct, operate and maintain its facilities as provided by this agreement.

ARTICLE V

MAINTENANCE OF POLES, ATTACHMENTS AND RIGHT-OF-WAY

(a) The Owner shall, at its own expense, maintain the jointly used poles in a safe and serviceable condition and in accordance with the specifications mentioned in Article II and shall replace, reinforce or repair such of these poles as become defective.

(b) When replacing a jointly used pole carrying terminals of aerial cable or underground connections, the new pole shall be set in the same hole which the replaced pole occupied unless special conditions make it necessary or mutually desirable to set it in a different location.

(c) Whenever right-of-way considerations or public regulations make relocation of a pole, or poles, necessary such relocations shall be made by the Owner at its own expense, except that each party shall bear the cost of transferring its own attachments.

(d) Whenever it is necessary to replace or relocate a jointly used pole, the Owner shall, before making such replacement or relocation, give 20 days notice thereof in writing (except in case of emergency, when verbal notice will be given and subsequently confirmed in writing) to the Licensee, specifying in such notice the time of such proposed replacement or relocation, and the Licensee shall, at the time so specified, transfer its attachments to the new or relocated joint pole. Should the Licensee fail to transfer its attachments to the new or relocated joint pole at the time specified for such transfer of attachments, the Owner may elect to do such work, and the Licensee shall pay the Owner the cost thereof.

(e) Except as otherwise provided in Section (f) of this Article, each party shall at all times maintain all of its attachments in accordance with the specifications mentioned in Article II and shall keep them in safe condition and in thorough repair. All necessary right-of-way maintenance, including tree trimming or cutting, shall be performed by the parties as may be mutually agreed upon and the cost thereof shall be borne by the parties as provided in Article III (e).

(f) Any existing joint use construction of the parties which does not conform to the specifications mentioned in Article II shall be brought into conformity therewith as soon as practicable.

When such existing construction shall have been brought into conformity with said specifications, it shall at all times thereafter be maintained as provided in Sections (a) and (e) of this Article.

ARTICLE VI

PROCEDURE WHEN CHARACTER OF CIRCUITS IS CHANGED

(a) When either party desires to change the character of its circuits, such party shall give _____ days notice to the other party of such contemplated change in the character of its circuits and in the event that the party agrees in writing to joint use with such changed circuits then, subject to the procedure hereinafter provided for in Sections (c) and (d) of this Article, the joint use of poles shall be continued with such changes in construction as may be required to meet the terms of the specifications mentioned in Article II for the character of circuits involved.

(b) In the event, however, that the other party fails within _____ days from receipt of such notice to agree in writing to continue the joint use of such poles with such changed circuits, then both parties shall cooperate in accordance with the following plan:

1. The parties hereto shall determine and agree upon the most practical and economical method of effectively providing for separate lines, either overhead or underground, and the party whose circuits are to be moved shall promptly carry out the necessary work.

2. The net cost involved in re-establishing such circuits in the new location as are necessary to furnish the same service facilities that exist in the joint use at the time such change was decided upon, shall be equitably apportioned between the parties hereto.

(c) If the change in character of circuits requires pole replacements for the sole benefit of the Owner, the pole replacements shall be made by and at the expense of the Owner. Before making such replacements the Owner shall give 20 days notice thereof in writing to the Licensee, specifying in such notice the time of such proposed replacements, and the Licensee shall, at the time so specified, transfer its attachments to the replaced pole or poles. Should the Licensee fail to transfer its attachments to the replaced pole or poles at the time specified for such transfer of attachments, the Owner may elect to do such work, and the Licensee shall pay the Owner the cost thereof.

(d) If the change in character of circuits requires pole replacements for the sole benefit of the Licensee, the Licensee shall, with respect to pole replacements necessitated by a change in the character of its circuits, follow the procedure provided for in Article III - Establishing Joint Use of Poles.

ARTICLE VII

ABANDONMENT OF JOINTLY USED POLES

(a) If the Owner desires at any time to abandon any jointly used pole, it shall give the Licensee notice in writing to that effect at least 60 days prior to the date on which it intends to abandon such pole. If at the expiration of said period the Owner shall have no attachments on such pole but the Licensee shall not have removed all of the attachments therefrom, such pole shall thereupon become the property of the Licensee, and the Licensee shall save harmless the Owner from all obligation, liability, damages, cost, expenses or charges incurred thereafter, and not arising out of anything theretofore occurring, because of, or arising out of, the presence or condition of such pole or of any attachments thereon, and shall pay the Owner for such pole an amount as may be mutually agreeable to the parties, but in no case shall the payment exceed the net salvage value of the pole to the Owner. The Owner shall further evidence transfer to the Licensee of title to the pole by means of a bill of sale.

(b) The Licensee may at any time abandon the use of a joint pole by giving due notice thereof in writing to the Owner and by removing therefrom any and all attachments it may have thereon. The Licensee shall in such case pay to the Owner the full rental for said pole for the then current year.

ARTICLE VIII

RENTALS

(a) On or about _____ of each year the parties acting in cooperation shall tabulate the total of the number of poles in joint use as of the preceding day and the number of poles on which the Licensee removed all of its attachments during the twelve preceding months, which tabulation shall indicate the number of poles on which rentals are to be paid.

(b) The rental per pole due from the Licensee to the Owner shall be $_____ per annum which shall be paid by the Licensee to the Owner for each jointly used pole as shown by the annual tabulation of joint poles provided for herein.

(c) At any time after 5 years from the date of this Agreement and at intervals of not less than 5 years thereafter, upon the written request of either party, the annual rental rate applicable under this Agreement shall be reviewed and, if the parties mutually agree, an adjusted annual rental rate shall be established by an amendment to this Agreement which shall apply starting with the next annual tabulation of poles provided for in Section (a) of this Article. All adjustments of the rental rate shall take into account the cost factors originally involved in all joint use existing at the time of the review.

ARTICLE IX

RIGHTS OF OTHER PARTIES

(a) If the Owner, prior to the execution of this Agreement, has conferred, or hereafter confers, upon others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any poles covered by this Agreement, nothing herein contained shall be construed as affecting such rights or privileges, and the Owner shall have the right, by contract or otherwise, to continue or extend such existing rights or privileges, it being expressly understood, however, that for the purpose of this Agreement, the attachments of any such outside party shall be treated as attachments belonging to the Owner, and the rights, obligations, and liabilities hereunder of the Owner in respect to such attachments shall be the same as if it were the actual owner thereof.

(b) Where municipal regulations require the Owner to allow the use of its poles for street lighting and fire alarm, police, or other like signal systems, such use shall be permitted under the terms of this Article, provided attachments of such parties are placed and maintained in accordance with the specifications mentioned in Article II.

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ARTICLE X

ASSIGNMENT OF RIGHTS

Except as otherwise provided in this Agreement, neither party hereto shall assign or otherwise dispose of this Agreement or any of its rights or interests hereunder, or in any of the jointly used poles, or the attachments or rights-of-way covered by this Agreement, to any firm, corporation or individual, without the written consent of the other party, except to the United States of America or any agency thereof; provided, however, that nothing herein contained shall prevent or limit the right of either party to mortgage any or all of its property, rights, privileges, and franchises, or lease or transfer any of them to another corporation organized for the purpose of conducting a business of the same general character as that of such party, or to enter into any merger or consolidation, and, in case of the foreclosure of such mortgage, or in case of lease, transfer, merger, or consolidation, its rights and obligations hereunder shall pass to, and be acquired and assumed by, the purchaser on foreclosure, the transferee, lessee, assignee, merging or consolidating company, as the case may be.

ARTICLE XI

WAIVER OF TERMS OR CONDITIONS

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

ARTICLE XII

PAYMENT OF TAXES

Each party shall pay all taxes and assessments lawfully levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said joint poles shall be paid by the owner thereof, but any tax, fee, or charge levied on the Owner's poles solely because of their use by the Licensee shall be paid by the Licensee.

ARTICLE XIII

INTEREST AND PAYMENTS

All amounts to be paid by one party to the other under this Agreement shall be due and payable within 30 days after an itemized statement shall have been presented to the party required to make such payment. Any payment not made within 30 days from the due date shall thereafter bear interest at the rate of 6% per annum until paid.

ARTICLE XIV

SERVICE OF NOTICES

Whenever in this Agreement notice is provided to be given by either party hereto to the other, such notice shall be in writing and given by letter mailed, or by personal delivery, to the Owner at its office at _____

_____

_____,

or to the Licensee at its office at _____ _____

_____ as the case may be, or to such other address as either party may from time to time designate in writing for that purpose.

ARTICLE XV

TERM OF AGREEMENT

This Agreement shall remain in effect until terminated at the end of _____ years from the date hereof or thereafter upon the giving of written notice to the other party not less than three years prior to the date of termination.

ARTICLE XVI

EXISTING CONTRACTS

——— * All existing agreements between the parties hereto for the joint use of poles shall remain in full force and effect with respect to those facilities being jointly used by the parties hereto as of the date of this Agreement. From and after the date of this Agreement, future grantings of joint use between the parties shall be governed by and shall be subject to the terms and conditions of this Agreement.

——— * All existing agreements between the parties hereto for the joint use of poles are by mutual consent hereby abrogated and superseded by this Agreement.

Nothing in the foregoing shall preclude the parties to this Agreement from preparing such supplemental operating routines or working practices as they mutually agree to be necessary or desirable to effectively administer the provisions of this Agreement.

ARTICLE XVII

APPROVAL OF ADMINISTRATOR

This Agreement, and any amendment thereof, shall be effective subject to the condition that, during any period in which the Owner or the Licensee is a borrower from the Farmers Home Administration, the Agreement and any amendment thereof shall have the approval in writing of the Administrator of the Farmers Home Administration.

In witness whereof, the parties hereto, have caused these presents to be executed in quadruplicate, and their corporate seals to be affixed thereto by their respective officers thereunto duly authorized, on the _____ day of _____, 19 ____.

[SEAL]

ATTEST: _____

_____ By _____

[SEAL]

ATTEST: _____

_____ By _____

* The inapplicable paragraph should be stricken and initialed by the parties at the time this Agreement is executed.

APPENDIX A

To _____ _____
NAME OF ELECTRIC SYSTEM DATE

_____ _____
ADDRESS REQUEST NUMBER

This is to request permission for this Company to use jointly certain of your poles under the terms and conditions of our Agreement for Joint Use of Electric System Poles, dated _____

The poles, including the number and character of circuits to be placed thereon, for which this permission is requested are those included in the pole lines indicated on the attached map, which also bears the above date and Request Number.

Our present plan is to start this work about _____, 19 ____, and complete the work about _____, 19 ____.

If permission to use these poles is given by you, this Company will prepare and furnish to you, after engineering is complete, detailed construction plans and drawings, together with necessary maps, to indicate specifically your poles that we wish to use jointly, the number and character of the circuits to be placed on such poles, and any rearrangements of fixtures and equipment necessary, as well as any relocations or replacements of existing poles, and any additional poles that may be required, in accordance with the procedure provided in Article III of the Agreement.

If the joint use proposed is agreeable, please signify your approval of this request in the space provided and return the second copy to us.

_____ _____
NAME OF LICENSEE SIGNATURE OF LICENSEE REPRESENTATIVE

_____ _____
ADDRESS TITLE

To _____ _____
NAME OF LICENSEE DATE

_____
ADDRESS

This is to advise you that the above request to use jointly certain poles of this system is approved. You may proceed with such joint use of poles on the terms and conditions of the Agreement referred to above, and under the conditions outlined in your request.

_____ _____
TITLE OF ELECTRIC SYSTEM REPRESENTATIVE SIGNATURE OF ELECTRIC SYSTEM REPRESENTATIVE

V 43 M Y 5 1978 UMI

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration had determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-170.

Dated: April 26, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-12341 Filed 5-4-78; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 144]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 7-13, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The comittee met pm May 2, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues good with all sizes being requested.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.444 Lemon Regulation 144.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period May 7, 1978, through May 13, 1978, is established at 285,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: May 3, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-12477 Filed 5-4-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis Regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Md., Room 805, 301-436-8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they again come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Barry County in Missouri.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Anderson, Clay, Douglas, Finney, Stevens, and Wyandotte Counties in Kansas; and Banner County in Nebraska.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific counties within States.*

Alabama. Dale, Geneva.

Arkansas. Baxter, Bradley, Carroll, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Jefferson, Johnson, Marion, Monroe, Montgomery, Newton, Ouachita, Searcy, Sharp, Stone, Union, Woodruff.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont,

Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld, Yuma.

Florida. Baker, Bay, Citrus, Dixie, Escambia, Franklin, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twiggs, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Clark, Clearwater, Custer, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Allamakee, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Sac, Scott, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Anderson, Barber, Brown, Chase, Cheyenne, Clark, Clay, Comanche, Decatur, Doniphan, Douglas, Edwards, Ellsworth, Finney, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Jewell, Johnson, Kearny, Kingman, Kiowa, Lane, Logan, Marion, Marshall, Meade, Ness, Norton, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Shawnee, Sheridan, Sherman, Smith, Stanton, Stevens, Thomas, Trego, Wallace, Washington, Wichita, Wyandotte.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Nebraska. Banner, Box Butte, Cheyenne, Dakota, Deuel, Thurston.

New Mexico. Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Davidson, Fentress, Grainger, Greene, Hamblen, Hancock, Jefferson, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Armstrong, Borden, Brewster, Childress, Comal, Crane, Culberson, Ector, Gillespie, Glasscock, Gray, Hansford, Hartley, Hemphill, Hudspeth, Hutchinson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Pecos, Presidio, Reagan, Real, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Vermont. Bennington, Caledonia, Essex, Grand Isle, Lamoille, Orange, Rutland, Washington, Windham, Windsor.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Benton, Boone, Calhoun, Chicot, Clark, Clay, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Yell.

Colorado. Mesa.

Florida. Alachua, Bradford, Brevard, Broward, Calhoun, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bingham, Bonneville, Caribou, Cassia, Elmore, Franklin, Fremont,

V 4 3 — 8 8

Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Teton, Twin Falls.

Illinois. Massac.

Iowa. Adams, Appanoose, Guthrie, Ringgold, Wayne.

Kansas. Allen, Atchison, Barton, Bourbon, Butler, Chautauqua, Cherokee, Cloud, Coffey, Cowley, Crawford, Dickinson, Elk, Ellis, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Labette, Leavenworth, Lincoln, Linn, Lyon, McPherson, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Osborne, Ottawa, Reno, Rice, Russell, Sedgwick, Seward, Stafford, Sumner, Wabaunsee, Wilson, Woodson.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

Nebraska. Adams, Antelope, Arthur, Blaine, Boone, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Clay, Colfax, Cuming, Custer, Dawes, Dawson, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Redwillow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Valley, Washington, Wayne, Webster, Wheeler, York.

New Mexico. Bernalillo, Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Warren, Washington, Wayne, Weakley, White, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasa, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Rains, Randall, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder.

Vermont. Addison, Chittenden, Franklin, Orleans.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

§ 78.22 Noncertified areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

Yellowstone National Park.

(b) *Specific Counties Within States.*

Florida. Okeechobee.
Missouri. Newton.
South Dakota. Harding.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 1st day of May 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator Veterinary Services.

[FR Doc. 78-12295 Filed 5-4-78; 8:45 am]

[3410-34]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. H. L. Arnold, USDA, APHIS, VS, Federal Building, Room 867, Hyattsville, Md. 20782, 301-436-8684.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1977 ed.), as amended April 26, 1977 (42 FR 21269), May 27, 1977 (42 FR 27218), July 5, 1977 (42 FR 34276), October 28, 1977 (42 FR 56719), November 15, 1977 (42 FR 59062), and December 20, 1977 (42 FR 63770), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by adding to the respective list therein as follows:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

OUTSIDE METROPOLITAN AREA

THREE HOURS

Tarzana, Calif. (served from Lawndale, Calif.).

(84 Stat. 561 (7 U.S.C. 2260).)

It is to the benefit of the public that this instruction be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this instruction are impracticable, unnecessary, and contrary to the public interest and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of April 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator, Veterinary Services.

[FR Doc. 78-12027 Filed 5-4-78; 8:45 am]

[3410-02]

CHAPTER II—AGRICULTURAL MARKETING SERVICE (PACKERS AND STOCKYARDS), DEPARTMENT OF AGRICULTURE

RULES OF PRACTICE, STATEMENTS OF GENERAL POLICY, AND STATEMENT OF ORGANIZATION AND FUNCTIONS

Conforming Amendments

AGENCY: Agricultural Marketing Service (Packers and Stockyards), United States Department of Agriculture.

ACTION: Final rules, rules of practice, statements of general policy, and statement of organization and functions.

SUMMARY: This document makes conforming amendments to reflect the merger of the Packers and Stockyards Administration into the Agricultural Marketing Service.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

John J. Casey, Attorney, Office of the General Counsel, United States Department of Agriculture, Washington, D.C. 20250, telephone 202-447-7357.

SUPPLEMENTARY INFORMATION: By documents published in the FEDERAL REGISTER on December 30, 1977, 42 FR 65131-2, 65223, the delegations of authority from the Assistant Secretary of Agriculture for Marketing Services were revised to reflect the merger of the Packers and Stockyards Administration into the Agricultural Marketing Service. This document makes conforming amendments to the regulations issued under the Packers and Stockyards Act, the Rules of Practice governing proceedings under that Act, the statements of general policy under that Act, and the statement of organization and functions of the Packers and Stockyards Administration, to reflect that merger.

Accordingly, Chapter II of Title 9 of the Code of Federal Regulations is hereby redesignated, Parts 201, 202, and 203 are hereby amended by adding footnotes to the captions thereof, and § 204.1 is hereby revised, to read as set forth below.

It is hereby found that notice of proposed rulemaking and public procedure on this document are unnecessary, and good cause is found for making these amendments effective less than thirty days after publication, in that this document only conforms various provisions to reflect an action previously taken.

(Section 407, 42 Stat. 169; section 4, 72 Stat. 1750; 77 Stat. 79; section 11, 90 Stat. 1252; 7 U.S.C. 228; 7 CFR 2.17, 2.50; 42 FR 65131-2, 65223.)

Done at Washington, D.C. on April 28, 1978.

CHAS B. JENNINGS,
Acting Deputy Administrator, Packers and Stockyards, Agricultural Marketing Service.

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT [1]

PART 202—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE PACKERS AND STOCKYARDS ACT [2]

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT [3]

PART 204—ORGANIZATION AND FUNCTIONS

§ 204.1 Introduction.

The Agricultural Marketing Service hereby describes that part of its central and field organization which is

[1] References in these regulations to the Packers and Stockyards Administration shall be deemed to refer to those divisions and offices of the Agricultural Marketing Service which are charged with administration of the Packers and Stockyards Act, and references in these regulations to the Administrator of the Packers and Stockyards Administration shall be deemed to refer to the Deputy Administrator, Packers and Stockyards, Agricultural Marketing Service.

[2] References in these rules to the Packers and Stockyards Administration shall be deemed to refer to those divisions and offices of the Agricultural Marketing Service which are charged with administration of the Packers and Stockyards Act, and references in these rules to the Administrator of the Packers and Stockyards Administration shall be deemed to refer to the Deputy Administrator, Packers and Stockyards, Agricultural Marketing Service.

[3] References in these statements to the Packers and Stockyards Administration shall be deemed to refer to those divisions and offices of the Agricultural Marketing Service which are charged with administration of the Packers and Stockyards Act, and references in these statements to the Administrator of the Packers and Stockyards Administration shall be deemed to refer to the Deputy Administrator, Packers and Stockyards, Agricultural Marketing Service.

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charged with administration of the Packers and Stockyards Act and, with respect to the administration of that Act, indicates the established places at which and methods whereby the public may secure information, directs attention to the general course and method by which its functions are channeled, and determines and sets forth the procedures governing the availability of opinions, orders, and other records in the files of said Service. References in this Part 204 to the Packers and Stockyards Administration shall be deemed to refer to those divisions and offices of the Agricultural Marketing Service which are charged with administration of the Packers and Stockyards Act. References in this Part 204 to the Administrator and the Associate Administrator of the Packers and Stockyards Administration shall be deemed to refer, respectively, to the Deputy Administrator and the Assistant Deputy Administrator, Packers and Stockyards, Agricultural Marketing Service. The Deputy Administrator reports to the Administrator, Agricultural Marketing Service.

[FR Doc. 78-12303 Filed 5-4-78; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision 13, Amdt. 20]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Small Business for Purpose of SBA Loans—Radio and Television Broadcasting

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule establishes size standards for small radio and television firms to receive SBA financial or loan assistance. It is necessary because there are no size standards for these two industries. This new rule is intended to establish the eligibility criteria for small radio and TV firms for SBA assistance.

EFFECTIVE DATE: May 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Harvey D. Bronstein, 202-653-6373.

SUPPLEMENTARY INFORMATION: On February 10, 1978 (43 FR 5846), the SBA published a proposed rule in the FEDERAL REGISTER to establish small business size standards for radio and television broadcasting firms of, respectively, $2 million and $5 million in annual receipts. Since that time, the Agency has received only one comment. It stated that the proposed standards are too low because they would eliminate the possibility of purchasing broadcasting facilities in major markets. The Agency's response to this comment is that the purpose of size standards is to define small business on an industry-by-industry basis for the country as a whole. A size standard high enough to include broadcasting firms in a major market would include some of the largest broadcasting firms in the nation. This would defeat the purpose of size standards, which is to make distinctions between small and non-small.

Accordingly, Part 121 of Chapter I, Title 13, of the Code of Federal Regulations is amended by:

Revising § 121.3-10 by adding a new paragraph (1) to read as follows, and by deleting paragraph (d)(12):

§ 121.3-10 Definition of small business for SBA loans.

* * * * *

(l) *Communications.* (1) Any firm primarily engaged in radio broadcasting, SIC-4832, is small if its annual receipts do not exceed $2 million.

(2) Any firm primarily engaged in television broadcasting, SIC-4833, is small if its annual receipts do not exceed $5 million.

(3) Any firm primarily engaged in providing cable television service rental to homes is small if its annual receipts do not exceed $3 million is small.

* * * * *

Dated: April 25, 1978.

PATRICIA M. CLOHERTY,
Deputy Administrator.

[FR Doc. 78-12298 Filed 5-4-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER F—POLICY STATEMENTS

[Regulation PS-76, Amdt. 55]

PART 399—STATEMENTS OF GENERAL POLICY

Role of Staff in Route Proceedings; Amendment of Part

AGENCY: Civil Aeronautics Board.

ACTION: Statement of policy.

SUMMARY: This Policy Statement establishes the role we direct our staff to assume in hearing cases involving the award of route authority. In a recent order issued by the Board (Order 78-4-28, April 6, 1978) the issue arose as to the proper role of staff in route cases. The intent of this policy statement is to establish standards applicable to staff participation in such cases.

DATES: Effective: May 2, 1978. Adopted: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip J. Bakes, Jr., General Counsel, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5233.

SUPPLEMENTARY INFORMATION: In several proceedings pending before the Board, administrative law judges have ordered all parties to file prehearing statements of position on the merits. Judge William Dapper dismissed the Bureau of Pricing and Domestic Aviation (BPDA) from the *Transcontinental Low-Fare Route Proceeding,* Docket 30356, for failing to comply with his directive that they file a prehearing statement of position and, in Order 78-4-28, we directed that BPDA be permitted to continue to participate in the traditional way in that important case. We said that we would undertake to consider the important issues raised by Judge Dapper's directive, and review the merits of a change in the traditional role of our staff in route cases.

We were and continue to be sensitive to the problems our staff faces when we are changing our procedures to accelerate our decisions, undertaking extensive revisions of our rules, and considering major departures from past regulatory policy. Although traditionally the staff has not stated its position until after the receipt of all evidence and the close of the hearing, the recent actions of several administrative law judges have focused our attention on the broader question of the proper staff role in a changing policy environment, and we have concluded that a change is in order. Consequently, pursuant to our powers under sections 204 and 1001 of the Act, this policy statement establishes the role we direct our staff to assume in hearing cases involving the award of route authority.

There is no question that the filing of prehearing[1] statements of position on the merits in some types of cases can be an effective trial technique. Such statements of position help define the scope of each party's interest in the case, provide a basis for testing and confining the relevance of cross/examination during the hearing, and suggest the type of evidence germane to the proceeding. All of these benefits can contribute to the efficiency of a hearing and enhance the opportunities for develoment of the most complete trial record. In certain types of cases, in fact, such as enforcement cases, pretrial disclosure of the staff's position may be required in the interest of fairness. The staff role in rate cases by and large follows this pattern. Prehearing statement of the staff's position does not preclude a change of position during or after the hearing should the course of evidence testing suggest it.

[1] That is, before cross/examination but after the submission of evidence.

Our staff, however, has by long practice refrained from taking a preliminary position on how the issues and proposals in a route case should be finally adjudicated, but has instead taken a position at the close of the hearing after the evidence has been tested but before other parties have filed briefs. The staff's role during such hearings has been not to function exactly as every other party, primarily because its role and interest is defined by the broad public interest, not by a particular private or local interest. Rather its role has been to assure that essential evidence is introduced to resolve the public interest issues, that the evidence submitted by the parties is subject to adversary testing, and that the decisional options are developed with the public interest in mind. This is a very valuable function and we believe that it should be continued.

We expect, however, that there will be certain route licensing cases where a prehearing presentation by our staff will contribute to a better trial record, be consistent with the staff's traditional role and notions of fundamental fairness, and better serve the Board's decisionmaking needs and, ultimately, the public interest. We have in mind those route cases that offer the opportunity for developing new policies we are attempting to adapt to the administration of the Federal Aviation Act. In certain of those types of cases, we believe our staff should make a prehearing presentation of the decisional options which they believe are available to the decisionmaker, and describe the type of evidence needed or available to develop each option. If the staff believes that there are certain options for which no probative evidence can be developed or produced, they should identify such options at the outset of the proceeding. Also, the staff need not and should not be required to produce evidence on each option. Identification by our staff at the outset of the alternative ways in which the decisions in an important route case would relate to substantive policies and regulatory objectives will better insure that these alternatives will be well tested on the record; that the types of evidence necessary to evaluate them are introduced into the hearing; and that all parties have the fullest opportunity to examine them.

The Board sees no substantive or procedural need to require as a general practice that the staff advocate the adoption of one of the decisional options at the outset of the case. We expect the staff, after close of a case and before briefs, however, to advocate a position based on one or more of the decisional options identified earlier in its prehearing presentation, or upon such other options as the trial of the case may develop. We will require our staff to participate in these kinds of route hearing cases in the fashion we have just outlined. To the extent possible, we will identify the cases we believe offer such new policy opportunities in our instituting orders.

We believe the kind of participation in route certification proceedings we have outlined here for our staff is consistent with both its more traditional role as a public interest advocate and also the needs of the Board of insuring that all of the evidence essential to the adjudication of issues and the requirements of law is introduced into the record and subject to full testing. We would expect in these cases that this would more than suffice to provide the judge and the parties with ample opportunity to explore staff positions.

In those routine cases where the staff participates,[2] we see no compelling reason to require nor do we desire it to participate in a manner different from its traditional participation, particularly where the presence of competing applicants in those cases may assure adequate identification and examination of issues and testing of evidence. In those cases where the staff participates but the Board has not imposed a requirement for presenting decisional options at the outset, the staff shall present a prehearing presentation of decisional options if the administrative law judge finds that there exists unusual policy or evidentiary issues which clearly require such a presentation.

Since we are resolving here the general issues raised in Order 78-4-28 we want to emphasize that neither that Order nor this policy statement should be read in any way as an effort generally to circumscribe the permissible and legitimate independence and discretion of administrative law judges in their role as presiding officers in hearing cases. We did not intend any language in Order 78-4-28 to be so interpreted. Order 78-4-28 was the product of highly expedited action by the Board to maintain the historical status quo in a case that, in the Board's firm view, required staff participation. We will not dwell on this issue except to say that the independence accorded administrative law judges under the Administrative Procedure Act (see section 556(c)) is something we will continue to protect and maintain. We intend to monitor closely the effect of this Policy Statement on our proceedings.

[2] Board policy on staff participation in Board proceedings is set forth in § 543.2 of the Civil Aeronautics Board Manual.

O'MELIA, MEMBER, CONCURRING STATEMENT

The adoption of this policy statement is an effort to resolve an issue which is considered to be of great importance and significance by both the Bureau of Administrative Law Judges and the operating bureaus of the Board. The statement does not fully satisfy either side's view of the institutional priorities nor of what determination can best contribute to achievement of the agency's objectives without causing damage to the integrity of the agency's procedures. However, it is an effort to satisfy the legitimate concerns of each interested Bureau, and, more importantly an effort to satisfy those concerns in a framework that also takes into consideration the Board's decisionmaking responsibility. I personally would prefer to see a solution that all elements of the Board could endorse without reservation, and perhaps further reflection will help produce such a solution. Nevertheless, in the meantime, in order to provide guidance in a number of pending proceedings in which a similar issue may arise, I concur to its issuance, but with the following observations and qualifications.

I am not satisfied that a less hurried study of this problem would not furnish the Board with a better understanding of the issues. While there is apparently no question (1) that an agency is free to promulgate its own procedural rules in whatever manner best permits the fair and orderly adjudication of cases before it, and (2) that Constitutional due process requirements do not demand any particular technique or procedure, and (3) that the Board has the power to prescribe how its staff is to participate in route cases, and (4) that it can properly limit the delegation of authority to its judges, it must do so in a manner that ensures that its procedures are fair to the parties in the proceeding and allow development of a full record. Thus, the Board's promulgated procedural rules must, on the one hand, permit the administrative law judge to exercise the necessary control over the case in which he is presiding, but, on the other hand, must protect its staff resources.

The answer to this problem, I believe, is more to be drawn from policy considerations, than from legal precepts that are fairly well established. The Board is clearly entering a period—if not already fairly deeply into it—in which novel and complex cases will arise, perhaps requiring novel proposals, or a number of alternative solutions, to be advanced and explored. The Board's rules must afford its operating bureaus participating in particular cases opportunity to defer definitive commitments to any single course until a factual predicate has been developed, and must therefore make it possible for them to outline decisional alternatives, to assist in developing an evidentiary record on which a proper selection can be made, and, at an appropriate time, to define its recommendations to the judge on the basis of the evidence brought forth in the hearing. The proposed policy statement attempts to do this without prejudicing those prerogatives of the administrative law judge necessary for proper control of the proceeding and to accord the administrative process a full measure of respect. I am less sure that in an attempt to create a privileged position for our staff, we have not gone too far in

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creating an unfair situation for the other parties.

We cannot be absolutely certain that this policy statement will properly accomplish our procedural and policy objectives, as we see them, and will not lead us to other now unforseen problems. In concurring that we should now adopt this formulation, I propose that the Board continue to follow closely the effect of this policy directive. Should our experience under this policy declaration be found, after a suitable period of time, to be detracting in any way from the high standards of fairness and effectiveness that we want to maintain in the Board's administrative proceedings, I would then urge the Board to reconsider its policy and make the necessary modifications. I am confident that my colleagues on the Board would, in such circumstances, be equally ready to review the present decision.

(S) RICHARD J. O'MELIA.

In light of the foregoing, a new § 399.63 is made to 14 CFR Part 399, Statements of General Policy:

1. Amend the table of contents by adding § 399.63 to the table to read as follows:

399.63 Role of staff in route proceedings.

2. Amend subpart E of part 399 by adding a new section 399.63 to read as follows:

§ 399.63 Role of staff in route proceedings.

(a) *General.* This policy statement establishes the standards applicable to staff participation in oral hearing cases involving award of route authority.

(b) *Standards.* The staff's role during such hearings, primarily because it acts in the broad public interest, and not for a particular private or local interest, is to assure that essential evidence is introduced to resolve the public interest issues; that the evidence submitted by the parties is subject to adversary testing, and that decisional options are developed with the public interest in mind. In route cases designated by the Board that offer the opportunity for developing new policies to adapt to the administration of the Federal Aviation Act or that raise unusual evidentiary issues, a prehearing presentation by staff of decisional options will contribute to a better trial record, be consistent with traditional notions of fundamental fairness, better serve the Board's decisionmaking needs and ultimately serve the public interest. In any route case where the Board has not required the staff to participate by making a prehearing presentation, the staff shall present a prehearing presentation of decisional options if the administrative law judge finds that there exists unusual policy or evidentiary issues which clearly require such a presentation. We believe it is not desirable for the staff to advocate the adoption of a single decisional option at the outset of a case. Accordingly,

(1) In route cases designated by the Board that offer the opportunity for developing new policies, the staff shall make a prehearing presentation of the decisional options available, and describe the kinds of evidence needed or available to develop each option. The staff need not and should not be required to develop evidence on each option. In every case, after the close of the hearing, however, the staff shall advocate a position based upon one or more of the decisional options identified in its prehearing presentation or developed at trial.

(2) In any route case in which the administrative law judge finds that there exists unusual policy or evidentiary issues clearly requiring a prehearing presentation, the staff shall submit a prehearing statement of the decisional options available.

(3) To the extent possible, the Board, in its instituting orders, will identify or designate the cases which involve the development of new policies or unusual evidentiary issues that will require the type of staff participation described in § 399.63(b)(1).

(Secs. 204 and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 788, 49 U.S.C. 1324 and 1481.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-12358 Filed 5-4-78; 8:45 am]

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION DEPARTMENT OF ENERGY

[Docket No. RM77-21; Order No. 6]

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES (CLASS A AND CLASS B)

PART 216—UNITS OF PROPERTY FOR USE IN ACCOUNTING FOR ADDITIONS TO AND RETIREMENTS OF GAS PLANT

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Order Amending the Uniform Systems of Accounts for Natural Gas Companies and Related Regulations To Provide for Base Load Liquefied Natural Gas Facilities

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: By this order, the Commission is adopting amendments to its regulations necessary to provide for the recognition of base load liquefied natural gas facilities. Amendments are also ordered for related report forms. The amendments are being ordered to provide accounting and reporting classifications for base load liquefied natural gas facilities for which no such appropriate classifications existed prior to this order.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

M. Wayne McDanal, Office of Chief Accountant, 202-275-4052.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565, approved August 4, 1977 and Executive Order No. 12009, dated September 13, 1977 (42 FR 46267, September 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent Commission within the Department of Energy, was activated on October 1, 1977.[1]

Before Commissioners: Charles B. Curtis, Chairman; Don S. Smith, Georgiana Sheldon, and Matthew Holden, Jr., and George R. Hall.

Revisions to uniform system of accounts for natural gas companies to provide accounts for base load liquefied natural gas terminaling and processing facilities; order adopting amendments to uniform system of accounts for natural gas companies (Docket No. RM77-21, Order No. 6).

APRIL 28, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565, approved August 4, 1977 and Executive Order No. 12009, dated September 13, 1977 (42 FR 46267, September 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent Commission within the De-

[1]The term "Commission" when used in the context of an action taken prior to Oct. 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

partment of Energy, was activated on October 1, 1977.[1]

Section 0.4(h) of part 0 of chapter I, title 18 of the Code of Federal Regulations, which was promulgated by the FERC's order No. 1, docket No. RM78-1, issued October 6, 1977 (42 FR 55450, October 17, 1977), provides that all persons or jurisdictional entities required to file periodic or other reports with any agency or commission whose functions were transferred under the DOE Act to the FERC shall file such reports relating to the transferred functions with the Secretary of the FERC and provides further that the FERC affirms, adopts and continues in effect all previously approved forms as amended herein, for making periodic or other reports.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the Federal Energy Regulatory Commission," 10 CFR part 1000, provided that this proceeding would be continued before the FERC.[2] The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

Pursuant to the notice of proposed rulemaking issued in this docket, the Commission is hereby adopting amendments to its Uniform System of Accounts for Natural Gas Companies (Class A and Class B) to accommodate the accounting for base load liquefied natural gas facilities. The amendments include the adoption of a number of new accounts including a liquefied natural gas inventory account, plant accounts and the necessary operation and maintenance expense accounts. In addition thereto, two new definitions prompted by this proceeding are being added. The appropriate annual report form changes have also been made.

On June 8, 1977, the Commission issued a notice of proposed rulemaking in docket No. RM77-21 (42 FR 30846, June 17, 1977). This rulemaking proposed to establish a separate accounting classification for base load liquefied natural gas (LNG) terminaling and processing facilities and to make revisions to FPC form No. 2, Annual Report for Natural Gas Companies, in order to reflect the amended accounting classification.

Comments were invited from interested persons no later than August 8, 1977. In response to the rulemaking notice, the Commission received comments from 11 respondents.[3] In general, the responses to the proposed rulemaking were favorable with several of the respondents suggesting modifications to the rulemaking as follows:

The use of five digit account numbers, instead of four digit account numbers presently being used, was objected to by several respondents on the ground that this change would require the reprogramming of existing computer systems entailing significant outlays of funds. The Commission recognizes the respondents' position and has amended the proposal and certain existing account numbers in order to retain the four digit system.

Several respondents suggested that Account 804.2, Liquefied Natural Gas Held for Processing—Net, be repositioned and classified with deliveries and withdrawals from storage. We have adopted this reclassification believing it to be more meaningful, and have divided the account into delivery and withdrawal accounts.

Based upon suggestions from three respondents, we have also added provisions for liquefaction equipment to recognize the possibility of base load liquefaction operations. Numerous other minor revisions also have been incorporated into the accounts and schedules.

Pursuant to the request in the notice in this proceeding, suggested retirement units for the properties classified in the LNG plant accounts were received and have been incorporated in the Units of Property for Use in Accounting for Additions to and Retirements of Gas Plant under part 216 of the Commission's regulations. Comparable lists have also been added for the existing LNG peaking plant accounts.

The Commission is also amending the schedule of the FPC form No. 1 regarding the distribution of salaries and wages. Although prior notice was not provided with respect to the amendment, the change is minor and concerns a schedule which FPC form No. 1 has in common with FPC form No. 2 with respect to which notice was given. The amendment is minor and technical in nature consistent with the purpose of the rulemaking and does not impose additional requirements on reporting entities. Therefore, the Commission believes that prior notice and public procedures are unnecessary.

The Commission finds: (1) The notice and opportunity to participate in this rulemaking proceeding with respect to the matters presently before this Commission; through the submission in writing of data, views, comments, and suggestions; are consistent and in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

(2) The amendments are necessary and appropriate for the administration of the Natural Gas Act.

(3) Because the amendments ordered herein, which were not included in the notice of this proceeding, are consistent with the prime purpose of the proposed rulemaking, further notice thereof and opportunity for comment thereon are unnecessary.

(4) Good cause exists for making the amendments to the Uniform System of Accounts for Natural Gas Companies and to the Units of Property for Use in Accounting for Additions to and Retirements of Gas Plant which are ordered herein effective on January 1, 1978, and the amendments to FPC form No. 1 and form No. 2 which are ordered herein to become effective for the 1978 reporting year.

The Commission orders:[4] (1) Effective January 1, 1978, part 201, the Uniform System of Accounts Prescribed for Natural Gas Companies (Class A and Class B), and part 216, Units of Property for Use in Accounting for Additions to and Retirements of Gas Plant, of subchapter F, chapter I, title 18 of the Code of Federal Regulations are amended to establish separate ac-

[2]10 CFR 1000.1(d). The joint regulation was published in the FEDERAL REGISTER on Oct. 17, 1977 (42 FR 55534).

[3]Interstate Natural Gas Association of America (INGAA), Public Service Electric & Gas Co., San Diego Gas & Electric Co., Columbia LNG Corp. (late filing), Consolidated Natural Gas Service Co., Michigan Wisconsin Pipe Line Co., Northwest Pipeline Corp., Southern Natural Gas Co., (late filing), Tennessee Gas Pipeline Co., Western LNG Terminal Co., et al., and Public Service Commission of the State of New York.

[4]The Commission is acting under authority, pursuant to the provisions of the Federal Power Act as amended, particularly secs. 301, 302, 304, 309, and 311; (49 Stat. 838, 854, 855, 858, 859; 16 U.S.C. 798, 825, 825a, 825c, 825h, and 825j) and the provisions of the Natural Gas Act, as amended, particularly secs. 8, 9, 10, and 16 (52 Stat. 825-826, 1830, 15 U.S.C. 717g, 717h, 717i and 717o).

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counting classifications and retirement units for base load liquefied natural gas plant, all as set forth in the attachment A hereto, which is an integral part of this order.

(2) Effective for the reporting year 1978, applicable schedule pages of FPC form No. 2, Annual Report for Natural Gas Companies (Class A and Class B), prescribed by § 260.1 of part 260, subchapter G, chapter I, title 18 of the Code of Federal Regulations and the applicable schedule page of FPC form No. 1, Annual Report for Electric Utilities and Licensees (Class A and Class B), prescribed by § 141.1 part 141, subchapter D, chapter I, title 18 of the Code of Federal Regulations are amended, all as set forth in attachment B hereto, which is an integral part of this order.

(3) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

(4) The Secretary shall cause copies of the schedules, as modified by this order, to be transmitted to the Director of the Office of Management and Budget.

By direction of the Commission.

LOIS D. CASHELL,
Acting Secretary.

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES (CLASS A AND CLASS B)

AMENDMENTS TO THE REGULATIONS UNDER THE NATURAL GAS ACT, 18 CFR, PURSUANT TO ORDER NO. 6

(A) Part 201—Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act (Class A and Class B) of Subchapter F, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

(1) The gas plant instructions are amended by adding new subparagraphs 20 and 21 under instruction "3. Components of Construction Cost" entitled "(20) Line Pack" and "(21) LNG Heel Gas."

As amended, this portion of the gas plant instructions reads:

Gas Plant Instructions

* * * * *

3. *Components of construction cost.*

* * * * *

(20) "Line pack gas." Line pack includes the first cost of that quantity of gas introduced into the utility's system necessary to bring the system up to its designed operating capacity or increases therein and which must be maintained in the system in order to sustain such design operating capacity.

(21) LNG "heel" is the first cost of that minimum quantity of liquefied natural gas necessary to be retained in holding tanks and other facilities for purposes of temperature and/or pressure maintenance.

* * * * * *

(2) The balance sheet chart of accounts is amended by adding new "Account 164.3, Liquefied Natural Gas Held for Processing" immediately following "Account 164.2, Liquefied Natural Gas Stored."

As amended, the balance sheet chart of accounts reads:

Balance Sheet Chart of Accounts

* * * * *

ASSETS AND OTHER DEBITS

* * * * *

3. CURRENT AND ACCRUED ASSETS

* * * * *

164.3 Liquefied natural gas held for processing.

* * * * *

(3) The text of the balance sheet accounts is amended as follows:

(a) The second sentence of paragraph C of "Account 108, Accumulated Provision for Depreciation of Gas Utility Plant," and "Account 111, Accumulated Provision for Amortization and Depletion of Gas Utility Plant" is amended, by adding new classification "(6) Base Load LNG Terminaling and Processing Plant" and renumbering present functions 6 through 8 as 7 through 9.

(b) Amend paragraph C of "Account 164.2, Liquefied Natural Gas Stored" by changing account numbers 809 and 808 mentioned therein to 808.2 and 808.1 respectively.

(c) Add new "Account 164.3, Liquefied Natural Gas Held for Processing" immediately following "Account 164.2, Liquefied Natural Gas Stored."

As amended, this portion of the balance sheet accounts reads:

Balance Sheet Accounts

* * * * *

ASSETS AND OTHER DEBITS

1. UTILITY PLANT

* * * * *

108 Accumulated provision for depreciation of gas utility plant.

* * * * *

C. * * * For purposes of analysis, however, each utility shall maintain subsidiary records in which this account is segregating according to the following functional classification for gas plant: (1) Production—manufactured gas, (2) production and gathering—natural gas, (3) products extraction—natural gas, (4) underground gas storage, (5) other storage, (6) base load LNG terminaling and processing plant, (7) transmission, (8) distribution, and (9) general. * * *

* * * * *

111 Accumulated provision for amortization and depletion of gas utility plant.

* * * * *

C. * * * For purposes of analysis, however, each utility shall maintain subsidiary records in which this account is segregated according to the following functional classification for gas plant: (1) Production—manufactured gas, (2) production and gathering—natural gas, (3) products extraction—natural gas, (4) underground gas storage, (5) other storage, (6) base load LNG terminaling and processing plant, (7) transmission, (8) distribution, and (9) general. * * *

* * * * *

3. CURRENT AND ACCRUED ASSETS

* * * * *

164.2 Liquefied natural gas storage.

* * * * *

C. Amounts debited to this account for natural gas placed in stored shall be credited to account 808.2, Gas Delivered to Storage—Credit. Amounts credited to this account for gas withdrawn from storage shall be debited to account 808.1, Gas Withdrawn from Storage—Debit.

* * * * *

164.3. Liquefied natural gas held for processing.

* * * * *

A. This account shall include the cost of base load liquefied natural gas available for vaporization and injection into the utility's natural gas system.

B. Natural gas purchased in a liquefied form shall be priced at the cost of such gas to the utility.

C. Amounts debited to this account for liquefied natural gas purchased for processing shall be credited to account 809.2, Deliveries of Natural Gas for Processing—Credit. Amounts credited for liquefied natural gas processed shall be debited to account 809.1, Withdrawals of Liquefied Natural Gas Held for Processing—Debit.

D. Withdrawals of gas held for vaporization may be priced according to the first-in-first-out, last-in-first-out or weighted average cost method provided the method adopted by the utility is used consistently from year to year and inventory records are maintained in accordance therewith. Commission approval must be obtained for any other pricing method or for any change from the pricing method adopted by the utility. Separate records shall be maintained for Mcf (or Btu) of gas purchased for processing, processed, and remaining for processing.

E. Adjustments for inventory losses shall be charged to account 846.1, Gas Losses.

* * * * *

(4) The gas plant chart of accounts is amended by changing the title of subsection "3. Natural Gas Storage Plant" and by adding immediately following account 363.5, Other Equipment, a new subsection "C. Base Load Liquefied Natural Gas Terminaling and Processing Plant" and related accounts thereunder.

As amended, this portion of the gas plant chart of accounts reads:

Gas Plant Chart of Accounts

* * * * *

3. NATURAL GAS STORAGE AND PROCESSING PLANT

* * * * *

C. BASE LOAD LIQUEFIED NATURAL GAS TERMINALING AND PROCESSING PLANT

364.1 Land and land rights.
364.2 Structures and improvements.
364.3 LNG processing terminal equipment.
364.4 LNG transportation equipment.
364.5 Measuring and regulating equipment.
364.6 Compressor station equipment.
364.7 Communication equipment.
364.8 Other equipment.

* * * * *

(5) In the text of the gas plant accounts:

(a) The title and instruction thereto of subsection "3. Natural Gas Storage Plant" is amended.

(b) Add new subsection "C. Base Load Liquefied Natural Gas Terminaling and Processing Plant" and related accounts immediately following "Account 363.5, Other Equipment."

As amended, this portion of the text of the gas plant accounts reads:

Gas Plant Accounts

* * * * *

3. NATURAL GAS STORAGE AND PROCESSING PLANT

The accounts under subsections A and B hereunder are to be used by the transmission and distribution companies for the classification of storage facilities used for peak shaving operations. The accounts shall be subdivided to classify the peak shaving storage facilities according to the transmission or distribution function, if the utility operates both transmission and distribution systems. Only base load liquefied natural gas terminaling and processing facilities are to be classified under subsection C, Base Load Liquefied Natural Gas Terminaling and Processing Plant.

* * * * *

C. BASE LOAD LIQUEFIED NATURAL GAS TERMINALING AND PROCESSING PLANT

364.1 Land and land rights.

A. This account shall include the cost of land and land rights used in connection with liquefied natural gas terminaling and processing operations. (See gas plant instruction 7.)

364.2 Structures and improvements.

A. This account shall include the cost in place of structures and improvements used in connection with liquefied natural gas terminaling and processing operations. (See gas plant instruction 8.)

B. This account shall be subdivided as follows:

1. Docking and harbor facilities.
2. LNG processing terminal structures.
3. Measuring and regulating structures.
4. Compressor station structures.
5. Other structures.

364.3 LNG processing terminal equipment.

This account shall include the cost installed of equipment used to receive, hold, and regasify liquefied natural gas for delivery into the utility's transmission or distribution system.

ITEMS

1. Aftercoolers.
2. Air compressors.
3. Air coolers.
4. Alarm systems.
5. Blowers.
6. Cold box, condensers.
7. Controls and control apparatus.
8. Dikes.
9. Drums.
10. Electrical power and ignition circuits including wiring and conduits.
11. Emission control equipment.
12. Fire control devices and equipment.
13. Foundations.
14. Generators.
15. Heat exchangers.
16. Heaters and reheaters.
17. Instrumentation.
18. Intercoolers.
19. Liquefaction compressors.
20. Liquefied gas holders and storage tanks.
21. Nitrogen system equipment.
22. Plant piping including pipe supports.
23. Pollution control facilities.
24. Pumps and driving units.
25. Stacks.
26. Tanks, other than LNG storage tanks (including ladders, stairs, walkways, and lighting).
27. Unloading and loading arms, and appurtenant equipment.
28. Valves.
29. Vaporizers.
30. Waste heat recovery units.
31. Water craft not to include LNG tankers and barges.
32. Miscellaneous other equipment.

364.4 LNG transportation equipment.

This account shall include the cost of vehicles used for the transportation of liquefied natural gas.

ITEMS

1. LNG barges.
2. LNG maritime tankers.
3. LNG tank trucks.
4. Other LNG transportation equipment.

364.5 Measuring and regulating equipment.

This account shall include the cost installed of meters, gauges and other equipment used in base load LNG operations for measuring or regulating natural gas prior to its entrance into the utility's transmission or distribution system.

ITEMS

1. Automatic control equipment.
2. Boilers, heaters, etc.
3. Foundation, pits, etc.
4. Gas analyzer equipment.
5. Gas cleaners, scrubbers, separators, dehydrators, etc.
6. Gauges and instruments, including piping, fittings, wiring, etc., and panel boards.
7. Headers.
8. Meters, orifice or positive, including piping and connections.
9. Oil fogging equipment.
10. Odorizing equipment.
11. Regulators or governors, including controls and instruments.
12. Stabilization equipment.
13. Structures of a minor or portable type.
14. Other equipment.

364.6 Compressor station equipment.

This account shall include the cost installed of compressor station equipment and associated appliances used in connection with liquefied natural gas operations prior to entrance of vaporized gas into the utility's transmission or distribution system.

ITEMS

1. Boiler plant, coal handling, and ash handling equipment for steam powered compressor station.
2. Compressed air system equipment.
3. Compressor equipment and driving units, including auxiliaries, foundations, guard rails, and enclosures, etc.
4. Electric system equipment, including generating equipment and driving units, power wiring, transformers, regulators, battery equipment, switchboard, etc.
5. Fire fighting equipment.
6. Gas lines and equipment, including fuel supply lines, cooling tower and pond and as-

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sociated equipment, dehydrators, fuel gas mixers, special pipebends and connections, and associated scrubbers, separators, tanks, gauges, and instruments.
7. Laboratory and testing equipment.
8. Lubricating oil system, including centrifuge, filter, tanks, purifier, and lubricating oil piping, etc.
9. Office furniture and fixtures and general equipment such as steel lockers, first-aid equipment, gasoline dispensing equipment, lawn mowers, incinerators, etc.
10. Shop tools and equipment.
11. Water supply and circulation system, including water well, tank, water pipeline, cooling tower, spray fence, and water treatment equipment, etc., but not including water system equipment used solely for domestic and general use.
12. Other equipment.

364.7 Communication equipment.

This account shall include the cost installed of radio, telephone, microwave, and other equipment used wholly or predominantly in connection with the operation and maintenance of the liquefied natural gas system. (See also accounts 370 and 397, Communication Equipment.)

ITEMS

1. Carrier terminal equipment including repeaters, power supply equipment, transmitting and receiving sets.
2. Microwave equipment, including power supply equipment, transmitters, amplifiers, paraboloids, towers, reflectors, receiving equipment, etc.
3. Radio equipment, fixed and mobile, including antenna, power equipment, transmitter units.
4. Telephone equipment including switchboards, power and testing equipment, conductors, pole lines, etc.
5. Other equipment.§

364.8 Other equipment.

This account shall include the cost installed of equipment used in liquefied natural gas operations, when not assignable to any of the foregoing accounts.

ITEMS

1. Garage and service equipment.
2. General tools, including power operated equipment.
3. Laboratory equipment.
4. Materials handling equipment.
5. Office furniture and equipment.
6. Power generation equipment.
7. Shop equipment.
8. Tools, other than small hand tools.
9. Other equipment.

• • • • •

(6) The operation and maintenance expense chart of accounts is amended as follows:

(a) New account "804.1, Liquefied Natural Gas Purchased" is added immediately following account "804, Natural Gas City Gate Purchases."

(b) Accounts "808, Gas Withdrawn from Storage—Debit" and "809, Gas Delivered to Storage—Credit" are renumbered as accounts "808.1, Gas Withdrawn from Storage—Debit" and "808.2, Gas delivered to Storage—Credit."

(c) New accounts "809.1, Withdrawals of Liquefied Natural Gas Held for Processing—Debit" and "809.2, Deliveries of Natural Gas for Processing—Credit" are added immediately following account "808.2, Gas Delivered to Storage—Credit."

(d) Expense function title "2. Natural Gas Storage Expenses" is amended to read "2. Natuaral Gas Storage, Terminaling and Processing Expenses."

(e) Accounts 843 through 848.3 are renumbered 843.1 through 843.9.

(f) New expense subsection "C. Liquefied Natural Gas Terminaling and Processing Expenses" and related accounts are added immediately following account "843.9, Maintenance of Other Equipment."

As amended, the operation and maintenance expense chart of accounts reads:

Operation and Maintenance Expense Chart of Accounts

• • • • •

1. PRODUCTION EXPENSES

• • • • •

D. OTHER GAS SUPPLY EXPENSES

• • • • •

804.1 Liquefied natural gas purchased.

• • • • •

808.1 Gas withdrawn from storage—Debit.
808.2 Gas delivered to storage—Credit.
809.1 Withdrawals of liquefied natural gas held for processing—Debit.
809.2 Deliveries of natural gas for processing—Credit.

• • • • •

2. NATURAL GAS STORAGE, TERMINALING, AND PROCESSING EXPENSES

• • • • •

B. OTHER STORAGE EXPENSES

• • • • •

Maintenance

843.1 Maintenance supervision and engineering.
843.2 Maintenance of structures and improvements.
843.3 Maintenance of gas holders.
843.4 Maintenance of purification equipment.
843.5 Maintenance of liquefaction equipment.
843.6 Maintenance of vaporizing equipment.
843.7 Maintenance of compressor equipment.
843.8 Maintenance of measuring and regulating equipment.
843.9 Maintenance of other equipment.

• • • • •

C. LIQUEFIED NATURAL GAS TERMINALING AND PROCESSING EXPENSES

OPERATION

844.1 Operation supervision and engineering.
844.2 LNG processing terminal labor and expenses.
844.3 Liquefaction processing labor and expenses.
844.4 LNG transportation labor and expenses.
844.5 Measuring and regulating labor and expenses.
844.6 Compressor station labor and expenses.
844.7 Communication system expenses.
844.8 System control and load dispatching.
845.1 Fuel.
845.2 Power.
845.3 Rents.
845.4 Demurrage charges.
845.5 Wharfage receipts—credit.
845.6 Processing liquefied or vaporized gas by others.
846.1 Gas losses.
846.2 Other expenses.

MAINTENANCE

847.1 Maintenance supervision and engineering.
847.2 Maintenance of structures and improvements.
847.3 Maintenance of LNG processing terminal equipment.
847.4 Maintenance of LNG transportation equipment.
847.5 Maintenance of measuring and regulating equipment.
847.6 Maintenance of compressor station equipment.
847.7 Maintenance of communication equipment.
847.8 Maintenance of other equipment.

• • • • •

(7) The text of the Operation and Maintenance Expense Accounts is amended as follows:

(a) New account "804.1, Liquefied Natural Gas Purchases" is added immediately following account "804, Natural Gas City Gate Purchases."

(b) Accounts "808, Gas Withdrawn from Storage—Debit" and "809 Gas Delivered to Storage—Credit" are renumbered as account "808.1, Gas Withdrawn from Storage—Debit" and "808.2, Gas Delivered to Storage—Credit," and the parenthetical note in paragraph B of each account is amended.

(c) New accounts "809.1, Withdrawals of Liquefied Natural Gas Held for Processing—Debit." and "809.2, Deliveries of Natural Gas for Processing—Credit" are added immediately following account "808.2, Gas Delivered to Storage—Credit."

(d) Expense function title "2. Natural Gas Storage, Terminaling and Processing Expenses."

(e) Accounts 843 through 848.3 are renumbered 843.1 through 843.9.

(f) New expense subsection to the expense function "2. Natural Gas Storage, Terminaling and Processing Expenses," entitled "C. Liquefied Natural Gas Terminaling and Processing Expenses," and related accounts are added immediately following account "843.9, Maintenance of Other Equipment."

As amended, the text of the Operation and Maintenance Expense Accounts reads:

Operation and Maintenance Expense Accounts

PRODUCTION EXPENSES

• • • • •

D. OTHER GAS SUPPLY EXPENSES

• • • • •

804.1 Liquefied natural gas purchases.

A. This account shall include the cost, including transportation, at point of receipt by the utility, of liquefied natural gas purchased for the purpose of vaporization and injection into the utility's transmission or distribution system for resale.

B. The records supporting this account shall be so maintained that there shall be readily available for each vendor and point of receipt, the quantity of liquefied natural gas purchased, basis of charges, the amount paid for the liquefied gas, and transportation charges incurred up to the point of receipt of the liquefied gas.

• • • • •

808.1 Gas withdrawn from storage—Debit.

• • • • •

B. • • • (See Account 808.2)

808.2 Gas delivered to storage—Credit.

• • • • •

B. • • • (See Account 808.1)

809.1 Withdrawals of liquefied natural gas held for processing—Debit.

A. This account shall include debits for the cost of liquefied gas withdrawn during the year. Contra credits for entries to this account shall be made to account 164.3, Liquefied Natural Gas Held for Processing.

B. Withdrawals of liquefied natural gas held for processing shall not be netted against deliveries. (See account 809.2).

NOTE.—Adjustments for gas inventory losses due to cumulative inaccuracies in gas measurement, or from other causes, shall be entered in account 846.1, Gas Losses, in the month determined, if, however, any adjustment is substantial, the utility may, with approval of the Commission, amortize the amount of the adjustment to account 846.1 over future operating periods.

809.2 Deliveries of natural gas for processing—Credit.

A. This account shall include credits for the cost of gas delivered for processing during the year. Contra debits for entries to this account shall be made to account 164.3, Liquefied Natural Gas Held for Processing.

B. Deliveries of natural gas for processing shall not be netted against withdrawals from processing. (See account 809.1).

• • • • •

2. NATURAL GAS STORAGE, TERMINALING AND PROCESSING EXPENSES

• • • • •

B. OTHER STORAGE EXPENSES

Maintenance

843.1 Maintenance supervision and engineering.

• • • • •

843.2 Maintenance of structure and improvements.

• • • • •

843.3 Maintenance of gas holders.

• • • • •

843.4 Maintenance of purification equipment.

• • • • •

843.5 Maintenance of liquefaction equipment.

• • • • •

843.6 Maintenance of vaporizing equipment.

• • • • •

843.7 Maintenance of compressor equipment.

• • • • •

843.8 Maintenance of measuring and regulating equipment.

• • • • •

843.9 Maintenance of other equipment.

• • • • •

C. LIQUEFIED NATURAL GAS TERMINALING AND PROCESSING EXPENSES

Operation

844.1 Operations supervision and engineering.

This account shall include the cost of labor and expenses incurred in the general supervision and direction of operations of liquefied natural gas facilities. Direct supervision of specific activities shall be charged to the appropriate operations accounts.

844.2 LNG processing terminal labor and expenses.

This account shall include the cost of labor, materials used and expenses incurred in operating liquefied natural gas processing equipment.

ITEMS

Labor

1. Supervising.
2. Operating, checking, lubricating, cleaning, and polishing equipment, machinery, valves, instruments, and other processing equipment.
3. Reading meters, gauges and other instruments, changing charts, preparing operating reports, etc.
4. Inspecting and testing equipment when not specifically for repairs or replacement of parts.
5. Cleaning structures housing equipment, cutting grass and weeds, and doing minor grading work around structures and equipment.
6. Cleaning and repairing hand tools used for operations, etc.
7. Operating offshore facilities such as piers, docks, loading and unloading arms, water craft, etc.

Materials and expenses

8. Charts for pressure gauges and meters, printed forms, office supplies, etc.
9. Lubricants, wiping rags, cleaning materials, etc.
10. Janitor and washroom supplies, landscaping supplies, etc.
11. Employee travel and transportation expenses.
12. Freight, express, parcel post, trucking, and other transportation.
13. Utility services: light, water, and telephone.
14. Chemicals.
15. Refrigerants.
16. Small hand tools.

844.3 Liquefaction processing labor and expenses.

This account shall include the cost of labor, materials used and expenses incurred in operating natural gas liquefaction equipment.

ITEMS

Labor

1. Supervising.
2. Operating, checking, lubricating, cleaning, and polishing equipment, machinery, valves, instruments, and other processing equipment.
3. Reading meters, gauges and other instruments, changing charts, preparing operating reports, etc.

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4. Inspecting and testing equipment when not specifically for repairs or replacement of parts.
5. Cleaning structures housing equipment, cutting grass and weeds, and doing minor grading work around structures and equipment.
6. Cleaning and repairing hand tools used for operations, etc.
7. Operating offshore facilities such as piers, docks, loading and unloading arms, water craft, etc.

Materials and expenses

8. Charts for pressure gauges and meters, printed forms, office supplies, etc.
9. Lubricants, wiping rags, cleaning materials, etc.
10. Janitor and washroom supplies, landscaping supplies, etc.
11. Employee travel and transportation expenses.
12. Freight, express, parcel post, trucking, and other transportation.
13. Utility services: light, water, and telephone.
14. Chemicals.
15. Refrigerants.
16. Small hand tools.

844.4 LNG transportation labor and expenses.

This account shall include the cost of labor, materials used and expenses incurred in operating LNG transportation equipment.

ITEMS

Labor

1. Supervision.
2. Operating LNG maritime tankers, LNG barges, LNG tank trucks and other LNG transportation equipment.
3. Cleaning and lubricating equipment.
4. Inspecting and testing equipment.

Materials and expenses

5. Charts, printed forms, office supplies, etc.
6. Dry dock charges.
7. Lubricants, wiping rags, cleaning materials, etc.
8. Employee's transportation travel and temporary housing expenses.

844.5 Measuring and regulating labor and expenses.

This account shall include the cost of labor, materials used and expenses incurred in operating, measuring and regulating stations in connection with liquefied natural gas operations.

ITEMS

Labor

1. Supervising.
2. Recording pressures and changing charts, reading meters, etc.
3. Estimating lost meter registrations, etc., except gas purchases and sales.
4. Calculating gas volumes from meter charts, except gas purchases and sales.
5. Adjusting and calibrating measuring equipment, changing meters, orifice plates, gauges, clocks, etc., not in connection with construction or maintenance.
6. Testing gas samples, determining specific gravity and Btu content of gas.
7. Inspecting and testing equipment not specifically to determine necessity for repairs including pulsation tests.
8. Cleaning and lubricating equipment.
9. Keeping log and other operating records, preparing records of operations, etc.
10. Attending boilers and operating other accessory equipment.
11. Installing and removing district gauges for pressure survey.
12. Thawing freeze in gauge pipe.
13. Inspecting and pumping drips, dewatering manholes and pits, inspecting sumps, cleaning pits, blowing meter drips, etc.
14. Moving equipment, minor structures, etc., not in connection with maintenance or construction.

Materials and expenses

15. Charts and printed forms.
16. Lubricants, wiping rags, waste.
17. Employees' transportation and travel expense.
18. Freight, express, parcel post, trucking and other transportation.
19. Utility services: light, water, telephone.

844.6 Compressor station labor and expenses.

This account shall include the cost of labor, materials used and expenses incurred, including fuel and power, in operating compressor stations in connection with liquefied natural gas operations.

ITEMS

Labor

1. Supervising.
2. Operating and checking engines, equipment valves, machinery, gauges, and other instruments, including cleaning, wiping, polishing, and lubricating.
3. Operating boilers and boiler accessory equipment, including fuel handling, recording fuel used, etc.
4. Repacking valves and replacing gauge glasses, etc.
5. Recording pressures, replacing charts, keeping logs, and preparing reports of station operations.
6. Pumping drips at the station.
7. Taking dew point readings.
8. Testing water.
9. Cleaning structures housing equipment, cutting grass and weeds, and minor grading around station.
10. Cleaning and repairing hand tools used in operations.
11. Driving trucks.
12. Watching during shutdowns.
13. Clerical work at station.

Materials and expenses

14. Scrubber oil.
15. Lubricants, wiping rags, waste.
16. Charts and printed forms, etc.
17. Gauge glasses.
18. Chemicals to treat water.
19. Water tests and treatment by other than employees.
20. Janitor and washroom supplies, first aid supplies, landscaping supplies, etc.
21. Employees' transportation and travel expenses.
22. Freight, express, parcel post, trucking, and other transportation.
23. Utility services: light, water, telephone.

844.7 Communication system expenses.

This account shall include the cost of labor, materials used and expenses incurred in connection with the operation of liquefied natural gas communications facilities, such as radio, telephone, microwave and other communication systems, including payments to others for communications services.

ITEMS

Labor

1. Supervising.
2. Operating switchboards, radio equipment, power generators, microwave equipment, etc. (except general office switchboards).
3. Tagging telephone poles.
4. Testing and replacing telephone batteries, radio tubes, etc.
5. Cutting weeds and grass along telephone rights-of-way and around structures and equipment.
6. Changing radio frequencies.
7. Securing FCC authorization to change frequencies.
8. Taking FCC radio operator tests.
9. Transferring mobile radios between vehicles and/or vessels.
10. Changing locations of telephones and other communications equipment not in connection with maintenance or construction.
11. Inspecting and testing not specifically to determine necessity for repairs.
12. Cleaning and lubricating equipment.
13. Cleaning structures housing equipment.

Materials and expenses

14. Payments to others for communications services.
15. Telephone batteries, radio tubes and other electronic components.
16. Radio crystals and other materials used in changing radio frequencies.
17. Lubricants, wiping rags, and waste.
18. Employees' transportation and travel expenses.
19. Freight, express, parcel post, trucking and other transportation.

844.8 System control and load dispatching.

This account shall include the cost of labor and expenses incurred in dispatching and controlling the supply and flow of liquefied gas and vaporized gas prior to introduction of such vaporized gas into the utility's transmission or distribution system.

ITEMS

Labor

1. Supervising.
2. Analysis of pressures for irregularities, as received.
3. Collecting pressures by telephone and radio.
4. Controlling mixture of various gases to maintain proper Btu content.
5. Correspondence and records, typing and maintaining files.
6. Controlling inputs and withdrawals of liquefied gas for processing.
7. Instructing field men to increase or decrease pressures at regulators.
8. Maintaining pressures at compressor stations, key line junctions and regulating stations to divide the available gas during heavy demand periods.
9. Maintaining pressure log sheets.
10. Maintaining proper compression ratios at compressor stations, consistent with economical operations.
11. Maintaining lowest necessary line pressures consistent with satisfactory service.

12. Requesting pressure changes at compressor stations, regulating stations, and key line junctions.
13. Rerouting gas during emergencies and planned shutdowns.

Materials and expenses

14. Consultants' fees and expenses.
15. Meals, traveling and incidental expenses in connection with system load dispatching.
16. Office supplies, stationery and printed forms.
17. Transportation: company and rental vehicles.
18. Utility services: light, water, telephone.

845.1 Fuel.

A. This account shall include the cost of gas or other fuel used for the operation of liquefied natural gas terminaling and processing facilities, except compressor station fuel.

B. Concurrent credits offsetting charges to this account for natural gas used for fuel shall be made to account 812, Gas Used for Other Utility Operations—Credit.

845.2 Power.

This account shall include the cost of purchased power used in operation of liquefied natural gas processing facilities, except compressor station power.

845.3 Rents.

This account shall include rents for property of others used, occupied or operated in connection with liquefied natural gas processing operations. (See operating expense instruction 3.)

845.4 Demurrage charges.

This account shall include demurrage charges incurred by the utility relative to LNG shipments received or processed by the utility.

845.5 Wharfage receipts—Credit.

This account shall include wharfage receipts received or receivable from LNG shippers or other parties relative to LNG shipments received or processed by the utility.

845.6 Processing of liquefied or vaporized gas by others.

A. This account shall include amounts paid to others for the processing of liquefied or vaporized gas of the utility.

B. Records supporting this account shall be so maintained that there shall be readily available for each agreement, the name of the other party, Mcf or Btu, as appropriate, of gas delivered to the other party for processing and the Mcf or Btu, as appropriate, of gas received back by the utility after processing, points of delivery to and receipt of gas from the other party, amount and basis of charges for the processing service.

NOTE.—If in connection with any gas delivered to another for processing such other party also processes the gas for extraction of gasoline or other salable products, credits attributable to the products so extracted shall be made to account 491, Revenues from Natural Gas Processed by Others, to the end that amounts recorded in this account shall only be charges for processing other than for extraction of salable products.

846.1 Gas losses.

This account shall include the amounts of inventory adjustments representing the cost of gas lost or unaccounted for in liquefied natural gas operations due to cumulative inaccuracies of gas measurements or other causes. (See paragraph E of account 164.3, Liquefied Natural Gas Held for Processing.) If, however, any adjustment is substantial, the utility may, with approval of the Commission, amortize the amount of the adjustment to this account over future operating periods.

846.2 Other expenses.

This account shall include the cost of labor, materials used, and expenses incurred in operating liquefied natural gas plant not includible elsewhere.

Maintenance

847.1 Maintenance supervision and engineering.

This account shall include the cost of labor and expenses incurred in the general supervision and direction of maintenance of liquefied natural gas terminaling and processing facilities. Direct field supervision of specific jobs shall be charged to the appropriate maintenance accounts. (See operating expense instruction 1.)

847.2 Maintenance of structures and improvements.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of structures and improvements, the book cost of which is included in account 364.2, Structures and Improvements. (See operating expense instruction 2.)

847.3 Maintenance of LNG processing terminal equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of LNG terminal processing equipment, the book cost of which is included in account 364.3, LNG Processing Terminal Equipment. (See operating expense instruction 2.)

847.4 Maintenance of LNG transportation equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of transportation equipment, the book cost of which is included in account 364.4, LNG Transportation Equipment. (See operating expense instruction 2.)

847.5 Maintenance of measuring and regulating equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of measuring and regulating equipment, the book cost of which is included in account 364.5, Measuring and Regulating Equipment. (See operating expense instruction 2.)

847.6 Maintenance of compressor station equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of compressor station equipment, the book cost of which is included in account 364.6, Compressor Station Equipment. (See operating expense instruction 2.)

847.7 Maintenance of communication equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of communication equipment, the book cost of which is included in account 364.7, Communication Equipment. (See operating expense instruction 2.)

847.8 Maintenance of other equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of equipment, the book cost of which is included in account 364.8, Other Equipment. (See operating expense instruction 2.)

• • • • •

PART 216—UNITS OF PROPERTY FOR USE IN ACCOUNTING FOR ADDITIONS TO AND RETIREMENTS OF GAS PLANT

(B) Part 216—Units of Property for Use in Accounting for Additions to and Retirements of Gas Plant, Subchapter F, Chapter I, Title 18 of the Code of Federal Regulations, is amended as follows:

(1) Subheading "3. Storage Plant" is amended to read "3. Natural Gas Storage Plant."

(2) Subheading "B. Local Storage Plant" is amended to read "B. Other Storage Plant."

(3) Account "362, Gas Holder" is amended to read "362, Gas Holders" and Account "363, Other Equipment" is deleted.

(4) New accounts "363, Purification Equipment," "363.3, Liquefaction Equipment," "363.2, Vaporizing Equipment," "363.3, Compressor Equipment," "363.4, Measuring and Regulating Equipment," and "363.5, Other Equipment" and lists of retirement units under each are added immediately following account "362, Gas Holders."

(5) A new subsection entitled "C. Base Load Liquefied Natural Gas Ter-

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minaling and Processing Plant" and accounts thereunder are added immediately following account "363.5, Other Equipment."

As amended, this portion of the Units of Property for Use in Accounting for Additions to and Retirements of Gas Plant reads:

• • • • •

LIST OF RETIREMENT UNITS

• • • • •

3. NATURAL GAS STORAGE PLANT

• • • • •

B. OTHER STORAGE PLANT

• • • • •

362 Gas Holders.

• • • • •

363 Purification equipment.

(See Acct. 336—Natural Gas Production Purification Equipment for applicable retirement units of property.)

363.1 Liquefaction equipment.

1. Cold box.
2. Heat exchanger.
3. Compressors.
4. Condensers.
5. Instrumentation.
6. Pumps.
7. Separators.
8. Tanks.

363.2 Vaporizing equipment.

1. Compressors.
2. Instrumentation.
3. Piping.
4. Pumps.
5. Valves.
6. Vaporizers.

363.3 Compressor equipment.

(See Acct. 368—Compressor Station Equipment for applicable retirement units of property.)

363.4 Measuring and regulating equipment.

(See Acct. 369—Transmission Measuring and Regulating Station Equipment for applicable retirement units of property.)

363.5 Other equipment.

(See Acct. 371—Transmission Other Equipment for applicable retirement units of property.)

C. BASE LOAD LIQUEFIED NATURAL GAS TERMINALING AND PROCESSING PLANT

364.2 Structures and improvements.

1. Air conditioning system, ventilating system, heating system, or any combination thereof.
2. Bin or bunker (when part of structure framework).
3. Bridge, trestle, etc.
4. Bulkhead, retaining wall, etc.
5. Canal or dam.
6. Dock, pier, platform or wharf.
7. Drainage and sewerage system.
8. Elevator, crane, hoist, etc., complete with operating mechanism.
9. Fence complete with gates.
10. Fire escape system, nonmarine.
11. Fire protection system.
12. Foundation (equipment) when includible in structure.
13. Light and power system complete.
14. Plumbing system.
15. Railroad or track system, including culverts, etc.
16. Roof, with or without supporting members. (A structure of irregular shape having more than one roof level may have several isolated roofs, each of which shall be considered an entire roof. In the case of structures to which lateral extensions have been made, even though having but one roof level, that part of the roof covering an entire section built at one time shall be considered an entire roof.)
17. Structure complete, with or without stack or chimney.
18. Tunnel, pipe line.
19. Tunnel, marine.
20. Vacuum cleaning system.
21. Water basin or reservoir.
22. Water supply system, including well.
23. Yard drainage system.
24. Yard lighting system.

364.3 LNG processing terminal equipment.

Liquefaction processing equipment

1. Cooling units.
2. Heat exchanger.
3. Compressor.
4. Condensor.
5. Instrumentation.
6. Pumps.
7. Separators.
8. Tanks.

Transfer system

1. Holders.
2. Blowers.
3. Instrumentation.
4. Piping.
5. Pumps.
6. Unloading arms.
7. Valves.

Storage facilities

1. Berm or Dike.
2. Holders (Tanks).
3. Instrumentation.
4. Piping.
5. Valves.

Vaporization system

1. Compressors.
2. Instrumentation.
3. Piping.
4. Pumps.
5. Valves.
6. Vaporizers.

BTU stabilization equipment

1. Compressors.
2. Heat exchangers.
3. Instrumentation.
4. Piping.
5. Pumps.
6. Valves.

Electric system

1. Battery.
2. Generator.
3. Switchgear.
4. Motor control center.

Nitrogen system

1. Compressor.
2. Holders (Tanks).
3. Instrumentation.
4. Piping.
5. Pumps.
6. Valves.

Truck loading system

1. Loading racks.
2. Piping.
3. Pumps.
4. Tanks.
5. Other equipment.

Marine facilities

1. Capstran.
2. Control power/pulpit.
3. Evacuation Systems.
4. Unloading arms.

364.4 LNG transportation equipment.

1. LNG barge.
2. LNG maritime tankers.
3. LNG tank truck.
4. Other LNG transportation equipment.

364.5 Measuring and regulating equipment.

(See Acct. 369—Transmission Measuring and Regulating Station Equipment for applicable retirement units of property.)

364.6 Compressor station equipment.

(See Acct. 368—Transmission Compressor Station Equipment for applicable retirement units of property.)

364.7 Communication equipment.

(See Acct. 397—General Communication Equipment for applicable retirement units of property.)

364.8 Other equipment.

(See Acct. 371—Transmission Other Equipment for applicable retirement units of property.)

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STATEMENT A COMPARATIVE BALANCE SHEET
Assets and Other Debits

Line No.	Title of Account (a)	Page No. (b)	Balance Beginning of Year (c)	Balance End of Year (d)	Increase or (Decrease) (e)
	Utility Plant*				
1	Utility plant (101-106, 114)	113			
2	Construction Work in Progress (107)	113			
3	Total Utility Plant		$	$	$
4	Less Accumulated Provision for Depreciation, Amortization and Depletion (108-111, 115)	113			
5	Net Utility Plant	113	$	$	$
6	Gas Stored Underground-Noncurrent (117)	207A			
7	Utility Plant Adjustments (116)	112			
	Other Property and Investments				
8	Nonutility Property (121) (Less Accum. Prov. for Depr. & Amort. included in (122) $.....)	201			
9	Investment in Associated Companies (123)	202			
10	Investment in Subsidiary Companies (Cost $_____) (123.1)	203			
11	Other Investments (124)	202			
12	Special Funds (125 - 128)	—			
13	Total Other Property and Investments		$	$	$
	Current and Accrued Assets				
14	Cash (131)	—			
15	Special Deposits (132 - 134)	—			
16	Working Funds (135)	—			
17	Temporary Cash Investments (136)	202			
18	Notes and Accounts Receivable (less Accumulated Provision for Uncoll. Accts.) (141 - 144)	204			
19	Receivables from Assoc. Companies (145, 146)	206			
20	Materials and Supplies (151 - 156, 163)	207			
21	Gas Stored Underground-Current (164.1)	207A			
22	Liquefied Natural Gas Stored (164.2)	207A			
23	Liquefied Natural Gas Held for Processing (164.3)	207A			
24	Prepayments (165)	210			
25	Advances for Gas Exploration, Development and Prod (166)	210B			
26	Other Advances for Gas (167)	210B			
27	Interest and Dividends Receivable (171)	—			
28	Rents Receivable (172)	—			
29	Accrued Utility Revenues (173)	—			
30	Misc. Current and Accrued Assets (174)	210			
31	Total Current and Accrued Assets		$	$	$
	Deferred Debits				
32	Unamortized Debt Expense (181)	211			
33	Extraordinary Property Losses (182)	210			
34	Prelim. Survey and Investigation Charges (183, 1, 183.2)	212			
35	Clearing Accounts (184)	—			
36	Temporary Facilities (185)	—			
37	Miscellaneous Deferred Debits (186)	214			
38	Deferred Losses from Disposition of Utility Plant (187)	214A			
39	Research & Development Expenditures (188)	572			
40	Unamortized Loss on Reacquired Debt (189)	214E			
41	Accumulated Deferred Income Taxes (190)	214C			
42	Unrecovered Purchased Gas Costs (191)	—			
43	Total Deferred Debits				
44	Total Assets and Other Debits		$	$	$

*These accounts are conformed to NARUC accounts in which amounts recorded in FPC accounts 119 and 119 are classified to the accounts indicated under this caption.

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Annual report of ..... Year ended December 31, 19....

GAS STORED (Account 117, 164.1, 164.2 and 164.3)

1 Report below the information called for concerning inventories of gas stored.

2 The Uniform System of Accounts provides that inventory cost records be maintained on a consolidated basis for all storage projects with separate records showing the Mcf of inputs and withdrawals and balance for each project except under certain specified circumstances. If the respondent's inventory cost records are not maintained on a consolidated basis for all storage projects, furnish an explanation of the accounting followed and reason for any deviation from the general basis provided by the Uniform System of Accounts. Separate schedules on this schedule form should be furnished for each group of storage projects for which separate inventory cost records are maintained.

3 If during the year adjustment was made of the stored gas inventory such as to correct for cumulative inaccuracies of gas measurements furnish an explanation of the reason for the adjustment, the Mcf and dollar amount of adjustment and account charged or credited.

4 Give a concise statement of the facts and the accounting performed with respect to any encroachment of withdrawals during the year, or restoration of previous encroachment, upon *native* gas constituting the "gas cushion" of any storage reservoir.

5 If the respondent uses a "base stock" in connection with its inventory accounting, give a concise statement of the basis of establishing such "base stock" and the inventory basis and of the accounting performed with respect to any encroachment of withdrawals upon "base stock," or restoration of previous encroachment, including brief particulars of any such accounting during the year.

6 If respondent has provided accumulated provision for stored gas which may not eventually be fully recovered from any storage project furnish a statement showing (a) date of Commission authorization of such accumulated provision (b) explanation of circumstances requiring such provision (c) basis of provision and factors of calculation (d) estimated ultimate balance of accumulated provision and entries during year.

7. Pressure base of gas volumes reported in this schedule is 14.73 psia at 60° F.

Line No	Description	Noncurrent (Account 117) (a)	Current (Account 164.1) (b)	LNG (Account 164.2) (c)	LNG (Account 164.3) (d)	Total (e)
1	Balance, beginning of year	$	$	$	$	$
2	Gas delivered to storage					
3	(contra Account)					
4	Gas withdrawn from storage					
5	(contra Account)					
6	Other debits or credits					
7	(Explain)					
8						
9						
10						
11	Balance, end of year	$	$	$	$	$
12	Mcf					
13	Amount per mcf					
14						
15	State basis of segregation of inventory between current and noncurrent portions					
16						
17	Gas delivered to storage:					
18	Mcf					
19	Amount per Mcf					
20	Cost basis of gas delivered to storage					
21	Specify Own production (give production area, see uniform system of accounts), average system purchases, specific purchases (state which purchases)					
22						
23						
24	Does cost of gas delivered to storage include any expenses for					
25	use of respondent's transmission, storage, or other facilities?					
26	..... If so, give particulars and date of Com-					
27	mission approval of the accounting					
28						
29	Gas withdrawn from storage:					
30	Mcf					
31	Amount per Mcf					
32	Cost basis of withdrawals					
33	Specify average cost, lifo, fifo (Explain any change in					
34	inventory basis during year and give date of Commission					
35	approval of the change or approval of an inventory basis					
36	different from that referred to in uniform system of ac-					
37	counts.)					
38						
39						
40						
41						

Annual report of ..... Year ended December 31, 19....

DISTRIBUTION OF SALARIES AND WAGES

Report below the distribution of total salaries and wages for the year. Amounts originally chargerd to clearing accounts should be segregaterd as to *Utility Departments, Construction, Plant Removals, and Other Accounts*, and shown in the appropriate lines and spaces provided for such amounts on pages 355 and 356. In determining this segregation of salaries and wages originally chargerd to clearing accounts a method of approximation giving substantially correct results may be used.

Line No	Classification (a)	Direct Payroll Distribution (b)	Allocation of Payroll Charged Clearing Accounts (c)	Total (d)
1	ELECTRIC	$	$	$
2	Operation:			
3	Production			
4	Transmission			
5	Distribution			
6	Customer Accounts			
7	Customer Service and Informational			
8	Sales			
9	Administrative and General			
10	Total Operation			
11	Maintenance:			
12	Production			
13	Transmission			
14	Distribution			
15	Administrative and General			
16	Total Maintenance			
17	Total Operation and Maintenance:			
18	Production			
19	Transmission			
20	Distribution			
21	Customer Accounts			
22	Customer Service and Informational			
23	Sales			
24	Administrative and General			
25	Total Operation and Maintenance			
26	GAS			
27	Operation:			
28	Production—Manufactured Gas			
29	Production—Natural Gas (incl Expl and Dev.)			
30	Other Gas Supply			
31	Storage, LNG Terminaling and Processing			
32	Transmission			
33	Distribution			
34	Customer Accounts			
35	Customer Service and Informational			
36	Sales			
37	Administrative and General			
38	Total Operation			
39	Maintenance:			
40	Production—Manufactured Gas			
41	Production—Natural Gas			
42	Other Gas Supply			
43	Storage, LNG Terminaling and Processing			
44	Transmission			
45	Distribution			
46	Administrative and General			
47	Total Maintenance			
48				
49				
50				

Continued

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DISTRIBUTION OF SALARIES AND WAGES (Continued)

Line No	Classification (a)	Direct Payroll Distribution (b)	Allocation of Payroll Charged Clearing Accts (c)	Total (d)
	Gas (Continued)	$	$	$
51	Total Operation and Maintenance:			
52	Production—Manufactured Gas			
53	Production—Natural Gas (incl. Expl and Dev.)			
54	Other Gas Supply			
55	Storage, LNG Terminaling and Processing			
56	Transmission			
57	Distribution			
58	Customer Accounts			
59	Customer Service and Informational			
60	Sales			
61	Administrative and General			
62	Total Operation and Maintenance			
63	Other Utility Departments			
64	Operation and Maintenance			
65	Total All Utility Departments			
66	Utility Plant			
67	Construction (by utility departments):			
68	Electric Plant			
69	Gas Plant			
70	Other			
71	Total Construction			
72	Plant Removal (by utility departments):			
73	Electric Plant			
74	Gas Plant			
75	Other			
76	Total Plant Removal			
77	Other Accounts (Specify):			
78				
79				
80				
81				
82				
83				
84				
85				
86				
87				
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100				
101				
102				
103				
104				
105	TOTAL SALARIES AND WAGES			

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FPC Form No. 2

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GAS PLANT IN SERVICE (Continued)

Line No	Account (a)	Balance beginning of year (b)	Additions (c)	Retirements (d)	Adjustments (e)	Transfers (f)	Balance end of year (g)
		$	$	$	$	$	$
	2 Production Plant—Continued						
	Products Extraction Plant-Continued						
33	345 Compressor equipment						
34	346 Gas meas and reg equipment						
35	347 Other equipment						
36	Total Products Extraction Plant						
37	Total Nat Gas Production Plant						
38	Manufactured Gas Prods. Plant(submit sched.)						
39	Total Production Plant						
40							
41	3. Natural Gas Storage and Processing Plant						
42	Underground Storage Plant						
43	350.1 Land						
44	350.2 Rights-of-way						
45	351 Structures and improvements						
46	352 Wells						
47	352.1 Storage leaseholds and rights						
48	352.2 Reservoirs						
49	352.3 Non-recoverable natural gas						
50	353 Lines						
51	354 Compressor station equipment						
52	355 Measuring and reg. equipment						
53	356 Purification equipment						
54	357 Other equipment						
55	Total Underground Storage Plant						
56							
57	Other Storage Plant						
58	360 Land and land rights						
59	361 Structures and improvements						
60	362 Gas holders						
61	363 Purification equipment						
62	363.1 Liquefaction equipment						
63	363.2 Vaporizing equipment						
64	363.3 Compressor equipment						
65	363.4 Meas. and reg. equipment						
66	363.5 Other equipment						
67	Total Other Storage Plant						

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Line No.		Item (a)						
68		Base Load Liquefied Natural Gas Terminaling and Processing Plant						
69	364.1	Land and land rights						
70	364.2	Structures and improvements						
71	364.3	LNG processing terminal equipment						
72	364.4	LNG transportation equipment						
73	364.5	Measuring and regulating equipment						
74	364.6	Compressor station equipment						
75	364.7	Communications equipment						
76	364.8	Other equipment						
77		Total Base Load Liquefied Natural Gas, Terminaling and Processing Plant						
78								
79		Total Natural Gas Storage and Processing Plant						
80		4. Transmission Plant						
81	365.1	Land and land rights						
82	365.2	Rights-of-way						
83	366	Structures and improvements						
84	367	Mains						
85	368	Compressor station equipment						
86	369	Measuring and reg. sta. equipment						
87	370	Communication equipment						
88	371	Other equipment						
89		Total Transmission Plant						
90		5. Distribution Plant						
91	374	Land and land rights						
92	375	Structures and improvements						
93	376	Mains						
94	377	Compressor station equipment						
95	378	Meas. and reg. sta. equip.—General						
96	379	Meas. and reg. sta. equip.—City gate						
97	380	Services						
98	381	Meters						
99	382	Meter installations						
100	383	House regulators						
101	384	House reg. installations						
102	385	Industrial meas. and reg. sta. equipment						
103	386	Other prop. on customers' premises						
104	387	Other equipment						
105		Total Distribution Plant						

ACCUMULATED PROVISION FOR DEPRECIATION OF GAS UTILITY PLANT (Account 108)

1. Report below the information called for concerning provision for depreciation of gas utility plant.
2. Explain any important adjustments during year.
3. Explain any difference between the amount for book cost of plant retired, line 11, column (c), and that reported in the schedule for gas plant in service, pages 501-504, column (d) exclusive of retirements of nondepreciable property.
4. The provisions of account 108 in the Uniform System of Accounts contemplate that retirements of depreciable plant be recorded when such plant is removed from service. If the respondent has a significant amount of plant retired at year end which has not been recorded and/or classified to the various reserve functional classifications, preliminary closing entries should be made to tentively functionalize the book cost of the plant retired. In addition, all costs included in retirement work in progress at year end should be included in the appropriate functional classifications.
5. Show separately interest credits under a sinking fund or similar method of depreciation accounting.
6. In section B show the amounts applicable to prescribed functional classifications.

A. Balances and Changes During Year

Line No.	Item (a)	Total (b)	Gas plant in service (c)	Gas plant held for future use (d)	Gas plant leased to others (e)
1	Balance beginning of year	$	$	$	$
2	Depreciation provisions for year, charged to				
3	(403) Depreciation expense				
4	(413) Expenses of gas plant leased to others				
5	Transportation expenses-clearing				
6	Other clearing accounts				
7	Other accounts (specify)				
8					
9	Total depreciation provisions for year				
10	Net charges for plant retired:				
11	Book cost of plant retired				
12	Cost of removal				
13	Salvage (credit)				
14	Net charges for plant retired				
15	Other debit or credit items (describe):				
16					
17	Balance end of year				

B. Balances at End of Year According to Functional Classifications

18	Production—manufactured gas				
19	Production and gathering—natural gas				
20	Products extraction—natural gas				
21	Underground gas storage				
22	Other storage plant				
23	Base load LNG terminaling and processing plant				
24	Transmission				
25	Distribution				
26	General				
27	Total				

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Annual report of.....Year ended December 31, 19.....

GAS OPERATION AND MAINTENANCE EXPENSES (Continued)

Line No.	Account (a)	Amount for Year (b)	Increase or Decrease from preceding year (c)
	82. Products Extraction (Continued)		
	Maintenance:		
48	784 Maintenance supervision and engineering		
49	785 Maintenance of structures and improvements		
50	786 Maintenance of extraction and refining equipment		
51	787 Maintenance of pipe lines		
52	788 Maintenance of extracted products storage equipment		
53	789 Maintenance of compressor equipment		
54	790 Maintenance of gas measuring and reg. equipment		
55	791 Maintenance of other equipment		
56	Total maintenance		
57	Total products extraction		
58	C. Exploration and Development		
	Operation:		
59	795 Delay rentals		
60	796 Nonproductive well drilling		
61	797 Abandoned leases		
62	798 Other exploration		
63	Total exploration and development		
64	D. Other Gas Supply Expenses		
	Operation:		
65	800 Natural gas well head purchases		
66	801 Natural gas field line purchases		
67	802 Natural gas gasoline plant outlet purchases		
68	803 Natural gas transmission line purchases		
69	804 Natural gas city gate purchases		
70	804.1 Liquefied natural gas purchases		
71	805 Other gas purchases		
72	805.1 Purchased gas cost adjustments		
73	Total purchased gas		
74	806 Exchange gas		
	Purchased gas expenses:		
75	807.1 Well expenses - Purchased gas		
76	807.2 Operation of purchased gas measuring stations		
77	807.3 Maintenance of purchased gas measuring stations		
78	807.4 Purchased gas calculations expenses		
79	807.5 Other purchased gas expenses		
80	Total purchased gas expenses		
81	808.1 Gas withdrawn from storage - Debit		
82	808.2 Gas delivered to storage - Credit	( )	
83	809.1 Withdrawals of liquefied natural gas for processing - Debit		
84	809.2 Deliveries of natural gas for processing - Credit	( )	
85	Gas used in utility operations - Credit:		
86	810 Gas used for compressor station fuel - Credit	( )	
87	811 Gas used for products extraction - Credit	( )	
88	812 Gas used for other utility operations - Credit	( )	
89	Total gas used in utility operations - Credit	( )	
90	813 Other gas supply expenses		
91	Total other gas supply expenses		
92	Total production expenses		

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Annual report of .....Year ended December 31, 19...

GAS OPERATION AND MAINTENANCE EXPENSES (Continued)

Line No.	Account (a)	Amount for year (b)	Increase or (decrease) from preceding year (c)
	E. Natural Gas Storage, Terminaling and Processing Expenses		
	2A. Underground Storage Expenses		
	Operation:		
93	814 Operation supervision and engineering		
94	815 Maps and records		
95	816 Wells expenses		
96	817 Lines expense		
97	818 Compressor station expenses		
98	819 Compressor station fuel and power		
99	820 Measuring and regulating station expenses		
100	821 Purification expenses		
101	822 Exploration and development		
102	823 Gas losses		
103	824 Other expenses		
104	825 Storage well royalties		
105	826 Rents		
106	Total operation		
	Maintenance:		
107	830 Maintenance supervision and engineering		
108	831 Maintenance of structures and improvements		
109	832 Maintenance of reservoirs and wells		
110	833 Maintenance of lines		
111	834 Maintenance of compressor station equipment		
112	835 Maintenance of measuring and regulating station equipment		
113	836 Maintenance of purification equipment		
114	837 Maintenance of other equipment		
115	Total maintenance		
116	Total underground storage expenses		
	2B. Other Storage Expenses		
	Operation:		
117	840 Operation supervision and engineering		
118	841 Operation labor and expenses		
119	842 Rents		
120	842.1 Fuel		
121	842.2 Power		
122	842.3 Gas losses		
123	Total operation		
	Maintenance:		
124	843.1 Maintenance supervision and engineering		
125	843.2 Maintenance of structures and improvements		
126	843.3 Maintenance of gas holders		
127	843.4 Maintenance of purification equipment		
128	843.5 Maintenance of liquefaction equipment		
129	843.6 Maintenance of vaporizing equipment		
130	843.7 Maintenance of compressor equipment		
131	843.8 Maintenance of measuring and regulating equipment		
132	843.9 Maintenance of other equipment		
133	Total maintenance		
134	Total other storage expenses		

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Annual report of — Year ended December 31, 19....

GAS OPERATION AND MAINTENANCE EXPENSES (Continued)

Line No		Account (a)	Amount for year (b)	Increase or (decrease) from preceding year (c)
		2C. LIQUEFIED NATURAL GAS TERMINALING AND PROCESSING EXPENSES	$	$
		Operation		
135	844.1	Operation supervision and engineering		
136	844.2	LNG processing terminal labor and expenses		
137	844.3	Liquefaction processing labor and expenses		
138	844.4	Liquefaction transportation labor and expenses		
139	844.5	Measuring and regulating labor and expenses		
140	844.6	Compressor station labor and expenses		
141	844.7	Communication system expenses		
142	844.8	System control and load dispatching		
143	845.1	Fuel		
144	845.2	Power		
145	845.3	Rents		
146	845.4	Demurrage charges		
147	845.5	Wharfage receipts — credit		
148	845.6	Processing liquefied or vaporized gas by others		
149	846.1	Gas losses		
150	846.2	Other expenses		
151		Total operation		
		Maintenance		
152	847.1	Maintenance supervision and engineering		
153	847.2	Maintenance of structures and improvements		
154	847.3	Maintenance of LNG processing terminal equipment		
155	847.4	Maintenance of LNG transportation equipment		
156	847.5	Maintenance of measuring and regulating equipment		
157	847.6	Maintenance of compressor station equipment		
158	847.7	Maintenance of communication equipment		
159	847.8	Maintenance of other equipment		
160		Total maintenance		
161		Total liquefied natural gas terminaling and processing expenses		
162		Total natural gas storage		
		3. TRANSMISSION EXPENSES		
		Operation:		
163	850	Operation supervision and engineering		
164	851	System control and load dispatching		
165	852	Communication system expenses		
166	853	Compressor station labor and expenses		
167	854	Gas for compressor station fuel		
168	855	Other fuel and power for compressor stations		
169	856	Mains expenses		
170	857	Measuring and regulating station expenses		
171	858	Transmission and compression of gas by others		
172	859	Other expenses		
173	860	Rents		
174		Total operation		
		Maintenance:		
175	861	Maintenance supervision and engineering		
176	862	Maintenance of structures and improvements		
177	863	Maintenance of mains		
178	864	Maintenance of compressor station equipment		
179	865	Maintenance of measuring and reg. station equipment		
180	866	Maintenance of communication equipment		
181	867	Maintenance of other equipment		
182		Total maintenance		
183		Total transmission expenses		

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Annual report of — Year ended December 31, 19

GAS OPERATION AND MAINTENANCE EXPENSES (Continued)

Line No		Account (a)	Amount for year (b)	Increase or (decrease) from preceding year (c)
		4. DISTRIBUTION EXPENSES	$	$
		Operation:		
184	870	Operation supervision and engineering		
185	871	Distribution load dispatching		
186	872	Compressor station labor and expenses		
187	873	Compressor station fuel and power		
188	874	Mains and services expenses		
189	875	Measuring and regulating station expenses —General		
190	876	Measuring and regulating station expenses —Industrial		
191	877	Measuring and regulating station expenses —City gate check station		
192	878	Meter and house regulator expenses		
193	879	Customer installations expenses		
194	880	Other expenses		
195	881	Rents		
196		Total operation		
		Maintenance		
197	885	Maintenance supervision and engineering		
198	886	Maintenance of structures and improvements		
199	887	Maintenance of mains		
200	888	Maintenance of compressor station equipment		
201	889	Maintenance of meas and reg sta equip —General		
202	890	Maintenance of meas and reg sta equip —Industrial		
203	891	Maintenance of meas and reg sta equip —City gate check station		
204	892	Maintenance of services		
205	893	Maintenance of meters and house regulators		
206	894	Maintenance of other equipment		
207		Total maintenance		
208		Total distribution expenses		
		5. CUSTOMER ACCOUNTS EXPENSES		
		Operation:		
209	901	Supervision		
210	902	Meter reading expenses		
211	903	Customer records and collection expenses		
212	904	Uncollectible accounts		
213	905	Miscellaneous customer accounts expenses		
214		Total customer accounts expenses		
		6. CUSTOMER SERVICE AND INFORMATIONAL EXPENSES		
		Operations		
215	907	Supervision		
216	908	Customer assistance expenses		
217	909	Informational and instructional expenses		
218	910	Miscellaneous customer service and informational expenses		
219		Total customer service and informational expenses		
		7. SALES EXPENSES		
		Operation		
220	911	Supervision		
221	912	Demonstrating and selling expenses		
222	913	Advertising expenses		
223	916	Miscellaneous sales expenses		
224		Total sales expenses		

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GAS OPERATION AND MAINTENANCE EXPENSES (Continued)

Line No.			
		B. Administrative and General Expenses	
		Operation:	
225	920	Administrative and general salaries	
226	921	Office supplies and expenses	
227	922	Administrative expenses transferred—Credit	( )
228	923	Outside services employed	
229	924	Property insurance	
230	925	Injuries and damages	
231	926	Employee pensions and benefits	
232	927	Franchise requirements	
233	928	Regulatory commission expenses	
234	929	Duplicate charges—Credit	( )
235	930.1	General advertising expenses	
236	930.2	Miscellaneous general expenses	
237	931	Rents	
238		Total operation	
		Maintenance:	
239	932	Maintenance of general plant	
240		Total administrative and general expenses	
241		Total gas operation and maintenance expenses	

SUMMARY

Line No.	Functional Classification (a)	Operation (b)	Maintenance (c)	Total (d)
	Production:	$	$	$
242	Manufactured gas			
243	Natural gas			
244	Production and gathering			
245	Products extraction			
246	Exploration and dev			
247	Total natural gas			
248	Other gas supply expenses			
249	Total production			
250	Underground storage			
251	Other Storage			
252	LNG terminaling and processing			
253	Transmission			
254	Distribution			
255	Customer accounts			
256	Customer service and informational			
257	Sales			
258	Administrative and general			
259	TOTAL			

NUMBER OF GAS DEPARTMENT EMPLOYEES

Number of gas department employees, payroll period ended _____

1. Total regular full-time employees _____
2. Total part-time and temporary employees _____
3. Total employees _____

The data on number of employees should be reported for the payroll period ending nearest to October 31, or any payroll period ending 60 days before or after October 31.

If the respondent's payrolls for the reported period include any special construction forces include such employees as part-time and temporary employees and show the number of such special construction employees so included.

The number of employees assignable to the gas department from joint functions of combination utilities may be determined by estimate, on the basis of employee equivalents. Show the estimated number of equivalent employees attributed to the gas department from joint functions.

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DEPRECIATION, DEPLETION, AND AMORTIZATION OF GAS PLANT (Accounts 403, 404.1, 404.2, 404.3, 405)

(Except Amortization of Acquisition Adjustments)

1. Report in Section A for the year the amounts of depreciation expense, depletion and amortization for the accounts indicated, classified according to the plant functional groups shown.

2. Report in Section B the bases and rates used by the respondent to determine charges for depletion and amortization of gas plant for the year for accounts 404.1, 404.2, 404.3 and 405 and whether any changes have been made in the bases or rates from those used for the preceding year.

3. Complete reporting of all available information called for in columns (a) through (g) of Section C shall be made for report year 1971, thereafter report only annual changes to columns (c) through (g). Complete reporting is again required for report year 1974 and every fifth year thereafter with only annual changes to columns(c) through (g) to be shown in the intervals between complete reporting.

Unless composite depreciation accounting for total depreciable plant is followed, list numerically in column (a) each plant subaccount, account or functional classification, as appropriate, to which a rate is applied. Identify at the bottom of Section C the type of plant included in any subaccounts used. In column (b) report all depreciable plant balances to which rates are applied showing subtotals by functional classifications and showing a composite total. Indicate at the bottom of Section C the manner in which column (b) balances are obtained. If average balances, state the method of averaging used. For columns (c), (d) and (e) report available information for each plant subaccount, account or functional classification listed in column (a). Identify those accrual periods shown in column (c) which are based upon the life of associated gas reserves or gas supply contracts. If mortality studies are prepared to assist in estimating service lives or to develop remaining life rates, show in column (f) the type mortality curve selected as most appropriate for the account and in column (g) the weighted average remaining life of surviving plant. If composite depreciation accounting is used, report available information called for in columns (b) through (g) on this basis. Where the unit-of-production method is used to determine depreciation charges, show at the bottom of Section C any revisions made to estimated gas reserves.

4. If provisions for depreciation were made during the year in addition to depreciation provided by application of reported rates, state at the bottom of Section C the amounts and nature of the provisions and the plant items to which related.

A. SUMMARY OF DEPRECIATION, DEPLETION, AND AMORTIZATION CHARGES

Line No.	Functional Classification (a)	Depreciation Expense (Account 403) (b)	Amortization and depletion of producing natural gas land and land rights (Acct. 404.1) (c)	Amortization of underground storage land and land rights (Acct 404.2) (d)	Amortization of other limited-term gas plant (Acct. 404.3) (e)	Amortization of other gas plant (Acct. 405) (f)	Total (g)
		$	$	$	$	$	$
1	Intangible plant						
2	Production plants, manufactured gas						
3	Production and gathering plant, natural gas						
4	Products extraction plant						
5	Underground gas storage plant						
6	Other storage plant						
7	Base load LNG terminaling and processing plant						
8	Transmission plant						
9	Distribution plant						
10	General plant						
11	Common plant-gas						
12							
13							
14							
15							
16							
17							
18							

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GAS STORAGE

1. Report particulars for each gas storage project.
2. Total storage plant should agree with amounts reported by the respondent in Acct's 350.1 to 364.8 inclusive.
3. Give particulars of any gas stored for the benefit of another company under a gas exchange arrangement or on basis of purchase and resale to other company. Designate if other company is an associated company.
4. Designate each storage field or project by type of reservoir, i.e., UE, underground expansion; UW, underground waterdive; UA, underground aquifer; PL, peakload LNG; BL, baseload LNG; O, all other storage (all other storage may be reported lumped in one vertical column).
5. Pressure base of gas volumes reported below is 1473 psia at 60° F.

Line No.	Item (a)	Total (b)	Project / Type / Location (c)	Project / Type / Location (d)	Project / Type / Location (e)
1	Natural Gas Storage Plant	$	$	$	$
2	Land and land rights				
3	Structures and improvements				
4	Storage wells and holders				
5	Storage lines				
6	Other storage equipments				
7	Total				
8	Storage Expenses				
9	Operations				
10	Maintenance				
11	Rents				
12	Total				
13	Storage Operations	Mcf	Mcf	Mcf	Mcf
14	Gas delivered to storage:				
15	January				
16	February				
17	March				
18	April				
19	May				
20	June				
21	July				
22	August				
23	September				
24	October				
25	November				
26	December				
27	Total				
28	Gas withdrawn from storage:				
29	January				
30	February				
31	March				
32	April				
33	May				
34	June				
35	July				
36	August				
37	September				
38	October				
39	November				
40	December				
41	Total				

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Annual report of.....Year ended December 31, 19...

GAS STORAGE (Continued)

Line No.	Project / Type / Location (f)	Project / Type / Location (g)	Project / Type / Location (h)	Project / Type / Location (i)	Project / Type / Location (j)	Project / Type / Location (k)
1	$	$	$	$	$	$
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13	Mcf	Mcf	Mcf	Mcf	Mcf	Mcf
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
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Annual report of.....

GAS STORAGE (Continued)

1. Report particulars for each gas storage project.
2. Total storage plant should agree with amounts reported by the respondent in Acct's 350.1 to 364.8 inclusive.
3. Give particulars of any gas stored for the benefit of another company under a gas exchange arrangement or on basis of purchase and resale to other company. Designate if other company is an associated company.
4. Designate each storage field or project by type of storage: i.e., DE, underground expansion; UW, underground waterdrive; UA, underground aquifer; PL, peakload LNG; BL, baseload LNG; O, all other storage (all other storage may be reported lumped in one vertical column).
5. Pressure base of gas volumes reported below is 1475 psia at 60° F.

Line No.	Item (a)	Total (b)	Project Type Location (c)	Project Type Location (d)	Project Type Location (e)
	Storage Operations	Mcf	Mcf	Mcf	Mcf
42	Top or working gas end of year - Mcf				
43	Cushion gas (including native gas) - Mcf				
44	Total gas in reservoir Mcf (42 plus 43)				
45	Certificated Storage capacity - Mcf				
46	Reservoir pressure at which storage				
47	capacity computed				
48	Number of injection - withdrawal wells				
49	Number of observation wells				
50	Maximum day's withdrawal from storage				
51	Date of maximum day's withdrawal				
52	Year storage operations commenced				
53	LNG Terminal companies:				
54	Number of Tanks:				
55	Capacity of Tanks: MCF				
56	LNG Volumes: MCF				
57	a) Received at "Ship rail"				
58	b) Transferred to tanks				
59	c) Withdrawn from tanks				
60	d) "Boil off" Vaporization Loss				
61	e) Converted to MCF at tailgate of terminal				

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GAS STORAGE (Continued)

Project Type Location (f)	Project Type Location (g)	Project Type Location (h)	Project Type Location (i)	Project Type Location (j)	Project Type Location (k)	Line No.
Mcf	Mcf	Mcf	Mcf	Mcf	Mcf	
						42
						43
						44
						45
						46
						47
						48
						49
						50
						51
						52
						53
						54
						55
						56
						57
						58
						59
						60
						61

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Year ended December 31, 19

GAS ACCOUNT—NATURAL GAS

1. The purpose of this schedule is to account for the quantity of natural gas received and delivered by the respondent taking into consideration differences in pressure bases used in measuring Mcf of natural gas received and delivered.

2. Natural gas means either natural gas unmixed or any mixture of natural and manufactured gas.

3 Enter in column (c) the Mcf as reported to the schedules indicated for the respective items of receipts and deliveries.

Line No.	Item (a)	Schedule Page No. (b)	Mcf [14.73 psia at 60° F.] (c)
1	GAS RECEIVED		
2	Natural gas produced	552	
3	LPG gas produced and mixed with natural gas	564	
4	Manufactured gas produced and mixed with natural gas	563	
5	Purchased gas:		
6	a. Wellhead	535	
7	b. Field lines	535	
8	c. Gasoline plants	535	
9	d. Transmission line	535	
10	e. City gate under FERC rate schedules	535	
11	f. LNG	535	
12	g. Other	535	
13	Total, Gas purchased	535	
14	Gas of others received for transportation	524	
15	Receipts of respondents' gas transported or coimpressed by others	541	
16	Exchange gas received	537	
17	Gas withdrawn from underground storage	560	
18	Gas received from LNG storage		
19	Gas received from LNG processing		
20	Other receipts: (specify)		
21	Total receipts		

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GAS ACCOUNT—NATURAL GAS (Continued)

5 In a footnote report the volumes of gas from respondent's own production delivered to respondent's transmission system and included in natural gas sale.

6 If the respondent operates two or more systems which are not interconnected, separate schedules should be submitted Insert pages should be used for this purpose

Line No.	Item (a)	Schedule Page No. (b)	Mcf (14.73 psia at 60° F.) (c)
21	GAS DELIVERED		
22	Natural gas sales:		
23	a Field sales:		
24	(i) To interstate pipeline companies for resale pursuant to		
25	FERC rate schedules	521	
26	(ii) Retail industrial sales	519	
27	(iii) Other field sales	521	
28	Total, field sales		
29	b Transmission systems sales:		
30	(i) To interstate pipeline co. for resale under FERC rate schedules	521	
31	(ii) To intrastate pipeline co. and gas utilities for resale under		
32	FERC rate schedules	521	
33	(iii) Mainline industrial sales under FERC certification	519	
34	(iv) Other mainline industrial sales	519	
35	(v) Other transmission system sales	521	
36	Total, transmission system sales		
37	c Local distribution by respondent		
38	(i) Retail industrial sales	517	
39	(ii) Other distribution system sales	517	
40	Total, distribution system sales		
41	d Interdepartmental sales	523	
42	TOTAL SALES		
43			
44	Deliveries of gas transported or compressed for:		
45	a Other interstate pipeline companies	524	
46	b Others	524	
47	Total, Gas transported or compressed for others	524	
48	Deliveries of respondent's gas for transportation or compression by others	541	
49	Exchange gas delivered	537	
50	Natural gas used by respondent	539	
51	Natural gas delivered to underground storage	560	
52	Natural gas delivered to LNG storage		
53	Natural gas delivered to LNG processing		
54	Natural gas for franchise requirements	542	
55	Other deliveries: (specify)		
56	TOTAL SALES AND OTHER DELIVERIES		
57	UNACCOUNTED FOR		
58	Production system losses		
59	Storage losses		
60	Transmission system losses		
61	Distribution system losses		
62	Other losses (specify in so far as possible)		
63	Total unaccounted for		
64	TOTAL SALES, OTHER DELIVERIES AND UNACCOUNTED FOR		

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DISTRIBUTION OF SALARIES AND WAGES

Report below the distribution of total salaries and wages for the year. Amounts originally charged to clearing accounts should be segregated as to *Utility Departments, Construction, Plant Removals, and Other Accounts*, and shown in the appropriate lines and spaces provided for such amounts on pages 355 and 356. In determining this segregation of salaries and wages originally charged to clearing accounts a method of approximation giving substantially correct results may be used.

Line No.	Classification (a)	Direct Payroll Distribution (b)	Allocation of Payroll Charged Clearing Accounts (c)	Total (d)
1	ELECTRIC	$	$	$
2	Operation:			
3	Production			
4	Transmission			
5	Distribution			
6	Customer Accounts			
7	Customer Service and Informational			
8	Sales			
9	Administrative and General			
10	Total Operation			
11	Maintenance:			
12	Production			
13	Transmission			
14	Distribution			
15	Administrative and General			
16	Total Maintenance			
17	Total Operation and Maintenance:			
18	Production			
19	Transmission			
20	Distribution			
21	Customer Accounts			
22	Customer Service and Informational			
23	Sales			
24	Administrative and General			
25	Total Operation and Maintenance			
26	GAS			
27	Operation:			
28	Production - Manufactured Gas			
29	Production - Natural Gas (incl. Expl. and Dev.)			
30	Other Gas Supply			
31	Storage, LNG Terminaling and Processing			
32	Transmission			
33	Distribution			
34	Customer Accounts			
35	Customer Service and Informational			
36	Sales			
37	Administrative and General			
38	Total Operation			
39	Maintenance:			
40	Production - Manufactured Gas			
41	Production - Natural Gas			
42	Other Gas Supply			
43	Storage, LNG Terminaling and Processing			
44	Transmission			
45	Distribution			
46	Administrative and General			
47	Total Maintenance			
48				
49				
50				

Continued

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DISTRIBUTION OF SALARIES AND WAGES (Continued)

Line No.	Classification (a)	Direct Payroll Distribution (b)	Allocation of Payroll Charged Clearing Accts (c)	Total (d)
	GAS (Continued)	$	$	$
51	Total Operation and Maintenance:			
52	Production - Manufactured Gas			
53	Production - Natural Gas (incl. Expl. and Dev.)			
54	Other Gas Supply			
55	Storage, LNG Terminaling and Processing			
56	Transmission			
57	Distribution			
58	Customer Accounts			
59	Customer Service and Informational			
60	Sales			
61	Administrative and General			
62	Total Operation and Maintenance			
63	OTHER UTILITY DEPARTMENTS			
64	Operation and Maintenance			
65	Total All Utility Departments			
66	UTILITY PLANT			
67	Construction (by utility departments):			
68	Electric Plant			
69	Gas Plant			
70	Other			
71	Total Construction			
72	Plant Removal (by utility departments)			
73	Electric Plant			
74	Gas Plant			
75	Other			
76	Total Plant Removal			
77	Other Accounts (Specify):			
78				
79				
80				
81				
82				
83				
84				
85				
86				
87				
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101				
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103				
104				
105	TOTAL SALARIES AND WAGES			

356

[FR Doc. 78-12054 Filed 5-4-78; 8:45 am]

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[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76P-0500]

PART 135—FROZEN DESSERTS

Standards of Identity for Frozen Desserts; Stay of Revocation of Certain Stayed Provisions; Reinstatement of Previous Stay

AGENCY: Food and Drug Administration.

ACTION: Stay of revocation.

SUMMARY: Requests for hearing have been received on the revocation of the provisions concerning the use of safe and suitable milk-derived ingredients in the revised standards of identity for frozen desserts. This document stays the revocation of those provisions pending a determination of the need for a hearing. This stay has the effect of reinstating the July 8, 1977 stay of those provisions concerning the use of safe and suitable milk-derived ingredients. This document does not change the currently effective requirements for frozen desserts; thus the use of safe and suitable milk-derived ingredients in frozen desserts, other than those specified in the currently effective regulations, is not permitted. A notice specifying any issues on which a hearing is justified and other pertinent information will be published in the FEDERAL REGISTER at a later date.

DATES: The stay of the revocation is effective May 3, 1978. The effective dates of other provisions are stated in the "Supplementary Information" of this document.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a final regulation, published in the FEDERAL REGISTER of April 12, 1977 (42 FR 19127), to amend the standards of identity for frozen desserts that, among other changes, would have provided for replacing the long-standing use of a nonfat milk solids minimum with a milk protein minimum. The change would have permitted the use of safe and suitable milk-derived ingredients to meet the milk protein minimum. Written objections and requests for hearing were received. As a result of these objections, the Commissioner issued in the FEDERAL REGISTER of July 8, 1977 (42 FR 35152) a document staying portions of the standards of identity for ice cream, frozen custard, ice milk, and sherbet pending the receipt and review of information considered necessary to make a final decision on the merits of granting requests for hearing. The stay related primarily to the provisions concerning the milk protein minimum and the use of safe and suitable milk-derived ingredients. The same document confirmed the effective date of other provisions of the regulation, to which no objections were received.

In the FEDERAL REGISTER of February 3, 1978 (43 FR 4596), the Commissioner revoked the provisions of the final regulation that had been published in the FEDERAL REGISTER of April 12, 1977 (42 FR 19127) and stayed in the FEDERAL REGISTER of July 8, 1977 (42 FR 35152). The agency stated that it had reviewed the data submitted and had in addition conducted its own studies which indicated that under the revoked provisions some ice cream formulations could have lesser amounts of some nutrients than under the current standard. The agency also determined that no hearing was justified on the objections concerning bulky flavors in ice milk and confirmed the effectiveness of these provisions.

OBJECTIONS TO REVOCATION AND REQUESTS FOR HEARING

Three objections and requests for hearing and two petitions for reconsideration were received in response to the February 3, 1978 order revoking the stayed provisions that provided for the use of safe and suitable milk-derived ingredients subject to a milk protein minimum requirement. The petitions for reconsideration are presently being reviewed and will be acted upon separately. The basis for the objections is that the revoked provisions, if in effect, would not cause a decrease in the nutritional value of frozen desserts.

The objections and requests for hearings related to revocation of the following provisions:

1. Sections 135.110(a)(1) (21 CFR 135.110(a)(1)) and 135.140(a)(1) (21 CFR 135.140(a)(1)) to the extent that these provisions would have permitted the use of safe and suitable milk-derived ingredients not specifically listed as permitted in former § 135.30 (c) and (e) (21 CFR 135.30 (c) and (e));

2. Sections 135.110(a) (2) and (3) (21 CFR 135.110(a) (2) and (3)) and 135.120(a)(2) (21 CFR 135.120(a)(2)) to the extent that these provisions would have established minimum milk protein requirements;

3. Section 135.110(b) (2) and (3) (21 CFR 135.110(b) (2) and (3)), which would have specified the method of analysis for milk protein and PER; and

4. Section 135.140(a)(2) (21 CFR 135.140(a)(2)) with respect to the provisions for "nonfat milk-derived solids" and "milk-derived solids."

STAY OF REVOCATION OF CERTAIN PROVISIONS

Under section 701(e) of the act (21 U.S.C. 371(e)) and § 12.26 of the Code of Federal Regulations (21 CFR 12.26), the Commissioner hereby announces a stay of the revocation of the provisions to which objections and requests for hearing were received pending further review of the objections and requests for hearing under § 12.24 (21 CFR 12.24). If a hearing is determined to be justified on any issues, a notice of hearing under § 12.35 (21 CFR 12.35) will be published in the FEDERAL REGISTER. If a determination is made that a hearing is not justified in whole or in part, a notice of such determination under § 12.28 (21 CFR 12.28) will be published in the FEDERAL REGISTER.

This stay has the effect of reinstating the July 8, 1977 stay of the provisions concerning the use of safe and suitable milk-derived ingredients, pending a determination of whether a public hearing is necessary to resolve the issues raised by objections concerning safe and suitable ingredients.

The Commissioner emphasizes that the currently effective standards of identity for ice cream and other frozen desserts will remain in effect. After July 1, 1979, full ingredient labeling will be required and a reduction of milk solids will be permited when bulky flavors are added to ice milk. Both the currently effective regulations and the regulation to become effective on July 1, 1979, require a minimum amount of nonfat milk solids in the finished food, limit the use of cheese whey to a maximum of 25 percent of the nonfat milk solids present in the food, and permit the use of casein and caseinates only after the minimum requirement for nonfat milk solids has been met. Thus, the use in frozen desserts of safe and suitable milk-derived ingredients other than those specified in the currently effective regulations is not permitted. Any notices concerning the objections and requests for hearing regarding the use of safe and suitable milk-derived ingredients will be published in the FEDERAL REGISTER.

The final regulations published in the February 3, 1978 FEDERAL REGISTER are an edited and recodified form of the existing standard of identity incorporating the revisions which will go into effect on July 1, 1979 concerning ingredient labeling, bulky flavors in ice milk, and certain other provisions to which no objections requiring a hearing were received. These final regulations will go into effect in accordance with the effective dates already announced and restated below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner gives notice that objections under section 701(e) were received, and, pending a determination of whether a hearing has been justified, the revocation is stayed and the July 8, 1977 stay of all the provisions concerning the use of safe and suitable milk-derived ingredients is reinstated.

Effective dates. This stay of revocation shall become effective on May 3, 1978. Compliance with the final regulations for the standards of identity for frozen desserts published in the FEDERAL REGISTER of February 3, 1978, including any required labeling changes, may have begun on June 13, 1977, and all products initially introduced into interstate commerce on or after July 1, 1979, shall fully comply.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).)

Dated: May 2, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12367 Filed 5-3-78; 9:51 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 77N-0392]

SULFAMETHAZINE-CONTAINING DRUGS: REVISED WITHDRAWAL PERIOD

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations regarding sulfonamide-containing drugs for animals to reflect current labeling for sulfamethazine products for use in swine feed or drinking water. The revised labeling provides that treated animals are not to be slaughtered for food within 15 days of the last treatment.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

David N. Scarr, Bureau of Veterinary Medicine (HFV-210), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of December 9, 1977 (42 FR 62211), the Commissioner of Food and Drugs announced that all firms marketing sulfamethazine-containing products for use in swine feed or drinking water had been requested by letter to submit labeling providing that such products bear a 15-day withdrawal period prior to slaughtering treated animals for food.

Currently, approximately 57 such products may be marketed by approximately 27 firms under interim provisions pursuant to 21 CFR 510.450 or on the basis of published approvals provided for in 21 CFR Parts 546 and 558. The firms were requested to submit copies of revised labeling in supplemental applications for products that are the subject of approved new animal drug applications or in amendments to pending applications if the products are marketed under the interim provisions of 21 CFR 510.450. Each of the firms has submitted supplemental applications or amendments.

Amendment of the regulations to reflect this change does not constitute a reaffirmation of the drug's safety and effectiveness.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. Section 510.450 is amended by redesignating paragraph (e) as paragraph (f) and adding a new paragraph (e) to read as follows:

§ 510.450 Sulfonamide-containing drugs for oral, injectable, intramammary, or intrauterine use in food-producing animals.

• • • • • •

(e) To assure that edible products from treated swine are safe for human consumption, the labeling of preparations which contain sulfamethazine intended for use in swine feed or drinking water shall, in lieu of the labeling requirement set forth in paragraph (a) of this section, bear a statement that the use of the drug must be discontinued 15 days before treated animals are slaughtered for food.

• • • • • •

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 546.113b [Amended]

2. Section 546.113b *Chlortetracycline bisulfate-sulfamethazine bisulfate soluble powder* is amended in paragraph (c)(6)(iii) by deleting the number "7" and inserting the number "15."

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.145 [Amended]

3. Section 558.145 *Chlortetracycline, procaine penicillin, and sulfamethazine* is amended in paragraph (f)(2) by deleting the number "7" and inserting the number "15."

§ 558.630 [Amended]

4. Section 558.630 *Tylosin and sulfamethazine* is amended in paragraph (f)(3) by deleting the number "5" and inserting the number "15."

Effective date. These regulations are effective May 5, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: April 28, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-12259 Filed 5-4-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C—CIVIL RIGHTS

PART 230—EXTERNAL PROGRAMS

Amendments Concerning Reporting Requirements for EEO Employment and Training Reports

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) provides public notice of amendments concerning reporting requirements for EEO employment and training reports required on Federal and Federal-aid construction contracts, and minority business enterprise reports required on Federal-aid construction contracts.

EFFECTIVE DATE: May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

K. L. Ziems, Chief, Contract Admin-

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istration Branch, Construction and Maintenance Division, Office of Highway Operations, 202-426-4847; Wilbert Baccus, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t. Monday through Friday.

SUPPLEMENTARY INFORMATION: The amendments either reduce the reporting frequency or eliminate employment and training reports which were required on a rather frequent basis during the implementation stages of the FHWA EEO Program when the need for such information was much greater than it is now. Since the issuance of these reporting requirements, FHWA has obtained a substantial amount of EEO data and the proposed deletion or revisions will permit an adequate amount of data to be gathered to meet current needs.

The benefit to be achieved by this change in the regulations will be to cut red tape and relieve highway construction contractors, State highway agencies and FHWA of unnecessary costly reporting requirements.

These regulation amendments were not issued in proposed form, and no comments were solicited, as the matters affected relate to grants, benefits, or contracts within the purview of 5 U.S.C. 553(a)(2), thus general notice of proposed rulemaking was not required.

NOTE.—The Federal highway Administration has determined that this document does not contain a major proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

Issued on: April 24, 1978.

KARL S. BOWERS,
Deputy Administrator.

In consideration of the foregoing, the Federal Highway Administration is amending Chapter I of Title 23, Code of Federal Regulations as follows:

(1) The Table of Sections of Part 230 is amended by:

(a) Deleting the word "Monthly" in the Appendix C caption and inserting in lieu thereof the word "Annual".

(b) Deleting the word "Quarterly" in the Appendix E caption and inserting in lieu thereof the word "Semiannual".

(c) Deleting the word "Quarterly" in the Appendix F caption and inserting in lieu thereof the word "Semiannual".

§ 230.121 [Amended]

(2) Section 230.121 *Reports* of Subpart A is amended by:

(a) Deleting the word "monthly" in the first sentence of paragraph "(a)(1)" and inserting in lieu thereof the word "Annual."

(b) Deleting the words "directive for the first three months after construction begins and" in the first sentence of paragraph "(a)(2)" and inserting in lieu thereof the word "part."

(c) Deleting the word "quarterly" in the second sentence of paragraph "(d)(1)" each time it appears and inserting in lieu thereof the word "semiannual."

(d) Revising the fourth sentence of paragraph "(d)(1)" to read as follows: "The contractor is to submit the semiannual reports by the 20th of each July and January."

(e) Deleting the word "quarterly" in the first sentence of paragraph "(d)(2)" each time it appears and inserting in lieu thereof the word "semiannual."

(f) Deleting the word "quarter" in the second sentence of paragraph "(d)(2)" and inserting in lieu thereof the words "reporting period".

(g) Rescinding paragraph (e) of § 230.121 in its entirety and redesignating the present paragraph (f) to read "(e)".

APPENDIX A [AMENDED]

(3) The first sentence of paragraph "10.c." of Appendix A "Special Provisions" of Part 230, Subpart B, is amended to read as follows: "The contractors will submit an annual report to the State highway agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work."

APPENDIX C [AMENDED]

(4) Appendix C of Part 230, Subpart B, is amended by deleting "Form PR-1391 (Rev. 8-73)" and inserting in lieu thereof "Form PR-1391 (Rev. 9-77)." [See attached form.]

APPENDIX E [AMENDED]

(5) Appendix E of Part 230, Subpart B, is amended by deleting "Form FHWA-1409 (Rev. 11-74)" and inserting in lieu thereof "Form FHWA-1409 (Rev. 1-78)." [See attached form.]

APPENDIX F [AMENDED]

(6) Appendix F of Part 230, of Subpart B, is amended by deleting "Form FHWA-1410 (Rev. 12-74)" and inserting in lieu thereof "Form FHWA-1410 (Rev. 1-78)." [See attached form.]

(23 U.S.C. § 315; 49 CFR 1.48(b).)

Appendix C

OMB NO. 04-R2428

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

RSC HCR 01-02

FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTORS ANNUAL EEO REPORT

REPORT FOR JULY _____ 19____

INSTRUCTIONS

This report should be submitted to the State Highway Agency by each contractor and covered subcontractor for the Month of July. Subcontractors should report contract and employment data pertaining to their subcontract work only. The staffing figures to be reported under employment data should represent the project work force on board in whole or in part for the last payroll period preceding the end of the month.

The staffing figures to be reported in Table A should include journey-level men and women, apprentices, and on the job trainees. Staffing figures to be reported in Tables B and C should only include apprentices and on the job trainees as indicated

1. CHECK APPROPRIATE BLOCK ☐ CONTRACTOR ☐ SUBCONTRACTOR	2. NAME AND ADDRESS OF FIRM		3. FEDERAL-AID PROJECT NUMBER
TYPE OF CONSTRUCTION	COUNTY AND STATE		PERCENT COMPLETE
4. DOLLAR AMOUNT OF CONTRACT	5. BEGINNING CONSTRUCTION DATE	6. ESTIMATED PEAK EMPLOYMENT MONTH AND YEAR	NUMBER OF EMPLOYEES

7. EMPLOYMENT DATA

JOB CATEGORIES	Table A: TOTAL EMPLOYEES M	F	TOTAL MINORITIES M	F	NEGRO M	F	ORIENTAL M	F	AMERICAN INDIAN M	F	SPANISH SURNAMED AMERICAN M	F	Table B: APPRENTICES M	F	ON THE JOB TRAINEES M	F
OFFICIALS (Managers)																
SUPERVISORS																
FOREMEN & WOMEN																
CLERICAL																
EQUIPMENT OPERATORS																
MECHANICS																
TRUCK DRIVERS																
IRONWORKERS																
CARPENTERS																
CEMENT MASONS																
ELECTRICIANS																
PIPEFITTERS PLUMBERS																
PAINTERS																
LABORERS SEMI-SKILLED																
LABORERS UNSKILLED																
TOTAL																

	Table C															
APPRENTICES																
ON THE JOB TRAINEES																

8. REMARKS

9. PREPARED BY *(Signature and Title of Contractors Representative)*	9a. DATE
10. REVIEWED BY: *(Signature and Title of State Highway Official)*	10a. DATE

Form PR 1391 (Rev. 9-77)

PREVIOUS EDITIONS ARE OBSOLETE

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Appendix E

OMB NO. 04-R2434

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTOR'S SEMIANNUAL TRAINING REPORT	REPORTS CONTROL SYMBOL HHO-30-16 FEDERAL-AID PROJECT NO.

INSTRUCTIONS. This report is to be completed by the contractor semiannually for each individual employed on this contract *(including any subcontracts under it who has received training during the reporting period under the training special provision (attachment 2 FHPM 6-4-1.2))*. The report is to be submitted by the 20th of the month following the reporting period, *(July 20, and January 20)*. The original of this report is to be furnished to the trainee and two copies submitted to the State Highway Department.

1. NAME OF CONTRACTOR	1A. ADDRESS
2. NAME OF TRAINEE	2A. SEX ☐ M ☐ F 2B. ADDRESS
3. AGE OF TRAINEE	4. SOCIAL SECURITY NUMBER 5. EMPLOYEE STATUS *(CHECK ONE)* ☐ NEW HIRE ☐ UP-GRADE

6. ETHNIC GROUP DESIGNATION *(CHECK ONE)*

☐ NEGRO ☐ ORIENTAL ☐ AMERICAN INDIAN ☐ SPANISH AMERICAN ☐ OTHER

7. SUMMARY OF PREVIOUS TRAINING *(ENTER AMOUNT AND TYPE OF TRAINING RECEIVED BY TRAINEE ON OTHER CONTRACTS UNDER APPROVED TRAINING PROGRAMS)*

8. JOB CLASSIFICATION OF TRAINEE	9. DATE TRAINING STARTED ON THIS CONTRACT	10. TYPE OF ON THE JOB TRAINING *(CHECK ONE)* ☐ APPRENTICESHIP ☐ OTHER

REPORTING PERIODS

INSTRUCTIONS. One vertical column is to be completed for each succeeding reporting period and the form submitted. Enter June 30, Dec. 30, as applicable in columns A thru H below.

	HOURS OF TRAINING DATA	A 19__	B 19__	C 19__	D 19__	E 19__	F 19__	G 19__	H 19__
11.	PROVIDED DURING REPORT PERIOD								
	PROVIDED TO DATE								
13.	REMAINING TO COMPLETE THE APPROVED PROGRAM								

14. TERMINATION *(IF TRAINING WAS TERMINATED PRIOR TO COMPLETION OF APPROVED PROGRAM EXPLAIN REASON FOR TERMINATION)*

15. REPORT PREPARED BY *(SIGNATURE AND TITLE OF CONTRACTOR'S REPRESENTATIVE)*	16. DATE
16. REPORT REVIEWED BY *(SIGNATURE AND TITLE OF STATE HIGHWAY OFFICIAL)*	17. DATE

Form FHWA-1409
(Rev. 1-78)

PREVIOUS EDITIONS ARE OBSOLETE

Appendix F

FORM APPROVED (OMB NO. 04-R2434)

FEDERAL - AID HIGHWAY CONSTRUCTION SEMIANNUAL TRAINING REPORT

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

REPORTS CONTROL SYMBOL
HHO-30-16

NOTE: TO BE COMPLETED BY STATE HIGHWAY DEPARTMENT *(See instructions on reverse side)*

STATE

PERIOD ENDING

LEGEND
N-NEGRO
OR-ORIENTAL
O-OTHER
I-AMERICAN INDIAN
S-SPANISH AMERICAN

LINE NO.	TRAINING CLASSIFICATION A	NUMBER RECEIVING TRAINING DURING REPORT PERIOD B TOTAL	N	OR	I	S	O	NUMBER STARTING TRAINING DURING REPORT PERIOD C TOTAL	N	OR	I	S	O	TOTAL HOURS OF TRAINING DURING REPORT PERIOD D TOTAL
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
03	EQUIPMENT OPERATORS													
04	MECHANICS													
05	TRUCK DRIVERS													
06	IRON WORKERS													
07	CARPENTERS													
08	CEMENT MASONS													
09	ELECTRICIANS													
10	PIPEFITTERS PLUMBERS													
11	PAINTERS													
12	OTHER SKILLS													
13	TOTAL													
14	NUMBER OF FEMALES RECEIVING TRAINING	16-17						NUMBER OF FEMALES STARTING TRAINING	18-19					
	NUMBER OF NEW-HIRES RECEIVING TRAINING	20-21						NUMBER IN APPRENTICESHIP TRAINING	22-23					
	NUMBER OF UP-GRADES RECEIVING TRAINING	24-25						NUMBER IN OTHER ON-JOB TRAINING	26-27					

NUMBER OF PROJECTS UNDER PAY DURING REPORTING PERIOD AND CONTAINING TRAINING SPECIAL PROVISIONS 28-29

COMMENTS

REPORT PREPARED BY *(SIGNATURE)* AND TITLE OF STATE OFFICIAL

DATE

FORM FHWA-1410
(Rev. 1-78)

PREVIOUS EDITIONS ARE OBSOLETE
(FR Doc. 78-12265 Filed 5-4-78; 8:45 am)

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[4910-22]

[FHWA Docket No. 78-2]

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 752—LANDSCAPE AND ROADSIDE DEVELOPMENT

PART 753—ACQUISITION PROCEDURES FOR LANDSCAPING AND SCENIC ENHANCEMENT

Interim Regulations

AGENCY: Federal Highway Administration, DOT.

ACTION: Interim Regulation.

SUMMARY: These interim regulations establish procedures by which States may participate in landscape and roadside development including the development of information centers and systems. These procedures are necessitated by the enactment of, and are intended to implement the Federal-Aid Highway Act of 1976. Also, this document makes certain other editorial and technical changes to clarify and simplify procedures governing scenic enhancement.

DATES: Comments must be received on or before July 5, 1978. Effective date: May 5, 1978.

ADDRESS: Comments should be addressed to FHWA Docket No. 78-2, Federal Highway Administration, Room 4230, 400 7th Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth A. Rickerson, Chief, Landscape Branch, Room 3124, Office of Engineering, 202-426-0314; Edward V. Kussy, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t. Monday through Friday.

SUPPLEMENTAL INFORMATION: Section 122(c) of the Federal-Aid Highway Act of 1976, Pub. L. 94-280, May 5, 1976, 90 Stat. 425, amended 23 U.S.C. 131(i) to permit the establishment of information systems located within the highway right-of-way to complement information facilities located at safety rest areas. Section 136 of the 1976 Highway Act amended 23 U.S.C. 319 by eliminating the separate funding category of landscaping and scenic enhancement and permitting expenditures for this purpose out of normal construction costs.

In order to implement these statutory amendments and to clarify existing procedures, the Federal Highway Administration is issuing interim regulations, pursuant to which States may proceed with landscape and roadside development. The most significant changes are as follows:

Expenditures for landscaping and scenic enhancement may be made from normal construction funds. The separate funding category for these purposes has been eliminated. The Federal share provided will be in accordance with that provided for the highway project involved.

In addition to constructing and operating or leasing the construction and/or operation of information facilities at safety rest areas, States may also establish or permit, subject to Federal Highway Administration approval, information systems within the right-of-way of federally funded highways. Such systems may not visually intrude upon the main-traveled way of the highway.

Where plant survival is extremely critical as in junkyard screening and urban landscaping, plant establishment periods may be extended to a maximum of 3 years.

Those desiring to comment on these interim regulations are asked to submit their views, data, and arguments in writing. Communications should identify the docket number (FHWA Docket No. 78-2). Comments will be available both before and after the closing date at the above address. It is the intention of the Federal Highway Administration to issue final rules in this matter after the program under the interim rules has been reviewed and comments received pursuant to this notice have been analyzed.

The material in these regulations relates only to a grant program of the Federal Highway Administration. The relevant provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

The Federal Highway Administration has determined that this document does not contain a major proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

Issued on: April 26, 1978.

KARL S. BOWERS,
Deputy Administrator.

Chapter I of Title 23 of the Code of Federal Regulations is amended by combining Parts 752 and 753 into a revised Part 752, as follows: (Part 752 codifies material contained in Volume 6, Chapter 2, section 5, Subsection 1, of the Federal Aid Highway Program Manual):

Sec.
752.1 Purpose.
752.2 Policy.
752.3 Definitions.
752.4 Landscape development.
752.5 Safety rest areas.
752.6 Scenic overlooks.
752.7 Information centers and systems.
752.8 Privately operated information centers and systems.
752.9 Scenic lands.
752.10 Abandoned vehicles.
752.11 Federal participation.

AUTHORITY: 23 U.S.C. 131, 315, 319; 42 U.S.C. 4321 *et seq.*; 49 CFR 1.48(b).

§ 752.1 Purpose.

The purpose of this Part is to furnish guidelines and prescribe policies regarding (a) landscaping and scenic enhancement programs under 23 U.S.C. 319 and the National Environmental Policy Act, 42 U.S.C. 4321, et sec.; (b) safety rest areas and scenic overlooks under 23 U.S.C. 319, and (c) information centers and systems under 23 U.S.C. 131(i).

§ 752.2 Policy.

(a) Highway esthetics is a most important consideration in the Federal-aid highway program. Highways must not only blend with our natural social, and cultural environment, but also provide pleasure and satisfaction in their use.

(b) The FHWA will cooperate with State and local agencies and organizations to provide opportunities for the display of original works of art within the highway rights-of-way.

(c) The development of the roadside to include landscape development, safety rest areas, and the preservation of valuable adjacent scenic lands is a necessary component of highway development. Planning and development of the roadside should be concurrent with or closely follow that of the highway. Further, the development of travel information centers and systems is encouraged as an effective method of providing necessary information to the traveling public.

§ 752.3 Definitions.

(a) *Safety rest area.* A roadside facility safely removed from the traveled way with parking and such facilities for the motorist deemed necessary for his rest, relaxation, comfort and information needs. The term is synonymous with "rest and recreation areas."

(b) *Scenic overlook.* A roadside improvement for parking and other facilities to provide the motorist with a safe opportunity to stop and enjoy a view.

(c) *Information centers.* Facilities located at safety rest areas which provide information of interest to the traveling public.

(d) *Information systems.* Facilities located within the right-of-way which provide information of interest to the traveling public. An information system is not a sign, display or device otherwise permitted under 23 U.S.C. 131 or prohibited by any local, State or Federal law or regulation.

§ 752.4 Landscape development.

(a) Landscape development within the right-of-way of all federally funded highways or on adjoining scenic lands shall be in general conformity with accepted concepts and principles of highway landscaping and environmental design.

(b) Highway planting programs should have provisions for plant establishment periods of a duration sufficient for expected survival in the highway environment. Normal 1-year plant establishment periods may be extended to 3-year periods where survival is considered essential to their function, such as junkyard screening or urban landscaping projects.

(c) In urban areas new and major reconstructed highways and completed Interstate and expressway sections are to be landscaped as appropriate for the adjacent existing or planned environment.

(d) In rural areas new and major reconstructed highways should be landscaped as appropriate for the adjacent environment. Planning should include the opportunity for natural regeneration of native growth and the management of that growth.

§ 752.5 Safety rest areas.

(a) Safety rest areas should provide facilities reasonably necessary for the comfort, convenience, relaxation, and information needs of the motorist. Caretakers' quarters may be provided in conjunction with a safety rest area at such locations where accommodations are deemed necessary. All facilities within the rest area are to provide full consideration and accommodation for the handicapped.

(b) Access from the safety rest areas to adjacent publicly owned conservation and recreation areas may be permitted if access to these areas is only available through the rest area and if these areas or their usage does not adversely affect the facilities of the safety rest area.

(c) The scenic quality of the site, its accessibility and adaptability, and the availability of utilities are the prime considerations in the selection of rest area sites. A statewide safety rest area system plan should be maintained. This plan should include development priorities to ensure safety rest areas will be constructed first at locations most needed by the motorist. Proposals for safety rest areas or similar facilities on Federal-aid highways in suburban or urban areas shall be special case and must be fully justified before being authorized by the FHWA Regional Administrator.

(d) Facilities within newly constructed safety rest areas should meet the forecast needs of the design year. Expansion and modernization of older existing rest areas that do not provide adequate service should be considered.

(e) No charge to the public may be made for goods and services at safety rest areas, except telephone.

§ 752.6 Scenic overlooks.

Scenic overlooks shall be located and designed as appropriate to the site and the scenic view with consideration for safety, access, and convenience of the motorist. Scenic overlooks may provide facilities equivalent to those provided in safety rest area.

§ 752.7 Information centers and systems.

(a) The State may establish at existing or new safety rest areas information centers for the purpose of providing specific information to the motorist as to services, as to places of interest within the State and such other information as the State may consider desirable.

(b) The State may construct and operate the facilities, may construct and lease the operation of information facilities, or may lease the construction and operation of information facilities.

(c) Where the information center or system includes an enclosed building, the identification of the operator and all advertising must be restricted to the interior of the building. Where a facility is in the nature of a bulletin board or partial enclosure, none of the advertising, including the trade name, logo, or symbol of the operator shall be legible from the main traveled way.

(d) Subject to FHWA approval, States may establish or permit information systems within the right-of-way of federally funded highways which provide information of specific interest to the traveling public which do not visually intrude upon the main-traveled way of the highway in a manner violating 23 U.S.C. 131 and other applicable local, State, and Federal laws, rules, and regulations.

§ 752.8 Privately operated information centers and systems.

(a) Subject to the FHWA Regional Administrator's approval of the lease or agreement, the State may permit privately operated information centers and systems which conform with the standards of this directive.

(b) There shall be no violations of control of access, and no adverse effect on traffic in the main traveled way.

(c) The agreement between the State and the private operator shall provide that:

(1) The State shall have title to the information center or system upon completion of construction or termination of the lease.

(2) Advertising must be limited to matters relating to and of interest to the traveling public.

(3) Equal access must be provided at reasonable rates to all advertisers considered qualified by the State.

(4) Forty percent or more of all display areas and audible communications shall be devoted free of charge to providing information to the traveling public and public service announcements.

(5) No charge to the public may be made for goods or services except telephone.

(6) Nondiscrimination provisions must be included in accordance with the State assurance with regard to 42 U.S.C. 2000d-2000d-5 (Civil Rights Act of 1964). The private operator may not permit advertising from advertisers who do not provide their services without regard to race, color, or national origin.

(7) The center or system shall be adequately maintained and kept clean and sanitary.

(8) The State may promulgate reasonable rules and regulations on the conduct of the information center or system in the interests of the public.

(9) The State may terminate the lease or agreement for violation of its terms or for other cause.

§ 752.9 Scenic Lands.

(a) Acquisition of interests in and improvement of strips of land or water areas adjacent to Federal-aid highways may be made as necessary for restoration, preservation, and enhancement of scenic beauty.

(b) Scenic strip interests may be acquired in urban or rural areas, combined in one or more projects, authorized separately whether or not there is or has been a Federal-aid project on the adjoining Federal-aid highway.

(c) Approval of acquisition and development of scenic strips on completed Interstate should be conditioned on a showing that the acquisition of scenic strips was considered under the Highway Beautification Program for that particular section of Interstate.

§ 752.10 Abandoned Vehicles.

(a) Abandoned motor vehicles may be removed from the right-of-way and from private lands adjacent to Federal-aid highways for the restoration, preservation, or enhancement of scenic beauty as seen from the traveled way of the highway as a landscape or roadside development project.

(b) The State shall obtain permission or sufficient legal authority to go on private land to carry out this program. Where feasible, an agreement should be made with the owner that he will not in the future place junk, or allow junk to be placed, on his land so as to create an eyesore to the traveling public. The permission or authority and the agreement may be informal.

(c) The collection of abandoned motor vehicles from within the right-of-way must be a development project and not a maintenance operation. Once a State completes a development project for the removal of abandoned motor vehicles from within the high-

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way right-of-way, it is obligated to continue the removal of future abandoned motor vehicles from within the development project limits without further participation.

§ 752.11 Federal Participation.

(a) Federal-aid highway funds are available for landscape development, the acquisition and development of safety rest areas, scenic overlooks, and scenic lands, for the development of information centers and systems, and for the removal of abandoned motor vehicles.

(b) Federal-aid participation may be made in plant establishment periods in or associated with landscaping projects and in the planting of flowering materials supplied by garden clubs and other organizations or individuals.

(c) Federal-aid Interstate funds may participate in necessary rest area expansion to accommodate the probable usage which can now be expected during the design year of the original rest area construction, for any rest area project authorized prior to January 1, 1970. In addition, on any project where basic safety rest area Federal-aid construction was authorized prior to January 1, 1964, deficient safety rest areas may be expanded or improved with Federal Interstate participation to accommodate usage as a result of 1976 traffic.

(d) Federal-aid Interstate funds may participate in facilities for new or enlarged information centers or systems within existing rest areas regardless of the year basic rest area construction was authorized. Federal-aid funds may not be used for the assemblage, printing, or distribution of informational materials. Federal-aid funds may not be used for temporary or portable information facilities.

[FR Doc. 78-12297 Filed 5-4-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7543; LR-1810]

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Abatement of Income Taxes of Certain Members of the Armed Forces of the United States Upon Death

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulaltions.

SUMMARY: This document provides final regulations relating to the abatement of income taxes of members of the Armed Forces of the United States who die while serving in a combat zone or as a result of wounds, disease, or injury incurred while serving in a combat zone. The document conforms the regulations to the per curiam decision of the Supreme Court in *Marcelle* v. *Estate of Lupia*, 348 U.S. 956 (1955), which held the abatement extends to income received by the individual's estate during any remaining portion of the twelve-month period corresponding to the individual's final taxable year. The amendment affects those survivors of a serviceman who receives income that would have been received by the serviceman during the balance of his taxable year had he lived.

DATES: The regulations are effective for taxable years ending after June 24, 1950.

FOR FURTHER INFORMATION CONTACT:

Fred E. Grundeman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention CC:LR:T, 202-566-3737, not a toll-free number.

SUPPLEMENTAL INFORMATION:

Background

On December 19, 1977, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 692 of the Internal Revenue Code of 1954. The amendments were proposed to conform the regulations to the per curiam decision of the Supreme Court in *Marcelle* v. *Estate of Lupia*, 348 U.S. 956 (1955), affirming 214 F. 2d 942 (2d., Cir. 1954). As no comments from the public were received, this document adopts the proposed amendments without change.

Provisions of the Regulations

Under section 692(a), if an individual dies while serving as an active member of the Armed Forces of the United States in a combat zone, no income tax is imposed for the taxable year containing the date of his death. Also, no income tax is imposed for any previous taxable year during which he served in a combat zone. Section 1.692-1(a)(1) of the existing regulations provides that the tax liability cancelled under section 692(a) consists of the liability for the taxable year (generally a short taxable year of less than 365 days) ending on the date of a serviceman's death and for any prior taxable year during which he served in a combat zone. That position was based on the general rule that the last taxable year of an individual ends on the date he dies. In *Estate of Lupia*, the Supreme Court held that the phrase "taxable year in which falls the date of his death" means the entire taxable year in which death occurs, that is, the 12-month period beginning on the first day of the decedent's taxable year in which falls the date of his death. The amendment contained in this document conforms the regulations to that decision.

The amendment also removes all references to service "during an induction period" because that language was retroactively removed from the statute by the Act of January 2, 1975 (Pub. L. 93-597, 88 Stat. 1953), to reflect the expiration on June 30, 1973, of the Military Selective Service Act of 1967 (the draft law).

Drafting Information

The principal author of these proposed amendments was Fred E. Grundeman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the amended regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. Section 1.692 is deleted.

Par. 2. Paragraph (a) of § 1.692-1 is amended to read as follows:

§ 1.692-1 Abatement of income taxes of certain members of the Armed Forces of the United States upon death.

(a) (1) This section applies if—

(i) An individual dies while in active service as a member of the Armed Forces of the United States, and

(ii) His death occurs while he is serving in a combat zone (as determined under section 112), or at any place as a result of wounds, disease, or injury incurred while he was serving in a combat zone.

(2) If an individual dies as described in paragraph (a)(1), the following liabilities for tax, under subtitle A of the Internal Revenue Code of 1954 or under chapter 1 of the Internal Revenue Code of 1939, are canceled:

(i) The liability of the deceased individual, for his last taxable year, ending on the date of his death, and for any prior taxable year ending on or after the first day he served in a combat zone in active service as a member of the U.S. Armed Forces after June 24, 1950, and

(ii) The liability of any other person to the extent the liability is attributable to an amount received after the individual's death (including income in respect of a decedent under section 691) which would have been includible in the individual's gross income for his taxable year in which the date of his death falls (determined as if he had survived).

If the tax (including interest, additions to the tax, and additional amounts) is assessed, the assessment will be abated. If the amount of the tax is collected (regardless of the date of collection), the amount so collected will be credited or refunded as an overpayment.

(3) If an individual dies as described in paragraph (a)(1), there will not be assessed any amount of tax of the individual for taxable years preceding the years specified in paragraph (a)(2), under subtitle A of the Internal Revenue Code of 1954, chapter 1 of the Internal Revenue Code of 1939, or corresponding provisions of prior revenue laws, remaining unpaid as of the date of death. If any such unpaid tax (including interest, additions to the tax, and additional amounts) has been assessed, the assessments will be abated. If the amount of any such unpaid tax is collected after the date of death, the amount so collected will be credited or refunded as an overpayment.

(4) As to what constitutes active service as a member of the Armed Forces, service in a combat zone, and wounds, disease, or injury incurred while serving in a combat zone, see section 112. As to who are members of the Armed Forces, see section 7701(a)(15). As to the period of time within which any claim for refund must be filed, see sections 6511(a) and 7508(a)(1)(E).

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: April 3, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-12354 Filed 5-4-78; 8:45 am]

[4510-30]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY

PREFERENCE IN GOVERNMENT PROCUREMENT TO COMPANIES IN HIGH UNEMPLOYMENT AREAS

Revocation of Rules

AGENCY: Department of Labor.

ACTION: Deletion of rules.

SUMMARY: The Department of Labor is deleting its obsolete regulations governing preference in Government procurement to companies in high unemployment areas. These have been superseded by new regulations implementing the successor Defense Manpower Policy DMP-4A. The Department is also deleting certain parts which had provided for the limited application of certain Work Incentive Program regulations past the date of their recision. Since there is no further adjudication pending (nor has any been pending for some time) as to which the former regulations would apply, these savings clauses are no longer necessary.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Davis A. Portner, Office of Policy and Planning, 601 D Street NW., Room 9420, Washington, D.C. 20213, 202-376-6274.

SUPPLEMENTARY INFORMATION:

Defense Manpower Policy No. 4

On August 4, 1977, the President signed into law the Small Business Act Amendments of 1977 (Pub. L. 95-89). In pertinent part these amendments modified Defense Manpower Policy No. 4 (DMP-4), the labor surplus procurement program implemented by the Federal Preparedness Agency of the General Services Administration (GSA) through regulations at 32A CFR Part 134.

On November 3, 1977, GSA issued new regulations implementing Defense Manpower Policy No. 4A (DMP-4A) to reflect the changes wrought by Pub. L. 95-89. The regulations were made effective retroactive to October 27, 1977. (42 FR 57457.)

Under the former DMP-4 program the Department of Labor was responsible for identification and classification of eligible labor surplus areas, the establishment of an order of preference among such areas, and the certification of eligible employing establishments. In contrast, the new DMP-4A program specifies the order of preference among employers in labor surplus areas and eliminates the certification requirement formerly imposed on employing establishments. The Department is still responsible, however, for classifying labor surplus areas.

These changes in the Department's responsibilities were carried out through the adoption of a new set of regulations at 20 CFR Part 654. The regulations were first published as proposed rulemaking on December 16, 1977, at 42 FR 63428. While proposing new regulations, the Department explained that it would continue to follow its existing regulations under DMP-4 at 29 CFR Part 8 to the extent necessary to implement the revised DMP-4A labor surplus program. The Department gave notice, however, that:

> Those sections [of 29 CFR Part 8] pertaining to order of preference among employers in labor surplus areas and certification of eligible employers, which sections are abrogated by DMP-4A, have lost their legal effect. (42 FR 63429.)

These provisions of 29 CFR Part 8 were technically void as of October 27, 1977, the effective date of the GSA regulations implementing DMP-4A.

The final regulations at 29 CFR Part 654 were adopted on March 3, 1978, effective immediately (43 FR 9102). Since the new regulations supersede the former rules at 29 CFR Part 8, the latter set of rules is no longer necessary. The Department is therefore rescinding 29 CFR Part 8 in its entirety.

The Work Incentive Program Regulations

On September 18, 1975, at 40 FR 43170 the Department rescinded its regulations at 29 CFR Parts 57 and 58 concerning administrative hearings and appeals, and rules of practice of the National Review Panel under the Work Incentive Program. Headings for the two parts have been retained in the Code of Federal Regulations at Title 29, however, with an explanation that the rescinded regulations would continue to apply to all adjudication under them commenced prior to November 1, 1975. Since there is no further adjudication pending (nor has any been pending for some time) as to which the former regulations would apply, these savings clauses are no longer necessary. The Department is therefore deleting in their entirety both Parts 57 and 58 of Title 29.

Accordingly, 29 CFR Subtitle A is amended as follows:

1. Part 8, *Preference in Federal Procurement under Defense Manpower Policy No. 4 and Executive Order 10582*, is removed in its entirety.

2. Part 57, *Administrative Hearings and Appeals under the Work Incentive Program*, is removed in its entirety.

3. Part 58, *Rules of Practice of the National Review Panel, Work Incentive Program*, is removed in its entirety.

Signed this 27th day of April 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-12459 Filed 5-4-78; 8:45 am]

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[6315-01]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6802-5a, Ch. 1]

PART 1068—GRANTEE FINANCIAL MANAGEMENT

Subpart—Non-Federal Share Contribution; Eligibility for Waiver of Increase for Fiscal Year 1978 Grants

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing its final rule notifying all grantees that the non-Federal share waiver criteria promulgated under 45 CFR 1068.22 (CSA Instruction 6802-5a) has been extended to cover fiscal year 1978 grants. This rule will enable grantees to apply for waivers where conditions so warrant.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Maryann J. Fair, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506, telephone, 202-254-5047.

SUPPLEMENTARY INFORMATION: On January 4, 1975, the Economic Opportunity Act was amended by the Community Services Act. The new legislation mandated an increase in the percentage of non-Federal share contributions for certain Title II programs beginning with funds granted in fiscal year 1976 with an additional increase for grants made with fiscal year 1977 funds and for each succeeding year. One of the objectives of this increase was to encourage more State and local cooperation.

In April 1977, the Acting Director of CSA exercised his authority under Section 225(c) of the Economic Opportunity Act to develop additional objective criteria under which part or all of the additional non-Federal share could be waived. These criteria were published under 45 CFR 1068.22 (CSA Instruction 6802-5a). Since many communities remain in difficult financial situations the Director of CSA has choosen to continue the waiver provisions promulgated under this subpart (CSA Instruction 6802-5a) and is hereby notifying grantees of this decision.

This regulation is effective immediately since there is no policy change and it is in the best interest of grantees.

AUTHORITY: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR 1068.22 is amended to add a new subpart as follows:

Subpart—Non-Federal Share Contribution; Eligibility for Waiver of Increase for Fiscal Year 1978 Grants

Sec.
1068.22-6 Policy Re: Fiscal year 1978 grants.

Subpart—Non-Federal Share Contribution; Eligibility for Waiver of Increase for Fiscal Year 1978 Grants

§ 1068.22-6 Policy Re: Fiscal year 1978 grants.

This subpart will cover all fiscal year 1978 grants made from October 1, 1977 and is retroactive for all fiscal year 1978 grants.

[FR Doc. 78-12317 Filed 5-4-78; 8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—GENERAL PROVISIONS

[General Order 16, Amdt. 23, Docket No. 77-59]

PART 502—RULES OF PRACTICE AND PROCEDURE

Conduct of Rulemaking Proceedings

AGENCY: Federal Maritime Commission.

ACTION: Final rules.

SUMMARY: The Rules of Practice and Procedure are amended to provide for a single round of comments in rulemaking proceedings unless particular circumstances warrant the filing of replies to comments and to provide for the participation of the Bureau of Hearing Counsel. Multiple rounds of comments and participation of Hearing Counsel have proven unnecessary in some instances. The new procedure provides desirable flexibility.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: The Commission instituted this proceeding by Notice of Proposed Rulemaking published in the FEDERAL REGISTER on December 14, 1977, (42 FR 62939) to amend Rules 42 and 53 of the Commission's Rules of Practice and Procedure, 46 CFR 502.42 and 502.53. The purpose of the proposed amendments was to simplify the conduct of rulemaking proceedings by limiting them to a single round of comments unless there are particular circumstances in which this format would hinder the Commission's ability to formulate a just and reasonable rule. Specifically, Rule 42 would be amended to provide that the Director, Bureau of Hearing Counsel would be party to a rulemaking proceeding only by designation of the Commission. Rule 53 would be amended to provide that no replies to comments would be allowed unless the Commission determined that the nature of the proceeding warranted replies in order to fashion an adequate rule.

In response to the notice, comments were submitted by the Maritime Administrative Bar Association (MABA), the law firm of Lillick, McHose, and Charles (Lillick), Sea-Land Service, Inc. (Sea-Land), and Wade S. Hooker, Jr. (Hooker), an attorney who practices before the Commission. We have considered these comments carefully and have determined to publish the rules in final form as originally proposed. An analysis of the comments follows.

1. Rule 42. MABA takes no position with respect to the participation of Hearing Counsel although some of its members believe that Hearing Counsel should be permitted to request leave of the Commission to participate. Lillick similarly has no comment on this proposal while submitting that Hearing Counsel's participation is often beneficial. Sea-Land supports the proposal. Hooker has no comment but believes a second round of comments is essential.

As indicated, no commenter opposes this revision. The Bureau of Hearing Counsel always has the power to request an opportunity to participate and, of course, the proposal itself contemplates the Commission's designation of their participation.

2. Rule 53. MABA opposes this proposal on several grounds. First, no criteria are established to determine which proceedings are considered by the Commission to warrant a reply round. Second, the parties would be denied the views of others and the opportunity to comment on alternate recommendations made in response to the notice of proposed rulemaking. Third, MABA is of the opinion that a reply round serves to narrow the controverted issues. Last, some members suggest that the Commission require that all comments be served on all other commentators to facilitate the filing of meaningful replies.

Lillick urges retention of the current system, expressing concern that the use of one round of comments would not afford a fair opportunity to be heard. Lillick also criticizes the lack of criteria for determining which proceedings will be limited to one round of comments.

Similarly, Sea-Land would have us definitively set forth which proceedings will be limited to one round of comments.

Hooker also expresses concern that the proposals would limit participation in formulation of a rule, urging that the Commission supplement the proposed changes herein to the effect that, should the Commission make substantial amendments to a proposal, another opportunity should be given for comment.

The instant proposals are designed to give the Commission flexibility in the type of rulemaking proceedings it conducts. In this context, we feel that the concerns expressed by the commentators are unfounded. As indicated in the notice instituting this proceeding, the one-round procedure would not be followed in proceedings involving factual disputes or complex issues. Moreover, the determinations as to what type of proceeding will be employed will not be made necessarily in the initial proposal. It may well be that we will determine to have further submissions after seeing the initial comments. Similarly, the Commission would not make substantive changes to a proposal and finalize without further opportunity for comment; such a procedure would not be permitted by the Administrative Procedure Act.

In summary, we reiterate that the single-round proceeding will not be employed where complex or factual issues are involved. We are therefore adopting the rules as proposed.[1]

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), and section 43 of the Shipping Act, 1916 (46 U.S.C. 841a), Part 502 of Title 46, Code of Federal Regulations, is amended as set forth below:

§ 502.42 [Amended]

1. Section 502.42 is amended by changing all references to "he" and "his" to "the Director" and "the Director's" and by changing the period at the end of the first sentence to a comma and adding the following: • • • and in rulemaking proceedings the Director may become a party by designation if the Commission determines that the circumstances of the proceeding warrant such participation. • • •

§ 502.53 [Amended]

2. Section 502.53 is amended by changing the colon appearing after the word "manner" in the first sentence to a period and adding the following: • • • No replies to the written submissions will be allowed unless, because of the nature of the proceeding, the Commission indicates that replies would be necessary or desirable for the formulation of a just and reasonable rule:

• • • • •

Effective date: Inasmuch as the expeditious adoption of these rules is desirable and inasmuch as they are procedural in nature, they shall be effective May 5, 1978.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12302 Filed 5-4-78; 8:45 am]

[1] Gender specific references in the existing and proposed rules have been eliminated.

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1324]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Company Authorized To Operate Over Tracks of Burlington Northern Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1324.

SUMMARY: The line of the Chicago, Rock Island and Pacific Railroad between Eldon, Iowa, and Keokuk, Iowa, has become inoperable because of track conditions. An alternative route between Keokuk and other stations on the Chicago, Rock Island and Pacific exists by use of the tracks of the Burlington Northern between Keokuk and Burlington, Iowa. Service Order No. 1324 authorizes the Chicago, Rock Island and Pacific to operate over these tracks of the Burlington Northern in order to provide continued railroad service to shippers served by the Chicago, Rock Island and Pacific at Keokuk.

DATES: Effective 12:01 a.m., May 2, 1978. Expires 11:59 p.m., September 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of April 1978.

The line of the Chicago, Rock Island and Pacific Railroad (RI) between Eldon, Iowa and Keokuk, Iowa, is inoperable because of track conditions. Shippers served by this line at Keokuk, Iowa, require the continued services of the RI in order to conduct their operations. An alternate route between Keokuk and other lines of the RI is available via the Burlington Northern Inc. (BN) between Keokuk and Burlington, Iowa. Use of this route by the RI would enable the RI to continue to provide needed rail service to shippers located adjacent to its tracks in Keokuk. The BN has consented to use of its tracks by the RI.

It is the opinion of the Commission that an emergency exists requiring operation of RI trains over these tracks of the BN in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1324 Service Order 1324.

(a) *Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Burlington Northern Inc.* The Chicago, Rock Island and Pacific Railroad Company (RI) is authorized to operate over tracks of the Burlington Northern Inc. (BN) between Keokuk, Iowa, and Burlington, Iowa, a distance of approximately 43.08 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the RI over tracks of the BN is deemed to be due to carrier's disability, the rates applicable to traffic moved by the RI over the tracks of the BN shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., May 2, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the

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Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12336 Filed 5-4-78; 8:45 am]

[7035-01]

[Service Order No. 1325]

PART 1033—CAR SERVICE

The Atchison, Topeka and Santa Fe Railway Company Authorized To Operate Unit-Grain Train Comprised of 60 Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1325.

SUMMARY: There is a severe shortage of both covered hopper cars and locomotives on the Atchison, Topeka and Santa Fe Railroad (ATSF) for transporting shipments of grain and related commodities. Service Order No. 1325 authorizes the ATSF to waive certain tariff requirements requiring the shipment of 75 carloads of grain in a single train and to apply in lieu thereof a minimum weight of 5,700 net tons per shipment in not to exceed 60 cars from ATSF origins in rate zone F and west to California destinations. The reduced train size will enable the ATSF to make a more equitable distribution of its covered hopper cars and to secure more efficient utilization of its locomotives.

DATES: Effective 12:01 a.m., May 2, 1978. Expires 11:59 p.m., August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 1st day of May 1978.

An acute shortage of covered hopper cars and of locomotives for transporting trainload shipments of grain, grain products, soybeans or soybean meal exists on the line of the Atchison, Topeka and Santa Fe Railway Company (ATSF). That line has published certain rates in Transcontinental Freight Bureau Tariff 29-P, ICC 1958 which require the use of seventy-five (75) covered hopper cars to transport 7,125 net tons of these commodities for movement from all origins on the ATSF in rate zone F and west to points in California. Because of the heavy demands for covered hopper cars from shippers served by it the ATSF is unable to assemble and furnish seventy-five (75) such cars to a single shipper without serious adverse effects on other shippers also having need for such cars. The operation of seventy-five (75) car grain trains over the mountainous terrain between the origin points and the California destinations requires the use of additional locomotive units over the entire route. A reduction in train size to sixty (60) cars will enable the ATSF to make more effective use of its motive power and a more equitable distribution if its covered hopper cars.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1325 Service Order No. 1325.

(a) *The Atchison, Topeka and Santa Fe Railway Company authorized to operate unit-grain train comprised of 60 cars.* The Atchison, Topeka and Santa Fe Railway Company is authorized to waive the seventy-five (75) car requirement provided in Item 2502 of Transcontinental Freight Bureau Tariff 29-P, I.C.C. 1958 for application of Column 7 rates and to apply in lieu thereof a minimum weight of 5,700 net tons to be loaded into not more than sixty (60) covered hopper cars for shipments of grain or related items from origins on the ATSF in rate zone F and west to points in California. All other provisions of that tariff shall remain in effect.

(b) *Rules and Regulations Suspended.* The operation of all other tariff provisions or of other rules and regulations insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., May 2, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12337 Filed 5-4-78; 8:45 am]

[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Correction

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Errata sheet.

SUMMARY: This errata sheet corrects the amendment to the final regulations published on Friday, March 31, 1978, (43 FR 13582) which specified the effort restrictions for fishing for surf clams in the fishery conservation zone.

EFFECTIVE DATE: These corrections are effective immediately.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Chief, Fisheries Management Operations, Division 31, National Marine Fisheries Service, Washington, D.C. 20235, telephone: 202-634-7454.

SUPPLEMENTARY INFORMATION: On February 17, 1978, final regulations were published implementing the Atlantic surf clam and ocean quahog fishery management plan (see 50 CFR Part 652, 43 FR 6953). This plan was prepared by the Mid-Atlantic Fishery Management Council and approved by the Secretary of Commerce pursuant to the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended.

On March 31, 1978, amendments to the final regulations were published (50 CFR 652.7(a)(1), 43 FR 13582) revising fishing effort restrictions. Due to a typographical error § 652.7(a) was amended, rather than § 652.7(a)(1), as intended. This errata sheet corrects that mistake so that only § 652.7(a)(1) was amended on March 31, 1978, as intended. The remainder of § 652.7(a) remains in effect as originally published on February 17, 1978.

Signed at Washington, D.C., this 2d day of May 1978.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc. 78-12342 Filed 5-4-78; 8:45 am]

[3510-22]

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Reduction of Fishing Hours

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of reduction of fishing hours.

SUMMARY: This notice specifies new effort restrictions under the Fishery Conservation and Management Act of 1976, for fishing for surf clams in the fishery conservation zone by reducing the present 48-hour fishing period to 24 hours.

EFFECTIVE DATE: 0001 hours, May 8, 1978, through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Section 652.7(a)(3) provides that when 50 percent of a quarterly quota of surf clams is caught the Regional Director shall determine the appropriate action necessary, such as closure or a reduction in fishing time, and he shall publish notice of such determination in the FEDERAL REGISTER. Catch statistics through April 21, 1978, indicate that 50 percent of the adjusted quarterly quota of 529,107 bushels will be caught by April 27, 1978. The Regional Director has estimated if the catch and effort continues at the present rate, the entire quarterly quota may be caught as soon as May 25, 1978. This would necessitate a closure of the fishery for five weeks. At the hearings held jointly by the National Oceanic and Atmospheric Administration, and the Mid-Atlantic Fishery Management Council in February concerning fishing day selection, a number of individuals indicated that a 2- to 3-week closure of the fishery was acceptable. However, a 5-week closure would cause a far greater hardship to the industry than a 2- to 3-week closure. The Assistant Administrator for Fisheries has determined that the reduction in the fishing period from 48 to 24 hours specified in this notice will cause the least amount of hardship and is consistent with the public comments received in February. Therefore, at 0001 hours, May 8, 1978 the present 48-hour fishing period will be reduced to 24 hours. This notice will be effective from May 8, through June 30, 1978, at which time the new quarter will begin and the fishery will revert back to a 48-hour week.

Signed at Washington, D.C., this 2d day of May 1978.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc. 78-12343 Filed 5-4-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 911 and 915]

[Docket Nos. AO-267-A9 and AO-254-A8]

LIMES GROWN IN FLORIDA AND AVOCADOS GROWN IN SOUTH FLORIDA

Decision on Proposed Further Amendment of the Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the Federal marketing agreements and orders for fresh limes and avocados grown in Florida. Growers of these fruits will vote in a referendum to determine if they favor the proposed changes in the order. The principal changes would: Authorize addition of a public member to each committee; allow an assessment rate exceeding 20 cents per bushel when recommended by a specified majority of the committee; change the financial reserve provision to permit the carryover of up to three years' expenses; authorize regulations for export shipments that are different from regulations for shipments to domestic markets; delete the provision allowing compensation to committee members for performing program duties; and, for limes, exclude export shipments from volume control and handler prorate base calculations.

DATES: Grower referenda—June 21 through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued January 12, 1978; published January 17, 1978 (43 FR 2401); Notice of Recommended Decision—Issued March 23, 1978; published March 29, 1978 (43 FR 13067).

PRELIMINARY STATEMENT

A public hearing was held upon proposed further amendment of the marketing agreements and orders (7 CFR Parts 911 and 915) (hereinafter referred to collectively as the "orders"), regulating, respectively, the handling of limes grown in Florida and avocados grown in South Florida. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Homestead, Fla., on February 7, 1978, pursuant to notice thereof issued on January 12, 1978.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on March 23, 1978, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exceptions were filed.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision published Wednesday, March 29, 1978, in the FEDERAL REGISTER (43 FR 13067), are hereby incorporated herein and made a part hereof, subject to correction of inadvertent, grammatical or obvious errors.

Marketing Agreements and Orders. Annexed hereto and made a part hereof are four documents entitled, respectively, "Order Amending the Order, as Amended, Regulating the Handling of Limes Grown in Florida" and "Marketing Agreement, as Further Amended, Regulating the Handling of Limes Grown in Florida", "Order Amending the Order, as Amended, Regulating the Handling of Avocados Grown in South Florida" and "Marketing Agreement, as Further Amended, Regulating the Handling of Avocados Grown in South Florida", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the two annexed marketing agreements, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreements are identical with those contained in the orders as hereby proposed to be amended by the annexed orders which are published with this decision.

Referendum Order. It is hereby directed that referenda be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 et seq.), to determine whether the issuance of the annexed orders, as amended and as hereby proposed to be amended, regulating the handling of limes grown in Florida and the handling of avocados grown in South Florida, respectively, are approved or favored by producers, as defined under the terms of the orders, who during the representative period were engaged in the production of the regulated commodity for market.

The representative period for the conduct of such referenda is hereby determined to be April 1, 1976, through March 31, 1977.

The agents of the Secretary to conduct such referenda, jointly or severally, are hereby designated to be William C. Knope and John R. Toth, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, P.O. Box 9, Lakeland, Fla. 33802.

Signed at Washington, D.C., on May 2, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary.

ORDER[1] AMENDING THE ORDER, AS AMENDED, REGULATING THE HANDLING OF LIMES GROWN IN FLORIDA

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida.

Upon the basis of the record it is found that:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of limes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of limes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of limes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of limes shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on March 23, 1978, and published in the FEDERAL REGISTER on March 29, 1978 (43 FR 13067; FR Doc. 78-8207), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. Add a new § 911.12 *Export* as follows:

§ 911.12 Export.

"Export" means to ship limes to any destination which is not within the 48 contiguous States or the District of Columbia of the United States or Canada.

* * * * *

Revise § 911.48 by adding a new paragraph (a)(7). As amended, § 911.48 reads as follows:

§ 911.48 Issuance of regulations.

(a) * * *

(7) Prescribe requirements, as provided in this paragraph, applicable to exports of any variety of limes which are different from those applicable to the handling of the same variety to other destinations.

* * * * *

2. Revise § 911.20 by designating the first paragraph as paragraph (a) and by adding a new paragraph (b). As amended, § 911.20 reads as follows:

§ 911.20 Establishment and membership.

* * * * *

(b) The committee may be increased by one public member and alternate. Persons for the public member positions would be nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the public member and alternate.

Revise paragraph (a) of § 911.30 and add a new paragraph (d) to such section. As amended, § 911.30 reads as follows:

§ 911.30 Procedure.

(a) Except as provided in paragraphs (c) and (d), of this section, six members of the committee, including alternates acting for members, shall constitute a quorum and any decision, recommendation or other action of the committee shall require not less than five concurring votes, including one by a handler, or an alternate acting as such: *Provided,* That if the committee is increased by one, the quorum requirement shall be increased to seven and any decision, recommendation or other action of the committee shall require not less than six concurring votes, including one by a handler or an alternate acting as such.

* * * * *

(d) For any recommendation of the committee for an assessment rate exceeding $0.20 per bushel to be applied pursuant to § 911.41, the quorum requirement shall be eight members or alternates acting for members and eight concurring votes shall be required.

3. Revise paragraph (b) of § 911.41 to read as follows:

§ 911.41 Assessments.

* * * * *

(b) The Secretary shall fix the rate of assessment per 55-pounds of fruit or equivalent in any container or in bulk, to be paid by each such handler. At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

4. Revise § 911.31 to read as follows:

§ 911.31 Expenses.

The members of the committee and their respective alternates when performing duties at the direction of the committee, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

5. Revise paragraph (a)(2) of § 911.42. As amended § 911.42 reads as follows:

§ 911.911.42 Accounting.

(a) * * *

(2) The secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal year which are in excess of the expenses necessary for committee operation during such a year may be carried over into following years as a reserve. Such reserve may be established at an amount not to exceed approximately 3 fiscal years' operational expenses. Funds in the reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal year when there is crop failure, or during any period of suspension of any or all the provisions of this part. Such reserve may also be used by the committee to finance its operations during any fiscal year prior to the time that assessment income is sufficient to cover such expenses and to cover deficits incurred during any fiscal year when income is less than expenses. Upon termination of this part any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

* * * * *

6. Revise paragraph (a) of § 911.53. so that after revision such paragraph reads as follows:

§ 911.53 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of limes which it deems

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advisable to be handled to destinations within the forty-eight contiguous States of the United States, the District of Columbia and Canada during the next succeeding week: *Provided,* That such volume regulations shall not be recommended for any week except during the 18-week regulatory period beginning with the week preceding the first full week in May: *Provided, further,* That no such regulation shall be recommended after such regulations have been in effect for an aggregate of eight (8) weeks during the aforesaid period.

. . . . . .

Revise § 911.54 to read as follows:

§ 911.54 Issuance of volume regulations.

Whenever the Secretary finds from the recommendation and information submitted by the committee, or from other available information, that to limit the quantity of lines which may be handled to destinations within the 48 contiguous States of the United States, the District of Columbia and Canada during a specified week of a regulatory period will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided,* That such regulations during a regulatory period shall not in the aggregate limit the volume of lime shipments for more than eight (8) weeks. The quantity so fixed for any week may be increased by the Secretary at any time during such week. Such regulations may, as authorized by the act, be made effective irrespective of whether the season average price of limes is in excess of the parity price. The Secretary may, upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation pursuant to this section at any time.

. . . . . .

Revise paragraph (d) of § 911.55 to read as follows:

§ 911.55 Prorate bases.

. . . . . .

(d) Each week during the regulatory period when volume regulation is likely to be recommended for the following week, the committee shall compute a prorate base for each handler who has made application in accordance with the provisions of the section. The prorate base for each such handler shall be computed by adding together the handler's shipments of limes in the current season and his shipments in the immediately preceding seasons, if any, within the representative period in which he shipped limes and dividing such total by a divisor computed by adding together the number of weeks elapsed in the current season and the eighteen weeks for each of such immediately preceding seasons within the representative period in which the handler shipped limes. For purposes of this section "shipments" shall include only those limes which were shipped to destinations within the forty-eight contiguous States of the United States, the District of Columbia and Canada; "representative period" means the two preceding seasons together with the current season; the term "season" means the eighteen-week period beginning with the week preceding the first full week in May of any fiscal year; and the term "current season" means the period beginning with the week preceding the first full week in May of the current fiscal year through the fourth full week preceding the week of regulation: *Provided,* That when official shipping records are available to the committee the said "current season" shall extend through the third full week preceding the week of regulation.

7. Section 911.110 contains erroneous references to § 911.54. The correct reference is § 911.50. As corrected, § 911.110 reads as follows:

Subpart—Rules and Regulations

§ 911.110 Exemption certificates.

Exemption certificates under § 911.50 shall be issued by the Florida Lime Administrative Committee pursuant to the following rules and regulations:

. . . . . .

(c) Approval of the application shall be evidenced by the issuance to the applicant, by the Manager of the Florida Lime Administrative Committee on its behalf, of one or more exemption certificates which shall authorize the handling of such quantity of the applicant's limes as may be necessary to accomplish the purposes of § 911.50.

. . . . . .

Section § 911.130(a) contains erroneous references to §§ 911.52 and 911.55. The correct references are §§ 911.48, 911.54 and 911.55. Paragraph (b) contains erroneous referneces to §§ 911.52 and 911.55. The correct references are 911.48 and 911.51. Paragraph (c) contains an incorrect reference to § 911.56. The correct reference is § 911.52. As corrected, § 911.130 reads as follows:

§ 911.130 Limes not subject to regulation.

(a) *Minimum quantity.* During any one day any handler may handle not to exceed 55 pounds total of limes exempt from the provisions of §§ 911.41, 911.48, 911.51 and 911.54, and the regulations issued thereunder: • • •

(b) *Gift shipments.* Any handler may, exempt from the provisions of §§ 911.41, 911.48, and 911.51, and the regulations issued thereunder, • • •

(c) *Commercial processing into products.* The term "commercial processing into products," as used in § 911.52(c) means the manufacture of any lime product which has been preserved by any recognized commercial process, • • •

In § 911.311(a)(2) change the word "marketing" which appears in the proviso to "marking". As corrected, the proviso reads as follows:

Subpart—Pack Regulation

§ 911.311 Lime Regulation 9.

(a) (1) • • •

(2) • • • *Provided,* That in lieu of such marking requirement, any handler may affix to the container a label, brand, or trademark, registered with the Florida Lime Administrative Committee in accordance with the following, which appropriately identifies the grade:

. . . . . .

ORDER[1] AMENDING THE ORDER, AS AMENDED, REGULATING THE HANDLING OF AVOCADOS GROWN IN SOUTH FLORIDA

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et. seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

[1]This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(2) The order, as amended, and as hereby further amended, regulates the handling of avocados grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commerical and industrial activity specifed in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production areas as are necessary to give due recognition to the difference in the production and marketing of avocados grown in the production area; and

(5) All handling of avocados grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of avocados shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on March 23, 1978, and published in the FEDERAL REGISTER on March 29, 1978 (43 FR 13067; FR Doc. 78-8207), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. Add a new § 915.12 Export as follows:

§ 915.12 Export.

"Export" means to ship avocados to any destination which is not within the 48 continuous States or the District of Columbia of the United States or Canada.

. . . . . .

Amend § 915.51(a) by adding a new subparagraph (7). As amended, § 915.51 reads as follows:

§ 915.51 Issuance of regulations.

(a) • • •

(7) Prescribe requirements, as provided in this paragraph, applicable to exports of any variety of avocados which are different from those applicable to the handling of the same variety to other destinations.

. . . . . .

2. Revise § 915.20 by designating the first paragraph as paragraph (a) and by adding a new paragraph (b). As amended, § 915.20 reads as follows:

§ 915.20 Establishment and membership.

. . . . . .

(b) The committee may be increased by one public member and an alternate. Persons for the public member positions would be nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office and the procedure for nominating the public member and alternate.

Revise paragraph (a) of § 915.30 and add a new paragraph (c) to such section. As amended, § 915.30 reads as follows:

§ 915.30 Procedure.

(a) Except as provided in paragraph (c) of this section, six members of the committee, including alternates acting for members, shall constitute a quorum and any decision, recommendation or other action of the committee shall require not less than five concurring votes including one by a handler, or an alternate acting as such; *Provided,* That if the committee is increased by one, the quorum requirement shall be increased to seven and any decision, recommendation or other action of the committee shall require not less than six concurring votes including one by a handler, or an alternate acting as such.

. . . . . .

(c) For any recommendation of the committee for an assessment rate exceeding $0.20 per bushel to be applied pursuant to § 915.41, the quorum requirement shall be eight members or alternates acting for members and eight concurring votes shall be required.

3. Revise paragraph (b) of § 915.41 to read as follows:

§ 915.41 Assessments.

. . . . . .

(b) The Secretary shall fix the rate of assessment per 55-pounds of fruit or equivalent in any container or in bulk, to be paid by each such handler. At any time during or after a fiscal year, the Secretary may increase the rate of assessment, in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

4. Revise § 915.31 to read as follows:

§ 915.31 Expenses.

The members of the committee and their respective alternates when performing duties at the direction of the committee, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

5. Revise paragraph (a)(2) of § 915.42. As amended § 915.42 reads as follows:

§ 915.42 Accounting.

(a) • • •

(2) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal year which are in excess of the expenses necessary for committee operations during such year may be carried over into following years as a reserve. Such reserve may be established at an amount not to exceed approximately 3 fiscal years' operational expenses. Funds in the reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal year when there is crop failure, or during any period of suspension of any or all of the provisions of this part. Such reserve may also be used by the committee to finance its operations during any fiscal year prior to the time that assessment income is sufficient to cover such expenses and to cover deficits incurred during any fiscal year when income is less than expenses. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

. . . . . .

7. Section 915.205(a) refers to a reserve fund not to exceed the amount of "$10,000". Amendment 5 would increase the authorized reserve to an amount not to exceed approximately 3 fiscal years' operational expenses. Accordingly, § 915.205 should be revised. As revised, § 915.205 reads as follows:

Subpart—Budget of Expenses, Rate of Assessment and Carryover of Unexpended Funds

§ 915.205 Reserve fund.

(a) The establishment of a reserve fund at an amount not to exceed ap-

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proximately 3 fiscal years' operational expenses is appropriate and necessary to the maintenance and functioning of the Avocado Administrative Committee. Such reserve, including funds carried forward from prior fiscal years, shall be used to provide for the maintenance and functioning of the committee in accordance with the provisions of the marketing agreement, as amended, and this part.

(b) Terms used in this section shall have the same meaning as when used in said marketing agreement and order.

[FR Doc. 78-12304 Filed 5-4-78; 8:45 am]

[3410-34]

Animal and Plant Health Inspection Service

[9 CFR Part 51]

ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

Proposed Brucellosis Indemnity for Cattle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This document proposes to amend regulations for the payment of indemnity for cattle destroyed because of brucellosis. This action is needed to bring indemnities paid for such animals closer in line with fair market values. The effect of this action will be to encourage and ensure closer cooperation by livestock owners with the Brucellosis Eradication Program.

DATE: Comments on or before July 5, 1978.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 805, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, USDA, APHIS, VS, Federal Building, Room 805, Hyattsville, Md. 20782, 301-436-8711.

SUPPLEMENTARY INFORMATION: The elimination of diseased and exposed animals from the livestock population is an essential part of the National Brucellosis Eradication Program. As a part of that program, indemnities are paid to owners of livestock whose animals are destroyed because of brucellosis. Heretofore, generally there has been a wide spread between the amount of indemnities paid for cattle plus their salvage value and their replacement or true market value. As a result, owners in some instances, have been reluctant to cooperate with the eradication program, and efforts to eradicate the disease have been seriously hampered. This proposal would amend the rate presently in effect for cattle to reflect a change in the fair market value for cattle which has occurred subsequent to the publication of the present rates. Further, a separate rate of indemnity for nonregistered dairy cattle is proposed to reflect the present market situation in which the fair market value for nonregistered dairy cattle substantially differs from other nonregistered cattle. A separate rate has not been established for nonregistered dairy cattle in Alaska, Hawaii, Puerto Rico, and the Virgin Islands because it is believed that the proposed rate for nonregistered cattle also reflects the fair market value for nonregistered dairy cattle in such jurisdictions.

Additionally, a separate indemnity rate is proposed for exposed female calves because such animals constitute a threat to disseminate burcellosis, and therefore they should be disposed of by the owner in cooperation with the Department. It should be noted that a separate rate is not proposed for exposed male calves because such calves are not carriers of brucellosis, and therefore they do not represent a threat to disseminate the disease. The proposed indemnity rate of $25 for the disposal of such animals appears to reflect the fair market value for such animals throughout the United States.

It is anticipated that by reducing the financial losses incurred by livestock owners whose animals are destroyed, cooperation as well as herd management practices will be greatly improved and eradication efforts will be expedited.

Definitions of the terms "dairy cattle" and "exposed female calves" would be added to the regulations to further clarify the classes of cattle which would be subject to a particular rate of indemnity.

Accordingly, Part 51, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. Section 51.1 is amended by adding the new paragraphs (z) and (aa) to read as follows:

. . . . . .

(z) *Dairy cattle.* A female bovince of a recognized dairy breed over 20 months of age, which has calved or is within 90 days of parturation, and which is a member of a dairy herd used to produce milk for commercial use.

(aa) *Exposed female calf.* A female bovine less than 6 months of age which is nursed by a brucellosis reactor at the time such reactor is condemned.

2. Paragraph (a) of § 51.3 is revised to read as follows:

§ 51.3 Payment to owners for animals destroyed.

(a) *Cattle.*—(1) *Brucellosis reactor cattle.* The Deputy Administrator may authorize the payment of Federal indemnity by the Department to owners whose cattle are destroyed as brucellosis reactors. The indemnity shall not exceed $250 for any registered cattle or $50 for any nonregistered cattle, except that, for nonregistered dairy cattle the indemnity shall not exceed $150, and except that, in Alaska, Hawaii, Puerto Rico, and the Virgin Islands indemnity shall not exceed $250 for any registered cattle or $150 for any nonregistered cattle. Prior to payment of indemnity, proof of destruction shall be furnished to the Veterinarian in Charge.

(2) *Herd depopulations.* The Deputy Administrator may authorize the payment of Federal indemnity by the Department to any owner whose herd of cattle is destroyed because of brucellosis. The indemnity shall not exceed $250 for any registered cattle or $50 for any nonregistered cattle, except that, for nonregistered dairy cattle the indemnity shall not exceed $150, and except that, in Alaska, Hawaii, Puerto Rico, and the Virgin Islands indemnity shall not exceed $250 for any registered cattle or $150 for any nonregistered cattle. Indemnity payment shall only be made for brucellosis exposed cattle or for cattle from a herd known to be affected, and only when the Deputy Administrator determines that the destruction of all cattle in the herd will contribute to the Brucellosis Eradication Program. Prior to payment of indemnity, proof of destruction shall be furnished to the Veterinarian in Charge.

(3) *Exposed cattle.* Except as provided in subparagraph (4) of this paragraph, the Deputy Administrator may authorize the payment of Federal indemnity by the Department to any owner whose cattle are destroyed because of exposure to brucellosis. The indemnity shall not exceed $250 for any registered cattle or $50 for any nonregistered cattle, except that, for dairy cattle the indemnity shall not exceed $150, and except that, in Alaska, Hawaii, Puerto Rico, and the Virgin Islands indemnity shall not exceed $250 for any registered cattle or $150 for any nonregistered cattle. Indemnity payment shall be made only for brucellosis exposed cattle and only when the Deputy Administrator determines that the destruction of such cattle will contribute to the Brucellosis Eradication Program. Prior to payment of indemnity, proof of destruction shall be furnished to the Veterinarian in Charge.

(4) *Exposed female calves.* The Deputy Administrator may authorize the payment of Federal indemnity to any owner whose exposed female calf or calves are destroyed because of brucellosis. The indemnity for such animals shall not exceed $25 per head. Indemnity payment shall be made only for exposed female calves and only when the Deputy Administrator determines that the destruction of such calves will contribute to the Brucellosis Eradication Program. Prior to payment of indemnity, proof of destruction shall be furnished to the Veterinarian in Charge.

. . . . . .

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 805, Hyattsville, Md., during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 5th day of May 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc. 78-12296 Filed 5-4-78; 8:45 am]

[7535-01]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Real Estate Lending; Extension of Comment Period

AGENCY: National Credit Union Administration.

ACTION: Extension of comment period.

SUMMARY: In conjunction with its recently issued final rule on real estate lending (43 FR 14924), the National Credit Union Administration published proposed amendments to the rule (43 FR 14929) which would (i) prohibit origination fees and (ii) require notification to the borrower if early payment might require a refund or adjustment in order to bring the true interest rate within the one per cent per month limitation of the Federal Credit Union Act. The comment period on that proposal was to expire May 8, 1978. In response to public request, the comment period is hereby extended to June 7, 1978.

DATES: Comments must be received on or before June 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Either Joseph Bellenghi, Assistant Administrator, Office of Examination and Insurance, or Steve Bisker, Attorney-Advisor, office of General Counsel, at 2025 M Street NW., Washington D.C. 20456, telephone 202-254-8760 (Mr. Bellenghi) or 202-632-4878 (Mr. Bisker).

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

LORENA C. MATTHEWS,
Acting Administrator.

APRIL 27, 1978.

[FR Doc. 78-12267 Filed 5-4-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Part 302]

[PDR-54 Docket 32466; Dated: April 18, 1978]

RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Expedited Procedures for Licensing and Rates Cases

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice, undertaken on the Board's own initiative to reduce regulatory delay, invites comments from the public on proposed rules to establish expedited hearing procedures for (a) processing applications for new or modified route authority by U.S. and foreign carriers and (b) ratemaking cases. Basically, the new procedures would require the submission of all evidence in written form and would dispense with an oral hearing and an initial or recommended decision by an administrative law judge. The Board would, instead, receive and review the evidence itself and issue an agency decision. Whether, and to what extent, the Board would proceed under these expedited procedures in any particular case will be within the Board's discretion.

DATES: Comments by June 5, 1978. Reply comments by June 20, 1978. Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 32466, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Deputy General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5234.

SUPPLEMENTARY INFORMATION:

THE NEED FOR NEW PROCEDURES

We propose to amend part 302 of the Board's procedural regulations to provide for a documentary hearing procedure to be used in some licensing and ratemaking cases. Current Board procedures and practice by and large contemplate, first, that the Board institute most investigations under the power conferred by sections 204 and 1002 of the Act after examining applications filed by interested carriers under section 401 or tariffs submitted under section 403. Departures from this approach include Subpart M and N cases and the consideration of applications by foreign air carriers, where the Board simply adjudicates applications presented to it by interested parties. Second, hearings have traditionally meant the full panoply of trial procedures, including two rounds of decisions, one by a presiding judge and another by the Board itself. Orders to Show Cause, where the Board tentatively indicates the scope of relief it will grant and does away with all procedural steps short of final decision, have been employed in noncontroversial cases, where there is no objection, or where the interest at stake is small—but we have been reluctant to expand its use. See *Application of Western Air Lines*, Order 77-11-74, November 17, 1977, pp. 6-9 and concurring statement of Chairman Kahn.

Conventional Board procedures are both expensive and time-consuming. The Board's Procedural Reform Committee surveyed all hearing cases decided between 1970 and 1972 and two facts clearly emerged. First, in an absolute sense, cases take many months, even years, to process under current procedures. Second, the trend was toward an increase, rather than a decrease, in the time required to process all applications and complete all categories of cases.[1] Recent efforts have speeded up the decisional process. Nonetheless, weeks or months routinely go by between the time an application is filed and the time it is set for hearing, and an internal survey of cases closed during the twenty-seven months ended September 30, 1977 indicates that an average of 568 days is required even between the time a domestic licensing case is set for hearing and the time it is decided by the Board. Rate cases take even longer—almost three years. Even foreign air carrier cases, which are relatively simple, take 356 days—almost a year—

[1] See Report of the CAB Advisory Committee on Procedural Reform, filed December 31, 1975.

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to process. In our judgment, employment of conventional processes in all cases is simply no longer acceptable. This agency has a responsibility to the public, the industry it regulates, and the Congress to take responsible steps to reduce regulatory delay.

The Board's increasing workload, moreover, makes it imperative that we now explore new methods for processing cases. Applications for new certificates, or changes in existing certificates—which constitute the most significant area of increasing work—increased from 153 filings in 1975 to 193 filings in 1976 to 240 filings in 1977. Further increases can be anticipated. During the fiscal year ended September 30, 1976, the Board's administrative law judges, who preside at all hearings, disposed of seventy-eight cases; of these, twenty-two involved route awards. During the following fiscal year ended September 30, 1977, the judges disposed of ninety-nine cases, a more than 25 percent increase, including thirty-one routes matters. Despite this impressive increase in output, 117 cases were nonetheless on hand at the end of fiscal year 1977, and current projections call for the institution of 45–60 new routes cases alone—or nearly twice the current number—in fiscal year 1978 and fiscal year 1979. While further improvements in productivity can be expected, backlogs cannot be reduced and increasing case levels cannot be accommodated under conventional budget and staffing increases. On the contrary, a continuation of current practices can lead only to increasing backlogs and delays.

Of equal concern is the Board's inability to entertain this increasing number of applications and other requests because it simply lacks the staff to process all these applications and requests in a timely fashion under conventional procedures. To be sure, we have the legal authority to dismiss applications which, in our judgment, do not merit consideration given the Board's other statutory responsibilities and current resources. See, for example, *City of San Antonio* v. *CAB*, 374 F.2d 326 (D.C. Cir. 1967). But the fact that we may, in our discretion, dismiss less important matters does not mean that we should dismiss them if means could be found for giving deserving applicants an opportunity to be heard.

The need for expedited procedures in licensing cases is particularly important because the length of time and complexity of the current hearing process works to discourage applications by imposing the substantial likelihood of delay; it also increases the risk that even if an application wins approval, the economic conditions giving rise to the filing will have changed, thus frustrating the Board's attempt to meet constantly changing consumer demands. We also fear that the procedural delays and the expense associated with our existing procedures are increasingly becoming an all but insurmountable bar to entry into the air transportation system by small entrepreneurs seeking to provide new services, without Federal subsidy, on a relatively limited scale or tailored to specific needs.

Despite our emphasis on routes cases, we solicit comments from the public on employment of expedited, documentary hearing procedures in foreign air carrier and ratemaking cases as well. We want to emphasize, in this connection, that the expeditious handling for foreign carrier permit cases has become an important bilateral issue for foreign governments and that our ability to process these cases promptly increases our credibility and bargaining power. We are already moving to speed up the processing of foreign carrier applications—notably through the use of self-executing Show Cause orders—and nothing in this rule would bar continued use of those procedures.

New Procedures

We are proposing to amend Part 302 of the Board's Procedural Regulations to establish a separate track for documentary hearing cases. We will order the submission of all evidence directly to the Board in written form. We plan to eliminate the delay now connected with the scoping of investigations and the ordering of priorities and will, instead, simply move forward to consider a carrier's application much as we now do with Subpart M or N cases or foreign carrier cases. Furthermore, we plan to eliminate an oral hearing and the initial or recommended decision of the administrative law judge where these steps are not necessary to permit a valid decision in a given case. The Board will review the evidence itself and issue an agency decision. Whether the Board will proceed under these expedited procedures in any particular case will be within its discretion.

Applications involving a single market, and cases with fewer parties, would seem to lend themselves more readily to the use of our proposed documentary procedures. Cases which involve simply an application of established policies to a new set of circumstances would likewise seem candidates for expedited processing. But the mere fact that issues are of special importance, novelty, or complexity need not alone justify elaborate scoping procedures, a trial, or an initial or recommended decision, see *Virgin Islands Hotel Ass'n* v. *Virgin Island Water and Power Authority*, 476 F.2d 1263 (3d Cir.), *cert. denied* 414 U.S. 1067 (1973), although such issues may, at times, warrant Board consideration at a pre-trial stage, ventilation at a trial, or initial consideration by an administrative law judge. Cf: *American Airlines, Inc.* v. *CAB*, 359 F.2d 624 (D.C. Cir.), *cert. denied* 385 U.S. 843 (1966).

Our procedures contemplate that in licensing cases applicants will take the initiative in seeking expedited processing. Once an application is received, we will give notice of it in the FEDERAL REGISTER; interested persons will have 10 days from FEDERAL REGISTER publication date to advise the Board, in general terms, why a particular application should not move forward expeditiously. We will dispose of these preliminary objections within 20 days. As in cases processed under Subparts M and N of the Board's Regulations, this threshold procedure is designed to avoid substantial work by interested persons by allowing the Board summarily to dismiss or stay proceedings where the application appears on its face to be ill-suited to expedited procedures. Once an application passes this threshold step, interested persons will have approximately one month more—or a total of 60 days from the FEDERAL REGISTER publication date—to prepare their substantive answers in support, or in opposition. Requests to consolidate competing applications will also be received during this period. Applicants will have 15 days to reply to answers to their applications but interested persons will have 30 days to file answers where new applications have been offered for consolidation. Once all materials are received, the Board will decide whether or not to employ its documentary procedures to decide the case on the merits.

Rates cases will follow a somewhat different track. Ordinarily, following the institution of an investigation in response to a tariff filing, the Board will issue an order proposing to employ expedited procedures, soliciting comments, and requesting evidence. Although the rules does not so specify, we expect to allow the evidence and initial comments to come in within 45 days and provide interested persons an additional 45 days for rebuttal, with a view toward bringing the case before the Board in about 90 days from the date or our order proposing to use expedited procedures.

We have successfully employed documentary procedures in the past and see no reason why they could not be successful in a larger category of cases in the future. The proposed rule more or less codifies the procedures employed in the *Service to Crossville Case*, Orders 73-6-45, June 13, 1973 and 74-4-61, April 10, 1974; they are similar to the procedures used on remand in the *Service to Saipan Case*, Orders 75-11-59, November 17, 1975 and 76-6-171, May 7, 1976, and the *Service to Richmond Case*, Orders 76-11-131, November 24, 1976, and 77-4-29, April 6, 1977, and now being employed in the *Miami-Los Angeles Competitive Nonstop Case*, 78-1-35, January 11, 1978. We also emphasize that the Board routinely decides important regulatory matters—including those requiring the resolution of disputed facts—without either an oral hearing or an initial or recommended decision. Our entire charter liberalization program, for example, which affects millions of travelers and the fortunes of the entire industry, has been established through the use of the notice and comment procedures of 5 U.S.C. 553. The ability to reach reasonable decisions in those cases gives us confidence that we can do so in an expanding category of cases. Similarly, our success with Subpart M and N procedures, where applications proceed to hearing without substantial Board intervention, gives us confidence that we can reduce the delay now associated with the pre-hearing period.

We do not suggest that the scoping phase can be eradicated with respect to all applications or that expedited procedures are suitable to all licensing or rates matters. In particular, we cannot minimize the contribution of an experienced administrative law judge to the distillation of the evidence, the development of the record, and the evolution of a decision. Judges will continue to play an important role in complicated cases. We are also not insensitive to the value of the discipline exerted on parties by the knowledge that their submissions will be tested by cross-examination by experienced counsel, and appreciate that an oral presentation can be very useful to the decision-making process in some cases. The Board will therefore retain the option of ordering an oral presentation—*i.e.*, a conventional trial-type hearing with cross-examination; oral argument; or an informal conference-type hearing which it has not, by and large, used in the past—where desirable. Frankly, we hope to experiment with different kinds of oral presentations. We likewise retain the option of ordering the preparation of an initial or recommended decision, upon our own initiative or upon the request of a party.

Conclusion

The regulatory process at the CAB as well as other administrative agencies has come under increasing scrutiny and criticism. Regulatory delay in particular has been the subject of criticism. See, for example, Gellhorn and Robertson, *Summary Judgment in Administrative Adjudication*, 84 Harv. L. Rev. 612 (1971), and items cited in that article. In 1976, the Senate Subcommittee on Administrative Practice and Procedure issued a detailed report on the CAB's procedures and recommended, among other things, substantial procedural reform to speed the decisional process. See U.S. Senate Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, 94th Cong., 20 Sess. (1976). Quite recently, the Senate Committee on Governmental Affairs, as part of its two year study of the regulatory process, issued a report noting that undue delay is the most frequently cited problem of Federal regulation; the Committee recommended that agencies reduce their emphasis on traditional adjudication procedures by adopting a modified process eliminating the need for formal trials in some cases. See, U.S. Senate Committee on Governmental Affairs, *Study on Federal Regulation*, Volume IV *"Delay in the Regulatory Process"*, 95th Cong. 1st Session (1977). The courts have increasingly recognized that administrative agencies need latitude in determining which procedures are best suited to resolving given issues, see *Mobil Oil Corp.* v. *FPC*, 483 F.2d 1238, 1249 (D.C. Cir. 1973) and *Bell Telephone Co.* v. *FCC*, 503 F.2d 1250 (3d Cir. 1974), *Marine Space Enclosures, Inc.* v. *FMC*, 420 F.2d 577 (D.C. Cir. 1969), and *Air Line Pilots' Ass'n* v. *CAB*, 494 F.2d 118 (D.C. Cir. 1974), and the Interstate Commerce Commission's use of procedures similar to those we are proposing in order to reduce costs and expedite decision-making in proper cases is judicially well established. See *Yellow Forwarding Co.* v. *ICC*, 369 F. Supp. 1040 (D. Kan. 1973).

We believe that the demands now placed on the Board and the needs of the traveling public imperatively and unavoidably require an alternative for the processing of some cases, notably cases involving domestic route applications. We are moving on a number of fronts to improve and update our decisional process. We believe that the basic goal of the administrative process—and the thrust of the Administrative Procedure Act—is to allow conflicting contentions to be presented to an agency for decision in a full and fair manner likely to produce sensible, accurate and informed decisions. Our proposal furthers that basic goal and comports with the legal requirements of the APA and the Federal Aviation Act. We wish interested persons to call to our attention any legal infirmities they see in our approach and we welcome comments on how we can improve our proposal consistently with that basic goal.[2]

[2]To give interested persons more background on the issues presented by our notice of rulemaking, and to sharpen the focus of the comments, we are attaching memoranda prepared by the Office of the General Counsel and the Chief Administrative Law Judge during the course of developing the proposed rules. The Board decided at its own meeting on this item to release the memoranda which would, in any case, form a part of the public reading file and be made freely available to any interested person under our current Freedom of Information policies. Publication is intended to ensure greater convenience and a broader audience.

O'MELIA, MEMBER, SEPARATE STATEMENT

The Board Members have agreed to give notice of a proposed rule, on which interested parties may comment, designed to bring about very substantial changes in the Board's traditional and established method of processing route and rate cases. This rulemaking is being undertaken for the declared purpose of avoiding backlogs and regulatory delay, of reducing the expense and time consumed by conventional procedures, and of enabling the Board, presumably without an extraordinary increase in agency costs, to cope with the Board's ever-mounting workload. To accomplish this, the proposed rule would, basically, dispense with an oral hearing and an initial or recommended decision by an administrative law judge, and would replace them with "documentary hearings" and with agency decisions at Board level. Under the new rules, to be entitled Subpart Q, the Board would have almost unlimited discretion with respect to the extent to which the expedited procedures would be used. We are advised by the proponents of the rule that the draft procedures comport with the legal requirements of the Administrative Procedure Act, and that with these changes processing time would be substantially reduced—for example, it has been suggested that many domestic route proceedings which now take an average of 1 to 2 years might be cut down to 180 days.

I could not endorse more fully the objectives of reducing delay, costs, and administrative burdens. If it were determined, after further due study and consideration, that these or suitably modified rules would indeed result in time and cost savings without infringing the rights of the parties, offending our legal institutions, or debasing the quality of our regulatory oversight, I would, of course, give any such changes my full support. It is laudable that our procedures are being reviewed, and I do not object to the issuance of the proposed innovations for public comment. However, my acquiescence in giving public notice of the contemplated procedures is not to be construed as definitive nor tentative support of any particular set of rules. I am not confident that the draft rules set before the Board in the last two weeks for its consideration, relying heavily on the suppression of the oral hearing and on the shift of functions from the Administrative Law Judges to the Board Members, would in fact give us a net improvement in regulatory practice without simultaneously spawning a host of other more damaging problems.

My colleagues and I feel that this is a landmark opportunity for the Board to seek the widest possible comments on the objectives and the workings of this new Subpart Q. It should invite the attention of other government agencies and legal scholars, welcome the expressions of the practitioners in the aviation bar, and pay heed to the concerns that may be articulated by both the regulated entities and the consuming public. For this purpose, it is important to place before the public explanatory materials

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that will profile as clearly as possible the legal and practical dangers that may result from these changes, so that the comments received can be properly focused on the real issues of the proceeding. The statement of *Supplementary Information* prefacing the proposed rules, as is perhaps normally done, tends to set forth in an optimistic view the potential benefits and predictions of success for the new rules, and does not, in my opinion, dwell sufficiently on the risks that they entail. However, the Board agreed in principle to make available to the public the underlying staff memoranda on these proposed rules, which were thought to be of particular importance in making known the possible pitfalls.

As has been made evident to the public through the Board's open discussion in a "sunshine" meeting, the Board's staff has not ignored in its study and research the problems that such changes might create. The Office of the General Counsel in developing this bold proposal concludes that, although there are legal risks associated with it, the proposal is legally sound. The Bureau of Administrative Law Judges, on the other hand, drawing upon its long experience and intimate knowledge of oral hearing procedures, has sought with considerable effort to sound warnings against novel and untried procedures that, in its view, do not conform to recognized proper due process standards in American administrative law.

With the concurrence of my colleagues on the Board, I am attaching to this Separate Statement a Memorandum of April 5, 1978, to the Board in which Chief Administrative Law Judge Nahum Litt outlines the three principal problems foreseen by his Bureau should the Board finally adopt the draft rules presented to it by the General Counsel's Office. I am also attaching a copy of a Memorandum of April 3, 1978, from the Office of the General Counsel which addresses these issues. The purpose of circulating these memoranda is to enable interested parties more readily to understand the issues raised by this project, and, I hope, to sharpen the focus and relevance of their comments. Let me say that I am not by this act disclosing confidential materials. The Board decided at its "sunshine" meeting to release the memoranda, which would, in any case, form a part of the Board's public reading file, and would be made freely available to any interested party upon request under our Freedom of Information Act policies. Their publication here is offered only to ensure greater convenience and a broader audience.[3]

Judge Litt's Memorandum attaches several appendices that should be particularly useful to individuals concerned with this rulemaking. I want to draw special attention to the Legal Memorandum set forth as Appendix C, and to Appendix B, an alternative draft for the new Subpart Q advanced by Judge Litt. The latter document will enable those commenting to contrast its provisions with the OGC draft tentatively adopted by the other Members of the Board. I want to point out that Judge Litt is not opposing the adoption of rules meant to expedite and alleviate the Board's caseload, but rather takes the position that such procedures could be useful in only a limited number of cases—specifically, where there are no substantial issues of material facts in dispute. The rules set forth in the NPRM, in contrast, would authorize the Board, in its discretion, to apply the expedited procedures where justified by "staffing and workload" considerations. In addition to excluding rate cases, because of their great complexity, from the purview of the proposed rules, Judge Litt would have the rules prescribe that cases where there are material facts at issue "shall" be set for hearing under the ordinary provisions of Subparts A or E albeit possibly under expedited procedures. These, I think, are the principal differences between the two draft rules.

I will not presume to add to the legal analyses made by either the General Counsel's Office nor the Bureau of Administrative Law Judges in the various memoranda addressing the proposed Subpart Q.[4] Rather, I trust that this appeal will, by evoking public comment of a critical and incisive nature, make the issues of whether documentary hearing will suffice, whether staff separation of functions remains essential in today's environment, and whether initial or tentative decisions as provided for under current rules continue to serve a purpose, the subject of the liveliest and most substantial dialogue possible. However, in closing, I would raise two issues of a practical, nonlegal nature, the first dealing with the prospect of time and cost savings, and the second questioning the seeming trend toward expedience in agency actions.

With respect to the first, are we really going to save any time and expense, for us and for the regulated, by adopting these homogenized rules? To answer this pragmatic question, we must first examine the risks. Does the Board's option of calling for an "oral presentation" in any given case successfully preclude charges of lack of due process? Does the praise-worthy objective of coping more expeditiously with a heavy administrative workload justify dealing with adjudicatory cases where material facts are at issue without an oral, adversarial hearing with the right of confrontation?[5] Will the proposition that route cases may be "initial licensing" matters, insulate the Board from attacks that in the new rules the separation of functions principles of the Administrative Procedure Act have been breached? Would a prolonged court battle over the basic constitutionality of the proposed rules delay or impede the Board's processes? The obvious difficulty in answering these and similar perplexities compells me to ask if the Board's present workload really demands the adoption of rules that cause us to ask ourselves these questions?

The second issue is more personal, and is, in part, aroused by the proposition in the new rules, tentatively adopted by the majority, that henceforth evidence will be submitted "directly to the Board", thus eliminating the allegedly time-wasteful elements of oral hearing, confrontation of evidence, administrative law judge decisions, etc. Does the Board, in its hunger and eagerness to get the job done, really want to be the initial recipient and reviewer of evidence in all route and rate cases? I realize that I will not be standing at the counter to stamp in exhibits, but how far can you carry a fiction? Will the routine procedures tentatively adopted in this NPRM meet the APA's requirement that the Board, a Board Member, or an administrative law judge will "preside at the taking of evidence"? Will the Board Members be required to certify that they have personally reviewed the evidence? Or, do these rules mean, that the Board's established procedures, including the rather human experience of fighting before an administrative law judge in an oral hearing on the tenth floor of Universal North, will be replaced with what I can only visualize as a shiny, new sausage machine?

My apprehension is caused by the overwhelming emphasis being given to expedited procedures. I am concerned that under an expedited, homogenized, automated, computerized system, involving a vastly—or even markedly—increase in the flow of cases, the real decisions would be made by nameless, faceless, non-accountable cogs in the machine, and that the Board Members would become no more than the final counter-rotating gears at the end of the machine through which the sausage links would be ground out. I am not suggesting that my fellow Members and I would not perform their duties conscientiously and with a dedicated effort. The real anxiety is that institutional pressures and priorities would insidiously limit the personal and intellectual immersion of the Members in the cases they must decide. I would, accordingly, urge my colleagues and the interested public to guard against the danger that under the aegis of regulatory reform, we might convert our regulatory agency into a slap-dash, corner-cutting, rubber-stamping production line.

I hope that the comments we receive will relieve the fears that I have revealed in raising these two issues.

RICHARD J. O'MELIA.

[3] After the preparation and circulation of this *Separate Statement*, it was decided by the Board that the Memoranda of OGC and BALJ should be physically attached to the NPRM, rather than to this Separate Statement.

[4] I do, however, invite comment on whether the proposed rule, which invests the Board with a broad discretion to dispense with oral hearings, is sufficiently precise.

[5] The Board is shortly going to have to confront the issue of the right of parties to a hearing in United Air Lines Application for Cleveland-San Diego Nonstop Authority Pursuant to Subpart N, Docket 30236. American Airlines in a document filed on April 17, 1978, has objected to the Board's decision in Order 78-3-77 to grant United's request by show cause procedures, arguing that their opposition entitles them to a hearing as a matter of right. Also at stake is the propriety of using show cause procedures where material facts are in issue. I mention this to underscore the fact that any expedited non-hearing procedures that may be eventually enacted will have to be reconciled with existing regulations dealing with expedition and hearings.

PROPOSED RULE

It is proposed to adopt a new Subpart Q of Part 302 as follows:

1. Amend the table of contents of Part 302 by adding a new Subpart Q, the title of which reads:

Subpart Q—Expedited Procedures for Processing Licensing and Rates Cases

2. Amend Part 302 by adding a new Subpart Q which reads:

Sec.
302.1701 Applicability.
302.1702 Subparts A and E govern.
302.1703 Filing of applications.
302.1704 Contents of applications.
302.1705 Service of application and answer.
302.1706 Preliminary procedures for dismissal or stay.
302.1707 Answers to applications.
302.1708 Investigations with respect to rates, fares, and charges.
302.1709 Intervention.
302.1710 Motions to consolidate.
302.1711 Reply to answers.
302.1712 Verification.
302.1713 Joint pleadings.
302.1714 Oral presentation or initial or recommended decision.
302.1715 Disposition of the application or investigation.
302.1716 Criteria for use of expedited procedures.
302.1717 Decision by the Board.

Subpart Q—Expedited Procedures for Processing Licensing and Rates Cases

§ 302.1701 Applicability.

This subpart sets forth the special rules applicable to expedited procedures for processing (a) applications for certificates of public convenience and necessity and renewals or amendments of certificates, (b) applications for foreign air carrier permits and renewals or amendments of permits, and (c) investigations of the lawfulness of rates, fares, charges and related tariff rules.

§ 302.1702 Subparts A and E govern.

Except as otherwise provided below, the provisions of Subparts A and E are applicable.

§ 302.1703 Filing of applications.

Any person may file an application for the issuance of an initial certificate or foreign air carrier permit, or a renewal or amendment of its certificate or permit, as described in § 302.1701. If the applicant desires the Board to process the application by the expedited procedure described in this subpart, the application should clearly indicate that desire on its face. The Board shall promptly publish notice of the application in the FEDERAL REGISTER.

§ 302.1704 Contents of applications.

An application under §§ 302.1701 and 302.1703 shall include a statement of economic data or other matters which the movant desires the Board to notice officially, and affidavits establishing such facts as it wants the Board to rely upon, including the facts upon which the applicant relies to show that the public convenience and necessity or public interest require the relief sought. Applications shall contain the economic and operating data required by § 302.18. For information as to other information that may be included in applications, reference should be made to Subpart A of this Part, to the Federal Aviation Act, to the substantive rules (see Parts 201 and 211 of the Economic Regulations) and policy statements Part 399.60 of the Policy Statements), and orders of the Board. The applicant shall furnish sufficient detail in the form of footnotes or otherwise so that, without further clarification, final results may be obtained from the basic data. Sources, bases and methodology used in constructing exhibits, including any estimates or judgment employed, shall be provided.

§ 302.1705 Service of application and answer.

(a) *Persons to be served.* A notice of the filing of the application shall be served on:

(1) Any certificated air carrier which is authorized to engage in the type of air transportation (i.e., scheduled or supplemental) at one or both of the points with respect to which the applicant seeks nonstop authority;

(2) The chief executive of any State of the United States in which any point which is involved in the application is located: *Provided, however,* That if there be a State commission or agency having jurisdiction over transportation by air, the application shall be served on such commission or agency rather than on the chief executive of the State;

(3) The chief executive of the city, town, or other unit of local government at each of the points located in the United States, between which the applicant seeks authority, as well as each certificated point intermediate thereto; and

(4) The Board, commission, manager, or other body or individual having direct supervision over and responsibility for the management of the airport located in the United States and which is being used to serve such point at the time the application is filed.

(b) *Additional service of notice.* The Board may, in its discretion, order additional service on such person or persons as the facts of the situation warrant. Applicants are encouraged to serve copies of their actual application where feasible.

§ 302.1706 Preliminary procedures for dismissal or stay.

(a) On or before the 10th day following publication of notice of the application in the FEDERAL REGISTER, any person may file a motion to dismiss the application.

(b) On or before the 30th day following publication of the notice of the application in the FEDERAL REGISTER the Board may, in its discretion (1) dismiss an application without prejudice to the refiling under the normal procedures if it finds that the application is not in compliance with, or is unsuitable for processing under, the provisions of this subpart, or (2) stay further procedural steps with respect to such application until a further order of the Board.

§ 302.1707 Answers to application.

Any interested person may file with the Docket Section, and serve upon the applicant an answer in opposition to, or in support of, an application. Answers shall set forth the economic data and other facts upon which the party relies to support its position. Answers shall be filed no later than 60 days after the date of publication of the notice of the application in the FEDERAL REGISTER. Answers shall include sufficient detail in the form of footnotes or otherwise so that, without further clarification, final results may be obtained from the basic data. Sources, bases and methodology used in constructing exhibits, including any estimates or judgment employed, shall be provided.

§ 302.1708 Investigations with respect to rates, fares, and charges.

(a) This paragraph sets forth the special rules applicable to expedited investigations with respect to rates, fares, and charges. Except as otherwise provided by the Board, the provisions of this Subpart are applicable.

(b) The Board, on its own initiative or if it is of the opinion that the facts stated in a petition or complaint warrant, may issue a notice indicating that it intends to process the investigation by the expedited procedure described in this Subpart. That notice shall be published in the FEDERAL REGISTER and shall (1) specify the issues to which the investigation will be limited, (2) indicate the evidence which must be submitted by interested persons to assure a fair examination of the issues, and (3) fix any necessary procedural steps.

§ 302.1709 Intervention.

(a) Any interested person shall file with the Docket Section and serve upon the applicant, a petition for intervention, including the economic data and other facts upon which the person relies to support its position concerning the merits of the application. Petitions for intervention shall be filed within the time limits specified by § 302.1707 for the filing of answers.

(b) Answers to petitions to intervene shall be filed with the Docket Section, and served on the petitioner, within 15 days after the due date for the filing of petitions to intervene. Such answers shall set forth the basis of the support of or opposition to the petition to intervene, and, with respect to the merits of, or opposition to, any application or change in a rate, fare or charge, set forth the type of data required by § 1704, § 1707, or § 1708. No replies to the answers are permitted.

(c) Petitions for intervention and answers to petitions shall include sufficient detail in the form of footnotes or otherwise so that, without further clarification, final results may be obtained from the basic data. Sources, bases and methodology used in con-

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structing exhibits, including any estimates or judgment employed, shall be provided.

§ 302.1710 Motions to consolidate.

(a) Motions to consolidate an application with an application filed under § 302.1703, or modify the issues to be decided, may be filed within the time limits specified by § 302.1707 for the filing of answers. Motions shall include economic data and other facts in support of both the motion and any application sought to be consolidated. Data in support of any application sought to be consolidated shall conform, to the extent possible, to the provisions of § 302.1704 with respect to original applications. Subsequently filed competing applications and rebuttal evidence shall conform to the base year and forecast year used by the applicant under § 302.1704.

(b) Answers to motions to consolidate or modify the issues shall be filed with the Docket Section, and served on the movant, within 30 days after the due date for the filing of motions. Such answers shall (1) set forth the basis of the support of or opposition to the motion, and (2) with respect to the merits of the application for new authority, set forth the type of data required by § 302.1707 for answers to an original application.

§ 302.1711 Reply to answers.

Replies to answers may be filed with the Docket Section, and served upon any person filing the answer to which the reply is responsive, 15 days after the due date for the filing of the answer. Replies shall include sufficient detail in the form of footnotes or otherwise so that, without further clarification, final results may be obtained from the basic data. Sources, bases and methodology used in constructing exhibits, including any estimates or judgment employed, shall be provided. No further pleading may be made by any person except by permission of the Board.

§ 302.1712 Verification.

The facts asserted in any pleading filed under the expedited procedures established by this Subpart must be sworn to by persons having knowledge thereof, and this fact must affirmatively appear in an affidavit in support of the pleading. Such persons should be those who would appear as witnesses to orally substantiate the facts asserted should oral hearing become necessary. The original of any pleading filed under the expedited procedures must show the signature and capacity of the person administering the oath and the date administered.

§ 302.1713 Joint pleadings.

Parties having common interests, to the extent practicable, shall arrange for the joint preparation of pleadings.

§ 302.1714 Oral presentation or initial or recommended decision.

(a) Applications or investigations assigned to procedures under this Subpart will be decided on the basis of the written submissions unless the Board has granted a petition for oral presentation or a petition for an initial or recommended decision, or otherwise determines that an oral presentation or an initial or recommended decision is required by the public interest.

(b) Any petition under § 302.1714(a) shall be supported by a detailed explanation as to (1) why the evidence or argument to be presented cannot be submitted in the form of affidavits or briefs and shall set forth an estimate of the time required for such presentation, and the number of witnesses which would be presented by the petitioner, or (2) which issues should be examined by an administrative law judge and why such issues should not be presented directly to the Board for decision.

(c) If cross-examination of any witness is desired the name of the witness, the subject matter of the desired cross-examination, and an estimate of the time needed for the cross-examination shall be submitted to the Board.

(d) Petitions for oral presentation or an initial or recommended decision made under subsection (c) and (d) may be filed at the same time as any answer, reply, motion, or petition.

(e) Where stipulation of disputed facts would eliminate the need for an oral presentation, parties may include in their petition an offer to withdraw the request should the stipulation be made.

§ 302.1715 Disposition of the application or investigation.

As promptly as feasible after the filing of all pleadings, the Board shall (a) assign the application or investigation for consideration under the expedited procedures of this Subpart, (b) set the matter for hearing under the ordinary provisions of Subparts A or E, (c) dismiss an application without prejudice to refiling, or (d) take other necessary action. The Board shall also dispose of any pending motions or requests.

§ 302.1716 Criteria for use of expedited procedures.

The Board may, in its discretion, assign an application made under § 302.1703, or sought to be consolidated under § 302.1710, or an investigation under § 302.1708, for consideration under the expedited procedures of this Subpart and order the record presented directly to the Board for decision where it appears that:

(a) All issues of material fact may be resolved by means of written materials and the efficient disposition of the proceeding can be made without oral presentation and without an initial or recommended decision; or

(b) Significant public benefit will result from use of expedited procedures, as where staffing and workload considerations would result in unreasonable delay before consideration of the application or investigation, or dismissal of the application if expedited procedures are not used.

§ 302.1717 Decision by the Board.

The Board will dispose of the issues presented by entering an order which will include a statement of the reasons for its findings and conclusions. Such orders will be deemed "final orders" for purposes of filing Petitions for Reconsideration.

(Secs. 204, 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788; 49 U.S.C. 1324, 1481, Administrative Procedure Act, 5 U.S.C. 551 et seq.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

ATTACHMENT 1

CIVIL AERONAUTICS BOARD,
April 3, 1978.

MEMORANDUM

To: The Board.
From: Deputy General Counsel.
Subject: Procedures for Processing Certain Licensing and Rate Cases.

There is attached for adoption by the Board a notice of rulemaking proposing to establish expedited, non-oral hearing procedures to be used to process certain licensing and ratemaking cases. It should be mentioned that the rule is principally tailored to domestic licensing cases, which represent the area of the Board's work most in need of relief. We nonetheless decided to draft the rule to cover foreign carrier cases and ratemaking cases as well on the theory that these cases could be lawfully included, that the availability of a formal procedural mechanism for expedited processing would be useful, and that the agency may benefit from receiving public comment on these categories of cases.

The procedures were developed over the past few months after consultation between this Office and other components of the staff. This memorandum discusses two principal points—first, how the rule works, and, second, the legal and policy considerations which lead to the drafting of the rule presented by this memorandum.

1. HOW THE RULE WORKS

Adoption of these procedures should offer the Board a degree of procedural flexibility not now available. Under conventional procedures, most matters presented to the Board for evidentiary disposition must follow a single track through BPDA, the Bureau of Administrative Law Judges, and the Office of the General Counsel irrespective of size or complexity of a case, or the issues presented. As long as the resources of these components remain finite, the number of matters which can be processed can merely be increased at a modest rate dependent upon improvements in productivity or staff increases. The new procedures contemplate two tracks—one for conventional hearing cases, the other for the new non-oral, or documentary, hearing cases—with the documentary hearing cases processed largely by lawyers and analysts currently participating as parties in conventional hearing cases. We foresee a cooperative effort among bureaus to assure that cases are assigned to one track or the other in a fashion that will, on the one hand, carefully tailor the procedures to the issues to be decided and, on the other, maximize the number of total cases that can be decided by the Board.[1]

The draft rule contemplates that applications found generally suitable for processing under expedited procedures would be processed more or less immediately; BPDA analytical time currently devoted to "queuing" such applications would be devoted to an analysis of the merits of the application itself (the rule provides for a threshold analysis of an application by the staff and the Board to insure that cases clearly ill-suited for expedited process would be weeded out promptly; such a procedure is now used in Subpart M cases). The rule also eliminates the preparation of an initial or recommended decision by one of the Board's administrative law judges and the filing of petitions for review and answers. Finally, at the Board decisional level, we contemplate that lawyers from OGC, BPDA, BIA and, perhaps, other bureaus can be assigned to process cases to the Board and prepare Board opinions under the new procedures; in essence, we can double or perhaps treble the Board's opinion-writing staff.

The proposed rules generally provide for the submission of all evidence and argument, including requests to expand a case from the scope established by the initiating application, within an expedited (90 day) period. As noted above, the rules pretty much dispense with the "queuing" phase entirely, shorten the scoping phase, eliminate the oral hearing and the initial or recommended decision by the judge, and allow the matter to be submitted directly to the Board for decision by an expanded group of review attorneys.

The rules require the Board to act at three critical stages. First, opponents of an application have a threshold opportunity as described above to persuade the Board that an application is simply ill-suited to expedited documentary processing. The rules contemplate that the Board will make this threshold decision within 30 days of the FEDERAL REGISTER publication of an application. We propose as an internal matter that recommendations to dismiss or process at this stage be made by the principal action bureau (BPDA or BIA), with coordination by OGC.

Second, the Board would make its principal decision on whether or not to utilize expedited procedures after applications, answers, requests for consolidation or intervention, and any replies have been filed. Under the time table established in the rule, this screening can begin about 90 days after the filing of the original application. A decision as to whether (i) to proceed by expedited procedures, (ii) to dismiss the application entirely, or (iii) to assign the matter for oral hearing before an administrative law judge, would be made by the Board on a joint recommendation by the action bureau, the Office of the General Counsel, and the Chief Administrative Law Judge. The key questions for the Board to decide at this stage are whether non-trial procedures would be lawful under the circumstances of a particular case and whether or not it would be desirable to eliminate various procedures, including an initial or recommended decision by the judge. Nothing would prevent the Board, however, from simply dispensing with a trial but nonetheless having a judge prepare an initial or recommended decision; similarly, the Board could order key issues set for trial but nonetheless decide the case itself.

Third, the Board, of course, would decide the case on the merits based upon a joint recommendation from the action bureau, OGC and OEA (if the application were set for oral hearing or a judge's decision at phase 2, the Board would dispose of the case following an initial or recommended decision under more or less current procedures).

Domestic route applications now take anywhere from 1 to 2 years on average to be processed. Under the proposed expedited procedures simple contested cases (e.g. Subpart M cases) could be processed in as little as about 120 days.[2] Many cases could be disposed of, we believe, in approximately 180 days. We must emphasize two related factors in this connection. First, the Board is necessarily giving up both the participation of its bureau on the record and the expertise of an administrative law judge in those cases processed under documentary procedures in the interest of expedition and the need to process an increasing volume of applications. Second, any anticipation of improved processing of cases requires a commitment of BPDA/BIA lawyers and analysts to the evaluation of applications on the merits and the preparation of recommendations to, and draft decisions for, the Board. The simple promulgation of new procedures will not, standing alone, bring about any improvement in the handling of the Board's caseload. We nonetheless believe that establishment of two decisional tracks, coupled with the improvements in the processing of cases now going on in both BALJ and OGC, can lead to a major increase in the number of cases handled by the Board.

2. LEGAL AND POLICY CONSIDERATIONS

Apart from the need for greater expedition in administrative decision-making, we believe the Board should explore whether conventional trial-type procedures are best suited to the examination of some issues, notwithstanding the Board's historic reliance on such procedures and the ability of the traditional hearing process to resolve such issues. Trial-type hearings are useful—and, indeed, necessary—where there are disputed issues of material fact which (1) must be resolved to permit a decision, and which (2) can only be resolved through cross-examination. Cross-examination, however, is not required and may not be desirable simply to explore peripheral matters not material to the decision, *Citizens for Allegan County* v. *FPC*, 414 F. 2d 1125 (D.C. Cir. 1969), to resolve issues of law, policy, or discretion, *Storer Broadcasting* v. *United States*, 351 U.S. 192 (1956), to resolve so-called "legislative" fact issues, *American Airlines* v. *CAB*, 359 F. 2d 264 (D.C. Cir.), cert. denied, 385 U.S. 843 (1966), or to draw inferences from established facts, *B'nai B'rith* v. *FCC*, 403 F. 2d 169 (D.C. Cir. 1968), cert denied, 394 U.S. 930 (1969). By the same token, we believe that the collection and examination of data through a trial may be less efficient in certain circumstances than other methods which could be used. Many of the factual determinations made in evidentiary cases could be developed either through the Board's internal data-gathering systems—which have improved markedly in recent years—or through specific requests made to carriers or other parties involved in matters before the Board. It seems clear to us that as the Board re-defines the substantive ground rules for decision, the type of procedures chosen must be carefully related to the kinds of issues to be examined; the potential for obstruction and delay by parties seeking to frustrate change must also be minimized.

We have examined the court cases, relevant statutes, and articles by respected legal authorities in determining the legality of the proposed procedures. As a threshold matter this Office believes that the rulemaking itself is not likely to be successfully challenged since it does little more than announce a Board methodology for processing some cases. It is far more likely, in our judgment, that a disappointed party will challenge the rule in the context of a specific case where documentary procedures were employed; we must carefully examine which cases should or should not be processed by the new procedures.

The rule—insofar as it provides for the use of expedited procedures where there are no material facts at issue—tracks procedures at other agencies which have been approved by the courts in a long line of cases. Aside from some questions raised by the Bureau of Administrative Law Judges as to how the decisional process will work within the agency, as discussed below, the staff agrees that the rules are acceptable and legally sufficient to determine cases where no material facts are in issue.

The Bureau of Administrative Law Judges believes that the rule should be confined to cases traditionally approved by the courts, i.e., where no material issues of fact are presented. This Office recommends that the Board go beyond the traditional approach and utilize expedited documentary procedures even where material facts may be in issue. The draft rule reflects our recommendation. While our proposal goes beyond any existing agency practice, we believe that such new direction is warranted and will be supported by the courts. The issues raised

[1] We expect, for example, that some cases will simply be ill-suited, because of size or complexity, to the use of documentary procedures; we likewise believe that the Board will in some cases want the input of its bureaus on the record and the expert analysis of issues by an administrative law judge. By and large, however, we expect that additional cases could be assigned to expedited procedures where the judges' docket was full but that the judges would process additional cases where those cases could be accommodated without disrupting the processing of their existing caseload or unduly burdening OGC.

[2] Application is filed on day 1. Board declines to stay the procedures, no competing applications are received, and an answer comes in from the incumbent on day 60. Applicant waives a right of reply and the procedural issue is ready for decision. Staff recommends expedited processing and sends recommendation to the Board in 14 days. Board issues order calling for any further evidence in 7 days and briefs 10 days later. After briefs are filed, staff makes recommendation within 21 days and Board acts a week later.

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by the Bureau of Administrative Law Judges are now discussed.

(a) *Use of Documentary Procedures to Decide Factual Issues.* BALJ is concerned that no court has expressly and unambiguously approved a denial of an oral hearing in an adjudication where material facts were in issue.[2] Our view is that there has been substantial judicial and academic encouragement for a new approach, however, and our recommended procedures are well within the bounds of the emerging legal doctrine. In *Shell Oil Co.* v. *FPC*, 520 F. 2d 1061, 1974 (5th Cir. 1975), a ratemaking case, the court concluded that procedures which excluded an adversarial trial and oral cross-examination satisfied the adjudicatory standards of sections 556 and 557 of the APA, even though the FPC was required to "resolve many disputed issues of 'pure fact', assign values to rate components based on a combination of fact and policy considerations, and make policy decisions regarding which components to include, where to include them, and how they should be included • • •." Id at 1067. Judge Henry Friendly, a Federal circuit court judge, in a leading article entitled Some Kind of Hearing, 123 U. of Pa. L. Rev. 1267, 1268 (1975), argues that "• • • [C]ommon sense dictates that we must do with less than full trial-type hearings even on what are clearly adjudicative issues." Professor Ernest Gellhorn similarly argues that:

"[A]gencies can limit the hearing to written presentations where credibility is not in issue. Shortened trial procedures limiting oral testimony are used most successfully in rate or price control proceedings, where economic and expert analysis rather than sensorily perceived phenomena provide the bulk of the evidence. It is also becoming clear that agencies can experiment with other approaches such as legislative type hearings (i.e., the information being supplied by oral and written argument), a conference approach (i.e., discussion by the parties with sworn testimony where needed) and other devices shortening the hearing and dispensing with some of the attributes of a judicial trial • • •." Gellhorn, Administrative Law and Process in a Nutshell, 158 (1972).

And courts have often suggested that procedures may be lawfully tailored to the exigencies of a particluar situation. See, e.g., *Air Line Pilots Ass'n.* v. *CAB*, 494 F. 2d 118 (D.C. Cir. 1974), and *Marine Space Enclosures, Inc.* v. *FMC*, 420 F. 2d 577 (D.C. Cir. 1969).

When the Administrative Procedure Act was enacted, one of the principal evils which was addressed was the combination of functions in the same person of investigator or prosecutor on the one hand, and trier of fact or decision-maker on the other. One of the reforms which the Congress believed would eliminate the process by which agencies denied a fair hearing was to require that rulemaking proceedings be undertaken only after notice and opportunity to comment and that adjudication be held by independent personnel or the agency itself. A "hearing" was generally thought of as an administrative analogue to the judicial trial. The main idea of the traditional approach was for each agency to determine whether or not a matter was "rulemaking" or "adjudication;" if it were the latter, a hearing had to be held. If a hearing was required, a full trial—including cross-examination and decision by the presiding officer—was contemplated.

But the distinctions of three decades ago are being modified by the Federal Courts. The Supreme Court in a recent decision—*United States* v. *Florida East Coast Railroad*, 410 U.S. 224 (1973)—has expounded on the theory that an opportunity to submit written material is sufficient to satisfy statutory hearing requirements, at least in a rulemaking case required to be decided on a record. See also *Shell Oil Co.* v. *FPC*, *supra*. Several other recent cases have held that cross-examination is not required by due process in all circumstances.

The Board should be aware that a contrary trend has emerged in recent court cases. In certain circumstances, where relevant facts are at issue, some courts have required an oral hearing even where statutes provide that matters can be handled by rulemaking or do not expressly provide for a hearing on the record. See, *United States* v. *CAB*, 411 F. 2d 1315 (D.C. Cir. 1975), setting aside the Board's approval of capacity limitation agreements. See also *Natural Resources Defense Council* v. *NRC*, 547 F. 2d 633 (D.C. Cir. 1976), (pending on appeal; now believed moot due to compliance by NRC with lower court remand), and *U.S. Steel Corp.* v. *Train*, 556 F. 2d 822 (7th Cir. 1977). These cases represent an expanded judicial appreciation that where facts are genuinely at issue the trier of fact must have a basis for his decision on a record which has afforded the parties an adequate opportunity to test the validity of the controverted facts. Utilization of innovative procedures which the courts may accept, therefore, must be tempered with the understanding of the reluctance of the courts to adopt procedures which are not likely to allow a proper resolution of the issues. While this office has a reasonable degree of confidence in the ability to sustain new procedures in the right cases—i.e., where the Board's result is reasonable and the procedures, although novel, fair to all concerned—the Board must be aware that court review is likely.

Professor Kenneth Davis has summed up the trend in the law as follows:

"The main idea of the new law, represented by Eldridge and Goss,* is that each agency for each function must work out procedures that will be both efficient and fair—procedures that may include some of the elements of a trial and not others • • •. On these new foundations, studies are now needed throughout the government to determine for each class of cases what elements of a trial that are now provided can be dispensed with, and what elements of a trial not now provided should be added • • •" Davis, *Administrative Law of the Seventies*, Cumulative Supplement issued July 1977, pp. 88-90.

A judicial reflection of this trend is set forth in Judge Wilkey's excellent analysis in the *Mobile Oil* case of the need for flexibility in fitting administrative procedures to particular functions. Because he says it better than we can, his descussion is set out in full as Appendix A to this memorandum.

We are convinced that establishment of the proposed documentary hearing procedures will require at least three prerequisites. First, the Board must establish as persuasively as possible that continuation of current procedures is not adequate for current regulatory purposes. We attempt to do this in the policy statement accompanying the rule. We believe it is particularly important in this connection to demonstrate that the maintenance of the status quo means that some meritorious applications may not be heard at all—in short, due process for applicants requires at least some process.[4] Second, we must be careful that the employment of the new procedures is likely to lead to reasonable and accurate results and we touch on this matter as well in the notice of rulemaking.[5] Third, and perhaps most important, we must insure that the new procedures are as fair to applicants and opponents as current procedures. Courts may impose additional procedures, even where not expressly required by statute, where they believe an agency's decision is clearly wrong or the processes have been unfair. On the other hand, they will sanction less conventional procedures where an agency's result is reasonable and its methods demonstrably fair.

(b) *Separation of functions.* BALJ is concerned that the proposed documentary procedures violate the spirit—and perhaps the letter—of the separation of functions concept since the Board's "action" bureau will have a major role in making recommendations to the Board in individual cases. Both the language of the APA and the comments in the Attorney General's Manual on the Administrative Procedure Act (1947) support the proposition that CAB route cases are exempt as initial licensing from the separation of functions requirement. This key area governing our cases, however, has never been subject to court interpretation. (Rate cases are clearly exempt, and the courts have so held.) The applicability of the APA's "initial licensing" exemption to the Board's typical route proceeding, therefore, is not crystal clear, although the Attorney General's Manual reasoned that the exemption would apply to the Board's route cases. Moreover, the bureau will not participate as a party of record and an advisor in

[2] We put aside, for the moment, both the issue of what constitutes a "material issue of fact" and the possibility that the Congress will change the Federal Aviation Act or the Administrative Procedure Act to provide an express statutory authorization for the use of non-oral hearing procedures. As to the first point, certain issues historically resolved by the Board through oral adjudicatory hearings—e.g., policy issues—may not in any event require "evidentiary" exploration. Further, the "materiality" of certain admittedly factual matters may be eroded by a change in the Board's substantive policies.

* *Mathews* v. *Eldridge*, 424 U.S. 319 (1976) and *Goss* v. *Lopez*, 419 U.S. 565 (1975).

[4] In the *Eldridge* case, which involved termination of disability benefits without a prior hearing, but with the right to a subsequent hearing, the Court observed that the fiscal and administrative burden which would be presented by reliance on conventional procedures was a valid consideration in determining to use abbreviated procedures. As we understand the matter, the ICC has also been successful in persuading the courts to approve its use of "Modified Procedures" by explaining that there is no administrative alternative to handling the 8,000-10,000 applications which the Commission receives annually.

[5] The *Eldridge* court concluded that one factor to be evaluated in employing less traditional hearing procedures was the risk of an erroneous result via the procedures employed and the probable value of additional or substitute procedures.

the same proceeding. The concern, therefore, is that there are fairness problems when an action bureau which is an active litigant in some cases is also a key staff advisor in other cases. Despite the express terms of the APA that there is no separation of functions problem, if a court considers our procedures unfair, BALJ is concerned that it might read into the procedures a requirement for a separation of functions.[6]

Sensitive to this concern, our proposal provides that all determinations will be made by the Board—i.e., a bureau is not the decisionmaker. Also, all key recommendations will be made by three bureaus jointly. At the critical stage when the Board decides whether or not to employ expedited documentary procedures, it will receive a joint recommendation from the principal line bureau (BPDA or BIA), its Chief Administrative Law Judge, and the General Counsel; alternate recommendations will, of course, be available. A recommendation later made on the merits of a case will be made jointly by the principal line bureau, OGC, and the Office of Economic Analysis. We believe that such a procedure will be fair both in actuality and in appearance.

(c) *Presiding and receiving evidence.* Section 556(b) of the APA requires that "There shall preside at the taking of evidence: (1) The agency; (2) one or more members of the body which comprises the agency; or (3) one or more hearing examiners appointed under section 3105 of this title." We believe that the Board would be presiding at the reception of evidence despite its lack of physical presence when the evidence comes in since the Board will exercise all the powers of the presiding officer. See generally *Quon Quon Poy* v. *Johnson*, 273 U.S. 352 (1927) and *Sisto* v. *CAB*, 179 F. 2d 47 (D.C. Cir. 1949). We realize, however, that a question could be raised as to who receives evidence in a documentary hearing case and whether the party who does "receive" evidence is in fact deciding the case. A court might find that the concept of "presiding" entails more than what we contemplate under the rules—i.e., that each Board member must go through all the evidence and not reply on staff analyses, even where those analyses point the Board to the raw record. While the Attorney General's Munual specifically refers to the agency's power to use reports prepared by a staff of specialists as a subsitute for a judge's decision, and to use the services of agency employees as assistants for analysis and drafting, no court, to our knowledge, has directly addressed the issue, and our sister transportation agency—the ICC—uses an elaborate system of employee boards who "preside" as delegate of the Commission at the reception of evidence, with review to the Commission.

(d) *Public hearing.* A "hearing" is required by sections 401(g), 402(f), and 1002(d) of the act, but sections 401(c) and 402(d) call for a "public hearing." We have been unable to find any legislative history of these latter words in the Act but note that Professor Davis contrasts a "public" or open hearing with a private or closed hearing. See Davis, Administrative Law Text, section 8.07 (1972). Clearly a documentary hearing would be "public" in this context. On the other hand, one court has suggested that a "public hearing" evinces a Congressional intent to have an oral presentation, at least in the special factual context presented to the court. See *International Harvester Co.* v. *Ruckelshaus*, 478, F. 2d 615 (D.C. Cir. 1973). In making its recommendation on administrative reform, the Senate Governmental Affairs Committee report recommended that a legislative-type oral hearing be conducted in all cases where some form of documentary procedure is employed. We raise this matter to alert the Board to a possible problem with our proposed rule and to suggest that oral presentations of some kind be considered in some cases processed under the rules.

Conclusion. In sum, we believe that the demands now placed on the Board and the needs of the traveling public require an alternative for the processing of some cases, notably cases involving domestic route applications. The Board is moving on a number of fronts to improve and modernize its decisional process. We believe that the basic goal of the administrative process—and the thrust of the Administrative Procedure Act—is to allow conflicting contentions to be presented to an agency for decision in a full and fair manner likely to produce sensible, accurate and informed decisions. Our proposal furthers that basic goal and comports with the legal requirements of the APA and the Federal Aviation Act.

Regardless of whether the Board is inclined at this point to accept our proposal that the rules be expanded to include the broader run of cases, we believe that a proposed rule should nonetheless be published, giving all persons an opportunity to respond to these proposals. We see nothing lost by publishing rules and permitting a response; much could be gained if the responses indicate that there will be general acceptance of the expanded rules which will permit the Board to better handle its docket.

GARY J. EDLES.

APPENDIX A

Appendix A is not reprinted since it is widely available. *Mobil Oil Corp.* v. *FPC*, 483 F. 2d 1238 (D.C. Cir. 1973). Before Leventhal and Wilkey, Circuit Judges, and Jameson, Senior District Judge for the District of Montana, opinion by Judge Wilkey, pp. 1249-1254.

ATTACHMENT II.—CIVIL AERONAUTICS BOARD

MEMORANDUM

APRIL 5, 1978.

To: The Board.
From: Judge Litt.
Subject: BALJ's memorandum regarding Office of General Counsel's memorandum on procedures for processing certain licensing and rate cases (reference CM 7884).

BALJ's principal difficulty with the General Counsel's memorandum is our different appraisal of the legal and practical problems that are likely to confront the Board if the proposed procedures are extended much beyond the limited class of cases where no material facts are in issue. These are our major problem areas:

1. *Application of the procedures to route cases (adjudications) where there are material and important issues of fact in issue.* CAB route cases are adjudications (not rulemaking) under the APA, and under the FAA and the APA are to be decided on the basis of a hearing. We know of no holding by any court that the rights arising under a required adjudicatory hearing may be dispensed with where there are substantial issues of fact in dispute. All the cases cited in the General Counsel's memorandum authorizing limited hearing procedures involve rulemaking.[1]

We see nothing in the law that permits dispensing with the right to a proper hearing in an adjuciation because of the staff's workload. And even where courts have permitted abbreviated procedures in rulemaking requirements, the factual basis—thousands of cases or the legal deadline of effective rates—can hardly be claimed for CAB's route cases.[2]

2. *Separation of functions.* The APA provides that in adjudicatory cases staff members who perform investigative[3] functions in a proceeding shall not participate in or advise the Board in its decision on that case (except as witness or counsel in a public proceeding). Under the proposed procedures, and realistically, a staff member of BPDA will analyze the merits of the filings of the parties to a proceeding and prepare a draft decision, which will be reviewed by BPDA, OGC, and OEA, who will jointly recommend a decision to the Board.[4] Thus there will be no separation of functions between the staff who process, analyze, investigate, and advise by recommending a decision to the Board.[5] And with whom will the Board consult if it has questions about the staff opinion that has been submitted to it?

The APA provides an exception to the requirement that in adjudications the same staff members shall not process and advise the Board: initial licensing; and the Attorney Generals Manual in 1947 argued that the exemption applied to all route cases. However, since the APA the Board has by practice and rule separated the staff that processes route proceedings from the staff that participates in advising it and recommending decisions to it.[6] We know of no

[1] At least one is an interim decision with a right to complete hearing at a later stage, *Matthews* v. *Eldridge*, 424 U.S. 319 (1976). *Mobil Oil Corp.* v. *F.P.C.*, 483 F. 2d 1238 (D.C. Cir. 1973) was a rulemaking case, in fact informal rulemaking, and its statements referring to adjudications are dicta, not decisions. Moreover, *Mobil* found that confrontations are required even under rulemaking.

[2] A factual analysis of the Board's docket will not support claims of huge backlog.

[3] "Investigative" is not confined to prosecutorial functions. See Legislative History of Public Law 404, Chapter 324, 79th Congress (Administrative Procedure Act) (G.P.O., 1946) at 262-63.

[4] The recommendation to the Board whether to use the proposed procedures will have been previously made jointly by BPDA, OGC, and the Chief ALJ.

[5] We wonder about the efficiency of a procedure that will involve the collaboration of the Bureaus, if they give serious attention to these cases.

[6] The Board has followed the same practice in rate proceedings (rulemaking).

[6] In other areas of procedure, the courts have liberally construed the APA so as to insure adequate procedural fairness even in areas where the APA does not call for specific procedures, as the District of Columbia Circuit Court of Appeals has recognized. *Action for Children's Television* v. *FCC*, 564 F. 2d 458, 470 n. 19 (1977). For example, Board decisions based on an analysis on which the parties had no chance to comment—even an on-the-record analysis—are generally vulnerable to judicial challenges. See, e.g., *Delta Air Lines* v. *CAB*, 561 F. 2d 293, 312 (D.C. Cir. 1977); *Delta Air Lines* v. *CAB*, 442 F. 2d 730 (D.C. Cir. 1970).

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other major regulatory agency that takes a different position. We suggest that the reason there are no court interpretations relevant to the initial licensing exception is that the Board and other agencies have avoided the challenge by prohibiting the commingling of functions.

3. Is the Board presiding at the hearing? Under the APA (section 556) and the FAA[1] either the Board, a member, or an administrative law judge must preside at the hearing where the evidence in the proceeding is taken. Where the Board presides it may make a final decision directly. But where the Board does not preside at the taking of the evidence, either a tentative, a recommended or an initial decision[2] must first be issued to which the parties may except, and the Board must rule on these exceptions in its final decision.

These procedures were adopted to insure that the Board's decisions were made by a Board cognizant of what it was doing; the abuses of the decisional process by decisions made by staffs and rubber stamped by commissions were a major reason for adopting the APA. We wonder whether and to what extent under the proposed procedures the fiction can be maintained that the Board itself is presiding at a hearing and deciding on the basis of what it learned from the evidence it took while presiding.[3]

SUMMARY

The BALJ believes that the proposed procedures can be useful in a limited class of cases where there are no important issues and material facts in dispute. We question whether it can successfully be used as a panacea to dispose of large numbers of seriously controverted cases. BALJ is confident it can—with the cooperative participation of the other Bureaus—handle the present and reasonable foreeable case load the Board wishes to set for hearing. As to rate cases, the rule proposed by the General Counsel is unrealistic and unsupportable from a point of timing. There is no reason to include rates in this rule at this time. (See Appendix C.)

The blurring of functions, in the aggregate, is an attack on the entire fabric of what up to now has encompassed a fair hearing. There is a point where one may be tempted to pull out all the stops for some great perceived public benefit, but that point is not reached with a minimal case load which appears to be quite manageable and where acceptable non-oral hearing procedures are more than adequate for the foreseeable future. It is just not helpful to have the Board tell the world that there is merit in the idea of making the administrative system work by proposing procedures that do not show a sufficient sensitivity to the Board's quasi-judicial function.

Attached as Appendix B is an appropriate prefatory statement and proposed rule circulated by me in early March. The Board must still address the problem of who presides and the issuance of a decision, although as should be noted, the last paragraph of the prefatory statement to the proposed rule resolves these issues. The rule also deletes any reference to rates at this time. Some elaboration and details of the legal issues are discussed in more legal terminology in the attached Appendix C.

APPENDIX A

Note on *Mobil* Case and Reprint of *Mobil* Case

This appendix is the full text of the *Mobil* case cited by General Counsel's office of the new directions being taken in administrative law, a portion of which is attached to the General Counsel memorandum. While I do not believe that it is usually helpful to forward parts of involved legal decisions to a Board, even where a Board may be comprised solely of lawyers, since the General Counsel attached a portion, I am attaching the whole case. Significantly, I believe the case stands for the opposite conclusions which the General Counsel draws and shows that even in rulemaking cases the courts have maintained high standards of procedural due process, have expended great effort in discussing the detailed provisions of the APA, and have refused to limit the requirement for a full and complete hearing, including the right of confrontation, even where the statute does not so require.

Judge Wilkey, as the Board may see from the excerpt below, dispenses with the distinction between "formal" and "informal" rulemaking and focuses instead on the need to create a sufficient basis for judicial review. He concluded for the court that "the 'substantial evidence' requirement[1] necessitates some sort of adversary, adjudicative-type procedures,"[2] stating:

> Informal comments simply cannot create a record that satisfies the substantial evidence test. Even if controverting information is submitted in the form of comments by adverse parties, the procedure employed cannot be relied upon as adequate. A "whole record" * * * does not consist merely of the raw data introduced by the parties. It includes the process of testing and illumination ordinarily associated with adversary, adjudicative procedures. Without this critical element, informal comments, even by adverse parties, are two halves that do not make a whole. Thus, it is adversary procedural devices which permit testing and elucidation that raise information from the level of mere inconsistent data to evidence "substantial" enough to support rates.[3]

Thus, this case is a good example of how the courts, even in rulemaking cases, will adhere to and require a high degree of procedural due process.

Decision omitted from appendix.

APPENDIX B

The attached explanatory statement and rule tracks procedures at other agencies and reflects a rule which has been approved by the courts in a long line of cases (cf. *National Trailer Convoy, Inc.* v. *U.S. and I.C.C.*, 227 F. Supp. 730 (1964), appeal after remand, 293 F. Supp. 630 (N.D. Okla. 1968), aff'd 394 U.S. 849 (1969)). All Bureaus basically agree that the attached rules are acceptable and legally sufficient, although BPDA and OGC wish to expand the rule.

CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PART 302—EXPEDITED PROCEDURES FOR LICENSING AND RATES CASES

Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice, undertaken on the Board's own initiative, invites comments from the public on proposed rules to establish expedited hearing procedures for processing applications for new or modified route authority by United States and foreign carriers. Basically, the new procedures would require the submission of all evidence in written form and would dispense with an oral hearing and an initial or recommended decision by an administrative law judge. The Board would, instead, receive and review the evidence itself and issue an agency decision. Whether, and to what extent, the Board would proceed under these expedited procedures in any particular case will be within the Board's discretion.

DATES: Comments by: Reply comments by:

ADDRESSES: Comments should be sent to Docket , Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Deputy General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5234.

EXPLANATORY STATEMENT

We propose to amend part 302 of the Board's procedural regulations to provide for a non-oral hearing procedure to be used in some licensing cases. Current Board procedures and practice by and large contemplate, first, that the board institute most investigations under the power conferred by sections 204 and 1002 of the Act after examining applications filed by interested carriers under section 401. Departures from this approach include subpart M and N cases and the consideration of applications by foreign air carriers where the Board simply adjudicates applications presented to it by interested parties. Second, hearings have traditionally meant the full panoply of trial procedures, including two rounds of decisions, one by a presiding judge and another by the board itself. Orders to show cause, where the Board tentatively indicates the scope of relief it will grant and does away with all procedural steps short of final decision, have been employed in noncontroversial cases, where there is no objection, or where the interest at stake is small—but we have been reluctant to expand its use. See *Application of Western Air Lines*, Order 77-11-74, November 17, 1977, pp. 6-9 and concurring statement of Chairman Kahn.

This Agency has a responsibility to the public, the industry it regulates, and the Congress to take responsible steps to reduce regulatory delay. To this end, we recognize the need to improve our procedures while at the same time providing the parties to our proceedings with the procedural due process rights guaranteed to them by the Constitution, the Administrative Procedure Act and the Federal Aviation Act.

The proposed amendments will permit the board to eliminate an oral hearing and the initial or recommended decision of the Administrative Law Judge in certain instances where there are no substantial issues of material fact. Basically, the new procedures would require the submission of all evidence directly to the board in written form. The Board would then review the evidence itself and issue an Agency decision. Whether the Board will proceed under these expedited procedures in any particular case will be within the Board's discretion. Cases with fewer parties and cases which involve simply an application of established policies to a new set of circumstances are the types of cases which we have in mind for the use of our proposed new procedures.

We cannot minimize the contribution of an experienced administrative law judge to the distillation of the evidence, the development of the record, and the evolution of a meaningful decision in the proper case.

We are also not insensitive to the discipline which occurs when parties know that their submissions will be tested by cross-examination by experienced counsel, and appreciate that an oral presentation can be very useful to the decisionmaking process in some cases. The Board, therefore, will retain its option of ordering a conventional trial-type of hearing with cross-examination. We contemplate that in most instances the more highly complex and controversial cases will continue to be processed via the oral hearing process. Applications involving a single market, and cases with fewer parties, would seem to lend themselves more readily to the use of our proposed documentary procedures. Cases which involve simply an application of established policies to a new set of circumstances would likewise seem candidates for expedited processing.

Our procedures contemplate that in licensing cases applicants will take the initiative in seeking expedited processing. Once an application is received, we will give notice of that application in the FEDERAL REGISTER; interested persons will have 10 days to advise the Board, in general terms, why a particular application should not move forward expeditiously. We will dispose of these preliminary objections within 10 days. As in cases processed under subparts M and N of the Board's procedural regulations, this threshold procedure is designed to avoid substantial work by interested persons by allowing the Board to summarily dismiss or stay proceedings where the application appears on its face to be ill-suited to expedited procedures. Once an application passes this threshold step, interested persons will have approximately 1 month more—or a total of 50 days from the FEDERAL REGISTER publication date—to prepare their substantive answers in support of, or in opposition to, the application. Requests to consolidate competing applications will also be received during this period. Applicants will have 15 days to reply to answers to their applications but interested persons will have 30 days to file answers where new applications have been offered for consolidation. Once all materials are received, the Board will decide whether or not to employ its non-oral procedures to decide the case on the merits.

The Board intends to have an initial, recommended, or tentative decision issued in any non-oral hearing proceeding where the Board has not presided at the taking of evidence.

PROPOSED RULE

It is proposed to adopt a new subpart Q of part 302 as follows:

1. Amend the table of contents of part 302 by adding a new paragraph Q, the title of which reads:

SUBPART Q: EXPEDITED PROCEDURES FOR PROCESSING LICENSING AND RATES CASES

Sec.
302.1701 Applicability.
302.1702 Subparts A and E govern.
302.1703 Filing of applications.
302.1704 Contents of applications.
302.1705 Service of application and answer.
302.1706 Preliminary procedures for dismissal or stay.
302.1707 Answer to application.
302.1708 Intervention.
302.1709 Motions to consolidate.
302.1710 Reply to answers.
302.1711 Verification.
302.1712 Joint pleadings.
302.1713 Oral presentation or initial or recommended decision.
302.1714 Disposition of the application or investigation.

302.1701 *Applicability.*

This subpart sets forth the special rules applicable to expedited procedures for processing (a) applications for certificates of public convenience and necessity and renewals or amendments of certificates, and 9b) applications for foreign air carrier permits and renewals or amendments of permits.

302.1702 *Subparts A and E govern.*

Except as otherwise provided below, the provisions of subparts A and E are applicable.

302.1703 *Filing of applications.*

Any person may file an application for the issuance of an initial certificate or foreign air carrier permit, or a renewal or amendment of its certificate or permit, as described in § 302.1701. If the applicant desires the Board to process the application by the expedited procedure described in this subpart, the application should clearly indicate that desire on its face. The Board shall promptly publish notice of the application in the FEDERAL REGISTER.

302.1704 *Contents of applications.*

An application under §§ 302.1701 and 302.1703 shall include a statement of economic data or other matters which the movant desires the Board to notice officially, and affidavits establishing such facts as it wants the Board to rely upon, including the facts upon which the applicant relies to show that the public convenience and necessity or public interest require the relief sought. Applications shall contain the economic and operating data required by § 302.18. For information as to other information that may be included in applications, reference should be made to subpart A of this part, to the Federal Aviation Act, to the substantive rules (see parts 201 and 211 of the Economic Regulations) and policy statements (see part 399.60 of the policy statements), and orders of the Board. The applicant shall furnish sufficient detail in the form of footnotes or otherwise so that, without further clarification, final results may be obtained from the basic data. Sources, bases and methodology used in constructing exhibits, including any estimates or judgment employed, shall be provided.

302.1705 *Service of application and answer.*

(a) *Persons to be served.* A notice of the filing of the application shall be served on:

(1) Any certificated air carrier which is authorized to engage in the type of air transportation (i.e., scheduled or supplemental) at one or both of the points with respect to which the applicant seeks nonstop authority;

(2) The chief executive of any State of the United States in which any point which is involved in the application is located: *Provided, however,* That if there be a State commission or agency having jurisdiction over transportation by air, the application shall be served on such commission or agency rather than on the chief executive of the State;

(3) The chief executive of the city, town, or other unit of local government at each of the points located in the United States, between which the applicant seeks authority, as well as each certificated point intermediate thereto; and

(4) The Board, commission, manager, or other body or individual having direct supervision over and responsibility for the management of the airport located in the United States and which is being used to serve such point at the time the application is filed.

(b) *Additional service of notice.* The Board may, in its discretion, order additional service on such person or persons as the facts of the situation warrant. Applicants are encouraged to serve copies of their actual application where feasible.

302.1706 *Preliminary procedures for dismissal or stay.*

(a) On or before the 10th day following publication of notice of the application in the FEDERAL REGISTER, any person may file a motion to dismiss the application.

(b) On or before the 30th day following publication of the notice of the application in the FEDERAL REGISTER, the Board may, in its discretion (1) dismiss an application without prejudice to the refiling under the normal procedures if it finds that the application is not in compliance with, or is unsuitable for processing under, the provisions of this subpart, or (2) stay further procedural steps with respect to such application until a further order of the Board.

302.1707 *Answers to application.*

Any interested person may file with the Docket Section, and serve upon the applicant an answer in opposition to, or in support of, an application. Answers shall set forth the economic data and other facts upon which the party relies to support its position. Answers shall be filed no later than 60 days after the date of publication of the notice of the application in the FEDERAL REGISTER.

302.1708 *Intervention.*

(a) Any interested person shall file with the Docket Section and serve upon the applicant, a petition for intervention, including the economic data and other facts upon which the person relies to support its position concerning the merits of the application. Petitions for intervention shall be filed within the time limits specified by § 302.1707 for the filing of answers.

(b) Answers to petitions to intervene shall be filed with the Docket Section, and served

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[1]The FAA read literally limits presiding to a member or a judge, though, by implication, the Board itself could undoubtedly preside.

[2]Except in an emergency situation so found on the record.

[3]The ICC procedures are based on employee Board authorized by statute from whose decisions exceptions may be taken to the Commission.

[1]Section 1006(e) of the Federal Aviation Act includes a similar type of requirement.

[2]*Mobil Oil Corp.* v. *Federal Power Commission*, 483 F. 2d 1238, 1259 (D.C. Cir. 1973).

[3] *Mobil Oil Corp.*, id., at 1260.

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on the petitioner, within 15 days after the due date for the filing of petitions to intervene. Such answers shall set forth the basis of the support of or opposition to the petition to intervene. No replies to the answers are permitted.

302.1709 *Motions to consolidate.*

(a) Motions to consolidate an application with an application filed under § 302.1703, or modify the issues to be decided, may be filed within the time limits specified by § 302.1707 for the filing of answers. Motions shall include economic data and other facts in support of both the motion and any application sought to be consolidated. Data in support of any application sought to be consolidated shall conform, to the extent possible, to the provisions of § 302.1704 with respect to original applications. Subsequently filed competing applications and rebuttal evidence shall conform to the base year and forecast year used by the applicant under § 302.1704.

(b) Answers to motions to consolidate or modify the issues shall be filed with the Docket Section, and served on the movant, within 30 days after the due date for the filing of motions. Such answers shall (1) set forth the basis of the support of or opposition to the motion, and (2) with respect to the merits of the application for new authority, set forth the type of data required by § 302.1707 for answers to an original application.

302.1710 *Reply to answers.*

Replies to answers may be filed with the Docket Section, and served upon any person filing the answer to which the reply is responsive, 15 days after the due date for the filing of the answer. No further pleading may be made by any person except by permission of the Board.

302.1711 *Verification.*

The facts asserted in any pleading filed under the expedited procedures established by this subpart must be sworn to by persons having knowledge thereof, and this fact must affirmatively appear in an affidavit in support of the pleading. Such persons should be those who would appear as witnesses to orally substantiate the facts asserted should hearing become necessary. The original of any pleading filed under the expedited procedures must show the signature and capacity of the person administering the oath and the date thereof.

302.1712 *Joint pleadings.*

Parties having common interests, to the extent practicable, shall arrange for the joint preparation of pleadings.

302.1713 *Oral presentation or initial or recommended decision.*

Application assigned to procedures under this subpart will be decided on the basis of the written submissions unless the Board has granted a petition for oral presentation or a petition for an initial or recommended decision, or otherwise determines that an oral presentation or an initial or recommended decision is required by the public interest.

302.1714 *Disposition of the application or investigation.*

As promptly as feasible after the filing of all pleadings, the Board shall (1) assign the application for consideration under the expedited procedures of this subpart, (2) set the matter for hearing under the ordinary provisions of subparts A or E where material facts are at issue, (3) dismiss an application without prejudice to refiling, or (4) take other necessary action. The Board shall also dispose of any pending motions or requests.

APPENDIX C—LEGAL MEMORANDUM ON NON-ORAL HEARING PROCEDURE

This memorandum is addressed to three different aspects of the General Counsel's memorandum: [1]

1. The proposal to expand the non-oral hearing procedure to embrace adjudicatory cases where there are material facts at issue;

2. The determination that it is legal and fair to have an operating bureau participate in cases required to be heard under the Federal Aviation Act, as investigator, preparer of the instituting order, the movant, trier of fact, and decision writer;

3. The issues of (a) who will preside at the taking of evidence, and (b) the clear need under the APA for an initial decision, recommendation to the Board, or tentative decision of a Board member.

1. *Expanding the non-oral hearing procedure to embrace proceedings where there are material facts at issue.*

a. *Preliminary thoughts.* As a preliminary thought on this issue, there is no reason for the Civil Aeronautics Board to embark on what in all likelihood will be a major legal entanglement of its new rules. Bluntly, the basic concept of due process as well as the APA has accepted as a given the proposition that all parties to an adjudicatory proceeding are entitled to an adequate opportunity to test at an oral hearing the validity of controverted facts. As the General Counsel's memorandum recognizes, these rights would be denied in some cases under its proposed procedures on the basis that the Board's workload and staff resources should allow less. [2] No court has supported this proposition in any adjudication case, and recent court cases indicate that once any oral or non-oral hearing is held, a dilution of the rights of the parties is not acceptable. Cf. *U.S. Steel Corp.* v. *Train*, 556 F. 2d 882 (7th Cir. 1977). Every case cited by the General Counsel is a rulemaking case and despite continued and strong efforts to have reliance on these cases deleted from his prefatory statement, no change has occurred. [3]

My own evaluation is that court review of the expanded procedures is certain, a view which I believe is shared by the General Counsel, and that there is the strong likelihood of an adverse decision, a view which he may not share. Of course, no one can predict with certainty how any court—particularly the Supreme Court—would finally decide the matter. Suffice it to say that, in my opinion, novel procedures seeking to overturn a couple of hundred years of Anglo-American jurisprudence of what a fair hearing is as well as 30 years of codification of this understanding under the APA, are prime candidates for reversal. [4]

b. *Legal considerations.* The provisions of section 556 and 557 of the APA which govern separation of functions and the writing of decisions apply only to proceedings governed by section 554, and the provisions of section 554 apply to every case of adjudication required by statute to be determined after opportunity for an agency hearing. The determination of applications for airline route awards, i.e., licensing, is "adjudication" as defined under sections 551(6) and 551(7) of the APA. See also *Riss and Co.* v. *United States*, 95 F. Supp. 452 (W.D. Mo. 1951), reversed in 341 U.S. 907. The General Counsel's memorandum properly sets out the difficulties with relying on the initial licensing exception to the separation of functions prohibition in section 554(d) of the APA. [5] My own evaluation is that even in the right case the courts may find problems with having the senior staff participate in both the trial and decisions of a route case before the Board. But the Board's "right" case is unlikely to be the case which goes to court.

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[1] The memorandum circulated to BALJ was in the name of the Deputy General Counsel. I refer to it as the General Counsel's memorandum because I assume that the Deputy General Counsel speaks for the General Counsel.

Each of these issues could be, and probably should be, treated in separate legal memoranda if for no other reason than to give the Board members time to reflect on what may amount to amendments to the APA.

[2] It is assumed that any non-oral hearing order would specify which of the bases it proceeded upon. Otherwise, every case would have to be treated by the courts as having material facts at issue. This should be clarified by the General Counsel.

[3] The General Counsel cites rulemaking cases. *In the United States* v. *Florida East Coast Railroad*, 410 US 224 (1973), the issue was whether the proceeding was properly classified under the rulemaking clause of the APA (553) so as to avoid the requirements of section 556 and 557 applicable to adjudications. That case stands for the proposition that certain written submissions were permissible because it was rulemaking. See also *Permian Basin Rate Cases*, 390 US 747 (1968); *Shell Oil Co.* v. *F.P.C.* 520 F. 2d 1061 (5th Cir. 1975) (*Nationwide Rate Case*), both rulemaking proceedings. The latter in fact is particularly inappropriate despite the court's dicta on section 556 and 557. There, the spectre of upward of 10,000 underlying producer rate cases was before the court, and the court, mindful of 20 years worth of prior litigation on the subject, was writing its final chapter on a dialogue that extended for a lifetime. See also *Mobil*, Appendix A to the principal memorandum.

[4] The fact of the matter is that other sister agencies are affirming the right to oral hearings. See Docket RP 72-6, *El Paso Natural Gas, Ignition Fuel and Flame Stabilization*, issued March 9, 1978) where on page 2 of the slip decision, the Federal Energy Regulatory Commission states:

"• • • The right to full cross examination and administrative adjudicatory hearing is a constitutional right which is surely recognized in section 7(c) of the APA."

"A party is entitled to present a defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such examination as may be required for full and true disclosure of the facts." (Emphasis added.)

[5] While the 1947 Attorney General Manual suggests that the initial licensing exemption applies to all route cases, it should be noted that at least one portion of the legislative history of the APA suggests a contrary position, i.e., that original licenses are to be "contradistinguished from renewals or amendments of existing licenses". Legislative History of Public Law 404, Chapter 324, 79th Congress (Administrative Procedure Act) 226 (Government Printing Office 1946).

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Further, where a consolidation of competing applications might occur or where there is a denial of an application, it would be very difficult to maintain that the proceeding had neither become complex nor adversarial so as to fall within the exception to the exception contemplated in the *Legislative History of the APA*. [6] A growing body of cases clearly has emerged, involving various licensed trades and occupations, which develops that a denial cannot be made without according full separation of functions even in initial licensing. Thus, even if considered initial licenses, it is doubtful that route applications at the CAB could be denied without affording the applicant an opportunity for cross examination in an adjudicatory hearing. These matters are not addressed by the General Counsel's memorandum and time has not permitted me to address these issues more fully.

2. *Lack of fairness of the internal procedures.* In addition to the legal infirmities, both BPDA and OGC propose a method by which the key power to decide cases within the Board will be shifted in substance from the Board members and their principal legal counsel (OGC) to BPDA with OGC being BPDA's "legal advisor". The alleged justification for the proposal is twofold: (1) the prior method of handling cases has been cumbersome and too time-consuming, and (2) the Board's workload and backlog, which, parenthetically, does not appear really to exist, is very large and expanding rapidly. As a corrolary is a presumption that any bifurcation of responsibility for decision making is not efficient. The facts, at least as of now, do not show that any of the identified problems of delay or backlog require anything more than putting in place better tools to handle some cases. The General Counsel addresses these issues and resolves that since the Board will pass upon the actions recommended by its staff, there will be Board control of these cases.

a. *Non-oral hearings are hearings.* First, there is a blurring of differences between the function of hearing cases and the function of deciding cases. The procedures for non-oral hearing cases, as far as the hearing is concerned, are simple and do not require a great deal of analysis. What they entail is a determination that there are no material facts at issue, or that even if some small contested issues exist, they are not so significant that a court will reverse the findings on the basis of manifest unfairness. Other than that finding and a curtailment of the oral hearing process (the cross-examination of witnesses to determine the truth and validity of contested testimony and exhibits so as to permit rational findings of fact), it is a hearing in every sense of the word and is entitled to the respect and every protection afforded by due process, the statutes, and regulations governing hearings. The term "non-oral hearings" is not a buzz word for the avoidance or dispensation of the hearing protection.

No case has been cited, nor can one be cited to this Board, where any court has sustained an agency action in an adjudicatory proceeding on the basis that a non-oral hearing procedure permits any less a degree of due process than required by the underlying statute. Moreover, in many cases the courts are moving to greater reliance on oral hearings. [7] See *Mobil* (App. A) and *U.S. Steel Corp.* v. *Train*, *supra*. In the latter, even though the magic words "on the record" did not appear in the enabling statute, a hearing was required nonetheless. The point clearly to be drawn from these cases is that an attempt to ignore the hearing process in the cases where material facts are in issue will not warm the reviewing court's heart and can result in a remand.

BPDA and the OGC have proposed that "all administrative line responsibilities" remain in BPDA. What this means is that in a proceeding in which it is preliminarily decided that there are no material facts at issue, the entire matter will be handled by BPDA from the time the case is filed until a completed decision is laid before the Board to be adopted. Thus, BPDA, which is a forcing or action body and potential litigant, will participate in a determination of whether there are facts at issue, what facts are at issue, and whether a hearing is required. If it should determine that a hearing is required, it would participate at the hearing and then write the Board's decision. BPDA is not now, of course, an opinion writing body in either oral or non-oral hearing cases. Admittedly there are areas where it writes the Board's decision, such as exemptions and realignments, but that is a far cry from changing its curent role from a technical and developmental body with an advocate's role in heard cases to advocate, judge and first line opinion writer in other heard cases. [8] Since BPDA controls its own workload already by picking cases to institute, "queue", or ignore, the additional internal authority will make a most complete bureaucratic institution.

Any belief that a non-oral hearing can be handled with "all administrative line responsibility" in BPDA and still provide a hearing in the manner envisioned by the statute or the APA (or is being provided today by the CAB) would be uninformed. What will have occurred is that BPDA will determine in the first and last instance which cases come to the Board and will style the case in a manner best designed to avoid Board interference. The OGC first objected to this procedure, since I assume it too recognized that the only meaningful role on a de facto basis would be that played by BPDA. After considerable discussion however, the OGC and BPDA worked out a compromise which principally will have the BPDA and OGC cooperate and coordinate those cases—a euphemism for having any policy decision embrace the views of both BPDA and OGC before being forwarded to the Board for approval. The result of this "cooperation" is that there may be no hearing as contemplated by the APA.

b. *Opinion writing.* The loss to the Board of its ability to control the decisional process and the loss of its General Counsel's office as an independent advisor to the Board also causes me great concern. A proceeding coming to the Board from its staff represents, under the best circumstances, BPDA in an advocate role, a judge rendering an initial decision on a mixed basis of fact and law, and the Office of General Counsel as the chief advisor to the Board. This is somewhat inefficient because the give and take of analyzing different ideas, as well as the necessary independent review and analysis preparatory to writing an opinion, takes time. But, what is gained in such a formulation is (1) a built-in institutional check and balance as the case is developed which will apprise the Board and the public more fully of the Board's options (e.g., on procedure cases such as *Colonial* and *TXI Baltimore-Houston*), and (2) an independent review by the Board's Office of General Counsel which has not taken positions earlier in the decisional process.

The only effective method to protect the Board members, given the Board's present setup, is to have the opinion writing continue to be performed in the General Counsel's office so that a detailed analysis of a proceeding leads to an informed judgment. If the General Counsel has collaborated with BPDA throughout the process and his review is on an opinion written in collaboration with BPDA, it will be difficult for him to render an independent and objective final opinion.

c. *No need for expanded procedures due to existing or unexpected workload.* Nor do I believe that the procedures suggested will expedite many cases. First, I have not yet been able to determine which route cases in the past year BPDA believes would have lent itself to its new decisionmaking role. My own analysis is that few of the present breed of cases could be so handled legitimately, although if the Board goes to small point-to-point cases the number would surely increase. Obviously, if the Congress or the courts should countenance a significant modification in entry criteria, that number could be stimulated further. But, absent some significant change in existing law, as well as a great upswell of carrier interest in expanding service which has yet to become evident, there does not appear to be any great number of cases which will lend themselves to that procedure. The fact is that the Board only handles 200 cases a year and no one has yet made any inventory showing that any large number of these cases lend themselves to the procedures.

And another fact is that there is no evidence that use of non-oral hearing procedures in most cases where there is adversarial action will result in reduced cost of entry or substantial savings in time. I have addressed a number of these issues in memoranda of February 14 and March 6, and will not repeat them here. At the ICC, nonorally heard cases were given expeditious treatment but, until very recently when 40 positions were filled temporarily to clean up the backlog, these "expedited" cases took longer to handle than orally heard ones. A cost of entry study at the ICC seeking to show cost savings was abandoned, I am told, when the analysis showed the hypothesis was questionable.

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[6] The report of the Senate Judiciary Committee is quite clear in stating that the initial licensing exemption was not meant to be utilized where there are material issues of fact in dispute. In the committee's language,

There are, however, some instances of either kind of case [initial licensing or rulemaking] which tend to be accusatory in form and involved sharply controverted factual issues. Agencies should not apply the exception to such cases, because they are not to be interpreted as precluding fair procedure where it is required. Legislative History, supra, at 204.

[7] This follows the APA requirement, as set forth in the legislative history and the Attorney General's Manual, that cases which are complex or are adversarial should be orally heard.

[8] It is a total red herring to suppose that, because BPDA would not be challenged in non-controversial cases if it acted in this role, that it is therefore proper to have BPDA play this role in cases where there is controversy.

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As far as delay is concerned at the Board, this was addressed by the BALJ in the recent memorandum asking that 12 cases which were wending their way through BPDA simply be set for hearing. The fact is that some Subpart A or M cases can be disposed of in 4 or 5 months after an answer is filed to a motion to expedite.[9] Moreover, a judge at a prehearing conference can structure a case in a way not possible through the non-oral hearing procedures. Secondly, the judge's initial decision is usually of great value, often can be adopted if the Board's policy has been followed or it likes a new policy uncovered, and most importantly, is possibly the only fair shake in the system a party often believes he receives.

In sum, permitting a bureau to have the role of investigator, action office, trier of fact, and decision maker, even if not proscribed by the APA (which I believe is not the case), would be unfair. And having one's General Counsel, who is the Board's lawyer, collaborating in the process destroys the internal review which has heretofore been considered necessary by the institutional body to protect itself.

3. *"Presiding" and issuance of initial or tentative decisions.*

Who will preside at these cases is not an easy determination and does not speak to whether an initial or tentative decision must be issued. Under the APA, the Board, a member of the Board, or an administrative law judge must preside over the reception of evidence. An analysis of how to resolve who presides at the Board therefore must begin with a determination as to both practical and legal issues. Assuming that there is no desire by either BPDA or the General Counsel to have a judge preside over non-oral hearing procedures,[10] the Board or a member must preside.[11] This cannot be delegated. Legally there is no question that the case could be individually docketed to a Board member and that member could then issue a recommended decision. If a Board member presides he would be required literally to review the evidence and be prepared to state that he had done so. It is possible that others working under his directions could review the evidence for him but, he would still have to have available the record, the materials relied upon and their recommendations. There is no question that under the APA that he still must prepare a decision, to which exceptions will lie, before the Board can decide the matter.

The General Counsel in his memorandum seeks to avoid the writing of either an initial decision, a recommendation to the Board, or a tentative decision by creating a fiction that the Board "presides." This would avoid the requirement that the parties be able to file exceptions to the matter which comes to the Board for decision. The legal basis for the General Counsel's position is two-fold: (1) that the ICC Review Boards in fact are performing this function under delegation today and therefore the Civil Aeronautics Board may also use this procedure; and (2) there are a number of cases which support permitting the board to "preside" in this manner. As to the first, the ICC Boards preside on the basis of specific statutory delegation under the Interstate Commerce Act (49 U.S.C. 17). They sift evidence and the decision they issue is appealable by law to the agency before any administrative finality attaches. Whether this procedure of the Review board presiding is legal, moreover, has never been litigated and I am informed by personnel at the ICC that hopefully, from this point of view, it will not be. Nonetheless, to suggest that a statutorily approved procedure whereby those receiving the evidence and acting as the agency, review the evidence, bears no relationship to what is being suggested is appropriate at the CAB.

The General Counsel, at page 10 of his memorandum, cites three cases to support the proposition that the Board would preside over the reception of evidence "despite its lack of physical presence." All are inapposite and one is actually irrelevant to the issue. The first case, *Quon Quon Poy* v. *Johnson*, 273 U.S. 352 (1927), involved the introduction of the substantial equivalent of depositions without objection and with waiver of cross-examination by the adversely affected party—two decades prior to passage of the APA. The second case, *United States* v. *Dawson*, 3P&F 43d.21-1 (U.S. Dept. Int. 1944), also preceding the APA, was an *ex parte* agency proceeding conducted by a regional law officer after the Commissioner absented himself when the defendant refused to appear in compliance with regulation.[12] Finally, the case involving the Board, *Sisto* v. *C.A.B.*, 179 F.2d 47 (D.C. Cir. 1949), stands for the principle that the Board may choose to hear argument on exceptions to an examiner's initial decision either orally or by written materials and is not compelled to use a particular method under the organic statute. As it turns out, there are very few cases and very little law as to how the term "preside" should be interpreted under either the organic statutes of administrative agencies or the APA. The reason for this, of course, is that to my knowledge no one has suggested systematic methods for avoiding the clear requirements of the APA which, simply stated, is that he who presides should decide and that the parties should have an opportunity to address the decision maker and to appeal his ruling. In *Smith* v. *People*, 47 N.Y. 330, 334, a definition is given that: "When a judge 'holds' court he directs, controls, and governs it as the chief officer and this is the extent of the meaning of the word 'preside' • • •." See also *Koval* v. *Industrial Comm'n*, 532 P.2d 549, 551 (Arizona 1975), which held that "presiding" in a 1973 statute referred to the hearing officer who physically presided over the hearing, not to the "chief" hearing officer.

I think one must be cognizant that the courts are unlikely to accept both (1) a decision maker not physically taking the evidence, and (2) his issuing a decision, having not taken the evidence, which is not appealable by the filing of exceptions by any aggrieved party to the entire body charged with making the decision. This leads me to conclude that it is unlikely that the Board would be sustained in a procedure whereby its staff handled all the matters and the Board issued a final decision.

The solution to these problems appear unacceptable to BPDA and the OGC because they lead to the writing of interim decisions which are appealable. Unquestionably this will require some additional time—probably three weeks for exceptions to be filed and another week or two for the Board to subsequently decide the matter. Again, time has not permitted a full analysis of this issue, but it should be resolved before proposed rules ignoring these requirements of the APA and creating a thin and inconvincing fiction, as suggested by BPDA and OGC, are issued. The attached Appendix B resolves this matter for the present by providing for intermediate decisions.

4. *Additional matters.*

a. *Rates.* One other matter requires comment. The rule proposed by the General Counsel also seems to be particularly ill-advised for *individual* rate cases since they almost invariably involve factual issues.[13] Those factual issues ordinarily can be resolved faster by an oral hearing, with little or no time being saved under the proposed procedures in the disposition of the overall cases. Moreover, the applicability of the proposed rule to rates seem to be more "window dressing" than reality. From a practical standpoint, instituting orders are normally entered in these cases to preserve the Board's jurisdiction to act and are done so because the Board's staff has not had a adequate opportunity either to resolve its position or prepare what will be its rebuttal case. The carriers, having had months to think about the filing and having presumably prepared their basic case before coming to the Board, are unlikely to comment that additional time will be necessary. It is the staff which will be injured.

The mechanics of the handling of the individual rate cases at the Board at this time also requires some comment. Instituting orders are issued frequently where there is no desire by the staff for quick resolution. The practice now is that, at the staff's request, the office of BALJ does not set rate cases for hearing—sometimes many months have elapsed while settlement negotiations are under way—until the Board's rate bureau is able to mount a full scale rate case in opposition to rate increases. Unless BPDA chooses to ignore this rule for the most part, the rule will increase its workload. Further, under the proposed procedures adopted in a case, the BPDA could be in a position where it was unable to do more than take pot-shots at those few items its quick analysis could uncover and, at best, prepare alternatives for a few cost areas. This piecemeal approach to ratemaking would not be consistent with reaching careful decisions for lawfulness of proposed rates. At this juncture, it appears that the new rule, as applicable to rate cases, would be no more than a hollow shell since no one has identified those cases which would benefit, and, therefore, this category of proceedings should not be placed under that rule. I think, moreover, that there is almost no rationale given which explores these matters and my own conclusion, so far, is that there is no reason to include rate cases until some showing can be made that it will benefit the Board rather than those seeking rate increases.

[9] If a case is not to be heard because it does not fit the Board's calendar, the Board should say so immediately and not have it either clog the system or be used to affect workload statistics.

[10] This is often done at the ICC.

[11] Section 1004 of the Federal Aviation Act appears more restrictive and limits "presiding" to a member of the agency or a judge. It also uses "hold" and not preside.

[12] This case appeared in the "final" memorandum sent to this office for comment, but apparently was deleted in the notation copy sent to the Board.

[13] Individual rulemaking is more of an adjudicatory process and therefore has different standards than general rulemaking. This aspect of ratemaking has not been discussed in any of the memoranda.

b. *Presentation of evidence.* Much of the language used throughout the various discussions in the OGC memorandum has centered on the term "documentary evidence." This is highly unfortunate since under the APA, section 556, that term has an extremely limited meaning. As stated in the Attorney General's Manual (p. 77):

> . . . As here used "documentary evidence" does not mean affidavits and written evidence of any kind. Such a construction would flood agency proceedings with hearsay evidence. In the last sentence of the subsection, there appears the phrase "evidence in written form," thus indicating that the Congress distinguished between "written evidence" and "documentary evidence." See also section 203(c) of the Emergency Price Control Act. Again, the subsection expressly states the right to adequate cross-examination. Against this background, it is clear that the "right to present his case or defense by oral or documentary evidence" does not extend to presenting evidence in affidavit or other written form so as to deprive the agency or opposing parties of opportunity for cross-examination, nor so as to force them to assume that expense of calling the affiants for cross-examination. See *Powhatan Mining* Co. v. *Ickes*, 118 F. 2d 105, 109 (C.C.A. 6, 1941).

Great care clearly must be used in the terminology so as to avoid confusing the written evidence of parties, which are entitled to cross examination, with the use of "documentay evidence" as a word of art under the Administrative Procedure Act.

c. *Responsible employees.* While the issuance of recommendations to the Board by "responsible employees" is no longer central to the proposed rules as suggested in the General Counsel's memorandum, some consideration must be given as to who would be the responsible officer in the event that the agency chooses to issue a tentative decision or a recommendation. An earlier proposal by the General Counsel, now apparently abandoned, was to employ the phrase "due and timely execution of its functions imperatively and unavoidably (so) requires" to allow the omission of any intermediate decision. (See, e.g., General Counsel memorandum of March 20.)[14] While this has not been developed at length in this memorandum, several of the suggestions previously made, if they should re-emerge, would require a detailed analysis of this aspect of decision making.

Many of the problems here would not require fine-tuned resolution if the matters to be resolved by the agency were limited to those types of non-oral hearings used by other agencies and already approved by the courts. There would be little controversy and therefore little risk of court review. It is principally the determination to create what amounts to an amendment to the APA which requires seminal thinking in order to overcome previously poorly worked out arrangements. As the risk goes up of significant court review, the need also goes up to make sure that the procedures are precise and lawful. The procedures set forth in Appendix B to the present memorandum avoid these problems. They should be adopted because they are consistent with (1) existing law and other agency practice; and (2) are more than adequate to handle the existing or anticipated caseload.

[14] If consideration is given in the future of going to a procedure where responsible employees make recommendations to the Board, it should be kept in mind that the APA would not permit junior and inexperience staff members to perform this function.

[FR Doc. 78-12359 Filed 5-4-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 4]

VESSELS IN FOREIGN AND DOMESTIC TRADES

Extension of Time for Comments Concerning Proposed Amendments Relating to Foreign Repairs to, and Equipment Purchased for, American Vessels

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time permitted for the submission of comments in response to the recent proposal by the Customs Service to modify its substantive and procedural requirements relating to entries for foreign repairs and equipment purchases by American vessels. This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATES: Comments must be received on or before June 2, 1978.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Jerry C. Laderberg; Carriers Rulings Branch, Carriers, Drawback and Bonds Division, U.S. Customs Service, Washington, D.C. 20229, 202-566-5706.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 4, 1978, the Customs Service published in the FEDERAL REGISTER (43 FR 14060) notice of proposed amendments to §§ 4.7(d)(1) and 4.14 of the Customs Regulations (19 CFR 4.7(d)(1) and 4.14) to modify its substantive and procedural requirements relating to entries for foreign repairs and equipment purchases by American vessels. The proposed amendments would establish procedures for handling each aspect of a vessel repair entry and are intended to reduce the amount of time needed to process the entry.

COMMENTS

Comments concerning the proposed amendments were to have been received on or before May 4, 1978. A request on behalf of a number of American-flag vessel operators has been received to extend the period of time for the submission of comments. Therefore, Customs is extending the period of time to comment to June 2, 1978.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc. 78-12431 Filed 5-4-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 50]

[Docket No. 78N-0049]

PROTECTION OF HUMAN SUBJECTS

Proposed Establishment of Regulations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing a regulation to provide protection for prisoners involved in those research activities which fall within the jurisdiction of FDA. This proposal is issued in compliance with the directive of the Secretary of the Department of Health, Education, and Welfare (DHEW), is in line with the regulations proposed by DHEW, and implements the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research on research involving prisoners. This proposal is intended to assure adequate protection of the rights and safety of prisoners who are subjects in clinical investigations subject to requirements for prior submission to FDA, or conducted in support of applications for permission to conduct further research or to market regulated products.

DATES: Written comments by July 5, 1978. The proposed effective date of the final rule is 12 months after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Roger W. Barnes, Office of Medical Affairs (HFM-1), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fish-

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ers Lane, Rockville, Md. 20857, 301-443-1177.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 5, 1978 (43 FR 1050), DHEW proposed regulations governing research conducted or supported by DHEW which involves prisoners. The proposed DHEW regulations implement the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research on research involving prisoners and provide additional protection for prisoners involved in such research activities. As noted in the proposal:

> The proposed regulations set forth below cover only research conducted or supported by DHEW. They do not cover the non-DHEW supported research which is submitted to the Food and Drug Administration to satisfy its regulatory requirements. The Secretary's rulemaking authority with respect to FDA activities has been delegated to the Commissioner of FDA. The Secretary has directed the Commissioner to issue, as soon as possible, regulations that apply the standards set out in these regulations to research that the FDA accepts to satisfy its regulatory requirements. (43 FR 1051)

In order to comply with the Secretary's directive, and in order to set forth a uniform Departmental policy regarding research involving prisoners, the Commissioner of Food and Drugs is proposing regulations which will apply the principles set forth in the proposed DHEW regulations to all prisoner research that is subject to FDA jurisdiction. The Commissioner adopts the findings of both the Commission and the Secretary regarding the inherently coercive nature of the prison environment and the need for special protections for prisoners involved as subjects in clinical research. The Commissioner also believes that, wherever possible, FDA's regulations should be compatible with, if not identical to, those of the Department. A multiplicity of dissimilar and inconsistent Federal requirements is burdensome to institutions, Institutional Review Boards (IRB's), and the process of clinical investigation. The proposed Part 50, "Protection of Human Subjects," will contain regulations which apply to all clinical investigations which are subject to requirements for prior submission under section 505(i), 507(d), or 520(g) (21 U.S.C. 355(i), 357(d), or 360j(g) of the Federal Food, Drug, and Cosmetic Act, or which support or are intended to support an application for a research or marketing permit for a product regulated by the agency. While only Subparts A and C of Part 50 are being proposed at this time, the Commissioner intends, in the near future, to revise and update existing agency regulations to incorporate appropriate Departmental standards and other relevant materials on informed consent. Regulations regarding informed consent will be proposed as Subpart B of Part 50. This proposal is part of a major effort of FDA to improve its regulations on clinical investigations. Applying the principles set forth in this proposal to research that is subject to FDA jurisdiction will result in nonacceptance of research not conducted in conformity with this proposal.

CLINICAL INVESTIGATIONS INVOLVING PRISONERS

The proposed regulation conforms to the requirements proposed by the Department insofar as they involve biomedical research and extends those requirements to research submitted to the agency to satisfy its regulatory requirements. The Commissioner has considered the report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (published in the FEDERAL REGISTER of January 14, 1977 (42 FR 3076), as well as the comments set forth in the preamble to the January 5, 1978 DHEW proposal, and incorporates those documents as part of the discussion presented here. The Commissioner emphasizes that proposed Subpart C prohibits the use of prisoners as subjects in research subject to FDA jurisdiction if the research is not intended to improve the health of the individual prisoners. This means that no prisoner may serve as a placebo control

DEFINITIONS

Proposed § 50.3 defines a number of terms used in proposed Part 50. Many of the proposed definitions pertain to terms that can be variably or imprecisely interpreted by persons affected by the proposed regulation. These definitions are to provide a common basis of understanding for the agency, the regulated industry, and the general public regarding the terms used in Part 50. In proposed § 50.3(a), the term "act" is limited to the Federal Food, Drug, and Cosmetic Act, as amended. This is consistent with definitions appearing elsewhere in the agency's regulations. Other statutes, when used, will be mentioned by name, e.g., the Public Health Service Act.

The decision to make this proposal agency-wide in scope required a term that would include all the various requirements for submission of scientific data and information to the agency under its regulatory jurisdiction, even though in certain cases no permission is technically required from FDA for the conduct of a proposed activity with a particular product, i.e., carrying out research or continuing marketing of a product. The term chosen, "application for research or marketing permit," is intended solely as a shorthand way of referring to at least 21 separate categories of data and information that are now, or in the near future will become, subject to requirements for submission to the agency; the term is defined in proposed § 50.3(b).

Other proposed definitions include terms to describe the persons who initiate and carry out clinical investigations: "sponsor," "investigator," and "sponsor-investigator." The term "sponsor" is currently defined in §§ 310.3(j) and 510.3(k) (21 CFR 310.3(j) and 510.3(k), but the Commissioner believes this definition is unsatisfactory because it fails to distinguish the other commonly used term "investigator," which is not defined. Although these terms are widely understood, their precise meanings are difficult to express. The key distinctions seem to lie in who initiates the project (the sponsor) and who actually conducts the study (the investigator). These distinctions have been incorporated in the definitions proposed in § 50.3 (d) and (f), together with a further distinction: investigators must be individuals, while sponsors can be individuals, corporations, institutions, or other legal entities. (The term "person" is defined in paragraph (e) to include an individual, partnership, corporation, association, scientific or academic establishment, government agency or organizational unit thereof, and any other legal entity.) The Commissioner believes that these distinctions will clarify the participants' respective roles and duties.

Many studies (approximately 45 percent of the investigational new drug applications in the Bureau of Drugs, for example) are initiated and actually conducted by the same individual; this investigator may carry out the study alone or with other investigators responsible to the initiator. The Commissioner considers it important to identify the hybrid role of the "sponsor-investigator" and, where appropriate, to allow special provisions for that role. Thus, this term is defined in proposed § 50.3(g); unlike the term "sponsor," the "sponsor-investigator" is limited to individuals.

Proposed § 50.3(h) defines "subject" as a human who is or becomes a participant in a clinical investigation, either as the recipient of the test article or as a control. The term may also, where appropriate, include either a person in normal health or a patient to whom the test article might offer a therapeutic benefit or provide diagnostic information.

The terms "institution" and "institutional review board" are defined in proposed § 50.3(i) and (j), respectively. Although since 1971 FDA has had a requirement that clinical drug investigations involving institutionalized subjects be reviewed and monitored by an institutional review committee or board, no guidelines defining the outer limits of these concepts have been issued. The Commissioner proposes that the definition of "institution" include any corporation, scientific or academic establishment, or government agency that engages in the conduct of research on human subjects or in the delivery of medical services to individuals: a hospital, a university that performs research with students, a retirement home that primarily provides housing and personal care to the elderly but also cares for health needs of residents, a manufacturer that uses its employees as subjects in the course of product development, or a prison. Although this proposal deals only with prisoners, Part 50, when completed, will deal with the broader subject of protection of all subjects of biomedical research subject to FDA jurisdiction.

The term "institutional review board" is defined in this proposal to mean any board, committee, or other formally organized group created to review research involving human subjects, approve the initiation of such research, monitor its conduct, and when necessary, suspend or terminate the research. The Commissioner notes that the use of the word "board" reflects terminology of the National Research Act of 1975 (Pub. L. 93-348), DHEW regulations (45 CFR Part 46), and discussions of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. However, the Commissioner also recognizes that existing FDA regulations, e.g., 21 CFR 312.1, use the term "committee" as does section 520(g) of the act. The Commissioner believes there is no practical difference between the two words and has elected to follow Departmental terminology.

An "institutionalized subject," as defined in proposed § 50.3(k), includes two categories: First, any individual who is voluntarily confined on the premises of, and in the care of, an institution for more than 1 day; outpatients are excluded from the definition in keeping with existing FDA policy. Second, any individual involuntarily confined for any period of time in an institution such as a penal facility or a hospital by civil commitment.

"Prisoner," as defined in proposed § 50.3(l), follows the definition proposed by DHEW and means any individual involuntarily confined or detained in a penal institution. In scope, the term encompasses individuals sentenced to such an institution under a criminal or civil statute, individuals detained in other facilities by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incarceration in a penal institution, and individuals detained pending arraignment, trial, or sentencing. To some extent, the terms "institutionalized subject" and "prisoner" overlap. The term "prisoner," however, does not include either those persons voluntarily confined or those persons subject to a civil commitment procedure which is not an alternative to criminal prosecution; the term "prisoner" will be used throughout Subpart C.

The Commissioner is proposing that the final rule take effect 12 months after its date of publication in the FEDERAL REGISTER. Ongoing clinical investigations involving prisoners as subjects shall be completed by the effective date, discontinued, or brought into conformity with the requirements of the regulation. In those cases in which all phases of a clinical investigation except statistical evaluations are completed by the effective date, statistical evaluations completed after the effective date will be accepted.

LEGAL AUTHORITY

The results of literally hundreds of clinical investigations are submitted to FDA each year by persons seeking regulatory action by the agency. To obtain a marketing license, clinical research data are offered to support the safety and effectiveness or functionality of a product, e.g., a food or color additive, a drug or biologic for human use, or a medical device for human use. Even where a license is not required or already has been issued, such data may be relied upon to demonstrate the bioavailability of a marketed drug, the general recognition of safety of a product, or the absence of any need for premarket approval or a product standard for a device. In evaluating the enormous volume of clinical investigations filed with FDA, many types of scientific and regulatory review must be devoted to these studies apart from determining their ethical and scientific acceptability and their basic validity, e.g., to interpret the results and to evaluate the status of the affected products in light of the results. Given the limited resources within the agency, the Commissioner believes that FDA must have standards to screen out those clinical investigations that are likely to be unacceptable and thus should not be authorized by FDA or warrant little further evaluation in support of a product application. The promulgation of this regulation provides one process for making this judgment. Moreover, the regulation reflects principles recognized by the scientific community as essential to sound research involving human subjects. Thus, this regulation will assist FDA in identifying those investigations that cannot be permitted to be carried out or considered in support of an application for a research or marketing permit.

Under section 701(a) of the act (21 U.S.C. 371(a)), the Commissioner is empowered to promulgate regulations for the efficient enforcement of the act. Previously, the Commissioner has issued regulations (21 CFR 314.111(a)(5)) for determining whether a clinical investigation of a drug intended for human use, among other things, was scientifically reliable and valid, in the words of the act: "adequate and well-controlled," to support approval of a new drug. These regulations were issued under sections 505 and 701(a) of the act and have been upheld by the Supreme Court (see *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973); see also *Upjohn Co.* v. *Finch*, 422 F.2d 944 (6th Cir. 1970) and *Pharmaceutical Manufacturers Association* v. *Richardson*, 318 F. Supp. 301 (D. Del. 1970)).

Furthermore, sections 505(i), 507(d), and 520(g) of the act, regarding clinical investigations that require prior FDA authorization, direct the Commissioner to promulgate regulations to protect the public health in the course of those investigations. The proposed regulation is intended to fulfill these mandates.

The Commissioner concludes that legal authority to promulgate this regulation exists under sections 505(i), 507(d), 520(g), and 701(a) of the act, as essential to protection of the public health and safety and to enforcement of the agency's responsibilities under sections 406, 409, 502, 503, 505, 506, 507, 510, 513, 514, 515, 516, 518, 519, 520, 601, 706, and 801 of the act, as well as the responsibilities of FDA under sections 351 and 354 to 360F of the Public Health Service Act.

The Commissioner will promulgate conforming amendments in other FDA regulations if appropriate to execute the policy set forth in this regulation.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 406, 409, 502, 503, 505, 506, 507, 510, 513-516, 518-520, 601, 701(a), 706, and 801, 52 Stat. 1049-1054 as amended, 1055, 1058 as amended, 55 Stat. 851 as amended, 59 Stat. 463 as amended, 72 Stat. 1785-1788 as amended, 74 Stat. 399-407 as amended, 76 Stat. 794-795 as amended, 90 Stat. 540-560, 562-574 (21 U.S.C. 346, 348, 352, 353, 355, 356, 357, 360, 360c-360f, 360h-360j, 361, 371(a), 376, and 381)) and the Public Health Service Act (secs. 215, 351, 354-360F, 58 Stat. 690, 702 as amended, 82 Stat. 1173-1186 as amended (42 U.S.C. 216, 262, 263b-263n)) and under authority

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delegated to him (21 CFR 5.1), the Commissioner proposes that Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 50 to read as follows:

PART 50—PROTECTION OF HUMAN SUBJECTS

Subpart A—General Provisions

Sec.
50.1 Scope.
50.3 Definitions.

Subpart B—[Reserved]

Subpart C—Protections Pertaining to Clinical Investigations Involving Prisoners as Subjects

50.40 Applicability.
50.42 Purpose.
50.44 Permitted clinical investigations involving prisoners.
50.46 Composition of institutional review boards where prisoners are involved.
50.48 Additional duties of the institutional review boards where prisoners are involved.

AUTHORITY: Secs. 406, 409, 502, 503, 505, 506, 507, 510, 513-516, 518-520, 601, 701(a), 706, and 801, Pub. L. 717, 52 Stat. 1049-1054 as amended, 1055, 1058 as amended, 55 Stat. 851 as amended, 59 Stat. 463 as amended, 72 Stat. 1785-1788 as amended, 74 Stat. 399-407 as amended, 76 Stat. 794-795 as amended, 90 Stat. 540-560, 562-574 (21 U.S.C. 346, 348, 352, 353, 355, 356, 357, 360, 360c-360f, 360h-360j, 361, 371(a), 376, and 381); secs. 215, 351, 354-360F, Pub. L. 410, 58 Stat. 690, 702 as amended, 82 Stat. 1173-1186 as amended (42 U.S.C. 216, 262, 263b-263n).

Subpart A—General Provisions

§ 50.1 Scope.

This part applies to all clinical investigations regulated by the Food and Drug Administration under sections 505(i), 507(d), and 520(g) of the act, as well as clinical investigations that support applications for research or marketing permits for products regulated by the Food and Drug Administration, including food and color additives, cosmetics, drugs for human use, medical devices for human use, biological products for human use, and electronic products. Additional specific obligations and commitments of, and standards of conduct for, persons who sponsor and/or monitor clinical investigations involving particular test articles may also be found in other parts (e.g., Parts 312 and 812) of this chapter. Compliance with these parts is intended to protect the rights and safety of subjects involved in investigations filed with the FDA pursuant to sections 406, 409, 502, 503, 505, 506, 507, 510, 513-516, 518-520, 601, 706, and 801 of the act and sections 351 and 354-360F of the Public Health Service Act.

§ 50.3 Definitions.

As used in this part:

(a) "Act" means the Federal Food, Drug, and Cosmetic Act, as amended (secs. 201-902, 52 Stat. 1040 et seq., as amended (21 U.S.C. 321-392)).

(b) "Application for research or marketing permit" includes:

(1) A color additive petition, described in Part 71 of this chapter.

(2) A food additive petition, described in Part 171 of this chapter.

(3) Data and information regarding a substance submitted as part of the procedures for establishing that a substance is generally recognized as safe for use that results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, described in §§ 170.30 and 570.30 of this chapter.

(4) Data and information regarding a food additive submitted as part of the procedures regarding food additives permitted to be used on an interim basis pending addtional study, described in § 180.1 of this chapter.

(5) Data and information regarding a substance submitted as part of the procedures for establishing a tolerance for unavoidable contaminants in food and food-packaging materials, described in section 406 of the act.

(6) A "Notice of Claimed Investigational Exemption for a New Drug," described in Part 312 of this chapter.

(7) A new drug application, described in Part 314 of this chapter.

(8) Data and information regarding the bioavailability or bioequivalence of drugs for human use submitted as part of the procedures for issuing, amending, or repealing a bioequivalence requirement, described in Part 320 of this chapter.

(9) Data and information regarding an over-the-counter drug for human use submitted as part of the procedures for classifying such drugs as generally recognized as safe and effective and not misbranded, described in Part 330 of this chapter.

(10) Data and information regarding a prescription drug for human use submitted as part of the procedures for classifying such drugs as generally recognized as safe and effective and not misbranded, to be described in this chapter.

(11) Data and information regarding an antibiotic drug submitted as Part of the procedures for issuing, amending, or repealing regulations for such drugs, described in Part 430 of this chapter.

(12) An application for a biological product license, described in Part 601 of this chapter.

(13) Data and information regarding a biological product submitted as part of the procedures for determining that licensed biological products are safe and effective and not misbranded, described in Part 601 of this chapter.

(14) An "Application for an Investigational Device Exemption," described in Part 812 of this chapter.

(15) Data and information regarding a medical device for human use submitted as part of the procedures for classifying such devices, described in section 513 of the act.

(16) Data and information regarding a medical device for human use submitted as part of the procedures for establishing, amending, or repealing a standard for such devices, described in section 514 of the act.

(17) An application for premarket approval of a medical device for human use, described in section 515 of the act.

(18) A product development protocol for a medical device for human use, described in section 515 of the act.

(19) Data and information regarding an electronic product submitted as part of the procedures for establishing, amending, or repealing a standard for such products, described in section 358 of the Public Health Service Act.

(20) Data and information regarding an electronic product submitted as part of the procedures for obtaining a variance from any electronic product performance standard, as described in § 1010.4 of this chapter.

(21) Data and information regarding an electronic product submitted as part of the procedures for granting, amending, or extending an exemption from a radiation safety performance standard, as described in § 1010.5 of this chapter.

(22) Data and information regarding an electronic product submitted as part of the procedures for obtaining an exemption from notification of a radiation safety defect or failure of compliance with a radiation safety performance standard, described in Subpart D of Part 1003 of this chapter.

(c) "Clinical investigation" means any experiment involving a test article, which experiment is either subject to requirements for prior submission to the Food and Drug Adminsitration under section 505(i), 507(d), or 520(g) of the act, or which experiment is not subject to requirements for prior submission to the Food and Drug Administration under these sections of the act, but the results of which are intended to be later submitted to, or held for inspection by, the Food and Drug Administration as part of an application for a research or marketing permit. The term does not include experiments that are subject to the provisions of Part 58 of this chapter, which governs nonclinical laboratory studies.

(d) "Investigator" means an individual who actually conducts a clinical investigation, i.e., under whose immediate direction the test article is administered or dispensed to, or used involving, a subject.

(e) "Person" includes an individual, partnership, corporation, association, scientific or academic establishment, government agency or organizational unit thereof, and any other legal entity.

(f) "Sponsor" means a person who initiates a clinical investigation, but who does not actually conduct the investigation, i.e., the test article is administered or dispensed to, or used involving, a subject under the immediate direction of another individual. A person other than an individual (e.g., corporation or agency) that uses one or more of its own employees to conduct a clinical investigation it has initiated is considered to be a sponsor (not a sponsor-investigator), and the employees are considered to be investigators.

(g) "Sponsor-investigator" means an individual who both initiates and actually conducts, alone or with others, a clinical investigation, i.e., under whose immediate direction the test article is administered or dispensed to, or used involving, a subject. The term does not include any person other than an individual, e.g., corporation or agency.

(h) "Subject" means a human who is or becomes a participant in a clinical investigation, either as a recipient of the test article or as a control. A subject may be either a person in normal health or a patient to whom the test article might offer a therapeutic benefit or provide diagnostic information.

(i) "Institution" means a person, other than an individual, who engages in research on human subjects or in the delivery of medical services to individuals, as a primary activity or as an adjunct to providing residential or custodial care to humans. The term includes, for example, a hospital, retirement home, prison, academic establishment, and pharmaceutical or device manufacturer. "Facility" as used in section 520(g) of the act is deemed to be synonymous with the term "institution" for purposes of this part.

(j) "Institutional review board" means any board, committee, or other group formally designated by an institution for the purposes of reviewing clinical investigations or other types of biomedical research involving humans as subjects, approving the initiation of such investigations or research, overseeing the conduct of such investigations or research, and/or terminating or suspending such investigations or research when necessary for the protection of the subjects. The term has the same meaning as the phrase "institutional review committee" as used in section 520(g) of the act.

(k) "Institutionalized subject" means:

(1) A subject who is voluntarily confined for a period of more than 24 continuous hours on the premises of, and in the care of, an institution (e.g., a hospital in-patient or a retirement home resident), whether or not that institution is a sponsor of the clinical investigation; and

(2) A subject who is involuntarily confined for any period of time in a penal institution (e.g., jail, workhouse, house of detention, or prison), or another institution (e.g., a hospital) by virtue of a sentence under a criminal or civil statute, or awaiting arraignment, commitment, trial, or sentencing under such a statute, or by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incarceration in a penal facility.

(l) "Prisoner" means any individual involuntarily confined or detained in a penal institution. The term is intended to encompass individuals sentenced to such an institution under a criminal or civil statute, individuals detained in other facilities by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incarceration in a penal institution, and individuals detained pending arraignment, trial, or sentencing.

(m) "Test article" means any drug (including a biological product for human use), medical device for human use, human food additive, color additive, cosmetic, electronic product, or any other article subject to regulation under the act or under sections 351 and 354-360F of the Public Health Service Act.

Subpart B—[Reserved]

Subpart C—Protections Pertaining to Clinical Investigations Involving Prisoners as Subjects

§ 50.40 Applicability.

(a) The regulations in this subpart are applicable to all clinical investigations involving prisoners as subjects, subject to requirements for prior submission to the Food and Drug Administration under section 505(i), 507(d), or 520(g) of the act, or conducted in support of an application for a research or marketing permit for a product regulated by the agency.

(b) Nothing in this subpart shall be construed as indicating that compliance with the procedures set forth herein will authorize research involving prisoners as subjects, to the extent such research is limited or barred by applicable State or local law.

§ 50.42 Purpose.

Inasmuch as prisoners may be under constraints because of their incarceration which could affect their ability to make a truly voluntary and uncoerced decision whether or not to participate as subjects in research, it is the purpose of this subpart to provide additional safeguards for the protection of prisoners involved in activities to which this subpart is applicable.

§ 50.44 Permitted clinical investigations involving prisoners.

(a) Clinical investigations conducted by the Food and Drug Administration, subject to requirements for prior submission to the Food and Drug Administration under section 505(i), 507(d), or 520(g) of the act, or conducted in support of an application for a research or marketing permit for a product regulated by the FDA may involve prisoners as subjects only if:

(1) The institution responsible for the conduct of the clinical investigation has certified to the Commissioner that the Institutional Review Board has approved the clinical investigation under § 50.48 of this subpart; and

(2) In the judgment of the Commissioner, the proposed clinical investigation involves solely research on practices both innovative and accepted, which is intended to improve, or which has a reasonable probability of improving, the health and well-being of the subjects.

(b) Except as provided in paragraph (a) of this section, clinical investigations conducted by or subject to requirements for prior submission to the agency or conducted in support of a research or marketing permit for a product regulated by the agency shall not involve prisoners as subjects.

§ 50.46 Composition of institutional review boards where prisoners are involved.

In addition to satisfying any other requirements governing Institutional Review Boards set forth in this chapter, an Institutional Review Board, carrying out responsibilities under this part with respect to research covered by this subpart, shall also meet the following specific requirements:

(a) A majority of the Board (exclusive of prisoner members) shall have no association with the prison(s) involved, apart from their membership on the Board.

(b) At least one member of the Board shall be a prisoner, or a prisoner advocate with appropriate background and experience to serve in that capacity, except that where a particular research project is reviewed by more than one Board only one Board need satisfy this requirement.

§ 50.48 Additional duties of the institutional review boards where prisoners are involved.

(a) In addition to all other responsibilities prescribed for Institutional Review Boards under this chapter, the Board shall review clinical investigations covered by this subpart and approve such clinical investigations only if it finds that:

(1) Any possible advantages accruing to the prisoner through his or her participation in the clinical investigation, when compared to the general living conditions, medical care, quality of food, amenities, and opportunity for earnings in the prison, are not of such a magnitude that his or her ability to

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weigh the risks of the clinical investigation against the value of such advantages in the limited choice environment of the prison is impaired;

(2) The risks involved in the clinical investigation are commensurate with risks that would be accepted by nonprisoner volunteers;

(3) Procedures for the selection of subjects within the prison are fair to all prisoners and immune from arbitrary intervention by prison authorities or prisoners;

(4) The information is presented in language which is appropriate for the subject population;

(5) Adequate assurance exists that parole boards will not take into account a prisoner's participation in the clinical investigation in making decisions regarding parole, and each prisoner is clearly informed in advance that participation in the clinical investigation will have no effect on his or her parole; and

(6) Where the Board finds there may be need for followup examination or care of participants after the end of their participation, adquate provision has been made for such examination or care, taking into account the varying lengths of individual prisoners' sentences, and for informing participants of this fact.

(b) The Board shall carry out such other duties as may be assigned by the Commissioner.

(c) The institution shall certify to the Commissioner, in such form and manner as the Commissioner may require, that the duties of the Board under this section have been fulfilled.

Interested persons may, on or before July 5, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: April 22, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-11994 Filed 5-4-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 184]

[Docket No. 78N-0106]

PROPYL GALLATE

Proposed Modification of GRAS Usage as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to modify the conditions of use for propyl gallate as a generally recognized as safe (GRAS) direct human food ingredient. The safety of propyl gallate was evaluated during the comprehensive safety review being conducted by the agency, and the ingredient was affirmed as GRAS. But the adopted conditions of use conflict with good manufacturing practice. This proposal would modify the regulation for the use of propyl gallate to include current good manufacturing provisions for its GRAS use in food.

DATE: Comments by July 5, 1978.

ADDRESS: Written comments (preferably four copies) to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: A comprehensive study of human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction is being conducted by FDA. Pursuant to this review, the Commissioner of Food and Drug issued a proposed regulation in the FEDERAL REGISTER of September 23, 1974 (39 FR 34199) for the use of propyl gallate as an antioxidant in food. This proposal summarized the available information regarding the identity, manufacture, and safety of this food ingredient. It was proposed that propyl gallate be affirmed as GRAS as a direct human food ingredient for use as an antioxidant, under conditions of good manufacturing practice. Good manufacturing practice was defined as a maximum level of 0.015 percent in food. No comments were received on this proposal, and in the FEDERAL REGISTER of December 7, 1976 (41 FR 53613) it was adopted without change.

A manufacturer of propyl gallate recently requested clarification of the labeling requirements for this ingredient because of the changes in its permitted levels and conditions of use resulting from the GRAS affirmation regulation published on December 7, 1976. Before this regulation, the GRAS use of propyl gallate was restricted to a level where the total content of antioxidants did not exceed 0.02 percent of the fat or oil content of food (including essential (volatile) oil content of the food). The present GRAS regulation limits the use of propyl gallate to 0.015 percent of the food irrespective of the fat or oil content of the food or the content of other antioxidants. The December 7, 1976 regulation could be interpreted as authorizing increased levels of use of propyl gallate in food, and this would appear to conflict with good manufacturing practice (21 CFR 184.1(b)(1).

But the current regulation was not intended to alter the levels of use of propyl gallate in food. This condition developed because of two errors. The first error was the failure to include the restrictions that base the level of addition of the ingredient on the fat or oil content of the food and on the presence of other antioxidants. The second error resulted from adoption of the maximum weighted mean use level of 0.015 percent, rather than the maximum use level of 0.02 percent as reported in the National Academy of Sciences/National Research Council's survey of food manufacturers. Affirming the former level as GRAS is unfair to those manufacturers that are using the ingredient at the maximum level reported in the survey. Both of these errors were in the proposed regulation for propyl gallate published on September 23, 1974, and, through an oversight, were not corrected in the final regulation, which was published on December 7, 1976. The Commissioner therefore concludes that it is in the public interest to amend the existing regulation and restore the previous good manufacturing practice use of propyl gallate. He is therefore proposing that propyl gallate be affirmed as GRAS as an antioxidant at a maximum use level of 0.02 percent of the fat or oil content of the food. This maximum use level, consisting of propyl gallate alone or in combination with other antioxidants, shall represent the total content of antioxidant in food.

The proposed action does not affect the current uses of propyl gallate for pet food or animal feed.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food, and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 184 be amended in § 184.1660 by revising paragraph (d), to read as follows:

§ 184.1660 Propyl gallate.

* * * * *

(d) The ingredient is used in food, in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Good manufacturing practice results in a maximum level, as served, of 0.02 percent calculated on the fat or oil content, including the essential (volatile) oil content, of the food. The maximum use level, consisting of propyl gallate alone or in combination with other antioxidants, shall represent the total content of antioxidant in food.

* * * * *

Interested persons may, on or before July 5, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107.

Dated: April 28, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-12269 Filed 5-4-78; 8:45 am]

[4110-03]

[21 CFR Part 740]

[Docket No. 77P-0353]

COAL TAR HAIR DYES CONTAINING 4-METHOXY-*M*-PHENYLENEDIAMINE (2,4-DIAMINOANISOLE) OR 4-METHOXY-*M*-PHENYLENEDIAMINE SULFATE (2,4-DIAMINOANISOLE SULFATE)

Proposed Warning Statement; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of comment period for proposed rule.

SUMMARY: This document extends to May 22, 1978 the comment period on the proposal to require a warning statement and warning posters on coal tar hair dyes containing 4-methoxy-*m*-phenylenediamine (also known as 2,4-diaminoanisole) or 4-methoxy-*m*-phenylenediamine sulfate (also known as 2,4-diaminoanisole sulfate). This action is taken because of a request for extension of time. The proposed warning will inform consumers about the risk of cancer that may result from using hair dyes containing these ingredients.

DATES: Comments by May 22, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John A. Wenninger, Bureau of Foods (HFF-441), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1061.

SUPPLEMENTARY INFORMATION: in the FEDERAL REGISTER of January 6, 1978 (43 FR 1101), the Commissioner of Food and Drugs issued a proposal to require warning labels on coal tar hair dyes containing 4-methoxy-*m*-phenylenediamine sulfate (also known as 2,4-diaminoanisole sulfate) to warn consumers about the risk of cancer that may result from using hair dyes containing these ingredients. The proposal would also require that posters be displayed in beauty salons alerting patrons to ask to read the label on the hair dye preparation to be used on their hair. Interested persons were requested to submit their comments on the proposal on or before March 7, 1978. The comment period was extended to close of business, May 8, 1978 in a notice published in the FEDERAL REGISTER of March 10, 1978 (43 FR 9830).

The Commissioner has received a request for further extension of time for comment aby the Cosmetic, Toiletry and Fragrance Association (CTFA). The CTFA request seeks an extension of time to comment on the proposal in light of material, including material on risk assessments, placed on file with the Hearing Clerk as memoranda during the comment period. The request asserts that additional time is needed, because of scheduling problems, to evaluate the filed material and submit comments.

The Commissioner is granting the extension.

Interested persons may, on or before May 22, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 1, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12253 Filed 5-2-78; 9:55 am]

[1505-01]

[21 CFR Part 1040]

[Docket No. 76N-0383]

MERCURY VAPOR LAMPS

Proposed Performance Standard

Correction

In FR Doc. 78-10792 appearing at page 16997 in the issue for Friday, April 21, 1978, on page 17002, in the middle column, in the fourth paragraph, in the second line, the comments closing date now listed as "May 22, 1978", should be corrected to read "June 20, 1978."

[1410-01]

COPYRIGHT ROYALTY TRIBUNAL

[37 CFR Part 302]

FILING OF CLAIMS TO CABLE FEES

Proposed Rulemaking with Respect to Filing of Claims to Cable Royalty Fees

AGENCY: Copyright Royalty Tribunal.

ACTION: Proposed rule.

SUMMARY: Consideration is being given to the following proposed rule,

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which would prescribe requirements whereby persons claiming to be entitled to compulsory license copyright fees for secondary transmissions by cable systems shall file claims with the Copyright Royalty Tribunal. The proposed rule would prescribe the content and time of filing of such claims.

DATE: Comments must be received on or before May 22, 1978.

ADDRESSES: Comments shall be addressed to the Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., Washington, D.C. 20036. Ten copies of all written comments shall be submitted.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Brennan, Chairman, Copyright Royalty Tribunal, 202-653-5175.

SUPPLEMENTARY INFORMATION: The Copyright Royalty Tribunal in an Advance Notice of Proposed Rulemaking, published at 43 FR 6263, invited comments concerning the filing of claims to royalty fees for secondary transmissions by cable systems pursuant to 17 U.S.C. 111(d)(5)(A). The comments and reply comments filed with the Copyright Royalty Tribunal reflect a difference of opinion among representatives of copyright owners who are likely to be major claimants as to whether the copyright statute requires filings in July, 1978, for claims to royalty fees for secondary transmissions during the period January 1 through June 30, 1978. Certain comments filed maintain that the copyright statute requires filings every July, including July of 1978. Other comments suggest that the Copyright Royalty Tribunal has discretion to forego a requirement that claims be filed in July of 1978, in view of the regulations adopted by the Copyright Office concerning the filing with the Office of statements of account by cable operators.

The proposed rule requires all copyright owners who wish to share in the distribution of royalty fees for secondary transmissions by cable systems during the first six months of 1978 to file claims with the Copyright Royalty Tribunal during the month of July, 1978. A failure to file a claim during the month of July would bar a copyright owner from sharing in the distribution of royalty fees for uses during the first six months of 1978. The proposed rule requires only a minimal filing of a claim in July of 1978, with a requirement that the filing be supplemented in July, 1979, after copyright owners have had an opportunity to examine the statements of account filed by cable operators in the Copyright Office. Adoption of the proposed rule would thus preclude any distribution of royalty fees by the Copyright Royalty Tribunal prior to August, 1979.

The Advance Notice of Proposed Rulemaking stated that the "CRT wishes to receive comments concerning the types of information that should be required of copyright claimants." The comments filed indicate that copyright owner claimants will be unable to determine the types of information that would be appropriate to a claim, at least until the claimants have had an opportunity to examine the initial statements of account filed by cable operators. The Copyright Royalty Tribunal consequently does not propose at this time to adopt regulations on this subject, but later this year will invite comments on what information should be required in the 1979 filings. It is likely that subsequent to the first cable royalty distribution proceeding, the Copyright Royalty Tribunal will wish to consider more detailed regulations concerning information to be required of claimants.

The Copyright Royalty Tribunal, in an advisory letter of January 31, 1978, stated that participation in the royalty distribution proceedings does not require copyright owners to preserve and submit simultaneous fixations of live transmissions. The Motion Picture Association of America, Inc. (MPAA) urges the Copyright Royalty Tribunal to "reconsider" the advisory letter and to "invite comments in the matter in any further notice the CRT may issue in this proceeding." The MPAA is concerned that the letter may be relied on to support a claim that a fixation of a live television broadcast is not necessary as a condition for filing a royalty claim, or that a fixation, once made, may be erased or destroyed prior to filing the claim without detriment to the copyright owner.

17 U.S.C. 102 requires that a work must be fixed in a tangible medium of expression as a condition of copyright protection. This requirement is statutory in nature and precludes the Copyright Royalty Tribunal from adopting any regulations waiving the requirement of fixation. Consequently, the copyright Royalty Tribunal was not requested to address that issue in its advisory letter.

No comments or reply comments filed with the Copyright Royalty Tribunal suggest that the views expressed in the advisory letter are an incorrect interpretation of the copyright statute. Certain comments or reply comments suggest the desirability of the Copyright Royalty Tribunal considering the subject of what proof may be required to establish that fixation of a particular program did occur. For the same considerations that resulted in the advisory letter, the Copyright Royalty Tribunal believes that it may be desirable for the Tribunal to determine at the earliest feasible date the nature of the proof of fixation that may be required during a royalty distribution proceeding. Therefore, the Copyright Royalty Tribunal invites interested parties to submit comments not later than June 15 as to what proof of fixation, other than the actual video tape or film, should be required in a royalty distribution proceeding. Comments should consider such form of proof as affidavits from authorized personnel, and the technical feasibility of preserving an indentifiable frame or frames from each program.

Such proposed rule reads as follows:

PART 302—FILING OF CLAIMS TO CABLE ROYALTY FEES

Sec.
302.1 General.
302.2 Filing of claims to cable royalty fees for secondary transmissions during the period January 1 through June 30, 1978.
302.3 Content of claims.
302.4 Forms.
302.5 Supplemental filing.
302.6 Filing of claims to cable royalty fees for secondary transmissions during the period July 1 through December 31, 1978.
302.7 Filing of claims to cable royalty fees for secondary transmissions during calendar year 1979 and subsequent calendar years.
302.8 Compliance with statutory dates.

AUTHORITY: 17 U.S.C. 111(d)(5)(A).

§ 302.1 General.

This regulation prescribes procedures pursuant to 17 U.S.C. 111(d)(5)(A), whereby persons claiming to be entitled to compulsory license fees for secondary transmissions by cable systems shall file claims with the Copyright Royalty Tribunal (CRT).

§ 302.2 Filing of claims to cable royalty fees for secondary transmissions during the period January 1 through June 30, 1978.

Every person claiming to be entitled to compulsory license fees for secondary transmissions by cable systems during the period January 1 through June 30, 1978, shall file in the office of the Copyright Royalty Tribunal a claim to such fees during the calendar month of July, 1978. No royalty fees shall be distributed to copyright owners for secondary transmissions during the period January 1 through June 30, 1978, unless such owner has filed a claim to such fees during the calendar month of July, 1978. For purposes of this clause claimants may file claims jointly or as a single claim.

§ 302.3 Content of claims.

The claims filed pursuant to § 302.2 shall include the following information:

(a) The full legal name of the person or entity claiming compulsory license fees.

(b) The full address, including a specific number and street name or rural route, of the place of business of the person or entity,

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(c) A general statement of the nature of the copyrighted works, whose secondary transmission provides the basis of the claim,

§ 302.4 Forms.

The Copyright Royalty Tribunal does not provide printed forms for the filing of claims.

§ 302.5 Supplemental filing.

During the month of July 1979 those persons who filed claims pursuant to § 302.2 for secondary transmissions during the period January 1 through June 30, 1978, shall make a supplemental filing, which shall include such information as the Copyright Royalty Tribunal may require.

§ 302.6 Filing of claims to cable royalty fees for secondary transmissions during the period July 1 through December 31, 1978.

During the month of July 1979, every person claiming to be entitled to compulsory license fees for secondary transmissions during the period July 1 through December 31, 1978, shall file in the offices of the Copyright Royalty Tribunal a claim to such fees. No royalty fees shall be distributed to copyright owners for secondary transmissions during the period July 1 through December 31, 1978, unless such owner has filed a claim to such fees during the calendar month of July 1979. For purposes of this clause claimants may file claims jointly or as a single claim. Such filing shall include such information as the Copyright Royalty Tribunal may require.

§ 302.7 Filing of claims to cable royalty fees for secondary transmissions during calendar year 1979 and subsequent calendar years.

During the month of July 1980, and in July of each succeeding year, every person claiming to be entitled to compulsory license fees for secondary transmissions during the preceeding calendar year shall file a claim to such fees in the office of the Copyright Royalty Tribunal. No royalty fees shall be distributed to copyright owners for secondary transmissions during the specified period unless such owner has filed a claim to such fees during the following calendar month of July. For purposes of this clause claimants may file claims jointly or as a single claim. Such filing shall include such information as the Copyright Royalty Tribunal may require.

§ 302.8 Compliance with statutory dates.

For purposes of 17 U.S.C. (d)(5)(A), claims required to be filed with the Copyright Royalty Tribunal during the month of July shall be considered as timely filed if (a) they are addressed to the Copyright Royalty Tribunal, 1111 20th Street NW., Washington, D.C. 20036, and deposited with the U.S. Postal Service with sufficient postage as first class mail prior to the expiration of the statutory period, and (b) they are accompanied by a certificate stating the date of deposit. The persons signing the certificate should have reasonable basis to expect that the correspondence would be mailed on or before the date indicated.

Dated: May 2, 1978.

THOMAS C. BRENNAN,
Chairman,
Copyright Royalty Tribunal.

[FR Doc. 78-12353 Filed 5-4-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 891-4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

North Carolina: Proposed Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: It is proposed to revise the North Carolina implementation plan by adding limits for emissions of sulfur dioxide (SO_2) and sulfuric acid (H_2SO_4) mist from the roasting of spodumene ore (a lithium-bearing mineral), and by changing the procedures used by fuel-burning sources to demonstrate, through fuel analysis, their compliance with the sulfur dioxide control standards of the plan.

DATE: To be considered, written comments must be received on or before June 5, 1978.

ADDRESSES: Comments should be sent to Walter Bishop of the Agency's Region IV Air Programs Branch (see Atlanta address below). Copies of the materials submitted by the State of North Carolina may be examined during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308.
Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.
Air Quality Section, Environmental Management Division, North Carolina Department of Natural Resources and Community Development, 512 North Salisbury Street, (P.O. Box 27687), Raleigh, N.C. 27611.

FOR FURTHER INFORMATION CONTACT:

Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-881-3286 (FTS: 257-3286).

SUPPLEMENTARY INFORMATION: On February 9, 1978, the North Carolina Environmental Management Commission, following notice and public hearing in conformity with 40 CFR 51.4, adopted changes in the State's air pollution control regulations. These changes were submitted to EPA's Region IV office as proposed implementation plan revisions on February 14, 1978. The purpose of this notice is to describe these changes and to ask for public comment on them.

Two facilities in the State now process the lithium-bearing ore known as spodumene: Lithium Corporation of American in Bessemer City, and Foote Minerals in Shelby. On the basis of data supplied by these two sources, the North Carolina air quality agency performed diffusion modeling to estimate the ambient impact of their SO_2 and sulfuric acid mist emissions. The results were used to set the following emission limits for spodumene ore roasting: 9.7 pounds of SO_2 and 1.0 pound of H_2SO_4 mist per ton of ore roasted. These limits are contained in a new regulation, 15NCAC 2D .0527. Compliance with them is to be determined through the use of Method 8 of Appendix A to 40 CFR Part 60 (regulation .0501(d)(4)). The State agency's modeling results indicate that implementation of the new emission limits will not jeopardize the continued maintenance of the three national ambient air quality standards for SO_2, which are currently being met throughout the State.

Under regulation, .0501(d)(3), fuel-burning sources in North Carolina may demonstrate compliance with SO_2 emission control standards either by stack sampling or by fuel analysis. The present revision changes the requirements for the latter alternative. The following test methods of the American Society for Testing and Materials (ASTM) are to be used: (A) for coal—D 2234 for sampling, D 2013 for preparation, D 2015 for gross calorific value, D 3173 for moisture content, and D 3177 for sulfur content (the old regulation called for the use of methods D 2234 and D 3177 only); (B) for oil—D 270 for sampling, D 240 for heat of combustion, and D 129 for sulfur content (the old regulation called for the use of methods D 270 and D 129 only). Sulfur content and heating value of fuels shall be reported on a dry basis.

The public is invited to participate in the present rulemaking by submitting written comments on the proposed revisions in the North Carolina plan. After considering relevant comments received together with other information available to him the Administrator will act on the proposed changes.

(Section 110 of the Clean Air Act (42 U.S.C. 7410).)

Dated: April 27, 1978.

JOHN C. WHITE,
Regional Administrator.

[FR Doc. 78-12248 Filed 5-4-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 32484; Order 78-4-126]

INVESTIGATION OF THE LOCAL SERVICE CLASS SUBSIDY RATE; CLASS RATE IX

Order Instituting Investigation and Requiring Information; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April, 1978.

The information instructions attached to the order first published at 43 FR 18229 in the issue of April 28, 1978, were based on proposed costing procedures in notice of proposed rulemaking, PDR 46. PDR-46 was adopted as a final interim rule by PR-172 but with modifications. The instructions in Attachment A should be changed to reflect the adoption of PR-172. The attached tables II, II-A, II-B, II-C, II-D, and IV, Page 1 of 6, supersede the corresponding tables in Appendix A of the order.[1]

Also, the second paragraph in the first column on page 18230 should read as follows:

We also propose the adoption of an improved costing methodology based on Subpart K amendments adopted by PR-172. We feel the use of the Subpart K revisions will produce a beneficial refinement in the costing techniques used to compute subsidy rates, especially in the areas of passenger service expense and expenses related to ground property and equipment.[2] An explanation of the proposed changes can be found in Attachment A.

Dated: April 26, 1978.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-12356 Filed 5-4-78; 8:45 am]

[6320-01]

[Docket 32220; Order 78-5-2]

TACA INTERNATIONAL AIRLINES, S.A.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of May, 1978.

TACA International Airlines, S.A. (TACA) is the holder of a foreign air carrier permit[1] authorizing: (a) Foreign air transportation of persons, property, and mail (1) between the terminal point San Salvador, El Salvador; the intermediate points Guatemala City, Guatemala, San Pedro Sula, Honduras, Belize City, British Honduras (Belize), and Merida, Mexico;[2] and the terminal point New Orleans, La.; and (ii) between the terminal point San Salvador, El Salvador; the intermediate points San Pedro Sula, Honduras, and Belize City, British Honduras (Belize); and the terminal point Miami, Fla.;[3] and (b) the performance of charter trips in foreign air transportation pursuant to Part 212 of the Board's Economic Regulations.

By application filed on March 9, 1978,[4] TACA filed for renewal of its existing foreign air carrier permit.[5] Subsequently, TACA filed a petition requesting that its application be handled by show-cause procedures.

In granting TACA two routes to the United States, the Board found that the carrier met the operational and financial fitness standards of the Act,[6] and that its services were in the public interest. It currently serves the San Salvador-Miami and San Salvador-New Orleans markets each with daily round-trip combination services utilizing BAC-111 equipment. An opportunity for reciprocity exists for U.S. air carriers seeking to perform similar operations to El Salvador.

Finally, we are unable to conclude that TACA is substantially owned and effectively controlled by the citizens of El Salvador. The applicatin does show, however, that 30 percent of the stock continues to be held by an El Salvador corporation which is in turn exclusively owned by a Salvadorian family and that no other person owns as much as five percent of the stock.[7] Thus, it appears that control does lie in Salvadorian citizens. Since the only question appears to be technical ownership, rather than control, and the majority ownership by non-Salvadorian nationals does not appear to raise any problems, we find that it is in the public interest to waive our traditional national ownership and control policy.

In view of the foregoing and all the facts of record, the Board tentatively finds:

1. That it is in the public interest to renew the foreign air carrier permit of TACA International Airlines, S.A. authorizing the carrier, for a period of five years: (a) to engage in foreign air transportation of persons, property, and mail (i) between the terminal point San Salvador, El Salvador; the intermediate points Guatemala City, Guatemala, San Pedro Sula, Honduras, Belize City, British Honduras (Belize), and Merida, Mexico; and the terminal point New Orleans, La.; and (ii) between the terminal point San Salvador, El Salvador; the intermediate points San Pedro Sula, Honduras, and Belize City, British Honduras (Belize); and the terminal point Miami, Fla.; and (b) to engage in charter trips in foreign air transportation pursuant to Part 212 of the Board's Economic Regulations;

2. That the authority to serve Merida shall expire whenever a United States carrier inaugurates scheduled service between New Orleans and Merida. Service to Merida under the temporary authority granted here shall *not* be considered to be activity of a continuing nature as that term is used in section 558(c) of the Administrative Procedure Act, and will not be automatically extended by the timely filing of a renewal application;

3. That TACA is fit, willing, and able properly to perform the above-described foreign air transportation, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board;

4. That the public interest requires that the exercise of the privileges granted to TACA International Airlines, S.A. shall be subject to the terms, conditions, and limitations contained in the specimen form of foreign air carrier permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

5. That an oral hearing is not required in the public interest;

6. That except to the extent granted, the application of TACA International Airlines, S.A. in Docket 32220 should be denied; and

7. That the renewal of TACA International Airlines, S.A.'s foreign air carrier permit is not a "major federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969,[8] and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 (EPACA), as defined in subsection 313.4(a)(1) of the Board's regulations.[9]

It is therefore ordered, That:

1. All interested persons are directed to show cause why the Board should not make final its tentative findings and conclusions, and should not, subject to the approval of the President, renew the foreign air carrier permit issued to TACA International Airlines, S.A. by Order 77-10-39 for a period of five years in the form of the attached specimen permit;

2. Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions and issuing the renewed permit shall, within 14 days after the service of this order, file with the Board and serve on the persons named in paragraph 5 a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data, and such evidence expected to be relied upon in support of the statement of objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board: *Provided*, That the Board may proceed to enter an order in accordance with its tentative findings and conclusions set forth in the order if it determines that there are no factual issues presented that warrant the holding of an oral hearing.[10]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which, subject to the approval of the President, (1) shall make final the Board's tentative findings and conclusions set forth in this order, and (2) shall issue a renewed foreign air carrier permit to the applicant in the specimen form attached; and

5. This order shall be served upon TACA International Airlines, Pan American World Airways, Inc., the Ambassador of El Salvador in Washington, D.C., and the United States Departments of State and Transportation.

This order shall be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

(Specimen Permit)

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

TACA International Airlines, S.A. is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued under the Act, to engage in foreign air transportation of persons, property, and mail as follows:

1. Between the terminal point San Salvador, El Salvador; the intermediate points Guatemala City, Guatemala, San Pedro Sula, Honduras, Belize City, British Honduras (Belize), and Merida, Mexico, and the terminal point New Orleans, La.; and

2. Between the terminal point San Salvador, El Salvador; the intermediate points San Pedro Sula, Honduras, and Belize City, British Honduras (Belize); and the terminal point Miami, Fla.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

This permit shall be subject to the condition that the holder shall serve the terminal points Miami, Fla., and New Orleans, La., only on flights that serve San Salvador, El Salvador.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of El Salvador for Salvadorian international air service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and El Salvador shall be parties.

This permit shall be subject to the condition that in the event any practice develops which the Board regards as inimical to sound economic conditions the holder and the Board will consult and use their best efforts to agree on modifications satisfactory to both.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations under this permit.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation of persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there in on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request the Board may authorize the holder to supply the name and address of an insurance syndicate in Lieu of the names and addresses of the member insurers.

The initial tariff filed by the holder shall not set forth rates, fares, and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation. However, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

The exercise of the privileges granted here shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time-to-time be prescribed by the Board.

[1] Tables filed as part of the original document.

[1] Order 77-10-39. approved October 11, 1977.

[2] TACA's permit states that the authority to serve Merida, Mexico as an intermediate point is a temporary authorization, which expires "whenever a United States carrier inaugurates scheduled service between New Orleans and Merida." (Order 77-10-39)

[3] TACA's permit is subject to the condition that the carrier serve the terminal points Miami and New Orleans only on flights that serve San Salvador.

[4] A copy of the application has been transmitted to the President of the United States in accordance with the requirements of section 801 of the Act.

[5] TACA requests that its foreign air carrier permit be renewed for an indefinite period. Previously, TACA's permit has been renewed for five-year periods (47 C.A.B. 742 and Order 73-5-142). There is no bilateral air transport agreement between the United States and El Salvador. Accordingly, we will renew TACA's current permit for a period of five years, rather than for an indefinite period.

[6] In the most recent order amending TACA's foreign air carier permit (Order 77-10-39), the Board found that the carrier met the fitness standards of the Act, and that TACA's services would be in the public interest. The present application continues to support these findings.

[7] The applicant indicates by amended exhibits filed April 4, 1978, that only the following persons held more than one percent of the carrier's voting stock: Cede & Co.; Merrill Lynch, Pierce, Fenner & Smith, Inc.; Pershing & Co., Inc.; Tad & Co.; Underwood Neuhaus & Co., Inc.; Watkins & Co., Inc.; William B. Daly; Albert B. Fay; Harry B. Leslie; and Robert K. Moses, Jr.

[8] Our tentative finding is based upon the fact that the applicant is seeking only renewal of existing authority. Section 312.9 of the Board's regulations does not require that an environmental evaluation be made in such cases.

[9] Since no new services are to be performed, there will be no material increase in the utilization of fuel.

[10] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

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This permit shall be effective on ———, and shall terminate five years thereafter, except that it shall be subject to termination at any time if the authority to conduct flight operations to and from El Salvador granted by the Government of El Salvador to any air carrier designated by the United States is canceled or restricted: *Provided, however,* That if in the period during which this permit shall be effective the operation of the foreign air transportation here authorized becomes the subject of any treaty, convention, or agreement to which the United States and El Salvador are or shall become parties, then this permit is continued in effect during the period provided in such treaty, convention, or agreement: *Provided further,* That, with respect to Merida, Mexico, the authority granted here shall expire whenever a United States carrier inaugurates scheduled service between New Orleans and Merida.[1]

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on ———.

———,
Secretary.

Issuance of this permit to the holder approved by the President of the United States on ——— in Order ——.

[FR Doc. 78-12357 Filed 5-4-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

PRESBYTERIAN HOSPITAL, ET AL

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before May 25, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

[1]The amendment authorizing service to Merida is a temporary authorization and does not refer to an activity of a continuing nature within the meaning of section 558(c) of the Administrative Procedure Act, 5 U.S.C. 558(c).

Docket No. 78-00072. Applicant: Presbyterian Hospital (Col. Pres. Medical Center), 622 West 168th Street, New York, N.Y. 10032. Article: ANOPS 101 Histogram Computer. Manufacturer: (Unitronex) Politechnika Warszawska, Poland. Intended use of article: The article is intended to be used for the study of computerization of the motor unit potential, particularly from patients with muscular dystrophy or carriers of patients with this order. This is an essential form of investigation and in many instances can only be accomplished by computerization of the muscle motor unit potentials so recorded with this article. Application received by Commissioner of Customs: April 14, 1978.

Docket No. 78-00099. Applicant: Case Western Reserve University, Department of Macromolecular Science, University Circle, Cleveland, Ohio 44106. Article: Chart Recorder, Model TE 200/2 and Accessories. Manufacturer: Tekman Electronics Ltd., United Kingdom. Intended use of article: The article is intended to be used to record volume changes against time during studies of the static and dynamic P-V relationships and creep measurements at constant pressures and comparison of changes in internal and external volume for several pressures. Application received by Commissioner of Customs: April 14, 1978.

Docket No. 78-00114. Applicant: Texas A. & I. University, Station 1, Box 104, Kingsville, Tex. 78363. Article: TE 16 Test Bed (used) and accessories. Manufacturer: Experimental Engineering Equipment Ltd., Canada. Intended use of article: The article is intended to be used in the course Mechanical Engineering Laboratory (ME341) study of measuring techniques and performance characteristics of mechanical engineering equipment including fluid devices, power systems and heat transfer equipment. Application received by Commissioner of Customs: April 14, 1978.

Docket No. 78-00151. Applicant: Old Dominion University, Department of Biological Sciences, Room 120, Hampton Boulevard, Norfolk, Va. 23508. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section plant, insect and animal specimens which have been embedded in hard epoxy and water emissible resins. Investigations will be conducted in order to understand basic ultra-structural phenomena associated with these tissues. In certain pathologic studies (human sperm and duck plague virus) attempts will be made to correlate changes with clinical treatment. The article will also be used for educational purposes in the courses: "Methods in Electron Microscopy" and "Advanced Methods in Electron Microscopy" which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells, virus and the employment of cytochemical staining to localize various enzymes and minerals. Application received by Commissioner of Customs: April 14, 1978.

Docket No. 78-00152. Applicant: Washington State University, Division of Purchasing, Pullman, Wash. 99164. Article: Waferizer Cutterhead for a Hombak Type ZOA 18 Drum Type Wood Flaker and Accessories. Manufacturer: Hombak GmbH, West Germany. Intended use of article: The article is intended to be used for evaluating the potential of converting sawmill waste, plywood waste, and forest slash into wafers for further manufacture into building products. Variables to be researched are: species, moisture content, wafer size and geometry, and type and quality of residue. Application received by Commissioner of Customs: April 14, 1978.

Docket No. 78-00166. Applicant: University of Rochester, 250 East River Road, Rochester, N.Y. 14623. Article: Three (3) Ultrafast Streak Cameras and Accessories. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used in the study of the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. The article converts the laser photons to electrons and then sweeps the accelerated electrons across a phosphor, transforming temporal to spatial variations. Application received by Commissioner of Customs: April 14, 1978.

Docket No. 78-00186. Applicant: Cornell University, Department of Biochemistry, Wing Hall, Ithaca, N.Y. 14853. Article: Xenon Arc Lamp System and Accessories. Manufacturer: Photochemical Research Association Inc., Canada. Intended use of article: The article is intended to be used for the investigation of binding of ligand (e.g., Oxygen [O_2], carbon monoxide [CO] or nitric oxide [NO]) to hemoglobin as well as protein conformational changes of hemoglobin. All the experiments will involve flash photolysis in which a laser pulse is used to remove ligand from hemoglobin. These investigations are directed toward obtaining a clearer understanding of cooperative effects observed in the binding of ligand by hemoglobin. Application received by Commissioner of Customs: April 14, 1978.

Docket No. 78-00188. Applicant: The Regents of the University of California, Department of Pathology, School of Medicine, University of California, SF, San Francisco, Calif. 94143. Article: Electron Microscope, Model JEM 100CX and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used both as a means for analysis of naturally occurring disease and as a supplemental aid to the study of model disease systems. Specimens obtained from surgical pathology and from the autopsy will be prepared by standard means, sectioned and stained for routine transmission microscopy. Specifically, detailed analysis of soft tissue tumors, the ultrastructural features of meningiomata, and the distortions produced by liver disease will be followed. The studies will be conducted in an attempt to define the structural and functional correlations that are associated with degenerative and proliferative diseases both in animal models and in humans. The article will also be used for training graduate students in electron microscopy techniques. Application received by Commissioner of Customs: April 11, 1978.

Docket No. 78-00206. Applicant: National Eye Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014. Article: Electron Microscope, Model EM 400 HMG with Water Chiller and Accessories. Manufacturer: Philips Electronics Instruments NVD, the Netherlands. Intended use of article: The article is intended to be used to examine plastic sections of human ocular tissues, animal tissues and tissue culture preparations in investigations related to corneal diseases, glaucoma, cataracts, retinal diseases, ocular cancer and ocular viruses. Application received by Commissioner of Customs: April 13, 1978.

Docket No. 78-00207. Applicant: University of Oklahoma, 1000 Asp Avenue, Room 314, Norman, Okla. 73019. Article: Nuclear Magnetic Resonance Pulse Spectrometer, Model CPS-2 and Accessories. Manufacturer: Spin-Lock Ltd., Canada. Intended use of article: The article is intended to be used for the study of the motional behavior of water and sodium ions in muscle, collagen and other body tissues in laboratory animals in the aging process. The two techniques which will be used in this project are the study of spin-spin relaxation time in the rotating framework (T_1) and self-diffusion coefficient by applying pulse magnetic field gradient. Continued studies of the effect of cross-linking of collagen on interaction between ATP and collagen molecules, will also be conducted. Application received by Commissioner of Customs: April 13, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-12251 Filed 5-4-78; 8:45 am]

[3510-03]

Maritime Administration

[Docket No. S-605]

ATLAS MARINE CO.

Multiple Applications

In the matter of Atlas Marine Co., Aeron Marine Shipping Co., Aquarius Marine Co., Worth Oil Transport Co., American Shipping, Inc., Pacific Shipping, Inc.

Notice is hereby given that the foregoing companies, holders of long-term operating-differential subsidy (ODS) contracts in the worldwide bulk trades, have filed separate applications dated April 18, 1978 to amend their respective contracts so as to include the transportation of dry bulk cargo under the cargo preference laws of the United States, including but not limited to 10 U.S.C. 2631, 46 U.S.C. 1241, and 15 U.S.C. 616 (a), provided, however, that no subsidy will be paid for voyages during which the applicants carry less than 55,000 long tons of dry bulk cargo on the loaded leg, and provided further, that no subsidy shall be paid for any voyage during which the applicants carry dry bulk cargo which has been bagged.

The applicants' current ODS contracts specify that the subsidized vessels shall carry exclusively commercial liquid and dry bulk cargoes not subject to the cargo preference statutes of the United States unless such cargoes are those that, except for the participation of the subsidized operator, would be carried by foreign flag vessels. In this event, such cargoes shall be carried at rates comparable to those offered by foreign flag vessels. Subsidized vessels may also engage in the carriage of liquid bulk cargoes specifically to meet the requirements of the Strategic Petroleum Reserve (SPR) Program of the United States with the understanding that no ODS shall be paid while the vessel is engaged in the carriage of that portion of SPR cargoes reserved for U.S. flag ships.

Interested parties may inspect the applications in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having an interest in such applications who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on May 15, 1978.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By order of the Maritime Subsidy Board.

Dated: May 1, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-12261 Filed 5-4-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

ATLANTIC GROUNDFISH

New Landing Restrictions

Section 651.7(e) of the fishing regulations regarding cod, haddock, and yellowtail flounder (43 FR 14969) provides that the Assistant Administrator for Fisheries may adjust the landing restrictions for cod, haddock and yellowtail flounder after 40 percent of the quarterly quota of cod, haddock, or yellowtail flounder has been taken. The Assistant Administrator has determined that more than 40 percent of cod, haddock and yellowtail flounder west of 69° W. longitude has been taken, and that it is necessary to impose additional restrictions on the landings of those species. The New England Fishery Management Council recommended that additional restrictions be imposed and its suggestions were carefully considered and adopted in part.

The Assistant Administrator also announces that further restrictions may soon be imposed to ensure that the quarterly quota is not taken before the end of the quarter.

The new restrictions per vessel are as follows:

(1) Cod:

Vessel size	*Pounds per week*
0 to 60 gross registered tons	4,900
61 to 125 gross registered tons	9,800
126 plus gross registered tons	14,000
Fixed-gear vessels	[1]8,000
Do	[2]13,000

[1]Gulf of Maine.
[2]Georges Bank and southern New England.

(2) Haddock:

Vessel size	*Pounds per week*
0 to 60 gross registered tons	3,500
61 to 125 gross registered tons	7,000
126 plus gross registered tons	10,000
Fixed-gear vessels	8,000

(3) Yellowtail flounder west of 69° W. longitude: 2,250 pounds per trip. The alternative limit based on a percentage of the weight of all fish on board no longer applies.

The weekly over-run of 5,000 pounds permitted by § 651.7(c), as amended, in the FEDERAL REGISTER on April 24, 1978 (43 FR 17362), is reduced by the same proportions of 30 percent for cod

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and 50 percent for haddock. Thus the permitted "over-run" for cod is 3,500 pounds per week.

Fishermen may continue to land 5,510 pounds of yellowtail flounder per trip caught east of 69° W. longitude. However, the alternative limit based on a percentage of the weight of all fish on board no longer applies.

These new landing restrictions will become effective at 0001 hours eastern daylight time, May 7, 1978..

Signed at Washington, D.C., this 28th day of April 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-12280 Filed 5-4-78; 8:45 am]

[3510-12]

WEATHER MODIFICATION ADVISORY BOARD

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given of the twelfth meeting of the Weather Modification Advisory Board.

The Weather Modification Advisory Board will meet from 4 to 6 p.m. on May 30; from 9 a.m. to 6 p.m. on May 31-June 2, and from 9 a.m. to 1 p.m. on June 3, 1978, in the Conference Room of the Aspen Meadows, Aspen, Colo.

The Board was established in January 1977 (42 FR 4512, January 25, 1977), to advise the Secretary of Commerce on matters of a national policy, a national research and development program, and other aspects of weather modification as outlined in the National Weather Modification Policy Act of 1976 (Pub. L. 94-490), enacted on October 13, 1976. The Board consists of 17 members, with a balanced representation selected from scientific, academic, commercial, consumer, legal, and environmental groups who are appointed by the Secretary of Commerce.

The purpose of this meeting is to review and approve the draft sections that have been prepared for use in the Board's Final Report. The sections deal with weather modification science, operations, future research programs and budgets, statistical evaluations, Federal organization for weather modification, environmental assessment, economics, societal aspects, legal and regulatory matters, and international factors.

The agenda for the meeting is:

TUESDAY, MAY 30, 1978—CONFERENCE ROOM, ASPEN MEADOWS

4 to 6 p.m.—Reading period to study and review the draft statements to be considered for inclusion in the final report of the Board.

WEDNESDAY, MAY 31-FRIDAY, JUNE 2, 1978

9 a.m. to 6 p.m.—Discussion and approval of individual sections of the Final Report.
12 noon to 1 p.m. (each day)—Recess for lunch.

SATURDAY, JUNE 3, 1978

9 a.m. to 1 p.m.—Continuation of review and approval process.
1:00 p.m.—Adjournment.

The meeting will be open to the public and a period will be set aside at the discretion of the Chairman for oral comments or questions by the public which do not exceed 10 minutes each. More extensive questions or comments should be submitted in writing before May 26. Other public statements regarding Board affairs may be submitted at any time before the meeting. Seating will be available for the public on a first-come, first-served basis in the Conference Room of the Aspen Meadows.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to Dr. Ronald L. Lavoie, Director, Science and Academic Affairs Office, National Oceanic and Atmospheric Administration, Rockville, Md. 20852, phone 301-443-8721.

Dated: May 2, 1978.

R. L. CARNAHAN,
Deputy Assistant Administrator for Administration.

[FR Doc. 78-12408 Filed 5-4-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1978 commodities to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 7, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1978, November 14, 1977 (42 FR 59015):

NO NSN

Wheel Chock, Wood;
Standard 2 x 4 x 8";
Standard 6 x 8 x 18";
Standard 6 x 8 x 76";
U-Shaped 8 x 12"; and
U-Shaped 10 x 20".

The above for all requirements for facilities located west of the Mississippi river and any requirements for facilities located east of the Mississippi river which are not furnished by the Federal Prison Industries.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-12288 Filed 5-4-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Additions

AGENCY: Committee for Purchase from the Blind and Other Serverly Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1978 commodities to be produced by and services to be provided by workshops for the blind or other severly handicapped.

EFFECTIVE DATE: May 5, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severly Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On March 3, 1978, December 23, 1977, and March 10, 1978, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (43 FR 8829, 42 FR 64399, and 43 FR 9842) of proposed additions to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities and services are hereby added to Procurement List 1978:

CLASS 8430

Footwear Cover, Radioactive, Contaminants (IB), 8430-00-890-2079.

SIC 7349

Janitorial Service (SH), Federal Building, Post Office and Courthouse, Leavenworth, Kans.
Janitorial Services (SH), Department of Transportation, Federal Aviation Administration, Tracon Facility, Steward Avenue, Westbury, Long Island, N.Y.

C. W. FLETCHER,
Executive Director.

[FR Doc 78-12289 Filed 5-4-78; 8:45 a.m.]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 78-2]

G. L. ELECTRIC FLASHEAT CO. AND GERVIS J. GALLOWAY

Hearing

In the matter of G. L. Electric Flasheat Co., a corporation and Gervis J. Galloway, individually and as an officer thereof, section 15, Consumer Product Safety Act enforcement proceeding.

Served: May 2, 1978.

On March 24, 1978, the Commission authorized the issuance of a complaint charging Respondents G. L. Electric Flasheat Co., and its president, Gervis J. Galloway, with having manufactured, sold and distributed three models of portable immersion electric water heaters known as the "Flasheat," the "AC and DC" and the "Fast Heat," which were so designed as to present the potential for a substantial shock hazard to persons entering water which is being heated by the said devices and contacting a ground. The complaint alleges that the potential shock hazard is a product defect within the meaning of section 15(a)2 of the Consumer Product Safety Act (15 U.S.C. 2064(a)(2)) which may create a substantial risk of injury to the public and thereby constitute a substantial product hazard. Relief is requested in the form of an order requiring Respondents to cease manufacturing, selling, distributing and importing the said water heaters, to give adequate notice to the public of the substantial product hazard presented and to elect within ten (10) days to repair, replace, or refund the purchase price of the heaters less a reasonable allowance for use.

On April 25, 1978, Counsel for Respondents filed an Answer denying knowledge or information sufficient to form a belief as to the truth of the principal allegations of the Complaint.

Issue having been joined, a public hearing thereon will be held commencing at 10 a.m. (EDST), Tuesday, May 23, 1978, in room 1194 of the McNamara Federal Building, 477 Michigan Avenue, Detroit, Mich. 48226.

Dated: May 2, 1978.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc. 78-12268 Filed 5-4-78; 8:45 am]

[6360-01]

DELAWARE RIVER BASIN COMMISSION

WETLANDS PROTECTION POLICY

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on proposed wetlands protection policies. The hearing will be held on May 24, 1978, at 2:30 p.m. in the Commission's office building at 25 State Police Drive, West Trenton, N.J. Persons wishing to testify are requested to register with the Secretary no later than 24 hours prior to the hearing. Written comments may be submitted in place of oral testimony.

If adopted, the proposed policy would become a part of the Commission's Comprehensive Plan. It supports preservation and protection of both fresh water and tidal wetlands areas by State and Federal agencies, and provides for Commission participation in review of proposed projects affecting wetlands under specified circumstances. The policy includes general standards defining conditions that could adversely affect wetlands, and a procedure for protecting the public interest where encroachments could impair environmental values.

Text of the proposed policy, and of two conforming amendments to the Commission's rules of practice and procedure, is available from the Commission upon request.

W. BRINTON WHITALL,
Secretary.

APRIL 28, 1978.

[FR Doc. 78-12252 Filed 5-4-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 211]

THUNDERBIRD RESOURCES, INC.

Application for the Use of Multiple Allocation Fractions

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is considering an application from Thunderbird Resources, Inc. for use of multiple allocation fractions for motor gasoline pursuant to the provisions of 10 CFR 211.10(b). Notice is hereby given that ERA is providing an opportunity for interested parties to comment concerning the appropriateness of granting the relief requested in this application in whole or in part.

DATE: Comments must be submitted by May 24, 1978.

ADDRESS: Comments should be addresed to: Charles R. McCrea, Economic Regulatory Administration, Office of Product Allocation, Room 6222, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Charles R. McCrea or R. T. Gehring, Economic Regulatory Administration, Office of Product Allocation, Room 6222, 2000 M Street NW., Washington, D.C. 20461, 202-254-8583.

Ben McRae, Office of General Counsel, room 5146-b, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION: On August 30, 1977, the Federal Energy Administration (FEA) received an application from Thunderbird Resources, Inc. (T-Bird) for use of multiple allocation fractions (MAF) for motor gasoline pursuant to the provisions of 10 CFR 211.10(b). T-Bird indicated the existence of three marketing subsystems for its motor gasoline—namely, (1) "Big West-Western" (including portions of Washington, Idaho, and Oregon); (2) "Westco" (including portions of central and western Montana); and (3) "Westland" (including portions of North Dakota and eastern Montana). On the basis of the geographic locations of the three marketing subsystems and the alleged absence of practical methods to transfer motor gasoline among the marketing subsystems, T-Bird has requested permission to use a separate allocation fraction for each subsystem.

The functions of the FEA were assumed by the DOE pursuant to the Department of Energy Organization Act (Pub. L. 95-91, "DOE Act") and Executive Order 12009 (42 FR 46267, September 15, 1977). By Delegation Order 0204-4 the Secretary of Energy delegated to the Administrator of the ERA the responsibility for administering the Mandatory Petroleum Allocation Regulations. Under Section 705 of the DOE Act, pending proceedings are continued without being affected. Accordingly, ERA has continued consideration of the application by T-Bird.

10 CFR 211.10(b) states in pertinent part as follows:

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• • • Suppliers with two or more distribution subsystems or regions independent of one another may apply to the [ERA] National Office, in accordance with Subpart G of Part 205 of this chapter, for permission to use multiple allocation fractions whenever use of a single allocation fraction would be impracticable or inconsistent with the objectives of the program.

ERA generally requires suppliers of an allocated product to maintain a single allocation fraction. This policy is designed to ensure, to the maximum practical extent, the equitable distribution of all allocated products throughout the domestic market. This policy of maintaining a single allocation fraction will, however, be waived when it is impractical or unduly burdensome to maintain a single allocation fraction in any particular situation and permission to use multiple allocation fractions would not frustrate the objectives of the program. The practicability of utilizing one or a combination of several normal business practices common to the industry in order to accomplish the necessary transfer or redistribution of product within a single allocation fraction is central to the ERA's determination to grant or deny a request for the use of multiple allocation fractions. If the transfer of product between and among the proposed subsystems is not impracticable, the purposes of having a single uniform allocation fraction would ordinarily override the mere convenience of having separate allocation fractions. Specifically, T-Bird must demonstrate that equalization of product disribution between subsystems so as to meet the requirements of a single allocation fraction by direct transport, exchange, borrow/payback, or other product arrangements are so impractical a method of allocation as to constitute a significant burden on T-Bird's operations. Accordingly, ERA is analyzing this request with respect to (1) the interdependence of systems served including any overlapping or marketing regions and any geographical features which would have a bearing on and/or inhibit the maintenance of a single allocation fraction in T-Bird's various marketing subsystems; and (2) the practices of T-Bird and its affiliated companies with respect to supply, marketing, distribution, management, and the maintenance of allocation fractions within their corporate structure.

To assist ERA in determining the appropriateness of T-Bird's request, interested parties are invited to submit views and comments concerning this matter to Charles R. McCrea, Department of Energy, Economic Regulatory Administration, Office of Product Allocation, Room 6222, 2000 M Street NW., Washington, D.C. 20461. All submissions should be made in five copies and should be received no later than 4:30 p.m., May 24, 1978. Comments should be identified on the outside envelope and on the document with the designation, "T-Bird Application for MAF."

Any information or data furnished that you consider confidential must be so identified and submitted in writing, in one copy only. ERA reserves the right to determine the confidential status of the information or data and to treat such information according to that determination.

A copy of the application submitted by T-Bird in this matter, with proprietary information deleted, is available for public inspection in the DOE Freedom of Information Office, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m: and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., May 2, 1978.

BARTON R. HOUSE,
Assistant Administrator for Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-12319 Filed 5-4-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

BOSTON EDISON CO.

[Docket Nos. E-8855; ER76-90; ER76-854; ER77-84]

Order Accepting Settlement Agreement

APRIL 28, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.[1]

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Presently before the Commission is the joint motion of Boston Edison Co. (Edison) and the Reading Municipal Light Board (Reading) for acceptance of their mutually agreed upon settlement agreement. As will be detailed in the body of this order, we accept the proffered settlement agreement.

BACKGROUND

On January 16, 1978, Edison and Reading filed with the Commission the aforementioned joint motion and the settlement agreement itself. These documents were publicly noticed on February 28, 1978. Comments on the settlement were received on March 21, 1978, from Staff and Edison's full requirements wholesale customers, the Towns of Concord, Norwood, and Wellesley, Mass. (The Towns). Staff fully supports the settlement, while the Towns have certain reservations. On April 12, 1978, Edison responded to the Towns' comments.

On April 11, 1978, Reading filed a request for Commission acceptance of the settlement by April 30, 1978. In support thereof, Reading asserts that the settlement includes certain new power supply arrangements between itself and Edison from which the monetary benefits to be gleaned would decline if not implemented by that date.

SETTLEMENT

This settlement agreement would resolve all disputes between Edision and Reading in three pending proceedings: (1) full requirements wholesale rate increase in Docket No. E-8855 (Rate S-3); (2) full requirements wholesale rate increase in Docket No. ER76-90 (Rate S-4); and (3) consolidated proceedings concerning a partial requirements Contract Demand rate in Docket No. ER76-854 and non-firm transmission rate in Docket No. ER77-84. The settlement constitutes a "package" arrangement by which Edison and Reading will graduate to a totally new power supply relationship. The settlement contains several features of present interest:

The S-3 and S-4 rate levels are to be reduced by $448,897 and $363,522, respectively, for the locked-in periods those rates were applicable to Reading.

The Contract Demand rate level will be reduced by $409,200 for the period November 1, 1976 through October 31, 1977. Proportionate Contract Demand refunds will be made for the period beginning Novemberr 1, 1977.

The notice provision in the Contract Demand rate schedule has been changed so that Reading may, upon giving a minimum notice of twenty-four months, (i) increase or decrease up to 10 percent of the amount of Contract Demand service the customer had previously committed to take from Edison for a power year and (ii) increase or decrease in any amount the previously specified non-firm transmission service for a power year. The provision does not apply to any power year[2] preceding that beginning November 1, 1981.

Edison will reduce by up to 50 percent the charges otherwise collectable for non-firm transmission service in circumstances where the transmission facilities of one or more other utilities are used to bring power to a customer's system and the other utilities offer a similar reduction.

The parties have resolved their differences with respect to the notice requirements for terminating all requirements service by agreeing to a combination of firm power and unit sale purchases extending through the Fall of 1982 by Reading from Edison. Those purchases will make unit power available to Reading and increase utilization of Edison generating facilities thus conferring financial benefits on both Reading and Edison.

Edison will consult with Reading concerning future rate increases in an effort to reach agreements with respect to such increases prior to their filing.

All disputes, claims and litigation between the parties as to matters covered by the Settlement Agreement are resolved. Excluded from the Settlement Agreement are disputes concerning the S-2 rate which was recently the subject of Commission Opinion No. 809-A[2] and which was effective in 1973 and 1974, the deferred fuel amortization charge which Edison has included in its rates since the end of February 1976 and which will terminate within a few weeks (Docket No. ER76-445), and the proper interest rate on amounts owed in Docket No. ER77-558. The parties agree that a Commission decision in Docket No. ER76-445 will govern as to the deferred fuel amortization charge proposed in that docket and carried over in certain succeeding dockets.

In the joint motion it is asserted that Edison is offering this settlement to the Towns as it applies to Rates S-3 and S-4 and that, while the Towns do not take Contract Demand or non-firm transmission service from Edison, such service as revised by the settlement will be available to them.

COMMENTS

As noted above, Staff after careful review supports the settlement. It finds that, while the settlement rate level for rate 3 is excessive under its cost of service analysis, it is deficient for both Rate 4 and the Contract Demand rates and that, when considered as a package, the settlement rate levels are not excessive. Staff stresses the need to consider the settlement as a negotiated whole: It is "a negotiated settlement in which losses by the customers under a past rate are compensated by benefits under ongoing and future rates."

The Towns state that they will not oppose the settlement, so long as (1) it does not settle their claims in these proceedings and (2) Edison makes interim refunds to them pending resolution of the S-3 and S-4 cases on the merits, these refunds to be based upon the settlement rate level as modified by previously approved rate design.[3] Absent this interim refund condition, the Towns argue that they would be discriminated against in favor of reading. In addition the Towns complain that the settlement violates due process and Commission regulations for they were not invited to the negotiations between Edison and Reading and as a result cannot ascertain the true basis for the settlement. The Towns proceed to reiterate their position on several rate issues in these dockets which they contend are not resolved by the settlement,[4] as a result of which they cannot accept the settlement as presently structured.

In its response, Edison first notes that it offered this settlement to the Towns, which declined to accept. Moreover, Edison asserts that the Towns were notified of an invited to the settlement negotiations. Edison adds that the settlement was not intended to pressure the Towns and that it expressly leaves unaffected the ongoing litigation in these several dockets. Finally, Edison opposes the Towns' proposed interim refund condition as improperly giving the Towns the advantages of the settlement without the requisite compromise of relinquishing claims to further litigation of these dockets.

DISCUSSION

We find that the settlement agreement between Edison and Reading, when regarded in its totality, is neither unduly preferential nor unduly advantageous, and it establishes a just and reasonable rate level. Under the instant circumstances of one wholesale customer, Reading, moving from full requirements to partial requirements to unit contract status, the overall revenue level of all the rates involved is clearly not excessive. Accordingly the settlement should be accepted.

The only real point of contention concerns the impact of this settlement upon Edison's other wholesale customers, the Towns. While this settlement has been offered to, but apparently rejected by, the Towns, it will have no controlling effect over our subsequent decisions on the merits in these several proceedings as such decisions would relate to the Towns. Our acceptance of this settlement is in no way a prejudgment of the Town's numerous positions held in these dockets.

While the Towns are dissatisfied with the settlement, even though offered to them, we do not find persuasive their proposed condition that pending decisions on the merits in these dockets they receive interim refunds. Apart from this proposed condition requiring a "prescription of rates" for which we have no authority,[5] there is no compelling justification for it. It is not necessarily unduly discriminatory for one customer to settle rate increase proceedings at a level unacceptable to other customers who in turn have rested their case upon a Commission decision on the merits. If they succeed on the merits, they will receive refunds accordingly on the basis of the just and reasonable rates found applicable to them. It is their decision in the first instance whether to accept this settlement. Having decided to await a Commission decision on the merits, they have no basis for insisting without having offered a *quid pro quo* for the privilege, nonetheless, that they should be entitled to the settlement refunds.

A fortiori, they are not entitled to interim settlement refunds as dramatically increased by an adjustment reflecting their view of the Rate S-3 and S-4 cases on the merits.

The Commission further finds: The settlement agreement filed on January 16, 1978, between Edison and Reading in Docket Nos. E-8855, ER76-90, ER76-854 and ER77-84 is just and reasonable and should be approved.

The Commission orders: (A) The settlement agreement summarized herein and filed on January 16, 1978, is hereby approved. Such approval is,

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[1] The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2] *Boston Edison Co.*, Opinion No. 809-A, Docket Nos. E-7738 and E-7784, issued December 9, 1977.

[3] Specifically, the Towns would have the settlement rate level adjusted by using Kw billing instead of the Kva billing included in the settlement. This would increase their refunds for Rate S-3 by some $300,000 per Town over their respective refunds under the settlement.

[4] These issues include price squeeze, 14 Kv surcharge, fuel clause, Kva versus Kv billing.

[5] Before we could prescribe rates for the Towns pursuant to section 206 of the Federal Power Act, we must find them to be just and reasonable and the existing rates unjust and unreasonable. This we are not prepared to do on the present record.

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however, without prejudice to any subsequent Commission decision on the merits in these proceedings as related to the Towns.

(B) Within 45 days of this order Edison shall refund to Reading all rates collected in excess of the rates which would have been collected under the terms of the settlement agreement, together with interest at the rate of 9 percent per annum on all excess amounts collected in Docket Nos. E-8855, ER76-90, ER76-854 and ER77-84.

(C) Within 15 days after completion of the refunds set out in paragraph (B), Edison shall file with this Commission and all interested state commissions a full report detailing the refund procedure and accounting for all refunds made under the settlement agreement.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12320 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-311]

CENTRAL HUDSON GAS & ELECTRIC CORP.

Filing

MAY 1, 1978.

In the matter of Central Hudson Gas & Electric Corp.; Consolidated Edison Co. of New York, Inc.; Long Island Lighting Co.; New York State Electric & Gas Corp.; Niagara Mohawk Power Corp.; Orange and Rockland Utilities, Inc.; Rochester Gas & Electric Corp.; Power Authority of the State of New York.

Take notice that on April 14, 1978, the New York Power Pool (NYPP) filed on behalf of the above listed companies a revised Schedule C-2 to the New York Power Pool Agreement. NYPP states that this schedule will replace an existing schedule effective as of April 4, 1977, pursuant to Order of the Commission in Docket No. ER77-511. NYPP further states that the filing proposes that the revised schedule become effective June 1, 1978.

NYPP indicates that the schedule for changes in charges associated with economy energy transactions and paid into the transmission compensation account. NYPP further indicates that changes in the arrangement for sharing the proceeds of the transmission compensation account are also proposed.

Any person desiring to be heard or to make any protest with reference to the application should on or before May 19, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12321 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. ES78-32]

CLIFFS ELECTRIC SERVICE CO.

Application

MAY 1, 1978.

Take notice that on April 14, 1978, Cliffs Electric Service Co. ("Service Company"), a wholly owned subsidiary of The Cleveland-Cliffs Iron Co. filed an application seeking an order pursuant to section 204(a) of the Federal Power Act authorizing Service Company to guarantee the securities of another person or, in the alternative, an order determining that Service Company is not assuming any obligation as guarantor in respect of any security of any other person within the meaning of section 204(a) of the Federal Power Act.

Pursuant to the order issued by this Commission in Docket No. ES76-24, Service Company has acquired sufficient additional share of Common Stock of Upper Peninsula Generating Co. ("Generating Company") to enable Generating Company to finance the construction of the Seventh and Eighth units at its Presque Isle station. Service Company is entitled to all of the capacity and energy to be produced by those units. Pursuant to the First 1978 Supplement to 1974 Power Contract, Service Company has agreed to pay to Generating Company all of its costs associated with those units including amounts equal to any payment of principal and interest required to be paid by Generating Company on the bonds it has issued in connection with those units.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20425, in accordance with the Commission's rule of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 12, 1978. Protests will be considered by the Commission in determining the appropiate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12322 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. RP78-52]

CONSOLIDATED GAS SUPPLY CORP.

Order Conditionally Accepting for Filing and Suspending Proposed Rate Increase, Waiving Notice Requirements, Initiating Hearing, Establishing Procedures, Requiring Additional Data and the Submission of a Revised Tariff Sheet, and Granting Interventions

APRIL 28, 1978.

On March 31, 1978, Consolidated Gas Supply Corp. (Consolidated) tendered for filing a proposed tariff sheet [1] reflecting an annual increase in jurisdictional rates of $61,598,529. Consolidated stated that the filing seeks to recover the costs of purchasing regasified LNG from its affiliate, Consolidated System LNG Co., commencing April 30, 1978, and other changes in costs relating to gas purchases. This abbreviated filing was tendered pursuant to section 154.63(b)(3) of the Commission's Regulations and thus was supported only by Statements L.[2]

Consolidated requested an effective date of April 30, 1978, and waiver of section 154.66 of the Regulations to permit this filing to be tendered on the last day of the five month period of suspension of the proposed rate increase filed by Consolidated in Docket No. RP77-140.

By letter dated April 12, 1978, the Secretary of the Commission advised Consolidated that this filing was deficient and that no filing date would be assigned until a proper filing in compliance with Part 154 of the Commission's Regulations was received. Specifically, Consolidated was advised that the provision for abbreviated filings in section 154.63(b)(3) of the Regulations permits adjustments only to purchased gas costs and that its deficient filing reflected adjustments to other costs of service items.

[1] First Revised Sheet No. 16 and Alternate First Revised Sheet No. 16 to Third Revised Volume No. 1 of Consolidated's FERC Gas Tariff.

[2] Section 154.63(b)(3) of the Commission's Regulations, 18 CFR Part 154, provides for the submission of an abbreviated filing, supported by Statements L, M, and N, in lieu of Statements A through M, to recover increases in purchased gas costs, if a major rate increase has been filed within the past twelve months, and if there has been no material change in the pipeline's facilities, sales volumes and cost of service.

On April 18, 1978, Consolidated tendered a revised tariff sheet [3] and revised Statements N, S, and R. Consolidated stated that the proposed sales rates, as revised, will generate increased annual revenues of $83.7 million over the rates proposed to be effective on April 1, 1978 in Docket No. RP77-140, but will be approximately $2 million below the sales rates originally filed in Docket No. RP77-140.[4] Consolidated also requested that the Commission take expedited action and grant necessary waiver of the regulations to permit these revised rates to become effective on April 30, 1978, subject to refund. Notice of the filing was issued on April 20, 1978, providing for protests or petitions to intervene to be filed on or before May 2, 1978. Timely petitions to intervene were filed by the parties listed in the Appendix to this order. Also, a notice of intervention was filed by the Pennsylvania Public Utility Commission. All of the petitioners have demonstrated an interest in this proceeding which warrants their participation. The petitions to intervene shall therefore be granted.

Consolidated's revised tariff sheet, tendered in this docket on April 18, 1978, will be accepted for filing on that date. Waiver of the thirty day notice requirement in section 4(d) of the Natural Gas Act and sections 154.22 and 154.51 of the Commission's Regulations will be granted to permit a proposed effective date of April 29, 1978. The proposed rates will be suspended and permitted to become effective, subject to refund, on September 29, 1978, or such earlier date, on or after April 30, 1978, when LNG deliveries to Consolidated commence. This filing will be accepted subject to compliance with the conditions outlined below. A hearing on the lawfulness of the propsed rates will be initiated.

The revised filing reflects the cost, sales, and rate base data included in Consolidated's original filing in Docket No. RP77-140, the elimination of the costs of facilities that were not in service by April 1, 1978, and the inclusion of LNG purchase costs. The proposed rates are based on a twelve month test period ending June 30, 1977, as adjusted for known and measurable changes through March 31, 1978, and for the commencement of LNG deliveries. Based on a review of Consolidated's filing, the Commission finds that the proposed increased rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Because this filing, as properly revised, reflects increases attributable only to the purchase of regasified LNG, the Commission finds that it is reasonable and appropriate to permit the rates to become effective, subject to refund and certain conditions, when LNG deliveries to Consolidated commence. Because of the apparent uncertainty over the expected date of initial deliveries, the exact suspension period cannot be fixed now. It shall be not less than one day, or until April 30, 1978, and not more than five months, or until September 29, 1978.

The Commission also finds that several conditions must be attached to the acceptance of this filing. First, if LNG deliveries have not commenced on a regularly scheduled basis before the end of the maximum five month suspension period, Consolidated, shall file, on or before September 29, 1978, revised tariff sheets reflecting the elimination of all costs associated with the purchase of regasified LNG. Second, to provide sufficient information for a full and adequate evaluation of the present proposed rates, within thirty days after the commencement of LNG deliveries, Consolidated shall file complete data in the form required by section 154.63 of the Regulations on the cost and revenues estimated for the first twelve months of operations from the date that LNG deliveries commence. By attaching this condition we are not suggesting that Consolidated shall be permitted to claim or recover any additional cost increases without the submission of a full and proper rate increase filing. This information is necessary because of the significant, unprecedented impact of initial LNG deliveries on Consolidated's operations and costs. Third, Consolidated shall advise the Commission, jurisdictional customers, affected State Regulatory Commissions, and other interested parties of the actual date of initial deliveries of regasified LNG to Consolidated, within three days after deliveries begin.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates proposed by Consolidated, that the same be accepted for filing as of April 18, 1978, that the thirty day notice requirement be waived to permit a proposed effective date of April 29, 1978, and that the proposed rates be suspended as hereafter ordered, subject to compliance with the conditions hereafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, 9, and 15 thereof, and the Commissions rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Consolidated.

(B) Pending hearing and decision, Consolidated's proposed rate increase, Substitute Alternate First Revised Tariff Sheet No. 16 to Third Revised Volume No. 1 of its FERC Gas Tariff, is accepted for filing as of April 18, 1978, and waiver of the thirty day notice requirement is granted to permit a proposed effective date of April 29, 1978. The proposed rate increase shall be suspended and then permitted to become effective, subject to refund, on September 29, 1978, or on such earlier date, on or after April 30, 1978, when the delivery of regasified LNG to Consolidated commences, upon motion filed by Consolidated in accordance with the provisions of the Natural Gas Act.

(C) Acceptance of this filing is subject to these conditions:

(1) If LNG deliveries to Consolidated do not commence on a regularly scheduled basis on or before September 29, 1978, then Consolidated shall file, on or before September 29, 1978, revised tariff sheets reflecting the elimination of all costs associated with the receipt of regasified LNG;

(2) Within thirty days after the commencement of LNG deliveries, Consolidated shall file full cost and revenue data, in the form required by section 154.63 of the regulations, providing estimated cost and revenue data for the first twelve months of operations after LNG deliveries commence;

(3) Within three days of commencement of LNG deliveries, Consolidated shall advise the Commission, jurisdictional customers, affected State Regulatory Commissions, and other interested parties of the actual date of commencement of LNG deliveries.

(D) The Commission Staff shall prepare and serve top sheets on all parties within ninety days after receipt of the additional cost and revenue data to be filed by Consolidated pursuant to ordering paragraph (C) above.

(E) A Presiding Administrative Law Judge, to be designated by the Chief

[3] Substitute Alternate First Revised Tariff Sheet No. 16 to Third Revised Volume No. 1 of Consolidated's FERC Gas Tariff.

[4] Consolidated's original filing in Docket No. RP77-140 included costs associated with the receipt of regasified LNG. By order issued October 31, 1977, the proposed rates were accepted for filing and suspended until April 1, 1978, upon condition that Consolidated file revised tariff sheets reflecting elimination of facilities not in service by April 1, 1978 and LNG costs if deliveries did not begin by April 1, 1978. This condition was reaffirmed in an order denying rehearing issued on February 1, 1978 and an order rejecting a compliance filing issued March 31, 1978. Pursuant to that condition Consolidated filed revised tariff sheets on April 4, 1978 and further revised tariff sheets on April 18, 1978. These revised sheets reflect a substantial reduction in the rate increase proposed to be effective on April 1, 1978, in Docket No. RP77-140.

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Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(F) The petitioners listed in the Appendix to this order shall be permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene: and, *Provided, further,* That the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission. Commissioner Hall voted present.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX

Bay State Gas Co.
The Berkshire Gas Co.
Boston Gas Co.
Cape Cod Gas Co.
Commonwealth Gas Co.
The Connecticut Gas Co.
Connecticut Natural Gas Corp.
Fall River Gas Co.
Fitchburg Gas & Electric Light Co.
The Hartford Electric Light Co.
Haverhill Gas Co.
Manchester Gas Co.
Town of Middleborough, Municipal Gas and Electric Department
New Jersey Natural Gas Co.
City of Norwich, Department of Public Utilities
Orange and Rockland Utilities, Inc.
The Providence Gas Co.
The Southern Connecticut Gas Co.
Valley Gas Co.
Transcontinental Gas Pipe Line Corp.

[FR Doc. 78-12323 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. ES78-33]

EL PASO ELECTRIC CO.

Application

MAY 1, 1978.

Take notice that on April 20, 1978, El Paso Electric Co. (Applicant), filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue unsecured promissory notes not to exceed $130,000,000 face value at any one time outstanding.

The Applicant is incorporated under the laws of the State of Texas with its principal business office at El Paso, Tex., and is engaged in the electric utility business in the States of Texas and New Mexico in an area in the Rio Grande Valley extending approximately 110 miles northwesterly from El Paso to the Cabello Dam in New Mexico, and 120 miles southeasterly from El Paso to Van Horn, Tex., with a population of approximately 480,000 of whom 385,000 reside in metropolitan El Paso.

According to Applicant, the notes, including bank notes and commercial paper, are to have maturities not exceeding twelve months from the dates of issuance, with final maturity dates not later than December 31, 1980.The Applicant indicates that the interest rate on the Notes to be issued to commercial banks are not for resale to the public will be at the prime rate in effect from time to time, plus, in some instances, provision for compensating balances of 20 percent. The interest rate for Commercial Paper will be the prevailing rate in effect at the time of its issuance for paper of comparative quality and term.

Applicant states that the proceeds from the sale of the Notes will be used (i) to provide interim financing for Applicant's construction program contemplated and now in progress, (ii) to provide temporary financing of current transactions, to maintain cash working funds at normal levels, to carry accounts receivable, to provide for periodic large cash needs, such as tax payments, to supply temporary funds for unexpected cash requirements, and (iii) to provide for other types of current operational business requirements. Applicant's construction program for the years 1978 through 1981 has an estimated cost of $412,272,310.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12324 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-282]

FLORIDA POWER & LIGHT CO.

Order Accepting Rate Schedule for Filing, Waiving Regulations and Consolidating Proceedings

APRIL 28, 1978.

On March 29, 1978, Florida Power & Light Co. (FP&L) filed with the Commission an unexecuted Service Agreement and Exhibit A to its FERC Electric Tariff for service to the Fort Pierce Utilities Authority (Fort Pierce). FP&L proposes to make available to Fort Pierce 33 MW of firm power, and the energy associated therewith, under its Rate Schedule PR, for the period March 27, 1978 through May 31, 1978. Since FP&L states that it commenced service to Fort Pierce on March 27, 1978, in accordance with its request, the company requests that the Commission waive the notice requirements of Section 35.3 of its Regulations in order to permit the rate schedule to become effective as of that date.

FP&L states that Fort Pierce is a fully self-sufficient utility which presently purchases power from it under Service Schedules A (Emergency Interchange Service), B (Scheduled Interchange Service), and C (Economy Energy Interchange Service), to an interchange contract dated May 1, 1974. Because Fort Pierce has sufficient generating capacity to supply its own bulk power requirements, FP&L maintains that it cannot estimate the amount of power and energy Fort Pierce will actually take under Rate Schedule PR. Consequently, the company states that it cannot estimate the revenues it will receive under the rate schedule.

On October 14, 1977, in Docket No. ER78-19, FP&L submitted for filing rate schedules which seek to limit the availability of total (Rate Schedule SR-2) and partial requirements service (Rate Schedule PR). Proposed Rate Schedule PR would only be available to those electric systems for partial power requirements if the systems have insufficient generating capacity and/or firm power purchases to meet their own loads. By order issued December 30, 1977, in Docket No. ER78-19, et al., the Commission suspended the availability clauses in SR-2 and PR for five months, until June 1, 1978.

FP&L asserts that in order to prevent the technical noncompliance with the tariff presently in effect from becoming an issue in Docket Nos. ER78-19, et al., it has made the service requested available to Fort Pierce until the proposed change in the availability clause of Rate Schedule PR becomes effective.

On April 17, 1978, Fort Pierce filed a Protest and Request For Relief. Fort Pierce argues that FP&L's submittal in this docket represents an attempt to eliminate the basis for effective enforcement of its wholesale service obligations and an absolute refusal to deal in basic power supply services. It maintains that the May 31, 1978 termination date is a violation of the present and proposed availability clauses of FP&L's tariff, which provides that service cannot be terminated other than by two years' written notice, and specifying that there should be an initial five year term. It states that it accepted FP&L's contract after striking the June 1, 1978 termination language and notified the company of its refusal to accept the termination date before service commenced. Fort Pierce states that FP&L began to render service anyway. Fort Pierce reasons that in providing service under the tariff FP&L has acquiesced to its rejection of the proposed limitation of service to June 1, 1978.

Fort Pierce then posits that FP&L's actions are unlawful on the following grounds:

1. FP&L's refusals to deal with Fort Pierce are unduly discriminatory, since it is willing to sell to existing new retail customers;

2. FP&L acts to impose blatant tie-in sales by refusing to provide wholesale service to Fort Pierce to allow it to distribute power;

3. FP&L's refusals to deal with Fort Pierce constitute an extreme form of price squeeze;

4. The service terms are unjust and unreasonable insofar as they constitute an attempt by FP&L to preserve its nuclear and base load monopoly; and

5. By seeking approval of its proposed contract, FP&L proposes an unlawful and unjustified abandonment of the service it has just instituted.

Fort Pierce requests:

(1) That it be granted intervention;

(2) That the Commission find that FP&L's refusals to sell wholesale power to it is contrary to FP&L's filed tariff and the Federal Power Act; and

(3) That the Commission accept FP&L's proposed filing in this docket, but order the proposed termination of service be ineffective.

The Commission shall accept FP&L's March 29, 1978 submittal for filing. FP&L shall be directed to file cost support pursuant to Section 35.13 of the Commission's Regulations for its service to Fort Pierce. Such support was not included in FP&L's filing in Docket No. ER78-19 nor in the instant docket. Since service commenced on March 27, 1978, the Commission finds good cause to waive the notice requirements of Section 35.3 of its Regulations.

The Commission finds good cause to consolidate the instant docket with Docket Nos. ER78-19, et al which concerns the reasonableness of FP&L's Rate Schedules SR-2 and PR. Because of the substantial nature of Fort Pierce's interests in this proceeding, the Commission will allow it to intervene herein.

The availability provision of Rate Schedule PR, which provides that service is only available to those systems having insufficient generating capacity to meet their own needs, was suspended for five months, until June 1, 1978, by Commission order issued December 30, 1977 in Docket Nos. ER78-19, et al. The Commission also ordered an expedited investigation to determine the lawfulness of FP&L's proposed service limitations. All other provisions of FP&L's tariff became effective on March 1, 1978, after a two month suspension.

FP&L initiated service on March 27, 1978, when the availability provision was not in effect.

By letter dated March 24, 1978, FP&L offered to commence service at any time after 6 p.m., Friday, March 24, 1978. Exhibit A of the Service Agreement transmitted to Fort Pierce provides in relevant part:

Notwithstanding any other term of the Service Agreement dated ——— to the contrary, service at this Point of Delivery will terminate on June 1, 1978 unless otherwise ordered by the Federal Energy Regulatory Commission.

On March 27, 1978, by telegram, Fort Pierce notified FP&L that it accepted its offer to sell partial requirements service. It further indicated that it did not assent to the above-quoted paragraph. Fort Pierce additionally wrote a letter dated March 27, 1978, explaining why it did not agree to the June 1, 1978 termination date. By letter dated March 29, 1978, Fort Pierce transmitted an executed Service Agreement to FP&L with the June 1, 1978 termination language crossed out. FP&L commenced service notwithstanding Fort Pierce's rejection of the termination provision.

On the basis of the foregoing discussion, it is clear that Fort Pierce disavows the notion that it acquiesced in the June 1, 1978 termination provision. However, Fort Pierce is presently receiving partial requirements service from FP&L.

It should be noted that before FP&L can terminate service to Fort Pierce, it must file pursuant to Section 35.15 of the Commission's Regulations, a notice of termination. Such notice should be filed at least 30 but not more than 90 days before the proposed termination is to take effect. Before service can be terminated, the proposed termination must be shown to be consistent with the public interest. *Pennsylvania Water & Power Co. v. Federal Power Commission,* 343 U.S. 414 (1952). Unless and until authority to terminate is granted under this procedure, FP&L is ordered to continue rendering service to Fort Pierce under the service agreement declared effective by this order notwithstanding any restrictive eligibility clause as would otherwise determine Fort Pierce ineligible to receive service under its tariff. Any provision of the service agreement which by its own terms would effect a termination of service to Fort Pierce is hereby found and declared to be inconsistent with the public interest.

The Commission further finds: (1) Good cause exists to waive the cost support requirements of Section 35.13 for the purpose of accepting FP&L's submittal for filing.

(2) Good cause exists to accept FP&L's submittal for filing as herein conditioned.

(3) Good cause exists to waive the notice requirements of Section 35.3 of the Commission's Regulations and allow FP&L's filing to be effective as of March 27, 1978.

(4) Good cause exists to consolidate the instant docket with Docket Nos. ER78-19, et al.

(5) Participation by Fort Pierce in this proceeding may be in the public interest.

The Commission further orders: (A) The Commission shall waive Section 35.13 of its Regulations for the purpose of accepting FP&L's submittal for filing. However, FP&L is hereby directed to file cost support pursuant to Section 35.13 of the Commission's Regulations for service to Fort Pierce within 20 days of the issuance of this order.

(B) FP&L's submittal in this docket is hereby accepted for filing as of March 27, 1978, subject to refund.

(C) FP&L shall continue to provide partial requirements service to Fort Pierce pursuant to the service agreement filed herein until otherwise ordered by the Commission.

(D) The Commission hereby waives Section 35.3 of its Regulations to allow an effective date of March 27, 1978, for FP&L's filing.

(E) Revenues collected by FP&L from Fort Pierce under Rate Schedule PR shall be subject to refund in Docket No. ER78-19.

(F) Docket No. ER78-282 is hereby consolidated with Docket Nos. ER78-19, et al.

(G) Fort Pierce is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* that

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participation of Fort Pierce shall be limited to the matters specficially set forth in its petition to intervene; and *Provided, further,* that the admission of Fort Pierce shall not be construed as recognition by the Commission that it might be aggrieved by any order issued in this proceeding.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12325 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. ES78-30]

IOWA SOUTHERN UTILITIES CO.

Application

MAY 1, 1978.

Take notice that on April 5, 1978, Iowa Southern Utilities Co. (Applicant) filed an application for an order pursuant to section 204 of the Federal Power Act requesting an amendment to its authority to issue common stock of the company pursuant to an Employees' Stock Ownership Plan (ESOP Plan) within the meaning of section 301 of the Tax Reduction Act of 1975 for as long as the ESOP Plan so qualifies.

Applicant is incorporated under the laws of the State of Delaware with its principal business office at Centerville, Iowa, and is engaged in the electric utility business in 24 counties in Iowa.

The Common Stock will be issued to a trust for the benefit of the company's employees qualifying for the plan.

The proceeds from the issuance of the common stock will be used to reduce the amount of income tax payable for the appropriate year to the extent of 1 percent of investment tax credit and up to one-half of an additional 1 percent investment tax credit to the extent matched by payments from participants of the Plan, and subsequent years, by the company.

Any person desiring to be heard or to make any protest with reference to the application should on or before May 12, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). The application is on file with the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12326 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-326]

KANSAS GAS AND ELECTRIC CO.

Filing

MAY 1, 1978.

Take notice that Kansas Gas and Electric Co. (KG&E), on April 21, 1978, tendered for filing an initial Agreement for Wholesale Electric Service with the city of Oxford, Kans. KG&E states that initial service is to commence on June 27, 1978.

KG&E further states that copies of the Agreement have been served upon the city of Oxford, Kans.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12327 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket Nos. RP78-10 and RP72-32 (PGA77-2a)]

KANSAS-NEBRASKA NATURAL GAS CO. INC.

Further Extension of Time

APRIL 28, 1978

On April 19, 1978, Staff Counsel filed a motion to further extend the time for service of top sheets in the above referenced proceeding, pursuant to the Commission's Order issued November 25, 1977. An extension of time was previously granted by notice issued March 21, 1978.

Upon consideration, notice is herby given that an extension of time is granted to and including June 1, 1978, within which Staff Counsel shall serve top sheets on all parties. Pursuant to Ordering Paragraph (I) of the November 25, 1977 Order, the Presiding Administrative Law Judge shall convene a settlement conference within 10 days after the service of top sheets and will establish all further procedural dates.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12328 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. RP73-14; (PGA78-2) (DCA78-1)]

MICHIGAN WISCONSIN PIPE LINE CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Interventions, Initiating Hearing and Establishing Procedures

APRIL 28, 1978.

On March 15, 1978, Michigan Wisconsin Pipe Line Co. (Mich-Wisc) filed a revised tariff sheet [1] containing PGA and DCA rate adjustments to be effective May 1, 1978, to reflect (1) a commodity increase of 8.25 cents per Mcf in the Purchase Gas Adjustment to reflect principally the combined effect of (a) the replacement of old sources of gas supply with higher priced new gas, (b) contractual increases and escalations due to producer increases under Opinion Nos. 699, 749, and 770, (c) an increase in the cost of Oklahoma gas production due to the Oklahoma Conservation tax of 7 cents per Mcf which became effective on January 1, 1978, and (d) a rate reduction by Midwestern Gas Transmission Co. due to variations in the Canadian exchange rate; (2) a commodity increase of 4.81 cents per Mcf in the surcharge level to 12.09 cents which will recover a reduced level of deferred costs from those recovered through the November 1, 1977 surcharge but over a lesser volume, and; (3) a commodity reduction of 0.86 cents per Mcf in the Demand Charge adjustment to 1.27 cents for the period May through October 1978.

Mich-Wisc concurrently filed an alternate tariff sheet [2] which excludes 0.02 cents from the surcharge adjustment representing the cost of emergency purchases above rates prescribed by Opinion No. 770-A. Mich-Wisc requests that this alternative tariff sheet be made effective for one day, May 1, 1978, in the event that the Commission suspends for one day its filing due to the inclusion of emergency purchases above the rates prescribed by Opinion No. 770-A.

The emergency purchases made by Mich-Wisc at issue herein are as follows:

(a) Purchase of 4,576 Mcf for $10,296 from Helmerich and Payne pursuant to a contract dated March 17, 1977.

(b) Purchase of 15,214 Mcf for $34,231 from Donald C. Slawson pursuant to a contract dated February 24, 1977.

(c) Purchase of 53,416 Mcf for $120,186 from Kennedy and Mitchell, Inc., pursuant to a contract dated September 29, 1977.

[1] Nineteenth Revised Sheet No. 27F to FPC Gas Tariff, Second Revised Volume No. 1.

[2] Alternate Nineteenth Revised Sheet No. 27F to FPC Gas Tariff, Second Revised Volume No. 1.

The volumes purchased under contracts (a) and (b) are a continuation of purchases included in Mich-Wisc's September 15, 1977, PGA filing which became effective November 1, 1977. The Commission approved that PGA filing by letter order dated November 18, 1977, in Docket Nos. RP73-14 and RP76-50 (PGA No. 77-3 and DCA No. 77-1). Accordingly, no further investigation of these emergency purchases is necessary. As to the remaining contract (c) which has not been the subject of previous Mich-Wisc PGA filings, we believe that Mich-Wisc should be allowed to include in its purchased gas costs the rate for such purchase which a reasonably prudent pipeline would pay for gas under the same or similar circumstances. Accordingly, we shall institute hearing procedures for the purpose of resolving this issue. The amounts shall also be collected subject to refund pending the outcome of the hearing.

Our review of the costs included in the filing, other than the costs associated with the Kennedy and Mitchell purchases indicates that they are just and reasonable or otherwise appropriate under the Natural Gas Act and should be approved. Accordingly, we shall reject the alternate tariff sheet filed by Mich-Wisc and proposed to be effective for one day, May 1, 1978, but permit Mich-Wisc to file a revised tariff sheet to become effective May 1, 1978, without refund obligation, which excludes those costs attributable to the Kennedy and Mitchell emergency purchases which are in excess of Opinion 770-A rate levels.

Public notice of the filing was issued on March 20, 1978 with protests or petitions for intervention due on or before April 7, 1978. Petitions to intervene was filed by the Wisconsin Gas Co. and the Wisconsin Natural Gas Co. The city of Albany, Mo., filed a protest requesting the Commission to review the rate increase closely and to disapprove any amounts not shown to be necessary.

The Commission finds: (1) Mich-Wisc's proposed increase should be accepted for filing and suspended for one day to become effective May 2, 1978, subject to refund.

(2) Mich-Wisc's alternative tariff sheet should be rejected.

(3) Mich-Wisc should be permitted to file a revised tariff sheet to be effective May 1, 1977, which excludes those costs attributable to the Kennedy and Mitchell emergency purchases which are in excess of Opinion 770-A rate levels.

(4) A hearing should be held to determine the prudency of the Kennedy and Mitchell emergency purchase.

The Commission orders: (A) Mich-Wisc's proposed tariff sheet, referenced herein, is accepted for filing and suspended for one day until May 2, 1978, at which time such sheet shall be permitted to become effective, subject to refund.

(B) Mich-Wisc may file, within 15 days of the issuance of this order, a revised tariff sheet effective May 1, 1978, without refund obligation reflecting the elimination of those costs attributable to the Kennedy and Mitchell emergency purchases which are in excess of Opinion 770-A rate levels.

(C) Pursuant to the authority of the Natural Gas Act, particularly, sections 4, 5, 7, 14, 15, and 16, and the Commission's Rules and Regulations, a hearing shall be held in this proceeding to determine the issue of the prudency of Kennedy and Mitchell emergency purchase.

(D) The Commission Staff shall prepare and serve top sheets on all parties on or before August 1, 1978.

(E) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge pursuant to 18 CFR 3.5(d), shall convene a prehearing conference in this proceeding within 10 days after the service of top sheets by the Staff, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, for the purposes of establishing procedures for the investigation and hearing to be held pursuant to this order. The Presiding Judge shall be authorized to modify all procedural dates and to establish further procedures as may in his judgment be required for purposes of the investigation and hearing pursuant to this order. The presiding Judge shall also be authorized to rule upon all motions except motions to consolidate, sever, or dismiss, as provided for in the Rules of Practice and Procedure.

(F) The above-noted petitioners to intervene are permitted to intervene in this proceeding subject to the Commission's Rules and Regulations; *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12329 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. ER77-348]

MISSOURI UTILITIES CO.

Proposed Settlement Agreement

MAY 1, 1978.

Take notice that on March 27, 1978, Missouri Utilities Company (MUCO) tendered for filing a proposed settlement agreement in the above cited docket. On March 31, 1978, Presiding Administrative Law Judge Stephen L. Grossman certified the settlement to the Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12330 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. RP78-50]

NORTHWEST PIPELINE CORP.

Order Accepting for Filing and Suspending Proposed Rate Increase Subject to Conditions, Initiating Hearing and Granting Interventions

APRIL 23, 1978.

On March 31, 1978, Northwest Pipeline Corp. (Northwest) filed in Docket No. RP78-50 revised tariff sheets [1] which would increase jurisdictional revenues by $32,621,067 annually based on costs and sales volumes for the twelve months ended December 31, 1977, as adjusted. Northwest requests that the proposed rate increase become effective on May 1, 1978. For the reasons stated below, the Commission shall accept the revised tariff sheets for filing, suspend them for five months and set the matter for hearing.

Public notice of Northwest's filing was issued on April 11, 1978, providing for the filing of protests or petitions to intervene on or before April 28, 1978. Timely petitions to intervene were filed by the Public Service Co. of Colorado, Western Slope Gas Co., Chey-

[1] Twentieth Revised Sheet No. 10 to Original Vol. No. 1 and First Revised Sheet Nos. 195, 241, 283, 309 and 365 to Original Vol. No. 2.

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enne Light, Fuel and Power Co., Colorado Interstate Gas Co. and Pacific Gas Transmission Co. The Commission finds that all listed petitioners have demonstrated an interest in this proceeding which warrants their participation. The petitions to intervene shall therefore be granted.

Northwest states that its proposed increase in rates is required because of the increased costs associated with the expansion of the Clay Basin Storage Project, increased costs of gas supply projects, increased operation and maintenance expenses and taxes and decreased sales volumes. Northwest also claims an overall rate of return of 11.39 percent which is designed to yield a 16.50 percent return on equity capital.

Based on a review of Northwest's filing the Commission finds that the proposed rate increase has not been shown to be just and reasonable and may be unjust, unreasonable, and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept Northwest's revised tariff sheets for filing, suspend their use for five months to become effective October 1, 1978, subject to refund, and shall set the matter for hearing, as hereinafter conditioned.

Northwest's supporting cost of service includes the costs of the Clay Basin Storage Project, a project which has received Commission certificate authorization but which has not yet been placed in service. Northwest asks for waiver of section 154.63(e)(2)(ii) of the Commission's Regulations to permit inclusion of these costs in rates even if the facilities are not placed in service before October 1, 1978. Northwest also reflects in its rates costs related to the proposed expansion of the Jackson Prairie Storage Field and asks for waiver of section 154.63(e)(2)(ii) to permit these costs to be recovered in rates despite the fact that certificate authorization has not yet been applied for. Northwest has also reflected in rates the costs of certain other facilities which have not yet received certificate authorization but which are expected to be certificated and in service prior to October 1, 1978. The Commission shall grant waiver of section 154.63(e)(2)(ii) in that it shall accept for filing Northwest's revised tariff sheets which include the costs of non-certificated facilities. Northwest's request for waiver of section 154.63(e)(2)(ii) to permit recovery of the costs of facilities not certificated and placed in service on or before September 30, 1978, shall be denied, however, and Northwest shall be required to file, prior to October 1, 1978, revised tariff sheets to reflect elimination of all costs from its cost of service related to facilities not placed in service by October 1, 1978.

The proposed rates are designed to recover increases in royalty costs and related production taxes which may become payable by Northwest under procedures recently promulgated by the United States Geological Survey (USGS). Northwest explains that the USGS published a notice on May 4, 1977 (42 FR 22610) which establishes new rules for calculating royalty payments due under Federal and Indian lease agreements. Northwest claims that the new rules, which became effective on June 1, 1977, require that where a gas sales contract is not the product of arm's length bargaining (e.g., pipeline production) the royalties payable on that production shall be computed using a base figure equal to the higher of (a) the price received by the lessee or operator under the sales contract or (b) the highest applicable ceiling rate established by the FERC for the same vintage gas. Northwest maintains that the USGS may interpret the "highest applicable ceiling rate" to mean rates for renegotiated contracts set forth in 699-H and 770-A and not the flowing gas rate promulgated in Opinion No. 749 which has been the basis for Northwest's landowner royalty payments since June 1, 1977. Should Federal and Indian royalty costs be increased, Northwest states that it would be compelled to increase royalty payments to private as well as public lessors. Northwest requests waiver of section 154.63(e)(2)(i) of the Regulations to permit recovery, subject to refund, of increased royalty and related production tax expenses pending resolution of the royalty issue with USGS. The Commission shall not grant waiver of its regulations as requested. Based on information provided to the Commission by Northwest, the projected increases in royalty costs and production taxes may never be realized and, at the present time, constitute a speculative liability which is not "known and measurable" as required by the Commission's regulations. Under these circumstances, we shall allow Northwest to reflect in its proposed rates only that level of royalty and production tax expenses which are actually being incurred on September 30, 1978.

Finally, Northwest filed in this docket First Revised Sheet No. 365 which sets forth increased rates for Rate Schedule X-41. We note that Northwest's Rate Schedule X-41 and Original Sheet No. 365 is being considered in Northwest's pending certificate proceeding in Docket No. CP77-447. Section 154.22 of the Commission's Regulations provides that a natural gas company must obtain a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act before any new rate schedule or contracts for the performance of any new service may be filed. We shall waive the provisions of this Regulation in order to accept for filing the increased rates for Rate Schedule X-41, subject to the condition that Northwest shall file revised tariff sheets reflecting the elimination of Rate Schedule X-41 if a certificate for this service has not been issued by October 1, 1978.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates proposed by Northwest and that the proposed increased rates be accepted for filing and suspended as ordered below.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15, and the Commission's regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Northwest.

(B) Pending hearing and decision, and subject to the conditions of this order, Northwest's proposed rate increase is accepted for filing and suspended for 5 months, until October 1, 1978, when it shall be permitted to become effective, subject to refund, upon motion filed by Northwest in accordance with the provisions of the Natural Gas Act.

(C) On or before October 1, 1978, Northwest shall file substitute tariff sheets and supporting cost and revenue data in accordance with the Commission's rules and regulations, to reflect the elimination of all costs associated with facilities not placed in service by October 1, 1978.

(D) Waiver of Section 154.63(e)(2)(ii) of the Regulations is granted subject to the condition set forth in Paragraph (C) above.

(E) The tariff sheets accepted by this order shall be revised to reflect elimination of all projected increases in royalty expenses and production taxes which do not become effective by October 1, 1978.

(F) Waiver of Section 154.22 of the Regulations is granted subject to the condition that Northwest shall file revised tariff sheets reflecting the elimination of Rate Schedule X-41 if a certificate for this service has not been issued by October 1, 1978.

(G) The petitioners to intervene listed in the body of this order shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations;

Provided, however, that the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(H) The Commission Staff shall prepare and serve top sheets on all parties on or before August 18, 1978.

(I) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)) shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

(J) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12331 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-228]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

Order Accepting for Filing and Suspending Proposed Rates and Services for Interchange Service Providing for Hearing and Establishing Procedures

APRIL 28, 1978.

On February 24, 1978, Public Service Company of Indiana, Inc. (PSI) tendered for filing an Interconnection Agreement (the Agreement) between PSI and the city of Crawfordsville, Ind. (City). The proposed Agreement cancels and replaces the Interconnection Agreement dated March 6, 1968, which has been designated as Rate Schedule FERC No. 21. Notice of the filing was issued on March 2, 1978, with protests or petitions to intervene due on or before March 24, 1978. No protests or petitions have been filed.

The proposed Agreement consists of general terms and conditions of Service Schedules A through E, providing respectively for the exchange of Firm Power, Emergency Service Maintenance Power, Interchange Power and Interim Power. As pertinent Service Schedule A, section 2, specifies a charge for firm power of $5.34 per kW-month of firm billing demand plus 6.59 mills per kWh subject to a fuel clause adjustment[1]. This schedule requires the City to take firm power and firm energy at a rate of delivery not less than the "Firm Reservation" Currently specified at 35 percent of the City's Maximum System Kilowatt Demand during the immediately preceding 12 months[2]. Service Schedule B, Section 3 provides that emergency energy shall be compensated by the return of equivalent energy, or at the supplier's discretion, by payments equal to 110 percent of the supplier's "out-of-pocket", incremental, cost. The Agreement also states that the fuel cost component of the supplier's out-of-pocket costs may include the replacement costs of fuel purchased for, or supplied from, the supplier's storage inventories.

A preliminary review indicates that the proposed rates discussed above have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. PSI requests that the proposed rates go into effect on May 1, 1978. Considering the above, the Commission will accept the submittal for filing and suspend the rates for one day from the effective date after which the rates will go into effect subject to refund.

It is in the public interest to hold a prehearing conference among representatives of the PSI, the City, and the Commission Staff to provide and exchange additional facts and to work toward resolution of the issues raised by this filing.

The Commission finds: (1) Good cause exists to accept for filing the proposed rates and services and to suspend the use thereof for one day from May 1, 1978, when they shall become effective subject to refund.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of PSI's proposed rates and services.

(3) Good cause exists to hold a prehearing conference among representatives of PSI, the City, and Commission Staff to discuss issues regarding this filing.

The Commission orders: (A) PSI's proposed rates and services are hereby accepted for filing and suspended for one day from May 1, 1978, when they may become effective subject to refund.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR section 35.5(d)), shall convene prehearing conference in this proceeding on June 20, 1978, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(C) Pursuant to the authority of the Federal Power Act, particularly sections 205 and 206 thereof, and the Commission's Rules and Regulations, a public hearing shall be held concerning the justness and reasonableness of the rates and charges included in the subject filing of PSI.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12332 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-286]

TRANSPORT, INC.

Application

APRIL 27, 1978.

Take notice that on April 14, 1978, Transport, Inc. (Applicant), 109 North Broad Street, Lancaster, Ohio 43130, filed in Docket No. CP78-286 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the twelve-month period May 1, 1978 through April 30, 1979, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total estimated cost of the proposed facilities is $800,000, which cost would be financed with internally-generated funds or short-term financing. Applicant states that it is aware that the total estimated cost of the proposed facilities exceeds 2 percent of plant account. However, Applicant states that it is engaged in essentially a gathering operation and needs to be able to attach reserves without extensive delays.

[1] These rates are the same as those at issue in Docket Nos. ER76-149 and E-9537 as applicable to PSI's agreements with certain municipal customers.

[2] PSI's agreements with its other municipal customers involved in dockets cited above specifies a Firm Reservation of 10 percent, as did the prior agreement with Crawfordsville.

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Consequently, Applicant requests that the Commission waive the maximum dollar limitation imposed by section 2.58(a) of its General Policy and Interpretations and section 157.7(b)(1) of its Regulations with regard to this application.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12333 Filed 5-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-294]

UNITED GAS PIPE LINE CO.

Pipeline Application

APRIL 27, 1978.

Take notice that on April 7, 1978, United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, filed an application in Docket No. CP78-294, pursuant to section 7(c) of the Natural Gas Act, as amended, requesting authorization to transport gas for Arkansas Louisiana Gas Co. (Arkla), all as more fully set forth in the application which is on file with the Federal Energy Regulatory Commission (Commission).

United states that pursuant to a transportation agreement dated April 4, 1978, between United and Arkla, Arkla will deliver or cause to be delivered to United for transportation up to 27,000 Mcf per day at a point of receipt on United's offshore pipeline system in Eugene Island Area, Block 32, offshore Louisiana. United will redeliver equivalent volumes, less fuel and company-used gas, to Arkla at various existing and proposed points of interconnection between United and Arkla.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing wil be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12334 Filed 5-4-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. G—5236, et al.]

CABOT CORP., ET AL.

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates[1]

APRIL 26, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 110). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1]This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft³	Pressure base
G-5236, C, Apr. 12, 1978	Cabot Corp. (successor to Godfrey L. Cabot, Inc.), P.O. Box 1473, Charleston, W. Va. 25325.	Consolidated Gas Supply Corp., certain acreage in Wood County, W. VA.	(1)	14.65
G-7241, C, Apr. 12, 1978	Southland Royalty Co. (successor in interest to Aztec Oil & Gas Co.), 1000 Fort Worth Club Tower, Fort Worth, Tex. 76102.	Northern Natural Gas Co., Queen Sand underlying acreage located in the S/2 S/2 of sec. 35, T20S, R37E, and the E/2 SE/4 of sec. 28 and the W/2 SW/4 of sec. 27, T19S, R37E, all in Lea County, N. Mex.	(2)	14.73
G-18697, D, Apr. 13, 1978	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	United Gas Pipeline Co., Gibson Field, Terrebonne Parish, La.	Shell drilled two dry holes on this acreage and was unable to establish production.	
C175-39, A, Apr. 17, 1978	Finadel, Inc. (successor in interest to American Petrofina Exploration Co.), P.O. Box 2159, Dallas, Tex. 75221.	Transcontinental Gas Pipe Line Corp., ship shoal area (south addition), block 246 field, offshore Louisiana.	(3)	15.025
C176-53, C, Apr. 17, 1978	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Natural Gas Pipeline Co. of America, South one-half of block 532 and the north one-half of block 533, West Cameron area, south addition, offshore Louisiana.	(3,4)	14.73
C176-733, C, Apr. 10, 1978	Finadel Inc. (successor in interest to American Petrofina Exploration Co.).	Transcontinental Gas Pipe Line Corp., Galveston area block 255 field, Gulf of Mexico.	(3)	15.025
C176-737, C, Apr. 13, 1978	....do	Transco Gas Supply Co., West Cameron block 480 field, offshore Louisiana.	(3)	15.025
C177-34, C, Apr. 11, 1978	Dover Exploration Co., Box 615, Dover, Del. 19901.	Eastern Shore Natural Gas Co., Meyersville Field, Victoria County, Tex., north east Traywick field, Nacogdoches County, Tex., and South Edna field, Jackson County, Tex.	(3)	14.73
C177-350, C, Apr. 11, 1978	Ashland Exploration, Inc., P.O. Box 1503, Houston, Tex. 77001.	United Gas Pipeline Co., J. Paulin Duhe No. 2-A well, located in sec. 41-T12S-R8E, Iberia Parish, La.	(3)	15.025
C177-410, C, Apr. 4, 1978	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Christenson "B" No. 1 well, W/2 NE/4, sec. 14, T45N, R76W, Campbell County, Wyo.	(3)	15.025
C177-694, C, Apr. 17, 1978	Chevron U.S.A. Inc., P.O. Box 599, Denver, Colo. 80201.	Mississippi River Transmission Corp., E. T. Davis No. 1 well, Mills Ranch (Hunton) field, Wheeler County, Tex.	(3)	14.65
C178-508, C, Apr. 7, 1978	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., Robertson No. 1-A well, all of sec. 28-T26N-R26W, Harper County, Okla.	(5)	14.65
C178-612, A, Apr. 3, 1978	Sohio Natural Resources Co., 50 Penn Place, Suite 1100, Oklahoma City, Okla. 73118.	El Paso Natural Gas Co., Drinkard formation, Walden well No. 4 located in sec. 15, T22S, R37E, Lea County, N. Mex.	(6)	14.65
C178-613, A, Apr. 3, 1978	Hondo Oil & Gas Co., P.O. Box 2819, Dallas, Tex. 75221.	El Paso Natural Gas Co., certain acreage in the Millman area, Eddy County, N. Mex.	(3)	14.65
C178-614, A, Apr. 5, 1978	Ashland Exploration, Inc., P.O. Box 1503, Houston, Tex. 77001.	Panhandle Eastern Pipeline Co., Keifer No. 2-5 well located in sec. 5, T24N, R13W, Woods County, Okla.	(3)	14.65
C178-615, A, Apr. 5, 1978	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Northern Natural Gas Co., Stonebraker "A" No. 91, sec. 8-2N-13ECM, Texas County, Okla., limited to production from the Council Grove formation.	(3)	14.65
C178-616, A, Apr. 6, 1978	Hondo Oil & Gas Co	El Paso Natural Gas Co., certain acreage in the Millman area, Eddy County, N. Mex.	(3)	14.65
C178-617, A, Apr. 6, 1978	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	....do	(3)	14.65
C178-618 (G-19010), B Apr. 6, 1978	Austral Oil Co., Inc., 2700 Exxon Bldg., Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., blocks 172 and 184, Dome field, Eugene Island, offshore Louisiana.	Depleted, leases released, plugged, and abandoned.	

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Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft³	Pressure base
CI78-619, A, Apr. 7, 1978.....	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Mountain Fuel Supply Co., Bruff A No. 1 well located in sec. 18-18N-112W, Uinta County, Wyo.	(2)	14.73
CI78-620, A, Apr. 8, 1978.....	Appalachian Exploration & Development, Inc., P.O. Box 628, Charleston, W. Va. 25322.	Cabot Corp., Pocahontas C-5, C-6, C-7, and C-10 wells situated in McDowell County, W. Va.	(2)	14.65
CI78-622 (G-4801), B, Apr. 10, 1978.	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Lone Star Gas Co. Dillard Plant, Carter County, Okla.	Depleted, contract cancelled and no deliveries made to Lone Star for over four (4) years.	
CI78-623, B, Apr. 10, 1978.....	An-Son Corp., 810 Saratoga Bldg., New Orleans, La. 70112.	Northern Natural Gas Co., South Parnell, Basal Morrow; Ochiltree County, Tex.	Uneconomical.	
CI78-624 (CI62-463), B, Apr. 10, 1978.	Tenneco Oil Co. (successor to Tenneco Corp.), P.O. Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., West Kutz Dakota field, San Juan County, N. Mex.	(7)	.....
CI78-636, A, Apr. 14, 1978.....	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	El Paso Natural Gas Co., certain acreage in the block A-34 (Yates) field, Andrews County, Tex.	(2)	14.65
CI78-637, A, Apr. 14, 1978.....	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	El Paso Natural Gas Co., Jicarilla area (Chacra formation), Rio Arriba County, N. Mex.	(2)	14.73
CI78-638 (CI75-449), B, Apr. 10, 1978.	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., A-B-M field, Upton County, Tex.	Plugged and abandoned, contract dated Dec. 2, 1974, expires by its own terms on Apr. 1, 1978.	
CI78-639, B, Apr. 17, 1978.....	Americo Petroleum, Inc., 200 East Third, Hutchinson, Kans.	Arkansas Louisiana Gas Co., north half (N/2) of sec. 19, T25S, R4W, Reno County, Kans., Harry Valdois No. 1 well.	Production has declined below economic limit.	
CI78-640, A, Apr. 13, 1978.....	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79189.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., West Delta, blocks 61 and 62, offshore Louisiana.	(2)	14.73
CI78-642, A, Apr. 17, 1978.....	Felmont Oil Corp., P.O. Box 2266, Midland, Tex. 79701.	Northern Natural Gas Co., from a portion of high island, area block A-532, south addition, offshore Texas.	(2)	14.65
CI78-643, A, Apr. 7, 1978.....	Arkla Exploration Co., P.O. Box 21734, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., Clay field, Jackson and Lincoln Parishes, La.	(2)	15.025
CI78-644, A, Apr. 7, 1978.....	Arkla Exploration Co.....	Arkansas Louisiana Gas Co., southwest Mayfield field, Beckham County, Okla.	(2)	14.65
CI78-645, B, Apr. 17, 1978.....	Yucca Petroleum Co., P.O. Box 2585, Amarillo, Tex. 79105.	Northern Natural Gas Co., north Hansford field (Tonkawa zone) Hansford County, Tex.	(10)	.....
CI78-646 (CI71-519), B, Apr. 2, 1978.	Kerr-McGee Corp., P.O. 25861, Oklahoma City, Okla. 73125.	Natural Gas Pipeline Co. of America, Mermentau River field, Acadia Parish, La.	Producers interest of certain properties has been relinquished.	
CI78-647 (CI60-84), B, Apr. 13, 1978.	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Phillips Petroleum Co., Azalea field, Midland County, Tex.	(11)	.....
CI78-648 (CI76-628), B, Apr. 17, 1978.	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Eugene Island block 192, offshore Louisiana.	(12)	.....

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft³	Pressure base
CI78-649 (CI61-399), B, Apr. 12, 1978.	Caroline Hunt Schoellkopf, 2500 1st National Bank Bldg., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., Laverne field, Beaver County, Okla.	Depleted, leases released from contract.	
CI78-650, A, Apr. 18, 1978.....	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Columbia Gas Transmission Corp. blocks A-337, A-342, and A-343, High Island area, offshore Texas.	(2)	15.025
CI78-651, B, Apr. 13, 1978.....	Gas Futures, Ltd., 2200 South Post Oak Rd., Houston, Tex. 77027.	Michigan Wisconsin Pipe Line Co., Laverne field, Harper County, Okla.	Well was shut in after cessation of production and unsuccessful workover program during February 1976.	
CI78-652, A, Apr. 17, 1978.....	Texas Gas Exploration Corp., P.O. Box 62310, Houston, Tex. 77052.	Consolidated Gas Supply Corp., "A" platform, block 313, Vermilion area, offshore Louisiana.	(2)	14.73
CI78-653, A, Apr. 17, 1978.....	Elf Aquitaine, Inc., 950 Threadneedle, Suite 200, Houston, Tex. 77079.	Tennessee Gas Pipeline Co., Maple Branch field, Monroe and Lowndes Counties, Miss.	(2)	15.025
CI78-654, A, Apr. 17, 1978.....	Shell Oil Co	Transcontinental Gas Pipe Line Corp., East Cameron blocks 56 and 57 field, offshore Louisiana.	(2)	15.025
CI78-655, A, Apr. 13, 1978.....	Sun Oil Co.....	Northwest Pipeline Corp., Blanco field, Rio Arriba County, N. Mex.	(13)	14.65

[1] Applicant requests its certificate of public convenience and necessity be amended to add 138 additional oil and gas leasehold acres.
[2] Applicant is willing to accept an initial rate pursuant to opinion No. 699-H and is filing under gas purchase contract dated Mar. 29, 1976. Prior gas purchase contract dated Nov. 1, 1966 terminated by its own terms on Nov. 30, 1973.
[3] Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.
[4] Applicant requests its certificate of public convenience and necessity be further amended to add an additional delivery point from platform "B" in tract I pursuant to the unit plans, West Cameron 533 field, 3,200 ft Sand Unit No. 14-08-0001-16152 and 3,500 ft Sand Unit No. 14-08-0001-16153.
[5] Applicant is filing under gas purchase contract dated Nov. 16, 1977.
[6] Applicant is filing under gas purchase contract dated Mar. 6, 1978.
[7] Tenneco's interest in the W/2 of sec. 21, T29N, R13W, San Juan County, N. Mex. was assigned to Aztec Oil & Gas Co. by assignment dated June 30, 1969, effective Aug. 1, 1969. Tenneco's leases in sec. 17, T29N, R13W, San Juan County, N. Mex. expired by own terms due to nonproduction. No wells were drilled on this acreage.
[8] Applicant is filing under gas sales contract dated Jan. 3, 1978.
[9] Applicant is filing under gas sales contract dated Dec. 30, 1977.
[10] The available supply of natural gas underlying the H. T. Cline unit is depleted. The owner of oil rights has recompleted the well as an oil well.
[11] The basic contract expired on Jan. 1, 1978, and has been replaced by a percentage of proceeds type contract dated Jan. 1, 1978, with Phillips Petroleum Co. Phillips Petroleum Co. will gather and process the gas and resell the residue gas, under its FERC GRS No. 533, to Northern Natural Gas Co.
[12] Cessation of production occurred during October 1977. Attempts to recomplete well were unsuccessful. Shell offered assignment to Amoco. Amoco refused. There are no remaining reserves for well No. 1, OCS-0431. All new drilling attempts were completed as dry holes, both by Shell and Amoco. Amoco filed a release on Dec. 30, 1977 with lessor.
[13] Applicant is filing under gas purchase contract dated Mar. 3, 1978.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Succession. F—Partial succession.

[FR Doc. 78-12137 Filed 5-4-78; 8:45 am]

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[6740-02]

[Docket Nos. RP75-35 and RP75-36]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Compliance Filing

MAY 3, 1978.

Take notice that on April 26, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Ninth revised Volume No. 1, to be effective May 27, 1978. The proposed tariff sheets consist of the following:

Original Sheet Nos. 213K1, 213K2, 213K3, and 213K4
First Revised Sheet Nos. 213E, 213F, and 213I
Second Revised Sheet Nos. 213D, 213G, 213H, and 213J
Third Revised sheet No. 213K

Tennessee states that the proposed tariff sheets are filed to comply with the Commission's January 26, 1978, order in this proceeding. According to Tennessee, the tariff sheets expand the language of the curtailment plan in article XXIV of the general terms and conditions of its tariff to explain more specifically its curtailment implementation procedures.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 10, 1978. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filing. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12438 Filed 5-4-78; 8:45 am]

[3128-01]

Office of Hearings and Appeals

FEDERAL ENERGY GUIDELINES PAR. 80,026

Supplement to Exceptions and Appeals Guidelines

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Supplement to Exceptions and Appeals Guidelines.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 2000 M Street NW., Room 8014, Washington, D.C. 20461, 202-254-9681.

SUPPLEMENTARY INFORMATION: on November 18, 1976, the Federal Energy Administration published Guidelines which summarized the criteria used in granting exception relief pursuant to the applicable statutes and regulations. (41 FR 50856 (November 18, 1976)). A portion of those Guidelines relates to Price Exceptions for Crude Oil Producers—Part 212, Subpart D. Federal Energy Guidelines Par. 80,026.

Several inquiries have been received as to the meaning of the crude oil portion of the Guidelines. Those Guidelines are accordingly being supplemented at this time to make it clear that the Department of Energy will consider exception applictions when a producer is not able to recover its current operating expenses. The supplement to the Guidelines also makes it clear that a crude oil producer need not wait until it completes a fiscal quarter in which it incurs a loss before filing an exception application. If the firm is able to project on the basis of reliable and substantial data that either its current operations or its operations during its next fiscal quarter will result in a negative cash flow it may file an application which will be considered on its merits by the DOE Office of Hearings and Appeals.

The first paragraph of Paragraph 80,026 of the Federal Energy Guidelines is therefore amended by the insertion of the material which appears below following the last sentence of that paragraph:

If the record establishes that a firm cannot continue a crude oil extraction effort on a profitable basis because its operating costs exceed the revenues which it may receive under the DOE regulatory program then an exception will generally be approved. *Monsanto Co.*, 6 FEA Par. 83,060 (August 26, 1977); *Gulf Oil Corp.*, 6 FEA Par. 83,028 (July 8, 1977). The analysis used in arriving at this determination is generally based on the firm's projections of the costs which it will reasonably incur during the six month period that includes its present fiscal quarter. *Barber Oil Exploration, Inc.*, 1 DOE Par. 81,008 (November 2, 1977). The DOE will also grant exception relief on the basis of reliable and substantial data which indicates that the operating expenses of the firm for the property involved during the next fiscal quarter will result in a negative cash flow. *W. N. McMurry*, 6 FEA Par. 83,014 (June 17, 1977); *City of Long Beach, California*, 4 FEA Par. 83,040 (August 10, 1976). In addition, exception relief has been granted when a firm does not project a negative cash flow but is able to demonstrate that unless an exception is granted from the ceiling price regulations it has an economic incentive to abandon production and salvage its equipment. *Reading & Bates Oil and Gas Co.*, 1DOE Par. 81,048 (January 6, 1978).

Issued in Washington, D.C., May 1, 1978

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

[FR Doc. 78-12287 filed 5-4-78; 8:45 am]

[3128-01]

Office of the Secretary

PROPOSED SUBSEQUENT ARRANGEMENT

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the United States and the International Atomic Energy Agency for Cooperation in the Peaceful Application of Atomic Energy, and the Agreement for Cooperation Between the United States and Argentina Concerning Civil uses of Atomic Energy.

The subsequent arrangement, to be carried out under the above-mentioned agreements, involves a supply agreement negotiated by the Governments of the United States, Argentina, and Peru and the International Atomic Energy Agency (IAEA) whereby the United States agrees to approve the transfer of fuel elements containing 14,785.9 grams of U.S.-origin uranium enriched to approximately 20.09 percent from Argentina to Peru for use in an IAEA project consisting of a zero power research reactor supplied to Peru by Argentina. In accordance with section 131 of the Atomic Energy Act of 1954, as amended, the Secretary has determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect May 22, 1978.

For the Department of Energy.

Dated: May 3, 1978.

WALTER J. MCDONALD,
Acting Assistant Secretary, International Affairs.

[FR Doc. 78-12535 Filed 5-4-78; 12:07 pm]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 891-3]

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Amended Notice of Public Hearing

On April 21, 1978, a notice of public hearing regarding three actions taken by the California Air Resources Board was published on pages 17044-17045 of volume 43 of the FEDERAL REGISTER. I hereby give notice of the following changes to the dates of this hearing and the corresponding revision of the agenda:

(1) The public hearing will be held on May 18-19, 1978;

(2) On Thursday, May 18, 1978, we will consider the highway cycle NO_x emission standard for 1980 and subsequent model year passenger cars and 1981 and subsequent model year light duty trucks and medium duty vehicles;

(3) On Friday, May 19, 1977, we will consider assembly-line test procedures for 1979 model year passenger cars, light duty trucks and medium duty vehicles, and tune-up label specifications for 1979 and subsequent model year passenger cars, light duty trucks, medium duty vehicles, heavy duty gasoline-fueled engines and heavy duty diesel fueled engines, and 1982 and subsequent model year motorcycles.

The location will be, as before, the Environmental Protection Agency Regional Office (Region IX) Conference room A-B, Sixth Floor, 215 Fremont Street, San Francisco, Calif. For all other particulars regarding said hearing, refer to 43 FR 17044 (April 21, 1978).

Dated: May 1, 1978.

BENJAMIN R. JACKSON,
Presiding Officer Director, Mobile Source Enforcement Division.

[FR Doc. 78-12245 Filed 5-4-78; 8:45 am]

[6560-01]

[FRL 891-8; OPP—33000/540]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the amendments to FIFRA on November 28, 1975 [Pub. L. 94-140], and the regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for

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the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, are being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, or (d) wishes to assert confidential status under Section 10 for his data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, and 13—202-755-9315
PM 21 and 22—202-426-2454
PM 24—202-755-2196
PM 31—202-426-2635
PM 33—202-755-9041
PM 15, 16, and 17—202-426-9425
PM 23—202-755-1397
PM 25—202-426-2632
PM 32—202-426-9486
PM 34—202-426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before July 5, 1978. EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before June 5, 1978. Registration will be delayed pending resolution of Section 10 claims.

Dated May 1, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/540)

EPA File Symbol 11329-RE. Aladdin Chemical Corp., Box 244, Rogers, Minn. 55374. Algaecide NF. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride), 40.0 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 11497-RT. Enviro Chem Corp., P.O. Box 29213, Dallas, Tex. 75229. Enviro 27-20. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride], 5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 11558-O. Celanese Chemical Co., 1211 Avenue of the Americas, New York, N.Y. 10030. Formaldehyde Solution. Active Ingredients: 45 percent Formaldehyde. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 13442-O. Environment Engineering, Inc., 1310 Headquarters Drive, Greensboro, N.C. 27405. M-23. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 18146-RN. Excel Chemical Co., Inc., 107 Watts Street, Jacksonville, Fla. 32204. CT-600. Active Ingredients: Dioctyl dimethyl ammonium chloride 50 percent; Ethyl alcohol 10 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 19605-T. Gulf Chemicals Co., 6840 Piccadilly, Houston, Tex. 77061. Something Else, Disinfectant Cleaner. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 4.50 percent; Dioctyl Dimethyl Ammonium chloride 2.25 percent; Didecyl Dimethyl Ammonium chloride 2.25 percent: Tetrasodium Ethylenediamine Tetraacetate 2.40 percent: Isopropyl Alcohol 3.60 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Offer to pay statement submitted. PM31.

EPA Reg. No. 11598-20. Connecticut Aerosols, Inc., 85 Furniture Row, Milford, Conn. 06460. Flea and Tick Spray for Dogs and Cats. Active Ingredients: Pyrethrins .056 percent; Pine Oil .900 percent; Petroleum distillate .406 percent. Method of Support: Application proceeds under 2(b) of interim policy. Amendment. PM17.

EPA File Symbol 27036-R. Colt Chemical Mfg. Co., Inc., 2212 Hawkins Street, Charlotte, N.C. 28203. Polycide 12. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 12 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 33448-E. Maram Corp., P.O. Box 543, Northbrook, Ill. 60062. MB-150. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 33448-G. Maram Corp., P.O. Box 543, Northbrook, Ill. 60062. MB-100. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 33448-U. Maram Corp., P.O. Box 543, Northbrook, Ill. 60062. MB-1100. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 20 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 34751-U. Encee Chemical Sales., Inc., P.O. Box 39, New Bern, N.C. 28560. Sodium Hypochlorite "Bleach." Active Ingredient: Sodium Hypochlorite 12 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA File Symbol 35900-T. Ionics, Inc., P.O. Box 99, Bridgeville, Pa. 15017. Hygene Mark III Bacteriostatic Water Filter Media. Active Ingredients: Metallic Silver 0.2 percent. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 36739-E. Sinton Supply Co., Inc., 204 East Sample Street, South Bend, Ind. 46623. Sinco Pool-Ade Puclor. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37267-R. Deo-Chem Inc., 1032 West Robinson Street, Orlando, Fla. 32805. Deo Biocide. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 7.5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37267-E. Deo-Chem Inc., 1032 West Robinson Street, Orlando, Fla. 32805. Deo Formula 1350 Algaecide-Slimicide. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) 7.5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39239-R. All-Cide Inc., 1333 South Claudina Street, Anaheim, Calif. 92805. All-Cide Concentrated Sterilant. Active Ingredients: 20 percent Glutaraldehyde. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA File Symbol 39769-R. Loomis Chemical Co., P.O. Box 17342, 2011 North Columbia Boulevard, Portland, Oreg. 97217. Loomis Brand Sodium Hypochlorite. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 39926-I. Caribe Biochemicals, Inc. c/o K. G. Giquere, Vice President, Brandywine Building, B-13219, Wilmington, Del. 19898. DuPont Lexone 4L. Active Ingredients: 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one, 42.8 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM25.

EPA File Symbol 40195-R. Revenge Insect Repellent Corp., Box 1425, Savannah, Ga. 31402. Revenge. Active Ingredients: Isopropyl Palmitate 16 percent; Isopropyl Myristate 16 percent; Isopropyl Stearate 16 percent. Method of Support: Application proceeds under 2(a) of interim policy. PM17.

EPA File Symbol 40702-R. Chemical Methods Associates, 7125 Fenwick Lane, Suite H. Westminster, Calif. 92638. SANTI 3000. Active Ingredients: Sodium Hypochlorite 5.25 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 40809-R. All American Pool Stores, 11106 Southwest 184th Street, Miami, Fla. 33157. Pro Chem. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41039-R. American Foundation for Pure Water, Inc., 367 Ravensbrook Road, Zephyrhills, Fla. 33599. Final Filter Water Treatment Unit. Active Ingredients: Metallic Silver 1.05 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

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EPA File Symbol 41227-R. Mitchell Gunite Co., 1217 Lorento Street, Jacksonville, Fla. 32211. M & N Chemicals. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41228-R. Southwest Pool Services, Inc., 3419 Westview Drive, Naples, Fla. 33940. Southwest Solution. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41229-R. Hallmark Pools, Inc. 3605 S. Tamiami Trail, Ft. Myers, Fla. 33902. Hallmark Pool Sanitizer. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41230-R. Horizon Pool Service, 4701 SW. 45th Street, Fort Lauderdale, Fla. 33314. Liquid Sunshine. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41231-R. Jonah Pools, P.O. Box 1838, Pompano Beach, Fla. 33060. Sodium Hypochlorite. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41232-R. Sunset Pools, P.O. Box 186, Perrine, Fla. 33157. Sun Pool. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41233-R. D & C Pool Maintenance Inc., 8348 Griffin Road, Davie, Fla. 33328. Pool Guard. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41234-R. Plymouth Pools, Inc., P.O. Box 1438, Delray Beach, Fla. 33444. Sodium Hypochlorite. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41574-R. Utility Chemical, Inc., P.O. Box 349, Cambridge, Minn. 55008. SP-10. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

[FR Doc. 78-12246 Filed 5-4-78; 8:45 am]

[6560-01]

[FRL891-6; PFT-26]

FOOD ADDITIVE PETITION

Filing

Monsanto Agricultural Products Co., 800 North Linbergh Boulevard, St. Louis, Mo. 63166, has submitted a petition (FAP 8H5179) to the Environmental Protection Agency (EPA) which proposes to amend 21 CFR 193.235 by establishing a regulation permitting the use of the herbicide glyphosate [N-(phosphonomethyl)glycine] and its metalbolite aminomethlyphosphonic acid in a proposed experimental program involving application of the herbicide to growing sugarcane with a tolerance limitation of 0.15 part per million (ppm) in molasses. Notice of this submission is given pursuant to the provisions of Section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street, SW., Washington, D.C. 20460.

Inquiries concerning this petition may be directed to Special Registration Branch, Registration Division (WH-567), Office of Pesticide Programs, EPA, at the above address, or by telephone at 202-755-4851. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 1, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-12243 Filed 5-4-78; 8:45 am]

[6560-01]

[FRL 891-5; PFT-23B]

FOOD ADDITIVE PETITION AMENDMENT

Filing

On July 7, 1977, the Environmental Protection Agency (EPA) announced (42 FR 31181) that Elanco Products Co., a division of Eli Lilly & Co., P.O. Box 1750, Indianapolis, Ind. 46206, had submitted a petition (FAP 7H5165) which proposed to amend 21 CFR 561 by establishing a food additive regulation permitting the use of the fungicide tricyclazole [5-methyl-1,2,4-triazolo (3,4-*b*)-benzothiazole and its metabolite 1,2,4-triazolo (3,4-*b*)-benzothioazole-5-methanol in connection with a proposed experimental program involving application of said fungicide and its metabolite to growing rice with a tolerance limitation of 7 parts per million (ppm) in rice hulls, bran, polishings and straw. The applicant has submitted an amendment to this petition increasing the proposed tolerance of 7 ppm to 15 ppm and deleting the raw agricultual commodity rice straw. Notice of this submission is given pursuant to Section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Inquiries concerning this petition may be directed to Special Registration Branch, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telepone at 202-755-4851. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: May 1, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78—12244 Filed 5-4-78; 8:45 am]

[6560-01]

[FRL 892-2; OPP-00072]

PESTICIDE PROGRAMS; FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Thursday and Friday, May 25 and 26, 1978. The meeting will be held in the third floor Auditorium, Room 3129, University of Miami School of Medicine, 1600 Northwest 10th Avenue, Miami, Fla., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH-566), Room 803, Crystal Mall, Building 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Briefing on criteria for classification of pesticides under section 3 of FIFRA;

2. Review a recommendation to cancel registrations of chlorobenzilate products under section 6(b) of FIFRA;

3. Continue discussions relative to epidemiological data requirements for

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assessment of hazards to farmworkers from pesticides; and

4. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit copies of summary no later than May 19, 1978.

Individuals who wish to file written statements are advised to submit copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel.

Dated: May 1, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-12350 Filed 5-4-78; 8:45 am]

[6560-01]

[FRL 892-1]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from April 24, 1978 through April 28, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date of submission of comments is June 19, 1978. The thirty (30) day period for each final statement begins the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: May 2, 1978.

JOSEPH M. MCCABE,
Acting Director, Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Leesburg Planning Unit, Salmon National Forest, Lemhi County, Idaho, Apr. 25: The proposal consists of the division of the Leesburg planning unit, located in Salmon National Forests, Lemhi County, Idaho. The unit is to first be divided into two major management areas with similar land types, terrain, major drainage and management qualities. These areas will then be further divided into smaller units for management requirements, protection needs, and use and development of various resources within the unit. The entire Leesburg unit is comprised of 86,390 acres, 2,009 of which are privately owned and another 1,584 acres of which are surface rights claims (USDA-FS-DES(ADM)R4-78-5). (ELR Order No. 80410.)

Final

Cooperative Gypsy Moth Suppression Program, 1978, Apr. 26: This EIS presents the selection criteria for regulatory programs and discusses each viable alternative which may be considered for State-Federal cooperative projects in suppressing gypsy moth infestations in the northeastern United States. The draft EIS was utilized as the decisionmaking instrument for selecting the most viable alternative(s) for gypsy moth suppression. This statement also discusses the regulatory programs of the Animal and Plant Inspection Service. Comments made by: DOT, EPA, DOC, and State agencies. (ELR Order No. 80416.)

Southern California National Forests, Timber Plan. Several Counties, California, Apr. 25: Proposed is the implementation of a timber plan for the Angeles, Cleveland, Los Padres, and San Bernardino National Forests. The plan is designed to protect or enhance recreational, watershed, wildlife, and other amenity values; silvicultural treatments included in the proposed plan will develop stand conditions which maintain an attractive, healthy forest. Though commodity production is not a major goal of this plan, wood products made available as a result of stand treatment will be utilized for firewood, posts, or sawlogs, as appropriate (USDA-FS-R5-FES(ADM)-77-08). Comments made by: USDA, AHP, DOI, EPA, State and local agencies, and organizations and individuals. (ELR Order No. 80411.)

Magpie-Confederate Planning Unit, Helena National Forest, Broadwater, Lewis, and Clark Counties, Mont., Apr. 25: Proposed is the implementation of a multiple use plan for the Magpie-Confederate planning unit, Helena National Forest. The unit encompasses 83,773 acres of national forest in the big belt mountains of Montana, the goal of the proposed plan is economic stability of the surrounding community with proper use of resources. The planning unit will continue to produce a constant flow of goods and services. Other areas will be managed to protect their unroaded nature and provide: watershed, scenic value, habitat for wildlife and to benefit man (USDA-FS-RI(12)FES-ADM-76-19). Comments made by: DOI, AHP, USDA, HUD, EPA, HEW, DOT, FPC, State and local agencies, organizations, industry, and individuals. (ELR Order No. 80408.)

Bear Planning Unit—Land Management Plan. Skamania County, Wash., April 24: The proposed action is the implementation of a comprehensive management plan for the 27,490-acre bear planning unit in Gifford Pinchot National Forest. The preferred alternative provides for almost every resource use except wilderness and domestic range. The Wind River experimental forest will be continued and 4,190 acres within the Columbia River Gorge would be recommended for classification as a special interest area. Timber management areas total 13,380 acres. These would be managed for a variety of uses including developed and dispersed recreation, timber havest, watershed and wildlife (USDA-FS-R6-FES (ADM) 77-1). Comments made by: FPC, USDA, DOT, DOC, AHP, COE, EPA, DOI, and State and local agencies. (ELR Order No. 80409.)

Draft supplement

King Planning Unit, Klamath National Forest (S-1). Siskiyou County, Calif., Apr. 26: This document supplements a final EIS filed in April 1977, concerning the management of the King Planning Unit, Klamath National Forest, Siskuyou County, Calif. The proposal consists of dividing the area into seven units of similar social, physical, and biological implications, to provide separate and coordinated management direction. The area includes approximately 49,000 acres in the Marble Mountain Wilderness, Johnson Wilderness Study Area, Titus Roadless Area, and the Ten Bear Roadless Area, (USDA-FS-R5-FES(ADM)76-03(s)). (ELR Order No. 80420.)

RURAL ELECTRIFICATION ADMINISTRATION

Final

Wyodak to Antelope, 230 KV Transmission Line. Campbell and Converse Counties, Wyo., April 28: Proposed is a loan from the Rural Electrification Administration to the Tri County Electric Association, Inc. (TCEA): TCEA proposes to construct and operate approximately 62 miles of 230 KV transmission line from the Wyodak Substation, adjacent to the coal-fired powerplant, to Antelope, located on the Campbell-Converse County Line, where it will tie in with a proposed 230 KV transmission line to be constructed by Pacific Power and Light. Related facilities include construction of a 230 KV bay at Wyodak substation and a new substation near Rend Junction (USDA-REA-EIS(ADM)-76-9-F). Comments made by: DOI, USDA, DOT, COE, EPA, and State and local agencies. (ELR Order No. 80428.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Depatment of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Project Stormfury, Atlantic Weather Modification, April 27: This project is a scientific experiment designed to explore the structure and dynamics of western Atlantic tropical cyclones and the potential of modification. The experimentation is to test the hypothesis that the maximum winds of hurricanes can be reduced by at least 10 to 15 percent by seeding the proper clouds with freezing nuclei (silver iodide). Each experiment will consist of 17 flights over a 60 hour period, with approximately 875 pounds of silver iodide being dispensed in four separate flights over an 8-10 hour period. The operational area is primarily located east of the Bahamas, north of Puerto Rico and south of Bermuda. (ELR Order No. 80426.)

New Jersey Coastal Management Program, New Jersey, April 27: The action proposed is the approval by Department of Commerce of the State of New Jersey's coastal zone management program, bay and ocean shore segment. The funding will be used for various actions which include improvement or development of: (1) mapping programs, (2) preparation of a coastal handbook, (3) educational and information programs, (4) energy facility siting criteria and policies, (5) beach and waterfront area access, and (6) coastal management enforcement and monitoring programs. (ELR Order No. 80425.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Mayo Electric Generating Plant, Person County, N.C., April 26: The proposed action is the application by Carolina Power & Light Co. for a permit to discharge fill materials into waters of the United States in connection with the proposed 1,440 megawatt Mayo electric generating plant, located in Person County, N.C. The actions include: (1) construction of a main reservoir dam and ash pond dam covering approximately 2,960 acres, (2) discharge of ash into waters behind the ash pond dam, and (3) relocation of a road. (Wilmington Distict.) (ELR Order No. 80419.)

Draft Supplement

Kings Island Turning Basin, Enlargement, Chatham County, Ga., April 26: This statement supplements a final EIS filed in June 1976, to consider alternate sites for the expansion of Kings Island turning basin located in the Savannah Harbor, Chatham County, Ga. The studies presented in the report are limited to reaffirming or modifying the authorized improvement of enlarging the basin. There are four alternate sites being considered. (Savannah District.) (ELR Order No. 80415.)

Missouri River, Review Report, South Dakota, North Dakota, Nebraska, and Montana, April 26: This statement supplements a draft EIS filed in February 1977, for proposed actions on the Misso uri River in the States of South Dakota, North Dakota, Nebraska, and Montana. This supplement is the review report submitted by the Board of Engineers for Rivers and Harbors. The actions of the proposed project are: (1) bank protection at selected locations; (2) additions to the hydro-electric power plants and construction of a pumped-storage plant; (3) development of the Missouri River as a recreational river under the provisions of the Wild and Scenic Rivers Act; and (4) construction and operation of on-Site northern pike fish rearing ponds.

DEPARTMENT OF DEFENSE

ARMY

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, 202-694-4269.

Draft

Fort Ord Mission Change, California, April 28: This action involves the conversion of the Fort Ord Mission from a training center to a permanent station for the 7th Infantry Division and the transfer of the command of the installation from the Headquarters, U.S. Army Training Center and Fort Ord to Headquarters, 7th Infantry Division and Fort Ord. Under the old mission, the greater portion of the training dealt with the individual soldier. The new mission will deal primarily with unit type training since elements of the division must train together to function effectively. Fort Ord is located on the coast of California approximately 118 miles South of San Francisco. (ELR Order No. 80429.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: EPA Library (MD-35), Environmental Protection agency, Research Triangle Park, N.C. 27711, 919-541-5277.

Final

Standards for Lime Manufacturing Plants, April 24: Proposed is the implementation of standards of performance for new and modified rotary lime kilns and hydrators at lime manufacturing plants. The proposed standards limit emissions to 0.15 kilogram of particulate matter per megagram of limestone feed and 10 percent opacity. Beneficial impacts are anticipated. (EPA-450/2-77-007B.) Comments made by: EPA, DOI, HEW, ERDA, DOC, State and local agencies, organizations and individuals. (ELR Order No. 80431.)

Contact: Clinton Spotts, Environmental Protection Agency, Region VI, First International Building, 1201 Elm Street, Dallas, Tex. 75270, 214-767-2716.

Draft

San Antonio Wastewater Treatment System, Bexar County, Tex., April 25: The proposed action is the granting of funds to the City of San Antonio, Bexar County, Tex. for improvement of wastewater treatment facilities in order to meet the requirements of the Federal Water Pollution Control Act amendments of 1972. The proposal consists of five major actions: (1) abandonment of the Billing Road plant, (2) improvement of the Leon Creek and Salado Creek plants, (3) construction of a new plant, (4) emplacement of sewage transfer lines, and (4) expansion of sewage collector and interceptor system, (ELR Order No. 80407.)

EXTENSION OF REVIEW PERIOD

The Environmental Protection Agency has officially extended the review period for the Draft EIS entitled Criteria for Classification of Solid Waste Disposal Facilities (ELR Order No. 80345) to June 12, 1978. EPA will conduct a public hearing on the EIS in Cincinnati, Ohio at the USEPA Environmental Research Center Auditorium, 26 West St. Clair, on June 5, 1978 from 1 to 5:30 p.m. and 7 to 10:30 p.m. Registration will be from 12:30 to 1 p.m. and 6:30 to 7 p.m.

FEDERAL ENERGY RESEARCH COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-6569.

Draft

Western LNG Project, Construction and Operation, Alaska, April 24: The proposed action involves an application filed for a certificate of public convenience and necessity authorizing the construction and operation of facilities to collect and liquefy natural gas: The transportation of liquefied natural gas (LNG) in interstate commerce, and the sale of natural gas to Pacific Gas Co. & Electric Co. (PG AND E) and to Southern California Gas Co. (SOCAL). Natural gas would be purchased from gas fields in the Cook Inlet region of Alaska and transported through a proposed 6 to 24-inch diameter 104.5 mile pipeline network to a proposed LNG plant in the Nikiski Industrial Co. 9 miles north of Kenai, Alaska. (FERC/EIS-0002.) (ELR Order No. 80405.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

SECTION 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Pedestrian walkway, upper Darby Township, Delaware County, Pa., April 25: The proposed action is the application for community development block grant funds from HUD. The proposal is the construction of an enclosed pedestrian walkway over West Chester Pike at the intersection with 69th Street to physically separate pedestrian movement between the 69th Street transit terminal and the 69th business area in the Upper Darby Township, Delaware County, Pa. This action is a multiyear project and is scheduled to be started in August 1978 and completed within 10 months. (ELR Order No. 80432.)

Disposition of Amos block, Syracuse, Onondaga County, N.Y., April 27: The proposed action is the application by the city of Syracuse, N.Y., for community development block grant funds from HUD. This proposal entails the demolition of the Amos block, encompassing the structures at 208-220 West Water Street, located in the city of Syracuse, Onondaga County, N.Y. This action is being considered in conjunction with the approved Clinton Square urban renewal project which outlines two possible objectives for the demolition area: (1) Additional right-of-way, and (2) landscaped entrance to Clinton Square and central Syracuse. (ELR Order No. 80423.)

Eastern North Philadelphia plan, Philadelphia County, Pa., April 27: The proposed action is the application by the city of Philadelphia for community development block grant funds from HUD. This proposal has identified the eastern north portion of the city of Philadelphia, Pa., for various

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concentrated, long-term action. These activities include: (1) Housing rehabilitation, (2) loans and grants, (3) site improvements, (4) public services and facilities, and (5) economic development. (ELR Order No. 80427.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

Upper Gila-San Simon livestock grazing, Arizona-New Mexico, April 24: This statement proposes to implement a livestock grazing management program based on multiple-use concepts. The grazing area is located in the States of Arizona and New Mexico and includes a total land area of 2,346,062 acres, which includes public, Federal, State, and private lands. The grazing area will total 193 units and be used for livestock grazing with incorporation of various resource uses and minimal conflict. (DES-78-13.) (ELR Order No. 80406.)

NATIONAL PARK SERVICE

Final

Tuskegee Institute management plan, Macon County, Ala., April 26: Proposed is the implementation of a general management plan for Tuskegee Institute national historic site in Tuskegee, Ala. The plan proposes to preserve and interpret this educational resource; protection and preservation of 22 Buildings (21 on the historic Tuskegee Campus and 1 adjacent to the campus) are involved. A proposal to acquire certain historic properties is also included. No adverse effects are anticipated. (FES-78-8.) Comments made by: AHP, USDA, HEW, HUD, DOI, DOT, EPA, COE, State and local agencies. (ELR Order No. 80413.)

Proposed wilderness, Everglades National Park, Dade and Monroe Counties, Fla., April 26: The statement refers to the proposed legislative designation of 1,296,500 acres (92.7 percent of the park's land and water area), of the Everglades National Park as wilderness. The proposal would result in the preservation of natural ecosystems, including the habitats for several rare and endangered species. Management, research, and development options will be restricted by the action. (FES-78-7.) Comments made by: AHP, COE, DOI, DOT, CGD, EPA, FPC, State and local agencies. (ELR Order No. 80412.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Sheldon Meyers, Director, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Mail 396-SS, 301-427-4152.

Draft

Irigaray solution mining project, Johnson County, Wyo., April 27: This action concerns an application for a source material license by the Wyoming Mineral Corp. to conduct production-scale solution mining of uranium at the Irigaray site, Johnson County, Wyo., within the Powder River basin. The project will affect approximately 1,000 acres of land at the site. The actions consist of leaching uranium from subsurface ore-bearing sandstone by adding chemical reagents to existing ground water to reverse the natural uranium precipitation process. (NUREG-0399.) (ELR Order No. 80424.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Final

Albany to I-75 (South of Cordele) connector, Dougherty, Worth, and Crisp Counties, Ga., April 26: This proposed action involves the construction of a four-lane facility connecting Albany to I-75 south of Cordele. The proposed project is located in Dougherty, Worth, and Crisp Counties, Ga. The majority of the project is free access with the addition of two lanes to the existing SR 257. Only that portion on new location between U.S. 41 and I-75 (1.5 miles) south of Cordele is limited access. The project is approximately 37 miles in length, of which 6 miles (from SR 257 east to I-75) is on new location, the four-lane facility will provide a direct connector between Albany, Oakfield, Warwick, and Cordele as well as provide much improved traffic service. Comments made by: USDA, COE, HEW, FPC, DOI, EPA, State and local agencies, groups and individuals. (ELR Order No. 80417.)

Appalachian Highway in north Georgia, several counties in Georgia, April 26: Georgia project APD-056-1(31) Forsyth, Cherokee, Pickens, Gilmer, Fannin, and Union Counties is proposed to be the extension, on either new location or in common with certain existing highways of SR 400 from SR 308 in Forsyth County approximately 90 miles generally in a northerly direction into Union County and ending at a point approximately 2 miles north of the north city limits of Blairsville on U.S. 76. The route will consist of four lanes, two in each direction on about 300 feet of right-of-way with free access. (FHWA-GA-EIS-77-04-F.) Comments made by: TVA, USDA, HEW, CDE, DOT, HUD, EPA, State and local agencies, groups and individuals. (ELR Order No. 80418.)

Redwood Road, UT-68, Salt Lake County, Utah, April 26: The proposed project is the reconstruction of Redwood Road, State Route 68, located in Salt Lake County, Utah, actually two projects are covered in this EIS. The first begins at 6500 South Street on Redwood Road and extends northward for approximately 4.5 miles, ending at 3500 South Street. The other project, beginning at Redwood Road and North Temple Streets runs north for about 1.3 miles to 1000 North Street. The design concept is to widen the road to two lanes in each direction with parking, curb, and gutters and a painted median. (FHWA-UT-EIS-73-01-F.) Comments made by: EPA, DOT, USDA, DOI, State and local agencies. (ELR Order No. 80414.)

Knowlton Bridge and approaches (S.T.H. 34), Marathon County, Wis., April 26: Proposed is the construction of a new bridge over Lake Dubay and the updating of the approaches to that bridge to current standards. This bridge carries State Trunk Highway 34 and is called the Knowlton Bridge. The project begins just north of the community of Dancy in south-central Marathon County and proceeds north across Lake Dubay, ending at a recently constructed portion of Highway 34 north of Knowlton. The project is one segment of a minor arterial proposed in the 1990 State highway plan. (FHWA-WISC-EIS-76-02-F.) Comments made by: DOI, DOT, USDA, CGD, EPA, State agencies. (ELR Order No. 80421.)

Final Supplement

31 East 63rd Street line, Manhattan and Queens, N.Y., April 28: This statement supplements an EIS filed with CEQ in April 1973 and contains proposals by the New York City Transit Authority to amend the project. The proposed amendments are: (1) Extension of the project 780 feet and the addition of a passenger station at Northern Boulevard; (2) addition of an emergency ventilation facility in Manhattan on East 63rd Street between York and FDR Drive; and (3) construction of two condenser water lines in the emergency ventilation facility and the proposed station at 63rd Street-Lexington Avenue. Comments made by: EPA, HEW, DOI, State and local agencies groups, individuals, and businesses. (ELR Order No. 80430.)

Official Correction

The Environmental Protection Agency published in the FEDERAL REGISTER dated April 14, 1978, receipt of a final EIS entitled "I—565, Madison and Limestone Counties, Ala." (ELR Order No. 80341), prepared by the Federal Highway Administration. The statement summary prepared by EPA did not accurately describe the proposed project. Following is an accurate statement summary.

DEPARTMENT OF TRANPORTATION

FEDERAL HIGHWAY ADMINISTRATION

Final

I-565, Madison and Limestone Counties, Ala., March 7: Proposed is Alabama Project No. I-565-5(1) located in Madison and Limestone Counties. The proposed project begins at I-65 at existing Alabama 20 Interchange, or begins at I-65 approximately 1 mile north of its present junction with Alabama 20, with each alternative extending northeasterly to Huntsville. The project length is approximately 21 miles and is a four to six lane, limited access, interstate highway. Approval of the EIS for section 3 of I-565, Jordan Lane to the vicinity of Oakwood Avenue and Andrew Jackson Way, is being withheld pending completion of the review and acceptance of a relocation plan by DOT officials. At such time as the review is completed, an addendum to the EIS will be filed with the EPA indicating the decision for section 3.

[FR Doc. 78-12349 Filed 5-4-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

FIRST CHANDLER CORP.

Formation of Bank Holding Company

First Chandler Corp., Chandler, Okla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of the First National Bank, Chandler, Okla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

First Chandler Corp., Chandler, Okla., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of two de novo subsidiaries, First Chandler Business Trust and First Chandler Insurance Agency, both of Chandler, Okla. Notice of the application was published on March 2, 1978, in the Lincoln County News, a newspaper circulated in Chandler, Okla.

Applicant states that First Chandler Insurance Agency would engage in the activities of offering credit life insurance and credit accident and health insurance in connection with extensions of credit by the First National Bank, Chandler, Okla. First Chandler Business Trust would own the shares of First Chandler Insurance Agency. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonable be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should by submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 22, 1978.

Board of Governors of the Federal Reserve System, April 27, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the Board.

[FR Doc. 78-12290 Filed 5-4-78; 8:45 am]

[6210-01]

FOREST HILL BANCSHARES, INC.

Formation of Bank Holding Company

Forest Hill Bancshares, Inc., Fort Worth, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Forest Hill State Bank, Fort Worth, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (42 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 30, 1978.

Board of Governors of the Federal Reserve Systemn, May 1, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the the Board.

[FR Doc. 78-12291 Filed 5-4-78; 8:45 am]

[4110-89]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics, the Office for Civil Rights, and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Coucil and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before June 5, 1978 and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

MARIE D. ELDRIDGE,
Administrator, National Center
for Education Statistics.

DATED: May 2, 1978.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISTION ACTIVITY

1. Title of proposed activity.—Higher Education General Information Survey XIII: Inventory of College and University Physical Facilities (as of September 15, 1978).

2. Agency/bureau/office.—National Center for Education Statistics.

3. Agency form number.—NCES 2300-7.

4. Legislative authority for this activity.—"* * * The (National) Center (for Education Statistics) shall—* * * collect, collate, and, from time to time, report full and complete statistics on the condition of education in the United States * * *" (Sec. 501. (a) of Pub. L. 93-380; Sec. 406 (g) of the General Education Provisions Act. 20 USC 1221 e-1).

5. Voluntary/obligatory nature of response.—Voluntary.

6. How information collected will be used.—The data to be acquired will be used for:

Program management, estimating the present national level of compliance with Section 504 of the Rehibilitation Act (Pub. L. 93-112 and 93-516), hereinafter referred to as Section 504.

Evaluation, (a) Assessing the degree of success of the system of voluntary compliance with Section 504 implemented by the Office for Civil Rights.

(b) Determining the need for modifications in higher education facilities to meet the requirements of Section 504 and of the Occupational Safety and Health Administration (OSHA).

Research, (a) Providing basic information as to the present level of accessibility to higher education facilities and programs by mobility impaired persons.

(b) Furnishing reasonably accurate estimates of the degree to which modifications of existing facilities are required in order to comply with Section 504 and OSHA requirements.

(c) Suggesting whether a statistical relationship exists between program accessibility and the level of facilities accessibility among institutions of higher education to determine what modifications the institutions must

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make in order to come into compliance and to make cost estimates of these modifications.

(d) Establishing the number of mobility impaired students attending institutions during the 1978 fall term.

Condition of education, (a) Providing Congress, federal and state education agencies, and private education associations with basic information as to the present level of accessibility to higher education facilities and programs by mobility impaired persons.

(b) Helping institutions to identify what they need to do to fully comply with Section 504.

(c) Furnishing Congress with a reasonably accurate indication of the need for federal financial assistance to help institutions in their efforts to determine the least expensive means of complying with Section 504 and to make the facilities modifications which are necessary for Section 504 compliance.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) time of collection: October 31, 1978; and (c) frequency: Biennially.

8. Respondents.—(a) Type: Colleges and universities (including 2-year institutions); (b) Number: 700 (sample); and (c) estimated average man-hour per respondent: 3.0.

9. Information to be collected.—Required of each respondent:

(1) Total number of buildings on campus on September 15, 1978 (by age groups),

(2) Number of buildings on campus which are accessible on September 15, 1978 (by age groups),

(3) Number of buildings on campus which have toilets for the mobility impaired on September 15, 1978 (by age groups),

(4) total amount of assignable floor space on campus on September 15, 1978 (by age groups),

(5) Amount of accessible floor space on campus on September 15, 1978 (by age groups),

(6) Total assignable floor space on campus on September 15, 1978 (by room use categories),

(7) Accessible floor space on September 15, 1978 (by room use categories),

(8) Total number of beds for students in institutionally owned or operated housing on September 15, 1978,

(9) Number of beds designed for mobility impaired students as of September 15, 1978,

(10) Total number of degree programs offered on September 15, 1978,

(11) Number of accessible degree programs offered on September 15, 1978, and

(12) Number of mobility impaired students 1978 fall term.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Fall 1978 Special Purpose Schools Civil Rights Survey.

2. AGENCY/bureau/office.—Department of Health, Education, and Welfare/Office of the Secretary/Office for Civil Rights.

3. Agency form number.—CR 202.

4. Legislative authority for this activity.—This survey is mandated by Order of the United States District Court in *Kenneth Adams, et al,* v. *Joseph A. Califano, Jr.,* Civil No. 3095-70 (D.D.C. filed December 29, 1977), and Section 42.406 of the Justice Department's Title VI Coordinating Regulations (42 CFR 42).

The following are the relevant legislative authorities:

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

• • • Each recipient shall keep records and submit to the responsible Department official or his/her designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his/her designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part • • • (45 CFR 80.6(b))

Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

The procedural regulations applicable to Title VI of the Civil Rights Act of 1964 are adopted and incorporated by reference. These procedures may be found at 45 CFR 80.6-80.11 and 45 CFR Part 81. (45 CFR 86.71)

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are adopted and incorporated by reference. These procedures are found at 45 CFR 80.6-80.10 and 45 CFR Part 81.

5. Voluntary/obligatory nature of response.—Obligatory.

6. How information to be collected will be used.—The purpose of the survey is to help determine which special purpose schools for the deaf, blind, and other handicapped students will be reviewed under the principal civil rights jurisdictions of the Department. These are Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin by recipients of Federal financial assistance; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in federally assisted education programs; and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on handicapping conditions by recipients of Federal financial assistance.

OCR is authorized to monitor recipient institutions and investigate allegations or indications of discrimination prohibited by these statutes.

The primary plan for analysis of compliance with the statutes is dependent on statistics shown in:

(1) The assignment of children to facilities and the range of services offered by these facilities,

(2) The assignment of children to programs within each facility and the characteristics of the population served by the facility.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) time of collection: Fall 1978; and (c) frequency: Biennally.

8. Respondents.—CR 202.

(a) Type: State operated and State Supported Schools for the Handicapped.

(b) Number: 4,000.

(c) Estimated average person hours per respondent: 4.

9. Information to be collected.—Each selected school will complete the appropriate Individual Facility Report form. The report for the handicapped requires that each facility report by race and sex, general information on the type of handicapped children served, program and service accessibility, residential and educational enrollment and types of alternative placement used. In addition there is a section which requests data on the participation of children in programs offered, including: special education, enrollment of children with limited English speaking ability, the number and design of vocational education, and specialized training programs. There also is a section which requests the number of professional teaching staff members, by race, sex, and presence of handicapping condition.

A public meeting on this survey will be held on May 31, 1978, Room 5051, HEW North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Standard application (nonconstruction) for parts B and C of the Indian Education Act.

2. Agency/bureau/office.—Office of Education/Office of Indian Education.

3. Agency form number.—OE form 267.

4. Legislative authority for this activity.—"Section 810(a) The Commissioner shall casrry out a program of making grants for the improvement of educational opportunities for Indian children • • • (f) Applications for a grant under this section shall be submitted • • •." (20 U.S.C. 887(c).)

"Section 314(a) The Commissioner shall carry out a program of making grants • • • for providing adult education for Indians • • • (c) Applications for a grant under this section shall be submitted • • •." (20 U.S.C. 1211a) Pub. L. 92-318.

5. Voluntary/obligatory nature of response.—Required to obtain benefit.

6. How information collected will be used.—The information will be used to decide which applicants will receive awards.

7. Data acquistion plan.—(a) Method of collection: Mail; (b) time of collection: Winter; and (c) Frequency: Annually.

8. Respondents.—(a) Type: Indian tribes and organizations, educational agencies; (b) number: 400; and (c) estimated average man-hours per respondent: 15.

9. Information to be collected.—The standard application (nonconstruction) from OMB Circular No. A-102 will be used with modifications required by law and regulations.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISTION ACTIVITY

1. Title of proposed activity.—Standard Application (Construction) for Non-Commercial Educational Broadcasting Facilities.

2. Agency/bureau/office.—Office of Education/Bureau of Elementary and Secondary Education/Office of Libraries and Learning Resources/Educational Broadcasting Facilities Branch.

3. Agency form number.—OE form 323-1.

4. Legislative authority for this activity.—"Section 392(a) For each project for the construction of noncommercial educational television or radio broadcasting facilities there shall be submitted to the Secretary an application for a grant. • • •" (47 U.S.C. 392) Pub. L. 87-447.

5. Voluntary/obligatory nature of response.—Required to obtain benefit.

6. How information collected will be used.—The information collected will be used to determine which applicants will receive awards.

7. Data acquistion plan.—(a) Method of collection: Mail; (b) time of collection: Winter; and (c) frequency: Annually.

8. Respondents.—(a) Type: States, nonprofit colleges or universities, nonprofit organizations (with qualification); (b) number: 100; and (c) estimated average man-hours per respondent: 60.

9. Information to be collected.—The standard Federal application (construction) will be used. In order to determine the need for facilities (including equipment) a supplementary questionnaire containing the following information must also be submitted: Federal Communications Commission information, population and school enrollment within service area, eligible apparatus and other eligible costs.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Standard Application (Nonconstruction) for Foreign Language and Area Studies.

2. Agency/bureau/office.—U.S. Office of Education, Bureau of Higher and Continuing Education, International Education.

3. Agency form number.—OE 324.

4. Legislative authority for this activity.—"Sec. 601(a) The Secretary is authorized to make grants to or contracts with institutions of higher education for the purposes of establishing, equipping, and operating graduate and undergraduate centers and programs for the teaching of any modern foreign language, for instruction in other fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study." (Pub. L. 85-864, as amended; 20 U.S.C. 511.)

"Sec. 602. The Commissioner is authorized, directly or by grant or contract, to make studies and surveys to determine the need for increased or improved instruction in modern foreign languages and other fields needed to provide a full understanding of the areas, regions, or countries in which such languages are commonly used, to conduct research on more effective methods of teaching such languages and in such other fields, and to develop specialized materials for use in such training, or in training teachers of such languages or in such fields." (Pub. L. 86-864, as amended; 20 U.S.C. 512.)

"Sec. 102.(b)(6) • • • the President is further authorized to provide for • • • promoting modern foreign language training and area studies in United States schools, colleges, and universities • • •" (Pub. L. 87-256, as amended; 22 U.S.C. 2451-1458.)

5. Voluntary/obligatory nature of response.—Required to obtain benefit.

6. How information collected will be used.—The information will be used to determine which applicants will receive awards.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) time of collection: Winter; and (c) frequency: Annually.

8. Respondents.—(a) Type: Institutions of Higher Education; (b) number: 800; and (c) estimated average man-hours per respodnent: 12.

9. Information to be collected.—The standard application (nonconstruction) of OMB Circular No. A-102 will be used with minor modification based on the law and the regulations.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Standard Application (Nonconstruction) for Environmental Education.

2. Agency/bureau/office.—Office of Education, Bureau of Elementary and Secondary Education, Office of Environmental Education.

3. Agency form number.—OE form 326.

4. Legislative authority for this activity.—"Sec. 3(b)(3)(A) Financial Assistance • • • may be made available only upon application to the Commissioner." (20 U.S.C. 1532) (Pub. L. 91-516.)

5. Voluntary/obligatory nature of response.—Required to obtain benefit.

6. How information collected will be used.—The information collected will be used to decide which applicants will receive awards.

7. Data acquistion plan.—(a) Method of collection: Mail; (b) time of collection: Winter; and (c) frequency: Annually.

8. Respondents.—(a) Type: Public and private nonprofit agencies, organizations, and institutions; (b) number: 1,000; and (c) estimated average man-hours per respondent: 40.

9. Information to be collected.—The standard application (nonconstruction) from OMB Circular No. A-102 will be used with modifications required by law and regulations.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Standard Application (Short Form) for Environmental Education.

2. Agency/bureau/office.—Office of Education, Bureau of Elementary and Secondary Education, Office of Environmental Education.

3. Agency form number.—OE form 326-1.

4. Legislative authority for this activity.—"Sec. 3(b)(3)(A) Financial assistance • • • may be made available only upon application to the Commissioner." (20 U.S.C. 1532) (Pub. L. 91-516.)

5. Voluntary/obligatory nature of response.—Required to obtain benefit.

6. How information collected will be used.—The information collected will be used to decide which applicants will receive awards.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) number: 500; and (c) estimated average man-hours per respondent: 20.

9. Information to be collected.—The standard application (short form) from OMB Circular No. A-102 will be used with mofifications required by law and regulations.

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DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Financial Status Report and Performance Report—Bureau of Occupational and Adult Education.

2. Agency/bureau/office.—Office of Education, Bureau of Occupational and Adult Education.

3. Agency form number.—OE form 360.

4. Legislative authority for this activity.—"Section 422(a) The Commissioner shall——

3. Collect data and information on applicable programs • • • (Pub. L. 91-230, Title IV; 20 U.S.C. 1231a.)

5. Voluntary/obligatory nature of response.—Required to maintain benefit.

6. How information to be collected will be used.—The financial status report will be used to monitor the status of funds under grants awarded by the Bureau of Occupational and Adult Education. The performance report will be used to monitor activities under the grant.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) time of collection: for interim reports, 30 days after the end of each six month period of the project; for final reports, 90 days after the completion of the project; and (c) frequency: Semi-annually.

8. Respondents.—

(a) Type: Colleges and universities; (b) number: 145; and (c) estimated average man-hours per respondent: 9.

(a) Type: Local education agencies; (b) number: 180; and (c) estimated average man-hours per respondent: 9.

(a) Type: State education agencies; (b) number: 20; and (c) estimated average man-hours per respondent: 9.

(a) Type: Nonprofit organizations; (b) number: 20; and (c) estimated average man-hours per respondent: 9.

(a) Type: Other (Indian tribes and tribal organizations and State and local governmental organizations); (b) number: 45; and (c) estimated average man-hours per respondent: 9.

9. Information to be collected.—All grantees will use the standard financial status report from OMB Circulars No. A-102 and A-110. Information on the standard form not required by the programs will not be collected. The performance report will be based upon the instructions contained in OMB Circular No. A-102 and will collect information on the accomplishment of activities and objectives contained in the approved grant application. For grants under fellowship programs, grantees will report the amount of excess institutional allowance funds and how these funds have been used to improve their programs, as required by the law.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Standard Application (Nonconstruction) for Migrant Program, Title I, ESEA.

2. Agency/Bureau/office: Office of Education/Bureau of Elementary and Secondary Education/Compensatory Educational Programs/Division of Education for the Disadvantaged/Migrant Branch.

3. Agency form number.—OE form 362.

4. Legislative authority for this activity.—"Sec. 122: (a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children or migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application. • • • " (20 U.S.C. 241c-2) Pub. L. 93-380.

5. Voluntary/obligatory nature of response.—Required from State educational agencies to obtain benefit. The State has the option of using the application for local educational agencies.

6. How information collected will be used.—This information will be used to process grant applications.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) time of collection: Fall; and (c) frequency: Annually.

8. Respondents.—(a) Type: State Educational Agencies; (b) number: 47; and (c) estimated average man-hours per respondent: 20.

(a) Type: Local Educational Agencies; (b) number: 1,200; and (c) estimated average man-hours per respondent: 20.

9. Information to be collected.—All respondents will be required to provide information requested on the standard non-construction application for Federal assistance, including the standard face page, SF-242. The Part IV, Program Narrative, incorporates requests for information based on statutory and regulatory needs.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Education for the Public Service program—application.

2. Agency/Bureau/Office.—Office of Education/Bureau of Higher and Continuing Education.

3. Agency form No.—OE 404.

4. Legislative authority for this activity.—"Sec. 901. (a) • • • (2) to establish, strength, and improve program designed to prepare graduate and professional students for Public Service • • • " (20 U.S.C. 1134a).

"Sec. 902. (a) The Commissioner is authorized to make grants of institutions of higher education • • • an institution of higher education shall submit an application • • • ." (20 U.S.C. 1134a).

5. Voluntary/obligatory nature of response.—Required to obtain or maintain benefits.

6. How information will be used.—For award purpose, the information will be used in the evaluation of an institution's graduate programs in education for the public service, for institutional grants, and allocations of fellowships to these institutions.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) Time of collection: January; and (c) Frequency: Annually.

8. Respondents. (a) Type: Colleges and universities; (b) Number: 170; and (c) Estimated average man-hours per respondent: 20.

9. Information to be collected.—The standard Form 424 is used. A proposed budget must be included for each planned activity.

For a fellowship grant, the following figures must be included: the number of new fellowships, and continuing fellowships requested.

A narrative statement is also required, covering:

(a) Nature and objectives of the fellowship program.

(b) Program description.

(c) Need for fellowship support.

(d) Selection of fellows, including procedures for determining financial need.

(e) Qualifications of the faculty.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship program—application.

2. Agency/Bureau/Office.—Office of Education/Bureau of Higher and Continuing Education.

3. Agency Form No.—OE 405.

4. Legislative authority for this activity.—"Sec. 961. (b)(1) The Commissioner is authorized to award under the provisions of this part not to exceed five hundred fellowships for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1979." (Pub. L. 92-318, as amended; 20 U.S.C. 1134n).

5. Voluntary/obligatory nature of response.—Required to obtain or maintain benefits.

6. How information collected will be used.—Information collected will be used in the evaluation of an institution's graduate programs in mining and mineral fuel conservation for allocations of fellowships to these institutions.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) Time of collection: Fall; and (c) Frequency: Annually.

8. Respondents. (a) Type: Colleges and universities; (b) Number: 60; and (c) Estimated average man-hours per respondent: 40.

9. Information to be collected.—The information required on Standard Form 424, plus the number of new fellowships, continuing fellowships, and dissertation year fellowships requested. A narrative statement is also required, covering:

(a) Nature and objective of the fellowship program.

(b) Program description.

(c) Need for fellowship.

(d) Selection of fellows, including procedures for determining financial need.

(e) Qualifications of faculty.

Grantees who had an award for fiscal year 1978 need only respond in the narrative in terms of changes.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Standard application for consumers' education and metric education.

2. Agency/Bureau/Office.—Office of Education, Bureau of Occupational and Adult Education.

3. Agency form No.—OE Form 425.

4. Legislative authority for this activity.—"Section 403(c)(1) Financial assistance under this section (Metric Education) may be made available only upon application to the Commissioner." (Pub. L. 93-380; 20 U.S.C. 1862).

"Section 811(b)(1)(C) Financial assistance under this subsection (Consumers' Education) may be made available only upon application • • • . (Pub. L. 92-318, sec. 505(a); 20 U.S.C. 887d).

5. Voluntary/obligatory nature of response.—Required to obtain benefits.

6. How information collected will be used.—The information collected will be used to decide which applicants will receive awards.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) Time of collection: Fall; and (c) Frequency: Annually.

8. Respondents.—(a) Type: Colleges and universities; (b) Number: 370; and (c) Estimated average man-hours per respondent: 20.

(a) Type: Local educational agencies; (b) Number: 360; and (c) Estimated average man-hours per respondent: 20.

(a) Type: State education agencies; (b) Number: 40; and (c) Estimated average man-hours per respondent: 20.

(a) Type: Nonprofit organizations; (b) Number: 370; and (c) Estimated average man-hours per respondent: 20.

(a) Type: Other public organizations and agencies; (b) Number: 75; and (c) Estimated average man-hours per respondent: 20.

9. Information to be collected.—All applicants will use the standard non-construction application from OMB Circular No. A-102. Departmental definitions are provided for the object class categories in the budget. Information not required by the programs on the standard application is deleted.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Application for Federal Assistance: Instruction for Part A, Title IV, Pub. L. 92-318.

2. Agency/Bureau/Office.—U.S. Office of Education, Office of Indian Education.

3. Agency Form No.—OE 444.

4. Legislative authority for this activity.—"Sec. 305.(a) A grant under this title, except as provided in section 303(b), may be made only to a local educational agency, or agencies, and only upon application to the Commissioner at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary" (20 U.S.C. 241dd; Pub. L. 92-318).

5. Voluntary/obligatory nature of response.—Required to obtain benefit.

6. How information to be collected will be used.—Information will be used to determine eligibility and amount of grant award.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) Time of collection: Winter; and (c) Frequency: Annually.

8. Respondents.—(a) Type: Local education agencies; (b) Number: 1,5000; and (c) Estimated average man-hours per respondent: 10.

9. Information to be collected.—All respondents will be required to provide information requested on the standard non-construction application for Federal assistance, including the standard face page, SF-424. Part IV, Progaram Narrative, incorporates requests for information based on statutory or regulatory needs as follows:

(1) Objectives and need for this assistance. Demonstrate the need for assistance in meeting the special educational needs of Indian children and state the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests are required by law and or regulations: a copy of the notice of the Public Hearing, description of the Needs Assessment.

(2) Results or benefits expected.

(3) Approach.

(a) A plan of action pertaining to the scope and detail of how the proposed work will be accomplished for each function or activity, provided in the budget. Describe the selection of the Parent Committee and its involvement in terms of ongoing operation. Describe how the program will obtain and utilize the best available talents and resources including persons from the Indian community.

(b) Provide quantitative monthly or quarterly projections of the accomplishments to be achieved.

(c) Identify the kinds of data to be collected and the criteria to be used to evaluate the results and successes of the project.

(d) List organizations, cooperators, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

(4) Geographical location. Give a precise location of the project or area to be served by the proposed project.

(5) If applicable, provide the following information:

(a) A biographical sketch of the program director which includes; name, address, phone number, background, and other qualifying experience for the project. Also, list the name, training and background for other key personnel.

(b) Discuss accomplishments to date and list in chronological order a schedule of accomplishments, progress or milestones anticipated with the new funding request.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Application for Federal Assistance for Arts Education Projects.

2. Agency/bureau/office.—Office of the Commissioner, Arts and Humanities Staff.

3. Agency form number.—OE 449.

4. Legislative authority for this activity.—"Sec. 409(a) The Commissioner shall, during the period beginning after June 30, 1972 and ending June 30, 1978, through arrangements made with the John F. Kennedy Center for the Performing Arts, carry out a program of grants and contracts to encourage and assist State and local education agencies to establish and conduct programs in which the arts are an integral part of elementary and secondary school programs." (20 U.S.C. 1867) Pub. L. 93-380.

5. Voluntary/obligatory nature of response.—Required to obtain benefit.

6. How information to be collected will be used.—Information will be used to determine which applicant will receive award.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) time: January; and (c) frequency: Annually.

8. Respondents.—(a) Type: State Education Agencies and Local Education Agencies; (b) number: 250; and (c)

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estimated average man-hours per respondent: 15.

9. Information to be collected.—The standard application (non-construction) from OMB No. A-102 will be used with modifications required by law and regulations.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Application for Grants Under Library Training Program.

2. Agency/bureau/office.—U.S. Office of Education, Bureau of Elementary and Secondary Education, Office of Libraries and Learning Resources.

3. Agency form number.—OE-547.

4. Legislative authority for this activity.—"Section 222. (a) The Commissioner is authorized to make grants to institutions of higher education and library organizations or agencies to assist them in training persons in librarianship. Such grants may be used by such institutions, library organizations or agencies (1) to assist in covering the cost of courses of training or study (including short term or regular session institutes) for such persons, (2) for establishing and maintaining fellowships or traineeships with stipends for fellows and others undergoing training and their dependents, not in excess of such maximum amounts as may be prescribed by the Commissioner, and (3) for establishing, developing, or expanding programs or library and information science."

"(b) The Commissioner may make a grant to an institution of higher education and library organizations or agencies only upon application by the institutions and only upon his finding that such program will substantially further the objective of increasing the opportunities throughout the Nation for training in librarianship." (20 U.S.C. 1033) (Pub. L. 89-329, as amended.)

5. Voluntary/obligatory nature of response.—Required to obtain or maintain benefits.

6. How information to be collected will be used.—Information will be used to determine applicant's eligibility and that the proposed training activity meets the objectives of increasing the opportunities throughout the Nation for training in librarianship.

7. Data acquisition plan.—(a) Method of Collection: Mail; (b) time of Collection: Fall; and (c) frequency: Annually.

8. Respondents.—(a) Type: Institutions of higher education and nonprofit organizations; (b) number: 200; and (c) estimated average man-hours per respondent: 40.

9. Information to be collected.—The application consists of the standard face page for Federal applications, SF-424 and the standard Federal application (nonconstruction). Although the standard format is followed, Part IV, the Program Narrative is modified to request the following specific information which is required by law and regulation: (1) objectives of the project and need for the assistance, (2) results or benefits expected, (3) a plan of action as to how the proposed activity will be accomplished, (4) the geographic area to be served by the project and (5) a listing of the key personnel engaged in the project.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Graduate and Professional Study Fellowships and Institutional Grants—Application.

2. Agency/bureau/office.—Office of Education/Bureau of Higher and Continuing Education.

3. Agency form number.—OE 591.

4. Legislative authority for this activity.—For institutional grants: "There are authorized to be appropriated $50,000,000 for each of the fiscal years ending prior to October 1, 1979, for the purpose of this part." (Pub. L. 92-318, as amended by Pub. L. 94-482, 20 U.S.C. 1134)

For fellowships: "During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1979, the Commissioner is authorized to award not to exceed seven thousand five hundred fellowships to be used for study in graduate programs at institutions of higher education." (Pub. L. 92-318, as amended by Pub. L. 94-482, 20 U.S.C. 1134e)

5. Volunatry/obligatory nature of response.—Required to obtain or maintain benefits.

6. How information collected will be used.—This information will be used in the evaluation of applications by institutions of higher education for institutional grants and allocations of fellowships.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) time of collection: Fall; and (c) frequency: Annually.

8. Respondents.—(a) Type: Colleges and Universities; (b) number: 350; and (c) estimated average man-hours per respondent: 40.

9. Information to be collected.—The information required on Standard Form 424, plus the amount of institutional grant requested by category of eligible activities and also the number of fellowships requested. A narrative statement is also required, covering: (a) Nature and objectives of the program, (b) curriculum description, (c) internship description, (d) library, laboratory, and other facilities and description, (e) qualifications of the faculty and staff, and (f) institutional commitment to program.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Teacher Centers Program Financial Status Report and Performance Report.

2. Agency/bureau/office.—U.S. Office of Education, Bureau of Occupational and Adult Education, Division of Educational Systems Development.

3. Agency form number.—OE Form 632.

4. Legislative authority for this activity.—"Section 422(a) The Commissioner shall—(3) collect data and information on applicable programs . . ." (Pub. L. 91-230. Title IV; 20 U.S.C. 1231a).

5. Voluntary/obligatory nature of response.—Required to maintain benefit.

6. How information to be collected will be used.—The information is to be used to: (a) judge the performance of noncompeting continuation projects to aid in and document funding decisions. (b) determine program effects for budget requests and recommended legislation, (c) identify promising practices and processes for further dissemination, especially from one State to another, and (d) monitor changes and accomplishments in projects.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) Time of collection: For final report, 90 days after the completion of the project; for interim reports, 30 days after the end of each six-month reporting period; and (c) Frequency: Semi-annual.

8. Respondents.—(a) Type: Local Educational Agency; (b) Number: 54; and (c) estimated average man-hours per respondent: 8.

(a) Type: Colleges and Universities; (b) Number: 6; and (c) Estimated average man-hours per respondent: 8.

9. Information to be collected.—Financial status report will collect only information prescribed by OMB circulars A-102 and A-110. Data items not needed by the program will be deleted. The performance report will collect information on the accomplishment of activities, objectives, and revisions to the approved application, as well as changes in staff and policy board membership. Activities related to the specific purposes of the statute will be treated separately, and the extent of participation in each reported by participant type.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Application for Special Programs for Students from Disadvantaged Backgrounds, Higher Education Act, as amended.

2. Agency/bureau/office.—U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Student Services and Veterans Programs.

3. Agency form number.—OE Form 1251.

4. Legislative authority for this activity.—"Section 417A. (a) The Commissioner shall, in accordance with the provisions of this subpart, carry out a program designed to identify qualified students from low-income families, to prepare them for a program of post-secondary education, and to provide special services for such students who are pursuing programs of postsecondary education." (20 U.S.C. 1070d)

"Section 417B.(a) The Commissioner is authorized to make grants . . ." (20 U.S.C. 1070d-1) Pub. L. 92-318.

5. Voluntary/obligatory nature of response.—Required to obtain or maintain benefits.

6. How information to be collected will be used.—The form requests programmatic and budgetary information from eligible applicants so that Office of Education program officers and non-Federal reviewers will have adequate, relevant information with which to make funding decisions. The information collected will be used to determine compliance with the published funding criteria.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) time of collection: Winter-Spring; and (c) frequency: Annually.

8. Respondents.—(a) Type: Institutions of higher education; (b) number: 877; and (c) estimated average man-hours per respondent: 5.

(a) Type: Other (public and private agencies, organizations, and secondary schools); (b) number: 123; and (c) estimated average man-hours per respondent: 5.

9. Information to be collected.—The following is collected from all respondents: Standard Form 424; number of students/clients proposed to be served; narrative—information called for in the program regulations: need for the proposed project, its design, and the resources and organization available and planned to carry out the project; budget summary—Personnel, Travel, Equipment, Room and Board, Stipends, Services, Indirect Costs.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Standard Application (Short Form) for Comprehensive Planning Grants and State Administration Funds for Administering State Plans under the Higher Education Act, as amended.

2. Agency/bureau/office.—Office of Education, Bureau of Higher and Continuing Education, State Planning Commissions Program.

3. Agency form number.—OE Form 1279.

4. Legislative authority for this activity.—"Section 1202(c)(2)(A). The Commissioner shall pay the State Commission the amount necessary for the proper and efficient administration of the Commission • • • ." (20 U.S.C. 1142a). "Section 1203(a). The Commissioner is authorized to make grants to any State Commission • • • to expand the scope • • • studies and planning • • • ." (20 U.S.C. 1142b) Pub. L. 92-318.

5. Voluntary/obligatory nature of response.—Required to obtain benefits.

6. How information collected will be used.—This information will be used in the processing of applications from both State Postsecondary Education Commissions for comprehensive planning grants under section 1203(a) of the Higher Education Act, and from State Commissions serving as the Higher Education Facilities Commissions for funds to administer the State plans under Titles VI-A and VII-A of the Higher Education Act.

7. Data acquisition plan.—(a) Method of collection: Mail, (b) Time be collection: Winter or spring, and (c) Frequency: Annually.

8. Respondents.—(a) TYPE: State Commissions, (b) Number: 57, and (c) Estimated average man-hours per respondent: 13.

9. Information to be collected.—The standard application (short form) will be used as the face page for both applications as required. Departmental definitions for the object class categories are used. A program narrative statement for comprehensive planning requests the following information: (a) The need for the proposed activities; (b) a description of the proposed activities; (c) the methodology to be used in carrying out the activities; and (d) the anticipated benefits and results of the activities. For State administration, description of any studies or inventories necessary to administer the State plans is requested.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Standard Application (Non-construction) for Special Community Services and Continuing Education.

2. Agency/bureau/office.—Office of Education/Bureau of Higher and Continuing Education/Division of Training and Facilities.

3. Agency form number.—OE 1280.

4. Legislative authority for this activity.—"Sec. 106.(b)(1) • • •, the Commissioner is authorized to make grants to, you contract with, institutions of higher education (and combinations thereof) • • •."(20 U.S.C. 1005a.)

5. Voluntary/obligatory nature of response.—Required to obtain benefits.

6. How information to be collected will be used.—Information will be used to determined which applicant will receive an award.

7. Data acquistion plan.—(a) Method of collection: Mail, (b) Time: Winter or spring, and (c) Frequency: Annually.

8. Respondents.—(a) Type: Institutions of Higher Education, (b) Number: 200, and (c) Estimated Average man-hours per respondent: 40.

9. Information to be collected.—The standard application from OMB Circular No. A-102 with modifications as required by law and regulations.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Application for College Work-Study Grant for Students of American Samoa or the Trust Territory of the Pacific Islands.

2. Agency/bureau/office.—Office of Education, Bureau of Student Financial Assistance, Division of Program Operations.

3. Agency form number.—OE 1285.

4. Legislative authority for this activity.—"Section 442(f) • • • for each fiscal year the Commissioner shall reserve an amount to provide work-study assistance to students who reside in, but who attend eligible institutions outside of, American Samoa or the Trust Territory of the Pacific Islands. The amount so reserved shall be allotted to eligible institutions • • •." (42 U.S.C. 2752) Pub. L. 92-318.

5. Voluntary/obligatory nature of response.—Required to obtain benefit.

6. How information collected will be used.—The information collected will be used to allot funds to institutions to provide work-study assistance to students described in (4) above.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) time of collection: Winter; and (c) Frequency: Annually.

8. Respondents.—(a) Type. Institutions of Higher Education; (b) Number: 80; and (c) Estimated average man-hours per respondent: 2.

9. Information to be collected.—The standard face page for applications in OMB Circular No. A-110 will be used. Number of students described in (4) above to be employed, the estimated average earnings per student, estimated total earnings, the Federal share and administrative expenses are data items to be collected. Student names and places of residence are also requested in a listing.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Application for State Student Incentive Grant Program.

2. Agency/bureau/office.—Office of Education/Bureau of Student Financial Assistance/State Student Incentive Grant Program.

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3. Agency form number.—OE Form 1288.

4. Legislative authority for this activity.—"Section 415C(a). A State which desires to obtain a payment under this subpart for any fiscal year shall submit an application * * *." (20 U.S.C. 1070c-2) Pub. L. 92-318.

5. Voluntary/obligatory nature of response.—Required to obtain benefit.

6. How information collected will be used.—By formula, to determine the amount of money a State will receive "to assist them in providing grants to eligible students in attendance at institutions of higher education."

7. Data acquisition plan.—(a) Method of collection: Mail; (b) time of collection: Spring; and (c) frequency: Annually.

8. Respondents.—(a) Type: State agencies; (b) number: 56; and (c) estimated average man-hours per respondent: 8.

9. Information to be collected.—Information to be collected concerns those data necessary to make the formula payment; i.e., the State request for Federal funds for initial and continuation awards, State matching funds available, State maintenance of effort, State criteria for determining financial need of students, numbers of students receiving assistance, and institutional eligibility.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Application for grants Under College Library Resources Program.

2. Agency/bureau/office.—U.S. Office of Education/Bureau of Elementary and Secondary Education/ Office of Libraries and Learning Resources.

3. Agency form number.—OE-3118.

4. Legislative authority for this activity.—"Section 201.(a). The Commissioner shall carry out a program of financial assistance—(1) to assist and encourage institutions of higher education in the acquistion of library resources * * *.

"Section 202 * * * A basic grant under this subsection may be made only if the application therefor is approved by the Commissioner upon his determination that the application (whether by an individual institution or a combination of institutions)—

(1) Provides satisfactory assurance that the applicant will expend during the fiscal year for which the basic grant is sought from funds other than funds received under this part—

(A) For all library purposes (exclusive of construction), an amount not less than the average annual amount it expended for such purposes during the two fiscal years preceding the fiscal year for which assistance is sought under this part, and

(B) For library resources, an amount not less than the average amount it expended for such resources during the two fiscal years preceding the fiscal year for which assistance is sought under this part, except that, if the commissioner determines, in accordance with regulations, that there are special and unusual circumstances which prevent the applicant from making the assurances required by this clause (1), he may waive that requirement for one or both assurances. (20 U.S.C. 1022-28) (Pub. L. 89-329, as amended.)

5. Voluntary/obligatory nature of response.—Required to obtain or maintain benefits.

6. How information to be collected will be used.—Information will be used to determine applicant's eligibility and for assurances that the applicant will expend during the fiscal year for which the grant is sought, an amount equal to the amount of the grant award and will equal or maintain its two year average for expenditures for all library purposes and library resources (maintenance of effort) and to provide a format for request for a waiver from maintenance of effort where the Commissioner may so approve.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) Time of collection: Winter; and (c) Frequency: Annually.

8. Respondents.—(a) Type: Institutions of higher education and public or private non profit library institutions whose primary purpose is to provide library and information services to institutions of higher education. (b) Number: 2,700; and (c) Estimated average man-hours per respondent: 1.

9. Information to be collected.—The application consists of two parts. Part 1 is the standard face page for Federal applications, SF-424. Part II is OE Form 3118 on which the applicant provides a maintenance of effort analysis cited above.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity.—Standard Application (Nonconstruction) Program for the Gifted and Talented Program.

2. Agency/bureau/office.—Office of Education, Bureau of Education for the Handicapped, Office of Gifted and Talented.

3. Agency form number.—OE Form 9048.

4. Legislative authority for this activity.—"Section 404(c)(2)(A). Any State educational agency or local educational agency desiring to receive a grant under this subsection shall submit an application to the Commissioner * * *." (20 U.S.C. 1863.)

"Section 404(a) The Commissioner is authorized to make grants to institutions of higher education and other appropriate non-profit organization * * *" (20 U.S.C. 1863.)

5. Voluntary/obligatory nature of response.—Required to obtain benefit.

6. How information will be used.—The information will be used to determine which applicants will receive awards.

7. Data acquisition plan.—(a) Method of collection: Mail; (b) Time of collection: Winter; and (c) Frequency: Annually.

8. Respondents.—(a) Type: State Education Agencies, Local Education Agencies, Institutions of Higher Education, and Nonprofit Organization; (b) Number: 500; and (c) Estimated average man-hours per respondent: 40.

9. Information to be collected.—The standard application (nonconstruction) from OMB Circular No. A-102 will be used with modification required by law and regulations. Information not required by the program will be deleted.

[FR Doc. 78-12309 Filed 5-4-78; 8:45 am]

[4110-03]

Food and Drug Administration

[FDA-225-78-4002]

INSPECTION OF DRUG MANUFACTURERS, REPACKAGERS, AND DISTRIBUTORS

Memorandum of Understanding with the Virginia Board of Pharmacy

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Virginia Board of Pharmacy. The purpose of the understanding is to set forth cooperative working arrangements between the two agencies to provide more effective consumer protection through more efficient inspectional coverage of Virginia drug manufacturers, repackagers, and distributors.

DATES: The agreement became effective March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary Dykstra, Compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) stating that future memoranda of understanding and agreements between FDA and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following memorandum of understanding:

MEMORANDUM OF UNDERSTANDING BETWEEN VIRGINIA BOARD OF PHARMACY AND BALTIMORE DISTRICT U.S. FOOD AND DRUG ADMINISTRATION

I. PURPOSE

It is the purpose of this understanding to provide more effective consumer protection through more efficient inspectional coverage of Virginia drug manufacturers, repackagers and distributors. The Virginia Board of Pharmacy and the Food and Drug Administration, Baltimore District will coordinate their programs to maximize effectiveness of their compliance efforts. This understanding will provide a format for formal discussion and planning in the development of a cooperative inspectional program satisfactory to both agencies.

II. WORK-SHARING PROGRAM

A. Goals and Responsibilities: The Virginia Board of Pharmacy and the FDA Baltimore District Investigations Branch will attempt to develop a formal program for sharing the responsibility of the inspection of all Virginia drug, device, and cosmetic establishments of mutual obligation. Close coordination and communication will be developed; there will be joint planning to assure that manpower is more efficiently utilized and regulatory efforts are properly meshed to achieve a high level of industry compliance.

B. Inspectional Obligation: 1. Inspection Inventory: An inventory of firms covered by this understanding, hereafter referred to as the cooperative establishment inventory (CEI), will be developed by both agencies and maintained by FDA's data processing unit (DPU).

2. Registration Information: The Virginia Board of Pharmacy will supply Baltimore District FDA with drug and device registration information. FDA will supply the State with a listing of registered drug firms in Virginia.

3. Joint Inspections: During the term of this understanding, joint inspections will be conducted to give each agency the opportunity to observe its partner's inspectional procedures. The inspections will be planned during the first planning session and discussed during the second and last, as stated in section IV-A.

III. GENERAL PROVISIONS

A. Drug Sampling: 1. Collection: The Virginia Board of Pharmacy will assist the Baltimore District FDA in the collection of drug samples if requested and within the limits of its available manpower.

2. Assay: The Baltimore District drug laboratory will assay drug samples if requested by the Virginia Board of Pharmacy, within the limits of available resources.

B. Recall and Emergency: The agencies will cooperate to the fullest extent possible in handling emergency public health problems of drug and device origin and in checking the effectiveness of drug product recalls.

C. Complaint Investigations: When indicated, each agency will assist its partner to the extent possible in the investigation of complaints.

D. Cross-Commissioning: Consideration will be given by both agencies to the possibility of commissioning each other's inspectors to operate under the authority of State and Federal Acts. The need for such commissioning will be determined during the term of this understanding.

E. Training: Based on the results of the joint inspections, FDA and the State will identify training needs and, if needed, develop several possible training activities designed to meet the needs of implementing this understanding.

F. Personnel Exchange: An exchange of personnel will be accomplished during the term of this understanding to permit closer program coordination, better understanding of mutual responsibilities, and an insight into operational procedures and regulatory philosophies. An FDA official will be assigned for a two-week period to the Board of Pharmacy and a State official will be assigned to the Baltimore District FDA for a two-week period. The details will be conducted under the provisions of the Federal Intergovernmental Personnel Act at Federal expense.

IV. PROGRAM REVIEW

A. Planning Sessions: Three joint planning sessions will be held during the term of this understanding to discuss the cooperative program, establish effective communication, determine regulatory philosophy, and plan future objectives. The first session will be held within 4 months of the signing of this memorandum; the second will be held 4 months thereafter, and the third during the 11th month of this understanding. Each session will be arranged for and moderated by FDA's Region III Assistant Food and Drug Director for Intergovernmental Affairs.

B. Performance Evaluation: During the term of this understanding, a procedure for evaluation of the quality of program performance will be developed. The evaluation procedure will be established during the current term and set into operation during the second year of the program.

V. TERM OF UNDERSTANDING

This understanding will expire on March 31, 1979, unless renewed and signed by both cooperating agencies to continue it in effect for another year.

This understanding in its entirety, or in part, may be revised by mutual consent or terminated upon 30 days' written notice by either agency.

Approved and accepted for the Virginia Board of Pharmacy:

Dated: March 10, 1978.

J. B. CARSON,
Secretary,
Virginia Board of Pharmacy.

Approved and accepted for the Food and Drug Administration:

Dated: February 16, 1978.

M. L. STRAIT,
Director, Baltimore District Food and Drug Administration.

Effective date. This memorandum of understanding became effective March 10, 1978.

Dated: April 28, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-12257 Filed 5-4-78; 8:45 am]

[4110-03]

[Docket No. 78D-0099]

SOURCE PLASMA (HUMAN)

Availability of Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the availability of a revised guideline for red blood cell immunization of Source Plasma (Human) donors. The agency has revised the guideline in response to manufacturers' comments that the guideline as initially issued was difficult to follow.

DATE: Written comments by June 5, 1978.

ADDRESSES: Written comments and requests for copies of the guideline should be forwarded to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joe K. Holloway, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a notice published in the FEDERAL REGISTER of May 17, 1977 (42 FR 25381) advising manufacturers of the availability of a guideline for immunizing Source Plasma (Human) donors with Red Blood Cells (Human). He hereby gives notice that the guideline referred to in the May 1977 notice has been revised and updated and is now on display at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857,

The Food and Drug Administration (FDA) committee on red blood cell immunization found, through discussions and correspondence with the blood manufacturing industry, that the Bureau's current guideline, displayed May 1977 at the Hearing Clerk's Office, required revision and updating. Problems with the current guideline are that manufacturers found it difficult to (1) successfully immunize the donors at the recommended dosage and administering intervals, especially for de novo (initial) immunizaiton, and (2) adequately match the donor's blood with the recipient's blood using the recommended criteria. The revised guideline will alleviate these problems.

Interested persons may obtain copies of the guideline by contacting the office of the Hearing Clerk and identifying the guideline with the Hearing Clerk docket number found in brackets in the heading of this document.

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Dated: May 1, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12258 Filed 5-4-78; 8:45 am]

[4110-84]

Health Services Administration

PROJECT GRANTS FOR HOME HEALTH SERVICES

Announcement of Availability of Grants

Notice is hereby given that competitive applications are now being accepted from Home Health Services project grants under the authority of Section 602(a) of Pub. L. 94-63 (42 U.S.C. 1395x note). The Secretary will make grants to public and private nonprofit entities to support projects for the development and expansion of home health services.

Regulations applicable to these grants, published in the FEDERAL REGISTER on June 3, 1977 (42 FR 28692), state that the Secretary will give preference to applications for projects that will serve catchment areas in which a high percentage of the population is elderly, medically indigent, or both (42 CFR 51e.107).

On October 14, 1977, a notice was published in the FEDERAL REGISTER (42 FR 55371) announcing the first funding cycle for 1978. That notice established a deadline of January 2, 1978, for the receipt of completed applications and limited consideration of applications to applicants who proposed to serve preference areas.

The purpose of this notice is to announce the second funding cycle for 1978 for which approximately $2,500,000 is available. It is expected that these resources will be sufficient to support the award of some grants to applicants who proposed to serve non-preference areas.

Information may be obtained from and completed applications returned to the representative of the Home Health Services Grant Program at the appropriate Regional Office (listed below). The representative may be contacted for consultation and technical assistance relative to development of an application.

Completed applications must be received at the Regional Office by June 1, 1978, to be considered for funding.

Dated: April 26, 1978.

JOHN H. KELSO,
Deputy Administrator, Health Services Administration.

Ms. Rita Pope, DHEW/PHS/Region I, Division of Health Services Delivery, Primary Health Care, Room 1409, John F. Kennedy Federal Building, Boston, Mass. 02203, 617-223-5845.
Mr. Robert Shaw, DHEW/PHS/Region II, Division of Health Services Delivery, Primary Health Care, 26 Federal Plaza, New York, N.Y. 10007, 212-264-2546.
Mr. Walter Ihle, DHEW/PHS/Region III, Division of Health Services Delivery, Primary Health Care, P.O. Box 13716, Philadelphia, Pa. 19101, 215-596-6875.
Ms. Pat Atkinson, DHEW/PHS/Region IV, Division of Health Services Delivery, Primary Health Care, 101 Marietta Towers, Atlanta, Ga. 30323, 404-221-2032.
Ms. Susan Kamp, DHEW/PHS/Region V, Division of Health Services Delivery, Primary Health Care, 300 South Wacker Drive, Chicago, Ill. 60606, 312-353-1720.
Mrs. Vicki Wright, DHEW/PHS/Region VI, Division of Health Services Delivery, Community Health Development, 1200 Main Tower Building, 17th Floor, Dallas, Tex. 75202, 214-655-3041.
E. June Smith, R.N., DHEW/PHS/Region VII, Division of Health Services Delivery, Family and Child Services, 601 East 12th Street, 5th Floor West, Kansas City, Mo. 64106, 816-374-2403.
Mr. Michael Oliva, DHEW/PHS/Region VIII, Division of Health Services Delivery, Primary Health Care, 11037 Federal Building, 19th and Stout Streets, Denver, Colo. 80094, 303-837-4781.
Ms. D. J. Soviero, DHEW/PHS/Region IX, Division of Health Services Delivery, 50 United Nations Plaza, Room 304, San Francisco, Calif. 94102, 415-556-1371.
Ms. Norma Ewan, DHEW/PHS/Region X, Division of Health Services Delivery, Family and Child Health, 1321 Second Avenue, Mail Stop 506, Seattle, Wash. 98101, 206-442-1020.

[FR Doc. 78-12198 Filed 5-4-78; 8:45 am]

[4110-83]

Health Resources Administration

SCHOOLS OF PUBLIC HEALTH AND GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

Application Announcement for Grants for Special Projects

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1978 grants for Special Projects for Schools of Public Health and Graduate Programs in Health Administration are now being accepted under the authority of section 792 of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Section 792 authorizes grants to assist accredited schools of public health and other educational entities with accredited graduate programs in health administration, health planning, or health policy analysis and planning to develop new graduate programs or expand existing ones in biostatistics or epidemiology; health administration, health planning or health policy analysis and planning; environmental or occupational health; or dietetics and nutrition.

In the award of grants for projects in the area of health administration, health planning or health policy analysis and planning, funding preference will be given to:

(a) Programs preparing the graduate for employment in a wide variety of settings;

(b) Program expanding content in health planning, policy and regulation, health economics, and quantitative methods or financial management;

(c) Programs providing for field training in (a) and (b) above;

(d) Programs providing short courses for employed health services administrators and planners in special areas involving health policy, planning and regulation, health economics, quantitative methods, and financial management; or

(e) Programs to meet manpower needs in health services administration and planning by providing educational opportunities for students residing in States where there is no accredited program in health services administration and planning or where there is a documented shortage of health administrators and planners.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-22, 3700 East-West Highway, Hyattsville, Md. 20782, phone 301-436-6564.

To be considered for fiscal year 1978 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than June 1, 1978.

Should additional programmatic information be required, please contact:

Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 5-27, 3700 East-West Highway, Hyattsville, Md. 20782, phone 301-436-6800 or 436-6805.

Dated: April 24, 1978.

HENRY A. FOLEY,
Administrator, HRA.

[FR Doc. 78-12197 Filed 5-4-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF TRIS (2,3-DIBROMOPROPYL) PHOSPHATE FOR POSSIBLE CARCINOGENICITY

Availability

Tris (2,3-dibromopropyl) phosphate (CAS 126-72-7) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade tris (2,3-dibromopropyl) phosphate (TBP) for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. TBP ws administered in the feed, at either of two concentrations, to groups of 55 male and 55 female rats, and 50 male and 50 female mice. The high and low dietary concentrations of TBP administered were, respectively, 100 and 50 ppm for the male and female rats, and 1000 and 500 ppm for the male and female mice. After a 103-week dosing period, observation of the rats and mice continued for 1 or 2 additional weeks. For each species, 55 animals of each sex were placed on test as controls. No TBP was added to their diet.

In both species, adequate numbers of animals in all groups survived sufficiently long to be at risk from late-developing tumors.

It is concluded that under the conditions of this study orally administered TBP was carcinogenic to B6C3F1 mice, causing increased incidences of tumors in livers, lungs, and stomachs of female mice and in kidneys, lungs, and stomachs of male mice. TBP also carcinogenic in Fischer 344 rats, causing an increased incidence of kidney tumors in both sexes.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: April 27, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-12110 Filed 5-4-78; 8:45 am]

[4110-08]

CARCINOGENESIS PROGRAM SCIENTIFIC REVIEW COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Carcinogenesis Program Scientific Review Committee, National Cancer Institute, National Institutes of Health, May 11-12, 1978, which was published in the FEDERAL REGISTER on April 4, 1978 (43 FR 14129). This meeting is cancelled because the deadline for submission of contract proposals has been extended.

Dated: April 26, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-12111 Filed 5-4-78; 8:45 am]

[4110-08]

CLINICAL CANCER EDUCATION COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Cancer Education Committee, National Cancer Institute, Jume 1 and 2, 1978, Building 31C, Conference Room 10, National Institutes of Health. The meeting will be open to the public on June 1, 1978, from 8:30 a.m. to 9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 1, 1978, from 9:30 a.m. to 5 p.m., and on June 2, 1978, from 8:30 a.m. until adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708, will provide summaries of the meeting and roster of committee members, upon request.

Dr. Margaret H. Edwards, Executive Secretary, National Cancer Institute, Westwood Building, Room 10A18, National Institutes of Health, Bethesda, Md. 20014, 301-496-7761, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.398, National Institutes of Health)

Dated: April 26, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-12114 Filed 5-4-78; 8:45 am]

[4110-08]

REVIEW OF CONTRACT PROPOSALS AND GRANT APPLICATIONS

Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, United States Code an section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708, will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Name of Committee: Biometry and Epidemiology Contract Review Committee.
Dates: June 1-2, 1978; 7 p.m.
Place: Landow Building, Room A809, 7910 Woodmont Avenue, Bethesda, Md. 20014.
Times: Open: June 1, 7 p.m. to 10:30 p.m.
Closed: June 2, 8:30 a.m. to 5 p.m.
Closure Reason: To review research contract proposals.
Executive Secretary: Mr. Harvey Geller.
Address: Landow Building, Room 5C19, National Institutes of Health.
Phone: 301-496-6014.

(Catalog of Federal Domestic Assistance No. 13.393, National Institutes of Health.)

Name of Committee: Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Subcommittee).
Dates: June 1-2, 1978; 7:30 p.m.
Place: Anderson-Mayfair Hotel, 1600 Holcombe Blvd., Houston, Tex. 77025.
Times: Open: June 1, 7:30 p.m. to 8:30 p.m.
Closed: June 1, 8:30 p.m. to adjournment.
Closed: June 2, 8:30 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. Andrew Chiarodo.
Address: Westwood Building, Room 855, National Institutes of Health.
Phone: 301-496-7194.

(Catalog of Federal Domestic Assistance No. 13.393, 13.394, 13.395; National Institutes of Health.)

Name of Committee: Cancer and Nutrition Scientific Review Committee.
Dates: June 1-2, 1978; 8:30 a.m.
Place: Federal Building, Room 6C01, 7550 Wisconsin Avenue, Bethesda, Md. 20014.
Times: Open: June 1, 8:30 a.m. to 9 a.m.
Open: June 2, 8:30 a.m. to 9 a.m.
Closed: June 1, 9: a.m. to adjournment.
Closed: June 2, 9: a.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Gio B. Gori.
Address: Building 31, Room 11A03, National Institutes of Health.
Phone: 301-496-6616.

(Catalog of Federal Domestic Assistance No. 13.393, National Institutes of Health.)

Name of Committee: Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee).
Dates: June 8, 1978; 8:30 a.m.
Place: O'Hare Hilton, Room 4109, O'Hare International Airport, Chicago, Ill.
Times: Open: June 8, 8:30 a.m. to 11:00 a.m. Closed: June 8, 11 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. William E. Straile.
Address: Westwood Building, Room 853, National Institutes of Health.

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Phone: 301-496-7194.

(Catalog of Federal Domestic Assistance No. 13.393, 13.394, 13.395; National Institutes of Health.)

Name of Committee: Cancer Control Grant Review Committee.
Dates: June 12-13, 1978; 8:30 a.m.
Place: Building 31C, Conference Room 8, National Institutes of Health.
Times: Open: June 12, 8:30 a.m. to 9 a.m. Closed: June 12, 9 a.m. to recess. Closed: June 13, 8:30 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. Robert F. Browning.
Address: Blair Building, Room 7A07, National Institutes of Health.
Phone: 301-427-7943.

(Catalog of Federal Domestic Assistance No. 13.399, National Institutes of Health.)

Name of Committee: Cancer Special Program Advisory Committee.
Dates: June 12-13, 1978; 9 a.m.
Place: Building 31A, Conference Room 4, National Institutes of Health.
Times: Open: June 12, 9 a.m. to 10:30 a.m. Closed: June 12, 10:30 a.m. to 5 p.m. Closed: June 13, 8:30 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. William R. Sanslone.
Address: Westwood Building, Room 805, National Institutes of Health.
Phone: 301-496-7565.

(Catalog of Federal Domestic Assistance No. 13.392, National Institutes of Health.)

Name of Committee: Committee on Cancer Immunotherapy.
Dates: June 12-13, 1978; 1:30 p.m.
Place: Building 10, Room 4B14, National Institutes of Health.
Times: Open: June 12, 1:30 p.m. to 2 p.m. Closed: June 12, 2 p.m. to adjournment. Closed: June 13, 1:30 p.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. George M. Steinberg.
Address: Building 10, Room 4B09, National Institutes of Health.
Phone: 301-496-1791.

(Catalog of Federal Domestic Assistance No. 13.395, National Institutes of Health.)

Name of Committee: Committee on Cancer Immunotherapy.
Dates: June 15, 1978; 1:30 p.m.
Place: Building 10, Room 4B14, National Institutes of Health.
Times: Open: June 15, 1:30 to 2 p.m.
Closed: June 15, 2 p.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. George M. Steinberg.
Address: Building 10, Room 4B09, National Institutes of Health.
Phone: 301-496-1791.

(Catalog of Federal Domestic Assistance No. 13.395, National Institutes of Health.)

Name of Committee: Committee on Cancer Immunobiology.
Dates: June 20, 1978; 2 p.m.
Place: Building 10, Room 4B14, National Institutes of Health.
Times: Open: June 20, 2 p.m. to 2:30 p.m. Closed: June 20, 2:30 p.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Mrs. Judith M. Whalen.
Address: Building 10, Room 4B17, National Institutes of Health.
Phone: 301-496-1791

(Catalog of Federal Domestic Assistance No. 13.396, National Institutes of Health.)

Name of Committee: Committee on Cancer Immunotherapy.
Dates: June 22, 1978; 1:30 p.m.
Place: Building 10, Room 4B14, National Institutes of Health.
Times: Open: June 22, 1:30 p.m. to 2 p.m. Closed: June 22, 2 p.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. George M. Steinberg.
Address: Building 10, Room 4B09, National Institutes of Health.
Phone: 301-496-1791.

(Catalog of Federal Domestic Assistance No. 13.395, National Institutes of Health.)

Name of Committee: Virus Cancer Program Scientific Review Committee.
Dates: June 22-23, 1978; 9 a.m.
Place: Landow Building, Room 9B04, 7910 Woodmont Avenue, Bethesda, Md. 20014.
Times: Open: June 22, 9 a.m. to 9:30 a.m. Closed: June 22, 9:30 a.m. to 5 p.m. Closed: June 23, 9 a.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Maurice L. Guss.
Address: Landow Building, Room 9A10, National Institutes of Health.
Phone: 301-496-4533.

(Catalog of Federal Domestic Assistance No. 13.393, National Institutes of Health.)

Name of Committee: Cancer Control Community Activities Review Committee.
Dates: June 23, 1978; 8:30 a.m.
Place: Blair Building, Room 110, 8300 Colesville Road, Silver Spring, Md. 20910.
Times: Open: June 23, 8:30 a.m. to 9 a.m. Closed: June 23, 9 a.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Robert F. Browning.
Address: Blair Building, Room 7A07, National Institutes of Health.
Phone: 301-427-7943.

(Catalog of Federal Domestic Assistance No. 13.399, National Institutes of Health.)

Name of Committee: Bladder and Prostatic Cancer Review Committee (Prostatic Subcommittee).
Dates: June 23, 1978; 8:30 a.m.
Place: Roswell Park Research Study Center, 666 Elm Street, Buffalo, N.Y.
Times: Open: June 23, 8:30 a.m. to 9 a.m. Closed: June 23, 9 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary:
Address: Dr. Andrew Chiarodo, National Institutes of Health.
Phone: 301-496-7194.

(Catalog of Federal Domestic Assistance Nos. 13.393, 13.394, 13.395; National Institutes of Health.)

Name of Committee: Cancer Clinical Investigation Review Committee.
Dates: June 26-27, 1978; 9 a.m.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open: June 26, 9 a.m. to 12:30 p.m.
Agenda—Open portion: Discussion of review of cooperative group program.
Closed: June 26, 1:30 p.m. to 5 p.m.
Closed: June 27, 8:30 a.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Mr. C. W. White.
Address: Landow Building, Room 8C09, National Institutes of Health.
Phone: 301-497-4471.

(Catalog of Federal Domestic Assistance No. 13.395, National Institutes of Health.)

Name of Committee: Cancer Control Treatment, Rehabilitation and Continuing Care Review Committee.
Dates: June 29, 1978; 8:30 a.m.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open: June 29, 8:30 a.m. to 3 p.m.
Agenda—Open portion: Contract review in the areas of cancer control treatment, rehabilitation and continuing care.
Closed: June 29, 3 p.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Carlos E. Caban.
Address: Blair Building, Room 7A07, National Institutes of Health.
Phone: 301-427-7945.

(Catalog of Federal Domestic Assistance No. 13.399, National Institutes of Health.)

Name of Committee: Carcinogenesis Program Scientific Review Committee.
Dates: June 29-30, 1978; 8:30 a.m.
Place: Landow Building, Room 8C41, 7910 Woodmont Avenue, Bethesda, Md. 20014.
Times: Open: June 29, 8:30 a.m. to 9 a.m.
Closed: June 29, 9 a.m. to recess.
Closed: June 30, 8:30 a.m. to adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Carl E. Smith.
Address: Landow Building, Room 8C37, National Institutes of Health.
Phone: 301-496-4141.

(Catalog of Federal Domestic Assistance No. 13.393, National Institutes of Health.)

Dated: April 26, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc 78-12115 Filed 5-4-78; 8:45 a.m.]

[4110-08]

BOARD OF SCIENTIFIC COUNSELORS, NATIONAL EYE INSTITUTE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, June 8 and 9, 1978, Building 31, Room 6A-35, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on June 8 from 8:30 a.m. until 2:30 p.m. for general remarks by the Institute Director on matters concerning the intramural programs of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 8 from 2:30 p.m. until adjournment and the entire day on June 9 for review, discussion, and evaluation of individual projects conducted by the Laboratory of Vision Research, NEI. This evaluation and discussion could reveal personal information concerning individuals associated with the projects. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Mr. Julian Morris, Chief, Office of Program Planning and Scientific Reporting, National Eye Institute, Building 31, Room 6A-25, telephone 301-496-5248, will furnish summaries of the meeting and rosters of committee members.

Substantive program information may also be obtained from Dr. Carl Kupfer, Director, National Eye Institute, Building 31, Room 6A-03, telephone 301-496-2234, National Institutes of Health, Bethesda, Md. 20014.

Dated: April 26, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-12116 Filed 5-4-78; 8:45 am]

[4110-08]

BOARD OF SCIENTIFIC COUNSELORS, NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, June 13, 1978, in Building 31C, conference room 9, on June 14, 1978, in Building 5, room 216, and on June 15, 1978, in Building 31, room 7A24, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on June 13 from 9 a.m. until recess. During this open session, the permanent staff of the Laboratory of Infectious Diseases and the Laboratory of Biology of Viruses will present and discuss their immediate, past, and present research activities.

In accordance with the provisions set forth in sections 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting of the Board will be closed to the public on June 14 from 9 a.m. until recess, and on June 15 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, and the competence of individual investigators.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Md., telephone 301-496-5717, will provide summaries of the meetings and rosters of the Board members.

Dr. Kenneth W. Sell, Executive Secretary, Board of Scientific Counselors, NIAID, NIH, building 5, room 137, telephone 301-496-2144, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-301, National Institutes of Health.)

Dated: April 26, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-12117 Filed 5-4-78; 8:45 am]

[4110-08]

PERIODONTAL DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, National Institutes of Health, Bethesda, Md. on June 15-16, 1978, in Building 31-A, Conference Room 4.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. on June 15, and from 9 a.m. to adjournment on June 16, to discuss research progress and ongoing plans and programs of the Periodontal Diseases Research Program. Attendance by the public will be limited to space available.

Dr. Paul F. Parakkal, Executive Secretary of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 519, Bethesda, Md. 20014, phone 301-496-7784, will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance No. 13.302, National Institutes of Health.)

Dated: April 25, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-12118 Filed 5-4-78; 8:45 am]

[4110-08]

DENTAL CARIES PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Dental Caries Program Advisory Committee, National Institute of Dental Research, on June 19-20, 1978, National Institutes of Health, building 31-C, conference room 7, Bethesda, Md.

The entire meeting will be open to the public from 1 p.m. to 5 p.m. on June 19, and from 9 a.m. to adjournment on June 20, to discuss research progress and ongoing plans and programs of the National Caries Program. Attendance by the public will be limited to space available.

Dr. James P. Carlos, Associate Director, National Caries Program, National Institute of Dental Research, National Institutes of Health, Westwood Building, room 528, Bethesda, Md. 20014, phone 301-496-7239, will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.840, National Institutes of Health.)

Dated: April 25, 1978.

SUZANNE L. FREMEAU
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-12119 filed 5-4-78; 8:45 am]

[4110-08]

NATIONAL COMMISSION ON DIGESTIVE DISEASES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of three meetings of the National Commission on Digestive Diseases, 9 a.m. to 6 p.m. on the dates and places listed below. The entire three days will be open to the public. Attendance by the public will be limited to space available. No input will be requested from the audience.

On July 1-4, 1978, the Commission will meet at the Cherry Hill Inn, Cherry Hill, N.J., to review the subcommittee reports and to outline the first draft of the Long Range Plan; on July 20-22, in the Coolfont Conference Center, Berkeley Springs, W. Va., for the purpose of reviewing the first draft of the Long Range Plan; and on August 17-19, in the Minary Conference Center, Dartmouth College, Hanover, N.H., for the purpose of reviewing the second draft of the Long Range Plan.

Messrs. James N. Fordham or Irving Shapiro, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, room 9A04, Bethesda, Md. 20014, telephone 301-496-3583, will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.484, National Institutes of Health.)

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Dated: April 27, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-12120 Filed 5-4-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Ad Hoc Committee on the 1978 Annual Report of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Sec. 10(a)(2)).

DATES: May 25, 1978, 11 a.m. to 5 p.m. and May 26, 1978, 9 a.m. to 3 p.m.

ADDRESS: Pennsylvania Building, 425 13th Street NW., Suite 323, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street NW., Washington, D.C. 20004, 202-376-8892.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal law relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda reflects the various topics to be discussed on the annual report which includes:

The Foreword
Council Activities/Concerns for the Year
Council Meeting
Council Membership
Council Structure/Committees
Committee Projects
Projected Council Activities

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004.

Signed at Washington, D.C., on May 1, 1978.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 78-12249 Filed 5-4-78; 8:45 am]

[4110-02]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Amendment

This notice is to amend a portion of the notice of the meeting of the National Advisory Council on the Education of Disadvantaged Children which appeared in the FEDERAL REGISTER on Monday, April 24, 1978. The site visits scheduled for May 12, 1978, in the Washington, D.C., area schools, from 8:30 a.m. to 4:30 p.m, will now be held from 8:30 a.m to 2:30 p.m., followed by informal discussions on urban education to be held at the Presidential Building, Superintendent's Conference Room, 12th floor, 415 12th Street NW., from 2:30 to 4:30 p.m. The scheduled Seminar on Migrant Education has been canceled.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

Signed at Washington, D.C., on May 3, 1978.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc. 78-12418 Filed 5-4-78; 8:45 am]

[4110-12]

Office of the Secretary

PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee will meet on June 1-3, 1978, 9 a.m. to 5 p.m., at the Chateau Motor Hotel, 201 Lake Street, Shreveport, La. At the meeting, the Committee will discuss full citizenship rights, humane service systems, trends in residential facilities, public awareness, and prevention of mental retardation.

These meetings are open to the public.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, President's Committee on Mental Retardation, Room 2614, ROB No. 3, 7th & D Streets SW., Washington, D.C. 20201, telephone 202-245-7634.

Dated: April 28, 1978.

RED J. DRAUSE,
Executive Director, President's Committee on Mental Retardation.

[FR Doc. 78-12306 Filed 5-4-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-3064-EM; Docket No. NFD-623]

ALABAMA

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Alabama (FDAA-3064-EM), dated April 24, 1978, and related determinations.

DATED: April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 24, 1978, the President declared an emergency as follows:

I have determined that the impact of tornadoes on the State of Alabama is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefor declare that such an emergency exists in the State of Alabama.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of Alabama to have been adversely affected by this declared emergency.

The Counties of:

Monroe and Montgomery.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-12274 Filed 5-4-78; 8:45 am]

[4210-01]

[FDAA-3062-EM; Docket No. NFD-624]

ARKANSAS

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Arkansas (FDAA-3062-EM), dated April 22, 1978, and related determinations.

DATED: April 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 22, 1978, the President declared an emergency as follows:

I have determined that the impact of tornadoes on the State of Arkansas is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Arkansas.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Joe D. Winkle of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area of the State of Arkansas to have been adversely affected by this declared emergency:

The County of:

Lonoke.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[4210-01]

[FDAA-555-DR; Docket No. NFD-625]

MINNESOTA

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Minnesota (FDAA-555-DR), dated April 22, 1978, and related determinations.

DATED: April 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 22, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Minnesota resulting from severe storms, ice jams, snowmelt, and flooding beginning about March 13, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Minnesota.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert E. Connor of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Minnesota to have been adversely affected by this declared major disaster.

The Counties of:

Becker, Clay, Kittson, Marshall, Norman, Pennington, Polk, Red Lake, Traverse, and Wilkin.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Federal Disaster Assistance Administration.

[FR Doc. 78-12276 Filed 5-4-78; 8:45 am]

[4210-01]

[FDAA-3063-EM; Docket No. NFD-622]

MISSISSIPPI

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Mississippi (FDAA-3063-EM), dated April 24, 1978, and related determinations.

DATED: April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muchenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and

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Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 24, 1978, the President declared an emergency as follows:

I have determined that the impact of tornadoes on the State of Mississippi is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of Mississippi.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of Mississippi to have been adversely affected by this declared emergency:

The counties of: Amite, Bolivar, Claiborne, Copiah, Hinds, Lauderdale, Lawrence, Marion, Pearl River, Perry, Smith, and Washington.

(Catalog of Federal Domestic Assistance No. 14. 701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-12277 Filed 5-4-78; 8:45 am]

[4210-01]

[FDAA-552-DR; Docket No. NFD-626]

NEBRASKA

Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of major disaster declaration for the State of Nebraska (FDAA-552-DR), dated March 24, 1978.

DATED: April 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of major disaster for the State of Nebraska, dated March 24, 1978, and amended on April 5, 1978, and April 12, 1978, is hereby further amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 24, 1978:

The county of Dawson.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-12278 Filed 5-4-78; 8:45 am]

[4210-01]

[FDAA-554-DR; Docket No. NFD-621]

NORTH DAKOTA

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of North Dakota (FDAA-554-DR), dated April 17, 1978, and related determinations.

DATED: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitles "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 17, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of North Dakota resulting from severe storms, ice jams, snowmelt, and flooding beginning about March 11, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of North Dakota.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Donald G. Eddy of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of North Dakota to have been adversely affected by this declared major disaster.

The counties of Adams, Billings, Bowman, Burleigh, Cass, Dickey, Dunn, Emmons, Golden Valley, Grand Forks, Grant, Hettinger, La Moure, Logan, McIntosh, Mercer, Morton, Pembina, Richland, Sioux, Slope, Stark, Traill, and Walsh.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-12279 Filed 5-4-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

IRRIGATION OPERATION AND MAINTENANCE CHARGES

Water Charges and Related Information on the Flathead Project, Mont.

This notice of operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3, and by authority delegated to the Project Engineer and to the Superintendent by the Area Director in 10 BIAM 7.0, Sections 2.70-2.75. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

FLATHEAD PROJECT—PAYMENT AND PENALTY

Operation and maintenance charges stipulated in this regulation shall be paid as follows:

(a) For Indian Trust and Non District Land payment shall become due on April 1 of each year, and are payable on or before that date. Charges not paid on or before July 1 following the due date shall have added a penalty of one half of one percent per month or fraction thereof from the due date, April 1, so long as the delinquency continues.

(b) For land embraced in the several Irrigation Districts payment shall be made of one half the amount due on or before February 1 of each year, and one half of the amount due on or before July 1 of each year. Payments

or portions of payments not received when due will have added a penalty of one half of one percent per month or fraction thereof from the due date for as long as the delinquency continues.

INDIAN TRUST AND NON-DISTRICT LANDS

The basic operation and maintenance rate for a pro-rata share of irrigation water supply for the season of 1978 for Indian Trust land and land not included in an Irrigation District shall be as follows:

1. Minimum charge for all tracts	$10.00
2. Basic rate per acre for lands in the Jocko Division	6.10
3. Basic rate per acre for lands in the Mission Valley Division	6.97
4. Basic rate per acre for lands in the Camas Division	6.69

LANDS INCLUDED IN THE FLATHEAD IRRIGATION DISTRICT

The charge for operation and maintenance for lands included in the Flathead Irrigation District for the irrigation season of 1979 shall be approximately $598,750 for approximately 88,690 acres of irrigable land included in the Flathead Irrigation District. The minimum charge for any tract will be $10. Payment of said charges will entitle the said lands to a pro-rata share of available water for the season of 1979.

LANDS INCLUDED IN THE MISSION IRRIGATION DISTRICT

The charges for operation and maintenance for lands included in the Mission Irrigation District for the irrigation season of 1979 shall be approximately $113,750 for approximately 16,250 acres of irrigable land included in the Mission Irrigation District. The minimum charge for any tract will be $10. Payment of said charges will entitle the said lands to a pro-rata share of available water for the season of 1979.

LAND INCLUDED IN THE JOCKO VALLEY IRRIGATION DISTRICT

The charge for operation and maintenance for lands included in the Jocko Valley Irrigation District for the irrigation season of 1979 shall be approximately $52,325 for approximately 7,475 acres of irrigable land included in the Jocko Valley Irrigation District. The minimum charge for any tract will be $10. Payment of said charges will entitle the said lands to a pro-rata share of available water for the season of 1979.

Upon publication of these regulations Chapter I, Subchapter T of Title 25, Code of Federal Regulations is amended by deleting §§ 221.15, 221.16, 221.17, 221.18, 221.19, 221.20, 221.21, 221.22, 221.24, 221.25, 221.25a, 221.26, 221.27, 221.27a, 221.28, 221.29, 221.29a.

NOTE.—It is hereby certified that the economic and inflationary impacts of these regulations have been carefully evaluated in accordance with Executive Order 11821.

GEORGE L. MOON,
Project Engineer.

[FR Doc 78-12254 Filed 5-4-78; 8:45 am]

[4310-84]

Bureau of Land Management

[Colorado 15142]

COLORADO

Partial Termination of Proposed Withdrawal and Reservation of Lands

APRIL 27, 1978.

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 15142, for withdrawal and reservation of lands for public purposes was published as FR Doc. 72-4500, on pages 6122-6123 of the issue of March 24, 1972, and republished pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 in order to give opportunity to request public hearing. The second notice was published as FR Doc. 77-37175 on pages 65283-65284 of the issue of December 30, 1977. The applicant agency has canceled its application insofar as it affects the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

RIO GRANDE NATIONAL FOREST

Park Creek Administrative Site

T. 38 N., R. 3 E.,
Sec. 31, W½NE¼.

NEW MEXICO PRINCIPAL MERIDIAN

UNCOMPAHGRE NATIONAL FOREST

Highway 145 Roadside Zone

A strip of land 200 feet wide on each side of the Colorado State Highway 145 centerline through the following described lands:

T. 41 N., R. 9 W.,
Sec. 5, Lot 2, SW¼SW¼NE¼, E½SW¼, W½SE¼;
Sec. 7, E½SE¼
Sec. 8, NE¼NW¼; and
Sec. 18, NE¼, NE¼SW¼, NW¼SE¼.
T. 42 N., R. 9 W.,
Sec. 20, E½SW¼;
Sec. 28, SW¼SW¼;
Sec. 29, W½E½, NE¼NW¼, E½SE¼;
Sec. 32, NE¼NE¼, S½NE¼, E½SW¼, W½SE¼; and
Sec. 33, W½E½NW¼, W½NW¼.
Excluding portions of mineral patents M.S. 1005, 1167A, 7301, 8603A, 12342, 12416, 14048, 15590, and 20027.

The areas described aggregate approximately 330 acres.

Therefore, pursuant to the regulations contained in 43 CFR, Part 2300, such lands will be relieved of the segregative effect of the above-mentioned application 30 days from the date of filing of this notice with the FEDERAL REGISTER.

ALAN D. CAMPBELL,
Acting Leader, Montrose Team, Branch of Adjudication.

[FR Doc. 78-12255 Filed 5-4-78; 8:45 am]

[4310-84]

[W-63233]

WYOMING

Application

APRIL 26, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 93 W.,
Sec. 20, W½SW¼.
T. 18 N., R. 94 W.,
Sec. 10, SW¼NE¼, NW¼NW¼, S½NW¼, N½SE¼ and SE¼SE¼;
Sec. 14, NE¼ and NE¼NW¼;
Sec. 24, NE¼NE¼.

The proposed pipeline will transport natural gas from the Federal No. 20-18-93 well located in the SW¼ of Section 20, T. 18 N., R. 93 W., Carbon County to a point of connection with Colorado Interstate Gas Company's existing pipeline located in the NW¼ of Section 10, T. 18 N., R. 94 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12256 Filed 5-4-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[AA1921-180]

WELDED STAINLESS STEEL PIPE AND TUBING FROM JAPAN

Notice of Investigation and Hearing

Having received advice from the Department of the Treasury on April 20,

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1978, that welded stainless-steel pipe and tubing from Japan, with the exception of that merchandise produced by Toa Seiki Co., Ltd., and Yamato Industries Co., Ltd., are being, or likely to be, sold at less than fair value the United States International Trade Commission on May 1, 1978, instituted investigation No. AA1921-180 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing in connection with the investigation will be held in the Commission's hearing room, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, beginning at 9:30 a.m., e.d.t., on June 8, 1978. All persons shall have the right to appear by counsel or in person, to present evidence and be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission at his office in Washington, D.C., not later than noon, Friday, June 2, 1978.

There will be a prehearing conference in connection with this investigation which will be held in Washington, D.C. at 9:30 a.m., e.d.t., on Friday, June 2, 1978, in room 117, U.S. International Trade Commission Building, 701 E Street NW.

Issued: May 2, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-12351 Filed 5-4-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Attorney General

CERTIFICATION OF THE ATTORNEY GENERAL

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d (Supp. V) (Pub. L. 94-73). I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fourteenth and Fifteenth Amendments to the Constitution of the United States in Reeves County, Tex. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on September 18, 1975, under section 4(b) of the Voting Rights Act of 1965 and published in the FEDERAL REGISTER on September 23, 1975 (40 FR 43746).

GRIFFIN B. BELL,
Attorney General of the United States.

MAY 2, 1978.

[FR Doc. 78-12413 Filed 5-4-78; 8:45 am]

[4410-05]

Bureau of Prisons

NATIONAL INSTITUTE OF CORRECTIONS ADVISORY BOARD

Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 70) will meet on Sunday, June 4, 1978, starting at 3 p.m. and on Monday, June 5, 1978, starting at 8 a.m., at the Broker Inn, 555 30th Street, Boulder, Colo.

At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute and Program planning for fiscal year 1979.

LARRY SOLOMON,
Social Science Research Analyst, National Institute of Corrections.

[FR Doc. 78-12305 Filed 5-4-78; 8:45 am]

[4410-01]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Pursuant to 21 U.S.C. 823(a)(1), and § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 30, 1978, Regis Chemical Co., 8210 North Austin Avenue, Morton Grove, Ill. 60053, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule I controlled substance mescaline.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative, Room 1203, and must be filed not later than June 5, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

Dated: May 1, 1978.

[FR Doc. 78-12307 Filed 5-4-78; 8:45 am]

[4410-01]

[Docket No. 77-22]

ROBERT C. BERWICK, M.D.

Revocation of Registration

On October 21, 1977, a hearing was held before Administrative Law Judge, Francis L. Young, on the issues raised by an Order to Show Cause directed to Robert C. Berwick, M.D. (Respondent) as to why his DEA registration should not be revoked.

The Order to Show Cause was based upon a seven-count felony violation of section 841(a)(1), Title 21, United States Code and a four-count felony violation of section 846, Title 21, United States Code.

On March 31, 1978, the Administrative Law Judge certified to the Administrator, pursuant to 21 CFR 1316.65, his opinion and recommended ruling, findings of fact, conclusion of law, and decision.

The Administrative Law Judge concluded as a matter of law that there is a lawful basis for the revocation of Respondent's DEA registration. He found no evidence in the record sufficient to show any mitigating circumstances and recommended that Respondent's DEA registration be revoked.

The Administrator hereby adopts the findings of fact and conclusion of law as set forth in the Administrative Law Judge's opinion. Respondent has failed to show cause why his registration should not be revoked. (See In the Matter of Armand Lozano, M.D. 43 FR 11618.)

Having reviewed the entire record in this matter, the Administrator is satisfied that it would not be in the public interest to permit Respondent to retain his DEA registration.

Accordingly, under the authority vested in the Attorney General by the Comprehensive Drug Abuse Prevention and Control Act, redelegated to the Administrator of the Drug Enforcement Administration, it is ordered that Dr. Berwick's DEA registration AB1348475 be, and hereby is, revoked, effective immediately.

Dated: May 1, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-12308 Filed 5-4-78; 8:45 am]

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[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 1st day of May 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING APRIL 28, 1978

NAME OF APPLICANT, LOCATION OF ENTERPRISE AND PRINCIPAL PRODUCT OR ACTIVITY

Warren County News, Inc., McMinnville, Tenn.—Biweekly newspaper with related sales of advertising, notices, etc.
Americus Seed Processing Co., Inc., Americus, Ga.—Processing and bagging corn, soybean, and small grain (seed) for various seed companies.
Gilpin Concrete Products, Louisa, Ky.—Manufacture of concrete blocks.
J. D. Mullican, Inc., McMinnville, Tenn.—Construction of buildings.
Parker Agri-Enterprises, Inc., Drew, Miss.—Dry and store rough rice and soybeans.
Whittlesey's, Inc., Mission, Tex.—Processing of meats and meat products.
Transocean Contractors, Inc., Morgan City, La.—Activities to support oil explanation.
Rancho Shur-Sav, Inc., Alamogordo, N. Mex.—Retailers of groceries and meats.
Fiberglass Industries, Inc., Lecompte, La.—Manufacture of fiberglass products.
Texas Extrusion Corp., Inc., Farmersville, Tex.—Aluminum extrusion and the manufacture of aluminim extrusion presses.
The Blue Spruce Inn., Frisco, Colo.—Food and liquor sales.

[FR Doc. 78-12184 Filed 5-4-78; 8:45 am]

[4510-30]

Employment and Training Administration

NATIONAL TRAINING AND EMPLOYMENT EFFORT

Skill Training Improvement Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces availability of funds for a second solicitation of grant applications for the Skill Training Improvement Program (STIP), a national effort to provide skill training and private sector employment for unemployed and underemployed persons.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Anderson, Administrator, Office of Comprehensive Employment Development, Room 6000, 601 D Street NW., Washington, D.C. 20213, phone 202-376-6254.

SUPPLEMENTARY INFORMATION:

1. *Scope and Program initiation.* The Employment and Training Administration (ETA) under Title III of the Comprehensive Employment and Training Act (CETA) solicited from CETA prime sponsors during August 1977, applications for the Skill Training Improvement Program and awarded grants to those applicants whose program designs met the objectives of the program.

CETA Title I prime sponsors are hereby being advised that additional STIP funds are now available for new STIP programs which will provide skill training in advanced skill occupations for long-term unemployed (15 weeks or more), low income persons and certain low income employed workers. This effort is being undertaken through competitive procurement procedures at the regional level of the Employment and Training Administration. A Solicitation for Grant Application (SGA) is being issued to all eligible applicants.

2. *Eligibility for a grant.* Only CETA fiscal year 1978 title I prime sponsors are eligible to apply for a grant. Included may be prime sponsors which have already received a STIP grant but which may apply for additional funds within the cost restrictions specified in the SGA. Prime sponsors may subgrant or contract certain program operations to organizations which are capable of effectively providing STIP services and are encouraged to contract with private employers to provide STIP training. Organizations or private employers which are interested in participating in this program may contact the prime sponsor for the area in which the organization or business is located.

3. *Application procedures.* A grant application is being mailed to each prime sponsor by the appropriate ETA regional office on or before April 28, 1978. Prime sponsors which have not received a grant application may contact their ETA regional office. Applications must be submitted to the appropriate ETA Regional Administrator no later than July 14, 1978.

4. Prime Sponsors may direct inquiries to the Regional Administrator for Employment and Training in the 10 regional offices listed below:

REGIONAL ADMINISTRATORS, EMPLOYMENT AND TRAINING ADMINISTRATION

Luis Sepulveda, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 1703, J. F. Kennedy Building, Boston, Mass. 02203
Thomas Komarek, Acting, Regional Administrator, Employment and Training Ad-

ministration, U.S. Department of Labor, Room 3713, 1515 Broadway, New York, N.Y. 10036

J. Terrell Whitsitt, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, P.O. Box 8795, Philadelphia, Pa. 19101.

David T. Duncan, Acting, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 405, 1371 Peachtree Street NE., Atlanta, Ga. 30309.

Richard C. Gilliland, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Sixth Floor 230 South Dearborn Street, Chicago, Ill. 60604.

William S. Harris, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, 555 Griffin Square Building, Room 316, Dallas, Tex. 75202.

Richard G. Miskimins, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 1000, 911 Walnut Street, Federal Building Kansas City, Mo. 64106.

Floyd E. Edwards, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, 16122 Federal Office Building, 1961 Stout Street, Denver, Colo. 80202.

William J. Haltigan, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Box 36084, San Francisco, Calif. 94102.

Jess C. Ramaker, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 1145, Federal Office Building, 909 First Avenue, Seattle, Wash, 98174.

5. Availability of funds. It is anticipated that a total of $158 million will be available for this effort. Signed at Washington, D.C. this 25th day of April 1978.

ROBERT J. MCCONNON,
Deputy Assistant Secretary for Employment and Training.

[FR Doc. 78-12362 Filed 5-4-78; 8:45 am]

[4510-30]

YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS (YCCIP) AND YOUTH EMPLOYMENT AND TRAINING PROGRAMS (YETP) FOR YOUTHS WHO ARE MEMBERS OF MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER FAMILIES

Potential Section 303 YCCIP and YETP Grantees

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Pursuant to 29 CFR 97.913 and 97.1013, the Employment and Training Administration announces the selection of potential fiscal year 1978 sponsors for funds under title III, subpart J—Youth community conservation improvement project (YCCIP) and subpart K—Youth employment and training program (YETP) of the Comprehensive Employment and Training Act (CETA) of 1973, as amended and title II, subpart 2—Youth community conservation improvement projects (YCCIP) and subpart 3—Youth employment and training program (YETP) of the Youth Employment and Demonstration Projects Act (YEDPA) of 1977. Only current fiscal year 1978 sponsors receiving funds under Title III, Section 303 of the Comprehensive Employment and Training Act (CETA) of 1973, as amended can receive these YCCIP and YETP funds.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul A. Mayrand, Director, Office of Farmworker Programs, Department of Labor, Employment and Training Administration, Room 7122, 601 D Street NW., Washington, D.C. 20213, telephone No. 202-376-7288.

SUPPLEMENTARY INFORMATION: *Potential sponsor designations.* The following section 303 fiscal year 1978 sponsors are to be designated as potential sponsors to provide services to youths who are members of migrant and other seasonally employed farmworker families with funds authorized under YEDPA, subparts 2—YCCIP and 3—YETP. Each section 303 applicant so designated as a potential YCCIP and/or YETP sponsor shall be notified in writing of the amount of YCCIP and/or YETP funds which may be granted the target areas to be served, the items to be negotiated and the time and place of negotiations. These designations are being made pursuant to 29 CFR 97.913 and 97.1013. Designation as a potential YCCIP and/or YETP sponsor does not commit the Department of Labor to award YCCIP and/or YETP funds to the designee, only to enter into negotiations. If negotiations fail to produce an acceptable grant, the Secretary reserves the right to terminate the negotiations.

POTENTIAL FISCAL YEAR 1978 SECTION 303 SPONSORS FOR YCCIP AND/OR YETP FUNDS

YETP—Youth Employment and Training Programs

REGION I

MAINE

Penobscot Consortium, Training and Employment Administration, 166 Union Street, Bangor, Maine 04401.

REGION II

NEW YORK

Program Funding, Inc., Suite 730, Powers Building, Rochester, N.Y. 14614.

REGION IV

FLORIDA

Florida Department of Education, Vocational Education Division, Capitol Building, Tallahassee, Fla. 32304.

MISSISSIPPI

Mississippi Delta Council for Farmworkers Opportunities, Inc., 1933 Fourth Street, Clarksdale, Miss. 38614.

REGION V

WISCONSIN

United Migrant Opportunity Services, Inc., P.O. Box 04129, 809 West Greenfield Avenue, Milwaukee, Wis. 53204.

ILLINOIS

Illinois Migrant Council, 202 South State Street, Chicago, Ill. 60604.

REGION VI

OKLAHOMA

Oklahoma Rural Opportunities Development Corp., 1100 North Classen Drive, P.O. Box 60126, Oklahoma City, Okla. 73106.

REGION VII

KANSAS

Oklahoma Rural Opportunities Development Corp., 1100 North Classen Drive, P.O. Box 60126, Oklahoma City, Okla. 73106.

REGION VIII

NORTH DAKOTA

North Dakota Migrant Council, P.O. Drawer X, Grand Forks, N. Dak. 58201.

REGION IX

HAWAII

Office of the Governor—OMP—Department of Labor and Industrial Relations, 1164 Bishop Street, Suite 600, Honolulu, Hawaii 96813.

REGION X

WASHINGTON

Northwest Rural Opportunities, Inc., 305 Euclid, Grandview, Wash. 98930

YCCIP—Youth Community Conservation Improvement Project

REGION VI

OKLAHOMA

Oklahoma Rural Opportunities Develoment Corp., 1100 North Classen Drive, P.O. Box 60126, Oklahoma City, Okla. 73106.

TEXAS

Economic Opportunities Development Corp. of San Antonio and Bexar County, 410 South Main Avenue, San Antonio, Tex. 78204.

Community Action Council of South Texas, 420 East Main Street, Rio Grande City, Tex. 78582.

REGION IX

CALIFORNIA

Proteus Adult Training, Inc., 1640 West Mineral King, P.O. Box 727, Visalia, Calif. 93277.

Signed in Washington, D.C., this 24th day of April 1978.

LAMOND GODWIN,
Administrator, Office of National Programs.

[FR Doc. 78-12363 Filed 5-4-78; 8:45 am]

[4510-27]

Office of Federal Contract Compliance Programs

WOMEN AND MINORITIES IN CONSTRUCTION

Goals and Timetables for Female and Minority Participaiton in the Construction Industry; Correction

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Correction.

SUMMARY: This notice is a correction of the notice establishing goals and timetables for female and minority utilization for construction contractors and subcontractors subject to Executive Order 11246, as amended (30 FR 12319, 32 FR 14303).

EFFECTIVE DATE: May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

William Raymond, Associate Director, OFCCP, 202-523-9447.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-9084 appearing at 43 FR 14899 (April 7, 1978), the Department of Labor published a notice establishing goals and timetables for female and minority utilization for construction contractors subject to Executive Order 11246, as amended. The April 7, 1978, notice contained Appendix A which established goals and timetables for female utilization and Appendix B which established goals and timetables for minority utilization. A number of errors were contained in the appendices, and because the appendices are expected to be used constantly by procurement officers and full documents are republished in full as corrected.

Dated: April 25, 1978.

WELDON J. ROUGEAU,
Director, OFCCP.

APPENDIX A

The following goals and timetables for female utilization shall be included in all Federal and federally assisted construction contracts and subcontracts in excess of $10,000. The goals are applicable to the contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or federally-assisted construction contract or subcontract.

Area covered: Goals for Women apply nationwide.

Goals and timetables

Timetable	Goals (percent)
From Apr. 1, 1978 until Mar. 31, 1979	3.1
From Apr. 1, 1979 until Mar. 31, 1980	5.0
From Apr. 1, 1980 until Mar. 31, 1981	6.9

APPENDIX B

Until further notice, the following goals and timetables for minority utilization shall be included in all Federal or federally-assisted construction contracts and subcontracts in excess of $10,000 to be performed in the respective covered areas. The goals are applicable to the contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or federally-assisted construction contract or subcontract.

REGION, I

BOSTON, MASS., AREA

Area covered: Arlington, Boston, Belmont, Brookline, Burlington, Cambridge, Canton, Chelsea, Dedham, Everett, Malden, Medford, Melrose, Milton, Norwood, Reading, Revere, Somerville, Stoneham, Wakefield, Westwood, Winthrop, Winchester, Woburn, and the islands of Boston Harbor, Mass.

Goals and Timetables[1]

Trade	Goal (percent)
Asbestos workers	10.8 to 10.12
Boilermakers	9.6 to 12.0
Bricklayers	8.0 to 10.0
Carpenters	11.6 to 14.5
Cement masons	25.5 to 27.5
Electricians	8.0 to 7.0
Elevator constructors	9.5 to 11.4
Glaziers	8.8 to 11.0
Ironworkers	5.9 to 6.9
Lathers	6.9 to 8.9
Operating engineers	14.1 to 15.0
Painters	9.1 to 11.1
Pipefitters	11.0 to 12.1
Plasterers	20.5 to 22.5

[1] Until futher notice.

NEW BEDFORD, MASS., AREA

Area covered: New Bedford, Dartmouth, Fairhaven, Acushnet, Rochester, Marion, Mattapoisett, Wareham, Barnstable County, Duke's County, and Nantucket County, Mass.

Goals and timetables[1]

Trade	Goal (percent)
All	14.8 to 18.5

[1] Until further notice.

NEW HAVEN, CONN. AREA

Area covered: Woodbridge, Guilford, Clinton, Bethany, Madison, Killingworth, New Haven, Cheshire, Chester, North Haven, Wallingford, East Haven, Hamden, North Branford, West Haven, Branford, Durham, and Orange, Conn.

Goals and timetables[1]

Trade	Goal (percent)
Asbestos workers	11.6 to 14.5
Boilermakers	10.8 to 13.5
Bricklayers	17.8 to 20.0
Carpenters	11.2 to 13.0
Cement masons	12.0 to 15.0
Electricians	14.9 to 17.8
Elevator constructors	10.8 to 13.5
Glaziers	16.0 to 20.0
Lathers	10.8 to 13.5
Operating engineers	10.0 to 12.5
Painters/decorators/paperchangers	8.8 to 12.8
Plasterers	17.0 to 19.0
Plumbers/pipefitters/steamfitters	8.4 to 10.5
Roofers	8.4 to 10.5
Sheetmetal workers	11.2 to 14.0
Sprinkler fitters	10.8 to 13.5
Structural metal workers	12.9 to 15.3
Wharf 7 dock builders	10.8 to 13.5

[1] Until further notice.

ELMIRA, N.Y. AREA

Area covered: Chemung, Steuben, Schuyler, Tioga, and Yates Counties, N.Y.

Goals and timetables[1]

Trade	Goal (percent)
All	4.0 to 5.0

[1] Until further notice.

LONG ISLAND, N.Y. AREA

Area covered: Nassau and Suffolk Counties, N.Y.

Goals and timetables[1]

Trade	Goal (percent)
All	6.0 to 8.0

[1] Until further notice.

NEW YORK, N.Y. AREA

Area covered: Camden, N.J., area of Camden, Salem, and Gloucester Counties.

Goals and timetables[1]

Trade	Goal (percent)
All	10.8 to 13.2

[1] Until further notice.

CAMDEN, N.J. AREA

Area covered: Camden, N.J., area of Camden, Salem, and Gloucester Counties.

Goals and timetables[1]

Trade	Goal (percent)
Asbestos workers	11.6 to 14.5
Boilermakers	10.8 to 13.5
Bricklayers	17.8 to 20.0
Carpenters	11.2 to 13.0
Cement masons	12.0 to 15.0
Electricians	14.9 to 17.8
Elevator constructors	10.8 to 13.5
Glaziers	16.0 to 20.0
Lathers	10.8 to 13.5
Operating engineers	10.0 to 12.5
Painters/decorators/paperchangers	8.8 to 12.8
Plasterers	17.0 to 19.0
Plumbers/pipefitters/steamfitters	8.4 to 10.5
Roofers	8.4 to 10.5
Sheetmetal workers	11.2 to 14.0
Sprinkler fitters	10.8 to 13.5
Structural metal workers	12.9 to 15.3
Wharf 7 dock builders	10.8 to 13.5

[1] Until further notice.

STATE OF RHODE ISLAND AREA

Area covered: Statewide.

Goals and timetables[1]

Trade	Goal (percent)
All	5.0

[1] Until further notice.

REGION II

BUFFALO, N.Y. AREA

Area covered: Erie County and Buffalo, N.Y.

Goals and timetables[1]

Trade	Goal (percent)
All	10.8 to 13.2

[1] Until further notice.

[1] Region refers to the 10 regions in which the U.S. Department of Labor has offices. These Regions are headquartered in Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco and Seattle, which are numbers I through X respectively.

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Area covered: City of New York, N.Y.

Goals and timetables [1]

Trade	Goal (percent)
Electricians	9.0 to 10.2
Carpenters	27.6 to 32.0
Steamfitters	12.2 to 13.5
Metal lathers	24.6 to 25.6
Painters	22.8 to 26.0
Operating engineers	25.6 to 26.0
Plumbers	12.0 to 14.5
Iron workers (structural)	25.9 to 32.0
Elevator constructors	5.5 to 6.5
Bricklayers	13.4 to 15.5
Asbestos workers	22.8 to 28.0
Roofers	6.3 to 7.5
Iron workers (ornamental)	22.4 to 23.0
Cement masons	23.0 to 27.0
Glaziers	16.0 to 20.0
Plasterers	15.8 to 18.0
Teamsters	22.0 to 22.5
Boilermakers	13.0 to 15.5
All Other	16.4 to 17.5

[1] Until further notice.

ROCHESTER, N.Y. AREA

Area covered: Rochester, N.Y. and Vicinity in Monroe, Livingston, Wayne and Ontario Counties.

Goals and timetables [1]

Trade	Goal (percent)
Asbestos workers	7.1 to 8.7
Bricklayers and masons	27.5 to 30.3
Carpenters	13.1 to 14.8
Electrical workers	12.1 to 14.5
Elevator constructors	7.1 to 8.6
Glaziers	21.9 to 26.1
Iron workers	27.9 to 30.8
Lathers	15.0 to 17.9
Operating engineers	7.7 to 9.0
Painters	9.4 to 11.2
Plumbers	13.8 to 16.8
Sheetmetal workers	9.7 to 11.4
All Other	23.9 to 24.9

[1] Until further notice.

SYRACUSE, N.Y. AREA

Area covered: Onondaga, Oswego and Madison Counties, N.Y.

Goals and timetables [1]

Trade	Goal (percent)
All	6.0 to 7.5

[1] Until further notice.

TRENTON, N.J. AREA

Area covered: Mercer and Burlington Counties, N.J.

Goals and timetables [1]

Trade	Goal (percent)
All	15.0

[1] Until further notice.

WESTCHESTER, N.Y. AREA

Area covered: Westchester County, N.Y.

Goals and timetables [1]

Trade	Goal (percent)
All	11.0 to 13.0

[1] Until further notice.

REGION III

STATE OF DELAWARE AREA

Area covered: State of Delaware.

Goals and timetables [1]

Trade	Goal (percent)
All	15.0 to 18.5

[1] Until further notice.

PHILADELPHIA, PA. AREA

Area covered: Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pa.

Goals and timetables [1]

Trade	Goal (percent)
Ironworkers	22.0 to 26.0
Plumbers and pipefitters	20.0 to 24.0
Steamfitters	20.0 to 24.0
Sheetmetal workers	19.0 to 23.0
Electrical workers	19.0 to 23.0
Elevator construction workers	19.0 to 23.0

[1] Until further notice.

PITTSBURGH, PA., AREA

Area covered: Allegheny County, Pa.

Goals and timetables [1]

Trade	Goal (percent)
Asbestos workers	24.3 to 27.8
Boilermakers	33.8 to 37.7
Bricklayers	11.9 to 13.0
Carpenters	11.8 to 12.9
Cement masons	16.3 to 18.1
Electricians	17.0 to 20.3
Glaziers	26.9 to 30.4
Ironworkers	25.5 to 29.9
Lathers	12.7 to 13.8
Operating engineers	44.2 to 48.3
Painters	16.4 to 17.9
Plasterers	34.3 to 38.0
Plumbers	7.8 to 9.2
Roofers	47.1 to 50.1
Sheetmetal workers	26.0 to 26.9
Steamfitters	10.1 to 12.0
Tile setters	13.6 to 16.0
All other	27.6 to 31.5

[1] Until further notice.

WASHINGTON, D.C., AREA

Area covered: District of Columbia; the Virginia cities of Alexandria, Fairfax, and Falls Church; the Virginia counties of Arlington, Fairfax, Loudoun, and Prince William; and the Maryland counties of Montgomery and Prince Georges.

Goals and timetables [1]

Trade	Goal (percent)
Electricians	28.0 to 34.0
Painters and paperhangers	35.0 to 42.0
Plumbers, pipefitters and steamfitters	25.0 to 30.0
Iron workers	35.0 to 43.0
Sheetmetal workers	25.0 to 31.0
Elevator constructors	34.0 to 40.0
Asbestos workers	26.0 to 32.0
Lathers	34.0 to 40.0
Boilermakers	24.0 to 30.0
Tile and terrazzo workers	28.0 to 34.0
Glaziers	28.0 to 34.0

[1] Until further notice.

REGION IV

ATLANTA, GA., AREA

Area covered: Atlanta, Ga. Standard Metropolitan Statistical Area which includes Fulton, De Kalb, Cobb, Clayton, and Gwinnett Counties.

Goals and timetables [1]

Trade	Goal (percent)
Asbestos workers	28.5 to 33.5
Carpenters	18.3 to 22.0

Goals and timetables [1]—Continued

Trade	Goal (percent)
Electricians	14.9 to 18.5
Elevator constructors	14.1 to 17.3
Glaziers	31.6 to 39.5
Ironworkers	10.1 to 12.3
Millwrights	14.0 to 17.2
Painters	22.4 to 27.7
Plumbers	14.8 to 18.1
Sheetmetal workers	19.2 to 24.0

[1] Until further notice.

BIRMINGHAM, ALA., AREA

Area covered: Jefferson, Shelby, and Walker Counties, Ala.

Goals and timetables [1]

Trade	Goal (percent)
All	20.0 to 24.0

[1] Until further notice.

CHARLOTTE, N.C., AREA

Area covered: Mecklenburg and Union Counties, N.C.

Goals and timetables [1]

Trade	Goal (percent)
All	24.0 to 30.0

[1] Until further notice.

JACKSONVILLE, FLA., AREA

Area covered: Duval County, Fla.

Goals and timetables [1]

Trade	Goal (percent)
All	20.0 to 23.0

[1] Until further notice.

LOUISVILLE, KY., AREA

Area covered: Adair, Barren, Bullitt, Carrol, Edmundson, Grayson, Green, Hardin, Hart, Henry, Jefferson, Larue, Meade, Nelson, Oldham, Shelby, Spencer, Taylor, Trimble, Warren, Washington Counties, Ky.; and Clark, Floyd, Harrison Counties, Ind.

Goals and timetables [1]

Trade	Goal (percent)
All	12.0 to 16.0

[1] Until further notice.

MIAMI, FLA., AREA

Area covered: Dade County, Fla.

Goals and timetables [1]

Trade	Goal (percent)
All	20.0 to 40.0

[1] Until further notice.

NASHVILLE, TENN., AREA

Area covered: City of Nashville, Tenn.

Goals and timetables [1]

Trade	Goal (percent)
All	20.0 to 25.0

[1] Until further notice.

REGION V

AKRON, OHIO, AREA

Area covered: Summit, Portage, and Medina Counties, Ohio.

Goals and timetables [1]

Trade	Goal (percent)
All	10.0 to 12.5

[1] Until further notice.

CANTON, OHIO, AREA

Area covered: Carroll, Holmes, Stark, Tuscarawas, and Wayne Counties, Ohio.

Goals and timetables [1]

Trade	Goal (percent)
All	7.0 to 8.4

[1] Until further notice.

CHICAGO, ILL., AREA

Area covered: Cook, DuPage, Kane, Lake, McHenry, and Will Counties.

Goals and timetables [1]

Trade	Goal (percent)
Asbestos workers	8.6 to 10.3
Bricklayers	16.3 to 18.2
Carpenters	11.0 to 12.8
Electricians	10.9 to 12.2
Elevators installers	9.6 to 11.5
Glaziers	10.2 to 12.2
Ironworkers	14.0 to 16.0
Metal lathers	10.0 to 12.0
Painters	10.3 to 12.1
Plumbers	9.4 to 10.9
Pipefitters	9.4 to 10.9
Plasterers	24.4 to 25.8
Roofers	18.0 to 20.0
Sheetmetal workers	9.5 to 11.3
Sprinkler fitters	8.3 to 9.9
Operating engineers	15.7 & above

[1] Until further notice.

CINCINNATI, OHIO, AREA

Area covered: Ohio counties of Clermont, Hamilton, and Warren and in the Kentucky counties of Boone, Campbell, and Kenton, and in the Indiana county of Dearborn.

Goals and timetables [1]

Trade	Goal (percent)
Asbestos workers	9.3 to 11.2
Boilermakers	8.0 to 8.4
Carpenters	9.0 to 10.7
Elevator constructors	10.2 to 12.7
Engineers (stationary)	26.9 to 28.4
Floor layers	9.0 to 10.5
Glaziers	9.1 to 11.1
Lathers	9.3 to 10.8
Marble, tile, and terrazzo workers and helpers	8.3 to 9.9
Millwrights	9.1 to 10.3
Painters	11.0 to 13.5
Pipefitters	10.0 to 12.0
Plasterers	8.7 to 9.6
Plumbers	10.0 to 12.7
Sheetmetal workers	10.1 to 11.3
All other	11.0 to 11.8

[1] Until further notice.

CLEVELAND, OHIO, AREA

Area covered: Ashland, Ashtabula, Crawford, Cuyahoga, Erie, Geauga, Huron, Lake, Lorain, Sandusky, and Seneca Counties, Ohio.

Goals and timetables [1]

Trade	Goal (percent)
Art glass workers	25.4 to 28.6
Asbestos workers	20.9 to 23.9
Boilermakers	16.3 to 18.9
Bricklayers	28.8 to 29.5
Carpenters	ERR*18.0 to ERR*18.6
Cement masons	41.1 to 42.2
Electricians	15.8 to 18.1
Elevator constructors	28.9 to 32.5
Glaziers	35.8 to 40.0
Ironworkers	11.4 to 13.2
Painters	17.7 to 18.4
Pipefitters	15.7 to 17.9
Plasterers	21.6 to 23.2
Plumbers	20.8 to 23.4
Roofers	28.9 to 31.8
All other	17.0 to 18.8

[1] Until further notice.

DAYTON, OHIO, AREA

Area covered: Greene, Miami, Montgomery, and Preble Counties, Ohio.

Goals and timetables [1]

Trade	Goal (percent)
All	10.6 to 11.8

[1] Until further notice.

DETROIT, MICH., AREA

Area covered: Wayne, Oakland, and Macomb Counties, Mich.

Goals and timetables [1]

Trade	Goal (percent)
All	18.5 or above

[1] Until further notice.

EVANSVILLE, IND., AREA

Area covered: Vandeburgh County, Ind.

Goals and timetables [1]

Trade	Goal (percent)
All	6.3 to 7.6

[1] Until further notice.

FORT WAYNE, IND., AREA

Area covered: Adams, Allen, De Kalb, Huntington, Lagrange, Noble, Steuben, Wells, and Whitley Counties, Ind.

Goals and timetables [1]

Trade	Goal (percent)
Plumbers	5.2 to 5.5
Steamfitters	5.2 to 5.5
Carpenters	5.7 to 6.2
Bricklayers	9.3 to 10.4
Electricians	5.2 to 5.9
Sheetmetal	4.4 to 5.2
Ironworkers	7.3 to 8.4
Operating engineers	5.2 to 6.0
Painters	11.0 to 12.0
All other	7.1 to 8.0

[1] Until further notice.

INDIANAPOLIS, IND., AREA

Area covered: Marion County, Ind.

Goals and timetables [1]

Trade	Goal (percent)
Asbestos workers	32.2 to 37.7
Bricklayers	17.4 to 19.5
Electricians	6.6 to 7.8
Elevator constructors	15.5 to 18.0
Glaziers	25.2 to 28.6
Ironworkers	11.6 to 14.0
Lathers	21.1 to 22.0

Goals and timetables [1]—Continued

Trade	Goal (percent)
Operating engineers	7.7 to 8.8
Painters	22.4 to 25.0
Plasterers	27.5 to 30.4
Plumbers	25.5 to 30.0
Roofers	15.9 to 18.1
Sheetmetal workers	9.3 to 10.9
Steamfitters	14.9 to 17.1
All other	14.1 to 16.2

[1] Until further notice.

PEORIA, ILL., AREA

Area covered: Peoria, Fulton, Tazewell, Woodford, Knox, Stark, Marshall, Hancock, Mason, McLean, McDonough, Henderson, Warren, Livingston, Bureau, Henry, and Putnam Counties, Ill.

Goals and timetables [1]

Trade	Goal (percent)
All	6.5 and above.

[1] Until further notice.

ROCKFORD, ILL., AREA

Area covered: Boone, Winnebago, Stephenson, De Kalb, Ogle, Lee, and Jo Daviess Counties; Cherry Grove, Shannon, Rock Creek, Lima, Wysox, and Elkhorn Townships in Carroll County; Genesee, Jordan, Hopkins, Sterling, Hume, Montmorency, Tampico, and Hahnaman Townships in Whiteside County, Ill.

Goals and timetables [1]

Trade	Goal (percent)
All	10.0 to 12.0

[1] Until further notice.

SOUTH BEND, IND., AREA

Area covered: St. Joseph County, Ind.

Goals and timetables [1]

Trade	Goal (percent)
All	8.0 to 10.0

[1] Until further notice.

TOLEDO, OHIO, AREA

Area covered: Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Williams, and Wood Counties, Ohio.

Goals and timetables [1]

Trade	Goal (percent)
All	10.7 to 12.3

[1] Until further notice.

YOUNGSTOWN, OHIO, AREA

Area covered: Columbiana, Mahoning, and Trumbull Counties, Ohio; and Lawrence and Mercer Counties, Pa.

Goals and timetables [1]

Trade	Goal (percent)
All	6.0 to 7.1

[1] Until further notice.

REGION VI

EL PASO, TEX., AREA

Area covered: El Paso County, Tex.

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Goals and timetables[1]

Trade	Goal (percent)
All	55.1 to 66.2

[1]Until further notice.

LAWTON, OKLA., AREA

Area covered: Commanche County, Okla.

Goals and timetables[1]

Trade	Goal (percent)
All	15.8 to 18.8

[1]Until further notice.

LITTLE ROCK, ARK., AREA

Area covered: Pulaski County, Ark.

Goals and timetables[1]

Trade	Goal (percent)
All	25.5 to 30.6

[1]Until further notice.

NEW ORLEANS, LA.

Area covered: Parishes of Orleans, Jefferson, St. Bernard, St. Tammany, St. Charles, St. John, Lafourche, Plaquemines, Washington, Terrebonne, Tangipahoa,[2] Livingston,[3] and St. James.[4]

Goals and timetables[1]

Trade	Goal (percent)
All	20 to 23

[1]Until further notice.
[2]Area covered is East of the Illinois Central Railroad.
[3]Area covered is Southeast of the line from a point off the Livingston and Tangipahoa Parish Line adjacent from New Orleans and Baton Rouge.
[4]Area covered is Southeast of a line drawn from the town of Gramercy to the point of intersection of St. James, Lafourche and Assumption Parishes.

TULSA, OKLA.

Area covered: Tulsa, Creek, Mayes, Rogers, Okfuskee, Washington, Nowata, Craig, Ottawa, Delaware, Okmulgee Northern ½ Dividing Line Highway 16; Osage, Eastern ½ Dividing Line Highway 18; Pawnee Eastern ½ ; and Payne Eastern ½ Counties, Okla.

Goals and timetables[1]

Trade	Goal percent
Bricklayers	24.0 to 25.0
Carpenters	17.0 to 18.0
Cement masons	21.5 to 22.5
Floor covers	12.0 to 14.0
Glaziers, glass workers	14.7 to 17.3
Operating engineers	22.0 to 24.0
Painters	18.0 to 20.0
Pipefitters	10.0 to 12.0
Plumbers	11.8 to 13.2
Roofers	12.0 to 14.0
Sheetmetal workers	8.0 to 10.0
All other trades	12.0 to 14.4

[1]Until further notice.

REGION VII

KANSAS CITY (KANS.) AND (MO.)

Area covered: Clay, Platte, Jackson, Bates, Carroll, Lafayette, Ray, Johnson, Henry, and Cass Counties, Mo. Wyandotte, Johnson, and Miami Counties, Kans.

Goals and timetables[1]

Trade	Goal percent
Asbestos workers	10.3 to 11.7
Boilermakers	5.9 to 6.4
Bricklayers	19.4 to 20.7
Carpenters	5.9 to 6.9
Carpet, linoleum and resilient floor decorators	5.5 to 6.4
Cement masons	25.5 to 26.5
Elevator constructors	9.2 to 10.7
Electricians	8.0 to 9.4
Olazers	9.8 to 10.5
Lathers	14.5 to 15.6
Marble masons, tile layers and terrazzo workers	7.5 to 9.0
Marble and tile helpers	4.8 to 5.8
Operating engineers	9.0 to 10.0
Painters	14.3 to 15.8
Pipefitters	6.9 to 7.7
Plasterers	19.0 to 20.4
Plumbers	8.3 to 9.3
Roofers	14.0 to 15.0
Sheetmetal workers	7.0 to 8.0
Teamsters	25.0 to 26.0
All other trades	11.4 to 12.5

[1]Until further notice.

OMAHA, NEBR.

Area covered: Sharpy and Douglas Counties, Nebr.; Council Bluffs, Iowa (city limits only).

Goals and timetables[1]

Trade	Goal percent
All	9.0 to 10.0

[1]Until further notice.

ST. LOUIS, MO.

Area covered: City of St. Louis, Mo., and St. Louis County, Mo.

Goals and timetables[1]

Trade	Goal (percent)
Asbestos workers	5.2 to 5.7
Boilermakers	34.0 to 37.7
Bricklayers	12.6 to 14.2
Carpenters	8.2 to 8.9
Cement and concrete finishers	13.3 to 16.6
Electricians	13.6 to 16.1
Elevator constructors	8.7 to 9.3
Glaziers	28.7 to 34.5
Ironworkers	9.0 to 10.4
Lathers and plasterers	24.2 to 29.7
Operating engineers	13.2 to 15.7
Painters and paperhangers	25.1 to 29.3
Plumbers and pipefitters	13.2 to 15.4
Roofers and slaters	17.1 to 19.6
Sheetmetal workers	22.5 to 27.0
Tile setters and terrazzo workers	8.8 to 10.4

[1]Until further notice.

TOPEKA, KANS.

Area covered: Shawnee County, Kans.

Goals and timetables[1]

Trade	Goal (percent)
All	8.8 to 10.5

[1]Until further notice.

REGION VIII

COLORADO

Area covered: State of Colorado.

Goals and timetables[1]

Trade	Goal (percent)
All	13 to 14

[1]Until further notice.

REGION IX

ALAMEDA COUNTY, CALIF., AREA

Area covered: Almeda County, Calif.

Goals and timetables[1]

Trade	Goal (percent)
All	28.5 to 33.0

[1]Until further notice.

ARIZONA

Area covered: State of Arizona.

Goals and timetables[1]

Trade	Goal (percent)
All	25.0 to 30.0

[1]Until further notice.

CONTRA COSTA COUNTY, CALIF.

Area covered: Contra Costa County, Calif.

Goals and timetables[1]

Trade	Goal (percent)
All	17.0 to 19.5

[1]Until further notice.

FRESNO (COUNTY), CALIF.

Area covered: Fresno, Madera, Kings, and Tulare Counties, Calif.

Goals and timetables[1]

Trade	Goal (percent)
All	20.0 to 27.0

[1]Until further notice.

LAS VEGAS, NEV.

Area covered: Area of jurisdiction of the Building and Construction Trades Council of Clark, Lincoln, Nye, and Esmeralda Counties, Nev.

Goals and timetables[1]

Trade	Goal (percent)
Asbestos workers	17.7 to 20.2
Bricklayers	18.8 to 21.3
Carpenters	16.2 to 17.5
Glaziers, floorcovers, painters, tapers, and wallcovers	16.3 to 17.7
Plasterers	24.6 to 27.2
Plumbers and pipefitters	15.2 to 16.2
Sheet metal workers	16.2 to 17.7
Wood, wire, and metal lathers	18.1 to 19.3
All other trades	18.0 to 19.5

[1]Until further notice.

LOS ANGELES COUNTY, CALIF.

Area covered: Area of jurisdiction of the Los Angeles Building and Construction Trades Council.

Goals and timetables[1]

Trade	Goal (percent)
All	21.7 to 25.1

[1]Until further notice.

MONTEREY, CALIF.

Area covered: Monterey County, Calif., and within the jurisdiction of the Monterey County Building and Construction Trades Council, AFL-CIO.

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Goals and timetables[1]

Trade	Goal (percent)
All	27.0 to 29.8

[1]Until further notice.

NORTH BAY, CALIF.

Area covered: Solano, Napa, Lake, Marin, Mendocino, and Sonoma Counties.

Goals and timetables[1]

Trade	Goal (percent)
All	10.5 to 12.6

[1]Until further notice.

SACRAMENTO, CALIF.

Area covered: Sacramento, Yolo, Amador, Placer, El Dorado, Nevada, and Sierra Counties, Calif.

Goals and timetables[1]

Trade	Goal (percent)
All	17.5 to 20.0

[1]Until further notice.

SAN DIEGO COUNTY, CALIF.

Area covered: San Diego County, Calif.

Goals and timetables[1]

Trade	Goal (percent)
All	24.0 to 30.0

[1]Until further notice.

SAN FRANCISCO CITY AND COUNTY, CALIF.

Area covered: City and County of San Francisco, Calif.

Goals and timetables[1]

Trade	Goal (percent)
Electricians	17.0
Plumbers, pipefitters, and steamfitters	14.0
Structural metal workers	20.0
Sheet metal workers	19.0
Asbestos workers	40.0

[1]Until further notice.

SAN MATEO COUNTY, CALIF.

Area covered: San Mateo County, Calif.

Goals and timetables[1]

Trade	Goal (percent)
All	12.0 to 14.0

[1]Until further notice.

SANTA CLARA COUNTY, CALIF.

Area covered: Santa Clara County, Calif.

Goals and timetables[1]

Trade	Goal (percent)
All	18.0 to 21.7

[1]Until further notice.

SANTA CRUZ COUNTY, CALIF.

Area covered: Santa Cruz County, Calif.

Goals and timetables[1]

Trade	Goal (percent)
All	17.0 to 20.4

[1]Until further notice.

REGION X

ALASKA

Area covered: State of Alaska.

Goals and timetables[1]

Trade	Goal (percent)
Asbestos workers	26.4 to 28.0
Carpenters	25.7 to 28.0
Electricians	25.7 to 28.0
Ironworkers	25.7 to 28.0
Operating engineers	26.1 to 28.0
Painters	25.8 to 28.0
Pile drivers	25.1 to 28.0
Plumbers amd steamfitters	25.4 to 28.0
Roofers	27.6 to 28.0
Sheetmetal workers	25.6 to 28.0
Teamsters	25.6 to 28.0
All other	26.1 to 28.1

[1]Until further notice.

PASCO, WASH.

Area covered: The area of jurisdiction of the Southeastern Washington Building and Construction Trades Council as follows: All of Benton, Franklin, and Walla Walla Counties, Grant County to Highway 2, and the southwest corner of Adams County, Wash.

Goals and timetables[1]

Trade	Goal (percent)
Boilermakers	12.5 to 15.0
Bricklayers	11.0 to 13.5
Carpenters	9.8 to 12.3
Cement finishers	11.5 to 14.0
Electricians	10.0 to 12.5
Ironworkers	10.0 to 12.5
Operating engineers	10.2 to 12.7
Painters	10.0 to 12.5
Plumbers and fitters	9.9 to 12.4
Sheetmetal workers	10.8 to 13.3
Laborers	9.5 to 12.0
All other	10.0 to 12.5

[1]Until further notice.

PORTLAND, OREG.

Area covered: Multnomah, Clackamas, and Washington Counties, Oreg.

Goals and timetables[1]

Trade	Goal (percent)
All	5.5 to 6.5

[1]Until further notice.

SEATTLE, WASH.

Area covered: King County, Wash.

Goals and timetables[1]

Trade	Goal (percent)
All	8.8 to 11.5

[1]Until further notice.

SPOKANE, WASH.

Area covered: Washington counties: Spokane, Whitman, Lincoln, Adams, Stevens, Pend Oreille, Columbia, Garfield, Asotin, Ferry, Okanogan, Chelan, Douglas, and Grant (north of Highway 2), and in connection with Indian employment, parts of any other counties included in reservations incorporating portions of the above area. Idaho: Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Lewis, and Idaho, and in connection with Indian emloyment, any other territory included in reservations, part of which are in the above counties.

TACOMA, WASH.

Area covered: Pierce, Thurston, Mason, Lewis, Grays Harbor, and Pacific Counties, Wash.

Goals and timetables[1]

Trade	Goal (percent)
All	2.0 and above

[1]Until further notice.

[FR Doc. 78-11966 Filed 5-4-78; 8:45 am]

[4510-43]

Mine Safety and Health Administration

ADVISORY COMMITTEE TO REVIEW ADVISORY METAL AND NONMETALLIC MINE HEALTH AND SAFETY STANDARDS

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, and under section 301(b)(2) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, enacted November 9, 1977, notice is hereby given that the Advisory Committee to Review Advisory Metal and Nonmetallic Mine Health and Safety Standards will convene beginning at 9 a.m. on Monday, May 22, 1978, and continue each day thereafter, through Thursday, May 25, 1978, at Conference Room N5437, New Labor Department Building, 3rd and C Streets NW., Washington, D.C. 20210. The meetings of the Advisory Committee are open to the public and approximately 50 seats are available on a first-come first-served basis. Any member of the public may file a written statement with the Advisory Committee before and during the public meetings. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meetings.

Copies of the agenda are available for examination by the public at the office of Frank J. Delimba, Executive Secretary, Room 704, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, telephone 703-235-8597. For further information, or for submission of written statements and comments, contact the Executive Secretary.

Dated: April 25, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-12346 Filed 5-4-78; 8:45 am]

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[4510-28]

Office of the Secretary

[TA-W-3100]

GENERAL ELECTRIC CO. GAINESVILLE, FLA.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3100: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 9, 1978 in response to a worker petition received on January 26, 1978 which was filed on behalf of the International Brotherhood of Electrical Workers on behalf of workers and former workers producing nickel cadmium battery packs at the Gainesville, Fla. plant of the General Electric Co.

The Notice of Investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7743). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the General Electric Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of rechargeable batteries increased absolutely from $11.6 million in 1975 to $13.4 million in 1976 and increased to $15.6 million in 1977.

General Electric produces all of its requirements for nickel cadmium rechargeable batteries at it Gainesville, Fla. plant. Because of increasing price competition from foreign competitors, General Electric began the transfer of its final assembly of battery packs to a foreign facility in the fourth quarter of 1977. By the end of the first quarter of 1978 General Electric was importing 100 percent of its requirements for assembled battery packs from its foreign facility.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with rechargeable battery packs produced at General Electric contributed importantly to the decline in sales or production and to the total or partial separations of the workers at the Gainesville plant. In accordance with the provisions of the Act, I make the following certification.

All workers engaged in employment related to the production of rechargeable battery packs at the Gainesville, Fla. plant of General Electric who became totally or partially separated from employment on or after December 24, 1977 and before April 2, 1978 are eligible to apply for adjusment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All employees separated after April 1, 1978 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 26th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12344 Filed 5-4-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 19, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 19, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 25th day of April 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
The Brandywine Corp., d.b.a. Earthlings (company).	Cambridge, Mass	Apr. 11, 1978	Apr. 5, 1978	TA-W-3,533	The selling of men's, women's and children's "earth" shoes.
Canton Textile Mills, Inc. (ACTWU).	Canton, Ga	Apr. 13, 1978	Apr. 10, 1978	TA-W-3,534	Cotton denim fabric.
Chicago Bridge & Iron Co. (USWA).	Birmingham, Ala	Apr. 12, 1978	Apr. 1, 1978	TA-W-3,535	Fabricate steel plate.
Do	Cordova, Ala	do	do	TA-W-3,536	Do.
Hackney Corp. (USWA)	Birmingham, Ala	do	do	TA-W-3,537	Chain link fence and fittings.
Handi Bag Co., Inc. (workers).	New York, N.Y.	Apr. 4, 1978	Mar. 28, 1978	TA-W-3,538	Ladies' vinyl handbags.
The Lamson & Sessions Co. (UAW).	Cleveland, Ohio	Apr. 12, 1978	Mar. 21, 1978	TA-W-3,539	Threaded screws and nuts.
Lurie Sportswear (workers)	Stoughton, Mass	do	Apr. 5, 1978	TA-W-3,540	Ladies' blazers.
Norrwock Shoe Co. Plant No. 20 (workers).	Calais, Maine	do	Apr. 6, 1978	TA-W-3,541	Men's women's and children's shoe uppers.

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APPENDIX

Petitioner: Union/workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Phelps Dodge Corp., Western Exploration (company).	Salt Lake City, Utah	Apr. 14, 1978	Apr. 10, 1978	TA-W-3,542	Exploration for copper ore.
Do	Reno, Nev	do	do	TA-W-3,543	Do.
Valley Mould Corp. (USWA)	Chicago, Ill	Apr. 12, 1978	Apr. 1, 1978	TA-W-3,544	Ingot moulds.
Do	Cleveland, Ohio	Apr. 20, 1978	do	TA-W-3,545	Do.
Weld-Inc-Co. (workers)	Raritan, N.J	Apr. 12, 1978	Mar. 22, 1978	TA-W-3,546	Men's outerwear.

[FR Doc. 78-12347 Filed 5-4-78; 8:45 am]

[4510-28]

[TA-W-3057]

U.S. STEEL CORP., U.S. STEEL PRODUCTS DIVISION, PETROLEUM, OHIO

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3057: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by the United Steelworkers of America on behalf of workers producing carbon steel products at the Petroleum, Ohio (Sharon), plant of the U.S. Steel Products Division of the U.S. Steel Corp. The investigation revealed that the petitioners produce steel shipping containers.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Steel Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

Average employment at the plant increased in each quarter of 1977 compared to the respective quarter of 1976 and continued to increase during the first 2 months of 1978 compared to the like 1977 period. The average weekly number of hours worked per worker also increased in 1977 compared to 1976. There were no layoffs at the plant in 1977 or in the first 2 months of 1978.

CONCLUSION

After careful review I conclude that all workers at the Petroleum, Ohio (Sharon), plant of the U.S. Steel Products Division of the U.S. Steel Corp. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12345 Filed 5-4-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

VERMONT STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the act and 29 CFR Part 1902. On October 1, 1973, notice was published in the FEDERAL REGISTER (38 FR 28658) of the approval of the Vermont plan and the adoption of subpart U to part 1952 containing the decision.

The Vermont plan provides for the adoption of Federal Standards as State standards. On May 3, 1977, the Occupational Safety and Health Administration (OSHA) adopted, pursuant to section 6(c) of the act, an emergency temporary standard for benzene. On September 9, 1977, OSHA adopted an emergency temporary standard for 1,2-dibromo-3-chloropropane (DBCP) (42 FR 45536). By letter dated February 9, 1978, from Joel R. Cherington, Commissioner, Vermont Department of Labor and Industry, to Gilbert Saulter, Regional Administrator, and incorporated as part of the plan, the State submitted emergency temporary standards for benzene and DBCP. These standards, which are contained in section 1910 of Vermont's administrative rules were promulgated on December 12, 1977, in accordance with applicable State law.

2. *Decision.* Having reviewed the state submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor—OSHA, Room 1804, J. F. Kennedy Federal Building, Government Center, Boston, Mass. 02203; State Office Building, Montpelier, Vt. 05602; and the Technical Data Center, Room N-2439, 200 Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* 29 CFR 1953.22(b)(1) provides that temporary standards which are identical to or "at least as effective as" the comparable Federal standards may be approved effective upon publication in the FEDERAL REGISTER. Under the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), good cause exists for approval without further notice or public procedure, for the following reasons:

(1) The standards were adopted in accordance with the procedural requirements of State law which authorizes promulgation without public participation for emergency standards and participation at the Federal level would be impracticable.

(2) The emergency nature of the standards requires that approval be implemented immediately.

This decision is effective May 5, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Boston, Mass., this 2nd day of March 1978,

EDWIN J. RILEY, Jr.,
Assistant Regional Administrator.

[FR Doc. 78-12364 Filed 5-4-78; 8:45 am]

[4510-26]

WASHINGTON STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington plan and the adoption of subpart F to part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the act.

Section 1952.120-124 of subpart F sets forth the State's schedule for the adoption of at least as effective State standards. By letter, dated December 14, 1977, from James Sullivan, Assistant Director, Department of Labor and Industries, to James Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.1029, Subpart Z—Coke Oven Emissions, as published in the FEDERAL REGISTER (41 FR 46742), dated October 22, 1976, and corrections published in the FEDERAL REGISTER (42 FR 3304), dated January 18, 1977. These standards, which are contained in chapter 296-62-200 WAC were promulgated after public hearing in Olympia on June 7, 1977, pursuant to 34.04 RCW and of the Open Public Meetings Act of 1971, Chapter 42.30.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Wash. 98274: Department of Labor and Industries, General Administration Building, Olympia, Wash. 98504; and Office of the Associate Assistant Secretary for Regional Programs, Room S-6212, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Section 1953.2(c) of this chapter provides that where State standards are identical to or "at least as effective" as comparable Federal standards and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are identical to the Federal standards and have been promulgated in accordance with State law including an opportunity for public comment and/or a public hearing, they are approved without an opportunity for further public comment.

This decision is effective May 5, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Wash., this 7th day of April 1978.

JAMES W. LAKE,
Regional Administrator—OSHA.

[FR Doc. 78-12365 Filed 5-4-78; 8:45 am]

[4510-26]

WASHINGTON STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

Section 1952.120-124 of Subpart F sets forth the State's schedule for the adoption of at least as effective State standards. By letter dated December 14, 1977, from James P. Sullivan, Assistant Director, Department of Labor and Industries, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1928.21, Agricultural Operations, as published in the FEDERAL REGISTER (39 FR 23780) dated June 27, 1974. These standards, which are contained in Chapter 296-306 WAC Safety Standards for Agriculture, were promulgated initially by emergency adoption of Temorary Labor Camp standards, as published in the FEDERAL REGISTER (42 FR 40278) dated August 9, 1977, and promulgated by permanent adoption after due notice and a public hearing held at Olympia, Wash., on June 23, 1977, pursuant to RCW 34.04 and of the Open Public Meetings Act of 1971, Chapter 42 30 RCW. State standards comparable to the remainder of 29 CFR 1928.21 were promulgated after public hearing in Yakima, Wash., on January 16, 1975.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Wash. 98274; Department of Labor and Industries, General Administration Building, Olympia, Wash. 98504; and Office of the Associate Assistant Secretary for Regional Programs, Room S-6212, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Section 1953.2(c) of this chapter provides that where State standards are identical to or "at least as effective" as comparable Federal standards and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are identical to the Federal standards and have been promulgated in accordance with State law including an opportunity for public comment and/or a public

hearing, they are approved without an opportunity for further public comment.

This decision is effective may 5, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington this 7th day of April 1978.

JAMES W. LAKE,
Regional Administrator—OSHA.

[FR Doc. 78-12366 Filed 5-4-78; 8:45 am]

[4510-27]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and Administrative Order No. 1-76 (41 FR 18949), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

The following certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.20 to 522.25, as amended). The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Bernice Industries, Bernice, La.; 1-1-78 to 12-31-78 (boys' shirts and girls' blouses).

Corbin, Ltd., Huntington, W. Va.; 1-22-78 to 1-21-79 (men's pants).

Crystal Springs Shirt Corp., Crystal Springs, Miss.; 1-1-78 to 12-31-78 (boys' shirts).

Donlin Sportswear, Inc., New Tazewell, Tenn.; 2-21-78 to 2-20-79 (men's shirts).

Flushing Shirt Mfg. Co., Inc., Grantsville, Md.; 1-18-78 to 1-17-79 (men's shirts).

H. & U., Inc., Avondale, Ariz.; 2-13-78 to 2-12-79; 10 learners for normal labor turnover purposes (women's blouses).

Hamburg Shirt Corp., Hamburg, Ark.; 1-1-78 to 12-31-78 (men's and boys' shirts).

Middleburg Sportswear, Inc., Middleburg, Pa.; 3-16-78 to 3-15-79; 10 learners for normal labor turnover purposes (women's dresses).

Steele Apparel Co., Steele, Mo.; 1-18-78 to 1-17-79; 10 learners for normal labor turnover purposes (ladies' dresses).

Utica Industries, Utica, Miss.; 2-13-78 to 2-12-79 (men's and boys' shirts).

The following plant expansion certificate was issued authorizing the number of learners indicated.

Flushing Shirt Mfg. Co., Inc., Waynesburg, Pa.; 1-24-78 to 7-23-78; 20 learners for plant expansion purposes (women's blouses).

Each learner certificate has been issued upon the representations of the employer which, among other things were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before May 22, 1978.

Signed at Washington, D.C., this 1st day of May 1978.

ARTHUR H. KORN,
Authorized Representative of the Administrator.

[FR Doc. 78-12348 Filed 5-4-78; 8:45 am]

[4510-20]
[4830-01]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

CERTAIN TRANSACTIONS INVOLVING EMPLOYEE BENEFIT PLANS AND BROKER-DEALERS

Proposed Extension of Existing Exemption; Hearing

AGENCIES: Department of Labor, Department of the Treasury/Internal Revenue Service.

ACTION: Notice of proposed extension of existing exemption and notice of hearing.

SUMMARY: This document contains a notice of pendency before the Department of Labor and the Internal Revenue Service (hereinafter referred to collectively as the Agencies) of a proposed extension, until December 1, 1978, of that portion of an existing class exemption which permits securities broker-dealers, until May 1, 1978, to provide brokerage and incidental services, under certain circumstances, to employee benefit plans with respect to which they are fiduciaries. It is also proposed to make the exemption applicable with respect to transactions occurring between May 1, 1978, and such date as the proposed extension might be adopted. The proposed extension, if granted, might affect broker-dealers providing services to employee benefit plans, and participants and beneficiaries of such plans. In addition, this document contains a notice of hearing on the proposed extension.

DATES: Written comments on the proposed extension and requests for time to present oral comments at the hearing must be received by the Department of Labor on or before June 1, 1978.

ADDRESSES: Written comments and requests for time to present oral comments should be addressed to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216 Attention: Extension of Exemption for Certain Brokerage Transactions. All such communications and applications for exemption relating to this proposed extension will be available for public inspection at the Public Documents, Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C., and at the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Shapiro, Esq., Office of the Solicitor, Plan Benefits Security Division, Room C-4508, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-7931, or Ivan Strasfeld, Esq., Prohibited Transactions Staff, Employee Plans Division, Internal Revenue Service, 111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: E:EP:PT), 202-566-3045. These are not toll free numbers.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Agencies of a proposed extension of an existing class exemption from the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) of the code. The class exemption relates to certain securities transactions effected on behalf of employee benefit plans by persons who are fiduciaries of the plan. The existing class exemption applicable to these transactions, which is set forth as paragraph I(a) of Prohibited Transac-

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tion Exemption 75-1,[1] will expire May 1, 1978. It is proposed to extend the exemption until December 1, 1978, and it is proposed also to make the extension apply retroactively from its effective date to May 1, 1978. It should be noted that the action being proposed herein by the Agencies relates only to that portion of Prohibited Transaction Exemption 75-1 which expires May 1, 1978. The other portions of that exemption would not be affected by this proposal. The extension is proposed pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Proc. 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

A class application for an extension of paragraph I(a) of Prohibited Transaction Exemption 75-1 has been filed by the Securities Industry Association (SIA).[2] The SIA also has requested, in effect, a permanent extension and modification of paragraph I(a) of that exemption. In addition, the Agencies have received four applications for individual exemptions which might relate to the proposed extension.[3] To the extent that the transactions which are the subject of those applications are of the type described in this proposed extension of an existing class exemption, such transactions will be exempted if they satisfy the terms and conditions of such extension as might be granted. Because the Agencies believe that it would be administratively feasible to deal with these applications on a class basis, the Agencies, pursuant to section 3.01 of ERISA Proc. 75-1 and Rev. Proc. 75-26, have determined to group such applications in a class.

As stated in section 3.04 of ERISA Proc. 75-1 and Rev. Proc. 75-26, an application for an individual exemption will not ordinarily be considered separately if a class exemption which may encompass the applications for individual exemption is under consideration by the Agencies. Accordingly, the Agencies are notifying directly each applicant for an individual exemption of the fact that such applicant's application is not presently being considered separately from this proceeding, and that following disposition of the above noted class application for permanent modification, such application might be closed, and, therefore, that such applicant's comments with respect to this proposed extension of a class exemption are sought by the Agencies.

In granting the pertinent portion of Prohibited Transaction Exemption 75-1, the Agencies determined that securities broker-dealers regularly provide research, information and advice concerning securities, and effect agency transactions for the purchase or sale of securities, in the ordinary course of their business as broker-dealers, and that the provision of a combination of such services by a fiduciary with regard to employee benefit plans would constitute prohibited transactions under the Act and the Code unless a statutory or administrative exemption is available. The Agencies took note that in the future most transactions by plan fiduciaries that would be covered by this portion of Prohibited Transaction Exemption 75-1 also would, in effect, be prohibited by section 11(a) of the Securities Exchange Act of 1934 (Exchange Act), as amended by the Securities Acts Amendments of 1975 (Pub. L. 94-29, 89 Stat. 110). That section prohibits any member of a national securities exchange from effecting any transaction on such exchange for an account with respect to which it or an associated person thereof exercises investment discretion.[4]

The Agencies noted also that section 11(a) of the Exchange Act provides an exception from the prohibition described above until May 1, 1978 for members of a national securities exchange who were members on May 1, 1975. The Conference Report relating to the Securities Acts Amendments of 1975 (H.R. Rep. No. 94-229, 94th Cong., 1st Sess. (1975)) indicated, at page 107, that it was the view of the conferees that the Agencies should grant an exemption from the prohibited transaction provisions of the Act and the Code to permit broker-dealers to continue to provide brokerage services to plans with respect to which they exercise investment discretion until May 1, 1978, in order to conform the pertinent provisions of the Act and Code to section 11(a) of the Exchange Act and thereby permit broker-dealers to phase out in an orderly fashion the business of both serving as investment advisers to plans and providing brokerage services to such plans.[5]

Therefore, with respect to a person who is a plan fiduciary, Prohibited Transaction Exemption 75-1 provided, in part, an exemption for effecting securities transactions on behalf of employee benefit plans and for functions performed incidental to the effecting of such transactions. The pertinent part of the exemption was available whether or not the transaction was effeted on a national securities exchange, but it applied only to persons who were ordinarily and customarily effecting securities transactions on May 1, 1975, and it was available only until May 1, 1978. The availability of Prohibited Transaction Exemption 75-1 was also subject to certain other conditions. In addition to the exemption requests noted above, legislation has recently been introduced in Congress to postpone the full effectiveness of section 11(a) of the Exchange Act until November 1, 1979.[6] This legislation has been passes by the House of Representatives.[7] The Senate has also passed a bill which, inter alia, would postpone the full effectiveness of section 11(a), but for a period of time shorter than that provided in the bill passed by the House.[7a] Furthermore, the Securities and Exchange Commission (SEC) has recently adopted a temporary rule[8] which has the effect of permitting certain transactions which might otherwise be prohibited by section 11(a) of the Exchange Act after May 1, 1978. Such transactions, if they involve employee benefit plans, would be prohibited by the Act and the Code after the pertinent portion of Prohibited Transaction Exemption 75-1 expires on that date unless, under the particular facts and circumstances surrounding the transactions, they do not constitute acts of self-dealing under section 406(b)(1) of the Act and section 4975 (c)(1)(E) of the Code. The SEC has requested that the Agencies consider coordinating their activities in this area with those of the SEC.[9]

The applicant SIA suggests that, in view of the developments described above, it is appropriate for the Agencies to reconsider their earlier determination that the transactions described above should not be permitted by special exemption after May 1, 1978.

It is proposed to extend the pertinent portion of Prohibited Transaction Exemption 75-1 through the period ending December 1, 1978. During this period, the Agencies could observe any legislative developments in the area, and could consider other factors relevant to the question of whether additional exemptive relief should be provided after December 1, 1978, either in the form presently provided in paragraph I(a) of Prohibited Transaction Exemption 75-1 or in some other form. A separate issue is whether the extension, if granted, should be made retroactive to May 1, 1978, so as to avoid making the prohibitions of the Act and the Code applicable to transactions of the type described which might take place between May 1, 1978 and such date as the proposed extension might be adopted.

The Agencies note that, in the Conference Report accompanying the Act, the conferees indicated that they had not granted a statutory exemption to permit the provision to a plan of both discretionary investment management and brokerage services by the same broker-dealer, at least in part becuase of the difficulty of establishing precise statutory standards for protecting against potential abuses.[10] The conferees indicated the view that exemptive relief, to the extent it was consistent with the standards of the Act and the Code, would more appropriatedly be granted administratively provided that the Agencies determined that such arragements were in the interest plan participants and beneficiaries and satisfactory safeguards were provided.[11] In addition, the conferees noted that the general issue of institutional investment management by brokers was under consideration in separate legislation, and they made clear their expectation that any action taken by the Agencies on requests for exemptions in this area should be consistent with the outcome of such legislation.[12]

The Agencies are not at this time prepared to conclude, on the basis of the applications on file, that granting the proposed extension would be in accord with the relevant statutory standards and the legislative direction discussed above, and they specifically request that commentators discuss possible reasons why the expiration of paragraph I(a) of Prohibited Transaction Exemption 75-1 might adversely affect employee benefit plans. Interested persons should be cognizant of the fact that the Agencies will determine whether to grant all or any part of the proposed extension only after considering the written comments received and the testimony given at the public hearing.

All interested persons are invited to submit written comments concerning the proposed extension to the address noted above by June 1, 1978.

A public hearing with respect to the proposed extension will be held on June 12, 1978 beginning at 10 a.m. in Room N-3437-A, B, C and D, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C.

Any interested person who desires to present oral comments at the hearing and who wishes to be assured of being heard should submit a statement to that effect, an outline of the topics to be discussed (at least six copies), and the time to be allocated to each topic by June 1, 1978. The statement and outline should be submitted to the address noted above.

An agenda will be prepared containing the order of presentation of oral comments and the time allotted to each commentator. Information with respect to the contents of the agenda may be obtained on or after June 7, 1978, by telephoning Daniel Shapiro, Esq., Washington, D.C. 202-523-7931. This is not a toll free number.

At the conclusion of oral comments by persons listed in the agenda, to the extent time permits, other persons will be permitted to make oral comments. The public hearing will be transcribed.

PROPOSED EXTENSION OF EXEMPTION

Accordingly, it is proposed that Prohibited Transaction Exemption 75-1, published on October 31, 1975 in the FEDERAL REGISTER (40 FR 50845), be modified by changing the date May 1, 1978 in paragraph I(a) thereof (relating to agency transactions and services) to December 1, 1978.

Signed at Washington, D.C. this 1st day of May 1978.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration.

T. R. KERN,
Deputy Assistant Commissioner, Employee Plans and Exempt Organizations, Internal Revenue Service.

[FR Doc. 78-12228 Filed 5-1-78; 4:02 pm]

[1] Notice of the granting of the exemption currently in effect was published in the FEDERAL REGISTER on October 31, 1975 (40 FR 50845).

[2] Exemption Application No. D-1026. The SIA does not specify in its application how long it requests the extension to be. Rather, the SIA requests that the extension be of sufficient duration to permit the Agencies to consider matters relevant to its application for permanent modification of paragraph I(a) of Prohibited Transaction Exemption 75-1.

[3] Exemption Application Nos. D-724, D-862, D-888 and D-981.

[4] The term "investment discretion" is defined in section 3(a)(35) of the Exchange Act. In general, a person who exercises investment discretion with respect to a plan within the meaning of that definition would also be a fiduciary with respect to the plan as defined in section 3(21) of ERISA and section 4975(e)(3) of the Code. A person also would be a fiduciary as a result of rendering investment advice for compensation (within the meaning of 29 CFR 2510.3-21(c) and section 54.4975-9 of the Pension Excise Tax Regulations) to a plan. It should be noted that the relief provided in paragraph I(a) of Prohibited Transaction Exemption 75-1 is available with respect to any fiduciary of the plan who meets the conditions of that paragraph, whether such person is a fiduciary by reason of exercising investment discretion or for some other reason. However, a broker-dealer which provides investment advice but does not exercise investment discretion with respect to a plan would, under certain circumstances, be able to effect brokerage transactions for the plan without relying upon the relief afforded by paragraph I(a) of Prohibited Transaction Exemption 75-1. This is because section 408(b)(2) of the Act and section 4975(d)(2) of the Code and regulations 29 CFR 2550, 408b-2 and section 54.4975-6 of the Pension Excise Tax Regulations thereunder provide, in effect, that a fiduciary does not engage in a transaction prohibited by section 406(b)(1) of the Act and section 4975(c)(1)(E) of the Code if the fiduciary does not use any of the authority, control or responsibility which makes such person a fiduciary to cause a plan to pay additional fees for a service furnished by such fiduciary.

[5] *See also* Conference Report on the Act, H.R. Rep. No. 93-1280, 93d Cong., 2d Sess. 309-10(1974).

[6] 121 Cong. Rec. H1486 (daily ed. Feb. 23, 1978).

[7] H.R. 11567, 124 cong. Rec. H2429 (daily ed. April 4, 1978).

[7a] H.R. 8331, 124 cong. Rec. S6442 (daily ed. April 26, 1978).

[8] Rule 11a2-2(T) under the Securities Exchange Act, Securities Exchange Act Release No. 14563 (March 14, 1978), 43 Fed. Reg. 11542 (March 17, 1978).

[9] Letters from Harold M. Williams to Jerome Kurtz and Ian Lanoff, April 6, 1978.

[10] Conference Report, note 5 supra, at 309-10.

[11] *Id.* at 309.

[12] *Id.* at 310.

[4510-30]

National Commission on Unemployment Compensation

Meeting

The third meeting of the National Commission on Unemployment Compensation will be held at the Concourse Hotel in Madison, Wis. The meeting will begin at 9 am., Friday, May 12, 1978, concluding at 5:30 pm., and will resume at 8:30 am., Saturday, May 13, and adjourn at approximateiy 4 p.m.

It has been impossible to give the standard period of notice because scheduling was not finalized until April 27. Notice is hereby given that the June meeting of the Commission will be held in Washington, D.C., on June 26 and 27, 1978. Notice of the agenda will be published in a future issue of the FEDERAL REGISTER.

TENTATIVE AGENDA—MAY MEETING

FRIDAY, MAY 12

9 a.m.
Review of minutes of April meeting.
Old business.
Tour of Wisconsin Employment Security Agency and presentation by Wisconsin senior staff.

12:15 p.m.—Lunch—Open.

1:30 p.m.
Discussion: Original objectives of unemployment compensation; background and history of Wisconsin experience—Paul Rauschenbush, Ellis Taff, Saul Blaustein, and David Pearson.

4:30 p.m.
Commission business meeting (old business continued).

5:30 p.m.—Adjournment.

SATURDAY, MAY 13

8:30 a.m.
Commission Business Meeting: (a) Future subcommittee meetings.
(b) Plans for June meeting/hearings for Washington-based national organizations.

10 a.m.
Presentation: Differing Perspectives on Unemployment Compensation—Dr. Ray Munts, Dr. Irvin Garfinkel, and Dr. Robert Lampman, University of Wisconsin.

12:15 p.m.
Luncheon meeting with Wisconsin advisory council presentation by labor and management spokespersons of the council.

2:30 p.m.
Commission business meeting (continued): (c) Plans for summer meetings.

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(d) New business.

4 p.m.—Adjournment.

Telephone inquiries and communications concerning this meeting should be directed to: Mr James M. Rosbrow, Interim Executive Director, National Commission on Unemployment Compensation, Room 7000, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213.

Mr. Rosbrow's telephone number is Area Code 202-376-7034.

Signed at Washington, D.C., this 1st day of May 1978.

JAMES M. ROSBROW,
Interim Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 78-12352 Filed 5-4-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR POLICY RESEARCH AND ANALYSIS AND SCIENCE RESOURCES STUDIES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Policy Research and Analysis and Science Resources Studies.

Date and Time: May 23, 1978; 9 a.m. to 4:30 p.m.; May 24, 1978; 9 a.m. to 12 noon.

Place: Room 543 on May 23, and Room 338 on May 24, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Open.

Contact person: Mrs. Agnes Rhodes, Administrative Officer, Division of Policy Research and Analysis, STIA Directorate, Room 1233, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5990. Anyone who plans to attend should contact Mrs. Rhodes by May 15, 1978.

Summary Minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of Committee: To provide advice, recommendations, and oversight concerning program emphasis and directions of the Divisions of PRA and SRS.

Agenda:

MAY 23, 1978

Introductory remarks by the Chairman and NSF Senior Management; Review of SRS activities; Review of PRA activities;SRS/PRA Subcommittees will meet separately for a discussion of respective divisional issues.

MAY 24, 1978

Report of Subcommittees and joint discussion of issues; Committee member assignments and planning for next meeting.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 2, 1978.

[FR Doc. 78-12281 Filed 5-4-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON GENETIC BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Genetic Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and time: May 22-24, 1978; 9 a.m. to 6 p.m. each day.

Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Philip D. Harriman, Program Director, Genetic Biology Program, Room 326. National Science Foundation, Washington, D.C. 20550, telephone 202-632-5985.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in genetic biology.

Agenda: To review and evaluated research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (8) of 5 U.S.C. 552B(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Directors, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 2, 1978.

[FR Doc 78-12282 Filed 5-4-78; 8:45 a.m.]

[7555-01]

SUBCOMMITTEE ON METABOLIC BIOLOIGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Metabolic Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and time: May 22 and 23, 1978; 9 a.m. to 5 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Elijah B. Romanoff, Program Director, Metabolic Biology Program, Room 331, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4312.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Metabolic Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (8) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. l. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 2, 1978.

[FR Doc. 78-12283 Filed 5-4-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Molecular Biology, Group A, of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and time: May 22 and 23, 1978; 9 a.m. to 5 p.m. each day.

Place: Room 421, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Frederick I. Tsuji, Program Director, Biochemistry Program, Room 330, National Science Foundation, Washington, D.C., 20550, telephone 202-632-4260.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Molecular Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator,

MAY 2, 1978.

[FR Doc. 78-12284 filed 5-4-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON PSYCHOBIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Psychobiology of the Advisory Committee for Behavioral and Neural Sciences.

Date: May 23, 24, and 25, 1978.

Time: 9 a.m. to 5 p.m. each day.

Place: Rooms 628 and 642, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Part Open:

Open May 25; closed May 23 and May 24.

Contact person: Dr. Fred Stollnitz, Program Director, Psychobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4264.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Psychobiology.

Agenda: May 23 and 24: To review and evaluate research proposals as part of the selection process for awards.

MAY 25

1. Executive Committee's oversight review.
2. Issues posed by certain types of proposals.
3. Interfaces with other NSF programs.
4. NSF role in National Primate Plan.
5. Budget outlook for 1979.
6. Making the case for 1980 and beyond.
7. Selection of panelists and reviewers.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 2, 1978.

[FR Doc. 78-12285 Filed 5-4-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

AGREEMENTS FOR COOPERATION BETWEEN THE STATES OF NEW YORK, SOUTH CAROLINA AND VIRGINIA AND THE UNITED STATES NUCLEAR REGULATORY COMMISSION

The Commission, in mid-January 1976 adopted the policy of entering into agreements with States that have been delegated responsibility by EPA for issuance of National Pollutant Discharge Elimination System (NPDES) permits under section 402 of the FWPCA.

Although considerable latitude is provided, generally such agreements will embody the principles of the second Nuclear Regulatory Commission/Environmental Protection Agency Memorandum of Understanding (F.R. Vol. 40, No. 251, p. 60115 ff, December 31, 1975) for cooperation in the licensing of nuclear powerplants. In general, agreements will provide for:

The State and NRC to work together to identify and consolidate the environmental information needed for the early issuance by the State of NPDES (section 402) discharge permits.

The State to exercise its best efforts to issue NPDES permits prior to the planned date of issuance by NRC of the final environmental impact statement for the early site approval, construction permit or operating license for each nuclear powerplant.

The State to work closely with NRC to assure that water quality certifications under section 401 of the FWPCA are issued in advance of the planned date of issuance of NRC's final environmental impact statement.

NRC and the State to consider the feasibility of holding joint or concurrent hearings on the State's NPDES permits and NRC's construction permits for nuclear powerplants.

The State and NRC to explore means by which joint or cooperative preparation of parts of environmental impact statements for nuclear powerplants could be accomplished.

The State and NRC to maintain close contact on water quality matters throughout the entire environmental review process.

To date, three such agreements have been consummated. These agreements which are published below are as follows:

"Agreement Between the Virginia State Water Control Board and the U.S. Nuclear Regulatory Commission Pursuant to the Federal Water Pollution Control Act Amendments of 1972 (FWPCA)"—effective October 26, 1977.

"Memorandum of Understanding Between the New York State Board on Electric Generation Siting and the Environment and the Departments of Environmental Conservation and Public Service and the U.S. Nuclear Regulatory Commission"—effective March 30, 1978.

"Agreement Between the State of South Carolina and the U.S. Nuclear Regulatory Commission Pursuant to the Federal Water Pollution Control Act of 1972 (FWPCA)"—effective April 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Bennett L. Harless, Division of Site Safety and Environmental Analysis, U.S. Regulatory Commission, Washington, D.C. 20555, telephone 301-492-8421.

Dated at Washington, D.C., this 1st day of May 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

MEMORANDUM OF UNDERSTANDING BETWEEN THE NEW YORK STATE BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRONMENT AND THE DEPARTMENTS OF ENVIRONMENTAL CONSERVATION AND PUBLIC SERVICE AND THE U.S. NUCLEAR REGULATORY COMMISSION

PURPOSE

This Memorandum of Understanding between the New York State Departments of Environmental Conservation and Public Service, and the New York State Board on Electric Generation Siting and the Environment (Siting Board) and the United States Nuclear Regulatory Commission (NRC), sets forth mutually agreeable principles of cooperation between the Siting Board, the two State agencies, and the NRC which relate to their respective obligations for environmental matters in areas subject to concurrent jurisdiction under State of New York and Federal laws and regulations governing approvals, licensing and regulation of nuclear electric generating facilities.

It is the intent of this Memorandum that the Siting Board, the two State agencies and the NRC regluarly consult and cooperate in exploring and implementing appropriate procedures designed to assure that delays in the siting of electric generation facilities and duplication of effort will be minimized and that effective use will be made of resources of the two State agencies and the NRC, particularly in the areas of professional expertise.

Close cooperation between the signatories will help assure that the goals and policies of State and Federal law and regulation will be carried out efficiently and expeditiously.

IMPLEMENTATION

1. The staffs of the two State agencies and the NRC will explore means whereby the staffs of the State agencies would prepare

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analyses for NRC in areas of concurrent jurisdiction, such as, but not necessarily limited to, need for baseload facility, water quality, air quality, terrestrial and aquatic ecology, and land use and aesthetics. The analyses performed by the staffs of the State agencies would be prepared in accordance with specific supplemental agreements and under guidelines and criteria mutually acceptable to both the staff of the State agency preparing the evaluation and the NRC in order to assure that the needs of both are met. Any such agreement(s) will be subject to review and modification by the signatories as necessary.

2. The Siting Board and NRC will consider the feasibility of holding combined or concurrent hearings on the environmental aspects of proceedings before the Siting Board and the NRC, on a case-by-case basis.

3. The staffs of the two State agencies and the NRC will maintain close contact on environmental matters of concurrent jurisdiction during the entire environmental review, including:

(a) Open interagency communications, and mutual cooperation and coordination on all relevant environmental matters; and

(b) A status meeting(s), where appropriate, during the course of the environmental review or subsequent thereto, on any significant new considerations that develop, e.g., a major change in plant design or the identification of factors that could have a significant effect on the environment in areas that were not previously evaluated.

4. In areas of concurrent jurisdiction involving environmental impact where there are significant differences of opinion between the staffs of the two State agencies and NRC, every reasonable attempt will be made to identify and resolve these differences prior to the planned date of issuance of NRC's final environmental statement or the submission of the State agencies prefiled testimony to the Siting Board proceeding, whichever comes first.

5. The parties will explore means by which compensation may be made available to the Siting Board and the two State agencies for activities performed specifically for NRC under specific supplemental agreements to this Memorandum. The terms of any such agreement for compensation to the Board and the two State agencies shall be specified in writing in each supplemental agreement.

6. Nothing in this Memorandum is intended to restrict the statutory authority of either NRC or the Siting Board.

7. This Memorandum shall take effect immediately upon signing by the Chairman of the Siting Board, who is also Chairman of the Department of Public Service, the Commissioner of the Department of Environmental Conservation and the Nuclear Regulatory Commission, and may be terminated upon 30 days notice by any party.

8. This Memorandum shall apply to all pending and future applications for licenses or permits for nuclear electric generating facilities except that, with respect to applications for licenses or permits for facilities docketed prior to the effective date of this Memorandum, it shall only be applied to the maximum extend practicable.

9. The principal NRC contact under this Memorandum shall be the Assistant Director for Environmental Projects. The principal State contact under this Memorandum shall be the Secretary of the Siting Board or his designee.

10. If any provision of this Memorandum, or the application thereof to any person or circumstance is held invalid, the remainder of this Memorandum, and the application of such provisions to other persons or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

Dated: March 8, 1978.

For the New York State Board on Electric Generation Siting and the Environment and Department of Public Service.

CHARLES A. ZIELINSKI,
Chairman.

Dated: March 20, 1978.

For the Department of Environmental Conservation.

PETER A. A. BERLE,
Commissioner.

Dated: March 30, 1978.

For the United States Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

AGREEMENT BETWEEN THE STATE OF SOUTH CAROLINA AND THE U.S. NUCLEAR REGULATORY COMMISSION PURSUANT TO THE FEDERAL WATER POLLUTION CONTROL ACT OF 1972 (FWPCA)

The State of South Carolina, hereinafter referred to as the State, is a permit issuing State under section 402 of the Federal Water Pollution Control Act of 1972. As such the State is not directly affected by the "Second Memorandum of Understanding Regarding Implementation of Certain Nuclear Regulatory Commission and Environmental Protection Agency Responsibilities Under the Federal Water Pollution Control Act (FWPCA) and the National Environmental Policy Act of 1969." However, the State agrees with the principles embodied in the Second Nuclear Regulatory Commission (NRC)/Environmental Protection Agency (EPA) Memorandum and wishes to cooperate with NRC in implementing these principles.

Specifically, these cooperative efforts will extend to requirements for the control and consideration of impacts on water quality and biota associated with the licensing and regulation, including early site approval[1] of the following plants or facilities within South Carolina:

(a) Nuclear power and test facilities,
(b) Nuclear fuel reprocessing facilities,
(c) Uranium isotope enrichment facilities,
(d) Nuclear fuel fabrication plants,
(e) Nuclear waste treatment and storage plants if subject to licensing by NRC.

1. The State and NRC will work together to identify and consolidate the environmental information needed for early evaluations related to impacts on water quality and biota under the FWPCA with the objective that the scope, form and timeliness of the information to be submitted by the applicant satisfy the requirements of both the State and NRC. This will include information needed for issuance of State water quality certifications pursuant to section 401 and NPDES permits pursuant to section 402 (including where applicable section 316(b) considerations regarding best technology available as applied to cooling water intake structures and section 316(a) determinations regarding the granting of alternative effluent limitations for the thermal component of discharges) and information needed to evaluate the environmental impact of the facility based on compliance with FWPCA requirements.

2. The State and NRC will meet, as appropriate, at an early time prior to and/or during the environmental review process for each facility or plant subject to this Agreement to discuss potential impacts on water quality and biota.

3. The State will exercise its best efforts to evaluate the levels of discharges and impacts on water quality and biota pursuant to section 402 and 316(a), as appropriate, and complete cooling water intake structure evaluations pursuant to section 316(b) as far as possible in advance of the planned date of issuance by NRC of the final environmental impact statement for the construction permit for each nuclear power reactor. The State also will exercise its best efforts to make such evaluations as far as possible in advance of the planned date of issuance of the final environmental impact statement for any other plant or facility subject to this Agreement or issuance of early site approvals associated with nuclear power and other facilities.

Further, where possible, the State's comments on NRC's draft environmental impact statement for each such facility or plant will reflect such evaluations. The State will undertake to issue a complete section 402 permit as soon as possible prior to the planned date of authorization by the NRC of any commencement of construction[2] or issuance by NRC of any license, or early site approval, whichever is applicable.

Such permits will contain appropriate terms and conditions for all discharges of pollutants expected during the life of the permit (five years maximum) and terms and conditions with regard to cooling water intake structures and section 316(a) determinations concerning thermal discharges. Additional permit terms and conditions for discharges not contemplated during the life of the permit (such as certain chemical and other releases not expected until operation startup) may be derived from applicable State water quality standards and applicable new source performance standards contained in 40 CFR, Chapter I, Subchapter N. Permits may be reissued, or modified as appropriate, and any reissued or modified permit, to be effective at the commencement of actual discharge as provided above may require additional limitations and controls based on data gathered during the initial permit or may require additional section 316 (a) and (b) studies for the purpose of confirming conclusions reached from previous predictive studies. Applications for permit reissuance as provided above will be evaluated by the State in light of the policy to assure to the maximum extent possible that subsequent considerations regarding impacts on water quality and biota will not result in the need for significant changes in plant design or in cost and benefits of the operation of the facility subsequent to the completion of NRC's environmental review.[3]

4. The State will work closely with NRC to assure that water quality certifications

[1] See 10 CFR Part 2, Appendix A, Paragraph I(c).

[2] The term "commencement of construction" means commencement of construction as defined in 10 CFR 50.10(c).

[3] A facility which has been given § 316(a) alternative effluent limitations is not entitled to the 10-year grace period (or applicable amortization period) provided for in § 306(d) for new sources or in 316(c) for modified sources.

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pursuant to section 401 for the facilities subject to this Agreement that require such certification are issued in advance of the planned date of issuance of NRC staff's final environmental impact statement for the facility.

5. The State and NRC will maintain close contact on water quality and related matters during the entire environmental review, including:

(a) Open interagency communications, and mutual cooperation and coordination on all relevant water quality matters;

(b) A status meeting, where appropriate, after completion of the environmental review or subsequent thereto, of any significant new considerations that develop, e.g., a major change in plant design or the identification of significant considerations regarding impacts on water quality or biota that were not previously evaluated as may result from a major change in plant design.

6. The State and NRC will consider the feasibility of holding combined or concurrent hearings on the State's section 402 permits and NRC's construction permits, or other actions, on a case-by-case basis. If there are areas involving impact on water quality or biota where there are significant differences of opinion between the State and NRC, every reasonable attempt will be made to identify and resolve these differences prior to the planned date of issuance of NRC's final environmental statement.

7. The principal NRC contact under this Agreement shall be the Assistant Director for Environmental Projects. The principal State contact under this Agreement shall be the Deputy Commissioner for the Office of Environmental Quality Control of the South Carolina Department of Health and Environmental Control or his designee.

8. Nothing in this Agreement is intended to restrict the statutory authority of either NRC or the State.

9. This Agreement shall take effect immediately upon signing by the State and the Nuclear Regulatory Commission. The Agreement shall apply to all pending and future applications for licenses or permits subject to this Agreement except that, with respect to applications for licenses or permits for facilities and plants docketed prior to the effective date of the Agreement, it shall only be applied to the maximum extent practicable.

Dated at Columbia, S.C., this 21st day of April 1978.

For the United States Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

Dated at Columbia, S.C., this 21st day of April 1978.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

JOHN E. JENKINS, P.E.,
Deputy Commissioner.

AGREEMENT BETWEEN THE VIRGINIA STATE WATER CONTROL BOARD AND THE U.S. NUCLEAR REGULATORY COMMISSION PURSUANT TO THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972 (FWPCA)

The Commonwealth of Virginia, by and through the State Water Control Board, hereinafter referred to as the Board, is a permit issuing State under section 402 of the Federal Water Pollution Control Act Amendments of 1972. As such the Board is not directly affected by the "Second Memorandum of Understanding Regarding Implementation of Certain Nuclear Regulatory Commission and Environmental Protection Agency Responsibilities Under the Federal Water Pollution Control Act (FWPCA) and the National Environmental Policy Act of 1969." However, the Board agrees with the principles embodied in the Second Nuclear Regulatory Commission (NRC)/Environmental Protection Agency (EPA) Memorandum and wishes to cooperate with NRC in implementing those principles.

Specifically, these cooperative efforts will extend to requirements for the control and consideration of impacts on water quality and aquatic biota associated with the licensing and regulation, including early site approval[4] of nuclear power plants within the Commonwealth.

1. The Board and NRC will work together to compile, identify and consolidate the environmental information needed for early evaluations related to impacts on water quality and aquatic biota, with the objective that the scope, form and timeliness of information to be submitted by the applicant satisfy the requirements of both the Board and NRC. This will include information needed for issuance of State water quality certifications pursuant to section 401 and NPDES permits pursuant to section 402 of the FWPCA and the State Water Control Law (including, where applicable, section 316(b) considerations regarding best technology available as applied to cooling water intake structures, and section 316(a) determinations regarding the granting of alternative effluent limitations for the thermal component of discharges), and information needed to evaluate the environmental impact of the facility based on compliance with FWPCA and State Water Control Law requirements.

2. The Board and NRC will meet, as appropriate, at an early time prior to and/or during the environmental review process for each nuclear power plant to discuss potential impacts on water quality and aquatic biota.

3. The Board will exercise its best efforts to evaluate the levels of discharges and impacts on water quality and aquatic biota pursuant to sections 402 and 316(a), as appropriate, and complete cooling water intake structure evaluations pursuant to section 316(b) as far as possible in advance of the planned date of issuance by NRC of the final environmental impact statement for the early site approval, construction permit or operating license for each nuclear power plant.

Further, where possible, the Board's comments on NRC's draft environmental impact statement for each nuclear power plant will reflect such evaluations. The Board will undertake to issue a complete permit pursuant to the State Water Control Law and Section 402 of the FWPCA as soon as possible prior to the planned date of authorization by the NRC of any commencement of construction[5] or issuance by NRC of any license, or early site approval, whichever is applicable.

Such permits will contain appropriate terms and conditions for all discharges of pollutants expected during the life of the permit (five years maximum) and terms and conditions with regard to cooling water intake structures and section 316(a) determinations concerning thermal discharges. Additional permit terms and conditions for discharges not contemplated during the life of the permit (such as certain chemical and other releases not expected until operation startup) may be derived from applicable State water quality standards and applicable new source performance standards contained in 40 CFR, Chapter I, Subchapter N. Permits may be reissued, or modified as appropriate, and any reissued or modified permit, to be effective at the commencement of actual discharge as provided above may require additional limitations and controls based on data gathered during the initial permit or may require additional section 316(a) and (b) studies for the purpose of confirming conclusions reached from previous predictive studies. Applications for permit reissuance as provided above will be evaluated by the Board in light of the policy to assure to the maximum extent possible that subsequent considerations regarding impacts on water quality and aquatic biota will not result in the need for significant changes in plant design or in cost and benefits of the operation of the facility subsequent to the completion of NRC's environmental review.[6]

4. The Board will work closely with NRC to assure that water quality certifications pursuant to section 401 for nuclear power plants are issued in advance of the planned date of issuance of NRC staff's final environmental impact statement for the facility.

5. The Board and NRC will maintain close contact on water quality and related matters during the entire environmental review, including:

(a) Open interagency communications, and mutual cooperation and coordination on all relevent water quality matters;

(b) A status meeting after completion or during the course of the environmental review, to assess any significant new considerations that develop, e.g., a major change inplant design or the identification of significant considerations regarding impacts on water quality or aquatic biota that were not previously evaluated as may result from a major change in plant design.

6. The board and NRC will consider the feasibility of holding combined or concurrent hearings on the Board's section 402 permits and NRC's construction permits, or other actions, on a case-by-case basis. If there are areas involving impact on water quality or aquatic biota where there are significant differences of opinion between the Board and NRC, every reasonable attempt will be made to identify and resolve these differences prior to the planned date of issuance of NRC's final environmental statement.

7. The Board and NRC will explore means by which joint or cooperative preparation of parts of environmental impact statements for nuclear powerplants could be accomplished. NRC will stand ready to assist the Board in every proper fashion with information and technical support.

8. The principal NRC contact under this Agreement shall be the Assistant Director for Environmental Projects. The principal State contact under this Agreement shall be the Deputy Executive Secretary of the State Water Control Board or his designee.

[4] See 10 CFR Part 2, Subpart F.

[5] The term "commencement of construction" means commencement of construction as defined in 10 CFR 50.10(c).

[6] A nuclear power plant which has been given 316(a) alternative effluent limitations is not entitled to the 10-year grace period (or applicable amortization period) provided for in 306(d) for new sources or in 316(c) for modified sources.

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9. Nothing in this Agreement is intended to restrict the statutory authority of either NRC or the Board.

10. This Agreement shall take effect immediately upon signing by the Board and the Nuclear Regulatory Commission. This Agreement may be terminated upon 30 days notice by either party. This Agreement shall apply to all future applications for licenses or permits subject to this Agreement.

Dated at Washington, D.C., this 7th day of September 1977.

For the United States Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

Dated at Richmond, Va. this 26th day of October 1977.

For the Virginia State Water Control Board.

R. V. DAVIS,
Executive Secretary.

[FR Doc. 78-12262 Filed 5-4-78; 8:45 am]

[7590-01]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. DPR-59, issued to Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. FitzPatrick, Nuclear Power Plant (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to increase the operating minimum critical power ratio (MCPR) based on a reanalysis of Cycle 2 operation between End-of-Cycle minus 2000 megawatt days per ton and End-of-Cycle 2. The amendment also adds an additional exposure dependent MCPR at End-of-Cycle 2 minus 1000 MWD/T.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and, that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 5, 1978, (2) Amendment No. 35 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's public document room, 1717 H Street NW., Washington, D.C. and at the Oswego County Office Building, 46 East Bridge Street, Oswego, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 28th day of April 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactor Branch No. 3 Division of Operating Reactors.

[FR Doc. 78-12263 Filed 5-4-78; 8:45 am]

[7590-01]

[Docket Nos. 50-443 and 50-444]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL. (SEABROOK STATION, UNITS 1 AND 2)

Reconstitution of Board

John M. Frysiak, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Frysiak has tranferred to another Government agency, where he is serving as an Administrative Law Judge.

Accordingly, Ivan W. Smith, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Md., this 1st day of May 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-12264 Filed 5-4-78; 8:45 am]

[7590-01]

[Docket No. 40-8502]

WYOMING MINERAL CORP.

Availability of Draft Environmental Statement for Irigaray Uranium Solution Mining Project

Notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Material Safety and Safeguards related to the proposed Irigaray uranium solution mining project to be located in Johnson County, Wyo., is available for inspection by the public in the Commission's Public Document room at 1717 H Street NW., Washington, D.C. 20555. The Draft Statement is also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyo. 82001. Requests for copies of the Draft Environmental Statement (identified as NUREG-0399) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Division of Technical Information and Document Control.

The Applicant's Environmental Report submitted by Wyoming Mineral Corp. is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on September 1, 1977 (42 FR 44040).

Interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. Comments are due by June 19, 1978. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Silver Spring, Md. this 26th day of April, 1978.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
Chief, Fuel Processing & Fabrication Branch, Division of Fuel Cycle and Material, Safety.

[FR Doc. 78-11989 Filed 5-4-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

LOCAL DEVELOPMENT COMPANY LOANS, HANDICAPPED ASSISTANCE LOANS AND BUSINESS LOANS

Waiver of Administrative Ceilings

SBA has adopted administrative ceilings limiting the amount of financial assistance generally available to applicants for local development company loans (LDC), handicapped assistance loans (HAL) and regular business loans. [§§ 108.502-1(d)(3), 118.31(a)(1) and 122.5(b) of Title 13 CFR].

SBA has also adopted regulations authorizing the waiver of the applicable ceilings upon a determination by SBA that the particular loan furthers a "National, Agency or Regional program objective." [§ 108.502-1(d)(4), 118.31(a)(2) and 122.5(c)]. These sections further provide that SBA may publish from time to time standards or examples illustrating National, agency or regional objectives, and that SBA will not recognize any such objective until it has been published in the FEDERAL REGISTER.

In accordance with the above-cited regulations, the following examples of National, agency and regional objectives are published. To justify waiver of the applicable administrative ceiling, it must appear to SBA's satisfaction that any two of the listed objectives will be advanced by the loan in question. The objectives are:

1. Construction of medical facilities, the need for which has been certified by appropriate local authority;
2. Conservation or production of energy;
3. Creation or preservation of jobs;
4. Performance of a specific Government contract;
5. Stimulation of the economy of a labor surplus area;
6. Conservation of natural resources;
7. Improvement of mass transit facilities;
8. Economic development of depressed urban or rural area;
9. Assistance to broadcasting and cable TV operations;
10. Revitalization of SBA-designated neighborhood business areas.

(Catalog of Federal Domestic Assistance Programs Nos. 59.012, 59.013, and 59.021.)

Dated: April 27, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12299 Filed 5-4-78; 8:45 am]

[8025-01]

[License No. 05/05-5124]

NEIGHBORHOOD FUND, INC.

Issuance of License To Operate as a Small Business Investment Company

On December 20, 1977, a notice was published in the FEDERAL REGISTER (42 FR 63841), stating that The Neighborhood Fund, Inc., located at 7054 South Jeffery Boulevard, Chicago, Ill. 60649, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1977), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business January 4, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 05/05-5124, on April 3, 1978, to operate as a small business investment company pursuant to Section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 27, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.78-12300 Filed 5-4-78; 8:45 am]

[8025-01]

[Application No. 03/03-5137]

SCI MEDIA VENTURES, INC.

Application for License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by SCI Media Ventures, Inc. (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1977).

The officers, directors, and stockholders of the applicant are as follows:

Herbert P. Wilkins, 5560 Shepherdess Court, Columbia, Md. 21045, President, Treasurer, and Director.
Ronald A. Brown, 1721 Corcoran Street NW., Washington, D.C. 20009, Vice President, Secretary, and Director.
Curtis T. White, 7515 Morningside Drive NW., Washington, D.C. 20012, Director.
Syndicated Communications, Inc., 100 percent Stockholder.

The applicant, a District of Columbia corporation, with its principal place of business located at 1625 I Street NW., Washington, D.C. 20006, will begin operations with $500,000 of paid-in capital and paid-in surplus, derived from the sale of 500,000 shares of common stock.

The applicant will conduct its activities primarily in the District of Columbia, but will consider proposals for assistance in other areas within the United States of America in order to increase diversification of control and ownership of broadcast media.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA Rules and Regulations.

Any person may, not later than May 22, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Washington, D.C.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 27, 1978.

Peter F. McNeish,
Deputy Associate Administrator for Investment.

[FR Doc. 78-12301 Filed 5-4-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Office of the Secretary

VISCOSE RAYON STAPLE FIBER FROM FRANCE

Antidumping Proceeding

AGENCY: United States Treasury Department.

V 43 / 88

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether or not imports of viscose rayon staple fiber from France are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 28, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc., Valley Forge, Pa., a domestic producer of the subject merchandise, indicating a possibility that viscose rayon staple fiber from France is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this notice, the term "viscose rayon staple fiber" refers to viscose rayon staple fiber, except solution dyed, in non-continuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments).

Margins of dumping are alleged which, based on a comparison of sales to the U.S. to sales in the home market, range from 13 percent to 16 percent. Petitioner has alleged, however, that sales in France of viscose rayon staple fiber are being made at prices below the cost of production as defined in section 205(b) of the Act (19 USC 164). A comparison of sales to the U.S. and the constructed value of rayon staple fiber in France as calculated and alleged by petitioner yields possible dumping margins from 64 percent to 67 percent. Treasury's investigation will seek to determine whether French home market sales are being made at prices below the cost of production as defined in section 205(b) and, if so, will disregard such sales in the calculation of foreign market value. If insufficient sales, either in the home market or to countries other than the U.S., remain at not less than the cost of production, then constructed value will be employed as a basis of fair value.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States that produces viscose rayon staple fiber. This information indicates that imports of viscose rayon staple fiber from France are underselling domestic manufacturers by margins that are completely accounted for by the alleged dumping margins. Petitioner has supplied information indicating that it has incurred significant losses from 1975-1977, that it has been operating at far below operating capacity over the same period and that it has been unable to raise its prices due to lower priced imports.

Imports of viscose rayon staple fiber from France increased in both absolute and relative terms in 1977 compared to 1976. In addition, Treasury is simultaneously initiating three antidumping investigations with regard to this product from Finland, Italy, and Sweden and is presently conducting an antidumping investigation of this product from Austria. Imports from Belgium of this product were also recently subjected to an antidumping investigation in which a "Determination of Sales at Less Than Fair Value" was published in the FEDERAL REGISTER on May 1, 1978 (43 FR 18619).

The cumulative effect of imports of a single fungible product from more than one country must, when appropriate, be considered in assessing the injurious effects of alleged "less than fair value" imports. When imports from France are cumulated with those alleged to exist from Finland, Italy, Sweden, Austria and Belgium, the level of import penetration is approximately 10 percent of current U.S. consumption. Accordingly, based upon available information of injury resulting from sales at less than fair value, no "substantial doubt" of injury exists and no reference of this case to the ITC will be made.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined that there are grounds for doing so, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

APRIL 28, 1978.

[FR Doc. 78-12270 Filed 5-4-78; 8:45 am]

[4810-22]

VISCOSE RAYON STAPLE FIBER FROM FINLAND

Antidumping Proceeding

AGENCY: United States Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether or not imports of viscose rayon staple fiber from Finland are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 28,1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc., Valley Forge, Pa. a domestic producer of the subject merchandise, indicating a possibility that viscose rayon staple fiber from Finland is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this notice, the term "viscose rayon staple fiber" refers to viscose rayon staple fiber, except solution dyed, in non-continuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments).

Margins of dumping are alleged which, based on a comparision of sales to the United States to sales in the home market, range from 20 percent to 23 percent. Petitioner has alleged, however, that sales in Finland of viscose rayon staple fiber are being made at prices below the cost of production as defined in section 205(b) of the Act (19 U.S.C. 164). A comparison of sales to the United States and the constructed value of rayon staple fiber in Finland as calculated and alleged by petitioner yields possible dumping margins from 57 percent to 61 percent. Treasury's investigation will seek to determine whether Finnish home market sales are being made at prices below the cost of production as defined in section 205(b) and, if so, will disregard such sales in the calculation of foreign market value. If insufficient sales, either in the home market or to countries other than the United States, remain at not less than the cost of production, then constructed value will be employed as a basis of fair value.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States that produces viscose rayon staple fiber. This information indicates that imports of viscose rayon staple fiber from Finland are underselling domestic manufacturers by margins that are completely accounted for by the alleged dumping margins. Petitioner has supplied information indicating that it has incurred significant losses from 1975-1977, that it has been operating at far below operating capacity over the same period and that it has been unable to raise its prices due to lower priced imports.

Imports of viscose rayon staple fiber from Finland increased in both absolute and relative terms in 1977 compared to 1976. In addition, Treasury is simultaneously initiating three antidumping investigations with regard to this product from France, Italy and Sweden and is presently conducting an antidumping investigation of this product from Austria. Imports from Belgium of this product were also recently subjected to an antidumping investigation in which a "Determination of Sales at Less Than Fair Value" was published in the FEDERAL REGISTER on May 1, 1978 (43 FR 18619).

The cumulative effect of imports of a single fungible product from more than one country must, when appropriate, be considered in assessing the injurious effects of alleged "less than fair value" imports. When imports from Finland are cumulated with those alleged to exist from France, Italy, Sweden, Austria and Belgium, the level of import penetration is approximately 10 percent of current U.S. consumption. Accordingly, based upon available information of injury resulting from sales at less than fair value, no "substantial doubt" of injury exists and no reference of this case to the ITC will be made.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined that there are grounds for doing so, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

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APRIL 28, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-12273 Filed 5-4-78; 8:45 am]

[4810-22]

VISCOSE RAYON STAPLE FIBER FROM ITALY

Antidumping Proceeding

AGENCY: United States Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether or not imports of viscose rayon staple fiber from Italy are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 28, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc., Valley Forge, Pa., a domestic producer of the subject merchandise, indicating a possibility that viscose rayon staple fiber from Italy is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this notice, the term "viscose rayon staple fiber" refers to viscose rayon staple fiber, except solution dyed, in non-continuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments).

Margins of dumping are alleged which, based on a comparison of sales to the United States to sales in the home market, range from 17 percent to 20 percent. Petitioner has alleged, however, that sales in Italy of viscose rayon staple fiber are being made at prices below the cost of production as defined in section 205(b) of the Act (19 USC 164). A comparison of sales to the U.S. and the constructed value of rayon staple fiber in Italy as calculated and alleged by petitioner yields possible dumping margins from 59 percent to 63 percent. Treasury's investigation will seek to determine whether Italian home market sales are being made at prices below the cost of production as defined in section 205(b) and, if so, will disregard such sales in the calculation of foreign market value. If insufficient sales, either in the home market or to countries other than the United States, remain at not less than the cost of production, then constructed value will be employed as a basis of fair value.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States that produces viscose rayon staple fiber. This information indicates that imports of viscose rayon staple fiber from Italy are underselling domestic manufacturers by margins that are completely accounted for by the alleged dumping margins. Petitioner has supplied information indicating that it has incurred significant losses from 1975-1977, that it has been operating at far below operating capacity over the same period and that it has been unable to raise its prices due to lower priced imports.

Imports of viscose rayon staple fiber from increased in both absolute and relative terms in 1977 compared to 1976. In addition, Treasury is simultaneously initiating three antidumping investigations with regard to this product from Finland, France and Sweden and is presently conducting an antidumping investigation of this product from Austria. Imports from Belgium of this product were also recently subjected to an antidumping investigation in which a "Determination of Sales at Less Than Fair Value" was published in the FEDERAL REGISTER on May 1, 1978 (43 FR 18619).

The cumulative effect of imports of a single fungible product from more than one country must, when appropriate, be considered in assessing the injurious effects of alleged "less than fair value" imports. When imports from Italy are cumulated with those alleged to exist from Finland, France, Sweden, Austria and Belgium, the level of import penetration is approximately 10 percent of current U.S. consumption. Accordingly, based upon available information of injury resulting from sales at less than fair value, no "substantial doubt" of injury exists and no reference of this case to the ITC will be made.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined that there are grounds for doing so, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

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This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

APRIL 28, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-12271 Filed 5-4-78; 8:45 am]

[4810-22]

VISCOSE RAYON STAPLE FIBER FROM SWEDEN

Anitdumping Proceeding

AGENCY: U.S. Treasury Department.

ACTION: Initiaton of antidumping investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether or not imports of viscose rayon staple fiber from Sweden are being, or are likely to be, sold at less than fair value within the meaning of the Anitdumping Act of 1921, as amended.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 28, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc., Valley Forge, Pa., a domestic producer of the subject merchandise, indicating a possibility that viscose rayon staple fiber from Sweden is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this notice, the term "viscose rayon staple fiber" refers to viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments).

Margins of dumping are alleged which, based on a comparison of sales to the United States to sales in the home market, range from 13 percent to 16 percent. Petitioner has alleged, however, that sales in Sweden of viscose rayon staple fiber are being made at prices below the cost of production as defined in section 205(b) of the Act (19 U.S.C. 164). A comparison of sales to the United States and the constructed value of rayon staple fiber in Sweden as calculated and alleged by petitioner yields possible dumping margins from 60 percent to 64 percent. Treasury's investigation will seek to determine whether Swedish home market sales are being made at prices below the cost of production as defined in section 205(b) and, if so, will disregard such sales in the calculation of foreign market value. If insufficient sales, either in the home market or to countries other than the United States, remain at not less than the cost of production, then constructed value will be employed as a basis of fair value.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States that produces viscose rayon staple fiber. This information indicates that imports of viscose rayon staple fiber from Sweden are underselling domestic manufacturers by margins that are completely acoounted for by the alleged dumping margins. Petitioner has supplied information indicating that it has incurred significant losses from 1975-1977, that it has been operating at far below operating capacity over the same period and that it has been unable to raise its prices due to lower priced imports.

Imports of viscose rayon staple fiber from Sweden increased in both absolute and relative terms in 1977 compared to 1976. In addition, Treasury is simultaneously initiating three antidumping investigations with regard to this product from Finland, France, and Italy and is presently conducting an antidumping investigation of this product from Austria. Imports from Belgium of this product were also recently subjected to an antidumping investigation in which a "Determination of Sales at Less Than Fair Value" was published in the FEDERAL REGISTER on May 1, 1978 (43 FR 18619).

The cumulative effect of imports of a single fungible product from more than one country must, when appropriate, be considered in assessing the injurious effects of alleged "less than fair value" imports. When imports from Sweden are cumulated with those alleged to exist from Finland, France, Italy, Austria, and Belgium, the level of import penetration is approximately 10 percent of current U.S. consumption. Accordingly, based upon available information of injury resulting from sales at less than fair value, no "substantial doubt" of injury exists and no reference of this case to the ITC will be made.

Having conducted a summary investigation as required by § 153.29 of the Customs regulations (19 CFR 153.29) and having determined that there are grounds for doing so, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

APRIL 28, 1978.

[FR Doc. 78-12272 Filed 5-4-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 653]

ASSIGNMENT OF HEARINGS

MAY 2, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 133937 (Sub-No. 22), Carolina Cartage Co., Inc., is now assigned for hearing July 11, 1978 (4 days), at Columbia, SC, at a location to be later designated.

No. MC-F 13266, Mason & Dixon Lines—Purchase—J. W. Craig, doing business as City Transfer & Storage Co., and MC 59583 (Sub-Nos. 163 and 164), the Mason & Dixon Lines, Inc., are now assigned for hearing July 17, 1978 (1 week), at Columbia, SC, at a location to be later designated.

No. MC 720 (Sub-No. 36), Bird Trucking Co., Inc., is now assigned for hearing June 6, 1978 (2 days), at Madison, WI, at a location to be later designated.

No. MC 75281 (Sub-No. 9), Righter Trucking Co., Inc., now being assigned June 5, 1978 (1 week), at St. Louis, MO, in a hearing room to be later designated.

No. MC 126679 (Sub-No. 6), Dennis Truck Lines, Inc., is now assigned for hearing July 17, 1978 (1 week), at Atlanta, GA, at a location to be later designated.

No. MC 87109 (Sub-No. 25), Tidewater Inland Express, Inc., doing business as T.I.E., Inc., is now assigned for hearing July 24, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12311 Filed 5-4-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 2, 1978.

This application for long- and short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43537, the East Asiatic Co., Ltd.'s No. 103, on intermodal rates on general commodities, between ports in the Orient, on the one hand, and rail terminals on the U.S. Atlantic and gulf coasts, on the other, by way of U.S. Pacific coast interchanges, to be published in its tariff No. 2, ICC No. 2, and other schedules named in the application. Grounds for relief—Water competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12310 Filed 5-4-78; 8:45 am]

[7035-01]

[Notice No. 38]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission by June 5, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s) or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-F-C 78444. By order dated March 14, 1978, Division 3, acting as an Appellate Division approved the transfer to TRANS-NATIONAL FREIGHT, INC., 1200 Spruce Street, Roselle, NJ 07203, of that portion of the operating rights of Truck Transport, Inc., 29 Clayton Hills Lane, St. Louis, MO 63131, set forth in No. MC 115331 E-25, E-26, E-27, E-30, and a portion of E-44, published June 9, 1975, February 10, 1975, April 8, 1975, June 9, 1975, and April 28, 1976, respectively, which became effective 15 days after publication unless that day was a Saturday, Sunday, or legal holiday in DC, in which case the effective date is the next working day, and a portion of the operating rights of transferor as set forth in No. MC 115331 (Sub-No. 189), issued October 12, 1971, as follows: *Chemicals*, in containers, from and to points in NJ, AR, IL, IA, KS, MN, MO, NE, OK, WI, IN, KY, WV, PA, OH, MI, CA, TN, and NV. Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036, and William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960, attorneys for transferor and transferee, respectively.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12312 Filed 5-4-78; 8:45 am]

[7035-01]

[Notice No. 37]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 5, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC-F-C 77642. By application filed April 26, 1978, EQUIPMENT EXPRESS, LTD., 8105 Don Mills Road, Markham, ON, Canada L3R 2P1, seeks temporary authority to transfer a portion of the operating rights of (B) Barney Kosofsky, d.b.a. Barney's Cartage Co., an individual, operating as a sole proprietorship, Carlyle Towers, Apartment 903, 23300 Providence Drive, Southfield, MI, and (BB) Lee Goddard, Inc., James V. McTevia, trustee in bankruptcy, possessor under agreement of January 31, 1973, 19001 East 8 Mile Road, East Detroit, MI 48021, under section 210a(b). The transfer to Equipment Express, Ltd., of a portion of the operating rights of (B) Barney Kosofsky, d.b.a. Barney's Cartage Co., an individual, and (BB) Lee Goddard, Inc., James V. McTevia, trustee in bankruptcy, possessor under agreement, of January 31, 1973, is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12313 Filed 5-4-78; 8:45 am]

[7035-01]

[Notice No. 36]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 5, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer rules, 49 CFR Part 1132:

No. MC-F-C 77641. By application filed April 26, 1978, BERNARD R. MATTINGLEY and JANICE A. MATTINGLEY, individuals (husband and wife), doing business as Key Mobile Homes, 3320 Mountain View Drive, Anchorage, AK 99504, seeks temporary authority to transfer the operating rights of Totem Toters, Inc., 300 Gull Avenue, Anchorage, AK 99501, under section 210a(b). The transfer to Bernard R. Mattingley and Janice A. Mattingley, individuals (husband and wife), doing business as Key Mobile Homes, of the operating rights of Leonard H. Gross and Claire G. Hegelien, individuals, doing business as Totem Toters, Inc., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12314 Filed 5-4-78; 8:45 am]

[7035-01]

[Notice No. 16]

SPECIAL PROPERTY BROKERS

MAY 1, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including AK and HA. Any interested person shall file an original and (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to :

Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, DC 20423.

Opposing parties shall serve one copy of the statement in opposition concur-

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rently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-78-25, filed February 13, 1978. Applicant: LANDALE, INC., 1313 Southwest Third, Room No. 4, Oklahoma City, OK 73108. Applicant's representative: C. L. Phillips, Room 248, Classen Terrace Building, 1411 North Classen, Oklahoma City, OK 73106.

B-78-30, filed March 23, 1978. Applicant: STEVENS VAN LINES, INC., 121 South Niagara Street, Saginaw, MI 48602. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12315 Filed 5-4-78; 8:45 am]

[7035-01]

[No. 36437]

DEPARTMENT OF DEFENSE—PETITION FOR DECLARATORY ORDER

Establishing Effective Date of 3 Percent Increase

AGENCY: Interstate Commerce Commission.

ACTION: Notice of order to carriers having made charges other than specified in tariffs in effect at the time.

SUMMARY: Upon petition of the administrator of General Services (GSA) in a proceeding where it was found that collection of 3 percent increased charges on household goods prior to the effective date of a valid tariff constituted overcharges in violation of the Interstate Commerce Act the Commission issued the order reproduced below. By this Notice, the Commission wishes to protect the rights of any persons not parties to this proceeding and to give them an opportunity to be heard. Opening statements of fact and argument in opposition to the order reproduced below must be filed on or before May 25, 1978, with any replies due 20 days thereafter.

It is ordered: Within 90 days from publication in the FEDERAL REGISTER, each motor carrier member of HGCB shall:

1. Identify each shipper who paid charges pursuant to the "conversion chart" applied in lieu of the suspended tariff supplements identified in the division's report served October 14, 1977;

2. Notify each such shipper of the difference between the amount paid, and the charges computed on the basis of tariffs in effect on May 14, 1976;

3. With this notice, provide instructions for filing claims and furnish the necessary forms.

ADDRESS: Send notice of intent to participate and address to Office of Proceedings, (Room 5342), Interstate Commerce Commission, Washington, D.C., 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7693.

Issued in Washington, D.C., April 26, 1978.

By the Commission, Division 1, Acting as an Appellate Division, Commissioners Brown, Gresham, and Christian.

H. G. HOMME, Jr.,
Acting Secretary.

DEPARTMENT OF DEFENSE—PETITION FOR DECLARATORY ORDER

RE: ESTABLISHING EFFECTIVE DATE OF 3 PERCENT INCREASE

In a report served October 14, 1977, Division 2 found that collection of 3 percent increased charges on household goods prior to the effective date of a valid tariff constituted overcharges in violation of Section 217 of the Interstate Commerce Act.

By petition filed November 14, 1977, Household Goods Carriers' Bureau, Inc. (HGCB), seeks administrative review of this report. Replies were filed by the Department of Defense on December 5, 1977 and by Aerospace Industries Association of America, Inc., on December 14, 1977. The petition does not show any material errors in the division's statement and evaluation of the facts, conclusions of law, or findings, and does not raise any matters of fact or law not adequately considered and properly disposed of in the division's report.

By petition filed November 14, 1977, the Administrator of General Services (GSA), seeks leave to intervene in this proceeding pursuant to Rule 70 of the Commission's General Rules of Procedure (49 CFR 1100.70), and to file a petition to "remove uncertainties arising" out of our report served October 14, 1977, finding that the lawful effective dates for the 3 percent increase filed by HGCB, contemplated in I. & S. Docket No. M-29035, were July 12 and July 25, 1976. This petition is treated as a petition for specific relief, rather than modification of the outstanding declaratory order.

A reply was filed by HGCB alleging (1) that GSA has not met the requirements of Rule 70 and (2), that the Commission has no jurisdiction to grant the substantive relief sought by GSA.

GSA substantially meets the requirements of Rule 70 and it is permitted to intervene and its tendered petition is accepted for filing.

The relief specifically sought by GSA is an order by this Commission with respect to the overcharges arising during the period from May 15, 1976, to July 12, or July 25, 1976, as applicable, making the following requirements:

1. Respondent carriers should identify each affected shipper;

2. Respondent carriers should notify each shipper of the amount of refund due on grounds of overcharge;

3. Respondent carriers, at time of notification, should give instructions for filing claims, and furnish necessary forms.

The Aerospace reply to HGCB's petition also supports these requests by GSA.

Although, under section 204a(2) of the act, we do not have jurisdiction to order motor carriers to pay overcharges, our general authority extends to discovery in aid of claims shippers may make of motor carriers pursuant to section 204a(2) of the Act. Cf. Loss and Damage Claims, 340 ICC 515, 539-543 (1972). Under the national transportation plicy, it is our responsibility to "promote safe, adequate, economical and efficient service * * *." Section 204(a)(6) orders us to "administer, execute and enforce all provisions of [Part II]" and "to make all necessary orders in connection therewith * * *." This includes the provision in section 217(b) that no motor carrier shall "collect or receive a greater or less or different compensation * * * than the rates, fares and charges specified in the tariffs in effect at that time * * *." As indicated in *American Trucking Assns. v. United States*, 344 U.S. 298, 313 (1952), "the power under § 204(a)(6) is geared to and bounded by the limits of the regulatory system of the Act which it suplements." We do not require the payment of money but merely direct the carriers to identify and notify affected shippers and provide them with the necessary instructions and forms to file overcharge claims. If, after the claims are filed, the carriers refuse to return the overcharged amounts to the shippers, the shippers' only recourse is still to seek money judgments against the carriers in court pursuant to section 204a(2). Identification and notification requirements in no way impinge on the jurisdiction of the courts. These are not burdensome because the information to be furnished is in the possession of the carriers.

It is ordered: Within 90 days from publication in the FEDERAL REGISTER, each motor carrier member of HGCB shall:

1. Identify each shipper who paid charges pursuant to the "conversion chart" applied in lieu of the suspended tariff supplements identified in the division's report served October 14, 1977;

2. Notify each such shipper of the difference between the amount paid, and the charges computed on the basis of tariffs in effect on May 14, 1976;

3. With this notice, provide instructions for filing claims and furnish the necessary forms.

4. This order shall be published in the FEDERAL REGISTER to protect the rights of other persons who might have an interest in this issue, with an invitation to intervene.

Decided April 26, 1978.

By the Commissions, Division 1, Acting as an Appellate Division, Commissioners Brown, Gresham, and Christian.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12316 Filed 5-4-78; 8:45 am]

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[1505-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 42TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-8684 appearing at page 13944 in the issue for Monday, April 3, 1978, under No. MC 129021 (Sub-No. 4TA), appearing in the third column of page 13946, the italicized words *"common carrier"* should have read *"contract carrier"*.

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

[M-127, April 28, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1 p.m.—May 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 31789; Allegheny's Request for Change in Service Pattern at Lexington and New Haven (Memo No. 7930, BPDA).
3. Dockets 31003 and 32276; Application of National Airlines for deletion of Newport News; Application of Piedmont Aviation for removal of restriction between New York and Newport News (Memo No. 7575-A, BPDA, OCCR, OGC).
4. Docket 32009, National New Orleans-Orlando Subpart N Application (Memo No. 7818-A, BPDA).
5. Third-Party Access to ATC Agency List (Memo No. 7931, BPDA).
6. Docket 30861, Overseas National Airways, Inc., Prestwick Investments, Inc., and Marline Resources Co., Inc. (Memo No. 7941, BPDA).
7. Docket 32367, Mixed configuration cargo charter charges proposed by KLM (Memo No. 7940, BPDA, BIA).
8. Docket 31871, Report to the Congress on the Feasibility and Economic Impact of Youth Standby Fares (BPDA).
9. Docket 32446, Revision to consequential damage and liability rules (BPDA).
10. Docket 31071; Delta's application for Houston-New Orleans fill-up rights (Memo No. 7739-A, BPDA).
11. Docket 31373, Petition of Alaska Airlines to terminate a condition of Order 73-1-12 restricting non transport diversification (BPDA, OGC).
12. Docket 28800, Phoenix-Des Moines/Milwaukee Route Proceeding (Order on reconsideration of 78-1-116) (OGC).
13. Docket 30402, British Airtours Limited, Amendment of Foreign Air Carrier Permit (Memo No. 7932, OGC, BIA).
14. Docket 30682, *Investigation of Pan American's Washington/Baltimore/Chicago service, Routes 117 and 130,* Opinion and Order on Discretionary Review (OGC).
15. Docket 30782, California-Toronto, Montreal Route Proceeding, Opinion and Order on Review (OGC).
16. Dockets 32126, 30547, 32215, 31278, 30614, 32200, 31240, 32216, 29583, 31927, 31634, and 31385, *Twin-Cities-Kansas City-Oklahoma-Texas Route Proceeding,* Order 78-2-76 Order on requests for reconsideration, consolidation and intervention (Memo No. 7481-B, OGC).
17. Docket 30654, Proposed Rulemaking to eliminate charter tariffs, Supplemental Notice Proposed Rulemaking (Memo No. 7350-A, OGC, BIA, BPDA, BOE).
18. Docket 31044, *Hazardous Articles Rules and Practices Investigation*—Draft order asking for comments on whether to make section 418 carriers parties to the case (Memo No. 7210-B, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-936-78 Filed 5-3-78; 9:04 am]

[6320-01]

2

[M-127, Amdt. 1, pub. May 2, 1978]

CIVIL AERONAUTICS BOARD.

NOTICE OF ADDITION OF ITEMS TO THE MAY 5, 1978 AGENDA

TIME AND DATE: 1 p.m.—May 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 7a. Docket 32520, excess baggage charges proposed by United (BPDA); 7b. Passenger fare increases in the Honolulu-Pago Pago market proposed by Pan American (BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION:

May 5 is the last regularly scheduled meeting at which the Board can consider these proposals. Item 7a must be decided by May 10, and Item 7b by May 5. Accordingly, the following Members have voted that agency business requires the addition of these items to the May 5, 1978, agenda and that no earlier announcement of these additions was possible:

Chairman Alfred E. Kahn
Vice Chairman G. Joseph Minetti
Member Lee R. West
Member Richard J. O'Melia
Member Elizabeth E. Bailey

[S-937-78 Filed 5-3-78; 9:04 am]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., May 12, 1978.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-939-78 Filed 5-3-78; 11:10 am]

[6351-01]

4

COMMODITY FUTURES TRADING COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., May 5, 1978.

CHANGES IN THE MEETING: Meeting is cancelled.

[S-940-78 Filed 5-3-78; 11:10 am]

[6712-01]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., and 2 p.m., Tuesday, May 9, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—COMSAT rate case settlement proposal (Docket No. 16070).
Common Carrier—2—Petitions to reject and suspend Western Union's tariff filings, FCC Nos. 268 and 269, Transmittal Nos. 7347 and 7348 (CC Docket 78-97).
Common—Carrier—3—Applications to expand AT&T's Dataphone Digital Service to serve a total of 98 cities, W-P-C 1420.

2:00 p.m.

Renewal—1—Petitions to deny Educational Broadcasting Corporation's renewal application (WNET-TV, Newark, N.J.).
Renewal—2—The 1978 renewals of New York and Philadelphia stations serving New Jersey.
Cable television—1—State of New Jersey petition for special relief from §§ 76.59 and 76.61 of the Commission's rules.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC, Public Information Office, telephone 202-632-7260

Issued: May 2, 1978.

[S-942-78 Filed 5-3-78; 11:0 am]

[6712-01]

6

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., Thursday, May 4, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following agenda items have been deleted:

Agenda, Item No., and Subject

Common Carrier—2—Amendment of section 21.13(f) of the Commission's rules deferring state certification until after construction of DPLMRS station (Docket No. 20870, 61 FCC 2d 266).
Common Carrier—3—Petitions to reject and suspend Western Union's tariff filings, FCC Nos. 268 and 269, Transmittal Nos. 7347 and 7348 (CC Docket 78-97).
Common Carrier—4—COMSAT rate case settlement proposal (Docket No. 16070).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC, Public Information Office, 202-632-7260.

Issued: May 2, 1978

[S-943-78 Filed 5-3-78; 11:10 am]

[6715-01]

7

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, May 10, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports. Compliance. Personnel.

DATE AND TIME: Thursday, May 11, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.
II. Correction and approval of minutes.
III. Advisory Opinions: 1977-42; 1978-11; 1978-22; 1978-23; 1978-24; 1978-25. AOR Status Report.
IV. Appropriations and Budget (Budget Execution Report).
V. Management Report.
VI. Audit procedures for nonresponsive candidates and committees.
VII. Earmarked contributions.
VIII. Pending legislation.
IX. FOIA Regulations.
X. Pending litigation (Litigation Status Report).
XI. Liaison with other Federal agencies.
XII. Classification actions.
XIII. Routine administrative matters.
XIV. Non-filer procedures.

Portions closed to the public:

Any matters not concluded at the Executive Session of May 10, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-945-78 Filed 5-3-78; 3:22 pm]

[6740-02]

8

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Pub. May 1, 1978, 43 FR 18627).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 3, 1978, 10 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CP-14—City of Fulton, Miss., Mantachie Natural Gas District.

KENNETH F. PLUMB,
Secretary

[S-946-78 Filed 5-3-78; 3:22 pm]

[6730-01]

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: May 11, 1978—10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Agreements Nos. T-3565 and T-3565-A between the Puerto Rico Ports Authority and Sea-Land Service, Inc., and Agreements Nos. T-3567 and T-3567-A between the Puerto Rico Ports Authority and the Puerto Rico Maritime Shipping Authority providing for use of marine terminal facilities at Puerto Nuevo, San Juan.
2. Special Docket No. 561: *Sunpak Movers, Inc.* v. *Sea-Land Service, Inc.*—Review of initial decision.
3. Informal Docket No. 405(I): *Paramount Export Company* v. *Sea-Land Service, Inc.*—Review of Settlement Officer's decision.
4. Docket No. 73-55: Uniform Rules and Regulations Governing Free Time on Import Containerized Cargo at the Port of New York—Discussion of record.

Portion closed to the public:

1. Docket No. 77-26: Independent Ocean Freight Forwarders License—E. L. Mobley Inc.—Request for settlement.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-935-78 Filed 5-3-78; 9:04 am]

[6210-01]

10

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, May 10, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda: Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

V 43 / 88

1. Proposed expansion of the System's computer hardware monitoring program.
2. Proposed interpretation of Regulation A (Extensions of Credit by Federal Reserve Banks) to provide that a bankers' acceptance secured by a field warehouse receipt covering readily marketable staples is eligible for discount by a Federal Reserve Bank despite the fact that the warehouseman is an employee of the owner of the goods. (Proposed earlier for public comment; Docket No. R-0135).

Discussion Agenda:

1. Proposed adoption of a Uniform Interagency Bank Rating System.
2. Proposal to publish for comment as an additional permissible nonbanking activity for bank holding companies: underwriting property and casualty insurance related to extensions of credit.
3. Proposed amendments to Regulations C (Securities Credit by Persons Other Than Banks, Brokers, or Dealers), T (Credit by Brokers and Dealers), and U (Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks) to provide that only those dealers submitting bid and offer quotations to an automated quotation system will be counted in preparing the Board's Over the Counter list of margin stocks. (Proposed earlier for public comment; Docket No. R-0147).
4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

[S-941-78 Filed 5-3-78; 11:10 am]

[6750-01]

11

FEDERAL TRADE COMMISSION.
TIME AND DATE: 2 p.m., Thursday, May 4, 1978.

PLACE: Room 532 (open), Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to public:

(1) Oral argument in TRW Inc., Docket No. 9084.

Portions closed to the public:

(2) Post-oral argument meeting to consider disposition of appeal from initial decision in TRW Inc., Docket No. 9084.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830; Recorded message, 202-523-3806.

[S-944-78 Filed 5-3-78; 11:10 am]

[7020-02]

12

[USITC SE-78-22]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AMD DATE: 9:30 a.m., Tuesday, May 9, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Emergency meeting—less than 10 days' prior notice. Open to the public.

MATTERS TO BE CONSIDERED:

1. Status report on the Office of Legal Services.
2. Status report on the Office of the Administrative Law Judge.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-947-78 Filed 5-3-78; 3:22 pm]

[7020-02]

13

[USITC SE-78-20B]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Pub. April 25, 1978.)

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Thursday, May 4, 1978.

CHANGES IN THE MEETING: Agenda Item No. 7 [Photographic, color paper from Japan and West Germany (Inv. AA1921-Inq.-11 and -32)—briefing and vote], previously announced as open to the public, was closed to the public (discussion only) by a vote of a majority of the entire membership of the Commission.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-948-78 Filed 5-3-78; 3:22 pm]

[3710-GX]

14

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: 8 a.m., May 15, 1978.

PLACE: On board MV *Mississippi* at foot of Ward Avenue, Caruthersville, Mo.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by the President on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; (3) District Engineer's report on the Mississippi River and Tributaries Program in Memphis District.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger D. Harris, telephone 601-636-1311, extension 205.

[S-951-78 Filed 5-3-78; 3:22 pm]

[3710-GX]

15

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: 8:30 a.m., May 17, 1978.

PLACE: On board MV *Mississippi* at Lake Providence Harbor, Lake Providence, La.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by the president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; (3) District Engineer's report on the Mississippi River and Tributaries Program in Vicksburg District.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger D. Harris, telephone 601-636-1311, extension 205.

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: 8:30 a.m., May 18, 1978.

PLACE: On board MV *Mississippi* at Tri-G Marine Supply Company, Inc., foot of France Street, Baton Rouge, La.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by the president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; (3) District Engineer's report on the Mississippi River and Tributaries Program in New Orleans District.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Roger D. Harris, telephone 601-636-1311, extension 205.

[S-953-78 Filed 5-3-78; 3:22 pm]

[4110-24]

16

NATIONAL MUSEUM SERVICES BOARD.

TIMES AND DATES: 9 a.m. Sunday, May 14, 1978 and 9 a.m. Monday, May 15, 1978.

PLACE: President's Room, Montana Hall, Montana State University, Bozeman, Mont.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Status of Institute of Museum Services' grants program.
2. Status of application's review process.
3. Chairman's report.
4. Director's report.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Leila Kimche, Director, Institute of Museum Services, 202-245-6753.

DATE OF NOTICE: May 5, 1978.

Signed at Washington, D.C. on May 2, 1978.

LEILA KIMCHE,
Director, Institute of Museum Services.

[S-949-78 Filed 5-3-78; 3:22 p.m.]

[4910-58]

17

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, May 11, 1978 (NM-78-21).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report.*—Side Collision of Southern Railway Company Trains Nos. 1 and 152, Spencer, N.C., October 8, 1977.
2. *Letter.*—To Mr. William Fanning re reconsideration of probable cause, Falcon 20F, Naples, Fla., November 12, 1976.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-938-78 Filed 5-3-78; 9:04 am]

[7710-12]

18

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

NOTICE OF VOTE TO CLOSE MEETINGS

On May 2, 1978, the Board of Governors of the United States Postal Service unanimously voted to close to public observation a portion of its meetings currently scheduled for May 19 and June 6, 1978. Each of the members of the Board voted in favor of partially closing these meetings, which are expected to be attended by the following persons: Governors Wright, Holding, Ching, Codding, Hardesty, and Robertson; Postmaster General Bolger; Deputy Postmaster General Conway, and Secretary to the Board Cox.

The portion of the meeting to be closed will consist of a discussion of the Postal Service's possible strategies and positions in current collective bargaining negotiations involving parties to the 1975 National Agreement between the Postal Service and four labor organizations representing certain postal employees, which is scheduled to expire in July of 1978.

The Board of Governors is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of title 39, Code of Federal Regulations, the discussion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3) and 552b(c)(9)(B) of title 5 and section 410(c)(3) of title 39, United States Code, and §§ 7.3(c) and 7.3(i) of title 39, Code of Federal Regulations.

LOUIS A. COX,
Secretary.

[S-950-78 Filed 5-3-78; 3:22 pm]

[7710-12]

19

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

NOTICE OF VOTE TO CLOSE MEETING

On May 2, 1978, the Board of Governors of the United States Postal Service unanimously voted to close to public observation a portion of its meeting. Each of the members of the Board voted in favor of partially closing the meeting, which was attended by Governors Wright, Holding, Ching, Codding, Hardesty, and Robertson; Postmaster General Bolger; Deputy Postmaster General Conway; and Secretary to the Board Cox.

The portion of the meeting closed consisted of a discussion of the Postal

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Service's possible strategies and positions in the current collective bargaining negotiations involving parties to the 1975 National Agreement between the Postal Service and four labor organizations representing certain postal employees, which is scheduled to expire in July of 1978.

The Board of Governors is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of title 39, Code of Federal Regulations, the discussion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting closed may properly be closed to public observation, pursuant to sections 552b(c)(3) and 552b(c)(9)(B) of title 5 and section 410(c)(3) of title 39, United States Code, and §§ 7.3(c) and 7.3(i) of title 39, Code of Federal Regulations.

LOUIS A. COX,
Secretary.

[S-951-78 Filed 5-3-78; 3:22 pm]

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federal register

FRIDAY, MAY 5, 1978
PART II



DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Public Health Service

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Project Grants for Genetic Diseases Testing and Counseling Programs

federal register

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[4110-84]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 51f]

PROJECT GRANTS FOR GENETIC DISEASES TESTING AND COUNSELING PROGRAMS

Notice of Proposed Rulemaking

AGENCY: Public Health Service, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth proposals for implementing the administration of project grants for genetic diseases testing and counseling programs under the amendments to title XI of the Public Health Service Act. Interested parties are invited to submit written comments and recommendations concerning the proposals, as well as suggestions for alternative methods of implementing the programs. After consideration of the material received in response to this notice, the Secretary of Health, Education, and Welfare will issue final regulations.

DATE: Comments must be received by July 5, 1978.

ADDRESS: Written comments and recommendations should be submitted to the Director, Division of Policy Development, Bureau of Community Health Services, Health Services Administration, Room 6-17, 5600 Fishers Lane, Rockville, Md. 20857. All comments received in timely response to this notice will be considered and will be available for public inspection in the above-named office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Audrey Manley, M.D., Acting Chief, Genetic Services Branch, Office of Maternal and Child Health, Bureau of Community Health Services, Room 6-40, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1080.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to issue regulations to implement amendments to title XI of the Public Health Service Act (42 U.S.C. 300b et seq.). These amendments were enacted by title IV of Pub. L. 94-278, the "National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act." The provisions of this Act replace former parts A and B of title XI of the Public Health Service Act, which authorized grants to programs for sickle cell anemia and Cooley's anemia. The new Act provides a broader and more flexible authority, enabling the Secretary to make grants for testing and counseling services for a wide range of genetic diseases.

The issues raised by the Act and the Department's proposed approaches for resolving them are as follows:

1. *Diseases to be included in program coverage.* The Act authorizes the Secretary to make grants for testing and counseling programs for genetic diseases, but does not explicitly require coverage of any particular disease, or group of diseases, under these programs. Over 2,000 different genetic diseases have been identified, so that coverage of each of these diseases under any program would be highly impractical, if not impossible, However, efficient utilization of genetic expertise and laboratory facilities is not limited to one disease, and, on a realistic basis, efficient utilization of such resources dictates the inclusion of as many diseases as feasible. Therefore, a determination is needed as to how many and which diseases are to be covered under the programs.

Nine diseases are specifically mentioned in the Act—sickle cell anemia, Cooley's anemia, Tay-Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, and muscular dystrophy. It is recognized that these nine genetic diseases are a heterogeneous group: (1) they are not necessarily the most prevalent or serious; (2) accurate screening and diagnostic procedures are not available for all; and (3) the service needs created by these nine diseases are disparate because of wide variations in such factors as the age of onset and the degree of disability. It is clear, however, that the statutory intent is to provide services for a broad range of genetic disorders inclusive of, but not limited to, the nine diseases listed in the Act, and the Secretary believes that coverage of these nine, as an initial requirement for each grantee, is a reasonable way to assure that the programs carry out the law. Therefore, the Secretary proposes that each project be required to provide services with respect to at least the nine specified diseases. If, however, there has been only a case or two of any one of those diseases in a project's catchment area within the past several years, the project would be required only to establish a plan for, and be capable of immediately implementing services for, that particular disease.

The Secretary proposes to develop a broad-based genetic disease program inclusive of, but not limited to, the nine diseases specified in the statute. The grantee would determine the additional conditions to be addressed based upon (1) a determination of priority needs within the proposed catchment area, and (2) the availability of reliable screening and diagnostic techniques for the detection of genetic disorders in the prenatal, neonatal, or early childhood periods, and the detection of carrier states. The Secretary would approve extended program coverage of additional genetic disorders in categories of early detection and carrier status, taking into account: (1) the need for such services; (2) the prevalence of the disease; (3) availability of reliable testing methods; and (4) availability of resources. Comments are solicited on the feasibility of this approach.

2. *Essential program services.* The Secretary believes that each grantee must be required to provide a certain minimum set of essential services, to insure maximum program effectiveness and uniformity. The Secretary proposes that the essential services of an approvable project include testing and confirmatory diagnostic procedures, counseling, referral for medical management, followup to assure that referrals have been accomplished, and facilitating services (such as transportation) when needed. Such services could be provided directly or indirectly, and at more than one location. The Secretary also proposes that each grantee be required to provide these services by appropriately qualified personnel who meet applicable certification and/or licensure requirements, and also that each grantee be required to make the services available to all residents of the catchment area.

3. *Catchment area.* The Act contains no explicit requirements as to the size of a catchment area to be served by a project. However, the Act does require the testing and counseling programs to be established and operated "primarily in conjunction with other existing health programs, including programs assisted under Title V of the Social Security Act." Fifty States currently have a statewide Maternal and Child Health and Crippled Children's Services Program; approximately 44 States have statewide screening programs for inborn errors of metabolism in newborn infants; and approximately 33 States have university-based genetic centers under State plans for genetic services, 21 of which are assisted under Title V of the Social Security Act. The Secretary feels that utilization of these existing programs and resources would facilitate the establishment of statewide networks of genetic disease services, and allow for the most rapid and effective use of funds under a grant or contract (Section 1104(b)). Therefore, the Secretary proposes that the minimum catchment area be no smaller than a State. Suggestions are solicited as to the appropriateness of this or any other catchment area proposal.

4. *Administrative requirements.* Section 1104(a) of the Act sets forth several requirements for project administration. For example, each project must be administered by or under the supervision of the applicant, each applicant must provide for community representation where appropriate in the development and operation of the project, and each applicant must establish proper fiscal controls and accounting procedures. Similar requirements were in effect under the previous title XI sickle cell and Cooley's anemia programs. Comments relating to past experience, as well as suggestions for current implementation of these requirements, are invited.

Section 1104(a)(2) of the Act, relating to confidentiality of medical records and other information, also closely parallels a similar provision under the former legislation, with one significant modification. Section 1104(a)(2) specifically requires "informed consent" of the patient (or his guardian) to release identifying information. The Secretary invites suggestions as to how this requirement should be implemented and identification of foreseeable problems in its application, particularly when program services are provided by a third party.

5. *Criteria for evaluation of grant applications.* The act requires that in making a grant for testing and counseling programs, the Secretary shall "take into account the number of persons to be served by the program • • • and the extent to which rapid and effective use will be made of grant funds" (section 1104(b)). The Secretary proposed to interpret the latter half of this provision through use of the following specific criteria: (1) how well the requirements set forth in the regulations for approval of applications have been met; (2) the cost effectiveness of the proposal; (3) the feasibility of the plan for providing services and the rapidity with which services can be made available; (4) the extent to which services will be integrated with other existing programs, including title V programs and federally assisted sickle cell clincis in the catchment area; (5) the extent to which the program is part of a network of services which covers the catchment area; and (6) the soundness of the management capability of the applicant. The Secretary invites comments as to the utility of these standards, and suggestions as to other appropriate criteria.

6. *Priority for areas in greatest need.* Section 1104(b)(2) requires the Secretary to "give priority to programs operating in areas which the Secretary determines have the greatest number of persons who will benefit from and are in need of the services provided under such programs." Precise determination of the number of people in need of these programs is impossible, because uniform prevalence data for genetic diseases are not available. A significant proportion of genetic diseases, however, is found in the general population and is not specific to any one identifiable population group. Consequently, the Secretary believes that, if the programs do address coverage of a group of diseases, the primary determination of greatest need should be based on the population density of the proposed catchment area.

As stated above, the Secretary must also take into consideration the estimated unmet need for the services in the area. Suggestions are invited as to what factors should be considered in making this determination.

7. *Special consideration for prior sickle cell grantees.* Section 1104(c) requires the Secretary, in making grants under section 1101, to "give special consideration to applications from entities that received grants from, or entered into contracts with, the Secretary for the preceding fiscal year for the conduct of comprehensive sickle cell centers or sickle cell screening and education clinics." One of several different interpretations of the "special consideration" requirement could be adopted.

One possible approach, for example, would allow for "special consideration" in terms of a priority, in the event that the previous sickle cell grantee has fully satisfied all other statutory and regulatory requirements and is otherwise equal in all respects to alternative applicants. A different approach would allow continued funding for such applicants on a transitional basis if: (1) It is determined that the individual program has been effective and is still needed, (2) that the sickle cell services would be terminated or otherwise rendered ineffective during a transitional period of establishing new, more inclusive programs, and (3) that the applicant shows that it will investigate and, where in the judgment of the Secretary it is feasible and appropriate, take steps to become a comprehensive project as described above. The Secretary invites suggestions on how to implement this statutory provision.

Dated: March 20, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: April 24, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-11806 Filed 5-4-78; 8:45 am]

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Federal Register

FRIDAY, MAY 5, 1978
PART III



DEPARTMENT OF LABOR

Employment Standards Administration

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MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

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[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

ALABAMA—AL78-1045.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:	
AR77-4173	Aug. 19, 1977.
AR77-4285; AR77-4286; AR77-4287; AR77-4288.	Sept. 30, 1977.
AR78-4290	Nov. 11, 1977.
California:	
CA78-5002	Feb. 24, 1978.
Connecticut:	
CT78-3004	Feb. 17, 1978.
Iowa:	
IA77-4223; IA77-4224; IA77-4225; IA77-4226; IA77-4227; IA77-4228; IA77-4229; IA77-4230; IA77-4231; IA77-4232; IA77-4233; IA77-4234; IA77-4235.	Sept. 30, 1977.
Maryland:	
DC78-3008	Mar. 17, 1978.
Mississippi:	
MS78-1021	Mar. 3, 1978.
Missouri:	
MO77-4271; MO77-4272	Sept. 30, 1977.
Ohio:	
OH78-2002	Feb. 10, 1978.
Oklahoma:	
OK77-4273; OK77-4274; OK77-4276; OK77-4277; OK77-4283; OK77-4284.	Sept. 30, 1977.
OK78-4022; OK78-4023	Mar. 31, 1978.
Pennsylvania:	
PA78-3169	May 21, 1978.
PA77-3060	May 20, 1977.
PA77-3107	Aug. 26, 1977.
PA77-3121; PA77-3122; PA77-3123; PA77-3124; PA77-3125.	Sept. 9, 1977.
PA77-3128	Sept. 16, 1977.
PA78-3013	Apr. 14, 1978.
Texas:	
TX77-4139	July 1, 1977.
TX78-4030; TX78-4031; TX78-4036; TX78-4037; TX78-4040; TX78-4043..	Apr. 14, 1978.
Virginia:	
DC78-3008	Mar. 17, 1978.
Washington, D.C.:	
DC78-3008	Mar. 17, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Kansas:	
MO77-4266 (MO78-4048); MO77-4267 (MO78-4049).	Sept. 30, 1977.
Missouri:	
MO77-4266 (MO78-4048); MO77-4267 (MO78-4049).	Sept. 30, 1977.
New Mexico:	
NM 78-4021 (NM 78-4046)	Mar. 10, 1978.
Ohio:	
OH77-2135 (OH78-2059)	Dec. 9, 1977.
Pennsylvania:	
PA77-3043 (PA78-3017)	Apr. 8, 1977.

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AR77-4173 - Mod. #8 (42 FR 42063 - August 19, 1977) Jefferson County, Arkansas					
CHANGE:					
BRICKLAYERS	$ 9.00	.40	.35		.04
CARPENTERS:					
WORK in excess of $1,000,000.:					
Carpenters	9.06	.45	.35		.05
Millwrights-Piledrivermen	9.56	.45	.35		.05
WORK under $1,000,000.:					
Carpenters	8.36	.45	.35		.05
Millwrights-Piledrivermen	8.86	.45	.35		.05
ROOFERS	8.65		.10		
DECISION NO. AR77-4285 - Mod. #7 (42 FR 52695 - September 30, 1977) Garland, Hot Springs and Clark Counties, Arkansas					
CHANGE:					
CARPENTERS:					
Garland County & Northern 2/3 of Hot Springs County:					
Carpenters contracts in excess of $1,000,000.					
Carpenters	9.06	.45	.35		.05
Millwrights-Piledrivermen	9.56	.45	.35		.05
Carpenters contracts under $1,000,000.:					
Carpenters	8.36	.45	.35		.05
Millwrights-Piledrivermen	8.86	.45	.35		.05
CARPENTERS (Remainder of Hot Springs County):					
Carpenters	9.06	.45	.35		.05
Millwrights & Piledrivermen	9.56	.45	.35		.05
ROOFERS	8.65		.10		
DECISION NO. AR77-4286 - Mod. #7 (42 FR 52900 - September 30, 1977) Union & Ouachita Cos., Arkansas					
CHANGE:					
CARPENTERS:					
Carpenters	8.36	.45	.35		.05
Millwrights-Piledrivermen	8.86	.45	.35		.05
ROOFERS	8.65		.10		

NEW DECISION

STATE: Alabama
DECISION NUMBER: AL78-1045
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.
COUNTY: *See below
DATE: Date of Publication

*Counties: Barbour, Coffee, Covington, Dale, Geneva, Henry, Houston and Russell.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANIC	$ 5.25				
BRICKLAYERS	5.00				
CARPENTERS	4.16				
CEMENT MASONS	4.00				
DRYWALL FINISHER	5.50				
DRYWALL HANGER	5.00				
ELECTRICIANS	3.50				
INSULATORS	3.00				
LABORERS	2.75				
PAINTERS, Brush	5.00				
PLUMBERS and PIPEFITTERS	4.05				
ROOFERS	4.25				
SHEET METAL WORKERS	4.29				
SOFT FLOOR LAYERS	3.30				
TRUCK DRIVERS	3.50				
WELDERS - rate for craft					
POWER EQUIPMENT OPERATORS: Bulldozers	3.63				

MODIFICATIONS P. 2

DECISION NO. AR77-4287 - Mod. #8 (42 FR 52903 - September 30, 1977) Pulaski County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS-STONEMASONS	$ 9.00	.40	.35		.04
CARPENTERS:					
Carpenters	9.06	.45	.35		.05
Millwrights-Piledrivermen	9.56	.45	.35		.05
ROOFERS	8.65		.10		
LINE CONSTRUCTION:					
Linemen	11.60		3%		3/8%
Cable splicers	11.725		3%		3/8%
Operator	11.60		3%		3/8%

DECISION NO. AR77-4288 - Mod. #6 (42 FR 52901 - September 30, 1977) Sebastian, Crawford and Washington Counties, Arkansas					
CHANGE:					
BRICKLAYERS-Stonemasons	9.00	.40	.35		.04
CARPENTERS:					
Sebastian & Crawford Counties:					
Carpenters	8.52	.45	.35		.05
Millwrights & Piledrivermen	9.28	.45	.35		.05
WASHINGTON COUNTY:					
Carpenters	8.61	.35	.35		.05
Millwrights & Piledrivermen	9.11	.35	.35		.05
ROOFERS	8.65		.10		

DECISION NO. AR77-4290 - Mod. #6 (42 FR 58924 - November 11, 1977) Conway, Van Buren, Perry and Cleburne Counties, Arkansas					
CHANGE:					
BRICKLAYERS-Stonemasons	9.00	.40	.35		.04
CARPENTERS: (Cleburne, Van Buren County and the Eastern half of Conway and Perry Counties:					
Carpenters	9.06	.45	.35		.05
Millwrights & Piledrivermen	9.56	.45	.35		.05
WESTERN half of Conway and Perry Counties:					
Carpenters	8.36	.45	.35		.05
Millwrights-Piledrivermen	8.86	.45	.35		.05
ROOFERS	8.65		.10		

MODIFICATIONS P. 3

DECISION NO. CA78-5002 - Mod.#2 (42 FR 7881 - February 24, 1978) Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solono, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California Change: Decision No. CA78-5002 - Mod. No. 1, in 43 FR 17162, dated April 21, 1978 to read: Decision No. CA78-5003	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

DECISION NO. CT78-3004- Mod #2 (43 FR 7117)- February 17, 1978) Hartford, Middlesex, New Haven, New London, and Tolland Counties, Connecticut					
Change:					
Electricians:					
Middlesex Co.: Centerbrook, Chester, Clinton, Cobalt, Deep River, Durham, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Middle Haddam, Moodus, Old Saybrook, Rockfall & Westbrook;					
New Haven Co.: Ansonia, Branford, Cheshire, Derby, Guilford, Madison, Meriden, New Have, N. Branford, N.Haven, Northford, Orange, S.Britain, Wallingford;					
New London Co.: E.Lyme, Groton, Lyme, New London, Old Lyme, & Waterford	$10.36	1.00	3%+.40		1of1%

MODIFICATIONS P. 4

Decision #IA77-4223-Mod. #3 (42 FR-53002-September 30,1977) Blackhawk County, Iowa	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
PLUMBERS AND STEAMFITTERS	$ 10.77	.75	.96		.08
SPRINKLER FITTERS	11.93	.75	1.05		.08

Decision #IA77-4224-Mod. #4 (42 FR-53004-September 30,1977) Cerro Gordo (City of Mason City) Iowa					
Change:					
CEMENT MASONS	10.40				
LABORERS:					
GROUP 1	7.99	.30	.40		
GROUP 2	8.24	.30	.40		
GROUP 3	8.49	.30	.40		
PLUMBERS AND STEAMFITTERS	11.50	.65	.55		.04
ROOFERS	8.52				
SPRINKLER FITTERS	11.93	.75	1.05		.08

Decision #IA77-4225-Mod. #2 (42 FR-53006-September 30,1977) Clinton (City of Clinton and abutting municipalities) Iowa					
Change:					
LABORERS:					
GROUP 1	8.93	.30	.60		
GROUP 2	9.18	.30	.60		
GROUP 3	9.23	.30	.60		
SPRINKLER FITTERS	11.93	.75	1.05		.08

Decision #IA77-4226-Mod. #3 (42 FR-53007-September 30,1977) Des Moines (City of Burlington and abutting municipalities and Burlington Ordnance Plant) Iowa					
Change:					
PLUMBERS AND STEAMFITTERS	12.05	.50	1.35		.05
SPRINKLER FITTERS	11.93	.75	1.05		.08

MODIFICATIONS P. 5

Decision #IA77-4227-Mod. #3 (42 FR-53009-September 30,1977) Dubuque (City of Dubuque and abutting municipalities) Iowa	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
SPRINKLER FITTERS	$ 11.93	.75	1.05		.08

Decision #IA77-4228-Mod. #3 (42 FR-53011-September 30,1977) Johnson (City of Iowa City and abutting municipalities) Iowa					
Change:					
BRICKLAYERS	11.89		.55		
SPRINKLER FITTERS	11.93	.75	1.05		.08

Decision #IA77-4229-Mod. #4 (42 FR-53013-September 30,1977) Linn County, Iowa					
Change:					
BRICKLAYERS	11.89		.55		
SPRINKLER FITTERS	11.93	.75	1.05		.08

Decision #IA77-4230-Mod. #6 (42 FR-53015-September 30,1977) Polk County, Iowa					
Change:					
MARBLE,TILE,TERRAZZO FINISHERS	9.16				
SPRINKLER FITTERS	11.93	.75	1.05		.08

Decision #IA77-4231-Mod. #3 (42 FR-53017-September 30,1977) Pottawattamie County, Iowa					
Change:					
SPRINKLER FITTERS	11.93	.75	1.05		.08

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA77-4232-Mod. # 2 (42 FR-53019-September 30,1977) Scott County, Iowa					
Change:					
POWER EQUIPMENT OPERATORS:					
GROUP 1	$ 11.80	.65	.70		.08
GROUP 2	10.40	.65	.70		.08
GROUP 3	9.35	.65	.70		.08
SPRINKLER FITTERS	11.93	.75	1.05		.08
Decision #IA77-4233 Mod. #2 (42 FR-53020-September 30,1977) Story (City of Ames and abutting municipalities) Iowa					
Change:					
MARBLE,TILE,TERRAZZO FINISHERS	9.16				
SPRINKLER FITTERS	11.93	.75	1.05		.08
Decision #IA77-4234 Mod. #2 (42 FR-53022-September 30,1977) Webster (City of Fort Dodge) Ia					
Change:					
ROOFERS	6.75				
SPRINKLER FITTERS	11.93	.75	1.05		.08
Decision #IA77-4235-Mod. #4 (42 FR-53024-September 30,1977) Woodbury (City of Sioux City and abutting municipalities) Iowa					
Change:					
SHEETMETAL WORKERS	10.50	.50	.44		.04
SPRINKLER FITTERS	11.93	.75	1.05		.08

MODIFICATIONS P. 7

DECISION #MS78-1021 - Mod. #2 (43 FR 9082 - dated March 3, 1978)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area V Counties: Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson Counties, Mississippi					
Change:					
Motor Patrol	$4.50				
DECISION #MO77-4271 - Mod. #3 (42 FR 53068 - September 30, 1977) Franklin, Jefferson, Lincoln, St. Charles, Warren Counties & City & County of St. Louis, Missouri					
Change:					
Sheet metal workers	$10.87	.56+3%	.71	.87	.04
DECISION #MO77-4272 - Mod. #2 (42 FR 53071 - September 30, 1977) Franklin, Jefferson, Lincoln, St. Charles, Warren Counties & City & County of St. Louis, Missouri					
Change:					
Laborers:					
Zone 1					
Wrecking	9.65	.45	1.00		
Plumbers (Franklin, Jefferson, St. Charles, St. Louis and Warren Counties)	11.155	.80	.80	.80	.20
Sheet metal workers	10.87	.56+3%	.71	.87	.04
Sprinkler fitters	13.11	.65	.95		.11
Omit:					
Laborers:					
Zone 1					
Residential rehabilitation work	6.05	.45	1.00		

NOTICES

MODIFICATIONS P. 8

DECISION NO. OH78-2002 - MOD. #1 (43 FR 5989 - February 10, 1978) Mahoning & Trumbull Counties, Ohio	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CARPENTERS:					
Commercial Building	10.74	1.07	1.10		.05
Residential	9.67	1.07	1.10		.05
ELECTRICIANS:					
Mahoning (Austintown, Beaver, Berlin, Broadman, Canfield, Ellsworth, Coitsville, Goshen, Green, Jackson, Poland, Springfield, & Youngstown Twps.) & Trumbull (Hubbard & Liberty Twps.) Cos.	13.03	.59	7%		.3%
IRONWORKERS:					
Ornamental; Reinforcing; & Structural	12.03	.40	1.30		.07
Sheeters	12.53	.40	1.30		.07
Bucker-Up	12.155	.40	1.30		.07
MILLWRIGHTS; Piledrivermen	11.53	1.07	1.10		.05
SHELT METAL WORKERS	12.26	.75	.79		.04
SOFT FLOOR LAYERS:					
Commercial Building	10.20	1.07	1.10		.05
Residential	9.18	1.07	1.10		.05
SPRINKLER FITTERS	12.75	.75	1.05		.08
Add:					
MARBLE SETTERS; Terrazzo Workers; Tile Setters:					
Mahoning County	12.305				
PLASTERERS:					
Mahoning County (Smith Twp.)	10.79	.85	.60		.01

MODIFICATIONS P. 9

DECISION NO. OK77-4273 - Mod. #7 (42 FR 53091 - September 30, 1977) Oklahoma, Cleveland, Caddo, Grady, Canadian, Kingfisher, Logan, Lincoln, McClain, Seminole and Pottawatomie Counties, Oklahoma	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
SPRINKLER FITTERS	$11.60	.75	1.05		.08
GLAZIERS	9.30				
DECISION NO. OK77-4274 - Mod. #7 (42 FR 53094 - September 30, 1977) Garfield County, Oklahoma					
CHANGE:					
SPRINKLER FITTERS	11.60	.75	1.05		.08
GLAZIERS	9.30				
DECISION NO. OK77-4276 - Mod. #5 (42 FR 53099 - September 30, 1977) Wagoner County, Oklahoma					
CHANGE:					
SPRINKLER FITTERS	11.60	.75	1.05		.08
DECISION NO. OK77-4277 - Mod. #3 (42 FR 53101 - September 30, 1977) Pittsburg County, Oklahoma					
CHANGE:					
SPRINKLER FITTERS	11.60	.75	1.05		.08
DECISION NO. OK77-4283 - Mod. #4 (42 FR 53106 - September 30, 1977) McIntosh County, Oklahoma					
CHANGE:					
SPRINKLER FITTERS	11.60	.75	1.05		.08
DECISION NO. OK77-4284 - Mod. #4 (42 FR 53109 - September 30, 1977) Muskogee, Adair, Cherokee and Okmulgee Counties, Oklahoma					
CHANGE:					
SPRINKLER FITTERS	11.60	.75	1.05		.08

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MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OK78-4022 - Mod. #1 (43 FR 11451 - March 17, 1978) Tulsa, Creek, Craig, Ottawa, Mayes, Delaware and Roger Counties, Oklahoma					
CHANGE: SPRINKLER FITTERS	11.60	.75	1.05		.08
DECISION NO. OK78-4023 - Mod. #1 (43 FR 13736 - March 31, 1978) Comanche County, Oklahoma					
CHANGE: SPRINKLER FITTERS	11.60	.75	1.05		.08
DECISION #PA76-3169 - Mod. #7 (42 FR-21133 - May 21, 1976) Bucks, Chester, Delavare, Montgomery & Philadelphia Counties, Pennsylvania					
Change:					
Power Equipment Operators Heavy Construction					
GROUP I	$12.75	7.3%	10.3%		1.8%
GROUP II	12.49	7.3%	10.3%		1.8%
GROUP III	11.62	7.3%	10.3%		1.8%
GROUP IV	11.41	7.3%	10.3%		1.8%
GROUP V	11.10	7.3%	10.3%		1.8%
GROUP VI	10.93	7.3%	10.3%		1.8%
GROUP VII	10.42	7.3%	10.3%		1.8%
GROUP VIII	9.68	7.3%	10.3%		
Power Equipment Operators Highway Construction:					
WAGE GROUP 1	12.50	7.3%	10.3%	a	1.8%
WAGE GROUP 2	12.27	7.3%	10.3%	a	1.8%
WAGE GROUP 3	11.66	7.3%	10.3%	a	1.8%
WAGE GROUP 4	11.14	7.3%	10.3%	a	1.8%
WAGE GROUP 5	10.77	7.3%	10.3%	a	1.8%
WAGE GROUP 6	10.42	7.3%	10.3%	a	1.8%
WAGE GROUP 7	9.68	7.3%	10.3%	a	

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3060 - Mod. #4 (42 Fr 26179 - May 20, 1977) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, & York Counties Pennsylvania					
Change:					
Carpenters/Piledrivermen	$ 9.47	.50	.55		
Laborers: Asphalt tampers, concrete pitmen, puddlers & rubbers, Highway guard rail, right of way and property line fence, Highway slab reinforcing placers, laborers, landscape, planter, seeders, and aborists, magazine tenders, railroad trackmen & signalmen, leaser beam men (pipe laying, paving machine)	8.06	.35	.20		
Pnuematic and electric tool op. jackhammers, paving breakers, concrete saws, whacker vibrator sheet hammers, steward, chain saws, pipelayers, asphalt rake, lute or screed men, concrete block layers	8.26	.35	.20		
Caisson-open air-below 8 feet, cofferdam open air-below 8 feet where excavations for circular caissons and cofferdams 8 feet and below level of natural grade adjacent to starting point, formsetter (road) wagon drill, diamond point drill, gunite nozzle operators	8.61	.35	.20		
Blasters	8.84	.35	.20		
Reinforcing steel placers, bonding, aligning and securing and burning and welding in conjunction with reinforcing steel	8.90	.35	.20		
Concrete surfaces	9.28	.35	.20		
Free Air Tunnels and Rock Shafts Outside laborers in conjunction tunnels & rock shafts	8.70	.35	.20		
Chuck tenders, muckers, nippers miners' & drillers helpers, inside laborers	8.99	.35	.20		

MODIFICATIONS P. 12

DECISION #PA77-3060 - Mod. #4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Free Air Tunnels and Rock Shafts					
Miners, drillers, blasters pneumatic schield operators, lining, spotting & timers workmen, reinforcing steel placer placers, bonding, aligning and securing and concrete surfacers	$ 9.47	.35	.20		
POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION					
GROUP 1	12.44	7.3%	10.3%	a	1.8%
GROUP 2	12.15	7.3%	10.3%	a	1.8%
GROUP 3	11.28	7.3%	10.3%	a	1.8%
GROUP 4	10.51	7.3%	10.3%	a	1.8%
GROUP 5	10.04	7.3%	10.3%	a	1.8%
GROUP 6	9.13	7.3%	10.3%	a	1.8%
GROUP 7	12.69	7.3%	10.3%	a	1.8%
GROUP 7-A	12.94	7.3%	10.3%	a	1.8%
GROUP 7-B	13.18	7.3%	10.3%	a	1.8%
POWER EQUIPMENT OPERATORS HIGHWAY CONSTRUCTION					
GROUP 1	10.84	7.3%	10.3%	a	1.8%
GROUP 2	10.00	7.3%	10.3%	a	1.8%
GROUP 3	9.49	7.3%	10.3%	a	1.8%
GROUP 4	9.05	7.3%	10.3%	a	1.8%
GROUP 5	8.50	7.3%	10.3%	a	1.8%
GROUP 6	11.09	7.3%	10.3%	a	1.8%
GROUP 6-A	11.34	7.3%	10.3%	a	1.8%
GROUP 6-B	11.59	7.3%	10.3%	a	1.8%
TRUCK DRIVERS:					
Class I					
Helper, stake body truck (single axle), dumpster	8.97				
Class II					
Dump trucks, tandem & batch trucks semi-trailers, agitator mixer trucks, ready mix and dumpcrete type vehicles, asphalt distributors, farm tractor when used for					

MODIFICATIONS P. 13

DECISION #PA77-3060 - Mod. #4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
transportation stake body truck (tandem)	$ 9.04				
CLASS III					
Euclid type, off-highway equipment back or belly dump truck and double hitched equipment, straddle (ross) carrier, low-bed trailers	9.53				
DECISION #PA77-3107 - Mod. #9 (42 FR 43353 - August 26, 1977) Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pennsylvania					
Change:					
Electricians Zone 5	$10.99	.78	3%+.20		.03
Roofers Zone 1 Commercial	12.07	1.40	.95	e	
Sprinkler Fitters Zone 1	12.31	.75	1.05		.08
Power Equipment Operators:					
Class I	12.75	7.3%	10.3%		1.8%
Class II	12.49	7.3%	10.3%		1.8%
Class III	11.62	7.3%	10.3%		1.8%
Class IV	11.41	7.3%	10.3%		1.8%
Class V	11.10	7.3%	10.3%		1.8%
Class VI	10.93	7.3%	10.3%		1.8%
Class VII	10.42	7.3%	10.3%		1.8%
Class VIII	9.68	7.3%	10.3%		1.8%

MODIFICATIONS P. 14

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3121 - Mod #6 (42 FR 45612 - September 9, 1977) Lebanon County, PA.					
Change:					
Asbestos Workers	$10.76	.67	.90		.01
Sprinkler Fitters	12.31	.75	1.05		.08
DECISION #PA77-3122 - Mod. #3 (42 FR 45614 - September 9, 1977) Cumberland, Dauphin, Perry, Juniata New Cumberland Depot in York County, Pennsylvania					
Change:					
Asbestos Workers	10.76	.67	.90		.01
Sprinkler Fitters	12.31	.75	1.05		.08
DECISION #PA77-3123 - Mod. #6 (42 FR 45616 - September 9, 1977) Schuykill County, Pennsylvania					
Change:					
Electricians:					
North Brunswick, Wayne, Washington, Pottsville, Schuykill Haven Twps., Pine Grove Twps.	10.99	.78	3%+.20		.03
Sprinkler Fitters	12.31	.75	1.05		.08
DECISION #PA77-3124 - Mod. #4 (42 FR 45618 - September 9, 1977) Northampton County, Pennsylvania					
Change:					
Asbestos Workers	10.76	.67	.90		.01
Sprinkler Fitters	12.31	.75	1.05		.08
Add:					
Soft Floor Layers	8.80	.44	.72	.45	

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3125 - Mod. #6 (42 FR 45620 - September 9, 1977) Berks County, Pennsylvania					
Change:					
Electricians:					
Remainder of County	$10.99	.78	3%+.20		.03
Sprinkler Fitters	12.31	.75	1.05		.08
DECISION #PA77-3128 - Mod. #6 (42 FR 46901 - September 16, 1977) Adams & York Counties, PA					
Change:					
Asbestos Workers	10.76	.67	.90		.01
Sprinkler Fitters	12.31	.75	1.05		.08
DECISION #PA78-3013 - Mod. # 1 (43FR - 16097 - April 14, 1978) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford, Venango Counties, Pennsylvania					
Change:					
Laborers:					
Zone 5					
CLASS I	$7.55	10%	8%		
CLASS II	7.90	10%	8%		
CLASS III	8.15	10%	8%		
CLASS IV	8.05	10%	8%		
CLASS V	7.60	10%	8%		
Zone 6					
CLASS I	7.70	10%	8%		
CLASS II	8.20	10%	8%		
CLASS III	8.30	10%	8%		
CLASS IV	8.20	10%	8%		
CLASS V	7.75	10%	8%		
Truck Drivers:					
Zone 1					
CLASS I	8.42	c	d		

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MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4139 - Mod. #1 (42 FR 34247 - July 1, 1977) Bee, Kleberg, Nueces & San Patricio Cos., Texas					
Change:					
Electricians	$10.55	.60	3%		3/4%
DECISION #TX78-4030 - Mod. #1 (43 FR 16115 - April 14, 1978) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Bricklayers - Kleberg & Nueces	9.06	.28	.30		.05
Carpenter: Carpenters	7.99	.51	.30		.05
Electricians: Electricians	10.55	.60	3%		3/4%
Cable splicers	10.675	.60	3%		3/4%
Line construction:					
Linemen	10.68	.50	3%		1/2%
Cable splicers	10.805	.50	3%		1/2%
Groundmen (1st. year)	5.34	.50	3%		1/2%
Groundmen	5.87	.50	3%		1/2%
Marble, tile & terrazzo workers	8.43				.02
Soft floor layers	7.99	.51	.30		.05
DECISION #TX78-4031 - Mod. #1 (43 FR 16116 - April 14, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Ironworkers	10.05	.55	1.00		.12
DECISION #TX78-4036 - Mod. #1 (43 FR 16125 - April 14, 1978) El Paso County, Texas					
Change:					
Cement masons	6.87	.67			.03
Laborers - Group 1	6.31	.53	.45		
Group 2	6.06	.53	.45		
Group 3	5.81	.53	.45		
Group 4	5.69	.53	.45		
Group 5	5.56	.53	.45		
DECISION #TX78-4037 - Mod. #1 (43 FR 16127 - April 14, 1978) Galveston & Harris Cos., Texas					
Change:					
Carpenters:					
Carpenters & piledrivermen	10.60	.85	.80		.07
Millwrights	10.985	.85	.80		.07

MODIFICATIONS P. 17

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4040 - Mod. #1 (43 FR 16131 - April 14, 1978) Jefferson & Orange Cos., Texas					
Change:					
Carpenters:					
Carpenters - Commercial	$10.965	.55	.30		.05
Millwrights	11.405	.55	.30		.05
DECISION #TX78-4043 - Mod. #1 (43 FR 16134 - April 14, 1978) Travis County, Texas					
Change:					
Ironworkers	10.05	.55	1.00		.12
DECISION NO. DC78-3008 - Mod. #2 (43 FR 11464 - March 17, 1978) District of Columbia; Maryland Montgomery and Prince Georges; and D. C. Training School; Virginia - Independent City of Alexandria & Arlington					
Add:					
Laborers:					
Residential over 4 stories:					
Unskilled	$5.09	.35			.05
Scaffold builders, paving breakers and mortar mixers	5.24	.35			.05
Work below 6 feet depth	5.34	.35			.05

NOTICES

SUPERSEDEAS DECISION

STATE: Kansas & Missouri

COUNTIES: Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas.

DECISION NO: MO78-4047

DATE: Date of Publication

Supersedes Decision No. MO77-4267, dated September 30, 1977 in 42 FR 53061

DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories) and heavy and highway construction in Johnson and Wyandotte Counties, Kansas only.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.87	.60	1.55		.05
BOILERMAKERS	11.00	1.15	1.00		.02
BRICKLAYERS AND STONEMASONS	11.275	.55	.35	1.00	
CARPENTERS:					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Carpenter, Millwrights and Piledrivermen	11.00	.50	.30		.05
Zone 2 - Henry and Johnson Counties, Missouri					
Carpenters	10.625	.50	.30		.05
Millwrights and Piledrivermen	11.00	.50	.30		.05
CEMENT MASONS (Building Construction)					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Cement masons	10.925	.65	.50		
Composition	11.225	.65	.50		
Zone 2 - Henry and Johnson Counties, Missouri	9.325				
CEMENT MASONS (Heavy and Highway Construction): Johnson & Wyandotte Counties, Kansas	11.80	.65	.50		
ELECTRICIANS:					
Zone 1 - Western half of Clay and Jackson Counties, Missouri not including Blue Springs; Northern half of Platte County, Missouri; Northwestern portion of Cass County, Missouri not including Pleasant Hill:					
Electricians	11.82	.54	3%+.51	.95	.06
Zone 2 - Henry, Johnson and Lafayette Counties, Missouri and remainder of Clay, Jackson, Platte and Cass Counties, Missouri					
Electricians (contracts over $5,000)	11.82	.54	3%+.51	.95	.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS - Zone 2 CONTD:					
Electricians (contracts $5,000 and under)	11.27	.54	3%+.51	.95	.06
Zone 3 - Ray County, Missouri;					
Electricians (contracts over $5,000)	11.82	.54	3%+.51	.95	.06
Electricians (contracts $5,000 and under)	10.66	.54	3%+.51	.95	.06
Zone 4 - Johnson and Wyandotte Counties, Kansas	11.82	.54	3%+.51	.95	.06
ELEVATOR CONSTRUCTORS	11.97	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

FOOTNOTES: a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 6 paid holidays.

GLAZIERS	9.90	.55	.59	16.48%	.03
IRONWORKERS	10.80	.70	1.40	1.00	.05
LABORERS:					
Building Construction					
Zone 1 - Cass, Clay, Jackson and Platte Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
GROUP 1	9.15	.45	.40	.50	.10
GROUP II	9.30	.45	.40	.50	.10
GROUP III	9.45	.45	.40	.50	.10
Zone 2 - Lafayette and Ray Counties, Missouri					
GROUP I	8.85	.45	.40	.50	.10
GROUP II	9.00	.45	.40	.50	.10
GROUP III	9.15	.45	.40	.50	.10

CLASSIFICATION DEFINITIONS

LABORERS

GROUP 1 - General labor; wiremesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)

GROUP II - Plumber laborers (conduit pipe, sewer work, drain tile and duck lines, digging and backfilling), power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; goergia buggies (self-propelled) fork lift; hoseman; insulation man

GROUP III - Fork lift (masonry); brick tender; plaster tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 3 - Henry and Johnson Counties, Missouri					
GROUP 1	6.975	.60	.50	.50	.10
GROUP II	7.075	.60	.50	.50	.10
GROUP III	7.30	.60	.50	.50	.10

CLASSIFICATION DEFINITIONS

LABORERS:

GROUP I - Carpenter tenders, track men, wreckers (alterations or entire projects); reinforcing rod carriers; flagmen; signal men; all other general laborers

GROUP II - Plumber laborers; stonemason tenders; air tool operators, sewer work, water lines, conduit pipe, drain tile and duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; Jackhammer & chipping hammer operators; material batch hopper man; scaleman; spreader or screed man on asphalt machine; chain or concrete sawman; brush feeders on pulverizers; swinging scaffold; cement handlers (bulk or sack); laser beam man

GROUP III - Plaster tenders; hod carriers; brick tender; cutting torch & burner men; asphalt rakers; barco tamper; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzlemen; head pipe layer on sewer work; men working in tunnels; head form setters & stringline men; hot tar applicator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Site preparation and grading, Heavy and Highway Construction					
Zone 4 - Johnson and Wyandotte Counties, Kansas					
GROUP I	9.25	.60	.50	.75	.10
GROUP II	9.40	.60	.50	.75	.10
GROUP III	9.55	.60	.50	.75	.10
GROUP IV	9.75	.60	.50	.75	.10
GROUP V	10.05	.60	.50	.75	.10

CLASSIFICATION DEFINITIONS

LABORERS:

GROUP I - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagman; loading trucks under bins, hoppers and conveyors track men and all other general laborers

GROUP II - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skip-man on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connectin with sewer, water, gas gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only)

GROUP III - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used.

GROUP IV - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operator; manhole builders helpers and mortar menon brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels

GROUP V - Manhole builder (brick or block); dynamite and powder man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	11.98	.40			
LINE CONSTRUCTION:					
Zone 1 - Cass, Clay, Jackson, Platte and Ray Counties, Missouri; Wyandotte and remainder of Johnson Counties, Kansas					
Linemen	12.28	.45	3%+.15		4%
Linemen operator	11.43	.45	3%+.15		4%
Groundman	8.09	.45	3%+.15		4%
Groundman (1st 6 mos)	6.93	.45	3%+.15		4%
Zone 2 - Western 3/4 of Johnson County, Kansas					
Linemen	10.25	.45	3%		4%
Cable splicers	10.76	.45	3%		4%
Groundman, over 1 year	6.38	.45	3%		4%
Groundman, 1st year	4.83	.45	3%		4%
Powderman	8.50	.45	3%		4%
Line truck and equipment operators:					
1st year	6.53	.45	3%		4%
2nd year	7.81	.45	3%		4%
Over 2 years' experience	8.50	.45	3%		4%
MARBLE AND TILE SETTERS	11.25	5%	4.25%		
MARBLE AND TILE SETTERS' HELPERS	9.65				
PAINTERS:					
Zone 1 - Cass, Clay, Henry, Jackson, Johnson (excluding Whiteman Air Force Base), Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Brush and tapers	10.19	.55	.70		.08
Spray	11.19	.55	.70		.08
Zone 2 - Johnson Co., Missouri (Whiteman Air Force Base only)					
Brush	10.00				
Spray	11.00				
PLASTERERS:					
Zone 1 - Cass,Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas	12.50				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 2 - Henry and Johnson Counties, Missouri	9.00				
PIPEFITTERS	12.22	.62	1.35		.12
PLUMBERS	12.59	.75	.85		.12
POWER EQUIPMENT OPERATORS:					
Building Construction					
GROUP I	11.40	.75	1.00	.75	.10
GROUP II	11.10	.75	1.00	.75	.10
GROUP III	9.20	.75	1.00	.75	.10
GROUP IV	9.70	.75	1.00	.75	.10
GROUP V	9.95	.75	1.00	.75	.10
GROUP VI	11.65	.75	1.00	.75	.10
GROUP VII	11.90	.75	1.00	.75	.10
GROUP VIII	11.35	.75	1.00	.75	.10
GROUP IX	12.40	.75	1.00	.75	.10
GROUP X	11.90	.75	1.00	.75	.10
GROUP XI					
(a)	11.15	.75	1.00	.75	.10
(b)	10.90	.75	1.00	.75	.10
(c)	9.45	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe, all types; barber-greene loader (similar type); blade-power, all types; boats-power; boilers (2); boring machines (all types); cableways; cherry pickers (all types); chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders - all types; mechanic and welder; mucking machine; orange peels; pumps - material all types; push cats; scoops all types; self-propelled rotary drill; shovel, power side boom; skimmer scoop; testhole machine; throttle man

GROUP II - Boilers (1); brooms - power operated (all types); chip spreader (front man); clef plane operator; compressors (1) 150' or over; concrete saws, self-propelled); crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser hoist; hoist, endless chain - power operated; hopper - power operated; hydra hammer (all types); lad-a-vator - similar type; rollers - all types; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 105 ft. or over not more than 20' apart; compressors-tandem (any sizes); compressors single, truck mounted; elevator; finishing machine

GROUP III - Oiler

GROUP IV - Fork lift-masonry; oiler drivers - all types

GROUP V - Tractors (except when hauling material) less than 50 h.p.; "A" frame trucks; fork lift-all types & sizes (except masonry); mixers (with side loaders); pumps (with well points) dewatering systems, test or pressure pumps

GROUP VI - Clamshells, 80 ft. of boom or over (including jib); crane or rigs 80 ft. of boom or over (including jib); draglines, 80 ft. of boom or over (including jib); piledrivers, 80 ft. of boom or over (including jib

GROUP VII - Crane or rigs, over 200 ft. of boom

GROUP VIII - Hoists each additional drum over 1 drum

GROUP IX - Master mechanic

GROUP X - Crane - tower or climbing

GROUP XI - Ready mixed concrete plants;
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Contd:)					
Site preparation and grading, Heavy and Highway Construction					
Zone 1 - Johnson and Wyandotte Counties, Kansas					
GROUP I	11.30	.75	1.00	.75	.10
GROUP II	11.05	.75	1.00	.75	.10
GROUP III	10.45	.75	1.00	.75	.10
GROUP IV	9.20	.75	1.00	.75	.10
GROUP V	9.70	.75	1.00	.75	.10
GROUP VI	11.55	.75	1.00	.75	.10
GROUP VII	11.30	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders, field or shop; maintenance operator; mucking

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS - GROUP I (CONT'd)
machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2

Group II - A-frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum;latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p.

Group III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader oprator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; roller opr., other than dredge; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator -1

Group IV - Mechanic's helpers; oilers

Group V - Oiler driver, all types

Group VI - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over

Group VII - Hoists (each additional drum over 1 drum)

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	10.30	.65	.60		.14
SHEET METAL WORKERS	11.855	.50	.825		.08
SOFT FLOOR LAYERS	8.71	.45	.75	10%	1%
SPRINKLER FITTERS	12.63	.65	.95		.06
SPRINKLER FITTERS (Henry, Johnson and Lafayette Counties, Missouri)	11.93	.75	1.05		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS	10.91	5%	4.25%		
TRUCK DRIVERS:					
Building Construction:					
GROUP I	10.175	.75	1.00		
GROUP II	10.225	.75	1.00		
GROUP III	10.30	.75	1.00		
GROUP IV	10.425	.75	1.00		
GROUP V	10.325	.75	1.00		
GROUP VI	10.525	.75	1.00		
GROUP VII	10.375	.75	1.00		
GROUP VIII	10.275	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS

Group I - Warehousemen and stock man

Group II - Flat beds; pick-ups; dump trucks, under 10 yds.

Group III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers

Group IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated aerial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumpter, euclid, etc.); double bottom units (20 tons capacity and over)

Group V - Distributor truck drivers and oprators; oilers, greasers and mechanics' helpers

GROUP VI - Mechanics

GROUP VII - Transit mix, 5 yds. and over

GROUP VIII - Transit mix, under 5 yds.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Site preparation and grading, Heavy and Highway Construction					
Zone 1 - Johnson and Wyandotte Counties, Kansas					
GROUP I	9.49	.75	1.00	.75	
GROUP II	9.69	.75	1.00	.75	
GROUP III	10.00	.75	1.00	.75	
GROUP IV	10.15	.75	1.00	.75	
GROUP V	9.265	.75	1.00	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS

Group I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle

Group II - Material trucks, tandem; two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers; single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment

Group III - A-frame, lowboy, and boom truck driver

Group IV - Mechanics and welders

Group V - Mechanics' helpers, oilers and greasers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Missouri & Kansas COUNTIES: Cass, Clay, Jackson, Platte & Ray Missouri; Johnson & Wyandotte, Kansas

DECISION NO.: MO78-4048 DATE: Date of Publication

Supersedes Decision No. MO77-4266 dated September 30, 1977 in 42 FR 53056

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.87	.60	1.55		.05
BOILERMAKERS	11.00	1.15	1.00		.02
BRICKLAYERS & STONEMASONS	11.275	.55	.35	1.00	
CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN	10.50	.50	.30		.05
CEMENT MASONS:					
Cement masons	10.925	.65	.50		
Composition	11.225	.65	.50		
ELECTRICIANS (Up to and including 3 stories);					
ZONE 1 - Johnson County, Kansas (that portion of Johnson County west of Aubry, Oxford and Shawnee Townships)	7.60	.45	3%+.20		.05
ZONE 2 - Cass, Clay, Jackson, Platte and Ray Counties, Missouri; and Wyandotte County, Kansas; and remainder of Johnson County, Kansas	8.76	.54	3%+.51	.80	.06
ELECTRICIANS (4 stories):					
ZONE 1 - Western half of Clay and Jackson Counties, Missouri not including Blue Springs; Northern half of Platte County; Northwestern portion of Cass County, Missouri, not including Pleasant Hill	11.82	.54	3%+.51	.95	.06
ZONE 2 - Remainder of Cass, Clay, Jackson and Platte Counties, Missouri:					
Electricians (contracts $5,000 and over)	11.82	.54	3%+.51	.95	.06
Electricians (contracts under $5,000)	11.27	.54	3%+.51	.95	.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS 94 stories); Contd;					
Zone 3 - Ray County, Missouri;					
Electricians (contracts over $5,000)	11.82	.54	3%+.51	.95	.06
Electricians (contracts $5,000 and under)	10.66	.54	3%+.51	.95	.06
ELEVATOR CONSTRUCTORS	11.97	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 6 paid holidays.

GLAZIERS	9.90	.55	.59	16.48%	.03
IRONWORKERS	10.80	.70	1.40	1.00	.05
LABORERS:					
Building Construction					
Zone 1 - Cass, Clay, Jackson and Platte Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
GROUP I	9.15	.45	.40	.50	.10
GROUP II	9.30	.45	.40	.50	.10
GROUP III	9.45	.45	.40	.50	.10
Zone 2 - Ray County, Missouri					
GROUP I	8.85	.45	.40	.50	.10
GROUP II	9.00	.45	.40	.50	.10
GROUP III	9.15	.45	.40	.50	.10

CLASSIFICATION DEFINITIONS

LABORERS

GROUP I - General labor; wiremesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)

GROUP II - Plumber laborers (conduit pipe, sewer work, drain tile and duck lines, digging and backfilling), power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; goergia buggies (self-propelled) fork lift; hoseman; insulation man

GROUP III - Fork lift (masonry); brick tender; plaster tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONTD):					
Site preparation and grading Zone 3 - Johnson and Wyandotte Counties, Kansas; Site preparation, Incidental paving and utilities Clay, Jackson, Platte and Ray Counties, Missouri					
GROUP I	9.25	.60	.50	.75	.10
GROUP II	9.40	.60	.50	.75	.10
GROUP III	9.55	.60	.50	.75	.10
GROUP IV	9.75	.60	.50	.75	.10
GROUP V	10.05	.60	.50	.75	.10

CLASSIFICATION DEFINITIONS

LABORERS:
GROUP I - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagman; loading trucks under bins, hoppers and conveyors track men and all other general laborers
GROUP II - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skip-man on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connectin with sewer, water, gas gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only)
GROUP III - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used.
GROUP IV - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operator; manhole builders helpers and mortar menon brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels
GROUP V - Manhole builder (brick or block); dynamite and powder man

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	11.98	.40			
MARBLE AND TILE SETTERS	11.25	5%	4.25%		
MARBLE AND TILE SETTERS' HELPERS	9.65				
PAINTERS:					
Brush, tapers and Roller	10.19	.55	.70		.08
Spray	11.19	.55	.70		.08
PLASTERERS:	12.50				
PIPEFITTERS	12.22	.62	1.35		.12
PLUMBERS	12.59	.75	.85		.12
POWER EQUIPMENT OPERATORS:					
Building Construction (Zone 1)					
GROUP I	11.40	.75	1.00	.75	.10
GROUP II	11.10	.75	1.00	.75	.10
GROUP III	9.20	.75	1.00	.75	.10
GROUP IV	9.70	.75	1.00	.75	.10
GROUP V	9.95	.75	1.00	.75	.10
GROUP VI	11.65	.75	1.00	.75	.10
GROUP VII	11.90	.75	1.00	.75	.10
GROUP VIII	11.35	.75	1.00	.75	.10
GROUP IX	12.40	.75	1.00	.75	.10
GROUP X	11.90	.75	1.00	.75	.10
GROUP XI					
(a)	11.15	.75	1.00	.75	.10
(b)	10.90	.75	1.00	.75	.10
(c)	9.45	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS-Zone 1
GROUP I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe, all types; barber-greene loader (similar type); blade-power, all types; boats-power; boilers (2); boring machines (all types); cableways; cherry pickers (all types); chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders - all types; mechanic and welder; mucking machine; orange peels; pumps - material all types; push cats; scoops all types; self-propelled rotary drill; shovel, power side boom; skimmer scoop; testhole machine; throttle man

CLASSIFICATION DEFINITIONS (CONTD:)

POWER EQUIPMENT OPERATORS - ZONE 1 Contd:
GROUP II - Boilers (1); brooms - power operated (all types); chip spreador (front man); clef plane operator; compressors (1) 150' or over; concrete saws, self-propelled); crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser hoist; hoist, endless chain - power operated; hopper - power operated; hydra hammer (all types); lad-a-vator - similar type; rollers - all types; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 105 ft. or over not more than 20' apart; compressors-tandem (any sizes); compressors single, truck mounted; elevator; finishing machine
GROUP III - Oiler
GROUP IV - Fork lift-masonry; oiler drivers - all types
GROUP V - Tractors (except when hauling material) less than 50 h.p.; "A" frame trucks; fork lift-all types & sizes (except masonry); mixers (with side loaders); pumps (with well points) dewatering systems, test or pressure pumps
GROUP VI - Clamshells, 80 ft. of boom or over (including jib); crane or rigs 80 ft. of boom or over (including jib); draglines, 80 ft. of boom or over (including jib); piledrivers, 80 ft. of boom or over (including jib
GROUP VII - Crane or rigs, over 200 ft. of boom
GROUP VIII - Hoists each additional drum over 1 drum
GROUP IX - Master mechanic
GROUP X - Crane - tower or climbing
GROUP XI - Ready mixed concrete plants;
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor operator

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (CONTD)					
Site preparation and grading Johnson and Wyandotte Counties, Kansas; Site preparation, Incidental paving and utilities Clay, Jackson, Platte and Ray Counties, Missouri					
Zone 2					
GROUP I	11.30	.75	1.00	.75	.10
GROUP II	11.05	.75	1.00	.75	.10
GROUP III	10.45	.75	1.00	.75	.10
GROUP IV	9.20	.75	1.00	.75	.10
GROUP V	9.70	.75	1.00	.75	.10
GROUP VI	11.55	.75	1.00	.75	.10
GROUP VII	11.30	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS
GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders, field or shop; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2
Group II - A-frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum; latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p.
Group III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader oprator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; roller opr., other than dredge; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator -1
Group IV - Mechanic's helpers; oilers
Group V - Oiler driver, all types
Group VI - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over
Group VII - Hoists (each additional drum over 1 drum)

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	10.30	.65	.60		.14
SHEET METAL WORKERS	11.855	.50	.825		.08
SOFT FLOOR LAYERS	8.71	.45	.75	10%	1%
SPRINKLER FITTERS	12.63				
TERRAZZO WORKERS	10.91	5%	4.25%		
TRUCK DRIVERS:					
Building Construction: Zone 1					
GROUP I	10.175	.75	1.00		
GROUP II	10.225	.75	1.00		
GROUP III	10.30	.75	1.00		
GROUP IV	10.425	.75	1.00		
GROUP V	10.325	.75	1.00		
GROUP VI	10.525	.75	1.00		
GROUP VII	10.375	.75	1.00		
GROUP VIII	10.275	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - Zone 1

Group I - Warehousemen and stock man

Group II - Flat beds; pick-ups; dump trucks, under 10 yds.

Group III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers

Group IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumpter, euclid, etc.); double bottom units (20 tons capacity and over)

Group V - Distributor truck drivers and oprators; oilers, greasers and mechanics' helpers

Group VI - Mechanics

Group VII - Transit mix, 5 yds. and over

Group VIII - Transit mix, under 5 yds.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (CONTD:)					
Site preparation and grading - Johnson and Wyandotte Counties, Kansas; Site preparation, Incidental paving and utilities Clay, Jackson, Platte and Ray Counties, Missouri					
Zone 2					
GROUP I	9.49	.75	1.00	.75	
GROUP II	9.69	.75	1.00	.75	
GROUP III	10.00	.75	1.00	.75	
GROUP IV	10.15	.75	1.00	.75	
GROUP V	9.265	.75	1.00	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS-Zone 2

Group I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle

Group II - Material trucks, tandem; two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers; single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment

Group III - A-frame, lowboy, and boom truck driver

Group IV - Mechanics and welders

Group V - Mechanics' helpers, oilers and greasers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

NOTICES

SUPERSEDEAS DECISION

STATE: NEW MEXICO COUNTY: STATEWIDE
DECISION NO. NM78-4046 DATE: Date of Publication
Supersedes Decision No. NM78-4021 dated March 10, 1978 in 43 FR 10244
DESCRIPTION OF WORK: Sewer & Water & Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters	$5.26	.10	.20	.10	.04
Power saw operator-saw filer	5.41	.10	.20	.10	.04
Millwrights & Piledriver	5.51	.10	.20	.10	.04
CEMENT MASONS	4.94	.26			
IRONWORKERS:					
Reinforcing	5.05	.25	.25		
Structural	7.99	.50	.75		.04
PAINTERS:					
Brush	4.57	.35	.20		.01
Spray	5.54	.10	.30		.04
LABORERS:					
Common laborer; carpenter tender; concrete buggy operator (hand); concrete workers	2.65	.20	.15		
Wagon, air track, drill & diamond drillers' tender (outside)	2.95	.20	.15		
Air & power tool man; asphalt raker; batching plant scaleman; tenders (to cement masons and plasters); chain sawman; concrete touchup-man; concrete saw man; curbing machine; asphalt or cement; cutting torchman; metal form setter-road; grade setter; hod carrier; mortar mixer and mason tender; powderman or blaster helper; scaler; sand-blaster helper; vibrator compactor (hand type); vibrator-man (hand-type); concrete power buggyman, wagon; air track drill and diamond drillers (outside)	2.95	.20	.15		
Gunite pumpcreteman & nozzleman; multiplate setter; pipelayer	3.35	.20	.15		
Manhole builder	3.35	.20	.15		
Powderman-blaster-make up	3.35	.20	.15		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group I	$4.88	.15	.10		.01
Group II	5.08	.15	.10		.01
Group III	5.66	.15	.10		.01
Group IV	5.68	.15	.10		.01
Group V	5.68	.15	.10		.01
Group VI	5.83	.15	.10		.01
Group VII	5.88	.15	.10		.01
Group VIII	6.03	.15	.10		.01
Group IX	6.53	.15	.10		.01
Group X	7.33	.15	.10		.01

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION

GROUP I

Concrete paving curing machine

GROUP II

Belt type conveyors (material & concrete); broom (self propelled); fork lift; grease truck operator; head oiler; hydro lift; tractor (under 50 drawbar HP with or without attachment); Industrial locomotive brakeman; front end loader (2 cy or less); fireman; oiler; screedman; roller (pull type); mulching machine; roller (self-propelled)

GROUP III

Concrete paving form grader; concrete paving gang vibrator; concrete paving joint or saw machine; concrete paving sub grader; tractor with backhoe attachment; subgrade or base finisher; power plant (electric general or welding machine)

GROUP IV

Bulldozer (including self-propelled roller with dozer attachment); batch or continuous mix plant (concrete soil-cement, or asphalt); roller (steel wheel); front end loader (2 cy thru 10 cy); scraper operator; motor grader

GROUP V

Asphalt distributor; asphalt paving or laydown machine; asphalt retort heater; mixer, heavy duty, asphalt or soil cement; trenching machine; clam type shaftmucker; backhoe, clamshell, dragline, gradall, shovel (under 3/4 cy); elevating grader or belt loader; cranes (crawler or mobile) under 20 ton; air compressor (300 CFM & over); crushing screening and washing plants; drilling machine (cable core or rotary); mixer, concrete (1 cy and less); pump (6" intake or over); winch truck; hoist (1 drum); industrial locomotive motorman; lumber stacker; tractor (50 drawbar HP or over)

NOTICES

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION (CONT'D)

GROUP VI
Concrete paver mixer; hoist (2 drum and over); sideboom; traveling crane; piledriver; backhoe, clamshell, dragline, gradall, shovel (3/4 cy to 3 cy); cranes (crawler or mobile) 20 ton to 40 ton; front end loader (over 10 cy); mixer, concrete (over 1 cy); mechanic and/or welder)

GROUP VII
Concrete slip-form paving machine; concrete paving finishing machine; concrete paving longitudinal float; gunite machine; refrigerator; jumbo form or drilling stage; slusher; concrete paving spreader; pumpcrete machine; grout pump operator

GROUP VIII
Mine hoist; bulldozer (multiple units); scraper (multiple units); mucking machine; backhoe, clamshell, dragline, gradall, shovel (over 3 CY); cranes (crawler or mobile) over 40 tons

GROUP IX
Belt loader (CMI types) operator; derrick, cableway

GROUP X
Pipemobile operator; mole operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Distributor (asphalt)	$4.57	.26			
Dumpster or dumptor	4.65	.26			
Dump or batch truck:					
Under 8 cy	4.36	.26			
8 cy and under 16 cy	4.46	.26			
16 cy and under 20 cy	4.60	.26			
20 cy and over	4.65	.26			
Diesel-powered transport (non-self(-loading) 10 yds & over	4.88	.26			
Flatbed:					
1-1/2 ton	4.36	.26			
Over 1-1/2 ton	4.51	.26			
Lumber carrier	4.39	.26			
Lowboy, heavy equipment	4.98	.26			
Lowboy, light equipment	4.60	.26			
Off-highway hauler	4.63	.26			
Pick-up truck 3/4 ton or under	4.21	.26			
Service station attendant	4.25	.26			
Spreader box	4.30	.26			
Spreader box (self-propelled)	4.54	.26			
Swamper or rider helper	4.17	.26			
Tank Truck:					
3,000 gal. or under	4.44	.26			
3,001 gal. to 6,000 gal.	4.54	.26			
6,001 gal. and over	4.64	.26			
Teamster, 2 or 4 or more	4.17	.26			
Trailer or semi-trailer dump	4.73	.26			
Transit mix	4.60	.26			
Warehousemen	4.35	.26			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION -- AREA I					
AREA I-A					
Lineman-Technician	9.00	.60	3%+.60		1/2%
Cable splicers	9.65	.60	3%+.60		1/2%
Equipment operator, includes helicopter operator	8.58	.60	3%+.60		1/2%
Equipment mechanic, includes helicopter mechanic & powderman	7.88	.60	3%+.60		1/2%
Groundman & Jackhammer operators:					
1st 6 months	4.88	.60	3%+.60		1/2%
2nd 6 months	5.51	.60	3%+.60		1/2%
Experienced	6.36	.60	3%+.60		1/2%
AREA I-B					
Linemen-Technician	9.82	.60	3%+.60		1/2%
Cable splicers	10.51	.60	3%+.60		1/2%
Equipment operator, includes helicopter operator	9.35	.60	3%+.60		1/2%
Equipment mechanic, includes helicopter mechanic & powderman	8.58	.60	3%+.60		1/2%
Groundman & Jackhammer operators:					
1st 6 months	5.31	.60	3%+.60		1/2%
2nd 6 months	5.99	.60	3%+.60		1/2%
Experienced	6.96	.60	3%+.60		1/2%
LINE CONSTRUCTION -- AREA II					
AREA II-A					
Lineman	11.90	.60	3%+.70		1/2%
Cable splicers	11.99	.60	3%+.70		1/2%
Equipment operator (includes helicopter operator)	10.36	.60	3%+.70		1/2%
Equipment mechanic (includes helicopter mechanic) & powderman	9.48	.60	3%+.70		1/2%
Groundman & Jackhammer operators:					
1st 6 months	5.89	.60	3%+.70		1/2%
2nd 6 months	6.65	.60	3%+.70		1/2%
Experienced	7.74	.60	3%+.70		1/2%
AREA II-B					
Lineman	11.66	.60	3%+.70		1/2%
Cable splicers	12.75	.60	3%+.70		1/2%
Equipment operator (includes helicopter operator)	11.12	.60	3%+.70		1/2%
Equipment mechanic (includes helicopter mechanic) & powderman	10.24	.60	3%+.70		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION AREA II-B (CONTD):					
Groundman and Jackhammer operator:					
1st 6 months	6.65	.60	3%+.70		1/2%
2nd 6 months	7.41	.60	3%+.70		1/2%
Experienced	8.50	.60	3%+.70		1/2%
AREA II-C					
Lineman	12.32	.60	3%+.70		1/2%
Cable splicers	13.41	.60	3%+.70		1/2%
Equipment operator (includes helicopter operator)	11.78	.60	3%+.70		1/2%
Equipment mechanic (includes helicopter mechanic) & powderman	10.90	.60	3%+.70		1/2%
Groundman & Jackhammer operators:					
1st 6 months	7.31	.60	3%+.70		1/2%
2nd 6 months	8.07	.60	3%+.70		1/2%
Experienced	9.16	.60	3%+.70		1/2%
AREA II-D					
Lineman	13.08	.60	3%+.70		1/2%
Cable splicers	14.17	.60	3%+.70		1/2%
Equipment operator (includes helicopter operator)	12.54	.60	3%+.70		1/2%
Equipment mechanic (includes helicopter mechanic) & powderman	11.66	.60	3%+.70		1/2%
Groundman & Jackhammer operators:					
1st 6 months	8.07	.60	3%+.70		1/2%
2nd 6 months	8.83	.60	3%+.70		1/2%
Experienced	9.92	.60	3%+.70		1/2%

LINE CONSTRUCTION AREA DEFINITIONS

AREA I - Line construction work for electric and telephone utilities, REA Co-ops, railroads and municipalities:
AREA I-A -- BERNALILLO COUNTY
AREA I-B -- STATEWIDE, EXCEPT BERNALILLO COUNTY

AREA II - Other Line construction work including switching stations and sub-stations adjacent to power plants
AREA II-A -- From nearest basing point cities, towns and mileage from main post office

Albuquerque -- 15 miles from main post office
Santa Fe -- 15 miles from main post office
Las Vegas -- 8 miles from main post office
Farmington -- 8 miles from main post office
Raton -- 6 miles from main post office
Tucumari -- 6 miles from main post office
Aztec -- 6 miles from main post office
Roswell -- 12 miles from main post office
Ruidoso -- 12 miles from main post office
Portables -- 12 miles from main post office
Carrizozo -- 12 miles from main post office
Clovis -- 12 miles from main post office
Gallup -- 10 miles from main post office
*Pojoaque - 2 miles from main post office
*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.

AREA II-B - Extending up to 20 miles beyond Area II-A
AREA II-C - Extending up to 30 miles from Area II-A
AREA II-D - Anything beyond 30 miles from Area II-A

All work in Los Alamos County use Area II-C rates.

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NO: OH78-2059
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. OH77-2135, dated December 9, 1977 in 42 FR 62345
DESCRIPTION OF WORK: Heavy and Highway Construction

BRICKLAYERS & STONE MASONS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADAMS & SCIOTO Cos.	$ 9.90				
ALLEN, AUGLAIZE, MERCER & VAN WERT Cos.	11.08		.20		
ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, & WAYNE (except Twps. of Milton & Chippewa) Cos. & WYANDOT Co. (except Twps. of Crawford, Richland, Ridge & Tymochtee)					
Bricklayers	10.63	.60	1.00		.02
Sewer Bricklayers	10.63	.60	1.00		.02
ASHTABULA County					
Bricklayers	11.76	.60	.50		
Sewer Bricklayers	12.01	.60	.50		
ATHENS County	11.75	.60	.60		.05
BELMONT & MONROE Counties & JEFFERSON County (Townships of Mt. Pleasant, & Warren & City of Dillonvale)	9.60	.60	.25		.02
BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Twps. of Dixon, Gratis, Isreal, Lanier, & Somers), & WARREN COS.	12.095	.55	.35		.02
CARROLL, STARK & TUSCARAWAS Cos., MAHONING Co. (Twp. of Smith), COLUMBIANA Co. (Townships of Butler, Hanover, Knox & West)	10.79	.85	.60		.01
CHAMPAIGN, CLARK & LOGAN Cos.	10.60				
CLINTON & HIGHLAND Cos.	9.25				
COLUMBIANA Co., (Twps. of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem & Unity), MAHONING Co. (except Smith Twp.)	11.54	.60	.60		.02

DECISION NO. OH78-2059

BRICKLAYERS & STONEMASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COLUMBIANA County (Twps. of E. Liverpool, Franklin, Madison, St. Clair, Washington, Wayne & Yellow Creek), JEFFERSON Co. (Twps. of Bush, Creek & Saline)	10.30	.60	.50		
COSHOCTON, GUERNSEY, KNOX, LICKING, MORGAN, MUSKINGUM Counties	10.33	.60	.50		.02
CUYAHOGA Co. & MEDINA Co. (except the Twps. of Chatham, Wadsworth, Guilford, Westfield, Sharon, Lafayette, Harrisville, Homer, Litchfield & Spencer)	12.90	1.00	1.00		.01
DARKE, MIAMI, & SHELBY Cos.	10.35	.75	.25		.02
DEFIANCE, PAULDING, PUTNAM & WILLIAMS Cos., FULTON Co. (except Twps. of Amboy, Fulton & Swan Creek), HENRY CO. (except Twps. of Barlo, Damascus, Liberty, Marion, Monroe, Richfield, Washington & that part of Harrison outside City limits of Napolean)	11.72	.93			
DELAWARE, FRANKLIN, MADISON, PICKAWAY & UNION COS.					
Bricklayers	10.64	.80	.80		.02
ERIE, HANCOCK & HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.) WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) & ISLAND OF LAKE ERIE North of SANDUSKY Cos.	11.14	.60	.50		.01
FAIRFIELD, HOCKING & PERRY Cos.	9.50	.60	.50		.02
FAYETTE, ROSS & PIKE COS.	11.35				
GALLIA & MEIGS Cos.	11.25	.50			
GEAUGA & LAKE Cos.	13.22	.60	.80		
GREENE & MONTGOMERY Cos. & the Remainder of PREBLE CO.	10.35	.75	.75		.02

DECISION NO. OH78-2059

BRICKLAYERS & STONEMASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
NOBLE Co. (Twps. of Beaver, Buffalo, Marion, Seneca & Wayne)	10.33	.60	.50		.02
HARRISON Co. & the Remainder of JEFFERSON Co.	10.53	.50			.02
JACKSON & VINTON Cos.	11.25				.05
LAWRENCE County	10.70		.50		.05
LORAIN Co. & Medina Co. (Chatham, Harrisville, Homer, Litchfield, & Spencer Twps.)	12.20		.40		.01
LUCAS Co., the remainder of HENRY, FULTON & WOOD Cos.	12.155	.93	.90		.01
MEDINA (Remainder of Co.,) PORTAGE, SUMMIT & WAYNE COS. (Twps. of Milton & Chippewa)					
Bricklayers	12.46	.73	.55		.02
TRUMBULL COUNTY	11.84	.40	.50		.02
WASHINGTON Co., & the remainder of NOBLE CO.	10.50	.50			.04
CARPENTERS & PILEDRIVERMEN					
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS.					
Carpenters	10.60	.40	.50		.03
Piledrivermen	10.89	.40	.50		.03
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS.					
Carpenters	10.14	.53	.70		.02
Piledrivermen	10.79	.53	.70		.02

DECISION NO. OH78-2059

CARPENTERS & PILEDRIVERMEN (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASHLAND, CRAWFORD, HURON, LORAIN and RICHLAND Counties					
Carpenters	10.81	.55	1.00		.04
Piledrivermen	10.66	.70	1.00	a	.04
ERIE (East of B & O Rail Road Tracks)					
Carpenters	10.66	.70	1.00	a	.04
Piledrivermen	12.10	.77	1.25		.03
ERIE (West of B & O Rail Road Tracks), OTTAWA, SANDUSKY and SENECA Counties and City of Fostoria in WOOD and HANCOCK Counties					
Carpenters	10.66	.70	1.00	a	.04
Piledrivermen	11.97	.73	.50		.05
ASHTABULA, CUYAHOGA, GEAUGA and LAKE Counties					
Carpenters	12.10	.77	1.25		.03
Piledrivermen	12.10	.77	1.25		.03
ATHENS, HOCKING, VINTON and WASHINGTON Counties					
Carpenters	10.17	.50	.70		.02
Piledrivermen	10.82	.50	.70		.02
BELMONT and MONROE Counties					
Carpenters	10.27	.50	.75		.03
Piledrivermen	11.02	.50	.50		.03
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON and WARREN Counties					
Carpenters	11.40	.60	.65		.075
Piledrivermen	11.40	.60	.65		.075
CARROLL, STARK, TUSCARAWAS and WAYNE Counties					
Carpenters	10.28	.50	.50		.02
Piledrivermen	10.76	.50	.50		.02
COLUMBIANA, HARRISON & JEFFERSON Counties					
Carpenters	10.05	.87	.85		.02
Piledrivermen	11.15	5%	10%		.05

DECISION NO. OH78-2059

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN (Cont'd)					
DARKE, GREENE, MIAMI, MONTGOMERY PREBLE and SHELBY Counties					
Carpenters	10.35	.60	1.00		.05
Piledrivermen	10.35	.60	1.00		.05
DEFIANCE, HENRY, PAULDING And WILLIAMS COUNTIES					
Carpenters;	11.54	.93	.75		
Piledrivermen	12.32	.93	.75		.05
FULTON, HANCOCK, LUCAS and WOOD Counties, excluding the City of Fostoria in HANCOCK and WOOD Counties					
Carpenters; Piledrivermen	12.32	.93	.75		.05
MAHONING and TRUMBULL Counties					
Carpenters	10.74	1.07	1.10		.05
Piledrivermen	11.53	1.07	1.10		.05
MEDINA, PORTAGE and SUMMIT Counties					
Carpenters	11.55	.50	.70		
Piledrivermen	12.10	.77	1.25		.03
FOOTNOTE: a. 2 Paid Holidays: Memorial Day and Independence Day.					
CEMENT MASONS:					
CUYAHOGA, FULTON, GEAUGA, HANCOCK, HENRY, LAKE, LORAIN, LUCAS, PUTNAM, and WOOD Counties	12.03	.60	.30		.02
ASHTABULA, BROWN, BUTLER, CLERMONT, COLUMBIANA, DEFIANCE, ERIE, HAMILTON, HIGHLAND, HURON, MAHONING, MEDINA, OTTAWA, PAULDING, PORTAGE, SANDUSKY, SENECA, STARK, SUMMIT, TRUMBULL, WARREN and WILLIAMS	11.38	.60	.30		.02
REMAINING COUNTIES	10.58	.60	.30		.02
ELECTRICIANS:					
ADAMS and SCIOTO Counties, JACKSON County (All but Coal, Jackson, Liberty, Milton and Washington Twps.), PIKE County (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish and Union)	10.75	.50	3%+.50	1.02	.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, & VAN WERT COS. & WYANDOT Co. (West of Crane, Pitt, & Tymochtee Twps.	11.61	.45	3%+.37		.04
ASHLAND, CRAWFORD, MARION, MORROW & RICHLAND Cos., WYANDOT CO. (Remainder of County). KNOX Co. (North ½ including Clinton, Howard, Liberty, Monroe & Union Twps.), & HURON CO. (Twps. of Greenwich, New Haven, Richmond & Ripley	11.50	.45	3%+.50		.1%
ASHTABULA Co. (all but Colebrook, Orwell, Wayne, Williamsfield & Windsor Twps.)	13.05	.90	3%+.85		.2%
ATHENS, MEIGS, MONROE, NOBLE & WASHINGTON Cos., & VINTON CO. (East of Clinton, Elk & Swan Twps.)	10.65	.50	3%+.77	1.27	.04
BELMONT Co.	10.80	.50	3%+.32	1.02	.04
BROWN, CLERMONT & HAMILTON COUNTIES					
Within 18 Mi. of Hamilton County Court House	11.95	.70	3%+.60		4%
From 18 to 21 Miles	12.25	.70	3%+.60		4%
From 21 to 25 Miles	12.35	.70	3%+.60		4%
Over 25 Miles	12.50	.70	3%+.60		4%
BUTLER County & WARREN CO. excluding Clear Creek, franklin & Wayne Twps.) West of Interstate 75	12.10	.45	3%+.75		4%
East of Interstate 75	12.65	.45	3%+.75		4%
CHAMPAIGN & CLARK Cos. & MADISON CO. (Twps. of Paint, Pike, Somerford, Stokes & Union)	11.14	.45	3%+.85		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS. & WARREN CO. (Rem. of Co.)					
Within 11 Mi. Radius of 3rd & Main Streets, Dayton	11.58	.75	3%+1.00		.5%
Beyond 11 Mi. Radius	11.81	.75	3%+1.00		.5%
COLUMBIANA Co. (except twps.of Butler, Fairfield, Knox, Perry, Salem & Unity)	11.03	8%	7%		1%
COSHOCTON Co., KNOX (Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College Twps.), LICKING CO., TUSCARAWAS CO. (S½ incl. Twps. of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, & Bucks)	10.80	.40	3%+.62		.03
CUYAHOGA CO., LORAIN CO. (Twps. of Columbia), & GEAUGA Co. (Twps. of Bainbridge, Chester & Russell)	13.75	.55	3%+.48		.02
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAUDLING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD COS.	13.80	.65	3%+.55		.1%
DELAWARE, FAIRFIELD, FRANKLIN & UNION COS., MADISON (Rem. of Co.) & PICKAWAY CO. (Excl. Deer Creek Perry, Pickaway, Salt Creek & Wayne Twps.)	11.48	.40	3%+.87		.03
ERIE CO., HURON CO. (Rem. of Co.)	12.35	.73	3%		.1%
FAYETTE, HIGHLAND, HOCKING, & ROSS COS. & JACKSON CO. (Rem. of Co.), PICKAWAY, PIKE & VINTON COS.	11.60	.40	3%		.02
GALLIA CO.	11.57	.50	3%+.60	1.00	.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
GUERNSEY, MUSKINGUM and PERRY COS.	$10.80	.40	3%+.62		.03
HARRISON & JEFFERSON COUNTIES & CARROLL County (South of Fox, Harrison, Rose and Washington Twps.)	12.95	6%	9%	8%	4%
HOLMES & STARK Counties, the remainder of CARROLL and TUSCARAWAS Counties, COLUMBIANA County (Knox Twp.), MAHONING County (Smith twp.) and WAYNE County (south of Baughman, Chester, Green and Wayne Twps.)	11.90	.40	3%+.40		.3%
LAKE COUNTY & GEAUGA Co. (all but Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, & Troy Twps.)	13.13	.70	3%+.70		.3%
LAWRENCE COUNTY	11.12	.50	3%+.60	1.00	.04
LORAIN County (remainder of Co.) and MEDINA County (Twps. of Litchfield and Liverpool)	12.50	.60	3%+.80		.1%
MAHONING County (excluding Milton and Smith Twps.), TRUMBULL Co. (Twps. of Hubbard and Liberty) and COLUMBIANA COUNTY (Twps. of Butler, Fairfield, Perry, Salem and Unity)	13.03	.59	7%		.3%
SUMMIT County, the remainder of MEDINA & WAYNE Counties & PORTAGE County (excluding Twps. of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris and Windham)	12.33	.47	3%+.50		.2%
MORGAN COUNTY	10.65	.50	3%+.75	1.25	.04
ASHTABULA (Remainder of County), Remainder of PORTAGE And TRUMBULL Counties, GEAUGA County (Twps. of Auburn, Middlefield, Parkman and Troy), and MAHONING County (Twp. of Milton)	12.59	.60	7%		.7%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
ADAMS (Part), BROWN, CLERMONT & HAMILTON Cos. & the South half of BUTLER & WARREN Cos.					
Structural & Ornamental	11.48	.90	1.05		.03
Reinforcing	10.68	.90	1.85		.02
ALLEN, AUGLAIZE, CLINTON, DARKE, GREENE, MERCER, MIAMI, MONTGOMERY, PREBLE & SHELBY COS., The North ½ of BUTLER & WARREN Cos. the West 2/3 of CHAMPAIGN & LOGAN COS., The West 3/4 of CLARK CO. & the West 4/5 HIGHLAND CO., Dayton Metropolitan Area	10.96	.90	1.25		.04
Outside Dayton Metro area	11.11	.90	1.25		.04
ASHLAND, CARROLL, COSHOCTON, HOLMES, RICHLAND, STARK, TUSCARAWAS & WAYNE COS.	11.08	.70	.75		.03
CUYAHOGA, ERIE, GEAUGA, HURON, LAKE, LORAIN, MEDINA & SUMMIT, Cos., & ASHTABULA CO. (except the N/E ¼), PORTAGE CO. (except the Ravenna Ordnance Depot)	12.22	.80	1.10		.03
ASHTABULA (Remainder of Co.)	11.08	1.86	1.01		.10
ATHENS, MEIGS, MORGAN, NOBLE & WASHINGTON COS.	10.92	.75	.85		.01
BELMONT, GUERNSEY, HARRISON, JEFFERSON & MONROE COS.	11.28	.70	.85		.03
COLUMBIANA, MAHONING & TRUMBULL COS. & The Ravenna Ordnance Depot in PORTAGE CO.	12.03	.40	1.30		.07
CRAWFORD, FAYETTE, HARDIN, HOCKING, JACKSON (N ½ of Co.), KNOX, MARION, MORROW, MUSKINGUM, PERRY, PIKE (Pt.), ROSS, VINTON, WYANDOT, & The rem. of CHAMPAIGN, CLARK, HIGHLAND & LOGAN COS.	11.10	.90	1.55		.05
DELAWARE, FAIRFIELD, LICKING, MADISON, PICKAWAY & UNION COS.	11.00	.90	1.55		.05
FRANKLIN CO.	10.85	.90	1.55		.05
DEFIANCE, PAULDING, PUTNAM, VAN WERT & WILLIAMS COS.	11.20	.90	1.20		.02
FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, SANDUSKY, SENECA, & WOOD COS.	12.30	.93	1.11		.05
GALLIA, LAWRENCE, SCIOTO, ADAMS (Pt.), JACKSON (S ½ of Co.), &					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIKE (Pt.) COS.:					
10 mi. from Union Hall in Ashland, Kentucky	11.27	.90	1.05		.01
10 to 15 mi. from Union Hall	11.42	.90	1.05		.01
15 to 20 mi. from Union Hall	11.52	.90	1.05		.01
20 mi. & over from Union Hall	11.62	.90	1.05		.01
LINEMEN					
ADAMS, ATHENS, GALLIA, LAWRENCE, MEIGS, & SCIOTO Cos., JACKSON Co. (except Coal, Jackson, Liberty, Milton & Washington Twps.), PIKE CO. (Twps. of Camp Creek, Marion, Newton, Scioto, sunfish & Union), & VINTON Co. (East of Clinton, Elk, & Swan Twps.)	11.28	.45	3%+.50	1.00	½%
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT & WYANDOT Co. (Remainder of Co.)	11.93	.50	3%		½%
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND Cos., HURON Co. (Twps. of Greenwich, New Haven, Richmond, & Ripley), KNOX Co. (North Half including the Twps. of Clinton, Howard, Liberty, Monroe, & Union), & WYANDOT CO. East Half including the Twps. of crane, Pitt & Tymochtee)	11.50	.45	3%+.50		½%
ASHTABULA Co. except the Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor	13.05	.90	3%+.85		½%
BELMONT CO.	10.80	.50	3%+.32	1.02	½%
BROWN, CLERMONT & HAMILTON COS.					
Within 18 Mi. of Hamilton County Court House	11.95	.70	3%+.60		.5%
From 18 to 21 Miles	12.20	.70	3%+.60		.5%
From 21 to 25 Miles	12.35	.70	3%+.60		.5%
Over 25 Miles	12.50	.70	3%+.60		.5%
BUTLER Co. & WARREN CO., except Twps. of Clear Creek,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN (CONT'D)					
Franklin & Wayne):					
West of Interstate 75	$12.10	.45	3%+.75		½%
East of Interstate 75	12.65	.45	3%+.75		½%
CHAMPAIGN, & CLARK COS.	9.11	.35	3%		.25%
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE Cos. & WARREN CO. (Rem. of Co.)	11.58	.75	3%+1.00		½%
COLUMBIANA Co. except the Twps. of Butler, Knox, Fairfield, Perry, Salem & Unity	11.03	8%	7%		½%
COSHOCTON & TUSCARAWAS Cos.	11.43	.35	3%		½%
CUYAHOGA Co., & GEAUGA Co. (Twps. of Bainbridge, Chester, & Russell), LORAIN CO. (Columbia Twp.)	12.73	.35	3%		½%
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD Cos.	13.46	.50	3%	b	½%
DELAWARE, MADISON, PICKAWAY & UNION Cos.	12.41	.35	3%		½%
ERIE Co., & HURON Co. (Remainder of Co.)	12.35	.73	3%		½%
FAIRFIELD & LICKING COS. & KNOX Co. (Remainder of Co.)	11.73	.50	3%		½%
FAYETTE, HIGHLAND, HOCKING & ROSS Cos. & the remainder of JACKSON, PIKE & VINTON Cos.	10.95	.28	3%		½%
FRANKLIN CO.	9.88	.35	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN (CONT'D)					
GUERNSEY Co.	$11.43	.35	3%		½%
MORGAN Co.	12.41	.35	3%+.62	1.02	½%
HARRISON, & JEFFERSON Cos. & CARROLL CO. (South of Fox, Harrison, Rose & Washington Twps.)	12.95	6%	9%	8%	½%
HOLMES & STARK Cos., CARROLL (Remainder of Co.), COLUMBIANA Co. (Knox Twp.), & WAYNE Co. (South of Bauchman, Chester, Green & Wayne Twps.)	11.90	.40	3%+.40		½%
LAKE CO. & GEAUGA Co. except the Twps. of Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell & Troy	12.88	.70	3%+.70		½%
LORAIN Co. (except Columbia Twp.) & MEDINA CO. (Twp. of Litchfield & Liverpool)	12.50	.60	3%+.80		½%
MAHONING & TRUMBULL Cos., ASHTABULA Co. (Remainder of Co.), COLUMBIANA CO. (Twps. of Butler, Fairfield, Perry, Salem & Unity), GEAUGA Co. (Townships of Auburn, Middlefield, Parkman, & Troy) & PORTAGE Co. (Twps. of Charleston, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris & Windham)	13.23	.45	3%		½%
MONROE, NOBLE & WASHINGTON COS.	12.41	.35	3%+.62	1.02	½%
MUSKINGUM & PERRY Cos.	11.43	.35	3%		½%
SUMMIT CO. & the remainder of MEDINA, PORTAGE & WAYNE Cos.	12.08	.57	3%+.65		½%

FOOTNOTE:
b. 10 paid holidays: New year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Christmas Eve, New Year's Eve & Day after Thanksgiving Day.

PAINTERS					
ADAMS, HIGHLAND, JACKSON, PIKE, & SCIOTO COS.					
Brush	11.65		.40		
Spray	12.65		.40		

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PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ALLEN, AUGLAIZE, DEFIANCE, HARDIN, MERCER, PAULDING, PUTNAM, SHELBY, VAN WERT And WILLIAMS Counties	$10.10	.73	.50		.03
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND Counties					
Brush	8.80		.50		
Structural Steel	9.30		.50		
Spray	9.55		.50		
ATHENS & HOCKING Counties:					
Brush	11.08				
Spray	12.08				
BELMONT County	7.50	.30	.25		
BROWN, CLERMONT & HAMILTON Cos.					
Brush	11.70		.25		
Spray	12.10		.25		
BUTLER & WARREN Counties					
Brush	10.23				
Spray	10.73				
CARROLL, HOLMES, STARK, TUSCARAWAS & WAYNE Counties					
Brush	9.91	.78	.60		.02
Spray	10.44	.78	.60		.02
Structural Steel	10.62	.78	.60		.02
CHAMPAIGN, CLARK & LOGAN Cos.					
Brush	7.80	.10	.25		
Structural Steel	8.35	.10	.25		
Spray	8.50	.10	.25		
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY & PREBLE Counties					
Brush	11.05	.40	.40		.02
Structural Steel	11.45	.40	.40		.02
Spray	11.55	.40	.40		.02
COSHOCTON:					
Brush	6.10				
Roller	6.25				
Spray; Sandblasting	6.60				
Sandblasting pot tend	5.60				

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PAINTERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASHTABULA, CUYAHOGA, CEAUGA, & LAKE COUNTIES, LORAIN (North East Part) and PORTAGE & SUMMIT Counties (North of the Ohio Turnpike):					
Brush	$12.51	.63	.74		.05
Bridge and open steel; closed steel over 55'	13.21	.63	.74		.05
Closed steel below 55': Spray	12.91	.63	.74		.05
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, MADISON, PICKAWAY And UNION Counties					
Brush	10.69	.65	.65		.02
Structural Steel	10.99	.65	.65		.02
Spray	11.19	.65	.65		.02
ERIE, HANCOCK, HURON, SANDUSKY, SENECA and WYANDOT Counties					
Brush	9.40	.50	.60		50 00 p/yr
Structural Steel and Bridges	9.85	.50	.60		50.00 p/yr
FULTON, HENRY, LUCAS, OTTAWA and WOOD Counties					
Brush	10.81	.93	.90		
Spray	11.36	.93	.90		
Structural Steel	11.06	.93	.90		
GALLIA, LAWRENCE, MEIGS, and VINTON Counties					
Brush; Spray	10.00			c	
Sandblasting; Waterblasting	10.30			c	
GUERNSEY County					
Brush	7.00				
Structural Steel, Spray	7.50				
Tanks and Bridges	8.75				
HARRISON & JEFFERSON Counties:					
Brush	7.70	.30	.25		
Spray; Sandblaster	8.10	.30	.25		
Hot Stacks	9.30	.30	.25		
KNOX, LICKING, MUSKINGUM and PERRY Counties:					
Sandblasting; Steel; Bridge	8.50				
Spray	8.95				
LORAIN County (Remainder of Co.)					
Brush	9.05				
Spray	9.55				
Structural steel and Bridge	10.35				

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PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COLUMBIANA, MAHONING & TRUMBULL Cos. and the Ravenna Ordnance Depot in PORTAGE County					
Brush	11.30	.60	.80		
Spray	12.00	.60	.80		
MEDINA Co. & PORTAGE & SUMMIT Cos. South of Ohio Turnpike excluding the Ravenna Ordnance Depot in PORTAGE Co.					
Brush	9.40	.62	.60		
Spray	9.90	.62	.60		
Structural Steel	9.65	.62	.60		
MONROE, MORGAN, NOBLE & WASHINGTON Cos.	9.92		.20		.02
ROSS County					
Brush	10.00				
Spray	10.25				
FOOTNOTE: c. 6 paid holidays: Decoration Day; July 4th; Thanksgiving Day; Christmas Day; New Year's Day; & Veteran's Day					
PLUMBERS & STEAMFITTERS:					
ADAMS, ATHENS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, PIKE, SCIOTO, & VINTON Cos.	11.67	.55	.75		
ALLEN, AUGLAIZE, HARDIN, MERCER, SHELBY & VAN WERT Cos.	12.00	.50	.75		.05
ASHLAND, CRAWFORD, ERIE, HURON, KNOX, LORAIN, MORROW, RICHLAND & WYANDOT COS.	12.25	.60	.88		.05
ASHTABULA, CUYAHOGA, GEAUGA & LAKE Cos., MEDINA Co. N. of RT. 18 & Smith Rd. & SUMMIT CO. N. of Rt. 303 - Plumbers	13.13	.75	1.00		.02
Pipefitters	11.97	1.05	1.10		.05
BELMONT Co. & MONROE CO. South of RT. 78	10.45	.40	8%	10%	.05
BROWN, CLERMONT, HAMILTON & WARREN COS.					
Plumbers	12.27	.75	1.05		.05
Steamfitters	12.20	.90	1.295		.08

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PLUMBERS & STEAMFITTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUTLER Co. North Half	$12.35	.60	1.00		.05
BUTLER Co. South Half	12.27	.65	1.10		.02
CARROLL Co. (except Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London), STARK & WAYNE COS.	12.32	.45	.55	d	.05
CARROLL (Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London) COSHOCTON, GUERNSEY, HOLMES, MORGAN (South of State Route #78 & from McConnelsville West on State route #37 to the Perry Co. line), MUSKINGUM, NOBLE, & TUSCARAWAS Cos.	10.83	.45	.50		.08
CHAMPAIGN, CLARK & LOGAN COS., GREENE Co. (Twps. of Cedarville, Ceasar Creek, New Jasper, Jefferson, & Ross), MADISON Co. (West of Rt. 38 including the City of London)	11.81	.58	.80		.04
CLINTON, DARKE, FAYETTE, MIAMI, MONTGOMERY, PREBLE & GREENE Co. (Remainder of Co.)	12.21	.55	.70		.03
COLUMBIANA (excluding Washington & Yellow Creek Twps. & Liverpool Twp. secs. 35 & 36 - West of County Rd. #427), MAHONING Cos. & TRUMBULL Co. (Hubbard & Liberty Twps. Youngstown Municipal Airport & the Filtration Plant of the Mahoning Valley Sanitary District	12.31	.75	.50		.03
COLUMBIANA (Washington & Yellow Creek Twps., & Liverpool Twp. secs 35 & 36 West of County Rd. #427), Harrison & Jefferson Cos.	12.61	.50	8%	8%	.12

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PLUMBERS & STEAMFITTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD Cos.	12.83	.80	.85		.09
DELAWARE, FAIRFIELD, FRANKLIN, HOCKING, LICKING, MARION, PERRY, PICKAWAY, ROSS & UNION Cos. & MADISON (remainder of Co.)	12.47	.55	.80		.05
MEIGS, MONROE (Rem. of Co.), MORGAN (Remainder of Co.), & WASHINGTON COS.	11.43	.52	.55		.045
PORTAGE Co. & the remainder of MEDINA & SUMMIT Cos.	12.31	.79	.90		.05
TRUMBULL CO. (Remainder of Co.)	10.75	.57	.65		.01
HARRISON AND JEFFERSON Cos.	12.61	.50	8%	8%	.12

FOOTNOTE:
d. One paid holiday: Labor Day providing employee has worked 5 consecutive days before and after the holiday.

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LABORERS	ZONE 1	ZONE 2	ZONE 3
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	10.03	9.20	8.77
GROUP II	10.155	9.325	8.895
GROUP III	10.23	9.40	8.97
GROUP IV	10.38	9.55	9.12
GROUP V	10.68	9.85	9.42

FRINGE BENEFITS FOR ALL ZONES AND CLASSIFICATIONS
$.70 - Health & Welfare
.70 - Pension
.10 - Education and/or Apprentice Training

GROUP I - Laborers (construction); plant laborers or yardmen; right-of-way laborers; landscape laborer; utility man or handyman; joint setter; flagman; carpenter helper; waterproofing laborer; slurry seal; seal coating surface treatment or road mix laborer; asphalt laborer; Dump man (batch trucks); Sign installer; Guardrail & fence installers; mesh handlers & placers; concrete curing applicator; scaffold erector, Riprap laborer & grouter; grade checker
GROUP II - Asphalt raker; concrete puddler; kettle man (pipeline); machine driven tools; mason tender; mortar mixer; sheeting & shoring man; surface grinder man; power buggy or power wheelbarrow
GROUP III - form setter; bottom man; Welder helper (pipeline); concrete saw man; cutting with burning torch; pipelayer; hand spiker (railroad); car pusher (without air); undergroundman (working in sewer & waterline, cleaning, repairing & reconditioning); Tunnel laborer (without air) and caisson; cofferdam (below 25 feet deep); air track & wagon drill
GROUP IV - blaster; Powder man; muckers; wrencher (mechanical joints & utility pipeline); yarner; top lander
GROUP V - Curb setter & cutter; miner without air; concrete crew in tunnels; utility pipeline tapper; gunnite nozzle man; waterline caulker

ZONE DEFINITIONS

Zone 1 - Cuyahoga, Geauga & Lake Cos.
Zone 2 - Ashtabula, Erie, Huron, Lorain, Lucas, Mahoning, Medina, Ottawa, Portage, Stark, Summit, Trumbull & Wood Cos.
Zone 3 - Remainder of Counties

DECISION NO. OH78-2059

POWER EQUIPMENT OPERATORS ZONE 1 - Columbiana, Mahoning & Trumbull Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
CLASS I	12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; berm builder-automatic; Backfiller w/drag attachments; Boat derrick; Boat-tug; boring mach. attached to tractor; bullclam; Bulldozer; C.M.I. road builder & similar types; Cable placer & layer; carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finisher comb., crane; Crane-stationary or climbing; crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car;Diggers-wheel (not trencher or road widener); Double nine; drag line; dredge; drill-Kenny or similar type; electromatic; Fork lift; frankie pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvester w/boom; Mucking mach.; paver-asphalt finishing mach.; Paver - road concrete; Paver-slipform; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reigs-drilling; shovels; Spikemaster; stonecrusher; Tie puller & Loader; Tie tamper; tractor-double boom; tractor w/attachments; Trucks-boom; truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley
CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.-pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; concrete planer or asphalt; Concrete spreader; Elevator; fork lift walk behind; form line mach.; Grease truck op.; Grout pump; gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Sangen derrick; seeding Mach.; self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil Stabilizer (pump type); Spray cure Mach.-Self propelled; straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. or similar type; Tugger Hoist

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POWER EQUIPMENT OPERATORS
ZONE 1 - Columbiana, Mahoning & Trumbull Counties (Cont'd)

CLASS III - batch plant-job related; boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self-propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); tractor; Trencher-form; Water Blaster
Class IV - Brake man; compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; deck hand; Drill wagon; Fireman; Generator sets; heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (Fuel burning)
CLASS V - Oiler
CLASS VI - Rigs-pile driving or caisson type

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POWER EQUIPMENT OPERATORS	ZONE 2 Basic Hourly Rates	ZONE 3 Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	12.78	11.79	.66	1.00		.15
CLASS B	12.68	11.67	.66	1.00		.15
CLASS C	11.64	10 63	.66	1.00		.15
CLASS D	11.17	10.20	.66	1.00		.15
CLASS E	9.23	8.14	.66	1.00		.15

CLASS A - Air compressor on steel erection; Asphalt plant engineer (Cleveland District Only); Boiler Op., compressor or generator when mounted on rig; Cableway; combination concrete mixer & tower; Concrete plants (over 4 yds. cap.); Concrete pumps; Cranes (all types incl. A frames, boom trucks, cherry pickers); Derricks; Draglines; Dredge (dipper clam or suction); Elevation grader or euclid loader; Floating equipment (all types); Helicopter crew (hoist or winch); hoes (all types); Hoisting engines (including shaft & tunnel work); Industrial type tractor; Jet engineer dryer (D8 or D9) diesel tractor; Locomotives (standard guage); Maintenance Op. Class A; Mixer (paving single or double drum); Mucking mach.; Multiple scraper; piledriving mach. (all types); power shovel; Quad 9 (double pusher); Refrigerating mach. (Freezer operation); Rotary drill on caisson work; slip form paver; Tower derricks; Tree shredder; Trench mach (over 24" wide); Truck mounted concrete pump; Tug boat; tunnel mach. and/or mining machine; Wheel excavator

CLASS B - Asphalt paver; Automatic subgrader mach. self propelled (CMI type); Boring mach. Op. (more than 48"); Bulldozers; Endloader; Kolman Loader (production type dirt); Lead greaseman; Maintenance Op., Class B (in Zone 2 Portage & Summit Cos. only); Power grader; Power scraper; Push Cat; Trench mach. (24" wide & under)

CLASS C - Air compressor on tunnel work (low pressure); asphalt plant engineer (in Zone 2 Portage & Summit Cos. only); Locomotive (narrow guage); Concrete mixers (more than 1 bag cap.); Mixers (1 bag cap. - side loader); Power boiler over 15 lb. pressure; Pump op. installing & operating well points; Pumps (4" & over discharge); Rollers (asphalt); Utility op. (small equipment); Welding mach. & generators.

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POWER EQUIPMENT OPERATOR (CONT'D)

CLASS D - Back fillers; Bar (joint & mesh installing mach.); Batch Plant; Boring mach. Op. (48" or less); Bull floats; Burlap & curing mach.; Compressor (portable, sewer, hvy. & hwy.); Concrete plant (4 yd. & under cap.); concrete saw (multiple); Conveyors (hwy.); Crusher, deckhand; drill highway (w. integral power); Farm type tractors w/attachs. (hwy.); Finishing Mach.; Fireman (floating equipment, all types); fork lift (Hwy.); form Trenchers; Hydro hammer; Hydro seeder; Pavement breaker; Plant mixers; Post driver; Post Hole digger (power auger); Power brush burner; Power form handling Equip.; Road widening trencher; Rollers (brick, grade, macadam); self- propelled power spreader; self-propelled power subgrader; Steam fireman; Tractor (pulling sheepfoot roller or grader); vibratory compactor w/integral power

CLASS E - Drum fireman (asphalt plant); Helpers; Inboard-outboard, motor boat-launch; Oil heaters (asphalt plant); Oilers; Power driven heaters; Pumps (under 4" discharge); Signalmen; Tire repairmen

ZONE DEFINITIONS

ZONE 2 - Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage & Summit Counties

ZONE 3 - Remainder of Counties

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TRUCK DRIVERS ZONE I - CUYAHOGA, LAKE & GEAUGA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.70	26.00a	26.00a	b&c	
CLASS II	8.85	26.00a	26.00a	b&c	
CLASS III	9.20	26.00a	26.00a	b&c	
CLASS IV	9.20	26.00a	26.00a	b&c	

CLASS I - Straight & dumps (including asphalt); Warehousemen; Straight fuel
CLASS II - Semi fuel; semi pole drivers (hauling steel pipe); & semi tractor drivers.
CLASS III - Ready-mix; agitator or bulk concrete drivers; dry batch truck.
CLASS IV - Euclids; darts; tank asphalt spreaders; low boys; carry-all driver; tournarockers; hi-lifts; fork lifts; extra long trailers & semi pole trailers except when hauling steel pipe; double hook-up tractor trailers including team track & railroad siding; semi tractor & tri-axle trailer; tandem tractor, Tandem trailer & tri-axle trailer; tag along trailer, expandable trailers, loads (requiring road permits)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Per week per employee

b. One week's paid vacation for one year of service; two weeks for five years; three weeks for ten years & four weeks for seventeen years.

c. Seven paid holidays: A through F plus National Election Day.

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TRUCK DRIVERS ZONE II - Remainder of the State	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$9.12	25.00a	9.00a		.05
CLASS II	9.17	25.00a	9.00a		.05
CLASS III	9.22	25.00a	9.00a		.05
CLASS IV	9.32	25.00a	9.00a		.05
CLASS V	9.42	25.00a	9.00a		.05
CLASS VI	9.59	25.00a	9.00a		.05

CLASS I 4 wheel service truck; 4 wheel dump trucks; batch trucks; oil distributors; asphalt distributors
CLASS II - Tandems
CLASS III Semi tractor trucks; pole trailers; fuel trucks
CLASS IV - All trucks five axle & over
CLASS V - Asphalt oiler spraybar man when operated from cab
CLASS VI - Euclid wagons; Euclid end dumps; low boys; heavy duty equipment over 12 cu yds capacity when used exclusively for transportation; truck mechanics

FOOTNOTE:
a. Per week Per employee

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Carbon, Monroe Counties, including Tobyhanna Army Depot and Pike County

DECISION No.: PA78-3017

DATE: Date of Publication

Supersedes Decision No. PA77-3043 dated April 8, 1977, in 42 FR 18783.

DESCRIPTION OF WORK: Building Construction, (does not including single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.70	.65	.60		.01
BOILERMAKERS	12.80	1.05	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE 1	9.90	1.15	1.15		.01
ZONE 2	10.85	.50	.50		
ZONE 3	10.10	.65	.70		.01
ZONE 4	10.52	.60	.40		

AREA COVERED BY BRICKLAYERS & STONEMASONS

ZONE 1 - Remainder of Carbon County
ZONE 2 - Kidder Township in Carbon County
ZONE 3 - Tobyhanna Army Depot in Monroe County
ZONE 4 - Pike County & Remainder of Monroe County

CARPENTERS					
ZONE 1	10.20	.44	.72		.03
ZONE 2	9.50	.35	.40		.02
ZONE 3	9.73	.44	.72		.03
ZONE 4	10.61	.40	.50		

AREA COVERED BY CARPENTERS ZONES

ZONE 1 - Carbon County; including Twps. of Banks, Lausanna, Lehigh, Packer and Kidder
ZONE 2 - Remainder of Carbon County
ZONE 3 - Remainder of Monroe County
ZONE 4 - Tobyhanna Army Depot in Monroe County, Pike County in its entirety

CEMENT MASONS					
ZONE 1	11.25				
ZONE 2	10.52	*.60	.30		
ZONE 3	9.15	.40	.40		

AREA COVERED BY CEMENT MASONS ZONES

ZONE 1 - Carbon County
ZONE 2 - Tobyhanna Army Depot in Monroe County & Pike County
ZONE 3 - Remainder of Monroe County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ELECTRICIANS					
ZONE 1	10.90	.35	3%+.80		.02
ZONE 2	10.77	.55	3%+.25	a	b
ZONE 3	11.20	6%	3%+1.00		.02
ZONE 4	10.65	.50	3%+.50	.50	.10
ZONE 5	11.40	.50	3%+.50	.50	.10

AREA COVERED BY ELECTRICIANS ZONES

ZONE 1 - Carbon County, Towamensing, Lower Towamensing; E. Penn, Twps. the Borough of Parryville in their entirety
ZONE 2 - Remainder of Carbon County
ZONE 3 - Remainder of Monroe County
Zone 4 - Tobyhanna Army Depot in Monroe County
ZONE 5 - Pike County

ELEVATOR CONSTRUCTORS	11.04	.745	.56	c+d	.025
ELEVATOR CONSTRUCTORS HELPERS	7.73	.745	.56	c+d	.025
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	5.52				
GLAZIERS					
ZONE 1	9.19	.40	.30		.01
ZONE 2	9.75	.40	.70		

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Lausane, Penn. Forest, Towamensing, Lower Towamensing, Palmerton, E. Penn., Franklin, Mahoning, Packer, Lehigh, Banks Twps., in Carbon County
ZONE 2 - Remainder of Carbon County, Monroe County, including Tobyhanna Army Depot and Pike County in its entirety

IRONWORKERS					
ZONE 1	11.45	.84	1.21		
ZONE 2					
Structural	11.90	e			.10
Reinforcing	11.80	e			.10

AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Carbon County, Monroe County, including Tobyhanna Army Depot
ZONE 2 - Pike County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
LABORERS					
ZONE 1					
CLASS 1	8.20	.48	.50		
CLASS 2	8.35	.48	.50		
CLASS 3	8.60	.48	.50		
ZONE 2					
CLASS 1	7.45	.35	.45		
CLASS 2	7.70	.35	.45		
CLASS 3	7.85	.35	.45		
CLASS 4	8.47	.35	.45		
CLASS 5	8.20	.35	.45		

LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE 1 - Pike County and Tobyhanna Army Depot in Monroe County
CLASS 1 - Unskilled and window cleaners
CLASS 2 - Semi skilled laborers; jackhammer operators, (each man when two required for operation of jackhammer) vibrator and buster men, wagon drill and all men handling dynamite, gas buggies 2" pumps and concrete mixers (up to 2 bags) and all pneumatic tools, non-mentallic pipe layers and making of joints, clay, terra cotta ironstone, vitrified concrete handling of burning torches, asphalt or other material
CLASS 3 - Plasterer tenders and mason tenders and handling of all material to be used - masons & scaffold builders
ZONE 2 - Carbon County and Remainder of Monroe County
CLASS 1 - Unskilled laborers & window cleaners
CLASS 2 - Operator of jackhammer, paving breaking & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drills & men handling burning torches in the wrecking of buildings, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for the same & cofferdams (below 10')
CLASS 3 - Plasterer & mason tenders, scaffold builders & handling of all materials to be used by plasterers & masons, brick & block loaded on apllets, cement finisher tenders, gunniting & molded-D & sandblaster helpers, power buggies, to get mason tender rates, all floor hardener & "cure" application shall be the work of the mason tender. All pumps, such as the concrete, plasterer, mortar & water, installing plastic or other non-solid refactory materials in connection with boiler work
CLASS 4 - Barko tamper operator
CLASS 5 - Wagon drills and men handling burning torches in the wrecking of buildings

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	10.04		.10		.01
ZONE 2	10.21	.40	.25		.01

AREA COVERED BY LATHERS ZONES

ZONE 1 - Monroe County, including Tobyhanna Army Depot and Pike County
ZONE 2 - Carbon County

LEADBURNERS	10.75	.40	.25	f	.01
LINE CONSTRUCTION					
Lineman, dynamite man, heavy equipment operator	10.80	.50	3%		3/8%
Winch truck operator	7.59	.50	3%		3/8%
Groundman	7.26	.50	3%		3/8%
MARBLE SETTERS					
ZONE 1	8.50	1.00	1.15		
ZONE 2	9.50	.50			
ZONE 3	10.52	.60	.40		

AREA COVERED BY MARBLE SETTERS ZONES

ZONE 1 - Carbon County
ZONE 2 - Tobyhanna Army Depot & Pike County
ZONE 3 - Remainder of Monroe County

MILLWRIGHTS					
ZONE 1	10.91	.43	.50		.05
ZONE 2	10.13	.44	.72		.01
ZONE 3	11.29	.40	.50		.03

AREA COVERED BY MILLWRIGHTS ZONES

ZONE 1 - Tobyhanna Army Depot in Monroe County
ZONE 2 - Remainder of Monroe County and Pike County in its entirety
ZONE 3 - Carbon County

DECISION NO. PA78-3017

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
ZONE 1					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
ZONE 2					
Brush & Roller	8.10		1.00		
Structural Steel	9.10		1.00		
Spray	9.60		1.00		
ZONE 3					
Brush	8.40	1.03	.65		
Spray	9.40	1.03	.65		
Steel	9.40	1.03	.65		

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Carbon County
ZONE 2 - Tobyhanna Army Depot in Monroe County and Pike County in its entirety
ZONE 3 - Remainder of Monroe County

PILEDRIVERMEN	10.77	2.13	1.30	g	.12
PLASTERERS					
ZONE 1	9.75	.60	1.05		.01
ZONE 2	10.30	.50	.50		
ZONE 3	8.90	.60	.95		
ZONE 4	9.30	.40	.40		
ZONE 5	10.52	.60	.40		

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - Summit Hill, Mauch Chunck, Mahoning, Palmerton, Franklin, Towamensing, Lansford & Lower Towamensing Twps., in Carbon County
ZONE 2 - Kidder Township in Carbon County
ZONE 3 - Remainder of Carbon County
ZONE 4 - Tobyhanna Army Depot in Monroe County and Pike County in its entirety
ZONE 5 - Remainder of Monroe County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS					
ZONE 1	11.49	.40	.75		.04
ZONE 2	11.49	.40	.75		.04
ZONE 3	10.02	.57	.92		.01

AREA COVERED BY PLUMBERS ZONES

ZONE 1 - Tobyhanna Army Depot in Monroe County and Pike County in its entirety
ZONE 2 - Remainder of Monroe County
ZONE 3 - Carbon County

ROOFERS					
ZONE 1					
Composition & Slate	10.93	.15	.50		
Slab & Concrete Plank	11.43	.15	.50		
ZONE 2					
Composition & Kettleman	9.65	.85	.80		
ZONE 3					
Composition & Kettleman	10.63	.72			

AREA COVERED BY ROOFERS ZONES

ZONE 1 - East Penn, Franklin, Lower Towamensing, Machoning and Towamensing Townships in Carbon County, Remainder of Monroe County
ZONE 2 - Remainder of Carbon County
ZONE 3 - Tobyhanna Army Depot in Monroe County & Pike County in its entirety

DECISION NO. PA78-3017

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	12.44	7.3%	10.3%	a	1.8%
GROUP 2	12.15	7.3%	10.3%	a	1.8%
GROUP 3	11.28	7.3%	10.3%	a	1.8%
GROUP 4	10.51	7.3%	10.3%	a	1.8%
GROUP 5	10.04	7.3%	10.3%	a	1.8%
GROUP 6	9.13	7.3%	10.3%	a	1.8%
GROUP 7	12.69	7.3%	10.3%	a	1.8%
GROUP 7-A	12.94	7.3%	10.3%	a	1.8%
GROUP 7-B	13.18	7.3%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

GROUP 1 - Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2 - All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-¼ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lift, 20 ft lift and over machine to the above

GROUP 3 - Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-¼ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operators, forklift trucks under 20 ft lift, machines similar to the above

GROUP 4 - Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to the above

GROUP 5 - Fireman, grease truck

GROUP 6 - Oilers and deck hands (personnel boats), core driller helper

GROUP 7 - All machines with booms (including jib, masts, leads, etc.): 100 ft and over

GROUP 7A - 150 ft. and over

GROUP 7B - 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day provided the employee works the day before and after the holiday.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	11.12	.73	.40		.02
SOFT FLOOR LAYERS					
ZONE 1	8.88	.40	.50		.03
ZONE 2	10.61	.43	.50		.05
ZONE 3	9.73	.44	.72		.02

AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE 1 - Carbon County
ZONE 2 - Tobyhanna Army Depot in Monroe County and Pike County in its entirety
ZONE 3 - Remainder of Monroe County

SPRINKLER FITTERS	12.31	.75	1.05		.08
TERRAZZO WORKERS					
ZONE 1	8.75	1.00	1.15		
ZONE 2	9.50	.50			

AREA COVERED BY TERRAZZO WORKERS

ZONE 1 - Carbon County
ZONE 2 - Monroe County, including Tobyhanna Army Depot & Pike County

TILE SETTERS					
ZONE 1	8.70	.80	1.15		
ZONE 2	9.50	.50			
ZONE 3	10.52	.60	.40		

AREA COVERED BY TILE SETTERS ZONES

ZONE 1 - Carbon County
ZONE 2 - Tobyhanna Army Depot in Monroe County and Pike County in its entirety
ZONE 3 - Remainder of Monroe County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
Class I					
Helper, Stake Truck (single axle), Dumpster	8.47				
Class II					
Dump Trucks, Tandem & batch trucks, semi-trailers, agitator mixer truck trucks, ready mix and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation stake body truck (tandem)	8.54				
Class III					
Euclid type, off-highway equipment, back or belly dump trucks and double hitched equipment, straddle (ross) carrier, 20 low-bed trailers	9.03				
Welders - Receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. PA78-3017

PAID HOLIDAYS: Where Applicable:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: Independence Day and Labor Day

b. .12 per day per employee.

c. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Paid holidays: A through F, plus the Friday after Thanksgiving Day.

e. Employer contributes $2.20 to a combined Health and Welfare and Pension Fund.

f. Nine paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer.

g. Paid Holidays: Washington's Birthday, Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans' Day; Thanksgiving Day & Christmas Day.

SUPERSEDEAS DECISION

STATE: VIRGINIA

LOCATION: RADFORD ARMY AMMUNITION PLANT

DECISION NO.: VA78-3040

DATE: DATE OF PUBLICATION

Supersedes Decision No. VA77-3052 dated July 1, 1977 in 42 FR 34261

DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	9.58	.70	.65		.01
BOILERMAKERS	10.20	1.00	.90		.02
BRICKLAYERS	8.50				
CARPENTERS	7.60	.35	.30		.02
CEMENT MASONS	5.95				
ELECTRICIANS	9.50	.50	3%		4%
IRONWORKERS:					
STRUCTURAL AND REINFORCING	9.30	.60	.65		.03
LABORERS:					
COMMON LABORERS	5.15	.25	.25		.03
MASON TENDERS	5.25	.25	.25		.03
AIR TOOL OPERATORS	5.40	.25	.25		.03
LATHERS	8.25				
MILLWRIGHTS	9.95	.35	.30		.02
PAINTERS:					
BRUSH	6.70	.35	.20		
SPRAY	7.10	.35	.20		
PLUMBERS AND PIPEFITTERS	9.25	.35	.65	.25	.05
SHEET METAL WORKERS	9.15	.30	.55		.04
SPRINKLER FITTERS	9.48	.65	.95		.08
POWER EQUIPMENT OPERATORS:					
BACKHOE OPERATORS	7.29				
BULLDOZER OPERATORS	9.16	.30	.40		.03
CRANE OPERATORS	7.62				
OILERS	4.88				
ROLLERS	6.55	.30	.40		.03
PILEDRIVERS	6.32				

SUPERSEDEAS DECISION

STATE: VIRGINIA

LOCATION: THE CITIES OF NORFOLK, CHESAPEAKE, PORTSMOUTH AND VIRGINIA BEACH

DECISION NO.: VA78-3041

DATE: DATE OF PUBLICATION

Supersedes Decision No. VA77-3090 dated July 1, 1977 in 42 FR 34264

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.55	.55	.55		
BOILERMAKERS	10.20	1.00	.90		.02
BRICKLAYERS AND STONE MASONS	8.98	.60	.20		.03
CARPENTERS AND SOFT FLOOR LAYERS	9.00	.40	.35		.02
CEMENT MASONS:					
Cement Masons	8.40				
Machine and Scaffold Men	8.50				
ELECTRICIANS AND CABLE SPLICERS	9.75	5%	8%	a	1%
ELEVATOR CONSTRUCTORS	8.80	.745	.56	b+c	.025
ELEVATOR CONSTRUCTORS HELPERS	6.16	.745	.56	b+c	.025
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	4.40				
GLAZIERS	5.95	.30	.10		.01
IRONWORKERS:					
Reinforcing, Ornamental, Structural, Riggers, Fence Erectors, Machinery Movers	9.60	.60	.85		.08
LABORERS:					
Unskilled	5.60	.20	.20		.05
Tenders, Motorized Georgia Buggy Operators, Nozzlemen (gunite or sandblasting), Concrete Saw Operators, Air Tool and Vibrator Operators	5.70	.20	.20		.05
Mortar Mixers, Hod Carriers, Pipelayers, Caulkers, Marble, Tile and Terrazzo Workers Helpers	5.85	.20	.20		.05
Burners (wrecking)	5.95	.20	.20		.05
Floor, Base and Terrazzo Grinders	6.00	.20	.20		.05
Wagon Drill and Air Trac	6.10	.20	.20		.05
Powdermen	6.35	.20	.20		.05
LATHERS	10.00		.25		
LEAD BURNERS	10.75	.40	.25	d	.01
LINE CONSTRUCTION:					
Linemen and Cable Splicers	9.75	5%	8%		

DECISION NO. VA78-3041	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	7.80	.60	.20		
MILLWRIGHTS	10.30	.40	.35		.01
PAINTERS:					
Brush and Roller	8.05		.40		
Structural Steel from Ground to 74 feet	8.55		.40		
Spray, Paperhangers and Glove Work	8.40		.40		
Any Work Over 74 Feet From the Ground	9.35		.40		
Bituminous Coating and Hot Creosite	9.70		.40		
Swing Stage Under 40 Feet, Rollers With 6 Feet Handles and Over; Epoxy Brushed or Rolled	8.30		.40		
Swing Stage Over 40 Feet	8.55		.40		
Epoxy, Sprayed	8.65		.40		
Sandblasting	8.80		.40		
PILEDRIVERMEN AND DOCKBUILDERS	8.20	.40	.35		
PLASTERS	10.51				
PLUMBERS AND STEAMFITTERS	9.80	.70	.65		.09
ROOFERS COMPOSITION	6.20				
ROOFERS HELPERS	4.35				
SHEET METAL WORKERS	9.30	.45	.55		.005
SPRINKLER FITTERS	9.48	.65	.95		.08
TERRAZZO AND TILE WORKERS	7.80	.60	.20		
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. VA78-3041

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Workmen shall be allowed 2 hours with pay at the start or at the end of the work day on State and National Election days; Tuesday following the first Monday in November, provided they are qualified to and Vote.

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years service as vacation pay credit.

c. Holidays: A through F, Day after Thanksgiving.

d. Holidays: A through F; Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. VA78-3041	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:					
GROUP 1	9.65	.475	.40		.08
GROUP 2	7.70	.475	.40		.08
GROUP 3	6.30	.475	.40		.08
GROUP 4	6.10	.475	.40		.08
GROUP 5	5.91	.475	.40		.08

CLASSIFICATIONS

GROUP 1
Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2
Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16 S, fork lift

GROUP 3
Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

GROUP 4
Firemen

GROUP 5
Oilers

Virginia:
VA77-3052 (VA78-3040); July 1, 1977.
VA77-3090 (VA78-3041).

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C., this 28th day of April 1978.

Dorothy P. Come,
Acting Assistant Administrator,
Wage and Hour Division.

[FR Doc. 78-12002 Filed 5-4-78; 8:45 am]

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federal register

FRIDAY, MAY 5, 1978
PART IV



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

Occupational Exposure to Inorganic Arsenic

Final Standard

MAY 5 78 M

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[4510-26]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Occupational Exposure to Inorganic Arsenic

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final Standard for Occupational Exposure to Inorganic Arsenic.

SUMMARY: This rule limits occupational exposure to inorganic arsenic to 10 $\mu g/m^3$ (micrograms per cubic meter of air) based on an 8 hour time-weighted average. The basis for this action is evidence that exposure to inorganic arsenic poses a cancer risk to workers. The purpose of this rule is to minimize the incidence of lung cancer among workers exposed to inorganic arsenic. Employees protected by this standard work principally in the nonferrous metal smelting, glass and arsenical chemical industries. Provisions for monitoring of exposures, recordkeeping, medical surveillance, hygiene facilities and other requirements are also included. The 10 $\mu g/m^3$ limit has been set because it will provide significant employee protection and is the lowest feasible level in many circumstances.

DATES: Effective date: August 1, 1978.

Startup dates:
August 1, 1978—Respirator use for employees exposed above 500 $\mu g/m^3$.
As soon as possible but no later than September 15, 1978—Completion of initial monitoring.
October 1, 1978—Complete establishment of regulated areas.
Respirator use for employees exposed above 50 $\mu g/m^3$.
Completion of Initial Training.
Notification of use.
December 1, 1978—Respirator use over 10 $\mu g/m^3$.
Completion of initial medical.
Completion of compliance plan.
July 1, 1979—Completion of lunch rooms and hygiene facilities.
December 31, 1979—Completion of engineering controls.

All other requirements of the standard have as their startup date August 1, 1978.

ADDRESS: For additional copies of this regulation contact: OSHA Office of Publications, U.S. Department of Labor, Room N-3423, Washington, D.C. 20210, telephone 202-523-8677.

FOR FURTHER INFORMATION CONTACT:

Mr. Gail Brinkerhoff, Office of Compliance Programs, OSHA, Third Street and Constitution Avenue NW., Room N-3112, Washington, D.C. 20210, telephone 202-523-8034.

SUPPLEMENTAL INFORMATION:

Introduction

This permanent occupational safety and health standard is issued pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911. The new standard on occupational exposure to inorganic arsenic which appears at 29 CFR 1910.1018, applies to all employments in all industries covered by the Act with the following exceptions. For the reasons explained below, the standard does not apply to pesticide application, agriculture, and the treatment and use of arsenically preserved wood.

This document also amends Table Z-1 of 29 CFR 1910.1000. Entries for calcium arsenate and lead arsenate are deleted because they are replaced by the new standard. The existing entry, "Arsenic and its compounds (as As)—0.5 mg/m^3," is amended to read "Organic arsenic and its compounds (as As)—0.5 mg/m^3." The existing entry covers both organic and inorganic arsenicals. As the new standard covers inorganic arsenic, the entry in Table Z-1 is accordingly amended to clarify that it only covers organic arsenicals. The existing entry in Table 1 for arsine remains unchanged for the reasons discussed below.

Pursuant to section 4(b)(2) of the Act, The Occupational Safety and Health Administration (OSHA) has determined that this standard is more effective than the corresponding standards now applicable to the maritime and construction industries and currently contained in Subpart B of Part 1910, and Parts 1915, 1916, 1917, 1918, and 1926 of Title 29, Code of Federal Regulations. Therefore, those corresponding standards are superseded by the new inorganic arsenic standard in § 1910.1018. A new paragraph (e) is added to § 1910.19 to clarify the applicability of this new inorganic arsenic standard to the construction and maritime industries.

I. Background

Arsenic (As) is commonly present in amounts ranging from less than 0.001 percent to 6 percent in sulfide ores mined for their copper, lead, zinc, gold, and silver content. Arsenic is also widely distributed naturally in small amounts (2-5 ppm) throughout the earth's crust. For example, it is found in iron ore and coal. Further, trace amounts of organic arsenic (less than 1 ppm) are naturally present in most living organisms including those man uses for food.

Approximately 97 percent of arsenic enters end-product manufacture in the form of arsenic trioxide (As_2O_3 or "white arsenic"). This compound, which is used in the synthesis of many other arsenic compounds, is released by and obtained as a by-product of the smelting of sulfide ores of copper, lead, and zinc. Arsenic is generally regarded, however, as a troublesome impurity in these metals which is eliminated through the smelting process. The Tacoma, Wash., facility of ASARCO, Inc. (formerly the American Smelting & Refining Co.) is the sole U.S. producer of arsenic trioxide.

ASARCO's arsenic production capacity is estimated to be 11,000 tons per year. World arsenic trioxide production averages approximately 60,000 tons per year, while U.S. consumption averages 30,000 tons per year. Most of the 36 copper, lead, and zinc smelters produce some amount of arsenic-bearing flue dust as a by-product of their operations. In the past, some of this flue dust was reprocessed by ASARCO-Tacoma, in order to reclaim the amounts of precious metals and arsenic it contains. Recent information, however, indicates that ASARCO has been reducing the amount of flue dust it will accept for reprocessing, and that much of the dust is being stored by the originating smelters.

Arsenic and its compounds have a variety of applications. The major use (comprising approximately 69 percent of U.S. consumption) is for insecticides and herbicides. Before World War II inorganic arsenic compounds (primarily calcium arsenate and lead arsenate) were the most widely used pesticides. Substitutes have now replaced arsenicals in many uses. However, the record of this proceeding indicates that two arsenicals are used in the raising of cotton, especially dry field production in Texas. Arsenic acid, an inorganic pentavalent arsenical, is used as a desiccant. Methane arsonates, organic arsenicals (not covered by the standard), are used as pesticides. Approximately 40 percent of the U.S. consumption of arsenic trioxide (12,000 tons) is utilized in the synthesis of these two chemicals.

Approximately 11 percent of total U.S. arsenic trioxide consumption is used in glass production as a clarifying and reducing agent. Only small quantities (a few pounds per ton) are usually used in some forms of glass. This use has been reduced as substitutes have been developed.

Approximately 7 percent (2,100 tons) of the total U.S. consumption of arsenic trioxide is used in the synthesis of arsenical wood preservatives, principally chromated copper arsenate (CCA). Wood preservatives make wood more resistant to termites, fungi, and

rot. In doing so, they extend the useful life of the wood (from 6 to 36 years) helping conserve a natural resource and lessening the need for persistent insecticides for termite control. There are several types of wood preservatives, but for some uses, the record indicates that arsenical preservatives are preferred. (See the Final Environmental Impact Statement (FEIS) and its references.)

Other uses of inorganic arsenicals are for lead alloys (5 percent), flotation reagents for concentrating copper ores (5 percent), and feed additives (2 percent). Small quantities are used in the production of drugs, semi-conductors, light omitting diodes, devices to turn solar energy into electricity and in other electronic applications. Lengthier discussions of role of arsenicals can be found in the FEIS and in the Technological Feasibility Analysis and Inflationary Impact Statement (IIS) by Arthur Young & Co. (AY).

The exact number of workers exposed to inorganic arsenicals is unknown at this time. AY estimated that approximately 660,000 employees were involved in the commercial cycle of arsenic, and that 7,400 employees were exposed to over 4 $\mu g/m^3$ of inorganic arsenic. This latter number is an underestimate because of employee turnover and limited data in some areas and for some facilities.

II. Pertinent Legal Authority

The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards. Occupational safety and health standards provide notice of the requisite conduct or exposure level and provide a basis for assuring the existence of safe and healthful workplaces. The Act provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. (s. 6(b)(5))

Sections 2(b)(5) and 6, 20, 21, 22, and 24 of the Act reflect Congress' recognition that conclusive medical or scientific evidence including causative factors, epidemiological studies or dose-response data may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, standards need only be supported by the best available evidence. The legislative history makes it clear that: "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Committee on Education and Labor, Report No. 91-1291, 91st Cong., 2d Session, p. 18 (1970). This Congressional judgment is supported by the courts which have reviewed standards promulgated under the Act. In sustaining the standard for occupational exposure to vinyl chloride (29 CFR 1910.1017), the U.S. Court of Appeals for the Second Circuit stated that: "it remains the duty of the Secretary to act to protect the working man, and to act even in circumstances where existing methodology or research is deficient." *Society of the Plastics Industry Inc.* v. *Occupational Safety and Health Administration*, 509 F. 2d 1301, 1308 (C.A. 2, 1975), *cert den sub nom, Firestone Plastics Co.* v. *United States Department of Labor*, 95 S. Ct 1998, 4 L.Ed. 2d. 482 (1975).

A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia Circuit in reviewing the standard for occupational exposure to asbestos (29 CFR 1910.1001). The Court stated that:

> Some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficent data is presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual judgments.

Industrial Union Department, AFL-CIO v. *Hodgson*, 499 F. 2d 467, 474 (C.A.D.C. 1974).

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. Senate Committee on Labor and Public Welfare, S. Rep. No. 91-1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *Society of the Plastics Industry, Inc.* v. *Occupational Safety and Health Administration*—supra at 1309; *American Iron & Steel Inst.* v. *OSHA*, No. 76-2358 (3rd Cir., 3/28/78).

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Moreover, where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employees (section 6(b)(7)). Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (section 8(c)).

III. History of the Regulation

In 1943, the American Standards Association (now the American National Standards Institute or ANSI) proposed a standard for arsenic of not more than 15 micrograms of elemental arsenic per cubic meter of air (hereinafter $\mu g/m^3$). However, by 1945, this standard was increased by a factor of 10 to 150 $\mu g/m^3$.

In 1947, the American Conference of Governmental Industrial Hygienists (ACGIH) recommended a Maximum Airborne Concentration (MAC) of 100 $\mu g/m^3$. In 1948 this was changed to a Threshold Limit Value (TLV) of 500 $\mu g/m^3$. It appears that this level was set to protect against the hazard of dermatitis from arsenic trioxide, without consideration of carcinogenicity.

In 1976, based on its evaluation of evidence of carcinogenicity ACGIH adopted two new TLV's for arsenic trioxide. In the smelting environment, a level of 50 $\mu g/m^3$ (as arsenic) along with a ceiling of 5 ppm for sulfur dioxide and a level of 50 $\mu g/m^3$ for antimony trioxide (as antimony) was recommended. In non-smelting environments a level of 250 $\mu g/m^3$ (as arsenic) was recommended. The detailed basis for arriving at these levels is not clear on the record.

The ACGIH has separate standards for lead arsenate and calcium arsenate. A limit for lead arsenate of 150 μg lead arsenate/m^3 has remained in effect since 1957. (There are at least six distinct lead arsenate compounds. Depending on the molecular formula, this limit expressed as elemental arsenic (As) can range from approximately 20 to 55 $\mu g/m^3$). According to ACGIH documentation, lead arsenate was considered to present the double threat of chronic toxicity due to its lead content and acute toxicity due to its arsenic content. The limit for calcium arsenate of 100 $\mu g/m^3$, adopted by ACGIH in 1957, was later changed to the present 1,000 μg (1 mg) calcium arsenate/m^3 (equivalent to 380 μg As/m^3).

In 1969, the Secretary of Labor promulgated the 1968 Threshold Limit Values of the ACGIH including the limit for "arsenic and its compounds" (500 $\mu g/m^3$ as arsenic) lead arsenate (150 $\mu g/m^3$ as lead arsenate) and calcium arsenate (1,000 $\mu g/m^3$ as calcium arsenate), under the Walsh-Healy

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Public Contracts Act (41 U.S.C. s35 et seq.) (34 FR 788-796) after an opportunity for a public hearing and written comments (33 FR 14258). These standards were subsequently adopted as established Federal Standards under section 6(a) of the Occupational Safety and Health Act of 1970 (36 FR 10466, 36 FR 15101) and included in what is now table Z-1 of § 1910.1000.

The Occupational Safety and Health Administration began the process of revising the current standard governing occupational exposure to inorganic arsenic after receipt of the National Institute for Occupational Safety and Health (NIOSH) document, "Criteria for a Recommended Standard • • • Occupational Exposure to Inorganic Arsenic," in January 1974. On September 20, 1974, after notice published in the FEDERAL REGISTER, OSHA conducted an informal fact-finding hearing[1] on the possible health hazards associated with occupational exposure to arsenic and its inorganic compounds. Findings presented at the hearing and through post-hearing comments implicated inorganic arsenic as a human carcinogen. Recent mortality studies conducted both in the United States and abroad furnished strong additional evidence to corroborate previous studies which showed excess respiratory and lymphatic cancer mortality among workers exposed to inorganic arsenic.

In view of this additional information, NIOSH submitted revised recommendations to OSHA on November 8, 1974, advocating that occupational exposure to arsenic and its inorganic compounds be limited to "no detectable level." NIOSH later published a new criteria document containing these modified recommendations and a discussion of the new information considered. The new NIOSH recommendations called for controlling occupational exposure to inorganic arsenic so that no worker is exposed to a concentration of arsenic in excess of 0.002 mg (2 μg) per cubic meter of air as determined by a 15-minute sampling period.

On January 21, 1975, a proposed standard to control occupational exposure to inorganic arsenic was published in the FEDERAL REGISTER (40 FR 3392). The proposal included a detailed preamble describing the necessity for the proposed standard, the information relied upon in its development and the terms of the proposal in its entirety. The notice requested the submission of written comments, data, views and arguments on the issues raised by the proposal and scheduled an informal hearing pursuant to section 6(b)(3) of the Act (29 U.S.C. 655(b)(3)) for April 8, 1975. The hearings lasted 6 days.[1]

On November 8, 1974, a notice of OSHA's intent to prepare an environmental impact statement was published in the FEDERAL REGISTER (39 FR 39617) pursuant to 29 CFR 1999.3(d). Subsequent to the publication of that notice, a draft environmental impact statement (DEIS) was prepared and on March 21, 1975, the Council on Environmental Quality published a notice of availability of the inorganic arsenic DEIS (40 FR 12841). In addition to the 45 day comment period specified in 29 CFR 1999.4(g), the environmental impact, if any, of the proposed standard was also an issue for the informal hearing as provided by 29 CFR 1999.4(h) and the notice of proposed rulemaking (40 FR 3392).

In addition to the DEIS, OSHA also prepared the "Technological Feasibility Analysis and Inflationary Impact Statement" (IIS). On June 24, 1976 a notice was published in the FEDERAL REGISTER (41 FR 26029) announcing the availability of the document. This notice also announced that the second phase of the rulemaking hearing on the economic impact and technological feasibility of the proposed standard, as well as certain new scientific evidence which had been developed or obtained since the April 1975 hearing, would be held.

On July 16, 1976, a second FEDERAL REGISTER notice announced the intention to include, as an issue in the forthcoming hearing, testimony and information on the advisability of including sputum cytology as part of required medical surveillance provisions in the final standard for inorganic arsenic (41 FR 29425). Following this second hearing (September 8-14, 1976)[1] post-hearing comments were received until November 2, 1976.

On November 5, 1976, a notice announcing the availability of certain new analyses of the potential carcinogenicity of pentavalent arsenic, as well as other information, was published (41 FR 48746). This notice provided for the submission of comments on the new materials by December 9, 1976.

The entire record, including 193 exhibits and approximately 2,500 transcript pages was certified by the Presiding Administrative Law Judges on January 27, 1977, and February 3, 1977, respectively, in accordance with 29 CFR 1911.17.

Prior to promulgation of the final standard, OSHA prepared a final environmental impact statement (FEIS) in accordance with 29 CFR 1999.5. Notice of the availability of the FEIS was published by the Council on Environmental Quality on February 11, 1977 (42 FR 8690).

This standard on occupational exposure to inorganic arsenic is based on a full consideration of the entire record of this proceeding including materials discussed or relied on in the proposal, the record of the informal hearing, all written comments and exhibits.

[1]Throughout this document references will be made to hearing transcript pages as follows: Fact-finding hearing (September 20, 1974)—FTR; Hearing, April 8-15, 1975—ATR; Hearing, September 8-14, 1976—STR.

IV. OCCUPATIONAL HEALTH IMPLICATIONS

The impetus for this new inorganic arsenic standard is evidence of its carcinogenicity. This section analyzes that evidence in depth and is divided into seven parts as follows:

A. *Summary and General Considerations.* A discussion of some of the general considerations appropriate to the evaluation of epidemiologic studies.

B. *Respiratory Cancer.* A discussion of the study designs and the authors' conclusions; and OSHA's conclusion based on its analysis of the studies as well as some of the criticisms and comments contained in the record of the arsenic proceeding.

C. *Lymphatic Cancer.* Presentation of available data on the causal agents implicated in the lymphatic cancer deaths observed in two of the studies.

D. *Dose-Response.* A presentation of dose-response data derived from some of the studies, criticisms and adjustments where appropriate, as well as OSHA's analysis.

E. *Animal Studies.* A presentation of, and evaluation of animal studies pertinent to the evaluation of occupational carcinogenesis.

F. *Valence Considerations.* A discussion and comparison of acute toxicity, mechanistic interactions and interconversion between trivalent and pentavalent arsenic, and an evaluation of the present relevance of this information on the assessment of carcinogenic risk.

G. *Conclusion.* Separate summaries, analyses and conclusions on the carcinogenic risk of exposure to trivalent and pentavalent arsenic.

A. SUMMARY AND GENERAL CONSIDERATIONS

OSHA has carefully reviewed the substantial body of evidence relating to the carcinogenicity of inorganic arsenic and has concluded that it is clearly a human carcinogen. There is virtually no dispute as to the carcinogenicity of trivalent arsenic. There is a substantial body of epidemiologic studies of arsenic-exposed workers in varying environments showing excess risk of lung cancer where the one common factor is exposure to inorganic arsenic. Moreover, excess risk increases consistently with increasing degree and exposure to inorganic arsenic. In addition as discussed in detail below, both the available evidence and policy considerations have led OSHA to conclude that pentavalent arsenic should be regulated as a human carcinogen.

The following sections analyze in depth the most important epidemiologic studies which are part of the record. A brief review of the nature of epidemiology may clarify that analysis.

Epidemiology is the study of the distribution and determinants of disease in humans. It focuses not on any single individual but on groups of individuals. Evidence of carcinogenicity in humans can be derived from two types of epidemiological studies (1) descriptive epidemiological studies in which the morbidity or mortality of cancer in human populations is found to vary (spatially or temporally) with exposure to the agent and (2) analytical epidemiological studies (e.g., case-control or cohort studies) in which individuals' exposure to the agent are found to be associated with an increased risk of cancer. Epidemiological studies, when done properly, are the most direct measure of the carcinogenicity of an agent since man himself is the subject of these studies.

In contrast to the controlled experimental study of animal species, epidemiological studies of necessity rely upon the untoward effects of unplanned events in the past. For that reason, it may be difficult, in any one epidemiological study, to account for all potential confounding variables. Thus while a single epidemiological study may in some cases demonstrate a cause-effect relationship, the most convincing evidence of causality from epidemiological studies comes when several independent studies done under diverse circumstances result in positive findings.

Any epidemiological study showing or not showing a positive association between an agent and an increased risk of cancer may be weighted to a greater or lesser extent insofar as the following criteria are met:

(1) *Definition of Study Population.* A clear description is made of the population from which the study group was selected, the method of selecting the subjects of the study group, the criteria and rationale for inclusion or exclusion of study subjects and the procedure and rationale by which the study subjects were classified according to presence or absence and degree of exposure.

(2) *Reference Population.* A clear description is made of the reference or standard population against which the study group is contrasted and the procedure and rationale for selecting that reference or standard population.

(3) *Disease Ascertainment and Classification.* A clear statement is made of the specific procedures and sources for disease ascertainment including the degree of completeness of that ascertainment track for the study and the reference population. The criteria are specified for classification of morbidity and mortality (e.g., nosology) and a statement is made addressing the comparability of study and reference population regarding this classification scheme.

(4) *Positive or Negative Bias or Confounders.* As the operation of factors in the study design or execution may lead erroneously to an observed excess or deficit of cancer risk among exposed individuals, a clear statement is made of the magnitude of over or underestimating disease risk in the study group. Such factors to be considered are selection of healthy individuals for work and ethnicity and life-style differentials.

(5) *Dose-Response Relationship.* A dose-response relationship is demonstrated, that is an increase in cancer morbidity or mortality with an increase in degree of exposure. Demonstration of such a relationship provides strong evidence for incriminating the agent under study as a causal factor in the etiology of cancer causation. However, because of difficulty in the quantification of actual degree of exposure (dose-rate, deposition, retention, excretion) such relationships may not always be apparent. For that reason the lack of a demonstrated dose-response relationship may not negate the carcinogenicity of an agent.

In addition to these criteria, it must be recognized that any epidemiological study will have confidence limits around estimates of association or relative risks (e.g., around Standardized Mortality Ratios etc). In a study reported as "negative", the upper confidence limit may fall at a relative risk considerably above unity and thus the study cannot be regarded as negative but only as excluding a relative risk that is above this upper limit. Finally a "negative" epidemiological study may be relevant only to dose levels within or below the range of those observed in the study and is pertinent only if sufficient time has elapsed since first human exposure to the agent. Experience with human cancers of known etiology suggests that the period from first exposure to a chemical carcinogen to development of clinically observed cancer is usually measured in decades and may be in excess of 30 years.

Epidemiologic evidence must be viewed in its entirety. Such evidence is strengthened when similar findings are repeated or occur in different settings and environments. Accordingly, after discussing and analyzing individual studies, OSHA draws its conclusions based on all studies taken as a whole, scientific opinion, and OSHA policy.

B. RESPIRATORY CANCER

Two significant studies became available before the fact-finding hearing. The first, a study by Ott, Holder, and Gordon (Ex. 1A 3-1) concerning the relationship between respiratory cancer and occupational exposure to dry arsenicals was submitted to OSHA by the Dow Chemical Company in response to the advance notice of proposed rulemaking (39 FR 10494). According to the study report, the dry arsenicals to which the workers were exposed were the following, listed in order of decreasing production: lead arsenate (59 percent), calcium arsenate (34 percent), copper aceto-arsenite (5 percent) and magnesium arsenate (2 percent).

The Dow study compared the proportionate mortality rate of arsenic-exposed employees with that of non-exposed employees over a 37-year period (1919-1956). The "exposed" employee group included those workers who had spent 1 or more days in the arsenical production area, while the "control" group had never worked in the arsenic exposure area.

An increased percentage of cancer deaths was observed among the exposed worker population (32.9 percent) versus the nonexposed (20.7 percent). The authors' analysis of the data indicated an approximate threefold increase in lung cancer for the exposed population (16.2 percent) over the nonexposed (5.7 percent). Lymphatic cancer occurred 2.5 times the expected rate (3.5 percent versus 1.4 percent). Fewer cancers of the digestive system were found in the exposed population than were expected.

To supplement the results of the first analysis, Ott also performed a cohort analysis by examining mortality data for 603 men who had worked for at least 1 month in the exposure area. Ott observed 35 cancer deaths among the exposed group versus 19.4 deaths expected on the basis of the U.S. white male age-calender time-cause specific rate. Of the 35 total cancer deaths among the exposed population, 20 lung cancer deaths were observed where only 5.8 would have been expected. Additionally, there were 5 deaths attributable to lymphatic cancer where 1.3 were expected. Thus, the results of the cohort analysis confirmed the findings of excess respiratory cancer mortality in the earlier analysis.

Of interest was the fact that of 173 deaths recorded for workers in the exposed population, 138 of the workers had worked in the exposure area for a period of less than 1 year, and of these 138, 16 died of lung cancer.

The National Academy of Science (NAS) report (Ex. 180, p. 313) noted that 60 percent of the respiratory cancer deaths reported in the Ott study were observed among those workers who had worked in the plant 1 year or less. Since the study included only those workers who remained with the company, the report recommended that the excess in this group be verified by following all short term work-

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ers. The report also noted that while the excess respiratory cancer mortality among these short-term workers might or might not be ascribable to arsenic, 4- to 6-fold excess respiratory cancer mortality was observed among the longer-term workers.

OSHA agrees it is conceivable that the excess among the short-term workers might not be ascribable to arsenic. However, there is no data to support this hypothesis and the long-term workers were at elevated risk of dying of respiratory cancer. OSHA thus accepts the study findings of excess respiratory cancer mortality among workers in the Dow plant.

The Allied Chemical Corp. submitted an epidemiological study to OSHA which contained findings of an excess of respiratory and lymphatic cancer deaths similar to the Dow studies (Ex. 1A-24). The Allied facility had also been engaged in the manufacture of dry arsenicals for pesticides. Further, like the Dow process, arsenic trioxide was the starting compound for the subsequent synthesis of lead arsenate, calcium arsenate, and other chemicals.

The Allied study, performed by Baetjer et al., compared the mortality experience of retired arsenic workers with that of the general population of Baltimore, Md., the location of the Allied pesticide facility. It focused on 27 deaths occurring between 1960 and 1972. Of the total deaths, 19 were due to cancer, including 10 from respiratory cancer and 3 from leukemia or lymphosarcoma. The expected numbers of deaths, however, based on figures adjusted for the combined age, race, and sex-specific relative frequencies of the general population of Baltimore, were only 5.6, 1.5, and 0.18, respectively.

When an analysis was made of mortality among only male retirees from the pesticide plant, Baetjer found even greater differences between observed and expected deaths from all types of cancer, as well as respiratory and leukemia-lymphatic cancers. Specifically, there were 17 deaths from all forms of cancer versus 1.35 expected, 10 respiratory cancer deaths versus 0.4 expected, and 3 deaths from leukemia-lymphatic cancers versus 0.05 expected.

OSHA recognizes that the Baetjer study is a preliminary study which will be followed by a more thorough analysis. OSHA agrees with Arthur D. Little, Inc. (Ex. 26B, p. 36) that the study does not eliminate other potential associations of workers with respiratory cancer such as smoking, common ethnicity or demography. As ADL noted, the lack of such analysis weakens the inference of a relationship between the plant environment and death by cancer. However, OSHA concludes that the magnitude of the excess of respiratory cancer mortality (28 and 17 times the expected Baltimore rates for 1960 and 1970, respectively) makes this study strong evidence of excess risk among workers exposed to arsenicals.

The studies by Ott et al. and Baetjer et al. because of their significant impact on the assessment of carcinogenic risk to exposure to arsenicals, have come under the most detailed scrutiny of any studies in the record. In the context of deciding the issue of carcinogenicity of pentavalent arsenic, many analyses have focused on the fact that workers were exposed to both trivalent and pentavalent arsenicals as well as other chemicals. In April 1975 OSHA asked the Allied and Dow Chemical Companies what chemicals the workers in the two studies were exposed to and what was their estimate of the degree and duration of exposure to each chemical (Ex. 101, Ex. 102).

Allied responded "we cannot establish with certainty the exact nature of exposures to which our people were subjected. Some were predominantly exposed to arsenic trioxide plus sodium arsenite, Paris Green and the Arsenates, while the female packers (not included in the Baetjer Phase I study, but among whom is a cancer survivor in remission) were exposed only to calcium arsenate, lead arsenate, and Paris Green." (Ex. 55.)

Dow responded:

> Unfortunately, at this time we cannot assess the relative importance of trivalent vs pentavalent arsenic. The men were exposed to the following materials: arsenic acid, lead arsenate, calcium arsenate, copper acetoarsenite, acetic acid, gum arabic, Rhodamin B, and finally lead oxide.
>
> Since the insecticide department was somewhat seasonal in its operation, the turnover of employees was considerable. It was, for many, the entry job into the company from which a considerable number of employees went on to other jobs with other exposures. The random nature of this movement is such that it is impossible to establish any pattern of exposure to other chemical entities. (Ex. 102.)

Ott's response to a question at a 1975 symposium on the health effects of arsenic and lead helps clarify this further.

> Arsenic trioxide was present in one building which was apart from the packaging building where most of the employees worked. Lead oxide was mixed with the arsenic trioxide and the arsenic was converted to the pentavalent form in the first building. The material was then pumped over to the finishing building in a slurry and dried and processed for packaging. (Ex. 182.)

Furthermore, as noted earlier, nearly 95 percent of the arsenicals produced in the Dow plant were pentavalent arsenicals.

Based on the Allied and Dow responses, it appears that the workers in the Allied study were primarily exposed to trivalent arsenic while those in the Dow study were primarily exposed to pentavalent arsenic. It is the case that workers in these two studies were exposed to other chemicals besides inorganic arsenic. However, their primary exposure was to trivalent and pentavalent arsenic, as these were the primary starting materials and primary products of the two plants. At the same symposium, Ott later stated:

> We have evaluated, using proportionate mortality techniques, every production unit in that location. The judgment was made, based on having looked at all these production units in relation to the arsenicals one, that the experience in the arsenicals area was unique to that unit. This is not to say that those people did not have other observed chemical exposure and I do not think we attributed all the effects to arsenicals. It was felt that regardless of whether there was some synergism present or not, the experience we were seeing was unique and not duplicated in any other production. (Ex. 182E, p. 314.)

While exposures to other chemicals (none of which are known to be carcinogenic) may have contributed to the excess cancer mortality observed, OSHA believes that is is appropriate to conclude that inorganic arsenic is the primary causal agent for the excess cancer mortality observed because of the large magnitude of excess risk and because the predominant exposure was to arsenicals. As discussed below, the conclusion is reinforced by the other studies indicating excess risk among arsenic-exposed workers.

For further presentation and analysis of the data in the Ott study see section IV-D of this preamble.

In 1969, Lee and Fraumeni, (Ex. 5D) in an effort to clarify the role of arsenic in human carcinogenesis, studied and compared the mortality data of 8,047 white, male Anaconda copper smelter workers in Montana exposed to both arsenic trioxide and sulfur dioxide and other co-contaminants during 1938-1963, with that of the white male population in the State of Montana. As of December 1963, 5,397 of these 8,047 workers were known to be alive; 1,877 were deceased; and 773 were unknown status. When compared to the control population (white, male Montanans) there were 1,877 observed smelter worker deaths as contrasted with 1,634 expected deaths (P less than 0.01).

The authors analyzed the study group according to duration and degree of exposure to arsenic trioxide and sulfur dioxide. The excessive lung cancer mortality among the copper smelter workers was found to increase consistently with increasing lengths of employment at the smelter. These increases ranged from 2.03 times the expected for those employed from 1 to 4 years, to 4.7 times the expected rates for those employees working 15 years or more prior to 1938.

Lee and Fraumeni further divided the groups into "heavy," "medium," and "light" exposures to arsenic trioxide, based on the amount of arsenic trioxide to which the employees had been exposed. According to testimony given by H. F. Morris (Ex. 28B) the Anaconda workers studied by Lee and Fraumeni would have been exposed to the following average levels of arsenic trioxide from 1943 to 1957: heavy—11.27 mg/m³; medium—0.58 mg/m³; light—0.29 mg/m³. As Morris stated, respirators were supplied in the heavy and some of the medium exposure areas and "used with varying degrees of faithfulness."

Additionally the authors discovered that lung cancer mortality increased consistently with increasing degree and duration of exposure in each of the "heavy," "medium," and "light" categories. Lung cancer mortality ranged from 4.4 to 8 times expected in the "heavy" exposure group, 2.63 to 6.7 times expected in the "medium" group, and 2.1 to 2.5 times expected in the "light" exposure category. Further, it is significant that the 2,862 men who worked less than 12 months in their category of maximum arsenic exposure category, were found to have an incidence of lung cancer 2.86 times that of the control population.

Similarly, workers were grouped according to the duration and degree of their exposures to sulfur dioxide. Again, excess lung cancer mortality was found with increasing exposure to sulfur dioxide. The greatest excess of lung cancer was found among the workers exposed to both high concentrations of arsenic trioxide and medium or high concentrations of sulfur dioxide. Lee and Fraumeni concluded that their findings were "consistent with the hypothesis that exposure to high levels of arsenic trioxide, perhaps in interaction with sulfur dioxide or unidentified chemicals in the work environment, is responsible for the threefold excess of respiratory cancer deaths among smelter workers." For a more detailed analysis of this dose—response data in this study, see section IV-D of this preamble.

The finding of excess lung cancer mortality is of great significance because this study meets most of the criteria of an ideal epidemiological study. The study carefully followed up the population at risk for a substantial period of time. The size of the population at risk, allowed for both a high degree of statistical significance, as well as for breakdown into large exposure categories for gradients of risk of exposure to arsenic trioxide and other agents to be examined. The exposure categories were further substantiated by contemporaneous measurements, which were submitted to the record of this proceeding.

Certain other factors such as smoking and place of birth were only qualitatively evaluated. However, as discussed below, these were not of sufficient magnitude to eliminate the excesses observed.

The strength of the Lee and Fraumeni study was also discussed by Arthur D. Little, a consulting firm hired by Kennecott Copper, to review the evidence. ADL, in comparing this study to other studies discussed in the body of the study pointed out the other "studies which neither in volume, duration or methodological excellence could compete with this exceptional investigation." (Ex. 26B, p. 32).

There have been three studies which examined the mortality experience of ASARCO, Tacoma, Wash., copper smelter workers. The first, Pinto and Bennett (Ex. 3Z) suffers from the inappropriate choice of nonexposed control groups for the arsenic-exposed population (ATR 772-73). The second study, Milham and Strong (Ex. 1A-7H) shows excess lung cancer mortality. The third, by Pinto and Enterline (Ex. 29B and Ex. 111, Attachment 4) presents the most thorough examination of ASARCO, Tacoma worker mortality. Consequently, only the latter study is examined in detail.

At the April 1975 rulemaking hearing, Pinto and Enterline (Ex. 29B) presented results of a mortality study of retirees receiving pensions from ASARCO, Tacoma. The retiree population included those who were alive on January 1, 1961, and who had reached age 65 prior to December 31, 1973 (Ex. 29B). An updated report (Ex. 111, Attachment 4) included pensioners who were alive as of January 1, 1949, and who had reached age 65 before December 31, 1960. For the years 1949 to 1973, 324 deaths were recorded, with 69 due to cancer. Of the 69 cancer deaths, 32 were due to lung cancer, a rate 3 times that of the Washington State population.

Pinto and Enterline considered the lifetime arsenic exposure of each member of the study population from two aspects—total exposure duration and average exposure—the exposure values being constructed from separate departmental averages of a large number of employee urine samples taken in 1973. These levels were used to calculate an arsenic exposure index for each pensioner studied. The pensioners were then divided into four groups based on their exposure indexes.

Pinto and Enterline found that respiratory cancer was related to the average urinary arsenic levels. No excess lung cancer mortality was observed in workers employed less than 25 years prior to retirement, who had average urinary arsenic levels less than 200 micrograms/liter. However, statistically significant excess lung cancer mortality was observed in all groups exposed 25 years or more.

On the basis of their findings Pinto and Enterline concluded, "results thus far indicate that there is a relationship between exposure to arsenic trioxide, or associated agents in the smelter atmosphere, and increased risk of respiratory cancer."

In the updated report (Ex. 111, Attachment 4), the authors also analyzed the effect of smoking on a population of 419 retirees alive on January 1, 1961. Among the 377 workers in this group for whom smoking histories were available, 191 were smokers and 186 were not (nonsmokers were defined as those who had not smoked in the last 10 years). Respiratory cancer mortality rates for the smoking retirees were compared with smokers in the general population of Washington State (1961-70) and the rates of nonsmoking retirees were compared with nonsmokers in the general Washington population. As a result, the authors were able to provide a numerical estimate of the adjustment for smoking on the lung cancer mortality rates observed in the study.

It should be noted that the Pinto and Enterline study, like the Lee and Fraumeni study, is an excellent study and deserves considerable credence. The study was based upon careful followup of a group of long-term exposed workers. Exposure indices, based on 1973 values, provided for a maximum utilization of the data. The consistent dose-response relationship between 1973-based urinary arsenic levels and lung cancer mortality strengthens the association of the disease with worker exposure to arsenic. Thus, OSHA accepts, the overall findings of excess lung cancer mortality observed in the study. The data from this study is analyzed in greater detail in Section IV-D of this premble.

There was considerable analysis in the record of the effects of smoking and place of birth on the findings of Pinto and Enterline, and Lee and Fraumeni, and other studies. Pinto and Enterline found the lung cancer rate among the smoking retirees to be 2.6 times that of the general population smokers, and the rates of the nonsmoking retirees to be 4.6 times that of the general population of nonsmokers. Pinto and Enterline, on the basis of a 1975 survey of current worker smoking habits, calculated that a 17 percent adjustment of lung cancer mortality was necessary to adjust for the smoking patterns of present Tacoma smelter workers. Dr. Enterline concluded:

> There appears to be some interaction between smoking and arsenic exposure, but not the multiplying effect observed for some other substances. Smokers have slightly higher total arsenic exposures at retirement, but definitely not enough to account for the added deaths. Table 3 (of the study) provides only very rough estimates, but it

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does suggest that the excess in SMR's for respiratory cancer are not due to smoking.

As noted by Dr. Weir (Ex. 29N) smoking should be considered in the evaluation of the Lee and Fraumeni and Pinto and Enterline studies. Dr. Weir has coauthored several studies which investigated the smoking patterns of various occupational classes of workers. Weir indicated the greatest adjustment necessary to account for increased degree of smoking among the skilled occupational laborers studied was 18 percent. In these circumstances, OSHA is unwilling to assume that smoking alone accounted for more than a 17 percent excess in lung cancer mortality.

OSHA accepts the fact that some adjustment to standardized mortality ratio in other studies, needs to be made, as in the case of the Tacoma workers to take into account for possibly higher smoking pattern (relative to the general population) among smelter workers. But if the 17 percent adjustment at Tacoma is typical, this would not significantly modify the findings of 2 to 8 times excess mortality found in this and other studies. Therefore, OSHA agrees with Dr. Fraumeni (ATR 182) that smoking could not account for the excess mortality in the "light" category of the Lee and Fraumeni study and of course, would not account for the larger excesses in the "medium" and "heavy" exposure categories.

Another factor known to affect excess respiratory cancer observed in the two studies is place of birth (Ex. 29N, 26B). As noted and displayed in table 7 of the Lee and Fraumeni study, foreign-born workers had higher SMR's for respiratory cancer than native-born workers, but exhibited similar gradients by degree and duration of exposure. Lee and Fraumeni stated,

> The greater excess of respiratory cancer mortality among foreign-born workers can be attributed, at least in part, to the fact that the periods of employment were generally longer than those for the native-born. In addition, the extent of the overall excess of respiratory cancer and the mortality gradients associated with specific exposures in the smelter cannot be explained by other factors which affect cancer mortality, such as socio-economic status, genetic susceptibility, availability of medical care, accuracy of death certificates, and urbanization. (Ex. 5D pp. 1049-50.)

Because the paper provided no data to assess the effect of duration of employment on foreign born worker respiratory cancer mortality, Weir analyzed the effect of birthplace on mortality risk for all causes. Weir stated that the figures based on mortality risk of all causes do not necessarily mean that the authors were incorrect in assigning the excess respiratory cancer risk to occupational exposure. However, if these two groups are similar, Weir calculated that as much as 15 percent of the respiratory cancer risk could be reassigned to place of birth (Ex. 29N, p. 21). It should be noted that this is only an approximation. The approach one would prefer (assuming one had access to the original data) would be to assess the influence of birth on the disease being assessed, lung cancer, and not make approximations based upon deaths from all causes. Since 33.7 percent of the deaths of Lee and Fraumeni and approximately 40 percent in the Pinto and Enterline were among foreign-born, Weir believed that the effect was at least as great in the Pinto and Enterline study (Ex. 29N, p. 21).

OSHA accepts Weir's analysis that this birthplace variable may influence the excess respiratory cancer mortality among these workers in these two studies. The exact degree is unknown but 15 percent seems a reasonable high-side estimate. As Weir later noted, the absolute value of the risk gradients by exposure level, would be reduced, the relative values would be unchanged.

Even if the adjustments for smoking (17 percent) and upper bound estimate for place of birth (15 percent were applied, there still would be a substantial excess respiratory cancer mortality in all categories (heavy, medium, and light) of the Lee and Fraumeni study and those in which a statistically significant excess lung cancer mortality was observed in 3 categories in the Pinto and Enterline study.

It can be speculated that these adjustments should be higher and that therefore a greater portion of the excess mortality in the exposed groups is accounted for by smoking and place of birth. But such speculation is not supported by concrete data. OSHA does not judge it appropriate when analyzing studies for the purpose of adopting health standards to apply all speculative hypotheses that might reduce reported risk. Accepting such hypotheses is, in effect, a bias against worker protection. Thus, OSHA concludes that the evidence indicates that some adjustment to the mortality rates is needed to take into account smoking and place of birth. But even allowing for adjustment for smoking and place of birth, there is still substantial excess respiratory cancer mortality among the exposed workers in the Lee and Fraumeni, and Pinto and Enterline Studies. Exposure to arsenic still remains the best explanation for the observed excess risk.

A two-part investigation of the worker population of an English factory which manufactured a sodium arsenite sheep dip was published in 1948. The first part of this study, reported by Hill and Faning, (Ex. 5B) compared mortality data of the factory worker population with that of workers in other occupations in the same community, during the years 1910 to 1943. Hill and Faning found 22 cancer deaths (29.3 percent) among 75 deceased workers, compared to 157 cancer deaths (12.9 percent) among 1,216 deceased workers from other occupations. The percentage of cancer deaths due to cancer of the respiratory system was 31.8 percent for the sodium arsenite workers compared to 15.9 percent for the control group, and from skin cancer, 13.6 percent compared with 1.3 percent for workers from other occupations.

The second part of the study, reported by Perry et al. (Ex. 5C), consisted of a clinical and environmental investigation of the same factory during 1945 and 1946. Although the study was limited in scope and design, Perry's results showed some correlations between the levels of arsenic found in the hair and urine of workers, and the levels of airborne arsenic contamination to which workers were exposed.

The Hill and Faning study is an example of a carefully done case-control study. The control group, a group of comparable socio-economic status with that of the exposed group, provided for internal control of many variables (smoking, place of birth) important for the evaluation of relative risk due to exposure to chemicals. The excesses, although based on a small sample size, are given added importance when considered in conjunction with the findings of the Ott and Baetjer studies (discussed previously) and taken together strongly supports the findings of excess cancer mortality risk among nonsmelter workers exposed to arsenicals.

In 1951 Snegireff and Lombard (Ex. 5E) conducted a statistical study of cancer mortality in the metallurgical industry. They concluded that the frequency of cancer deaths of all types among the employees of a plant handling arsenic trioxide was not significantly different from that of a control population (workers in a plant stated to be identical to the first except that it handled no arsenic trioxide). As a result of this lack of statistical significance, the authors concluded that arsenic trioxide was not carcinogenic.

Both NIOSH (Ex. 99, p. 32-35) and ADL (Ex. 26B, p. 15-20) analyses found the author's statistical analysis and conclusions to be of questionable validity. Using a number of assumptions, NIOSH observed that both worker populations were subject to large excess respiratory cancer mortality. NIOSH concluded that the authors should have chosen a more suitable control population, and focused their analysis on respiratory cancer mortality. ADL in a detailed analysis of the statistics of the paper noted several serious misapplications of statistical analysis as well as errors in interpretation (Ex. 26B, p. 18-20). OSHA concludes along with ADL and NIOSH that the statistics and analysis do not support the authors' conclusions. Accordingly, OSHA places no weight on this study.

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In October 1974, the Kennecott Copper Corporation (KCC) submitted a survey of mortality from respiratory diseases observed among its active and retired employees for the period 1950 to 1972 (Ex. 1A-30). The study, performed by Milby and Hine, compared the ratios of observed employee deaths to the expected deaths and the proportion of deaths due to cancers of all types, respiratory cancer, and nonmalignant respiratory diseases among KCC employees with corresponding data for the United States and for the State of Utah. They found that the proportion of respiratory cancer deaths among KCC employees was not very different from either the total U.S. respiratory cancer death rate or that of the State of Utah.

Both NIOSH (Ex. 99, p. 47-8) and ADL (Ex. 26B, p. 38) noted that a major flaw in the Milby-Hine study was the inclusion of all workers from all Kennecott facilities in the mortality analysis. NIOSH noted that approximately 80 percent of the study population were miners, concentrator workers, and refinery workers. Miners and concentrator workers were not exposed to arsenic but rather to complex ore in which arsenic is bound in such a manner that workers are exposed to the "ore" and not free, unbound arsenic compounds. The arsenic in such ores might not be biologically available and therefore might not elicit a carcinogenic response. As noted in the Rencher-Carter study, none of these groups of workers have been shown to be at increased risk. This resulted in a significant dilution effect in which the mortality experience of smelter workers was masked by the inclusion of workers at other work sites. NIOSH also noted that insufficient time may have elapsed to allow for the latency period of arsenic-associated carcinogenesis. Thus, NIOSH felt that the study did not reliably evaluate the effects of exposure at the Kennecott, Utah, smelter.

OSHA concludes that the overbroad inclusion of workers at work sites not at excess risk, diluted results which would have been associated with smelter workers. Additionally, more information than provided in the study is necessary to evaluate whether sufficient time has elapsed to allow for latency period. In view of these difficulties, less weight can be placed on the findings of the Milby-Hine study, particularly in relation to the Lee and Fraumeni, and Pinto and Enterline studies.

A study by Kuratsune et al. (Ex. 1A-7G) published in 1974, reported a high frequency of respiratory cancer mortality among workers at a Japanese copper smelter. On the basis of Kuratsune's findings, the Japanese Ministry of Labor judged that the cases of lung cancer were due to occupational exposure to arsenic trioxide and other compounds released during the smelting of copper ores. Kuratsune's study is consistent with the findings of excess mortality among workers in some American smelters.

In 1976 Tukadome and Kuratsune (Ex. 191), in a follow-up to their 1974 study, published a study of the mortality in an experience of 2,675 male Japanese smelting and refinery workers for the period 1949 to 1971. The workers were divided into 5 cohorts according to their jobs, considering both the areas and tasks to which they were assigned. Standardized Mortality Ratios (SMR's) were calculated by applying the age-specific death rates to the mid-year populations by each year from 1949 to 1971 and summing over all calendar years.

Among copper smelter workers, statistically significant mortality excesses were observed for cancer of all sites, cancer of the colon and lung cancer. The ratio of observed to expected deaths for lung cancer was 11.9 (29 deaths observed, 2.44 expected) cancer of the liver 3.4 (11 observed, 3.26 expected), and cancer of the colon 5.1 (3 observed, .59 expected). In contrast, no excess cancer mortality was observed in any of the other cohorts.

The authors then grouped the copper smelter workers by duration (length of employment) and degree of exposure to arsenic and other compounds. These relative exposure designations were made without any quantitative exposure data, but were based on the relatively high arsenic content of the ores and judgments of persons familiar with the process. The excessive risk of lung cancer mortality was found to increase consistently with increasing length of employment at the smelter. This risk ranged from 5.63 times the expected for those working 1 to 9 years, to 19 times the expected for those working 20 or more years. Similarly, mortality increased consistently with increasing degree of exposure to arsenic ranging from 6.35 times the expected in the "light" exposure category to 14.9 times the expected in the "heavy" exposure category.

While noting the excess mortality due to liver cancer; the authors stated, "Since the majority of these deaths were unspecified malignant neoplasms of liver without adequate diagnostic validity, any further reference can hardly be made with confidence. It seems highly desirable that similar epidemiologic studies with particular attention to this site of cancer should be made at other copper refineries."

Based on their findings, the authors concluded that the findings of increased lung cancer mortality and demonstrable dose-response relationship supports the findings of Lee and Fraumeni and Ott et al. of increased lung cancer risk among workers exposed to arsenicals (Ex. 191, p. 315).

Kennecott Copper stated (Ex. 190-1) the Tukudome study provided no further information beyond the other studies previously examined which indicate a causal relationship between inorganic arsenic and respiratory cancer. Kennecott further noted that there was no environmental data available to indicate what chemicals and to what degree workers were exposed, and that the authors appeared to rely solely on their judgment in deriving the relative exposure classifications. Finally, Kennecott noted that the authors had no data to support their judgment that arsenic compounds and sulfur dioxide as well as possibly other carcinogens such as polycyclic aromatic hydrocarbons are responsible for the excess respiratory cancer observed.

OSHA accepts some of the above criticisms of the study. One of the weaknesses of the study is there is no quantitative exposure data. Thus, great weight cannot be placed on the exposure classifications used. What is useful, however, is the fact that only the cohort of smelter workers were subject to excess risk. Consequently in the absence of exposure data and in light of the relatively primitive processes used in the plant from 1919 to 1946, one can state that these findings are consistent with the findings of other studies of excess respiratory cancer mortality among smelter workers exposed to arsenic trioxide and other compounds.

ASARCO suggested that employees placed in the cohort of refinery workers observed to have no excess mortality, may indeed have had some exposure to arsenic based on analogy with similar operations at their Tacoma plant (Ex. 190-3). Again little weight can be placed on this suggestion because no quantitative data is available to confirm the degree and duration of exposure.

In January 1975, OSHA received the Rencher-Carter (BYU) study of worker mortality in the Utah Division of the Kennecott Copper Corp. (Ex. 5F). For the period 1959 to 1969, 965 deaths were identified and divided into four categories: Smelter workers, mine workers, concentrator workers, and others. The authors then calculated the percentages of deaths from specific causes in each category, and compared their findings with the 1968 mortality data for the State of Utah.

Smelter workers were found to have the highest percentage of deaths due to lung cancer (7 percent), while mine and concentrator workers had 2.2 percent of deaths due to lung cancer. As noted earlier in the discussion of the

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Milby-Hine study, it is uncertain whether mine and concentrator workers are exposed to biologically available arsenic. No lung cancer deaths were observed in the "other" category (refinery, office, and research center workers). The corresponding 1968 lung cancer mortality figure for Utah was 2.7 percent.

Next, the authors investigated the influence of smoking on lung cancer mortality. Based on a complete survey of the smoking habits of the deceased smelter workers, and random samples of the deceased mine and concentrator workers, they found that nearly the same percentage of all three groups were smokers (approximately 60 percent). After dividing each of the three groups into smokers and non-smokers, Rencher and Carter observed that both smoking and non-smoking smelter workers had lung cancer mortality rates in excess of their counterparts in the mine and concentrator groups.

After determining the age of the workers at death, the authors calculated age-adjusted death rates and compared them to the State rates. Smelter workers were found to have a rate of lung cancer mortality three times that of the State population (10.1 versus 3.3). The mine workers had a lower lung cancer rate than the State population (2.1 versus 3.3). An examination of work histories revealed that all but one of the smelter workers who died of lung cancer had worked in one of four plant areas having the highest average exposure levels for five contaminants (arsenic, sulfur dioxide, sulfuric acid mist, lead, and copper). After calculating cumulative exposure indices for each smelter worker, for each contaminant, and averaging each category, it was found that all five average cumulative exposure indices were higher for the lung cancer group. This indicates that these smelter workers had either worked longer at the smelter or in areas of higher exposure. The findings of this study are consistent with findings of excess lung cancer mortality of smelter workers exposed to arsenic.

In 1973, W. C. Nelson et al. (Ex. 1A-28) of the Environmental Protection Agency (EPA), published a followup mortality study for a cohort of 1,231 individuals in Wenatchee, Wash., who had participated in a 1938 mortality survey of the effects of exposure to lead arsenate insecticide spray (Neal et al., Public Health Bulletin 267, 1941). The population surveyed was classified by spray exposure, duration of exposure, age and sex. Additionally, three exposure groups were identified: Orchardists, those having the highest exposure; consumers, those having no exposure; and a third group, having intermediate exposures.

Nelson located over 97 percent of the original 1938 study group. The Standard Mortality Ratio (SMR) technique was used to compare the total death rate to the expected death rate in the State of Washington. The authors concluded that excess mortality did not occur consistently with the degree of exposure to lead arsenate spray. In fact, the orchardists, the most highly exposed group, had the lowest SMR of the three groups analyzed.

The American Wood Preservers Institute (AWPI) (Ex. 115, p. 15-18) and others suggest that the Nelson study provides convincing evidence that lead arsenate specifically, and pentavalent arsenic in general, are not carcinogenic. They indicated that the study is a careful followup of the cohort of orchardists studied by Neal et al. (Ex. 62) exposed to substantial quantities of lead arsenate spray during their working lives. Due to the "substantial" exposure and careful methodology, AWPI concluded that lead arsenate is not carcinogenic (Ex. 115, p. 18).

NIOSH on the other hand stated:

> We question also the pertinence of the study by Nelson et al. All that is known about the exposure of those people to arsenates is that during 1938 they were exposed for 8-14 hours per day for not more than 12 weeks, and some for as little as 2 weeks, to airborne concentrations of arsenic somewhere between 0.02 and 261.2 mg/10 cu m. The group considered to be the most heavily exposed orchardists, had a mean concentration of arsenic in their urines at some unspecified time during the day and at unspecified dates in relation to their actual contacts with arsenic that was about 2.2× that in the urines of a control group. We know nothing about their previous or later exposures to arsenates and cannot assume that they continued to have annual exposures to similar environmental concentrations of arsenate throughout the 30 years from 1938 to 1968, when the retrospective study was performed. The exposure during 1938 could be the only one that some of the subjects ever had. The finding of no excess cancer in the most heavily exposed group cannot be assigned any high significance in consideration of the many unknown factors in the study (Ex. 192A).

In its analysis of this paper ADL noted (Ex. 26B, p. 45) "The most serious deficiency of this study deals with the difficulty in identifying the actual level and duration of lead arsenate exposure of its subjects. Frequent and serious errors in such classification of subjects relative to their exposure can mask a relationship that might exist between exposure and mortality."

OSHA concludes that the Nelson study is not a valid basis for judging the potential carcinogenicity of lead arsenate. While it was a careful followup of persons included in the 1938 study, the exposure classifications were based solely on measurements made in 1938. As the authors noted (Ex. 1A-28, p. 110) the 1938 categories were kept constant, regardless of subsequent work or retirement. As NIOSH indicated, exposures may have differed dramatically from those measured in 1938.

Especially noteworthy, also, is the authors' discussion of their own study design. In this discussion, the authors noted that it was difficult to be sure of the exposure dosage categories, and that they lacked data for individual exposure measurements. Nelson stated that they could not be positive about whom the most exposed individuals were, and that the dosage levels were especially a problem for the intermediate group, who had the most heterogeneous exposures. Nelson also stated that it is difficult to interpret the study results due to the relatively small number of individuals involved. In fact, Nelson stated that some of the more suggestive excesses in mortality cannot be considered significant because of small numbers and that many of the volunteers in the 1938 study "are still too young to have reached high risk mortality age" (Ex. 1A-28).

NIOSH attempted to independently evaluate the Nelson study findings using two types of data sources, the first data being occupational mortality data for adult white males in the State of Washington for the period 1950-71 (Ex. 1A-34). The other source reviewed was the age-adjusted mortality rates for specific types of cancer for the three-county area from which the Nelson orchardist sample was drawn. Here again, because of many unknown factors, including lack of data necessary to determine degree and duration exposure to lead arsenate as well as documented use of a variety of other pesticides (Ex. 31C), OSHA feels that this data cannot be relied on to make a judgment on the carcinogenicity of pentavalent arsenic.

In July 1976, American Wood Preservers Institute submitted the finalized form of a mortality study of Hawaiian carpenters, conducted for AWPI by the Pacific Biomedical Research Center of the University of Hawaii (Ex. 137-6). Preliminary results of the study had been submitted during the April 1975 hearings. (Ex. 31C, Attach. 71) The study was undertaken to analyze the mortality experience of carpenters in Hawaii before and after the introduction of water soluble arsenical wood preservatives.

In making this study, the death records of 227 carpenters who died between June 1947, and May 1951 (Group A), and 293 carpenters who died between January 1970, and December 1973, (Group B), were matched with the death records of non-carpenters of the same sex, race and age (within 5 years). Although arsenical wood preservatives had been used in Hawaii since 1935, prior to World War II the use of arsenate-treated wood was negligible. After World War II, however, according to this study, most

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of the lumber used in construction was treated. Therefore, the investigators assumed that the carpenters who died in the early period (Group A) constituted an unexposed control group with respect to arsenate-treated wood, and that the carpenters who died in the later period (Group B) had substantial exposure to arsenical-based preservatives.

Comparison of the death rates among carpenters with the total death rate in the general population showed a significant increase in deaths among carpenters. The relative risk for all causes of death for carpenters was 2.15 for Group A and 2.29 for Group B. The relative risk for cancer death among carpenters was 3.58 for Group A and 2.72 for Group B. The authors concluded that there was no significant difference in cancer mortality between Group A and Group B. Similarly, the authors found that there were no significant differences in cancer of trachea, bronchus and lung, or lymphatic and hematopoietic system between the carpenters and non-carpenters and that the differences between Group A and Group B were not significant.

Based on their findings the authors concluded, "Our study is in agreement with Milham's and others with respect to excess cancer deaths among carpenters. However, the relative risk for cancer among carpenters exposed to arsenate-treated wood does not show a significant excess for the periods studied."

Unfortunately, there is no data on individual carpenter exposure of the exposed group. Thus, we cannot define who was "exposed", who was "nonexposed", and what the degree of exposure was. Specifically, it is not clear that the Group B carpenters had higher exposures to inorganic arsenic than the "nonexposed" group. Additionally, there is some question whether the Group B carpenters had been followed for a sufficient number of years to allow for the long latency period (20 years or more) observed in other studies for the development of arsenic-related respiratory cancer. (See also the analyses of this study by E. Baier of NIOSH, Dr. Kraybill of NCI, Dr. Lloyd of the Steelworkers (Ex. 192).) Consequently, the conclusions of this study are not sufficiently documented to support a conclusion that pentavalent arsenic is not a carcinogen. As discussed in the scope and application section, however, OSHA has concluded that it is not appropriate to include arsenically treated wood within the scope of this standard.

In 1969, Denk et al. (Ex. 109C-87) reported the autopsy findings of 100 Moselle vineyard workers exposed to arsenical pesticides. From 1923 until 1942 vines were sprayed from May to June with "Urania Green" and "Silesia Green", two pesticides containing 54 to 56 percent arsenic trioxide, and also with calcium arsenate. In addition to inhalation exposure, workers consumed large quantities of "home brew" (a wine residue) containing 2.0 to 8.9 mg arsenic trioxide per liter.

Cases were selected from among those petitioning from 1960 to 1966 to the Rhine Agricultural Professional Society for recognition of the effects of arsenic as an occupational disease. One hundred cases were chosen, without regard to expert evaluation, from among those autopsied for which precise medical diagnoses were available for evaluation. Cancer was listed as cause of death in 75 of the 100 cases, and as a secondary disease in 10 others. The 85 cases were distributed over the various organ sites as follows: 65 cases of lung cancer, 29 cases of skin cancer, 3 of laryngeal cancer, 2 of stomach cancer and 2 of pancreatic cancer, and one each for 8 other sites.

In 1957 and 1958, Roth (Ex. 65, 109C No. 88) published the results of his autopsy findings of vine growers from the Moselle region in Germany who were exposed by inhalation of pesticides containing 4.3 to 56 percent arsenic trioxide and by drinking wine containing 1.5 to 8.2 mg arsenic trioxide per liter. In the 1958 report, cancer was listed as the cause of death in 39 of the 47 cases (64 percent), 18 of which were due to lung cancer (38 percent), 6 to liver sarcomas (12.8 percent), 5 to cancer of the esophagus (10.8 percent), and 1 to bile duct cancer (2.1 percent). Arsenic cirrhoses were listed as the cause of death in 8 of the 47 cases and were observed in 15 other cases. Roth also found 10 cases of multiple tumors of the skin and 4 cases of melanoses of the skin. Roth also surveyed the lung cancer mortality rate in the general population of vineyard and nonvineyard areas of the Moselle and vineyard areas of the Ahr districts of Germany. In general, Roth found higher rates of lung cancer mortality in vineyard areas using arsenical insecticides than in all other areas.

The Denk and Roth studies have been discussed in detail, because of the considerable analyses on them made during the record of this proceeding. The major route of exposure for these pesticide workers was ingestion of arsenic contaminated wine. These studies thus, provide further evidence of the carcinogenic potential of inorganic arsenic by another route of exposure, ingestion.

C. LYMPHATIC CANCER

With the exception of the Allied and Dow studies, no excesses of lymphatic cancer mortality were reported in the arsenic epidemiological literature. In many studies, no analyses were made for the risk of lymphatic cancer. In letters to Allied (Ex. 101) and Dow (Ex. 102) OSHA asked whether they had any reason to suspect exposure to a particular agent or agents used in their plants, and not found in the environment of nonferrous smelters, as a causative agent or agents for lymphatic cancer. Allied responded,

> That the difference is either due to route of exposure (skin contact versus inhalation) or to the specific properties of sodium arsenite and/or Paris green (copper aceto-arsenite). In our earlier reviews and reports to you, we did not recognize the significance of the fact that sodium arsenite was produced concurrently as a product in a separate operation in the arsenic acid plant area, and was also used as a raw material in the insecticide plant. Doctor Baetjer advises us that the clinical literature supports the position that sodium arsenite is a systemic carcinogen, whether by skin absorption or by ingestion.
>
> We have also learned from personal interrogation that at least some of the people contracting non-pulmonary cancer had prior conditions of arsenical keratoses subsequent to skin irritation or contaminated wounds. We have determined that among the dry products only the Paris green acted as a skin irritant under normal conditions of personal cleanliness and hygiene. The arsenates of lead and calcium were essentially non-irritating. We are somewhat reassured by the fact that both skin irritation and keratoses are historical in nature, and that no new keratoses have been logged for at least twenty years. This corresponds roughly in point of time with our revisions to the arsenic acid/sodium arsenite processes and to our termination in 1947 of Paris green manufacture and packaging.

The Allied response continued,

> We consider it significant that arsenites were involved in the two American studies and the English "sheep dip" study, whereas arsenates were apparently not involved in the British experience. According to Hunter ("Diseases of Occupations: 4th Edition, pp. 337-342) both Paris green and sheep dip have produced skin cancers by contact, some of which progressed to other sites.
>
> We have also been able to retrieve two rather ancient clinical studies: Archives of Dermatology and Syphilology 32: 218-33 (1935), Montgomery: Arsenic as an Etiologic Agent in Certain Types of Epithelioma, and American Journal of Cancer 22: 287-207 (1934) Franseen and Taylor: Arsenical Keratoses and Carcinomas. These papers, which relate mainly to medicinal use of sodium or potassium arsenites, both comment on the fact that a significant fraction of those patients with skin cancer at the site of arsenical keratoses later developed lymphatic and other "metastases" after apparently successful removal of the original lesions.
>
> These reports, considered jointly, all seem to corroborate the inferences we have drawn from the limited number of cases among our own people on which we have been able to secure reasonably complete case histories: i.e. that there is no objective evidence that arsenates have produced human cancer when arsenites were not also present, and that irritation, generally followed by keratoses resulting from skin contact, is an important factor in non-pulmonary arsenical cancers. (Ex. 55)

Dow Chemical Co. responded that they could not identify any agent responsible. (Ex. 102)

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Thus, based on the above limited data and data from the clinical literature, it appears that copper-acetoarsenite, sodium arsenite, and potassium arsenite may be the causal agents in the observed lymphatic cancer cases. By regulating inorganic arsenic for purposes of reducing respiratory cancer mortality, exposures will be maintained sufficiently low so that the potential risk of lymphatic cancer will also be minimized.

D. DOSE-RESPONSE

Two of the epidemiologic studies (Pinto and Enterline, and Lee and Fraumeni), provide evidence of a dose-response relationship for the carcinogenic effects of arsenic, i.e., higher exposures for longer periods is associated with higher incidence of disease.

As discussed earlier, Pinto and Enterline conducted a mortality study of retirees receiving pensions from the ASARCO Tacoma smelter. Pinto and Enterline considered the lifetime arsenic exposure of each member of the Tacoma smelter study population from two aspects, total exposure duration and average exposure. The exposure values were constructed from departmental averages of a large number of urine samples taken in 1973. These levels were used to calculate an arsenic exposure index ($\mu g/1$-years) for each pensioner studied. The pensioners were divided into 4 groups based on their exposure indexes.

Pinto and Enterline found that respiratory cancer mortality was related to both the arsenic exposure index and the average intensity of urinary arsenic value. This is clearly demonstrated by data presented in Table 1 and 2 of their study (Attachment 4, Exhibit 111) which showed that SMR's for respiratory cancer increased consistently with increasing arsenic exposure index.

TABLE 1 (EXCERPTED)

Urinary arsenic exposure index (yrs-μg/1 urine)	Observed deaths	SMR
Under 3000	5	185.8
3000-5999	11	279.4**
6000-8999	7	306.9**
9000-11999	4	568.5**
12000+	5	810.5**

**Significant at the 5% level.

Respiratory cancer mortality also increased consistently with increasing average intensity of exposure and duration of exposure.

TABLE 2 (EXCERPTED)

1. EXPOSED FOR LESS THAN 25 YEARS

Average Intensity (μg/1 Urine)	Number of Retirees	Observed Deaths	SMR
50-199	99	2	95.8
200-349	77	4	257.2
350 and over	25	3	595.3**

2. EXPOSED FOR 25 YEARS OR MORE

Average Intensity (μg/1 Urine)	Number of Retirees	Observed Deaths	SMR
50-199	191	10	237.7**
200-349	106	8	368.7**
350 and Over	28	5	859.5**

** Significant at the 5 pct level

There is a weak to moderate correlation between urinary arsenic levels and airborne arsenic levels. This is discussed in exhibit 111 attachment 4, which indicates that a urinary level of 100 $\mu g/1$ is roughly equivalent to 31 $\mu g/m^3$ in air. As shown above, no excess lung cancer mortality was observed in those workers employed at the smelter less than 25 years having average urinary arsenic levels less than 200 $\mu g/1$ (mean of 123 $\mu g/1$). However, excess lung cancer mortality was observed in all groups of pensioners who had worked at the smelter for 25 years or more.

From the results of this study Pinto and Enterline concluded, "results thus far indicate that there is a relationship between exposure to arsenic trioxide, or associated agents in the atmosphere, and increased risk of respiratory cancer."

On December 5, 1975, Dr. Enterline submitted a further analysis of the evidence of the existence of a threshold for arsenic exposure.

"As you know, the tables we prepared on retired smelter workers show no excess for men working less than 25 years and with mean urinary arsenic values less than 200. The SMR of 95.8 for this group, while based on only 2 observed deaths, is supported by SMR's in adjacent intensity exposure levels. The relationships appear to be linear with 97 percent of the variation in SMR's explained by the combination of intensity and duration. Thus, the findings for men exposed less than 25 years (mean 20.1) and at levels between 50-199 $\mu g/1$ (mean 123) seem to be real enough (if linear relationships exists). This is not to say, however, that our data are ideal. Any interpretations must be conditioned by their limited nature (e.g.; older males, unknown cigarette smoking histories, etc.).

There are at least two interpretations that can be placed on our data for men working less than 25 years with urinary arsenic under 200:

(a) Exposure at the level produces cancer but we simply were unable to follow these men long enough to observe an excess or;

(b) This truly represents a threshold limit value.

In support of the first interpretation, there are data which suggest that latency in cancer is a function of dose, with low doses requiring very long latent periods (e.g.: $t=(1/d)^{1/4}$ power). The low dose retirees were followed an average of 8.7 years after retirement and since they had worked an average of 20.1 years, the mean latent period observed is 28.8 years. For most carcinogens with which I am familiar, 20 years is long enough to observe effects in humans. If arsenic exposure which cause mean urinary levels of 123 over a period of 20 years also cause lung cancer, the median latent period must be very long indeed in this population of older males probably longer than they're likely to live.

In support of the second interpretation, an examination of SMR's among retirees for respiratory cancer by age shows a decline with time since termination of exposure (retirement) so that further follow-up may not show any effect:

Age	Observed	Expected	SMR
65 to 69	14	4.1	345.0
70 to 74	11	3.5	315.5
75 to 79	5	2.0	250.0
80 plus	2	1.0	200.0

This looks like the experience with cigarette smoking. That is, lung cancer risk for persons who stop smoking seems to approach normal with the passage of time. Do I think there is a TLV for airborne arsenic? It's unfortunate that we must have an answer at this moment. We have now microfilmed personnel records at the Tacoma smelter for all men who worked a year or more during the period 104-01963 and in about a year should have the answer. The only relevant data now available, however, suggests that there is a TLV for men who retired from the smelter, and if the effects of arsenic tend to disappear with time (as cigarettes) this may apply to other age groups as well." (Ex. 133)

For an analysis of the threshold question, see the analysis below.

In 1969 Lee and Fraumeni published a study of the mortality experience of 8,047 white male smelter workers who had been employed at the Anaconda, Montana smelter for at least 1 year prior to 1957. From January 1, 1938 to December 31, 1963, 1,877 deaths were recorded, 147 deaths of which were due to respiratory cancer, a rate 3.3 times the respective rate in the Montana population (p less than 0.01).

For each year of the study period, workers were assigned to one of five cohorts on the basis of duration of

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their employment in smelter. These cohorts were defined as follows:

Cohort 1, 15 or more years with 15th year completed before 1938
Cohort 2, 15 or more years with 15th year completed 1938-1963
Cohort 3, 10 to 14 years
Cohort 4, 5 to 9 years
Cohort 5, 1 to 4 years

The study group was further divided according to heavy, medium and light exposure to arsenic trioxide, sulfur dioxide and other chemicals based on measurements made at the smelter at the time of the study. The authors stated, "While measurements in work areas may have varied over time, it seems reasonable to assume that these 3 broadly defined categories denoting relative exposure remain fixed." This statement was supported by testimony presented by H. F. Morris, Consulting Engineer for Anaconda (Exhibit 28B). Based on measurements made by Anaconda, the mean arsenic exposure from 1943 to 1959 were as follows: Heavy (11.27 mg/m3), medium (0.58 mg/m3), and light (0.29 mg/m3). Thus, as the authors stated, these categories appear to represent relative exposures.

Lee and Fraumeni found that respiratory cancer mortality increased consistently with increasing duration and degree of exposure to arsenic trioxide. This gradient is clearly demonstrated by data presented in Table 5 of their study.

Cohort	Respiratory cancer mortality	Maximum exposure to arsenic (12 mo or more)		
		Heavy	Medium	Light
All cohorts combined	Observed	18	44	45
	Expected	2.7	9.2	18.8
	SMR	*667	*478	*239
1	Observed	8	22	14
	Expected	1	3.3	5.6
	SMR	*800	*667	*250
2	Observed	8	12	9
	Expected	.9	2.2	2.9
	SMR	*667	*545	*310
3 to 5 combined	Observed	4	10	22
	Expected	.9	2.8	10.3
	SMR	**444	**263	*214
Number of persons in arsenic category***		462	1,926	3,257

*Significant at the 1 pct level.
**Significant at the 5 pct level.
***The remaining 2,842 men in the study worked less than 12 mo in their category of maximum arsenic exposure and had an SMR of 286*.

Sulfur dioxide exposure and respiratory cancer mortality were also positively related, with observed deaths ranging from 6.0 to 2.6 times expected in the heavy, medium, and light categories. This is demonstrated in table 6 of the study.

Cohort	Respiratory cancer mortality	Maximum exposure to SO_2 (12 or more months)		
		Heavy	Medium	Light
All cohorts combined	Observed	46	26	39
	Expected	7.7	8.0	16.2
	SMR	*597	*286	*257
1	Observed	24	10	12
	Expected	3	1.7	5.1
	SMR	*706	*586	**235
2	Observed	13	6	8
	Expected	1.7	2.4	2.2
	SMR	*765	250	*364
3 to 5 combined	Observed	9	7	19
	Expected	2.6	3.9	7.8
	SMR	*346	179	*244
Number of persons in SO_2 category***		1,144	1,506	2,444

*Significant at the 1 pct level.
**Significant at the 5 pct level.
***The remaining 2,953 men in the study worked less than 12 mo in their category of maximum SO_2 exposure and had an SMR of 283*.

The authors stated, "exposures to both arsenic trioxide and sulfur dioxide were found to be associated with an excess of respiratory cancer deaths in this study. It is difficult to separate the effects associated with these two exposure variables, since most work areas having "heavy" arsenic exposure were also "medium SO_2" and conversely, all jobs with "heavy SO_2" exposure were "medium arsenic". However, further investigation revealed that per-

sons with heaviest exposure to arsenic and moderate or heaviest exposure to SO_2 were most likely to die of respiratory cancer" (Ex. 5D, p. 1047).

As described in detail in section IV-B of this preamble, Ott, Holder and Gordon showed that workers exposed to primarily pentavalent inorganic arsenic were at a 3.5-fold excess risk of dying of respiratory cancer and 3.8-fold excess risk of dying of lymphatic cancer. (Ex. 1A 3-1)

The authors divided the arsenical workers into 4 groups based on estimated arsenic exposures. This data is presented in Table 1 (page 251 of the study) which is reproduced below.

TABLE 1.—*Estimated arsenic levels by job category*

Job category	8-hr TWA[1]
Group 1	5.0
Group 2	3.0
Group 3 (jobs associated with arsenical production out of the area of high dust exposure)	1.0
Group 4 (jobs involving either the formulation of nonarsenicals within the production unit or requiring only intermittent time in the areas of high exposure)	0.1

[1]Mg As/m³.

The authors described the derivation of these categories as follows:

"Over the course of 37 years, numerous modifications in job classification terminology were encountered. Fifty different job titles were identified, including those later found to refer to the same job. Next, job descriptions and exposure measurements were used to combine the jobs into four exposure classifications. Time-weighted average concentrations were assigned to the various groupings with emphasis on maintaining properly spaced ratios between the exposure groups. The estimates shown in Table 1 were obtained through the consensus of two industrial hygienists familiar with the processes, the available industrial hygiene data, and job descriptions.

The concentrations of arsenic experienced by employee while in group 1 jobs were quite variable, and included the likelihood of brief exposures to very high levels. Respirators were available, but were not worn consistently. Individuals on group 2 jobs were exposed to dust levels generally at lower, less variable concentrations, but over longer periods of time. Some employees, for example, spent up to 6 hours a day performing tasks near the packaging machines. Few measurements were available for group 3 or group 4 jobs because the exposure was apparently thought to be of relatively less concern. Thus, the greatest subjectivity was used in estimating time-weighted average concentrations for these groups. Since no adjustments were made for the wearing of respirators, or for the fact that production occurred on a somewhat intermittent basis, it is likely that actual exposure dosages were overstated rather than understated by the above estimates. However, the imprecision in the time-weighted average estimates would not be expected to lead to appreciable distortions in the relative dosage exposure rankings, since duration of exposure, which was determined quite precisely, varied considerably from individual-to-individual."

In a letter submitted to Mr. David Miller, an attorney for ASARCO (submitted as Exhibit 29(0)), Dr. Gordon presented a further breakdown of respiratory cancer mortality by exposure intensity group. This data is reproduced below.

SUMMARY OF 173 DEATHS BY EXPOSURE INTENSITY GROUPS

Highest exposure intensity	Total decedents	Respiratory malignancy deaths
Total	173	28
Group 1	30	8
Group 2	92	14
Group 3**	44	6
Group 4	7	0

**Groups 3 and 4 include individuals exposed only at those levels.

Groups 1 and 2 include individuals who experienced limited exposure intensities, as a result of having changed jobs during their employment in the arsenicals production unit.

In a subsequent letter to Dr. Gordon, OSHA asked whether he considered the findings of 0 respiratory malignancy deaths among the 7 decedents in Group 4 to be evidence of a threshold effect. Dr. Gordon responded, "The small number of individuals in Group 4 does not permit the establishment of a threshold; however, it encourages one to think that a threshold may exist." (Exhibit 102.)

Using a six-term equation, Ott et al., calculated the number of respiratory cancer deaths and ratio of observed to expected respiratory cancer deaths in various arsenic exposure categories (see table 4 of the study). The authors described this derivation as follows:

The expected proportion of deaths due to respiratory malignancy in relation to year of death and age of death was estimated based on a weighted least squares analysis of the control population. The 1,809 deaths among the controls were categorized by 10-year age groups and intervals of 5 calendar years within each age group. A six-term equation, utilizing age and year of death, explained 57 percent of the variability between the categories and provide a reasonable fit to the data in the region of interest.

The limitations inherent in data contained in table 4 must be analyzed. As stated previously, 16 respiratory cancer deaths were observed among the 138 decedents who had worked in arsenic exposure areas for 1 year or less. Consequently, it is not appropriate to extrapolate short-term dosages in terms of long-term "equivalent" career dosages.

Furthermore, as ADL noted (Ex. 26B) although work histories seemed well documented, the quantitative exposure could not be accurately specified. The authors based the four daily exposure categories on limited exposure data and a consensus judgment among individuals familiar with the operation. ADL stated, "They fail to acknowledge here that their most dramatic conclusion relates excessive incidence of death by respiratory cancer to a distribution of career dosages, where both the death excess and the career dosage depend on the value assumed by the four daily exposure levels" (Ex. 26B, p. 33). ADL also noted that the six-term regression equation which yielded the weights for the least squares fit of dose-response was not sufficiently documented to permit evaluation.

OSHA agrees with the ADL analysis. We have no way of evaluating individual worker exposure for potential error. Application of the six-term equation to this data, thus can provide no acceptable data for an estimate of dose-response. In contrast to the Lee and Fraumeni and Pinto and Enterline studies, we have insufficient exposure data to provide verification of exposure categories. Accordingly, OSHA cannot rely on the dose-response data or analyses thereof as a basis for the final standard. As noted in section IV-B of this preamble, OSHA does rely however on the study findings of excess mortality risk among arsenic-exposed workers.

As discussed in respiratory cancer section of this preamble, both the Lee and Fraumeni and Pinto and Enterline studies meet many requirements of an ideal epidemiological study and great weight can be placed on their findings. Their further finding of a consistent dose-response relationship provides strong and convincing evidence of the carcinogenicity (or co-carcinogenicity) of some inorganic arsenicals. As also discussed above, the exposure classifications and analyses thereof in the Ott study and therefore the Blejer-Wagner analysis of the Ott study (Ex. 99, p. 55-6) have major methodological limitations and therefore it is not appropriate to draw firm conclusions as to the exact nature of the dose-response curve. However, the Ott study provides firm evidence of excess lung cancer mortality of workers exposed to arsenicals.

Based upon the above data, several participants at the hearing believed that there was a threshold level, below which no increased cancer risk would be observed. Representative of this discussion, was the following discussion by ASARCO (Ex. 118, p. 42-3):

In the Dow study it was estimated that employees in Group 4 had a time-weighted average exposure to inorganic arsenic of 100 $\mu g/m^3$. As we have previously noted, none of the employees who remained in Group 4 for their employment period in the study died of lung cancer. While there are only seven persons in this group and their experience does not conclusively establish a threshold, it encourages one to think that a threshold may exist.

Similarly, the Pinto and Enterline data suggest the existence of a safe level. The

group whose exposure index was under 3,000 in table 1 of Dr. Enterline's letter (Ex. 111, Attach. 4) had a SMR of 165.6 for respiratory cancer, a value not different statistically from 100 * * *.

The group in table 2 whose average intensity of exposure was under 200 $\mu g/l$ and who worked less than 25 years had an SMR for respiratory cancer of 95.6. The data concerning the experience of retirees from 1961-1973, who probably had lower exposures than the 1949-1973 group, contain SMR's even closer to the norm (Ex. 29B). The SMR for respiratory cancer for the group whose exposure index was under 3,000 was 130.6, and for those with an average intensity of exposure under 175 with 25 years or less experience the SMR was 117.4—neither figure being significantly different from 100 by standard statistical tests.

ASARCO concluded, citing the Dow and Pinto and Enterline studies as the best available evidence. "Those materials would support a finding that there is a no-effect level, or at least a level of respiratory cancer risk reduced to the insignificant, at inorganic arsenic concentrations of about 100 $\mu g/m^3$ in air or 250 $\mu g/l$ in urine" (Ex. 118, p. 45).

A number of witneses, however, gave their expert opinions that there is not yet enough knowledge about the mechanisms of carcinogenicity to determine a threshold level.

Dr. Kraybill stated:

There is a general policy or concept among epidemiologists that there is no safe level. Why do we say that? Because we have no scientific method as of yet—1975—to prove otherwise (ATR p. 186).

This was Dr. Radford's view also (ATR 562).

Dr. Wagoner concluded:

I think the overwhelming body of scientific judgment in the United States and internationally is of the opinion—and it has been very aptly put by the Surgeon General's ad hoc Committee on low level environmental carcinogens—that the present state of technology does not permit the determination of safe levels for a carcinogen (ATR 334-335).

OSHA believes it is not appropriate to set an exposure limit based on the belief that a threshold may exist because of these considerations. As noted above, OSHA does not regard the exposure categories of the Dow study to be sufficiently supported to make further judgments on dose-related effects. Furthermore, the last category (Group 4), composed of seven deaths, is far too small for conclusions as to a threshold to be made.

The Pinto-Enterline data is more satisfactory (Ex. 29B). However, workers exposed more than 25 years in all exposure categories including those with average intensity less than 200 $\mu g/l$ had statistically significant excess respiratory cancer mortality. In this study, as well, the limited number of workers in the exposure category in which no excess was observed is far too small to statistically test whether a threshold exists for the entire population at risk (arsenic-exposed workers). Therefore, no level has been satisfactorally demonstrated that will eliminate increased lung cancer mortality among all arsenic-exposed workers.

Further, this limited amount of epidemiologic evidence is not sufficient to overcome the substantial body of scientific opinion that there is not sufficient knowledge to determine a threshold for a carcinogen.

In view of OSHA's obligation to protect workers and the substantial body of scientific opinion that no safe level of exposure to a carcinogen can be shown, OSHA must exercise its discretion in favor of assuring worker protection. OSHA and other Federal agencies responsible for protecting individuals from the hazards posed by carcinogenic substances have consistently followed the view that no safe level of exposure can be established based on current scientific knowledge.

E. ANIMAL STUDIES

In its 1973 criteria document, NIOSH evaluated 18 animal studies involving inorganic arsenic exposures. However, only two of these were studies of the effects of exposure to airborne concentrations, and neither of these were designed to observe lung cancer.

The first was an inhalation study, by Rozenshtein (14), of albino rats exposed to arsenic trioxide for 24 hours per day, for 3 months. The study was designed to observe the effects of atmospheric pollution. The second study, by Bencko and Symon (2), involved an evaluation of hairless mice exposed to fly ash containing 0.1 percent arsenic trioxide. The authors observed an accumulation of arsenic in the animals' livers and kidneys from exposure to the fly ash.

Dr. Kraybill of the National Cancer Institute presented testimony at both the fact-finding and April 1975 hearings in which he discussed the failure of experimental animal studies to confirm the epidemiological findings concerning arsenic exposure. Some of the reasons for this failure could be, according to Dr. Kraybill, that "(a) the proper animal model has not been tried, (b) the proper route of administration has not been tried, i.e., inhalation, (c) sufficient numbers of animals have not been in the study for statistical validation of results, and (d) the role of arsenic as an interactant or synergist and establishment of it as a possible co-carcinogen has not been determined" (Ex. 16A). Dr. Kraybill stated during the fact-finding hearing, "Arsenic stands out as the one substance for which human carcinogenicity has been demonstrated, but for which an animal model has yet to be found to reproduce this effect" (FTR p. 40).

Though there are no positive animal studies which confirm the epidemiological findings of excess respiratory cancer mortality among workers exposed to inorganic arsenic, OSHA believes that the epidemiological studies clearly establish the carcinogenicity of inorganic arsenic. Once epidemiological findings are found to be convincingly related to exposure to particular substance(s), OSHA must regulate in such a manner to minimize such risk to workers.

F. VALENCE CONSIDERATIONS

The acute toxic effects of inorganic arsenic compounds on man following ingestion are well known. It is also known, that the severity of toxic reaction varies significantly with inorganic arsenic's valence states. According to the published literature (Ex. 31C-41) and testimony by Drs. Wacker and Peoples (Ex. 31A and 31D), trivalent arsenic (arsenite) is more toxic when ingested than pentavalent arsenic (arsenate).

Schroeder and Balassa (Ex. 31C-41) and Wacker (Ex. 31A) and Peoples (Ex. 31D) stated that trivalent arsenic's greater toxicity is due to its rapid binding with sulfhydryl groups. This binding results in the inhibition of many important enzymes such as alcohol dehydrogenase, enzymes which synthesize the components of DNA and RNA, and enzymes which synthesize DNA and RNA. In contrast, pentavalent arsenic (arsenate) does not react with sulfhydryl groups, but is known to inhibit the synthesis of ATP, an important metabolite, by uncoupling oxidative phosphorylation.

Based on his evaluation, Dr. Wacker concluded, "I find the conclusions reached by OSHA in its proposal (to treat both pentavalent and trivalent inorganic arsenic as carcinogens) to be highly implausable on scientific grounds, considering the chemical and toxicological characteristic of the various arsenical compounds in question. Indeed, I am baffled by the absence of any extensive consideration of the chemical and toxicological differences between these compounds as the differences are so great. I am convinced * * * they should be considered separately." (ATR 845.)

Dr. Radford commented (Exhibit 192B) that, "the acute toxicity of pentavalent arsenic compounds given parenterally is much less than for trivalent compounds. This well-accepted difference implies that if pentavalent compound are reduced to trivalent compounds in the body, either the conversion is slow, or they are converted to inactive forms or the distribution of the trivalent compounds is to relatively insensitive issues (i.e. conversion in the kidneys and rapid excretion in the urine). Another interpretation possible is that no significant conver-

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sion to trivalent arsenic occurs, and pentavalent forms have toxic actions different from trivalent."

Dr. Radford later stated, "We do not know the mechanism of action of arsenites as carcinogens, but it is at least conceivable that they act by conversion to the pentavalent form and displacing phosphate in nucleic acids as Rosen has suggested." (Ex. 192B, p. 3.)

Dr. Kraybill of NCI concluded, "Doctors Wacker, Peoples and perhaps others have made interesting comments on the relative toxicity of the trivalent and pentavalent arsenic. The proposition concerning the relative avidity of trivalent and pentavalent ion SH groups (sulfhydryl groups) or glutathione as the protective mechanism is a most attractive and interesting concept. While this appears attractive to us on theoretical grounds, we would like to see some basic data (biochemical, pharmokinetic) in this area which would be helpful in describing the relative carcinogenic potential of trivalent and pentavalent arsenic on a mechnistic basis. Having such information and data could provide some evidence to better assess the significance of epidemiological studies. Perhaps this is the strongest reason for doing some good studies with appropriate animal models and using relevant routes of administration." (Ex. 192C.)

The most thorough analysis of the issue whether pentavalent arsenic is converted in the body to trivalent arsenic was presented by Dr. Peoples (Exhibit 193, Attachment B). Dr. Peoples reviewed findings by Winkler that after feeding rats trivalent arsenic, arsenic in their liver was largely pentavalent. When fed pentavalent arsenic, no trivalent arsenic was found in rat livers. He reported that the findings of Ginsburg (Ex. 63, Ex. 64) in which he reported some reduction of pentavalent arsenic to trivalent arsenic in the kidney of dogs after feeding with arsenate, could not be relied on because the analytical method was not accurate in the range of the reported sample size. Finally, he reviewed the findings of Crecelius (Exhibit 193, Attach. B) that no trivalent arsenic was found in the urine of a human who had drunk water containing 200 μg of pentavalent arsenic. He stated, "The level of As(III) remained at the control level. There was an increase in As(V) peaking at 5 hours then returning to normal in 10 hours. The mono methylarsonate remained near the control but the dimethylarsonate (cacodylic acid) rose to a high level and remained so during the 80-hour observation period. In other words, As(V) is not reduced in the body to As(III). It is almost entirely metabolized to cacodylic acid."

Thus OSHA concludes, that the presently available evidence indicates that there is little or no conversion of pentavalent to trivalent arsenic in the body. Given the unknown relevance of acute toxicity and biochemical reactions of trivalent and pentavalent arsenic to the assessment of carcinogenic risk and the findings that pentavalent arsenic is not converted to trivalent arsenic, OSHA concludes that it must, principally rely on the findings of the epidemiological studies, expert opinion, and general policy considerations in determining whether to regulate pentavalent arsenic as a carcinogen.

G. CONCLUSIONS

(1) *Trivalent Arsenic.* Based on the entire set of studies, OSHA believes that exposure to trivalent arsenic has been shown to cause respiratory cancer. Studies in the copper smelting industry (Lee and Fraumeni, Pinto and Enterline, Rencher, and Carter) have shown statistically significant increased lung cancer mortality among workers exposed to arsenic trioxide, sulfur dioxide and other cocontaminants released during the smelting of copper ores. As Lee and Fraumeni stated, it is impossible to differentiate in these cases between the effects of exposure to arsenic and these other cocontaminants. However, the finding that lung cancer mortality increased consistently with degree and duration of exposure to arsenic trioxide provides substantial evidence that exposure to trivalent arsenic is a cause of respiratory cancer (as was discussed in detail in the dose-response section). This data, particularly that of Lee and Fraumeni and Pinto and Enterline has been discussed in detail in section IV-D of this preamble and accordingly will not be repeated here.

The findings of studies by Baetjer et al. and Hill and Faning serve as positive controls for the findings in the smelting industry. That is, these workers studied by Baetjer et al. were exposed principally to trivalent and some pentavalent arsenicals, and Hill and Faning sodium arsenite (a trivalent arsenical); and to a limited number of other chemicals (Ex. 5B). They were not exposed, however, to most of the other cocontaminants found in the smelter environment.

There have been many analyses by experts during the hearing. Both Dr. Fraumeni (ATR 168) and Dr. Kraybill (ATR 161) stated that inorganic arsenic is strongly incriminated as an occupational carcinogen. NIOSH recognized that each epidemiological study alone has its limitations, but stated: "However, when all reports of occupational exposure to inorganic arsenic are considered together, NIOSH believes it undeniable that there have been carcinogenic effects which must be attributed to inorganic arsenic." (ATR 54-5).

During April 1975, Dr. Enterline was asked whether, based on the whole constellation of studies, inorganic arsenic is a carcinogen. Dr. Enterline responded:

> Yes, I think that it's certainly related to respiratory cancer based on reading these studies. Obviously, I can't tell whether it's something that goes with it or it's arsenic itself. But, the studies—and particularly the more recent studies, the Allied and Dow studies, the Allied in particular—are very impressive studies. They present in my mind pretty overwhelming evidence. (ATR 775.)

Dr. Weir of the Johns Hooper Foundation on the basis of his evaluation stated that there is an association of moderate overall magnitude between arsenic exposure and respiratory cancer (ATR 1381). He based his conclusion on a detailed analysis of the epidemiologic studies and on his evaluation of seven general factors for evaluating whether exposure to chemical agents such as arsenic and observed health outcomes (i.e., lung cancer mortality) is a causal relationship (Ex. 29N). These seven factors are as follows:

(1) Strength of association.
(2) Time sequence.
(3) Consistency with findings in other research areas.
(4) Failure to find alternative explanations.
(5) Gradient of risk.
(6) Consistency of association over several studies.
(7) Specificity.

In summary, Dr. Weir noted that the strength of association between exposure to arsenic and lung cancer mortality was moderate (2 to 3 times expected lung cancer mortality). He noted that lack of an animal model somewhat lessened the confidence which one could place on the degree of association. He further noted that the association is strengthened by the occurrence of a gradient of risk (dose-response), repeated findings over several studies and settings, and failure to find other explanations which could account for the excess risk. He concluded:

> The surest route to reducing unnecessary mortality is to apply standards on the belief that arsenic is a probable cause of mortality increase, and is, therefore, the best available factor by which we can expect to successfully intervene in the causal network, and then to proceed expeditiously to make whatever commitment of human and financial resources is necessary to establish with reasonable scientific certainty the definitive factor in the observed association. (ATR 1385-6.)

Arguments have been made that the relationship between arsenic and respiratory cancer cannot be presently stated to be causal (ATR 1381-6, Ex. 26B, p. 5) due to the fact that workers were exposed to other workplace contaminants. OSHA agrees, at least in the case of the copper smelting industry, that one cannot conclude with complete certainty, that the association is causal. The degree of association is strengthened by the findings in pesticide plants (Baetjer et al., Ott et al., Hill, and Faning). OSHA recognizes that, these workers too were exposed to other chemicals. However their work environment was substantially different from that of smelter workers and they were not exposed to most of the other chemicals to which workers are exposed in the smelting industry (compounds of lead, antimony, cadmium, sulfur, etc.). The fact that workers exposed to arsenic in substantially different environments were subject to excess respiratory cancer mortality is strong evidence that arsenic was an important etiologic factor in the observed excess mortality. OSHA cannot rule out the possibility that these other chemicals may have influenced excess respiratory cancer and lymphatic cancer mortality. However, even if it should later be shown that arsenic is not the sole factor, the regulation and resultant minimization of worker exposure to inorganic arsenic will, we believe, intervene in the causal network and reduce, to the extent feasible, worker risk of lung cancer. Thus in agreement with experts from NCI, NIOSH and industry, OSHA has concluded that trivalent arsenic must be regulated as an occupational carcinogen.

Confirming animal studies would be helpful, but OSHA believes that the best available evidence is the observed effects on man, himself as a compelling indication of risk and the lack of an animal model does not detract from this conclusion.

(2) *Pentavalent arsenic.* One of the most controversial and difficult issues during the arsenic hearings is whether pentavalent arsenic should be regulated as a carcinogen. The National Cancer Institute and NIOSH have recommended that pentavalent arsenic should be treated as a carcinogen; while the American Wood Preservers Institute has argued that the evidence is not strong enough for such a determination to be made. Three types of evidence have been submitted in the record: epidemiologic evidence, chemical evidence, and opinions of experts in the field.

A brief review of the epidemiological studies may be helpful. The Ott study showed a substantial excess cancer mortality among workers exposed principally to pentavalent arsenicals. The study includes a reasonable analysis of exposed and nonexposed workers. The AWPI suggested that pentavalent arsenic should not be implicated as a causal factor because there was some degree of exposure to trivalent arsenic and suggests that further research be done. On the other hand, NIOSH stated:

> With relation to the paper by Ott et al., it seems to be a reasonably valid study of the results from exposure to arsenates. Although it is true that the employees involved were exposed to both arsenites and arsenates, the authors state that 95 percent of the exposure was to arsenates and only 5 percent to arsenites. It seems not to be illogical or unjustified to attribute most, if not all, the excess of malignancies in the exposed group (incidence rate almost 60 percent greater than that in the control group) to the pentavalent arsenical compounds (Ex. 192A).

OSHA agrees with NIOSH that in view of the relative degree of exposure to pentavalent arsenic in comparison to trivalent arsenic, it is reasonable to accept the Ott study as evidence that pentavalent arsenic should be regulated as a carcinogen.

The Baetjer study also shows excess cancer mortality, but it is clear that many of these workers were exposed primarily to trivalent arsenicals. Because the predominant exposure was to trivalent arsenic, it would be inappropriate to implicate pentavalent arsenic on the basis of this study. In this instance, all one can state is that exposure to inorganic arsenic is the most reasonable explanation for the observed excess cancer mortality.

The AWPI places principal reliance on 2 studies, Nelson and Budy-Rashad, where excess respiratory cancer mortality was not observed. But the former study suffers from the deficiency that actual degree and duration of exposure to lead arsenate was not identified. In the Budy-Rashad study, the carpenters were not exposed to pentavalent arsenic, but rather to a stable arsenic-wood complex. Thus, carpenter exposure to this arsenic-wood complex cannot be considered a priori, equivalent to exposure to unbound pentavalent arsenic. No data is available on individual carpenter exposures to verify degree and duration of exposure. Additionally, insufficient time has elapsed to allow for sufficient latency period, for arsenic induced respiratory cancer. For the above reasons, it is difficult to make conclusions based upon these two studies.

Although the epidemiologic evidence does not as clearly indicate the carcinogenicity or cocarcinogenicity as in the case of trivalent arsenic, the Ott study provides epidemiologic support for the proposition that pentavalent arsenic, for the purposes of regulatory action to protect employees should be treated as a carcinogen.

The chemical questions discussed in the record principally relate to the differences in biochemical mechanisms between trivalent and pentavalent arsenic, and whether pentavalent arsenic is converted to trivalent arsenic in the body.

Peoples and Wacker discussed the well-accepted fact that while trivalent arsenic reacts with sulfhydryl groups, pentavalent arsenic can substitute for phosphate groups, thus decoupling oxidative phosphorylation. Peoples reviewed his studies and the literature and concluded that pentavalent arsenic is not converted to trivalent arsenic in the body. Studies by Ginsburg suggest that there is some conversion.

OSHA believes that the Peoples studies are more extensive and analytically reliable and therefore are more convincing. However, as the causal mechanisms of arsenic-related carcinogenesis are not known, OSHA must conclude that the fact that trivalent and pentavalent arsenic have different biochemical mechanisms, is not in itself sufficient evidence to indicate that respiratory cancer is not caused by both. The actual mechanism(s) may be substantially different from any of those suggested.

Dr. Peoples and Wacker stated that in view of the different mechanisms, pentavalent arsenic should not be treated as a carcinogen. Dr. Radford concluded:

> Because inorganic pentavalent arsenic is not yet known to produce cancer in man either directly or from conversion to trivalent arsenites, I do not believe that arsenates should be included with the inorganic trivalent forms as carcinogens. Thus a separate standard may be appropriate for pentavalent arsenic, just as is required for arsine. It may be that a reevaluation of the distinction between the two valence states of arsenic in relation to their exposure limits may be necessary as better evidence is obtained. It would seem to be imperative to obtain more experimental and epidemiologic data to resolve the questions concerning the health effects of pentavalent arsenic. (Ex. 192B.)

On the other hand, NIOSH stated that while trivalent arsenic is clearly a carcinogen, pentavalent arsenic should be so treated until convincing evidence is presented to the contrary (Ex. 192A). Similarly, Dr. Kraybill stated:

> But in essence the sorting out of trivalent from pentavalent arsenic with regards to their carcinogenic activity on the basis of the epidemiological studies is not facilitated since several studies impugned pentavalent possibly confounded with trivalent exposures. Thus, at the present time, we are left with a situation wherein we cannot help but implicate the pentavalent arsenic ion.

Doctors Wacker and Peoples present some interesting toxicological evidence on the relative difference between trivalent and pentavalent arsenic. These postulates of the "tri" and "penta" states although interesting do not provide the actual verification in animal carcinogenicity studies. If we have overlooked some reports in the area, we would welcome them for our review. Until then, we have to make our assessments on the basis of available data and specific evidence. (Ex. 192C.)

The situation presented is identical to the one in *I.U.D.* v. *Hodgson:*

> "the questions involved are on the frontiers of scientific knowledge and consequently as to them insufficient data is presently available to make a fully informed factual judgment. Decision making must in that circum-

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stance depend to a great extent upon policy judgments and less upon purely factual analysis * * *.

For example, in this case the evidence indicated that reliable data is not currently available with respect to the exposure to asbestos dust; nevertheless, the Secretary was obligated to establish some specific level as the maximum permissible exposure. After considering all the conflicting evidence, the Secretary explained his decision to adopt, over strong employer objection, a relatively low limit in terms of the severe health consequences which could result from over-exposure. Inasmuch as the protection of the health of employees is the overriding concern of OSHA, this choice is doubtless sound, but it rests in the final analysis on an essentially legislative policy judgment, rather than a factual determination, concerning the relative risks of underprotection as compared to overprotection.

In summary the Ott study provides epidemiologic evidence that pentavalent arsenic is a carcinogen, and a significant body of expert opinion including representatives of the National Cancer Institute and the National Institute for Occupational Safety and Health recommends that pentavalent arsenic be regulated as an occupational carcinogen. Further, in view of the long latency period and irreversible nature of lung cancer, it is OSHA's policy to act in the manner most protective of employee health. Although there are chemical differences between pentavalent and trivalent arsenic, viewing all the considerations and evidence as a whole, including the strong evidence that trivalent arsenic is a carcinogen, OSHA believes it necessary to regulate pentavalent arsenic as a carcinogen. Further research is always useful, but there has to be a stage when a decision is taken, since there always remain byways of possible research.

(1) A. Baetjer, M. Levin, A. Lillienfeld—"Analysis of Mortality Experience of Allied Chemical Plant," unpublished.

(2) V. Bencko and K. Symon—"The Cumulative, Dynamics in Some Tissue of Hairless Mice Inhaling Arsenic," Atmos. Environ., *4*, 157-61 (1970).

(3) A. M. Budy, M. N. Rashad—"Cancer Mortality Among Carpenters in Hawaii," presented at the Third International Symposium on Detection and Prevention of Cancer, New York, April 29, 1976.

(4) R. Denk, H. Holzmann, H. Lange, D. Greve [Concerning the Long-Term Effects of Arsenic as Seen From Autopsies on Moselle Vineyard Workers]. Mediz. Welt, 11:557-67 (1967).

(5) A. B. Hill, E. L. Faning—"Studies in the Incidence of Cancer in a Factory Handling Inorganic Compounds of Arsenic—I. Mortality Experience in the Factory," Br. J. Ind. Med., *5*, 1-6 (1948).

(6) M. Kuratsune, S. Tukodome, T. Shirakusa, M. Yoshida, Y. Tokumitsu, T. Harano, M. Seita—"Occupational Lung Cancer Among Copper Smelters," Int. J. Cancer, *13*, 552-8 (1974).

(7) A. M. Lee and J. F. Fraumeni, Jr.—"Arsenic and Respiratory Cancer in Man—An Occupational Study," J. National Cancer Institute, *42*, 1045-52 (1969).

(8) T. H. Milby, C. H. Hine, "A Survey of Mortality Due to Respiratory Diseases Among Employees of the Kennecott Corporation" (October 4, 1974), unpublished.

(9) S. Milham, Jr., T. Strong—"Human Arsenic Exposure in Relation to a Copper Smelter," Environ. Res. *7*, 176-82 (1974).

(10) W. C. Nelson, M. H. Lykins, J. Mackey, W. A. Newill, J. F. Finklea, D. I. Hammer—"Mortality Among Orchard Workers Exposed to Lead Arsenate Spray: A Cohort Study," J. Chron. Dis., *26*, 105-18 (1973).

(11) M. Ott, B. Holder, H. Gordon—"Respiratory Cancer and Occupational Exposure to Arsenicals," Archives of Environmental Health, *29*, 250-5, (1974).

(12) K. Perry, R. G. Bowler, H. M. Buckell, H. A. Druett, R. S. F. Schilling—"Studies in the Incidence of Cancer in Factory Handling Inorganic Compounds of Arsenic," Ind. Med., *5*, 6-15 (1948).

(13) S. S. Pinto, B. M. Bennett—"Effect of Arsenic Trioxide Exposure on Mortality," Arch. Environmental Health, *7*, 583-91 (1963).

(14) S. S. Pinto, P. E. Enterline—"Mortality Study of ASARCO Tacoma Smelter Workers," unpublished.

(15) S. S. Pinto, C. M. McGill—"Effect of Arsenic Trioxide Exposure in Industry," Ind. Med. Surg., *22*, 281-7 (1953).

(16) A. C. Rencher, M. W. Carter—"A Retrospective Epidemiological Study at Kennecott's Utah Smelter" (April 1971), unpublished.

(17) F. Roth [Concerning the Long-Term Effects of Chronic Arsenical Poisoning of Moselle Vineyard Workers]. Dtsch. Med. Wschr., *6*, 211-16 (1957).

(18) F. Roth [Bronchial Cancer in Vintners Suffering from Arsenic Poisoning]. Virch. Arch, *331*, 119-37 (1958).

(19) I. S. Rozenshtein—"Sanitary Toxicological Assessment of Low Concentrations of Arsenic Trioxide in the Atmosphere," Hgy. Sanit., *35*, 16-21 (1970).

(20) L. S. Snegireff and O. M. Lombard—"Arsenic and Cancer Observations in the Metallurgic Industry," Arc. Ind. Hyg. Occup. Med., *4*, 199-205 (1951).

(21) S. Tukodome, M. Kuratsune—"A Cohort Study on Mortality from Cancer and Other Causes Among Workers at a Metal Refinery," Int. J. Cancer, *17*, 310-17 (1976).

V. Permissible Exposure Limit

The final standard establishes a permissible exposure limit (PEL) of 10 $\mu g/m^3$ averaged over an eight hour period. This represents the lowest level which OSHA believes is feasible. In determining the appropriate PEL, OSHA relies in part on the record of the proceeding and in part on policy considerations which lead the Agency to conclude that in dealing with a carcinogen or other toxic substances for which no safe level of exposure has been demonstrated, the permissible exposure limit must be set at the lowest level feasible. Such a determination OSHA believes is justified by the nature of the hazard being dealt with, and the intent of the Act.

As already discussed, insufficient evidence has been introduced into this proceeding to demonstrate the existence of a safe level of exposure to inorganic arsenic. In the absence of a demonstrated safe level, OSHA will not assume that one exists because of the irreversibility and long latency period for lung cancer. An erroneous determination that a threshold exists would cause an irreversible illness leading to death. This would be inconsistent with OSHA's statutory responsibility to set a level that will assure that no employee will suffer material impairment of health.

The statutory requirement also mandates that OSHA set a feasible level. A zero level, although ideal, is not feasible given arsenic's utilization in large scale, high temperature processes which cannot be completely enclosed. The record indicates that 10 $\mu g/m^3$ is the lowest level which generally can be achieved in most copper smelters and many of the other processes in which inorganic arsenic is used primarily by joint use of engineering and work practice controls.

OSHA has determined that the 10 $\mu g/m^3$ exposure limit is the level which properly balances the above factors and most adequately assures to the extent feasible, the protection of workers exposed to inorganic arsenic. This level will provide a dramatic reduction in the lung cancer mortality of workers exposed to inorganic arsenic. It is also a level which is generally achievable through engineering and work practice controls, the preferable control strategy. This level is achievable almost entirely through engineering and work practice controls at 11 of the 16 U.S. copper smelters, and for the large majority of employees in other industries and facilities. Moderate or limited use of respirators will be needed in 4 copper smelters, and in a relatively few locations in other industries. One smelter will require extensive respirator use and is discussed at length below.

The scientific and policy determinations underlying the regulation of inorganic arsenic as a carcinogen were mentioned in the preamble to the proposal and were discussed in the course of this rulemaking. These determinations are consistent with other OSHA regulatory actions for carcinogens made after considerable scientific debate. For example, see the preambles to OSHA's carcinogen standard, applicable to 14 selected substances, 29 CFR 1910.1003-1910.1016 (39 FR 3758) aff'd. *Synthetic Organic Chemical Manufacturers Assn.* v. *Brennan*, 503 F. 2d 1155 (3rd Cir. 1974); the vinyl chloride standard, 29 CFR 1910.1017 (39 FR 35892), aff'd, *The Society of the Plastics Industry* v. *OSHA* 509 F. 2d 1301 (2nd Cir.) cert. den. 421 U.S. 992 (1975); the coke ovens emissions proposal (40 FR 32268 (1975)) and final, 29 CFR 1910.1029 (41 FR 46742 (1976)), aff'd. *American Iron and Steel Institute, et al.* vs. *OSHA*, No. 76-2358 (3rd Cir., 3-28-78); and the DBCP emergency temporary standard, 29 CFR 1910.1044 (42 FR 45536 (1977)).

OSHA has followed a similar course on regulation of carcinogens, including a detailed discussion of the scientific evidence supporting such regulation, in the proposed rules on identification, classification, and regulation of toxic substances posing a potential occupational carcinogenic risk ("Cancer Policy") which was published in the Federal Register on October 4, 1977 (42 FR 54148). In the proposed Cancer Policy, OSHA restates the determination that as a prudent policy matter, in the absence of a demonstrated safe level or threshold for exposure to a carcinogen " * * * (o)nce a qualitative presumption of carcinogenicity has been established for a substance, any exposure to the substance must be considered to be attended by risk when considering any given population. No exception to this point has yet been demonstrated." (42 FR at 54166).

The record of the arsenic proceeding independently clearly supports this general policy. Dr. Wagoner concluded:

> I think the overwhelming body of scientific judgment in the United States and internationally is of the opinion—and it has very aptly put by the Surgeon General's ad hoc Committee on low level environmental carcinogens—that the present state of technology does not permit the determination of safe levels for a carcinogen. (ATR 334-5.)

Dr. Kraybill stated:

> There is a general policy or concept among epidemiologists that there is no safe level. Why do we say that? Because we have no scientific method as of yet—1975—to prove otherwise. (ATR 186.)

This was Dr. Radford's view also (ATR 562). And NIOSH has taken the position that in regulating cancer-causing substances it is not possible to determine a safe exposure level (Revised Arsenic Criteria Document, 1975 (Exhibit 99)).

The exposure limit is based upon what can be achieved by the affected industries taken as a whole using available technology or technology looming on todays horizon. Alternatives to this approach have been considered in the context of the arsenic proceeding. As will be discussed, arsenic exposure in the most affected industry, copper smelting varies significantly among the 16 U.S. copper smelters due to variability in smelting conditions and variability of arsenic content in the ore.

Difficulties which may arise at individual facilities or processes in particular plants will be considered at the compliance level which is specifically oriented to consider problems at individual locations. The compliance plan process provides the mechanism to resolve these problems.

One alternative would be to establish the lowest feasible level for each of the 16 smelting plants as well as for each of the many other plants in the other affected industries. Such an approach would be extremely difficult to implement. It would strain limited agency resources including trained manpower and time. By concentrating on the arsenic issue, the Agency would have to reduce efforts in other important health areas. Accordingly, this feasibility determination is based upon analysis of the entire affected industries taken as a whole.

Another alternative would be to base the determination on a worst case basis, that is those situations where the level is most difficult to meet. This alternative is also unacceptable. It would allow most workers to be exposed to much higher exposure levels, than could generally be achieved through engineering and workpractice controls and thus subject them to a potentially increased risk of arsenic-induced lung cancer.

A third alternative is to set the level based on what could be achieved by these facilities with the least problems. In the case of the copper smelters, this would be based on the level achievable for those smelters with the lowest arsenic content in the feed and with the processes most adaptable to control. Such an approach would make it impossible to achieve such a limit for the majority of affected workers in the majority of plants without resort to full time respirator use by most employees. Because of problems inherent in their use (see Section on Respiratory Protection), this alternative is not ideal, though in certain circumstances it may be necessary to give needed health protection.

The approach OSHA believes appropriate and has chosen for this and other standards is the lowest level achievable through engineering controls and work practices in the majority of locations. This approach is intended to provide maximum protection without excessively heavy respirator use. Respirator use in the interval when engineering controls are being installed is more acceptable because their use is temporary. Further, their use is acceptable for those employees in peak exposure areas. Adequate supervision can be given if respirator use is concentrated in a few peak exposure areas and programs can be devised for a relatively few locations to minimize the full time use of respirators. (See the discussion of the Tacoma smelter below where such a strategy is outlined.)

The level achievable is based on available engineering controls and those controls which can be adapted from other uses or which are looming on the horizon and can reasonably be expected to be developed. The OSHA Act is a technology forcing act as discussed in Section II of this preamble. However, OSHA does not interpret this to mean an open ended commitment to research and develop unforeseeable new technologies, but rather the adaptation and development of controls from existing known practices and principles.

OSHA contracted for two detailed studies of technological and economic feasibility considerations:

1. D. B. Associates (D.B.), "Feasibility and Estimated Costs of Compliance for Three U.S. Smelters," (Ex. 18).

2. Arthur Young & Co. (AY), "Technological Feasibility and Inflationary Impact Statement," (Ex. 135A).

The AY study was based upon analysis of data in the D.B. report, industry studies and data from industry sources. The AY analysis was further amplified in the document entitled, "Detailed Account of Certain Compliance Costs," (Ex. 148A, 173A). Testimony indicated that certain costs were under-estimated in the D.B. study. AY corrected for those underestimates.

ASARCO, Inc. commissioned a study by Industrial Health Engineering Associates (IHEA, Ex. 29M) which presented a detailed analysis of technical feasibility and costs of engineering controls at ASARCO facilities. Additionally, ASARCO hired Arthur D. Little, Inc. (ADL Ex. 111-7) to integrate the cost data of IHEA with other cost data provided in testimony by ASARCO management and to estimate the proposed standard's impact on its Tacoma smelter and on ASARCO as a whole.

The Anaconda Co. presented a report by Phillip A. McKee & Associates (Ex. 28B). Kennecott Copper supplied a less detailed estimate of the costs of compliance and Phelps Dodge supplied an overall estimated cost figure without supplying any documentation (Exs. 12, 156A, 157). A combined cost estimate for these four major copper smelting firms was presented in Exhibit 156A.

Industries other the copper smelting, generally did not submit specific studies, but did give some testimony on feasibility issues. In addition to specific studies, a substantial amount of testimony and some written submissions addressed feasibility questions.

The copper smelting industry is the industry most affected by the standard. Analysis of feasibility in that industry is complicated not only because exposure varies significantly between processes in a given smelter but they also vary substantially among smelters. A major reason is the differing percentages of arsenic in the smelter feed ranging from 5 percent to under 0.001 percent. The following Table indicates that variation.

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TABLE I.—*Percent arsenic in feed, U.S. copper smelters*

Smelter	Percentage arsenic in—		Approximate annual tons copper concentrates, 1971-73
	Overall feed	Copper concentrates	
ASARCO:			
El Paso, Tex	0.8	0.21	295,600
Hayden, Ariz	0.04	0.005	529,812
Tacoma, Wash	5.2 (12.8 max)	4.2	273,603
Phelps Dodge:			
Ajo, Ariz	Not available	Less than 0.005	206,471
Douglas, Ariz	do	0.1 to 0.3 pct	680,509
Morenci, Ariz	do	0.001 pct	810,000
Tyrone, N. Mex	do	Not detectable	(1)
Kennecott:			
Garfield, Utah	0.135	0.15	780,542
Hayden, Ariz	0.015	0.016	296,282
Hurley, N. Mex	0.005	Less than 0.006	265,442
McGill, Nev	Not available	Not available	283,196
Inspiration: Miami, Ariz	do	do	282,200
Magma: San Manuel, Ariz	do	0.007	798,500
Anaconda: Anaconda, Mont	0.96	0.97	647,870
Copper Range: White Pine, Mich	0.002	0.003	347,100
Cities Services: Copper Hill, Tenn	Not available	Not available	(1)

[1] Not available.

Other factors also affect existing levels such as layout of plant, smelting process, and age of equipment. Some smelters use a roasting process, which results in additional sources of arsenic exposure during roasting and during transfer of the hot roasted material (calcine). Some of the recently modernised or new smelters make use of processes such as the Noranda Process or electric smelting which reduce the number of sources of exposures or make the control of such emissions less difficult. Exposures are also affected by the uniformity of the arsenic content. A uniform feed usually results in a smelting process which is easier to control and this tends to make it easier to control emissions.

There is a substantial body of evidence on the record to aid in analyzing feasibility in copper smelters. In addition to the DB, IHEA, AY, and McKee studies mentioned above, fairly extensive exposure data is available in Exhibits 6, 7, 12, 28A, 29G, 31C, and 188. Further, Burton of DBA, Caplan of IHEA, and Brazie of AY specifically addressed these points in their testimony.

The Arthur Young, Inc. analysis indicated that the 4 $\mu g/m^3$ level could be achieved with engineering controls and extensive use of respirators at Tacoma, moderate use of respirators in smelters which they grouped into categories 2 and 3, very limited use of respirators in category 4 smelters and essentially without respirators in category 5 and 6 smelters. Sometimes they gave specific estimates of the number of employees required to wear respirators. In other instances their estimate can be approximately computed by dividing $4,000 into their estimate of respirator annual costs.

Brazie of AY also pointed out that in those smelters with low levels of arsenic in the material stream, very low levels of exposure can be achieved solely be engineering and work practice controls (STR 120). The details of the AY analysis can be found in Exhibits 148A and 173A. Their smelter categories are listed on page 2 of Exhibit 148A.

Caplan, an ASARCO witness, indicated the difficulties in achieving 50 $\mu g/m^3$ for the Tacoma smelter with engineering controls alone and stated that extensive use of respirators would be needed to reach a 4 $\mu g/m^3$ level there and at the El Paso smelter. He also discussed generally the difficulty of reducing exposures to 50 $\mu g/m^3$ in uranium processing and compared this to copper smelters. At various places he seemed to imply that these difficulties could apply to copper smelting generally.

It is accepted that at Tacoma engineering controls in a number of places (though not all) will have difficulty reducing exposures below 50 $\mu g/m^3$. It is also accepted that in large scale, high-temperature, heavy-industry processes, reducing exposure levels below 50 $\mu g/m^3$ may be difficult for substances which are present in relatively high percentage in the material streams. This analysis is clearly applicable to Tacoma with 5 percent arsenic in the concentrate feed. But Caplan's analysis has only very limited applicability in smelters with approximately 1 percent arsenic in the feed and is not applicable at all to smelters with feed typically ranging from 0.1 percent to .001 percent arsenic, where the large majority of exposure levels are already lower than 50 $\mu g/m^3$ and still further reductions are clearly achievable. Caplan himself has stated (ATR, p. 1310) that lower levels are achievable when toxic substances are present as only a small fraction of the material stream. Further this report did not cover in detail those smelters with lower percentages of arsenic in the feed, nor did it take into account the existing lower levels of exposure (see Ex. 12 for example) for many employees.

Burton of D. B. Associates did not make specific judgments as to levels achievable but did make predictions as to whether there was a good, fair, or poor chance of reaching a 4 $\mu g/m^3$ level with engineering controls alone at various locations in the three smelters he studied. Generally his analyses indicated a greater likelihood of reaching a 4 $\mu g/m^3$ level through engineering controls alone than Caplan's analysis.

Burton also testified as to general degree reduction in exposure achievable through engineering controls. He stated that as a rule of thumb, 95 to 99 percent reduction in the concentration of an air contaminant is possible for emissions from definable sources, while 80 percent reduction in emissions may be achieved when more sources and more ill-defined sources

are added (STR 278). Given the age of most smelter facilities, and the numbers of the major emission sources, OSHA believes it prudent to utilize Burton's lower estimate of the effectiveness of engineering controls.[1] It should be noted, however, that as smelters are modernized and newer more continuous processes are adopted, engineering controls should succeed in reducing exposures to lower levels.

In some operations the 80 percent reduction will be achieved, and in others it will not. It is not possible to predict the exact degree of improvement to be obtained from engineering controls until they are actually implemented. Further, the degree of additional control possible depends on how extensive existing controls are.

Applying the above testimony and principles to the data presented in the record, the Tacoma smelter will require extensive respirator use at the 10 $\mu g/m^3$ level. Because of that, a specific compliance strategy is discussed below which will alleviate the hardships of wearing respirators and reduce as much as possible full time use of respirators.

At the ASARCO El Paso smelter, a substantial number of employees are exposed in the range of 50 $\mu g/m^3$ (Ex. 29G, App. 3). Applying Burton's estimate of 80 percent reduction in exposure, a significant number of those employees in this range will have their exposures reduced to 10 $\mu g/m^3$. Employees in this group whose exposures are not reduced below 10 $\mu g/m^3$ through engineering controls still may have their exposures reduced sufficiently low so that in conjunction with clean rooms respirator use will be limited. Engineering controls alone are not anticipated to reduce exposures to 10 $\mu g/m^3$ for those employees working in the high exposure areas such as the roasters and reverberatory furnaces where existing exposures are sometimes as high as several hundred micrograms per cubic meter. Therefore respirator use will be necessary to reduce exposures to 10 $\mu g/m^3$ level for the limited number of employees working in these areas. As discussed in the Tacoma section full time use of respirators can be avoided even for many of these employees. Much smelter work is of an intermittent or watching nature so employees can go into clean rooms or filtered air pulpits during part of the day and be protected without wearing respirators.

Arthur Young estimated that 70 employees would need to wear respirators at the 4 $\mu g/m^3$ level at El Paso. Utilizing Burton's 80 percent analysis, OSHA believes that the 70 number might be on the low side at 4 $\mu g/m^3$ proposed level but that it may be a reasonable estimate at the 10 $\mu g/m^3$ level set by this standard. It is possible that the number will be higher than this. See the economic considerations section for a discussion of ASARCO's estimate of respirator use at the 4 $\mu g/m^3$ level which is not broken down by facility.

It is accepted that it is a major engineering task to accomplish these goals at El Paso. But installation of the engineering controls discussed in the AY and IHEA studies will substantially reduce exposure levels.

At the Anaconda smelter many exposure emissions from the traditional copper smelting technology have ranged between 10 $\mu g/m^3$ and 50 $\mu g/m^3$ with a few somewhat higher (Ex. 28, p. 165). Applying the above principles to these exposures, 10 $\mu g/m^3$ would be a challenging engineering task which should be achieved a significant percentage of time with engineering controls and work practices alone. Some employees will need to wear respirators to achieve 10 $\mu g/m^3$. The same principles discussed for El Paso will limit respirators use to part-time for most employees who need to use them. The difficulty in achieving 10 $\mu g/m^3$ may be lessened due to the installation of the electric furnace, although that may not reduce the problems in the converter aisle where exposures average approximately 46 $\mu g/m^3$.

The Kennecott-Garfield smelter is being completely rebuilt utilizing the Noranda Process. Accordingly, a feasibility analysis of the new smelter is difficult. But, based on the fact that arsenic in the feed is between the levels existing at Anaconda and El Paso on the one hand and ASARCO-Hayden on the other, and the limited exposure data supplied by Kennecott in higher exposure process areas, the problems of compliance should be less than those at Anaconda and El Paso. The new Kennecott smelter's continuous and more enclosed process should improve conditions as well.

At the ASARCO-Hayden smelter many exposures are in the 10 $\mu g/m^3$ range such as at the converter aisle and acid plant (Ex. 29A, App. 4). However, exposures in the reverberatory furnace area are in the 100-200 $\mu g/m^3$ range and are approximately 75 $\mu g/m^3$ by the roasters. The 10 $\mu g/m^3$ will be achievable for the employees in the low exposures area with engineering controls and will require some respirator use for employees exposed in the higher range. AY estimated that 45 employees would need to wear respirators at a 4 $\mu g/m^3$ level. The ASARCO data is discussed in economic considerations.

Arthur Young used Hayden as the basis for its analysis for the four other smelters in Group 4. However, it is quite possible that AY has underestimated the success that engineering controls will have in achieving the permissible exposure limit at those four smelters and that even the limited use of respirators which AY estimated at those smelters is an over estimate. In addition to the increase in the permissible exposure level, those four smelters have much lower levels of arsenic in their feed than ASARCO-Hayden ranging from .015 percent to .002 percent in comparison to the .04 percent at Hayden. Therefore, though there is little exposure data supplied by those smelters, it seems likely that they will find it easier to comply than ASARCO-Hayden.

On the other hand, Arthur Young may have placed Phelps-Dodge's Douglas smelter in too low a group. The level of arsenic in its feed is higher than at other smelters in Groups 4 and 5. Exposure data in Exhibit 12 indicates that most exposures are near 10 $\mu g/m^3$. However, a few exposures readings are between 10 and 80 $\mu g/m^3$.

In all the remaining smelters most exposures are quite low and concentrate levels are less than 0.02 percent. Those smelters can clearly meet the the 10 $\mu g/m^3$ level in virtually all of the places most of the time. Arthur Young estimated that very few if any of the employees at those smelters (in Groups 5 and 6) would need to wear respirators on a regular basis in these smelters at a 4 $\mu g/m^3$ level.

In summary, the three expert witnesses, Caplan, Burton and Arthur Young agreed that a 4 $\mu g/m^3$ level was technically achievable with engineering and work practice controls and respirators use, though varying on the extent of their estimates of respirator use. However, the 10 $\mu g/m^3$ level comports more clearly with the concept of technical feasibility, especially in the smelter environment. It provides a very high degree of protection with less extensive respirator use. Certainly a higher number would give less protection and lead to less respirator use. A lower number possibly might provide more protection and certainly would substantially increase respirator usage.

The 10 $\mu g/m^3$ level is achievable at 11 of the smelters with engineering and work practices and only very limited use of respirators. Limited use of respirators will be needed at the ASARCO-Hayden smelter, moderate use at the El Paso smelter and Anaconda smelters, and the Kennecott Garfield smelter will probably fall in between the two groups in terms of respirator use. The Tacoma smelter will require extensive respirator use and an appropriate compliance strategy to mitigate the problems created is discussed below.

Exhibit 5G contains a discussion of new technologies which may become available in the future. These, because of their more enclosed and continuous

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nature or because of their use of newer technology will ultimately lead to still lower exposures. However, those technologies (some of which are unproven) commonly require building a new smelter which may cost in the $150 to $250 million range. Since these new technologies are generally not yet looming on the horizon, the feasibility analysis has not been based on them.

The Arthur Young study (Ex. 148A) also considered other affected industry groups. However, those industries which are covered by this final standard did not specifically submit any detailed studies themselves though they made a few comments.

AY estimates the 4 $\mu g/m^3$ was achievable with engineering and work practice controls alone in zinc smelters. Arthur Young and Arthur D. Little (Ex. 111-7, p. 37) clearly considered the 4 $\mu g/m^3$ level feasible at primary lead smelters though it is unclear to what extent limited respirator use might be needed.

Arthur Young estimated that the glass, and desiccant manufacturer industries could achieve 4 $\mu g/m^3$ with engineering controls alone. They estimated that the herbicide and pesticide manufacturers, wood preservative manufacturers and lead arsenical industry could achieve 50 $\mu g/m^3$ with engineering controls alone but would require some respirator use to achieve 4 $\mu g/m^3$. As the former two industries are chemical industries where enclosed processes can often be utilized, OSHA believes that the 10 $\mu g/m^3$ level can be achieved without respirator use. There may be limited use of respirators needed at the 10 $\mu g/m^3$ level in the lead arsenical segment.

In conclusion, the 10 $\mu g/m^3$ exposure level is the lowest feasible level for exposure to inorganic arsenic. It minimizes, to the maximum extent feasible, excess lung cancer deaths resulting from exposure to inorganic arsenic. It is achievable generally through engineering and work practice controls. Limited respirator use will be needed to achieve the limit in some locations in some facilities, and one facility will require extensive respirator usage. The absolute degree of control of work exposure will be certain only after inplementation of engineering and work practice controls. What is clear is this standard will provide significant protection of workers from arsenic-induced lung cancer.

VI. Economic Considerations

In setting standards for toxic substances, the Secretary is required by section 6(b)(5) of the Act to give due regard to the question of feasibility. Section 6(b)(5) mandates that final standards be set which most adequately assure employee safety and health "to the extent feasible, on the basis of the best available evidence" and further requires that, in the development of occupational safety and health standards, "considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws."

While the precise meaning of feasibility is not clear from the Act, it is OSHA's view that the term may include the economic ramifications of requirements imposed by standards. The determination that OSHA has the authority to consider economic feasibility factors in developing standards has been endorsed by the courts. *Industrial Union Dept., AFL-CIO* v. *Hodgson*, 499 F. 2d 467 (C.A.D.C., 1974); *AFL-CIO* v. *Brennan*, 530 F. 2d 109 (C.A. 3, 1975); *American Iron & Steel Inst.* v. *OSHA*, No. 76-2358 (3rd Cir., 3/28/78). As pointed out by the D.C. Court of Appeals, Congress did not intend the Secretary to promulgate standards which drive entire industries or large numbers of employers out of business. On the other hand, "standards may be economically feasible even though, from the standpoint of employers, they are financially burdensome and affect profit margins adversely". Further, the Court said, the concept of economic feasibility does not "necessarily guarantee the continued existence of individual employers." *Industrial Union Dept., AFL-CIO* v. *Hodgson, supra*, at page 478. In accordance with the Secretary's position, it has been OSHA's practice to analyze the economic impact of proposed standards where significant impact on employers covered by the proposals seem likely. OSHA then makes, such analyses available to affected parties for comment and subsequent hearing prior to issuance of final rules, and invites the submission of other information on the economic impact and feasibility of proposed standards. In developing a final standard OSHA evaluates the economic impact of the final standard on the basis of the entire rulemaking record, including the information developed by its own studies of the proposal and submissions by the public. On the basis of the best available evidence, therefore, OSHA has determined, as explained in detail below, that the permanent standard is economically feasible.

A number of studies were done of economic considerations resulting from an arsenic standard. The Arthur Young study (Ex. 135A) contracted for by OSHA considered economic factors for all affected industries. Other studies submitted concentrated on the copper smelting industry. These are listed in section V of this preamble. In addition the matter was specifically considered in testimony at the hearings.

The copper smelting industry is the most affected industry. Table 2 summarizes the Arthur Young and industry cost estimates for a 4 $\mu g/m^3$ level and Arthur Young's estimates for a 50 $\mu g/m^3$ level. However more than half of the industry's total cost estimate was comprised of hypothesized worker rotation costs for Anaconda and Kennecott. The industry hypothesized that the OSHA proposal required that industry use employee rotation, rather than respiratory protection, if engineering controls and work practices were sufficient by themselves to achieve the proposed 4 $\mu g/m^3$ exposure level. Although it is true that Arthur Young's cost estimates includes in a few instances a limited amount of worker rotation, the proposal does not contain any language specifying worker rotation. Like the proposal, the final standard contains no requirement that worker rotation be used rather than respiratory protection when engineering and work practice controls do not succeed in reaching the permissible exposure limit (sometimes referred to in this document as the PEL or TWA limit). Therefore OSHA does not consider it appropriate to include worker rotation costs and Table 2 also presents the industry estimate adjusted to exclude worker rotation costs.

TABLE 2.—*Cost of compliance for copper smelters*

[Millions of dollars]

Source of estimate	50 $\mu g/m^3$			4 $\mu g/m^3$		
	Capital	Annual	Annualized	Capital	Annual	Annualized
AY (Ex. 135A)	85.9	6.2	23.5	103.9	11.2	32.0
Industry (Exs. 156a, 111-7)				224.2	153.7	198.8
Industry adjusted				224.2	49.6	94.7

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Annual costs include the additional costs resulting from the standard for fuel, medical examinations, monitoring, maintenance, etc., as well as potential loss of efficiency through respirator use. Annualized capital costs are 20 percent of initial capital costs. These are then added to annual costs to derive annualized costs.

The industry cost figures cited in Table 2 do not include costs for four of the 16 U.S. primary copper smelters which are not owned by the four major companies. The Arthur Young estimate includes costs for all 16 U.S. primary copper smelters. The ASARCO estimates, included in the overall industry cost figure includes costs of compliance for some of their non-copper operations as well as their copper smelters and thus to that extent the industry figure overstates costs which are attributable to copper smelting alone.

OSHA believes that at the 10 $\mu g/m^3$ level the adjusted industry cost estimates are too high. Respirator costs will be reduced substantially from the 4 $\mu g/m^3$ level because engineering controls will succeed in reaching the 10 $\mu g/m^3$ level more frequently. There will be a limited reduction in the cost of engineering controls at the 10 $\mu g/m^3$ level at Kennecott and Phelps-Dodge. The Phelps-Dodge capital costs estimate of $80 million, supported by no underlying data, seem, much too high relative to other industry estimates. They had originally estimated $22 million (Ex. 12). Kennecott, with higher exposures and a larger scale of operation, estimated capital costs at $28.5 million.

Kennecott's estimate of $9.9 million in annual energy costs to reheat stack gasses is unsubstantiated. Anaconda's estimate of $30 cfm estimate for ventilation controls is approximately double other estimates used for ventilation controls on the record (Ex. 29 m, Ex. 148A).

The ASARCO cost estimate includes annual costs of $10.57 million for loss of efficiency from respirator use and $231 million for respirator expenses at the 4 $\mu g/m^3$ level. These figures are based on approximately 900 employees at Tacoma and approximately 2000 employees at other ASARCO facilities wearing respirators full time. Loss of efficiency through respirator use is computed by ASARCO at 20 percent or $3600 per man year. Respirator costs are estimated at approximately $800 per man year.

OSHA believes these ASARCO figures are substantial over-estimates at the 10 $\mu g/m^3$ level. As analyzed in detail below, in the Tacoma section, ASARCO's estimate of employees on respirators at Tacoma is probably double the correct figure and the 20 percent estimate of loss of efficiency for respirator use is probably more than double the correct estimate. Therefore the loss of efficiency through respirator use at Tacoma is probably more than $2.43 million too high.

OSHA believes that substantially fewer than 2,000 employees will need to wear respirators full time at non-Tacoma ASARCO facilities at the 10 $\mu g/m^3$ level. ADL does not make clear how this figure is derived, but it appears to be based on all production employees at El Paso, Hayden, East Helena and possibly other ASARCO facilities wearing respirators at the 4 $\mu g/m^3$ level. However ASARCO Exhibit 29G indicates that many employees at those locations (except El Paso) have exposures already below 10 $\mu g/m^3$ and other are exposed at levels sufficiently close to 10 $\mu g/m^3$ so that engineering controls will in many instances succeed in reducing exposures below 10 $\mu g/m^3$. In any event full time use of respirators by many of these employees is not likely to be necessary.

Further David Burton and AY estimated that approximately 50 employees would need to wear respirators at Hayden at the 4 $\mu g/m^3$ level. (Ex. 18, p. 67, Ex. 173A). Arthur Young estimated that approximately 70 employees at El Paso will need to wear respirators full time at the 4 $\mu g/m^3$ level (Ex. 173A). These estimates would indicate much lower respirator use than the ADL estimate at 4 $\mu g/m^3$.

Based on the change to the 10 $\mu g/m^3$ level, existing exposure levels, the effectiveness of engineering controls and estimates of other experts, OSHA believes that fewer than 500 employees will be wearing respirators at ASARCO's non-Tacoma facilities. Further as discussed below in the Tacoma section, the 20 percent figure for loss efficiency through respirator use is too high and 10 percent may be a more reasonable high side estimate. Therefore the ASARCO estimate of $8.86 million in total respirator expenses at non-Tacoma facilities ($7.33 million loss of efficiency plus $1.54 million respirator costs) is probably overstated by a factor of seven-eighths. In any event, full time use of respirators by many of these employees is not likely to be necessary. However to be certain that respirator costs are not underestimated, it will be assumed for purposes of this analysis that these respirator costs are overestimated by three-quarter or $6.65 million. Therefore the total ASARCO estimate for respirator expenses is overestimated at least $9 million per year at the 10 $\mu g/m^3$ level ($2.43 million overestimate at Tacoma and $6.65 million non-Tacoma). The ASARCO capital cost figure will also be reduced in the short and middle term by the likelihood of less capital investment at Tacoma as discussed below. In the longer term that investment will be necessary.

The above overestimates come to $32.1 million per year in annualized costs. Subtracting the overestimates from the industry estimate of $94.7 million leaves a balance of $62.6 million in annualized costs. The computations to derive the $32.1 million figure are as follows: Capital costs at Phelps Dodge should be no more than the Kennecott estimate of $28 million, saving $52 million in capital costs from the Phelps Dodge $80 million estimate or $10.4 million in annualized costs. Even the $28 million figure is likely to be an overestimate for Phelps Dodge since Exhibit 12 indicates that existing exposures are low. Caplan, an ASARCO witness estimated $16 per CFM for difficult ventilation jobs. Applying that figure to the Anaconda estimate of 1 million CFM results in costs of $16 million rather than the $30 million Anaconda estimate. This saves $14 million in capital costs or $2.8 million in annualized costs. Arthur Young believed the $30 CFM figure was too high but nonetheless utilized it in their analysis. They believed the capacity required was overestimated as well. Also subtracted are $9 million in excess respirator costs at ASARCO and $9.9 million in excess fuel cost at Kennecott. (10.4+2.8+9.0+9.9=$32.1 million in overestimates).

Changes in the standard from the proposal will also result in substantial cost savings from the industry estimates. Monitoring costs will be reduced by approximately two-thirds due to the reduction in monitoring frequency. Medical, laundering and hygiene costs will also be reduced significantly by the change in the definition of covered employees and the reduction in laundering frequency. These savings have not been subtracted from the various estimates.

It also should be noted that both industry and Arthur Young figures are based on a 20 percent factor covering interest and depreciation to annualize capital costs. A figure commonly used in other OSHA proceedings has been

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15 percent. To the extent that the 15 percent figure is more realistic, all of the estimates have exaggerated the annualized cost figures.

The Arthur Young cost estimates are reasonably detailed and based to a substantial extent on detailed underlying data. Caplan of IHEA testified that AY did not always give sufficient reasons when choosing the DBA report as the basis for estimates rather than selecting the IHEA estimates. (STR p. 629.) Nonetheless, the choice was made by qualified persons and general considerations and sometimes specific reasons were given in Exhibits 148A and 173A. The DBA costs, when chosen, were detailed and made by a qualified expert. DBA estimates were adjusted by AY to fully account for overhead costs.

Some of the AY costs based on DBA estimates may be too low. For example, in OSHA's experience the estimate of $5,350 for enclosing, filtering, and air conditioning an overhead crane (Ex. 148A, p. 8) may be too low. Also, the AY computation of costs for Phelps-Dodge smelters may be too low based on exposure levels at the Douglas smelter and interpolation of AY cost data. These underestimates are at least in part compensated for by the lessening of costs at the 10 $\mu g/m^3$ level from the 4 $\mu g/m^3$ level.

It therefore appears to OSHA that the AY 4 $\mu g/m^3$ estimate is a reasonable estimate at the 10 $\mu g/m^3$ level. It also appears that the industries adjusted figure for the 4 $\mu g/m^3$ level is high at a 10 $\mu g/m^3$ level, though an estimate in between those two figures of approximately $63 million would also be a reasonable high-side estimate. The adjusted industry figure with some of the probable overestimates substracted would come out to approximately $63 million in annualized costs.

The smelters not included in the industry compilation will probably have costs in the lower range in comparison with other smelters at the 10 $\mu g/m^3$ level since exposures are already in the lower range. In addition, it is not unreasonable to assume that as they did nbot actively participate in the hearing process, they did not believe it difficult to comply. It also should be noted that the profit figures used below do not include profits for the other smelters and therefore understate industry profits.

In considering economic impact, it is inappropriate to assume that the industry will have to absorb all these costs. Some of the increased costs will be offset by increases in smelting charges. Since the early 1970's smelting charges have risen from about 6 cents to 12 cents per pound of copper and combined smelting and refining charges have increased from about 10 cents to 20 cents per pound in response to higher energy, environmental and other costs. (Ex. 111-7, p. 24-25.) Also ASARCO has successfully increased smelting charges to independent mines to assist in offsetting costs of environmental controls. (STR. pp. 457-458.) Notes 1 and 6 of the 1975 ASARCO Annual Report indicate that ASARCO has been receiving approximately $12 million per year in environmental surcharges.

A. D. Little suggested that those costs of controls which affected most smelters can be passed on to consumers by smelting operations without disruption in time of "normal" copper prices. (Smelting charges are normally assumed by copper analysts to be paid by the mine which takes the gains and losses from rises and falls in copper prices.) ADL estimated that 2 cents per pound of copper could be passed along. (Ex. 111-7, pp. 35-37.) Arthur Young estimated that there would only be a "negligible" increase in copper prices based on the low impact of the proposal on some smelters, ADL's estimate that there is a surplus of smelting capacity abroad, and that their study was directed at long-term impacts. (Ex. 135, p. VI-10, Ex. 184.)

A 2 cent increase in smelting charges would result in increased revenue to smelters of $60 million per year and a 1 cent increase of $30 million per year based on a typical figure of 1.5 million tons of copper smelted per year in the U.S. In view of past increases in smelting charges to cover increased costs, OSHA believes some part of the increased costs of the regulations can be recovered by the smelters in increased smelting charges to mitigate the impact of the cost of arsenic controls. There are costs in shipping copper from overseas and some overseas smelters are also facing increased environmental costs. Therefore despite a possible surplus of overseas capacity, OSHA believes that a part of the cost increases can be recovered in increased smelting charges.

The average annual pretax profits over the 10 year period 1966-1975 for the four largest copper smelting companies total $525 million excluding extraordinary items (Standard and Poors). Industry profits need to be averaged over a period of time because of their historically large fluctuations. It is appropriate to compare costs against pretax profits since depreciation and interest are tax deductible. (Such a comparison may still overstate the impact of the costs because there is a tax credit for capital investment that would have the effect of reducing net capital outlays.)

Using the industry's adjusted estimate of costs of $94.7 million and a low estimate at increased smelting charges of 1 cent per pound ($30 million), the copper smelting industry would be left to absorb $64.7 million of costs, or 12.3 percent of average pretax profits. As discussed above, that percentage is probably too high at a 10 $\mu g/m^3$ level because the $94.7 million cost figure appears to be too high. Using the AY figure of $32 million in costs and the 1 cent per pound increase in revenues, the costs to be absorbed by the industry would be a negligible $2 million. This net figure is probably low. At the $32 million cost figure only a lower increase in smelting charges would probably be passed on because of the different cost impacts of the standard on different smelters.

An intermediate analysis would be to consider costs at the 10 $\mu g/m^3$ level as midway between the AY and industry adjusted estimate or $63 million. With increased smelting charges of 1 cent per pound this would result in the industry absorbing $33 million in increased costs, or 6.3 percent of historical pretax profits.

It would appear to OSHA that these percentages indicate that the cost of the arsenic standard is well within the economic capabilities of the copper smelting and refining industry as a whole. It is true that the copper smelting industry is also being required to spend substantial sums on environmental controls. However, no witnesses have testified that costs of this magnitude would be infeasible for the copper smelting industry as a whole.

This conclusion is consistent with the conclusions of A. D. Little, ASARCO's witness, that the cost to the copper and lead smelting industries can be passed on without any major dislocations except in times of abnormally low metal prices (Ex. 111-7, p. 37). They believed the exception to this was the additional compliance costs to ASARCO at their Tacoma and El Paso facilities over and above the level of costs at other smelters.

OSHA is aware that subsequent to the close of the record in this rulemaking, that copper prices have been very low and some copper companies have been in a loss position on their copper operations. It is also true that subsequent to the close of the record Kennecott received a very large sum in cash from the sale of Peabody Coal Co., Anaconda was purchased by Atlantic-Richfield and Bendix has invested in ASARCO. The Financial Press has speculated about high copper prices in the 1980's.

OSHA has not considered these factors in its analysis. However at the compliance level, feasible compliance plans are worked out for specific facilities. To the extent that a specific company can prove that serious economic feasibility difficulties exist, the compliance plan can be adjusted to include a more extended period for the installation of required engineering controls with more extensive use of respirators in the short term.

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It is not appropriate to reopen the record each time the state of the economy or the price of a specific commodity changes. These fluctuations are frequent and it would become difficult ever to close a record and issue a final standard. In consequence needed health protection for employees would be further delayed. Such changes are better addressed at the compliance level where more detailed information is available. See *Atlantic and Gulf Stevedores* v. *OSHA*, 534 F. 2d 541 (3rd Cir. 1976). No party has petitioned to reopen this proceeding.

Lead and Zinc Smelters

The IIS estimated annualized costs to primary lead smelters of $9.3 million and of $940,000 to zinc smelters at a 4 $\mu g/m^3$ level. It found no economic impact of sufficiently great magnitude to create questions of economic feasibility or supply problems. In addition no detailed industry analyses were made indicating that any problems of economic feasibility existed.

Economic Impact—Other Industries

Interested parties in other industries did not bring to OSHA's attention major problems of economic feasibility. The IIS estimated substantial ($30 million annualized) costs of compliance at the 4 $\mu g/m^3$ level in the glass industry but did not indicate that difficult economic feasibility questions existed. The costs are distributed broadly across a reasonably large industry. In addition arsenic use in glass has been going down as substitutes have been developed. Manufacturers are continuing to reduce the already small percentage of arsenic in glass and to develop complete substitutes which will reduce the costs of compliance. The costs will be further reduced by the change to the 10 $\mu g/m^3$ level.

The IIS estimates $6.7 million in annualized costs for secondary lead smelters. It suggests that a few of the smaller firms may have some difficulty in raising capital to meet the costs of controls though no smelters have presented specific evidence on this point. This evidence indicates that the standard is feasible for the industry as a whole.

The IIS estimates that annualized costs of compliance were not over $1 million at the 4 $\mu g/m^3$ in any of the other industries studied. Although the IIS suggests that one or two individual plants may have difficulty in raising capital, no specific evidence has been presented to OSHA. In view of the relatively small amounts involved at a 4 $\mu g/m^3$ level, no significant questions of economic feasibility appear to be presented for these industries as a whole at a 10 $\mu g/m^3$ level.

Benefits

The legislative history and language of the Occupational Safety and Health Act, as distinguished from some other environmental and safety legislation, clearly indicate that Congress has already arrived at a judgment concerning the balancing of cost and benefit, with the result that worker safety and health are to be heavily favored over the economic burdens of compliance. Specifically, Section 6(b)(5) of the Act provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws.

Thus, while feasibility is an appropriate consideration, the Secretary is directed to set standards which attain the "highest degree of health and safety protection for the employee • • •."

This does not mean, however, that a systematic evaluation of costs and benefits is not to be encouraged within the limits of the estimation techniques. In considering the issue of feasibility in this rulemaking, as in others, OSHA has carefully evaluated the cost of compliance which may be incurred by the directly affected employers and their ability to comply. Additionally, OSHA believes that a standard for a substance which has been found to pose a cancer risk to workers, in this case inorganic arsenic, must assure maximum benefit (i.e. prevention of serious illness or death), constrained only by the limits of feasibility.

There is general agreement that inorganic arsenic exposure causes cancer. In spite of the certainty of this conclusion, and that there is a reasonable dose-response relationship for exposures in the hundreds of micrograms per cubic meter, there does not exist an adequate scientific basis for determining a quantitative dose-exposure relationship at the lower levels of exposures necessary to reduce the risk as much as is feasible. The uncertainty in both the actual magnitude of expected deaths and in the theory of extrapolation from existing data to the exposure level set by this standard places the estimation of benefits on "the frontiers of scientific knowledge."

While the actual estimation of the number of cancers to be prevented is highly uncertain, the evidence indicates that the number is likely to be appreciable. A dose-response relationship, that is a lower incidence of excess risk at lower levels of exposure is likely to exist at lower as well as higher levels of exposure to inorganic arsenic. Therefore reductions in exposure to lower levels is accompanied by a reduced risk, even though a precise quantitative relationship cannot be established.

The epidemiologic studies discussed in the health effects section give an indication of the magnitude of the excess risk which will be reduced by this standard. For example, the excellent Lee and Fraumeni study considered the employees at one copper smelter. This study indicated that over a 25 year period, there were 147 lung cancer deaths where only 45 deaths would be expected (Ex. 5D, Table 3, p. 1048). Exposures of groups of employees showing excess risk were both above and below the existing 500 $\mu g/m^3$ limit. It is clear that the new standard would contribute very substantially to reducing the 102 excess lung cancer deaths at that one copper smelter. In light of the uncertainties in this area of scientific knowledge, OSHA believes that it is required by the statutory mandate to adopt a highly protective posture in considering the evidence for health benefits.

We recognize that in view of the latency period usually associated with the induction of cancer, significant reductions in mortality may not be seen for many years. However, unless exposures are reduced now, OSHA believes that the mortality rate will not decline and employees exposed to inorganic arsenic will continue to suffer excess mortality.

Based upon the foregoing and the record as a whole, OSHA finds that compliance with the standard is well within the financial capability of the covered industries. Moreover, although the benefits of the standard cannot rationally be quantified in dollars, OSHA has given careful consideration to the question of whether these substantial costs are justified in light of the hazards of exposure to inorganic arsenic. OSHA concludes that these costs are necessary in order to effectuate the statutory purpose of the Act and to adequately protect employees from the hazards of exposure to inorganic arsenic.

In making judgments about specific hazards, OSHA is given discretion which is essentially legislative in nature. In setting an exposure limit for a substance like inorganic arsenic, OSHA has concluded that it is inappropriate to substitute cost benefit criteria for the legislatively determined directive of protecting all exposed employees against material impairment of health or bodily function. Where

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the health effectiveness of alternative approaches are extremely uncertain and likely to vary from situation to situation, OSHA believes it is appropriate to adopt the compliance strategy which provides the greatest certainty of worker protection even if the approach carries with it greater economic burdens for the affected employers.

In the case of the inorganic arsenic standard, the evidence in the record indicates that the costs of compliance are not overly burdensome to industry. Having determined that the benefits of the proposed standard are likely to be appreciable, OSHA is not obligated to carry out further exercises toward more precise calculations of benefit which would not significantly clarify the ultimate decision. Previous attempts to quantify benefits as an aid to decisionmaking in setting health standards have not proved fruitful (41 FR 46742).

Impacts on Price Indexes

Both the IIS (Ex. 135, p. VI-5) and the Council on Wage and Price Stability (STR, pp. 845-6) estimate that the overall impact on general price indexes of the inorganic arsenic standard indexes will be "negligible." Arsenic products have a very small weight in these indexes and even substantial increases in individual arsenicals would have no significant impact. The likelihood of a 50 percent increase in the price of arsenic trioxide is discussed below. But such an increase would have very little impact on the prices of finished chemicals, cotton, or preserved wood because the cost of the arsenic trioxide is generally a small part of the cost of the finished product. See the discussion in the Final EIS of how even a 100 percent increase in the cost of arsenic trioxide would only have a negligible impact on the cost of cotton production, the largest user.

This preamble utilizes a 1 cent per lb increase in the price of copper as a low side estimate of the increase in price of copper for purposes of estimating impacts on copper smelters. ADL originally suggested a 2 cent increase in price. At the September 1976 hearing they suggested the possibility of a 5 cent increase if the Tacoma smelter shut down. As discussed below OSHA believes a compliance strategy exists which will assist in maintaining the continued viability of the Tacoma smelter.

OSHA does not believe that sufficient evidence has been introduced to permit it to evaluate the validity of ADL's second prediction. No doubt a 5 cent increase in the price of copper is not insignificant to copper users. However the market price frequently fluctuates by much greater amounts in the course of a year. Such an increase would still have a negligible impact on general price indexes, $150 million in a $1.5 trillion plus GNP. If it did occur, it would interestingly make the copper industry as a whole much more profitable and substantially improve its capabilities for paying for needed environmental and occupational safety controls.

The Arsenic Market

A. D. Little speculated that if Tacoma closes, the other producers of arsenic, Sweden, Mexico and Southwest Africa may form a cartel and force up the price of arsenic (Ex. 167A, p. II-16). Arthur Young points out that their speculation is not "obvious" though the IIS did not specifically consider this contention. (Ex. 184, p. 15)

The compliance strategy suggested for Tacoma will assist in maintaining its continued viability, so the basis for ADL's speculation may not occur. In any event OSHA believes the ADL suggestion is based on mere conjecture and is highly speculative. Further the flue dusts of many copper smelters are rich in arsenic and precious metals. These dusts, which in some cases now are stored, might very well become additional sources of arsenic if price relationships were suitable.

The Econometric Model

The 115 includes an econometric model. Arthur D. Little presented extensive criticisms of the model (Ex. 167, 167A, 186, 190(3)). Arthur Young responded to the criticisms in Ex. 173B and 184. OSHA has made its own independent interpretation of economic considerations in this preamble based on the data in the record. Therefore, it has not found it necessary to attempt to resolve the differing views on the econometric model.

VII. The Tacoma Smelter

The above analysis indicates that the final arsenic standard is feasible for the industries affected. However, the record also indicates that for copper smelters the magnitude of the task to achieve compliance will vary substantially among the different facilities in the industry. As discussed above, OSHA believes that it is inappropriate to make feasibility determinations based on those few facilities which have the most difficult compliance problems. To do so would deny necessary and achievable health protection to the majority of employees in facilities where a much lower level can be achieved.

When there are some facilities which cannot comply with the standard in the medium term using principally engineering controls, for technical reasons or because of serious economic difficulties, then a more elaborate compliance plan is required. Such a plan is to achieve compliance with the exposure limit in the near term through a carefully planned mix of feasible engineering controls, work practices and personal protective equipment. The plan should set priorities for the adaptation and installation of further engineering controls which will be put in place as soon as possible. It should also include strategies for reducing the difficulties in using personal protective equipment.

Normally, these situations will be dealt with at the compliance level. Considering the unusual circumstances at a few locations in a general rulemaking hearing would excessively lengthen the hearing with its many participants, and would reduce resources available to respond to major health questions with broad implications. Also solutions to the compliance problems are best incorporated in the compliance plan for a specific location so they can be tailored to specific difficulties.

However, a substantial amount of evidence has been placed on the record in regard to the Tacoma smelter of ASARCO, Inc. which has the most difficult compliance problems. OSHA has spent a substantial amount of time analyzing those data and members of its standards staff have visited the Tacoma smelter. Therefore, to assist the compliance process to more quickly and effectively reduce exposure levels, the evidence is analyzed here. This discussion will also provide useful information for other facilities. The outline of a feasible compliance plan is also described. Such a plan will permit compliance with the final standard including the 10 $\mu g/m^3$ level, substantially reduce the elevated lung cancer mortality reported among workers at the Tacoma smelter and alleviate the hardships of respirator use. It will assist in maintaining the continuing viability of the Tacoma smelter and the employment for its approximately 1,000 employees.

The details and changes based on new evidence will be worked out at the compliance level where the most recent evidence will be available to closely scrutinize compliance efforts and capabilities. Also, a joint EPA and OSHA study will be available which will integrate and set priorities for occupational and environmental health controls.

The evidence indicates that Tacoma is principally a copper smelter and similar to the other 15 in the United States. Like many of the others it is an older facility which smelts copper through a high temperature pyrometalurgical process involving the open transference of molten and fuming mineral complexes between and from furnaces. The employees at Tacoma carry out many tasks in a manner similar to other copper smelters. Compliance, as at other smelters, requires

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principally enclosure, hooding, and ventilation to the extent feasible at the various steps in the process.

However, the record indicates that the degree of difficulty to achieve compliance is greater at Tacoma. Two reasons principally account for this. First, the level of arsenic in Tacoma's copper concentrate feed (4 to 5 percent overall) is five times that at the two smelters with the next highest levels of arsenic in their feed and at least 40 times greater than the other smelters. Second, Tacoma is the only domestic producer of arsenic-trioxide.

Both Knowlton Caplan, expert witness for ASARCO (Ex. 29m, pp. 66-67; ATR p. 1314) and David Burton, expert witness for OSHA (Exs. 18, 150; STR p. 279), suggested that in a number of areas at Tacoma, ventilation and enclosure controls by themselves would have a low probability of reducing exposures below 50 $\mu g/m^3$. Arthur Young did not specifically express a judgment on this point, but did suggest that to reach a 4 $\mu g/m^3$ level, engineering controls would have to be coupled with substantial use of clean rooms, respiratory protection and some worker rotation.

Arthur Young estimated that the capital cost of all technically feasible engineering controls at Tacoma would be $31 million and that the annualized cost would be $10 million at the 4 $\mu g/m^3$ level. A. D. Little estimated capital costs at $41 million and annualized cost at $16 million at that level. Costs of all technically feasible engineering controls would be similar at the 10 $\mu g/m^3$ and 4 $\mu g/m^3$ levels at Tacoma because of the high current exposure levels. ASARCO stated that pretax profits at Tacoma had averaged $1.9 million per year but supplied no underlying data (STR, p. 439). ASARCO's pretax profits have averaged $92 million in the 10 year period 1966-1975 (Standard and Poors). As discussed below, Tacoma is integrated into other ASARCO operations. This evidence indicates that part of the costs of controls should be borne by ASARCO as a whole.

The standard requires that employers install at the earliest possible time but no later than December 31, 1979, necessary engineering controls except to the extent the employer can show that those controls are not feasible. Unless the evidence supplied by ASARCO does not represent the current circumstances, ASARCO may be able to show that installing all of the technically feasible engineering controls discussed in the IHEA, DBA and Arthur Young studies are not feasible in that period at Tacoma. In addition, substantial respirator usage will be required.

If this is the case, the standard requires ASARCO to develop a compliance plan for installing the most effective feasible controls in the near term, mitigate the difficulties of substantial respirator use and provide a framework for complete compliance in the long term. ASARCO is obligated to install additional engineering controls as they become feasible.

The most effective types of engineering controls to be installed by December 31, 1979, would include the following three types of controls. Controls should be installed which would most effectively reduce background levels of arsenic contamination at the smelter. This includes enclosure, hooding, and ventilating sources of arsenic contamination which are currently uncontrolled or only partially controlled. Possible examples are controls at the roaster flue cleanout and enclosure of the fine ores bin. Other examples are hooding and ventilation of sources of arsenic emissions at the roaster, and during charging and tapping at the reverberatory furnaces and convertors to the extent that current systems are insufficient or incomplete. Also, some steps in the arsenic-trioxide production process are basically uncontrolled at present and reasonable controls should be installed to reduce background contamination. For example, hand tools are used in the open to "pull" (remove) arsenic-trioxide out of the "kitchens" (condensers) with little in the way of even basic forms of enclosure, ventilation or mechanization leaving a visible residue of arsenic-trioxide.

Lowering background arsenic levels makes controls at other specific locations easier to devise and reduces the need for full time use of respirators. It lessens respirator use in those areas of the plant where little arsenic is emitted and where most exposure is from background sources. Such controls by reducing fugitive arsenic emissions, reduce the spread of arsenic outside of the plant boundaries. They thereby reduce potential exposure in the surrounding community. These types of engineering controls must necessarily be coupled with good housekeeping practices such as promptly cleaning up spills, cleaning larry car tops and furnace doors for better seals, and cleaning of maintenance shops. A conscientiously carried out program of such practices can substantially reduce background levels of arsenic.

Secondly, those engineering controls which will reduce exposures below the 10 $\mu g/m^3$ limit for significant numbers of employees should be installed. This will eliminate the need for respirator usage in those locations.

Thirdly, filtered-air pulpits and clean rooms should be utilized where appropriate. Many production jobs in a smelter are of a tending or intermittant nature. A clean room or filtered air pulpit provides an environment below the 10 $\mu g/m^3$ level, where the employee can stay with his respirator off in between tasks, or while monitoring controls. As a result, the employee's exposure is substantially reduced without the full-time use of respirators.

Both D. B. Associates and Arthur Young emphasized the importance of these controls, which are effective at moderate cost and which in OSHA's experience are commonly used by industry. Caplan testified that at Tacoma, clean rooms might not succeed in reducing exposures to the 4 $\mu g/m^3$ because of high background levels. OSHA believes that well designed clean rooms will succeed in keeping exposures below the 10 $\mu g/m^3$ level. Good design includes adequate filtration and vacuums for the employee to dust himself off before entering.

The above discussion is not intended to be determinative, but to provide general guidance. The specific plan for setting installation priorities for engineering controls needs to be worked out at the compliance level where all necessary details can be taken into account. It is clear that such a plan can be devised. Caplan testified that he indeed could develop a compliance plan which would rationally set priorities for the installation of engineering controls, and that the study which he submitted to the record did not do that (STR, pp. 642-643). Similarly, the D.B. Associates study did not prioritize controls, but Burton himself did indicate the beginnings of a plan to do that in his testimony (STR, pp. 270-281).

In conjunction with the installation of the most effective feasible engineering controls, substantial respirator use will be necessary in the medium term to meet the 10 $\mu g/m^3$ exposure limit. Therefore, the standard requires the compliance plan to include provisions for a respiratory protection program designed to reduce the burden on the employees of widespread respirator use as well as assuring the effective use of respirators.

The plan for engineering controls discussed above is the first step in such a respiratory protection program. It will provide a basis for reducing the need for full time respiratory use. Many employees will be able to spend part of the day in clean rooms and pulpits where they may remove their respirators. Another part of the day, the employee will have to wear a respirator. However, properly fitted and selected respirators in many circumstances will reduce exposures substantially under 10 $\mu g/m^3$. That, in conjunction with a general lowering of background exposure levels, will permit employees to spend part of the day not wearing respirators outside of the clean room and still maintain 8 hour time weighted average under the 10 $\mu g/m^3$ limit set by the standard.

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The standard also requires quantitative fit testing for facilities with widespread respirator use. Such testing will permit a more accurate assessment of the degree of protection the respirator is giving each employee. It will also permit determination of what part of the day the employee may go without wearing his respirator, and still be under the exposure limit.

The standard also gives the employees the option of wearing powered air purifying respirators and requires employers to furnish them when requested. Those respirators, as discussed below, are often more comfortable for the employee and can provide a higher degree of protection than negative pressure respirators. In addition, the process of developing new and more comfortable forms of powered air purifying respirators continues. OSHA is willing to consider granting experimental variances or other appropriate action to permit use of such respirators or other respirators which increase comfort and reduce safety problems before certification by NIOSH is granted, if quantitative fit tests indicate they are providing proper protection in the Tacoma environment.

A compliance plan for Tacoma following the above outlines will mitigate the hardships of respirator use at Tacoma. It will reduce the need to wear respirators for the entire work day and will encourage the use of more comfortable types of respirators. It also will be beneficial to ASARCO because the loss of efficiency through respiratory use is less when they need not be worn all day and more comfortable types can be worn. It is recognized that for some employees, such as crane chasers, electronic communication equipment needs to be incorporated into the respirator to permit adequate communication.

The feasible compliance plan for Tacoma would not be appropriate in most other circumstances. As explained above, the substitution of respirators for feasible engineering controls is not acceptable because of the difficulties in properly fitting and insuring that they are used. Moreover many types of respirators are uncomfortable to wear, and it is inappropriate to place the burden of compliance on the employee when it is the employer who has not removed toxic substances from the workplace.

Further a program of averaging exposures with the respirator on and off to prevent full time use is also not acceptable in most circumstances. It is difficult to administer such a program, enforce it and insure that employees are not over exposed.

However Tacoma presents difficult circumstances. There are serious health and feasibility problems. In these limited circumstances, the above program is appropriate despite its difficulties. If carefully administered by ASARCO, it will provide needed health protection for the employees and respond to the feasibility questions.

In the longer term installation of additional engineering controls, modernization of the Tacoma facility and technological development will reduce exposure levels. As this occurs less reliance on respiratory protection will be needed.

The case of *IUD* v. *Hodgson* (supra) suggests that consideration may be given to setting a different exposure level for different industries. Such a response does not seem proper in these circumstances. OSHA does not believe that the carcinogenic risk at higher worker exposure levels is acceptable, and an approach is available which can provide the Tacoma employees with the same level of protection as other employees, although in a less satisfactory manner. In addition Tacoma is primarily a copper smelter and does not constitute a separate industry.

The rulemaking record includes analyses of economic feasibility for Tacoma by Arthur D. Little, Inc., Arthur Young & Co., Dr. Arvil Adams, and ASARCO management officials. Based on this record OSHA believes ASARCO is in position to spend a substantial capital sum towards the installation of effective engineering controls and carry the provisions of the compliance plan described.

Final determination of the most effective economically feasible schedule for installation of engineering controls will be determined at the compliance level. Latest information and internal financial data will be available at that stage. This information is discussed here to assist in a more rapid determination at the compliance level and to give guidance to the parties.

Tacoma is integrated into other ASARCO operations as pointed out by Strauss, ASARCO's Executive Vice-President (STR, p. 443) and by A. D. Little, ASARCO's own witness (Ex. 111-7, pp. 29-30). Although ASARCO supplied little evidence upon which to estimate the value of the services it performs for other ASARCO facilities, they involve treating $30 million in metal values per year (Ex. 111-7, p. 30). ASARCO has stated it would involve new capital expenditures to perform those services at its El Paso smelter (STR. p. 443). On this basis and because of the serious health problems at Tacoma it is appropriate that the initial capital investment for engineering controls should be in major part charged to ASARCO as a whole, and not specifically come only from Tacoma resources.

ASARCO recently completed an $18 million program for reduction of environmental sulfur dioxide emissions at Tacoma. It has committed itself to spending $6 million for environmental arsenic controls there, knowing about the pendency of OSHA arsenic regulations. The expenditure of sums in this range will go a long way towards completing, or complete by 1980 the installation of those most effective engineering controls describes above. Obviously ASARCO management has considered it economically feasible to invest sums of this size in environmental controls in the recent past at Tacoma. However, in view of the severe health hazards, it is OSHA's view that a substantial sum must be invested in engineering controls, no matter what the circumstances, in order to significantly reduce that hazard and indicate that a major effort to reduce exposures is being made.

In considering economic feasibility at Tacoma it is also necessary to take into account additional revenues which will be generated at the smelter as a result of this standard. As discussed above in the feasibility analysis for the copper smelting industry, there will be conservatively an additional 1¢ per pound in copper smelting charges as a result to the standard. Based on approximately 75,000 tons of copper per year smelted at Tacoma, this will come to $1.5 million in increased revenues.

In addition, as a result of this standard Tacoma will receive increased revenues from the sale of arsenic-trioxide over its arsenic-trioxide revenues at the time this record was compiled. Both Arthur Young and A. D. Little analyzed the arsenic market at considerable length in Exhibits 135A and 111-7. Arthur Young suggested that, so long as Tacoma produced arsenic, prices would not increase significantly because of import competition. A. D. Little suggested that ASARCO might raise its arsenic-trioxide approximately 50 percent ($150 per ton) and still sell its entire annual production though not reduce its inventories existing at the time of the report. It is OSHA's understanding that Tacoma arsenic inventories have been substantially reduced and therefore pricing to reduce inventories would not now be necessary.

Foreign prices have in the last several years risen to levels higher than domestic prices. The largest foreign producer, Boliden in Sweden, may currently have less arsenic-trioxide to sell; it's inventories have shrunk with the exhaustion of some of its sources of high arsenic concentrates. Foreign arsenic-trioxide prices have increased about 300-400 percent over the last eight years. More recently domestic prices have risen 200-300 percent and domestic inventories have declined. Foreign prices are now greater than domestic prices. Domestic consumption has been maintained or increased.

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The cost of arsenic-trioxide is only a small part of the cost of the finished products in which it is used and for some uses substitutes are less satisfactory. (This aspect is discussed at greater length in the final EIS.) Based on this, many of the purchasers of arsenic compounds should be able to absorb significantly increased prices without reducing consumption substantially.

A 50 percent increase in arsenic prices would increase Tacoma revenues by approximately $1.5 million per year based on 10,000 tons produced per year and a $300/ton price at the time of this record. It would appear to OSHA that a price and revenue increase of this magnitude would be quite possible in view of the recent price history and other reasons discussed above.

This standard will therefore result in additional smelting revenues of $1.5 million and additional arsenic revenues of $1.5 million, or total increased revenues of $3 million annually. ASARCO has stated that Tacoma pretax profits averaged $1.9 million and these two figures total $4.9 million.

The Arthur Young estimate for annual costs at the 4 $\mu g/m^3$ level is $3.85 million. This number is based on some assumptions based upon the provisions of the proposal and not the final standard. There will be a lower level of operating costs initially as a result of the immediate installation of fewer engineering controls. The increased exposure limit will reduce respirator use, but the installation of fewer engineering controls will increase it. Hence the changes will, at least in part, balance out.

The ASARCO estimate for annual costs at Tacoma is summarized by A. D. Little at page 15 of their Report. The basis of this data is testimony by ASARCO management and Caplan. A. D. Little did not independently review the figures. The figure estimated in $7.68 million. Other figures given are capital charges which are discussed above.

However the ASARCO estimate includes two figures which are substantial over-estimates. The operating expenses for engineering controls given are $2.77 million based on immediate installation of $41.1 million of engineering controls. If for example it is decided at the compliance level that it is only feasible to install one-third of those controls by 1980, then the operating costs of engineering controls would be reduced by approximately two-thirds or $1.84 million to $0.93 million.

ASARCO estimates a $3.24 million annual cost for loss of efficiency from respirator use. This is based on all 900 production employees wearing respirators full time giving protection to the 4 $\mu g/m^3$ level and an estimated average loss of efficiency of 20 percent. There are other estimates on the record of loss of efficiency of respirator use ranging down to 8 percent. In addition the change in the final standard from the proposal and new developments in respirator protection since that estimate was made, should substantially reduce the loss of efficiency associated with respirator use.

The change to the 10 $\mu g/m^3$ level and the use of exposure averaging (which would be based on mean exposure levels), will mean that a significant number of employees may not need to wear respirators at all and many employees will only need to wear respirators part time. Further employees need not wear respirators when in clean rooms. In a number of areas at Tacoma, existing mean exposures (based on personal samples as required by the standard if that data is available) are below 20 $\mu g/m^3$. Exhibit 29G, Appendix 3 supplied by ASARCO indicates that the Acid Plant, Slimes Building, Electric Shop, Fine Castings, Ore Dock, Main Office, Warehouse, Machine Shop, Anode Department, Mobile Equipment Repair and Bucking Room come in this category. The installation of the most effective engineering controls discussed above, good housekeeping and clean up may eliminate the need for respirators in those areas or greatly minimize it.

The ASARCO estimate is based on employees exposed over 4 $\mu g/m^3$ having to wear fullface piece respirator which ASARCO believes are less comfortable. It is also based on a substantial number of employees wearing airline respirators. These substantially reduce efficiency in jobs requiring mobility because the hoses interfere. It is not completely clear whether the estimated reduction in efficiency includes an element of the very high loss of efficiency in wearing heavy self-contained breathing apparatus. However it appears from the questioning that Mr. Lindquist's estimate of 20 percent loss of efficiency includes some allowance for that. It also should be noted that the study, which Mr. Lindquist stated he relied on for his 20 percent estimate, was not systematic and did not involve any actual time and motion analysis of lost efficiency.

The final standard will permit one-half facepiece respirators to 100 $\mu g/m^3$ which will reduce loss of efficiency from possible discomfort wearing full facepieces. There is now a certified dust and acid gas cartridge. Therefore when the SO2 limit is exceeded, the employee is permitted to wear a one-half facepiece respirator up to a concentration of 100 $\mu g/m^3$ of arsenic and 10 times the sulfur dioxide limit.

In addition there is now available a portable, battery operated certified powered air-purifying respirator (PAPR) which weights only 5 pounds, mostly carried at the belt. Because the face fit is loose, there is a cooling air stream, no breathing resistance and light weight, this type of respirator creates a loss of efficiency substantially below 20 percent and probably below the low end (8 percent) estimate on the record. These respirators may be used where exposures do not exceed 10,000 $\mu g/m^3$ thus offering the opportunity for replacing airline respirators, negative pressure respirators and self-contained breathing apparatus in the vast majority if not all locations. (See Table 1, paragraph g of standard)

In view of all these factors, OSHA believes that the loss of efficiency from respirator use will be, at most, no more than one-half of the ASARCO estimate. Further OSHA believes that with the increase in the permissible exposure level to 10 $\mu g/m^3$ and the compliance strategy described, approximately one-half of the number of full time equivalent employees will need to wear respirators as ASARCO estimated. Therefore the loss of efficiency through respirator use is likely to be reduced three-quarters or $2.43 million from ASARCO's $3.24 million estimate.

In view of these two factors, OSHA believes that the ASARCO estimate of annual compliance costs should be reduced by $4.27 million ($2.43 million respirator efficiency plus $1.84 operating costs engineering controls over-estimates) to $3.41 million. OSHA, however, would expect that ASARCO would spend several hundred thousand dollars more on improved housekeeping than the $0.14 million ASARCO estimated.

Based on the above analysis. OSHA believes that the operating cost of the compliance plan described will be within the resources of the Tacoma smelter including its $1.9 million historical annual profits and $3 million additional revenues as a result of this standard and that overall the compliance plan described is feasible. Obviously to the extent conditions change or better analyses become available, suitable adjustments can be made at the compliance level.

The question of future operations at Tacoma in uniquely the decision of ASARCO's management. Evidence on this record indicates that the continuing viability of the smelter depends on many factors beyond the control of OSHA or anyone, such as copper prices, availability of British Columbia concentrates, Japanese subsidy policies, and a number of other considerations. Nor as a matter of policy or of law does OSHA believe it appropriate to ignore health considerations because difficult feasibility questions may exist. ASARCO figures indicate a substantial excess of lung cancer

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deaths at Tacoma. Certainly, major efforts are required to reduce this risk.

Consideration of additional capital investment for engineering controls in the early 1980's, is best analyzed in compliance proceedings at that time, in the light of the circumstance and available resources then existing. In addition as engineering controls succeed in reducing exposure levels, respirator use will be reduced. The resulting savings in respirator costs will make available additional sums for further engineering controls.

VIII. Summary and Explanation of the Standard

The following sections discuss the individual requirements of the standard. The sections include an analysis of the record evidence, the recommendations of NIOSH, and the policy considerations underpinning the decisions on the particular provisions of the standard. As discussed in the PEL section above, the final standard sets a permissible exposure limit to inorganic arsenic of 10 $\mu g/m^3$. Engineering controls and work practices are required where necessary and written compliance plans must be developed. Other portions of the standard including those on respirators, protective clothing, hygiene facilities, and exposure monitoring have been revised and clarified as described in detail below.

It should be noted that the language of many of the standard's provisions and the order of the paragraphs have been changed to be consistent with the drafting in recent OSHA health standards such as the acrylonitrile proposal (43 FR 2608), benzene final standard (43 FR 5913), and the final coke oven standard (41 FR 46784). OSHA believes, to as great extent possible, a similar style should be followed in order to lead to uniformity of interpretation of similar provisions. Section 6(b)(5) of the Act states that health standards shall also be based on "experience gained under this and other health and safety laws."

A. Scope and Application: Paragraphs (a) and (b)

This standard applies generally to all occupational exposures to inorganic arsenic. Some of the industries where substantial exposures to inorganic arsenic may occur are non-ferrous metal smelting, glass making, and manufacture of arsenical chemicals and pesticides. There may also be exposures covered by this standard in other areas and industries. Pesticide application, application of arsenical preservatives to wood, use of arsenically treated wood and agricultural uses are exempted. Pursuant to section 4(b)(1) of the OSHA Act, this standard does not apply where other Federal agencies exercise statutory authority to prescribe standards regulating occupational safety or health.

It should be noted that the standard does not cover every place where inorganic arsenic is present. As explained in the background section and FEIS, arsenic is a naturally occurring material and is present in small amounts in many substances. It is therefore inappropriate to cover situations where very low levels of arsenic may be present in substances or products in the workplace, but where they are handled in such a way that the possibility of airborne exposure is minimal. But where the substances containing arsenic are handled or processed in such a way as to create exposure, a possible hazard exists, and the operations come within the scope of this standard.

Several examples may be helpful. If arsenic trioxide is added to glass during manufacture, airborne arsenic is likely to be present and the operation comes within the scope of this standard. However, when that glass is cut or used, airborne exposure is unlikely because the arsenic is bound in the glass, and those operations are outside the scope of this standard. Similarly when gallium arsenide is produced there may be airborne exposures and the operation is covered by this standard. However, when light emitting diodes are assembled into calculators or watches, airborne exposure is unlikely and those operations are outside the scope of this standard.

If the operation comes within the scope of this standard, but exposures are shown to be below 5 $\mu g/m^3$ after initial monitoring, then there may be no other obligations under this standard except labelling in some circumstances and remonitoring if processes change.

Inorganic arsenic is defined as copper aceto-arsenite and all inorganic compounds containing arsenic except arsine. Copper aceto-arsenite has been specifically noted because of possible confusion on whether it is considered organic or inorganic. As Allied Chemical (Ex. 109) stated copper aceto-arsenite is inorganic. Furthermore, as previously noted it has been implicated as a potential lymphatic cancer agent, which compels its inclusion in this standard.

Arsine has been excluded for several reasons. The proposal did not include arsine and the rulemaking did not consider specifically the special provisions necessary for proper control of exposure and regulation of arsine. Most notably, no suitable sampling technique has been submitted for levels significantly lower than the present standard of 0.05 ppm.

NIOSH and the AFL-CIO suggested that the final standard include arsine. OSHA agrees that arsine has a very high acute toxicity. It has no practical value and exposures occur solely as a result of accidental evolution. It would unnecessarily delay the inorganic arsenic standard to wait for the development of a suitable sampling technique as well as other procedures and there is a current permissible exposure limit for arsine of 0.05 ppm included in Table Z-1 of 29 CFR 1910.1000 to give protection now.

Some parties requested that the scope of the final standard be narrowed and clarified. Spokespersons from several industries expressed their belief that industries handling materials containing less than 0.1 percent arsenic (Exhibits 79, 106, 108, 112) be exempted from the standard. It was their belief that this would provide a reasonable cut-off where exposures would be minimal and provisions such as monitoring need not apply.

OSHA does not feel it is appropriate to exclude those industries handling materials with less than 0.1 percent arsenic from the standard. OSHA feels this standard must be based on the degree of employee exposure to airborne concentrations of inorganic arsenic since the degree of exposure most represents the risk to the employee. It should be noted, for example, that employee exposure in some copper smelters with arsenic levels of less than 0.1 percent in their feed had a number of employees exposed above 10 $\mu g/m^3$. The inclusion of an action level limits the requirements of the standard (except for initial monitoring and labelling), to employees exposed above 5 $\mu g/m^3$.

Diamond Shamrock (Ex. 3E) has expressed the view that regulatory activity would be difficult where naturally occurring organic arsenicals may be mixed with inorganic arsenic. They further stated that since they believed there was no analytical method for distinguishing individual arsenic compounds, only total arsenic can be measured. Diamond Shamrock, therefore, recommended that only operations involved in smelting ores, conversion of arsenic trioxide and primary application of arsenical products be included. Dr. Braman (Ex. 145) has demonstrated that there is a sensitive method capable of distinguishing between organic and inorganic arsenic. Natural background levels of arsenic are in the range of approximately 0.01 to 0.04 $\mu g/m^3$. The higher levels reported in smelter communities cannot be considered natural, and are typically not high enough to interfere with sampling at a 5 $\mu g/m^3$ action level. In most facilities it can be determined whether workers are exposed to inorganic or organic arsenicals based upon the chemicals present and processes used. In those cases where both are present, a determination at the enforcement level can be made as to the percentage of exposure to organic arsenic, using Dr. Braman's or other methods.

The standard excludes pesticide application from its scope. The EPA regulates most pesticide applications and has a program to extend its regulations as necessary including suitable protection for employees.

The manufacture of pesticides is not considered pesticide application and is covered by this regulation. Most agricultural uses are pesticide application.

As discussed in the background section of this preamble one of the major uses of arsenic is to impregnate wood so as to preserve it from rot and insects. The manufacture of the preservative solution is covered by this regulation as is the manufacture and formulation of other pesticides. However, EPA regulates the impregnation of the wood by the preservative as a pesticide application. EPA is now reviewing the registration of arsenical preservatives and has indicated that it is considering new requirements for application and use including suitable protection for employees. OSHA believes it advisable to avoid duplicative regulation when employees will be suitably protected, and therefore the impregnation of wood with arsenical preservative is not covered by this regulation.

EPA currently does not regulate the use of preserved wood. Based on the evidence in this record the arsenic in the preserved wood is bound tightly to the wood sugars, exhibits substantial chemical differences from other pentavalent arsenicals after reaction, and appears not to leach out in substantial amounts (Exhibits 31 C-2, 5, 6, 7, 21, 36). Therefore OSHA does not believe it appropriate to regulate the use of preserved wood on the basis of the current record.

If further information indicates the need for regulation, and other agencies have not exercised jurisdiction, OSHA will institute proceedings to suitably regulate employee exposure to arsenically preserved wood.

Particulate Size

The proposed standard was based on the regulation of worker exposure to all particle sizes of inorganic arsenic. Some parties requested that this requirement be changed so that only arsenical particulates of "respirable size" (less than 10 micrometers mass median diameter) be regulated (Exhibits 3F, 3T, 23A, 106, 108, 109). This position has been summarized by Engelhard Minerals & Chemicals Corp. (Exhibit 3F) as follows:

> Since the Rule clearly refers only to arsenic exposure in terms of mg As/m^3 of air in the workplace, it is implicit that the Rule is intended to cover only airborne arsenical particulates or aerosols and should, therefore, indeed be restricted to those only in the *respirable* particulate size range, i.e., less than approximately 10 microns e.s.d., since particles larger than this are non-respirable and physiologically rejected.

There are two major routes of entry of airborne concentrations of inorganic arsenic. The primary route is inhalation. The secondary route, ingestion. Little is known about the absorption and translocation of arsenic in the various regions of the upper respiratory tract, lung and the gastrointestinal tract after inhalation and ingestion. Although the size of particle admitted by the inhalation route is limited by the aerodynamic principle of particle deposition, a similar limitation does not apply to arsenic that may possibly be ingested. Furthermore, too little is known about the absorption and translocation of *differently sized particles* in the lung, upper respiratory tract, lung and gastrointestinal tract to predict with confidence the final body dose. Accordingly, OSHA believes it appropriate to take the most protective stand and provide adequate protection from all particle sizes of airborne arsenic.

B. Ceiling Limit: Deletion

In contrast to the proposal, the final standard does not provide for a ceiling limit to supplement the permissible exposure limit. In the principally affected industry, copper smelting, there will be brief unpredictable exposure to higher levels of arsenic as a result of the smelting process. OSHA believes that engineering controls now available would not prevent occasional excursions above a ceiling limit though there are practices and controls available which will reduce their frequency and extent.

For the permissible exposure limit of 10 $\mu g/m^3$ to be met, employers will have to implement feasible engineering and work practice controls which will tend to reduce the number and extent of excursions over the permissible exposure limit. In this manner, the standard assures that protection will be provided to employees.

C. Action Level: Paragraph (b)

The proposal contained an action level of 2 $\mu g/m^3$ which triggered the monitoring, medical, regulated area, hygiene facilities and protective clothing requirements of the proposed standard. This requirement has been retained in the final standard, but the numerical value has been changed to 5 $\mu g/m^3$ in light of the change of the permissible exposure limit.

Many industry spokepersons believed that the action level was overly burdensome, stating their opinion that if the permissible exposure level were a level that adequately protects workers, no action level should be required (Exhibits 3A, 3W, and 112). Others believed that it was probably impossible to reduce employee exposures to 2 $\mu g/m^3$ in many locations, and therefore felt it should be deleted (Exhibits 3-L, 30, 3v). It was also pointed out that it would be difficult to measure a 2 $\mu g/m^3$ level.

In the absence of a demonstrated safe level for a carcinogen, OSHA has limited employee exposure to the maximum extent feasible by the use of engineering and workpractice controls. OSHA believes it is appropriate to begin some protective actions prior to exceeding the permissible exposure limit. The action level serves such a purpose. Another purpose of the action level is to help to relieve the burden on employers by providing a cut-off point for many of the required compliance activities under the standard. The standard necessarily encompasses some employers whose employees are exposed to levels below the permissible exposure limits. Such employers are required to perform initial monitoring to determine the extent of their employees' exposures to inorganic arsenic. If, on the basis of the results of the initial measurement, exposure is below the action level, the employer may discontinue monitoring and most other compliance activities for that employee. The action level concept thus provides an objective means for an employer to determine what further actions are required for compliance with the standard.

The statistical basis for determining the action level has been discussed in connection with several proposed OSHA health standards (See, for example, "Proposed Standard for Trichloroethylene" (Oct. 20, 1975, 40 FR 49032)). In brief, although all measurements on a given day may fall below the permissible exposure limit, some possibility exists that on unmeasured days the employee's actual exposure may exceed the permissible limit. Where exposure measurements are above one-half of the permissible exposure limit, i.e., the action level, the employer cannot reasonably be confident that his employees may not be overexposed. (Leidel, N. A., et al., "Exposure Measurement Action Level and Occupational Environmental Variability." DHEW, PHS, DCD, NIOSH, DLCK (August 1975)). Therefore, requiring periodic employee exposure measurements to begin at the action level provides the employer with a reasonable degree of confidence in the results of his measurement program.

However, OSHA has reduced the number or requirements and burden of requirements triggered by the action level, while maintaining its major benefits. The action level has been raised from 2 $\mu g/m^3$ to 5 $\mu g/m^3$, thereby reducing the number of workers and number of establishments required to do more than initial monitoring by this standard.

D. Regulated Areas and Notification of Use: Paragraphs (d) and (f)

The final standard requires that regulated areas (RA) be established and access limited to authorized persons.

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This section is to aid in limiting exposure to inorganic arsenic. By limiting access to the RA to authorized persons, the standard requires the employer to prevent those persons who are not authorized to enter the RA from doing so and thereby being exposed to inorganic arsenic. Other purposes of this section are to designate those areas in which precautionary signs are posted, and to designate those employees subject to quarterly exposure monitoring. Additionally, employees working in regulated areas are covered by the washing and showering provisions and certain activities such as smoking and eating are prohibited within regulated areas.

The proposed standard required that the regulated area be established at the action level. Commentors (Ex. 3B, 108, 112) suggested that the regulated area be established in areas in which exposure exceeds the permissible exposure limit (sometimes refered to as the PEL or TWA limit). This suggestion has been adopted for the Final Standard and is consistent with the approach taken in other OSHA standards for carcinogens.

The proposed standard required that a daily roster of all persons who enter the RA be made and maintained for at least forty years or the duration of employment plus 20 years whichever is longer (Ex. 2a, 40 FR 3397, 3400). The final standard does not requiare that a roster be kept.

Commentors have criticized this provision as excessively interfering with day to day operations (Ex. 3B). OSHA has concluded that rosters would be of little use in limiting worker exposure to inorganic arsenic. Other records such as medical records and results of exposure to monitoring required by the standard would provide more useful information and obviate the need for a roster.

The proposed standard prohibited eating, drinking and applying cosmetics in areas where employees were exposed above the action level. The specific prohibition was located in the Hygiene paragraph of the proposal.

The limitation on eating, smoking and applying cosmetics in regulated areas is necessary to prevent the ingestion of inorganic arsenic. As discussed elsewhere in the preamble, the ingestion of inorganic arsenic has been implicated as a cause of cancer. There is the possibility of the translocation of arsenic within the body after ingestion. Further it is OSHA's policy to limit all routes of exposure to carcinogens. Moreover, inorganic arsenic is a skin irritant. Applying cosmetics in its presence would retain arsenic against the skin.

Drinking water is permitted within regulated areas. The possibility of heat stress exists in smelters. Therefore it is necessary to have water readily available.

Paragraph (r) of the proposal required employers with regulated areas to notify OSHA area offices. This requirement has been retained in paragraph (d) of the final standard so that OSHA will be aware of facilities where substantial exposure to arsenic exists.

E. EXPOSURE MONITORING AND MEASUREMENT: PARAGRAPH (E)

The standard requires each employer who has a place of employment where there is exposure to inorganic arsenic as the result of the employers' activities to monitor their employees' exposure to inorganic arsenic over an eight hour period without regard to the use of respiratory protection. Section 6(b)(7) of the Act (29 U.S.C. 655) mandates that any standard promulgated under subsection 6(b) shall, where appropriate, provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees.

There are various reasons which make it appropriate for employers to measure employee exposure to inorganic arsenic. First, exposure monitoring informs the employer whether he is meeting his legal obligation to keep employee exposures below the permissible exposure limit. Second, exposure monitoring evaluates the effectiveness of the installation of engineering and work practice controls and informs the employer whether additional controls need be instituted. Third, exposure monitoring is necessary in order to determine whether respiratory protection is required at all, and if so, which respirator is to be selected.

Fourth, section 8(c)(3) of the Act (29 U.S.C. 657) requires employers to promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents at levels which exceed those prescribed by an applicable occupational safety and health standard and to inform such employee of the corrective action being taken. Exposure monitoring is necessary in order to determine whether employees are being exposed to inorganic arsenic at levels exceeding that prescribed by this standard and therefore should be notified as required by the Act. Finally, the results of exposure monitoring are part of the information which it is necessary to supply to the physician.

The need to conduct exposure monitoring was generally accepted by participants in the rulemaking process. A requirement that monitoring be done was included in the proposed standard. In view of this support and for the reasons stated above, the standard establishes a requirement for employers to monitor employee exposure to inorganic arsenic. The monitoring of airborne exposure is consistent with the proposal and other health standards.

Some industry spokespersons expressed their preference for biological monitoring (urinary arsenic measurements) (Ex. 29G, Ex. 118) stating that biological monitoring best defines the risk to the employee, that it is equally effective and much less expensive (Ex. 3T). Some feel that this form of biological monitoring can be used as an indication of the total effectiveness of control programs, including the effectiveness of respirator usage and the personal hygiene habits of the employee (Ex. 118). ASARCO (Ex. 29G, App. 7) presented a regression analysis of urinary arsenic levels versus airborne arsenic exposure levels. In this analysis, the average individual employee's urinary arsenic level taken on ten consecutive days were regressed on the corresponding average individual employee airborne arsenic exposure. The data on which this correlation is based is contained in Exhibit 125. Based on the 23 employees so measured, a weak to moderate linear correlation (regression coefficient of 0.528) was observed.

During the April 1975 hearing, NIOSH representatives were asked to evaluate the urinary arsenic determinations as an indicator of worker exposure (ATR 372-6). Dr. Blejer responded:

> From my background as a physician and knowledge of various plants, not smelters, which handle inorganic arsenicals, the urinary excretion of arsenic is an extremely variable and inconstant thing for any individual.
>
> Occupationally, I have learned and I was taught, as well, to treat results—all the results—to group them and take means or average but not on individual bases, because of dietary and many, many other factors.
>
> Therefore, the results of an individual would not be indicative of an exposure and if they were to be enormously high, which would be about the only way that you could tell that they were occupationally related, I would say, then you would be corroborating what would have to be a fairly gross exposure or overexposure. [ATR 373]

OSHA has concluded that it is not appropriate to use urinary arsenic measurements as the primary means for determining employee exposure. Airborne monitoring is effective and is capable of detecting levels over the permissible exposure limit before over exposures to employees occur. Urinary monitoring is variable and the correlation between airborne and urinary levels is only weak to moderate. OSHA has further concluded that it will not require urinary arsenic determinations as a supplement to airborne monitoring. However, employers may use it as an additional monitoring technique if they believe it useful in their particular circumstances.

The requirement for airborne monitoring is limited to employers who have a place of employment where inorganic arsenic is released as a result

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of their operations. There are trace amounts of naturally occurring arsenic in the atmosphere (.01-.04 $\mu g/m^3$) and without this limitation, all employers would be required to monitor. (For a discussion of this limitation see the Scope and Application section.)

The standard requires that the measurements be made by monitoring which is representative of each employee's exposure to inorganic arsenic over an eight hour period without regard to the use of respiratory protection. Exposure measurements for each individual employee would, of course, be an indication of that employee's exposure. However, this may be unnecessarily burdensome in some instances, as some industry participants have suggested. Monitoring which is truly representative of an employee's exposure would provide the necessary information and in many instances would involve fewer samples.

The employee exposure measurements are to be made without regard to the use of respiratory protection. In order to use the results of exposure monitoring to evaluate the effectiveness of the required engineering and work practice controls, to determine whether additional controls must be instituted, and to ascertain which, if any, respirator must be used, it is necessary to know employee exposure levels without the use of respiratory protection.

Exposure conditions vary throughout the day (Exhibit 29G). At least one sample is to be taken during each shift in order to ensure that exposure measurements represent exposures of employees on all shifts. Employees working in the same area doing different jobs may have different exposures. Therefore the standard requires sampling for each job classification as well. The samples are to be full-shift samples to give a more accurate indication of an employee's average exposure during a work shift than would sampling for less than a full shift. Short-term samples would tend to be affected by the variability or inorganic arsenic emissions associated with operations such as copper smelting. Full-shift samples tend to average out these variations. As time is needed to issue and retrieve samplers, full shift sampling is defined as sampling for at least seven working hours. The proposed standard did not expressly set forth these requirements for accurate monitoring. The standard has been clarified by requiring these procedures for the reasons stated above. All of those requirements are intended to ensure that the monitoring is truly representative of an employee's exposures.

Paragraphs (d)(1) and (d)(2) of the proposed standard allowed the employer to visually inspect each work place and work operation to accurately determine if any worker was exposed above the action level (Exhibit 2A, p. 3400). OSHA has reconsidered this provision. It is not possible by visual inspection to accurately determine worker exposure. Accurate initial determinations are crucial, particularly when dealing with a carcinogen. Accordingly, this provision has not been included in the standard and the employer must monitor and measure the employee's actual exposures.

The final standard requires remeasurement every 3 months for employees exposed above the TWA limit and every 6 months for those exposed between 5 and 10 $\mu g/m^3$. In addition a remeasurement is required where the initial measurement is below 5 $\mu g/m^3$ if there is a significant change in process or materials which could result in additional exposures.

The proposal required monthly measurements for employees exposed above the permissible exposure (TWA) limit and bimonthly for employees exposed between the action level and the TWA limit. Employers criticized these frequencies as being too burdensome in relation to the possible health benefits (Ex. 3A, Ex. 3B, Ex. 118).

There are substantial fluctuations in exposure conditions, hour to hour and day to day at smelters, the largest industry affected by this standard (Ex. 29A, Ex. 29G). The higher the measurement frequency, the higher the accuracy of the employee exposure profile. On the other hand, monthly or bimonthly monitoring of significant numbers of employees at some smelters would require major resources including trained personnel. Monitoring could not be generally concluded during a few days, but would necessarily be carried out over a longer period of time.

Therefore OSHA has lowered the monitoring frequency.

Any choice of a lower measurement frequency is judgmental. OSHA now believes that requiring measurements at 3 and 6 month intervals in the circumstances of the particular industries affected by this standard will reflect employee exposure with sufficient accuracy to assure that suitable precautions will be taken as needed.

The standard requires that in those instances in which measured exposure ranges between 5 and 10 $\mu g/m^3$, these measurements shall be repeated at least every 6 months. OSHA recognizes that the accuracy of monitoring and measurement will decrease as exposure decreases below 10 $\mu g/m^3$. Therefore, the standard requires an accuracy of plus or minus 35 percent rather than 25 percent for exposures between 5 and 10 $\mu g/m^3$. However, periodic measurement is appropriate when exposures are in the 5-10 $\mu g/m^3$ range because of the possibility that minor changes in process, materials, or weather may raise exposure to above the TWA limit and to compensate for the possibility that such measurements are falsely low.

Periodic monitoring and measurement are not required when initial measurements are below 5 $\mu g/m^3$. It is unlikely when exposures are at this level that minor fluctuations in process, materials, or weather or measurement accuracy would result in false negative readings below the TWA limit. It would not be appropriate to require periodic measurements in those operations where exposures would be well below the permissible exposure limit. If there is a significant change in materials or process in an area where exposure was under 5 $\mu g/m^3$, remeasurement would be required.

The standard requires that whenever there has been production, process, or control change which may result in new or additional exposures to inorganic arsenic, or whenever the employer has any other reason to suspect an increase in employee exposure, the employer shall repeat the required monitoring and measurements for those employees affected by such change or increase. A redetermination which was also included in the proposed standard, is required in order to ensure that the most recent monitoring accurately represents the existing exposure conditions. This is necessary so that the employer may take the appropriate actions such as instituting additional engineering controls and providing the appropriate respiratory protection.

Section 8(c)(3) of the Act (29 U.S.C. 657) requires employers to promptly notify an employee who is exposed in excess of the permissible exposure limit. The proposal required that the employee be notified in writing within 10 days of the sampling. OSHA agrees with the statements by some industry participants that 10 days would not allow sufficient time for sample analysis (Ex. 3D). This would be particularly true in such cases where many samples need be analyzed or where samples would be sent to other locations for analysis. Accordingly, the standard requires an employer to notify each employee in writing of that employee's measurement within five working days after the receipt of the results of any required measurements.

ASARCO (Ex. 111, Attach. 10; Ex. 1608) twice sent inorganic arsenic samples for analysis by outside laboratories. In contrast to the second trial, samples were not replicated and were not distributed on a double blind basis in the first trial. Therefore, the results of the first trial are not as significant as those of the second trial.

In the second trial, five laboratories randomly chosen from the 7 laboratories used in the study, were sent one blank, filter three filters containing

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2.5 μg arsenic and three filters containing 6.0 μg of arsenic. The two remaining laboratories were sent one blank filter as well as one filter each containing the other two concentrations. The results of the second trial are found in Table III of "Results of Trace Arsenic Analyses Performed by Various Laboratories" (Attached to Ex. 160B).

The results indicated that 5 of the laboratories did not achieve an accuracy of plus or minus 25 percent for the arsenic samples analyzed. However, 2 of the laboratories (including the ASARCO laboratory, Laboratory B in the table) did achieve accuracies of plus or minus 10 percent.

The final standard requires that the method and measurement have an accuracy of plus or minus 25 percent (with a confidence level of 95 percent) for concentrations of inorganic arsenic greater than or equal to 10 μg/m³. It requires a method of sampling with an accuracy of plus or minus 35 percent for concentrations of inorganic arsenic between 5 and 10 μg/m³.

As noted previously, the standard requires full shift personal monitoring (minimum 7 hours) for the determination of employee exposure. Using personal monitoring pumps at a flow rate of 2 liters per minute, with a 7 hour sampling time, 8.4 μg of inorganic arsenic will be collected if the airborne concentration is 10 μg/m³. The equivalent sample at airborne concentrations of 5 μg/m³ will be 4.2 μg of inorganic arsenic.

The ASARCO tests indicate that accuracies of plus or minus 10 percent can be achieved by experienced laboratories with samples of between 2.5 and 6 μg of inorganic arsenic. Therefore the minimum amounts of arsenic which would be collected under the final standards requirement fall within the range which can be accurately analyzed by experienced and qualified personnel such as those at ASARCO's own laboratories. It is also sufficiently large so that sample contamination will not excessively affect the results.

It should be noted that the laboratory methods used by the two laboratories with best results were atomic absorption and colorimetric methods. These methods are relatively simple methods commonly in use by industrial hygiene laboratories. More sensitive methods are available, such as X-ray fluorescence and d.c. discharge emission methods (Ex. 145). These more sensitive methods can be used to analyze with improved accuracy much lower arsenic concentrations. However, these methods are somewhat more difficult and expensive for many laboratories to use and in the typical industrial setting the problem of sample contamination would exist at such lower levels.

ASARCO noted that possible contamination might significantly elevate results at the small sample size range of the proposed action level of 2 μg/m³. The potential effects of contamination have been reduced in the final standard due to the increased TWA limit and action level. The sample size collected at the 10 μg/m³ TWA limit will be 5 times greater than at the proposed 2 μg/m³ action level. Thus a similar level of contamination will only have one-fifth the effect. Similarly, an equivalent level of contamination at the 5 μg/m³ action level will have only 40 percent of the effect which would occur at a 2 μg/m³ level. Therefore a level of contamination of 0.5 μg suggested by ASARCO as a possibility will not be a major factor relative to the sample sizes resulting from monitoring at the permissible exposure limit and action levels in the final standard.

One question raised was whether particulate sampling methods could efficently collect arsenic released in the smelting environment. It has been suggested that arsenic trioxide has a significant vapor pressure and that it would not be efficiently collected at the elevated temperatures of copper smelting. An ASARCO study (Ex. 160B) indicates the efficient collection is possible at the temperatures of copper smelting. Using millipore personal monitor cassettes (0.8 micron pore size), backed up by midget impinger containing potassium permanganate or sodium hydroxide, ASARCO observed that the millipore filter had better than 95 percent collection efficiency of arsenic in the smelter (Ex. 160 B, Refs. 8, 9). As can be calculated from Table 1, Ex. 160B; capture efficiencies ranged from 98.5 percent to 99.6 percent for total arsenic particulate ranging from 45.6 to 224.8 μg/m³. The vapor and/or submicron particulate evading capture ranged from 0.26 to 0.62 μg/m³. Thus, assuming that the highest value (0.62 μg/m³) was eluding collection with an airborne concentration of 10 μg/m³, 93.8 percent collection efficiency would result.

F. METHODS OF COMPLIANCE: PARAGRAPH (g)

The final standard requires that engineering controls and work practices be used to control employee exposure to inorganic arsenic, except to the extent that the employer can show they are not feasible. If all feasible engineering and work practice controls do not succeed in reducing exposure below the permissible exposure limit, they must be supplemented by respiratory protection. This is changed from the proposal which required that all feasible engineering controls be instituted before reliance could be placed on work practices. However, OSHA's experience has been that engineering controls must be coupled with suitable work practices to maximize their effectiveness. Consequently, the final standard allows joint use of engineering and work practice controls. Respiratory protection may be used only during the time period necessary to install engineering controls, where engineering controls may be inappropriate such as during some maintenance operations or in those cases when both engineering controls and work practices do not succeed in reducing exposures below the permissible exposure limit.

This compliance strategy has been consistently OSHA's policy and has been followed in prior standards and proposed standards. This policy is based upon the view that the most effective means of controlling employee exposure is to contain emissions of toxic substances at their source through the use of mechanical means combined with work practices. This is far more effective than reliance on the highly variable human behavior so critical to the successful use of respirators. As discussed below, respirators have many disadvantages which preclude primary reliance or co-reliance of respiratory protection on an equal basis with engineering and work practice controls. Furthermore, the burden of reducing employee exposure should more properly rest on the employer in whose establishment toxic substances are released rather than placing the burden of respirator use on the exposed employee.

ASARCO appeared to propose an alternative compliance strategy (Ex. 29 p. —; Ex. 111-7, p. 19; Ex. 118). Biological monitoring would be used, using an assumed safe urinary arsenic level of 250 μg/liter as a trigger. In those instances in which the urinary arsenic levels were above 250 μg/liter, workers would be removed, and/or engineering controls or respiratory protection would be instituted. ADL (Ex. 111-7) suggested this would be a much less costly approach. However, ADL did not include the costs of engineering controls to reduce exposures in areas in which the urinary levels were consistently above the specified limit. Therefore the ADL cost estimate is only a fraction of the actual costs unless it was proposed that employees be constantly rotated from areas of lower exposure to those of higher exposure and conversely, to reduce high exposures.

OSHA does not believe this is an appropriate compliance strategy. As discussed in the monitoring section, there is a weak correlation between urinary arsenic levels and environmental arsenic levels and there are other difficulties with biological monitoring. The ASARCO proposed urinary arsenic level cannot be shown to be a safe level. Thus, employees exposed for more than 25 years in the lowest urinary arsenic exposure category (exposures under 200 μg/liter) did have excess respiratory cancer mortality (though it is true earlier exposures may have been higher). Further, as discussed in the occupational health implications section, there is a significant body of scientific opinion that it is not possible given present methodology to demonstrate a safe level for a carcinogen. The limited amount of evidence ASARCO has submitted is not sufficiently convincing to adopt their approach.

OSHA also does not believe in many circumstances it is an appropriate compliance strategy to rotate employees into and out of high exposure areas to reduce worker exposures to carcinogens. This approach would present the possibility of increasing the number of workers exposed to higher levels of a carcinogen. If ASARCO proposes to use engineering controls to reduce exposures, then the ADL cost figures are misleading as they just indicate monitoring costs. The actual cost of the ASARCO strategy will be much nearer the cost of the standard compliance strategy since a substantial amount of engineering controls would have to be installed.

The Council on Wage and Price Stability (Ex. 169) and some industry representatives (see Ex. 12 for example) suggested a control strategy involving principal reliance on respiratory protection, to reduce the cost of compliance. However, as will be discussed in a subsequent section, there are many difficulties with respiratory protection as testified by respirator expert Bruce Held (ATR 227-229) as well as some industry representatives (Ex. 29H). Because of the difficulties in face fit, it is difficult to know whether the respirators actually provide adequate protection. Respirators, by interfering with vision, hearing, and mobility, can cause safety problems. Some employees cannot wear respirators because of breathing difficulties. Finally, it is not appropriate to place the burden of compliance principally on the employee, as would be the case if respiratory protection were the principal means of reducing employee exposure. Therefore, OSHA retains in the standard the policy of principal reliance on engineering controls and work practices, except in circumstances where there appears to be no feasible alternative to more substantial reliance on respiratory protection.

Even in situations in which engineering controls will not succeed in reducing exposure levels below the TWA limit, it is still appropriate to require all feasible engineering controls to be installed, even though they would have to be supplemented by the use of respiratory protection. The engineering controls, by minimizing the exposure, without regard to the use of respirators, will have minimized the potential for over exposure resulting from poorly fitting respirators and will usually reduce the number of employees who need to wear respirators.

The final standard clarifies the language in the proposal by clearly placing the burden on the employer, for proving or disproving feasibility. The employer is in the best position to gather evidence on feasibility in a particular workplace. He is most familiar with his own production processes and engineering modifications which can be made. Further it is the policy of the OSHA Act that employers be required to take steps to investigate the feasibility of controls and install them as necessary.

(G) RESPIRATORY PROTECTION: PARAGRAPH (h)

The standard requires that respirators be used only during the time period necessary to install or implement feasible engineering and work practice controls, in operations where engineering controls are not appropriate such as some maintenance operations, in work operations in which such controls are not feasible or are not yet sufficient to reduce exposure to the permissible limit, or in emergencies. These restrictions on the use of respirators are consistent with the requirements of 29 CFR 1910.1000(e) and with good industrial hygiene practice.

Many comments (Exhibit 11, 19, 29G, 29H, 117, 118, 119) cited problems associated with respirators. Respirators are to be considered secondary to the objective of limiting emissions at the source (ATR 229). Proper facial fit is essential, but due to variations in individual facial dimensions, as well as facial hair, scars or growths, is difficult to maintain. Fatigue and reduced efficiency may occur more rapidly among workers wearing respirators due to increased breathing resistance, heat stress and reduced vision (ATR 228). Safety problems presented by respirators must be considered. Respirators can limit vision (ATR 228). This can be significant, in smelters, for example where physical hazards exist and the employee's ability to see is important (ATR 246, Ex. 29G). Speech is also limited. Voice transmission through a respirator can be difficult, annoying and fatiguing. Communication may make the difference between a safe efficient operation and a hazardous operation, especially in dangerous jobs. (ATR 245, Ex. 29G, p. 13). Entanglement of hoses of air respirators as well as limited mobility due to hose lengths (ATR 242) are problems in heavy industrial environments. Self-contained breathing apparatus have the problem of carrying around a heavy weight (ATR 242.)

It is clear that respirators cannot generally be considered as the primary means of employee health protection. OSHA has carefully considered all these problems and has nonetheless concluded that if the permissible exposure limit is exceeded then employees must use the respirators provided. Where engineering controls and work practices do not succeed in reducing exposure below the permissible exposure limit, it becomes necessary to utilize respirators to give sufficient health protection to employees.

In situations where a significant number of employees will be wearing respirators for more than a short period of time, the employer is required to institute a more elaborate respiratory protection program to maximize the effectiveness and minimize the discomfort of extended respirator use. Items to be considered for inclusion in such a program are making available a greater variety of respirators for employee use, having a technician fully trained in respirator use and selection, and organizing the work so that part of the day can be spent in clean rooms or areas where the TWA limit is not exceeded. The employer should also plan to provide respirators with microphones or other communication equipment where needed.

Respiratory protection also has a role during maintenance operations as well as during emergency situations. However the goal of the standard is the control of emissions at the source to minimize the need for respirators.

Since it is apparent that respirators may be necessary, an evaluation of respirators for inorganic arsenic use is necessary. The standard contains two respirator selection tables (Tables I and II) so the employer will provide the respirators which afford the proper degree of protection based on the airborne concentration of inorganic arsenic. These tables are principally based on the NIOSH recommendation made during the September 1976 hearings (Ex. 146B) and OSHA's experience in this and other rulemakings. However, a significant change has been made from the NIOSH recommendations. This principally involves permitting the use of air purifying respirators with half mask and high efficiency filter for protection against nonvolatile arsenicals including arsenic trioxide.

During the September 1976 hearings, NIOSH (Ex. 146A, 146B, STR 67) recommended that only chemical cartridge and gas mask respirators be used where workers are exposed to inorganic arsenic compounds based on theoretical considerations that some arsenic compounds may have high vapor pressures. Questions have been raised whether arsenic trioxide has significant vapor pressure at ambient

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temperatures (Ex. 129) and at elevated temperatures (Ex. 146, 157).

To see whether arsenic vapor might be eluding capture by high efficiency filters ASARCO conducted a respirator experiment (Ex. 160B No. 2). Respirator testing was performed by suspending the respirators from a metal bar supported by two ring stands. None of the test equipment was worn by a worker. To simulate a good fit against a worker's face, each respirator backing was covered with at least four thicknesses of plastic wrap. Two sampling trains were used. One employed a probe located inside the sealed respirator followed by a preweighed millipore filter. The millipore filter was backed up by impingers containing potassium permanganate or sodium hydroxide. A personal monitor (10 to 20 liters per minute flow rate) was used as the suction source. The second sampling train consisted of a probe, millipore filter, giant Greenburg-Smith impinger, dry gas meter and pump (10–20 liters per minute flow rate). Efficiencies of the high efficiency filters averaged better than 99 percent for protection against arsenic (Ex. 160B, No., 8, 9). Table 1 (Ex. 160B) contains the summary of ASARCO's results. It is noteworthy that the highest vapor and or sub/micron concentration was 0.66 $\mu g/m^3$ both inside and outside the respirator indicating that any vapor problem is minimal in comparison to the permissible exposure limit. Thus, air purifying respirators with high efficiency filters will be allowed in the final standard except for inorganic arsenic compounds with demonstrated significant vapor pressure.

Arsenic trioxide as well as some other arsenicals, are skin irritants and can cause skin irritation where the facepiece of the respirators comes in contact with the worker's face. Because they found no documented study indicating a threshold for eye irritation and because they judged there was an increased potential for skin irritation using half-masks, NIOSH recommended that full facepiece respirators be the minimal protection against particulate arsenic (STR 77–8). The record does not support these points. ASARCO has noted that complaints of eye irritation have been relatively few, mostly having arisen from gross accidental exposure to dust or to impaction of large particles on the eye (Ex. 164). Safety glasses which are now worn by smelter workers, have been noted to protect such smelter workers, except in rare occasions (Ex. 164). Finally, the use of a full facepiece would result in more skin contact with the rubber or plastic of the facepiece resulting in more discomfort and sweating. The increased contact and increased sweating has resulted in more skin irritation from arsenic trioxide dust. (Ex. 164). For the above reasons, OSHA will continue to allow the use of half-facepieces for protection against inorganic arsenic particulate.

In those situations where arsenic compounds do have high vapor pressures, the NIOSH recommendations for such a situation are followed. Table II of the standard specifies the respirators which must be worn to prevent excess exposure to arsenicals with high vapor pressures. Two chemicals which do have significant vapor pressure are arsenic trichloride and arsenic phosphide.

During the April 1975 hearing, Bruce Held (ATR 231–236) recommended changes to the proposed respirator selection table in paragraph (g)(2) of the proposal (Ex. 2A). Mr. Held stated that "constant flow" should be deleted from (g)(2)(i)(B), "pressure demand" changed to "demand" (g)(2)(iv)(A) and (g)(2)(v)(B) to "demand". We have adopted these recommendations using more recent terminology. The protection factors used in the table reflect the factors found in the August 2, 1976 joint OSHA/NIOSH Standard Completion Program Respirator Decision Logic (Ex. 146C).

There are numerous factors which affect the performance of air purifying respirators. These include the filter material and the fit of the facepiece on the wearer. Also important is wearer acceptance and training.

Proper fit of the respirator is critical. As a negative pressure is created within the facepiece when the wearer breathes, unfiltered air may enter the facepiece if gaps exist. Obtaining a proper fit on each employee may require the employer to provide two or three different mask styles.

The employee must be properly trained to wear the respirator, to know why the respirator is needed and to understand the limitations of the respirator. An understanding of the hazard involved is necessary to enable the employee to take steps for his or her own protection. The respiratory protection program implemented by the employer must conform to the program set forth in 29 CFR 1910.134. This contains basic requirements for proper selection, use, cleaning, and maintenance of respirators.

The employer must check to see that the employees' respirators fit properly and that leakage is at a minimum. A rapid simple fit test can be performed at the start of each shift by each employee wearing a negative pressure respirator. This test can be either a positive pressure test, in which the exhalation valve is closed and in which the wearer exhales into the facepiece to produce a positive pressure, or a negative pressure test, in which the inlet is closed and the wearer inhales so that the facepiece collapses slightly. Employees should be trained to perform this test.

The standard requires a qualitative fit test at the time of initial fitting and semiannually thereafter. If the particulate filters can be replaced with chemical cartridges, isoamyl acetate can be used to qualitatively test facepiece fit. If the employee can smell the isoamyl acetate while wearing the respirator it can be concluded that the particular respirator will not provide suitable protection.

The standard requires that employers with more than 20 employees wearing respirators provide a quantitative fit test at the time of initial fitting and semiannually thereafter. In a quantitative fit test the level of leakage and degree of protection is specifically measured by instrumentation. These tests are more accurate and provide greater assurance that the respirator is providing proper protection. One type of quantitative fit test involves using a simple hood, sodium chloride vapor, and automated instrumentation. At least one such device is commercially available at less than $10,000. These tests can be performed rapidly (10 to 20 minutes) and are relatively easy to perform. This requirement is limited to employers with more than 20 workers wearing respirators. At present, organizations are not available to provide these testing services. Therefore the requirement is limited to employers with greatest need for testing and for whom it is reasonable to acquire the equipment. However, OSHA recommends that all employers who have access to quantitative fit testing make use of such facilities for employees who regularly wear respirators. There was no specific requirement for quantitative fit tests in the proposal. But subsequent developments of equipment to make them relatively easy to carry out and the greater assurance of proper protection they provide, make it appropriate that they be required for employers with significant numbers of employees on respirators.

The standard makes the wearing of respirators voluntary, at the option of the employee until December 31, 1979 except when employees are exposed in excess of 50 $\mu g/m^3$. While exposures in excess of the permissible exposure limit do constitute a hazard, OSHA believes that it is necessary to mitigate some of the problems associated with respirator use and to permit time for educating and training employees in the need for and use of respirators. During the voluntary period, control measures, such as installation of engineering controls and improved work practices can be implemented. These controls will result in an improved work environment which will substantially reduce the number of employees required to wear respirators. The voluntary nature of respirator use prior to December 31, 1979 does not reduce the employer's obligation to train employees in the proper use of the respirators and to make the appropriate respirators available. Indeed, since the employee is being granted a greater responsibility for his or her own protection, special attention must be given to the training program so the employee can make an informed choice.

The proposal required immediate use of respirators whenever employees were exposed in excess of the TWA limit. This would have essentially required the wearing of respirators by a large number of workers in some facilities on the effective date of the standard. The transition period provided by the final standard will alleviate this burden and permit more time for training and implementation of a respirator program. The employer is required to provide respirators for employees exposed between 10 and 50 $\mu g/m^3$ as soon as possible but with an outside limit of December 1, 1978 to allow time which may be needed to purchase and receive a sufficient number of respirators. There are fewer employees exposed between 50 $\mu g/m^3$ and 500 $\mu g/m^3$ and those employees face more severe risks. Therefore respirators must be supplied as soon as possible and no later than October 1, 1978 for those employees. Respiratory use is now required for employees exposed over 500 $\mu g/m^3$ and therefore respirators continue to be required from the effective date of this standard.

The standard requires that employees wearing air-purifying respirators be permitted to replace the respirator's filter whenever they detect a significant increase in breathing resistance. When the filter becomes loaded, the movement of air through the filter becomes restricted forcing the employee to breathe harder to overcome this resistance. The wearing of the respirator becomes increasingly more uncomfortable and it may not be used as a result. To aid in the minimizing of the discomfort of wearing a respirator and to keep the respirator working efficiently the employee must be allowed to change filters when the need arises.

The wearing of a respirator in an arsenical atmosphere can result in skin irritation as the dust may accumulate around the facepiece seal. To prevent this irritation and to minimize the discomfort of respirator use, employees must be allowed to periodically wash their faces and respirator facepieces in order to remove the accumulation of inorganic arsenic.

It will be necessary for some production employees in some smelters to wear respirators for a substantial percentage of the day for a number of years. Subsequent to the arsenic proposal and hearings, NIOSH has certified a lightweight Powered Air Purifying Respirator (PAPR). In addition, other types are under development. It is OSHA's experience that in many circumstances, PAPR's are more comfortable to wear and provide better protection. They are light, under positive pressure and do not require a tight facial fit thereby minimizing irritation and breathing resistance. Except in cold weather, the air stream provided makes them more comfortable. They have a higher protection factor than negative pressure respirators since face fit is not a crucial factor. While they are more expensive, they interfere with work far less than negative pressure respirators. Therefore, OSHA believes it appropriate that employees have the option of wearing PAPR's. Consequently, the standard gives the employee the option of wearing PAPR's in appropriate circumstances after December 1, 1978. The employer must also supply a combination dust filter with a gas sorbent where there will be exposure to gases (such as sulfur dioxide) over the relevant limit for that gas some of the time. This will be the case some of the time in smelters. If over-exposures to gases are relatively continuous, PAPR's would not provide suitable protection.

H. PROTECTIVE CLOTHING AND EQUIPMENT PARAGRAPH (j)

The standard requires the employer to provide and assure that employees use protective clothing and equipment where the employee is exposed above the permissible exposure limits to prevent contamination of street clothing, to prevent skin and eye irritation and to prevent skin absorption of arsenic trichloride. The employer is responsible for cleaning and replacing the clothing as necessary. Specifically, the employer is to provide coveralls or other full body clothing, gloves, and shoes. The employer must also provide eye protection and other equipment, when necessary to prevent skin or eye irritation.

The final standard makes a number of changes from the proposal to respond to the comments, to clarify the language and to utilize the experience developed in the Coke Oven Emissions proceeding. The clothing is to be supplied to employees exposed above the 10 $\mu g/m^3$ level. It is necessary that protective clothing and shoes be required to prevent contamination of the employees' street clothing and shoes, so that exposure is not extended beyond the work day. At exposures lower than the PEL, it is less likely that clothing will become significantly contaminated with inorganic arsenic.

Impervious protective clothing is required for those workers working with arsenic trichloride, because it can be *rapidly* absorbed through the skin.

The proposal required the employer provide and clean daily protective clothing. The final standard reduces the frequency to weekly, except where there is a significant probability of skin irritation because of exposures above 100 $\mu g/m^3$ such as in some locations in the ASARCO, Tacoma arsenic plant. The original requirement was designed to reduce skin irritation. However, at levels approaching 10 $\mu g/m^3$, skin irritation is unlikely. Accordingly, the cleaning requirement is changed to weekly to reduce the burden on the employer. At levels where skin irritation is likely, or at lower levels where skin irritation is occurring, the daily cleaning requirement is retained.

The final standard clarifies that the obligation is on the employer to provide protective equipment at no cost to the employee. In this way the employer is in the best position to provide the correct type of equipment and keep it in repair. Also, as the employer has permitted exposures to exceed the permissible exposure limits the obligation properly rests on the employer. The cost of necessary equipment has been included in the various economic analyses performed.

The standard provides that the employer ensure that all protective clothing is removed at the end of each work shift only in change rooms, and that the clothing that is to be laundered, cleaned, or disposed of be placed in a closable container in the change room. The purpose in requiring such a container is to prevent the contaminants on the clothing from coming into contact with an individual handling the container or being released in the change room. Since the container is to be located in the change room, it is appropriate to limit the removal of contaminated clothing to that area.

Finally, the standard requires the employer to inform those who handle the contaminated articles of the potentially harmful effects of exposure to inorganic arsenic. This provision is designed to make clear the need to use proper care in handling of the contaminated articles.

I. HYGIENE FACILITIES AND PRACTICES: PARAGRAPH (m)

The standard requires that the employer provide clean and suitable change room facilities, lavatories, showers, and lunchrooms for those employees working in regulated areas. One purpose of these requirements is to prevent exposure beyond the work day to the employee. Another purpose is to reduce the likelihood of skin irritation resulting from skin contact with inorganic arsenic. Both of these reasons have been discussed in more detail in the previous section on Protective Clothing and Equipment. A third purpose is to prevent the ingestion of inorganic arsenic.

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Certain trivalent arsenicals (arsenic trioxide, sodium arsenite, potassium arsenite, copper acetoarsenite) have been implicated as systemic carcinogens. Some case reports based on long-term administration of medicinals containing potassium and sodium arsenite (Exhibits 180 and 101) and occupational exposure to sodium arsenite and copper acetoarsenite (Paris Green) (see sec. IV C of this preamble) have implicated ingestion of these chemicals as carcinogens. A high incidence of skin cancer has been reported in several populations exposed to high concentrations of arsenic in drinking water (Exhibit 180 pp. 299-301, Exhibit 58). In addition, OSHA believes as a general matter that efforts must be taken to minimize exposure to carcinogens by all exposure routes including ingestion.

The proposal did not include a requirement for lunchrooms with filtered air though it did prohibit eating in regulated areas. Union representatives recommended that such lunchrooms be provided (Exhibits 22, 30, 121). The suggestion has been adopted because such facilities are needed to provide a suitable place, relatively free from contamination to inorganic arsenic, for workers working in regulated areas to eat. In addition, suitable lunchroom facilities will provide an inducement for employees not to eat in regulated areas. As the risk of ingestion is highest in lunchrooms, somewhat more elaborate regulations for their design are included. Since the risk of ingestion is less below 10 $\mu g/m^3$, the standard requires those facilities only for employees exposed above that level rather than at the 2 $\mu g/m^3$ level of the proposal. This change will also reduce the burden on the employer.

Eye wash requirements contained in the proposal have been deleted. There appear to be few locations or arsenicals for which such facilities might be needed to prevent serious eye injury.

The standard requires employers to prevent employee skin or eye contact with liquid or particulate inorganic arsenic which is likely to cause skin or eye irritation. As discussed in the health effects section, some arsenicals cause skin irritation, and keratosis was a condition observed among workers exposed to substantial amounts of arsenic. These keratoses also seem to be related to various forms of cancer which subsequently developed.

Reducing the airborne exposure below the permissible exposure limit should eliminate skin irritation from exposure to arsenic. In areas where exposures are somewhat over the permissible exposure limit, supplying and using appropriate clean protective clothing and gloves as required by the standard should prevent skin irritation. In areas of higher exposure, such as arsenic kitchens, in addition to respirator use, suitable precautions need to be taken to avoid significant skin contact.

Arsenic trichloride is rapidly absorbed through the skin and creates a serious acute toxicity hazard. In consequence all skin and eye contact is prohibited. Where feasible arsenic trichloride should only be utilized in closed systems with suitable backup controls in case of system breakdowns. Where such a system is not feasible, the employer is required to provide impervious protective clothing and suitable respirators.

J. MEDICAL SURVEILLANCE: PARAGRAPH (N)

The standard requires each employer to institute a medical surveillance program for all employees who are exposed above the action level for at least 30 days per year and for employees who have been exposed to levels above the action level for more than 10 years who are no longer exposed above the action level. The record, including recommendations from NIOSH in its updated Criteria Document (Exhibit 99), clearly indicates that a medical surveillance program is appropriate in dealing with the problem of employee exposure to inorganic arsenic. Section 6(b)(7) of the Act provides that:

> • • • where appropriate, any such standard promulgated under subsection 6(b) shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such employment related hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure.

The proposed standard (Exhibit 2a, p. 3400), provided that medical examinations should be given to all employees exposed above the action level. The final standard also requires medical surveillance for all employees exposed above the action level (5 $\mu g/m^3$). Although the level of exposure which triggers medical surveillance has changed, the rationale remains the same.

Some employees may be assigned to work areas where they may be exposed to inorganic arsenic above the action level on a temporary or short term basis, e.g. during vaction periods or certain types of repair work. Therefore a cut-off point for the required medical surveillance program is needed since it would not be appropriate to provide medical surveillance for every employee regardless of duration of exposure. It is important that the time period selected be sufficiently inclusive without being administratively impracticable. The arsenic record did not specifically address this point. Consistent with OSHA's experience gained in the coke oven emissions proceedings where the matter was considered at length, OSHA has determined that 30 days is an appropriate cut-off point for inclusion in medical examinations.

The final standard includes a requirement that all employees who may have been exposed above the action level for 10 or more years must be provided with medical examinations although they are no longer exposed above the action level. The language in the proposal was unclear on this point. Medical examinations are mandated for this group because they represent a potentially higher risk group. Arsenic exposures have been reduced since the 1950's in most smelters and chemical manufacturers.

Long-term employees who have exposures now or in the near future below the action level, but have had exposure above the action level now or in the recent past, are quite likely to have had substantially greater exposures in the more distant past. Dr. Brooks testified on this point (STR 45-52) and the epidemiological studies indicate that risk increases with both *degree* and *duration* of exposure.

The medical examination required is principally based on the known utility of x-ray and sputum cytology as screening tests for respiratory cancer.

Two portions of the proposed medical surveillance protocol have been deleted. These are palpation of superficial lymph nodes and, a complete blood count. As noted previously, lymphatic and hematopoietic cancer excesses have only been observed in worker populations in the Ott and Baetjer studies (in which workers were exposed to sodium arsenite, potassium arsenite, and copper acetoarsenite). As OSHA is not aware of groups of workers in this category at the present time, it is not appropriate to require these tests generally. These tests may be given at the discretion of the examining physician and would be advisable if an employee has been exposed to those chemicals.

Neither the proposal nor the final standard requires that urinary arsenic determinations be a mandatory part of the medical surveillance protocal. The correlation of urinary arsenic levels and airborne arsenic exposure is fairly weak (r=0.528). Urinary arsenic levels vary considerably from individual to individual and time to time. Accordingly, we feel that the use of urinary arsenic determination to supplement monitoring of airborne levels of arsenic should be left to the discretion of the individual company or physician.

All examinations and procedures are required to be performed by or under the supervision of a licensed physician and provided without cost to the employee. Clearly, a licensed physician is the appropriate person to be supervising and evaluating a medical examination. However, certain parts of the required exam do not necessarily require the physician's expertise and may be conducted by another person under the supervision of the physician.

The proposed standard included a requirement that all medical examinations be given during the employees' normal working hours. The final standard does not include the requirement because it may be impractical for shift workers or less convenient for employee or employer. However the employer is obligated to pay for the time spent taking the medical examination if it is taken outside normal working hours and the exam must be given at a reasonable time and place. It is necessary that exams be convenient and without loss to the employee to assure that they are taken.

The standard provides that a work history, medical history and medical examination be performed at the time of initial assignment to areas where exposure exceeds the action level or by December 1, 1978, for employees exposed above the action level at the effective date of the standard. The purposes of this requirement are to make an initial assessment of the health of each employee and to establish a baseline health condition against which changes in an employee's health may be compared. The proposed standard (Exhibit 2a, 40 FR 3401), and Criteria Document (Exhibit 99, p. I-2) all contained requirements for an initial or preplacement exam. The history has been expanded slightly from the proposal to include information on smoking because of its relevance to increased respiratory cancer risk.

The various tests that comprise the medical exam are designed to be used in an initial assessment of an employee's health and to detect changes in health which may occur. The value of each of the specified examinations is described below.

A 14 in. by 17 in. X-ray is a screening test of proven value in the detection of lung cancer. The International Labour Office UICC/Cincinnati (ILO U/C) rating is useful in obtaining uniform quality in the reading of X-rays.

Sputum cytology is required in certain circumstances by the final standard though it was only recommended in the proposal. (See Appendix C to the proposal). The proposal did not mandate sputum cytology on the basis that it should be optional depending on the opinion of the examining physician. Subsequent information received during the coke ovens proceeding indicated that sputum cytology would be of value. The issue was raised more fully in the FEDERAL REGISTER notice of July 16, 1976 (41 FR 29425) which specifically requested comments on this issue and included it as one issue to be considered in the September 1976 hearing.

Comments received from Dr. Dahlgren (Exhibit 137-12) and Health Research Group (Exhibit 137-8), and testimony by Dr. Brooks, a noted expert in the field (STR 45-52), as well as by NIOSH (Exhibit 146) were in favor of requiring sputum cytology. Comments from the Motor Vehicle Manufacturers' Association (Exhibit 137-9) and Dr. Clark Cooper (Exhibit 137-7) were opposed. Anaconda submitted preliminary results of a study of sputum cytology among its workers (Exhibit 165B Appendix E, STR 600-601) which cast doubt on its usefulness. ASARCO recommended that sputum cytology be included on a trial basis (Exhibit 111-3).

Based on the information received, OSHA believes it appropriate to include sputum cytology in the medical surveillance protocol. With the development of the fiberoptic bronchoscope, sputum cytology has become an effective tool for early detection of respiratory cancer among a higher risk population such as workers exposed to inorganic arsenic. (Exhibit 140, 141A). Used in conjunction with X-rays, OSHA is hopeful that such early detection will result in prolonged life for those discovered to have respiratory cancer. X-rays and sputum cytology appear to be complementary, one being more a powerful tool for detection in the peripheral airways while the other is for the central airways. (Exhibit 140, 141A, STR 45-52).

A nasal examination is required because employees with significant exposures to inorganic arsenic are subject to perforation of the nasal septum. A skin examination is also required. Such an examination will detect gross overexposures to arsenic. Such exposure is rare now. However, the examination can be quickly and simply performed and therefore has been included.

The standard provides for semiannual examinations for employees exposed over the action level who are 45 years of age or older, and for employees who have been exposed for 10 or more years above 5 $\mu g/m^3$. All other employees working in regulated areas are to be provided with medical examinations on an annual basis and their examination need not include sputum cytology except for the initial examination. ASARCO recommended a less frequent examination. The frequency in the final standard is consistent with the proposal, Dr. Brook's testimony (ATR 45-52) and OSHA's experience during the coke oven emissions proceeding. The more frequent and more extensive examinations are specified for the higher risk population as discussed above.

Employers are required to make a medical examination available to an employee who has not had one within six months of termination of employment. This was not included in the proposal. It is believed necessary to inform the employee to the extent possible if the condition of his health has been affected during the period of employment.

The employer is required to provide the physician with certain information. The employer is also required to obtain a written opinion from the examining physician containing: the physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to inorganic arsenic; the results of the medical examination; any recommended limitations upon the employee's exposure to inorganic arsenic and upon the use of protective clothing and equipment such as respirators; and a statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment. This written opinion must not reveal specific findings or diagnoses unrelated to occupational exposure, and a copy of the opinion must be provided to the affected employee.

The purpose in requiring the examining physician to supply the employer with a written opinion containing the above mentioned analyses is to provide the employer with a medical basis to aid in the determination of initial placement and ability to use protective clothing and equipment of employees. Requiring that opinion be in written form will serve as an objective check that employers have actually had the benefit of this information in making these determinations. Likewise, the requirement that the employee be provided with a copy of the physician's written opinion will insure that the employee is informed of the results of the medical exam and may take any appropriate action. The purpose in requiring that specific findings or diagnoses unrelated to occupational exposure not be included in the written opinion is to encourage employees to submit to medical examination by removing the fear that employers may find out information about their physical condition that has no relation to occupational exposures.

The proposal included a provision that the physician state whether exposure to inorganic arsenic would directly or indirectly aggravate any medical condition. This provision has been deleted from the standard for two reasons: It is vague, in that it is unclear what "aggravate" means. Secondly, it adds nothing to the requirement to determine whether an employee has any detected medical conditions which place the employee at increased risk of material impairment of health from exposure to inorganic arsenic.

The proposed standard included a provision prohibiting the exposure of

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an employee to inorganic arsenic if the employee would be placed at increased risk of material impairment to his or her health from such exposure (Exhibit 2A, 40 FR 3402). The proposal did not include any provision requiring the transfer of that employee to another job, or requiring that the employee be guaranteed his earlier rate of pay.

In this proceeding, representatives of unions indicated their great concern regarding any requirement for the mandatory removal of employees because of increased risk, in the absence of a medical removal protection or rate retention, right for employees so removed (Exhibit 22, 103). The major argument presented was that in the absence of a medical removal protection provision, such a requirement would constitute a major disincentive to employees to submit to physical examinations because they would fear that an adverse medical opinion could result in loss of employment. As a result, the purpose of the medical surveillance requirements would be undetermined and early detection of illness would, too often, not occur. It was also suggested that the absence of a medical removal protection provision creates a dilemma antithetical to the purposes of the Act—namely, the employee's need to choose between continuing to work but risking his life by continuing to do so, and protecting his health, but losing his job.

The Agency agrees that the approach taken in the proposed standard confronts the employee with a difficult choice and we are sympathetic to the concerns reflected in the unions' position on this issue. However, we believe that the present record does not contain sufficient evidence on the propriety, scope and implications of mandatory transfer and rate retention requirement so as to constitute an adequate basis for the incorporation of such a provision in the standard.

While we are not providing for medical removal protection in the standard, we are convinced that further exploration of this issue is necessary in order to deal in considerably more depth with the numerous issues raised by such a provision. OSHA has held a hearing specifically in regard to medical removal protection for employees exposed to lead. OSHA is now considering the record developed in that hearing. Based on the experience gained in that proceeding OSHA will consider whether medical removal protection should be proposed for employees exposed to other substances.

In the meantime, OSHA has decided to delete the mandatory removal provision. In our view, the issue of mandatory removal is closely related to the issue of rate retention and neither should be addressed in the present standard. The Agency's further study of rate retention will also involve consideration of the mandatory removal question.

(K) EMPLOYEE INFORMATION AND TRAINING: PARAGRAPH (O)

The final standard requires the employer to provide a training program for employees exposed above the action level or for whom there is a possibility of skin or eye irritation from contact with inorganic arsenic.

The need to train employees was agreed upon by virtually all of the participants in the rulemaking proceeding, and a training requirement was included in the Criteria Document (Ex. 99, p. 7) and the proposed standard.

The proposal required training in all locations where any inorganic arsenic was released or handled. However, inorganic arsenic is naturally present at very low levels in some substances where there is little possibility of its release. The benefit in requiring training in these circumstances did not seem significant and the scope of the training provision has been narrowed accordingly.

The training program is required to be completed by October 1, 1978, for employees initially covered by the standard and at the time of initial assignment to areas where there is possibility of exposure over the action level or skin irritation otherwise. OSHA believes that it is important to train employees as soon as possible, consistent with developing suitable materials, in order to maximize the benefits of the training program, and has acted accordingly.

The standard requires that the training program be provided at least annually except that it must be provided quarterly for those employees who have optional use of respirators until December 31, 1979. OSHA believes that an annual training program is both necessary and sufficient to remind the employee of the hazard. Quarterly training is required for employees who have optional use of respirators so that those employees will be in a position to make informed choices regarding the use of respiratory protection.

The content of the training program is intended to apprise the employees of (1) the hazards to which they are exposed; (2) the necessary steps to protect themselves, including minimizing exposure, respiratory protection and medical surveillance; (3) their role in reducing emissions; and (4) their rights under this standard.

The employer is required to make a copy of the standard and its appendixes available to affected employees. This requirement, in combination with the review provided for as part of the training program, is intended to ensure that employees understand their rights and duties under this standard.

The employer is also required to provide, upon request, all materials relating to the training program to the Assistant Secretary and the Director. This is intended to provide an objective check of compliance with the content requirements of the standard. It should be noted that the recordkeeping requirement regarding the training program which had been included in the proposal has not been retained in the standard to reduce the recordkeeping burden. This places greater reliance on access to training materials as a check to ensure that employees are being properly trained.

L. SIGNS AND LABELS: PARAGRAPH (P)

The final standard requires that regulated areas be sign posted stating: "Danger, Inorganic Arsenic Present, Cancer Hazard, Authorized Personnel Only, No Smoking or Eating, Respirator Required". It also requires labeling of containers of inorganic arsenicals, except when the arsenic is bound in such a manner as to make unlikely the possibility of exposure to inorganic arsenic. The labels must state, "Caution, Contains Inorganic Arsenic, Cancer Hazard, Harmful if Inhaled or Swallowed, Use only with Adequate Ventilation or Respiratory Protection".

It is important, and section 6(b)(7) of the Act requires, that appropriate forms of warning, as necessary, be used to apprise employees of the hazards to which they are exposed in the course of their employment. OSHA believes, as a matter of policy, that employees should be given the opportunity to make informed decisions on whether to work at a job under particular working conditions. Furthermore, when the control of potential safety and health problems involves the cooperation of employees, the success of such a program is highly dependent upon the worker's understanding of the hazards attendant to that job.

In light of the serious nature of the hazard of exposure to inorganic arsenic, OSHA believes that sign posting is needed as well as periodic training to adequately inform employees of the cancer hazard. The appearance of the phrase "Cancer Hazard" on the warning sign will serve as an objective check on whether employees are actually being informed of this hazard. It is a reasonable precaution to discourage unnecessary entry of occasional visitors to regulated areas. Also, the warning signs will inform all employees entering regulated areas of the need to utilize respirators and other protective equipment which the employer is to provide.

A number of comments were made that such signs would cause unnecessary alarm (Exs. 3E, 3T, 27). Given the evidence of the carcinogenicity of inorganic arsenic, a strong warning is necessary and the word "Hazard" has in

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consequence been substituted for the ambiguous term, "Suspect Agent." Additionally, the phrases "Authorized Personnel Only" and "No Smoking or Eating" and "Respirator Required" relate directly to requirements in the standard which limit access and activities within regulated areas. (See discussions of Regulated Area and of Hygiene Facilities and Practices.)

All shipping and storage containers of inorganic arsenic compounds and products containing it are required to be labeled with a warning of the cancer hazard and the precautions to be taken. This is so employees handling the materials will treat them with care and take suitable precautions to avoid inhalation. It is necessary to warn employees to take precautions in case of spills or broken containers.

The proposal did not include any exception to this provision. Comments were received stating that the inorganic arsenic present in certain products was bound in such a manner as to make unlikely the possibility of exposure to inorganic arsenic. An example of this is the light emitting diode (Exhibit 137-4). In such circumstances, a warning label is inappropriate because the hazard does not exist. Therefore, the final standard excludes from the labeling requirements, those containers or products in which arsenic is bound in such a manner to make unlikely airborne exposure.

Exposures are not unlikely if dropping, breaking or ordinarily negligent handling will likely result in overexposure.

M. RECORDKEEPING: PARAGRAPH (Q)

Section 8(c)(3) of the Act (29 U.S.C. 657) mandates the inclusion of provisions requiring employers to maintain accurate monitoring records of employee exposures to potentially toxic materials. It also provides that employees or their representatives have access to such records.

The final standard requires records of exposures measurements. The records required include name and job classification of employees measured, details of the sampling and analytic techniques, results, and type of respiratory protection worn. The standard also requires records of medical surveillance. These include names of employees, the physician's written opinion, and copy of the results of the examination. In addition, the initial x-ray and cytology slide, the most recent 5 years of x-rays and 10 years of sputum cytology slides, and all x-ray and cytology slides indicating atypia, or subsequent to atypia must be retained. These records must be kept for 40 years or for at least 20 years after termination of employment, whichever is longer.

The participants at the hearing generally agreed with the necessity for keeping such records, but objected to the length of the record retention period. It is necessary to keep these records for such extended periods of time because of the long latency periods commonly observed for carcinogens. Cancer is often not detected until 20 or more years after onset of exposure. The extended retention period is therefore needed for two purposes. Diagnosis of disease in employees is assisted by having exposure data as well as the results of the medical exams even many years in the past. The original x-ray and cytology slide and those in the recent past are required to provide a baseline as well as a guide to the progression of symptoms. It is necessary to retain monitoring and medical surveillance data for the same period because the data has to be considered together. The second purpose for retaining records for 40 years is so that it will be possible at some future date to review the adequacy of the standard.

The final standard makes a number of changes from the proposal. Some of these reduce the recordkeeping burden. The respirator recordkeeping has been simplified and the retention period made the same length as for exposure measurements so that exposure levels can be assessed. Provisions in the proposal requiring records of employee training and regulated area rosters have not been retained in the final standard. These two records were deleted because there appeared to be little benefit in their retention. Training materials can be inspected when necessary to determine compliance. The roster duplicated data required to be retained for the medical surveillance and exposure records. Records of ventilation testing have been reduced to a notation of the last test and is included as part of the housekeeping paragraph. The initial inspection provisions have been replaced by specific measurement requirements and the recordkeeping requirements have been changed accordingly. The recordkeeping requirements have been substantially reduced as a result of the changes discussed above. The reduction in the monitoring frequency and change in the definitions of persons subject to medical surveillance will also reduce the volume of the records which must be retained.

The final standard, in uniformity with the proposal and other OSHA standards, requires that such records be made available to the Director and Assistant Secretary, that exposure records be available to employees and their representatives, and medical records to an employee or physician designated by an employee or former employee. These provisions carry out statutory requirements. In addition it is necessary for the Assistant Secretary and Director to have access for enforcement and research purposes. The employees or their representatives need access to exposure records because they help the employees determine the effectiveness of the employers' exposure abatement program. The physician needs access to medical records for diagnostic purposes. The transfer provisions are unchanged except that NIOSH is to be notified at the expiration of the retention period so it can determine if the records are still needed for research purposes.

N. EMERGENCIES

The final standard, unlike the proposal, includes no specific paragraph covering emergency situations. OSHA generally includes specific provisions on emergencies for chemicals produced in high pressure processes, where there is the possibility of explosions or other massive release of the substance, or where there are acute toxicity dangers.

In non-ferrous metal smelters these dangers appear unlikely. Arsenic is not generally subject to explosion. Further the arsenic is usually present as only a small percentage in the material stream, making unlikely acute toxicity episodes as a result of equipment breakdown.

Therefore, OSHA has decided to include no specific regulatory paragraph on emergencies. However, it should be noted that the employer is required by the respirator section to have available and provide respirators when a breakdown of equipment or accident leads to high exposures. Further, as a matter of proper industrial practice, OSHA expects employers handling or producing arsenical chemicals where the possibility of acute toxicity exists, to have procedures for safely handling spills, breakage of drums, and equipment breakdowns.

O. OBSERVATION OF MONITORING: PARAGRAPH (r)

Section 8(c)(3) of the Act requires that employers provide employees or their representatives with the opportunity to observe monitoring of employee exposures to toxic materials or harmful physical agents. In accordance with this section and consistent with the proposal and other OSHA standards, the standard contains provisions for such observation. To ensure that this right is meaningful, observers are entitled to an explanation of the measurement procedure, to observe all steps related to the measurement procedure, and to record the results obtained. Since results will not normally be available at the time of monitoring, the standard has been clarified to indicate that the observers are entitled to receive the results of the monitoring when returned by the laboratory. The observer, whether an employee or designated representative,

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must be provided with, and is required to use, any personal protective devices required to be worn by employees working in the area that is being monitored, and must comply with all other applicable safety and health procedures.

P. EFFECTIVE DATE: PARAGRAPH (S)

The effective date is August 1, 1978.

Q. STARTUP DATES: PARAGRAPH (U)

Startup dates included have been extended from the proposal. This is based on OSHA's experience as to the time required to set up employee training programs and medical surveillance, to order and receive protective equipment and respirators, and to plan, order, receive, and install engineering controls. The approximately 3-month period between the publication of this standard and its effective date provides time to arrange to make available protective clothing and to commence monitoring on the effective date of the standard (or earlier if the employer wishes). It gives additional time to arrange for the implementation of this standard and to order necessary equipment. All startup dates are listed at the beginning of the preamble. It should be noted that some starting dates are set forth in the paragraphs to which they directly pertain. If there is no specific startup date set forth in the standard, then the startup date is the effective date of the standard. The immediate installation of change houses, etc., is not required if installation of engineering controls would only make their use necessary for a few months. If the time period for meeting any of these startup dates cannot be met because of technical difficulties, any employer is entitled to petition for a temporary variance under section 6(b)(6)(A) of the Act.

R. APPENDIXES: PARAGRAPH (T)

The three appendixes included with the regulation are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligation.

S. ORGANIC ARSENIC AND SPECIFIC ARSENIC COMPOUNDS

The existing entry in Table Z-1 of 1910.1000 reads "Arsenic and its compounds (as As), 0.5 mg/m³," and accordingly covers both inorganic and organic arsenic. The new section 1910.1018 covers just inorganic arsenic. Accordingly the Table Z-1 entry is amended to indicate that just organic arsenic is covered by the 0.5 mg/m³ limit.

Calcium arsenate and lead arsenate are inorganic arsenicals. Accordingly the existing entries in Table Z-1 of § 1910.1000 setting exposure limits for them are deleted. Calcium arsenate and lead arsenate will now be regulated under the new standard on inorganic arsenic in § 1910.1018.

IX. AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Ave. NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911, Part 1910 of Title 29, Code of Federal Regulations is hereby amended by adding a new permanent standard for occupational exposure to inorganic arsenic at § 1910.1018 and by making consequential amendments to Table Z-1 of 29 CFR 1910.1000.

In addition, pursuant to the above authority, section 4(b)(2) of the Act (84 Stat. 1592; 29 U.S.C. 653) and the specific statutes referred to in section 4(b)(2), OSHA has determined that this new standard is more effective than the corresponding standards now in Subpart B of Part 1910, and in Parts 1915, 1916, 1917, 1918, and 1928 of Title 29, Code of Federal Regulations. Therefore, these corresponding standards are superseded by § 1910.1018. This determination, and the application of the new standard to the maritime and construction industries are implemented by adding a new paragraph (e) to § 1910.19.

Signed at Washington, D.C., this 26th day of April, 1978. These amendments are effective on August 1, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended as follows:

1. A new paragraph (e) is added to § 1910.19 to read as follows:

§ 1910.19 Special provisions for air contaminants.

* * * * *

(e) Section 1910.1018 shall apply to the exposure of every employee to inorganic arsenic in every employment covered by §§ 1910.12, 1910.13, 1910.14, 1910.15, or 1910.16, in lieu of any different standard on exposure to inorganic arsenic which would otherwise be applicable by virtue of any of those sections.

§ 1910.1000 [Amended]

2. Table Z-1 of § 1910.1000 is amended by deleting the following entries:

"Calcium Arsenate	1"
"Lead Arsenate	0.15"

and by amending the entry which now reads:

"Arsenic and its compounds (as As)... 0.5 mg/m³."

to read:

"Organic Arsenic compounds (as As)... 0.5 mg/m³."

3. A new § 1910.1018 and appendices A, B and C are added to read as follows:

§ 1910.1018 Inorganic arsenic.

(a) *Scope and application.* This section applies to all occupational exposures to inorganic arsenic except that this section does not apply to employee exposures in agriculture or resulting from pesticide application, the treatment of wood with preservatives or the utilization of arsenically preserved wood.

(b) *Definitions.* "Action level" means a concentration of inorganic arsenic of 5 micrograms per cubic meter of air (5 μg/m³) averaged over any eight (8) hour period.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of exercising the right to observe monitoring and measuring procedures under paragraph (e) of this section.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education and Welfare, or designee.

"Inorganic arsenic" means copper aceto- arsenite and all inorganic compounds containing arsenic except arsine, measured as arsenic (As).

(c) *Permissible exposure limit.* The employer shall assure that no employee is exposed to inorganic arsenic at concentrations greater than 10 micrograms per cubic meter of air (10 μg/m³), averaged over any 8-hour period.

(d) *Notification of use.* (1) By October 1, 1978 or within 60 days after the introduction of inorganic arsenic into the workplace, every employer who is required to establish a regulated area in his workplaces shall report in writing to the OSHA area office for each such workplace:

(i) The address of each such workplace;

(ii) The approximate number of employees who will be working in regulated areas; and

(iii) A brief summary of the operations creating the exposure and the actions which the employer intends to take to reduce exposures.

(2) Whenever there has been a significant change in the information required by paragraph (d)(1) of this section the employer shall report the changes in writing within 60 days to the OSHA area office.

(e) *Exposure monitoring.*—(1) *General.* (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to inorganic arsenic over an eight (8) hour period.

(ii) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(iii) The employer shall collect full shift (for at least 7 continuous hours) personal samples including at least one sample for each shift for each job classification in each work area.

(2) *Initial monitoring.* Each employer who has a workplace or work operation covered by this standard shall monitor each such workplace and work operation to accurately determine the airborne concentration of inorganic arsenic to which employees may be exposed.

(3) *Frequency.* (i) If the initial monitoring reveals employee exposure to be below the action level the measurements need not be repeated except as otherwise provided in paragraph (e)(4) of this section.

(ii) If the initial monitoring, required by this section, or subsequent monitoring reveals employer exposure to be above the permissible exposure limit, the employer shall repeat monitoring at least quarterly.

(iii) If the initial monitoring, required by this section, or subsequent monitoring reveals employee exposure to be above the action level and below the permissible exposure limit the employee shall repeat monitoring at least every six months.

(iv) The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven (7) days apart, are below the action level at which time the employer may discontinue monitoring for that employee until such time as any of the events in paragraph (e)(4) of this section occur.

(4) *Additional monitoring.* Whenever there has been a production, process, control or personal change which may result in new or additional exposure to inorganic arsenic, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to inorganic arsenic, additional monitoring which complies with paragraph (e) of this section shall be conducted.

(5) *Employee notification.* (i) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposures.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken to reduce exposure to or below the permissible exposure limit.

(6) *Accuracy of measurement.* (i) The employer shall use a method of monitoring and measurement which has an accuracy (with a confidence level of 95 percent) of not less than plus or minus 25 percent for concentrations of inorganic arsenic greater than or equal to 10 μg/m³.

(ii) The employer shall use a method of monitoring and measurement which has an accuracy (with confidence level of 95 percent) of not less than plus or minus 35 percent for concentrations of inorganic arsenic greater than 5 μg/m³ but less than 10 μg/m³.

(f) *Regulated area.*—(1) *Establishment.* The employer shall establish regulated areas where worker exposures to inorganic arsenic, without regard to the use of respirators, are in excess of the permissible limit.

(2) *Demarcation.* Regulated areas shall be demarcated and segregated from the rest of the workplace in any manner that minimizes the number of persons who will be exposed to inorganic arsenic.

(3) *Access.* Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the Act or regulations issued pursuant thereto to enter such areas.

(4) *Provision of respirators.* All persons entering a regulated area shall be supplied with a respirator, selected in accordance with paragraph (h)(2) of this section.

(5) *Prohibited activities.* The employer shall assure that in regulated areas, food or beverages are not consumed, smoking products, chewing tobacco and gum are not used and cosmetics are not applied, except that these activities may be conducted in the lunchrooms, change rooms and showers required under paragraph (m) of this section. Drinking water may be consumed in the regulated area.

(g) *Methods of compliance.*—(1) *Controls.* (i) The employer shall institute at the earliest possible time but not later than December 31, 1979, engineering and work practice controls to reduce exposures to or below the permissible exposure limit, except to the extent that the employer can establish that such controls are not feasible.

(ii) Where engineering and work practice controls are not sufficient to reduce exposures to or below the permissible exposure limit, they shall nonetheless be used to reduce exposures to the lowest levels achievable by these controls and shall be supplemented by the use of respirators in accordance with paragraph (h) of this section and other necessary personal protective equipment. Employee rotation is not required as a control strategy before respiratory protection is instituted.

(2) *Compliance Program.* (i) The employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limit by means of engineering and work practice controls.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation in which inorganic arsenic is emitted: e.g. machinery used, material processed, controls in place, crew size, operating procedures and maintenance practices;

(B) Engineering plans and studies used to determine methods selected for controlling exposure to inorganic arsenic;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Monitoring data;

(E) A detailed schedule for implementation of the engineering controls and work practices that cannot be implemented immediately and for the adaption and implementation of any additional engineering and work practices necessary to meet the permissible exposure limit;

(F) Whenever the employer will not achieve the permissible exposure limit with engineering controls and work practices by December 31, 1979, the employer shall include in the compliance plan an analysis of the effectiveness of the various controls, shall install engineering controls and institute work practices on the quickest schedule feasible, and shall include in the compliance plan and implement a program to minimize the discomfort and maximize the effectiveness of respirator use; and

(G) Other relevant information.

(iii) Written plans for such a program shall be submitted upon request to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, Director, any affected employee or authorized employee representatives.

(iv) The plans required by this paragraph shall be revised and updated at least every 6 months to reflect the current status of the program.

(h) *Respiratory protection*—(1) *General.* The employer shall assure that respirators are used where required under this section to reduce employee exposures to below the permissible exposure limit and in emergencies. Respirators shall be used in the following circumstances:

(i) During the time period necessary to install or implement feasible engineering or work practice controls;

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(ii) In work operations such as maintenance and repair activities in which the employer establishes that engineering and work practice controls are not feasible;

(iii) In work situations in which engineering controls and supplemental work practice controls are not yet sufficient to reduce exposures to or below the permissible exposure limit; or

(iv) In emergencies.

(2) *Respirator selection.* (i) Where respirators are required under this section the employer shall select, provide at no cost to the employee and assure the use of the appropriate respirator or combination of respirators from Table I below for inorganic arsenic compounds without significant vapor pressure, or Table II below for inorganic arsenic compounds which have significant vapor pressure.

(ii) Where employee exposures exceed the permissible exposure limit for inorganic arsenic and also exceed the relevant limit for particular gasses such as sulfur dioxide, any air purifying respirator supplied to the employee as permitted by this standard must have a combination high efficiency filter with an appropriate gas sorbent. (See footnote in Table 1)

TABLE I.—*Respiratory protection for inorganic arsenic particulate except for those with significant vapor pressure*

Concentration of inorganic arsenic (as As) or condition of use	Required respirator
(i) Unknown or greater or lesser than 20,000 μg/m³ (20 mg/m³) or firefighting.	(A) Any full facepiece self-contained breathing apparatus operated in positive pressure mode.
(ii) Not greater than 20,000 μg/m³ (20 mg/m³)	(A) Supplied air respirator with full facepiece, hood, or helmet or suit and operated in positive pressure mode.
(iii) Not greater than 10,000 μg/m³ (10 mg/m³)	(A) Powered air-purifying respirators in all inlet face coverings with high efficiency filters.[1] (B) Half-mask supplied air respirators operated in positive pressure mode.
(iv) Not greater than 500 μg/m³	(A) Full facepiece air-purifying respirator equipped with high-efficiency filter.[1] (B) Any full facepiece supplied air respirator. (C) Any full facepiece self-contained breathing apparatus.
(v) Not greater than 100 μg/m³	(A) Half-mask air-purifying respirator equipped with high-efficiency filter.[1] (B) Any half-mask supplied air respirator.

[1]High-efficiency filter—99.97 pct efficiency against 0.3 micrometer monodisperse diethyl-hexyl phthalate (DOP) particles.

TABLE II.—*Respiratory protection for inorganic arsenicals (such as arsenic trichloride[2] arsenic phosphide) with significant vapor pressure*

Concentration of inorganic arsenic (as As) or condition of use	Required respirator
(i) Unknown or greater or lesser than 20,000 μg/m³ (20mg/m³) or firefighting.	(A) Any full facepiece self-contained breathing apparatus operated in positive pressure mode.
(ii) Not greater than 20,000 μg/m³ (20 mg/m³)	(A) Supplied air respirator with full facepiece hood, or helmet or suit and operated in positive pressure mode.
(iii) Not greater than 10,000 μg/m³ (10mg/m³)	(A) Half-mask[2] supplied air respirator operated in positive pressure mode.
(iv) Not greater than 500 μg/m³	(A) Front or back mounted gas mask equipped with high-efficiency filter [1] and acid gas canister. (B) Any full facepiece supplied air respirator. (C) Any full facepiece self-contained breathing apparatus.
(v) Not greater than 100 μg/m³	(A) Half-mask [2] air-purifying respirator equipped with high- efficiency filter [1] and acid gas cartridge. (B) Any half-mask supplied air respirator.

[1]High efficiency filter—99.97 pct efficiency against 0.3 micrometer monodisperse diethyl-hexyl phthalate (DOP) particles.
[2]Half-mask respirators shall not be used for protection against arsenic trichloride, as it is rapidly absorbed through the skin.

(iii) The employer shall select respirators from among those approved for protection against dust, fume, and mist by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(3) *Respirator usage.* (i) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is fitted properly.

(ii) The employer shall perform qualitative fit tests at the time of initial fitting and at least semi-annually thereafter for each employee wearing respirators, where quantitative fit tests are not required.

(iii) Employers with more than 20 employees wearing respirators shall perform quantitative face fit test at the time of initial fitting and least semi-annually thereafter for each employee wearing negative pressure respirators. The test shall be used to select facepieces that provide the required protection as prescribed in Table I or II.

(iv) If an employee has demonstrated difficulty in breathing during the fitting test or during use, he or she shall be examined by a physician trained in pulmonary medicine to determine whether the employee can wear a respirator while performing the required duty.

(4) *Respirator program.* (i) The employer shall institute a repiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e) and (f).

(ii) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(iii) Employees who wear respirators shall be permitted to leave work areas to wash their face and respirator facepiece to prevent skin irritation associated with respirator use.

(5) *Commencement of respirator use.*

(i) The employer's obligation to provide respirators commences on August 1, 1978 for employees exposed over 500 μg/m³ of inorganic arsenic, as soon as possible but not later than October 1, 1978 for employees exposed to over 50 μg/m³ of inorganic arsenic, and as soon as possible but no later than December 1, 1978 for employees exposed between 10 and 50 μg/m³ of inorganic arsenic.

(ii) Employees with exposures below 50 μg/m³ of inorganic arsenic may choose not to wear respirators until December 31, 1979.

(iii) After December 1, 1978 any employee required to wear respirators may choose, and if so chosen the employer must provide, if it will give proper protection, a powered air purifying respirator and in addition if necessary a combination dust and acid gas respirator for times where exposures to gases are over the relevant exposure limits.

(j) *Protective work clothing and equipment*—(1) *Provision and use.* Where the possibility of skin or eye irritation form inorganic arsenic exists, and for all workers working in regulated areas, the employer shall provide at no cost to the employee and assure that employees use appropriate and clean protective work clothing and equipment such as, but not limited to:

(i) Coveralls or similar full-body work clothing;

(ii) Gloves, and shoes or coverlets;

(iii) Face shields or vented goggles when necessary to prevent eye irritation, which comply with the requirements of § 1910.133(a)(2)(a)(6); and

(iv) Impervious clothing for employees subject to exposure to arsenic trichloride.

(2) *Cleaning and replacement.* (i) The employer shall provide the protective clothing required in paragraph (j) (1) of this section in a freshly laundered and dry condition at least weekly, and daily if the employee works in areas where exposure are over 100 μg/m³ of inorganic arsenic or in areas where more frequent washing is needed to prevent skin irritation.

(ii) The employer shall clean, launder, or dispose of protective clothing required by paragraph (j) (1) of this section.

(iii) The employer shall repair or replace the protective clothing and equipment as needed to maintain their effectiveness.

(iv) The employer shall assure that all protective clothing is removed at the completion of a work shift only in change rooms prescribed in paragraph (m) (1) of this section.

(v) The employer shall assure that contaminated protective clothing which is to be cleaned, laundered, or disposed of, is placed in a closed container in the change-room which prevents dispersion of inorganic arsenic outside the container.

(vi) The employer shall inform in writing any person who cleans or launders clothing required by this section, of the potentially harmful affects including the carcinogenic effects of exposure to inorganic arsenic.

(vii) The employer shall assure that the containers of contaminated protective clothing and equipment in the workplace or which are to be removed from the workplace are labelled as follows:

CAUTION: Clothing contaminated with inorganic arsenic; do not remove dust by blowing or shaking: Dispose of inorganic arsenic contaminated wash water in accordance with applicable local, State, or Federal regulations.

(viii) The employer shall prohibit the removal of inorganic arsenic from protective clothing or equipment by blowing or shaking.

(k) *Housekeeping*—(1) *Surfaces.* All surfaces shall be maintained as free as practicable of accumulations of inorganic arsenic.

(2) *Cleaning floors.* Floors and other accessible surfaces contaminated with inorganic arsenic may not be cleaned by the use of compressed air, and shoveling and brushing may be used only where vacuuming or other relevant methods have been tried and found not to be effective.

(3) *Vacuuming.* Where vacuuming methods are selected, the vacuums shall be used and emptied in a manner to minimize the reentry of inorganic arsenic into the workplace.

(4) *Housekeeping plan.* A written housekeeping and maintenance plan shall be kept which shall list appropriate frequencies for carrying out housekeeping operations, and for cleaning and maintaining dust collection equipment. The plan shall be available for inspection by the Assistant Secretary.

(5) *Maintenance of equipment.* Periodic cleaning of dust collection and ventilation equipment and checks of their effectiveness shall be carried out to maintain the effectiveness of the system and a notation kept of the last check of effectiveness and cleaning or maintenance.

(l) [Reserved.]

(m) *Hygiene facilities and practices*—(1) *Change rooms.* The employer shall provide for employees working in regulated areas or subject to the possibility of skin or eye irritation from inorganic arsenic, clean change rooms equipped with storage facilities for street clothes and separate storage facilities for protective clothing and equipment in accordance with 29 CFR 1910.141(e).

(2) *Showers.* (i) The employer shall assure that employees working in regulated areas or subject to the possibility of skin or eye irritation from inorganic arsenic shower at the end of the work shift.

(ii) The employer shall provide shower facilities in accordance with § 1910.141(d)(3).

(3) *Lunchrooms.* (i) The employer shall provide for employees working in regulated areas, lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees working in regulated areas.

(ii) The employer shall assure that employees working in the regulated area or subject to the possibility of skin or eye irritation from exposure to inorganic arsenic wash their hands and face prior to eating.

(4) *Lavatories.* The employer shall provide lavatory facilities which comply with § 1910.141(d) (1) and (2).

(5) *Vacuuming clothes.* The employer shall provide facilities for employees working in areas where exposure, without regard to the use of respirators, exceeds 100 μg/m³ to vacuum their protective clothing and clean or change shoes worn in such areas before entering change rooms, lunchrooms or shower rooms required by paragraph (j) of this section and shall assure that such employees use such facilities.

(6) *Avoidance of skin irritation.* The employer shall assure that no employee is exposed to skin or eye contact with arsenic trichloride, or to skin or eye contact with liquid or particulate inorganic arsenic which is likely to cause skin or eye irritation.

(n) *Medical surveillance*—(1) *General*—(i) *Employees covered.* The employer shall institute a medical surveillance program for the following employees:

(A) All employees who are or will be exposed above the action level, without regard to the use of respirators, at least 30 days per year; and

(B) All employees who have been exposed above the action level, without regard to respirator use, for 30 days or more per year for a total of 10 years or more of combined employment with the employer or predecessor employers prior to or after the effective date of this standard. The determination of exposures prior to the effective date of this standard shall be based upon prior exposure records, comparison with the first measurements taken after the effective date of this standard, or comparison with records of exposures in areas with similar processes, extent of engineering controls utilized and materials used by that employer.

(ii) *Examination by physician.* The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee, without loss of pay and at a reasonable time and place.

(2) *Initial examinations.* By December 1, 1978, for employees initially covered by the medical provisions of this section, or thereafter at the time of initial assignment to an area where the employee is likely to be exposed over the action level at least 30 days per year, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and a medical history which shall include a smoking history and the presence and degree of respiratory symptoms such as breathlessness, cough, sputum production and wheezing.

(ii) A medical examination which shall include at least the following:

(A) A 14" by 17" posterior-anterior chest X-ray and International Labor Office UICC/Cincinnati (ILO U/C) rating;

(B) A nasal and skin examination;

(C) A sputum cytology examination; and

(D) Other examinations which the physician believes appropriate because of the employees exposure to inorganic arsenic or because of required respirator use.

(3) *Periodic examinations.* (i) The employer shall provide the examinations specified in paragraphs (n)(2)(i) and (n)(2)(ii) (A), (B), and (D) at least annually for covered employees who are under 45 years of age with fewer than 10 years of exposure over the

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action level without regard to respirator use.

(ii) The employer shall provide the examinations specified in paragraphs (n)(2)(i) and (n)(2)(ii) of this section at least semi-annually for other covered employees.

(iii) Whenever a covered employee has not taken the examinations specified in paragraphs (n)(2)(i) and (n)(2)(ii) of this section within six (6) months preceding the termination of employment, the employer shall provide such examinations to the employee upon termination of employment.

(4) *Additional examinations.* If the employee for any reason develops signs or symptoms commonly associated with exposure to inorganic arsenic the employer shall provide an appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its Appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level or anticipated exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical examination and tests performed;

(B) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to inorganic arsenic;

(C) Any recommended limitations upon the employee's exposure to inorganic arsenic or upon the use of protective clothing or equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further explanation or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(o) *Employee information and training.*—(1) *Training program.* (i) The employer shall institute a training program for all employees who are subject to exposure to inorganic arsenic above the action level without regard to respirator use, or for whom there is the possibility of skin or eye irritation from inorganic arsenic. The employer shall assure that those employees participate in the training program.

(ii) The training program shall be provided by October 1, 1978, for employees covered by this provision, at the time of initial assignment for those subsequently covered by this provision, and shall be repeated at least quarterly for employees who have optional use of respirators and at least annually for other covered employees thereafter; and the employer shall assure that each employee is informed of the following:

(A) The information contained in appendix A;

(B) The quantity, location, manner of use, storage, sources of exposure, and the specific nature of operations which could result in exposure to inorganic arsenic as well as any necessary protective steps;

(C) The purpose, proper use, and limitation of respirators;

(D) The purpose and a description of the medical surveillance program as required by paragraph (n) of this section;

(E) The engineering controls and work practices associated with the employee's job assignment; and

(F) A review of this standard.

(2) *Access to training materials.* (i) The employer shall make readily available to all affected employees a copy of this standard and its appendixes.

(ii) The employer shall provide; upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) *Signs and labels.*—(1) *General.* (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign or label required by this paragraph which contradicts or detracts from the meaning of the required sign or label.

(2) *Signs.* (i) The employer shall post signs demarcating regulated areas bearing the legend:

DANGER

INORGANIC ARSENIC

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

NO SMOKING OR EATING

RESPIRATOR REQUIRED

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(3) *Labels.* The employer shall apply precautionary labels to all shipping and storage containers of inorganic arsenic, and to all products containing inorganic arsenic except when the inorganic arsenic in the product is bound in such a manner so as to make unlikely the possibility of airborne esposure to inorganic arsenic. (Possible examples of products not requiring labels are semiconductors, light emitting diodes and glass). The label shall bear the following legend:

DANGER

CONTAINS INORGANIC ARSENIC

CANCER HAZARD

HARMFUL IF INHALED OR SWALLOWED

USE ONLY WITH ADEQUATE VENITLATION

OR RESPIRATORY PROTECTION

(q) *Recordkeeping.*—(1) *Exposure monitoring.* (i) The employer shall establish and maintain an accurate record of all monitoring require in paragraph (e) of this section.

(ii) This record shall include:

(A) The date(s), number, duration location, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure where applicable;

(B) A description of the sampling and analytical methods used and evidence of their accuracy;

(C) The type of respiratory protective devices worn, if any;

(D) Name, social security number, and job classification of the employees monitored and of all other employees whose exposure the measurement is intended to represent; and

(E) The environmental variables that could affect the measurement of the employees exposure.

(ii) The employer shall maintain these monitoring records for at least 40 years or for the duration of employment plus 20 years, whichever, is longer.

(2) *Medical surveillance.* (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.

(ii) This record shall include:

(A) The name, social security number, and description of duties of the employee;

(B) A copy of the physician's written opinions;

(C) Results of any exposure monitoring done for that employee and the representative exposure levels supplied to the physician; and

(D) Any employee medical complaints related to exposure to inorganic arsenic.

(iii) The employer shall in addition keep, or assure that the examining physician keeps, the following medical records;

(A) A copy of the medical examination results including medical and work history required under paragraph (n) of this section;

(B) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to that information;

(C) The initial X-ray;

(D) The X-rays for the most recent 5 years;

(E) Any X-rays with a demonstrated abnormality and all subsequent X-rays;

(F) The initial cytologic examination slide and written description;

(G) The cytologic examination slide and written description for the most recent 5 years; and

(H) Any cytologic examination slides with demonstrated atypia, if such atypia persists for 3 years, and all subsequent slides and written descriptions.

(iv) The employer shall maintain or assure that the physician maintains those medical records for at least 40 years, or for the duration of employment plus 20 years whichever is longer.

(3) *Availability.* (i) The employer shall make available upon request all records required to be maintained by paragraph (m) of this section to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall make available upon request records of employee exposure monitoring required by paragraph (q)(1) of this section for inspection and copying to affected employees, former employees and their designated representatives.

(iii) The employer shall make available upon request an employee's medical records and exposure records representative of that employee's exposure required to be maintained by paragraph (q) of this section to the affected employee or former employee or to a physician designated by the affected employee or former employee.

(4) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records required to be maintained by this section for the prescribed period, these records shall be transmitted to the Director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the Director at least 3 months prior to the disposal of such records and shall transmit those records to the Director if he requests them within that period.

(r) *Observation of monitoring.*—(1) *Employee observation.* The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to inorganic arsenic conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) Whenever observation of the monitoring of employee exposure to inorganic arsenic requires entry into an area where the use of respirators, protective clothing, or equipment is required, the employer shall provide the observer with and assure the use of such respirators, clothing, and such equipment, and shall require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled to;

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the monitoring of inorganic arsenic performed at the place of exposure; and

(C) Record the results obtained or receive copies of the results when returned by the laboratory.

(s) *Effective date.* This standard shall become effective August 1, 1978.

(t) *Appendixes.* The information contained in the appendixes to this section is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation.

(u) *Startup dates.*—(1) *General.* The startup dates of requirements of this standard shall be the effective date of this standard unless another startup date is provided for either in other paragraphs of this section or in this paragraph.

(2) *Monitoring.* Initial monitoring shall be commenced on August 1, 1978, and shall be completed by September 15, 1978.

(3) *Regulated areas.* Regulated areas required to be established as a result of initial monitoring shall be set up as soon as possible after the results of that monitoring is known and no later than October 1, 1978.

(4) *Compliance program.* The written program required by paragraph (g)(4) as a result of initial monitoring shall be made available for inspection and copying as soon as possible and no later than December 1, 1978.

(5) *Hygiene and lunchroom facilities.* Construction plans for changerooms, showers, lavatories, and lunchroom facilities shall be completed no later than December 1, 1978, and these facilities shall be constructed and in use no later than July 1, 1979. However, if as part of the compliance plan it is predicted by an independent engineering firm that engineering controls and work practices will reduce exposures below the permissible exposure limit by December 31, 1979, for affected employees, then such facilities need not be completed until 1 year after the engineering controls are completed or December 31, 1980, whichever is earlier, if such controls have not in fact succeeded in reducing exposure to below the permissible exposure limit.

(6) *Summary of startup dates set forth elsewhere in this standard.*

STARTUP DATES

August 1, 1978—Respirator use over 500 μg/m³.

AS SOON AS POSSIBLE BUT NO LATER THAN

September 15, 1978—Completion of initial monitoring.

October 1, 1978—Complete establishment of regulated areas. Respirator use for employees exposed above 50 μg/m³. Completion of initial training. Notification of use.

December 1, 1978—Respirator use over 10 μg/m³. Completion of initial medical. Completion of compliance plan.

July 1, 1979—Completion of lunch rooms and hygiene facilities.

December 31, 1979—Completion of engineering controls.

All other requirements of the standard have as their startup date August 1, 1978.

APPENDIX A—INORGANIC ARSENIC SUBSTANCE INFORMATION SHEET

I. SUBSTANCE IDENTIFICATION

A. *Substance.* Inorganic Arsenic.

B. *Definition.* Copper acetoarsenite, arsenic and all inorganic compounds containing arsenic except arsine, measured as arsenic (As).

C. *Permissible Exposure Limit.* 10 micrograms per cubic meter of air as determined as an average over an 8-hour period. No employee may be exposed to any skin or eye contact with arsenic trichloride or to skin or eye contact likely to cause skin or eye irritation.

D. *Regulated Areas.* Only employees authorized by your employer should enter a regulated area.

II. HEALTH HAZARD DATA

A. *Comments.* The health hazard of inorganic arsenic is high.

B. *Ways in which the chemical affects your body.* Exposure to airborne concentrations of inorganic arsenic may cause lung cancer, and can be a skin irritant. Inorganic arsenic may also affect your body if swallowed. One compound in particular, arsenic trichloride, is especially dangerous because it can be absorbed readily through the skin. Because inorganic arsenic is a poison, you should wash your hands thoroughly prior to eating or smoking.

III. PROTECTIVE CLOTHING AND EQUIPMENT

A. *Respirators.* Respirators will be provided by your employer at no cost to you for routine use if your employer is in the process of implementing engineering and work practice controls or where engineering and work practice controls are not feasible or insufficient. You must wear respirators for non-routine activities or in emergency situa-

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tions where you are likely to be exposed to levels of inorganic arsenic in excess of the permissible exposure limit. Since how well your respirator fits your face is very important, your employer is required to conduct fit tests to make sure the respirator seals properly when you wear it. These tests are simple and rapid and will be explained to you during training sessions.

B. *Protective clothing.* If you work in a regulated area, your employer is required to provide at no cost to you, and you must wear, appropriate, clean, protective clothing and equipment. The purpose of this equipment is to prevent you from bringing to your home arsenic-contaminated dust and to protect your body from repeated skin contact with inorganic arsenic likely to cause skin irritation. This clothing should include such items as coveralls or similar full-body clothing, gloves, shoes or coveriets, and aprons. Protective equipment should include face shields or vented goggles, where eye irritation may occur.

IV. HYGIENE FACILITIES AND PRACTICES

You must not eat, drink, smoke, chew gum or tobacco, or apply cosmetics in the regulated area, except that drinking water is permitted. If you work in a regulated area your employer is required to provide lunchrooms and other areas for these purposes.

If you work in a regulated area, your employer is required to provide showers, washing facilities, and change rooms. You must wash your face, and hands before eating and must shower at the end of the work shift. Do not take used protective clothing out of change rooms without your employer's permission. Your employer is required to provide for laundering or cleaning of your protective clothing.

V. SIGNS AND LABELS

Your employer is required to post warning signs and labels for your protection. Signs must be posted in regulated areas. The signs must warn that a cancer hazard is present, that only authorized employees may enter the area, and that no smoking or eating is allowed, and that respirators must be worn.

VI. MEDICAL EXAMINATIONS

If your exposure to arsenic is over the Action Level (5 $\mu g/m^3$)—(including all persons working in regulated areas) at least 30 days per year, or you have been exposed to arsenic for more than 10 years over the Action Level, your employer is required to provide you with a medical examination. The examination shall be every 6 months for employees over 45 years old or with more than 10 years exposure over the Action Level and annually for other covered employees. The medical examination must include a medical history; a chest x-ray; skin examination; nasal examination and sputum cytology exam for the early detection of lung cancer. The cytology exams are only included in the initial exam and examinations given after you are either 45 years or older or have 10 or more years employment over the Action Level. The examining physician will provide a written opinion to your employer containing the results of the medical exams. You should also receive a copy of this opinion. The physician must not tell your employer any conditions he detects unrelated to occupational exposure to arsenic but must tell you those conditions.

VII. OBSERVATION OF MONITORING

Your employer is required to monitor your exposure to arsenic and you or your representatives are entitled to observe the monitoring procedure. You are entitled to receive an explanation of the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you must also be provided with and must wear the protective clothing and equipment.

VIII. ACCESS TO RECORDS

You or your representative are entitled to records of your exposure to inorganic arsenic upon request to your employer. Your medical examination records can be furnished to your physician if you request your employer to provide them.

IX. TRAINING AND NOTIFICATION

Additional information on all of these items plus training as to hazards of exposure to inorganic arsenic and the engineering and work practice controls associated with your job will also be provided by your employer. If you are exposed over the permissible exposure limit, your employer must inform you of that fact and the actions he is taking to reduce your exposures.

APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES

ARSENIC, ARSENIC TRIOXIDE, ARSENIC TRICHLORIDE (THREE EXAMPLES)

I. Physical and chemical properties

A. Arsenic (metal).
1. Formula: As.
2. Appearance: Gray metal.
3. Melting point: Sublimes without melting at 613C.
4. Specific Gravity: (H20=1):5.73.
5. Solubility in water: Insoluble.

B. Arsenic Trioxide.
1. Formula: As203, (As406).
2. Appearance: White powder.
3. Melting point: 315C.
4. Specific Gravity (H20=1):3.74.
5. Solubility in water: 3.7 grams in 100cc of water at 20c.

C. Arsenic Trichloride (liquid).
1. Formula: AsC13.
2. Appearance: Colorless or pale yellow liquid.
3. Melting point: −8.5C.
4. Boiling point: 130.2C.
5. Specific Gravity (H20=1):2.16 at 20C.
6. Vapor Pressure: 10mm Hg at 23.5C.
7. Solubility in Water: Decomposes in water.

II. Fire, explosion and reactivity data.

A. Fire: Arsenic, arsenic Trioxide and Arsenic Trichloride are nonflammable.

B. Reactivity:
1. Conditions Contributing to Instability: Heat.
2. Incompatibility: Hydrogen gas can react with inorganic arsenic to form the highly toxic gas arsine.

III. Monitoring and Measurement Procedures

Samples collected should be full shift (at least 7-hour) samples. Sampling should be done using a personal sampling pump at a flow rate of 2 liters per minute. Samples should be collected on 0.8 micrometer pore size membrane filter (37mm diameter). Volatile arsenicals such as arsenic trichloride can be most easily collected in a midget bubbler filled with 15 ml. of 0.1 N NaOH.

The method of sampling and analysis should have an accuracy of not less than ±25 percent (with a confidence limit of 95 percent) for 10 micrograms per cubic meter of air (10 $\mu g/m^3$) and ±35 percent (with a confidence limit of 95 percent) for concentrations of inorganic arsenic between 5 and 10 $\mu g/m^3$.

APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES

I. GENERAL

Medical examinations are to be provided for all employees exposed to levels of inorganic arsenic above the action level (5 $\mu g/m^3$) for at least 30 days per year (which would include among others, all employees, who work in regulated areas). Examinations are also to be provided to all employees who have had 10 years or more exposure above the action level for more than 30 days per year while working for the present or predecessor employer though they may no longer be exposed above the level.

An initial medical examination is to be provided to all such employees by December 1, 1978. In addition, an initial medical examination is to be provided to all employees who are first assigned to areas in which worker exposure will probably exceed 5 $\mu g/m^3$ (after the effective date of this standard) at the time of initial assignment. In addition to its immediate diagnostic usefulness, the initial examination will provide a baseline for comparing future test results. The initial examination must include as a minimum the following elements:

(1) A work and medical history, including a smoking history, and presence and degree of respiratory symptoms such as breathlessness, cough, sputum production, and wheezing;

(2) A 14" by 17" posterior-anterior chest X-ray and an International Labor Office UICC/Cincinnati (ILO U/C) rating;

(3) A nasal and skin examination;

(4) A Sputum Cytology examination; and

(5) Other examinations which the physician believes appropriate because of the employee's exposure to inorganic arsenic or because of required respirator use.

Periodic examinations are also to be provided to the employees listed above. The periodic examinations shall be given annually for those covered employees 45 years of age or less with fewer than 10 years employment in areas where employee exposure exceeds the action level (5 $\mu g/m^3$). Periodic examinations need not include sputum cytology and only an updated medical history is required.

Periodic examinations for other covered employees, shall be provided every six (6) months. These examinations shall include all tests required in the initial examination, except that the medical history need only be updated.

The examination contents are minimum requirements. Additional tests such as lateral and oblique X-rays or pulmonary function tests may be useful. For workers exposed to three arsenicals which are associated with lymphatic cancer, copper acetoarsenite, potassium arsenite, or sodium arsenite the examination should also include palpation of superficial lymph nodes and complete blood count.

II. NONCARCINOGENIC EFFECTS

The OSHA standard is based on minimizing risk of exposed workers dying of lung cancer from exposure to inorganic arsenic. It will also minimize skin cancer from such exposures.

The following three sections quoted from "Occupational Diseases: A Guide to Their Recognition", Revised Edition, June 1977, National Institute for Occupational Safety and Health is included to provide information on the nonneoplastic effects of exposure to inorganic arsenic. Such effects should not occur if the OSHA standards are followed.

A. *Local*—Trivalent arsenic compounds are corrosive to the skin. Brief contact has no effect but prolonged contact results in a local hyperemia and later vesicular or pustular eruption. The moist mucous membranes are most sensitive to the irritant action. Conjunctiva, moist and macerated areas of skin, the eyelids, the angles of the ears, nose, mouth, and respiratory mucosa are also vulnerable to the irritant effects. The wrists are common sites of dermatitis, as are the genitalia if personal hygiene is poor. Perforations of the nasal septum may occur. Arsenic trioxide and pentoxide are capable of producing skin sensitization and contact dermatitis. Arsenic is also capable of producing keratoses, especially of the palms and soles.

B. *Systemic*—The acute toxic effects of arsenic are generally seen following ingestion of inorganic arsenical compounds. This rarely occurs in an industrial setting. Symptoms develop within ½ to 4 hours following ingestion and are usually characterized by construction of the throat followed by dysphagia, epigastric pain, vomiting, and watery diarrhea. Blood may appear in vomitus and stools. If the amount ingested is sufficiently high, shock may develop due to severe fluid loss, and death may ensue in 24 hours. If the acute effects are survived, exfoliative dermatitis and peripheral neuritis may develop.

Cases of acute arsenical poisoning due to inhalation are exceedingly rare in industry. When it does occur, respiratory tract symptoms—cough, chest pain, dyspnea—giddiness, headache, and extreme general weakness precede gastrointestinal symptoms. The acute toxic symptoms of trivalent arsenical poisoning are due to severe inflammation of the mucous membranes and greatly increased permeability of the blood capillaries.

Chronic arsenical poisoning due to ingestion is rare and generally confined to patients taking prescribed medications. However, it can be a concomitant of inhaled inorganic arsenic from swallowed sputum and improper eating habits. Symptoms are weight loss, nausea and diarrhea alternating with constipation, pigmentation and eruption of the skin, loss of hair, and peripheral neuritis. Chronic hepatitis and cirrhosis have been described. Polyneuritis may be the salient feature, but more frequently there are numbness and parasthenias of "glove and stocking" distribution. The skin lesions are usually melanotic and keratotic and may occasionally take the form of an intradermal cancer of the squamous cell type, but without infiltrative properties. Horizontal white lines (striations) on the fingernails and toenails are commonly seen in chronic arsenical poisoning and are considered to be a diagnostic accompaniment of arsenical polyneuritis.

Inhalation of inorganic arsenic compounds is the most common cause of chronic poisoning in the industrial situation. This condition is divided into three phases based on signs and symptoms.

First Phase: The worker complains of weakness, loss of appetite, some nausea, occasional vomiting, a sense of heaviness in the stomach, and some diarrhea.

Second Phase: The worker complains of conjunctivitis, a catarrhal state of the mucous membranes of the nose, larynx, and respiratory passage. Coryza, hoarseness, and mild tracheobronchitis may occur. Perforation of the nasal septum is common, and is probably the most typical lesion of the upper respiratory tract in occupational exposure to arsenical dust. Skin lesions, eczematoid and allergic in type, are common.

Third Phase: The worker complains of symptoms of peripheral neuritis, initially of hands and feet, which is essentially sensory. In more severe cases, motor paralyses occur; the first muscles affected are usually the toe extensors and the peronei. In only the most severe cases will paralysis of flexor muscles of the feet or of the extensor muscles of hands occur.

Liver damage from chronic arsenical poisoning is still debated, and as yet the question is unanswered. In cases of chronic and acute arsenical poisoning, toxic effects to the myocardium have been reported based on EKG changes. These findings, however, are now largely discounted and the EKG changes are ascribed to electrolyte disturbances concomitant with arsenicalism. Inhalation of arsenic trioxide and other inorganic arsenical dusts does not give rise to radiological evidence or pneumoconiosis. Arsenic does have a depressant effect upon the bone marrow, with disturbances of both erythropoiesis and myelopoiesis.

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III. SPUTUM CYTOLOGY

Sputum can be collected by aerosol inhalation during the medical exam or by spontaneous early morning cough at home. Sputum is induced by transoral inhalation of an aerosolized solution of eight per cent (8 percent) sodium chloride in water. After inhaling as few as three to five breaths the subject usually yields an adequate sputum. All sputum should be collected directly into sixty percent (60 percent) alcohol.

Scientific evidence suggests that chest X-rays and sputum cytology should be used together as screening tests for lung tests for lung cancer in high risk populations such as workers exposed to inorganic arsenic. The tests are to be performed every six months on workers who are 45 years of age or older or have worked in the regulated area for 10 or more years. Since the tests seem to be complementary, it may be advantageous to alternate the test procedures. For instance, chest X-rays could be obtained in June and December and sputum cytologies could be obtained in March and September. Facilities for providing necessary diagnostic investigation should be readily available as well as chest physicians, surgeons, radiologists, pathologists and immunotherapists to provide any necessary treatment services.

(Pub. L. 91-596; Secs. 4, 6, 8, 84 Stat. 1592, 1593, 1599 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059); 29 CFR Part 1911).

[FR Doc. 78-12170 Filed 5-3-78; 11:00 am]

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federal register

FRIDAY, MAY 5, 1978
PART V



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PRIVACY ACT OF 1974

Systems of Records

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[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PRIVACY ACT OF 1974

Republication of Privacy Act Systems of Records

Action: Publication of Second Annual Compilation of Privacy Act Systems of Records maintained by the Equal Employment Opportunity Commission.

Summary: The Privacy Act of 1974, 5 U.S.C. Sec. 552a(e)(4) (Pub. L. 93-597), requires that each agency publish in the FEDERAL REGISTER at least annually a notice of the existence and character of systems of records it maintains.

A compilation of the Commission's Privacy Act systems of records was most recently published at 41 FR 42170 (September 24, 1976). Since that publication, the following amendments to those systems of records have been made:

1. The "routine use" provision of system EEOC-3, Charge of Discrimination Case Files, was amended to provide for a limited disclosure to Congressional offices (41 FR 46061, October 19, 1976);

2. Additional "routine uses" were adopted for systems EEOC-1, 2 and 4-13 (42 FR 69, January 3, 1977). The additional "uses" generally provide for disclosures from these systems of records to Federal, State and local law enforcement agencies and to the General Services Administration in connection with services provided to the Commission;

3. Notice of proposed amendments to Privacy Act systems EEOC-8 (re-titled "Employee Travel and Reimbursement Records") and EEOC-13 (re-titled "Employee Performance, Effectiveness and Evaluation System") was published at 42 FR 8359 February 9, 1977). These amendments are adopted in final form upon this publication;

4. Additional "routine uses" were adopted for system EEOC-7, Employee Pay and Leave Records (42 FR 69, January 3, 1977). The additional "uses" generally provided for disclosure in providing a copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation;

5. System EEOC-1, Affirmative Action Plan Employee Data, was cancelled at 42 FR 21644 (April 28, 1977) because such records were no longer being maintained. The designation, EEOC-1, is reserved;

6. Notice of the establishment of a new Privacy Act system of records, EEOC-14, Day-Care Center Study Records, was published at 42 FR 56643 (October 27, 1977);

7. Systems of records for the Equal Employment Opportunity Commission are current as of April 1, 1978.

Dates: Notice of this compilation is effective May 5, 1978.

For further information contact: Constance L. Dupre, Associate General Counsel, Legal Counsel Division, EEOC, 2401 "E" Street NW., Washington, D.C. 20506, 202-634-6460.

Supplementary Information: None.

Signed at Washington, D.C., this 24th day of April, 1978.

ELEANOR HOLMES NORTON,
Chair.

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(B) Additional Routine Uses for Systems EEOC—2 and 4-13.

EEOC-1 [Reserved]

EEOC—2

System name: Attorney Referral List—EEOC

System location: All district offices (see appendix).

Categories of individuals covered by the system: Attorneys

Categories of records in the system: Contains attorneys' names, business addresses, telephone numbers, and years of experience. Some offices may maintain the following additional information: (1) the kinds of cases the attorneys are interested in; (2) whether the attorney will handle cases investigated by EEOC; and (3) description of cases handled for plaintiffs and defendants.

Authority for maintenance of the system: 42 U.S.C. 2000e-4(g); 44 U.S.C. 396(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by EEOC personnel as a source of attorneys to whom charging parties can be referred to handle the litigation of their Title VII complaints.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on prepared forms and 3 inch by 5 inch cards.

Retrievability: Indexed alphabetically by names of the attorneys.

Safeguards: Access to this system of records is restricted to EEOC district office personnel who have a legitimate use for the information contained therein. This system is stored in a filing cabinet.

Retention and disposal: Maintained until the Commission is notified that an attorney no longer wishes to be included on the referral list. Upon such notification, records are destroyed by manual shredding.

System manager(s) and address: The District Counsel at each EEOC district office (see appendix).

Notification procedure: Inquiries concerning this system of records should be addressed to the system manager. It is necessary to furnish the following information in order to identify the individual whose records are requested: (1) full name of the individual; (2) mailing address to which reply should be sent.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Attorneys.

EEOC—3

System name: Charge of Discrimination Case Files—EEOC

System location: District office where the charge of discrimination was filed (see appendix).

Categories of individuals covered by the system: Any aggrieved individuals who charge that an unlawful employment practice within the meaning of Title VII of the Civil Rights Act of 1964, as amended, has been committed by an employer, employment agency, labor organization or joint labor-management apprenticeship committee.

Categories of records in the system: Grievance filed by charging party alleging discrimination, original communication, perfected charge, amended charge; copy of deferral letter to state; communication requesting assumption of jurisdiction; receipt for copy of charge; receipt for notification of charge; analysis of deferral agency action or nonaction; charging party's statements and affidavits; report of initial and exit interviews; follow-up letter from charging party; statements and affidavits of charging party's witnesses; statement of respondent and respondent's witnesses; respondent's statement of position; correspondence and documentation related thereto; documentary evidence gathered from respondent such as charging party's records of jobs and earnings, records of jobs and earnings of co-workers, seniority list, job titles and an analysis of such documents; affidavits or statements of any additional witnesses interviewed and copies of any documents submitted by them; observations made on a tour of respondent's facilities, organizational charts, diagrams, summaries of comments made by employees regarding work facilities, EEO data, EEO Report forms; community background data such as racial and ethnic composition, education level by minority group status and sex, average income by minority status and sex, and history of employment relationships; collective bargaining agreements when relevant to the issue and related supplements or modifications to the contracts, copies of any subpoenas issued, and any petitions to modify or revoke; copies of any temporary restraining orders issued to seek preliminary relief in the case; investigator's notices and analysis of data; Decisions and Letters of Determination; conciliation agreements; statements or affidavits of additional witnesses contacted in connection with the investigation made; and any additional evidence gathered during the course of the investigation.

Authority for maintenance of the system: 5 U.S.C. 301, 42 U.S.C. 2000e-5, -8, and -9; 44 U.S.C. 396(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of this system of records is to provide for the federal prohibition against employment discrimination in the private and public sector based on race, color, religion, sex or national origin. The records are the official file to be utilized by authorized EEOC personnel, including investigators, conciliators, attorneys, research assistants and analysts, Commissioners, Compliance personnel and Regional and District Directors, in making an official determination regarding the validity of the charge of discrimination and as supportive material for any cases which are subsequently conciliated, or litigated by the EEOC or the Department of Justice. Other uses include the following: (1) to conduct compliance reviews with local, state and federal agencies, such as the Office of Federal Contract Compliance, Department of Justice, Department of Labor, Office of Revenue Sharing of the Treasury Department, Law Enforcement Assistance Administration, and other federal agencies as may be appropriate or necessary to carrying out the Commission's functions under the Title (See 42 U.S.C. 2000e-4(g)(1), 8(b) and (d); (2) sharing information contained in these records with state and local agenices administering state or local fair employment practices laws (See 42 U.S.C. 2000e-4(g)(1), 8(b) and (d); (3) sharing information in case files with the following person(s) in contemplation of or in connection with Title VII litigation:

(a) Charging Parties and their attorneys;

(b) Aggrieved persons in case files involving Commissioner Charges and their attorneys provided that such persons have been notified of their status as aggrieved persons pursuant to section 1601.25(c) of the Commission's Procedural Regulations;

(c) Persons or organizations filing on behalf of an aggrieved person, provided that the aggrieved person has given written authorization to the person who filed on his or her behalf to act as the aggrieved person's agent for this purpose and their attorneys;

(d) Employees of Commission-funded groups such as the Mexican-American Legal Defense and Education Fund and Lawyer's Committee for Civil Rights Under Law for the purpose of reviewing information in case files to determine the appropriateness of referral to private attorneys as a service to charging parties, provided that the Commission-funded group is reviewing the information at the request of the charging party;

(e) Respondents and their attorneys, provided that the charging party or aggrieved person has filed suit under Title VII; and (4) cooperating with private Title VII litigants and prospective Title VII litigants by allowing, when requested, access to information in other case files involving the same respondent, provided that the information in the other case files is relevant or material to the private litigant's case.

Disclosure of the status of the processing of a charge of employment discrimination may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders, tape and computer print-outs.

Retrievability: Cross-indexed by charging party name, respondent name, and charge number; may be retrieved by any of the above three indexes.

Safeguards: Records are handled by authorized personnel of the Equal Employment Opportunity Commission and others; see routine uses. Premises are locked when authorized personnel are not on duty. Periodic security checks and emergency planning.

Retention and disposal: Case files which are received in the Office of Compliance and the Office of General Counsel are returned to their respective field offices. Files are retired to Federal Records Center one year after the year of the last action, including action in the federal courts or the last compliance review (the final report submitted by the respondent after conciliation to indicate compliance); destroyed after three additional years, except landmark cases, which are retained.

System manager(s) and address: District Director of the field office where charge was filed

Systems exempted from certain provisions of the act: System is exempt under 5 U.S.C. 552a(k)(2).

EEOC—4

System name: Commissioners' Biographical File—EEOC

System location: Office of Congressional Affairs, Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D. C. 20506.

Categories of individuals covered by the system: Current and former Commissioners of EEOC.

Categories of records in the system: Includes name, date and place of birth, education and employment histories, Congressional confirmation hearing transcript, speeches, and publications.

Authority for maintenance of the system: 44 U.S.C. 396(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the staff of the Office of Congressional Affairs to answer public and Congressional inquiries regarding EEOC Commissioners.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on paper.

Retrievability: Indexed alphabetically by last name of the Commissioner.

Safeguards: Stored in standard file cabinets. Available to office employees and Commissioners.

Retention and disposal: Maintained indefinitely.

System manager(s) and address: Director, Office of Congressional Affairs, Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D. C. 20506.

Notification procedure: Inquiries concerning this system of records should be addressed to the system namager. All inquiries should furnish the full name of the individual, and the mailing address to which the reply should be mailed.

Record access procedures: Same as the above.

Contesting record procedures: Same as the Above.

Record source categories: The Commissioner to whom the record pertains, publications, and original data generated by the Commission.

EEOC—5

System name: Correspondence and Congressional Inquiries—EEOC

System location: Office of Congressional Affairs, Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D. C. 20506.

Categories of individuals covered by the system: Current and former EEOC employees, charging parties, members of the general public.

Categories of records in the system: Includes name of inquiring individuals and information submitted by them; date inquiry received, date response due; to whom inquiry assigned; date response sent out; issue raised in the inquiry.

Authority for maintenance of the system: 44 U.S.C. 396(a)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used (a) as a control of incoming correspondence, a record file as to the nature and status of the correspondence, a reference of assignment for outgoing response, a reference to previous correspondence on the same subject; and (b) to avoid duplication of responses and to assure a reply to Congressional inquiries.

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Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in loose-leaf notebooks and on control slips.

Retrievability: Indexed numerically by date of incoming letter and alphabetically by name of the inquiring member of Congress and inquiring party.

Safeguards: Stored in standard file cabinets. Access to the records of daily incoming and outgoing correspondence is limited to office employees. Records of these files are stored in locked desk drawers.

Retention and disposal: Retained for six months after completion of necessary action, then destroyed manually. Material relating to specific subjects becomes part of the subject's official file.

System manager(s) and address: Director, Office of Congressional Affairs, Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D. C. 20506.

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Correspondence from members of Congress and their staffs, charging parties, members of the general public, and data generated within the Commission.

EEOC—6

System name: Employee Alcoholism and Drug Abuse Records—EEOC

System location: Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D. C. 20506, regional and district offices and regional litigation centers (see appendix).

Categories of individuals covered by the system: Current and former employees of EEOC.

Categories of records in the system: Contains information relating to individuals who are referred to the Public Health Service, other agency operating health facilities, alcoholic and drug abuse treatment and/or rehabilitation centers, and private physicians.

Authority for maintenance of the system: 5 U.S.C. 301; 5 U.S.C. 7901; 42 U.S.C. 218; 44 U.S.C. 396(a), 29 CFR 1510; 45 CFR 57.1 et seq.; 38 Federal Register, Part 1401; CSC FPM Letters No. 792-6 and -7; Bureau of the Budget Circular A-68, August 28, 1964; Bureau of the Budget Circular A-72, June 18, 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized personnel of the EEOC Headquarters, regional and district offices, personnel division upon the individual's request, by governmental personnel for purposes of attaining benefits; for disclosure in connection with judicial or administrative proceedings; for disclosure to medical personnel to meet a medical emergency; for disclosure to qualified personnel for purposes of research, audits, or program evaluation; for disclosure of a minor patient to his/her parents under the guidelines set forth in 21 CFR, Part 140.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: Indexed by the names of the persons on whom they are maintained.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure. HM Individual health record card: six years after last entry. Log of visit to facility: if summarized, three months after last entry; if not summarized, two years after last entry. Health record case files, related forms, correspondence and papers which document employee medical history except pre-employment health qualification placement records, disability retirement exams, and fitness for duty examinations which become a part of the OPF (Standard Form 66) upon separation, are maintained for a period of six years after date of last entry.

System manager(s) and address: Director of Personnel, Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D. C. 20506, District and Regional Directors, and Regional Attorneys, EEOC district and regional locations (see appendix).

Notification procedure: Individuals who have been referred to PHS, or other agency operating health facilities are aware of that fact and any inquiries concerning this system should be addressed to the Director of Personnel, headquarters, or the District or Regional Directors and Regional Attorneys at the district and regional locations where individual is currently employed. Individuals should provide their full name, date of birth and social security number.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: The individual to whom the record pertains; private physicians, medical institutions; Veterans Administration benefits program; office of workers' compensation programs, pay and leave allowance cards; health benefits records system, CSC personnel management evaluation and audit record system.

EEOC—7

System name: Employee Pay and Leave Records—EEOC

System location: All locations listed in appendix.

Categories of individuals covered by the system: Current and former employees of EEOC.

Categories of records in the system: Time and attendance cards and forms; leave records (employee name, branch or office, pay period ending, leave and overtime used during the pay period), requests for leave (earned or advance) or leave of absence, requests for and authorization of overtime; annual attendance record (indicates name, social security number, service computation date, hours and dates worked and taken as leave, pay plan, salary and occupation code, grade, leave earned and used); bond issuance and bond balance.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 396(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: May be used by authorized EEOC personnel to keep a daily record of leave and overtime acquired and used; as a basis for maintaining an employee's official time card; and as a counseling aid for employees and to assist in evaluating an employee's performance.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Routine uses of records maintained in this system include providing a copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Chairman. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Chairman.

In the absence of a withholding agreement, the social security number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the social security number, in accordance with Section 7 of the Privacy Act, 5 U.S.C. 552a, Pub. L. 93-579.

Records maintained in this system may be disclosed, as necessary, to employees of the Educational Systems Corporation for research purposes only to study the effects of providing day-care services on the job productivity and worker satisfaction of Commission employees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on prepared forms and on punched and unpunched cards.

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Retrievability: Indexed alphabetically by name, social security number, and/or chronologically by event and name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure. Files are stored in standard cabinets, safes and secured rooms.

Retention and disposal: Maintained from three months to one year. They are then manually destroyed.

System manager(s) and address: Director of each Commission Office or Division at headquarters; Regional and District Directors (see appendix).

Notification procedure: Employees of the Commission wishing to know whether information about them is maintained in this system of records should address inquiries to the Director of the Office or Division where employed or to the District or Regional Director if employed at a field installation (see appendix). Former employees separated from the Commission and no longer in the federal service should address all inquiries to the National Personnel Records Center, General Services Administration, 111 Winnebago Street, St Louis, Missouri 63118. The individual should provide his or her full name, date of birth, social security number and mailing address.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Official personnel folders, data submitted by employees, and data submitted by the offices where the individuals are or were employed.

EEOC—8

System name: Employee Travel and Reimbursement Records

System location: EEOC Headquarters, 2401 E St., N.W., Washington, D.C. 20506

Categories of individuals covered by the system: Current and former EEOC employees

Categories of records in the system: Includes travel orders, records of travel advances, amounts owed the agency by employees for travel and other purposes, amounts payable to the employee for travel and other purposes, payments made to the employees for travel and other reimbursable transactions and a record of the difference between the cost of official travel as estimated in the travel order and the amount actually expended by the employee.

Authority for maintenance of the system: 31 U.S.C. 66a, 44 U.S.C. 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized personnel in the Financial Services Division at headquarters as a record of planned and completed travel expenses; as a justification of government travel disbursements; and to record accounts receivable from and payable to the government for accounts advanced to the employee or owed to the employee for official travel and other purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on magnetic tape.

Retrievability: Indexed by an assigned employee code.

Safeguards: Access to any information maintained therein is limited to employees whose official duties require such access.

Retention and disposal: The records are maintained for the current fiscal year and two preceding fiscal years. They are then retired to the Federal Records Center.

System manager(s) and address: Chief, Financial Services Division, EEOC, 2401 E Street, N.W., Washington, D.C. 20506.

Notification procedure: Inquiries concerning this system of records should be addressed to the System manager. It is necessary to furnish the following information (1) name (2) social security number (3) mailing address to which the response is to be sent.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Bills, receipts, and claims presented by employees and original data generated by the Commission.

EEOC—9

System name: Labor-Management Negotiated Agreements—EEOC

System location: Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D. C. 20506. Regional and district offices.

Categories of individuals covered by the system: Current and former employees of EEOC.

Categories of records in the system: Contains information or documents relating to the Commission's labor-management relations program, including information and decisions by the Department of Labor, - Impasses Panel, and Federal Labor Relations Council.

Authority for maintenance of the system: 5 U.S.C. 301; 5 U.S.C. 7001; 44 U.S.C. 396(a); Lloyd-LaFollette Act of 1912; Executive Order 11491, as amended, 5 CFR 711.101-711.102.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized EEOC personnel to respond to inquiries or requests from parties to the negotiated agreement; inquiries from other federal agencies; a court subpoena or to refer to a District Court; requests by parties having standing under Executive Order 11491, as amended; and in a proceeding authorized by Executive Order 11491, as amended.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders, binders, and on index cards.

Retrievability: Indexed by subject matter and the names of parties involved.

Safeguards: Limited to individuals whose official duties require access and the parties having a standing in a particular labor-management proceeding.

Retention and disposal: Maintained up to five years and sent to the National Archives.

System manager(s) and address: Director of Personnel, Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D. C. 20506. District and Regional Directors at regional and district offices (see appendix).

Notification procedure: Employees and former employees of EEOC wishing to know whether information about them is maintained in this system of records should address inquiries to the Director of Personnel, at the above address, if they are or were employed at headquarters, Washington, D. C. or to the District and Regional Directors at the installation where the individual is or was employed (see appendix). The individuals should provide their full name, date of birth and social security number.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: The individual to whom the record pertains; members of the bargaining unit; EEOC officials whose official duties require access to the records; authorized officials from the Department of Labor, Civil Service Commission, Federal Mediation and Conciliation Service, Federal Labor Relations Council, Federal Service Impasses Panel, and other third parties to disputes resolution, including arbitrators; other federal agencies having a standing in the Commission's dispute or requesting information; research groups; courts and information; research groups; courts and litigation; the Congress upon request.

EEOC—10

System name: Voluntary Programs Skills Bank—EEOC

System location: Office of Voluntary Porgrams, Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D. C. 20506.

Categories of individuals covered by the system: Members of the general public and employees of the federal government who have

voluntarily submitted resumes or statements of personal qualifications for inclusion within the skills bank.

Categories of records in the system: Includes name, address, date of birth, education, employment history, military and criminal histories, special qualifications, voting residence, social security number, letters of recommendation, etc.

Authority for maintenance of the system: 42 U.S.C. 2000e-4(g); 44 U.S.C. 396(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized EEOC personnel in the Office of Voluntary Programs for technical aid to employers requesting Commission assistance in an effort to engage in a remedial action program; assistance to individuals seeking employment; referrals for employment.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Submitted data stored on paper and punch cards.

Retrievability: Indexed by names of individuals, skills and qualifications.

Safeguards: Maintained by authorized personnel only and when not in use kept in locked file cabinet.

Retention and disposal: System kept indefinitely and updated annually. When data is disposed of it is manually shredded.

System manager(s) and address: Director, Office of Voluntary Programs, Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D. C. 20506.

Notification procedure: Individuals who have submitted resumes or statements of personal qualifications are aware of the record on themselves maintained by the Commission. They may, however, contact the system manager regarding the existence of such records pertaining to them. The request should include the full name, date and place of birth of the individual and social security number.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: The individual to whom the record pertains.

EEOC—11

System name: Correspondence File—EEOC

System location: Seattle District Office and Chicago District Office (See Appendix).

Categories of individuals covered by the system: Charging parties, applicants for employment and members of the general public.

Categories of records in the system: Includes name of inquiring individuals and information submitted by them; date inquiry received; date response sent out, issue raised in the inquiry; to whom inquiry assigned.

Authority for maintenance of the system: 44 U.S C. 396(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used (a) as a control of incoming correspondence, a record file as to the nature and status of the correspondence, a reference of assignment for outgoing response, a reference to previous correspondence on the same subject; and (b) to avoid duplication of responses and to assure a reply to all those who have sent inquiries to this office.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored on paper in file folders.

Retrievability: This system is indexed numerically by date of inquiry and alphabetically by name of inquirer for each yearly quarter.

Safeguards: The files are stored in locked file cabinets. Access to the files is limited to office employees.

Retention and disposal: Retained for one (1) year after completion of necessary action, then destroyed manually.

System manager(s) and address: Director, Seattle District Office, Equal Employment Opportunity Commission, Times Square Building, 4th Floor, 414 Olive Way, Seattle, Washington 98101.

Notification procedure: Inquiries concerning this system of records should be addressed to the system manager. It is necessary to furnish the following information in order to identify the individual whose records are requested: (1) full name of the individual , (2) mailing address to which reply should be mailed, (3) date(s) of correspondence.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Correspondence from charging parties, applicants for employment and the general public.

EEOC—12

System name: Officials' Biographical File — EEOC

System location: Office of Public Affairs, Equal Employment Opportunity Commission, Columbia Plaza, 2401 E Street, N. W., Washington, D.C.

Categories of individuals covered by the system: Current and past EEOC officials.

Categories of records in the system: Includes name, date and place of birth, education and employment histories, job duties, past experiences.

Authority for maintenance of the system: 44 U.S.C. 396(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the staff of the Office of Public Affairs to answer public inquiries regarding EEOC officials.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored on paper in file folders.

Retrievability: This system is indexed alphabetically by last name of official.

Safeguards: The files are stored in a standard file cabinet which is available to office employees.

Retention and disposal: Maintained indefinitely.

System manager(s) and address: Director, Office of Public Affairs, Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D.C. 20506.

Notification procedure: Inquiries concerning this system of records should be addressed to the system manager. It is necessary to furnish the following information in order to identify the individual whose records are requested: (1) full name of the individual, (2) mailing address to which reply should be mailed.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The official to whom the information pertains.

EEOC—13

System name: Employee Performance, Effectiveness and Evaluation System.

System location: Dallas Regional Office and District Offices within the Dallas Region [See office addresses at 40 F.R. 39222, August 27, 1975.]

Categories of individuals covered by the system: Equal Employment Specialists employed within the Dallas Region.

Categories of records in the system: Names of employees, dates of evaluations, file numbers of compliance files evaluated, and categorization and description of any errors or deficiencies in the investigation or conciliation, job title and/or grade, and tabulation of units of work completed, and quality control data.

Authority for maintenance of the system: 44 U.S.C. 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Dallas Regional Director, District Directors and Deputy Directors of District Offices within the region for assignment making, for employee evaluation of error patterns, for definition of training needs, and for identification of problems which may be corrected by changing procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored on paper and prepared forms in file folders.

Retrievability: This system is indexed alphabetically by the last name of employee or numerically by employee code.

Safeguards: The files are locked in file cabinets or stored in desk drawers. Access is limited to Commission employees whose official duties require access.

Retention and disposal: Records are retained for two years after preparation or until completion of any grievance, complaint, award, or other action, adverse or otherwise, which may require their retention for longer than two years. They are then destroyed.

System manager(s) and address: Director, Dallas Regional Office and Directors of the District Offices within the Dallas Region [See addresses of offices published at 40 F.R. 39222, August 27, 1975.]

Notification procedures: Inquiries concerning this system of records should be addressed to the system manager. It is necessary to furnish the following information in order to identify the individual whose records are requested: (1) the full name of the individual (2) the district office where the individual is or was employed; (3) social security number; (4) the address to which the response should be sent.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Work units are submitted by employees. Analyses are made of employees' and supervisors' performance by supervisors and District Director, respectively.

EEOC—14

System name: Day Care Center Study Records

System location: Educational Systems Corporation, 1710 N Street, N.W., Washington, D.C. 20036

Categories of individuals covered by the system: In this system will be maintained information on those persons and their children who participate in the EEOC's day-care center study program. An opportunity to participate in this program will be offered to current EEOC employees stationed at the EEOC's Headquarters Office and the Washington District Office. In addition, employees of other federal agencies who are stationed within the EEOC's Headquarters Office building, 2401 E Street, N.W., Washington, D.C., will also be offered an opportunity to enroll their children in the day-care program.

Categories of records in the system: Records will be maintained on three categories of individuals as described below. (1) Only EEOC Headquarters employees are participating in the study aspect of the day-care program. As to them, the following information will be maintained. Employee name, age, sex, ethnic category, education, business and residential address and telephone number, grade level, years in grade, records of interviews with them regarding their impressions of job satisfaction and productivity, records on interviews with them regarding their impressions of the day-care program, and their time and attendance records. (2) EEOC employees at the Washington District Office and employees of other federal agencies stationed within the EEOC Headquarters Office building, 2401 E Street, N.W., Washington, D.C., will be allowed to enroll their children in the day-care program, however, they will not participate in the job productivity and satisfaction study aspect of the program. As to these persons, the following information will be maintained. Employee name, age, sex, ethnic category, and business and residential address and telephone number. (3) With regard to the children enrolled in the day-care center study program, the following information will be maintained. Name, age, sex, ethnic category, health certificate and records of the educational development of participating children.

Authority for maintenance of the system: 42 U.S.C. 2000e-4(g)(5) and 12(a); 44 U.S.C. 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information collected for and maintained in this system will be used for two purposes: (1) the identifying information on all children enrolled in the program, and their parents, will be used for general record keeping purposes; (2) the information obtained from EEOC Headquarters personnel who are participating in the study aspect of the program will be used for research purposes only to study the effects of providing day-care services on the job productivity and worker satisfaction of the participants. The information will be disclosed, as necessary, to employees of Educational Systems Corporation, which is conducting the study. Commission employees will have access to the information obtained only in aggregate form.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on computer tape, computer print-outs and letter sized paper.

Retrievability: Indexed numerically by assigned employee code and alphabetically by employee name.

Safeguards: Stored in standard file cabinets and on computer tapes and print-outs. Access is limited per routine use described above.

Retention and disposal: Retained for one year and then manually destroyed. Individual identifiers will be obliterated by the Educational Systems Corporation prior to the transfer of the study records to the EEOC.

System manager(s) and address: Director, Office of Planning, Research and Systems, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager. All inquiries should furnish the full name of the individual and mailing address to which the reply should be sent. (See EEOC Privacy Act Regulations, 29 CFR Part 1611.)

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information maintained in this system will be obtained from the individual's time and attendance records and from the individuals themselves.

APPENDIX A

ATLANTA REGION
Atlanta Regional Office
Citizens Trust Bldg., Suite 1150
75 Piedmont Avenue, N. E.
Atlanta, Georgia 30303
Atlanta Regional Litigation Center
1389 Peachtree Street, N. E.
Atlanta, Georgia 30309
Atlanta District Office
Citizens Trust Bldg. 10th Floor
75 Piedmont Avenue, N. E.
Atlanta, Georgia 30303
Birmingham District Office
2121 - 8th Avenue, North, Room 824
Birmingham, Alabama 35203
Charlotte District Office
411 North Tryon Street, 2nd Floor
Charlotte, North Carolina 28302
Jackson District Office
200 E. Pascagoula St.
Petroleum Bldg, 5th Floor
Jackson, Mississippi 39201
Memphis District Office
The Dermon I Bldg., Suite 1004
46 North Third Street
Memphis, Tennessee 38103
Miami District Office
Dupont Plaza Center
Suite 414
300 Biscayne Boulevard
Miami, Florida 33132

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CHICAGO REGION
Chicago Regional Office
230 S. Dearborn St.
Room 2641
Chicago, Illinois 60605
Chicago Regional Litigation Center
55 E-Jackson Blvd.
Room 1401
Chicago, Illinois 60605
Chicago District Office
Federal Building, Room 234
536 South Clark Street
Chicago, Illinois 60605
Cincinnati District Office
Federal Building, Room 7019
550 Main Street
Cincinnati, Ohio 45202
Cleveland District Office
Engineers' Building, Room 402
1365 Ontario Street
Cleveland, Ohio 44114
Detroit District Office
Federal Bldg. & Old Courthouse
231 W. Lafayette St., Room 461
Detroit, Michigan 48226
Indianapolis District Office
Federal Building
U.S. Courthouse
46 East Ohio Street, Room 456
Indianapolis, Indiana 46204
Milwaukee District Office
Veterans Administration Bldg.
342 North Water Street, 6th Floor
Milwaukee, Wisconsin 53202
DALLAS REGION
Dallas Regional Office
1100 Commerce Street, Room 5A4
Dallas, Texas 75202
Dallas District Office
Corrigan Tower
212 N. St. Paul
Dallas, Texas 75216
Albuquerque District Office
Western Bank Building
Suite 1515
505 Marquette Avenue, N. W.
Albuquerque, New Mexico 87101
Houston District Office
Federal Building, Room 1101
2320 LaBranch
Houston, Texas 77004
New Orleans District Office
Hale Boggs Fed. Bldg.
500 Camp Street, Room 1007
New Orleans, Louisiana 70130
San Antonio District Office
727 E. Durango, Suite B-601
San Antonio, Texas 78205
KANSAS CITY REGION
Kansas City Regional Office
601 East 12th Street, Room 113
Kansas City, Missouri 64106
Kansas City District Office
911 Walnut Street, Room 500
Kansas City, Missouri 64106
St. Louis District Office
1150 Grand
1st Floor
St. Louis, Missouri 63101
NEW YORK REGION
New York Regional Office
26 Federal Plaza, Room 1615
New York, New York 10007
New York District OFfice
90 Church Street, Room 1301
New York, New York 10007
Boston District Office
150 Causeway Street, Suite 1000
Boston, Massachusetts 02114
Buffalo District Office
One West Genesee Street, Room 1020
Buffalo, New York 14202
Newark District Office
744 Broad St.
Room 502
Newark, New Jersey 07102
PHILADELPHIA REGION
Philadelphia Regional Office
127 North 4th Street, 3rd Floor
Philadelphia, Pennsylvania 19106
Philadelphia Regional Litigation Center
127 North 4th Street, Suite 200
Philadelphia, Pennsylvania 19106
Philadelphia District Office
219 North Broad Street, 2nd Floor
Philadelphia, Pennsylvania 19107
Baltimore District Office
Rotunda Building, Room 210
711 West 40th Street
Baltimore, Maryland 21211
Pittsburgh District Office
Federal Building, Room 2038A
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222
Washington District Office
1717 H Street, N. W., Suite 400
Washington, D. C. 20006
SAN FRANCISCO REGION
San Francisco Regional Office
300 Montgomery Street, Suite 740
San Francisco, California 94104
San Francisco Regional Litigation Center
Grosvenor Plaza, Suite 1010
1390 Market Street
San Francisco, California 94102
San Francisco District Office
Grosvenor Plaza, 3rd Floor
1390 Market Street
San Francisco, California 94102
Denver Regional Litigation Center
1531 Stout Street, 6th Floor
Denver, Colorado 80202
Denver District Office
Columbia Building, 2nd Floor
1845 Sherman Street
Denver, Colorado 80202
Los Angeles District Office
3255 Wilshire Blvd.,
9th Floor
Los Angeles, California 90015
Phoenix District Office
201 N. Central Ave.,
Suite 1450
Phoenix, Arizona 85004
Seattle District Office
Times Square Building, 4th Floor
415 Olive Way
Seattle, Washington 98101

HEADQUARTERS OFFICES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

2401 E Street, N. W.
Washington, D. C. 20506

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OFFICE OF THE VICE CHAIRMAN
OFFICE OF THE COMMISSIONERS
OFFICE OF THE EXECUTIVE DIRECTOR
OFFICE OF THE EQUAL EMPLOYMENT OPPORTUNITY
OFFICE OF RESEARCH
OFFICE OF CONGRESSIONAL AFFAIRS
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APPENDIX B

ADDITIONAL ROUTINE USES FOR SYSTEMS EEOC—2 AND 4-13

The following "routine uses" were adopted by the Equal Employment Opportunity Commission for systems EEOC—2, and 4-13 at 42 F.R. 69 (January 3, 1977):

1. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a "routine use," to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of any employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

4. A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

5. A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc. 78-11996 Filed 4-28-78; 11:31 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
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	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document authorizes expenses and a rate of assessment for the 1977-78 fiscal period, to be collected from handlers to support activities of the Valencia Orange Administrative Committee which locally administers the Federal marketing order covering Valencia oranges grown in Arizona and designated part of California.

DATES: November 1, 1977, through October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: On April 18, 1978, notice was published in the FEDERAL REGISTER (43 FR 16346) inviting written comments not later than May 1, 1978, on proposed expenses, rate of assessment, and carryover of unexpended funds under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. None were received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matter presented, including the proposals in the notice, it is found that:

§ 908.217 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Valencia Orange Administrative Committee during the period November 1, 1977, through October 31, 1978, will amount to $356,040.

(b) The rate of assessment for said period payable by each handler in accordance with § 908.41 is fixed at $0.0145 per carton of oranges.

(c) Unexpended assessment funds in excess of expenses incurred during the fiscal period ended October 31, 1977, shall be carried over as a reserve in accordance with § 908.42.

It is further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) as the order requires that the rate of assessment for a fiscal period shall apply to all assessable Valencia oranges handled from the beginning of the period.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: May 2, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-12434 Filed 5-5-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. D and Q; Docket No. R-0157]

PART 204—RESERVES OF MEMBER BANKS

PART 217—INTEREST ON DEPOSITS

Investment of U.S. Treasury Funds

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has amended Regulation D and Regulation Q to exempt from deposit treatment a member bank's liability on its promissory note that evidences an investment of funds by the United States Treasury. Consequently, these liabilities of member banks will not be subject to the reserve requirements and interest rate limitations imposed on member bank deposits.

EFFECTIVE DATE: July 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen L. Raiken, Associate General Counsel, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3625.

SUPPLEMENTARY INFORMATION: Regulations D and Q provide, in part, that a member bank's liability on its promissory note will not be considered a "deposit" of the member bank if the note is issued to a domestic banking office of another bank, an agency of the United States, or the Government Development Bank of Puerto Rico. Under the amendments adopted today, a note issued by a member bank to evidence an investment of funds by the United States Treasury will also be exempt from deposit treatment.

This action is taken in recognition of Pub. L. 95-147, which authorizes the Secretary of the Treasury to invest operating cash in obligations of depositaries maintaining Treasury tax and loan accounts. The Board of Governors believes that Congress intended that these member bank obligations be exempt from reserve requirements and interest rate limitations. Accordingly, the amendments approved today will promote Congress' purpose in enacting this legislation to provide Treasury with a direct means of obtaining interest on its cash balances. The Treasury has issued rules regarding implementation of this legislation and it is intended that the Board's rules and the Treasury's rules take effect simultaneously on July 6, 1978.

It should be noted that these amendments do not affect the status of Treasury tax and loan accounts as demand deposit accounts. Funds placed in these accounts at member banks will retain their status as demand deposits until such time as they are remitted to the Treasury or until they are invested by Treasury in obligations of the depositaries pursuant to the rules adopted by Treasury. Until such time, member banks will be required to maintain reserves against the Treasury tax and loan demand deposits.

Because these amendments implement legislation enacted by Congress

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and augment rules published by Treasury, the Board believes that significant public benefits will immediately result from their adoption. The immediate adoption of the final rules will remove uncertainty concerning the deposit status of promissory notes issued to Treasury by member banks, and thus will permit banks to begin preparing immediately for participation in the Treasury program. Consequently, the Board has determined that notice and public participation with respect to these amendments is unnecessary and would be contrary to the public interest.

Pursuant to section 19(a) of the Federal Reserve Act (12 U.S.C. 461), effective July 6, 1978, § 204.1(f) of Regulation D (12 CFR 204) and § 217.1(f) of Regulation Q (12 CFR 217) are amended to read as follows:

§ 204.1 Definitions.

• • • • •

(f) *Deposits as including certain promissory notes and other obligations.* For the purposes of this Part, the term "deposits" also includes a member bank's liability on any promissory note, acknowledgment of advance, due bill, banker's acceptance, or similar obligation (written or oral) that is issued or undertaken by a member bank as a means of obtaining funds to be used in its banking business, except any such obligation that:

(1) Is issued to (or undertaken with respect to) and held for the account of (i) a domestic banking office[4] of another bank, or (ii) the United States or an agency thereof, or the Government Development Bank for Puerto Rico;

• • • • •

§ 217.1 Definitions.

• • • • •

(f) *Deposits as including certain promissory notes and other obligations.* For the purposes of this Part, the term "deposits" also includes any member bank's liability on any promissory note, acknowledgment of advance, due bill, or similar obligation (written or oral) that is issued or undertaken by a member bank principally as a means of obtaining funds to be used in its banking business, except any such obligation that:

(1) Is issued to (or undertaken with respect to) and held for the account of (i) a bank or an institution the time deposits of which are exempt from § 217.7 pursuant to § 217.3(g), or (ii) the United States or an agency thereof, or the Government Development Bank for Puerto Rico;

• • • • •

Board of Governors of the Federal Reserve System, April 28, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-12415 Filed 5-5-78; 8:45 am]

[6210-01]

[Regs. B and Z; Docket No. R-0154]

PART 226—TRUTH IN LENDING

Amendment to Procedures for Issuing Official Staff Interpretations; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction.

SUMMARY: This document corrects a previous FEDERAL REGISTER document.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief Staff Attorney; Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3761.

In FR Doc. 78-11758 appearing at page 18540 of the issue for Monday, May 1, 1978, § 226.1(d)(2)(i) should have read:

• • • • •

(d) • • •

"(2)(i) Official staff interpretations will be issued at the discretion of designated officials. No such interpretation will be issued approving creditors' forms or statements. Any request for an official staff interpretation of this Part must be in writing and addressed to the Director of the Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request must contain a complete statement of all relevant facts concerning the credit transaction or arrangement and must include copies of all pertinent documents."

Board of Governors of the Federal Reserve System, May 1, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-12402 Filed 5-5-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER 1—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-NW-11-AD; Amdt. 39-3209]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Airworthiness Directive (AD) requires inspection of the cabin floor support structure of Boeing Model B-747 airplanes in the vicinity of the main landing wheel wells, and repair if necessary. Several instances of cracks in floor beams and one crack in the lower pressure deck have been reported. Cracked floor structure could result in loss of cabin pressurization.

DATE: Effective date: May 16, 1978.

ADDRESSES: Boeing service bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION, CONTACT:

Iven Connally, Airframe Section ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telepone 206-767-2516.

SUPPLEMENTARY INFORMATION: Operators have reported several instances of floor-beam cracks between fuselage stations 1265 and 1480 on Boeing Model B-747 airplanes. In one case, the floor beam had failed through the lower caps, resulting in a 5-inch-long crack in the lower pressure deck. Failure of the floor support structure could result in cabin depressurization and/or failure of passenger seat tracks. This AD is issued to prevent floor support failures which could result in those consequences.

DRAFTING INFORMATION

The principal authors of this document are Iven Connally, Engineering and Manufacturing Branch, and Richard Salwen, Acting Regional Counsel, Northwest Region.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

BOEING: Applies to Model 747 series airplanes certificated in all categories listed in Boeing Service Bulletin 747-53-2183 with more than 5,000 landings. Compliance required as indicated. To prevent floor-beam structural failures accomplish the following:

A. Within 100 landings after the effective date of this AD, unless already accomplished, within the last 100 landings, thoroughly clean the exposed portion of the main deck pressure web inside the main landing gear wheel wells from fuselage stations 1265 to 1480 and visually inspect the pressure web for cracks as described in Boeing Service Bulletin 747-53-2183 or later FAA approved revisions.

1. If no cracks are found, repeat the above visual inspection at intervals not to exceed 200 landings until the internal inspection of paragraph A.2 or paragraph B is accomplished.

2. If cracks are found in the pressure web, before further flight, visually inspect all floor beams for cracks in accordance with Boeing Service Bulletin 747-53-2183 or later FAA approved revisions from fuselage stations 1265 to 1480. Remove all corrosion and repair all cracks in the floor beams and pressure webs in accordance with the Structural Repair Manual, or Boeing Service Bulletin 747-53-2183 or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, ANW-210. Spray the floor beams and pressure webs with BMS-3-23 moisture inhibitor or equivalent. Following repair, reinspect per paragraph B below.

B. Within 2,000 landings or 24 months, whichever comes first, after the effective date of this AD, and thereafter at intervals not to exceed 2,000 landings, visually inspect the floor beams from fuselage stations 1265 to 1480 for cracks in accordance with Boeing Service Bulletin 747-53-2183 or later FAA approved revisions. Repair any cracks in accordance with paragraphs A.2 or C before further flight. After the internal inspection of the floor beams, the main deck pressure web inspection of paragraph A need not be conducted.

C. Modification of the floor beams in accordance with the terminating action procedures described in Boeing Service Bulletin 747-53-2183 or later FAA approved revision, or procedures approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, constitutes terminating action under the provisions of this AD.

D. For purposes of complying with this AD subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hours time-in-service by the operator's fleet average from takeoff to landing for the airplane type. Only pressurized flights need be considered when establishing number of landings on the airplane.

E. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, may adjust the inspection interval if the request contains substantiating data to justify the increase for that operator.

F. Aircraft may be ferried to a base for maintenance in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

This amendment becomes effective May 16, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A107.

Issued in Seattle, Wash., on April 27, 1978.

C. B. WALK, JR.,
Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-12443 Filed 5-5-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-WE-8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zones

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the wording in designated part-time control zone descriptions from "Airman's Information Manual" to "Airport/Facility Directory." The designated part-time control zones' effective dates and times will be carried in the "Airport/Facility Directory" instead of the "Airman's Information Manual."

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261, telephone 213-536-6182.

SUPPLEMENTARY INFORMATION:

HISTORY

Part-time control zone descriptions contained in subpart F, § 71.171 (43 FR 355) of FAR Part 71 include the information that the effective date and time will thereafter be continuously published in the "Airman's Information Manual." On May 18, 1978, this information will be transferred to the new "Airport/Facility directory" and will no longer appear in the "Airman's Information Manual." This will necessitate deletion of the "Airman's Information Manual" and the substitution therefor of "Airport/Facility Directory" in the descriptions.

THE RULE

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the description of designated part-time control zones by deleting the words "Airman's Information Manual" from the text and substituting therefor the words "Airport/Facility Directory."

Since these amendments are editorial in nature and impose no additional burden on any person, notice and public procedure hereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, May 18, 1978.

§ 71.171 [Amended]

In Subpart F, § 71.171 (43 FR 355) the following control zone descriptions are altered by deleting the words "Airman's Information Manual" from the text and substituting therefor the words "Airport/Facility Directory."

Camp Pendleton, Calif.,
Chandler, Ariz.,
Chico, Calif.,
Chino, Calif.,
Crescent City, Calif.,
El Monte, Calif.,
El Toro, Calif.,
Fort Huachuca, Ariz.,
Fort Ord, Calif.,

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Fresno, Calif. (Chandler Municipal Airport),
Fullerton, Calif.,
Grand Canyon, Ariz.,
Lake Tahoe, Calif.,
Lancaster, Calif. (Fox Field),
LaVerne, Calif.,
Livermore, Calif.,
Los Angeles, Calif. (Hawthorne Municipal Airport),
Modesto, Calif.,
Oxnard, Calif. (Ventura County Airport),
Palmdale, Calif.,
Palm Springs, Calif.,
Palo Alto, Calif.,
Palomar, Calif.,
Phoenix, Ariz. (Deer Valley Municipal Airport),
Phoenix-Litchfield, Ariz.,
Redding, Calif.,
Riverside Calif. (Municipal Airport),
San Carlos, Calif.,
San Clemente Island, Calif.,
San Diego, Calif. (Brown Field),
San Diego, Calif. (Montgomery Field),
San Diego, Calif. (San Diego County-Gillespie Field),
San Jose, Calif. (Reid-Hillview Airport),
Santa Ana, Calif. (MCAS),
Santa Ana, Calif. (Orange County Airport),
Santa Monica, Calif.,
Santa Rosa, Calif.,
Scottsdale, Ariz.,
Torrance, Calif.,
Vandenberg AFB, Calif.,
Victorville, Calif.,
Visalia, Calif.,

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on April 25, 1978.

W. R. FREHSE,
Acting Director,
Western Region.

[FR Doc. 78-12442 Filed 5-5-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-PC-2]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a 700 foot and a 1200 foot above the surface transition area within 10 NM and 25 NM respectively, of the Wake Island air navigation aid classified as a VORTAC. This action provides controlled airspace for the protection of aircraft executing instrument approaches to the Wake Island Air Force Base.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone, 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On November 21, 1977, the FAA published for comment a proposal to designate 700 foot and 1200 foot transition areas at Wake Island (42 FR 59758). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Section 71.181 of Part 71 was published in the FEDERAL REGISTER on January 3, 1978, (42 FR 440). Since this action involved in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations designates a 700 foot transition area within a 10 NM radius of the Wake Island VORTAC and a 1200 foot transition area within a 25 NM radius of the Wake Island VORTAC. This action provides controlled airspace for the protection of aircraft executing Standard Instrument Approach Procedures (SIAP) to the Wake Island Air Force Base.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., July 13, 1978, by adding the following:

WAKE ISLAND

That airspace extending upward from 700 feet above the surface within a 10 NM radius of the Wake Island VORTAC; and that airspace extending upward from 1200 feet above the surface within a 25 NM radius of the Wake Island VORTAC.

Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

NOTE: The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 1, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-12447 Filed 5-5-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-PC-1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a 700 foot and a 1200 foot above the surface transition area within 10 NM and 25 NM respectively, of the Johnston Island (Apollo) nondirectional radio beacon (NDB) at Johnston Island, Johnston Atoll. This action provides controlled airspace for the protection of aircraft executing instrument approaches to the Johnston Island Airport.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On November 21, 1977, the FAA published for comment a proposal to designate 700 and 1200 foot transition areas at Johnston Island, Johnston Atoll (42 FR 59757). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Section 71.181 of Part 71 was published in the FEDERAL REGISTER on January 3, 1978 (43 FR 440). Since this action involved, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

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THE RULE

This amendment to Part 71 of the Federal Aviation Regulations designates a 700 foot transition area within a 10 NM radius of the Johnston Island (Apollo) NDB and a 1200 foot transition area within a 25 NM radius of the Johnston Island (Apollo) NDB. This action provides controlled airspace for the protection of aircraft executing Standard Instrument Approach Procedures (SIAP) to the Johnston Island Airport.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., July 13, 1978, by adding the following:

JOHNSTON ISLAND, JOHNSTON ATOLL

That airspace extending upward from 700 feet above the surface within a 10NM radius of the Johnston Island (Apollo) NDB (Lat. 16°44'00"N., Long. 169°32'00"W.); and that airspace extending upward from 1200 feet above the surface within a 25 NM radius of the NDB.

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69.)

NOTE: The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 1, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-12448 Filed 5-5-78; 8:45 am]

[6351-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Revision of Instructions to Registration Forms

AGENCY: Commodity Futures Trading Commission.

ACTION: Adoption of revised instructions to registration forms.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has revised the instructions to its registration forms for all categories of registrants to require that all such forms be filed at the Commission's Central Regional Office in Chicago, Ill. This centralization of processing is expected not only to reduce costs for the Commission but to simplify the registration procedures for many applicants.

The forms which will be affected by this regulation are:

Form 7-R which is the application for registration or renewal of registration as a futures commission merchant, commodity trading advisor or commodity pool operator;

Form 8-R which is the application for registration or renewal of registration as an associated person or floor broker and is also used to furnish supplemental information in connection with an application on Form 7-R; and

Form 3-R on which changes and corrections to registration information are reported.

EFFECTIVE DATE: May 5, 1978.

ADDRESSES: See "Availability of Forms" under SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Robert Shiner, Office of Qualifications and Registration, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-9703.

SUPPLEMENTARY INFORMATION: In May 1977, the Commission consolidated its various registration forms then in use into two basic forms—Form 7-R to be used by firms and individuals seeking registration or renewal of registration as futures commission merchants, commodity trading advisors or commodity pool operators; and Form 8-R to be used by individuals seeking registration or renewal of registration as associated persons or floor brokers, and by certain other individuals who are controlling persons of futures commission merchants, commodity trading advisors and pool operators.[1] These revisions were made, in part, to streamline the Commission's processing of the forms and, in part, to reduce the filing burden by making it possible for certain applicants for registration in more than one capacity (*e.g.*, as a futures commission merchant and a commodity pool operator) to use a single form. Neither of these objectives of the Commission in consolidating its forms has been fully achieved, because certain applicants for dual registration have still been required to make duplicative filings in different regional offices of the Commission.[2]

Until recently, applications for registration were processed by the regional office which received them; however, in an effort to utilize its own resources more efficiently, the Commission has, beginning in April 1978, forwarded all such applications to its Central Regional Office in Chicago for processing. The Commission is hereby changing the instructions on the registration forms to conform to this new procedure by requiring that all applications for registration be sent directly to its Central Regional Office.

This centralization of processing is expected not only to reduce costs for the Commission but to simplify the registration procedures for many applicants. All applicants for initial registration as futures commission merchants, commodity trading advisors or commodity pool operators, which are seeking registration in more than one capacity, will hereafter be able to file one form (Form 7-R) with one Commission office for their multiple registrations. Also, individuals who are applying for registration as an associated person on Form 8-R and who also are applying for registration on Form 7-R in another capacity (e.g., as a commodity trading advisor) will send both forms to the Central Regional Office, and any necessary contacts between the Commission and the applicant concerning registration matters will be made through that office.[3]

As stated in the "Special Notice" on the first page of Forms 7-R and 8-R, the application forms, and schedules and supplements thereto, are considered by the Commission to be public records. These records, which have formerly been publicly available at the various regional offices where they were filed, will now be maintained in the public reference facilities of the Central Regional Office of the Commission. Section 3 of the "Special Notice" has been amended to reflect this change.

[1] *See* 42 FR 23988 (May 11, 1977).

[2] At present, applications for registration as a futures commission merchant or a floor broker are filed with the Commission's regional office nearest to the applicant; applications for registration as a commodity trading advisor or commodity pool operator are filed at the Commission's Eastern Regional Office in New York; and applications for registration as an associated person are filed at the Commission's Central Regional Office in Chicago.

[3] The Commission is aware that this new procedure may be slightly less convenient for applicants or registrants located in New York or Kansas City who were able, formerly, to file these applications in person at the Eastern or Southwestern Regional Offices of the Commission. The Commission, however, believes that the general benefits described above outweigh this consideration. Detailed questions concerning applications will now be answered by telephone or letter from the Central Regional Office.

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AVAILABILITY OF FORMS

Forms with the revised instructions will be available about July 15, 1978. However, beginning May 5, 1978, all Form 3-R's, Form 7-R's and Form 8-R's should be sent to the Commission's Central Regional Office.

Blank forms will continue to be available at the Commission's main office in Washington, D.C., and at all Commission regional offices. Addresses are listed below:

Washington, D.C. Office, 2033 K Street NW., Washington, D.C. 20581.
Eastern Regional Office, One World Trade Center, Suite 4747, New York, N.Y. 10048.
Central Regional Office, 233 South Wacker Drive, 46th Floor, Chicago, Ill. 60606.
Minneapolis Office, Central Region, 510 Grain Exchange Building, Minneapolis, Minn. 55415.
Southwestern Regional Office, 4901 Main Street, Room 208, Kansas City, Mo. 64112.
Western Regional Office, Two Embarcadero Center, Suite 975, San Francisco, Calif. 94111.

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Pursuant to Commission regulation 13.5(b)(2) (17 CFR 13.5(b)(2)) and the Administrative Procedure Act, 5 U.S.C. 553(b) (1970), the Commission for good cause finds that notice and public procedure with respect to the foregoing revisions are unnecessary. The Commission's reasons for so finding are that the revisions relate solely to the Agency's internal procedures for processing application forms and impose no additional burdens upon applicants. Thus, pursuant to sections 4d, 4e, 4f, 4k, 4m, 4n, and 8a of the Commodity Exchange Act, as amended (7 U.S.C. 6d, 6e, 6f, 6k, 6m, 6n, and 12a (1976).), the Commission hereby revises section 3 of the Special Notice of Form 7-R and Form 8-R, and instructions to Form 3-R, Form 7-R and Form 8-R, as set forth below:

CFTC FORM 7-R—SPECIAL NOTICE (PAGE 1)

Section 3 is revised to read as follows:

This application is considered by the Commission as a public record and will be available for inspection by any interested person. Copies wil be maintained in the public reference facilities of the Commission's Central Regional Office at Sears Tower, 46th Floor, 233 South Wacker Drive, Chicago, Ill. 60606. If the applicant believes that the placing of the information on this form, including Schedules A, B, or C, in the Commission's public files would reveal sensitive business information, or would constitute a clearly unwarranted invasion of personal privacy, the applicant may petition the Commission to treat such information as nonpublic in response to requests under the Freedom of Information Act (5 U.S.C. 552).

CFTC FORM 7-R—INSTRUCTIONS (PAGE 4)

The paragraph beginning "Who Must File" is revised to read as follows:

All futures commission merchants, commodity trading advisors and commodity pool operators must file this form in order to be registered with the Commission. Registration in one category (e.g., futures commission merchant) subject to regulation under the Commodity Exchange Act does not include registration in any other category subject to regulation under the Act (e.g., commodity pool operator). However, the same Form 7-R may be used for simultaneous application for registration, or renewal of registration, in more than one category. Where an applicant files a separate application for registration in one category and the information asked for in an item on a form has previously been provided by the applicant in response to the same or similar items contained in an application or supplement thereto, for registration in another category, such item may be answered by reference to the previous application or supplement thereto.

The paragraph beginning "Where to File" is revised to read as follows:

Futures commission merchants, commodity trading advisors and commodity pool operators should send their applications for registration or reregistration to the Central Regional Office of the Commodity Futures Trading Commission at Sears Tower, 46th Floor, 233 S. Wacker Drive, Chicago, Ill. 60606. Send the original copy of the completed Form 7-R, together with the registration fee. Retain the completed duplicate copy for your files. Also enclose related Form 8-R's, if any.

CFTC FORM 8-R—SPECIAL NOTICE (PAGE 1)

Section 3 is revised to read as follows:

This form, with the exception of the supplementary attachments to items 3, 4 and 12 (if any), is considered by the Commission as a public record and will be available for inspection by any interested person. Copies will be maintained in the public reference facilities of the Commission's Central Regional Office at Sears Tower, 46th Floor, 233 S. Wacker Drive, Chicago, Ill. 60606. The Commission may disclose supplementary information in items 3, 4, and 12 to third parties (1) in connection with matters in litigation; (2) in connection with Commission investigations; (3) where the information is furnished to regulatory, self-regulatory and law enforcement agencies to assist them in meeting responsibilities assigned to them by law; (4) where disclosure is required under the Freedom of Information Act (5 U.S.C. 552); and (5) in other circumstances in which withholding of such information appears unwarranted. If the individual believes that the placing of any other information on this form in the Commission's public files would constitute an unwarranted invasion of his personal privacy or would reveal sensitive business information, he may petition the Commission to treat such information as non-public in response to requests under the Freedom of Information Act.

CFTC FORM 8-R—INSTRUCTIONS (PAGE 4)

The paragraph beginning "Where to File" is revised to read as follows:

Send the original copy of the completed form and the registration fee, if applicable, to the Central Regional Office of the Commodity Futures Trading Commission at Sears Tower, 46th Floor, 233 S. Wacker Drive, Chicago, Ill. 60606. If you are filing in connection with the registration of a futures commission merchant, commodity trading advisor, or commodity pool operator, attach the original copy of the completed Form 8-R to the related Form 7-R. Retain the completed duplicate copy of Form 8-R for your files.

CFTC FORM 3-R—INSTRUCTIONS (ON REVERSE SIDE OF FORM)

Section 7 on "Where to File" is revised to read as follows:

Send the completed form to the Central Regional Office of the Commodity Futures Trading Commission at Sears Tower, 46th Floor, 233 S. Wacker Drive, Chicago, Ill. 60606. A duplicate copy of this statement should be kept for your files.

Issued in Washington, D.C., on May 2, 1978, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-12335 Filed 5-5-78; 8:45 am]

[4710-06]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER E—VISAS

[Dept. Reg. 108.755]

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Miscellaneous Amendments

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: Various of the Department's regulations governing immigrant visas are revised because of recent changes in law and for the sake of clarity. All of the changes are largely technical in nature.

EFFECTIVE DATE: May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald M. Brown, 202-632-1983.

SUPPLEMENTARY INFORMATION: The intent of § 42.65 (a), (b), and (d) and of section 203(e) of the Act, upon which they are based, is to provide for termination of registration of all categories of immigrants. The actual language used implied that the regulation applied only to numerically limited classes of immigrants. Section 42.65 (a), (b), and (d) are amended to make it clear that all categories of immigrants are subject to its provisions.

The abolition of contract location physicians necessitates the amendment of §§ 42.91(a)(1-6)(i) and 42.113(b) to eliminate reference to them.

Section 42.91(a)(10)(iv) has been rewritten largely in the interests of clarity.

Section 42.91(a)(12)(iii) is amended to include all persons contemplated under section 212(a)(12) of the Act, not just prostitutes and former prostitutes. The law requires this interpretation; and the Department has always adhered to the meaning of the law. Omission of the other categories from the regulations was an oversight.

Section 42.91(a)(22) is amended to render ineligible for an immigrant visa an alien who departed from or remained outside of the United States in order to avoid or evade service in the Armed Forces while he was in nonimmigrant status. Section 212(a)(22) of the Act requires such an interpretation, and the Department has always followed the meaning of the law. The previous exemption of this class of aliens in the regulation was a mistake.

The enactment on October 12, 1976 of Pub. L. 94-484, the Health Professions Educational Assistance Act of 1976, specifically Title VI, requires that § 42.91(c) be amended.

Section 42.124(a)(3) is amended to reflect the change in the starting date for the fiscal year.

Accordingly, Part 42 of Title 22, Code of Federal Regulations, is revised as set forth below.

§ 42.65 [Amended]

1. Amend § 42.65(a) by changing "on an immigrant visa waiting list" to read "for an immigrant visa".

2. Amend § 42.65(b) by changing "on an immigrant visa waiting list" to read "for an immigrant visa".

3. Amend § 42.65(d) by changing "on an immigrant visa waiting list" to read "for an immigrant visa".

§ 42.91 [Amended]

4. Amend § 42.91(a)(1-6)(i) by deleting the comma following "Health Service", by deleting "of a contract location physician," and by deleting "contract location or".

5. Section 42.91(a)(10)(iv) is amended to read as follows:

§ 42.91 Aliens ineligible to receive visas.

(a) *Aliens ineligible under the provisions of section 212(a) of the Act.*

• • • • •

(10) *Conviction of two or more offenses.* • • •

(iv) An alien shall not be considered ineligible to receive a visa under section 212(a)(10) of the Act by reason in part of having been convicted of an offense for which a full and unconditional pardon has been granted by the President of the United States, by the Governor of a State of the United States, by the former High Commissioner for Germany, acting pursuant to Executive Order 10062, or by the United States Ambassador to the Federal Republic of Germany acting pursuant to Executive Order 10608. A legislative pardon or a pardon, amnesty, expungement of penal record or any other act of clemency granted by a foreign state shall not serve to remove a ground of ineligibility under section 212(a)(10) of the Act.

• • • • •

6. Section 42.91(a)(12)(iii) is amended to read as follows:

§ 42.91 Aliens ineligible to receive visas.

(a) *Aliens ineligible under the provisions of section 212(a) of the Act.*

• • • • •

(12) *Prostitution, procuring and related activities.* • • •

(iii) A person who comes under one or more of the categories of persons described in section 212(a)(12) of the Act shall be ineligible to receive a visa under that section notwithstanding the fact that the acts engaged in may not be prohibited under the laws of the foreign country where the acts occurred.

• • • • •

§ 42.91 [Amended]

7. Amend § 42.91(a)(22) by deleting the comma following "if" and by deleting "having other than non-immigrant status,".

8. Amend § 42.91(c) by deleting the comma after "(84 Stat. 116)" and by adding immediately thereafter "and by the Act of October 12, 1976 (90 Stat. 2301),".

§ 42.113 [Amended]

9. Amend § 42.113(b) by deleting "by a contract location physician or".

§ 42.124 [Amended]

10. Amend § 42.124(a)(3) by changing "July 1 of each year," to read "the first day of each fiscal year,".

AUTHORITY: These amendments are issued pursuant to the authority contained in section 104 of the Immigration and Nationality Act (8 U.S.C. 1104). Compliance with section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendments contained in this order are interpretative and editorial in nature.

Dated: March 30, 1978.

BARBARA M. WATSON,
Assistant Secretary for Consular Affairs.

[FR Doc. 78-12389 Filed 5-5-78; 8:45 am]

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER F—ENROLLMENT

PREPARATION OF ROLLS OF CERTAIN TRIBES AND BANDS OF INDIANS

APRIL 17, 1978.

AGENCY: Bureau of Indian Affairs.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is making miscellaneous changes to its regulations by revoking certain parts in their entirety, and by revoking certain paragraphs of another part. These amendments are necessary because the rolls for which the regulations were issued have been completed, thus the regulations no longer have any effect on either the Bureau or the public.

FOR FURTHER INFORMATION CONTACT:

Ms. Janet L. Parks, Chief, Branch of Tribal Enrollment Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245, 202-343-2985; principal author, Janet L. Parks.

EFFECTIVE DATE: This amendment shall become effective May 8, 1978.

SUPPLEMENTARY INFORMATION: It is generally the policy of the Department of the Interior to allow time for interested persons to take part in the rulemaking process. However, this amendment is entirely administrative in nature. The public rulemaking process is dispensed with under the exception provided in 5 U.S.C. 553(b)(B)(1970).

This amendment is made pursuant to the authority vested in the Secretary of Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Subchapter F, Chapter I, Title 25 of the Code of Federal Regulations is hereby amended as follows:

PART 41—PREPARATION OF ROLLS OF INDIANS

§ 41.3 [Amended]

Part 41, § 41.3 is amended by revoking the following paragraphs:

(b) Tlingit and Haida Tribes in Alaska.
(c) Miami Indians of Oklahoma and Indiana.
(d) Nooksack Tribe of Indians.
(e) Duwamish Tribe of Indians.
(f) Omaha Tribe of Nebraska.
(g) Quileute Tribe of Indians.

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(h) Hoh Tribe.
(i) Brotherton Indians of Wisconsin.
(j) Upper and Lower Chehalis Tribes of Indians.
(k) Delaware Nation of Indians.
(l) Southern Paiute Nation of Indians.
(m) Wea, Piankashaw, Peoria and Kaskaskia Indians.
(n) Chemehuevi Tribe of Indians.
(p) Miami Indians of Oklahoma and Indiana.
(q) Wea, Piankashaw, Peoria and Kaskaskia Indians.
(u) Fort Sill Apache Tribe.
(v) Cherokee Nation of Oklahoma.
(aa) Apache Tribe of Oklahoma.

The following Parts of Subchapter F are revoked in their entirety:

PART 43—ENROLLMENT OF INDIANS OF THE CABAZON, AUGUSTINE, AND TORRES-MARTINEZ BANDS OF MISSION INDIANS IN CALIFORNIA [REVOKED]

PART 43a—MEMBERSHIP ROLL OF PONCA TRIBE OF NATIVE AMERICANS OF NEBRASKA [REVOKED]

PART 43b—PREPARATION OF A ROLL TO SERVE AS THE BASIS FOR THE DISTRIBUTION OF THE JUDGMENT FUNDS AWARDED THE CHEROKEE BAND OF SHAWNEE INDIANS [REVOKED]

PART 43c—PREPARATION OF A ROLL TO SERVE AS THE BASIS FOR THE DISTRIBUTION OF THE JUDGMENT FUNDS AWARDED THE NEHALEM AND TILLAMOOK BANDS OF THE TILLAMOOK INDIANS [REVOKED]

PART 43d—PREPARATION OF A ROLL TO SERVE AS THE BASIS FOR THE DISTRIBUTION OF THE JUDGMENT FUNDS AWARDED THE SNAKE OR PAIUTE INDIANS OF THE FORMER MALHEUR RESERVATION [REVOKED]

PART 43e—PREPARATION OF A ROLL TO SERVE AS THE BASIS FOR DISTRIBUTION OF JUDGMENT FUNDS AWARDED TO CERTAIN PERSONS OF CALIFORNIA INDIAN DESCENT [REVOKED]

PART 43f—PREPARATION OF ROLLS TO SERVE AS THE BASIS FOR DISTRIBUTION OF JUDGMENT FUNDS AWARDED THE CREEK NATION OF INDIANS IN INDIAN CLAIMS COMMISSION DOCKETS NUMBERED 21 AND 276 [REVOKED]

PART 43i—PREPARATION OF A ROLL TO SERVE AS THE BASIS FOR THE DISTRIBUTION OF JUDGMENT FUNDS AWARDED TO THE NORTHWESTERN BAND OF SHOSHONE INDIANS [REVOKED]

PART 43j—PREPARATION OF A ROLL TO SERVE AS THE BASIS FOR THE DISTRIBUTION OF JUDGMENT FUNDS AWARDED TO THE DELAWARE TRIBE OF INDIANS AND THE ABSENTEE DELAWARE TRIBE OF WESTERN OKLAHOMA [REVOKED]

PART 43k—REVISION OF THE FINAL ROLL OF THE MENOMINEE TRIBE OF WISCONSIN [REVOKED]

PART 43m—BRINGING UP TO DATE OF THE MEMBERSHIP ROLL OF THE CABAZON BAND OF MISSION INDIANS TO BE USED AS THE BASIS TO DISTRIBUTE JUDGMENT FUNDS [REVOKED]

PART 44—PREPARATION OF ROLLS FOR THE DISTRIBUTION OF FUNDS AWARDED CERTAIN INDIAN TRIBES OR BAND OF OREGON [REVOKED]

PART 45—PREPARATION OF A ROLL FOR THE DISTRIBUTION OF THE JUDGMENT AWARDED THE OTOE AND MISSOURIA TRIBE [REVOKED]

PART 49—PREPARATION OF A ROLL FOR THE DISTRIBUTION OF THE JUDGMENT AWARDED THE QUAPAW TRIBE [REVOKED]

PART 50—PREPARATION OF A MEMBERSHIP ROLL TO SERVE AS THE BASIS FOR THE DISTRIBUTION OF THE JUDGMENT FUNDS AWARDED TO THE OMAHA TRIBE OF INDIANS [REVOKED]

No further changes are made in Subchapter F.

Since this amendment is of an administrative nature and the regulations being revoked will have no further impact on the public, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970).

NOTE.—The Bureau of Indian Affairs has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

[FR Doc. 78-12405 Filed 5-5-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7545]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Repeal of Section 963 of Subpart F

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the repeal of the minimum distribution rules for controlled foreign corporations. Changes to the applicable tax law were made by the Tax Reduction Act of 1975. These regulations provide necessary guidance to the public for compliance with the law, and affect certain United States corporate shareholders of controlled foreign corporations.

DATE: The regulations are effective generally for taxable years of United States corporate shareholders or controlled foreign corporations ending after December 31, 1975.

FOR FURTHER INFORMATION CONTACT:

Jason R. Felton of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-4473, not a toll-free number.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On March 3, 1977, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 963 of the Internal Revenue Code of 1954, 42 FR 12199. The amendments were proposed to conform the regulations to section 602 (a)(1) of the Tax Reduction Act of 1975 (89 Stat. 58). After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

SECTION 963

A new section in the regulations, § 1.963-0, provides for the repeal of section 963 in § 1.963-1 through § 1.963-7. This new section also contains transitional rules for 1976, the first year in which the repeal is effective. In addition, § 1.963-0 has a provision that requires deficiency distributions to be made for appropriate taxable years subsequent to the repeal of section 963. Finally, § 1.963-0 (d) provides that any special adjustments to be made under the special rules of section 963 and the regulations thereunder (such as the special adjustments required under § 1.963-4), for a taxable year subsequent to the taxable year in which an election to receive a minimum distribution under section 963 was made, shall be made notwithstanding the repeal of section 963. This provision has been redrafted for clarity. Thus, no substantive changes were made.

CROSS-REFERENCES

Sections 1.1248-3 and 1.1248-4 have cross-references to section 963 or the regulations thereunder. These cross-references are used in a substantive manner that is unrelated to the minimum distribution concept. Since these provisions will survive the repeal of section 963, they have been amended in order to restate the same rules but without any reference to section 963.

A second group of cross-references to section 963 or the regulations thereunder has prospective effect despite the repeal of section 963. In each of these cases, the cross-reference relates to an event that took place in a year in which section 963 was in effect. This kind of event will continue to have tax consequences for taxable years subsequent to the repeal of section 963. Therefore, in order to assure the retention of these references in the regulations, the parenthetical "(applied as if section 963 had not been repealed by the Tax Reduction Act of 1975)" was added to the following provisions:

Sec.
1.952-1 (c)(2)(ii).
1.959-3 (b)(3).
1.960-1 (c)(1)(v).
1.964-1 (b)(2) (flush material).
1.964-1 (c)(2).
1.964-1 (c)(6)(iv) and (flush material).
1.964-2 (c)(1) (flush material).

The language of the parenthetical in the proposed regulations, "(as in effect prior to the Tax Reduction Act of 1975)," has been changed to make clear the intent of the amendment.

A third group of cross-references has no application for years subsequent to the repeal of section 963. Due to the effective date method of repeal used in § 1.963-0, no amendment of the following sections was required:

Sec.
1.78-1 (a).
1.78-1 (f).
1.864-5 (d).
1.951-1 (a)(2)(i).
1.952-1 (c)(2)(iii).
1.960-2 (a).
1.964-1 (b)(3) (Example (2)).
1.964-1 (c)(5).
1.964-3 (b)(1).
1.964-3 (c)(2).
1.964-4 (c).

Three cross-references were handled previously by T.D. 7481 published in the FEDERAL REGISTER (42 FR 20123) on April 18, 1977 (relating to the foreign tax credit for United States corporate shareholders in foreign corporations):

Sec.
1.902-1 (b)(1)(viii).
1.902-1 (g)(1).
1.902-1 (g)(2).

SECTION 1.902-1(g)(1) ELECTION

Paragraph 1 of the proposed regulations amended § 1.902-1(g)(3) by including a special election rule for corporate United States shareholders that have made a section 963 election in their last taxable year beginning before January 1, 1976. A comment suggested that the 30-day election period provided in the proposed regulations is inconsistent with the election allowed controlled foreign corporations that never made the § 1.902-1(g)(1) election or did not make the election for its last taxable year beginning before January 1, 1976. After considering this comment, it was decided that it would be inappropriate to allow some, but not all, taxpayers to make the election. Therefore, this paragraph has been deleted.

OTHER CHANGES

Paragraph 3 of the proposed regulations published on March 3, 1977 (42 FR 12199) amended the notice of proposed rulemaking published on August 9, 1976 (41 FR 33290) (relating to foreign base company shipping income). Since these latter proposed regulations have not been adopted, it would be inappropriate to adopt amendments to those regulations at this time.

DRAFTING INFORMATION

The principal author of this regulation was Karl P. Fryzel of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the proposed amendments to the regulations other than those contained in paragraph 3, which will remain outstanding, are adopted subject to the changes set forth below:

PARAGRAPH 1. The third sentence of paragraph (g)(3) of § 1.902-1, as set forth in paragraph 1 of the notice of proposed rulemaking, is deleted.

PAR. 2. The amendments contained in paragraphs 2, 4, 5, 7, and 8 of the notice of proposed rulemaking are revised by deleting "(as in effect prior to the Tax Reduction Act of 1975)" each time it appears and inserting in its place, "(applied as if section 963 had not been repealed by the Tax Reduction Act of 1975)".

PAR. 3. Paragraph (d) if § 1.963-0, as set forth in paragraph 6 of the notice of proposed rulemaking, is revised to read as follows:

§ 1.963-0 *Repeal of section 963; effective dates.*

. . . . . .

(d) *Elections and special adjustments pursuant to section 963 to be taken into account for taxable years subsequent to the repeal of section 963.* If a United States shareholder of a controlled foreign corporation elects to receive a minimum distribution under section 963 for a taxable year, section 963 and the regulations thereunder may require certain elections and adjustments to be made in subsequent taxable years. These elections and adjustments shall be taken into account for subsequent taxable years as if section 963 were still in effect and no election to receive a minimum distribution were made after the effective date of the repeal of section 963. Examples of these elections and special adjustments include, but are not limited to, the election which may be made pursuant to § 1.963-3(g)(2), relating to the special extended distribution period, and the special adjustments to be made pursuant to § 1.963-4, relating to the minimum overall tax burden test.

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This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

Approved: March 31, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

§ 1.952-1 [Amended]

Par. 1. Section 1.952-1(c)(2)(ii) is amended by inserting "(applied as if section 963 had not been repealed by the Tax Reduction Act of 1975)" immediately after the words "or paragraph (d)(2)(ii) of § 1.963-2".

§ 1.959-3 [Amended]

Par. 2. Paragraph (b)(3) of § 1.959-3 is amended by adding "(applied as if section 963 had not been repealed by the Tax Reduction Act of 1975)" immediately after the words "paragraph (e) of § 1.963-3".

§ 1.960-1 [Amended]

Par. 3. Paragraph (c)(1)(v) of § 1.960-1 is amended by adding "(applied as if section 963 had not been repealed by the Tax Reduction Act of 1975)" immediately after the words "paragraph (e) of § 1.963-3".

Par. 4. The following new section is added immediately after § 1.963:

§ 1.963-0 Repeal of section 963; effective dates.

(a) *Repeal of section 963.* Except as provided in paragraphs (b) and (c) of this section, the provisions of section 963 and §§ 1.963-1 through 1.963-7 are repealed for taxable years of foreign corporations beginning after December 31, 1975, and for taxable years of United States shareholders (within the meaning of section 951(b)) within which or with which such taxable years of such foreign corporations end.

(b) *Transitional rules for chain or group election*—(1) *In general.* If a United States shareholder (within the meaning of section 951(b) makes either a chain election pursuant to § 1.963-1(e) or a group election pursuant to § 1.963-1(f) for a taxable year of such shareholder beginning after December 31, 1975, then a foreign corporation shall be includible in such election only if—

(i) It has a taxable year beginning before January 1, 1976, which ends within such taxable year of the United States shareholder, and

(ii) It is either—

(A) A controlled foreign corporation or

(B) A foreign corporation by reason of ownership of stock in which such shareholder indirectly owns (within the meaning of section 958(a)(2)) stock in a controlled foreign corporation to which this subparagraph applies.

(2) *Series rule.* If any foreign corporation in a series of foreign corporations is excluded by subparagraph (1) of this paragraph from a chain or group election of a United States shareholder for its taxable year, then any foreign corporation in which the United States shareholder owns stock indirectly by reason of ownership of stock in such excluded corporation shall also be excluded from such election to the extent of such indirect ownership regardless of when its taxable year begins.

(3) *Illustration.* The application of this paragraph may be illustrated by the following example:

Example. (a) M is a domestic corporation, A, B, D, and E are controlled foreign corporations, and C is a foreign corporation other than a controlled foreign corporation. All five foreign corporations, each have only one class of stock outstanding. M owns directly all of the stock of A, which in turn owns directly all of the stock of B, which in turn owns directly 60 percent of the stock of D, which in turn owns directly all of the stock of E. M also owns directly 40 percent of the stock of C, which in turns owns directly the remaining 40 percent of the stock of D. M is a United States shareholder with respect to no other foreign corporation. M and B each use the calendar year as the taxable year. A, C, D, and E each use a fiscal year ending on November 30 as the taxable year. For calendar year 1976, M may make either a first-tier election with respect to A, a chain election with respect to C and D (to the extent of M's indirect 16-percent stock interest in D by reason of its direct ownership of 40 percent of the stock of C) or a group election with respect to A, C, D (to the extent of such 16-percent stock interest) and E (to the extend of M's indirect 16-percent stock enterest in E).

(b) M's indirect 100 percent stock interest in B will be excluded from any chain or group election made by M for calendar year 1976 since B is a controlled foreign corporation which does not have a taxable year beginning before January 1, 1976, which ends within the taxable year of M beginning after December 31, 1975, for which M has made either a chain or group election.

(c) M's indirect 60 percent stock interest through A and B in D and E will be excluded from any chain or group election made by M for calendar year 1976 since such 60 percent interests are indirectly owned by M by reason of its indirect ownership of stock in B, which is a foreign corporation which does not have a taxable year beginning before January 1, 1976, which ends within the taxable year of M beginning after December 31, 1975, for which M has made either a chain or group election.

(d) If C used the calendar year as its taxable year and was therefore excluded from a chain election made with respect to it and D, then D would also be excluded from such an election, since D would then be a foreign corporation in which M owns stock indirectly by reason of ownership of stock in C, which is excluded from such election.

(c) *Deficiency distributions.* The rules relating to deficiency distributions under section 963(e)(2) and § 1.963-6 shall continue to apply to a taxable year beginning after the effective date of the repeal of section 963 in which it is determined that a deficiency distribution must be made for an earlier taxable year for which a United States shareholder made an election to secure the exclusion under section 963 but failed to receive a minimum distribution.

(d) *Special adjustments pursuant to section 963 to be taken into account for taxable years subsequent to the repeal of section 963.* If a United States shareholder of a controlled foreign corporation elects to receive a minimum distribution under section 963 for a taxable year, section 963 and the regulations thereunder may require certain elections and adjustments to be made in subsequent taxable years. These elections and adjustments shall be taken into account for subsequent taxable years as if section 963 were still in effect and no election to receive a minimum distribution were made after the effective date of the repeal of section 963. Examples of these elections and special adjustments include, but are not limited to, the election which may be made pursuant to § 1.963-3(g)(2), relating to the special extended distribution period, and the special adjustments to be made pursuant to § 1.963-4, relating to the minimum overall tax burden test.

§ 1.964-1 [Amended]

Par. 5. Section 1.964-1 is amended by adding "(applied as if section 963 had not been repealed by the Tax Reduction Act of 1975)" in the following places:

1. Immediately after the words "under section 963(c) (2)(B) or (3)(B)" in the second sentence following paragraph (b)(2)(ii).

2. Immediately after the words "under section 963(c) (2)(B) or (3)(B)" in paragraph (c)(2).

3. Immediately after the words "under section 963" in paragraph (c)(6)(iv) and immediately after the words "under section 963(c) (2)(B) or (3)(B)" in the second sentence following paragraph (c)(6)(iv).

§ 1.964-2 [Amended]

Par. 6. The third sentence following paragraph (c)(1)(ii) of § 1.964-2 is amended by inserting "(applied as if section 963 had not been repealed by the Tax Reduction Act of 1975))" immediately after the words "(within the meaning of § 1.963-6".

§ 1.1248-3 [Amended]

Par. 7. Section 1.1248-3 is revised as follows:

1. Example (1) of paragraph (c)(3) is amended by deleting "80 percent" from the last sentence thereof and inserting in lieu thereof "30 percent".

2. Paragraph (c)(4) is amended by deleting the words "(d)(2)(i) (*d*) and (*e*) of § 1.963-2" and inserting in lieu thereof the words "(e) (2) and (3) of § 1.951-1".

3. Paragraph (d)(6) is amended by deleting the words "(d)(2)(i) (*d*) and (*e*) of § 1.963-2" and inserting in lieu thereof the words "(e)(2) and (3) of § 1.951-1".

§ 1.1248-4 [Amended]

Par. 8. Paragraph (e)(3) of § 1.1248-4 is amended by deleting the words "(d)(2)(i) (*d*) and (*e*) of § 1.963-2" and inserting in lieu thereof the words "(e) (2) and (3) of § 1.951-1".

[FR Doc. 78-12492 Filed 5-5-78; 8:45 am]

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[4830-01]

[T.D. 7547]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

General Tax Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the general tax credit. Changes in the applicable tax law were made by the Revenue Adjustment Act of 1975, the Tax Reform Act of 1976, and the Tax Reduction and Simplification Act of 1977. These regulations provide necessary guidance to the public for compliance with the law.

EFFECTIVE DATES: The regulations are effective for taxable years ending after December 31, 1975, and before January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William E. Mantle of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3734.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 18, 1977, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 42 of the Internal Revenue Code of 1954 (42 FR 20150). The amendments were proposed to conform the regulations to section 3 of the Revenue Adjustment Act of 1975 (89 Stat. 972) and to section 401 (a) of the Tax Reform Act of 1976 (90 Stat. 1555). A public hearing was neither requested nor held. One written comment was received suggesting a change in the proposed amendments. That suggestion has been implemented in this Treasury decision. The proposed amendments are thus adopted as revised by this Treasury decision.

Additionally, certain revisions to the proposed amendments are made by this Treasury decision in order to conform the regulations to the amendments made to section 42 by sections 101(c), 103(a), and 106(a) of the Tax Reduction and Simplification Act of 1977 (91 Stat. 132, 139, 141). These revisions parallel the statutory amendments and are not changes upon which public comment would be useful. For this reason, and because there is a need for immediate guidance for taxpayers, section 553 (b), (c) and (d) of the Administrative Procedure Act (5 U.S.C. 553 (b), (c), (d)) requiring further notice of proposed rulemaking, opportunity for public participation and delay in effective date are found to be inapplicable.

COMPUTATION OF CREDIT USING EXTRA EXEMPTIONS FOR AGE 65 AND BLIND

Section 101(c) of the Tax Reduction and Simplification Act of 1977 (91 Stat. 132) amended section 42(a)(2) to allow individuals electing the credit in an amount equal to $35 multiplied by their personal exemptions to take into account the additional exemptions allowed by section 151 (c) and (d) for age of 65 or more and for blindness. This change makes it possible to use tax tables that incorporate the general tax credit. In order to facilitate incorporation of the credit in the tax tables, section 42(a) was also amended to provide that the credit is a credit against the section 1 tax (or the tax imposed in lieu of the section 1 tax) and a new subsection (e) was added to section 42 to provide for incorporation of the credit in the tax tables.

COMPUTATION FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS

In order to simplify further the tax form and tax computation, section 42(c) was also amended by section 101(c) of the Tax Reduction and Simplification Act of 1977 to require a married individual filing a separate tax return to compute the credit in an amount equal to $35 multiplied by the number of personal exemptions to which the individual is entitled under section 151.

EXTENSION OF CREDIT

Following publication of the proposed amendments, section 103(a) of the Tax Reduction and Simplification Act of 1977 (91 Stat. 139, 141) extended the availability of the credit for an additional year. Thus, the credit is available for taxable years ending after December 31, 1975, and as amended by the Tax Reduction and Simplification Act of 1977 is available for taxable years beginning after December 31, 1976, and ending before January 1, 1979.

DRAFTING INFORMATION

The principal author of this regulation was William E. Mantle of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 1 is amended as follows:

§ 1.42 [Deleted]

PARAGRAPH 1. Section 1.42 and the historical note are deleted.

PAR. 2. Section 1.42-1 is amended by revising the heading to read as follows:

§ 1.42-1 Tax credit for personal exemptions for taxable years ending in 1975.

* * * * * *

PAR. 3. The following new section is added immediately after § 1.42-1.

§ 1.42A-1 General tax credit for taxable years ending after December 31, 1975, and before January 1, 1979.

(a)(1) *Allowance of credit for taxable years ending after December 31, 1975, and beginning before January 1, 1977.* Subject to the special rules of paragraphs (b)(1), (c) and (d) and the limitation of paragraph (e)(1) of this section, an individual is allowed as a credit against the tax imposed by chapter 1 for the taxable year in the case of taxable years ending after December 31, 1975, and beginning before Janurary 1, 1977, an amount equal to the greater of—

(i) 2 percent of so much of the individual's taxable income as does not exceed $9,000, or

(ii) $35 multiplied by the total number of deductions for personal exemptions to which the individual is entitled for the taxable year under section 151 (b) and (e) and the regulations thereunder (relating to allowance of deductions for personal exemptions with respect to the individual, the individual's spouse, and dependents).

For purposes of applying subdivision (ii) of this paragraph (a)(1), the total number of deductions for personal exemptions shall not include any additional exemptions to which the individual or his spouse may be entitled based upon age of 65 or more or blindness under section 151 (c) or (d) and the regulations thereunder.

(2) *Allowance of credit for taxable years beginning after December 31,*

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1976, and ending before Januray 1, 1979. Subject to the special rules of paragraphs (b)(2), (c) and (d) and the limitation of paragraph (e)(2) of this section, an individual is allowed as a credit against the tax imposed by section 1, or against the tax imposed in lieu of the tax imposed by section 1, for the taxable year in the case of taxable years beginning after December 31, 1976, and ending before January 1, 1979, an amount equal to the greater of—

(i) 2 percent of so much of the individual's taxable income for the taxable year, reduced by the zero bracket amount determined under section 63 (d), as does not exceed $9,000, or

(ii) $35 multiplied by the total number of deductions for personal exemptions to which the individual is entitled for the taxable year under section 151 and the regulations thereunder (relating to allowance of deductions for personal exemptions).

(b) *Married individuals filing separate returns—(1) For taxable years ending after December 31, 1975, and beginning before January 1, 1977.* In the case of taxable years ending after December 31, 1975, and beginning before January 1, 1977, a married individual who files a separate return for the taxable year is allowed as a credit for the taxable year an amount equal to either—

(i) 2 percent of so much of the individual's taxable income as does not exceed $4,500, or

(ii) $35 multiplied by the total number of deductions for personal exemptions to which the individual is entitled for the taxable year under section 151 (b) and (e) and the regulations thereunder, but only if both the individual and the individual's spouse elect to have the credit determined in the manner described in this subdivision (ii) for their corresponding taxable years. The elections shall be made by both married individuals separately calculating and claiming the credit in the manner and amount described in this subdivision (ii) on their separate returns for their corresponding taxable years. The rules of section 142 (a) and the regulations thereunder (relating to individuals not eligible for the standard deduction) in effect for taxable years beginning before January 1, 1977, apply to determine whether the taxable years of the individual and the individual's spouse correspond to each other. For purposes of applying this subdivision (ii), the total number of deductions for personal exemptions shall not include any additional exemptions to which the individual may be entitled based upon age of 65 or more or blindness under section 151 (c) or (d) and the regulations thereunder.

(2) *For taxable years beginning after December 31, 1976, and ending before January 1, 1979.* In the case of taxable years beginning after December 31, 1976, and ending before January 1, 1979, a married individual who files a separate return for the taxable year shall determine the amount of the credit for the taxable year under section 42(a)(2) and § 1.42A-1(a)(2)(ii).

(3) *Determination of marital status.* For purposes of this paragraph, the determination of marital status shall be made as provided by section 143 and the regulations thereunder (relating to the determination of marital status).

(c) *Return for short period on change of annual accounting period.* In computing the credit provided by section 42 and this section for a period of less than 12 months (hereinafter referred to as a "short period"), where income is to be annualized under section 443(b)(1) in order to determine the tax—

(1) The credit allowed by paragraph (a) (1)(i) and (2)(i) of this section shall be computed based upon the amount of the taxable income annualized under the rules of section 443(b)(1) and § 1.443-1(b)(1), or

(2) (i) The credit allowed by paragraph (a)(1)(ii) of this section shall be computed based upon the total number of deductions for personal exemptions to which the individual is entitled for the short period under section 151 (b) and (e) and the regulations thereunder (relating to allowance of deductions for personal exemptions with respect to the individual, the individual's spouse, and dependents), and

(ii) The credit allowed by paragraph (a)(2)(ii) of this section shall be computed based upon the total number of deductions for personal exemptions to which the individual is entitled for the short period under section 151 and the regulations thereunder (relating to allowance of deductions for personal exemptions).

As so computed, the credit allowed by section 42 and this section shall be allowed against the tax computed on the basis of the annualized taxable income. See § 1.443-1(b)(1)(vi).

(d) *Certain persons not eligible—(1) Estates and trusts.* The credit provided by section 42 and this section shall not be allowed in the case of any estate or trust. Thus, the credit shall not be allowed to an estate of an individual in bankruptcy or to an estate of a deceased individual. However, in the case of a deceased individual, the credit shall be allowed on the decedent's final return filed by his executor or other representative. Also, the credit provided by section 42 and this section shall be allowed in the case of a return filed by an estate of an infant, incompetent, or an individual under a disability.

(2) *Nonresident alien individuals.* The credit provided by section 42 and this section shall not be allowed in the case of any nonresident alien individual. As used in this subparagraph, the term "nonresident alien individual" has the meaning provided by § 1.871-2. See, however, section 6013(g) for election to treat nonresident alien individual as resident of the United States. The credit shall be allowed to an alien individual who is a resident of the United States for part of the taxable year. See § 1.871-2(b) for rules relating to the determination of residence of an alien individual. For purposes of paragraph (a) (1)(i) and (2)(i) of this section, the credit allowed shall be computed by taking into account only that portion of the individual's taxable income which is attributable to the period of his residence in the United States. For purposes of paragraph (a)(1)(ii) of this section, the credit allowed shall be computed by taking into account only the total number of deductions for personal exemptions to which the individual is entitled under section 151 (b) and (e) for the period of his residence in the United States. For purposes of paragraph (a)(2)(ii) of this section, the credit allowed shall be computed by taking into account only the total number of deductions for personal exemptions to which the individual is entitled under section 151 for the period of his residence in the United States. See § 1.871-13 for rules relating to changes of residence status during a taxable year.

(e) *Limitation—(1) For taxable years ending after December 31, 1975, and beginning before January 1, 1977.* For taxable years ending after December 31, 1975, and beginning before January 1, 1977, the credit allowed by section 42 and this section shall not exceed the amount of tax imposed by chapter 1 for the taxable year. In the case of an alien individual who is a resident of the United States for a part of the taxable year, the credit allowed by section 42 and this section shall not exceed the amount of tax imposed by chapter 1 for that portion of the taxable year during which the alien individual was a resident of the United States. See § 1.871-13.

(2) *For taxable years beginning after December 31, 1976, and ending before January 1, 1979.* For taxable years beginning after December 31, 1976, and ending before January 1, 1979, the credit allowed by section 42 and this section shall not exceed the amount of tax imposed by section 1, or the amount of tax imposed in lieu of the tax imposed by section 1, for the taxable year. In the case of an alien individual who is a resident of the United States for a part of the taxable year, the credit allowed by section 42 and this section shall not exceed the amount of tax imposed by section 1, or the amount of tax imposed in lieu of the tax imposed by section 1, for that portion of the taxable year during which the alien individual was a resident of the United States. See § 1.871-13.

(f) *Application with other credits.* In determining the credits allowed under—

(1) Section 33 (relating to foreign tax credit),

(2) Section 37 (relating to credit for the elderly),

(3) Section 38 (relating to investment in certain depreciable property),

(4) Section 40 (relating to expenses of work incentive programs), and

(5) Section 41 (relating to contributions to candidates for public office),

the tax imposed for the taxable year shall first be reduced (before any other reduction) by the credit allowed by section 42 and this section for the taxable year.

(g) *Income tax tables to reflect credit.* The tables prescribed under section 3 shall reflect the credit allowed by section 42 and this section.

(h) *Effective dates.* The credit allowed by section 42 and this section applies only for taxable years ending after December 31, 1975, and before January 1, 1979.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: April 12, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-12494 Filed 5-5-78; 8:45 am]

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[4830-01]

[T.D. 7544]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Exclusion of Disability Income Payments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document amends the temporary regulations relating to the exclusion of certain disability income payments received in taxable years beginning on or after January 1, 1977. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Tax Reduction and Simplification Act of 1977. These regulations provide guidance to taxpayers and their physicians, and affect taxpayers who receive disability income payments.

EFFECTIVE DATE: The regulations are generally effective for taxable years beginning on or after January 1, 1977.

FOR FURTHER INFORMATION CONTACT:

John H. Parcell of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document amends the Temporary Regulations under the Tax Reform Act of 1976 (26 CFR Part 7) to reflect the amendment of section 105 (d) of the Internal Revenue Code of 1954 by section 505 of the Tax Reform Act of 1976 (90 Stat. 1566), as amended by section 301 of the Tax Reduction and Simplification Act of 1977 (91 Stat. 151). The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

In general, section 505 of the Tax Reform Act of 1976 repealed the prior sick pay exclusion and substituted a new disability income exclusion of $100 a week. This exclusion is available only to taxpayers under age 65 who have retired on disability and are permanently and totally disabled. In addition, the exclusion is reduced dollar-for-dollar by adjusted gross income (including disability income) in excess of $15,000. The Act also specified circumstances in which certain taxpayers could begin to recover their pension or annuity costs.

CHANGE IN EFFECTIVE DATE

The changes made by section 505 of the Tax Reform Act of 1976, as originally enacted, applied to taxable years beginning on or after January 1, 1976. Section 301 of the Tax Reduction and Simplification Act of 1977 delayed the effective date of most of these changes for one year. Thus, the new disability income exclusion applies only to taxable years beginning on or after January 1, 1977. However, certain taxpayers were still permitted to begin recovering their pension or annuity costs in taxable years beginning in 1976. These amendments modify §7.105-1 to reflect these changes in the effective date.

PHYSICIAN'S CERTIFICATE

Under § 7.105-1, a taxpayer claiming the disability income exclusion must attach to his or her return a certificate from a qualified physician attesting to his or her permanent and total disability. This section also requires that the certificate contain an acknowledgment that the physician understands that the certificate will be used by the taxpayer to claim the exclusion for permanent and total disability on his or her income tax return. These amendments delete the requirement that the physician's certificate include this acknowledgment.

SUBSTANTIAL GAINFUL ACTIVITY

Section 105(d)(5) provides that a taxpayer is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of a physical or mental impairment that satisfies certain requirements. However, neither section 105(d) nor § 7.105-1 defines substantial gainful activity. These amendments provide a definition of substantial gainful activity and examples of the application of this definition in specific factual situations.

DRAFTING INFORMATION

The principal author of these regulations was John H. Parcell of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the Temporary Income Tax Reform Act of 1976 (26 CFR Part 7) are amended as follows:

INCOME TAX REGULATIONS

(26 CFR PART 7)

§ 7.105-1 [Amended]

PARAGRAPH 1. Section 7.105-1 is changed as follows:

1. A-2 is revised to read as follows:

A-2: The disability income exclusion and related annuity provisions of the Tax Reform Act of 1976 are effective for taxable years beginning on or after January 1, 1977. In addition, the Tax Reduction and Simplification Act of 1977 allows certain taxpayers to begin excluding pension or annuity costs in taxable years beginning in 1976. In the case of a retiree who uses the cash receipts and disbursements method of accounting, the new law applies to payments received on or after the effective date even if the payment is for a period before the effective date. Thus, a payment for December 1976 that is received in January 1977 by a calendar-year, cash-basis taxpayer is controlled by the new law.

2. A-4 (3) is revised by substituting "1977" for "1976".

3. A-4 (4) is revised by deleting the phrase "before January 1, 1976, was permanently and totally disabled on January 1, 1976", and substituting in its place, "before January 1, 1977, was

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permanently and totally disabled on January 1, 1976 or January 1, 1977".

4. A-9 is revised by substituting "1978" for "1977" and "1977" for "1976".

5. The following sentence is added at the end of A-11:

A-11: • • • See § 7.105-2 for additional information relating to substantial gainful activity.

6. A-13 is revised to read as follows:

A-13: If retired on disability before January 1, 1977: A certificate from a qualified physician attesting that—

(a) The taxpayer was permanently and totally disabled on January 1, 1976 or January 1, 1977; or

(b) The records of the Veterans Administration show that the taxpayer was permanently and totally disabled as defined in 38 CFR 3.340 or 3.342 on January 1, 1976 or January 1, 1977.

If retired on disability during 1977 or thereafter: A certificate from a qualified physician attesting that—

(a) The taxpayer was permanently and totally disabled on the date he or she retired; or

(b) The records of the Veterans Administration show that the taxpayer was permanently and totally disabled as defined in 38 CFR 3.340 or 3.342 on the date he or she retired.

In either case, the taxpayer must attach the certificate or a copy of the certificate to his or her income tax return. The certificate shall give the physician's name and address. No certificate from any employer is required with regard to the determination of permanent and total disability.

7. Q-20 and A-20 are revised to read as follows:

Q-20: Did the changes made by the Tax Reduction and Simplification Act provide any relief to taxpayers eligible for the sick pay exclusion in taxable years beginning in 1976?

A-20: Yes. As originally enacted, the more restrictive provisions of the disability income exclusion applied to taxable years beginning in 1976. The Tax Reduction and Simplification Act postponed the effective date of these provisions for 1 year. Thus, taxpayers may claim the sick pay exclusion in taxable years beginning in 1976.

PAR. 2. The following § 7.105-2 is inserted after § 7.105-1:

§ 7.105-2 Substantial gainful activity.

(a) *Purpose.* This section defines substantial gainful activity for purposes of section 105(d) and § 7.105-1, prescribes rules for determining whether a taxpayer has the ability to engage in substantial gainful activity, and provides examples of the application of the definition and rules in specific factual situations.

(b) *Definition.* Substantial gainful activity is the performance of significant duties over a reasonable period of time in work for remuneration or profit (or in work of a type generally performed for remuneration or profit).

(c) *General rules.* (1) Full-time work under competitive circumstances generally indicates ability to engage in substantial gainful activity.

(2) Work performed in self-care or the taxpayer's own household tasks, and nonremunerative work performed in connection with hobbies, institutional therapy or training, school attendance, clubs, social programs, and similar activities is not substantial gainful activity. However, the nature of the work performed may be evidence of ability to engage in substantial gainful activity.

(3) The fact that a taxpayer is unemployed for any length of time is not, of itself, conclusive evidence of inability to engage in substantial gainful activity.

(4) Regular performance of duties by a taxpayer in a full-time, competitive work situation at a rate of pay at or above the minimum wage will conclusively establish the taxpayer's ability to engage in substantial gainful activity. For purposes of paragraphs (c)(4) and (c)(5) of this section, the minimum wage is the minimum wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 206(a)(1).

(5) Regular performance of duties by a taxpayer in a part-time, competitive work situation at a rate of pay at or above the minimum wage will conclusively establish the taxpayer's ability to engage in substantial gainful activity, if the duties are performed at the employer's convenience.

(6) In situations other than those described in paragraphs (c)(4) and (c)(5) of this section, other factors, such as the nature of the duties performed, may establish a taxpayer's ability to engage in substantial gainful activity.

(d) *Examples.* The following examples illustrate the application of the definition in paragraph (b) of this section and the rules in paragraph (c) of this section in specific factual situations. In examples 1 through 5, the facts establish that the taxpayers are able to engage in substantial gainful activity and, therefore, are not entitled to claim the disability income exclusion of section 105(d). In examples 6 through 9, the facts do not, of themselves, establish the taxpayers' ability or inability to engage in substantial gainful activity. In these situations, all the facts and circumstances must be examined to determine whether the taxpayers are able to engage in substantial gainful activity.

Example (1). Before retirement on disability, taxpayer worked for a hotel as night desk clerk. After retirement, the taxpayer is hired by another hotel as night desk clerk at a rate of pay exceeding the minimum wage. Since the taxpayer regularly performs duties in a full-time competitive work situation at a rate of pay at or above the minimum wage, he or she is able to engage in substantial gainful activity.

Example (2). A taxpayer who retired on disability from employment as a sales clerk is employed as a full-time babysitter at a rate of pay equal to the minimum wage. Since the taxpayer regularly performs duties in a full-time, competitive work situation at a rate of pay at or above the minimum wage, he or she is able to engage in substantial gainful activity.

Example (3). A taxpayer retired on disability from employment as a teacher because of terminal cancer. The taxpayer's physician recommended continuing employment for therapeutic reasons and taxpayer accepted employment as a part-time teacher at a rate of pay in excess of the minimum wage. The part-time teaching work is done at the employer's convenience. Even though the taxpayer's illness is terminal, the employment was recommended for therapeutic reasons, and the work is part-time, the fact that the work is done at the employer's convenience demonstrates that the taxpayer is able to engage in substantial gainful activity.

Example (4). A taxpayer who retired on disability, is employed full-time in a competitive work situation that is less demanding than his or her former position. The rate of pay exceeds the minimum wage but is about half of the taxpayer's rate of pay in the former position. It is immaterial that the new work activity is less demanding or less gainful than the work in which the taxpayer was engaged before his or her retirement on disability. Since the taxpayer regularly performs duties in a full-time, competitive work situation at a rate of pay at or above the minimum wage, he or she is able to engage in substantial gainful activity.

Example (5). A taxpayer who retired on disability from employment as a bookkeeper drives trucks for a charitable organization at the taxpayer's convenience. The taxpayer receives no compensation, but duties of this nature generally are performed for remuneration or profit. Some weeks the taxpayer works 10 hours, some weeks 40 hours, and over the year the taxpayer works an average of 20 hours per week. Even though the taxpayer receives no compensation, works part-time, and at his or her convenience, the nature of the duties performed and the average number of hours worked per week conclusively establish the taxpayer's ability to engage in substantial gainful activity.

Example (6). A taxpayer who retired on disability was instructed by a doctor that uninterrupted bedrest was vital to the treatment of his or her disability. However, because of financial need, the taxpayer secured new employment in a sedentary job. After attempting the new employment for approximately two months, the taxpayer was physically unable to continue the employment. The fact that the taxpayer attempted to work and did, in fact, work for two months, does not, of itself, conclusively establish the taxpayer's ability to engage in substantial gainful activity.

Example (7). A taxpayer who retired on disability accepted employment with a former employer on a trial basis. The purpose of the employment was to determine whether the taxpayer was employable. The trial period continued for an extended period of time and the taxpayer was paid at a rate equal to the minimum wage. However, because of the taxpayer's disability only light duties of a nonproductive make-work nature were assigned. Unless the activity is both substantial and gainful, the taxpayer is not engaged in substantial gainful activity. The activity was gainful because the taxpayer was paid at a rate at or above the minimum wage. However, the activity was not substantial because the duties were of a nonproductive, make-work nature. Accordingly, these facts do not, of themselves, establish the taxpayer's ability to engage in substantial gainful activity.

Example (8). A taxpayer who retired on disability from employment as a bookkeeper lives with a relative who manages several motel units. The taxpayer assisted the relative for one or two hours a day by performing duties such as washing dishes, answering phones, registering guests, and bookkeeping. The taxpayer can select the times during the day when he or she feels most fit to perform the tasks undertaken. Work of this nature, performed off and on during the day at the taxpayer's convenience, is not activity of a "substantial and gainful" nature even if the individual is paid for the work. The performance of these duties does not, of itself, show that the taxpayer is able to engage in substantial gainful activity.

Example (9). A taxpayer who retired on disability because of a physical or mental impairment accepts sheltered employment in a protected environment under an institutional program. Sheltered employment is offered in sheltered workshops, hospitals and similar institutions, homebound programs, and Veterans Administration domiciliaries. Typically, earnings are lower in sheltered employment than in commercial employment. Consequently, impaired workers normally do not seek sheltered employment if other employment is available. The acceptance of sheltered employment by an impaired taxpayer does not necessarily establish his or her ability to engage in substantial gainful activity.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

This Treasury decision is issued under the authority contained in sections 105(d) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1566; 68A Stat. 917; 26 U.S.C. 105(d); 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: April 21, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-12490 Filed 5-3-78; 4:47 pm]

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[4830-01]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7546]

PART 420—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Temporary Regulations relating to disclosures of Returns and Return Information for Purposes of Administering Titles I and IV of the Employee Retirement Income Security Act of 1974

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides amendments to the temporary regulations on procedure and administration (26 CFR Part 420) under the Employee Income Security Retirement Act of 1974, Pub. L. 93-406 (hereinafter referred to as "ERISA"), relating to disclosures of tax returns and tax return information for purposes of administering titles I and IV of ERISA as authorized by section 6103(*l*)(2) of the Internal Revenue Code. The amendments to the regulations would provide personnel of the Internal Revenue Service, the Department of Labor, the Justice Department, and the Pension Benefit Guaranty Corporation with guidance needed to comply with section 6103(*l*)(2) of the Code and would affect disclosures of tax returns and tax return information made after January 1, 1977.

EFFECTIVE DATE: January 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Diane L. Renfroe of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3459, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 1022(h) of ERISA added section 6103(g) to the Internal Revenue Code relating to disclosure of information with respect to deferred compensation plans, and temporary regulations under section 6103(g) were published in 1974 and 1975. Section 1202 of the Tax Reform Act of 1976 (Pub. L. 94-455) amended section 6103, effective January 1, 1977. As amended, section 6103(*l*)(2) now provides the disclosure authority formerly provided by section 6103(g)(1).

These amendments to the temporary regulations conform the regulations to the amendments to section 6103 made by section 1202 of the Tax Reform Act of 1976 and provide additional rules regarding disclosures of returns and return information to and by officers and employees of the Department of Labor, the Pension Benefit Guaranty Corporation, and the Department of Justice for purposes of administering titles I and IV of ERISA.

DRAFTING INFORMATION

The principal author of this regulation was Karl P. Fryzel of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE TEMPORARY REGULATIONS

Accordingly, 26 CFR Part 420 is amended as follows:

PARAGRAPH 1. Section 420.6103(g)-1 is redesignated § 420.6103(*l*)(2)-1 and amended as follows:

§ 420.6103(*l*)(2)-1 Disclosure of returns and return information to Pension Benefit Guaranty Corporation for purposes of research and studies.

(a) *General rule.* Pursuant to the provisions of section 6103(*l*)(2) of the Internal Revenue Code of 1954 and subject to the requirements of paragraph (b) of this section, officers and employees of the Internal Revenue Service may disclose returns and return information (as defined by section 6103(b)) to officers and employees of the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, conducting research and studies authorized by title IV of the Employee Retirement Income Security Act of 1974.

(b) *Procedures and restrictions.* Disclosure of returns or return information by officers or employees of the Internal Revenue Service as provided by paragraph (a) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Executive Director of the Pension Benefit Guaranty Corporation describing the returns or return information to be disclosed, the taxable period or date to which such returns or return information relates, and the purpose for which the returns or return information is needed in the administration of title IV of the Employee Retirement Income Security Act of 1974, and designating by title the officers and employees of such corporation to whom such disclosure is authorized. No such officer or employee to whom returns or return information is disclosed pursuant to the provisions of paragraph (a) shall disclose such returns or return information to any person, other than the taxpayer by

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whom the return was made or to whom the return information relates or other officers or employees of such corporation whose duties or responsibilities require such disclosure for a purpose described in paragraph (a), except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

PAR. 2. Section 420.6103(g)-2 is redesignated § 420.6103(*l*)(2)-2 and amended to read as follows:

§ 420.6103(*l*)(2)-2 Disclosure of returns and return information to Department of Labor for purposes of research and studies.

(a) *General rule.* Pursuant to the provisions of section 6103(*l*)(2) of the Internal Revenue Code of 1954 and subject to the requirements of paragraph (b) of this section, officers or employees of the Internal Revenue Service may disclose returns and return information (as defined by section 6103(b)) to officers and employees of the Department of Labor for purposes of, but only to the extent necessary in, conducting research and studies authorized by section 513 of the Employee Retirement Income Security Act of 1974.

(b) *Procedures and restrictions.* Disclosure of returns or return information by officers or employees of the Internal Revenue Service as provided by paragraph (a) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Administrator of the Pension and Welfare Benefit Programs of the Department of Labor describing the returns or return information to be disclosed, the taxable period or date to which such returns or return information relates, and the purpose for which the returns or return information is needed in the administration of title I of the Employee Retirement Income Security Act of 1974, and designating by title the officers and employees of such department to whom such disclosure is authorized. No such officer or employee to whom returns or return information is disclosed pursuant to the provisions of paragraph (a) shall disclose such returns or return information to any person, other than the taxpayer by whom the return was made or to whom the return information relates or other officers or employees of such department whose duties or responsibilities require such disclosure for a purpose described in paragraph (a), except in a form which cannot be associated with, or otherwide identify, directly or indirectly, a particular taxpayer.

PAR. 3. Section 420.6103(g)-3 is redesignated § 420.6103(*l*)(2)-3 and amended to read as follows:

§ 420.6103(*l*)(2)-3 Disclosure to Department of Labor and Pension Benefit Guaranty Corporation of certain returns and return information.

(a) *Disclosures following general requests.* Pursuant to the provisions of section 6103(*l*)(2) and subject to the requirements of this paragraph, officers or employees of the Internal Revenue Service may disclose the following returns and return information (as defined by section 6103(b)) to officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of title I or IV of the Employee Retirement Income Security Act of 1974 (hereinafter referred to in this section as the Act)—

(1) Notification of receipt by the Service of an application by a particular taxpayer for a determination of whether a pension, profit-sharing, or stock bonus plan, a trust which is a part of such a plan, or an annuity or bond purchase plan meets the applicable requirements of part I of subchapter D of chapter 1 of the Code;

(2) Notification that a particular application described in subparagraph (1) of this paragraph alleges that certain employees may be excluded from participation by reason of section 410(b)(2) (A) and (B) for the purpose of obtaining the finding necessary for the application of such section;

(3) An application by a particular taxpayer for a determination of whether a pension, profit-sharing, or stock bonus plan, or an annuity or bond purchase plan meets the applicable requirements of part I of subchapter D of chapter 1 of the Code with respect to a termination or proposed termination of the plan or to a partial termination or proposed partial termination of the plan, and any statement filed as provided by section 6058(b);

(4) Notification that the Service has determined that a plan or trust described in subparagraph (1) or (3) of this paragraph meets or does not meet the applicable requirements of part I of subchapter D of chapter 1 of the Code and has issued a determination letter to such effect to a particular taxpayer or that an application for such a determination has been withdrawn by the taxpayer;

(5) If the Department of Labor or the Pension Benefit Guaranty Corporation has commented on an application upon which a determination letter described in subparagraph (4) of this paragraph has been issued, a copy of the letter or document issued to the applicant;

(6) Notification to a particular taxpayer that the Service intends to disqualify a pension, profit-sharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or bond purchase plan because such plan or trust does not meet the requirements of section 410(a) or 411 as of the date that such notification is issued;

(7) Notification required by section 3002(a) of the act of the commencement of any proceeding to determine whether a particular pension, profit-sharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or bond purchase plan meets the requirements of section 410(a) or 411;

(8) Prior to issuance of a notice of deficiency to a particular taxpayer under section 6212, notification that the Service has determined that a deficiency exists under section 6211 with respect to the tax imposed by section 4971 (a) or (b) on such taxpayer, except that if the Service determines that the collection of such tax is in jeopardy within the meaning of section 6861(a), such notification will be disclosed only after issuance of the notice of deficiency or jeopardy assessment;

(9) Notification that the Service has waived the tax imposed by section 4971(b) on a particular taxpayer;

(10) Prior to issuance of a notice of deficiency to a particular taxpayer under section 6212, notification that a deficiency exists under section 6211 with respect to the tax imposed by section 4975 (a) or (b) on such taxpayer, except that if the Service determines that the collection of such tax is in jeopardy within the meaning of section 6861(a), such notification will be disclosed only after issuance of the notice of deficiency or jeopardy assessment;

(11) Notification that the Service has waived the tax imposed by section 4975(b) on a particular taxpayer;

(12) Notification of applicability of section 4975 to a particular pension, profit sharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or stock purchase plan engaged in prohibited transactions within the meaning of section 4975(c);

(13) Notification to a plan administrator that the Service has determined that a pension, profit sharing, stock bonus, annity, or stock purchase plan no longer meets the requirements of section 401(a) or 404(a)(2);

(14) Notification that the Service has determined that there has been a termination or partial termination of a particular pension, profit-sharing, stock bonus, annuity, or stock purchase plan within the meaning of section 411(d)(3);

(15) Notification of the occurrence of an event (other than an event described in subparagraph (13), (14), or (18) of this paragraph) which the Service has determined to indicate that a particular pension, profit-sharing, stock bonus, annuity, or stock purchase plan may not be sound under section 4043(c)(2) of the act;

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(16) Notification that the Service has received and responded to a request on behalf of a particular pension, profit-sharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or stock purchase plan for an extension of time for filing an annual return by such plan or trust;

(17) Notification that the Service has received and responded to a request on behalf of a particular pension, profit-sharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or stock purchase plan to change the annual accounting period of such plan or trust;

(18) Notification that the Service has determined that a particular plan does not meet the requirements of section 412 without regard to whether such plan is one described in section 4021(a)(2) of the Act;

(19) Notification of the results of an investigation by the Service requested by the Deartment of Labor or the Pension Benefit Guaranty Corporation, or both, with respect to whether the tax described in section 4971 should be imposed on any employer named in such request or whether the tax imposed by section 4975 should be paid by any person named in the request;

(20) Notification of receipt by the Service of an application by a particular taxpayer for exemption under section 4975(c)(2) or of initiation by the Service of an administrative proceeding for such exemption; and

(21) Notification of receipt by the Service of an application by or on behalf of a particular taxpayer for a waiver or variance of the minimum funding standard under section 303 of the Act or section 412(d).

Return information disclosed under this paragraph includes the taxpayer identity information (as defined in section 6103(b)(6)) of the plan or trust, the name and address of the sponsor and administrator of the plan or trustee of the trust, and the name and address of the person authorized to represent the plan or trust before the Internal Revenue Service. Disclosure of returns or return information as provided by this paragraph will be made only following receipt by the Commissioner of Internal Revenue of an annual written request for such disclosure by the Administrator of Pension and Benefit Welfare Programs of the Department of Labor or the Executive Director of the Pension Benefit Guaranty Corporation describing the categories of returns or return information to be disclosed by the Service and the particular purpose for which the returns of return information is needed in the administration of title I or IV of the Act, and designating by title the officers and employees of the Department of Labor or such corporation to whom such disclosure is authorized.

(b) *Additional returns and return information subject to disclosure*—(1) *Returns and return information relating to automatic notification.* Subject to the requirements of subparagraph (3) of this paragraph, officers or employees of the Internal Revenue Service may disclose to officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of title I or IV of the Act additional returns and return information to any item described in paragraph (a) of this section.

(2) *Other returns and return information.* Subject to the requirements of subparagraph (3) of this paragraph, officers or employees of the Internal Revenue Service may disclose to officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation returns and return information (other than returns and return information disclosed as provided by paragraph (a) of this section or § 420.6103(*l*)(2)-1 or § 420.6103 (*l*)(2)-2) for purposes of, but only to the extent necessary in, administration of title I or IV of the Act.

(3) *Procedures.* Disclosure of returns or return information by officers or employees of the Internal Revenue Service as provided by this paragraph will be made only upon written request to the Commissioner of Internal Revenue by the Administrator of Pension and Welfare Benefit Programs of the Department of Labor or his delegate or the Executive Director of the Pension Benefit Guaranty Corporation or his delegate identifying the particular taxpayer by whom such return was made or to whom such return information relates, describing the particular returns or return information to be disclosed, stating the purpose for which the returns or return information is needed in the administration of title I or IV of the Act, and designating by name and title the officers and employees of such department or corporation to whom such disclosure is authorized.

(c) *Disclosure and use of returns and return information by officers and employees of Department of Labor, Pension Benefit Guaranty Corporation, and Department of Justice*—(1) *Use by officers and employees of Department of Labor and Pension Benefit Guaranty Corporation.* Returns and return information disclosed to officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation as provided by this section may be used by such officers and employees for purposes of, but only to the extent necessary in, administration of any provision of title I or IV of the Act, including preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) authorized by, or described in, title I or IV of the Act.

(2) *Disclosure by officers and employees of Department of Labor and Pension Benefit Guaranty Corporation to, and use by, other persons, including officers and employees of the Department of Justice.* (i) Returns and return information disclosed to officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation as provided by this section may be disclosed by such officers and employees to attorneys of the Department of Justice (including United State attorneys) personally and directly engaged in, and for their necessary use in, preparation for any civil or criminal judicial proceeding (or for their necessary use in an investigation which may result in such a proceeding) authorized by, or described in, title I or IV or the Act.

(ii) Returns and return information disclosed to officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation and to attorneys of the Department of Justice as provided by this section may be disclosed by such officers, employees, and attorneys to other persons, including but not limited to, persons described in subparagraph (2)(iii) of this paragraph, but only to the extent necessary in connection with administration of the provisions of title I or IV of the Act, including proper preparation for a proceeding (or investigation) described in subparagraph (1) or (2)(i). Such disclosures may include, but are not limited to, disclosures where necessary—

(A) To properly obtain the services of persons having special knowledge or technical skills;

(B) To properly interview, consult, depose, or interrogate or otherwise obtain relevant information from, the taxpayer to whom such return or return information relates (or the legal representative of such taxpayer) or any witness who may be called to give evidence in the proceeding; or

(C) To properly conduct negotiations concerning, or obtain authorization for, settlement or disposition of the proceeding, in whole or in part, or stipulations of fact in connection with the proceeding.

Disclosure of a return or return information to a person other than the taxpayer to whom such return or return information relates (or the legal representative of such taxpayer) to properly prepare for a proceeding (or to properly conduct an investigation) described in this subparagraph should be made, however, only if such preparation (or investigation) cannot otherwise properly be accomplished without making such disclosure.

(iii) Among those persons to whom returns and return information may be disclosed by officers and employees

of the Department of Labor and the Pension Benefit Guaranty Corporation and by attorneys of the Department of Justice as provided by subparagraph (2)(ii) of this paragraph are:

(A) Other officers and employees (including attorneys) of the Department of Labor, the Pension Benefit Guaranty Corporation, and the Department of Justice;

(B) Officers and employees of another Federal agency (as defined in section 6103(b)(9)) working under the direction and control of such officers and employees of the Department of Labor, the Pension Benefit Guaranty Corporation, or the Department of Justice; and

(C) Court reporters.

Disclosure of returns or return information to other persons by officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation as provided by subparagraph (2)(ii) of this paragraph for purposes of conducting research, surveys, studies, and publications referred to in section 513(a), or authorized by title IV, of the Act shall be restricted, however, to disclosure to other officers and employees of such department or corporation to whom such disclosure is necessary in connection with such conduct or to the taxpayer by whom such return was made or to whom such return information relates if the return or return information can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(3) *Disclosure in judicial proceedings.* A return or return information disclosed to officers and employees (including attorneys) of the Department of Labor, the Pension Benefit Guaranty Corporation, or the Department of Justice as provided by this section may be disclosed by such officers or employees in a civil or criminal judicial proceeding authorized by, or described in, title I or IV of the Act. *Provided,* That, in the case of a judicial proceeding described in section 6103(i)(4), the requirements of section 6103(i)(4) have first been met.

(d) *Disclosure of returns and return information in connection with certain consultations between Departments of the Treasury and Labor.* Upon general written request to the Commissioner of Internal Revenue by the Secretary of Labor, officers and employees of the Internal Revenue Service may disclose to officers and employees of the Department of Labor such returns and return information as may be necessary to properly carry out any consultation required by sections 3002, 3003, or 3004 of the Act.

(e) *Return information open to public inspection under section 6104.* Nothing in these regulations shall be construed to deny officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation the right to inspect return information available to the public under section 6104.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(This Treasury decision is issued under the authority contained in sections 6103(q) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1685, 68A Stat. 917; 26 U.S.C. 6103(q), 7805).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: April 12, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-12491 Filed 5-3-78; 4:47 pm]

[6820-12]

Title 29—Labor

CHAPTER XXVII—FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

PART 2700—PROCEDURAL RULES

Interim Rule

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Interim rule.

SUMMARY: On March 10, 1978, (43 FR 10320) the Federal Mine Safety and Health Review Commission published its interim procedural rules for proceedings arising under the Federal Mine Safety and Health Act of 1977. Section 2700.57 of those rules dealt with the disposition of appeals pending before the Interior Board of Mine Operations Appeals. The rule provided the parties in those pending cases the opportunity to seek review before the Commission by May 8, 1978. The rule further provided that the Commission could order review on its own motion by the same date. Since the members of the Commission have not yet taken office, this amendment preserves the right of the Commission to order review on its own motion. It also preserves the right to discretionary review for those parties who have filed petitions for review by May 8, 1978.

EFFECTIVE DATE: May 8, 1978.

ADDRESS: Federal Mine Safety and Health Review Commission, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

James A. Broderick, Acting Chief Administrative Law Judge, Federal Mine Safety and Health Review Commission, 4015 Wilson Boulevard, Arlington, Va. 22203, phone number 703-235-2660.

JAMES A. BRODERICK,
Acting Chief Administrative Law Judge, Federal Mine Safety and Health Review, Commission.

This rule is officially adopted as an interim rule pursuant to section 113(d)(2) of the Federal Mine Safety and Health Act of 1977, 83 Stat. 742, 30 U.S.C. 801-960, Pub. L. 95-164, November 9, 1977, and the determination order of March 9, 1978, of the Director of the Office of Management and Budget. Notice of proposed rulemaking is not required inasmuch as these rules of agency procedure and practice are exempted under 5 U.S.C. 553(b)(A).

Section 2700.57 is amended to read as follows:

§ 2700.57 Pending appeals before the Interior Board of Mine Operations Appeals.

With regard to any appeal pending before the Interior Department Board of Mine Operations Appeals as of March 8, 1978, and reviewable by the Commission after that date, the appellant shall have 60 days from March 9, 1978, to petition the Commission for discretionary review under § 2700.58 of these rules. Unless review is ordered by the Commission within 30 days after the date that a majority of the members of the Commission take office, the decision appealed to the Interior Department Board of Mine Operations Appeals shall become the final decision of the Commission.

[FR Doc. 78-12563 Filed 5-5-78; 8:45 am]

[3710-92]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1130-2-306]

PART 209—ADMINISTRATIVE PROCEDURES

Navigation Lights, Aids To Navigation, Navigation Charts and Related Data

Policy, Practice and Procedures

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This regulation prescribes the policy, practice and procedures to be used by all Corps of Engineers installations and activities in connection with aids to navigation, chart data, and publication of information on Civil Works activities. The prescribed policy and procedure addresses necessary coordination with the U.S. Coast Guard, Defense Mapping Agency, National Ocean Survey and the U.S. Naval Oceanographic Office.

EFFECTIVE DATE: May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lyle Hanson, Construction Operations Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, D.C. 20314, 202-693-6995.

SUPPLEMENTARY INFORMATION: This regulation is an update of ER 1130-2-306 last issued 17 October 1966 to all Corps of Engineers installations having Civil Works activities. This revised regulation modifies previous reporting procedures, lists the new agencies that are involved in navigation charts, surveys in navigable waters, and pertinent information that has a bearing on navigation interests. This regulation is strictly administrative procedures to be used by Corps District Engineers and as such is being published as a final rule.

This amendment revises § 209.325. See last paragraph (i) of the new rule with regard to availability of maps and charts. Accordingly, 33 CFR 209.325 is revised as set forth below:

§ 209.325 Navigation lights, aids to navigation, navigation charts, and related data policy, practices and procedure.

(a) *Purpose.* This regulation prescribes the policy, practice and procedure to be used by all Corps of Engineers installations and activities in connection with aids to navigation, chart data, and publication of information on Civil Works activities.

(b) This regulation will be applied by all elements of the Corps of Engineers with Civil Works responsibilities.

(c) *Reference.* Pub. L. 85-480, Publication Authority (72 Stat. 279).

(d) *Cooperation with Coast Guard.* (1) District Engineers will consult with the Coast Guard District Commander during design of channel and harbor improvement projects to discuss the aids to navigation requirements and all other facets of the projects that involve Coast Guard responsibility. Project material furnished direct to Coast Guard Commanders will include: (1) Information as to the authorization by Congress of a project involving changes affecting aids, such as channel limits, breakwaters, including a copy of the project document; (2) The proposed operations on such projects during the next fiscal year, to be furnished annually on the release of the budget estimates; (3) Plans showing the final location of the channel limits or structures to be furnished at the time work is undertaken.

(2) Changes in channel limits affecting navigation aids, made under general or specific provisions of the law, should be made the subject of a conference with the Coast Guard District Commander. He will be promptly informed as to the approval of such changes and the probable date of completion of the work.

(3) District Engineers will furnish direct to the various Coast Guard District Commanders, for their immediate information, any facts which may come to their attention in connection with their duties which will be of benefit to the Coast Guard in maintaining its system of aids to navigation. This should include statements as to the displacement of or defects in any such aids to navigation.

(4) If work involving harbor or channel improvements directly affects any existing aids to navigation or any structures of the Coast Guard, Districts Engineers will, when practicable, give notice to the Coast Guard District Commander sufficiently in advance to permit taking such steps as may be deemed necessary by the Coast Guard. If the Coast Guard District Commander specifically requests that the affected structure be replaced, the District Engineer will inform him of the estimated cost and will proceed with the work if so authorized by the Chief of Engineers. On completion of the work, the District Engineer will promptly furnish the Coast Guard District Commander, for settlement, an account of the expense incurred.

(e) *Navigation Aids of the Corps of Engineers.* (1) Whenever channel dredging or other channel improvements are being performed, necessary temporary markers, such as ranges and light poles, should be installed and maintained by the District Engineer pending the installation of permanent aids by the Coast Guard. The Coast Guard desires that information regarding aids to navigation installed or maintained by District Engineers in connection with harbor or channel improvement be furnished promptly. Such information is needed for inclusion in Notice to Mariners as published by the Coast Guard, and where desirable on the charts of the waters concerned.

(2) District Engineers will notify the Coast Guard District Commander in every case where aids to navigation for marking works of harbor or channel improvements are established or discontinued. Notice should be given of such aids as may be of use or interest to general navigation. Notice need not be given as to such buoys, lights, or fog signals as are of temporary or unimportant character, or of importance only to the Corps of Engineers. Omit also lights or fog signals on ferry slips and on piers used only by certain vessels, and stakes, bushes, and barrel buoys marking shallow and little-used channels.

(3) In placing aids to navigation in connection with harbor or channel improvement works, District Engineers should see that they do not conflict in character or otherwise with other aids to navigation in the vicinity. District Engineers should confer with the Coast Guard District Commander on this subject.

(4) The necessary blank forms for reporting information regarding Corps of Engineers aids will be furnished upon request by the Coast Guard District Commander.

(5) It is essential that the Coast Guard by furnished with information for publication concerning markers installed by the Corps of Engineers as temporary aids to navigation, for new improvements, in advance of permanent aids, and also concerning other markers that may be established in connection with Corps of Engineers operations that may also serve as important aids to navigation. Care will be exercised to see that all markers established are not misleading to general navigation and do not interfere with aids to navigation estabished by the Coast Guard.

(f) *Colors of Dredging Buoys Established by Corps of Engineers.*

(1) In order to distinguish buoys placed and maintained by the Corps of Engineers for dredging purposes from aids to navigation placed by the Coast Guard, Corps buoys will be painted white with the top 2 feet painted light green.

(2) If buoys with special markings are needed to indicate the different sides of the navigable channel, prior arrangements will be made with the Coast Guard District Commander having jurisdiction.

(g) *Information to be Furnished by the Corps of Engineers.*

(1) District Engineers responsible for harbors and waterways shown on charts of the National Ocean Survey (NOAA), will report the channel conditions promptly, using standard tabular forms, to:

Director, Defense Mapping Agency, ATTN: Hydrographic Center, Washington, D.C. 20390.

National Oceanic and Atmospheric Administration, ATTN: National Ocean Survey C-32, Rockville, Md. 20852.

Commandant and District Commanders, U.S. Coast Guard.

(2) Channel survey drawings furnished to the Coast Guard are to include:

(i) Either NAD 27 or State Plane grids.

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(ii) Plots of the positions of aids to navigation.

(iii) Written notations of the coordinates in NAD 27 or State Plane Coordinates of the fixed aids to navigation found during the survey.

(3) The standard tabular forms with illustrated data follow:

(i) For channels 400 feet wide and greater (ENG Form 4020-R).

_____HARBOR, _____(State)

Name of Channel	Date Survey	Project			Minimum depth in each 1/4 width of channel entering from seaward			
					Mid-channel			
		Feet width	Miles length	Feet depth	Left outside quarter feet	Left inside quarter feet	Right inside quarter feet	Right outside quarter feet
Tybee Range--------	3-78	500	1.64	30	30	31	28	23
Bloody Point-------	3-78	500	2.81	30	30	30	29	25

(ii) For channels 100 to 400 feet wide (ENG Form 4021-R).

_____HARBOR, _____(State)

Name of Channel	Date Survey	Project			Minimum depths in channel entering from seaward		
		Feet width	Miles length	Feet depth	Left outside quarter feet	Mid-channel for half project width feet	Right outside quarter feet
Kings Island Channel	3-78	300	1.14	26	24	23	26
Whitehall Channel---	3-78	200	1.81	26	27	26	25

ENG FORM 4021-R(Jul 59)

(iii) For channels less than 100 feet in width, report controlling depths only based on at least 80 percent of project width, 40 percent on either side of centerline. (The submission of tabular forms is not required for channels having a project depth less than 10 feet except coastal inlets and harbors of refuge.)

(4) The tabulations of depths should be amplified by footnotes or otherwise to show clearly and definitely the location of controlling shoals, tendency of shoals to recur, and all other critical information of special value and importance for safe navigation of the channel. Reaches of channel not presently named should be identified in the tabular form by reference to chartered aids or features, or assigned identifying names, numbers or letters. For localized irregular project areas where the application of the tabular form would not be practical, the controlling depth based on a safe navigable width will be described as well as unusual or critical conditions of shoaling.

(5) The prompt dissemination of the latest detailed information concerning channel conditions is of utmost importance, and necessary measures will be taken to insure that such information is reported without delay simultaneously to the U.S. Naval Oceanographic Office, the Coast Guard, the National Ocean Survey and Defense Mapping Agency. When a dangerous shoaling is found during the progress of a survey, information thereon will be furnished immediately to the above-mentioned agencies, so that such information may be made available to mariners promptly, and buoys shifted to mark the shoal. Descriptions of any dredging or other operations in important channels in tidal waters—either in progress and not already reported, or soon to be undertaken—together with a statement of the work and expected duration, will also be reported in order that Naval and other vessels may be warned to look out for dredges and other plant, temporary markers and lights.

(6) District Engineers having charge of improvements of harbors and waterways shown on charts of the Defense Mapping Agency or of the National Ocean Survey will send to both offices promptly, as ascertained for the correction of such charts, the following information: Descriptions of changes in channel location and depth, or of obstructions that may be discovered, with such prints and other information as may be necessary to permit the existing charts to be corrected to date. All maps should contain sufficient data to permit the fixed plane or reference, bench marks, base lines, etc., to be determined and located. The survey stations should be shown and, when no unreasonable expenditure of time or labor is involved, the map will show one or more triangulation station(s) of the National Ocean Survey in such a way as to facilitate connection of old or new work. The source of authority for the shoreline and topography should be stated on the map. The data supplied should indicate what charts are affected.

(7) When any survey of areas covered by charts of the Defense Mapping Agency or the National Ocean Survey is completed, a print of each tracing will be sent direct to both the Defense Mapping Agency and the National Ocean Survey. It is not necessary that tracings be fully complete as to form and title when such prints are made. An informal manuscript title marked "Advance Sheets", and containing a description sufficient to identify the locality and to identify the source of the map, will be sufficient.

(8) Information relative to the improvement of harbors and waterways such as dredging operations, and precautions rendered necessary due to the presence of dredging or other plant will, when considered necessary, be brought to the attention of vessel owners or operators regularly using the waterway. This will be done through issuing bulletins or notices by District Engineers.

(h) *Special Reports.* Changes affecting navigation will be made promptly whenever information of immediate concern to navigation becomes known. Items of information especially desired are channel conditions as revealed by surveys, changes in channel conditions, either by natural causes or by dredging or other work, changes in approved projects for improvement with statements of results expected from proposed operations, descriptions of proposed dredging or other Federal work of improvement such as breakwater, pier, and revetment construction or alterations, descriptions of proposed or completed municipal or private improvements in or affecting navigable waters. Additional items of information desired are descriptions of wrecks, uncharted shoals, and other obstructions to navigation and particulars as to proposed or completed removal of same, changes in buoys or lights, erection of new, or changes in existing bridges, new or revised Federal or local rules and regulations for harbors and channels, and establishment or existence of danger areas in navigable waters. Reproductions of drawings or sketches which will be helpful in interpreting the data shall accompany the reports. The reports will not be limited to a reference to an accompanying drawing or sketch, but will contain a complete description in form suitable for publication in notices to mariners and the monthly supplements to the U.S. Coast Pilot. In this respect, the reports will provide enough information that a single notification to navigational interests will suffice. In the case of dredging or construction work, the bare statement that work will commence or has commenced on a certain date is insufficient. All additional information possible, such as probable duration of operations and object of work, will be given—the latter in the case of dredging being such data as the area to be covered and the depth expected to be provided. The reports required by this paragraph will be identified by reference to the appropriate Engineer Manual or regulation and will be numbered consecutively by each District during the calendar year, starting with number 1 at the beginning of each year.

(i) *Information Pamphlets, Maps, Brochures and Other Material.*

(1) Pub. L. 85-480, approved 2 July 1958, authorizes the Chief of Engineers to publish information pamphlets, maps, brochures, and other material on river and harbor, flood control, and other Civil Works activities, including related public park and recreation facilities under his jurisdiction, as he may deem to be of value to the general public.

(2) This Public Law authorizes the Chief of Engineers to provide for the sale of any of the material prepared under authority of the act—and of publications, charts, or other material prepared under his direction pursuant to other legislative authorization or appropriation, and to charge therefor a sum of not less than the cost of reproduction.

(3) District Engineers are authorized to publish the material covered in paragraph 8a above, and to sell such material. Except for material specifically prepared for free distribution to the general public, the charges for such other published information will be not less than the cost of its reproduction.

(4) Condition survey maps or charts, sold or otherwise distributed to the public, showing depths will specifically state the date or dates that the surveys were made. They shall also have the following notation printed or stamped thereon:

"The information depicted on this map represents the results of surveys made on the dates indicated and can only be considered as indicating the general conditions existing at that time."

For the Chief of Engineers:

JAMES N. ELLIS,
Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 78-12414 Filed 5-5-78; 8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—GENERAL PROVISIONS

[General Order No. 16, Amdt. 22; Docket No. 77-40]

PART 502—RULES OF PRACTICE AND PROCEDURE

Miscellaneous Amendments

AGENCY: Federal Maritime Commission.

ACTION: Final rules.

SUMMARY: Rules of Practice and Procedure are amended to require that service of subpenas and discovery requests or motions directed against Commission staff personnel be served on the Secretary of the Commission; to authorize the General Counsel to appoint an attorney to represent Commission staff personnel who are involved; to permit rulings of the presiding officer to be appealed and to be reviewed by the Commission absent appeal in such matters; and to permit parties to file replies to appeals generally. The amendments are necessary because the present rules governing subpena and discovery procedures are inconsistent and unclear and do not give the Commission an opportunity to rule upon matters affecting disclosure of its own records. Furthermore, the present rule governing appeals to the Commission does not provide for replies to such appeals.

EFFECTIVE DATE: May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Feder-

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al Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: The Commission instituted this proceeding by Notice of Proposed Rulemaking published in the FEDERAL REGISTER on August 10, 1977 (42 FR 40452) to amend Rules 135, 209, and 153 of its rules of practice and procedure (46 CFR 502.135, 46 CFR 502.209, and 46 CFR 502.153). The purpose of these amendments was fully explained in the Notice cited above. The Maritime Administrative Bar Association (MABA) submitted initial and supplemental comments. A discussion of the rules and comments follows.

1. Rule 135, 46 CFR 502.135. This rule deals with subpenas of Commission staff personnel and subpenas for production of documentary materials in the possession of the Commission. The proposed changes would considerably enlarge the present rule to establish the procedures to be followed by parties seeking to subpena Commission staff personnel and to obtain production of documents both at a hearing and in connection with prehearing depositions. The amendments would provide for service of subpenas on the Commission's Secretary and conform the procedural schedule regarding prehearing depositions with that which applies to motions to quash subpenas served in connection with depositions. The rule would also be changed to authorize the General Counsel to designate an attorney to represent Commission staff personnel under subpena and to permit rulings of the presiding officer to be appealed or, absent appeal, to be reviewed by the Commission. Replies to appeals would be permitted and the filing of such appeals would automatically stay the presiding officer's rulings until the Commission acted on the matter.

MABA suggests that the subpena be served directly on the Commission staff member although not opposing service of a copy on the Secretary for his information and that of the Commission. MABA expresses dissatisfaction with the proposal that the General Counsel designate an attorney to represent the staff member, suggesting that the staff member be permitted to retain his own counsel. Moreover, MABA is concerned that the authority granted to the General Counsel would result in a "commingling of functions." MABA believes that the General Counsel would be supervising the attorney representing the staff member in the matter of reviewing the subpena or discovery request and would also be supervising another attorney in the event of appeal or on Commission review of the presiding officer's rulings. MABA also expresses concern that the Commission would be reviewing rulings of the presiding officer and fears that the Commission will overrule the presiding officer without having the benefit of the parties' views if no appeal has been filed. It also fears that the Commission will rule without stating its reasons and supporting evidence. MABA believes that matters arising under the rule should be reviewed by the courts rather than the Commission.

In its supplemental comments, MABA opposes the idea of permitting automatic appeals or review by the Commission in the case of subpenas and discovery directed against Commission staff personnel. MABA argues that such a procedure establishes disparate treatment among litigating parties. MABA contends that the proposed procedure is inconsistent with section 27 of the Shipping Act, 1916, and with the legislative history thereof. MABA contends that the Commission's staff member should follow the same procedure as do other parties, that is, move for leave to appeal to the Commission, and that in the event of refusal to comply with a ruling of the presiding officer, the matter be tested in the courts. After careful analysis of these comments, the Commission believes that they are not persuasive and that the rule should be amended as proposed.

MABA's concern that service on the Secretary rather than on the staff member may not serve to inform the staff member of his obligations and that designation of an attorney to represent the staff member by the General Counsel will lead to improper "commingling of functions" is unwarranted. As explained in the Notice of Proposed Rulemaking, cited above, the rule change would eliminate the present inconsistencies and confusion as to the person on whom a subpena or discovery request is to be served. It would also provide a staff member with legal representation, something the present rule does not do, although in practice an attorney who is a member of the Office of the General Counsel has usually been designated to provide such representation. In previous practice, a staff member has been informed of the service of the subpena whether it had been served on the General Counsel or the Secretary. The staff member will continue to be informed. Furthermore, it does not follow that service on the Secretary deprives the staff member of his own views on the propriety of complying with a subpena or discovery order. Likewise, the designation of an attorney by the General Counsel is not intended to have this effect.

MABA's concern that appointment of an attorney by the General Counsel would lead to improper "commingling of functions" is based upon a wrong premise. MABA presumes that the General Counsel will supervise the designated attorney. In fact, that attorney will be free to represent the staff member before the presiding officer and the Commission without supervision by the General Counsel or by anyone whose interests may conflict with those of the staff member. The General Counsel would become involved only in the matter of advising the Commission when appeals are filed or the Commission decides to review on its own motion. Furthermore, to allay any possible remaining concern, the Commission would expect the General Counsel whenever possible, to select an attorney from outside his office.

MABA's concern that the change in procedure would depart from the principle of equality embodied in section 27 of the Shipping Act, 1916, or its legislative history has superficial appeal but ignores the unique status and responsibilities of the Commission. As we stated in the Notice of Proposed Rulemaking, cited above, the Commission is a government agency involved in law enforcement activities, unlike private litigants, and certain privileges against disclosure have been recognized in the law because of these unique responsibilities. See the Freedom of Information Act, as amended, 5 U.S.C. 552(b). Unless the Commission itself has some control over the matter of prehearing discovery and disclosure directed aginst its own staff and documents in its possession, the Commission cannot adequately protect functions which may involve delicate and sensitive considerations of policy as to which presiding officers may be unaware. MABA seems to assume, furthermore, that the Commission would always be overruling presiding officers in an effort to prevent disclosure. The rule change would also apply, however, to situations in which the presiding officer has denied a discovery request so that the Commission could also overrule him and order disclosure. Of course, as in any final ruling of the Commission, an aggrieved party ultimately has the right to judicial review. Finally, at worst a litigant might be deprived of access to general information in the possession of the Commission or a staff member, which information may or may not really be necessary to the development of the litigant's case. This is in contrast to the situation in which a party under investigation or accused of violations of law seeks access to relevant information for purposes of cross-examination of Commission staff members who testify against such party. In the latter situations, as MABA itself has observed, the Commission has adopted a procedure in which the presiding officer may rule upon the matter of production or disclosure and appeal to the Commission may be taken only by his leave. See "Delaware River Port Authority, et al. v. United States Lines, Inc., et al.," 16 SRR 1546 (1976). It is obviously the latter type of situation in which a party might be prejudiced during the course of a proceeding if deprived of vital information rather than the former situation in which general preparatory probing is being conducted prior to hearing.[1] However, the Commission does not intend to deprive parties of vital information necessary for proper cross-examination nor conduct its investigations and present evidence in reliance upon secret, privileged information.

We are not persuaded by MABA's contentions that the Commission will be deprived of the views of the parties where no appeal is taken and that the Commission will not explain its reasons for its rulings. If an affected party wishes to present his views to the Commission in connection with a ruling of the presiding officer, he need only exercise his right to file an appeal within the prescribed period of time. In the event of review by the Commission, absent appeal, the parties' views as expressed to the presiding officer are on record and will be considered. MABA's contention that a statement of reasons explaining the Commission's rulings should be required erroneously presumes that the Commission will act contrary to law by issuing rulings without explanations.

2. Rule 209, 46 CFR 502.209. This rule deals with the use of prehearing discovery processes directed to Commission staff personnel. It follows the same procedures as set forth in the preceding rule with regard to the designation of an attorney by the General Counsel and the matter of appeals from and review of the presiding officer's rulings. MABA's comments regarding the proposed changes to this rule are identical with those directed to the previous rule and, as already discussed, are without merit.

3. Rule 153, 46 CFR 502.153. The Commission proposed to amend this rule by permitting parties to file replies to motions for leave to appeal rulings of the presiding officer. The present rule fails to make such provision. As explained in the Notice of Proposed Rulemaking, this amendment would establish a fairer procedure, enable the presiding officer to rule after having the benefit of all views, and conform to current practice. MABA made no comments on this proposed amendment.

Having considered the comments on Rules 135 and 209 and found them to be without merit, the Commission is therefore adopting the amendments to the above three rules as originally proposed with slight clarifications.[2] Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), and sections 27 and 43 of the Shipping Act, 1916 (46 U.S.C. 826, 841a), Part 502 of Title 46, Code of Federal Regulations, is amended as set forth below.

1. Section 502.135 is revised to read as follows:

§ 502.135 Subpena of Commission staff personnel, documents or things.

(a) A subpena for the attendance of Commission staff personnel or for the production of documentary materials in the possession of the Commission shall be served upon the Secretary. If the subpena is returnable at hearing, a motion to quash may be filed within five (5) days of service and attendance shall not be required until the presiding officer rules on said motion. If the subpena is served in connection with prehearing depositions, the procedure to be followed with respect to motions to quash and replies thereto will correspond to the procedures established with respect to motions and replies in § 502.132(c).

(b) The General Counsel shall designate an attorney to represent any Commission staff personnel subpenaed under this section. The attorney so designated shall not thereafter participate in the Commission's decisionmaking process concerning any issue in the proceeding.

(c) Rulings of the presiding officer issued under § 502.135(a) shall become final rulings of the Commission unless an appeal is filed within ten (10) days after date of issuance of such rulings or unless the Commission on its own motion reverses, modifies, or stays such rulings within twenty (20) days of their issuance. Replies to appeals may be filed within ten (10) days. No ruling of the presiding officer shall be effective until twenty (20) days from date of issuance unless the Commission otherwise directs.

2. Section 502.209 is revised to read as follows:

§ 502.209 Use of discovery procedures directed to Commission staff personnel.

(a) Discovery procedures described in §§ 502.204, 502.205, 502.206, 502.207, and 502.208, directed to Commission staff personnel shall be permitted and shall be governed by the procedures set forth in those sections except as modified by paragraphs (b) and (c) of this section. All notices to take depositions, written interrogatories, requests for production of documents and other things, requests for admissions, and any motions in connection with the foregoing, shall be served on the Secretary of the Commission.

(b) The General Counsel shall designate an attorney to represent any Commission staff personnel to whom any discovery requests or motions are directed. The attorney so designated shall not thereafter participate in the Commission's decision-making process concerning any issue in the proceeding.

(c) Rulings of the presiding officer issued under § 502.209(a) shall become final rulings of the Commission unless an appeal is filed within ten (10) days after date of issuance of such rulings or unles the Commission on its own motion reverses, modifies, or stays such rulings within twenty (20) days of their issuance. Replies to appeals may be filed within ten (10) days. No ruling of the presiding officer shall be effective until twenty (20) days from date of issuance unless the Commission otherwise directs.

§ 502.153 [Amended]

3. Section 502.153 is amended by inserting the following sentence after the third sentence:

* * * Replies to the motion and the appeal may be filed within fifteen (15) days after date of service thereof unless the presiding officer for good cause shown enlarges or shortens the time.

Effective Date. Inasmuch as the expeditious adoption of these rules is desirable and inasmuch as they are procedural in nature, they shall be effective May 8, 1978, and shall be applicable to all pending and future proceedings.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12381 Filed 5-5-78; 8:45 am]

[1] The distinction between general prehearing discovery and inspection and production of specific information for purposes of cross-examination has been recognized by the courts as well as by the Commission. The latter situation relates to the famous case of "Jencks v. United States," 353 U.S. 657 (1957), and to Federal Rule of Evidence 612, 28 U.S.C.A. See 7 A.L.R. 3d 181, § 17; "Zuzich Truck Line, Inc. v. United States," 224 F. Supp. 457, 461 (D. Kans. 1963); "United States v. Harrison," 461 F. 2d 1127 (5th Cir. 1972) cert. denied, 409 U.S. 884.

[2] The last sentences of proposed rules 135(c) and 209(c) have been revised to clarify the effective date of rulings.

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 78-NW-7 AD]

BOEING 707-300/-400/-300B/-300C

Proposed Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: It is proposed to require structural changes to the Boeing 707-300/-400/-300B/-300C horizontal stabilizer which would provide an alternate load path if spar chord cracking should occur. This modification would assure compliance with the airworthiness standards which make up the certification basis for the aircraft. Failure to make these modifications could lead to loss of a horizontal stabilizer and a resultant loss of aircraft control. Airworthiness Directives (ADs) 77-16-11 and 78-01-04 require repetitive inspections of the stabilizer at intervals of 375 landings. This proposal, if adopted, will provide terminating action for these ADs'.

DATES: Comments must be received on or before June 30, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 78-NW-7 AD, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

Harold N. Wantiez, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION:

COMMENT INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communication should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

AVAILABILITY OF NPRMS

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 78-NW-7 AD, 9010 East Marginal Way South, Seattle, Wash. 98108.

DISCUSSION OF THE PROPOSED RULE

Information from the accident investigation of a Boeing 707-321C, which crashed in Zambia, Africa, revealed that the right hand stabilizer separated from the airplane during final approach. Analysis of the fracture surface indicates that the upper rear spar chord of the right hand stabilizer experienced a fatigue failure sometime prior to the accident.

The closure rib chord also showed evidence of fatigue. On May 18, 1977, an AD was issued which required visual inspection of the stabilizer rear spar upper chord. This action was later found to be insufficient, since further investigation indicated that cracks may exist in the stabilizer rear spar upper chord which are not detectable by visual means but are detectable by nondestructive testing methods (NDT). A superseding AD telegraphic message was issued on May 27, 1977, requiring one-time NDT inspections of the chord. On July 11, 1977, another AD telegraphic message was issued which required an additional one-time NDT inspection. During July and August 1977, the manufacturer conducted static tests on a 707-400 horizontal stabilizer. First, strain surveys were conducted with the application of loads corresponding to certain flap configurations and failsafe design conditions. Then, the upper chord on the right hand side of the rear spar was cut to simulate the structural configuration of the accident airplane. Loads were then applied to the stabilizer simulating the 1 G flaps 50 flight condition. This caused a failure of the fasteners tying the skin to the rear spar upper chord inboard of the cut and also the web from the upper chord to the mid chord. On August 1, 1977, loads were placed on the stabilizer to simulate a 1 G flaps 50 abrupt elevator condition. There appeared to be some distress; however, the structure remained intact. On August 4, 1977, loads were placed on the stabilizer representing the failsafe negative gust condition (condition 1022). Upon reaching 80 percent of this load condition, the stabilizer failed. In order to have passed the test the stabilizer was required to carry 115 percent of condition 1022, without failure.

On August 15, 1977, AD 77-16-11 was issued which superseded all previous messages and ADs and required repetitive inspections at an interval of 375 landings. On December 27, 1977, AD 78-01-04 was issued to require visual inspection of the rear spar center section of the horizontal stabilizer upon a finding that this portion of the structure appeared not to meet Part 4b of the Civil Air Regulations, the airworthiness standards that make up the certification basis of the Boeing Model 707 airplane. AD 77-16-11 and AD 78-01-04 provide interim inspections until the terminating action being proposed by this notice is accomplished.

The stabilizer is capable of carrying all design loads so long as cracks do not extend beyond critical lengths into the body of the rear spar upper chord. With the chord completely severed, the stabilizer is not capable of carrying failsafe design loads. It will be necessary to modify the basic structure to improve the failsafe capability of the horizontal stabilizer.

A draft regulatory AD analysis for this notice is available for public review and comment. It is contained in the rules docket at the address specified above. That analysis discusses the major alternatives to this proposed action considered by the FAA. The alternative of requiring immediate modification is felt by the FAA to be unreasonable while that of requiring continued periodic inspections under the existing ADs is not believed to provide a long term adequate level of safety.

DRAFTING INFORMATION

The principal authors of this document are Harold N. Wantiez, Engineering and Manufacturing Branch, Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

BOEING: Applies to all Boeing 707-300/-400/-300B/-300C airplanes certified in all categories previous to line number (to be determined). Compliance required no later than January 1, 1980.

Install structural improvement kits on the horizontal stabilizer and center section in accordance with (a) Boeing Service Bulletins 3313 Rev. 5 or later FAA approved Revisions and 3331 Rev. 1 or later FAA approved Revisions; or (b) a modification approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Compliance with this AD constitutes terminating action for ADs 77-16-11 and 78-01-04.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

NOTE.— The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on April 28, 1978.

C. B. WALK, Jr.,
Director,
Northwest Region.

[FR Doc. 78-12446 Filed 5-5-78; 8:45 am]

MAY 8 1978

[6320-01]

CIVIL AERONAUTICS BOARD

[EDR-354; Docket 32585; Dated: May 1, 1978]

[14 CFR Ch. II]

QUALITY OF AIR TRANSPORTATION SERVICES

Advance Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Board is concerned that passengers and competing carriers may not have enough information available on the various dimensions of air travel service quality. While some information is readily available, information on some other important dimensions is difficult, if not impossible, to gather unless the passenger has substantial experience with the same trip. The Board has decided to solicit public views on whether it should collect and make available to the public data on performance quality in air travel and associated ground service of the United States certificated air carriers, and, if so, what information should be disseminated and in what form to best serve the public need at least cost to the carriers and the Board.

DATE: Comments by: July 7, 1978. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 32585, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Brinley H. Williams, Jr., Office of the Consumer Advocate, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5482, or Steven Salop, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5978.

SUPPLEMENTARY INFORMATION: To evaluate the various price-service options available from competing carriers, passengers must subjectively evaluate and compare a diverse set of price and service components. For some objective components, information is readily available from the official airline guide, carriers and travel agents. Some other objective components, such as on-time performance, denied boarding ("bumping") rates, and baggage loss and damage frequency, are more difficult to gather. It is also difficult to gather useful information regarding such subjective components as customer treatment and meal quality, except through personal experience and carriers' reputations.

While carrier's performance records are generally outstanding, one would expect differences among carriers in particular markets. Carriers allocate their resources among the various service components according to their relative costs of providing each service and their notion of the weight consumers place on each component. Simply stated, carriers compete on service components as well as price. The ability of carriers to compete on particular service components is constrained by a shortage of information. For example, a carrier cannot advertise its superior baggage handling record, if its competitors' relative performance is unknown. If one carrier considers a guarantee on baggage retrieval time or on-time performance, and offers to compensate passengers in the event of failure, it cannot easily evaluate the profitability of the performance-guarantee in the absence of knowledge of its competitiors' records; nor can consumers easily value the offer without some idea of that same information.

Thus, improved information would be valuable to both the travelling public in choosing among carriers and to carriers in adopting competitive service, advertising and guarantee policies. However, these improvements in information collection and dissemination can only come at an additional cost to the carriers and the Board. Therefore, in designing any new program, care must be taken to ensure that the value of any additional effort will be worth the cost.

The design of an information collection and dissemination program is not a trivial problem. Information is only valuable if it is processed and used, and it can only be used if the data is presented in a usable form. This is a more serious problem for a program focusing on dissemination to consumers. "Information overload" considerations suggest that if too much data is presented, none will be used. The alternative solution of limiting the data to only a few variables requires a careful selection of "key" variables, for in response to the new information, carriers will increase their service expenditures and base their comparative advertising on those components published. Information overload seems less of a problem if the program is geared towards improving carriers' information for use in comparatives advertising compaigns and guaranteed service offerings. However, in this case, the potential for deception must be considered.

In light of these issues and potential problems, the Board is requesting comments on the design, cost, and benefits of an expanded information collection and dissemination program. Comments should be directed to the issues raised above, the following questions below, and any other issues deemed important.

(1) What dimensions of service quality are important to passengers? Which are most important to the greatest number of passengers?

(2) For which of the following items could the Board effectively provide information, based on data collected from the carriers?[1] What would be the

[1] The Board currently obtains carrier data in some form on items (a), (b), (c), (d), and (i). What modification might be needed in the data now collected? With regard to additional data, * * * Should data be required from all certificated carriers including supplementals, trunks and local service carriers, or trunks only? Should commuters be permitted to file data? Should data cover the top 200 markets or some other set of markets? In what form should the Board make information available? By carrier, by

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cost to carriers of collecting the additional data itemized? Is this or similar data currently collected by the carriers?

(a) On-time performance,
(b) Flight cancellation rates,
(c) Bumping rates,
(d) Average load factors, by class of service,
(e) Proportion of flights fully booked and/or stop-saled,
(f) Lost, damaged, or delayed (resulting in the filing of a baggage irregularity report) baggage rates,
(g) Average retrieval time for baggage delivery,
(h) Number of consumer complaints categorized by (i) flight cancellation, delays, irregularities; (ii) reservations; (iii) fares and refunds; (iv) baggage; (v) customer treatment; (vi) discrimination; (vii) flight information; (viii) in-flight service; (ix) equipment and facilities; and (x) other,
(i) Seating pitch and width, by class of service,
(j) Aisle width,
(k) Average number of cabin attendants per passenger, by class of service,
(l) Average number of passengers (or seats) per restroom, by class of service,
(m) Cubic space per passenger available for carry-on items,
(n) Cabin noise level, and
(o) Other.

(3) Are passengers already adequately informed? If so, what variables comprise adequate information? How might the flow of currently available information be voluntarily improved by carriers?

(4) How should data currently collected and any additional data collected be disseminated for maximum usefulness? Additions to the official airline guide? Booklets? Is information overload a serious problem? If so, what key variables should be emphasized?

(5) Would consumer servey data be useful in the selection of key variables? Would carriers voluntarily make their consumer surveys available to the Board for this purpose? Should the Board consider collection and publication of consumer servey data on the quality of service of different carriers?

(6) What information would carriers find useful in formulating service policies and advertising service quality? What information would be necessary to utilize performace guarantees as a competitive tool? Is reliance on comparative advertising and performance guarantees a viable solution? What sort of guidelines regarding misleading use of data and deceptive practices are necessary?

(Sec. 204, 404, and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766 (49 U.S.C. 1324, 1374, and 1377).)

Footnotes continued from last page

market, or in some other manner? How often should data be collected?

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR
Secretary.

[FR Doc. 78-12624 Filed 5-5-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 441]

MOBILE HOME SALES AND SERVICE

Additional Hearing Regarding Telephone Survey by The Housing Advocates, Inc., on the Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Additional public hearing scheduled at Washington, D.C.

SUMMARY: On May 23, 1977 (42 FR 26398), the Presiding Officer published in the FEDERAL REGISTER a Final Notice of a proposed trade regulation rule proceeding concerning Mobile Home Sales and Service. On December 7, 1977 (42 FR 61871), the Presiding Officer published in the FEDERAL REGISTER a notice of additional hearings. A hearing in addition to those listed in those two notices has been scheduled.

DATES: A public hearing will be held on June 9, 1978, commencing at 9:30 a.m. Written rebuttal submissions limited to and relevant to only The Housing Advocates' survey (and testimony) and the MHI rebuttal witness testimony will be accepted for the record until no later than June 23, 1978.

ADDRESS: Hearing location: Room 532 of the Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Raymond L. Rhine, Presiding Officer, Room 667, Bicentennial Building, Sixth and E Streets NW., Washington, D.C. 20580, 202-724-1037.

SUPPLEMENTAL INFORMATION: On April 11, 1978, the Presiding Officer issued a Ruling reopening the Public Record for the receipt of a telephone survey of nonrespondents by The Housing Advocates, Inc., relating to the Proposed Trade Regulation Rule and other related material. The Presiding Officer has scheduled an additional hearing to be held on June 9, 1978 for the purpose of:

1. Receiving testimony by a witness for The Housing Advocates, Inc., regarding the survey;
2. Cross-examination of that witness by Group Representatives;
3. Rebuttal testimony limited to The Housing Advocates' survey and the related material by a rebuttal witness for the Manufactured Housing Institute;
4. Cross-examination of the MHI rebuttal witness by Group Representatives.

Interested parties are invited to attend the hearing and to file written rebuttal limited to and relevant to only The Housing Advocate's survey and to 1 to 4 above. Such submissions will be accepted for the public record if received by the Presiding Officer on or before June 23, 1978.

More detailed instructions to the two witnesses for the filing of statements and for Group Representatives to request cross-examination are included in the Presiding Officer's Ruling Reopening Public Record for Submission of Housing Advocates' survey, April 11, 1978, his Ruling Granting MHI Request to Provide Witness—Housing Advocates' Survey, April 18, 1978, and his Memorandum Setting New Hearing Date and Relating to Procedures, April 28, 1978. The requirements of those Rulings for participation at the hearing must be observed by witnesses and Group Representatives. The hearing date was originally scheduled for June 2, 1978 as stated in the April 11 and 18, 1978 Rulings. The hearing date has been changed to June 9, 1978. Copies of the Rulings will be sent upon request.

Issued: May 2, 1978.

RAYMOND L. RHINE,
Presiding Officer.

[FR Doc. 78-12409 Filed 5-5-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

[Release Nos. 33-5928, 34-14717, 35-20521; Files S7-715 and S7-724]

ACCOUNTING PRACTICES—OIL AND GAS PRODUCERS

Additional Hearing Date and Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Notice of addtional hearing date and extension of comment period for proposed rules.

SUMMARY: The Commission has announced that on May 10, 1978, it will hold a further day of hearing in connection with the Commission's rulemaking proposals relating to accounting practices for oil and gas producers which the Commission published for comment in Release Nos. 33-5877, August 31, 1977 (42 FR 44927), and 33-5861, October 26, 1977 (42 FR 57661). The Commission has also extended the comment period on these proceedings and on its related proposed replacement cost disclosure rules to May 31, 1978.

DATE: Comments should be submitted on or before May 31, 1978.

ADDRESS: Comments should refer to File S7-715. Comments on the rules proposed in Release Nos. 33-5878 and 33-5916 should also refer to File S7-724. Comments should be submitted in triplicate to George A Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Richard C. Adkerson, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1671.

SUPPLEMENTARY INFORMATION: The May 10, 1978 hearing will begin at 9 a.m. in Room 776, 500 North Capitol Street, Washington, D.C. The schedule of presentations will be published in the "SEC News Digest".

The Commission has thus far held a total of eleven days of hearing on these proposals in Washington, D.C. and Houston, Tex. Transcripts of the hearing are available for public inspection at the Commission's public reference room, 1100 L Street NW., Washington, D.C.

In its Notice of Public Hearing, Release No. 33-5905, February 10, 1978 (43 FR 6810), the Commission announced that comments on (1) matters discussed at the public hearing, (2) material place in Public File S7-715, the public file for these proceedings, or (3) matters otherwise pertinent to these procedings, were to be submitted no later than May 19, 1978. The Commission has extended that date to May 31, 1978. The Commission has also extended to May 31, 1978, the comment period on related rules requiring disclosure of information based on the present value of future net revenues from estimated production of proved oil and gas reserves which it originally proposed in Release No. 33-5878, November 3, 1977 (42 FR 57652) and revised in Release No. 33-5916, March 24, 1978 (43 FR 12334).

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1978.

[FR Doc. 78-12444 Filed 5-5-78; 8:45 am]

[8010-01]

[17 CFR Part 270]

[Release No. IC-10222; File No. S7-738]

PREVENTION OF UNLAWFUL ACTIVITIES WITH RESPECT TO REGISTERED INVESTMENT COMPANIES

Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comments set in the notice published March 20, 1978, requesting public comment regarding proposed Rule 17j-1 under the Investment Company Act of 1940. Proposed rule 17j is proposed to prevent unlawful activities with respect to registered investment companies.

DATES: Comments must be received on or before May 30, 1978.

ADDRESSES: Comments should be sent in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 and should refer to File No. S7-738.

FOR FURTHER INFORMATION CONTACT:

Walter R. McEwen, Esq., Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-4866.

SUPPLEMENTARY INFORMATION: Notice was published on March 20, 1978, Released No. IC-10162 (43 FR 7976, March 27, 1978) requesting the submission of views with respect to the proposed rule which would prohibit certain activities on the part of persons affiliated with registered investment companies or their investment advisers or principal underwriter. The proposed rule would also require that such entities establish codes of ethics applicable to certain persons associated with them, and would require that these persons make specified reports regarding their securities transactions. The Commission has received requests from two interested members of the public that the comment period be extended. The Commission has determined that it is in the public interest to allow the organizations making the requests additional time to submit comments on the proposed rule. Accordingly, the Commission hereby extends the period for comments on proposed Rule 17j-1 to May 30, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1978.

[FR Doc. 78-12445 Filed 5-5-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 1]

[Docket No. RM78-10]

PROCEDURES FOR REVIEW BY FEDERAL ENERGY REGULATORY COMMISSION OF REMEDIAL ORDERS ISSUED BY SECRETARY OF ENERGY

Proposed Rulemaking and Public Hearing

MAY 2, 1978.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Regulatory Commission (the Commission) gives notice of a proposal to establish regulations governing procedures for Commission review of remedial orders issued by the Secretary of Energy (the Secretary) pursuant to the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), as amended (the EPAA). Authority to review remedial orders of the Secretary was conferred upon the Commission by section 503 of the Department of Energy Organization Act, Pub. L. 95-91 (the Act).

DATES: Written comments by June 5, 1978; requests to speak by May 19, 1978; statements by May 24, 1978; public hearing to be held at 9:30 a.m., May 25, 1978, to be continued the following day if necessary.

ADDRESSES: Written comments, requests to speak and statements should reference Docket No. RM78-10 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, the public hearing will be held at the same location in hearing room A.

FOR FURTHER INFORMATION CONTACT:

Mary Wright, Assistant General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 8200, Washington, D.C. 20426, 202-275-4273.

Bonnie Cord, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 8200, Washington, D.C. 20426, 202-275-4210.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

Section 503(a) of the Department of Energy Act (Pub. L. 95-91) (the Act), provides that if upon investigation, the Secretary of Energy (Secretary) or his authorized representative believes that a person, including any individual, association, company, corporation, partnership or other entity, has violated any regulation, rule or order issued

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pursuant to the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159, as amended) (EPAA), he may issue a remedial order to that person. Section 503(b) of the Act provides that the remedial order will become effective 30 days after receipt unless the recipient notifies the Secretary that he intends to contest the order.

Under section 503(c), if the Secretary receives notice that the order will be contested the Secretary must notify the Commission immediately, and the Commission is required to stay the effect of the remedial order unless it finds that the public interest requires immediate compliance. Section 503(c) further states:

> The Commission shall, upon request, afford an opportunity for a hearing, including, at a minimum, the submission of briefs, oral or documentary evidence, and oral arguments. To the extent that the Commission in its discretion determines that such is required for a full and true disclosure of the facts, the Commission shall afford the right of cross-examination. The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's remedial order, or directing other appropraite relief, and such order shall, for the purpose of judicial review, constitute a final agency action, except that enforcement and other judicial review of such action shall be the responsibility of the Secretary.

The Statement of Managers accompanying the Conference Report on the Act states that responsibility to review remedial orders was placed in the Commission rather than elsewhere in the Department to assure that the Department's review of any initial action taken with respect to remedial orders will be by officials who were in no way involved in the Department's original action. The Conferees stated that this would guarantee a separation of the Department's prosecutorial and judicial functions relating to enforcement. The Conferees also emphasized that the procedures specified in the Act for review of remedial orders—

> • • • are intended to clearly reaffirm the intent of Congress that those involved in enforcement actions • • • be extended procedural due process. Congress always intended that the notions of fair play and due process be followed in the administrative process. (S. Rep. No. 95-367, 95th Cong. 1st Sess. 85-86 (1977)).

On January 6, 1978, the Economic Regulatory Administration (ERA) issued proposed regulations, effective immediately on an interim basis (43 FR 1930, January 13, 1978) relating to the procedures that it would follow in issuing remedial orders under the EPAA.

By notice issued March 15, 1978, (43 FR 13073, March 29, 1978), ERA extended the date for filing comments to May 10, 1978, and scheduled a public hearing on the proposals for May 3, 1978. The regulations proposed by ERA provide generally for issuance by the Special Counsel for Compliance or the Assistant Administrator for Enforcement of a proposed remedial order, followed by an opportunity for aggrieved or interested parties to present evidence before the ERA's Office of Administrative Review relative to the proposed remedial order prior to issuance of the remedial order in final form. Under ERA's proposal, evidentiary hearings could be convened where appropriate, and an opportunity for oral argument would be afforded as a matter of right. The proposed regulations would also apply to interim remedial orders for immediate compliance and orders of disallowance, prohibit ex parte communications and authorize the issuance of ancillary orders. Since the proposal was issued, the Department has announced that that Office's functions will be transferred to a new Office of Hearing and Appeals (OHA) independent of ERA. Thus, under the Department's new announced organization, final remedial orders will be issued by OHA rather than by an office within ERA.

Since the proposed and interim regulations of the Department will to some extent affect the nature of the proceedings to be conducted by the Commission, the Commission invites interested persons to consider these regulations in connection with the Commission's proposed review procedures.

B. Summary of the Commission's Proposed Regulations.

The procedures proposed by the Commission for its review of remedial orders are intended to provide a full and fair consideration of the contested issues in relation to the order without imposing in any case procedural requirements which are unnecessary or unduly burdensome. Thus, the Commission anticipates that where necessary to provide a full and fair disclosure of the facts, an evidentiary hearing will be held, including the right of cross-examination, but that in some cases, disputed issues will be resolved on the basis of written submissions. Whenever a party to a proceeding requests an oral hearing with submissions of briefs, oral or documentary evidence and oral arguments, the request will be granted, as provided in section 503(c) of the Act.

Request for Confidential Treatment. Proposed § 1.38(c) of 18 CFR Part 1, Rules of Practice and Procedure of the Federal Energy Regulatory Commission, provides that information filed by a person under this section may be withheld from public disclosure if the person: (1) Claims that the material is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt from public disclosure; (2) requests the Presiding Office not to disclose the information; (3) serves the requests on other participants in the proceding; (4) submits a copy of the document concerned with alleged confidential information deleted; (5) indicates an the original document that confidentially is claimed; and (6) includes a statement justifying the confidentiality claim, if the claim is made pursuant to the trade secret and commercial or financial information exemption of 5 U.S.C. 552(b)(4). If the second copy with deletions is not submitted, the Presiding Officer may assume that there is no objection to public disclosure. The Presiding Officer shall notify a person of the denial of a claim and provide an opportunity to respond at least 5 days prior to public disclosure of the information. Other participants may oppose the request by filing, within 10 days of receiving a copy of the request, a statement specifying the reasons that the material should not be considered confidential. The Presiding Officer shall notify all participants of his determination as to the claimed confidentiality. if he finds that the information is confidential, the Presiding Officer shall, upon request, determine whether the information may be released to participants, upon request, and shall notify all participants of this determination.

The Commission particularly invites comments on the provisions of the proposal relating to confidentiality including the method by which presiding officers make the determinations of confidentiality. The possibility that a decision may be based on information contained in documents which other parties cannot contest because the information has been determined to be confidential is disturbing. However, the possibility of requiring parties to risk disclosing trade secrets or sensitive financial data to competitors in order to defend themselves in actions before the Commission also present problems. The Commission intends to consider a broad range of approaches to this matter, including refusing to classify any documents as confidential if it supports a material fact in the case and is contested. Accordingly, commentors are encouraged to submit alternative provisions governing confidentiality, and should consider this proposal merely as a description of the subject ot this portion of the rule and the issues involved in it.

Commencement of Proceedings. Proposed § 1.38(d) provides that proceedings under this section are commenced by written notice to the Commission by the Secretary of Energy or his delegate that he has been notified by the recipient of an order (the petitioner) that the order will be contested. The proceedings are also commenced by the petitioner's filing a notice of

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appeal of the denial of an application for stay of an interim remedial order pursuant to 10 CFR 205.199(D)(i)(2). The contested order may be a remedial order under 10 CFR 205.199, an interim remedial order for immediate compliance under 10 CFR 205.199D on an order of disallowance under 10 CFR 205.199E. Upon notice from the Secretary or upon receipt of the notice of appeal from the petitioner under proposed § 1.38(d), the Presiding Officer would be designated by the Commission or its designee for the proceeding. In this regard, the Commission requests the views of interested parties as to whom it should appoint as Presiding Officer in these proceedings, and as to the type of qualifications or experience that would be realistic and desirable for Presiding Officers in view of the Commission's resources.

Stay of Contested Order. Proposed § 1.38(e) provides that upon filing of the notice by the Secretary under paragraph (d) the contested order is automatically stayed unless the Presiding Officer finds on its own motion or upon request of the Secretary or other participant that the public interest requires immediate compliance with the contested order. A request not granted within 10 days would be denied. The Presiding Officer could extend the time for a determination for up to 7 days. The Presiding Officer wil notify petitioner of any denial of a request, and such denial may be appealed to the Commission under § 1.28, except that if the Commission has not acted upon the appeal within 20 days of the filing of the appeal, the appeal shall be deemed to have been denied.

Pleadings. Within 20 days after service of notice by the Secretary under paragraph (d), the Secretary must file with the Presiding Officer and serve upon other participants a copy of the contested order and must certify to the Presiding Officer the complete record developed in the proceedings before the Secretary. In addition, the Secretary may elect to file a separate brief setting forth the elements of the alleged violation with a statement of the factual and legal basis of the contested order, which would also have to be filed with the Presiding Officer within 20 days and served on other participants.

The petitioner's reply, which is due within 20 days of service of the Secretary's pleadings and which the petitioner must serve on all participants in the proceeding, would be required to state fully the petitioner's objections, supported by arguments, to the legal and factual basis of the contested order. New facts or issues could be raised in accordance with the proposed § 1.38(f)(2)(ii). In this regard, the Commission would not review an order otherwise reviewable under this section which was issued without underlying evidentiary proceedings. If in the proceeding before OHA the recipient did not reply to a notice of probable violation or file a notice of objection to a proposed remedial order, a final remedial order could be issued on the basis of the recipient's "consent" without ERA's proving its affirmative case for the record. Thus, any facts or issues raised by the recipient before the Commission would be new facts or issues which would not satisfy the criteria of § 1.38(f)(2)(ii)(A).

Within 20 days from the service of the petitioner's reply, the Secretary may file a response to the petitioner's objections and supporting arguments, which response the Secretary must serve on all participants.

Any person denied the opportunity to participate in prior proceedings could petition to intervene, in accordance with § 1.8. In order that the petition be granted, the person must establish that the denial of opportunity to participate in prior proceedings was wrongful. If the petition were granted, the person could then file briefs as determined by the Presiding Officer.

The time for filing pleadings could be extended for good cause as provided in § 1.13(d).

Hearings. Proposed § 1.38(g)(1) states that any participant may, at a time or times specified by the Presiding Officer, request an opportunity for hearing, which shall be granted. The Presiding Officer may on his own motion convene a hearing. The Presiding Officer, on his motion or on the motion of a participant, could order that there be an opportunity for cross-examination if necessary for a full and true disclosure of the facts. Proposed § 1.38 also provides that the Presiding Officer shall give notice to all participants of the time and place of the hearing. That section also states that the Presiding Officer shall determine the issues to be resolved in the proceeding, may specify the time available for oral argument, and may convene a prehearing conference to determine the issues or the nature of the proceeding to be held.

The Presiding Officer would determine the order of procedure at the hearing, except that in every case, the Secretary has the burden of proof regarding all disputed elements of the affirmative case. Other matters relating to the conduct of the hearing are to be determined by the Presiding Officer. At the conclusion of the hearing an opportunity is provided for participants to submit proposed findings of fact and conclusions of law, and replies thereto, with the requirement that participants serve all such submissions on all other participants.

Order. Proposed § 1.38(i) provides that the Presiding Officer issue a proposed order affirming, modifying or vacating the contested order or directing other appropriate relief. The proposed order and a copy of the record would then be certified and filed with the Commission. A final order affirming, modifying or vacating the contested order or directing other appropriate relief issued by the Commission and served on all participants would constitute a final agency action for purposes of judicial review.

Ex parte communications. Proposed § 1.38(k) provides that the ex parte provisions of § 1.4(d) of this subpart apply to proceedings under this section as if such proceedings were contest on-the-record proceedings pending before the Commission.

Other Issues. The Commission requests comments not only on these proposed procedures, but also on suitable alternative thereto and on any other issues which interested persons believe it should consider in this rulemaking proceeding.

C. Written Comment Procedures

Interested persons are invited to submit written comments, data, views or arguments with respect to this proposal. An original and 14 copies should be filed with the Secretary of the Commission. All comments received prior to June 5, 1978, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street NE., Washington, D.C., during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should reference Docket No. RM78-10.

D. Public Hearing Procedures

A public hearing concerning this proposal will be held in Washington, D.C. on May 25, 1978, beginning at 9:30 a.m. and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m., on May 19, 1978.

Requests to participate the hearing should include a reference to Docket No. RM78-10, as well as a concise summary of the proposed oral presentation and a number where the person making the request may be reached by telephone. Prior to the hearing each person filling a request to particiapte will be contacted by the Presiding Officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the

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Secretary of the Commission prior to 4 p.m., on May 24, 1978. The Presiding Officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 100 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the Presiding Officer to be asked of persons making statements. The Presiding Officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the Presiding Officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

(Department of Energy Organization Act Pub. L. 95-91; E.O. 12009, 42 FR 46267).

In consideration of the foregoing, it is proposed to amend Part I, Subchapter A, Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

LOIS D. CASHELL,
Acting Secretary.

1. Part 1, Subchapter A, Chapter I of Title 18, Code of Federal Regulations, is amended in the table of contents by adding in the appropriate numerical order a new section number and heading to read as follows:

PART 1—RULES OF PRACTICE AND PROCEDURE

* * * * *

Sec. 1.38 Commission Review of Remedial Orders.

* * * * *

2. Part 1, Subchapter A, Chapter I of Title 18, Code of Federal Regulations, is amended in the Statement of Authority by inserting between "825h," and "unless otherwise noted" a phrase to read as follows:

AUTHORITY: 42 U.S.C. 7193(c), E.O. 12009, 42 FR 46467. * * *

3. Part 1, Subchapter A, Chapter I of Title 18, Code of Federal Regulations, is amended by adding a new § 1.38, to read as follows:

§ 1.38 Commission review of remedial orders.

(a) *Scope.* (1) The provisions of this section shall apply to proceedings of the Commission held in accordance with section 503(c) of the Department of Energy Organization Act, Pub. L. 95-91, 42 U.S.C. 7913(c), to review orders issued by the Secretary of Energy pursuant to section 503(a) of the Department of Energy Organization Act, and initiated by notices of probable violation issued on or after October 1, 1977, which are contested by the recipient.

(2) Except as otherwise specifically provided in this section, the following provisions of the Part shall apply to proceedings under this section:

(i) § 1.1—The Commission;
(ii) § 1.2—The Secretary;
(iii) § 1.3—Notice of public sessions and proceedings;
(iv) § 1.4—Appearances and practice before the Commission;
(v) § 1.8—Intervention (except for paragraph (b));
(vi) § 1.11—Amendments and withdrawal of pleadings;
(vii) § 1.12—Motions;
(viii) § 1.13—Time, extensions of time, issuance of orders;
(ix) § 1.14—Filings, docket; hearing calendar;
(x) § 1.15—Formal requirements as to pleadings, documents and other papers filed in proceedings;
(xi) § 1.16—Subscription and verification;
(xii) § 1.17—Service;
(xiii) § 1.21—Copies of transcripts;
(xiv) § 1.22—Witnesses;
(xv) § 1.23—Subpoenas;
(xvi) § 1.24—Depositions;
(xvii) § 1.25—Stipulations;
(xviii) § 1.26—Evidence;
(xix) § 1.27—Presiding officers;
(xx) § 1.36—Public information and requests; and
(xxi) § 1.51—Certificate of service.

(b) *Definitions.* For purposes of this section—

"Commission" means the Federal Energy Regulatory Commission.

"Contested order" means the remedial order, interim remedial order for immediate compliance, or order of disallowance being contested in a proceeding pursuant to this section.

"Interim remedial order for immediate compliance" means an interim remedial order for immediate compliance issued pursuant to 10 CFR 205.199D.

"Order of disallowance" means an order of disallowance issued pursuant to 10 CFR 205.199E.

"Participant" means, as appropriate, the Secretary, the petitioner, other interested persons who participated in prior proceedings on the contested order, and intervenors.

"Person" means any individual, association, company, corporation, partnership, or other entity however organized.

"Petitioner" means a person who has received a remedial order, interim remedial order for immediate compliance, or order of disallowance who notifies the Secretary that he intends to contest the order.

"Remedial order" means a remedial order issued pursuant to 10 CFR 205.199B.

"Secretary" means the Secretary of Energy or his delegate.

(c) Request for confidential treatment. (1) If any person filing under this section claims that some or all of the information contained in a document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure, and if the person requests the Presiding Officer not to disclose such information, which request the person shall serve upon all participants in the proceeding, the person shall file together with the document a second copy of the document from which has been deleted the information for which the person wishes to claim confidential treatment. The person shall indicate in the original document that it is confidential or contains confidential information and may file a statement specifying the justification for nondisclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commerical or financial information, the person shall include a statement specifying why the information is privileged or confidential. If the person filing a document does not submit a second copy of the document with the confidential information deleted, the Presiding Officer may assume that there is no objection to public disclosure of the document in its entirety. The Presiding Officer retains the right to make his own determination with regard to any claim of confidentiality. Notice of the decision by the Presiding Officer to deny a claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than 5 days prior to its public disclosure.

(2) A participant in the proceeding who wishes to oppose a request for confidential treatment under subparagraph (1) of this paragraph shall, within ten days of the receipt of a copy of the request, file with the Presiding Officer and serve on other participants a statement specifying the reasons that the material is not confidential or priviledged. The Presiding Officer shall notify all participants of his determination as to confidentiality. If the Presiding Officer determines that the material is confidential, he shall, upon request by a participant, determine whether the information may be released, upon request, to participants and shall notify all participants of his determination.

(d) *Commencement of proceedings.* (1) Except as provided in subparagraph (2) of this paragraph, proceedings pursuant to this section shall be commenced by written notice to the Commission by the Secretary that he has been notified by a petitioner that the petitioner intends to contest an order reviewable under this section. At the same time, the Secretary shall certify to the Commission that he has served such written notice upon other participants in the prior proceedings and upon persons denied intervention in the prior proceedings.

(2) Proceedings pursuant to this section with respect to an interim remedial order for immediate compliance shall be commenced by a petitioner's filing, with the Commission, a notice of appeal from the denial of an application for a stay of an interim remedial order for immediate compliance pursuant to 10 CFR 205.199(D)(i)(1).

(3) Upon receipt of notice from the Secretary under subparagraph (1) of this paragraph, or upon receipt of a notice of appeal by the petitioner under subparagraph (2) of this paragraph, the Commission or its designee shall designate a Presiding Officer for the proceeding and shall notify participants in the prior proceeding and persons denied intervention in the prior proceedings of such designation.

(e) *Stay of contested order.* (1) Upon the filing with the Commission by the Secretary of the notice under paragraph (d) of this section, the contested order shall be automatically stayed pending review pursuant to this section unless the Presiding Officer finds that the public interest requires immediate compliance with the contested order.

(2) The Secretary or other participant may at any time prior to the hearing under paragraph (g) of this section or if there is no hearing, prior to the issuance of a proposed order under paragraph (i) of this section, file a petition requesting that the contested order not be stayed and setting forth the legal and factual basis for the request.

(3) The Presiding Officer may request a written statement of the views of any participant regarding whether the contested order should not be stayed, and may convene an expedited hearing or conference on a petition under subparagraph (2) of this paragraph.

(4) The Presiding Officer may grant the petition requesting immediate compliance where he finds that the public interest requires immediate compliance.

(5) If the Presiding Officer has not granted the petition under subparagraph (2) of this paragraph within 10 days after it is filed, the petition shall be deemed denied. Prior to the expiration of the 10 day period the Presiding Officer may extend the period for decision for up to 7 days. At the end of the extension the petition, if not granted, shall be deemed denied.

(6) If the petition under subparagraph (2) of this paragraph is denied, the Presiding Officer shall notify petitioner of such denial.

(7) A grant or denial of a petition under subparagraph (2) of this paragraph may be appealed to the Commission in accordance with § 1.28, except that unless the Commission acts upon the appeal within 20 days after the filing of the appeal, the appeal shall be deemed to have been denied. The contested order will be automatically stayed pending the Commission's disposition of the appeal.

(f) *Pleadings.*—(1) *By the Secretary.* (i) Within 20 days after service of notice by the Secretary under paragraph (d), the Secretary:

(A) Shall file with the Presiding Officer a certified copy of the complete record developed in prior proceedings on the contested order, which shall be deemed a part of the record upon which the order of the Commission is based, and which shall be available at the Commission for inspection by the participants;

(B) Shall file with the Presiding Officer and serve on the other participants in the proceeding a copy of the contested order; and

(C) May, in addition, elect to file a brief in support of the affirmative case, which brief must set forth: (*1*) The elements of the alleged violation, including references to all authorities upon which the Secretary relies, including but not limited to regulations, rulings, interpretations and decisions on appeals and exceptions issued by the Department or its predecessor agencies, and precedents established by the Commission; and (*2*) a complete statement of the factual and legal basis of the contested order. The Secretary shall serve the brief on all participants in the proceedings.

(ii) With 20 days after service of the petitioner's reply, the Secretary may file with the Presiding Officer and serve upon other participants in the proceeding a response to the petitioner's reply.

(2) *By the petitioner.* (i) Within 20 days after service by the Secretary under subparagraph (1) of this paragraph, the petitioner shall file with the Presiding Officer and serve upon the Secretary and other participants in the proceeding a reply stating fully the objections, supported by arguments, to the factual and legal basis of the contested order.

(ii) In the reply, the petitioner may also request permission to raise new facts or issues not raised in prior proceedings on the contested order that (A)(*1*), are new facts or issues that were not known and could not, with the exercise of due care, have been known to the petitioner at the time they could have been raised during prior proceedings; or (*2*) are facts or issues that the petitioner was not permitted to raise due to adverse procedural rulings alleged to be erroneous in prior proceedings on the contested order; and (B) are necessary for a full and true disclosure of the facts.

(3) *By other persons.* Any other person who participated in prior proceedings on the contested order may participate in proceedings under this section and may make filings and submittals as determined by the Presiding Officer.

(4) *By intervenors.* Any person who was denied the opportunity to participate in prior proceedings on the contested order may petition the Presiding Officer to intervene in proceedings under this section in accordance with § 1.8. In order that the petition be granted, petitioner must show that denial of participation in prior proceedings was wrongful. If the Presiding Officer grants the petition, the petitioner may make filings and submittals as determined by the Presiding Officer.

(g) *Hearings.* (1) Any participant may, at such time or times as specified by the Presiding Officer, file a request for an opportunity for hearing or a motion for the opportunity for cross-examination including the reasons why cross-examination is necessary for a full and true disclosure of the facts.

(2) If a participant has filed a request for opportunity for hearing, the Presiding Officer shall grant the request for opportunity for hearing, which will include, at a minimum, the submission of oral or documentary evidence and oral arguments.

(3) The Presiding Officer may at any time, on his own motion, convene a hearing before the Presiding Officer.

(4) If at any time prior to the issuance of a proposed order pursuant to paragraph (i) of this section, upon motion of any participant or on his own motion, the Presiding Officer in his discretion determines that it is necessary for a full and true disclosure of the facts, he may order that the participants be afforded the opportunity for cross-examination on any facts or issues raised in the proceedings, on disputed portions of the record from prior proceedings, or, if determined under paragraph (f)(2)(ii) of this section, on new facts or issues.

(5) As soon as practicable after receiving the pleadings under paragraph (f) of this section, the Presiding Officer shall give notice to all participants of the time and place of the hearing.

(6) The Presiding Officer shall determine the issues to be resolved in

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the proceeding, may specify the time available for oral argument, and shall give notice therof to the participants. The Presiding Officer may require additional information from the participants and may convene a prehearing conference for the purpose of determining the issues or the nature of the proceeding to be held.

(h) *Conduct of the hearing.* (1) The order of procedure at the hearing shall be determined by the Presiding Officer, except that the Secretary shall have the burden of proof with respect to all disputed elements of his affirmative case.

(2) The Presiding Officer shall be responsible for the conduct of the hearing.

(3) Within 10 days after the conclusion of the hearing, any participant may file with the Presiding Officer and serve upon the other participants proposed findings of fact and conclusions of law, a brief in support thereof and any objections with respect to the treatment of confidential information under paragraph (c) (2) of this section or a denial of a motion for an opportunity for cross-examination.

(4) Within 5 days after service of proposed findings of fact and conclusions of law under subparagraph (3) of this paragraph any participant may file, and shall serve on other participants, a reply thereto.

(i) *Proposed order.* (1) After the conclusion of the hearing and after the filing of briefs pursuant to paragraph (h) (3) and (4) of this section, the Presiding Officer shall issue a decision and proposed order based on findings of fact affirming, modifying, or vacating the contested order or directing other appropriate relief. The proposed order shall be based on the entire record before the Presiding Officer, including the record at prior proceedings certified by the Secretary, and shall be based on a preponderance of the evidence.

(2) The Presiding Officer shall certify and file with the Secretary of the Commission, for the Commission, a copy of the record on the hearing, including the proposed order.

(j) *Commission action.* The Commission shall upon consideration of the entire record and the proposed order issue a final order affirming, modifying, or vacating the contested order or directing other appropriate relief. The Commission shall serve the final order on all participants.

(k) *Ex parte communications.* The provisions of § 1.4(d) shall apply to proceedings pursuant to this section, commencing at the time the Secretary gives notice under paragraph (d)(1) of this section, as if such proceedings were contested on-the-record proceedings pending before the Commission.

[FR Doc. 78-12441 Filed 5-5-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 41]

PREPARATION OF ROLLS OF CERTAIN TRIBES AND BANDS OF INDIANS

Qualifications for Enrollment and Deadline for Filing

APRIL 24, 1978.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

Summary: The Bureau proposes to amend its regulations on preparation of rolls of Indians to include requirements for enrollment as a lineal descendant to share in the distribution of a judgment awarded the Saginaw, Swan Creek and Black River Bands of Chippewa Indians.

DATE: Comments must be received on or before: June 7, 1978.

ADDRESS: Written comments should be directed to: Chief, Division of Tribal Government Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Mitchell L. Bush, Jr., Enrollment Officer, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245, telephone 202-343-6921; principal author, Mitchell L. Bush, Jr.

SUPPLEMENTARY INFORMATION: The Saginaw, Swan Creek and Black River Bands of Chippewa Indians were awarded a judgment by the Indian Claims Commission in Docket 57. Funds to satisfy the award were appropriated by the Act of January 3, 1974. A plan for the use and distribution of the funds was submitted to the Congress as required by the Act of October 19, 1973, and since neither House of Congress adopted a resolution to disapprove the plan, it became effective on November 12, 1977.

The plan provides that the funds will be divided between the Saginaw Chippewa Tribe of Michigan and the descendants of the Saginaw, Swan Creek and Black River Bands of Chippewa Indians, parties to the Treaty of September 24, 1819. The division will be based on the number of enrollees on rolls of each group prepared as of November 12, 1977.

The purpose of this amendment to 25 CFR 41.3 by adding a new paragraph designated (cc) is to include in the regulations in Part 41, Preparation of Rolls of Indians, the requirements for enrollment to share in the funds as a lineal descendant of the Saginaw, Swan Creek and Black River Bands as prescribed by the plan, and to establish a deadline for filing applications for enrollment. The regulations will not apply to the preparation of a roll of members of the Saginaw Chippewa Indian Tribe of Michigan.

The authority for issuing these regulations is contained in 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9) and 230 DM 1 and 2.

Part 41, Chapter 1 of Title 25 of the Code of Federal Regulations is amended by the addition of a new paragraph designated (cc) to read as follows:

§ 41.3 Qualifications for enrollment and the deadline for filing.

* * * * *

(cc) Saginaw, Swan Creek and Black River Bands of Chippewa Indians.

(1) All persons who meet the following requirements for eligibility shall be entitled to be enrolled to share in the distribution of the judgment funds awarded the Saginaw, Swan Creek and Black River Bands of Chippewa Indians in Indian Claims Commission Docket numbered 57:

(i) They were born on or prior to and living on November 12, 1977;

(ii) Their name or the name of a lineal ancestor appears on (a) the 1868 census of the Kansas Swan Creek and Black River Chippewas; (b) the 1900 enrollment schedules of the United Band of Chippewa and Munsee of Kansas, appearing thereon as a Chippewa; (c) allotment schedules of the Saginaw, Swan Creek and Black River Bands of Chippewa Indians dated February 6, 1871, June 3, 1871; April 1, 1872 (two schedules); November 10, 1883, November 13, 1885 (two schedules), and November 7, 1891; (d) the March 22, 1939, revised membership roll of the Saginaw Chippewa Indian Tribe of Michigan; (e) the records as a person of Chippewa Indian descent who received a tract of land pursuant to Article 3 of the Treaty of September 24, 1819 (7 Stat. 203), or (f) any other record or document which is acceptable to the Secretary.

(2) No person shall be eligible to be enrolled under this paragraph who is not a citizen of the United States or who is enrolled or entitled to be enrolled with the Saginaw Chippewa Indian Tribe of Michigan.

(3) Applications must be filed with the Superintendent, Michigan Agency, Bureau of Indian Affairs, P.O. Box 884, Sault Ste. Marie, Mich. 49783, on forms provided for that purpose. Applications for enrollment must be received by the Superintendent no later than the close of business, December 1, 1978.

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No further changes are made in the text of Part 41.

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

[FR Doc. 78-12412 Filed 5-5-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-1671]

ARBITRAGE BONDS

Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the arbitrage bond regulations. The amendments are designed to clarify and correct the regulations. They affect purchasers and governmental issuers of tax-exempt bonds.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 7, 1978. One proposed amendment generally applies to bonds sold after May 15, 1978. Other proposed amendments apply to bonds issued or sold as specified in the respective regulations sections amended. Where no effective date is specified, the changes apply retroactively because they merely correct technical errors or interpret the statute.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Katherine A. Newell of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3740, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 103(c) of the Internal Revenue Code of 1954. These amendments are to be issued under the authority contained in sections 103(c)(6) and 7805 of the Internal Revenue Code of 1954 (83 Stat. 656 and 68A Stat. 917; 26 U.S.C. 103, 7805).

PREVIOUS NOTICES OF PROPOSED RULEMAKING

On May 3, 1973, the FEDERAL REGISTER published proposed Income Tax Regulations 926 CFR part (1) under section 103 of the Internal Revenue Code of 1954 (38 FR 10944). The proposed regulations were revised by notices of proposed rulemaking published in the FEDERAL REGISTER for December 3, 1975 (40 FR 56488), October 9, 1976 (41 FR 47679), May 31, 1977 (42 FR 27610), and June 9, 1977 (42 FR 29517) and corrected by notices published in the FEDERAL REGISTER for May 11, 1973 (38 FR 12405), December 18, 1975 (40 FR 58656), November 24, 1976 (41 FR 51840), and June 21, 1977 (42 FR 31462). This notice of proposed rulemaking further revises the proposed regulations.

Section 103 generally exempts from tax interest on State and local government obligations. Section 103(c) provides that interest on State and local obligations will not be tax exempt where a major portion of the porceeds of the issue is reasonably expected to be used to purchase securities or obligations that may produce a yield materially higher than the yield on the State or local bond issue.

Paragraph (c) of proposed § 1.103-13 provides that the yield on an obligation is determined by reference to the purchase price. The amendments made to the proposed regulations by this document define "purchase price" as the price at which the bonds are sold to the public. The proposed regulations did not previously have a definition of purchase price. The definition of purchase price is the same as the one used in § 1.1232-3 in relation to original issue discount.

Paragraph (c)(1)(ii) of § 1.103-13 provides that in computing the yield on obligations issued to refund other obligations and on obligations placed in escrow, the present value of certain adminstrative costs may be taken into account in determining the present value of the obligations. This rule has allowed administrative cost to be disregarded in determining whether it is economical to refund a prior issue. The result has been inflated administrative costs. The amendment to the proposed regulations provides that administrative costs will not affect the purchase or sales price. Thus yield will be determined on a gross profit basis. In addition, the amendment provides that administrative costs borne by the obligor on acquired purpose obligations will not be taken into account in computing yield.

Paragraph (b)(5) of proposed regulations § 1.103-13 provides a definition for the term "materially higher" as it relates to the determination of whether the yield on obligations acquired with proceeds of a governmental obligation causes it to be an arbitrage bond. An amendment to paragraph (b)(5) provides a formula for determining whether yield is materially higher than the yield on a refunding issue before the prior issue is discharged. This amendment and the amendments relating to determination of yield under paragraph (c) apply to obligations issued after September 1, 1978.

Generally, the issuer of tax-exempt bonds must invest all but a minor portion of the bond proceeds at a restricted yield, that is, a yield not materially higher than the yield at which the bonds were sold. The term "proceeds" includes "original proceeds" and "investment proceeds." Some issuers have avoided the restrictions on investment yield by contributing taxes or other revenues to a sinking fund. The sinking fund is then invested at a rate which allows the issuer, where the entire issue is retired at the end of a fixed period, to make a profit on the investment of the fund. Because of this abuse, the regulations are being amended to provide that contributions made to a sinking fund are treated as proceeds of the issue to the extent the issuer reasonably expects to use the fund to pay principal or interest on the issue. These amounts will thus be subject to the limitation on yield rules. This amendment generally applies to obligations sold after May 15, 1978.

When obligations are issued, existing proposed § 1.103-13(a)(2) provides that the issuer may certify that its reasonable expectations are that the proceeds of the obligations will not be used for arbitrage. Under paragraph (a)(2)(iii) of § 1.103-13, the Internal Revenue Service may provide that future certifications of the issuer may not be relied upon. Where the face amount of obligations is in excess of $2.5 million counsel to the issuer must opine that the certification is not unreasonable.

Paragraph (a)(2) of the regulations is amended to provide that with respect to obligations issued after September 1, 1978, the issuer may certify its reasonable expectations as to future events such as use of funds. However, the issuer may not certify conclusions of law and opinion of counsel is no longer required. An additional amendment to paragraph (a)(2) provides that the Internal Revenue Service may announce that future certifications of an issuer cannot be relied on if the issuer has made a material misrepresentation in a certification.

COMMENTS—PUBLIC HEARING

Before adopting these proposed amendments, consideration will be given to any written comments that are submitted (preferable six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held in accord-

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ance with the notice of hearing published in this issue of the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Katherine Newell of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR part 1 are as follows:

Paragraph 1. Section 1.103-13 is amended as follows:

1. The reference to "section 103(c)" in paragraph (a)(1) is changed to "section 103(b)".

2. Wherever "section 103 (d)" appears as a reference or as part of a reference, such reference is changed to "section 103 (c)".

3. The second and third sentences in paragraph (a)(2)(i) are revised and a new sentence is added to paragraph (a)(2)(i) after the third sentence as revised.

4. The reference to "this section and § 1.103-14" in paragraph (a)(2)(ii)(B) is changed to "this section, § 1.103-14, and § 1.103-15".

5. Paragraph (a)(2) is amended by redesignating subdivisions (iii) and (iv) as subdivisions (iv) and (v), by inserting a new subdivision (iii), by revising subdivision (iv) as redesignated, and by adding new examples (3) and (4) in subdivision (v) as redesignated.

6. The first and third sentences in paragraph (b)(1)(ii) are revised, paragraph (b)(5)(iii)(A) is revised by adding a new sentence at the end there of, new paragraphs (b)(5)(v), (b)(5)(vi), and (b)(5)(vii) are added, paragraph (b)(10)(i)(C) is revised, and a new paragraph (b)(11) is added.

7. Paragraph (c)(1) is amended by adding new subdivisions (iii)(D) and (iv).

8. Paragraph (c) is revised by redesignating subparagraph (4) as subparagraph (6) and by adding new subparagraphs (4) and (5).

9. Paragraph (d) is redesignated as paragraph (h) and a new paragraph (d) is added.

10. Paragraphs (f)(4)(ii) and (f)(4)(iii) are revised by inserting "original" before "proceeds" and inserting "such proceeds" in place of "the refunding issue", by redesignating paragraph (f)(4)(iv) as paragraph (f)(4)(v), and by adding a new paragraph (f)(4)(iv).

11. A new paragraph (g) is added.

§ 1.103-13 Arbitrage bonds.

(a) *Scope.* • • •

(2) *Reasonable expectations.* (i) • • • Thus, an obligation is not an arbitrage bond, if, based on the reasonable expectations on the date of issue as to the use of the proceeds of the issue, the proceeds will not be used in a manner that would cause the obligation to be an "arbitrage bond" under section 103 (c)(2), this section and § 1.103-14 and § 1.103-15. Reasonable expectations regarding the amount and use of the proceeds on or before September 1, 1978; may be established by the certification described in subdivision (ii) of this subparagraph. Reasonable expectations as to future events regarding a governmental obligation issued after September 1, 1978, may be established to the extent permitted by the certification described in subdivision (iii) of this subparagraph. • • •

• • • • •

(iii) (A) A State or local governmental unit may certify, in the bond indenture or a related document, reasonable expectations of the issuer on the date of the issue as to the future events, such as use of funds. For example, matters which may be certified include: The use to which amounts received from sale of the bonds will be put; the date on which a project financed by a sale of bonds will be completed; the amount that will be spent for construction of a such a project; and that a reserve or replacement fund of a certain amount will be established. On the other hand, an issuer may not certify that a reserve or replacement fund is reasonably required because the reasonableness of a reserve fund is an opinion or judgment that can be made before the date of issuance. As such it is not a reasonable expectation as to a future event.

(B) A State or local governmental unit may not certify conclusions of law (including legal characterizations of future events). For example, an issuer may not certify the statement that an obligation is not an arbitrage bond, or the statement that a major portion of the proceeds of an issue is not reasonably expected to be used directly or indirectly to acquire securities or obligations which may be reasonably expected to produce a yield over the term of the issue which is materially higher than the yield on the obligations of such issue. Both these statements are conclusions of law. In addition, a unit may not certify the date on which a temporary period ends because that is a conclusion of law. Similarly, a unit may not certify the statement that an obligation will produce a certain yield. This is because the statement uses "yield" as a defined legal term. Thus, the statement assumes that yield has been determined in a proper manner, which is a conclusion of law. On the other hand, a unit may describe the manner in which it has computed yield and certify that the yield on an obligation (determined in the manner described) is equal to a certain amount. In this statement yield is not used as a defined legal term. Therefore, the statement does not assume any conclusions of law. Further, a unit may not certify that the original proceeds of an issue will not exceed by more than 5 percent the amount necessary for the purpose of the issue. This statement uses two defined legal terms: "original proceeds" and "issue". On the other hand, a unit may certify the amount that will be received from the sale of certain obligations and the amount necessary for a particular purpose.

(C) An officer responsible for issuing the bonds must act for the issuer.

(D) In addition to the matters certified, the certification must set forth the facts and estimates on which the issuer's expectations are based and state that, to the best of the knowledge and belief of the certifying officer, the issuer's expectations are reasonable.

(E) (*1*) If the temporary period for a construction issue is more than 3 years but not more than 5 years, the issuer must commission an independent architect or engineer to prepare a study of the planned construction.

(*2*) The study prepared by the architect or engineer must accompany the certification and must include an estimated completion date for each stage of the construction.

(F) Subsequent events do not affect a certification made in accordance with this subdivision.

(iv)(A) If a certification contains a material misrepresentation, the Commissioner may disqualify the issuer. The Commissioner will publish notice that the issuer is disqualified in the Internal Revenue Bulletin. The disqualification will not affect bonds issued before the notice is published.

(B) An issuer that is disqualified may not certify an issue under subdivision (ii) or (iii) of this subparagraph.

(C) The Commissioner will give an issuer reasonable opportunity to be heard before it is disqualified.

(D) If appropriate, the Commissioner may requalify an issuer. The Commissioner will publish notice that the issuer has been requalified in the Internal Revenue Bulletin.

• • • • •

(v) • • •

Example (*3*). (i) The facts are the same as in example (1)(i) except that the bonds are issued on July 5, 1980, and all other dates are appropriately adjusted. City A includes in the bond indenture a certification which contains a statement that 85 percent of the receipts from sale of the bonds will be used for construction costs by July 5, 1983.

(ii) Construction of the water treatment facility was determined by the Environmental Protection Agency to have certain adverse environmental effects. Consequently, work on the project was halted and the facility was redesigned to avoid the effects with the result that 85 percent of the receipts from sale of the bonds will not be expended for project costs by July 5, 1983. The certification is conclusive as to the issuer's reasonable expectations that 85 percent of receipts will be expended for construction costs by July 5, 1983.

(iii) Under the circumstances described in subdivision (ii), city A has not made a material misrepresentation in the certification which would permit the Commissioner to disqualify city A under subdivision (iv) of this subparagraph. If, however, city A did not actually expect that 85 percent of the receipts from sale of the bonds would be used for construction costs by July 5, 1983, the Certification would contain a material misrepresntation. Under those circumstances, the Commissioner may disqualify city A.

Example (*4*). On January 1, 1980, city A sells $5 million of 6 percent refunding bonds. City A certifies the bonds in the manner provided in subdivision (iii) of this subparagraph. In addition, attorney X gives an opinion that the bonds are not arbitrage bonds. In connection with the refunding issue, city A makes use of a certain artifice or device. This artifice or device is not identified as specifically prohibited by section 103(c) or the regulations thereunder. However, as a result of the artifice or device, city A is able to exploit the difference between tax-exempt and taxable interest rates to gain a financial advantage. This financial advantage serves as a material inducement for city A to sell the refunding bonds, or to issue more refunding bonds than would be otherwise be necessary, or to allow the refunding bonds to remain outstanding longer than would otherwise be necessary. Based on these facts, the artifice or device is an attempt to defeat purposes of section 103(c). Because section 103(c) and the regulations thereunder are intended to prevent the use of such an artifice or device, the legal conclusion as reached by attorney X is erroneous. Therefore, the refunding bonds are arbitrage bonds despite the certification.

(b) *Definition.* • • •

(1) *Arbitrage bonds.* • • •

(ii) A major portion of the proceeds of an issue is any amount which at any time exceeds 15 percent of the original face amount of the issue. • • • See § 1.103-14 (e) for special rules that apply to refunding issues. • • •

• • • • •

(5) *Materially higher.* • • •

(iii) (A) • • • Before the prior issue is discharged, materially higher than the yield on a refunding issue that is issued after September 1, 1978, means higher than—

$$Y+(\$25{,}000\times Y)/(P)$$

where—

(*1*) "Y" stands for the yield on the issue, and

(*2*) "P" stands for the amount of the original proceeds of the issue.

• • • • •

(v) The following example illustrates the application of paragraph (b)(5)(iv) of this section:

Example. On July 1, 1977, city A sells $10 million of 7-percent Series A revenue bonds and $5 million of 4-percent Series B special obligation bonds at par in the full cash defeasance of a prior issue. Assuming that under State law and the bond indenture agreement the amount necessary to defease the prior issue is only $10 million, paragraph (b)(5)(iv) of this section applies to both the Series A and the Series B issue. Thus, for example, if transferred proceeds of the Series A issue are invested at more than 7 percent, the Series A bonds are arbitrage bonds.

(vi) Despite anything in § 1.103-13 (b) or (e) to the contrary, § 1.103-13 (b)(5)(vii) applies to any acquired obligation that is allocated to amounts treated as proceeds under § 1.103-13(g) (relating to invested sinking funds).

(vii) Materially higher than the yield on a issue means higher than—

$$Y+(\$5{,}000\times Y)/(F)$$

where—

(a) "Y" Stands for the yield on the issue, and

(B) "F" stands for the maximum amount that will be accumulated in a sinking fund (or funds) for the issue.

• • • • •

(10) *Issue.* (i) • • •

(C) Will be paid out of substantially the same source of funds (or will have substantially the same claim to be paid out of substantially the same source of funds).

(11) *Discharged.* An issue is "discharged" when all obligations that were part of the issue are retired.

(c) *Computation of yield*—(1) *In general.* • • •

(iii) • • •

(D) The market price of a certificate of deposit issued by a commercial bank may be determined as the bona fide bid price quoted by a dealer who maintains an active secondary market in such certificates of deposit.

(iv) The rules in paragraph (c)(1)(iii) shall also apply to acquired obligations that are allocable to amounts treated as proceeds under paragraph (g) of this section.

• • • • •

(4) *Student loans.* Payments made by the Commissioner of Education pursuant to section 127(a) of the Education Amendments of 1976 are not taken into account in determining yield on student loan notes.

(5) *Certain administrative costs.* If—

(A) An issue is issued after September 1, 1978,

(B) The original proceeds of the issue are used to purchase acquired purpose obligations, and

(C) The obligor pays administrative costs of issuing, carrying, or repaying the issue,

then such payments shall not be taken into account in determining yield. The preceding sentence applies whether or not such payments are made from bond proceeds, and whether or not such payments merely reimburse the issuer.

• • • • •

(d) *Obligations issued after September 1, 1978*—

(1) *In general.* Despite anything in paragraph (c) to the contrary, the rules in this paragraph apply to obligations issued after September 1, 1978.

(2) *Administrative costs.* Administrative costs may not be taken into account in determing yield.

(3) *Purchase price.* (i) If an issue of governmental obligations is sold to the public, the term "purchase price" means the initial offering price to the public (excluding bond houses, brokers, and other intermediaries).

(ii) If an issue of governmental obligations is privately placed, the purchase price of each obligation is the price paid by the first buyer of the obligation. For this purpose, the term "first buyer" does not include any bond house, broker, or other intermediary.

(iii) If the purchase price of an obligation is unreasonably low, then the yield on the obligation shall be determined as if its purchase price were equal to its fair market value on the date of issue.

(4) *Illustrations.* The following examples illustrate the application of this paragraph:

Example (*1*). On January 1, 1979, city A sells a $10 million issue of 10-year, 6-percent revenue bonds. The purchase price of the issue is $9,800,000. The yield on the revenue bonds is 6.27 percent. Administrative costs are not taken into account in determining yield.

Example (*2*). On January 1, 1980, city B sells $20 million of 5-percent general obligation bonds to underwriter X for $19,800,000. Underwriter X offers and sells the entire issue to the public at par. The purchase price of the issue is $20 million. The yield on the issue is 5 percent. The underwriter's spread is not taken into account in determining yield.

Example (*3*). On January 1, 1981, city C sells $12 million of revenue bonds and uses part of the proceeds to buy a 6-percent Treasury note at par. The yield on the Treasury note is 6 percent. Administrative costs are not taken into account in determining yield.

• • • • •

(f) *Allocations of investments and expenditures.* • • •

(4) *Requirements.* • • •

(iv) Obligations purchased with amounts treated as proceeds under § 1.103-13(g) (relating to invested sinking funds) must be allocated to such amounts.

• • • • •

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(g) *Invested sinking funds*—

(1) *Effective date.* (i) Except as provided in § 1.103-13(g)(1)(ii), this paragraph applies to bonds sold after May 2, 1978.

(ii) This paragraph does not apply to bonds sold before May 16, 1978, if—

(A) The sale of the bonds was either authorized or approved by the governing body of the governmental unit issuing the bonds or by the voters of such governmental unit,

(B) Notice of sale of the bonds was given as required by law, or

(C) A bona fide written offering statement (or preliminary offering statement) was circulated to potential purchasers, before May 3, 1978; *Provided*, That the bonds are issued within a reasonable time after they are sold.

(2) *In general.* Amounts accumulated in a sinking fund for an issue are treated as proceeds of the issue.

(3) *Sinking fund.* The term "sinking fund" includes a debt service fund, or any similar fund, to the extent that the issuer reasonably expects to use the fund to pay principal or interest on the issue.

(4) *Withdrawals.* Amounts withdrawn from a sinking fund are not treated as proceeds under this paragraph after they are withdrawn.

(5) *Prior issue.* Proceeds of the prior issue are not treated as proceeds of a refunding issue under this paragraph. See, however, § 1.103-14(e)(2)(ii) for rules relating to transferred proceeds.

PAR. 2. Section 1.103-14 is amended as follows:

1. Wherever "section 103(d)" appears as a reference or as part of a reference, such reference is changed to "section 103(c)".

2. New paragraphs (b)(9), (b)(10), and (b)(11) are added to read as set forth below.

3. In paragraph (c)(2)(iii), "anticipated tax or other revenues" is replaced by "issue."

4. In paragraph (e)(1-A)(iv), "Example (v)" is corrected to read "Example (1)" and "special obligation bonds" is replaced by "guaranteed revenue bonds" in example (3).

5. Two new sentences are added in place of the fourth sentence in paragraph (e)(2)(ii) to read as set forth below.

6. Paragraphs (e)(4)(iii) and (e)(5)(iii) are revised by inserting "paragraph (e)(1-B) (iii) and (iv)" in place of "paragraph (e)(1)(ii)".

§ 1.103-14 Temporary investments, reserve fund, and refunding issues.

* * * * *

(b) *Temporary period.* * * *

(9) *Invested sinking funds.* Thirty days is the temporary period for amounts treated as proceeds of an issue solely because they are accumulated in a sinking fund for the issue (see § 1.103-13(g)). The temporary period begins on the date of accumulation.

(10) *Debt service fund.* Despite subparagraph (9) of this paragraph, 13 months is the temporary period for amounts contributed to a bona fide debt service fund; provided that each such amount is spent before the end of the temporary period.

(11) *Interest.* Despite subparagraph (9) of this paragraph, one year is the temporary period for amounts received from investment of a sinking fund.

* * * * *

(e) *Refunding issue.* * * *

(2) *Definitions.* * * *

(ii) * * * Generally, it is not necessary to apply the preceding two sentences for purposes of § 1.103-14(e) (4) and (5). (This is because of § 1.103-14(e)(6), which treats different parts of the prior issue as separate issues.)

* * * * *

PAR. 3. Section 1.103-15 is amended as follows:

1. The portion of paragraph (c)(1) that follows subdivision (iv) is revised to read as set forth below.

2. Paragraphs (g), (h), and (i) are redesignated as paragraphs (h), (i), and (j) respectively, paragraph (j) is redesignated as paragraph (l), and new paragraphs (g) and (k) are added to read as set forth below.

3. Example (4) of paragraph (l) as redesignated is revised by deleting "$35,000" from item (c)(8) and "1980" from item (d)(4) and inserting respectively, "$15,000" and "1990" in lieu thereof.

§ 1.103-15 Excess proceeds.

* * * * *

(c) *Excess proceeds.*—(1) *In general.* * * *

(v) Proceeds that will be used to pay the administrative costs of—

(A) Repaying the prior issue,

(B) Carrying and repaying the refunding issue, or

(C) Purchasing, carrying, and selling or redeeming obligations acquired with the proceeds of the refunding issue;

(vi) Transferred proceeds that will used for the purpose of the prior issue;

(vii) Investment proceeds derived from the investment of a reasonably required reserve or replacement fund;

(viii) Interest on acquired purpose obligations; and

(ix) Amounts treated as proceeds solely because they are accumulated in a sinking fund for the refunding issue (see § 1.103-13(g)).

* * * * *

(g) *Fourth exception; temporary period.* This section shall not apply to a refunding issue if the prior issue is discharged within 180 days after the refunding bonds are issued.

* * * * *

(k) *Invested sinking funds.* If a refunding issue is sold after the effective date of § 1.103-13(g), then amounts accumulated in a sinking fund for the prior issue are treated as proceeds of the refunding issue for purposes of this section.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-12380 Filed 5-3-78; 10:12 am]

[4830-01]

[26 CFR Part 1]

[LR-1671]

INCOME TAX

Arbitrage Bonds; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed amendments to the arbitrage bonds regulations.

DATES: The public hearing will be held on July 25, 1978, beginning at 10 a.m. Outlines of oral comments must be delivered or mailed by July 7, 1978.

ADDRESS: The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The outline for oral comments on the proposed amendments to the regulations should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-1671), 1111 Constitution Ave. NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224; telephone, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the arbitrage bonds regulations under section 103(c) of the Internal Revenue Code of 1954. These proposed amendments appear in this issue of the FEDERAL REGISTER.

On May 3, 1973, the FEDERAL REGISTER published proposed Income Tax Regulations (26 CFR Part 1) under section 103 of the Internal Revenue Code of 1954 (38 FR 10944). The proposed regulations were revised by notices of proposed rulemaking published in the FEDERAL REGISTER for December 3, 1975 (40 FR 56488), October 9, 1976 (41 FR 47679), May 31, 1977 (42 FR 27610), and June 9, 1977 (42 FR 29517) and corrected by notices published in the FEDERAL REGISTER for May 11, 1973 (38 FR 12405), December 18, 1975 (40 FR 58656), November 24, 1976 (41 FR 51840), and June 21, 1977 (42 FR 31462). The proposed regulations which are the subject of this hearing further revise the proposed regulations.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed amendments and who desire to present oral comments at the hearing on the proposed amendments must submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject. As stated above, this outline must be delivered or mailed by July 7, 1978. Outlines of oral comments will be acknowledged by telephone upon receipt. Those who submit outlines but receive no acknowledgment within a reasonable amount of time after mailing should contact Mr. Bradley or Mr. Hayden.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time taken by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, those attending the hearing cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

Dated: May 3, 1978.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc. 78-12489 Filed 5-3-78; 4:47 pm]

[4830-01]

[26 CFR Part 1]

[LR-141-76]

INCOME TAX

Depreciation of Property Attributable To Rehabilitation Expenditures Incurred With Respect to Low-Income Rental Housing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed rules relating to the depreciation of property attributable to expenditures incurred to rehabilitate low-income rental housing. The proposed regulations reflect amendments made to section 167(k) of the Code by the Tax Reform Act of 1976 and the Act of November 12, 1977.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 5, 1978. The amendments generally apply to property attributable to rehabilitation expenditures paid or incurred after December 31, 1975. In addition, the amendments propose to extend the time for making an election with respect to property attributable to expenditures paid or incurred after December 31, 1975, until 90 days after the amendments are adopted.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T (LR-141-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Charles M. Whedbee of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 Attention: CC:LR:T (202-566-3487) (Not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 167(k) of the Code relates to the depreciation of property attributable to expenditures to rehabilitate low-income rental housing. The Tax Reform Act of 1976 (Pub. L. 94-455) and the Act of November 12, 1977 (Pub. L. 95-171) extended the general cut-off date for qualifying expenditures from January 1, 1976, to January 1, 1979. In addition, certain expenditures incurred pursuant to a binding contract entered into before January 1, 1979, or with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1979, are deemed to be incurred before January 1, 1979. Because these amendments clearly indicate a congressional policy to stimulate rehabilitation of low-income housing, the proposed amendments to the regulations utilize a somewhat broader approach to the determination of a binding contract entered into before January 1, 1979, than may be found in regulations under other sections of the Code where different congressional objectives are apparent.

The 1976 Act also increased to $20,000 the per-dwelling-unit ceiling on qualifying expenditures, effective with respect to expenditures incurred after December 31, 1975. The 1976 Act also requires that the Secretary of the Treasury (or his delegate) define, by regulations, families and individuals of low or moderate income in a manner consistent with the leased housing program under section 8 of the United States Housing Act of 1937. The proposed amendments to the regulations reflect these amendments to section 167(k) of the Code.

The proposed amendments also make clear that a dwelling unit held for occupancy by individuals or families of low or moderate income may qualify as low-income rental housing, even though other dwelling units in the same building are held for occupancy by persons not of low or moderate income.

The proposed amendments are to be issued under the authority contained in section 167(k)(3)(B) of the Internal Revenue Code of 1954 (83 Stat. 651, 90 Stat. 1530; 26 U.S.C. 167(k)(3)(B)) and section 7805 of the Internal Revenue Code of 1954 (68 A Stat. 917; 26 U.S.C. 7805).

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Charles M. Whedbee of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

PARAGRAPH 1. Section 1.167(k) is deleted.

PAR. 2. Section 1.167(k)-1 is amended as follows:

1. Paragraph (a)(1) is amended by striking out "January 1, 1975" in the first sentence and inserting in lieu thereof "January 1, 1979".

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2. The first sentence of paragraph (a)(2) is amended by striking out "December 31, 1974" and inserting in lieu thereof "December 31, 1978".

3. The second sentence of paragraph (a)(2) is amended by striking out "January 1, 1975" and inserting in lieu thereof "January 1, 1979".

4. A new paragraph (d) is added at the end to read as set forth below.

§ 1.167 (k)–1 Depreciation of property attributable to rehabilitation expenditures.

• • • • •

(d) *Expenditures deemed incurred before January 1, 1979.* For purposes of paragraph (a) of this section—

(1) Rehabilitation expenditures (including rehabilitation expenditures that are treated as paid or incurred by the taxpayer by reason of paragraph (b)(1) of this section) that are incurred pursuant to a binding contract entered into before January 1, 1979, are deemed to be incurred before January 1, 1979. The contract must require (i) the rehabilitation to be performed for the taxpayer (or the person or persons other than the taxpayer described in paragraph (b)(1) of this section) in accordance with his specifications, or (ii) the taxpayer (or the person or persons other than the taxpayer described in paragraph (b)(1) of this section) to perform the rehabilitation (or to have the work performed for him in accordance with his specifications). The contract, as of December 31, 1978, must also specifically identify the existing building (or buildings) in connection with which the rehabilitation expenditures are to be incurred, and the expenditures must be incurred in connection with that building (or buildings). A contract may be binding, for purposes of section 167(k)(3)(D) and this section, even if it is subject to the happening of certain contingencies (such as the obtaining of financing from a third party) which have not occurred by January 1, 1979: *Provided*, That the happening of the contingencies is not within the unrestricted control of the taxpayer (or the person or persons other than the taxpayer described in paragraph (b)(1) of this section) and the contingencies in fact occur. In any event, a contract that does not represent a bona fide agreement negotiated at arms-length shall not be considered a binding contract for purposes of section 167(k)(3)(D). For purposes of section 167(k)(3)(D), a binding contract includes an agreement, entered into pursuant to section 8 of the United States Housing Act of 1937, between the taxpayer (or the person or persons other than the taxpayer described in paragraph (b)(1) of this section) and the Department of Housing and Urban Development ("HUD") or a public housing agency ("PHA") providing that upon completion of rehabilitation in accordance with the taxpayer's final proposal, HUD or the PHA will enter into a housing assistance payments contract with the taxpayer (or such other person or persons). For purposes of the preceding sentence, "agreement", "final proposal", "public housing agency", and "housing assistance payments contract" have the same meaning as those terms have in 24 CFR Part 881 (relating to substantial rehabilitation under the section 8 housing assistance payments program).

(2) Rehabilitation expenditures (including rehabilitation expenditures that are treated as having been paid or incurred by the taxpayer by reason of paragraph (b)(1) of this section) incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1979, are deemed to be incurred before that date. For purposes of determining whether rehabilitation has begun before January 1, 1979, each dwelling unit (see § 1.167(k)–3(c)) shall be considered separately. Rehabilitation begins upon the commencement of physical work at the site of the dwelling unit, as distinguished from the beginning of, or engaging in, other preliminary activities, such as the preparation of architect's sketches. The determination of whether physical work has begun shall be based upon all the facts and circumstances of a particular case. In general, where the physical work which has commenced before January 1, 1979, represents rehabilitation expenditures which are allocable under § 1.167(k)–2(d) to more than one dwelling unit (such as the cost of replacing the roof of an existing structure), such work may be treated as having been done on units to which the expenditures are allocable.

PAR. 3. Section 1.167(k)–2 is amended as follows:

1. The third sentence of paragraph (a) is amended by striking out "1974" and inserting in lieu thereof "1978".

2. The first two sentences of paragraph (c)(1) are deleted and four new sentences are inserted in lieu thereof to read as set forth below.

3. The last sentence of paragraph (c)(1) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

4. Paragraph (c)(2) is amended by striking out "following example:" and *"Example."* and inserting in lieu thereof "following examples:" and *"Example* (1).", respectively.

5. A new example (2) is inserted after example (1) in paragraph (c)(2), to read as set forth below.

6. Paragraph (e) is amended as follows:

(a) Subparagraph (1) is amended by striking out "For purposes of" in the first sentence and inserting in lieu thereof "Except as provided in paragraph (e)(2) of this section, for purposes of".

(b) Subparagraph (2) is redesignated as subparagraph (3).

(c) A new subparagraph (2) is added after subparagraph (1), to read as set forth below.

§ 1.167(k)–2 Limitations.

• • • • •

(c) *Maximum amount.* (1) In general, the maximum amount of rehabilitation expenditures paid or incurred by the taxpayer with respect to any dwelling unit which may be taken into account under section 167(k) is $20,000. However, in the case of rehabilitation expenditures incurred before January 1, 1976, the amount of such expenditures paid or incurred by the taxpayer with respect to any dwelling unit which may be taken into account under section 167(k) is limited to $15,000. The rules in § 1.167(k)–1(a)(2) shall apply in determining whether an expenditure is incurred before January 1, 1976. Property attributable to amounts in excess of $20,000 (or, if applicable, $15,000) may qualify for the reasonable allowance provided by section 167(a). • • •

(2) • • •

Example (2). X, a calendar year taxpayer on the cash receipts and disbursements method of accounting, spends a total of $22,000 for rehabilitation of one dwelling unit in an existing building held for low-income rental housing. X would be considered, under the accrual method of accounting, to have incurred $19,000 of the expenditures in 1975 and $3,000 in 1976. The expenditures qualify as rehabilitation expenditures under § 1.167(k)–3. Because of the $15,000 limitation with respect to rehabilitation expenditures incurred before January 1, 1976, property attributable incurred in 1975 qualifies for an election under section 167(k). The $4,000 of expenditures incurred in 1975 with respect to which X cannot make a valid election is not taken into account in applying the $20,000 limitation. Therefore, property attributable to the entire $3,000 of expenditures incurred in 1976 qualifies for an election under section 167(k).

• • • • •

(e) *Special rule.* • • •

(2) In determining, for purposes of the $15,000 limitation described in the second sentence of paragraph (c)(1) of this section, whether a rehabilitation expenditure is incurred before January 1, 1976, a rehabilitation expenditure treated as having been paid or incurred by the taxpayer by reason of § 1.167(k)–1(b)(1) shall be deemed to have been incurred on the date the expenditure would be considered incurred under the accrual method of accounting by the person or persons who actually incurred the expenditure, regardless of the method of accounting used by that person or persons.

• • • • •

PAR. 4. Section 1.167(k)–3 is amended as follows:

1. Paragraph (b)(1)(i) is amended by inserting two new sentences after the first sentence to read as set forth below.

2. Paragraphs (b)(2) and (b)(3) are revised as set forth below.

3. Paragraph (b)(4) is amended by striking out "close of the certification year" each place it appears and inserting in lieu thereof "beginning of the certification year", by amending the fourth sentence as set forth below, and by deleting the fifth and sixth sentences.

4. Paragraph (b)(5) is redesignated as paragraph (b)(6) and a new paragraph (b)(5) is added to read as set forth below.

5. Example (1) and Example (2) in paragraph (b)(6), as redesignated, are revised as set forth below.

§ 1.167(k)–3 Definitions.

• • • • •

(b) *Low-income rental housing*—(1) *In general.* (i) • • • A dwelling unit held for occupancy by families and individuals of low or moderate income may qualify as low-income rental housing even though other dwelling units in the same building are held for occupancy by persons who are not of low or moderate income. On the other hand, a dwelling unit held for occupancy by persons who are not of low or moderate income does not qualify as low-income rental housing, even though other dwelling units in the same building are held for occupancy by families and individuals of low or moderate income. • • •

• • • • •

(2) *Definition of low or moderate income.* The occupants of a dwelling unit are considered families and individuals of low or moderate income for purposes of section 167(k) only if their adjusted income (computed in the manner prescribed in paragraph (b)(3) of this section) does not exceed 80 percent of the median income for the area, as determined with adjustments for smaller and larger families by the Secretary of Housing and Urban Development for the purposes of applying section 8(f)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f(f)(1)), except that if, for purposes of applying such section, the Secretary of Housing and Urban Development establishes an income ceiling higher or lower than 80 percent of the median for the area, the higher or lower income ceiling shall apply. Notwithstanding the preceding sentence, the occupants of a dwelling unit shall not be considered as individuals and families of low or moderate income if all the occupants are students (as defined in section 151(e)(4)), no one of whom is entitled to file a joint return under section 6013. All determinations under this subparagraph shall be made as of the first day of the certification year (as defined in paragraph (b)(3) of this section).

(3) *Adjusted income.* (i) The adjusted income of a family or individual is the anticipated total amount income of the family or individual for the certification year, determined in accordance with the criteria prescribed by the Secretary of Housing and Urban Development under section 8(f)(3) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f(f)(3)), for purposes of determining whether a family is a lower-income family within the meaning of section 8(f)(1) of the Act. The adjusted income of a family or individual shall be computed solely from the income certifications required by paragraph (b)(4) of this section and shall be computed with respect to the "certification year" of the person. Adjusted income is not affected by income earned or received during the certification year that is not included in the income certification. The "certification year" for any person is the 12-month period which begins on the later of (A) the date on which the property attibutable to the expenditures allocated to the dwelling unit occupied by the person is placed in service (see § 1.167(k)–1(b)(3)), or (B) the date on which the person first occupies the unit on a rental basis, or signs a lease with respect to the unit, whichever occurs first. Adjusted income must be determined with respect to the actual occupants of the dwelling unit. For purposes of the preceding sentence, if any income of a family member who is not living in the dwelling unit would be taken into account under the criteria prescribed by the Secretary of Housing and Urban Development referred to in the first sentence of this subparagraph, that person shall be considered to be an occupant of the dwelling unit. The term "family", for purposes of section 167(k), means two or more persons related by blood, marriage, or operation of law.

(ii) The principles of this subparagraph may be illustrated by the following example:

Example. Family X first signs a lease on a rehabilitated dwelling unit on January 1, 1977, which the family first occupies on January 25, 1977. All expenditures with respect to the rehabilitation of the dwelling unit were paid or incurred by the taxpayer after December 31, 1975.

The certification year for members of family X is the 12-month period beginning on January 1, 1977. All income earned by family X in 1976 is disregarded. Instead, the determination of adjusted income shall be made with respect to the total anticipated annual income of the family for the calendar year 1977, computed in accordance with the criteria prescribed by the Secretary of Housing and Urban Development referred to in the first sentence of this subparagraph.

(4) *Income certification.* • • • The income certification shall contain a statement of the anticipated total annual income for the certification year of each person who proposes to live in the dwelling unit during the certification year, the number of minors who propose to live in the dwelling unit during the certification year, the anticipated total annual income of such minors, and a description of any payments expected to be received during the certification year which are not considered to be income, all determined in accordance with the criteria prescribed by the Secretary of Housing and Urban Development referred to in paragraph (b)(3) of this section. • • •

(5) *Effective date.* Paragraph (b)(2), (3), and (4) of this section shall apply to property attributable to expenditutes which are paid or incurred after December 31, 1975. (For purposes of applying this subparagraph, rehabilitation expenditures treated as having been paid or incurred by the taxpayer by reason of § 1.167(k)–1(b) shall be deemed to have been paid or incurred on the date on which the expenditures were actually paid or incurred, determined in accordance with the method of accounting used by the person that actually paid or incurred the expenditures.) In the case of property attributable to expenditutes paid or incurred before January 1, 1976, the rules in 26 CFR 1.167(k)–3(b) (2), (3), and (4), revised as of April 1, 1977, shall continue to apply.

(6) *Examples.* • • •

Example 1. The median family income in a particular area for a family of four, as established for the purposes of applying section 8(f)(1) of the United States Housing Act of 1937, is $12 000. During 1976, the taxpayer spends in excess of $3,000 per unit in rehabilitating three two-bedroom dwelling units, X, Y, and Z. All the units are placed in service on January 1, 1977, and are advertised for rental at $200 per month. Unit X is rented at this price to tenant A and unit Y is rented to tenant B. A and B each is married and each has two children. At the time of the signing of the lease, tenant A certifies that the family's adjusted income for the certification year (the 12-month period beginning on the date the lease is signed), computed under paragraph (b)(3) of this section, is $9,000. Tenant B, at the time of signing the lease, certifies that the family's adjusted income is $10,000 for the certification year. Assuming that the Secretary of Housing and Urban Development has not established an income ceiling higher or lower than 80 percent of median for the area for purposes of applying section 8(f)(1) of the United States Housing Act of 1937, the low or moderate income level for the purpose of this paragraph is $9,600 (80 percent of the $12,000 median income for the area). Since tenant A's adjusted income of $9,000 does not exceed this amount, rehabilitation expenditures allocated to the dwelling unit rented to tenant A could qualify under section 167(k). However, the rehabilitation expenditures allocated to the dwelling unit rented to tenant B could not qualify, since tenant B's adjusted income ($10,000) is in excess of the low or moderate income level for the area.

Example 2. The facts are the same as in example (1). Eight months after signing the lease, tenant A receives a promotion that was not anticipated when the lease was signed. Because of the unanticipated promotion, tenant A's actual income for the certification year is $9,800, which is more than the income ceiling ($9,600). Even though A's adjusted income would not have qualified if the promotion had been anticipated when the lease was signed, the original election with respect to property contained in unit X will remain valid as long as tenant A occupies the unit. Unit Z, even though vacant throughout 1977, will be considered low-income rental housing because the rental at which the unit is offered ($2,400 per year) does not exceed $2,800, i.e., 30 percent of $9,600, the low or moderate income level for a family of four.

• • • • •

PAR. 5. Section 1.167(k)–4 is amended by adding a new paragraph (f) at the end thereof, to read as set forth below.

§ 1.167(k)–4 Time and manner of making election.

• • • • •

(f) *Extension of time for election.* In the case of property attributable to expenditures paid or incurred after December 31, 1975, a taxpayer will be permitted to make an election under section 167(k) (and file the statement required for subsequent taxable years by paragraph (b)(2) of this section) on or before [the 90th day after the date this notice of proposed rulemaking is adopted as a Treasury decision], notwithstanding the fact that the period prescribed by paragraph (c) of this section for filing an election for the taxable year (or for filing the statement required for a subsequent year) has expired.

JEROME KURTZ,
Commissioner of Internal Revenue.

§ 1.167(k)–1 Depreciation of property attributable to rehabilitation expenditures.

(a) *In general.* (1) In the case of property attributable to rehabilitation expenditures incurred with respect to low-income rental housing after July 24, 1969, and before January 1, 1979, a

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taxpayer may elect under section 167(k) to compute the depreciation deduction provided by section 167(a) by using the straight line method, a useful life of 60 months, and no salvage value, in lieu of any other method of computing the reasonable allowance referred to in section 167(a). The expenditures must meet the conditions and limitations contained in §§ 1.167(k)–2 and 1.167(k)–3 and the election must be made as prescribed in § 1.167(k)–4. If a proper election with respect to any portion of the basis of property is in effect under section 167(k), no deduction for depreciation or amortization shall be allowed with respect to that portion of the basis of such property under any other provision of the Code. For example, the additional first-year depreciation allowance for small business allowed under section 179 shall not be allowed with respect to that portion of the basis of property for which a proper election under section 167(k) is in effect. The provisions of this subparagraph may be illustrated by the following example:

Example. In 1970, a calendar-year taxpayer buys an existing building and spends $60,000 to rehabilitate 10 dwelling units. The property attributable to the expenditures is placed in service on January 1, 1971. If the conditions of § 1.167(k)–2 (relating to minimum and maximum limitations) and § 1.167(k)–3 (relating to definitions) are met in 1971, the taxpayer may make an election under section 167(k) and claim a depreciation deduction of $12,000 (12/60×$60,000) for 1971.

(2) Any property attributable to expenditures which are incurred before July 25, 1969, or after December 31, 1978, will not qualify for an election under section 167(k). For purposes of determining whether rehabilitation expenditures are incurred after July 24, 1969, and before January 1, 1979, each dwelling unit (see § 1.167(k)–3(c)) shall be considered separately. An expenditure is incurred, for purposes of this section, on the date such expenditures would be considered incurred under the accrual method of accounting, regardless of the method of accounting used by the taxpayer with respect to other items of income and expense. Thus, even though a taxpayer is on the cash receipts and disbursements method of accounting, expenditures shall be considered incurred, for purposes of this section, on the date that all events have occurred which establish the fact of the taxpayer's liability for such expenditures, and the amount of such expenditures can be determined with reasonable accuracy. The method used by a taxpayer on the cash receipts and disbursements method of accounting, in determining when expenditures are incurred, will be acceptable if it accords with any generally recognized and accepted accrual basis income tax accounting principles. The method so adopted must be applied consistently by the taxpayer for purposes of this subparagraph. (See section 446(c) and § 1.446–1(c)(1)(ii).) The principles of this subparagraph may be illustrated by the following example:

Example. On June 30, 1969, A, a taxpayer on the cash receipts and disbursements method of accounting, signs a contract with a builder for the rehabilitation of an apartment house. If (under this subparagraph) any expenditures under the contract are considered incurred before July 25, 1969, property attributable to such expenditures does not qualify for the election under section 167(k).

(3) If an election under section 167(k) is made with respect to property, see sections 1245 and 1250 for treatment of gain on disposition of the property. See section 57(a)(2) for treatment of depreciation under section 167(k) as an item of tax preference, for purposes of the minimum tax contained in section 56.

(b) *Rehabilitation expenditures treated as paid or incurred by the taxpayer.* (1) Generally, the taxpayer is considered to have paid or incurred rehabilitation expenditures only if the rehabilitation is performed by him or for him in accordance with his specifications. However, where rehabilitation expenditures are paid or incurred by a person (or persons) and the taxpayer acquires the property attributable to such expenditures (or an interest therein) before such property is placed in service, the taxpayer will be treated as having paid or incurred the expenditures and the portion of the basis of property attributable to such expenditures may be included in an election by the taxpayer under section 167(k). The rehabilitation expenditures must meet the requirements of this section and § 1.167(k)–2 (relating to minimum and maximum limitations) and § 1.167(k)–3 (relating to definitions). This paragraph shall apply only if the rehabilitated property is not placed in service during the period beginning with the date the expenditures were paid or incurred and ending on the date the taxpayer acquired an interest in the property. For example, assume that A pays or incurs rehabilitation expenditures of $10,000 with respect to an existing building on January 1, 1971, and then sells the building to B on June 1, 1971. If the property attributable to the expenditures is not placed in service by A during the period from January 1, 1971, to June 1, 1971, B will be treated as having paid or incurred the expenditures.

(2) The amount of rehabilitation expenditures treated as paid or incurred by the taxpayer under this paragraph is the lesser of—

(i) The rehabilitation expenditures paid or incurred before the date on which the taxpayer acquired an interest in the property attributable to the expenditures, or

(ii) The taxpayer's cost or other basis for the property attributable to the rehabilitation expenditures paid or incurred before such date.

The portion of the basis of property which is not attributable to rehabilitation expenditures paid or incurred by the taxpayer may not be depreciated under section 167(k), but may be subject to depreciation under section 167(a). Thus, a portion of the basis of property may be subject to depreciation under the method provided by section 167(k) and another portion of the basis of that property may be subject to depreciation under a method provided by section 167(b). For purposes of section 167(k), property is acquired when reduced to physical possession, or control, that is, on the date the taxpayer first bears the burdens and enjoys the benefits of ownership.

(3) (i) Property is placed in service on the date that it is first placed in a condition or state of readiness and availability for a specifically assigned function, whether in the production of income, in a tax-exempt activity, or in a personal activity. For purposes of determining when property attributable to rehabilitation expenditures is placed in service, each dwelling unit shall be considered separately. Rehabilitated property which is attributable solely to a single dwelling unit is placed in service on the date that dwelling unit is placed in service. Rehabilitated property which relates to more than one dwelling unit, or which relates to common areas or related facilities and is allocated to more than one dwelling unit under § 1.167(k)–2(d), will be considered as placed in service on the earliest date a significant number of such units are placed in service. For example, if a taxpayer reconstructs or replaces the roof of a building with 20 dwelling units, the property relates to the entire building and, accordingly, the new or reconstructed roof is placed in service on the earliest date a significant number of such dwelling units are placed in service. As a further example, assume that the first floor of a three-story building is operated for commercial purposes, and that the taxpayer rehabilitates the remaining two floors for dwelling units. In connection with the rehabilitation, the taxpayer constructs a parking lot for the use of the occupants of the building. The expenditures for the parking lot may be considered as rehabilitation expenditures (see § 1.167(k)–3(b)) and the property (parking lot) attributable to the expenditures allocated to dwelling units is treated as placed in service on the date the parking lot is available for use by the tenants of a significant number of such dwelling units.

(ii) If dwelling units are occupied on a rental basis at the same time that rehabilitation expenditures allocated to those units are paid or incurred, the property attributable to these expenditures will be considered placed in service on the date that the rehabilitation of such units is substantially completed.

(4) The principles of this paragraph may be illustrated by the following examples:

Example (1). A, a taxpayer using the cash receipts and disbursements method of accounting, begins the rehabilitation of a three-story building on January 11, 1971. Prior to May 1, 1971, he pays rehabilitation expenditures of $12,000, $1,000 of which is allocated to each of 12 dwellings units in accordance with the allocation rules of § 1.167(k)–2(d). On May 3, 1971, taxpayer A sells the building, the land, and the property attributable to the rehabilitation expenditures to taxpayer B for $35,000. The purchase price is allocated as follows:

Land	$8,000
Existing building	11,000
Property attributable to rehabilitation expenditures	16,000
Total purchase price	35,000

The property attributable to the rehabilitation expenditures is placed in service by B on September 5, 1971. Taxpayer B may treat a portion of the $35,000 purchase price as rehabilitation expenditures paid or incurred by him. Since the rehabilitation expenditures paid by A ($12,000) are less than the portion of the purchase price allocable to property attributable to these expenditures ($16,000), B may treat only $12,000 as rehabilitation expenditures paid or incurred by him. The excess of the purchase price allocable to rehabilitation expenditures ($16,000) over the rehabilitation expenditures paid by A ($12,000), or $4,000, does not qualify for treatment under section 167(k), but may qualify for the allowance for depreciation provided by section 167(a).

Example (2). The facts are the same as in example (1) except that the purchase price allocable to the property attributable to rehabilitation expenditures is $10,000. Under these circumstances, taxpayer B may treat only $10,000 of A's $12,000 expenditures as rehabilitation expenditures paid or incurred by him. The excess of the rehabilitation expenditures paid by A ($12,000) over the purchase price allocable to rehabilitation expenditures ($10,000), or $2,000, does not qualify for treatment under section 167(k).

Example (3). C, a taxpayer using the cash receipts and disbursements method of accounting, begins the rehabilitation of an existing building on April 1, 1970. The building consists of five dwelling units. The tenants remain in the dwelling units during and after the rehabilitation. Assume that the units are rehabilitated individually and that unit 1 is rehabilitated first. The rehabilitation consists of painting, replacing plumbing facilities, installing light fixtures and appliances. The rehabilitation of this unit is substantially completed on May 1, 1970, and the property attributable to these expenditures is considered placed in service on that date. If the five units were rehabilitated at one time the property would be placed in service when the work was substantially completed with respect to all the units.

(c) *Election by partnership.* An election under section 167(k) with respect to property held by a partnership shall be made by the partnership. See section 703(b).

(d) *Expenditures deemed incurred before January 1, 1979.* For purposes of paragraph (a) of this section—

(1) Rehabilitation expenditures (including rehabilitation expenditures that are treated as paid or incurred by the taxpayer by reason of paragraph (b)(1) of this section) that are incurred pursuant to a binding contract entered into before January 1, 1979, are deemed to be incurred before January 1, 1979. The contract must require (i) the rehabilitation to be performed for the taxpayer (or the person or persons other than the taxpayer described in paragraph (b)(1) of this section) in accordance with his specifications, or (ii) the taxpayer (or the person or persons other than the taxpayer described in paragraph (b)(1) of this section) to perform the rehabilitation (or to have the work performed for him in accordance with his specifications). The contract, as of December 31, 1978, must also specifically identify the existing building (or buildings) in connection with which the rehabilitation expenditures are to be incurred, and the expenditures must be incurred in connection with that building (or buildings). A contract may be binding, for purposes of section 167(k)(3)(D) and this section, even if it is subject to the happening of certain contingencies (such as the obtaining of financing from a third party) which have not occurred by January 1, 1979: *Provided,* That the happening of the contingencies is not within the unrestricted control of the taxpayer (or the person or persons other than the taxpayer described in paragraph (b)(1) of this section) and the contingencies in fact occur. In any event, a contract that does not represent a bona fide agreement negotiated at arms-length shall not be considered a binding contract for purposes of section 167(k)(3)(D). For purposes of section 167(k)(3)(D), a binding contract includes an agreement, entered into pursuant to section 8 of the United States Housing Act of 1937, between the taxpayer (or the person or persons other than the taxpayer described in paragraph (b)(1) of this section) and the Department of Housing and Urban Development ("HUD") or a public housing agency ("PHA") providing that upon completion of rehabilitation in accordance with the taxpayer's final proposal, HUD or the PHA will enter into a housing assistance payments contract with the taxpayer (or such other person or persons). For purposes of the preceding sentence, "agreement", "final proposal", "public housing agency", and "housing assistance payments contract" have the same meaning as those terms have in 24 CFR Part 881 (relating to substantial rehabilitation under the section 8 housing assistance payments program).

(2) Rehabilitation expenditures (including rehabilitation expenditures that are treated as having been paid or incurred by the taxpayer by reason of paragraph (b)(1) of this section) incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1979, are deemed to be incurred before that date. For purposes of determining whether rehabilitation has begun before January 1, 1979, each dwelling unit (see § 1.167(k)–3(c)) shall be considered separately. Rehabilitation begins upon the commencement of physical work at the site of the dwelling unit, as distinguished from the beginning of, or engaging in, other preliminary activities, such as the preparation of architect's sketches. The determination of whether physical work has begun shall be based upon all the facts and circumstances of a particular case. In general, where the physical work which has commenced before January 1, 1979, represents rehabilitation expenditures which are allocable under § 1.167(k)–2(d) to more than one dwelling unit (such as the cost of replacing the roof of an existing structure), such work may be treated as having been done on units to which the expenditures are allocable.

§ 1.167(k)–2 Limitations.

(a) *In general.* The amount of rehabilitation expenditures that may be taken into account with respect to any dwelling unit shall be subject to the limitations described in paragraphs (b) and (c) of this section. Rehabilitation expenditures treated as paid or incurred by the taxpayer by reason of § 1.167(k)–1(b) shall be taken into account in applying the limitations of this section. Rehabilitation expenditures incurred before July 25, 1969, or after December 31, 1978, will be taken into account in applying the limitation of paragraph (b) of this section. In the case of a partnership, these limitations shall apply to the partnership, not to the individual partners. The taxpayer shall maintain detailed records which permit specific identification of the rehabilitation expenditures paid or incurred and which permit allocation of these expenditures to individual dwelling units in the manner prescribed in paragraph (d) of this section.

(b) *Minimum amount.* (1) Rehabilitation expenditures paid or incurred by the taxpayer in any taxable year with respect to any dwelling unit may be taken into account only if the sum of (i) such expenditures, and either (ii) the rehabilitation expenditures paid or incurred by the taxpayer with respect to such dwelling unit in the immediately preceding taxable year, or

(iii) the rehabilitation expenditures paid or incurred by the taxpayer with respect to such dwelling unit in the immediately succeeding taxable year, exceeds $3,000. Thus, with respect to any dwelling unit the taxpayer must pay or incur rehabilitation expenditures of more than $3,000 over a period of 2 consecutive taxable years. See paragraph (e) of this section for special rule where no taxable year of the taxpayer includes the date on which the expenditures were paid or incurred.

(2) The principles of this paragraph may be illustrated by the following examples:

Example (1). A, a calendar-year taxpayer, spends $7,000 in 1970 to rehabilitate two dwelling units, of which $5,000 is attributable to unit 1 and$2,000 to unit 2. The expenditures qualify as rehabilitation expenditures under § 1.167(k)–(3). The property attributable to ther $5,000 spent on unit 1 would qualify for the election under section 167)k). The property attributable to ther $2,000 spent on unit 2 may qualify only if an amount in excess of $1,000 is expended solely on unit 2 in either 1969 or 1971.

Example (2). The facts are the same as in example (1) except that in 1972 A spends $4,000 to further rehabilitate units 1 and 2. The $4,000 is allocated to the two units equally and qualifies as rehabilitation expenditures under § 1.167(k)–(3). In the absence of any expenditures in 1971 or 1973, none of the property attributable to the expenditures in 1972 would qualify for an election under section 167(k).

(c) *Maximum amount.* (1) In general, the maximum amount of rehabilitation expenditures paid or incurred by the taxpayer with respect to any dwelling unit which may be taken into account under section 167(k) is $20,000. However, in the case of rehabilitation expenditures incurred before January 1, 1976, the amount of such expenditures paid or incurred by the taxpayer with respect to any dwelling unit which may be taken into account under section 167(k) is limited to $15,000. The rules in § 1.167(k)–1(a)(2) shall apply in determining whether an expenditure is incurred before January 1, 1976. Property attributable to amounts in excess of $20,000 (or, if applicable, $15,000) may qualify for the reasonable allowance provided by section 167(a). All amounts with respect to which a proper election is filed will be taken into account in applying the limitations of this paragraph, including rehabilitation expenditures treated as paid or incurred by the taxpayer by reason of § 1.167(k)–1(b) and rehabilitation expenditures covered by an election revoked or considered revoked under § 1.167(k)–4(d).

(2) This paragraph may be illustrated by the following examples:

Example (1). B, a calendar-year taxpayer, spends the following amounts (per dwelling unit) in 4 consecutive taxable years beginning in 1970: $500, $2,000, $5,000, and $9,000. The expenditures qualify as rehabilitation expenditures under § 1.167(k)–3. All of the property attributable to the expenditures in 1971 and 1972 qualifies for an election under section 167(k). If the taxpayer makes an election for such years, property attributable to only $8,000 of the expenditures for 1973 qualifies for the election since the total qualified amount may not exceed $15,000. The $500 expenditure in 1970 is not taken into account.

Example (2). X, a calendar year taxpayer on the cash receipts and disbursements method of accounting, spends a total of $22,000 for rehabilitation of one dwelling unit in an existing building held for low-income rental housing. X would be considered, under the accrual method of accounting, to have incurred $19,000 of the expenditures in 1975 and $3,000 in 1976. The expenditures qualify as rehabilitation expenditures under § 1.167(k)–3. Because of the $15,000 limitation with respect to rehibilitation expenditures incurred before January 1, 1976, property attributable to only $15,000 of the $19,000 of expenditures incurred in 1975 qualifies for an election under section 167(k). The $4,000 of expenditures incurred in 1975 with respect to which X cannot make a valid election is not taken into account in applying the $20,000 limitation. Therefore, property attributable to the entire $3,000 of expenditures incurred in 1976 qualifies for an election under section 167(k).

(d) *Allocation rules.* (1) Expenditures which are attributable to more than one dwelling unit shall be allocated among those individual dwelling units in the same ratio as the area of each such dwelling unit bears to the total area of all dwelling units to which the expenditures are attributable. Expenditures for related facilities attributable solely to dwelling units, such as parking facilities for tenant use, shall be allocated among the dwelling units to which they relate in the same manner. Expenditures attributable to commercial units, or to related facilities attributable solely to commercial units, shall not be allocated to dwelling units. Expenditures for related facilities attributable in part to dwelling units and in part to nondwelling units shall be allocated among the particular dwelling and nondwelling units to which they relate. Expenditures attributable to common areas such as stairways, halls, and entranceways shall be allocated among the particular dwelling and nondwelling units to which they relate. In any case where the taxpayer can demonstrate the actual amount of expenditures paid or incurred with respect to a particular dwelling unit, the allocation rules of this subparagraph shall not apply to such expenditures.

(2) The principles of this paragraph may be illustrated by the following examples:

Example (1). A taxpayer spends $60,000 to replace the roof of an existing structure and to install a new heating system. There are 25 dwelling units of varying size in the structure. Unit 1 contains 1,000 square feet and unit 2 contains 2,000 square feet. The entire building contains 36,000 square feet. the dwelling units occupy 25,000 square feet, a retail store occupies 5,000 square feet, and common areas occupy the remainder. Of the 6,000 square feet of common areas, 1,000 square feet (5,000/30,000×6,000) are allocated to the commercial store and 5,000 (25,00/30,000×6,000) to the dwelling units. Since five-sixths of the total floor space (30,000/36,000) is attributable to dwelling units, the dwelling units are allocated $50,000 (⅚×$60,000) and the commercial units $10,000 (⅙×$60,000). Thus, unit 1 is allocated $2,000 (1,000/25,000×$50,000) and unit 2 is allocated $4,000 (2,000/25,000×$50,000).

Example (2). The facts are the same as in example (1) except that the entire building is devoted to dwelling units. In this case the allocation may be made without regard to the common areas. Thus, unit 1 is allocated $2,000 (1,000/30,000×$60,000), and unit 2 is allocated $4,000 (2,000/30,000×$60,000), of the rehabilitation expenditures.

Example (3). A taxpayer who owns a three-story apartment building spends $1,000 to install new paneling, carpeting, and lighting in the hallway on a floor containing five dwelling units of equal size. Each dwelling unit is allocated $200 of the total expenditure. Since the expenditure is attributable only to the floor containing the five dwelling units, none of the expenditure is allocable to other areas of the building.

Example (4). A taxpayer spends $5,000 to install new fixtures and new window glass in a commercial store on the first floor of a five-story building. The other floors are occupied by dwelling units. None of the expenditure is allocable to the dwelling units.

Example (5). A owns a three-story apartment building and enters into a contract under which B agrees to paint 10 dwelling units of equal size in the building. The contract price is $5,000. Unless the taxpayer establishes the amount spent with respect to each unit, the expenditure will be allocated equally to each unit.

(e) *Special rule.* (1) Except as provided in paragraph (e)(2) of this section, for purposes of applying the limitations of this section, rehabilitation expenditures treated as having been paid or incurred by the taxpayer by reason of § 1.167(k)–1(b) shall be deemed to have been paid or incurred on the date on which such expenditure were actually paid or incurred (determined in accordance with the method of accounting used by the person that actually paid or incurred the expenditures). If no taxable year of the taxpayer includes such date, then the limitations of this section shall be applied by taking into account the period ending 24 full months after such date.

(2) In determining, for purposes of the $15,000 limitation described in the second sentence of paragraph (c)(1) of this section, whether a rehabilitation expenditure is incurred before January 1, 1976 a rehabilitation expenditure treated as having been paid or incurred by the taxpayer by reason of § 1.167(k)–1(b)(1) shall be deemed to have been incurred on the date the expenditure would be considered incurred under the accrual method of accounting by the person or persons who actually incurred the expenditure, regardless of the method of accounting used by that person or persons.

The principles of this paragraph may be illustrated by the following example:

Example. B, a calender-year taxpayer, uses the cash receipts and disbursements method of accounting. B spends $20,000 in 1969 and 1970 to rehabilitate a building containing four dwelling units. The expenditures are allocated to each dwelling unit equally. The $20,000 qualifies as rehabilitation expenditures under § 1.167(k)–3 and is paid in the form of progress payments on the following dates:

Aug. 20, 1969	$4,000
Mar. 1, 1970	5,000
May 1, 1970	7,000
Oct. 20, 1970	4,000

Taxpayer C purchases the building on November 10, 1970, and the property attributable to the expenditures in placed in service on December 1, 1970. Taxpayer C reports on the basis of a taxable year ending September 30 and uses the accrual method of accounting. For purposes of applying the minimum amount limitation of paragraph (b) of this section, the rehabilitation expenditures paid by B on August 20, 1969, are considered incurred in taxpayer C's taxable year ending September 30, 1969. The rehabilitation expenditures paid by B on March 1 and May 1, 1970 are considered incurred in taxpayer C's taxable year ending September 30, 1970. The expenditures paid by B on October 10, 1970, are considered incurred in taxpayer C's taxable year ending September 30, 1971. Thus, the property attributable to the expenditures in August 1979 would qualify for an election under section 167(k) since $16,000 or $4,000 per dwelling unit, was incurred within taxpayer C's two taxable years ending on September 30, 1976, and September 30, 1970. The property attibutable to the expenditures deemed incurred in C's taxable year ending September 30, 1971, would also qualify.

§ 1.167(k)–3 Definitions.

(a) *Rehabilitation expenditures*—(1) *In general.* The term "rehabilitation expenditures" means amounts chargeable to capital account for depreciable property with a useful life of 5 years or more, in connection with the rehabilitation of an existing building for low-income rental housing. The existing building need not have been used for residential purposes prior to the rehabilitation. Expenditures attributable to a dwelling unit shall not qualify as rehabilitation expenditures unless following the completion of rehabilitation the dwelling unit is held for occupancy on a rental basis by tenants meeting the requirements of paragraph (b) of this section. Expenditures for the purchase of land, or incurred to purchase the existing building or any interest in the building (such as a leasehold interest), do not qualify as rehabilitation expenditures. Expenditures attributable to a commercial unit, such as a grocery store, do not qualify as rehabilitation expenditures. An amount need not be actually spent on a dwelling unit or a building in order to qualify provided the expenditure is in connection with the rehabilitation of an existing building and not attributable to a commercial unit. For example, expenditures to pave a parking lot for use by the tenants could qualify. Such expenditures must meet the limitations of section 167(k)(2) and will be allocated in accordance with § 1.167(k)–2(d).

(2) *New construction distinguished.* Expenditures attributable to a building which are for new construction do not qualify as rehabilitation expenditures. Whether expenditures are attributable to the rehabilitation of an existing structure, or attributable to new construction, will be determined upon the basis of all the facts and circumstances. Expenditures will generally be considered attributable to rehabilitation if the foundation and outer walls of the existing building are retained. Where the internal structural framework of a building is replaced and one or more outer walls are also replaced, the expenditures will generally constitute new construction, even though the construction may be considered rehabilitation under local law. Other factors that may be relevant in this determination include: The amount paid to acquire the existing building; and the amount of material remaining from the existing building.

(3) *Enlargement of existing building.* The total area occupied by the dwelling units in a rehabilitated building may not exceed the total area of the existing building prior to rehabilitation, and any enlargement of this area for dwelling units will be considered new construction which will not qualify as rehabilitation. Expenditures which are attributable to the construction of a related facility, such as a garage, sidewalk, or parking lot, will not be considered the enlargement of a building for dwelling units, even if such facility is physically attached to the building.

(4) *Examples.* The principles of this paragraph may be illustrated by the following examples:

Example (1). The taxpayer owns a two-story apartment building with an empty attic, which he plans to rehabilitate. In addition to rehabilitating the existing units, he constructs two new apartments in the space formerly occupied by the attic. The expenditures may qualify as rehabilitation expenditures. However, if the taxpayer adds a third story to the building, the expenditures for the third story do not qualify as rehabilitation expenditures.

Example (2). The taxpayer owns an apartment building. In addition to rehabilitating the existing structure, the taxpayer adds a new wing to the building occupied by dwelling units. The expenditures attributable to the new wing do not qualify as rehabilitation expenditures.

Example (3). The taxpayer owns an apartment building. As part of the rehabilitation of the existing structure, the taxpayer constructs a garage for the use of tenants. The expenditures attributable to the garage may qualify as rehabilitation expenditures. If the garage is used by tenants of dwelling units and other persons, an allocation of expenditures will be made.

(b) *Low-income rental housing*—(1) *In general.* (i) The term "low-income rental housing" means any dwelling unit in a building which is held for occupancy by families and individuals of low or moderate income (as defined in subparagraph (2) of this paragraph. A dwelling unit held for occupancy by families and individuals of low or moderate income may qualify as low-income rental housing even though other dwelling units in the same building are held for occupancy by persons who are not of low or moderate income. On the other hand, a dwelling unit held for occupancy by persons who are not of low or moderate income does not qualify as low-income rental housing, even though other dwelling units in the same building are held for occupancy by families and individuals of low or moderate income. If a dwelling unit fails to qualify as low-income rental housing at any time during the 60-month election period, any election with respect to any property attributable to rehabilitation expenditures allocated to such unit shall be considered revoked by the taxpayer. (See § 1.167(k)–4(d) for revocation of election.)

(ii) If a dwelling unit is rented for one or more periods during the taxable year, beginning after the date the property attributable to rehabilitation expenditures allocated to such unit is placed in service, it shall be considered low-income rental housing only if it is occupied by families and individuals of low or moderate income (as defined in subparagraph (2) of this paragraph) during each such period.

(iii) If a dwelling unit is not rented for some period during the taxable year, beginning after the date the property attributable to rehabilitation expenditures allocated to such unit is placed in service, it shall be considered low-income rental housing only if at all times during such period the rental at which the unit is offered indicates that such unit is held for occupancy by families and individuals of low or moderate income (as defined in subparagraph (2) of this paragraph). Generally, if the rental at which the unit is offered does not exceed 30 percent of the low or moderate income level (determined under subparagraph (2) of this paragraph), for the number of persons occupying comparable units, the unit will be considered low-income rental housing.

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(2) *Definition of low or moderate income.* The occupants of a dwelling unit are considered families and individuals of low or moderate income for purposes of section 167(k) only if their adjusted income (computed in the manner prescribed in paragraph (b)(3) of this section) does not exceed 80 percent of the median income for the area, as determined with adjustments for smaller and larger families by the Secretary of Housing and Urban Development for the purposes of applying section 8(f)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f(f)(1)), except that if, for purposes of applying such section, the Secretary of Housing and Urban Development establishes an income ceiling higher or lower than 80 percent of the median for the area, the higher or lower income ceiling shall apply. Notwithstanding the preceding sentence, the occupants of a dwelling unit shall not be considered as individuals and families of low or moderate income if all the occupants are students (as defined in section 151(e)(4)), no one of whom is entitled to file a joint return under section 6013. All determinations under this subparagraph shall be made as of the first day of the certification year (as defined in paragraph (b)(3) of this section).

(3) *Adjusted income.* (i) The adjusted income of a family or individual is the anticipated total annual income of the family or individual for the certification year, determined in accordance with the criteria prescribed by the Secretary of Housing and Urban Development under section 8(f)(3) of the United States Housing Act of 1937, as amended (42 US.C. 1437f(f)(3)), for purposes of determining whether a family is a lower-income family within the meaning of section 8(f)(1) of the Act. The adjusted income of a family or individual shall be computed solely from the income certifications required by paragraph (b)(4) of this section and shall be computed with respect to the "certification year" of the person. Adjusted income is not affected by income earned or received during the certification year that is not included in the income certification. The "certification year" for any person is the 12-month period which begins on the later of (A) the date on which the property attributable to the expenditures allocated to the dwelling unit occupied by the person is placed in service (see § 1.167(k)-1(b)(3)), or (B) the date on which the person first occupies the unit on a rental basis, or signs a lease with respect to the unit, whichever occurs first. Adjusted income must be determined with respect to the actual occupants of the dwelling unit. For purposes of the preceding sentence, if any income of a family member who is not living in the dwelling unit would be taken into account under the criteria prescribed by the Secretary of Housing and Urban Development referred to in the first sentence of this subparagraph, that person shall be considered to be an occupant of the dwelling unit. The term "family", for purposes of section 167(k), means two or more persons related by blood, marriage, or operation of law.

(ii) The principles of this subparagraph may be illustrated by the following example:

Example. Family X first signs a lease on a rehabilitated dwelling unit on January 1, 1977, which the family first occupies on January 25, 1977. All expenditures with respect to the rehabilitation of the dwelling unit were paid or incurred by the taxpayer after December 31, 1975.

The certification year for members of family X is the 12-month period beginning on January 1, 1977. All income earned by family X in 1976 is disregarded. Instead, the determination of adjusted income shall be made with respect to the total anticipated annual income of the family for the calendar year 1977, computed in accordance with the criteria prescribed by the Secretary of Housing and Urban Development referred to in the first sentence of this subparagraph.

(4) *Income certifications.* A taxpayer electing to compute depreciation under section 167(k) with respect to any property contained in a dwelling unit, shall secure an income certification from the tenant covering each person who proposes to live in such unit after the beginning of the certification year. If a dwelling unit is subleased during the taxable year and the taxpayer elects to compute depreciation under section 167(k) with respect to any property contained in such unit, the taxpayer shall secure an income certification from the subtenant covering each person who proposes to live in the dwelling unit after the beginning of the certification year. If the dwelling unit is rented to a new tenant or subtenant during the 60-month election period, the taxpayer shall secure an income certification from the new tenant (or subtenant) covering each person who proposes to live in the unit after the beginning of the certification year. The income certification shall contain a statement of the anticipated total annual income for the certification year of each person who proposes to live in the dwelling unit during the certification year, the number of minors who propose to live in the dwelling unit during the certification year, the anticipated total annual income of such minors, and a description of any payments expected to be received during the certification year which are not considered to be income, all determined in accordance with the criteria prescribed by the Secretary of Housing and Urban Development referred to in paragraph (b)(3) of this section. The income certification must be sworn to before an official authorized to administer oaths (such as a notary public) and shall be maintained by the taxpayer as part of his books and records.

(5) *Effective date.* Paragraph (b) (2), (3), and (4) of this section shall apply to property attributable to expenditures which are paid or incurred after December 31, 1975. (For purposes of applying this subparagraph, rehabilitation expenditures treated as having been paid or incurred by the taxpayer by reason of § 1.167(k)-1(b) shall be deemed to have been paid or incurred on the date on which the expenditures were actually paid or incurred, determined in accordance with the method of accounting used by the person that actually paid or incurred the expenditures.) In the case of property attributable to expenditures paid or incurred before January 1, 1976, the rules in 26 CFR 1.167 (k)-3(b) (2), (3), and (4), revised as of April 1, 1977, shall continue to apply.

(6) *Examples.* The principles of this paragraph may be illustrated by the following examples:

Example (1). The median family income in a particular area for a family of four, as established for the purposes of applying section 8(f)(1) of the U.S. Housing Act of 1937, is $12,000. During 1976, the taxpayer spends in excess of $3,000 per unit in rehabilitating three two-bedroom dwelling units, X, Y, and Z. All the units are placed in service on January 1, 1977, and are advertised for rental at $200 per month. Unit X is rented at this price to tenant A and unit Y is rented to tenant B. A and B each is married and each has two children. At the time of the signing of the lease, tenant A certifies that the family's adjusted income for the certification year (the 12-month period beginning on the date the lease is signed), computed under paragraph (b)(3) of this section, is $9,000. Tenant B, at the time of signing the lease, certifies that the family's adjusted income is $10,000 for the certification year. Assuming that the Secretary of Housing and Urban Development has not established an income ceiling higher or lower than 80 percent of median for the area for purposes of applying section 8(f)(1) of the U.S. Housing Act of 1937, the low or moderate income level for the purpose of this paragraph is $9,600 (80 percent of the $12,000 median income for the area). Since tenant A's adjusted income of $9,000 does not exceed this amount, rehabilitation expenditures allocated to the dwelling unit rented to tenant A could qualify under section 167(k). However, the rehabilitation expenditures allocated to the dwelling unit rented to tenant B could not qualify, since tenant B's adjusted income ($10,000) is in excess of the low or moderate income level for the area.

Example 2. The facts are the same as in example (1). Eight months after signing the lease, tenant A receives a promotion that was not anticipated when the lease was signed. Because of the unanticipated promotion, tenant A's actual income for the certification year is $9,800, which is more than the income ceiling ($9,600). Even though A's adjusted income would not have qualified if the promotion had been anticipated when the lease was signed, the original election with respect to property contained in unit X will remain valid as long as tenant A occupies the unit. Unit Z, even though vacant throughout 1977, will be considered low-income rental housing because the rental at which the unit is offered ($2,400 per year) does not exceed $2,800, i.e., 30 percent of $9,600, the low- or moderate-income level for a family of four.

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(c) *Dwelling unit.*—(1) *In general.* The term "dwelling unit" means a house or apartment used to provide living accommodations in a building or structure. It is not required that the dwelling unit be occupied subject to a lease.

(2) *Exception.* The term "dwelling unit" does not include any unit in a hotel, motel, inn, or other establishment more than one-half of the dwelling units in which are used on a transient basis. A dwelling unit is used on a transient basis if, for more than one-half of the days in which the unit is occupied on a rental basis during the taxpayer's taxable year, it is occupied by a tenant or series of tenants each of whom occupies the unit for less than 30 days. If a dwelling unit is occupied subject to a sublease for any portion of the taxable year, the determination of whether the unit is occupied on a transient basis shall be made with respect to the sublessee who occupies the unit, not with respect to the lessee.

§ 1.167(k)-4 Time and manner of making election.

(a) *Manner of election.*—(1) *In general.* An election under section 167(k) shall be made by attaching a statement to the income tax return filed for the first taxable year in which the taxpayer computes the depreciation deduction using a 60-month useful life. An information statement shall be attached to the income tax return filed for each subsequent taxable year in which the taxpayer computes depreciation under section 167(k). The 60-month election period shall begin with the date the property is placed in service, unless the taxpayer adopts an averaging convention in accordance with § 1.167(a)-10(b) which permits the use of some other date. Except as provided in subparagraph (2) of this paragraph, no election may be made until all the conditions and limitations of §§ 1.167(k)-2 and 1.167(k)-3 are satisfied.

(2) *Special rule.* The rules contained in this subparagraph shall apply only if the taxpayer does not satisfy the $3,000 minimum amount limitation of section 167(k)(2)(B) in the taxable year in which property is placed in service and in the immediately preceding taxable year. The taxpayer may make an election under section 167(k) for the taxable year in which property is placed in service, by filing the election within the time and in the manner prescribed in this section and by enclosing a separate written statement disclosing an intent to fulfill the $3,000 minimum amount limitation in the succeeding taxable year. If the taxpayer does not make an election under the preceding sentence for the taxable year the property is placed in service, an amended return to make the election may be filed for such year, provided that such amended return is filed within the time and in the manner prescribed in paragraph (c)(2) of this section. The principles of this subparagraph may be illustrated by the following example:

Example. A, a calendar-year taxpayer, spends $2,000 per dwelling unit in 2 consecutive taxable years, beginning in 1970, and the expenditures qualify as rehabilitation expenditures under § 1.167(k)-3. An election under this subparagraph may be made with respect to the property placed in service in 1970, even though the income tax return for 1970 is due before any expenditures have been paid or incurred in 1971: *Provided,* That A files a statement of intent to spend more than $1,000 per dwelling unit in 1971. Alternatively, A may file an amended return for 1970.

(b) *Information required.*—(1) *Election year.* The election to compute depreciation under section 167(k) with respect to any property must contain the following information:

(i) Taxpayer's name, address, and identification number.

(ii) Description of property with respect to which an election is made, and the date such property was placed in service (see § 1.167(k)-1(b) (3)).

(iii) Location and description of building being rehabilitated.

(iv) Number of dwelling units in the structure, and the number of such units occupied on a transient basis (see § 1.167(k)-3(c)(2)).

(v) Date rehabilitation expenditures were incurred (see § 1.167(k)-1(a)(2)).

(vi) Statement that all income certifications required by § 1.167(k)-3(b)(4) have been obtained.

(vii) For each dwelling unit which the taxpayer seeks to qualify as low-income housing for purposes of the election under section 167(k):

(*a*) Rehabilitation expenditures allocated to such unit (see § 1.167(k)-2(d)),

(*b*) For each period of occupancy during the taxable year, the number of occupants, the maximum income level permissible under § 1.167(k)-3(b)(2) for that number of occupants, the adjusted income of the occupants of such unit (determined solely from the income certifications required by § 1.167(k)-3(b)(4)), the method by which such income was determined, and the rent charged for such unit, and

(*c*) For each period in which such unit is vacant during the taxable year, a description of each such unit (as to number of rooms), the low- or moderate-income level in that area for the number of persons occupying comparable units, and the rental at which each vacant unit is offered.

(viii) If allocation is required under § 1.167(k)-2(d), the area occupied by dwelling units and nondwelling units.

(ix) If applicable, statement of intent to fulfill $3,000 minimum amount limitation (see § 1.167(k)-4(a)(2)).

(x) If the taxpayer is treated as having paid or incurred expenditures by reason of § 1.167(k)-1(b), the amount of such expenditures, the date the expenditures were incurred, the date the property attributable to the expenditures was placed in service, the method of accounting used by the person that made the expenditures, and the purchase price for the property attributable to the expenditures.

(2) *Subsequent years.* For each taxable year in which depreciation is computed under section 167(k) after the taxable year of the election, the statement required by this section must state the rental charges for each occupied unit and the rental charge at which each vacant unit is offered. In addition, if any such unit is rented to a new tenant during the taxable year, such statement must also contain the following information:

(i) A statement that such tenant has signed an income certification (§ 1.167(k)-3(b)(4)), and

(ii) The number of occupants in the unit, the maximum income level permissible under § 1.167(k)-3(b)(2) for that number of occupants, and the total adjusted income of such occupants, determined solely from the income certifications required by § 1.167(k)-3(b)(4).

(c) *Time for filing election.*—(1) *General rule.* In general, the election to compute depreciation under section 167(k) with respect to any property attributable to rehabilitation expenditures must be filed no later than the time prescribed by law (including extensions thereof) for filing the taxpayer's return for the taxable year in which the property is placed in service, provided that the rehabilitation expenditures meet the requirements of §§ 1.167(k)-2 and 1.167(k)-3 in that year, taking into account expenditures of the preceding taxable year for purposes of the $3,000 minimum amount limitation. The statement required for subsequent years must be filed no later than the time prescribed by law (including extensions thereof) for filing the return for such subsequent years. However, if the taxpayer does not file a timely return for the year in which the property is placed in service, the election shall be filed at the time the taxpayer files his first return for such year. For information required in the election and subsequent years, see paragraph (b) of this sec-

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tion. If the taxpayer fails to make an election within the time prescribed by this paragraph, no election may be made with respect to such property by the filing of an amended return or in any other manner.

(2) *Special rule.* If an election is filed with an amended return permitted by paragraph (a)(2) of this section it must be filed no later than time prescribed by law (including extensions thereof) for filing a return for the first taxable year following the year in which the property is placed in service. The principles of this subparagraph may be illustrated by the following example:

Example. A, a calendar-year taxpayer, spends the following amounts (per dwelling unit) in 4 consecutive taxable years beginning in 1970: $2,000, $3,000, $4,000, and $5,000. The expenditures qualify as rehabilitation expenditures under §1.167(k)-3 and the property attributable to the expenditures in each of the 4 taxable years would qualify for an election under section 167(k). A does not file an election under section 167(k) for 1970 or 1971 and the property attributable to the rehabilitation expenditures for those years may qualify for depreciation allowable under section 167(a). A may make an election under section 167(k) for the property attributable to the expenditures made in 1972 and 1973.

(d) *Revocation of election.*—(1) *In general.* An election under section 167(k) may be revoked by the taxpayer at any time prior to the time prescribed by law (including extensions thereof) for filing a tax return for the last taxable year in which any portion of the 60-month election period falls. Such revocation shall be made by filing a statement in writing with the District Director or Director of the Internal Revenue Service center with which the election was filed. If an election is revoked under this paragraph, the revocation shall not affect taxable years for which a tax return was filed computing a depreciation deduction under section 167(k). The revocation shall be effective on the date specified by the taxpayer. Such revocation may apply to any property attributable to rehabilitation expenditures allocated to any dwelling unit in the building or structure or to all such property. An election revoked under this subparagraph may not be reinstated.

(2) *Failure to meet requirements of section 167(k).* An election under section 167(k) with respect to property attributable to a dwelling unit shall be considered revoked with respect to such property if at any time during the taxable year—

(i) Such unit is rented to (or held for occupancy by) a family or individual not meeting the definition of low or moderate income (see §1.167(k)-3(b)(2));

(ii) More than one-half of the dwelling units in the building are rented on a transient basis (see §1.167(k)-3(c)); or

(iii) Expenditures which are required in order to meet the $3,000 minimum amount limitation for the preceding taxable year are insufficient (see §1.167(k)-2(b)).

The revocation shall be deemed to occur on the first day in which the dwelling unit does not meet the requirements of section 167(k) during the taxable year. Any revocation of an election under this subparagraph shall not affect prior taxable years for which a tax return computing depreciation under section 167(k) was filed if all the conditions of section 167(k) were met for those years. An election considered revoked under this subparagraph may not be reinstated.

(3) *Effect of revocation.* The taxpayer may not compute the depreciation deduction using the 60-month useful life permitted under section 167(k) for any portion of any taxable year beginning after the date on which a revocation is effective under this paragraph. The depreciation deduction allowed under section 167(k) for the taxable year in which a revocation is effective shall be the amount such deduction would have been for such year if no revocation had occurred, multiplied by a fraction consisting of: (i) the number of days in the taxable year prior to the date of the revocation, over (ii) the number of days of the 60-month election period which falls within such year. The taxpayer shall continue to use the straight line method of depreciation, but shall use the estimated remaining useful life and salvage value of the property (determined without regard to section 167(k)) as of the date such recovation is deemed to occur. If the taxpayer wishes to adopt another method of depreciation following a revocation of an election, such new method is a change in a method of accounting which requires the consent of the Secretary or his delegate under section 446(e). Generally, the straight line method of depreciation using the property's remaining useful life determined without regard to section 167(k) will be the only method of depreciation which will be accepted following a revocation.

(4) *Example.* The principles of this paragraph may be illustrated by the following example:

Example. Beginning after July 24, 1969, a calendar-year taxpayer spends $5,000 per dwelling unit to rehabilitate the three dwelling units in an apartment house. The property attributable to these expenditures is placed in service on January 1, 1970. The dwelling units qualify as low-income rental housing and the taxpayer elects to compute depreciation under section 167(k). The dwelling units continue to qualify as low-income rental housing throughtout 1970, 1971, and 1972. On March 15, 1973, the three units cease to qualify as low-income rental housing and the election under section 167(k) is considered revoked on that date. The amount of the depreciation deduction computed under section 167(k) for 1973 with respect to these three units is the amount such depreciation would have been absent a revocation, $3,000 (⅓×$15,000), multiplied by the number of days of the taxable year before the revocation, 73, over the number of days of the 60-month election period within the taxable year, 365. Thus, the depreciation deduction for 1973 under section 167(k) is $600 (⅕×$3,000). For the remainder of 1973, the taxpayer must compute depreciation under the straight line method, using the estimated useful life and the salvage value of the property on March 15, 1973. The adjusted basis of the property on March 15, 1973, is $5,400, the property's unadjusted basis ($15,000), minus the depreciation allowed under section 167(k) ($9,600). Assume that the property's estimated remaining useful life is 20 years and that the salvage value is $1,000. The depreciation deduction for the remainder of 1973 under section 167(a) is the amount the depreciation would have been for 1973 under the straight line method, $220 (1/20×$4,400), multiplied by the number of days following the revocation, 292, over the number of days of the taxable year, 365. Thus, the taxpayer would be allowed a deduction of $176 under section 167(a) for the period of 1973 following the revocation (⅘×$220). The depreciation allowed for 1973 with respect to the property is the sum of the depreciation computed under section 167(k) before the revocation ($600) plus the depreciation allowed under section 167(a) after the revocation ($176), or $776.

(e) *Effective date.* The provisions of section 167(k) apply to taxable years ending after July 24, 1969. A taxpayer will be permitted to make an election or revoke an election under section 167(k) on or before June 9, 1972. The election will be permitted under this paragraph for any taxable year ending after July 24, 1969, notwithstanding the fact that the period prescribed by paragraph (c) of this section for filing an election for such taxable year has expired. The provisions of paragraph (a)(1) of this section shall apply for purposes of determining the beginning of the 60-month election period. If the taxpayer is permitted to revoke an election with respect to any property within the 90-day period specified in this paragraph, the taxpayer may adopt any method of depreciation permitted under section 167 for such property, beginning with the date the property was placed in service, using the estimated useful life of the property on such date, determined without regard to section 167(k).

(f) *Extension of time for election.* In the case of property attributable to expenditures paid or incurred after December 31, 1975, a taxpayer will be permitted to make an election under section 167(k) (and file the statement required for subsequent taxable years by paragraph (b)(2) of this section) on or before (the 90th day after the date this notice of proposed rulemaking is adopted as a Treasury decision), notwithstanding the fact that the period prescribed by paragraph (c) of this section for filing an election for the taxable year (or for filing the statement required for a subsequent year) has expired.

[FR Doc. 78-12410 Filed 5-5-78; 8:45 am]

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[3810-70]

DEPARTMENT OF DEFENSE

Defense Investigative Service

[32 CFR Part 298a]

[Dis Reg 28-4]

PRIVACY ACT OF 1974

Proposed Amendment of Exemption Rule

AGENCY: Defense Investigative Service (DIS).

ACTION: Proposed amendment of exemption rule.

SUMMARY: The DIS is amending an existing exemption rule for a record system identified as DIS 5-01, entitled, "Investigative files", by deleting the exemption from the provisions of subsection (o) of the Privacy Act.

DATES: Any comments must be received on or before June 7, 1978.

ADDRESS: Send comments to the Office of the Assistant for Information (D0020), Defense Investigative Service, 1000 Independence Ave SW., Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Lt. Col. Dale L. Hartig, Assistant for Information, telephone, 202-693-1740.

SUPPLEMENTARY INFORMATION: On September 28, 1977 at 42 FR 51477 the DIS republished the procedural and exemption rules as required by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a). DIS is proposing to amend an existing exemption rule identified in the summary above and located at 42 FR 51481 of the rules by deleting the exemption from the provisions of Subsection (o) of the Act. The record system notice was published on September 28, 1977 at 42 FR 51432. Therefore, it is proposed that § 298a.14, entitled "Exemptions", be amended as set forth below.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MAY 3, 1978.

§ 298a.14 Exemptions.

. . . . . .

(c) *Investigative files.—DIS 5-01.*

(1) Exemption. 5 U.S.C. 552a(c) (3) and (4); (d); (e)(1), (2), (3), (5) and (8); and (g);

(2) Authority. 5 U.S.C. 552a(j)(2);

(3) Reasons. Records maintained by, or at the direction of the DIS Special Cases Division include criminal investigations for which DIS has primary responsibility and certain reports and reciprocal investigations, as well as security or counterintelligence information, which may be used in criminal prosecution. The withholding of this information will be to the extent necessary to allow the DIS Special Cases Division, a criminal law enforcement component, to conduct effective investigations into alleged unlawful activity, or crime conducive situations, without jeopardizing such investigations. Knowledge of the investigations of the Special Cases Division would enable subjects or suspects to take actions to prevent detection of criminal activities, fabricate evidence, influence witnesses improperly, conceal or destroy evidence, or to escape prosecution. It sould also lead to intimidation of, or harm to, sources, informants, witnesses and their families. Information from this system will be withheld only to the extent that its release would interfere with such investigations.

. . . . . .

[FR Doc. 78-12430 Filed 5-5-78; 8:45 am]

[7710-12]

POSTAL SERVICE

[39 CFR Part 111]

SECOND-CLASS BULK MAILINGS

Lower Per Piece Rate for Regular Rate and Science of Agriculture Publications

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: On July 13, 1977, the Postal Service filed with the Postal Rate Commission proposals for changes in postage rates and fees. The specific rates and fees proposed are set forth at 42 FR 37,332 et seq. as amended at 42 FR 63,240-63,242 (1977), 42 FR 63,830 (1977). One of these proposals would provide two-tier per piece charges for second-class regular-rate and science of agriculture publications.

Under the proposal, publications mailed at regular or science of agriculture rates would be eligible for the lower per piece charges if they are properly prepared in 5-digit ZIP Code direct sacks.

Before this proposal can be placed into effect, it must be recommended by the Postal Rate Commission to the Governors of the Postal Service and be approved by the Governors. Under the provisions of 39 U.S.C. 3624, the Postal Rate Commission is to issue its recommended decision on the Postal Service's proposal on or before May 13, 1978.

The purpose of this rulemaking is to set forth and solicit comments on proposed rules and regulations that would apply if the two-tier per piece charges are recommended by the Postal Rate Commission and the recommendation is approved by the Governors of the Postal Service. the Postal Service will then be able to place new second-class rates, including the two-tier per piece charges, into effect in a timely way.

DATE: Comments must be received on or before May 20, 1978.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Room 1610, 475 L'Enfant Plaza SW., Washington, D.C. 20260.

Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Office of Mail Classification, Rates and Classification Department, Room 1610, 475 L'Enfant Plaza SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Mr. Ashley Lyons, 202-245-4749.

SUPPLEMENTAL INFORMATION: In order to carry out the purposes described above, the Postal Service would add to the Postal Service Manual a new 125.329, set forth below.

Although exempt under 39 U.S.C. 410(a) from the requirements of the Administrative Procedure Act, 5 U.S.C. 553 (b), (c), regarding proposed rulemaking, the Postal Service invites public comment on the following proposed revision of the Potal Service Manual:

PART 125—SECOND-CLASS BULK MAILINGS

In Part 125 of the Postal Service Manual add new .329 reading as follows:

125.3 Mailing

. . . . . .

.32 Preparation by the Mailer of Copies in Packages and Sacks

. . . . . .

.329 Mailings at 5-Digit Direct Presort Rates

To qualify for the lower per piece rate for regular rate and science of agriculture publications presented in 5-digit ZIP Code direct sacks, the following requirements must be met:

a. The publications must be for delivery to an address outside of the county of original entry;

b. The publications must be presented in:

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(1) 5-digit ZIP Code sacks or
(2) 5-digit ZIP Code bundles in lieu of sacks if authorized in accordance with 125.328.

Each 5-digit sack (or 5-digit bundle in lieu of a sack) must contain a minimum of 20 pounds of mail or sufficient pieces to fill one-third of a sack. For the purposes of this requirement, 1,000 cubic inches of mail is considered sufficient to fill one-third of a No. 2 postal sack.

c. One sack to a 5-digit ZIP Code which is less than one third full or contains less than 20 pounds may qualify for this lower piece rate provided it is part of a mailing which includes other substantially full sacks to the same destination. This is to allow for the "overflow" to that destination which cannot be practically put with previously sacked mail to that destination.

d. Mailers must be prepared to document or otherwise confirm the number of pieces mailed and paid at the lower per piece rate. This may be done in any of the following manners:

(1) By separating the 5-digit ZIP Code direct sacks from the rest of the mailing when it is presented for mailing, or

(2) By attaching to the mailing statement a listing of the number of copies (and pieces) in each 5-digit ZIP Code direct sack for which the lower per piece charge is being paid, or

(3) By maintaining records for each mailing which will confirm the number of pieces in 5-digit ZIP Code direct sacks. The records must document the number of copies (and pieces) to each 5-digit ZIP Code destination for each edition of an issue entered at each post office for which 5-digit ZIP Code sacks are made up. A printout must be presented prior to the first mailing made under this arrangement, but not prior to August 1, 1978. These records must be retained for at least two months from the date of mailing. The mailer must provide a copy of the record for a particular mailing, or portions of it, within thirty days of a request by the postmaster of the office of entry. Postmasters shall advise the Region's Revenue Protection Program Manager of all publications being mailed under this arrangement. Acceptance Units will maintain a listing of publications authorized to mail under this agreement.

An appropriate amendment to 39 C.F.R. 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401(2))

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-12567 Filed 5-4-78; 2:32 pm]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 1, 81 and 87]

[FCC 78-268; SS Docket No. 78-137]

NEW PUBLIC COAST STATIONS, AERONAUTICAL ADVISORY STATIONS AND RADIONAVIGATION LAND STATIONS IN THE AVIATION SERVICES

Requiring Notification Upon Commencement of Service

AGENCY: Federal Communications Commission.

ACTION: Proposed Rulemaking.

SUMMARY: This document proposes amendments to certain of the Commission's rules to require notification upon commencement of service of new public coast stations, aeronautical advisory stations and radionavigation land stations, in the Aviation Services. This has been a routine condition of grant for public coast stations. This rulemaking will incorporate this condition of grant into the Commission's rules and will extend it to aeronautical advisory stations and radionavigation land stations in the Aviation Services.

DATES: Comments must be received on or before June 5, 1978 and reply comments must be received on or before June 15, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John C. K. Hays, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: April 20, 1978.

Released: May 3, 1978.

In the matter of amendment of Parts 1, 81 and 87 of the Commission's rules to require notification upon commencement of service of new public coast stations, aeronautical advisory stations and radionavigation land stations in the Aviation Services.

1. Notice of Proposed Rulemaking in the above-entitled matter is hereby given.

2. The Commission is proposing to amend its rules to require the licensees of new public coast stations, aeronautical advisory stations and radionavigation land stations in the Aviation Services to notify the Commission of the Commencement of station operations. Each of these types of stations provide important services to the public, and their frequencies, locations and hours of service are listed in various Government and non-Government publications. Under Commission rules only one station is permitted to operate in the area defined for that type of station, and operations must commence within eight months of the initial grant of the station license. If a station does not commence operations within this time period, the station license becomes invalid and must be returned to the Commission for cancellation. A new applicant then may file for a station license to serve that area.

3. To properly administer these rules and to provide accurate information concerning station operations, it is necessary that the Commission be promptly informed by the licensee of the commencement of station operations. Such requirement for notification by the licensee is presently a condition of grant placed on all public coast stations licensees and has not appeared to result in any substantial burden to the licensees. This proposed rulemaking would place this requirement in the rules and would extend it to aeronautical advisory stations and radionavigation land stations in the Aviation Services because of their public service use. Under the proposal, if the licensee fails to notify the Commission within 8 months of commencement of station operation, it would be conclusively presumed that the station is not in operation and the license would become invalid unless the licensee could show "good cause" why notification was not made. A statement of "good cause" would not be sufficient if it merely rested on the actions of the licensee or those associated with him. To come within "good cause", the failure to file must rest with some third party not within control of the licensee.

4. In addition to requiring notification by the licensee, this proposal would clarify the rules by amending Part 87 to reflect the requirement presently set forth in Section 1.932 of the Commission's rules that an authorized station, other than an operational fixed station operating on frequencies above 952 MHz, must be placed in operation within eight months from the date of grant or the authorization becomes invalid and must be returned to the Commission for cancellation.

5. The proposed amendments to the rules as set forth in the Appendix are issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's rules, interested persons may file comments on or before June 5, 1978, and reply comments on or before June 15, 1978. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

7. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

Parts 1, 81 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURES

Section 1.932 is amended to read as follows:

§ 1.932 Time in which station must be placed in operation.

(a) For operational-fixed stations authorized to operate on frequencies above 952 MHz, the authorized station must be placed, in operation within twelve months from the date of grant or the authorization shall be invalid and must be returned to the Commission for cancellation. For all other stations, the authorized station must be placed in operation within eight months from the date of grant or the authorization shall be invalid and must be returned to the Commission for cancellation.

(b) The licensee of a new public coast station, a new aeronautical advisory station or a new radionavigation land station in the Aviation Services shall notify the Commission in writing when the station is placed in operation. If the licensee fails to notify this Commission within eight months from the date of grant that the station has been placed in operation, it shall be conclusively presumed the station is not in operation and, thus, the license becomes invalid by operation of paragraph (a) of this section, unless the licensee shows good cause why notification was not made.

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA/PUBLIC FIXED STATIONS

Section 81.61 is amended to read as follows:

§ 81.61 Time in which station must be placed in operation.

(a) In those cases in which a license is issued initially in lieu of a construction permit, if the station authorized is not placed in operation within eight months from the date of the grant, the authorization shall be invalid and must be returned to the Commission for cancellation.

(b) The licensee of a new aeronautical advisory station or a new redionavigation land station shall notify the Commission in writing when the station is placed in operation. If the licensee fails to notify this Commission within eight months from the date of grant that the station has been placed in operation, it shall be conclusively presumed the station is not in operation and, thus, the license becomes invalid by operation of paragraph (a) of this section, unless the licensee shows good cause why notification was not made.

[FR Doc.78-12454 Filed 5-5-78; 8:45 am]

PART 87—AVIATION SERVICES

A new § 87.58 is added to read as follows:

§ 87.58 Time in which station must be placed in operation.

(a) In those cases in which a license is issued initially in lieu of a construction permit, if the station authorized is not placed in operation within eight months from the date of the grant, the authorization shall be invalid and must be returned to the Commission for cancellation.

(b) The licensee of a new aeronautical advisory station or a new redionavigation land station shall notify the Commission in writing when the station is placed in operation. If the licensee fails to notify this Commission within eight months from the date of grant that the station has been placed in operation, it shall be conclusively presumed the station is not in operation and, thus, the license becomes invalid by operation of paragraph (a) of this section, unless the licensee shows good cause why notification was not made.

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-141; RM-3062]

FM BROADCAST STATIONS IN MARTIN AND NEON, KY.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Action taken herein proposes the deletion of a Class A FM channel from Neon, Ky., and its assignment to Martin, Ky. Petitioner, Guaranty Broadcasting Co., states that since no interest has been shown in operating an FM station in Neon, the channel should be assigned to Martin where the proposed station could provided a first local aural broadcast service to that community.

DATES: Comments must be filed on or before June 20, 1978. Reply comments must be filed on or before July 10, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 21, 1978.

Released: May 2, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Martin and Neon, Ky.) BC Docket No. 78-141, RM-3062.

1. The Commission has before it for consideration a petition for rulemaking[1] filed February 6, 1978, by Guaranty Broadcasting Co. ("petitioner"), which requests the deletion of FM Channel 261A from Neon, Ky., to permit its assignment to Martin, Ky. Petitioner states that Channel 261A was assigned to Neon over ten years ago and that no application has been filed for its use. Petitioner asserts that Channel 261A could be assigned to Martin in conformity with the minimum distance separation requirements without affecting any presently assigned channel other than the deletion of Channel 261A from Neon. There is no other channel which could be assigned without deleting an existing assignment. Martin has no local broadcast service.

2. Martin, in eastern Kentucky, is a community of 786 persons in Floyd County (pop. 35,880),[2] and is located approximately 64 kilometers (40 miles) west of the intersection of Virginia and West Virginia state lines and 13 kilometers (8 miles) south of Prestonburg, Ky. Petitioner asserts that Martin, whose population has increased to an estimated 1200 in 1977, is primarily a mining community. It states that, with the county relying more heavily on coal as an energy source, the Floyd County population can be expected to increase, and the opportunities for new businesses and existing concerns will continue to grow. Petitioner notes that over a dozen mining companies form the base of the Martin area economic structure. It offers a description of Martin's form of government, the local geography, school system, civic, religious and rec-

[1] Public Notice of the petition was given on March 7, 1978, Report No. 1106.

[2] Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

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reational activities in an effort to show the need for the assignment.

3. Petitioner asserts that, since no interest has been shown in operating an FM station at Neon, the channel should be assigned to Martin where a need exists and a demand for its use has been expressed. Petitioner states that, if the channel is assigned to Martin, it will promptly file an application for a construction permit.

4. Although the FM channel was initially assigned in 1963, the channel has lain fallow all these years. Since an interest has been shown for its use elsewhere, it would be in the public interest to examine this possibility.

5. In view of the foregoing, and pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the FM Table of Assignments (§ 73.202(b)) to read as follows:

City	Channel No. Present	Proposed
Martin, Ky	—	261A
Neon, Ky	261A	—

6. Authority to institute rulemaking proceedings; showings required; cutoff procedures; and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before June 20, 1978, and reply comments on or before July 10, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-12399 Filed 5-5-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-143; RM-3020]

FM BROADCAST STATION IN EL DORADO, ARK.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Action taken herein proposes the assignment of a third Class A FM channel to El Dorado, Ark., in response to a petition filed by Inspiration Radio Service. Petitioner claims the proposed station would provide El Dorado with a much-needed additional broadcast service.

DATES: Comments must be received on or before June 23, 1978. Reply comments must be received on or before July 13, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792

SUPPLEMENTARY INFORMATION:

Adopted: April 24, 1978.

Released: May 3, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (El Dorado, Ark., BC Docket No. 78-143, RM-3020.

1. *Petitioner, Proposal, Comments.* (a) Petition for rulemaking,[1] filed December 5, 1977, by Inspirational Radio Service ("petitoner"), proposing the assignment of Channel 240A as a third Class A FM channel to El Dorado, Ark. An opposition to the petition was filed by Noalmark Broadcasting Corp., licensee of AM Station KELD and Station KEZU-FM (Channel 276A). A response was filed by petitioner.

(b) The channel may be assigned without affecting any existing FM assignments.

(c) Petitioner states that if the channel is assigned, it will apply for a construction permit to build a station.

2. *Demographic data*—(a) *Location.* El Dorado, seat of Union County, is located in south central Arkansas, approximately 176 kilometers (110 miles) south of Little Rock, Ark., and 430 kilometers (270 miles) northwest of New Orleans.

(b) *Population.* El Dorado—25,283; Union County—45,428.[2]

(c) *Local aural service.* Daytime-only AM Station KDMS, full-time AM Station KELD, FM Stations KRIL (Channel 257A) and KEZU (Channel 276A).

3. *Economic considerations.* Petitioner argues that El Dorado and Union County are beginning to experience development and have a need for an additional broadcast service. It asserts that the proposed station could take an active part in the economic development of the area by providing a competitive outlet for advertising. Petitioner states that air time would be made available for farm programs, a daily program in cooperation with the state employment board listing job opportunities, and indicates that time would be donated to civic, church, fraternal, governmental, developmental, and other public service groups to assist in disseminating vital information on public issues. Petitioner, in support of its petition, has submitted information with respect to education, government, churches, medical and recreational facilities, and work force. It asserts that the proposed channel would provide El Dorado with a much needed additional FM station.

[1]Public Notice of the petition was given on December 19, 1977, Report No. 1094.

[2]Population figures are taken from the 1970 U.S. Census.

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4. In opposition, Noalmark Broadcasting Corporation ("Noalmark") contends that the two AM stations and two FM stations serving El Dorado assure diversity of programming and adequate coverage. It asserts that other radio signals from communities within the states of Arkansas and Louisiana reach the El Dorado community and provide additional radio diversity to the residents. Noalmark argues that the proposed assignment would be detrimental to the financial viability of the existing stations since El Dorado must be considered a small market radio community. It contends that the result could be a lowering of the quality of broadcasting in El Dorado. Noalmark states that Channel 240A is assigned to Lake Village, Ark., and believes it is in the public interest to have it retained in that community.

5. In response, petitioner asserts that Noalmark is in error when it contends that the proposal involves the reassignment of Channel 240A from Lake Village, Ark. Petitioner states that its proposal is a drop-in and would have no effect on any other assignment in the FM Table. It disagrees with Noalmark that all community needs are being served by the existing stations because other formats such as beautiful music and ethnic, are available locally on a full-time basis. Petitioner claims that even though their signals may be heard in the city, other stations, located outside the El Dorado area, have not proposed a service to the city. It contends that Noalmark's statement as to economic harm and reduced level of broadcast service, that could result if another station were to be authorized, is unsupported.

6. *Preclusion studies.* Preclusion would occur on Channels 240A and 241 as a result of the proposed assignment. Five communities[2] with populations over 1,000 are located in the precluded areas. Of the five communities Hope, Ark., has an AM and FM station, and Ashdown, La., has an FM station. Waldo and Smackover, Ark., and Bernice, La., have neither FM assignments nor AM stations. Petitioner should indicate whether there are any channels available for assignment to Waldo, Smackover, and Bernice.

7. *Additional considerations.* The request for a third FM assignment to a community of 25,283 persons exceeds the FM population guidelines which call for one or two assignments for a city of this size. However, the proposal is being advanced for the purpose of determining whether such an assignment is warranted and whether the public interest would be served by making the additional assignment. In this connection, we note that the issue of economic impact on existing stations is not one dealt with in a rulemaking context. Rather, it can better be dealt with in connection with any application that is filed. As part of its effort to document the need for a third assignment, petitioner should submit in its comments a *Roanoke Rapids*, 9 FCC 2d 672 (1967), study showing the area and number of people who would receive a first and second FM service. In addition, petitioner should show the extent of nighttime service provided by AM stations in the context of first and second aural service. *Anamosa-Iowa City, Iowa*, 46 FCC 2d 520 (1974). Petitioner is invited to offer any other information it believes would indicate the need for the assignment.

8. Comments are invited on the following proposal to amend the FM Table of Assignments with regard to the community of El Dorado, Ark., as follows:

City	Channel No. Present	Proposed
El Dorado, Ark	275A, 276A	240A, 257A, 276A

9. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures used; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 before a channel will be assigned.

10. Interested parties may file comments on or before June 23, 1978, and reply comments on or before July 13, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-12400 Filed 5-5-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-142; RM-2977]

TELEVISION BROADCAST STATION IN LEWISTON, IDAHO

Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Action herein proposes the assignment of television Channel 5 for noncommercial educational use in Lewiston, Idaho. Petitioner, The State Board of Education and Board of Regents of the University of Idaho, states it plans to construct a 100 watt television translator station on Channel 5 so it could rebroadcast programs from Channel 12 in Moscow, Idaho, to serve Lewiston, Idaho.

[2]Arkansas: Waldo (pop. 1,658); Smackover (2,058); Hope (8,810); Louisiana: Bernice (1,794); Ashdown (3,522).

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DATES: Comments must be received on or before June 20, 1978. Reply comments must be received on or before July 10, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 21, 1978.

Released: May 3, 1978.

In the matter of Amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Lewiston, Idaho), BC Docket No. 78-142, RM-2977.

1. The Commission has before it a petition[1] filed by the State Board of Education and Board of Regents of the University of Idaho ("petitioner"), licensee of seven noncommercial educational broadcast stations in Idaho,[2] proposing the assignment of Channel 5 at Lewiston, Idaho, for noncommercial educational television use. The channel could be assigned in conformity with the minimum distance separation requirements. Oppositions were filed by Clearwater Cable T.V. Corp. ("Clearwater")[3] and Teleprompter Corp. ("Teleprompter").[4] Replies were filed by petitioner and KHQ, Inc., licensee of television Station KHQ-TV, Channel 6, Spokane, Wash.

2. Lewiston (pop. 26,068), seat of Nez Perce County (pop. 30,376), is located in far western Idaho, adjacent to the Washington border and approximately 40 kilometers (25 miles) north of the Oregon border. Lewiston is currently assigned television Channel 3 which is occupied by Station KLEW-TV.

3. Petitioner asserts that if Channel 5 is assigned, it plans to construct a 100 watt television translataer station, which would rebroadcast Station KUID-TV, operating on Channel 12 in Moscow, Idaho, to serve Lewiston. Petitioner contends that because of intervening terrain obstacles, only a few households in the elevated residential area of Lewiston can receive a signal off-the-air from Station KUID-TV. It claims that since low income residents tend to live in the part of Lewiston which does not receive KUID-TV's signal adequately, it is significantly handicapped in reaching a part of the population who can most benefit from its programs. Petitioner claims that a high-power VHF-TV translator station is capable of reaching outlying areas around Lewiston which cannot be served by a 100 watt UHF-TV translater because of variable terrain. It asserts that since the local translator association seeks out donations from residents who have installed a UHF receiving antenna, installation of another UHF translater station in the community would unduly complicate fund raising activities for the translator association and would not be in the public interest. Petitioner also notes that about one-quarter of Lewiston television household do not subscribe to the local cable TV service offered by Teleprompter Corp.

4. In opposing comments, Clearwater states that, while it has no objection to a 100-watt translator station on Channel 5 in Lewiston, it objects to the assignment of the proposed channel for television broadcast operation in Lewiston. It notes that translators operate throughout the north central Idaho area, and one of these is Station K05BS in Orofino, Idaho, which is located 97 kilometers (60 miles) east of Lewiston. Petitioner claims that a full powered television station would cause interference to translator Station K05BS. It contends further that, since television stations on Channels 3, 10, and 12 provide Grade B service to Orofino, it is not likely that Station K05BS would seek to change to one of these channels, and since other local transiators are operating on Channels 7, 9, and 12, Station K05BS would not seek to operate on these channels or a channel adjacent to them. It claims that the signals of television stations operating on Channels 2, 4, and 6 (all in Spokane, Washington) are received off the air by Clearwater and distributed to its subscribers. Therefore, translator operation on these channels in Orofino, it asserts, would run a serious risk of interfering with Clearwater's reception of the Spokane signals. Clearwater asserts that since petitioner has not unequivocally stated it will build a television station on Channel 5 if the channel is assigned, the proposal should be denied for lack of showing of need for assignment of a television channel. It further states that this does not preclude the Commission from considering an application by petition for a 100 watt translator on Channel 5 in Lewiston and an appropriate request for waiver to permit grant of such an application.

5. In opposition, Teleprompter contends that a 100 watt translator station operating in Lewiston on Channel 5 would cause severe cochannel interference, rendering the cable Channel 5 useless. Teleprompter claims it would be required to displace carriage of Station KLEW-TV (Lewiston) and disrupt the viewing pattern of its subscribers. It does not agree with petitioner's assumption that non-subscribers to Teleprompter's cable television system "are predominantly those who feel they cannot afford the cable subscription." Teleprompter believes that non-subscribers are those who feel they receive off-air reception of television signals including the signal of KUID-TV. Teleprompter asserts that petitioner's assumption that installation of a UHF translator in Lewiston would unduly complicate fund raising activities for the translator association is unwarranted. It contends that petitioner has made no showing, beyond its own speculation, of the need for assignment of Channel 5 to Lewiston.

6. KHQ, Inc., licensee of television Station KHQ-TV, Spokane, Wash., in support of the opposition by Teleprompter, contends that the proposed assignment would not be in the public interest because it would be an inefficient use of valuable spectrum and would be likely to create interference to the only NBC network service available directly off-the-air in Lewiston. KHQ asserts that petitioner fails to demonstrate why a UHF translator could not provide additional service to Lewiston in order to fill in those areas of the KUID-TV city grade coverage now theoretically provided to this community, and that a UHF translator would not raise the potential of adjacent channel interference to the cable television system serving Lewiston nor to the direct off-the-air reception of KHQ-TV or the pick-up of KHQ-TV by translator K76AH. It, too, argues that KUID-TV has not provided support for its contention that authorization of another UHF translator would unduly complicate fund raising activities for the translator association.

7. In reply to these oppositions, petitioner asserts that the potential interference to Teleprompter's carriage of Lewiston's Channel 3 station is minimal in that the ERP of a 100 watt translator using a five-element yagi antenna would be over 15 dB below the ERP of Station KLEW-TV, and that although Station KLEW-TV on Channel 3 would have the same frequency relationship with KXLY-TV on Channel 4, Teleprompter claims interference would be caused by a Channel 5 station to the pick-up of Station KHQ on Channel 6. Petitioner argues that Teleprompter has the option of dropping carriage of a Spokane educational television station and moving Station KLEW-TV to that channel if any Channel 5 interference were to occur. It also asserts that it is logical to assume that people who wish to avoid payment to the translator association could say that the antennas were installed to receive petitioner's translator station. As to Clearwater's contention that the Channel 5 station would interfere with the reception of

[1] Public Notice of the petition was given on October 17, 1977, Report No. 1083.

[2] KAID(TV) and KBSU-TV, Boise; KBGL-FM and KBGL-TV, Pocatello; and KUID-FM and KUID-TV and KUOI-FM, Moscow.

[3] Owner and operator of a cable television system in Orofino, Idaho.

[4] Operator of a cable system in Lewiston.

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Channels 4 and 6 stations in Spokane, petitioner contends that, if Teleprompter can receive the Lewiston Channel 3 station and Channel 4 station, Clearwater should be able to receive a usable signal from the Channel 6 station even with full-power Channel 5 station located some 63 kilometers (39 miles) away.

8. To provide educational television service to an area located at the foot of a hill in Lewiston, petitioner is seeking an assignment of a VHF channel on which it intends to operate a 100 watt translator station. The proposed assignment meets the spacing requirements. The oppositions have raised a number of arguments, which without additional information, do not appear to have much merit. It would appear that the location of headend units for the cable systems in relation to the translator or the broadcast station would govern the question of interference to such service, not the mere existence of a certain relationship of channel assignments and usage. The cable systems appear to have a flexibility in their channel usage and thus should not be detrimentally affected by the requested assignment. Nevertheless, there is a question about the necessity of using a 100 watt VHF translator while the existing UHF translator stations are operating with 10 to 20 watt output powers to serve Lewiston. Petitioner should address this point.

9. The Commission believes that a sufficient public interest showing has been made to warrant consideration of petitioner's proposal. Thus, a rule making proceeding is being instituted to inquire into the instant proposal. The revision of the Television Table of Assignments § 73.606(b) of the rules) will be considered with respect to the city listed below:

City	Channel No. Present	Proposed
Lewiston, Idaho	3-	3-, *5+

10. Since Lewiston is located within 420 kilometers (250 miles) of the United States-Canada border, the proposed assignment of Channel 5 to Lewiston, Idaho, requires coordination by the Canadian Government.

11. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

12. Interested parties may file comments on or before June 20, 1978, and reply comments or or before July 10, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

[FR Doc. 78-12401 Filed 5-5-78; 8:45 am]

[6712-01]

[47 CFR Part 74]

[Docket No. 19918; RM-2235]

FM RADIO BROADCAST TRANSLATOR STATIONS

Order Extending Time For Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding concerning amendment of the rules pertaining to FM radio broadcast translator stations. Petitioner, National Radio Broadcasters Association, states that the additional time is needed to complete the extensive consultations which must be undertaken with its members before comments can be prepared.

DATES: Comments must be received on or before June 2, 1978, and reply comments on or before June 23, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 28, 1978.

Released: May 1, 1978.

In the matter of amendment of Part 74, Subpart L, of the Commission's rules Pertaining to FM Radio Broadcast Translator Stations, Docket No. 19918, RM-2235.

1. On March 22, 1978, the Commission adopted a *Memorandum Opinion and Order and Further Notice of Proposed Rule Making*, 43 F.R. 14695, concerning the above-entitled proceeding. The present dates for filing comments and reply comments are May 5, and May 25, 1978 respectively.

2. On April 20, 1978, counsel for the National Radio Broadcasters Association filed a timely request seeking an extension of time for filing comments to and including June 2, 1978. Counsel states that because of the diversity of views of the Association's members in this proceeding it has become necessary to review carefully the various interests of the members in order to determine the precise position to be presented to the Commission. It asserts that since this requires extensive consultations to be undertaken, additional time its needed to complete the task of preparing comments.

3. We are of the view that the public interest would be served by this exten-

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sion so that the National Radio Broadcasters Association may file any information which might be helpful to the Commission in reaching a decision in this proceeeding. Also, as a result of this decision, it is necessary to extend the reply comment date an equivalent amount of time.

4. *Accordingly, it is ordered,* That the dates for filing comments and reply comments in Docket 19918 are extended to and including June 2, and June 23, 1978, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-12398 Filed 5-5-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSSI-78-5; Notice No. 1]

GENERAL SAFETY INQUIRY

Initiation and Announcement of Hearings

AGENCY: Federal Railroad Administration, Department of Transportation.

ACTION: Notice of general railroad safety inquiry.

SUMMARY: The Federal Railroad Administration (FRA) is initiating a general railroad safety inquiry to obtain information from the public to assist in evaluating and improving the effectiveness of its safety regulatory program. A series of public hearings, each focused on a single regulatory topic, will be held throughout the remainder of 1978.

DATES: (1) The first 2-day public hearing will begin at 10 a.m. on June 14, 1978 (other hearings have been tentatively scheduled for July 12 and 13, August 2 and 3, October 11 and 12, and November 2 and 3). (2) Prepared statements should be submitted to the principal program person by June 7, 1978. (3) Persons desiring to participate in the hearing should notify the principal program person by June 7, 1978.

ADDRESS: Hearing location—Trans Point Building, Room 3201, 2100 Second Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal program person: Rolf Mowat-Larssen, Office of Safety (RRS-20), FRA, Washington, D.C. 20590, phone 202-426-0924.

Principal attorney: Edward F. Conway, Jr., Office of Chief Counsel (RCC-30), FRA, Washington, D.C. 20590, phone 202-426-8836.

SUPPLEMENTARY INFORMATION: Pursuant to § 211.61 of its rules of practice (41 FR 54181; 49 CFR 211.61), the Federal Railroad Administration (FRA) is initiating a general safety inquiry to examine in depth selected topics covered by its safety regulations. FRA will use the information it receives in this inquiry in assessing the effectiveness of its safety regulatory program. On the basis of this and other information, existing regulations may be expanded in scope, revised, or revoked to reflect changed conditions.

The scope of this inquiry will encompass three general areas: (1) Rolling equipment; (2) track and related structures, appliances, and devices; and (3) signal and communication systems.

The first area of consideration—rolling equipment—will consist of four topics: Locomotives, freight cars, safety appliances, and power brakes. Each of these topics will be considered in separate 2-day hearings during the next several months. The subject of the first hearing will be locomotives. This hearing will take place on June 14 and 15, 1978, in Washington, D.C.

Additional hearings have been tentatively scheduled to take place in Washington, D.C., on the following dates:

July 12 and 13—Freight cars and safety appliances.

August 2 and 3—Power brakes.

October 11 and 12—Track and related structures, appliances and devices.

November 2 and 3—Signal and communication systems.

Separate notices for each of these hearings will be published at a later date setting the time and place of the hearing.

The purpose of the first 2-day hearing scheduled for June 14 and 15, 1978, is to elicit information to assist FRA in critically reviewing its present safety regulatory program with respect to locomotives. Existing safety regulations for locomotives are contained in 49 CFR Part 230. Many of the requirements in Part 230 have been in effect with little or no change for more than 30 years and consequently, may be no longer necessary or may require revision to reflect changed conditions. Representatives of the railroad industry frequently have alleged that many of the requirements prescribed in safety regulations are based on "maintenance standards" or "recommended practices" rather than safety considerations. For example, the Association of American Railroads (AAR) recently petitioned the FRA to amend its locomotive inspection rules to make the present 30-day inspection requirement prescribed in 49 CFR 230.331, a quarterly inspection requirement (FRA rulemaking petition 78-1. On the other hand, some factors that play a vital safety role may not be covered by present regulations.

FRA is considering a major restructuring of its locomotive safety regulations. The restructuring would not be limited to eliminating or updating existing requirements that are obsolete or no longer necessary; it would also include the development of new requirements to meet the needs of the present railroad operating environment. Among the items to be addressed in this inquiry are the following:

1. How should safety requirements for the design, construction, inspection, maintenance, and operation of locomotives differ according to the type of service and operating environment? What factors should be considered in structuring these safety requirements (i.e., speed, mileage per year, train tonnage, length of train, train braking needs, dynamic response characteristics of locomotives, tractive effort, curvature and grades, and other operational factors)?

2. How should the inspection, maintenance, and replacement requirements for locomotive parts and components essential to safe operation take into account the quality and life expectancy of those parts and components?

3. What inspection procedures and intervals should be prescribed for the various types of service and operating environments? What should be the qualifications of persons performing the various types of locomotive safety inspections?

4. What do you recommend as a practical and enforceable Federal regulatory approach to assure locomotive safety? Explain.

5. In what areas do you believe further research and development is needed to improve the safety performance of locomotives?

FRA has requested that the Association of American Railroads, individual railroads, the National Transportation Safety Board, locomotive manufacturers, railroad employee organizations, and other interested parties participate actively in this hearing by providing knowledgeable witnesses and pertinent technical, manufacturing, service, and cost data. FRA has further requested that these witnesses be prepared to present detailed information to justify their positions.

Prepared statements should be submitted by June 7, 1978, in triplicate to the Docket Clerk, Office of Chief Counsel (RCC-1), Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

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Persons desiring to participate in this hearing should notify the principal program person by June 7, 1978, and indicate the amount of time they will need to present their views.

The first 2-day hearing will begin at 10 a.m. on Wednesday, June 14, 1978, in Room 3201, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

AUTHORITY: Sec. 208, Federal Railroad Safety Act of 1970 (45 U.S.C. 437), § 1.49(a) of the regulations of the Office of the Secretary, 49 CFR 1.49(n).

Issued in Washington, D.C., on May 2, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-12360 Filed 5-5-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

UNIFORM GRAIN STORAGE AGREEMENT AND UNIFORM RICE STORAGE AGREEMENT

Modified Offer Rate System for Storage and Handling

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The purpose of this notice is to proclaim under the uniform grain storage agreement (UGSA) and the uniform rice storage agreement (URSA) that the offer rate system will be continued for the 1978-79 contract year starting July 1, 1978, certain modifications.

EFFECTIVE DATE: July 1, 1978.

ADDRESS: Inventory Management Division, ASCS-USDA, Room 5969-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Tyrus Matsuoka (ASCS), 202-447-4068.

SUPPLEMENTARY INFORMATION: Uniform storage and handling rates for the UGSA and the URSA were in effect from 1940 and 1947, respectively through 1974. Under that system, CCC set the rates which were in effect for each contracting period. Uniform storage and handling rates were applied to all warehouses with grain storage contracts with CCC. Likewise, rice warehousemen had uniform rates that applied to the rice storage contracts. Under this system, CCC could withhold storage charges on grain or rice placed under loan and pay the warehouseman.

Beginning in 1975, an offer rate system was initiated whereby CCC accepted the storage and handling rates as offered by warehousemen. At the same time, CCC changed the loan procedure to provide that producers must prepay or arrange to pay the storage themselves and CCC would not make storage deductions on the loan and note agreement.

A notice that CCC was considering returning to a national uniform rate system for handling and storage of grain under the UGSA and rice under the URSA for the 1978-79 contract year beginning July 1, 1978, was published in the FEDERAL REGISTER on October 12, 1977 (42 FR 54955), in accordance with 5 U.S.C. 553.

A total of 143 comments were received, of which 42 favored a return to uniform rates, 92 opposed such a return; and 9 commented on other issues and were nonresponsive to the rate system issue. Several of the above pointed out: (1) That rates must adequately reflect increased elevator expense in order to insure proper performance by and services from the participating warehouses, and (2) the prepaid storage concept has caused concern among the producers.

In making the determination in this notice, full consideration was given to the principal concerns expressed by producers and producer groups as well as by the warehousing industry as they apply to the administration of the CCC storage programs.

Notice is hereby given that the offer rate system under the UGSA and URSA will be continued for the 1978/79 contract year starting July 1, 1978, with the following modifications:

(1) Storage and handling charges to accrue through the maturity date shall be deducted from grain loans, unless prepaid by the producer. Rice loans will continue to be made using procedures already in effect. If a grain producer is able to obtain a rate lower than the rate offered Commodity Credit Corporation (CCC), he can exercise his option to prepay the lower charges and can collect the full county loan rate (applicable to grains) from the county offices;

(2) Rates offered for CCC-owned and CCC-loan commodities will be the same, with an allowance for insurance on CCC-loan grain;

(3) Rates shall be subject to review and CCC reserves the right to reject and negotiate rates offered if they are deemed excessive. If rates are excessive and cannot be negotiated, CCC will notify the warehouseman that CCC will not store CCC-owned grain or rice in his facility and shall load out any CCC-owned grain or rice in store as soon as practicable. Warehouse shall be removed from the list of approved warehouses;

(4) All grain rates accepted will be open for public review in applicable ASCS State and county offices;

(5) CCC will accept downward adjustments in the grain and rice storage and handling rates once a year on a case-by-case basis;

(6) Warehousemen filing rates under the UGSA will submit the same storage and handling rates for wheat, barley, rye, and sorghum; but soybeans, corn, and oats will have separate rates, respectively. If an identity preserved storage rate is needed, it can be negotiated on an individual basis; and

(7) Under the URSA, storage and handling rates will continue to be submitted for identity preserved, modified commingled, and commingled storage and handling rates.

In addition, the following administrative changes will be applicable: (1) 30-day grace period at old load out rate from July 1-31, if a rate has not been agreed upon by July 1, and (2) if uninsured rate is the same or more than the insured rate, the warehouseman must carry full market value insurance on CCC-owned grain.

It is essential that a decision on 1978-79 storage policy be made as soon as possible to provide sufficient time for the warehouseman to determine their offer rates for the 1978-79 contract year. Accordingly, this notice is being issued at this time.

NOTE.—The Agricultural Stabilization and Conservation Service, to meet the requirements of the National Environmental Policy Act (Pub. L. 91-190, 42 U.S.C. 4321 et seq.), has developed an environmental assessment on the program and has determined that the proposed action would not constitute a major Federal action significantly affecting the quality of the human environment.

Signed at Washington, D.C., on May 2, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-12478 Filed 5-5-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 32343]

DALLAS/FORT WORTH-PHILADELPHIA SERVICE INVESTIGATION

Notice of Prehearing Conference

A prehearing conference in this proceeding will be held on May 15, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

For information concerning the substance and other details in this proceeding, interested persons are referred to the order of Administrative Law Judge issued simultaneously.

Dated at Washington, D.C., May 1, 1978.

RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc. 78-12495 Filed 5-5-78; 8:45 am]

[6320-01]

[Docket 31955]

TWIN CITIES-LAS VEGAS/PHOENIX/SAN DIEGO ROUTE PROCEEDINGS

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on June 8, 1978, at 10 a.m. (local time) at the Airport Conference Room, Mezzanine Floor, Terminal Building, McCarran International Airport, Las Vegas, Nev., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on March 2, 1978, and other documents which are in the docket of this proceeding on file in the docket section of the Civil Aeronautics Board.

Dated at Washington, D.C., May 1, 1978.

HENRY M. SWITKAY,
Administrative Law Judge.

[FR Doc. 78-12496 Filed 5-5-78; 8:45 am]

[6335-01]

CIVIL RIGHTS COMMISSION

ARIZONA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arizona Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 12 noon on May 20, 1978, in the Rodeway Inn, 3400 Grand Avenue, Phoenix, Ariz. 85017.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to discuss State Advisory Committee program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 2, 1978.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 78-12371 Filed 5-5-78; 8:45 am]

[6335-01]

HAWAII ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Hawaii Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 9:30 p.m. on May 22, 1978, at the Ala Moana Hotel, 451 Atkinson Drive, Honolulu, Hawaii 96814.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is a discussion of State Advisory Committee program planning and immigration consultation.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 2, 1978.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

FR Doc. 78-12370 Filed 5-5-78; 8:45 am]

[6335-01]

MINNESOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission will convene at 5 p.m. and will end at 9 p.m. on May 25, 1978, Radisson Hotel, 11 East Kellogg Blvd., St. Paul, Minn. 55101.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Ill. 60604.

The purpose of this meeting is to review Indian Report and plan follow-up action; report on Redlining Project Interviews.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 2, 1978.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 78-12369 Filed 5-5-78; 8:45 am]

[6335-01]

NORTH DAKOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Dakota Advisory Committee (SAC) of the Commission will convene 9:30 a.m. and will end at 12 noon on May 20, 1978, United Tribes Conference Room Building 61, 3315 S. Airport Road, Bismarck, N. Dak. 58501.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Denver, Colo. 80202

The purpose of this meeting is to make plans for paticipation in a regional consultation on energy development.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 2, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12372 Filed 5-5-78; 8:45 am]

[6335-01]

WASHINGTON ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 2 p.m. and will end at 5 p.m. on May 25, 1978, 915 Second Avenue, Room 2854, Seattle, Wash. 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Wash. 98174.

The purpose of this meeting is to brief SAC on program planning conference and discuss possible co-sponsored consultation with Superintendent of Public Instructions Office on school desegregation.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

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Dated at Washington, D.C., May 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12373 Filed 5-5-78; 8:45 am]

[3510-12]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

SEA GRANT REVIEW PANEL

Partially Closed Meeting

The Sea Grant Review Panel will meet on May 30 and 31, 1978, from 9 a.m. to 5 p.m. each day, in the Penthouse of the Page Building, 2001 Wisconsin Avenue NW., Washington, D.C.

The Panel was established in December 1976 under section 209 of the National Sea Grant Program Improvement Act (Pub. L. 94-461), and advises the Secretary of Commerce with respect to:

a. Applications or proposals for, and performance under, grants and contracts awarded under Sections 205 and 206 of the Act;

b. The Sea Grant Fellowship Program, established under section 208 of the Act;

c. The designation and operation of Sea Grant Colleges and Sea Grant Regional Consortia (which are provided for in section 207 of the Act) and the operation of Sea Grant programs;

d. The formulation and application of the planning guidelines and priorities established by the Secretary under Section 204(2) of the Act and applied by the Director in accordance with Section 204(c)(1); and

e. Such other matters as the Secretary refers to the Panel for review and advice.

The Panel's meeting agenda is as follows:

May 30, 1978 (9 a.m. to 5 p.m.)

9 a.m.—Preliminary remarks, introduction and swearing in of new members.

9:30 a.m.—A. The nature and current posture of, and problems facing, the National Sea Grant Program, and the tasks before the Panel. A discussion by the Director and the Panel Chairman.

10:30 a.m.—B. Discussion of Institutional and Coherent Area Programs reviewed since last meeting:

University of Rhode Island; University of Miami; University of Michigan; South Carolina Program; Louisiana State University; Texas A&M University; Woods Hole Oceanographic Institution; University of Wisconsin; University of California; University of Southern California; and New Jersey Consortium.

3 p.m.—C. Discussion of changes in renewal dates (Hawaii) and progress toward two-year review cycle. Report on second year negotiations with:

Massachusetts Institute of Technology; University of Delaware; and Oregon State University.

3.30 p.m.—D. Sea Grant College Candidates Discussion. The following are eligible on the basis of time to be considered for designation as Sea Grant Colleges:

University of Southern California; Louisiana State University; and University of Georgia.

4 p.m.—E. Closed Session Discussion regarding Agenda Items B and D.

5 p.m.—Recess.

May 31, 1978 (9 a.m. to 5 p.m.)—Joint Meeting with Council of Sea Grant Directors

9 a.m.—F. Panel business, setting next meeting, election of vice-chairman.

9:30 a.m.—G. Organization of Office of Sea Grant.

10 a.m.—H. Discussion with Assistant Administrator for R. & D.

11 a.m.—I. Presentation by Sea Grant Directors, J. National Projects, K. International Sea Grant, L. Fellowship Program, M. Legislative Interaction.

5 p.m.—Adjourn.

All agenda items will be open to public attendance, except for Agenda Item E, a one-hour portion at the end of the discussion of all institutions under Agenda Items B and D, in accordance with 5 U.S.C. 552b(c)(6), as determined by the Assistant Secretary for Administration, pursuant to subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended. Approximately 10 seats will be available to the public on a first-come, first-served basis. If time permits before the scheduled adjournment, the Chairman will solicit oral comments by the attendees. Written statements may be submitted at any time before or after the meeting.

Minutes of the meeting will be available 30 days thereafter on written request addressed to the National Sea Grant Program, 3300 Whitehaven Street NW., Washington, D.C. 20235.

For further information, contact Dr. Hugh J. McLellan, Acting Associate Director for Programs, at above address, telephone 202-634-4019.

Dated: May 3, 1978.

R. L. CARNAHAN,
Deputy Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

[FR Doc. 78-12407 Filed 5-5-78; 8:45 am]

[3510-22]

MYSTIC MARINELIFE AQUARIUM

Notice of Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of marine mammals (50 CFR Part 216).

1. Applicant: (a) Name: Mystic Marinelife Aquarium (P13I, Mr. Stephen Spotte, Vice President. (b) Address: Mystic, Conn. 06355.

2. Type of permit: Public display.

3. Name and number of animals: Bottlenose dolphins (*Tursiops truncatus*), 4.

4. Type of take: To capture and maintain in a permanent facility.

5. Location of activity: Off Fort Myers, Fla.

6. Period of activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above-described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 7, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.:

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: May 3, 1978.

ROLAND FINCH,
Acting Deputy Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc. 78-12493 Filed 5-5-78; 8:45 am]

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[3510-22]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting With Partially Closed Session

Notice is hereby given of a meeting of the South Atlantic Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The meeting will be held Tuesday, Wednesday, and Thursday, May 23, 24, and 25, 1978, in the Ramada Inn, Interstate 26 and Highway 378, Columbia, S.C. 29202. The meeting will convene at 1:30 p.m. on May 23, and adjourn at about noon on May 25, 1978. The daily sessions will start at 8:30 a.m. and adjourn at 5 p.m. except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda: May 23: (1) Management plans; (2) Personnel and administration categories; (3) Review of foreign fishing applications, if any; *May 24:* (1) Closed session to discuss proposals by potential contractors in negotiated procurement of the preparation of a draft fishery management plan; (2) Other fishery management business; *May 25:* (1) Other fishery management business.

With the exception of the first agenda item on May 24 the meeting is open to the public. For information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, S.C. 29407, telephone: 803-571-4366.

The closed session is planned for 8:30 a.m. until 10 p.m., but may continue beyond this time to discuss proposals by potential contractors in a negotiated procurement for the preparation of a draft fishery management plan.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on May 4, 1978 pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C., section 552b(c) (4), (6), and (9)(B). (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.)

Dated: May 5, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-12654 Filed 5-5-78; 10:27 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

ADVISORY COMMITTEE APPLICATIONS

Extended Deadline

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of deadline for submission of advisory committee applications to May 31, 1978.

SUMMARY: In March 7, 1978 FEDERAL REGISTER (43 FR 9330), the Commission announced that it was seeking applications to fill vacancies on its three advisory committees: the Product Safety Advisory Council, the Technical Advisory Committee on Poison Prevention Packaging, and the National Advisory Committee for the Flammable Fabrics Act. This notice announces an extension of the deadline for submittal of applications from May 19 to May 31, 1978. Applications for membership on the committees are available from and should be returned to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR ADDITIONAL INFORMATION CONTACT:

Dee Wilson, Committee Management Officer, Office of the Secretary, 202-634-7700.

Dated: May 2, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-12361 Filed 5-5-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

CHANGE OF MISSION AT FORT ORD, CALIF.

Notice of Filing of Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army, on April 28, 1978, provided the Environmental Protection Agency, as required by the Council on Environmental Quality, a Draft Environmental Impact Statement (DEIS) concerning the permanent stationing of the 7th Infantry Division (-) at Fort Ord, Calif.

Copies of the statement have been forwarded to concerned Federal, State and local agencies. Interested organizations or individuals may obtain copies from Commander, 7th Infantry Division (-) and Fort Ord, Attention: AFZW-FE-E, Fort Ord, Calif. 93941, telephone 408-242-4505.

In the Washington area, inspection copies may be seen during normal duty hours in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, telephone 202-694-3434.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc. 78-12432 Filed 5-5-78; 8:45 am]

[3810-70]

Defense Investigative Service

PRIVACY ACT OF 1974

Amendment of Record System

AGENCY: Defense Investigative Service (DIS).

ACTION: Notice of record system amendment.

SUMMARY: The DIS is amending an existing record system notice.

DATES: This amended record system shall be effective as proposed without further notice June 7, 1978, unless comments are received on or before June 7, 1978, which would result in a contrary determination and require republication for further comments.

ADDRESS: Send comments to the System Manager identified in the record system.

FOR FURTHER INFORMATION CONTACT:

Lt. Col. Dale L. Hartig, Assistant for Information, telephone, 202-693-1740.

SUPPLEMENTARY INFORMATION: The DIS system of records notices prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the FEDERAL REGISTER as follows:

FR Doc. 7-28255 (42 FR 51425) September 28, 1977.

FR Doc. 77-33100 (42 FR 59318) November 16, 1977.

DIS is proposing to amend an existing record system notice published September 28, 1977, at 42 FR 51432. This proposed amendment does not fall within the purview of an altered system requiring a report to the Office of Management and Budget (OMB) under the provisions of OMB Circular A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3,

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dated May 17, 1976, set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975. Following the specific change to the system notice being amended, the system notice is republished in its entirety, as amended.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

MAY 3, 1978.

V5-01

System name: V5-01 Investigative Files System (42 FR 51432) September 28, 1977.

Changes:

Systems exempted from certain provisions of the Act: On line 5 of this element describing the provisions of the Act from which this system has been exempted which now reads ". . . (5) and (8); (g) and (o)." is amended to read ". . . (5) and (8); and (g)."

V5-01

System name:

V5-01 Investigative File System

System location:

Defensive Investigative Service (DIS), Investigative Files Division, (D0840) P.O. Box 1211, Baltimore, MD 21203 has primary control over the system and is responsible for the maintenance of completed investigative records. The Special Investigations Center, 1000 Independence Avenue SW., Washington, D.C. 20314 maintains limited categories of these records. DIS operational centers; District Offices; Field Offices; Resident Agencies and various DIS headquarters staff elements originate and have temporary control over portions of records.

Categories of individuals covered by the system:

Military personnel who are on active duty, applicants for enlistment or appointment and reservists and National Guardsmen; DoD civilian personnel who are paid from appropriated funds; industrial or contractor personnel who are working in private industry in firms which have contracts involving access to classified DoD information or installations; Red Cross personnel and personnel paid from nonappropriated funds who have DoD affiliation; ROTC cadets; former military personnel; individuals residing on, having authorized official access to, or conducting or operating any business or other functions at any DoD installation facility.

Individuals not affiliated with the Department of Defense when, during the previous year, their activities have directly threatened the functions, property or personnel of the DoD or they have engaged in, or conspired to engage in, criminal acts on DoD installations or directed at the DoD.

Categories of records in the system:

Official Reports of Investigations (ROI's) prepared by DIS or other DoD, Federal, state or local official investigative activities.

DIS Information Summary Reports (ISR's) which record unsolicited information received by DIS concerning a person or incident which is of direct interest to other DoD components or Federal agencies. (When such information is received by DIS it is reported as it was received, without investigation or confirmation, by ISR and transmitted to the interested activity.)

Attachments to ROI's or ISR's including exhibits, subject or interviewed statements, police records, medical records, fingerprint cards, credit bureau reports, employment records, education records, release statements, summaries of or extracts from other similar records or reports.

Case control and management documents which are not reports of investigation, but that serve as the basis for investigation, or serve to guide and facilitate investigative activity, including documents providing the data to open and conduct the case, such as the Personnel Security Investigation Request; documents, initiated by the subject such as personnel history documents, and fingerprint records; and documents used in case management and control, such as release statements, case transfer forms, and documents directing the inquiry.

DIS file administration and management documents accounting for the disclosure, control and access to a file, such as warning sheets, separators, forwarding correspondence and accounting records required by 5 U.S.C. 552 and 552a.

Cross references to chronological correspondence files disclosing unfavorable and administrative action taken based on DIS investigations.

Authority for maintenance of the system:

Section 301 of 5 U.S.C. Departmental Regulations.

Section 310 of 44 U.S.C. Records Management.

Sections 2, 3, 4, 5, 6, 8 and 9, Executive Order 10450, Security Requirements for Government Employment.

Section 6(A), Executive Order 11652, Classification and Declassification of National Security Information and Material.

Sections III and V, DoD Directive 5105.42, Charter for the Defense Investigative Service.

Section IIIA, DoD Directive 5200.2b, Defense Investigative Program.

Section IV A and B, DoD Directive 5200.27 Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense.

Section IX, DoD Directive 5210.7, Department of Defense Civilian Applicant and Employee Security Program.

Section I, DoD Directive 5210.8, Policy on Investigation and Clearance of DoD Personnel for Access to Classified Defense Information.

Section VII, DoD Directive 5210.9, Military Personnel Security Program.

Section V A 2., DoD Instruction 5210.25, Security Acceptability of American National Red Cross Employees at Department of Defense Installations and Activities.

Section I, DoD Instruction 5210.26, Investigation of American National Red Cross Employees on Duty at Department of Defense Installations and Activities in the Zone of Interior.

Encl 3, paragraphs b 2 and 3, DoD Directive 5210.41, Security Criteria and Standards for Protecting Nuclear Weapons.

Section III, DoD Directive 5210.45, Personnel Security in the National Security Agency.

Section VII, DoD Directive 5210.55, Selection of Department of Defense Military and Civilian Personnel for Assignment to Presidential Support Activities.

Section IV, C, DoD Directive 5220.6, Industrial Personnel Security Clearance Program.

Section V B, DoD Instruction 5220.28, Application of Special Eligibility and Clearance Requirements in the SIOP-ESI Program for Contractor Employees.

Section 1 (a) and 2, Executive Order 10865, Safeguarding Classified Information Within Industry.

Section III, DoD Instruction 5030.34, Agreement between the Department of Defense concerning Protection of the President and Other Officials.

Paragraph 10, Director of Central Intelligence Directive No. 1/14, Uniform Personnel Security Standards and Practices Governing Access to Sensitive Compartmented Information C.

Section II, DSA Regulation 5705.2, Criminal Investigative Support to the Defense Supply Agency.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Purpose for which collected.

Personnel security investigative information is collected to insure that the acceptance or retention of persons to sensitive DoD positions, or granting individuals access to classified information, including those employed in defense industry, is clearly consistent with national security.

Criminal investigative information is collected on request to identify offenders, provide facts and evidence upon which to base prosecution and effect the recovery of property which has been wrongfully appropriated.

Information contained in ISR's (see description in RECORD-CATEGORY) regarding criminal, personnel security, counterintelligence, or intelligence matters, when received, is disseminated to appropriate Federal agencies or other DoD components.

Criminal and personnel security information is collected during reciprocal investigations conducted for other DoD and federal investigative elements (or in limited instances, criminal information for local, or state law enforcement agencies) for maintenance and use by the requesting acitivity.

Information regarding alleged security violations is collected on request to establish whether or not a compromise occurred and to identify the personnel involved.

Criminal information received by DIS personnel in the course of their duties which is of direct interest to a local law enforcement agency and therefore furnished to that agency orally or by letter.

Users of DIS investigative information are:

(1) DIS personnel in the course of their official duties.

(2) Other accredited DOD investigative components, DOD agencies, elements of the Military Departments designated by the departments and representatives of the Secretary of Defense and the Joint Chiefs of Staff.

(3) Accredited Federal criminal and civil law enforcement and intelligence agencies.

(4) State and local official criminal law enforcement agencies.

(5) Other accredited federal agencies conducting investigations to evaluate suitability for employment or access to classified information.

(6) Congressional committees and the Government Accounting Office.

Specific uses of DIS investigative records are:

To determine the loyalty, suitability, eligibility, and general trustworthiness of individuals for access to Defense information and facilities by the first two categories of users, above.

To determine the eligibility and suitability of individuals for entry into and retention in the Armed Forces by the second category of users, above.

To provide information pertinent to the protection of persons under the provisions of 18 U.S.C. 3056, by the first three categories of users, above.

For use in criminal law enforcement investigations including statutory violations, counterintelligence, as well as counterespionage and other security matters by the first through fourth and the sixth categories of users, above.

In the event that records maintained in this system indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

To provide information in judicial or adjudicative proceedings including litigation, or in accordance with a court order by the first three categories of users, above.

To make statistical evaluations of DIS investigative activities by the first, second and sixth categories of users, above.

To respond to Freedom of Information and Privacy Act access requests, by the first category of users, above.

To provide information in response to Inspector General, and EEO or other complaint investigations and Congressional inquiries by the first, second and sixth categories of users, above.

To determine the eligibility and suitability of an individual for personnel actions in the Armed Forces of the United States, as deemed appropriate by the second category of users, above.

A record such as identification data, from this system of records may be disclosed as a routine use to a federal, state local or foreign agency maintaining relevant information or to business enterprises to obtain employment records if necessary to obtain information relevant to an assigned investigation.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter by any agency of the first, second, third, or fifth categories of users, above.

Transfers of information from this record system to other DoD components is a routine intra-agency use under the provisions of 5 U.S.C. 552a3(b)(1).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders, microfilm, magnetic tape or supplementary index cards.

Retrievability:

Investigations are centrally retrievable through the DIS Case Control System (DCCS) or the Defense Central Index of Investigations (DCII) systems described separately in this notice. Reciprocal investigations jurisdictions, may be retrieved only through a limited manual disclosure accounting system.

Safeguards:

Completed investigative records are maintained and stored in power files, open shelves and filing cabinets which are housed in secured areas accessible only to authorized personnel who are properly screened and have a need to know. Information contained on magnetic tape is secured in the same manner as the DCII, described separately. Recipients of investigative information are responsible for safeguarding information within the guidelines provided by DIS.

Retention and disposal:

Retention of closed DIS investigative files is authorized for 30 years maximum, except as follows: (1) Files which have resulted in adverse action against an individual will be retained permanently, (2) Files developed on persons who are being considered for affiliation with the Department of Defense will be destroyed within one year if the affiliation is not completed. In cases involving a pre-appointment investigation, if the appointment is not made due to information developed by investigation, the file will be retained permanently. If the appointment is not made for some other reasons not related to the investigation, the file will be destroyed within one year; (3) Information within the purview of the Department of Defense Directive 5200.27, "Acquisition of Information Concerning Persons and Organizations Not Affiliated with the Department of Defense", is destroyed within 90 days after acquisition by DIS unless its retention is required by law or unless its retention has been specifically authorized by the Secretary of Defense or through the Chairman, DIRC.

Generally, ISR's and reciprocal investigations are retained for only 60 days.

Partial duplicate records of personnel security investigations are retained for 60 days by DIS field elements. Partial duplicate records in criminal and special investigations are retained for one year.

System manager(s) and address:

Director, Defense Investigative Service, 1000 Independence Ave. SW., Washington, D.C. 20314

Notification procedure:

Requests should be addressed to the Assistant for Information, Defense Investigative Service, 1000 Independence Ave. SW., Washington, D.C. 20314.

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The full name, date and place of birth, and social security account number are necessary for retrieval of information. More information or a notarized statement verifying the identity of requesters may be required. The Information Office, at Room 2H043 1000 Independence Avenue, Washington, D.C. 20314 may be visited by personnel making inquiries regarding this system. A Check of personal identification will be required of all visitors making such inquiries.

Record access procedures:

Access may be obtained through the Information Office at the address listed above.

Contesting record procedures:

DIS rules for contesting and appealing initial determinations may be obtained from the Assistant for Information at the address listed above.

Record source categories:

Categories of sources of records.

Subjects of investigations.

Records of other DoD activities and components.

Federal, state, county and municipal records.

Employment Records of private business and industrial firms.

Educational and disciplinary records of schools, colleges, universities, technical and trade schools.

Hospital, clinic and other medical records.

Records of commercial enterprises such as real estate agencies, credit bureaus, loan companies, credit unions, banks and other financial institutions which maintain credit information on individuals, transportation companies, (airlines, railroad, etc.)

The interview of individuals who are thought to have knowledge of the subject's background and activities.

The interview of witnesses, victims and confidential sources.

The interview of any individuals deemed necessary to complete the DIS investigation.

Miscellaneous directories, rosters and correspondence.

Any other type of record deemed necessary to complete the DIS investigation.

Systems exempted from certain provisions of the act:

In accordance with subsection 3j(2) of the Act, information maintained by the Special Cases Division of DIS may be exempted from the provisions of subsections (c)(3) and (4); (d); (e) (1), (2) and (3); (e) (5) and (8); and (g). Information maintained by, or at the direction of, this unit includes criminal investigations for which the DIS has primary responsibility and certain ISR's and reciprocal investigations, and security or counterintelligence information which may be used in criminal prosecution. The withholding of this information will be to allow the DIS Special Cases Division, a criminal law enforcement component, to conduct effective investigations into alleged unlawful activity or crime conductive situations without jeopardizing such investigations. Knowledge of the investigations of the Special Cases Division could enable subjects to take actions to prevent detection of criminal activities, conceal evidence, or to escape prosecution. It could also lead to intimidation of or harm to sources, informants, witnesses and their families. Information from this system will be withheld only to the extent that its release would interfere with such investigations.

Under subsection 3k(1) of the Act, properly classified material contained in DIS investigatory files is exempt from the provisions of subsection (d). This exemption will protect information, the disclosure of which would have an adverse effect on the national defense or foreign policy.

Under subsection 3k(2) of the Act, other investigatory material including certain reciprocal investigations and counterintelligence information is exempt from subsection (c)(3), (d), (e)(4) (G, H and I) and (f) until such time as action is taken regarding allegations, and after that time only to the extent that the information would identify a confidential source who furnished information under an express promise that the identity of the source would be held in confidence (or prior to the effective date of the Act under an implied promise). This exemption will permit the DIS to conduct certain law enforcement investigations effectively and to protect the identities of sources who would not otherwise provide information.

Protective Service: Under subsection 3k(3) of the Act, DIS investigatory material maintained in connection with assisting the US Secret Service (USSS) to provide protective services to the President of the United States or other individuals pursuant to section 3056 of Title 18 is exempt from subsections (c)(3), (d), (e)(1), (e)(4), (g, h and i), and (f). This exemption provision will enable DIS to continue its support of the US Secret Service without compromising the effectiveness of either activity.

Under subsection 3k(5) of the Act, personnel security investigatory material from subsections (c)(3), (d) and (f), is exempt to the extent that the disclosure of such material would reveal the identity of a confidential source as described above. This exemption provision will allow DIS to collect information from certain sources who would otherwise be unwilling to provide information necessary to personnel security investigations.

[FR Doc. 78-12451 Filed 5-5-78; 8:45 am]

[3810-70]

Office of the Secretary

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, July 11, 1978; Tuesday, July 18, 1978; and Tuesday, July 25, 1978, at 9:45 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency" (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, the Pentagon, Washington, D.C.I06Maurice W. Roche,

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

MAY 3, 1978.

[FR Doc. 78-12429 Filed 5-5-78; 8:45 am]

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[3128-01]

DEPARTMENT OF ENERGY

CRUDE OIL

Inquiry on the Transportation System Serving the Northern Tier and Inland States; Correction

In FR Doc. 78-11021 appearing at page 17392 in the issue for Monday, April 24, 1978, the following corrections should be made:

1. Page 17392, middle column. The date in the preamble for the caption: "COMMENTS BY" should read "May 30" vice "May 31".

2. Page 17392, middle column, in the preamble under the caption: "ADDRESS TO", 12th line. The request to speak date should read "May 5" vice "May 15".

3. Page 17393, middle column, section B.1, second paragraph, 8th line. Delete the following: "Public Hearing Management, 2000 M Street NW., Box SS, Washington, D.C. 20461, and must be received before 4:30 p.m. on May 12, 1978, for the Chicago hearing and May 17 for the Seattle hearing." Add: "the Chicago and Seattle addresses, as appropriate. Chicago—Charles Swank, Region 5, DOE, 175 West Jackson Boulevard, Chicago, IL 60604; and Seattle—Lee Johnson, Federal Building, 915 2nd Avenue, Room 1992, Seattle, WA 98174. Such requests must be received before 4:30 p.m. on May 5, 1978 for both the Chicago and Seattle hearings."

4. Page 17393, middle column, section B.1, 4th paragraph. Delete the last three lines beginning with "Public Hearing * * * 20461" and add: "the Chicago and Seattle addresses listed above."

Issued in Washington, D.C., on May 3, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-12439 Filed 5-5-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATVE REVIEW

Week of January 30 through February 3, 1978

Notice is hereby given during the week of January 30 through February 3, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

Appeals

Peters Fuel Corp., Oakland, Md., FXA-1374, Refined Products

The Peters Fuel Corp., filed an Appeal from that portion of a March 30, 1977 Decision and Order in which the FEA had denied the firm's request for retroactive exception relief from the provisions of 10 CFR 212.93. *Peters Fuel Corp.*, 5 FEA Par. 80,588 (March 30, 1977). If the Appeal were granted, Peters would have been relieved of its obligation under a Remedial Order to refund previous overcharges to its customers. In its Appeal, Peters claimed that the March 30 Decision erred in rejecting its contention that in the absence of retroactive exception relief the firm would experience a negative cash flow during its fiscal year ended January 31, 1977. The DOE analyzed the financial data which Peters had submitted on Appeal, and found that the firm has made certain discretionary prepayments for obligations which did not accrue during the fiscal period concerned. As a result, the DOE determined that Peters had understated the amount of cash which was available to the firm. After recalculating the firm's cash flow position to eliminate the effect of the prepayment items, the DOE concluded that Peters had realized a positive rather than a negative cash flow during its 1977 fiscal year. The Peters Appeal was accordingly denied.

Rickelson Oil and Gas Co., Tulsa, Okla., FRA-1399, Crude Oil

Rickelson Oil and Gas Co. (Rickelson) appealed from a Remedial Order which Federal Energy Administration Region VI issued to the Firm on July 5, 1977. In its Appeal Rickelson challenged the Remedial Order's determination that the firm had incorrectly classified seven of its crude oil producing properties as stripper well leases. After considering Rickelson's Appeal, the Department of Energy rejected the firm's contention that in determining the number of wells on a producing property the firm should be permitted to include injection wells and should also be permitted to count as two wells single wells which produce crude oil from two separate formations. The DOE determined that the Remedial Order's findings in this respect were supported by DOE rulings and precedents established in prior cases. The DOE further considered evidence which Rickelson presented in order to demonstrate that its Nitchey, Ellen and Rhoda Cumsey "A" leases had more crude oil producing wells in operation during relevant qualifying periods than the number specified in the Remedial Order. After considering the evidence submitted, the DOE concluded that the Remedial Order did not contain sufficient findings of fact with respect to the number of wells on the Ellen and Rhoda Cumsey "A" leases. Consequently, the DOE remanded portions of the Remedial Order for further findings of fact regarding the stripper well status of these two leases. In all other respects the Remedial Order was affirmed..

Texfel Petroleum Corp., Dallas, Tex., DFA-0102, Freedom of Information

Texfel Petroleum Corp. (Texfel) appealed from a partial denial by the DOE Information Access Officer of a request for information which the firm had submitted under the Freedom of Information Act (the Act). In its request, Texfel sought access to certain material relating to an audit of the firm which had been conducted by the FEA in April 1975. The Information Access Officer released portions of one document in response to the firm's request but concluded that the remainder of that document was exempt from disclosure as an intra-agency memorandum under Exemption 5 of the Act. In considering Texfel's Appeal, the DOE found that the portion of the document which was withheld from disclosure was primarily factual in nature and under applicable law should have been released to Texfel. However, the DOE also determined that the last clause of the disputed material was properly withheld under Exemption 5 since it contained a predecisional opinion regarding Texfel's eligibility for stripper well status. Accordingly, Texfel's Appeal was granted in part and denied in part.

Tosco Corp., Washington, D.C. FXA-1280, Motor Gasoline

Tosco Corp., filed an Appeal from a Decision and Order which was issued to it by the FEA on March 31, 1977. *Tosco Corp.*, 5 FEA Par. 83,124 (March 31, 1977). Tosco's Appeal, if granted, would result in the reversal of the March 31 Decision and the issuance of an order relieving Tosco of any obligation to refund overcharges resulting from the firm's incorrect calculation of its May 15, 1973 selling prices. In addition, the firm would be permitted to continue to utilize the May 15, 1973 selling prices which it had actually been using in determining its maximum allowable selling prices. In considering Tosco's Appeal, the DOE initially reviewed the application of Ruling 1977-5 to the factual circumstances in this case and affirmed the finding of the March 31 Decision that two variable price contracts which Tosco had used to determine its May 15, 1973 prices should not have been considered as relevant transactions in calculating those prices. The DOE determined that, contrary to Tosco's assertion, Ruling 1977-5 is not erroneous as a matter of law, is consistent with the language of the Price Regulations, and is supported by contemporaneous interpretations of the transaction concept. The DOE also found tht Ruling 1977-5 had been issued to clarify the existing regulatory definition of "transaction," rather than to retroactively change the regulations. Nevertheless, the DOE found that there were factors present in this case which made it inequitable to apply the provisions of Ruling 1977-5 to Tosco. The DOE found that Tosco had received a written opinion from an FEA Regional Counsel which was contrary to the Ruling and that Tosco had acted in direct reliance upon that opinion when it purchased the Avon refinery from Phillips Petroleum Co. in April 1976. In this regard, the DOE determined that even though the opinion did not constitute a formal interpretation, Tosco had acted reasonably in assuming that it was a definitive determination of the FEA. IN addition, the DOE found that Tosco would have been financially unable to proceed with the refinery acquisition if it had been required to calculate its May 15, 1973 prices in accordance with the Ruling. Tosco's financial data demonstrated that, in the absence of exception relief the firm would experience a severe and irreparable injury as a result of its commitment of substantial assets to acquire the Avon refinery. The DOE therefore concluded that Tosco should be granted retroactive exception relief. The DOE also determined that prospective exception relief was warranted since Tosco continues to own and operate the Avon refinery and the profits which it will realize from the refinery will be significantly less than the profits which it originally anticipated.

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United States Department of the Interior, Washington, D.C. FXA-1445, Residual Fuel Oil

The United States Department of the Interior (DOI) filed an Appeal on behalf of the Government of the Northern Mariana Islands (GNMI) from a Decision and Order that was issued to it by the FEA on June 28, 1977. *United States Department of the Interior for the Northern Mariana Islands*, 6 FEA Par. 83,026 (June 28, 1977). In the previous determination, the FEA granted an exception from 10 CFR 211.67(d)(2) which permitted Guam Oil & Refining Co. (Gorco) to earn entitlements for the residual fuel oil which it sold to GNMI. The exception relief, which permitted Gorco to treat its sales to GNMI as occurring within the United States rather than as export sales, had the effect of reducing the cost which GNMI incurred in purchasing residual fuel oil. The exception relief granted was effective as of March 31, 1977. The DOI Appeal, if granted, would make the relief retroactive to April 1, 1976. In considering the Appeal, the DOE found that new information had been presented which supported the DOI claim that additional exception relief should be approved for the period November 1, 1976 through March 31, 1977, since GNMI had actually incurred higher costs for the residual fuel oil which it purchased during that period from Gorco through an intermediate supplier, Mobil Oil Micronesia, Inc. (Mobil). In this regard, the DOE concluded that there was no basis to distinguish between this period and the period following March 31, 1977, since exception relief in the form of additional entitlement benefits which Gorco was required to pass through to GNMI would have the desired effect of reducing GNMI's costs. However, with respect to the period April 1, 1976 through November 1, 1976, the DOE affirmed the previous finding that the DOI request for exception relief was premature since Gorco had not been ordered to make restitution for the entitlements benefits which it had improperly received during that period.

Requests for Exception

Edgington Oil Co., Inc., Los Angeles, Calif., DXE-0081, Crude Oil

Edgington Oil Co., Inc. (Edgington) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of December 1977. In support of its exception request, Edgington provided projected financial statements for its current fiscal year ending December 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Edgington's exception request, the DOE determined that as a result of Edgington's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of December 1977. As a result of the projected entitlements cost which Edgington would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. The DOE therefore found that exception relief was warranted under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976). Accordingly, the DOE issued a Proposed Decision and Order granting Edgington's Application for Exception and relieving the firm of sufficient entitlement purchase obligations during the period December 1977 through May 1978 to account for its crude oil runs to stills and old oil receipts during the period October 1977 through March 1978. However, the DOE noted that the relief granted to Edgington would be reevaluated if the firm requested an extension of exception relief beyond May 1978 and in any event would be reevaluated at the conclusion of the firm's current fiscal year. The DOE noted that an adjustment will be made and Edgington will be required to purchase entitlements if the DOE finds that the firm has received excessive benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves. Since no Notice of Objection was filed to the Proposed Decision and Order, a Final Decision and Order was issued by the DOE on January 30, 1978.

M. J. Mitchell, Dallas, Tex., DXE-0360, Crude Oil

M. J. Mitchell filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would have resulted in the extension of the exception relief previously granted and would have permitted Mitchell to continue to sell a portion of the crude oil produced from the Mitchell State Minnelusa Sand Unit at upper tier ceiling prices. In considering Mitchell's Application, the DOE found that although the firm's cost of producing crude oil from the Unit had increased since 1973, the lower tier ceiling price for the crude oil which he produced exceeded his current product costs on a per barrel basis. Consequently, the DOE determined that Mitchell had an economic incentive to maintain crude oil production at the Unit in the absence of exception relief. Accordingly, Mitchell's request for an extension of exception relief was denied.

San Joaquin Refining Co., Newport Beach, Calif., DXE-0095 crude oil

San Joaquin Refining Co. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of December 1977. In support of its exception request, San Joaquin provided projected financial statements for its current fiscal year ending April 30, 1978 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering San Joaquin's exception request, the DOE determined that as a result of San Joaquin's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of December 1977. The DOE further found that as a result of the projected entitlements cost which San Joaquin would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976), exception relief was therefore warranted. Accordingly, the DOE issued a Proposed Decision and Order granting San Joaquin's Application for Exception and relieving the firm of sufficient entitlement purchase obligations during the six month period December 1977 through May 1978 to account for its crude oil runs to stills and old oil receipts during However, the DOE noted in the Proposed Decision that the relief granted to San Joaquin would be reevaluated if the firm requested an extension of exception relief beyond May 1978 and in any event would be reevaluated at the conclusion of the firm's current fiscal year. The decision noted that an adjustment will be made and San Joaquin will be required to purchase entitlements if the DOE finds that the firm has received excessive benefits because of a discrepancy between the financial projections it submitted and the actual financial results which it achieves. Since no Notice of Objection was filed to the Proposed Decision and Order, a Final Decision and Order was issued by the DOE on January 30, 1978.

Requests for Modification or Rescission

Leonard E. Belcher, Inc., Springfield, Mass., DRR-0008 No. 2 fuel oil

Leonard E. Belcher, Inc. (Belcher) filed an Application for Modification of a Decision and Order which the FEA issued to the firm on August 17, 1977. *Leonard E. Belcher, Inc.*, 6 FEA Par. 85,023 (August 17, 1977). In that determination, the FEA granted an Application for Stay of a Remedial Order which had been issued to Belcher by FEA Region I on July 19, 1977. However, as an express condition of the stay which was approved, Belcher was required to establish an irrevocable letter of credit. Belcher requested that the August 17 order be modified to eliminate the letter of credit requirement. Belcher contended that the approval of this request would be consistent with the new Remedial Order stay policies adopted in *Rickelson Oil and Gas Co.*, 6 FEA Par. 85,029 (August 24, 1977). In considering the Belcher request, the DOE noted that unlike the situation in the *Rickelson* case, the DOE has already fully considered all of the contentions raised by Belcher in its Appeal of the Remedial Order and has issued a Decision on the merits of that Appeal. *Leonard E. Belcher, Inc.*, 1 DOE Par. 80,183 (January 18, 1978). Since the January 18 Decision and Order rejected all of the contentions raised by Belcher concerning the factual and legal findings of the Remedial Order, the DOE concluded that it would be inappropriate to cancel the letter of credit at the present time. The Belcher Application for Modification was accordingly denied.

Red Carpet Car Wash, Oklahoma City, Okla., FMR—0116 Motor Gasoline

Red Carpet Car Wash filed on Application for Modification of a Decision and Order that was issued to Texaco, Inc. by the DOE Region VI Office on January 26, 1977. In the January 26 determination, Region VI vacated an Assignment Order that had directed a Texaco branded jobber to supply Red Carpet with a base period use of motor gasoline for a car wash-service station which Red Car operated in Oklahoma City, Okla. The Oklahoma City site had previously been occupied by another gasoline retailer before Red Carpet acquired the site and converted it to a combination car wash-service station. The request for modification, if granted, would reinstate the provisions of the original Assignment Order under which Texaco had been required to supply Red Carpet. The DOE determined that the Region VI Decision should be reconsidered in view of the issuance on March 22, 1977 of Modifications to the Guidelines for Evaluation of Assignment of Supplier and Base Period Use to New Gasoline Retail Sales Outlets. However, the DOE concluded that contrary to Red Carpet's claim, the March 22, 1977 Modifications did not alter the standard that had previously been set forth in Ruling 1975-6 for determining whether a firm which acquires a retail sales outlet qualifies as a "new" wholesale purchaser-reseller. Under the criteria discussed in the Ruling, a firm which succeeded another firm as the operator at a retail site was not eligible to receive an assignment of supplier and base period use as a new wholesale purchaser-reseller if it intended to continue to engage in retail sales at the site, regardless of any changes which it might make in the mode of operations at the site. The DOE found that since Red Carpet had always intended to continue selling motor gasoline at the Oklahoma City site, it failed to qualify as a new retail outlet, despite the conversion of the site to a combined car wash operation. The Red Carpet Application was accordingly denied.

Requests for Stay

Illinois Petroleum Marketers Association; FS Services, Inc. and Affiliated Companies, Springfield, Ill., and Bloomington, Ill., DES-0035 and DES-0037 Gasohol

The Illinois Petroleum Marketers Association (the Association) and FS Services, Inc. and Affiliated Companies (FS) filed Applications for Stay of the Mandatory Petroleum Price Regulations on behalf of retailers in the States of Illinois, Iowa and Wisconsin who wished to sell "Gasohol," a blend of ethyl alcohol and unleaded gasoline. In their Applications, the Association and FS asserted that firms had no economic incentive to distribute Gasohol because the price regulations do not permit them to reflect the cost of the alcohol component in Gasohol in computing their maximum allowable selling prices. In considering the Applications, the DOE noted that on the basis of the current record, sales of Gasohol appeared to be in the public interest. Accordingly, the Applications for Stay were granted. Sellers of Gasohol in Illinois and those sellers of Gasohol in Iowa and Wisconsin that were members of FS were permitted to increase the product costs which they could otherwise to reflect in their selling prices by the difference between the weighted average unit cost of ethyl alcohol in inventory in the current month and the weighted average unit cost of motor gasoline in inventory on May 15, 1973, multiplied by the percentage of ethyl alcohol in the Gasohol blend.

Southwestern Refining Co., Inc., Labarge, Wyo., DES-0483 Crude Oil

On January 25, 1978, the Southwestern Refining Co., Inc. (Southwestern) filed an Application requesting that its obligation to purchase entitlements under the Old Oil Entitlements Program (10 CFR 211.67) during January 1978 be stayed pending a determination on an Application for Exception which the firm also filed. In considering the stay request, the DOE found that Southwestern's financial material supported its contention that it did not have access to the resources necessary to enable the firm to purchase its January 1978 entitlements. Under these circumstances the DOE concluded that Southwestern could incur an immediate serious hardship unless a stay were granted. The Southwestern Application for Stay was therefore granted.

Requests for Exception Received From Natural Gas Processors

The Office of Administrative Review of the Department of Energy has issued a Decision and Order granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processor listed below. The exception relief permits the firm involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Gary Operating Co	DXE-0063	Altonah	Duchesne County, Utah	$0.0229
	DXE-0064	Bluebell	Duchesne County, Utah	.0515

SUMMARY DECISIONS

The following firms filed Applications for Stay of Remedial Orders which had been issued to them by the DOE. In considering the stay requests, the DOE referred to a recent Decision in *Rickelson Oil and Gas Co.*, 6 FEA Par. 85,029 (August 24, 1977), in which it held that a Remedial Order will generally be stayed pending the determination of an Appeal unless it appeared that the public interest required immediate compliance with the Remedial Order. Since the record in these cases did not indicate that the public interest required immediate compliance with the Remedial Orders, the DOE granted the requests for stay pending consideration of the Appeals.

Jay Oil Co., Inc., Tulsa, Okla., DRS-0123.

Jedco, Inc., Mobile, Ala., DRS-0117.

United Petroleum, Inc., Tampa, Fla., DRS-0116.

The Office of Administrative Review has issued a summary Decision and Order rescinding the Stay of the refund provisions of a Remedial Order. The Stay was rescinded since the Office of Administrative Review had previously determined that the firm's Appeal of the Remedial Order should be denied:

Maguire Oil Co., Dallas, Tex., DRX-0030.

Dismissals

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Hawthorne Oil & Gas Corp., Lafayette, La., DEE-0406.

Horomet Aluminum Corp., Lancaster, Pa., DEE-0453.

Robert C. Wampler, Allerton, Iowa, DEE-0348.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MAY 2, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

[FR Doc. 78-12440 Filed 5-5-78; 8:45 am]

[3128-01]

CASES FILED WITH THE OFFICE OF HEARINGS AND APPEALS

Week of April 7 Through April 14, 1978

Notice is hereby given that during the week of April 7 through April 14, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MAY 2, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

MAY 8 1978

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APPENDIX.—*List of cases received by the Office of Hearings and Appeals*

[Week of Apr. 7 through Apr. 14, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 7, 1978	Beacon Oil Co., Washington, D.C. If granted: DOE would review the entitlements exception relief granted to Beacon Oil Co. during its 1977 fiscal year in order to determine whether the level of relief approved was appropriate.	DEX-0059	Supplemental order.
Do	Brad's Mobil, North Pembroke, Mass. If granted: Brad's Mobil would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-1005	Exception to the reporting requirements.
Do	Ely Crude Oil Co., Ely, Nev. If granted: Ely Crude Oil Co. would receive a stay of the provisions of 10 CFR 211.67 pending a final determination on its application for exception.	DES-0053	Stay request.
Do	Fondren Park Texaco, Houston, Tex. If granted: Fondren Park Texaco would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-1006	Exception to the reporting requirements.
Do	Home-Stake Production Co., Tulsa, Okla. If granted: Home-Stake Production Co. would be permitted to sell the crude oil produced from the 1963 Searight project located in Seminole County, Okla., at prices in excess of the lower tier ceiling price.	DEE-1003	Price exception (sec. 212.73).
Do	Jorge's Shell, Miami, Fla. If granted: Jorge's Shell would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-1007	Exception to the reporting requirements.
Do	Ken's Sinclair Service, Coalville, Utah. If granted: Ken's Sinclair Service would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-1008	Do.
Do	Texaco, Inc., Los Angeles, Calif. If granted: Texaco, Inc., would be permitted to sell the crude oil produced from the Shiells intermediate zone unit located in Ventura County, Calif., at prices in excess of the lower tier ceiling prices.	DEE-1004	Price exception (sec. 212.73).
Do	Weber Oil Co., Bangor, Maine. If granted: The Feb. 14, 1978, ancillary order issued by DOE region I regarding the Nov. 7, 1977, remedial order issued to C. H. Sprague & Co. would be rescinded.	DEA-0188	Appeal of an ancillary order.
Apr. 10, 1978	Edgington Oil Co., Inc., Washington, D.C. If granted: DOE would review the entitlements exception relief granted to Edgington Oil Co., Inc., during its 1977 fiscal year in order to determine whether the level of relief approved was appropriate.	DEX-0060	Supplemental order.
Do	Husky Oil Co., Denver, Colo. If granted: DOE would review the entitlements exception relief granted to Husky Oil Co. during its 1977 fiscal year in order to determine whether the level of relief approved was appropriate.	DEX-0061	Do.
Do	Richmond Service Center, Providence, R.I. If granted: Richmond Service Center would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-1009	Exception to the reporting requirements.
Apr. 11, 1978	Burk Royalty Co., Wichita Falls, Tex. If granted: Burk Royalty Co.'s lease No. 2938 and lease No. 3942 located in Plaquemines Parish, La., would be classified as stripper well properties.	DEE-1010	Price exception (sec. 212.73).
Do	Fred's Chevron Service Station, Bayport, N.Y. If granted: Fred's Chevron Service Station would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-1014	Exception to the reporting requirements.
Do	Laguna Petroleum Co., Denver, Colo. If granted: Laguna Petroleum Co. would be permitted to sell the crude oil produced from the No. 1 Lambe lease located in the Border County, Tex., at upper tier ceiling prices.	DEE-1011	Price exception (sec. 212.73).
Do	Phillips Petroleum Co., Bartlesville, Okla. If granted: Phillips Petroleum Co. would be permitted to sell the crude oil produced from the Holder B lease and the Yount B lease located in Oklahoma County, Okla., at upper tier ceiling prices.	DEE-1012 and DEE-1013	Do.
Do	Swanton Interstate Sunoco, Swanton, Vt. If granted: Swanton Interstate Sunoco would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-1015	Exception to the reporting requirements.
Apr. 12, 1978	Charter Oil Co., Jacksonville, Fla. If granted: DOE would review the entitlements exception relief granted to Charter Oil Co. during its 1977 fiscal year in order to determine whether the level of relief approved was appropriate.	DEX-0063	Supplemental order.
Do	Hodge's Texaco Service Center, Swansboro, N.C. If granted: Hodge's Texaco Service Center would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-1016	Exception to the reporting requirements.
Do	Indian Wells Oil Co., Kearney, Mo. If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products.	DXE-1018	Extension of the relief granted in *Indian Wells Oil Company*, case No. DXE-0070 (decided Feb. 13, 1978) (unreported decision).

APPENDIX.—*List of cases received by the Office of Hearings and Appeals*—Continued

[Week of Apr. 7 through Apr. 14, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Maingas Service, Waterville, Maine. If granted: Maingas Service would be permitted to increase its prices for propane above the maximum levels allowed under the mandatory petroleum price regulations.	DEE-1019	Price exception (sec. 212.93).
Do	Marvel Corp., Boston, Mass. If granted: Marvel Corp. would not be required to file form EIA-9 (No. 2 heating oil supply/price monitoring report).	DEE-1017	Exception to the reporting requirements.
Do	Mohawk Petroleum Corp., Los Angeles, Calif. If granted: DOE would review the entitlements exception relief granted to Mohawk Petroleum Corp., Inc., during its 1977 fiscal year in order to determine whether the level of relief approved was appropriate.	DEX-0064	Supplemental order.
Do	Northland Oil & Refining Co., Tulsa, Okla. If granted: Northland Oil & Refining Co. would receive a stay of its April entitlement purchase obligations pending a final determination on its application for exception.	DES-0054	Stay request.
Do	W. W. Lindsey and W. E. Elliott, Pikeville, Ky. If granted: W. W. Lindsey and W. E. Elliott would receive an evidentiary hearing with respect to its pending objection to the Mar. 6, 1978, proposed remedial order.	DEH-0014	Evidentiary hearing.
Do	Wesreco, Inc., Woods Crossing, Utah. If granted: Wesreco, Inc., would receive a stay of the requirements of the by/sell list as published in the FEDERAL REGISTER on Mar. 3, 1978, pending a final determination on its appeal.	DES-0166	Stay request.
Apr. 13, 1978	Butler, Binion, Rice, Cook & Knapp, Houston, Tex. If granted: The DOE's Mar. 14, 1978, information request denial would be rescinded and Butler, Binion, Rice, Cook & Knapp would receive access to additional DOE data regarding the definition of posted price contained in 10 CFR 212.31.	DFA-0171	Appeal of an information request denial.
Do	Chester F. Dolley, Los Angeles, Calif. If granted: Chester F. Dolley's O.K. & B, Nance, Porter, and Vineyard leases would be classified as stripper well properties on a retroactive basis.	DEE-1020	Price exception (sec. 212.73).
Do	O. B. Mobley, Jr., Shreveport, La. If granted: Mobley would be permitted to compute a unit base production control level for the Lewisville-Smackover lime unit using the provisions of 10 CFR 212.75.	DEE-1021	Price exception (sec. 212.75).
Do	O. B. Mobley, Jr., Shreveport, La. If granted: The DOE's Mar. 16, 1978, interpretation 1978-6 regarding certifying production under 10 CFR 212.75 would be rescinded.	DIA-0170 and DES-0170	Appeal of an interpretation stay request.

[FR Doc. 78-12456 Filed 5-5-78; 8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

April 10 through April 14, 1978

Notice is hereby given that during the period April 10 through April 14, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of a Proposed Decision and Order in final form may file a written Notice of Objection within 10 days of service. For purposes of the new procedures, the date of service of notice of issuance of a Proposed Decision and Order shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in

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the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays.

MAY 2, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

Paul S. Ache, Jr., Houston, Tex., DEE-0059, Crude Oil

Paul S. Ache, Jr., filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Ache to sell the crude oil which is produced from the Katie Brown lease for his benefit at upper-tier ceiling prices. On April 14, 1978, the DOE issued a proposed decision and order which determined that Ache should be permitted to sell 41.38 percent of the crude oil produced for his benefit at upper-tier ceiling prices.

Guam Oil & Refining Co., Inc., Dallas, Tex., FEE-4105, Crude Oil

The Guam Oil & Refining Co., Inc., filed an application for exception from the provisions of 10 CFR 211.67(a). The exception request, if granted, would permit Gorco to earn entitlements with respect to the unfinished oils component of its refinery feedstocks. Gorco requested that this exception relief be implemented on both a prospective and a retroactive basis. On April 14, 1978, the DOE issued a proposed decision and order in which it determined that the Gorco request for exception relief should be denied.

Meason Operating Co., Natchez, Miss., DXE-0946, Crude Oil

Meason Operating Co. (Meason) filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Meason to continue to sell quantities of crude oil produced from the Arnold Perry well located in Wilkinson County, Miss., at upper-tier ceiling prices. On April 14, 1978, the DOE issued a proposed decision and order which determined that the exception request should be granted.

S & W Engine Supply Co., Oklahoma City, Okla., FEE-4357, Crude Oil

S & W Engine Supply Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit S & W to continue to sell at upper-tier ceiling prices certain volumes of crude oil produced from the Baker Townsend lease which is located in Oklahoma County, Okla. On April 11, 1978, the Department of Energy issued a proposed decision and order which determined that S & W should be permitted to sell at upper-tier ceiling prices 57.67 percent of the crude oil produced from the Baker Townsend lease for the benefit of the working interest owners.

Tenneco Oil Co., Houston, Tex., DXE-0970, Crude Oil

Tenneco Oil Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to continue selling a portion of the crude oil produced from the Veeder-Hunt lease located in St. Mary Parish, La., at upper-tier ceiling prices. On April 11, 1978, the DOE issued a proposed decision and order which determined that Tenneco should be permitted to sell at upper-tier ceiling prices 49.47 percent of the crude oil produced from the lease for the benefit of the working interest owner.

Texaco, Inc., New Orleans, La., DEE-0200, Crude Oil

Texaco, Inc., filed an application for exception from the provisions of 10 CFR 212.73. The exception request, if granted, would permit Texaco to sell at upper-tier prices all or a portion of the crude oil produced from the BF Reno RA Sand unit, located in the Bayou Fordoche Field, Pointe Coupee Parish, La. On April 14, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

[FR Doc. 78-12455 Filed 5-5-78; 8:45 am]

[3128-01]

CASES FILED WITH THE OFFICE OF HEARINGS AND APPEALS

Week of April 14 Through April 21, 1978

Notice is hereby given that during the week of April 14 through April 21, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

MAY 2, 1978.

APPENDIX.—*List of cases received by the Office of Hearings and Appeals*

[Week of Apr. 14 through Apr. 21, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 17, 1978	Commonwealth Oil Refining Co., Inc., San Antonio, Tex. If granted: Commonwealth Oil Refining Co., Inc., would receive a stay of pt. 213 pending a final determination on its application for exception (DEE-0611).	DES-0055	Stay request.
Do	Commonwealth Oil Refining Co., Inc., San Antonio, Tex. If Granted: Commonwealth Oil Refining Co., Inc., would received an exception from 10 CFR 211.67 with respect to its entitlement purchase obligations.	DEE-1022	Exception to the entitlements program.
Apr. 18, 1978	Burdett Oxygen Co., Norristown, Pa. If granted: Burdett Oxygen Co. would be assigned a new, lower priced supplier of propane to replace its base period supplier, Ugite Gas, Inc.	DEE-1023	Exception to change suppliers.
Do	Charles F. Haas, Corpus Christi, Tex. If granted: Charles Haas would be permitted to sell the crude oil produced from the A. C. Koch lease located in Wharton County, Tex., at upper tier ceiling prices on a retroactive basis.	DEE-1026	Price exception (sec. 212.73).
Do	Charles F. Haas, Corpus Christi, Tex. If granted: Charles F. Haas would be permitted to classify the Allen-Hamons unit located in Jackson County, Tex., as a stripper well property on a retroactive basis.	DEE-1027	Do.

APPENDIX.—*List of cases received by the Office of Hearings and Appeals*—Continued

[Week of Apr. 14 through Apr. 21, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 18, 1978	Farmland Industries, Inc., Kansas City, Mo. If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Gillette, Lamont, Mertzon, and Quitman plants.	DXE-1039 through DXE-1042	Extension of the relief granted in *Farmland Industries, Inc.*, case Nos. DXE-0090 through DXE-0093 (decided Feb. 13, 1978) (unreported decision).
Do	Gary Operating Co., Englewood, Colo. If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Altonah and Bluebell plants.	DXE-1043 and DXE-1044	Extension of the relief granted in *Gary Operating Company*, case Nos. DXE-0063 and DXE-0064 (decided Feb. 2, 1978) (unreported decision).
Do	J & W Refining, Inc., Dallas, Tex. If granted: J & W Refining, Inc., would receive a stay of the provisions of 10 CFR 211.67 (entitlements program) pending a final determination on its application for exception.	DES-0056	Stay request.
Do	J & W Refining, Inc., Dallas, Tex. If granted: J & W Refining, Inc., would receive an exception from 10 CFR 211.67 with respect to its entitlement purchase obligations beginning with April 1978.	DEE-1029 and DES-1029	Exception from the entitlements program. Stay request.
Do	John Galt, Inc., Hyattsville, Md. If granted: John Galt, Inc., would not be required to file form EIA-9 (No. 2 Heating Oil Supply/Price Monitoring Report).	DEE-1035	Exception from the reporting requirements.
Do	Mohawk Petroleum Corp., Inc., Los Angeles, Calif. If granted: Mohawk Petroleum Corp., Inc., would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligation for the months of June through November 1978.	DXE-1030	Extension of the relief granted to *Mohawk Petroleum Corp.*, 1 DOE par. 81,059 (Jan. 20, 1978).
Do	Moran Pipe & Supply Co., Inc., Seminole, Okla. If granted: Moran Pipe & Supply Co., Inc., would be permitted to sell the crude oil produced from the Cozar lease located in Seminole County, Okla., at upper tier ceiling prices.	DXE-1028	Extension of the relief granted in *Moran Pipe & Supply Co., Inc.*, 1 DOE par. 81,047 (Jan. 6, 1978).
Do	Ridge General Store, Northwood, N.H. If granted: Ridge General Store would not be required to file form EIA-8 (Retail Motor Fuels Service Station Survey).	DEE-1036	Exception to the reporting requirements.
Do	Union Oil Co. of California, Los Angeles, Calif. If granted: Union Oil Co. of California would be permitted to sell the crude oil produced from the West Richfield Chapman zone unit located in Orange County, Calif. at upper tier ceiling prices.	DEE-1024	Price exception (sec. 212.73).
Do	Wilson-Owens Production Co., Longview, Tex. If granted: Wilson-Owens Production Co. would be permitted to sell the crude oil produced from the W.T. Blackwell lease located in Wood County, Tex., at upper tier ceiling prices.	DEE-1025	Do.
Do	Winsauer's Texaco, Mathis, Tex. If granted: Winsauer's Texaco would be permitted to increase its prices for motor gasoline above the maximum levels allowed under the mandatory petroleum price regulations.	DEE-1034	Price exception (sec. 212.93).
Apr. 19, 1978	Atlantic Oil Co., Los Angeles, Calif. If granted: Atlantic Oil Co.'s Douglas lease would be classified as a stripper well property on a retroactive basis.	DEE-1032	Price exception (sec. 212.73).
Do	Beacon Oil Co., Hanford, Calif. If granted: Beacon Oil Co. would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations for the months of June through November 1978.	DEE-1031	Extension of the relief granted to *Beacon Oil Co.*, 1 DOE par. 81,055 (Jan. 20, 1978).
Do	Morton & Dolley, Los Angeles, Calif. If granted: Morton & Dolley would be permitted to sell the crude oil produced from the Hathaway-Bloemer lease at upper tier ceiling prices on a retroactive basis.	DEE-1033	Price exception (sec. 212.73).
Do	PPG Industries, Inc. and Puerto Rico Olefins Co., Washington, D.C. If granted: PPG Industries, Inc. and Puerto Rico Olefins Co., would receive a stay of the provisions of pt. 213 pending a final determination on their application for exception.	DES-0057	Stay request.
Do	Wyoming Refining Co., Denver, Colo. If granted: Wyoming Refining Co. would be granted a motion for discovery in relation to the statement of objections the firm filed pursuant to the Mar. 20, 1978, proposed decision and order issued to Little America Refining Co.	DED-0001	Motion for discovery.
Apr. 20, 1978	Arizona Fuels Corp., Salt Lake City, Utah. If granted: Arizona Fuels Corp. would received an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations for the months May through October 1978.	DXE-1046	Exception from the entitlements program.
Do	Edgington Oil Co., Inc., Long Beach, Calif. If granted: Edgington Oil Co., Inc., would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations for the months of June through November 1978.	DXE-1047	Extension of the relief granted in *Edgington Oil Co.*, 1 DOE par. —— (Jan. 30, 1978).

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APPENDIX.—*List of cases received by the Office of Hearings and Appeals*—Continued

[Week of Apr. 14 through Apr. 21, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 20, 1978	Keith's Exxon, Perry, N.Y. If granted: Keith's Exxon would not be required to file form EIA-8 (Retail Motor Fuels Service Station Survey).	DEE-1037	Exception to the reporting requirements.
Do	Mullins & Prichard, New Orleans, La. If granted: Mullins & Prichard would receive a stay of the provisions of the Mar. 31, 1978, decision and order with respect to the May 9, 1977, remedial order pending judicial review.	DRS-0058	Stay request.
Do	Navajo Refining Co., Washington, D.C. If granted: Navajo Refining Co. would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations for the months June through November 1978.	DXE-1048	Extension of the relief granted in *Navajo Refining Co.*, 1 DOE par. 81,061 (Jan. 19, 1978).
Do	Oklahoma Natural Gas Co., Tulsa, Okla. If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Garvin County plant.	DXE-1045	Extension of the relief granted in *Oklahoma Natural Gas Co.*, case No. DXE-0073 (decided Feb. 13, 1978) (unreported decision).
Do	Rocky Hill BP, Princeton, N.J. If granted: Rocky Hill BP would not be required to file form EIA-8 (Retail Motor Fuels Service Station Survey).	DEE-1038	Exception to the reporting requirements.
Do	San Joaquin Refining Co., Newport Beach, Calif. If granted: San Joaquin Refining Co. would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations for the months of June through November 1978.	DXE-1049	Extension of the relief granted in *San Joaquin Refining Co.*, 1 DOE par. —— (Jan. 30, 1978).
Do	Warrior Asphalt Co. of Alabama, Washington, D.C. If granted: Warrior Asphalt Co. of Alabama would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase oobligatiorls for the months of June through November 1978.	DXE-1050	Extension of the relief granted in *Warrior Asphalt Co. of Alabama*, 1 DOE par. 81,065 (Jan. 25, 1978).
Do	Young Refining Corp., Douglasville, Ga. If granted: Young Refining Corp. would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations for the months of June through November 1978.	DXE-1051	Exception from the entitlements program.

Notices of objection received

[Week of Apr. 14, 1978 through Apr. 21, 1978]

Date	Name and location of applicant	Case No.
Apr. 18, 1978	Prater Co., Albuquerque, N. Mex	FEE-4470
Apr. 20, 1978	Guam Oil & Refining Co., Inc., Dallas, Tex	FEE-4105

Proposed remedial orders

Apr. 18, 1978	Big Bend Truck Plaza, Tallahassee, Fla	DRO-0032
Do	Peterson Oil Co., Inc., Hastings, Nebra	DRO-0033
Do	Phillips Petroleum Co., Bartlesville, Okla	DRO-0034
Do	United Petroleum, Inc., Tampa, Fla	DRO-0035

[FR Doc. 78-12458 Filed 5-5-78; 8:45 am]

[3128-01]

CASES FILED WITH THE OFFICE OF HEARINGS AND APPEALS

Week of April 21 Through April 28, 1978

Notice is hereby given that during the week of April 21 through April 28, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

MAY 2, 1978.

APPENDIX.—*List of cases received by the Office of Administrative Review*

[Week of Apr. 21 through Apr. 28, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 24, 1978	Courtney F. Foos Coal Co., Inc., Virginia Beach, Va. If granted: Courtney F. Foos Coal Co., Inc., would not be required to file form EIA-6.	DEE-1052	Exception from reporting requirements.
Do	Gulf Oil Corp., Houston, Tex. If granted: Gulf Oil Corp., on behalf of its subsidiary, Caribbean Gulf Refining Co. (CARECO), would receive an exemption from the provisions of 10 CFR 211.67(l)(4) with respect to its entitlement obligations.	DEE-1053	Exception from the entitlements program.
Do	J&W Refining, Inc., Dallas, Tex. If granted: J&W Refining, Inc., would be granted a conference with respect to the establishment of guidelines for consideration of its requests for exception relief from its obligations under the entitlements program.	DSG-0016	Request for special redress.
Do	Mobile Lux Station, Luxora, Ark. If granted: Mobile Lux Station would not be required to file form EIA-8 (retail motor fuels service station survey).	DEE-1054	Exception to the reporting requirements.
Do	Smith's Bottled Gas, Bruceton Mills, W. Va. If granted: Smith's Bottled Gas would be granted an evidentiary hearing with respect to its objection in case No. FEE-4846.	DEH-0004	Motion for evidentiary hearing.
Apr. 26, 1978	Kern County Refinery, Inc., Bakersfield, Calif. If granted: Kern County Refinery, Inc., would receive a stay of a portion of its entitlements obligations computed pursuant to 10 CFR 211.67 pending a final determination on its application for exception.	DEX-0066	Supplemental order.
Do	Lunday-Thagard Oil Co., South Gate, Calif. If granted: Lunday-Thagard Oil Co. would receive a stay of a portion of its entitlements obligation pending final determination on its application for exception.	DEX-0065	Do.
Do	Young Refining Corp., Douglasville, Ga. If granted: Young Refining Corp. would receive a stay of a portion of its entitlements obligation computed pursuant to 10 CFR 211.67 pending a final determination on its application for exception.	DEX-0067	Do.
Apr. 27, 1978	Getty Oil Co., New York, N.Y. If granted: The DOE order issued to Getty Oil Co. on allocation fractions for propane for the central and eastern regions would be rescinded.	DEA-0172	Appeal from DOE order issued on Feb. 24, 1978.

Notices of objection received

[Week of Apr. 21 through Apr. 28, 1978]

Date	Name and location of applicant	Case No.
Apr. 21, 1978	Texas Gas Exploration Co., Houston, Tex	FEE-4460
Apr. 24, 1978	Tosco Corp., Washington, D.C	DXE-0494
Do	Whitco, Inc., Houston, Tex	DXE-0856
Apr. 26, 1978	A. T. Skaer, Denver, Colo	DEE-0408
Do	Gala Gas Co., Eufala, Ala	DEO-0042

Proposed remedial orders

Apr. 24, 1978	Bill's Enco, Wheaton, Ill	DRO-0036
Do	Finch Oil Co., Maysville, Ky	DRO-0037
Do	Propane Gas & Appliance Co., Enterprise, Ala	DRO-0038
Apr. 25, 1978	Don E. Pratt, Hays, Kans	DRO-0039
Apr. 26, 1978	Lakes Gas Co., Forest Lake, Minn	DRO-0040
Do	Norco Oil Co., Cheboygan, Mich	DRO-0041

[FR Doc. 78-12457 Filed 5-5-78; 8:45 am]

[1505-01]

DEPARTMENT OF ENERGY

URANIUM ENRICHMENT SERVICES

Termination Charges

Correction

In FR Doc. 78-10837, appearing at page 17028 in the issue for Friday, April 21, 1978; make the following corrections:

1. On page 17028, second column, tenth line from the bottom, the word "range" should read "usage"; and in the same column, third line from the bottom, "cn" should read "can".

2. On page 17030, first column, sixth line from the bottom, "[ter]minate" should read "[ter]minated"; and in the second column, the signature "WILLIAM S. HEFFELFINER" should read "WILLIAM S. HEFFELFINGER".

[1505-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 889-8]

RHODE ISLAND DRINKING WATER

Approval of State Application for Primary Enforcement Responsibility

Correction

In FR Doc. 78-11697, appearing at page 18611 in the issue for Monday,

MAY 8 1978 UMI

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May 1, 1978, third column, please transfer the following information from the bottom of the page to page 18617 as it refers to the Small Business Administration and not EPA:

"Dated: April 21, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-11730 Filed 4-28-78; 8:45 am]"

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 908-A]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MAY 5, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION
WILLIAM J. TRICARICO,
Secretary.

Applications accepted for filing:

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21192-CD—P-(6)-78 Relay Communications Corporation (KLF579). C. P. for additional facilities to operate on 152.09 MHz at location No. 2: On Route 58, Riverhead; additional repeater facilities to operate on 72.94 MHz at location No. 3: 2.5 miles southwest of Coram; additional repeater facilities to operate on 72.94 MHz and to relocate facilities operating on 152.09 MHz from location No. 3 to a new site described as location No. 4: Near intersection of Abrahams Road and Springs Fireplace Road, East Hampton; additional control facilities to operate on 75.82 MHz and to relocate facilities operating on 152.06 MHz from location No. 2 to a new site described as location No. 5: 145 Griffing Avenue, Riverhead, N.Y.

21206-CD-MP-(2)-78 Hendrix Electronics, Inc. d.b.a. Cal-Com Radio Telephone Service (KLF520). C. P. for additional facilities to operate on 454.050 and 454.325 MHz at location No. 1: Black Mountain, 14 miles East of Glamis, Calif.

21199-CD-P-78 Commercial Radio, Inc. (KJU796). C. P. for additional facilities to operate on 152.15 MHz located at northeast corner of South and Fourth Avenues, Waycross, Ga.

21276-CD-P-78 South Central Rural Telephone Cooperative, Inc. (KWA655). C. P. for additional facilities to operate on 152.72 MHz to be located 2.2 miles northnortheast of Cave City, Ky.

21277-CD-P-78 South Central Rural Telephone Cooperative, Inc. (new). C. P. for a new 1-way signaling station to operate on 158.10 MHz to be located 2.2 miles northnortheast of Cave City, Ky.

21281-CD-ML-78 Airvoice, Inc. (KDS765). Modification of license to change repeater frequency from 459.125 MHz to 459.325 MHz at location No. 1: 2.5 miles east of U.S. Highway 75, on State Highway 112 and 3 miles east of city, Ashburn; and to change control frequency from 454.125 MHz to 459.325 MHz at location No. 2: 2 miles north of U.S. Highway 415 and State Highway 33, near Cordele, Ga.

21282-CD-P-(3)-78 Imperial Communications Corp. (KMA262). C. P. to change antenna system and replace transmitter operating on 152.12 MHz and for additional facilities to operate on 152.06 MHz at location No. 1: Mt. Soledad, San Diego; and for additional facilities to operate on 152.21 MHz at location No. 2: San Miguel Mountain, 13 miles east of San Diego, Calif.

21283-CD-P/ML-78 Answerphone of Lake Worth, Inc. (KWU206). C. P. and license to relocate facilities operating on 43.22 MHz at location No. 1: 1200' south Germantown Road and 700' north Seaboard Coast Railroad, Delray Beach, Fla.

21284-CD-P-78 Answering Service of Trenton, Inc. (KED352). C. P. for additional facilities to operate on 35.58 MHz at a new site described as location No. 4: Approximately 1.2 miles east of Manahawkin, south of Beach Avenue, Stafford township, N.J.

21290-CD-P-78 Telephone Communications, Inc. (KQK731). C. P. for additional facilities to operate on 152.03 MHz located at 203 South Capital Avenue, Lansing, Mich.

21291-CD-TC-(2)-78 Telcom Corp. Consent to transfer of control from Gary T. Cromack, Clayton D. Cromack, transferors to Airphone Co., Inc., transferee. Stations: KUC920 and KWU244, Shelburne, Mass.

21292-CD-MP-78 Carolina Telephone & Telegraph Co. (KDS775). C. P. to relocate facilities operating on 158.10 MHz to be located at 855 Burr Street, Henderson, N.C.

21293-CD-AL-78 William J. Curtin, III, d.b.a. Curtin Call Communications, consent to assignment of license from William J. Curtin, III, d.b.a. Curtin Call Communications, assignor to Roberta Jean Fischer d.b.a. Curtin Call Communications of LaCrosse, assignee. Station: KRS630, La Crosse, Wis.

CORRECTION

21085-CD-P-78 Southwestern Bell Telephone Co., correct call sign to read KAQ648. All other particulars are to remain the same as reported on PN No. 907, dated April 24, 1978.

MAJOR AMENDMENT

20943-CD-P-78 J. M. Blodgett d.b.a. Radio Page Communications, Cape May Court House, New Jersey (KWT885). Amend to change antenna system operating on frequency 35.58 MHz. All other particulars are to remain the same as reported on PN No. 901, dated 3-13-78.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

INFORMATIVE

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding ex parte presentations, by reasons of potential electrical interference.

Frequency: 43.58 MHz.

Digital Paging Systems of N.Y., Inc., 20946-CD-P-(4)-78.

Professional Communications, Inc., 20548-CD-P-78.

RURAL RADIO SERVICE

60232-CR-P/L-78 United Telephone Co. of the Northwest (new). C. P. and license for a new central office station to operate on 454.5 MHz located at 1st Street, Lot 8, Mattawa, Wash.

60233-CR-P/L-78 United Telephone Co. of the Northwest (new). C. P. and license for a new rural subscriber station to operate on 459.5 MHz located at 17.5 KM bearing 31.1 degrees fm, Sunnyside, Wash.

POINT-TO-POINT MICROWAVE RADIO SERVICE

OR 2037-CF-TC-(7)-78 Cascade Utilities, Inc., consent to transfer of control from

MAY 8 1978

Duane L. Day and June C. Day, transferors to Day Management Corp., transferee for stations KGG59 near Alder Flat Forest, Camp, Oreg., KGH29 near Estacada, Oreg., KZS52 near Government Camp, Oreg., WCG276 near Scottsburg, Oreg., WCG277 near Elkton, Oreg., WCG278 Elkton, Oreg., and WQR20 Eagle Creek, Oreg.

IL 2035-CF-P-78 Illinois Bell Telephone Co (WAY95), 3.5 miles northeast of Alpha (Henry), Ill. Lat. 41°14'20" N., Long. 90°20'25" W. C.P. to change frequencies 6345.5H to 6315.9H, 6226.9 to 6197.2H, and 6256.5H MHz toward Moline, Ill.; change 6241.7V to 6271.4V, 6360.3V to 6390V, and add 6330.7 MHz toward Victoria, Ill.

IL 2036-CF-P-78 Same (WAY94), 2 miles west of Victoria (Knox), Ill. Lat. 41°02'09" N., Long. 90°08'09" W. C.P. to add frequency 6078.6V MHz toward Alpha, Ill.

KY 2044-CF-P-78 General Telephone Co. of Kentucky (DFC72), 0.25 miles west of 13th and Lexington, Ashland (Boyd), Ky. Lat. 38°28'34" N. Long. 82°39'05" W. C.P. to add a new point of communication on frequency 2112.4H MHz on azimuth 302.0 degrees toward Green Hill, Ky.

KY 2045-CF-P-78 Same (new), Green Hill, 0.3 miles south of Sycamore and Laurel, Greenup, (Greenup), Ky. Lat. 38°34'09" N., Long. 82°50'28" W. C.P. for a new station on frequencies 212.4H MHz on azimuth 121.9 degrees and 2172H MHz on azimuth 328.9 degrees toward Dixie Bluff, Ky.

KY 2046-CF-P-78 Same (new), Dixie Bluff, 0.2 miles north of Kentucky Highway 7, South Shore (Greenup), Ky. Lat. 38°42'58" N., Long. 82°57'15" W.C.P. for a new station on frequency 2122H MHz on azimuth 148.9 degrees toward Green Hill, Ky.

NY 2057-CF-P-78 New York Telephone Co. (KEH92), 158 State Street, Albany (Albany), N.Y. Lat. 42°39'03" N., Long. 73°45'28" W. C.P. to add frequency 6345.5V MHz on azimuth 150.2 degrees toward Austerlitz, N.Y.

NY 2058-CF-P-78 Same (new), 1 mile west of Austerlitz (Columbia), N.Y. Lat. 42°18'25" N., Long. 73°29'35" W. C.P. for a new station on frequencies 6093.5H MHz on azimuth 330.4 degrees toward Albany, N.Y., and 6004.5V MHz on azimuth 257.2 degrees toward Athens, N.Y.

NY 2059-CF-P-78 Same (new), west side of State Highway 385, Athens (Greene), N.Y. Lat. 42°14'46" N., Long. 73°50'59" W. C.P. for a new station on frequency 6256.5H MHz on azimuth 76.9 degrees toward Austerlitz, N.Y.

FL 2063-CF-P-78 General Telephone Co. of Florida (KIL88), 519 Zack Street, Tampa (Hillsborough), Fla. Lat. 27°57'01" N., Long. 82°27'24" W.C.P. to add frequency 6034.2H on azimuth 112.4 degrees toward Lithia, Fla.

NE 1175-CF-P-78 Northwestern Bell Telephone Co. (KAZ45), 118 South 19th Street, Omaha (Douglas), Nebr. Lat. 41°15'32" N., Long. 95°56'28" W. C.P. to increase power on frequencies 6301V and 11685V MHz toward Blair, Nebr.

NE 1176-CF-P-78 Northwestern Bell Telephone Co. (KBL67), 6 miles southwest of Blair (Washington), Nebr. Lat. 41°30'30" N., Long. 96°14'19" W. C.P. to increase power on frequencies 6049V and 10955V MHz toward Oakland, 5960V and 10755V MHz toward Omaha, Nebr.

NE 1177-CF-P-78 Same (KBL66), 3.5 miles south of Oakland (Burt), Nebr. Lat. 41°47'05" N., Long. 96°28'02" W. C.P. to increase power on frequencies 6301H, 11685 MHz toward Wisner, Nebr., and 6330.7V, 11405V MHz toward Blair, Nebr.

NE 1178-CF-P-78 Same (KBL43), 2.8 miles southeast of Wisner (Cuming), Nebr., Lat. 41°58'27" N., Long. 96°51'54" W. C.P. to increase power on frequencies 6049H, 10955H MHz toward Norfolk R1S, Nebr., and 6078.6H, 10755H MHz toward Oakland, Nebr.

NE 1179-CF-P-78 Same (KBK75), Norfolk R1S, 5 miles east of Norfolk (Stanton), Nebr. Lat. 42°01'09" N., Long. 97°19'06" W. C.P. to increase power on frequencies on 6330.7H, 11405H MHz toward Wisner and 6301V, 11685V MHz toward Norfolk, Nebr.

NE 1180-CF-P-78 Same (KYS33), 406 Madison Street, Norfolk (Madison), Nebr. Lat. 42°01'55" N., Long. 97°24'46" W. C.P. to increase power on frequencies 6078.6V and 10755V MHz toward Norfolk R1S, Nebr.

CA 2020-CF-P-78 Pacific Telephone & Telegraph Co. (KMA40), Hollywood, 1429 North Gower Street, Los Angeles (Los Angeles), Calif. Lat. 34°05'49" N., Long. 118°19'18" W. M.P. to increase structure height, move antennas on frequency 5989.7H MHz, and replace transmitters on frequency 6049H MHz toward Beverly Hills, Calif.

CA 2021-CF-P-78 Same (WBB243), 2555 Briarcrest Road, Beverly Hills (Los Angeles), Calif. Lat. 34°07'08" N., Long., 118°23'29" W. M.P. to increase power on frequency 6241.7V MHz and 6301V MHz, replace transmitters and antennas on 6241.7V toward Hollywood, Calif.

IL 2033-CF-P-78 Illinois Bell Telephone Co. (KYS95), 635 18th Street, Rock Island (Rock Island), Ill. Lat. 41°30'20" N., Long. 90°34'27" W. C.P. to change frequencies 6197.2V to 6226.9V, 6315.9V to 6345.5V, 6246.5H to 6286.2V MHz, replace transmitters on 6375.2H MHz and add frequency 6404.8V toward Moline Ill.

IL 2034-CF-P-78 Same (KYS94), 7th Street and 28th Avenue, Moline (Rock Island), Ill. Lat. 41°29'01" N., Long. 90°31'37" W. C.P. to add frequencies 6123.1H MHz toward Rock Island, Ill., and 6004.5H MHz toward Alpha, Ill.; change polarization from H to V on frequencies 6034.2 and 6152.8 MHz toward Rock Island, Ill.

FL 2064-CF-P-78 General Telephone Co. of Florida (WAH395), SR 640 and Browning Road, Lithia (Hillsborough), Fla. Lat. 27°50'49" N., Long. 82°10'33" W. C.P. to add frequencies 6286.2H MHz on azimuth 292.5 degrees toward Tampa, Fla., and 6315.8H MHz on azimuth 63.1 degrees toward Highland City, Fla.

FL 2065-CF-P-78 Same (KIB48), Peterson Road and Highlands Road, Highland City (Polk), Fla. Lat. 27°51'40" N., Long. 81°55'21" W. C.P. to add frequencies 6063.8H MHz on azimuth 243.2 degrees toward Lithia, Fla., and 4050H MHz on azimuth 69.9 degrees toward Winter Haven, Fla.

FL 2066-CF-P-78 Same (KIT47), 200 Avenue B NW., Winter Haven (Polk), Fla. Lat. 28°01'24" N., Long. 81°43'48" W. C.P. to add frequency 4090H MHz on azimuth 250.0 degrees toward Highland City, Fla.

UT 1762-CF-P-78 Western Tele-Communications, Inc. (WBA844), 136 East South Temple, Salt Lake City, Utah. Lat. 40°46'09" N., Long. 111°53'31" W. Construction permit to add 10955.0H MHz toward Nelson Peak, Utah.

TX 2012-CF-P-78 West Texas Microwave Co. (WJL37), North Carol Avenue, 1 block north of Highway 18, Monahans, Tex. Lat. 31°36'22" N., Long. 102°54'01" W. Construction permit to add 6093.5V MHz toward Fort Stockton II, Tex., via power split, on azimuth 181.8 degrees.

TX 2054-CF-MP-78 United WEHCO, Inc. (KEV51), 1 mile southwest of Trees, Tex. Lat. 32°47'04" N., Long. 94°02'51" W. Construction permit to add 6034.2H and 6093.5H MHz toward Bossier City, La., via power split, on azimuth 132.8 degrees.

UT 2068-CF-P-78 Western Tele-Communications, Inc. (new), KUTV, 2195 South 3600 West, Salt Lake City, Utah. Lat. 40°43'31" N., Long. 111°58'34" W. Construction permit for new station—6345.5H MHz toward Salt Lake City, Utah, on azimuth 57.2 degrees.

CORRECTIONS

PA 1949-CF-P-78 Eastern Microwave, Inc. (KGO27), Elk Hill, North Knob, 4 miles north of Dundaff, Pa. Lat. 41°42'54" N., Long. 75°33'42" W. This entry appearing in public notice of April 24, 1978, is corrected to show 6241.7H MHz toward High Knob, Pa., via power split, on azimuth 141.5 degrees.

CA 1960-CF-P-78 Frank K. Spain, doing business as Microwave Service Co. (KNK45), Edom Hill, 4 miles northwest of Thousand Palms, Calif. Lat. 33°51'58" N., Long. 116°26'03" W. This entry, appearing in public notice of April 24, 1978, is corrected to show coordinates as above. All other particulars remain the same as previously reported.

The following application was inadvertently omitted from public notice No. 907 of April 24, 1978:

WI 2019-CF-P-78 Wisconsin Telephone Co., 5 miles southwest of Waukesha CTH X, Waukesha (Waukesha), Wis. Lat. 42°57'34" N., Long. 88°18'02" W. C.P. to add frequency 10975V MHz, move and replace antennas, and increase power on frequencies 10735V, 10895V MHz toward North Prairie, Wis.

[FR Doc. 78-12382 Filed 5-5-78; 8:45 am]

[6712-01]

[Docket No. 21396, File No. TS 2-77, FCC 78-271]

OFFSHORE TELEPHONE CO.

Memorandum Opinion and Order[1]

Adopted: April 20, 1978.

Released: April 27, 1978.

In the matter of petition of Offshore Telephone Co. pursuant to section 201(a) of the Communications Act of 1934, as amended, for establishment of charges for through interstate communications service and division of such charges with South Central Bell Telephone Co. and American Telephone & Telephone Co.

1. We have before us for consideration an order of certification of the presiding Administrative Law Judge (Judge), FCC 77M-2016, released De-

[1]See 42 FR 49498.

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cember 1, 1977, requesting clarification of our memorandum opinion and order (designation order) which initiated this proceeding, 66 FCC 2d 184 (1977).

BACKGROUND

2. This proceeding resulted from a formal complaint filed under section 208 of the act, 47 U.S.C. 208, by Offshore Telephone Co. (Offshore). Offshore is engaged in interstate communication, providing "message telephone service" on an end-on-end rate basis to subscribers on drilling rigs and platforms at various points in the Gulf of Mexico.[1] Offshore alleged violations of sections 201(a) and 202(a) of the act, 47 U.S.C. §§ 201(a) and 202(a), by South Central Bell Telephone Co. (SCB), seeking two specific remedies for the alleged violations. 66 FCC 2d at 184-85. First, it requested that we establish charges applicable to a through route, in lieu of the end-on-end method of establishing charges, and order SCB to negotiate a toll-sharing agreement with respect thereto. We have authority to do so pursuant to section 201(a), after there has been opportunity for hearing, upon a finding that such is necessary or desirable in the public interest. Second, Offshore sought damages resulting from SCB's refusal in the past to establish through rates and negotiate a toll-sharing agreement which, Offshore alleges, indicates that SCB has unjustly and unreasonably discriminated against it, vis-a-vis, landline telephone companies in violation of section 202(a) of the act.

3. The presiding Judge states that he seeks clarification because, due to the nature of the complaint and the issues set forth in the designation order, he was unable to determine whether the order designated the matter as a rulemaking proceeding or an adjudication, or both. Whether this is an adjudication or rulemaking will by necessity determine important procedural rules applicable to this proceeding, e.g., the burden of proof and the applicability of the discovery rules. In an attempt to avoid requesting clarification, the Presiding Judge states that he sought comments from the parties to the proceeding. The Chief, Hearing Division of the Common Carrier Bureau, contends that this proceeding is rulemaking, that the rules for discovery do not apply, and that Offshore bears the burden of proof. Offshore argues that this is a rulemaking proceeding and that the discovery rules do not apply, but contends that section 208 of the act places the burden of proof on the carrier, SCB, and the burden of investigation on the Common Carrier Bureau. While both Offshore and the Chief, Hearing Division, agree that the rules for discovery do not apply, both argue that the Presiding Judge may, in the exercise of his or her discretion, provide for informal discovery. Conversely, SCB contends that the proceeding is adjudicatory as a matter of law, and that the burden of proof is to be borne by Offshore and that the rules for discovery are applicable.

DISCUSSION

4. At the outset, we believe it is clear that this proceeding is one of rulemaking as defined in sections 551(4) and 551(5) of the Administrative Procedure Act, 5 U.S.C. 551(4) and 551(5). Section 551(4) provides, in pertinent part, that rulemaking is an "agency process for formulating, amending, or repealing a rule" and section 551(5) provides that a rule is "• • • any agency statement of • • • future effect • • • and includes the approval or prescription of future rates • • • or practice bearing on any of the foregoing." Our designation order expressly specified that the purpose of this proceeding is to determine whether through rates, and a division of revenues therefrom, should be prescribed. Moreover, the complaint, upon which this rulemaking is predicated, alleged that section 201(a) of the Communications Act was violated. By definition under our rules, any proceeding conducted pursuant to section 201(a) is a restricted rulemaking proceeding in the absence of our order to the contrary.[2] Snce we did not otherwise order, this is a restricted rulemaking proceeding.[3]

5. Further, as we noted above, Offshore seeks two kinds of relief, a section 201(a) toll-sharing agreement and damages. Ordinarily, two different types of proceedings would result from the relief sought by Offshore, the first being rulemaking and the second being an adjudication. Since we would be precluded under our ex parte rules from communicating off-the-record with our Common Carrier Bureau in any case of rulemaking which also has adjudicatory issues included, our general practice is to institute entirely separate and distinct docketed proceedings in such cases so that we may avail ourselves of the Bureau's expertise and assistance in deciding rulemaking issues, particularly those which could involve complex ratemaking considerations. That certainly is true of this proceeding, which in many respects appears to be a case of first impression and which may raise important policy considerations within our mandate under section 1 of the Communications Act, 47 U.S.C. § 151.

6. Moreover, it is true that we could have expressly stated in our disignation order, as we did in *Tri City Telephone Co.*, 20 FCC 2d 674 (1969), that part of the Offshore complaint was really a petition for the establishment of through rates and the division of revenues therefrom. We did not do so because of our belief that such statement was unnecessary, since we styled the caption of docket 21396 as a rulemaking proceeding and established the proceeding pursuant to sections 201(a) and 403 of the act. Further, the issues specified in the ordering clause of paragraph 8 of our designation order are clearly rulemaking issues. 66 FCC 2d at 186. While we did fail to specifically order the deferral of the matters relating to the alleged section 202(a) violations, our intent was to take up the rulemaking issues first and defer questions of possible past violations of section 202(a) and damages to a subsequent, separate proceeding.[4]

7. Since we have established that this is to be a rulemaking proceeding looking to whether SCB should grant affirmative relief to Offshore beyond that available in SCB's tariffs, Offshore bears the burden of proof in this proceeding. It is Offshore which seeks the establishment of through rates and a division of revenues. In this regard, section 556(d) of the Administrative Procedure Act, 5 U.S.C. § 556(d), states "except as otherwise provided by statute, the proponent of a rule or order has the burden of proof."

8. We now come to the question of whether our discovery rules are applicable. Section 1.311(a) of our rules, 47 CFR § 1.311(a), provides that discovery is applicable in any case of adjudication as defined by the Administrative Procedure Act. Since this is not an adjudication, our formal discovery procedures are not applicable as a matter of right. See *Discovery Procedures*, 11 FCC 2d 185 187 (1968). However, the presiding Judge may, in the exercise of his discretion, provide for informal discovery. See § 1.243 (e), (f), (i), and (j) of our rules, 47 CFR 1.243 (e), (f), (i), and (j). We have ruled in the past that the presiding judge has authority to regulate and order discovery to ensure that the record contains information essential to a rulemaking decision.[5]

9. Accordingly, *It is ordered*, That our designation order is clarified to the extent indicated herein and particularly to make clear that this proceeding is in the nature of a restricted rulemaking.

FEDERAL COMMUNICATIONS COMMISSION
WILLIAN J. TRICARICO,
Secretary.

[FR Doc. 78-12383 Filed 5-5-78; 8:45 am]

[1] The rate charged Offshore's customers is comprised of the rate of Offshore to the point of connection and the rate of South Central Bell Telephone Co. (SCB) from that point to the terminal point.

[2] Section 1.1207(a) of our rules provides that "any proceedings conducted pursuant to the provisions of sections 201(a), 204, 205, 213(a), 214(d), 221(c), or 222 of the Communications Act" are rulemaking proceedings. 47 CFR 1.1207(a).

[3] Since this is a restricted rulemaking proceeding, we intended, by citing section 1.1209(d) of our rules in the ordering clause of paragraph 10 of the designation order, that the Chief, Hearing Division, as well as the trial staff, were to be separated. 47 CFR 1.1209(d).

[4] We stated in our designation order that Offshore's claim of discrimination and request for damages was preserved and in no way prejudiced by deferral and we requested that Offshore notify us, at the termination of this proceeding, of its intent to prosecute the same.

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[6712-01]

[FCC 78-289; RM-2952]

MOTION PICTURE ASSOCIATION OF AMERICA, INC.

Memorandum Opinion and Order Denying Petition for Rulemaking

Adopted: April 25, 1978.

Released: May 2, 1978.

In the matter of Motion Picture Association of America, Inc., petition for rulemaking to take measures limiting the distribution of television broadcast signals to cable television systems via satellite, RM-2952.

1. The Motion Picture Association of America, Inc. (MPAA), has filed a petition for rulemaking urging the Commission to institute a proceeding "to determine whether restrictions should be placed upon the dissemination of broadcast signals to cable systems via satellites." About 20 comments were filed supporting or opposing the petition. Those supporting the petition were primarily broadcast and program supply interests. Opposition came from cable interests as well as the parties now making use of satellite distribution. MPAA believes that satellite distribution of television signals to cable systems is creating "super stations" and that their existence is contrary to the public interest.

2. MPAA points out that WTCG, Atlanta, Ga., is now widely distributed via satellite. It says that by June 1977 requests to carry WTCG from 672 cable systems serving 1.2 million subscribers had either been granted or were pending. MPAA asserts that these statistics show WTCG is becoming a national "super station." Commenting parties opposing the petition argue that WTCG audience does not approach that of the largest independent stations.[1] Three New York City independents, WOR-TV, WPIX, and WNEW-TV have net weekly circulations of more than double the audience WTCG can now reach both off-the-air and via cable. MPAA apparently defines a super station as one whose audience and/or programming stands so far above conventional stations as to preclude real competition. The additional audience resulting from satellite transmission has not put WTCG in that category and there is no evidence that its programming is in a class by itself. MPAA also refers to station WYAH-TV, Portsmouth, Va., as being carried via satellite. However, thus far that station's signal is not available at all in that manner. Instead a package of programming for local cable origination is being supplied via satellite by the Christian Broadcasting Network, licensee of WYAH-TV.

3. Assuming that such super stations are emerging, MPAA argues that their existence would be contrary to the public interest. The thrust of its concern appears to be "localism." First, MPAA asserts that if a television station has a large national audience it will abandon or neglect its local service obligations. However, MPAA offers no evidence that this is happening or will happen. In any event, a station being distributed via satellite is still required to ascertain the needs and interests of its local community and to program to meet those needs.[2] Should WTCG or any other station fail to meet its obligations in this area, the deficiency can be addressed in the license renewal process.

4. Second, MPAA posits that importation of stations by cable systems via satellite will fractionalize the audience of local stations causing them to lose revenue. This loss could cause the local stations to cut back on local programming, or possibly even go off the air. MPAA bases this on the belief that a super station would provide such high quality programming that most local stations could not compete. Opposing comments point out that use of satellites for distribution has not affected the Commission's cable signal carriage rules. Those rules continue to limit the number of imported signals. As for the high quality program argument, these parties state first that MPAA is proceeding on pure speculation with no substantiating facts. Secondly, they wonder why increased competition would not improve the programming on television as a whole rather than have only negative consequences.

5. We are not persuaded that satellite use endangers local stations. As for the high quality programming which MPAA postulates, it hardly appears to be something the FCC should stifle. We find it hard to accept the argument that a development should be stopped because it might provide too good a service. Furthermore, while competition inherently poses a threat to those competing, we have faith that it would improve programming on the whole and not threaten diminution of service to the public.

6. Petitioner and its commenting supporters place great emphasis on the following language in our decision to delete the cable "leap-frog" rules:

> We will, therefore, continue to monitor the effect of the abolition of the leapfrogging rule with an eye to the effect the use of satellites may have. *If we find that "super-stations" are, in fact, being created, and that their creation is working to the detriment of the public, appropriate corrective measures will be taken.* [Emphasis added.][3]

These parties apparently read the above language to say that if significant satellite use occurs, the Commission will step in. However, it plainly does not say that. Instead the burden of proof lies on those who would restrict service to the public. If it can be shown: (1) That super stations are being created, and (2) that their creation is harmful to the public, then we will step in. But mere allegation without any factual support does not approach the showing necessary. There must be some evidence that the public is being harmed or is likely to be harmed before we can introduce a remedy.

7. One point ignored in MPAA's petition is that the Commission first approved the use of satellite transmission for distributing television signals to cable systems less than 18 months ago. In that case, *Southern Satellite Systems, Inc.*, FCC 76-1149, 62 FCC 2d 153 (1976), we had to make a determination whether this use was in the public interest. In that proceeding we concluded:

> SSS's proposal will permit a more efficient utilization of high capacity domestic satellite facilities • • •. SSS's proposal would also make available a service that cannot be efficiently or economically provided by terrestrial means and would result in an increase in the diversity of cable television programming available to the public [at para. 14].

Nothing unforeseen has happened since that decision and no new facts have been presented. It appears that Southern Satellite is successfully doing what it proposed and what we determined was a good thing. MPAA is

[1] *American Telephone & Telegraph (MPL)*, Docket 20814, 62 FCC 2d 35, 37 (1976); see also *Mebane Home Telephone*, Docket 20476, FCC 75M-1675, released October 1, 1975.

[1] And, of course, many stations with network affiliations have much larger potential audience than WTCG.

[2] For further information on those obligations, see *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 36 FR 4092 (1971) and *First Report and Order in Docket 19716*, 57 FCC 2d 418, 41 FR 1372 (1976).

[3] *Report and Order in Docket 20487*, FCC 75-1409, 57 FCC 2d 625, 645 (1975), recons. denied, FCC 76-521, 59 FCC 2d 934 (1976).

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urging that this success is reason to revoke or alter our authorization. Finally, it is significant that the Certificate granted to Southern Satellite was limited to 5 years for the express purpose of reevaluating this form of service in light of our experience at that time. We feel MPAA's request for evaluation now is premature.

Accordingly, *It is ordered*, That the petition for rulemaking (RM-2952) is denied.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-12396 Filed 5-5-78; 8:45 am]

[6712-01]

[FCC 78-267]

USED 23-CHANNEL CB RADIOS

Order Denying Petition To Extend or Waive Marketing Cut-Off Date

AGENCY: Federal Communications Commission.

ACTION: Denies petition to extend or waive marketing cut-off date.

SUMMARY: Order denies petitions to extend or waive January 1, 1978, marketing cut-off date for used 23-channel CB radios.

EFFECTIVE DATE: Nonapplicable.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Herman Garlan, Office of Chief Engineer, FCC, Washington, D.C. 20554, 202-632-7095.

Adopted: April 20, 1978.

Released: May 3, 1978.

By the Commission: Commissioner White dissenting and issuing a statement.

Order. In the matter of petitions to extend the January 1, 1978, marketing cut-off date for used 23-channel CB radios.

1. The Commission has before it two petitions to waive §§ 15.59(g) and 95.641(c)(6) of our rules which specify tht marketing of 23-channel CB radios[1] shall be terminated not later than January 1, 1978. The petitions request waiver for used 23-channel CB radios. See appendix.

2. One petition was filed on January 30, 1978, by Davidson Supply Co. and was put on public notice January 31, 1978 (FCC No. 96402). The second petition was filed on February 3, 1978, by the Colorado Pawnbrokers Association and was put on public notice on February 14, 1978 (FCC No. 96960). In response to these public notices a comment was received on February 21, 1978, from Pathcom, Inc., supporting the waiver requested in the petitions. A letter was also received on February 7 1978, from Capitol Loans which asks for special permission to dispose of the CB radios that Capitol has on hand which Capitol is holding as pledges on loans.[2]

3. The Commission established the new technical standards for CB radios and also established cut-off dates for the manufacture and marketing of 23-channel CB radios in several actions in 1976.[3][4] The Commission has also on three separate occasions[5][6][7] considered the question of waiver of the January 1, 1978, marketing cut-off date. With the exception of hand held CB radios[8] which presented exceptional circumstances, the Commission has denied all requests for waiver and has consistently maintained that marketing of 23-channel CB radios must be terminated not later than January 1, 1978. Our most recent denial (Order of November 9, 1978) was affirmed on review by the court.[8]

The Davidson Petition

4. Davidson explains that it sells CB radios at wholesale and at retail and that in 1977 it had sold 17,129 40-channel units and 89,933 23-channel units (Davidson exhibit A). In connection with its established policy of guaranteeing customer satisfaction, Davidson states that it accepts return of defective equipment and either refunds the customer's money or exchanges the returned merchandise for new equipment from stock. In the case of dealers, Davidson accepts return of defective merchandise and issues a credit for such equipment. Davidson then ships such returned equipment to the manufacturer for repair. Upon repair the equipment is returned to Davidson and is sold as used equipment. In a set of exhibits attached to its petition Davidson shows that during 1977, 490 40-channel units and 1,741 23-channel units were returned to the manufacturer for repair, and that as of December 31, 1977, 140 40-channel and 309 23-channel units had not yet been returned to Davidson. To allow it to continue its practice of exchanging and repairing defective 23-channel CB radios, Davidson requests the Commission either to waive the January 1, 1978, marketing cut-off date or to construe the term "marketing" not to apply to such used equipment.

The Colorado Pawnbrokers Petition

5. The Colorado Pawnbrokers Association represents 39 licensed pawnbrokers in the State of Colorado which constitutes 80 percent of the pawnbrokers in that State. Under Colorado law, the petitioner explains, no pawnbroker shall sell any pledge in his possession until 6 months after maturity of the loan or until the pledgor has been given 10 days notice by mail of the time within which the pledge shall be redeemed. The petition explains that data collected from the Association members shows that they hold 749 23-channel CB radios under pledge which are not yet available to be sold. They also hold 376 23-channel CB units that have become available for sale since January 1, 1978.

6. The petition explains further that experience indicates that about 80 percent of the pawned CB radios would ordinarily be redeemed by their owners. However, it appears that public notice of the FCC ruling[9] is causing a substantial reduction in the number of redemptions. Estimating that $20 was advanced on each CB radio that was pawned, petitioner states that the units now or soon to be available for sale represent an out of pocket loss of $22,500.

7. Petitioner explains that the advance of money by a pawnbroker is not a typical loan. Such a loan has no maturity date and continues indefinitely as long as interest is paid and the pledge is not redeemed. The pawnbroker has no control over the maturity of the loan and is powerless to require new security. If the borrower chooses not to repay his loan and abandons the pledged property, the borrower has no further obligation to the pawnbroker and the pawnbroker has no further recourse against the borrower. The pawnbroker's only way to recover the money he loaned is to sell the unredeemed pledge.

8. Referring to the Commission's order of November 9, 1977,[10] petitioner alleges that the reference to "adequate notice" in paragraph 9 of that order cannot appropriately be applied to pawnbrokers, since they do not fit the description of parties "involved in CB marketing" and that granting the requested waiver would not constitute unwarranted favoritism on behalf of pawnbrokers in view of the unique characteristics of the pawnbroking business and the legal restrictions under which pawnbrokers operate.

The Pathcom Filing

9. Pathcom urges the Commission to grant the waiver requested by Davidson and extend this waiver to all the retailers who follow the business practice described by Davidson in its petition. Pathcom points out that in many States, a retailer is required to refund the cost of inoperable equipment and in almost all States a consumer seeking redress from small claims court action effectively force the retailer to refund money.

10. Pathcom recognizes that the intent of the "new type of regulation"[11] was to stop the continued proliferation of interference causing devices. It argues, however, that a used CB radio is already on the air and as such its repair does not constitute a new potential source for interference. Finally, Pathcom argues, that denial of the instant petitions will work an additional hardship particularly on the smaller retailers who, having suffered by not being able to sell after January 1, 1978,[12] the new 23-channel CB radios they had in stock, will be compelled to take further losses if they are not permitted to sell as used equipment the repaired 23-channel CB radios that had been taken back from their customers under warranty.

Commission Decision

11. Let us turn first to Davidson. The business practice of taking back inoperable equipment, returning such equipment to the manufacturer for repair and subsequently selling this equipment as "used equipment" is precisely the business practice described by Montgomery Ward in its petition that was considered and denied in the Commission's order of August 24, 1977.[13]

12. Davidson is silent on the interference potential of the used 23-channel CB radios it is seeking to sell after January 1, 1978. However, Pathcom in supporting Davidson, argues that the used equipment is already on the air and therefore does not constitute a new potential source of interference. The Commission cannot agree with Pathcom. A transaction in which Davidson (or for that matter any other retailer) takes back a defective piece of equipment, has it repaired and returns the repaired equipment to the purchaser, is not a sale that is covered by our marketing cut-off regulation. Similarly, the exchange of a working unit for a defective unit would not be considered marketing. This interpretation is set out in paragraph 10 of our public notice of January 30, 1978: "Marketing of 23-channel CB radios" (FCC No. 96235).[14]

13. However, where the dealer takes back a defective 23-channel unit, has it repaired and then seeks to sell it as used equipment to a new purchaser, such a transaction is considered marketing and is prohibited after January 1, 1978. This last transaction does constitute a new potential source of interference, Pathcom's assertion to the contrary, and allowing the sale of such a piece of used equipment would fly in the face of the Commission's decision to remove interference capable equipment from the market place at the earliest possible time.

14. The Colorado Pawnbrokers argue that they are caught in a bind between the Commission's regulation that prohibits the sale of an abandoned pledge (a 23-channel CB radio) to redeem the loan that had been made thereon and the Colorado State law that prohibited the timely sale of such pledge. Moreover, they argue that the pawnbrokers did not receive adequate notice. The pawnbrokers argue that they do not fit the description of parties "involved in CB marketing" and cannot be expected to be knowledgeable of trade publications in which the ban against marketing of pre-September 10, 1976 was discussed.

15. The Commission is sympathetic to the pawnbroker's dilemma but cannot accept the argument that it is due to lack of notice concerning the marketing cut-off date. Our Orders of August 1976[15] which established this cut-off date were properly publicized in the FEDERAL REGISTER in accordance with established Federal rulemaking procedures[16] and parties affected are charged with notice.[17] Moreover, as we pointed out in paragraph 9 of our Order of November 9, 1977,[18] these rules were widely publicized not only in trade publications but also in publications of general circulations.

16. While it may be technically correct that pawnbrokers are not "involved in CB marketing" as alleged, it would appear that a pawnbroker must have a good knowledge of the market value of a CB radio (or of any other item that he accepts as security for a loan) if he is to succeed in his business. It can be expected therefore that a pawnbroker would take whatever measures are available under the law to protect his loan. In this connection we note that the 1973 Colorado Revised Statutes 12-56-112 set out a procedure for the pawnbroker to terminate a loan.

17. The Colorado Pawnbrokers' and Davidson's arguments for relief appeared to be largely based on financial hardship and economic loss. We have not been persuaded by similar arguments in our consideration of earlier requests for waiver or extension of the marketing cut-off date.[19] Nor are we persuaded in this instance. In setting the marketing cut-off date at January

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[1] As used herein, the term 23-channel CB radio refers to a CB radio (transceiver) that does not meet the new technical specifications that were adopted by the Commission on July 27, 1976, and went into effect on Sept. 10, 1976. All CB radios manufactured to meet these new standards have a 40-channel capability.

[2] A petition from the Heilig-Meyers Co. and a comment from the Texas Pawnbrokers Association were received too late to permit detailed treatment in this order. Heilig-Meyers, a merchandiser in several States on the East Coast seeks the same relief sought by Davidson. The Texas Pawnbrokers filing and supplement is essentially a petition asking for the same relief sought by the Colorado Pawnbrokers Association.

[3] Revised technical standards for CB transmitters and the transmitter part of a CB radio (transceiver) were adopted in docket 20120, 2d report and order adopted July 27, 1976; released July 29, 1976 (41 FR 32678; 60 FCC 2d 762) and memorandum opinion and order adopted Oct. 18, 1978, released Oct. 28, 1976 (41 FR 47445; 62 FCC 2d 646). These revised technical standards went into effect on Sept. 10, 1976.

[4] Technical standards were imposed on CB receivers and the receiver part of a CB radio (transceiver) in docket 20746, 1st report and order adopted July 27, 1976, released Aug. 4, 1976 (41 FR 32590; 60 FCC 2d 687) and memorandum opinion and order adopted Oct. 18, 1976, released Oct. 28, 1976 (41 FR 47442; 62 FCC 2d 623). These new receiver standards went into effect on Sept. 10, 1976.

[5] "In the matter of manufacture and sale of 23-channel class D citizens band equipment that was type accepted prior to Sept. 10, 1976." Order adopted Aug. 1, 1977, denies request to establish a cut-off for importation and reaffirms the Jan. 1, 1978, marketing cut-off date. FCC 77-562. Simultaneously, the Commission on Aug. 1, 1977, issued a public notice (FCC 77-563) cautioning and reminding manufacturers and importers that manufacture of 23-channel CB radios must be terminated not later than Aug. 1, 1977, and marketing not later than Jan. 1, 1978.

[6] "In the matter of petitions to extend the sales cut-off date for certain CB radios." Order adopted Aug. 24, 1977, extended the sales cut-off date to hand held CB radios (as defined in par. 12 of the order) and denied an extension of sales cut-off for all other (23-channel) CB radios, FCC 77-586; 66 FCC 2d 139.

[7] "In the matter of petitions to extend the Jan. 1, 1978, sales cut-off date for 23-channel CB radios and CB receiver/converters." Order adopted Nov. 9, 1977, denied the petitions, FCC 77-768; 66 FCC 2d.

[8] *Arthur Fulmer, Inc.*, v. *FCC*, D.C. Cir. No. 77-2064.

[9] The petition does not indicate which FCC ruling is referred to. It may be assumed that the term FCC ruling encompasses the several FCC orders that established the new technical specifications and the manufacturing and marketing cut-off dates for 23-channel CB radios, and the orders that denied waiver or extension of the marketing cut-off date.

[10] See footnote 7 above.

[11] Presumably the Commission's new technical standards for CB radios and the manufacturing and marketing cut-off dates for 23-channel CB radios.

[12] See footnote 7 above.

[13] See footnote 6 above.

[14] Item 10 of this public notice states:

If a customer purchases a 23-channel radio before Jan. 1, 1978, and the radio is defective, can the dealer exchange the radio or repair it?

Both of these actions would be allowable. Repairs to the radios are not prohibited. In the case of an exchange program to supply the customer with a working radio in place of a defective unit, this would not be considered marketing by the Commission as the customer would still be in possession of the same type of unit that was originally purchased before the cut-off date. However, the dealer would not be permitted to sell the unit he took in exchange.

[15] See footnotes 3 and 4 above.

[16] 5 U.S.C. 552 (D) and (E).

[17] 44 U.S.C. 1507.

[18] See footnote 7 above.

[19] See footnotes 5, 6 and 7 above.

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1, 1978 we recognized that some hardship and financial loss would occur. We must reiterate that:

The dates chosen [August 1, 1977 for termination of manufacture and January 1, 1978 for termination of sales] represented however what was and is believed to be a reasonable compromise between the alternatives of providing the lowest level of interference potential on the one hand and a *total loss or waste of untold dollars of inventory of components, parts and finished sets on the other.* (italic supplied.)[20]

18. The need to reduce the potential interference to television, the land mobile service, and others is overriding. Neither of the petitioners had challenged this need. The loss asserted to be sustained by petitioners is no greater and in many cases less than that claimed by earlier petitioners who were denied. The Commission must insist therefore that the January 1, 1978 marketing cut-off date for 23-channel CB radios must stand.

19. In view of the above the petitions by Davidson, Heilig-Meyers and the Colorado Pawnbrokers are denied.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

PETITION FOR WAIVER

Davidson Supply Co., petition filed January 30, 1978, by attorney Kenneth R. Keller of Tuggle, Duggins, Meschan, Thornton & Elrod, P.A., 228 West Market Street, Greensboro, N.C. 27402.

Colorado Pawnbrokers Association, petition filed February 3, 1978, by attorney Wilton W. Cogswell III. Mining Exchange Building, Colorado Springs, Colo. 80903.

Heilig-Meyers Co., petition filed March 24, 1978, by attorney Larry M. Goodall of McGuire, Woods & Battle, Ross Building, Richmond, Va. 23219

Texas Pawnbrokers Association, comment filed February 24, 1978, with supplement on April 7, 1978, by attorney Stephen A. Goldberg of Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006. (These filings are labeled comment and supplement to comments, but for all practical purposes, these filings constitute a petition to exempt CB radios held by members of the Texas Pawnbrokers Association from the January 1, 1978, marketing cut-off date.)

COMMENTS

Pathcom, Inc., 24049 South Frampton Avenue, Harbor City, Calif. 90710; letter dated February 14, 1978.

Capitol Loans, 774 Poplar Avenue, Memphis, Tenn. 38105; letter dated February 4, 1978 (although not strictly a comment in this proceeding, this letter essentially asks for the same relief requested by the Colorado Pawnbrokers Association).

[20]FCC Order of Aug. 1, 1978 at Paragraph 5. See footnote 5 above.

DISSENTING STATEMENT OF COMMISSIONER MARGITA E. WHITE

IN RE ORDER DENYING EXTENSION OF MARKETING CUT-OFF DATE FOR USED CB RADIOS

I dissent to the majority's decision to deny an extension of the marketing cut-off date for used 23-channel CB radios for the same reasons that I stated in my dissent to the original order denying an extension of the marketing cut-off date for new CB equipment. See my dissenting statement *In the Matter of Petitions To Extend the January 1, 1978, Sales Cut-Off Date for 23-Channel CB Radios and CB Receiver/Converters*, FCC 77-768 (released November 30, 1977).

[FR Doc. 78-12397 Filed 5-5-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

GERING NATIONAL CO.

Formation of Bank Holding Company

Gering National Co., Gering, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding by acquiring 80 percent or more of the voting shares of Gering National Bank & Trust Co., Gering, Nebr. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Gering National Co., Gering, Nebr., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Pioneer Saving Co., Gering, Nebr. Notice of the application was published on April 6, 1978, in the Gering Courier, a newspaper circulated in Gering, Nebr.

Applicant states that the proposed subsidiary would engage in the activities of operating an industrial loan and investment company pursuant to the laws of the State of Nebraska, including the issuance of paid-up certificates of indebtedness, installment certificates of indebtedness and making single payment demand loans, consumer loans, commercial loans and first and second mortgages on real estate; and acting as insurance agent for the sale of single and joint decreasing term credit life insurance and credit accident and health insurance and level term credit life insurance on single payment demand notes. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 1, 1978.

Board of Governors of the Federal Reserve System, May 2, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-12403 Filed 5-5-78; 8:45 am]

[6210-01]

NEW HAMPTON BANCSHARES, INC.

Formation of Bank Holding Company

New Hampton Bancshares, Inc., New Hampton, Mo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 87.2 percent of the voting shares (including directors' qualifying shares) of First State Bank of New Hampton, New Hampton, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 31, 1978.

Board of Governors of the Federal Reserve System, May 1, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-12404 Filed 5-5-78; 8:45 am]

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[3510-25]

FOREIGN-TRADE ZONES BOARD

[Docket No. 4-78]

FOREIGN-TRADE ZONE—ORLANDO, FLA.

Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Orlando Aviation Authority (Aviation Authority), a public agency of the City of Orlando, requesting a grant of authority for the establishment of a general-purpose foreign-trade zone in the City of Orlando, within the Orlando Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 1, 1978. The applicant is authorized to make this proposal under Chapter 75-464, Laws of Florida, Acts of 1975.

The proposal calls for the establishment of a 201-acre general-purpose foreign-trade zone at the Orlando International Airport, about 8 miles south of downtown Orlando. Owned by the City of Orlando, the proposed zone area has been assigned to the Aviation Authority for development. At the outset of zone operations, the Aviation Authority plans to use an existing warehouse (Building 437), located at Florida Road and 9th Street. Other parcels within the 201-acre site will be activated as the need arises. The airport site is also served by highway and rail.

The application contains economic data and information concerning the need for zone services in the Orlando area. Several firms have indicated their intention to use the zone for storage, testing, repackaging, exhibition, and distribution activities. Among the initial zone users are firms involved in a variety of products, including sporting goods, electronic equipment, agricultural equipment, scientific instruments, graphic supplies, and automotive and aircraft parts.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230; James R. Cahill, Director, Inspection and Control Division, U.S. Customs Service, Region IV, 7370 Northwest 36th Street, Miami, Fla. 33166; and Col. Donald A. Wisdom, District Engineer, U.S. Army Engineer District, Jacksonville, P.O. Box 4970, Jacksonville, Fla. 32201.

In connection with its investigation of the proposal, the Examiners Committee will hold a public hearing on June 7, 1978, beginning at 9 a.m., in the City Council Chambers, 2nd Floor, City Hall, 400 S. Orange Avenue, Orlando, Fla. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. Such person should, by May 31, notify the Board's Executive Secretary, in writing at the address below, of their desire to be heard. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through July 7, 1978. The submission of evidence is not desired during the posthearing period unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director, U.S. Customs Service, 9955 Benford Road, Orlando, Fla. 32309.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, 14th and E Streets NW., Washington, D.C. 20230.

Dated: May 3, 1978.

JOHN J. DA PONTE, JR.,
Executive Secretary.

[FR Doc. 78-12435 Filed 5-5-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6987-A, AA-6987-B and AA-6987-D]

ALASKA

Alaska Native Claims Selection

On January 27, 1974, Yak-Tat Kwaan Inc., for the Native village of Yakutat, filed selection application AA-6987-A; on December 12, 1974, filed selection application AA-6987-B; and on December 16, 1974, filed selection application AA-6987-D under the provisions of section 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 706; 43 U.S.C. 1601, 1615 (Supp. V, 1975)), for the surface estate of lands located in the Tongass National Forest in the Yakutat area.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 16(b), aggregating approximately 20,003 acres is considered proper for acquisition by Yak-Tat Kwaan Inc. and is hereby approved for conveyance pursuant to section 14(b) of the Alaska Native Claims Settlement Act:

U.S. Survey 3589, Alaska, Lots 1, 2, 3, 4, 5, 5-A, 8, 9 and 10, situated on the southerly shore of Monti Bay, approximately ½ mile southwest of Yakutat.

U.S. Survey 3590, Alaska, Lots D, J, K, L, L-1 and N, situated on the southerly shore of Monti Bay, approximately ½ mile south of Yakutat.

Containing 9.46 acres.

COPPER RIVER MERIDIAN, ALASKA (SURVEYED)

T. 27 S., R. 33 E.,
- Sec. 1, Lots 1 to 20, inclusive, W½SW¼, all;
- Sec. 2, Lots 1 to 4, inclusive, SE¼SE¼, all;
- Sec. 10, Lots 1, 2 and 3, SE¼SE¼, all;
- Sec. 11, Lots 1 to 8, inclusive, NE¼NE¼, SW¼, SW¼SE¼, all;
- Sec. 12, Lots 1 to 21, inclusive, all;
- Sec. 13, Lots 1 to 7, inclusive, all;
- Sec. 14, Lots 1 to 11, inclusive, all;
- Sec. 15, Lots 1 to 5, inclusive, E½NE¼, all;
- Sec. 22, Lot 1, all;
- Sec. 23, Lots 1 to 5, inclusive, Lot 6 excluding AA-12392, request for designation as section 3(e), Alaska Native Claims Settlement Act, for 1 acre, Khantaak Lighthouse;
- Sec. 24, Lots 1 and 2;
- Sec. 26, Lots 1 to 4, inclusive;
- Sec. 27, Lots 4 to 7, inclusive, S½SW¼;
- Sec. 34, Lots 1 to 8, inclusive, NE¼, E½NW¼, N½SE¼;
- Sec. 35,, Lots 1 to 5, inclusive, S½NE¼, NW¼NE¼, NW¼, N½S½;
- Sec. 36, Lots 1 to 8, inclusive, S½NW¼, N½SW¼.

Containing 3,763.25 acres.

T. 27 S., R. 34 E.,
- Sec. 1, Lots 1 to 4, inclusive, E½, NE¼SW¼, S½SW¼, all;
- Sec. 2, Lots 1, 2 and 3, SE¼SE¼, all;
- Sec. 4, Lots 1, 2 and 3, all;
- Sec. 5, Lots 1 to 13, inclusive, NW¼NE¼, SE¼SE¼, all;
- Sec. 6, Lots 1 to 15, inclusive, all;
- Sec. 7, Lots 1 to 12, inclusive, all;
- Sec. 8, Lots 1 to 11, inclusive, N½NE¼, all;
- Sec. 9, Lots 1 to 5, inclusive, all;
- Sec. 10, Lots 1 to 5, inclusive, SE¼NE¼, E½SE¼, all;
- Sec. 11, Lot 1, E½, NE¼NW¼, S½NW¼, SW¼, all;
- Secs. 12, 13 and 14, all;
- Sec. 15, Lots 1 to 6, inclusive, NE¼NE¼, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼, all;
- Sec. 16, Lots 1, 2 and 3, all;
- Sec. 17, Lots 1 to 10, inclusive, W½E½, SE¼NW¼, E½SW¼, all;
- Sec. 18, Lots 1 to 8, inclusive;
- Sec. 19, Lot 1;

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Sec. 20, Lots 1 to 6, inclusive, NE¼, E½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 21, Lots 1, 2 and 4, SW¼NW¼, W½SW¼, E½SE¼;
Sec. 22, Lots 1 and 2, E½, S½NW¼, SW¼, all;
Secs. 23 to 28, inclusive, all;
Sec. 29, Lots 1 to 4, inclusive, E½E½;
Sec. 31, Lots 1 to 4, inclusive;
Sec. 32, Lots 1 to 6, inclusive, E½NE¼;
Sec. 33, Lot 1, N½, N½SW¼, SE¼SW¼, SE¼;
Secs. 34, 35 and 36, all.

Containing 14,312.99 acres.

Aggregating 18,085.70 acres.

COPPER RIVER MERIDIAN, ALASKA (UNSURVEYED)

T. 27 S., R. 33 E.,
Sec. 24, unsurveyed portion of island adjoining U.S. Survey 400.

Containing approximately 5 acres.

T. 26 S., R. 34 E.,
Secs. 13 and 23 (fractional), all;
Sec. 25, W½NE¼, NW¼, N½SW¼, SW¼SW¼;
Secs. 26 and 35 (fractional), all;
Sec. 36, W½NW¼, S½SW¼ (fractional), SE¼.

Containing approximately 1,005 acres.

T. 28 S., R. 34 E.,
Sec. 6, N½.

Containing approximately 316 acres.

T. 27 S., R. 35 E.,
Sec. 17, NW¼NE¼, NW¼;
Sec. 18, NE¼, SW¼, N½SE¼.

Containing approximately 592 acres.

Aggregating approximately 1,918 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. As to the lands in T. 27 S., R. 34 E., Copper River Meridian, the highway easement deed, AA-12407, dated February 16, 1967, issued by the Bureau of Public Roads, U.S. Department of Commerce with the concurrence of the U.S. Forest Service for a right-of-way for a Federal Aid Highway. Act of August 27, 1958, as amended, 23 U.S.C. 317;

2. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accuring unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

3. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6987-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 1 C5, D1, D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

b. (EIN 3 C1, C3, D1, D3, G) An easement sixty (60) feet in width for an existing road from Yakutat to the west boundary of section 27, T. 27 S., R. 33 E., Copper River Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

c. (EIN 26 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved together with the right to do all things necessary in connection therewith.

d. (EIN 27 C) Easements for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources, including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easements will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation *Calista, et al.* v. *Andrus* and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therin, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, previleges and benefits thereby granted to him;

3. The following third-party interests, if valid, created and identified by the U.S. Forest Service as provided by section 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g) (Supp, V, 1975)):

a. Cemetery, City of Yakutat, special use permit of June 30, 1934 in section 23, T. 27 S., R. 33 E.

b. Sanitary Landfill, City of Yakutat, special use permit of May 20, 1977 in section 29, T. 27 S., R. 34 E.

4. Requirements of section 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (Supp, V, 1975)), that, as to the portion of the above-described lands located within the boundaries of a national forest (a) until December 18, 1976, the sale of any timber from such lands is subject to the same restrictions relating to the export of timber from the United States as are applicable to national forest lands in Alaska under rules and regulations of the Secretary of Agriculture; and (b) until December 18, 1983, such lands shall be managed under the principles of sustained yield and under managememt practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands;

5. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp, V, 1975)), that the grantee hereunder convey those portions, if any , of the lands hereinabove granted, as are prescribed in said section; and

6. The terms and conditions of the agreement dated March 2, 1978, between the Secretary of the Interior, Yak-Tat Kwaan Inc., and Sealaska Corp. A copy of the agreement shall be attached to and become a part of the coveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureu of Land Management easement case file for Yak-Tat Kwaan Inc., serialized AA-6987-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

The United States waives administration of oil and gas leases AA-4875 and AA-4941 as well as all of the land embraced therein approved for interim conveyance, and the leases will be transferred to Sealaska Corportation when conveyance is issued.

COPPER RIVER MERIDIAN, ALASKA

AA-4875

T. 27 S., R. 34 E.,
Secs. 20, 21, 28, all;
Sec. 29, E½.

AA-4941

T. 27 S., R. 34 E.,
Secs. 35 and 36, all.

Pursuant to section 16(b) of the Alaska Native Claims Settlement Act, Yak-Tat Kwaan Inc. is entitled to 23,040 acres of land; by this decision approximately 20,003 acres have been approved for conveyance. Patent to the surface estate of the surveyed land herein approved will be issued when this decision becomes final; interim conveyance will be issued for the unsurveyed land. Conveyance of the remaining entitlement to Yak-Tat Kwaan Inc. will be made at a later date. Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be issued to Sealaska Corp. when conveyance is granted to Yak-Tat Kwaan Incorporated for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Anchorage Times and in the Southeast Alaska Empire (Juneau). Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 7, 1978, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of, and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

ROBERT E. SORENSON,
Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 78-12394 Filed 5-5-78; 8:45 am]

[4310-84]

[AA-6987-A, AA-6987-B, AA-6987-C and AA-6987-D]

ALASKA

Alaska Native Claims Selection

On January 27, 1974, Yak-Tat Kwaan Inc., for the Native village of Yakutat, filed selection application AA-6987-A; on December 12, 1974, filed selection applications AA-6987-B and AA-6987-C; and on December 14, 1974, filed selection application AA-6987-D under the provisions of section 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 706; 43 U.S.C. 1601, 1615 (Supp. v, 1975)), for the surface estate of lands located in the Tongass National Forest in the Yakutat area.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do no include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 16(b), aggregating approximately 1,866 acres, is considered proper for acquisition by Yak-Tat Kwaan Inc., and is hereby approved for interim conveyance pursuant to section 14(b) of the Alaska Native Claims Settlement Act:

U.S. Survey 2134, Alaska, Yakutat Native Cemetary, situated about three-fourths of a mile east of the entrance of Monti Bay.

Containing 2.10 acres.

COPPER RIVER MERIDIAN, ALASKA (SURVEYED)

T. 27 S., R. 33 E.,
Sec. 20, Lot 1, all;
Sec. 21, Lots 1, 2 and 3, all;
Sec. 27, Lots 1, 2 and 3;
Sec. 28, Lots 1 to 17, inclusive, NW¼NE¼, NW¼, all;
Sec. 29, Lots 1 to 7, inclusive, all;
Sec. 32, Lots 1 and 2, Lot 3 excluding AA-15156, request for designation as sec. 3(e), Alaska Native Claims Settlement Act, Lot 4 excluding Native allotment application AA-6594;
Sec. 33, Lots 1 to 5 and 8 to 14, inclusive, Lots 6, 7, 15 and 16 excluding Native allotment application AA-6594.

Containing 1,079.70 acres.

T. 27 S., R. 34 E.,
Sec. 21, Lot 3 excluding AA-15143, request for designation as sec. 3(e), Alaska Native Claims Settlement Act, S½NE¼, SE¼NW¼, E½SW¼, W½SE¼.

Containing 298 acres.
Aggregating 1,379.80 acres.

COPPER RIVER MERIDIAN, ALASKA (UNSURVEYED)

T.26 S., R. 34 E.,
Sec. 24 (fractinal), all;
Sec. 25, E½NE¼.

Containing approximately 335 acres.

T. 27 S., R. 35 E.,
Sec. 18, NW¼.

Containing approximately 152 acres.
Aggregating approximately 487 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. As to the lands in T. 27 S., R. 34 E., Copper River Meridian, the highway easement deed, AA-12407, dated February 16, 1967, issued by the Bureau of Public Roads, U.S. Department of Commerce with the concurrence of the U.S. Forest Service for a right-of-way for a Federal Aid Highway under the act of August 27, 1958, as amended, 23 U.S.C. 317;

2. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)) (Supp. V, 1975); and

3. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6987-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 1 C5, D1, D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

b. (EIN 3 C1, C3, D1, D3, G) An easement sixty (60) feet in width for an existing road from Yakutat westerly around the Phipps Peninsula via The Ankau and Ocean Cape, then southeasterly along the shore of the Gulf of Alaska for access to public lands and waters. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

c. (EIN 3a C1, C3, D1, D3, G) An easement for an existing access trail, fifty (50) feet in width from road easement EIN 3 C1, C3, D1, D3, G at the bridge crossing the Ankau north and westerly by the cemetery to Point Carrew and around to intersect road easement EIN 3 C1, C3, D1, D3, G. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

d. (EIN 7 G) An easement sixty (60) feet in width for an existing road from junction with road in section 21, T. 27 S., R. 34 E., Copper River Meridian (covered by highway easement deed AA-12407), northerly to a 2-acre log transfer site on Sawmill Cove. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

e. (EIN 10 G) An easement one hundred (100) feet in width for a proposed road from the existing road in section 18, T. 27 S., R. 35 E., Copper River Meridian, northeasterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

f. (EIN 11 D9) A streamside easement twenty-five (25) feet in width upland of and

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parallel to the ordinary high water mark on all banks and an easement on the entire bed of Humpback Creek through section 24 and the northeast ¼ of section 25, T. 26 S., R. 34 E., Copper River Meridian. Purpose is to provide for public use of waters having highly significant present recreational use.

g. (EIN 23 C4) A one (1) acre site easement upland of and parallel to the mean high tide line in section 28, T. 27 S., R. 33 E., Copper River Meridian, on the north side of the The Ankau near the bridge. The site is for vehicle use.

h. (EIN 26 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved together with the right to do all things necessary in connection therewith.

i. (EIN 27 C) Easements for the transportation of energy, fuel, and natural resources which are the property of the United States, or which are intended for delivery to the United States, or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources, including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easements will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation *Calista, et al.*, v. *Andrus* and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him;

3. The following third-party interests, if valid, created and identified by the U.S. Forest Service as provided by section 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g) (Supp. V, 1975)):

a. Cemetery, City of Yakutat, special use permit of November 2, 1963, in section 27, T. 27 S., R. 33 E.

b. Residence, R. Edwards, special use permit of November 2, 1970, in section 29, T. 27 S., R. 33 E.

c. Telephone right-of-way, U.S. Coast Guard, special use permit of January 16, 1970, across sections 29, 32, and 33, T. 27 S., R. 33 E.

4. Requirements of section 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (Supp. V, 1975)), that, as to the portion of the above-described lands located within the boundaries of a national forest (a) until December 18, 1976, the sale of any timber from such lands is subject to the same restrictions relating to the export of timber from the United States as are applicable to national forest lands in Alaska under rules and regulations of the Secretary of Agriculture; and (b) until December 18, 1983, such lands shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands;

5. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

6. The terms and conditions of the agreement dated March 2, 1978, between the Secretary of the Interior, Yak-Tat Kwaan Inc. and Sealaska Corp. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Yak-Tat Kwaan Inc., serialized AA-6987-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

The United States waives administration of oil and gas leases AA-4875 and AA-4941 as well as all of the land embraced therein approved for interim conveyance, and the leases will be transferred to Sealaska Corp. when conveyance is issued.

COPPER RIVER MERIDIAN, ALASKA

AA-4875

T. 27 S., R. 34 E.,
Secs. 20, 21, 28, all;
Sec. 29, E½.

AA-4941

T. 27 S., R. 34 E.,
Secs. 35 and 36, all.

Pursuant to section 16(b) of the Alaska Claims Settlement Act, Yak-Tat Kwaan Inc. is intitled to 23,040 acres of land; by a previous decision on July 1, 1974, patent was issued to Yak-Tat Kwaan Inc. for 1.0086 acres. By a recent decision, 18,085.70 acres of surveyed land and approximately 1,918 acres of unsurveyed land were approved for conveyance. Together with the lands herein approved, the total of lands conveyed or approved for conveyance is 19,466.5086 acres of surveyed land and 2,405 acres of unsurveyed land.

Patent to the subsurface estate of the surveyed land herein approved will be issued when this decision becomes final; interim conveyance will be issued for the unsurveyed land and the lands requiring additional survey. Conveyance of the remaining entitlement to Yak-Tat Kwaan Inc. will be at a later date. Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be issued to Sealaska Corp. when conveyance is granted to Yak-Tat Kwaan Inc. for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Kardy Lake and The Ankau, by reason of tidal influence, are the only inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Anchorage Times and in the Southeast Alaska Empire (Juneau). Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 7, 1978, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of, and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

ROBERT E. SORENSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12395 Filed 5-5-78; 8:45 am]

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[4310-84]

[Colorado 24563-24564]

COLORADO STATE OFFICE

Order Providing for Opening of Public Lands and National Forest Lands

APRIL 28, 1978.

1. The Federal Power Commission issued orders September 29, 1976 (FR 41, pages 44464 and 44465) vacating in their entirety withdrawals for power development Project 1093 and transmission line Project 1261, affecting portions of the following described public lands and National Forest lands to the extent they were occupied by a diversion-conduit development and by power transmission lines:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 1 N., R. 71 W.,
Sec. 7, NW¼SW¼, S½SW¼;
Sec. 8, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 17, W½NW¼, NW¼SW¼;
Sec. 18, N½NE¼, SE¼NE¼, NE¼NW¼, E½SE¼;
Sec. 19, E½E½, NW¼NE¼, E½NW¼, SW¼NW¼, NW¼SW¼.
T. 1 N., R. 72 W.,
Sec. 12, W½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 13, SE¼SW¼, SW¼SE¼;
Sec. 24, N½NE¼, SE¼NE¼.

ROOSEVELT NATIONAL FOREST

T. 1 N., R. 72 W.,
Sec. 1, SE¼SW¼, and SW¼SE¼;
Sec. 25, W½W½;
Sec. 34, SE¼SW¼ and SE¼;
Sec. 35, NE¼, NE¼NW¼, S½NW¼, and NE¼SE¼;
Sec. 36, SE¼NW¼ and N½SW¼.
T. 1 S., R. 72 W.,
Sec. 4, NE¼NE¼, NE¼SW¼, SW¼SW¼, and NW¼SE¼.
T. 7 N., R. 73 W.,
Sec. 20, NE¼SW¼.

The acres described aggregate approximately 75 acres in Boulder and Larimer Counties.

2. At 10 a.m. on June 5, 1978, the portions of the public lands affected shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws. All valid applications received at or prior to 10 a.m. on June 5, 1978, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on June 5, 1978, the national Forest lands shall be open to such forms of appropriation as may by law be made of National Forest land.

Inquiries concerning the lands should be addressed to the undersigned, Bureau of Land Management, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

RODNEY A. ROBERTS,
Leader, Canon City-Grand Junction Team, Branch of Adjudication

[FR Doc. 78-12374 Filed 5-5-78; 8:45 am]

[4310-84]

[Colorado 8879]

COLORADO

Termination of Proposed Withdrawal and Reservation of Lands

APRIL 28, 1978.

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 8879, for withdrawal and reservation of lands for public purposes, was published as FR Doc. 69-6905, on pages 9291-9292 of the issue of June 12, 1969. It was republished as FR Doc. 77-37087 on pages 65280-65281 of the issue of December 30, 1977. The applicant agency has canceled its application insofar as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN, WHITE RIVER NATIONAL FOREST

AQUA FRIA LAKE RECREATION AREA

T. 8 N., R. 82 W.,
Sec. 29: SW¼SW¼;
Sec. 30: S½SE¼, SE¼SW¼;
Sec. 31: N½NE¼NE¼; and
Sec. 32: N½NE¼NE¼.

The areas described aggregate approximately 200 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2311, such lands, at 10 a.m., on May 30, 1978, will be relieved of the segregation effect of the above-mentioned application.

ANDREW W. HEARD, Jr.,
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-12375 Filed 5-5-78; 8:45 am]

[4310-84]

[Colorado 0126472]

COLORADO

Termination of Proposed Withdrawals and Reservation of Lands

APRIL 28, 1978.

Notice of a U.S. Forest Service application C-0126472 for withdrawal and reservation of land for public recreation sites was published as FR Doc. 65-12676, on page 14691 of the issue for Thursday, November 25, 1965. The notice of proposed withdrawal was republished as FR Doc. 78-114 on page 1011 of the issue for January 5, 1978. The applicant agency has canceled its application insofar as it affects the following described lands.

RIO GRANDE NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN

Salthouse Campground

T. 44 N., R. 2 E.,
Sec. 12, SW¼SW¼ and SW¼SE¼SW¼;
Sec. 13, NW¼NE¼NW¼, and NE¼NW¼NW¼.

Therefore, pursuant to the regulations contained in 43 CFR, Part 2310, such lands will be relieved of the segregative effect of the above-mentioned application 30 days from the date of this notice.

EDWARD KOETEEUW,
Acting Leader, Canon City-Grand Junction Team, Branch of Adjudication.

[FR Doc. 78-12376 Filed 5-5-78; 8:45 am]

[4310-84]

[Colorado 0122327]

COLORADO

Termination of Proposed Withdrawal and Reservation of Lands

APRIL 28, 1978.

Notice of a Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, U.S. Department of the Interior application, Colorado 0122327, for withdrawal and reservation of lands for wildlife management purposes was published as FR Doc. 64-3935, on page 5405 of the issue of April 22, 1964. The applicant agency has canceled its application in its entirety. The lands involved are described as:

NEW MEXICO PRINCIPAL MERIDIAN

T. 49 N., R. 3 W.,
Sec. 2, Lot 4, SW¼NW¼ and W½SW¼;
Sec. 3, N½SW¼ and SE¼SW¼;
Sec. 6, Lot 4;
Sec. 7, Lots 2, 3, 4, N½NE¼ and E½W½;
Sec. 8, N½N½, SE¼NW¼, and NE¼SW¼;
Sec. 10, NE¼NW¼ and S½NW¼;
Sec. 11, W½W½;
Sec. 14, W½;
Sec. 15, NE¼ and S½;
Sec. 16, All;
Sec. 17, S½NE¼;
Sec. 18, Lots 1, 2, 3, 4, and E½W½;
Sec. 19, Lots 1, 2, 3, 4, S½NE¼, E½W½, and SE¼;
Sec. 20, N½S½;
Sec. 21, N½, SW¼, N½SE¼, and SE¼SE¼;
Sec. 22, N½NE¼, NW¼, W½SW¼, and SE¼SE¼;
Sec. 23, W½;
Sec. 26, W½NE¼, NW¼, N½SW¼, and NW¼SE¼;
Sec. 27, E½NE¼ and NE¼SE¼.
T. 49 N., R. 4 W.,
Sec. 13, E½, NW¼, and E½SW¼;
Sec. 14, SE¼SE¼;
Sec. 23, NE¼, NE¼NW¼, SE¼SW¼, and SE¼;
Sec. 24, NE¼, E½NW¼, and S½.

The above area aggregates 7,085.98 acres.

Therefore, pursuant to the regulations contained in 43 CFR, Part 2311,

such lands, at 10 a.m., on June 5, 1978, will be relieved of the segregative effect of the above-mentioned application.

MERRILL G. ANDERSON,
Leader, Montrose Team,
Branch of Adjudication.

[FR Doc. 78-12377 Filed 5-5-78; 8:45 am]

[4310-84]

[Colorado 014334]

COLORADO

Termination of Proposed Withdrawal and Reservation of Lands

APRIL 28, 1978.

Notice of a Fish and Wildlife Service, U.S. Department of the Interior application, Colorado 014334, for withdrawal and reservation of lands for wildlife management purposes was published as FR Doc. 60-6020, on page 6147 of the issue of June 30, 1960. The applicant agency has canceled its application in its entirety. The lands involved are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 49 N., R. 3 W.,
Sec. 2, Lot 4, SW¼NW¼ and W½SW¼;
Sec. 3, N½SW¼ and SE¼SW¼;
Sec. 8, Lot 4;
Sec. 7, Lots 2, 3, 4, N½NE¼ and E½W½;
Sec. 8, N½N½, SE¼NW¼, and NE¼SW¼;
Sec. 10, NE¼NW¼ and S½NW¼;
Sec. 11, W½W½;
Sec. 14, W½;
Sec. 15, NE¼ and S½;
Sec. 16, All;
Sec. 17, S½NE¼;
Sec. 18, Lots 1, 2, 3, 4, and E½W½;
Sec. 19, Lots 1, 2, 3, 4, S½NE¼, E½W½, and SE¼;
Sec. 20, S½;
Sec. 21, N½, SW¼, N½SE¼, and SE¼SE¼;
Sec. 22, N½NE¼, NW¼, W½SW¼, and SE¼SE¼;
Sec. 23, W½;
Sec. 25, SW¼SW¼;
Sec. 26, W½NE¼, W½, and SE¼;
Sec. 27, E½E½, NW¼NW¼, and SE¼SW¼;
Sec. 28, N½NW¼;
Sec. 29, N½N½ and SW¼NW¼;
Sec. 30, Lots 1, 2, NE¼ and E½NW¼;
Sec. 34, S½NE¼ and SW¼NW¼;
Sec. 35, N½NE¼, NE¼NW¼, and S½NW¼;
Sec. 36, NW¼NW¼.
T. 49 N., R. 4 W.,
Sec. 13, E½ and E½W½;
Sec. 24, N½NE¼, SE¼NE¼, and SE¼;
Sec. 25, NE¼, SE¼NW¼, and S½.

The areas described above aggregate 8,286.99 acres.

Therefore, pursuant to the regulations contained in 43 CFR, Part 2311, such lands, at 10 a.m., on June 5, 1978, will be relieved of the segregative effect of the above-mentioned application.

MERRILL G. ANDERSON,
Leader, Montrose Team,
Branch of Adjudication.

[FR Doc. 78-12378 Filed 5-5-78; 8:45 am]

[4310-84]

Office of the Secretary

[Order No. 3020]

REVOCATION OF SECRETARIAL ORDER 2987

Section 1. *Revocation.* (a) Secretarial Order 2987, dated March 3, 1976, provides for the reservation of easements for the transportation of Federal energy, fuel, and natural resources pursuant to the Secretary's discretionary authority in section 17(b) of the Alaska Native Claims Settlement Act (ANCSA).

(b) In an effort to speed the conveyance of lands to Alaska Natives, a thorough review of the Department's ANCSA policies was initiated, including policies concerning easement reservations. The Department's new policy, as stated in a memorandum and decision document dated March 3, 1978, provides that no transportation and utility corridors are to be reserved in conveyances to Alaska Natives as required by Secretarial Order 2987. To implement this policy, it was stated that Secretarial Order 2987 was to be revoked. In accordance with the Department's new easement policy, Secretarial Order 2987 is hereby revoked.

Section 2. *Effective Date.* This order is effective immediately.

Dated: May 1, 1978.

JAMES A. JOSEPH,
Acting Secretary
of the Interior.

[FR Doc. 78-12393 Filed 5-5-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 77-40]

MAXIMO R. SARMIENTO, M.D.

Hearing

Notice is hereby given that on November 17, 1977, the Drug Enforcement Administration, Department of Justice, issued to Maximo R. Sarmiento, M.D., San Francisco, Calif., an order to show cause as to why his DEA certificate of registration, AS5589203, should not be revoked.

Thirty days having elapsed since the said order to show cause was received by the respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10 a.m. on Tuesday, May 23, 1978, in the U.S. Tax Court Courtroom, Room 2021, Federal Building and Courthouse, 450 Golden Gate Avenue, San Francisco, Calif.

Dated: May 2, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-12452 Filed 5-5-78; 8:45 am]

[4410-01]

[Docket No. 78-4]

STEPHEN J. GREGA, M.D.

Hearing

Notice is hereby given that on February 9, 1978, the Drug Enforcement Administration, Department of Justice, issued to Stephen J. Grega, M.D., Seattle, Wash., and Redmond, Wash., an order to show cause as to why his application for registration executed April 28, 1977, and his two applications for registration executed August 5, 1977, should not be denied.

Thirty days having elapsed since the said order to show cause was received by the respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10 a.m. on Wednesday, May 24, 1978, in the U.S. Tax Court Courtroom, Room 2021, Federal Building and Courthouse, 450 Golden Gate Avenue, San Francisco, Calif.

Dated: May 2, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-12453 Filed 5-5-78; 8:45 am]

[7532-01]

NATIONAL COMMISSION ON NEIGHBORHOODS

MEETING

ACTION: Notice of meeting.

SUMMARY: This notice, required under the Federal Advisory Committee Act (5 U.S.C., Appendix I), announces a public meeting.

TIME AND DATE: Friday, May 19, 1978; Saturday, May 20, 1978. Time of meeting to be announced as soon as known.

PLACE: Los Angeles, Calif. Details to be published as soon as known.

AGENDA: Details to be published as soon as known.

STATUS: Open to the public.

CONTACT PERSON:

Ms. Frances Phipps, Deputy Director, telephone No. 202-632-5200.

JONATHAN STEIN,
Administrative Officer.

[FR Doc 78-12406 Filed 5-5-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-592; STN 50-593]

ARIZONA PUBLIC SERVICE CO., ET AL. (PALO VERDE NUCLEAR GENERATING STATION, UNITS 4 AND 5)

Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board, to consider the application filed under the Act by the Arizona Public Service Co., on behalf of itself, and 10 joint applicants—Southern California Edison Co., El Paso Electric Co., San Diego Gas and Electric Co., Nevada Power Co., Department of Water and Power of the city of Los Angeles, city of Anaheim, Calif., city of Burbank, Calif., city of Glendale, Calif., city of Pasadena, Calif., city of Riverside, Calif. (the applicants), for construction permits for two pressurized water nuclear reactors designated as the Palo Verde Nuclear Generating Station, Units 4 and 5 (the facilities), each of which will be designed for operation at a core power level of 3,800 thermal megawatts, with a net electrical output of approximately 1,307 megawatts. The proposed facilities are to be located in Maricopa County, Ariz., about 36 miles west of Phoenix.

The hearing, which will be scheduled to begin in the vicinity of the site of the proposed facilities, will be conducted by an Atomic Safety and Licensing Board (Board), which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Gustave A. Linenberger, Dr. Quentin J. Stober and Robert M. Lazo, Esq., Chairman.

Pursuant to 10 CFR 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER at a later date.

Upon completion by the Commission's staff of a favorable safety evaluation of the application and an environmental review, and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Nuclear Reactor Regulation will consider making affirmative findings on Items 1-3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the applicants. In the event that a separate hearing is held with respect to a limited work authorization, Item 6 below describes the matters for consideration.

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicants have described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicants and the applicants have identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether Arizona Public Service Co. is technically qualified to design and construct the proposed facilities;

3. Whether the applicants are financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of 10 CFR Part 51, the construction permits should be issued as proposed.

ISSUES PURSUANT TO 10 CFR 2.761A (LIMITED WORK AUTHORIZATION)

6. Pursuant to 10 CFR 2.761a, a separate hearing and partial decision by the board on issues pursuant to NEPA and general site suitability and certain other possible issues may be held and issued prior to and separate from the hearing and decision on other issues. In the event the Board, after the hearing, makes favorable findings on such issues, the Director of Nuclear Reactor Regulation may, pursuant to 10 CFR 50.10(e) authorize the applicants to conduct certain onsite work entirely at their own risk prior to completion of the remainder of the proceeding.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 1.3(n), the Board will determine without conducting a de novo evaluation of the application: (1) whether the application and the record of the proceeding contain sufficient information, the review of the application by the Commission's staff has been adequate to support the proposed findings to be made by the Director of Nuclear Reactor Regulation on Items 1-4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Nuclear Reactor Regulation; and (2) whether the NEPA review conducted by the Commission's staff has been adequate.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1-5 above as a basis for determining whether construction permits should be issued to the applicants.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with § 51.52(c) of 10 CFR Part 51: (1) determine whether the requirements of section 102(2)(A), (C), and (E) of NEPA and Part 51 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding for the permits with a view to determining the appropriate action to be taken; and (3) determine after weighing the environmental, economic, technical and other benefits against environmental and other costs, and considering available alternatives whether construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to inter-

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vene, or their counsel, to be held within sixty (60) days after the notice of hearing is published or at such other time as the Board deems appropriate, for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any required special prehearing conference, and within sixty (60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR 2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing, and the respective notices will be published in the FEDERAL REGISTER.

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement on the record. They do not become a party, but may state their interest and raise questions which they would like to have answered to the extent that the questions are within the scope of Items 1-5 above. Limited appearances will be permitted at the time of the hearing at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by July 6, 1978. The presiding Atomic Safety and Licensing Board may make further provision with respect to limited appearances subsequently during the course of this proceeding.

Any person whose interest may be affected by the proceeding, who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714. A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why intervention should be permitted, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompained by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to petitioner's interest and the basis for petitioner's contentions with regard to each aspect on which intervention is desired. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A petition for leave to intervene must be filed with the Secretary of the Commission and others as specified below by June 6, 1978. A petition for leave to intervene which is not timely will not be entertained absent a determination by the Board that the petitioner, in addition to the matters specified in 10 CFR 2.714(d), has made a substantial showing of good cause for failure to file on time. The reasons for the tardiness in filing a petition for leave to intervene, as well as the factors specified in 10 CFR 2.714(a)(1)-(4) shall be considered in making a determination whether there has been a substantial showing of good cause by the petitioner.

Pursuant to 10 CFR 1.101, the application has been filed without the Environmental Report required by 10 CFR 50.30(f). Under 10 CFR 2.101, the omitted material should be filed by the applicant within six months. In view of this, any person who wishes to participate as a party in this proceeding pursuant to 10 CFR 2.714 need not set forth in any petition for leave to intervene required to be filed by June 6, 1978 any contentions related to the omitted material. A deadline for filing of other contentions relating to matters covered in the omitted material will be established by the Board subsequent to acceptance of the Environmental Report for a detailed review. In all other aspects, said petition must meet the requirements of 10 CFR 2.714, namely, setting forth the interest of the petitioner in the proceeding, facts and reasons why intervention should be permitted, and a general statement as to the subject matter in the proceeding as to which intervention is sought. Subsequent to the submission of the omitted material, a supplemental notice of hearing will be published which will provide an opportunity for interested members of the public to intervene in this proceeding with regard to any issues raised by the Applicant's Environmental Report.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 must be filed by the applicant by May 30, 1978.

Papers required to be filed in this proceeding shall be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's public document room, 1717 H Street NW., Washington, D.C. 20555. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of any petition for intervention should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Arthur C. Gehr, Esq., Snell and Wilmer, 3100 Valley Center, Phoenix, Ariz., 85073, attorney for the applicants. Any questions or requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

For further details, see the application for construction permits dated March 1, 1978 which, along with any amendments or supplements thereto, is or will be available as noted above for public inspection at the Commission's public document room, 1717 H Street NW., Washington, D.C., between the hours of 8:30 a.m. and 5 p.m. on weekdays. Copies of those documents will also be available at the Phoenix Public Library, Science and Industry Section, 12 East McDonnell Road, Phoenix, Ariz. 85004 for inspection my members of the public between the hours of 10 a.m. to 9 p.m. Monday through Thursday, 10 a.m. to 6 p.m. Friday, 9 a.m. to 6 p.m. Saturday and 2 p.m. to 6 p.m. on Sunday. As they become available, a copy of the safety evaluation report by the Commission's staff, the draft and final environmental statements, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permits, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above locations. Copies of the proposed construction permits and the ACRS report may be obtained, when available, by request to the Director, Division of Project Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161.

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Dated at Washington, D.C. this 28th day of April 1978.

UNITED STATES NUCLEAR REGULATORY COMMISSION,
SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-12177 Filed 5-5-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-592 and STN 50-593]

ARIZONA PUBLIC SERVICE CO., ET AL.

(PALO VERDE NUCLEAR GENERATING STATION, UNITS 4 AND 5)

Receipt of Antitrust Information and Application for Construction Permits and Operating Licenses: Time for Submission of Views on Antitrust Matters

Arizona Public Service Co. on behalf of itself and ten joit applicants—Southern California Edison Co., El Paso Electric Co., San Diego Gas and Electric Co., Nevada Power Co., Department of Water and Power of the city of Los Angeles, city of Anaheim, city of Burbank, city of Glendale, city of Pasadena, and city of Riverside, Calif.—(the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed portions of their application. These parts which consist of the Safety Analysis Report, general and financial information were accepted for docketing on March 31, 1978 and are assigned Docket Nos. STN 50-592 and STN 50-593.

In addition a portion of the application filed contains the information requested by the Attorney General for the purpose of an antitrust review of the application as set forth in 10 CFR Part 50, Appendix L, and was also accepted for docketing and is assigned Docket Nos. STN 50-592-A and STN 50-593-A.

The application is for authorization to construct and operate two pressurized water reactors designated as the Palo Verde Nuclear Generating Station, Units 4 and 5 on the applicants' site in Maricopa County, Ariz. The reactor is designed for operation at a core power level of 3800 mega watts thermal, with an equivalent net electrical output of approximately 1307 megawatts.

A Notice of Hearing setting forth the radiological issues to be considered during the review is being published separately. A date for submitting petitions for leave to intervene on radiological issues is set forth in the Notice of Hearing.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before July 6, 1978. The request should be filed in connection with Docket Nos. STN 50-592-A and STN 50-593-A.

The Environmental Report was tendered but initially rejected and is expected to be resubmitted on or before September 1, 1978. A separate notice of receipt and availability for this remaining portion will be published at that time. A deadline for filing of other contentions relating to matters covered in the omitted material will be established by the Board subsequent to acceptance of the Environmental Report for a detailed review.

After the Environmental Report has been received and analyzed by the Commission's Director of Nuclear Reactor Regulation or his designee, a draft environmental statement will be prepared by the Commission's staff. Upon preparation of the draft environmental statement, the Commission will cause to be published in the FEDERAL REGISTER a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be noticed in the FEDERAL REGISTER.

Copies of the individual portions of the application, as noted above are available for public examination and copying for a fee at the Commission's public document room, 1717 H Street NW., Washington, D.C. 20555, and at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Ariz. 85004.

Dated at Bethesda, Md., this 20th day of April 1978.

FOR THE NUCLEAR REGULATORY COMMISSION,
JOHN F. STOLZ,
Chief Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-12176 Filed 5-5-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON FLUID/HYDRAULIC DYNAMIC EFFECTS

Meeting

The ACRS Subcommittee on Fluid/Hydraulic Dynamic Effects will hold a meeting on May 23, 1978 at the Royal Court Inn, 1750 S. Elmhurst Road, Des Plaines, Ill., to discuss the status items related to the Mark I, II and III Containment Systems.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

TUESDAY, MAY 23, 1978

8:30 a.m. Until the Conclusion of Business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the General Electric Co., and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Andrew L. Bates, telephone 202-634-1919 between 8:15 a.m. and 5 p.m., e.d.t.

Dated: May 3, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-12547 Filed 5-5-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

Lists of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the

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public received by the Office of Management and Budget on April 27, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service, application for employment by a (G-4) spouse or unmarried son or daughter of an official of an international organization, I-566, on occasion, 800 (G-4) nonimmigrants, Clearance Office, 395-3772.

REVISIONS

DEPARTMENT OF DEFENSE

Defense Civil Preparedness Agency:
- Local Civil Preparedness Annual Program Paper, DCPA-744-A, annually, local civil preparedness directors/coordinators, 5,055 responses, 42,750 hours, National Security Division 395-4734.
- DCPA Program Status Report, semiannually, State Civil Preparedness Offices, 56 responses, 1,375 hours, National Security Division 395-4734.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management:
- Modernization Work Program, HUD-52994, on occasion, public housing agencies, 600 responses, 1,800 hours, Budget Review Division, 395-4775.
- Actual Modernization Cost Certification, HUD-53001, on occasion, public housing agencies, 300 responses, 300 hours, Budget Review Division, 395-4775.
- Modernization Program Budget, HUD-42990, on occasion, public housing agencies, 750 responses, 6,000 hours, Budget Review Division, 395-4775.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, Survey of Correctional Facilities: Population, Capacity and Adequacy (Site Visits), LEAA-3400, single-time, Federal, State corrections agencies and criminal justice officials, 952 responses, 1,744 hours, Laverne V. Collins, 395-3214.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service, Eggs Broken—Dried Under Federal Inspection, PY-240, monthly, 2,100 responses, 1,050 hours, Ellett, C.A., 395-6132.

Animal and Plant Health Inspection Service:
- Application for Approval of Quarantine Facility for Birds, VS 17-11, on occasion, 15 responses, 4 hours, Clearance Office, 395-3772.
- Regulations—Importation of Animals and Poultry, and Animal Poultry Products, on occasion, Clearance Office, 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration Application for Exemption (of Drugs) for Manufacturing Use, FD-1674, on occasion, antibiotic manufacturers, 100 responses, 50 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF LABOR

Employment and Training Administration, National Longitudian Surveys, Survey of Work Experience of Mature Men—1976 Questionnaire and Advance Letter, LGT-181, LGT-183, annually, men aged 45-59 in 1966, 5,000 responses, 5,000 hours, Office of Federal Statistical Policy and Standard 673-7959.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-12462 Filed 5-5-78; 8:45 am]

[3110-01]

CLEARANCE OF REPORTS

Lists of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 28, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Modernization Quarterly Progress Report, HUD-52995, quarterly, 2,400 public housing agencies, Budget Review Division, 395-4775.

ENVIRONMENTAL PROTECTION AGENCY

CFC Annual Report, annually, 70 chemical firms, Ellett, C. A., 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
- Lenders Application for Contract of Federal Loan Insuranee, OE 621-1, on occasion, 522 institutions of higher education, Clearance Office, 395-3772.
- Student Application for a Heal Loan, OE 621-2, annually, 9,520 health professions students, Laverne V. Collins, 395-3214.
- Heal Program Loan Transfer Statement, OE 621-3, on occasion, 2,080 institutes of higher education, Clearance Office, 395-3772.
- State Plan for Education Information Centers, OE-610, annually, 56 State Agencies or IHE's, Laverne V. Collins, 395-3214.

REVISIONS

NATIONAL MEDIATION BOARD

Application for Investigation of Representation, Dispute, NMB 2, on occasion, airline and railroad management unions, 180 responses, 180 hours, Lowry, R. L., 395-3772.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Evaluation of Cash-in-Lieu of Commodities Pilot Projects, single-time, 50 responses, 25 hours, Clearance Office, 395-3772.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Summer Food Service Program for Children, on occasion, State agencies, service institutes, 30,179 responses, 27,798 hours, Ellett, C. A.., 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for Veterans' Cost-of-Instruction Payments to Institutions of Higher Education, OE 269, annually, institutes of high education, 1,700 responses, 3,400 hours, Caywood, D. P.., 395-3443.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Equal Opportunity, Housing Discrimination Complaint (English and Spanish version of same form), HUD-903, 903A, other (see SF-83), minority group members, 5,000 responses, 5,000 hours, Caywood, D. P., 395-3443.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-12463 Filed 5-5-78; 8:45 am]

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[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ALTERNATE ENERGY SYSTEMS, INC.

Suspension of Trading

APRIL 27, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of;

Alternate Energy Systems, Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 2:15 p.m. (e.s.t.) on April 27, 1978, through May 6, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12419 Filed 5-5-78; 8:45 am]

[8010-01]

[Rel. No. 20522(70-6149)]

COLUMBIA GAS SYSTEM, INC.

Proposed Issuance and Sale of Short-Term Notes to Banks and to Dealers in Commercial Paper and Exception From Competitive Bidding

APRIL 28, 1978.

Notice is hereby given that the Columbia Gas System Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Del. 19807, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act"), designating section 6(b) of the act and rule 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Columbia requests authority to issue and sell through May 31, 1979, short-term notes to banks and commercial paper aggregating up to $260,000,000. Generally, Columbia will make the proceeds from the sale of these notes available to its subsidiary companies for the purchase of gas for underground storage and other liquid hydrocarbons inventories and for other short-term requirements. In this regard, see Columbia's filing for intrasystem financing (file No. 70-6142). It is stated that the short-term gas and liquid hydrocarbon requirements of approximately $260,700,000 may make it necessary to have outstanding at any one time up to May 31, 1979, the aforesaid short-time notes in the aggregate amount of $260,000,000.

Columbia proposes to issue and sell commercial paper to one or more dealers, and it will continue to do so as long as the effective interest rate is less than the effective interest cost which Columbia would have to pay to banks for an equivalent amount of funds as of the date of borrowing, except that, in order to obtain greater flexibility, commercial paper may be issued with a maturity of not more than 60 days from the date of issue with an effective interest cost in excess of such effective interest cost on bank borrowings.

The commercial paper will be in the form of promissory notes with maturities not to exceed 270 days and will not be prepayable prior to maturity. The actual maturities will be determined by market conditions, effective interest cost to Columbia, and Columbia's anticipated cash requirements at the time of issuance. The commercial paper notes will be issued in denominations of not less than $50,000 and not more than $5,000,000 and will be sold at a discount which will be not in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of the particular maturity and rating.

It is stated that no commission or fee will be payable in connection with the issuance and sale of the commercial paper notes. Each dealer, as principal will reoffer such notes at a discount rate of one-eighth of 1 percent per annum less than the discount rate to Columbia. The reoffering will be made to not more than an aggregate of 200 customers of the dealers, such customers to be identified and designated in lists (nonpublic) prepared in advance. No additions will be made to the customer lists, which will consist of institutional investors, without first advising this Commission. It is expected that Columbia's commercial paper notes will be held by customers to maturity, but, if they wish to resell prior thereto, the applicable dealer, pursuant to a repurchase agreement, will repurchase the notes and reoffer the same to others in its specified list of customers.

Columbia requests exception from the competitive bidding requirements of rule 50 for the proposed issue and sale of its commercial paper. In support of this request, Columbia states that the proposed commercial paper notes will have a maturity of 9 months or less, that it is not practical to invite competitive bids for commercial paper, and that current rates for commercial paper for such prime borrowers as Columbia are published daily in financial publications.

Columbia proposes that up to $260,000,000 of the proposed short-term borrowings may be in the form of short-term bank notes, issued from time to time in accordance with proposed credit-lines with participating banks. In no event will the proposed bank borrowings and/or commercial paper exceed an aggregate amount of $260,000,000, at any one time outstanding. A list of such banks and information regarding the terms of such borrowings are to be filed by amendment. The notes are to be repaid on or before May 31, 1979, and will be prepayable, in whole or in part, without penalty.

The expenses to be paid by Columbia in connection with the proposed transactions are estimated at $10,400, including rating fees estimated at $7,000 and charges for services of Columbia Gas System Service Corp. estimated at $1,200. Columbia has also requested that authority be granted to file certificates under rule 24 with respect to the proposed transactions on a quarterly basis.

The application states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 22, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12420 Filed 5-5-78; 8:45 am]

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[8010-01]

[Rel. No. 10229 (812-4289)]

INCOME TRUST FOR GOVERNMENT SECURITIES, FIRST SERIES (AND SUBSEQUENT SERIES) AND PRESCOTT, BALL & TURBEN

Notice of Filing of Application

MAY 2, 1978.

Notice is hereby given, that Income Trust for Government Securities, First Series (and Subsequent Series) ("Fund" or "Funds"), registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and its sponsor, Prescott, Ball & Turben ("Sponsor") (collectively, "Applicants"), 900 National City Bank Building Cleveland, Ohio 44114, filed an application on April 7, 1978, pursuant to section 6(c) of the Act, for an order of the Commission (1) exempting Applicants, to the extent necessary, from the provisions of section 14(a) of the Act; (2) exempting the Funds from Rule 19b-1 under the Act to permit more than one distribution of capital gains in any one taxable year; and (3) exempting the secondary market activities of the Sponsor and underwriters of the Funds from provisions of Rule 22c-1 to permit weekly retrospective pricing of units of beneficial interest in the various Funds ("Units"), subject to certain conditions. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that each Fund will be governed by a trust agreement ("Trust Agreement") between the Sponsor and State Street Bank and Trust company, as Trustee ("Trustee"). Interactive Data Services, Inc. will serve as Evaluator under the Trust Agreement ("Evaluator"). Applicants state that, subject to compliance with the Trust Agreement, entities other than those named hereinabove may serve as Sponsor, Trustee, or Evaluator, respectively. Applicants further state that there was filed simultaneously with this application a Registration Statement on Form S-6 under the Securities Act of 1933. Applicants state that the assets of the Funds will consist of securities issued by the U.S. Government or an agency or instrumentality thereof, in each case as to which the payment of principal and interest is backed by the full faith and credit of the United States, and/or contracts and funds for the purchase of certain such securities ("Securities"), all of which the Sponsor shall have accumulated for such purpose. Applicants further state that the Units will represent proportionate interests in the aggregate principal amount of Securities and representing in the aggregate the entire ownership of a Fund. Applicants anticipate that the assets of the First Series of the Fund will consist primarily of mortgage-backed securities of the modified pass-through type, fully guaranteed as to principal and interest by the Government National Mortgage Association.

SECTION 14(a)

Section 14(a) of the Act, in substance, provides that no registered investment company and no principal underwriter for such company shall make a public offering of which such company is the issuer unless: (1) the company has a net worth of at least $100,000; (2) at the time of a previous public offering it had a net worth of $100,000; or (3) provision is made that a net worth of $100,000 will be obtained from not more than twenty-five responsible persons within ninety days, or the entire proceeds received, including sales charge, will be refunded.

Applicants represent that the Sponsor will deposit in each Fund not less than $5,000,000 principal amount of the Securities. Thus, each Fund, at the date of deposit of the Securities and before any Unit is offered to the public, is intended to have a net worth, represented by the market value of the Securities on that date as determined by the Evaluator, in excess of $100,000. Applicant assert that each Fund will thereby fully comply with the first requirement of Section 14(a), of the Act, to the extent necessary.

As a condition to such exemption, the Sponsor has agreed that it will refund on demand and without deduction, all sales charges to purchasers of Units of any Fund from the Sponsor or from any underwriter or dealer participating in the distribution, and liquidate the Securities held in a Fund and distribute the proceeds thereof, (1) if within 90 days from the time that the registration statement relating to the Units of such Fund has become effective under the Securities Act of 1933, the net worth of such Fund shall be reduced to less than $100,000, or (2) if such Fund shall have been terminated. The Sponsor further agrees to instruct the Trustee to terminate any Fund in the event that redemption by the Sponsor or underwriters of unsold Units results in such Fund having a net worth of less than $5,000,000 and in the event of any such termination to refund or cause to be refunded, on demand and without reduction, all sales charges to purchasers of Units of such Fund from the Sponsor or from any underwriter or dealer participating in the distribution.

RULE 19b-1

Rule 19b-1(a) provides in substance that no registered investment company which is a "regulated investment company" as defined in Section 851 of the Internal Revenue Code shall distribute more than one capital gains dividend in any one taxable year. Applicants state that distributions of principal, including any capital gains, and interest relating to each Fund will be made to Unitholders monthly. Applicants further state that distributions of principal constituting capital gains to Unitholders may arise in the following instances: (1) an issuer might call or redeem Securities; (2) Securities might be disposed of in order to maintain the qualification of a Fund as a regulated investment company under the Internal Revenue Code; and (3) Securities might be liquidated in order to provide the funds necessary to meet redemptions.

In support of the requested exemption, Applicants state that the dangers against which Rule 19b-1 is intended to guard do not exist in the situation at hand since neither the Funds nor the Sponsor have control over events which might trigger capital gains. In addition, Applicants represent that any capital gains distributions will be clearly distinguished from interest and principal distributions in the accompanying report by the Trustee to Unitholders. In order to comply with the Rule, each Fund would be forced to hold any monies constituting capital gains from the disposition of Securities until the end of its taxable year. Applicants state that such a practice would clearly be to the detriment of the Unitholders.

Applicants further point out that Paragraph (b) of Rule 19b-1 provides that a unit investment trust may distribute capital gains dividends received from a regulated investment company within a reasonable time after receipt. Applicants assert that the purpose behind this provision is to avoid forcing a unit investment trust to accumulate distributable amounts received throughout the year and distribute them only at year end, and that the operations of the Funds will be consistent with the intended objectives of such provision.

RULE 22c-1

Rule 22c-1 provides, in pertinent part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Applicants seek an order exempting the secondary market operations of the Sponsor and the underwriters from the provisions of Rule 22c-1 under the Act. Applicants propose to value Units of the Funds, for repurchase and resale by the Sponsor and the underwriters in the secondary market, at prices computed on the last business day of each week ("Friday"), effective for all transactions made during the following week. The evaluation will be done by the Evaluator, who will also provide estimated evaluations on trading days in order to protect Unitholders and investors. Applicants represent that in the case of a repurchase, if the Evaluator cannot opine that the current bid side evaluation is less than the previous Friday's offering side evaluation, the Sponsor will order a new evaluation. In the case of a resale of Units in the secondary market, if the Evaluator cannot state that the previous Friday's price is no more than one-half point ($5.00 on a Unit representing $1,000 principal amount of Securities) greater than the current offering price, a full evaluation will be ordered.

Applicants state that there are two purposes of Rule 22c-1: (1) to eliminate or reduce any dilution of the value of outstanding redeemable securities of registered investment companies occuring through the practice of redeeming or repurchasing securities at a price above their net asset value or selling securities at a price based upon a previously established net asset value which permits a potential investor to take advantage of an upswing in the market and an accompanying increase in the net asset value of investment company shares, and (2) to minimize speculative trading practices which so compromise registered investment companies as to be unfair to the holders of their outstanding securities.

Applicants contend that the sale and repurchase of Units of the Fund in the secondary market cannot possibly dilute the value of outstanding securities. Applicants also contend that the proceedures followed in secondary market operations of the Fund cannot be regarded as encouraging speculative trading practices. According to the applicantion, the proposed procedure will insure that a Unitholder will never receive less than the redemption value of the Unit by selling his Unit to the Sponsor. The procedure will minimize the risk that a purchaser in the secondary market would be paying more than he would pay if daily evaluations were made.

Applicants further assert that while the purposes for which Rule 22c-1 was adopted would not be served by imposing the requirements of the rule upon the secondary market operations of the Funds, the interests of investors might be significantly impaired by imposing upon them the cost of the determinations of net asset value required by Rule 22c-1.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

Notice is further given, that any interested person may, not later than May 23, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12421 Filed 5-5-78; 8:45 am]

[8010-01]

[Rel. No. 10219 (812-4273)]

LIFE INSURANCE COMPANY OF NORTH AMERICA AND LIFE INSURANCE COMPANY OF NORTH AMERICA SEPARATE ACCOUNT A

Notice of Application for an Order Approving Offers of Exchange

APRIL 28, 1978.

Notice is hereby given, that Life Insurance Co. of North America ("LINA"), a stock life insurance company organized under the laws of the Commonwealth of Pennsylvania, and Life Insurance Co. of North America Separate Account A ("Separate Account"), 1600 Arch Street, Philadelphia, Pa. 19101, a separate account of LINA registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, (hereinafter collectively referred to as "Applicants"), filed an application on March 1, 1978, and an Amendment thereto on April 18, 1978, pursuant to Section 11 of the Act for an Order approving certain offers of exchange. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein which are summarized below.

The Separate Account was established by LINA pursuant to the laws of the Commonwealth of Pennsylvania in connection with the issuance of group and individual variable annuity contracts ("Contracts") to certain persons who qualify for tax-deferred benefits under Sections 401, 403(a), 403(b), and 408 of the Internal Revenue Code of 1954 ("Code"), as amended. Applicants also offer the Contracts under deferred compensation and other retirement plans for persons who may not qualify for similar tax treatment.

The Contract-owner makes payments to LINA which deducts sales and administrative expenses. The balance of such payments under Contracts currently issued, including the Contracts which are the subject of the Application, are then allocated to one of six divisions of the Separate Account and are invested in shares of Decatur Income Fund, Inc., National Investors Corporation, Oppenheimer Fund, Inc., Trustees Equity Fund, Inc., Dreyfus Third Century Fund, Inc., or Qualified Dividend Portfolio, Inc. (collectively called "Fund(s))", which are open-end, diversified management investment companies registered under the Act. Contract owners or participants may also allocate a portion of their net purchase payments to the LINA fixed accumulation account to provide for fixed or variable annuity payments.

SECTION 11

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end investment company or any principal underwriter therefor to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit invest-

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ment trusts for the securities of any other investment company.

Applicants' Contracts currently permit Contract owners or Group Contract participants, where permitted by State law and the retirement plan under which they are issued, to transfer the total or partial value of their Separate Account Division allocation to another Separate Account Division, or to or from LINA's general account providing for fixed accumulation, prior to annuitization. Unless otherwise restricted by state law or the applicable retirement plan, a transfer may be made no more often than once yearly measured from the date the owner or participant enters the retirement plan or date of last transfer, as applicable. One final transfer is permitted one month before annuity payments commence without regard to any other limitation. Transfers are made upon written instruction to LINA. Separate Account Division transfers are based upon accumulation unit values determined as of a valuation date coincident with or next following the date that LINA receives written instructions to make the transfer. Such pre-annuity transfers are permitted by the Commission pursuant to its Orders of Approval under Section 11 in Investment Company Act Releases Nos. 7769 and 9276. At present there is no exchange privilege once payments under the Contracts have commenced.

Applicants request Commission approval pursuant to sections 11(a) and 11(c) of the Act to permit a Contract owner or Group Contract participant to transfer the total value of his or her Separate Account Division allocation to another Separate Account Division after the annuity commencement date. Unless otherwise restricted by the retirement plan, State or other laws, no post-annuity transfer will be permitted more often than once yearly, measured from the date the owner or participant enters into the Contract or from the date of last transfer, as applicable. No transfer to or from LINA's general account will be permitted after the annuity commencement date nor will partial transfers be permitted between Separate Account Divisions. Transfers will be made upon receipt by LINA of properly detailed written instructions from the Contract owner or participant, as applicable. Upon receipt of such transfer instructions by LINA, the number of existing annuity units will be changed to reflect a new number of annuity units based upon their respective values on the valuation date coincident with or next following the receipt of proper instructions. After the annuity starting date, the value of the amount to be transferred will be based upon the present value of the remaining payments due, reflecting the attained age of the annuitant and mortality and interest assumptions. No additional sales or administrative charge will be imposed for making the transfer. Applicants represent that if Commission approval is obtained, they will grant the new transfer privileges to all of their existing Contract owners and participants, where permitted by State law, other applicable law, and their retirement plan. Applicants will send written notification of such change to each current Contract owner.

Applicants represent that the proposed liberalization of certain of the current pre-annuity transfer privileges under the Contracts apply the same principle which was previously recognized by the Commission to be appropriate in its Orders under Investment Company Act Releases Nos. 7769 and 9276.

Applicants state that the proposed extension of Contract transfer rights will be of benefit to those Contract owners or participants whose changing personal economic needs make it desirable for them to change their investment vehicle during the annuity period. It will also enable such persons to respond, if they so desire, to changes in general economic conditions after retirement which could have a meaningful effect on their retirement financial needs. Further, Applicants represent that no post-annuity Separate Account Division transfers will be actively solicited by LINA or its sales representatives, and that the absence of any charges for the exercise of the privilege or sales remuneration to sales personnel, removes the possible incentive to solicit or stimulate transfers.

Notice is further given that any interested person may, not later than May 22, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompained by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following May 22, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12422 Filed 5-5-78; 8:45 am]

[8010-01]

[Rel. No. 10224 (812-4281)]

MINNEAPOLIS SHAREHOLDERS CO.

Notice of Application for Order

MAY 1, 1978.

Notice is hereby given that Minneapolis Shareholders Co. (the "Applicant"), 4158 IDS Center, 80 South Eighth Street, Minneapolis, Minn. 55402, a closed-end, non-diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application on March 13, 1978, and an amendment thereto on April 18, 1978, pursuant to section 17(b) of the Act for an order of the Commission exempting from section 17(a) of the Act the Applicant's sale of 700,000 shares of the common stock of Arctic Enterprises, Inc. ("Arctic") and an option to acquire an additional 100,000 shares of Arctic common stock (the "Arctic Option") to Jacobs Industries, Inc. ("JII"), the holder of approximately 84 percent of the Applicant's outstanding common stock. All interested pesons are referred to the application on file with the Commission for a statement of the matters contained therein, which are summarized below.

The application states that through May 1, 1975, the Applicant was engaged in the manufacture and sale of Grain Belt beer. On May 1, 1975, the Applicant (then known as Grain Belt Breweries, Inc.) sold it assets for a cash consideratin of $4,100,000 to I. J. Enterprises, Inc. ("IJE") a company controlled by Mr. Irwin L. Jacobs and since 1975, Applicant has not engaged in an active business. It further states that in 1975, certain shareholders of the Applicant commenced litigation against the Applicant, Irwin L. Jacobs, IJE and the then directors of the Applicant alleging that the proxy statement utilized in connection with the proposal to sell the assets of the Applicant to IJE was materially false and misleading, all in violation of the Federal securities laws and that Mr. Jacobs, IJE and the director defendants had breached their fiduciary duties to the Applicant and its shareholders. Applicant advises that this litigation, known as the Rockler I litigation, is still before the Federal courts.

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Applicant further states that on December 21, 1976, Irwin L. Jacobs commenced a tender offer for any and all of the outstanding common stock of the Applicant and after two extensions of the offer, Mr. Jacobs held 784,213 shares of the Applicant's common stock or approximately 84 percent of the outstanding shares; that during the tender offer, litigation was commenced by the Applicant and the plaintiffs in the Rockler I litigation wherein it was claimed that the tender offer violated section 14(e) of the Securities Exchange Act of 1934 as well as other statutory provisions of the federal securities laws and the Minnesota Securities Act. Applicant notes that it has since sought and received the dismissal of its tender offer claims but the Rockler I plaintiffs have continued the tender offer litigation and it is known as the Rockler II litigation.

Applicant advises that on March 10, 1978, counsel for all parties to the Rockler I, Rockler II and Marsh & McLennan, Inc. litigation (the latter litigation being an outgrowth of the Rockler I litigation) and their insurers, entered into an agreement in principal for the settlement of all three cases providing for the payment of $510,000 by defendants other than the Applicant, to the Rockler I and II plaintiff class representatives in trust for the class or classes represented, and for the payment of approximately $58,261 to the Applicant in reimbursement of attorneys' fees previously paid on behalf of the defendant directors in Rockler I. The balance of such attorneys' fees previously paid by the Applicant in the amount of $43,594 will be borne by the Applicant. As a result of that tentative agreement, Applicant notes that a binding Stipulation and Settlement Agreement is expected to be executed by all parties and preliminary approval by the District Court will be sought by the parties and that if preliminary District Court approval is granted a Notice to Class Members more fully describing that Stipulation and Settlement Agreement and giving notice of a hearing for the purpose of determining whether the settlement would be finally approved by the Court will be sent to class members.

By way of additional background, Applicant states that at its Annual Meeting of Shareholders held on June 17, 1977, the shareholders of the Applicant elected three directors, each of whom had been nominated by Mr. Jacobs and that after the meeting and following the death of one of the directors, a replacement director proposed by Mr. Jacobs was elected to fill the vacated position. The Applicant's three-man board of directors consisted of Daniel T. Lindsay, President of the Applicant and Secretary of JII and Federal Financial Corp., each company controlled by Mr. Jacobs; Wayne E. Olson, Treasurer of the Applicant and Treasurer of JII and President of Federal Financial Corp; and Ralph P. Klein, an employee of J.Y.J. Corp., a company controlled by Irwin L. Jacobs. The application points out that on November 23, 1977, Mr. Jacobs conveyed his shares of the Applicant to JII, a Minnesota corporation formed on November 10, 1977; that Mr. Jacobs is the controlling shareholder of JII: and that JII also holds all of the outstanding common stock of Federal Financial Corp., a company which is in the business of collecting the accounts receivables of the W.T. Grant Co.

Applicant states further that after the new Jacobs management took control of the Applicant, a review of the Applicant's assets was made with a view toward maintaining liquidity in anticipation of an opportunity to make a long-term investment. Applicant advises that assets held by prior management consisted primarily of government securites and that it had been prior management's stated intent to liquidate the Applicant and the shareholders were about to be asked to vote on liquidation prior to the Jacobs tender offer; however, the combination of the tender offer and the Rockler litigation prevented liquidation especially in light of Mr. Jacob's expressed objection to a liquidation. Applicant further advises that after the annual meeting, new management elected to make short term investments in commercial paper secured by bank letters of credit.

In addition, Applicant advises that in April and May of 1977, Mr. Jacobs, Mr. Lindsay, Mr. Olson, and Mr. Mathisen, the then Secretary of Applicant ("Jacobs Group") were purchasing the common stock of Sonesta International Hotels Corporation ("Sonesta") and over this period 114,600 shares were purchased at an average cost of $5.16 per share and a Schedule 13D was filed with the Commission, the NYSE and Sonesta indicating that the Jacobs Group held more than 5 percent of the outstanding shares of Sonesta. Applicant states that an amendment to the 13D was filed early in July 1977, in which the Jacobs Group reported that they had sought to meet with Sonesta's management concerning a proposed tender offer at $7 per share, which filing indicated that the Applicant would make the offer if an offer was made. Applicant also states that on July 15, 1977, the Jacobs Group conveyed the 114,600 Sonesta shares to the Applicant at a purchase price of $7 per share when the market price on the New York Stock Exchange at the time of the sale was $5¾ pursuant to an agreement which permitted the Applicant to put the shares back to the members of the Jacobs Group within six months at the $7 per share price.

Applicant states that a decision was subsequently made to shelve the Sonesta tender. When the opportunity to make an investment in Arctic presented itself, the Applicant advises that it decided to make the purchase and because it did not have sufficient funds to make purchase of the Arctic Securities and still hold the Sonesta shares it elected to exercise the put. According to the application, members of the Jacobs Group proposed that a privately held company controlled by them make the purchase, whereupon the shares were sold to Federal Financial Corp. at the put price of $7 per share on or about October 1, 1977.

Applicant states that its prior management did not consider Applicant to be an investment company within the meaning of the Act and, accordingly, no steps were taken to register the Applicant under the Act prior to the time the new Jacobs' management took control. In addition, applicant advises that its new management did not consider the Applicant to be an "investment company" since management's stated purpose was to acquire an active business. However, the application recites that the interim investment in June of 1977 of the Applicant's assets in commercial paper may have caused the Applicant to come within the definition of "investment company" under the Act. The Applicant states that it did not register under the Act at that time since the purchase of the Sonesta common stock in July, 1977 for $802,200 caused only approximately 15 percent of the Applicant's assets to be invested in Sonesta. Applicant advises that in management's view the size of the Sonesta investment relative to all assets continued to make it unnecessary to register under the Act; however, the investment of Applicant's assets in government securities may have required Applicant to register under the Act as early as May, 1975. Prior to the purchase of securities of Arctic the Applicant did register under the Act by filing Form N-8A.

The Application states that management of the Applicant has not engaged legal counsel to determine when and if Applicant should have registered under the Act; but advises that management has attempted to deal with the Sonesta purchase and sale on the theory that Applicant should have been registered under the Act and in so doing the assumption was made that both the purchase from members of the Jacobs Group and the sale to Federal Financial Corp. ("FFC") of the Sonesta shares required Commission approval under section 17(b) of the Act since the members of the Jacobs Group and FFC are affiliates of the Applicant. After discussions

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with members of the Jacobs Group and FFC Applicant advises that its Board of Directors directed management to seek payment in cash from members of the Jacobs Group of $143,250 which payment was received on March 8, 1978, representing the difference between the $7 per share price for the 114,600 Sonesta shares and the $5.75 closing price on the New York Stock Exchange at the date of sale to the Applicant. In addition, Applicant advises that it entered into an agreement with FFC on March 9, 1978, pursuant to which FFC agreed not to sell the Sonesta common stock for 90 days unless directed by the Applicant to: (i) sell the shares into the market and turn over the proceeds to Applicant less the $802,200 cost of the shares to FFC; (ii) tender the shares to Sonesta and turn over the proceeds to Applicant less cost; or (iii) turn over the Sonesta shares to Applicant in return for $802,200. Applicant notes that on April 12, 1978 the closing price for Sonesta common stock was $7.25 per share and that such price reflects, in part, the publicized intent on the part of Sonesta's management to redeem common stock at $8.25 per share once various filings and approvals are obtained. The Applicant contends that the arrangements with the Jacobs Group and FFC effectively place Applicant in the same position it would have been in had it purchased the Sonesta common stock in the open market, and points out that Applicant has not had any carrying expenses related to the Sonesta shares since Ocotber 1977, while, under its agreement with FFC, it has the opportunity to benefit from the sale of the shares.

The Applicant advises that on October 21, 1977, it bought 700,000 shares of common stock of Arctic, constituting approximately 23 percent of Arctic's outstanding common stock, and an option to acquire 100,000 additional shares during 1978 at an aggregate purchase price of $4,900,000 or $7 per share (the "Arctic Securities"). Applicant states that it was in connection with the proposed purchase of the Arctic Securities that the Applicant filed with the Commission a notification of registration on Form N-8A on October 13, 1977 since such purchase involved substantially all of its assets.

Applicant advises that the implications of becoming a registered investment company under the Act were not fully appreciated by the Applicant's Board of Directors at the time the Form N-8A was filed with the Commission. Subsequently, two non-interested directors were added to the Board of Directors to bring Applicant into compliance with section 10(a) of the Act. In addition, the Applicant states that its Board of Directors determined, for reasons more fully set forth in the application, that every effort should be made to dispose of the Arctic Securities and to seek exemption from the provisions of the Act so that the Applicant could return to holding cash and government securities until such time as the Rockler litigation matters were settled or otherwise resolved, at which time a decision could be made with respect to liquidation of the Applicant or, in the event an active business opportunity presented itself, continuation of the Applicant's existence in an active business endeavor would be considered. Moreover, the Applicant notes that the general decline in the stock market and the decline in Arctic's common stock caused its Board of Directors to conclude that a sale at the Applicant's purchase price was in the best interest of the Applicant and its shareholders. Applicant advises that the restricted nature of the Arctic Securities and the fact that the market prices of the Arctic common shares as traded on the New York Stock Exchange were less than $7 per share, caused the Board to conclude that JII or some other affiliate of Mr. Jacobs were the only prospects to purchase the Arctic Securities at the $4,900,000 price paid by the Applicant.

Section 17(a) of the Act prohibits, in relevant part, any affiliated person of a registered investment company, acting as principal, knowingly to sell to or purchase from such investment company any security or other property. As stated in the application, by virtue of its ownership of approximately 84 percent of the Applicant's outstanding common stock, JII is an "affiliate" of the Applicant, as that term is defined by section 2(a)(3)(A) of the Act. Moreover, JII is presumed to control the Applicant pursuant to section 2(a)(9) of the Act.

Section 17(b) of the Act provides that any person may file with the Commission an application for an order exempting a proposed transaction from one or more provisions of section 17(a) of the Act, and that the Commission shall grant such application and issue such order of exemption if evidence establishes that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policies of the registered investment company concerned and the general purposes of the Act.

Applicant maintains that the transaction between it and JII meets the applicable criteria set forth in section 17(b). In forming its opinion the Applicant advises that its Board of Directors considered appraisal letters submitted to it by the investment banking firm of Piper, Jaffray & Hopwood Inc. ("PJH") and that the appraisals indicated that the Arctic Securities would change hands between a non-affiliated, willing buyer and a non-affiliated willing seller at an aggregate maximum purchase price of $4,450,000, some $450,000 less than the proposed selling price. According to the application, because of the relationship between the parties, the recent date of the original purchase of the Arctic Securities and the relationship between the New York Stock Exchange closing price on October 21 and the recent closing price of $6 per share on January 6, 1978, it was determined that a price lower than the total aggregate purchase price paid by the Applicant for the Arctic Securities could not be justified. Moreover, because of the pending Rockler litigation and the hostilities arising therefrom, Applicant states that it was deemed imprudent for the Applicant's controlling shareholder to effect a purchase of the Arctic Securities at a price lower than the original purchase price. In addition to the total aggregate sale price of $4,900,000 proposed by JII, Applicant advises that JII also has agreed to reimburse the Applicant for the expense of the PJH appraisals, the cost of holding the Arctic Securities at the rate of 6 percent, and certain other expenses including up to $15,000 of legal fees associated with the assessment of the Applicant's responsibilities under the Act and the preparation of this application.

The Applicant's stated belief is that the proposed sale of the Arctic Securities is consistent with its stated investment policy since its stated policy is to effect the sale of the Arctic Securities so as to permit it to seek an order of the Commission terminating its investment company status. The Applicant further believes that the transaction is consistent with the general purposes of the Act to protect the public interest and the interest of investors.

Notice is further given that any interested person may, not later than May 23, 1978, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of

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course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12423 Filed 5-5-78; 8:45 am]

[8010-01]

[Rel. No. 10225 (812-4275)]

MUTUAL ASSET AND MANAGEMENT, INC.

Notice of Filing of Application Pursuant to Section 6(c) of the Act for an Order of Exemption From all Provisions of the Act

MAY 1, 1978.

Notice is hereby given that Mutual Asset and Management, Inc. ("Applicant"), an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on March 3, 1978, for an order of the Commission pursuant to section 6(c) of the Act exempting Applicant from certain provisions of sections 10(a), 14(a), 20(a) and rule 20a-1 thereunder, 22(d) and 24(d) of the Act and temporarily exempting the Applicant from certain provisions of sections 16(a) and 32(a) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant was organized on February 22, 1978, under the Business Corporation Act of the State of Connecticut for the primary purpose of qualifying as an investment company of the type contemplated under title 36, chapter 641, section 36-96(12) of the Connecticut General Statutes, to serve as an investment medium for mutual savings banks in Connecticut and for the Connecticut Savings Bank Life Insurance Company. Applicant is subject to the following five fundamental limitations prescribed by the above-described Connecticut Statutes:

(1) Applicant must be registered under the Act;

(2) All of Applicant's shares must be owned by savings banks organized under the laws of the State of Connecticut and doing business there or by the Connecticut Savings Bank Life Insurance Company (hereinafter sometimes called "Authorized Investors");

(3) Applicant's assets must be invested only in such investments as are specifically permitted by section 36-96 and section 36-96(2)-(9), inclusive, of the Connecticut General Statutes;

(4) The amount of stock of any corporation which Applicant may hold cannot exceed, at the time of the investment by Applicant, 5 percent of the total number of shares of such corporation then outstanding; *Provided, however,* That at the time of such investment the amount invested by Applicant in the stock of any corporation shall not exceed 10 percent of the total assets of Applicant; and

(5) The total investment of any Connecticut mutual savings bank in the stock of Applicant cannot exceed six percent (6%) of such savings bank's assets.

Applicant advises that it intends to keep the Bank Commissioner of Connecticut informed on all aspects of its affairs and activities and to send to the Commissioner all reports that it sends to its shareholders and such other additional information which the Commissioner may request.

Applicant represents that it will be an investment company wholly owned by the Authorized Investors and will be internally managed by a Board of Directors consisting of individuals who are also officers of certain of the Connecticut mutual savings banks which will ultimately own stock in the Applicant. Applicant alleges that such individuals are not agents of their respective savings banks and are acting as Directors of Applicant solely in their individual capacities. There will be no outside investment adviser employed by Applicant. In addition, Applicant will contract for custodial services with the Colonial Bank & Trust Co. of Waterbury, Conn.

Applicant states that it does not propose to use an underwriter; it is contemplated that any Authorized Investor desiring to participate in the initial offering of Applicant's shares may place an order directly with Applicant at a price of $10,000 per share. Thereafter, any Authorized Investor, during certain periods of time established by the Applicant's Board of Directors, may purchase shares in the same manner at the then current net asset value per share. Redemptions will be effected in a similar manner, except for a redemption charge presently fixed at 1 percent of the current net asset value per share computed next after receipt by the Applicant or its transfer agent, if any, of the notice of redemption.

Applicant requests exemption from the following provisions of the Act to the extent stated below:

From section 10(a) of the Act which provides that no registered investment company shall have a board of directors more than 60 percent of the members of which are persons who are "interested persons" of such registered company as defined in section 2(a)(19) of the Act. Applicant states that at its inception, it is conceivable that its Board of Directors may be composed of certain officers of stockholders holding more than twenty-five percent (25%) of Applicant's stock. Although such officers will be acting solely in their individual capacities and will not be agents of their respective banks, under a strict reading of the Act, such officers may be deemed to exercise "control" of or for their respective savings bank within the meaning of section 2(a)(9) of the Act. Applicant states that, accordingly, it is possible that more than 60 percent of the Directors of Applicant might be deemed to be "interested persons" within the meaning of section 2(a)(19) under the Act. Applicant maintains that the statutory limitation of section 10(a) is neither necessary nor in the public interest in light of the Applicant's expressed intention to keep the Connecticut Bank Commissioner informed of all aspects of Applicant's affairs and activities and to provide the Bank Commissioner with copies of, and an opportunity to comment upon, all reports to Applicant's stockholders and reports and registration materials filed with the Commission. Applicant further states that the necessity for such limitation is mitigated by virtue of the very stringent statutory limitations imposed upon Applicant's choice of securities for its investment portfolio.

From section 22(d) of the Act which provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. Applicant states that in view of the fact that each Authorized Investor is an experienced and sophisticated institutional investor and that Applicant's shares provide a common investment only for such Authorized Investors, Applicant does not propose to deliver a prospectus to them. Instead, before accepting an initial order from any Authorized Investor, Applicant will furnish a copy of its Certificate of Incorporation and its By-Laws, its custodian agreement with The Colonial Bank & Trust Co., its notification of and registration under the Act, this application and the Commission's order with respect thereto. Thereafter, the Applicant will insure that prospective purchasing Authorized Investors which are considering making subsequent purchases are provided with any material amendments to the foregoing documents. In addition, upon the written request of any Authorized Investor, the Applicant will deliver its most recent quarterly or annual report required under the Act. Applicant maintains that, under these circumstances, requiring the de-

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livery of a prospectus to prospective purchasers would impose an undue expense and an unnecessary burden upon the Applicant without commensurate benefits to the Authorized Investors which may purchase its stock.

From section 14(a) of the Act, which, in part, requires a registered investment company to have a net worth of at least $100,000 before publicly offering its securities unless such company meets the rquirements of section 14(a) (2) or (3). Applicant states that it has firm commitments from four Connecticut mutual savings banks for the purchase of 170 shares of its stock at an aggregate purchase price of $1,700,000. Applicant states that inasmuch as it is seeking an exemption from section 24(d) of the Act so as to be able to rely upon an exemption from the registration requirements under the Securities Act of 1933, it would not, if such exemption is granted, meet the literal requirements of section 14(a)(3) of the Act.

From section 20(a) of the Act and rule 20a-1 thereunder, which requires that the solicitation of proxies by registered investment companies must be in compliance with the rules and regulations issued by the Commission under section 14(a) of the Securities Exchange Act of 1934. Applicant states that compliance with the proxy rules and regulations would serve no useful purpose. Applicant states that in view of the shareholders' knowledge of the conduct of its business, to require compliance with the proxy rules and regulations would not provide any corresponding benefit to Applicant's shareholders. In addition, Applicant states that in light of the sharply circumscribed limitations on investments imposed by section 36-96(12) and in light of the availability for review of all relevant documents of Applicant by the Connecticut Banking Commissioner, the added burden and expense of complying with section 20(a) and rule 20a-1 thereunder seems unwarranted. Applicant also states that the substantive information generally contained in the documents would, in large part, be contained in the documents being made available to prospective investors.

From section 24(d) of the Act which renders inapplicable to investment companies the "intra-state" offering exemption from the registration 3(a)(11) thereunder. Applicant alleges that such exemption would be available to Applicant were it not for section 24(d) of the Act. It alleges that inasmuch as it has been organized solely to provide Authorized Investors with a common investment medium, it is evident that neither the general public interest nor the interest of any of such Authorized Investors would be served by requiring registration under the Securities Act of 1933.

Applicant also requests temporary exemptions from sections 16(a) and 32(a) of the Act, which, respectively, require that shareholders of a registered investment company: (i) elect its directors, and (ii) ratify the selection of its independent public accountants. Applicant has no shareholders and will have none until its sells shares after it becomes registered as an investment company and after the exemptions requested by this application have been granted. Applicant states that it does not plan to have a shareholders' meeting until a special meeting is held during May or June of 1978, at which meeting the above two matters will be submitted. Since Applicant will issue no shares until the above prerequesites are fulfilled, there could be only a few months during which shareholder approval would be lacking.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 26, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
SECRETARY.

[FR Doc. 78-12424 Filed 5-5-78; 8:45 am]

[8010-01]

[Release No. 14718 (SR-NYSE-78-24); (SR-Amex-78-10)]

NEW YORK STOCK EXCHANGE, INC., AND AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Changes

MAY 1, 1978.

I. THE EXCHANGES' RULE PROPOSALS

On April 13, 1978, the New York Stock Exchange, Inc. ("NYSE") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), and rule 19b-4 thereunder, copies of a proposed rule change which would permit members to register as Registered Competitive Market Makers ("RCMM's") and would establish the obligations of such members as market makers on the NYSE floor.[1] Amendments which substantially changed the proposed obligations of the RCMM's were filed by the NYSE as amendment No. 1 to file No. SR-NYSE-78-24 on April 26, 1978.[2]

On April 17, 1978, the American Stock Exchange, Inc. (the "Amex"), also filed with the Commission, pursuant to section 19(b)(1) of the Act and rule 19b-4 thereunder, copies of a proposed rule change which would permit its members to register as Registered Equity Market Makers ("REMM's") and establish the obligations of such members as market makers on the Amex floor.[3] On April 26, 1978, the Amex filed, as amendment No. 1 to file

[1] Notice of this initial NYSE proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14694 (Apr. 21, 1978)), and by publication in the FEDERAL REGISTER (43 FR 17890 (Apr. 26, 1978)).

[2] Notice of amendment No. 1 to the NYSE proposed rule change, together with the terms of substance of the proposal as amended, was given by publication of a Commission release (Securities Exchange Act Release No. 14706 (Apr. 26, 1978)), and by publication in the FEDERAL REGISTER (43 FR 18380 (Apr. 28, 1978)). Technical corrections, which do not change the substance of file No. SR-NYSE-78-24 were filed by the NYSE on May 1, 1978, as amendment No. 2 to that file.

[3] Notice of this initial Amex proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 14691 (Apr. 20, 1978)), and by publication in the FEDERAL REGISTER (43 FR 17888 (Apr. 26, 1978)).

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No. SR-Amex-78-10, substantial modifications to the proposed obligations of its REMM's.[4] As amended, the NYSE and Amex proposals both are intended to create a category of market makers whose transactions on their respective exchanges would qualify for an exemption under section 11(a)(1)(A) of the Act, and would accomplish that result through the implementation of new rules and amendments to existing rules of each exchange. It is these amended rule proposals which the Commission considers herein.

The stated purpose of SR-NYSE-78-24, as well as SR-Amex-78-10, is to create a supplemental market making function in listed stocks for which NYSE "competitive traders"[5] and Amex "floor traders" may qualify in order that their proprietary on-floor transactions may be eligible for the section 11(a)(1)(A) exemption for market maker transactions. To accomplish this, the NYSE and Amex each have proposed to authorize members to register as supplemental dealers (which the NYSE would label as RCMM's and Amex as REMM's) who would assume certain obligations to the markets in listed stocks (and possibly warrants) maintained by the two exchanges. The proposed classes of market makers on the NYSE and the Amex would not, however, assume obligations equivalent to those of a specialist or competing specialist in specified securities, nor would such members be designated as specialists for purposes of obtaining preferential credit treatment under rules promulgated by the Board of Governers of the Federal Reserve system.[6] As a consequence of their unique status, the proprietary trading of members who choose to register as RCMM's or REMM's would be governed by new rules which the NYSE and Amex assert would qualify such members as market makers and thereby exempt them from the prohibitions of section 11(a) of the Act.[7] The NYSE and Amex rule proposals both would expire automatically on July 31, 1979, unless extended by further exchange rules approved by the Commission pursuant to section 19(b) of the Act.

The NYSE and Amex both would require a member to pass an examination and register with the exchange before acting as an RCMM or REMM on either exchange.[8] Initial registration on the NYSE also would be conditioned on satisfaction of a capital requirement of $25,000 over and above any other applicable NYSE or federal requirement. Amex RCMM's would not be subject to any capital requirement other than that provided by the Commission's Uniform Net Capital rule.[9]

All transactions affected by RCMM's and REMM's and all bids or offers made by RCMM's or REMM's would be required to constitute a course of dealings in a manner consistent with the maintenance, as far as reasonably practicable, of a fair and orderly market.[10] REMM's on the Amex would be registered to perform market making functions in such securities as the prospective REMM would select and would be required to comply with all obligations of a REMM in each such designated security.[11] RCMM's on the NYSE would not select, or be assigned to specific securities, but would be required to fulfill all obligations of a RCMM in every security traded on the NYSE. RCMM's and REMM's would be permitted to act as floor brokers and to execute customer orders in any securities traded on the NYSE or Amex, but would not be able to transact as broker and dealer in the same security during the same trading session.

Apart from these general obligations, any member who becomes a RCMM or REMM shall be subject to call by a floor official, or a floor broker holding an unexecuted customer order, to improve the market in any listed stock. The RCMM would be obliged to enhance the market in a particular issue by either (1) bidding or offering so as to narrow the spread in the established quotation by at least the minimum trading variation or (2) improving depth by at least one unit of trading by making a bid equal to the current bid or an offer equal to the current offer. REMM's on the Amex would be subject to the same requirements to bid or offer, but would be required to equal or better the current bid or offer, as requested, only if that bid or offer was quoted by the Amex specialist for his own account. The alternative duties of both RCMM's and REMM's to improve the market in a particular issue arise generally whenever a RCMM or a REMM responds to a call by a floor official or floor broker or seeks to effect a proprietary trade without being called. Thus, the NYSE and Amex seek to qualify all on-floor, proprietary trades effected by RCMM's or REMM's as market maker transactions for purposes of the exemption in paragraph (A) of section 11(a)(1) of the Act.

These obligations to trade in a manner which results in either stabilizing transactions [12]or a narrowing of the existing quotation are subject to certain limited exceptions. These exceptions would permit RCMM's and REMM's to engage in the following transactions:

(1) Any transaction where a market maker liquidates a long or short position at a loss;

(2) A sale of stock on a "zero minus" tick at the bid provided that all market makers and the specialist in the aggregate do not sell more than 50 percent of all such stock bid for in the market; the NYSE would restrict this exception to situations where the quotation spread is at the minimum variation (generally, one-eighth of a dollar) and the minimum variation was not the result of the subject RCMM's offer.

(3) A purchase of stock on a "zero plus" tick at the offer to cover a short to cover a short position provided that

[4] Notice of amendment No. 1 to the Amex proposed rule change, together with the terms of substance of the proposal, as amended, was given by publication of a Commission release (Securities Exchange Act Release No. 14707 (Apr. 26, 1978)) and by publication in the FEDERAL REGISTER (43 FR 18379 (Apr. 28, 1978)).

[5] There are no substantive differences between the NYSE and Amex rules which currently govern the trading conduct of members who are called "competitive traders" on the NYSE and "floor traders" on the Amex.

[6] Regulations T (12 CFR 220.1-.8) and U (12 CFR 221.1-4.7).

[7] The NYSE and Amex both have submitted supplemental material to file Nos. SR-NYSE-78-24 and SR-Amex-78-10, respectively, by which the exchanges and their counsel further explain why their respective rule proposals qualify RCMM's and REMM's as market makers for purposes of the section 11(a)(1)(A) exemption. See letter dated Apr. 26, 1978, from James E. Buck, Secretary, NYSE, to Andrew M. Klein, Director of the Division of Market Regulation (file No. SR-NYSE-78-24) and letter dated Apr. 26, 1978, from Gordon L. Nash, Lord, Day & Lord, counsel to the Amex, to George A. Fitzsimmons, Secretary of the Commission (file No. SR-Amex-78-10). Copies of these materials are available for public inspection in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

[8] Both exchanges would defer, for such reasonable time as would allow adoption of an appropriate examination, the examination requirement for members who sought to register as RCMM's or REMM's by May 1, 1978, the date on which Section 11(a) of the Act becomes effective with respect to those traders who were registered in that capacity on May 1, 1975.

[9] Securities Exchange Act Rule 15c3-1, 17 CFR 240.15c3-1.

[10] See proposed NYSE Rule 107B(2-6) and proposed Amex Rule 114(b) and (c)(1). File No. SR-NYSE-78-24 and SR-Amex-78-10.

[11] Market participation by an RCMM on the NYSE is prohibited on an issue-by-issue basis under the following circumstances: (1) the market maker (or affiliated person or organization) has an option position in the particular security; (2) the market maker has already transacted as broker in the stock during the same trading session; and (3) a market maker's transaction in the issue would be excessive in relation to his available capital.

[12] A transaction is considered to be stabilizing if it is a purchase at a price which is lower than the last preceding transaction at a different price (a minus or zero minus tick) or a sale at a price which is higher than the last preceding transaction at a different price (plus or zero plus tick).

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all market makers and the specialist in the aggregate do not buy more than 50 percent of such stock offered in the market; the NYSE again restricts this exception to situations where the spread is at the minimum variation and that spread is not the result of the subject RCMM's bid.

(4) A purchase of stock on a "zero plus" tick at the offer, at or below the previous day's closing price in that security, again provided that all market makers and the specialist in the aggregate do not buy more than 50 percent of the stock offered; the NYSE also restricts this exception as described in (3) above.

Both proposals also would implement certain recordkeeping requirements concerning the participation of RCMM's or REMM's in the markets. The NYSE and Amex model their proposed recordkeeping requirements for REMM's and RCMM's on existing recordkeeping requirements governing floor traders. The Amex proposed rule specifies that an REMM must file daily a report indicating the opening position of the REMM and (for each trade) the time, price, tick, number of shares, broker representing the other side of the transaction (or, when applicable, the specialist), whether the trade resulted from a bid or offer requested by a floor broker or floor official and, if so, the name of the person making the request. Similarly, a floor official or floor broker on the Amex who requests an REMM to make a bid or offer is required to report such requests, although he apparently is not required to report the circumstances surrounding the request or the response which is given to such request.

The NYSE proposed rule specifies that an RCMM must keep a record of each trade initiated on the floor for his own account showing the sequence in which each of his transactions actually took place, the tick, and, "insofar as practicable," the time of each transaction. Unlike the Amex proposal, the NYSE will not require RCMM's to report this information to the NYSE on a daily basis, but only on a periodic spot-check basis when requested by the NYSE.

The NYSE proposed rule, however, does specify instances which require filing of a report as to particular conduct of its RCMM's. First, an RCMM must immediately file a report of any transaction resulting from a request for a quotation by a floor official or floor broker. Such a report must include information describing the details of the trade and state of the market at the time of the trade, and be initialed by the floor official or floor broker who requested the bid or offer. The NYSE, however, does not require floor officials or floor brokers to record and report their requests for RCMM participation or the nature of the response or lack of response to such requests. Second, an RCMM must immediately file a report of any transaction which is effected pursuant to proposed exemptions which permit RCMM's, under certain circumstances, to engage in transactions which reach across the prevailing quotation.

COMMISSION FINDINGS

The Commission finds that the NYSE and Amex rule proposals represent efforts to establish a category of members on each exchange to perform the functions of market makers in equity securities and that, as programs of limited duration, the proposed rules of the NYSE and Amex which would attempt to accomplish this result are consistent with the purposes of the Act.

Section 3(a)(38) of the Act defines the term "market maker" as, among other things,

> any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis.

One element of this definition focuses on the market making relationship between the dealer [13] and a particular security. The market in that security would theoretically benefit from the participation of the market maker by the addition of greater depth, liquidity and continuity. The NYSE proposed rule change would not require the assignment of specific securities to the RCMM. An RCMM's obligations would extend to each NYSE-listed stock. On the Amex, a REMM would assume market-making obligations only with respect to issues in which such member determines to register.[14]

Another element of the market maker definition requires a dealer to "hold himself out (by entering quotations in an inter-dealer communications system or otherwise)." At the minimum, a market maker would appear to be required to communicate to another person in some fashion concerning the availability of his market making capabilities in a particular security. That communication process might involve the publication of quotations in an inter-dealer communications system or any other comparable means. It also might include an agreement to provide quotations upon request. In general, the "holding out" would not seem to require more than an explicit agreement to take certain actions upon request, e.g., to provide quotations, provided that agreement is communicated to other persons.

In a market not characterized by the physical presence of brokers and dealers representing all orders, the market maker continually presents a quotation as representative of the market he is willing to make in a particular security.[15] The market maker's quotation is firm without regard to whether better bids and asks of other market makers exist, and may in fact differ from those other bids and asks.

In an exchange market which focuses on a trading floor, only the best bid(s) and best offer(s) have any standing.[16] Therefore, in an exchange market which only recognizes the best bid(s) and offer(s), the Commission believes that a person should be prepared to act in a meaningful way in any security in which he agrees to act as a market maker by providing either a bid or an offer (depending on which one is needed) which must match or better other bids or offers present in the market. By making that kind of contribution, a market maker would obtain standing for his bids or offers and the presence of those bids and offers in the market should contribute to the maintenance of a fair and orderly market in the subject security.

The Amex and NYSE rule proposals would require a REMM or RCMM, whenever he was making a bid or offer (whether requested by a floor official or floor broker or not) or effecting a purchase of sale, for his own account, to engage in a course of dealings for his own account or for the account of his member organization in a manner consistent with the maintenance of a fair and orderly market. In addition, the REMM or RCMM would be subject to call by a floor official or floor broker holding an unexecuted customer's order in any security at any time. Specifically, an RCMM on the NYSE would be required, in entering a quotation (or effecting a transaction) (i) to better the existing bid or offer by no less than the minimum variation of trading in that security or (ii) to improve the depth of the market in that security by equalling (for at least one round lot) the current bid or offer. An REMM on the Amex would be subject to a similar requirement, but would be required to better or equal the existing bid or offer only when that bid or offer was made by the registered specialist for his own account. The

[13] Section 3(a)(5) of the Act provides that the term "dealer" means any person engaged in the business of buying and selling securities for his account, through a broker or otherwise, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business.

[14] Proposed Amex Rule 114(a)(i); proposed NYSE Rule 107B (4), (5), and (6). File Nos. SR-Amex-78-10 and SR-NYSE-78-24.

[15] E.g., broker-dealers which display bids and offers in the NASDAQ system or in the experimental multiple dealer system operated by the Cincinnati Stock Exchange. See Securities Exchange Act Release No. 14674 (April 18, 1978).

[16] See NYSE Rule 70 and Amex Rule 126.

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RCMM and REMM both are required to enter a bid or an offer on the side of the market requested by the floor official or floor broker.[17] On the basis of the information available to it at the present time, the Commission believes that the combination of the two requirements enumerated above, i.e., the "on call" requirement and the "competitive bid/offer" requirement, should be deemed to satisfy the "holding out" standard set forth in the section 3(a)(38) definition of market maker during the temporary period when these rules are in effect.

The definition of a market maker also requires that he must be willing to buy and sell the particular security in which he has assumed a market making role. In order to satisfy this element, a market maker would appear to be required only to agree to buy and sell stock. There is not, however, an explicit reference as to what quantity or price must be provided. In this regard, the Commission views the obligations which the RCMM's and REMM's would assume, (a bid or offer for one round lot equal to or better than, on the NYSE, the current bid or offer and, on the Amex, the current bid or offer for the account of the registered specialist) as sufficient, for purposes of an initial experiment to determine whether such members, in fact, will function as market makers, to be consistent with the requirements of the Act.

A final element requires a market maker to be willing to buy and sell "on a regular or continuous basis." That element provides an indication of the frequency a market maker should be willing to perform in that capacity. A continuous market implies that the market maker is maintaining or establishing a quotation or other form of "holding out" without any time lag or interruption.[18] A regular market, while something less than "continuous," should be characterized by a bona fide effort to provide bids or offers in a reliable manner, which could include upon request or at periodic intervals of time. The Commission believes that the NYSE and Amex proposals should be sufficient to assure that RCMM's and REMM's will be required to provide regular bids and offers in a manner which would qualify them, during the temporary period when these rules will be in effect.

The Commission believes that the rules provisions which require a REMM or RCMM either to narrow the spread or improve the depth of a market in a given security, and be prepared to participate (at risk) in the market in a constructive manner at any time represents what may be potentially a useful means of encouraging competition on the Amex and NYSE and improving the markets which those exchanges provide. The Commission notes, however, that the rule proposals, as approved herein, would expire automatically on July 31, 1979. The Commission believes that this "sunset" provision is appropriate and facilitates its finding that RCMM's and REMM's, under the proposed rules, may act in a manner which would qualify them as market makers. During this period the Commission will monitor the implementation of this market maker function and, as set forth herein, seek the views of interested persons as to whether the obligations imposed upon RCMM's and REMM's, and their actual conduct in the marketplace, justify exempting their transactons in these capacities under section 11(a)(1)(A) of the Act. In light of the lack of any information which would indicate that, in practice, the obligations proposed by the NYSE and Amex would assure a bona fide market making function, the Commission's findings are based solely on what the Commission believes will be adequate safeguards in the rules approved today. Should the NYSE or Amex choose to file, pursuant to section 19(b) of the Act, proposed rules which would adopt these proposals on a permanent basis, the Commission wishes to make clear that it would require the exchanges to justify such proposals with specific data and statistics demonstrating that RCMM's and REMM's have acted in a manner which qualifies them as market makers.[19]

The Commission also has determined that, while the provisions of the proposed exchange rules which would permit RCMM's and REMM's to effect certain destabilizing transactions do not in themselves represent any undertaking to perform the functions of a market maker, they are, on balance, designed to facilitate the ability of an RCMM or REMM to engage in market making activities which could contribute to the maintenance of fair and orderly markets.

The Commission recognizes that the ability of floor traders or market makers to be attracted to the floor by commercial opportunity may require permission for those parties to liquidate positions and obtain the use of capital made available by such liquidations for activity in other securities. Further, it notes that, in particular, this provision permitting liquidations at a loss poses little threat of permitting market makers to use such liquidations as a means of manipulation, since any manipulation relying on these liquidations would be limited by the existing positions of the market maker and his willingness to continue taking a loss in furtherance of the manipulation.

With respect to the ability of RCMM's or REMM's to liquidate long or short positions at a profit on zero plus or zero minus ticks or acquire positions, below the previous day's close, on zero plus ticks, the Commission notes that while such transactions are not necessary to the maintenance of a fair and orderly market in the subject security, they also appear, at this time, to pose little threat of disrupting the market in that security or being used for manipulative purposes. First, market makers may not initiate a destabilizing tick by selling (except at a loss) on a minus tick or covering a short on a plus tick, but can only effect these destabilizing trades after the respective minus or plus ticks have been established. Second, market makers and the specialist in the aggregate may not take more than 50 percent of the stock bid or offered at a price which would result in a destabilizing transaction. Thus, a destabilizing trend through a given price level could not be continued without participation of orders other than those of market makers or the specialist.[20] Finally, as in liquidating a position at a loss, it may be desirable for a market maker to liquidate a position so that he may utilize the resulting free capital to assume positions in other securities where a greater need for a market making contribution exists.

On balance, and in view of the perceived need for market makers to trade in a destabilizing manner to achieve a profitable return, by means of the exemptions discussed above, the Commission has determined to permit the RCMM's and REMM's to effect such transactions during the interim period of these rules. The Commission would be quite concerned, however, if, as the NYSE and Amex gain experience with RCMM's and REMM's, it becomes apparent that market makers are utilizing the exemptive provisions for a substantial percentage of their trading activity rather than trading primarily in a manner better calculated to improve NYSE and Amex markets.[21]

[17] Proposed Amex Rule 114(c); proposed NYSE Rule 107.10(ii).

[18] The principal example is a market maker in the NASDAQ system which is obligated to enter quotations in such system during business hours. Schedule D., N.A.S.D. Manual (CCH) ¶1653A.

[19] See discussion infra at p. 14-15 concerning the exchanges' proposals to monitor trading by their market makers while these rules are effective.

[20] The Commission also notes that the NYSE would prohibit its RCMM's from engaging in such transactions except in markets where the quotation is at the minimum variation. Further, although Amex REMM's are not bound by such a restriction, it would be in their economic interest, when effecting such a liquidation, to attempt to effect a transaction by narrowing the spread before reaching across to hit the bid or offer.

[21] The Commission notes that the Amex would require 75 percent of its REMM's

Footnotes continued on next page

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In approving these proposals, the Commission notes that the exchanges, in their proposals, have undertaken to implement certain recordkeeping procedures designed to monitor the performance of RCMM's and REMM's. While the Commission believes that the recordkeeping provisions constitute a necessary first step in determining whether REMM's and RCMM's are complying with their obligations as market makers, it also is concerned that the information which the exchanges obtain be accurate and reliable and provide a meaningful picture of the function which these market makers will perform on the NYSE and Amex. In this regard, the Commission is concerned that the NYSE and Amex lack sufficient procedures to assure that they (or, where necessary, the Commission) can verify the accuracy of the information obtained by the exchange from the market makers. In particular, the Commission does not believe that it currently is possible on either the Amex or NYSE independently to verify the identity of any individual giving a quotation or the precise time in which such quotation is given in relation to preceding and subsequent transactions. This, of course, presents difficulties with respect to the exchanges' abilities to assure that market makers are responding with quotations which are consistent with the requirements of their rules or, when trading on their own initiative, are complying with applicable restrictions. Further, the Commission is concerned that the exchanges may not, as a practical matter, be able to enforce compliance with their rules by monitoring the 50 percent restrictions on the ability of market makers to reach across the market and sell stock to prevailing bids when liquidating a position at a profit or acquiring a position at a price at or below the previous day's close. The difficulty arises in part because neither the NYSE nor the Amex have any reliable means of determining at any given time, the exact amount of stock being bid for at a particular price, either on the specialist's book or in the crowd, and, accordingly, of ascertaining whether more than 50 percent has been taken by the market makers.

In this regard, the Commission's further review of the market maker proposals will rely to a significant extent on the ability of the NYSE and Amex to provide concrete evidence that its market makers do trade in a manner which contributes to the maintenance of fair and orderly markets. The Commission therefore notes its concern that the presentation of such reliable evidence will be facilitated by, and may be impossible without, the implementation of audit trail mechanisms on the NYSE and Amex designed to provide a comprehensive and reliable means of monitoring trading and ensuring compliance with applicable requirements.

Footnotes continued from last page

transactions to be stabilizing on a monthly basis.

GOOD CAUSE FOR ACCELERATED APPROVAL

Section 19(b)(2) of the Act permits the Commission to approve a proposed rule change submitted by a self-regulatory organization prior to the 30th day after the day of publication of notice of filing thereof if the Commission finds good cause for doing so and publishes its reasons for so finding.

As discussed above, the purpose of the NYSE and Amex proposals is to permit their floor traders to register and trade in a capacity which would qualify for an exemption from section 11(a) of the Act, which becomes effective on May 1, 1978.[22] Absent Commission approval of these proposals, existing floor traders will not be permitted to trade on the floor of the NYSE or Amex unless they otherwise qualify for an exemption under section 11(a) of the Act. The late dates, however, on which the NYSE and Amex filed both their initial proposals and subsequent amendments would preclude the Commission from providing, before May 1, 1978, the opportunity for public comment which section 19(b) of the Act would otherwise require with respect to these proposals.[23] The provision of the customary 30-day comment period in this instance would disrupt certain trading activities on the NYSE and Amex which the Commission believes have the potential for improving the depth and liquidity of those exchanges' markets and increasing competition generally therein.

In addition, the Commission notes that the failure to act favorably on either SR-NYSE-78-24 or SR-Amex-78-10 by May 1, 1978, would compel cessation of on-floor proprietary trading by a number of NYSE and Amex registered traders, who would not otherwise be able to qualify for exemption under section 11(a). To the extent that floor traders act in the capacity of "market makers" under section 3(a)(38) and 11(a)(1)(A) of the Act, they are engaged in exchange activities which the Congress explicitly recognized as having a beneficial market impact and which should be allowed under section 11(a).[24] The Commission has found that implementation, during the interim period ending July 31, 1979, of the NYSE and Amex programs under the rule changes contained in SR-NYSE-78-24 and SR-Amex-78-10 is consistent with the purposes of the Act, including section 11(a). Accordingly, the Commission believes that preventing members who would register as RCMM's or REMM's from effecting proprietary transactions of May 1, 1978, in compliance with the NYSE and Amex market-maker rules, would not result in any demonstrable furtherance of the purposes of section 11(a) or of the Act in general and would cause unnecesary financial hardship to these persons.

In view of the foregoing, the Commission finds, pursuant to section 19(b)(2) of the Act, that good cause exists to accelerate approval of SR-NYSE-78-24 and SR-Amex-78-10. Although the Commission approves the NYSE and Amex proposals on an accelerated basis, the Commission actively solicits and will review any comments received from interested persons during the 15-month lifespan of the instant NYSE and Amex rules. In particular, commentators are invited to submit their views (supplemented by any relevant data or statistics) with respect to (1) whether additional affirmative obligations (e.g., a requirement to provided quotations in one or more particular securities on a regular or continuous basis) or negative obligations (e.g., a prohibition against any or all destabilizing transactions) should be imposed upon NYSE RCMM's or Amex REMM's (2) whether any existing affirmative or negative obligation should be modified or perhaps removed, and (3) whether, in practice, NYSE RCMM's or Amex REMM's provide significant liquidity, continuity and depth to the market, particularly under difficult market conditions and/or in respect to less active stocks.

Written comments received will be used by the Commission to assist it in monitoring the experiment, assessing the efficacy of the temporary NYSE and Amex rules approved today, determining whether there may be any need for the Commission to terminate or modify the experiment, and reviewing any subsequent rules which the NYSE or Amex may submit to obtain additional or permanent authority for the operation of nonspecialist market makers on their respective floors.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes (as amended by the submission of Amendment No. 1 to both File Nos. SR-NYSE-78-24 and SR-Amex-78-10), which would permit members of the NYSE and Amex to register as market markers and establish the obligations of such members as market makers on the respective exchange floors, be, and they are hereby approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12426 Filed 5-5-78; 8:45 am]

[22] Section 11(a)(3), 15 U.S.C. 78k(a)(3).

[23] The Commission understands that the failure of the NYSE and Amex to file their proposals on an earlier date was at least in part, a consequence of the anticipated enactment of legislation (recommended by the Commission) which would delay the effective date of section 11(a)(1) of the Act until November 1, 1979. That legislation has not yet been enacted into law.

[24] Securites Act Amendments of 1975, Report of the Senate Comm. On Banking, Housing and Urban Affairs, to accompany S. 249. S. Rep. No. 94-75, 94th Cong. 1st Sess. 68 (1975).

[8010-01]

[Release No. 14719; (SR-NYSE-78-26)]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

MAY 1, 1978.

On April 13, 1978, the New York Stock Exchange, Inc. (the "NYSE") filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (U.S.C. 78s(b)) the ("Act") and Rule 19b-4 thereunder (17 CFR 240.19b-4), a proposed rule change to amend NYSE Rule 111 which prohibits any member other than a competitive trader from initiating transaction on the NYSE floor for its own account or the account of his member organization. The proposed rule change, among other things, added registered competitive market makers as exception to this prohibition in order to conform NYSE Rule 111 to the NYSE's proposal of registered competitive market makers as a new class of floor members in File No. SR-NYSE-78-24.[1] That class was approved today by the Commission on a temporary basis.[2]

Notice of the proposed rule change together with their terms of substance was given by publication of a Commission release (Securities Exchange Act Release No. 14696 (April 21, 1978)) and by publication in the FEDERAL REGISTER (43 CFR 17889 (April 26, 1978)). Interested persons were invited to submit written data, views and arguments concerning the proposed rule change. The Commission has not received any comments on the proposed rule change. On May 1, 1978, the NYSE filed an amendment which (i) withdrew technical portions of the proposed rule change relating to bond trading and (ii) clarified the extent of the prohibition of Rule 111.

The Commission finds that the proposed rule change set forth in File No. SR-NYSE-78-26, as amended, specifically the amendments to paragraphs (c), (e), and (f) and supplementary material .10, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of section 6 and the rules and regulations thereunder.

Section 19(b)(2) of the Act permits the Commission to approve a proposed rule change submitted by a self-regulatory organization prior to the thirtieth day after the date of publication of notice of filing thereof if the Commission finds good cause for doing so and publishes its reasons for so finding. The Commission today had approved the proposed rule changes in File No. SR-NYSE-78-24 on an accelerated basis for a number of reasons,[3] including the fact that section 11(a) of the Act became effective today. In view of that action and those reasons, the Commission finds, pursuant to section 19(b)(2) of the Act, that good cause exists to accelerate approval of File No. SR-NYSE-78-26. Nonetheless, commentators are invited to submit written data, views and arguments concerning the proposed rule change in this filing.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12427 Filed 5-5-78; 8:45 am]

[1] Securities Exchange Act Release No. 14694 (April 21, 1978), 43 FR 17890 (April 26, 1978).

[2] Securities Exchange Act Release No. 14713 (May 1, 1978).

[3] See Securities Exchange Act Release No. 14718 (May 1, 1978).

[8010-01]

[File No. 500-1]

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

Notice of Suspension of Trading

APRIL 18, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of New York, New Haven & Hartford Railroad Co. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:30 a.m. e.s.t. on April 18, 1978 through April 27, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12425 Filed 5-5-78; 8:45 am]

[8010-01]

[Release No. 20527; (70-6111); (31-606)]

NORTHERN STATES POWER CO.

Notice of Proposed Acquisition by Exempt Holding Company of Stock of Electric and Gas Utility and Application for Exemption Under Section 3(c)

MAY 1, 1978.

Notice is hereby given that Northern States Power Co. ("Northern States"), a holding company, has filed an application-declaration on behalf of itself and its subsidiaries as such designating sections 9 and 10 of the Public Utility Holding Company Act of 1935 ("Act") as applicable to the proposed transactions and requesting an exemption under section 3(a)(2) of the Act. All interested parties are referred to the application-declaration which is summarized below for a complete statement of the pertinent facts.

Northern States, a Minnesota corporation, is a utility company and also a holding company, as defined in section 2(a)(7) of the Act. Its wholly owned subsidiary, Northern States Power Co. ("Wisconsin"), is a Wisconsin corporation. Northern States is presently exempt pursuant to an order of this Commission under section 3(a)(2) of the Act. *In the Matter of Northern States Power Company*, 36 SEC 1 (1954).

Northern States is engaged predominantly in the generation, transmission, distribution and sale of electricity in the States of Minnesota, North Dakota, and South Dakota and the distribution and in the sale at retail of natural gas in the States of Minnesota and North Dakota. Its wholly-owned subsidiary, provides similar utility services in the State of Wisconsin. Northern States has two wholly-owned nonutility subsidiaries, Cormorant Corp., a Montana corporation, which holds interests in fuel resources, and United Power & Land Co., a Minnesota corporation, which holds nonutility properties of a relatively nominal value. For the year ended December 31, 1976, consolidated operating revenues of Northern States and Wisconsin from electric operations totaled $643.8 million and revenues from gas operations totaled $118.9 million. On December 31, 1976, Northern States and Wisconsin furnished electric service as an integrated electric utility system in a 40,000 square mile service area to 990,000 customers in 631 communities, and gas service to 248,000 customers in 78 communities located in the same general territory. For the year ended December 31, 1976, the Northern States system derived approximately 84 percent of its operating revenues from electric service, 15 percent from gas service and 1 percent from heating and telephone service.

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Northern States proposes to acquire the shares of outstanding Common Stock, $10 par value, of Lake Superior District Power Co. ("Lake Superior"), a Wisconsin corporation, through an offer to stockholders of Lake Superior to exchange 0.48 shares of Northern States common stock, $5 par value, for each share of Lake Superior common stock.

Lake Superior is engaged primarily in the generation, transmission, distribution and sale of electric energy and the distribution and sale at retail of natural gas service in northern Wisconsin and the Upper Peninsula of Michigan. For the year ended December 31, 1976, operating revenues of Lake Superior from electric operations totaled $18.8 million and revenues from gas operations totaled $4.2 million. On December 31, 1976, Lake Superior served a territory with a population of about 125,000 in an 8,600 square mile area. It furnished electric service to 37,000 customers in 15 counties in Wisconsin and Michigan, gas service to about 8,000 customers in 22 communities in the same area, and water service in one community in Wisconsin. For the year ended December 31, 1976, Lake Superior derived approximately 81.5 percent of its operating revenues from electric service, 18.3 percent from gas service and 0.2 percent from water service.

Lake Superior, Northern States and Wisconsin are parties with other power suppliers to the Mid-Continent Area Power Pool Agreement pursuant to which parties may exchange power and energy under schedules designed in the pool agreement for various purposes, including improved operations, emergency and economy. For the purposes of these interchanges, additional transmission facilities in the area are available for interchange among these companies. Lake Superior's major current source of bulk electric power supply, in addition to its own generation facilities, is Minnesota Power & Light Co., under an agreement which expires in November 1980. In anticipation of the expiration of that contract, Lake Superior is contemplating the construction of transmission facilities for additional interconnections with major bulk transmission facilities in northern and central Wisconsin. Lake Superior, Northern States, Wisconsin and other utilities in the area have agreed to the joint ownership of a nuclear generating plant to be located in the central portion of the state near Durand, Wis. Lake Superior and other power suppliers, in response to invitations by Northern States, have also been reviewing the possibility of joining with Northern States in the joint ownership of other planned generation units. It is stated that the inclusion of Lake Superior in the Northern States system will provide improved coordination of planning, construction and maintenance of electric facilities and a reduction in administrative costs associated with generation and transmission facilities.

Northern States and Lake Superior have entered into an Agreement dated December 29, 1977 (the "Agreement") setting forth the terms and conditions of the proposed exchange offer. It provides that the exchange offer will be made during an initial period of approximately 30 days, subject to extension by Northern States for an additional period or periods. Northern States will not extend the exchange offer beyond 60 days from the initial date without approval by the Commission. The deposits of shares of Lake Superior Common Stock will be irrevocable during the initial period and any authorized extension or extensions thereof. Northern States will declare the exchange offer effective when shares of Lake Superior Common Stock equal to 80 percent of all of the voting securities of all Lake Superior stock outstanding are tendered prior to the expiration of the offer period and if all other conditions of the proposed exchange have been met. The offer is also subject to other conditions, among them, a favorable tax ruling and all regulatory approvals.

Northern States recognizes that if it does not acquire all of the outstanding common stock of Lake Superior the resulting publicly-held minority interest in such stock will create an unduly or unnecessarily complicated corporate structure or an inequitable distribution of voting power, contrary to the standards of section 11(b)(2) of the Act. Therefore, if less than all shares of Lake Superior common stock are acquired pursuant to the exchange offer, Northern States will register with the Commission in accordance with Section 5(a) of the Act for the limited purpose of promptly submitting a plan to eliminate the minority publicly-held shares of Lake Superior common stock through an exchange for Northern States Common Stock.

Northern States represents that it intends to operate Lake Superior as a separate unit, and that it is its present intention to retain all personnel currently employed by Lake Superior. Northern States expects that substantially all officers and all but one of the directors of Lake Superior will remain in their current positions.

A statement of the fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment. The Minnesota Public Service Commission has jurisdiction over Northern States' capital structure, including approval of the issuance of Northern States securities required for the acquisition. No other State or Federal commission other than this Commission has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 25, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he disires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the General Rules and Regulations promulgated under the Act, or the commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12428 Filed 5-5-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

PRIVACY ACT OF 1974

Revised System of Records

In 43 FR 8605 (March 2, 1978) a notice of a proposed revised system of records was published. Any person interested in commenting on the proposed revision was given 30 days to submit comments in writing.

Since no comments were received, this system of records is submitted herewith as the Agency's official system and is effective May 3, 1978.

A. VERNON WEAVER,
Administrator.

SBA285

System name:

Official Travel Files—SBA285.

System location:

Central Office, at address listed in Appendix A, Federal Records Centers, at addresses listed in Appendix B.[1]

Categories of individuals covered by the system:

SBA employees.

Categories of records in the system:

Files include Travel Voucher and Applications for Advance of Funds submitted by each employee.

Authority for maintenance of the system:

5 U.S.C. 301, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are reviewed by the General Accounting Office in the course of an audit of the Agency.

In the event that a system of records maintained by this Agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulatory rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcement or implementing the statute, rule, regulation or order issued pursuant thereto.

Storage:

Records are kept in file folders.

Retrievability:

Records are indexed by employee name and social security number.

Safeguards:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is utilized to prevent unauthorized disclosure.

Retention and disposal:

Records are maintained for two years after the end of a fiscal year, or until a GAO audit. Records are then transferred to a Federal Records Center, where they will be disposed of 10 years after the end of the fiscal year in which the records were compiled.

Systems manager(s) and address:

Privacy Act Officer. See Appendix A for address.

[1]Referenced appendixes A and B are included in 42 FR 48794.

Notification procedures:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer, at the address contained in Appendix A.

Record access procedures:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advises.

Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their rquest to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

Record source categories:

Travel Vouchers and Applications for Advance of Funds submitted by employees.

[FR Doc. 78-12437 Filed 5-5-78; 8:45 am]

[1505-01]

[Declaration of Disaster Loan Area No. 1459]

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Declaration of Loan Disaster Area

Correction

In the FEDERAL REGISTER for Monday, May 1, 1978, the date, signature and file line for the document above was inadvertently published on page 18611 of that issue and should be transferred to page 18617 where the document above appears. The following information should be added:

"Dated: April 21, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-11370 Filed 4-28-78; 8:45 am]"

[4710-07]

DEPARTMENT OF STATE

[Public Notice CM-8/55]

SHIPPING COORDINATING COMMITTEE, COMMITTEE ON OCEAN DUMPING

Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10 a.m. on Tuesday, June 6, 1978, in the Administrator's Conference Room, 11th floor, West Tower, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

The meeting will review United States preparations for the following three intersessional meetings to be held in London:

June 21-23—Joint Ad Hoc Group on Incineration at Sea;
June 26-30—Ad Hoc Scientific Group on Ocean Dumping; and
June 26-30—Ad Hoc Group of Legal Experts on Dumping.

Requests for further information should be directed to Mrs. Norma Hughes, Oil and Special Materials Control Division (WH-548), Environmental Protection Agency, Washington, D.C. 20460. Mrs. Hughes may be reached by telephone on 202-245-3051.

The Chairman will entertain comments from the public as time permits.

Dated: April 27, 1978.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

[FR Doc. 78-12388 Filed 5-5-78; 8:45 am]

[4710-08]

[Public Notice CM-8/56]

STUDY GROUP 1 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that Study Group 1 of the U.S. CCITT National Committee will meet on June 1, 1978, at 10 a.m. in Room 511 of the Federal Communications Commission, 1919 M Street NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The Committee will discuss international telecommunications questions relating to telegraph and telex services, and maritime services, in order to develop U.S. positions to be taken at an international CCITT Study Group I meeting to be held in June 1978, in Munich, Germany.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: April 28, 1978.

ARTHUR L. FREEMAN,
Chairman, U.S. CCITT National Committee.

[FR Doc. 78-12387 Filed 5-5-78; 8:45 am]

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[4710-07]

ADVISORY COMMITTEE ON THE 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Establishment of an Advisory Committee

In accordance with Pub. L. 92-463 the Department of State has requested and received approval from the General Services Administration to establish an Advisory Committee on the 1979 World Administrative Radio Conference (WARC), it having been determined that the establishment of the Committee would be in the public interest in connection with the performance of duties imposed on the Department by law.

The United States has a substantial interest in the outcome of the 1979 WARC. The Department of State has formed an initial delegation group to the 1979 WARC made up of Government experts. The initial delegation group will later be expanded to include persons from the private sector. Given the diverse and technical issues to be addressed, the Department will need not only the expertise available from Government officials but also substantial advice from the private sector.

The Committee will have a broad and balanced membership, and will include representatives of industry, public interest groups and others with an interest in the WARC.

The Committee will assist in the formulation of positions for the Conference. It will report to its Chairman, who also serves as Chairman of the U.S. Delegation to the WARC; on occasion it will consult with the Delegation itself.

The Committee will terminate not later than December 15, 1979.

In accordance with section 6 of OMB Circular No. A-63 (Revised), the Committee Management Officer, General Services Administration, has waived the requirement for a 15-day interval between the publication of this Notice and the filing of the Committee's Charter. The Committee will become effective on May 10, 1978.

A copy of the Charter of the Advisory Committee on the 1979 World Administrative Radio Conference will be deposited with the Library of Congress (Federal Advisory Committee Desk, Federal Documents Section, Exchange and Gifts Division), Washington, D.C.

Dated: May 3, 1978.

GORDON L. HUFFCUTT,
Acting Executive Secretary, Ad Interim.

[FR Doc. 78-12436 Filed 5-5-78; 8:45 am]

[4710-02]

Agency for International Development

HOUSING GUARANTIES

Prescription of Rate

Pursuant to section 223(f) of the Foreign Assistance Act of 1961 as amended ("the Act"), contracts of guaranty to be entered into for loan investments in housing under section 221 and section 222 of the Act will be subject to the following restriction:

The maximum allowable rate of interest to an eligible U.S. investor shall not be in excess of 1 percent (1%) per annum above the current rate of interest applicable to housing mortgages insured by the Department of Housing and Urban Development that is in effect at the time AID approves the borrower's selection of an investor's proposal.

This prescription of rate is effective as of April 11, 1978, the date approved by Mr. Sander Levin, Assistant Administrator, Bureau for Development Support.

Dated: April 26, 1978.

PETER KIM,
Director, Office of Housing.

[FR Doc. 78-12379 Filed 5-5-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-64]

BLACKWATER RIVER IN SEABROOK, N.H.

Proposed Amendment of a Permit to Modify a Bridge Across

The Commandant has authorized a public hearing to be held by the Commander, First Coast Guard District, at Seabrook Town Building, on Collins Street, Seabrook, N.H., June 8, 1978, at 7 p.m. The purpose of the hearing is to consider the permit application from Frank W. Hake, Inc., to reinforce the New Hampshire Route 286 highway bridge across the Blackwater River, at Seabrook, N.H., for approximately five years.

This reinforcement is deemed necessary to increase the load bearing capacity to accommodate extraordinarily heavy vehicles transporting components of the Seabrook Nuclear Powered Electric Generating Plant now under construction at Seabrook, N.H. The reinforcement of the bridge will be accomplished by placing steel beams under the beams presently supporting the bridge surface. The steel beams will reduce the vertical clearance under the bridge from 4 feet to 0.5 feet (MHW) and 9 feet (MLW). The determination of whether a Coast Guard bridge permit will be issued must rest primarily on the project's impact on navigation and the environment. Bridge permit actions, such as approval of minor modifications having no significant forseeable impacts on navigation and the environment, under consideration by the Coast Guard are classified as non-major federal actions for the purposes of the National Environmental Policy Act of 1969. Under criteria published by the Coast Guard in the FEDERAL REGISTER, Volume 41, No. 128, July 1, 1976, this proposal has been tentatively classified as a non-major federal action. It appears that the decision on this permit application will not alter the planned construction of the power plant.

The Nuclear Regulatory Commission is the lead Federal agency for preparation of the Environmental Impact Statement (EIS) for the power plant. The EIS is required by the National Environmental Policy Act. An EIS was filed with the Council on Environmental Quality in December 1974.

Preliminary information indicates that an alternative route is available. Comments on the feasibility of using an alternative route are desired.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (obr), First Coast Guard District, 150 Causeway Street, Boston, Mass. 02114, by June 2, 1978. Such notification should include the approximate time required to make the presentation. Comments previously submitted are a matter of record and need not be resubmitted at the hearing. Speakers are encouraged to provide written copies of their oral statements to the hearing officer at the time of the hearing. Those wishing to make written comments only may submit those comments at the hearing, or to the Commander (obr), First Coast Guard District. Comments must be received by June 19, 1978. Written comments will be available for public inspection in the office of the Commander (obr), First Coast Guard District. A transcript of the hearing will also be available for inspection approximately 30 days after the hearing.

All comments, oral and written, will be considered before a final determination is made of the subject application by the Commandant, U.S. Coast Guard, Washington, D.C. 20590.

(Section 502, 60 Stat. 847, as amended: 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(c); 49 CFR 1.46(c)(10).)

F. P. SCHUBERT,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 78-12449 Filed 5-5-78; 8:45 am]

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[4910-13]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SEPARATION STUDY REVIEW GROUP

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Separation Study Review Group to be held May 31 and June 1, 1978, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C., commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of Second Meeting held November 1-2, 1977; (3) Status Report on FAA Separation/Navigation Standards Program; (4) Report of Actions Resulting from second Meeting; (5) Preliminary Report and Discussion on Initial Flight Inspection Test Results; (6) Discussion of Preliminary Data Collected on performance on VOR Routes in Cleveland, Memphis, and Albuquerque; (7) Discussion of Progress on Data Analysis Methods; and (8) General Discussion.

Attendance is open to the interested public but, limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006, 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on May 1, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-12417 Filed 5-5-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 32TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-7327, appearing at page 11641 in the issue for Monday, March 20, 1978; on page 11645, third column, second line from top, the word *"common"* should read *"contract"* in reference to Motor Carrier No. 144259TA.

[1505-01]

[Notice No. 35TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-7746, appearing at page 12170 in the issue for Thursday, March 23, 1978; on page 12173, third column, eighth line of No. MC 143378 (Sub-No. 5TA), the word *"contract"* should read *"common"*.

[1505-01]

[Notice No. 60]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-10848, appearing at page 17093 in the issue for Friday, April 21, 1978; on page 17094, second column, "No. MC 94265 (Sub-No. 246TA)" should read "No. MC 94265 (Sub-No. 246TA)".

[7035-01]

[Notice No. 654]

ASSIGNMENT OF HEARINGS

MAY 3, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 1 (Sub-No. 57), Chicago and North Western Transportation Co. Abandonment Between Lake Crystal and Winnebago in Blue Earth and Faribault Counties, MN, is now assigned for hearing July 10, 1978 (1 week) at Winnebago, MN, at a location to be later designated.

AB 7 (Sub-No. 43), Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Abandonment near Paralta and Hopkinton, in Linn, Jones, and Delaware Counties, IA, is now assigned for hearing July 17, 1978 (1 week) at Anamosa, IA, at a location to be later designated.

MC 113651 (Sub-No. 244), Indiana Refrigerated Lines, Inc., now assigned May 22, 1978 at New York, NY, will be held in Room E-2222, 26 Federal Plaza, Federal Building.

AB 55 (Sub-No. 15), Seaboard Coast Line Railroad Co. Abandonment near Tunis, NC and Nurney, VA, in Gates and Hertford Counties, NC and the City of Suffolk, VA, now assigned June 5, 1978 at Gates, NC, is postponed and reassigned to June 6, 1978 (4 days) at the Gates County New Courthouse, Gatesville, NC.

MC 82492 (Sub-No. 145), Michigan & Nebraska Transit Co., Inc., now assigned July 10, 1978 at Washington, DC, is postponed indefinitely.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12468 Filed 5-5-78; 8:45 am]

[7035-01]

[Notice No. 655]

ASSIGNMENT OF HEARINGS

Correction

MAY 3, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prespective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION

MC 143945 (Sub-No. 3), Artransport, Inc., was incorrectly shown in the FEDERAL REGISTER of May 1, 1978 as assigned for hearing on June 26, 1978. This information was published in error. However, MC 143945 (Sub-No. 3), Artransport, Inc. is now assigned for prehearing conference on May 31, 1978 at the Offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12467 Filed 5-5-78; 8:45 am]

[7035-01]

[Ex Parte No. 241; 30th Rev. Exemption No. 12]

EXEMPTION UNDER MANDATORY CAR SERVICE RULES

It appearing, That the railroads named herein own numerous plain boxcars; that under present conditions there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipment to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

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It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC-RER No. 407, issued by W. J. Trezse, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b). (See note.)

Atlantic & Western Railway, Reporting Marks: ATW.
Chicago & Illinois Midland Railway Co., Reporting Marks: CIM.
Fonda, Johnstown & Gloversville Railroad Co., Reporting Marks: FJG.
Hartford and Slocomb Railroad Co., Reporting Marks: HS.
*Hillsdale County Railway Co. Inc., Reporting Marks: HCRC.
Lackawaxen & Stourbridge Railroad Corp., Reporting Marks: LASB.
Louisiana Midland Railway Co., Reporting Marks: LOAM.
Maryland & Pennsylvania Railroad Co., Reporting Marks: MPA.
Pickens Railroad Co., Reporting Marks: PICK.
Roscoe, Snyder & Pacific Railway Co., Reporting Marks: RSP.
Wellsville, Addison & Galeton Railroad Corp., Reporting Marks: WAG.

NOTE.—Does not include boxcars with mechanical designation "XMI."

Effective April 30, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., April 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-12471 Filed 5-5-78; 8:45 am]

[7035-01]

[Ex. Parte No. 241; Rev. Exemption No. 148]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

Exemption Under Mandatory Car Service Rules

It appearing, That there is an emergency movement of military supplies from Crane, Ind., to Earle, N.J.; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (Milwaukee), the railroads designated by the Car Service Division are authorized to move to, and the Milwaukee is authorized to accept, assemble, and load not to exceed 175 empty plain boxcars with military supplies from Crane, Ind., to Earle, N.J., regardless of the provisions of Car Service Rules 1 and 2.

It is further ordered, That this exemption shall constitute a modification of the provisions of section (a)(2)(ii) of Service Order No. 1309, and of all provisions of Revised Service Order No. 1301 and of Service Order No. 1306.

Effective April 25, 1978.
Expires May 31, 1978.

Issued at Washington, D.C., April 21, 1974.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-12472 Filed 5-5-78; 8:45 am]

[7035-01]

[Corrected S.O. No. 1304; Exception No. 4]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

Granting of Exception

Exception under section (a), paragraph (6), corrected Service Order No. 1304.

The Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (Milw), has been using eighteen (18) jumbo covered hoppers supplied by another railroad in unit-grain service. These cars have been recalled by the car owners because of increased demands for cars by its shippers. the Milw has requested authority to substitute eighteen (18) of its own cars for the foreign cars ordered home in order to continue providing the present level of unit-grain services to the users of such trains. The addition of these eighteen cars will increase Milw's ratio of cars in unit-grain-train service from its reported level of 11.6 percent of ownership to 12.2 percent of ownership, a ratio substantially below the 20.0 percent level permitted by the order.

It is ordered, That, pursuant to the authority vested in the Railroad Service Board by section (a)(6) of Corrected Service No. 1304, the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. is authorized to operate eighteen (18) additional jumbo covered hopper cars in unit-grain-train service to replace a like number of foreign cars withdrawn by the car ower regardless of the provisions of section (a)(5) of the order.

Effective April 18, 1978.

Issued at Washington, D.C., April 18, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-12474 Filed 5-5-78; 8:45 am]

[7035-01]

[Corrected I.C.C. Order No. 54 Under R.S.O. No. 1252]

CHICAGO, ST. PAUL AND PACIFIC RAILROAD CO.

Rerouting of Traffic

In the opinion of Robert S. Turkington, Agent, the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. is unable to transport promptly all traffic offered for movement over its lines between Savanna, Ill., and Kansas City, Mo., because of track conditions and shortages of locomotives.

It is ordered, That:

(a) *Rerouting traffic.* The Chicago, Milwaukee, St. Paul and Pacific Railroad Co. being unable to transport promptly all traffic offered for movement over its lines between Savanna, Ill., and Kansas City, Mo., because of track conditions and shortages of locomotives that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4 p.m., April 4, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., April 30, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 4, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-12470 Filed 5-5-78; 8:45 am]

[7035-01]

[Rev. SO 1322; Exception 5]

ILLINOIS CENTRAL GULF RAILROAD CO.

Granting of Exception

By the provisions of Revised Service Order No. 1322 the Illinois Central Gulf Railroad Co. (ICG) is required to use seventy (70) percent of its serviceable ownership of jumbo covered hoppers for transporting shipments of raw grain. A review of the normal use of these cars by that line discloses that it requires the use of a large portion of its fleet for transporting grain, soybean and cottonseed products from the numerous processors served by its line in Iowa, Illinois, Kentucky, Tennessee, and Mississippi. The involvement of the ICG in the western grain traffic is confined to its Iowa division and does not directly affect the operations of other portions of its system. The use of seventy (70) percent of its serviceable fleet of jumbo covered hopper cars for transporting shipments of grain will result in undue hardship on other shippers normally using a portion of these cars. Accordingly, it is the opinion of the Railroad Service Board that an exception to the basic requirements of Revised Service Order No. 1322 should be granted to the ICG.

It is ordered, That:

Pursuant to the authority vested in me by section (f) of Revised Service Order No. 1322, the Illinois Central Gulf Railroad Co. is directed to assign to grain service at least forty (40) percent of its ownership of jumbo covered hoppers as defined in section (a)(2) of Revised Service Order No. 1322, regardless of the provisions of section (c)(1) of the order and regardless of the provisions of Exception No. 1 to the order.

The additional cars made available by this exception for transporting shipments other than grain shall be used for transporting shipments of grain products, soybean products or cottonseed products.

Effective 12:01 a.m., April 20, 1978.

Issued at Washington, D.C., April 20, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Chairman, Railroad Service Board.

[FR Doc. 78-12473 Filed 5-5-78; 8:45 am]

[7035-01]

[Finance Docket No. 28740]

ILLINOIS CENTRAL GULF RAILROAD CO.

Notice of Application To Acquire and Operate—A Line of Railroad in Tishomingo County, Miss.

Illinois Central Gulf Railroad Co., 233 North Michigan Avenue, Chicago, Ill. 60601, represented by Richard M. Kamowski, Attorney, Illinois Central Gulf Railroad Co., 233 North Michigan Avenue, Chicago, Ill. 60601, hereby give notice that on the 14th day of April, 1978, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 1(18) of the Interstate Commerce Act, for a certificate of public convenience and necessity to acquire and operate a line of railroad in Tishomingo County, Miss., which application is assigned Finance Docket No. 28740.

Applicant proposes to acquire and operate a line of railroad to be constructed by the United States Army Corps of Engineers at the Corps' expense. The Tennessee-Tombigbee Waterway Project's route requires applicant to relocate a portion of its Jackson, Tenn., to Birmingham, Ala., main line. Applicant has filed an application (Docket No. AB-43 (Sub-No. 44)) to abandon this portion of its line and intends to exchange the abandoned line for the new line of railroad, which is roughly parallel to the existing line. The line to be abandoned will be operated until the new line is available for use so that operations over applicant's Jackson, Tenn., to Birmingham, Ala., main line will not be interrupted. The line will be located entirely within Tishomingo County, Miss.

The line's route is northwest-southeast, having one terminus near Holts Spur, Miss., and extending southeast to a point outside of Paden, Miss. There are no incorporated cities or villages on this route. The total track length will be approximately 9.32 miles.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12469 Filed 5-5-78; 8:45 am]

[7035-01]

[Notice No. 39]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarded transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request

*Addition.

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for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-F-C 77577, filed March 13, 1978. Transferee: GLADES MOTOR LINES, INC., 406 North Morgan Street, Tampa, FL 33602. Transferor: Tamiami Trail Tours, Inc., 525 Madison Street, Tampa, FL 33601. Applicant's representative: Gregory A. Presnell, P.O. Box 231, Orlando, FL 32802. Authority sought for purchase of a portion of the operating rights set forth in certificate No. MC 74761, issued August 22, 1956, and a portion of certificate No. MC-74761 (Sub-No. 11), issued July 7, 1967, as follows: *Passengers, baggage, and express,* over specified regular routes, between Tampa, FL, and Punta Gorda, FL, between Punta Gorda, FL, and Fort Myers, FL, between Fort Myers, FL, and West Palm Beach, FL, and between LaBelle, FL, and the junction of U.S. Hwy 27 and FL Hwy 80, intermediate points to be served on all four routes. Transferee holds no Commission authority and does not seek section 210a(b) authority.

No. MC-F-C 77623, filed April 11, 1978. Transferee: INTERMODAL CONTAINER EXPRESS, INC., 6076 County Road 11, Rising Sun, OH 43457. Transferor: Interstate Warehousing Corp., 6076 County Road 11, Rising Sun, OH 43457. Applicants' representative: Kathleen L. Maher, 100 East Broad Street, Columbus, OH 43215. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate No. MC 136230, issued November 14, 1977, as follows: *General commodities,* with exceptions, between Jacksonville, FL, on the one hand, and, on the other, points in FL and GA; *empty containers, trailers, and trailer chassis,* between points in FL and GA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-C 77627, filed April 18, 1978. Transferee: HENRY V. RABOUIN, INC., P.O. Box 204, Pittsfield, MA 01201. Transferor: Henry V. Rabouin (same address as transferee). Applicants' representative: Sherwood Guernsey II, 57 Wendell Avenue, Pittsfield, MA 01201. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in certificate No. MC 30618, issued March 21, 1957, and all of the operating rights of transferor as set forth in certificate No. MC 30618 (Sub-No. 7), issued October 15, 1973, as follows: *Various commodities,* from, to, and between specified points in MA, NY, CT, VT, NJ, NH, and RI; and *dry animal feed ingredients,* from Troy, NY, to points in ME, NH, VT, MA, RI, and CT. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-12466 Filed 5-5-78; 8:45 am]

[7035-01]

[Notice No. 40]

MOTOR CARRIER TRANSFER PROCEEDINGS

May 8, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR, Part 1132:

No. MC-FC-77646. By application filed April 28, 1978, ALLIED TRANSPORTATION SERVICES, INC., P.O. Box 7424, Shawnee Mission, KS 66207, seeks temporary authority to transfer the operating rights of Milk Producers Marketing Co., 2nd and Turnpike Road, Lawrence, KS 66044, under section 210a(b). The transfer to Allied Transportation Services, Inc., of the operating rights of Milk Producers Marketing Co. is presently pending.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-12465 Filed 5-5-78; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 91-409), 5 U.S.C. 552b(e)(3).

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[6355-01]

1

CONSUMER SAFETY COMMISSION.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: April 5, 1978, 9:30 a.m. and April 6, 1978, 2 p.m.

MATTERS TO BE CONSIDERED: Commission meetings; April 5, 1978 and April 6, 1978. Third Floor Hearing Room 1111 18th Street NW., Washington, D.C.

Revised Agenda[1]

APRIL 5, 1978

Open to the Public, 9:30 a.m.

Mid-year review

Following Mid-Year Review briefings on March 13-15, and preliminary decision meetings on March 24 and March 27, the Commission will continue to consider the decision-making process on the following general matters:

Adjustments to the fiscal year 1978 operating plan.
Guidance to staff for the fiscal year 1979 operating plan.
Guidance to staff for the zero-based budgeting exercise for fiscal year 1980, 1981, and 1982.
Priority-setting for the next 18 months.
General guidance to staff in allocating resources within specific activities.

Closed to the public, 2 p.m.

A discussion of a contractor's report which contains data that has yet to be fully evaluated.

APRIL 6, 1978

An afternoon session on the Mid-Year Review if one is needed.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secetary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-962-78 Filed 5-4-78; 3:34 pm]

[1] Agenda revised on April 3, 1978 to change the time for staring April 5 meeting from 10 a.m. to 9:30 a.m., and to add a closed item to the Agenda for April 5, 1978.

[6355-01]

2

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: April 12, 1978, 9:30 a.m.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Commission briefing: Wednesday, April 12, 1978, 9:30 a.m. Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

Agenda

OPEN TO THE PUBLIC

1. *Briefing on first-aid instructions for inducing vomiting*—In June 1977, the Commission proposed a statement of policy on this matter. At this briefing, the staff and Commission will discuss issues related to final Commission approval and issuance of the policy statement.

2. *Briefing on carpet and rug flammability standards*—At this briefing, the staff will seek guidance from the Commission on options for future action with regard to the flammability standards for carpets (FF 1-70) and for small carpets and rugs (FF 2-70), including sampling plans.

Agenda approved March 31, 1978.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-963-78 Filed 5-4-78; 3:34 pm]

[6355-01]

3

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: April 13, 1978, 9:30 a.m. and 2 p.m.

STATUS: Partly open (a.m.) and partly closed (p.m.).

MATTERS TO BE CONSIDERED: Commission meeting; Thursday, April 13, 1978, 9:30 a.m. and 2 p.m. Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

Agenda

OPEN TO THE PUBLIC, 9:30 A.M.

1. *Carcinogen policy*—The Commission will consider a proposed policy containing procedural guidelines describing how CPSC will proceed when presented with information on a substance that may present a potential carcinogenic hazard if present in a consumer product. The staff and Commission discussed this matter at briefings on January 18 and February 16, 1978.

2. *Final rule amending PPPA exemptions for certain aspirin-containing preparations*—In April, 1977, the Commission issued an interim rule on which comment was sought, amending the exemption from child-resistant packaging requirements certain aspirin-containing preparations. At this meeting, the Commission will consider issuing a final amendment increasing the exempted products to contain up to 13 grains of aspirin, rather than 10 grains.

3. *Final rule amending PPPA packaging requirements for certain iron-containing preparations*—In June, 1976, the Commission issued regulations requiring child-resistant packaging for certain preparations containing 500 mg or more of elemental iron per package. The regulation became effective in June, 1977. At this meeting, the Commission will consider an amendment to that rule lowering the requirement to those preparations containing 250 mg or more of elemental iron per package, as proposed in April 1977.

4. *Recommendation to close case and not pursue timeliness case: Estes Industries model rocket launch system, ID 77-38*—The staff has determined that there is insufficient information to support a belief that this product presents a substantial product hazard, and has recommended that the Commission close the case and not pursue a timeliness case.

CLOSED TO THE PUBLIC, 2 P.M.

5. *Recommendation to Initiate Adjudication: BCMI No. 1837* (OS No. 516)—The staff has recommended that the Commis-

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sion initiate adjudication in this Flammable Fabrics Act case involving a mattress manufacturer, or alternatively, close the case.

6. *Interpretation of CPSA section 4(g)(2)*—The Commission will consider a former employee's request for an interpretation of post-employment restrictions in section 4(g)(2) of the Consumer Product Safety Act.

Agenda approved March 31, 1978.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-964-78 Filed 5-4-78; 3:34 pm]

[6355-01]

4

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: April 20, 1978, 2 p.m.

STATUS: Partly open, partly closed.

MATTERS TO BE CONSIDERED: Commission meeting; Thursday, April 20, 1978, 2 p.m. Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

REVISED AGENDA[1]

OPEN TO THE PUBLIC

1. *First-aid instructions for inducing vomiting*—The Commission will consider approval and issuance of a policy statement on this matter, which it proposed in June, 1977. The Commission and staff discussed the issue at the April 12, 1978 briefing.

2. *Miniature Christmas tree lights*—The Commission will decide on publication of a proposed safety standard for miniature Christmas tree lights. At previous meetings, on March 23 and March 30, 1978, the Commission and staff discussed issues related to the recommended safety standard which the National Consumers League developed under the "offeror" process of the Consumer Product Safety Act, and submitted in November, 1977.

CLOSED TO THE PUBLIC

3. *Aluminum wire strategies*—The staff and Commission will discuss implications of, and strategies for Commission action following a recent court decision on this matter.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-965-78 Filed 5-4-78; 3:34 p.m.]

[6355-01]

5

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

TIME AND DATE: April 27, 1978, 9:30 a.m. and 2 p.m.

STATUS: Partly open, partly closed.

MATTERS TO BE CONSIDERED: Commission meeting and briefing; Thursday, April 27, 1978, 9:30 a.m. and 2 p.m., Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

REVISED AGENDA[2]

OPEN TO THE PUBLIC, 9:30 A.M.

1. *Recommendation to accept corrective action plan: Kawasaki Motor Corp., U.S.A.; snowmobiles, ID 77-89*—The staff has recommended that the Commission accept the corrective action plan which Kawasaki has implemented to correct a possible steering failure in certain snowmobiles it manufactures.

2. *Recommendation to accept corrective action plan: U.S. Divers Co.; scuba regulators, ID 78-19*—The staff has recommended that the Commission accept the corrective action plan which U.S. Divers has implemented to correct a possible defect in certain scuba regulators it manufactures.

3. *Recommendction to close possible substantial product hazard case: Westinghouse Electric Corp. gas furnaces, ID 78-48*—Based on its determination that a possible defect in certain furnaces does not pose a substantial product hazard, the staff has recommended that the Commission close this case, and not pursue any timeliness investigation.

4. *Benzene petition*—The Commission will consider a draft proposed ban of products which contain benzene, which it discussed at the April 19 briefing. In May, 1977, the Health Research Group petitioned the Commission to declare benzene a banned hazardous substance because of possible acute and chronic hazards associated with the chemical.

5. *Meeting with Worthington Industries*—Bob Yeoman, Vice President of Worthington Industries, will brief the Commission on a clutch/brake device for rotary power lawn mowers.

6. *Briefing on power lawn mowers*—The staff will brief the Commission on power lawn mowers, specifically the issues of blade contact and the interrelation of blade contact and thrown-objects.

CLOSED TO THE PUBLIC

7. *Aluminim Wire Strategies*—The staff and Commission will discuss implications of, and strategies for Commission action as a result of, a recent court decision on this matter. (Originally scheduled for April 20)

OPEN TO THE PUBLIC, 2 P.M.

8. *Carcinogen Policy*—The Commission will consider a draft carcinogen policy which defines what actions CPSC will take when presented with information that a substance may present a potential cancer hazard if it is present in a consumer product. At the April 13 meeting, the Commission gave guidance to the staff on specific issues in the policy.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-966-78 Filed 5-4-78; 3:34 pm]

[6355-01]

6

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW. Washington, D.C.

TIME AND DATE: May 11, 1978, 9:30 a.m. and 2 p.m.

STATUS: Partly open, partly closed.

MATTERS TO BE CONSIDERED: Commission Meeting and Briefing; Thursday, May 11, 1978, 9:30 a.m. and 2 p.m. Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

AGENDA

OPEN TO THE PUBLIC, 9:30 A.M.

Decision items

1. *Recommendation to accept corrective action plan: Aero Tech Manufacturers, food dehydrator, ID 77-86*—The staff has recommended that the Commission accept the corrective action plan which this firm has implemented, and close the possible substantial product hazard case involving possible shock hazards in certain food dehydrators.

2. *Final regulations establishing safety requirements for baby rattles*—The Commission will consider a final draft version of a regulation it proposed in November, 1977, intended to reduce potential choking and suffocation hazards associated with certain infant rattles.

3. *Matchbook standard and certification*—The Commission will consider issues that arise from a recent court decision on CPSC's safety standard for matchbooks.

4. *Export policy*—The Commission will consider (1) the issue of exportation of TRIS-treated products, and (2) a staff briefing package on developing an export policy under all the acts which the Commission administers.

CLOSED TO THE PUBLIC

5. *Consideration of a post-employment matter under section 4(g)(2) of the Consumer Product Safety Act*—The staff and Commission will discuss actions related to a request from a former employee for interpretation of the post-employment restrictions imposed by the CPSA.

OPEN TO THE PUBLIC, 2 P.M.

Briefing items

6. *Briefing on advertising agency plans*—Staff from the Office of Communications and CPSC's contract advertising agency will brief the Commission on plans for future information programs.

7. *Briefing on sports hazards*—Staff will brief the Commission on possible future actions to deal with hazards associated with sports and athletic equipment.

Agenda approved April 28, 1978.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, Telephone 202-634-7700.

[S-967-789 Filed 5-4-78; 3:34 pm]

[6712-01]

7

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, May 10, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTER TO BE CONSIDERED: Panel presentation in the matter of UHF TV receiver noise figures (Docket No. 21010).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information, Office, 202-632-7260.

Issued: May 3, 1978.

[S-961-78 Filed 5-4-78; 2:25 p.m.]

[6740-02]

8

FEDERAL ENERGY REGULATORY COMMISSION.

NOTICE OF MEETING

MAY 3, 1978.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., May 10, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda (NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the office of Public Information.

POWER AGENDA

119TH MEETING—MAY 10, 1978

Regular Meeting—(10 a.m.)

I. Electric Rate Matters

ER-1. Docket No. ER78-310, Union Electric Co.
ER-2. Docket No. ER77-531, Illinois Power Co.
ER-3. Docket No. E-6454, City of Centralia, Wash.
ER-4. Docket No. EL78-6, Illinois Power Co.
ER-5. Docket No. ES78-18, Community Public Service Co.
ER-6. Docket No. ES78-25, Indianapolis Power & Light Co.
ER-7. Docket No. ES78-27, Pacific Power & Light Co.

POWER AGENDA

119TH MEETING—MAY 10, 1978

Regular Meeting

CAP-1. Docket No. ER78-247, Carolina Power & Light Co.
CAP-2. Docket Nos. ER78-300, ER78-303, Northern States Power Co., et al.
CAP-3. Docket No. ER78-251, Pacific Power & Light Co.
CAP-4. Project No. 739, Appalachian Power Co.
CAP-5. (A) *Pennsylvania Power & Light Co.* v. *FERC*, D.C. CIR. No. 78-1270 (Docket Nos. ER78-70 and ER78-71); (B) *Oklahoma Gas and Electric Co.* v. *FERC*, 10th Cir. No. 78-1246 (Docket No. ER77-465).

MISCELLANEOUS AGENDA

119TH MEETING—MAY 10, 1978

Regular Meeting

CAM-1. Narragansett Electric Co.

GAS AGENDA

119TH MEETING—MAY 10, 1978

Regular Meeting

I. Pipeline Rate Matters—A. Pipeline Rates

RP-1(A) Docket No. RP78-——, Midwestern Gas Transmission Co. (B) Docket No. RP-78-——, East Tennessee Natural Gas Co.

II. Producer Matters—A. Producer Certificates

CI-1. Docket Nos. CI76-633, et al., Tenneco Exploration, Ltd., et al. Docket Nos. CI76-806, et al., Pennzoil Offshore Gas Operators, Inc., et al.
CI-2. Docket Nos. CI77-133 and CI78-144, CIG Exploration, Inc.
CI-3. Reserved.
CI-4. Reserved.

B. Special Relief

CI-5. Docket No. RI78-4, Superior Oil Co.
CI-6. Reserved.
CI-7. Reserved.

C. Producer Rates

CI-8 Docket No. CI74-78, Freeport Oil Co.

III. Pipeline Certificate Matters—A. Pipeline Certificates

CP-1. Docket No. CP78-73, Natural Gas Pipeline Co. of America, Michigan Wisconsin Pipe Line Co., Transcontinental Gas Pipe Line Corp., United Gas Pipe Line Co., Trunkline Gas Co.
CP-2 Docket No. CP78-123, et al., Northwest Alaskan Pipeline Co.
CP-3. Docket Nos. CP75-372 and CP75-373, Tennessee Gas Pipe Line Co., a division of Tenneco, Inc.
CP-4. Docket No. CP76-399, *Southwest Gas Corp.* v. *Northwest Pipeline Corp.*
CP-5. Docket No. CP77-71, Natural Gas Pipeline Co. of America: Docket No. CP77-118, Columbia Transmission Corp.; Columbia Gulf Transmission Co.; Docket No. CP77-125, Texas Gas Transmission Corp.
CP-6. Docket No. CP78-171, Southern Natural Gas Co.; Texas Gas Transmission Corp.; and United Gas Pipe Line Co.

GAS AGENDA

119TH MEETING—MAY 10, 1978

Regular Meeting

CAG-1. Docket No. RP72-41(PGA Nos. 78-1 and 78-2), Western Transmission Corp.
CAG-2. Docket Nos. RP73-47, RP76-39 and RP77-6, Sea Robin Pipeline Co.
CAG-3. Docket No. RP76-158, North Penn Gas Co.
CAG-4. Docket No. RI77-56, Oil and Gas Futures, Inc. of Texas, et al.
CAG-5. Docket Nos. CI75-773, et al., Pioneer Production Corp., et al.
CAG-6. Docket No. CP78-191, Trunkline Gas Co.
CAG-7. Docket No. CP78-150, Trancontinental Gas Pipe Line Corp.
CAG-8. Docket No. CP76-525, El Paso Natural Gas Co.
CAG-9. Docket No. CP78-137, Panhandle Eastern Pipe Line Co.
CAG-10. Docket No. CP77-648, Equitable Gas Co.
CAG-11. Docket No. CP78-95, Mississippi River Transmission Corp.
CAG-12. Docket No. CP76-526, El Paso Natural Gas Co.
CAG-13. Docket No. CP76-500, Cities Service Gas Co.
CAG-14. *Amoco Production Co.* v. *FERC*, D.C., Cir. No. 78-1312.
CAG-15. Docket No. CP78-41, Columbia Gas Transmission Corp., Equitable Gas Co.

KENNETH F. PLUMB,
Secretary.

[S-954-78 Filed 5-4-78; 9:15 am]

[7020-02]

9

[USITC SE-78-21A]

INTERNATIONAL TRADE COMMISSION.

[1] Agenda revised April 19, 1978, with the deletion of previous item No. 3, a briefing on sports hazards. The Commission previously deleted, on April 14, consideration of information and education issues raised in the Mid-Year Review. Both matters will be rescheduled at future meetings.

[2] Agenda revised April 21, 1978, with the addition of items 5 and 7. On April 20, the Commission had deleted a previously scheduled-briefing on advertising agency plans. This briefing will be rescheduled.

MAY 8 1978

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"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Sent April 27, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Thursday, May 11, 1978.

CHANGES IN THE MEETING: Additional agenda item: 9. CFC Award presentation to the Commission (at 10 a.m.).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-957-78 Filed 5-4-78; 9:19 am]

[7020-02]

10

[USITC SE-78-20C/21B]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 17628, April 25, 1978, and 43 FR 18628, May 1, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Thursday, May 4, 1978, and Thursday, May 11, 1978.

CHANGES IN THE MEETING: The following item, previously scheduled for the meeting of Thursday, May 11, 1978, as agenda item No. 9, has been added to the agenda for the meeting of Thursday, May 4, 1978:

8. Consideration of motions M-307, M-308, M-309, and M-311 to revise the schedule in Investigation 332-99 (Conversion of Specific and Compound Rates of Duty to Ad Valorem Rates), and motion M-303 and a letter from Mr. Richard Hines, Jr., to revise the schedule in Investigation 332-98 (Customs Valuation).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-956-78 Filed 5-4-78; 9:15 am]

[4110-29]

11

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

TIME AND DATE: May 19, 1978.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Approve Minutes of March 17, 1978 (9:30 a.m.-9:35 a.m.).
2. Director's Report (9:35 a.m.-10:15 a.m.).
3. General Business (10:15 a.m.-10:45 a.m.).
4. Planning for fiscal year 1980 (10:45 a.m.-12:15 p.m.).
5. Consideration of Council Roles and Priorities (1:15 p.m.-2:30 p.m.).
6. Report of NCER Committee on Review and Reports (2:30 p.m.-Adjournment).

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Ella L. Jones, Administrative Coordinator/NCER, telephone 202-254-7900.

PETER H. GERBER,
Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S-958-78 Filed 5-4-78; 10:12 am]

[7590-01]

12

NUCLEAR REGULATORY COMMISSION.

TIME AND PLACE: Week of May 1, 1978 (Changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

THURSDAY, MAY 4

9:30 a.m.

1. Discussion of Petition for Rulemaking Regarding Pat Down Physical Searches (approx. 1 hr.). (Public meeting.) (As announced.)
2. Discussion of Reconsideration of Board Notification Procedures (approx. 1 hr.). (Public meeting.) (As announced.)
3. Affirmation Items (approx. 10 min.). (Public meeting.)
   a. Subsidiary Arrangements to the US/IAEA Safeguards Agreement (as announced).
   b. Action Plan for Modifying the ECCS Rule in 10 CFR 50.46 and Appendix K. (Postponed.)
   c. Cross-Examination of ACRS Consultants (Additional item.)
   d. Approval of Order Denying Exxon Petition (Additional item.)

2:30 p.m.

1. Joint NCR/ACRS Meeting (approx. 1 hr.). (Open/Closed.) (As announced.)
2. Discussion of Amended Wording on section 201(a)(1) of Energy Reorganization Act Legislation (approx. 10 min.). (Public meeting.) (Additional item.)
3. Discussion of Nuclear Nonproliferation Act Including Changes to Part 110 (approx. 1 hr.). (Public meeting.) (Postponed from 1:30 p.m.)
4. Discussion of GESMO Statement of Reasons (approx. 30 min.). (Public meeting.) (Additional item.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

MAY 3, 1978.

[S-955-78 Filed 5-4-78; 3:34 pm]

[7590-01]

13

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Tuesday, May 9, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1:30 p.m.—Item 2. Discussion of Personnel Matters (Exemptions 2, 6) (*Replaces* "Discussion of OIA/OGC Investigation • • •" which is *rescheduled* to May 10, 1978).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

MAY 2, 1978.

[S-959-78 Filed 5-4-78; 2:25 pm]

[7590-01]

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of May 8, 1978.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Wednesday, May 10, 9:30 a.m.

1. Discussion of Matters Relating to Advanced Reactor Safety Agreements (approx. 1 hr.). (Public meeting.)
2. Discussion of Standardization of Nuclear Power Plants (approx. 1 hr.). (Public meeting.)
3. Affirmation Items (approx. 10 min.). (Public meeting.), a. Expansion of Secretary's Authority to Grant Extensions of Time.

1:30 p.m.

1. Discussion of Draft Amendments to the Atomic Energy Act on the Protection of Safeguards Information and Related Matters (approx. 1 hr.). (Public meeting.)
2. Discussion of Testimony on Proposed Licensing Legislation (Open/closed Status to be Determined). (Approx. 1½ hrs.) (Tentative.); or
2. Discussion of OIA/OGC Inquiry in Testimony of the Executive Director for Operations (approx. 1½ hrs.). (*Rescheduled* from 5/9.) (Closed—Exemption 1.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

MAY 3, 1978.

[S-960-78 Filed 5-4-78; 2:25 pm]

[8120-01]

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[Meeting No. 1194]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, May 11, 1978.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A. Personnel Actions

1. Change of Status—H. N. Stroud, Jr., from Assistant to Acting General Manager, Knoxville, Tenn.

B. Consulting and Personal Service Contracts

1. Amendment to consulting contract with Weston Geophysical Engineers, Inc., Weston, Mass.—Office of Engineering Design and Construction.

C. Purchase Awards

1. Req. No. 823521—Furnish all necessary labor, tools, equipment, and materials to perform improvements to the Trace highway at Land Between The Lakes.
2. Amendment to Contract 69P-87-T1 with Peabody Coal Co. for coal for TVA steam plants, covering interim arrangements for coal washing.
3. Req. No. 148567—Management services for uranium/vanadium mill site and properties in Edgemont, S. Dak.
4. Req. No. 98-42-2—Barging services for transporting coal to Shawnee Steam Plant.
5. Req. No. 98-42-3—Rail-to-barge transfer services for coal for Shawnee Steam Plant.
6. Amendment to Contracts 66P-76-T1 and 67P-76-T2 with General Electric for nuclear fuel for Browns Ferry Nuclear Plant.
7. Req. No. 55580 (second reissue)—Indefinite quantity term contract for office furniture.
8. Req. No. 72—Spot coal purchase for Kingston Steam Plant.

D. Project Authorizations

1. No. 3335—Pickwick Landing Project—repair bridge deck over dam.
2. No. 3333—Purchase spare generator rotor for Cumberland Steam Plant Units 1 and 2.
3. No. 3336—Federal-American Partners uranium mining project, Gas Hills, Wyo.

E. Fertilizer Items

None.

F. Power Items

1. Deed and bill of sale to the Electric Plant Board of the city of Franklin Kentucky—13-kV switching facilities at TVA's Franklin Substation site.
2. Lease and amendatory agreement with city of Tullahoma, Tennessee—Tullahoma District Substation and a portion of North Tullahoma 161-kV Substation.
3. Lease and amendatory agreement with city of Milan, Tennessee—Milan 161-kV Substation, Milan District 69-kV Substation, and the proposed South Milan Substation site.
4. Lease and amendatory agreement with city of Cookeville, Tennessee—East Cookeville Substation.
5. Lease and amendatory agreement with Pontotoc Electric Power Association—TVA's Pontotoc 161-kV and Ecru 46-kV Substations.
6. Lease and amendatory agreement with Tishomingo County Electric Power Association—TVA's Belmont and Tishomingo Substations and Tishomingo-Belmont 46-kV Line.
7. Lease and amendatory agreement with Blue Ridge Mountain Electric Membership Corporation—TVA's Wood Grove Substation and Hayesville-Wood Grove 69-kV Line.

G. Real Property Transactions

1. Agreement with State of Tennessee Department of Transportation and Stewart County, Tennessee, for transfer of State Highway 49.
2. Grant of permanent easement for public road right of way affecting approximately 1.17 acres of Guntersville Reservoir land in Jackson County, Ala.—tract XTGR-125H.
3. Grant of 30-year easement to Claiborne County, Tenn., for public recreation facilities, affecting approximately 33.3 acres of Norris Reservoir land—tract XTNR-101RE.
4. Reconveyance to TVA of 0.21 acre of Cherokee Reservoir land in Grainger County, Tenn., and grant of permanent easement to the trustees of Harrell Cemetery for public cemetery expansion—tract XTCK-29.
5. Reconveyance to TVA of certain land on Chickamauga and Fort Patrick Henry Reservoirs—tracts XTCR-21, XTCR-51, and portion of tract XTFHR-4.
6. Sale of certain Tims Ford Reservoir land at public auction—tracts XTMFR-6 and XTMFR-7.
7. Filing of condemnation suits.

H. Unclassified

1. Severance pay for Board secretaries.

Dated: May 4, 1978.

The Board will also conduct the preliminary rate review. In connection with the Board's quarterly financial review, information concerning current and anticipated conditions and costs affecting TVA's power operations and the adequacy of revenues to meet the requirements of the TVA Act and the tests and provisions of its bond resolutions will be discussed with the Board. This information will be considered by the Board in its later determination as to whether an adjustment of the rates and charges for the sale of electric power will be necessary during the quarter beginning July 1, 1978.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

[S-968-78 Filed 5-4-78; 3:46 pm]

[3510-13]

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U.S. METRIC BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 18831, May 2, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Wednesday, May 10, 1978.

PREVIOUSLY ANNOUNCED PORTIONS OF MEETING OPEN TO THE PUBLIC: (1) Budget review, (2) program review.

CHANGES IN THE MEETING: Budget Review Portion of the meeting is closed to the public.

LOUIS F. POLK,
Chairman,
U.S. Metric Board.

[S-969-78 Filed 5-4-78; 1:19 pm]

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federal register

MONDAY, MAY 8, 1978
PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

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SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

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[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 115—SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Final Regulation

AGENCY: Office of Education, Department of Health, Education, and Welfare.

ACTION: Final regulation.

SUMMARY: This document sets forth the requirements governing the awarding of Federal assistance to school districts related to certain types of children receiving free public education in areas affected by Federal activities. They are being promulgated to bring current regulations into conformance with the amendment to Pub. L. 81-874 made by Pub. L. 93-380. The effect of the regulation is to provide entitlements for handicapped children residing on Indian lands or whose parents are in the uniformed services and for educationally deprived children who live in and/or whose parents are employed on federally assisted low-rent public housing property.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulaltion has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

William L. Stormer, Division of School Assistance in Federally Affected Areas, telephone 202-245-8427.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 305(a)(1) of the Education Amendments of 1974 revised section 3 of Pub. L. 81-874, which covers the computation of entitlements based on numbers of federally-connected children and section 305(a)(2) revised section 5, which covers the allocation of payments authorized under Pub. L. 81-874, the Impact Aid Program.

Section 3(d)(2)(C) of the Act provides for increased assistance for handicapped children who reside on Indian lands or who have a parent in the uniformed services. The regulation explains the method of computing entitlements for these children and establishes certain requirements for using these funds. Section 5(e)(3) of the Act provides that funds may be paid to an applicant agency for special programs for educationally deprived children. These funds are paid on the basis of the number of children who reside in and/or with a parent employed on eligible low-rent housing property. These two entitlements relating to handicapped children and children associated with low-rent housing are treated, respectively, in Subpart H, formerly published as § 115.28, and in Subpart I, formerly published as § 115.29 in the notice of proposed rulemaking.

1. MAJOR AMENDMENTS TO THE REGULATION

A. *Subpart H—Handicapped Children and Children With Specific Learning Disabilities.*

Subpart H sets forth provisions affecting the determinations for increased entitlements under section 3(d)(2)(C) of the Act and the use of funds attributable to these payments. Certain terms such as "handicapped children" and "children with specific learning disabilities" are defined in § 115.70(c). These are the definitions used in the Education of the Handicapped Act. Eligibility requirements for counting children for these purposes are that these children must have a parent on active duty in the uniformed services or reside on Indian lands and must be receiving services suited to their educational and related needs on the basis of the statutory requirements for these services (§ 115.71(a)).

In determining whether programs for children counted under this provision would meet the statutory requirement of being "sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational and other related needs of such children," the standards of the State in which the local educational agency is situated would apply (§ 115.73(a)). However, these State standards must conform to the policies and procedures established under sections 612 and 613 of the Education of the Handicapped Act (§ 115.73(b)). Applicants seeking to count children under this provision are required under § 115.73(b) to submit an assurance that these children are receiving appropriate services, and this assurance would have to be certified by the division in the State educational agency charged with the supervision of the programs under local auspices. Thus, in certifying programs which provide services for children counted under this provision of Pub. L. 81-874, each State shall apply its own standards for the programs so long as the State standards comply with the requirements of sections 612 and 613 of the Education of the Handicapped Act.

Section 412(b) of the General Provisions Act (20 U.S.C. 1225(b)) is applicable to Pub. L. 81-874 funds attributable to handicapped children or children with specific learning disabilities. Application of this provision will permit recipient local educational agencies to use funds through the fiscal year following the fiscal year for which the funds were appropriated.

B. *Subpart I—Entitlements Related to Low-Rent Public Housing.*

Subpart I sets forth requirements to ensure that payments made under Pub. L. 81-874 based on the number of children residing on or residing with a parent employed on low-rent public housing property, as determined under section 5(e) of the Act, are used for special programs and projects designed to meet the special educational needs of educationally deprived children from low-income families.

Section 115.81(b) establishes the following order of priority for the use of these funds:

(1) To be used for Title I, ESEA programs and projects that would be diminished or discontinued because of the new Title I allocation formula adopted under Pub. L. 93-380, where such a determination is possible; or

(2) To provide Title I programs and projects in eligible Title I areas which otherwise would be unfunded;

(3) To supplement existing Title I programs;

(4) To provide Title I-type programs for educationally deprived children in attendance areas of the local educational agency that do not meet the eligibility requirements under Title I, ESEA.

With regard to the first priority, it is recognized that it may not be possible for a school district to attribute the elimination or reduction of a particular program to the adoption of the new Title I, ESEA formula. In these instances, these funds must be used in unfunded eligible attendance areas, if any. Only when these needs have been fully met may the funds be used to provide Title I-type programs. Furthermore, if there are no unfunded eligible areas, the school district may use funds in accordance with the last two priorities. School districts are encouraged to serve ineligible areas in the order established for Title I. The use of these funds to further Title I purposes is prescribed in the legislative history of the provisions (S. Rept. 93-1026, p. 162 (1974)).

In administering section 5(e), the Office of Education utilizes the personnel and organizational structure already involved in the provision of Title I-type services in order to avoid a duplication of administrative functions. Applications are submitted through the State educational agency, according to procedures under § 115.11. However, it will be necessary for the applicant to obtain certification from the State Title I component regarding the applicant's assurances that these funds are to be used in Title I or Title I-type programs in conformity with this regulation. Monitoring is to be done by the State educational agency Title I monitoring component. This will avoid duplication of monitoring in programs where most of these funds are expected to be used.

2. COMMENTS ON THE PROPOSED REGULATION

Interested parties were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed final regulation. (The Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on December 5, 1975.) A summary of the comments and responses follows. The comments are arranged in order of the subparts of the final regulation to which they apply. For additional clarity, reference section numbers are included in this response to comments as they appear in the regulation followed by the section numbers in brackets [ ] as they appeared in the notice of proposed rulemaking.

A. *Subpart H—Entitlements Related to Handicapped Children. Comment.* One commenter declared that § 115.71 [§ 115.28], on entitlements related to handicapped children of uniformed services personnel, was inconsistent with recent Federal legislation on education of the handicapped and should conform to it. The commenter, however, did not specify the particulars to which he referred.

Response. No change has been made in the regulation. The regulation is consistent with the Education of the Handicapped Act, from which the definitions in § 115.70 [§ 115.28] of "handicapped children" and "children with specific learning disabilities" are taken.

Comment. Two commenters observed that § 115.71 [§ 115.28(c)(1)] restricts eligibility for being counted for the purpose of an increased entitlement under section 3(d)(2)(C) of the Act to handicapped children and children with learning disabilities, limiting eligibility to those who have a parent on active duty in the uniformed services and excluding children who live on Indian lands. The commenters referred to section 3(d)(2)(C)(i) of Pub. L. 81-874 with respect to those children for whom a determination is made under section 3(a)(2) and stated that section 3(d)(2)(C) did not mention uniformed services. They also pointed out that children residing on Indian lands comprise the second of two groups of children and are in addition to those with a parent on active duty in the uniformed services for whom a determination is made under clause (2) of section 3(a). The commenters argued that the law, on the surface, did not allow a ruling that would authorize a distinction between the treatment of the handicapped children of uniformed services personnel and handicapped children living on Indian lands.

Response. The regulation has been changed. The interpretation of the commenters was sustained in *Chinle Common School District* v. *Mathews*, Civil No. 76-1273 (DC, D.C., 1976). The regulation allows school districts to be compensated for handicapped children of uniformed services personnel or for those who reside on Indian lands under section 3(d)(2)(C).

Comment. One commenter remarked that the submission of information required in § 115.72 [§ 115.28(d)] should be undertaken if and when requested by the Commissioner. The section states that an applicant which claims an increased entitlement under section 3(d)(2)(C) of the Act shall be required to submit information the Commissioner may deem necessary to substantiate compliance with this condition. The commenter said that this information may not be needed from all applicants requesting an increase in entitlement.

Response. The regulation has been clarified to meet the concerns of the commenter. An applicant need not submit the information in the application but may be asked to do so later to assure compliance with the regulation.

Comment. One commenter stated that § 115.73(b) [§ 115.29(c)], in effect, imposed a State plan on local educational agencies, and the commenter declared that the law did not require State approval for each administrative action by a local educational agency, and that no Congressional committee had contemplated or discussed the idea of a State plan for aid under Pub. L. 81-874.

Response. No change has been made in the regulation. The regulation provides for the application of State standards to the programs provided by local educational agencies in which the handicapped children and children with specific learning disabilities are participating. Legislative history indicates that Congress contemplated that State standards would be sufficient for certifying these programs if they were in line with Education of the Handicapped Act requirements.

House Report No. 93-805 states, on page 45, with reference to the programs provided by local educational agencies for eligible children, that the determination of size, scope, and quality shall be based upon the individual State's standards for certification of these programs, and that each State must certify the particular programs. That report further indicates that the Commissioner must also require satisfactory assurance that all local educational agency programs for handicapped children counted under that part are in compliance with requirements now set forth under sections 612 and 613 of the Education of the Handicapped Act.

For the purposes of Pub. L. 81-874, the State merely has to certify conformance of the applicant's program with the policies and procedures required under the Education of the Handicapped Act.

Comment. One commenter objected to the citation in § 115.73(b) [§ 115.28(f)] of section 613(a) of the Education of the Handicapped Act stating the citation did not apply to Pub. L. 81-874 since it set forth procedures for qualifying for a grant under a State plan which Pub. L. 81-874 did not require.

Response. A clarification has been made in the wording in the regulation. As the previous response indicates, the legislative history makes clear that Congress intended that programs for handicapped children and children with learning disabilities under section 3(d)(2)(C) of the Act were to conform to policies and procedures required under the Education of the Handicapped Act.

B. *Subpart I—Low-rent Housing Entitlements. Comment.* Two commenters brought up the question of children eligible to be counted in computing entitlements pertaining to low-rent public housing, but who do not attend school in the district in which they live, or who attend school outside the area eligible for Title I aid. One commenter said a statement was needed under § 115.82 [§ 115.29] to the effect that "the money follows the child," as he said was provided by Title I regulations. The other commenter said that these children were excluded from sharing in any benefits from funds that their presence helped to bring to the school district.

Response. No change has been made in the regulation. Section 3(a) of Pub. L. 81-874 states that children, in order to be included among the number for whom a determination is made for the entitlement computations, are to have been in average daily attendance at the schools of the applicant agency that provided free public education for them. The use of payments made to a local educational agency under section 5(e) may include the provision of educational benefits to educationally deprived children from low-income families who do not live or work on low-rent public housing property. The statute does not limit the use of funds to children counted for entitlement purposes. It is possible that children may not receive services even though

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their enrollment occasioned payments to their school district.

Comment. One commenter raised the issue whether children of families receiving welfare payments and living in public housing projects should be classified under section 3(a) or 3(b) of the Act. The commenter said that the proposed regulation failed to provide guidance on that question. The commenter argued that students living in housing projects whose parents receive welfare should be counted under section 3(a). The commenter said that counting those students under section 3(a) rather than 3(b) would agree with the intent of Congress because it would restore funds lost to local school systems through the change made by Pub. L. 93-380 in the formula for the distribution of assistance under Title I of the Elementary and Secondary Education Act. The commenter also said that including children under 3(a) would be consistent with the distinction drawn by section 3 of Pub. L. 81-874 between parents who lived and worked on Federal property and those who met only one of those conditions because, usually being unemployed, those parents make no indirect contribution to the tax revenues of local educational agencies. Families on welfare living on low-rent public housing property are more like the families classified under section 3(a) than 3(b).

Response. No change has been made in the regulation. Whether a child living in low-rent public housing with a parent who receives welfare payments should be counted under section 3(a) of the Act is governed by the provision of that section and not section 5(e)(3). The legislative history of section 3 clearly indicates that children living in federally assisted low-rent public housing are not to be considered section 3(a) children without a second "Federal connection" (H. Rept. 93-805, p. 42 (1974)). To include a child living in low-rent public housing in the number determined under section 3(a), the child's parent must be employed on Federal property or be on active duty in the uniformed services.

Comment. A commenter said that § 115.81 [§ 115.29] made the public housing provisions a categorical Title I program. The commenter said that although the reports mentioned services to the kinds of children designated in Title I, legislation was not included in Pub. L. 81-874. If Congress had intended funds to be paid under Title I procedures for students in public housing, Part C of Title I would have been completely retained, and provisions for public housing students would have been added as an additional program.

Response. No change has been made in the regulation. The legislative history clearly relates the use of these payments to Title I or Title I-type services.

Comment. One commenter expressed concern that §§ 115.74 [§ 115.28] and 115.81 [§ 115.29] on entitlements relative to handicapped children and to low-rent public housing might require a local educational agency to budget and spend funds in the amount of estimated entitlements for these categorical purposes before actual receipt of even partial payments for those entitlements. The commenter said that such a requirement would be an extreme hardship for any local educational agency, particularly during periods when borrowing costs are excessive.

Response. No change has been made in the regulation. The comment appears directed not to the regulation, but to the practical consequences of Pub. L. 81-874 funds being unavailable for payment until sometime later in the school year. Payments will be made in accordance with established procedures. However, school districts may use these funds in the fiscal year following the year for which they were allocated. This gives the recipient school district the choice of holding the funds for future expenditure or of reimbursing itself for funds already spent.

Comment. One commenter stated that the provisions in § 115.86 [§ 115.29] relating to low-rent public housing entitlements were stated too generally. The commenter asked whether funds had to be expended within a given period and whether evaluations like those of Title I would be necessary. The commenter felt the intent of the legislation would be lost if it had to conform both to Pub. L. 81-874 and to Title I, ESEA.

Response. The regulation has been rewritten in part to be more specific and to reflect changes made in response to public comments or administrative reconsideration of the proposed rule. Funds must be expended by the end of the fiscal year succeeding the fiscal year for which they were allocated. Evaluations like those required under Title I must be made annually [§ 115.86]. It is clear from the legislative history that Congress intended that section 5(e) funds would provide a Title I-type program. Thus, it is appropriate that basic Title I-type provisions apply to the use of these funds in order that purposes similar to those of Title I will be fulfilled.

Comment. A commenter said the regulation in § 115.84(b) [§ 115.29] seemed to require a value judgment in determining whether any needs were unmet in Title I, ESEA areas. He said there were always many unmet needs because the application of Federal Title I and State requirements restricted possible program endeavors to a very narrow range of eligible reading activities.

Response. No change in the regulation has been made. There is a presumption of unmet needs in eligible areas which have approvable projects but do not have Title I assistance. Until those needs are filled, funds resulting from entitlements relative to low-rent public housing may not be spent in non-Title I attendance areas.

Comment. A commenter cited section 421(c)(2)(B) of the General Education Provisions Act to contest that either Pub. L. 81-874 or Title I, ESEA gave State educational agencies authority over the use of funds for Pub. L. 81-874. Section 421(c)(2)(B) of the General Education Provisions Act prohibits any limitation on the use of funds to carry out any applicable program other than limitations imposed by the law authorizing the appropriation or a law controlling the administration of the program.

The commenter further pointed out that section 421(c)(1)(C) of the General Education Provisions Act forbids the commingling of funds from two different appropriations and provides conditions for the approval of an application for funds from an appropriation that is based upon criteria other than those for which provision is made in the law authorizing the appropriation. The commenter said nothing in Pub. L. 81-874 gives any State agency approval authority or imposes Title I, ESEA requirements. In the opinion of the commenter, section 5(e)(3) simply provides that funds derived from entitlements based on children from low-rent public housing must be used for special programs and projects designed to meet the special educational needs of educationally deprived children from low-income families. In addition, the commenter argued that the imposition by § 115.81 [§ 115.29] of rigid priorities on the types of projects to be funded was based on an expression of intent that was not the law, that could not override section 421(c)(1) of the General Education Provisions Act, and that could not be used to create a new administrative mechanism and impose new requirements.

Response. No change has been made in the regulation. While certain requirements of the regulation may not be explicitly set out in the statute, they are, nevertheless, clearly set forth in the legislative history of the statute. The purpose of interpreting and implementing any statute is to effect the will of the legislature. To disregard the express will of Congress as reflected in the Committee reports, in this instance, would operate to defeat the purposes for which this provision was adopted. Therefore, this regulation does not conflict with section 421(c)(2)(B) of the General Education Provisions Act. Furthermore, since the funds provided under section 5(e)(3) of Pub. L. 81-874 will be subject to separate accountability from funds

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provided under Title I, ESEA, the use of these funds in jointly funded projects would not constitute commingling.

Comment. One commenter expressed support for the priorities in § 115.81(b) [§ 115.29(b)(1)] regarding the use of funds under section 5(e) and for the ban stated in § 115.81(e) [§ 115.29(c)] against the consolidation of those funds with other payments under the Act or with funds from other sources. The commenter also stated a concern that the phrase "shall serve only * * * educationally deprived children from low-income families" was subject to an interpretation that would require children from low-income families served with funds authorized under the Act to be segregated from other educationally disadvantaged pupils. The commenter characterized as potentially inconsistent the use of the word "only" and the stipulation that the criteria for the participation of the children approximate those with respect to Title I, ESEA.

The commenter pointed out that under Title I, ESEA, schools and not children are selected to receive funds on the basis of the poverty of the residents of the area, and the children in those schools participate on the basis of educational need whether or not their families are impoverished. The commenter said that he did not believe that Congress intended section 5(e)(3) to result in the stigmatization or identification of low-income students receiving remedial services. The commenter expressed the view that section 5(e)(3) deals with the design of programs rather than the delivery of services and does not compel the restriction of compensatory services only to low-income children.

Response. The regulation has been changed in response to the comment. There is no indication of Congressional intent to exclude from the services of these projects, children who are educationally deprived in other ways besides being from low-income families. The evident intent that the provisions of Title I, ESEA and section 5(e) be coordinated implies the inclusion not only of children from low-income families, but also of all educationally deprived children in participation in the benefits of these programs.

Comment. A commenter said he interpreted § 115.29(b)(2) of the proposed rule to mean that the amount of payment would be used to benefit all children of low-income families. This would involve dual criteria for serving the same children as served by Title I, ESEA. He recommended changing the phrase "may consider" in the last sentence of the section to "shall only consider" to restrict the provision of services to the children of the stated categories.

Response. The regulation has been changed so that educationally deprived children from low-income families are not distinguished from other educationally deprived children. All educationally deprived children may be served in programs assisted by section 5(e) funds. A local educational agency is not required to make low-income determinations under this program.

Comment. One commenter hoped the text of § 115.81(b) [§ 115.29(d)] could be republished in proposed rather than in final form after a determination had been made with respect to the sections of the Act and regulations of Title I of the Elementary and Secondary Education Act that do not apply to the activities authorized by Pub. L. 81-874.

Response. No change in the regulation is necessary. Certain sections of the Title I regulations and statutory provisions were mentioned in the notice of proposed rulemaking as possibly inapplicable to this regulation. Some interested parties did respond to the request for further suggestions, objections, and comments as to which of these Title I provisions should apply. The public interest would not be served to delay the final promulgation of this regulation and thereby keep recipients from receiving authoritative guidance in making plans for the use of funds during the school year.

Comment. Certain comments addressed the applicability of particular Title I, ESEA requirements to activities conducted in accordance with section 5(e) of the Act regarding public low-rent housing funds. One commenter opposed the suggested exclusion of 45 CFR 116.4(b), which allows spending one percent of the Title I allocation on State administrative expenses. The commenter felt that including this section would emphasize the States' obligation to monitor the compliance of local educational agencies in restricting use of funds to special programs and projects designed to meet the special educational needs of educationally deprived children from low-income families. The commenter pointed out that, although Pub. L. 93-380 authorized no funds for State administrative costs, the notice of proposed rulemaking stated, "The Office of Education plans to utilize the personnel and organizational structure already involved in the provision of Title I-type services in order to avoid a duplication of administrative functions." The commenter said it was appropriate to treat State administrative expenses directly attributable to the monitoring of programs under section 5(e)(3) as permissible Title I State administrative expenses.

Another commenter protested that the one percent allowance was not nearly enough to provide the services and meet the demands that the Office of Education placed on the State educational agency for the administration of Title I, ESEA, and insisted that a more realistic amount be specified.

Response. No change has been made in the regulation. Funds appropriated for Pub. L. 81-874 are provided entirely for making payments to eligible local educational agencies. There is no authority for the Commissioner to allocate any funds to which local educational agencies are entitled to State educational agencies. Therefore, no question remains in regard to the Commissioner's authority to provide more than 1 percent. The States have already assumed certain administrative duties and expenses for which it is not reimbursed by Pub. L. 81-874 funds.

Comment. A commenter said it was not understood why the principle in § 116.20 regarding Title I, ESEA, and in section 434(c) of the General Education Provisions Act, providing that further payments not be made to delinquents until they complied with the terms of their grants, should not apply to misexpenditures of section 5(e)(3) funds and Title I funds.

Response. No change has been made in the regulation. Section 434(c) of the General Education Provisions Act applies to all applicable Federal education assistance programs, including Pub. L. 81-874. Therefore, it is not necessary to provide for this in the regulation.

Comment. A commenter argued that it was unnecessary to exclude from section 5(e)(3) the applicability of provisions of 45 CFR 116.36(a) with respect to expenditures for property. The specific reference to the purposes of Title I in section 5(e)(3) could be interpreted to mean the purpose common to both Title I and section 5(e)(3) in meeting the special educational needs of educationally deprived children.

Response. The regulation has been amended in accordance with the suggestion of the commenter.

Comment. A commenter felt § 115.81 [§ 115.29] should be amended to allow the expenditure in the current fiscal year of funds allocated in the previous year, as in the case under Title I, ESEA regulations.

Response. The regulation has been changed in response to the comment.

Comment. A commenter recommended a change in § 115.81(f) [§ 115.29] to extend the effectiveness of the provisions under Title I in regard to indirect cost of the operation of programs under section 5(e).

Response. The regulation has been changed to provide that Part 100c of Title 45 CFR dealing with indirect cost apply to programs under section 5(e).

Comment. A commenter said, in reference to § 115.84 [§ 115.29(e)], that

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$11 million made it worth the while of his local educational agency to endure the extreme complexity and time consumption of the application process under Title I and the expense of the application, monitoring, reporting, and evaluation processes required by the law. Declaring his understanding that funds under Pub. L. 81-874 must remain identifiable for accountability purposes and that an entirely new accounting system would be required for any added programs, the commenter said it was questionable whether a grant about one-sixtieth (1/60) of the Title I amount would be worth the effort.

Response. The regulation has been changed so that, under section 5(e)(3), a description of a proposed project is required, rather than an application. If a project supplements an existing Title I project, only that part funded under section 5(e)(3) need be described. Accountability cannot be waived for these categorical funds.

Comment. A commenter asserted that there was no requirement under Pub. L. 81-874, as amended by Pub. L. 93-380, for the State to monitor programs of aid to federally affected areas and demanded that this requirement and all others relevant to it be dropped. The commenter said that the law required only assurances; anything in addition was not authorized. The commenter added that if Congress had wanted to give additional authority to the Office of Education or the Commissioner, it would have done so as it did in section 3(d)(2)(C)(iii) of Pub. L. 81-874, as amended by Pub. L. 93-380.

Another commenter favored the use of the regular State Title I monitoring components rather than the use of special services contracts between the Office of Education and the State agencies to implement the injunction that the State agency notify the Commissioner if a local educational agency has failed to comply with the terms of its application. The commenter expressed the view that, in most instances, local educational agencies would replace former ESEA Title I programs with others under section 5(e)(3), that the cost of monitoring the section 5(e)(3) programs might be considered part of a State's expenses in administering the Title I program, and that funds allocated to programs under section 5(e)(3) should not be diverted to fund special service contracts.

Response. The regulation has been rewritten to specify that the State educational agency should monitor the expenditures of section 5(e) funds by applicants. The Conference Report, Senate Rept. No. 93-1026, states on page 162, "The State education agency should monitor the expenditures of these funds for public housing since that agency has responsibility for monitoring the expenditure of Title I, ESEA."

NOTE.—The Office of Education has determined that this document does not contain a proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 13.478, School Assistance in Federally Affected Areas—Maintenance and Operation.)

Dated: January 18, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: April 26, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 115 is amended by adding Subpart H and Subpart I to read as follows:

Subpart H—Handicapped Children and Children With Specific Learning Disabilities

Sec.
115.70 General.
115.71 Eligibility requirements.
115.72 Application procedures.
115.73 Assurances and certifications.
115.74 Use of section 3(d)(2)(C) funds.
115.75 Per pupil expenditure requirement.
115.76 Relation to section 5(d)(2) of the Act.
115.77 Children in private schools.
115.78 Individualized educational programs and parental involvement.
115.79 Applicability of other statutory and regulatory requirements.

AUTHORITY: (20 U.S.C. 238, 240, 242(b)).

Subpart H—Handicapped Children and Children With Specific Learning Disabilities

§ 115.70 General.

(a) *Scope.* The regulation in this Subpart governs the provision of financial assistance to local educational agencies which provide free public education to handicapped children who are claimed under section 3(d)(2)(C) of the Act. The regulation, however, is not alone in governing the relationship between the local educational agency and the handicapped child. Other statutes and regulations which may be pertinent in a particular instance are section 504 of the Rehabilitation Act of 1973 (20 U.S.C. 706 and 45 CFR Part 84 ff.), the Education of the Handicapped Act, as amended by the Education for All Handicapped Children Act of 1975 (20 U.S.C. 1401 et seq. and 45 CFR Part 121 ff.), and section 121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241c-1 and 45 CFR Part 116).

(b) *Purpose.* The purpose of the regulation in this Subpart is to set forth the requirements, interpretations, and guidance necessary to implement section 3(d)(2)(C) of the Act.

(c) *Definitions.* For the purposes of this Subpart, the following terms are defined as indicated:

(1) "Children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. These disorders include conditions such as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, or of environmental, cultural, or economic disadvantage.

(2) "Education of the Handicapped Act" means Pub. L. 91-230, as amended (20 U.S.C. 1401 et seq.).

(3) "Free public education" means free appropriate public education as used in the Education of the Handicapped Act and as defined in 45 CFR 121a.4. In particular, this means special education and related services which:

(a) Are provided at public expense, under public supervision and direction, and without charge,

(b) Meet the standards of the State educational agency, including the requirements of this part,

(c) Include preschool, elementary school, or secondary school education in the State involved, and

(d) Are provided in conformity with an individualized education program which meets the requirements under 45 CFR 121a.340-121a.369.

(4) "Handicapped children" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired, deaf-blind, multi-handicapped children, or as having specific learning disabilities, who because of those impairments need special education and related services.

(5) "Preschool program" means an educational or related program encompassing the educational level from a child's birth to the time at which elementary education is provided as determined under State law, provided that this program is recognized as free public education under State law.

(6) "Related needs" means those needs related to a handicap or specific learning disability for which related services, in addition to direct instructional services, are deemed necessary so that the child may effectively participate in the instructional program of the local educational agency.

(7) "Related services" means transportation and other developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, except that these medical services shall be for diagnostic and evaluation purposes only) required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children.

(20 U.S.C. 238(d)(2)(C).)

§ 115.71 Eligibility requirements.

(a) In order that a handicapped child may be counted for the purpose of an increased entitlement under section 3(d)(2)(C) of the Pub. L. 81-874, the Act requires that a child must—

(1) Have a parent on active duty in the uniformed services, as defined by section 101 of Title 37 United States Code, or

(2) Reside on Indian lands, as described in section 403(1)(A) of the Act;

(3) Be receiving services suited to the child's special educational and related needs; and

(4) Be enrolled in a program (including a preschool program if appropriate) which is of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the child's special educational and related needs provided as part of free public education in the local educational agency.

(b) The applicant agency must meet the regular eligibility requirements of Pub. L. 81-874 under section 3(c) to receive the increase in entitlement under section 3(d)(2)(C). However, there is no minimum number of handicapped children who must be served for the agency to receive the increase in entitlement.

(c) The program provided the handicapped children claimed under section 3(d)(2)(C) of the Act must conform to State standards for programs for handicapped children and must encompass the specific educational and related needs of the children claimed.

(20 U.S.C. 238(a)(b)(d)(2)(C); 240(f); Sen. Rept. No. 93-1026, p. 159 (1974); *Chinle Common School District* v. *Mathews*, Civil No. 76-1273 (D. D.C., 1976).)

§ 115.72 Application procedures.

(a) The applicant agency must state the number of handicapped children it claims under section 3(d)(2)(C) of the Act in the application filed in accordance with procedures set forth in Subpart B of this regulation published separately.

(b) The applicant agency must provide the assurances and certifications required under § 115.73 of this Subpart as part of the application mentioned in paragraph (a).

(c) The Commissioner may require information in addition to that contained in the application in order to substantiate compliance with assurances provided with the application.

(20 U.S.C. 238(d)(2)(C), 242.)

§ 115.73 Assurances and certifications.

(a) *Size, scope, and quality of the programs.* (1) For each applicant for assistance under the Act which is based in any part upon children who are counted under section 3(d)(2)(C) of the Act, the applicant agency must provide an assurance that these children are receiving services in programs (including preschool programs) which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational and related needs of these children. The Commissioner will consider any special education program serving the special educational needs of these children which conforms to the requirements for special education programs under Part B of the Education of the Handicapped Act as satisfying the assurance.

(2) For each application containing the assurance required by paragraph (a)(1) of this section, the applicant agency must also provide a certification from its State educational agency that the particular program(s) provided by the applicant conform(s) to State standards for programs for these types of children.

(b) *Education of the Handicapped Act requirements.* (1) For each applicant for assistance under the Act which is based in any part upon a determination under section 3(d)(2)(C) of the Act, the applicant agency must provide an assurance that the programs designed to meet the special educational and related needs of children determined under that section conform to the policies and procedures required in fulfillment of requirement under sections 612 and 613 of the Education of the Handicapped Act.

(2) For each application containing the assurance required by paragraph (b)(1) of this section, the applicant agency must provide a certification from the State educational agency that the program provided by the applicant conforms to the requirements of sections 612 and 613 of the Education of the Handicapped Act.

(3) In undertaking any further determination whether these State standards and programs conform to the policies and procedures required under sections 612 and 613 of the Education of the Handicapped Act, the Commissioner shall consult with persons in charge of special education programs for handicapped children and children with specific learning disabilities in the State education agency.

(20 U.S.C. 238(3)(2)(C); H.R. Rept. No. 93-805, pp. 43-46 (1974); Sen. Rept. No. 93-1026, p. 45 (1974); Cong. Record, daily ed., H7396, July 31, 1974)

§ 115.74 Use of section 3(d)(2)(C) funds.

(a) *General.* Section 5(f) of the Act requires that the amount of a payment to an applicant which is attributable to a determination under section 3(d)(2)(C) of the Act must be used for special programs and projects designed to meet the special educational needs of the children counted under that provision. Only payments related to the increase in entitlement affected by section 3(d)(2)(C) must be used in this manner. Payments related to the basic entitlement provided under section 3(c) for those children do not have to be used in this manner.

(20 U.S.C. 240(f))

(b) *Duration of availability of funds.* An applicant may obligate and expend funds received for section 3(d)(2)(C) until the end of the fiscal year succeeding the fiscal year for which they were appropriated. The recipient agency must return those funds to the U.S. Office of Education that it has not obligated by the end of that period.

(20 U.S.C. 1225(b))

(c) *Methods of obligation and expenditure of funds.* Obligations and expenditures may be incurred for the uses authorized under section 5(f) of the Act and paragraph (a) of this section in either of two ways:

(1) The applicant agency may reimburse itself for obligations or expenditures from local funds already made during the fiscal year for which the funds were appropriated or during the following fiscal year. Those obligations or expenditures must have been for appropriate programs or projects serving the children from whom the funds under section 3(d)(2)(C) were paid; or

(2) The applicant agency may obligate or spend these funds on a current basis during the fiscal year for which the funds were appropriated or during the following fiscal year. The obligations or expenditures must be for programs or projects serving the children for whom the funds under section 3(d)(2)(C) were paid.

(20 U.S.C. 238(d)(2)(C), 240(f), 242)

(d) *Allowable expenditures.* An agency receiving funds under section 3(d)(2)(C) of the Act shall use those funds for the following types of expenditures:

(1) Expenditures which are reasonably related to the conduct of programs or projects for the education of handicapped children which meet the requirements of this section. These expenditures may include planning, evaluating and disseminating of the results of those programs or projects but may not include the construction of school facilities;

(2) Expenditures for equipment to meet the special educational needs of

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the handicapped children counted under section 3(d)(2)(C). If funds received under section 3(d)(2)(C) of the Act are used for the acquisition of equipment and any financial advantage is realized through bargains, rebates, discounts, bonuses, free pieces of equipment (not used in the program or project covered by this paragraph) or other circumstances, the fair market value of that financial advantage is not an allowable expenditure and shall not be credited as an expenditure of those funds.

In no case may funds provided by section 3(d)(2)(C) be used to acquire equipment when the title to that equipment would be in a private school and not in the applicant agency.

(e) *No supplanting of State funds.* The use of funds provided under section 3(d)(2)(C) of the Act shall not supplant any State funds which were or would have been available to the applicant agency for the free public education of children counted under section 3(d)(2)(C).

(1) The applicant agency must spend at least the same amount, per pupil, of State general aid funds and State handicapped education funds on children counted under section 3(d)(2)(C) as it does for other similarly handicapped children enrolled in the schools of the agency.

(2) A reduction in the amount, per pupil, of State aid spent on children counted under section 3(d)(2)(C) of the Act from that spent in a previous year raises a presumption that supplanting has occurred. This presumption may be rebutted by the applicant agency demonstrating that an equivalent reduction was made in the amount, per pupil, spent on other handicapped children enrolled in the schools of the agency.

(20 U.S.C. 235, 238, 240 and 242(b).)

§ 115.75 Per pupil expenditure requirement.

(a) *Expenditures for children eligible under section 3(d)(2)(C).* Expenditures per pupil by an applicant agency from State, local, and section 3(d)(2)(C) funds for handicapped children enrolled in programs serving children counted under section 3(d)(2)(C) must be greater than the expenditure per pupil for all children, other than handicapped children, receiving free public education in the schools of that agency.

(b) *Computation.* In determining whether an agency fulfills the requirement stated in paragraph (a) of this section, the following computations must be made:

(1) Divide the total current expenditures from State, local, and section 3(d)(2)(C) funds for special educational programs by the total number of children who are being served in the special educational programs of the agency.

(2) Divide the total current expenditures from State and local funds for children receiving a free public education from the agency who are not handicapped children by the total number of those children who are not handicapped.

(3) If the figure obtained under paragraph (b)(1) exceeds the figure obtained in paragraph (b)(2), the applicant agency has fulfilled the requirement of paragraph (a) of this section.

(c) *Records and information required of an applicant agency.* An applicant agency which receives funds under section 3(d)(2)(C) must keep records of the expenditures for children receiving a free public education in its schools in such a manner to permit the computation set forth in paragraph (b) of this section. Furthermore, when requested, that agency must furnish to the Commissioner whatever information or data the Commissioner considers necessary to substantial compliance with the requirements of this section

(20 U.S.C. 238(d)(2)(C), 240(f); H. Rept. No. 93-763, p. 45 (1974).)

§ 115.76 Relation to section 5(d)(2) of the Act.

(a) Section 5(d)(2) of the Act provides that States having a State aid program designed to divide expenditures for children equally among local educational agencies in the State, which conform to Subpart B, may consider payments received by an agency under Pub. L. 81-874 as local resources in determining the need for or the amount of State aid allocated to that agency. A regulation setting forth these standards appears in Subpart B of this part.

(b) Whether or not a State has a program of State aid that meets the requirements of section 5(d)(2) of the Act, payments provided under section 3(d)(2)(C) may not be considered by a State in determining the need for or the amount of State aid which will be allocated to a local educational agency receiving those payments.

(20 U.S.C. 238(d)(2)(C), 240(d), (f), 242(b).)

§ 115.77 Children in private schools.

(a) An applicant may place a handicapped child in, or refer a handicapped child to a private school or facility, so long as it follows the policies and procedures for doing so established under section 613 of the Education of the Handicapped Act. Regulations implementing those policies and procedures are set forth in 45 CFR § 121a. The applicant must have placed the handicapped child in, or have referred the children to, the private school or facility that he or she is attending in order for the child to be counted under section 3(d)(2)(C) of Pub. L. 81-874.

(b) If placement in a public or private residential program is necessary to provide a free public education to a handicapped child because of his or her handicap, the program, including non-medical care and room and board, shall be provided at no cost to the child or his or her parents or guardian.

(c) Children who have been placed in private schools by the parents may participate in public school programs which use section 3(d)(2)(C) funds.

(20 U.S.C. 238, 240(f), 242(b), H. Rept. 93-763, p. 45 (1974).)

§ 115.78 Individualized educational programs and parental involvement.

(a) Each applicant must have in effect a written individualized educational program for a child counted under 3(d)(2)(C) of the Act. This program must:

(1) Be in effect before special education and related services are provided to the child; and

(2) Be implemented as soon as possible after meetings held for the purpose of developing, reviewing or revising the child's program.

(b) Each applicant must provide for the participation of and consultation with parents or guardians of handicapped children counted under section 3(d)(2)(C) of the Act in the children's educational development.

(c) Each applicant must take steps to insure the involvement of a handicapped child's parents or guardian in meetings held for the purpose of developing, reviewing or revising that child's educational program.

(d) Each applicant shall take steps to insure that one or both of the parents of the handicapped child are present at each meeting or are afforded the opportunity to participate, including:

(1) Notifying parents of the meeting early enough to insure that they will have an opportunity to attend; and

(2) Scheduling the meeting at a mutually agreed on time and place.

(e) The notice under paragraph (d)(1) of this section must indicate the purpose, time, and location of the meeting, and who will be in attendance.

(f) If neither parent can attend, the applicant shall use other methods to insure parent participation, including individual or conference telephone calls.

(g) A meeting may be conducted without a parent in attendance if the applicant is unable to convince the parents that they should attend.

(h) The applicant shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

(i) The applicant shall give the parent, on request, a copy of the child's educational program.

(j) An applicant which satisfies, for children counted under section 3(d)(2)(C), the requirements of Part B of the Education of the Handicapped Act regarding the involvement of parents of handicapped children will have satisfied the requirements of this section.

(20 U.S.C. 238(d)(2)(C), 240(f), 242(b), 1231(d).)

§ 115.79 Applicability of other statutory and regulatory requirements.

(a) *Applicability of General Provisions Regulations.* Relevant provisions contained in parts 100a and 100c of this Chapter are applicable to programs conducted under section 3(d)(2)(C), with the following exceptions:

Sec.
100a.15 Applications for grants or contracts.
100a.26 Review of applications.
100a.27 Disposition of applications.
100a.31 Preapplications.

Subpart C—Application Forms for State and Local Governments

100a.54 Duration of projects.
100a.62 Payment methods for nonconstruction projects.
100a.71 Checks-paid basis letter of credit.

Subpart P—Financial Reporting Requirements

100a.405 Request for advance or reimbursement.

Subpart Q—Monitoring and Reporting of Program Performance

100a.432 Performance reports for nonconstruction projects.

(20 U.S.C. 1221c(b)(1); 20 U.S.C. 242(b); OMB Cir. A-102.)

(b) *Applicability of civil rights and related requirements.* Payments provided under section 3(d)(2)(C) are subject to the requirements of the following laws and regulations: Title VI of the Civil Rights Act of 1964 (45 CFR Part 80); Title IX of the Educational Amendments of 1972 (45 CFR Part 86); and section 504 of the Vocational Rehabilitation Act of 1973 (45 CFR Part 84).

(42 U.S.C. 200d; 20 U.S.C. 1681, 29 U.S.C. 794)

Subpart I—Entitlements Related to Low-Rent Public Housing

Sec.
115.80 General.
115.81 Use of section 5(e) funds.
115.82 Application procedures.
115.83 Monitoring.
115.84 Needs assessment.

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Sec.
115.85 Project description, size, scope, and quality.
115.86 Measurement of educational achievement and evaluation of programs.
115.87 Parent advisory councils.
115.88 Participation of private school children.
115.89 Applicability of other statutory and regulatory requirements.

AUTHORITY: 20 U.S.C. 238-240, 242(b), 244.

Subpart I—Entitlements Related To Low-Rent Public Housing

§ 115.80 General.

(a) *Scope.* The regulation in this Subpart concerns entitlements calculated under section 3 of the Act with respect to children who reside on low-rent public housing or who reside with a parent who is employed on low-rent public housing.

(b) *Purpose.* The purpose of the regulation in this Subpart is to implement the requirement stated in section 5(e)(3) of the Act that funds paid to local educational agencies with respect to the children described in paragraph (a) of this section must be used for special programs and projects designed to meet the special educational needs of educationally deprived children. This regulation establishes particular procedural and substantive requirements regarding the application for and use of these funds.

(c) *Definitions.* For the purposes of this subpart, the following terms are defined as indicated:

(1) "Educationally deprived children" means (1) children who have need for special educational assistance in order that their level of achievement can be raised to that appropriate for children of their age; and (2) children who are handicapped, as defined in 45 CFR 115.70(c).

(20 U.S.C. 240(e), 242(b), 1401(1).)

(2) "Low-rent public housing" means any low-rent public housing, whether or not owned by the United States, which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964.

(20 U.S.C. 240(e), 244(1)(c).)

(3) "Section 5(e)" means section 5(e) of Pub. L. 81-874.

(20 U.S.C. 240(e).)

(4) "Title I" means title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a et seq.).

(20 U.S.C. 240(e).)

§ 115.81 Use of section 5(e) funds.

(a) *General.* Section 5(e)(3) of the Act requires that an applicant which receives a payment based on a determination under section 5(e)(1) of the Act (payments attributable to children residing on, or residing with a parent employed on, low-rent public housing) use the funds from that payment only for special programs and projects designed to meet the special educational needs of educationally deprived children.

(b) *Use priorities.* An applicant receiving funds under section 5(e) must use those funds in the order stated below.

An applicant agency first has a choice of using the section 5(e) funds for either priority (1) or priority (2), or both, if applicable. However, it must fulfill the requirements of priority (2), if applicable, before proceeding to priority (3). It must then fulfill the requirements of priority (3) before proceeding to priority (4). The priorities are:

(1) *Agencies with reduced title I allocations.* If the local educational agency has:

(i) Received reduced allocations of title I funds because of the revision of the title I distribution formula in section 103 of Pub. L. 93-380 (Education Amendments of 1974); or

(ii) Received funds under subpart C of title I (as in effect before repeal by Pub. L. 93-380) during the period of July 1, 1973 to June 30, 1975, then it may use section 5(e) funds to continue or supplement existing title I programs in title I eligible school attendance areas already receiving title I assistance.

(2) *Unserved title I eligible areas.* If the local educational agency has school attendance areas which are eligible for title I assistance but which are not served by a title I program, the local educational agency may use the section 5(e) funds to provide programs for educationally deprived children in those areas.

(3) *Other title I programs.* If all eligible title I school attendance areas which did not receive title I funds are served by a section 5(e) program, the local educational agency may use any balance of these funds to supplement existing title I programs in other title I eligible areas.

(4) *Other school attendance areas.* If title I or section 5(e) programs are provided for all title I eligible school attendance areas, the local educational agency may use these funds to carry out the same type of programs for educationally deprived children in other school attendance areas.

(20 U.S.C. 240(e), 242(b); S. Rept. No. 93-1026, p. 162 (1974).)

(c) *Section 5(e) funds supplementary to State and local funds.* An applicant agency must use section 5(e) funds in a manner which supplement and do not supplant State and local funds which are or would have been expend-

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ed for the free public education of the children to be served by the use of the section 5(e) funds. As part of this requirement, applicant agencies must adhere to the following practices:

(1) The use of section 5(e) funds must not result in a decrease in the use of State or local funds for the educationally deprived children to be served which, in the absence of funds provided under section 5(e), would be made available for the education of those children. This includes State and local funds for general education purposes as well as for special education purposes.

(2) The use of section 5(e) funds must not result in a penalization, with respect to the use of State or local funds for their education, of the educationally deprived children to be served, as compared to other children whose education is provided by the applicant agency.

(3) The applicant agency may use section 5(e) funds to provide services not provided by funds from other sources. However, there may be State or local funds available to the applicant agency which are designated for the same services included in the section 5(e) program or project. If there are any of those funds available to that agency at the time it submits its section 5(e) proposal, then it must apply those funds in conjunction with the section 5(e) program or project.

(4) The applicant agency may not use the section 5(e) funds to provide services which the applicant agency is required to provide under State law or under a formal determination under title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, or section 504 of the Vocational Rehabilitation Act of 1973, as amended, or under a final court order.

(20 U.S.C. 240(d), (e), 242(b); S. Rept. 93-106, p. 162 (1974).)

(d) *Relation to section 5(d)(2) of the Act.* (1) Section 5(d)(2) of the Act provides that States having State aid programs designed to divide expenditures for children equally among local educational agencies in the State, which conform to subpart B, may consider payments received by an agency under Pub. L. 81-874 as local resources in determining the need for or the amount of State aid allocated to that agency. The regulation setting forth those standards appears in subpart G of this part.

(2) Whether or not a State has a program of State aid that meets the requirements of section 5(d)(2) of the Act, payments provided under section 5(e) may not be considered by a State in determining the need or amount of State aid which will be allocated to a local educational agency receiving those payments.

(20 U.S.C. 240(d)(2), (e), 242(b); S. Rept. 93-1026, pp. 162-163 (1974); S. Rept. No. 93-763, pp. 55-56 (1974); H. Rept. No. 93-805, pp. 42-43 (1974).)

(e) *Use of section 5(e) funds with other funds.* An applicant may not consolidate section 5(e) funds with funds from other sources, including other Federal funds. An applicant must keep records necessary to identify, for accounting and audit purposes, expenditures from section 5(e) funds for programs and projects specified in paragraph (b). However, section 5(e) funds may be used concurrently with funds from other sources in those programs and projects.

(20 U.S.C. 240(e), 20 U.S.C. 1231(c)(1)(C).)

(f) *Allowable expenditures.* An applicant agency which receives funds under section 5(e) must use those funds for expenditures which are directly related to the conduct of section 5(e) programs or projects, including expenditures for appropriate staff or instructional materials and supplies. These expenditures may also include:

(1) Expenditures for the construction of school facilities to meet the special educational needs of the educationally deprived children served with section 5(e) funds, but only if:

(i) The construction is essential to assure the success of the program or project serving those children, and

(ii) The construction project complies with the requirements of 45 CFR Part 100a, subpart K (Construction Requirements);

(2) Expenditures for equipment, exclusive of instructional materials and supplies, to meet the specific educational needs of the educationally deprived children in the program or project but only if:

(i) The equipment is essential to meet the needs of those children; and

(ii) The recipient agency has a staff trained in the use of the equipment to be acquired or has made provision for adequate staff training in the use of that equipment.

If section 5(e) funds are used for the acquisition of equipment and any financial advantage is realized through bargains, rebates, discounts, bonuses, free pieces of equipment (not used in the program or project contemplated by this paragraph) or other circumstances, the fair value of that financial advantage is not an allowable expenditure and shall not be credited as an expenditure of those funds.

(20 U.S.C. 235, 238, 240(e), 242(b).)

(g) *Use of property acquired with section 5(e) funds.* The applicant shall maintain title to and administrative control over property acquired with section 5(e) funds. The applicant shall use this property for the purposes provided in this section and shall not permit the property to be used to benefit any private school. The incidental use of the property for other purposes is permitted only for related educational purposes on public premises and only so long as the use does not interfere with the carrying out of a project under section 5(e).

(20 U.S.C. 240(e), 242(b).)

§ 115.82 Application procedures.

(a) *Claims for low-rent public housing children.* In accordance with the procedures set forth in subpart B of this part, an applicant agency must file in its regular application, initial claims for children who reside on or reside with a parent employed on low-rent public housing property. The Commissioner, however, will not make any payments based on those claims until the applicant agency has completed the steps set forth in paragraph (b) of this section.

(b) *Supplemental submissions.* The applicant agency must complete the following steps before it may receive any payments based on claims for low-rent public housing children.

(1) The applicant agency must submit to its State educational agency, as a supplement to its application filed under subpart B of this subpart, a document describing the proposed use of the section 5(e) funds. The document must establish that the applicant agency has complied with the requirements of §§ 115.81, 115.84, 115.85, 115.86, 115.87, and 115.88 of this Subpart. The State educational agency should retain this document, unless the Commissioner specifically requests the agency to forward it.

(2) The applicant agency must obtain a certification from the State educational agency, stating:

(i) The particular priority use(s) selected by the applicant agency in accordance with § 115.81 of this Subpart, and that the use(s) selected is appropriate;

(ii) That the proposed use(s) conforms to the requirements of this subpart; and

(iii) The amount of section 5(e) funds that the applicant agency will apply to the approved program or project.

This State certification must be based on a review of the document submitted by the applicant agency in accordance with paragraph (1) of this section. The State certification must be submitted to the Commissioner, either directly by the applicant agency or on behalf of the applicant agency by the State agency, before section 5(e) funds can be released.

(20 U.S.C. 240(e), 242(b); Sen. Rept. No. 93-1026, p. 162 (1974).)

(c) *Assurances.* An applicant agency which submits a claim based on children who live in low-rent public housing must provide the following assurances with its application filed under subpart B (Applications):

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(1) An assurance that the section 5(e) funds will be used only for the purposes for which they were granted and in accordance with the requirements of that section of the Act and this regulation; and

(2) An assurance that the section 5(e) funds will be used in a manner which supplements and does not supplant State and local funds which are or which would be expended for the free public education of the children to be served by the use of the section 5(e) funds.

(20 U.S.C. 240-242(b).)

§ 115.83 Monitoring.

(a) The State educational agency should monitor the expenditure of section 5(e) funds by applicants for programs and projects certified by that agency in accordance with § 115.82(b) of this subpart. Whenever a State educational agency audits a title I program or project in a local educational agency which is also conducting a section 5(e) program or project, the State agency should also audit the section 5(e) program or project.

(b) If a State educational agency finds at any time that an applicant is not using any of its section 5(e) funds for the purposes certified by the State or in some other way is not complying with the requirements of this subpart, it should immediately notify the Commissioner.

(c) If the Office of Education or the Department of Health, Education, and Welfare has already audited an applicant's section 5(e) program or project, it is not expected that the State educational agency would audit the same program or project.

(20 U.S.C. 2401(e); Sen. Rept. No. 93-1026, p. 162 (1974); Cong. Rec. daily ed., July 31, 1974, H7396.)

§ 115.84 Needs assessment.

An applicant agency which submits a claim based on children who live in low-rent public housing must provide, as part of the document required to be submitted to the State educational agency under § 115.82(b) of this subpart, sufficient information to enable the State educational agency to determine that the applicant has made a needs assessment of the children to be served in its school. The steps required for this needs assessment are:

(a) *Review of existing data.* The local educational agency must review existing data on the performance of children in the agency's basic programs of instruction in all attendance areas. The purpose of the review is to determine the incidence and severity of educational deprivation among all children receiving free public education in all attendance areas.

(1) The data reviewed must include past evaluations, if any, of programs or projects that used section 5(e) funds in that agency.

(2) The agency must review data on children enrolled in private schools if the program or project for which section 5(e) funds will be used is designed to serve any of those children.

(3) If the agency has already reviewed data in connection with a needs assessment under title I for the fiscal year for which the section 5(e) funds are to be used, except for a review of past evaluations of projects funded solely with section 5(e) funds, the agency does not have to conduct another review under this paragraph.

(b) *Selection of project areas, target groups, and the needs to be served.* The local educational agency, on the basis of its findings from the review conducted under paragraph (a) must select:

(i) The project areas (in accordance with § 115.80(c)(2));

(ii) The age or grade levels at which it will operate the section 5(e) project(s); and

(iii) The types of educational needs to be addressed by the project(s).

(c) *Identification of target group children.* The applicant agency, using the data reviewed under paragraph (a), must identify all of the educationally deprived children in the areas to be served who are in the age or grade levels and have the type of educational needs identified under paragraph (b).

(d) *Identification of children most in need.* The local educational agency must secure any additional objective data which, in combination with the existing data specified in paragraph (a), will enable it to identify which of the educationally deprived children identified in paragraph (c) are most in need of special assistance.

(e) *Selection criteria.* The local educational agency must set forth specific criteria by which the educationally deprived children in the project areas will be chosen to receive section 5(e) services. An educationally deprived child may be included in a project even though he or she is not from a low-income family.

(f) *Diagnostic procedures.* The local educational agency must use adequate diagnostic procedures to determine the special educational needs of the children chosen to be served in a section 5(e) project.

(g) *Consultation.* In meeting the requirements under this section, the local educational agency must, to the extent feasible, consult with teachers, parents, and persons knowledgeable of the needs of private and public school children.

(20 U.S.C. 240(e), 242(b); S. Rept. No. 93-1026, p. 162 (1974); Cong. Rec. daily ed., July 31, 1974, H7396.)

§ 115.85 Project description, size, scope, and quality.

(a) *Project description.* As part of the document required to be submitted to the State educational agency under § 115.82(b), the applicant agency must provide a description of the section 5(e) project(s) which includes, for each project:

(1) The educational objectives of the project and the relationship of these objectives to the special educational needs identified by the diagnostic procedures required under § 115.84(f);

(2) The resources (including the type of staff and materials) to be used in the implementation of the projects and plans for their use;

(3) The time periods and instructional settings for the project services;

(4) The number of the children to be served and a general description of their special educational needs;

(5) The methods that will be used to evaluate the success of the project in attaining its objectives;

(6) A budget detailing the expenditures required for the implementation of the projects;

(7) The special educational needs and number of children, if any, who reside outside the project area and who will participate, as well as the manner of their participation; and

(8) Specific provisions for informing and consulting with parents concerning the services to be provided for their children under section 5(e), the performance of their children, and the ways in which those parents can assist their children in realizing the benefits those services are intended to provide.

(b) *Size, scope, and quality.* As part of the document required to be submitted to the State educational agency under § 115.82(b), the applicant agency must provide sufficient information for the State agency to determine that the section 5(e) program(s) or project(s) is of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children to be served. In particular, the applicant agency must demonstrate that:

(1) The educational objectives of the project relate to one or more of the special educational needs of the participating children, as identified in § 115.84;

(2) The resources to be used in the project and the plans for their use are consistent with, and show reasonable promise of, meeting the objectives of the project;

(3) The evaluation plans comply with § 115.86 and are adequate for measuring the attainment of the objectives described in paragraph (b)(1) of this section;

(4) The expenditures for the project (as set forth in the budget) are not wasteful and are proposed for use

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solely to meet the special educational needs of educationally deprived children identified in accordance with § 115.84;

(5) The project concentrates on a sufficiently limited number of services for a sufficiently limited number of educationally deprived children, identified in accordance with § 115.84, to show reasonable promise of meeting the educational objectives identified in paragraph (a) of this section;

(6) The project has not been designed to meet, nor will it have the effect of meeting, the general needs of schools or of the student body at large in a school or of a specified grade in a school;

(7) Any services or resources provided under section 5(e) will be offered only to those children who have been selected to participate in the project in accordance with § 115.84, except as approved under paragraph (b)(9) of this section;

(8) If services are provided in the regular classroom or in other settings in which children other than those properly selected to participate in the project will be present, these services will be directed to the selected children and the effectiveness of the project will not be impaired by the presence of children other than those selected to participate;

(9) If educationally deprived children residing outside the project area will participate, these requirements must be considered:

(i) Children are selected under the same criteria as the children from the project area;

(ii) Their participation will not result in the exclusion of children from the project area who meet these criteria;

(iii) The project will have been designed solely for the selected children from the project area; and

(iv) Participation of children from outside the project area will not impair the effectiveness of the project and will not result in any extra cost; and

(10) Services are equitably provided to all children with State aid and local funds without regard to the availability of section 5(e) funds in the applicant's schools for the educationally deprived children.

(c) *Relation to existing Title I programs or projects.* If the applicant agency proposes to use the section 5(e) funds to supplement, under § 115.81 (b)(1) or (b)(3), an existing Title I program or project it is conducting in a particular school attendance area, the agency must indicate this in the document provided the State educational agency under § 115.82. In that case, the applicant agency is not required to describe, in the detail required by paragraph (a) of this section, the basic program or project that will be supplemented. It must describe only how the section 5(e) will supplement that program or project.

(20 U.S.C. 240(e), 242(b); S. Rept. No. 93-1026, p. 162 (1974).)

§ 115.86 Measurement of educational achievement and evaluation of programs.

As part of the document required to be submitted to the State educational agency under § 115.82(b), the applicant agency must describe the procedures and techniques that it will use to evaluate, at least annually, the effectiveness of section 5(e) projects in meeting the special educational needs of participating children. The description must include appropriate performance criteria and the instruments and methods to be used to objectively measure changes in the educational achievement of those children.

(a) The applicant agency must use objective standards or norms in measuring the effectiveness of section 5(e) projects for improving the educational achievement of the participating educationally deprived children.

(b) The applicant agency must evaluate the effectiveness of programs and projects for children enrolled in private schools who participated in them.

(20 U.S.C. 240(e), 242(b); S. Rept. No. 93-1026, p. 162 (1974).)

§ 115.87 Parent advisory councils.

(a) *Scope.* Section 141(a)(14) of Title I and § 116a.25 of the Title I regulation (45 CFR Part 116a.25) require the establishment of district advisory councils and school advisory councils by local educational agencies receiving assistance under Title I. This section of this subpart sets forth the rules for establishing and operating of district and school advisory councils for projects assisted under section 5(e).

(b) *Section 5(e) projects and existing Title I district council.* If a local educational agency which receives funds under section 5(e) has established a district advisory council under section 141(a)(14) of Title I and § 116a.25 of the Title I regulation, that agency may designate that council to serve as the district advisory council for projects supported in whole or in part with funds under section 5(e), if it takes steps to insure that:

(1) The functions and duties of the council are extended to these projects; and

(2) The district advisory council includes at least one member who is selected by parents in a project area (if any) having a project served with funds under section 5(e) but not with funds under Title I. See § 115.81 (b)(1) and (b)(3).

(c) *Section 5(e) projects in agencies without Title I district councils.* If an applicant agency which receives section 5(e) funds does not have an existing Title I district advisory council, it must establish a district advisory council for section 5(e) projects in the same way that Title I district advisory councils are established under § 116a.25 of the Title I regulation.

(d) *Section 5(e) projects and existing Title I school advisory councils.* If an applicant agency which receives section 5(e) funds uses these funds for projects in a school attendance area which has an existing Title I school advisory council, the agency may designate that council to serve as the school advisory council for projects supported in whole or in part with funds under section 5(e), if the functions and duties of the council are extended to those projects. See § 115.81 (b)(1) and (b)(3).

(e) *Section 5(e) projects in school attendance areas without Title I school advisory councils.* If an applicant agency which receives section 5(e) funds proposes to use those funds in a school attendance area which does not have an existing Title I school advisory council, it must establish a school advisory council for that attendance area in the same way that Title I school advisory councils are established under § 116a.25 of the Title I regulation.

(f) *General rules for advisory councils.* The following rules apply to advisory councils designated or established by an applicant agency under this section:

(1) Parents of children who are participating (or will participate) in a project for which section 5(e) funds are used are eligible for membership on a district advisory council or school advisory council to the same extent that they would be under § 116a.25 of the Title I regulation if their children participated in projects supported with Title I funds.

(2) Parents in school attendance areas served by a project supported with section 5(e) funds are eligible to participate in the selection of members of the district and school advisory councils.

(3) The advisory functions of these councils and their rights to access to information under § 116a.25 of the Title I regulation extend to projects supported with section 5(e) funds.

(g) *Supplements to applications.* As part of the document required to be submitted to the State educational agency under § 115.82(b)(2), an applicant agency which receives section 5(e) funds must include a description of the steps which it has taken or is taking to meet the requirements of this section. The description must be sufficient to permit the State educational agency making the certification under § 115.82(b)(2) to determine that the steps described by the applicant agency are adequate to meet the requirements of this section.

(20 U.S.C. 240(e); 242(b); S. Rept. No. 93-1026, p. 162 (1974).)

§ 115.88 Participation of private school children.

(a) *Participation permitted.* Applicants receiving section 5(e) funds may provide services with those funds to educationally deprived children attending private schools with those funds.

(b) *Rules for participation.* If an applicant includes children attending private schools in a section 5(e) program or project, the use of section 5(e) funds for those children is subject to the following conditions:

(1) Educationally deprived children attending private schools must be selected for the section 5(e) program or project on the same basis as children attending public schools. The supplement to the application submitted under § 115.82(b) must state:

(i) The number of private school children who were found to be educationally deprived according to specific criteria used under § 115.84;

(ii) The number of those children who are expected to be included in the section 5(e) program or project; and

(iii) The degree and manner of their expected participation.

(2) The programs or projects in which those children are included must meet the children's special educational needs rather than the general needs of the private schools which they attend, the student body of those schools, or children within a specific grade in those schools. Provisions for serving educationally deprived children attending private schools may not include the financing of the existing level of instruction in the private schools.

(3) Any project involving the participation at the same site of children attending private schools and children attending public schools must avoid, as much as possible, classes which are separated by school attendance or religious affiliation of the children.

(4) Public school personnel may be made available in other than public school facilities, but only when necessary to provide special services (such as therapeutic, remedial, or welfare services, broadened health services, and guidance and counseling services) for those educationally deprived children for whom those services were designed, and only when those services are not normally provided by the private schools.

(5) Provisions for special educational services for educationally deprived children attending private schools may not include paying salaries for teachers or other employees of private schools, except for services performed outside their regular hours of duty and under public supervision and control.

(6) An applicant agency which conducts a project including educationally deprived children attending private schools must maintain continuing administrative direction and control over those services and over the use of equipment required to provide those services.

(20 U.S.C. 240(e), 242(b); S. Rept. No. 93-1026, p. 162 (1974).)

§ 115.89 Applicability of other statutory and regulatory requirements.

(a) *Applicability of general provisions regulations.* Relevant provisions contained in parts 100a and 100c of this chapter are applicable to programs conducted under section 5(e), with the following exceptions:

Sec.
100a.15 Applications for grants or contracts.
100a.26 Review of applications.
100a.27 Disposition of applications.
100a.31 Preapplications.

Subpart C—Application Forms for State and Local Governments

100a.54 Duration of projects.
100a.62 Payment methods for nonconstruction projects.
100a.71 Checks-paid basis letter of credit.

Subpart P—Financial Reporting Requirements

100a.405 Request for advance or reimbursement.

Subpart Q—Monitoring and Reporting of Program Performance

100a.432 Performance reports for nonconstruction projects.

(20 U.S.C. 1221c(b)(1); 20 U.S.C. 242(b); OMB Cir. A102.)

(b) *Applicability of civil rights and related requirements.* Payments provided under section 3(d)(2)(C) are subject to the published requirements of the following laws and regulations: Title VI of the Civil Rights Act of 1964 (45 CFR Part 80); Title IX of the Educational Amendments of 1972 (45 CFR Part 86); and section 504 of the Vocational Rehabilitation Act of 1973 (45 CFR Part 84).

(42 U.S.C. 200d; 20 U.S.C. 1681, 29 U.S.C. 794.)

[FR Doc. 78-12001 Filed 5-5-78; 8:45 am]

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Federal Register

MONDAY, MAY 8, 1978
PART III



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

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ADVISORY CIRCULAR CHECKLIST

[and Status of Federal Aviation Regulations]

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[4910–13]

SPECIAL NOTICE

To all recipients of the Advisory Circular Checklist

This will be the last issue of the FAA Advisory Circular Checklist to appear in the FEDERAL REGISTER. Future revisions to the checklist will be printed in standard advisory circular format and will continue to be issued triannually. Distribution of the checklist will be unaffected at the present time. Present plans call for a modification of the distribution system in the future to allow for greater copy requirement latitude on initial distribution of the checklist. Information regarding this change will be announced in the checklist as soon as the program is established. Additionally, the information pertaining to the Status of the Federal Aviation Regulations will be discontinued with this issue of the advisory circular checklist. FAR information will continue to be published in Advisory Circular 00–44, Status of the Federal Aviation Regulations, which is free from FAA and will be issued as changes warrant.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 00-2NN Effective March 15, 1978]

ADVISORY CIRCULAR CHECKLIST [AND STATUS OF FEDERAL AVIATION REGULATIONS]

1. *Purpose.* This notice contains the revised checklist of current FAA advisory circulars (and the status of Federal Aviation Regulations) as of March 15, 1978.

2. *Explanation.* The FAA issues advisory circulars to inform the aviation public in a systematic way of nonregulatory material of interest. Unless incorporated into a regulation by reference, the contents of an advisory circular are not binding on the public. Advisory circulars are issued in a numbered-subject system corresponding to the subject areas of the Federal Aviation Regulations (14 CFR Ch. I). This checklist is issued triannually to list all current advisory circulars and also includes a checklist showing the status of the Federal Aviation Regulations.

3. *The Circular Numbering System.*

a. *General.* The advisory circular numbers relate to the FAR subchapter titles and correspond to the Parts, and when appropriate, to the specific sections of the Federal Aviation Regulations. Circulars of a general nature bear a number corresponding to the number of the general subject (subchapter) in the FAR's. A general subject number is used *only* when a circular covers more than one Part.

b. *General subject numbers.* The general subject matter areas and related numbers are as follows:

General Subject Number and Subject Matter
00 General.
10 Procedural.
20 Aircraft.
60 Airmen.
70 Airspace.
90 Air Traffic Control and General Operations.
120 Air Carrier and Commercial Operators and Helicopters.
140 Schools and Other Certified Agencies.
150 Airports.
170 Air Navigational Facilities.
180 Administrative.
210 Flight Information.

Within the General Subject Number Areas, specific selectivity in advisory circular mail lists is available corresponding to the applicable FAR Parts. For example: under the 60 general subject area, separate mail lists for advisory circulars issued in the 61, 63, 65, or 67 series are available.

c. *Breakdown of subject numbers.* When the volume of circulars in a series warrants a subsubject breakdown, the general number is followed by a slash and a subsubject number. Material in the 150 series, Airports, is issued under the following subsubjects:

Number and Subject
150/1900 Defense Readiness Program.
150/4000 Resource Management.
150/5000 Airport Planning.
150/5100 Federal-aid Airport Program.
150/5150 Surplus Airport Property Conveyance Programs.
150/5190 Airport Compliance Program.
150/5200 Airport Safety—General.
150/5210 Airport Safety Operations (Recommended Training, Standards, Manning).
150/5220 Airport Safety Equipment and Facilities.
150/5230 Airport Ground Safety System.
150/5240 Civil Airports Emergency Preparedness.
150/5300 Design, Construction, and Maintenance—General.
150/5320 Airport Design.
150/5325 Influence of Aircraft Performance on Aircraft Design.
150/5335 Runway, Taxiway, and Apron Characteristics.
150/5340 Airport Visual Aids.
150/5345 Airport Lighting Equipment.
150/5360 Airport Buildings.
150/5370 Airport Construction.
150/5380 Airport Maintenance.
150/5390 Heliports.
150/5900 Planning Grants for Airports.

d. *Individual circular identification numbers.* Each circular has a subject number followed by a dash and a sequential number identifying the individual circular. This sequential number is not used again in the same subject series. Revised circulars have a letter A, B, C, etc., after the sequential number to show complete revisions. Changes to circulars have CH 1, CH 2, CH 3, etc., after the identification number on pages that have been changed. The date on a revised page is changed to the effective date of the change.

4. *The Advisory Circular Checklist.*

a. *General.* Each circular issued is listed numerically within its subject-number breakdown. The identification number (AC 120-1), the change number of the latest change, if any, to the right of the identification number, the title, and the effective date for each circular are shown. A brief explanation of the contents is given for each listing.

b. *Omitted numbers.* In some series, sequential numbers are missing. These numbers were assigned to advisory circulars still in preparation which will be issued later or were assigned to advisory circulars that have been canceled.

c. *Free and sales circulars.* This checklist contains advisory circulars that are for sale as well as those distributed free of charge by the Federal Aviation Administration. A list of circulars sold by the Superintendent of Documents is shown at the end of the numerical list of AC's. Please use care when ordering circulars to ensure that they are ordered from the proper source.

d. *Internal directives for sale.* A list of certain internal directives sold by the Superintendent of Documents is shown at the end of the checklist. These documents are not identified by advisory circular numbers, but have their own directive numbers.

5. *How to get circulars.*

a. When a price is listed after the description of a circular, it means that this circular is for sale by the Superintendent of Documents. When (Sub.) is included with the price, the advisory circular is available on a subscription basis only. After your subscription has been entered by the Superintendent of Documents, supplements or changes to the basic document will be provided automatically at no additional charge until the subscription expires. When no price is given, the circular is distributed free of charge by FAA.

b. Request free advisory circulars shown without an indicated price from:

U.S. Department of Transportation, Publications Section M 443.1, Washington, D.C. 20590

c. Persons who want to be placed on FAA's mailing list for future circulars should write to:

U.S. Department of Transportation, Distribution Requirements Section, M 482.3, Washington, D.C. 20590.

NOTE.—Be sure to identify the subject matter numbers and titles shown in paragraph 3b because separate mailing lists are maintained for each advisory circular subject series. Checklists and circulars issued in the General series will be distributed to every addressee on each of the subject series lists. Persons requesting more than one subject classification may receive more than one copy of related circulars and this

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checklist because they will be included on more than one mailing list. Persons already on the distribution list for AC's will automatically receive related circulars.

d. Order advisory circulars and internal directives with purchase price given from:

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

or from any of the following Government bookstores located throughout the United States:

GPO Bookstore, 9920 B Parkway East, Roebuck Shopping Center, Birmingham, AL 35206
GPO Bookstore, Fedreal Building, Room 2039, 300 North Los Angeles Street, Los Angeles, CA 90012.
GPO Bookstore, Federal Building, Room 1023 450 Golden Gate Avenue, San Francisco, CA 94102.
GPO Bookstore, Federal Building, U.S. Courthouse, Room 1421, 1961 Stout Street, Denver, CO 80202.
GPO Bookstore, 720 North Main, Majestic Bldg., Pueblo, CO 81003.
GPO Bookstore, Federal Building, Room 158, 400 West Bay Street, Jacksonville, FL 32202.
GPO Bookstore, Room 100, Federal Building, 275 Peachtree Street NE., Atlanta, GA 30303.
GPO Bookstore, Everett McKinley Dirksen Building, Room 1463, 14th Floor, 219 South Dearborn Street, Chicago, IL 60604.
GPO Bookstore, Room G25, John F. Kennedy Federal Building, Sudbury Street, Boston, MA 02203.
GPO Bookstore, Federal Office Building, Suite 160, 477 Michigan Ave., Detroit, MI 48226.
GPO Bookstore, Federal Building, Room 135, 601 East 12th Street, Kansas City, MO 64106.
GPO Bookstore, Room 110, 26 Federal Plaza, New York, NY 10007.
GPO Bookstore, Room 207, Federal Office Bldg., 200 N. High St., Columbus, OH 43215.
GPO Bookstore, Federal Office Building, Room 171, 1240 East Ninth Street, Cleveland, OH 44199.
GPO Bookstore, Federal Office Bldg., Room 1214, 600 Arch St., Philadelphia, PA 19106.
GPO Bookstore, 45 College Center, 9319 Gulf Freeway, Houston, TX 77017.
GPO Bookstore, Room 1C48, Federal Building, U.S. Courthouse, 100 Commerce Street. Dallas, TX 75242.
GPO Bookstore, Federal Building, Room 190, 915 Second Ave., Seattle, WA 98174.
GPO Bookstore, Federal Building, Room 190, 519 E. Wisconsin Avenue, Milwaukee, WI 53202.
GPO Bookstore, 710 North Capitol Street NW., Washington, D.C. 20402.

Special Notice

Orders for subscription items can no longer be accepted by the bookstores. These orders must be placed directly with the Superintendent of Documents, Washington, D.C. 20402.

Send check or money order with your order to the Superintendent of Documents. Make the check or money order payable to the Superintendent of Documents in the amounts indicated in the list. Orders for mailing to foreign countries should include an additional 25 percent of the total price to cover handling. No c.o.d. orders are accepted.

6. *Reproduction of Advisory Circulars.* Advisory circulars may be reproduced in their entirety or in part without permission from the Federal Aviation Administration.

7. *Cancellations.* The following advisory circulars are canceled:

AC 00-2MM Advisory Circular Checklist, 11-15-77. Canceled by AC 00 2NN Advisory Circular Checklist, 3-15-78.
AC 20-6CC U.S. Civil Aircraft Register, July 1977, Canceled by AC20-6DD U.S. Civil Aircraft Register, December 1977.
AC 20-54 Hazards of Radium-Activated Luminous Compounds Used on Aircraft Instruments, 10-24-67. Canceled.
AC 21.303-2 Availability of Listing, "Parts Manufacturer Approvals", March 31, 1976. Canceled by AC 21.303-2A Availability of Listing, "Parts Manufacturer Approvals"—1977.
AC 36-1A Certificated Airplane Noise Levels, 7-21-75. Canceled by AC 36-1B Certificated Airplane Noise Levels, 12-5-77.
AC 36-2 Measured or Estimated (Uncertificated) Airplane Noise Levels of Aircraft, 9-21-76. Canceled by AC 36-2A Measured or Estimated (Uncertificated) Airplane Noise Levels, 2-6-78.
AC 43-6 Automatic Pressure Altitude Encoding Systems and Transponders Maintenance and Inspection Practices, 9-19-74. Canceled by AC 43-6A Automatic Pressure Altitude Encoding Systems and Transponders Maintenance and Inspection Practices, 11-11-77.
AC 43-8 Maintaining Hot Air Balloons in an Airworthy Condition, 1-2-75. Canceled.
AC 43.13-2 Acceptable Methods, Techniques, and Practices—Aircraft Alterations, 4-19-66. Canceled by AC 43.13-2A Acceptable Methods, Techniques, and Practices—Aircraft Alterations, 6-9-77.
AC 60 15A Publication of Revised FAA Written Test Guides, 6-9-77. Canceled.
AC 61-8C Instrument Rating (Airplane) Written Test Guide, 5-31-72. Canceled by AC 61-8D Instrument Rating Written Test Guide, 6-9-77.
AC 61-18D Airline Transport Pilot—Airline—Written Test Guide, 2-14-75. Canceled by AC 61-18E Airline Transport Pilot—Airplane—Written Test Guide, 5-6-77.
AC 61-43A Glider Pilot Written Test Guide—Private and Commercial, 1-12-72. Canceled.
AC 61-45 Instrument Rating (Helicopter) Written Test Guide, 1-24-68. Canceled by AC 61-8D Instrument Rating Written Test Guide, 6-9-77.
AC 61-64 Flight Test Guide—Instrument Pilot Helicopter, 7-23-73. Canceled by AC 61-64A Flight Test Guide—Instrument Pilot Helicopter, 5-25-77.
AC 70/7460-2F Proposed Construction or Alteration of Objects that May Affect the Navigable Airspace, 1-22-76. Canceled by AC 70/7460-2G Proposed Construction or Alteration of Objects That May Affect the Navigable Airspace, 11-30-77.
AC 90-50A Air Traffic Control Radio Frequency Assignment Plan for VFR and IFR Communications, 2-7-75. Canceled by AC 90-50B VHF Radio Frequency Assignment Plan for Aeronautical Operations, 12-12-77.
AC 90-72 Minimum Safe Altitude Warning (MSAW), 11-30-76. Canceled by AC 90-72A Minimum Safe Altitude Warning (MSAW), 1-31-78.
AC 91-13A Cold Weather Operations of Aircraft, 1-2-70. Canceled by AC 91-13B Cold weather Operation of Aircraft, 1-17-78.
AC 91-37 Truth in Leasing, 11-9-72. Canceled by AC 91-37A Truth in Leasing, 1-16-78.
AC 120-28A Criteria for Approval of Category IIIa Landing Weather Minima, 12-14-71. Canceled by AC 120-28B Criteria for Approval of Category IIIa Landing. Weather Minima, 12-1-77.
AC 121-3Q Maintenance Review Board Reports, 9-3-76. Canceled.
AC 150/5000-1 Cancellation of Obsolete Publications Issued by Standards Division, Airports Service, 4-17-70. Canceled.
AC 150/5345-12A Specification for L-801 Beacon, 5-12-76. Canceled by AC 150/5345-12B Specification for L-801 Beacon, 9-8-77.
AC 150/5200-7 Safety on Airports During Maintenance of Runway Lighting, 1-24-68. Canceled.

8. *Additions.* The following advisory circulars are added to the list.

AC 00-2NN Advisory Circular Checklist, 3-15-78.
AC 00-53 FAA Computer Software Quality Program, 1-18-78.
AC 20-6DD U.S. Civil Aircraft Register, (3-vol. set), Dec. 1977.
AC 20-7P General Aviation Inspection Aids:
Supplement 3, November 1977.
Supplement 4, December 1977.
Supplement 5, January 1978.
Supplement 6, February 1978.
AC 20-102 Installation and Flight Testing of Equipment Installed in Aircraft, 12-7-77.
AC 36-1B Certificated Airplane Noise Levels, 12-5-77.
AC 36-2A Measured or Estimated (Uncertificated) Airplane Noise Levels, 2-6-78.
AC 43-6A Automatic Pressure Altitude Encoding Systems and Transponders Maintenance and Inspection Practices, 11-11-77.
AC 43.13-2A Acceptable methods, Techniques, and Practices—Aircraft Alterations, 6-9-77.
AC 61-8D Instrument Rating Written Test Guide, 6-9-77.
AC 61-18E Airline Transport Pilot—Airplane—Written Test Guide, 5-6-77.
AC 61-64A Flight Test Guide—Instrument Pilot Helicopter, 5-25-77.
AC 61-85 Flight Instructor Instrument—Rotorcraft/Helicopter—Written Test Guide, 7-5-77.
AC 70/7460-2G Proposed Construction or Alteration of Objects That May Affect the Navigable Airspace, 11-30-78.
AC 90-50B VHF Radio Frequency Assignment Plan for Aeronautical Operations, 12-12-77.
AC 90-72A Minimum Safe Altitude Warning (MSAW), 1-31-78.
AC 91-13B Cold Weather Operation of Aircraft, 1-17-78.
AC 91-37A Truth in Leasing, 1-16-78.
AC 120-28B Criteria for Approval of Category IIIa Landing Weather Minima, 12-1-77.
AC 150/5050-6 Airport-Land Use Compatibility Planning, 12-30-77
AC 150/5200-23 CH 1 Airport Snow and Ice Control, 2-6-78.
AC 150/5300-9 CH 1 Predesign and Preconstruction Conferences (ADAP Projects), 11-11-77.
AC 150/5340-24 CH 1 Runway and Taxiway Edge Lighting System, 11-25-77.
AC 170-13 Approach Lighting System Configuration and Energy Conservation, 9-6-77.

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ADVISORY CIRCULAR CHECKLIST

Notice

Superintendent of Documents stock numbers have been included to aid Superintendent of documents personnel in processing orders. Please use them when ordering—along with the title and FAA number. To avoid unnecessary delays, do not order single-sales material and subscription-sales material on the same order form, as orders are separated for processing by different departments when they arrive at Superintendent of Documents. Be sure your name and and address appears on each list.

NOTICE

Prices shown are those in effect as of March 15, 1978. Prices are subject to change without notice and the price that will be charged on your order will be those in effect as of the date your order is processed.

General

SUBJECT No. 00

00-1 The Advisory Circular System (12-4-62).

Describes the FAA Advisory Circular System.

00-2NN Advisory Circular Checklist (3-15-78).

Transmits the revised checklist of current FAA advisory circulars [and the status of the Federal Aviation Regulations] as of 3-15-78.

00-6A Aviation Weather (3-3-75).

Provides an up-to-date and expanded text for pilots and other flight operations personnel whose interest in meteorology is primarily in its application to flying. ($4.55 Supt. Docs.) SN 050-007-00283-1.

00-7A State and Regional Disaster Airlift (SARDA) Planning (6-3-74).

Provides guidance for the development and implementation of State and Regional Disaster Airlift plans governing the use of general avaiation aircraft during national emergencies and natural disasters.

00-7A CH 1 Transmits revised material consisting of procedural changes for insertion in the basic (1-6-77).

00-21 Shoulder Harness (10-5-66).

Provides information concerning the installation and use of shoulder harnesses by pilots in general aviation aircraft.

00-24 Thunderstorms (6-12-68).

Contains information concerning flights in or near thunderstorms.

00-25 Forming and Operating a Flying Club (3-24-69).

Provides preliminary information that will assist anyone or any group of people interested in forming and operating a flying club ($0.75 Supt. Docs.) SN 050-007-00065-1.

00-26 Definitions of "U.S. National Aviation Standards" (1-22-69).

Informs the aviation community of the approval by the FAA Administrator of a definition of U.S. National Aviation Standards, the need for such standards, and their relationship to the Federal Aviation Regulations.

00-28 Communications Interference Caused by Sticking Microphone Buttons (8-6-69).

Alerts the industry of communications interference from undesired radiofrequency transmissions.

00-30 Rules of Thumb for Avoiding or Minimizing Encounters with Clear Air Turbulence (3-5-70).

Brings to the attention of pilots and other interested personnel, the "Rule of Thumb" for avoiding or minimizing encounters with clear air turbulence (CAT).

00-31 U.S. National Aviation Standard for the VORTAC System (6-10-70).

Informs the aviation community of the establishment and content of the U.S. National Aviation Standard for the VORTAC (VOR-TACAN-DME) System.

00-32 Civil Air Patrol and State and Regional Defense Airlift Relationships (7-2-70).

Advises interested persons of the Memorandum of Understanding between CAP and FAA, and provides additional guidance to further improve the use of non-air carrier aircraft in time of national emergency.

00-33A Nickel-Cadmium Battery Operational, Maintenance, and Overhaul Practices (2-14-73).

Provides guidelines for more reliable nickel-cadmium battery operation through proper operational and maintenance practices, and has been reissued to include reconditioning information.

00-34A Aircraft Ground Handling and Servicing (7-29-74).

Contains information and guidance for the servicing and ground handling of aircraft.

00—41A FAA Quality Control System Certification Program (11-3-75).

Describes the FAA Quality Control System Certification Program and the mechanics of implementation. It is intended for guidance and information only.

00—44H Status of the Federal Aviation Regulations (9-30-77).

List FAR prices, and provides ordering instructions for purchasing the regulations.

00—45A Aviation Weather Services (4-28-77).

Supplements AC 00-6A, Aviation Weather, in that it explains the weather service in general and the use and interpretation of reports, forecasts, weather maps, and prognostic charts in detail. Is an excellent source of study for pilot certification examinations. ($3.00 Supt. Docs.) SN 050-007-00392-7.

00—46A Aviation Safety Reporting Program (3-31-76).

Advises that the FAA will modify the Aviation Safety Reporting Program, effective April 15, 1976 by utilizing NASA as a third party to receive and analyze the aviation safety reports. This study invites pilots, controllers, and other users of the airspace or any other person to report to NASA actual or potential discrepancies and difficiencies involving the safety of aircraft operations.

00—50 Low Level Wind Shear (4-8-76).

Provides guidance for recognizing the meteorological situations that produce the phenomenon widely known as low level wind shear.

00—52 Ozone Irritation During High Altitude Flight (7-21-77).

Defines ozone irritation, discusses its causes and symptoms, and describes a means of dealing with the problem should it occur in flight.

00—53 FAA Computer Software Quality Program (1-18-78).

Describes the FAA computer software quality program and the mechanics of implementation. For guidance and information only.

Procedural

SUBJECT No. 10

11—1A Airspace Rule-Making Proposals and Changes to Air Traffic Control Procedures (12-21-72).

Emphasizes the need for the early submission of proposal involving airspace rule-making activity or changes to existing procedures for the control of air traffic.

11—2 Notice of Proposed Rulemaking Distribution System (12-17-75).

Provides the public with information relative to participation in the FAA rulemaking process and explains the availability of the Notices.

Aircraft

SUBJECT No. 20

20-3C Status and Availability of Military Handbooks and ANC Bulletins for Aircraft (6-1-73).

Announces the status and availability of Military Handbooks and ANC Bulletins prepared jointly with FAA, Navy and Air Force.

20-5D Plane Sense (2-11-76).

Provides general aviation information for the private aircraft owner and outlines requirements of owning and operating a personal type airplane.

20-6DD U.S. Civil Aircraft Register (3-Vol. set) (Dec. 1977).

Lists all active U.S. civil aircraft by registration number ($19.00 Supt. Docs.) SN 050-007-00408-7.

20-7P General Aviation Inspection Aids, Summary (Aug. 1977).

Provides the aviation community with a uniform means for interchanging service experience that may improve the durability and safety of aeronautical products. Of value to mechanics, operators of repair stations, and others engaged in the inspection, maintenance, and operation of aircraft general. ($9.00; $11.25 foreign—Sub. Supt. Docs.) SN050-011-90058-6.

20-7P Supplement 1 Sept. 1977.

20-7P Supplement 2 Oct. 1977.

20-7P Supplement 3 Nov. 1977.

20-7P Supplement 4 Dec. 1977.

20-7P Supplement 5 Jan. 1978.

20-7P Supplement 6 Feb. 1978.

20-9 Personal Aircraft Inspection Handbook (12-2-64).

(Out of print. Being revised.)

Provides a general guide, in simple, nontechnical language, for the inspection of aircraft. Reprinted 1972. ($1.90 Supt. Docs.) SN 050-011-00001-1.

20-17B Surplus Aircraft of the Armed Forces (10-11-72).

Sets forth the method of obtaining copies of Federal Aviation Regulations which might be required for certification of surplus military aircraft.

20-18A Qualification Testing of Turbo-jet Engine Thrust Reversers (3-16-66).

Discusses the requirements for the qualification of thrust reversers and sets forth an acceptable means of compliance with the tests prescribed in Federal Aviation Regulations, Part 33, when run under nonstandard ambient air conditions.

20-23D Interchange of Service Experience—Mechanical Difficulties (2-12-71).

Provides information on the voluntary exchange service experience data used in improving durability and safety of aeronautical products.

20-24A Qualification of Fuels, Lubricants, and Additives (4-1-67).

Establishes procedures for the approval of the use of subject materials in certificated aircraft.

20-27B Certification and Operation of Amateur-Built Aircraft (4-20-72).

Provides information and guidance concerning certification and operation of amateur-built aircraft, including gliders, free balloons, helicopters, and gyroplanes, and sets forth an acceptable means, not the sole means, of compliance with FAR Part 21 and FAR Part 91.

20-28A Nationally Advertised Construction Kits, Amateur-Built Aircraft (12-29-72).

Advises persons contemplating the use of nationally advertised kits for the construction of an aircraft, that certain kits when used could render the aircraft ineligible for the issuance of an experimental certificate as an amateur-built aircraft.

20-29B Use of Aircraft Fuel Anti-icing Additives (1-18-72).

Provides information on the use of anti-icing additives PFA-55MB and Mil-I-27686 as an acceptable means of compliance with the FARs that require assurance of continuous fuel flow under conditions where ice may occur in turbine aircraft fuel systems.

20-30A Airplane Position Lights and Supplementary Lights (4-18-68).

Provides an acceptable means for complying with the position light requirements for airplane airworthiness and acceptable criteria for the installation of supplementary lights on airplanes.

20-32B Carbon Monoxide (CO) Contamination in Aircraft—Detection and Prevention (11-24-72).

Provides information on the potential dangers of carbon monoxide contamination from faulty engine exhaust systems or cabin heaters of the exhaust gas heat exchanger type.

20-33B Technical Information Regarding Civil Aeronautics Manuals 1, 3, 4a, 4b, 5, 6, 7, 8, 9, 13 and 14 (5-1-75).

Advises the public that policy information contained in the subject Civil Aeronautics Manuals may be used in conjunction with specific sections of the Federal Aviation Regulations.

20-34B Prevention of Retractable Landing Gear Failures (7-13-77).

Provides information and suggested procedures to minimize landing accidents involving aircraft having retractable landing gear.

20-35B Tie-Down Sense (4-19-71).

Provides information of general use on aircraft tie-down techniques and procedures.

20-36F Index of Materials, Parts, and Applicances Certified Under the Technical Standard Order System—July 1, 1976 (9-9-76).

Lists the materials, parts, and applicances for which the Administrator has received statements of conformance under the Technical Standard Order system as of July 1, 1976. Such products are deemed to have met the requirements for FAA approval as provided in Part 37 of the Federal Aviation Regulations.

20—37B Aircraft Metal Propeller Blade Failure (9-12-74).

Provides information and suggested procedures to increase service life and to minimize blade failures of metal propellers.

20—38A Measurement of Cabin Interior Emergency Illumination in Transport Airplanes (2-8-66).

Outlines acceptable methods, but not the only methods, for measuring the cabin interior emergency illumination on transport airplanes, and provides information as to suitable measuring instruments.

20—40 Placards for Battery-Excited Alternators Installed in Light Aircraft (8-11-65).

Sets forth an acceptable means of complying with placarding rules in Federal Aviation Regulations 23 and 27 with respect to battery-excited alternator installations.

20—41A Substitute Technical Standard Order (TSO) Aircraft Equipment (4-5-77).

Sets forth an acceptable means for complying with rules governing aircraft equipment installations in cases involving the substitution of technical standard order or equipment for functionally similar TSO approved equipment.

20—42 Hand Fire Extinguishers in Transport Category Airplanes and Rotorcraft (9-1-65).

Sets forth acceptable means (but not the sole means) of compliance with certain hand fire extinguisher regulations in FAR 25 and FAR 29, and provides related general information.

AC 20—43C Aircraft Fuel Control (10-20-76).

Alerts the aviation community to the potential hazards of inadvertent mixing or contamination of turbine and piston fuels, and provides recommended fuel control and servicing procedures.

20—44 Glass Fiber Fabric for Aircraft Covering (9-3-65).

Provides a means, but not the sole means, for acceptance of glass fiber fabric for external covering of aircraft structure.

20—45 Safetying of Turnbuckles on Civil Aircraft (9-17-65).

Provides information on turnbuckle safetying methods that have been found acceptable by the FAA during past aircraft type certification programs.

20—46 Suggested Equipment for Gliders Operating Under IFR (9-23-65).

Provides guidance to glider operators on how to equip their gliders for operation under instrument flight rules (IFR), including flight through clouds.

20—47 Exterior Colored Band Around Exits on Transport Airplanes (2-8-66).

Sets forth an acceptable means, but not the only means, of complying with the requirement for a 2-inch colored band outlining exits required to be openable from the outside on transport airplanes.

20—48 Practice Guide for Decontaminating Aircraft (5-5-66).

The title is self-explanatory.

20—52 Maintenance Inspection Notes for Douglas DC-6/7 Series Airacraft (8-24-67). (Consolidated Reprint—January 1974, includes Change 1).

Describes maintenance inspection notes which can be used for the maintenance support of certain structural parts of DC-6 6/7 series aircraft.

20—53 Protection of Aircraft Fuel System Against Lightning (10-6-67).

Sets forth acceptable means, not the sole means, by which compliance may be shown with fuel system lightning protection airworthiness regulations.

20-55 Turbine Engine Overhaul Standard Practices Manual—Maintenance of Fluorescent Penetrant Inspection Equipment (1-22-68).

Advises operators of the necessity for periodic checking of black light lamps and filters used during fluorescent penetrant inspection of engine parts.

20-56A Marking of TSO-C72b Individual Flotation Devices (4-1-75).

Outlines acceptable methods for marking individual flotation devices which also serve as seat cushions.

20-57A Automatic Landing Systems (ALS) (1-12-71).

Sets forth an acceptable means of compliance, but not the only means, for the installation approval of automatic landing systems in transport category aircraft which may be used initially in Category II operations. Approval of these aircraft for use under such conditions will permit the accumulation of data for systems which may be approved for Category IIIa in the future.

20-59 Maintenance Inspection Notes for Convair 240, 340/440, 240T, and 340T Series Aircraft (2-19-68).

Describes maintenance inspection notes which can be used for the maintenance support of certain structural parts of Convair 240, 340/440, 240T, and 340T series aircraft.

20-59 CH 1 (8-24-72).

Provides additional material for Convair Models 240 and 600/240D; Models 340/440 and 640/340D/440D series aircraft Maintenance inspection programs.

20-60 Accessibility to Excess Emergency Exits (7-18-68).

Sets forth acceptable means of compliance with the "readily accessible" provisions in the Federal Aviation Regulations dealing with excess emergency exits.

20-62C Eligibility, Quality, and Identification of Approved Aeronautical Replacement Parts (8-26-76).

Provides information relative to the determination of the eligibility of aeronautical parts and materials for installation on certificated aircraft.

20-63 Airborne Automatic Direction Finder Installations (Low and Medium Frequency) (7-7-69).

Sets forth one means, but not the only means, of demonstrating compliance with the airworthiness rules governing the functioning of airborne automatic direction finders. It does not pertain to installations previously approved.

20-64 Maintenance Inspection Notes for Lockheed L-188 Series Aircraft (8-1-69).

Describes maintenance inspection notes which can be used for the maintenance support of certain structural parts of Lockheed L-188 series aircraft.

20-64 CH 1 (10-26-73).

20-65 U.S. Airworthiness Certificates and Authorizations for Operation of Domestic and Foreign Aircraft (8-11-69).

Provides general information and guidance concerning issuance of airworthiness certificates for U.S. registered aircraft, and issuance of special flight authorizations for operation in the United States of foreign aircraft not having standard airworthiness certificates issued by the country of registry.

20-66 Vibration Evaluation of Aircraft Propellers (1-29-70).

Outlines acceptable means, but not the sole means, for showing compliance with the requirements of the FARs concerning propeller vibration.

20-67A Airborne VHF Communication System Installations (10-17-72).

Sets forth one means, but not the only means of demonstrating compliance with the airworthiness rules governing the functioning of airborne VHF communication systems.

20-68A Recommended Radiation Safety Precautions for Airborne Weather Radar (4-11-75).

Sets forth recommended radiation safety precautions for ground operation of airborne weather radar.

20-69 Conspicuity of Aircraft Instrument Malfunction Indicators (5-14-70).

Provides design guidance information on methods of improving conspicuity of malfunction indication devices.

20-71 Dual Locking Devices on Fasteners (12-8-70).

Provides guidance and acceptable means, not the sole means, by which compliance may be shown with the requirements for dual locking devices on removable fasteners installed in rotorcraft and transport category airplanes.

20-73 Aircraft Ice Protection (4-21-71).

Provides information relating to the substantiation of ice protection systems on aircraft.

20-74 Aircraft Position and Anticollision Light Measurements (7-29-71).

Contains useful information concerning measurements for intensity, covering, and color of aircraft position and anti-collision lights.

20-76 Maintenance Inspection Notes for Boeing B-707/720 Series Aircraft (10-21-71).

Provides maintenance inspection notes which can be used for the maintenance support program for certain structural parts of the B-707/720 series aircraft.

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20-77 Use of Manufacturers' Maintenance Manuals (3-22-72).

Informs owners and operators about the usefulness of manufacturers' maintenance manuals for servicing, repairing, and maintaining aircraft, engines and propellers.

20-78 Maintenance Inspection Notes for McDonnell Douglas DC-8 Series Aircraft (7-11-72).

Provides maintenance inspection notes which can be used for the maintenance support program for certain structural parts of the DC-8 series aircraft.

20-81 Accidental or Unauthorized Activation of Emergency Locator Transmitters (ELT) (10-10-72).

Alerts the general aviation community to the harmful effects of accidental or unauthorized activation of emergency locator transmitters.

20-82 Maintenance Inspection Notes for Fairchild Hiller F-27/FH-227 Series Aircraft (12-5-72).

Provides maintenance inspection notes which can be used for the maintenance support program for certain structural parts of Fairchild Hiller F-27/FH-227 series aircraft.

20-82 CH 1 (7-12-73).

Provides additional material for subject advisory circular.

20-83 Maintenance Inspection Notes for Boeing B-737 Series Aircraft (1—17-73).

Provides maintenance inspection notes which can be used for the maintenance support program for certain structural parts of the B-737 series aircraft.

20-83 CH 1 (8-8-74).

Provides updating of material for the B-737 series aircraft maintenance inspection program. Inspection of selected areas of the wing, fuselage, empennage and landing gear of B-737 series aircraft are presented supplementing information currently in AC 20-83.

20-83 CH 2 (1-31-75).

20-84 Maintenance Inspection Notes for Boeing B-727 Series Aircraft (1-22-73).

Provides inspection notes which can be used for the maintenance support program for certain structural parts of the B-727 series aircraft.

20-84 CH 1 (8-8-74).

Updates material for the B-727 series aircraft maintenance inspection program. Inspection of selected areas of the wing, fuselage, empennage and landing gear of the B-727 series aircraft are presented supplementing information currently available in AC 20-84.

20-84 CH 2 (1-31-75).

20-85 Emergency Locator Transmitters and Receivers (3-16-73).

Provides information concerning the design, installation, and utilization of emergency locator transmitters.

20-86 Aviation Education thrqugh Building an Airplane (5-11-73).

Provides information to high schools about the available assistance, resources, methods, and opportunities for attaining basic educational goals by building an airplane.

20-87 Airborne Homing and Alerting Equipment for use with Emergency Locator Transmitters (5-7-73).

Sets forth the availability of recommended basic characteristics for airborne homing and alerting equipment for use with emergency locator transmitters (ELT).

20-88 Guidelines on the Marking of Power-Plant Instruments (12-11-73).

Provides guidelines on the marking of aircraft powerplant instruments.

20-89 Communication Interference Caused by Unintentional Radio Transmissions (3-22-74).

Alerts the aviation community to the potential hazards created by unintentional hazards created by unintentional radio transmissions from airborne, mobile, and ground based radio transmitters and gives guidance on alleviating ensuing hazards.

20-90B Address List for Engineering and Manufacturing District Offices (12-3-76).

Transmits the address list for all Engineering and Manufacturing District Offices.

20-91 Lithium Batteries Used in Emergency Locator Transmitters (4-11-75).

Warns of potential hazards associated with accidental release of sulfurdioxide gas from lithium-sulfur batteries.

20-92 Anti-Icing Additives to Reduce Icing Problems in Aviation Gasoline (1-12-76).

Title is self explanatory.

20-93 Flutter Due to Ice or Foreign Substance on or in Aircraft Control Surfaces (1-29-76).

Provides information concerning the potential hazard associated with aircraft control surface flutter caused by imbalance.

20-94 Digital Clock Installation in Aircraft (3-4-76).

Provides guidelines for operating and installing digital clocks in aircraft.

20-95 Fatigue Evaluation of Rotorcraft Structure (5-18-76).

Sets forth acceptable means, not the only means, of compliance with the provisions of FAR sections 27.571 and 29.571 dealing with the fatigue evaluation of rotorcraft structure.

20-96 Surplus Military Aircraft—A Briefing for Prospective Buyers (12-2-76).

Provides many answers to questions regarding the purchasing of surplus military aircraft (type certification, is the aircraft flyable, is it for spare parts, scrap?).

20-97 High-Speed Tire Maintenance and Operational Practices (1-28-77).

Provides information on the causes of aircraft tire failures and methods of increasing tire reliability.

20-98 Auxiliary Two-Way Airborne Radio System Installations (5-23-77).

Provides guidance concerning installation and operation of two-way radio communication systems which are not used for controlling an aircraft in flight (i.e., mobile telephone, amateur radio, etc.).

20-99 Antiskid and Associated Systems (5-27-77).

Provides an acceptable means, but not the only means, of complying with the requirement that antiskid and associated systems must be designed so that no probable malfunction will result in a hazardous loss of braking or directional control of an airplane.

20-100 General Guidelines for Measuring Fire-Extinguishing Agent Concentrations in Powerplant Compartments (9-21-77).

Describes the installation and use of a model GA-2A fire extinguisher agent concentration recorder in determining the distribution and concentration of fire-extinguishing agents when discharged in an aircraft powerplant compartment.

20-101 Omega and Omega/VLF Navigation System Installation Approval in the Conterminous U.S. and Alaska (10-14-77).

Presents criteria and an acceptable means, but not the sole means, of compliance for the installation approval of Omega and Omega/VLF Navigation Airborne Equipment as a means of VFR/IFR RNAV en route navigation within the conterminous U.S. and Alaska.

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20-102 Installation and Flight Testing of Equipment Installed in Aircraft (12-7-77).

Provides guidance information concerning installation and flight testing of equipment which, if not accomplished in accordance with applicable FAR's, could lead to serious accidents.

21-1B Production Certificates (5-10-76).

Provides information concerning Subpart G of Federal Aviation Regulations (FAR) Part 21, and sets forth acceptable means of compliance with its requirements.

21-2C Export Airworthiness Approval Procedures (5-7-76).

This advisory circular provides general information and guidance concerning issuance of export approvals under Federal Aviation Regulations (FAR) Part 21, Subpart L.

21-3 Basic Glider Criteria Handbook (1962).

Provides individual glider designers, the glider industry, and glider operating organizations with guidance material that augments the glider airworthiness certification requirements of the Federal Aviation Regulations. Reprinted 1973. ($2.05 Supt. Docs.) SN 050-011-00004-6.

21-4B Special Flight Permits for Operation of Overweight Aircraft (7-30-69).

Furnishes guidance concerning special flight permits necessary to operate an aircraft in excess of its usual maximum certificated takeoff weight.

21-5D Summary of Supplemental Type Certificates (Announcement of Availability) (4-7-76).

Announces the availability to the public of the new Summary of Supplemental Type Certificates (SSTC), dated January 1978. (See back of this checklist under "Internal Directives" for further information.)

21-6 Production Under Type Certificate Only (5-26-67).

Provides information concerning Subpart F of FAR Part 21, and sets forth examples, when necessary, of acceptable means of compliance with its requirements.

21-7A Certification and Approval of Import Products (11-24-69).

Provides guidance and information relative to U.S. certification and approval of import aircraft, aircraft engines and propellers that are manufactured in a foreign country with which the United States has an agreement for the acceptance of those products for export and import.

21-8 Aircraft Airworthiness; Restricted Category: Certification of Aircraft With Uncertificated or Altered Engines or Propellers (5-21-69).

Sets forth acceptable means of substantiating that uncertificated or altered engines and propellers have no unsafe features for type certification of aircraft in the restricted category.

21-9 Manufacturers Reporting Failures, Malfunctions, or Defects (12-30-70).

Provides information to assist manufacturers of aeronautical products (aircraft, aircraft engines, propellers, appliances, and parts) in notifying the Federal Aviation Administration of certain failures, malfunctions, or defects, resulting from design or quality control problems, in the products which they manufacture.

21-10 Flight Recorder Underwater Locating Device (5-20-71).

Provides one acceptable means (not the only means) of showing compliance with the underwater locating device requirements of FAR 25.1459 and FAR 121.343.

21-11 Quality Assurance Systems Analysis Review (QASAR) Program Manufacturers/Suppliers (5-26-72).

Explains the objectives and concept of the FAA's subject program.

21-12 Application for U.S. Airworthiness Certificate, FAA Form 8130-6 (OMB 04-R0058) (1-17-73).

Provides instructions on the preparation and submittal of subject form.

21-13 Standard Airworthiness Certification of Surplus Military Aircraft and Aircraft Built from Spare and Surplus Parts (4-5-73).

Provides guidance and instructions on establishing eligibility and submitting application for civil airworthiness certification of surplus military aircraft and aircraft assembled from spare and surplus parts, under FAR 21.183(d) when an FAA Type Certificate has been issued under FAR 21.21 or FAR 21.27.

21-14 The Role of Simulation in the Aircraft Certification Process (6-12-75).

Informs the aviation industry that the FAA intends to conduct an exploratory program to determine the degree to which simulation can support the aircraft certification process.

21-15 New Issuance System for "Aircraft Type Certificate Data Sheets and Specifications" and "Aircraft Engine and Propeller Type Certificate Data Sheets and Specifications" (4-5-77).

Provides information concerning a change in the issuance system for the subject Type Certificates and Data Sheets.

21.303-1A Certification Procedures for Products and Parts (8-10-72).

Provides information concerning section 21.303 of Federal Aviation Regulations, Part 21, and to set forth examples, as necessary, of acceptable means of compliance with its requirements.

21.303-2A Availability of Listing "Parts Manufacturer Approvals"—1977 (10-1-77).

Announces the availability of the parts listing from the Superintendent of Documents at a price of $8.50. Stock No. 050-007-00401-0.

25-2 Extrapolation of Takeoff and Landing Distance Data Over a Range of Altitude for Turbine-Powered Transport Aircraft (7-9-64).

Sets forth acceptable means by which compliance may be shown with the requirements in CAR 4b and SR-422B.

25-4 Inertial Navigation Systems (INS) (2-18-66).

Sets forth an acceptable means for complying with rules governing the installation of inertial navigation systems in transport category aircraft.

25-5 Installation Approval on Transport Category Airplanes of Cargo Unit Load Devices Approved as Meeting the Criteria in NAS 3610 (6-3-70).

Sets forth an acceptable means, but not the sole means, of complying with the requirements of the Federal Aviation Regulations (FAR's) applicable to the installation on transport category airplanes of cargo until load devices approved as meeting the criteria in NAS 3610.

25-6 Ground Proximity Warning Systems (GPWS) (12-31-74).

Outlines acceptable ground proximity warning system performance. System performance, other than that described, may also be acceptable when adequately substantiated.

25.253-1A High-Speed Characteristics (12-27-76).

Sets forth an acceptable means, but not the only means, by which compliance may be shown with FAR 25.253 during certification flight tests.

25.981-1A Guidelines for Substantiating Compliance With the Fuel Tank Temperature Requirements (1-20-71).

Sets forth some general guidelines for substantiating compliance with fuel tank temperature airworthiness standards section 25.981.

25.1329-1A Automatic Pilot Systems Approval (7-8-68).

Sets forth an acceptable means by which compliance with the automatic pilot installation requirements of FAR 25.1329 may be shown.

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25.1457-1A Cockpit Voice Recorder Installations (11-3-69).

Sets forth one acceptable means of compliance with provisions of FAR 25.1457 (b), (e), and (f) pertaining to area microphones, cockpit voice recorder location, and erasure features.

29-1 Approval Basis for Automatic Stabilization Equipment (ASE) Installations in Rotorcraft (12-26-63).

Gives means for compliance with flight requirements in various CAR's.

29-1 CH 1 (3-26-64).

Transmits revised information about the time delay of automatic stabilization equipment.

29.773-1 Pilot Compartment View (1-19-66).

Sets forth acceptable means, not the sole means, by which compliance with FAR 29.773(a)(1), may be shown.

33-1B Turbine-Engine Foreign Object Ingestion and Rotor Blade Containment Type Certification Procedures (4-22-70).

Provides guidance and acceptable means, not the sole means, by which compliance may be shown with the design and construction requirements, of Part 33 of the Federal Aviation Regulations.

33-2A Aircraft Engine Type Certification Handbook (6-5-72).

Contains guidance relating to type certification of aircraft engines which will constitute acceptable means, although not the sole means, of compliance with the Federal Aviation Regulations.

33-3 Turbine and Compressor Rotors Type Certification Substantiation Procedures (9-9-68).

Sets forth guidance and acceptable means, not the sole means, by which compliance may be shown with the turbine and compressor rotor substantiation requirements in FAR Part 33.

36-1B Certificated Airplane Noise Levels (12-5-77).

Provides noise level data for airplanes certificated under FAR Part 36 since its publication on Nov. 18, 1969.

36-2A Measured or Estimated (Uncertificated) Airplane Noise Levels (2-6-78).

Provides estimates of noise levels or measured noise levels from airplanes not certificated to FAR Part 36.

37-2A Test Procedures for Maximum Allowable Airspeed Indicators (10-22-74).

Provides guidance concerning test procedures which may be used in showing compliance with the standards in FAR 37.145 (TSO-C46a).

37-3A Radio Technical Commission for Aeronautics Document DO-160 (3-20-75).

This circular announces RTCA Document DO-160 and discusses how it may be used in connection with technical standard order authorizations.

39-1A Jig Fixtures; Replacement of Wing Attach Angles and Doublers on Douglas Model DC-3 Series Aircraft Airworthiness Directive 66-18-2 (3-5-70).

Describes methods of determining that jig fixtures used in the replacement of the subject attached angles and doublers meet the requirements of Airworthiness Directive 66-18-2.

39-6E Summary of Airworthiness Directives (2-11-76).

Announces the availability of Summary of Airworthiness Directives dated January 1, 1976 from the FAA in Oklahoma City and how to obtain them.

43-2A Minimum Barometry for Calibration and Test of Atmospheric Pressure Instruments (8-22-74).

Sets forth guidance material which may be used to determine the adequacy of barometers used in the calibration of aircraft static instruments and presents information concerning the general operation, calibration, and maintenance of such barometers.

43-3 Nondestructive Testing in Aircraft (5-11-73).

Reviews the basic principles underlying nondestructive testing. ($0.75 Supt. Docs.) SN 5007-00208.

43-4 Corrosion Control for Aircraft (5-15-73).

Summarizes current available data regarding identification and treatment of corrosive attack on aircraft structure and engine materials.

43-4 CH 1 (3-1-74).

Provides additional information on identification and treatment of corrosion attack on aircraft structures. Adds a new Chapter 14—Corrosion control of aircraft used in agricultural cropdusting operations.

43-4 CH 2 (10-8-74).

Clarifies the discussion on the removal of corrosion and treatment of corroded areas.

43-5 Airworthiness Directives for General Aviation Aircraft (8-13-74).

Points areas of misunderstanding regarding: (1) Aircraft owners and operators' responsibility for complying with AD's; (2) maintenance personnel responsibilities with regards to performance of AD's, and (3) maintenance records entries for AD's required by FAR 91.173(a)(2)(v) and FAR 43.9.

43-6A Automatic Pressure Altitude Encoding Systems and Transponders Maintenance and Inspection Practices (11-11-77).

Provides information on the installation encoding altimeters based upon recently acquired operating experience and on the maintenance of ATC transponders.

43-7 Ultrasonic Testing for Aircraft (9-24-74).

Describes methods used in ultrasonic nondestructive testing, discusses the many advantages, and points out the simplicity of the tests. Contains many illustrations. ($1 Supt. Docs.) SN 050-007-00282-3.

43-9A Maintenance Records: General Aviation Aircraft (9-9-77).

Provides information to assist maintenance personnel in fulfilling their responsibility under FAR Section 43.9.

43-10 Mechanical Work Performed on U.S. and Canadian Registered Aircraft (1-26-76).

Provides information and guidance to aircraft owners/operators and maintenance personnel concerning mechanical work performed on U.S. registered aircraft by Canadian maintenance personnel and on Canadian registered aircraft by U.S. maintenance personnel.

43-11 Reciprocating Engine Overhaul Terminology and Standards (4-7-76).

Discusses engine overhaul terminology and standards that are used by the aviation industry.

43-12 Preventive Maintenance (7-16-76).

Provides information concerning preventive maintenance and who may perform it.

43-14 Maintenance of Weather Radar Radomes (2-24-77).

Provides guidance material useful to repair facilities in the maintenance of weather radomes.

43-15 Recommended Guidelines for Instrument Shops (8-15-77).

Provides guidelines concerning environmental conditions for instrument repair and overhaul shops and information on calibration of test equipment.

43.9-1C Instruction for Completion of FAA Form 337 (12-20-73).

Provides instructions for completing revised FAA Form 337, Major Repair and Alteration (Airframe, Powerplant, Propeller, or Appliance).

43.13-1A Acceptable Methods, Techniques and Practices—Aircraft Inspection and Repair (4-17-72).

Contains methods, techniques, and practices acceptable to the Administrator for inspection and repair to civil aircraft. Published in 1973. ($3.70—Supt. Docs.) SN 050-011-00058-5.

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43.13-1A CHG 1 (5-12-75).

Transmits new and revised material for basic advisory circular. ($0.65—Supt. Docs.) SN 050-007-00294-7.

43.13-1A Ch 2 (12-22-76).

Transmits revised material concerning aircraft instrument adjustments. ($0.35 Supt. Docs.) SN 050-007-00368-4.

43.13-2A Acceptable Methods, Techniques, and Practices—Aircraft Alterations (6-9-77).

Contains methods, techniques, and practices acceptable to the Administrator for use in in altering civil aircraft. ($2.75 Supt. Docs.) SN 050-007-00407-9.

43-203A Altimeter and Static System Tests and Inspections (6-6-67).

Specifies acceptable methods for testing altimeter and static system. Also, provides general information on test equipment used and precautions to be taken.

45-2 Identification and Registration Marking (7-7-72).

Provides guidance and information concerning the identification and marking requirements of Federal Aviation Regulations (FAR) Parts 21 and 45, and where considered helpful, to provide an acceptable means, but not the sole means, of compliance with the regulations.

47-1A Aircraft Registration, Eligibility, Identification and Activity Report (6-7-73).

Advises owners and operators of U.S. civil aircraft of requirement for annual submission of current information related to aircraft registration eligibility, requests similar submission of information related to identification and activity of aircraft; and to call attention to the availability of the reporting form to be used.

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SUBJECT No. 60

60-2M Annual Aviation Mechanic Safety Awards Program (2-6-75).

Provides the details of the annual Aviation Mechanic Safety Awards Program.

60-4 Pilot's Spatial Disorientation (2-9-65).

Acquaints pilots flying under visual flight rules with the hazards of disorientation caused by the loss of reference with the natural horizon.

60-6A Airplane Flight Manuals (AFM), Approved Manual Materials, Markings, and Placards—Airplanes (2-9-76).

Alerts pilots to the regulatory requirements relating to the subject and provides information to aid pilots to comply with these requirements.

60-9 Induction Icing—Pilot Precautions and Procedures (2-28-73).

Provides the pilot with information on the causes and results of induction icing in reciprocating aircraft engines, and the precautions he should take to reduce the likelihood of icing, and the means available to him in controlling icing when it is encountered.

60-10 Recommended Safety Parameters for Operation of Hang Gliders (5-16-74).

Suggests safety parameters for the operation of "hang gliders" and to present the current FAA intent with respect to the regulation and operation of those vehicles.

60-11 Aides Authorized for Use by Airman Written Test Applicants (8-27-74).

Clarifies FAA policy concerning aids that applicants may use when taking airman written tests.

60-12 Availability of Industry-Developed Guidelines for the Conduct of the Biennial Flight Review (2-11-76).

Informs all FAA certificated flight instructors of the availability of, and how to obtain, the industry-developed guidelines for the conduct of the Biennial Flight Review.

60-13 The Accident Prevention Counselor Program (4-27-76).

Provides information to acquaint the general aviation community with the accident prevention counselor program and outlines the ways the accident prevention counselor force enhances aviation safety.

60-14 Aviation Instructor's Handbook (7-7-76).

Provides the aviation instructor with comprehensive, accurate, and easily understood information on learning and teaching and to relate this information to students. Cancels AC 61-16A. ($2.75 Supt. Docs.) SN 050-011-00072-1.

61-8D Instrument Rating Written Test Guide (6-9-77).

Prepared by the FAA as an aid to pilots who are preparing for the Instrument Rating (Airplane, Helicopter, or Foreign Pilot) Written Tests. Its purpose is to define the scope of the written test and directs applicants to appropriate study material. Contains representative test questions. ($3.75 Supt. Docs.) SN 050-007-00410-9.

61-9B Pilot Transition Courses for Complex Single-Engine and Light, Twin-Engine Airplanes (1-15-74).

A guide to the procedures and standards to be followed for a thorough and comprehensive checkout in modern single- and twin-engine aircraft. ($0.45 Supt. Docs.) SN 050-007-00226-2.

61-10A Private and Commerical Pilots Refresher Courses (9-27-72).

Provides a syllabus of study requirements and describes the areas of training that should be emphasized. ($0.55 Supt. Docs.) SN 050-011-00060-5.

61-12H Student Pilot Guide (2-14-77).

Provides guidance for student pilots and those already in primary flight training. Updated to include requirements covered in Part 61. ($1.50 Supt. Docs.) SN 050-007-00377-3.

61-13A Basic Helicopter Handbook (4-5-73).

Provides detailed information to applicants preparing for private, commerical, and flight instructor pilot certificates with a helicopter rating about helicopter aerodynamics, performance, and flight maneuvers. It will also be useful to certificated helicopter flight instructors as an aid in training students. ($2.50 Supt. Docs.) SN 050-011-00064-8.

61-18E Airline Transport Pilot—Airplane—Written Test Guide (5-6-77).

Prepared to assist applicants who are preparing for the Airline Transport Pilot (Airplane) Written Test. Describes the basic aeronautical knowledge and associated requirements for certification. Contains instructions for taking the written test and representative test questions. ($3.25 Supt. Docs.) SN 050-007-00416-8.

61-19 Safety Hazard Associated With Simulated Instrument Flights (12-4-64).

Emphasizes the need for care in the use of any device restricting visibility while conducting simulated instrument flights that may also restrict the view of the safety pilot.

61-21 Flight Training Handbook (1-11-66).

Provide information and direction in the introduction and performance of training maneuvers for student pilots, pilots requalifying or preparing for additional ratings, and flight instructors. Reprinted in 1969. ($2.15 Supt. Docs.) SN 050-007-00008-1.

61-23A Pilot's Handbook of Aeronautical Knowledgeable (7-10-70).

Contains essential, authoritative information used in training and guiding applicants for private pilot certification, flight instructors, and flying

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school staffs. ($5.30 Supt. Docs.) SN 050-011-00051-8.

61-27B Instrument Flying Handbook (9-22-70).

Provides the pilot with basic information needed to acquire an FAA instrument rating. It is designed for the reader who holds at least a private pilot certificate and is knowledgeable in all areas covered in the "Pilot's Handbook of Aeronautical Knowledge." ($3.35 Supt. Docs.) SN 050-007-00067-7.

61-31B Gyroplane Pilot Written Test Guide, Private and Commerical (4-14-76).

Provides guidance and assistance to applicants who are preparing for the Private or Commerical Pilot Certificate with a Rotorcraft-Gyroplane Rating under the provisions of FAR Part 61.

61-31B Chg 1 (5-13-77).

61-32B Private Pilot—Airplane—Written Test Guide (5-2-77).

Provides information, guidelines, and sample test items to assist applicants for the Private Pilot Certificate in attaining necessary aeronautical knowledge. ($2.30 Supt. Docs.) SN 050-011-00073-9.

61-34B Federal Aviation Regulations Written Test Guide for Private, Commercial and Military Pilots (2-10-75).

Outlines the scope of the basic knowledge required of civilian or military pilots who are studying FARs as they pertain to the Regulations terminology; to the certification of private and commercial pilots; to the operation of aircraft in the national airspace; and to the requirements of the National Transportation Safety Board. For use as a guide in preparing for the FAR Written Test. ($0.70 Supt. Docs.) SN 050-007-00288-2.

61-42A Airline Transport Pilot (Helicopter) Written Test Guide (1-20-72).

Describes the type and scope of required aeronautical knowledge covered in the written tests, lists reference materials available from GPO bookstores, and presents sample test items with answers and explanations. ($0.70 Supt. Docs.) SN 050-011-00057-7.

61-47 Use of Approach Slope Indicators for Pilot Training (9-16-70).

Informs pilot schools, flight instructors and student pilots of the recommendation of the Federal Aviation Administration on the use of approach slope indicator systems for pilot training.

61-51 Reporting Flight Time on Pilot Applications, FAA Form 8420-3 (6-26-72).

Advises applicants of the importance of entering their pilot flight time on subject form. (OBM No. 04-R0064).

61-52B Flight Instructor of the Year Award Program (1-5-74).

Provides the details of the Flight Instructor of the Year Award Program.

61-54A Private Pilot Airplane . . . Flight Test Guide (4-18-75).

Contains information and guidance concerning the pilot operations, procedures, and maneuvers relevant to the airplane category with a single-engine land/sea or multiengine land/sea rating. ($1.35 Supt. Docs.) SN 050-007-00300-5.

61-55A Commercial Pilot Airplane . . . Flight Test Guide (4-25-75).

Assists the applicant and the instructor in preparing for the flight test for certification as a commercial pilot with single engine land or sea rating and for multiengine land or sea ratings. ($1.75 Supt. Docs.) SN 050-007-00295-5.

61-56A Flight Test Guide, Instrument Pilot Airplane (5-7-76).

Assists the applicant and the instructor in preparing for the flight test for the Instrument Pilot Airplane Rating. ($0.55 Supt. Docs.) SN 050-007-00343-9.

61-57A Type Rating, Airplane, Flight Test Guide (5-1-75).

Contains information and guidance concerning the pilot operations, procedures, and maneuvers relevant to the flight test required for an Airplane Type Rating. ($0.70 Supt. Docs.) SN 050-007-00299-8.

61-58 Flight Instructor Practical Test Guide (5-1-73).

Outlines new requirements based on changes to FAR Part 61, Certification of Pilots and Flight Instructors. ($0.50 Supt. Docs.) SN 050-011-00067-4.

61-59A Private and Commercial Pilot—Helicopter—Flight Test Guide (3-3-77).

Assists applicants for the Private or Commercial Pilot Rotorcraft Certificate with Helicopter Rating in preparing for their certification flight test. ($1.60 Supt. Docs.) SN 050-007-00384-6.

61-60 Private and Commercial Pilot Gyroplane, Flight Test Guide (May 1973).

Outlines appropriate pilot operations and the minimum standards for the performance of each procedure or maneuver which will be accepted by the examiner as evidence of the pilot's competency, under Part 61 (revised). ($0.65 Supt. Docs.) SN 050-011-00066-6.

61-61A Private and Commercial Pilot—Glider—Flight Test Guide (12-3-76).

Prepared to assist the applicant and the instructor in preparing for the flight test for the Private and the Commercial Pilot certificate with Glider Rating. Contains information concerning pilot operations, procedures and maneuvers relevant to the flight test. ($1.50 Supt. Docs.) SN 050-011-00071-2.

61-62A Private and Commercial Pilot—Free Balloon—Flight Test Guide (12-17-76).

Prepared to assist the applicant in preparing for the flight test for the Private or Commercial Pilot Certificate with a lighter-than-air category and free balloon class. Contains information concerning the operations, procedures, and maneuvers relevant to the flight test. ($1.10 Supt. Docs.) SN 050-007-00375-7.

61-63 Flight Test Guide, Private and Commercial Pilot—Lighter-Than-Air Airship (5-23-74).

Establishes a new concept of pilot training and certification requirements. To provide a transition to these revised requirements, Part 61 (revised) permits the applicant, for a period of 1 year after the effective date, to meet either the previous requirements for the Private Pilot Certificate as outlined in Part 61, prior to November 1, 1973.

61-64A Flight Test Guide—Instrument Pilot Helicopter (5-25-77)

Assists the applicant and the instructor in preparing for the flight test for the Instrument Pilot Helicopter Rating. Contains information and guidance concerning the pilot operations, procedures, and maneuvers relevant to the flight test. ($1.30 Supt. Docs.) SN 050-007-00404-4.

61-65 Part 61 (Revised) Certification: Pilot and Flight Instructors (9-5-73).

Informs pilots and flight instructors of the changes in Part 61, revised January 23, 1973, their effects, and the standards and procedures which will be used in implementing them.

61-66 Annual Pilot in Command Proficiency Checks (11-2-73).

Presents material relating to annual proficiency checks required for pilots-in-command of civil aircraft type certificated for more than one required pilot crewmember, other than those operating under Parts 121, 123, 127, 133, 135, and 137.

61-67 Hazards Associated with Spins in Airplanes Prohibited from Intentional Spinning (2-1-74).

Informs pilots of the airworthiness standards for the type certification of

small airplanes prescribed in Section 23.221 of the Federal Aviation Regulations concerning spin maneuvers.

61-68 Flight Instructor Refresher Clinics—Scheduling, Attendance, Facilities, and Equipment (2-27-74).

Provides guidance to sponsors regarding scheduling, required facilities and equipment, and attendance control at Flight Instructor Refresher Clinics in which the Flight Instructor Refresher Unit (FIRU) participates.

61-70 Flight Instructor Instrument—Airplane—Written Test Guide (3-29-74).

Provides guidance for the applicant by outlining the scope of knowledge required for the Flight Instructor Certificate with an Instrument Airplane Rating. ($1.65 Supt. Docs.) SN 050-007-00252-1.

61-71A Commercial Pilot Airplane Written Test Guide (3-24-77).

Outlines the aeronautical knowledge requirements for a commercial pilot rating, outlines source material for study, and includes representative test items and illustrations used in the FAA written test. ($2.30 Supt. Docs.) SN 050-007-00385-4.

61-72A Flight Instructor—Airplane—Written Test Guide (3-24-77).

Outlines the aeronautical knowledge requirements for certification as an airplane flight instructor, outlines source material for study, and provides representative test questions for the FAA written test. ($2.70 Supt. Docs.) SN 050-007-00386-2.

61-73 Private and Commercial Pilot Rotorcraft—Helicopter Written Test Guide (8-8-74).

Assists applicants who are preparing for the Private or Commercial Pilot certificate with a Rotorcraft—Helicopter rating under the provisions of FAR Part 61 (revised). ($1.20 Supt. Docs.) SN 050-007-00265-3.

61-74A Flight Instructor Rotorcraft—Helicopter Written Test Guide (5-27-77).

Assists applicants who are preparing for the Flight Instructor Certificate with a Rotorcraft—Helicopter Rating. ($2.30 Supt. Docs.) SN 050-007-00400-1.

61-75 Flight Instructor—Glider—Written Test Guide (9-18-74).

Assists applicants who are preparing for the Flight Instructor—Glider Written Test. ($1.50 Supt. Docs.) SN 050-007-00271-8.

61-77 Airline Transport Pilot Airplane Practical Test Guide (Part 61 Revised) (4-23-74).

Designed to assist the applicant and his instructor in preparing for the Airline Transport Pilot Certificate with an Airplane Rating under FAR Part 61 (revised). ($0.50 Supt. Docs.) SN 050-007-00257-2.

61-81 Private and Commercial Pilot—Glider—Written Test Guide (4-27-76).

Contains a comprehensive study outline and a list of recommended study materials. Sample study questions and illustrations pertinent to the subject of glider flying are included ($1.60 Supt. Docs.) SN 050-007-00339-1.

61-82 Airline Transport Pilot—Helicopter—Flight Test Guide (8-25-76).

Describes procedures and maneuvers relevant to the ATP Certificate—Helicopter—that is limited to VFR and that which is not limited to VFR. Includes a suggested flight test checklist. ($0.80 Supt. Docs.) SN 050-007-00358-7.

61-83 Nationally Scheduled Federal Aviation Administration (FAA)-Approved, Industry-Conducted Flight Instructor Refresher Clinics (9-3-76).

Announces a concept pertaining to FAA-approved, industry-conducted Flight Instructor Refresher Clinics, outlines procedures for approval and invites participation by interested industry groups.

61-84 Role of Preflight Preparation (4-11-77).

Provides guidance information on some elements of flight planning that should be considered in planning and conducting a safe, efficient flight.

61-85 Flight Instructor Instrument—Rotorcraft-Helicopter—Written Test Guide (7-5-77).

Prepared to assist applicants in preparing for the Flight Instructor-Instrument Rotorcraft/Helicopter Rating. Contains recommended study materials, certification requirements, and sample questions. ($2.40 Supt. Docs.) SN 050-007-00403-6.

61-86 Pilot Type Rating Certificate Information (6-30-77).

Provides pilot certificate designations adopted by the FAA for aircraft type ratings issued with pilot certificates.

63-1B Flight Engineer Written Test Guide (10-22-70).

Provides information to prospective flight engineers and others interested in this certification area. Contains information about certification requirements and describes the type and scope of the written test. Lists appropriate study and reference material and presents sample questions similar to those found in the official written tests. ($0.85 Supt. Docs.) SN 050-007-00164-9.

63-2A Flight Navigator Written Test Guide (4-4-69).

Defines the scope and narrows the field of study to the basic knowledge required for the Flight Navigator Certificate. Published in 1969. ($0.70 Supt. Docs.) SN 050-007-0064-2.

65-2D Airframe and Powerplant Mechanics Certification Guide (1-30-76).

Provides information to prospective airframe and powerplant mechanics and other persons interested in FAA certification of aviation mechanics. ($1.30 Supt. Docs.) SN 050-007-00331-5.

65-4B Aircraft Dispatcher Written Test Guide (7-25-72).

Describes the type and scope of aeronautical knowledge covered by the aircraft dispatcher written examination, lists reference materials, and presents sample questions. ($1.40 Supt. Docs.) SN 050-007-00190-8.

65-5A Parachute Rigger—Senior/Master—Certification Guide (12-20-74).

Provides information on how to apply for a parachute rigger certificate or rating and assists the applicant in preparing for the written, oral, and practical tests. ($0.75 Supt. Docs.) SN 050-007-00287-4.

65-9A Airframe and Powerplant Mechanics—General Handbook (4-12-76).

Designed as a study manual for persons preparing for a mechanic certificate with airframe or powerplant ratings. Emphasis in this volume is on theory and methods of application, and is intended to provide basic information on principles, fundamentals, and airframe and powerplant ratings. ($6.75 Supt. Docs.) SN 050-007-00379-0.

65-11A Airframe and Powerplant Mechanics Certification Information (4-21-71).

Provides answers to questions most frequently asked about Federal Aviation Administration certification of aviation mechanics. ($0.40 Supt. Docs.) SN 050-007-00171-1.

65-12A Airframe and Powerplant Mechanics Powerplant Handbook (4-12-76).

Designed to familiarize student mechanics with the construction, theory of operation, and maintenance of aircraft powerplants. ($6.50 Supt. Docs.) SN 050-007-00373-1.

65-13C FAA Inspection Authorization Directory (10-19-77).

Provides a new directory of all FAA certificated mechanics who hold an inspection authorization as of Aug. 31, 1977.

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65-15A Airframe and Powerplant Mechanics Airframe Handbook (4-12-76).

Designed to familiarize student mechanics with airframe construction, repair, and the operating theory of airframe systems. ($6.00 Supt. Docs.) SN 050-007-00391-9.

65-18 Report Availability of a Survey of the Aviation Mechanics Occupation (9-4-74).

Announces the public availability of the 1974 report on a Survey of the Aviation Mechanics Occupation.

65-19A Inspection Authorization Study Guide (11-17-76).

Provides guidance for persons who conduct annual and progressive inspections and approve major repairs and/or alternations of aircraft. It stresses the importance that certificated mechanics, holding IA's, have in air safety. Primarily intended for mechanics who hold or are preparing to take the test for an inspection authorization. ($0.65 Supt. Docs.) SN 050-007-00332-3.

67-1 Medical Information for Air Ambulance Operators (3-4-74).

Provides persons or groups interested or involved in civil air ambulance activities with information governing the transport of patients by air.

67-2 Medical Handbook for Pilots (5-15-74).

An aviation medicine handbook written in pilots language that provides guidance on when, and when not, to fly. Emphasizes the fact that, to be a good pilot, you must be physically fit, psychologically sound, and well trained. Designed to complement the Pilots Handbook of Aeronautical Knowledge. ($1.45 Supt. Docs.) SN 050-007-00254-8.

Airspace

SUBJECT No. 70

70-2B Airspace Utilization Considerations in the Proposed Construction, Alteration, Activation and Deactivation of Airports (9-23-77).

Advises those persons proposing to construct, alter, activate or deactivate a civil or joint-use (civil/military) airport, for which Federal aid has not been requested of the Federal Aviation Administration.

70/7460-1E Obstruction Marking and Lighting (11-1-76).

Describes FAA standards on obstruction marking and lighting and establishes the methods, procedures, and equipment types for both aviation red and high-intensity white obstruction lights.

70/7460-2G Proposed Construction or Alteration of Objects that may Affect the Navigable Airspace (11-30-77).

Advises those persons proposing to erect or alter an object that may affect the navigable airspace of the requirement to submit a notice to the Administrator of the Federal Aviation Administration (FAA). Contains addresses of the FAA regional offices and availability of associated publications.

70/7460-3 Petitioning the Administrator for Discretionary Review; Section 77.37, FAR (8-8-68).

Revises and updates information concerning the submission of petitions to the Administrator for review, extension, or revision of determinations issued by regional directors or their designees.

73-1 Establishment of Alert Areas (3-11-68).

Announces the establishment of alert areas and sets forth the procedures which FAA will follow in establishing such areas.

Air Traffic Control and General Operations

SUBJECT No. 90

90-1A Civil Use of U.S. Government Produced Instrument Approach Charts (4-10-68).

Clarifies landing minimums requirements and revises instrument approach charts.

90-5 Coordination of Air Traffic Control Procedures and Criteria (6-13-63).

States Air Traffic Service policy respecting coordination of air traffic procedures and criteria with outside agencies and/or organizations.

90-14A Altitude—Temperature Effect on Aircraft Performance (1-26-68).

Introduces the Denalt Performance Computer and reemphasizes the hazardous effects density altitude can have on aircraft.

90-23D Wake Turbulence (12-15-72).

Alerts pilots to the hazards of aircraft trailing vortex wake turbulence and recommends related operational procedures.

90-34 Accidents Resulting from Wheelbarrowing in Tricycle Gear Equipped Aircraft (2-27-68).

Explains "wheelbarrowing", the circumstances under which it is likely to occur, and recommended corrective action.

90-42A Traffic Advisory Practices at Nontower Airports (8-16-72).

Establishes, as good operating practices, procedures for pilots to be apprised of or exchange traffic information, when approaching or departing uncontrolled airports.

90-43D Operations Reservations for High-Density Traffic Airports (7-20-77).

Advises the aviation community of the means for all aircraft operators, except helicopters, scheduled and supplemental air carriers and scheduled air taxis, to obtain a reservation to operate to and/or from designated high-density traffic airports.

90-45A Approval of Area Navigation Systems for Use in the U.S. National Airspace System (2-21-75).

Provides guidelines for implementation of two-dimensional area navigation (2D RNAV) within the U.S. National Airspace System (NAS). Provides for both VOR/DME dependent systems and self-contained systems such as Inertial Navigation Systems (INS).

90-45A Ch 1 (9-15-75).

90-45A Ch 2 (7-22-76).

90-48 Pilots' Role in Collision Avoidance (3-20-70).

Alerts all pilots to the midair collision and near midair collision hazard and to emphasize those basic problem areas of concern, as related to the human casual factors, where improvements in pilot education, operating practices, procedures, and techniques are needed to reduce midair conflicts.

90-50B VHF Radio Frequency Assignment Plan for Aeronautical Operations (12-12-77).

Describes the civil air traffic control assignment of frequencies in the very high frequency (118–136 MHz) band.

90-58C VOR Course Errors Resulting from 50 kHz Channel Mis-Selection (4-7-75).

Provides information concerning a potentially hazardous situation when a 200 channel VOR receiver is inadvertently mistuned by 50 kHz from the frequency of a 100 kHz ground station.

90-60 Weather Observation Reporting Obscured or Partially Obscured Sky Condition (3-31-72).

Provides pilots with information concerning weather conditions reported by weather observers as obscuration or partial obscuration.

90-62 Flying DME Arcs (1-23-73).

Describes the procedures and techniques for intercepting DME arcs from radials, maintaining DME arcs, and intercepting radials and localizers from DME arcs.

90-64 Automated Radar Terminal System (ARTS) III (6-22-73).

Advises the aviation community of the capabilities of the Automated Radar Terminal System and the associated services provided by ARTS III equipped air traffic control facilities.

90-65 Air Traffic Fuel Economy Program (1-18-74).

Advises the aviation community of flow control procedures that will be utilized to conserve aviation fuel during periods when the normal movement of aircraft is disrupted. Also describes actions required of user groups to ensure efficient flow control planning.

90-66 Recommended Standard Traffic Patterns for Airplane Operations at Uncontrolled Airports (2-27-75).

Calls attention to regulatory requirements for the operations of airplanes at uncontrolled airports. Recommends voluntary use of standard traffic pattern flight procedures.

90-67 Light Signals from the Control Tower for Ground Vehicles, Equipment, and Personnel (8-15-75).

Provides the aviation community with the meaning of the light signals used when communicating with ground vehicles, equipment, and personnel on the airport movement area from the control tower.

90-70 Straight-In Nonprecision Instrument Approach Procedures Visual Descent Point (VDP) (7-7-76).

Describes the concept, purpose, and use of a designated and published VDP to be provided on some straight-in nonprecision instrument approach procedures.

90-72A Minimum Safe Altitude Warning (MSAW) (1-31-78).

Describes the capabilities and limitations of the MSAW function implemented at terminal facilities equipped with ARTS III.

90-73 Local Flow Traffic Management (1-13-77).

Describes new arrival procedures for ATC handling of high-performance aircraft.

90-74 Announcing the Availability of United States Terminal Instrument Procedures (TERPS) (2-4-77).

Announces the availability to the public of the Third Edition of the U.S. Standard for Terminal Instrument Procedures which is available from the Supt. of Docs. for $2.80. SN 050-007-00345-5.

90-75 Strobe Light System Inspection Practices (2-10-77).

Advises the general aviation community of the importance of proper maintenance of capacitive discharge strobe light systems which are installed within or near fuel systems.

90-76 Flight Operations in Oceanic Airspace (4-15-77).

Describes the basic requirements, limitations, and considerations applicable to flight proposed into oceanic airspace under U.S. ATC jurisdiction.

91-5B Waivers of Subpart B, Part 91 of the Federal Aviation Regulations (FARs) (1-28-72).

Provides information concerning the submission of applications for and the issuance of waivers of Subpart B, FAR Part 91.

91-6 Water, Slush, and Snow on the Runway (1-21-65).

Provides background and guidelines concerning the operation of turbojet aircraft with water, slush, and/or snow on the runway.

91-8A Use of Oxygen by General Aviation Pilots/Passengers (8-11-70).

Provides general aviation personnel with information concerning the use of oxygen.

91-9 Potential Hazards Associated With Turbojet Ground Operations (6-19-65).

Alerts turbojet operators and flight crews to potential hazards involving turbojet operations at airports.

91-11A Annual Inspection Reminder (12-3-69).

Provides the aviation community with a uniform visual reminder of the date an annual inspection becomes due. (Reference section 91.169(a)(1) of the FAR's.)

91.11-1 Guide to Drug Hazards in Aviation Medicine (7-19-63).

Lists all commonly used drugs by pharmacological effect on airmen with side effects and recommendations. Reprinted 1970. ($1.15 Supt. Docs.) SN 050-009-00001-7.

91-13B Cold weather Operation of Aircraft (1-17-78).

Provides background and guidelines relating to operation of aircraft in the colder climates where wide temperature changes may occur.

91-14B Altimeter Setting Sources (10-1-71).

Provides the aviation public, industry, and FAA field personnel with guidelines for setting up reliable altimeter setting sources.

91-15 Terrain Flying (2-2-67).

A pocket-size booklet designed as a tool for the average private pilot. Contains a composite picture of the observations, opinions, warnings, and advice from veteran pilots who have flown this vast land of ours that can help to make flying more pleasant and safer. Tips on flying into Mexico, Canada, and Alaska. ($1.40 Supt. Docs.) SN 050-007-00147-9.

91-16 Category II Operations—General Aviation Airplanes (8-7-67).

Sets forth acceptable means by which Category II operations may be approved in accordance with FAR Parts 23, 25, 61, 91, 97, and 135.

91-17 The Use of View Limiting Devices on Aircraft (2-20-68).

Alerts pilots to the continuing need to make judicious and cautious use of all view limiting devices on aircraft.

91-22A Altitude Alerting Devices/Systems (12-23-71).

Provides guidelines for designing, installing, and evaluating altitude alerting systems.

91-23A Pilot's Weight and Balance Handbook (6-9-77).

Provides an easily understood text on aircraft weight and balance for pilots who need to appreciate the importance of weight and balance control for safety of flight. Progresses from an explanation of basic fundamentals to the complete application of weight and balance principles in large aircraft operations. ($2.30 Supt. Docs.) SN 050-007-00405-2.

91-24 Aircraft Hydroplaning or Aquaplaning on Wet Runways (9-4-69).

Provides information to the problem of aircraft tires hydroplaning on wet runways.

91-25A Lost of Visual Cues During Low Visibility Landings (6-22-72).

Provides information concerning the importance of maintaining adequate visual cues during the descent below MDA or DA.

91-26 Maintenance and Handling of Air-Driven Gyroscopic Instruments (10-29-69).

Advises operators of general aviation aircraft of the need for proper maintenance of air-driven gyroscopic instruments and associated air filters.

91-28 Unexpected Opening of Cabin Doors (12-23-69).

Outlines the importance of assuring that cabin doors are properly closed prior to takeoff.

91-32 Safety in and Around Helicopters (5-7-71).

Provides suggestions to improve helicopter safety by means of acquainting nonflight crew personnel and passengers with the precautions and procedures necessary to avoid undue hazards.

91-33 Use of Alternate Grades of Aviation Gasoline for Grade 80/87 (10-6-71).

Provides information relating to the use of alternate grades of aviation gasoline when grade 80/87 is not available, and the resultant effects of the use of the alternate fuels which may have higher TEL (tetraethyl lead) content.

91-34 Model Aircraft Operating Standards (7-1-72).

Outlines safety standards for operators of model aircraft, and encourages voluntary compliance with these standards.

91-35 Noise, Hearing Damage, and Fatigue in General Aviation Pilots (3-28-72).

Aquaints pilots with the hazards of regular exposure to cockpit noise. Especially pertinent are piston-engine, fixed-wing, and rotary-wing aircraft.

91-36A VFR Flight Near Noise-Sensitive Areas (7-9-74).

Encourages pilots making VFR flights near noise-sensitive areas to fly at altitudes higher than the minimum permitted by regulation. National Park areas now included.

91-37A Truth in Leasing (1-16-78).

Provides information and guidance for leasees and conditional buyers of U.S. registered large civil aircraft. If you are planning to charter an airplane take a moment to learn about chartered and leased aircraft.

91-38 Large and Turbine-Powered Multiengine Airplanes, Part 91, Subpart D (12-13-72).

Sets forth guidelines and procedures to assist operators of large and turbine-powered multiengine airplanes in meeting the safety requirements of FAR, Part 91, Subpart D.

91-41 Ground Operational Procedures for Aircraft Engine Emission Reduction and Fuel Conservation (3-12-74).

Recommends ground operational procedures that will minimize air pollution from aircraft ground operations and conserve fuel.

91-42A Hazards of Rotating Propellers and Helicopter Rotor Blades (10-19-76).

Provides information on propeller- and rotor-to-person accidents and offers suggestions to reduce the frequency of their occurrence.

91-43 Unreliable Airspeed Indications (6-26-75).

Alerts pilots to the possibility of erroneous airspeed/Mach indications that may be caused by blocking or freezing of the pitot system and advises of corrective action that can be taken.

91-44 Emergency Locator Transmitters Operational and Maintenance Practices (2-20-76).

Provides guidelines relative to the installation, maintenance, and operation of emergency locator transmitters.

91-45A Airshow Waivers (5-16-77).

The purpose of this advisory circular is to provide prospective airshow sponsors with the information necessary to plan for and conduct safe, effective airshows. It is also intended to provide information pertaining to the procedures and requirements for issuance of airshow waivers.

91-46 Gyroscopic Instruments—Good Operating Practices (2-4-77).

Issued to re-emphasize to general aviation instrument-rated pilots the need to determine the proper operation of gyroscopic instruments, the importance of instrument cross-checks and proficiency in partial-panel operations.

91-47 Use of Portable Electronic Devices—Radio Receivers (3-23-77).

Intended to remind air carrier or commercial operators of the requirements of FAR 91.19 as they apply to pocket size radio receivers capable of reception in the 110-140 MHz band.

91-48 Acrobatics—Precision Flying With a Purpose (6-29-77).

Provides information to persons who are interested in acrobatic flying to improve their piloting skills as recreation, sport, or as a competitive activity.

91-49 General Aviation Procedures for Flight in North Atlantic Minimum Navigation Performance Specifications Airspace (8-23-77).

Sets forth acceptable means, but not the only means, of obtaining authorization to operate within specified airspace over the North Atlantic, designated as the NAT (North Atlantic) MNPS (Minimum Navigation Performance Specifications) airspace, after 0001 Greenwich Mean Time, Dec. 29, 1977. This requirement applies to persons operating under FAR Part 91 and for FAR Part 135 certificate holders, except those operating under Section 135.2.

91-50 Importance of Transponder Operation and Altitude Reporting (8-24-77).

Provides information and guidance concerning the importance of transponder operation and altitude reporting in the National Airspace System.

91-51 Airplane Deice and Anti-Ice Systems (9-15-77).

Provides information to pilots regarding ice protection system approval and the results of in-flight icing.

91.29-1 Special Structural Inspections (1-8-68).

Discusses occurrences which may cause structural damage affecting the airworthiness of aircraft.

91.79-1 Waivers of Section 91.79 of the Federal Aviation Regulations (4-21-76).

Announces the availability of waivers relating to FAR 91.79 and requests that interested persons contact any General Aviation District Office or Flight Standards District Office for specific information.

91.83-1A Canceling or Closing Flight Plans (3-25-75).

Outlines the need for canceling or closing flight plans promptly to avoid costly search and rescue operations.

95-1 Airway and Route Obstruction Clearance (6-17-65).

Advises all interested persons of the airspace areas within which obstruction clearance is considered in the establishment of Minimum En Route Instrument Altitudes (MEA's) for publication in FAR Part 95.

97-1A Runway Visual Range (RVR) (9-28-77).

Describes RVR measuring equipment and its operating use.

99-1 Security Control of Air Traffic (1-12-72).

Provides civil aviation with recommended practices for operating aircraft within or penetrating an Air Defense Identification Zone (ADIZ).

101-1 Waivers of Part 101, Federal Aviation Regulations (1-13-64).

Provides information on submission of applications and issuances of waivers to FAR Part 101.

103-4 Hazard Associated with Sublimation of Solid Carbon Dioxide (Dry Ice) Aboard Aircraft (5-1-74).

Discusses the potential hazard associated with the sublimation of dry ice aboard aircraft. Precautionary measures and simple rules of thumb are indicated in order to preclude environmentally hazardous conditions affecting crews and passengers aboard aircraft.

105-2 Sport Parachute Jumping (9-6-68).

Provides suggestions to improve sport parachuting safety; information to assist parachutists in complying with FAR Part 105; and a list of aircraft which may be operated with one cabin door removed, including the procedures for obtaining FAA authorization for door removal.

107-1 Aviation Security—Airports (5-19-72).

Furnishes guidance to those individuals and organizations having responsibilities under Part 107 of the Federal Aviation Regulations. It also provides recommendations for establishing and improving security for restricted or critical facilities and areas the security of which is not dealt with in Part 107.

Air Carrier and Commercial Operators and Helicopters

SUBJECT No. 120

120-2A Precautionary Propeller Feathering To Prevent Runaway Propellers (8-20-63).

Emphasizes the need for prompt feathering when there is an indication of internal engine failure.

120-5 High Altitude Operations in Areas of Turbulence (8-26-63).

Recommends procedures for use by jet pilots when penetrating areas of severe turbulence.

120-7A Minimum Altitudes for Conducting Certain Emergency Flight Training Maneuvers and Procedures (7-27-70).

Issued to emphasize to all air carriers and other operators of large aircraft the necessity for establishing minimum altitudes above the terrain or water when conducting certain simulated emergency flight training maneuvers.

120-12 Private Carriage Versus Common Carriage by Commercial Operators Using Large Aircraft (6-24-64).

Provides guidelines for determining whether current or proposed transportation operations by air constitute private or common carriage.

120-16A Continuous Airworthiness Program (9-11-69).

Provides air carriers and commercial operators with guidance and information pertinent to certain provisions of Federal Aviation Regulations Parts 121 and 127.

120-17 Handbook for Maintenance Control by Reliability Methods (12-31-64).

Provides information and guidance materials which may be used to design or develop maintenance reliability programs which include a standard for determining the time limitations.

120-17 CH1 (6-24-66).

120-17 CH2 (5-6-68).

120-26D Civil Aircraft Operator Designators (11-11-76).

Revises the criteria and states the procedures for the assignment of International Civil Aviation Organization two-letter and FAA three-letter aircraft company designators.

120-27 Aircraft Weight and Balance Control (10-15-68).

Provides a method and procedures for weight and balance control.

120-27 CH1 (11-20-73).

Adds Part 123 to subject circular.

120-28B Criteria for Approval of Category IIIa Landing Weather Minima (12-1-77).

States an acceptable means, not the only means, for obtaining approval of Category IIIa minima and the installation approval of the associated airborne systems.

120-29 Criteria for Approving Category I and Category II Landing Minima for FAR 121 Operators (9-25-70).

Sets forth criteria used by FAA in approving turbojet landing minima of less than 300¾ or RVR 4,000 (Category I) and Category II minima for all aircraft.

120-29 CH1 (12-15-71).

Revises Appendix 1 and deletes statement in Appendix 2 regarding 19-foot criteria (does not apply when using an approved automatic landing system).

120-29 CH2 (7-26-72).

Clarifies the airborne system evaluation by stressing the necessity for meeting maintenance program requirements.

120-29 CH 3 (12-3-74).

Outlines the recent change in FAR Part 121 wherein both initial and recurrent pilot qualification for both Category I and II proficiency checks may be preformed in a visual simulator.

120-30A Reporting Requirements of Air Carriers, Commerical Operators, Travel Clubs, and Air Taxi Operators of Large and Small Aircraft (9-8-76).

This advisory circular is issued to clarify the mechanical reliability reporting requirements contained in Parts 121, 127, and 135 of the Federal Aviation Regulations (FAR) and the accident and incident reporting requirements of Part 830 (old Part 430) of the National Transportation Safety Board (NTSB), Safety Investigation Regulations.

120-31A Operational and Airworthiness Approval of Airborne Omega Radio Navigation Systems as a Means of Updating Self-Contained Navigation Systems (4-21-77).

Sets forth an acceptable means, but not the only means, of obtaining airworthiness and operational approval of airborne OMEGA navigation systems used in updating self-contained navigation systems such as Doppler and Inertial Radar for operations outside the United States under FAR Part 121.

120-32 Air Transportation of Handicapped Persons (3-25-77).

Identifies some of the problems handicapped air travelers face and provides some guidelines to airline personnel to help alleviate these problems.

120-33 Operational Approval of Airborne Long-Range Navigation Systems for Flight Within the North Atlantic Minimum Navigation Performance Specifications Airspace (6-24-77).

Sets forth acceptable means, but not the only means, for operators certificated under FAR Parts 121 and 123 and operators utilizing large aircraft under FAR 135.2, to obtain approval to operate within a specific airspace over the NAT (North Atlantic) MNPS (Minimum Navigation Performance Specifications) airspace after 0001 Greenwich Mean Time, Dec. 29, 1977.

120-34 Air Transportation of Mental Patients (6-29-77).

Provides guidelines to organizations and persons responsible for transportation of mental patients and outlines the responsibilities of those escorting such persons.

121-1A Standard Operations Specifications—Aircraft Maintenance Handbook (6-26-73).

Provides procedures acceptable to the Federal Aviation Administration which may be used by operators when establishing inspection intervals and overhaul times.

121-1A CH 1 (1-23-75).

Updates the overhaul and inspection/check period of selected airframes, powerplants, propellers, and appliances in relation to current industry standards.

121-1A CH 2 (8-19-76).

121-1A CH 3 (2-18-77).

121-6 Portable Battery-Powered Megaphones (1-5-66).

Sets forth an acceptable means for complying with rules (applicable to various persons operating under Part 121 of the Federal Aviation Regulations) that prescribe the installation of approved megaphones.

121-12 Wet or Slippery Runways (8-17-67).

Provides uniform guidelines in the application of the "wet runway" rule by certificate holders operating under FAR 121.

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121-13 Self-Contained Navigation Systems (Long Range) (10-14-69).

States an acceptable means, not the only means, of compliance with the referenced sections of the FAR as they apply to persons operating under Parts 121 or 123 who desire approval of Doppler RADAR navigation systems or Inertial Navigation Systems (INS) for use in their operations.

121-13 CH 1 (7-31-70).

Assures standardization of the Minimum Equipment List (MEL) with respect to Inertial Navigation Systems (INS) through the appropriate Flight Operations Evaluation Board (FOEB).

121-13 CH 2 (12-21-70).

Permits all flight training for Doppler and INS qualification, to be completed in a simulator or training device approved for conducting the required pilot training and qualifications in the use of these systems.

121-14A Aircraft Simulator Evaluation and Approval (2-9-76).

Sets forth one means that would be acceptable to the Administrator for approval of aircraft simulators or other training devices requiring approval under FAR 121.407.

121-16 Maintenance Certification Procedures (11-9-70).

Provides guidance for the preparation of an Operations Specification—Preface Page which will afford nominal and reasonable relief from approved service and overhaul time limits when a part is borrowed from another operator.

121-17 Aviation Security: Certain Air Carriers and Commercial Operators—Security Programs and Other Requirements (3-14-72).

Provides general information regarding the requirements of FAR Amdt. 121-85.

121-18 Aviation Security—Carriage of Weapons and Escorted Persons (7-15-75).

Provides information and guidance for the implementation of amendments to FAR Part 121 regarding the carriage of weapons on aircraft and for the carriage of persons in the custody of law enforcement officers.

121-19 Aviation Security—Property Acceptance and Handling Procedures—Indirect Air Carriers (3-17-76).

Provides information and guidance which may be used by "indirect air carriers" when providing property to be carried by "direct air carriers" or by the operator of any civil aircraft for transportation in air commerce.

121-20 Aviation Security: Supplemental Air Carriers (3-17-76).

Provides supplemental air carriers with information concerning recommended general security measures applicable to charter operations that should minimize the effects of crimes directed against air transportation.

121-21 Information Guide for Training Programs and Manual Requirements in the Air Transportation of Hazardous Materials (7-30-76).

Provides certificate holders under Parts 121 and 135 of the FARs with information relevant to recent amendment Docket HM-112 that incorporated FAR Part 103 into Title 49 of the CFR as Part 175. Outlines some of the substantive changes in the requirements for air transportation of hazardous materials.

121-22 Maintenance Review Board (MRB) (1-12-77).

Provides guidelines for establishing and conducting a MRB on newly manufactured aircraft, powerplant, or appliance to be used in air carrier service.

121-23 Preparation and Loading of Magnetron Tubes and Magnetic Materials for Air Shipments (2-10-77).

Provides information regarding the preparation and loading of magnetron tubes and magnetic materials for shipment in civil aircraft.

121-24 Passenger Safety Information Briefing and Briefing Cards (6-23-77).

Contains information and guidance material for use by air carriers in the preparation of passenger safety information briefings.

121-25 Additional Weather Information: Domestic and Flag Air Carriers (9-16-77).

Provides guidance and standards to domestic and flag air carriers for approval of a system for obtaining forecasts and reports of adverse weather phenomena.

121.195(d)-1 Alternate Operational Landing Distances for Wet Runways; Turbojet Powered Transport Category Airplanes (11-19-65).

Sets forth an acceptable means, but not the only means, by which the alternate provision of section 121.195(d) may be met.

123-1 Air Travel Clubs (10-17-68).

Sets forth guidelines and procedures to assist air travel clubs using large aircraft in meeting safety requirements of FAR Part 123.

129-1 Foreign Air Carriers—Security Programs and Other Requirements—FAR Part 129 (9-25-75).

Provides guidance to foreign air carriers concerning the requirements of FAR Part 129, Sections 129.25 and 129.27.

133-1 Rotorcraft External-Load Operations in Accordance with FAR Part 133 (7-15-77).

Provides information for persons interested in applying for a Rotorcraft External-Load Operator Certificate.

135.144-1 Small Propeller-Driven Air Taxi Airplanes That Meet Section 135.144 (4-13-72).

Provides a summary of and information on small propeller-driven air taxi airplanes that comply with section 135.144 and may continue operations under FAR Part 135 after May 31, 1972, with 10 or more passenger seats.

135.155-1 Alternate Static Source for Altimeters and Airspeed and Vertical Speed Indicators (2-16-65).

Sets forth an acceptable means of compliance with provision in FAR Part 135 and Part 23 dealing with alternate static courses.

135-1C Air Taxi Aircraft Weight and Balance control (2-10-77).

Provides the procedures for developing a weight and balance control system for small aircraft operating in the air taxi fleet under FAR Part 135.

135-2A Air Taxi Operators of Large Aircraft (11-16-73).

Provides guidelines for use by air taxi operators or applicants who desire to obtain authorization to operate large aircraft (more than 12,500 pounds maximum certificated takeoff weight) in air taxi operations.

135-3A Air Taxi Operators and Commercial Operators of Small Aircraft (1-16-75).

Sets forth guidelines and procedures to assist persons in complying with the requirements of Federal Aviation Regulations, Part 135.

135-4A Aviation Security: Air Taxi Commercial Operators (ATCO) (4-15-76).

Provides recommended security measures applicable to ATCO operations that should minimize the effects of crimes directed against air transportation.

135-5A Maintenance Program Approval for Carry-On Oxygen Equipment for Medical Purposes (11-23-76).

Provides a means whereby air taxi operators may submit a maintenance program to comply with FAR Part 135, Section 135.114.

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137-1 Agricultural Aircraft Operations (11-29-65).

Explains and clarifies the requirements of FAR Part 137 and provides additional information, not regulatory in nature, which will assist interested persons in understanding the operating privileges and limitations of this Part.

139.12-1 Airport Operations Specifications (2-3-75).

Presents guidelines to assist airport operators in developing airport operations specifications in compliance with the requirements of amended FAR Part 139.

139.49-1 Programs for Training of Fire Fighting and Rescue Personnel (11-12-74).

Outlines suggested training programs for airport fire fighting and rescue personnel involved in operating airport fire fighting and rescue equipment and the principles of aircraft fire fighting and rescue techniques.

Schools and Other Certificated Agencies

SUBJECT No. 140

140-1J Consolidated Listing of FAA Certificated Repair Stations (7-27-77).

Provides a revised directory of all FAA certificated repair stations as of May 31, 1977.

140-2K List of Certificated Pilot Schools (4-25-77).

Provides a list of FAA certificated pilot flight and ground schools as of Nov. 1976.

140-3B Approval of Pilot Training Courses Under Subpart D of Part 141 of the FAR (1-8-70).

The title is self-explanatory.

140-5 Radio Maintenance Technician School Curriculum (8-11-71).

Provides information on curriculum subjects for persons desiring to establish radio maintenance technician training courses.

141-1 Pilot School Certification (8-29-74).

Sets forth guidelines to assist persons in obtaining a pilot school certificate and associated ratings under FAR Part 141 (revised).

141-2A Written Tests Prepared by Pilot Schools With Examining Authority Under Part 141 (Revised) of the Federal Aviation Regulations (10-3-75).

Provides guidance to FAR Part 141 Pilot Schools with examining authority in developing final written tests for FAA certificates and ratings which are equal in scope, depth, and difficulty to comparable written tests prescribed by the Administrator. Also prescribes procedures for administering, maintaining security of, and replacing those tests.

143-1E Ground Instructor Written Test Guide—Basic & Advanced (1-24-77).

Outlines the scope of basic knowledge requirements for a ground instructor; outlines source material to obtain this knowledge; presents a sample test with answers and explanations. ($2.00 Supt. Docs.) SN 050-007-00382-0.

143-2C Ground Instructor—Instrument—Written Test Guide (1-30-76).

Provides information to applicants for the instrument ground instructor rating about the subject areas covered in the examination and illustrated by a study outline, a list of study materials, and a sample examination with answers. ($1.40 Supt. Docs.) SN 050-007-00376-5.

145-2 Repair Station Limited Ratings Beech 18 Series Aircraft (4-21-76).

Advises of a required limited repair station rating to perform X-ray inspection of the Beech 18 wing and center section spar, and of the procedures for application.

145.101-1A Application for Air Agency Certificate—Manfacturer's Maintenance Facility (3-12-77).

Explains how to obtain a repair station certificate.

147-2R Directory of FAA Certificated Aviation Maintenance Technician Schools (4-12-77).

Provides a revised directory of all FAA certificated aviation maintenance technician schools as of Nov. 1976.

147-3 Phase III, A National Study of the Aviation Mechanics Occupation (3-22-71).

Announces the availability for purchase by the public of a reprint of a report of Phase III. A National Study of the Aviation Mechanics Occupation.

147-4 Reports Availability of a Survey of Text Materials Used in Aviation Maintenance Technician Schools (9-3-74).

Announces the public availability of the 1974 report on A Survey of Test Materials Used in Aviation Maintenance Technician Schools.

149-2H Listing of Federal Aviation Administration Certificated Parachute Lofts (5-10-76).

Provides a revised listing of all FAA certificated parachute lofts as of Jan. 31, 1976.

Airports

SUBJECT No. 150

AIRPORT PLANNING

150/5000-3D Address List for Regional Airports Divisions and Airport District Offices (10-18-77).

Transmits the address list for all regional Airports Divisions and Airport District Offices.

150/5050-3A Planning the State Airport System (June 1972).

Provides general guidance in preparing a State airport system plan. ($2.50 Supt. Docs.) SN 050-007-00184-3.

150/5050-4 Citizen Participation in Airport Planning (9-26-75).

Provides guidance for citizen involvement in airport planning. Although not mandatory for airport grant programs, it demonstrates the need for early citizen participation.

150/5050-5 The Continuous Airport System Planning Process (11-28-75).

The purpose of this advisory circular is to provide guidance on the Continuous Airport System Planning Process (CASPP). This process is utilized in establishing a planning capability to monitor and assess the effects of changes in the many variables and issues influencing a plan with the objective of maintaining a plan responsive to current and forecast conditions. In addition to describing the components of a CASPP, sponsor organizational structures and Federal financial participation in continuous planning activities are discussed.

150/5050-6 Airport-Land Use Compatibility Planning (12-30-77).

Provides generalized quidance for compatible land use planning in the vicinity of both new and existing airports. Provides guidance which may be used in developing noise control plans. ($2.50 Supt. Docs.) SN 050 007-00417-6.

150/5060-1A Airport Capacity Criteria Used in Preparing the National Airport Plan (7-8-68).

Presents the method used by the Federal Aviation Administration for determining when additional runways, taxiways, and aprons should be recommended in the National Airport Plan. The material is also useful to sponsors and engineers in developing Airport Layout Plans and for determining when additional airport pavement facilities should be provided to increase aircraft accommodation capacity at airports.

150/5060-3A Airport Capacity Criteria Used in Long-Range Planning (12-24-69).

Describes the method used by the Federal Aviation Administration for

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determining the approximate practical hourly and practical annual capacities of various airport runway configurations and is used in long-range (10 years or more) planning for expansion of existing airports and construction of new airports to accommodate forecast demand.

150/5060-4 Announcement of Availability—Federal Aviation Administration Technical Reports on Airport Capacity and Aircraft Delay (4-29-77).

Announces the availability of Federal Aviation Administration technical reports and computer programs describing techniques for determining airport capacity and aircraft delay. Provides ordering information.

150/5070-3 Planning the Airport Industrial Park (9-30-65).

Provides guidance to communities, airport boards, and industrial developers for the planning and development of Airport Industrial Parks.

150/5070-5 Planning and Metropolitan Airport System (5-22-70).

Gives guidance in developing airport-system plans for large metropolitan areas. It may be used by metropolitan planning agencies and their consultants in preparing such system plans and by the FAA in reviewing same. ($1.65 Supt. Docs.) SN 050-008-00003-7.

150/5070-6 Airport Master Plans (2-5-71).

Provides guidance for the preparation of individual airport master plans as provided for under the Airport Airway Development Act of 1970. ($3.00 Supt. Docs.) SN 050-008-00004-5.

150/5090-2 National Airport Classification System (Airport System Planning) (6-25-71).

Sets forth the new national airport classification system. The system is designed for use in the identification and classification of airports within the National System of Airports and for use as a planning tool in long-range airport system planning.

FEDERAL-AID AIRPORT PROGRAMS

150/5100-3A Federal-aid Airport Program-Procedures Guide for Sponsors (9-20-68).

Provides guidance to public agencies that sponsor or propose to sponsor projects under the Federal-aid Airport Program (FAAP) authorized by the Federal Airport Act.

150/5100-3A CH 1 (11-28-69).

Transmits revised pages to subject advisory circular.

150/5100-6A Labor Requirements for Airport Development Aid Program (ADAP) Contracts (1-31-73).

Covers the basic labor requirements for the Airport Development Aid Program.

150/5100-6A CH 1 (3-16-73).

Transmits a revision to delete page 3-1 from subject Advisory Circular.

150/5100-7A Requirement for Public Hearing in the Airport Development Aid Program (2-25-72).

Provides guidance to sponsors of airport development projects under the Airport Development Aid Program (ADAP) on the necessity for and conduct of public hearings.

150/5100-8 Request for Aid; Displaced Persons; Public Hearings; Environmental Considerations; Opposition to the Project (1-19-71).

Provides general guidance on the information and coordination required in support of a request for aid for an airport development project under the Airport and Airway Development Act of 1970.

150/5100-9 Engineering Services Under the Airport Development Aid Program (ADAP) (7-1-72). Consolidated reprint March 1977 includes Change 1.

Provides guidance for airport sponsors and Federal Aviation Administration Offices in the definition, selection, review, and approval of engineering services used under subject program.

150/5100-10A Accounting Records Guide for Airport Aid Program Sponsors (4-13-76).

This advisory circular sets forth recordkeeping requirements imposed on sponsor of Airport Development Aid Program (ADAP) and the Planning Grant Program (PGP) projects by the Airport and Airway Development Act of 1970, as amended. In addition, the Federal Aviation Regulations (FARs) require a sponsor to establish and maintain a financial management system that meets the standards set forth in FAR 152, Appendix K. This circular provides detailed explanations of these requirements.

150/5100-11 Land Acquisition and Relocation Assistance Under the Airport Development Aid Program (2-10-75).

Provides guidance to sponsors of airport development projects under the Airport Development Aid Program to meet the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (Public Law 91-646).

150/5100-12 Electronic Navigational Aids Approved for Funding Under the Airport Development Aid Program (9-20-76).

Provides a list of the electronic navigational aids equipment which are approved for funding under the ADAP.

150/5100-13 Development of State Standards for General Aviation Airports (3-1-77).

Provides guidelines and programming procedures for the development of state standards for general aviation airports as provided for in the Airport and Airway Development Act Amendments of 1976.

SURPLUS AIRPORT PROPERTY CONVEYANCE PROGRAMS

150/5150-2A Federal Surplus Personal Property for Public Airport Purposes (8-3-73).

Acquaints public airport owners and other interested parties with the Federal Surplus Personal Property Program for public airports and to outline procedures to be used in applying for and acquiring surplus personal property for this purpose.

150/5150-2A CH 1 (1-21-74).

Adds material to paragraph 24, Chapter 6, which was inadvertently omitted in the Advisory Circular during preparation.

AIRPORT COMPLIANCE PROGRAM

150/5190-1 Minimum Standards for Commercial Aeronautical Activities on Public Airports (8-18-66).

Gives to owners of public airports information helpful in the development and application of minimum standards for commercial aeronautical activities.

150/5190-2A Exclusive Rights at Airports (4-4-72). (Consolidated reprint incorporates ch. 1.)

Makes available to public airport owners, and to other interested persons, basic information and guidance on FAA's policy regarding exclusive rights at public airports on which Federal funds, administered by FAA, have been expended.

150/5190-4 A Model Zoning Ordinance to Limit Height of Objects Around Airports (8-23-77).

Provides a model zoning ordinance to be used as a guide to control the height of objects around airports.

AIRPORT SAFETY—GENERAL

150/5200—3A Bird Hazards to Aircraft (3-2-72).

Transmits to the aviation public the latest published information concerning the reduction of bird strike hazards to aircraft in flight and in the vicinity of airports.

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150/5200—4 Foaming of Runways (12-21-66).

Discusses runway foaming and suggests procedures for providing this service.

150/5200—5 Considerations for the Improvement of Airport Safety (2-2-67).

Emphasizes that, in the interest of accident/incident prevention, airport management should conduct self-evaluations and operational safety inspections. An exchange of information and suggestions for the improvement of airport safety is also suggested.

150/5200—6A Security of Aircraft at Airports (6-28-68).

Directs attention to the problem of pilferage from aircraft on airports and suggests action to reduce pilferage and the hazards that may result therefrom.

150/5200—8 Use of Chemical Controls to Repel Flocks of Birds at Airports (5-2-68).

Acquaints airport operators with new recommendations on the use of chemical methods for dispersing flocks of birds.

150/5200—9 Bird Reactions and Scaring Devices (6-26-68).

Transmits a report on bird species and their responses and reactions to scaring devices.

150/5200—11 Airport Terminals and the Physically Handicapped (11-27-68).

Discusses the problems of the physically handicapped air traveler and suggests features that can be incorporated in modification or new construction of airport terminal buildings.

150/5200—12 Fire Department Responsibility in Protecting Evidence at the Scene of an Aircraft Accident (8-7-69).

Furnishes general guidance for employees of airport management and other personnel responsible for firefighting and rescue operations, at the scene of an aircraft accident, on the proper presentation of evidence.

150/5200—13 Removal of Disabled Aircraft (8-27-70).

Discusses the responsibility for disabled aircraft removal and emphasizes the need for prearranged agreements, plans, equipment, and improved coordination for the expeditious removal of disabled aircraft from airport operating areas. It also illustrates some of the various methods used, equipment employed, equipment available, and concepts for aircraft recovery.

150/5200-14 Results of 90-Day Trial Exercise on Fire Department Activity (9-8-70).

Transmits statistical data collected during a 90-day trial exercise conducted to determine the relationship between aircraft fire and rescue service activities and airport aeronautical operations.

150/5200-15A Availability of the International Fire Service Training Association's (IFSTA) Aircraft Fire Protection and Rescue Procedures Manual (5-4-77).

Announces the availability of the subject manual.

150/5200-16 Announcement of Report AS-71-1 "Minimum Needs for Airport Fire Fighting and Rescue Services" Dated January 1971 (4-13-71).

Announces the availability of the subject report and describes how to get it.

150/5200-17 Emergency Plan (2-5-72). (Consolidated reprint incorporates Ch 1.)

Contains guidance material for airport management to use in developing an emergency plan at civil airports.

150/5200-18 Airport Safety Self-Inspection (2-5-72).

Suggests functional responsibility, procedures, a checklist, and schedule for an airport safety self-inspection.

150/5200-19 Availability of Report No. FAA-RD-71-20 "An Analysis of Airport Snow Removal and Ice Control" dated March 1971 (11-23-71).

Announces the avilability of subject report.

150/5200-21 Announcing the Availability of U.S. Air Force Technical Order (T.O. 00-105-9) Aircraft Emergency Rescue Information (5-23-73).

Explains the nature of the Technical Order and tells how it can be obtained by airport fire departments which are under the Airport Certification Program.

150/5200-22 Announcing the Availability of the International Civil Aviation Organization Airport Services Manual, DOC-9137-AN-898, Part 3, Bird Control and Reduction (3-16-76).

Announces the availability of the manual, explains its purpose, and tells how to obtain copies.

150/5200-23 Airport Snow and Ice Control (11-1-76).

Provides guidance to assist airport owners/operators to establish or improve airport snow and ice control programs.

150/5200-23 CH 1 Airport Snow and Ice Control (2-6-78).

Transmits a revision to the sand gradation table used on airport operational surfaces.

150/5210-2 Airport Emergency Medical Facilities and Services (9-3-64).

Provides information and advice so that airports may take specific voluntary preplanning actions to assure at least minimum first-aid and medical readiness appropriate to the size of the airport in terms of permanent and transient personnel.

150/5210-5 Painting, Marking, and Lighting of Vehicles Used on an Airport (8-31-66).

Makes recommendations concerning safety, efficiency, and uniformity in the interest of vehicles used on the aircraft operational area of an airport.

150/5210-6B Aircraft Fire and Rescue Facilities and Extinguishing Agents (1-26-73). (Consoliated reprint incorporates changes 1 and 2.)

Outlines scales of protection considered as the recommended level compared with the minimum level in Federal Aviation Regulation Part 139.49 and tells how these levels were established from test and experience data.

150/5210-7A Aircraft Fire and Rescue Communications (3-16-72).

Provides guidance information for use by airport management in establishing communication and alarm facilities by which personnel required to respond to and function at aircraft ground emergencies may be alerted and supplied with necessary information.

150/5210-8 Aircraft Firefighting and Rescue Personnel and Personnel Clothing (1-13-67).

Provides guidance concerning the manning of aircraft fire and rescue trucks, the physical qualifications that personnel assigned to these trucks should meet, and the protective clothing with which they should be equipped.

150/5210-9 Airport Fire Department Operating Procedures During Periods of Low Visibility (10-27-67).

Suggests training criteria which airport management may use in developing minimum response times for aircraft fire and rescue trucks during periods of low visibility.

150/5210-10 Airport Fire and Rescue Equipment Building Guide (12-7-67).

This title is self-explanatory.

150/5210-11 Response to Aircraft Emergencies (4-15-69).

Informs airport operators and others of an existing need for reducing aircraft firefighting response time, and outlines a uniform response time goal of 2 minutes within aircraft operational areas on airports.

150/5210-12 Fire and Rescue Service for Certificated Airports (3-2-72).

Furnishes guidance and explains to Federal Aviation Administration (FAA) airport inspectors and airport management the minimum criteria to be applied when evaluating the aircraft fire and rescue service required at an airport for its compliance with the requirements of FAR Part 139.

150/5210-13 Water Rescue Plans, Facilities, and Equipment (5-4-72).

Suggests planning procedures facilities, and equipment to effectively perform rescue operations when an aircraft lands in a body of water, swamp, or tidal area where normal aircraft fire- fighting and rescue service vehicles are unable to reach the accident scene.

150/5220-1 Guide Specification for a Light-Weight Airport Fire and Rescue Truck (7-24-64).

Describes a vehicle with performance capabilities considered as minimum for an acceptable light rescue truck.

150/5220-4 Water Supply Systems for Aircraft Fire and Rescue Protection (12-7-67).

The title is self-explanatory.

150/5220-6 Guide Specification for 1,000-Gallon Tank Truck (4-10-68).

Assists airport management in the development of local procurement specifications.

150/5220-9 Aircraft Arresting System for Joint Civil/Military Airports (4-6-70).

Updates existing policy and describes and illustrates the various types of military aircraft emergency arresting systems that are now installed at various joint civil/military airports. It also informs users of criteria concerning installations of such systems at joint civil/military airports.

150/5220-10 Guide Specification for Water/Foam Type Aircraft Fire and Rescue Trucks (5-26-72). (Consolidated reprint incorporates changes 1 and 2.)

Assists airport management in the development of local procurement specifications.

150/5230-3 Fire Prevention During Aircraft Fueling Operations (4-8-69).

This advisory circular provides information on fire preventive measures which aircraft servicing personnel should observe during fueling operations.

150/5240-7 A Fuel/Energy Conservation Guide for Airport Operators (2-19-74).

Identified potential areas where fuel and energy usage can be conserved to assist airport operators in their voluntary actions in reducing fuel and energy consumption.

150/5280-1 Airport Operations Manual (6-16-72).

Sets forth guidelines to assist airport operators in developing an Airport Operations Manual in compliance with the requirements of FAR Part 139.

150/5280-3 Fire Fighting Exemptions Under the 1976 Amendment to the Federal Aviation Act (2-4-77).

Outlines the type of information that may be used as justification in supporting petitions for exemption from a portion or all of the fire fighting and rescue requirements of Part 139.

DESIGN, CONSTRUCTION, AND MAINTENANCE—GENERAL

150/5300-2C Airport Designs Standards—Site Requirements for Terminal Navigational Facilities (9-21-73). Consolidated reprint 1976 includes Change 1.

Provides information regarding the relative location and siting requirements for the terminal navigation facilities located on or close to an airport.

150/5300-4B Utility Airports—Air Access to National Transportation (6-24-75). (Consolidated reprint incorporates ch. 1.)

Establishes design standards for utility airports which are constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight or less.

150/5300-5 Airport Reference Point (9-26-68).

Defines and presents the method for calculating an airport reference point.

150/5300-6 Airport Design Standards, General Aviation Airports, Basic and General transport (7-14-69). Consolidated Reprint August 1975 Incorporates Changes 1 and 2.

Provides recommended design criteria for the development of larger than general utility airports.

150/5300-7B FAA Policy on Facility Relocations Occasioned by Airport Improvements or Changes (11-8-72).

Reaffirms the aviation community of the FAA policy governing responsibility for funding relocation, replacement and modification to air traffic control and air navigation facilities that are made necessary by improvements or changes to the airport.

150/5300-8 Planning and Design Criteria for Metropolitan STOL Ports (11-5-70).

Provides the criteria recommended for the planning and design of STOL ports in metropolitan areas.

150/5300-8 CH 1 (4-3-75).

Transmits revised requirements for color coding of threshold and runway end lights on STOL runways.

150/5300-9 Predesign and Preconstruction Conferences (ADAP) Projects (9-10-73).

Emphasizes the need for, and encourages the use of, predesign and preconstruction conferences as valuable tools in the administration of construction contracts funded under the ADAP.

150/5300-9 CH 1 Predesign and Preconstruction (11-11-77).

Transmits revisions to paragraph 5 of the advisory circular.

150/5300-10 Federal Aviation Administration Funded Study—Analysis of General Aviation Airports Developed With and Without Federal Financial Assistance (7-21-75).

Transmits the recommendations and conclusions of a study conducted for the FAA. Advises the public as to how they may obtain the reports.

150/5320-5B Airport Drainage (7-1-70).

Provides guidance for engineers, airport managers, and the public in the design and maintenance of airport drainage systems. ($1.30 Supt. Docs.) SN 050-007-00149-5.

150/5320-6B Airport Pavement Design and Evaluation (5-28-74). Consolidated reprint 1976 includes change 1.

Provides guidance to the public for the design and evaluation of pavements at civil airports.

150/5320-10 Environmental Enhancement at Airports—Industrial Waste Treatment (4-16-73).

Provides basic information on the nature and treatment of industrial wastes produced at airports.

150/5320-10 CH 1 (11-18-74).

150/5320-11 Runway Categorization—Aeronautical Studies—Airport Owners' Responsibilities (9-21-73).

Emphasizes the need for airport owners to maintain runway and approach zone categories and locations on file with FAA so they may be given consideration under the regulations of FAR Part 77.

150/5320-12 Methods for the Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces (6-30-75).

Provides guidance on methods that can be used to provide and maintain airport pavement surface friction characteristics.

150/5325-2C Airport Design Standards—Airports Served by Air Carriers—Surface Gradient and Line-of-Sight (2-6-75). Consolidated reprint 1975 includes Change 1.

Establishes design standards for airports served by certificated air carriers to assist engineers in (1) designing the gradients of airports surface areas used to accommodate the landing, takeoff, and other ground movement requirement of airplanes while (2) providing adequate line of sight between airplanes operating on airports.

150/5325-3 Background Information on the Aircraft Performance Curves for Large Airplanes (1-26-65). Consolidated Reprint May 1974. Includes Change 1.

Provides airport designers with information on aircraft performance curves for design which will assist them in an objective interpretation of the data used for runway length determination.

150/5325-4 Runway Length Requirements for Airport Design (4-5-65). Consolidated Reprint 1977 Includes Changes 1 through 11.

Presents aircraft performance curves and sets forth standards for the determination of runway lengths to be provided at airports. The use of these standards is required for project activity under the Federal-Aid Airport Program when a specific critical aircraft is considered as the basis for the design of a runway.

150/5325-4 CH 12 (7-27-77).

150/5325-5B Aircraft Data (7-30-75). Consolidated reprint 1976 includes Change 1.

Presents a listing of principal dimensions of aircraft affecting airport design for guidance in airport development.

150/5325-6A Airport Design Standards—Effects and Treatment of Jet Blast (7-13-72).

Presents criteria on the jet engine blast velocities associated with aircraft in common use in air carrier service, the effects of these blast velocities during ground operations, and suggested means to counteract or minimize these effects.

150/5325-8 Compass Calibration Pad (5-8-69).

Provides guidelines for the design, location on the airport, and construction of a compass calibration pad, and basic information concerning its use in determining the deviation error in an aircraft magnetic compass.

150/5335-1A Airport Design Standards—Airports Served by Air Carriers—Taxiways (5-15-70). Consolidated reprint incorporates changes 1 and 2.

Provides criteria on taxiway design for airports served by certificated route air carriers with present airplanes and those anticipated in the near future.

150/5335-2 Airport Aprons (1-27-65).

Provides the criteria for airport aprons which are acceptable in accomplishing a project meeting the eligibility requirements of the Federal-aid Airport Program.

150/5335-3 Airport Design Standards—Airports Served by Air Carriers—Bridges and Tunnels on Airports (4-19-71). Consolidated reprint June 1977 includes Change 1.

Provides general guidance to those contemplating the construction of a bridge-type structure to allow aircraft to cross over an essential surface transportation mode.

150/5335-4 Airport Design Standards—Airports Served by Air Carriers—Runway Geometrics (7-21-75).

Provides criteria on runway geometric design for airports served by certificated route air carriers.

150/5335-4 Ch 1 (6-14-76).

150/5340-1D Marking of Paved Areas on Airports (1-19-73).

Describes standards for marking serviceable runways and taxiways as well as deceptive, closed, and hazardous areas on airports.

150/5340-4C Installation Details for Runway Centerline and Touchdown Zone Lighting Systems (5-6-75). Consolidated March 1977 includes Change 1.

Describes standards for the design and installation of runway centerline and touchdown zone lighting systems.

150/5340-5A Segmented Circle Airport Marker System (9-10-71).

Sets forth standards for a system of airport marking consisting of certain pilot aids and traffic control devices.

150/5340-14B Economy Approach Lighting Aids (6-19-70). Consolidated reprint March 1977 includes Changes 1 and 2.

Describes standards for the design, selection, sitting, and maintenance of economy approach lighting aids.

150/5340-17A Standby Power for Non-FAA Airport Lighting Systems (3-19-71).

Describes standards for the design, installation, and maintenance of standby power for nonagency owned airport visual aids associated with the National Airspace System (NAS).

150/5340-18 Taxiway Guidance System (9-27-68).

Describes the recommended standards for design, installation, and maintenance of a taxiway guidance sign system.

150/5340-19 Taxiway Centerline Lighting System (11-14-68).

Describes the recommended standards for design, installation, and maintenance of a taxiway centerline lighting system.

150/5340-20 Installation Details and Maintenance Standards for Reflective Markers for Airport Runway and Taxiway Centerlines (2-17-69).

Describes standards for the installation and maintenance of reflective markers for airport runway and taxiway centerlines.

150/5340-21 Airport Miscellaneous Lighting Visual Aids (3-25-71).

Describes standards for the system design, installation, inspection, testing, and maintenance of airport miscellaneous visual aids; i.e., airport beacons, beacon towers, wind cones, wind tees, and obstruction lights.

150/5340-22 Maintenance Guide for Determining Degradation and Cleaning of Centerline and Touchdown Zone Lights (4-20-71). Consolidated reprint August 1977 includes Change 1.

Contains maintenance recommendations for determining degradation and cleaning of centerline and touchdown zone lights installed in airport pavement.

150/5340-23A Supplemental Wind Cones (6-24-75).

Describes standards for the performance and location of supplemental wind cones.

150/5340-24 Runway and Taxiway Edge Lighting System (9-3-75).

Describes standards for the design, installation, and maintenance of runway and taxiway edge lighting.

150/5340-24 CH 1 Runway and Taxiway Edge Lighting System (11-25-77).

Transmits changes to the basic advisory circular.

150/5340-25 Visual Approach Slope Indicator (VASI) Systems (9-24-76).

Describes standards for the design, installation, and maintenance of visual approach slope indicator systems.

150/5340-25 CH 1 (5-3-77).

Transmits page changes to subject advisory circular.

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150/5340-27 Air-to-Ground Radio Control of Airport Lighting Systems (8-10-77).

Describes operating criteria for air-to-ground radio control of airport lighting systems.

150/5345-1E Approved Airport Lighting Equipment (9-9-76). (Consolidated reprint incorporates changes 1 and 2.)

Contains lists of approved airport lighting equipment and manufacturers qualified to supply their product in accordance with the indicated specification requirements.

150/5345-2 Specification for L-810 Obstruction Light (11-4-63). Consolidated reprint June 1977 includes Change 1.

Required for FAAP project activity.

150/5345-3C Specification for L-821 Panels for Remote Control of Airport Lighting (3-30-77).

Describes the specification requirements for an airport lighting control panel for the remote control of airport lighting circuits and is published by the Federal Aviation Administration for the guidance of the public.

150/5345-4 Specification for L-829 Internally Lighted Airport Taxi Guidance Sign (10-15-63). Consolidated reprint June 1977 includes Change 1.

Required for FAAP project activity.

150/5345-5 Specification for L-847 Circuit Selector Switch, 5,000 Volt 20 Ampere (9-3-63).

Required for FAAP project activity.

150/5345-7C Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits (2-4-76).

Describes the specification requirements for underground electrical cables for airport lighting circuits. Published by the FAA for the guidance of the public.

150/5345-10C Specification for L-828 Constant Current Regulators (10-22-71).

Describes the subject specification requirements and is published by the Federal Aviation Administration for the guidance of the public.

150/5345-11 Specification for L-812 Static Indoor Type Constant Current Regulator Assembly, 4 kW and 7½ kW, With Brightness Control for Remote Operations (3-2-64).

Required for FAAP project activity.

150/5345-12B Specification for L-801 Beacon (9-8-77).

Describes the subject specification requirements.

150/5345-13 Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits (1-6-64).

Required for FAAP project activity.

150/5345-18 Specification for L-811 Static Indoor Type Constant Current Regulator Assembly, 4 kW; With Brightness Control and Runway Selection for Direct Operation (3-3-64). Consolidated reprint Sept. 1974 includes Change 1.

Required for FAAP project activity.

150/5345-21 Specification for L-813 Static Indoor Type Constant Current Regulator Assembly; 4 kW and 7½ kW; for Remote Operation of Taxiway Lights (7-28-64).

Describes the subject specification requirements.

150/5345-26A Specification for L-823 Plug and Receptacle, Cable Connectors (5-4-71). Consolidated reprint June 1977 includes change 1.

Describes the subject specification requirements.

150/5345-27A Specification for L-807 Eight-foot and Twelve-foot Unlighted or Externally Lighted Wind Cone Assemblies (6-16-69).

Describes the subject specification requirement for a hinged steel pole support, an anodized tapered aluminum hinged base pole support, and an "A" frame fixed support with a pivoted center pipe support.

150/5345-28C Specification for L-851 Visual Approach Slope Indicators and Accessories (3-23-77).

Describes the specification requirements for visual approach slope indicator (VASI) and simple abbreviated visual approach slope indicator (SAVASI) equipment and accessories.

150/5345-36 Specification for L-808 Lighted Wind Tee (2-3-65).

Describes the subject specification requirements.

150/5345-39A FAA Specification L-853, Runway and Taxiway Centerline Retroreflective Markers (9-17-71).

Describes specification requirements for L-853 Runway and Taxiway Retroreflective markers, for the guidance of the public.

150/5345-42A FAA Specification L-857, Airport Light Bases, Transformer Housings and Junction Boxes (10-4-73).

Describes specification requirements for airport light bases, transformer housing and junction boxes for the guidance of the public.

150/5345-42A Ch 1 (11-14-75).

150/5345-43B FAA/DOD Specification L-856, High Intensity Obstruction Lighting Systems (11-1-73).

Contains equipment specifications for high intensity obstruction lighting systems.

150/5345-44A Specification for L-858 Retroreflective Taxiway Guidance Signs (7-20-71).

Describes the specification for retroreflective taxiway guidance signs.

150/5345-45 Lightweight Approach Light Structure (5-10-73).

Presents the specifications for lightweight structures for supporting lights as used in visual navigational aid systems.

150/5345-46 Specification for Semiflush Airport Lights (7-11-75). (Consolidated reprint incorporates ch. 1.)

Establishes the performance requirements and pertinent construction details for omnidirectional, unidirectional, and bidirectional semiflush inset light assemblies to be used for lighting airport runways and taxiways.

150/5345-47 Isolation Transformers for Airport Lighting Systems (7-28-75).

Contains the specifications requirements for series-to-series isolation transformers for use in airport lighting systems.

150/5345-48 Specification for Runway and Taxiway Edge Lights (8-1-75).

Contains the specification requirements for airport runway and taxiway edge lights for the guidance of the public.

150/5345-48 Ch 1 (7-13-76).

150/5345-49 Specification L-854, Radio Control Equipment (5-20-77).

Contains the specification for radio control equipment to be used for controlling airport lighting facilities.

150/5355-1A International Signs to Facilitate Passengers Using Airports (11-3-71).

Informs airport authorities of the desirability to provide international signs and diagrammatic maps within terminal buildings and of the need for clearly marked road signs for airports.

150/5355-2 Fallout Shelters in Terminal Buildings (4-1-69).

Furnishes guidance for the planning and design of fallout shelters in airport terminal buildings.

150/5360-2 Airport Cargo Facilities (4-6-64).

Provides guidance material on air cargo facilities.

150/5360-4A Guidelines for Federal Inspection Services Facilities at International Airports of Entry and at Landing Rights Airports (10-7-77).

Announces the availability a booklet containing more current information on the requirements for Federal Inspection Services at airports of entry and at landing rights airports.

150/5360-5 Announcement of Availability of the International Civil Aviation Organization (ICAO) Computer Data Bank Material (8-13-76).

Announces the availability of computer data bank material on airports shown in the International Civil Aviation Organization (ICAO) Regional Air Navigation Plans and how it can be obtained.

150/5360-6 Airport Terminal Building Development with Federal Participation (10-5-76).

Provides guidance pertaining to Federal participation in airport terminal building construction under the provisions of the Airport and Airway Development Act, as amended.

150/5360-7 Planning and Design Consideration for Airport Terminal Building Development (9-5-76).

Presents planning and design procedures to be considered in airport terminal building development funded under the Airport and Airway Development Act, as amended.

150/5360-8 Announcement of Availability of Information on Foreign Airport Planning, Design, Construction, and Trade Opportunities (9-24-76).

Provides information on the availability of the U.S. Dept. of Commerce Foreign Trade Opportunities Program and on publications issued on foreign airport planning, design, construction, and trade opportunities.

150/5370-2A Operational Safety on Airports With Emphasis on Safety During Construction (6-20-75). Consolidated reprint incorporates Ch. 1.

Presents guidelines concerning operational safety on airports with special emphasis on safety during periods of construction activity.

150/5370-4 Procedures Guide for Using the Standard Specifications for Construction of Airports (5-29-69).

Provides guidance to the public in the use and application of the Standard Specifications for Construction of Airports.

150/5370-5A Offshore Airports (2-21-75).

Announces to the public the availability of a two-volume report on offshore airport planning and construction methods and how to obtain the report.

150/5370-6 Construction Progress and Inspection Report—Federal-Aid Airport Program (3-16-70).

Provides for a report on construction progress and inspection of Federal-aid Airport Program (FAAP) projects, suggests a form for the report, and recommends use of the form unless other arrangements exist to obtain the type of information provided by the form.

150/5370-7 Airport Construction Controls To Prevent Air and Water Pollution (4-26-71).

Supplies guidance material on compliance with air and water standards during construction of airports developed under the Airport and Airway Development Act of 1970.

150/5370-9 Slip-Form Paving—Portland Cement Concrete (6-7-73).

Transmits guidance for the construction of Portland Cement Concrete pavements by the slip-form method.

150/5370-10 Standards for Specifying Construction of Airports (10-24-74).

Provides construction standards usually used to specify grading, drainage, paving, lighting, fencing, and turfing items of work on civil airports. ($7.25 Supt. Docs.) SN 050-007-00264-5.

150/5370-10 CH 1 (5-31-77).

150/5370-11 Use of Nondestructive Testing Devices in the Evaluation of Airport Pavements (6-4-76).

Provides guidance to the public on the use of nondestructive testing devices as aids in the evaluation of the load-carrying capacity of airport pavements.

150/5380-4 Ramp Operations During Periods of Snow and Ice Accumulation (9-11-68).

Directs attention to an increased accident potential when snow or ice accumulates on the surfaces of ramps and aircraft parking and holding areas and suggests some measures to reduce this potential.

150/5380-5 Debris Hazards at Civil Airports (3-8-71).

Discusses problems of debris at airports, gives information on foreign objects, and tells how to eliminate such objects from operational areas.

150/5390-1B Heliport Design Guide (8-22-77).

Contains design guidance material for the development of heliports, both surface and elevated.

PLANNING GRANT PROGRAM

150/5900-1A The Planning Grant Program for Airports (9-26-74).

Offers guidance to the sponsors of airport system plans and airport master plans on how to participate in the FAA's Planning Grant Program. It describes the application process and the administrative procedures to be followed in performing planning projects.

Air Navigational Facilities

SUBJECT No. 170

170-3B Distance measuring Equipment (DME) (11-8-65).

Presents information on DME and some of its uses to pilots unfamiliar with this navigational aid.

170-6A Use of Radio Navigation Test Generators (3-30-66).

Gives information received from the Federal Communications Commission as to the frequencies on which the FCC will license test generators (used to radiate a radio navigation signal) within the scope of its regulations and gives additional information to assist the user when checking aircraft navigation receivers.

170-8 Use of Common Frequencies for Instrument Landing Systems Located on Opposite Ends of the Same Runway (11-7-66).

In the future, common frequencies may be assigned to like components of two instrument landing systems serving opposite ends of the same runway. This will include the localizers, glide slopes, and associated outer and middle marker compass locators (LOM and LMM).

170-9 Criteria for Acceptance of Ownership and Servicing of Civil Aviation Interest(s) Navigational and Air Traffic Control Systems and Equipment (11-26-68).

Contains a revised FAA policy under which the FAA accepts conditional ownership of equipment and systems from civil aviation interests, without the use of Federal funds, and operates, maintains, and provides the logistic support of such equipment.

170-10 FAA Recommendations to FCC on Licensing of Non-Federal Radio Navigation Aids (10-17-69).

Gives background information and describes the basis for recommendations to be made by the FAA to the Federal Communications Commission (FCC) regarding licensing of radio navigation aids.

170-11 Amendment of Federal Aviation Regulation Part 171 (FAR-171)—Cost of Flight and Ground Inspections (9-17-70).

Alerts the public to the amendment to FAR Part 171 pertaining to the payment of ground and flight inspection charges prior to the issuance of an approved IFR procedure.

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170-12 Implementation of 50 KHz/Y Channels for ILS/VOR/DME (10-7-70).

Advises aircraft owners, operators and radio equipment manufacturers of plans for future implementation of split channel assignments in the aeronautical radio navigation bands.

170-13 Approach Lighting System Configurations and Energy Conservation (9-6-77).

Advises interested persons of the agency's plan for the next several years to improve federally owned approach light systems installed on instrument approach runways by adding low-impact resistance structures and reducing energy consumption.

Administrative

SUBJECT No. 180

183-30B FAA Designated Mechanic Examiners Directory (5-10-76).

Provides a revised directory of all FAA designated mechanic examiners as of Jan. 31, 1976.

183-31C FAA Designated Parachute Rigger Examiner Directory (5-10-76).

Provides a new directory of all FAA designated parachute rigger examiners as of Jan. 31, 1976.

183.29-1K Designated Engineering Representatives (7-1-77).

Lists FAA-approved Designated Engineering Representatives who are available for consulting work.

Flight Information

SUBJECT No. 210

210-1A National Notice to Airmen System (12-10-75).

Announces FAA policy for the preparation and issuance of essential flight information to pilots and other aviation interests.

210-3 National Notice to Airmen System—Elimination of NOTAM Code (5-22-70).

Announces changes in criteria and procedures for the Notice to Airmen System required to accommodate the transmission of all domestic Notice to Airmen data in clear contracted language and eliminate use of the NOTAM code on the domestic service A circuits.

210-4 National Notice to Airmen (NOTAM) System Handbook (3-3-77).

Announces the establishment of criteria for originating, preparing, and disseminating changes to essential flight information to pilots and other aviation interests as established by FAA Order 7930.1A.

210-4 National Notice to Airmen (NOTAM) System Handbook ADDENDUM.

Corrects contents pages.

210-5 Military Flying Activities (9-23-77).

Presents information about military flying activities in the National Airspace System, describes the various types of routes and areas allocated for this purpose, and explains how information on the location and status of these routes and areas can be obtained.

211-2 Recommended Standards for IFR Aeronautical Charts (3-20-67).

Sets forth standards recommended by the Federal Aviation Administration for the guidance of the public in the issuance of IFR aeronautical charts for use in the National Airspace System (NAS).

Advisory Circulars For Sale

This List contains those circulars that are sold by the Superintendent of Documents. (See numerical index for appropriate price, sequential lettering, if any, and date, etc.)

Acceptable Methods, Techniques, and Practices—Aircraft Alterations, AC 43.13-2.
Acceptable Methods, Techniques, and Practices—Aircraft Inspection and Repair, AC 43.13-1.
Aircraft Dispatcher Written Test Guide, AC 65-4.
Airframe and Powerplant Mechanics Airframe Handbook, AC 65-15.
Airframe and Powerplant Mechanics Certification Guide, AC 65-2.
Airframe and Powerplant Mechanics Certification Information, AC 65-11.
Airframe and Powerplant Mechanics—General Handbook, AC 65-9.
Airframe and Powerplant Mechanics Powerplant Handbook, AC 65-12.
Airline Transport Pilot—Airplane—Practical Test Guide (Part 61 Revised), AC 61-77.
Airline Transport Pilot (Airplane) Written Test Guide, AC 61-18.
Airline Transport Pilot (Helicopter) Written Test Guide, AC 61-42.
Airport Drainage, AC 150/5320-5.
Airport Master Plans, AC 150/5070-6.
Aviation Instructors Handbook, AC 60-14.
Aviation Weather, AC 00-6.
Aviation Weather Services, AC 00-45.
Basic Glider Criteria Handbook, AC 21-3.
Basic Helicopter Handbook, AC 61-13.
Commercial Pilot Airplane Flight Test Guide, AC 61-55.
Commercial Pilot Airplane Written Test Guide, AC 61-71.
Federal Aviation Regulations Written Test Guide for Private, Commercial, and Military Pilots, AC 61-34.
Flight Engineer Written Test Guide, AC 63-1.
Flight Instructor Instrument—Airplane—Written Test Guide, AC 61-70.
Flight Instructor Practical Test Guide, AC 61-58.
Flight Instructor Airplane Written Test Guide, AC 61-72.
Flight Test Guide—Gyroplane, Private and Commercial, AC 61-30.
Flight Test Guide—Helicopter, Private and Commercial Pilot, AC 61-25.
Flight Test Guide (Part 61 revised)—Instrument Pilot Airplane, AC 61-56.
Flight Test Guide—Instrument Pilot Helicopter, AC 61-64.
Flight Test Guide (Part 61 revised)—Private Airplane, AC 61-54.
Flight Navigator Written Test Guide, AC 63-2.
Flight Training Handbook, AC 61-21.
Forming and Operating a Flying Club, AC 00-25.
General Aviation Inspection Aids, Summary, AC 20-7.
Ground Instructor—Instrument—Written Test Guide, AC 143-2.
Ground Instructor Written Test Guide—Basic and Advanced, AC 143-1.
Guide to Drug Hazards in Aviation Medicine, AC 91.11-1.
Heliport Design Guide, AC 150/5390-1.
Instrument Flying Handbook, AC 61-27.
Instrument Rating Written Test Guide, AC 61-8.
Inspection Authorization Study Guide, AC 65-19.
Medical Handbook for Pilots, AC 67-2.
Multiengine Airplane Class and Type Rating, AC 61-57.
Nondestructive Testing in Aircraft, AC 43-3.
Parachute Rigger Certification Guide, AC 65-5.
Personal Aircraft Inspection Handbook, AC 20-9.
Pilot Transition Courses for Complex Single-engine and Light, Twin-engine Airplanes, AC 61-9.
Pilot's Handbook of Aeronautical Knowledge, AC 61-23.
Pilot's Weight and Balance Handbook, AC 91-23.
Planning the Metropolitan Airport System, AC 150/5070-5.
Planning the State Airport System, AC 150/5050-3.
Private and Commercial Pilot, Flight Test Guide, AC 61-59.
Private and Commercial Pilot Glider, Flight Test Guide, AC 61-61.
Private and Commercial Pilot Gyroplane, Flight Test Guide, AC 61-60.
Private and Commercial Pilots Refresher Courses, AC 61-10.
Private and Commercial Pilot—Rotorcraft/Helicopter—Written Test Guide, AC 61-73.
Private Pilot (Airplane) Flight Training Guide, AC 61-2.
Private Pilot Written Test Guide, AC 61-32.
Standards for Specifying Construction of Airports, AC 150/5370-10.
Student Pilot Guide, AC 61-12.
Terrain Flying, AC 91-15.
Ultrasonic Nondestructive Testing for Aircraft, AC 43-7.
U.S. Civil Aircraft Register, AC 20-6.
Written Test Guide, Flight Instructor—Glider, AC 61-75.
Written Test Guide, Flight Instructor—Rotorcraft-Helicopter, AC 61-74.
Written Test Guide—Airplane—Flight Instructor, AC 61-72.
Written Test Guide—Airplane—Commercial Pilot, AC 61-71.

Internal Publications

Contractions Handbook, 7340.1F (2-1-78).

Gives approved word and phrase contractions used by personnel connected with air traffic control, communications, weather, charting, and associated services. (Sub. $12.00-$15.00 foreign—Supt. Docs.) SN 050-010-00034-2.

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Location Identifiers, 7350.4L (1-26-78).

Incorporates all authorized 3-letter location identifiers for special use in United States, worldwide, and Canadian assignments. (Sub. $18.00-$23.00 foreign—Supt. Docs.) TD 4.310:.

Air Traffic Control Handbook, 7110.65A (1-1-78).

Prescribes air traffic control procedures and phraseology for use by personnel providing air traffic control services. Controllers are required to be familiar with the provisions of this handbook which pertain to their operational responsibility and to exercise their best judgment if they encounter situations not covered by it. (Sub. $16.00-$20.00 foreign—Supt. Docs.) SN 050-007-91609-4.

Flight Services, 7110.10D (1-1-77).

This handbook consists of two parts. Part I, the basic, prescribes procedures and phraseology for use by personnel providing flight assistance and communications services. Part II, the teletypewriter portion, includes Services A and B teletypewriter operating procedures, pertinent International Teletypewriter Procedures, and the conterminous U.S. Service A Weather Schedules. (Sub. $18.30-$22.90 foreign—Supt. Docs.) TD 4.308: F 64/977.

United States Standard for Terminal Instrument Procedures (TERPS), 8260.3B (July 1976).

Contains criteria which shall be used to formulate, review, approve, and publish procedures for instrument approach and departure of aircraft to and from civil and military airports. These criteria are for application at any location over which an appropriate U.S. agency exercises jurisdiction. ($2.80 single copy. Supt. Docs.) (Changes sold separately as issued.) SN 050-007-00345-5.

International Flight Information Manual, Vol. 25 (April 1977).

This Manual is primarily designed as a preflight and planning guide for use by U.S. nonscheduled operators, business and private aviators contemplating flights outside of the United States.

The Manual, which is complemented by the International Notams publication, contains foreign entry requirements, a directory of aerodromes of entry including operational data, and pertinent regulations, and restrictions. It also contains passport, visa, and health requirements for each country. Published annually with quarterly amendments. (Annual Sub. $9.00; $11.25 foreign—Supt. Docs.) TD 4.309:24/976.

International Notams.

Covers notices on navigational facilities and information on associated aeronautical data generally classified as "Special Notices." Acts as a notice-to-airmen service only. Published weekly. (Annual Sub. $28.10 domestic—$35.15 foreign—Supt. Docs.) TD4.11:.

Airman's Information Manual:

Part 1—Basic Flight Information and ATC Procedures.

This part is issued semiannually and contains basic fundamentals required to fly in the U.S. National Airspace System. Among other data it also contains adverse factors affecting Safety of Flight; Health and Medical Facts of interest to pilots; ATC information affecting rules, regulations and procedures; a Pilot/Controller Glossary; Air Defense Identification Zones (ADIZ); Designated Mountainous Areas; and Emergency Procedures. (Annual Sub. $5.00, foreign $6.25. Supt. Docs.) TD 4.12: pt. 1/.

NOTICE

Termination of AIM Parts 2 and 3

The FAA is terminating publication of Part 2, "Airport Directory" and Part 3, "Operational Data and Special Notices" effective May 18, 1978. This information will be contained in a new geographical-oriented, seven-volume issuance titled "Airport/Facility Directory" (AFD), to be produced and sold by the National Ocean Survey. Present subscribers of AIM Parts 2 and 3 will be notified of this changeover by the Superintendent of Documents. Prospective subscribers wishing information on the new AFD should write to:

Distribution Division,
National Ocean Survey,
Riverdale, MD 20840

This termination of Parts 2 and 3 in no way affects the issuance of Parts 1, 3A, and 4 of the AIM, except that Part 3A will carry only the title "Notices to Airmen", and not "3A Notices to Airmen." Parts 1 and 4 and Notices to Airmen will continue to be sold through the Superintendent of Documents on subscription basis.

Notices to Airmen

Issued every 14 days and contains current Notices to Airmen considered essential to the safety of flight as well as supplemental data to all Parts of AIM. (Annual subscription $20.55; $25.70 foreign. Supt. Docs.) TD 4.12: Pt. 3A.

Part 4—Graphic Notices and Supplemental Data.

Part 4 is issued quarterly and contains abbreviations used in all parts of AIM; Parachute Jump Areas; Special Notice—Area Graphics; Terminal Area Graphics; Terminal Radar Service Area Graphics; Olive Branch Routes and other data not requiring frequent change. (Annual Sub. $14.40, foreign $18.00. Supt. Docs.) TD 4.12: pt. 4/.

Type Certificate Data Sheets and Specifications

Vol. I Single Engine Airplanes (TCDS 1) (Sub. $38.00, foreign $47.50. Supt. Docs.).
Vol. II Small Multiengine Airplanes (TCDS 2) (Sub. $28.00, foreign $35.00. Supt. Docs.).
Vol. III Large Multiengine Airplanes (TCDS 3) (Sub. $32.00, foreign $40.00. Supt. Docs.).
Vol IV Rotorcraft, Gliders, and Balloons (TCDS 4) (Sub. $16.50, foreign $20.75. Supt. Docs.).
Vol V Aircraft Engines and Propellers (TCDS 5) (Sub. $27.00, foreign $33.75. Supt. Docs.).
Vol. VI Aircraft Listing and Aircraft Engine and Propeller Listing (SN 050-007-00360-9) (Single Copy $4.15, foreign $5.20. Supt. Docs.).

Volumes I, II, III, IV, and V will be sold on a subscription basis and monthly supplementary service is included in the sales price.

Volume VI will be sold on a single-sales basis and will be isssued as a revised edition when sufficient changes warrant.

Summary of Supplemental Type Certificates, January 1976.

Contains all supplemental type certificates issued by FAA regarding design changes in aircraft, engines, or propellers. List includes description of change, the model and type certificate number, the supplemental type certificate number, and the holder of the change. Quarterly supplements provided. ($43.00—Sub., foreign $54.00. Supt. Docs.) TD 4.36:976.

NOTICE

The January 1978 issues of the Summary of Airworthiness Directives—Volumes I and II, will be sold and distributed for the Superintendent of Documents by the Federal Aviation Administration from Oklahoma City, Oklahoma. Requests for subscriptions to either of these publications should be sent to:

U.S. Department of Transportation, Federal Aviation Administration, P.O. Box 25461, Attn: ACC-23, Oklahoma City, Okla. 73125.

Subscription service will consist of the summary and automatic biweekly updates to each summary for a 2-year period. Make certified checks or money orders payable to Federal Aviation Administration.

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Summary of Airworthiness Directives for Small Aircraft (1-1-78) Volume I.

Presents, in volume form, all the Airworthiness Directives for small aircraft issued through December 31, 1977. AD's for engines, propeller, and equipment are included in each volume. Each volume is arranged alphabetically by product manufacturer. ($12.50 plus $3.15 additional for foreign handling.) SN 050-007-00425-7.

Summary of Airworthiness Directives for Large Aircraft (1-1-78) Volume II.

Presents, in volume form, all the Airworthiness Directives for large aircraft (over 12,500 pounds maximum certificated takeoff weight) issued through December 31, 1977. AD's for engines, propellers, and equipment are included in each volume. ($10.75 plus $2.70 additional for foreign handling.) SN 050-007-00426-5.

STATUS OF THE FEDERAL AVIATION REGULATION AS OF MARCH 15, 1978

The FAA publishes the Federal Aviation Regulations to make readily available to the aviation community the regulatory requirements placed upon them. These Regulations are sold as individual Parts by the Superintendent of Documents.

The more frequently amended Parts are sold on subscription service (that is, subscribers will receive Changes automatically as issued), while the less active Parts are sold on a single-sale basis. Changes to single-sale Parts will be sold separately as issued. Information concerning these Changes will be furnished by FAA through its "Status of the Federal Aviation Regulations, AC 00-44." Instructions for ordering this free status list are given in the front of each single-sale Part.

NOTE

The Special Federal Aviation Regulations (SFAR) which are presently in effect are now being included in their related FAR Part.

The following list indicates the breakdown of the single-sale Parts and the subscription Parts. Check or money order made payable to the Superintendent of Documents should be included with each order. Submit orders for single-sales and subscription Parts on different order forms. No COD orders are accepted. All FAR Parts should be ordered from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Parts sold on subscription service

Part and title	Publication date	Catalog No.	Price: Domestic	Price: Additional for foreign handling	Price: Changes issued to date
1 Definitions and Abbreviations	June 1974	TD 4.6:1	$13.00	$3.25	6
21 Certification Procedures for Products and Parts.	May 1974	TD 4.6:21	18.00	4.50	10
23 Airworthiness Standards: Normal, Utility, and Acrobatic Category Airplanes.	June 1974	TD 4.6:23	12.00	3.00	8
25 Airworthiness Standards: Transport Category Airplanes.	do	TD 4.6:25	22.00	5.50	7
33 Airworthiness Standards: Aircraft Engines.	Aug. 1974	TD 4.6:33	10.00	2.50	3
36 Noise Standards: Aircraft Type and Airworthiness Certification.	June 1974	TD 4.6:36	17.00	4.25	7
37 Technical Standard Order Authorizations.	May 1974	TD 4.6:37	13.00	3.25	6
63 Certification: Flight Crewmembers Other Than Pilots.	Sept. 1974	TD 4.6:63	6.00	1.50	2
91 General Operating and Flight Rules.	March 1974	TD 4.6:91	26.00	6.50	25
93 Special Air Traffic Rules and Airport Traffic Patterns.	do	TD 4.6:93	14.00	3.50	7
103 Part Revoked as July 1, 1976[1]					
121 Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft.	April 1974	TD 4.6:121	19.00	4.75	26
123 Certification and operations: Air Travel clubs using Large Airplanes.	do	TD 4.6:123	10.00	2.50	4
139 Certification and Operations: Land Airports Serving CAB-Certificated Air Carriers.	December 1974.	TD 4.6:139	10.00	2.50	4

[1] The regulations for the transportation of hazardous material by air is set forth in Part 175—Carriage by Aircraft, effective July 1, 1976, published in 41 FR 16106, April 15, 1976. This part is issued by the Materials Transportation Bureau, Department of Transportation. For information concerning hazardous material regulations, contact the Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

Parts sold on single-sales basis

Part	Title	Publication date	Stock number	Price[1]
11	General Rule-Making Procedures.	May 1974	SN 050-007-00286-0	$1.30
	Change 1	Feb. 1, 1974	SN 050-007-00286-6	.45
		Jan. 1, 1975		
	Change 2	Mar. 18, 1976	SN 050-007-00325-1	.40
	Change 3	Jan. 1, 1976	SN 050-007-00340-4	.40
	Change 4	Sept. 6, 1977	SN 050-007-00390-1	.80
13	Enforcement Procedures	May 1974	SN 050-007-00230-1	.70
	Change 1	Aug. 2, 1976	SN 050-007-00334-0	.40
	Change 2	Dec. 13, 1976	SN 050-007-00357-9	.40
27	Airworthiness Standards: Normal Category Rotorcraft.	August 1974	SN 050-007-00244-1	2.10
	Change 1	Oct. 31, 1974	SN 050-007-00255-6	.75
	Change 2	Feb. 5, 1976	SN 050-007-00309-9	.35
	Change 3	Feb. 1, 1977	SN 050-007-00362-5	1.30
	Change 4	May 2, 1977	SN 050-007-00370-6	1.40
	Change 5	Sept. 1, 1977	SN 050-007-00393-5	1.40
29	Airworthiness Standards: Transport Category.	August 1974	SN 050-007-00245-9	1.70
	Change 1	Oct. 31, 1974	SN 050-007-00256-4	.70
	Change 2	Feb. 5, 1976	SN 050-007-00310-2	.35
	Change 3	Jan. 14, 1975	SN 050-007-00351-0	.40
		Dec. 31, 1975		
	Change 4	Feb. 1, 1977	SN 050-007-00367-6	1.45
	Change 5	May 2, 1977	SN 050-007-00371-4	1.60
	Change 6	Sept. 1, 1977	SN 050-007-00394-3	1.40
31	Airworthiness Standards: Manned Free Balloons.	August 1974	SN 050-007-00246-7	.40
	Change 1	Feb. 1, 1977	SN 050-007-00361-7	.65
35	Airworthiness Standards: Propellers.	August 1974	SN 050-007-00247-5	.80
	Change 1	Feb. 1, 1977	SN 050-007-00353-3	.65
	Change 2	May 2, 1977	SN 050-007-00369-2	1.10
39	Airworthiness Directives [2]	May 1974	SN 050-007-00229-7	.35
43	Maintenance, Preventive Maintenance, Rebuilding and Alteration.	January 1974	SN 050-007-00311-1	1.80
45	Identification and Registration marking.	May 1974	SN 050-007-00231-9	.65
	Change 1	Sept. 14, 1977	SN 050-007-0395-1	.80
47	Aircraft Registration	May 1974	SN 050-007-000312-9	.65
	Change 1	Sept. 8, 1976	SN 050-007-000335-8	.40
	Change 2	Jan. 30, 1976	SN 050-007-00422-2	.80
49	Recording of Aircraft Titles and Security Documents.	May 1974	SN 050-007-00232-7	.50
	Change 1	Sept. 8, 1976	SN 050-007-00336-6	.40
61	Certification: Pilots and Flight Instructors.	November 1974	SN 050-007-00313-7	2.00
	Change 1	Dec. 22, 1976	SN 050-007-00353-6	.50
	Change 2	May 9, 1977	SN 050-007-00372-2	.80
65	Certification: Airmen Other Than Flight Crewmembers.	September 1974	SN 050-007-00314-5	1.25
	Change 1	Oct. 17, 1977	SN 050-007-00399-4	.80
67	Medical Standards and Certification.	September 1974	SN 050-007-00248-3	.50
	Change 1	Dec. 21, 1976	SN 050-007-00341-2	.40
71	Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting points [3].	January 1975	SN 050-007-00273-4	.85
	Change 1	July 28, 1975	SN 050-007-00290-4	.35
73	Special use Airspace [3]	January 1975	SN 050-007-00274-2	.40

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Parts sold on single-sales basis—Continued

Part	Title	Publication date	Stock number	Price [1]
	Change 1	July 28, 1975	SN 050-007-00291-2	$0.35
75	Establishment of Jet Routes and Area High Routes [3].	January 1975	SN 050-007-00275-1	.40
	Change 1	Apr. 26, 1976	SN 050-007-00326-9	.40
77	Objects Affecting Navigable Airspace.	January 1975	SN 050-007-00276-9	1.10
95	IFR Altitudes [3]	do	SN 050-007-00277-7	.50
	Change 1	Feb. 13, 1975	SN 050-007-00285-8	.35
97	Standard Instruction Approach procedures [4].	January 1975	SN 050-007-00278-5	.45
99	Security Control of Air Traffic	March 1974	SN 050-007-0022406	.70
	Change 1	Mar. 11, 1976	SN 050-007-00324-2	.40
101	Moored Balloons, Kites, Unmanned Rockets, and unmanned Free Balloons.	March 1974	SN 050-007-00223-8	.65
	Change 1	Aug. 20, 1974	SN 050-007-00242-4	.50
105	Parachute Jumping	March 1974	SN 050-007-00315-3	.55
	Change 1	Nov. 29, 1976	SN 050-007-00344-7	.40
107	Airport Security	March 1974	SN 050-007-00225-4	.40
	Change 1	Dec. 9, 1976	SN 050-007-00346-1	.40
127	Certification and Operations of Scheduled Air Carriers with Helicopters.	April 1974	SN 050-007-00316-1	1.80
	Change 1	Sept. 14, 1974	SN 050-007-00317-0	.35
	Change 2	Feb. 1, 1977	SN 050-007-00364-1	.65
129	Operations of Foreign Air Carriers.	April 1974	SN 050-007-00228-9	.45
	Change 1	Oct. 9, 1975	SN 050-007-00293-9	.35
	Change 2	Aug. 23, 1976	SN 050-007-00333-1	.40
	Change 3	Nov. 29, 1976	SN 050-007-00347-1	.35
133	Rotorcraft External-Load Operations.	November 1974	SN 050-007-00318-8	.55
	Change 1	Feb. 1, 1977	SN 050-007-00365-0	.65
	Change 2	Aug. 10, 1977	SN 050-007-00380-3	.90
	Change 3	June 25, 1977	SN 050-007-00389-7	.90
135	Air Taxi Operators and Commercial Operators of Small Aircraft.	November 1974	SN 050-007-00319-6	2.50
	Change 1	Nov. 15, 1974	SN 050-007-00320-0	.35
		Dec. 9, 1974		
	Change 2	May 15, 1975	SN 050-007-00321-8	.35
	Change 3	Nov. 29, 1976	SN 050-007-00346-3	.45
	Change 4	Feb. 1, 1977	SN 050-007-00368-8	.65
	Change 5	May 16, 1977	SN 050-007-00374-9	.90
	Change 6	Dec. 24, 1965	SN 050-007-00378-1	1.50
		Jan. 1, 1977		
		Dec. 22, 1976		
	Change 7	Sept. 21, 1977	SN 050-007-00397-8	.70
137	Agricultural Aircraft Operations	November 1974	SN 050-007-00258-1	.50
	Change 1	May 24, 1976	SN 050-007-00327-7	.35
	Change 2	Sept. 20, 1976	SN 050-007-00337-4	.40
141	Pilot Schools	November 1974	SN 050-007-00322-6	1.15
143	Ground Instructors	September 1974	SN 050-007-00249-1	.45
145	Repair Stations	January 1974	SN 050-007-00220-3	.85
	Change 1	Nov. 29, 1976	SN 050-007-00349-8	.40
147	Aviation Maintenance Technician Schools.	September 1974	SN 050-007-00250-5	.65
	Change 1	Nov. 29, 1976	SN 050-007-00350-1	.40
149	Parachute Lofts	January 1974	SN 050-007-00221-1	.50
151	Federal Aid to Airports	December 1974	SN 050-007-00261-1	1.55
152	Airport Aid Program	do	SN 050-007-00323-4	1.35
	Change 1	Sept. 26, 1976	SN 050-007-00338-2	.40
	Change 2	Oct. 21, 1976	SN 050-007-00342-1	.45
	Change 3	June 27, 1977	SN 050-007-00387-1	.70
	Change 4	Aug. 25, 1977	SN 050-007-00396-0	.90
153	Acquisition of U.S. land for public airports.	December 1974	SN 050-007-00262-9	.50
154	Acquisition of U.S. land for public airports under the Airport and Airway Act of 1970.	June 27, 1977	SN 050-007-00388-9	.70

Parts sold on single-sales basis—Continued

Part	Title	Publication date	Stock number	Price [1]
154	Con't.		SN 050-007-00269-6	.40
	Change 1	June 27, 1977	SN 050-007-00388-9	.70
155	Release of Airport Property from Surplus Property Disposal Restrictions.	December 1974	SN 050-007-00270-0	.40
157	Notice of Construction, Alteration, Activation, and Deactivation of Airports.	January 1975	SN 050-007-00279-3	.80
159	National Capital Airports	December 1974	SN 050-007-00268-8	1.00
	Change 1	June 13, 1976	SN 050-007-00330-7	.35
169	Expenditure of Federal Funds for nonmilitary airports on air navigational facilities thereon.	January 1975	SN 050-007-00280-7	.35
171	Non-Federal Navigation Facilities	do	SN 050-007-00281-5	1.10
	Change 1	Aug. 19, 1975	SN 050-007-00297-1	.65
183	Representatives of the Administrator.	May 1974	SN 050-007-00233-5	.45
	Change 1	Jan. 9, 1976	SN 050-007-00352-8	.35
	Change 2	Aug. 30, 1977	SN 050-007-00398-6	.70
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191	Withholding Security Information From Disclosure Under the Air Transportation Security Act of 1974.	November 1976	SN 050-007-00359-5	.40

[1] Add 25% for foreign handling.

[3] Due to their length, complexity, and frequency of issuance, individual Airworthiness Directives are published separately in the FEDERAL REGISTER. Copies of Airworthiness Directives that have been issued are for sale in summary form by DOT, FAA Aeronautical Center (Consigned agent for Superintendent of Documents), P.O. Box 25461, Oklahoma City, Okla. 73125, Attn: AAC-23.

[3] Due to their length, complexity, and frequency of issuance, individual airspace designations, airways descriptions, restricted areas, jet routes descriptions, and en route IFR altitudes are not included in the publication of these basic parts. Such descriptions are published in the FEDERAL REGISTER and depicted on appropriate aeronautical charts. Aeronautical charts can be obtained from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Distribution Division (C-44), National Ocean Survey, Riverdale, Md. 20840.

[4] Standard instrument approach procedures are published in the FEDERAL REGISTER by reference to FAA documents which are available for examination in the Rules Docket (AGC-24) and the National Flight Data Center, FAA Headquarters, Washington, D.C., and at the appropriate FAA Regional Offices and Flight Inspection District Offices. These approach procedures can be obtained from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Distribution Division (C-44), National Ocean Survey, Riverdale, Md. 20840.

BROOKS C. GOLDMAN,
Director, Office of Management Systems.

[FR Doc. 78-12355 Filed 5-5-78; 8:45 am]

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federal register

MONDAY, MAY 8, 1978
PART IV



DEPARTMENT OF DEFENSE

CORPS OF ENGINEERS

■

WATER RESOURCES POLICIES & AUTHORITIES

FLOOD DAMAGE REDUCTION MEASURES IN URBAN AREAS

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[3710-92]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1165-2-21]

PART 238—WATER RESOURCES POLICIES & AUTHORITIES

Flood Damage Reduction Measures in Urban Areas

AGENCY: U.S. Army Corps of Engineers.

ACTION: Final rule.

SUMMARY: The Chief of Engineers is promulgating a regulation for Civil Works elements of the U.S. Army Corps of Engineers to follow for participating in urban flood control projects. This regulation provides current policy guidance and procedures when participating with local interests to alleviate existing and future flood damage problems. It establishes criteria to distinguish between flood damage reduction measures and storm sewer systems in urban areas. Provision of urban drainage systems is customarily regarded as storm drainage which, with all appurtenances, is considered a local responsibility. This action seeks to provide an economically efficient degree of flood protection consistent with safety of life and property and wise land use in urban and urbanizing areas. It further encourages long range planning for flood damage reduction measures and storm sewer systems in these areas.

EFFECTIVE DATE: May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Howard J. Prante, 202-693-6807, or write: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attn: DAEN-CWR-R.

SUPPLEMENTARY INFORMATION: Congress in the Flood Control Act of 1936, established as a nationwide policy that flood control on navigable waters or their tributaries is in the interest of the general welfare and is therefore a proper activity of the Federal Government in cooperation with the States and local entities. It provided that the Federal Government may improve streams or participate in improvements "for flood-control purposes if the benefits to whomsoever they may accrue are in excess of the estimated costs, and if the lives and social security of people are otherwise adversely affected." The 1936 and subsequent acts further specified the details of Federal participation. The scope of the Federal interest includes consideration of all alternatives in controlling flood waters, reducing the susceptibility of property to flood damage, and relieving human and financial losses.

Non-Federal participation in flood control projects is required. Non-Federal participation usually includes provision at local cost of all lands, easements, rights-of-way, as well as all necessary alterations and relocations to utilities, streets, bridges, buildings, storm drains, and other structures and improvements. The sponsoring local agency must also agree to hold the United States free from damages due to the construction works, not including damages due to the fault or negligence of the United States or its contractors; and assure continued non-Federal operation and maintenance of the project after completion. The above requirements are generally known as the "a-b-c" requirements of local cooperation from their description in section 3 of the 1936 Flood Control Act an amended. Other additional local participation is required where special local conditions warrant.

The Army Corps of Engineers is authorized by section 206 of the 1960 Flood Control Act, as amended, to provide information, technical planning assistance, and guidance to non-Federal entities to help them in identifying the magnitude and extent of the flood hazard and in planning wise use of the flood plains.

The following regulation is hereby established as set forth below:

PART 238—FLOOD DAMAGE REDUCTION MEASURES IN URBAN AREAS

This is an interpretive rule providing agency guidance concerning Corps of Engineers participation in urban flood control projects. It is exempt from the Notice of Proposed Rulemaker requirements in 5 U.S.C. 553(6)(3)(A).

NOTE.—The Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 27, 1978.

Approved:

THOMAS J. WOODALL,
Lieutenant Colonel, Corps of Engineers Acting Executive Director, Engineer Staff.

PART 238—WATER RESOURCES POLICIES AND AUTHORITIES: FLOOD DAMAGE REDUCTION MEASURES IN URBAN AREAS

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238.10 Coordination with other Federal agencies.

AUTHORITY: Pub. L. 738, 74th Congress, 33 U.S.C. 701a.

§ 238.1 Purpose.

This regulation provides policies and guidance for Corps of Engineers participation in urban flood damage reduction projects and establishes criteria to distinguish between improvements to be accomplished by the Corps under its flood control authorities and storm sewer systems to be accomplished by local interests.

§ 238.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 238.3 References.

(a) Executive Order 11988—Floodplain Management, dated 24 May 1977.
(b) U.S. Water Resources Council, Floodplain Management Guidelines, (43 FR 6030), 10 February 1978.
(c) ER 1105-2-811.
(d) ER 1140-2-302.
(e) ER 1140-2-303.
(f) EP 1165-2-2.

§ 238.4 Definitions.

For purposes of this regulation the following definitions apply:

(a) "Urban areas" are cities, towns, or other incorporated or unincorporated political subdivisions of States that:

(1) Provide general local government for specific population concentrations, and,

(2) Occupy an essentially continuous area of developed land, containing such structures as residences, public and commercial buildings, and industrial sites.

(b) "Flood damage reduction works in urban areas" are the adjustments in land use and the facilities (structural and non-structural) designed to reduce flood damages in urban areas from overflow or backwater due to major storms and snowmelt. They include structural and other engineering modifications to natural streams or to previously modified natural waterways. Flood damage reduction works are designed to modify flood behavior typified by temporary conditions of inundation of normally dry land from the overflow of rivers and streams or from abnormally high coastal waters due to severe storms.

(c) "Storm sewer systems" are the facilities in urban areas designed to collect and convey runoff from rainfall or snowmelt in the urban area to natural water courses or to previously modified natural waterways. They include storm drains, inlets, manholes, pipes, culverts, conduits, sewers and sewer appurtenances, on-site storage and detention basins, curbs and gutters, and other small drainageways that remove or help to manage runoff in urban areas. Storm sewer systems are designed to solve storm drainage problems, which are typified by excessive accumulation of runoff in depressions; overland sheet flow resulting from rapid snowmelt or rainfall; and excessive accumulation of water at the facilities listed in this paragraph because of their limited capacity.

§ 238.5 Comprehensive planning.

Coordinated comprehensive planning at the regional or river basin level, or for an urban or metropolitan area, can help to achieve solutions to flood problems that adequately reflect future changes in watershed conditions, and help to avoid short-sighted plans serving only localized situations. This planning is particularly important in areas where significant portions of a watershed are expected to be urbanized in the future. Changes in land use may result in major alterations of the runoff characteristics of the watershed. Hydrologic changes must be projected for the period of analysis. In this effort, responsible local planning organizations should provide information and assist the Corps in development of projected land uses and expected practices for collection and conveyance of runoff over the period of analysis. Conversely, the Corps may be able to provide non-Federal interests with valuable information about water related consequences of alternative land uses and drainage practices.

238.6 General policy.

(a) Satisfactory resolution of water damage problems in urban areas often involve cooperation between local non-Federal interests and the Federal flood control agencies. In urban or urbanizing areas, provision of a basic drainage system to collect and convey the local runoff to a stream is a non-Federal responsibility. This regulation should not be interpreted to extend the flood damage reduction program into a system of pipes traditionally recognized as storm drainage systems. Flood damage reduction works generally address discharges that represent a serious threat to life and property. The decision criteria outlined below therefore exclude from consideration under flood control authority small streams and ditches with carrying capacities typical of storm sewer pipes. Location of political boundaries will not be used as a basis for specifying project responsibility. Project responsibilities can be specified as follows:

(1) Flood damage reduction works, as defined in this regulation, may be accomplished by the Corps of Engineers.

(2) Construction of storm sewer systems and components thereof will be a non-Federal responsibility. Non-Federal interests have a responsibility to design storm sewer systems so that residual damages are reduced to an acceptable level.

(b) Consideration will be given to the objectives and requirements of Executive Order 11988 (reference 3a) and the general guidelines therefor by the U.S. Water Resources Council (reference 3b).

§ 238.7 Decision criteria for participation.

(a) *Flood control.* Water damage problems associated with natural streams or modified natural waterways may be addressed under the flood control authorities downstream from the point where the flood discharge is greater than 800 cubic feet per second for the 10-percent flood (one chance in ten of being equalled or exceeded in any given year) under conditions expected to prevail during the period of analysis. Drainage areas of less than 1.5 square miles shall be assumed to lack adequate discharge to meet the above criterion. Flood damage reduction works must conform to the definition in paragraph 4b and must be justified based on Corps of Engineers evaluation procedures in use at the time the evaluation is made.

(b) *Storm sewer system.* Water damage problems not consistent with the above criteria for flood control will be considered to be a part of local storm drainage to be addressed as part of the consideration of an adequate storm sewer system. The purpose of this system is to collect and convey to a natural stream or modified natural waterway the runoff from rainfall or snowmelt in the urbanized area.

(c) *Man-made conveyance structures.*

(1) Man-made conveyance structures will be assumed to be a part of storm sewer systems except when: (i) A natural stream has been or is to be conveyed in the man-made structure; or (ii) The man-made structure is a cost-effective alternative to improvement of a natural stream for flood damage reduction purposes or is an environmentally preferable and economically justified alternative. Water damages associated with inadequate carrying capacity of man-made structures should be designated as a flood problem or a local drainage problem in a manner consistent with the structure's classification as flood damage reduction works or a part of a storm sewer system.

(2) Man-made structures that convey sanitary sewage or storm runoff, or a combination of sanitary and storm sewage, to a treatment facility will not be classified as flood damage reduction works. Flows discharged into a natural or previously modified natural waterway for the purpose of conveying the water away from the urbanized area will be assumed to be a part of the flow thereof regardless of quality characteristics.

(d) *Joint projects.* Certain conditions may exist whereby the Corps of Engineers and the Department of Housing and Urban Development (HUD), or another Federal agency, could jointly undertake a project that would be impractical if one agency were to undertake it alone. The Corps may, for example, under provisions of section 219 of the Flood Control Act of 1965, design or construct a project that is part of a larger HUD plan for an urban area (see ER 1140-2-302). Such efforts should be undertaken only when requirements cannot be handled better by one agency acting alone. If a joint effort is preferable, then the Corps may participate as required.

(e) *Disagreements.* If a disagreement arises between the Corps and another Federal agency that cannot be resolved at the field level, the matter will be forwarded to HQDA (DAEN-CWR) Washington, D.C. 20314, for guidance.

§ 238.8 Other participation.

In addition to providing flood damage reduction works in urban areas, the Corps may provide related services to State and local governments on a reimbursable basis. Under Title III of the Inter-governmental Cooperation Act of 1968, specialized or technical services for which the Corps has specific expertise may be furnished only when such services cannot be procured reasonably and expeditiously from private firms (see ER 1140-2-303).

§ 238.9 Local cooperation.

(a) Cost sharing and other provisions of local cooperation shall be in conformity with applicable regulations for structural and non-structural flood damage reduction measures.

(b) Responsible non-Federal entities will be required to provide satisfactory assurances that they will adopt, enforce, and adhere to a sound, comprehensive plan for flood plain management for overflow areas of communities involved. To this end, District Engineers will inform HUD, and other concerned Federal and non-Federal planning and governing agencies, of flood plain management services available under Section 206 of the Flood Control Act of 1960, as amended (33 USC 709a).

§ 238.10 Coordination with other Federal agencies.

In conducting flood damage reduction studies, reporting officers shall comply with the 1965 Agreement between the Soil Conservation Service

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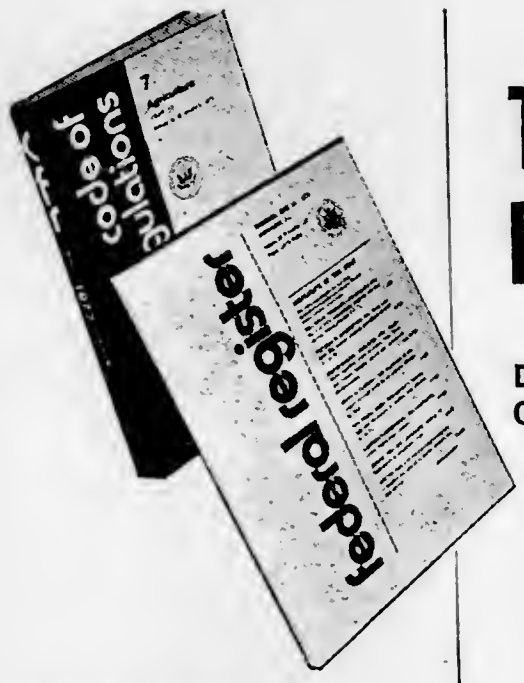
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and the Corps (contained in EP 1165-2-2) in determining the responsible Federal agency. Corps personnel should also keep abreast of the public works programs administered by other Federal agencies, such as the Environmental Protection Agency, the Department of Housing and Urban Development, Farmers Home Administration and the Department of Commerce, in order to coordinate flood control improvements with storm sewer system improvements and to avoid program overlap. Coordination of planning activities with A-95 clearinghouses will help to achieve this objective (see ER 1105-2-811).

[FR Doc. 78-12433 Filed 5-5-78; 8:45 am]

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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Title 3—The President

REORGANIZATION PLAN NO. 1 OF 1978

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 23, 1978, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

Equal Employment Opportunity

SECTION 1. *Transfer of Equal Pay Enforcement Functions*

All functions related to enforcing or administering Section 6(d) of the Fair Labor Standards Act, as amended, (29 U.S.C. 206(d)) are hereby transferred to the Equal Employment Opportunity Commission. Such functions include, but shall not be limited to, the functions relating to equal pay administration and enforcement now vested in the Secretary of Labor, the Administrator of the Wage and Hour Division of the Department of Labor, and the Civil Service Commission pursuant to Sections 4(d)(1); 4(f); 9; 11 (a), (b), and (c); 16 (b) and (c) and 17 of the Fair Labor Standards Act, as amended, (29 U.S.C. 204(d)(1); 204(f); 209; 211 (a), (b), and (c); 216 (b) and (c) and 217) and Section 10(b)(1) of the Portal-to-Portal Act of 1947, as amended, (29 U.S.C. 259).

SECTION 2. *Transfer of Age Discrimination Enforcement Functions*

All functions vested in the Secretary of Labor or in the Civil Service Commission pursuant to Sections 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the Age Discrimination in Employment Act of 1967, as amended, (29 U.S.C. 621, 623, 626, 627, 628, 629, 630, 631, 632, 633, and 633a) are hereby transferred to the Equal Employment Opportunity Commission. All functions related to age discrimination administration and enforcement pursuant to Sections 6 and 16 of the Age Discrimination in Employment Act of 1967, as amended, (29 U.S.C. 625 and 634) are hereby transferred to the Equal Employment Opportunity Commission.

SECTION 3. *Transfer of Equal Opportunity in Federal Employment Enforcement Functions*

(a) All equal opportunity in Federal employment enforcement and related functions vested in the Civil Service Commission pursuant to Section 717 (b) and (c) of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e-16 (b) and (c)), are hereby transferred to the Equal Employment Opportunity Commission.

(b) The Equal Employment Opportunity Commission may delegate to the Civil Service Commission or its successor the function of making a preliminary determination on the issue of discrimination whenever, as a part of a complaint or appeal before the Civil Service Commission on other grounds, a

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Federal employee alleges a violation of Section 717 of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e-16) provided that the Equal Employment Opportunity Commission retains the function of making the final determination concerning such issue of discrimination.

SECTION 4. *Transfer of Federal Employment of Handicapped Individuals Enforcement Functions*

All Federal employment of handicapped individuals enforcement functions and related functions vested in the Civil Service Commission pursuant to Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) are hereby transferred to the Equal Employment Opportunity Commission. The function of being co-chairman of the Interagency Committee on Handicapped Employees now vested in the Chairman of the Civil Service Commission pursuant to Section 501 is hereby transferred to the Chairman of the Equal Employment Opportunity Commission.

SECTION 5. *Transfer of Public Sector 707 Functions*

Any function of the Equal Employment Opportunity Commission concerning initiation of litigation with respect to State or local government, or political subdivisions under Section 707 of Title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e-6) and all necessary functions related thereto, including investigation, findings, notice and an opportunity to resolve the matter without contested litigation, are hereby transferred to the Attorney General, to be exercised by him in accordance with procedures consistent with said Title VII. The Attorney General is authorized to delegate any function under Section 707 of said Title VII to any officer or employee of the Department of Justice.

SECTION 6. *Transfer of Functions and Abolition of the Equal Employment Opportunity Coordinating Council*

All functions of the Equal Employment Opportunity Coordinating Council, which was established pursuant to Section 715 of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e-14), are hereby transferred to the Equal Employment Opportunity Commission. The Equal Employment Opportunity Coordinating Council is hereby abolished.

SECTION 7. *Savings Provision*

Administrative proceedings including administrative appeals from the acts of an executive agency (as defined by Section 105 of Title 5 of the United States Code) commenced or being conducted by or against such executive agency will not abate by reason of the taking effect of this Plan. Consistent with the provisions of this Plan, all such proceedings shall continue before the Equal Employment Opportunity Commission otherwise unaffected by the transfers provided by this Plan. Consistent with the provisions of this Plan, the Equal Employment Opportunity Commission shall accept appeals from those executive agency actions which occurred prior to the effective date of this Plan in accordance with law and regulations in effect on such effective date. Nothing herein shall affect any right of any person to judicial review under applicable law.

SECTION 8. *Incidental Transfers*

So much of the personnel, property, records and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall deter-

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mine, shall be transferred to the appropriate department, agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of the Council abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

SECTION 9. *Effective Date*

This Reorganization Plan shall become effective at such time or times, on or before October 1, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5 of the United States Code.

[FR Doc. 78-12759 Filed 5-5-78; 8:45 am]

LEGISLATIVE HISTORY:

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 8: Feb. 23, Presidential message transmitting Reorganization Plan No. 1 of 1978 to Congress.
HOUSE REPORT No. 95-1069 accompanying H. Res. 1049 (Comm. on Government Operations).
SENATE REPORT No. 95-750 accompanying S. Res. 404 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):

Feb. 24,	H. Res. 1049,	resolution of disapproval, introduced in House and referred to Committee on Government Operations.
	S. Res. 404,	resolution of disapproval, introduced in Senate and referred to Committee on Governmental Affairs.
Apr. 25,	H. Res. 1049	rejected by House.

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[3195-01]

Executive Order 12057 • **May 8, 1978**

National Advisory Committee for Women

By virtue of the authority vested in me as President by the Constitution of the United States of America, and in order to expand the membership of the National Advisory Committee for Women, Section 2 of Executive Order No. 12050 of April 4, 1978 is hereby amended to read as follows:

"Sec. 2. *Membership.* The President shall appoint not more than forty individuals to serve on the Committee and shall designate a chairperson or co-chairpersons from among the members.".

Jimmy Carter

THE WHITE HOUSE,
May 8, 1978.

[FR Doc. 78-12804 Filed 5-8-78; 11:44 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Up to 30 positions at grades GS-15 and below involved in conducting a study of universal Social Security coverage pursuant to the Social Security Amendments of 1977 are excepted under schedule A because it is impracticable to examine for them. Employment in these positions may not exceed December 31, 1979.

EFFECTIVE DATE: April 21, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3116(e)(3) is added as set out below:

§ 213.3116 Department of Health, Education, and Welfare.

• • • • • •

(e) *General.* • • •

(3) Not to exceed 30 positions established for the purpose of conducting a study of universal Social Security coverage pursuant to section 311 of Pub. L. 95-216. Employment under this authority may not exceed December 31, 1979.

• • • • • •

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-12509 Filed 5-8-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Papaya Reg. 8, Amdt. 1]

PART 928—PAPAYAS GROWN IN HAWAII

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment relaxes the quality and size requirements for Hawaiian papayas during the period May 16 through July 15, 1978. Specification of minimum quality and size requirements for Hawaiian papayas is necessary because of current and prospective supply and demand for the fruit and to maintain orderly marketing conditions in the interest of producers and consumers.

EFFECTIVE DATE: May 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Pursuant to the marketing agreement and order No. 928 (7 CFR part 928) regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Papaya Administrative Committee, established under this marketing order, and upon other information, it is found that this amendment will tend to effectuate the declared policy of the act.

The amendment reflects the Department's appraisal of the current and prospective supply and market demand conditions for Hawaiian papayas. It is designed to assure an ample supply of acceptable quality fruit to consumers consistent with the quality and size composition of the crop.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of papayas grown in Hawaii.

In § 928.308 (Papaya regulation 8; 42 FR 65133), the provisions of paragraph (a) are amended to read as follows:

§ 928.308 Papaya regulation 8.

(a) • • • (1) During the period May 16 through July 15, 1978, to any destination within the production area unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects shall be 5 percent: *Provided,* That not more than 3 percent shall be permitted for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further,* That such papayas individually weigh not less than 14 ounces.

(2) During the period May 16 through July 15, 1978, to any export destination unless said papayas grade at least Hawaii No. 1, except they shall be free from injury caused by bruises and free from deep scars; and scars, when scaly, cracked, or not smooth, shall not aggregate a circle greater than 1 inch in diameter, or when smooth shall not aggregate more than 7.5 percent of the surface of the fruit, except that the total tolerance for all defects shall not exceed 3 percent: *Provided,* That of this amount not more than 1 percent shall be for immature fruit and not more than 1 percent shall be for decay: *Provided further,* That such papayas shall individually weigh not less than 11 ounces each.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated May 4, 1978, to become effective May 16, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-12626 Filed 5-8-78; 8:45 am]

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[3410-37]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 2852—PROCESSED FRUITS, VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Canned Tomato Juice [1]

Agency: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule will change the grade standards for canned tomato juice. This action was initiated at the request of the industry. The effect of the change will be to provide for the use of electronic color meters as an alternative means of determining the color of tomato juice.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Burton, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, phone: 202-447-6193.

SUPPLEMENTARY INFORMATION: Notice of a proposal to amend the United States Standards for Grades of Canned Tomato Juice (7 CFR 52.3621—52.3630) (recodified 7 CFR 2852.3621—2852.3630) was published in the FEDERAL REGISTER of September 13, 1977 (42 FR 45933). Interested persons were given until December 31, 1977, to submit written data, views, or arguments concerning the proposed amendment.

Four letters were received in response to the notice. Brief summaries of the comments received along with the USDA's views and comments thereto and the reasons for such responses follow.

Two letters were received expressing full support of the proposed amendment.

A third comment expressed concern about the possible safety and/or purity of tomato juice that had been checked for color by any electronic or electrical device.

Response: Electronic color meters do not use radioactive materials or harmful emissions of any kind; nor do they in any way alter or contaminate the product they are used upon.

The color of foodstuffs, when determined by electronic color meters, is usually based upon shining a light of known energy or intensity upon a product and then measuring the amount of energy reflected back from that product. In the case of tomato juice, the use of electronic color meters would have no more effect than shining a flashlight upon a glassful of tomato juice for a few seconds.

In the fourth letter, the following issues were presented:

(1) General support was expressed for USDA's effort to recommend and develop the use of objective color meters to determine the color of foodstuffs.

(2) An opinion that the definitions for color for tomato juice that are provided in the current grade standards are ambiguous in that the color limits are established on the basis of hue alone and considerations of chroma (saturation) or value (lightness) are disregarded.

(3) A view that electronic color meters cannot be used as proposed because no single defined methodology of use or calibration is provided.

(4) A concern that the appropriate equations to convert electronic color meter readouts into score points are not given in the proposed amendment.

(5) The recommendation that the standardization or calibration of the electronic color meters that are used be made to a "standard" white source such as magnesium oxide.

Response: The USDA acknowledges that the technical concept of color is a three-dimensional one. The concept is expressed in terms of hue, value and chroma or other synonymous terms.

The references cited in the USDA grade standards for the visual evaluation of the color of tomato juice are discs of colored paper of specified hue, chroma and value. These discs, when used as specified, result in a "blended composite color" which, although expressed in terms of hue, also incorporates considerations of chroma and value. The applicable phraseology used to further describe the subjective limits of the color of different grades of tomato juice also imply references to the chroma and value of the product.

The USDA cannot recommend any given electronic color meter or methodology to the discriminatory exclusion of other meters or procedures which provide equivalent results. Because instrument manufacturers produce a variety of electronic color meters—each utilizing a somewhat different method of use, calibration or standardizing procedure, or color space reference—no one given set of procedures can apply to all instruments.

It is the intention of the USDA that any color measurement system may be used; provided such system is subject to review and approval of the USDA.

Because the calibration procedures differ somewhat, depending upon the instrument(s) involved, no single specified calibration procedure is set forth in this amendment. The USDA prefers, therefore, when necessary, to consult and collaborate with the various concerned color instrument manufacturers to develop acceptable and approved calibration procedures which incorporate the capabilities and color scales used in a particular instrument(s). After calibration, the respective electronic color meters must then provide suitable values or readouts that can be used to "grade the color" of tomato juice.

The appropriate equations used to convert electronic color meter readouts into score points are not included in these standards because the equations vary, again depending upon the color scale that is used and/or the instrumental values provided.

It is expected that more electronic color meters will be developed and marketed in the future. Accurate and reliable data from which conversion equations may be derived will have to be accumulated and analyzed. Since the resultant equations will be somewhat different for the different instruments, it would be easier and more efficient to periodically develop and release an official updated list of mathematical equations to all concerned parties, especially processors and instrument manufacturers. This process could be effected far more quickly than continual formal amendments to the grade standards. Such a list would include all of the mathematical equations that had been developed from reliable and adequate data up until the date or publication and would include the approved equation for the given product (such as tomato puree or tomato juice) for the cited electronic color meter. Such equations might then be further disseminated by involved parties. In some of the newer, more advanced kinds of electronic color meters, the equations can actually be programmed into the instrument to provide desired information or determinations.

The visual evaluations of the color of tomato juice are based on specified references which occupy the same approximate color space as the product. Thus, the data-gathering procedures used to establish the relationship berween visual evaluations and electronic color meter measurements used color references that were quite similar to the product. In other words, a "red" reference was used to evaluate a "red" product.

These closely related color references helped to assure the accuracy of the color measurements.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

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Since judgements of the color of tomato juice involve, primarily, the dark red area of the spectrum, the USDA believes, at this time, that electronic color meters that are "standardized" to this approximate area are slightly more accurate in providing the values necessary to evaluate the color of tomato juice.

However, the standardizing of an appropriate electronic color meter to a "standard" white source or reference (such as magnesium oxide) is not precluded in these grade standards. Any system, instrument, or standardizing procedure may be used; provided accurate, documented data are available to guarantee that sufficient accuracy and reproducibility exist to warrant approval by the USDA and to permit the USDA to derive and establish the necessary mathematical equations.

Therefore, after careful consideration, the text of the United States Standards for Grades of Canned Tomato Juice, including the adopted amendment as proposed on September 13, 1977, is set forth below. Minor editorial changes have been made in the text for clarification purposes.

Effective date: The revised United States Standards for Grades of Canned Tomato Juice shall become effective June 15, 1978.

Sec.

2852.3621 Product description.
2852.3622 Grades of canned tomato juice.
2852.3623 Recommended fill of container.
2852.3624 Determining the grade of a sample unit.
2852.3625 Color.
2852.3626 Consistency.
2852.3627 Defects.
2852.3628 Flavor.
2852.3629 Determining the grade of a lot.
2852.3630 Score sheet for canned tomato juice.

AUTHORITY: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; (7 U.S.C. 1622, 1624).

§ 2852.3621 Product description.

"Canned tomato juice" means tomato juice prepared from clean, sound tomatoes of the red or reddish varieties, as such product is defined in the Standard of Identity for Tomato Juice (21 CFR 156.145) issued pursuant to the Federal Food, Drug, and Cosmetic Act. It is packed in hermetically sealed containers and is sufficiently processed by heat, before or after sealing, to assure preservation of the product.

§ 2852.3622 Grades of canned tomato juice.

(a) *"U.S. Grade A"* is the quality of canned tomato juice that has a good color; that has a good consistency; that is practically free from defects; that has a good flavor; and scores not less than 85 points when scored in accordance with the scoring system outlined in this subpart: *Provided*, That the canned tomato juice may have only a fairly good color, scoring not less than 25 points and a fairly good consistency, if the total score is not less than 85 points.

(b) *"U.S. Grade C"* is the quality of canned tomato juice that has a fairly good color; that has a fairly good consistency; that is fairly free from defects; that has a fairly good flavor, and that scores not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(c) *"Substandard"* is the quality of canned tomato juice that fails to meet the requirements of U.S. Grade C.

§ 2852.3623 Recommended fill of container.

Fill of container is not incorporated in the grades of the finished product, since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container of tomato juice be filled as full as practicable without impairment of quality, and that the product occupy not less than 90 percent of the capacity of the container.

§ 2852.3624 Determining the grade of sample unit.

In addition to considering other requirements outlined in the standards, the quality factors of color, consistency, defects, and flavor are evaluated in determining the grade of the product. The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given for each such factor is:

Factors	Points
Color	30
Consistency	15
Defects	15
Flavor	40
Total score	100

§ 2852.3625 Color.

(a) *General.* The amount of red in canned tomato juice is determined by comparing the color of the product with that produced by spinning a combination of the following Munsell color discs:

Disc 1—Red (5R 2.6/13) (glossy finish).

Disc 2—Yellow (2.5 YR 5/12) (glossy finish).

Disc 3—Black (N1) (glossy finish).

Disc 4—Grey (N4) (mat finish).

Such comparison is made under a diffused light source of approximately 250 foot-candle intensity and having a spectral quality approximating that of daylight under a moderately overcast sky, and a color temperature of 7,500 degrees Kelvin ±200 degrees. With the light source directly over the disc and product, observation is made at an angle of 45 degrees and at a distance of 12 inches or more from the product.

(b) *Availability of color reference.* The colors referred to in this section are available for the approved supplier under a license from the U.S. Department of Agriculture: Munsell Color Co., 2441 North Calvert Street, Baltimore, Md. 21218.

(c) *Use of electronic color meters.* (1) Values that may be used for conversion to a numerical score point color evaluation of the product may be determined by any electronic color meter system approved by the United States Department of Agriculture.

(2) The values derived with the approved electronic color meter system shall be resolvable into a calculated numerical score point by use of any appropriate conversion formula that has been approved by the USDA.

(d) *Grade A classification.* (1) Canned tomato juice that has a good color may be given a score of 26 to 30 points. "Good color" means a color that is typical of canned tomato juice, made from well ripened red tomatoes, which has been properly prepared and properly processed. Such color contains as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color: 65 percent of the area of Disc 1; 21 percent of the area of Disc 2; and 14 percent of the area of either Disc 3 or Disc 4; or 7 percent of the area of Disc 3 and 7 percent of the area of Disc 4, whichever most nearly matches the reflectance of the product.

(2) Any calculated numerical score of 26 points for the product shall be equivalent to a visually evaluated color score of 26 points produced under the conditions specified in paragraph (d)(1) of this section. Proportionally higher calculated numerical scores or visually assigned score points may be assigned to products which show more redness.

(e) *Grade C classification.* (1) Canned tomato juice that has a fairly good color may be given a score of 23 to 25 points. Canned tomato juice that scores 23 to 24 points for color shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a partial limiting rule). "Fairly good color" means a color that is typical of canned tomato juice. To score 25 points for color, the juice shall contain as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color: 59 percent of the area of Disc 1; 24½ percent of the area of Disc 2; and 16½ percent of the area of either Disc 3 or Disc 4; or 8¼ percent of the area of Disc 3 and 8¼ percent of the area of Disc 4, whichever most nearly matches the reflectance of the product.

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(2) Any calculated numerical score of 25 points for a product shall be equivalent to a visually evaluated color score produced under the conditions specified in paragraph (e)(1) of this section.

(3) To score 23 or 24 points for color the canned tomato juice shall contain as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color: 53 percent of the area of Disc 1: 28 percent of the area of Disc 2; and 19 percent of the area of either Disc 3 or Disc 4; or 9½ percent of the area of Disc 3 and 9½ percent of the area of Disc 4, whichever most nearly matches the reflectance of the product.

(4) Any calculated numerical score of 23 points for a product shall be equivalent to a visually evaluated color score produced under the conditions specified in paragraph (e)(3) of this section. A proportionally higher calculated numerical score or visually asigned score may be assigned to products which show more redness.

(f) *Substandard classification.* Canned tomato juice that fails to meet the requirements of paragraph (e) of this section may be given a score of 0 to 22 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 2852.3626 Consistency.

(a) *General.* This factor has reference to the viscosity of the product. The tendency of the insoluble solids to separate, leaving practically clear liquid at the top is also to be noted in this connection.

(b) *Grade A classification.* Canned tomato juice that has a good consistency may be given a score of 13 to 15 points. "Good consistency" means that the canned tomato juice flows readily; has a normal amount of insoluble tomato solids in suspension; and that there is little tendency for such solids to settle out.

(c) *Grade C classification.* If the canned tomato juice has a fairly good consistency a score of 10 to 12 points may be given. "Fairly good consistency" means that the product flows readily; has a normal amount of insoluble tomato solids in suspension; and that there is not a marked tendency for such solids to settle out.

(d) *Substandard classification.* Canned tomato juice that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 9 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 2852.3627 Defects.

(a) *General.* The factor of defects refers to the degree of freedom from defects, such as dark specks or scale-like particles, seeds, particles of seed, tomato peel, core material, or other similar substances.

(b) *Grade A classification.* Canned tomato juice that is practically free from defects may be given a score of 13 to 15 points. "Practically free from defects" means that any defects present do not more than slightly affect the appearance or drinking quality of the product.

(c) *Grade C classification.* If the canned tomato juice is fairly free from defects a score of 10 to 12 points may be given. Canned tomato juice that falls into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that any defects present may be noticeable, but are not so large, so numerous, or of such contrasting color as to seriously affect the appearance or drinking quality of the product.

(d) *Substandard classification.* Canned tomato juice that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 9 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 2852.3628 Flavor.

(a) *Grade A classification.* Canned tomato juice that has a good flavor may be given a score of 33 to 40 points. "Good flavor" means a distinct canned tomato juice flavor and odor characteristic of good quality tomatoes. To score in this classification the flavor of the product shall not be adversely affected by stems, leaves, crushed seeds, cores, immature tomatoes, or the effects of improper trimming or processing.

(b) *Grade C classification.* If the tomato juice has only a fairly good flavor a score of 27 to 32 points may be given. Canned tomato juice that falls into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly good flavor" means a characteristic canned tomato juice flavor. To score in this classification the flavor may be affected adversely, but not seriously so, by stems, leaves, crushed seeds, cores, immature tomatoes, or the effects of improper trimming or processing.

(c) *Substandard classification.* Canned tomato juice that fails to meet the requirements of paragraph (b) of this section may be given a score of 0 to 26 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 2852.3629 Determining the grade of a lot.

The grade of a lot of canned tomato juice covered by these standards is determined by the procedures set forth in the regulations governing inspection and certification of processed fruits and vegetables, processed products thereof, and certain other processed food products (§§ 2852.1 to 2852.83).

§ 2852.3630 Score sheet for canned tomato juice.

Type of container	.....
Container size	.....
Label	.....
Code	.....
Volume (fluid ounces)	.....
Vacuum (inches)	.....

Factors		Score points	
Color	30	(A)	26-30
		(C)	[1]23-25
		(SStd.)	[2]0-22
Consistency	15	(A)	13-15
		(C)	10-12
		(SStd.)	[2]0-9
Defects	15	(A)	13-15
		(C)	[1]10-12
		(SStd.)	[2]0-9
Flavor	40	(A)	33-40
		(C)	[1]27-32
		(SStd.)	[2]0-26
Total score	100		

Grade	.....

[1] Indicates partial limiting rule.
[2] Indicates limiting rule.

The U.S. Standards for Grades of Canned Tomato Juice as hereby amended shall become effective June 15, 1978, and thereupon will supersede U.S. Standards for Grades of Canned Tomato Juice which have been in effect since June 24, 1958.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on April 28, 1978.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service.

[FR Doc. 78-12482 Filed 5-8-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1978 Interpretations of the General Counsel

AGENCY: Department of Energy.

[1] Editorial Note: Chapter II will be renamed at a future date to reflect that it con-

Footnotes continued on next page

ACTION: Notice of Interpretations.

SUMMARY: Attached are the Interpretations issued by the Office of the General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period April 1, 1978 through April 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Office of the General Counsel, Department of Energy, 12th and Pennsylvania Avenue NW., Room 1121, Washington, D.C. 20461, 202-566-9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER in accordance with the editorial and classification criteria set forth in 42 FR 7923, February 8, 1977, as modified in 42 FR 46270, September 15, 1977.

These Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The Interpretations published below are not subject to appeal. However, any person aggrieved by an Interpretation may submit a petition for reconsideration pursuant to § 205.85(f). The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the Notice first cited above.

Issued in Washington, D.C., May 4, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration,
Department of Energy.

APPENDIX

No.	To	Date/ Category
1978-11	Pennzoil Company	Apr. 7 Price
1978-12	The Permian Corporation.	Apr. 7 Price
1978-13	Atlantic Richfield Company	Apr. 7 Price
1978-14	Amoco Oil Company	Apr. 14 Price
1978-15	John D. Manley III	Apr 14 Price
1978-16	HNG Petrochemicals, Inc.,	Apr. 14 Price
1978-17	Pennzoil Offshore Gas Operators, Inc.	Apr. 21 Price
1978-18	Transcontinental Gas Pipeline Corporation.	Apr. 21 Price
1978-19	Sun Oil Company of Pennsylvania.	Apr. 27 Price
1978-20	Collier & Collier, *et al*	Apr. 27 Price
1978-21	Gravcap, Inc.	Apr. 27 Price

INTERPRETATION 1978-11

To: Pennzoil Company
Date: April 7, 1978
Rules Interpreted: § 212.83(c)(2); § 212.31
Code: GCW—PI—Refiner Price Rule; Definition of Covered Product

FACTS

Pennzoil Company (Pennzoil) is a refiner as that term is defined in 10 CFR 212.31 and is therefore subject to the provisions of 10 CFR Part 212, Subpart E. Pennzoil owns and operates four refineries in Pennsylvania, West Virginia, and Louisiana. The firm has also entered into a processing agreement with Ashland Oil Company for the exclusive use of its Freedom, Pennsylvania, refinery through 1979. The firm's refineries in Pennsylvania and West Virginia, including the Freedom, Pennsylvania, refinery (the lube refineries) have a combined capacity of 23,500 barrels of crude oil per day.[1] Approximately 27 percent of the lube refinery yield of Pennzoil's Pennsylvania and West Virginia refinery operations is lubricating base oil stocks as contrasted with a national average of 1 to 3 percent among other refineries. Pennzoil transfers the lubricating base oil stocks from the lube refineries to one of five branded automotive motor oil canning and packaging plants. At these plants, Pennzoil mechanically blends certain lubricant additives purchased by Pennzoil from other firms to the Pennzoil lubricating base oil stocks and then packages the product as lubricating oil for sale. According to Pennzoil, the purchased lubricant additives are composed by volume of 50 to 100 percent lubricant base oil stocks. The remaining components of the purchased lubricant additives are nonpetroleum based substances and some petroleum based chemicals which have not been subject to the Mandatory Petroleum Allocation and Price Regulations. Pennzoil further notes that the purchased lubricant additives have been used exclusively by the firm in the manufacture of lubricating oils and account for approximately 20 percent of the volume and 36 percent of the cost of the finished lubricating oil.

ISSUE

In calculating the increased product costs attributable to lubricants in accordance with the formula for General Refinery Products set forth in 10 CFR 212.83(c)(2), may a firm include, as product costs, those increased costs attributable to lubricant additives which consist of 50 to 100 percent lubricating base oil stocks?

[1] Pennzoil's Atlas Refinery in Louisiana has a crude oil capacity of 45,000 barrels per day and produces no lubricating oils.

INTERPRETATION

For the reasons set forth below, it has been determined that "lubricant additives" which consist of 50-100 percent lubricating base oil stocks should have been treated as a product cost for inclusion in the formula for General Refinery Products set forth at 10 CFR 212.83(c)(2).

The price rules applicable to refiners have undergone substantial revision since their initial adoption by the Federal Energy Office (a predecessor of the Federal Energy Administration (FEA) and the Department of Energy (DOE)) on January 15, 1974. Until their exemption from the Mandatory Petroleum Allocation and Price Regulations on September 1, 1976,[2] both lubricants and lubricant base oil stocks were defined in § 212.31 as covered products.[3] As a result, any increased costs incurred in the mixture of lubricants and lubricant base oil stocks purchased from other firms or any other use of lubricants or lubricant base oil stocks purchased from other firms in the production or sale of covered products by a refiner was calculated pursuant to the "B" factor—the increased product cost provision—of the refiner price rule as set forth at 10 CFR 212.83(c)(2)(iii)(D).[4]

These increased product costs are currently defined in that section in pertinent part as:

> ". . . the total increased cost of the specific covered product or products . . . purchased or landed in the period 't' [the month of measurement], provided such cost is not included in computing 'A'; [increased cost of crude oil]. The cost of a specific covered product or products . . . shall include the cost of a product or products . . . which was a covered product as of May 31, 1976 and is purchased and refined or blended, that is attributable to the production of the covered product or products . . ."

It is therefore clear that increased costs of lubricants and lubricant base oil stocks attributable to the production of a covered product, have been and are used in determining the total product costs for that covered product. Thus, increased costs of lubricant additives composed entirely of lubricant base oil stocks or other covered products have been treated as increased product costs pursuant to § 212.83(c)(2) in the production of finished lubricants.

However, in its submission Pennzoil states that in certain instances, lubricant additives

Footnotes continued from last page

tains regulations administered by the Economic Regulatory Administration of the Department of Energy.

[2] 41 FR 30096 (July 22, 1976).

[3] See 39 FR 1924 (January 15, 1974); 39 FR 4466 (February 4, 1974); 39 FR 12353 (April 5, 1974); 40 FR 2795 (January 16, 1975); 41 FR 13896 (April 1, 1976); 41 FR 24516 and 41 FR 24518 (June 16, 1976); 41 FR 34008 (August 12, 1976) [corrected technical ambiguities retroactive to July 1, 1976].

[4] The provisions of the "B" factor which set forth the manner in which a firm computes its increased product costs, have been revised on numerous occasions. See 39 FR 1924 (January 15, 1974); 39 FR 42368 (December 5, 1974); 40 FR 10444 (March 6, 1975); 41 FR 15330 (April 12, 1976) [effective February 1, 1976]; 41 FR 18807 (May 7, 1976); 41 FR 44151 (October 7, 1976) [effective September 1, 1976]; 41 FR 54919 (December 6, 1976). However, throughout the revisions to the calculation of the "B" factor, increased product costs for specific covered products have been permitted to be passed through on a dollar-for-dollar basis.

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may be composed of a mixture of lubricant base oil stocks, which were classified as a covered product pursuant to § 212.31 prior to September 1, 1976, and other products which have never been subject to regulation under the Mandatory Petroleum Price Regulations. The Mandatory Petroleum Price Regulations do not specifically classify products which are composed of both covered products and other substances, as covered products. However, the Emergency Petroleum Allocation Act of 1973, as amended (P.L. 93-159) (EPAA) provides in § 4(a), that the mandatory allocation and price control program shall extend to "each refined petroleum product." The all-inclusive scope of the products which the EPAA was intended to encompass was emphasized by the Conference Committee when it stated:

> "It is the Committee's understanding that an allocation program, if it is to work at all, must be comprehensive in scope and therefore must include the major refined components of a barrel of crude oil." Conference Report 93-628, 1973 U.S. Code Cong. & Admin. News, p. 2697.

Moreover in § 4(b)(1)(F) of the EPAA, Congress provided that:

> "The regulation under subsection (a), to the maximum extent practicable, shall provide for—. . . equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent refiners, branded independent marketers, and among all users."

In adopting regulations implementing the EPAA, the Federal Energy Office (a predecessor of the FEA and DOE) echoed the language of the Act and provided in 10 CFR 212.2 that:

> "This part applies to *each sale* or *purchase of a covered product* in the United States . . ." [Emphasis added.]

Thus, from the language of the EPAA, the Conference Report on the EPAA and the regulations established in accordance with the EPAA, it is apparent that many types of petroleum products, were incorporated within a single, mandatory pricing program.

Such a determination was recently made by the Temporary Emergency Court of Appeals in *Mobil Oil Corporation v. Federal Energy Administration*, 566 F. 2d 87 (Em. App., 1977). In upholding the authority of the Federal Energy Administration to regulate petroleum products not specifically addressed in the EPAA, the Court noted:

> In our opinion, however, industry usage does not necessarily erect a jurisdictional bar to the regulatory authority of the FEA or compel the technical construction of the Act for which Mobil contends. We must consider the FEA's assertion of authority to regulate natural gas liquids under the EPAA in light of the Act's broadly worded, comprehensive objectives, for it is well settled that the "width of administrative authority must be measured in part by the purposes for which it was conferred. . . ." *Permian Basin Area Rate Cases*, 390 U.S. 747, 776 (1968). The Supreme Court has made it clear that "in the absence of compelling evidence that such was Congress' intention, [it is] unwilling to prohibit administrative action imperative for the achievement of an agency's ultimate purposes". *Id.* at 780. Agency action taken in pursuit of a legitimate statutory goal enjoys a "presumption of validity", and he who would upset it carries a "heavy burden". *FPC v. Texaco, Inc.*, 417 U.S. 380, 389 (1974). We conclude that Mobil has not carried that heavy burden and we find, as the district court did, that the FEA's arguments based on the general energy policy behind the EPAA are the more compelling.

* * * * *

In *Marathon Oil Co. v. FEA*, 547 F. 2d 1140, 1146, (Em. App. 1976), *cert. denied* 426 U.S. 947 (1976), we held that "[d]etailed powers necessary or convenient to the allocation and pricing authority granted with reference to the petroleum industry *did not have to be spelled out*, for the Congress, as well as judges, was fully cognizant of the doctrine of implied powers. The mandating of regulations to achieve the broad objectives enumerated in the Act essentially entailed selection on the part of the agency of means in its judgment best suited, as to which the rule of deference for administrative decisions should not be departed from or grudgingly applied . . ." *Id.* at 93-94. [Footnotes omitted; emphasis supplied in original.]

See, e.g., National Helium Corporation v. Federal Energy Administration, — F. 2d — (Em. App. 1977); Federal Energy Guidelines ¶26,088; *Skelly Oil Company v. Federal Energy Administration*, — F. Supp. — (N.D. Ok., 1977), Federal Energy Guidelines ¶26,084.

As in the *Mobil* decision, a determination that blends, containing covered products and products not covered by the price regulations, are covered by the Mandatory Petroleum Price Regulations, is necessary to achieve the goals of the EPAA, § 4(b)(1)(F). Without this determination, any mechanical blending of a noncovered product with a substantial amount of a covered product would have the effect of exempting that product from regulatory control and would have frustrated both the congressional and regulatory intent of subjecting all covered products to price controls. Such a result was not intended by the Mandatory Petroleum Allocation and Price Regulations or the EPAA, as amended, and would be a clear circumvention of the purpose of the price regulations promulgated pursuant to that Act.

However, it is also necessary to determine the volumetric point at which blends of covered products and noncovered products should not be subject to Mandatory Petroleum Price Regulations. Section 212.31 provides that:

> "A blend of two or more particular covered products is considered to be that particular covered product constituting the major portion of the blend."

Since the Mandatory Petroleum Price Regulations have consistently prescribed that a blended covered product must be deemed to be the particular covered product which constitutes the majority of the blended product, in order to maintain consistency with the Price Regulations and advance the purposes of the EPAA, it has been determined that any product which by volume is composed of 50 percent or more of covered products, must be considered to be a covered product for the purposes of the Mandatory Petroleum Price Regulations.[5]

In the present request for interpretation, Pennzoil states that certain of its lubricant additives consist of 50 percent or more lubricating base oil stocks. As noted previously, until September 1, 1976, lubricating base oil stocks and lubricants were covered products pursuant to § 212.31. Thus, since allowable product costs as set forth in § 212.83(c)(2) generally included the cost of a specific product or products which are or were covered products, the lubricant additives, which are or were composed of 50 percent or more lubricant base oil stocks or other covered products by volume, must be treated as a product cost (as defined in the "B" factor) for purposes of calculating allowable price increases for the lubricants in question.

INTERPRETATION 1978-12

To: The Permian Corporation
Date: April 7, 1978
Rules Interpreted: 10 CFR 212.72; 212.131(a)(2)
Code: GCW—PI—Certification of New Crude Oil

FACTS

The Permian Corporation (Permian), a crude oil reseller, purchases crude oil which the Mobil Oil Corporation (Mobil) produces from various properties. In one instance, Mobil commingles production from five properties in one storage facility, from which Permian purchases all of the commingled crude oil. Mobil, in accordance with 10 CFR 212.131(a)(2)(i), has provided Permian with a "one-time" certification of the base production control level (BPCL) for each of the five properties.

In March 1977, Permian purchased 1089.68 barrels of crude oil from Mobil's commingling storage facility. Mobil did not inform Permian of the number of barrels of crude oil which had been produced and sold from each of the properties whose production was commingled, and Permian, deeming the oil to be old crude oil, paid lower tier prices for all of the crude oil it purchased. On July 1, 1977, Permian received an invoice from Mobil which stated the number of barrels of crude oil which had been produced and sold from each property contributing to the commingling facility in March 1977, and which identified 250.50 barrels as new crude oil which had been produced and sold from three of the properties. The invoice billed Permian for an "additional increased value," based upon the difference between the upper and lower tier prices for the amount of crude oil now identified as new crude oil. Permian refused to pay this additional amount on the ground that the July invoice was a retroactive certification barred by the "60-day rule" contained in the definition of new crude oil, 10 CFR 212.72. In its request for interpretation, Permian seeks a determination that identification of the volumes of crude oil produced and sold from properties whose production is then commingled is a necessary part of the certification of volumes of new and old crude oil, and that the Mandatory Petroleum Price

[5] It should be noted that this Interpretation does not address the question of whether a product which is composed of less than 50 percent covered product by volume, is a covered product for purposes of the Mandatory Petroleum Price Regulations.

Regulations bar Permian from paying the additional amount billed in Mobil's July invoice.

In its comments on Permian's request for interpretation, Mobil acknowledged that, under the facts presented by Permian, Permian could not determine the volume of new crude oil in the crude oil it had purchased in March 1977 until it received the July invoice. Nonetheless, Mobil argued that its one-time BPCL certification was a complete certification that complied with the 60-day rule, and that the supplemental invoice rendered to Permian more than two months after the month of sale, which stated the volumes of crude oil which had been produced and sold from each property, and which billed Permian for now-identified new crude oil, was a "contractual matter between the parties," and not barred by the 60-day rule.

Mobil also presented a second fact pattern, involving different crude oil-producing properties, which it described as a "more likely situation." Mobil stated that it produces crude oil from three properties whose production is commingled at a different storage facility. Permian purchases all of the crude oil from this facility, and, again, Mobil has provided Permian with a one-time BPCL certification for each of the properties. In March 1978, Permian purchased all of the commingled production, and, based upon a timely statement by Mobil of the volumes of crude oil produced and sold from each property, paid upper tier prices for 4209.83 barrels of new crude oil. By invoice dated August 16, 1976, Mobil altered the volumes of crude oil production attributable to each property to correct clerical errors in the previous statement. That change resulted in a total volume of new crude oil of 4417.38 barrels. Mobil billed Permian for the difference between upper and lower tier prices for the 207.55 additional barrels of new crude oil. Permian, contending that this, too, was a retroactive certification of new crude oil barred by the 60-day rule, refused to pay the additional amount.

Mobil further stated that, for the same properties, it issued Permian a credit on August 16, 1976, based upon a correction of the volumes of crude oil production attributable to the various properties for crude oil Permian had purchased in October 1975. This correction resulted in 148.59 *fewer* barrels of new crude oil. Mobil asserts that Permian has accepted the credit from this correction, while refusing to pay the additional amount for the correction which resulted in more barrels of new crude oil. In both cases, Mobil argues, it should be permitted to correct the clerical errors, because its one-time BPCL certification fully complies with the 60-day rule.

In response to Mobil's comments, Permian again asserted that, for first sales of commingled crude oil production, a statement of the volumes of crude oil attributable to each producing property is necessary to complete the certification of volumes of new and old crude oil, and that the 60-day rule applies to any attempt to change those figures so as to increase the number of barrels of new crude oil. With respect to the change resulting in fewer barrels of new crude oil, Permian argues that the Mandatory Petroleum Price Regulations always require corrections that result in the reduction of volumes of new crude oil, and that it therefore acted properly in accepting the credit offered by Mobil.

ISSUE

1. May Mobil retroactively increase the price of crude oil that it produced, commingled, and sold to Permian, where, more than two months after the month of sale, Mobil states for the first time the volume of crude oil attributable to each property contributing to the commingled production, and thereby determines that a portion of the crude oil was eligible for treatment as new crude oil?

2. May Mobil retroactively increase the price of crude oil that it produced, commingled, and sold to Permian, stating at the time of the sale the volumes of crude oil which were attributable to each property contributing to the commingled production, but where, more than two months after the month of sale, Mobil alters the statement of those volumes to increase the portion of the crude oil which was eligible for treatment as new crude oil?

INTERPRETATION

Mobil may not retroactively increase prices for crude oil it has produced and sold where, more than two months after the month of Permian's purchase of commingled crude oil, Mobil for the first time supplies Permian with a statement of the volumes of the commingled crude oil attributable to the various properties producing the oil. Likewise, Mobil may not retroactively increase prices for crude oil it has produced and sold where, more than two months after the month of Permian's purchase of commingled crude oil, Mobil corrects a previous statement of the volumes of the commingled crude oil attributable to the various properties producing the oil, so as to increase the number of barrels of new crude oil.

Before discussing the rationale underlying this determination, it would be useful to review certain pertinent provisions of the Mandatory Petroleum Price Regulations. The BPCL of a property is derived from a computation which yields the average monthly crude oil production and sale from the property in the base period (which may vary from property to property). 10 CFR 212.72. The concept of a BPCL for crude oil-producing properties originated in the Cost of Living Council price regulations in 38 FR 22536 (August 22, 1973), and was incorporated into the Mandatory Petroleum Price Regulations, 39 FR 1924 (January 15, 1974), as 10 CFR 212.72. By subtracting a property's BPCL (and current cumulative deficiency, if any) from that property's current volume of crude oil production, the producer can calculate the number of barrels of new crude oil in any month.

New crude oil, then, is defined in 10 CFR 212.72 as the total number of barrels of domestic crude oil produced and sold from a property in a specific month, less the property's BPCL for that month (and current cumulative deficiency, if any). In addition, however, new crude oil may not include "any number of barrels not certified as new crude oil pursuant to the provisions of § 212.131(a)(1) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold, except where such recertification is explicitly required or permitted by FEA order, interpretation, or ruling."[1] This provision is commonly referred to as the "60-day rule."

In proposing the 60-day rule, the Federal Energy Administration (FEA), a predecessor agency of the Department of Energy (DOE), discussed the effect of retroactive increases in the price of crude oil. The FEA noted that one way in which retroactive price increases occur is "through retroactive recertification of volumes of new and released petroleum included in previous transactions . . . ." 40 FR 13522 (March 27, 1975). The FEA further pointed out that:

> . . . [R]etroactive invoicing may tend to have an adverse effect on those refiners, especially small refiners, that rely in large measure upon domestic crude petroleum. Resellers of domestic crude petroleum may also be adversely affected. In either case, if the purchasers to whom refined petroleum products or crude oil have already been sold by refiners or resellers which receive retroactive price increases are unwilling, in turn, to increase retroactively the prices they have paid, the refiners or resellers which receive retroactive price increases are in the position of having increased costs for crude oil which can be recovered, if at all, only in prices charged in subsequent sales. In any event, the retroactively invoiced prices are costs incurred currently with respect to crude petroleum received and refined or resold in preceding months, which costs should more properly have been incurred in the months when the crude oil was purchased or landed and passed through in the following months.

* * * * *

> These . . . amendments . . . should operate to bring the incurrence of costs more closely into line with the time of purchase of domestic crude petroleum and should lead to increased price stability and reliability. . . . 40 FR at 13523.

It is apparent that, in incorporating the 60-day rule into the definition of new crude oil, the FEA intended to require producers to promptly charge the higher upper tier prices for eligible crude oil, so that refiners and resellers could market refined petroleum products or crude oil with assurance of price stability.

A third key concept, certification by the producer to the purchaser of the volumes of a property's crude oil production, originated in the Cost of Living Council price regulations in 38 FR 22536 (August 22, 1973). It was incorporated into the Mandatory Petroleum Price Regulations, 39 FR 1924 (January 15, 1974), as 10 CFR 212.74(c), and was later placed in 10 CFR 212.131. 39 FR 31622 (August 30, 1974). The requirements of certification have changed, of course, as the regulations governing the sale of crude oil have been revised.[2] They have always, however, required a statement of either the ceiling price of the crude oil or the posted prices from which the ceiling price is derived, and a statement of the volumes of new, old, or released crude oil.[3]

[1] Due to an oversight, the reference to § 212.131(a)(1) in the definition of new crude oil has not been corrected to reflect that crude oil produced from non-stripper well properties must now be certified in accordance with § 212.131(a)(2) rather than § 212.131(a)(1).

[2] For a summary of the changes the certification requirement has undergone, see 41 FR at 36182-83 (August 26, 1976).

[3] Presently, for non-stripper well crude oil, a producer must certify the volumes of new

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Although certification of the volumes of crude oil production was initially required for each sale of crude oil, § 212.131 was later amended to permit this recurrent requirement to be complied with by "a one-time certification by a producer as to the base production control level crude petroleum for each month of 1972 for the particular property." 39 FR 42246 (December 4, 1974).[4] The substitution of a one-time BPCL for the monthly certification of volumes of new and old crude oil sold lessened the certification burden upon the producer while enabling the purchaser to independently determine the volumes of new and old crude oil purchased.

In 41 FR 36172 (August 26, 1976), § 212.131 was further amended to specify that this one-time BPCL certification could only be made where all of the crude oil produced and sold from the property concerned was sold to the same purchaser. This change was necessary to clarify the use of a one-time BPCL certification where the producer sold crude oil produced from a property to two or more purchasers. In the preamble accompanying this amendment, the FEA noted that:

> . . . with respect to a non-stripper well property from which crude oil is sold to more than one purchaser, the one-time certification of the property's BPCL does not accomplish *the purpose of the certification requirement, in that it does not provide the purchasers with sufficient information to determine how much of that purchaser's crude oil purchased each month is properly classified as new crude oil.* Where the property's total monthly production is sold to a single purchaser, of course, that purchaser can easily determine the amount of new crude oil each month by subtracting the property's BPCL from the current monthly production and sale. Where the property's total monthly production is sold to two or more purchasers, however, none of the purchasers is able to determine the amount of new crude oil without knowing how much production was sold to other purchasers. 41 FR at 36183 (August 26, 1976) (emphasis supplied).

Although the efficacy of a one-time BPCL certification where crude oil production from separate properties is commingled before sale to a purchaser has never been addressed, the FEA's discussion of the one-time BPCL certification where crude oil production is sold to two or more purchasers is highly instructive in considering the questions presented by Permian and Mobil. First, it points out that the purpose of the certification is to provide *the purchaser* with enough information to independently determine the volume of new crude oil, if any, in the crude oil purchased. Second, it demonstrates that a one-time certification is ineffective if the purchaser is not given the additional, necessary information which enables it to make that independent, determination. In the case of commingled crude oil production, a one-time BPCL certification fails to achieve the underlying purpose of the certification requirement, and, therefore, such a certification is incomplete and ineffective unless and until the producer supplements the certification with a statement of the actual volumes of crude oil produced and sold from each of the properties contributing to the commingling storage facility.

As noted previously, the definition of new crude oil excludes "any number of barrels not certified as new crude oil . . . within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold . . . ." 10 CFR 212.72. Therefore, in the case of commingled crude oil, a one-time BPCL certification must be supplemented within two months of the month of sale by a statement of the volume of crude oil produced and sold from each property in order for the producer to receive upper tier ceiling prices for any new crude oil in the commingled production.

This result is consistent with FEA's long-standing insistence on strict compliance with the 60-day rule. Prior FEA interpretations have concluded that a producer's failure to certify volumes of crude oil production means that the producer may receive only lower tier prices for that crude oil. See *C. R. England Oil & Gas Properties*, Interpretation 1977-33, 42 FR 46274 (September 15, 1977); *Marine contractors & Supply, Inc.*, 5 FEA ¶83,086 (March 4, 1977). Accordingly, for the first fact pattern presented, Mobil's contention that its one-time BPCL certification complies with the 60-day rule is erroneous, and Permian correctly refused to pay the additional amount which Mobil charged in the July 1977 invoice.

Mobil has presented a second instance involving the purchase of commingled crude oil by Permian. In this case, Mobil completed the required § 212.131(a)(2) certification in a timely fashion by supplying Permian with a statement of the volumes of crude oil produced and sold from each property contributing to the storage facility. More than two months after the month of sale, however, Mobil attempted to correct a clerical error in the statement of the volumes, the effect of which was to increase the number of barrels of new crude oil. It is Mobil's position that the 60-day rule does not prevent the correction of "purely mathematical errors," and that Permian must now pay upper tier prices for that new crude oil.

As noted previously, the 60-day rule was adopted to prevent retroactive increases in the price of crude oil so that purchasers would be reasonably assured of stability in the cost of crude oil. If, as Mobil argues, producers were always able to correct mathematical errors so as to increase the price of their crude oil, it is apparent that the policy represented by the 60-day rule would be vitiated. It is for this reason that the FEA has consistently required strict adherence to the 60-day rule. Further, the FEA has taken the position that clerical errors which result in the failure to certify volumes of new crude oil cannot be corrected more than two months after the month of sale if the correction would increase the price paid for the crude oil purchased. *Perrault Production Company*, 5 FEA ¶80,622 (May 6, 1977); *Schkade Brothers Drilling Company*, 4 FEA ¶83,226 (December 10, 1976); *Rancho C... Company*, 4 FEA ¶83,143 (October 8, 1976). Although these decisions were in the context of certification of stripper well property crude oil, the underlying rationale is equally applicable to the present case.

Accordingly, the DOE has determined that an untimely correction of a clerical error in the statement of the volumes of crude oil attributable to the various properties contributing to a commingling storage facility is barred, for, under the requirements for a complete certification of commingled crude oil, discussed *supra*, it is a "retroactive recertification of volumes of new . . . crude petroleum included in previous transactions," 40 FR at 13522, which the 60-day rule was created to prevent.[5]

Mobil further contends that because it has made a correction of a clerical error which resulted in a *reduction* in the number of barrels of new crude oil sold to Permian, it should likewise be permitted to make a similar correction resulting in an *increase* in the number of barrels of new crude oil. The Mandatory Petroleum Price Regulations, however, *require* a reduction in the volume of new crude oil whenever the original certification overstates that volume, but *forbid* any retroactive increase in the volume of new crude oil where the original certification understates that volume, and the certification was not corrected within the prescribed two month period. This is so because all crude oil produced and sold is deemed to be old crude oil unless it qualifies for treatment as new crude oil under the condition set forth in the definition of new crude oil. See Preamble to Proposed Rulemaking, 40 FR at 13523 (March 27, 1975). Those conditions include certification, and forbid certification (or re-certification) more than two months after the month in which the crude oil is produced. Accordingly, any crude oil which fails to meet all of the criteria for treatment as new crude oil must be treated as old crude oil and sold at lower tier prices. Conversely, however, the failure of a producer to retroactively lower the price charged for crude oil erroneously sold at upper tier prices is a violation of 10 CFR 212.10(a) and 212.73(a).

INTERPRETATION 1978-13

To: Atlantic Richfield Co.
Date: April 7, 1978.
Rules Interpreted: § 212.83(c)(2)(iii)(E).
Code: GCW—PI—Refiner Price Formula, "N" Factor; Non-Product Cost Increases.

FACTS

Atlantic Richfield Co. (ARCO) is a refiner as defined in 10 CFR 212.31 and as such is subject to the price regulations set forth in 10 CFR Part 212, Subpart E. ARCO is considering a plan to institute significant changes in its marketing practices which will reduce the company's marketing expenses. The institution of such modifications to its marketing operations will reduce ARCO's cost of marketing covered products below the May 1973 cost of this non-product cost category.

ISSUE

Do the price regulations applicable to refiners set forth at § 212.83(c)(2) require a refiner to use negative values for the increased marketing cost factor when monthly refiner marketing costs are below May 1973 marketing costs?

INTERPRETATION

When monthly marketing costs fall below May 1973 marketing costs, refiners must use negative "marketing cost increase" values to compute total increased refiner nonproduct costs. This computation is clearly required by the language of the refiner non-product cost formula and is indicated by the historical development of the regulations as they presently exist.

The price rules which are applicable to refiners in § 212.83 include calculations of product and non-product cost factors. The marketing cost increase ("F_i") factor is an element used to compute the total increased non-product costs (the "N" factor) according to the formula,

$$N_i^t = E^t \frac{R_i^t}{R^t} + F_i^t$$

set forth in § 212.83(c)(2)(iii).

Section 212.83(c)(2)(iii)(E) defines the "marketing cost increase" factor as

> "the *difference* between the cost of marketing covered products in the month of measurement and the cost of marketing covered products in the month of May, 1973. . . . The amount of marketing cost increase which may be applied to compute *maximum allowable prices* for covered products is, however, limited" (emphasis added).

Since the "F_i" factor is defined as "the *difference* between the cost of marketing covered products in the month of measurement and the cost of marketing products in the month of May 1973," (emphasis added) mathematical computations for marketing costs may result in either positive or negative values for the "F_i" factor. The formula used to compute a refiner's total increased non-product costs adds the "F_i" factor to the remaining formula elements, consequently, a negative "F_i" addend is a mathematically acceptable element in the equation which computes the "N" factor. The definition of "marketing cost increase" and the formula for calculating "increased non-product costs" therefore permit the use of negative refiner "marketing cost increase" values for the purpose of determining a refiner's maximum allowable prices for covered products.

ARCO concedes in its interpretation request that the algebraic formula for calculating non-product cost increases theoretically permits negative cost increases. However, ARCO believes that the refiner price regulations never were intended to permit the addition of negative cost increases when calculating total non-product cost increases. In support of this view, ARCO states that the present regulations continue the regulatory requirements previously imposed under the authority of the Economic Stabilization Act of 1970, P.L. 92-210, *as amended*, (ESA) which provided that the weighted average price charged on the "base date," May 25, 1970, be treated as a "price floor," to which product and certain non-product cost increases could be added.

Section 203 of the ESA provided that the "President is authorized to . . . stabilize prices . . . at levels not less than those prevailing on May 25, 1970." Although prices of refined petroleum products were not permitted to fall below this base level, the regulations issued pursuant to this authority, which specifically addressed the calculation of price reductions by petroleum refiners, permitted individual elements used to compute permissible sale prices to fall below May 25, 1970 costs, as long as the price calculated in accordance with the regulations equalled or exceeded the May 25, 1970 price. Under the ESA, the Cost of Living Council (CLC) was established. The CLC issued general price rules which covered the petroleum industry until it adopted price regulations in Phase IV which controlled the prices of petroleum and petroleum products. See 6 CFR Part 150, Subpart L, 38 FR 22536 (August 22, 1973). Section 150.358(e) specifically addressed the calculation of price reductions by petroleum refiners and provided that—

> "[a] price charged in excess of the base price may continue to be charged only as long as the *net* increases in allowable costs which support that price in excess of the base price continue to be incurred." (Emphasis added.)

Thus, as intended by the ESA, all elements of the refiner price calculation, including those elements with a negative net value, were required to be included in price computations.

Under the Emergency Petroleum Allocation Act of 1973, P.L. 93-159, *as amended*, (EPAA) the Federal Energy Office (a predecessor of the Federal Energy Administration (FEA) and Department of Energy (DOE)) initially adopted the CLC Phase IV Regulations (39 FR 1924 (January 15, 1974)) including this "net increase" concept. The adoption of the "net increase" concept was mandated by § 4(b)(2)(A) of the EPAA which specifically provided for regulations that required "a dollar-for-dollar passthrough of *net* increases in the cost of crude oil, residual fuel oil, and *refined petroleum products.*" (Emphasis added.)

Section 402 of the Energy Policy and Conservation Act, P.L. 94-163 (1975) (EPCA), amended the EPAA by adding a new § 10 which expressly eliminated the authority previously given to the President under § 203 of the ESA "to prescribe minimum prices for crude oil (or any classification thereof), residual fuel oil, or any refined petroleum product." Subsequent to this amendment, not only the elements of the petroleum price formulas, but the resulting maximum sale prices of petroleum products could be at or below the base period price levels.

The current refiner price regulations have retained this concept of permitting only *net* amounts of allowable costs to be used in the formula for calculating increased refiner costs. Although the formula presently used to compute the amount of marketing costs that may be used to compute maximum allowable prices under § 212.83(c)(2)(iii)(E) does not use the word "net" in reference to the calculation of permissible marketing costs, the regulatory definition of the "F_i^t" factor clearly yields the same result. Therefore, § 212.83(c)(2)(iii)(E) continues the statutory mandates of the ESA, EPAA and EPCA to require price reductions in the event of a negative net cost increase.

Section 212.83(c)(2)(iii)(E) is also fully in accordance with the policy set forth in § 401 of the EPCA which amended the EPAA by adding a new § 9, entitled "passthroughs of price decreases." Section 9 requires the implementation of regulation which provide for a dollar-for-dollar passthrough in prices at all levels of distribution for decreases in costs of crude oil, residual fuel oil, and refined petroleum products.

As required by the EPCA, the FEA amended its regulations, effective February 1, 1976, to reflect the requirements of § 9 of the EPAA (41 FR 5111, February 4, 1976). The preamble to these amendments explained that,

> [a]lthough . . . FEA refiner price [regulations] expressly only provide for a dollar-for-dollar passthrough of *increased* product costs, and are silent with respect to *decreased* product costs, increased product costs are generally defined in the regulations as the difference between current costs and May 1973 costs. Thus, *any reduction* in current cost levels from the cost levels of the preceding month automatically results in a reduction in the amount of increased costs available for passthrough and, hence, in a reduction in a firm's maximum lawful prices. In other words, although the term "reduced product cost" does not appear in the refiners' regulations, *any reduction in product costs automatically constitutes a lesser amount of "increased product costs"* (since such increases are measured from May 1973 levels), except in the unlikely event a firm were to incur costs currently that were below May 1973 levels. (Emphasis added.)

Although FEA's February 1, 1976 regulatory preamble does not specifically discuss the dollar-for-dollar passthrough of cost decreases as it applied to non-product costs, it does indicate (in the previously cited portion of the regulatory preamble) that three possible types of product cost variations might occur. There may be an absolute cost increase over the base May 1973 costs; there may be a relative reduction in the amount of increased costs over May 1973 levels in the current month from a previous amount of increased costs over May 1973 levels, or there may be an absolute cost decrease below the base May 1973 cost levels.

Furthermore, on April 6, 1976, the provisions applicable to other (non-marketing) categories of non-product costs were deleted from § 212.87. The deleted section provided that

> "non-product cost shall be *subtracted from* the increases in other defined categories of non-product costs, so that only the net increase in non-product costs for a particular month may be used to justify an allowable price" (emphasis added). 10 CFR 212.87(b)(2)(1976).

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(upper tier) and old (lower tier) crude oil, separately identifying California lower tier crude oil and any crude oil transported through the Trans-Alaska pipeline. In addition, the producer must state the posted prices from which upper and lower tier crude oil prices are derived. 10 CFR 212.131(a)(2).

[4]The "one-time" certification requirement has since been amended to reflect changes in both the base period and the methods of computation of the BPCL. See 41 FR 36172 (August 26, 1976); 41 FR 43393 (October 1, 1976); 42 FR 41565 (August 17, 1977).

[5]The result reached here is not in conflict with the interpretation recently issued to the Shell Oil Company, Interpretation 1978-2, 42 FR 12848 (March 28, 1978). There, pursuant to a written contract, Shell produced and sold new and old crude oil at upper and lower tier prices. Through clerical error, Shell charged less than the contractually agreed upon prices for certain volumes of both new and old crude oil over a period of time. The interpretation determined that Shell could charge the purchaser the full contract price for the crude oil, as the price was not in violation of 10 CFR 212.74(c). It is important to note that Shell had timely and correctly certified the crude oil as new and old crude oil, and there was, therefore, no question of retroactive recertification of volumes of new and old crude oil.

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The new provisions to § 212.83(c)(2)(iii)(E), which regulate the calculations for such categories of non-product costs and which define the "E" factor, omit any reference to required subtractions. Instead, they refer only to total "increased non-product costs" in conformity with the regulatory definition for marketing cost increase that defines "increased" costs as the *difference* between costs incurred during the month of measurement and those incurred in May 1973.[1]

ARCO also maintains that the use of negative increased marketing cost values for calculating refiner non-product costs creates a disincentive for a refiner to reduce its marketing costs. ARCO states that this process does not permit a refiner to recover funds associated with its more efficient operation or earn a return on its capital investments. ARCO's position is incorrect. The effect of a regulatory policy which requires refiners to use net marketing cost amounts is to permit reductions in marketing costs to be passed through as price reductions for consumers. Prices, thus, remain parallel to costs. The Mandatory Petroleum Price Regulations were not designed to permit refiners to earn a return on capital investments beyond the recovery of costs. However, under the current refiner price regulations, a refiner who invests capital to decrease marketing costs may pass the cost of such investments through to the maximum allowable price by way of the depreciation cost increase, interest cost increase, or other elements of the "E" factor, included in the computation of total increased non-product costs. Thus, no need exists to recover such costs by means of the marketing cost increase calculation ("F_i" factor).

Accordingly, ARCO must use negative "marketing cost increase" values to compute total increased non-product costs when its monthly marketing costs are below its May 1973 marketing costs. The historical development of petroleum price regulation and the language of the current regulations require this result.

INTERPRETATION 1978–14

To: Amoco Oil Company.
Date: April 14, 1978.
Rule Interpreted: 10 CFR 212.83(c)(2)(iii)(E).

Code: GWC—PI—Refiner Price Formula, "N" factor; Non-product Cost Increases.

FACTS

The Amoco Oil Company (Amoco) has submitted a request for interpretation concerning the computation of its depreciation cost increase under the non-product cost portion of the refiner price rule, 10 CFR 212.83. Under the current provisions of 10 CFR 212.83(c)(2)(iii)(E), which set forth the formulae for computing increased non-product costs, a refiner may elect to compute its depreciation cost increase in one of two ways. The method which the refiner may use, however, depends upon the manner in which the refiner calculates its refinery fuel cost increase.

If the refiner chooses to calculate its refinery fuel cost increase under the general non-product cost increase formula "E_n'," then it may include in its E_n' calculation for depreciation cost increase all depreciation costs associated with capital investments, including those which are related to fuel conservation. See 10 CFR 212.83(c)(2)(iii)(E) paragraphs (I)(aa) and (IX)(aa). However, if the refiner elects to calculate its refinery fuel cost increase using the refinery fuel conservation incentive, it then uses a formula based upon the "base refinery fuel usage" per barrel of refinery throughput in May 1973. This method permits the refiner to retain the benefit of any savings it has realized, through fuel conservation efforts since May 1973, in the amount of refinery fuel used per barrel of throughput. If the refiner uses the refinery fuel conservation incentive, then it must exclude from its E_n' calculation of depreciation cost increase "the depreciation costs associated with capital investments which effect fuel conservation." See 10 CFR 212.83(c)(2)(iii)(E) paragraphs (I)(bb) and (IX)(bb).

In its request for Interpretation, Amoco notes that it is a refiner using the refinery fuel conservation incentive. Amoco recognizes that where it makes a capital investment solely for the purpose of conserving refinery fuel, it is clear that it may not include any depreciation cost associated with that investment in its E_n' calculation of depreciation cost increase. However, Amoco points out that most capital investments in refinery machinery or equipment will have *some* effect on fuel conservation. Thus, even where new machinery or equipment is not intended to conserve fuel, the mere fact that it is new may mean that it is more fuel-efficient and, therefore, conserves some fuel. Amoco argues that in this instance the refiner price rule was not intended to require that it omit all depreciation costs associated with that capital investment from its E_n' calculation of depreciation cost increase.

Amoco, therefore, seeks an interpretation of the phrase "capital investments which effect fuel conservation," in order to obtain guidance as to the treatment that is to be accorded the depreciation cost associated with a capital investment that has only a partial or incidental impact on refinery fuel conservation. The interpretation which Amoco seeks would permit the firm to include as depreciation cost in its E_n' calculation an amount which reflects that portion of the capital investment which does not result in refinery fuel conservation. Amoco has suggested that analysis of either investment records or the fuel conservation benefits actually obtained from a capital investment project will, in most cases, yield sufficient information to permit the firm to identify the portion of the capital investment which is related to fuel conservation. Amoco would then exclude that portion of the depreciation cost associated with the investment from its E_n' calculation, but would include the remainder.

The Department of Energy (DOE) published a notice describing Amoco's request for interpretation in the FEDERAL REGISTER, and solicited comments from interested parties. 42 FR 3611 (January 26, 1978). The DOE received five comments in response to that notice. All five comments were submitted by major refiners who employ the refinery fuel conservation incentive formula. One firm agreed with Amoco's suggested interpretation, stating that:

> [the firm] has had no difficulty in establishing an acceptable procedure for computing depreciation costs on capital improvements which will have an incidental effect on fuel conservation. For each refining capital project which resulted in fuel savings . . . an estimate, based upon recognized historical engineering practices, is made of the percentage of total capital investment that was required to achieve the fuel savings . . . . [T]hat portion of depreciation associated with fuel conservation is then subtracted from the E_n' calculation, while the remainder is included.

Comments from the other four firms, however, indicated apprehension that the Amoco approach is unnecessarily complex and burdensome. These firms generally favored a project-by-project analysis, examining each capital investment project to determine whether its primary purpose is to bring about refinery fuel conservation. If so, then all depreciation costs associated with that project would be excluded from the depreciation cost E_n' calculation. However, if the primary purpose of a capital investment project is something other than fuel conservation, all depreciation costs associated with that project would be included in the depreciation cost E_n' calculation, even if there were some fuel conservation benefits. In discussing the advantages of this approach over that suggested by Amoco, one firm related its experience in attempting an item-by-item analysis, and concluded that:

> [t]he experience gained in this procedure has indicated to us that [it] results in time-consuming engineering calculations which, though defensible, may not be readily accepted by anyone unskilled in engineering techniques.

Another company commented that "[a]ttempts to evaluate each project and separate out that equipment relating to fuel conservation would be an accounting and engineering nightmare."

The comments also acknowledged the necessity of using a standard that would be reasonably susceptible to auditing by DOE enforcement personnel. Three firms expressed the opinion that the decisions required by Amoco's proposed method would be difficult to audit, as they would depend primarily on engineering judgments and records. The comments submitted have been carefully reviewed and considered, and many of the suggestions offered by the comments have been incorporated into this Interpretation.

ISSUE

How must Amoco, a refiner using the refinery fuel conservation incentive, treat depreciation costs associated with capital investments which have an effect on fuel conservation? Specifically, how should Amoco treat depreciation costs associated with a capital investment project which, although not primarily intended to conserve refinery fuel, results in some refinery fuel conservation benefits?

INTERPRETATION

For the reasons set forth below, it has been determined that Amoco should examine each refinery capital investment project as a whole to determine its primary purpose. If the primary purpose of the project is to conserve refinery fuel, then all depreciation costs associated with that project should be excluded from Amoco's depreciation cost E_n' calculation. If the primary purpose of the project is other than refinery fuel conservation, Amoco may then include all depreciation costs associated with the project in its E_n' calculation, even though Amoco may also realize some incidental refinery fuel conservation benefits. However, if within a project the primary purpose of which is other than refinery fuel conservation, there is a readily identifiable and separable capital expenditure which was included in the project for the purpose of conserving refinery fuel, then the depreciation costs associated with that expenditure must be excluded from Amoco's depreciation cost E_n' calculation.

The depreciation cost category was added to the refiner price rule because the Federal Energy Administration (FEA), a predecessor agency of the DOE, recognized that the failure to permit refiners to recover the costs of capital investment had two deleterious consequences: it tended to discourage refinery capital investment, and, to the extent that refiners did make such investments, it encouraged them to finance the investment from borrowing rather than from internally generated capital, because refiners were able to recover increased interest costs. See Notice of Proposed Rulemaking, 41 FR at 31864 (July 30, 1976).

At the time that the depreciation cost category was created to ameliorate this problem, the FEA decided to retain the refinery fuel conservation incentive which was already in effect.[1] This decision was made primarily because of the high priority attached to refinery fuel conservation, and also because many refiners had instituted numerous energy-saving measures in reliance upon that incentive. See Notice of Final Rule, 42 FR 5023 (January 27, 1977). In order to prevent unwarranted cost recovery, however, the FEA required refiners which used the refinery fuel conservation incentive to exclude from the depreciation cost category those depreciation costs associated with "capital investments which effect fuel conservation." Without this limitation, refiners could "double-dip," or gain cost recovery in two separate ways, for those capital investments which resulted in refinery fuel savings.

As Amoco has suggested, however, if a refiner is required to forego all depreciation cost recovery on an investment where the fuel conservation benefits are minimal, it will be deprived of an economic benefit under the depreciation cost category entirely out of proportion to the refinery fuel conservation benefit obtained. Carried to the extreme (i.e., for a capital investment project that incidentally provides unintentional, *de minimis* fuel conservation benefits), such a view of exclusion of depreciation cost would result in the loss of recovery of depreciation cost for a substantial portion of refinery investment projects. As Amoco points out, newly installed refinery equipment can be expected to be more fuel-efficient because of technological advances and the fact that new machinery may be inherently more efficient than old machinery of the same type. Amoco correctly states that to deny any depreciation cost recovery in such cases would mean that refiners would be deprived of much of the benefit they were intended to receive through the creation of the depreciation cost category. This would simply recreate the disincentives which the depreciation cost category was designed to eliminate. Accordingly, the phrase "capital investments which effect fuel conservation" must be interpreted so as to permit a refiner to recover in its depreciation cost E_n' calculation depreciation costs which are associated with non-fuel conservation investment projects that incidentally and unintentionally provide minor refinery fuel conservation benefits.

The method proposed by Amoco in its suggested interpretation would accomplish this, but, as was pointed out by several of the firms which commented on Amoco's proposed solution, it would do so in an unnecessarily complex manner. Because the intent of the regulation will be fully satisfied by a simpler, project-by-project approach, under which refiners look to the primary purpose of refinery capital investment projects, the DOE rejects the approach suggested by Amoco.

Under the project-by-project approach adopted herein, a refiner using the refinery fuel conservation incentive must look to each capital investment project to determine the primary purpose of that project. The primary purpose can normally be unambiguously determined from the refiner's investment records. Where a project has two or more major, competing purposes, the refiner must determine from its investment records which of those purposes is the controlling, or leading, purpose. Such a determination will normally be possible from the project description or the schedule of projected benefits contained in the investment records. If the primary purpose of the project is to bring about refinery fuel savings, then all of the depreciation costs associated with the project must be excluded from the depreciation cost E_n' calculation. If the primary purpose of the project is something other than refinery fuel conservation, then all depreciation costs associated with that project may be included in the E_n' calculation. In addition, however, for a project which has a primary purpose other than refinery fuel conservation, the depreciation costs associated with any readily identifiable and separable expenditure which is included within that project for the purpose of refinery fuel conservation must be excluded from the depreciation cost E_n' calculation. This will avoid "double-dipping" on purely fuel conservation items that are included within a larger, non-conservation project.

This approach will bring depreciation costs roughly into the same balance between the E_n' calculation and the refinery fuel conservation incentive formula that would be achieved through the use of the more complex method proposed by Amoco. This is so because some refinery fuel conservation investments will contain expenditures which do not result in any fuel savings, and some non-conservation investments will result in incidental refinery fuel savings. Across the broad spectrum of refinery capital investment projects, these factors will approximately balance out.[2]

The use of a primary purpose test on a project-by-project basis is supported by a direct analysis of the phrase "capital investments which effect fuel conservation." Webster's Third International Dictionary defines the verb "effect" to mean "to bring about . . . [or to] accomplish . . . ." As a noun, the work also means "purpose, intention, [or] end . . . ." The connotation apparent in these definitions is of an intentional act designed to bring about or create a desired result. Applying this meaning of the word in the phrase "capital investments which effect fuel conservation," it becomes apparent that the phrase refers to those capital investments which are designed and intended to bring about refinery fuel conservation, rather than every refinery investment project, regardless of its purpose, which may happen to provide minor or negligible fuel savings. Accordingly, it is appropriate to look to the main purpose served by a capital investment project to determine whether that project is designed to effect, or to bring about, refinery fuel savings.

The project-by-project analysis has the advantage of being simpler for refiners to use. Rather than having to analyze each refinery investment project on an item-by-item basis, and to refer to engineering, as well as investment, records, a refiner will be able initially to review its investment records for each project to determine the primary purpose of that project. The only further step required will be for non-conservation projects, where the refiner will then have to determine if there are any readily identifiable and separable fuel conservation expenditures within that project.[3] In addition to vastly simplifying the analysis required by the refiner, the project-by-project approach will facilitate auditing by DOE enforcement personnel. Auditors generally will be relieved of the task of evaluating engineering records and decisions, and will not have to review unduly burdensome financial records.[4]

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[1] Subpart F of 10 CFR Part 212, which regulates prices charged by resellers and retailers, also conforms to the regulatory policy, dating back to CLC Phase IV price regulations, expressed in the maximum allowable price definition for Subpart E. Indeed, the price rule prescribed by § 212.93(c) specifically requires that decreases in costs since the base period must be used to compute the maximum allowable price by stating that "[a] seller which charges a price in excess of the weighted average price at which the product concerned was lawfully sold by that seller in transactions with the class of purchaser concerned on May 15, 1973, may continue to charge that price only as long as the product cost increases (and, as appropriate, the *net increases in non-product costs* which have been incurred since May 15, 1973, and which support that price, continue to be incurred. *Price reductions shall be made* under this paragraph *as soon as* any computation of increased product costs under § 212.92 (or, as appropriate, *any computation of increased non-product costs* under § 212.93(b)) *reveals a net cost decrease*" (emphasis added).

[1] In the Notice of Proposed Rulemaking, 41 FR 31863 (July 30, 1976), the FEA had indicated that it was considering deleting the refinery fuel conservation incentive from the Mandatory Petroleum Price Regulations. See 41 FR at 31866.

[2] One commenting firm calculated that by using a primary purpose test for each investment project, rather than the item-by-item approach suggested by Amoco, there would be a difference in the final computation of maximum allowable prices of less than $0.00003 per gallon. In addition, this refiner did not exclude readily identifiable and separable fuel conservation items from the depreciation costs associated with non-conservation projects, an action that would further reduce the difference between the two methods of computing depreciation cost recovery.

[3] By readily identifiable and separable fuel conservation items, the DOE intends that refiners should select those items which are quite apparently included within the project for the purpose of improving refinery fuel conservation. A straight-forward example would be the addition of a waste heat boiler in a general refitting of an existing refinery unit.

[4] It should be noted that the DOE does not intend that refiners make any change in

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The touchstone for the analysis of the primary purpose of a refinery capital investment project must be the investment records which outline the purpose (or purposes) of the project, along with a projection of the expected costs of and benefits to be derived from the project.[4] In some cases, a project whose primary purpose is to conserve refinery fuel will fail to achieve that objective. In such a case, the refiner must still adhere to the determination it originally made from its investment records. This is so because a post-construction evaluation of a completed project is not always undertaken, and, if one is, it would rely primarily upon engineering and operating records. This type of analysis is of greater complexity and is particularly difficult to audit. Also, a post-construction evaluation may not be undertaken for some time after the expenditures for that investment project are made. Changing the treatment of the depreciation costs associated with a project two or three years after those costs had been factored into the computation of maximum allowable prices would be difficult at best. If an investment project primarily intended to bring about refinery fuel conservation fails to achieve that purpose, however, the refiner may seek exception relief for the treatment of the depreciation costs associated with that project. See 10 CFR Part 205, Subpart D.

INTERPRETATION 1978-15

To: John D. Manley III
Date: April 14, 1978
Rules Interpreted: § 212.72; Rulings 1975-15, 1977-1, and 1977-2
Code: GCW—PI—Definition of Property

FACTS

Under an oil and gas lease executed in 1970, Double U Oil Co. ("Double U") obtained working interest rights pertaining to a tract of land of approximately 3,770 acres ("the tract"). Double U subsequently began to produce crude oil from the San Miguel formation underlying the tract.

In March 1975, Double U released its rights to approximately 2,070 acres of the tract. Double U regained production rights with respect to these 2,070 acres under an oil and gas lease executed in July 1975. Double U once again released its rights to the bulk of this acreage in August 1977. The "released" acreage in this instance consisted of approximately 1,830 acres (the "subtract").

John D. Manley III ("Manley") proposes to enter into an oil and gas lease to obtain production rights to this sub-tract. Manley proposes to drill exploratory wells in the San Miguel formation, which extends beneath the sub-tract. There has never been any production from the acreage comprising the sub-tract.

ISSUE

(1) Whether the sub-tract Manley proposes to lease constitutes a separate "property" under 10 CFR 212.72. (2) If the subtract is not a separate property how is "new" crude oil (if any) produced and sold from the property allocated among the producers concerned?

INTERPRETATION

For the reasons set forth below, we conclude that the sub-tract in this case does not constitute a separate "property" for purposes of crude oil price controls. Further, the allocation of "new" crude oil among the producers of crude oil from a property subdivided after 1972 is a matter for resolution among the interest holders concerned.

"Property" is defined in 10 CFR 212.72, for purposes relevant to this interpretation, as "the right to produce domestic crude oil, which arises from a lease or from a fee interest. . . ." Ruling 1975-15 (40 FR 40832, September 4, 1975), interpreted the price controls applicable to producers of crude oil in 10 CFR Part 212, Subpart D, as requiring a fixed concept of "property":

> "Because of the need to quantify the 1972 monthly production levels for a particular property in order to calculate that property's base production control level for each month, the producer must refer to the right to produce crude oil as it existed in 1972 in order to define the property involved. This is dictated, of course, by the need to compare like quantities, today and in 1972, in order to ensure a meaningful application of the new and released [crude oil] provisions."

Ruling 1975-15 also addressed the issue of post-1972 subdivision of a pre-existing "property" in the following terms (emphasis added):

> "Just as a post-972 unitization does not establish a new property, neither does the subdivision after 1972 (*through assignment, creation of new leases, or otherwise*) of a single right to produce crude oil into several rights to produce crude oil establish a new property for purposes of measuring the BPCL and determining whether any new or released crude oil has been produced.
>
> *"Example 3:* A is a firm that produced crude oil from a 650 acre lease in 1972. The lease established in A a single right (assignable in whole or in part) to produce crude oil from the entire 650 acres. In 1974, A assigned 100 acres to B, who drilled for and began producing crude oil. During 1972, there were no producing wells on the 100 acres assigned from A to B.
>
> "The production from B's lease is not necessarily classified as new crude oil.
>
> "The fact that during 1972 there were no producing wells within the geographical boundaries of the lease now operated by B does not establish, *per se*, that all of B's production will qualify as new oil. Only when the total current production from the entire 650 acres is measured against the 1972 production from the comparable area can a determination be made as to the existence of new and released crude oil.
>
> "The result reached in Example 3 is consistent with the policy that underlies the two-tier pricing system. For if instead of assigning a portion of the original lease to B, A developed that portion of the lease himself, the production of new oil would occur only if production from the entire property exceeded 1972 levels for the entire 650 acres. That is, where A's property consisted of a single right to produce crude oil from a 650 acre lease, the drilling of a new well located upon a previously undeveloped portion of the lease would not automatically establish new crude oil. Under no circumstances does the mere drilling of a new well automatically establish the production as new crude oil. Production from a property qualifies as new crude oil only if in excess of the property's 1972 production levels and any current cumulative deficiency. The result in the example above is no different merely because A has assigned to B the right to produce crude oil from a porion of the lease. . . ."

The definition of "property" was amended effective September 1, 1976, to permit separate reservoirs to be treated as separate properties on a prospective basis under certain conditions (see 41 FR 36171, August 26, 1976). In addition, the definition of "property" was subject to further clarification in Rulings 1977-1 (42 FR 3628, January 19, 1977) and 1977-2 (42 FR 4409, January 19, 1977). Interpretations 1977-42 (42 FR 61274, December 22, 1977) and 1977-46 (43 FR 1481, January 10, 1978) make it clear, however, that the portions of Ruling 1975-15 cited above are of continuing validity and applicability.

Ruling 1977-1 made it clear that "property," for purposes of the crude oil price regulations, was synonymous with the "premises" or "tract" described in the underlying lease instrument in existence in 1972. Ruling 1977-1, as clarified by Ruling 1977-2, also provided guidelines for determining certain limited cases in which it would be inequitable to apply the literal "tract" basis of the definition of property, both before and after its amendment effective September 1, 1976. These cases were grouped and described in those rulings as follows:

(1) in cases in which a single lease imposes significantly "differing or special rights or obligations with respect to the development and production from particular portions of the described premises," and the producer "has in good faith relied upon such differences in its exploration and development activities, and . . . has consistently and historically accounted for such portions separately," those portions could be treated as separate "properties" (Ruling 1977-1, Section III.F(1));

(2) in cases in which a single lease conveys "a single undifferentiated right to produce with respect to multiple, non-contiguous tracts . . . [which] were developed and produced separately, and . . . [which] have historically and consistently been accounted for a separate properties," those non-contiguous tracts may be treated as separate "properties" (Ruling 1977-1, Section III.F.(2)(a));

(3) in cases involving "very large tracts which are subject to a single right to produce," separate geological formations which have been developed and produced separately, and which have historically and consistently been accounted for separately, may be treated as separate "properties" (Ruling 1977-1, Section III.F(2)(b));

(4) in cases in which "less than the total premises subject to a right to produce [is] unitized or otherwise aggregated with [premises) or portions of premises subject to other rights to produce," forming a single "property," the portion of the tract not so unitized or aggregated may be treated as a separate "property" (Ruling 1977-1, Section III.F(2)(c));

(5) in cases in which the producer "is required, under a single oil and gas lease, to account separately to different royalty owners (whose interests are limited to specific identified portions of the premises, as delineated in the oil and gas lease) for production from corresponding identified portions of the premises granted in a single oil and gas lease," and such portions "have consistently and historically been treated as separate properties," those portions may be treated as separate "properties" for purposes of crude oil price regulations (Ruling 1977-1, Section III.F(2)(d); Ruling 1977-2, Section II.B.1); and

(6) in cases in which the producer is required "to account separately for different types of crude oil produced and sold from different specified portions of a tract in order to determine liability for severance taxes" or similar taxes, the rate of which differs according to different types of crude oil produced and sold from different specified portions of the tract concerned, and the producer "since the inception of price regulations consistently treated such distinct portions of the [tract] as separate properties," those portions may be treated as separate "properties" for crude oil price control purposes (Ruling 1977-1, Section III.F(2)(d); Ruling 1977-2, Section II.B.2).

The request for interpretation does not attempt to characterize the present case as falling within any of these categories or within the scope of the "reservoir" amendment to the definition of "property" effective September 1, 1976. Instead, the request for interpretation relies on (1) the fact that the royalty under the Double U leases was or is considerably more than the royalty called for in the lease which Manley proposes to enter into as producer; (2) assertions that the leasing arrangements in this case, past and proposed, do not appear to reflect any intent to circumvent the two-tier price regulation system; and (3) arguments that the purposes of crude oil price regulations would be served by according the subtract separate "property" status, based on the need for upper tier price incentives for exploration and development of the subtract.

None of the six categories summarized above is based on different royalty rates to the lessor in separate leases to two producers. To permit the establishment of separate "properties" merely on this basis would be to establish a regulatory distinction lacking any rational foundation. Moreover, such a rule would invite widespread circumvention of the two-tier crude oil pricing system through execution of new leases which would alter royalty arrangements. For these reasons, the differences in royalty rates in this case do not establish separate "properties."

Lack of bad faith, or absence of intent to circumvent the crude oil price regulations, is not sufficient, by itself, to merit treatment of the sub-tract in this case as a separate "property." DOE generally assumes the presence of good faith dealings in interpretation requests. The applicable rule, with this assumption, is that subdivision of a "property" after 1972 does not create a new "property," as Ruling 1975-15 explains; but that such a subdivision may reflect or formalize "separate property" status permitted in any event (with or without formal subdivision) under one of more of those narrow categories of cases described in Rulings 1977-1 and 1977-2 or under the "reservoir" amendment to the definition of "property" effective September 1, 1976.

In issuing formal interpretations under 10 CFR Part 205, Subpart F, concerning the meaning and applicability of its regulations, DOE may not determine that a particular regulation or ruling applies or does not apply to a particular case solely on the ground that the application or nonapplication might provide, under the particular facts of the case, sufficient price incentives for increased production of crude oil. In cases in which there is no regulatory basis for the upper tier prices and the upper tier price is necessary to cover the risk and cost of new production, the producer is encouraged to submit a request for exception in accordance with procedures set forth in 10 CFR Part 205, Subpart D.

It is not clear from the facts in this case when production first began under the tract concerned. If it occurred after 1972, the base production control level (BPCL) for the property is zero and *all* production, no matter in what amounts and from which portion or sub-tract, qualifies as upper tier crude oil. If the property has a positive BPCL and "new" crude oil is produced and sold from the property, DOE will not normally allocate "new" crude oil among the participating producers. As in the case of production from unitized properties under 10 CFR 212.75, this is "more properly a matter for private resolution among participants" in the production of crude oil from the property concerned (41 FR 4931, February 3, 1976).

INTERPRETATION 1978-16

To: HNG Petrochemicals, Inc.
Date: April 14, 1978
Rules Interpreted: §§ 212.165; 212.167(b), 212.170; 212.83
Code: GCW—PI—Part 212, Subparts K and E

FACTS

HNG Petrochemicals, Inc. (HNG Petrochemicals) and Houston Pipe Line, Inc., Intratex Gas Company, and Valley Pipe Lines, Inc. (collectively referred to as "the pipeline companies") are subsidiaries of Houston Natural Gas Corporation.

HNG Petrochemicals is the sole owner and operator of several gas plants. Additionally, it is the operator and part owner of one gas plant and a part owner, but not operator, of one gas plant. All gas plants in which HNG Petrochemicals has an interest are located in Texas. At these plants, HNG Petrochemicals extracts natural gas liquids (NGL's) and manufactures natural gas liquid products (NGLP's) which it owns. HNG Petrochemicals does not refine crude oil and its pricing of NGL's and NGLP's is governed solely by Part 212, Subpart K. 10 CFR 212.161(b)(1). Thus, HNG Petrochemicals is a "refiner" as defined in 10 CFR 212.31 and a "gas plant owner" and "gas plant operator" as defined in 10 CFR 212.162.

The plants in which HNG Petrochemicals owns an interest are generally located astride the pipeline companies' gathering and transmission systems. These plants are located at strategic intervals to extract liquids from the gas within HNG Pipeline's transmission lines and from "wet" gas prior to the entry of that gas into the transmission lines.

HNG Petrochemicals has elected to aggregate and allocate product costs on a firm-wide basis. HNG Petrochemicals has also historically measured nonproduct costs on a firm-wide basis.

HNG Petrochemicals submits that prior to promulgation of Subpart K, its aggregation and allocation of product and nonproduct costs on a firm-wide basis was permissible under Subpart E. Furthermore, HNG Petrochemicals asserts that subsequent to the promulgation of Subpart K, its aggregation and allocation of product and nonproduct costs on a total plant basis is permissible.

ISSUE

Was HNG Petrochemical permitted to compute and allocate its increased product and nonproduct costs on a total plant basis under the provisions of Part 212, Subpart E prior to the promulgation of Part 212, Subpart K?

Is HNG Petrochemical permitted under 10 CFR 212.167(b) to compute and allocate its increased product and nonproduct costs on a total plant basis?

INTERPRETATION

I. *Subpart E*

For the reasons set forth below, HNG Petrochemicals has properly computed and allocated increased product costs and nonproduct costs on a total plant basis.

Prior to the promulgation of Part 212, Subpart K, prices of NGL's and NGLP's manufactured in gas plants were regulated by Part 212, Subpart E. *Mobil Oil Corp. v. FEA*, 566 F. 2d 87 (Em. App. 1977); *Accord, National Helium Corporation v. FEA*, — F. 2d —— (Em. App. 1977).

The Cost of Living Council (CLC) and Federal Energy Administration (FEA) regulations pertaining to refiners in effect during August 19, 1973, to December 31, 1974, (Subpart E and the CLC Phase IV predecessor regulations), provided for the firm-wide computation and allocation of such increased costs.

A. *Product Costs*

CLC's Phase IV regulations defined increased product costs:

> "Increased costs of domestic crude petroleum" means the *difference* between the *total costs* of *domestic crude pet[t]roleum* during the month of measurement and the *total cost* of domestic crude petroleum during the month of May, 1973. Increased costs of domestic crude petroleum also means the *difference* between the *total costs* of a *purchased domestic petroleum product* commingled for accounting purposes during the month of measurement and the *total cost* of that product commingled for accounting purposes during the month of May, 1973.
>
> "Increased costs of imports" means, for an imported product, the *difference* between the *total landed cost* for that product landed during the period of measurement and the *total landed cost* of that product landed during the month of May,

Footnotes continued from last page

the method by which they calculate depreciation on capital expenditures. The method refiners use should conform with their historical practice, that is, the method used for purposes of annual stockholder reports and reports to the Securities and Exchange Commission. This is not intended, however, to bar refiners from developing a convenient method for identifying the primary purpose of their capital improvement projects from investment records.

[4] Refiners' investment records will normally unambiguously establish the purpose or purposes of a refinery investment project. Should the investment records fail to reveal the purpose of the project, however, the refiner must establish the primary purpose from investment-type records created during the planning stages of the project. This will avoid the difficulties inherent in post-construction analyses of refinery investment projects, discussed *infra*.

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1973. [Emphasis added.] 6 CFR 150.356(b) (November 2, 1973.).

Similar provisions were adopted by the Federal Energy Office (FEO) a predecessor of the Department of Energy (DOE), in 10 CFR 212.83(b) 39 FR 1924, 1954-55 (January 15, 1974). Furthermore, the CLC's Phase IV price regulations, effective November 30, 1973, defined the "cost of crude petroleum" as including:

. . . the cost of *unfinished oils and natural gas liquids* which are used in refining and are further refined, and which are covered products. [Emphasis added.] 38 FR 33577, 33579 (December 6, 1973).

These CLC regulations also were adopted by the FEO, including the definition of the cost of crude petroleum.* 39 FR 1924 (January 15, 1974). Similarly, the inclusion of NGL's and NGLP's as "covered products" under both CLC and Federal Energy Office (FEO) regulations supports consistent treatment of increased product costs associated with manufacture of NGL's and NGLP's in gas plants. 38 FR 22536 (August 22, 1973); 39 FR 1924 (January 15, 1974).

B. *Nonproduct Costs*

Prior to the promulgation of Subpart K, increased nonproduct costs attributable to refinery operations were referred to as "allowable costs." These "allowable costs" were to be calculated on a firm-wide basis with recovery of only net increases. § 212.82(b)(2); 39 FR at 1952-53. See, *e.g., Sohio-BP Oil, Inc.*, Interpretation 1976-3 (42 FR 7923 (February 8, 1977)). Thus, HNG Petrochemicals properly could have computed and allocated its increased nonproduct costs on a total plant basis before the promulgation of Subpart K.

II. *Subpart K*

Since HNG Petrochemicals is a refiner of oil and gas field gases, but does not refine crude oil, its pricing of NGL's and NGLP's is governed solely by Subpart K. § 212.162(b)(1); see 39 FR 44407 (December 24, 1974); 40 FR 6200 (February 10, 1975).

For the reasons set forth below, HNG Petrochemicals may compute and allocate its increased product and nonproduct costs on a total plant basis from January 1, 1975, to the present. 39 FR 44407 (December 24, 1974).

A. Increased Product Costs

Subsection (b) of §212.167 governs the level of computation and allocation of increased product costs. In pertinent part, it states as follows:

(b) *Aggregation of increased product costs.* Where increased product costs measured with respect to particular volumes of natural gas or natural gas liquids processed *in one or more gas plants* in a month are different, . . . (ii) the *total amount of increased product costs* measured with respect to the total amount of natural gas and natural gas liquids processed *in one or more gas plants under common ownership* in a month *may be allocated to the total sales volume* of natural gas liquid products produced therefrom, provided that once an election in accordance with this paragraph has been made, the elected method of allocating product costs shall continue to be used in the months subsequent to the election. [Emphasis added.]

Thus, the literal language of § 212.167(b) permits computation and allocation of increased product costs on a total plant basis.

Furthermore, when enacting this particular provision of § 212.167 the FEA stated in the preamble to the regulation that:

[T]he FEA's intention was that aggregation of increased product costs should be permitted with respect to products produced at any number of gas plants under common ownership, at the option of the owner. 40 FR 39850 (August 29, 1975).

Therefore, HNG's election to calculate its increased product costs on an aggregate basis is in accordance with § 212.167(b).

B. *Increased Nonproduct Costs*

Section 212.165 of Subpart K permits the recovery of increased nonproduct costs in the prices charged for NGL's and NGLP's up to a maximum of $.00375 per gallon and $.005 per gallon respectively. This section also requires that records be maintained:

. . . to show that the increased non-product costs attributable to gas plant operations . . . are sufficient to justify the amount of the price increase permitted under this section . . . .

Maintenance of records to justify a passthrough of increased nonproduct costs are the subject of both §§ 212.165 and 212.170. Section 212.170 generally states that firms will not be allowed to pass through their otherwise allowable increased product and nonproduct costs unless adequate records are maintained. Of particular interest to this issue, that section states in pertinent part that:

Where one or more gas plants are under common ownership, the records required by this section may be kept in the aggregate for all the gas plants concerned.

Section 212.170 implicitly confirms that increased nonproduct costs may be allocated on either an aggregate or a plant-by-plant basis. See 40 FR 39850 (August 29, 1975). This interpretation is not only indicated by the actual language of these regulations but is also consistent with the treatment afforded increased product costs under § 212.167(b). However, just as is required under § 212.167(b), an election must be made with regard to the basis used for allocating increased nonproduct costs. Consistent treatment of record-keeping requirements for increased nonproduct costs as well as consistency in the allocation of these costs require that such an election be made when nonproduct costs are first recouped.

INTERPRETATION 1978-17

To: Pennzoil Offshore Gas Operators, Inc.
Date: April 21, 1978
Rules Interpreted: § 212.31; § 212.74
Code: GCW—PI—Posted Price; Producers of Crude Oil, Price Rule

FACTS

Pennzoil Offshore Gas Operators, Inc. (POGO), a subsidiary of the Pennzoil Company,[1] produces crude oil from the Eugene Island Block 330 offshore platform located off the coast of Louisiana. The platform constitutes a "property" for purposes of the crude oil price regulations in 10 CFR Part 212, Subpart D.

The property began production of crude oil in April 1973. All crude oil produced and sold from the property was therefore classified as "new" crude oil. As such, amounts produced and sold from the property were not subject to crude oil price ceilings until February 1, 1976, when "new" crude oil became subject to the upper tier ceiling price rule set forth in 10 CFR 212.74.

Until February 1976, POGO sold crude oil from the property concerned at a price which included delivery via pipeline to Ship Shoal Block 28, a crude oil gathering point approximately 70 miles from the Eugene Island Block, where purchasers take delivery of this crude oil.

Delivery is by way of the Bonito Pipeline System, owned by POGO and other offshore crude oil producers. The price set forth in POGO's 1973, 1974, and 1975 contracts was the delivered price, set according to a base price plus a bonus. Costs of transporting the crude oil to Ship Shoal Block 28 were not separately stated.

The Bonito System only transports crude oil produced by its owners, and since it is not a common carrier, has no published tariffs. The Department of Interior approved a transportation rate for measurement of U.S. royalty oil through the Bonito Pipeline System of approximately 16 cents per barrel for 1974 and approximately 4.5 cents per barrel for 1976. According to POGO, the contract "bonus" payments of as much as $2.00 per barrel which it received on crude oil sales prior to February 1, 1976, served, in part, to defray costs of moving that crude oil through the Bonito System.

The price bulletins reflecting the highest posted price on September 30, 1975, applicable under § 212.74 to crude oil produced and sold from the property concerned, stated prices in terms of crude oil delivered into facilities designated by the buyer.[2]

ISSUE

May POGO charge the applicable ceiling price for upper tier crude oil and, in addition, charge the purchaser for delivery services which POGO provided as part of the contract price on the upper tier crude oil base date of September 30, 1975, when the applicable posted price on that date was a delivered price?

INTERPRETATION

For the reasons discussed below, it has been determined that POGO may not, with respect to crude oil produced and sold from the property concerned after January 31, 1976, separately charge the purchaser for delivery of the crude oil to Ship Shoal Block 28 unless POGO makes a corresponding reduction in the price of crude oil below the applicable ceiling price.

The upper tier ceiling price rule set forth at § 212.74(b), initially promulgated on February 1, 1976, (41 FR 4931 February 3, 1976) provides as follows:

"Upper tier ceiling price determination. The upper tier ceiling price for a particular grade of domestic crude oil in a particular field is (1) the highest posted price on September 30, 1975, for transactions in that grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; less (2) $1.32 per barrel [as adjusted by Section 212.77]."

In the preamble to § 212.74, it was noted that:

"In calculating a lawful upper tier price by reference to a September 30, 1975 posted price in the field from which upper tier crude oil is produced . . . producers are required to provide all services associated with production and sale of the crude oil which were provided on September 30, 1975 to a purchaser paying the referenced September 30, 1975 posted prices."

In the same rulemaking notice, in connection with the base posting date of May 15, 1973, used for lower tier ceiling price determinations, the Federal Energy Administration (FEA) illustrated some of the services associated with production and sale which must be continued. Since the preamble stated that the requirement to continue to provide customary services applies equally to sales of lower and upper tier crude oil, FEA's comments with respect to sales of lower tier crude oil are applicable here. The notice stated that:

". . . while May 1973 posted prices often included such services by the seller as cleaning and measuring of crude oil and its delivery to a common carrier pipeline or truck, a tendency to reduce these historical services accompanying production and sale of crude oil with no downward adjustment of the posted price has become more and more pronounced since the advent of the price regulations. *FEA has discovered, for example, cases in which producers have sought to require purchasers of crude oil to pay transportation charges from the lease to the point at which the crude oil is delivered to a common carrier,* notwithstanding the fact that such services were included as part of the posted price on May 15, 1973. Accordingly, FEA wishes to make clear that in establishing a lower tier ceiling price by reference to a May 15, 1973 posted price, the price currently charged shall include all services that were included in the reference posted price on May 15, 1973. This is consistent with FEA's uniform policy that a reduction in services without a corresponding reduction in price constitutes an unlawful means to obtain a price in excess of that permitted by the price regulations." (Emphasis added.)

As the preamble indicates, although the rule prohibiting reduction in customary services without a corresponding reduction in price is not expressly stated in § 212.74 or elsewhere in 10 CFR Part 212, Subpart D, it was the FEA's understanding and intent that this rule applied to all producers of crude oil. This rule applies by virtue of the fact that the ceiling price for crude oil is established with reference to a historic price bulletin which provides, either expressly or by implication, that price include certain customary services, such as delivery. Thus, if the prices in the applicable bulletin for September 30, 1975, are delivered prices, the delivery services customarily provided by the producer on September 30, 1975, in connection with its sale of crude oil, must continue to be provided to the purchaser if the producer wishes to charge the ceiling price applicable to that sale. Any reduction in such services must be accompanied by a corresponding reduction in the sale price.

POGO's assertion that the "bonus" component of the contract price provided compensation for its delivery costs is not persuasive or relevant. The "bonus" was characterized by POGO in its sales contracts as a "new oil" bonus, intended to reflect the substantial and rapid increases in the price of uncontrolled crude oil which occurred in late 1973 and early 1974. The amount of the "bonus" (as much as $2.00 per barrel) bore no discernable relationship to the amount of transportation costs to the place of delivery (16 cents per barrel in 1974, 4 cents per barrel in 1976). Moreover, in a period in which uncontrolled prices were rising substantially faster than costs, the producer's return was such that it is impossible to state with any certainty whether the producer's delivery costs were defrayed by the "base" price or by the "bonus" price. Such price labels were in any event somewhat arbitrary and were not consistently applied during the period concerned.

In order to impose a coherent and uniform system of controls on upper tier crude oil, effective February 1, 1976, it was necessary to tie ceiling price to base postings and eliminate bonuses or premiums as ceiling price determinants. As Ruling 1977-1 (42 FR 3628, January 19, 1977) explains, the definition of posted price specifically excludes all bonuses or premiums for crude oil:

". . . [T]here should remain no question that posted prices used to establish lower tier ceiling prices, as well as posted prices for upper tier crude oil, do 'not include premiums above posted prices which may have been paid for crude purchased on May 15, 1973 [or September 30, 1975] (38 F.R. 33577 at 33578, December 6, 1973).' This was made clear by CLC [The Cost of Living Council] in November 1973 and should have been understood since that time."

Consequently, any bonus or premium above the posted price which a producer charged for its crude oil on September 30, 1975, may not be a part of the September 30, 1975 posted price for purposes of computing the upper tier ceiling price under § 212.74, regardless of the rationale for the bonus or premium. Section 212.74 does not permit the re-establishment of what would amount to a bonus or premium above the lawful upper tier ceiling price for crude oil to reflect separate charges for delivery services which were included as part of the applicable posted price on September 30, 1975.

The historical transportation assessment paid by the Department of Interior for delivery by POGO of royalty crude oil provides no basis for a different result in this case. The fee charged for delivering crude oil pursuant to a royalty agreement has no bearing on the question of whether POGO may institute a separate delivery fee in connection with the sale of its own crude oil when the applicable posted price on September 30, 1975, included delivery. In the case of the royalty crude oil, POGO merely acts as the transporter of crude oil owned by another party and may charge a transportation fee for such services. The crude oil price regulations do not apply to such activities. In contrast, in the case of sales of its own crude oil, the applicable ceiling price under § 212.74 is the price for crude oil delivered by POGO to Ship Shoal Block 28.

INTERPRETATION 1978-18

To: Transcontinental Gas Pipeline Corp.
Date: April 21, 1978
Rules Interpreted: §§ 212.111(c)(2); 212.72
Code: GCW—PI—Def. of Property; Acquisition rule; Reclamation of Waste Crude Oil

FACTS

Transcontinental Gas Pipeline Corp. ("Transco") is a natural gas pipeline company which transports natural gas from the Gulf Coast to the eastern part of the United States.

Sohio Petroleum Co. and Gulf Oil Corp. produced natural gas and condensate from a certain property ("the property") until April, 1975, when they sold their rights in the property to Transco after concluding that production of natural gas therefrom was no longer economically feasible. Sohio and Gulf had established a base production control level (BPCL) for condensate from this property under the price regulations applicable to crude oil set forth at 10 CFR Part 212, Subpart D.

Transco purchased the property in order to store natural gas in the property's underground reservoirs. Transco began in April, 1975, to inject natural gas suitable for pipeline transportation into these reservoirs. The natural gas is stored in the reservoirs and extracted as necessary for use in Transco's pipelines during the winter and early spring. No other firm or individual currently withdraws natural gas from the reservoirs.

Transco's extraction process releases quantities of condensate that were trapped in the reservoir when natural gas production ceased. The separated condensate is stored and then sold.

ISSUE

Whether Transco is bound by the BPCL established by the prior owners and applicable to the property concerned or whether Transco may consider the property a "new" property and apply the upper tier ceiling price to all condensate which it recovers therefrom.

INTERPRETATION

For the reasons set forth below, the property concerned is not a "new" property and Transco must apply a BPCL based on the previous producers' production of condensate from the property when calculating maximum lawful selling prices.

The condensate produced from the property falls within the definition of "crude oil" in § 212.31 and is therefore subject to the price rules contained in 10 CFR Part 212, Subpart D. Generally "crude oil" must be priced according to the lower tier ceiling price rule, unless it qualifies for treatment as "new crude oil." § 212.73(a).*

"New crude oil" is measured by establishing a BPCL as defined in § 212.72 for each

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*Crude petroleum is now referred to as crude oil in DOE regulations.

[1]Pogo Producing Company and Pennzoil Oil and Gas, Inc. are the successors in interest to the Pennzoil Offshore Gas Operators, Inc. POGO Producing Company an independent entity formed by POGO, and Pennzoil Oil and Gas, Inc., a subsidiary of Pennzoil, were formed subsequent to the filing of this request for interpretation.

[2]See for example the Shell Oil Company supplement which provides the highest posted price for the Eugene Island Block 330 crude oil dated September 29, 1975 which incorporates Crude Oil Price Bulletin No. 56. That Bulletin provides "that any transportation charges from the lease tanks into the facilities designated shall be borne by the seller." Thus, the posted price on September 30, 1975 was a delivered price.

*Production from the property has never been sold as "stripper well crude oil" and Transco does not assert that such production would qualify for exempt status under § 212.54.

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"property," based on that property's total production levels of crude oil in 1972 or "old" crude oil production levels in 1975. The production in the current month from the property which exceeds the related BPCL as adjusted under § 212.78, and after taking into account any current cumulative deficiency, is deemed "new crude oil" and may be priced according to the upper tier price rule in § 212.74.

"Property" is defined in § 212.72, for purposes relevant to this Interpretation, as "the right to produce domestic crude oil, which arises from a lease or from a fee interest." In *Meridian Oil Co.*, Interpretation 1977-46 (43 FR 1479, January 10, 1978) and *Texaco*, Interpretation 1977-42 (42 FR 64104, December 22, 1977) the Office of General Counsel concluded that the definition of "property" for crude oil price control purposes generally contemplates a constant frame of reference unaffected by the substitution of one lessee for another or by the execution of a new instrument of conveyance in place of another. See also Rulings 1977-1 and 1975-15. Transco, having acquired the right to produce crude oil from the property concerned, must continue to determine qualification for "new" crude oil based on the BPCL as determined by previous production levels from that property.

Transco's view that its production of condensate is entitled to be sold as "new" crude oil is based essentially on two arguments. The first is based on § 212.111(c)(2), which provides that:

> If a legal entity or component of a legal entity determines pursuant to this part a base production control level for a property which produces domestic crude oil and the entity or component is subsequently acquired by another firm the domestic crude oil produced from that property does not become new crude oil. The base production control level for that property remains the base production control level determined for it b[y] the acquired entity or component.

Transco argues that, because it did not purchase a "legal entity or component of a legal entity," it is free to calculate its BPCL without reference to the BPCL previously established for the property concerned. However, even if transco did not acquire a legal entity or component thereof, it by no means follows that the acquisition in this case resulted in a "new" property. Section 212.111(c) only applies when a legal entity or component of a legal entity is acquired. See *Norman Wooten, Inc.*, Interpretation 1975-9 (42 FR 23722, 23730, May 10, 1977). If a case is presented which does not fall within the scope of § 212.111(c) one must look elsewhere for the applicable rule. The applicable rule is that enunciated in ruling 1975-15, *Texaco*, and *Meridian* concerning the survival of the "property" as a constant frame of reference despite changes in ownership, changes in leaseholders or leasehold rights, subdivision of the property, etc. It should be noted, furthermore, that the theory advanced by Transco was implicitly rejected in *Texaco*, which took note of § 212.111(c)(2) as further confirmation of the position taken in that Interpretation against the creation of a "new" property solely by the substitution of a new lessee-producer.

Transco's second argument is that it produces "salvage crude oil" to which it is entitled to apply the upper tier price ceiling as a production incentive. Transco relies on two Interpretation, in this respect: *Liquid Waste Disposal Co.*, Interpretation 1974-11 (42 FR 25648, 25653, May 18, 1977; vacated *sub nom. Tesoro Petroleum Corp.*, 2 FEA ¶80,514, January 22, 1975) and *Petro U.S., Inc.*, Interpretation 1974-20 (42 FR 25648, 25658, May 18, 1977). According to Transco, these cases stand for the proposition that "salvaged" crude oil is entitled to be sold at upper tier price levels in order to encourage "salvage" operations.

Contrary to Transco's assertion, these cases merely hold that the rules applicable to producers also apply to reclaimers of crude oil. *Liquid Waste* was vacated on appeal based on error in fact because the request for interpretation erroneously indicated that the property concerned had not produced or sold reclaimed crude oil for 11 months of 1972. Under the then-applicable § 212.72, a property's BPCL was calculated solely with reference to the property's 1972 production. *Tesoro* stated:

> "Under these circumstances, all the crude oil which Texas Liquid produces does not necessarily qualify as new or released petroleum under the provisions of Section 212.72 quoted above. Rather, the ceiling price restrictions of Section 212.71 *et seq.* apply to this situation, and sales of the product are subject to ceiling price restrictions."

It was noted in the factual statement in *Petro U.S.* that the "salvage" crude oil operations in that case were not conducted in 1972 or earlier. It was on this basis that the production and sale of reclaimed crude oil was found not subject to the lower tier price ceiling. As in *Liquid Waste*, Transco must measure its production with reference to the property which existed in 1972.

It is not the function of the interpretations procedures as set forth in 10 CFR Part 205, Subpart F, to provide a forum for examination of the merit of individual cases asserting the need for additional price incentives in order to maintain or extend domestic production of crude oil. You may wish to consider submitting a request for exception under 10 CFR Part 205, Subpart D, in order to permit consideration of this aspect of your request.

Interpretation 1978-19

To: Sun Oil Company of Pennsylvania
Date: April 27, 1978
Rules Interpreted: § 212.31; Ruling 1977-5
Code: GCW—PI—Transaction, def.

FACTS

Sun Oil Company of Pennsylvania (Sun) is a "refiner" as that term is defined in the Mandatory Petroleum Price Regulations, 10 CFR 212.31, and as such must compute its maximum allowable prices for covered petroleum products pursuant to the refiner price rule, 10 CFR Part 212, Subpart E.

In connection with its marketing of motor gasoline, Sun indicates that it has established a number of classes of purchaser for its unbranded jobber purchasers of motor gasoline based upon each jobber's delivery location. On May 15, 1973, Sun made several spot deliveries of motor gasoline to unbranded wholesalers pursuant to oral contracts. Sun treated these sales as "transactions," as that term is defined in 10 CFR 212.31, and included them in calculating weighted average May 15, 1973, prices for the applicable classes of purchaser. However, Sun did not include in its weighted average prices for any unbranded wholesale class of purchaser the prices that it charged to Vickers Petroleum Company (Vickers) for motor gasoline delivered on May 15, 1973. Nevertheless, since the beginning of the Mandatory Petroleum Allocation and Price Control Program, Sun has placed Vickers in the same unbranded wholesale class of purchaser as jobbers that purchase motor gasoline from Sun on a spot basis and take delivery at the same location.

On May 15, 1973 Sun delivered motor gasoline to Vickers at prices which were calculated pursuant to a long-term contract signed by Vickers and a predecessor of Sun on March 19, 1963. The contract specified a range of volumes of motor gasoline to be purchased annually by Vickers from Sun. Under the contract, Sun's prices for motor gasoline delivered to Vickers would either be reduced if Vickers did not realize specified annual margins on its subsequent sales of the gasoline under Vickers' brand names or be increased if Vickers realized more than these margins. The contract did not specify fixed prices for the motor gasoline sold but provided only for interim prices to be billed on the date of delivery. Positive or negative adjustments to these interim prices for all motor gasoline sold in the calendar year were calculated by Vickers and billed by Sun within 30 days after the end of each month, with the final adjustment establishing a fixed price made at the end of the year. No such final adjustment in price for motor gasoline delivered by Sun to Vickers was made on May 15, 1973, and the prices for the motor gasoline delivered on that date where subject to repeated adjustments throughout the latter part of 1973.

Sun states that it sold motor gasoline to Vickers in accordance with the contract at prices that were lower than those Sun charged to other unbranded wholesalers purchasing motor gasoline on a spot basis. After December 31, 1973, when the contract was terminated, Sun continued to sell motor gasoline to Vickers, but at prices equal to those charged to other unbranded wholesalers who purchased on a spot basis.

ISSUE

Did Sun's motor gasoline deliveries to Vickers on May 15, 1973 constitute a "transaction" as defined in 10 CFR 212.31 for purposes of calculating its weighted average May 15, 1973 price for the appropriate class of purchaser?

INTERPRETATION

For the reasons set forth below, it has been concluded that Sun's deliveries of motor gasoline to Vickers on May 15, 1973 pursuant to the March 19, 1963 contract did not constitute a "transaction" within the meaning of 10 CFR 212.31 and Ruling 1977-5, 42 FR 15302 (March 21, 1977).[1]

Under the Mandatory Petroleum Price Regulations, a refiner may not charge prices for covered products to any member of a class of purchaser that exceed the "maximum allowable price," now defined in 10 CFR 212.82 as "the weighted average price at which the covered product was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973 . . . ." Transaction is defined in 10 CFR 212.31 as "an arm's-length sale between unrelated persons which are not members of a controlled group . . . and is considered to occur at the time and place when a binding contract is entered into between the parties."[2]

A determination of the date upon which a transaction occurred is essential for the calculation of maximum allowable prices, as the weighted average May 15, 1973 price for an entire class of purchases is determined solely by reference to prices charged in transactions with member(s) of the class occurring on May 15, 1973 or, if no such transactions took place on that date, by reference to those transactions that occurred on the most recent date preceding May 15, 1973. See 10 CFR 212.83(a)(3) and Ruling 1977-5, § II C.

The definition of "transaction" set forth in § 212.31 was clarified in Ruling 1977-5. That ruling determined that a "transaction" is presumed to occur on the date a contract is executed for written contracts stipulating a single, fixed price. However, for variable-price contracts (contracts in which the price varies over the life of the contract according to a pricing mechanism), a transaction is presumed to occur when the price is fixed for a specific volume of product sold and delivered:

> "[T]he proper interpretation of the 'transaction' definition with respect to a contract without a fixed price term is that such a variable-price contract is merely a general sales agreement which, because of its lack of a fixed price that would reflect market level prices on the date the contract was entered into, cannot be regarded as a 'binding contract' for purposes of the definition of 'transaction' and the computation of May 15, 1973, selling prices. Within the framework of such a general sales agreement, one or more subsidiary contracts occur, and they are presumed to have been entered into on the date the *price becomes fixed with respect to a particular delivery.* At the time a fixed price is specified with respect to a particular delivery pursuant to the terms of a general sales contract, a 'binding contract' arises for purposes of the definition of 'transaction.'" Ruling 1977-5, § III B (emphasis added).

Sun's contract with Vickers did not establish a fixed price for the motor gasoline to be sold. Thus, it was a variable-price contract for which transactions are presumed to occur when the price was fixed for specific quantities of motor gasoline sold and delivered by Sun to Vickers. In the instant case, under the terms of this contract, Sun could not establish a fixed price for its deliveries of motor gasoline to Vickers on May 15, 1973 until Vickers informed Sun of its profitability for the year ending December 31, 1973. This profitability was determined by Vickers' financial condition and market-related events that occurred long after May 15, 1973.[3] Only at the end of 1973 could Sun establish a fixed price for all motor gasoline delivered in that year to Vickers under the contract. Therefore since the sales price for the motor gasoline was not fixed on May 15, 1973 and did not relate to market conditions on that date, a transaction under the Mandatory Petroleum Price Regulations did not occur between Sun and Vickers on that date.

Accordingly, pursuant to 10 CFR 212.31 and Ruling 1977-5, deliveries of motor gasoline by Sun to Vickers on May 15, 1973 did not constitute a May 15, 1973 transaction.

Interpretation 1978-20

To: Collier & Collier, et al.[1]
Date: April 27, 1978
Rules Interpreted: § 212.31, § 212.73, § 212.74
Code: GCW—PI—Posted Price

FACTS

Collier & Collier, *et al.* (Collier) are independent crude oil producers, operating in the Southeastern New Mexico area and as such, are subject to the petroleum price regulations set forth in 10 CFR Part 212, Subpart D. Each firm has sold crude oil to Navajo Refining Company ("Navajo"), a small and independent refiner.[2] On May 15, 1973 (the date specified in 10 CFR 212.73 as the basis for establishing lower tier ceiling prices), Navajo sent letters to various producers. In those letters, the refiner stated in part:

> "Effective 7:00 a.m., May 15, 1973, Navajo Refining Company will begin paying 15¢ per barrel *Competitive Allowance* to certain producers in southeastern New Mexico . . . .
>
> This *Competitive Allowance* increases Navajo's price on sour crude to $3.85 per barrel on a flat rate for certain producers with no reduction for gravities below 40 degrees . . . ."

The May 15, 1973 letters were mailed to substantially all parties operating crude oil wells in Southeastern New Mexico.

On September 30, 1975 (the date specified in 10 CFR 212.74 as the basis for establishing the upper tier ceiling prices), Navajo issued no formal price bulletins applicable to Southeastern New Mexico. Instead, in accordance with a practice instituted during the preceding 12 month period, Navajo telephoned producers with whom it maintained a supplier/purchaser relationship to inform them of price increases. In addition, Navajo wrote individually to firms that had not yet established supplier/purchaser relationships for crude oil produced from new properties in Southeastern New Mexico, and offered to purchase the new crude oil at the highest posted price then prevailing in the area without any adjustments in price for gravity lower than 40 degrees API.

During August and September 1975, Navajo contacted by telephone and individual letters a substantial number of crude oil producers in the Southeastern New Mexico area and informed these producers of its increased price offered for crude oil. The price offered by Navajo during this period was $12.65 per barrel for "sour" crude oil and $13.35 per barrel for "sweet" crude oil and condensate. In addition, during September and October 1975, Navajo mailed written run statements to each producer from whom the firm purchased crude oil in the preceding month. These run statements set forth the prices paid by Navajo to each producer, based upon Navajo's price offers to these producers during August and September 1975.

ISSUES

Did Navajo's May 15, 1973 letters constitute a posted price for the purpose of 10 CFR 212.73 (lower tier ceiling price rule)? Did Navajo's offers to purchase crude oil (at the highest posted price without any adjustment for gravity differentials) made by individual letters and telephone conversations during September 1975, and confirmed by subsequent run statements for September 1975 sent to producers from whom Navajo purchased crude oil in October 1975, constitute a posted price for purposes of 10 CFR 212.74 (the upper tier ceiling price rule)?

INTERPRETATIONS

Neither Navajo's May 15, 1973 letters nor the telephone conversations and letters as confirmed by the run statements applicable to September 30, 1975 constitute posted prices within the terms of 10 CFR 212.73 and 212.74.

The concept of "posted prices" has been understood among buyers and sellers of crude oil as the announced price at which a crude oil buyer will purchase crude oil of a specified quality from a field. The general practice among buyers has been to issue widely circulated price bulletins periodically announcing the price a particular buyer would pay for a particular grade of crude oil in a specific area. The definition of "posted price," presently set forth at § 212.31, was first adopted by the Cost of Living Council pursuant to the Economic Stabilization Act of 1970, as amended, P.L. No. 91-379, on November 30, 1973, in conjunction with its adoption of the two-tier pricing system, and has remained substantially unchanged. That definition provides:

> "'Posted price' means a written statement of crude oil prices circulated publicly among sellers and buyers of crude petroleum in a particular field in accordance with historic practices, and generally known by sellers and buyers within the field."

The definition of "posted price" was elucidated in Ruling 1977-1, 42 FR 3628 (January 19, 1977):

> ". . . other than the published price bulletins of the type traditionally issued by major oil companies, FEA will only recognize as a 'posted price' written offers to purchase only so long as they were bona fide public offers of general applicability to crude oil producers in the field. For example, a letter from a purchaser would to all crude oil producers in a field or in an area constitute a posted price if the letter was understood by producers and the purchaser to be a bona fide offer to purchase from all producers in that field or area. A written contract, of course, would not qualify as a posted price because it repre-

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[1] This interpretation does not address whether Sun properly determined its classes of purchaser or if Vickers was placed in the correct class of purchaser by Sun.

[2] This definition was first adopted by the Cost of Living Council in Phase IV of the Economic Stabilization Program. 6 CFR 150.352, 150.358(g), 38 FR 22536 (August 22, 1973).

[3] The adjustments in the interim prices under the contract between Sun and Vickers are distinguishable from adjustments made after delivery of a product to prices fixed pursuant to a posted price contract of the type specifically discussed in Ruling 1977-5 § III B.

[1] The following parties also joined in the request for interpretation:
Depco, Inc., Elk Oil Company, H & S Oil Company, Harvey E. Yates Company, Kennedy Oil Company, Kersey & Company, Larue & Muncy, Herman J. Ledbetter, McClellan Oil Corporation, Newmont Oil Company, Read & Stevens, Inc., Tom Sivley, Summit Energy, Inc., Tom Boyd Drilling Company, Yates Petroleum Corporation, Windfohr Oil Company.

[2] Navajo operates a 29,930 barrel per day refinery in Artesia, New Mexico.

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sents an agreement between a buyer and specific producer, not a bona fide offer to purchase from all producers."

Thus, a widely circulated letter, which was intended to be a bona fide offer to purchase crude oil from all producers in a given area, could be a posted price.

However, the Navajo May 15, 1973 written statement cannot be considered a posted price for purposes of the lower tier ceiling price rule. In that document, Navajo establishes an increase in its price effective 7 a.m. on May 15, 1973. This offer to purchase crude oil does not meet the specific criteria set forth in § 212.73(b). That section provides as follows (emphasis added):

"The lower tier ceiling price for a particular grade of domestic crude oil in a particular field other than in Alaska or California is the sum of: (1) The highest posted price at *6 a.m., local time, May 15, 1973*, for transaction in that grade of crude oil in that field, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; plus (2) $1.35 per barrel [as adjusted pursuant to § 212.77]."

As noted previously, the May 15, 1973 Navajo letter specifically provides that the offered price would be effective at 7 a.m. of that date. Thus, the Navajo letter cannot meet the conditions of § 212.73, which require a posting to be effective at 6 a.m. of May 15, 1973.

In its presentation, Collier argues that such a determination is contrary to the industry practice of establishing a posted price at 7 a.m., rather than 6 a.m., on any given date. Collier further maintains that by ignoring industry practice, the Department of Energy (DOE) has in fact utilized May 14, 1973 as the base date for the establishment of lower tier ceiling prices. The producers therefore assert that the DOE has circumvented the clear mandate of the Emergency Petroleum Allocation Act of 1973 (EPAA), as amended, P.L. No. 93-159, for the use of "the same date in the computation of mark up, margin and posted prices . . . ." EPAA, § 4(b)(2)(c).

These allegations by Collier are erroneous. In selecting May 15, 1973, as the date on which to freeze field postings the DOE (through its predecessor agencies) chose a relatively stable date and time so that posted prices would accurately reflect the transactions on that date. *See, e.g.*, 39 FR 44407 (December 24, 1974). Although an hour other than 6 a.m. that was more convenient for some producers could have been selected as an appropriate time for the establishment of base posted prices, the choice of the 6 a.m. time was certainly within the discretion of the agency in view of the general standards and the broad objectives outlined within the EPAA. *See Mobile Oil Corporation* v. *FEA*, 566 F.2d 67 (TECA 1977); *Marathon Oil Co.* v. *FEA*, 547 F. 2d 1140 (TECA 1976), *cert. denied*, 426 U.S. 947 (1977). As such, the choice of the 6 a.m. time on May 15, 1973 is an administrative determination that established a basis for the entire lower tier crude oil pricing program.

Nevertheless, the DOE recognizes that the establishment of general parameters for a regulatory program may sometimes appear harsh in individual cases, but yet be essential to a workable regulatory scheme. The establishment of such regulatory criteria may unavoidably cause some firms to fall just short of meeting those criteria. However, the interpretations process has never been intended as a vehicle to excuse parties from specific criteria, but rather to interpret the standards as they apply to a specific set of facts. *See Damson Oil Corporation*, Interpretation 1977-38, 42 FR 54268 (October 5, 1977). In this case, § 212.73 is unambiguous in stating 6 a.m. local time as the point for establishing a valid posted price on May 15, 1973. The mere fact that producers, such as Collier, may have relied to their detriment on the Navajo posting or may now incur serious financial hardship or experience an inequitable situation is not a reason for interpreting § 212.73 in a manner that is contrary to its clear intent. Such arguments are more appropriately rasied in an Application for Exception submitted to the DOE pursuant to 10 CFR Part 205, Subpart D.

In its submission, Collier also asserts that Navajo had established a posted price in Southeastern New Mexico on September 30, 1975 for purposes of determining the upper tier ceiling price pursuant to § 212.74. Collier maintains that Navajo's telephone communication of its price increase to producers with whom it maintained a supplier/purchaser relationship, and its written offers to purchase crude oil at the highest price from new lease operators, constitute a posted price when confirmed by the subsequent run statements, which set forth the prices actually paid to each producer.

Collier's assertions are not persuasive. The upper tier ceiling price is set forth in § 212.74(b). That section provides:

"The upper tier ceiling price for a particular grade of domestic crude oil in a particular field is (1) the highest posted price on September 30, 1975, for transactions in that grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; less (2) $1.32 per barrel [as adjusted pursuant to § 212.77]."

As discussed previously, a posted price must be a bona fide public *written offer of general applicability* to crude oil producers in a particular field. *See* Ruling 1977-1, *supra*. Thus, from the information presented by Collier, neither the prices established by the telephone communications nor the letters sent to individual producers, even in conjunction with a confirming run statement, can constitute a posted price. Both the telephone conversations and letters sent to new lease operators were individual offers to purchase crude oil. Although many producers in Southeastern New Mexico may have in fact known of Navajo's offers to these producers, these offers were individual offers made to particular producers and therefore did not constitute offers of general applicability for the purchase of crude oil at a particular price. In addition, the telephone communications to producers were verbal offers that were never confirmed by a written general offer, and as such, could never constitute a posted price pursuant to § 212.31.

Moreover, the run statements that Navajo sent to producers from whom it purchased crude oil cannot cure the defects of these offers. Again, these statements were sent to individual producers and reflected prices paid for crude oil that had already been purchased by Navajo. The run statements were not a confirmation of general offers to purchase crude oil. At best, the run statements were confirmations of individual contracts between individual producers and Navajo. Such contracts have never been treated as posted prices. *City of Long Beach, California*, Interpretation 1977-2, 42 FR 10963 (February 25, 1977), *aff'd* 6 FEA ¶80,525 (July 26, 1977). Consequently, Navajo did not establish a posted price on September 30, 1975 that could be used to compute the upper tier ceiling price pursuant to § 212.74.

INTERPRETATION 1978-21

To: Gravcap, Inc.
Date: April 27, 1978
Rules Interpreted: Part 212, Subpart D; § 210.62
Code: GCW-PI-First Sale, def.; Crude Oil Ceiling Price Rules; Normal Business Practices

FACTS

Gravcap, Inc. (Gravcap), a corporation formed by firms producing Louisiana offshore crude oil, acts as a clearinghouse for the calculation of adjustments for differences in the sulfur content of crude oil produced by offshore Louisiana producers using the Ship Shoal pipeline system. Gravcap neither sells the crude oil for producers nor takes title to the crude oil. Its adjustment for the differences of sulfur content in the various crude oils produced by firms using the pipeline system does not effect the price paid by purchasers of the crude oil.

In implementing the sulfur adjustment, Gravcap measures the sulfur content of each crude oil type as it enters the pipeline system at various reception points. The crude oil from the pipeline systems are then further commingled at an offshore facility (Ship Shoal Block 28) and shipped from the offshore facility through the Ship Shoal pipeline to onshore reception points where the sulfur content of the crude oil is again measured. Gravcap then either credits or debits the accounts of the various firms shipping crude oil over the Ship Shoal pipeline system so that producers and shippers of crude oil with a higher than average sulfur content transfer funds through Gravcap to producers and shippers of crude oil with a lower than average sulfur content. In this way, producers and shippers of low sulfur crude oil receive compensation for the commingling of their crude oil with high sulfur crude oil. On September 30, 1975, the date for the establishment of prices for upper tier crude oil, Gravcap assessed a sulfur differential of 20 cents per barrel for a 1 percent sulfur content above a base level of .4 percent sulfur. Gravcap's contracts with users of the Ship Shoal Block 28 facility permitted periodic revisions to the sulfur content differential value tables and the base sulfur percentage. On October 1, 1975, Gravcap established a new sulfur differential adjustment of 50 cents for each 1 percent sulfur content above a new base level sulfur content of 0 percent per barrel of crude oil.

Pennzoil Oil and Gas Inc. and Pogo Producing Company (which are successors in interest to Pennzoil Offshore Gas Operators, Inc.), producers using Ship Shoal Block 28, have submitted comments opposing Gravcap's imposition of an additional sulfur adjustment on October 1, 1975. Placid Oil Company, another producer using the Ship Shoal Block 28 facilities, has submitted comments supporting the Gravcap submission.

ISSUE

May Gravcap increase the sulfur differential adjustments which were utilized on May 15, 1973 and September 30, 1975, without violating the provisions of 10 CFR Part 212, Subpart D?

INTERPRETATION

For the reasons set forth below, it has been determined that Gravcap's adjustment to the sulfur differentials in existence on May 15, 1973 and September 30, 1975 is permissible.

In its submission, Gravcap states that it does not sell or take title to the crude oil involved, and therefore does not effect the price paid for the crude oil by the purchasers of the crude oil. As a result, Gravcap states that it does not engage in a first sale of the crude oil as that term is defined in § 212.72 and therefore is not subject to the provisions of 10 CFR Part 212, Subpart D.

First sale is defined in § 212.72, in part, as:

"the *first transfer* for value by the producer or royalty owner." (Emphasis added.)

Gravcap does not engage in a "sale" of crude oil, since all "transfers for value" occur between the actual producer of the crude oil and individual purchasers. Gravcap merely acts as a clearinghouse which provides a service by measuring the sulfur content of the crude oils and assessing adjustments for the producers or other shippers using the pipeline facilities. Gravcap's actions do not effect the final price of the crude oil paid by the first purchasers of the crude oil, and thus do not interfere with the maximum upper or lower tier ceiling prices established pursuant to Part 212, Subpart D. Instead, Gravcap assures that producers or shippers of low sulfur crude oil obtain compensation from producers or shippers of high sulfur crude oil for the commingling and consequent lessening in value of their lower sulfur content crude oil.

This situation is comparable to that of a unit operating agreement. In a unit agreement separate leases are voluntarily unitized and through special recovery techniques production patterns of the leases may be significantly altered so that increased "new" crude oil production may result. The Mandatory Petroleum Price Regulations do not prescribe the specific method for dividing the increased production among the participating leases. Instead, in a preamble to revisions to Part 212, Subpart D, it was determined that "this allocation [is] more properly a matter for private resolution among participants of the unit agreement." 41 FR 4931 (February 3, 1976).

Similarly, the assessment of sulfur adjustments among crude oil producers or other shippers using the pipeline facility is a private matter which must be worked out by the users of the system. The sulfur adjustment is clearly intended to protect and reimburse producers and shippers of low sulfur crude oil from the diminution in value which the commingling of high sulfur crude oil with the low sulfur stream may cause. Since the adjustment does not effect the maximum upper or lower tier prices for the crude oil paid by the purchasers of the crude oil, the adjustment is not subject to the provisions of 10 CFR Part 212, Subpart D.

However, the DOE has received comments from Pennzoil Oil and Gas, Inc. and Pogo Producing Company (POGO) that are adverse to this conclusion. In its submission, POGO contends that the increased sulfur differential assessed by Gravcap violates the provisions of § 210.62(c). POGO argues that § 210.62(c) requires that no firm engage in any actions which could result in the circumvention of the Mandatory Petroleum Price Regulations. POGO further alleges that Gravcap's actions are a circumvention of the provisions of Part 212, Subpart D since the adjustment permits one group of a regulated class of firms to avoid regulation at the expense of other members of the same class, therefore resulting in the unequal application of the provisions of Part 212, Subpart D to similarly situated firms.

POGO has failed to address the underlying purpose of § 210.62(c) in its comments. Section 210.62(c) provides in part:

"(c) Any practice which constitutes a means to obtain a price higher than is permitted by the regulations in this chapter or to impose terms or conditions not customarily imposed upon the sale of an allocated product is a violation of these regulations. Such practices include, but are not limited to devices making use of . . . transportation arrangements, premiums, discounts, special privileges, . . . or failure to provide the same services and equipment previously sold."

The provisions of § 210.62(c) were elucidated in *National Airlines, Inc.*, Interpretation 1977-11, 42 FR 31143 (June 20, 1977):

"Under § 210.62(c), it is unlawful to impose terms or conditions not customarily imposed upon the sale of a covered product . . . or to engage in other practices which constitute a means to obtain a price higher than is permitted by FEA price or allocation controls. . . ."

As is clearly pointed out in the *National Airlines* Interpretation, § 210.62(c) permits the regulation of those activities of a firm which are means to charge a price in excess of that permitted by the Mandatory Petroleum Price Regulations. However, in the instant case, Gravcap is not acting in a way which would permit producers to circumvent the price regulations. Rather, Gravcap is performing an equalization function, by adjusting crude oil value so that dissimilar low and high sulfur crude oils can use the same pipeline facilities without unduly reducing the value of the low sulfur crude oil. No producer of crude oil charges a price in excess of the ceiling price by receiving compensation from other producers or shippers pursuant to Gravcap's computations.[1]

In its comments, POGO also asserts that the imposition of a revised sulfur adjustment to crude oil shipped to Ship Shoal Block 28 is not justified by any ascertainable difference in the posted prices for low and high sulfur crude oils. POGO notes that postings applicable to this offshore crude oil production (South-Louisiana or Louisiana Gulf Coast) are not established with reference to sulfur content of the crude oil. Thus, POGO maintains that the imposition of a new sulfur adjustment to equalize the "value" of low and high sulfur crude oils is unjustified by the actual practices and needs of the purchasers of that crude oil and consequently is an unacceptable change in the normal business practices of Gravcap and users of the Gravcap system.

POGO's allegations are not persuasive. The Gravcap adjustment formula is a contractual matter between private parties which is not the subject of regulation under the Mandatory Petroleum Price Regulations. If POGO believes that Gravcap's adjustments are unwarranted based on actual postings, it should renegotiate its understanding with Gravcap. Moreover, as noted previously, POGO commingles a high sulfur crude oil with lower sulfur crude oils. In any such mixture, the high sulfur crude oil will of course raise the previous sulfur levels of the other crude oils in the pipeline system. As POGO is aware, the percentage of sulfur in crude oil is an important factor in the refining process. Since the amount of sulfur present in refined petroleum products is directly related to the percentage of sulfur in the parent crude oil, the lower the sulfur content in a crude oil, the less desulfurization of either the crude oil or the finished petroleum product is required. Consequently, the cost to the refiner of processing low sulfur crude oil will be less.

Thus, the loss of a low sulfur source of crude oil, through its mixture in a pipeline system with higher sulfur materials, clearly affects the value to a refiner of the crude oil. The transfer of funds between shippers in the Ship Shoal system is the means by which the different intrinsic values of the low and high sulfur crude oils are reestablished after all crude oils are commingled.

[FR Doc. 78-12579 Filed 5-8-78; 8:45 am]

[1] This Interpretation does not, however, condone or approve of the organization of new producer-owned clearinghouses, formed only to implement transfers of funds between producers for alleged value differences in their crude oils. Such actions, unless justified by circumstances similar to those set forth by Gravcap, could be in circumvention of the provisions of 10 CFR Part 212, Subpart D and § 210.62(c).

[4810-33]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 7—INTERPRETIVE RULINGS

Charitable Contributions

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: This document amends two interpretive rulings of the Comptroller of the Currency which place a limitation on the charitable contributions national banks may make pursuant to federal statute. The amendment is an attempt to provide a less restrictive guideline for national banks to follow in making charitable contributions, to permit greater certainty in computing allowable contributions, and to clarify the relationship of these rulings to the provisions of the Internal Revenue Code regarding carryovers.

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EFFECTIVE DATE: May 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Margaret Cameron Tessier, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, 202-447-1880.

SUPPLEMENTARY INFORMATION: On December 14, 1976, a document was published for comment in the FEDERAL REGISTER (41 FR 54600) proposing to amend 12 CFR 7.7479, an interpretive ruling which places a limitation on the amount of charitable contributions that a national bank is authorized to make pursuant to paragraph Eighth of 12 U.S.C. 24. The proposal also requested comments on 12 CFR 7.7445(c), an interpretive ruling governing charitable foundations established by national banks which contains language similar to that found in 12 CFR 7.7479.

The former ruling contained the limitation that the amount of charitable contributions must not "exceed that which is allowed by the Internal Revenue Service as a deduction from income." The limitation was originally designed to prevent management of closely held banks from contributing excessive sums to charities or foundations in which the bank's controlling stockholders had a personal interest. However, experience has shown that tying the limitation to taxable income tends to produce whimsical and even illogical results. For example, a bank in a particular year may have a low taxable income due to high investment in tax-exempt securites, thus possibly inhibiting its charitable contribution capacity unnecessarily. Another problem relating to the former ruling was the difficulty of forecasting the permissible amount that can be contributed. Although contributions are made throughout the course of a calendar year, the net taxable income of a bank may not be known until some time after the year is ended.

In order to address these problems, the December 14, 1976, document proposed to tie the 5 percent limitation to income before taxes registered during the preceding calendar half-year, rather than to the current year's estimated taxable income.

Twenty-seven comments were received in response to the proposed amendment. Virtually all of the comments approved of the relaxation of the ruling. Twenty-three commenters agreed with the proposed change, although some suggested alterations in the method of computing the amount of allowable contributions. Three of the commenters questioned the use of a calendar half-year (the period from January 1 through June 30 or from July 1 through December 31) as the time period on which a bank must base its computation, suggesting that the preceding full calendar year be used. Because this revision of the interpretive ruling represents a liberalization of the prior policy, the Comptroller has concluded that banks should compute the amount of their allowable contributions and make those contributions on a half-yearly basis to help avoid miscalculations. While he recognizes that many banks, because of their tax planning, would not fall prey to the danger of miscalculation, the Comptroller nevertheless believes that sound regulatory practice requires these calendar half-yearly computations.

Six commenters proposed some form of "carryover" provision. National banks, like other corporations, are subject to the provisions of the Internal Revenue Code and regulations issued thereunder. The proposed amendment raised questions as to whether the current ruling incorporated Internal Revenue Code provisions for tax carry forwards. There is nothing in the proposed or final ruling which would restrict contributions to only that amount which could be deducted for tax purposes. Under the ruling as adopted, a bank may make contributions in excess of the amount which could be deducted for tax purposes, and any excess may be carried forward to subsequent years, as permitted by the Internal Revenue Code. The ruling could not, and in no way is intended to, alter tax consequences under the Internal Revenue Code. One commenter suggested that an exception to the ruling be created for new banks, which typically show a net operating loss during their first several years in business. The Comptroller acknowledges the problem faced by new banks with regard to making charitable contributions. Banks view their obligations as corporate citizens seriously; they are looked upon as readily available and obvious donors. Nevertheless, the very fact that banking is highly competitive and that new banks are usually not profitable for several years has led the Comptroller to reject the above suggestion to create an exception to the ruling.

Finally, several commenters agreed that any revision to 12 CFR 7.7479 should be accompanied by a similar revision to 12 CFR 7.7445(c) which governs charitable foundations established by national banks and contains similar language to that presently found in § 7.7479. Accordingly, the final amendment includes a revision to 12 CFR 7.7445(c).

DRAFTING INFORMATION

The principal drafter of this document was Margaret Cameron Tessier, Attorney.

ADOPTION OF AMENDMENT

Accordingly, 12 CFR Part 7 is amended by revising §§ 7.7479 and 7.7445(c) to read as follows:

§ 7.7479 Charitable Contributions.

(a) Under the conditions specified in 12 U.S.C. 24, paragraph Eighth, a national bank may make such charitable contributions as its board of directors shall authorize, except that the amount of charitable contributions in any calendar half-year shall not exceed 5 percent of the sum of "income before income taxes and securities gains or losses" and "Securities gains (losses), Gross" registered during the preceding calendar half-year.

(b) "Income before income taxes and securities gains or losses" and "Securities gains (losses), Gross" shall be computed in accordance with the most recently issued Instructions for Preparation of Consolidated Reports of Condition and Reports of Income by National Banking Associations.

(c) National banks making charitable contributions shall maintain documentation for review by national bank examiners to demonstrate compliance with this Interpretive Ruling.

§ 7.7445 Charitable Foundations.

(a) • • •
(b) • • •

(c) Contributions by the bank to the foundation in any calendar half-year do not exceed 5 percent of the sum of "income before income taxes and securities gains or losses" and "Securities gains (losses), Gross" registered during the preceding calendar half-year.

Dated: April 25, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 78-12573 Filed 5-8-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

[T.D. 78-130]

CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

PART 101—GENERAL PROVISIONS

Ports of Entry and Customs

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document changes the field organization of the Customs Service: (1) by transferring jurisdiction over Morris County N.J., from Baltimore, Md., region to New York, N.Y., region; (2) by transferring supervisory authority over the Customs stations at Crane Lake and Ely, Minn., from the ports of International Falls/Ranier and Grand Portage, Minn., respectively, to the consolidated port of Duluth, Minn./Superior, Wis.; and (3) by extending the limits of the Customs ports of entry of Corpus Christi, Tex., Los Angeles, Calif., and Bar Harbor, Maine. These changes are part of Custom's continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert Schenarts, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8151.

SUPPLEMENTARY INFORMATION:

BACKGROUND

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, the Customs Service determined that it would be desirable to make several changes in its field organization.

Accordingly, on November 15, 1977, a notice published in the FEDERAL REGISTER (42 FR 59090) proposed:

1. To transfer jurisdiction over Morris County, N.J., from the Baltimore, Md., region (region III) to the New York, N.Y., region (region II);

2. To transfer supervisory authority over the Customs stations at Crane Lake and Ely, Minn., from the ports of International Falls/Ranier, and Grand Portage, Minn., respectively, to the consolidated port of entry of Duluth, Minn./Superior, Wis. (region IX); and

3. To extend the limits of the ports of entry of Corpus Christi, Tex., in the Galveston, Tex., district (region VI) and Los Angeles-Long Beach, Calif., in the Los Angeles, Calif., district (region VII).

On November 28, 1977, a notice published in the FEDERAL REGISTER (42 FR 60571) proposed to extend the limits of the port of entry of Bar Harbor, Maine, in the Portland, Maine, district (region I).

DISCUSSION OF COMMENTS

One comment was received in response to the notice published on November 15, 1977. The commenter opposed the proposed transfer of supervisory authority over the Customs stations at Crane Lake and Ely, Minn., stating that the proposal was designed solely to preserve a supervisory inspector's position in the Duluth, Minn., district. The transfer was requested by the Regional Commissioner of Customs, region IX, to provide better overall district management, to strengthen supervision over the two Customs stations, and to provide better service to the public.

After consideration of the comment and further review, the changes in organization proposed in both FEDERAL REGISTER notices are adopted.

CHANGES IN THE CUSTOMS FIELD ORGANIZATION

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., ch. II), and pursuant to the authority in Treasury Department Order No. 190, Rev. 15 (43 FR 11884), the following changes are adopted:

1. Region II (New York, N.Y.), and region III (Baltimore, Md.), are realigned by transferring jurisdiction over Morris County, N.J., from region III to region II.

2. In region IX (Chicago, Ill.), supervisory authority over the Customs stations at Crane Lake and Ely, Minn., is transferred from the Customs ports of entry of International Falls/Ranier and Grand Portage, Minn., respectively, to the consolidated Customs port of entry of Duluth, Minn./Superior, Wis.

3. The geographical boundaries of the Customs port of entry at Corpus Christi, Tex., in the Galveston, Tex., district (region VI, Houston, Tex.) are extended to include the territory described as follows:

Beginning on the north at the intersection of the northwest city limits of Corpus Christi and the Nueces River and proceeding in a northerly, then easterly, then southeasterly direction along the Nueces River to the western city limits of Corpus Christi on Nueces Bay, then proceeding in a northerly direction along the western city limits of Corpus Christi to White Point Road and continuing in a northerly direction on White Point Road to its intersection with Farm to Market Road (FM) No. 1074, then proceeding in an easterly direction on Farm to Market Road (FM) No. 1074 to its intersection with Farm to Market Road (FM) No. 893, then continuing in an easterly direction on Farm to Market Road (FM) No. 893 to its intersection with U.S. Highway No. 181, then proceeding in a northeasterly direction on U.S. Highway No. 181 to its intersection with Texas State Highway No. 35, then proceeding in an easterly direction on Texas State Highway No. 35 to its intersection with the boundaries of San Patricio and Aransas Counties, then proceeding in a southeasterly direction along the boundary line between Aransas and San Patricio Counties to the Intracoastal Waterway, where the boundary between Aransas, San Patricio, and Nueces Counties intersect, then proceeding in a northeasterly direction along that portion of the Intracoastal Waterway which is the boundary between Aransas and Nueces Counties, then proceeding in a southeasterly direction along the boundary line between Aransas and Nueces Counties to the lighthouse on Harbor Island, then proceeding due east from the lighthouse on Harbor Island to the Gulf of Mexico shoreline of San Jose Island, then proceeding in a southwesterly direction along the Gulf of Mexico shoreline on San Jose Island and continuing in a southwesterly direction along the Gulf of Mexico shoreline of Mustang Island to Access Road No. 1A, then proceeding in a northwesterly direction on Access Road No. 1A to Mustang Island Road (Park Road No. 53), then proceeding in a southwesterly direction on Mustang Island Road (Park Road No. 53), to its intersection with Park Road No. 22, then proceeding in a northwesterly direction on Park Road No. 22 to its intersection with the city limits of Corpus Christi, then following the city limits of Corpus Christi in a generally southwesterly, then westerly, then northerly, then northwesterly direction to the place of beginning, all being in Texas.

4. The geographical boundaries of the Customs port of entry at Los Angeles-Long Beach, Calif., in the Los Angeles, Calif., district (region VII, Los Angeles, Calif.), are extended to include the territory described as follows:

All territory within Los Angeles County bounded on the west by Topanga Canyon Boulevard, north to the intersection of the Simi Valley—San Fernando Valley Freeway, and from the intersection of the Antelope Valley Freeway and the Golden State Freeway along the corporate limits of Los Angeles to the intersection of the Foothill Freeway on the west boundary of Glendale, southeast to the San Gabriel River Freeway, south to the Orange County border to the southeast corporate limit of Long Beach.

5. The geographical boundaries of the Customs port of entry at Bar Harbor, Maine, in the Portland, Maine, district (region I, Boston, Mass.), are extended to include Mt. Desert Island, the city of Ellsworth, and the townships of Hancock, Sullivan, Sorrento, Gouldsboro, Winter Harbor, and Trenton, all in the State of Maine.

AMENDMENTS TO THE REGULATIONS

PART 101—GENERAL PROVISIONS

§ 101.3 [Amended]

The table in § 101.3(b) of the Customs Regulations (19 CFR 101.3(b)) is amended by inserting the words "; including the territory described in T.D. 78-130" following "4 FR 4691" in the parenthetical expression which appears after "Corpus Christi" in the column headed "Ports of entry" in the Galveston, Tex., district (region VI); by deleting the language "including territory described in T.D. 55341; T.D. 56383." which appears after "Los Angeles-Long Beach" in the column headed "Ports of entry" in the Los Angeles, Calif., district (region VII) and inserting in lieu thereof the language "including the territory described in T.D. 78-130."; and by revising the listing for Bar Harbor, Maine, in the

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column headed "Ports of entry" in the Portland, Maine, district (region I) to read as follows:

"Bar Harbor, Maine, including Mt. Desert Island, the city of Ellsworth, and the townships of Hancock, Sullivan, Sorrento, Gouldsboro, Winter Harbor, and Trenton (E.O. 4572, Jan. 27, 1927; T.D. 78-130)."

§ 101.4 [Amended]

The table in § 101.4(c) of the Customs Regulations (19 CFR 101.4(c)) is amended by deleting "International Falls/Ranier." and "Grand Portage." which appear opposite "Crane Lake, Minn.—" and "Ely Minn.—", respectively, in the column headed "Port of entry having supervision" in the Duluth, Minn., district (region IX) and inserting in lieu thereof, in each case, "Duluth, Minn./Superior, Wis."

DRAFTING INFORMATION

The principal author of this document was Suellen Ferguson, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: April 27, 1978.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc. 78-12572 Filed 5-8-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0119]

PART 131—MILK AND CREAM

Nonfat Dry Milk, Lowfat Dry Milk, Dry Whole Milk, and Dry Cream; Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes standards of identity for lowfat dry milk, dry whole milk, and dry cream and revises the standards of identity for nonfat dry milk and nonfat dry milk fortified with vitamins A and D, based on consideration of the international standards developed by the Codex Alimentarius Commission for these foods. This action will promote honesty and fair dealing in the interest of consumers and will facilitate international trade by conforming U.S. standards more closely to international standards.

DATES: Effective July 1, 1979 for all products intially introduced into interstate commerce on or after this date. Voluntary compliance July 10, 1978. Objections by June 8, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a proposal in the FEDERAL REGISTER of July 19, 1977 (42 FR 37006) to amend the standards of identity for nonfat dry milk and nonfat dry milk fortified with vitamins A and D in §§ 131.125 and 131.127 (21 CFR 131.125 and 131.127), respectively, and to establish new standards of identity for lowfat dry milk, dry whole milk, and dry cream in §§ 131.123, 131.147, and 131.149 (21 CFR 131.123, 131.147, and 131.149), respectively. The proposed standards were based on the recommended international standards for whole milk powder, partly skimmed milk powder, and skimmed milk powder (Codex Standard No. A-5 (1971))[1] and the recommended international standards for cream powder, half cream powder, and high-fat milk powder (Codex Standard No. A-10 (1971))[1] which were submitted to the United States for consideration of acceptance by the Joint Food and Agriculture Organization/World Health Organization's Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, and auxiliary body of the Codex Alimentarius Commission.

The standards of identity for lowfat dry milk, dry whole milk, and dry cream set out below are being adopted as part of a program in which the United States is participating along with approximately 100 other countries to establish regional and/or worldwide food standards. The new standards of identity include: (1) requirements for mandatory ingredients, (2) provisions for optional ingredients, such as safe and suitable carriers for vitamins A and D, stabilizers, emulsifiers, anticaking agents, antioxidants, and characterizing flavoring ingredients, with or without coloring, and (3) requirements for label declaration of all optional ingredients except carriers for vitamins which are exempted by § 101.100(a)(3)(i) (21 CFR 101.100(a)(3)(i)). In addition, the standards of identity for nonfat dry milk and nonfat dry milk fortified with vitamins A and D are amended to provide for the use of nutritive carbohydrate sweeteners in the optional characterizing flavoring ingredients.

The comments received in response to the proposal and the Commissioner's responses to them are as follows:

1. Comments from the American Dry Milk Institute (ADMI) and a firm that manufactures and distributes lowfat dry milk requested modification of the processing provisions for lowfat dry milk. ADMI stated that the standard should permit use of the readily available and accepted techniques for manufacturing lowfat dry milk by dry blending nonfat dry milk with dry whole milk and/or dry cream. ADMI asserted that approval of these techniques would allow greater flexibility and more economical and efficient use of these dry milk products.

The manufacturing firm suggested deleting the processing restrictions other than pasteurization because the proposed standard would exclude the use of the established commercial practice of the independent heat treatment of cream (to develop natural antioxidant properties of milk) before blending with pasteurized condensed skim milk and drying the product. Further, the comment stated, the firm's process for the manufacture of "instant" fat-containing dry milk products would be prohibited because the process involves a blending of fluid and dry ingredients. More specifically, the process consists of blending pasteurized, homogenized cream with nonfat dry milk in the instantizing process to produce an instant lowfat dry milk which, the comment stated, is equal in all respects to the product produced by other processes. The comment further requested that processing restrictions be deleted also from the description of dry whole milk.

The Commissioner recognizes that alternate processing techniques may be used to obtain dry milk products comparable to those obtained by simply concentrating and drying the fluid milk counterparts. He did not intend to exclude alternate acceptable processes that produce products equivalent in identity and composition to those derived from the proposed process. He is therefore, revising the proposed standards of identity for lowfat dry milk and dry whole milk to allow alternate methods of processing as suggested, provided the process results in a finished food of the required composition.

[1]Code of Principles Concerning Milk and Milk Products, International Standards and Standards Methods of Sampling and Analysis for Milk Products, 7th Ed., FAO/WHO Document No. CAC/M 1-1973.

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2. The comment from the manufacturing firm also requested that, for the sake of consistency with the standards of identity for lowfat milk and milk, homogenization of the fluid milk be optional in the manufacture of lowfat dry milk and dry whole milk.

In view of the alternate processing techniques which may be used in the manufacture of these products, the Commissioner agrees that homogenization should be optional and is revising the standards accordingly.

3. A comment from a State department of agriculture stated that to facilitate uniformity among standards, the composition of reduced-moisture milks should be consistent with that of fluid whole milk. Further, it explained, given the milkfat to milk solids not fat (mf/msnf) ratio for fluid milks, desiccated equivalents should maintain similar ratios, allowing for moisture reduction.

The Commissioner acknowledges that there is a slight difference in the mf/msnf ratio for fluid whole milk and dry whole milk; 1:2.54 for milk and 1:2.71 for dry whole milk, when dry whole milk is made to contain 26 percent by weight of milkfat and 5 percent by weight of moisture on a milk solids not fat basis. The 3.25 percent minimum milkfat and 8.25 percent minimum milk solids not fat requirements for milk in final package form for beverage use, as specified in § 131.110(a) (21 CFR 131.110(a)), are based on the average minima determined for the composition of cow's milk. The requirement of 26 percent milkfat was proposed for consistency with the Codex requirement for dry whole milk and is consistent with the requirement in the U.S. Grade Standards and State laws or regulations for dry whole milk. As he stated in the proposal, the Commissioner believes the proposed requirements are reasonable, will benefit international trade, and are not in conflict with the need to promote honesty and fair dealing in the interest of consumers. The Commissioner concludes that the minimum milkfat and milk solids not fat requirements for dry whole milk should not be changed from those in the proposal.

4. The comment from ADMI stated that, based on industry experience, the proposed maximum moisture content of 5 percent by weight of the food is too high for dry milk products containing higher levels of milkfat (e.g., lowfat dry milk, dry whole milk, and dry cream). Compared to nonfat dry milk containing 5 percent moisture, the higher fat-containing dry milk products are likely to have a shortened shelf life and decreased flavor stability if manufactured to contain 5 percent by weight of total moisture. The comment suggested that since the moisture is associated mainly with the milk solids not fat portion of these products, the maximum moisture level for these foods should be expressed on a milk solids not fat basis. As a result, the total moisture content would vary directly with the milk solids not fat content, and the dry milk products would exhibit more uniform. stable storage characteristics.

The Commissioner agrees with this recommendation and has revised the standards of identity for lowfat dry milk, dry whole milk, and dry cream to provide for a maximum moisture content of 5 percent by weight on a milk solids not fat basis.

In the preamble of the proposal for this final regulation (42 FR 37010), the Commissioner proposed to amend the standard of identity for nonfat dry milk fortified with vitamins A and D in § 131.127(d) to provide for the determination of vitamin D, but the proposed reference to the method of analysis was inadvertently omitted from the proposed regulation. This error has been corrected in the regulation set out below.

In consideration of the comments received, the Commissioner concludes that to establish standards of identity for lowfat dry milk, dry whole milk, and dry cream based on the recommended international standards and to revise the standards of identity for nonfat dry milk and nonfat dry milk fortified with vitamins A and D, as set forth in this document, will promote honesty and fair dealing in the interest of consumers.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner amends Part 131 as follows:

1. By adding § 131.123 to read as follows:

§ 131.123 Lowfat dry milk.

(a) *Description.* Lowfat dry milk is the product obtained by removal of water only from pasteurized lowfat milk, as defined in § 131.135(a), which may have been homogenized. Alternatively, lowfat dry milk may be obtained by blending fluid, condensed, or dried nonfat milk with liquid or dried cream or with fluid, condensed, or dried milk, as appropriate: *Provided,* The resulting lowfat dry milk is equivalent in composition to that obtained by the method described in the first sentence of this paragraph. It contains not less than 5 percent but less than 20 percent by weight of milkfat on an as is basis. It contains not more than 5 percent by weight of moisture on a milk solids not fat basis. Lowfat dry milk contains added vitamin A as prescribed by paragraph (b) of this section.

(b) *Vitamin addition.* (1) Vitamin A shall be present in such quantity that, when prepared according to label directions, each quart of the reconstituted product contains not less than 2,000 International Units thereof.

(2) Addition of vitamin D is optional. If added, vitamin D shall be present in such quantity that, when prepared according to label directions, each quart of the reconstituted product contains 400 International Units thereof.

(3) The requirements of this paragraph will be met if reasonable overages, within limits of good manufacturing practice, are present to ensure that the required levels of vitamins are maintained throughout the expected shelf life of the food under customary conditions of distribution.

(c) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) Carriers for vitamins A and D.
(2) Emulsifiers.
(3) Stabilizers.
(4) Anticaking agents.
(5) Antioxidants.
(6) Characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.131-16.182.[2]

(2) Moisture content—"Moisture—Official Final Action," section 16.174.[2]

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 43.166-43.179.[2]

(e) *Nomenclature.* The name of the food is "Lowfat dry milk." The name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter. The following phrases in type size not less than one-half the height of the type size used in such name shall accompany the name of the food wherever it appears on the principal display panel or panels:

(1) The phrase "Contains — percent milkfat", the blank to be filled in with the whole number closest to the actual fat content of the food.

(2) The phrase "vitamin A" or "vitamin A added", and if vitamin D is added, the phrase "vitamins A and D"

[2]Copies may be obtained from: The Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

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or "vitamins A and D added", as appropriate. The word "vitamin" may be abbreviated "vit."

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

2. By revising paragraphs (b) and (c) and adding new paragraph (e) to § 131.125, to read as follows:

§ 131.125 Nonfat dry milk.

• • • • •

(b) *Optional ingredients.* Safe and suitable characterizing flavoring ingredients (with or without coloring and nutritive carbohydrate sweetener) as follows:

(1) Fruit and fruit juice, including concentrated fruit and fruit juice.

(2) Natural and artificial food flavorings.

(c) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. 1975.[2]

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.181-16.182.[2]

(2) Moisture content—"Moisture—Official Final Action," section 16.174.[2]

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(e) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

3. By revising paragraphs (c)(2) and (d) and adding new paragraph (f) to § 131.127, to read as follows:

§ 131.127 Nonfat dry milk fortified with vitamins A and D.

• • • • •

(c) • • •

(2) Characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweetener, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavorings.

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. 1975.[2]

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.131-16.182.[2]

(2) Moisture content—"Moisture—Official Final Action," section 16.174.[2]

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 43.166-43.179.[2]

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(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

4. By adding new §§ 131.147 and 131.149 to read as follows:

§ 131.147 Dry whole milk.

(a) *Description.* Dry whole milk is the product obtained by removal of water only from pasteurized milk, as defined in § 131.110(a), which may have been homogenized. Alternatively, dry whole milk may be obtained by blending fluid, condensed, or dried nonfat milk with liquid or dried cream or with fluid, condensed, or dried milk, as appropriate, provided the resulting dry whole milk is equivalent in composition to that obtained by the method described in the first sentence of this paragraph. It contains the lactose, milk proteins, milkfat, and milk minerals in the same relative proportions as the milk from which it was made. It contains not less than 26 percent but less than 40 percent by weight of milkfat on an as is basis. It contains not more than 5 percent by weight of moisture on a milk solids not fat basis.

(b) *Vitamin addition.* (1) Addition of vitamin A is optional. If added, vitamin A shall be present in such quantity that, when prepared according to label directions, each quart of the reconstituted product shall contain not less than 2,000 International Units thereof.

(2) Addition of vitamin D is optional. If added, vitamin D shall be present in such quantity that, when prepared according to label directions, each quart of the reconstituted product shall contain 400 International Units thereof.

(3) The requirements of this paragraph will be met if reasonable overages, within limits of good manufacturing practice, are present to ensure that the required levels of vitamins are maintained throughout the expected shelf life of the food under customary conditions of distribution.

(c) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) Carriers for vitamins A and D.

(2) Emulsifiers.

(3) Stabilizers.

(4) Anticaking agents.

(5) Antioxidants.

(6) Characterizing flavoring ingredients (with or without coloring and nutritive carbohydrate sweetener) as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.181-16.182.[2]

(2) Moisture content—"Moisture—Official Final Action," section 16.174.[2]

(3) Vitamin D content—"Vitamin D—Official Action," sections 43.166-43.179.[2]

(e) *Nomenclature.* The name of the food is "Dry whole milk." The name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring as specified in § 101.22 of this chapter. The following phrases in type size not less than one-half the height of the type size used in such name shall accompany the name of the food wherever it appears on the principal display panel or panels.

(1) The phrase "Contains — percent milkfat", the blank to be filled in with the whole number closest to the actual fat content of the food.

(2) If vitamins are added", the phrase "vitamin A", or "vitamin A added", or "vitamin D", or "vitamin D added', or "vitamins A and D", or "vitamins A and D added", as appropriate. The word "vitamin" may be abreviated "vit."

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 131.149 Dry cream.

(a) *Description.* Dry cream is the product obtained by removal of water only from pasteurized milk or cream, or a mixture thereof, which may have been homogenized. It contains not less than 40 percent but less than 75 percent by weight of milkfat on an as is basis. It contains not more than 5 percent by weight of moisture on a milk solids not fat basis.

(b) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) Emulsifiers.

(2) Stabilizers.

(3) Anticaking agents.

(4) Antioxidants.

(5) Nutritive carbohydrate sweeteners.

(6) Characterizing flavoring ingredients, with or without coloring, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(c) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.181-16.182.[2]

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(2) Moisture content—"Moisture—Official Final Action," section 16.174.[2]

(d) *Nomenclature.* The name of the food is "Dry cream." The name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring as specified in § 101.22 of this chapter. The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label, in letters not less than one-half of the height of the letters used in such name:

(1) The phrase "Contains — percent milkfat", the blank to be filled in with the whole number closest to the actual fat content of the food.

(2) The word "sweetened" if no characterizing flavoring ingredients are used but nutritive carbohydrate sweetener is added.

(e) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before June 8, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitue a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin July 10, 1978, and all products initially introduced into interstate commerce on or after July 1, 1979 shall fully comply. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).)

Dated: April 28, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on March 11, 1976 and is on file in the Federal Register Library.

[FR Doc. 78-12513 Filed 5-8-78; 8:45 am]

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[Docket No. 75P-0104]

PART 161—FISH AND SHELLFISH

Standard of Identity, Fill of Container Standard for Canned Shrimp

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes a standard of identity and revises the fill of container standard for canned shrimp. In response to petitions filed by the American Shrimp Canners Association (ASCA), this action is taken to comply, to the extent practicable, with the provisions of the Codex Alimentarius.

EFFECTIVE DATE: July 1, 1979 for all products initially introduced into interstate commerce on or after this date. Voluntary compliance: July 10, 1978. Objections by: June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Harold Salwin, Bureau of Foods (HFF-416), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-8531.

SUPPLEMENTARY INFORMATION: In response to two petitions filed by the American Shrimp Canners Association (ASCA), P.O. Box 50774, New Orleans, La. 70150, the Food and Drug Administration (FDA) published in the FEDERAL REGISTER of April 19, 1976 (41 FR 16470) a proposed standard of identity for canned shrimp (21 CFR 161.173(a)) and revision of the fill of container standard (21 CFR 161.173(c), previously codified as § 36.3, and recodified at 42 FR 14464, Mar. 15, 1977) for the purpose of adopting, to the extent practicable, the provisions of the Codex standard for canned shrimp or prawns. The preamble to the proposal included the Codex standard, the regulations proposed by ASCA, and the Commissioner's comments.

In response to the proposed standard of identity, the Commissioner received 12 letters, each containing 1 or more comments, from Pacific Northwest canned shrimp packers, ASCA, and the National Food Processors Association (NFPA) (formerly the National Canners Association). No comments were received on the proposed revision of the fill of container standard. After the 90-day comment period, ASCA requested a meeting with FDA. FDA personnel and representatives of ASCA met on September 22, 1976. Subsequently, the Commissioner received a number of comments from ASCA and NFPA proposing amendments to the Commissioner's April 19, 1976 proposal. The amendments pertained to definitions of styles of shrimp, size designations, and tolerances for improperly cleaned shrimp.

Copies of all comments and memorandums of meetings and telephone conversations are on file with the Hearing Clerk (HFC-20), Food and Drug Administration. The following regulations adopt to the extent practicable the provisions of Codex since the Commissioner concludes that to do so will benefit consumers and facilitate international trade.

DISCUSSION OF COMMENTS

DEFINITIONS

1. Several comments stated that the proposed requirement that the packing medium be added in sufficient volume to cover the shrimp was too stringent. One comment suggested that rather than using the proposed wording to accomplish an adequate liquid fill, a minimum net weight for each can size would suffice. Two comments stated that it is almost impossible to cover the smaller North Pacific shrimp in an aqueous packing medium and still achieve the desired drained weight and proper vacuum. The NFPA stated that obtaining a proper drained weight and providing necessary head space will often result in portions of one or more shrimp extending above the surface of the liquid in the container. The NFPA suggested that the wording in this provision be changed to require packing medium "in sufficient volume to fill the interstices and permit proper processing in accordance with good manufacturing practice."

The Commissioner believes that NFPA's suggested language better defines his intent and adequately addresses the concerns expressed in other comments. Therefore, § 161.173(a)(1) is revised accordingly.

2. Two comments objected to the words ". . . under good manufacturing practice . . ." in connection with processing to remove shells, legs, and antennae. They suggested "commercial"

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in place of "manufacturing." One of the comments stated that the requirement "is not specific as to who is to determine and by what standards such determination would be made as to the extent practicable under good practices of production."

The Commissioner concludes that the word "manufacturing" is consistent in language with other food regulations promulgated by FDA and the intent expressed in the Codex standard 3.3.4. The Commissioner considers the standards of good manufacturing practice, as defined in 21 CFR Part 110, sufficient criteria, and that compliance with such standards is determined by what is normal good manufacturing practice in the industry. Therefore, he is retaining the original language in § 161.173(a)(1).

3. Three comments claimed that since the proposed definition for cleaned style shrimp explicitly states that the back of the shrimp must be deliberately cut open and the dorsal tract removed, Pacific Northwest shrimp could only be considered as regular style. It was stated that shrimp canned in the Pacific Northwest have a vein near the surface which is "cleaned" during the peeling process without cutting the back open. The comments stated that shrimp species canned in the Pacific Northwest may not exhibit visible dark veins even though the shrimp are not deveined in the manner which was proposed for "cleaned" style shrimp. The comments indicated that Pacific Northwest canners did not believe they could differentiate by labeling their canned shrimp from other canned shrimp that contain dark veins because of the definition proposed. The comments also suggested that the words "deveined" and "cleaned" are not synonymous as was stated in the proposal. It was further suggested that the word "cleaned" could be removed from the standard. The comments recommended three styles of canned shrimp characterized by the presence or absence of visible dark veins. The comments suggested that the following three styles be provided and designated on the label:

(a) "Visible dark veins" or "dark veined" when the shrimp contain dark veins.

(b) "No dark veins" when the shrimp do not exhibit dark veins.

(c) "Deveined" or, when appropriate, "mechanically deveined" when the shrimp have been split open and the dorsal tract removed.

In a letter dated March 9, 1977, the NFPA, claiming to represent a consensus of the entire shrimp canning industry, proposed that the following three specific optional styles of whole canned shrimp be incorporated in the proposed regulations: "(1) 'regular' style shrimp are those that have been peeled and subsequently canned without intentional removal of the dorsal tract; (2) 'cleaned' style shrimp are those that have been peeled and subsequently canned and for which the dorsal tract is not readily visible; (3) 'deveined' style shrimp are those that have been peeled and subsequently canned and have had the dark dorsal tract removed by deliberate cutting action." Although not specifically stated in the March 9 letter, the Commissioner assumes that NFPA intended the first word or name of the last two styles to be available for use on the label.

The Commissioner does not agree that shrimp which contain dark veins need to be labeled as "dark veined" or "visible dark veins" since this style has historically been called "shrimp." Moreover, such shrimp can be differentiated from the canned shrimp which do not contain dark veins by label identification of the latter as "deveined" if the shrimp have, in fact, been deveined, or with such words as "contains no dark veins," or some other such truthful statement. With regard to whether the word "mechanically" should be declared in conjunction with "deveined", the Commissioner concludes that "deveined" is sufficient, but he would not object to packers including the word "mechanically" if the shrimp have, in fact, been deveined by machine. He also does not agree that the word "cleaned" needs to be deleted from the standard. Through long usage in both the frozen and canned shrimp industries, the words "cleaned" and "deveined" have become synonymous and are used interchangeably to describe shrimp which have had the back split open and the dorsal tract removed. Furthermore, the Commissioner believes that consumers of canned shrimp also recognize "cleaned" as meaning "deveined". The Commissioner concludes that it would be improper to follow the NCA suggestion which would allow products that have not been deveined by deliberate cutting action to be called "cleaned." Therefore, he is retaining in the final regulation the optional designations of style as originally proposed. To alleviate possible confusion, he has added to the regulation provisions which recognize a style of shrimp which have no readily visible dark vein, even though the shrimp have not been deveined by deliberate cutting action. In paragraph (a)(5)(iii) the regulation provides for the optional labeling of this style with the words "contains no dark veins" or their equivalent. He believes that these provisions allow packers of canned shrimp to differentiate their products adequately without consumer confusion. He points out that the language defining styles has been modified by deleting references to canning and peeling. The Commissioner states that these aspects belong more appropriately in the definition paragraph (a)(1). He has also deleted, as superfluous, the sentence "By long usage, the terms, 'cleaned' and 'deveined' are synonymous." The Commissioner also notes that the proposed requirement that canned shrimp be of similar size has been deleted, because it is his opinion that the standard should provide for packs of mixed, as well as similar, size.

Tolerances

4. Two comments stated that the requirement in § 161.173(a)(1) that products be free of heads is absolute and does not take into account the unavoidable possibility that, particularly with small shrimp, an occasional head will find its way into the final product even when the best manufacturing practices are followed. One of the comments suggested that the wording be revised to require the product to be free "to the extent practicable under good manufacturing practice, from heads, shells, legs, and antennae." The second comment suggested similar language and stated that all exoskeleton components, including heads, should be treated equally.

The Commissioner concludes that the comments, if accepted, would sanction the possibility and likelihood of heads in the product. That is not his intent. The Commissioner's opinion is that in most instances the head comprises almost one half of the animal and can be easily removed from the product flow when passed by an inspection line. Further, since the provision adopts the Codex standard, the Commissioner considers the provision reflective of world-wide practice and the language adequate, since it expresses what is technologically feasible. Therefore, he is retaining the original language.

5. One comment objected to the 5 percent by weight tolerance for improperly cleaned shrimp and stated that the standard should incorporate the schedule of tolerances which ASCA proposed in its original petition, namely, 5 percent for extra large (jumbo) and large sizes, 10 percent for medium and small shrimp, and 15 percent for tiny and broken shrimp. ASCA claims that such allowances are necessary because they more realistically represent the cleaning effectiveness of mechanical deveining equipment that is essential for economical processing of the smaller sized shrimp. A second comment described the 5 percent tolerance for improperly cleaned shrimp as unrealistic for tiny shrimp. It also stated that the 5 percent tolerance "is confusing, especially when related to table II allowance of 15 percent for tiny shrimp."

The Commissioner is retaining the 5 percent tolerance for improperly prepared shrimp for all sizes, since that tolerance is required in Codex and therefore represents the reasonable conclusion of experts world wide. The Commissioner points out that table II in § 161.173(a)(5)(iv) lists tolerances for broken shrimp in canned whole shrimp rather than tolerances for improperly prepared shrimp.

6. One comment on the proposed definition and tolerances for broken shrimp suggested that the rules be applied to sizes "small" and larger but not "tiny." The comment stated that the west coast tiny shrimp pack consists of a mixture of 1-year old, 2-year old, 3-year old, and in some areas 4-year old shrimp. Also, the comment stated that it is almost impossible for an expert to spot the difference between a 1-year old whole shrimp and a broken shrimp or to determine the number of segments. The comment suggested that the regulation state that 1-year old and 2-year old tiny Pacific pink shrimp should not be considered as broken shrimp.

The Commissioner does not see any reason to change the regulation and points out that whole shrimp, regardless of size, would not be considered as broken shrimp.

The Commissioner notes that when size of shrimp is not identified on the label, it would be necessary in each instance to determine the size in order to enforce the labeling provisions for broken shrimp. He has therefore defined in § 161.173(a)(5) the conditions which require such labeling for tiny shrimp and for all other shrimp whether of similar or mixed sizes.

Size Designations

7. ASCA proposed amending the size designations in a manner which ASCA claims will reduce consumer confusion. It should be noted that the size designations proposed in the April 19, 1976 FEDERAL REGISTER are identical with those in Codex and in the identity standard originally proposed by ASCA. The ASCA comments compared tiny size shrimp from the Gulf Coast, which number in count from 17 to 27 shrimp per ounce to tiny shrimp from the Pacific Northwest which number 22 to 56 per ounce. It was stated that the consumer, when using these variants of "tiny," must be confused by the wide spread in count within the same size designation. ASCA also stated that competition from the fresh, frozen, and breaded shrimp industries for the larger sizes of shrimp has left only the medium, small, and tiny sizes available in any quantity to canners in the warm water areas, and that these sizes represent over 90 percent of the Gulf Coast pack. ASCA recommended changing the lower limit for "tiny" from 17.0 to 22.2 shrimp per ounce. As a result of this proposed size change, ASCA recommended that the limits of the "small" classification change from the range 9.0 to 17.0 per ounce to 13.0 to 22.2 per ounce. ASCA also stated that the "medium" classification, in order to keep its proper place in the size spectrum and give consumers a real choice of the sizes actually produced, should be changed to reflect its proper midposition in the total pack—namely, from the range 5.0 to 9.0 per ounce to 7.0 to 13.0 per ounce. ASCA pointed out that slight modifications of the larger size designations would be necessary based on the same reasoning; ASCA also stated that very few of these sizes are packed as canned shrimp. ASCA claimed that the realignment of sizes resulting from the adoption of these proposed changes would make the size designations more useful to consumers in purchasing the kinds of shrimp they prefer, would encourage uniformity and consistency in commercial practice, and would allow the canned shrimp industry to remain viable and competitive.

In a related matter, ASCA also commented on the proposed size designations for deveined shrimp. The comment explained that the greater number of shrimp per ounce reflects an 8 percent tolerance to allow for loss in weight when the shrimp are deveined. ASCA claims that the 8 percent tolerance is no longer appropriate because it was adopted as a portion of the industry grade standards in 1954 when deveining was done by hand. Mechanical deveining came into widespread use in the 1960's. According to ASCA, industrial experience and experimental work carried out under commercial operating conditions demonstrate that the loss is greater with mechanical deveining, and that it increases as the size of the shrimp decreases. ASCA submitted data purporting to demonstrate these losses for four sizes of shrimp, and stated that the minimum loss factors are 10 percent for jumbo and large sizes, 11 percent for medium, and 12 percent for small and tiny size shrimp.

ASCA presently proposes the following size designations which reflect the considerations in the preceding paragraphs. These size designations were endorsed in the March 9, 1977 comment from NFPA, which claimed to represent the views of the entire shrimp canning industry.

Size Designations of Canned Shrimp

Size	Number of shrimp per 1 oz (26.4 g) of drained product		Number of shrimp per 100 g (3.5 oz) of drained product	
	Regular	Deveined	Regular	Deveined
Jumbo	Less than 5	Less than 5.5	Less than 17.5	Less than 19.3.
Large	5 or more but less than 7.	5.5 or more but less than 7.8.	17.5 or more but less than 24.5.	19.3 or more but less than 27.3.
Medium	7 or more but less than 13.	7.8 or more but less than 14.4.	24.5 or more but less than 45.5.	27.3 or more but less than 50.4.
Small	13 or more but less than 22.2.	14.4 or more but less than 24.9.	45.5 or more but less than 77.7.	50.4 or more but less than 87.2.
Tiny or cocktail	22.2 or more	24.9 or more	77.7 or more	87.2 or more.

As stated in ASCA's comments, two separate issues of concern are:

(a) An inconsistency in the number of shrimp constituting the size designation "tiny" which ASCA proposes to correct by restructuring all of the size designations as displayed vertically in the foregoing table in the columns headed "regular."

(b) The allowance for loss of shrimp flesh during the deveining process as displayed by the differences horizontally between the counts for "regular" and deveined" for any given size designation.

First, the Commissioner recognizes that variance exists in counts per ounce of canned shrimp labeled as "tiny," primarily because of the species utilized. However, he has no evidence that consumers are "confused" as ASCA claims, since no substantiating data were submitted to support such a contention. Furthermore, the Commissioner maintains that ASCA's proposed restructuring of the entire size designation table to alleviate the differences stemming from variances within counts for "tiny" canned shrimp is inappropriate. The effect of the suggested change would be that "medium" shrimp would be smaller, for example, than what a consumer receives today. Second, the Commissioner considers the data submitted as insufficient to determine whether weight loss factors should be increased to account for mechanical deveining. Therefore, he is retaining the size designation table as proposed. The Commissioner advises that this decision regarding the above proposal by ASCA is without prejudice to the filing of future petitions to amend the standard. Such petitions should be substantiated by sound, scientifically determined findings and facts.

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ASCA, in commenting on its proposed amendments to the size designations, stated that if more clarification is needed, 'the label could show the count per ounce in conjunction with adjective descriptions." Even though the Commissioner is not adopting ASCA's recommended size designations, a declaration of count per ounce may have merit. If later information indicates that a label declaration of count per ounce will benefit consumers, the Commissioner, at that time, will take appropriate action to propose such a requirement. The Commissioner will give careful consideration to any petition proposing such a requirement. In any event, he does not consider it appropriate to provide for such a requirement in this final regulation, since to do so now would not provide other interested persons an opportunity for comment.

LABELING

8. Two comments took exception to the mandatory labeling of shrimp which number more than 17 per ounce as "tiny" or "tiny cocktail." They contended that the term "tiny" or "tiny cocktail" should be treated as an optional size requirement in a manner similar to the other size designations. One of the comments stated that it could not agree with the view cited in FDA Compliance Policy Guide 7108.3 in support of the mandatory requirement. The comment gave the following reason: "The size designations, 'jumbo,' 'large,' 'medium,' and 'small' were defined in about 1935 when FDA was operating a continuous seafood inspection service. Very small or tiny shrimp began to be packed with the development of mechanical peelers in the 1940's, and that size designation was used on labels very early. In the intervening years, the consumer has become equally familiar with all of the size designations currently in use."

In the absence of any supporting data, the Commissioner is of the opinion that his view on the mandatory label declaration of the size "tiny" is still valid. Therefore, he is not making the suggested change. Upon further examination of the table of proposed size designations, the Commissioner notes that the smallest size shrimp were identified as "tiny or cocktail." Although that designation was consistent with ASCA's proposal, it did not represent the Commissioner's intent. The Commissioner considers the word "cocktail" as descriptive of a use for the food and applicable to various sizes of shrimp, not just "tiny." Moreover, Codex does not recognize "cocktail" as an alternative for "tiny." Since the term "cocktail" as applied to shrimp is not an acceptable substitute for the word "tiny," the Commissioner has deleted the word "cocktail" from the table of size designations in the regulation set out below. There is no objection to the use of the word "cocktail" in the labeling of canned tiny shrimp, provided the label bears the word "tiny" as required by § 161.173(a)(5)(v) of the regulation.

9. One comment suggested that the word "prawns" as provided for in Codex be incorporated into the standard as an optional name for the food.

The Commissioner concludes that the food may appropriately be labeled with the word "prawns" in conjunction with the name "shrimp" when the size is large or extra large as defined in § 161.173(a)(5)(iv). He has provided for such labeling in § 161.173(a)(5)(i). The Commissioner advises that he is limiting the use of the word "prawns" to maintain consistency between this regulation and a similar provision in the standard of identity for frozen raw breaded shrimp (21 CFR 161.175).

10. One comment requested that the standard include a provision to require label declaration if canned shrimp are prepared from frozen shrimp. The comment also stated that if frozen shrimp are imported for canning, the label cite the country of origin. The comment stated that these types of pack are of poorer quality than fresh packed shrimp.

The Commissioner is not incorporating the suggested provision, since he has no supporting data indicating that shrimp canned from frozen raw stock are inferior in quality. Moreover, the regulation below is intended to establish a standard of identity and not quality. The Commissioner would not object to label declarations which identify raw material as fresh or frozen or as to country of origin if such declarations are factual and not misleading.

OPTIONAL INGREDIENTS

11. Comments suggested that citric acid should be included among the permitted optional ingredients.

The Commissioner advises that the provision for organic acids includes citric acid.

12. One comment stated that since the proposed standard permits the use of spices or spice oils or spice extracts, the standard should also permit the capture and adding back of natural shrimp oil that leaches out during preliminary stages of processing. The comment requested that natural shrimp oil be included as an optional ingredient.

The Commissioner has made inquiries regarding this request, and he understands that the capture and adding back of shrimp oil is not regular industry practice. Further, he is not aware of consumer or industry interest in providing for the addition of shrimp oil to canned shrimp, and has not made the provision in the regulation set out below. Any interested persons who have information demonstrating a need for the addition of shrimp oil to canned shrimp may submit a petition documenting the fact that such use would promote honesty and fair dealing in the interest of consumers.

13. One comment stated that sodium tripolyphosphate (STP) should be allowed as an acceptable additive to canned shrimp. The comment stated that industry studies have failed to reveal any discernible weight change in canned shrimp treated with STP.

The Commissioner reiterates his viewpoint, as expressed in the preambel to the April 19, 1976 proposal, that STP is generally known to cause water uptake and retention in various protein foods. In the absence of data demonstrating that the use of STP in canned shrimp does not result in water uptake and retention, the Commissioner does not consider STP to be a suitable ingredient for this food and is not providing for its use in the regulation set out below.

The Commissioner also points out that the standard of identity set forth below is organized in a format different from that which was proposed. He is of the opinion that the revision, which conforms with other food standards recently promulgated by FDA, improves the clarity of the regulation. He has also made editorial changes in the provisions relating to sample unit and defective samples in paragraph (a)(6)(i) (*d*) and (*e*) of the identity standard and paragraph (c)(2) of the fill of container standard. The principal effect of these changes is to extend the application of the sampling and acceptance procedure to sample units that fail to meet the labeling requirements for broken shrimp.

After condidering the comments received and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to establish a definition and standard of identity for canned shrimp and to revise the fill of container standard for canned shrimp as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, as amended, 70 Stat. 919 (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), 21 CFR 161.173 is amended by revising the section heading, adding a new paragraph (a) *Identity*, and revising paragraph (c) *Fill of container* as follows:

§ 161.173 Canned wet pack shrimp in transparent or nontransparent containers.

(a) *Identity.* (1) Canned wet pack shrimp is the food consisting of the processed meat of peeled shrimp, free of heads and, to the extent practicable under good manufacturing practice,

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free of shells, legs, and antennae; in one or any combination of species enumerated in paragraph (a)(2) of this section; prepared in one of the styles specified in paragraph (a)(3) of this section, in sufficient water or other suitable aqueous packing medium to fill the interstices and permit proper processing in accordance with good manufacturing practice. Canned shrimp may contain one or more of the optional ingredients specified in paragraph (a)(4) of this section. It is packed in hermetically sealed transparent or nontransparent containers and so processed by heat as to prevent spoilage.

(2) The species of shrimp that may be used in the food are of the families: Penaeidae, Pandalidae, Crangonidae, and Palaemonidae.

(3) Styles. Canned shrimp is prepared in one of the following styles:

(i) Shrimp with readily visible dark vein (dorsal tract, back vein, or sand vein).

(ii) Deveined shrimp containing not less than 95 percent by weight of shrimp prepared by removing the dark vein from the first five segments by deliberate cutting action.

(iii) Shrimp, other than "deveined" as described in paragraph (a)(3)(ii) of this section, containing not less than 95 percent by weight of shrimp with no readily visible dark vein within the first five segments.

(iv) Broken shrimp, consisting of less than four segments and otherwise conforming to one of the styles described in paragraph (a)(3)(i), (ii), or (iii) of this section.

(4) Optional ingredients. The following safe and suitable optional ingredients may be used:

(i) Salt.

(ii) Lemon juice.

(iii) Organic acids.

(iv) Nutritive carbohydrate sweeteners.

(v) Spices or spice oils or spice extracts.

(vi) Flavorings.

(vii) Sodium bisulfite.

(viii) Calcium disodium EDTA (calcium disodium ethylene-diaminetetraacetate), complying with the provisions of § 172.120 of this chapter.

(5) Labeling. (i) The name of the food is "shrimp" or "shrimps." The word "prawns" may appear on the label in parentheses immediately after the word "shrimp" or "shrimps" if the shrimp are of large or extra large size as designated in paragraph (a)(5)(iv) of this section.

(ii) When the food is of the style described in paragraph (a)(3)(ii) of this section, the words "cleaned," "cleaned (deveined)," or "deveined" may be declared on the label.

(iii) When the food is of the style described in paragraph (a)(3)(iii) of this section, the words "contain no dark veins" or their equivalent may be declared on the label.

(iv) When the food is whole shrimp within a size range designated in Table I as "extra large," "large," "medium," or "small" and does not contain broken shrimp as defined in paragraph (a)(3)(iv) of this section in excess of the amount listed in Table II for the applicable size, the appropriate size designation may be declared on the label.

TABLE I

Size	Number of shrimp per 28.4 g (1 oz) of drained product		Number of shrimp per 100 g (3.5 oz) of drained product	
	Other than deveined style	Deveined style	Other than deveined style	Deveined style
Extra large or jumbo	Less than 3.5	Less than 3.8	Less than 12.3	Less than 13.4.
Large	3.5 to 5 inclusive	3.8 to 5.4 inclusive	12.3 to 17.7 inclusive.	13.4 to 19.1 inclusive.
Medium	More than 5 but not more than 9.	More than 5.4 but not more than 9.8.	More than 17.7 but not more than 31.8.	More than 19.1 but not more than 34.6
Small	More than 9 but not more than 17.	More than 9.8 but not more than 18.4.	More than 31.8 but not more than 60.	More than 34.6 but not more than 65.3.
Tiny	More than 17	More than 18.4	More than 60	More than 65.3.

TABLE II

Size	Maximum percent by weight of broken shrimp*
Extra large or jumbo	5
Large	5
Medium	5
Small	10
Tiny	15

*Grams of broken shrimp per 100 g of cutout weight as determined in § 161.173(c) of this section.

(v) When the food consists of tiny shrimp, as designated in Table I in paragraph (a)(5)(iv) of this section and does not contain broken shrimp as defined in paragraph (a)(3)(iv) of this section in excess of 15 percent by weight, the name of the food on the label shall be accompanied by the work "tiny" in type size equal to that used in the name of the food.

(vi) When the food consists of tiny shrimp, as designated in Table I in paragraph (a)(5)(iv) of this section and contains more than 15 percent by weight of broken shrimp as defined in paragraph (a)(3)(iv) of this section, the name of the food on the label shall be accompanied by the word "broken" or "pieces" rather than the work "tiny," in type size equal to that used in the name of the food.

(vii) When the food consists wholly or in part of sizes other than tiny, as designated in Table I in paragraph (a)(5)(iv) of this section and contains more than 10 percent by weight of broken shrimp as defined in paragraph (a)(3)(iv) of this section, the name of the food on the label shall be accompanied by the word "broken" or "pieces" in type size equal to that used in the name of the food.

(viii) The name of the food shall include a declaration of any flavoring that characterizes the food, as specified in § 101.22 of this chapter, and the term "spiced" if spice characterizes the food.

(ix) Each of the ingredients used shall be declared on the label as required by the applicable sections of part 101 of this chapter.

(6) Sampling and acceptance procedure. A lot is to be considered acceptable when the number of defectives does not exceed the acceptance number in the sampling plans given in paragraph (a)(6)(ii) of this section.

(i) Definitions of terms to be used in the sampling plans in paragraph (a)(6)(ii) of this section are as follows:

(*a*) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(*b*) *Lot size.* The number of primary containers or units in the lot.

(*c*) *Sample size* (*n*). The total number of sample units drawn for examination from a lot.

(*d*) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(*e*) *Defective.* Any sample unit shall be regarded as defective when it fails to meet the minimum requirements in paragraph (a)(3) (ii) or (iii) of this section for the applicable style, when it exceeds the tolerances in paragraph (a)(5)(iv) of this section for the applicable size, or when the labeling fails to meet the requirements of paragraph (a)(5) (v), (vi), or (vii) of this section of the applicable size.

(*f*) *Acceptance number* (*c*). The maximum number of defective sample units

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permitted in the sample in order to consider the lot as meeting the specified requirements.

(g) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

(ii) Sampling plans:

Acceptable quality level 6.5

Lot size (primary containers)	Size of container	
	Net weight equal to or less than 1 kg (2.2 lb)	
	n	c
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb)	
	n	c
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
Over 120,000	200	19

n = Number of primary containers in sample.
c = Acceptance number.

(b) [Reserved]

(c) *Fill of container.* (1) The standard of fill of transparent or nontransparent containers for canned wet pack shrimp is a fill such that the cut-out weight of shrimp taken from each container is not less than 60 percent of the weight of the water required to fill the container. The weight of the water required to fill the container is determined by the general method provided in § 130.12(a) of this chapter. Cut-out weight is determined by the following method: Keep the unopened canned shrimp container at a temperature of not less than 68° nor more than 75° Fahrenheit for at least 12 hours immediately preceding the determination. After opening, distribute the shrimp evenly over the meshes of a circular sieve that has been previously weighed. The diameter of the sieve is 20.3 centimeters (8 inches) if the quantity of the contents of the container is less than 1.36 kilograms (3 pounds), and 30.5 centimeters (12 inches), if such quantity is 1.36 kilograms (3 pounds) or more. The bottom of the sieve is woven-wire cloth that complies with the specifications for such cloth set forth as a 2.36-millimeter (No. 8) sieve in the "Definitions of Terms and Explanatory Notes," p. XVI of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th ed., 1975.[1] Without shifting the material on the sieve, incline the sieve at an angle of approximately 17° to 20° to facilitate drainage. Allow the shrimp to drain for 2 minutes, measured from the moment the product is poured onto the sieve. Weigh the sieve and the drained shrimp. The weight so found, less the weight of the sieve, shall be considered to be the cut-out weight of the shrimp.

(2) Sampling and acceptance procedure: A container that falls below the requirement for minimum fill prescribed in paragraph (c)(1) of this section is considered a "defective." Determine compliance with paragraph (c)(1) of this section as specified in paragraph (a)(6) of this section except that the sample unit shall be the entire contents of the container.

(3) If canned wet pack shrimp in transparent or nontransparent containers falls below the applicable standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill provided in § 130.14(b) of this chapter, in the manner and form therein specified.

Any person who will be adversely affected by the foregoing regulation may at any time on or before June 8, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

[1]Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin July 10, 1978, and all products initially introduced into interstate commerce on or after July 1, 1979, shall fully comply. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

NOTE.—FDA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Orders 11821 and 11949 and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk at FDA.

(Secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371).)

Dated: April 28, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-12391 Filed 5-8-78; 8:45 am]

[4110-03]

[Docket No. 77N-0038]

FOOD ADDITIVES AND SUBSTANCES GENERALLY RECOGNIZED AS SAFE

CAPRYLIC ACID

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that caprylic acid is generally recognized as safe (GRAS) as a direct and indirect human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review being conducted by this agency.

EFFECTIVE DATE: June 8, 1978.

ADDRESS: Written objections may be sent to the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 14, 1977 (42 FR 30390), a proposal was published to affirm that caprylic acid is generally recognized as safe for use as a direct and indirect human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on caprylic acid, a report of the mutagenic test for the ingredient, and the report of the Select Committee on GRAS Substances (hereafter referred to as the Select Committee) have been made available for public review in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Copies of these documents have also been made available for public purchase from the National Technical Information Service as announced in the proposal.

In addition to proposing to affirm the GRAS status of caprylic acid, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. He advised that persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, shall submit proof of those sanctions so that the safety of the prior-sanctioned uses could be determined, and he proposed to approve prior-sanctioned uses of caprylic acid in appropriate regulations under part 181 (21 CFR Part 181), provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to him. He also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned use for caprylic acid were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of caprylic acid under conditions different from those set forth in this regulation has been waived.

One comment was received in response to the proposal. The comment criticized the proposal for affirming the GRAS status of caprylic acid as an indirect food substance for a single specific use (i.e., in cheese wraps), while affirming the GRAS status of the substance for direct food use as a flavoring ingredient. The comment concluded that consumer exposure through other possible indirect food uses could not possibly match exposure from use as a direct food ingredient, and that the regulation for a specific indirect food use implied that caprylic acid is not GRAS for other indirect food uses.

The Commissioner agrees that this rule is intended to limit the indirect GRAS food use of caprylic acid to the specifically stated use in cheese wraps. This is the case primarily because its use for this purpose is the only historically known or reported indirect food use of the substance. Although the Commissioner does not necessarily disagree with this comment's general comparative analysis of consumer exposure to food additives through direct and indirect food uses, new indirect food uses of caprylic acid may substantially increase consumer exposure beyond the 2,500-pound total annual poundage evaluated in connection with this regulation. Such potential uses cannot be determined to be safe without greater knowledge of potential human exposure. This rule is not intended, however, to exclude any future petitions for other indirect uses of caprylic acid.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner amends parts 172, 182, 184, and 186 as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

§ 172.515 [Amended]

1. In § 172.515 *Synthetic flavoring substances and adjuvants* by deleting the entry for "Octanoic acid; caprylic acid" from the list of substances in paragraph (b).

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.3025 [Deleted]

2. By deleting § 182.3025 *Caprylic acid.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. By adding new § 184.1025 to read as follows:

§ 184.1025 **Caprylic acid.**

(a) Caprylic acid [$CH_3(CH_2)_6COOH$, CAS Reg. No. 124-07-2] is the chemical name for octanoic acid. It is considered to be a short or medium chain fatty acid. It occurs normally in various foods and is commercially prepared by oxidation of *n*-octanol or by fermentation and fractional distillation of the volatile fatty acids present in coconut oil.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

[1]Copies may be obtained from: National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C. 20037.

(c) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(d) The ingredient is used in foods in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Current good manufacturing practices result in maximum levels, as served, of: 0.013 percent for baked goods as defined in § 170.3(n)(1) of this chapter; 0.04 percent for cheeses as defined in § 170.3(n)(5) of this chapter; 0.005 percent for fats and oils as defined in § 170.3(n)(12) of this chapter, for frozen dairy desserts as defined in § 170.3(n)(20) of this chapter, for gelatins and puddings as defined in § 170.3(n)(22) of this chapter, for meat products as defined in § 170.3(n)(29) of this chapter, and for soft candy as defined in § 170.3(n)(38) of this chapter; 0.016 percent for snack foods as defined in § 170.3(n)(37) of this chapter; and 0.001 percent or less for all other food categories.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

4. By adding new § 186.1025 to read as follows:

§ 186.1025 **Caprylic acid.**

(a) Caprylic acid [$CH_3(CH_2)_6COOH$, CAS Reg. No. 124-07-2] is the chemical name for octanoic acid. It is considered to be a short or medium chain fatty acid. It occurs normally in various foods and is commercially prepared by oxidation of *n*-octanol or by fermentation and fractional distillation of the volatile fatty acids present in coconut oil.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(c) The ingredient is used as an antimicrobial (preservative) in cheese wraps as defined in § 170.3(o)(2) at levels not to exceed good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived

Effective date: This regulation is effective on June 8, 1978.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: April 28, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

NOTE.—Incorporation by reference was approved by the Director of the Office of the

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Federal Register on July 10, 1973, and is on file at the Federal Register Library.

[FR Doc. 78-12390 Filed 5-8-78; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Lasalocid With Roxarsone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Hoffmann-La Roche, Inc., providing for the use of lasalocid in combination with roxarsone in complete chicken feeds, at a concentration of 68 to 113 grams of lasalocid per ton. This application also adds Hess and Clark as an additional sponsor for the roxarsone used in the combination and revises the labeling to delete the claim for the reduction of oocysts.

EFFECTIVE DATE: May 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Hoffmann-La Roche, Inc., Nutley, N.J. 07110, filed a supplemental NADA (102-485V) providing that use of lasalocid sodium in combination with roxarsone in the feed of broiler and fryer chickens be permitted in the range of 68 to 113 grams per ton (0.0075 to 0.0125 percent), that Hess and Clark, Division of Rhodia, Inc., Ashland, Ohio 44805, be an added sponsor of roxarsone for use in this combination, and that the labeling be revised to delete the claim for the reduction of oocysts due to *E. tenella*.

The provisions of this supplement will not not result in expanded use of roxarsone. Accordingly, the underlying human safety data were not reevaluated. Therefore, approval of this supplement does not constitute reaffirmation of the underlying human safety data for use of roxarsone in broiler or fryer feed.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, Monday through Friday, 9 a.m. to 4 p.m.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), part 558 is amended in § 558.311(e) by revising the second entry in the table to read as follows:

§ 558.311 Lasalocid sodium.

* * * * *

(e) *Conditions of use.* * * *

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
•	•	•	•	•
(2) 68 (0.0075 pct) to 113 (0.0125 pct).	Roxarsone 45.4 (0.005 pct).	Broiler or fryer chickens; for the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. marima* and as an aid in the reduction of lesions due to *E. tenella.*	For broiler or fryer chickens only; feed continuously as the sole ration; as sole source of organic arsenic; withdraw 5 d before slaughter; roxarsone provided by Nos. 017210 and 011801 in sec. 510.600(c) of this chapter.	000004
•	•	•	•	•

Effective date: May 9, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: May 1, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-12385 Filed 5-8-78; 8:45 am]

[4110-03]

SUBCHAPTER F—BIOLOGICS

[Docket No. 78N-0101]

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

Color Coding for Blood Grouping Serum; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: This rule corrects the biologics regulations to delete reference to the Standard Ink Book and provide that final container labels of blood grouping serum may be color coded with a visual match to a specific color sample designated by the Director, Bureau of Biologics. The Standard Ink Book, which was published by the Government Printing Office, is out of print, and the Commissioner of Food and Drugs is therefore approving, upon request, other coloring systems.

EFFECTIVE DATE: This document corrects regulations that become effective August 7, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of October 7, 1977 (42 FR 54534), the Commissioner of Food and Drugs published additional standards for the manufacture of blood grouping serum (21 CFR 660.20 through 660.29). Section 660.28(a)(1) of these standards requires that the final container label of all blood grouping sera be completely white, except that all or a portion of the final container label of certain specified antisera may be color coded with a visual match of the specific color samples identifed in § 60.28(a)(1) and contained in the Standard Ink Book sold by the Superintendent of Documents, U.S. Government Printing Office. The additional standards became effective April 6, 1978, except that the effective date for the labeling regulation is August 7, 1978.

It has come to the attention of the Commissioner that the U.S. Government Printing Office has discontinued publication of the Standard Ink Book. Consequently, the book is unavailable for manufacturers to match visually the color for final container labels with the color designated in the regulation.

The Director, Bureau of Biologics, has selected, from another coloring system readily available to printers, colors that are visual matches or similar to the colors designated in the Standard Ink Book. A memorandum identifying the coloring system and the colors has been sent to all licensed manufacturers of blood grouping serum. It is available to all other interested persons upon request from the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Colors in other coloring systems will be visually matched and identified upon request and submission of the coloring system to the Director, Bureau of Biologics.

Accordingly, the Commissioner is amending § 660.28 in paragraph (a)(1) to delete reference to the Standard Ink Book and to provide that final container labels of the antisera specified in § 660.28(a)(1) may be color coded with a visual match to specific colors designated by the Director, Bureau of Biologics.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), § 660.28(a)(1) is revised to read as follows:

§ 660.28 Labeling.

* * * * *

(a) *Final container label*—(1) *Color coding.* The final container label of all Blood Grouping Sera shall be completely white, except that all or a portion of the final container label of the following antisera may be color coded with a visual match to a specific color sample designated by the Director, Bureau of Biologics. Printing on all final container labels shall be in solid black.

Color of Label Paper	
Blood grouping serum:	
Anti-A	Blue.
Anti-B	Yellow.
Slide and rapid tube test sera only:	
Anti-C	Pink.
Anti-D	Grey.
Anti-E	Brown.
Anti-CDE	Orange.
Anti-c	Lavender.
Anti-e	Green.

* * * * *

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: May 2, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12512 Filed 5-8-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, HUD

[Docket No. R-78-439]

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Interest Charges, Fees or Discount; Date

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule prescribes the date from which a mortgagee may charge interest prior to the date of amortization. Current program regulations are silent as to the date from which interest may be charged. As a result, lenders arbitrarily determine a date from which interest will accrue and charge borrowers interest from that date. The date chosen, in some instances, is not the date on which the funds are actually disbursed. In such instances, the borrower's costs are increased unjustifiably. This amendment is intended to clarify the allowable time period for which interest may be charged in order to protect borrowers from being overcharged.

EFFECTIVE DATE: June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

William A. Rolfe, Director, Single Family Mortgage Insurance Division, Office of Insured and Direct Loan Origination, Housing, Department of Housing and Urban Development, Washington, D.C. 20410, 202-426-8914.

SUPPLEMENTARY INFORMATION: On January 31, 1977, at 42 FR 5704, the Department of Housing and Urban Development published a proposed amendment to 24 CFR 203.27 (a), "Maximum charges, fees or discounts," adding a new paragraph (a)(5) which established the date from which the mortgagee may collect interest. Numerous public comments have been received and considered and, with the changes noted, the proposed rule is now being made final.

The greatest number of comments concerned the effect the proposed amendment would have on closing and disbursement procedures in different localities as a result of differences in law, custom, the requirements of the local title industry, etc. Several commentors stated that the requirement that no interest could be collected until *all* disbursements were made would either result in additional burdens to the mortgagee, require alterations in the usual closing procedures, or result in loss of interest on funds actually disbursed by the mortgagee.

A number of comments pointed out that in many cases disbursement of all the mortgage funds does not occur until after closing. For example, it was indicated that it is a common practice to have recordation of the closing instruments and disbursement of the required proceeds occur several days after closing. A related problem stems from the practice of placing the loan proceeds under the control of a third party such as an attorney or a title company for later disbursement. In such circumstances, actual control of the funds involved has been relinquished by the mortgagee. However, the requirement in the proposed regulation that all funds be disbursed would have prevented the mortgagee from charging interest from the date of relinquishment of those funds.

In response to these comments, the proposed regulation has been amended to permit the collection of interest from the date of the later of two occurrences: The actual closing date or the date on which the mortgagee disburses the mortgage proceeds to the account of the mortgagor or the mortgagor's creditors. Disbursement of the mortgage proceeds, as the term is used in the amendment, would include such events as the transfer of funds by the mortgagee to an attorney or title company for the benefit of the mortgagor. It is not intended to require actual disbursement of all the mortgage proceeds to the intended recipients. However, it is intended that the mortgagee relinquish control of the mortgage proceeds.

A number of comments raised the question as to whether the mortgagee could collect additional interest under this regulation up to the date of the first mortgage payment. One comment suggested that this would result in the doubling of the amount of interest the mortgagor would pay for the month preceding the first payment. Section 203.440(d) of 24 CFR defines "Beginning of amortization" as the date one month prior to the date of the first

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monthly payment of principal and interest so there would be no duplication of interest payment.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

Accordingly, the Secretary of Housing and Urban Development amends Part 203 of Chapter II of 24 CFR by adding § 203.27(a)(5) as follows:

§ 203.27 Maximum charges, fees or discounts.

(a) The mortgagee may collect from the mortgagor the following charges, fees or discounts:

* * * * *

(5) Interest from the date of closing or the date on which the mortgagee disburses the mortgage proceeds to the account of the mortgagor or the mortgagor's creditors, whichever is later, to the date of the beginning of amortization.

* * * * *

Issued at Washington, D.C., on May 1, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-12534 Filed 5-8-78; 8:45 am]

[4210-01]

SUBCHAPTER D—PUBLICLY FINANCED HOUSING PROGRAMS

[Docket No. R-78-534]

PART 280—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

Welding Procedures

AGENCY: Department of Housing and Urban Development.

ACTION: Enforcement Bulletin—Notice of Extension.

SUMMARY: This Notice announces an extension, to July 15, 1978, of the effective date for enforcement of the requirement of 24 CFR 280.304(b) and § 1.24.1 of the AISC standard that welding slag be removed from mobile home frames. This extension is being granted because of a prior misunderstanding by the mobile home industry, which may have been promoted in various discussions with the Department, that reference standards are guidelines and not mandatory requirements. The Department previously issued an Advanced Notice of Rulemaking in the FEDERAL REGISTER on December 7, 1977, at 42 FR 61967 which stipulated that manufacturers, upon receipt of the Notice, could no longer continue to produce mobile homes without removing weld slag or other foreign matter and certify those homes as being constructed in conformance with the standard. That stipulation will now take effect on July 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard A. Mendlen, Chief, Standards Branch, Mobile Home Standards Division, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4224, Washington, D.C. 20410 202-472-4710.

SUPPLEMENTARY INFORMATION: This Notice is being issued to inform the mobile home industry and concerned enforcement agencies that the requirement to remove weld slag and other foreign matter from mobile home frames is being deferred until July 15, 1978. The Department is presently reviewing comments received in response to the Advance Notice of Rulemaking to determine the future status of this requirement.

A Finding of Inapplicability of section 102(2) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. It is available for public inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, during normal business hours.

(Secs. 604, 625, National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5403 and 5424), and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., April 12, 1978.

GENO C. BARONI,
Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 78-12516 Filed 5-8-78; 8:45 am]

[4810-31]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF 49; Ref. No. 310]

PART 4—LABELING AND ADVERTISING OF WINE

Standards of Fill for Wine

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule.

SUMMARY: These regulations permit the use of wine containers larger than 3 liters if they are filled and labeled in even liter quantities. Additionally, these regulations: (1) Exempt containers of 18 liters and larger from the standards of fill; (2) change the reference temperature of a liter of wine to 20° Celsius (68° F.); (3) provide an exemption to the bottles per case requirement; (4) change the requirement for statement of equivalent fluid ounces to the nearest whole ounce when the U.S. equivalent volume is 100 ounces or larger; and (5) redefine "packer" as any person placing wine in containers larger than 4 liters. The Director is making these changes in response to industry and consumer requests for larger wine container sizes, and to make the metric standard of fill requirements less restrictive with respect to case packaging.

EFFECTIVE DATE: June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, telephone, 202-566-7626.

SUPPLEMENTARY INFORMATION:

THE PROPOSED REGULATIONS

ATF published a notice of proposed rulemaking in the FEDERAL REGISTER on August 22, 1977 [42 FR 42230]. This notice proposed the following specific changes to the metric standard of fill regulations for wine:

1. Authorize the use of wine containers which are larger than the largest standard of fill size of 3 liters. The notice further proposed two ways in which to do this:

A. Proposal "A". Add either a 4 or 5 liter size to the metric standards of fill and exempt all sizes of 10 liters or larger from the standard of fill requirements; or

B. Proposal "B". Allow use of wine containers larger than 3 liters as long as they are in even-liter increments, for example 4, 5, 6, 7 liters.

2. Change the temperature at which the liter of wine is defined from 4° Celsius to 20° Celsius (68° F.).

3. Allow exemptions to the bottles per case requirements when, upon application to the Director, the bottler or importer demonstrates good cause (for example: bottles of unusual design or shape).

4. Allow the importation of foreign wine in nonstandard cases after December 31, 1978, if the importer has received an exemption for those bottles from the case packing requirement.

5. Change the U.S. equivalent fluid ounce statement for volumes over 100 fluid ounces. The notice proposed that these statements be accurate to the nearest full ounce; i.e., 4 liters (135 fl. oz.), rather than the nearest one-tenth ounce.

6. Change the definition of "packer" to anyone placing wine in containers larger than 4 liters. Currently 1 gallon is the division between "bottlers" and "packers".

DISCUSSION OF COMMENTS

In response to the notice of proposed rulemaking, ATF received 89 written comments, most of which were written by individual consumers. On the basis of the comments, ATF has adopted all of the proposed items, and selected Proposal "B", authorization of any even-liter container larger than 3 liters, as the means of authorizing large wine container sizes. A discussion of those comments follows.

LARGE WINE SIZES

Demand for large containers. The largest metric standard of fill is 3 liters (101 fl. oz.). Larger U.S. standards of fill, 1.0, 3.0, and 4.9 gallons, will be phased-out after the mandatory metric conversion date of January 1, 1979. The notice of proposed rulemaking was issued to provide sizes larger than 3 liters to replace the popular gallon "jug" and to provide new large economy sizes.

Consumer and industry response favored allowing new large sizes. Out of 74 comments addressed to the size issue, 70 favored allowing one or more sizes larger than 3 liters; every consumer response to this issue [57] favored at least one large size. Because of the near unanimous response on the part of consumers, metric associations, industry, and Governments, ATF is authorizing use of wine containers larger than 3 liters.

4 liters versus 5 liters. Proposal "A" would have added either a 4 or 5 liter size to the standards of fill to replace the gallon; it also would have exempted containers of 10 liters or larger from the standard wine container regulations, including standards of fill, design, and headspace requirements.

Public response favored adopting a 4 liter (135 fl. oz.) container. This size is closer to 1 gallon (128 fl. oz.) than is 5 liters (169 fl. oz.), and consumers would be more familiar with it. One glass company pointed out that 4 liter glass bottles may be produced by many more manufacturers than a 5 liter glass bottle. A few consumers expressed a desire to have either the 4 or 5 liter size.

Although the 5 liter size was not generally supported by the comments, it was pointed out that the European Economic Community (EEC) authorizes 5 liters for trade among member nations. Neither the 4 nor the 5 liter size can be easily compared in volume to the 750 ml, 1.5 liter, and 3.0 liter standards of fill.

Even-liter sizes over 3 liters. Proposal "B" would have authorized sizes larger than 3 liters as long as they were even-liter amounts (4, 5, 6, 7, 8 liters, etc.). This proposal would include both the 4 and 5 liter sizes found in Proposal "A", and would allow a wide range of other large economy sizes.

A large number of consumers and industry members favored this proposal. Its primary advantage was seen as its flexibility since it would not only allow use of both the 4 and 5 liter sizes, but would allow introduction of other economy sizes like 10 or 12 liters. Several comments mentioned this proposal would authorize the continued importation of the French Imperiale which is 6 liters, the equivalent of 8 bottles. Finally, a number of wineries currently filling bulk wine dispensers of 3.0 and 4.9 gallons favored the proposal since they could continue filling these dispensers and labeling them as 12 and 18 liters, respectively.

A few comments pointed out that authorizing all even-liter sizes over 3 liters might cause a proliferation of container sizes, thus defeating one original aim of metrication.

Conclusion. In view of the evidence presented for Proposal "B", even-liter sizes over 3 liters, ATF is adopting that proposal. This will allow for a greater range of consumer containers; however, the even-liter requirement will make the sizes different enough in size to avoid the consumer deception which might otherwise occur with the addition of several new sizes. Section 4.73 is amended by adding a new paragraph (b). ATF is not adding any case packing requirements for these new container sizes.

In addition, ATF is amending § 4.70(b) by exempting containers of 18 liters and larger from the standard wine container regulations (fill, design, headspace). This change is conforming in nature, since this exclusion previously applied to containers of 5 gallons (18.93 liters) or larger.

DEFINITION OF LITER

As proposed, the definition of the liter would be changed by raising the reference temperature from 4° Celsius (39.4° F.) to 20° Celsius (68° F.). This proposal would conform the United States' definition of the liter with world-wide accepted usage, and would define wine at room temperature at which it is customarily bottled.

All comments on this issue supported changing the liter's reference temperature to 20° Celsius. However, two comments noted that strict metric usage does not define liter with respect to any reference temperature since the liter is a unit of volume derived from a linear measurement, the meter.

ATF agrees with these comments. To conform with proper metric usage we have changed the definition of liter in § 4.10 by removing the temperature reference in the definition, but adding 20° Celsius as a reference for regulatory purposes.

CASE PACKING REQUIREMENTS

The notice proposed allowing an exemption from the bottles per case requirements when the bottler or importer demonstrates good cause, in writing, to the Director, Bureau of Alcohol, Tobacco and Firearms. This proposal was intended to give relief to persons bottling or importing wine in bottles which are of unusual shape or size and which cannot easily be packed with the required number per case.

There were no comments addressed to this issue and it is adopted by adding a new paragraph to § 4.74. A provision for submitting diagrams or photographs to the Director is added to the section in cases when this would help demonstrate why the bottles cannot be packed with the required number per case. A cross-reference to this exemption is added to § 4.46, nonstandard bottles and cases, to allow release of these nonstandard cases from customs custody upon presentation to Customs of the application approved by the Director.

EQUIVALENT FLUID OUNCE STATEMENT

When bottles are now labeled in metric measure, § 4.37, net contents, requires the label to contain an equivalent U.S. fluid ounce statement, accurate to the nearest one-tenth ounce. Thus, a 750 ml bottle is labeled "750 ml (25.4 fl. oz.)".

The proposed regulations would amend this by requiring the equivalent fluid ounces be accurate to the nearest whole ounce when the equivalent volume statement is 100 fluid ounces or larger. For example, the equivalent statement for the 3-liter standard of fill is "101 fl. oz." rather than "101.4 fl. oz.".

Only one comment addressed the issue, and that supported the proposal. Therefore, the proposal for the equivalent fluid ounce statement is adopted by amending § 4.37(b).

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DEFINITION OF PACKER

The notice proposed to amend § 4.10 by defining a "bottler" as anyone who places wine in containers of 4 liters or less, and a "packer" as anyone who places wine in containers larger than 4 liters. This change would update these definitions which now use 1 gallon as the distinction. There were no comments addressed to this issue, and the definitions are changed to reflect the 4-liter cutoff point between a bottler and a packer.

OTHER ISSUES

The metric issue. Several persons commenting on the notice of proposed rulemaking expressed their disapproval of the metric system being used for wine bottles. However, ATF adopted metric fill standards over 3 years ago; these comments are, therefore, not addressed to the issues raised by this notice of proposed rulemaking.

Smaller case sizes. Two comments requested that ATF permit smaller cases for some of the existing metric standards of fill; for example, allow 750 ml bottles to be packed six per case rather than the required 12. We are not adopting this suggestion. However, certain exemptions from the bottles per case requirements may be permitted when good cause is shown (see above).

DRAFTING INFORMATION

The principal author of this regulation is Charles N. Bacon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices of the Bureau and from the Treasury Department participated in developing the regulation, both on matters of substance and style.

AUTHORITY AND ISSUANCE

These regulations are issued under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)).

In view of the above, the Director is amending 27 CFR Part 4 as follows:

PARAGRAPH 1. Amend § 4.10 by: (1) changing in the definition of "container", the term "1 gallon" wherever it appears to read "4 liters"; and (2) rewriting the definition of "liter" to change the reference temperature of 20° Celsius. As amended, § 4.10 reads as follows:

§ 4.10 Meaning of terms.

• • • • • •

Container. Any bottle, barrel, cask or other closed receptacle irrespective of size or of the material from which made for use for the sale of wine at retail. "Bottler" means any person who places wine in containers of 4 liters or less; and "packer" means any person who places wine in containers in excess of 4 liters.

• • • • • •

Liter or litre. (1) A metric unit of capacity equal to 1000 cubic centimeters and equivalent to 33.814 U.S. fluid ounces. For purposes of this part, a liter is subdivided into 1000 milliliters (ml).

(2) For the purpose of regulation, one liter of wine is defined as that quantity (mass) of wine occupying a one-liter volume at 20° Celsius (68° F.).

• • • • • •

PAR. 2. Amend § 4.37 by: (1) adding subtitles to each of the lettered paragraphs; and (2) requiring that equivalent net volume statements for containers of 100 U.S. fluid ounces or larger be expressed to the nearest whole ounce. As amended, § 4.37 reads as follows:

§ 4.37 Net contents.

(a) *Statement of metric net contents* • • •

(b) *Statement of U.S. equivalent net contents* • • •

(1) For the metric standards of fill: 3 liters (101 fl. oz.); 1.5 liters (50.7 fl. oz.); 1 liter (33.8 fl. oz.); 750 milliliters (25.4 fl. oz.); 375 milliliters (12.7 fl. oz); 187 millliliters (6.3. fl. oz); and 100 milliliters (3.4. fl. oz).

(2) Equivalent volumes of less than 100 fluid ounces will be stated in fluid ounces only, accurate to the nearest one-tenth of a fluid ounce; for example, 700 ml (23.7 fl. oz.).

(3) Equivalent volumes of 100 fluid ounces or more will be stated in fluid ounces only, accurate to the nearest whole fluid ounce; for example, 6 liters (203 fl. oz.).

(c) *Exceptions.* • • •

(d) *Net contents marked in bottle.* • • •

(e) *Tolerances.* • • •

(f) *Unreasonable shortages.* • • •

Par. 3. Revise § 4.46 by: (1) adding a paragraph permitting the release from customs custody of metric bottles of wine in nonstandard cases if the Director has granted an exemption; (2) cross referencing the exemption from standards of fill granted by § 4.70(b)(1) and (b)(2); and (3) dividing the section into paragraphs and retitling the section. As revised, § 4.46 reads as follows:

§ 4.46 Nonstandard bottles and cases.

(a) *Exemptions from standards of fill.* After December 31, 1978, a person may import wine in containers not conforming to the metric standards of fill prescribed at § 4.73 if the wine is—

(1) Accompanied by a statement signed by a duly authorized official of the appropriate foreign country, stating that the wine was bottled or packed before January 1, 1979;

(2) Being withdrawn from a Customs bonded warehouse into which it was entered before January 1, 1979; or

(3) Exempt from the standard of fill requirements as provided by § 4.70 (b)(1) or (b)(2).

(b) *Exemption from standard cases.* After December 31, 1978, a person may import wine in containers conforming to the metric standards of fill and in cases not conforming to the bottles per case requirements of § 4.74 if the wine is—

(1) Accompanied by a copy of the application approved by the Director as provided in § 4.74(b);

(2) Being withdrawn from a Customs bonded warehouse into which it was entered before January 1, 1979; or

(3) Exempt from the standard wine container regulations as provided by § 4.70 (b)(1) or (b)(2).

Par. 4. Amend § 4.70 by lowering the exemption from standard wine container regulations from 5 wine gallons to 18 liters and by making certain editorial changes to improve the clarity of the section. As amended, § 4.70 reads as follows:

§ 4.70 Application.

(a) • • •

(b) Sections 4.70–4.74 do not apply to—

(1) Sake;

(2) Wine packed in containers of 18 liters or more;

(3) Imported wine in the original containers in which entered customs custody if the wine was bottled or packed before January 1, 1979; or

(4) Wine domestically bottled or packed, either in or out of customs custody, before October 24, 1943, if the container, or the label on the container, bears a conspicuous statement of the net contents, and if the actual capacity of the container is not substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use.

(c) Sections 4.73–4.74 do not apply to wine domestically bottled or packed, either in or out of customs custody, before January 1, 1979, if the wine was bottled or packed according to the standards of fill prescribed by § 4.72.

PAR. 5. Amend § 4.73 by: (1) Adding a paragraph permitting use of any container larger than 3 liters if it is an even liter amount; (2) adding subtitles to each of the lettered paragraphs; and (3) making editorial changes to improve the clarity of the section. As amended, § 4.73 reads as follows:

§ 4.73 Metric standards of fill.

(a) *Authorized standards of fill.* The standards of fill for wine are the following:

• • • • • •

(b) *Sizes larger than 3 liters.* Wine may be bottled or packed in containers of 4 liters or larger if the containers are filled and labeled in quantities of even liters (4 liters, 5 liters, 6 liters, etc.).

(c) *Tolerances.* The tolerances in fill are the same as are allowed by § 4.37 in respect to statement of net contents on labels.

(d) *Completeness of conversion.* Once a bottler has discontinued bottling in a given type or style of bottle (for example: burgundy bottle, champagne bottle, etc.) corresponding to a standard of fill prescribed by § 4.72, and has begun bottling in a replacement standard of fill prescribed by this section, the bottler may not revert back for that particular type or style of bottle, to the standard of fill prescribed by § 4.72.

(e) *Effective date.* The effective date of paragraphs (a) through (c) of this section is January 1, 1979, except that, the standards of fill prescribed by this section may be applied in lieu of those listed at § 4.72 on or after January 1, 1975. When the metric standards of fill are applied prior to January 1, 1979, the equivalent volume in U.S. measure will also be stated as specified in § 4.37(b).

PAR. 6. Amend § 4.74 by adding a paragraph providing an exception to the bottles per case requirement in instances when the bottler or importer can demonstrate good cause. As amended, § 4.74 reads as follows:

§ 4.74 Bottles per shipping case.

(a) *General.* Wines bottled subject to the standards of fill prescribed by § 4.73 will be packed with the following number of bottles per shipping case or shipping container—

Bottle sizes	Bottles per case
3 liters	4
1.5 liters	6
1 liter	12
750 milliliters	12
375 milliliters	24
187 milliliters	48
100 milliliters	60

(b) *Exception.* The Director may waive the bottles per case requirement set forth in paragraph (a) of this section if the bottler or importer can prove good cause. The bottler or importer shall make written application to the Director, and may include diagrams or photographs which demonstrate why the bottles cannot be packed with the prescribed number per case. The bottler or importer may not introduce wine in nonstandard cases into interstate or foreign commerce or remove the wine from customs custody until the Director approves the application.

Signed: March 27, 1978.

REX D. DAVIS,
Director.

Approved: April 26, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-12545 Filed 5-8-78; 8:45 am]

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[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 780-78]

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Subpart B—Production or Disclosure in Response to Subpoenas or Demands of Courts or Other Authorities

DELEGATION OF AUTHORITY TO THE DIRECTOR, U.S. MARSHALS SERVICE, TO APPROVE PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Existing Department regulations concerning production of material or disclosure of information of the Department by employees or former employees, in response to a subpoena or other demand of a court or other authority, authorize certain Department officials to approve release of material or information. With respect to material and information of the U.S. Marshals Service, the present regulations provide that release must be approved by the Deputy Attorney General. This order authorizes the Director of the U.S. Marshals Service to release information and materials from files under his jurisdiction and will relieve the Deputy Attorney General of the administrative burden of approving release of materials. The authority to *refuse* disclosure remains with the Deputy Attorney General for all units of the Department.

EFFECTIVE DATE: April 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William E. Hall, Director, United States Marshals Service, U.S. Department of Justice, Washington, D.C. 20530 202-739-5345.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, § 16.23 of Subpart B of Part 16 of Chapter I of Title 28, Code of Federal Regulations, is amended by deleting the word "and" at the end of paragraph (b)(2)(iv), by adding the word "and" at the end of paragraph (b)(2)(v), and by adding the following new paragraph (b)(2)(vi):

§ 16.23 Procedure in the event of a demand for production or disclosure.

• • • • • •

(b) • • •

(2) • • •

(vi) The Director of the United States Marshals Service, if the demand is one made on an employee or former employee of the Service for information or if the demand calls for the production of material from the files of the Service.

Dated: April 27, 1978.

MICHAEL J. EGAN,
Acting Attorney General.

[FR Doc. 78-12581 Filed 5-8-78; 8:45 am]

[4510-26]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Certification of Completion of Developmental Steps for Hawaii Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: This Amendment officially recognizes that the State of Hawaii has completed all of the developmental steps specified in its occupational safety and health plan as approved on January 4, 1974 (39 FR 1012), and commencing with this completion, operations under the plan will be subject to extensive evaluation to determine whether Federal occupational safety and health standards development and enforcement authority will be relinquished within the State pursuant to section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(e)).

EFFECTIVE DATE: April 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Marjorie N. Sauber, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-653-5377.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Subpart D of part 1902 of title 29, Code of Federal Regulations (40 FR 54780), sets out procedures under which the Assistant Secretary of

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Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) will make a determination under section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) whether, on the basis of actual operations under a State plan, the criteria of section 18(c) of the Act are being met by the plan. This determination may not be made until at least 3 years after commencement of operations under the plan and, in the case of a developmental plan, until the State has satisfactorily completed all developmental steps and the Assistant Secretary has had additional time after such completion to evaluate the plan on the basis of actual operations. Upon making a determination under section 18(e) that the requirements of section 18(c) are being met, Federal enforcement of standards and Federal standards (except with regard to on-going cases) cease to apply in the State with respect to any occupational safety and health issue covered under the determination.

A certification that a State has completed its developmental steps must list these steps, including approved amendments, and the dates their approval was published in the FEDERAL REGISTER; approved substantive changes in the State plan and dates published in the FEDERAL REGISTER; documentation that the State merit system has been approved and found acceptable; and a description of the occupational safety and health issues covered by the certification. If the Assistant Secretary finds that the State has completed all the developmental steps specified in the plan, she shall give notice of same by publishing the certification in the FEDERAL REGISTER and amending the appropriate subpart of part 1952 to reflect this finding. Certification that a State has completed its developmental steps does not mean that the Assistant Secretary has determined that the State has a fully effective occupational safety and health program in actual operation. Under regulations at 29 CFR 1902.33 through 1902.35, this certification is a preliminary action by the Assistant Secretary acknowledging that certain basic elements of the State plan have been adopted in accordance with assurances made by the State at the time its plan was initially approved under section 18(c) of the Act. Certification that a State has completed these developmental steps initiates a thorough evaluation of the State plan under section 18(e) of the Act to determine, on the basis of actual operations, whether the plan adequately protects the safety and health of the State's workers. In making this evaluation under section 18(e) the Assistant Secretary must monitor the continuing development of the State program, applying criteria which assure that the State will have a fully effective program for achieving the goals of the Act. (See: *American Federation of Labor and Congress of Industrial Organizations, AFL-CIO* v. *Ray Marshall, Secretary of Labor, et. al.* C.A.D.C. No. 75-1506, January 20, 1978.)

On January 4, 1974, a notice was published in the FEDERAL REGISTER (39 FR 1010) of the approval of the Hawaii plan as a developmental and the adoption of subpart Y of part 1952 describing the plan and containing the approval decision. During the 3-year period ending December 31, 1976, following commencement of State operations (3 years from the date of the State's first 23(g) grant award), Joshua Agsalud, Director, Hawaii Department of Labor and Industrial relations, submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953. Following Departmental review, opportunity for public comment, and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual Hawaii developmental steps.

CONTENTS OF CERTIFICATION OF COMPLETION OF DEVELOPMENTAL STEPS UNDER THE HAWAII PLAN

In accordance with the provisions of 29 CFR 1902.34, notice is given that the Hawaii occupational safety and health plan is hereby certified, effective April 26, 1978, as having completed all the developmental steps specified in the plan as approved December 28, 1973, on or before December 31, 1976 (see Subpart Y of 29 CFR Part 1952) as follows:

1. All developmental steps specified in the plan and amendments thereto have been completed:

(a) Legislative amendments required to bring the Hawaii occupational safety and health law (Chapter 396 of the Hawaii Revised Statutes) into conformity with Federal requirements were enacted effective June 4, 1974, and approved by the Assistant Secretary on December 13, 1974 (39 FR 41202, December 23, 1974). Additional legislative amendments were enacted effective May 6, 1975, and May 13, 1976, and were approved by the Assistant Secretary on June 18, 1976 (41 FR 26217, June 25, 1976); and January 31, 1978 (43 FR 5819 February 10, 1978). The most recent legislative amendments, which include a provision excluding from State coverage those working conditions with respect to which a Federal agency exercises statutory authority over occupational safety and health, were enacted in June, 1977.

(b) Occupational safety and health standards have been promulgated and subsequently amended to reflect changes in the Federal standards and were found to be at least as effective as the corresponding Federal standards and were approved by the Regional Administrator for Occupational Safety and Health on December 3, 1974 (39 FR 44823, December 27, 1974). The adoption of standards was approved as a completed developmental step on February 4, 1975 (40 FR 6335, February 11, 1975). In addition, State standards comparable to Federal standards promulgated through July 22, 1977 were adopted on December 28, 1977.

(c) A description of the State's occupational health program was submitted on January 9, 1974, and approved by the Assistant Secretary on December 20, 1974 (39 FR 44752, December 27, 1974). The occupational health program was implemented on July 1, 1975, and approved as a completed developmental step by the Assistant Secretary on June 18, 1976 (41 FR 26217, June 25, 1976).

(d) Rules of practice and procedure for the Hawaii Labor and Industrial Relations Appeals Board were submitted on May 2, 1974, and were approved by the Assistant Secretary on October 11, 1974 (39 FR 37440, October 21, 1974).

(e) Regulations concerning inspections, citations and proposed penalties were submitted on June 18, 1976, and were approved by the Assistant Secretary on January 31, 1978 (43 FR 5819, February 10, 1978).

(f) Regulations concerning recording and reporting of occupational injuries and illnesses were submitted on June 18, 1976, and were approved by the Assistant Secretary on January 31, 1978 (43 FR 5819, February 10, 1978).

(g) Regulations concerning variances were submitted on June 18, 1976, and were approved by the Assistant Secretary on January 31, 1978 (43 FR 5819, February 10, 1978).

(h) Regulations concerning administration witnesses and documents in private litigation were submitted on June 18, 1976, and were approved by the Assistant Secretary on January 31, 1978 (43 FR 5819, February 10, 1978).

(i) Regulations concerning the promulgation, modification, or revocation of occupational safety and health standards were submitted on June 18, 1976, and were approved by the Assistant Secretary on January 31, 1978 (43 FR 5819, February 10, 1978).

(j) Revisions to the State's Compliance Manual to reflect changes in the Federal Field Operational Manual and the Hawaii program were submitted on April 21, 1975, and were approved by the Assistant Secretary on June 18, 1976 (41 FR 26217, June 25, 1976).

(k) A management information system has been developed. Documentation of completion of this developmental step was submitted on June 18, 1976, and approved by the Assistant Secretary on January 31, 1978 (43 FR 5819, February 10, 1978).

(l) The State poster notifying public and private employers and employees of their protections and obligations under the Hawaii plan was submitted on November 25, 1974, and approved by the Assistant Secretary on February 4, 1975 (40 FR 6335, February 11, 1975).

(2) The personnel operations of the Hawaii Department of Labor and Industrial Relations have been found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Civil Service Commission by letter dated October 18, 1976. The State also has an affirmative action plan which has been found acceptable by the Civil Service Commission.

(3) This certification covers all occupational safety and health issues covered under the Federal program except for the longshoring and maritime standards found in 29 CFR Parts 1915, 1916, 1917, and 1918 (longshoring, ship repairing, shipbuilding, and shipbreaking), which are excluded from coverage under the plan. This certification also covers the State's program covering State and local government employees.

LOCATION OF THE PLAN AND ITS SUPPLEMENTS FOR INSPECTION AND COPYING

A copy of the approved supplements along with the approved plan may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, Room S-6212, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 9470, Federal Office Building, 450 Golden Gate Avenue, San Francisco, Calif. 94210; and the Department of Labor and Industrial Relations, Room 308, 825 Mililani Street, Honolulu, Hawaii 96813.

The operation of the Hawaii occupational safety and health program will be monitored and evaluated after publication of this certification to determine whether the State program in operation is at least as effective as operations under the Federal program and meets the requirements for an effective program under *AFL-CIO* v. *Marshall* cited above. The Assistant Secretary will then determine whether Federal enforcement authority and standards should cease with respect to issues covered by the plan. (29 U.S.C. § 667(e).)

In accordance with 29 CFR 1902.35, Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13, and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 662) and Federal standards authority under section 6 of the act (29 U.S.C. 655) will not be relinquished during this evaluation period. An operational agreement was signed with Hawaii on May 9, 1976 (41 FR 34251, August 13, 1976). Among other things, the authority of the U.S. Department of Labor will be limited to: Complaints filed with the U.S. Department of Labor about violations of the discrimination provisions of section 11(c) of the act; enforcement of new Federal standards, such as emergency temporary standards promulgated under section 6 of the act where necessary to protect employees until such time as the State shall have promulgated equivalent standards; enforcement of Federal standards in the maritime and longshoring issues of 29 CFR Parts 1915, 1916, 1917, and 1918, which issues have been specifically excluded from coverage under the Hawaii plan under sections 18 (e) and (f) of the Act.

In accordance with this certification, 29 CFR 1952.314 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding a paragraph (h) as follows:

§ 1952.314 Completion of developmental steps and certification.

• • • • •

(h) In accordance with § 1902.34 of this chapter, the Hawaii occupational safety and health plan was certified, effective April 26, 1978 as having completed all developmental steps specified in the plan as approved on December 28, 1973, on or before December 31, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C., this 26 day of April 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-12650 Filed 5-8-78; 8:45 am]

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[4810-25]

Title 31—Money and Finance: Treasury

CHAPTER V—OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

PART 515—CUBAN ASSETS CONTROL REGULATIONS

Transactions Incident to U.S. Travel by Cuban Nationals

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Cuban Assets Control Regulations by the addition of Sections 515.564 and 515.565. The purpose of Section 515.564 is to authorize by general license certain transactions ordinarily incident to travel to, from and within the United States by certain Cuban nationals holding U.S. visas. The need for the amendment is to remove the prohibitions on such transactions, with the effect that U.S. travel by those Cuban nationals will be permitted. The purpose of § 515.565 is to announce the availability of specific licenses for transactions involving participation by certain Cuban nationals in public exhibitions or performances in the United States (such as athletic or cultural events). Similarly, it announces that licenses are available for transactions by U.S. nationals when they are participating in events of this type in Cuba. The need for this amendment is to announce the applicable licensing policy, with the effect that specific licenses will be available in appropriate cases.

EFFECTIVE DATE: May 4, 1978.

FOR FURTHER INFORMATION CONTACT:

George F. Hazard, Chief of Licensing, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, 202-376-0428.

SUPPLEMENTARY INFORMATION: The new general license (Section 515.564) is being added to authorize transactions incident to U.S. travel by Cuban nationals holding U.S. visas. It authorizes transactions incident to travel between the United States and points outside of Cuba, travel within the United States, and maintenance of Cuban nationals while in the United States. It also permits U.S. nationals (such as travel agents or sponsors of exhibitions or performances) to arrange or assist in transactions by or on behalf of Cuban nationals incident to their travel to, from and within the United States. A similar general license for travel by U.S nationals to, from and within Cuba was issued on March 29, 1977, 42 FR 16621 and amended on May 18, 1977, 42 FR 25499.

The new statement of licensing policy (Section 515.565) will facilitate cultural exchanges between the United States and Cuba. Specific licenses will be issued to cover transactions involving Cuban performances in the United States and performances by U.S. persons in Cuba. While travel for cultural exchanges is covered by Section 515.560 and 515.564, other transactions involving public exhibitions or performances require individual licensing, such as performance contracts, importation of props and

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equipment, hiring of local employees, and the like.

The statement of licensing policy announces that licenses will be denied for such payments to Cubans as payments for television rights, appearance fees, royalties, or for preperformance expenses in Cuba of Cubans coming to the United States for a public performance. Similarly, payments to persons in Cuba for these purposes in connection with performances or exhibitions of U.S. persons in Cuba will not be licensed. However, as stated in Section 515.546, specific licenses are issued to bona fide U.S. news-gathering organizations for payments in Cuba for news coverage or such events, as distinguished from payments for performance rights, royalties, etc.

These amendments do not authorize any debits to blocked accounts.

Since these amendments relax existing restrictions and involve a foreign affairs function, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and a delay in effective date are inapplicable.

The Cuban Assets Control Regulations are amended to read as follows:

1. Section 515.564 is added to read as follows:

§ 515.564 Certain transactions incident to travel to, from and within the United States by certain Cuban Nationals.

(a) Except as provided in paragraph (b), the following transactions by or on behalf of a Cuban national who enters the United States on a visa issued by the State Department are authorized:

(1) All transactions ordinarily incident to travel between the United States and points outside of Cuba, including the importation into the United States of accompanied baggage for personal use only;

(2) All transactions ordinarily incident to travel and maintenance within the United States, including payment of living expenses and the acquisition of goods for personal consumption in the United States;

(3) All transactions on behalf of aircraft or vessels incident to non-scheduled flights or voyages between the United States and Cuba. This paragraph does not authorize the carriage of any merchandise into the United States except accompanied baggage;

(4) Normal banking transactions involving foreign currency drafts, traveler's checks or other instruments negotiated incident to travel in the United States by any person under the authority of this section.

(b) This section does not authorize any transfer of property to Cuba, or any debit to a blocked account.

2. Section 515.565 is added to read as follows:

§ 515.565 Transactions in connection with public exhibitions or performances.

(a) Specific licenses will be issued in appropriate cases for certain transactions, not otherwise authorized by Section 515.564, incident to participation in a public exhibition or performance in the United States by a Cuban national who enters the United States, for the purpose of such participation, on a visa issued by the Department of State.

(b) Specific licenses will be issued in appropriate cases for certain transactions, not otherwise authorized by Section 515.560, incident to participation by a U.S. national in a public exhibition or performance in Cuba.

(c) Any payment to a Cuban national in connection with transactions licensed under the authority of paragraph (a) or (b) of this section shall be limited to expenses incurred in connection therewith. Specific licenses will not be issued authorizing any:

(1) Payment to Cuba or any national thereof for television rights, appearance fees, royalties, pre-performance expenses, or other such payments in connection with or resulting from any public exhibition or performance in the United States or in Cuba; or

(2) Debit to a blocked account.

1. The general license concerning bunkering of Cuban vessels and fueling of Cuban aircraft published on November 10, 1977 and appearing at 42 FR 58518 should be renumbered as follows:

§ 515.562 Bunkering of Cuban vessels and fueling of Cuban aircraft by American-owned or controlled foreign firms.

2. The citation of authorities set forth immediately following the above renumbered section should be corrected to read as follows:

(50 U.S.C. App. 5(b); 22 U.S.C. 2370(a); Executive Order 9193, 31 CFR 1943 Cum. Supp.; Treasury Department Order No. 128, 32 FR 3472.)

Dated: April 25, 1978.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:

RICHARD J. DAVIS,
Assistant Secretary.

[FR Doc. 78-12514 Filed 5-8-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-220]

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Federal Standard Requisitioning and Issue Procedures (FEDSTRIP)

AGENCY: General Services Administration

ACTION: Final rule.

SUMMARY: Subchapter E of the Federal Property Management Regulations contains general and procedural information concerning the Federal Standard Requisitioning and Issue Procedures (FEDSTRIP) system which is provided in the GSA Handbook, FEDSTRIP Operating Guide (FPMR 101-26.2). This amendment takes the necessary action to eliminate duplicate information and to amend the FPMR appropriately.

EFFECTIVE DATE: May 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

The table of contents for Part 101-26 is amended to reserve §§ 101-26.203 and 101-26.205 and to delete §§ 101-26.203-1, 101-26.203-2, 101-26.205-1, and 101-26.205-2 as follows:

Sec.
101-26.203 [Reserved]
101-26.203-1 [Deleted]
101-26.203-2 [Deleted]
101-26.205 [Reserved]
101-26.205-1 [Deleted]
101-26.205-2 [Deleted]

Subpart 101-26.2—Federal Requisitioning System

1. Section 101-26.200 is revised as follows:

§ 101-26.200 Scope of subpart.

This subpart prescribes a uniform requisitioning and issue system for use in obtaining supplies and equipment from GSA, Department of Defense, and Veterans Administration sources.

2. Section 101-26.201 is revised as follows:

§ 101-26.201 General.

This requisitioning and issue system is identified as the Federal Standard Requisitioning and Issue Procedures (FEDSTRIP) and is similar to and compatible with the Military Standard Requisitioning and Issue Procedures (MILSTRIP). The FEDSTRIP system provides GSA and other supply sources the means to automate the processing of requisitions. Detailed instructions required to implement FEDSTRIP are contained in the GSA Handbook, FEDSTRIP Operating Guide (FPMR 101-26.2), which is issued and maintained by the Commissioner, Federal Supply Service, GSA.

3. Section 101-26.202 is revised as follows:

§ 101-26.202 Applicability.

The FEDSTRIP system shall be used by civilian agencies to requisition any item from GSA or to requisition any specifically authorized item from Department of Defense (DOD). Requisitions to the Veterans Administration (VA) should be submitted on punched cards in FEDSTRIP format or typed on Standard Form 147, Order for Supplies or Services.

4. Section 101-26.203 is reserved and §§ 101-26.203-1 and 101-26.203-2 are deleted as follows:

§ 101-26.203 [Reserved]

§ 101-26.203-1 [Deleted]

§ 101-26.203-2 [Deleted]

5. Section 101-26.205 is reserved and §§ 101-26.205-1 and 101-26.205-2 are deleted as follows:

§ 101-26.205 [Reserved]

§ 101-26.205-1 [Deleted]

§ 101-26.205-2 [Deleted]

6. Section 101-26.206 is revised as follows:

§ 101-26.206 GSA assistance.

The Federal Supply Service at each GSA regional office will advise and assist an agency's field activities with questions concerning FEDSTRIP procedures. Agency headquarters activities requiring assistance may contact General Services Administration (FF), Washington, D.C. 20406.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: April 25, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-12562 Filed 5-8-78; 8:45 am]

[6325-01]

Title 45—Public Welfare

CHAPTER VIII—UNITED STATES CIVIL SERVICE COMMISSION

PART 801—VOTING RIGHTS PROGRAM

Appendix A: Texas

AGENCY: Voting Rights Office, U.S. Civil Service Commission.

ACTION: Final rule.

SUMMARY: This Notice identifies the location of a new office for the filing of applications or complaints under the Voting Rights Act of 1965 as amended.

EFFECTIVE DATE: May 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles Dullea, Coordinator, Voting Rights Program, U.S. Civil Service Commission, Washington, D.C. 20415, telephone 202-632-4604.

SUPPLEMENTARY INFORMATION: The Attorney General has designated Reeves County, Tex., as coming under the provisions of the Voting Rights Act of 1965, as amended.

Appendix A to Part 801 is amended as set out below to show under the heading "Dates, Times, and Places for Filing," an additional place for filing in Texas:

TEXAS

County; place for filing; beginning date.
• • • • •
Reeves; Pecos—U.S. Post Office, U.S. Attorneys Office, Room 301; May 6, 1978.
• • • • •

(Secs. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973e, 1973g).)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-12722 Filed 5-8-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21349; FCC 78-294]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Implementing Changes in the Frequencies, Operating Procedures and Other Criteria Relating to Radio-Telephony in the Band 4000 to 27500 kHz in the Maritime Mobile Services Adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974.

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Prohibition of the use of those frequencies between 4000-27500 kHz contained in Parts 81 and 83, which are not in accordance with the International Telecommunications Union (ITU) Allotment Plan. Licensees were permitted to operate on both the old and new frequencies for a transition period. Ample time has now been allowed to procure crystals and make the necessary frequency changes so that United States operations in the maritime mobile service are in accordance with the ITU.

EFFECTIVE DATE: June 1, 1978 (concerning frequencies available for use).

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Nicholas G. Bagnato, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: April 26, 1978.

Released: May 3, 1978.

Amendment of Parts 81 and 83 to implement changes in frequencies, operating procedures and other criteria relating to radio-telephony in the band 4000 to 27500 kHz in the maritime mobile services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974, Docket No. 21349.[1]

1. A Notice of Inquiry (NOI) in the above entitled matter was released on August 5, 1977, and was published in

[1]See 43 FR 2396, Jan. 17, 1978.

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the FEDERAL REGISTER on August 9, 1977 (42 FR 40224). An Order in this matter was released on November 16, 1977, and was published in the FEDERAL REGISTER on November 26, 1977 (42 FR 60145).

2. Several problem areas were raised in the NOI which could not be resolved by following normal administrative procedures and permit implementation of the new Appendix 25 MAR2 frequencies on January 1, 1978, as required by our treaty obligations. Therefore, the Order containing a temporary assignment plan was adopted in order to minimize disruption to the maritime mobile service while the Notice of Proposed Rule Making was pending.

3. The Commission recognized that some licensees would experience some difficulties in converting their equipment by January 1, 1978. These difficulties were delays in procuring of crystals, installation of the crystals and availability of the vessels in ports where the modifications could be effected. Therefore, no date was established in the Order for deleting authorization of the existing frequencies. We believe that ample time has been allowed for procurement and installation of the crystals. We are, therefore, requiring that all HF radiotelephone communications in the maritime mobile service be conducted on the frequencies contained in Appendix 25 MAR2 by June 1, 1978. The frequency assignment plan contained in the Appendix to the Commission Order, released November 16, 1977, is in accordance with the Appendix 25 MAR2. Therefore, the frequencies between 4000 and 27500 kHz listed in the following rule sections, will not be used after June 1, 1978.

Sections 81.306(a), 81.306(b), 81.306(c), 81.308, 83.351, 83.354(b), 83.354(c), 83.355, and 83.372(a) Table 2.

4. It is imperative that United States stations become operational on the Appendix 25 MAR2 frequencies as soon as possible, in order to eliminate interference to stations of other Administrations operating in accordance with the ITU Allotment Plan and to make communications possible with foreign stations which only accept traffic on the new frequencies.

5. In order to expedite conversion to the ITU frequency plan, this Second Order will be limited to the deletion of the existing radiotelephone frequencies from the rules. A Notice of Proposed Rule Making will be issued soon which will address problems of classes of stations, utilization of frequencies, permanent assignment of frequencies and other matters.

6. In view of the foregoing: *It is ordered*, That, pursuant to the authority contained in Sections 4(i), and 303 (c) and (r) of the Communications Act of 1934, as amended, the frequencies between 4000-27500 kHz listed in the rule sections set forth in paragraph 3 above are not available for use, effective June 1, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-12543 Filed 5-8-78; 8:45 am]

[6712-01]

[FCC 78-269]

PART 97—AMATEUR RADIO SERVICE

Increase in the Frequencies Available for Use by General Class Amateur Radio Operators

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The FCC is amending its amateur radio rules to permit General Class operators to operate their stations between 50.0 MHz and 50.1 MHz. We are taking this action in order to give General Class operators the same privileges as Technician Class operators in the very high and ultra high frequency bands.

EFFECTIVE DATE: May 15, 1978.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory M. Jones, Personal Radio Division, 202-634-6619 (Not a toll-free telephone number).

SUPPLEMENTARY INFORMATION:

ADOPTED: April 20, 1978.

RELEASED: May 3, 1978.

Order. In the matter of increase in the frequencies available for use by General Class amateur radio operators.

1. This Order makes all authorized amateur operating privileges available to General Class amateur radio operators between 50.0 MHz and 50.1 MHz.

2. On March 22, 1978 the Commission adopted a Second Report and Order in Docket 20282. The Second Report and Order (1) Made the Novice Class amateur operator license valid for a period of five years and renewable[1] and (2) extended full amateur operating privileges to Technician Class amateur operators above 50.0 MHz. The new rule amendments were given an effective date of May 15, 1978.

[1]The Novice Class operator license had been valid for a period of two years and was not renewable.

3. It has come to our attention that in making 50.0 MHz to 50.1 MHz available to Technician Class licensees, we may have acted unfairly towards General Class licensees, who are prohibited from operating their amateur stations between 50.0 MHz and 50.1 MHz.[2] Since the General Class license is more difficult to obtain than the Technician Class license, it does not appear reasonable to afford Technician Class licensees greater operating privileges than General Class licensees. Indeed, one of the principles upon which the current amateur licensing system is based is that each successively "higher" amateur operator license conveys all operating privileges of all "lower" class operator licenses. The Rules as amended by the Second Report and Order in Docket 20282, are anomalous: a licensee "upgrading" the class of his operator license from Technician to General would lose the privilege of operating between 50.0 MHz and 50.1 MHz.

4. We believe General Class licensees should have all privileges afforded Technician Class licensees. Accordingly, we are amending Section 97.7 of the rules to make 50.0 MHz to 50.1 MHz available to General Class licensees.

5. Authority for this action, which we believe to be in the public interest, is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended. Because the amendment we are adopting is minor in character, merely increasing slightly the frequencies available for the use of General Class amateur radio operators, we find, for good cause, that the prior notice and public procedure provisions of the Administrative Procedures Act, 5 U.S.C. 553, are unnecessary.

6. For the foregoing reasons, the Commission orders amendment of Part 97 of its rules, as such attached below effective May 15, 1978.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

The FCC is amending Part 97 of Chapter 1 of Title 47 of the Code of Federal Regulations, as follows:

1. Section 97.7(a) is amended to read, as follows:

§ 97.7 Privileges of operator licenses.

(a) *Amateur Extra Class and Advanced Class.* All authorized amateur privileges including exclusive frequency operating authority in accordance with the following table:

[2]Section 97.7(a) of the Commission's Rules limits operation between 50.0 MHz and 50.1 MHz to Amateur Extra Class and Advanced Class operators.

Frequencies	Class of license authorized
3500-3525 kHz	Amateur extra only.
3775-3800 kHz	Do.
7000-7025	Do.
14,000-14,025 kHz	Do.
21,000-21,025 kHz	Do.
21,250-21,270 kHz	Do.
3600-3890 kHz	Do.
7150-7225 kHz	Amateur extra and advanced.
14,200-14,275 kHz	Do.
21,270-21,350 kHz	Do.

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[FR Doc. 78-12575 Filed 5-8-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons on opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-05]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

CIGAR-BINDER TOBACCO

Termination of Marketing Quotas on Cigar-Binder (Types 51 and 52) Tobacco for the 1978-79 Marketing Year

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture is investigating whether the operation of marketing quotas for cigar-binder tobacco will cause this kind of tobacco to be in short supply for the 1978-79 marketing year. Presently, the total supply of cigar-binder is below the normal supply which was determined February 1, 1978. Interested persons are invited to submit written comments, views and recommendations concerning the possible suspension of marketing quotas for cigar-binder (types 51 and 52) tobacco for the 1978-79 marketing year. Also, requests for a hearing will be granted if timely submitted.

DATES: Written comments and requests for a hearing must be received by June 8, 1978 in order to be sure of consideration.

ADDRESSES: Send comments and hearing requests to the Acting Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert L. Tarczy, 202-447-6695.

SUPPLEMENTARY INFORMATION: Pursuant to and in accordance with Section 371(a) of the Agricultural Adjustment Act of 1938, as amended (referred to hereinafter as the "Act"), an investigation is being made to determine whether the operation of farm marketing quotas in effect on cigar-binder (types 51 and 52) tobacco for the 1978-79 marketing year will cause the amount of such kind of tobacco which will be free of marketing restrictions to be less than the normal supply for such kind of tobacco for such marketing year.

If upon the basis of such investigation the Secretary finds the existence of such fact, he will proclaim the same and specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such kind of tobacco which will be free of marketing restrictions for the 1978-79 marketing year equal to the normal supply.

Marketing quotas were proclaimed for cigar-binder (types 51 and 52) tobacco for the 1978-79, 1979-80 and 1980-81 marketing years (43 FR 4966). Farmers approved marketing quotas for such 3 marketing years (43 FR 11610).

Under present legislation the termination of marketing quotas for any marketing year would be limited in application and effect to that year only.

Under Sections 101 and 106 of the Agricultural Act of 1949, as amended, price support will be made available on the 1978 crop of cigar-binder (types 51 and 52) tobacco even if marketing quotas are terminated because producers did not disapprove marketing quotas for such tobacco.

Data shows that total disappearance (domestic use plus exports) of cigar-binder (types 51 and 52) tobacco has decreased from 26 million pounds during the 1955-56 marketing year, prior to the advent of reconstituted binder sheet, to 2.3 million pounds during the 1976-77 marketing year. Disappearance is expected to increase only slightly to 2.4 million pounds during the 1977-78 marketing year. This has necessitated drastic adjustments in production. Producers used the Soil Bank and the Cropland Adjustment Programs extensively in making these adjustments. In addition, the allotted acreage has been reduced from 16,643 acres in the 1955-56 marketing year to about 4,813 acres in 1978.

Total disappearance (domestic use plus exports) has exceeded production in 18 of the 22 years from 1955 to 1976. This has caused stocks of this kind of tobacco to decline from 62.2 million pounds on October 1, 1955, to 4.3 million pounds at the beginning of the current marketing year (October 1, 1977).

With production during the 1977-78 year estimated at 2.6 million pounds, the total supply of cigar-binder tobacco is 6.9 million pounds. Normal supply as determined under the provisions of section 301 of the Act for the 1978-79 marketing year for cigar-binder tobacco is 10.7 million pounds. Thus, the total supply of cigar-binder is below normal.

Quotas for cigar-binder tobacco have been annually terminated since the 1970 marketing year began.

Section 371(a) of the Act provides that in the course of the investigation conducted by the Secretary, due notice and opportunity for hearing shall be given to interested persons.

PROPOSED RULE

It is proposed that an investigation be conducted to determine whether the operation of marketing quotas for cigar-binder tobacco will cause this kind of tobacco to be in short supply for the 1978-79 marketing year. It is proposed further that interested persons be invited to submit written comments, views and recommendations or request a hearing concerning the possible suspension of marketing quotas for cigar-binder (types 51 and 52) tobacco for the 1978-79 marketing year.

Prior to making any determination, the Department will consider comments, views and recommendations submitted in writing to the Acting Director, Price Support and Loan Division.

Agricultural Stabilization and Conservation Service has determined that this document contains a major proposal requiring preparation of an Inflation Impact Statement Under Executive Order 11821 and OMB Circular A-107, and certifies that an Economic Impact Statement has been prepared.

Signed at Washington, D.C. on May 4, 1978.

STEWART N. SMITH,
Acting Administrator Agricultural Stabilization and Conservation Service.

[FR Doc. 78-12700 Filed 5-8-78; 8:45 am]

[3410-15]

Rural Electrification Administration

[7 CFR Part 1701]

RURAL ELECTRIC PROGRAM

AC Transmission Line Clearances

AGENCY: Rural Electrification Administration.

ACTION: Proposed revisions of vertical clearances for REA AC transmission line designs.

SUMMARY: The Rural Electrification Administration proposes to issue a File-With to REA Bulletin 62-1 which revises the vertical clearances of REA ac transmission line designs and the conditions under which they apply. The revision is necessary to reflect changes in the 1977 edition of the National Electrical Safety Code which has already been adopted by the Rural Electrification Administration. This action updates the transmission line clearance section of Bulletin 62-1, thereby making the publication more responsive and useful.

DATE: Public comments must be received by REA no later than June 8, 1978.

ADDRESS: Interested persons may obtain copies of the File-With from Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4413. All data, views, or comments should also be directed to Mr. Hand. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division, during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland C. Hand, Sr., 202-447-4413.

Dated: May 1, 1978.

THOMAS R. MCDONALD,
Acting Assistant Administrator, Electric.

[FR Doc. 78-12418 Filed 5-8-78; 8:45 am]

[3410-15]

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revision of REA Bulletin 384-3 to Announce Issuance of Proposed Addendum No. 1 to REA Form 525, Central Office Equipment Contract

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 384-3 to announce the issuance of Addendum No. 1 to REA Form 525, Central Office Equipment Contract (Including Installation), to include a provision for liquidated damages. This action is being taken for reasons of providing improved protection to REA telephone borrowers against damages resulting from the failure of a Bidder to complete the installation of equipment on time as scheduled. The effect of this action will be to achieve more timely response to promised delivery and installation completion dates. On issuance of REA Bulletin 384-3, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than June 8, 1978.

ADDRESS: Persons interested in the proposed Addendum No. 1 to REA Form 525 may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. M. Wilson Magruder, Engineering Management and Standards Engineer, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4561.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 384-3. A copy of the proposed revision of REA Bulletin 384-3 and the proposed Addendum to REA Form 525 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

Dated: May 2, 1978.

C. R. BALLARD,
Assistant Administrator.

[FR Doc. 78-12479 Filed 5-8-78; 8:45 am]

[3410-15]

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAMS

Proposed Revision of REA Bulletin 385-4 to Announce Issuance of Proposed Addendum No. 1 to REA Form 397, Special Equipment Contract

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 385-4 to announce the issuance of Addendum No. 1 to REA Form 397, Special Equipment Contract (Including Installation), to include a provision for liquidated damages. This action is being taken for reasons of providing improved protection to REA telephone borrowers against damages resulting from the failure of a Bidder to complete the installation of equipment on time as scheduled. The effect of this action will be to achieve more timely response to promised delivery and installation completion dates. On issuance of REA Bulletin 385-4, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than June 8, 1978.

ADDRESS: Persons interested in the proposed Addendum No. 1 to REA Form 397 may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. M. Wilson Magruder, Engineering Management and Standards Engineer, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4561.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), REA proposes to issue REA Bulletin 385-4. A copy of the proposed revision of REA Bulletin 385-4 and the proposed Addendum to REA Form 397 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

Dated: May 2, 1978.

C. R. BALLARD,
Assistant Administrator.

[FR Doc. 78-12480 Filed 5-8-78; 8:45 am]

[3410-37]

Food Safety and Quality Service

[7 CFR Part 2851]

UNITED STATES STANDARDS FOR GRADES OF GLADIOLUS CORMS (BULBS)

Revised Study Draft

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Fruit and Vegetable Quality Division of the Food Safety and Quality Service, U.S. Department

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of Agriculture has revised study drafts available for review and comments in its consideration of proposed U.S. Standards for Grades of Gladiolus Corms (Bulbs).

DATE: Comments must be received by November 30, 1978.

ADDRESS: Send requests for study drafts and comments to: Michael A. Castille, Chief, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Same as under ADDRESS.

SUPPLEMENTARY INFORMATION: The preliminary study draft to consider the issuance of grades of gladiolus corms was developed in 1975 at the request of the Standards Committee of the North American Gladiolus Council (NAGC) to provide guidelines for grading, sizing and preparation for market of gladiolus corms; to provide a basis for international trading using common language; and a basis for uniformly advertising graded products. There were only three comments submitted, each recommending further revisions.

In the developing of these revised draft standards, the Department conferred with members of the NAGC Standards Committee to obtain expert advise. The gladiolus industry has for many years used the grading procedures and terms defined in the study draft except for the circumference measurement using the metric system. This is a world-wide trading practice and meets guidelines set forth in Pub. L. 94-168, the Metric Conversion Act of 1975, signed by the President December 23, 1975.

The Standards would be implemented on a voluntary basis and a charge made for the Department's Services.

This advance notice of proposed rulemaking is issued under the authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622-1624).

Done at Washington, D.C., this 17th day of April 1978.

JOSEPH A. POWERS,
Acting administrator.

[FR Doc. 78-12483 Filed 5-8-78; 8:45 am]

[3410-37]

[9 CFR Parts 318 and 381]

SUBSTANCES FOR USE IN MEAT AND POULTRY PRODUCTS

Notice of Proposed Rulemaking

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Federal meat and poultry inspection regulations to permit the use of TBHQ (tertiary butylhydroquinone) as an antioxidant in the preparation of certain meat food products and various poultry food products. Official establishments have requested that the Administrator approve this substance for use, because it is not on the list of approved substances in the Federal meat and poultry inspection regulations. This substance is now generally recognized as safe (GRAS) for use in other foods by the Food and Drug Administration. The Administrator has examined the basis for the Food and Drug Administration's approval of TBHQ and has found it to be suitable for use in meat and poultry food products and found that it will not cause the products to be adulterated within the meaning of section 601(m) of the Meat Inspection Act (21 U.S.C. 601(m)) and section 453(g) of the Poultry Products Inspection Act (21 U.S.C. 453(g)).

DATE: Comments must be received on or before July 8, 1978.

ADDRESSES: Written comments to: Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Agriculture Building, Washington, D.C. 20250. Oral comments on poultry regulations to: Mr. Irwin Fried, 202-447-6042.

FOR ADDITIONAL INFORMATION ON COMMENTS, SEE SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin Fried, Acting Director, Product Labels and Standards Staff, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6042.

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Hearing Clerk. Comments should bear a reference to the date and page number of this issue of the FEDERAL REGISTER. Any person desiring opportunity for oral presentation of views concerning the proposed amendment to the poultry products inspection regulations must make such request to Mr. Fried so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business.

BACKGROUND

TBHQ (TERTIARY BUTYLHYDROQUINONE)

The Administrator has been requested to approve TBHQ (tertiary butylhydroquinone) as an approved substance for use in official establishments which prepare meat food products under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and poultry food products under the Federal Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). At the present time Section 318.7 of the Federal meat inspection regulations (9 CFR 318.7) and Section 381.147 of the Federal poultry products inspection regulations (9 CFR 381.147) list those ingredients which can be used in official establishments in the preparation of meat and poultry food products.

TBHQ is currently used as an antioxidant in food products under Section 172.185 of the federal food and drug regulations under three conditions. First, the TBHQ must have a melting point of 126.5° C-128.5° C. Second, the TBHQ must be used as an antioxidant alone or in combination with BHA and/or BHT. Third, the total antioxidant content (either TBHQ alone or in combination with BHA and/or BHT) of a food cannot exceed 0.02 percent of the oil or fat content of the food, including the essential (volatile) oil content of the food.

The Administrator has examined the basis of the Food and Drug Administration's approval of the use of TBHQ and has determined that TBHQ is suitable for use as an antioxidant to retard rancidity in the preparation of certain meat food and poultry food products. In addition, the Administrator has determined that the use of TBHQ will not cause those meat food and poultry food products to be adulterated within the meaning of Section 601(m) of the Federal Meat Inspection Act (21 U.S.C. 601(m)) and Section 453(g) of the Federal Poultry Products Inspection Act (21 U.S.C. 453(g)). However, the Administrator has determined, after reviewing the basis for the Food and Drug Administration's approval, that the amount of TBHQ used should be limited to smaller percentages in certain meat and poultry food products. The Administrator has determined that larger amounts of TBHQ in meat and poultry food products are not necessary in order to achieve the desired approved purpose for the use of the TBHQ.

The proposed amendment contained herein would permit the use of TBHQ under certain prescribed conditions in the preparation of certain meat food products and certain poultry food products.

Therefore, the Federal meat inspection regulations would be amended as follows:

§ 318.7 [Amended]

In § 318.7(c)(4), in that portion of the chart dealing with the "Class of substance," "Antioxidants and oxygen interceptors," the following information is added to the appropriate columns in alphabetical order and the revised table is as shown:

Class of substance	Substance	Purpose	Products	Amount	
Antioxidants and oxygen interceptors.	BHA (butylated hydroxyanisole)	To retard rancidity.	Dry sausage	0.003 pct based on total weight	0.006 pct in combination.
	BHT (butylated hydroxytolune)	do	do	do	Do.
	Propyl	do	do	do	Do.
	TBHQ (tertiary butylhydroquinone)	do	do	do	Do.
	BHA (butylated hydroxyanisole)	do	Rendered animal fat or a combination of such fat and vegetable fat.	0.01 pct	Do.
	BTH (butylated hydroxytoluene)	do	do	do	0.02 pct in combination.
	Glycine	do	do	do	Do.
	Propyl galiate	do	do	do	Do.
	TBHQ (tertiary butylhydroquinone)	do	do	do	Do.
	Tocopherols	do	do	0.03 pct. A 30 pct concentration of tocopherols in vegetable oils shall be used when added as an antioxidant to products designated as lard or rendered pork fat.	
	BHA (butylated hydroxyanisole)	do	Fresh pork sausage, precooked uncured sausages, Italian sausage products, pregrilled beef patties, and fresh sausage made from beef or beef and pork.	0.01 pct based on fat content	0.02 pct combination based on fat content.
	BHT (butylated hydroxytolune)	do	do	do	Do.
	Propyl gallate	do	do	do	Do.
	TBHQ (tertiary butylhydroquinone)	do	do	do	Do.
	BHA (butylated hydroxyanisole)	do	Dried meats	0.01 pct based on total weight	0.1 pct in combination.
	BHT (butylated hydroxytolune)	do	do	do	Do.
	Propyl gallate	do	do	do	Do.
	TBHQ (tertiary butylhydroquinone)	do	do	do	Do.

Further, the Federal poultry products inspection regulations would be amended as follows:

§381.147 [Amended]

Section 381.147(f)(3), in that portion of the chart dealing with the "Class of substance," "Antioxidants and oxygen interceptors," the following information would be added in the appropriate columns in alphabetical order:

Class of substance	Substance	Purpose	Products	Amount	
Antioxidants and oxygen interceptors.	BHA (butylated hydroxyanisole)	To retard rancidity.	Various	0.01 pct based on fat content	0.02 pct combination based on fat content.
	BHT (butylated hydroxytoluene)	do	do	do	Do.
	Propyl gallate	do	do	do	Do.
	TBHQ (tertiary butylhydroquinone)	do	do	do	Do.
	Tocopherols	do	do	0.03 pct based on fat content	0.02 pct combination with any other antioxidant based on fat content.

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NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on April 27, 1978.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc. 78-12481 Filed 5-8-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 50 and 70]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES SPECIAL NUCLEAR MATERIAL

Facilities and Access for Resident Inspection

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations to require power reactor licensees and construction permit holders and selected fuel facility licensees to provide: (1) on-site rent free, exclusive use office space, and (2) prompt licensee facility access to Commission inspection personnel. The proposed rule is needed in order to implement a resident inspection program which the Commission intends to initiate in early 1978. Initially the Commission will place resident inspectors on-site at selected nuclear power reactor construction sites and at selected power reactor sites in test and routine operations to observe and review licensee construction, operations, radiological safety, safeguards, and environmental protection activities. Eventually the Commission expects to place full time resident inspectors at all operating power reactors, at power reactors in latter stage of construction and at selected fuel cycle facilities where nuclear reactor fuel is fabricated or processed.

DATE: Comment period expires June 23, 1978.

ADDRESS: Written comments or suggestions for consideration in connection with the proposed amendments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward L. Jordan, Executive Officer for Operations Support, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-492-8487.

SUPPLEMENTARY INFORMATION: In early 1978, the Commission will initiate an on-site resident inspection program. Pursuant to section 161(o) of the Atomic Energy Act of 1954, as amended, the Commission intends to place NRC resident inspectors on-site at selected nuclear power reactor construction sites and at selected power reactor sites in test and in routine operation. Eventually the Commission expects to place full time resident inspectors at all operating power reactors, at power reactors in latter stage of construction and at selected fuel cycle facilities where nuclear reactor fuel is fabricated or processed. The resident inspector will observe and review licensee operations, construction, safety, safeguards, and environmental protection activities to determine whether they are adequate, conducted properly, and at the required frequency. Other regionally or headquarters based NRC personnel will continue to provide technical support and management review as required for the inspection program.

In order to facilitate the performance of the resident inspection program it is necessary that office space be provided to selected Commission personnel. The proposed regulation requires, among other things, that the licensee provide on-site, rent free, exclusive office space upon the request of the Director, Office of Inspection and Enforcement. This requirement is not unique in that other Federal departments and agencies have continuous inspection programs that require those subject to their regulations to furnish appropriate facilities to the inspectors.

The minimum specified space will accommodate a full time inspector, a part time secretary, and transient NRC personnel. For sites with more than one power reactor unit or fuel facility it may be necessary to assign more than one resident inspector. If additional resident inspectors are assigned to a site, additional space will be requested. The additional space required for each additional inspector will not exceed the minimum space dimensions provided for the initial inspector.

In order to assure that the resident inspector or regionally based inspectors are afforded the opportunity to conduct unfettered reviews of work in progress it is necessary and the proposed regulation requires, that properly identified inspectors be provided immediate access to the facility (the same as licensee employees). The inspectors afforded such access will be required to complete that site-specific radiological safety and security training necessary for their safety and will conform to all facility safety and security requirements.

A briefing on site specific radiological protection practices, security and emergency response actions is appropriate and sufficient for unescorted access to other than vital areas, radiation areas, and areas contaminated with radioactive material, for those NRC personnel who infrequently visit a site.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following additions to 10 CFR parts 50 and 70 are contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed regulation should send them to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments on the proposed rule may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Sections 50.70 and 70.55 are amended as follows:

1. In § 50.70 of 10 CFR part 50, an "(a)" is added preceding the present paragraph and paragraph (b) is added as follows:

§ 50.70 Inspections.

* * * * *

(b) (1) Each licensee and each holder of a construction permit shall upon request by the Director, Office of Inspection and Enforcement, provide rent free office space including heat, air conditioning, light, electrical outlets, and janitorial service for the exclusive use of Commission inspection personnel. The office shall be convenient to and have full access to the facility and shall provide the inspector both visual and acoustic privacy.

(2) For a site with a single power reactor or fuel facility licensed pursuant to this section, the space provided shall (i) be within that site's office complex and be a minimum of 250 square feet; or (ii) be an office trailer or module or equivalent located separate from that site's office complex but on-site and be a minimum of 300 square feet. If (ii) above is chosen, then in addtion to the above required utilities, such space shall be equipped with sanitary facilities and any necessary emergency alarms. For sites containing more than one power reactor unit or fuel facility, any additional space required shall be specified in the request for space and for each additional inspector required shall not exceed the minimum space dimensions provided for the initial inspector. The office space that is provided shall be subject to the approval of the Director, Office of Inspection and Enforcement. All furniture, supplies, and communication equipment will be furnished by the Commission.

(3) The licensee or permittee shall afford any NRC resident inspector or other NRC inspectors identified by the Regional Director as likely to inspect the facility, immediate access following proper identification and compliance with applicable access control measures. Access may be limited only to the extent required for the inspectors safely.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201), sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Washington, D.C., this 3d day of May 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-12614 Filed 5-8-78; 8:45 am]

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[7590-01]

[10 CFR Part 110]

EXPORT OF CERTAIN MINOR QUANTITIES OF NUCLEAR MATERIAL

Proposed Licensing Provisions

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its regulations concerning the export of certain minor quantities of nuclear material which do not have significance from a nuclear proliferation perspective. The proposed amendments would establish or expand general and specific licensing provisions for the export of (a) gram quantities of special nuclear material (SNM), (b) certain classes of source material, and (c) certain classes of byproduct material. Existing general licenses for the byproduct material polonium-210 and americium-241 would be revoked or restricted. The proposed amendments are the result of extensive review of existing criteria and procedures to update the regulations to permit the expedited export of such materials without imposing any national security risk.

DATE: Comment period expires June 23, 1978.

ADDRESSES: Written comments should be addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Marvin R. Peterson, Office of International Programs, U.S. Nuclear regulatory Commission, Washington, D.C. 20555, telephone 301-492-8155.

SUPPLEMENTARY INFORMATION: In recent months, the Nuclear Regulatory Commission has been giving particular attention to the development of improved criteria and regulations for the export of nuclear facilities and material. On February 17, 1978 the Commission issued new 10 CFR Part 110, which consolidates ts export and import licensing regulations into one part of the Commission's regulations (43 FR 691T).

As a related matter, the Commission, in coordination with the Executive Branch, has undertaken an extensive review of existing criteria and procedures for the export of certain minor quantities of nuclear material with the aim of updating and streamlining the regulations to permit the expedited export of such material without imposing any national security risk. This review has resulted in proposed revisions which will not, in our judgment, be inimical to the common defense and security, constitute an unreasonable risk to the public health and safety, or result in any activity that effects the environment. Furthermore, the proposals will not conflict with the safeguards criteria of the International Atomic Energy Agency (IAEA) and have the benefit of conforming U.S. export control requirements to a greater degree with international control requirements with respect to exports to communist countries.

The proposed changes will also have a beneficial impact on the administration of the nuclear export program. The most significant proposal would eliminate the requirement that exports of minor quantities of SNM always be pursuant to an agreement for cooperation. This change would not only remove one of the major reasons for administrative delays in export license processing, but also conform U.S. export licensing requirements with international export criteria. The proposed new or expanded general licenses for SNM, source and byproduct material would have similar benefits. A significant number of NRC's export applications would be subject to expedited licensing treatment or eliminated entirely if the proposed revisions were adopted. Such a workload reduction would enable NRC and the Executive Branch agencies reviewing proposed exports to devote additional time to reviewing major export applications.

DISCUSSION OF PROPOSED REGULATIONS

Special Nuclear Material. A new general license would be established permitting the export of up to 3 grams of SNM when contained in sensing components installed in instruments, or plutonium-238 when contained in heart pacemakers.

In addition, the export under a specific license of plutonium-238 and up to 3 grams of any other SNM would be authorized without a requirement that the export be subject to the terms of an agreement for cooperation with another nation.

utilities, such space shall be equipped with sanitary facilities and any necessary emergency alarms. For sites containing more than one power reactor unit or fuel facility, any additional space required shall be specified in the request for space and for each additional inspector required, shall not exceed the minimum space dimensions provided for the initial inspector. The office space that is provided shall be subject to the approval of the Director, Office of Inspection and Enforcement. All furniture, supplies, and communication equipment will be furnished by the Commission.

(3) The licensee or permittee shall afford any NRC resident inspector or other NRC inspectors identified by the Regional Director as likely to inspect the facility, immediate access following proper identification and compliance with applicable access control measures. Access may be limited only to the extent required for the inspector's safety.

2. In § 70.55 of 10 CFR part 70, paragraph (c) is added as follows:

§ 70.55 Inspections.

* * * * *

(c) (1) In the case of fuel cycle facilities where nuclear reactor fuel is fabricated or processed each licensee shall upon request by the Director, Office of Inspection and Enforcement, provide rent free office space including heat, air conditioning, light, electrical outlets, and janitorial service for the exclusive use of Commission inspection personnel. The office shall be convenient to and have full access to the facility and, shall provide the inspector both visual and acoustic privacy.

(2) For a site with a single fuel facility, the space provided shall (i) be within that site's office complex and be a minimum of 250 square feet; or (ii) be an office trailer or module or equivalent located separate from that site's office complex but on-site and be a minimum of 300 square feet. If (ii) above is chosen, then in addition to the above required utilities, such space shall be equipped with sanitary facilities and any necessary emergency alarms. For sites containing more than one fuel facility, any additional space required shall be specified in the request for space and for each additional inspector required shall not exceed the minimum space dimensions provided for the initial inspector. The office space that is provided shall be subject to the approval of the Director, Office of Inspection and Enforcement. All furniture, supplies, and communication equipment will be furnished by the Commission.

(3) The licensee or permittee shall afford any NRC resident inspector or other NRC inspectors identified by the Regional Director as likely to inspect the facility, immediate access following proper identification and compliance with applicable access control measures. Access may be limited only to the extent required for the inspectors safely.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201), sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Washington, D.C., this 3d day of May 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-12614 Filed 5-8-78; 8:45 am]

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The new SNM general license would not pose any significant national security risk, since (1) the SNM would be required to be contained in instruments which, excepting heart pacemakers, would remain under separate Commerce Department specific licensing requirements and (2) extracting significant quantities of SNM from the containing instruments would be prohibitively expensive, practically very difficult, and therefore highly unlikely.

The relaxed requirements for specific licenses involving small amounts of SNM would expedite licensing action while retaining the opportunity for case-by-case review. Case-by-case review is necessary because of the concern over certain sensitive end-uses for such material.

The proposed changes are consistent with the provisions of section 54b. of the Atomic Energy Act as promulgated by Pub. L. 93-377 in 1974 (88 Stat. 475, 42 U.S.C. 2077). As the legislative history of Pub. L. 93-377 states, a large percentage of the Commission's SNM export licenses involve less than 3 grams of material intended for a wide variety of peaceful nuclear end-uses. Such end-uses are expected to increase and section 54b. was enacted specifically to authorize the export of these minor quantities of SNM under other than an agreement for cooperation where such exports would not be inconsistent with the international obligations of the U.S.

Source Material: Source material general license would be revised slightly to (1) conform to the metric system (3 pound limit changed to 1 kilogram) and (2) eliminate, where possible, the more restrictive application of general licenses with respect to exports to communist countries.

Byproduct Material: Because of the national security concern over the possible use of americium-241 and polonium-210 as neutron sources, the existing general licenses for these materials would be revoked. It is recognized that there are a broad range of commercial applications for americium-241 and polonium-210 neutron sources and for americium-241 in general, and the Commission will consider possible revisions of the general licenses to limit the export of these byproduct materials to these forms having no utility for nuclear explosive-related applications. The public is encouraged to comment on the impact of the proposed revocations and to suggest possible revisions of the general license.

The existing general license for byproduct material with an atomic number between 3 and 83 would be broadened to encompass exports to most communist countries. These materials have essentially no national security significance, a view shared by the Executive Branch. By broadening the 3-83 byproduct general license, the existing licensing exemptions for commodities containing byproduct material may be eliminated, since these exemptions would no longer be needed to permit exports to those communist countries not allowed to receive exports under the existing 3-83 byproduct general license. Elimination of the byproduct material exemption would also preclude the export of exempted material to countries to which the United States has a comprehensive trade embargo (Cuba, Vietnam, Cambodia, North Korea, and Southern Rhodesia).

Finally, the cumulative limits on the export under general license of certain forms of tritium and polonium-210 would be eliminated. In addition to the dificulties in administering this provision, the limits are unnecessary in view of the strictly limited forms permitted to be exported and the restriction to 100 curies per shipment.

With respect to the impacts of the proposed amendments on the public health and safety of citizens of the United States, the impacts of U.S. nuclear power export activities were examined in the Final Environmental Statement: U.S. Nuclear Power Export Activities (ERDA-1542, April 1976).

That Statement concluded that the impact on U.S. public health and safety of U.S. nuclear power exports is negligible. The Commission does not foresee circumstances in which the export of material covered by the proposed amendments would affect the health and safety of the U.S. population.

The proposed amendments simplify present practices and procedures of the Commission. The promulgation of these amendments would not result in any activity that affects the environment. Accordingly, the Commission has determined under the National Environmental Policy Act of 1969, the Council of Environmental Quality Guidelines and the criteria of 10 CFR Part 51.5(d)(3), that neither an environmental impact statement nor an environmental impact appraisal to support a negative declaration for the proposed amendments is required.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 533 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 110 is contemplated.

1. Sections 110.21 and 110.22 are revised as follows:

§ 110.21 Export of byproduct material.

General licenses are hereby issued authorizing any person to export to any country, except those listed in § 110.25, the following:

(a) Byproduct material with an atomic number from 3 to 83.

(b) Tritium and polonium-210 in individual shipments of 100 curies or less, provided it is contained in:

(1) Tritium activated luminous paint;

(2) Tritium labeled organic compounds;

(3) Tritiated accelerator targets;

(4) Polonium-210 static eliminators;

(5) Calibration standards;

(6) Luminescent light sources;

(7) Tritium sources for chromatography instuments;

(8) Electron tubes;

(9) Gas and aerosol detectors; or

(10) Tritium in helium-3 in a concentration of 2.5 millicuries or less per liter of helium-3.

§ 110.22 Export of source material.

(a) General licenses are hereby issued authorizing any person to export to any country, except those listed in § 110.25, the following:

(1) 1 kilogram or less of source material in individual shipments, provided that no more than 100 kilograms per year may be exported by any person to a single country;

(2) Thorium in incandescent gas mantles; and

(3) Depleted uranium in the form of shielding contained in radiographic exposure or teletherapy devices, or radioactive thermoelectric generators, provided individual shipments do not exceed 1,000 kilograms.

(b) General licenses are hereby issued authorizing any person to export to any country, except those listed in §§ 110.24 and 110.25, the following:

(1) Depleted uranium in the form of counterweights installed in aircraft, rockets, projectiles, or missiles, provided the counterweights have been manufactured under a specific Commission license;

(2) Thorium in finished aircraft engine parts, provided the thorium is (i) dispersed, in concentrations of 4 percent or less by weight, in nickel-thoria alloy and (ii) in the form of finely divided thoria (thorium dioxide); and

(3) Depleted uranium in the form of shielding contained in X-ray units or packaging for the transportation of radioactive materials.

2. Section 110.23, formerly reserved, is added as follows:

In the title of § 110.23 the word ("reserved") is deleted and the following paragraph is added:

§ 110.23 Export of special nuclear material.

A general license is hereby issued authorizing any person to export to any country, except those listed in § 110.25, up to 3 grams of special nuclear material, when contained in sensing components installed in instruments, or plutonium containing 80 percent or more by weight of plutonium-238 when contained in heart pacemakers.

3. Section 110.25 is redesignated § 110.27.

4. A new § 110.25 is added as follows:

§ 110.25 Schedule B.

(a) Cambodia.
(b) Cuba.
(c) North Korea.
(d) Southern Rhodesia.
(e) Viet Nam.

5. A new § 110.26 is added as follows:

§ 110.26 Reporting requirements.

Each person exporting tritium or source material, pursuant to § 110.21 (b)(1) and (b)(2) and § 110.22 (a)(1) and (a)(3), shall submit 1 copy of each Shippers' Export Declaration covering such exports to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

6. Section 110.42 is amended by revising paragraph (a)(2) as follows:

§ 110.42 Standards and procedures for issuing a license.

(a) • • •

(2) That the proposed export of a utilization facility or of special nuclear material would be under the terms of an agreement for cooperation, except for proposed exports of:

(i) Plutonium containing 80 percent or more by weight of plutonium-238 and 3 grams or less of other special nuclear material; and

(ii) 100 grams or less of special nuclear material which is diluted so that it is no longer usable for any nuclear activity relevant from the point of view of safeguards and is practicably irrecoverable.

• • • • • •

(Sec. 57, as amended, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077); sec. 161, as amended, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Washington, D.C. this 3rd day of May 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-12638 Filed 5-8-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

RETIREMENT, SURVIVORS AND DISABILITY INSURANCE

International Social Security Agreements—Totalization

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration plans to publish regulations to carry out Section 317 of the Social Security Amendments of 1977 (Pub. L. 95-216), which authorizes bilateral social security agreements between the United States and other countries. These agreements will permit individuals who have credits under the social security system of both countries to become entitled to benefits on the basis of their combined (totalized) credits, with each country paying its pro rata share of the benefit amounts based on the proportion of total covered work that was completed in that country. The agreements also eliminate dual coverage and dual taxation of the same work.

FOR FURTHER INFORMATION CONTACT:

Barbara C. Motley, room 4G10, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-5588.

Dated: May 1, 1978.

Approved:

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-12542 Filed 5-8-78; 8:45 am]

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

[20 CFR Part 718]

Federal Mine Safety and Health Act of 1977, As Amended

STANDARDS FOR DETERMINING COAL MINER'S TOTAL DISABILITY OR DEATH DUE TO PNEUMOCONIOSIS

AGENCY: Employment Standards Administration, Labor.

ACTION: Correction of proposed rule.

SUMMARY: This notice announces corrections of the proposed Standards for Determining Coal Miner's Total Disability or Death due to Pneumonoconiosis published as Federal Register Document No. 78-11086 in the April 25, 1978 issue of the FEDERAL REGISTER (43 FR 17722).

FOR FURTHER INFORMATION CONTACT:

Robert B. Dorsey, Chief, Branch of Claims Determination, Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Room C-3526, NDOL Building, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-6727.

SUPPLEMENTARY INFORMATION: On April 25, 1978 the proposed standards for determining whether a coal miner is or was totally disabled due to pneumoconiosis or died due to pneumoconiosis was published in the FEDERAL REGISTER as proposed 20 CFR Part 718. Because there were errors in appendix B of that document, it is necessary that corrections be made.

Table B-3 found at 43 FR 17731 is being corrected to accurately reflect 60 percent of the predicted normal Maximum Voluntary Ventilation (MVV) for males. In addition table B-2 (43 FR 17730) is being corrected by changing the tenth value listed under ages 59-60 from 2.99 to 1.99.

Accordingly, Federal Register Document No. 78-11086 is corrected as set forth in the attachment hereto.

Signed this 3d day of May 1978, at Washington, D.C.

RAY MARSHALL,
Secretary of Labor.

The proposal published on April 25, 1978, is amended as follows:

1. On page 17730, the tenth value listed under the column for ages 59-60 of table B-2, is corrected to read "1.99" rather than "2.99".

2. On page 17731, table B-3 is corrected to read:

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TABLE B.—3. *MVV/MALES (L/M)*

Der. source: The MVV values are derived from Knudson et. al. American Review of Respiratory Disease, 1976, 113,587, by multiplying $FEV_{1.0}$ by a factor of 40.

MT in CM	MT in IN	Age (years) 0-26	27-28	29-30	31-32	33-34	35-36	37-38	39-40	41-42	43-44	45-48	47-48	49-50	51-52	53-54	55-56	57-58	59-60	61-62	63-64	65-66	67-68	69-70	71-72	73 and over
152	60	73	72	70	69	68	67	65	64	63	61	60	59	58	56	55	54	52	51	50	48	47	46	45	43	42
155	61	76	75	74	72	71	70	69	67	66	65	63	62	61	60	58	57	56	54	53	52	50	49	48	47	45
157	62	79	78	77	76	74	73	72	70	69	68	66	65	64	63	62	60	59	57	56	55	54	52	51	50	48
160	63	82	81	80	79	78	76	75	74	72	71	70	68	67	66	64	63	62	61	59	58	57	56	54	53	52
163	64	88	84	83	82	81	80	78	77	75	74	73	72	70	69	68	66	65	64	62	61	60	58	57	56	55
165	65	89	88	86	85	84	82	81	80	79	77	76	75	74	72	71	70	68	67	66	64	63	62	60	59	58
168	66	92	91	90	88	87	86	84	83	82	80	79	78	76	75	74	73	72	70	69	68	66	65	64	62	61
170	67	95	94	93	91	90	89	88	86	85	84	82	81	80	78	77	76	75	73	72	71	69	68	67	66	64
173	68	98	97	96	95	93	92	91	90	88	87	86	84	83	82	80	79	78	76	75	74	72	71	70	69	67
175	69	102	100	99	98	96	95	94	93	91	90	89	87	86	85	84	82	81	80	78	77	76	74	73	72	71
178	70	105	104	102	101	100	98	97	96	94	93	92	91	89	88	87	86	84	83	82	80	79	78	76	75	74
180	71	108	107	105	104	103	102	100	99	98	96	95	94	92	91	90	88	87	86	85	84	82	81	80	78	77
183	72	111	110	109	107	106	105	103	102	101	100	98	97	96	94	93	92	90	89	88	87	85	84	83	81	80
185	73	114	113	112	110	109	108	106	105	104	103	102	100	99	98	96	95	94	92	91	90	88	87	86	84	83
187	74	118	116	115	114	112	111	110	108	107	106	105	103	102	101	99	98	97	96	94	93	92	90	89	88	86
190	75	121	120	118	117	116	114	113	112	110	109	108	106	105	104	102	101	100	99	98	96	95	94	92	91	90
193	76	124	123	121	120	119	117	116	115	114	112	111	110	108	107	106	104	103	102	100	99	98	97	95	94	93

[FR Doc. 78-12621 Filed 5-8-78; 8:45 am]

[1505-01]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration

[21 CFR Part 148]

[Docket No. 78N-0063]

FROZEN STRAWBERRIES

Revised Proposal To Establish Standards of Identity and Quality

Correction

In FR Doc. 78-10533, appearing at page 16991 in the issue for Friday, April 21, 1978, make the following corrections:

1. On page 16992, second column, eleventh line of the second full paragraph, the word "nitritive" should read "nutritive".

2. On page 16993, second column, twelfth line of the second full paragraph, the word "clamps" should read "clumps".

3. On page 16995, third column, in the table at the top, delete the first "greater" and insert the following: "equal to or less"; and in the second line from the bottom of § 148.170 (a)(1), the word "food" should read "good".

[4110-03]

Food and Drug Administration

[21 CFR Parts 155 and 156]

[Docket No. 77P-0090]

TOMATO JUICE, TOMATO CONCENTRATES, AND CATSUP

Amendments to Standards

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend standards of identity for tomato juice, tomato concentrates, and catsup and to amend the definition section for canned vegetables. It also proposes to establish standards of quality and fill of container for tomato juice, tomato concentrates, and catsup and, insofar as practicable, to adopt for concentrated tomato juice the standard developed by the Codex Alimentarius Commission and a proposal by the Campbell Soup Co.

DATES: Comments by July 10, 1978. Proposed compliance for products initially introduced into interstate commerce: July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Benjamin M. Gutterman, Bureau of Foods (HFF-402), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1231.

ADDRESS: Written comments, data, or information to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

SUPPLEMENTARY INFORMATION: The document proposes to amend certain existing standards and to establish others. The most significant features of the Commissioner's proposal are:

TOMATO JUICE

1. Permit the use of concentrated tomato juice to prepare a single strength tomato juice product.

2. Require the name "tomato juice from concentrate" when concentrated tomato juice is used in the preparation of the canned juice.

3. Establish in the identity standard a minimum tomato soluble solids requirement of 5.5 percent, by weight, for the product made from concentrate.

4. Revoke § 156.147 *Yellow tomato juice* (21 CFR 156.147).

5. Propose a standard of quality based in part on USDA standards and certain of its administrative guidelines. Copies of these documents are on file with the Hearing Clerk, Food and Drug Administration.

6. Permit the use of safe and suitable organic acids.

TOMATO CONCENTRATES

1. Propose a single standard for tomato concentrates, which will include those foods customarily known as tomato puree, tomato paste, and concentrated tomato juice, but will retain certain distinctions among these foods.

2. Propose that concentrated tomato juice may be prepared from water and tomato concentrate that is made solely from the liquid obtained from mature red tomatoes, and shall have a concentration such that when further diluted according to label directions the final diluted article contains not less than 5.5 percent tomato soluble solids, but in no case shall the concentrated tomato juice contain less than 20 percent tomato soluble solids.

3. Propose a standard of quality based largely on the USDA standards.

CATSUP

1. Permit the use of tomato concentrates as an optional ingredient.

2. Expand the list of optional sweetening ingredients to include any safe and suitable nutritive carbohydrate sweetner without limitation on the level of use.

3. Permit the use of safe and suitable organic acids, as well as vinegar, as optional ingredients.

4. Establish a minimum total soluble solids content of 25 percent.

5. Establish a quality standard for catsup to provide for a minimum consistency requirement.

FOR ALL THE STANDARDS

1. Establish a standard of fill of container requiring a fill of not less than 90 percent of the total capacity of the container.

2. Provide for a statistical sampling plan as a basis for determining compliance with certain requirements as may be specified in the respective standard.

3. Amend proposed § 155.3 *Definitions* (21 CFR 155.3) to include terms and nomenclature common to all the tomato product standards.

4. Reference the Munsell color system as a basis for determining the strength and redness of color of the respective tomato products, using the following discs for comparison purposes: red (5R 2.6/13), yellow (2.5YR2/12), Black (N1), and grey (N4). The Commissioner is aware, however, of the progress being made in the use of reflectance color instruments as an alternate to the Munsell system and invites comment on such an alternate method of color measurement that can be supported with data.

5. Require the label declaration of all optional ingredients.

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A more detailed comparison of the U.S. standards, the USDA standards, and the respective Codex standards is set forth in subsequent sections of this proposal. The Commissioner particularly requests comments and supporting data on the principal changes proposed for consideration and any modification deemed appropriate.

The Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission has submitted to the United States for consideration for acceptance a "Recommended International Standard for Tomate Juice Preserved Exclusively by Physical Means" (CAC/RS 49-1971) and a "Recommended International Standard for Processed Tomato Concentrates" (CAC/RS 57-1972). These documents are hereinafter referred to as the Codex standards.

The Campbell Soup Co. has filed a petition to amend the tomato puree standard (21 CFR 155.192) to provide for the preparation of concentrated tomato juice from tomato paste and water and to permit the restoration of the level of vitamin C in the concentrated tomato juice when diluted in accordance with label directions to that naturally found in tomato juice. Before submitting the petition, the Campbell Soup Co. was issued a temporary permit to market test the concentrated tomato juice. In support of its petition, the Campbell Soup Co. stated that its market test survey indicated consumer acceptance of the product. In addition, the petitioner pointed out that the proposed amendment would permit regular production of the juice throughout the year instead of only during the tomato-harvesting season. The petitioner stated that the manufacturing economies "plus the inherent cost savings in transporting and storing tomato juice in the concentrated form, therefore, will serve the interest of the consumer."

As a member of the Food and Agriculture Organization of the United Nations and the World Health Organization, the United States is under a treaty obligation to consider all Codex standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. Acceptance by a country of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country, insofar as features dealt with by the Codex standard are concerned; and products not complying, whether domestic or imported, will not be permitted to be distributed without restrictions under the name and description laid down in the standard. The restrictions that may be imposed are not incoporated in the Codex standards, but are left to the legislation and regulations of the individual countries. A participating country that concludes that it cannot accept the Codex standard in any of the three ways is requested to indicate, with the reasons therefore, the manner in which its requirements differ from the Codex standard, and whether products complying with the Codex standard will be permitted to move freely in the commerce of that country. Members of the Commission are requested to notify the secretariat of the Codex Alimentarius Commission—Join FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision.

For many years, the United States has had standards of identity for tomato juice (21 CFR 156.145), tomato paste (21 CFR 155.191), tomato puree (21 CFR 155.192), and catsup (21 CFR 155.194), all established under the authority of the Federal Food, Drug, and Cosmetic Act. There are also voluntary grade standards for marketing developed by the U.S. Department of Agriculture (hereinafter referred to as USDA standards).

In carrying out the program of drafting international food standards, which is jointly sponsored by the Food and Agriculture Organization of the United Nations and the World Health Organization, the Codex Alimentarius Commission has developed a number of recommended international standards for individual food products. Among these are standards for canned tomatoes, tomato juice, and tomato concentrates, all of which have been submitted to the U.S. Government for consideration and possible adoption. Tomato catsup, however, has not yet been considered by any of the Codex subsidiary committees. The United States has participated actively in the development of the other tomato product standards through its representation on the Codex Alimentarius Commission and in the subsidiary bodies composed of experts for the respective food products.

There are a number of significant differences between the Codex standards and the corresponding U.S. and USDA standards. The Commissioner has made a careful comparison of such differences and is proposing to make certain modifications and amendments in the U.S. standards. In his opinion it will promote honesty and fair dealing in the interest of consumers and facilitate international trade to adopt, insofar as practicable, the applicable Codex standards.

A final regulation ruling on a proposal to revise the U.S. standards of identity and quality for canned tomatoes in consideration of the Codex standard was published in the FEDERAL

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REGISTER of June 16, 1976 (41 FR 24342). Therefore, the Commissioner does not now propose any further changes in the standards for canned tomatoes.

Certain differences exist in the composition and format of the Codex standard as contrasted to the U.S. standards. The units of measurements in the U.S. standards are stated sometimes in pounds and in inches, and sometimes in units of the metric system, or both, whereas the Codex standard uses only the metric system. The international (metric) system is commonly used throughout most of the world, and in the United States for technical purposes, and it may eventually be adopted by this country for common usage. Therefore, the international (metric) system is used in this proposal for tomato products, with the equivalent units of the U.S. customary system shown parenthetically.

The Codex standards also include hygiene requirements, certain basic labeling requirements, and other factors that are not considered a part of food standards under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341, the legal basis for the promulgation of food standards), but are dealt with under other sections of the act, and therefore are not discussed further in this proposal. However, the Codex standard for tomato juice (CAC/RS 49-1971) establishes a guide for mold filaments at a maximum of 30 percent positive fields as determined by the AOAC method. Also, the Codex standard for processed tomato concentrates (CAC/RS 51-1972) sets a mold guide of 50 percent positive fields when determined with the product diluted to approximately 8 percent tomato soluble solids. These Codex guides are higher than current action levels for the corresponding product as referred to in § 110.99 (21 CFR 110.99) for natural and unavoidable defects in human foods. These levels are set at 20 percent for tomato juice and 40 percent for tomato puree and tomato paste. The Commissioner advises that regulatory action on tomato products containing mold filaments will continue to be based on U.S. guidelines.

The Codex standards sometimes use subjective terms in stating their requirements, which cannot be expressed in finite objectively reproducible or numerical terms. When such subjective terms are not sufficiently precise or specific to be legally enforceable, they will be omitted from the proposal, except where the USDA standards provide more objective criteria that are established and recognized by the trade.

I. TOMATO JUICE

Amendment of the U.S. standard of identity and promulgation of standards of quality and fill of container for tomato juice will be based on consideration of the current U.S. and USDA standards and the following codex standard, together with comments and supporting data received and other available information.

A. RECOMMENDED INTERNATIONAL STANDARD FOR TOMATO JUICE PRESERVED EXCLUSIVELY BY PHYSICAL MEANS

RECOMMENDED INTERNATIONAL STANDARD FOR TOMATO JUICE PRESERVED EXCLUSIVELY BY PHYSICAL MEANS

1. *Description.* Unfermented but fermentable juice, intended for direct consumption, obtained by a mechanical process from sound, ripe, red or reddish tomatoes (*Lycopersicum esculentum* L.) preserved exclusively by physical means, the juice being strained free from skins, seeds and other coarse parts of tomatoes, and from other hard substances and impurities.[1] The juice may have been concentrated and later reconstituted with water suitable for the purpose of maintaining the essential composition and quality factors of the juice.

2. *Essential composition and quality factors.*

2.1 *Soluble tomato solids.* The soluble tomato solids content of tomato juice, exclusive of added salt, shall be not less than 4.5 percent m/m determined by refractometer at 20° C, uncorrected for acidity and read as °Brix on the International Sucrose Scales.

2.2 *Salt.* The addition of salt is permitted.

2.3 *Organoleptic properties.* The product shall have the characteristics colour, aroma and flavour of tomato juice.

2.4 *Use of concentrate.* The addition of concentrate to juice is permitted. Only concentrate from tomato (*Lycopersicum esculentum* L.) may be used.

3. *Contaminants.*

Maximum Level

3.1 Arsenic (As)—0.2 mg/kg.

3.2 Lead (Pb)—0.3 mg/kg (temporarily endorsed).[2]

3.3 Copper (Cu)—5 mg/kg.

3.4 Zinc (Zn)—5 mg/kg.

3.5 Iron (Fe)—15 mg/kg.

3.6 Tin (Sn)—250 mg/kg (temporarily endorsed).[3]

3.7 Total metal content precipitable by potassium hexacyanoferrate (II)—17 mg/kg expressed as Fe.

3.8 Mineral impurities insoluble in 10 percent hydrochloric acid shall not exceed 25 mg/kg.

[1] For the purpose of this standard preservation by physical means does not include ionizing radiation.

[2] Subject to review in the light of further analytical data.

[3] The provisional limit of 250 mg/kg for tin is currently under review and will be re-examined in 1973.

4. *Hygiene.*

4.1 It is recommended that the products covered by the provisions of this standard be prepared in accordance with the Recommended International Code of Hygienic Practice for Canned Fruit and Vegetable Products (Ref. No. CAC/RCP 2-1969) and the Recommended International Code of Hygienic Practice for Quick Frozen Fruits, Vegetables and their Juices (Ref. ALINORM 71/13, Appendix IV).

4.2 When tested by appropriate methods of sampling and examination, the product:

(a) shall be free from microorganisms capable of development under normal conditions of storage; and

(b) shall not contain any substances originating from microorganisms in amounts which may be toxic.

4.3 The product shall not contain mold filaments in a quantity indicative of unsuitable raw materials or unsanitary processing lines. A guide for determining compliance with these requirements would be a mold count, as determined by the Howard Method (see AOAC (1970) 40.085—Molds (25). Official Final Action, and 40.002 (m)), not in excess of 30 percent positive fields.

5. *Weights and measures.*

5.1 *Fill of container.*

5.1.1 Minimum fill.—The tomato juice shall occupy not less than 90 percent v/v of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20° C which the sealed container will hold when completely filled.

6. *Labelling.* In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1-1969) the following specific provisions apply:

6.1 *The name of the food.* The name of the product shall be "tomato juice".

6.2 *List of ingredients.*

6.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion, except that added water need not be declared.

6.2.2 In the case of tomato juice made from concentrate, the fact of reconstitution shall be declared in the list of ingredients as the first ingredient as follows: "tomato juice made from concentrate" or "reconstituted tomato juice" or "tomato juice made from concentrated tomato juice".

6.3 *Net contents.* The net contents shall be declared by volume in one or more of the following systems of measurement: Metric ("Systeme International"), U.S. or British units as required by the country in which the product is sold.

6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

6.6 *Additional requirements.* The following additional specific provisions shall apply:

6.6.1 No fruit or fruit juice may be represented pictorially on the label except tomatoes or tomato juice.

6.6.2 Where tomato juice requires to be kept under conditions of refrigeration, there shall be information for keeping and, if necessary, thawing of the product.

6.7 *Bulk packs.* In the case of tomato juice in bulk, the information required in 6.1 to 6.6.2 shall either be placed on the container or be given in accompanying documents.

7. *Methods of analysis and sampling.* The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Taking of sample and expressed of results as m/m.* According to the IFJU method No. 1: Determination of relative density and the IFJU General Sheet: Conversion of analytical results from g/l (mg/l) to g/kg (mg/kg) and the reverse.

7.2 *Test for fermentability.* (To be elaborated.)

7.3 *Determination of soluble solids.* According to the IFJU method No. 8B, 1968: Estimation of soluble solids (indirect determination). Results are expressed as percent m/m sucrose ("degrees Brix") with correction for temperature to the equivalent at 20° C, after deduction of added salt expressed as percent m/m NaCl.

7.4 *Determination of added salt.* According to the IFJU method No. 37, 1968: Determination of chloride (potentiometric micro-method). The determination of sodium is not necessary. Results are expressed as percent m/m NaCl.

7.5 *Determination of arsenic.* According to the method of the "Office International de la Vigne et du Vin".[4 5] Results are expressed as mg arsenic/kg.

7.6 *Determination of lead.* According to the IFJU method No. 14, 1964: Determination of lead (photometric method).[5] Results are expressed as mg lead/kg.

7.7 *Determination of copper.* According to the IFJU method No. 13, 1964: Determination of copper (photometric method).[5] Results are expressed as mg copper/kg.

[4] To be included in the IFJU Manual at a later stage.

[5] Temporarily endorsed.

7.8 *Determination of zinc.* According to the AOAC (1970) method (Official Methods of Analysis of the AOAC, 1970, 25.077-25.082: Zinc—Official First Action, Colorimetric Method (*15*).[5] Results are expressed as mg zinc/kg.

7.9 *Determination of iron.* According to the IFJU method No. 15, 1964: Determination of iron (photometric method).[5] The determination shall be made after dry ashing as described in section 5—Remark (b). Results are expressed as mg iron/kg.

7.10 *Determination of tin.* According to the Draft of ISO Recommendation No. 2447: Fruit and Vegetable Products—Determination of Tin.[5 6] Results are expressed as mg tin/kg.

7.11 *Determination of total metal content precipitable by potassium hexacyanoferrate (II).* According to the Method 30/22/23 of Schweitzerisches Lebensmittelbuch, Chapter 30, Wein.[4 5] Results are expressed as mg total metal content precipitable by potassium hexacyanoferrate (II)/kg.

7.12 *Determination of sulphur dioxide (checking absence of SO_2).* According to the IFJU method No. 7, 1968: Determination of total sulphur dioxide. Results are expressed as mg SO_2/kg.

7.13 *Determination of mineral impurities insoluble in hydrochloric acid.* According to the AOAC (1970) method (Official Methods of Analysis of the AOAC, 1970, 30.005: Ash insoluble in Acid. Official Final Action).[7] The exact concentration of HCl to be used is not critical. Results are expressed as mg mineral impurities insoluble in hydrochloric acid/kg.

7.14 *Determination of water capacity and fill of containers.* According to the method published in the Almanac of the Canning, Freezing, Preserving Industries, 55th Edition, 1970, p. 131-132, E. E. Judge and Sons, Westminster, Md. (USA).[4 8]

The following is a comparison of the principal differences among the U.S. and, in some instances, the USDA standards and the Codex standard on which the Commissioner particularly invites comments with available supporting data. Following each item of comparison is the action the Commissioner proposes to take:

B. COMPARISON OF IDENTITY ASPECTS FOR TOMATO JUICE AND PROPOSED COURSES OF ACTION

1. *Description of juice.* Codex (1.) describes the juice as "unfermented but fermentable juice." The U.S. standard (21 CFR 156.145) does not refer to the juice in such terms.

No need exists to qualify the juice as being fermentable since the basic source of the juice is from fresh tomatoes, which would in fact be fermentable, particularly since no chemical preservatives are permitted.

2. *Botanical name.* Codex (1.) identifies the botanical designation of tomatoes used in preparing tomato juice as being *Lycopersicum esculentum L.* In the Codex standards for processed tomato concentrates and canned tomatoes the botanical designation for tomatoes is *Lycopersicum esculentum P. Mill.* The U.S. standard for tomato juice (21 CFR 156.145) does not identify the tomato by its botanical name, but the U.S. standard for canned tomatoes (21 CFR 155.190) identifies the tomato by the latter designation.

The proposed standard of identity provides for the use of the species of tomato *Lycopersicum esculentum P. Mill.* to be consistent with other codex standards and the U.S. standard for canned tomatoes.

3. *Use of concentrates.* Codex (1.) permits the use of concentrated tomato juice that later may be reconstituted with water suitable for the purpose of maintaining the essential composition and quality factors of the juice. The U.S. standard (21 CFR 156.145) states that tomato juice is prepared from the unconcentrated liquid extracted from mature tomatoes. It does not provide for the use of concentrated tomato juice as does Codex.

The Commissioner is proposing to amend the current U.S. standard for tomato juice to provide for the use of concentrated tomato juice as discussed below.

4. *Homogenization.* Codex (1.) does not provide for homogenization of the juice. The U.S. standard (21 CFR 156.145) states that the extracted liquid may be homogenized.

No change from the current U.S. standard is being proposed.

5. *Preservation.* Codex (1.) states that the juice is "preserved exclusively by physical means." This would include refrigeration or freezing as well as the customary method of heat sterilization. The U.S. standard (21 CFR 156.145) states that the extracted juice is so processed by heat, before or after sealing, as to prevent spoilage.

The Commissioner proposes no change in the U.S. standard, but invites comment on the need to expand the provision for the method of preservation to include other than heat sterilization procedures.

6. *Soluble tomato solids.* Codex (2.1) specifies that the soluble tomato solids, exclusive of added salt, shall be not less than 4.5 percent m/m. The U.S. standard (21 CFR 156.145) does not contain a minimum tomato soluble solids requirement.

[6] To be finalized by 1972.

[7] Preparation of sample to be elaborated.

[8] Reproduced in ALINORM 71/23, Appendix V.

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The commissioner believes that "the unconcentrated liquid extracted from mature tomatoes of red or reddish varieties with or without scalding followed by draining" should continue to be recognized as tomato juice. Therefore, he is not proposing a minimum soluble solids requirement for "tomato juice."

But the Commissioner believes that tomato juice prepared from concentrate should be standardized to a minimum soluble solids to prevent over dilution with water. The Commissioner recognizes that tomatoes vary in composition and soluble solids for a number of reasons and that the 4.5 percent minimum proposed by Codex is low for domestically grown tomatoes used in preparing tomato juice. The average soluble solids of tomatoes grown in the U.S. is closer to 5.5 percent. The 5.5 percent figure is reflected in a number of temporary permits FDA issued to tomato processors over the past year to market test tomato juice from concentrate. Therefore, a minimum soluble solids requirement of 5.5 percent for tomato juice prepared from concentrate is being proposed to be consistent with the soluble solids normally found in tomatoes grown in the United States.

7. *Salt.* Codex (2.2) provides for the addition of salt as a seasoning agent. The U.S. standard (21 CFR 156.145) also states that the juice may be seasoned with salt.

No change is being made in the U.S. standard.

8. *Organic acids.* Neither the Codex nor the U.S. standards provide for the use of organic acids in tomato juice. But the acid content of some varieties of tomatoes developed in the U.S. in recent years has decreased, and the Commissioner believes that organic acids should be permitted as optional ingredients to provide processors the means with which to maintain the pH at a safe level and to assist in preventing spoilage. Therefore, the Commissioner proposes to provide for the optional use of safe and suitable organic acids.

9. *Vitamin C in tomato juice.* Codex does not provide for the use of vitamin C. The U.S. standard (21 CFR 156.145) was revised on June 14, 1974 (39 FR 20884) to provide for the addition of vitamin C in a quantity such that each fluid ounce may contain 10 milligrams. In response to objections, however, the effective date of the vitamin C provision was stayed (see the FEDERAL REGISTER of September 3, 1974 (39 FR 31898)) pending a public hearing.

The Commissioner expects soon to issue a regulation setting nutritional guidelines for this and similar beverages that may resolve the issue of use of vitamin C in tomato juice, thus making a public hearing unnecessary. In the meantime, as announced in the September 3, 1974 stay, tomato juice that is prominently designated as "enriched with vitamin C" in accordance with 21 CFR 104.5 or "with added vitamin C" or a similar statement on the principal display panel as permitted in the stayed standard would not purport to be the standardized product and thus may lawfully be marketed outside the standard of identity as a nonstandardized food. As a nonstandardized food, all ingredients, not just optional ingredients, must be declared on the label.

10. *Mineral impurities.* Codex (3.8) provides a limit of 25 mg/kg for mineral impurities, such as sand, silt, and similar inorganic matter. The U.S. standard (21 CFR 156.145) does not have a requirement for mineral impurities.

Mineral impurities are not a subject to be dealt with in food standards under section 401 of the act. The presence of material of this type in foods in amounts that cause the foods to become adulterated would be dealt with under section 402 of the act (21 U.S.C. 342) as an adulterated food. Therefore, no requirement on mineral impurities is proposed.

11. *Labeling.*

a. *Name of food.* Codex (6.1) states that the name of the food is "tomato juice" and, in the case of tomato juice made from concentrate (6.2.2), the fact of reconstitution shall be declared in the list of ingredients as "tomato juice made from concentrate" or "reconstituted tomato juice" or "tomato juice made from concentrated tomato juice". The U.S. standard (21 CFR 156.145) provides for the name "tomato juice" only when the food is prepared from the unconcentrated liquid extracted from mature tomatoes of the reddish varieties. The U.S. standard does not currently provide for the "tomato juice from concentrate."

The Commissioner proposes to continue to provide for the name "tomato juice" without qualification only when the food is prepared from freshly extracted tomato juice. And because the proposal will provide for "tomato juice from concentrate," he believes that reconstitution should be more prominently identified than by merely listing it in the ingredient statement. Therefore, he is proposing that when the food is prepared from concentrate the name shall be "tomato juice from concentrate".

b. *List of ingredients.* Codex (6.2) requires a complete listing of ingredients in descending order of proportion, except that water need not be declared. The U.S. standard (21 CFR 156.145(b)) requires that each of the optional ingredients be declared as required by the applicable sections of 21 CFR Part 101.

The Commissioner is proposing no change in the U.S. standard. Since manufacturers would have the option of preparing the food from either single strength tomato juice or concentrated tomato juice and water, both the water and the concentrated tomato juice used are optional ingredients and should be declared on the label.

12. *Analytical methods.* Codex (7.) provides methods of analysis for the analytical requirements on the standard; such methods generally are those of the International Federation of Fruit Juice Producers (IFJU). The U.S. standard (21 CFR 156.145) provides for the use of methods of analysis prescried by the Association of Official Analytical Chemists (AOAC). Although certain IFJU methods of analysis differ from those of the AOAC, the Commissioner proposes to continue to follow the customary practice of referencing AOAC procedures when such a procedure exists for a particular analytical requirement.

C. COMPARISON OF QUALITY CRITERIA FOR TOMATO JUICE AND PROPOSED COURSES OF ACTION

1. *Organoleptic properties.*

a. *Aroma and flavor.* Codex (2.3) states that the product shall have the characteristic aroma and flavor of tomato juice. The U.S. standard (21CFR 156.145) does not have such a requirement.

Foods with abnormal aroma and flavor are currently considered as adulterated foods under section 402 of the act (21 U.S.C. 342).

b. *Color.* Codex (2.3) states that the product shall have the characteristic color of tomato juice. The U.S. standard (21 CFR 156.146) does not have such a requirement.

The Codex provision for color is not objective enough for enforcement purposes. The USDA standards on tomato products are in 7 CFR Part 2852.

NOTE.—CFR Part 2582 was formerly 7 CFR Part 52 before recodification in the FEDERAL REGISTER of June 27, 1977 (42 FR 32514).

The USDA standards (7 CFR 2852.3626) provide objective criteria for the color classification of juice in terms of the Munsell color system. Therefore, this proposal would adopt the Munsell color system and set the color limits based on the USDA Grade C criteria. The proposal for establishing the minimum color for tomato juice is contained in two separate sections of the standard; namely, (a) definitions and procedures, which decribes the characteristics of the four Munsell color discs and the spectral light source; and (b) quality provisions, which specify the combination (the percent of area exposed) for each of the four respective discs, such combination representing minimum acceptable color.

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c. *Other defects.* The Codex standard (1.) states that the juice is strained free from skins, seeds and other coarse parts of tomatoes, and from other hard substances and impurities. The U.S. standard (21 CFR 156.145) does not have such requirements. The USDA standards (7 CFR 2852.3627) indentify certain common defects such as dark specks, seeds, core material, and tomato peel, but do not provide specific allowances for such defects. USDA administrative guidelines do, however, provide limits for these defects.

The Commissioner is proposing to use the USDA criteria, with minor modifications, for allowances of dark specks, seeds, and peel. His proposal would allow not more than two of the following defects per 500 ml of juice, either singly or in combination (for example, two pieces of peel or one piece of peel and one seed). The specific defect specifications would be:

i. Pieces of peel 3 mm (0.125 inch) or greater in length;

ii. Seeds, or pieces of seed, 3 mm (0.125 inch), or greater, in length; and

iii. Blemishes, such as dark brown or black particles, greater than 2 mm (0.08 inch) in length.

2. *Compliance.* The Codex standard does not provide a formal procedure for lot acceptance for determining compliance with the requirements of the standard. The USDA standards (7 CFR 2852.3629) provide a statistical acceptance procedure for determining the quality of the lot based on the characteristics of the sample.

The Commissioner is proposing a procedure for determining compliance with the quality requirements of the standard that is comparable to Inspection Level II of the Codex Sampling Plans for Prepackaged Foods—AQL 6.5. Such a sampling plan currently appears in a number of food standards and was proposed as an inclusion in a new "Definitions and Procedures" section (21 CFR 155.3), published in the FEDERAL REGISTER of June 7, 1977 (42 FR 29014).

3. *Labeling for substandard quality.* The Codex standard does not provide for substandard labeling of tomato juice that fails to meet the quality standard requirements. The U.S. standard (21 CFR 156.145) does not provide for quality factors and consequently does not have a provision for substandard labeling. Because the Commissioner is proposing a standard of quality for tomato juice in this document, however, he is also proposing that a product that fails to meet the requirements of the quality standard be labeled as substandard in accordance with 21 CFR 130.14(a).

D. COMPARISON OF FILL OF CONTAINER ASPECTS FOR TOMATO JUICE AND PROPOSED COURSE OF ACTION

Codex (5.1.1) requires that the tomato juice occupy not less than 90 percent v/v of the water capacity of the container. The U.S. standard (21 CFR 156.145) does not provide for fill of container requirements. However, the USDA standards (7 CFR 2852.3623) have a recommended fill based on 90 percent of the capacity of the container. This is comparable to the Codex requirement.

The Commissioner proposed to adopt in substance the Codex requirement by requiring a fill in which the food shall occupy not less than 90 percent of the total capacity of the container as determined by the general method prescribed in 21 CFR 130.12(b). The Commissioner also proposes a compliance procedure for minimum fill of container based on the sampling plans specified in proposed § 155.3(e)(2) below.

1. *Labeling for substandard fill.* Codex (5.1.1) does not provide for substandard labeling of tomato juice that fails to meet the fill of container requirement. The U.S. standard (21 CFR 156.145) does not provide for a fill of container standard and consequently does not have a provision for substandard labeling.

Since the Commissioner is proposing a standard of fill of container for tomato juice in this document, he is of the opinion that it is reasonable to require that the label of a product that fails to meet the minimum fill of container requirement contain a declaration of substandard fill. Therefore, he proposes that such a product be labeled in accordance with 21 CFR 130.14(b).

II. TOMATO CONCENTRATES

Amendment of the U.S. Standards of Identity for tomato puree and tomato paste and promulgation of standards of identity, quality, and fill of container for tomato concentrates will be based on consideration of the current U.S. and USDA standards, several proposed amendments submitted by the Campbell Soup Co., and the following Codex standard, together with comments and supporting data received and other available information.

A. RECOMMENDED INTERNATIONAL STANDARD FOR PROCESSED TOMATO CONCENTRATES

RECOMMENDED INTERNATIONAL STANDARD FOR PROCESSED TOMATO CONCENTRATES

1. *Scope.* This standard for Processed Tomato Concentrates does not include the products commonly known as tomato sauce, chili sauce, and ketchup, or similar products which are highly seasoned products of varying concentrations containing characterizing ingredients, such as pepper, onions, vinegar, sugar, etc., in quantities that materially alter the flavour, aroma, and taste of the tomato component.

2. *Description.*

2.1 *Product Definition.*

2.1.1 Processed tomato concentrate is the product prepared by concentrating the liquid obtained from substantially sound, mature red tomatoes (*Lycopersicum esculentum P. Mill*). Such liquid is strained or otherwise prepared to exclude skins, seeds, and other coarse or hard substances in the finished product.

2.1.2 Salt and other suitable seasoning ingredients may be added.

2.1.3 The product is preserved by physical means.

2.1.4 The concentration shall be 8 or more percent natural tomato soluble solids but not dehydrated to a dry powder or flake form.

2.2 *Product Designation.* Tomato concentrate may be considered "Tomato Puree" or "Tomato Paste" when the concentrate meets these requirements:

2.2.1 Tomato Puree—Tomato concentrate that contains not less than 8 percent, but less than 24 percent, of natural tomato soluble solids.

2.2.2 Tomate Paste—Tomato concentrate that contains 24 percent or more of natural tomato soluble solids.

2.3 *Acceptance—For Natural Tomato Soluble Solids.* A lot will be considered as meeting the applicable minimum natural tomato soluble solids requirement when:

(a) the average of the values from all containers or sub-samples tested meets at least the minimum percentage requirement for the concentration as declared, or as required for the product name or description; and

(b) no individual test value is more than 7.5 percent below such minimum declared or required percentage of concentration.

Examples

[Figures in percent]

Declarations or requirements	Average must be not less than—	No individual test value may be less than—
(1) Minimum solids 20 pct	20	18.5
(2) Solids—26 to 28 pct	26	24.0
(3) Triple concentrate; for example, if lawfully at 45 pct minimum	45	41.6
(4) Tomato puree	8	7.4
(5) Tomato paste	24	22.2
(6) Concentrated tomato puree; for example, if lawfully at 18 pct minimum	18	16.6
(7) Concentrated tomato puree; if lawfully requires a higher minimum than 18 pct, for example 21 pct	21	19.4

3. *Essential Composition and Quality Factors.*

3.1 *Permitted Ingredients.—Seasoning or Flavourings.* Salt, spices, natural vegetable products (basil leaf, onions, etc.) but not sugars or other sweeteners; lemon juice (single

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strength or concentrated) used as an acidulant.

3.2 *Quality Criteria.*

3.2.1 Colour. The product when diluted with water to reach approximately 8 percent natural tomato soluble solids shall have a fairly good red colour, free from abnormal colours for the product.

3.2.2 Texture. The concentrated product shall have a homogeneous, evenly divided texture indicative of good manufacturing practices.

3.2.3 Flavour. The product when diluted with water to reach approximately 8 percent natural tomato soluble solids shall have a good flavour characteristic of properly processed tomato concentrates without any objectionable flavour foreign to the product.

3.2.4 Defects. Processed tomato concentrates shall be prepared from such materials and under such practices that the product is substantially free from extraneous plant materials or similar objectionable substances and shall not contain excessive defects (whether or not specifically mentioned in this standard).

Certain common defects, when so large or numerous or of such contrasting colour or nature as to affect noticeably the appearance or usability of the product, include:

(a) Dark specks or scale-like particles;

(b) Seeds or objectionable particles of seeds;

(c) Objectionable tomato peel because of colour and/or size;

(d) Harmless plant materials other than those used as seasonings;

(e) Mineral impurities—60 mg/kg based on diluted product of 8 percent solids;

(f) Other similar and objectionable defects.

3.2.5 Classification of "defectives." A container that fails to meet one or more of the applicable quality requirements, as set out in subsections 3.2.1 through 3.2.4, shall be considered a "defective."

3.2.6 Acceptance. A lot will be considered as meeting the applicable quality requirements referred to in subsection 3.2.5 when the number of "defectives," as defined in subsection 3.2.5, does not exceed the acceptance number (c) of the appropriate sampling plan in the Sampling Plans for Prepackaged Foods (1969) (AQL-6.5) (Ref. CAC/RM 42-1969).

4. *Food additives.*

pH Regulating Agents and Maximum Level of Use

Sodium hydrogen carbonate—to raise the pH to a level not above 4.3.	
Citric acid, Malic acid, L-Tartaric acid, and Lactic acid—to maintain the pH at a level not above 4.3	
5. *Contaminants.*	*Maximun level*[9]
Tin—250 mg-kg calculated as Sn, in final concentrated product.	

6. *Hygiene.*

6.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Canned Fruit and Vegetable Products recommended by the Codex Alimentarius Commission (Ref. CAC/RCP 2-1969).

6.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

6.3 When tested by appropriate methods of sampling and examination, the product:

(a) shall be free from microorganisms capable of development under normal conditions of storage, and

(b) shall not contain any substances originating from microorganisms in amounts which may be toxic.

6.4 The diluted product (at approximately 8 percent natural tomato soluble solids) shall not contain mould filaments in a quantity indicative of unsuitable raw materials or unsanitary processing lines. A guide in determining compliance with these requirements would be a mould count, as determined by the Howard Method (AOAC(1970), 40.085), not in excess of 50 percent positive fields, based on the diluted product (at approximately 8 percent natural tomato soluble solids).

7. *Weights and measures.*

7.1 *Fill of container.*

7.1.1 Minimum fill.—Containers shall be filled as full as commercially practicable having regard for the concentration of the product. When packed in rigid containers, the product shall occupy not less than 90 percent of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20°C which the sealed contaner will hold when completely filled.

7.1.2 Classification of "Defectives".—A container that fails to meet the requirement for minimum fill (90 parcent container capacity) of subsection 7.1.1 shall be considered a "defective".

7.1.3 Acceptance.—A lot will be considered as meeting the requirement of 7.1.1 when the number of "defectives", as defined in subsection 7.1.2, does not exceed the acceptable number (c) of the appropriate sampling plan in the Sampling Plans for Prepackaged Foods (1969) (AQL-6.5) (Ref. CAC/RM 42-1969).

8. *Labelling.* In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1-1969), the following specific provisions apply:

8.1 *The mane of the food.*

8.1.1 The name of the product shall be "Tomato Concentrate" and shall be accompanied by a declaration (as described in sub-section 8.6) of the percentage of natural tomato soluble solids.

8.1.2 The name and declaration of soluble solids may be accompanied or replaced by any name or description customarily and lawfully applied in the country in which the product is sold, except that:

(a) the descriptions "Tomato Puree" and "Tomato Paste" may only be applied to products complying with the requirement for "Tomato Puree" and and "Tomato Paste", respectively, and

(b) the description "Concentrated Tomato Puree" may only be applied to products with not less than 18 percent natural tomato soluble solids.

8.1.3 A declaration, as part of the name or in close proximity to the name, shall be made of any seasoning or flavouring which characterizes this product; e.g. "With X", when appropriate.

8.2 *List of ingredients.* A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-section 3.2(c) of the General Standard for the Labelling of Prepackaged Foods.

8.3 *Net contents.* The net contents shall be declared by weight in either the metric ("Systeme International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

8.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

8.5 *Country of origin.*

8.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

8.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purpose of labelling.

8.6 *Declaration of the percentage of natural tomato soluble solids* (see 8.1.1). The percentage solids may be included on the label in either of the following manners:

(i) The mimimum percentage of natural tomato soluble solids: (Example: Minimum Solids—20 percent.

(ii) A range within 2 percent of the natural tomato soluble solids: (Example: Solids—20 percent to 22 percent.)

9 *Methods of analysis and sampling.*[10] The methods of analysis and sampling referred to hereunder are international referee methods.

9.1 *Method of sampling.* Sampling shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL-6.5) (Ref. CAC/RM 42-1969).

9.2 *Determination of natural tomato soluble solids.* According to the AOAC (1970) method (Official Methods of Analysis of the AOAC, 1970, 32,008-32.010. Soluble Solids—Official Final Action).

Results are expressed as percent m/m total soluble solids as sucrose exclusive of salt (NaCl).

9.3 *Determination of salt (NaCl).* According to the AOAC method (Revised version of the AOAC method (1965) 6.103-6.105) as published in the Journal of the AOAC, *54*, No. 2, March 1971, 32.A01-32.A05).

Results are expressed as percent m/m total chlorides as NaCl.

9.4 *Determination of mineral impurities.* According to the AOAC method (Revised version of the AOAC method (1965) 6.005, as published in the Journal of the AOAC, *54*, No. 3, May 1971, 40.A07: Determination of Acid-Insoluble Residue (Soil), except using a sample size of 250 g at 8 percent m/m soluble solids). Results are expressed as mg/kg mineral impurities on diluted product of 8 percent solids.

9.5 *Determination of water capacity of containers.* According to the FAO/WEO Codex Alimentarius Method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, 2nd Series—*Determination of Water Capacity of Containers*, CAC/RM 46-1972).

Results are expressed as volume of distilled water that the container holds.

[9] This is a provisional limit which is subject to review.

[10] The method (mould count) referred to in sub-section 6.4 of this standard serves as a guide and is not an international referee method to be used in cases of dispute.

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B. COMPARISON OF IDENTITY ASPECTS FOR CONCENTRATES AND PROPOSED COURSES OF ACTION

Current U.S. regulations provide for separate standards of identity for tomato paste (21 CFR 155.191) and tomato puree (21 CFR 155.192) as well as an optional designation of "concentrated tomato juice" for tomato puree in the range of 20.0 to 24.0 percent tomato soluble solids. Except for concentrated tomato juice, Codex provides for comparable standards of identity as well as quality and fill of container requirements in a single standard for processed tomato concentrates. Although there are differences, in addition to the degree of concentration, in the U.S. standards for these products, such differences are not considered sufficiently significant to preclude the establishment of a single standard for these foods. There are, however, a number of other differences between Codex and the U.S. standards which are brought out in the comparison of the respective standards. Following each item of comparison is the action the Commissioner proposes to take.

1. *Botanical name.* Codex (2.1.1) identifies the tomato ingredient by the botanical designation of *Lycopersicum esculentum P. Mill.* Neither of the current U.S. standards (21 CFR 155.191 and 155.192) identifies the tomato ingredient by a botanical name.

The Commissioner proposes to adopt the Codex botanical designation, to be consistent with Codex as well as other U.S. standards for tomato products.

2. *Residual tomato material.* Codex (2.1.1) states that procesed tomato concentrate is the product prepared by concentrating the liquid obtained from substantially sound, mature red tomatoes. The U.S. standards (21 CFR 155.191 and 155.192) provide for the same optional tomato ingredient, but also include two additional optional tomato ingredient sources; namely, (1) the liquid obtained from the residue from preparing such tomatoes for canning (peelings, cores, and pieces of tomato) and (2) the liquid obtained from the residue from partial extraction of juice from such tomatoes.

The Commissioner proposes to retain the provision for the use of all three optional tomato ingredient sources. He also proposes to retain the provision that "concentrated tomato juice" shall be prepared only from the liquid obtained from mature red tomatoes.

3. *Exclusion of peel (skins) and seeds.* Both Codex (2.1.1) and the U.S. standards (21 CFR 155.191 and 155.192) state that the extracted tomato liquid is strained so as to exclude skins, seeds, and other coarse or hard substances. The USDA standards (7 CFR 2852.3622) state that the juice is fairly free from dark specks, seeds, particles of seed, tomato peel, core material, or other similar substances.

The Commissioner recognizes that complete elimination of these substances is not attainable; yet, under good manufacturing practices the number and size of such defects should be reduced to the extent practicable so as not to affect the usability or appearance of the finished food. Therefore, he is proposing no change in the requirements for removal of these substances.

4. *Acid-break process.* Codex does not provide for the acid-break process. The U.S. standards (21 CFR 155.191 and 155.192) provide for the acid-break process as an optional preparatory step in the processing of concentrated tomato products.

The acid-break process involves a temporary adjustment of the pH of the tomato tissue during or following pulping of the tomatoes. Food-grade hydrochloric acid is added to the tomato material to reduce the pH to no lower than 2.0. Such acid is then neutralized with food-grade sodium hydroxide to restore the pH of the treated tomato material to 4.2±0.2 prior to straining. This process yields a concentrate that is more viscous in character and with a minimum of separation of serum. Since the acid-break process is widely used in the United States, the Commissioner proposes to retain the provision for its use in the standards for concentrated tomato products.

The Commissioner notes that the current U.S. standards for both tomato paste (21 CFR 155.191(a)(3)) and tomato puree (21 CFR 155.192(a)(3)) state: "• • • Prior to straining, food-grade hydrochloric acid may be added to the tomato material at a rate to obtain a pH no lower than 2.0±0.2 • • •." He is concerned that the statement may be confusing and proposes that it be amended to be more meaningful: "• • • a pH no lower than 2.0 • • •." Comment concerning this matter is particularly invited.

5. *Concentration level.* Both Codex (2.1.4) and the U.S. standard for tomato puree (21 CFR 155.192) require a minimum of 8 percent tomato soluble solids. Codex further stipulates that the product may not be so concentrated as to be a dry powder or flake form.

The Commissioner proposes no change in the minimum soluble solids requirement. He sees no need to establish a maximum level of concentration for tomato concentrates, but at the same time recognizes that the product in dry or flake form is a different article of trade and is therefore adopting the Codex terminology to differentiate between tomato concentrates and dehydrated tomato products.

6. *Preservation.* Codex (2.1.3) states that the product is preserved by physical means. This would include refrigeration and freezing, as well as heat processing. The U.S. standards (21 CFR 155.191 and 155.192) provide for heat treatment when the product is sealed in a container.

The Commissioner proposes no change from the current U.S. standard, but invites comments on the need to expand the method of preservation to include procedures other than heat sterilization.

7. *Salt.* Both Codex (2.1.2) and the U.S. standards (21 CFR 155.191 and 155.192) provide for the addition of salt as an optional ingredient.

The Commissioner proposes no change.

8. *Other seasoning ingredients.* Codex (3.1) allows for the optional use of spices and natural vegetable products. The U.S. standard for tomato puree (21 CFR 155.192) does not provide for the use of optional ingredients other than salt. However, the standard for tomato paste (21 CFR 155.191) pro-

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vides for spice in paragraph (a)(5) and flavoring in paragraph (a)(6), but not vegetable ingredients such as onions or peppers.

The Commissioner believes it reasonable to retain the provision to permit the use of spice and flavoring in tomato paste. He also believes it reasonable and consistent with Codex to provide for the use of vegetable ingredients in tomato paste and is so proposing. However, since tomato puree has been known and marketed in the U.S. for years as an unspiced tomato concentrate, he does not propose to provide for the use of optional seasoning ingredients other than salt in tomato puree.

9. *pH regulating agents.* Codex (3.1 and 4.) permits the use of lemon juice as an acidulant as well as sodium hydrogen carbonate to raise the pH to a level of not more than 4.3 and certain organic acids (citric, malic, L-tartaric and lactic) to maintain the pH at a level of not more than 4.3. The U.S. standard for tomato puree (21 CFR 155.192) does not provide for buffering and acidifying agents. The U.S. standard for tomato paste (21 CFR 155.191(a)(7)) states that baking soda (sodium hydrogen carbonate) may be used as an optional ingredient to neutralize, in part, the tomato acids.

Since the acid content of some varieties of tomatoes developed in the U.S. in recent years has decreased, the use of pH adjusters in tomato concentrates is desirable to provide processors a means with which to maintain the pH at a safe level. Therefore, the proposal adopts the Codex provisions that permit the use of lemon juice and concentrated lemon juice. The choice of acidulants has been broadened to include any safe and suitable organic acid. Further, the provision for the use of sodium hydrogen carbonate has been retained.

10. *Vitmain C in concentrated tomato juice.* Neither Codex nor the U.S. standards for tomato products provide for the addition of vitamin C. But the petition submitted by the Campbell Soup Co. proposes to amend the tomato puree standard (21 CFR 155.192) to provide for the restoration of vitamin C in concentrated tomato juice to the level found naturally in tomato juice.

The Commissioner is of the opinion that the Campbell Soup Co. has furnished reasonable grounds in support of its petition. But in view of the issue raised in regard to the addition of vitamin C in tomato juice, as discussed earlier in the preamble under "vitamin C in tomato juice," the Commissioner is delaying action on the Campbell Soup Co.'s proposal to provide for the restoration of the level of vitamin C in concentrated tomato juice to that naturally found in tomato juice. The Campbell Soup Co.'s proposal to amend the tomato puree standard to provide for the preparation of concentrated tomato juice with tomato paste and water is discussed below under the paragraph concerning concentrated tomato juice.

11. *Compliance with tomato soluble solids.* Codex (2.3) includes an acceptance procedure whereby (a) the average of the values of all the containers or subsamples tested must at least meet the minimum for the concentration declared or required by the product name or description; and (b) no individual test value may be more than 7.5 percent below such minimum declared or required. The U.S. standards (21 CFR 155.191 and 155.192) do not have a compliance procedure since such matters are left to the discretion of regulatory administrative procedures. The USDA standards for tomato puree (7 CFR 2852.5082) and tomato paste (7 CFR 2852.5042) provide for various concentration designations, but do not have a compliance procedure to allow for variations normally expected under good commercial practice. The USDA administrative guidelines state, however, that for a given concentration the average tomato soluble solids must meet at least the minimum required by the standard or specification and no individual test value may be more than 1 percent soluble solids below the required minimum.

The Commissioner believes there is merit in providing a formalized and objective guide for determining compliance with tomato soluble solids limits and is proposing the following:

a. The sample average must meet at least the minimum required by the standard;

b. The number of test values that are more than 1 percent soluble solids below the minimum required shall not exceed the acceptance number in the sampling plans (AQL 6.5), § 155.3(f) below.

12. *Concentrated tomato juice.* The U.S. standard for tomato puree (21 CFR 155.192(b)(2)) provides that tomato puree having a concentration of not less than 20.0 percent (but less than 24.0 percent) tomato soluble solids may be designated as "concentrated tomato juice" if the tomato ingredient is derived solely from the liquid of mature tomatoes of red or reddish varieties. Codex does not have a similar provision.

Since concentrated tomato juice is marketed as such in the United States, the Commissioner proposes to retain this optional designation. In addition, the Campbell Soup Co.'s petition contained a proposal to amend the standard to provide for the preparation of concentrated tomato juice by adjusting tomato paste with water to a concentration of not less than 20.0 percent, but less than 24.0 percent tomato soluble solids. The Commissioner is of the opinion that it would allow processors more flexibility if a ceiling is not placed on the concentration level. This would permit the concentration also to fall into the range applicable to tomato paste. At the same time, he believes that the label should contain directions for diluting the product to the solids level equivalent to single strength tomato juice. Therefore, he proposes that the concentration of concentrated tomato juice be such that upon diluting the food according to label directions the diluted article shall contain not less than 5.5 percent tomato soluble solids, but in no case shall the concentrate contain less than 20.0 percent tomato soluble solids.

13. *Labeling.*

a. *Name of food.* Codex (8.1.1) states that the name of the food shall be "tomato concentrate" and shall be accompanied by a declaration of the percentage of natural tomato soluble solids. Codex further provides (8.1.2) that the name and declaration of soluble solids may be accompanied or replaced by any name or description customarily and lawfully applied in the country in which the product is sold, except that: (1) the descriptions "tomato puree" and "tomato paste" may only be applied to products complying with the requirements for "tomato puree" and "tomato paste," respectively, and (2) the description "concentrated tomato puree" may only be applied to products with not less than 18 percent natural tomato soluble solids. The U.S. has no standard for "tomato concentrate" nor "concentrated tomato puree," but has separate standards for products named "tomato puree" or "tomato pulp" and "tomato paste" and a provision for the name "concentrated tomato juice" in the tomato puree standard. These U.S. standards do not require a label declaration of the percentage of tomato soluble solids.

The Commissioner is proposing to retain the following names currently provided for in the U.S. standards:

(1) "Tomato puree" or "tomato pulp" for the food that contains not less than 8.0 percent but less than 24.0 percent tomato soluble solids.

(2) "Tomato paste" for the food that contains not less than 24.0 percent tomato soluble solids.

(3) "Concentrated tomato juice" if the food is prepared only from the liquid obtained from mature red tomatoes and is of such concentration that when diluted according to label direction, the diluted article will contain not less than 5.5 percent tomato soluble solids, but in no case shall the concentrate contain less than 20.0 percent tomato soluble solids. In addition, he is proposing that "tomato concentrate" may be used as an alternative name for either tomato puree or tomato paste if the container in which the concentrate is packed indicates that the food is for use for remanufacturing purposes only.

b. *Characterizing ingredients.* Codex (8.1.3) requires a declaration, as part of the name or in close proximity to the name, of any seasoning or flavoring that characterizes the product, e.g., "With ——", when appropriate. The U.S. standards (21 CFR 155.191 and 155.192) do not contain such a requirement. The Commissioner is of the opinion, however, that if a seasoning or flavoring is added to a product in quantities that produce a significantly different taste or flavor from what consumers would normally expect, they should be alerted to this change. Therefore, he proposes that flavorings that characterize the products be declared on the label as part of the name of the food or in close proximity to the name as specified in 21 CFR 101.22 and that a spice or a vegetable ingredient that characterizes the product be declared on the label with the statement "with added ——" or "with ——", the blank to be filled in with the name(s) of the vegetable ingredient(s) used or with the words "added spice" or, in lieu of the word "spice", the common name of the spice.

c. *List of ingredients.* Codex (8.2) requires a declaration of each of the optional ingredients in order of decreasing proportion. The U.S. standards (21 CFR 155.191 and 155.192) require that statements specified in the the standards showing the optional ingredients present shall immediately precede or follow the name of the food.

To be consistent with other U.S. standards recently revised, the Commissioner proposes that each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101. This proposed provision is also consistent with Codex.

d. *Declaration of percent tomato soluble solids.* Codex (8.6) states that the percentage of solids may be included on the label either as a minimum percentage or a range within 2 percent of the natural tomato soluble solids. The U.S. standards (21 CFR 155.191 and 155.192) do not provide for the optional declaration of solids.

The Commissioner does not propose to require the declaration of tomato soluble solids either as a minimum percentage or as a range when the product is labeled "tomato concentrate." He is of the opinion that manufacturers of "tomato concentrates" should have the option to declare the tomato soluble solids on labels, invoices, or by other means in a manner usable by those who purchase the concentrate for remanufacturing.

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C. COMPARISON OF QUALITY ASPECTS FOR TOMATO CONCENTRATES AND PROPOSED COURSES OF ACTION.

The Codex standard for tomato concentrates does not provide for the food "concentrated tomato juice." The U.S. standard for tomato puree (21 CFR 155.192) provides for the name "concentrated tomato juice," but does not establish quality criteria for the food. The USDA standards for concentrated tomato juice (7 CFR 2852.5201) provide for the same quality factors and requirements as for single strength tomato juice.

Therefore, the Commissioner proposes that concentrated tomato juice shall conform to the quality standard for tomato juice rather than the quality standard for concentrated tomato products.

1. *Color.* Codex (3.2.1) states that the product, when diluted with water to reach approximately 8 percent natural tomato soluble solids, shall have a fairly good red color, free from abnormal colors for the product. The U.S. standards (21 CFR 155.191 and 155.192) do not have color or other quality requirements. The USDA standards (7 CFR 2852.5048 and 2852.5088) provide for color classification using the Munsell spinning discs in the following combination:

53 percent of area of Disc 1—(Red (5R 2.6/13 (glossy finish)));
28 percent of area of Disc 2—(Yellow (2.5 YR 5/12 (glossy finish)));
19 percent of area of either Disc 3—(Black, N1, glossy finish) or
Disc 4 (Grey, N4, mat finish); or, alternatively, 9½ percent of Disc 3 and 9½ percent of Disc 4.

The Commissioner proposes to adopt the USDA color requirement, using the Munsell color discs, because the USDA requirement provides an objective means of measurement.

2. *Texture.* Codex (3.2.2) states that the product shall have a homogeneous, evenly divided texture. The USDA standards (7 CFR 2852.5043 and 2852.5083) provide for "fine" and "coarse" texture, but lack an objective method for determining such characteristics.

It is the Commissioner's view that the preparatory steps of straining the pulped tomato ingredient so as to exclude peel and seeds will assure a uniform texture. It is also his view that the degree of fineness of coarseness of texture is not a factor of quality. Therefore, he does not propose to adopt the Codex provision on texture.

3. *Flavor.* Codex (3.2.3) states that the product, when diluted with water to approximately 8 percent tomato soluble solids, shall have a good flavor, without any objectionable flavor foreign to the product. The USDA standards (7 CFR 2852.5046 and 2852.5086) describe flavor in subjective terms with an extensive listing of materials and conditions that might adversely affect flavor, such as stems, sepals, leaves, crushed seeds, immature or sour tomatoes, improper processing, and storage conditions.

The Commissioner does not propose to include a flavor requirement in the U.S. standards because of the lack of a reasonably precise means of measuring "good flavor." Furthermore, if the flavor of the tomato concentrate is "objectionable" other provisions of the act may be invoked against the food so affected.

4. *Defects.* Codex (3.2.4) states that the tomato concentrate shall not contain excessive devects such as:

a. Dark specks or scalelike particles;
b. Seeds or objectionable particles of seeds;
c. Objectionable tomato peel;
d. Harmless plant materials;
e. Other similar objectionable defects.

The USDA standards for tomato paste (7 CFR 2852.5049) and for tomato puree (7 CFR 2852.5089) assign score points to the factor of "defects," describing such defects in terminology similar to Codex and stating that the product shall be "fairly free" from defects. However, the USDA standards are supplemented by administrative guidelines which interpret the standards more precisely and provide a measure of objectivity in evaluating defects. These administrative guidelines indentify scoreable defects as:

a. Pieces of skin (peel) exceeding $^{3}/_{16}$ inch (measured without unrolling);

b. Black or dark brown specks which approximate $^{1}/_{32}$ inch or more in length;

c. Whole seeds;

d. Particles of seed exceeding $^{1}/_{32}$ inch in length.

Examination of the product is made on a 100-gram sample diluted to 8.0 to 9.0 percent natural tomato soluble solids. An allowance is set for each class of defect as well as a total for combined defects.

The Commissioner believes that provision should be made for control of the number and type of defects permitted in tomato concentrates. He agrees with the types of defects listed in the codex standard; but since it fails to set limits on the number that the food may contain, he is proposing requirements which are similar to those applied by USDA in the implementation of its grade standards, as follows:

There are present not more than one whole seed per 600 grams (21 ounces) and not more than 36 of the following defects, either singly or in combination per 100 grams (3.5 ounces) of the product:

a. Pieces of peel 5 mm (0.20 in) or greater in length.

b. Pieces of seed 3 mm (0.125 in) or greater in length.

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c. Blemishes, such as dark brown or balck particles, greater than 2 mm (0.08 in) in length of which not more than four in the combined total of 36 may exceed 1.6 mm (0.063 in).

5. *Mineral impurities.* Codex (3.2.4(e)) states that mineral impurities may not exceed 60 mg/kg of the product diluted to 8 percent soluble solids. Neither the U.S. standards (21 CFR 155.191 and 155.192) nor the USDA standards set limitations on mineral impurities such as sand, grit, and silt.

The Commissioner does not consider mineral impurities as a subject to be dealt with in food standards under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). He is of the opinion that the presence of material of this type in foods in amounts to cause the foods to become adulterated would be dealt with under section 402 (21 U.S.C. 342) of the act as adulterated foods. Therefore, he does not proposed to adopt the Codex limitation on mineral impurities.

6. *Compliance.* Codex (3.2.5 and 3.2.6) provides a procedure for determining compliance with the quality requirements by using statistical sampling plans for prepackaged foods (AQL 6.5). The USDA standards have similar procedures for determining compliance.

The Commissioner is proposing a compliance procedure similar to that of the Codex standard as proposed in § 155.3 *Definitions* (21 CFR 155.3), published in the FEDERAL REGISTER of June 7, 1977 (42 FR 29014).

7. *Labeling for substandard quality.* The Codex standard does not provide for substandard labeling of tomato concentrates that fail to meet the requirements of the quality standard. Neither of the U.S. standards (21 CFR 155.191 and 155.192) currently provides for quality factors. However, since the Commissioner is proposing a quality standard for tomato concentrates in this document, he is also proposing that a product that fails to meet the requirements of the quality standard be labeled in accordance with 21 CFR 130.14(a).

8. *Fill of container.* Codex (7.1.1) requires that, when packed in rigid containers, the product shall occupy not less than 90 percent of the water capacity of the container. Codex also states that any container of less than 90 percent fill is a "defective," and lot acceptance is based upon the Codex sampling plans (AQL 6.5), reference CAC/RM 42-1969. The U.S. standards (21 CFR Part 155) do not provide for fill of container requirements. The USDA standards (7 CFR 2852.5045 and 2852.5085) recommend that the containers be filled as full as practical without impairment of quality.

The Commissioner believes that the Codex provisions are reasonable. Therefore, he proposes to adopt the Codex provisions of 90 percent minimum fill, but is proposing that compliance be based on § 155.3, as proposed in the FEDERAL REGISTER of June 7, 1977 (42 CFR 29014).

9. *Labeling for substandard fill.* Codex (7.1.1) does not provide for substandard labeling of tomato concentrates that fail to meet the fill of container requirements. The U.S. standards (21 CFR 155.191 and 155.192) do not contain fill of container requirements and consequently do not provide for substandard labeling.

Since the Commissioner is proposing a standard of fill of container for tomato concentrates in this document, he is of the opinion that it is reasonable to require that the label of a product that fails to meet the minimum fill of container requirements contain a declaration of substandard fill. Therefore, he proposes that such a product be labeled in accordance with 21 CFR 130.14(b).

10. *Methods of analysis.* Codex (9.2 and 9.3) includes methods for the determination of tomato soluble solids and salt in accordance with American Association of Analytical Chemists (AOAC) procedures.

These methods are the same as those referenced in the U.S. standards. Consequently, the Commissioner proposes no change, except to update the reference to cite the latest edition of the publication.

III. TOMATO CATSUP

A. Discussion of the Commissioner's Proposed Courses of Action.

The Codex Alimentarius Commission has not proposed a Codex standard for catsup. Therefore, no comparison can be made with a Codex document for this food. There is, however, a U.S. standard of identity (21 CFR 155.194) and USDA standards (7 CFR 2852.2101 through 2852.2111) for tomato catsup.

The Commissioner is not proposing a major revision of the catsup standard. Rather, his proposal is directed toward an updating of the standard, which has been in effect since July 1939, to broaden the choice of optional tomato ingredients and other optional ingredients, principally nutritive carbohydrate sweeteners and organic acids and to establish minimum total soluble solids and consistency requirements. The main points of these proposed amendments to the U.S. standards for tomato catsup are as follows:

1. *Optional tomato ingredients.* The current U.S. standard (21 CFR 155.194) provides that catsup may be prepared from one or any combination of three optional tomato ingredients.

The Commissioner proposes that the U.S. standard also provide for tomato concentrates as defined in the proposed § 155.191(a)(1) to prepare catsup. This will permit the manufacture of catsup, using tomato concentrates, at those times of the year when fresh tomatoes for processing are not available. The Commissioner is of the opinion that this provision will benefit both the consumer and the processor.

2. *Sweeteners.* The U.S. standard (21 CFR 155.194) states that when the solids of corn sirup, or dried corn sirup, or glucose sirup, or dried glucose sirup (or any combination of these) used contain less than 58 percent by weight of reducing sugars, calculated as anhydrous dextrose, then such corn sirup or glucose sirup shall be mixed with sugar or dextrose, or both, in such quantity that the weight of the solids of such corn sirup, or dried corn sirup or both, or glucose sirup, or dried glucose sirup or both, is not more than one-third of the weight of the solids of such mixture.

It is the Commissioner's view that technological improvements in the manufacture of sweeteners other than sucrose no longer support the need to place restrictions on their use, and he is therefore proposing to broaden the choice to any safe and suitable nutritive carbohydrate sweeteners, including those standardized in 21 CFR Part 168. In addition, he is of the opinion that providing for a class of sweeteners is less restrictive and will permit greater flexibility in the choice of suitable sweeteners that can be used.

3. *Acidulants.* The U.S. standard (21 CFR 155.194) provides only for a vinegar or vinegars as an acidifying ingredient.

The Commissioners believes this is unnecessarily restrictive, and he proposes to broaden the choice also to include lemon juice, concentrated lemon juice, and any safe and suitable organic acid.

4. *Solids requirement.* The U.S. standard (21 CFR 155.194) does not require a minimum total soluble solids content. However, the USDA standards (7 CFR 2852.2102(c)) state that for Grade C the total solids content shall be not less than 25 percent by weight.

The Commissioner considered the establishment of a minimum tomato soluble solids requirement for catsup, but does not have data available to support a figure. However, he is of the opinion that a minimum total soluble solids requirement will to some extent control the amount of tomato solids used in catsup. Therefore, he proposes to provide for the USDA figure of 25 percent as the minimum total soluble solids requirement for catsup.

5. *Solids determination.* The USDA standard (7 CFR 2852.2110) defines "total solids" as the refractometric sucrose value plus 1 percent.

The Commissioner understands that by adding 1 percent, the refractometric sucrose value will more nearly agree with the total solids as determined by the oven-drying method. The Commissioner is aware that there is a difference between soluble solids as determined by refractometer and total solids as determined by the oven-drying method. However, the latest edition of the "National Canners Association Bulletin 27L" (January 1977, pages 129 to 131) indicates that the 1 percent correction is not consistent for the entire concentration range of catsup. Therefore, the Commissioner is proposing to express the total soluble in terms of the sucrose value as read directly from the refractometer without correction. He is of the opinion that this procedure will give more correct and consistent results.

6. *Labeling.* The current catsup standard does not require that all optional ingredients used in the food be declared on the lable. It requires only that certain statements specified in the standard precede or follow the name of the food wherever it appears on the label to show the presence of the optional tomato ingredients.

The Commissioner is proposing that the labeling requirements of the catsup standards be revised to be consistent with other recently revised U.S. standards. Therefore, he proposes that the statements showing the presence of the two optional tomato ingredients be declared as part of the name or in close proximity to the name of the food and that each of the optional ingredients used shall be declared on the label as required by the applicable sections of 21 CFR Part 101.

7. *Quality.* The U.S. standard (21 CFR 155.194) does not provide for quality criteria. But the USDA standards (7 CFR 2852.2105 through 2852.2109) have provisions for classifying catsup into four levels of quality; namely, Grade A, Grade B, Grade C, and Substandard.

The USDA standards have objective procedures for classifying "color" and "consistency." But the scoring of "defects" and "flavor" is largely a matter of judgment.

The Commissioner proposes to establish a standard of quality for catsup to provide for a minimum consistency requirement. He does not propose to provide for requirements for color or defects at this time, but he particularly invites comments on this point.

8. *Fill of container.* The U.S. standard (21 CFR 155.194) does not provide for fill of container requirements. But the USDA standard (7 CFR 2852.2103) has recommendations that the container be filled as full as practicable without impairment of quality and that the product occupy not less than 90 percent of the capacity of the container.

The Commissioner views a minimum fill of container as desirable and is therefore proposing a standard of fill based on a minimum of 90 percent of total capacity of the container. He is also proposing that compliance be in accordance with the proposed § 155.3(e)(2) below.

9. *Substandard labeling.* The U.S. does not have standards of quality or for fill of container for catsup and thus no provision for the labeling of a product that is below standard in quality or fill.

Since the Commissioner is proposing to establish standards of quality and fill of container for catsup in this document, he is of the opinion that it is reasonable to require that the label of a product that fails to meet the minimum quality and/or minimum fill of container requirements contain a declaration of substandard quality and/or fill. Therefore, he proposes that such products be labeled in accordance with 21 CFR 130.14(a) and/or (b).

IV. PROPOSED EFFECTIVE DATE

The Commissioner proposes that all products initially introduced into interstate commerce on or after July 1, 1979, shall comply with the regulation except as to any provisions that may be stayed by the filing of proper objections.

V. ENVIRONMENTAL IMPACT STATEMENT

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 25.1(d)(4) (21 CFR 25.1(d)(4)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 155 and 156 be amended as follows:

PART 155—CANNED VEGETABLES

1. Part 155 is amended:

a. By adding Subpart A, consisting at this time of new § 155.3, to read as follows:

Subpart A—General Provisions

§ 155.3 Definitions and procedures.

For the purpose of this part:

(a) "Strength and redness of color" means at least as much red as is obtained by comparison of the prepared product, with the blended color produced by spinning a combination of the following concentric Munsell color discs of equal diameter, or the color equivalent of such discs:

Disc 1—Red (5R 2.6/13) (glossy finish).
Disc 2—Yellow (2.5 YR 5/12) (glossy finish).
Disc 3—Black (N1) (glossy finish).
Disc 4—Grey (N4) (mat finish).

Such comparison is to be made in full diffused daylight or under a diffused light source of approximately 250 foot-candle intensity and having a spectral quality approximating that of daylight under a moderately overcast sky, and a color temperature of 7,500 degrees Kelvin ±200 degrees. With the light source directly over the disc and product, observation is made at an angle of 45 degrees from a distance of about 24 inches from the product.

(b) "Tomato soluble solids" means the sucrose value as determined by the following method: Determine the refractive index of the clear serum obtained from the product, corrected for temperature to 20° C., converting the resultant index to "Percent Sucrose" in accordance with the "International Scale of Refractive Indices of Sucrose at 20° C." Reference: "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. (1975), sections 32.008, 32.009, 32.010 and section 52.012, "Table of Refractive Indices (Percent Sucrose) at 20° C." [1] If no salt has been added, the sucrose value obtained from the referenced tables shall be considered the percent of tomato soluble solids. If salt has been added, either intentionally or through the application of the acidified break, determine the percent of such added sodium chloride as specified in paragraph (c) of this section. Subtract the percentage so found from the percentage of total soluble solids found (sucrose value from the refractive index tables) and multiply the difference by 1.016. The resultant value is considered the percent of "tomato soluble solids."

(c) "Salt" means sodium chloride as determined by the potentiometric method. Reference: "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. (1975), section 32.019. [1]

(d) The procedure for determining drained weight is set forth in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. (1975), section 32.001. [1]

(e) "Compliance" means the following: Unless otherwise provided in a standard, a lot of canned vegetables shall be deemed in compliance for the following factors, to be determined by the sampling and acceptance procedure as provided in paragraph (f) of this section, namely:

(1) *Quality.* The quality of a lot shall be considered acceptable when the number of defectives does not

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

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exceed the applicable acceptance number (c) in the sampling plans.

(2) *Fill of container.* A lot shall be deemed to be in compliance for fill of container (total tomato product including, where appropriate, any packing medium) when the number of defectives does not exceed the applicable number (c) in the sampling plans.

(3) *Drained weight.* A lot shall be deemed to be in compliance for drained weight based on the average value of all samples analyzed according to the sampling plans.

(f) "Sampling and acceptance procedure" means the following:

(1) *Definitions*—(i) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(ii) *Lot size.* The number of primary containers or units in the lot.

(iii) *Sample size.* The total number of sample units drawn for examination from a lot.

(iv) *Sample unit.* A container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit. For fill of container, the sample unit shall be the entire contents of the container.

(v) *Defective.* Any sample unit shall be regarded as defective when the sample unit does not meet the criteria set forth in the standards.

(vi) *Acceptance number* (c). The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(vii) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

(2) *Sampling plans:*

Lot size (primary containers)	Size of container	
	Net weight equal to or less than 1 kg (2.2 lb)	
	n	c
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb)	
	n	c
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
Over 120,000	200	19
	Net weight greater than 4.5 kg (10 lb)	
	n	c
600 or less	13	2
601 to 2,000	21	3
2,001 to 7,200	29	4
7,201 to 15,000	48	6
15,001 to 24,000	84	9
24,001 to 42,000	126	13
Over 42,000	200	19

n=number of primary containers in sample,

C=acceptance number.

2. By revising § 155.191 to read as follows:

§ 155.191 Tomato concentrates.

(a) *Identity*—(1) *Definition.* Tomato concentrates are the class of foods each of which is prepared by concentrating one or any combination of two or more of the following optional tomato ingredients:

(i) The liquid obtained from mature tomatoes of the red or reddish varieties (*Lycopersicum esculentum P. Mill*).

(ii) The liquid obtained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.

(iii) The liquid obtained from the residue from partial extraction of juice from such tomatoes.

Such liquid is obtained by so straining the tomatoes, with or without heating, as to exclude skins (peel), seeds, and other coarse or hard substances in accordance with good manufacturing practice. Prior to straining, food-grade hydrochloric acid may be added to the tomato material in an amount to obtain a pH no lower than 2.0. Such acid is then neutralized with food-grade sodium hydroxide so that the treated tomato material is restored to a pH of 4.2±0.2 prior to straining. Water may be added to adjust the final composition. The food contains not less than 8.0 percent tomato soluble solids as defined in § 155.3. When sealed in a container the foods are so processed by heat, before or after sealing, as to prevent spoilage.

(2) *Optional ingredients.* Safe and suitable ingredients may be used in the foods as follows:

(i) In all tomato concentrates:

(*a*) Salt (sodium chloride formed during acid neutralization shall be considered added salt).

(*b*) Organic acids, lemon juice, or concentrated lemon juice.

(*c*) Sodium hydrogen carbonate.

(ii) In tomato paste:

(*a*) Spices.

(*b*) Flavoring.

(*c*) Vegetable ingredients, such as onions and peppers, that may be fresh or preserved by physical means.

(3) *Labeling.* (i) *The names of the foods are:*

(*a*) "Tomato puree" or "tomato pulp" if the food contains not less than 8.0 percent but less than 24.0 percent tomato soluble solids.

(*b*) "Tomato paste" if the food contains not less than 24.0 percent tomato soluble solids.

(*c*) The name "tomato concentrate" may be used in lieu of the names "tomato puree", "tomato pulp", or "tomato paste" whenever the concentrate complies with the requirements of such foods and the statement "for remanufacturing purposes only" is declared on the container.

(*d*) "Concentrated tomato juice" if the food is prepared from the optional tomato ingredient described in paragraph (a)(1)(i) of this section and is of such concentration that upon diluting the diluted article will contain not less than 5.5 percent tomato soluble solids, but in no case shall the concentrate contain less than 20.0 percent tomato soluble solids.

(ii) The following shall be included as part of the name or in close proximity to the name of the food:

(*a*) The statement "made from" (or "made in part from" as the case may be) "residual tomato material from canning" if the optional tomato ingredient specified in paragraph (a)(1)(ii) of this section is present.

(*b*) The statement "made from" (or "made in part from" as the case may be) "Residual tomato material from partial extraction of juice" if the optional tomato ingredient specified in paragraph (a)(1)(iii) of this section is present.

(*c*) A declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter.

(*d*) A declaration of any spice or vegetable ingredient that characterize the product, e.g., "seasoned with ——", the blank to be filled in with the common name of the vegetable ingredient(s) used or with the words "added spice" or, in lieu of the word "spice", the common name of the spice.

(4) *ingredient statement.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(5) *Compliance with tomato soluble solids.* Compliance with the tomato soluble solids requirement of this section shall be as follows:

(i) The sample average must meet at least the minimum required;

(ii) The number of test values that are more than 1 percent soluble solids below the minimum required shall not exceed the acceptance number in the sampling plans (AQL 6.5) set forth in § 155.3(f)(2).

(b) *Quality.* (1) The standard of quality for tomato concentrate except for concentrated tomato juice, which when diluted to 5.5 percent tomato soluble solids shall conform to the standard of quality for tomato juice set forth in § 156.145 of this chapter, is as follows:

(i) The strength and redness of color of the food, when diluted with water (if necessary) to between 8 and 9 percent soluble solids and then compared with the Munsell color discs as described in § 155.3(a) are not less than the composite color produced by the following combination:

53 percent of the area of Disc 1;
28 percent of the area of Disc 2; and
19 percent of the area of either Disc 3 or Disc 4; or
9½ percent of the area of Disc 3 and 9½ percent of the area of Disc 4, whichever most nearly matches the appearance of the diluted sample.

(ii) There are present not more than one whole seed per 600 grams (21 ounces) and not more than 36 of the following defects, either singly or in combination, per 100 grams (3.5 ounces) of the product when diluted with water to between 8 and 9 percent tomato soluble solids:

(*a*) Pieces of peel 5 mm (0.20 in) or greater in length (without unrolling).

(*b*) Pieces of seed 3 mm (0.125 in) or greater in length.

(*c*) Blemishes, such as dark brown or black particles greater than 2 mm (0.80 in) in length of which not more than four in the combined total of 36 may exceed 1.6 mm (0.063 in).

(iii) Examination of the diluted concentrate (8 to 9 soluble solids) for the foregoing defects is accomplished as follows:

(*a*) Peel, pieces of seed, and blemishes—spread the prepared concentrate evenly on a large white tray and remove the individual defects for classification and measurement.

(*b*) Whole seeds—weigh out 600 grams (21 ounces) of the well-mixed, diluted concentrate; place a No. 12 screen (1.68 mm openings) over the sink drain; transfer the product sample onto the screen; rinse container thoroughly with water and pour through screen; flush sample through screen by using an adequate spray of water; check screen for whole seeds; apply the appropriate allowance.

(2) Determine compliance with quality criteria as specified in § 155.3(e)(1).

(3) If the quality of the tomato concentrate falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; but in lieu of such general statement of substandard quality when the quality of the tomato concentrate falls below the standard in only one respect, the label may bear the alternative statement "Below Standard in Quality ——", the blank to be filled in with the words specified after the corresponding paragraph under paragraph (b)(1) of this section which such tomato concentrate fails to meet, as follows:

(i) "Poor color".

(ii) "Excessive seeds".

(iii) "Excessive pieces of peel".

(iv) "Excessive blemishes".

(v) "Excessive pieces of seed".

(c) *Fill of container.* (1) The standard of fill of container of tomato concentrate intended for direct sale to consumers is as follows: The contents of the container occupy not less than 90 percent of the total capacity of the container as determined by the general method for fill of containers as prescribed in § 130.12(b) of this chapter.

(2) Determine compliance with fill of container requirements as specified in § 155.3(e)(2).

(3) If the tomato concentrate fails to meet the standard of fill of container as prescribed in paragraph (c)(1) and (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein prescribed.

§ 155.192 [Deleted]

b. Section 155.192 is deleted (material formerly in § 155.192 is included in revised § 155.191).

c. By revising § 155.194 to read as follows:

§ 155.194 Catsup.

(a) *Identity*—(1) *Definition.* Catsup, ketchup, or catchup is the food prepared from one or any combination of two or more of the following optional tomato ingredients:

(i) Tomato concentrate as defined in § 155.191(a)(1).

(ii) The liquid derived from mature tomatoes of the red or reddish varieties *Lycopersicum esculentum P. Mill.*

(iii) The liquid obtained from the residue from such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.

(iv) The liquid obtained from the residue from partial extraction of juice from such tomatoes.

Such liquid being strained so as to exclude skins, seeds, and other coarse or hard substances in accordance with good manufacturing practice. Prior to straining, food-grade hydrochloric acid may be added to the tomato material at a rate to obtain a pH no lower than 2.0. Such acid is then neutralized with food-grade sodium hydroxide so that the treated tomato material is restored to a pH of 4.2±0.2 prior to straining. The liquid is then concentrated. The tomato ingredients provided for in paragraph (a)(1) of this section may contain salt (sodium chloride formed during acid neutralization shall be considered added salt) and are seasoned with ingredients as specified in paragraph (a)(2) of this section. The finished food shall have not less than 25 percent soluble solids as determined by the refractometric method, as specified in paragraph (a)(3) of this section. When sealed in a container, it is so processed by heat, before or after sealing, as to prevent spoilage.

(2) *Optional ingredients.* One or more of the optional ingredients In each of the following categories is added to the tomato ingredients specified in paragraph (a)(1) of this section:

(i) Lemon juice or concentrated lemon juice, a vinegar or vinegars, any organic acid as defined in § 145.3(g) of this chapter;

(ii) A nutritive carbohydrate sweetener;

(iii) Spices, flavoring, onions, or garlic.

(3) *"Soluble solids"* as used in paragraph (a)(1) of this section is the refractometric sucrose value (of the filtrate), corrected to 20° C, but uncorrected for acidity, in accordance with the "International Scale of Refractive Indices of Sucrose Solutions." Reference: "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. (1975), section 52.012.[1]

(4) *Labeling.* (i) The name of the food is "Catsup", "Ketchup", or "Catchup".

(ii) The following shall be included as part of the name or in close proximity to the name of the food:

(*a*) The statement "made from" (or "made in part from" as the case may be) "Residual tomato material from canning" if the optional tomato ingredient specified in paragraph (a)(1)(iii) of this section is present.

(*b*) The statement "made from" (or "made in part from" as the case may be) "Residual tomato material from partial extraction of juice" if the optional tomato ingredient specified in paragraph (a)(1)(iv) of this section is present.

(5) *Ingredient statement.* Each of the optional ingredients used shall be declared on the label as required by applicable sections of Part 101 of this chapter.

(b) *Quality.* (1) The standard of quality for catsup is as follows: The consistency of the finished food is such that its flow is not more than 14 centimeters in 30 seconds at 20° C when tested in a Bostwick Consistometer in the following manner: Check temperature of mixture and adjust to 20±1° C. The trough must also be at a temperature close to 20° C. Adjust end-to-end level of Bostwick Consisto-

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meter by means of the spirit level placed in trough of instrument. Side-to-side level may be adjusted by means of the built-in spirit level. Mix sample by stirring without incorporating air bubble, and immediately transfer to the sample chamber of the Bostwick Consistometer. Fill the chamber slightly more than level full, avoiding air bubbles as far as possible. Pass a straight edge across top of chamber starting from the gate end to remove excess product. Release gate of instrument by gradual pressure on lever, holding the instrument down at the same time to prevent its movement as the gate is released. Immediately start the stop watch or interval timer, and after 30 seconds read the maximum distance of flow to the nearest 0.1 cm. Clean and dry the instrument and repeat the reading on another portion of sample. Always remix sample before transferring to instrument. Do not wash instrument with hot water if it is to be used immediately for the next determination, as this may result in an increase in temperature of the sample. For highest accuracy, the instrument should be maintained at a temperature of 20±1° C. If readings vary more than 0.2 cm, repeat a third time or until satisfactory agreement is obtained. Report the average of two or more readings, excluding any that appear to be abnormal.

(2) Determine compliance with the quality criteria as specified in § 155.3(e)(1).

(3) If the quality of catsup falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; but in lieu of such general statement of substandard quality when the quality of the catsup falls below the standard, the label may bear the alternative statement, "Below Standard in Quality-Low Consistency".

(c) *Fill of container.* The standard of fill of container for tomato catsup is as follows:

(1) The contents of the container occupy not less than 90 percent of the total capacity of the container as determined by the general method for fill of containers as prescribed in § 130.12(b) of this chapter.

(2) Determine compliance with fill of container requirements as specified in § 155.3(e)(2).

(3) If the catsup falls below the standard of fill prescribed in paragraph (c) (1) and (2) of this section, the label shall bear the general statement of substandard fill as specified in § 130.14(b) of this chapter, in the manner and form therein specified.

PART 156—VEGETABLE JUICES

2. Part 156 is amended:

a. By revising § 156.145 to read as follows:

§ 156.145 Tomato juice.

(a) *Identity*—(1) *Definition.* Tomato juice is the food intended for direct consumption, obtained from the unfermented liquid extracted from mature tomatoes of the red or reddish varieties of *Lycopersicum esculentum P. Mill.*, with or without scalding following by draining. In the extraction of such liquid, heat may be applied by any method which does not add water thereto. Such juice is strained free from peel, seeds, and other coarse or hard substances, but contains finely divided insoluble solids from the flesh of the tomato in accordance with good manufacturing practice. Such juice may be homogenized, may be seasoned with salt, and may be acidified with any safe and suitable organic acid. The juice may have been concentrated and later reconstituted with water to a tomato soluble solids content of not less than 5.5 percent by weight as determined by the method prescribed in § 155.3(b). When sealed in a container, it is so processed by heat, before or after sealing, as to prevent spoilage.

(2) *Labeling.* (i) The name of the food is "tomato juice" if it is prepared from unconcentrated, undiluted liquid extracted from mature tomatoes of reddish varieties.

(ii) The name of the food is "tomato juice from concentrate" if the finished juice has been prepared from concentrated tomato juice as specified in paragraph (a)(1) of this section.

(3) *Ingredient statement.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality.* (1) The standard of quality for tomato juice is as follows:

(i) The strength and redness of color of the food, as determined by the method prescribed in § 155.3(a) of this chapter, are not less than the composite color produced by spinning the specified Munsell color discs in the following combinations:

53 percent of the area of Disc 1;
28 percent of the area of Disc 2; and
19 percent of the area of either Disc 3 or Disc 4; or
9½ percent of the area of Disc 3 and 9½ percent of the area of Disc 4, whichever most nearly matches the appearance of the tomato juice.

(ii) There are present not more than two of the following defects, either singly or in combination, per 500 ml (16.9 fluid ounces) of juice:

(*a*) Pieces of peel 3 mm (0.125 in) or greater, in length;

(*b*) Seeds, or pieces of seed 3 mm (0.125 in) or greater in length;

(*c*) Blemishes such as dark brown or black particles greater then 2 mm (0.08 in) in length.

(iii) Examination of the juice for the foregoing defects is accomplished by pouring the juice over a slightly inclined white tray and removing the individual defects for identity and measurement.

(2) Determine compliance with quality criteria as specified in § 155.3(e)(1).

(3) If the quality of the tomato juice falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; but in lieu of such general statement of substandard quality when the the quality of the tomato juice falls below the standard in only one respect, the label may bear the alternative statement "Below Standard in Quality——", the blank to be filled in with the words specified after the corresponding paragraph under paragraph (b)(1) of this section which such tomato juice fails to meet, as follows:

(i) "Poor color".
(ii) "Excessive pieces of peel".
(iii) "Excessive seeds" or "excessive pieces of seed".
(iv) "Excessive blemishes".

(c) *Fill of container.* (1) The standard of fill of container for tomato juice is as follows: The contents of the container occupy not less than 90 percent of the total capacity of the container as determined by the general method for fill of containers as prescribed in § 130.12(b) of this chapter.

(2) Determine compliance as specified in § 155.33(e)(2).

(3) If the tomato juice fails to meet the standard of fill of container as prescribed in paragraph (c)(1) and (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein prescribed.

§ 156.147 [Revoked]

b. By revoking § 156.147 *Yellow tomato juice; identity.*

Interested persons may, on or before July 10, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executuve Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

NOTE.—Incorporation by reference approved by the Director, Office of the Federal Register, March 11, 1976. Referenced material is on file in the Federal Register Library.

Dated: April 28, 1978.

HOWARD R. ROBERTS,
Acting Director
of Bureau of Foods.

[FR Doc. 78-12392 Filed 5-8-78; 8:45 am]

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[21 CFR Part 1020]

[Docket No. 77N-0061]

DIAGNOSTIC X-RAY SYSTEMS AND THEIR MAJOR COMPONENTS

X-Ray Beam Limitation Devices for Radiographic and Fluoroscopic X-Ray Systems

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes amendments to: (1) clarify the X-ray beam limitation requirements for stationary, general-purpose X-ray systems; (2) incorporate interpretations that have been made about the performance of these systems; (3) relax certain requirements for field size adjustments; and (4) permit a capability for overriding the automatic X-ray field size adjustment on spot film and fluoroscopic X-ray systems, if appropriate labeling is provided. This document follows from a previous notice of intent.

DATE: Comments by July 10, 1978.

ADDRESS: Written comments to Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Harvey Rudolph, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1960.

SUPPLEMENTARY INFORMATION: Under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602, 42 U.S.C. 263b et seq.), the Commissioner of Food and Drugs proposes to amend the performance standard for diagnostic X-ray systems and their major components (21 CFR 1020.30, 1020.31, and 1020.32). The amendments would modify the requirements of § 1020.31(e)(2) concerning the manner in which means to limit the X-ray field are provided for stationary, general-purpose radiographic systems. The amendments also address §§ 1020.31(g) and 1020.32(b), by permitting a capability for overriding the automatic X-ray field size adjustment on spot film and fluoroscopic X-ray systems and requiring appropriate labels for these override controls when such a capability is provided.

The development of these amendments was announced in a notice of intent published in the FEDERAL REGISTER of April 1, 1977 (42 FR 17494), and drafts of the proposed amendments have been made available for review and comment by interested parties. Under section 358(f) of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f(f)), these proposals have been reviewed by the Technical Electronic Product Radiation Safety Standards Committee, a permanent statutory advisory committee to the Secretary, Department of Health, Education, and Welfare, which must be consulted before establishment or amendment of performance standards for electronic products. The committee concurred with issuing the proposals for public comment. A discussion of the proposed amendments follows.

REVISION OF REQUIREMENT FOR POSITIVE BEAM LIMITATION

The positive beam limitation (PBL) requirements of the diagnostic X-ray equipment performance standard are currently in § 1020.31(e)(2) (21 CFR 1020.31(e)(2)). It states that all stationary, general-purpose radiographic systems must have means to prevent X-ray exposure until the operator or the system causes the X-ray field to be adjusted to the size of the image receptor. The meaning and intent of this requirement and the methods of complying with it have been subject to misinterpretation; therefore, the agency has issued advisory opinions and compliance policy statements to clarify the PBL requirement for manufacturers and to assist in determining compliance with the standard. Since promulgation of the standard, experience indicates that modifications and additions to the regulations on PBL are necessary for full benefit of this feature and for permitting simplification of the design of these systems. The proposed amendments would revise § 1020.31(e)(2) and establish new § 1020.31(e) (3), (4), and (5). The changes to these requirements are as follows:

1. *Requirement for field size adjustment.* Under the proposed amendments, revised § 1020.31(e)(2) would continue to state the requirement for PBL, but would require adjustment of the size of the X-ray field to the size of the image receptor only if the X-ray field is larger than the image receptor. The current standard requires that the X-ray field be adjusted to the same size as the image receptor each time the image receptor is changed, including when the X-ray field is smaller than the image receptor.

The PBL requirement was established as a means of fostering good radiologic practice and preventing the use, during routine examinations, of X-ray fields that exceed the size of the image receptor and subject the patient to unnecessary radiation exposure. The current provisions of § 1020.31(e)(2) permit adjustment of the X-ray field to a size smaller than the image receptor; however, during routine operation of the X-ray system, the X-ray field is first required to be adjusted to the same size as the image receptor to within the tolerances specified in § 1020.31(e)(2)(ii). This requirement was established to prevent the loss of needed diagnostic information, which could lead to repeat examinations if the X-ray field were left at a size significantly smaller than the selected image receptor. During the development of the standard, it was also thought that the lack of a minimum tolerance on the X-ray field size might lead to X-ray films with excessive unexposed margins because of careless or improper adjustment of beam-limiting devices. It was expected that such large unexposed margins could lead to loss of diagnostic information and could result in the use of the next larger film size to avoid the loss of information. The use of larger film sizes would result in increased patient exposure.

The agency has received both formal and informal criticisms from radiologists, radiologic technologists, and others concerning the impact of the requirement that the X-ray field be increased to the full size of the image receptor upon each change of the image receptor. These criticisms cite the inconvenience resulting from this requirement in two cirumstances.

The current requirement for agreement of the X-ray field and image receptor dimensions to within 3 percent of the source-to-image-receptor distance (SID) makes it difficult for beam-limiting devices providing PBL to be adjusted so that they provide an unexposed border on the image receptor and also remain in compliance with the performance standard. An increasing number of institutions, as well as radiation control agencies, are adopting requirements that evidence of proper X-ray field limitation shall appear on each radiograph. This is a method of controlling unnecessary exposure resulting from the use of X-ray fields that exceed the size necessary to fully expose the image receptor.

An additional criticism of the current requirement is that this provision inconveniences the user who wishes to make a series of radiographs with the X-ray field smaller than the film. Cur-

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rently, when such a series of radiographs is being made, the operator often needs to manually adjust the beam limitation device to obtain the smaller field before each exposure instead of adjusting the X-ray field size to the area of interest initially and leaving it unchanged. Thus, one of the attractive features of automatic beam limitation, the elimination of the need for manual adjustment, is lost in this instance. Some systems have incorporated a feature to permit this reduction automatically, but the fact that this performance is acceptable is not clear from the present wording of § 1020.31(e)(2). Even these systems cause the reduced X-ray field to be enlarged to the size of the image receptor and then reduced again upon each change of the image receptor. Such performance is unnecessarily complicated, and the proposed amendment would permit a simplification of these systems.

These problems would be eliminated by revising § 1020.31(e)(2) to require that the dimensions of the X-ray field not exceed those of the image receptor by more than 3 percent of the SID. The PBL system would be required to meet this criterion for any SID for which it is designed. In addition, any amount of undersizing of the X-ray field in comparison with the image receptor would be permitted, thus making the requirement for beam limitation devices providing PBL more consistent with the requirement for spot-film collimation devices. (See FEDERAL REGISTER of June 11, 1975 (40 FR 24909) and February 25, 1977 (42 FR 10983) concerning the spot-film device performance requirements.) If the PBL device permits preselection of a size less than the full image receptor, means to align the X-ray field with the preselected portion of the image receptor would be required.

In addition, such a change would permit PBL to be adjusted to provide an unexposed border on the image receptor and still comply with the performance standard. With the current requirement of § 1020.31(e)(2)(ii), it is difficult to provide such an unexposed margin at all SID's and maintain compliance with the standard. The current situation thus makes enforcement of such a policy or regulation difficult in institutions having both certified and uncertified X-ray systems. The proposed amendment would assist this effort to reduce unnecessary exposure.

This proposal has one disadvantage in that some retakes may be necessary if the system is designed so that the operator needs to manually adjust the beam-limiting device to obtain a larger field when changing to a larger image receptor size and the operator neglects to do so. But this situation should rarely occur once the operator is familiar with the function of the system.

During the development of this proposal, a comment suggested that the inside tolerance on the X-ray field size be maintained, but that it be increased to 6 percent of the SID so that an unexposed border on the image receptor would be possible. It also suggested that adjustment of the X-ray field to the size of the image receptor continue to be required when the X-ray field is smaller than the image receptor size. The arguments in support of this suggestion were similar to those used to support the original PBL requirements.

The Commissioner acknowledges that this suggestion would eliminate the problem facing some X-ray facilities, i.e., providing unexposed borders while still maintaining their equipment in compliance with the performance standard. But, he notes that most users would still be unable to take a series of radiographs with the X-ray beam collimated to the area of interest without manually adjusting the beam-limiting device before each exposure. He also notes that the removal of the inner tolerance would allow manufacturers the option of designing less complex beam-limiting devices. Such devices could be less expensive to buy and maintain. Therefore, the Commissioner has not accepted the suggestion in proposing these amendments, but invites comments on this alternate approach, as well as on the proposed amendment.

2. *Conditions for positive beam limitation.* It is proposed to provide, in a new § 1020.31(e)(3), a list of the conditions under which a stationary, general-purpose radiographic system is required to provide PBL. This list would replace the present § 1020.31(e)(2)(iv), which describes those circumstances when PBL may be bypassed. The system would be required to provide PBL when all the conditions proposed in § 1020.31(e)(3) are met. The conditions are described below.

(a) PBL would be required if the image receptor is placed in a permanently mounted cassette holder. This provision is not a change from the current standard, which states that PBL may be bypassed when the cassette holder is not used. In this context, cassette trays mounted under stationary X-ray tables are considered to be permanently mounted cassette holders.

(b) PBL would be required when the image receptor length and width are each less than 20 inches. Imposition of this condition would relax the current requirement of the standard, which requires that PBL be provided for any image receptor size that may be used with the system. This condition would eliminate the requirement for PBL for image receptors having any dimensions greater than 20 inches, such as the 14- by 36-inch film size used for radiography of the full spine.

Currently, only a few beam limitation systems offer PBL capabilities for image receptors with dimensions as large as 36 inches. These systems are operable only at a few image receptor sizes, including 14 to 36 inches. Because of the small size of the potential market for PBL systems with the capability to accept these larger cassette sizes as well as a variety of other image receptor sizes, manufacturers have been reluctant to develop more versatile PBL systems capable of accepting a variety of image receptor sizes, including the larger sizes needed by some practitioners. The proposed amendment would permit these practitioners to use cassette holders that provide PBL at image receptor sizes smaller than 20 inches, and PBL would not be required for larger image receptors.

The Commissioner concludes that the benefit to be derived from this change outweighs any potential for increased exposure as a result of not requiring PBL for the large image receptor sizes. The 1970 X-ray Exposure Study conducted by the U.S. Public Health Service indicated that only approximately 0.2 percent of all radiographic examinations in 1970 were examinations of the full spine, the principal use of 14- by 36-inch film.

(c) PBL would be required if the X-ray beam axis is oriented either horizontally or vertically and the SID is within the specified range during the entire exposure. A range of SID's for which PBL is required to be provided would be specified in proposed § 1020.31(e)(3)(iii). Specification of such a range is necessary to clarify the requirements of the standard and to minimize the complexity and cost of the PBL feature.

The current standard requires that PBL be provided at any SID at which the system is capable of functioning. Owing to technical problems associated with providing PBL for larger film sizes, such as 14 by 17 inches, at SID's less than 36 inches, the agency issued interpretations that stated that PBL would not be required for SID's less than 36 inches. The Commissioner proposes to incorporate this interpretation into the regulations by establishing a lower limit of 36 inches for the SID's at which PBL is required. The Commissioner notes that unpublished data from the Nationwide Evaluation of X-ray Trends survey show that less than 3.5 percent of all medical radiographic examinations are performed at SID's less than 36 inches. Thus, the reduction in unnecessary radiation exposure that might be realized from requiring PBL for SID's less than 36 inches would be small and is not judged to be warranted in view of the added expense such a requirement would entail.

Because the SID-sensing mechanism must have a physical upper limit, the

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Commissioner considers it reasonable to establish an upper limit for the PBL region. For a vertical beam direction, it is proposed that PBL not be required for SID's greater than 50 inches. This limitation would include the most commonly used SID's for which PBL is required. For a horizontal beam direction, an upper limit of 80 inches is proposed for the SID's for which PBL would be required.

PBL is currently required when the beam axis or table angulation is within 10 degrees of the horizontal or vertical during the entire exposure. During the development of the diagnostic X-ray standard, it was expected that PBL could be provided for angulations of up to 10 degrees from the horizontal or vertical without difficulty. The choice of 10 degrees as the demarcation between the region where PBL is required and the region where bypass is allowed is somewhat arbitrary. The intent was to have PBL for those orientations when the beam axis was perpendicular or nearly perpendicular to the plane of the image receptor and to avoid the technical complexities and costs necessary to provide PBL throughout the full range of beam axis and image receptor orientations. This decision also recognized that the majority of examinations are made with the beam axis either horizontal or vertical.

Problems have been described that result from the requirement for PBL at angles less than 10 degrees when the X-ray table is rotated about an axis that is not coincident with the center of the cassette tray or bucky. Under certain conditions the PBL requirement results in the inability to obtain exposure of the entire area of the X-ray film; in other cases it may result in X-ray fields that are larger than the image receptor. Consideration of this problem and current table designs demonstrates that PBL can be provided if the angular range is reduced to plus or minus 3 degrees. This smaller angular range will ensure that PBL is provided when the X-ray beam axis is approximately perpendicular to the image receptor, yet it will allow those special procedures that have proved troublesome in the past. Therefore, the Commissioner proposes that PBL be required only if the X-ray beam axis is within 3 degrees of the horizontal or vertical and is perpendicular to the plane of the image receptor to within plus or minus 3 degrees.

(d) PBL would not be required during stereoscopic radiography if the X-ray system is designed to provide this capability. This condition is not a change from the current standard, which provides that PBL may be bypassed during stereoscopic radiography.

The conditions for PBL that would be contained in proposed § 1020.31(e)(3) would define when the beam-limiting device must provide PBL. The statement of the requirement for PBL in this manner eliminates the need for reference to bypass of PBL or to automatic return to the PBL mode upon change of image receptor or return from a non-PBL mode of operation. Whenever the conditions contained in proposed § 1020.31(e)(3) are satisfied, the system would be required to provide PBL.

3. *Measuring compliance.* The method of determining compliance with the requirements for PBL would be contained in proposed § 1020.31(e)(4). These methods are the same as in the current standard. Compliance with the requirements of proposed § 1020.31(e)(2) would be determined when the equipment indicates that the beam axis is perpendicular to the plane of the image receptor. Compliance with the requirement that the X-ray field be limited to the size of the image receptor or production of X-rays be prevented would not be tested during the first 5 seconds after insertion of the image receptor to permit automatic systems to complete the adjustment. This requirement is currently contained in § 1020.31(e)(2)(i).

4. *Override of positive beam limitation.* The capability to override the means for limitation of the X-ray field specified in proposed § 1020.31(e)(2) would be described in proposed § 1020.31(e)(5). In addition to the current provision of the standard that permits override of PBL by means of a captured key switch, the proposed amendment would permit the provision of override switches that do not require a key, provided these switches are not accessible to the user and are not referenced as operator controls in the information provided to users. This amendment would recognize the need for such controls for use by servicemen or repairmen. Although not specifically addressed in the current standard, such a service or repair override capability has been provided on some systems. To discourage inappropriate use by unqualified personnel it is necessary that such controls not requiring a captured key be separated from the normal operator controls.

It is also proposed to require labeling of the override key switches accessible to the operator to indicate the proper function of these switches and to discourage their inappropriate use. The potential for radiation exposure reduction provided by PBL is not realized if these systems are improperly used. The proper purpose of the override capability that is accessible to the operator should be to permit continued use of the X-ray system as a manual system without PBL in the event of a failure of the PBL system. Information received by the agency from its personnel conducting inspections of X-ray systems in user facilities and from State and local radiation control authorities indicates that the override capability is sometimes improperly used, resulting in the loss of the exposure reduction potential provided by the PBL system.

The improper use of the override capability seems to result from two principal reasons. Users of the PBL system are unfamiliar with the functioning of the system and use the override when its use is not necessary, or users lack confidence in the reliability of the PBL system and use the override in an attempt to reduce or prevent malfunctioning of the X-ray system. The Commissioner proposes to reduce the inappropriate use of the override capability due to the first reason by requiring that the override switch be clearly labeled to indicate its intended purpose. Although the agency is concerned about the use of the override as a result of poor system reliability, the competition between manufacturers producing these systems should result in improved reliability as purchasers become more sophisticated concerning the performance of various systems.

It is proposed to require in § 1020.31(e)(5) that the override key switch accessible to the user be labeled as follows: "FOR X-RAY FIELD LIMITATION SYSTEM FAILURE." The current standard in § 1020.31(e)(2)(v) describes an override capability that may be provided in the event of system failure or to perform special procedures that cannot be performed in the positive mode. Reference to use of the override capability to perform special procedures is being omitted in the revision of the requirements for PBL. The Commissioner is aware of no special procedure in which the conditions for PBL as contained in proposed § 1020.31(e)(3) would be met and which would also necessitate that the PBL feature be overridden.

The revisions of the requirement for positive beam limitation, except for the requirement that the keyed override switch be labeled, will not mandate design changes for beam-limiting devices that meet the current requirements for PBL. Systems that comply with the current standard will, except for the labeling requirement, comply with the proposed amendments. The amendments will, however, permit additional flexibility in future designs of these systems to provide performance features desired by users. Because the only additional requirement imposed by these amendments is the requirement that the override switch be labeled to indicate its function, it is proposed that the amendments to § 1020.31(e) become effective 60 days after their publication as a final rule.

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OVERRIDE OF AUTOMATIC BEAM LIMITATION FOR FLUOROSCOPIC AND SPOT-FILM SYSTEMS

The Commissioner proposes to recognize in the performance standard the provision of a capability to override the automatic beam limitation devices of fluoroscopic and spot-film X-ray systems. Although override of automatic beam limitation devices has been addressed in the standard for radiographic systems, no such provisions have applied to fluoroscopic or spot-film systems. Because these systems are also susceptible to malfunction, it is proposed that in case of failure of the automatic beam limitation system, override of these devices be permited to allow their operation in the manual mode, with adjustment of the X-ray field accomplished by the user.

It is proposed that the switch for such an override feature be clearly labeled; however, a captured key switch is not proposed. If the automatic beam limitation system fails during a critical procedure, the fluoroscopist should not have to search for a key. The fluoroscopist should be aware, however, that the automatic beam limitation system has been disabled. Therefore, it is proposed that a signal, visible at the fluoroscopist's position, be provided to indicate when the automatic beam limitation feature is overridden. The override feature would only apply to the X-ray field size adjustment. The other requirements concerning centering the X-ray field on the image receptor, providing capability to adjust the X-ray field smaller than the image receptor, and containing the X-ray field by the primary protective barrier would remain applicable when the automatic beam limitation feature is overridden. This override capability would be addressed in new §§ 1020.31(g)(5) and 1020.32(b)(3).

Because the provision of visual indication at the operator's position could necessitate redesign for systems that do not have such a feature, it is proposed to make the requirement for visual indication when an override switch is provided on spot-film or fluoroscopic beam limitations systems effective 1 year after the date of publication of the final rule based on this proposal.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment and other pertinent background data on which the Commissioner relies in promulgating these amendments are on file with the Hearing Clerk, Food and Drug Administration, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that part 1020 be amended as follows:

1. In § 1020.30 by revising paragraph (b)(19), to read as follows:

§1020.30 Diagnostic X-ray systems and their major components.

(a) • • •

(b) • • •

(19) "Image receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident X-ray photons either into a visible image or into another form which can be made into a visible image by further transformations. In those cases where means are provided to preselect portions of the image receptor, the term "image receptor" shall mean the preselected portion of the device.

• • • • • •

2. In § 1020.31 by revising paragraph (e)(2) and by adding paragraphs (e)(3), (4), and (5) and (g)(5) to read as follows:

§ 1020.31 Radiographic equipment.

• • • • • •

(e) • • •

(2) *Positive beam limitation.* The requirements of this paragraph shall apply to stationary, general-purpose X-ray systems which contain a tube-housing assembly, an X-ray control, and, for those systems so equipped, a table, all certified in accordance with § 1020.30(c) of this chapter. Means shall be provided for positive beam limitation such that X-ray production is prevented when:

(i) Either the length or width of the X-ray field in the plane of the image receptor exceeds the corresponding image receptor dimension by more than 3 percent of the SID, or

(ii) The sum of the X-ray field length and width exceeds the sum of the image receptor length and width by more than 4 percent of the SID.

(3) *Conditions for positive beam limitation.* Positive beam limitation shall be provided whenever all the following conditions are met:

(i) The image receptor is inserted in a permanently mounted cassett holder;

(ii) The image receptor length and width are each less than 20 inches.

(iii) The X-ray axis is within ±3 degrees of vertical and the SID is 36 inches to 50 inches inclusive; or the X-ray beam axis is within ±3 degrees of horizontal and the SID is 36 inches to 80 inches inclusive.

(iv) The X-ray beam axis is perpendicular to the plane of the image receptor to within ±3 degrees.

(v) Stereoscopic radiography is not being performed.

(4) *Measuring compliance.* Compliance with the requirements of paragraph (e)(2) of this section shall be determined when the equipment indicates that the beam axis is perpendicular to the plane of the image receptor. Compliance shall be determined no sooner than 5 seconds after insertion of the image receptor.

(5) *Override of positive beam limitation.* A capability may be provided for overriding positive beam limitation in case of system failure and for servicing the system. This override may be for all SID's and image receptor sizes. A key shall be required for any override capability that is accessible to the operator. It shall be impossible to remove the key while the positive beam limitation is overridden. Each such key switch shall be clearly labeled as follows:

FOR X-RAY FIELD LIMITATION SYSTEM FAILURE

The override capability is considered accessible to the operator if it is referenced in the operator's manual or in other material intended for the operator or if its location is such that the operator would consider it part of the operational controls.

• • • • • •

(g) • • •

(5) A capability may be provided for overriding the automatic X-ray field size adjustment in case of system failure. If so provided, a signal visible at the fluoroscopist's position shall indicate whenever the automatic X-ray field size adjustment override is engaged. Each such system failure override switch shall be clearly labeled as follows:

FOR X-RAY FIELD LIMITATION SYSTEM FAILURE

• • • • • •

3. In § 1020.32 by adding paragraph (b)(3) to read as follows:

§ 1020.32 Fluoroscopic equipment.

• • • • • •

(b) • • •

(3) If the fluoroscopic X-ray field size is adjusted automatically as the SID or image receptor size is changed, a capability may be provided for overriding the automatic adjustment in case of system failure. If so provided, a signal visible at the fluoroscopist's position shall indicate whenever the automatic field adjustment is overridden. Each such system failure override switch shall be clearly labeled as follows:

FOR X-RAY FIELD LIMITATION SYSTEM FAILURE

• • • • • •

Interested persons may, on or before July 10, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 1, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12386 Filed 5-8-78; 8:45 am]

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DEPARTMENT OF JUSTICE

Office of the Attorney General

[28 CFR Part 16]

[Order No. 779-78]

PRIVACY ACT OF 1974

Exemption of Records Systems

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: In the Notice Section of today's FEDERAL REGISTER, the Department of Justice proposes to exempt the LEAA Civil Rights Investigative System, JUSTICE/LEAA-008, from the access provisions of the Privacy Act, 5 U.S.C. 552a(d). This exemption is proposed in those cases where a request for access to a complaint file is made prior to administrative resolution of the complaint. It is needed to ensure unhampered conciliation and compliance efforts during the complaint and compliance process and to protect the identity of confidential sources.

DATES: All comments must be received on or before June 8, 1978.

ADDRESS: All comments should be addressed to the Administrative Counsel, Office of Management and Finance, Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

EFFECTIVE DATE: April 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Bronson E. Clayton, 202-739-2232.

The authority for this proposed rule is 5 U.S.C. 552a. Accordingly, it is proposed that 28 CFR 16.100 be amended by adding paragraphs (d) and (e) as follows:

§ 16.100 Exemption of Law Enforcement Assistance Administration System—Limited Access.

• • • • • •

(d) The following system of records is exempt from 5 U.S.C. 552a(d):

(1) The Civil Rights Investigative System (JUSTICE/LEAA-008). This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k).

(e) Exemption from subsection (d) is claimed since access to information in the Civil Rights Investigative System prior to final administrative resolution will deter conciliation and compliance efforts. Consistent with the legislative purpose of the Privacy Act of 1974, decisions to release information from the system will be made on a case-by-case basis and information will be made available where it does not compromise the complaint and compliance process. In addition, where explicit promises of confidentiality must be made to a source during an investigation, disclosure will be limited to the extent that the identity of such confidential sources will not be compromised.

Dated: April 27, 1978.

MICHAEL J. EGAN,
Acting Attorney General.

[FR Doc. 78-12641 Filed 5-8-78; 8:45 am]

[6050-01]

ACTION

[45 CFR Part 1232]

NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM ACTION

AGENCY: Action.

ACTION: Proposed rule.

SUMMARY: Action issues a proposed rule which sets forth policies and procedures to assure nondiscrimination based on handicap in programs and activities to which Action provides financial assistance. The proposed rule is needed to comply with section 504 of the Rehabilitation Act of 1973 as amended, and Executive Order 11914, which relate to nondiscrimination against handicapped persons. This proposed rule follows guidelines contained in the Department of Health, Education, and Welfare regulation (43 FR 2132, January 13, 1978) for carrying out the provisions of Executive Order 11914. This proposed rule extends the protection of section 504 to volunteers serving in programs receiving financial assistance from Action.

Action will be issuing a separate proposed rule at a later date concerning its policies and procedures for nondiscrimination against handicapped persons in the recruitment, selection and placement of volunteers by the agency.

DATE: Comments must be received on or before July 10, 1978.

ADDRESS: Submit comments to: Harry N. MacLean, General Counsel, ACTION, 806 Connecticut Avenue NW., Room 607, Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT:

Ms. Ellen W. Reath, Assistant General Counsel, 202-632-8812.

SUPPLEMENTARY INFORMATION: The proposed rule is based on the regulation issued by the Department of Health, Education and Welfare, on January 13, 1978. (45 CFR 85, 43 F.R. 2132). The regulation requires ACTION to promulgate regulations implementing section 504 with respect to the programs and activities to which it provides financial assistance. The proposed rule follows the guidelines contained in the HEW regulation, and extends the protection of section 504 to volunteers serving in programs receiving financial assistance from ACTION.

ACTION is preparing a separate regulation, to be published in the FEDERAL REGISTER for public comment, which will address its policy of nondiscrimination against the handicapped in the recruitment, selection and placement of volunteers by the agency.

This proposed rule implements section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 706, with regard to federal financial assistance administered by ACTION. Section 504 prohibits qualified handicapped persons from being denied the benefits of, or participation in, any federally assisted program. The proposed rule applies to all recipients of financial assistance from ACTION. This includes the volunteer programs such as VISTA, University Year for ACTION, Foster Grandparent Program, Retired Senior Volunteer Program and Senior Companion Program, as well as any other programs under which recipients receive financial assistance, such as special demonstration grants. The proposed rule does not apply to organizations overseas which receive assistance under the Peace Corps Act, 22 U.S.C. 2501, Pub. L. 87-293, as amended.

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The proposed rule forbids discrimination against qualified handicapped persons in employment and in the operation of programs receiving assistance from ACTION, including the recruitment, selection and placement of volunteers. Recipients must make reasonable accommodation to the handicaps of employees and participants in volunteer programs, unless the accommodations would cause the recipient undue hardship. As providers of services, recipients are required to make programs operated in existing facilities accessible to handicapped persons, and to operate their programs in a non-discriminatory manner.

The proposed rule does not apply to recruitment, selection and placement of volunteers by ACTION. This subject will be covered by an additional proposed rule to be issued in the near future.

Title 45, Chapter XII is proposed to be amended by adding a new part 1232 to read as follows:

PART 1232—NON-DISCRIMINATION ON BASIS OF HANDICAP IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM ACTION

Subpart A—General Provisions

1232.1 Purpose.
1232.2 Application.
1232.3 Definitions.
1232.4 Discrimination prohibited.
1232.5 Participation of volunteers.
1232.6 Assurances required.
1232.7 Notice.
1232.8 Self evaluation.

Subpart B—Employment Practices

1232.9 Discrimination prohibited.
1232.10 Reasonable accomodation.
1232.11 Employment criteria.
1232.12 Preemployment inquiries.

Subpart C—Program Accessibility

1232.13 Discrimination prohibited.
1232.14 Existing facilities.
1232.15 New construction.

Subpart D—Procedures

1232.16 Procedures.

AUTHORITIES: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794); Sec. 111(a), Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 88 Stat. 1619 (29 U.S.C. 706)

Subpart A—General Provisions

§ 1232.1 Purpose.

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 1232.2 Application.

This part applies to each recipient of Federal financial assistance from ACTION and to each program or activity that receives or benefits from such assistance, including volunteer programs such as VISTA, University Year for ACTION (UYA), Senior Companion Program (SCP), Foster Grandparent Program (FGP) and Retired Senior Volunteer Program (RSVP). This part does not apply to recipients outside the United States which receive financial assistance under the Peace Corps Act, 22 U.S.C. 2501, Pub. L. 87-293, as amended. This part does not apply to recruitment, selection and placement of volunteers by ACTION.

§ 1232.3 Definitions.

As used in this part the term:

(a) "The Act" means the Rehabilitation Act of 1973. Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-517, 29 U.S.C. 794.

(b) "Section 504" means section 504 of the Act.

(c) "Director" means the Director of ACTION.

(d) "Recipient" means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(e) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by an ACTION official or by a recipient as a condition to becoming a recipient.

(f) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel;

(3) Real and personal property or any interest in or use of such property; or

(4) A federal agreement, arrangement or other contract which has as one of its purposes the provision of assistance, including the provision of volunteers.

(g) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(h) Handicapped Person.

(1) "Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(2) As used in paragraph (h)(1) of this section, the phrase:

(i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined in paragraph (h)(2)(i) of this section but is treated by a recipient as having such an impairment.

(j) *"Qualified handicapped person"* means (1) with respect to employment or volunteer service, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job or assignment in question; and (2) with respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(k) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (h) of this section.

§ 1232.4 General prohibitions against discrimination.

(a) No qualified handicapped person, shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

(b)(1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) A recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

(4) A recipient may not, in determining the site or location of a facilit, make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(d) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

§ 1232.5 Participation of volunteers.

(a) Recipients shall extend the opportunity to serve in a volunteer program receiving federal financial assistance to all handicapped persons who can perform the essential duties of a volunteer assignment with reasonable accommodation, unless the accommodation would cause undue hardship on the operation of the program. Reasonable accommodation shall include good faith efforts to locate a volunteer assignment involving duties which a handicapped applicant is capable of performing.

(b) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of volunteers, number and type of volunteer work stations, and size of budget.

(2) The nature and cost of the accommodation needed.

(c) Recipients shall conduct any medical clearance of volunteer applicant in accordance with the requirements of § 1232.12.

§ 1232.6 Assurances required.

(a) An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, or a form specified by the Director, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent application to ACTION. The assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(b) A recipient operating a volunteer program under which volunteers are assigned to a number of work stations shall obtain an assurance from each work station that neither volunteers nor the beneficiaries they serve will be discriminated against on the basis of handicap.

§ 1232.7 Notice.

Recipients shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of handicap in violation of Section 504 and this part.

§ 1232.8 Self-evaluation.

Each recipient shall, within one year of the effective date of this part, conduct a self-evaluation of its compliance with Section 504, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. Each recipient shall evaluate its current policies, practices and effects thereof, and modify any that do not meet the requirements of this part.

Subpart B—Employment Practices

§ 1232.9 General prohibitions against employment discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives or benefits from federal financial assistance.

(b) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

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(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(d) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

§ 1232.10 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) the overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

§ 1232.11 Employment criteria.

A recipient may not use non-job-related employment tests or criteria that discriminate against handicapped persons and shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills.

§ 1232.12 Preemployment inquiries.

(a) Except as provided in paragraph (b) of this section, a recipient may not conduct a preemployment medical examination or may not make pre-employment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature of severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty. *Provided*, That: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this part.

(c) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officers investigating compliance with the Act shall be provided relevant information upon request.

Subpart C—Program Accessibility

§ 1232.13 General requirement concerning program accessibility.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to our unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

§ 1232.14 Existing facilities.

(a) A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) Recipients operating a volunteer program under which volunteers are assigned to work in a number of different work stations will assure that a representative sample of work stations are accessible to handicapped persons.

(c) A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. Where structural changes are necessary to make programs or activities in existing facilities accessible, such changes shall be made as soon as practicable, but in no event later than three years after the effective date of the regulation.

§ 1232.15 New construction.

New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

Subpart D—Procedures

§ 1232.16 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in § 1203.6-1203.11 of this Title.

Issued in Washington, D.C. on April 28, 1978.

JIM DUKE,
Executive Officer, ACTION.

[FR Doc. 78-12546 Filed 5-8-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 0 and 1]

[CC Docket No. 78-144; FCC 78-290]

CABLE TELEVISION POLE ATTACHMENTS

Proposed Procedural Rules and Substantive Guidelines for Regulation; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This item seeks comments on proposed procedural rules and substantive guidelines for the regulation of cable television pole attachments. The Commission is required by section 224 of the Communications Act, enacted February 21, 1978, to regulate the rates, terms, and conditions for pole attachments where such attachments are not regulated by a state.

DATES: Comments must be filed on or before June 9, 1978, and reply comments must be filed on or before June 29, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Daniel F. Grosh, Common Carrier Bureau, 202-632-5550.

SUPPLEMENTARY INFORMATION:

Adopted: April 25, 1978.

Released: May 9, 1978.

In the matter of adoption of rules for the regulation of cable television pole attachments, CC Docket No. 78-144.

1. On Feb. 21, 1978, the President signed Pub. L. No. 95-234, the Communications Act Amendments of 1978, providing, inter alia, for FCC regulation of cable television pole attachments where such attachments are not regulated by a State. Section 224(b)(2), as enacted in this legislation, requires that "Within 180 days from the date of enactment of this section the Commission shall prescribe by rule regulations to carry out the provisions of this section." The present Notice of Proposed Rulemaking begins the process of prescribing appropriate regulations to carry out this statutory mandate.

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BACKGROUND

2. It is the general practice of the cable television industry to lease space on existing utility poles or in ducts or conduits for their cables and associated equipment. Typically, these poles, ducts, and conduits are owned by telephone and electric power utility companies, often under a joint use or ownership agreement. Frequently, there is no practical alternative for a CATV system operator except to use available space on existing poles, ducts or conduits and conflict sometimes has arisen over the charges which should be borne by CATV systems for the use of these facilities. Section 224, as enacted, directs that the Commission regulate the rates, terms, and conditions for pole attachments to provide that such rates, terms, and conditions are just and reasonable. "Pole attachment" is defined to include attachments by a CATV system not only to poles, but also to ducts, conduits, or rights-of-way owned or controlled by a utility. The legislation does not, however, give the Commission jurisdiction to hear pole attachment complaints when a regulatory agency within the state or any political subdivision where the dispute arises regulates the rates, terms, and conditions for pole attachments and, in so regulating, has the authority to consider and does consider the interests of the subscribers of cable television service as well as the interests of the consumers of the utility services. At the time this legislation was being considered in Congress, according to the Senate Committee Report, only one state, Connecticut, actually regulated pole attachment arrangements, while in another 8 States regulatory authority apparently existed but had not been exercised.

3. The Act requires this Commission to "adopt procedures necessary and appropriate to hear and resolve complaints concerning (pole attachment) rates, terms, and conditions," and this Notice sets for public comment the proposed procedural rules contained in Attachment A. Interested persons are requested to comment on the general structure and the specific provisions of these rules, as well as upon the usefulness of adopting any additional rules. We are also requesting comment upon the adoption of substantive guidelines which might provide direction to utilities and cable television system operators, encourage settlements, and help to resolve complaints fairly and expeditiously. Although this Commission has in the past acted informally to assist interested persons in settling pole attachment disputes, there are many aspects of this newly-enacted regulatory responsibility in which the Commission lacks basic information. Certainly many issues will need to be resolved on a case-by-case basis, but we would hope that interested persons will provide us with information and comments useful for the adoption of guidelines to resolve as many significant issues as possible.

PROPOSED PROCEDURAL RULES

4. While Pub. L. No. 95-234 directs that the Commission adopt appropriate procedures, it does not itself set out any specific procedures to govern this new regulatory activity. The legislative history is more instructive, particularly the Senate Committee Report. The Report makes clear the committee's belief that the matter of CATV pole attachments is essentially local in nature and ideally a matter for state or local regulation. "It is only because such state or local regulation does not widely exist that Federal supplemental regulation is justified." Senate Committee Report, pp. 16-17. The supplemental regulation envisioned by the Report is to be simple and expeditious, necessitating a minimum of staff, paperwork and procedures consistent with fair and efficient regulation. That regulation could be uniquely applicable to pole attachment matters and would operate only when the parties are unable to reach an agreement and a complainant has brought a matter to the Commission's attention. Senate Committee Report, p. 22. Tariff filings and other aspects of the full panoply of Title II common carrier regulation need not apply, and the Commission is afforded discretion to select regulatory tools appropriate to the simple complaint procedure specified in the bill. Some of these discretionary tools are mentioned in the Report. For example, the Commission may:

(a) Establish regulations governing form and content of complaints.

(b) Require complainant to establish a prima facie case, to show that the parties are unable to resolve the matter themselves, and to exhaust state or local administrative remedies.

(c) Prescribe rules for such matters as assigning the burden of proof or determining the documentation required of a party.

(d) Direct any remedy it deems appropriate, including ordering the parties to undertake further negotiations or issuing a show cause order.

(e) Publish guidelines for determining whether a particular rate, term, or condition is just and reasonable.

5. The rules proposed in this Notice have been drafted to carry out the Congressional intent and provide simple and expeditious procedures to adjudicate pole attachment disputes. Pleadings are limited to a complaint, a response, and a reply. The complaint must satisfy our jurisdictional requirements, namely, (a) that the State within which the pole attachment complaint arises does not regulate pole attachments; (b) that the utility is not owned by any railroad, any person who is cooperatively organized, or any person owned by the Federal government or any State; and (c) that the utility uses or controls poles, ducts, or conduits used, in whole or in part, for wire communications. If the rate, term, or condition is regulated by the State, as demonstrated by a State-filed certificate, we would dismiss the petition. If the State has not provided certification, the Commission would presume, rebuttably, that the State is not regulating pole attachments. Next, we would require the complainant to serve a copy of the complaint on the respondent and the agencies regulating the respondent and the complainant. The complaint would be assigned a file number for administrative purposes. The complainant would be required to submit a copy of the pole attachment agreement, if any, and to identify specifically the rate, term, or condition which is claimed to be unjust or unreasonable. Further, the complainant would be required to provide data and information in support of such claim. Insofar as possible, this supporting information should use data reported on FCC Form M. Data and information filed with the Federal Power Commission or with State regulatory agencies may also be used if necessary. It is anticipated that complainants will almost invariably be cable television system operators for whom the necessary cost data is likely to be less familiar and more difficult to obtain than for a utility. Accordingly, we believe that a complainant cable television system operator should be able to obtain the necessary data from a utility upon request. We would not dismiss a complaint for lack of adequate supporting data where the utility has failed to provide the necessary information after reasonable request, and would retain the option of requiring that additional filings or information be provided by either party. Generally, we would expect that the parties will make reasonable efforts to resolve potential disputes before filing complaints, and the proposed rules require, in particular, that the complaint indicate the steps taken to obtain necessary information from a utility, where the complainant claims the in-

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formation was not provided upon request. If a complainant CATV system operator has not provided the required information but has made reasonable efforts to obtain the information from the utility we would consider that the complainant has made out his prima facie case in this regard, and the utility would then be required to provide the needed information as part of its burden of proving that the rate, term, or condition is just and reasonable. If the utility failed to meet this burden, the Commission would allow the complaint and direct an appropriate remedy.

6. The data and information required of the complainant under proposed §1.1403(f) encompasses data which will be needed to determine whether the rate is no higher than the cost standard established by Congress. This includes data on gross investment for pole lines and cross arms, the depreciation reserves for these investments, the number of poles, the annual carrying charges attributable to the cost of maintaining a pole, the rate of return authorized for the utility, the number of pole attachments, the average amount of usable space per pole for those poles used for the pole attachment, and the average amount of usable space occupied by the pole attachment. The annual carrying charge would typically include the return upon pole investment, maintenance, depreciation, administration costs, and taxes. The total costs may be expressed as a percentage of the net pole investment. Similar data would be required for ducts and conduits as appropriate. The parties may also submit any other relevant data, information, or argument. We anticipate that the question of properly allocating common costs will be a troublesome one, as will be the problems of possible adjustments to gross pole line investment and the determination of average usable space. These matters are discussed below in the section on substantive guidelines.

7. The respondent would have 30 days from the date the complaint was filed within which to file a response, and the complainant a further 10 days to file a reply. The respondent would be required to demonstrate that the rate, term, or condition complained of is just and reasonable. Failure to respond would be deemed an admission of the facts provided by the complainant from publicly available records. No other filings and no motions other than for extension of time would be considered unless requested by the Commission.

8. After examining the pleadings, and using any guidelines, formulas, and methodologies developed by the Commission, we would make a determination of whether the rate, term, or condition complained of was just and reasonable. The complainant would be held to the burden of establishing a prima facie case, and the ultimate burden of proof would be placed upon the utility. We believe that whether a utility is complainant or respondent, it should generally have greater expertise in this area, will likely have drafted and proposed the rate, term, or condition, and will have greater access to relevant studies and information; it is because of these factors that the ultimate burden of proof is placed upon the utility. If a rate is at issue, the Commission would determine if it fell within the definition of just and reasonable rates contained in the Act. If the Commission determined that such rate, term, or condition is not just and reasonable, it could order: (1) Suspension of such provision; (2) Substitution by the Commission of a just and reasonable rate, term, or condition; and (3) Refund or payment, as appropriate.

9. It is clear from Section 224 and the Senate Committee Report that expeditious consideration should be given to complaints and that the Commission should have broad discretion to establish a simple procedure for evaluating complaints. Typically, we would expect that these complaints can be resolved on the basis of the filings. If the complainant has failed to establish a prima facie case, we would deny the complaint. If the utility has failed to satisfy its burden of providing that the rate, term or condition is just and reasonable, we would allow the complaint and direct an appropriate remedy. Where the complaint cannot be resolved on the basis of the filings, additional information or informal conferences with the Commission staff may be requested. Evidentiary hearings would be contemplated only in very exceptional cases where other simpler procedures would not be appropriate. The rules anticipate that the Commission would use the simplest and most expeditious procedures appropriate to each case, consistent with the complexity of the case and the importance of the issues involved. Further, Congress has given the Commission authority to establish guidelines for just and reasonable rates, terms and conditions for pole attachments. Once the Commission has established such guidelines, it can apply them on a case by case basis without formal proceedings. The rules also follow the suggestion of the Senate Committee Report in allowing the Commission the discretion to estimate costs, where necessary, without requiring full hearings or special studies. The questions of what cost estimates can be made, and what those estimates should be, is addressed below in the sections on substantive guidelines.

10. If the respondent fails to obey the Commission order, the Commission could institute show cause proceedings against the respondent pursuant to Section 312(b) of the Act. Proceedings pursuant to the forfeiture provisions of Section 503(b)(1)(B) of the Act and the penal provisions of Section 502 are also available against any person who fails to comply with a Commission order.

11. Rule 0.310 delegates authority to act upon these complaints to the Chief of the Common Carrier Bureau, except where such complaints raise novel or unusual issues. Reconsideration and review of action taken pursuant to delegated authority would be subject to §1.101 et seq., of the Commission's rules.

Proposed Substantive Guidelines and Questions

12. While Pub. L. No. 95-234 does not contemplate subjecting pole attachments to regulation as a tariffed common carrier activity, the Senate Committee report indicates at p. 15 that the Commission does have discretion to "issue guidelines to be used in determining whether the rates, terms, and conditions for CATV poles attachments are just and reasonable in any particular case." Appropriate guidelines should assist parties in reaching mutually satisfactory rental agreements and should help simplify and expedite the Commission's consideration of pole attachment complaints in a manner consistent with fair regulation. The drafting and adoption of such regulation does, however, present a number of difficulties. This legislation extends the Commission's jurisdiction over new concerns and new parties by means of new regulatory methods. The Commission has some familiarity with pole attachments through past complaints and its efforts to help the parties to pole attachment disputes resolve their difficulties. But we have relatively little information about the rates, terms, and conditions contained in the thousands of existing pole attachment agreements, or about the practices and needs of cable television systems operators and utilities in this regard. For example, we have little data on of how much usable space actually exists on the different types and sizes of poles in different regions of the country, or on the costs and practices of power companies, entities which we have not previously regulated. We request information and comments by interested parties on the various matters discussed in this notice, even though we may not be in a position to adopt specific guidelines on many of these matters until we have acquired more experience in handling pole attachment complaints.

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A. Determining Just and Reasonable Rates

13. Section 224(d)(1) defines a pole attachment rate to be just and reasonable if the rate:

> assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

14. The essence of this allocation formula appears clear. For a period of five years it permits contracting parties and the Commission to find as just and reasonable pole attachment rates anywhere within the range bounded by additional costs and costs which we shall refer to as fuly allocated costs.[1] This Congressional expression of intent as to the meaning of the term "just and reasonable rate" as it relates to pole attachments appears to grant the Commission and the parties considerable discretion in determining the justness and reasonableness of such rates. Congress apparently sought to save the Commission from lengthy initial proceedings to determine the justness and reasonableness or particular CATV pole attachment rates while the Commission gains experience regulating pole attachment rates, terms, and conditions.[2] In an effort to frame a regulatory program consistent with this Congressional intent, we propose for the first five years after enactment of this legislation to find just and reasonable any rate for pole attachments which does not exceed the fully allocated cost of providing pole attachments, and is greater than the additional costs. A complaint concerning a rate within these bounds would be dismissed.

B. Cost Determination Problems

15. While Pub. L. No. 95-234, defines just and reasonable rates in relation to costs and provides a formula for allocating certain costs, some cost determination problems remain. The Senate Report recognized that difficulties will surface in determining some cost components associated with erecting and maintaining pole line plant, and allocating those costs to the pole attachment activity. Indeed, similar problems could occur in identifying additional costs. Nevertheless, the Report concluded that special accounting measures or studies should not be necessary.[3] This conclusion rests in some degree on the belief that the majority of cost and expense items attributable to utility pole plant are known and reflected in publicly available accounts filed by the utilities with regulatory authorities. Nor does the Congress seem to want the Commission to look behind these accounts. The Senate report states that,

> the Commission may accept in whole or in part the depreciation rates, property valuation, systems of accounts, rates or return and the like established or determined by any State or local agency or any agency of the Federal Government. It is not the intent of S. 1547, as reported, to require the Commission to embark upon a large-scale ratemaking proceeding in each case brought before it, or by general order.
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> Id., at 22.

Absent such accounts the Senate Committee expects that the Commission will have to make its "best estimate" of some of the less readily identifiable actual costs.[4] Such estimates may well be necessary to maintain the simplicity and flexibility which Congress intended, and to avoid prolonged proceedings and the need for special studies and accounting measures. Our proposed procedural rules are drafted to make use of this option.

16. Before focusing on cost determination problems, we emphasize that Pub. L. No. 95-234 is largely silent on the meaning of "additional" costs and "operating expenses and actual capital costs of the utility". Moreover, we view the legislative history's explanation of the components of these costs as not necessarily complete. (See footnotes 1 and 2 above). Thus, we invite interested persons to identify the components of these "costs" and to offer their reasons for including or excluding each of the components in the "costs" to be allocated to the pole attachment activity. Our proposed procedural rules set out certain cost data requirements, but other cost information may be useful and available. We will consider development of a Commission-sanctioned list of such cost components which we believe would be most helpful to parties to pole attachment agreements. It would in many instances decide a matter that might otherwise be controverted; and if a pole attachment dispute arises, it would provide the Commission with a basis for resolving this part of the dispute.

17. As previously indicated, the legislative history of Pub. L. No. 95-234 assumes that accounts already exist containing most of the cost and expense items correctly attributable to pole attachments. It is nonetheless possible that in some instances such accounts do not exist, or are not sufficiently differentiated for pole attachment rate setting purposes. In such instances we are not inclined, given the clear congressional intent that our regulatory program for pole attachments be simple and flexible, to prescribe a system or systems of accounts. Nor are we inclined to conduct special studies to detemine the values to be assigned to the cost components.

18. At least two approaches to dealing with such cases seem possible, approaches which are not necessarily mutually exclusive. If during the negotiation process, the cable television entity is not satisfied with the cost justification supplied by the utility to support the proposed rates for pole attachments, it may ask for the necessary accounting information. If the cable system believes that this information, as well, is not sufficiently detailed and differentiated, or is incorrect, it seemingly could ask the utility to conduct a special cost study, through an independent person or organization acceptable to both parties, to produce such information. We of course would not anticipate evaluation the validity of such cost studies unless an adequate complaint were filed with this Commission. If the relationships of parties to pole attachment disputes degenerates to this level of litigiousness, we also must anticipate a possible dispute over which party should

[1] See S. Rept. No. 95-580, p. 19-21. The Senate Report explains "additional costs" as: "those costs which would not be incurred by the pole owner or controller 'but for' the CATV attachment," and "operating expenses and actual capital costs of the utility," as: "The costs to the utilities, irrespective of the CATV attachment, of owning and maintaining poles." "Additional costs" are generally equivalent to what is referred to as incremental cost, and the proportional part of "Operating expenses and actual capital costs" are generally equivalent to fully allocated costs.

[2] Id., at 19. The Report proceeds to describe the components of additional costs. It then explains operating expenses and actual capital costs of the utility as the "costs to the utilities, irrespective of the CATV attachment, of owning and maintaining poles. Such costs include interest on debt, return on equity (profit), depreciation, taxes, administrative and maintenance expenses."

[3] Id., at 20.

[4] Id.

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pay for such studies. We urge all interested persons to give us the benefits of their reasoned comments on this problem. Absent special studies, we would be compelled to rely on the information derived from a system of accounts used by the utility and sanctioned by a regulatory authority.

19. A second approach to assigning values to the cost components also seems to be available given the express congressional intent that we may make our best estimate of the less readily identifiable costs. For instance, with respect to determining the value of actual pole line plant, we could estimate the historical cost per pole, less depreciation, for pole line plant in particular states or regions by using information obtained from FCC Form M's filed by subject carriers. These estimates could be applied where other data is incomplete or unavailable, or used to gauge the reliability and reasonableness of submitting cost data, especially where such data is disputed. Although this approach initially seems not to be helpful in determining the value of electric power companies' pole line plant, the existence of joint use agreements between telephone and electric power companies in most communities generally support application of estimates derived from FCC Form M's to electric power companies as well. The Senate Committee Report indicates that about 70 percent of all utility poles owned by either telephone or electric utilities are jointly used. Under these agreements, both the electric utilities and telephone companies erect and maintain pole line plant, but avoid erecting duplicative plant.[8] A portion of each pole is reserved for communications services. The telephone companies which are parties to the joint use agreements usually control this space. Given the widespread existence of joint use agreements, it seems unlikely that there would be a significant difference in the characteristics or costs of the poles in most cases and the cost factors applicable to communications space would seem to be the appropriate factors for determining the costs of pole attachment.

20. If these general observations are inaccurate, it is incumbent upon interested persons to submit comments to correct them. We also realize that although the foregoing observations generally may be true, there may be instances in which they are not. In such cases the burden of proof would be on any party differing with this estimation approach to prove that costs associated with particular pole line plant are different from the costs derived from generalized sources. We recognize that this second approach to assigning values to the cost components of the pole attachment activity is novel. Novelty, however, is not reason enough to find an approach incompatible with determining just and reasonable rates. In this regard, we also note that the considerable flexibility which Congress intended to give us in determining just and reasonable pole attachment rates also carries with it an element of imprecision. Moreover, the difinitional range of reasonableness for rates set forth in Pub. L. No. 95-234 and the language in the Senate Report revealing the Senate Committee's conviction that the Commission may be forced to make its "best estimate" of some costs seem to suggest that such an element of imprecision would be consistent with the just and reasonable standard Congress intends to be used to evaluate pole attachment rates. We urge all interested parties to consider this approach in their comments.

C. ALLOCATION OF COMMON COSTS

21. A difficulty lurking beneath both of the cost determination approaches which we have discussed above is that of allocating to pole attachments operating expenses which are common to at least some of the utilities' other activities. For example, maintenance, administrative and general overhead expenses are common to pole attachments as well as to other activities. In our experience regulating communications common carriers, allocating common costs to various services has been a very troublesome problem. Since existing accounting systems may not be sufficiently differentiated to reflect the allocation of common costs and because special studies seem to be very expensive and often disputed, we urge interested persons to offer their views on what principles should guide allocation of such common costs to the pole attachment activity. It may be possible to estimate with reasonable accuracy and on a general basis the appropriate maintainance, depreciation, administration, and other common costs, and to use this as a benchmark for determining whether a rate is just and reasonable, while allowing a particularized showing of factors which would justify a different rate.

D. USE OF HISTORICAL DATA

22. Traditionally, this agency has used historical costs and variations thereof in its ratemaking role. The legislative history, however, quite clearly states that the Commission need not rely on historical costs when considering pole attachment rates. Rather, we may consider future or replacement costs in evaluating particular pole attachment complaints, at least where a future or replacement cost methodology is sanctioned by the regulatory body with jurisdiction over the utility.[9] The use of historical costs nevertheless appears to be consistent with the reference in Pub. L. No. 95-234 to the "actual capital costs of the utility"; historical costs are more likely to be generally available, from existing accounting records, and they are currently used for decision purposes by CATV's and utilities alike. If a utility chooses to allocate costs to the pole attachment activity pursuant to the FDC-7 methodology we prescribed for the Bell system in Docket 18128, our approach would not foreclose consideration of costs so determined in evaluating the justness and reasonableness, of a pole attachment rate. Refusal to allow such an approach could result in the anomalous situation of a telephone company allocating costs pursuant to differing standards prescribed by this Commission. Duplicative cost allocations could be more expensive and not in the best interest of cable television subscribers or the utilities' customers. We propose to deviate from this approach only when historical costs or FDC Method 7 costs are not available.

E. ADDITIONAL COSTS

23. Additional costs, as that term is used in the legislation, means those costs which would not be incurred "but for" the CATV pole attachment. They include both the non-recurring costs of the initial attachment (e.g., make-ready costs) and other costs which arise solely because of CATV use of communication space on the pole. We have little information on whether the determination of these costs presents significant problems, or whether guidelines for such costs would be practicable or useful. Information and comment by interested parties are requested.

F. USABLE SPACE

24. As already noted, Pub. L. No. 95-234, establishes for five years the uppermost boundary for the range of just and reasonable pole attachment rates as generally being:

> an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit or right-of-way.

To this point in our discussion of substantive guidelines and questions we have focused on cost problems because we think that those problems will be the most troublesome. However, determining the percentage of the total usable space on the pole or in the conduit or duct is also obviously important. This factor clearly can be verified to an extent not realistically possible for costs. Obviously the space can be measured for each pole conduit, and duct. We would hope, however, that a method can be developed whereby we can accurately estimate that CATV cables occupy certain percentages of usable space on poles of varying heights. These estimates would be applied in cases in which the parties choose not to actually measure the usable space occupied by the CATV cable on each pole and in each conduit or duct. Interested persons are invited to file comments on the advisability and feasibility of this approach to the usable space problem, and to submit studies estimating the amount and percentage of usable space occupied by CATV cables on and in poles, conduits, and ducts of various sizes, in different service areas. These studies must clearly and completely explain the methodology used to reach any estimates, and must also include the work papers and underlying data supporting any proposed estimates.

G. TEMPORARY ORDERS

25. The proposed procedural rules permit the granting of refunds or orders for payment in particular cases, but do not provide specific authority for ordering the stay of rate increases or service terminations, or for other temporary orders. We expect that such orders will not generally be necessary, since refunds and other remedies will be available and the simplicity of the complaint procedure should lead to relatively quick resolution of disputes. We invite comments upon whether some authority to order stays or other temporary orders might nevertheless be necessary in exceptional cases to prevent irreparable harm to a party, and, if so, in what circumstances the order should issue and what remedies should be used to give it effect. Although we do no expect that some form of automatic stay will be necessary, we will consider comments concerning our authority to adopt such a rule and the usefulness of doing so. We wish to emphasize, however, that the regulation of pole attachments is not regulation of common carriage subject to the provisions for suspension contained in section 204 of the Act.

H. ACCESS

26. The legislative history clearly indicates that Pub. L. No. 95-234 does not grant a right of access to utility poles, although discontinuance of the provision of CATV pole attachment space to avoid FCC regulation could constitute an unjust or unreasonable practice. Comment is requested on whether guidelines dealing with CATV access to utility poles might be useful in order to clarify the Commission's role.

I. OTHER SUBSTANTIVE GUIDELINES

27. There may be other areas or specific rates, terms, or conditions for which substantive guidelines can usefully be adopted, such as terms relating to inspections, insurance, and lease revocation. The Commission will receive and consider any useful comments in this regard from interested parties.

DISCUSSION AND CONCLUSION

28. The proposed procedural rules and the foregoing discussion of substantive guidelines and questions clearly set pole attachment regulation apart from the regulation of common carriage under Title II of the Communications Act of 1934, as amended. We envision a regulatory program for pole attachment matters far simpler than that used to regulate common carriage, and urge parties who comment in this proceeding to keep that goal in mind to the extent it is compatible with effective and fair regulation. The public and interested persons in this proceeding should not view this proceeding as having precedential effect for our other ratemaking activities, or vice versa.

29. The terms and conditions of pole attachment agreements could be quite detailed and varied, and this fact, coupled with our lack of experience in this field, lead us to believe that it may well be premature to propose specific substantive guidelines for many of these matters until after we have had some experience in evaluating complaints on an ad hoc basis. In time our decisions should offer substantial guidance to parties to pole attachment agreements, and should also provide an informed basis for further substantive guidelines.

30. Inasmuch as Pub. L. No. 95-234 requires that we prescribe within 180 days from the date of its enactment, February 21, 1978, procedures necessary and appropriate to hear and resolve complaints regarding pole attachment rates, terms, and conditions, the time for filing comments in this proceeding must be brief. Accordingly, interested persons have until June 8, 1978, to file comments on the proposed procedural rules contained in Attachment A and on the substantive guidelines and questions. Reply comments will be due twenty (20) days from the date comments must be filed with this Commission. Extensions of these pleading periods are not anticipated. In this regard we note that the development of rules and guidelines may be an evolutionary one as interested persons and the Commission gain experience in regulating pole attachment rates, terms, and conditions. We shall hold this docket open for further filings if events suggest the need for rules or guidelines not adopted within the 180 days window.

31. *Accordingly, it is ordered,* That this rulemaking is instituted pursuant to Sections 1, 4(a), 4(j), 224, and 403 of the Communications Act of 1934, as amended (47 U.S.C. 151, 154(i), 154(9), 224, and 403).

32. Interested persons may file comments on or before June 9, 1978, and reply comments on or before June 29, 1978. The appropriate provision of § 1.51 of the Commission's rules (47 CFR 1.51) govern the number of copies of all comments filed in this proceeding. All comments received in this proceeding will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

1. A new § 0.310 is added to read as follows:

§ 0.310 Authority delegated to Chief of Common Carrier Bureau.

Authority is delegated to the Chief of the Common Carrier Bureau to act upon complaints involving cable television pole attachments, except where such complaints raise novel or unusual issues.

2. A new Subpart J is added to Part 1 to read as follows:

Subpart J—Pole Attachment Complaint Procedures

Sec.
1.1401 Purpose.
1.1402 Definitions.
1.1403 Complaint.
1.1404 File Number.
1.1405 Dismissal of Complaints.
1.1406 Response and Reply.
1.1407 Number of Copies and Form of Pleadings.
1.1408 Commission consideration of the complaint.
1.1409 Remedies.
1.1410 Meetings and Hearings.
1.1411 Enforcement.
1.1412 Forfeiture.
1.1413 State Certification.
1.1414 Other Orders.

AUTHORITY: Secs. 1, 4(a), 4(j), 224, and 403, Communications Act of 1934, as amended (47 U.S.C. 151, 154(i), 154(9), 224 and 403).

Subpart J-Pole Attachment Complaint Procedures

§ 1.1401 Purpose.

The rules and regulations contained in this Subpart J provide complaint and enforcement procedures to ensure that rates, terms and conditions for cable television pole attachments are just and reasonable.

[8] The Senate Report notes that: "Of the more than 10 million poles on which cable operators lease space, fewer than half are controlled by telephone companies, while 53 percent are controlled by power utilities, public and private."

[9] See Cong. Rec. S967 (daily ed. Jan. 31, 1978).

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§ 1.1402 Definitions.

(a) The term "utility" means any person whose rates or charges are regulated by the Federal Government or a State and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for wire communications. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State.

(b) The term "pole attachment" means any attachment by a cable television system to a pole, duct, conduit, or right-of-way owned or controlled by a utility.

(c) The term "usable space" means the space above the minimum grade level which can be used for the attachment of wires, cables, and associated equipment.

(d) The term "complaint" means a filing by a cable television system operator or a utility alleging that a rate, term, or condition for a pole attachment is not just and reasonable.

(e) The term "complainant" means a cable television system operator or a utility who files a complaint alleging a rate, term, or condition for a pole attachment is not just and reasonable.

(f) The term "respondent" means a cable television system operator or a utility against whom a complaint is filed with the Commission pursuant to Subpart J of this part.

(g) The term "State" means any State, territory, or possession of the United States, the District of Columbia, or any political subdivision, agency, or instrumentality thereof.

§ 1.1403 Complaint

(a) The complaint shall contain the name and address of the complainant, the name and address of the respondent, and shall be signed and verified by the complainant. Two or more cable television operators may file a joint complaint against a single utility, raising either similar or dissimilar issues.

(b) The complaint shall be accompanied by a certification of service on the named respondent and any State, federal, or local agency which regulates a utility or cable television system named as either complainant or respondent. No service is required to be made upon this Commission.

(c) The complaint shall contain a statement that the State has not certifed to the Commission that it regulates the rates, terms and conditions for pole attachments, and that the utility is not owned by any railroad, any person who is cooperatively organized or any person owned by the Federal Government or any State.

(d) The complaint shall be accompanied by a copy of the pole attachment agreement, if any, between the cable system operator and the utility. If there is no present pole attachment agreement, the complaint shall contain a statement that the utility uses or controls poles, ducts, or conduits used, in whole or in part, for wire communication and shall be accompanied by evidence of such use or by an explanation of why such evidence cannot be provided.

(e) The complaint shall state with specificity the rate, term, or condition which is claimed to be unjust or unreasonable.

(f) In any case where it is claimed that a rate is unjust or unreasonable, the complainant shall provide data and information in support of such claim. The data and information shall include, where applicable:

(1) The gross investment by the utility for pole lines;

(2) Cross-arm investment for pole lines, if available;

(3) The depreciation reserve from the gross pole line investment;

(4) The depreciation reserve from the cross-arm investment, if available;

(5) Total number of poles used or owned by the utility;

(6) The annual carrying charge attributable to the cost of maintaining a pole. This charge can be expressed as a percentage of the net pole investment;

(7) Rate of return authorized for the utility;

(8) The number of pole attachments;

(9) The average amount of usable space per pole for those poles used for the pole attachment; and

(10) The average amount of usable space occupied by the pole attachment.

Data and information should be based upon historical cost or the FDC-7 methodology and should use data reported on FCC Form M where available and applicable. Where the poles are used jointly by telephone and electric power utility companies, Form M data or its equivalent, showing costs to the telephone company shall be provided. Data and information derived from forms filed with State regulatory agencies may also be used, but should be in the form stated above and based upon historical costs, insofar as possible. Where the attachments are to ducts, conduits, or rights of way, in whole or in part, appropriate and equivalent data and information shoud be filed. The complaint shall also specify any other information and argument relied upon to show that a rate, term, or condition is not just and reasonable.

(g) If any of the information required in (f) of this section is not provided to a complainant cable television system operator by the utility upon request, the complaint shall contain a statement indicating the steps taken to obtain the information from the utility. No such complaint shall be dismissed where the utility has failed to provide the information in paragraph (f) of this section after reasonable request. The complaint shall set forth briefly all steps taken to resolve the problem prior to filing. Factual allegations shall be supported by affidavit of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

§ 1.1404 File number.

Each complaint which meets the requirements of § 1.1403 will be given a file number.

§ 1.1405 Dismissal of Complaints.

(a) The complaint shall be dismissed for lack of jurisdiction in any case where the rate, term, or condition is regulated by a State. An applicable certificate filed by a State pursuant to § 1.1412 of these rules will be conclusive proof of lack of jurisdiction. The complaint shall also be dismissed if the utility does not use or control poles, ducts, or conduits used, in whole or in part, for wire communication.

(b) If the complaint does not contain substantially all the information required under § 1.1403 the Commission may dismiss the complaint or may require the complainant to file additional information. The complaint shall not be dismissed if the information is not available from public records or from a respondent utility.

(c) Failure by the complainant to respond to official correspondence or a request for additional information will be cause for dismissal.

(d) Dismissal under the provisions of paragraph (b) of this section without prejudice unless the complaint has been dismissed previously. Dismissal under paragraph (a) or (c) of this section is with prejudice.

§ 1.1406 Response and Reply.

Respondent shall have 30 days from the date the complaint was filed within which to file a response. Complainant shall have 10 days from the date the response was filed within which to file a reply. Extensions of time to file are not contemplated unless justification is shown pursuant to § 1.46. No other filings and no motions other than for extension of time will be considered unless requested by the Commission. The response should set forth justification for the rate, term, or condition alleged in the complaint not to be just and reasonable. Factual allegations shall be supported by affidavit of a person or persons with actual knowledge of the facts.

(b) The response shall be served on the complainant and all parties listed in complainant's certificate of service.

(c) The reply shall be served on the respondent and all parties listed in respondent's certificate of service.

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(d) Failure to respond may be deemed an admission of the material factual allegations contained in the complaint.

§ 1.1407 Number of copies and form of pleadings.

(a) An original and three copies of the complaint, response, and reply shall be filed with the Commission.

(b) All papers filed in the complaint proceeding must be drawn in conformity with the requirements of §§ 1.49, 1.50 and 1.52.

§ 1.1408 Commission consideration of the complaint.

(a) In its consideration of the complaint, response, and reply, the Commission may take official notice of any information contained in publicly available filings made by the parties and of studies that it has conducted. The Commission may also request that one or more of the parties make additional filings or provide additional information. Where one of the parties has failed to provide information required to be provided by these rules or requested by the Commission, or where the value of costs are disputed, the Commission may estimate the amounts it considers reasonable, or may decide adversely to a party who has failed to supply requested information which is readily available to it.

(b) The complainant shall have the burden of establishing a prima facie case that the rate, term, or condition is not just and reasonable. The burden of proof shall be upon the utility.

(c) The Commission shall determine whether the rate, term or condition complained of is just and reasonable. For the purposes of this subparagraph, a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

(d) If the Commission determines that the complainant has not established a prima facie case or that the rate, term, or condition complained of is just and reasonable, it shall deny the complaint.

§1.1409 Remedies.

If the Commission determines that the rate, term, or condition complained of is not just and reasonable, it may prescribe a just and reasonable rate, term, or condition and may order the following:

(a) Termination of the unjust and unreasonable rate, term or condition;

(b) Substitution in the pole attachment agreement of the just and reasonable rate, term, or condition established by the Commission; and

(c) Refund, or payment, if appropriate. The refund or payment will be the difference between the amount paid under the unjust and/or unreasonable rate, term, or condition and the amount that would have been paid under the rate, term, or condition established by the Commission, from the date that the complaint was filed, plus interest.

§1.1410 Meetings and Hearings.

The Commission may decide each complaint upon the filings and information before it, or may require one or more informal meetings with the parties to clarify the issues or to consider settlement of the dispute, or it may, in its discretion, order a hearing upon any issues it finds to have been raised by the filings.

§1.1411 Enforcement.

If the respondent fails to obey any order imposed under this subpart, the Commission on its own motion or by motion of the complainant shall order the respondent to show cause why it should not cease and desist from violating the Commission's order.

§1.1412 Forfeiture.

(a) If any person fails to obey any order imposed under this subpart, or any Commission rule, or

(b) If any person shall in any written response to Commission correspondence or inquiry or in any application, pleading, report, or any other written statement submitted to the Commission pursuant to this subpart make any misrepresentation bearing on any matter within the jurisdiction of the Commission, the Commission may, in addition to any other remedies, including criminal penalties under Section 1001 of Title 18 of the United States Code, impose a forfeiture pursuant to section 503(b)(B) of the Communications Act of 1934, as amended.

§1.1413 State Certification.

(a) If the Commission does not receive certification from a State that:

(1) It regulates rates, terms, and conditions for pole attachments, and

(2) In so regulating such rates, terms, and conditions, the State has the authority to consider and does consider the interests of the subscribers of cable television services, as well as the interests of the consumers of the utility services, it will be rebuttably presumed that the State is not regulating pole attachments.

(b) Upon receipt of such certification, the Commission shall give public notice. In addition, the Commission shall compile and publish from time to time, a listing of States which have provided certification.

§1.1414 Other orders.

The Commission may issue such other orders and so conduct its proceedings as will best conduce to the proper dispatch of business and the ends of justice.

[FR Doc. 78-12580 Filed 5-8-78; 8:45 am]

[6712-01]

[47 CFR Part 15]

[Docket No. 21010; RM-2577; FCC 78-285]

UHF TELEVISION RECEIVER NOISE FIGURES

AGENCY: Federal Communications Commission.

ACTION: Procedure for panel presentation on Docket No. 21010.

SUMMARY: This document announces the names of the technical experts and non-technical speakers (or groups) that have been selected to serve on panels to discuss UHF noise figures for television receivers. This decision implements the Commission's earlier decision (43 FR 15744, April 14, 1978) to obtain more information about whether, and how far, the maximum UHF noise figure should be lowered.

DATES: All written comments must be filed by May 5, 1978, and reply comments by May 15, 1978. Panel sessions will be held on May 10, 1978 at 9:30 a.m.

ADDRESSES: Send comments to: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554. Panel sessions will be held in the Commission's Meeting Room, room 856.

FOR FURTHER INFORMATION CONTACT:

Paul J. Fox, Office of Plans and Policy, Federal Communications Commission, Washington, D.C. 20554, 202-632-6312.

SUPPLEMENTARY INFORMATION:

Adopted: April 25, 1978.

Released: April 25, 1978.

Procedure for panel presentation, May 10, 1978 (43 CFR 15744).

1. Two panels of experts, selected by the Commission, will appear at a public session on May 10, 1978, to present views and data on various technical matters affecting the UHF television receiver noise figure. The presentation will begin at 9:30 a.m. in the Commission Meeting Room (856), 1919 M Street NW., Washington, D.C.

2. The Commission earlier requested those who wished to be panel members to submit letters by April 14, 1978. *Notice of Panel Presentation*, FCC 78-243, released April 6, 1978. In addition to the 12 who responded, we have selected one additional participant.

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3. The panelists are listed in Appendix A divided into two groups. Each panel member is asked to submit an original and 11 copies of written responses to the *Notice* questions (see Appendix C) by May 5, 1978. Any measurements, tests, or other bases for quantitative relationships should be fully described and referenced.

4. Panelists will each have 3 minutes at the beginning of the session to briefly summarize their views. During the remainder of each session, the panelists will be encouraged to interact with one another and to respond to questions from individual Commissioners. In responding to other panelists or questions from Commissioners, panel members will be free to provide additional views and data not contained in their written responses to the *Notice* questions. Commission staff will be available to the Commission throughout the presentation for consultation and questioning of panel members.

5. We expect that the first morning session will conclude by 10:45 a.m. and the second will run from 11 a.m. until 12:15 p.m.

6. In response to our earlier notice, a number of groups and individuals expressed an interest in presenting oral statements. This portion of the presentation will begin at 2 p.m. and will deal with other matters not specifically addressed by the Commission's earlier set of questions; this will also provide an opportunity for nontechnical interests to present their views. A tentative schedule for these speakers is attached as Appendix B. We were able to schedule all who wished to speak, although we were not able to provide all of the time requested in every case. We urge those with similar points of view to combine their presentations.

7. As stated in the *Notice*, the Commission will also accept written statements in response to the *Notice* questions and brief comments concerning related matters, including the draft report and order which accompanied the *Notice*. Parties wishing to comment briefly on matters not addressed in pars. 32-49 of that draft report and order should specifically label those comments under the heading "Other Matters." Such filings must be made no later than May 5, 1978. Following the panel and oral presentations, the Commission will allow reply comments until May 15, 1978.

8. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, an original and five copies of all comments and replies should be filed. Parties are strongly urged to submit an additional six copies to allow for distribution to each of the Commissioners. Parties who have previously filed comments in Docket No. 21010 may simply refer to their earlier filings. We emphasize, as we did earlier, that the purpose of this procedure is to obtain new information.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX A

PANELISTS

Panel 1

Dr. Jay J. Brandinger vice president, TV engineering, Consumer Electronics Division, RCA Corp
Douglass D. Crombie, director. Institute for Telecommunication Sciences, National Telecommunications and Information Administration.
William Detweiler president, Helper Instruments Co.
Clinton S. Hartmann, manager, Surface Wave Device Technology Branch, Advanced Technology Laboratory, Texas Instruments, Inc.
Sarkes Tarzian, chairman of the board, Sarkes Tarzian, Inc.
Daniel R. Wells, senior vice president, Engineering and Operations, Public Broadcasting Service.
Walter S. Wydro, Cable Television Engineering Consultant.

Panel 2

Isaac S. Blonder, chairman of the board, Blonder-Tongue Laboratories, Inc.
Leonard Dietch, vice president, Product Development, Zenith Radio Corp.
Clinton S. Hartmann, manager. Surface Wave Device Technology Branch, Advanced Technology Laboratory Texas Instruments, Inc.
Norman Parker, Paul Galvin Fellow, Motorola, Inc.
William E. Pastore, product line manager of noise products, AILTECH.
Dr. Philip A. Rubin, director of engineering research and development, the Corporation for Public Broadcasting.
Alfred Sfreddo, vice president, Tuner Engineering, F W Sicles Division, General Instrument Corp.

NOTE.—Clinton Hartmann is on both panels in order to answer questions about the High Performance Television Receiver developed under FCC Contract 0206-6TQ (see Footnote 1 in Appendix C). The Commission through its staff may make changes in the composition of these panels.

APPENDIX B

TENTATIVE AFTERNOON SPEAKERS

UHF Station Interests (10 min.)

Harold L. Green, Vice President for Operations and Engineering, Field Communications—5 minutes.
Council for UHF Broadcasting—5 minutes.

Citizens Groups (10 min.)

Citizens Communications Center—5 minutes.
District of Columbia Media Task Force—5 minutes.

Land Mobile Interests (10 min.)

Utilities Telecommunications Council—2½ min.
Land Mobile Communications Council—2½ min.
National Association of Business and Educational Radio—2½ min.
Land Mobile Communications Section, Communications Division, Electronic Industries Association—2½ min.

Government (10 min.)

Council on Wage and Price Stability—10 min.

APPENDIX C

PANEL QUESTIONS

I. *Technical Trade-offs*

Provide any available data that you (or your organization) have that shows

A. How far the maximum UHF noise figure of production line receivers can be lowered without:

1. Imperiling (through increased interference susceptibility or increased receiver radiation) the Commission's ability to reduce the UHF taboos.

2. Significantly degrading picture quality resulting from impairments other than internal noise (in the context of the present taboos).

3. Imperiling the increased adoption of electronic tuners.

B. The amount of variation in the maximum noise figure that occurs on a production line between units of the same design.

II. *Cost Trade-offs*

A. How does the consumer cost of a production line receiver increase at various levels of reduction of the maximum UHF noise figure?

B. How much, and at what cost, can the maximum UHF noise figure of production line receivers be lowered by improved quality control alone? By use of new components? By a major redesign? Recognizing that a significant reduction in the maximum noise figure and new receiver performance standards[1] may both entail substantial costs, what interval between these two possible Commission actions is necessary to avoid incurring significant additional costs to consumers?

III. *Effects on Viewers of Reduced Noise Figure*

Can you quantify the effects produced by an additional 2 and 4 dB reduction below 14 dB in the maximum noise figure in terms of:

A. Number of viewers affected?

B. Improvements or impairments seen by a viewer?

IV. *Timing of Reduction(s)*

A. Is there any reason why a 14 dB maximum cannot be achieved by October 1, 1979, or sooner?

B. If the Commission should decide to adopt a 12 dB or 10 dB in lieu of 14 dB maximum noise figure, how much additional time is needed? Should this be done in stages, or is it advantageous to only specify a date for the ultimate level?

[FR Doc. 78-12623 Filed 5-8-78; 8:45 am]

[1] *See e.g., Final Report, High Performance TV Receiver*, D. L. Ash and C. S. Hartmann, Texas Instruments, Inc.: FCC/OCE:CE 78-01 (March 1978) NTIS #PB 277186: *A Study of the Characteristics of the FCC Prototype TV Receiver Relative to Conventional Receiver UHF Taboos*, L. C. MiddleKamp, *et al;* FCC/OCE LAB 78-01 (February 1978) NTIS #PB 277187.

[6712-01]

[47 CFR—Part 73]

[BC Docket No. 78-147; RM-3012]

FM BROADCAST STATION IN OTTUMWA, IOWA

Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the substitution of a class A FM channel for a class C FM channel at Ottumwa, Iowa, in response to a petition filed by KBIZ, Inc. Petitioner states that the Class C channel can no longer be activated in Ottumwa because of technical limitations and that a substitute channel could be used to provide a second local FM service to the community.

DATES: Comments must be received on or before June 27, 1978, Reply comments must be received on or before July 17, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 28, 1978.
Released: May 3, 1978.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Ottumwa, Iowa.)

1. *Petitioner, Proposal, Comments:*

(a) *Notice of Proposed Rule Making* is hereby given concerning amendment to the FM Table of Assignments, section 73.202(b) of the Commission's Rules, regarding the deletion of class C Channel 223 from Ottumwa, Iowa, and the assignment of Channel 224A instead.

(b) The petition[1] was filed by KBIZ, Inc. ("petitioner"), licensee of full-time AM Station KBIZ, Ottumwa, Iowa. An opposition was filed by Ray L. Sherwood, applicant for Channel 223 at Ottumwa.[2]

(c) Petitioner states that it intends to file an application for a construction permit for an FM broadcast station if the substitute channel is assigned.

2. *Demographic Data:*

(a) *Location:* Ottumwa, seat of Wapello County, is located in southeastern Iowa, approximately 112 kilometers (70 miles) southeast of Des Moines, Iowa, and 320 kilometers (200 miles) northwest of St. Louis, Mo.

(b) *Population:* Ottumwa—29,610; Wapello County—42,149.[3]

(c) *Local Aural Broadcast Service:* Ottumwa is presently served by full-time AM Station KBIZ, daytime-only AM Station KLEE, and Station KLEE-FM, Channel 249A.

3. *Preclusion Study:* No new preclusion would be caused by the substitution of Channel 224A for Channel 223 in Ottumwa.

4. *Comments:* Petitioner states that Channel 223 was assigned to Ottumwa on the basis that it would provide the potential for wide area coverage. It asserts that because of a combination of factors, including mileage separation requirements for a Channel 223 operation, recent changes in the Commission's FM signal propagation curves used for predicting field strength contours, and antenna height restrictions imposed by the existence of an FAA airway over the only area available for tower sites, the potential for wide area coverage has now disappeared. In fact, petitioner asserts that no transmitter site is available from which a station on Channel 223 could serve Ottumwa. It notes, however, that a transmitter for Channel 224A could be located at Ottumwa consistent with all minimum distance separation requirements. Petitioner has submitted sufficient demographic data which demonstrates a continuing need for a second FM channel in the community.

5. Since petitioner alleges that Channel 223 can no longer be utilized in Ottumwa and an interest has been shown in assigning Channel 224A, thereby eliminating a present intermixture of classes of FM channels, we believe that consideration of the proposal is warranted. Accordingly, the Commission proposes to amend the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) with regard to the city listed below:

City and Channel No.
Ottumwa, Iowa, Present: 223, 249A; Proposed: 224A, 249A.

6. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before June 27, 1978, and reply comments on or before July 17, 1978.

FEDERAL COMMUNICATIONS COMMISSION
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's

[1] Public Notice of the petition was given on December 14, 1977, Report No. 1093.

[2] The basis for the opposition was that it had filed an application for the use of Channel 223 which complied with the Commission's minimum mileage requirements. However, the application was returned April 12, 1978, because it was in violation of section 73.207 of the Rules. Thus the Sherwood opposition is no longer pertinent to this proceeding and will not be considered.

[3] Population figures were taken from the 1970 U.S. Census.

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Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 78-12544 Filed 5-8-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-25; RM-2920]

FM BROADCAST STATION IN LEWISTON, IDAHO

Proposed Table of Assignments; Order Extending Time For Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning changes in FM channel assignments in Lewiston, Idaho. Petitioner, 4-K Radio, Inc., states that the additional time is needed so that it can make a proper response to comments.

DATE: Reply comments must be received on or before May 19, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 28, 1978.

Released: May 3, 1978.

In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Lewiston, Idaho). BC Docket No. 78-25, RM-2920.

1. The Commission has before it a request for extension of time for filing reply comments regarding the Notice of Proposed Rule Making in the above-entitled proceeding, 43 FR 4076. The date for filing comments has expired and the date for filing reply comments is presently May 1, 1978.[1]

2. The request was filed by 4-K Radio, Inc. ("4-K") in which it requests that the date for filing reply comments be extended to and including May 19, 1978.

[1]See 43 FR 16355, April 18, 1978.

3. 4-K indicates that since it did not receive a copy of the comments filed by KRLC, Inc., it contacted the Commission to have a copy mailed to it. 4-K states that since these comments were not received (the Commission's records show that a copy was mailed to 4-K) it contacted KRLC's consulting engineer in order to obtain the material. 4-K notes that because of the lapse of time in trying to obtain the copies an extension of time is necessary so that it can make a proper response.

4. Under the circumstances we are granting the extension in order to give 4-K an opportunity to make a response. *Accordingly, It is ordered,* That the request for extension of time for filing reply comments submitted by 4-K Radio, Inc., is granted to and including May 19, 1978.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and Section 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-12577 Filed 5-8-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-49; RM-2921]

FM BROADCAST STATION IN BOCA CHICA KEY, FLA.

Proposed Table of Assignments; Order extending time for filing reply comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning a proposed FM channel assignment in Boca Chica Key, Fla.

DATE: Reply comments must be received on or before May 5, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 28, 1978.

Released: May 3, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Boca Chica Key, Florida), BC Docket No. 78-49, RM-2921.

1. The Commission has before it a request for extension of time for filing reply comments regarding the Notice of Proposed Rule Making in the above-entitled proceeding, 43 FR 6633. The date for filing comments has expired and the date for filing reply comments is presently April 27, 1978.

2. The request was filed by counsel for Florida Keys Broadcasting Corporation, licensee of Station WFYN(FM), Key West, Florida, in which it requests a 10-day extension for filing reply comments.

3. Counsel states that due to a conflict with another proceeding before the Commission, one which has just occurred, it makes it impossible for him to devote sufficient time for the preparation of comments in this matter.

4. We are of the view that the additional time is warranted in order to assure development of a sound and comprehensive record on which to base a decision in this proceeding. However, an extension until May 5, 1978, appears to be adequate for this purpose.

5. *Accordingly, it is ordered,* That the date for filing reply comments in BC Docket 78-49 is extended to and including May 5, 1978.

6. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-12576 Filed 5-8-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation Number A604]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Haskell County, Tex., as a result of drought July 1, 1977, through March 20, 1978.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than October 25, 1978, for physical losses and April 30, 1979, for production lossed, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 2nd day of May, 1978.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc. 78-12622 Filed 5-8-78; 8:45 am]

[3410-37]

Food Safety and Quality Service

PUBLICIZING NAMES OF CHRONIC PROBLEM MEAT AND POULTRY PLANTS

Supplementary Policy Statement

The Food Safety and Quality Service (FSQS) published a notice in the FEDERAL REGISTER on March 17, 1978, which set forth a new policy for identifying, reviewing, and making known the names of chronically deficient federally inspected meat and poultry establishments, in order to provide the public with further information on meat and poultry. In that notice, a "problem plant" was defined as a plant found to have serious deficiencies upon two consecutive compliance reviews and rated under the procedures of the inplant compliance program in the sequence of categories 1-1 or 2-1, or found to have serious deficiencies upon three consecutive compliance reviews and rated under the procedures of the inplant compliance program in the sequence of categories of 1-2-2 or 2-2-2. A "chronic problem plant" was defined as any previously designated "problem plant" which on either of its next two reviews is assigned to category 1 or 2. It was further stated in that notice that names of all future "chronic problem plants" that show deficiencies in areas of plant responsibility will be announced to the public as they are identified.

Although it is the intention of FSQS to identify to the public names of future "chronic problem plants" in accordance with categories of ratings based upon inplant compliance reviews conducted subsequent to the notice of March 17, 1978, it is, nevertheless, deemed necessary and in the public interest to accelerate the scheduling of inplant compliance reviews with respect to those plants which were formerly identified as former "chronic problem plants" under the inplant compliance program as of that date. In this regard, FSQS will initially conduct inplant compliance reviews of such "chronic problem plants" on a monthly basis, rather than on a semiannual basis as set forth in the procedures for inplant compliance program reviews.[1] Individual written notice will be given to those former "chronic problem plants" which have been identified for the accelerated inplant compliance reviews.

Done at Washington, D.C., on May 4, 1978.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc. 78-12625 Filed 5-8-78; 8:45 am]

[1]These procedures for inplant compliance program reviews, including the basis for the categories and ratings, are set forth in MPI Directive 921.2. Interested parties may request and obtain a free copy of this directive by contacting Administrative Services Division, Food Safety and Quality Service, U.S. Department of Agriculture, Room 0157, South Building, Washington, D.C. 20250.

[6320-01]

CIVIL AERONAUTICS BOARD

AEROLINEAS DOMINICANAS, S.A.,

[Docket No. 31654]

Postponement of Prehearing Conference and Hearing

At the request of the applicant, and with the concurrence of the Bureau of International Aviation, the prehearing conference scheduled for May 18, 1978, is hereby postponed to May 31, 1978, in Hearing Room B, Room 1003, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

The Bureau will submit its prehearing conference requests on or before May 12, 1978. Comments from other parties will be submitted no later than May 26, 1978.

This notice supersedes the Notice of Prehearing Conference and Hearing dated April 25, 1978. (43 FR 18595, May 1, 1978.)

Dated at Washington, D.C., May 3, 1978.

RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc. 78-12617 Filed 5-8-78; 8:45 am]

[6320-01]

[Order No. 78-5-1; Dockets Nos. 30833 and 31402]

ALOHA AIRLINES, INC. AND HAWAIIAN AIRLINES, INC.

Order Fixing Final Service Mail Rates

Issued under delegated authority May 1, 1978.

By Order 78-4-75, dated April 14, 1978, the Board directed all interested persons, particularly the Postmaster General, Aloha Airlines, Inc., and Hawaiian Airlines, Inc., To show cause why the Board should not adopt the proposed findings and conclusions and fix, determine, and publish the final rates proposed therein.

The time designated for filing notice of objection has elapsed and no notice of objection or answer to the order has been filed by any person. All persons have therefore waived the right to a hearing and all other procedural steps short of fixing a final rate.

Upon consideration of the record, the findings and conclusions set forth

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in said order are reaffirmed and adopted.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, the Board's Procedural Regulations, 14 CFR Part 302, and the authority delegated by the Board in its Organization Regulations, 14 CFR 385.16(g),

It is ordered, That:

1. The fair and reasonable rates of compensation to be paid on and after May 21, 1977, to Hawaiian Airlines, Inc., and on and after May 23, 1977, to Aloha Airlines, Inc., by the Postmaster General pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, as amended, for the transportation of priority and nonpriority mail by aircraft over their intra-Hawaii routes are:

a. A final priority service mail rate of $1.67 per mail ton-mile;

b. A final nonpriority service mail rate of 50 cents per mail ton-mile;

2. The mail ton-miles used in computing the service mail payment at the foregoing rates shall be based upon the nonstop great-circle mileage between the points of origin and destination of each shipment of priority and nonpriority mail;

3. the "priority mail" for which the rate is established in paragraph a above, is defined as first-class mail, priority mail, and express mail;

4. The "nonpriority mail" for which the rate is established in paragraph b above, is defined as all classes of mail—except first class mail, priority mail, and express mail—carried on a space-available basis;

5. The final service mail rates fixed and determined herein are to be paid in their entirety by the Postmaster General; and,

6. This order shall be served upon Aloha Airlines, Inc., Hawaiian Airlines, Inc., and the Postmaster General.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Associate Director, Pricing, Bureau of Pricing and Domestic Aviation.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-12618 Filed 5-8-78; 8:45 am]

[6320-01]

[Order No. 78-5-3; Dockets Nos. 31232, 31234, 31235, 31246, 31247, 31285, 31305, 31534, 31538, 31555, 32192, 32206, 32207, 32210, 32211, 32212]

TRANSATLANTIC PASSENGER FARES FILED BY VARIOUS CARRIERS BETWEEN THE UNITED STATES AND EUROPE

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2nd day of May, 1978.

By tariff revisions generally filed for effect April 1, 1978, Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), Campagnie Nationale Air France (Air France), Swissair-Swiss Air Transport Co. Ltd. (Swissair), and Deutsche Lufthansa Aktiengesellschaft (Lufthansa) propose new North Atlantic fares for the upcoming 1978 peak season and for the 1978-1979 basic season. The tariff proposals would make few changes in most existing fares, but would add peak-season levels for low, promotional fares such as the advance-purchase excursion (APEX). Pan American proposes to extend its budget fares to additional points, Air France proposes a new "Special midweek" fare, and Lufthansa proposes a new "Holiday" fare.

Several complaints requesting suspension pending investigation of the low fares have been filed.

The National Air Carrier Association (NACA) has complained against Air France's APEX and special midweek fares, Swissair's APEX, and Lufthansa's Holiday fares. NACA contends that the fares will be predatory against charters and the supplemental carriers; but recognizing the President's policy of not suspending allegedly predatory fares, it requests that the Board suspend them pending extension of the so-called ad hoc agreements with the foreign governments involved which would allow the United States to suspend the fares if they are proved predatory.[1] NACA also urges that the Lufthansa fares be suspended pending acceptance by Germany of U.S.-origin charters based on the Board's more liberal rules.[2]

The Air Charter Tour Operators of American (ACTOA) has filed a complaint against Pan American's and TWA's new APEX, budget and standby fares to London, Lufthansa's Holiday fares, and Air France's special midweek fares. ACTOA alleges that the scheduled carriers are esentially seeking to extend the low winter-season fares into the peak season with proportional increases in level; the anticipated liberalization of European charter rules, which the President and the Board hoped would compensate for the competitive impact of reduced scheduled fares, has not materialized;[3] given the failure of the United States' expectations, the Board should suspend all charter-competitive fares to countries which have not liberalized their charter rules; ACTOA members have reported catastrophic declines in 1978 peak-season bookings for U.S.-Europe charters; and low fairs premised on marginal cost to fill empty seats in the winter should not be extended into the peak season, when load factors are high and the low fares would displace many higher-fare passengers.[4]

Charter Travel Corporation (CTC) has complained against Lufthansa's Holiday fares and Swissair's basic-season APEX fares, contending that CTC is the largest ABC operator to Germany and Switzerland (except for U.S. west-coast originations) and its 1978 bookings are off considerably from 1977 due to the availability of low scheduled fares;[5] the Holiday fares by Lufthansa's own admission are intended to make the benefits of scheduled service available at charter levels, and CTC would be unable to compete at the same price with the greater attractions of scheduled service; and the fares should be suspended at least until France and Germany accept current U.S. ABC and OTC rules, and Lufthansa, Swissair and their charter subsidiaries agree to waive charter-cancellation penalties.

Pan American has filed a complaint against Lufthansa's Holiday fare, requesting that it be suspended until it is clear that the German Government will accept Pan American's recently filed budget fare.

Air France has filed an answer to NACA's complaint against its APEX fare is permitted to take effect. The French Government has stated its intention of enforcing minimum rates on U.S.-origin charters. Switzerland accepts country-of-origin charter rules.

[1]The reduced U.S.-U.K. APEX fares introduced last autumn, which later spread to other European destinations, were accepted by the U.S. Government after conclusion of intergovernmental agreements that either party could, after appropriate notice, suspend the fares after they became effective. The agreements were found necessary at that time in cases where the bilateral Air Transport Agreement did not provide for suspension of existing fares.

[2]NACA states that the German Government now imposes severe restrictions on U.S.-origin charters, including minimum selling prices, and these practices must be liberalized before Lufthansa's "Holiday"

[3]ACTOA contends that only the United Kingdom has budged from the ECAD (European Civil Aviation Conference) block position.

[4]Here ACTOA cites the Board's decision in Docket 28096, Category Y Fare Investigation (Order 78-1-101, January 11, 1978).

[5]CTC states that through the end of February it has received only 4,500 transatlantic bookings compared to 12,000 last year.

and special midweek fares, stating that these are a response to U.S. Government policy favoring lower, innovative fares; the midweek fare is intedded to increase non-peak travel; and neither fare is predatory; and NACA would have the Board suspend every reduced fare pending new intergovernmental arrangements, which would be both unnecessary and unfair to the scheduled carriers.

Braniff has complained against Pan American's common-faring of Houston and Dallas, contending that it is contrary to the Board's decision in Docket 27330, Domestic Common Fares Investigation (Order 77-6-21, June 6, 1977); Braniff filed Houston-London fares based on the combination of mileages over Dallas to provide Houston-London passengers with the benefits of lower per-mile fares via the route actually flown, while disturbing British Caledonian's Houston-London fares as little as possible; and the principle of common-faring the two cities may result in pressure on Braniff to raise its Dallas-London fares at some later date.

In answer to Braniff, Pan American states that the London-Houston great-circle mileage is only 2.2 percent greater than the London-Dallas; Braniff itself has common-fared a number of southwest U.S. points which are considerably further apart than Dallas and Houston; and the decision in Docket 27330 applied to domestic fares only and, in fact, the Board is currently investigating common-faring in international Pacific markets. The City of Houston and the Houston Chamber of Commerce have also answered in opposition to Braniff's complaint; in addition to the same general arguments made by Pan American, the Houston parties question whether, in light of the evolving price competition in both domestic and international markets, the notion that fares should be uniform for all markets of the same mileage is not outdated.

The Board has decided to dismiss the complaints, which focus primarily on the APEX and similar Holiday fares, and Air France's special midweek fare, and permit all of them to become effective.

The fundamental premise of the policy we have been following is that loosening the regulatory constraints on one class of competitors is a means of maintaining lively competition preferable to restricting the low fare offerings of another class.[6] To suspend the low scheduled fares pending ad hoc arrangements for subsequent review and possible suspension or for further liberalization of charter rules would, first of all, deny the public the immediate, tangible benefits of these fares during the peak summer season, as well as the value of innovative travel options represented by such filings as Air France's off-peak midweek fare. Many passengers have undoubtedly made reservations on the APEX fares, and suspension would cause disruptions of their travel plans.[7] NACA does not allege that the APEX and other low fares are so clearly predatory as to threaten the survival of the charter industry. They do not attempt to demonstrate that the similar fares subject to ad hoc agreements last season affected them adversely. The tour operators, on the other hand, essentially seek unconditional suspension of the new fares for the duration of the entire peak season.

The potential benefits of such an action to the tour operators is not, in our view, a sufficiently strong consideration to offset the immediate advantage of the new fares to consumers and the absence of a firm demonstration that suitable competitive responses are unavailable.

We are now convinced that charter carriers will be permitted to compete with the low scheduled fares to Germany and France. The German Government's minimum charter rates have been set at levels 25-33 percent below the Holiday fare, and charter prices filed thus far for the summer season are generally above the minimum. The Board has received assurances from the French Government that it will permit charter filings sufficiently below its current minimum prices to enable charters to compete with the new midweek fare. Whether the charter carriers can in fact operate at these prices will be determined in the market-place; the artifical barriers to their competitive response have been removed.

We are sensitive to the dislocations that increased price competition can cause. This consideration gave us great concern in deciding whether to permit various deeply discounted domestic charter-competitive fares. However, as we concluded there[8] and now conclude here, such competition will work to the ultimate benefit of the traveling public. Moreover, we are not convinced that the tour-operator industry as a whole cannot adapt to the changing environment. We have taken a number of steps to ease the transition by removing many of the restrictions formerly placed on charter service, which should make this type of air transportation easier to operate and to merchandise. Additional proposals have been made to ease the plight of tour operators, and we are giving them prompt and sympathetic consideration. For example, several days ago we approved a 90-day waiver of certain charter rules which will enable tour operators to, among other things, book one-way charters and allow discount fares for advance bookings. We will not, however, deprive consumers of low fare proposals merely to preserve past industry relationships and divisions of the market. Rather, we will strive to make the air transportation environment fully competitive, as circumstances and policies change, by relaxing restrictive rules, thus enabling all air transport enterprises to adapt their activities to changing public needs. As we have permitted more and more low scheduled fares, we have relaxed the rules on operation of charters. These changes benefit charter carriers and tour operators by making charter service more easily available to consumers.

Finally, although Pan American has made no compelling demonstration that Houston and Dallas should be common-fared, in view of the rather minute difference in mileages, we are not prepared to hold the benefit of the new low fares hostage to this minor imperfection, if indeed it is one.[9]

Accordingly, pursuant to sections 102, 204(a), 403, and 1002(j) of the Federal Aviation Act of 1958: *It is ordered*, That: 1. The complaints of the National Air Carrier Association, in Dockets 31232, 31305, 31555, 32206, and 32207, of Air Charter Tour Operators of America in Docket 32211, of Charter Travel Corp. in Docket 32212, of Pan American World Airways, Inc. in Docket 32210, of Braniff Airways, Inc. in Docket 32192, of Trans World Airlines, Inc. in Dockets 31534 and 31538, of Laker Airways Ltd. in Docket 31285, of Brendan Tours, Inc. in Dockets 31235 and 31246, and of The Educational Cooperative in Dockets 31234 and 31247, are dismissed; and

2. Copies of this order shall be served on Compagnie Nationale Air France, Swissair-Swiss Air Transport Co. Ltd., Deutsche Lufthansa Aktiengesellschaft, KLM Royal Airlines, the City of Houston and the Houston Chamber of Commerce, the National Air Carrier Association, Air Charter Tour Operators of America, Charter Travel Corp., Pan American World Airways, Inc., Braniff Airways, Inc., Trans World Airlines, Inc., Laker Airways Ltd., Brendan Tours, Inc., and the Educational Cooperative.

This order will be published in the FEDERAL REGISTER.

[6]See Order 77-9-55, September 16, 1977, page 11.

[7]We do not agree with ACTOA's contention that the low fares would displace many higher fare passengers. It is simply not in the carriers' interest to permit this to occur to any great extent.

[8]Order 78-2-70 dismissing complaints against TWA's "Super Jackpot" fares.

[9]In this order we will also dismiss outstanding complaints against the initial, winter-season low fare tariffs of last autumn, which have largely been superseded by the new tariff filings now before us.

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By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-12619 Filed 5-8-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

EXPORT MONITORING REPORT FOR COAL AND COKE OF COAL

Week Ending April 7, 1978

Total bituminous coal exports for this week were 111,837 short tons compared with 214,163 short tons exported the preceding week. All exports for the week were of metallurgical grade. The weighted average price of coal exports for this week was $47 per short ton with a high and low price of $58.46 and $34.50 per short ton, respectively. With this low level of export activity, only a small number of firms reported coal shipments during the week. A breakdown of these exports by volatility and area of destination is, therefore, withheld from this report to prevent disclosure of information deemed to be confidential pursuant to section 7(c) of the Export Administration Act of 1969, as amended.

Exports of coke manufactured from coal for this week were 4,136 short tons compared with 4,317 short tons exported the preceding week and a weekly average of 5,000 short tons for the preceding six weeks. The weighted average price of this commodity for the week was $132.30 per short ton with a reported high and low price of $142.79 and $124.53 per short ton, respectively. Coke of coal export prices for the week indicate no price changes.

Domestic coal production for the week was estimated to be 14,220,000 short tons, an increase from the 11,945,000 short tons produced the preceding week. On March 24, 1978, the United Mine Workers of America and the Bituminous Coal Operators Association approved a new labor contract which officially ended the coal strike that started on December 6, 1977. With the resumption of mining operations and the resulting increase in coal production, the Department of Energy discontinued its weekly reporting of domestic coal consumption and stocks following release of the report for April 1, 1978. Concurrently, the Department of Commerce terminated the coal export monitoring program as of the week ending April 7, 1978.

This is the final weekly coal monitoring report to be release by the Department of Commerce. A summary of the effects of the coal strike on coal exports as evidenced in the Department's coal export monitoring program will be published in the semiannual "Export Administration Report" for the period October 1977-March 1978.

TABLE 1.—*U.S. exports of Bituminous coal and coke of coal, in short tons*

[For week ending Apr. 7, 1978]

Commodity	Weekly average			Week ending			
	Dec. 1975	Dec. 1976	Nov. 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile metallurgical coal [1]	NA	NA	***133,677	199,136	96,895	[5]	[5]
Medium volatile metallurgical coal [2]	NA	NA	NA	283,420	118,632	[5]	[5]
High volatile metallurgical coal [3]	NA	NA	NA	47,065	176,827	[5]	[5]
Total metallurgical coal	NA	NA	889,125	*550,459	**436,605	$21,109	126,822
Other bituminous coal	NA	NA	158,326	129,424	351,669	29,500	0
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	788,274	$50,609	126,822
Coke of coal	16,646	7,287	23,179	3,922	9,824	2,843	3,922

Commodity	Average		Week ending			
	Jan. 1976	Jan. 1977	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Low volatile metallurgical coal [1]	NA	NA	[5]	[5]	[5]	[5]
Medium volatile metallurgical coal [2]	NA	NA	[5]	[5]	[5]	[5]
High volatile metallurgical coal [3]	NA	NA	[5]	[5]	[5]	[5]
Total metallurgical coal	NA	NA	174,709	311,331	97,800	262,585
Other bituminous coal	NA	NA	0	0	0	0
Total bituminous coal	834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal	12,326	29,514	4,466	5,062	29,143	30,634

Commodity	Weekly average		Week ending			
	February 1976	February 1977	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978
Low volatile metallurgical coal [1]	NA	NA	[5]	[5]	[5]	[5]
Medium volatile metallurgical coal [2]	NA	NA	[5]	[5]	[5]	[5]
High volatile metallurgical coal [3]	NA	NA	[5]	[5]	0	[5]
Total metallurgical coal	NA	NA	251,327	72,569	139,143	206,762
Other bituminous coal	NA	NA	0	[5][6]	0	0
Total bituminous coal	736,138	768,840	251,327	72,569	139,143	206,762
Coke of coal	22,185	12,805	3,998	75,173	43,315	8,595

Commodity	Weekly average		Week ending				
	Mar. 1976	Mar. 1977	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978
Low volatile metallurgical coal [1]	NA	NA	[5]	[5]	[5]	0	[5]
Medium volatile metallurgical coal [2]	NA	NA	[5]	[5]	[5]	0	[5]
High volatile metallurgical coal [3]	NA	NA	[5]	[5]	[5]	0	[5]
Total metallurgical coal	NA	NA	162,451	102,698	*24,182	0	314,163
Other bituminous coal	NA	NA	[5][6]	0	0	550	0
Total bituminous coal	898,473	765,516	162,451	102,698	24,182	550	314,163

TABLE 1.—Continued *U.S. exports of Bituminous coal and coke of coal, in short tons*

[For week ending Apr. 7, 1978]

Commodity	Weekly average		Week ending				
	April 1976	April 1977	April 7, 1978				
Coke of coal	19,541	24,320	4,998	4,851	3,359	4,488	4,317

Commodity	Weekly average		Week ending
	April 1976	April 1977	April 7, 1978
Low volatile metallurgical coal [1]	NA	NA	[5]
Medium volatile metallurgical coal [2]	NA	NA	[5]
High volatile metallurgical coal [3]	NA	NA	[5]
Total metallurgical coal	NA	NA	111,837
Other bituminous coal	NA	NA	0
Total bituminous coal	1,348,649	1,315,664	111,837
Coke of coal	27,027	26,120	4,136

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[5] Subject to revision. Less than 10,000 short tons of additional bituminous coal may have been exported, the Department of Commerce is seeking to verify this information.
* Includes 20,848 short tons of metallurgical grade coal not identified as to volatility.
** Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
*** Partial, in content tons.

NA—Not available.

Sources: Office of Export Administration, and Bureau of the Census.

TABLE 2.—*Contracts for export of bituminous coal and coke of coal, in short tons*

[For week ending Apr. 7, 1978]

Commodity	Week ending							
	Apr. 14, 1978	Apr. 21, 1978	Apr. 28, 1978	May 5, 1978	May 13, 1978	May 19, 1978	Next 6 weeks	Total for 12 weeks
Low volatile metallurgical coal [1]	232,796	130,995	196,096	143,353	132,953	133,273	1,005,791	1,974,259
Medium volatile metallurgical coal [2]	175,056	317,768	366,871	303,196	290,148	230,788	1,300,239	3,984,066
High volatile metallurgical coal [3]	23,201	52,656	197,350	108,336	53,230	31,510	452,583	928,867
Total metallurgical coal	431,056	501,419	759,319	554,885	476,331	395,571	2,758,613	6,887,194
Other bituminous coal	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Coke of coal	3,200	2,860	2,750	2,690	2,630	2,600	36,307	55,127

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 3.—*U.S. exports by commodity and area of destination, in short tons*

[For week ending Apr. 7, 1978]

Commodity and area of destination	Weekly average			Week ending			
	Dec. 1975	Dec. 1976	Nov. 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile metallurgical coal: [1]							
Asia			7,458	111,525	24,808	(*)	(*)
Europe			43,463	40,893	69,449	(*)	(*)
Western Hemisphere			82,956	46,718	2,647	(*)	(*)
Total	NA	NA	**133,877	199,136	96,895	(*)	(*)
Medium volatile metallurgical coal: [2]							
Asia			102,906	93,291	(*)	(*)	
Europe			173,711	15,958	(*)	(*)	
Western Hemisphere			6,803	9,383	(*)	(*)	
Total	NA	NA	NA	283,420	118,632	(*)	(*)
High volatile metallurgical coal: [3]							
Asia			11,331	0	(*)	(*)	

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TABLE 3.—Continued *U.S. exports by commodity and area of destination, in short tons*

[For week ending Apr. 7, 1978]

Commodity and area of destination	Week ending						
	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Europe				0	76,532	(*)	(*)
Western Hemisphere				35,724	100,295	(*)	(*)
Total	NA	NA	NA	47,055	176,827	(*)	(*)
Total metallurgical coal:							
Asia			377,151	225,762	118,099	134,389	(*)
Europe			269,606	214,604	161,930	206,831	(*)
Western Hemisphere			224,411	*110,093	*112,325	136,926	(*)
Total	NA	NA	***889,125	550,459	*436,605	521,109	128,822

	Week ending						
	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Low volatile metallurgical coal: [1]							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Medium volatile metallurgical coal: [2]							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)
High volatile metallurgical coal: [3]							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total metallurgical coal:							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	174,709	311,331	97,800	262,585	251,327	72,569	139,143

	Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978	Apr. 7, 1978
Low volatile metallurgical coal: [1]							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Medium volatile metallurgical coal: [2]							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)
High volatile metallurgical coal: [3]							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total metallurgical coal:							
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	206,762	162,451	102,698	*24,182	0	214,163	111,837

	Weekly average			Week ending			
	Dec. 1975	Dec. 1976	Nov. 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	0
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	788,274	580,509	126,822
Coke of coal	18,646	7,287	33,179	3,922	9,624	2,843	3,922

TABLE 3.—Continued *U.S. exports by commodity and area of destination, in short tons*

[For week ending Apr. 7, 1978]

Commodity and area of destination	Week ending						
	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Other bituminous coal	0	0	0	0	0	0	0
Total bituminous coal	174,709	311,331	97,800	262,585	251,327	72,569	139,143
Coke of coal	4,456	5,062	29,143	30,634	3,998	75,173	43,315

	Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978	Apr. 7, 1978
Other bituminous coal	0	0	0	0	550	0	0
Total bituminous coal	206,762	162,451	102,698	(*)	550	214,163	111,837
Coke of coal	8,595	4,998	4,851	3,359	4,488	4,317	4,136

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been witheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[5] Subject to revision. Less than 10,000 short tons of additional bituminous coal may have been exported; the Department of Commerce is seeking to verify this information.
*Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
**Partial, in content tons.
***Includes 17,957 short tons of metallurgical grade coal to destinations not listed above.
NA—Not available.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 4.—*Anticipated exports by commodity and area of destination, in short tons*

[For week ending Apr. 7, 1978]

Commodity and area of destination	Contracts							
	Week ending						Next 6 weeks	Total for 12 weeks
	Apr. 14, 1978	Apr. 21, 1978	Apr. 28, 1978	May 5, 1978	May 12, 1978	May 19, 1978		
Total metallurgical: [1]								
Asia	169,822	171,661	432,966	172,597	184,855	206,375	1,546,001	2,886,000
Europe	232,447	278,516	239,241	259,045	223,661	141,161	1,226,152	2,602,163
Western Hemisphere	28,787	51,241	57,200	123,243	67,815	48,095	787,460	1,112,031
Total	431,056	501,419	729,319	554,885	476,331	395,571	*3,768,813	*6,887,194
Other bituminous	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(715)
Total bituminous coal [3]								
Coke of coal	3,200	2,860	2,750	2,890	2,630	2,090	36,307	55,127

[1] Volatility data by destination have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[2] Less than 100,000 tons. Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to section 7(c) of the Export Administration Act of 1969, as amended.
[3] Data withheld to avoid disclosure of data withheld above. See footnote 2.
* Includes 287,000 tons to destinations not listed above.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 5.—*Export prices of bituminous coal and coke of coal, in dollars per short ton*

[For week ending Apr. 7, 1978]

Commodity	Average					
	Mar. 1976	Mar. 1977	Nov. 1977	Weighted	High	Low
Low volatile metallurgical coal [1]	NA	NA	NA	(*)	(*)	(*)
Medium volatile metallurgical coal [2]	NA	NA	NA	(*)	(*)	(*)
High volatile metallurgical coal [3]	NA	NA	NA	(*)	(*)	(*)
Total metallurgical coal	NA	NA	53.84	47.00	58.46	34.50
Other bituminous coal	NA	NA	35.01	0	0	0
Total bituminous coal	50.79	50.64	50.99	47.00	58.46	34.50
Coke of coal	62.97	57.19	79.70	132.20	142.79	124.53

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to Sec. 7(c) of the Export Administration Act of 1969, as amended.

NA—Not available.

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TABLE 6.—*U.S. trade in bituminous coal and coke of coal, in short tons*

[For week ending Apr. 7, 1978]

	Weekly average			Week ending			
	Dec. 1975	Dec. 1976	Nov. 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Imports:							
Bituminous coal [1]	20,097	21,452	31,158	NA	NA	NA	NA
Coke of coal	20,774	28,903	41,267	NA	NA	NA	NA
Exports:							
Bituminous coal [1]	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

	Average		Week ending			
	Jan. 1976	Jan. 1977	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Imports:						
Bituminous coal [1]	16,346	27,198	NA	NA	NA	NA
Coke of coal	3,483	5,987	NA	NA	NA	NA
Exports:						
Bituminous coal [1]	634,857	453,983	174,709	311,331	97,800	262,585
Coke of coal	12,326	30,514	4,466	5,062	29,143	30,634

	Weekly average		Week ending			
	Feb. 1976	Feb. 1977	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978
Imports:						
Bituminous coal [1]	NA	NA	NA	NA	NA	NA
Coke of coal	NA	NA	NA	NA	NA	NA
Exports:						
Bituminous coal [1]	736,138	769,840	261,327	72,569	139,143	206,762
Coke of coal	22,185	12,805	3,998	76,173	43,315	8,505

	Weekly average		Week ending				
	Mar. 1976	Mar. 1977	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978
Imports:							
Bituminous coal [1]	NA	NA	NA	NA	NA	NA	NA
Coke of coal	NA	NA	NA	NA	NA	NA	NA
Exports:							
Bituminous coal [1]	898,473	766,515	162,451	162,898	[2]24,182	550	314,163
Coke of coal	19,541	24,320	4,996	4,651	3,359	4,488	4,317

	Weekly average		Week ending
	Apr. 1976	Apr. 1977	Apr. 7, 1978
Imports:			
Bituminous coal [1]	NA	NA	NA
Coke of coal	NA	NA	NA
Exports:			
Bituminous coal [1]	1,348,649	1,315,664	111,837
Coke of coal	27,027	25,120	4,136

[1]Includes both metallurgical grade and steam coal.
[2]Subject to revision. Less than 10,000 short tons of additional bituminous coal may have been exported; the Department of Commerce is seeking to verify this information.

Sources: Office of Export Administration and Bureau of the Census.

[FR Doc. 78-12450 Filed 5-8-78; 8:45 am]

[3510-25]

Industry and Trade Administration

SUBCOMMITTEE ON EXPORT ADMINISTRATION OF THE PRESIDENT'S EXPORT COUNCIL

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1976 ed.)), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council will be held on Thursday, May 25, 1978, at 9 a.m., in Room 3708 of the Department of Commerce, Washington, D.C.

The Subcommittee on Export Administration was initially established on June 1, 1976. On January 6, 1977, the Assistant Secretary of Administration approved the recharter and extension through December 31, 1978, of the Subcommittee, pursuant to the provisions of Section 3 of Executive Order 11753 (December 20, 1973), as extended by Section 1 (k) of Executive Order 11948 (Dec. 20, 1976), and the Federal Advisory Committee Act.

The Subcommittee advises the Secretary of Commerce on matters pertinent to those portions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401 et seq.) that deal with United States policy of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

The Subcommittee meeting agenda has nine parts:

GENERAL SESSION

1. Unfinished business:
   (a) Service Supply License,
   (b) Export Licensing Policy for Demonstration,
   (c) Implementation of 1977 Amendments,
   (d) Reorganization of Domestic and International Business Administration.
2. Foreign policy considerations in export controls—Recent changes in human rights area.
3. Department of Defense's efforts in defining critical technologies.
4. Return of technical data licenses.
5. Disclosure of information—Recent court decision on section 7(c) of the Export Administration Act of 1969, as amended, and coverage of Exemption 4 of the Freedom of Information Act for export licensing information.
6. Environmental Impact Statement requirement re Export license applications.
7. Reexport licensing policies.

EXECUTIVE SESSION

8. Presidential Review Memorandum-31 Status and conclusions.
9. CoCom list review status.

The General Session is open to the public. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda items 8 and 9, the Assistant Secretary for administration, with the concurrence of the delegate of the General Counsel, formally determined on January 11, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act (Pub. L. 94-409), that the matters to be discussed in the Executive Session should by exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by Executive Order 11652 to be kept secret in the interest of the national defense or foreign policy. Materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close portions of the series of meetings of the Subcommittee on Export Administration of the President's Export Council is printed at 42 FR 3011 (Jan. 14, 1977).

Copies of the minutes of the General Session will be available by calling Mr. Lawrence J. Brady, Deputy Director, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-4188.

For further information, contact Mr. Brady, either in writing or by phone, at the address or number shown above.

Dated: May 4, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation.

[FR Doc. 78-12709 Filed 5-8-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

S.E.E. OKEANSKY RIBOLOV

Issuance of a General permit

On May 3, 1978, a general permit was issued to S.E.E. Okeansky Ribolov, Bourgas, Peoples Republic of Bulgaria, to take marine mammals incidental to commerical fishing operations within the U.S. fishery conservation zone pursuant to 50 CFR 216.24 (42 FR 64552-64560), as amended. The general permit is available for public inspection in the Office of the Assistant Administrator, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Dated: May 3, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 78-12578 Filed 5-8-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

CELLULOSE HOME INSULATION

Extension of the Time for Evaluating and Accepting Offers

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of extension of time.

SUMMARY: In this notice, the Commission extends from May 12, 1978, until August 31, 1978, the period of time for it to evaluate and take action on submissions the Commission has received in response to its request for offers to develop a consumer product safety standard for cellulose home insulation. The reason for extending this time period is that pending legislation may, if it becomes law, make the Commission's proceeding unnecessary. This FEDERAL REGISTER notice does not extend the time for persons to submit an existing standard or an offer to develop a standard. That deadline expired April 12, 1978.

DATES: The deadline for the Commission to evaluate and accept an offer to develop a recommended standard is extended to August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip Bechtel, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, 202-634-7770.

SUPPLEMENTARY INFORMATION: The Commission began a proceeding to develop a consumer product safety standard for cellulose home insulation under section 7 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 20560) by a notice in the FEDERAL REGISTER of March 13, 1978 (43 FR 10427), in which the Commission invited any interested person to submit by April 12, 1978, either (1) an offer to develop a recommended consumer product safety standard or (2) an existing standard to serve as a recommended consumer product safety standard. The Commission began this proceeding after it preliminarily determined that fire hazards associated with cellulose home insulation constitute unreasonable risks of death or injury and that a consumer product safety standard is necessary to eliminate or reduce those unreasonable risks. In response to the notice of proceeding, the Commission received nine submissions from interested persons by the due date of April 12, 1978, and two submissions after that date. These submissions may be examined in the Office of the Secretary of the Commission, Third Floor, 1111 18th Street NW., Washington, D.C. 20207. (The period of time for interested persons to submit existing standards or an offer to develop a standard has expired and is not extended by this notice.)

Section 7 of the CPSA (15 U.S.C. 2056) provides that the Commission has 60 days from the publication of the notice of proceeding to decide whether to accept an offer to develop a standard, publish an existing standard as a recommended standard, develop a proposed standard itself, or terminate the proceeding. The Commission may extend this 60-day period by publishing a notice in the FEDERAL REGISTER stating good cause for the extension.

On January 23, 1978, the Senate passed a bill, S. 2401. This bill, the "Emergency Interim Consumer Product Safety Rule Act of 1978," would, among other things, establish an interim consumer product safety standard for the flame-resistance and corrosiveness of cellulose home insulation. Similar legislation is now pending in the House of Representatives (H.R. 11998). The legislation that is currently in the House, like the bill that passed the Senate, would require the Commission to publish within a short period of time an interim consumer product safety standard consisting of the requirements for flame-resistance and corrosiveness set forth in the General Services Administration's specification for cellulose insulation, HH-I-515C (as of Dec. 1, 1977) plus any technical non-substantive changes as the Commission deems appropriate. Under both bills the Commission would enforce the interim standard in the same manner as it enforces any other consumer product safety rule.

If the pending legislation becomes law, the Commission believes that it may not be necessary for the Commis-

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sion to continue its own proceeding under section 7 of the CPSA, since the interim standard may adequately protect the public from the risk of injury from fires associated with cellulose home insulation. The pending legislation requires the Commission to incorporate into the interim consumer product safety rule within a short time period each revision to the requirements for flame-resistance and corrosiveness issued by the General Services Administration. These revisions, after being incorporated into the interim rule, may provide additional protection to the public, so that it may not be necessary for the Commission to continue the present proceeding under section 7 to develop a new consumer product safety standard.

In view of the possibility that the pending legislation will be enacted and establish an interim consumer product safety standard for cellulose home insulation, thus possibly making it unnecessary for the Commission to continue its own standard development proceeding, the Commission believes it should delay any evaluation of the submissions and acceptance of an offer to develop a recommended standard in its Consumer Product Safety Act proceeding until a decision has been made concerning the pending legislation or until it becomes clear that the Commission should continue its own proceeding in order to adequately protect the public. Such a delay will permit the Commission to conserve its limited resources until it is known with more certainty whether it will be proceeding to develop a standard under the offeror process of the Consumer Product Safety Act, or whether it will be acting to implement the legislation, or both.

The Commission believes that an extension of the period for accepting offers until August 31, 1978, will provide sufficient time for the outcome of the legislation to be resolved and for the Commission to determine whether it will be necessary to continue its own proceeding. If, before August 31, 1978, it appears unlikely that the legislation will be enacted, the Commission will take appropriate action in respect to its own proceeding.

Therefore, in accordance with the provisions of section 7 of the CPSA, the Commission extends until August 31, 1978, the period of time for it to evaluate and accept a satisfactory offer to develop a recommended standard for cellulose home insulation or for it to withdraw the proceeding. This period may be further extended by a notice published in the FEDERAL REGISTER stating good cause.

Dated: May 4, 1978.

SADYE DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-12714 Filed 5-8-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON COUNTER-COMMUNICATIONS, COMMAND AND CONTROL (C^3)

Advisory Committee Meeting

The Defense Science Board Task Force on Counter-Communications, Command and Control (C^3) will meet in closed session on June 1 and 2, 1978, in National Center Building No. 1.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering and to provide long-range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of the communications, command and control (C^3) employed by potentially hostile forces and identify countermeasures that might be of significant help if the Department of Defense were required to counter those forces.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: May 4, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 78-12583 Filed 5-8-78; 8:45 am]

[3810-70]

Office of the Secretary

PRIVACY ACT OF 1974

System of Records

AGENCY: Office of the Secretary of Defense.

ACTION: Notice of a deletion and an addition of a new system of records.

SUMMARY: The Office of the Secretary of Defense (OSD) is deleting and adding a new system of records to its inventory of record systems subject to the Privacy Act. The new system is identified as DAS 01, entitled: "Defense Audit Service Management Information System (DAS/MIS)." It replaces DCOMP 01, "Personel Roster" which is deleted.

DATE: This system shall be effective as proposed without further notice on June 8, 1978, unless comments are received on or before June 8, 1978, which would result in a contrary determination and require republication for further comments.

ADDRESS: Send comments to the System Manager identified in the record system below.

FOR FURTHER INFORMATION CONTACT:

Mr. James S. Nash, Chief, Records Management Branch, Washington Headquarters Services, The Pentagon, Washington, D.C. 20301, telephone 202-695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) record system notices as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50730) September 28, 1977.
FR Doc. 77-36255 (42 FR 64334) December 22, 1977
FR Doc. 78-1465 (43 FR 2751) January 19, 1978
FR Doc. 78-5170 (43 FR 8002) February 27, 1978
FR Doc. 78-8197 (43 FR 13090) March 29, 1978.

OSD has submitted a new system report on April 7, 1978, on this system of records under the provisions of 5 U.S.C. 552a(o) of the Privacy Act.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

MAY 4, 1978.

DELETION

DCOMP 01

System name:

Personnel Roster (42 FR 50725) September 28, 1977.

Reason:

This system is replaced by DAS 01 Defense Audit Service Management Information System (DAS/MIS) appearing in the added system below.

ADDITION

DAS 01

System name:

Defense Audit Service Management Information System (DAS/MIS).

System location:

Defense Audit Service, Audit Management Division (DAS-AM), Arlington, Va. The system utilizes the Computer Science Corp.'s INFONET System, 1616 North Fort Myer Drive, Arlington, Va. 22209.

Categories of individuals covered by the system:

All active personnel employed by the Defense Audit Service with history data including previous employees maintained for 2 years.

Categories of records in the system:

Data on the individual's current position, current employment status, travel, audit experience, training, and the following specific personal data: name, Social Security Account Number (SSAN), date of birth (DOB), service computation date (SCD), career status, experience, address, assigned station, job series, clearance, education, and evaluation due date.

Authority for maintenance of the system:

Title 10, United States Code, section 136(b), and Department of Defense Directive 5105.48, "Defense Audit Service," October 14, 1976, conveys the authority for maintenance of a system of records to the Director of the defense Audit Service in support of the DAS mission.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

There are no external uses. Internally, information is used as follows:

Security Clearance notification alert; provided to all audited activities in advance of visits by DAS audit personnel. Information provided in Alert is name, SSAN, Office of Assignment, and the security clearance for each auditor.

(2) Time and Attendance Reporting; provided to DAS Main Office by 9 CONUS Regional Offices and 3 Overseas Regional Offices. Time and Attendance Reports are used by various managers to track Temporary Duty Travel frequency and duration, to accrue manhour data on assigned audit projects, to categorize indirect time for end of year reporting, to provide time and attendance data to the centralized payroll system at the Main Office. Information included in Time and Attendance Reports are SSAN, Name, Grade, Assigned Office, Hours Present for Duty, Annual Leave Hours, Sick Leave Hours, Other Leave Hours and Type, TDY Location, and TDY Duration.

(3) Planned Annual Leave Reporting; utilized by various managers for workload planning and travel scheduling. Information included is Name, Assigned Office, and dates of planned annual leave.

(4) Audit Status and Auditor Assignment Reporting; used by managers to control audits and auditors, and to maximize effectiveness of manpower resources. Included information is Audit Number, Audit Requestor Code, Title, Milestone Dates, Audit Cost Summary, Personnel Assigned/Release Dates, and Personnel Manhours Expended.

(5) As Required Personnel Reporting; used by the Staff Manager to determine training needs, promotional eligibility, education and background, professional organization participation, and performance evaluation. Information included is Name, Assigned Office, Education, Professional Activities Training History (Course Title, Dates Attended), Performance Evaluation, Date of Birth, and Service Computation Date.

(6) Travel Reporting; used by managers to control Temporary Duty Travel, travel costs, and issuances of Blanket Travel Orders.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Active Records are stored on immediate access disk and magnetic tape maintained within the computer center. Inactive records are maintained on magnetic tape within the computer center. Hard copy records are stored in file cabinets under the control of functional users.

Retrievability:

Records are internally stored by employee SSAN and are selectively retrievable by all data elements as specified in the Categories of Records in the System.

Safeguards:

All records reside in a "private library" which is not accessible by any other user. All system files are backed up upon creation and upon any update action. A "Master ID" with unrestricted access to all records in the private library is available only to Main Office MIS Management Personnel. A "Subordinate ID" which has restricted access, only to pertinent records, is used by field offices. Password protection is afforded at the session and file level. All user ID's are protected by separate password validation. Any attempt to circumvent the password validation initiates immediate "log-off". Physical control includes limiting password to only authorized personnel. Master ID is located in a secure environment, within the Main Office, and access to the terminal facility is restricted to MIS Management employees who work within the area. Access to records containing personal data is restricted to those who require the records in the performance of their official duties and to the individual who is the subject of the record (or his authorized representative). Tape files are maintained in an environmentally secure vault area when not in use. Computer Science Corporation has been cleared to process personal data for Government Agencies by General Services Administration on December 11, 1975.

Retention and disposal:

Machine resident records are maintained for 2 years after they become inactive. All inactive records are afforded the same safeguards as active records and are maintained on magnetic tape within the computer center. Machine resident records are destroyed at the end of the 2 year period. Hard copy records are retained until the records are replaced or become obsolete.

System manager and address:

Director, Defense Audit Service, Suite 1200, Commonwealth Building, 1300 Wilson Boulevard, Arlington, Va. 22209, telephone 202-697-9108.

Notification procedure:

Written or personal requests for information should be addressed to the System Manager.

Record access procedures:

Procedures for gaining access by an employee/previous employee to his/her records may be obtained from the System Manager. Written request for information should contain the full name of the employee/past employee and Social Security Account Number. For personal visits, the employee should be able to identify himself/herself with Defense Audit Service Identification Card. Past employees should be able to identify himself/herself with Social Security Card and one other corroborating personal identification.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Official Personnel Folder and other pesonnel documents, activity supervisors, applications and forms completed by the individual.

System exempted from certain provisions of the act:

None.

[FR Doc. 78-12640 Filed 5-8-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

REQUESTS FOR INTERPRETATION FILED WITH THE OFFICE OF GENERAL COUNSEL

Month of April 1978

Notice is hereby given that during the month of April 1978, the Requests

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for Interpretation listed in the Appendix to this notice were filed pursuant to 10 CFR Part 205, Subpart F with the Office of General Counsel, Department of Energy (DOE). Copies of the Requests for Interpretation listed herein are on file in DOE's Public Reading Room, Information Access Office, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested parties may submit written comments on the listed interpretation requests within 30 days of the publication of this notice. Comments should be identified on the outside envelope and on documents submitted with the file number of the interpretation request and all comments should be filed with the Office of General Counsel, Department of Energy, Room 5134, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Attention: Diane Stubbs. Aggrieved parties, as defined in 10 CFR 205.2, will continue to receive actual notice of pending interpretation requests in accordance with the current practice of the Office of General Counsel.

For further information, contact Diane Stubbs, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, 202-566-9070.

WILLIAM S. HEFFELFINGER,
Director of Administration, Department of Energy.

MAY 3, 1978.

APPENDIX.—*List of requests for interpretation received by the Office of General Counsel*

[Month of April 1978]

Date received	Name and location of requestor	File No.
Apr. 4	Chevron U.S.A., Inc., Dudley A. Zinke, Pillsbury, Madison & Sutro, 225 Bush St., P.O. Box 7880, San Francisco, Calif. 94120. Issue: Whether Chevron is required to report as exports for the purposes of the entitlements program domestically refined Bunker C, Navy Special, or No. 4 diesel oils that are sold as marine fuels on voyages departing ports of the Panama Canal Zone.	A-299
Apr. 5	Hawaiian Independent Refinery, Inc., Mario A. Roberti, P.O. Box 3379, Honolulu, Hawaii 96842. Issue: Whether an exchange of crude oil with a foreign buyer requires a domestic refiner to deduct such crude oil from its volume of runs to stills under the entitlement program, § 211.67(d)(2).	A-300
Apr. 14	Henry Petroleum Corp., James C. Henry, 801 Petroleum Bldg., Midland, Tex. 79701. Issue: Does the phrase "consistently and historically applied" as it is used in rulings 1977-1 and 1977-2 apply to a firm's crude oil production activities undertaken subsequent to 1977 for purposes of 10 CFR Pt. 212, subpt. D.	A-301
Apr. 17	Pasco Petroleum Co., Inc., James P. Tierney, Lathrop, Koontz, Righter, Clagett, Parker & Norquist, 1500 Tenmain Center, P.O. Box 1300b, Kansas City, Mo. 64199. Issue: Is the refusal of a prime supplier to provide a wholesale purchaser reseller with product for service stations from a regional terminal contrary to the requirements of §§ 211.12(e), 211.13(c), and 210.62.	A-302
Apr. 18	E. E. Ryall (Texaco consignee), 10th St. and U.S. Highway 1, P.O. Box 729, Vero Beach, Fla. 32900. Issue: Is a consignee servicing retail service stations a wholesale purchaser-reseller of motor gasoline as defined in 10 CFR 211.51.	A-303
Apr. 19	Maclaskey Vacuum Transport, Thomas E. King, 2420 Pershing Rd., Suite 400, Kansas City, Mo. Issue: If a purchaser of crude oil tenders a check not covered by sufficient funds and therefore does not pay the producer on a timely basis for crude oil already supplied, does a reseller's written offer to pay the same price for the crude oil constitute a "lawful price above the price paid by the present purchaser" which terminates the existing supplier/purchaser relationship under 10 CFR 211.63(d)(1)(iii).	A-304
Apr. 24	G. W. Tinnin (Texaco consignee), Richard M. Wiggins, McCorp, Weaver, Wiggins, Cleveland & Raper, P.O. Box 2129, Fayetteville, N.C. 28302. Issue: Is a consignee servicing retail service stations a wholesale purchaser-reseller of motor gasoline as defined in 10 CFR 211.51.	A-305

[FR Doc. 78-12499 Filed 5-8-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

[ERA Docket No. IE-78-3; FERC Docket No. ER-78-145]

ARIZONA PUBLIC SERVICE CO.

Filing

On March 3, 1978, the Arizona Public Service Co. (APS) tendered for filing proposed rate increases in its electric service rate schedules, in connection with the export of electricity to Mexico:

Comision Federal de Electricidad Division Baja, California (Sonoyta).

Compania de Servicios Publicos de Auga Prieta, S.A.

APS originally filed these proposed rate increases with the Federal Energy Regulatory Commission (FERC), on December 22, 1977, as part of a broader application that included purely domestic rates. (FERC docket No. ER-78-145). In an order issued on January 30, 1978, the FERC rejected these particular rate increases on grounds of lack of jurisdiction to approve them.

In support of its filing, APS states that the rates proposed to be charged are the same as those filed with the Federal Energy Regulatory Commission for the city of Wickenburg, Ariz., and that the sales account for only about one-third of 1 percent of the APS gross revenues.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Director, Division of Power Supply and Reliability, Economic Regulatory Administration, 1111 20th Street NW., Room 4070, Washington, D.C. 20545, in accordance with §§ 1.8 and 1.10 of the rules of practice and procedure (18 CFR 1.8, 1.10).

All such petitions and protests should be filed on or before May 15, 1978. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Economic Regulatory Administration and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B-210, 2000 M Street NW., Washington, D.C., and at the Division of Power Supply and Reliability, Room 4070, 1111 20th Street NW., Washington, D.C.

Dated: May 3, 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 78-12500 Filed 5-8-78; 8:45 a.m.]

[3128-01]

[ERA Docket No. IE-77-6; FERC Docket No. ER-78-12]

NEW YORK POWER POOL

Filing

On October 7, 1977, the New York Power Pool (the Pool), consisting of Central Hudson Gas & Electric Corp., Consolidated Edison Co. of New York, Inc., Long Island Lighting Co., New York State Electric & and Gas Corp., Niagara Mohawk Power Corp., Orange & Rockland Utilities, Inc., and Rochester Gas & Electric Corp. tendered for filing[1] an interconnection agreement between the Pool and Ontario Hydro (Hydro), dated April 4, 1977.

The Pool indicates that the proposed agreement provides for the purchase and sale of several classifications of operating capability and energy over electrical interconnections, including emergency and economy transactions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Director, Division of Power Supply and Reliability, Economic Regulatory Administration, 1111 20th Street NW., Room 4070, Washington, D.C. 20545, in accordance with § § 1.8 and 1.10 of the rules of practice and procedure (18 CFR 1.8, 1.10).

All such petitions and protests should be filed on or before May 15, 1978. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Economic Regulatory Administration and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B-210, 2000 M Street NW., Washington, D.C., and at the Division of Power Supply and Reliability, Room 4070, 1111 20th Street NW., Washington, D.C.

Dated: May 3, 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 78-12501 Filed 5-8-78; 8:45 am]

[1] The filing was addressed to the Federal Power Commission, and was received by its successor, the Federal Energy Regulatory Commission, on October 7, 1977. The Commission published its own notice in the FEDERAL REGISTER. Subsequently, pursuant to the Department of Energy Organization Act, including applicable delegations thereunder, the filing was transferred to the Economic Regulatory Administration.

[3128-01]

[ERA Docket No. IE-78-2; FERC Docket No. ER-78-93]

NORTHERN STATES POWER CO.

Filing

On December 5, 1977, Northern States Power Co. (Northern States) tendered for filing[1] supplement No. 1, dated October 11, 1977, to the Manitoba-United States Winnipeg-Grand Forks 230 kV interconnection agreement, dated January 16, 1969, between the Manitoba Hydro-Electric Board and Northern States. Northern States indicates that the supplement No. 1 amends exhibits A and B of the interconnection agreement providing for a tap of the interconnection at the Letellier station in Manitoba.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Director, Division of Power Supply and Reliability, Economic Regulatory Administration, 1111 20th Street NW., Room 4070, Washington, D.C. 20545, in accordance with §§ 1.8 and 1.10 of the rules of practice and procedure (18 CFR 1.8, 1.10).

All such petitions and protests should be filed on or before May 15, 1978. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Economic Regulatory Administration and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B-210, 2000 M Street NW., Washington, D.C. and at the Division of Power Supply and Reliability, Room 4070, 1111 20th Street NW., Washington, D.C.

Dated: May 3, 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 78-12502 Filed 5-8-78; 8:45 am]

[1] The filing was addressed to the Federal Power Commission, and was received by its successor, the Federal Energy Regulatory Commission, on December 5, 1977. The Commission published its own notice in the FEDERAL REGISTER. Subsequently, pursuant to the Department of Energy Organization Act, including applicable delegations thereunder, the filing was transferred to the Economic Regulatory Administration.

[3128-01]

[ERA Docket No. IE-78-4; FPC Docket No. E-6489]

WEST TEXAS UTILITIES

Filing

On March 24, 1978, the West Texas Utilities Co. (WTU) tendered for filing an application for modification of its permit authorizing the exportation of electric energy to Mexico, and a letter agreement between WTU and the Comision Federal de Electricidad, Division Norte, submitted as a supplemental rate schedule amending its export rate schedule No. 17.

Specifically, the applicant requests authorization to increase the amount of electric energy to be exported annually to 24,000,000 kilowatt-hours at a rate not to exceed 3,000 kilowatts. The supplemental rate schedule provides that if the Company's generating plant at Presidio is operated for the sole purpose of providing capacity to supply power and energy to Comision Federal de Electricidad, the operating costs, including fuel, labor, start-up costs, oil and any other out-of-pocket expense will be billed for the energy so supplied from the Presidio plant. The fuel clause adjustment contained in paragraph (a) of article 2 will not be applied to the energy so supplied from the Presidio plant. The sixth paragraph of article 3 of the contract between WTU and the Comision Federal is to be deleted in its entirety.

In support of its filing, WTU states that the present authorized 16,000,000 kilowatt-hours and 2,000 kilowatts are not adequate to take care of the present anticipated load requirements of the Comision Federal de Electricidad. WTU represents that the proposed increased transmission is a small percentage of its total electrical capacity and will not act to impair the sufficiency of electric supply within the United States.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Director, Division of Power Supply and Reliability, Economic Regulatory Administration, 1111 20th Street NW., Room 4070, Washington, D.C. 20545, in accordance with sections 1.8 and 1.10 of the rules of practice and procedure (18 CFR 1.8, 1.10).

All such petitions and protests should be filed on or before May 15, 1978. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Economic Regulatory Administration and will be available upon request for public inspection and copying at the ERA Docket Room, Room B-210, 2000 M Street NW., Washington, D.C., and at the Division of Power Supply and Reliability, Room 4070, 1111 20th Street NW., Washington, D.C.

Dated: May 3, 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 78-12503 Filed 5-8-78; 8:45 am]

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[3128-01]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Amendment to Notices of Intention to Issue Prohibition Orders to Certain Major Fuel Burning Installations

On April 25 and April 27, 1978, the Department of Energy issued Notices of Intention to issue Prohibition Orders to the following Major Fuel Burning Installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-0647	Scott Paper, Co.	Winslow	3	Winslow, Maine.
OCU-0514-1	Martin Marietta, Corp..	Martin Marietta Cement.	1	Atlanta, Ga.
OCU-0514-2	....do	....do	2	Do.
OCU-1112-1	Ash Grove Cement, Co..	Chanute Plant	1	Chanute, Kans.
OCU-1112-2	....do	....do	2	Do.

Notice of the Issuance of these Notices of Intention to issue Prohibition Orders was published in the FEDERAL REGISTER on April 28, 1978 and May 3, 1978 (43 FR 18233-18244 and 19064-19077). The two FEDERAL REGISTER Notices stated in the section entitled "MFBI Prohibition Order Candidate Identification and Selection Methodology" that "DOE has determined that MFBI's to which the following criteria are applicable are appropriately deferred from consideration as Prohibition Order candidates at this time: • • • (e) compliance with a Prohibition Order by the MFBI would result in the use of less than 60,000 tons of coal per year". This statement was in partial error and should have read as follows: "(e) compliance with a Prohibition Order by the MFBI could be expected to result in total fuel use of less than the equivalent of 60,000 tons of coal per year, assuming all coal burned by the MFBI contained an average BTU content of 20 million BTU's per ton." Therefore, the Department of Energy hereby amends the pertinent April 28, 1978 and May 3, 1978 Notices, 43 FR 18233-18244 and 43 FR 19064-19077, to substitute the foregoing revised text in lieu of that previously stated in each Notice of Intention.

Issued in Washington, D.C., May 5, 1978.

DORIS J. DEWTON,
Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-12762 Filed 5-8-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. CP77-104]

COLUMBIA GAS TRANSMISSION CORP.

Petition To Amend

APRIL 27, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

Take notice that on April 11, 1978, Columbia Gas Transmission Corp. (petitioner), P.O. Box 1273, Charleston, W. Va. 25325, filed in docket No. CP77-104 a petition to amend the order of February 3, 1977, issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize additional points of receipt of natural gas on applicant's lines 0-880, 0, FO-1775, and FO-1791 in Cambridge, Valley, Madison, and Wills Townships, Gernsey County, Ohio, for Johns-Manville Sales Corp. (Johns-Manville), an industrial customer of Columbia Gas of Ohio, Inc., and Waterville Gas & Oil Co., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of February 3, 1977, petitioner was authorized to transport natural gas in interstate commerce for Johns-Manville, which gas was to be delivered to applicant at a mutually agreeable point on applicant's line FO-1633 in Gernsey County, Ohio. Applicant states that Johns-Manville has requested it to establish additional points of receipt on applicant's lines 0-880, 0, FO-1775, and FO-1791.

Applicant indicates that it is willing to receive gas at the additional points for Johns-Manville. Applicant states that for all volumes of gas delivered into its line 0-880 and line 0, applicant would make a transportation charge reflecting its average systemwide unit storage and transmission costs, exclusive of company-use and unaccounted-for gas, this being 20.56 cents per Mcf. Applicant further states that for all volumes delivered into its line FO-1633, FO-1775, and FO-1791, Applicant would make a transportation charge reflecting its average systemwide unit gathering, storage, and transmission costs, exclusive of company-use and unaccounted-for gas, this being 23.06 cents per Mcf. Applicant indicates that it would also retain for company-use and unaccounted-for gas a percentage of the total volume of natural gas delivered into its system for the account of Johns-Manville, which percentage is currently 4 percent.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12521 Filed 5-8-78; 8:45 am]

[6740-02]

[Docket No. CP77-465]

COLUMBIA GAS TRANSMISSION CORP. AND NATIONAL FUEL GAS SUPPLY CORP.

Petition To Amend

APRIL 27, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

Take notice that on April 18, 1978, Columbia Gas Transmission Corp. (Columbia), P.O. Box 1273, Charleston, W. Va. 25325, and National Fuel Gas Supply Corp. (National Supply), 10 Lafayette Square, Buffalo, N.Y. 14203 (petitioners), filed in docket No. CP77-465 a petition to amend the order of September 9, 1977 (57 FPC ——) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize petitioners to continue the exchange of natural gas for an extended period (May 1, 1978 through May 31, 1979) and to authorize Columbia to continue to transport the natural gas so exchanged for UGI Corp. (UGI) for the same extended period, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of September 9, 1977, petitioners were authorized inter alia, to exchange natural gas and Columbia was authorized to transport the gas so exchanged from October 1, 1977, through April 30, 1978. It is further indicated that the FPC limited the total volume of gas delivered by Columbia to National Supply for storage for the account of UGI to 2,000,000 Mcf.

It is stated that on February 28, 1978, National Supply filed in Docket No. CP78-209 an application requesting authorization to render underground gas storage service for UGI inter alia for the period April 1, 1978, through March 31, 1979, and that National Supply proposed in said docket to continue for an additional year the limited term storage service which it has provided to UGI and others since the storage year of 1975-1976. Petitioners state that continuation of this service is requested in lieu of the long-term storage service for which authorization was requested in docket No. CP76-492 filed on August 1976, which service has not received Commission authorization. In docket No. CP78-209 National Supply has indicated a top storage capacity for UGI of 2,431,000 Mcf, it is asserted.

Consequently, petitioners request herein the extension from May 1, 1978, through March 31, 1979, of the authorization previously granted to exchange natural gas and for Columbia to transport the gas so exchanged for delivery to UGI. Petitioners state that the maximum volume to be transported hereunder by Columbia for UGI is 2,431,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to particiate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12522 Filed 5-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-325]

FLORIDA POWER & LIGHT CO.

Notice of Filing

APRIL 28, 1978.

Take notice that Florida Power & Light Co. (FP&L), on April 20, 1978, tendered for filing as an initial rate an agreement executed only by it, entitled "Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and City of Homestead." FP&L states that under the agreement, FP&L will transmit power and energy for the city of Homestead (city) as is required by the city in the implementation of its interchange agreements with the Orlando Utilities Commission, Tampa Electric Co., Florida Power Corp., Fort Pierce Utilities Authority and the Utilities Commission of the city of New Smyrna Beach, Fla.

FP&L requests an effective date for this agreement of no later than 30 days after the date of filing. FP&L indicates that copies of the filing were served on the utilities director of the city of Homestead, Fla.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12523 Filed 5-8-78; 8:45 am]

[6740-02]

[Project No. 2634]

GREAT NORTHERN NEKOOSA CORP.

Application for License

APRIL 27, 1978.

Public notice is hereby given that an application for license was filed under the Federal Power Act, 16 U.S.C. §§ 791a-825r, on January 3, 1967, and supplemented on December 16, 1968, February 5, 1971, and February 8, 1971, by Great Northern Paper Co.,

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now known as Great Northern Nekoosa Corp. (correspondence to: Mr. Ronald D. Jones, LeBoeuf, Lamb, Leiby & McRae, 140 Broadway, New York, N. Y. 10005) for the constructed Canada Falls headwater storage project, FERC No. 2634, located on the south branch of the west branch of the Penobscot River in Somerset County, Maine. The Penobscot River is a navigable waterway of the United States.

The existing Canada Falls headwater storage project consists of: (1) a concrete dam about 760 feet long (maximum height about 30 feet), made of a gravity section about 170 feet long, tied to the right abutment by a concrete wing wall about 320 feet long and to the left abutment by a concrete wing wall about 270 feet long; (2) a reservoir with surface area of 2,521 acres at an elevation of 1,235 feet, and usable storage capacity of 23,400 acre-feet at a drawdown of 26 feet; (3) three waste gates 9 by 10 feet and a log sluice gate 14 by 11 feet; (4) a fish passage section 18 feet wide; and (5) a spillway section 87 feet long with 3-foot flashboards.

Any person desiring to be heard or to make protest with reference to said application should, on or before June 30, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

The public should take further notice that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of these proceedings were specifically transferred to the FERC.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12524 Filed 5-8-78; 8:45 am]

[6740-02]

[Project No. 2627]

GREAT NORTHERN NEKOOSA CORP.

Application for License

APRIL 27, 1978.

Public notice is hereby given that an application for license was filed under the Federal Power Act, 16 U.S.C. §§ 791a-825r, on January 3, 1967, and supplemented on August 4, 1967, December 16, 1968, February 5, 1971, and February 8, 1971, by Great Northern Paper Co., Now known as Great Northern Nekoosa Corp. (correspondence to: Mr. Ronald D. Jones, LeBoeuf, Lamb, Leiby & McRae, 140 Broadway, New York, N.Y. 10005) for the constructed Ragged Lake storage project, FERC No. 2637, located on the Ragged Stream, west branch of the Penobscot River in Piscataquis County, Maine. The Penobscot River is a navigable waterway of the United States.

The existing project consists of: (1) a composite dam about 1,230 feet long and about 30 feet high, made of a concrete gravity spillway section about 50 feet long which is tied to the right abutment by an earthfill dike 930 feet long and to the left abutment by a similar dike 250 feet long; (2) a reservoir with surface area of 2,786 acres at an elevation of 1,136 feet, and usable storage capacity of 33,200 acre-feet at a drawdown of 20 feet; and (3) three 8-by 14-foot steel gates at the spillway section.

Any person desiring to be heard or to make protest with reference to said application should, on or before June 30, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

The public should take further notice that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of these proceedings were specifically transferred to the FERC.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12525 Filed 5-8-78; 8:45 am]

[6740-02]

[Project No. 2638]

GREAT NORTHERN NEKOOSA CORP.

Application for License

APRIL 27, 1978.

Public notice is hereby given that an application for license was filed under the Federal Power Act, 16 U.S.C. §§ 791a-825r, on January 3, 1967, and supplemented on August 9, 1967, December 16, 1968, February 5, 1971, and February 8, 1971, by Great Northern Paper Co., now known as Great Northern Nekoosa Corp., (correspondence to: Mr. Ronald D. Jones, LeBoeuf, Lamb, Leiby & McRae, 140 Broadway, New York, N.Y. 10005) for the constructed Seboomook Headwater Storage Project, FERC No. 2638, located on the West Branch of the Penobscot River in Seboomook Township, Somerset County, Maine. The Penobscot River is a navigable waterway of the United States.

The existing Seboomook Headwater Storage Project consists of: (1) a composite dam about 700 feet long (maximum height about 60 feet) made of a concrete gravity section 426 feet long, tied to the abutments by earth dikes; (2) a reservoir with surface area of 6,838 acres at an elevation of 1,072 feet, and usable storage capacity of 157,000 acre-feet at a drawdown of 16 feet; (3) a spillway section with five 20 by 15-foot flood gates and one 20 by 10-foot sluice gate; and (4) four small sluice gates at nonoverflow section.

Any person desiring to be heard or to make protest with reference to said application should, on or before June 30, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

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The public should take further notice that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of these proceedings were specifically transferred to the ERC.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12526 Filed 5-8-78; 8:45 am]

[6740-02]

[Docket No. CP77-560]

KENTUCKY GAS STORAGE CO.

Notice of Amendment to Application

APRIL 27, 1978.

Take notice that on April 20, 1978, Kentucky Gas Storage Co. (Applicant), 100 St. Ann Building, Owensboro, Ky. 43201, filed in Docket No. CP77-560 an amendment to its application filed in said docket for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act, by which amendment Applicant modifies its application by seeking authority to render natural gas storage service to persons and in volumes other than as initially proposed, all as more fully set forth in the amendment of file with the Commission and open to public inspection.

Applicant proposes in the instant proceeding to render a natural gas storage service in the White Plains Field in Hopkins and Muhlenburg Counties, Ky. Applicant states that one of the buyers of its service, The Southern Connecticut Gas Co., has relinquished its entitlement to 450,000 Mcf of storage capacity in the White Plains Field and that Applicant has replaced said buyer with other buyers. Further, Applicant states, Bay State Gas Co., the parent of Bay State Gas Supply, Inc., the original contracting party for 1,625,000 Mcf of storage service, has elected to contract directly with Applicant for this service and to modify the maximum quantity stored to 1,580,000 Mcf.

Applicant now proposes to render service on the following basis:

	Amended maximum storage [1]	Best efforts daily quantity [2]	Amended maximum daily quantity [2]
Bay State Gas Co	1,580.0	13.079	10.463
Chattanooga Gas Co	550.0	5.000	3.642
Colonial Natural Gas Co	200.0	1.818	1.325
Fayetteville Gas System	15.0	0.136	0.099
Knoxville Utilities Board	200.0	1.818	1.325
Lewisburg Gas Dept	20.0	0.182	0.133
Middle Tennessee Natural Gas Utility District	30.0	0.273	0.197
Nashville Gas Co	1,200.0	10.909	7.947
Natural Gas Utility, District of Hawkins County	20.0	0.182	0.133
United Cities Gas Co	400.0	3.636	2.649
Volunteer Natural Gas Co	200.0	1.818	1.325
Subtotal	4,415.0	38.851	29.238
Uncommitted	185.0	1.682	1.225
Total	4,600.0	40.533	30.463

[1] 1,000 Mcf.
[2] Withdrawal, 1,000 Mcf per day.

Applicant states in the instant amendment that its design basis for maximum daily quantity is calculated through division of the maximum quantity stored by 151 days which is said to require up to 3,800 compressor horsepower to deliver 30,463 Mcf of gas on the 151st day of continuous withdrawal from storage. These design conditions are said to enable Applicant to provide substantially higher withdrawal deliverability in the earlier part of the withdrawal season. Under Applicant's proposed tariff its customers are entitled to higher deliverability on a best efforts basis.

In the instant amendment Applicant states that as a result of its modified proposal it does not propose any change in its request for authorization to construct and operate facilities for the development of the White Plains Field as a gas storage facility. Average design withdrawal capacity remains at 30,463 Mcf per day and 4,600,000 Mcf per year. Applicant states further that it is able and willing to proceed with the original design and cost of the project without change in its proposed rates for rendering storage service even though 185,000 Mcf of annual storage capacity are presently uncommitted.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed in the instant docket need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12527 Filed 5-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-324]

MONTAUP ELECTRIC CO.

Proposed Tariff Change

APRIL 28, 1978.

Take notice that Montaup Electric Co. (Montaup) on April 20, 1978, tendered for filing an amended Exhibit A to Supplement No. 8 to Montaup's Rate Schedule FPC No. 36 for service to the Middleboro Municipal Gas and Electric Department (Middleboro). Montaup states that the amendment will, on an annual basis, increase by $14,700 the charge paid by Middleboro for non-firm transmission service over the 115 kV radial line connecting Montaup and Middleboro.

Montaup further states that the existing charge to Middleboro is based on 1976 costs. Montaup indicates that the amended Exhibit A is based on 1977 costs. Montaup has requested a January 1, 1978, effective date for the new rate, and therefore requests waiver of the Commission's notice requirements.

According to Montaup copies of this filing have been served on Middleboro and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Com-

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mission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12529 Filed 5-8-78; 8:45 am]

[6740-02]

[Docket No. CP78-290]

MOUNTAIN FUEL SUPPLY CO.

Application

APRIL 27, 1978.

Take notice that on April 17, 1978, Mountain Fuel Supply Co. (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP78-290 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Mountain Fuel Resources, Inc. (Resources), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to sell natural gas to Resources pursuant to a gas purchase agreement dated February 14, 1977, between the two companies. Applicant states that it has developed a supply of natural gas in the Lower Horse Draw area of Western Colorado, and that this field is remote from its own gathering and transmission facilities, but is in close proximity to those of Resources. Pursuant to the gas purchase agreement dated February 14, 1977, Applicant would sell to Resources the gas which may be produced from Applicant's interests in acreage located in the Lower Horse Draw area of Blanco County, Colo., at a price which is the current national rate as established by Opinion 770-A for all gas sold.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12528 Filed 5-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-320]

PUBLIC SERVICE CO. OF INDIANA, INC.

Proposed Tariff Change

APRIL 28, 1978.

Take notice that Public Service Co. of Indiana, Inc. on April 19, 1978, tendered for filing pursuant to the Interconnection Agreement between Public Service Co. of Indiana, Inc., Southern Indiana Gas and Electric Co., United States of America and Indiana Statewide Rural Electric Cooperative, Inc. a Third Supplemental Agreement proposed to become effective June 1, 1978.

The Applicant indicates that said Supplemental Agreement provides for an increase in the demand charge for Short Term Power from 30 cents per kilowatt per week to 60 cents per kilowatt per week, for an increase in the rate for Wheeling Services from 1 mill per kilowatt hour to 2 mills per kilowatt hour, and for an increase in the facility charge for joint use substations from 15 cents per kilowatt to 25 cents per kilowatt.

Copies of the filing were served upon Southern Indiana Gas and Electric Co., Indiana Statewide Rural Electric Cooperative, Inc. and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12530 Filed 5-8-78; 8:45 am]

6740-02]

[Docket No. RP71-11, (PGA78-4)]

TENNESSEE NATURAL GAS LINES, INC.

PGA Rate Increase

APRIL 28, 1978.

Take notice that, on April 24, 1978, Tennessee Natural Gas Lines, Inc. ("TNGL") tendered for filing a rate change pursuant to the purchased gas cost adjustment ("PGA") provisions of its tariff, consisting of the following tariff sheets:

Twenty-Sixth Rivised Sheet No. PGA-1.
Twenty-First Revised Sheet No. PGA-2.

TNGL states that the sole purpose of said PGA filing is to reflect in its rates the changed rates of its sole supplier, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., ("TGP"), which will become effective on June 1, 1978. The change in TGP's rates results from the reflection of a Gas Research Institute ("GRI") Rate Adjustment thereunder. TNGL requests the same effective date, June 1, 1978, for the tariff sheets filed by it.

TNGL states that copies of the filing were served upon its jurisdictional customer and the interested state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL
Acting Secretary.

[FR Doc. 78-12531 Filed 5-8-78; 8:45 am]

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[6740-02]

[Docket No. RP77-139]

TEXAS GAS TRANSMISSION CORP.

Settlement Conference

APRIL 27, 1978.

Take notice that on May 16, 1978, at 10 a.m. an informal conference will be convened of all interested persons with a view towards settling the issues in the captioned proceeding. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties will be expected to come fully prepared to discuss the merits of all issues arising in this proceeding and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12532 Filed 5-8-78; 8:45 am]

[6740-02]

[Docket No. CP78-296]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

APRIL 27, 1978.

Take notice that on April 18, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-296 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 21,500 dekatherms (dt) equivalent of natural gas per day for United Gas Pipe Line Co. (United) and authorizing the construction and operation of certain facilities to redeliver such gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport the subject gas for United pursuant to a transportation agreement dated March 15, 1978, between the two companies. Applicant indicates that it would (1) receive up to 18,000 dt of gas per day at the point of interconnection between United and Applicant at the outlet side of Mobil Oil Corp.'s Cameron Plant, Cameron Parish, La. (Cameron), and redeliver equivalent quantities to an existing point of interconnection between Applicant's and United's systems located in Victoria County, Tex. (Victoria), and at an existing point of interconnection between the systems of Applicant and Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Tennessee), located near Starks in Calcasieu Parish, La. (Starks), where United has constructed measuring and compression facilities, and would (2) receive up to 3,500 dt of gas per day at the existing point of interconnection between Applicant and United at Applicant's Compression Station 062, Terrebonne Parish, La. (Gibson), and redeliver equivalent quantities to the area of Township 12 South, Range 19 East on the west side of the Mississippi River in St. John the Baptist Parish, La. (St. John).

The application states that all such transportation would be on an interruptible basis initially, for which United would pay Applicant an initial charge of 3.5 cents per dt transported. However, at such time as Applicant constructs and places in service compression and loop facilities on its Southwest Louisiana Gathering System which are pending certification in Docket No. CP78-17 and which are required to transport United's gas effectively from Cameron to Victoria and Starks, that transportation would be converted to firm service, for which United would pay Applicant initially a monthly demand charge of $23,040, it is stated. Applicant indicates that transportation from Gibson to St. John would remain on an interruptible basis unless United elects to convert to firm service.

Applicant states that in order to redeliver gas to or for the account of United at St. John, it will install and operate a 2-inch side tap valve assembly on its 10-inch Lucy Lateral at that location, and that United would reimburse Applicant for the cost of such facility, estimated at $9,500. An application of United to construct and operate metering and regulating facilities at St. John is pending in Docket No. CP78-167, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12533 Filed 5-8-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

AM BROADCAST SERVICE WORKING GROUP 1079 WORLD ADMINISTRATIVE RADIO CONFERENCE

Schedule of Meeting

MAY 3, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of the following meeting for May 1978.

WARC-79 AM BROADCASTING SERVICE GROUP

Wednesday, May 24, 1978, 10 a.m. to 12:30 p.m. Room 8210, 2025 M Street NW., Washington, D.C.

Chairperson: D. C. Everist.
FCC Liaison: Dennis Williams.

The Agenda for the meeting is as follows:

1. Call to order by the Chairperson
2. Approval of Minutes of the previous meeting
3. Review and prepare comments on 8th Notice of the Inquiry, Docket 20271
4. Setting next meeting date and adjournment.

The above meeting is open to broadcast industry representatives and interested members of the Public.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-12539 Filed 5-8-78; 8:45 am]

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[6712-01]

[Docket No. 20667; FCC 78-270]

DOMESTIC PRIVATE LINE SERVICE

Preferential Rates for Press Use; Memorandum Opinion and Order

Adopted: April 20, 1978.

Released: May 5, 1978.

In the matter of preferential rates for press use of Domestic Private Line Service.

BACKGROUND

1. Recently, we denied petitions to suspend a proposed revision of AT&T's private line tariff (Tariff F.C.C. No. 260) eliminating multipoint use of Series 5000, TELPAK end links. See *TELPAK End Link Revision*, F.C.C. 78-35, released January 27, 1978. The newswire service petitioners in that matter were extensive users of multipoint voice grade, private line circuits available under the then effective TELPAK end link tariff provision. As a result of the tariff change, the newswire services can no longer obtain AT&T private line service extending individual TELPAK channels to multiple points under the Series 5000 tariff, but must purchase equivalent AT&T extension circuits under AT&T's Series 2000/3000 MPL tariff. In their suspension petitions the newswire services alleged that the applicability of MPL rates, in lieu of lower TELPAK end link rates, would substantially increase total charges for identical multipoint service, and therefore would impair the dissemination of news, particularly in hinterland regions. See *TELPAK End Link Revision*, supra at para. 4. While we did not suspend the TELPAK end link tariff revision, which substantially eliminated an unlawful discrimination vis a vis Series 2000/3000 rates, solely on the basis of a consequent increase in customer charges, we indicated in our Order that we were reactivating Docket No. 20667 to assess the need for preferential press rates for private line services. We stated that a procedural order refining the issues we wish addressed at hearing and providing further guidance to the Administrative Law Judge would follow. See *TELPAK End Link Revision supra* at fn. 4.

2. In 1975, we instituted Docket No. 20667, 56 FCC 2d 796 (*Designation Order*), in response to similar economic hardship arguments by the newswire services and their subscribers in the Docket No. 19919 investigation of AT&T's revised rate structure (Hi-Lo tariff) for domestic voice grade private line service (Series 2000/3000 of the AT&T Tariff FCC No. 260). See *Hi-Lo Interim Decision*, 55 FCC 2d 224 (1975) *Memorandum Opinion and Order* (*Hi-Lo Decision*) 58 FCC 2d 362 (1976). Claiming that the applicability of Hi-Lo rates would cause many small subscribers to cancel newswire service due to increased charges, these parties had asked the Commission to retain the TELPAK multipoint end link exception, which permitted newswire services to avoid the impact of Hi-Lo rates, or to prescribe retention of these rates as a separate class of press service. However, the Commission found in the Hi-Lo Interim Decision that Series 5000, TELPAK end links, as utilized by the newswire services, and Series 2000/3000 service were like communications service under 202(a) of the Act and that the then existing rate differential had not been justified. Noting that the record did not support a finding that nondiscriminatory rate treatment would impair the dissemination of news, the Commission in the "Hi-Lo Interim Decision" ordered AT&T to file a revised tariff removing the unlawful discrimination and authorized the Docket No. 20667 proceeding.[1a]

3. We stated in our Docket No. 20667 *Designation Order* that we would investigate the advisability of preferential press rates for "all" domestic private line service. We defined the term "press" as associations, services, and other entities whose principal business is the collection and dissemination of general news for the public at large. The term "general news" was defined as an account of current events, public announcements; information relating to finance, science, commerce, religion, civic or public organizations and all information of general public interest. In accordance with *Copley Press, Inc. v. FCC*, 444 F2d 984 (D.C. Cir. 1971), we placed the burden of proof in this proceeding on the parties advocating preferential press rates, as they are in possession of the relevant data.

4. The *Designation Order* limited the investigation to the following issues:

(a) The extent, if any, to which AT&T's rates in its Tariff FCC No. 260, which will be revised pursuant to paragraph 79 of the Hi-Lo decision, for domestic private line voice grade service, as utilized by the press will impair the widespread dissemination of news;

(b) The extent to which any existing non-preferential rates for private line service as utilized by the press impair the widespread dissemination of news;

(c) Whether, in light of the evidence adduced on the foregoing issues, preferential press rates are just and reasonable within the meaning of section 201(b) of the Communications Act of 1934, as amended, or whether they are unjustly discriminatory within the meaning of section 202(a) of such Act;

(d) Whether in light of the findings on issues (a) through (c) the Commission should prescribe maximum rates to be applied to press users of domestic voice grade private line services, and if so, what rates should be prescribed.[2]

5. Following a prehearing conference in Docket No. 20667, several of the newswire service parties petitioned for modification of designated issue (a) to take into account the *Hi-Lo Decision* finding that Hi-Lo rates were unlawful and the then impendent filing of revised Series 2000/3000 rates. Rather than rule on the merits of the petition, we determined that due to the occurrence of supervening events, such as the suspension and investigation of MPL rates in Docket No. 20814, supra., we would temporarily hold the proceeding in abeyance until Docket No. 18128 had been decided and greater stability achieved in the area of private line rate levels and rate structures. See 60 FCC 2d 638 (1976). We stated in our *TELPAK End Link Revision* Order that we have reevaluated this deferral decision in light of our Docket No. 18128 Decision, AT&T's private line rate filings pursuant to our Docket No. 18128 Decision, and the allegations of economic harm by petitioners opposing revision of the TELPAK end link tariff provision, and are therefore reactivating Docket No. 20667.

DISCUSSION

6. Although we are now reopening Docket No. 20667, many issues remain unresolved concerning the lawfulness of private line rate levels and rate structures provided by AT&T and other carriers. The array of competing communication services and sources also is unlikely to be static over time. The ultimate dispositions of the Docket No. 20814 *MPL* hearing and AT&T's Series 5000 (TELPAK) service[3] as well as other changes in rates, technologies, and service offerings by AT&T and other carriers, will undoubtedly influence the communications expenses of the newswire services, and may or may not affect the ability of various news sources to disseminate news.[4] Consequently, at this time there appears to be no way to determine with certainty the long range effects of non-preferential press rates upon the availability of news information in different parts of the country. Given this dynamic, evolving state of private line communications, we believe our investigation should not look toward the establishment of a general principle or policy that the public interest requires separate or maximum press rates on a permanent basis for all private line communication services. Perhaps when more certainty exists with respect to the long term course of competitive and technological forces, a general inquiry into any singularities of press private line use which might justify treating this class of users differently from other users may be appropriate.[5]

7. As additional support for our decision to narrow the focus on this investigation, we note that the petitioners' allegations of news curtailment in the "Hi-Lo" and TELPAK end link proceedings came specifically in response to the anticipated tariff change eliminating multipoint use of TELPAK end links, and the consequent cost increases to newswire services, and presumably, to their subscribers. These parties claimed they would experience immediate, staggering increases, which could not be absorbed, but would result in the cancellation of numerous subscriptions. If the parties seeking preferential press rates can substantiate these allegations and otherwise meet their burden of proof as set forth below, we would better serve the public interest by concentrating on these specific circumstances, with the likelihood of expeditious results, instead of presently pursuing an investigation which might encompass numerous existing private line rates and services, as was originally contemplated. See para. 4, supra, issue (b). This is particularly true in light of the prevailing uncertainties in the private line communications field, discussed above.

8. We shall therefore reopen the proceeding for the specific purpose of determining whether the recent TELPAK end link tariff revision and the possible termination of other Series 5000 (TELPAK) service will have a significant, adverse effect upon the dissemination of news. We expect that the investigation of these narrow issues can be concluded within a reasonably short time, and remedial action taken if warranted. We shall defer consideration of the more general issues raised by the Designation Order pending futher Commission Order. Thus, this present investigation will be limited to the following issues:

(a) The extent, if any, to which AT&T's revision of its Tariff FCC No. 260, eliminating multipoint use of Series 5000, TELPAK end links, effective January 23, 1978 and the possible termination of AT&T Series 5000 (TELPAK) service, and the consequent applicability of other private line rates and services as they may be revised, will result in an impairment of the widespread dissemination of news; and

(b) Whether in light of the evidence adduced on the foregoing issue, the Commission should authorize or prescribe such reasonable, separate press rates as are necessary to restore the ability of the press generally to accomplish the widespread dissemination of news, and if so, what rates should be prescribed or authorized for what time periods?

9. The newswire services assert they will experience the full impact of AT&T Series 2000/3000 MPL rates as a result of the elimination of TELPAK end link multipoint service.[6] We anticipate therefore that these parties will analyze the effects of the current MPL schedule upon their internal business operations in an effort to show that news dissemination will be impaired. Their presentations should, of course, take into account any relevant revisions of AT&T Series 2000/3000 schedules during the course of this investigation. It also appears that in the event AT&T Series 5000 (TELPAK) service is terminated, the newswire services may further increase their reliance on AT&T Series 2000/3000 service. The parties may wish to demonstrate the implications of such changes, by providing an additional analysis in which the demise of TELPAK is assumed.[7]

10. This inquiry will give parties an opportunity to show the existence of circumstances which may justify according press users lower rates than are available generally. The Communications Act clearly permits differential rate treatment of certain user classes, provided that the charges and classifications are just, reasonable, and not unduly prejudicial under Sections 201(b) and 202(a). Although rates and rate relationships usually are judged on the basis of their conformance to the underlying costs of providing the particular service, we recognize that other public policy considerations may

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[1] See 41 FR 1625, January 9, 1976.

[1a] The Hi-Lo Decision affirmed the TELPAK end link discrimination finding in the "Hi-Lo Interim Decision" and additionally found the Hi-Lo tariff in violation of Sections 201(b) and 202(a) of the Act. AT&T subsequently replaced Series 2000/3000 Hi-Lo rates with the MPL schedule, which is presently under investigation in Docket No. 20814. See "AT&T (MPL)" 59 FCC 2d 428 (1976). MPL rates became effective following the expiration of the suspension period. Thus MPL, rather than Hi-Lo rates, were the applicable rates for Series 2000/3000 service when the TELPAK end link tariff revision became effective on January 23, 1978. An earlier TELPAK end link tariff revision, filed purportedly in compliance with our "Hi-Lo Interim Decision" Order, was deferred by AT&T when the U.S. Court of Appeals for the District of Columbia stayed that Order in part pending judicial review. See "AT&T Transmittal No. 12443", 56 FCC 2d 727 (1975). Following the affirmance of the "Hi-Lo Interim Decision" Order in *"Commodity News Services v. FCC,"* No. 75-2057 (D.C. Cir.), entered August 5, 1977, the identical revision was refiled by AT&T and allowed to go into effect in our "TELPAK End Link Revision" Order, supra.

[2] We note an inconsistency between the language of issue (d), which limits any prescription in this proceeding to AT&T's "voice grade" private line services, and the Commission's earlier stated intention to consider press use of "all" private line services in this inquiry. This inconsistency is reconciled below in paragraph 8.

[3] By order of the U.S. Court of Appeals for the District of Columbia in Case No. 77-1251 et al, entered July 21, 1977, the termination of TELPAK has been stayed pending further action by the court. See 64 FCC 2d 959 (1977).

[4] For example, we note a recent resolution of the UPI Newspaper Advisory Board calling for the development and approval of one-way receive only communications facilities and tariffs of the type required for delivery of news to America's newspaper and media outlets at fair and reasonable rates. In response to Common Carrier Bureau inquiries, AT&T has stated that it is presently studying the feasibility of a one-way multipoint communications system, and Western Union has described its current development and testing program involving the use of domestic satellites and small aperture receive only earth stations for the provisions of services designed to meet the specific needs of press associations and other customers with similar one-way communications requirements. See UPI letter to the Chairman, November 2, 1977; Western Union letter to the Chief, Tariff Division, December 12, 1977; AT&T letter to the Chief, Tariff Division, December 13, 1977. Moreover, Western Union has filed in connection with its establishment of Low Speed Channel Service under Transmittal No. 7329, dated October 14, 1977, a broadcast, one-way channel service for transmission speeds up to 300 baud. This service offering, which became effective on March 10, 1978, may prove a viable alternative in meeting the stated requirements of press users.

[5] We have had occasion to address virtually identical issues in the past in our Docket No. 15094 Decision, 24 FCC 2d 565 (1970), aff'd *Copley Press Inc. v. FCC*, 444 F2d 984 (D.C. Cir., 1971). There the Commission investigated whether current AT&T and Western Union charges and classifications generaly applicable to users of private line telegraph, telephotograph, and any other private line services used by the press, tended to impair the widespread dissemination of news. From the evidentiary record developed, the Commission concluded that application of these rates to press users would not diminish, limit, or impair the widespread dissemination of news, and consequently, that no basis existed for prescribing or authorizing a specific tariff classification for press users. The Commission pointed out that in the four-year period following the inception of that proceeding in 1963, the communications facilities available for press use and the rates applicable thereto had changed to such an extent that the record made at the outset had been completely outdated, and that subsequent technological change was likely to occur at a similar rate.

[6] See, e.g., Petitions to Suspend AT&T Transmittal No. 12841: United Press International, Inc., p. 4; Associated Press, p. 5; Commodity News Services, Inc., p. 3.

[7] AT&T has previously filed alternate Series 2000/3000 rates intended, according to AT&T, to mitigate some of the customer impact resulting from the elimination of TELPAK service. See 65 FCC 2d 295 (1977). These proposed rates have been withdrawn by AT&T pending further court action on the demise of TELPAK. See fn. 3, supra. Supplement No. 1 to Tariff FCC No. 260, 64 FCC 2d 959 (1977).

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in some instances be determinative of a rate's reasonableness. However, any exception from cost-based rates implies that the favored users are to be subsidized by users of other services or other users of the same services. Therefore, the burden of demonstrating an overriding public interest is necessarily heavy, and speculative or inconclusive evidence would not justify a departure from established policy objectives.

11. The parties seeking preferential rates might only partially satisfy their burden of proof by showing through reliable studies that communications cost increases, if passed on to subscribers, would result in a substantial number of service cancellations. These parties should also demonstrate that increased private line charges effectively eliminate newswire service incentive, economic or otherwise, to retain present customers, i.e., that newswire services cannot ameliorate the impact of MPL rates on subscribers by adjusting their own internal rate structures, absorbing cost increases, or operating irrespective of profit where incentives exist to maintain network size, such as for the convenience of an affiliated organization.[8] Additionally, the parties should establish that increases due to the applicability of AT&T MPL rates cannot be avoided, i.e., that affordable communications services, which can be integrated into newswire systems and used to provide subscribers with satisfactory service, are not available from competing service offerings, carriers, or technologies.[9]

12. Newswire services, as businesses, seemingly are in no different a position than going concerns in other industries whose economic posture may be extremely sensitive to changes in the cost of meeting communications requirements and who might also assert the right to preferential rate treatment on the basis that they perform some public interest function. The public interest considerations which prompted us to institute this investigation relate to our concern that appropriate vehicles exist for the dissemination of news, rather than a desire to ensure the profitability of individual organizations whose customers can be served equally well by some other news source. Whereas in our discussion above we emphasized the burden on the newswire services of showing that they could no longer accommodate their subscribers, whether through alteration of their own business practices or reliance on other communications services and sources we think the primary focus of this investigation should be on the needs and alternatives of the subscribers themselves and other news recipients. Therefore, we shall require as justification for preferential press rates a showing that as a result of these tariff revisions a substantial number of newswire service subscribers or other news recipients can no longer obtain adequate news reporting from either the newswire services or other sources at reasonable economic cost.[10] Only when circumstances affecting the news services pose a threat to the continuing availability of news in various parts of the country may the public interest require separate or maximum rates for press users. Finally, in the event some impairment of news dissemination were established, we would have to weigh the benefits which may derive from preferential press rates against the corresponding burden on other communications ratepayers due to subsidization, prior to any authorization or prescription.

13. *Accordingly, it is ordered,* That Docket No. 20667 is hereby reactivated for the purpose of resolving the issues specified in accordance with the directives stated herein, and the procedures designated in our "Designation Order," 56 FCC 2d 796 (1975).

14. *It is further ordered,* That all parties to Docket No. 20667 and other entities previously filing notices shall indicate their intention to participate in this proceeding by filing a notice of intention to appear and participate within 20 days of the release date of this Order, and any other carrier, user of press facilities and interested person shall have leave to intervene upon meeting this same filing requirement.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-12536 Filed 5-8-78; 8:45 am]

[8] We note our finding in the *Docket No. 10594 Decision,* supra that the newswire service parties in that proceeding other than AP and UPI were owned by publishing companies which maintained the news services, despite operations at a loss in some instances, because certain benefits and advantages accrued to the corporate parents. We also determined therein that in order to properly assess the need for preferential press rates we should view newswire service communications costs in relation to the overall corporate budget.

[9] Our primary reason for characterizing the press parties' burden of proof is to guide the presiding Judge in building an appropriate evidentiary record for resolution of the issues in this investigation. Our statements should not be regarded as a definitive pronouncement of the legal standards against which we shall ultimately judge the need for preferential press rates.

[10] We note that the bare fact that cost increases cause subscription cancellations might indicate no more than that cancelling subscribers of newswire services have alternative news sources which can satisfy their information needs.

[6712-01]

[Docket Nos. 20930, 20932; File Nos. BPH-9318, BPH-9405; FCC 78R-35]

J. A. BAXTER, JR., ET AL

Memorandum Opinion and Order; Enlarging Issues

Adopted: April 28, 1978.

Released: May 3, 1978.

By the Review Board: Kessler, Zias and Ohlbaum. Board Member Kessler dissenting with statement.

In re applications of J. A. Baxter, Jr., Gordon L. Bostic and Gerald Wayne Hunt d.b.a. Madison County Broadcasting, Jackson, Tenn., Docket No. 20930, File No. BPH-9318; Community Service Broadcasting, Inc., Jackson, Tenn., Docket No. 20932, File No. BPH-9405; for contruction permits.

1. In this comparative proceeding between competing applicants for a construction permit for a new FM broadcast station in Jackson, Tenn., the losing party, Community Service Broadcasting, Inc. (Community), does not challenge the comparative treatment given to it and its competitor Madison County Broadcasting (Madison County) in the Initial Decision released January 30, 1978 (FCC 78D-4), but rather challenges the refusal by the Administrative Law Judge in a Memorandum Opinion and Order released October 17, 1977 (FCC 77M-1765) to reopen the record and add additional issues. Community and a former third party in the proceeding, Charles C. Allen (Allen), jointly asked to reopen the record and requested issues going to the character qualifications of Madison County, primarily upon the basis of an affidavit by Allen relating to conversations between Allen, and J. A. Baxter, Jr. and Gerald Hunt, principals of Madison County, in which Baxter and Hunt were alleged to have told Allen that if he were willing to drop out of the hearing in return for reimburement of his expenses by Madison County, the full amount of the reimbursement could be kept from the Commission.[1] The Administrative Law Judge denied the petitions to reopen the record and to enlarge the issues, which were supported by the Broadcast Bureau. Upon the appeal of Community,[2] which is now opposed by the Broadcast Bureau, we reverse and remand for further proceedings.

2. While the relevant affidavits of Allen, Hunt, and Baxter recite other details of what appear to have been additional negotiations by the parties, the essential charge by Allen relates to a dinner meeting between himself, Baxter and Hunt, and is contained in the following two paragraphs of the Allen affidavit:

> At that point I asked if they would consider letting me reimburse them for expenses and Baxter said that Mr. Bostic would not agree to that. I asked if we could consider a merger between Allen and Madison and he said Bostic would not agree to that either saying "Gordon also told us not to make any promises". He said he and Hunt were authorized to negotiate for Madison and I asked if they were willing to reimburse me for my expenses. They said that they might do that. I asked them to tell me how they would do it, and how to best get the situation resolved. Baxter then began to outline a plan saying "there is one way to do this". Baxter said "Let's say for example that your expenses are six thousand dollars • • • all you do is send in expenses for a thousand dollars and sometime later, maybe six months later, or whenever we can, we give you the rest." Baxter continued "you get the commission to approve the thousand and we give you the rest later" (at this point Baxter gestured with his hand under the table in a cupped fashion). I said that I did not understand what he wanted me to do, that my expenses are not six thousand dollars but eighteen thousand dollars, at which point Hunt said "Charley you don't understand, that is just an example • • • six thousand is just a figure we are using". I then asked to go to my car and get my briefcase which contained a list of expenses at which point I rose and left the room.
>
> Upon returning to the dining area before sitting down I asked them if I did not have to report the five thousand to the commission and the IRS. Baxter said "well if you are going to report it, its all off." Hunt immediately said "yeah, its all off if you are going to report it". I then told them that I would have to report it to both the commission and the IRS. I then sat down and said "its wrong". At that point I still did not know why they wanted to reimburse me in that manner. Baxter said "its done all the time, that is the way that it is done". Hunt said "I'll tell you what, you are going to learn that you have to do a lot of things, you are now in the retail business, you are going to have to do a lot of things to keep from paying taxes". I said "fellas but can't we do this legally". Baxter said "its done all the time". Hunt said "yeah all the time". Baxter said "everybody does it, most applications are settled this way, if you don't the IRS will get all your profit in taxes". Again I said "I don't want to do it that way" Baxter said "well if you don't want to do it that way • • • ."

The opposing affidavits of Baxter and Hunt deny that any offer was made to Allen that Madison County would join with him in withholding from the Commission or the Internal Revenue Service the actual amount of any reimbursement to be given Allen.

3. We hold that the Allen affidavit raises a substantial question of whether Baxter and Hunt proposed to Allen that Madison County would join with him in deceiving the Commission and the Internal Revenue Service, that such conduct, if it occurred, calls into question Madison County's basic qualifications, and that the conflict in the affidavits can only properly be resolved upon a hearing record affording cross examination by counsel and observation of the witnesses by the Judge. We are reluctant to reopen the proceeding at this stage, and we recognize that there is no certainty that an evidentiary hearing will produce a definitive resolution. Nevertheless, such a hearing is the only method we have of attempting to resolve the serious question presented here.

4. We note first, as did the Administrative Law Judge, that the petition to enlarge was late, since the alleged conversation took place on June 6, 1977 and the petition was not filed until July 13, 1977. Section 1.229 of the Commission's rules, 47 CFR 1.229 requires that motions for modification of issues based upon new facts be filed within fifteen days after the facts are discovered by the moving party. However, the rule also provides that late-filed motions may be considered on their merits if "initial examination of the motion demonstrates that it raises a question of probable decisional significance and such substantial public interest importance as to warrant consideration in spite of its untimely filing." The motion in this case meets that test. It is also of some significance that the motion was filed approximately six months prior to the release of an Initial Decision.

5. In holding that the motion before him did not meet the standard of § 1.229, the Judge noted initially that there was no allegation that Madison County had offered to reimburse Allen in excess of his legitimate expenses in order to procure his withdrawal from the proceeding. The Judge did not attempt to explain the relevance of this fact, and we see none. The Broadcast Bureau suggests that in the absence of an offer of excessive reimbursement, there was no motive for the Madison County principals to make the offer alleged by Allen, and that the absence of motive should be given substantial weight in determining whether the alleged offer was actually made. However, an offer to help Allen conceal the full amount of reimbursement could have the same purpose as an offer of excessive reimbursement, i.e., to induce Allen to withdraw from the proceeding, albeit by offering him a possible tax benefit rather than a directly increased payment.[3]

6. The Judge also said that Allen's affidavit repeatedly recites that Allen did not understand why Baxter and Hunt would want to reimburse him in the manner alleged and that he did not understand what they wanted him to do. But Allen's failure immediately to understand the import of the suggestion, a failure his affidavit acknowledges, does not indicate a lack of capacity to hear and remember what was said to him.

7. More significant to the Judge was the fact that on June 20, 1977, two weeks after the allegedly improper offer was made, the Madison principals, by Allen's own account, offered to reimburse him for his expenses in the proper manner. The Judge therefore concluded that even if there was initially some impropriety in the reimbursement offer, it was quickly rectified; for this reason, and because (as noted above) there was no allegation of an offer of excessive reimbursement, the Judge concluded that the allegations raised by Allen, even if accepted at face value, did not raise a matter of probable decisional significance and substantial public interest importance warranting consideration of the late pleading. The Broadcast Bureau now joins the Judge in asserting that a hearing is not warranted because, even if an improper offer was made by Baxter and Hunt, the impropriety was never acted upon and was short-lived. We cannot accept this evaluation of the public interest in the conduct of broadcast applicants.

8. First of all, such reliance upon a subsequent withdrawal of an improper proposition fails to take account of the consideration that if the offer had been accepted when made, the full intended harm would have taken place. It also fails to recognize that an attempt to negotiate an illegal agreement seriously reflects upon character whether or not the offer is accepted and the agreement comes to fruition. We have previously rejected the contention that a short-lived improper proposal is not to be taken seriously. *James C. Sliger,* — FCC 2d —, 41 RR 2d 1541 (1977).[4] We reject it again. Finally, in taking a loss under section 165 of the Internal Revenue Code, Allen could have claimed not to have been reimbursed by Madison County for the full amount of his expenses in attempting to obtain a license. It is also conceivable, in determining whether Madison County could have had any motive for the alleged improper offer, that it had no intention, once Allen was inveigled into the scheme, of giving him the full agreed upon (but undisclosed) amount. He would then have been in no position to make a public complaint. We need not resolve these possibilities. Their existence refutes the contention that there could be no motive.

[1] The moving parties, Allen and Community, also submitted an affidavit by James D. Glassman, a principal of Community, in which he gave his version of what Allen allegedly told him of the offer made by Baxter and Hunt.

[2] Allen has since dismissed his application without reimbursement. The appeal by Community was filed on February 28, 1978. Madison County and the Broadcast Bureau filed opposing pleadings on March 15, 1978, and Community replied on March 29, 1978. Oral argument was held on April 26, 1978.

[3] Thus, in taking a loss under section 165 of the Internal Revenue Code, Allen could have claimed not to have been reimbursed by Madison County for the full amount of

[4] The Broadcast Bureau and Madison County also mistakenly rely for support upon our statement in *Sliger* that "allegations of mere intent to engage in misconduct are not sufficient to warrant the addition of issues, • • •" *Sliger* involved an alleged threat to file a competing application

Footnotes continued on next page

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nally, as Madison County and the Broadcast Bureau urge, it is true that not every conflict in affidavits necessitates an evidentiary hearing, but a conflict on material and significant matters does necessitate a hearing, and it is such a conflict which is presented here. In our view the affidavits are plainly in conflict, although that is not determinative. What is determinative is the nature of the allegations in the Allen affidavit, and we are at a loss to see how the Bureau can conclude that nothing more was involved than a proposal for installment payments, in light of Allen's allegation that Baxter told him "you get the Commission to approve the thousand and we give you the rest later."[5] The issues raised must be explored in the evidentiary hearing process, rather than being summarily disposed of upon the affidavits.

9. *Accordingly, it is ordered,* That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether principals of Madison County Broadcasting proposed to Charles C. Allen a reimbursement of Allen's expenses which would not be fully and accurately reported to the Commission or the Internal Revenue Service and, if so, to determine the effect upon Madison County Broadcasting's basic or comparative qualifications to receive a broadcast station construction permit.

10. *It is further ordered,* That the Initial Decision released herein on January 30, 1978 IS VACATED and this matter is remanded for further proceedings in accordance with this opinion.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Footnotes continued from last page

against a party's AM renewal application unless that party withdrew another application it had filed for an FM station. The Board said that while mere intent to engage in misconduct would not warrant an issue, it was alleged that the intent had developed into an actual threat. The situation here is similar. We are not adding an issue on the basis of Madison County's mental state, but rather upon the basis of the applicant's alleged conduct.

[5] It need hardly be said that a holding in some other case, e.g., *RKO General, Inc.*, 25 FCC 2d 633, 19 RR 2d 1079 (Rev. Bd. 1970), that counteraffidavits dispelled all doubts in that case, cannot be authority for the same proposition in the context of a different factual situation in this case. And, in *Radio Augusta, Inc.*, 16 FCC 2d 604, 15 RR 2d 765 (1969), the Commission declined to add an issue where there was a hearsay report of unreported consideration on the sale of a station, because the report was not only denied by the person alleged to have told the informant about it, but also by other persons with knowledge of the facts, and where, in addition, no apparent motive could be seen for not reporting the consideration accurately.

DISSENTING OPINION OF BOARD MEMBER SYLVIA D. KESSLER

The Board's remand here is but another example of the new permissiveness of allowing exploitation of the hearing process when there is no reasonable likelihood that it will serve a useful purpose, contrary to the *Edgefield-saluda* doctrine. See, for example, *J. B. Broadcasting of Baltimore, Ltd.*, FCC 77-852, — FCC 2d —, released December 28, 1977. See also the well analyzed and well reasoned position of the Broadcast Bureau detailed in its opposition to exceptions in the instant case and in its counsel's oral argument before the Board.

[FR Doc. 78-12537 Filed 5-8-78; 8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

[RTCM SC 69]

FCC WARC-79 ADVISORY COMMITTEE FOR MARITIME MOBILE SERVICE, 15, MEETING

COMSAT Building, 950 L'Enfant Plaza SW., Washington, D.C., COMSAT Auditorium, 9:30 a.m. to 12:30 p.m., Wednesday, May 24, 1978.

AGENDA

1. Administrative Items.
2. Consideration of FCC Notices of Inquiry in Docket No. 20271 (6th, 7th, and 8th).

Charles Dorian, Chairman SC 69, COMSAT General, 950 L'Enfant Plaza SW., Washington, D.C. 20024, phone 202-554-6756.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat, phone 202-632-6490.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-12538 Filed 5-8-78; 8:45 am]

[6712-01]

2SATELLITE BROADCASTING SERVICE GROUP 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Schedule of Meeting

MAY 4, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of the following meeting.

WARC-79 SATELLITE BROADCASTING SERVICE GROUP

Tuesday, May 23, 1978, 9:30 a.m. to 4 p.m., Room 8210, 2025 M Street NW., Washington, D.C.

Chairman: Edward E. Reinhart.
Liaison: Charles H. Breig.

The Agenda will be as follows:

1. Call to order and approval of agenda.
2. Approval of minutes.
3. Announcements.
4. Report on SPM documents.
5. Review of 6th and 7th NOI (Doc. 20271).
6. Review of 8th NOI (Doc. 20271).
7. Discussion of proposals of the Fixed Satellite Service Working Group.
8. Uplinks for the Broadcast Satellite Service.
9. Policy issues at 1979 WARC.
10. Report of TF Chairman.
11. Other business.
12. Adjournment.

The above meeting is open to broadcast industry representatives and interested members of the general public.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-12568 Filed 5-8-78; 8:45 am]

[6712-01]

BROADCAST SERVICE WORKING GROUPS 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Schedule of Meeting

MAY 4, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of the following meetings.

WARC-79 TV BROADCASTING SERVICE GROUP

Thursday, May 25, 1978, 9:30 a.m. to 12 noon, Room 8210, 2025 M Street NW., Washington, D.C.

Chairman: James D. Parker.
FCC Liaison: Charles H. Breig.

WARC-79 AUXILIARY BROADCASTING SERVICE GROUP

Thursday, May 25, 1978, 1:30 p.m. to 4 p.m., Room 8210, 2025 M Street NW., Washington, D.C.

Chairman: John Serafin.
FCC Liaison: Al Jarratt.

The agendas will be as follows:

1. Call to order and announcements.
2. Approval of minutes of previous meeting.
3. Discussion of 8th NOI (Doc. 20271).
4. Other business.
5. Adjournment.

The above meetings are open to broadcast industry representatives and interested members of the general public.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-12569 Filed 5-8-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218, or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., Chicago, Ill., and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 29, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-2196-4.

Filing party: Mr. B. J. Barker, Rental Management Specialist, Port of Seattle, P.O. Box 1209, Seattle, Wash. 98111.

Summary: Agreement No. T-2196-4, between Port of Seattle, (Port) and Puget Sound Tug & Barge Co. (PST), modifies the parties' basic agreement which provides for the lease of certain premises at Pier 17 which will be used for the docking, repairing and provisioning of tug boats and barges. The purpose of the modification is to provide for the Port's purchase of a portion of PST's leasehold interest comprising an office building and a parking area. In consideration of this purchase, Port will pay $225,000 as payment for PST's surrender of its leasehold interest. The premises have been revised to include 294,880 square feet of harbor area. After all revisions are accomplished total monthly rental will be $2,105.80.

Agreement No. T-3642.

Filing party: Mr. J. Robert Bray, Acting Executive Director, Virginia Port Authority, 234 Monticello Avenue, 1600 Maritime Tower, Norfolk, Va. 23510.

Summary: Agreement No. T-3642, between Virginia Port Authority (Port) and Tidewater Stevedoring Corp. (TSC), provides for the two-year lease of certain property known as Pier 8, located at Newport News, Va. The premises are to be operated as a public marine terminal. Rates, charges, regulations, practices and requirements shall be established by TSC with due consideration given to the cost to TSC of providing the use of the facilities and services and comparable rates and charges prevailing at other marine terminals competitive with the Virginia ports. However, Port will establish the rates and charges for dockage, wharfage, wharf demurrage, and lay berth rental. As compensation, TSC will pay Port $24,000 per year as basic rental. In addition, Port will receive portions of certain operating revenue as further provided by the basic agreement.

Agreement No. T-3644.

Filing party: Mr. B. J. Barker, Rental Management Specialist, Port of Seattle, P.O. Box 1209, Seattle, Wash. 98111.

Summary: Agreement No. T-3644, between Port of Seattle (Port) and Puget Sound Tug & Barge Co. (PST), provides for the lease of 2,900 square feet of ground floor office space to be used for dispatch offices for tugboats. As compensation, PST will pay $761.25 per month plus utilities. This agreement provides for the leaseback of a portion of a leasehold interest purchased by Port under agreement No. T-2196-4.

Agreement No. T-3645.

Filing party: Richard L. Landes, Deputy, Offices of the City Attorney of Long Beach, City Hall, 333 West Ocean Boulevard, Long Beach, Calif. 90802.

Summary: Agreement No. T-3645, between the City of Long Beach (City) and West Coast Warehouse Corp. (West Coast) provides for the one-year lease of certain premises located on Pier A in the Harbor District of the City of Long Beach, to be used solely for the storage of commodities, pedestrian, and vehicular access to the said warehouse facilities, repair, maintenance and storage of West Coast's vehicles and warehouse handling equipment, and for offices in connection with West Coast's warehouse and trucking facilities. As compensation, City will receive from West Coast, $6,335 a month as rental.

Agreement No. 10261-3.

Filing party: John R. Attanasio, Esq., Billig, Sher & Jones, P. C., 2033 K Street, NW., Washington, D.C. 20006.

Summary: Agreement No. 10261-3 would amend Article 2 of the U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement to permit any party thereto to give notice of, and with the other parties being obliged to respond to, independent action proposals by telephone rather than by telex as currently provided in the agreement.

Agreement No. 10332.

Filing party: Charles F. Warren, Esq., Warren & Associates, P.C., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Summary: Agreement 10332 is a cooperative working arrangement between the Korea Marine Transport Co., Ltd. (KMTC) and the Nippon Yusen Kaisha (NYK) applicable to the trade between Korea and the United States Pacific Coast including Alaska and Hawaii. It is their intention, at the outset, to establish a two-containerships service in that trade to be scheduled as agreed upon with revenues to be shared equally upon terms to be agreed upon. Further, the "* * * parties will ship their loaded and empty containers * * * on their own vessels and on each other's vessel, and shall charter space to and from each other on terms as they may agree."

By Order of the Federal Maritime Commission.

Dated: May 4, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12606 Filed 5-8-78; 8:45 am]

[6730-01]

[Docket No. 78-14]

CELANESE CORP., ON BEHALF OF ITS AFFILIATED COLOMBIAN CORP., CELANESE COLOMBIANA, S.A. OF BOGOTA, COLOMBIA v. THE PRUDENTIAL STEAMSHIP CO.

Filing of Complaint

Notice is hereby given that a complaint filed by Celanese Corp. against Prudential Steamship Co. was served May 1, 1978. The complaint alleges that respondent overcharged complainant for ocean freight in violation of section 18 of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before November 1, 1978. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12604 Filed 5-8-78; 8:45 am]

[6730-01]

PETITIONS FILED

The Federal Maritime Commission hereby gives notice that the following

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petition(s) have been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect and obtain a copy of the petition(s) and the justification(s) offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the petition(s) at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on the petition(s), including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 29, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed petition(s). Comments shall discuss with particularity allegations that the petition is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the petition(s) and the statement should indicate that this has been done.

Agreement No. 9615-DR-5.

Filing party: David C. Jordan, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 9615-DR-5 is a clarification of the Iberian/U.S. North Atlantic W/B Conference's dual rate contract to assure that only contract signers receive contract rates.

By order of the Federal Maritime Commission.

Dated: May 4, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12605 Filed 5-8-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Approval of a Report Proposal

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on November 22, 1977 (see 44 U.S.C. 3512 (c) and (d)). The purpose of publishing this notice is to inform the public of GAO's approval of this report proposal.

INTERSTATE COMMERCE COMMISSION

On December 2, 1977, GAO published a notice in the FEDERAL REGISTER (42 FR 61305) stating that ICC requested clearance of the new Annual Report Supplement—Corporate Disclosure Regulations, decided May 13, 1977. In that notice, GAO stated that the effective date for the reporting requirement is contingent upon ICC's compliance with 44 U.S.C. 3512 and GAO requested public comments on the requirement

On January 13, 1978, GAO published another notice in the FEDERAL REGISTER (43 FR 1995) stating that it had suspended its review of this reporting requirement because ICC had not fully complied with the GAO rules and regulations and that, therefore, GAO was unable to make a clearance decision within the statutory time period.

At this time, ICC has provided the necessary supplemental information and the clearance problems presented by this reporting requirement have been resolved. To minimize compliance burden, ICC increased the threshold reporting level in section IID from $600 to $50,000. In addition, in section III, ICC will require that a complete set of the various documents be filed with the first annual report to which the regulations apply. Thereafter, if no changes are made in the filed documents, respondents need only file a statement to that effect. If changes are made, the entire document, including the changes, must be filed. The ICC also revised the instructions to eliminate duplicative requirements of information already available from Federal sources. Finally, the filing deadline for these schedules will be 30 days after respondents have received the schedules from ICC.

In view of these changes, GAO granted approval of ICC's Annual Report Supplement—Corporate Disclosure on April 14, 1978, under No. B-180230 (R0490). The GAO clearance of this reporting requirement expires on November 30, 1979.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-12517 Filed 5-8-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

MINORITY ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of May 1978:

MINORITY ADVISORY COMMITTEE, ADAMHA

May 25-26—Open meeting, May 25, 9 a.m., Federal Office Building, Room 1430, 1961 Stout Street, Denver, Colo. 80202.

Contact—Mr. Ernest Hurst, Room 13C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3838.

Purpose—The Minority Advisory Committee, ADAMAH, advises the Secretary, Department of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA, on these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

Agenda—This 2-day meeting will be open to the public. Agenda items include the 1978-79 work plan, a report by committee members on alcohol, drug abuse, and mental health in Hawaii and a discussion of the National Conference on Alcohol, Drug Abuse, and Mental Health Issues.

Mr. James C. Helsing, Acting Director, Office of Public Affairs, ADAMHA, will furnish, on request, summaries of the meeting and a roster of the Committee members. Mr. Helsing is located in Room 16-95, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3783.

Dated: May 3, 1978.

CAROLYN T. EVANS,
Committee Management Officer Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-12511 Filed 5-8-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 77N-0166]

POISONOUS AND DELETERIOUS SUBSTANCES

Availability of Action Levels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is announcing the availability of a list of action levels for poisonous and deleterious substances in human food or animal feed. The list defines the levels of contamination at which a food is considered adulterated.

ADDRESS: Requests for copies of the list should be addressed to the Food and Drug Administration, Industry Guidance Branch, Bureau of Foods (HFF-342), 200 C Street SW., Washington, D.C. 20204.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: An added poisonous or deleterious substance is a poisonous or deleterious substance that does not occur naturally in foods or feeds. A naturally occurring poisonous or deleterious substance is one that is an inherent natural constituent of a food or feed and is not the result of environmental, agricultural, industrial or other contamination.

Tolerances and action levels for added poisonous or deleterious substances are established by the Commissioner according to criteria set forth in §§ 109.4 and 509.4 of the food and drug regulations (21 CFR 109.4, 509.4). A tolerance may be established by regulation under the provisions of sections 406 and 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 371(e)) when an added poisonous or deleterious substance cannot be avoided by good manufacturing practices and when no technological or other changes are foreseeable in the near future that might affect the appropriateness of the tolerance. Regulations establishing tolerances are published in the FEDERAL REGISTER and codified in Title 21 of the Code of Federal Regulations.

Action levels may be established when an added poisonous or deleterious substance cannot be avoided by good manufacturing practices and when technological or other changes that might affect the appropriateness of a tolerance are foreseeable in the near future. When an action level for a specific poisonous or deleterious substance is established, revised, or revoked, the Food and Drug Administration files pertinent data and information with the Hearing Clerk and publishes in the FEDERAL REGISTER a notice announcing the action.

Both tolerances and action levels are established to protect public health, taking into account the extent to which presence of the substance cannot be avoided and other ways in which the consumer may be affected by the same or related poisonous or deleterious substances. An action level is revoked whenever a tolerance for the same substance and use becomes effective.

A list of current action levels for poisonous and deleterious substances in human food and animal feeds is now available. This list will be periodically revised to reflect the establishment of new action levels and changes in existing action levels. Requests for copies of the list should be submitted to Food and Drug Administration, Industry Guidance Branch, Bureau of Foods (HFF-342), 200 C Street SW., Washington, D.C. 20204; telephone 202-245-1523.

Dated: April 27, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-12368 Filed 5-8-78; 8:45 am]

[4110-03]

PANEL ON REVIEW OF DENTIFRICES AND DENTAL CARE AGENTS

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document gives notice that the Panel on Review of Dentifrices and Dental Care Agents meeting announced by a notice published in the FEDERAL REGISTER of April 25, 1978 (43 FR 17541), for May 31 and June 1, 1978, has been changed to meet on May 30, 31, and June 1, 1978. The meeting will be held at the Holiday Inn, Chevy Chase, Md., from 7:30 p.m. to 10:30 p.m. on May 30, with the open session beginning at 7:30 p.m., and in Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Md., on May 31 and June 1, 1978, with the open session beginning at 9 a.m. on May 31.

FOR FURTHER INFORMATION CONTACT:

Thomas D. DeCillis, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

Dated: May 2, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12510 Filed 5-8-78; 8:45 am]

[4110-83]

Health Resources Administration

NATIONAL ADVISORY COUNCIL ON NURSE TRAINING

Meeting Cancellation

In FEDERAL REGISTER Document 78-9844 appearing at page 15780 in the issue for Friday, April 14, 1978, the May 22-24, 1978, meeting of the "National Advisory Council on Nurse Training" has been cancelled. A meeting will be scheduled in June, and announcement made in the FEDERAL REGISTER accordingly.

Dated: May 4, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-12518 Filed 5-8-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON 13-WEEK SUBCHRONIC TOXICITY STUDIES OF DIRECT BLUE 6, DIRECT BLACK 38, AND DIRECT BROWN 95 DYES

Availability

Direct blue 6 (CAS 2602-46-2), direct black 38 (CAS 1937-37-7), and direct brown 95 (CAS 16071-86-6) have been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: Thirteen-week subchronic toxicity studies of direct blue 6, direct black 38, and direct brown 95 dyes were conducted by administering the test chemicals in feed to Fischer 344 rats and B6C3F1 mice.

Groups of 10 rats and 10 mice of each sex were administered one of the three dyes at one of five concentrations for 13 weeks and then necropsied, beginning the second day after the end of the dosing periods. The concentrations used for the rats were 190, 375, 750, 1,500, and 3,000 ppm. The concentrations used for the mice were 750, 1,5000, 3,000, 6,000, and 12,500 ppm, except for the female mice administerred direct brown 95 dye, which were given concentrations of 375, 750, 1,500, 3,000, and 6,000 ppm. Matched controls consisted of groups of 10 untreated rats and 10 untreated mice of each sex.

Mean body weights of the male and female rats administered the two or three highest doses of any one of the test dyes were lower than mean body weights of the corresponding controls, and the depressions in mean body weight were dose related. Mean body weights of the male and female mice administered the highest dose of anyone of the test dyes were slightly lower than mean body weights of the corresponding controls; mean body weights of mice administered lower doses were generally unaffected.

All male and female rats administered 3,000 ppm of any one of the dyes or 1,500 ppm of direct brown 95 dye died before the end of the studies. One male administered 1,500 ppm direct blue 6 dye, six males administered 1,500 ppm direct black 38 dye, and two males administered 750 ppm direct brown 95 dye also died by the end of the studies. No deaths occurred in any other dosed group or in any control group of rats. All male and female

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mice administered the test dyes survived to the end of the studies, except for one male whose death was attributed to bacterial infection.

It is concluded that under the conditions of these 13-week subchronic toxicity studies, direct blue 6 and direct black 38 dyes were carcinogenic in male and female Fischer 344 rats and direct brown 95 was carcinogenic in female rats; all three dyes induced hepatocellular carcinomas and neoplastic nodules in the liver. The test dyes were not carcinogenic for B6C3F1 mice in the 13-week subchronic toxicity studies.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research)

Dated: May 3, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-12704 Filed 5-8-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-78-831; Docket No. 78-32-(b)(3); OILSR No. 0-2378-09-720]

QUAIL HOLLOW PINES F/K/A TAMPA HIGHLANDS, QUAIL HOLLOW PINES, INC. F/K/A TAMPA DEVELOPMENT CORP.

Notice of Hearing

Pursuant to 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) and 1720.120, Notice is hereby given that:

1. Quail Hollow Pines f/k/a Tampa Highlands, Quail Hollow Pines, Inc. f/k/a Tampa Development Corp., its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.) received a Notice of Suspension dated March 23, 1978, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the statement of Record and Property Report for Quail Hollow Pines located in Lutz, Fla. contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 21, 1978, in response to the Order of Suspension.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Order of Suspension.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) and 1720.120: *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Order of Suspension will be held before Judge James W. Mast, Room 7143, HUD Building, 451 Seventh Street SW., Washington, D.C., at 10 a.m., on May 10, 1978.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before April 26, 1978. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR § 1710.45(a).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR § 1720.120.

By the Secretary.

Dated: April 24, 1978.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc. 78-12519 Filed 5-8-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 33318]

NEW MEXICO

Application

MAY 1, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Co. has applied for three 4-inch natural gas pipelines right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 23 S., R. 25 E.,
Sec. 24, SW¼NE¼, NE¼SW¼, and NW¼SE¼;
Sec. 26, SE¼SW¼;
Sec. 34, SE¼NE¼, NE¼SW¼, and N½SE¼;
Sec. 35, N½NW¼.

These pipelines will convey natural gas across 1.93 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12565 Filed 5-8-78; 8:45 am]

[4310-31]

Geological Survey

KNOWN RECOVERABLE COAL RESOURCE AREA

Rock Island, Okla.

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of Oklahoma have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(36) OKLAHOMA

Rock Island (Oklahoma) Known Recoverable Coal Resource Area; June 14, 1977; 6,776 acres.

A diagram showing the boundaries of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colo.

Dated: May 2, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-12566 Filed 5-8-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before April 28, 1978.

MY 9 78

Pursuant to section 60.13(a) of 36 CFR part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by May 19, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALABAMA

Wilcox County

Camden vicinity, *Liddell Archeological Site,* E of Camden

ALASKA

Kenai-Cook Inlet Division

Sterling vicinity, *Moose River Site,* E of Sterling

Matanuska-Susitna Division

Palmer vicinity, *Cunningham-Hall PT-6, NC-692W,* S of Palmer at Mile 40, Glenn Highway

Prince of Wales Division

Klawock, *Klawock Totem Park,* N. Park and Church Sts.

Delaware

Sussex County

Millsboro vicinity, *Indian River Archeological Complex,* E of Middleboro

GEORGIA

Putnam County

Eatonton vicinity, *Tompkins Inn,* N of Eatonton on U.S. 441

HAWAII

Hawaii County

Kailua, *Mokuaikaua Church,* off HI 11

Honolulu County

Honolulu, *Kakacko Pumping Station,* 653 Ala Moana Blvd.

LOUISIANA

Caddo Parish

Shreveport, *Herold, Sidney, Mansion,* 840 Jordan St.

Ouachita Parish

Monroe, *Mulberry Grove,* 1133 S. Grand St.

MICHIGAN

Calhoun County

Battle Creek, *Battle Creek Sanitarium,* 197 N. Washington Ave.

Genesee County

Flint, *Elks Lodge Building,* 142 W. 2nd St.

Grand Traverse County

Traverse City, *Boardman Neighborhood Historic District,* roughly bounded by Railroad and Boardman Aves., State and Webster Sts.

Traverse City, *Northern Michigan Asylum,* bounded by C&O RR tracks, Division and 11th Sts., Elmwood Ave., Orange and Red Drs.

Lenawee County

Hudson, *Hall, Dr. Leonard, House,* 334 W. Main St.

Marquette County

Ishpeming, *Mather Inn,* 107 Canda St.

Marquette, *Savings Bank Building,* 125 W. Washington St.

Oakland County

Rochester vicinity, *Meadow Brook Farms,* 480 S. Adams Rd.

Sanilac County

Lexington, *Fead, John L., House,* 5349 Washington St.

Washtenaw County

Ann Arbor, *Unitarian Universalist Church,* 100 N. State St.

Wayne County

Detroit, *Corktown Historic District,* roughly bounded by Lodge Freeway, Porter and Bagley Sts., Rosa Parks Blvd., Trumbull and Michigan Aves.

Detroit, *Wayne State University Building,* 4735-4841 Cass Ave.

MISSOURI

Buchanan County

St. Joseph, *Buchanan County Courthouse,* Courthouse Sq. (boundary revision).

NEW MEXICO

Bernalillo County

Albuquerque, *Rosewald Building,* 320 Central Ave., SW.,

Rio Arriba County

Embudo, *Embudo Historic District,* U.S. 64.

NEW YORK

Greene County

Coxsackie vicinity, *Flint Mine Hill Archeological District,* eastern Greene County.

Monroe County

Honeoye Falls vicinity, *Totiakton Site,* N of Honeoye Falls.

New York County

New York, *Southgate,* Pier 17, foot of Fulton St.

Putnam County

Brewster, *Brewster, Walter, House,* Oak St.

OKLAHOMA

Custer County

Hammon vicinity, *Hodge Site,* NE of Hammon.

Ellis County

Arnett vicinity, *Eggleston Springs,* SW of Arnett.

McCurtain County

Idabel vicinity, *Harkey Site,* S of Idabel.

Oklahoma County

Oklahoma City, *Oklahoma Publishing Company Building,* 500 N. Broadway.

Rogers Mills County

Cheyenne vicinity, *Chalfant Site,* N. of Cheyenne.

Durham vicinity, *Antelope Hills,* N of Durham.

Tulsa County

Tulsa, *Clinton-Hardy House,* 1322 S. Guthrie St.

OREGON

Jackson County

Butte Falls vicinity, *Jacksonville-Fort Klamath Military Wagon Road,* S of Butte Falls (also in Klamath County).

PENNSYLVANIA

Philadelphia County

Philadelphia, *Arch Street Opera House,* 1003-1005 Arch St.

TENNESSEE

Shelby County

Memphis, *Lee, James, House,* 239 Adams Ave.

TEXAS

Wichita County

Wichita Falls, *Wichita Falls Route Building,* 503 8th St.

UTAH

Summit County

Park City, *Silver King Ore Loading Station,* Park Ave.

VERMONT

Washington Conty

Waterbury, *Waterbury Village Historic District,* U.S. 2.

WASHINGTON

King County

Seattle, *Chittenden Locks and Lake Washington Ship Canal Historic District,* Salmon Bay.

[FR Doc. 78-12260 Filed 5-8-78; 8:45 am]

[4310-70]

Office of the Secretary

[INT DES 78-14]

GULF ISLANDS NATIONAL SEASHORE (FLA. AND MISS.)

Availability of Draft Environmental Statement on General Management Plan and Development Concept Plans

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement on the proposed General

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Management Plan and Development Concept Plans for Gulf Islands National Seashore (Fla. and Miss.).

The statement considers the future management and development of Gulf Islands National Seashore.

Written comments on the Environmental Statement are invited and will be accepted until June 23, 1978. Comments should be addressed to the Regional Director, Southeast Region, or to the Superintendent, Gulf Islands National Seashore, at the address given below.

Copies are available from or for inspection at the following locations.

Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.
Assistant Superintendent, Gulf Islands National Seashore, 4000 Hanley Road, Ocean Springs, Miss. 39564.
Superintendent, Gulf Islands National Seashore, P.O. Box 100, Gulf Breeze, Fla. 32561.

NOTE.—The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: May 2, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-12564 Filed 5-8-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Attorney General

[Order No. 778-78]

PRIVACY ACT OF 1974

System of Records (Amended)

On Friday, September 30, 1977, notice was published in the FEDERAL REGISTER (42 FR 53409) announcing the existence of the Civil Rights Investigative System, JUSTICE/LEAA-008.

Notice is hereby given that in the Proposed Rules Section of today's FEDERAL REGISTER the Department of Justice proposes to promulgate rules pursuant to 5 U.S.C. 552a(k) and, in accordance with the requirements (including general notice) of 5 U.S.C. 553(b) (1), (2), and (3), (c), and (e), to exempt this system from the access requirements of 5 U.S.C. 552a(d).

Exemption from the Privacy Act access provisions is proposed in those cases where a request for access to a complaint file is made prior to administrative resolution of the civil rights complaint. It is needed to ensure unhampered conciliation and compliance efforts during the complaint and compliance process and to protect the identity of confidential sources.

The system notice, as amended, is reprinted in its entirety below.

Comments may be submitted in writing to the Administrative Counsel, Office of Management and Finance, Room 1118, Department of Justice, Washington, D.C. 20530. All comments must be received on or before June 8, 1978. No oral hearings are contemplated.

Dated: April 27, 1978.

MICHAEL J. EGAN,
Acting Attorney General.

JUSTICE/LEAA-008

System name:

Civil Rights Investigative System.

System location:

Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system:

Complaints of discrimination by individuals affected by the agency program for which the agency has compliance responsibility, grantees, subgrantees, contractors, subcontractors, employees, and applicants.

Categories of records in the system:

Civil Rights Complaint Control Logs; Civil Rights Litigation Reference Files.

Authority for maintenance of the system:

42 U.S.C. 3766(c); E.O. 11246 (3 C.F.R. 173) as amended by E.O. 11375.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Investigation of complaints and to obtain compliance with Civil Rights laws. Users of the data are State Planning Agencies, State Governors and Attorneys General, Criminal Justice Agencies, Office of Federal Contract Compliance, Equal Employment Opportunity Commission, Office of Federal Revenue Sharing, and a United States Commission on Civil Rights.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Information in the system is stored in file folders and on index cards.

Retrievability:

Information is retrieved by name of respondent and complainant.

Safeguards:

Information is kept in locked file cabinets and combination safe. Access is limited to investigative personnel.

Retention and disposal:

Complaint control logs are destroyed upon completion of action on the inquiry or complaint. Complaint case files thereafter are not retrievable by name, number, or other information identifiable to the individual. Other investigative information is destroyed four years after the investigation is completed.

System manager(s) and address:

Office of Civil Rights Compliance; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Notification procedure:

Same as the above.

Record access procedures:

A request for access to a record containing civil rights investigatory material shall be made in writing with the envelope and letter clearly marked 'Privacy Access Request' to the Civil Rights System Manager listed above.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

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Record source categories:

The information contained in this system was received from individual complainants, witnesses, grant files, respondents, official State and Federal records.

Systems exempted from certain provisions of the act:

The system is exempt from 5 U.S.C. 552a(d).

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k).

Exemption from subsection (d) is claimed since access to information in the Civil Rights Investigative System prior to final administrative resolution will deter conciliation and compliance efforts. Consistent with the legislative purpose of the Privacy Act of 1974, decisions to release information from the system will be made on a case-by-case basis and information will be made available where it does not compromise the complaint and compliance process. In addition, where explicit promises of confidentiality must be made to a source during an investigation, disclosure will be limited to the extent that the identity of such confidential sources will not be compromised.

[FR Doc. 78-12642 Filed 5-8-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

ECONOMIC STIMULUS PACKAGE REALLOCATIONS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT ("CETA")

Reallocation of Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists reallocation of funds under Title VI of the Comprehensive Employment and Training Act. The purpose of this notice is to advise all interested parties of these reallocations of funds.

FOR FURTHER INFORMATION CONTACT:

Roberts T. Jones, Director, Office of Community Employment Programs, Room 5402, 601 D Street, NW, Washington, D.C. 20213, telephone 202-376-6366.

SUPPLEMENTARY INFORMATION: The Secretary of Labor is authorized to reallocate funds in accordance with the provisions of section 606 of Pub. L. 93-567 and pursuant to the regulation at 29 CFR 99.73.

Section 606 of the CETA provides that:

The Secretary is authorized to make such reallocations as he deems appropriate of any amount of any allocation under this title to the extent that the Secretary determines that an eligible apllcant will not be able to use such amount within a reasonable period of time. Any such amount may be reallocated only if the Secretary has provided 30 days advance notice to the prime sponsor for such an area and to the Governor of the State of the proposed reallocation, during which period of time the prime sponsor and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governor and affected prime sponsor of any decision to reallocate funds, and shall publish any such decision in the FEDERAL REGISTER. In reallocating any such funds, the Secretary shall give priority first to other areas within the same State and then to areas within other States, taking into account the number of eligible unemployed individuals (as described in section 608) in such areas.

Prime sponsors under title VI had been notified last summer that failure to achieve at least 70 percent of the minimum planned net increase in enrollment by July 31, 1977, would result in a determination by the Secretary that they were not able to use the funds within a reasonable period of time. The 70-percent minimum planned net increase in enrollment was increased to 80 percent for the month of October 1977 in field memorandum 487-77 dated September 30, 1977. Reallocation actions were to be initiated for prime sponsors failing to make at least a 10-percent improvement in each subsequent month of the PSE buildup.

The following prime sponsors were performing below an acceptable level in either December 31, 1977, notified by letter in early January 1978; January 31, 1978, notified by letter in early February or February 28, 1978, and notified by letter in early March 1978, that if performance did not improve funds would be reallocated. Since these prime sponsors did not improve their performance, it has therefore been determined by the Secretary that they were not able to use all their funds within a reasonable period of time. The Secretary is reallocating these funds in accordance with the authority of section 606.

The reallocations are as follows:

From	Amount	To	Amount
REGION II			
New York:			
Schenectady County	$390,000	BOS New York	$390,000
REGION V			
Indiana:			
Indianapolis	1,100,000	Vigo County	366,000
		Delaware/Blackford	319,000
		South Bend	300,000
		Elkhart	105,000
		Lake County	10,000
Tippecanoe County	177,000	Indiana Southwest Consortium	175,000
		Vigo County	2,000
Balance of State	754,000	Lake County	490,000
		LaPorte County	264,000
Illinois:			
Kane-DeKalb	500,000	Will Grundy	100,000
		Shawnee Consortium	300,000
		Madison County Consortium	100,000
DuPage County	1,857,600	BOS Illinois	1,250,357
		St. Claire	207,129
		Shawnee	111,340
		Will Grundy	196,676
		Rock Island	92,089
Michigan:			
Berrier County	200,000	BOS Michigan	200,000
Ohio:			
Allen County	500,000	Cincinnati	350,000
		Portage County	150,000
REGION VI			
Louisiana:			
Shreveport	200,000	Rapides Parish	100,000
		Jefferson Parish	100,000

In addition to the above reallocations the following sponsors voluntarily surrendered portions of their allocations which they were unable to expend in the specific period of time, in order that the funds could be more effectively used in other prime sponsor areas.

From	Amount	To	Amount
REGION III			
Pennsylvania:			
Bucks County	$143,000	Schuylkill-Carbon Consortium	$136,000
Montgomery County	628,810	Tri-County Consortium	300,000
Lawrence County	408,000	Leigh Valley Consortium	447,000

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From	Amount	To	Amount
REGION III			
Westmoreland County	300,000	Chester County	240,000
		Lackawanna County	150,000
Virginia:			
Balance of Virginia	2,000,000	District of Columbia	1,000,000
Beaver County	147,000	State of West Virginia	1,000,000
REGION IX			
Nevada:			
Washoe County	900,000	Los Angeles County, Calif.	500,000
		Tuscon-Pine, Ariz.	500,000
		Honolulu, Hawaii	100,000

Signed in Washington, D.C., May 3, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training

[FR Doc. 78-12582 Filed 5-8-78; 8:45 am]

[4510-43]

Mine Safety and Health Administration

[Docket No. M-78-63-C]

BURNSIDE MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Burnside Mining Co., 583 North Oak Street, Shamokin, Pa. 17872, has filed a petition to modify the application of 30 CFR 75.301 (air quantity), to its Slope No. 1 mine, located in Northumberland County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioner's statement is as follows:

(1) There is no history of harmful quantities of carbon dioxide and other poisonous gases, harmful quantities of methane are nonexistent and there has never been an ignition, explosion, or fire at the mine.

(2) Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

(3) High velocities and large air quantities in small cross sectional airways and manways present dangerous flying object hazards to miners and cause extremely uncomfortable damp and cold conditions, thus causing a difficulty in keeping miners on the job.

(4) For the reasons set forth above, the petitioner requests that the requirements of 30 CFR 75.301 be modified for the above mine so that the minimum quantity of air reaching the working face be reduced to 1,500 cubic feet a minute; the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be reduced to 5,500 cubic feet a minute; and the minimum quantity of air reaching the intake end of a pillar line be reduced to 5,000 cubic feet a minute.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before June 8, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: April 28, 1978.

ECKEHARD MUESSIG,
Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-12484 Filed 5-8-78; 8:45 am]

[4510-43]

[Docket No. M-78-61-C]

EASTERN ASSOCIATED COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Eastern Associated Coal Corp., Star Route No. 2, Bald, Knob. W. Va. 25010, has filed a petition to modify the application of 30 CFR 75.1105 (underground transformer stations), to its Harris No. 2 mine, located in Boone County, W. Va., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioner's statement is as follows:

(1) A pump station, necessary to maintain the area free of water, is located in an intake entry of the east main heading. This area of the mine in which the pump station is located was developed prior to the enactment of the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 93-173) and petitioner is unable to course air directly from this installation to a return because a return entry is not available.

(2) For the reasons listed above, the petitioner requests that as an alterative to coursing the air currents directly to the return, be permitted to install dry chemical fire suppression devices currently on each installation. The fire suppression devices will be approved and maintained in accordance with 30 CFR 75.1107, and will be in addition to the fire extinguishing materials and devices required under the regulations. Also, 240 pounds of rock dust will be provided at each installation.

(3) The proposed alternative will at all times guarantee no less than the same measure of protection afforded the miners by application of the provisions of 30 CFR 75.1105.

(4) A similar petition for modification was granted with respect to petitioner's Harris No. 2 mine (docket No. M-78-72-2) on January 12978.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before June 8, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: April 28, 1978.

ECKEHARD MUESSIG,
Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc.78-12485 Filed 5-8-78; 3:45 p.m.]

[4510-43]

[Docket No. M-78-23-M]

HECLA MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Hecla Mining Co., P.O. Box 320, Wallace, Idaho 83873, has filed a petition to modify the application of 30 CFR 57.9-88 (roll-over protective structures), to its Lucky Friday mine, located in Mullen County, Idaho, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioner's statement is as follows:

(1) The piece of equipment covered by this petition is a front end loader used in the surface area of the above mine, including the mill, concentrate storage area, parking lot, and tailings pond.

(2) The loader, operated by one man on each of two shifts, is used primarily to load concentrates into railroad cars, load waste rock into dump trucks, and clear snow.

(3) The entrance of the concentrate loading area of the mill lacks sufficient clearance to accommodate the loads with roll-over protective structures (ROPS) installed.

(4) The safety of the loader operator will not be adversely affected by the failure to install a ROPS because the loader is operated on a level surface.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before June 8, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: April 28, 1978.

ECKEHARD MUESSIG,
Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-12486 Filed 5-8-78; 8:45 am]

[4510-43]

[Docket No. M-78-64-C]

KWY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that KWY Coal Co., 1576 Pulaskie Avenue, Shamokin, Pa. 17872, has filed a petition to modify the application of 30 CFR 75.301 (air quantity), to its 9½ Vein Mine, located in Northumberland County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) There is no history of harmful quantities of carbon dioxide and other poisonous gases, harmful quantities of methane are nonexistent and there has never been an ignition, explosion or fire at the mine.

(2) Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

(3) High velocities and large air quantities in small cross sectional airways and manways present dangerous flying object hazards to miners and cause extremely uncomfortable damp and cold conditions, thus causing a difficulty in keeping miners on the job.

(4) For the reasons set forth above, the petitioner requests that the requirements of 30 CFR 75.301 be modified for the above mine so that the minimum quantity of air reaching the working face be reduced to 1,500 cubic feet a minute; the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be reduced to 5,500 cubic feet a minute; and the minimum quantity of air reaching the intake end of a pillar line be reduced to 5,000 cubic feet a minute.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before June 8, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: April 28, 1978.

ECKEHARD MUESSIG,
Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-12487 Filed 5-8-78; 8:45 am]

[4510-43]

[Docket No. M-78-65-C]

NORTH MT. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that North Mt. Coal Co., 130 East Independent Street, Shamokin, Pa. 17872, has filed a petition to modify the application of 30 CFR 75.301 (air quantity), to its North Mt. Slope Mine, located in Northumberland County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) There is no history of harmful quantities of carbon dioxide and other poisonous gases, harmful quantities of methane are non-existent and there has never been an ignition, explosion or fire at the mine.

(2) Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

(3) High velocities and large air quantities in small cross sectional airways and manways present dangerous flying object hazards to miners and cause extremely uncomfortable damp and cold conditions, thus causing a difficulty in keeping miners on the job.

(4) For the reasons set forth above, the petitioner requests that the requirements of 30 CFR 75.301 be modified for the above mine so that the

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minimum quantity of air reaching the working face be reduced to 1,500 cubic feet a minute; the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be reduced to 5,500 cubic feet a minute; and the minimum quantity of air reaching the intake end of a pillar line be reduced to 5,000 cubic feet a minute.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before June 8, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: April 28, 1978.

ECKEHARD MUESSIG,
Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-12488 Filed 5-8-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-2564]

BOOTMAKERS OF STURGEON BAY, INC., STURGEON BAY, WIS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2564: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 7, 1977 in response to a worker petition received on October 31, 1977, which was filed by the Retail Clerks of America, Footwear Division on behalf of workers and former workers producing men's work and sport shoes and boots at Bootmakers of Sturgeon Bay, Inc., Sturgeon Bay, Wis.

The notice of investigaton was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59584). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bootmakers of Sturgeon Bay, its customers, the American Footwear Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

United States imports of work footwear increased 80.8 percent to 4.7 million pairs in 1976 compared to 2.6 million pairs in 1975. The ratio of imports to domestic production increased to 18.0 percent in 1976 from 10.5 percent in 1975, and increased to 21.3 percent in the first 9 months of 1977 from 18.8 percent in the same period of 1976.

CONTRIBUTED IMPORTANTLY

Customers surveyed representing a substantial proportion of Bootmaker's 1976 quantity of sales increased imports of men's work and sport boots and shoes while decreasing purchases from the subject firm in 1976 and 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's work and sport boots and shoes produced by Bootmakers of Sturgeon Bay, Incorporated, Sturgeon Bay, Wisconsin contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certificaton:

All workers at Bootmakers of Sturgeon Bay, Inc., Sturgeon Bay, Wis. who became totally or partially separated from employment on or after November 1, 1976 and before August 6, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-12585 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2796]

ETHAN INDUSTRIES, INC., BROOKLYN, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2796: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 21, 1977 in response to a worker petition received on December 8, 1977 which was filed on behalf of former workers producing ladies' vinyl handbags at Ethan Industries, Inc., Brooklyn, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ethan Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of handbags increased from 57.9 million units in 1975 to 90.2 million units in 1976 and rose to 92.8 million units in 1977. The ratio of imports to domestic production increased from 73.5 percent in 1975 to 111.1 percent in 1976 and 119.7 percent in 1977.

Customers surveyed who decreased purchases from Ethan Industries, Inc., in 1976 and 1977, increased purchases of imported handbags during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' vinyl handbags produced at Ethan Industries, Inc., Brooklyn, N.Y. contributed importantly to the decline in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Ethan Industries, Inc., Brooklyn, N.Y. who became totally or partially separated from employment on or after December 4, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12586 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-3077]

HERCULES TROUSER CO., COLUMBUS, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3077: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 7, 1978, in response to a worker petition received on January 31, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers shipping pants at the Columbus, Ohio, warehouse of the Hercules Trouser Co. During the course of the investigation, the Department determined that the Columbus, Ohio, warehouse ships pants, jackets and suits.

The Notice of Investigation was published in the FEDERAL REGISTER on February 26, 1978 (43 FR 7744). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Hercules Trouser Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision, thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Pursuant to the requirements of 29 CFR 90.2, total or partial separations must be the equivalent to a total unemployment of five percent or 50 workers, whichever is less or a reduction in hours worked to 80 percent or less of average weekly hours.

The average number of production workers in 1977 was 5 percent higher than in 1976. In the first 2 months of 1978, the average number of workers was unchanged from the same period a year earlier. The average hours worked by production workers declined by only 13 percent in 1977 compared to 1976 and by 17 percent in the first two months of 1978 compared to the same period in 1977. No layoffs occurred in 1977.

There is no immediate threat to employment for the workers at the Columbus warehouse.

CONCLUSION

After careful review, I conclude that all workers at the Columbus, Ohio warehouse of the Hercules Trouser Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of April 1978.

HARRY GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12587 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2832]

JO-MARS SPORTSWEAR, INC., EAST BOSTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2832: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 3, 1978, in response to a worker petition received on December 13, 1977, which was filed on behalf of workers and former workers producing women's sportswear at Jo-Mars Sportswear, Inc., East Boston, Mass. The investigation revealed that women's slacks, shorts and culottes were produced.

The Notice of Investigation was published in the FEDERAL REGISTER on January 17, 1978 (43 FR 2459). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jo-Mars Sportswear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysis and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Imports of women's, misses' and children's slacks and shorts increased 9.7 percent from 1975 to 1976 and increased 6.2 percent in the first three quarters of 1977 compared to the same period in 1976. The ratios of imports to domestic production and consumption increased from 35.2 percent and 26.0 percent, respectively, in 1975 to 36.4 percent and 26.7 percent, respectively, in 1976.

Jo-Mars performs contract sewing operations on women's sportswear for apparel manufacturers. The Department surveyed apparel manufacturers doing business with Jo-Mars. Respondents to the survey did not purchase imported women's sportswear. One manufacturer reported an increase in its business with Jo-Mars. Another manufacturer that decreased its business with Jo-Mars in 1977 compared to 1976 reported that its sales increased from 1975 to 1976 and from 1976 to 1977.

Income earned by Jo-Mars, in adjusted 1975 dollars, increased from 1975 to 1976 and from 1976 to 1977. Employment at Jo-Mars also increased from 1975 to 1976 and declined only marginally from 1976 to 1977.

CONCLUSION

After careful review, I conclude that all workers at Jo-Mars Sportswear, Inc., East Boston, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-12588 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2693]

MACHINE DESIGN SERVICE, INC., YOUNGSTOWN, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2693: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1977 in response to a worker petition received on November 21, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers engineering and building steel mill and material handling equipment at Machine Design Service, Inc. of Youngstown, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on December 12, 1977 (42 FR 63485). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Machine Design Service, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Machine Design Service, Incorporated provides engineering services and operates a small machine shop fabrication Department. Consulting engineering and custom fabrication are separate functions of the firm, with the engineering department giving the fabrication department very little work. The engineering department plans, designs and drafts blueprints for small capital equipment for steel companies, consultant engineers, and manufacturers. The fabrication department machines equipment parts and assembles some machines for steel companies, utilities, and manufacturers. Projects for both engineering and fabrication are performed on a custom basis, with each project being unique.

With respect to workers in the engineering department, the Department has determined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject provides services cannot be considered to be the "workers' firm".

The engineering department of Machine Design Service, Incorporated does not produce an article within the meaning of section 222 (3) of the Act and this Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Determination in *Pan American World Airways, Inc.* (TA-W-153, 40 FR 54639). The only question in this case is whether steelproducing customers, i.e., firms which produce an article, namely steel products, and for whom the services are provided, can be considered the "workers' firm." See Notice of Determination in *Nu-Car Driveway, Inc.* (TA-W-393, 41 FR 12749).

Machine Design Service, Incorporated conducts business with several steel companies, utilities, engineers, and small manufacturers. There is no contractual relationship between Machine Design Service, Incorporated and any customer. All work is performed on a custom basis.

Machine Design Service, Incorporated has no capital or financial investment in any customer and no customer has a capital or financial investment in Machine Design Service, Inc. All facilities and equipment of Machine Design Service, Incorporated are are owned by Machine Design Service, Inc.

All workers of Machine Design Service, Inc. are employed, controlled, and paid by Machine Design Service, Inc. Workers are not at any time under employment or supervision of any customer.

A Department survey revealed that customers that reduced purchases of steel mill and material handling equipment from the fabrication department of Machine Design Service, Incorporated either did not purchase such equipment from foreign sources or reduced imports.

CONCLUSION

After careful review, I determine that all workers in both the fabrication and engineering departments of Machine Design Service, Inc., Youngstown, Ohio, be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12589 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2834]

MISTER DINO, LOS ANGELES, CALIF.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2834: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 3, 1978, in response to a worker petition received on December 12, 1977, which was filed on behalf of workers formerly producing ladies' coats at Mister Dino, Los Angeles, Calif.

The notice of investigation was published in the FEDERAL REGISTER on January 17, 1978 (43 FR 2459). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Mister Dino, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the International Ladies' Garment Workers' Union, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's, misses', and children's coats and jackets increased from 1,517,000 dozen in 1975 to 2,252,000 dozen in 1976, representing an increase of 48.5 percent. In the first 9 months of 1977, imports were recorded at 2,081,000 dozen, representing an increase of 23.9 percent compared to 1,680,000 dozen in the first 9 months of 1976. The ratio of imports to domestic production increased from 38.9 percent in 1975 to 57.5 percent in 1976.

The sole manufacturer of Mister Dino decreased orders for women's coats from Mister Dino in 1976 compared to 1975. Imports of women's coats by the manufacturer increased in the first half of 1977 compared to the first half of 1976. Since imported women's coats are ordered nearly 6 months prior to the time they are delivered, the impact of increased imports by the sole manufacturer of Mister Dino during the first half of 1977 was reflected in reduced orders to its domestic suppliers of women's coats during the second half of 1976.

A survey of the manufacturer's customers indicated that most customers either increased imports of women's coats or increased purchases of foreign-made women's coats from other domestic suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' coats produced at Mister Dino, Los Angeles, Calif., contributed importantly to the decline in sales or production and to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Mister Dino, Los Angeles, Calif., who became totally or partially separated from employment on or after November 30, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12590 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2682]

NEWARK TEXTILES PRINTING, INC., EAST NEWARK, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2682: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1977, in response to a worker petition received on November 21, 1977, which was filed on behalf of workers and former workers engaged in textile printing on fabrics at Newark Textiles Printing, Inc., East Newark, N.J. The petition was filed by the Machine Printers & Engravers Association.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (43 FR 63488). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Newark Textile Printing, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that imports of finished fabric (bleached, dyed, and printed) increased 14 percent from 1975 to 1976 and then declined 2 percent from 1976 to 1977. The ratios of imports to domestic production and consumption increased from 1.6 percent for both ratios in 1975 to 1.8 percent for both ratios in 1976. Imports of finished fabric can not be considered like or directly competitive with finished garments.

A survey of customers of Newark Textile Printing was conducted by the Department. None of the respondents reported purchasing any imported fabric in 1975, 1976, or 1977.

CONCLUSION

After careful review I conclude that all workers at Newark Textile Printing, Inc., East Newark, N.J. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 3d day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research

[FR Doc. 78-12591 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-3122]

NOYMER MANUFACTURING CO., BOSTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3122: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 13, 1978, in response to a worker petition received on January 26, 1978, which was filed on behalf of workers and former workers producing leather goods at Noymer Manufacturing Co., Boston, Mass.

The notice of investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8207). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Noymer Manufacturing Co., industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of workers at Noymer Manufacturing increased yearly from 1975 through 1977. Employment increased in the first quarter of 1978 compared with the same quarter of 1977. There is no indication that current workers are threatened with any involuntary separations.

Sales and production at Noymer Manufacturing increased in 1977 compared to 1976.

CONCLUSION

After careful review, I conclude that workers at Noymer Manufacturing Co., Boston, Mass., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic research.

[FR Doc. 78-12592 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2694]

OHIO FERRO-ALLOYS CORP., PHILO, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2694: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1977, in response to a worker petition received on November 17, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing ferromanganese, ferrosilicon, and silicomanganese at the Philo, Ohio, plant of Ohio Ferro-Alloys Corp.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63485). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Ohio Ferro-Alloys Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, U.S. Department of Interior, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of ferrosilicon, ferromanganese (high carbon), and silicomanganese increased absolutely and relative to domestic production in 1976 compared to 1975. The ratio of imported ferromanganese and silicomanganese to the domestic production of each metal increased from 86.6 percent and 46.4 percent, respectively in the first 9 months of 1976 to 175.0 percent and 60.9 percent, resectively, in the same period of 1977. The ratio of imported ferrosilicon to domestic production increased from 15.1 percent in the first 11 months of 1976 to 18.0 percent in the same period of 1977.

A survey by the Department of customers of the Ohio Ferro-Alloys Corp. revealed that customers had decreased purchases of ferrosilicon, ferromanganese and silicomanganese from Ohio Ferro-Alloys and increased purchases of imports.

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CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ferromanganese (high carbon), ferrosilicon, and silicomanganese produced at the Philo, Ohio, plant of the Ohio Ferro-Alloys Corp. contributed importantly to the decline in sales or production and to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Philo, Ohio, plant of the Ohio Ferro-Alloys Corp. who became totally or partially separated from employment on or after February 26, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Admininstration, and Planning.

[FR Doc. 78-12593 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2704]

REPUBLIC STEEL CORP., BERGER DIVISION, CLEVELAND, OHIO

Termination of Investigation; Correction

In FR Doc. 78-8150, appearing at pages 12968 and 12969 in the FEDERAL REGISTER of March 28, 1978, the Berger Division was omitted from the title block and the Strip Mill Division was erroneously cited in the text due to a clerical error. Therefore, the following changes should be made:

1. The 3rd column, the title block FR Doc. 78-8150, on page 12968, is corrected by inserting "Berger Division," after "Republic Steel Corp.," and before "Cleveland, Ohio," and

2. The 3rd column, 3rd paragraph, 8th line on page 12968 is corrected by deleting "Strip Mill Division and at the."

Signed at Washington, D.C., this 27th day of April 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-12594 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2586]

SAN FRANCISCO WILDFLOWERS, LTD., SAN FRANCISCO, CALIF.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2586: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on November 9, 1977, in response to a worker petition received on October 18, 1977, which was filed on behalf of former workers producing women's and misses' blouses, shirts and dresses at San Francisco Wildflowers, Ltd., San Francisco, Calif.

The notice of investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59565). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of San Francisco Wildflowers, Ltd., its customers, the San Francisco Board of Trade, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The investigation has revealed that all four of the criteria have been met.

Women's and misses' blouses and shirts accounted for 75 percent of production by San Francisco Wildflowers. Imports of women's and misses' blouses and shirts increased 16 percent from 26,113 thousand dozen in 1975 to 30, 273 thousand dozen in 1976 and increased from 24,016 thousand dozen during January-September 1976 to 24,036 thousand dozen during January-September 1977. The ratio of imports to domestic production amounted to 74.8 percent in 1976, increasing from 70.4 percent in 1975.

Customers surveyed who decreased purchases from San Francisco Wildflowers, Ltd., in 1976 and 1977 increased purchases of imported women's and misses' blouses and shirts during the same period. Customers indicated that a large proportion of their purchases were imported blouses and shirts purchased from domestic suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and misses' blouses and shirts produced at San Francisco Wildflowers, Ltd., San Francisco, Calif., contributed importantly to declines in sales and production and to the separation of workers at that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at San Francisco Wildflowers, Ltd., San Francisco, Calif., and its retail facility in Los Angeles, Calif., who became totally or partially separated from employment on or after October 4, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of April 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-12595 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-3001]

SHARON STEEL CO., DEARBORN DIVISION, DEARBORN, MICH.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3001: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 31, 1978, in response to a worker petition received on January 10, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing all steel products at the Dearborn, Mich., plant of the Dearborn Division of the Sharon Steel Co. The investigation revealed that cold rolled alloy and carbon steel sheet and strip are produced at the plant.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7067). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Sharon Steel Co. and the United Steelworkers of America.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated or are threatened to become totally or partially separated;

There have not been any significant separations, either total or partial, at the Dearborn, Mich., plant of the Dearborn Division of Sharon Steel Co. from January 5, 1977; 1 year prior to the date of the petition, to the present. In addition, no threat of total or partial separations appears evident.

CONCLUSION

After careful review I conclude that all workers at the Dearborn, Mich., plant of the Dearborn Division of Sharon Steel Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12596 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-3002]

SHARON STEEL CO., BRAINARD STRAPPING DIVISION, WARREN, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3002: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 31, 1978, in response to a worker petition received on January 10, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing all steel products at the Warren, Ohio, plant of the Brainard Strapping Division of the Sharon Steel Co. The investigation revealed that steel strapping is produced at the plant.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7070). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Sharon Steel Co. and the United Steelworkers of America.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

Average employment at the Warren plant increased in 1977 compared to 1976. there have not been any significant total or partial separations of employment from the Warren plant from January 5, 1977, 1 year prior to the petition date, to the present. In addition, no threat of total or partial separation appears evident.

CONCLUSION

After careful review I conclude that all workers at the Warren, Ohio, plant of the Brainard Strapping Division of Sharon Steel Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12597 Filed 5-8-78; 8:45 am]

[4510-29]

[TA-W-3021]

SOUTHWESTERN BELL TELEPHONE CO., NEWPORT, ARK.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3021: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 2, 1978, in response to a worker petition received on January 17, 1978, which was filed on behalf of operators formerly engaged in providing long distance dialing assistance to the customers of Southwestern Bell Telephone Co. at the Newport facility, Newport, Ark.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7066). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Southwestern Bell Telephone Co. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the act, and that firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation has revealed that operators at the Newport facility of Southwestern Bell Telephone—one of the 22 associated Bell Telephone companies—were engaged in providing long distance dialing assistance to customers of Southwestern Bell. Operators employed at the Newport facility were engaged solely in service functions and performed no production operations.

CONCLUSION

After careful review I determine that operators at the Newport, Ark., facility of Southwestern Bell Telephone Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12598 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2805]

TENNESSEE FORGING STEEL, HARRIMAN, TENN., DIVISION

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2805: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 21, 1977, in response to a worker petition received on December 8, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel bar-size light shapes at the Harriman, Tenn., Division of Tennessee Forging Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tennessee Forging Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Imports of carbon steel bar-size light shapes increased from 164 thousand tons in 1976 to 263 thousand tons in

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1977. Imports of carbon steel bar-size light shapes relative to domestic production increased from 19.5 percent in 1976 to 26.5 percent in 1977.

A major customer of the Harriman, Tenn., Division of Tennessee Forging Steel Corp., increased purchases of carbon steel bar-size light shapes from foreign suppliers in 1977 while reducing purchases from Tennessee Forging Steel Corp.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with carbon steel bar-size light shapes produced by the Harriman, Tenn., division of Tennessee Forging Steel Corp., contributed importantly to the decline in sales and production and to the separation of workers at that facility. In accordance with the provisions of the act, I make the following certification:

All workers at the Harriman, Tenn., Division of Tennessee Forging Steel Corp., who became totally or partially separated from employment on or after September 25, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12599 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2698]

TORNETTA'S MOTOR TRUCKS, INC., CONSHOHOCKEN, PA.

Negative Determination Regarding Application for Reconsideration

On April 5, 1978, the petitioner, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, Local No. 384, requested administrative consideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Tornetta's Motor Trucks, Inc., of Conshohocken, Pa. The determination was published in the FEDERAL REGISTER on March 7, 1978 (43 FR 9392).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

In its application, the petitioner raises one issue of substance contesting the denial. The issue presented is whether the company performs a service as the Department maintained in its denial or whether it produces an article within the meaning of the Trade Act of 1974. The petitioner claims that although the employees were not engaged in the production of an "article", without the steel and iron being delivered for the manufacture of the article, there would have been nothing to manufacture. Tornetta provided transport services for Alan Wood Steel Co. whose workers were certified eligible to apply for adjustment assistance (43 FR 9380). Alan Wood Steel Co. does not own or control or have any financial interest in the business of Tornetta.

The Department has earlier determined that services, such as transportation services, are not "articles" within the meaning of section 222(3) of the Act (see Notice of Negative Determination, Pan American World Airways, Inc., TA-W-153, 40 FR 54639). Further, the Department has determined that a firm for which such services are provided and which is independent of the petitioners' firm cannot be considered to be the "workers' firm" within the meaning of section 222 (see Notice of Negative Determination, Nu-Car Driveaway, Inc., TA-W-393, 41 FR 12749).

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact of misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 24th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12600 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2961]

UNION CARBIDE CORP. LINDE DIVISION, TONAWANDA, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2961: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 25, 1978 in response to a worker petition received on January 10, 1978 which was filed by the Oil, Chemical and Atomic Worker's International Union on behalf of workers and former workers producing cryogenic processing equipment, storage equipment, and distribution systems for air separation units at the Tonawanda, N.Y., plant of Union Carbide Corp. Linde Division.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7068). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Union Carbide Corporation, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met for air separation equipment produced for industrial uses, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that the Tonawanda, New York plant of Union Carbide Corp. Linde Division produces air separation equipment for use by Union Carbide primarily for the production of industrial gases used by the steel industry, and air separation equipment for use with Union Carbide UNOX Wastewater Treatment Systems which are primarily sold to municipalities.

For the period from 1975 to date, with the exception of air separation equipment sold for waste water treatment, all air separation equipment manufactured at the Tonawanda, New York factory has been for the use of Union Carbide in the United States or its affiliated companies in other countries. Union Carbide has not imported any equipment of the type manufactured at its Tonawanda factory during the time period in question.

For air separation equipment produced for wastewater treatment systems, the following criterion has not been met.

That sales or production, or both, of the firm or subdivision have decreased absolutely.

With regard to air separation equipment manufactured at the Tonawanda plant and sold for waste water treatment, the number of units placed in operation increased in 1977 from 1976 and the man-hours at the plant used in their production increased in the same period.

Further, the bulk of the air separation equipment sold by Union Carbide for waste water treatment is sold to municipalities and is partially financed by the U.S. Environmental Protection Agency, which requires that the municipalities purchase equipment manufactured in the United States. Thus, there cannot be import competition for that business. Moreover, the waste water treatment process for which these plants are used is patented by Union Carbide, and the other major supplier of air separation equipment for Union Carbide's patented municipal waste water treatment process is a licensee under Union Carbide patents and manufacturers this air separation equipment exclusively in the United States.

CONCLUSION

After careful review I conclude that all workers producing air separation equipment at the Tonawanda, New York plant of Union Carbide Corporation Linde Division are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Singed at Washington, D.C. this 28th day of April 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12601 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-2679]

UNION CARBIDE CORP. CHEMICALS AND PLASTICS DIVISION, BOUND BROOK, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2679: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 29, 1977, in response to a worker petition received on November 17, 1977, which was filed by the Oil, Chemical and Atomic Workers International Union on behalf of workers and former workers producing polystyrene, hexa formaldahyde, resins, standard moldings and polyethylene at the Bound Brook, N.J. plant of Union Carbide Corp. Chemicals and Plastics Division. The investigation revealed that products produced at the plant fell into three basic families of plastics: polystyrene, polyethylene and phenolics.

The Notice of Investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Union Carbide Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The investigation revealed that the Bound Brook plant is a major chemicals and plastics manufacturing facility. Hundreds of different kinds of several basic families of plastics are produced. No finished products are produced at this plant. Products produced at this plant fall into three basic families of plastics, polyethylenes, phenolics, and polystyrenes.

In June 1977, Union Carbide closed down polystyrene production at the Bound Brook plant and transferred all production of polystyrenes to its Marietta, Ohio plant, the only other domestic plant of Union Carbide that produces polystyrenes.

The investigation revealed that there have been no layoffs at the Bound Brook plant due to reduced operations or work contractions in either the phenolics or polyethylene operating areas of the plant in the period from November 1, 1976 to date, which includes the entire potential impact year. There is also no immediate threat of any layoffs in those areas.

While some workers employed in the phenolics and polyethylene operating areas were laid off, those layoffs were a direct result of bumping and job placement procedures from displaced workers in the polystyrene operating area as defined by the collective bargaining agreement in effect at the plant.

All layoffs at the Bound Brook plant during the potential impact period were due to the shutdown and subsequent transfer of polystyrene production from the Bound Brook plant to the Marietta, Ohio plant of Union Carbide Corp. Chemicals and Plastics Division.

Imports of styrene plastics materials decreased in absolute terms, from 1973 to 1974, decreased from 1974 to 1975, and increased from 1975 to 1976. Imports decreased 8 percent from 1976 to 1977. The ratios of imports to domestic production and consumption decreased from 0.43 percent and 0.50 percent, respectively, in 1975 to 0.36 percent and 0.37 percent, respectively, in 1976.

In each year 1973-1977, the ratio of imports to domestic production of styrene plastics materials was less than one percent.

In each year 1974-1977, U.S. exports of styrene plastics materials exceeded imports by more than 1,000 percent.

CONCLUSION

After careful review, I conclude that all workers at the Bound Brook, N.J. plant of Union Carbide Corp. Chemicals and Plastics Division are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 3rd day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-12602 Filed 5-8-78; 8:45 am]

[4510-28]

[TA-W-3418]

WAKEFIELD ENGINEERING INC., IMPERIAL BEACH, CALIF.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3418: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 27, 1978, in response to a worker petition received on March 20, 1978, which was filed by three workers on behalf of employees of Wakefield Engineering Inc., Imperial Beach, Calif.

The notice of investigation was published in the FEDERAL REGISTER on April 11, 1978 (42 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wakefield Engineering Inc., industry analysts, and department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

As a consequence of the establishment in Mexico of production facilities to produce heat sinks and the subsequent transfer of heat sink production activities at the Imperial Beach plant of Wakefield Engineering Inc. to Mexico, the value of imports of heat

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sinks identical to the heat sinks that were produced at the Imperial Beach facility increased from 1976 to 1977 and will further increase in 1978.

Employment and production declines associated with the transfer of production to Mexico and increased shipments from Mexico began in April 1978. All production activity and associated employment is expected to terminate at the Imperial Beach plant of Wakefield Engineering Inc., by the end of May, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with heat sinks produced by the Wakefield Engineering Inc., Imperial Beach, Calif. plant contributed importantly to the decline in production and to the separation of workes at that facility. In accordance with the provision of the Act, I make the following certification:

All workers at the Wakefield Engineering Inc., Imperial Beach, Calif. plant who became totally or partially separated from employment on or after April 10, 1978, and before June 17, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of April 1978.

James F. Taylor,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-12603 Filed 5-8-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

[V-78-6]

EASTERN EQUIPMENT AND ENGINEERING CO.

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order. (2) Grant of interim order.

SUMMARY: This notice announces the application of Eastern Equipment & Engineering Co. for a variance and interim order pending a decision on the application for a variance from the standard prescribed in 29 CFR 1926.451(a) (4) and (5) concerning scaffolding. It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is May 9, 1978. The last date for interested persons to submit comments is June 8, 1978. The last date for affected employers and employees to request a hearing on the application is June 8, 1978.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N-3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination at the above address, telephone 202-523-7121;

or the following regional and area offices:

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pa. 19104.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 1110, Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201.

I. NOTICE OF APPLICATION

Notice is hereby given that Eastern Equipment & Engineering Co., Route 13, R.D. 4, Box 100, Seaford, Del. 19973 has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1926.451(a) (4) and (5) dealing with scaffolding.

The addresses of the places of employment that will be affected by the application are construction projects where the applicant is engaged in construction operations.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1926.451(a) (4) and (5). Section 1926.451(a) (4) and (5) reads as follows:

(4) Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor, except needle beams scaffolding and floats (see paragraphs (p) and (w) of this section). Scaffolds 4 to 10 feet in height having a minimum horizontal dimension in either direction of less than 45 inches, shall have standard guardrails installed on all open sides and ends of the platform.

(5) Guardrails shall be 2 x 4 inches, or the equivalent, approximately 42 inches high, with a midrail, when required. Supports shall be at intervals not to exceed 8 feet. Toeboards shall be minimum of 4 inches in height.

The applicant's business, which is part of the tank building industry, involves the erection of steel plate segments bolted into circumferential rings. Due to the unique nature of the construction, special procedures (including special scaffolds) have been developed. For instance, as opposed to more conventional scaffolding, tank scaffolds must be highly portable and have a relatively low density of occupancy by workmen. These scaffolds are raised up the shell of the tank as new rings of steel are added and work is completed at the level below.

Most plate structures are fabricated from standard length plates obtained from steel mills. These plates (each approximately 5 feet wide and 8 feet high) are preprepared by tank manufacturers with holes punched and normally painted. The scaffolding brackets are bolted on each succeeding ring at the vertical seam after the ring is assembled.

The tank scaffolds are not equipped with toeboards as required by § 1926.451(a) (4) and (5). Instead, the applicant has stated that most tools are placed in well-designed "loose tool" containers provided for that purpose. The area directly below and far enough away from the base of the scaffold to contain anything that falls from above is roped off. Because the contour of the steel plates of the tank face is curved and the adjacent edge of the scaffold platform is straight, a post is affixed to the outer edge of the bracket through which a ⅝ inch steel cable is pulled hand taut to form hand and midrails.

The applicant contends that its scaffold planking meets the maximum permissible span (distance between planking supports) and scaffold grade requirements contained in § 1926.451(a) (10).

The scaffolds are normally occupied by two employees. The employees carry their tools and equipment from one location to the next as work progresses. Scaffolds are moved approximately three times daily.

II. GRANT OF INTERIM ORDER

It appears from the application for a variance and interim order that the proposed scaffolding described in the application, with certain variations, will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1926.451(a) (4) and (5).

It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c) and in Secretary of Labor's Order No. 8-76 (41 FR 25059) that Eastern Equipment & Engineering Co. be, and it is hereby, authorized to use scaffolds in accordance with the following conditions in lieu of complying with the requirements of § 1926.451(a) (4) and (5):

(a) The applicant's loose tools and equipment shall be kept in well-designed tool containers. This does not include fitup bars, key plates, key channels, or long-handled maul which may be placed on the scaffold plank during the time they are required for work. The loose tool containers shall be secured to prevent their upset or dislodgement from the scaffold area.

(b) Areas beneath and far enough away from the base of the scaffold to contain anything that falls from above shall be roped off and posted with clearly visible signs stating: "Danger Overhead Work."

(c) The space between the innermost edge of the scaffold platform and the curved plate structure of the tank shell shall not exceed 12 inches without protective measures. A taut wire rope supported on scaffold brackets at plank level may be used to divide any space exceeding 12 inches in lieu of using a guardrail or tie-off system.

(d) All planking shall be secured from movement or overlapped in accordance with § 1926.451(a)(12).

(e) Guardrails shall be constructed of taut wire rope, and shall be supported by pipes fitted over a peg welded to the outer edge of the bracket. These guardrails shall be at least of equivalent strength, stability, and height as those required for the 8-foot span of 2 inch x 4 inch wood rails by 29 CFR 1926.451(a)(5). Guardrail supports shall be located at no greater than 8-foot intervals.

(f) The maximum distance between brackets to which scaffolding and guardrail supports are attached shall be 10 feet. These brackets shall be bolted to the steel plates.

(g) No more than three employees shall be working on a 10 foot span of scaffold planking at any time.

Eastern Equipment & Engineering Co. shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

This interim order shall remain in effect until a decision is rendered on the application for a variance.

Signed at Washington, D.C., this 3rd day of May 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-12584 Filed 5-8-78; 8:45 am]

[3510-12]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

MAY 5, 1978.

Pursuant to Sec. 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting Thursday and Friday, May 25-26, 1978. These sessions will be open to the public and will begin at 9 a.m. on both days. The Thursday session will be held in the Woodrow Wilson Seminar Room of the Congressional Research Library of Congress, First and Independence Avenue SE., Washington, D.C. Friday's session will take place in the Penthouse of Page Building No. 1, 2001 Wisconsin Avenue NW., Washington, D.C.

The Committee, consisting of 18 non-Federal members, appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by the Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The agenda will include the following topics:

May 25, 1978—Woodrow Wilson Seminar Room, Congressional Research Service, Library of Congress:
0900—Opening Remarks—Chairman, NACOA.
Welcome and Overview of Current Significant Congressional Research Service (CRS) Activities on Ocean and Atmospheric Matters—Mr. Gilbert Gude, Director, CRS.
0930—Discussion with Members of the Congress on Marine and Atmospheric Policies and Programs—Chairman, NACOA.
1130—Office of Technology Assessment (OTA) Ocean Activities—Mr. Robert Niblock, Program Manager.
1200—Lunch.
1330—Discussions with Members of the Congress (continued)—Chairman, NACOA.
1700—Adjourn.
May 26, 1978—Penthouse, 5th floor, Page Building No. 1:
0900—Opening Remarks—Chairman, NACOA.
NACOA activity since last meeting—Members.
Plans for work sessions—Panel chairmen.
1030—Work sessions:
Ocean Use Panel (Penthouse)—Dr. Evelyn Murphy, Panel chairman.
Status of Coastal Zone Management (CZM) program and prospects—Mr. Robert Knecht, Assistant Administrator for CZM, NOAA.
R. & D. Panel (Room 401, Page No. 2)—Dr. John Knauss, Panel chairman.
Economics of Ocean Use—Mr. Otto Klima, Member.
Arctic Policy and Research Facilities—Dr. John Knauss.
1230—Lunch.
1330—Work sessions (continued):
Ocean Use Panel (Penthouse)—Dr. Evelyn Murphy, Panel chairman.
Oil Spill Contingency Plans and Clean Up Operations.
R. & D. Panel (Room 401, Page No. 2)—Dr. John Knauss, Panel chairman.
NOAA's R. & D. Program—Dr. Ferris Webster, Assistant Administrator for R. & D., NOAA.
1500—Plenary session (Penthouse)—Chairman, NACOA.
Reports of Panel chairmen.
Annual Report.
Future Meeting Plans.
1700—Adjourn.

The public is welcome at these sessions and will be admittted to the extent of the seating available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the perogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street NW. (Room 434, Page No. 1), Washington, D.C. 20235. The telephone number is 254-8418.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc. 78-12745 Filed 5-8-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[78-12]

SPACE SCIENCE STEERING COMMITTEE, GAMMA RAY OBSERVATORY (GRO), Meeting

The above mentioned advisory Subcommittee will meet at NASA Headquarters, 400 Maryland Avenue SW., Washington, D.C., on May 25 through May 27, 1978, in room 5026 from 8:30 a.m. until 9 p.m. on May 25, 8:30 a.m. until 5 p.m. on May 26, and 8:30 a.m. until 12 noon on May 27, if required.

The Subcommittee will discuss, evaluate and categorize proposals submitted for participation in flight investigations of the proposed Gamma Ray Observatory mission.

Throughout the Subcommittee sessions, the professional qualifications of the proposers, and their potential

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scientific contributions to the detailed feasibility study of the GRO mission, will be candidly discussed and appraised. Discussions of these matters in a public session would invade the privacy of the proposers, and the other individuals involved, therefore, the meeting will be closed to members of the public.

Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the sessions will be closed to the public.

For further information, please contact Dr. Albert G. Opp, NASA Headquarters, Washington, D.C. 20546, telephone 202-755-8493.

Dated: May 8, 1978.

KENNETH R. CHAPMAN,
Associate Administrator for External Relations.

[FR Doc. 78-12541 Filed 5-8-78; 8:45 am]

[6820-26]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

SIXTH ANNUAL REPORT OF THE PRESIDENT ON FEDERAL ADVISORY COMMITTEES COVERING CALENDAR YEAR 1977

Availabilty of Publication

The above report is available to Federal government sources by contacting the General Services Administraion, Committee Management Secretariat (AL/CMS), Washington, D.C. 20408, telephone 202-566-1642.

Purchase of the report by the general public is available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price is $3.50, the stock number is 052-003-00521-2, and the catalog number is PR-39.10:977.

The Compilation of Agency Submissions for the Sixth Annual Report of the President on Federal Advisory Committees Covering Calendar Year 1977 will be available on microfilm for viewing and/or purchase through the National Archives and Records Service at a later date which will be announced in the FEDERAL REGISTER.

Dated: April 28, 1978.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc. 78-12497 Filed 5-8-78; 8:45 am]

[4510-23]

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

PUBLIC MEETING

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on June 7 and 8, 1978, in room 6510, 2020 K Street NW., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under section 13 of the Emergency Jobs Program Extensions Act of 1975, Pub. L. 94-444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the procedures, concepts, and methodology involved in employment and unemployment statistics, and suggesting ways and means of improving them.

The meetings will begin each day at 9:30 a.m. to discuss alternative labor force measures and appraise the concepts and definitions underlying the counting of special groups in the labor force. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting:

Mr. Wesley H. Lacey, Administrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street NW., Washington, D.C. 20006.

Signed at Washington, D.C., this 5th day of May 1978.

SAR A. LEVITAN,
Chairman.

[FR Doc. 78-12508 Filed 5-8-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

SUBCOMMITTEE ON ANTHROPOLOGY OF THE ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Anthropology of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: May 25, 26, and 27, 1978—9 a.m. to 6 p.m.
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. John Yellen, Program Director, Anthropology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4208.
Purpose of subcommittee: To provide advice and recommendations concerning support for anthropology.
Agenda: To review and evaluate proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 4, 1978.

[FR Doc. 78-12571 Filed 5-8-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON CELL BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Cell Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: May 25, 26, and 27, 1978—9 a.m. to 6 p.m.
Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Gertrude Kasbekar, Assistant Program Director for Cell Biology, Room 334-C, National Science Foundation, Washington, D.C. 20550, telephone 202-634-4117.
Purpose of subcommittee: To provide advise and recommendations concerning support for research in cell biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 19, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 4, 1978.

[FR Doc. 78-12570 Filed 5-8-78; 8:45 am]

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[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO., ARKANSAS NUCLEAR ONE—UNIT NO. 1

Order for Modification of License

I. The Arkansas Power & Light Co. (the licensee), is the holder of Facility Operating License No. DPR-51 which authorizes the operation of the nuclear power reactor known as Arkansas Nuclear One—Unit No. 1, (the facility or ANO-1) at steady reactor power levels not in excess of 2,568 megawatts thermal (rated power). The facility consists of a Babcock & Wilcox Co. designed pressurized reactor (PWR) located at the licensee's site in Pope County, Ark.

II. On April 21, 1978, the Commission issued an order, modifying license No. DPR-51, to require a limitation on operating power level and to require certain operating procedures. This order was the result of the identification of certain errors in the Emergency Core Cooling System (ECCS) performance calculations submitted by the licensee in accordance with the requirements of the Commission's regulations, 10 CFR 50.46.

As noted in our order of April 21, 1978, Babcock & Wilcox (B&W) the designer of the Nuclear Steam Supply System (NSSS) for this facility had performed certain calculations demonstrating that with the operating procedures required by our order of April 21, 1978, ECCS performance would remain within the limits of 10 CFR 50.46(b), with operation at full power, 2,568 Mwt.

However, since the NRC staff had not had the opportunity to review these calculations, the NRC staff had recommended and the licensee agreed to limit power to 2,311 Mwt.

The staff has now had the opportunity to review the B&W calculations which are contained in a document entitled "Analysis of Small Breaks in the Reactor Coolant Pump Discharge Piping for the B&W Lowered Loop 177 FA Plants," April 24, 1978 (the B&W Summary), which describes the methods used and the results obtained in the above analysis. The analysis models operator action by assuming a step increase in flow to the reactor vessel (with balanced flow in the three intact loops) 10 minutes after the LOCA reactor protection system trip signal occurs.

By letter dated April 25, 1978, the licensee submitted by reference the B&W Summary for our review. In their submittal the licensee stated that based on the B&W Summary, they were convinced that ANO-1 can operate at 100 percent full power (2,568 Mwt) and maintain a substantial margin to the 10 CFR 50.46 limits. Accordingly, based on the above discussion, the licensee requested an amendment to facility operating license No. DPR-51 to authorize the facility to operate at steady state core power levels not in excess of 2,568 Mwt.

By letter dated April 21, 1978, supplemented by letter dated April 27, 1978, the licensee stated that they have incorporated in their procedures necessary operator actions on a time scale consistent with that assumed in the analysis, and that they have verified from tests that the assumed operator response time was achievable. The licensee also committed to submit as appropriate a request for an amendment of the ANO-1 Technical Specifications to reflect adoption of these procedures and committed to submit a proposal for a permanent solution to this problem by July 21, 1978.

We have completed a preliminary review of the B&W Summary and as a result requested that B&W analyze additional breaks. B&W states that a 0.13 ft.^{2} discharge line break, with operator actions consistent with that modeled in the analysis, is the most limiting case. To arrive at this conclusion, B&W has performed analyses at break sizes of 0.3, 0.2, 0.17, 0.15, 0.13, 0.1, and 0.04 ft.^{2}. (The 0.3 and 0.2 breaks were analyzed for 2,772 Mwt, the others for 2,568 Mwt.) The results, which were obtained using an approved appendix K model for blowdown, indicate core uncovery for about 300 seconds for the 0.13 ft.^{2} break. For this break size B&W has conservatively calculated the peak clad temperature to be approximately 1,551 F; well below the limits of 10 CFR 50.46(b).

Based on review of the B&W Summary and subsequent analyses which were submitted by the licensee by letter dated April 28, 1978, we find that the calculations support the conclusion that a 0.13 ft.^{2} discharge line break is the most limiting case. However, the summary does not demonstrate that the assumptions employed in supplying heat inputs to the FOAM portion of the calculations were conservative. We are also reviewing whether use of simplified input in the FOAM calculations satisfies the requirement for calculation using an approved model. Accordingly, we cannot conclude at this time that operation of ANO-1 at 100 percent of licensed power would be fully in conformance with 10 CFR 50.46. On the other hand, the range of calculations now available shows that for operation of this facility at power levels up to 100 percent of full power (2,568 Mwt), ECCS performance calculations for the limiting small break indicate that this break has a very substantial margin on peak clad temperature below the limits of 10 CFR 50.46(b) if appropriate operator action is properly taken (as described above).

Therefore, until we have had the opportunity to fully assess the B&W calculations, supplemented by license letter dated April 28, 1978, the staff cannot determine that operation of ANO-1 at full power under the conditions of the revised calculations by B&W applicable to this facility conforms fully to the requirements of 10 CFR 50.46. However, operation of ANO-1 at power levels of up to 2,568 Mwt and in accordance with appropriate operating procedures will ensure that the ECCS will conform to the performance criteria of 10 CFR 50.46. Therefore, while B&W calculations applicable to this facility are completed to achieve full compliance with 10 CFR 50.46, operation of the facility at the full power level up to 2,568 Mwt with appropriate operating procedures specified herein will not endanger life or property or the common defense and security and the limitations imposed by order of April 21, 1978, may be modified accordingly.

III. Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and are being placed in the Commission's local public document room at the Arkansas Polytechnic College, Russellville, Ark.

1. Letter from Mr. Daniel H. Williams to Mr. R. W. Reid, Chief, Operating Reactors Branch No. 4, dated April 17, 1978.

2. Letter from Mr. William Cavanaugh, III to Mr. R. W. Reid, Chief, Operating Reactors Branch No. 4, dated April 25, 1978.

3. Letters from Mr. Donald A. Rueter to Mr. R. W. Reid, Chief, Operating Reactors Branch No. 4, dated April 21, 27, and 28, 1978.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR parts 2 and 50: *It is ordered*, That facility operating license No. DPR-51 is hereby amended by adding the following provisions in lieu of the provisions of our order of April 21, 1978:

(1) As soon as possible, the licensee shall submit a reevaluation wholly in conformance with 10 CFR 50.46 of ECCS cooling performance calculated in accordance with the B&W Evaluation Model for operations with operat-

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ing procedures described in its letters of April 17, April 21, and April 28, 1978,

(2) The power level shall not exceed 2,568 Mwt, and

(3) Until further authorization by the Commission, the licensee shall operate in accordance with the procedures described in its letter of April 21, 1978, supplemented by letters dated April 27, 1978.

Dated at Bethesda, Md., this 28th day of April 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-12550 Filed 5-8-78; 8:45 am]

[7590-01]

[Docket No. 50-316]

INDIANA & MICHIGAN ELECTRIC CO. AND INDIANA & MICHIGAN POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 5 to facility operating license No. DPR-74, issued to Indiana & Michigan Electric Co. and Indiana Michigan Power Co. which authorizes power operation not to exceed 3,391 megawatts thermal (100 percent of the rated core power level) for the Donald C. Cook nuclear plant, unit No. 2 (the facility) located in Berrien County, Mich. The amendment is effective as of its date of issuance. This action is a part of the licensing action encompassed in the "notice of consideration of issuance of facility operating licenses and notice of opportunity for hearing pursuant to 10 CFR part 50, appendix D, section C."

Facility operating license No. DPR-74 contained condition 2.C(3)(e) requiring staff approval prior to power operation in excess of 50 percent of rated power. This condition relates to the approval by the Commission of the WRB-1 correlation and the improved thermal design procedure (Westinghouse topical reports WCAP-8762 "New Westinghouse correlation WRB-1 for predicting critical heat flux in rod bundles with mixing vane grids" and WCAP-8567 "improved thermal design procedure") for use in the analysis of the Donald C. Cook nuclear plant, unit No. 2. License condition 2.C(3)(e) has been resolved to the satisfaction of the Commission and the appropriate restriction has been removed in amendment No. 5

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR part 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) amendment No. 5 to license No. DPR-74, and (2) the Commission's related safety evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Mich. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 28th day of April 1978

For the Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc. 78-12551 Filed 5-8-78; 8:45 am]

[7590-01]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 37 to facility operating license No. DPR-36 issued to Maine Yankee Atomic Power Co., which revised the license and its appended technical specifications for operation of the Maine Yankee atomic power station, located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

The Commission requested that the licensee provide his fire protection program. The licensee submitted a number of documents setting forth the fire protection program proposed for continued facility operation. These materials serve to modify the facility description and the facility technical specification provisions. These submittals are the licensee's application to operate his facility in accordance with the fire protection program he has proposed. This amendment authorizes certain of the modifications, upon specified implementation schedules; specifies schedules for completion of certain additional items; revises the technical specifications to add requirements regarding additional existing fire proctection systems, specifically sprinkler systems and hose stations in the turbine building; and clarifies the fire hose hydrostatic test requirements.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The licensee's submittals dated January 31, July 12, September 28, and December 16, 1977, and March 14 and 24, 1978, (2) amendment No. 37 to license No. DPR-36, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director Division of Operating Reactors.

Dated at Bethesda, Md., this 24th day of April 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-12552 Filed 5-8-78; 8:45 am]

[7590-01]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 45 to facility operating license No. DPR-46, issued to the Nebraska Public Power District (the licensee), which revised the technical specifications for operation of the Cooper nuclear station (the facility) located in Nemaha County, Nebr. The amendment is effective as of the date of issuance.

This amendment revises technical specifications related to undervoltage protection equipment in order that the same technical specifications exist as were in effect prior to the issuance of amendment No. 43 on April 11, 1978. We have modified the requirements of amendment No. 43 to require that installation of new equipment be complete by the end of the next cold shutdown of more than 5 days duration after equipment becomes available. The change is necessary because of the unavailability of equipment for installation during the present refueling outage. The existing plant equipment and the corresponding technical specifications contained in this amendment provide an acceptable level of undervoltage protection until new undervoltage protection relays can be obtained and there is an opportunity for their installation during a scheduled outage.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) amendment No. 45 to license No. DPR-46, and (2) the Commission's related letter to the licensee dated May 2, 1978. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Auburn Public Library, 118 15th Street, Auburn, Nebr. 68305. A single copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 2d day of May 1978.

For the Nuclear Regulatory Commission.

DAVID M. VERRELLI,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-12553 Filed 5-8-78; 8:45 am]

[7590-01]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-46, issued to the Nebraska Public Power District (the Licensee), which revised the Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebr. The amendment is effective as of the date of issuance.

The amendment modifies the Technical Specifications to: (1) permit operation of the facility during Cycle 4 with 100 improved two water rod 8x8R reload fuel bundles, designed and fabricated by the General Electric Co. (GE) and having average enrichments of 2.74 and 2.83 weight/percent U-235, and (2) revise limits based on transient and accident analysis for the Cycle 4 core loading.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on March 31, 1978 (43 FR 13650). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 6, 1978, as supplemented March 3, April 11, 14, 26, and 27, 1978, (2) Amendment No. 46 to License No. DPR-46, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Auburn Public Library, 118 15th Street, Auburn, Nebr. 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 2nd day of May 1978.

For the Nuclear Regulatory Commission.

BRIAN K. GRIMES,
Assistant Director for Engineering and Projects, Division of Operating Reactors.

[FR Doc. 78-12554 Filed 5-8-78; 8:45 am]

[7590-01]

[Docket No. 50-272]

PUBLIC SERVICE ELECTRIC AND GAS CO., ET AL. (SALEM NUCLEAR GENERATING PLANT, UNIT 1)

Order Regarding Prehearing Conference

Notice is hereby given that, pursuant to 10 CFR 2.751a, a prehearing conference in the above-referenced proceeding will be held on Thursday, May 18, 1978, at 2:30 p.m. at the Salem County Courthouse, Courtroom 3, Salem, N.J.

All parties to this proceeding and all persons desiring to intervene as parties to this proceeding shall attend this prehearing conference and be prepared to discuss the issues raised by all the contentions which will have been filed pursuant to this Board's Memorandum and Order of April 26, 1978.

So ordered.

Dated at Madison, Wis., this 2d day of May 1978.

For the Atomic Safety and Licensing Board.

GARY L. MILHOLLIN,
Chairman.

[FR Doc. 78-12549 Filed 5-8-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to

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applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.31, Revision 3, "Control of Ferrite Content in Stainless Steel Weld Metal," describes a method acceptable to the NRC staff for implementing certain requirements with regard to the control of welding in fabricating and joining safety-related austenitic stainless steel components and systems in light-water-cooled nuclear power plants. This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 1st day of May 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc. 78-12560 Filed 5-8-78; 8:45 am]

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 2.4.7 (Ice Effects) of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 2.4.7 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 2055 (5 U.S.C. 552(a)).

Dated at Bethesda, Md. this 28th day of April 1978.

For the U.S. Nuclear Regulatory Commission.

R. J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-12555 Filed 5-8-78; 8:45 am]

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN (NUREG-5/087)

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 6.2.1.1.C (Pressure-Suppression Type BWR Containments) of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 6.2.1.1.C is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 2055 (5 U.S.C. 552(a)).

Dated at Bethesda, Md., this 28th day of April 1978.

For the U.S. Nuclear Regulatory Commission.

DANIEL R. MULLER,
Deputy Director, Division of Site Safety and Environmental Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 78-12555 Filed 5-8-78; 8:45 am]

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 8.31 (A-C Power Systems (Onsite)) of the SRP for the NRC staff's safety review of applications to build and operate light-water cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 8.3.1 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md. this 28th day of April 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-12557 Filed 5-8-78; 8:45 am]

MAY 9 1978

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 6.2.4 (Containment Isolation System) of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 6.2.5 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552 (a)).

Dated at Bethesda, Md., this 28th day of April, 1978.

For the U.S. Nuclear Regulatory Commission.

R. J. MATTSON,
Director, Division of Systems Safety Office of Nuclear Reactor Regulation.

[FR Doc. 78-12558 Filed 5-8-78; 8:45 am]

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 6.2.4 (Containment Isolation System) of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 6.2.4 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552 (a)).

Dated at Bethesda, Md., this 28th day of April 1978.

For the U.S. Nuclear Regulatory Commission.

R. J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-12559 Filed 5-8-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10230; 811-765; 811-1588; 811-1404; 811-658]

ADMIRALTY FUND ET AL.

Filing of Application for an Order Declaring That Companies Have Ceased To Be Investment Companies

MAY 2, 1978.

In the Matter of Admiralty Fund, Competitive Capital Fund, Seaboard Leverage Fund, and the Income Fund of Boston, Inc., One New York Plaza, New York, N.Y. 10004.

Notice is hereby given that Oppenheimer A.I.M. Fund, Inc. ("AIM") and Oppenheimer Income Fund of Boston, Inc., ("Income") filed an application on behalf of Admiralty Fund ("Admiralty"), Competitive Capital Fund ("Competitive"), Seaboard Leverage Fund ("Seaboard"), and the Income Fund of Boston, Inc. ("IFOB") (hereinafter referred to with Admiralty, Competitive, and Seaboard as the "Applicants"), registered under the Investment Company Act of 1940 (the "Act") as diversified, open-end management investment companies, on May 20, 1977, and an amendment thereto on October 18, 1977, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicants have ceased to be investment companies as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Subsidiaries of The Seaboard Corp. ("TSC") formerly served as the investment adviser and principal underwriter for Applicants. On March 5, 1974, the Commission filed a complaint in the United States District Court for

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the Central District of California against TSC and other defendants. The complaint alleged numerous violations of the federal securities laws, including violations of the Act. Pursuant to a stipulation between the Commission, Admiralty, and other defendants, the Court entered an order on October 1, 1974, dismissing the Commission's complaint. As a result of the Commission's action against TSC, the independent directors of each of the Applicants terminated the contracts with their respective advisors and underwriters, effective December 10, 1973.

Applicants stated that on May 14, 1976, the Boards of Directors of Admiralty, Competitive, and Seaboard adopted resolutions recommending a merger with AIM and that on March 30, 1976, the Board of Directors of IFOB adopted a resolution recommending a merger with Income. The proposed mergers were approved by the respective shareholders of the Applicants on October 27, 1976 and by the shareholders of AIM and Income on November 8, 1976.

On December 7, 1976, Admiralty, Competitive, and Seaboard merged into AIM and IFOB merged into Income. As a result of the mergers, AIM acquired marketable securities with an aggregate market value of $35,361,670 and net cash and receivables aggregating $1,855,015 and assumed the liabilities of Admiralty, Competitive, and Seaboard. Income acquired marketable securities with an aggregate market value of $21,632,019, and cash and cash items aggregating $377,660 and assumed the liabilities of IFOB. In return, 4,010,419 shares of AIM were issued to the respective shareholders of Admiralty, Competitive, and Seaboard, and 2,547,417 shares of Income were issued to the shareholders of IFOB, such shares being equivalent in value to shares of the respective Applicants held at the time of the merger.

Prior to the merger, litigation based on the violations alleged in the Commission's complaint and certain additional claims against TSC and other parties was commenced on Applicant's behalf. The Boards of Directors of Applicants believed it was inappropriate for other shareholders to have either the burden or the possible benefits of the litigation in which Applicants were involved. Therefore, the application states that the claims of Applicants in the litigation were transferred to a Litigation Trust ("Trust") together with cash to support the prosecution of the claims. An order of the Commission (Investment Company Act Release No. 9543) under section 6(c) of the Act exempting the Trust from all provisions of the Act and rules and regulations thereunder other than sections 9, 17, 31, 34, 36, and 37 and related rules was issued on November 29, 1976.

The application states that the Beneficiaries (the "Beneficiaries") of the Trust are the prior shareholders of Applicants. The Trust assets shall be distributed to the Beneficiaries on the basis of each Beneficiary's beneficial interest in the Trust in such manner and at such time as the Trustees shall deem necessary or appropriate; provided, however, that a final distribution of all remaining assets in the Trust shall be made promptly after the determination or settlement of all the litigation. Applicants state that they have no assets or liabilities.

Section 8(f) of the Act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given, That any interested person may, not later than May 29, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12504 Filed 5-8-78; 8:45 am]

[8010-01]

[Release No. 14735; SR-Amex-78-4]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

MAY 3, 1978.

On March 2, 1978, the American Stock Exchange, Inc., 86 Trinity Place, New York, N.Y. 10006, filed with the Comission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to eliminate the initial and maintenance capital requirements of $75,000 and $52,000, respectively, applicable to registered traders in equity securities.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14539, March 7, 1978) and by publication in the FEDERAL REGISTER (43 FR 10660, March 14, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6, and the rules and regulations thereunder. While the Amex would no longer impose a specific capital requirement on a member who maintains the status of a registered trader in stocks after May 1, 1978,[2] the member would be subject to the Commission's Uniform Net Capital Rule [17 CFR 240.15c3-1].

[1]On May 1, 1978, the Commission approved another Amex proposal, File No. SR-Amex-78-10, which would allow members, including floor traders, to act as Registered Equity Market Makers ("REMM's") in a limited number of listed issues selected by the registrant; the minimum capital for a REMM would be that prescribed by Exchange Act Rule 15c3-1 [17 CFR 240.15c3-1]. For further information on File No. SR-Amex-78-10. See Secutities Exchange Act Release No. 14718 (May 1, 1978).

[2]An Amex registered trader may effect on-floor proprietary transactions in stocks after May 1, 1978, if the member meets the "business mix" test in section 11(a)(1)(G)(i) of the Act and effects any such transaction in accordance with subparagraph (ii) of that section and Temporary Rule 11a1-1(T) under the Act [17 CFR 240.11a1-1(T)].

MAY 9 1978

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That the above-mentioned proposed rule change be, and it is hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12505 Filed 5-8-78; 8:45 am]

[8010-01]

[Release No. 14728]

ESTABLISHMENT OF NATIONAL CLEARANCE AND SETTLEMENT SYSTEM

Extension of the Period for the Submission of Written Comments on the Hearings

MAY 2, 1978.

On March 7, 8, 9, and 10, 1978,[1] and April 19 and 20, 1978,[2] the Commission held public hearings into the establishment of a national clearance and settlement system. In Release No. 14648, the Commission indicated that written comments in this proceeding would be accepted until April 30, 1978.

The Commission has extended the period for submission of written comments to May 19, 1978. Six copies of each comment letter should be submitted to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 600-15. All communications will be placed in that file and will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12507 Filed 5-8-78; 8:45 am]

[8010-01]

[Release No. 14726; SR-MSBR-78-6]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

MAY 2, 1978.

On March 9, 1978, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to amend its interdealer uniform practice rule (1) to extend the time period for the completion of all close-out procedures from 30 business day following settlement date to 90 business days following such date; (2) to require a purchaser to specify in a close-out notice no more than 5 business days during which a close-out may be executed pursuant to such notice; (3) to limit to the initial close-out notice for a transaction the availability of an extension of the time for execution of a close-out based on an "adequate explanation" by the seller; and (4) to provide that completion of a transaction at any point in time cancels all outstanding close-out notices with respect to that transaction.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14584 (Mar. 21, 1978)) and by publication in the FEDERAL REGISTER (43 FR 12977 (Mar. 28, 1978)). The Commission received one written statement which favored the proposed rule change. That statement was considered and made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of section 15B of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, That the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12506 Filed 5-8-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[CM-8/54]

OVERSEAS SCHOOLS ADVISORY COUNCIL

Meeting

The Executive Committee of the Overseas Schools Advisory Council, Department of State, will meet Thursday, June 8, 1978, 9:30 a.m. in the Twelfth Floor Conference Room of Pfizer International Inc., 235 East 42nd Street, New York, N.Y.

Agenda items scheduled for discussion are as follows:

I. Welcome to Council Members

II. Message from Assistant Secretary John M. Thomas

III. Report on Study Committee Meeting of March 14, 1978 and Its Recommendations for Future Council Activities

IV. Progress Report Relating to Local Fund-Raising Activities Conducted by the schools and Assistance Extended by Regional Associations

V. Status Report of 1977/1978 Program

VI. Council Letter to 1,300 U.S. Business and Foundation Executives with Fact Sheets, List of Overseas Schools and List of U.S. Firms Represented on School Boards

VII. Participation of U.S. Business and Foundation Executives on School Boards and in Local School Programs

VIII. Report on *Fund-Raising Handbook,* Its Distribution and Financing

IX. Selection of Date for Full Council Meeting

Anyone wishing to attend the meeting should call Ms. Judy Knott, Office of Overseas Schools, Department of State, Washington, D.C., Area Code 703-235-9600, prior to June 8. The public may participate in discussions at the Chariman's discretion.

Dated: April 26, 1978.

ERNEST N. MANNINO,
Executive Secretary,
Overseas Schools Advisory Council.

[FR Doc. 78-12498 Filed 5-8-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Office of the Secretary

CARBON STEEL WIRE ROD FROM FRANCE

Antidumping; Extension of Investigatory Period

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Extension of Antidumping Investigatory Period.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has determined that a tentative determination as to whether sales at less than fair value of carbon steel wire rod from France have occurred cannot reasonably be made in six months. This decision will be made in not longer than nine months from the date of the initiation of the investigation.

EFFECTIVE DATE: May 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. David P. Mueller, Operations Officer, Duty Assessment Division, United States Customs Service, 1301

[1]Securities Exchange Act Release No. 14411 (January 25, 1978), 43FR 4295 (February 1, 1978). Transcripts of the March hearings are available at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C., and, upon request, at the Commission's regional offices.

[2]Securities Exchange Act Release No. 14648 (April 11, 1978), 43 FR 16231 (April 17, 1978). Transcripts of the April hearings are available at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C., and upon request, at the Commission's regional offices.

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Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On September 12, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26 and 153.27), indicating that carbon steel wire rod from France is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was submitted by counsel acting on behalf of the Georgetown Steel Corp. and Georgetown Texas Steel Corp. On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of October 19, 1977 (42 FR 55858).

For purposes of this notice, the term "carbon steel wire rod" refers to such wire rods which are not tempered, not treated and not partly manufactured.

Pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)), notice is hereby given that the Secretary concludes that the determination provided for in section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)), cannot reasonably be made within six months. The determination under section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)) will, therefore, be made within no more than nine months.

This determination is based upon the need to collect and analyze further information, particularly with respect to (1) sales of merchandise produced by Sacilor to purchasers in the home market rather than to purchasers located in other countries within the European Communities and (2) the cost of production of wire rod produced by at least two producers of that product in France. Information presented by counsel for Petitioner based upon information recently made available, indicates that sales of wire rod in the home market by Chatillon and Sacilor may have been made in substantial quantities over an extended period of time at less than the cost of production and at prices that do not permit recovery of all costs within a reasonable period of time through sales in the ordinary course of trade. Accordingly, pursuant to § 205(b) of the Act (19 U.S.C. § 164(b), information concerning the cost of production of this merchandise produced by Chatillon and Sacilor is being requested.

This notice is published pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

MAY 2, 1978.

[FR Doc. 78-12515 Filed 5-8-78; 8:45 am]

[4810-40]

Office of the Secretary

[Supplement to Dpt. Circular—Public Debt Series—No. 10-78]

TREASURY NOTES, SERIES A-1988

Interest Rate

MAY 4, 1978.

The Secretary of the Treasury announced on May 2, 1978, that the interest rate on the notes designated series A-1988, described in Department Circular—Public Debt Series—No. 10-78, dated April 27, 1978, will be 8¼ percent. Interest on the notes will be payable at the rate of 8¼ percent per annum.

PAUL H. TAYLOR,
Acting Fiscal Assistant Secretary.

[FR Doc. 78-12574 Filed 5-8-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[AB 36 (SDM)]

OREGON SHORT LINE RAILROAD CO.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Oregon Short Line Railroad Co., has filed with the Commission its amended color-coded system diagram map in Docket No. AB 36 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on March 29, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 36 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.

SYSTEM DIAGRAM MAP of the OREGON SHORT LINE RAILROAD CO. AB No. 36 prepared in conjunction with I.C.C. Order Ex Parte No. 274 (Sub-No. 2) and Title 49 of the code of Federal Regulation 1121.

* L E G E N D *

Lines or portions of lines anticipated to be the subject of an abandonment or discontinuance application within three years shown ---------- (1)

Lines or portions of lines potentially subject to abandonment which are under study and which may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues shown -- (2)

Lines or portions of lines for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission shown ---------- (3)

Lines or portions of lines which are being operated under rail service continuance provisions shown ---------- (4)

All other Oregon Short Line Railroad Co. lines shown --

0 50 100
SCALE IN MILES

Standard Metropolitan Statistical Area (SMSA) shown ----

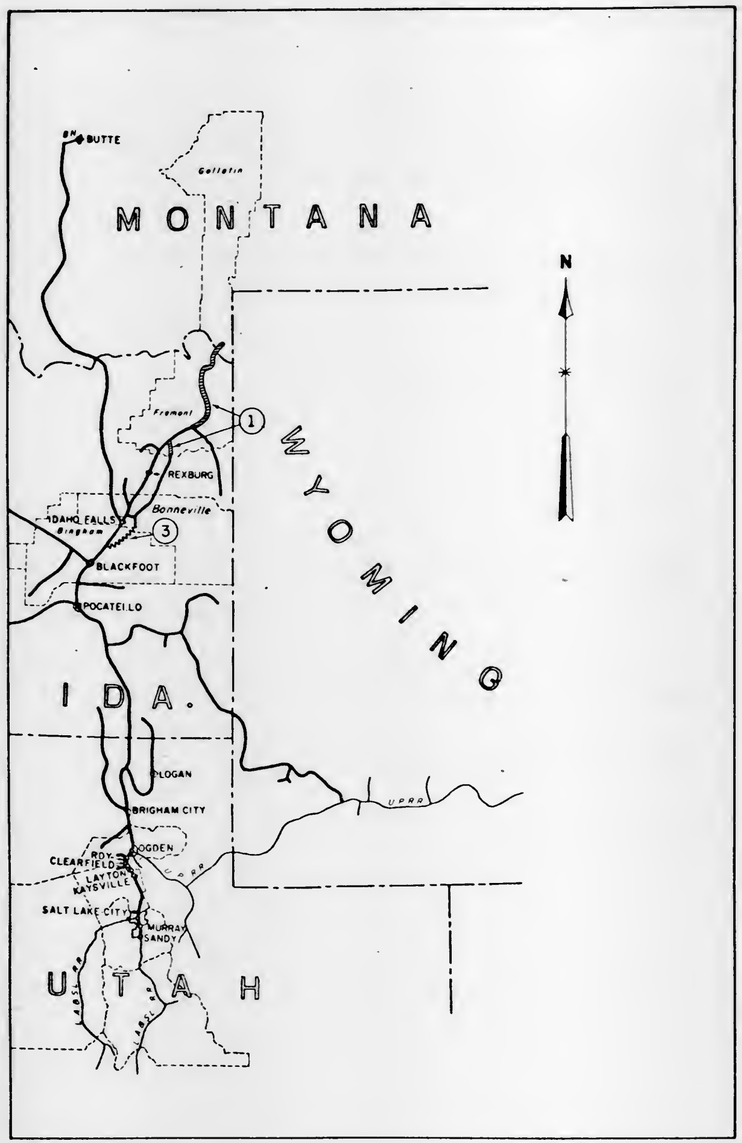
City outside of an (SMSA) with a population of 5,000 or more persons according to 1970 U.S. Census reports shown ----------

State boundaries shown ----------

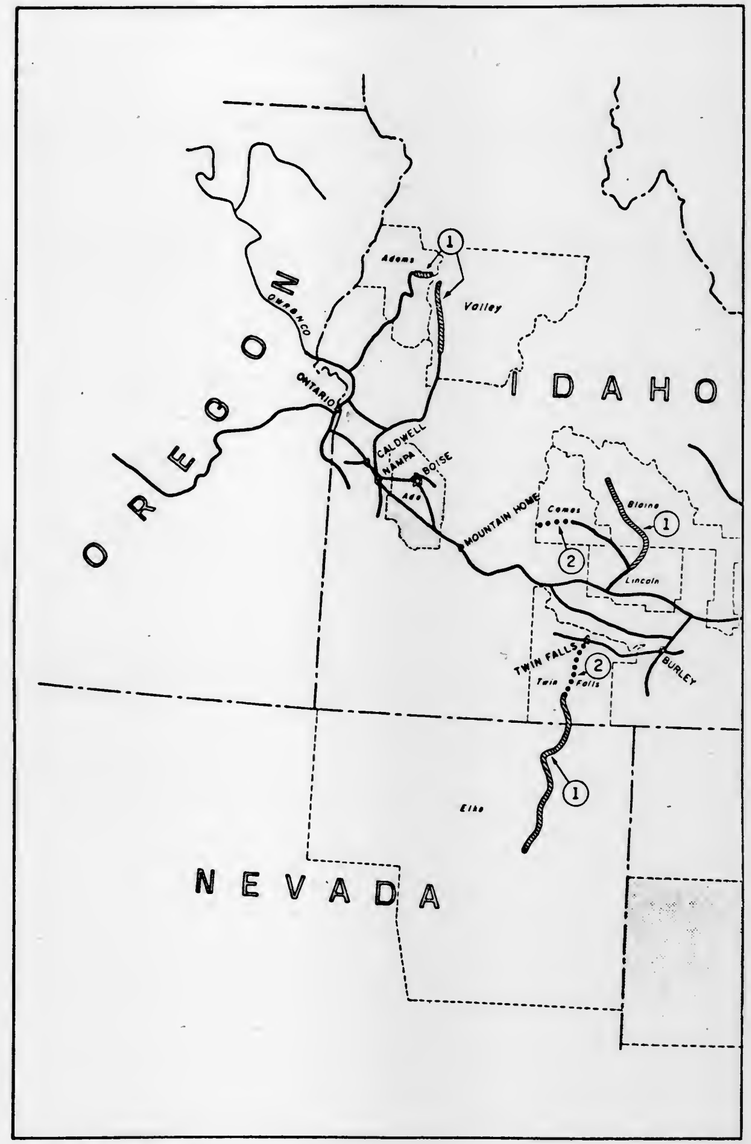
Boundaries of counties in which proposed abandonments are located shown ---------- County

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Certified to be a true copy
of the original document
G. M. Tabor



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OREGON SHORT LINE RAILROAD CO. SYSTEM DIAGRAM (AB-36)

DESCRIPTION OF LINES

Pursuant to regulations of the Interstate Commerce Commission (49 CFR § 1121.23), following is an amended and updated description of lines of Oregon Short Line Railroad Co. as shown on the System Diagram Map.

Category 1—Lines anticipated to be the subject of abandonment applications within three years.

Idaho

(a) Designation of Line: Ketchum Branch.
(b) State(s) in which located: Idaho.
(c) County(ies) in which located: Blaine and Lincoln.
(d) Milepost locations: M.P. 15.65 near Richfield to M.P. 69.84 near Ketchum.
(e) There are no agency or terminal stations located on this line.
(a) Designation of line: East Belt Branch.
(b) State(s) in which located: Idaho.
(c) County(ies) in which located: Fremont.
(d) Milepost locations: M.P. 38.56 near Newdale to M.P. 44.28 near Belt.
(e) Newdale at Milepost 38.08 is an agency station on this line.
(a) Designation of Line: New Meadows Branch.
(b) State(s) in which located: Idaho.
(c) County(ies) in which located: Adams.
(d) Milepost locations: M.P. 84.52 near Rubicon to M.P. 89.91 near New Meadows.
(e) There are no agency or terminal stations located on this line.
(a) Designation of Line: Idaho Northern Branch.
(b) State(s) in which located: Idaho.
(c) County(ies) in which located: Valley.
(d) Milepost locations: M.P. 99.73 near Cascade to M.P. 133.61 near McCall.
(e) Cascade at M.P. 99.11 is an agency station on this line.

Idaho and Montana

(a) Designation of Line: Yellowstone Branch.
(b) State(s) in which located: Idaho and Montana.
(c) County(ies) in which located: Fremont and Gallatin.
(d) Milepost locations: M.P. 52.00 near Ashton to M.P. 107.2 near West Yellowstone.
(e) Ashton at M.P. 50.99 is an agency station on this line.

Idaho and Nevada

(a) Designation of Line: Wells Branch.
(b) State(s) in which located: Idaho and Nevada.
(c) County(ies) in which located: Twin Falls and Elko.
(d) Milepost locations: M.P. 29.35 near Rogerson to M.P. 123.46 near Wells.
(e) There are no agency or terminal stations located on this line.

Category 2—Lines which are potentially subject to abandonment and which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs as compared to potential revenues.

Idaho

(a) Designation of Line: Hill City Branch.
(b) State(s) in which located: Idaho.
(c) County(ies) in which located: Camas.
(d) Milepost locations: M.P. 44.46 near Fairfield to M.P. 58.34 near Hill City.
(e) There are no agency or terminal stations located on this line.
(a) Designation of Line: Wells Branch.
(b) State(s) in which located: Idaho.
(c) County(ies) in which located: Twin Falls.
(d) Milepost locations: M.P. 0.00 near Twin Falls to M.P. 29.35 near Rogerson.
(e) Twin Falls at M.P. 0.00 is an agency station on this line.

Category 3—Applications pending before the Interstate Commerce Commission.

Idaho

(a) Designation of Line: Goshen Branch.
(b) State(s) in which located: Idaho.
(c) County(ies) in which located: Bingham and Bonneville.
(d) Milepost locations: M.P. 0.06 near Firth to M.P. 17.53 near Ammon.
(e) Firth at M.P. 169.45 is an agency station on this line.

[FR Doc. 78-12476 Filed 5-8-78; 8:45 am]

[7035-01]

[AB 26 (SDM)[1]] 168

SOUTHERN RAILWAY CO.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Southern Railway Co. and its consolidated subsidiaries, has filed with the Commission its amended color-coded system diagram map in Docket No. AB 26 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on April 21, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railraod operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 26 (SDM).

H. G. HOMME, JR.,
Acting Secretary.

[1]AB 26 (SDM) includes its consolidated subsidiaries: AB 27 (SDM), The Alabama Great Southern Railroad Co.; AB 28 (SDM), Central of Georgia Railroad Co.; AB 29 (SDM), The Cincinnati, New Orleans and Texas Pacific Railway Co.; AB 30 (SDM), Georgia Southern and Florida Railway Co.; AB 64 (SDM) Chattanooga Station Co.; AB 118 (SDM), (Albany Passenger Terminal Co.; and AB 125 (SDM), Norfolk Southern Railway Co.

MAP OF

Southern Railway Company & Consolidated Subsidiaries*

(AB-26, AB-27, AB-28, AB-29, AB-30, AB-64, AB-118, AB-125)

SYSTEM DIAGRAM MAP
49 C.F.R. 1121.20
April 1, 1978

SCALE: 25 0 25 50 75 100 MILES

LEGEND

Designation of Carriers and AB Numbers:
AB-26 Southern Railway Company (SOU)
AB-27 The Alabama Great Southern Railroad Company (AGS
AB-28 Central of Georgia Railroad Company (C of G)
AB-29 The Cincinnati, New Orleans and Texas Pacific Railway Company (CNO &TP)
AB-30 Georgia Southern and Florida Railway Company (GS&F
AB-64 Chattanooga Station Company (CHT. S)
AB-118 Albany Passenger Terminal Company (APT)
AB-125 Norfolk Southern Railway Company (NS)
*APT is an affiliated company owned jointly by C of G and SCL RR.

Category 1: Lines likely to be the subject of an ICC abandonment or discontinuance application within three years.
Category 2: Lines which are under study and may be the subject of a future ICC abandonment or discontinuance application.
Category 3: Lines for which abandonment or discontinuance applications are pending before the ICC.
None at this time Category 4: Lines operated under rail service continuation assistance provisions of 49 USC 1a (6) a.. (None in this category at this time.)
Category 5: All other lines, owned and operated
? Lines (Categories 1-4) too short to designate clearly at this scale.
Standard Metropolitan Statistical Area -SMSA. (County or counties with at least one city of 50,000 inhabitants. Those shown here are within 5 air miles of a rail line.)
o Cities. (Showing those with 5,000 population or greater located within 5 air miles of a rail line but outside of an SMSA, in addition to other selected points on the line.)
State boundaries.
County boundaries. (Only counties in which a line in Category 1, 2, 3 or 4 is located are named.)

The System Diagram Map is segmented as follows:

1	2	3	4	5	6
7	8	9	10	11	12
		9a			
13	14	15	16	17	

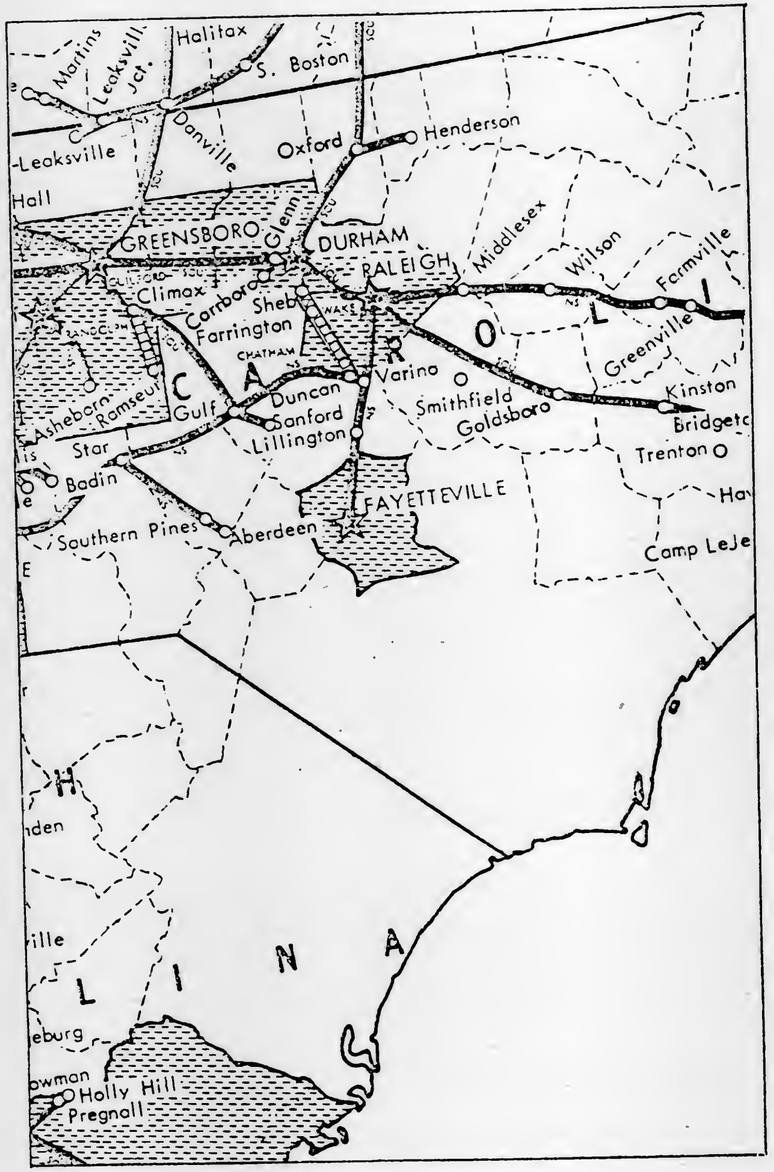
Segmented System Diagram Map certified to be a true copy of the original document.

E. G. Kreyling, Jr.
Vice President - Marketing
Southern Railway Company

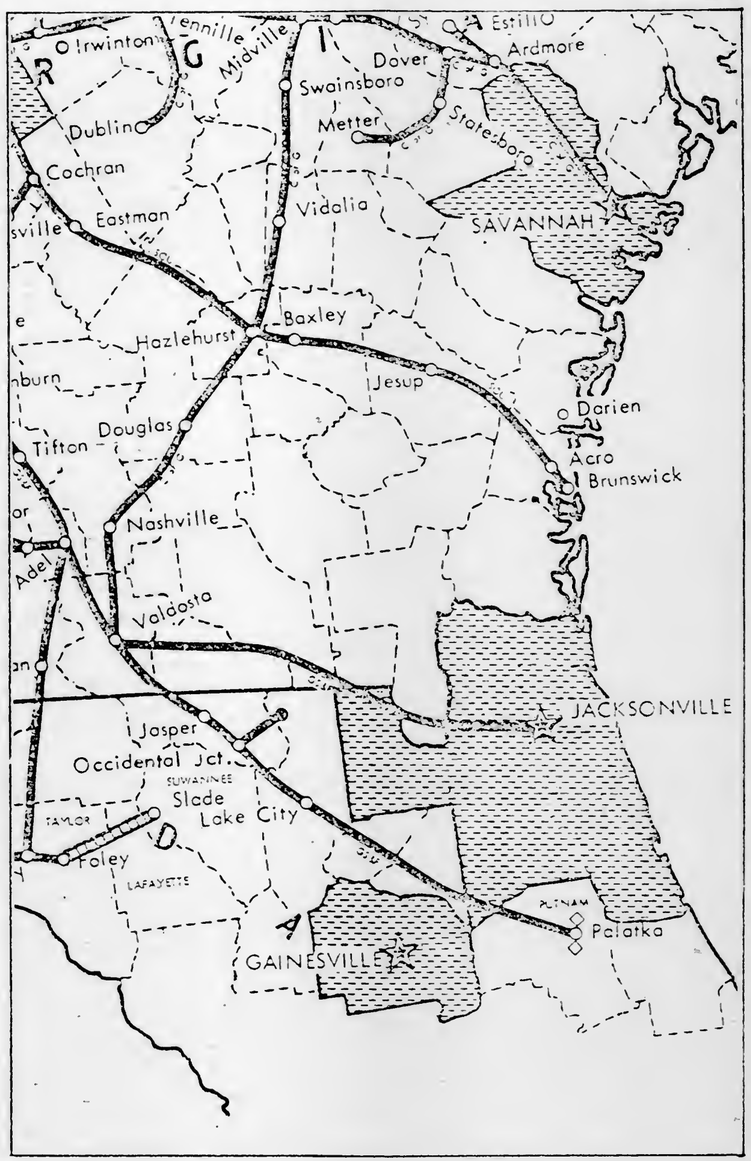
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SOUTHERN RAILWAY CO. AND CONSOLIDATED SUBSIDIARIES

LINE DESCRIPTIONS TO ACCOMPANY SYSTEM DIAGRAM MAP (APRIL 1, 1978)*

Category No. 1—Lines likely to be the subject of an ICC abandonment or discontinuance application within three (3) years.

Allendale-Furman, S.C.

(a) Carrier's Designation—Southern Railway—Carolina Division and Southern Railway Company's Allendale-Furman line on former Columbia-Savannah Line, Piedmont Division.
(b) State—South Carolina.
(c) Counties—Allendale, Hampton.
Mileposts—M.P. C-186.8 to M.P. C-211.0.
(e) Agency or Terminal Station—none on line; traffic on line received and forwarded through Blackville—M.P. C-161.2.

Bristol-Moccasin Gap, Va.

(a) Carrier's Designation—Virginia and Southwestern Railway Co. and Southern Railway Co.'s Bristol-Moccasin Gap line on Bristol-St. Charles Line, Appalachia and Tennessee Divisions.
(b) States—Virginia, Tennessee.
(c) Counties—Washington and Scott in Virginia; Sullivan in Tennessee.
(d) Mileposts—M.P. 72.5T to M.P. 39.9T.
(e) Agency or Terminal Stations—Bristol—M.P. 69.9T; Moccasin Gap—M.P. 39.9T.

*Climax-Ramseur, N.C.**

(a) Carrier's designation—Southern Railway Co.'s Ramseur Branch, Carolina Division.
(b) State—North Carolina.
(c) Counties—Gulford, Randolph.
(d) Mileposts—M.P. CR-0.0 to M.P. CR-18.7.
(e) Agency or Terminal Stations—none on Branch; traffic on Branch received and forwarded through Liberty—M.P. CF-97.2.

Duncan—King Scott Siding (Farrington), N.C.

(a) Carrier's Designation—Durham and South Carolina Railroad Co. and Norfolk Southern Railway Co.'s Durham Branch, Carolina Division.
(b) State—North Carolina.
(c) Counties—Wake, Chatham.
(d) Mileposts—M.P. DD-0.0 to M.P. DD-26.5.
(e) Agency or Terminal Stations—none on Branch; traffic on Branch received and forwarded through Varina—M.P. VF-0.0 and Durham—M.P. DD-40.3.

Foley Junction-Slade, Fla.

(a) Carrier's Designation—Live Oak, Perry and South Georgia Railway Co.'s former Foley Junction—Live Oak Line, Coastal Division.
(b) State—Florida.
(c) Counties—Taylor, Lafayette, and Suwannee.
(d) Milepost—M.P. MB-40.0 to M.P. MB-1.2.
(e) Agency or Terminal Stations—none on Line; traffic on Line formerly received and forwarded through Live Oak—M.P. M.B.-0.0 and Foley Junction—M.P. MB-40.0.
(f) Comment—Operations terminated January 31, 1977, pursuant to authority granted in Docket No. AB 26 (Sub-No. 8).

Greenwood, S.C.

(a) Carrier's Designation—Southern Railway Co.'s Greenwood line on Columbia-Belton-Greenville Line, Piedmont Division.
(b) State—South Carolina.
(c) County—Greenwood.
(d) Mileposts—M.P. V-80.1 to M.P. V-89.1.
(e) Agency or Terminal Stations—Greenwood—M.P. V-82.4.
(f) Comment—Line to be relocated in rail-highway crossing elimination project.

Greenwood—Piedmont, S.C.

(a) Carrier's Designation—Southern Railway Co.'s Greenwood—Piedmont line on Columbia-Belton-Greenville Line, Piedmont Division.
(b) State—South Carolina.
(c) Counties—Greenwood, Abbeville, Anderson, and Greenville.
(d) Mileposts—M.P. V-85 to M.P. V-132.
(e) Agency or Terminal Station—Greenwood—M.P. V-82.4.
(f) Comment—Operating coordination project; service will be continued via trackage rights over parallel Seaboard Coast Line track.

McDonough-Griffin, Ga.

(a) Carrier's Designation—Southern Railway Co.'s McDonough-Griffin line on McDonough-Columbus Line, Georgia Division.
(b) State—Georgia.
(c) Counties—Henry and Spaulding.
(d) Mileposts—M.P. 3.0M to M.P. 15.0M.
(e) Agency or Terminal Stations—McDonough—M.P. 181.0H; Griffin (Spaulding Co.)—M.P. 18.5M.
(f) Comment—Service to be preserved to industries on line near McDonough and Griffin, respectively.

Metarie, La.

(a) Carrier's Designation—New Orleans Terminal Co.'s Long Siding.
(b) State—Louisiana.
(c) County—Jefferson Parish.
(d) Mileposts—M.P. 0.85A to M.P. 1.80A.
(e) Agency or Terminal Stations—none on siding; traffic over siding received and forwarded through Oliver Yard—M.P. NO-195.6.
(f) Comment—Siding to be relocated in rail-highway crossing elimination project.

Moultrie-Pavo, Ga.

(a) Carrier's Designation—Georgia Northern Railway Co. and Southern Railway Co.'s *Moultrie-Pavo line*, Coastal Division.
(b) State—Georgia.
(c) Counties—Colquitt and Thomas.
(d) Mileposts—M.P. 28.8B to M.P. 13.0B.
(e) Agency or Terminal Station—Pavo—M.P. 13.3B.

North Aiken-Waters, S.C.

(a) Carrier's Designation—Southern Railway Co's Aiken Branch, Piedmont Division and Central of Georgia Railroad Co.'s former Edgefield-Waters line on former Augusta-Greenwood Line, Piedmont Division.
(b) State—South Carolina.
(c) Counties—Aiken and Edgefield.
(d) Mileposts—M.P. AB-18.5 to M.P. AB-0.0 and M.P. GF-276.5 to M.P. GF 280.3.
(e) Agency or Terminal Station—none on line; traffic over line received and forwarded through Langley—M.P. SA-66 and North Aiken—M.P. AB-19.

Parrish-High Level, Ala.

(a) Carrier's Designation—Southern Railway Co.'s Ensley Southern Branch, Alabama Division.
(b) State—Alabama.
(c) County—Walker.
(d) Mileposts—M.P. 1.6ES to M.P. 6.4ES.
(e) Agency or Terminal Stations—Parrish—M.P. 839.5.

Category No. 2—Lines which are under study and maybe the subject of a future ICC abandonment or discontinuance application.

Calverton-Warrenton, Va.

(a) Carrier's Designation: Southern Railway Co.'s Warrenton Branch, Eastern Division.
(b) State: Virginia.
(c) County: Fauquier.
(d) Mileposts: M.P. CW-0.0 to M.P. CW-8.9.
(e) Agency or Terminal Stations: None on Branch; traffic on Branch received and forwarded through Culpeper—M.P. 67.4.

King Scott Siding (Farrington)—Sheb, N.C.

(a) Carrier's Designation: Durham and South Carolina Railroad Co. and Norfolk Southern Railway Co.'s Durham Branch, Carolina Division.
(b) State: North Carolina.
(c) Counties: Wake, Durham.
(d) Mileposts: M.P. DD-26.5 to M.P. DD-36.0.
(e) Agency or Terminal Stations: None on Branch; traffic on Branch received and forwarded through Varina—M.P. VF-0.0 and Durham—M.P. DD-40.3.

Category No. 3—Lines for which abandonment or discontinuance applications are pending before the ICC.

Albany Passenger Terminal Co. (Docket No. AB-118)

(a) Carrier's Designation: Albany Passenger Terminal Co.'s entire line.
(b) State: Georgia.
(c) County: Dougherty.
(d) Mileposts: None—all in yard.
(e) Agency or Terminal Stations: Albany Passenger Terminal Co., station—M.P. J-297.1.

Brevard-Rosman, N.C. (Docket No. AB-26 (Sub-No. 11))

(a) Carrier's Designation: Transylvania Railroad Co. and Southern Railway Co.'s Rosman Branch, Carolina Division.
(b) State: North Carolina.
(c) County: Transylvania.
(d) Mileposts: M.P. TR-21.8 to M.P. TR-32.33.
(e) Agency or Terminal Stations: None on branch; traffic on branch received and forwarded through Brevard—M.P. TR-21.6.

*Palatka, Fla. (Docket No. AB 30-F)**

(a) Carrier's Designation: Georgia Southern and Florida Railway Co.'s Palatka stub end, Coastal Division.
(b) State: Florida.
(c) County: Putnam.
(d) Mileposts: M.P. 285-B minus 1,023 feet to M.P. 285-B plus 1,558 feet.
(e) Agency or Terminal Stations: None on line; traffic over line would be received and forwarded through Palatka—M.P. 282.0-B.

[FR Doc. 78-12475 Filed 5-8-78; 8:45 am]

* Line segments affected by this amendment are marked with an asterisk (*).

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[7035-01]

[Notice No. 656]

ASSIGNMENT OF HEARINGS

MAY 4, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 108313 (Sub-No. 14), Caledonia Lines, Inc., is now assigned for hearing July 11, 1978 (2 days), at Buffalo, NY, at a location to be later designated.
No. MC 140029 (Sub-No. 8), Clifford H. Hall, Inc., is now assigned for hearing July 13, 1978 (2 days), at Buffalo, NY, at a location to be later designated.
No. MC 144102, Deakin Fine Art Transport, Ltd., is now assigned for hearing July 17, 1978 (1 week), at Buffalo, NY, at a location to be later designated.
No. 36817, paper articles, between points in official territory, and No. 36817 (Sub-No. 1), sanitary paper and related articles, east, midwest, and south, now being assigned June 5, 1978, at the offices of the Interstate Commerce Commission in Washington, D.C.
No. MC 28536 (Sub-No. 16), Fox & Ginn, Inc., now assigned for prehearing conference May 8, 1978, at Washington, DC, is postponed to May 15, 1978, at 9 a.m., local time, at the offices of the Interstate Commerce Commission, Washington, DC.
No. MC 113651 (Sub-No. 242), Indiana Refrigerator Lines, Inc., now assigned June 5, 1978 at Orlando, FL, is canceled and reassigned for June 5, 1978 (1 week), at Orlando, FL, and will be held in Room 300 of the Federal Building, 80 North Hughley Street, and continued to June 12, 1978 (1 week), at Miami, FL, and will be held in Tax Court Room 1524 of the Federal Building, 51 Southwest 1st Avenue.
No. MC 114132 (Sub-No. 4), Churns Truck Lines, Inc., now assigned June 5, 1978, at Norfolk, VA, is postponed to June 26, 1978 (1 week), in the Grand Jury Room, U.S. Post Office and Courthouse, 600 Granby Street, Norfolk, VA.
No. MC 117883 (Sub-No. 222), Subler Transfer, Inc., now assigned June 26, 1978, at Detroit, MI, is postponed indefinitely.
No. MC 143568 (Sub-No. 2), Simmons Trucking, Inc., now being assigned June 1, 1978 (2 days), at Jefferson City, MO, in a hearing room to be later designated.
No. MC 113828 (Sub-No. 254F), O'Boyle Tank lines, Inc., now being assigned June 12, 1978, for prehearing conference at the offices of the Interstate Commerce Commission in Washington, DC.
No. MC 56679 (Sub-No. 93), Brown Transport Corp. now assigned June 5, 1978, at Atlanta, GA, is postponed indefinitely.
AB 10 (Sub-No. 6), Wabash Railroad Co. and Norfolk & Western Railway Co. abandonment between Fairbury and Clay in Livingston County, IL, now being assigned June 26, 1978 (2 days), for continued hearing at Chicago, IL, in a hearing room to be later designated.
No. MC 120436 (Sub-No. 2), Nussbaum Trucking, Inc., now being assigned June 13, 1978 (9 days), and June 28, 1978 (3 days), for continued hearing at Chicago, IL, in hearing rooms to be later designated.
No. MC 56679 (Sub-No. 97), Brown Transport Corp. now assigned May 31, 1978, at Atlanta, GA, is postponed indefinitely.
No. MC 142672 (Sub-No. 8), David Beneux Produce & Trucking, Inc., application dismissed.
No. MC 2389 (Sub-No. 3) Nevada Central Motor Lines, Inc., application dismissed.
No. MC 10169 (Sub-No. 4), Hatcher Trucking Co., Inc., now assigned June 19, 1978, at Raleigh, NC, will be held in Room 225, Federal Building, 310 new Bern Avenue.
No. MC-C-9860, Carolina Coach Co., et al. v. Williams Bus Rental, now assigned June 15, 1978, at Raleigh, NC, will be held in Room 209, Federal Building, 310 New Bern Avenue.
No. MC-F-13220, the Mason & Dixon Lines, Inc.—Control and merger—General Motor Lines, Inc., and MC 59583 (Sub-No. 159 and Sub-No. 162), the Mason & Dixon Lines, Inc., now assigned for hearing June 19, 1978, at Raleigh, NC, will be held in Room 209, Federal Building, 310 New Bern Avenue.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12612 Filed 5-8-78; 8:45 am]

[7035-01]

[Notice No. 69]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 26, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 6078 (Sub-No. 89TA), filed March 27, 1978. Applicant: D. F. BAST, INC., P.O. Box 2288, 1425 north Maxwell Street, Allentown, PA 18001. Applicant's representative: Eugene M. Malkin, 5 World Trade Center, Suite 6193, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural and fabricated steel*, the transportation of which requires, because of size and weight, the use of special equipment, and *structural and fabricated steel, and related materials and supplies*, which do not require, because of size or weight, the use of special equipment, when moving in mixed loads with items described above, from the facilities of the Levinson Steel Co., at or near Pittsburgh, PA, to Camden and North Perry, OH, Salem and Keasbey, NJ, and Ashland, KY, and from the facilities of Fort Pitt Bridge Division of Sprang Industries, Inc., near Canonsburg, PA, to Paducah, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Levinson Steel Co., P.O. Box 1617, Pittsburgh, PA 15320; Fort Pitt Bridge Division of Sprang Industries, Inc., P.O. Box 151, Canonsburg, PA 15317. Send protests to: T. M. Esposito,Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 14252 (Sub-No. 31TA), filed March 31, 1978. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Applicant's representative: William C. Buckham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plantsite of Olin Works, Olin Corp., located on U.S. Hwy 136 approximately 10 miles west of Covington (Fountain County), IN, as an off-route point in connection with carrier's presently authorized regular route operations to and from Danville, IL, for 180 days.

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Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Olin Corp., P.O. Box 200, Pisgah Forest, NC 28768. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 82808 (Sub-No. 15TA), filed March 29, 1978. Applicant: C. L. HUNT, d.b.a. HUNT AND SONS, P.O. Box 433, Warrensburg, MO 64093. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore, Suite 600, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation, insulation products, insulation material and equipment* used in applying insulation, from Grain Valley, MO, and commercial zone to all points in the United States (except AK and HI), (2) *Returned shipments* of the above-described commodities; *and materials, supplies, and equipment*, used in the manufacture, processing, sale, and distribution of insulation, insulation products, and insulation material, from all points on the United States (except AK and HI), to Grain Valley, MO, and commercial zone, for 180 days. Supporting shipper(s): Fibrex Corp., Grain Valley, MO 64029. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 95136 (Sub-No. 24TA), filed March 30, 1978. Applicant: ALLEN S. YEATMAN, INC., P.O. Box 383, Montrose, VA 22520. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, treated lumber, ties, poles, piles, and pallets*, between points in Richmond, Westmoreland, Northumberland, Lancaster, and King George Counties, VA, on the one hand, and, on the other, points in CT, DE, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, WV, and VT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Farnham Manufacturing Co., Inc., Farnham, VA 22460. (2) Wood Preservers, Inc., Warsaw, VA 22572. (3) Northern Neck Lumber Co., Inc., Warsaw, VA 22572. (4) Potomac Supply Corp., P.O. Box 8, Kinsale, VA 22488. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

No. MC 107515 (Sub-No. 1134TA), filed March 30, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road SE., Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Richard M. Tettelbaum, Serby & Mitchell, Fifth Floor-Lenox Towers, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts* as described in paragraph A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except in bulk), in vehicles equipped with mechanical refrigeration, from facilities of MBPXL Corp., Nebraska City, NE, to points in AL, FL, GA, MS, NC, SC, TN, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): MBPXL Corp., P.O. Box 2519, Wichita, KS 67201. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 107515 (Sub-No. 1135TA), filed March 30, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, Forest Park, GA 30050. Applicant's representative: Serby & Mitchell, Fifth Floor-Lenox Towers, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting, floor coverings, and tufted textile products*, from points in GA on and north of U.S. Hwy 78 and west of U.S. Hwy 441, to points in KS, MO (except St. Louis and points in its commercial zone), CO, NE, AZ, and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Sweetwater Carpet Corp., U.S. Hwy 41, Ringgold, GA 30736. (2) Bigelow-Sanford, Inc., P.O. Box 3089, Greenville, SC 29620. (3) Wichita Building Materials, Inc., 3001 South Madison, Wichita, KS 67216. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta GA 30309.

No. MC 110563 (Sub-No. 224TA), filed March 23, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 847, State Route 29 North, Sidney, OH 45365. Applicant's representative: Victor J. Tambascia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Geo. A. Hormel & Co., at (1) Scottsbluff, NE, to Hartford, CT; New Haven, CT; Elizabeth, NJ; Binghamton, NY; and Wilkes-Barre, PA; and (2) Fremont, NE, to New Haven, CT, and Binghamton, NY; and (3) Austin, MN, to Wilkes-Barre, PA, for 180 days. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 111545 (Sub-No. 248TA), filed March 30, 1978. Applicant: HOME TRANSPORTATION CO., INC., 1425 Franklin Road SE., P.O. Box 6426 Station A, Marietta, GA 30060. Applicant's representative: J. Michael May (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles (excluding recreational vehicles such as travel trailers and campers), and buildings, complete or in sections, mounted on wheeled undercarriages (excluding modular units and prefabricated buildings), in initial movements, from the facilities of Savannah Homes, Inc., at or near Savannah, TN, to points in AL, AR, GA, IL, IN, KY, LA, MS, MO, NC, OH, OK, SC, TX, VA and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Savannah Homes, Inc., P.O. Box 267, Savannah, GA 38372. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 114604 (Sub-No. 51TA), filed March 31, 1978. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer 1, Building 33, State Farmers Market, Forest Park, GA 30050. Applicant's representative: Frank D. Hall, 3384 Peachtree Road NE., Suite 713, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Brundridge Foods, Inc., and/or Hudson Foods, Inc., at or near Troy, AL, to all points in the United States in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Brundridge Foods, Inc., Hudson Foods, Inc., P.O. Box 187, Brundridge, AL 36010. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree

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Street NW., Room 300, Atlanta, GA 30309.

No. MC 114604 (Sub-No. 52TA), filed March 31, 1978. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer 1, Building 33, State Farmers Market, Forest Park, GA 30050. Applicant's representative: Frank D. Hall, 3384 Peachtree Road NE., Suite 713, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible offal*, from Dothan, AL, to Atlanta, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): InTex, a Division of Stone Commodities Corp., Suite 416, First Bank & Trust Building, Richardson, TX 75080. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 116725 (Sub-No. 24TA), filed March 31, 1978. Applicant: INDIANA VALLEY ENTERPRISES, INC., 855 Maple Avenue, Harleysville, PA 19438. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Archbold, OH, to points in PA, NY, NJ, CT, RI, and MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): LaChoy Food Products, 901 Stryker Street, P.O. Box 220, Archbold, OH 43502. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 117119 (Sub-No. 681TA), filed March 31, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Applicant's representative: Martin M. Geffon, P.O. Box 338, Willingboro, NJ 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen boxed meat*, from Philadelphia, PA, to the facilities of the Campbell Soup Co. at Napoleon, OH, Chicago, IL, and Omaha, NE, restricted to the transportation of traffic originating at and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Campbell Soup Co., Campbell Place, Camden, NJ 08101. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 124150 (Sub-No. 18TA), filed March 31, 1978. Applicant: SAVAGE BROTHERS, INC., 585 South 500 East, American Fork, UT 84003. Applicant's representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron ore*, from Cedar City, UT, and points within 20 miles of Cedar City, UT, to points in AZ, CO, NM, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Utah International, Inc., P.O. Box 649, Cedar City, UT 84720. (C. Ray Juvelin Mill, Superintendent.) Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 124160 (Sub-No. 19TA), filed March 31, 1978. Applicant: SAVAGE BROTHERS, INC., 585 South 500 East, American Fork, UT 84003. Applicant's representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone products* (in bulk), from Caselton, WV, to the facilities of Utah Power & Light Co., at or near Huntington and Castle Dale, UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sierra Chemical Co., 1490 East Second Street, Reno, NV 89502. (Stanley K. Kinder, President.) Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 124170 (Sub-No. 84TA), filed March 31, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar* (other than bulk), from Brooklyn, NY, to points in MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Sugar Division, Amstar Corp., 1251 Avenue of the Americas, New York, NY 10020. (Richard T. Catterall, Manager-Rates and Analysis.) Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 124251 (Sub-No. 47TA), filed March 31, 1978. Applicant: JACK JORDAN, INC., 3681 South Dixie Road SE, P.O. Box 689, Dalton, GA 30720. Applicant's representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polypropylene glycol and isocyanate* (in bulk, in insulated tank trailers), from points in Whitfield County, GA, to points in TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): General Latex & Chemical Corp., of Georgia, 1206 Lamar Street, Dalton, GA 30720. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 124170 (Sub-No. 85TA), filed March 31, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed beef*, from Detroit, MI, to Portland, OR, Denver and Boulder, CO, for 180 days. Supporting shipper(s): Eastern Market Beef Processing Corp., 1545 Alfred Street, Detroit, MI 48207. (Herbert S. Norris, Vice President.) Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 124170 (Sub-No. 86TA), filed March 31, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed beef*, from Detroit, MI, to points in CA, for 180 days. Supporting shipper(s): Eastern Market Beef Processing Corp., 1545 Alfred Street, Detroit, MI 48207. (Herbert S. Norris, Vice President.) Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 124251 (Sub-No. 48TA), filed March 31, 1978. Applicant: JACK JORDAN, INC., 3681 South Dixie Road, P.O. Box 689, Dalton, GA 30720. Applicant's representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common car-*

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rier, by motor vehicle, over irregular routes, transporting: *Latex* (in bulk), from points in Whitfield County, GA, to points in LA and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Industrial Adhesives, Inc., 359 DeKalb Industrial Way, Decatur, GA 30030. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 124624 (Sub-No. 4TA), filed March 30, 1978. Applicant: EXPRESSWAY, INC., 1105 St. Louis Avenue, Louisville, KY 40210. Applicant's representative: Robert H. Kinker, 314 West Main Street, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cosmetics and toilet preparations, articles and sundries, and premiums, equipment and supplies* used in connection with the sale of said cosmetics and toilet preparations, articles and sundries, (except commodities in bulk), (1) from the facilities of Avon Products, Inc., at Springdale, OH, to points in KY; (2) from Louisville, KY, to points in KY, restricted to traffic originated at the facilities of Avon Products, Inc., at Springdale, OH, and received from connecting carriers at Louisville, KY; and (3) *Rejected or returned shipments* of (1) and (2) above, from points in KY, to the facilities of Avon Products, Inc., at Springdale, OH, for 180 days. Supporting shipper(s): W. A. Townsend, Transportation Manager, Avon Products, Inc., 175 Progress Place, Springdale, OH 45246. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, 6th and Broadway, Louisville, KY 40202.

No. MC 126243 (Sub-No. 24TA), filed March 27, 1978. Applicant: ROBERTS TRUCKING CO., INC., U.S. Hwy 271 South, P.O. Drawer G, Poteau, OK 74953. Applicant's representative: Prentiss Shelley, P.O. Drawer G, Poteau, OK 74953. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Environmental control equipment, air conditioners, heat pumps and parts, accessories and equipment* used in the installation thereof, packaged or crated, or not packaged or crated; (2) *Materials, supplies and equipment* used in the manufacture of (1) above, (except commodities in bulk), (1) from the facilities of International Environmental Corp., Oklahoma City, OK, to points in the United States, (except ID, MT, UT, WY, AK and HI), (2) from points in the United States (except ID, MT, UT, WY, AK and HI), to the facilities of International Environmental Corp., Oklahoma City, OK, restricted to traffic originating at or destined to the above named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Environmental Corp., P.O. Box 25608, Oklahoma City, OK 73125. Send protests to: John V. Barry District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 126358 (Sub-No. 17TA), filed March 30, 1978. Applicant: BENNETT TRUCKING CO., P.O. Box 526, Hawkinsville, GA 31036. Applicant's representative: Paul M. Daniell, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree Street, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Veneer*, from Hawkinsville, GA to Hosford, FL, Birmingham, AL, Belton, TX, Crystal Springs, MS, Winnsboro, SC, Hickory, Lenoir, Fayetteville and Statesville, NC, South Boston, MA, Portland, TN, Louisville, KY, Batesville, New Albany and Jasper, IN, Grand Rapids and Bay City, MI, and Stanley, WI, and (B) *Lumber* (except plywood and veneer), from Hawkinsville, GA, to points in FL, AL, SC, NC, VA and TN, for 180 days. Supporting shipper(s): (1) Victor Veneer Co., P.O. Box 187, Hawkinsville, GA 31035. (3) Newman Brothers Lumber Co., Route 2, Hawkinsville, GA 31036. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 127337 (Sub-No. 20TA), filed March 27, 1978. Applicant: CHET'S TRANSPORT, INC., Charlotte, ME 04666. Applicant's representative: Lawrence E. Lindeman, Suite 1032, Pennsylvania Avenue, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat and meat products*, from points on the International Boundary Line between the United States and Canada located in ME and MA to Boston, MA, and Philadelphia, PA, (2) *Pelts*, from points on the International Boundary Line between the United States and Canada located in ME and MA, to points in UT, IA, WI, OH and MA, and the reverse from Haweye, IA and Provo, UT, to New York City, NY; (3) *Frozen vegetables and frozen vegetables with frozen fruit and frozen berries*, from points on the International Boundary Line between the United States and Canada located on ME and MA, to points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, OH, IN and IL, restricted to shipments originating at points in NF, NB, NS, and PE, Canada. (4) *Meat and meat products*, from Boston, MA, to the International Boundary Line between the United States and Canada located in NY, VT, and NH to Quebec City and Montreal, PQ, Canada. (5) *Meat and meat products*, from MN and IL, to the International Boundary Line between the United States and Canada located in ME at or near Calais and Houlton, ME to the Atlantic Provinces of Canada (NF, NS, NB and PE), and the reverse on rejected meat and meat products. (6) *Citrus juices and blends of citrus juices*, fruit juices and blends of fruit juices and apple juices and blends of cider juices with mixed loads of exempt commodities, from MA to the International Boundary Line between the United States and Canada located in ME at or near Calais and Houlton, ME to the provinces of NB, NS, PE and NF, Canada, for 180 days. Supporting shipper(s): There are approximately (6) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Portland, ME 04111.

No. MC 127705 (Sub-No. 53TA), filed March 31, 1978. Applicant: KREVDA BROS. EXPRESS, INC., 501 South Broadway, Gas City, IN 46933. Applicant's representatives: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Gas City, IN, to Baltimore, MD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 129624 (Sub-No. 15TA), filed March 31, 1978. Applicant: ROUTE MESSENGERS OF PENNSYLVANIA, INC., 2525 Bainbridge Street, Philadelphia, PA 19146. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copying machine parts and supplies*, no single parcel or package to exceed 100 pounds in weight, from Pennsauken, NJ, to points in Berks, Lehigh, Bucks, Luzerne and Northampton Counties, PA, for 180 days. Supporting shipper(s): Xerox Corp., 7001 Westfield Avenue, Pennsauken, NJ. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 129625 (Sub-No. 10TA), filed March 31, 1978. Applicant: ROBERT COLE TRUCKING CO., P.O. Box M, Falls Creek, PA 15840. Applicant's representative: William A. Gray, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, (in bulk, in dump vehicles), from points in Clearfield County, PA, to points in NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (14) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 133666 (Sub-No. 24TA), filed March 31, 1978. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Avenue South, Wheaton, MN 56296. Applicant's representative: Thomas J. Burke, Jr., 1660 Lincoln Street, 1600 Lincoln Center Building, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road asphalt and fuel oils*, from Superior, WI, to points in ND on and east of the Missouri River, for 180 days. Supporting shipper(s): Duininck & Gilchrist, Prinsburg, MN 56281. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, 110 South 4th Street, U.S. Court House, Minneapolis, MN 55401.

No. MC 135705 (Sub-No. 9TA), filed March 31, 1978. Applicant: MELROSE TRUCKING CO., INC., 6360 Raderville Route, Casper, WY 82601. Applicant's representative: Thompson and Kelley, 450 Capitol Life Center, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk for use by manufacturers of ready-mix concrete, concrete building products and concrete structural products, from the Dave Johnston Power Plant near Glenrock, WY, and the Jim Bridger Power Plant near Rock Springs, WY, to points in Salt Lake County, UT and American Fork, Ogden, Provo, Spanish Fork and Woods Cross, UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (8) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

No. MC 138882 (Sub-No. 62TA), filed March 29, 1978. Applicant: WILEY SANDERS, INC., P.O. Drawer 707, Troy, AL 36081. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrapping paper in rolls and bundles*, from facilities of Damsky Paper Co., located at or near Birmingham, AL, to points in LA, GA, FL, MS, TX, OK, KS, AR, TN, KY, SC, NC, VA, NY and IL, and (2) *Scrap and waste paper for recycling*, from points in GA, FL, MS, TX, OK, KS, AR, TN, KY, SC, NC, VA, NY, LA and IL, to facilities of Damsky Paper Co., located at or near Birmingham, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Damsky Paper Co., P.O. Box 31282, Birmingham, AL 35222. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 139658 (Sub-No. 22TA), filed March 30, 1978. Applicant: HARRY POOLE, INC., 2322 Kensington Road, Macon, GA 31201. Applicant's representative: William Addams, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to opereate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, (in bulk, in dump trucks), between the plantsites of Kerr-McGee Co. at or near Jerico, SC, on the one hand, and, on the other, points in AL, FL, and GA, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Chemical Enterprises, Inc., 8705 Katy Freeway, Suite 307, Houston, TX 77024. (2) Pelham Phosphate Co., Box 468, Pelham, GA 31779. (3) Stoller Chemical Co., Inc., 8705 Katy Freeway, Suite 400, Houston, Tex. 77024. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 139658 (Sub-No. 23TA), filed March 30, 1978. Applicant: HARRY POOLE, INC., 2322 Kensington Road, Macon, GA 31201. Applicant's representative: William Addams, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Basic slag* (in bulk, in dump trucks), from points in Jefferson County, AL, (1) to the plantsite of Kerr-McGee at Jerico, SC, and (2) to points in FL in and west of Jefferson County, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Pelham Phosphate Co., Box 468, Pelham GA 31779, (2) Stoller Chemical Co., Inc., 8705 Katy Freeway, Suite 400, Houston, TX 77024, (3) Chemical Enterprises, Inc., 8705 Katy Freeway, Suite 307, Houston, TX 77024. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300 Atlanta, GA 30309.

No. MC 140678 (Sub-No. 4TA), filed March 31, 1978. ROBERT PATRICK McCARTHY, d.b.a., TRICO, P.O. Box 1319, Tulare, GA 93274. Applicant's representative: Walter H. Walker, III. Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, (in bulk, in hopper type vehicles or self-unloading vehicles), From Conda County, Soda Springs, and Don, ID, to points in the States of WA, OR, and CA, under a continuing contract, or contracts, with Occidental Chemical Co., for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Occidental Chemical Co., P.O. Box 198, Lathrop, CA 95330. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 141804 (Sub-No. 105TA), filed March 31, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, TN 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 422, Goodlettsville, TN 37072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Central heating and air conditioning units and their components parts*, from the facilities of Heil-Quaker Corp. in Davidson County, TN, to points in CA, WA, OR, AZ, CO, NM, MT, NV, UT, and ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Heil-Quaker Corp., 1714 Heil Quaker Boulevard, La Vergne, TN 37086. Send protests to: Glenda Kuss, Transporta-

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tion Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 142513 (Sub-No. 4 TA), filed March 31, 1978. Applicant: BIRK TRANSFER, INC., 360 Wheatland Avenue, Conemaugh, PA. 15909. Applicants representative: William A. Gray, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel wire*, from the plantsite of Bethlehem Steel Corp., located in Johnstown, PA, to Cheraw, SC; (2) *Reusable empty wire carriers*, from Cheraw, SC, to the plantsite of Bethlehem Steel Corp. located in Johnstown, PA, for 180 days. Supporting shipper(s): Bethlehem Steel Corp., Bethlehem, PA 18016. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 143317 (Sub-No 4TA), filed March 31, 1978. Applicant: GEORGE CLARK TRANSIT CO., 2902 Calumet Avenue, Manitowoc, WI 54220. Applicant's representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Phenolic coated resin sand and empty containers on return*, from points in Green Lake Co., WI, to points in MN (except Sartell) and MI, under a continuing contract, or contracts, with Faskure Coated Sand Division of Aurora Metal Co. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Faskure Coated Sand Division of Aurora Metal Co., P.O. Box 126, Fairwater, MI 53931 (Russell Henriksen). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 143531 (Sub-No. 2TA), filed March 31, 1978. Applicant: POWDER RIVER MOTOR TRANSPORT CORP., 388 East 900 South, Provo, UT 84601. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Knocked down wooden buildings and materials and supplies* used in the erection thereof, from Tacoma, WA, to WI, MN, IL, OR, CA, MT, ID, UT, NV, AZ, WY, CO, NM, and MO, under a continuing contract, or contracts, with Lindal Cedar Homes, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lindal Cedar Homes, Inc., 10411 Empire Way South, Seattle, WA 98178. (Gary Kline, Manager, Distribution Control). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 143621 (Sub-No. 1TA), filed April 13, 1978. Applicant: TENNESSEE STEEL HAULERS, INC., 403 Maplewood Avenue, Nashville, TN 37210. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles:* (1) Between points in TN lying on and between TN Hwy 13 and U.S. Hwy 27; and (2) between points in (1) above, on the one hand, and, on the other, all points in TN, AL, AR, GA, KY, MS, MO, NC and VA, for 180 days. Supporting shipper(s): Tennessee Valley Authority, 620 Commerce Union Bank Building, Chattanooga, TN; Magic Chef, Inc., 740 King Edward Street SE., Chattanooga, TN; Production Steel, Inc., 1407 Elm Hill Pike, Nashville, TN. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No MC 143775 (Sub-No. 2TA), filed March 21, 1978. Applicant: PAUL YATES, INC., 6601 Orangewood, Glendale, AZ 85301. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Swimming pools, parts, and materials* used in the installation and assembly thereof, uncrated (except in bulk), from Holland, MI, and its commercial zone, to points in AZ, CO, NV, NM, UT, OK, MO, KS, ND, TN, NE, KY, Dallas, TX, Los Angeles, CA, Atlanta, GA, Redmond, OR, and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Polynesian Pool Co., 1145 South Washington Avenue, Holland, MI 49423. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 144186TA, filed March 29, 1978. Applicant: SUPERIOR TRANSFER, INC., 2669 Merchant Drive, Baltimore, MD 21230. Applicant's representative: Ronald N. Cobert, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between the facilities utilized by Streamline Shippers Association, Inc., at Baltimore, MD, On the one hand, and, on the other, the facilities utilized by Streamline Shippers Association, Inc., at Chicago, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ray Camero, Executive Secretary, Streamline Shippers Association, Inc., 355 Santa Fe Avenue, Los Angeles, CA 90013. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 144555 (Sub-No. 1TA), filed March 31, 1978. Applicant: FRED KRUSE AND MICHAEL KRUSE, d.b.a., KRUSE TRUCKING, Route 1, Box 41, Cuba, MO 65453. Applicant's representative: B. W. La Tourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mine props, ties—treated and untreated, posts—treated and untreated, roof board and rough sawed lumber*, between points in Crawford, Franklin, and Phelps Counties, MO, on the one hand, and, on the other, points in Christian, Jackson, St. Clair, Montgomery, Macoupin, Clinton, Mercer, Saline, Williamson, and Sangamon Counties, IL, and points in Pike County, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Arneson Lumber Co., Route No. 2, Steelville, MO 65565. Send protests to: P. E. Binder, Acting Distict Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-12608 Filed 5-8-78; 8:45 am]

[7035-01]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 65]

April 21, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 4687 (Sub-No. 19TA), filed March 29, 1978. Applicant: BURGESS & COOK, INC., P.O. Box 458, 21 North 2nd Street, Fernandina Beach, FL 32034. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyethylene products*, (except in bulk), from Jacksonville, FL, to points in FL, GA, and AL, for 180 days. Supporting shipper(s): Coastal Bag Co., 627 North Lane Avenue, Jacksonville, FL 32205. Send protests to: G. H. Gauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 8973 (Sub-No. 49TA), filed March 29, 1978. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Avenue, North Bergen, NJ 07047. Applicant's representative: E. S. Heisley, 666 Eleventh Street NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products*, (except in bulk), from the facilities of The Dow Chemical Co., at or near Carteret, NJ, and Hanging-Rock, OH, to points in the United States, on and east of U.S. Hwy 85, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dow Chemical USA, P.O. Box 36000, Strongsville OH 44136. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, room 618, Newark, NJ 07102.

No. MC 11207 (Sub-No. 422TA), filed March 29, 1978. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, from the facilities of Armco Steel Corp. at Ashland, KY, to points to AL, AR, FL, GA, LA, MS, NC, SC, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Armco Steel Corp., 24 North Main Street, Middletown, OH 45043. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 63417 (Sub-No. 147TA), filed March 29, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from Sanford, NC, and Roanoke, VA, to points in AZ, CA, CO, IA, MT, NV, NM, OR, UT, WA, and WY, for 180 days. Supporting shipper(s): Singer Furniture Co., P.O. Box 5337, Roanoke, VA 24012. Send protests to: Herman R. White, Acting District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, VA 24011.

No. MC 76032 (Sub-No. 336TA), filed March 29, 1978. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, CO 80223. Applicant's representatives: Eldon E. Bresee, 1205 South Platte River Drive, Denver, CO 80223. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uranium concentrates*, from the facilities of United Nuclear Corp. and Anaconda Co. at or near Grants, MN, to Metropolis, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): United Nuclear Corp., Grants, MN 87020. (2) Anaconda Co., Grants, MN 87020. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 100666 (Sub-No. 387TA), filed March 29, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, LA 71107. Applicant's representatives: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from AR, TX, LA, MS, AL, OK, TN, and MO, to points in CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Smith Pallet Co., Inc., Box 207, Hatfield, AR 71945. Champion International Corp., Knightsbridge Drive, Hamilton, OH 45020. Ward-Davis, Inc., P.O. Box 1894, Texarkana, TX 75501, plus several others. Send protests to: Ray C. Armstrong, District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 112617 (Sub-No. 386TA), filed March 29, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Applicant's representatives: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, from Owensboro, KY, to points in AR, for 180 days. Supporting shipper(s): Fred B. Tetzel, vice president, Walter N. Handy Co., 1812 Fleming Road, Louisville, KY 40205. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, 6th & Broadway, Louisville, KY 40202.

No. MC 11343 (Sub-No. 99TA), filed March 29, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, P.O. Box 511, Holland, MI 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container accessories*, from the facilities of Brockway Glass Co., Inc., in Madison County, IN., to points in MI, for 180 days. Supporting shipper(s): Brockway Glass Co., Inc., McCullough Avenue, Brockway, PA 15824. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

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No. MC 113784 (Sub-No. 64TA), filed March 29, 1978. Applicant: LAIDLAW TRANSPORT LTD, 65 Guise Street, Hamilton, Ontario, Canada. Applicant's representative: Douglas R. Gowland (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pulverized limestone,* (in bulk, in tank type vehicles), from International Boundaries on the Detroit and St. Clair Rivers to Elkhart, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Domtar Chemicals Group, 10 Gurney Crescent, P.O. Box 10, Station T, Toronto, Ontario, Canada. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

No. MC 115162 (Sub-No. 412TA), filed March 29, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate, P.O. Drawer 500, Evergreen, AL 36401. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* in cases and drums, from plant site of Texaco, Inc., at or near Port Arthur, TX., to plant site of Texaco, Inc., at or near Bayonne, N.J., for 180 days. Supporting shipper(s): Texaco, Inc., 1111 Rusk, Houston, TX 77052. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, AL 35203.

No. MC 11654 (Sub-No. 202TA), filed March 29, 1978. Applicant: CHEMHAULERS, INC., P.O. Box 339, Florence, AL 35630. Applicant's representative: Randy C. Luffman, P.O. Box 339, Florence, AL 35630. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cleaning compound,* (in bulk, in tank vehicles), from Montgomery, AL, to Tinker Air Force Base, Midwest City, Oklahoma City, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chemical Specialties Division of Pennwalt Corp., Three Parkway, Philadelphia, PA 19102. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 119656 (Sub-No. 36TA), filed March 29, 1978. Applicant: NORTH EXPRESS, INC., 219 East Main Street, Winamac, IN 76996. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned goods,* (except in bulk), from the plantsites of the Joan of Arc facilities at or near Hoopeston and Princeville, IL, to points in WI, IN, KY, OH, MI, and from the plantsites of the Joan of Arc facility at or near Mayville, WI, to points in IL, KY, OH and MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joan of Arc Company, Inc., Douglas Wiggins Corp. Traffic Manager, 2231 West Altorfer Drive, Peoria, IL 61614. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 124947 (Sub-No. 108TA), filed March 29, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Castings, parts and accessories for combines,* (except in bulk), between Independence, MO on the one hand and, on the other, Topeka, KS, restricted to shipments originating at or destined to the facilities of Allis-Chalmers Corp. located at or near the named points, for 180 days. Supporting shipper(s): Allis-Chalmers Corp., Box 512, Milwaukee, WI 53201. (Ralph E. Hallock, Manager, Corporation Transportation). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 125777 (Sub-No. 215TA), filed March 29, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Applicant's representative: Duane O'Donnell, 4600 East 15th Avenue, Gary, IN 46403. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Flux recovered from aluminum slag,* between East Chicago, Hammond, IN, and points and places in the State of AL, MI, OH and PA, for 180 days. Supporting shipper(s): U.S. Reduction Co., A. T. Super Vice President, Traffic, 4610 Kennedy Avenue, East Chicago, IN 46312. Send protests to: Patricia A. Roscoe Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 125777 (Sub-No. 216TA), filed March 29, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Applicant's representative: Duane O'Donnell, 4600 East 15th Avenue, Gary, IN 46403. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Coke,* in bulk, in dump vehicles, from Buffalo, NY, to points in CT, MA, MI, NJ, OH, PA, RI, VT and WV for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hanna Furnace Corp., T. J. Mullen Jr., Chief Shipper, P.O. Box 1207, Buffalo, NY 14240. Send protests to: Patricia A. Roscoe Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 129631 (Sub-No. 62TA), filed March 29, 1978. Applicant: PACK TRANSPORT, INC., 3975 South 300 West Street, Salt Lake City, UT 84107. Applicant's representative: G. Davidson, 3975 South 300 West Street, Salt Lake City, UT 84107. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Brick and clay products,* from Ogden, UT, and its commercial zone, to Douglas, Carson City, Storey, Lyon, and Washoe Counties, NV, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jensen Brick Co., P.O. Box 165, Clarksonn, UT 84301. (Thomas R. Jensen Owner) Send protests to: Lyle D. Helfer District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 133928 (Sub-No. 17TA), filed March 29, 1978. Applicant: OSTERKAMP TRUCKING, INC., 1049 North Glassell Street, Orange, CA 92667. Applicant's representative: Steven K. Kuhlman, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Wood fiberboard and accessories and supplies* used in the installation thereof, from the plantsite of Masonite Corp. located at or near Ukiah, CA, to points in AZ, CA, CO, ID, OR, and WA, restricted to a transportation service to be performed, under a continuing contract, or contracts, with Masonite Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Masonite Corp., 29 North Wacker Drive, Chicago, IL 60606. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 139468 (Sub-No. 27TA), filed March 22, 1978. Applicant: INTERNATIONAL CONTRACT CARRIERS, INC., 6534 Gessner Road, Houston, TX 77040. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Buildings,* complete, knocked down, and in sections; (2) *building sections and building panels;* (3) *Parts and accessories,* used in the manufacture, installation, and completion of the commodities in (a) and (b) above; (4) *prefabricated structural components and panels, and accessories,* used in the installation and completion thereof, (a) from the plantsites of National Steel Products Co., Inc., at or near La Grange, GA, to points in AR, IL, KS, LA, MO, OK, and TX; (b) from the plantsites of National Steel Products Co., Inc., at or near Terre Haute, IN, to points in AR, LA, MS, and TX; (c) from the plantsites of National Steel Products Co., Inc., at or near Houston, TX, to points in IL, IN, IA, MN, MO, and WI, under a continuing contract, or contracts, with National Steel Products, Co., Inc., for 180 days. Restrictions: Restricted to traffic moving under a continuing contract, or contracts with National Steel Products Co., Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Steel Products Co., Inc., P.O. Box 40490 (F. M. 529), 11919 Spencer Road, Houston, TX 77040. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

No. MC 139482 (Sub-No. 50TA), filed March 29, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, County Road North 29 West, New Ulm, MN 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as *common carrier,* by motor vehicle, over irregular routes, transporting: *Cheese,* from Fergus Falls, Winsted, Rochester, Zumbrota, and St. Paul, MN; Mason City, IA; and Marathon, Muscoda, Medford, Blair, and Green Bay, WI, to Booneville, MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Marathon Cheese Corp., P.O. Box 185, Marathon, WI 54448. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 142059 (Sub-No. 27TA), filed March 29, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, IL 60436. Applicant's representatives: Jack Riley, 1830 Mound Road, Joliet, IL 60436. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Expanded plastic products* (except in bulk), from the facilities of Dow Chemical Co. at or near Magnolia, AR, and Pevely, MO, to points in the United States on and east of U.S. Hwy 85, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dow Chemical U.S.A., Louis A. Stock, Traffic Manager, P.O. Box 36000, Strongsville, OH 44136. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 142619 (Sub-No. 2TA), filed March 15, 1978. Applicant: DASH TRANSPORTATION, INC., P.O. Box 221, Bloomingdale, IL 60108. Applicant's representatives: Edward J. Kiley, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Steel and aluminum tubing, and materials, supplies, and equipment* used in the manufacture, sale, or distribution of steel tubing and aluminum tubing, between the facilities of Tubesales, located at or near Carol Stream, IL, Cranbury, NJ; Los Angeles, CA, and Atlanta, GA; and (2) *materials, supplies, and equipment* used in the manufacture, sale, or distribution of steel tubing and aluminum tubing, from Gary and Lafayette, IN; East Troy and Milwaukee, WI, and Alliance, OH, to the facilities of Tubesales at or near Carol Stream, IL, for 180 days. Supporting shipper(s): Tubesales, a corporation, Alan Collins, Manager of Operations, Carol Stream, IL. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 143423 (Sub-No. 5TA), filed March 29, 1978. Applicant: WILLIAM T. AUSTIN, d.b.a. Austin Trucking Co., Route 5, Box 249, Decatur, AL 35601. Applicant's representatives: D. H. Markstein, Jr., 512 Massey Building, Birmingham, AL 35203. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Copper rods,* from the plantsite of Cerro Wire & Cable Co. at Syosset, NY, to the plantsite of Cerro Wire & Cable Co. at Hartselle, AL, under a continuing contract, or contracts, with Cerro Wire & Cable Co., for 180 days. Supporting shipper(s): Cerro Wire & Cable Co., 201 Cedar Cove Road, Hartselle, AL 35648. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 143486 (Sub-No. 1TA), filed March 23, 1978. Applicant: DELTCO, 312 East 16th Street, Greeley, CO 80631. Applicant's representative: Leslie R. Kehl, Suite 1600, Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (A) *Ore,* from Elko County, NV, to the mill facility of Eisenman Chemical Co., located at Salt Lake City, UT, and (b) *chemicals,* in bags, and *drilling mud,* (1) between the warehouses of Eisenman Chemical Co., located at or near Greeley, CO; Bakersfield and Woodland, CA; Weatherford, Burns Flat, and Woodward, OK; Canadian, TX; Casper and Evanston, WY; Myton and Salt Lake City, UT; Grand Island, NE, and Farmington, NM; and (2) from AZ, CO, CA, ID, KS, MI, MT, NE, NV, NM, Syracuse, NY; ND, OK, SD, TX, UT, Hopewell, VA, and WY, to the warehouses of Eisenman Chemical Co. as listed in subparagraph (1) above. The operations

No. MC 143808 (Sub-No. 2TA), filed March 29, 1978. Applicant: XXOFF, INC., Bank for Saving Building, 1900 Morris Avenue, Birmingham, AL 35203. Applicant's representative: D. H. Markstein, Jr., 512 Massey Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Medical specimens, such as, but not limited to, human blood, urine and tissue, requiring refrigeration,* (1) from Birmingham, AL, to Atlanta, GA and (2) from all points in AL to Birmingham, AL, for subsequent movement by air beyond AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Biomedical Laboratories, Inc., 110 Vulcan Road, Birmingham, AL 35209; (2) Bio Science, 20 Perimeter Center East, Suite 2005, Atlanta, GA 30346. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 144166 (Sub-No. 2TA), filed March 29, 1978. Applicant: BILL STARR TRUCKING, INC., 1716 Berry Road, Independence, MO 64057. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Newsprint in*

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rolls, from the plantsite of Southland Paper Mill, Inc., at or near Lufkin, TX, to Independence, MO, under a continuing contract, or contracts, with Examiner Publishing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Examiner Publishing Co., 321 West Lexington, Independence, MO Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 144452 (Sub-No. 1TA), filed March 22, 1978. Applicant: ARLEN LINDQUIST, d.b.a. ARLEN E. LINDQUIST TRUCKING, 3242 Old Hwy 8, Minneapolis, MN 55418. Applicant's representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Oil* (except in bulk), (a) from Roxana, IL, to Shell Lake, Rice Lake, Bruce, New Richmond, Viroqua, Sparta, Necedah, and Tomah, WI, Grand Forks, ND, and points in MN, and (2) *empty oil drums*, from Shell Lake, Rice Lake, Bruce, New Richmond, Viroqua, Sparta, Necedah, and Tomah, WI, Grand Forks, ND, and points in MN, to Roxana, IL, (3) *lubricants* (except in bulk), from New Orleans, LA, to Virginia, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (15) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 144497 TA, filed March 27, 1978. Applicant: JOHN DAVID WEBSTER, d.b.a. CENTRAL DISPATCH DISTRIBUTING, 1394 West Nineth, Pomona, CA 91766. Applicant's representative: William J. Monheim, 13710 East Whittier Boulevard, Suite 203, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refractory materials and accessories*, from Baltimore, MD, Bauxite, AR, Canal Winchester, OH, Chicago Heights, IL, Cincinnati, OH, Greenville, TN, Highland, IN, Kalamazoo, MI, Niagara Falls, NY, Oak Hill, OH, Paris, TN, Port Kennedy, PA, Sledge, MS, South Shore, KY, St. Louis, Mo, Sugar Creek, OH, Vandalia, MO, Woodville, OH, and Zelienople, PA, to points in AZ, CA, NV, NM, and UT, under a continuing contract, or contracts, with the Pryor-Giggey Co., for 180 days. Supporting shipper(s): The Pryor-Giggey Co., 10000 Santa Fe Springs Road, Santa Fe Springs, CA 90670. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 144556 (Sub-No. 1TA), filed March 29, 1978. Applicant: SUNSET TRANSPORTATION CO., P.O. Box 126, Kenosh, UT 84637. Applicant's representative: Stuart L. Poelman, 700 Continental Bank Building, Salt Lake City, UT 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum board and gypsum board products and accessories*, from Sigurd, UT, to points in CO, within the counties of Moffit, Routt, Grand, Summit, Eagle, Rio Blanco, Garfield, Pitkin, Lake Mesa, Delta, Gunnison, Saquache, Montrose, San Minguel, Ouray, Hinsdale, San Juan, Dolores, Montezuma, La Plata, Archuleta, and Denver, under a continuing contract, or contracts with L & W Supply Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L & W Supply Corp., d.b.a. Building Specialties, 1350 Cherokee, Denver, CO 80223. (G. C. Krantz, General Manager.). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 144567 TA, filed March 29, 1978. Applicant: A. A. R. TRUCKING CORP., 31-34 137th Street, Flushing, NY 11354.. Applicant's representative: Harold L. Reckson, 33-28 Halsey Road, Fair Lawn, NJ 07410. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods or personal effects, in boxes or crates, electrical appliances*, from New York, NY, to Miami, FL, and its commercial zone, restricted to shipments with a subsequent movement by air or water in foreign commerce, under a continuing contract, or contracts, with T M A Packing & Shipping, Inc., for 180 days. Supporting shipper(s): T M A Packing & Shipping, Inc., 45-18, 83rd Street, Elmhurst, NY 11373. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 144559 (Sub-No. 1TA), filed March 29, 1978. Applicant: BEELER BROS, INC., d.b.a. BEELER FARMS, P.O. Box 7, 91st Avenue and McDowell Road, Tolleson, AZ 85353. Applicant's representative: George Beeler, P.O. Box 7, Tolleson, AZ 85353. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cottonseed meal, soybean meal, pelleted or in bulk feed ingredients* (except liquid feed in bulk), between points in AZ, on the one hand, and points in CO, on the other, under a continuing contract, or contracts, with Allmendinger Commodities, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allmendinger Commodities, Box 151, Lytle Star Route, Colorado Springs, CA (Randall L. Allmendinger, Owner). Send protest to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 144570 TA, filed March 28, 1978. Applicant: DIVERSIFIED CARRIERS, INC., 903 Sixth Street NW., Rochester, MN 55901. Applicant's representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles* distributed by meat packinghouses as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities utilized by Iowa Beef Processors, Inc., located at or near Laverne, MN, to points in the States of MA, NY, and PA. Restriction: Restricted to a transportation service to be performed under a continuing contract, or contracts, with Iowa Beef Processors, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary

[FR Doc. 78-12609 Filed 5-8-78; 8:45 am]

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[Notice No. 71]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

May 1, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 28060 (Sub-No. 42TA), filed April 4, 1978. Applicant: WILLERS, INC., d.b.a. WILLER TRUCK SERVICE, 1400 North Cliff Avenue, P.O. Box 944, Sioux Falls, SD 57101. Applicant's representative: Bruce E. Mitchell, Serby & Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A, B and C of appendix I to the report in Motor Carrier Certificates, 61 MCC 209 and 766, (except commodities in bulk, in tank vehicles), from the plantsite and/or warehouse facilities of John Morrell & Co., at or near Sioux Falls, SD, to points in OK and TX, and (2) *Such commodities* as are used by meat packers in the conduct of their business when destined to or for use by meat packers, from points in OK and TX, to the facilities of John Morrell and Co., at or near Sioux Falls, SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): John Morrell & Co., P.O. Box 1266, Sioux Falls, SD 57101. (T. I. Gunderson, Traffic Manager) Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 41849 (Sub-No. 41TA), filed March 27, 1978. Applicant: KEIGHTLEY BROS., INC., 1601 South 39th Street, St. Louis, MO 63101. Applicant's representatives: Patrick M. Browne, 1601 South 39th Street, St. Louis, MO 63110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in dump vehicles requiring power conveyor for unloading, from St. Louis, MO, to the following points in the State of IL, Cerro Gordo, Monticello, Peoria, Pontiac, Normal and Rantoul, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morton Salt, 110 North Wecker Drive, Chicago, IL 60606. Send protests to: Peter E. Binder, District Supervisor, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

No. MC 51146 (Sub-No. 592TA), filed April 3, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, WI 54306. Applicant's representatives: John R. Patterson, 2480 E. Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* (except in bulk), from the facilities of Hardy Salt Co. at or near Manistee, MI, to points in IL, IN, OH, WI points in IA on and east of U.S. hwy 169, Lexington and Louisville, KY, Baltimore, MD, St. Louis, MO, and Bird-in-Hand and Mifflintown, PA, including the commercial zones of the above specifically named cities, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hardy Salt Co., 800 South Vandeventer Avenue, St. Louis, MO 63116. (Eaph Lowe, Jr.) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 59725 (Sub-No. 1TA), filed February 22, 1978. Applicant: MACK AVENUE MOVING & STORAGE, INC., 7740 Gratiot, Detroit, MI 48213. Applicant's representatives: Robert B. Simon, 7740 Gratiot, Detroit, MI 48213. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and baggage*, between points in Wayne, Oakland and Macomb counties of MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Army Support Acty., Transportation Division Selfridge ANGB, MI. Franklin E. Weeks, Traffic Manager/STASS-YT, Selfridge, ANGB, MI 48045. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 82492 (Sub-No. 196TA), filed April 5, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representatives: William C. Harris, 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Buffalo, NY, to points in IL, IN, IA, MI, MN, OH and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

No. MC 83539 (Sub-No. 491TA), filed March 31, 1978. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Applicants representative: Thomas E. James (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone*, between Napa and Solano County, CA, on the one hand and, on the other, points in NE, UT, CO, AZ, NM, OK, TX, AR, LA, TN, MS, KY, AL, GA, FL, SC, NC, WV, and VA, for 180 days. Supporting shipper(s): Stucco Stone Products, P.O. Box 237, Napa, CA 94558. Send protests to: Opal M. Jones Transportations Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

No. MC 103051 (Sub-No. 428TA), filed April 3, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue North, P.O. Box 90408, Nashville, TN 37209. Applicants representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Defoaming compounds and cotton softeners* (in bulk, in tank vehicles), (2) *Industrial oils* (in bulk, in tank vehicles); and (3) *Liginin Sulfonate* (in bulk, in tank vehicles), (1) from Columbus, GA, to points east of the Mississippi River, AR, LA, and TX, (2) from Jacksonville, FL; Baton Rouge, LA; and Charleston, SC, to Co-

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lumbus, GA, and (3) from Green Bay, WI, to Columbus, GA, for 180 days. Supporting shipper(s): Callaway Chemical Co., P.O. Box 2335, 1138 Chumar Street, Columbus, GA 31902. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 103051 (Sub-No. 434TA), filed March 31, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue, P.O. Box 90408, Nashville, TN 37209. Applicants representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* (in bulk, in tank or hopper-type vehicles), from Adamsville, TN, to points in the States of KY, TN, AL, MS, LA, FL, GA, SC, NC, TX and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Plant Food Enterprises, Inc., P.O. Box 254, Adamsville, TN 38310. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 106400 (Sub-No. 112TA), filed April 5, 1978. Applicant: KAW TRANSPORT CO., P.O. Box 12628, North Kansas City, MO 64116. Applicants representative: Harold D. Holwick, P.O. Box 12628, North Kansas City, MO 64116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil* (in bulk, in tank vehicles), from Richardson County, NE, to Johnson & Wyandotte Counties, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Blue Bird Oil Co., 5540 Raytown Road, Raytown, MO 64133. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 106674 (Sub-No. 310TA), filed April 7, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Applicant's representative: Jerry L. Johnson, P.O. Box 123 Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, liquid in bulk*, from CF Industries at or near Terre Haute, IN, to points in MI, IL and OH, for 180 days. Supporting shipper(s): Vistron Corp., 313 Midland Building, Cleveland, OH 44115. Send protests to: J. H. Gray District Supervisor, Bureau of Operations, Intestate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 107002 (Sub-No. 528TA), filed April 5, 1978. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, MS 39205. Applicant's representative: John J. Borth, P.O. Box 1123, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic plastics*, dry, (in bulk, in tank vehicles), from Aberdeen, MS, to points in KY, OH, OK, TN, TX, AR, MO, AL, VA and WV, for 180 days. Supporting shipper(s): Continental Oil Co., P.O. Box 2197, Houston, TX 77001. Send protests to: Alan C. Tarrant District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 111729 (Sub-No. 736TA), filed April 7, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Applicant's representative: Elizabeth L. Henoch, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Live tropical fish, aquariums, aquarium supplies*, restricted against the transportation of shipments weighing in excess of 100 lbs., from one consignor to one consignee on any one day, from Phoenix, AZ, to points in AZ, on traffic having a prior movement by air, for 180 days. Supporting shipper(s): Long Beach Fisheries, Inc., 2035, 14th Street, Long Beach, CA 90804. Send protests to: Maria B. Kejss Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 113362 (Sub-No. 327TA), filed April 7, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, in bags, from Sioux Falls, SD, to Austin, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): McFleeg, Inc., of Austin, 1210 14th Street NE., Austin, MN 55912. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 113843 (Sub-No. 253 TA), filed April 6, 1978. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Applicant's representative: Lawrence T. Sheils, 316 Summer Street, Boston, MA 02210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine and table sauces* (in vehicles equipped with mechanical refrigeration), from Baltimore, MD, to points in CT, DE, IL, KN, KY, ME, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. H. Filbert, Inc., 3701 Southwestern Boulevard, Baltimore, MD 21229. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway Street, Boston, MA 02114.

No. MC 114273 (Sub-No. 360 TA), filed April 6, 1978. Applicant: CRST, INC., P.O. Box 68, 3930 16th Avenue, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Appliances, parts, and accessories*, from Newton, IA, to points in AL, DE, GA, IN, KS, KY, MI MD, MO, NC, OH, PA, SC, TN, VA, WV, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Maytag Co., Newton, IA 50208. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 114457 (Sub-No. 376TA), filed March 31, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baled wood pulp*, from points in WI and MI, to Brainerd and Cloquet, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Potlatch Corp., Northeast Mill Avenue, Brainerd, MN 56401. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Post Office, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 114457 (Sub-No. 377TA), filed April 3, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and can ends, metal,*

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from Milwaukee, WI, to St. Louis, MO, Cincinnati, OH, Evansville, IN, Madisonville, KY, Omaha, NE, and Sioux City, IA, for 180 days. Supporting shipper(s): National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 115322 (Sub-No. 141TA), filed April 6, 1978. Applicant: REDWING REFRIGERATED, INC., 9831 South Orange Avenue, P.O. Box 10177, Taft, FL 32809. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from the facilities of General Foods Corp. at Avon, NY, to Dedham, MA, and Landover, MD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): General Foods Corp., 250 North Street, White Plains, NY. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

NO. MC 116947 (Sub-No. 55TA), filed April 6, 1978. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street SW., Atlanta, GA 30310. Applicant's representative: William Addams, 5299 Roswell Road NE., Suite 212, Atlanta, GA 30352. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard cans, with metal ends, set up*, from Henderson, TN, to Dover, DE, under a continuing contract, or contracts, with Sonoco Products Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sonoco Products Co., 1 North Second Street, Hartsville, SC 29550. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street, NW., Room 300, Atlanta, GA 30309.

No. MC 117344 (Sub-No. 271TA), filed March 16, 1978. Applicant: THE MAXWELL CO., P.O. Box 15010, 10380 Evendale Drive, Cincinnati, OH 45215. Applicant's representative: John C. Spencer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron oxide* (in bulk, in tank vehicles), from Toledo, OH, to Washington, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Toledo Pickling & Steel Service, Inc., Joseph J. McCaffery, Vice President, P.O. Box 3377, Station C, Toledo, OH 43607. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 55140B Federal Building, 550 Main Street, Cincinnati, OH 45201.

No. MC 118130 (Sub-No. 87TA), filed April 6, 1978. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, TX 76115. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile air conditioning units, components, and parts*, from Fort Worth, TX, to points in CA, NV, UT, AZ, CO, NM, KS, OK, LA, MS, AL, GA, FL, and SC, for 180 days. Supporting shipper(s): Metrotex Systems, Inc., 210 Northeast 7th, Fort Worth, TX 76106. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 119988 (Sub-No. 139TA), filed April 10, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, TX 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Ft. Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ventilation products, roof louvers, turbines, and shutters*, from the plantsite of Lomanco, Inc., at Jacksonville, AR, to points in TX, OK, and LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lomanco, Inc., 2101 West Main Street, P.O. Box 519, Jacksonville, AR 72076. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

No. MC 123233 (Sub-No. 83TA), filed April 7, 1978. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d'Anjou, PQ, Canada. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Denatured beer* (in bulk, in tank vehicles), from St. Louis, MO, to the Port of Entry on the International Boundary Line betwen the United States and Canada located at Detroit, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 10 days of operating authority. Supporting shipper(s): Clairol Canada, Division of Bristol-Myers Canada, Ltd., 1375 Newton Road, Boucherville, PQ., Canada. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

No. MC 123255 (Sub-No. 158TA), filed March 30, 1978. Applicant: B&L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Westvaco Corp., at or near Wickliffe, KY, to Lewiston, ME, Stamford, CT, New York, Westbury, and Port Chester, NY., and Kearney, New Providence, and West Orange, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Westvaco Corp., 299 Park Avenue, New York, NY 10017. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 123389 (Sub-No. 45TA), filed April 3, 1978. Applicant: CROUSE CARTAGE CO., P.O. Box 586, Highway 30 West, Carroll, IA 51401. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsites of and facilities used by Farmland Foods, Inc., at or near Crete, Lincoln, and Omaha, NE, Carroll, Denison, Des Moines, Fort Dodge, Sioux City, and Iowa Falls, IA, to points in AZ, CA, ID, MT, NM, NV, OR, UT, WA, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Richard W. Brodersen, Superintendent-Fleet Operations, Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 124117 (Sub-No. 30TA), filed March 29, 1978. Applicant: EARL FREEMAN AND MARIE FREEMAN, d.b.a. MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Authority sought to operate as a *common*

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carrier, by motor vehicle, over irregular routes, transporting: *Glass containers*, between the facilities utilized by Midland Glass Co., Inc., at or near Warner Robbins, GA on the one hand and, on the other, points in Alamance, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, Stokes, Surry, and Yadkin Counties, NC, and Bedford, Campbell, Carroll, Floyd, Franklin, Halifax, Henry, Montgomery, Patrick, Pittsylvania, Pulaski, and Roanoke Counties, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 124821 (Sub-No. 33TA), filed April 3, 1978. Applicant: WILLIAM GILCHRIST, 509 Susquehanna Avenue, Old Forge, PA 18518. Applicant's representative: John W. Frame, P.O. Box 626, Camp Hill, PA 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Mueller Macaroni Co., Jersey City, NJ, to points in MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mueller Macaroni Co., 180 Baldwin Avenue, Jersey City, NJ 07306. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503

No. MC 125894 (Sub-No. 6TA), filed April 5, 1978. Applicant: J. AND R. SCHUGEL TRUCKING, INC., 301 North Water Street, New Ulm, MN 56073. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, from New Prague, MN, to points in IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Multifoods, 1200 Multifoods Building, Minneapolis, MN 55402. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 126118 (Sub-No. 73TA), filed April 5, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in containers, from Peoria, IL, Cold Spring, MN; St Louis, MO; Columbus, OH; LaCrosse, WI., and Milwaukee, WI, and their commercial zones, to points in NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Robert F. Blinn, President, Norfolk Beverage Co., 206 East Northwest Avenue, Norfolk, NE 68701. (2) Jim Pile, President, Falstaff Distributing Co., Inc., Box 1243, Norfolk, NE 68701. (3) R. R. Robertson, President, Robertson Distributing Co., 1415 South 1st Street, Norfolk, NE 68701. Send protests to: Max H. Johnson, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 126358 (Sub-No. 19TA), filed March 30, 1978. Applicant: BENNETT TRUCKING CO., P.O. Box 526, Hawkinsville, GA 31036. Applicant's representative: Paul M. Daniell, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree Street, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (except plywood and veneer), from Cordele, GA to points in AL, MS, SC, NC, OH, VA, TN, and KY, for 180 days. Supporting shipper(s): Griffin Lumber Co., P.O. Box 237, Cordele, GA 31015. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 128285 (Sub-No. 16TA), filed April 5, 1978. Applicant: MELLOW TRUCK EXPRESS, INC., 9801 N. Vancouver Way, Portland, OR 97217. Applicant's representative: Nick I. Goyak, 1 S.W., Columbia, Suite 555, Portland, OR 97258. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber mill products*, restricted against the transportation of commodities (in bulk, in tank or hopper-type vehicles), between points in OR, WA, and CA; and from Columbia, Clackamas, Tillamook, and Douglas Counties, OR, and Bonner and Latah Counties, ID, to King and Pierce Counties, WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

No. MC 133689 (Sub-No. 185TA), filed April 5. 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW, New Brighton, MN 55112. Applicant's representative: Robert P. Slack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from points in MN, to points in the States of AR, IL, IN, IA, KS, LA, MI, WI, MO, NE, ND, OH, OK, SD and TX, for 180 days. Supporting shipper(s): General Foods Corp., 250 North Street, White Plains, NY 10605. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and Courthouse, 110 S. 4th Street, Minneapolis, MN 55401.

No. MC 135684 (Sub-No. 77TA), filed April 6, 1978. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Applicant's representative: Ronald L. Knorowski, P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and plastic products* (except in bulk, in tank vehicles), from the facilities utilized by Dow Chemical at or near Midland, MI to points in NJ, NY, PA, MA, CT, ME, NH and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority . Supporting shipper(s): Dow Chemical Co., 690 Building, Midland, MI 48640. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 138438 (Sub-No. 22TA), filed April 3, 1978. Applicant: D. M. BOWMAN, INC., Route 9, Box 26, 15 East Oak Ridge Drive, Hagerstown, MD 21740. Applicant's representatives: Edward N. Button, P.O. Box 1417, 1329 Pennsylvania Avenue, Hagerstown, MD 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and concrete products*, from Nokesville and Manassas, VA, and their respective commercial zones, to points in the State of MD and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cherrydale Block Co., P.O. Box 687, Herndon, VA 22070. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, DC 20423.

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No. MC 138627 (Sub-No. 29TA), filed March 30, 1978. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Route 4, Fort Dodge, IA 50501. Applicant's representatives: Arlyn L. Westergren, 30 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the Chicago, IL, commercial zone, and Hennepin, IL, to Columbus, NE, and Red Oak, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Douglas & Lomason Co., 24600 Hallwood Court, Farmington Hills, MI 48018. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 138884 (Sub-No. 4TA), filed April 7, 1978. Applicant: CONDOR CORP., P.O. Box 630, Dixfield, ME 04224. Applicant's representatives: Peter L. Murray, 30 Exchange Street, Portland, ME 04101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glued wood furniture panels, uncrated*, from shipper's plant in Andover, ME, to customers of shipper located in Morristown, TN, and New Albany, IN, under a continuing contract, or contracts with Andover Wood Products, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s); Andover Wood Products, Andover, ME. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

No. MC 139787 (Sub-No. 6TA), filed April 7, 1978. Applicant: M & M TRUCKING CO., INC., P.O. Box 1743, Auburn, AL 36830. Applicant's representative: Kim C. Meyer, 235 Peachtree Street, Suite 1200, Atlanta Gas Light Tower, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel* (in bulk, in dump trucks), from Montgomery, Marion, and Elmore Counties, AL, to points in GA and those points in FL in and north of Brevard, Orange, Lake, Sumter, and Hernando Counties, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R & S Materials, Inc., P.O. Box 3547, Montgomery, AL 36109. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 140310 (Sub-No. 2TA), filed March 31, 1978. Applicant: WALTER J. GRIFFIN, INC., P.O. Box 327, Monroe, NC 28110. Applicant's representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles, textile products, and household accessories and materials, equipment and supplies* used in the manufacture, sale, and distribution of the described commodities (except commodities in bulk and those which by reason of size or weight require the use of special equipment), between Los Angeles, CA, and Monroe, NC, on the one hand, and, on the other, points in AL, GA, IL, KS, MD, MA, MI, MN, NJ, KY, NY, PA, SC, TN, TX, VA, and DC, between Los Angeles, CA, and points in NC, under a continuing contract, or contracts, with Barth & Dreyfuss of CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Barth & Dreyfuss of CA, 2260 East 15th Street, Los Angeles, CA 90021. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

No. MC 140581 (Sub-No. 28TA), filed March 29, 1978. Applicant: TOMMY HAGWOOD, d.b.a. HAGWOOD ENTERPRISES, Route 1, Box 222-A, Trafford, AL 35172. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers and motor vehicles weighing over 15,000 pounds), in secondary movements, in truckaway service, from points in MI, IL, KY, and OH, to points in TX, for 180 days. Supporting shipper(s): (1) Charlie Dennison, Jr., 10740 Forest Lane, Dallas, TX 75231. (2) American Daily Rental & Lease Co., Inc., 623 North Loop West, Houstin, TX 77008. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 141546 (Sub-No. 24TA), filed April 5, 1978. Applicant: BULK TRANSPORT SERVICE, INC., 1 Dundee Park, Andover, MA 01810. Applicant's representative: Kenneth B. Williams, 84 State Street, Boston, MA 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, (in bags or bulk), from Kingston, NY, to points in CT, MA, NH, VT, RI, NY, ME, PA, and NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Independent Cement Corp., 65 William Street, Wellesley Office Park, Wellesley, MA 02181. Send protests to: Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

No. MC 141570 (Sub-No. 13TA), filed March 29, 1978. Applicant: ELECTRONICS TRANSPORT, INC., 3213 8th Avenue North, P.O. 31103, Birmingham, AL 35222. Applicant's representative: Mr. Craig Massey, 202 East Walnut Street, P.O. Box Drawer J, Lakeland, FL 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines, and parts, materials and supplies* used in the manufacture, installation or sale of such commodities, between Norfolk, VA, and its commercial zone, on the one hand, and, all points in the state of NC on the other, under a continuing contract, or contracts, with Xerox Corp., for 180 days. Supporting shipper(s): Xerox Corp., 1616 North Fort Myer Drive, Arlington, VA 22209. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 141914 (Sub-No. 21TA), filed March 29, 1978. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Applicant's representative: Kathrena J. Franks, Route 1, Box 108A, Big Cabin, OK 74332. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood and plasic articles, such as clothespins and toothpicks*, from the facilities of Penley Corp. at or near West Paris, ME, to points in the states of AZ, CA, AR, FL, GA, IL, KS, MN, MO, MD, NV, NM, NC, OH, OK, OR, SC, TN, TX, UT, VA, and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Penley Corp., West Paris, ME 04289. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 NW. 3rd, Oklahoma City, OK 73102.

No. MC 141914 (Sub-No. 40TA), filed April 6, 1978. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Applicant's representative: Kathrena J. Franks, Route 1, Box 108A, Big Cabin, OK 74332. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molded or foamed plastic articles expanded (polystyrene) such as egg cartons, food service trays, plates, dishes, and other molded articles*, from the facilities of Huntsman Container Co. at

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or near Memphis, TN, to all points in the states of AR, CO, IL, LA, MO, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Huntsman Container Co., wholly owned subsidiary of Keyes Fibre Co., Waterville, ME 04901. Send protests to: Connie Stanley, Transportaton Assistant, Room 240, Old Post Office and Court House Building, 215 NW. 3rd, Oklahoma City, OK 73102.

No. MC 143289 (Sub-No. 3TA), filed March 31, 1978. Applicant: DAVID K. KUYKENDALL, d.b.a. FEDERATED TRANSPORT SYSTEMS, 800 South McGary Street, Los Angeles, CA 90021. Applicant's representative: Lucy Kennard Bell, of Daniel M. Shapiro Law Offices, 9701 Wilshire Boulevard, Suite 829, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Finished and unfinished piece goods*, from Derby and East Haven, CT, to Los Angeles and San Francisco Counties, CA, under a continuing contract, or contracts, with Concord Fabrics, Inc., located in New York, NY for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Concord Fabrics, Inc., 1411 Broadway, New York, NY 10018. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 143267 (Sub-No. 16TA), filed March 30, 1978. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Applicant's representative: Peter A. Greene, 900 17th Street NW, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel wire*, in coils, from the plantsite of American Spring Wire Co. at Bedford Heights, OH, to Chicago, Joliet and Mattoon, IL, and Kokomo and Logansport, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Spring Wire Co., 26300 Miles Road, Bedford Heights, OH 44146. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 143812 (Sub-No. 2TA), filed April 7, 1978. Applicant: MARTIN E. VAN DIEST, d.b.a. M. VAN DIEST CO., 8087 Victoria Avenue, Riverside, CA 92504. Applicant's representative: William J. Monheim, 13710 East Whittier Boulevard, Suite 203, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar* (in bulk), from Crockett, CA, to points in AZ, ID, NM, OR, TX and WA, and *Foodstuffs, liquid* (in bulk), from points in WA to points in AZ and CA, for 180 days. Supporting shipper(s): (1) California and Hawaiian Sugar Co., One California Street, San Francisco, CA 94106. (2) T & P Custom Marketing Services, Inc., 2500 East Colorado Boulevard, Suite 315, Pasadena, CA 91107. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 144140 (Sub-No. 12TA), filed April 3, 1978. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Hwy 44 West, Eustis, FL 32726. Applicant's representative: John L. Dickerson, P.O. Box 374, Eustis, FL 32726. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Citrus products*, between points in FL, restricted to shipments having a prior or subsequent movement by water (except between Winter Garden and Tampa, FL), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Winter Garden Citrus Products Corp., P.O. Box 399, Winter Garden, FL 32787. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 144140 (Sub-No. 13TA), filed April 3, 1978. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Hwy 44 West, Eustis, FL 32726. Applicant's representative: John L. Dickerson, P.O. Box 374, Eustis, FL 32726. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Central heating and air conditioning units*, from Nashville, TN, to points in FL and GA, for 180 days. Supporting shipper(s): Heil-Quaker Corp., 1714 Heil-Quaker Boulevard, LaVergne, TN 37086. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 144380 (Sub-No. 1TA), filed March 29, 1978. Applicant: ROBERT J. RATHWAY AND WILLIAM C. PAULL, JR., d.b.a. B & B EQUIPMENT CO., a Partnership, R.F.D. No. 2, Box 169A, Perryopolis, PA 15473. Applicant's representative: William C. Paull, Jr., P.O. Box 383, Uniontown, PA 15401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Belle Vernon, Masontown and New Geneva, PA, to Empire, OH, and Natrium, WV, under a continuing contract, or contracts, with Gallatin Fuels, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gallatin Fuels, Inc., 250 West Main Street, Uniontown, PA 15401. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, WV 26003.

No. MC 144448 (Sub-No. 2TA), filed March 29, 1978. Applicant: HERMAN STEFFENSMEIER, d.b.a. HERMAN STEFFENSMEIER TRUCKING, 811 East Decatur Street, West Point, NE 68788. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa pellets and alfalfa meal* (in bulk and bags), from the facilities of Land O'Lakes Agricultural Services at West Point and Columbus, NE, to IA, MN and WI, under a continuing contract, or contracts, with Land O'Lakes Agricultural Services, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Susan Johnson, Distribution Control Specialist, Land O'Lakes Agricultural Services, 2827 8th Avenue South, Fort Dodge, IA 50501. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street. Omaha, NE 68102.

No. MC 144470 (Sub-No. 1TA), filed March 31, 1978. Applicant: COBB TRUCKING SERVICE, Route 3, P.O. Box 177, Bryan, TX 77801. Applicant's representative: Lawrence A. Winkle, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate, urea, fertilizer and fertilizer material*, in bags and in bulk (except in tank vehicles), from the facilities of NIPAK, Inc., located at or near Kerens, Gainesville, Littlefield, Terrell and Pittsbury, TX, to points in AR, CO, KS, LA, MO, NM and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): NIPAK, Inc., P.O. Box 2820, Dallas, TX 75221. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

No. MC 144509 (Sub-No. 1TA), filed April 3, 1978. Applicant: HOLSTON MOTOR EXPRESS, INC., 2372 Woodbridge Avenue, Kingsport, TN 37664. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. Authority sought to operate

as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), between Rogersville, TN, and Knoxville, TN (and its commercial zone), from Rogersville via TN Hwy 70 to its junction with Interstate 81, and then via Interstate 81 to Knoxville, TN, and return over the same route, serving all points in Carter, Hawkins, Sullivan, Unicoi, and Washington Counties, TN, as off-route points, for 180 days. Applicant intends to interline with other carriers at Knoxville, TN. Supporting shipper(s): There are approximately 22 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

PASSENGER CARRIER

No. MC 1515 (Sub-No. 246TA), filed March 10, 1978. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Suite 1062, Phoenix, AZ 85077. Applicant's representative: W. L. McCracken, Greyhound Tower, Phoenix, AZ 85077. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers*, in the same vehicle with passengers:

Route No. 1, between Hempstead, NY, and Bay Shore, NY, serving all intermediate points: From Hempstead over NY State Hwy 24 (Hempstead Turnpike), to junction unnumbered highway, (Merrick Avenue), then over unnumbered highway to junction NY State Hwy 27 (Sunrise Hwy), then over NY State Hwy 27 via Massapequa to Bay Shore and return over the same route.

Route No. 2, between Hempstead, NY, and Massapequa, NY, serving all intermediate points: From Hempstead over NY State Hwy 105 (Jerusalem Avenue), to junction NY State Hwy 107, then over NY State Hwy 107 to junction NY State Hwy 27 in Massapequa and return over the same route.

Route No. 3, between the junction of unnumbered highway (Merrick Avenue) and NY State Hwy 24 west of Hempstead, NY, and Smithtown, NY, serving all intermediate points: From the junction of unnumbered highway and NY State Hwy 240 over NY State Hwy 24 to junction NY State Hwy 106 (Newbridge Road), then over NY State Hwy 106 via Hicksville to junction NY State Hwy 495 (Long Island Expressway, then over NY State Hwy 495 to junction NY State Hwy 111 at interchange 56, then over NY State Hwy 111 to Smithtown and return over the same route which currently originate or terminate at Hempstead would be extended to provide service to the named south shore points.

There is indeed an immediate and urgent need for the service proposed by applicant in that no other carrier currently provides daily scheduled, regular route service to points on Long Island east of Hempstead. Applicant currently provides charter service to all points located on Long Island, NY, in addition to the daily, regular scheduled service which it provides to Hempstead, NY. Therefore, the proposed extension of service to other points on Long Island, NY, would be a logical extension of Grehound's current operations and would require only a slight increase in miles and running time, while requiring no increase in manpower or equipment.

Applicant further submits that persons residing at points on Long Island, NY, east of Hempstead need and would use the service proposed by Greyhound herein, and therefore, applicant respectfully request that its application be granted.

Route No. 4, between the junction of NY State Hwy 24 and NY State Hwy 106 and the junction of NY State Hwy 105 and NY State Hwy 107 serving all intermediate points: From the junction of NY State Hwy 24 and NY State Hwy 107 over NY State Hwy 24 to junction NY State Hwy 107, then over NY State Hwy 107 to junction NY State Hwy 105 and return over the same route.

Route No. 5, between the junction of NY State Hwy 106 and NY State Hwy 495, and Smithtown, NY, serving all intermediate points: From the junction of NY State Hwy 106 and NY State Hwy 495 over NY State Hwy 106 to junction NY State Hwy 25, then over NY State Hwy 25 to Smithtown and return over the same route.

Route No. 6, between the junction of NY State Hwy 106 and NY State Hwy 495 (portions of which are also designated Interstate Hwy 495), and New York, NY, serving no intermediate points: From the junction of NY State Hwy 106 and NY State Hwy 495 over NY State Hwy 495 to New York, and return over the same route. Applicant, Greyhound Lines, Inc., is seeking the requested authority so as to be able to extend its current service on Long Island, NY, from Hempstead, NY, to points east on both the northern and southern shores of Long Island. Greyhound currently conducts interstate operations between Hempstead, NY, on the one hand, and Boston, MA, Washington, DC, AL, New York, and Binghamton, NY, on the other hand. Upon grant of the authority requested herein, applicant would extend its current service from Hempstead to Bay Shore, NY, via Massapequa on the southern shore of Long Island, and from Hempstead to Smithtown, NY, via Hicksville on the north shore of Long Island. Two of applicant's current daily round trips which now originate or originate at Hempstead, NY, would be extended to provide service to the aforementioned north shore points, and two other daily round trips, for 180 days.

Supporting shipper(s): There are approximately 14 statements of support attached to the application which may be examined at the Interstate Commerce in Washington, DC, or copies thereof which may be examined at the field office named below. Send products to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 12610 Filed 5-8-78; 8:45 am]

[7035-01]

[Notice No. 70]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 28, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment re-

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sulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC field office to which protests are to be transmitted

MOTOR CARRIERS OF PROPERTY

No. MC 3854 (Sub-No. 41TA), filed April 3, 1978. Applicant: BURTON LINES, INC., P.O. Box 11306, East Durham Station, Durham, NC 27703. Applicant's representative: G. E. Martin, Jr., 815 Ellis Road, Durham, NC 27703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, roofing, and insulating boards and panels*, from the plantsite of Johns-Manville Sales Corp., at or near Woodstock, VA, to points in FL, GA, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Johns-Manville Sales Corp., 200 North Main Street, Manville, NJ 08835. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 50935 (Sub-No. 17TA), filed March 23, 1978. Applicant: WOLVERINE TRUCKING CO., 1020 Doris Road, Pontiac, MI 48057. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from the facilities of Pabst Brewing Co. in Houston County, GA, to Detroit, MI, and points in its commercial zone; and *empty malt beverage containers, pallets, and rejected shipments of malt beverages*, from Detroit, MI, and points in its commercial zone, to the facilities of Pabst Brewing Co. in Houston County, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): City Beverage Co., 1020 Doris Road, Pontiac, MI 48057 (G. D. Anderson, Sales Manager). Send protests to: Tifnothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 59367 (Sub-No. 120TA), filed April 3, 1978. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, 3384 5th Avenue South, Fort Dodge, IA 50501. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin powder*, in bags, from Oneida County, WI, to the facilities of Georgia-Pacific Corp., near Fort Dodge, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia-Pacific Corp., P.O. Box 758, Fort Dodge, IA 50501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des. Moines, IA 50309.

No. MC 95540 (Sub-No. 1013TA), filed April 4, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Applicant's representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Chicago, IL, to Jackson, MS, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morrison Food Distributors, 5205 South Lois Avenue, Tampa, FL 33611. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest 53rd Terrace, Miami, FL 33166.

No. MC 103993 (Sub-No. 933TA), filed April 4, 1978. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Applicant's representatives: Paul D. Borghesani, 28651 U.S. 20 West, Elkhart, IN 46515. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in secondary movements, in driveaway service, from Middlebury, IN, to points in the United States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): Coachmen Industries, Inc., P.O. Box 30, Middlebury, IN 46540. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 107478 (Sub-No. 32TA), filed April 3, 1978. Applicant: OLD DOMINION FREIGHT LINE (a corporation), P.O. Box 2006, High Point, NC 27261. Applicant's representatives: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, landscape timbers, and pallets*, from Kinsale, VA, to points in OH, DE, MD, TN, PA, NJ, NY, CT, RI, MA, VT, ME, NH, DC, SC, NC, FL, GA, IL, ID, IA, MI, MO, VA, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Potomac Supply Corp., Kinsale, VA 22488. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Buidling, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 111289 (Sub-No. 7TA), filed March 31, 1978. Applicant: RICHARD D. FOLTZ, P.O. Box 161, Orwigsburg, PA 17961. Applicant's representatives: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in Derry Township, Dauphin County, PA, to points in OH on and south of Interstate 70 and on and west of U.S. Hwy 68, and between Louisville, KY, and Lebanon, PA, and (2) *materials and supplies* used in the production of foodstuffs (except in bulk), from Middletown and Hamilton, OH, to Lebanon, PA, restricted to transportation under a continuing contract, or contracts, with San Giorgio Macaroni, Inc., Lebanon, PA, and Hershey Foods Corp., Hershey, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hershey Foods Corp. and San Giorgio Macaroni, Inc., Hershey, PA 17033. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503.

No. MC 111401 (Sub-No. 518TA), filed April 3, 1978. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, OK 73701. Applicant's representative: Victor R. Comstock, P.O. Box 632, 2510 Rock Island Boulevard, Enid, OK 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aqueous cobalt acetate solution* (in bulk, in tank vehicles), from Arab, AL, to Brownsville, TX, in foreign commerce only, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Hall Chemical Co., 28960 Lakeland Boulevard, Wickliffe, OH 44092. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

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No. MC 111545 (Sub-No. 247TA), filed March 31, 1978. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, 1425 Franklin Road, Marietta, GA 30060. Applicant's representative: Robert E. Born (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source and special nuclear materials, radioactive materials, and empty shipping packaging for such commodities*, between Piketon and Sargents, OH, on the one hand, and, on the other, Baltimore, MD, Norfolk and Portsmouth, VA, and Elizabeth, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Transnuclear, Inc., One North Broadway, White Plains, NY 10601. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW, Room 300, Atlanta, GA 30309.

No. MC 111717 (Sub-No. 28TA), filed April 3, 1978. Applicant: TRACTOR TRANSPORT, INC., 535 South 84th Street, Milwaukee, WI 53214. Applicant's representative: Frank M. Coyne, 25 West Main Street, Madison, WI 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*, as are dealt in, or used by, agricultural equipment and industrial equipment dealers and manufacturers (except commodities in bulk), restricted to movements from, to or between the facilities of Allis Chalmers Corp., for 180 days. Supporting shipper(s): Allis Chalmers Corp. and its dealers, between points in the United States located east of and including the States of NE, SE, NE, KS, OK, and TX, under a continuing contract, or contracts, with Allis Chalmers Corp., Milwaukee, WI 53701. (Ralph E. Hallock.) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 112520 (Sub-No. 353TA), filed April 3, 1978. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, 122 Appleyard Drive, Tallahassee, FL 32302. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pumpmill liquid*, from Georgetown, SC, to Panama City, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Arizona Chemical Co., Berdan Avenue, Wayne, NJ 07470. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 113784 (Sub-No. 63TA), filed April 3, 1978. Applicant: LAIDLAW TRANSPORT LTD., 65 Guise Street, Hamilton, Ontario, Canada. Applicant's representative: Douglas R. Gowland (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products and roofing materials*, from ports of entry on the international boundary between the United States and Canada at the Niagara, Detroit, and St. Clair Rivers and points in NY, IL, IN, MI, OH, PA, WV, KY, *and returned shipments pallets and materials and supplies* used in the manufacturing of gypsum products, and roofing materials in the reverse direction for the account of Canadian Gypsum Co., restricted to goods moving in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Canadian Gypsum Co., P.O. Box 4034, Toronto, Ontario, Canada. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

No. MC 116710 (Sub-No. 32TA), filed April 3, 1978. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., 2001 East Texas Street, P.O. Box 6176, Bossier City, LA 71010. Applicant's representative: Joe T. Lanham, 1102 Perry-Brooks Building, Austin, TX 78701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Amorphous molten polypropylene* (in bulk, in tank vehicles capable of maintaining the product at 390 F, from the plantsite of Crowley Chemical Co., Inc., at or near Crowley, LA, to Dalton, GA, Cincinnati, OH, Menssha, WI, and Valdosta, GA, under a continuing contract, or contracts, with Crowley Chemical Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Crowley Chemical Co., Inc., 261 Madison Avenue, New York, NY 10016. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 117119 (Sub-No. 682TA), filed April 4, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Applicant's representative: L. M. McLean, P.O. Box 188, Elm Springs, AR 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail, discount department or variety stores, (except commodities in bulk and foodstuffs), from Miami, FL, to the facilities of Wal-Mart Stores, Inc., at Bentonville and Searcy, AR, for 180 days. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 117758 (Sub-No. 6TA), filed April 3, 1978. Applicant: GRINGERI BROS. TRANSPORTATION CO., INC., Ayer Road, Routes 110 and 111, Harvard, MA 01451. Applicant's representative: James P. Martin, Jr., 8 W. Morse Road, Belingham, MA 02019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, in refrigerated equipment, from Cohoes, NY, to Ayer, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Equity Meat Corp., 18 New Courtland Street, Cohoes, NY 12047. Send protests to: Paul A. Roberts, District Suervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

No. MC 117786 (Sub-No. 16TA), filed April 4, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85009. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquettes; fireplace logs (compressed sawdust, wax impregnated); charcoal lighter fluid*, in cans in cartons, hickory chips, (not charred), and vermiculite other than crude, from Elk Grove, CA, to points in AZ, NV, and UT, for 180 days. Supporting shipper(s): The Kinsford Co., 940 Commonwealth Building, P.O. Box 1033, Louisville, KY 40201. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 117786 (Sub-No. 17TA), filed April 4, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85009. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

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Door and/or door sections, garage, electrical, and parts and accessories used or useful in the installation thereof; steel tubing, and electrical machinery, from Covington, OH, and Detroit, MI to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA and WY, for 180 days. Supporting shipper(s): VEMCO Products, Inc., 4063 North State, Route 48, Covington, OH 45318. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 117786 (Sub-No. 19TA), filed April 4, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85009. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquettes, fireplace logs (compressed sawdust, wax impregnated), charcoal lighter fluid,* in cans, in cartons, hickory chips (not charred), and vermiculite, other than crude, from Crossville, TN, and Lincoln, MO, to points in AZ, CA, CO, NV, NM OR, UT and WA, for 180 days. Supporting shipper(s): The Kingsford Co., 940 Commonwealth Building, P.O. Box 1033, Louisville, KY 40201. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 118959 (Sub-No. 164TA), filed April 3, 1978. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Applicant's representative: Robert M. Pearce, P.O. Box 1899, 1755 Chestnut Street, Bowling Green, KY 42101. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products,* from Procter & Gamble plantsite at Albany, GA, and nearby points to points in the States of LA and MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Procter & Gamble Distributing Co., P.O. Box 599, Cincinnati, OH. 45201. Send protests to: P. E. Binder, Acting District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 119670 (Sub-No. 31TA), filed April 3, 1978. Applicant: THE VICTOR TRANSIT CORP., P.O. Box 32115, 5250 Este Avenue, Cincinnati, OH 45232. Applicant's representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40601. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass, containers and caps, covers, disks or tops therefor,* from Huntington, WV, to Gas City, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Illinois, Inc., E. P. Young, Supervisor—Divisional Transportation, P.O. Box 1035, Toledo, OH 43666. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514—B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 119789 (Sub-No. 446TA), filed April 4, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX, 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid plastic* (in containers, in mechanically refrigerated equipment), from Riverside, CA, to points in the United States (except AK, HI, IL, IN, IA, LA, MI, MN, MO, NE, OR, TX, and WA), for 180 days. Supporting shipper(s): Foam Systems Co., P.O. Box 5347, Riverside CA 92507. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX. 75242.

No. MC 119789 (Sub-No. 447TA), filed April 4, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers,* from the facilities of Midland Glass Co., at or near Warner-Robbins, GA, to points in Alamance, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Guilford, Person, Randolph, Rockingham, Stokes, Surry, and Yadkin Counties, NC, and Bedford, Campbell, Carroll, Floyd, Franklin, Halifax, Henry, Montgomery, Patrick, Pittsylvania, Pulaski, and Roanoke Counties, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

No. MC 121794 (Sub-No. 3TA), filed April 3, 1978. Applicant: JAMES WILKETT, d.b.a. WILKETT TRUCKING CO., P.O. Box 209, Stigler, OK 74462. Applicant's representative: George G. Olsen, 1130 17th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Coal,* in open top dump trucks, from points in Haskett, LeFlore, Muskogee, and Pittsburg Counties, OK, to points in Bosque, Dallas, Johnson, Morris, and Tarrant Counties, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Kiamichi Coal Co., Quinton, OK 74561. (2) Randall & Blake, Inc., 6000 Old Mill Road, Littleton, CO 80120. (3) Texas Lime Co., P.O. Box 851, Cleburne, TX 76031. (4) HEFCO Coal Sales Co., 509 Northwest 39th, Oklahoma City, OK 73118. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest, 3rd, Oklahoma City, OK 73102.

No. MC 123054 (Sub-No. 17TA), filed April 4, 1978. Applicant: R & H CORP., 295 Grand Avenue, Box 469, Clarion, PA 16214. Applicant's representative: William J. Lavelle, Wick, Vuono, & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers,* from the facilities of Glass Containers Corp. in the borough of Knox, Clarion County, the borough of Marienville, Forest County, and the borough of Parker, Armstrong County, PA, to Jersey City, Dayton, Vineland, Lawnside, Bridgeton, and Bayonne, NJ, for 180 days. Supporting shipper(s): Glass Containers Corp., Knox, PA 16232. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 125335 (Sub-No. 13TA), filed April 4, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, PA 17405. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Commercial Distribution Center, at or near Kansas City, MO, to points in PA, NJ, MD, WV, VA, CT, NY, ME, and KY, for 180 days. Supporting shipper(s): Commercial Distribution Center, P.O. Box 477, Independence, MO 64051. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

No. MC 126358 (Sub-No. 18TA), filed April 3, 1978. Applicant: BENNETT TRUCKING CO., P.O. Box 526, Hawkinsville, GA 31036. Applicant's representative: Paul M. Daniell, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree Street, Atlanta, GA 30303. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (A) *Lumber* (except plywood and veneer, from Zenith, GA, to Dothan and Eufaula, AL, Kissimmee, Starke, and Jacksonville, FL, Sumter and Greenville, SC; Morganton, Thomasville, and Murfreesboro, NC, and Bassett, VA; and (B) (1) *Lumber* (except plywood and veneer), and (2) *wooden pallets,* from Cochran, GA, to Gainesville, Jacksonville, and Miami, FL, Hickory and Greensboro, NC, and Spartanburg and Greenville, SC, for 180 days. Supporting shipper(s): (1) Zenith Milling Co., P.O. Box 442, Ft. Valley, GA 31030, (2) Bleckley Lumber Co., Inc., Harris Road, Cochran, GA 31014. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

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No. MC 128155 (Sub-No. 7TA), filed March 31, 1978. Applicant: R. C. VAN LINES, INC., 1042 Northside Drive NW., Atlanta, GA 30318. Applicant's representative: R. C. Shumpert (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, restricted to traffic which is transported by means of a government bill of lading, between points in AZ, CA, NV, NM, UT, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MO, NE, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VA, WV, WI, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R. C. Van Lines, Inc., 1042 Northside Drive NW., Atlanta, GA 30318. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 133811 (Sub-No. 3TA), filed April 4, 1978. Applicant: H. E. McCONNELL and H. E. McCONNELL, Jr., d.b.a., H. E. McCONNELL & SON, 5117½ East Broadway, North Little Rock, AR 72118. Applicant's representative: Frank S. Hamlin, 1004 Pyramid Life Building, Little Rock, AR 72201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer* (in bulk and bags), from Olin Corp.'s plant in North Little Rock, AR, to various sites in LA, including but not limited to Farmersville, LA, and Jones, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Olin Corp., P.O. Box 991, Little Rock, AR 72203. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 135895 (Sub-No. 19TA), filed April 4, 1978. Applicant: B&R DRAYAGE CO., P.O. Box 8534, Battlefield Station, Jackson, MS 39205. Applicant's representative: Harold H. Mitchell, Wynn & Bogen, P.O. Box 1295, Greenville, MS 38701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Beer and malt beverages* (in containers), between Jacksonville, FL, and Houston, TX, on the one hand, and, on the other, Baton Rouge, LA, restricted to the transportation of traffic originating at or destined to the facilities of Southern Beverage Co., Inc., Baton Rouge, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southern Beverage Co., Inc., 7635 South Choctaw, Baton Rouge, LA 70806. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 136008 (Sub-No. 96TA), filed April 4, 1978. Applicant: JOE BROWN CO., INC., 8005 South I-35, Suite 102, Oklahoma City, OK 73149. Applicant's representative: John Tipsword, 8005 South I-35, Suite 102, Oklahoma City, OK 73149. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Stone, rock, ore, gravel, and aggregate,* from Fremont and Pueblo Counties, CO, to points in AL, AR, IL, IN, IA, KS, LA, MI, MS, MO, NE, ND, OH, OK, SD, TN, TX, WI, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Arbor-Rock Co., P.O. Box 31559, Denver, CO 80041. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest 3d, Oklahoma City, OK 73102.

No. MC 140360 (Sub-No. 2TA), filed April 4, 1978. Applicant: SPINELLI BROS. TRUCKING, INC., 55 South Wade Boulevard, Millville, NJ 08332. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *contact carrier,* by motor vehicle, over irregular routes, transporting: *Glass tableware,* from Millville, NJ, to AZ, CA, CO, KS, OR, UT, and WA, under a continuing contract, or contracts, with J. G. Durand International, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. G. Durand International, Wade Boulevard, Millville, NJ 08332. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 140645 (Sub-No. 7TA), filed March 31, 1978. Applicant: UNITED TRUCKING, INC., 100 Stoffel Drive, Tallapoosa, GA 30176. Applicant's representatives: Clyde W. Carver, 5299 Roswell Road NE., Suite 212, Atlanta, GA 30342. Authority sought to operate as a *contrast carrier,* by motor vehicle, over irregular routes, transporting: (1) *Metal containers and metal container ends;* and (2) *machinery, materials, and supplies* used in the manufacture and distribution of metal containers, for the account of Southern Can Co.: (A) between Tallapoosa, GA, on the one hand, and, on the other, points in AZ, CA, CO, IN, ME, MT, NV, NM, NH, ND, OR, RI, SD, UT, VT, WA, and WY, (B) between points in Montgomery County, PA, on the one hand, and, on the other, points in AZ, CA, CO, IN, KS, MT, ND, NE, NV, NM, OK, OR, SD, UT, WA, and WY, under a continuing contract, or contracts, with Southern Can Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southern Can Co., 100 Stoffel Drive, Tallapoosa, GA 30176. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 141804 (Sub-No. 106TA), filed April 6, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, TN 37072. Applicant's representatives: Frederick J. Coffman, P.O. Box 422, Goodlettsville, TN 37072. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wearing apparel and display materials,* from Secaucus, NJ, to New Orleans, LA, Houston and Dallas, TX, and Los Angeles and San Francisco, CA, and their respective commercial zones, for 180 days. Supporting shipper(s): Petrie Stores Corp., 70 Enterprise Avenue, Secaucus, NJ 07094. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 142664 (Sub-No. 4TA), filed April 4, 1978. Applicant: IMPORT DEALERS SERVICE CORP., 2222 East Sepulveda Boulevard, Carson, CA 90744. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Motor vehicles* in truckaway service in secondary movements, from the Los Angeles, CA,

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Harbor Commercial Zone to the Port of Oakland, CA, for 180 days. Supporting shipper(s): Matson Navigation Co., 1001 New Dock Street, Terminal Island, CA 90731. Send protests to: Irene Carlos Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 142672 (Sub-No. 17TA), filed March 23, 1978. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric lamps, lighting fixtures, Christmas tree lamp outfits, electric cord sets, dry cell batteries and portable battery chargers;* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, from Bellevue, Cleveland, Warren, Youngstown, Ravenna, Circlevelle and Bucyrus, OH; and Lexington, KY, to points in LA, OK and TX, for 180 days. Supporting shipper(s): General Electric Co., Nela Park, Cleveland, OH 44112. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 143317 (Sub-No. 5TA), filed April 3, 1978. Applicant: GEORGE CLARK TRANSIT, CO., 2902 Calumet Avenue, Manitowoc, WI 54220. Applicant's representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, from points in Green Lake and Jackson Co., WI, to points in MN, (except Minneapolis and St. Paul) and Upper MI, under a continuing contract, or contracts, with Fairwater Silica, Inc., for 180 days. Supporting shipper(s): Fairwater Silica, Inc., P.O. Box 97, Fairwater, WI 53931. (David Jezwinski, Sr.) Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 143557 (Sub-No. 2TA), filed March 31, 1978. Applicant: MOUNT HOPE CARTAGE LIMITED, Airport Road East, Mount Hope, ON, Canada. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the Greater Buffalo International Airport (Erie County), NY on the one hand and, on the other, ports of entry on the International Boundary line between the United States and Canada on the Niagara River, restricted to the transportation of traffic (1) originating at or destined to points in the Regional Municipality of Hamilton-Wentworth, and that part of Burlington South of No. 5 side road running west from a place known as Boyne, ON, and (2) having a prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (9) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

No. MC 143563 (Sub-No. 4TA), filed April 4, 1978. Applicant: R. C. MOORE, INC., Box 346, Waldoboro, ME 04572. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats*, from Winterport, ME, to points in NC, SC, GA, FL, AL, MS, LA, AR, OK, TX, NM, AZ and CA, restricted to traffic having a prior movement by water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Winterport Docks, Inc., Box 136, Winterport, ME 04496. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

No. MC 143701 (Sub-No. 1TA), filed March 31, 1978. Applicant: WILLIAM OBERATE, INC., 628 Walnut, P.O. Box 394, Blue Springs, MO 64015. Applicant's representatives: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Inland Disrtibution Center located at or near Kansas City, KS, to points in AL, GA, LA, MS, NC, SC, VA, and WV, restricted to traffic moving in vehicles equipped with mechanical refrigeration and originating at and destined to the points and area specified above, for 180 days. Supporting shipper(s): Inland Storage Distribution Center, P.O. Box 2249, Kansas City, KS 66110. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 143702 (Sub-No. 2TA), filed April 3, 1978. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th Street, Kansas City, KS 66105. Applicant's representatives: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), when moving in vehicles equipped with mechanical refrigeration from the facilities of Kansas City Cold Storage Corp. located in Kansas City, MO, to points in MN, NE, ND, and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kansas City Cold Storage Corp., 5000 East 3rd Street, Kansas City, MO 64106. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 144051 (Sub-No. 2TA), filed April 3, 1978. Applicant: ALFORD-LOGSTON, INC. 1714 Tabor, Houston, TX 77009. Applicant's representatives: Dale Alford, 1714 Tabor, Houston, TX 77009. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Home care products*, from Memphis, TN to Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, E. Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Quachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Webster, W. Carroll, and Winn Parishes, LA, under a continuing contract or contracts with Standley Home Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Standley Home Products, Inc., 112-116 Pleasant Street, Easthampton, MA 01027. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

No. MC 144117 (Sub-No. 7TA), filed April 4, 1978. Applicant: TLC LINES, INC., 1666 Fabick Drive, P.O. Box 1090, Fenton MO 63026. Applicant's representative: Daniel C. Sullivan, William D. Brejcha, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except

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commodities in bulk), from the facilities of Howard Paper Mills at Urbana and Dayton, OH, to points in TX, WA, OR, CA, NV, ID, UT, AZ, MT, WY, CO and NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operationg authority. Supporting shipper(s): Howard Paper Mills, Inc., P.O. Box 151, Urbana, OH 43078. Send protests to: P. E. Binder, Acting District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

No. MC 144426 (Sub-No. 1TA), filed March 27, 1978. Applicant: CHARLES D. MACKAY, R.F.D. No. 1, Fairfield Center, ME 04937. Applicant's representative: Charles D. Mackay (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed cars, motor blocks, transmission, rear ends, and wheels*, from points in ME to Madbury, NH and Everett, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Ron's Used Parts, Inc., Route 32, East Vassalboro, ME 04935. (2) Johnson's Car Crushers, Inc., Ballard Road, Wilton, NY. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl St., Portland, ME 04111.

No. MC 144442 (Sub-No. 1TA), filed April 4, 1978. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Road, Pompano Beach, FL 33060. Applicant's representative: Clifton Peter Rose, Patton Boggs & Blow, 1200 Seventeenth St. NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wafers, cookies, breadsticks, and biscuits in cartons*, between the Stella d'Oro plant, Bronx, NY, and independent distributors in Miami, Tampa, Ft. Lauderdale, and Opa-Locka, FL, under a continuing contract or contracts with Stella d'Oro Biscuit Co., Inc., for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): Stella d'Oro Biscuit Co., Inc., 184 West 237th Street, Bron, NY 10463. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW., 53rd Terrace, Miami, FL 33166.

No. MC 144549 (Sub-No. 1TA), filed April 3, 1978. Applicant: PITTSVILLE SERVICES, INC., P.O. Box 158, Skaneateles, NY 13152. Applicant's representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust* (in bulk), from Brookville, Sheffield, Ridgeway, Coal Grove, Shinglehouse, Crosby, Rew, Kane, Russell City, and Johnsburg, PA to Rochester, NY, under a continuing contract or contracts with Can-Am Sales Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Can-Am Sales Corp., P.O. Box 158, Skaneateles, NY 13152. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 S. Clinton Street, Room 1259, Syracuse, NY 13260.

No. MC 144549 (Sub-No. 2TA), filed April 3, 1978. Applicant: PITTSVILLE SERVICES, INC., P.O. Box 158, Skaneateles, NY 13152. Applicant's representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood flour*, between Pittsville, MD, and Pittsfield, MA, under a continuing contract or contracts with Wood Resources, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wood Resources, Inc., P.O. Box 158, Skaneateles, NY 13152. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 S. Clinton Street, Room 1259, Syracuse, NY 13260.

No. MC 144565 TA, filed April 4, 1978. Applicant: MERLIN CLARK, d.b.a. CLARK TRANSPORTATION & ENTERPRISES, 9421 S Hydraulic, Wichita, KS 67233. Applicant's representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 1101, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Distilled spirits, wine, cordials, and malt beverages*, from Lawrenceburg, Frankfort, Meadowlawn, Owensboro, Loretto, Bardstown and Clearmount, KY; Lynchburg, TN; Allen Park and Detroit, MI; Chicago, Plainfield, Lemont, Pekin, and Peoria, IL; Cincinnati and Silverton, OH; St. Louis and Kansas City, MO, to the facilities of A-B Sales, Inc., located at or near Wichita, KS, and at or near Hutchinson, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A-B Sales, Inc., 435 Eldora, Wichita, KS 67202. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

No. MC 144566 TA, filed April 4, 1978. Applicant: BROCIOUS TRUCKING, INC., P.O. Box 261, Brockway, PA 15824. Applicant's representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Containers and container accessories, components, ends, caps, lids, and closures*, from the facilities of Brockway Class Co. in Clearfield and Jefferson Counties, PA, to points in MD, for 180 days. Supporting shipper(s): Brockway Glass Co., Inc., McCullough Avenue, Brockway, PA 15824. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

WATER CARRIERS OF PASSENGERS

No. W-1319 (Sub-No. 1TA). By order entered April 26, 1978, the Motor Carrier Board granted St. Croix Cruise & Charter Co., Inc., St. Paul, MN, 180-day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of passengers, in special and charter operations, between Stillwater, Marine, Taylors Falls, Bayport, Afton, MN, and Hudson and Prescott, WI on the St. Croix River. Warren G. Smith, St. Croix Cruise & Charter Co., Inc., 136 W. Delos St., St. Paul, MN 55107, for applicant. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12611 Filed 5-8-78; 8:45 am]

[7035-01]

[Notice No. 72]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 4, 1978.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated,

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specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 19311 (Sub-No. 44TA), filed March 28, 1978. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Applicant's representative: Leonard R. Kofkin, 39 South La Salle, Chicago, IL 60603 (312-236-9375). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; (A) between Milwaukee, WI and Chicago, IL serving all intermediate points, and serving Chicago, IL and points within its commercial zone as points of joinder only; from Milwaukee, WI over U.S. Hwy 41 to Chicago, IL, and return over the same route; from Milwaukee, WI over WI Hwy 32 to the WI-IL State Line, then over Sheridan Road (formerly IL Hwy 42) to Chicago, IL and return over the same route; between Janesville, WI and Chicago, IL serving all intermediate points in WI and serving Chicago, IL and points within its commercial zone as points of joinder only; from Chicago over Interstate Hwy 90 to Janesville and return over the same route. Serving as off-route points in connection with the above described routes, those points in WI lying on, south and east of a line from Milwaukee over WI Hwy 15 to junction WI Hwy 59, then over WI Hwy 59 to junction WI Hwy 26, then over WI Hwy 26 to junction U.S. Hwy 51, then over U.S. Hwy 51 to IL-WI State Line. Restriction: Service on the above described routes and at the off-route points is restricted to the transportation of traffic moving to and from Chicago, IL. (B) Between Grand Rapids and Traverse City, MI serving all intermediate points, and serving Grand Rapids, MI and points within its commercial zone as points of joinder only; from Grand Rapids over U.S. Hwy 131 to junction MI Hwy 115, then over MI 115 to junction MI Hwy 37, then over MI Hwy 37 to Traverse City and return over the same route; from Grand Rapids over MI Hwy 37 to Traverse City and return over the same route; from Grand Rapids over Interstate Hwy 96 to junction U.S. Hwy 31, then over U.S. Hwy 31 to Traverse City and return over the same route. Serving as off-route points in connection with the above described routes, Evart, Rodney, Mecosta, MI and points lying on and west of a line from Grand Rapids over U.S. Hwy 131 to junction MI Hwy 115, then over MI Hwy 115 to junction MI Hwy 37, then over MI Hwy 37 to Traverse City, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (293) statements of support attached to the applictlon which may be examined at the Field Office named below. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 26396 (Sub-No. 169TA), filed March 2, 1978, and published in the FEDERAL REGISTER issue of April 4, 1978, and republished as corrected this issue. Applicant: POPELKA TRUCKING CO., d.b.a., THE WAGGONNERS, P.O. Box 990, Livingston, MT 59047. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Acoustical materials and accessories*, from Plainfield, IL to CA and to the International Boundary Line in the states of MI and NY; and (2) *Materials, accessories and supplies used in the manufacture and manufacturing of acoustical materials and accessories*, from points in destinations named in (1) above, to the origin points named in (1) above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R. W. Capaul, President, Acoustiflex Corp., 811 Center Street, Plainfield, IL 60544. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101. The purpose of this republication is to correct the territorial description.

No. MC 50935 (Sub-No. 21TA), filed March 28, 1978. Applicant: WOLVERINE TRUCKING CO., 1020 Doris Road, Pontiac, MI 48057. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080 (313-776-1706). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from Louisville, KY, to Drayton Plains, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oak Distributing Co., 5600 Williams Lake Road, Drayton Plains, MI 48020, Robert Baitens, Vice President-Treasurer. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 95540 (Sub-No. 1011TA), filed March 28, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33801. Applicant's representative: Benjy W. Fincher, 1144 West Griffin Road, Lakeland, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors and wine* in packages from Hartford, CT, to all points in the State of FL, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Heublein, Inc., 330 New Park Avenue, Hartford, CT 06101. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monetery Building, Suite 101, 8410 Northwest 53rd Terrace, Miami, FL 33166.

No. MC 98291 (Sub-No. 2TA), filed March 17, 1978, and published in the FEDERAL REGISTER issue of April 1978, and republished as corrected this issue. Applicant: KUNKLE TRANSFER & STORAGE CO., 420 South Third Avenue, Phoenix, AZ 85030. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment) between points in AZ for 180 days. Supporting shipper(s): Stor Dor Freight System, Inc., 1144 North 19th Avenue, Phoenix, AZ 85009, Merchant Shippers, P.O. Box 6695, 1144 North 19th Avenue, Phoenix, AZ 85005, LAWI/CSA Consolidators, Inc., 805 North Brand Boulevard, Glendale, CA 91203, Western Freight Association, 1144 North 19th Avenue, Phoenix, AZ 85008, Universal Carloading & Distributing Co., Inc. 1142 North 19th Avenue, Phoenix, AZ 85009, Flynt Distributing Co., 40 West Gary Street, Columbus, OH 43215, Ohio Brass, 380 North Main Street, Mansfield, OH 44901, Northern Arizona News Co., Inc., 1709 North East Street, Flagstaff, AZ 86001, Ralston Purina Co., 4700 East Motel Drive, Flagstaff, AZ 86001, Desert News, 3535 North First Avenue, Tucson, AZ 85719, Kibbee's Shopping Center, Box E18, Wendon, AZ, Sound & Sight, 224 South Montezuma, Prescott, AZ, Arizona Shipper's Association, Inc. 221 East Congress, Tucson, AZ 85701, Citizens Utilities Co., 3405 Northern Avenue, Kingman, AZ 86401, Woody's Enterprises, Ltd., P.O. Box 36, Aguila, AZ 85320, Tri Valley Equipment Co., Inc., P.O. Box 36, Aguila, AZ 85348, Lee Mercantile Co., Inc., Chief & Elder Avenue, White-river, AZ 85929, White Mountain Supply Co., R.R. No. 4, Box 2254, Lakeside, AZ 85929, Central Pipe & Supply Co., P.O. Box 26445, Tucson, AZ 85726, Yavapai Fleet Supply, 435 North Washington, Prescott, AZ, Illinois-California Express, Inc., 510 East 51st Avenue, Denver, CO 80216, Navajo Freight Lines, Inc., 1205 South Platte River Drive, Denver, CO 80223, ITOFCA, P.O. Box 188, No. 2 Walker Avenue, Clarendon Hills, IL 60514, Sundance Freight Lines, Inc., P.O. Box 7676, Phoenix, AZ, Airway, Trucking, 3501 South 35th Avenue, Phoenix, AZ, Cyprus Bagdad Copper Co., Bagdad, AZ 83621, Frontier Warehouse & Transfer Co., 300 South 25th Avenue, Phoenix, AZ 85009, Garment Carriers, Inc., 1400 North 24th Avenue, Phoenix, AZ, and TIME-DC, Inc., 851 South 27th Avenue, Phoenix, AZ 85009. Send protests to: Andrew W. Baylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 3427 Federal Building, 230 North First Avenue, Phoenix, AZ 85025. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Applicant intends to interline at points in Phoenix, Yuma, Ehrenberg, and Flagstaff, AZ. The purpose of this republication is to reflect that carrier intends to interline.

No. MC 102560 (Sub-No. 14TA), filed March 21, 1978, and published in the FEDERAL REGISTER issue of April 21, 1978, and republished as corrected this issue. Applicant: FREILER TRUCK LINES, INC., P.O. Box 636, Amite, LA 70422. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, from the facilities of Elgin-Butler Brick Co., located in Bastrop County, TX, to points in AL, FL, LA, MS, GA, SC, NC, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Elgin-Butler Brick Co., P.O. Box 45019, Baton Rouge, LA 70895. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113. The purpose of this republication is to correct the territorial description.

No. MC 114211 (Sub-No. 355TA), filed March 28, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 210 Beck Street, Waterloo, IA 50704. Applicant's representative: Adelor J. Warren (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, conduit pipe and tubing* from the facilities of Wheatland Tube Co., located at or near Wheatland, PA, to points in AR, MO, TX, OK, CO, WY, IA, NE, LA, KS, ND, and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wheatland Tube Co., Wheatland, PA 16161. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 114632 (Sub-No, 152TA), filed March 9, 1978, and published in the FEDERAL REGISTER issue of April 12, 1978, and republished as corrected this issue. Applicant: APPLE LINES, INC., 212 Southwest Second Street, P.O. Box 287, Madison SD 57024. Applicant's representative: Michael L. Carter, 212 Southwest Second Street, Madison, SD 47042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food* (except commodities in bulk), from the facilities of General Foods Corp., located in points in MN, to points in the States of AR, IL, IN, IA, KS, LA, MI, WI, MO, NE, ND, OH, OK, SD, and TX, restricted to traffic originating at the facilities of General Foods Corp., and destined to the named destination States, for 180 days. Supporting shipper(s): General Foods Corp., 250 North Street, White Plains, NY 10605. (Robert J. Byrne, Manager, Transportation Pricing.) Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501. The purpose of this republication is to correct the territorial description.

No. MC 117940 (Sub-No. 266TA), filed March 28, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Applicant's representative: Allan L. Timmerman, 5300 Hwy 12, Maple Plain, MN 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk) from Chicago, IL and its commercial zone to points in IN, KY, MI, and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Continental Freezers of Illinois, 4220 South Kildare Boulevard, Chicago, IL 60632. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Post Office, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 117940 (Sub-No. 267TA), filed March 28, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Applicant's representative: Allan L. Timmerman, 5300 Hwy 12, Maple Plain, MN 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and potato products* from Greenville, MI and its commercial zone to points in CT, DE, MD, MA, NH, NJ, NY, PA, VT, VA, WV and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ore Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 124170 (Sub-No. 87TA), filed March 28, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Applicant's representative: William J. Boyd, P.C., 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521 (312-986-5200). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (other than bulk), from the facilities of American Home Foods, a division of American Home Products Corp., in La Porte, IN, to the Lower Peninsula of MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Home Foods, Division of American Home Products Corp., 685 Third Avenue, New York, NY 10017, Harry Menaker, General Distribution Manager. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 124170 (Sub-No. 88TA), filed March 28, 1978. Applicant:

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FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Applicant's representative: William J. Boyd, P.C., 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by health and beauty aid distributors and wholesalers from Detroit, MI to points and places in ME, NH, MA, CT, RI, VT, NY, NJ, PA, OH, MD, DE, DC, VA, WV, FL, GA, MS, AL, LA, NC, SC, TN, KY, IN, WI, and IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Supreme Distributors Co., 6501 East McNichols Road, Detroit, MI 48212, William L. Johnston, General Traffic and Distribution Manager. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 125023 (Sub-No. 56TA), filed March 13, 1978, and published in the FEDERAL REGISTER issue of April 12, 1978, and republished as corrected this issue. Applicant: SIGMA-4 EXPRESS, INC., 3825 Beech Avenue, P.O. Box 9117, Erie, PA 16504. Applicant's representative: Richard G. McCurdy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials, from Eden, NC to points in the states of DE, DC, MD, NJ, PA, VA and WV;* (2) *materials, supplies and equipment* used in the manufacture, sale and distribution of malt beverages, and returned empty malt beverage containers (except commodities in bulk), from points in the states of DE, DC, MD, NJ, PA, VA and WV to Eden, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Miller Brewing Co., 3939 Highland Boulevard, Milwaukee, WI 53208. Send protests to: John J. England, District Supervisor, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222. The purpose of this republication is to correct the territorial description and also to add a section that was omitted.

No. MC 125681 (Sub-No. 7TA), filed February 17, 1978. Applicant: MATERIALS TRANSPORT, INC., P.O. Box 248, Tell City, IN 47586. Applicant's representative: Robert B. Herbert and/or Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in dump vehicles, from Evansville, Newburgh, Rockport, or the facilities of Mulzer Crushed Stone near Mt. Vernon, IN, to points in that part of IL, on, south, and east of a line beginning at the IL-IN State line and extending along U.S. Hwy 36 to Decatur, IL, and then along U.S. Hwy 51 To Cairo, IL, under a continuing contract, or contracts, with Domtar, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Domtar Inc., Sifto Salt Division, 9950 West Lawrence Avenue, Schiller Park, IL 60176. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 134112 (Sub-No. 7TA), filed February 23, 1978, and published in the FEDERAL REGISTER issue of April 3, 1978, and republished as corrected this issue. Applicant: NATIONAL FREIGHTWAYS, INC., 1932 South 111th Street, Omaha, NE 68144. Applicant's representative: Gailyn L. Larsen, Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins and pelts, and pieces therefrom*, (except commodities in bulk), from the hide plant of Iowa Beef Processors, Inc., at or near Dakota City, NE, to points in the States of IL, IN, KS, KY, MI, MO, MA, NJ, NY, OH, PA, WV, WI and the ports of entry on the International Boundary line between the United States and Canada located in MI and NY, under a continuing contract, or contracts, with Iowa Beef Processors, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert E. Gillespie, Manager Rates and Regulatory Affairs, Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102. The purpose of this republication is to correct the territorial description.

No. MC 134235 (Sub-No. 7TA), filed March 24, 1978, and published in the FEDERAL REGISTER issue of April 21, 1978, and republished as corrected this issue. Applicant: KUHNLE BROTHERS, INC., P.O. Box 128, Chagrin Falls, OH 44022. Applicant's representative: Kenneth T. Johnson, Bankers Trust Building, Jamestown, NY 14701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Solar salt* in pneumatic equipment, from Jersey City, NJ, to all points and places in the States of NJ, PA, NY, CT, and MA, for 180 days. Supporting shipper(s): International Salt Co., 30 Buxton Farm Road, Stamford, CT 06905. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199. The purpose of this republication is to correct the territorial description.

No. MC 135874 (Sub-No. 115TA), filed March 28, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Applicant's representatives: K. O. Petrick, 550 East 5th Street South, South St. Paul, NM 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as described in sections A & C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC, 209 and 766 (except in bulk) from Sioux Center, IA, and its commercial zone to Boston, MA; Detroit, MI; Buffalo, Champlain, and New York, NY; Philadelphia, PA, and Westminister, VT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sioux-Preme Packing Co., P.O. Box 177, Sioux Center, IA 51250. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, and United States Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 141417 (Sub-No. 2TA), filed March 28, 1978. Applicant: SUPER SPEED DELIVERY & MESSENGER SERVICE, INC., 265 Route 46, Totowa, NJ 07512. Applicant's representatives: Morton E. Kiel, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile picture kits* from Lynchburg, VA, Pawtucket, RI; Taylorsville, Statesville, Greenville, Aberdeen, Spindale, and Williamston, NC; Greenville, Lugoff, Simpsonville, Waterее, Kingstree, and Williamston, SC; to points in NJ, CT, MA, RI, and Newburgh, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Erlanger, Blumgar & Co., Inc., 1450 Broadway, New York, NY 10018. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

No. MC 141575 (Sub-No. 11TA), filed March 28, 1978. Applicant: TFS., INC., Box 126, Rural Route 2, Grand Island, NE 68801. Applicant's representative: Gailyn L. Larsen, Box 81849, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magnesium*, from the facilities of Martin Marietta Chemical Co., at or near Manistee, MI, to points in IA and NE, under a continuing contract, or contracts, with Ag Service, Inc., of Grand Island, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert Wenzl, President, Ag Service, Inc., Rural Route 2 Box 126, Grand Island, NE 68801. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 143031 (Sub-No. 3TA), filed December 29, 1977, and published in the FEDERAL REGISTER issue of March 10, 1978, and republished as corrected this issue. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY, AND ERNEST STEWART MURPHY d.b.a. MURPHY & SONS, Route 2, Box 139, Spring City, TN 37381. Applicant's representative: Stan Guthrie, Attorney, Suite 100, Maclellan Building, Chattanooga, TN 37402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furniture parts, crated and uncrated, materials and supplies* to be used by La-Z-Boy Chair Co. in the manufacturing and selling of new furniture, for 180 days. Restriction: The operations are limited to a transportation service to be performed, under a continuing contract, or contracts, with the shipper and La-Z-Boy Chair Co. Outbound shipments: New Furniture and furniture parts from the plantsite and storage facilities of La-Z-Boy Chair Co. at or near Dayton, TN to points in IA, LA, MD, MN, NJ, PA, WV, and WI. Inbound shipments: Furniture parts and materials and supplies to be used in the manufacturing of new furniture at the plantsite of La-Z-Boy in Dayton, TN. Supporting shipper(s): La-Z-Boy Chair Co., P.O. Box 191 Walnut Grove Road, Dayton, TN 37321. Send protests to: District Supervisor, Joe J. Tate, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203. The purpose of this republication is to correct the territorial description.

No. MC 143486 (Sub-No. 1TA), filed March 23, 1978. Applicant: DELTCO, 312 East 16th Street, Greeley, CO 80631. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center Building, Denver, CO 80264. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Ore*, from Elko County, NV, to the mill facility of Eisenman Chemical Co., located at Salt Lake City, UT, and (b) *chemicals*, in bags, and *drilling mud*, (1) between the warehouses of Eisenman Chemical Co., located at or near Greeley, CO; Bakersfield and Woodland, CA; Weatherford, Burns Flat, and Woodward, OK; Canadian, TX; Casper and Evanston, WY; Myton and Salt Lake City, UT; Grand Island, NE, and Farmington, NM, and (2) from AZ; CO; CA; ID; KS; MI; MT; NE; NV; NM; Syracuse, NY; ND; OK; SD; TX; UT; Hopewell, VA; and WY, to the warehouses of Eisenman Chemical Co. as listed in subparagraph (1) above. The operations authorized in paragraphs (a) and (b) above are limited to a transportation service to be performed under a continuing contract or contracts with Eisenman Chemical Co. of Greeley, CO, for 180 days. Supporting shipper(s): Eisenman Chemical Co., 312 East 16th Street, Greeley, CO 80631. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, 492 U.S. Customs House, Denver, CO 80202.

No. MC 143570 (Sub-No. 2TA), filed March 28, 1978. Applicant: D & G TRUCKING, INC., 4420 Overland, Meridian, ID 83642. Applicant's representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heating and air conditioning equipment and supplies, floor coverings and supplies, and supplies* used in the installation of all of the above. From Phoenix, AZ; Denver, CO, points in the commercial zones thereof, and the CA counties of Alameda, Contra Costa, Los Angeles, Orange, San Bernadino, Santa Clara, San Francisco, and San Mateo, to the facilities of A & H Supply, Inc., located in Salt Lake City, UT, and points in the commercial zone thereof, to the facilities of A & H Supply, Inc., located in Pocatello and Boise, ID, for 180 days. Supporting shipper(s): A & H Supply, Inc., 419 South 8th Street, Boise, ID 83706. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise ID 83706

No. MC 144318TA, filed February 17, 1978, and published in the FEDERAL REGISTER issue of April 12, 1978, and republished as corrected this issue. Applicant: KEITH PADDOCK & SONS, INC., Routes 17 and 36, Jasper, NY 14855. Applicant's representative: S. Michael Richards, Raymond A. Richards, 44 North Avenue, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients*, from the facilities of Agway, Inc., Feed Division, at Kennedy, NY, to points in Bradford, Clinton, Columbia, Lycoming, Potter, Sullivan, and Tioga Counties, PA, and (2) *dry fertilizer and dry fertilizer materials*, from the facilities of Agway, Inc., Fertilizer-Chemical Division, at Big Flats, NY, to points in Bradford, Clinton, Columbia, Lycoming, Potter, Sullivan, and Tioga Counties, PA, and (3) *feed*, from the facilities of Agway, Inc., Feed Division, at Erwins, NY to points in Bradford, Potter, and Tioga Counties, PA, for 180 days. The purpose of this application is to convert the applicant's existing contract carrier authority to that of common carrier authority. Applicant presently holds authority as a contract carrier in permits MC 136560 (Sub-Nos. 2, 3, and 4) to transport the following. Supporting shipper(s): Agway, Inc., P.O. Box 4933, Syracuse, NY 13221. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, Room 1259, Syracuse, NY 13260. The purpose of this republication is to correct the applicant's address.

No. MC 144517 (Sub-No. 1TA), filed March 28, 1978. Applicant: BEVERAGE ENTERPRISES, INC.: Route 5, Box 58, Imperial, MO 63052. Applicant's representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages*, from the St. Louis, MO-East St. Louis, IL, commercial zone to points and places in AR (except Clay, Randolph, Greene, Lawrence, Mississippi, Craighead, Jackson, Poinsett, Crittendon, Cross, Woodruff, White, St. Francis, Lee, Monroe, Prairie, Lonoke, Pulaski, Saline, Garland, Hot Spring, Clark, Grant, Jefferson, AR, counties), IL, IN, IA, KS, KY, MS, NE, OH, OK, TN (except Memphis, TN, and its commercial zone) and WI to the St. Louis, MO-East St. Louis, IL, commercial zone, under a continuing contract, or contracts, with Taylor Beverages, Inc., 555 Brown Road, Hazelwood, MO 63042, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Taylor Beverages, Inc., 555 Brown Road, Hazelwood, MO

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63042. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12613 Filed 5-8-78; 8:45 am]

[7035-01]

[I.C.C. Order No. 1, Amdt. 5; Revised S.O. No. 1252]

BIRMINGHAM SOUTHERN RAILROAD AND LOUISVILLE AND NASHVILLE RAILROAD CO.

Rerouting Traffic

Upon further consideration of ICC Order No. 1 and good cause appearing therefor:

It is ordered, That: ICC Order No. 1 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) Expiration date. This order shall expire at 11:59 p.m., October 31, 1978, unless otherwise modified, changed or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., April 30, 1978, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., April 26, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-12607 Filed 5-8-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[INT DES 78-15]

PROPOSED LIVESTOCK GRAZING PROGRAM, CERBAT/BLACK MOUNTAIN PLANNING UNITS, PHOENIX DISTRICT, ARIZONA

Availability of Draft Environmental Statement and Public Hearing Announcement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an environmental statement concerning a proposed intensive livestock grazing program for the Cerbat/Black Mountain Planning Units in Mohave County, Ariz. The proposal involves the analysis of 26 allotment management plans (AMP's) covering about 93 percent of the 1.6 million-acre area. The AMP's integrate livestock grazing with other land uses. More than 150,000 acres have previously been set aside for wildlife management at the southern end of the Black Mountain Planning Unit and its use is not addressed in this statement.

The Department of the Interior invites written comments on the draft environmental statement within 45 days of this notice. Comments are being solicited from public agencies, interested individuals, and entities. Comments should be sent to the Arizona State Office (911), Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Ariz. 85073.

A limited number of copies of the draft environmental statement are available upon request at the following offices:

Arizona State Office (911), Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Ariz. 85073, 602-261-4127.
Phoenix District Office, Bureau of Land Mangement, 2929 West Clarendon Avenue, Phoenix, Ariz. 85017, 602-261-4231.
Kingman Resource Area, Bureau of Land Mangement, 2475 Beverly Avenue, Kingman, Ariz. 86401, 602-757-4011.

Copies of the draft environmental statement will be available for public reading and review at the following locations:

Office of Public Affairs, Bureau of Land Mangement, Interior Building, 18th arid C Streets NW., Washington, D.C. 20240, 202-343-5717.
Phoenix District Office, Bureau of Land Mangement, 2929 West Clarendon Avenue, Phoenix, Ariz. 85017, 602-261-4231.
Arizona State Office, Bureau of Land Mangement, 2400 Valley Bank Center, Phoenix, Ariz. 85073, 602-261-3706.
Kingman Resource Area, Bureau of Land Mangement, 2475 Beverly Avenue, Kingman, Ariz. 86401, 602-757-4011.

Oral and/or written comments will also be received at formal public hearings to be held at the following locations:

June 7, 1978—7 p.m., County Fairgrounds Auditorium, Kingman, Ariz.
June 8, 1978—7 p.m., Maricopa County Board of Supervisors Auditorium, 205 West Jefferson Street, Phoenix, Ariz.

An administrative law judge will preside over the public hearings. Witnesses presenting oral comments should limit their testimony to ten (10) minutes. Written request to testify orally should be sent to the State Director (911), Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Ariz. 85073.

Comments received on the draft environmental statement, whether written or oral, will be given equal consideration during preparation of the final environmental statement on the Proposed Livestock Grazing Program—Cerbat/Black Mountain Planning Units.

Dated: May 8, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-12812 Filed 5-8-78; 1:28 pm]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 91-409). 5 U.S.C. 552b(e)(3).

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[6320-01]

1

[M-127, Amdt. 2, May 3, 1978]

NOTICE OF DELETION OF ITEM FROM THE MAY 5, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1 p.m., May 5, 1978.

PLACE: Room 1027, 1825 Connecticut Aveune NW., Washington, D.C. 20428.

SUBJECT: 8. Docket 31871, Report to the Congress on the feasibility and economic impact of youth standby fares (BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff has requested that Item 8 be deleted in order to permit further evaluation of the report on youth standby fares. Accordingly the following Members have voted that agency business requires the deletion of Item 8 from the May 5, 1978 agenda and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-970-78 Filed 5-5-78; 9:19 am]

[6320-01]

2

[M-127, Amdt. 3, May 3, 1978]

NOTICE OF DELETION OF ITEM FROM THE MAY 5, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1 p.m., May 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 15. Docket 30782, California-Toronto, Montreal Route Proceeding, Opinion and Order on Review (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Member O'Melia, who will not be able to be present at the meeting, requested that this Item be deleted from the May 5, 1978 agenda and taken up at a later meeting when he will be able to attend. Accordingly, the following Members have voted that agency business requires the deletion of Item 15 from the May 5, 1978 agenda and that no earlier announcement was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Elizabeth E. Bailey

[S-971-78 Filed 5-5-78; 9:19 am]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., May 11, 1978.

PLACE: 2033 K Street NW., Washington, D.C. 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters: offer of settlement; applications and revocations.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-974-78 filed 5-5-78; 2:52 pm]

[6570-06]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Thursday, May 11, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Parts of the meeting will be open to the public and part will be closed.

MATTERS TO BE CONSIDERED:

Parts open to the public:

1. Staff report on hearings concerning work-scheduling as it relates to religious discrimination.
2. Staff report on experience with utilization of temporary restraining orders in field offices.
3. Staff report on the proposed Memorandum of Understanding between EEOC and the Federal Communications Commission.
4. Report by Executive Director on Commission Operations.

Part closed to the public:

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under Sec. 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977).

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued May 4, 1978.

[S-973-789 Filed 5-5-78; 2:52 pm]

[6714-01]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10 a.m. on Friday, May 5, 1978, the members of the Board of Directors of the Federal Deposit Insurance Corporation will meet with Honorable Carol S. Greenwald, Commissioner of

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Banks for the Commonwealth of Massachusetts, and Mr. William L. Brown, President, the First National Bank of Boston, Boston, Mass., to discuss the applications of Unity Bank and Trust Co., Boston (Roxbury), Mass., (1) for consent to establish branches at 592 Washington Street, Boston (Dorchester), Mass., and at 1630 Blue Hill Avenue, Boston (Mattapan), Mass., and (2) for consent to change the location of its main office from 416 Warren Street to 2343 Washington Street, both locations within Boston (Roxbury), Mass.

The meeting will be held in Room 6135 of the FDIC Building located at 550 17th Street NW., Washington, D.C.

The meeting will be closed to public observation pursuant to subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)) since the public interest does not require public observation of the meeting.

Dated: May 4, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-972-78 Filed 5-5-78; 9:19 am]

[6720-01]

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10:30 a.m., May 12, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Franklin O. Bolling, 202-377-6671.

MATTERS TO BE CONSIDERED:

Consideration of capital expenditures—Budget amendment delegation of authority.
Consideration of change of office location—Home Federal Savings & Loan Association of San Diego, San Diego, Calif.
Branch office application—Western Federal Savings & Loan Association, Los Angeles, Calif.
Branch office application—First Federal Savings & Loan Association of Fulton County, Rochester, Ind.
Concurrent consideration of applications for (1) Branch office application—Biscayne Federal Savings & Loan Association, Miami, Fla., and (2) limited facility application—Peoples Federal Savings & Loan Association of Lake Worth, Lake Worth, Fla.
Branch office application—California Federal Savings & Loan Association, Los Angeles, Calif.

No. 149, May 5, 1978.

[S-976-78 Filed 5-5-78; 2:52 pm]

[7555-01]

7

NATIONAL SCIENCE FOUNDATION.

TIME AND DATE: May 18, 1978: Closed session 1 to 3 p.m.; Open session 3 to 5:15 p.m. May 19, 1978: Open session 8 to 10 a.m.; Closed session 10 a.m. to 12 noon.

PLACE: Room 540, 1800 G Street NW., Washington, D.C. 20550.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Presentation by the Honorable Lucy Wilson Benson, Under Secretary of State for Security Assistance, Science, and Technology.
2. Program review—Astronomy.
3. Minutes—Open session, 197th meeting.
4. Chairman's report.
5. Director's report.
6. Board Committees—Reports on meetings.
7. NSF Advisory Groups—Reports on meetings.
8. Annual reviews of NSF centers.
9. Annual business.
10. Grants, contracts, and programs.
11. Other business.
12. Next meetings.

Portions to be considered at the closed session:

A. Minutes—Closed session, 197th meeting.
B. Annual business—Report from Nominating Committee and annual elections.
C. NSB annual reports.
D. NSF budgets for fiscal year 1980 and subsequent years.
E. Grants and contracts.

CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-5840.

[S-975-78 Filed 5-5-78; 2:52 pm]

[7910-01]

8

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 18831, May 2, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, May 9, 1978; 10 a.m.

CHANGE IN MEETING: Cancellation.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: May 4, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-977-78 Filed 5-5-78; 2:52 pm]

[6740-02]

9

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published May 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 10, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

CP-7.—CP75-362, El Paso Natural Gas Co.
M-1.—RM76-13, the need for site selection and facility operation criteria for liquefied natural gas information and storage terminals.
M-2.—Contract provisions under section 156.93.
M-3.—Inflated rate increase filings.

KENNETH F. PLUMB,
Secretary.

[S-978-78 Filed 5-5-78; 3:57 pm]

MAY 9 1978

federal register

TUESDAY, MAY 9, 1978
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

HEALTH SYSTEMS AGENCY

Reviews of Certain Proposed Uses of Federal Health Funds

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[4110–83]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 122]

HEALTH SYSTEMS AGENCY REVIEWS OF CERTAIN PROPOSED USES OF FEDERAL HEALTH FUNDS

Proposed Rulemaking

AGENCY: Public Health Service, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth proposed regulations governing the review and approval or disapproval by health systems agencies of certain proposed uses of Federal funds in accordance with section 1513(e) of the Public Health Service Act as amended by the National Health Planning and Resources Development Act of 1974. These reviews are designed to ensure to the maximum practicable extent that Federal health funds are expended in accordance with State and local health plans developed under the authority of Titles XV and XVI of the Public Health Service Act.

DATE: Comments must be received on or before June 8, 1978.

ADDRESS: Written comments and recommendations should be submitted to: Director, Office of Policy Coordination, Bureau of Health Planning and Resources Development, Center Building, Room 6–22, 3700 East-West Highway, Hyattsville, Md. 20782. All materials received in response to this Notice will be available for public inspection and copying at the above location on weekdays (Federal holidays excepted) between the hours of 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Colin C. Rorrie, Jr., Ph. D., Acting Director, Bureau of Health Planning and Resources Development, Center Building, Room 6–22, 3700 East-West Highway, Hyattsville, Md. 20782, 301–436–6850.

SUPPLEMENTARY INFORMATION: The National Health Planning and Resources Development Act of 1974 (Pub. L. 93–641, January 4, 1975) amended the Public Health Service Act (hereafter, "the Act") to include Title XV, "National Health Planning and Development," and Title XVI, "Health Resources Development." Among other things, Title XV authorizes the Secretary to enter into agreements with eligible entities for their designation as health systems agencies (HSA's) for health service areas established pursuant to section 1511 of the Act, and to provide grant assistance to such HSA's. Among the specific duties required as HSA's is the conduct of reviews to approve or disapprove certain proposed uses of Federal funds for the development, expansion or support of health resources (hereafter referred to as "review and approval").

The inclusion of health systems agency review and approval as one of these required functions is a response to criticisms of past Federal funding practices which, in the view of many local officials, gave insufficient weight to local needs and priorities. These critics urged local reviews of applications for Federal funds to ensure expenditure of these funds in accordance with local plans and priorities as well as national program goals, HSA review and approval evolved as a response to these criticisms and from earlier efforts to secure local views on applications for Federal funds. Under the previous comprehensive health planning (CHP) program (sections 314 (a) and (b) of the Public Health Service Act), the areawide CHP agencies "reviewed and commented" on some grant applications for Public Health Service (PHS) funds. Although local review of applications was considered important, the activity was criticized on the grounds that the agencies devoted too much time and resources to project review in lieu of planning activities: that the agencies lacked specific criteria against which to review application for Federal funds; that the PHS agencies did not always allow sufficient time for this review and did not always consider local comments before decisions to fund; and that many important programs did not participate in this local review. Similar criticisms have been leveled against other review and comment systems, such as that established under OMB Circular A-95.

To address these shortcomings, and to ensure to the maximum practicable extent that Federal health funds are expended in accordance with State or local health plans developed under the authority of Titles XV and XVI, section 1513(e) of the Act requires health systems agencies to review and approve or disapprove certain proposed uses of Federal funds. Federal funds under the covered authorities which are used to support, expand, or develop local health resources and are thus subject to review and approval amount to approximately $3 billion annually (excluding NIH, DOD, VA, and PHS hospitals). This figure represents a small but significant portion of total Federal health care expenditures, one over which the health planning agencies may exercise some control. The activity therefore provides an incentive for agencies and applicant to coordinate and help ensure the Federal funds are used to provide health services which are consistent with local and Statewide needs.

The Secretary wishes to note several aspects of the statutory foundation for this function. Section 1513(e) of the Act allows the HSA a period of not less than sixty (60) days to conduct the review required under that section (proposed § 122.413) and also establishes specific procedures through which an applicant may request of the Secretary a review of an HSA disapproval (proposed § 122.415). In exercising his authority to award Federal funds notwithstanding an HSA disapproval, the Secretary intends to conform closely to the guidance provided in the Report of the House Committee:

> "While the Committee has given the Secretary authority to make Federal funds available despite a decision by an HSA that the proposed uses of such funds would be inappropriate, it does not anticipate that the Secretary will do this with any frequency and that such a use of funds will be treated as an exception and carefully justified by the Secretary." (H.R. Rep. No. 93-1382, Sept. 26, 1974, p. 64.)

In addition to reviews of completed applications, the Congress intended the HSAs to assist in the early development of applications. The Report of the House Committee further states:

> "It should be emphasized that the Committee does not anticipate simply that the HSAs will review applications which have already been written but more generally that they will work with people who are considering applying for funds to assure that these applications are consistent with the community's need." (H.R. Rep. No. 93-1382, Sept. 26, 1974, p. 9.)

Section 1532 of the Act also provides that in conducting such reviews, each HSA must (except to the extent approved by the Secretary) follow procedures and apply criteria developed and published by the HSA in accordance with regulations of the Secretary.

The purposes of the proposed 42 CFR part 122, subpart E, are to set forth minimum procedures and criteria for HSA reviews under section 1513(e) of the Act of certain proposed uses of Federal funds; to describe the manner in which these procedures and criteria must be developed and published; to determine the Public Health Service programs, and types of applications within covered programs, to which this review must apply; and to set forth the procedure the Secretary will follow in considering, upon request of the applicant, whether to fund applications notwithstanding an HSA disapproval.

In issuing these proposed regulations, the Secretary wishes to emphasize certain of their features. One feature which is the subject of some misunderstanding is the consequence of and HSA approval or disapproval. First, HSA approval does not guarantee funding of an application, although no award of Federal funds subject to review and approval can be made unless either: (a) the HSA has approved the proposed use, or (b) the HSA has failed to approve or disapprove a proposal after having been provided at least 60 days in which to review and approve or disapprove the proposed use, or (c) the Secretary has overridden an HSA disapproval. While the HSA review will focus on the need for the activity in its health service area, the Federal funding agency may decide not to fund an application approved by an HSA for reasons related to technical merit, availability of funds, agency priorities, and so forth. Second, an HSA disapproval of an application does not prohibit funding. The Secretary is, however, prohibited from awarding funds for a project disapproved by an HSA until he has: (1) reviewed the HSA disapproval, upon request of the applicant, (2) allowed the appropriate State health planning and development agency 30 days to comment on the disapproval, and (3) decided to override the HSA disapproval. Section 1513(e) of the Act mandates specific procedures for review by the Secretary of an HSA disapproval; § 122.415 of the proposed regulations elaborates on these procedures and provides additional considerations the Secretary may use in making a determination.

The Secretary is proposing definitions in these regulations, and publishing a list of programs, to identify proposed uses of Federal funds subject to HSA review. Section 1513(e) of the Act stipulates that Federal funds appropriated under four Federal statutes (the PHS Act, the Community Mental Health Centers Act, sections 409 and 410 of the Drug Abuse Office and Treatment Act, and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970) are subject to HSA review, if the funds are for the "development, expansion, or support of health resources." The statute defines "health resources" as including health services, health care facilities, and health professions personnel (section 1531(4)). In addition, § 122.402 of the proposed regulations defines the "development," "expansion," and "support" of a health resource.

As a practical matter most activities reviewed under these definitions are likely to be the delivery of health services or the construction, alteration, acquisition, and equipping of health care facilities.

Appended to these proposed regulations is a list of Federal grant programs, based on the OMB Catalog classification, which may assist the HSA, the applicant, and the funding agency in determining which programs are subject to HSA review. This list is to serve only as a general guide and is not definitive. Absence of a program from the list does not necessarily mean that a particular application under the program is not subject to HSA reviews. Likewise, not all applications under those programs on the list are necessarily subject to HSA review.

The Secretary is pleased to note that PHS funding agencies implementing programs other than those authorized by the four Acts cited above have, in accordance with Congressional encouragement of expansion of the scope of review and approval, requested that HSAs review and comment on, or review and approve or disapprove, applications under certain of their programs. These programs are also on the list, and are indentified as included due to a PHS funding agency request for review and comment and/or review and approval or disapproval. HSAs are of course free to decline to review applications under these programs, but are encouraged to perform the reviews.

A particularly difficult area in the implementation of section 1513(e) concerns HSA reviews of proposals for research and training activities.

Research is not covered by the statutory definition of "health resources" (see section 1513(4) of the Act) and is therefore not per se subject to HSA review. However, some statutes whose basic purpose is research authorize the support of projects involving the delivery of health services, which is within that definition, and it is quite clear that Congress intended for research applications to be subject to review if they involve the delivery of health services. A proposal is currently under development in the Department to establish criteria for determining when a research application which has a service component is subject to review. The Secretary intends to issue a supplimintary notice of proposed rulemaking in the near future which will set forth these criteria. Accordingly, the proposed regulations set out below are silent on this matter and § 122.403(c) has been reserved for these criteria.

The Secretary wishes to emphasize that there are adequate Federal systems available for review of the research aspects of such applications, and HSAs should not attempt to duplicate Federal review of the research aspects of applications subject to review and approval. Further, to avoid the risk of inappropriate disclosure during the HSA review (since all materials in the hands of the HSA which are pertinent to reviews must be made available by the HSA to the public upon request), submission to the HSA of a summary of the purely research aspects of research applications with health care facility construction or service delivery components will be sufficient.

One of the considerations an HSA must address in adopting criteria for reviewing applications (§ 122.412) is "the special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages" (see § 122.412(a)(11)). The Secretary wishes to stress that research applications which are subject to review and approval should be reviewed by the HSAs with special attention to this consideration, since the purpose and impact of such research transcends local HSA boundaries.

With respect to training activities, it should be noted that health professions personnel (i.e., individuals whose main occupation is the delivery of health services) are clearly "health resources" as difined in section 1531(4); therefore the training of such personnel is "the development, expansion, or support of health resources." However, the statute (section 1513(e)(1)(B)) specifically exempts from HSA review proposed uses of funds under titles VII and VIII of the PHS Act except where they are "to support the development of health resources intended for use in the health service area or the delivery of health services." The rationale behind this limitation is that titles VII and VIII for the most part support the development of a national, rather than local, pool of health personnel and it would not be appropriate to subject national manpower development efforts to local HSA review.

There are, however, training activities under other authorities covered by section 1513(e) of the Act which also support the development of a national pool of health manpower. Because of the difficulty this presents for similar treatment of similar applications, these proposed regulations do not include specific criteria to determine which training applications are subject to review and approval. As in the case of research, these criteria will be included (as § 122.403(c)) in a supplementary Notice of Proposed Rulemaking (NPRM) which will be issued shortly. It is expected that the final set of criteria will not be published separately, but with the final regulations implementing this review function.

The Secretary wishes to elaborate on two issues regarding the statutory phrase "each proposed use." First, the reference to HSA review and approval or disapproval of each proposed use does not mean that every application is subject to HSA review. The funding agency will determine at which stage of the review process the application will be submitted to the HSA (§ 122.408). Some agencies may choose to do an initial screening and then submit for HSA review only those applications which are technically adequate and have a reasonable chance of being funded. Second, applications are

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arrayed in the PHS Grants Administration Manual in the following categories: new, competing extension, noncompeting continuation, supplemental and noncompeting extension applications. The HSA is entitled to review any of these applications which come under the purview of section 1513(e). However, the proposed regulations (§ 122.408) provide procedures for the review of noncompeting continuation applications which will allow HSA staff to focus their reviews and resources on those noncompeting continuation applications which merit significant attention. The proposed regulations thus are consistent with the PHS Project Period System in providing that HSAs will be sent noncompeting continuation applications for their review and approval only if they make such a request of the Federal funding agency or there is a significant (i.e., 20 percent) increase in the funding level previously afforded the project.

To complete the description of the types of applications subject to review, the Secretary notes that an HSA must also review and approve or disapprove proposed uses in its health service area of Federal funds made available, either by the State or directly by the Secretary, from an allotment to the State under one of the four Acts previously cited (§ 122.403(a)(2)).

The Secretary also wishes to address the procedures HSAs must follow in conducting reviews of proposed uses of Federal funds. The procedures prescribed in these proposed rules are similar to those in the Certificate of Need regulations published on January 21, 1977. One necessary difference is due to the fact that the statute requires that HSAs be allowed not less than 60 days for these reviews, but that Certificate of Need reviews generally take place in 90 days. Additionally, language in these proposed regulations regarding procedures is limited, generally, to the language of the statute. This will allow maximum latitude to the HSAs in developing systems for reviews of Federal funds that will be compatible with those for other required reviews, such as Certificate of Need, and for optional reviews such as A-95 reviews. To facilitate further compatibility with A-95 reviews, proposed § 122.410(a)(1) reiterates the statutory provision for consultation with A-95 planning bodies (as well as other local planning and review organizations and units of general local government). The proposed rules delete one procedure included in the latter part of section 1532(b)(8) of the statute. The Secretary has determined that a public hearing, for good cause shown, need not be included as part of the procedures adopted by the HSA, because section 1513(e)(2) of the Act and proposed § 122.415 provide the opportunity for applicants to request the Secretary to fund applications which an HSA had disapproved. This does not, however, preclude an HSA from including this hearing as part of its procedures if it deems it appropriate.

Although HSAs must be allowed 60 days for these reviews, the Secretary is aware that special treatment will be necessary in the case of monies with less than 60 days available for their obligation. Such a situation might arise when supplemental appropriations are enacted late in a fiscal year. To avoid having these funds lapse, the proposed regulations (§ 122.413(c)) stipulate that when a proposed use of Federal funds is submitted to the HSA less than 60 days prior to the end of the period of availability of the funds, the Federal funding agency may award the funds with the condition than no Federal funds may be expended until the requirements of section 1513(e) of the Act have been met.

While HSAs may request, under section 1532(b) of the Act and proposed § 122.411, an extension of the 60-day review cycle, the Secretary hopes that such requests will be kept to a minimum, because of the impact on the review schedules of Federal funding agencies. Since HSA Determination that an application is not complete is likely to be the chief source of requests to extend the review period, the Secretary encourages the use of preapplication conferences to ensure that applications will, in most cases, be complete upon submission to the HSA. The Secretary also notes that proposed §122.410(a)(3) requires the HSA to inform applicants in advance of the information necessary for its review.

Although these regulations generally repeat the language of section 1532(c) of the Act regarding the considerations an HSA must address in its criteria for reviews of proposed uses of Federal funds, the Secretary has added two considerations not included in the Act and has elaborated on three other considerations. Proposed §122.412(a)(12) has been added to require HSAs to consider the contribution of a proposed use of Federal funds in meeting the needs of minorities, women, and the handicapped of the health service area. The Secretary has also added proposed §122.412(a)(11) which pertains to HSA review of national research projects, explained above in the discussion of research. Proposed §122.412(a)(3) expands the statutory provision of section 1532(c)(3) to require HSAs to consider not only whether services to be added or expanded by the project are needed, but also whether the project would, through relocation of a health care facility or reduction or termination of existing services, result in the removal of services from a population which is in need of them.

Finally, proposed §122.412(a)(10) elaborates on the "special needs and circumstances of health maintenance organizations (HMOs) for which assistance may be provided under Title XIII of the Act," consideration of which section 1532(c)(8) of the Act requires to be included in the agencies' review criteria. To ensure that HMOs receive the encouragement and special consideration the Congress intended when it made the development of group practices and HMOs a national priority in section 1502 of the Act, the Secretary sets forth in this section the specific criteria HSAs must employ in reviewing proposed uses of Federal funds by HMOs. A full explanation of this limited set of criteria, and a description of the process to be followed by agencies which wish to obtain the Secretary's approval of additional review criteria, are contained in the preamble to the recently published Notice of Proposed Rulemaking amending the regulations for reviews of new institutional health services, including certificate of need reviews (42 CFR Part 122, subpart D and Part 123, Subpart E). It should be noted that the proposed amendments for reviews of new institutional health services include, in addition to the same limited set of criteria for reviews of HMOs proposed here, special procedural requirements for reviews of HMOs and special provisions regarding the nature of the findings resulting from reviews of HMOs. These two types of provisions are not necessary in these regulations, since the ultimate decision regarding the awarding of Federal funds rests with the Secretary. Therefore, with the special review criteria for HMOs, the provisions of these regulations are adequate to ensure that reviews of proposed uses of Federal funds do not improperly impair the development of HMOs.

The Secretary believes an explanation of the treatment of confidential material in these reviews is in order. Applications for Federal funds through a contract mechanism frequently contain privileged information which has always been protected by Federal procurement regulations to ensure its confidentiality. For example, much of the information contained in a contract proposal is of a proprietary nature or would be advantageous to competitors if made public. However, if the contract proposal is subject to review and approval and is submitted to the HSA, the information in it must be made available to the public upon request. Therefore, to minimize the adverse effect on contract bidders, only summaries of those sections of contract proposals which contain confidential information will have to be submitted to the HSA. As previously noted, similar problems are posed by research applications (whether for grant or contract assistance) and summaries of the purely research aspects of research projects subject to review and approval will be sufficient for HSA review.

More detail regarding the items in contract proposals or research applications which may be summarized for purposes of HSA review will be contained in the application and proposal instructions developed by the Federal funding agencies. These instructions will provide both for protecting confidential information and for ensuring that the HSA will receive sufficient information regarding a contract proposal or grant application to reach an informed decision concerning it. In addition, the Department procurement regulations will reflect the fact that information submitted to HSAs cannot be kept confidential.

The Secretary wishes to call attention to the fact that title XV of the Act (section 1524(c)(6)) also provides for review and approval by the Statewide Health Coordinating Council (SHCC) of State plans and applications for funds under allotments from the Public Health Service Act, the Community Mental Health Centers Act, and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. This provision was included in the Act to ensure that Federal financial assistance to State agencies concerned with particular health problems is expended in accordance with broader State health goals and priorities.

The Secretary may make allotment funds available notwithstanding a SHCC disapproval, at the request of the Governor or an agency of State government other than the applicant. Although it is not required by the statute, the Secretary intends, in considering such a request, to solicit the views of the appropriate State health planning and development agency.

Regulations for SHCC review and approval are not needed, since the statute requires neither that regulations for this function be issued nor that SHCCs adopt review procedures and criteria in accordance with section 1532. Therefore guidance regarding this function will be issued in the form of guidelines. The Secretary notes that, since the requirement for SHCC review and approval is effective without regulations, each SHCC is required by section 1524(c)(6) to perform this function. Although SHCCs are not required to adopt review procedures and criteria, the Secretary encourages them to do so to conform to the general statutory emphasis on public accountability and participation in the conduct of reviews.

It is therefore proposed to amend title 42, Code of Federal Regulations, by the addition of a new subpart E to part 122 thereof, as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 8, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: April 26, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Subpart E—Health Systems Agency Reviews of Certain Proposed Uses of Federal Health Funds

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AUTHORITY: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Sec. 1513(e) of the Public Health Service Act, 88 Stat. 2238 (42 U.S.C. 300 *l*-2(e)).

Subpart E—Health Systems Agency Reviews of Certain Proposed Uses of Federal Health Funds

§ 122.401 **Purpose and applicability.**

(a) Section 1513(e) of the Public Health Service Act provides that each health systems agency shall review and approve or disapprove certain proposed uses of Federal funds within the health service area for which the health systems agency is designated. In addition, section 1513(e) provides that with respect to certain proposed uses of Federal funds by Indian tribes or inter-tribal organizations, the health systems agency shall only review and comment on such proposed uses. The primary purpose of these reviews is to assure that projects funded by the programs subject to review under section 1513(e) are consistent with and will help to implement the plans of the health systems agencies.

(b) The regulations of this subpart are applicable to the performance by a health systems agency of any review pursuant to section 1513(e) of the Act and in accordance with the designation agreement.

NOTE.—Under 42 CFR 122.106(c), a health systems agency may not perform the function of review and approval of proposed uses of Federal funds within its health service area during its first year of conditional designation, and may not in any event perform such function until such agency has established a health systems plan and annual implementation plan in accordance with section 1513(b) (2) and (3) of the Act and the Secretary has in writing authorized the agency to perform such function.

§ 122.402 **Definitions.**

In addition to the terms defined in subpart A of this part, as used in this subpart:

(a) "Applicant" means a person applying to a Federal funding agency for a grant, loan or loan guarantee, or submitting to a Federal funding agency a proposal for a contract, reviewable under this subpart; or, in the case of funds made available by a State from an allotment to the State, a person applying to a State program agency for a grant or contract reviewable under this subpart.

(b) "Construction" includes:

(1) The construction of new buildings and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings; and

(2) Equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered.

(c) "Development • • • of health resources" means activities which directly result in the generation of new health resources or the improvement, including consolidation, of existing health resources. It includes, but is not limited to, education and training of health professions personnel, the development of facilities or services, and arrangements to provide services.

(d) "Expansion • • • of health resources" means any activity which will result in a substantial and significant increase in the quantity of health resources.

(e) "Federal funding agency" means the organizational component of the Department of Health, Education, and Welfare which has the authority to make a grant, contract, loan, or loan guarantee reviewable under this subpart.

(f) "Health resources" includes health services, health professions personnel, and health care facilities. For purposes of this subpart:

(1) "Health services" means clinically related (i.e., diagnostic, treatment, habilitative or rehabilitative) services, and includes alcohol, drug abuse, mental health, preventive and environmental health services.

(2) "Health professions personnel" means individuals whose main occupation is the delivery of health services, and

(3) "Health care facilities" has the meaning given it in § 122.301(b) of this part.

(g) "Person" means an individual, a trust or estate, a partnership, a corpo-

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ration (including associations, joint stock companies, and insurance companies), a State, or political subdivision or instrumentality (including a municipal corporation) of a State.

(h) "State program agency" means the agency of State government submitting a State plan or application to the Secretary as a condition to the receipt of any funds under allotments made to States reviewable under this subpart.

(i) "Support of health resources" means the furnishing of resources needed to provide a health resource including money, manpower, equipment, facilities, supplies or consultative service.

§ 122.403 General.

(a) Except as provided in paragraph (b) and (c) of this section, each health systems agency shall, in accordance with applicable provisions of this subpart, review and approve or disapprove each proposed use within its health service area of Federal funds—

(1) Appropriated under the Public Health Service Act, the Community Mental Health Centers Act, sections 409 and 410 of the Drug Abuse Office and Treatment Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for grants, contracts, loans or loan guarantees for the development, expansion, or support of health resources; or

(2) Made available by the State in which the health service area is in whole or in part located (from an allotment to the State under an Act referred to in paragraph (a)(1) of this section) for grants or contracts for the development, expansion, or support of health resources.

NOTE.—Grants, loans and loan guarantees made directly by the Secretary to applicants within States from allotments to States are subject to review under subparagraph (a)(1) above.

(b) A health systems agency shall review and comment on, but shall not approve or disapprove, each proposed use within its health service area of Federal funds described in subparagraph (a) of this section by an Indian tribe or inter-tribal Indian organization for any program or project which will be located within or will specifically serve—

(1) A Federally-recognized Indian reservation,

(2) Any land area in Oklahoma which is held in trust by the United States for Indians or which is a restricted Indian-owned land area, or

(3) A Native village in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act).

(c) [Reserved]

§ 122.404 Section 1536 States.

(a) With respect to any proposed use of Federal funds in the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, the Northern Marianas Islands, or any other State determined by the Secretary to meet the requirements of section 1536(a) of the Act and with respect to which a grant is made by the Secretary pursuant to section 1516 of the Act, the requirements imposed upon health systems agencies by this subpart shall, except where otherwise stated herein, apply to the State health planning and development agency of such State as though the State were a health service area and the State Agency a health systems agency for such area.

(b) A State Agency in a State covered by paragraph (a) of this section may not perform the function of review and approval of proposed uses of Federal funds within its State during its first year of conditional designation, and may not in any event perform such function until (1) the Statewide Health Coordinating Council has established a State health plan for the State in accordance with section 1524(c) of the Act and 42 CFR 123.110(a) and (2) the Secretary has in writing authorized the State Agency to perform such function.

§ 122.405 Involvement of more than one health systems agency.

Where a proposed use of Federal funds would involve the development, expansion or support of health resources in more than one health service area, references in this subpart to "the health systems agency" shall be deemed to refer to the health systems agency for each such health service area.

§ 122.406 Covered programs; publication of lists.

The Secretary will publish as appendices to this subpart, and will revise from time to time, lists of Federal programs which are covered by paragraph (a) of § 122.403. Such appendices will be for informational purposes only, and the fact that a program is not listed shall not mean, if paragraph (a) of § 122.403 is otherwise applicable, that such program is not covered.

§ 122.407 Covered programs; exceptions; determination by Secretary.

(a) In certain programs which are listed pursuant to § 122.406 or otherwise generally covered by paragraph (a) of § 122.403 of this subpart, there may be individual proposed uses of Federal funds which are not for the development, expansion, or support of health resources. Accordingly, either an applicant or a health systems agency may, in accordance with procedures prescribed by the Secretary, request of the Federal funding agency a determination as to whether any particular proposed use of Federal funds is subject to review and approval or disapproval by a health systems agency. The Federal funding agency will promptly notify both the applicant and the health systems agency of its determination. Where the Federal funding agency concludes on its own initiative that a particular proposed use of Federal funds in a program generally covered by § 122.403(a) is not subject to review and approval or disapproval by a health systems agency, it will promptly notify the applicant and the health systems agency of that determination.

(b) In the case of any application for a grant, or proposal for a contract, for training or research which an applicant or health systems agency believes may be within the coverage of § 122.403(c), either the applicant or the health systems agency may, in accordance with procedures prescribed by the Secretary, request of the Federal funding agency a determination as to whether the proposed use is subject to review and approval or disapproval by a health systems agency. The Federal funding agency will promptly notify both the applicant and the health systems agency of its determination. Where the Federal funding agency concludes on its own initiative that a particular proposed use of Federal funds appropriated for grants or contracts for training or research is subject to such review and approval or disapproval, it will promptly notify the applicant and health systems agency of that determination.

§ 122.408 Procedures for submission of applications.

(a) *General.* Except as otherwise specified in this section, applications for Federal funds shall be submitted at such times and in such form and manner as may be prescribed by the appropriate Federal funding agency or, in the case of funds made available by a State under an allotment program covered by § 122.403(a)(2), by the State program agency.

(b) *HSA review of direct Federal grants, contracts, loans, and loan guarantees.* (1) An application for a grant, loan, or loan guarantee or a proposal for a contract which is subject to review by a health systems agency under § 122.403(a)(1) shall, at the option of the Federal funding agency, be submitted either:

(i) Simultaneously to the health systems agency and the Federal funding agency, or

(ii) First to the health systems agency and then, following approval or disapproval by the health systems agency or the expiration of the period for health systems agency review, whichever comes first, to the Federal funding agency; or

(iii) Directly to the Federal funding agency, which will, before approving such application or proposal and at such time as it deems appropriate, submit the application or proposal, or a summary thereof, to the health systems agency: *Provided, that:*

(2) An application for a noncompeting continuation grant shall be submitted to a health systems agency for review and approval or disapproval in accordance with subparagraph (1) only upon the request of the health systems agency or when the applicant proposes an increase in the funding level of 20 percent or more from that of the previous budget period.

(i) A request by a health systems agency for submission to it of an application for a noncompeting continuation grant will be effective only if it is received by the Federal funding agency at least six months before the scheduled date of the continuation grant award.

(ii) A copy of each application for a noncompeting continuation grant not subject to review under this subparagraph shall be provided by the applicant to the health systems agency at the time the application is submited to the Federal funding agency or to the clearinghouse established pursuant to Office of Management and Budget Circular A-95, whichever is earlier.

(c) *Proposed uses of allotment funds.* A proposal for the use of funds to be made available by the State from an allotment to a State which is subject to review by a health systems agency under § 122.403(a)(2) shall be submitted to the health systems agency by the State program agency or, at the option of the State program agency and in accordance with procedures established by such agency, by the applicant.

§ 122.409 Adoption and public notice of health systems agency review procedures and criteria.

(a) Prior to performance of any review pursuant to section 1513(e) of the Act, and in accordance with its designation agreement, each health systems agency shall, except as provided in § 122.411 of this subpart, adopt review procedures and criteria which meet the requirements of § 122.410 and § 122.412, respectively, of this subpart.

(b) Before adopting the review procedures and criteria required by this subpart or any revisions of such procedures and criteria, the health systems agency shall give interested persons an opportunity to offer written comments on the procedures and criteria, or any revisions thereof, which it proposes to adopt as follows:

(1) The health systems agency shall distribute copies of it proposed review procedures and criteria, and proposed revisions thereof, to the agencies, institutions and associations with which the agency must coordinate its activities pursuant to section 1513(d) of the Act and its designation agreement, to units of general local government within its health service area, to the State Agency and Statewide Health Coordination Council of each State in which all or any part of the agency's health service area is located, and to health systems agencies designated for contiguous health service areas.

(2) The health systems agency shall publish, in one or more newspapers of general circulation in its health service area, a notice stating that review procedures and criteria, or revisions thereof, have been proposed for adoption and are available at specified addresses for inspection and copying. A health systems agency may request from the Secretary an exception to this requirement. Such request shall be in writing, shall contain a detailed explanation of the reasons for the request and of the substitute publication procedures that the agency intends to follow if the exception is approved. The Secretary may grant such an exception if he determines that the proposed substitute procedures are less costly or more effective and do not adversely and substantially affect the rights of persons affected by the subject reviews.

(3) The health systems agency shall allow 30 days from the date of publication of the notice for persons to submit written comments on the proposed review procedures and criteria, or any revision thereof, prior to their adoption.

(c) Each health systems agency shall distribute copies of its adopted review procedures and criteria, and any revisions thereof, to the agencies and organizations specified in paragraph (b)(1) of this section and to the Secretary, and shall provide such copies to other persons upon request.

§ 122.410 Procedures for health systems agency review.

(a) The procedures adopted and utilized by a health systems agency for conducting reviews pursuant to section 1513(e) of the Act and this subpart shall include at least the following:

(1) Written notification to affected persons of the beginning of a review. The notification shall be sent within seven (7) days of the receipt by the health systems agency of the application, and shall include notification of the proposed schedule for the review, of the period within which a public hearing during the course of the review may be requested by persons directly affected by the review as defined in this subparagraph (which must be a reasonable period from the transmittal of the written notification required by this subparagraph) and of the manner in which notification will be provided of the time and place of any hearing so requested. For purposes of this subparagraph, "affected persons" include, at a minimum, the person (hereinafter referred to as the "applicant") whose application for a proposed use of Federal funds (hereinafter referred to as the "project") is being reviewed, all other health systems agencies serving health service areas in which the project will be conducted, the State Agency (and if allotment funds are involved the State program agency) for each State in which all or part of any such health systems agency's health service area is located, major health and health-related institutions and agencies located entirely or in part in the health systems agency's health service area, entities with which the health systems agency must coordinate its activities pursuant to section 1513(d) of the Act, and those members of the public who are to be served by the proposed project. Written notification to members of the public may be provided through newspapers of general circulation in the area and public information channels; notification to all other affected persons shall be by mail (which may be as part of a newsletter). The health systems agency must simultaneously provides such written notification to the Federal funding agency.

(2) Schedules for reviews which provide that not longer than 60 days will elapse from the date of notification made in accordance with paragraph (a)(1) of this section to the date of the written findings made in accordance with paragraph (a)(5) of this section, unless the Secretary has specified a longer period with respect to a particular program.

(3) Provision for applicants to submit to the health systems agency (at the health systems agency's request and in such form and manner as the agency shall prescribe and publish) such information as the agency may require concerning the project.

(4) Submission of periodic reports by providers of health services and other persons subject to health systems agency review under this subpart respecting the development of proposals subject to review.

(5) Provision for written findings which state the basis for any final decision or recommendation made by the health systems agency. Such findings shall be sent to the applicant, to the State Agency and State program agency for each State in which the project will be conducted, and to the Federal funding agency, and shall be available to others upon request.

(6) Notification, upon request, to applicants and other persons subject to health systems agency review under this subpart of the status of the agency review of projects, of findings made in the course of such review, and other appropriate information respecting such review.

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(7) Provision for public hearing in the course of agency review if requested by one or more persons directly affected by the review. The agency may not impose fees for such a hearing. For purposes of this subparagraph, "persons directly affected" by the review include, at a minimum, the applicant, entities with which the health systems agency must coordinate its activities pursuant to section 1513(d) of the Act, entities located in the health systems agency's health service area which provide services or conduct activities similar to the proposed services or activities under review or which, prior to the receipt by the health systems agency of the application for review, have formally indicated an intention to provide similar services or conduct similar activities in the future, and members of the public who are to be served by the proposed project. Where such a hearing is requested, the agency shall, prior to such hearing, provide notice of such hearing, in accordance with its procedure adopted pursuant to paragraph (a)(1) of this section. The procedure for a hearing must provide an opportunity for any person to present testimony.

(8) Preparation and publication, at least annually, of reports by the health systems agency of the reviews being conducted (including a statement concerning the status of each such review) and of the reviews completed by the agency since the publication of the last report and a general statement of the findings and decisions made in the course of such reviews.

(9) Access by the general public to all applications or summaries thereof reviewed by the health systems agency and to all other written materials pertinent to any agency review.

(10) In the case of construction projects, submission to the health systems agency by the persons proposing such projects of letters of intent in such detail and in such form as may be necessary to inform the agency of the scope and nature of the projects at the earliest possible opportunity in the course of planning of such construction projects.

(11) Provision during its review for coordination and consultation with other health systems agencies reviewing the same project.

(12) Provision for agency coordination, to the maximum extent possible, of its reviews of projects under this subpart and its reviews of proposed new institutional health services pursuant to Subpart D of this Part.

(b) Procedures adopted for reviews in accordance with paragraph (a) of this section may vary according to the purpose for which a particular review is being conducted or the type of health service being reviewed.

§ 122.411 Exceptions to use of health systems agency procedures.

After following the procedure set forth in § 122.409(b) of this subpart an agency may, with respect to any type of group of reviews, request from the Secretary an exception to the requirement of § 122.409(a) that it utilize review procedures which meet the requirements of § 122.410. Such request shall be in writing, must contain a detailed explanation of the reasons for the request and of the substitute review parocedures that the agency intends to follow if the exception is approved, and must be accompanied by copies of all written comments submitted under § 122.409(b) to the agency with respect to the request for an exception. The Secretary may grant such an exception if he determines that the proposed substitute procedures are less costly or more effective, are consistent with the purposes of the Act, and do not adversely and substantially affect the rights of persons affected by the subject reviews. The health systems agency shall distribute copies of substitute procedures approved by the Secretary in accordance with the requirtements of § 122.409(c) of this subpart.

§ 122.412 Criteria for health systems agency review.

(a) The health systems agency shall adopt and utilize as appropriate specific criteria for conducting the reviews covered by this subpart, which criteria shall include at least the following general considerations:

(1) The relationship of the health services being reviewed to the applicable health systems plan and annual implementation plan adopted pursuant to section 1513(b) (2) and (3), respectively, of the Act.

(2) The relationship of services reviewed to the long-range development plan (if any) of the person providing or proposing such services.

(3) The need that the population served or to be served by such services has for the services to be offered, expanded, reduced, relocated, or eliminated.

(4) The availability of alternative, less costly, or more effective methods of providing such services.

(5) The immediate and long-term financial feasibility of the proposal.

(6) The relationship of the services proposed to be provided to the existing health care system of the area in which such services are proposed to be provided.

(7) The availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services.

(8) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services in the health service areas in which the proposed health services will be provided.

(9) The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools, multidisciplinary clinics and specialty centers.

(10) The special needs and circumstances of health maintenance organizations for which assistance may be provided under Title XIII of the Act. Such needs and circumstances shall be limited to:

(i) The needs of enrolled members and reasonably anticipated new members of the health maintenance organization or proposed health maintenance organization for the health services proposed to be provided by such organization.

(ii) The availability of such health services from non-health maintenance organization providers in a reasonable and cost-effective manner which is consistent with the basic method of operation of the health maintenance organization or proposed health maintenance organization. In assessing the availability of such health services from non-health maintenance organization providers, the agency shall consider only whether the health services from such providers:

(A) Would be available under a contract of at least five years duration with a non-health maintenance organization provider;

(B) Would be available and conveniently accessible through physicians and other health professionals associated with the health maintenance organization or proposed health maintenance organization. (For example—whether physicians associated with the health maintenance organization have or will have full staff privileges at a non-health maintenance organization hospital);

(C) Would cost no more than if the health service were provided by the health maintenance organization or proposed health maintenance organization; and

(D) Would be available in a manner which is administratively feasible to the health maintenance organization or proposed health maintenance organization.

(iii) Such other factors as the agency may propose and the Secretary may, in accordance with paragraph (c) of this section, find to be consistent with the purpose of Title XIII of the Act.

(11) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

(12) The contribution of the project in meeting the needs of minorities, women and handicapped individuals in the health service area.

(13) In the case of a construction project:

(i) The costs and methods of the proposed construction, including the costs and methods of energy provision, and

(ii) The probable impact of the construction project reviewed on the costs of providing health services by the person proposing such construction project.

(b) Criteria adopted for reviews in accordance with paragraph (a) of this section may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed.

(c) Where an agency proposes under paragraph (a)(10)(iii) of this section that it be permitted to base its reviews of health maintenance organizations on criteria which consider factors not set forth in paragraph (a)(10) of this section, it shall do so in a written request to the Secretary, specifying the reasons for the proposal. The Secretary will approve the request if he finds the additional factors to be consistent with the purpose of Title XIII of the Act. Unless the Secretary has approved the additional factors, the agency shall base its review solely on the factors set forth in paragraph (a)(10) of this section.

§ 122.413 Period for health systems agency review.

Notwithstanding any provision of any Act referred to in § 122.403, a health systems agency shall be allowed not less than 60 days to make the review required by that section.

(a) Unless the appropriate Federal funding agency or State program agency specifies in writing a longer period with respect to a program or particular proposed use of Federal funds covered by this subpart, the period for health agency review of any such proposed use shall be 60 days, except that the health systems agency may, at its option, complete its review in a shorter period.

(b) The period for health systems agency review shall begin on the date of notification by the health systems agency to the applicant, the Federal funding agency or the State program agency, as the case may be, of its receipt of an application or summary, in accordance with procedures established by the Federal funding agency or State program agency pursuant to § 122.408.

(c) Where a proposed use of Federal funds is submitted to a health systems agency for its review less than 60 days prior to the end of the period of availability of the funds involved, the Federal funding agency may, at its option, make the grant, loan or loan guarantee or award the contract so as to preserve the availability of the funds. Any such grant, loan, loan guarantee or contract must, however, be subject to the condition that no Federal funds may be expended until the applicable requirements of section 1513(e) of the Act and this subpart have been met.

§ 122.414 Notification of health systems agency approval or disapproval.

Not later than the close of the first business day following the end of the period described in § 122.413 for review of a proposed use of Federal funds, the health systems agency shall provide written notification to the applicant, the appropriate Federal funding agency, the State Agency, and (in the case of a proposed use of Federal funds from a State allotment covered by § 122.403(a)(2) the State program agency) of its approval or disapproval of the proposed use, setting forth the reasons for such approval or disapproval.

(a) Mailing of the required notification shall be deemed a provision of notification for purposes of this section and § 122.410(a)(6).

(b) Any proposed use of Federal funds with respect to which notification has not been provided by the health systems agency in accordance with this section shall be deemed not to have been disapproved by the health systems agency.

§ 122.415 Consequences of health systems agency disapproval.

(a) *General.* If a health systems agency, in accordance with applicable provisions of this subpart, disapproves a proposed use in its health service area of Federal funds, the Secretary may not make such Federal funds available for such use until he has made, upon the request of the entity making such proposal, a review of the agency decision.

(b) *Procedures for requesting review.* To be effective, a request for review must be:

(1) Received by the Federal funding agency, in such form and manner as may be prescribed by the Federal funding agency, not later than 30 days after the provision of notice to the applicant of disapproval of the proposed use of Federal funds by the health systems agency in accordance with § 122.414; and

(2) Accompanied by a justification for approval by the Secretary of the proposed use of Federal funds despite the health systems agency's disapproval, including detailed responses to the reasons given by the health systems agency for its disapproval.

(c) *State Agency comments.* In making his review of a health systems agency disapproval under this section, the Secretary will give the appropriate State Agency 30 days in which to consider such disapproval and to provide its comments on such disapproval to the Secretary.

(1) To assist the State Agency in considering a health systems agency disapproval under this paragraph, the Secretary will provide the State Agency with copies of the request for review and any material accompanying such request furnished pursuant to paragraph (b) of this section.

(2) To be considered under this paragraph, comments by a State Agency must be received by the Secretary not later than 30 days after the information described in subparagraph (1) of this paragraph is mailed or otherwise provided to the State Agency.

(d) *Review by the Secretary.* The Secretary, after taking into consideration comments received from the State Agency in accordance with paragraph (c) of this section, may make such Federal funds available for such use, notwithstanding the disapproval of the health systems agency. Each decision by the Secretary to make funds available despite the disapproval of a health systems agency will be submitted to the applicant and the appropriate health systems agency and State Agency, and will contain a detailed statement of the reasons for the decision. In reviewing a health systems agency's disapproval under this paragraph, the Secretary will consider at least the following:

(1) Whether the health systems agency substantially adhered to the applicable review procedures adopted by the health systems agency under this subpart.

(2) Whether the proposed use of Federal funds is consistent with the applicable review criteria adopted by the health systems agency under this subpart.

(3) Whether the failure to make the proposed Federal funds available will adversely affect the health of residents of other health service areas.

(4) Whether the proposed use of Federal funds meets a national or regional need which cannot efficiently or effectively be met in another health service area.

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ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION (ADAMHA), *Federal grants subject to review and approval or disapproval*

Catalog No.	Name of program	Subject to review by— HSA SHCC
13.235	Drug abuse community service programs.	X
13.237	Mental health—hospital improvement grants.	X
13.238	Mental health—hospital staff development grants.	X
13.240	Community mental health centers—staffing and construction.	X
13.242	Mental health research grants.	X
13.244	Mental health clinical or service-related training grants.	X
13.251	Alcohol community service programs.	X
13.252	Alcohol demonstration programs.	X
13.254	Drug abuse demonstration programs.	X
13.257	Alcohol formula grants (State plan and application for allotment grants).	 X
	Alcohol formula grants (projects funded under allotments).	X
13.259	Mental health—children's services.	X
13.269	Drug abuse prevention formula grants (projects funded under allotments).	X
13.273	Alcohol research programs	 X
13.274	Alcohol clinical or service-related training programs.	X
13.275	Drug abuse education programs.	X
13.279	Drug abuse research programs.	X
13.280	Drug abuse clinical or service-related training programs.	X
13.290	Special alcoholism projects to implement the Uniform Act.	X
13.295	Community mental health centers—comprehensive services support.	X
	State plan required by sec. 237—CMHC Act.	 X

Notes

Federal grants subject to review and comment by request of the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA).

Secs. 1513(e) and 1524(c)(6) of the PHS Act refer specifically to Federal funds appropriated under the Public Health Service Act, the Community Health Center Act or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. Sec. 1513(e) also includes secs. 409 and 410 of the Drug Abuse Office and Treatment Act as the result of the 1978 amendments to the act. The Alcohol, Drug Abuse, and Mental Health Administration, has requested the following Federal health program, not subject to review under secs. 1513(e) and 1524(c)(6), be subject to review and comment.

Catalog No.	Name of program	Subject to review by— HSA SHCC
13.269	Drug abuse prevention formula grants (State plan and application for allotment grants).	 X

HEALTH RESOURCES ADMINISTRATION (HRA), *Federal grants subject to review and approval or disapproval*

Catalog No.	Name of program	Subject to review by— HSA SHCC
13.298	Nurse practitoner training programs.	X
13.305	Allied health professions—special project grants (pt. (a) only).	X
13.889	Training of expanded function dental auxiliaries.	X
13.369	Nursing school construction—assistance—loan and loan guarantees.	X
13.379	Family medicine residency training grants.	X
13.884	Grants for residency training in general internal medicine and/or general pediatrics.	X
13.886	Educational programs for the physician's assistant.	X
13.887	Medical facilities construction—project grants.	X
•	State medical facilities plan and application for allotment grants (title XVI, PHS Act)[1].	 X
•	Projects funded under allotment (title XVI, PHS Act).	X
•	Training in emergency medicine.	X
•	Health professions teaching facilities loans and loan guarantees for construction (title VII, PHS Act).	.....
•	Interdisciplinary team training	X
•	Bilingual health clinical training centers.	X
•	Grants for residency training in general dentistry.	X
•	Regional systems of continuing education.	X
•	Medical school development costs (emphasizing family medicine).	X
•	Area health education centers (AHEC's).	X

[1]The State medical facilities plan must be found by the SHCC to be consistent with the title XV State health plan before the State medical facilities plan can be approved by the Secretary.

*It is expected that OMB numbers will be assigned to these programs in future issues of the Catalog of Federal Domestic Assistance.

Notes

Federal grants subject to review and approval or disapproval by request of the Health Resources Administration (HRA).

Secs. 1513(e) and 1524(c)(6) of the PHS Act refer specifically to Federal funds appropriated under the Public Health Service Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism, Prevention, Treatment, and Rehabilitation Act of 1970. Sec. 1513(e) also includes secs. 409 and 410 of the Drug Abuse Office and Treatment Act, as the result of the 1978 amendments to that act. The Health Resources Administration has requested the following Federal health programs, not subject to review under secs. 1513(e) and 1524(c)(6), be subject to review and approval or disapproval.

Catalog No.	Name of program	Subject to review by— HSA SHCC 120 20
13.369	Nursing school construction assistance—direct grants.	X
13.384	Health professions startup assistance.	X
•	Regional health professions schools.	X
•	Health professions teaching facilities grants for construction (title VII, PHS Act).	X

*It is expected that OMB numbers will be assigned to these programs in future issues of the Catalog of Federal Domestic Assistance.

HEALTH SERVICES ADMINISTRATION (HSA), *Federal grants subject to review and approval or disapproval*

Catalog No.	Name of program	Subject to review by— HSA SHCC
13.210	Comprehensive public health services—formula grants (State plan and application for allotment grants).	 X
	Comprehensive public health services (projects funded under allotments).	X
13.217	Family planning projects	 X
13.224	Community health centers (includes rural health initiatives and urban health initiatives).	X
13.246	Migrant health grants	 X
13.256	Health maintenance organization development.	X
13.258	National health service corps[1].	X
13.260	Family planning services—training grants and contracts.	X
13.284	Emergency medical services	 X
13.292	Sudden infant death syndrome information and counseling program.	X
13.296	Comprehensive hemophilia diagnostic and treatment centers.	X
13.882	Hypertension program (State plan and application for allotment grants).	 X
	Hypertension programs (projects funded under allotments).	X
•	Genetic disease counseling and education.	X

[1]It should be noted that while this program is authorized by sec. 333 of the PHS Act and would, therefore, be subject to HSA review and approval or disapproval, legislation enacted subsequently to Public Law 93-641 states that HSA's shall have the opportunity to review and comment on such applications. However, the Bureau of Community Health Services has requested that HSA's review and approve or disapprove such applications.

*It is expected that OMB numbers will be assigned to these programs in future issues of the Catalog of Federal Domestic Assistance.

Notes

Federal grants subject to review and approval or disapproval by request of the Health Service Administration (HSA).

Secs. 1513(e) and 1524(c)(6) of the PHS Act refer specifically to Federal funds appropriated under the Public Health Service Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. Sec. 1513(e) also includes secs. 409 and 410 of the Drug Abuse Office and Treatment Act, as a result of the 1978 amendments to that act. The Bureau of Community Health Services in Health Services Administration has requested the following Federal health programs, not subject to review under secs. 1513(e) and 1524(c)(6), be subject to review and approval or disapproval.

Catalog No.	Name of program	Subject to review by— HSA SHCC
13.211	Crippled children's services (State plan and application for allotment grants).	 X
13.232	Maternal and child health services (State plan and applications for allotment grants.	 X
	Maternal and infant projects	X
	Children and youth projects	X
23.004	Appalachian health demonstrations.	X
13.766	Health underserved rural areas.	X
13.868	Home health services grant program.	X

NATIONAL INSTITUTES OF HEALTH (NIH), *Federal grants subject to review and approval or disapproval*

Catalog No.	Name of program	Subject to review by— HSA SHCC
13.392	Cancer-construction	X
13.397	Cancer centers support	X
13.399	Cancer control	X
•	Heart and lung national research and demonstration centers support.	X
•	Heart and lung control	X

*It is expected that OMB numbers will be assigned to these programs in future issues of the Catalog of Federal Domestic Assistance.

CENTER FOR DISEASE CONTROL (CDC), *Federal grants subject to review and approval or disapproval*

Catalog No.	Name of program	Subject to review by— HSA SHCC
13.267	Urban rat control	X
13.268	Disease control—project grants	X
13.283	Center for disease control—investigation, surveillance, and technical assistance (only those programs which are funded in whole or in part under authority of the public Health Service Act are subject to review).	X
•	Health information and health promotion[2].	.....

[2]Administered by the Office of Health Information and Promotion, Office of the Assistant Secretary for Health during fiscal year 1978.

*It is expected that OMB numbers will be assigned to these programs in future issues of the Catalog of Federal Domestic Assistance.

Notes

Federal grants subject to review and comment by request of the Center for Disease Control (CDC).

Secs. 1513(e) and 1524(c)(6) of the PHS Act refer specifically to Federal funds appropriated under the Public Health Service Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. Sec. 1513(e) also includes secs. 409 and 410 of the Drug Abuse Office and Treatment Act, as the result of the 1978 amendments to that act. The Center for Disease Control has requested the following program, not subject to review under secs. 1513(e) and 1524(c)(6), be subject to review and comment.

Catalog No.	Name of program	Subject to review by— HSA SHCC
13.266	Childhood lead-based paint poisoning control.	X

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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[Last Listing: May 8, 1978]

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presidential documents

[3195-01]

Title 3—The President

Proclamation 4568 • **May 9, 1978**

Application of Certain Laws of the United States to the Northern Mariana Islands

By the President of the United States of America

A Proclamation

The Northern Mariana Islands, as part of the Trust Territory of the Pacific Islands, are administered by the United States under a Trusteeship Agreement between the United States and the Security Council of the United Nations (61 Stat. 3301). The United States has undertaken to promote the political development of the Trust Territory toward self-government or independence and to protect the rights and fundamental freedoms of its people

In accordance with those obligations, the United States and the Northern Mariana Islands have entered into a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Public Law 94-241; 90 Stat. 263). Section 1004(a) of the Covenant provides that if the President finds a provision of the Constitution or laws of the United States to be inconsistent with the Trusteeship Agreement, the application of that provision to the Northern Mariana Islands may be suspended.

Certain provisions of law restrict jury service in Federal District Courts to United States citizens. The vast majority of the inhabitants of the Northern Mariana Islands are not citizens of the United States and consequently may not participate as jurors in proceedings before the United States District Court for the Northern Mariana Islands. They may also be deprived of the right to have their cases heard before juries selected at random from a fair cross-section of their community. These results would be contrary to the obligations assumed by the United States in the Trusteeship Agreement.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by the Constitution and laws of the United States, including Section 1004(a) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, do hereby find, declare and proclaim as follows:

Any provision of the Constitution or laws of the United States which prescribes United States citizenship as a qualification for service on a grand or petit jury in the District Court for the Northern Mariana Islands, including that provision contained in Section 1865(b)(1) of Title 28 of the United States Code, would be inconsistent with the Trusteeship Agreement if applied to a citizen of the Trust Territory of the Pacific Islands who is exclusively domiciled, within the meaning of Section 1005(e) of the Covenant, in the Northern Mariana Islands.

Therefore, the application to such individual of any of these provisions is suspended until the termination of the Trusteeship Agreement for the Former Japanese Mandated Islands in the Pacific (61 Stat. 3301).

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IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of May, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc. 78-12931 Filed 5-9-78; 12:39 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q; Docket No. R-0027]

PART 217—INTEREST ON DEPOSITS

Withdrawals from Savings Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: On February 2, 1978, the Board of Governors of the Federal Reserve System invited public comment on a revised proposed amendment to Regulation Q (Interest on Deposits) that would permit banks that are members of the Federal Reserve System to arrange with their depositors for the automatic transfer of funds from depositors' savings accounts to demand deposit (checking) and other accounts to cover checks drawn by depositors or to replenish or maintain a minimum balance in such accounts (43 FR 5008). The period for receipt of public comment on the proposed amendment expired on March 20, 1978. After consideration of the comments submitted and the views expressed therein, the Board has determined to adopt the proposed amendment with modifications, effective November 1, 1978. The amendment adopted differs slightly from the proposal in that it does not require the imposition of an interest forfeiture. However, the Board encourages member banks to develop charges for automatic transfers to reflect the costs of providing the service to depositors. The Board will monitor the development of this new service, including its competitive effects among various types of banks and nonbank depository institutions, and will review the appropriateness of making any modifications on or before the first anniversary of the effective date of this amendment.

As adopted, the transfer service is entirely voluntary, and automatic transfers may not be made unless previously authorized in writing by the depositor. In addition, the automatic transfer service will be available only to individuals and not to business and other organizations or governmental units. For purposes of this provision, a partnership is considered to be a business or other organization. The automatic transfer service will provide depositors with an alternative to existing arrangements, such as automatic overdraft loans, when there are insufficient funds in depositors' checking accounts. The service should also increase the efficiency of the Federal Reserve's check clearing operations by reducing the number of return items processed by the System.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen L. Raiken, Associate General Counsel, 202-452-3625 or Gilbert T. Schwartz, Senior Attorney, 202-452-3623 Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In response to notice published in the FEDERAL REGISTER (43 FR 5008), the Board has received and carefully reviewed almost 1,400 comments on the proposed amendment. A majority of those responding (52.2 percent) favored adoption of the proposal. Of the 382 commercial banks commenting, 254 (66.5 percent) favored adoption of the proposed amendment; 517 individuals responded, with 424 (82 percent) in favor of adoption; 370 savings and loan associations (100 per cent of those responding) opposed adoption of the proposal. Those responding in favor generally commented that the proposal represents a convenience and benefit to consumers and that it would save overdraft charges that would be assessed if the service were not available. Those opposed to the proposal principally commented that the proposal would authorize the payment of interest on demand deposits in violation of law (12 U.S.C. 371a) and that it would pre-empt Congressional action by creating nationwide negotiable order of withdrawal (NOW) accounts. Others commented that the proposal would give commercial banks an unfair competitive advantage over savings and loan associations and other thrift institutions. (A detailed summary of comments received is available upon request from the Board's Office of Public Affairs, telephone 202-452-3204; 3215.

After consideration of the issues presented, the Board finds that this amendment would provide significant benefits to the public in the form of an additional convenient savings deposit withdrawal service. The amendment should also increase the efficiency of the Federal Reserve's check clearing operations by reducing the number of return items processed by the System. Consequently, the Board has determined to adopt the proposal, effective November 1, 1978.

The Board believes that the automatic transfer service does not violate the prohibition against the payment of interest on demand deposits. Section 19(a) of the Federal Reserve Act (12 U.S.C. 461) authorizes the Board to define the terms "savings deposit" and "demand deposit." Pursuant to section 19, the distinction drawn in the Board's regulations between savings and demand deposits is that a bank must reserve the right to require at least 30 days notice prior to withdrawal from a savings deposit, while demand deposits are available on demand. The amendment does not alter this basic distinction, and member banks will continue to be required to reserve the right to impose at least a 30-day notice period on intended withdrawals of savings deposits as presently required in section 217.1(e) of Regulation Q (12 CFR Part 217).

Further, it is the Board's view that the amendment does not authorize member banks to establish NOW accounts, which involve the use of negotiable orders of withdrawal to effect transfers of funds directly from savings accounts for payments to third parties. Section 1832(a) of Title 12 of the United States Code prohibits the drawing of negotiable or transferable instruments for the purpose of making transfers to third parties against a deposit or account on which interest or dividends are paid except in the six New England States. The Board's amendment does not authorize member banks to permit depositors to draw negotiable or transferable instruments against interest bearing savings accounts for the purpose of making transfers to third parties and does not affect the restriction that, outside of New England, member banks may

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permit depositors to draw negotiable instruments only against noninterest bearing demand deposit accounts. The amendment only permits member banks to arrange in advance with depositors to withdraw funds automatically from a depositor's savings account to be transferred to a noninterest bearing demand deposit account against which checks may be drawn or other accounts. The effect of the amendment, therefore, is to provide depositors with a withdrawal service that is identical in its essential elements to withdrawal services that banks already are authorized to offer to depositors such as withdrawals in person or via telephone.

In adopting this amendment, the Board has given careful consideration to its potential effect on the competitive balance among financial institutions, and has determined that adoption of the service will not seriously affect the flow of funds to thrift institutions under the existing ceiling rate structure. The amendment only enables member banks to offer an additional deposit withdrawal and transfer service similar to the preauthorized bill payment and telephone withdrawal services that both banks and savings and loan associations are presently permitted to offer. Thus, this additional service is likely to affect mainly the composition of commercial bank deposit liabilities, as depositors use the added convenience to hold somewhat less funds in demand deposit accounts that bear no interest and somewhat more in savings accounts.

The amendment, as adopted, is in essentially the form proposed, but with one modification. As proposed, the amendment would have required a forfeiture of interest in an amount no less than the amount of interest actually earned during the previous 30 days on the funds transferred from savings to checking accounts. As adopted, the amendment does not require the imposition of an interest forfeiture. This modification was adopted after consideration of comments received that indicated that the proposed required forfeiture of interest would necessitate substantial and costly operational changes by banks offering the automatic transfer service and would significantly lessen the benefits to consumers of the automatic transfer service. In order to maximize benefits to consumers, the Board has determined to adopt the amendment without a required interest forfeiture. However, during the first year after the effective date, the Board will monitor the effects of the automatic transfer service, including its effect on the competitive structure among banks and thrift institutions. The Board intends to work with the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation to gather information concerning the effects of the proposal on banks, savings and loan associations and other thrift institutions. Not later than one year after the effective date, the Board will review available data and will report its findings to the public.

Although the amendment does not require the imposition of an interest forfeiture, on the basis of comments received, the Board expects that banks will impose service charges that reflect, among other factors, the costs of providing the service to depositors. The Board believes that such charges imposed by member banks are appropriate. Accordingly, the Board encourages all member banks to evaluate their costs for providing the automatic transfer service and, in light of competitive circumstances, to develop charges for the service. Member banks are urged to impose such charges in the form of an interest forfeiture to afford depositors the opportunity to report such amounts as interest forfeited for income tax purposes to the extent permissible under Federal and State law.

The amendment does not impose a minimum denomination requirement on the amount of savings funds that may be transferred automatically. However, member banks may, if so desired, impose such a minimum denomination requirement.

Member banks will continue to be required to reserve the right to impose at least a 30-day notice period on intended automatic withdrawals of savings deposits as presently required in § 217.1(e) of Regulation Q (12 CFR Part 217). It is required that such reservation specifically be called to the depositor's attention and be stated prominently in written arrangements authorizing the transfer service entered into by banks and their depositors. In addition, as in all advertisements, announcements, and solicitations, member banks are expected to describe accurately the terms and conditions under which savings deposits may be automatically withdrawn and transferred pursuant to this rule.

The amendment will not affect arrangements whereby a thrift institution has agreed with its customer to transfer funds automatically or otherwise to the customer's demand deposit account at a member bank in accordance with a preauthorized agreement. Similarly, the amendment does not affect the ability of a member bank to use a depositor's savings deposit in satisfaction of a debt where the bank is authorized to do so under local law.

Under the terms of the proposal announced by the Board on February 2, member banks would be required to maintain data on funds transfers via the automatic transfer service in a manner that would facilitate data collection by the Board. In this connection, the Board has determined that member banks should maintain the following data on a monthly basis with regard to the automatic transfer service: the total amount of savings deposits subject to automatic transfer, the total amount of savings funds actually transferred, the number of such automatic transfers during the month, and the interest forfeiture or other charges imposed by the bank.

In view of the comments received which indicated that a delayed effective date of 60 days, as proposed by the Board in its February 2 release, was not sufficient, the Board has determined that the amendment will become effective on November 1, 1978. The Board believes that delaying the effective date of the amendment for approximately six months will provide sufficient time for member banks to effect the operational and marketing changes necessary to introduce the automatic transfer service in an orderly and beneficial fashion.

Pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. 461, 371b), effective November 1, 1978, the Board of Governors amends § 217.5(c) (2) and (3) of Regulation Q (12 CFR 217.5(c) (2) and (3)) to read as follows:

§ 217.5 Withdrawal of savings deposits.

* * * * *

(c) *Manner of payment of savings deposits.* * * *

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, withdrawals may be permitted by a member bank to be made automatically or as a normal practice from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to a written authorization from the depositor to make such payments or transfers in order to cover checks or drafts drawn upon the bank or to maintain a specified balance in or to make periodic transfers to such accounts. In accordance with § 217.1(e)(2), a member bank must reserve the right to require the depositor to give notice in writing of an intended withdrawal not less than 30 days before such withdrawal is made. Such notice shall be prominently disclosed and specifically brought to the depositor's attention at the time the automatic transfer service is authorized. A member bank may not require a depositor to authorize such automatic transfers to be made from savings deposits.

(3) A member bank may permit depositors to maintain deposits subject to negotiable orders of withdrawal where authorized by Federal law.

* * * * * *

By order of the Board of Governors, May 1, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-12699 Filed 5-9-78; 8:45 am]

[1505-01]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE; DEPARTMENT OF THE TREASURY

[T. D. 78-99]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Correction

In FR Doc. 78-8181, appearing at page 13058 in the issue of Wednesday, March 29, 1978, the first line of the second column on page 13060 should read, "'section 141.11(b)' for the reference 'section 8.6(n)' wherever it appears."

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS

PART 113—ALASKA NATIVE FUND

Recognition of Assignments of Future Interests

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rules.

SUMMARY: These regulations implement section 31 of the Alaska Native Claims Settlement Act, as amended by section 4 of the Act of November 15, 1977, which gives the Secretary of the Interior the authority to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund.

EFFECTIVE DATE: May 10, 1978.

ADDRESS: Assistant Director, Financial Management, Office of Administration, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Louis H. Conger, Jr., Bureau of Indian Affairs, 202-343-6342.

SUPPLEMENTARY INFORMATION: Section 4 of the Act of November 15, 1977 (Pub. L. 95-178; 91 Stat. 1369, 1370; 43 U.S.C. 1628), amended the Alaska Native Claims Settlement Act by adding a new section 31 which provides as follows:

(a) Notwithstanding the provision of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsection (j) or (m) of section 7 of this Act.

(b) The Secretary shall not recognize any assignment under this section which does not provide that the United States reserve the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

(c) No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section.

These rules implement that provision.

Prior to the enactment of that provision, it had been determined that the Secretary had no authority to recognize such assignments of a Regional Corporation's future interest in the Alaska Native Fund. Comptroller General Opinion No. B-108439 (November 16, 1976). The cited opinion stated that recognition of such an assignment by the Secretary was prohibited by the terms of the so-called Anti-Assignment Act (31 U.S.C. 203). However, the opinion acknowledged that the Act did not prohibit a Regional Corporation from assigning its right to future distributions from the Alaska Native Fund. Only Secretarial recognition of such an assignment was prohibited by the Anti-Assignment Act. Absent such recognition, the Secretary is obliged only to make distributions of the Alaska Native Fund as directed by the payee Regional Corporations; he cannot be bound by the terms of the assignment.

Government recognition of assignments of these claims against the United States in effect provides the assignee with a secured interest in the future distributions. After recognition, a Regional Corporation is no longer able to direct the Secretary to make payments of its share of the Alaska Native Fund in a manner inconsistent with the terms of the assignment. The Act of November 15, 1977, now gives the Secretary the authority to create such a secured interest. This will enable Regional Corporations to borrow the necessary capital for development projects at reduced interest rates. However, the new authorization permits the Secretary only to recognize such assignments to the extent that the Regional Corporation is not required to distribute those funds pursuant to subsection (j) or (m) of section 7 of the Settlement Act. Those provisions require a Regional Corporation to redistribute a certain percentage of its Alaska Native Fund share to the Village Corporations in its region and to certain stockholders.

The following rules have been formulated to require that a Regional Corporation provide evidence that the Corporation's Board of Directors has authorized an assignment, and that it specifically intended that the Secretary recognize that assignment. These rules would not require that the Secretary substitute his business judgment for that of the Regional Corporation in determining whether to recognize a validly executed assignment.

DRAFTING INFORMATION

Proposed rules were published on March 2, 1978 (43 FR 8557). Interested persons were given until April 3, 1978, to submit written comments. Nine comments were received, six from representatives of Regional Corporations. The following changes were made in the proposed rules.

In response to one suggestion, the definition of "Assignee" in § 113.2 was clarified. In addition, the definition of "Payee" was broadened to include savings institutions insured by the Federal Savings and Loan Insurance Corporation and federally insured credit unions. The regulation also requires that payees be capable of receiving payment through the United States Treasury's Financial Communication System.

Referring to § 113.3(c), two commenters questioned the need to require that a Regional Corporation designate an eligible payee to receive its quarterly distributions, in the absence of a recognized assignment. This provision was inserted to insure the speedy and safe delivery of the quarterly distributions, without an unnecessary loss of interest. The provision is also a reflection of the current practice of all Regional Corporations.

Another commenter, speaking on behalf of a Village Corporation, expressed the view that priority should not be given to selected creditors of a Regional Corporation when that corporation has outstanding obligations to Village Corporations within its region. This concern was addressed by adding a new subsection (b) to § 113.4, repeating language from section 31(a) of the Act. This addition is intended to emphasize that Village Corporation and stockholder entitlements under section 7(j) of the Act remain unaffected by recognition of a validly executed assignment of a Regional cor-

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poration's future interests in the Fund.

Several comments were received in response to the application process of proposed § 113.4(c). One questioned the requirement of subsection (c)(2) that the assignment be of a "fixed sum." The commenter stated that under most credit financing arrangements it is impossible to predict the amount which will ultimately be paid to the creditor and which is also the amount for which a recognized assignment is desired to secure the creditor's interest. He proposed that assignments be made and recognized on a "standby basis," i.e., that they remain in effect until canceled by the parties.

The decision was made to retain the "fixed sum" requirement, rather than to permit the recognition of "open-ended" assignments. The latter would make it difficult for the Regional Corporation to enter into additional assignments of its future interests in the Fund. Secondly, such assignments would also depend entirely on the good faith of the assignee/creditor to agree upon cancellation when the Regional Corporation believes it has paid its obligation in full. Thus, when a contractual dispute arises between the parties to an open-ended assignment, the assignee could unfairly refuse to agree to request cancellation of the Secretary's recognition—even where the amount financed is but a small fraction of the Regional Corporation's ultimate entitlement from the Fund. Rather, the authors of these regulations thought that the parties to a proposed assignment could in all cases agree upon a reasonable amount to secure the assignee's interest, and then seek recognition of an assignment of that amount.

The Deputy Comptroller General of the General Accounting Office offered the comment that the requirement of proposed § 113.4(c)(4) (now (d)(4)), that the applicant Regional Corporation submit a resolution of it's Board of Directors authorizing the assignment, may be inadequate in some circumstances. He pointed out that Alaska Statutes §§ 10.05.435-.44 require shareholder approval of mortgages or pledges of all or substantially all of the property or assets of an Alaska corporation, if not made in the usual and regular course of business. The authors of these regulations thought it unlikely that an assignment of a fixed amount of a Regional Corporation's future interests in the Alaska Native Fund would fall in the category of transactions requiring shareholder approval. But a requirement was added to the regulation that the applicant must submit evidence of stockholder approval, when required by Alaska law.

In response to three other comments, the requirements of proposed subsection (c)(5) were clarified in several respects. The primary change was the revision of paragraph (c)(5)(ii) (now (d)(5)(ii)), to emphasize that all claims of the United States against the assignor may be asserted against the assignee.

Two commenters criticized the requirement of proposed § 113.4(d) that an applicant Regional Corporation be current in its transmittal of annual audit reports to the Secretary pursuant to section 7(o) of the Act. A number of Regional Corporations have been delinquent in this respect. Section 7(d) of the Act provides that a Regional Corporation "shall be eligible for the benefits of this chapter so long as it is organized and functions in accordance with this chapter." 43 U.S.C. 1606(d). The question of the Secretary's authority and responsibility in this regard is currently under study within the Department, and the proposed requirement has thus been deleted as premature.

In response to a comment of the Deputy Comptroller General, proposed § 113.4(e)(1)(iii) has been revised for purposes of clarity.

One commenter suggested that the register of recognized assignments provided for in § 113.5 also reflect the date of receipt of applications for recognition, and that priority among assignments by a single Regional Corporation be established by reference to that date of receipt. The first suggestion was adopted, but not the second. Section 113.7 provides a more effective way of determining priority among assignments. Rather than institutionalizing a "race of the applications" and making creditors' rights dependent upon the vagaries of the mail system, it was thought that the Regional Corporation should have the responsibility of arranging priority among its assignees for whom there are competing applications for recognition. The Assistant Secretary is expected to defer to that judgment. Of course, once an assignment is recognized, a Regional Corporation may not re-establish priorities without the concurrence of the recognized assignees.

Four commenters were critical of proposed § 113.6, contending that the Secretary had no business prohibiting re-assignment of a Regional Corporation's future interests in the Fund. The proposed section, however, did not prohibit re-assignment, but only prohibited Secretarial recognition of such transactions since the Secretary's authority extends only to recognition of assignments "made by Regional Corporations." Nevertheless, because of the confusion created by proposed § 113.6(a), it has been rewritten to clarify the point that assignees may make "sub-assignments" but that the Assistant Secretary has no authority to recognize them.

In response to one comment, proposed § 113.10(a) was rewritten to require the Assistant Secretary to inform an applicant Regional Corporation of his reasons for denial of the application. The proposed provision had only required the transmittal of such information upon a Regional Corporation's petition for reconsideration.

These regulations were authored by employees of the Division of Financial Management of the Bureau of Indian Affairs, and attorneys in the Division of Indian Affairs of the Office of the Solicitor, U.S. Department of the Interior. The principal authors were Louis H. Conger, Jr., Bart Wright, and Margaret Daniels of the Bureau of Indian Affairs, and Scott Keep and Tim Vollmann of the Solicitor's Office.

NOTE.—The Department of the Interior has determined that these regulations do not have major economic consequences requiring preparation of a regulatory analysis in accordance with section 3 of Executive Order 12044 (March 23, 1978).

Considerable interest has already been expressed in these regulations by both Regional Corporations and their creditors. Within two weeks of enactment of the Act of November 15, 1977, the Department began to receive copies of assignments and requests for their recognition. Meanwhile, two Regional Corporations have indicated that recognition of new assignments may be needed as soon as possible to implement financial arrangements critical to those Corporations' futures. Because the Regional Corporations appear to desire implementation of this program as soon as possible, and because these final rules are not significantly changed from the proposed rules published on March 2, 1978, it has been determined that there is good cause for making these regulations effective upon publication, rather than waiting 30 days as otherwise required by the Administrative Procedure Act, 5 U.S.C. 553(d).

These regulations are promulgated in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 230 DM 1.2A(1).

Subchapter J of Chapter I of Title 25 of the Code of Federal Regulations is hereby amended by adding a new Part 113, as follows:

Sec.

113.1 Scope and purpose.
113.2 Definitions.
113.3 Payment of shares in the Fund in the absence of recognition of an assignment.
113.4 Recognition of assignments.
113.5 Register of recognized assignments.
113.6 Sub-assignment.
113.7 Multiple assignments.
113.8 Disclaimer.
113.9 Cancellation of assignments.
113.10 Decision; finality.

AUTHORITY: Sec. 25 and 31, Pub. L. 92-203, 85 Stat. 715, as amended by Pub. L. 95-178, 91 Stat. 1370 (43 U.S.C. 1624, 1628).

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§ 113.1 Scope and purpose.

(a) The regulations in this part shall apply to all future distributions of the Alaska Native Fund pursuant to section 6 of the Alaska Native Claims Settlement Act (43 U.S.C. 1605), except money reserved for the payment of attorney and other fees as provided in section 20 of the Act (43 U.S.C. 1619).

(b) These regulations are not intended (1) to alter the distribution formula of section 6 of the Act (43 U.S.C. 1605), or the redistribution formulas of sections 7(j) or 7(m) of the Act (43 U.S.C. 1606(j), (m)); or (2) to require the distribution of money in the Fund when not authorized by the Act, or when the money has been set aside in an escrow or reserved account pursuant to an order of a court of competent jurisdiction.

(c) The regulations in this part are intended to implement section 31 of the Act (43 U.S.C. 1628) which authorizes the Secretary to recognize validly executed assignments of a Regional Corporation's rights to receive payments from the Fund.

§ 113.2 Definitions.

As used in the regulations in this part.

Act means the Alaska Native claims Settlement Act, as amended (Pub. L. 92-203, 85 Stat. 715, 43 U.S.C. 1601 et seq.; Pub. L. 95-178, 91 Stat. 1370).

Assignee means the person or entity receiving from a Regional Corporation an assignment of certain of the corporation's future interests in the Fund.

Assignor means a Regional Corporation which has assigned to another certain of its future interests in the Fund.

Assistant Secretary means the Assistant Secretary for Indian Affairs, U.S. Department of the Interior, or his authorized representative.

Fund means the Alaska Native Fund created by section 6 of the Act (43 U.S.C. 1605).

Payee means the recipient of a distribution from the Fund. The payee must be a financial corporation such as a bank, credit union, or savings and loan association which is insured under the Federal Deposit Insurance Corporation, the National Credit Union Administration, or the Federal Savings and Loan Insurance Corporation, respectively. The payee must be capable of receiving payment through the United States Treasury's Financial Communication System.

Regional Corporation means an Alaska Native Regional Corporation established under the laws of the State of Alaska in accordance with the provisions of the Act.

Secretary means the Secretary of the Interior.

§ 113.3 Payment of shares of the Fund in the absence of recognition of an assignment.

(a) All money in the Fund shall be distributed by the Assistant Secretary at the end of each three months of the fiscal year among the Regional Corporations on the basis of the relative numbers of Natives enrolled in each region.

(b) Except as otherwise authorized in the regulations in this part, a Regional Corporation's quarterly share of the Fund shall be made payable to the Regional Corporation through a payee designated by the Regional Corporation.

(c) A Regional Corporation may designate a payee of its quarterly share at any time, and may change that designation at any time, *provided that* the Assistant Secretary receive written notification of any such designation or change in designation at least ten (10) days before the quarterly distribution date. Any such designation must include the name and address of the payee and the identifying American Banking Association number.

§ 113.4 Recognition of assignments.

(a) Upon application of a Regional Corporation, as provided in paragraph (c) of this section, the Assistant Secretary shall recognize a validly executed assignment of that portion of a future interest in the Fund not subject to the redistribution provisions of sections 7(j) and 7(m) of the Act. A future interest which is not subject to those redistribution provisions shall be referred to in this section as an "assignable future interest" or the "assignable portion of a quarterly distribution."

(b) Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsections (j) or (m) of section 7 of the Act.

(c) Upon recognition of such an assignment, the Assistant Secretary shall distribute the amount assigned to the payee designated by the parties to the assignment, and shall continue to pay the amount assigned to that payee, except as provided by §§ 113.6(b) and 113.9.

(d) A Regional Corporation's application for recognition of an assignment of a future interest in the Fund (1) shall be addressed to the Assistant Secretary for Indian Affairs, Attn.: Assistant Director, Financial Management, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20240; (2) shall specifically request that the Assistant Secretary recognize an assignment of a fixed sum to which the Regional Corporation may be entitled from the Fund; (3) shall designate a payee of the amount assigned; (4) shall be accompanied by a duly-adopted resolution of the Board of Directors of the Regional Corporation, which resolution authorizes the making of the assignment and the application for recognition of that assignment by the Secretary of the Interior, or evidence of stockholder approval when required by Alaska state law; and (5) shall be accompanied by one executed copy and three facsimile copies of a validly executed assignment of all or a portion of the Regional Corporation's assignable future interest in the Fund, which assignment shall contain the following language:

(i) The parties to this assignment agree to seek recognition of this assignment by the Secretary of the Interior, as authorized by section 4 of the Act of November 15, 1977, Pub. L. 95-178 (91 Stat. 1369, 1370).

(ii) It is understood by the parties to this assignment that in the event the Secretary of the Interior recognizes this assignment, the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has, or may have, against the Assignor Corporation.

(e)(1) An assignment may provide that: (i) All of the assignable portion of each quarterly distribution be paid to the payee designated in the application for recognition of assignment;

(ii) A fraction of the assignable portion of each quarterly distribution be paid to the designated payee; or that

(iii) The assignable portion of each quarterly distribution, up to a stated maxinum amount, be paid to the designated payee.

(2) Other formulas for assignment of assignable future interests may be recognized if (i) such a formula clearly identifies what portion of each affected quarterly distribution is to be paid to the designated payee, and (ii) the formula will permit the Assistant Secretary to set priorities in accordance with § 113.7 when subsequent application is made for recognition of additional assignments.

§ 113.5 Register of recognized assignments.

The Assistant Secretary shall maintain and make available for inspection by the public a register of requests for recognition of assignments and assignments recognized by him pursuant to the regulations in this part. Such register shall list the name of the Regional Corporation; the name and address of the assignee; the name, address, American Banking Association number, and account number for deposit of the payee of the amount assigned; the amount assigned; the amount paid at each quarterly distribution under the terms of the assignment; and the date of the Assistant Secretary's recognition.

§ 113.6 Sub-assignment.

(a) Nothing in the regulations in this part shall prohibit an assignee from

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making a valid sub-assignment of a Regional Corporation's rights to receive payments from the Fund. However, the Assistant Secretary has no authority and shall not recognize any sub-assignment by the assignee of any future interest of a Regional Corporation in the Fund.

(b) The Assistant Secretary may accept a re-designation of a new payee of an assignment recognized by the Assistant Secretary, upon application of an authorized official of the assignee in accordance with § 113.3(c).

§ 113.7 **Multiple assignments.**

(a) The Assistant Secretary may recognize more than one assignment of a Regional Corporation's future interests in the Fund. A second or later assignment of a Regional Corporation's future interest in the Fund, when recognized in accordance with § 113.4, shall be recognized subject to assignments already recognized.

(b) The Assistant Secretary shall not recognize an assignment of a Regional Corporation's future interest in the Fund if he has more than one outstanding application from that Corporation seeking recognition of such future interests. If more than one application from a Regional Corporation is pending before the Assistant Secretary, he shall notify both the Regional Corporation and the assignees of the assignments sought to be recognized, and seek a written consensus on the priorities to be established. In the Absence of such a consensus, the Assistant Secretary shall not recognize any such assignment.

§ 113.8 **Disclaimer.**

The Assistant Secretary does not guarantee by any action taken pursuant to the regulations in this part that the entitlement of a Regional Corporation to any quarterly distribution of the Fund shall be of any given amount, or that the cumulative entitlement of that Corporation will reach any given sum.

§ 113.9 **Cancellation of assignments.**

(a) The Assistant Secretary shall cancel his recognition of an assignment upon joint application of the assignee and Regional Corporation involved. Such application must include a resolution of the Board of Directors of the Regional Corporation, and a validly executed agreement between the Regional Corporation and assignee cancelling the assignment and authorizing the Secretary of the Interior to cancel his recognition of the assignment.

(b) Such cancellation of recognition of an assignment shall be reflected in the register compiled by the Assistant Secretary as provided in § 113.5.

§ 113.10 **Decision; finality.**

(a) A decision of the Assistant Secretary not to recognize an assignment of a future interest in the Fund shall inform the Regional Corporation what defects, if any, remain in its application for recognition, and shall provide the corporation with an opportunity to cure those defects.

(b) A decision of the Assistant Secretary to recognize an assignment of a Regional Corporation's future interest in the Fund shall not be subject to reconsideration or administrative appeal, and shall therefore be final for the Department.

Dated: April 28, 1978.

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

[FR Doc. 78-12703 Filed 5-9-78; 8:45 am]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 777-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart T—United States Marshals Service

DELEGATING CONTRACTING AUTHORITY FOR THE SUPPORT OF CERTAIN FEDERAL PRISONERS TO THE DIRECTOR, UNITED STATES MARSHALS SERVICE

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice Appropriation Act, 1978, has transferred from the Bureau of Prisons to the United States Marshals Service the appropriations for the supervision and support in non-Federal institutions of United States prisoners who are in the custody of the United States Marshals (Pub. L. 95-86, 91 Stat. 425). Under the resulting realignment of functions the United States Marshals Service has become responsible for the contracting with non-Federal authorities for the detention in non-Federal facilities of prisoners who are in its custody. This Order delegates to the Director, United States Marshals Service, the authority provided for in section 4002, title 18, United States Code, for the contracting with the proper authorities in any State, Territory, or political subdivision thereof for the imprisonment, subsistence, care, and proper employment of such Federal prisoners.

EFFECTIVE DATE: April 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William E. Hall, Director, United States Marshals Service, Washington, D.C. 20530 (202-739-5345).

By virtue of the authority vested in me by U.S.C. § 301 and 28 U.S.C. §§ 509, 510, Section 0.111 of Subpart T of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding a new paragraph (o) immediately after paragraph (n) to read as follows:

§ 0.111 **General functions.**

. . . . . .

(o) Contracting with the proper authorities of any State, Territory or political subdivision thereof, for the imprisonment, subsistence and care of Federal prisoners under the custody of the U.S. Marshals including contracting for such physical improvements as may be required.

Dated: April 27, 1978.

MICHAEL J. EGAN,
Acting Attorney General.

[FR Doc. 78-12637 Filed 5-9-78; 8:45 am]

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Title 36—Parks, Forests and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 212—ADMINISTRATION OF FOREST DEVELOPMENT TRANSPORTATION SYSTEM

PART 295—USE OF MOTOR VEHICLES OFF FOREST DEVELOPMENT ROADS

Final Rules

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations on the administration of the Forest Development Transportation System and use of vehicles off Forest Development Roads. The action is necessary to reflect an earlier amendment which consolidated all regulations on prohibited acts. The effect of the rule will be to clarify existing regulations, consolidate administrative regulations relating to roads and trails, and specify that certain regulations concern vehicles that travel off Forest Development Roads.

EFFECTIVE DATE: May 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Willard Clementson, 703-235-8074 or William Holman, 202-447-4228.

SUPPLEMENTARY INFORMATION: On September 16, 1977, a notice of proposed amendment to the regulations on the administration of the Forest Development Transportation System and use of vehicles off Forest Development Roads was published in the FEDERAL REGISTER 42 FR 46553. This action was necessary because of an earlier amendment which consolidated all regulations on prohibited acts in 36 CFR Parts 261.

Interested persons were given until October 17, 1977, to submit written data, views or objections. All comments received were given full and careful consideration in developing final regulations. The full text of such comments are on file and available for public inspection in Room 4148, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Many comments received concerned format, style of expression, grammatical preferences and clarification. Consideration of the more substantive comments received are summarized as follows:

Comment. The regulations are too general in that they do not provide direction to look at the specific type of off-road vehicle responsible for environmental damage.

Response. The language in §§ 295.2, 295.3 and 295.5 has been revised.

Comment. The regulations fail to incorporate the very important consideration of recreational benefit to users of motorized vehicles on Forest lands.

Response. The regulation has been rewritten to take care of this concern. (§ 295.2)

Comment. Clarify what is meant by the word "use" in § 295.4(b).

Response. Clarified by using the term *"vehicle use"*.

Comment. Insure that regulations do not allocate lands to single use such as recreation.

Response. The regulations in Part 295 deal with the administration of vehicles off roads with no intention to allocate Forest lands to a single use. Regulations pertaining to multiple use of the National Forests are contained in other parts of Title 36 Code of Federal Regulations.

Comment. Vehicle closures in emergency situations should be temporary.

Response. Comment is incorporated, see § 295.3.

Comment. Undesignated Forest lands should be closed to off-road vehicle(s) pending designation under the land management planning process.

Response. Off-road vehicle plans have been completed and are being implemented on 150 National Forests out of 154 National Forests. Within these Forests, areas have been designated as "open for off-road vehicles," "open to off-road vehicles but with restrictions" or "closed to off-road vehicle use." Some closures have been made within the four National Forests without completed plans to protect sensitive areas or minimize conflicts. The plans and closures have been developed in keeping with Section 3 of Executive Order 11644 as amended May 24, 1977.

Comment. Proposed amendment should contain additional and more specific guidelines to carry out the intent of the executive orders regarding operation of vehicles off roads.

Response. The regulations as amended reflect the purpose and intent of the executive orders. We are revising the direction in FSM 2350 to include guidelines for consideration of environmental effects, monitoring of effects, law enforcement and future review of off-road vehicle plans.

Comment. Lands categorized as wilderness study areas or inventoried roadless areas should be closed to off-road vehicles.

Response. Actions that adversely affect the wilderness characteristics of wilderness study area and inventoried roadless areas will not be permitted until detailed studies are completed and decisions made regarding their final disposition as Wilderness. If it is determined that motorized vehicle use will cause irreversible adverse effects on wilderness values, such areas will be closed to motorized vehicle use on a case-by-case basis.

Comment. Areas where wilderness study has been completed and are awaiting Congressional designation as wilderness should be closed to off-road vehicles.

Response. Those areas where off-road vehicles are causing or likely to cause irreversible effects to wilderness values, will be closed to such use on a case-by-case basis.

Comment. The regulations should be flexible enough to allow administrative discretion at local levels within reasonable limits.

Response. The regulations provide broad guidelines within which Forest Supervisors have the authority to develop off-road vehicle plans based on an assessment of environmental conditions.

Comment. The regulations should include more specific guidelines to require annual evaluations and reports.

Response. Monitoring will take many forms depending on use and resource capability. Resource managers must have fiexibility to monitor based on specific situations including local needs and resource capability. Procedures for monitoring are included in FSM 2350.

Other than reflected above, there are no other changes of substance.

These actions were taken pursuant to the requirements of the Administrative Procedures Act (5 U.S.C. 553), adopted by this Department as a matter of policy on July 24, 1971, (36 FR 13804).

As a result of this process the following changes in 36 CFR Chapter II are made:

1. Section 212.7(a) is revised to read as follows:

§ 212.7 **Road system management.**

(a) *Traffic rules.* Rules set forth under 36 CFR Part 261 and this section shall apply to all forest development roads under the jurisdiction of the Forest Service except when in conflict with written agreement.

(1) *General.* Traffic on roads is subject to State traffic laws where applicable except when in conflict with the rules established under 36 CFR Part 261.

(2) *Specific.* The following specific traffic rules shall apply unless different rules are established in 36 CFR Part 261.

(i) The load, weight, length, height, and width limitations of vehicles shall be in accordance with the laws of the States wherein the road is located. Greater or lesser limits may be imposed and these greater or lesser limits shall be established as provided in 36 CFR Part 261.

(ii) Roads, or segments thereof, may be restricted to use by certain classes of vehicles or types of traffic as provided in 36 CFR Part 261. Classes of vehicles are defined to include, but not be limited to, distinguishable groupings such as passenger cars, buses, trucks, motorcycles, automobiles, 4-wheel drive vehicles and tailers. Types of traffic are defined to include, but not be limited to, groupings such as commercial hauling, recreation and administrative.

(iii) Roads, or segments thereof, may be closed to all vehicle use as provided in 36 CFR Part 261.

(iv) Additional rules may be imposed as provided in 36 CFR Part 261.

§ 212.7 **[Amended]**

2. Section 212.7(b) is revoked and reserved.

3. Section 212.20 is revised to read as follows:

§ 212.20 **National Forest development trail system operation.**

(a) *Forest development trails.* Forest development trails shall be identified on a map available to the public at the offices of the Forest Supervisors and District Rangers and shall be marked on the ground by appropriate signs which reasonably bring their location to the attention of the public.

(Sec. 1, 30 Stat. 35, as amended, Sec. 205, 72 Stat. 907; (16 U.S.C. 551, 23 U.S.C. 205).)

4. Section 212.21 is revised to read as follows:

§ 212.21 **Pacific Crest National Scenic Trail.**

The Pacific Crest National Scenic Trail as defined by the National Trails Systems Act, 82 Stat. 919, shall be ad-

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ministered primarily as a footpath and horseback riding trail by the Forest Service in consultation with the Secretary of the Interior. The use of motorized vehicles may be authorized by the Federal Agency administering the segment of trail involved when use of such vehicles is necessary to meet emergencies or to enable landowners or land users to have reasonable access to their lands or timber rights.

(Sec. 1, 30 Stat. 35, as amended; (16 U.S.C. 551), sec. 205, 72 Stat. 907 (23 U.S.C. 205), and 82 Stat. 919 (16 U.S.C. 1241 et seq.).)

6. Part 295 is retitled as shown above and revised as follows:

Sec.
295.1 Applicability.
295.2 Planning and designation for use of vehicles off forest development roads.
295.3 Public participation.
295.4 Public information.
295.5 Monitoring effects of vehicle use off forest development roads.
295.6 Revision of off-road vehicle management plans.

AUTHORITY: 30 Stat. 35, as amended (16 U.S.C. 551); 50 Stat. 525, as amended (7 U.S.C. 1011); E.O. 11644, 11989 (42 FR 26959).

§ 295.1 Applicability.

The regulations in the following parts pertain to administrative designation and location of specific areas and trails of National Forest System lands on which the use of vehicles traveling off National Forest development roads is allowed, restricted or prohibited. Prohibitions regarding use of vehicles off roads is provided in 36 CFR Part 261.

§ 295.2 Planning and designation for use of vehicles off forest development roads.

(a) On National Forest System lands, the continuing land management planning process will be used to allow, restrict, or prohibit use by specific vehicle types off roads. This process will include coordination with appropriate Federal, State and local agencies. The planning process will analyze and evaluate current and potential impacts arising from operation of specific vehicle types on soil, water, vegetation, fish and wildlife, forest visitors and cultural and historic resources. If the analysis indicates that the use of one or more vehicle types off roads will cause considerable adverse effects on the resources or other forest visitors, use of the affected areas and trails by the vehicle type or types likely to cause such adverse effects will be restricted or prohibited until such time as the adverse effects can be elliminated as provided in 36 CFR Part 261.

(b) Off-road vehicle management plans shall provide vehicle management direction aimed at resource protection, public safety of all users, minimizing conflicts among users, and provide for diverse use and benefits of the National Forests. Designation of areas and trails shall be in accordance with the following:

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas.

However, this does not preclude the use of any fire, military, emergency, or law enforcement vehicle for emergency purposes, or the use of any combat or combat support vehicle for national defense purposes, or registered motorboats, or vehicle use expressly authorized by the Chief, Forest Service, under a permit, lease, license, or contract.

§ 295.3 Public participation.

The public shall be provided an opportunity to participate in the process of allowing, restricting, or prohibiting use of areas and trails to one or more specific vehicle types off forest development roads. Sixty days advance notice will be given to allow for public review of proposed or revised designations. In emergency situations, temporary designations up to one year in length may be made or revised without public participation if needed to protect the resources and/or to provide for public safety.

§ 295.4 Public information.

In addition to the requirements of 36 CFR 261.51, information and maps will be published and made available to the public, describing:

(a) The regulation of vehicular use.

(b) Time periods when use is allowed, restricted or prohibited.

(c) The type of vehicle regulated.

§ 295.5 Monitoring effects of vehicle use off forest development roads.

The effects of use by specific types of vehicles off roads on National Forest System lands will be monitored. If the results of monitoring, including public input, indicate that the use of one or more vehicle types off roads is causing or will cause considerable adverse effects on the factors and resource values referred to in § 295.2, the area or trail suffering adverse effects will be immediately closed to the responsible vehicle type or types until the adverse effects have been eliminated and measures have been implemented to prevent future recurrence as provided in 36 CFR Part 261. Forest Supervisors may delegate immediate closure authority to District Rangers or other forest officers in order to facilitate timely actions to meet these objectives. Designations, use restrictions, and operating conditions will be revised as needed to meet changing conditions.

§ 295.6 Revision of Off-road vehicle management plans.

Forest Supervisors will annually review off-road vehicle management plans and temporary designations implemented since the last annual review. If the plan needs revision, the public will be given the opportunity to participate in the review as stated in § 295.3.

M. RUPERT CUTLER,
Assistant Secretary for Conservation, Research, and Education.

MAY 3, 1978.

[FR Doc. 78-12760 Filed 5-9-78; 8:45 am]

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 448—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

Medicaid Eligibility—Various Provisions to Implement Recent Statutory Changes and To Clarify Existing Rules

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule; correction.

SUMMARY: This document corrects several technical errors in a final rule implementing various statutory changes in eligibility for the Medicaid program (Title XIX, Social Security Act). The final rule was published at 43 FR 9810 on March 10, 1978.

FOR FURTHER INFORMATION, CONTACT:

Mary Kenesson, 202-472-6551. In FR Doc. 78-6284 appearing at pages 9810-9816 in the FEDERAL REGISTER of Friday, March 10, 1978, the following corrections are made:

1. On page 9813, under item 1 of the amendatory language "new paragraph (c)(7) is added," is changed to read "paragraph (d) is revised.".

2. On page 9814, second column, insert five asterisks, following paragraph § 448.1(d)(iii) to indicate that paragraph (e) under § 448.1 is not revised.

3. On page 9814, third column, under item 3, the amendatory language "In § 448.3, paragraphs (b)(1)(ii), (8) and (9) are revised." is changed to read "In § 448.3, paragraphs (b)(1)(ii), (7), (8) and (9) are revised."

4. On page 9815, second column, under § 448.10(b) "(b) • • •" is changed to read "(2) • • •".

5. On page 9815, third column, insert five asterisks following the section heading "§ 448.21 Financial eligibility—Medical assistance programs" and before "(a) State plan requirements • • •" to indicate that the introductory note remains in the regulation.

6. On page 9816 under § 448.60, paragraph (b)(11) is incorrectly coded. The correct coding appears below:

§ 448.60 Institutional status.

• • • • •

(b) *Definitions.* • • •

• • • • •

(11) "Publicly operated community residence which serves no more than 16 residents" is defined in 20 CFR 416.231(b)(6)(i).

(i) A publicly operated community residence means:

(A) It must be publicly operated as defined in § 416.231(b)(2); and

(B) It must be designed and planned to serve no more than 16 residents, or the plan and design was changed to serve no more than 16 residents; and

(C) It must be serving 16 or fewer residents; and

(D) It must make available some services beyond food and shelter such as social services, or help with personal living activities, or training in socialization and life skills; occasional or incidental medical or remedial care may also be provided (as defined in 45 CFR 228.1).

(ii) Excluded from the definition of "publicly operated community residences" are the following facilities, even if their accommodations are for 16 residents or less;

(A) Residential facilities located on the grounds of or immediately adjacent to any large institution or multiple purpose complex; and

(B) Educational or vocational training institutions that primarily provide an approved or accredited or recognized program to some or all of the individuals residing within it; and

(C) Correctional or holding facilities which provide for individuals whose personal freedom is restricted because of a court sentence to confinement (prisoners), court ordered holding (material witness, juvenile) or a pending disposition of charges or status (individuals who have been arrested or detained); and

(D) Medical treatment facilities (hospitals and skilled nursing facilities, see 42 U.S.C. 1395x and intermediate care facilities, see 42 U.S.C. 1396d) which provide medical or remedial care on an inpatient basis.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program.)

Dated: May 3, 1978.

L. DAVID TAYLOR,
Acting Deputy, Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-12729 Filed 5-9-78; 8:45 am]

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 197—TEACHER CENTERS PROGRAM

Grants to Local Educational Agencies; Correction

AGENCY: Office of Education, HEW.

ACTION: Correction, Final regulations.

SUMMARY: In the regulations published in the FEDERAL REGISTER on January 11, 1978, pages 1762-1783, a technical correction needs to be made. The document is corrected as follows:

On page 1765, first column, third line of regulation, delete "§ 100a.16 [Amended]" and insert § 100a.10 [Amended]". In paragraph 1., first line, delete "§ 100a.16(a)" and insert "§ 100a.10(a)".

FOR FURTHER INFORMATION CONTACT:

Charles Lovett, telephone 202-245-9786.

Dated: May 3, 1978.

L. DAVID TAYLOR,
Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-12720 Filed 5-9-78; 8:45 am]

[4110-35]

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Staff Development; Correction

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Correction of final rule.

SUMMARY: This document corrects a typographical error in a final rule which made 45 CFR 205.202, staff development, inapplicable to medical assistance programs under title XIX of the Social Security Act. The pertinent content for title XIX is now codified at 42 CFR Part 446.

FOR FURTHER INFORMATION CONTACT:

Margaret O. Schnoor, 202-245-1960 or 245-7443.

In FR Doc. 77-34127 appearing at page 60566 in the FEDERAL REGISTER of Monday, November 28, 1977, the following correction is made: On page 60568, under item 1, the sentence "In paragraph (b), subparagraph (4) is revoked." is changed to read "Paragraph (c)(4) is revoked."

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714—Medical Assistance Program.)

Dated: May 3, 1978.

L. DAVID TAYLOR,
Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-12719 Filed 5-9-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-295]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Permitting connection of the bridge-to-bridge radiotelephone to the reserve source of energy required for compliance with Title III, Part II of the Communications Act

AGENCY: Federal Communications Commission.

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ACTION: Order.

SUMMARY: This rule permits licensees to connect the bridge-to-bridge radiotelephone to the reserve source of energy installed on the vessel for compliance with the compulsory radio requirements of the Communications Act. The Commission finds it desirable to permit connection to an existing reserve source of power to allow for continued communications in the event of a power failure.

EFFECTIVE DATE: May 16, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Nicholas G. Bagnato, Safety and Special Radio Services Bureau, 202-632-7197

SUPPLEMENTARY INFORMATION:

Adopted: April 26, 1978.

Released: May 9, 1978.

Order. In the matter of amendment of part 83 of the Commission's rules to permit connection of the bridge-to-bridge radiotelephone to the reserve source of energy required for compliance with Title III, Part II of the Communications Act.

1. The purpose of the Bridge-to-Bridge Radiotelephone Act is to provide for a positive means whereby operators of approaching vessels could communicate their intentions to one another by means of voice radio, located convenient to the operator's navigation station. The Commission's rules require vessels subject to the Bridge-to-Bridge Radiotelephone Act be equipped with a radiotelephone installation and such accessories as may be needed to participate fully, efficiently, and readily in navigational communications.

2. While there is no requirement for a reserve source of energy for the bridge-to-bridge radiotelephone, it is certainly desirable to permit connection to an existing reserve source of power and to have that capability. The bridge-to-bridge radiotelephone is provided for the exchange of navigational information for safety and having the capability to continue communications in the event of power failure is desirable.

3. The Safety of Life at Sea Convention, London, 1960, specifies the items which are to be connected to the reserve source of energy. There is also a provision which permits Administrations to authorize connection of a small number of low-energy circuits which are wholly confined to the upper parts of the ship and on the condition that the source of energy is of sufficient capacity to carry the additional load. Therefore, the bridge-to-bridge radiotelephone may be connected to the reserve source of energy without conflict with the provisions of the Safety Convention.

4. We are, therefore, amending the rules of permit connection of the bridge-to-bridge radiotelephone to existing reserve source of energy and make provisions to assure that the reserve source of energy is of sufficient capacity to energize the bridge-to-bridge radiotelephone is addition to all other requirements. Since this amendment only allows licensees to voluntarily connect the bridge-to-bridge radiotelephone to the existing reserve source of energy without imposing additional requirements, the amendment is considered minor and hence, the prior notice, procedures and effective date provisions of 5 U.S.C. are unnecessary.

5. *It is ordered,* That pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, part 83 of the Commission's rules is amended effective May 16, 1978, as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

1. In § 83.446 paragraphs (a)(9) and (b)(4)(v) are amended and (b)(4)(vi) is added to read as follows:

§ 83.446 Requirements of reserve installation.

(a) All reserve radiotelegraph installations shall comply with the following conditions, in addition to all other requirements:

• • • • • •

(9)(i) The reserve power supply shall be used to energize the reserve installation and the automatic radiotelegraph alarm signal keyer, and may be used to energize the audible warning apparatus included as a component of an approved auto alarm.

(ii) The bridge-to-bridge radiotelephone may be connected to the reserve power supply when the power supply is of sufficient capacity to carry the additional load.

• • • • • •

(b) • • •

(4) For the purpose of determining the electrical load to be supplied by the reserve power supply, the following formula shall be used:

(i) One-half of the reserve transmitter current consumption with the key closed (mark); plus

(ii) One-half of the reserve transmitter current consumption with the key open (space); plus

(iii) One-sixth of the current consumption of the automatic radiotelegraph alarm signal keyer when this device is properly energized; plus

(iv) Current consumption of the reserve receiver; plus

(v) Current consumption of emergency lights; plus

(vi) Current consumption of the bridge-to-bridge transceiver when connected.

• • • • • •

2. Section 83.491 (c) is amended to read as follows:

§ 83.491 Reserve source of energy.

• • • • • •

(c)(1) The reserve source of energy shall be used to energize the required radiotelephone transmitter, the required receivers, the emergency light required by § 83.496, and the automatic radiotelephone alarm signal generator required by § 83.486.

(2) The reserve source of energy may be used to energize the bridge-to-bridge radiotelephone when the reserve source of energy is of sufficient capacity to energize the bridge-to-bridge radiotelephone in addition to all other requirements.

• • • • • •

3. In § 83.493, paragraph (d)(4) is amended and (d)(5) is added to read as follows:

§ 83.493 Proof of capacity.

• • • • • •

(d) For the purpose of determining the electrical load to be supplied, the following formula shall be used:

(1) One-half the current consumption of the required transmitter at its rated power output; plus

(2) One-quarter the current consumption of the automatic radiotelephone alarm signal generator required by § 83.486; plus

(3) Current consumption of present receiver required by § 83.488(a); plus

(4) Current consumption of emergency light(s); plus

(5) Current consumption of the bridge-to-bridge transceiver when connected.

• • • • • •

[FR Doc. 78-12701 Filed 5-9-78; 8:45 am]

[4910-22]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[BMCS Docket No. MC-84; Notice No. 78-8]

APPENDIX B—SPECIAL AGENTS

Final Rule

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: Appendix B to the Federal Motor Carrier Safety Regulations (FMCSR) is changed as a result of reissued hazardous materials regulations under the Hazardous Materials Transportation Act and the Secretary of Transportation's delegation of certain authority under the Act to the Federal Highway Administrator. The definition of Special Agent is also changed.

EFFECTIVE DATE: May 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. D. W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety, 202-426-1700; Mrs. Kathleen S. Markman, Office of Chief Counsel, 202-426-0799, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. e.s.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: The Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq., vests certain functions in the Secretary of Transportation relating to investigations, records, inspections, penalties, and specific relief that apply to transportation or shipment of hazardous materials by highway which have been delegated to the Federal Highway Administrator (49 CFR 1.48 (u) and (v)). This document reflects those delegations of authority to special agents of the Federal Highway Administration (FHWA), and recent position title changes within the FHWA.

It is a technical change only and does not impose new or additional requirements. It is also a rule of agency organization which is exempt from the notice provision of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(A), and advance public notice is not required. This action will not increase costs to Federal, State, or local governments, to consumers, or to the businesses affected, and will not have any environmental impact.

In consideration of the foregoing, Paragraph 3 of Appendix B to the FMCSR is amended to read as follows:

APPENDIX B—SPECIAL AGENTS

1. • • •
2. • • •
3. Definition of Special Agent—Administration employees charged with enforcing 18 U.S.C. 831-853, 49 U.S.C. 1801 et seq., and Section 204 of the Interstate Commerce Act, 49 U.S.C. 304; the employees within the Bureau of Motor Carrier Safety listed below; and such other persons as the Administrator or the Director of the Bureau of Motor Carrier Safety may specify in writing, are special agents. They are hereby authorized to inspect and copy records and to inspect and examine lands, buildings, and equipment to the manner and extent provided by law.
   Director.
   Deputy Director.
   Chiefs of the Divisions of: Regulations and Compliance.
   Chiefs of the Branches of: Vehicle Requirements, Driver Requirements, Accident Investigation, Compliance Analysis, and Field Program.
   Hazardous Materials Liaison Officer.
   Hazardous Materials Specialist.
   Mechanical Engineer (automotive).
   Directors, Regional Motor Carrier Safety Offices.
   Motor Carrier Safety Investigators.
   Hazardous Materials Compliance Officer.
   Highway Safety Management Specialist.
   Regional Accident Investigation Specialist.
   Regional Hazardous Materials Specialist.
   Regulations Specialist.

• • • • • •

(Sec. 204, Interstate Commerce Act (49 U.S.C. 304); sec. 6, Department of Transportation Act (49 U.S.C. 1655); 49 U.S.C. 1801 et seq.; 18 U.S.C. 831-835; and the delegations of authority at 49 CFR 1.48 and 301.60.)

Issued: April 26, 1978.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 78-12716 Filed 5-9-78; 8:45 am]

V 43 — 91

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-01]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 15a]

EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Nondiscrimination on the Basis of Sex

AGENCY: Department of Agriculture.

ACTION: Proposed rules.

SUMMARY. The Department of Agriculture proposes to add a new regulation for nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from federal financial assistance. These rules are intended to implement Title IX of the Education Amendments of 1972, as amended, which prohibits (with certain exceptions) sex discrimination in federally-assisted education programs or activities.

DATES: Comments must be received on or before June 15, 1978.

ADDRESS: Comments must be submitted to: James Frazier, Director, Office of Equal Opportunity, U.S. Department of Agriculture, Washington, D.C. 20250, phone: 202-447-4256. Comments are available for public inspection in the Office of Equal Opportunity, Program Planning and Evaluation Division, Room 4103, Auditors Building, 201 14th Street SW., Washington, D.C. 20250, Monday-Friday, 8:30 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT:

William C. Payne, Program Planning and Evaluation Division, Office of Equal Opportunity, Washington, D.C. 20250, phone: 202-447-4807.

SUPPLEMENTARY INFORMATION: Title IX of the Education Amendments of 1972, as amended, requires each federal agency, which extends financial assistance to any education program or activity, to issue rules and regulations implementing Title IX.

On June 4, 1975, the Department of Health, Education, and Welfare (HEW) issued final rules implementing Title IX. 45 CFR Part 86. The rules proposed by this Department are intended to be consistent with the HEW rules.

The difference between the two sets of rules are minor: definitional changes for "Secretary" and "Department" and substitution throughout the rules of "Secretary" for "Director."

Section 15a.15 exempts certain activities which are not referred to in the HEW rules. These exemptions reflect recent amendments to Title IX. See Pub. L. 94-482, 90 Stat. 2234.

One other difference in these rules and the HEW rules should be noted. In the HEW rules, "student" is defined as "a person who has gained admission." The term "admission" means "selection for * * * enrollment, membership, or matriculation in or at education program or activity * * *" In § 15.2(m), the term "admission" is expanded to include selection for "participation" in an education program or activity to ensure that participants (who may not be members or enrollees) in USDA-funded education activities are clearly included within the protection of these rules. By expanding the definition of "admission", the term "student" (to whom the rules repeatedly make reference) is also expanded. This change is necessary because some of the activities funded by USDA, such as 4-H Clubs, are informal education activities, and participation in those activities is not dependent upon "enrollment, membership, or matriculation."

In consideration of the above, it is proposed that Part 15a be added to Title 7 of the Code of Federal Regulations to read as set forth below.

Dated: May 3, 1978.

BOB BERGLAND,
Secretary of Agriculture.

PART 15a—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Subpart A—Introduction

Sec.
15a.1 Purpose and effective date.
15a.2 Definitions.
15a.3 Remedial and affirmative action and self-evaluation.
15a.4 Assurance required.
15a.5 Effect of other requirements.
15a.6 Effect of employment opportunities.
15a.7 Designation of responsible employee and adoption of grievance procedures.
15a.8 Dissemination of policy.

Subpart B—Coverage

15a.11 Application.
15a.12 Educational institution controlled by religious organizations.
15a.13 Military and merchant marine educational institutions.
15a.14 Membership practices of certain organizations.
15a.15 Exempt activities.
15a.16 Admissions.
15a.17 Educational institutions eligible to submit transition plans.
15a.18 Transition plans.

Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited.

15a.21 Admission.
15a.22 Preference in admission.
15a.23 Recruitment.

Subpart D—Discrimination on the Basis of Sex in Education Programs and Activities Prohibited

15a.31 Education programs and activities.
15a.32 Housing.
15a.33 Comparable facilities.
15a.34 Access to course offerings.
15a.35 Access to schools operated by L.E.A.s.
15a.36 Counseling and use of appraisal and counseling materials.
15a.37 Financial assistance.
15a.38 Employment assistance to students.
15a.39 Health and insurance benefits and services.
15a.40 Marital or parental status.
15a.41 Athletics.
15a.42 Textbooks and curricular materials.

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited

15a.51 Employment.
15a.52 Employment criteria.
15a.53 Recruitment.
15a.54 Compensation.
15a.55 Job classification and structure.
15a.56 Fringe benefits.
15a.57 Marital or parental status.
15a.58 Effect of State or local law or other requirements.
15a.59 Advertising.
15a.60 Pre-employment inquiries.
15a.61 Sex as a bona-fide occupational qualification.

Subpart F—Procedures (Interim)

15a.71 Interim procedures.

AUTHORITY: Pub. L. 92-318, as amended by Sec. 3, Pub. L. 93-568, 88 Stat. 1855 and Sec. 412, Pub. L. 94-482, 90 Stat. 2234 (except Secs. 904 and 906 thereof) (20 U.S.C. 1681, 1682, 1683, 1685, 1686.)

Subpart A—Introduction

§ 15a.1 Purpose and effective date.

The purpose of this part is to effectuate Title IX of the Education Amendments of 1972, as amended by Pub. L. 93-568, 88 Stat. 1855 and Pub. L. 94-482, 90 Stat. 2234 (except sections 904 and 906 of those Amendments) which is designed to eliminate

(with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution as defined in this part.

§ 15a.2 Definitions.

As used in this part, the term—

(a) "Title IX" means title IX of the Education Amendments of 1972, Pub. L. 92-318, as amended by section 3 of Pub. L. 93-568, 88 Stat. 1855 and section 412 of Pub. L. 94-482, 90 Stat. 2234 (except sections 904 and 906 thereof); 20 U.S.C. 1681, 1682, 1683, 1685, 1686.

(b) "Department" means the Department of Agriculture, and includes each of its operating agencies and other organizational units.

(c) "Secretary" means the Secretary of Agriculture or any officer or employees of the Department to whom the Secretary has heretofore delegated, or to whom the Secretary may hereafter delegate, the authority to act for the Secretary under the regulations in this part.

(d) "Federal financial assistance" means any of the following, when authorized or extended under a law administered by the Department:

(1) A grant or loan of Federal financial assistance, including funds made available for:

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and

(ii) Scholarships, loans, grants, wages or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.

(2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.

(3) Provision of the services of Federal personnel.

(4) Sale or lease of Federal property or any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient or in recognition of public interest to be served thereby, or permission to use Federal property or any interest therein without consideration.

(5) Any other contract, agreement, or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

(e) "Recipient" means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance, including any subunit, successor, assignee, or transferee thereof.

(f) "Applicant" means one who submits an application, request, or plan required to be approved by a Department official, or by a recipient, as a condition to becoming a recipient.

(g) "Educational institution" means a local educational agency (L.E.A.) as defined by section 801(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 881), a preschool, a private elementary or secondary school, or an applicant or recipient of the type defined by paragraph (h), (i), (j), or (k) of this section.

(h) "Institution of graduate higher education" means an institution which:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences; or

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in such field is awarded by an institution of undergraduate higher education or professional eduction); or

(3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

(i) "Institution of undergraduate higher education" means:

(1) An institution offering at least two but less than four years of college level study beyond the high school level, leading to a diploma or an associate degree, or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

(j) "Institution of professional education" means an institution (except any institution of undergraduate higher education) which offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the United States Commissioner of Education.

(k) "Institution of vocational education means a school or institution (except an institution of professional or graduate or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semi-skilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study.

(l) "Administratively separate unit" means a school, department or college of an educational institution (other than a local educational agency) admission to which is independent of admission to any other component of such institution.

(m) "Admission" means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, participation, or matriculation in or at an education program or activity operated by a recipient.

(n) "Student" means a person who has gained admission.

(o) "Transition plan" means a plan subject to the approval of the United States Commissioner of Education pursuant to section 901(a) of the Education Amendments of 1972, under which an educational institution operates in making the transition from being an educational institution which admits only students of one sex to being one which admits students of both sexes without discrimination.

§15a.3 Remedial and affirmative action and self-evaluation.

(a) *Remedial action.* If the Secretary finds that a recipient has discriminated against persons on the basis of sex in an education program or activity, such recipient shall take such remedial action as the Secretary deems necessary to overcome the effects of such discrimination.

(b) *Affirmative action.* In the absence of a finding of discrimination on the basis of sex in an education program or activity, a recipient may take affirmative action to overcome the effects of conditions which resulted in limited participation therein by persons of a particular sex. Nothing herein shall be interpreted to alter any affirmative action obligations which a recipient may have under Executive Order 11246.

(c) *Self-evaluation.* Each recipient education institution shall, within one year of the effective date of this part:

(i) Evaluate in terms of the requirements of this part, its current policies and practices and the effects thereof concerning admission of students, treatment of students, and employment of both academic and non-academic personnel working in connection with the recipient's education program or activity:

(ii) Modify any of these policies and practices which do not or may not

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meet the requirements of this part; and

(iii) Take appropriate remedial steps to eliminate the effects of any discrimination which resulted or may have resulted from adherence to these policies and practices.

(d) Availability of self-evaluation and related materials. Recipients shall maintain on file for at least three years following completion of the evaluation required under paragraph (c) of this section, and shall provide to the Secretary upon request, a description of any modifications made pursuant to sub-paragraph (c)(ii) and of any remedial steps taken pursuant to subparagraph (c)(iii).

§15a.4 Assurance required.

(a) *General.* Every application for Federal financial assistance for any education program or activity shall as condition of its approval contain or be accompanied by an assurance from the applicant or recipient, satisfactory to the Secretary, that each education program or activity operated by the applicant or recipient and to which this part applies will be operated in compliance with this part. An assurance of compliance with this part shall not be satisfactory to the Secretary if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with 15a.3(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior or subsequent to the submission to the Secretary of such assurance.

(b) *Transfers of property.* If a recipient sells or otherwise transfers property financed in whole or in part with Federal financial assistance to a transferee which operates any education program or activity, and the Federal share of the fair market value of the property is not upon such sale or transfer properly accounted for to the Federal Government both the transferor and the transferee shall be deemed to be recipients, subject to the provisions of subpart B.

(c) *Duration of obligation.* (1) In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity.

(2) In the case of Federal financial assistance extended to provide personal property, such assurance shall obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases such assurance shall obligate the recipient for the period during which Federal financial assistance is extended.

(d) *Form.* The Secretary will specify the form of the assurances required by paragraph (a) of this section and the extent to which such assurances will be required of the applicant's or recipient's subgrantees, contractors, subcontractors, transferees, or successors in interest.

§ 15a.5 Effect of other requirements.

(a) *Effect of other Federal provisions.* The obligations imposed by this part are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, as amended; title VII of the Civil Rights Act of 1964 (42 U.S.C. 200 et seq.); the Equal Pay Act (29 U.S.C. 206 and 206(d)); and any other act of Congress or Federal regulation.

(b) *Effect of State or local law or other requirements.* The obligation to comply with this part is not obviated or alleviated by any State or local law or other requirement which would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex to practice any occupation or profession.

(c) *Effect of rules or regulations of private organizations.* The obligation to comply with this part is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league, or association which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and which receives or benefits from Federal financial assistance.

§ 15a.6 Effect of employment opportunities.

The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for members of one sex than for members of the other sex.

§ 15a.7 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions which would be prohibited by this part. The recipient shall notify all its students and employees of the name, office address and telephone number of the employee or employees appointed pursuant to this paragraph.

(b) *Complaint procedure of recipient.* A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part.

§ 15a.8 Dissemination of policy.

(a) *Notification of policy.* (1) Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational programs or activities which it operates, and that is required by title IX and this part not to discriminate in such a manner. Such notification shall contain such information, and be made in such manner, as the Secretary finds necessary to apprise such persons of the protections against discrimination assured them by title IX and this part, but shall state at least that the requirement not to discriminate in education programs and activities extends to employment therein, and to admission thereto unless Subpart C does not apply to the recipient, and that inquiries concering the application of title IX and this part to such recipient may be referred to the employee designated pursuant to § 15a.7 or to the Secretary.

(2) Each recipient shall make the initial notification required by paragraph (a)(1) of this section within 90 days of the effective date of this part or of the date this part first applies to such recipient, whichever comes later, which notification shall include publication in: (i) Local newspapers; (ii) newspapers and magazines operated by such recipient or by student, alumnae, or alumni groups for or in connection with such recipient; and (iii) memoranda or other written communications distributed to every student and employees of such recipient.

(b) *Publications.* (1) Each recipient shall prominently include a statement of the policy described in paragraph (a) of this section in each announcement, bulletin, catalog, or application form which it makes available to any person of a type described in paragraph (a) of this section, or which is otherwise used in connection with the recruitment of students or employees.

(2) A recipient shall not use or distribute a publication of the type described in this paragraph which suggests, by text or illustration, that such recipient treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by this part.

(c) *Distribution.* Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b) of this section, and shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and require such representatives to adhere to such policy.

Subpart B—Coverage

§ 15a.11 Application.

Except as provided in this subpart, this Part 15a applies to every recipient and to each education program or activity operated by such recipient which receives or benefits from Federal financial assistance.

§ 15a.12 Educational institutions controlled by religious organizations.

(a) *Application.* This part does not apply to an educational institution which is controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization.

(b) *Exemption.* An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section, shall do so by submitting in writing to the Secretary a statement by the highest ranking official of the institution identifying the provisions of this part which conflict with a specific tenet of the religious organization.

§ 15a.13 Military and merchant marine educational institutions.

This part does not apply to an educational institution whose primary purpose is the training of individuals for a military service of the United States or for the merchant marine.

§ 15a.14 Membership practices of certain organizations.

(a) *Social fraternities and sororities.* This part does not apply to the membership practices of social fraternities and sororities which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) YMCA, YWCA, Girl Scouts, Boy Scouts and Camp Fire Girls. This part does not apply to the membership practices of the Young Men's Christian Association the Young Women's Christian Association, the Girl Scouts, the Boy Scouts and Camp Fire Girls.

(c) Voluntary youth service organizations. This part does not apply to the membership practices of voluntary youth service organizations which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 and the membership of which has been traditionally limited to members of one sex and principally to persons of less than nineteen years of age.

§ 15a.15 Exempt activities.

(a) These regulations shall not apply to:

(1) Any program or activity of the American Legion undertaken in connection with the organization or operation of any Girls State Conference, Girls Nation Conference, Boys State Conference, or Boys Nation Conference; or

(2) The selection of students to attend any such conference.

(b) These regulations shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex.

(c) These regulations shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

§ 15a.16 Admissions.

(a) Admissions to educational institutions prior to June 24, 1973, are not covered by this part.

(b) *Administratively separate units.* For the purposes only of this section, 15a., 17, and 15a., 18, and Subpart C, each administratively separate unit shall be deemed to be an educational institution.

(c) *Application of Subpart C.* Except as provided in paragraphs (c) and (d) of this section, Subpart C applies to each recipient. A recipient to which Subpart C applies shall not discriminate on the basis of sex in admission or recruitment in violation of that subpart.

(d) *Educational institutions.* Except as provided in paragraph (e) of this section as to recipients which are educational institutions, Subpart C applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.

(e) *Public institutions of undergraduate higher education.* Subpart C does not apply to any public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.

§ 15a.17 Education institutions eligible to submit transition plans.

(a) *Application.* This section applies to each educational institution to which Subpart C applies which:

(1) Admitted only students of one sex as regular students as of June 23, 1972; or

(2) Admitted only students of one sex as regular students as of June 23, 1965, but thereafter admitted as regular students, students of the sex not admitted prior to June 23, 1965.

(b) Provision for transition plans. An educational institution to which this section applies shall not discriminate on the basis of sex in admission or recruitment in violation of Subpart C unless it is carrying out a trasition plan approved by the United States Commissioner of Education as described in 15a.18, which plan provides for the elimination of such discrimination by the earliest practicable date but in no event later than June 23, 1979.

§ 15a.18 Transition plans.

(a) *Submission of plans.* An institution to which 15a.17 applies and which is composed of more than one administratively separate unit may submit either a single transition plan applicable to all such units, or a separate transition plan applicable to each such unit.

(b) *Content of plans.* In order to be approved by the United States Commissioner of Education, a transition plan shall:

(1) State the name, address, and Federal Interagency Committee on Education (FICE) Code of the educational institution submitting such plan the administratively separate units to which the plan is applicable, and the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

(2) State whether the educational institution or administratively separate unit admits students of both sexes, as regular students and, if so when it began to do so.

(3) Identify and describe with respect to the educational institution or administratively separate unit any obstacles to admitting students without discrimination on the basis of sex.

(4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle so identified and indicate the schedule for taking these

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steps and the individual directly responsible for their implementation.

(5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

(c) *Nondiscrimination.* No policy or practice of a recipient to which § 15a.17 applies shall result in treatment of applicants to or students of such recipient in violation of Subpart C unless such treatment is necessitated by an obstacle identified in paragraph (b)(3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b)(4) of this section.

(d) *Effects of past exclusion.* To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which § 15a.17 applies shall include in its transition plan, and shall implement, specific steps designed to encourage individuals of the previously excluded sex to apply for admission to such institution. Such steps shall include instituting recruitment programs which emphasize the institution's commitment to enrolling students of the sex previously excluded.

Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

§ 15a.21 Admission.

(a) *General.* No person shall, on the basis of sex, be denied admission, or be subjected to discrimination in admission, by any recipient to which this subpart applies, except as provided in §§ 15a.17 and 15a.18.

(b) *Specific prohibitions.* (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this Subpart applies shall not:

(i) Give preference to one person over another on the basis of sex, by ranking applicants separately on such basis, or otherwise,

(ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or

(iii) Otherwise treat one individual differently from another on the basis of sex.

(2) A recipient shall not administer or operate any test or other criterion for admission which has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or criterion is shown to predict validly success in the education program or activity in question and alternative tests or criteria which do not have such a disproportionately adverse effect are shown to be unavailable.

(c) *Prohibitions relating to marital or parental status.* In determining whether a person satifies any policy or criterion for admission, or in making any offer of admission, a recipient to which this subpart applies:

(1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant which treats persons differently on the basis of sex;

(2) Shall not discriminate against or exclude any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice which so discriminates or excludes;

(3) Shall treat disabilities related pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition; and

(4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs." A recipient may make pre-admission inquiry as to the sex of an applicant for admission, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

§ 15a.22 Preference in admission.

A recipient to which the subpart applies shall not give preference to applicants for admission, on the basis of attendance at any educational institution or other school or entity which admits as students only or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of this subpart.

§ 15a.23 Recruitment.

(a) *Nondiscriminatory recruitment.* A recipient to which this subpart applies shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action pursuant to § 15a.3(a), and may choose to undertake such efforts as affirmative action pursuant to § 15a.3(b).

(b) *Recruitment at certain institutions.* A recipient to which this subpart applies shall not recruit primarily or exclusively at education institutions, schools or entities which admit as students only or predominantly members of one sex, if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

Subpart D—Discrimination on the Basis of Sex in Education Programs and Activities Prohibited

§ 15a.31 Education programs and activities.

(a) *General.* Except as provided elsewhere in the part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives or benefits from Federal financial assistance. This subpart does not apply to actions of a recipient in connection with admission of its students to an education program or activity of (1) a recipient to which Subpart C does not apply, or (2) an entity, not a recipient, to which Subpart C would not apply if the entity were a recipient.

(b) Specific prohibitions, except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(5) Discriminate against any person in the application of any rules of appearance;

(6) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for instate fees and tuition;

(7) Aid of perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid benefit or service to students or employees;

(8) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(c) Assistance administered by a recipient educational institution to study at a foreign institution. A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, which are designed to provide opportunities to study abroad, and which are awarded to students who are already matriculating at or who are graduates of the recipient institution; *Provided*, a recipient educational institution which administers or assists in the administration of such scholarships, fellowship, or other awards which are restricted to members of one sex provides, or otherwise makes available reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

(d) Programs not operated by recipient. (1) This paragraph applies to any recipient which requires participation by any applicant, student, or employee in any education program or activity not operated wholly by such recipient, or which facilitates, permits, or considers such participation as part of or equivalent to an education program or activity operated by such recipient, including participation in education consortia and cooperative employment and student-teaching assignments.

(2) Such recipient;

(i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student or employee of such recipient which this part would prohibit such recipient from taking; and

(ii) Shall not facilitate, require, permit, or consider such participation if such action occurs.

§ 15a.32 Housing.

(a) *General.* A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

(b) *Housing provided by recipient.* (1) A recipient may provide separate housing on the basis of sex.

(2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole:

(i) Proportionate in quantity to the number of students of that sex applying for such housing; and

(ii) Comparable in quantity and cost to the student.

(c) *Other housing.* (1) A recipient shall not on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than provided by such recipient.

(2) A recipient which, through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take such reasonable action as may be necessary to assure itself that such housing as is provided to students of one sex, when compared to that provided to students of the other sex, is as a whole: (i) Proportionate in quantity and (ii) comparable in quality and cost to the student. A recipient may render such assistance to any agency, organization, or person which provides all or part of such housing to students only of one sex.

§ 15a.33 Comparable facilities.

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

§ 15a.34 Access to course offerings.

A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, industrial, business, vocational, technical, home economics, music and adult education courses.

(a) With respect to classes and activities in physical education at the elementary school level, the recipient shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. With respect to physical education classes and activities at the secondary and post-secondary levels, the recipient shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

(b) this section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

(c) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

(d) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards which do not have such effect.

(e) Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(f) Recipients may make requirements based on vocal range or quality which may result in a chorus or choruses of one or predominantly one sex.

§ 151a.35 Access to schools operated by L.E.A.'s.

A recipient which is a local educational agency shall not, on the basis of sex, exclude any person from admission to:

(a) Any institution of vocational education operated by such recipient; or

(b) Any other school or educational unit operated by such recipient, unless such recipient otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

§ 15a.36 Counseling and use of appraisal and counseling materials.

(a) *Counseling.* A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.

(b) Use of appraisal and counseling materials. A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproporationate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.

§ 15a.37 Financial assistance.

(a) *General.* Except as provided in paragraph (b), (c) and (d) of this section, in providing financial assistance to any of its students, a recipient shall not: (1) On the basis of sex, provide different amount of types of such assistance, limit eligibility for such assistance which is of any particular type or source, apply different criteria, or otherwise discriminate;

(2) Through solicitation, listing, approval, provision of facilities or other services, assist any foundation, trust, agency, organization, or person which provides assistance to any of such re-

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cipient's students in a manner which discriminates on the basis of sex; or

(3) Apply any rule or assist in application of any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other sex with regard to marital or parental status.

(b) *Financial aid established by certain legal instruments.* (1) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign will, trusts, bequests or similar legal insturments or by acts of a foreign government which require that awards be made to members of a particular sex specified therein; *Provided,* That the overall effect of the award of such sex-restricted scholarships, fellowships and other forms of financial assistance does not discriminate on the basis of sex.

(2) To ensure nondiscriminatory awards of assistance as required in subparagraph (b)(1) of this paragraph, recipients shall develop and use procedures under which:

(i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;

(ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under subparagraph (b)(2)(i) of this paragraph; and

(iii) No student is denied the award for which he or she was selected under subparagraph (b)(2)(i) of this paragraph because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.

(c) *Athletic scholarships.* (1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with this paragraph and § 15a.41 of this part.

§ 15a.38 Employment assistance to students.

(a) Assistance by recipient in making available outside employment. A recipient which assists any agency, organization or person in making employment available to any of its students:

(1) Shall assure itself that such employment is made available without discrimination on the basis of sex; and

(2) Shall not render such services to any agency, organization, or person which discriminates on the basis of sex in its employment practices.

(b) Employment of students by recipients. A recipient which employs any of its students shall not do so in a manner which violates Subpart E.

§ 15a.39 Health and insurance benefits and services.

In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex, or provide such benefit, service, policy, or plan in a manner which would violate Subpart E if it were provided to employees of the recipient. This section shall not prohibit a recipient from providing any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient which provides full coverage health service shall provide gynecological care.

§ 15a.40 Marital or parental status.

(a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.* (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A recipient which operates a portion of its education program or activity separately for pregnant student admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section shall ensure that the instructional program in the separate program is comparable to that offered to non-pregnant students.

(4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

§ 15a.41 Athletics.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by recipient, and no recipient shall provide any such athletics separately on such basis.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved in a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. for the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose of major activity of which involves bodily contact.

(c) *Equal opportunity.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Secretary will consider, among other factors:

(1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(2) The provision of equipment and supplies;

(3) Scheduling of games and practice time;

(4) Travel and per diem allowance;

(5) Opportunity to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Provision of locker rooms, practice and competitive facilities;

(8) Provision of medical and training facilities and services;

(9) Provision of housing and dining facilities and services;

(10) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Secretary may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the elementary school level shall comply fully with the section as expeditiously as possible but in no event later than one year from the effective date of this regulation. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the secondary or post-secondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

§ 15a.42 Textbooks and curricular material.

Nothing in this regulation shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited

§ 15a.51 Employment.

(a) *General.* (1) No person shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any education program or activity operated by a recipient which receives or benefits from Federal financial assistance.

(2) A recipient shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex.

(3) A recipient shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by this subpart, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient.

(4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity which admits as students only or predominantly members of one sex, if the giving of such preferences has the effect of discriminating on the basis of sex in violation of this part.

(b) *Application.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation, and changes in compensation;

(4) Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;

(5) The terms of any collective bargaining agreement;

(6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

(7) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(8) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;

(9) Employer-sponsored activities, including social or recreational programs; and

(10) Any other term, condition, or privilege of employment.

§ 15a.52 Employment criteria.

A recipient shall not administer or operate any test or other criterion for any employment opportunity which has a disproportionately adverse effect on persons on the basis of sex unless:

(a) Use of such test or other criterion is shown to predict validly successful performance in the position in question; and

(b) Alternative tests or criteria for such purpose, which do not have such disproportionately adverse effect, are shown to be unavailable.

§ 15a.53 Recruitment.

(a) *Nondiscriminatory recruitment and hiring.* A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have in the past so discriminated, the recipient shall recruit members of the sex present discrimination.

(b) *Recruitment patterns.* A recipient shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

§ 15a.54 Compensation.

A recipient shall not make or enforce any policy or practice which, on the basis of sex:

(a) Makes distinctions in rates of pay or other compensation:

(b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

§ 15a.55 Job classification and structure.

A recipient shall not:

(a) Classify a job as being for males or for females:

(b) Maintain or establish separate lines of progression seniority lists, career ladders, or tenure systems based on sex; or

(c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements which classify persons on the basis of sex, unless sex is a bond-fide occupational qualification for the positions in question as set forth in § 15a.61.

§ 15a.56 Fringe benefits.

(a) *"Fringe benefits" defined.* For purposes of this part, "fringe benefits" means: any medical, hospital, accident, life insurance or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave and any other benefit or service of employment not subject to the provisions of § 15a.54.

(b) *Prohibitions.* A recipient shall not:

(1) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee's sex;

(2) Administer, operate, offer, or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex or for equal contributions to

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the plan by such recipient for members of each sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates in benefits on the basis of sex.

§ 15a. 57 Marital or parental status.

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concerning the potential marital, parental, or family status of an employee or applicant for employment which treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(c) *Pregnancy as a temporary disability.* A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting thereform as any other temporary disability for all job related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offer to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

§ 15a. 58 Effect of State or local law or other requirements.

(a) *Prohibitory requirements.* The obligation to comply with this subpart is not obviated or alleviated by the exist- ence of any State or local law or other requirement which imposes prohibitions or limits upon employment of members of one sex which are not imposed upon members of the other sex.

(b) *Benefits.* A recipient which provides any compensation service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

§ 15a.59 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona-fide occupational qualification for the particular job in question.

§ 15a.60 Pre-employment inquiries.

(a) *Martial status.* A recipient shall not make pre-employment inquiry as to the martial status of an applicant for employment, including whether such applicant is "Miss or Mrs."

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

§ 15a.61 Sex as a bona-fide occupational qualification.

A recipient may take action otherwise prohibited by this subpart provided it is shown that sex is a bona-fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section which is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

Subpart F—Procedures (Interim)

§ 15a.71 Interim procedures.

For the purposes of implementing this part during the period between its effective date and the final issuance by the Department of a consolidated procedural regulation applicable to title IX and other civil rights authorities administered by the Department, the procedural provisions applicable to title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 7 CFR 15.5-15.11 and 7 CFR 15.60 et seq.

[FR Doc. 78-12766 Filed 5-9-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 31, and 32]

COMBINED ANNUAL WAGE REPORTING

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the Income Tax Regulations, Employment Tax Regulations, and Temporary Employment Tax Regulations Under The Tax Reform Act of 1969 necessary to implement Combined Annual Wage Reporting (CAWR). The proposed amendments would provide the public with guidance in making annual information returns under CAWR.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 7, 1978. The amendments are proposed to be effective after December 31, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

James E. Maule of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T 202-566-3350.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains amendments to the Income Tax Regulations (26 CFR Part 1), Employment Tax Regulations (26 CFR Part 31), and Temporary Employment Tax Regulations Under The Tax Reform Act of 1969 (26 CFR Part 32). The CAWR system, implemented by the proposed regulation amendments, was authorized by section 8 of Pub. L. 94-202 (89 Stat. 1137). Under CAWR, employers will no longer be required to specify the employment tax data with respect to each employee on Schedule A to Forms 941 and 943. This eliminates the quarterly reporting of such data previously required of most employers. Instead, they will set forth necessary data on Form W-2, which is to be filed with the Social Security Administration (SSA). Pertinent information will be transferred by SSA to the Service after processing.

Changes to the regulations authorize SSA's collection of Form W-2 (and Form W-2P), require additional information to be reported on the forms, remove references to Schedule A of Forms 941 and 943 and remove the limited option of life insurance companies to file Form 1099 rather than Form W-2 for certain salesmen. The insurance company option was the sole exception to furnishing FICA information on Form W-2 and under the electronic processing procedures of SSA its continuation would reduce the efficiency of CAWR and unnecessarily add to the cost of the system. Newly revised Form W-2 will have an appropriate entry indicating that the reported FICA information relates to a FICA statutory employee and not a common law employee subject to income tax withholding. This will avoid confusion as to the status of the salesmen concerned and other similarly situated persons. In addition, certain administrative functions relating to Form W-2 have been shifted to SSA, such as granting extensions of time for filing the form and using magnetic tape in place of paper forms.

It should be noted that CAWR's implementation in possessions of the United States is being deferred until certain administrative details are worked out. Meanwhile, the instructions to the forms will make it clear (under the authority of § 31.6011(a)-9) that existing reporting requirements continue to apply in these jurisdictions.

These amendments are issued under the authority contained in sections 6051 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 747, 26 U.S.C. 6051; 68A Stat. 917, 26 U.S.C. 7805).

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting the proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Parts 1, 31, and 32 are as follows:

INCOME TAX REGULATIONS (26 CFR Part 1)

§ 1.6041-1 [Amended]

PARAGRAPH 1. Section 1.6041-1(a)(2) is amended by deleting the second sentence.

§ 1.601-2 [Amended]

PAR. 2. Section 1.6041-2(a) is amended as follows:

1. Subparagraph (2) is deleted and subparagraphs (3), (4), and (5) are redesignated as subparagraphs (2), (3), and (4), respectively.

2. Subparagraph (1) ia amended by deleting the third sentence and inserting in lieu thereof the following: "All other payments of compensation, including the cash value of payments made in any medium other than cash, to an employee by his employer in the course of the trade or business of the employer must also be reported on Form W-2 if the total of such payments and the amount of the employee's wages (as defined in section 3401), if any, required to be reported on Form W-2 aggregates $600 or more in a calendar year."

§ 1.9101-1 [Amended]

PAR. 3. Section 1.9101-1 is amended by deleting the words "Form 1087, 1099, or W-2" and inserting in lieu thereof "Form 1087 or 1099"; and by deleting the last sentence and inserting in lieu thereof the following: "In any case where the use of Form W-2 is required for the purpose of making a return or reporting information, such requirement may be satisfied by submitting the information required by such form on magnetic tape or other approved media: *Provided*, That the prior consent of the Commissioner of Social Security (or other authorized officer or employee thereof) has been obtained."

EMPLOYMENT TAX REGULATIONS (26 CFR Part 31)

§ 31.6011(a)-4 [Amended]

PAR. 4. Section 31.6011(a)-4 is amended by deleting paragraph (b) and redesignating paragraph (c) as paragraph (b).

PAR. 5. Section 31.6011(a)-5(b)(2) is amended to read as follows:

§ 31.6011(a)-5 Monthly returns.

• • • • • •

(b) *Information returns.* • • •

(2) *Information returns on Form W-3 and Social Security Administration copies of Form W-2.* See § 31.6051-2 for requirements with respect to information returns on Form W-3 and Social Security Administration copies of Form W-2.

• • • • • •

PAR. 6. Section 31.6011(a)-7(b)(2) is amended to read as follows:

§ 31.6011(a)-7 Execution of returns.

• • • • • •

(b) *Use of prescribed forms.* • • •

(2) *Permission for use of magnetic tape.* In any case where the use of Form W-2 is required for the purpose of making a return or reporting information, such requirement may be satisfied by submitting the information required by such form on magnetic tape or other approved media: *Provided*, That the prior consent of the Commissioner of Social Security (or other authorized officer or employee thereof) has been obtained.

• • • • • •

PAR. 7. Section 31.6051-1 is amended as follows:

1. Paragraph (a)(1)(i) is amended by deleting the word "and" in inferior subdivision (*e*); deleting the period at the end of inferior subdivision (*f*) and inserting in lieu thereof ", and"; and adding, immediately after inferior subdivision (*f*), new inferior subdivision (*g*) to read as set forth below.

2. Paragraph (b)(1) is amended by deleting the word "and" in subdivision (iii); deleting the period at the end of subdivision (iv) and inserting in lieu thereof ", and"; and adding, immediately after subdivision (iv), new subdivision (v) to read as set forth below.

§ 31.6051 Statements for employees.

(a) *Requirement if wages are subject to withholding of income tax*—(1) *General rule.* (i) • • •

(*g*) Such information relating to coverage the employee has earned under the Federal Insurance Contributions Act as may be required by Form W-2 or its instructions.

• • • • • •

(b) *Requirement if wages are not subject to withholding of income tax*—(1) *General rule.* • • •

(v) Such information relating to coverage the employee has earned under the Federal Insurance Contributions Act as may be required by Form W-2 or its instructions.

• • • • • •

PAR. 8. Section 31.6051-2 (a) and (b) are amended to read as follows:

§ 31.6051-2 Information returns on Form W-3 and Social Security Administration copies of Forms W-2.

(a) *In general.* Every employer who is required to make a return of tax under § 31.6011(a)-1 (relating to returns under the Federal Insurance Contributions Act), § 31.6011(a)-4 (relating to returns of income tax withheld from wages), or § 31.6011(a)-5 (relating to monthly returns) for a calendar year or any period therein shall file the Social Security Administration copy of each Form W-2 required under § 31.6051-1 to be furnished by the employer with respect to wages paid during the calendar year. Each Form W-2 and the transmittal Form W-3 shall together constitute an information return to be filed with the

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Social Security Administration office indicated on the instructions to such forms. However, in the case of an employer who elects to file a composite return pursuant to § 31.6011(a)-8, the information return required by this section shall consist of magnetic tape (or other approved media) containing all information required to be on the employee statement, together with transmittal Form 4804.

(b) *Corrected returns.* The Social Security Administration copies of corrected Forms W-2 (or magnetic tape or other approved media) for employees for the calendar year shall be submitted with Form W-3 (or Form 4804), on or before the date on which information returns for the period in which the correction is made would be due under paragraph (a)(3)(ii) of § 31.6071(a)-1, to the Social Security Administration office with which Forms W-2 are required to be filed.

* * * * *

§ 31.6081(a)-1 [Amended]

PAR. 9. Section 31.6081(a)-1(a)(3) is amended as follows:

1. By deleting "district director or director of a service center" and inserting in lieu thereof "director of a Social Security Administration data operations center (or other authorized officer or employee thereof)".

2. By deleting "internal revenue office" both times it appears and inserting in lieu thereof "Social Security Administration office".

PAR. 10. Section 31.6091-1(d) is amended to read as follows:

§ 31.6091-1 Place for filing returns.

* * * * *

(d) *Returns filed with internal revenue service centers or Social Security Administration offices.* Notwithstanding paragraphs (a), (b), and (c) of this section, whenever instructions applicable to such returns provide that the returns shall be filed with an internal revenue service center or an office of the Social Security Administration, such returns shall be filed in accordance with such instructions.

* * * * *

TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969 (26 CFR PART 32)

§ 32.1 [Amended]

PAR. 11. Section 32.1(f)(1) is amended by deleting the first sentence and inserting in lieu thereof the following: "Form W-2P is to be used in lieu of Form W-2, which is required to be furnished by an employer to an employee under § 31.6051-2 of this chapter and to the Social Security Administration under paragraph (a) of § 31.6051-2 of this chapter, with respect to an annuity subject to withholding under this section."

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-12761 Filed 5-9-78 8:45 am]

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 223]

NATIONAL FOREST TIMBER SALES

Contract Conditions

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would revise requirements for payment guarantees furnished in lieu of advance cash payments on National Forest timber sales. At present only corporate surety bonds and negotiable securities of the United States are accepted as payment guarantees. If adopted, it is anticipated that irrevocable letters of credit, issued by Federally insured banks, would also be accepted as payment guarantees.

DATES: Comments must be received by June 9, 1978.

ADDRESSES: Submit comments to: Chief John R. McGuire, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013. All written submissions made pursuant to this notice will be available for public inspection in the offices of the Timber Management, Staff, South Agriculture Building, Room 3207, Washington, D.C., during regular business hours.

FOR FURTHER INFORMATION CONTACT:

George M. Leonard, Timber Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

It is proposed to revise 36 CFR 223.3(e) to read as follows:

§ 223.3 Contract conditions.

* * * * *

(e) Sale contracts shall provide that timber and forest products be paid for in advance of cutting, unless the contract authorizes the purchaser to furnish a payment guarantee satisfactory to the Forest Service. Advance payments found to be in excess of amounts due the United States shall be refunded to the original depositors, their local representatives, or to successors in interest.

(90 Stat. 2959; 16 U.S.C. 472a.)

DAVID G. UNGER,
Acting Assistant Secretary for Acting Conservation, Research, and Education.

MAY 5, 1978.

[FR Doc. 78-12723 Filed 5-9-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 892-6]

STATE AND FEDERAL ADMINISTRATIVE ENFORCEMENT OF IMPLEMENTATION PLAN REQUIREMENTS AFTER STATUTORY DEADLINES

Proposed Disapproval of an Administrative Order Issued by the Illinois Pollution Control Board to Central Illinois Public Service Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to disapprove an administative order issued by the Illinois Pollution Control Board to Central Illinois Public Service Co. requiring final compliance with the applicable requirements of the federally approved Illinois State Implementation Plan (SIP) by November 3, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act. Disapproval of the order is proposed because it does not meet certain requirements of the Clean Air Act. If approved by EPA, the order would constitute an addition to the SIP and would alter the rights of persons to bring judicial actions against the source for violations of the SIP. The purpose of this notice is to invite public comment on EPA's proposed disapproval of the order as a delayed compliance order.

DATES: Written comments must be received on or before June 9, 1978.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn, Chicago, Ill. 60604. The Illinois Order, supporting materials, and public comments received in response to this Notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Bertram C. Frey, Legal Section Enforcement Division, U.S. EPA, Region V, 230 South Dearborn, Chicago, Ill. 60604, telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: Central Illinois Public Service Company commenced operation of Newton Unit 1, Newton, Ill. (Jasper County), on September 10, 1977, without an operational sulfur dioxide removal system. The double alkali flue gas desulfurization control system for Newton Unit 1 is scheduled for completion by November 1979. Calculated sulfur dioxide emissions, assuming Newton Unit 1 is burning coal with a heating value of 11,500 Btu per pound and a sulfur content of 2.8 percent, are 4.6 pounds per million Btu. Both Federal New Source Performance Standards (NSPS) and Rule 204(a)(1) of Illinois Air Pollution Regulations, which forms a part of the Illinois State Implementation Plan (SIP), require that the source meet a 1.2 pounds per million Btu sulfur dioxide emission standard. On August 4, 1977, the U.S. EPA, Region V, issued a Notice of Violation based on anticipated violations, upon start-up then scheduled for December 1977, of the Illinois SIP and Federal NSPS. A conference to discuss these violations with the Company was held in Chicago on August 24, 1977.

On September 1, 1977, the Illinois Pollution Control Board issued an Administrative Opinion and Order in *Central Illinois Public Service Company* v. *Environmental Protection Agency*, PCB No. 77145, granting a variance that provides for final compliance with the applicable requirements of the Illinois State Implementation Plan by November 3, 1979. This date is later than allowed by section 113(d)(1)(D) of the Clean Air Act as amended (42 U.S.C. section 7413(d)(1)(D)) (hereinafter "Act"). The Order also fails to notify Central Illinois Public Service Co., Newton Unit 1, a major source (550 megawatts) under construction in Newton, Ill., that it would be required to pay a noncompliance penalty under Section 120 of the Act (42 U.S.C. section 7420) in the event that the source fails to achieve final compliance by July 1, 1979. This failure constitutes a violation of section 113(d)(1)(E) of the Act. Moreover, the Order fails to require compliance with applicable interim requirements as provided by paragraphs (6) and (7) of section 113(d) and contains no requirement for emission monitoring and reporting by the source of the Act (42 U.S.C. sections 7410(a)(2)(F), 7414(a)(1)). This third deficiency in the Order is violative of section 113(d)(1)(C) of the Act.

Because the Order has been issued to a major source of sulfur dioxide emissions and permits a delay in compliance with the applicable Illinois regulation, it must be approved by U.S. EPA before it becomes effective as a delayed compliance order under section 113(d) of the Act. U.S. EPA must disapprove the Order if it does not satisfy the requirements of this subsection. Because of the reasons mentioned above U.S. EPA is proposing to disapprove the Order. If the Order is approved by EPA, compliance with its terms would preclude federal enforcement action under section 113 of the Act against the source for violation of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved the order would also constitute an addition to the Illinois State Implementation Plan for the purposes of sections 110 ("Implementation Plans"), 304 ("Citizen Suits"), and 307 ("General Provisions Relating to Administrative Proceedings and Judicial Review") of the Act.

The purpose of this notice is to invite public comment on EPA's proposed disapproval of this Order as a delayed compliance order. After the public comment period, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65. The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, or disapproval of an order under section 113(d) of the Act. In addition, Part 65 will contain sections summarizing orders issued, approved, or disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

Dated: April 14, 1978.

GEORGE R. ALEXANDER, Jr.
Regional Administrator, Region V.

[FR Doc. 78-12634 Filed 5-9-78; 8:45 am]

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[40 CFR Part 65]

[FRL 893-1]

STATE AND FEDERAL ADMINISTRATIVE ENFORCEMENT OF IMPLEMENTATION PLAN REQUIREMENTS AFTER STATUTORY DEADLINES

Notice of Proposed Approval of a Delayed Compliance Order Issued by the State of Connecticut Department of Environmental Protection to the Turner & Seymour Manufacturing Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an Administrative Order issued by the Connecticut Department of Environmental Protection to the Turner & Seymour Manufacturing Co. The order requires the company to bring air emissions from its grey iron cupola at Torrington, Conn., into compliance with certain provisions of the federally approved Connecticut State Implementation Plan (SIP) by August 15, 1978. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act. If approved by EPA, the order will constitute an addition to the SIP and will alter the rights of persons to bring judicial actions against the source for violations of the SIP. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before June 9, 1978.

ADDRESS: Comments should be submitted in writing to: William R. Adams, Jr., Regional Administrator, U.S. Environmental Protection Agency, Region I Office, JFK Federal Building, Boston, Mass. 02203. The State order, material supporting the order, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Sam Silverman, Attorney, Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region I Office, JFK Federal Building, Boston, Mass. 02203, 617-223-5800.

SUPPLEMENTARY INFORMATION: Turner & Seymour Manufacturing Co. operates a grey iron foundry at Torrington, Conn. The order under consideration addresses emissions from the grey iron cupola operated at the facility, which is subject to section 19-508-18 of the regulations for the abatement of air pollution. The regulation limits the emissions of particulate matter, and is part of the federally approved State Implementation Plan. The order requires final compliance with the regulation by August 15, 1978, through installation of appropriate equipment and control apparatus. Turner & Seymour has already issued purchase orders for the necessary control equipment and will begin installation this spring.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compli-

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ance order under section 113(d) of the Act.

The purpose of this notice is to invite public comment on EPA's proposed approval of this order as a DCO. If approved, the order would constitute an addition to the Connecticut State Implementation Plan for the purposes of sections 110 ("Implementation Plans"), 304 ("Citizen Suits"), and 307 ("General Provisions Relating to Administrative Proceedings and Judicial Review") of the Act. After the public comment period, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR part 65. The provisions of 40 CFR part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, or disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections listing or including orders issued, approved, or disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations. EPA may approve the order only if its satisfies the appropriate requirements of this subsection. The necessary elements of subsection 113(d) have been met: The order contains a schedule and timetable for compliance; the order requires compliance with the best practicable system of interim emission reduction and requires emission monitoring and reporting by the source; the order provides for final compliance with the Connecticut Implementation Plan as expeditiously as practicable and prior to July 1, 1979; the order notifies the source that it will be required to pay a noncompliance penalty in the event it fails to achieve final compliance by July 1, 1979; and the order will be issued only after notice to the public and opportunity for public hearing.

If the order is approved by EPA, compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violation of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded.

All interested persons are invited to submit written comment on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. Final approval or disapproval will also be published in the FEDERAL REGISTER.

Dated: April 12, 1978.

WILLIAM R. ADAMS, Jr.
Regional Administrator,
Region I.

[FR Doc. 78-12635 Filed 5-9-78; 8:45 am]

[6560-01]

[40 CFR Part 233]

[FRL 892-7]

MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR DISCHARGES INTO MARINE WATERS

Hearings on Proposed Regulations

AGENCY: United States Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency will hold two public hearings on June 2 and June 8, 1978, in Washington, D.C. and Seattle, Wash., respectively, to receive public comment on its April 25, 1978 proposed regulations implementing Section 301(h) of the Clean Water Act ("Modification of Secondary Treatment Requirements for Discharges into Marine Waters").

DATES: Hearing dates: June 2, 1978 and June 8, 1978.

ADDRESSES: The dates and locations of the two hearings are: June 2, 1978: EPA Headquarters, Rooms 3906 and 3908, 401 M Street SW., Washington, D.C. 20460; June 8, 1978: EPA Region X, 12th Floor Conference Room, 1200 Sixth Avenue, Seattle, Wash. 98101.

Registration for both hearings will commence at 9 a.m. and the hearings will begin at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT:

Rebecca J. Sorrells, Office of General Counsel (A-131), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0686, or 755-0753 (Washington, D.C. or Seattle hearing), or Robert Burd, Director, Water Division, EPA Region X, 1200 Sixth Avenue, Seattle, Wash. 98101, 206-443-1237 (Seattle hearing only).

SUPPLEMENTARY INFORMATION: Section 301 (h) of the Clean Water Act, 33 U.S.C. 1311(h)("Act"), which was added to the Act by amendments adopted by Congress in 1977, authorizes EPA to modify the requirements of secondary treatment (i.e., EPA effluent limitations for biochemical oxygen demand, suspended solids, and pH) for publicly owned treatment works ("POTWs") which discharge into certain ocean and estuarine waters where the POTW can demonstrate, by showing compliance with eight statutory criteria, that its modified discharge will not result in any increase in the discharge of toxics or otherwise impair the integrity of receiving waters.

On February 22, 1978, EPA held a public hearing in San Francisco, Calif. to receive suggestions as to how it should interpret the statutory criteria of Section 301(h) in regulations implementing that section. The purpose of the hearings announced today is to obtain public comment on proposed Section 301(h) regulations which were published by EPA on April 25, 1978 (43 FR 17484). The Agency has outlined in Appendix A to this notice the issues raised by the proposed regulations on which it is particularly interested in receiving comment; most of these issues were highlighted in the preamble to the proposed regulations and are reprinted here simply for the convenience of hearing participants. In addition, EPA invites statements on any other aspect of the proposed regulations—technical, legal, or otherwise—as well as the Agency's general regulatory approach to Section 301(h) which hearing participants desire to address. Participants are reminded, however that these hearings are not intended to serve as a forum for individual communities to present information concerning their particular application for a modified permit, except insofar as such information bears directly on the proposed regulations or the Agency's interpretation of Section 301(h), and should structure their statements accordingly.

Because of the Complex nature of both the proposed Section 301(h) regulations and the issues under consideration, and in order to insure a meaningful dialogue at these hearings, EPA requests that, if possible:

(1) If hearing participants are submitting written comments on the proposed regulations, they submit these comments to EPA before May 26, 1978, so that they can be reviewed by EPA staff and the hearing panel prior to the hearing;

(2) Participants submit a copy of their written hearing statement prior to the date of the hearing at which they desire to participate;

(3) Participants bring with them to the hearing any technical or other staff who assisted them in the preparation of statements to respond to questions which may be posed by the hearing panel; and

(4) Criticism of the regulations be accompanied by specific constructive suggestions as to how the regulations should be modified, considering any technical, legal, practical or other constraints.

Comments received at the June 1 and June 8, 1978 hearings will be considered in developing final Section 301(h) regulations, now scheduled for promulgation in early July, 1978.

Dated: May 3, 1978.

THOMAS C. JORLING,
Assistant Administrator for
Water and Hazardous Materials.

APPENDIX A

ISSUES FOR PUBLIC COMMENT AT JUNE 2 AND JUNE 8, 1978 HEARING ON SECTION 301(h) REGULATIONS

(1) Should small dischargers or dischargers which have no known or suspected sources of toxic pollutants be treated differently than large dischargers with significant industrial and nonindustrial sources of toxic substances in terms of either the extent or nature of the information which they are required to submit to EPA to obtain a modified permit under Section 301(h)? If so, how should the categories be defined and what information should be required for permit modification from small dischargers or dischargers of domestic wastes?

(2) Under the proposed regulations, many small villages in the Pacific Trust Territories, Puerto Rico and Alaska would not be eligible for a modified permit due to their lack of existing collection and treatment systems. Does Section 301(h) authorize EPA to develop special regulatory criteria for these communities?

(3) In light of the plain language of the statute and its legislative history, can Section 301(h) be construed to allow EPA to issue a modified NPDES permit based on modifications which will be made in an applicant's discharge after September 24, 1978?

(A) If so, what type of modification should be permitted? Upgrading of treatment? Relocation of the outfall? Modifications in the diffuser system? Should EPA be required to consider applications from POTWs which now discharge into inland waters but are considering constructing, or now have under construction, an ocean or estuarine outfall?

(B) How can EPA make an accurate predictive judgment as to whether a non-existent discharge will meet the stringent water quality, biological, chemical and physical criteria contained in Subpart B of the proposed regulations? What additional information should the applicant provide EPA if its application is based on a non-existent discharge? Should such an applicant bear a heavier burden of proof than one who seeks a modified permit based on an existing discharge?

(C) It has been suggested that in making the physical, chemical and biological assessments required under § 233.14 of the proposed regulations, as well as assuring that the discharge will comply with State water quality standards under § 233.22(b), consideration should be given to the effect of Federal pretreatment and nonindustrial source control programs which are scheduled to be operative at some time in the future. How can an accurate predictive judgment be made concerning the effect of such programs on the chemical composition or the environmental impact of the applicant's discharge when (a) Federal pretreatment standards for most industries will not be promulgated for several years; (b) the complete list of toxic pollutants to be regulated by such standards has not yet been determined; (c) the pretreatment standards promulgated will assume at least secondary treatment by the POTW; and (d) nonindustrial source control programs will not be in place until some time in the future?

(D) When should EPA require that any necessary modifications to the applicant's discharge be completed?

(E) What action should be taken by EPA if the modifications are not completed on time, if the actual impact of the modified discharge is more severe than that predicted by the applicant, if pretreatment programs are not in place on the date specified, or if upgraded treatment does not provide the degree of pollutant reduction anticipated? Specifically, should the modified permit be revoked and the permittee be required to go forward with secondary treatment?

(4) How should increased volumes of wastewater and pollutant loadings be dealt with under § 233.20 of the proposed regulations in light of the restrictions on volume and emission increases imposed under Section 301(h)(7) of the Act and Congress's directive that Section 301(h) not be utilized to relax the Act's overall objective of achieving recycle/reuse of water and confined disposal of pollutants?

[FR Doc. 78-12652 Filed 5-9-78; 8:45 am]

[6560-01]

[40 CFR Part 233]

[FRL 893-8]

MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR DISCHARGES INTO MARINE WATERS

Proposed Criteria and Procedures; Correction

AGENCY: United States Environmental Protection Agency ("EPA").

ACTION: Correction.

SUMMARY: EPA issues a correction document for a proposed rule published on April 25, 1978, at 43 FR 17484; because of a number of typographical errors which affect the substantive content of the regulations proposed.

FOR FURTHER INFORMATION CONTACT:

Thomas P. O'Farrell, 202-426-8976.

F.R. Doc. 78-11140, published on April 25, 1978 (43 FR 17484-17508) contained a number of typographical errors which affect the substantive content of the regulations proposed in that document. Those errors should be corrected as follows:

Page	Error	Change to read
Page 17486, column 3, lines 59-60	"February 22, 1977"	"February 22, 1978".
Page 17488, column 2, line 15	"pollution"	"pollutant".
Page 17491, column 1, lines 21-22	"Attachment F, Section 2".	"Attachment F, Section 1".
Page 17491, column 3, lines 13-14	"in the modified permit, because".	"in the modified permit. Because".
Page 17493, § 233.1(h), line 9	"nearly"	"nearby".
Page 17494, § 233.11(a)(2):		
line 9	"(I)"	"(A)".
line 13	"(ii)"	"(B)".
line 16	"(iv)"	"(I)".
Page 17495, § 233.14(d)(2)(ii)(D), line 3	"b or intertidal"	"sub- or intertidal".
Page 17497, § 233.18(c)(3), line 3	"action"	"section".
Page 17500, § 233.35(c)(5), line 2	"§ 233.16"	"§ 233.36".
Page 17506, column 3, line 42	"ATTACHMENT F, SECTION 2".	"ATTACHMENT F, SECTION 1".
Page 17507, column 2:		
lines 57-58	"sections 403.8(b) (1) and (2)".	"sections 403.8(c)(1) and (2)".
lines 64-65	"sections 403.8(1) and (2)".	"sections 403.8(c)(1) and (2)".

Dated: May 3, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc. 78-12653 Filed 5-9-78; 8:45 am]

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[6730]

FEDERAL MARITIME COMMISSION

[46 CFR Part 512]

[Docket No. 78-5]

CAPITALIZATION OF INTEREST DURING CONSTRUCTION

Notice of Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of time to file comments.

SUMMARY: Upon request of an interested party, and good cause appearing, time within which comments may be filed to the notice of proposed rulemaking in this proceeding relating to capitalization of interest during construction (43 FR 12345; March 24, 1978) is extended.

DATES: Comments on or before May 15, 1978. Hearing Counsel's reply shall be filed on or before June 5, 1978. Answers to Hearing Counsel shall be filed on or before June 23, 1978.

ADDRESS: Comments to: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573 202-523-5725.

SUPPLEMENTARY INFORMATION: None.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12636 Filed 5-9-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 81]

[SS Docket No. 78-145; FCC 78-292]

PUBLIC COAST STATIONS

Proposal Requiring Applicants To Meet Certain Financial Qualifications

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: This document proposes an amendment to require applicants for public coast stations to meet certain financial qualifications. In the past, the Commission has required applicants to demonstrate their financial qualifications. This proposal would incorporate the standard used into the rules.

DATES: Comments must be received on or before June 12, 1978, and reply comments must be received on or before June 22, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John C. K. Hays, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: April 26, 1978.

Released: May 9, 1978.

In the matter of amendment of part 81 of the Commission's rules to require applicants for public coast stations to meet certain financial qualifications, SS Docket No. 78-145.

1. Notice of proposed rulemaking is hereby given in the above-entitled matter.

2. The Commission is proposing to amend its rules to require an applicant for a new public coast station to demonstrate his financial ability to construct the station, and to operate the station for 1 year. The financial ability to construct a station and to operate it for a reasonable period of time without expected normal revenues is an important factor to be decided in granting a station license. In comparative hearings to determine which mutually exclusive application should be granted, it is considered a basic factor, not a comparative one, and all applicants must qualify. Whether one applicant has more money than another applicant is not a deciding factor in granting the station license.

3. The standard being proposed in this rulemaking has been applied to past applicants for public coast stations to determine their financial qualifications and, in effect, has become Commission policy. This rulemaking would incorporate this standard into the rules.

4. In addition, the rulemaking would require applicants to submit certain information with their applications to enable the Commission to properly evaluate their financial ability to meet the standard. The information required would be similar to that presently submitted under § 21.17 of the Commission's rules by applicants for stations in the domestic public land mobile radio service, but modified to reflect the Commission's experience in granting public coast station licenses. As under § 21.17, large carriers, most of which are closely regulated telephone or telegraph companies, would be exempt from these information requirements if they can demonstrate that: (1) They produce annual revenues in excess of $1,000,000; (2) they file annual (or monthly) reports under part 43; and (3) they maintain a good credit rating. This will relieve the administrative burden of filing reports with each station application where the station would require a relatively small investment compared to the overall financial resources of the carrier.

5. The proposed amendments to the rules as set forth below are issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in section 1.415 of the Commission's rules, interested persons may file comments on or before June 12, 1978, and reply comments on or before June 22, 1978. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of section 1.419 of the Commission's rules, an original and five copies of all statements, briefs, or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS.

1. In subpart B, applications, a new § 81.50 is added to read as follows:

§ 81.50 Financial qualifications for public coast stations.

(a) Each application for a new public coast station shall demonstrate the applicant's financial ability to meet the realistic and prudent:

(1) Estimated costs of proposed construction and other initial expenses necessary to place the station in operation, and

(2) Estimated operating expenses for one year after commencement of operations.

(b) Each application shall demonstrate the applicant's financial ability under paragraph (a) of this section by indicating:

(1) A statement of proposed construction and other initial expenses.

(2) A statement of projected revenues and expenses for the first year of operation.

(3) A balance sheet as of and an annual income statement ending on the last day of the most recent quarter before the application is filed.

(4) The details of any loan or other form of credit arrangement intended to be utilized to finance the proposed construction, acquisition, or operation of the station including the identity of the creditor (or creditors), letters of commitment, and terms of the transaction.

(5) The details of any sale or placement of any equity or other form of ownership interest intended to be utilized to finance the proposed construction, acquisition or operation of the station.

(6) Any other information requested by the Commission and necessary to determine the financial ability of the applicant.

(c) An applicant need not submit the financial information required by paragraphs (b) (3), (4), and (5) of this section if the requirements concerning applicant's financial ability set forth in paragraph (a) of this section can be satisfied by an exhibit demonstrating that the applicant:

(1) Produced operating revenues of $1 million or more for the previous operating year,

(2) Files annual (or monthly) reports under part 43 of this chapter, and

(3) Maintains as of the date of the application a credit rating equivalent to, or better than, either a Standard & Poor's rating of "BBB" or a Moody's bond rating of "Baa".

[FR Doc. 78-12660 Filed 5-9-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 285]

ATLANTIC TUNA FISHERIES

Bluefin Tuna; extension of Comment Period

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of extension of comment period on proposed rulemaking.

SUMMARY: The National Marine Fisheries Service is extending the comment period on proposed amendments to regulations on fishing for Atlantic bluefin tuna (43 FR 10592, March 14, 1978) until May 19, 1978. These proposed regulations modify Atlantic tuna fisheries requirements on annual catch quotas, seasons, reporting requirements, and inspection requirements for United States vessels. These regulations are intended to implement the recommendations of the International Convention for the Conservation of Atlantic Tunas (ICCAT).

DATES: Written comments may be submitted on or before May 19, 1978. No additional public hearings have been scheduled.

ADDRESS: Written comments may be submitted to the Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930.

FOR FURTHER INFORMATION AND INSPECTION OF COMMENTS RECEIVED CONTACT:

Mr. William Gordon, Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION:

In view of the public interest expressed in these proposed regulations as reflected by the large number of comments received, the National Marine Fisheries Service (NMFS) has decided to extend the comment period to assure that any interested party will have ample opportunity to comment on the proposed regulations and to respond to comments received by NMFS. Among the comments included in the public file are those received at the April 26, 1978 open meeting of the advisory Committee to the U.S. Section, International Commission for the Conservation of Atlantic Tunas, 43 FR 15510, April 13, 1978.

Signed this 4th day of May, 1978, at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-12730 Filed 5-9-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FLUE-CURED TOBACCO ADVISORY COMMITTEE

Notice of Meeting

The Flue-Cured Tobacco Advisory Committee will meet in the Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, laboratory, Room 223 Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, N.C. 27605, at 1 p.m., on Thursday, May 25, 1978.

The purpose of the meeting is to advise and counsel the Secretary of Agriculture regarding an equitable apportionment of the available tobacco inspectors amongst the markets he has designated pursuant to the Tobacco Inspection Act, 7 U.S.C. 511-511q.

Matters to be discussed include the estimated quantity of tobacco ready for market in each marketing area and other matters as specified in 7 CFR, Part 29, Subpart G, § 29.9404. In addition, organization structures will be discussed to seek overall committee effectiveness and officers will be elected.

The meeting is open to the public but space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting should contact Mr. Leonard J. Ford, Acting Director, Tobacco Division, Agricultural Marketing Service, 300—12th Street SW., United States Department of Agriculture, Washington, D.C. 20250, 202-447-7235.

Dated: May 5, 1978.

WILLIAM T. MANLEY,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 78-12744 Filed 5-9-78; 8:45 am]

[3410-11]

Forest Service

PRAIRIE DOG MANAGEMENT PLAN FOR LANDS ADMINISTERED BY THE SUPERVISOR OF THE NEBRASKA NATIONAL FOREST

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Prairie Dog management plan for lands administered by the Supervisor of the Nebraska National Forest. The Forest Service report number is USDA-FS-R2-FES(Adm) FY-77-04.

The environmental statement concerns a proposal to manage prairie dogs on lands administered by the Supervisor of the Nebraska National Forest.

The draft environmental statement was transmitted to CEQ on June 28, 1977.

This final environmental statement was transmitted to EPA on May 2, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

USDA, Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colo. 80225.

USDA, Forest Service, Nebraska National Forest, 270 Pine Street, Chadron, Nebr. 69337.

A limited number of single copies are available upon request to Lawrence C. Sutton, Forest Supervisor, Chadron, Nebr. 69337.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the EPA guidelines.

LAWRENCE C. SUTTON,
Forest Supervisor.

MAY 2, 1978.

[FR Doc. 78-12658 Filed 5-9-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Dockets 32486 and 32487]

KODIAK-WESTERN ALASKA AIRLINES

Acquisition Proceeding; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on May 23, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned administrative law judge.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) requests for evidence; (5) statements of position; and (6) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before May 12, 1978, and all other parties on or before May 19, 1978. The submissions of other parties shall be limited to points on which they differ with the Bureau and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., May 4, 1978.

THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc. 78-12763 Filed 5-9-78; 8:45 am]

[3510-13]

DEPARTMENT OF COMMERCE

National Bureau of Standards

FOOTWEAR TECHNOLOGY SYMPOSIUM

The Department of Commerce will sponsor a Footwear Technology Symposium as part of an on-going 3-year Department of Commerce program to help restore the growth and vitality of the domestic footwear industry. The symposium will be held in the Green Auditorium of the Administration Building, National Bureau of Standards, Gaithersburg, Md., on Thursday and Friday, June 1 and June 2, 1978. Each day's proceedings will begin at 9 a.m.

The objectives of the symposium are to (a) assess manufacturing technologies which may be adapted or developed to provide a competitive advantage for the U.S. footwear industry and (b) develop a specific plan for activities that would be appropriate for government and industry cooperation.

Attendees at the symposium will include representatives from all segments of industry, including material, machinery and component suppliers, manufacturers, retailers, and consulting organizations. All interested parties are cordially invited to attend this meeting.

Questions concerning this symposium or how to register should be directed to Ms. Margery King, Room A402, Administration Building, National Bureau of Standards, Washington, D.C. 20234, telephone 301-921-3815.

Dated: May 5, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-12731 Filed 5-9-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

DONALD B. SINIFF

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take and import marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Dr. Donald B. Siniff (5D), Professor, Department of Ecology and Behavioral Biology, University of Minnesota.

b. Address: 108 Zoology Building, Minneapolis, Minn. 55455.

2. Type of permit: Scientific Research.

3. Name and number of animals:

Crabeater seals (*Lobodon carcinophagus*)—520 per year.
Leopard seals (*Hydrurga leoptonyx*)—520 per year.
Weddell seals (*Leptonychotes weddelli*)—810 per year.
Ross seals (*Ommatophoca rossi*)—105 per year.

4. Type of take: 500 crabeater, 500 leopard, 800 Weddell, and 100 Ross seals will be captured, tagged, weighed, measured, toenail removed, vaginal smears when appropriate, and released on an annual basis. 20 crabeater, 20 Leopard, 10 Weddell, and 5 Ross seals will be sacrificed on an annual basis. The project is part of an on-going research project on Antarctic seals.

5. Location of activity: Antarctic Peninsula and its off-shore islands and McMurdo Station.

6. Period of activity: 3 years.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 9, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C., and
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: April 27, 1978.

ROLAND FINCH,
Acting Deputy Assistant Director for Fisheries Management.

[FR Doc. 78-12728 Filed 5-9-78; 8:45 am]

[3510-22]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Meeting Cancellation

Notice is hereby given that the meeting as published in the FEDERAL REGISTER, Friday, April 28, 1978, Vol. 43, No. 83, page 18231, of the Gulf of Mexico Fishery Management Council scheduled for May 18, 1978, in Tampa, Fla., has been canceled.

Dated: May 4, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-12656 Filed 5-9-78; 8:45 am]

[3510-22]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting With Partially Closed Session

Notice is hereby given of a meeting of the Gulf of Mexico Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The meeting will be held Tuesday, Wednesday, and Thursday, June 6, 7, and 8, 1978, in meeting room 250 of the Holiday Inn—Downtown, 225 Church Street, Mobile, Ala. The meeting will convene at 1:30 p.m. On June 6 and adjourn at about noon on June 8, 1978. The daily sessions will start at 8:30 a.m. and adjourn at 5 p.m. except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

Proposed agenda.—June 6: (1) Management plans; (2) personnel and administrative categories; (3) review of foreign fishing applications, if any. *June 7:* (1) Closed session to discuss proposals by potential contractors in a negotiated procurement for the preparation of a draft fishery management plan; (2) other fishery management business. *June 8:* (1) Other fishery management business.

With the exception of the first agenda item on June 7, the meeting is open to the public. For information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, telephone 813-228-2815.

The closed session is planned for 8:30 a.m. until 12 noon, but may continue into the afternoon of June 7, 1978, to discuss proposals by potential contractors in a negotiated procurement for the preparation of a draft fishery management plan.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on May 4, 1978, pursuant to section 10(d) of Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the act relating to open meetings and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4), (6), and (9)(B). A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.

Dated: May 5, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-12657 Filed 5-9-78; 8:45 am]

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[3510-22]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Public Meeting With Partially Closed Session

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix, as amended, notice is hereby given of: (1) a joint meeting of the North Pacific Fishery Management Council established by section 302(a) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and its Scientific and Statistical Committee (SSC), and Advisory Panel (AP), both established under section 302(g) of the act, (2) separate meetings of the SSC and AP.

The SSC and AP will meet separately on May 24, 1978. The SSC will meet in the Council offices, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska, beginning at 9 a.m., to discuss and review their report to the Council.

The AP will meet in the Kenai-Aleutian Room of the Anchorage, Westward/Hilton Hotel, 3rd and E Streets, Anchorage, Alaska, beginning at 9 a.m., to discuss and prepare their report to the Council.

The Council and its SSC and AP will meet jointly on Thursday and Friday, May 25-26, 1978, in the Anchorage/Westward/Hilton Hotel, 3rd and E Streets, Anchorage, Alaska. The meeting will convene at 8:30 a.m., and adjourn at approximately 5 p.m. The meetings may be extended or shortened depending upon progress on the agenda. The proposed agenda is as follows:

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(1) Executive director's report and other Council administrative business; (2) reports from Scientific and Statistical Committee and Advisory Panel; (3) progress report and update from Council's drafting management planning teams; (4) closed session to discuss classified material on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission (INPFC), and the International Pacific Halibut Commission (IPHC) and continuing negotiations with the Canadians; (5) period for public comment; (6) review of foreign fishing activities.

MAY 26

(1) Discussions of management plans: Tanner crab off Alaska 1978; Gulf of Alaska groundfish fishery during 1978; commercial troll fisheries off the coast of Alaska; Bering Sea clam fishery; king crab; and Bering Sea groundfish fishery; (2) other Council business.

The SSC and AP meetings will be open to the public, as will all but the early afternoon of the first day of the Council meeting. For information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, telephone 907-274-4563.

A closed session of the Council is planned for the early afternoon of the first day, May 25, 1978, from 1:30 p.m. to 3:30 p.m. to hear and discuss Department of State security classified reports concerning preparations and actual negotiations in connection with the International North Pacific Fisheries Commission, the International Pacific Halibut Commission, and continuing negotiations with the Canadians.

Only those Councils members and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on May 4, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the act relating to open meetings and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as information which is properly classified pursuant to Executive Order 11652. A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.

Dated: May 5, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-12655 Filed 5-9-78; 8:45 am]

[6315-01]

COMMUNITY SERVICES ADMINISTRATION

EMERGENCY ENERGY ASSISTANCE PROGRAM

Funding Declarations

The Director of the Community Services Administration (CSA) has found, based on criteria indicated in column* (5) of appendix A that Energy Related Emergencies have existed since the dates indicated in column (3).

Therefore, eligible grantees who cover those areas indicated in column (2) will proceed as follows:

Grantees who receive funds by Letter of Credit may withdraw and expend funds in the amount approved in column (4) or that portion of that amount which have been granted to them under Program Account 80, Emergency Energy Assistance program; or

Grantees who normally receive checks are being informed that their checks are being forwarded by the Treasury Department for the total amount of the EEAP grant. However, these grantees immediately may begin obligating funds against this grant in the amount appropriated in column (4) and from the date indicated in column (3).

Column (3) contains the earliest date to our knowledge which provided the basis for a finding by the Director of CSA that an Energy Related Emergency existed. However, any eligible grantee within those areas covered in column (2) may submit evidence to support the existence of Energy Related Emergencies which existed between December 31, 1977, and the date given in column (3) for a finding by the Director of CSA. (See CSA Notice 6143-7, section 4 or § 1061.51-3 in the FEDERAL REGISTER (43 FR 9476).

Request for supplemental (additional) funds shall be made in accordance with the provisions of section 11.c. of CSA Notice 6143-7.

WILLIAM W. ALLISON,
Director.

*All references to "column" refer to appendix A to this Notice.

APPENDIX

State(s) declared (1)	Areas covered (2)	Emergency declaration date (3)	Approved allocation[1] (4)	Basis for determination* (5)
Region II: Puerto Rico	Municipality of San Juan	Apr. 10, 1978	$140,000	4.b.(2)(b) and 4.b.(2)(a).
	Commonwealth of Puerto Rico	do	491,000	4.b.(2)(d) and 4.b.(2)(c).
Region IV:				
Florida	Counties of: Bay Liberty, Citrus, Franklin, Glichrist, Gulf, Jefferson, Lee, Levy, Marlon, Sarasota, Taylor, and Wakulla.	Apr. 1, 1978	81,992	4.b.(2)(a).
	Counties of: Collier, Desota, Glades, Hardee, Hendry, Charlotte, Highlands, and Osceola.	do	22,625	4.b.(2)(a).

APPENDIX

State(s) declared (1)	Areas covered (2)	Emergency declaration date (3)	Approved allocation[1] (4)	Basis for determination* (5)
	Pasco County	Mar. 22, 1978	7,428	4.b.(2)(a).
	Broward County	Apr. 24, 1978	15,794	4.b.(2)(a).
	Orange County	Apr. 26, 1978	11,132	4.b.(2)(a).
	Counties of: Holmes, Walton, and Washington	Apr. 13, 1978	9,591	4.b.(2)(a) and 4.b.(2)(b).
Georgia	Entire state	Feb. 1, 1978	710,000	4.b.(2)(a).
North Carolina	do	Apr. 18, 1978	1,005,000	4.b.(2)(a), 4.b.(2)(c), and 4.b.(2)(d).
South Carolina	do	Apr. 28, 1978	410,000	4.b.(2)(a).
Region VIII:				
Colorado	Adams County	Apr. 24, 1978	30,000	4.b.(2)(a).
	Boulder County	do	84,441	4.b.(2)(a).
	Pueblo County	do	100,000	4.b.(2)(a).
Montana	Entire state	Jan. 01, 1978	370,000	4.b.(1) and 4.b.(2)(a).
Region IX: Nevada	Washoe County	Mar. 16, 1977	37,500	4.b.(2)(a).

[1]For area covered.
*References CSA notice 6143-7, sec. 1; FR 1061.51-3(b).

[FR Doc. 78-12561 Filed 5-9-78 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 78-1]

SPARE PARTS, ET AL.

Prehearing Conference

In the matter of Spare Parts, a corporation also trading as "Mr. Marty," or under any other name or names and Stuart M. Weiser, individually and as an officer of the corporation. Flammable Fabrics Act Enforcement Proceeding.

On March 27, 1978, the Commission authorized the issuance of a complaint charging Respondents with having manufactured, sold, and delivered in commerce, on or before October 30, 1976, certain girl's sweatshirts under the trade names of "Spare Parts" and "Mr. Marty," which failed the acceptance criterion of the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) in violation of section 3(a) of the Flammable Fabrics Act (15 U.S.C. 1191, 1192). Respondents were also charged with having issued false guaranties with respect to the subject sweatshirts. Relief was requested in the form of an order to cease and desist from manufacturing, selling, importing or delivering in commerce said sweatshirts and, in addition, that customers be notified that these articles do not comply with the Standard, may be dangerously flammable, and that such customers may return the sweatshirts to Respondents for replacement or a complete refund of the purchase price at Respondents' option. On March 22, 1978, Respondents filed an answer in effect generally denying the principal allegations in the complaint.

Issue having been joined, a prehearing conference by telephone will be held on Thursday, May 18, 1978, at 2:30 p.m. (EDST) (11:30 PDST) involving the following persons: Gwendolyn Crockett, Esq., Complaint Counsel, 301-492-6632; Lionel Sobel, Esq., Counsel for Respondents, 213-272-1185; and Paul N. Pfeiffer, Administrative Law Judge, 202-634-7171.

The agenda for the conference will include a discussion of:

(1) The scope of issues to be heard;

(2) Whether there is a need for further discovery;

(3) The names of the witnesses and the approximate length of presentations at the hearing; and

(4) The time, place, and date of public hearing.

Dated: May 4, 1978.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc. 78-12698 Filed 5-9-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON SOVIET MISSILE DEFENSE

Advisory Committee Meeting

The Defense Science Board Task Force on Soviet Missile Defense will meet in closed session May 23, 24, and 25, 1978 at the Offices of the Institute for Defense Analyses, Arlington, Va.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will review Soviet activities in ballistic missile defense and related subjects and will provide recommendations for appropriate U.S. responses.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DOD/WHS.

MAY 5, 1978.

[FR Doc. 78-12702 Filed 5-9-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER-77-551 and ER-77-485]

CAROLINA POWER & LIGHT CO.

Order Denying Joint Motion To Sever Proceedings

MAY 1, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977) and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be contin-

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ued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On January 30, 1978, the Carolina Power & Light Co. and the City of Fayetteville, N.C., filed a Joint Motion of Carolina Power & Light Company and the City of Fayetteville, North Carolina to Sever Proceedings. The above designated dockets were consolidated for hearing in an order issued January 19, 1978, by this Commission. The filing by Carolina Power & Light Co. (CP&L), concerns a filing made here on June 29, 1977 for proposed increased rates and charges for jurisdictional sales to 18 REA cooperatives, 24 municipals and 2 privately-owned customers. The filing would increase CP&L's revenues by $1,418,214 or 7.5% based upon the 12-month period ending December 31, 1977. Pursuant to this Commission's order issued on July 19, 1977, the proposed increased rates and charges were suspended and use thereof deferred until December 29, 1977, when they were to become effective subject to refund. On July 12, 1977, this Commission granted intervention to North Carolina Electric Membership Corp., Four County Electric Membership Corp., ElectriCities of North Carolina, and the Cities of Bennettsville, and Camden, S.C. The City of Fayetteville, N.C. (Fayetteville) is receiving energy from CP&L under the filing in Docket No. ER77-485.

On August 3, 1977, CP&L tendered for filing an amendment to Rate Schedule FPC No. 102 and at the same time filed a Notice of Cancellation of its Rate Schedule FPC No. 93. Rate Schedule No. 102 provides that Fayetteville will receive partial requirements service as opposed to firm service heretofore provided by CP&L. This change was proposed to accomodate the operation of Fayetteville's five new combustion turbines. The amended schedule further provides for backup service by CP&L for emergency contingencies and for the purchase by SP&L of available capacity from the City. This filing was designated Docket No. ER77-551.

In the Commission's order of January 19, 1978, the filing in Docket No. ER77-551 was accepted as of June 19, 1977, and suspended for one day to become effective, subject to refund, on June 20, 1977. The order also provided that Docket Nos. ER77-485 and ER77-551 should be consolidated for hearing and determination puposes. Procedurally, several pre-hearing conferences have been held and the hearing is now set to commence on June 5, 1978, in the consolidated proceedings. The Company has filed testimony. Staff is due to file testimony on May 1, 1978, and the Intervenors must file testimony on May 11, 1978.

The Joint Motion filed by CP&L and Fayetteville for severance of these two dockets asserts that the Commission was in error in its order of January 19, 1978, in finding that there were common questions of law and fact in these two dockets. The joint petitioners suggest that no commonality exists. They contend that the proceeding in ER77-485 is a general rate increase filing applicable to jurisdictional sales to the CP&L's 44 wholesale customers including Fayetteville. They believe that the issues are much broader than those contained in Docket No. ER77-551. For example, they note that questions involving rate of return, working capital, rate design, and depreciation are involved.

CP&L and Fayetteville submit that the only issue raised in Docket No. ER77-551 is the reserve obligation of Fayetteville. This concerns the use of Fayetteville's five generating units and those other units which are planned for the purpose of reliable peak shaving capacity. They contend that early resolution of the proceeding in Docket No. ER77-551 is essential. They note that Fayetteville now has 5 oil fired gas turbine generating units and is installing a sixth unit at this time. It also has on order two additional units. They believe that the Commission's decision on the issue of Fayetteville's reserve obligation in Docket No. ER77-551, if tied to the general rate increase litigation in ER77-485 for a prolonged period of time, will present Fayetteville with two unattractive alternatives concerning its construction program. The City can hold its plans in abeyance with a result that its proposed construction will be considerably behind schedule if the Commission ultimately approves the required reserve obligation in Docket No. ER77-551. On the other hand, Fayetteville can move ahead with the additional construction and risk an adverse Commission determination on the reserve capacity issue in the combined proceeding. They believe that the Commission's decision on the issue in Docket No. ER77-551 should be made in advance of the resolution of the general rate increase sought in ER77-485. Consequently, they seek severance of the two proceedings.

A response in Opposition To The Joint Motion was filed by the North Carolina Membership Corp. (NCMC) and Four County Electric Membership Corp. (Four County EMC). These Cooperatives based their opposition to the motion to sever upon two arguments. First, they believe that the rates filed by CP&L in Docket No. ER77-485 apply to Fayetteville except as altered by section 3 of Amendment To Service Agreement Between City of Fayetteville and Carolina Power & Light Co. which is a part of the filing in Docket No. ER77-551. They contend that to determine proper allocation of rate base, demand, energy, and other cost of service items in the jurisdictional rate case, it is necessary to determine how section 3 of the Amendment in Docket No. ER77-551 impacts upon those items. They argue that the only way to establish a proper record is to have all of the Fayetteville information available as part of Docket No. ER77-485, and the most expeditious way of accomodating this, is to hear the consolidated proceeding.

Secondly, the Cooperatives have an interest in the Commission's determination of power reserve levels for Fayetteville inasmuch as it has an impact upon demand and other cost of service allocations in Docket No. ER77-485.

Examination of section 3 of the Amendment to Rate Schedule FPC No. 102 concerning Fayetteville indicates that the City's demand and energy determination calculated under the proposed rate in Docket No. ER77-485 could be affected when its new units are implemented to produce peak shavings. The City appears to be changing from a full requirements customer to a partial requirements customer. The matter should be determined in conjunction with the full gambit of rate issues raised in Docket No. ER77-485.

Moreover, the plea by CP&L and Fayetteville on the urgency for deciding the issues in Docket No. ER77-551 because of construction plans does not coincide with the realities of the procedural time span now set in this consolidated proceeding. The hearing is to commence on June 5, 1978. All dates for the filing of testimony are set. It appears that should ER77-551 be severed and set for separate hearing, an unreasonable delay would be forthcoming. Severance would require that Docket No. ER77-551 be heard sometime after the consolidated proceeding would commence. We see no value in delaying a hearing in order to ostensibly decide the issues earlier.

The Presiding Administrative Law Judge shall hear the issues in the consolidated proceeding. If, after testimony is completed he believes that an immediate initial decision solely on the issues in Docket No. ER77-551 are in the public interest, he may do so. followed by his initial decision on the balance of the issues raised in Docket No. ER77-485.

The Commission finds: Good cause exists to deny the Joint Motion to sever the consolidated proceedings in Docket Nos. ER77-485 and ER77-551.

The Commission orders: (A) The Joint Motion of Carolina Power & Light Co. and the City of Fayetteville to Sever Proceedings is hereby denied.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12676 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER78-327]

CENTRAL HUDSON GAS & ELECTRIC CORP.

Notice of Rate Filing

MAY 1, 1978.

Take notice that on April 24, 1978, Central Hudson Gas & Electric Corp. (Central Hudson) tendered for filing its development of actual costs for 1977 related to substation service provided to Consolidated Edison Co. of New York, Inc. (Con Edison) in accordance with the Provisions of its Rate Schedule FERC No. 43.

Central Hudson indicates that the actual cost for 1977 amounted to $294,417 and will be the basis on which estimated charges for 1978 will be billed.

Central Hudson requests waiver of the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1978, as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with 18 CFR 1.8 and 1.10. All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12677 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP73-329]

CHATTANOOGA GAS CO.

Proposed PGA Rate Adjustment

MAY 1, 1978.

Take notice that on April 24, 1978, Chattanooga Gas Co., a division of Jupiter Industries, Inc. (Chattanooga), tendered for filing proposed changes to Original Volume No. 1 of its FERC Gas Tariff to be effective on May 1, 1978, consisting of the following revised tariff sheets:

TWENTY-EIGHTH REVISED SHEET NO. 6

Chattanooga states that the sole purpose of this Revised Tariff Sheet is to adjust Chattanooga's LNG rates pursuant to the PGA Provision in Section 5 of the General Terms and Conditions of its Gas Tariff to reflect the underlying PGA rate changes filed for by East Tennessee Natural Gas Co. (East Tennessee) in Docket No. RP78-12 and Southern Natural Gas Co. (Southern) in Docket No. RP73-64.

The Twenty-Eighth Revised Tariff Sheet reflects a current increase in the LNG rates of 2.8 cents per MMBtu and a cumulative increase of $1.243 per MMBtu.

Chattanooga requests that its Twenty-Eighth Revised Sheet No. 6 be made effective on May 1, 1978, the proposed effective date of the underlying increase by East Tennessee.

Southern Natural filed revised PGA rates which have been accepted by FERC and permitted to become effective on January 2, 1978. Southern Natural originally placed into effect a PGA rate with an effective date of January 1, 1978. This original filing was accepted by FERC conditioned upon Southern Natural's filing revised tariff sheets to reflect reductions in the rates of United and Sea Robin. Southern Natural's revised rates effective January 12, 1978 are included in this filing. The Commission did not take any action on the one-day rate of January 1, 1978. Chattanooga states that it has not made any sales of LNG during the period of time that Southern Natural's original January 1, 1978, rates have been in effect and therefore no refunds are due to its customers.

Chattanooga states that copies of the filing have been mailed to all of its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12678 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP76-379]

COLORADO INTERSTATE GAS CO.

Petition To Amend

MAY 1, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) or 402(a)(2) of the DOE Act.

Take notice that on April 24, 1978, Colorado Interstate Gas Co. (Petitioner), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No CP76-379 a petition to amend the order of the FPC in said docket issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act by further authorizing Petitioner to construct and operate a tail gas cleanup facility at Petitioner's Table Rock sweetening plant in Sweetwater County, Wyo., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

By order of February 28, 1977, in the instant docket Petitioner was authorized to construct and operate, inter alia, the Table Rock sweetening plant. In the instant petition Petitioner states that at the time the certificate application was filed with the FPC, Petitioner understood that review of "Prevention of Significant Deterioration of Air Quality and Permits for Construction of New Source Facilities" was under the jurisdiction of the state of Wyoming, Department of Environmental Quality and that on August 25, 1976, Petitioner received a permit from that body authorizing the construction and operation of the sweet-

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ening plant. Petitioner states further that it has since been advised that the Environmental Protection Agency (EPA) had retained jurisdiction over sulfur recovery plants pursuant to 40 CFR 52.2630 and that Petitioner should have applied to and received a permit from the EPA prior to construction of the facility.

Petitioner states that the EPA has granted Petitioner conditional approval for construction and operation of the sweetening plant provided that Petitioner take action to comply with EPA's final determination of "Best Available Control Technology" which limits sulfur dioxide emission levels to 1,350 parts per million by volume, dry and oxygen-free. Accordingly, Petitioner now requests the Commission to amend the order issuing a certificate of public convenience and necessity by authorizing the construction and operation of a tail gas cleanup facility, including mandated monitoring instrumentation, at the sweetening plant to limit the sulfur dioxide emission level, which presently exceeds the level prescribed by the EPA, to that found to be required by the EPA. The additional facilities are estimated to cost $2,821,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 22, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12681 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-292]

COLORADO INTERSTATE GAS CO.

Notice of Application

MAY 3, 1978.

Take notice that on April 17, 1978, Colorado Interstate Gas Co. (Applicant), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP78-292 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of four 2,700-horsepower gas compressors at its existing Watkins Station located approximately 10 miles east of Denver, Colo., and for permission and approval to abandon the existing 1,100-horsepower storage injection compressor unit at the Watkins Station, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the pattern of gas flow on its transmission system has traditionally been inward, that is, from gas supply sources in Texas, Oklahoma, Kansas, Colorado, and Wyoming to its major market areas centered on Denver and other points along the Front Range in Colorado. Applicant further states that gas production from the Texas Panhandle Field and other Southern System supply areas has declined over recent years, and the steady decline is apparently irreversible. On the other hand, from the time Applicant's Wyoming Line was constructed in 1956 for the initial purpose of making gas purchases from Northwest Pipeline Corp. (then El Paso Natural Gas Co.), the Wyoming area has steadily increased in importance to Applicant as a supply source, it is said. As a consequence, the volumes available from the Wyoming Line at Watkins are projected to exceed the local market and storage injection requirements in the Denver area, particularly during the summer months, and gas will have to be backflowed to Applicant's Southern System, it is indicated.

The application states that the traditional inward pattern of Applicant's system gas flows terminating at Denver delivery points began shifting about a dozen years ago with the flowing of volumes south from Watkins Junction, near Denver, and that in following years, there was no design day flow into Denver from the Campo-Colorado Springs-Denver Line, and that Applicant began transporting gas south from Watkins to meet the requirements at the New Cherry Creek Meter Station in 1967-1968 with a peak day design volume of approximately 90,000 Mcf per day. It is stated that since then, design day volumes dispatched south from Watkins have increased until the normal null point (the point at which gas flows from the north and south meet) on the Campo-Colorado Springs-Denver Line now lies somewhere between Colorado Springs and Pueblo, varying seasonally. Applicant indicates that it commenced summertime backflowing of transportation and exchange volumes for Panhandle Eastern Pipe Line Co. (PEPL) in 1973, and that it transports limited volumes of Wattenberg Field exchange gas southeast from Watkins to its Lakin Compressor Station for redelivery to PEPL.

Applicant states that as a result of its continuing success in adding new gas from Wyoming Line supply sources, the continued decline in availability of gas from Southern System sources, and the requirement to backflow transportation volumes, Applicant must add facilities to maintain operational flexibility and accommodate the continued turnaround from the traditional inward flow to the backflow situation.

Applicant indicates that in order to reverse the flow of gas on its Southern System it would be necessary to construct, install, and operate four 2,700 horsepower gas compressors at the existing Watkins Station. The total estimated cost of the proposed facilities is $8,505,000, which cost Applicant would finance from funds on hand, funds from operations, short-term borrowings, or long-term financing.

The application states that the Watkins Station, where the proposed gas compression is to be located, is situated at a critical junction on Applicant's transmission system where gas is received from the Wyoming main line, the Southern System, Northeast Colorado, and PEPL, and that normally, storage volumes are either received at Watkins from, or dispatched to, the Fort Morgan and Latigo Storage Fields. Applicant states that the proposed facilities at Watkins Station are an essential step in the continued efficient operation of its system for the following reasons:

1. The quantity of gas available from Wyoming Line sources under purchase and transportation agreements continues to increase relative to that available from Southern System sources. Consequently, significant volumes of Wyoming Line gas must be compressed at and transported away from Watkins and the Denver area.
2. Additional compression is required to inject gas into the Fort Morgan Storage Field.
3. Higher thermal content gas from Wyoming Line sources must be transported to Campo Junction in southeast Colorado so that Applicant can meet the Btu requirements of its tariff on the Campo-Colorado Springs-Denver Line.

Applicant also proposes to retire, abandon from gas storage injection service, and place in stock for future use an 1,100-horsepower gas compressor located at Watkins Station. Applicant states that it proposes to abandon the gas compressor from service after the new compressor units proposed herein have been placed in service. It is indicated that the existing 1,100-horsepower centrifugal compressor unit is not adequate to handle expected storage injection volumes under the 1979 design conditions, and that the operation of the existing unit has not been satisfactory.

Applicant indicates that the proposed gas compression at Watkins Station would also serve an operational purpose in that high-Btu gas from the Wyoming Line must be transported to Campo Junction so that the gas which flows in the Campo-Pueblo-Colorado Springs pipeline would meet the heat content requirements of Applicant's tariff. The ratio of higher Btu Mocane Field gas to lower Btu Keyes Field gas available at Campo is declining and is projected to continue to do so in the foreseeable future: thus, the gas compression facilities proposed would enable Applicant to deliver additional high-Btu gas to Campo in order to meet its tariff provisions, it is asserted.

Applicant states that substantial volumes of gas are expected to be delivered to Watkins under exchange arrangements with PEPL and Cities Service Gas Co. (Cities).

The application states that several of Applicant's contracts for the purchase of gas from producers in Colorado contain provisions which prohibit the transportation of such gas in interstate commerce. Such gas purchases are not now purchases in interstate commerce, but might become so upon commencement of the backflowing operations proposed herein unless alternative delivery arrangements are made in the interim, it is stated. Applicant states that it is currently negotiating with certain producers to revise such contract provisions and is also studying alternative means of delivering such gas to market.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determing the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12682 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. RP78-51]

COLORADO INTERSTATE GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Initiating Hearing, Establishing Procedures, and Granting Interventions

MAY 1, 1978.

On March 31, 1978, Colorado Interstate Gas Co. (CIG) tendered for filing in the captioned docket proposed changes to its FERC Gas Tariff[1] which would increase its jurisdictional revenues by $12,147,530 based on costs and sales volumes for the 12 months ended December 31, 1977, as adjusted for known and measurable changes through September 30, 1978. CIG requests that the proposed changes be permitted to become effective on May 1, 1978. For the reasons stated below, the Commission shall accept the proposed rate increase for filing, suspend it for five months, and set the matter for hearing.

Public notice of CIG's filing was issued on April 5, 1978, providing for protests or petitions to intervene to be filed on or before April 24, 1978. Timely petitions to intervene were filed by Cities Service Gas Co., Kansas-Nebraska Natural Gas Co., Inc., Public Service Co. of Colorado, Western Slope Gas Co., Cheyenne Light, Fuel & Power Co., the city and county of Denver, Colo., the city of Colorado Springs, Colo., Citizens Utilities Co., and Peoples Natural Gas Division of Northern Natural Gas Co. A notice of intervention was filed by The Public Utilities Commission of the State of Colorado. The above-mentioned petitioners have demonstrated an interest in this proceeding which warrants their participation. The petitions to intervene shall therefore be granted.

CIG states that the principal reasons for its proposed rate increase are (1) the addition to its gas plant of new facilities, (2) increased labor and operating costs, and (3) the need for an increased rate of return. CIG claims an increased rate of return of 11.04 percent overall, including a 15.75 percent return on common equity.

Based on a review of CIG's filing herein, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept CIG's proposed rate increase for filing, suspend its use for five months or until October 1, 1978, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing, as hereinafter conditioned.

Review of CIG's filing indicates that CIG has included therein costs associated with certain facilities which have not been certificated and placed in service at this time. Based on the anticipation that all such facilities will be certificated and placed in service by September 30, 1978, CIG requests waiver of the provisions of section 154.63(e)(2)(ii) of the the Regulations to permit the costs associated with the uncertificated facilities and services to be reflected in this filing. Such waiver shall be granted on the condition that CIG shall file revised rates and supporting materials reflecting the elimination of all costs associated with facilities not placed in service by October 1, 1978, the effective date of the rates suspended by this order.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates proposed by CIG and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by CIG.

(B) Pending hearing and decision, CIG's proposed rate increase is accepted for filing and suspended until October 1, 1978, when it shall be permitted to become effective, subject to refund, upon motion filed by CIG in accordance with the provisions of the Natural Gas Act.

(C) The provisions of section 154.63(e)(2)(ii) of the Regulations are waived to permit CIG's filing to reflect the inclusion of costs associated with presently uncertificated facilities, on the condition that CIG shall file revised tariff sheets on or before October 1, 1978, reflecting the elimination of all costs included in the proposed

[1] Twenty-first Revised Sheet No. 5, Twenty-first Revised Sheet No. 6, Second Revised Sheet No. 198, and Second Revised Sheet No. 262 to Second Revised Volume No. 1 of CIG's FERC Gas Tariff.

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rates associated with facilities not placed in service by October 1, 1978. CIG shall also submit supplemental cost and revenue data reflecting the elimination of such costs from its cost of service.

(D) The Commission Staff shall prepare and serve top sheets on all parties on or before September 1, 1978.

(E) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(F) The above noted petitioners to intervene are permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission. Commissioner Holden voted present.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12683 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP77-282]

COLUMBIA GAS TRANSMISSION

Order Amending Order Issuing Certificate of Public Convenience and Necessity

MAY 2, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977), and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transfered to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

On January 6, 1978, Columbia Gas Transmission Corp. (Columbia) filed in Docket No. CP77-282, a petition to amend the order issued July 1, 1977 (58 FPC ——), granting a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act by authorizing the installation and operation of a 4,000-horsepower reciprocating compressor unit at its Coco Compressor Station located in Kanawha County, W. Va., in lieu of a 4,250-horsepower centrifugal compressor unit, all as more fully set forth in the petition to amend.

By order issued July 1, 1977, Columbia was authorized, inter alia, to install and operate an additional 4,250-horsepower centrifugal compressor unit at its Coco Compressor Station as part of a project designed to enable Columbia to increase the annual storage turnover volumes in its Coco storage complex. The existing Coco Compressor Station contains six reciprocating compressor units totaling 5,500 horsepower. Initial compressor station design investigations determined that the 4,250-horsepower unit would satisfy the additional Coco compression requirements at the lowest capital cost. When detailed design investigations were subsequently conducted during 1977, it was determined that Columbia's needs could best be met by installing the proposed 4,000-horsepower reciprocating unit. The heavy-duty design, relatively high fuel efficiency, and wide performance range of the reciprocating compressor will result in lower operating and maintenance expense, less station fuel being required, and extended utilization of the existing compressor units.

The installation of a 4,000-horsepower reciprocating compressor unit as proposed herein would cost an estimated $3,165,000 which cost will be financed through funds generated internally. The cost of the unit proposed herein is an increase of approximately $1,911,300 over the cost of installation of the 4,250-horsepower unit.

Because the facilities will be installed in and about an existing structure, approval of the installation will not constitute a major Federal action significantly affecting the quality of the human environment.

After due notice by publication in the FEDERAL REGISTER on January 31, 1978 (43 FR 4092), no petition to intervene, notice of intervention, or protest to the granting of the petition to amend has been filed.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issued July 1, 1977, in Docket No. CP77-282 be amended as hereinafter ordered.

The Commission orders: (A) The order in Docket No. CP77-282, issued July 1, 1977, is amended so as to authorize the installation and operation of a 4,000-horsepower reciprocating compressor unit at Columbia's Coco Compressor Station located in Kanawha County, W. Va., in lieu of a 4,250-horsepower centrifugal compressor unit, as hereinbefore described and as set forth in the petition to amend in this proceeding. In all other respects, said order shall remain in full force and effect.

(B) The authorization granted in paragraph (A) above and the rights granted thereunder are conditioned upon Columbia's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (c)(4), (e), (f), and (g) of section 157.20 of such Regulations.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12679 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP77-636]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

MAY 2, 1978.

Take notice that on April 20, 1978, Columbia Gas Transmission Corp. (Columbia) tendered for filing the following proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective April 1, 1978:

Fourth Revised Sheet No. 1
Original Sheet Nos. 16A, 44, 44A, 44B, 44C, 44D, and 44E
Fifth Revised Sheet No. 47
Fourth Revised Sheet No. 47A
Original Sheet Nos. 72D and 72E

These sheets, which were filed by Columbia in compliance with the Commission's order issued April 10, 1978 at Docket No. CP77-636, reflect the addition of a new CSS Rate Schedule for Crawford Storage Service. Copies of the filing were served by Columbia upon its jurisdictional customers and interested state commissions.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 17, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12680 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP77-553]

EL PASO NATURAL GAS CO.

Findings and Order After Statutory Hearing Issuing Certificate of Public Convenience and Necessity

MAY 2, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977), and Executive Order No. 12009, 42 FR 46467 (Sept. 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On August 5, 1977, El Paso Natural Gas Co. (Applicant) filed with the FPC in Docket No. CP77-553 an application, as supplemented November 15, 1977, and January 25, 1978, for a certificate of public convenience and necessity authorizing the retention in place and operation of existing loop pipeline, meter and dehydration facilities located in Washita County, Okla., for use as the need may arise, all as more fully set forth in the application, as supplemented, in this proceeding.

On June 16, 1977, pursuant to section 157.22(c) of the Regulations under the Natural Gas Act (18 CFR 157.22(c)), Applicant notified the FPC that on June 6, 1977, it had completed the construction and commenced operation of approximately 5.83 miles of 6⅝-inch pipeline, with appurtenances, looping the existing Supply Lateral C-6 pipeline, 4½-inch and 6⅝-inch meter-runs located at an existing authorized Washita Exchange Point with Natural Gas Pipeline Co. of America (Natural), and a 20,000-Mcf-per-day capacity central dehydration unit. Applicant asserts that these facilities were required to be constructed immediately and placed in operation due to the emergency condition of fluctuating high pressure encountered in drilling Applicant's Floyd Niece No. 1 well in Washita County. In order to prevent the well from blowing out Applicant had to flare immediately the gas produced from the well on an emergency basis commencing April 29, 1977. The flaring of gas produced from the well was terminated by the connection of the well into Applicant's existing Supply Lateral C-6 pipeline which necessitated reductions in takes from other wells in the area because of the C-6 line's limited capacity. Production from the Floyd Niece No. 1 well was stabilized and normal gathering operations through the C-6 line resumed. Nevertheless, Applicant completed the facilities out of concern that the original condition might recur. The geology of the area and Applicant's continuing drilling activity there for new supply are such that that the facilities should prove useful in the future.

The dehydration facilities which Applicant proposes to retain in place were constructed within the contemplation of section 2.55(a) of the Commission's Statement of General Policy and Interpretations. Section 2.55(a) excludes from jurisdictional facilities, for the purposes of section 7(c) of the Natural Gas Act, auxiliary installations such as dehydration equipment. Accordingly, the authorization herein granted does not include authorization to retain in place and operate the dehydration facilities since they were constructed under section 2.55(a) and certificate authority is not necessary for Applicant to retain in place and operate them.

The subject authorization will permit Applicant the additional flexibility initially provided by the installation of emergency facilities (a) to transport volumes of gas which Applicant may develop or purchase in the immediate area, (b) to deal with similar unpredictable production circumstances and thereby avoid wasteful flaring, and (c) to increase exchange deliveries to Natural on a scheduled or emergency basis as required, but within authorized exchange volumetric limits.

The total cost of all facilities described herein is $530,980.

The Commission finds that this order does not constitute a major Federal action having any significant effect on the human environment.

After due notice by publication in the FEDERAL REGISTER on August 19, 1977 (42 FR 41884), no petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

At a hearing held on April 26, 1978, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, as supplemented, and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds: (1) Applicant, El Paso Natural Gas Co., a Delaware corporation having its principal place of business in El Paso, Tex., is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the order of January 11, 1944, in Docket No. G-288 (4 FPC 486).

(2) The facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding, are to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the operation thereof by Applicant is subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The retention in place and operation of the subject facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

The Commission orders: (A) A certificate of public convenience and necessity is issued authorizing Applicant, El Paso Natural Gas Co., to retain in place and operate the subject pipeline looping and metering facilities for use in transporting gas as the need arises as hereinabove described, all as more fully described in the application, as supplemented, in this proceeding.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all appli-

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cable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), and (f) of section 157.20 of such Regulations.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12684 Filed 5-9-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. CP77-71, CP77-118, CP77-125]

NATURAL GAS PIPELINE CO. OF AMERICA ET AL.

Intent To Act and Deferring Procedural Dates

APRIL 28, 1978.

In the matter of Natural Gas Pipeline Co. of America, Columbia Gas Transmission Corp, Columbia Gulf Transmission Co., and Texas Gas Transmission Corp.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977) and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.[1]

The "saving provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR——provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On February 2, 1978, the Presiding Administrative Law Judge certified to the Commission two questions concerning the intended scope of the hearing previously ordered by the Commission to be held in the above-captioned proceeding. The Commission hereby gives notice of its intent to act on the certified questions.

On March 31, 1978, the Presiding Judge issued an order establishing dates for the filing of direct and answering evidence by the parties to this proceeding, and for the commencement of hearings. Pursuant to this schedule, direct evidence is due to be filed on or before May 1, 1978.

Since the Commission's ruling on the certified questions may affect the scope of this proceeding and clarify, and possibly limit, the issues to be addressed by the parties in their evidence, it appears no useful purpose would be served by the filing of evidence prior to issuance of the Commission's ruling. The previously established procedural dates are therefore deferred pending action by the Commission on the certified questions.

By direction of the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12673 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. RP78-57]

OKLAHOMA NATURAL GAS GATHERING CORP.

Proposed Changes in FERC Gas Tariff

MAY 1, 1978.

Take notice that Oklahoma Natual Gas Gathering Corp. (Gathering Corp.), on April 20, 1978, tendered for filing proposed changes in its FERC Tariff, Original Volume No. 1, consisting of the following tariff sheets:

Fourteenth Revised Sheet PGA-1
Fourth Revised Sheet No. 4
First Revised Sheet No. 58
Third Revised Sheet No. 59
First Revised Sheet No. 60
First Revised Sheet No. 61
First Revised Sheet No. 62
First Revised Sheet No. 63

The proposed changes would increase the level of its jurisdictional rates by 1.37 cents per Mcf, which would provide an increase in revenues from jurisdictional sales of $180,737 based on the 12-month period ending December 31, 1977, as adjusted. Gathering Corp. states that this increase amounts to a 1.5 percent increase over revenues which would result from rates that are in effect at this time.

Gathering Corp. states that this filing is being made in compliance with section 154.38(d) of the Commission's regulations governing the utilization of PGA clauses and does not seek to change the 9 percent rate of return previously authorized in Docket No. RM75-14; only to adjust the base sales rate to enable it to earn that rate of return. Gathering Corp. states that increased cost of service (labor, supplies, expenses, and construction) have caused its earned rate of return to decline to 5.20 percent.

Gathering Corp. proposes an effective date of May 23, 1978, and states that copies of this filing were served on each of its customers and affected State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies on this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12674 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER77-86]

SOUTHERN CO. SERVICES, INC.

Order Approving Settlement Agreement, Granting Motion To File Comments, Granting Late Intervention and Denying Hearing

MAY 2, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE not responsible for the function under the DOE Act and regulations promulgated thereunder. The functions

[1] The "Commission" when used in the context of an action taken prior to Oct. 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

which are the subject of these proceedings were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On December 7, 1977, Southern Co. Services, Inc. filed with the Federal Energy Regulatory Commission a proposed Settlement Agreement in the above designated docket. On December 8, 1977, the Presiding Administrative Law Judge certified the proposed Settlement to the Commission for its consideration and determination.

The proposed settlement was executed by Southern Co. Services, Inc. (SCSI) acting on its behalf as agent for the Mississippi Power Co., Gulf Power Co. and Alabama Power Co.; it was only executed by Georgia Power Co., the Municipal Electric Authority of Georgia (MEAG), and the Water, Light and Sinking Fund Commission of the City of Dalton, Ga. (City of Dalton). The Commission finds that the Settlement Agreement is in the public interest and accepts it as hereinafter ordered and conditioned.

On November 30, 1976, SCSI filed the Southern Co. System Intercompany Interchange Contract for 1977 with the Federal Power Commission. The Intercompany Interchange Contract governs the method by which the Operating Companies[1] account and pay for interchanges of capacity and energy between their respective systems.

By order issued December 27, 1976, the Federal Power Commission accepted the 1977 Intercompany Interchange Contract for filing, suspended the effectiveness of the Contract for one day, until January 2, 1977, and initiated the proceeding in this docket. Subsequently, MEAG and the City of Dalton, parties to the proposed Settlement Agreement were granted leave to intervene.

After a series of discussions between the parties and the Staff the proposed Settlement Agreement was reached. Notice of the Presiding Judge's certification of the Agreement to the Commission was issued on December 22, 1977, with comments due on or before January 20, 1978. On January 23, 1978, Staff filed a motion for extension of time to respond, together with comments in support of the proposed Settlement Agreement. No party has opposed that motion; it will be granted and Staff's comments will be considered.

Subsequent to the filing of Staff's comments the Oglethorpe Electric Membership Cooperative ("Oglethorpe" or "Petitioners") filed a petition for "Leave to Intervene, Protest and Request for Hearing" on January 26, 1978. Petitioner argues that its rates for power purchases under Georgia Power Company's Partial Requirements tariffs will be affected by the terms of the SCSI Interchange Contract. As justification for its untimely petition, Oglethorpe indicates that it was not until the parties filed a Proposed Settlement Agreement in this Docket on December 7, 1977, and not until Petitioner received a copy of that Agreement on January 20, 1978, that Oglethorpe became aware of the possible adverse impact upon it of the Settlement Agreement.

Oglethorpe expresses two concerns in its petition. (1) It argues that the SCSI Interchange Contract for 1977 might adversely affect its rates for partial requirements purchases. Petitioner concedes however, that there would be no adverse effect if the Commission approves the Settlement Agreement entered into between Oglethorpe, Georgia Power and other parties in Docket No. ER76-587. That docket involves Georgia Power's rates for partial requirements service to Oglethorpe (PR-2). (2) Oglethorpe's second concern is that the proposed Settlement Agreement in ER77-86, would adversely affect it through the impact on partial requirements rates proposed in Docket No. ER78-166 (PR-3).

In response to Oglethorpe's petition, Staff filed an answer on February 8, 1978, and SCSI and MEAG filed answers on February 9, 1978. Each of the answers stated opposition to the requested intervention. Both Staff and MEAG point out that public notice of SCSI's filing in Docket No. ER77-86 was first issued in December 1976. Settlement conferences began in June 1977 and continued for the remainder of the year. Staff, MEAG and SCSI object to Oglethorpe's petition on two grounds: (1) It is untimely, being filed thirteen months after the deadline for such petitions and six days after the date for filing comments on the proposed settlement and (2) the Petitioner's interests will not be adversely affected by the proposed settlement.

The proceedings in this docket commenced more than one year ago, after adequate public notice to potentially interested parties had been given. Certainly the interests of all concerned would have been better served had Oglethorpe sought participation at an earlier stage, when negotiations were still in progress. Nevertheless, the petition does raise issues conceivably affecting its interests. Since intervention will be confined to consideration of Petitioner's arguments solely as they relate to the record now before us, no delay or inconvenience to other parties will be entailed. Accordingly, we will grant Oglethorpe's petition to intervene.

Oglethorpe's contentions that the proposed Settlement Agreement in this docket will affect its partial requirements rate in Docket No. ER76-587 and in Docket No. ER78-166 are strongly disputed by the Staff, MEAG and SCSI. First, Staff and MEAG note that the 1977 Interchange Contract rates, effective as of January 2, 1977, govern Georgia Power's sales to and purchases from the Southern Co. Pool. The Georgia Power partial requirements rates under Docket No. ER76-587 were based upon costs for a test period ending on December 31, 1976. The Georgia Power interchange rates affecting Docket No. ER76-587 were based in the 1976 SCSI Interchange Agreements and the terms of that agreement were modified by a settlement approved by the Federal Power Commission in Docket No. ER76-302 on April 15, 1977.

Second, Staff and MEAG cite our "Order Conditionally Accepting Settlement Agreement", Georgia Power Co., Docket No. ER76-587, issued on February 6, 1978. As conceded by Oglethorpe, approval of the proposed Settlement Agreement in Docket No. ER76-587 would moot the possibility that Docket No. ER77-86 could adversely affect the partial requirements rate in Docket No. ER76-587. Both Staff and MEAG maintain that if the conditionally accepted settlement is not withdrawn, Oglethorpe is not adversely affected by the proposed settlement in this docket.

Third, Staff as well as SCSI reject Petitioner's argument that the proposed Settlement Agreement (which provides for certain changes to be incorporated into the 1978 SCSI Interchange Contract) will affect the partial requirements rate filed in Docket No. ER78-166. Staff Counsel reasons that the PR-3 wholesale rate would be based on a Period II test year of February 28, 1978, to February 28, 1979, and that the 1977 Interchange Contract would have no affect on that rate. Rather, the new partial requirements rate (PR-3) would only be affected by the 1978 SCSI Interchange Contract (Docket No. ER78-76).

Further, MEAG in its answer asserts that the ER77-86 Settlement Agreement would not preclude Oglethorpe from objecting to the 1978 Intercompany Interchange Contact in the ER78-76 proceeding. MEAG points out that Oglethorpe is not a signatory to the ER77-86 Settlement Agreement and therefore could not be bound by it. MEAG also alleges that Section V

[1] The Operating Companies consist of Alabama Power, Georgia Power, Mississippi Power, and Gulf Power.

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of the Settlement Agreement[2] in ER77-86 to which both it and the Water Light and Sinking Fund Commission of the City of Dalton, Georgia are signatories does not preclude challenges to the 1978 Intercompany Interchange Contract in Docket No. ER78-76. Consequently, MEAG submits if those parties who are bound by the Settlement Agreement in Docket No. ER77-86 are still free to challenge the 1978 Intercompany Interchange Contract in ER78-76 then there is no question that Oglethorpe would also be free to make its objections in that proceeding.

We have examined the record before us, the arguments advanced by Oglethorpe, SCSI and MEAG's answers, Staff's comments and Staff's response to Oglethorpe's petition to intervene. We find that Staff, SCSI and MEAG have correctly concluded that the proposed Settlement will have no adverse affect upon Oglethorpe. We further conclude that the proposed Settlement Agreement is in the public interest and will accept and approve it as hereinafter ordered and conditioned.

With respect to the Petitioner's contention that approval of the proposed Settlement Agreement may adversely affect PR-2 rates, we conclude that those rates, to the extent they are affected by Georgia Power's interchange transactions with other Southern Co. Pool members, are primarily related to the 1976 SCSI Interchange Contract. The 1977 Contract, i.e., the filing in this docket, does establish formulas for interchange energy charges. The energy charges established in that contract and proposed for acceptance in the instant Settlement Agreement do have some effect upon the monthly energy charges to Oglethorpe under PR-2. Of course, those energy rates incorporated in SCSI's Docket No. ER77-86 filing and the proposed Settlement Agreement merely incorporate the changes which had been approved by the Federal Power Commission as part of a Settlement Agreement in Docket No. ER76-302 on April 15, 1977. That Agreement covered the energy charge formula to be included in SCSI's 1977 Interchange Contract. Oglethorpe chose not to seek intervention in the ER76-302 proceeding. Oglethorpe is ill-situated to complain, at this late date, about matters first raised in a proceeding finally settled in April of last year.

Additionally, by letter dated February 15, 1978, Georgia Power Co. informed the Commission that it would not contest our February 6, 1978 Order conditionally accepting the Settlement Agreement in Docket No. ER76-587. Georgia Power agreed to the modifications outlined in that order. In view of Georgia Power's actions, the settlement in Docket No. ER76-587[3] effectively resolves Oglethorpe's concerns about the PR-2 rate. This point is in fact conceded by Oglethorpe in its petition.

We agree with Staff and MEAG that the 1977 Interchange Contract does not affect the proposed PR-3 Georgia Power rate filing which is based on 1978-1979 test year data. The 1977 contract, which is the subject of the proposed Settlement in this docket, is effective only during calendar year 1977. The PR-3 rate and the 1978 SCSI Interchange Contract are the subjects of proceedings in Docket Nos. ER78-166 and ER78-76. Oglethorpe filed petitions in those dockets on January 24 and 26, 1978. Whatever interests Oglethorpe may have in PR-3 are appropriately addressed in those proceedings.

The proposed Settlement Agreement provides that SCSI agrees to incorporate in the 1978 Intercompany Interchange Contract allocation of steam electric reserve capacity in excess of reserves for forced outages of hydroelectric and thermal electric capabilities to the Operating Companies based upon their peak load ratios.

Article II of the settlement is a provision requested by Southern Services and not contested by the other parties. It concerns a revised computational schedule to be included in the 1978 Contract amendments which would eliminate that component of the monthly capacity rate associated with reserve margins of the respective Operating Companies.

Based on Staff's analysis, the earned rate of return for the capacity charges under the proposed Settlement Agreement will not exceed Staff's recommended weighted returns on equity of 13.25 percent for Georgia, Alabama, and Gulf and 13.38 percent for Mississippi. Additionally based on Staff's analysis, the earned rate of return for transmission facilities charges under the proposed Settlement Agreement will not exceed Staff's recommended rate of return of 10.80 percent including 13.25 percent on common equity based on an incremental debt cost procedure.

Upon review of the entire record of this proceeding, the Commission finds that the proposed Settlement Agreement represents a reasonable resolution of all the issues in this proceeding.[4] Accordingly, the proposed Settlement Agreement shall be incorporated herein by reference and shall be approved and adopted.

The Commission finds: (1) The Settlement Agreement certified to the Commission on December 8, 1977, should be approved and made effective as hereinafter ordered.

(2) The Commission finds the participation of Oglethrope in this proceeding may be in the public interest.

(3) Oglethorpe's request for hearing should be denied.

(4) Staff's motion for leave to file comments should be granted.

The Commission orders: (A) The Settlement Agreement certified to the Commission on December 8, 1977, in this proceeding is hereby accepted, incorporated herein by reference and approved subject to the following conditions.

(B) Docket No. ER77-86 is hereby terminated.

(C) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order, in any proceeding now pending or hereinafter instituted by or against SCSI or any person or party.

(D) Oglethorpe is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* that intervention will be confined to consideration of Oglethorpe's arguments solely as they relate to the present record and that the untimely intervention granted to Oglethorpe shall not be the basis for any delay in implementation of the Settlement Agreement approved herein; and *Provided further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggreived because of any orders of the Commission entered in this proceeding.

(E) Oglethorpe's request for a hearing is hereby denied.

(F) Staff's motion for leave to file comments is hereby granted.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

[2] Section V of the Settlement Agreement provides: "That neither [SCSI] nor the Operating Companies will cite approval of this offer of settlement as a basis for opposing any objections to the 1978 Intercompany Interchange Contract for the calendar year 1978".

[3] On March 10, 1978, SCSI filed a Motion for Consideration of Settlement in Docket No. ER77-86, requesting that we approve the Settlement Agreement in the instant case as a result of the disposition of Docket No. ER77-587.

[4] The Settlement Agreement provides that the amount associated with Account 281, Accelerated Amortization, is reflected in the Operating Companies' capitalization at zero cost. In future filings, the Operating Companies should reflect the amount associated with Account 281 as a deduction to rate base consistent with the Commission's Opinion No. 12, Minnesota Power & Light Company, issued April 14, 1978.

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By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12675 Filed 5-9-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

DON A. BEADLE AND MACERO MINERALS, INC., ET AL.

[Docket Nos. CS71-844, etc.]

Applications for "Small Producer" Certificates[1]

APRIL 27, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS71-844	Apr. 2, 1978	Don A. Beadle and Macero Minerals, Inc.,[1] the 600 Bldg., Corpus Christi, Tex. 78401.
CS74-198	Apr. 17, 1978	Stelbar Oil Corp., Inc., and Jerry E. Shawver,[2] 200 West Douglas, Suite 950, Wichita, Kans. 67202.
CS78-377	Apr. 10, 1978	SPG Operating Co. (operator), et al., 7700 Commerce Park Dr., Suite 141, Houston, Tex. 77036.
CS78-378	Apr. 11, 1978	Liberty Oil & Gas Corp., P.O. Drawer 430, Livonia, La. 70755.
CS78-379	Apr. 12, 1978	HASADA, Industries, P.O. Box 1532, Liberal, Kans. 67901.
CS78-380	Apr. 11, 1978	Roye Realty & Developing, Inc., P.O. Box 148, Stigler, Okla. 74462.
CS78-381	do	William S. Evans, 1700 Beck Bldg., Shreveport, La. 71101.
CS78-382	Apr. 13, 1978	W. B. Dansfield, 1300 the 600 Bldg., Corpus Christi, Tex. 78473.
CS78-383	do	Dansfield Oil & Gas Corp., 1300 the 600 Bldg., Corpus Christi, Tex. 78473.
CS78-384	do	Agoil Inc., P.O. Box 4707, Victoria, Tex. 77901.
CS78-385	Apr. 14, 1978	Stanley B. Archibald, Jr., 4221 First International Bldg., Dallas, Tex. 75270.
CS78-386	Apr. 10, 1978	Michel T. Halbouty, 5100 Westheimer, Suite 500, Houston, Tex. 77056.
CS78-387	Apr. 14, 1978	Canadian American Resources Fund Inc., 1973 (1 partnership), 2500 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS78-388	Apr. 17, 1978	Keisling Farms, Inc., 1001 Avenue Q, Sunray, Tex. 79086.
CS78-389	do	Rowan Petroleum Inc., 1900 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.
CS78-390	do	Douglas B. Bickerstaff, P.O. Box 548, Billings, Mont. 59103.
CS78-391	do	Bobby W. Whittington, Box 568, Portland, Tex. 78374.
CS78-392	do	Canadian American Resources Fund Inc., 1973 (2 partnership), 2500 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS78-393	Apr. 18, 1978	Moleo Gas Corp. (operator), et al., 211 North Colorado, Suite 201, Midland, Tex. 79701.
CS78-394	do	Pete Caldwell Drilling Co., Inc., P.O. Box 4165, Monroe, La. 71203.
CS78-395	do	Calvin Myers, P.O. Box 4165, Monroe, La. 71203.
CS78-396	do	Criswell White, P.O. Box 4165, Monroe, La. 71203.
CS78-397	do	Navidad Gas Gathering Co., Inc., 9000 Southwest Freeway, Suite 212, Houston, Tex. 77074.
CS78-398	do	Floe Energy, Inc., 900 Hillcest Dr., Spencer, W. Va. 25276.
CS78-399	do	NPC Petroleum Corp., 3535 Northwest 58th St., Suite 920, Oklahoma City, Okla. 73112.
CS78-400	Apr. 20, 1978	CEFGO Co., Box 55, Tylersburg, Pa. 16361.
CS78-401	Apr. 21, 1978	United Co., Suite 507, Texas Commerce Bank Bldg., Lubbock, Tex. 79401.
CS78-402	do	Charlotte A. Sutliff, Box 368, Princeton, Ind. 47670.

[1] Being noticed to include both Don A. Beadle and Macero Minerals, Inc.
[2] Being noticed to include Jerry E. Shawver.

[FR Doc. 78-12520 Filed 5-9-78; 8:45 am]

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[6740-02]

[Docket No. ER78-328]

CENTRAL HUDSON GAS & ELECTRIC CORP.

Rate Filing

MAY 1, 1978.

Take notice that on April 24, 1978, Central Hudson Gas & Electric Corp. (Central Hudson) tendered for filing its development of actual costs for 1977 related to transmission service provided from the Roseton Generating Plant to Consolidated Edison Co. of New York, Inc. (Con Edison) and Niagara Mohawk Power Corp. (Niagara Mohawk) in accordance with the provisions of its Rate Schedule F.E.R.C. No. 42.

Central Hudson states that the actual cost for 1977 amounted to $1.1264 per Mw-day to Con Edison and $3.7692 per Mw-day to Niagara Mohawk and is the basis on which estimated charges for 1978 have been billed.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1978 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison, Niagara Mohawk and the State of New York Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with 18 CFR 1.8 and 1.10. All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person withing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12665 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER78-329]

CENTRAL HUDSON GAS & ELECTRIC CO.

Filing of Rate Schedule

MAY 1, 1978.

Take notice that Central Hudson Gas & Electric Corp. (Central Hudson) on April 24, 1978 tendered for filing a supplement to its Rate Schedule F.P.C. No. 53 with New York State Electric & Gas Corp. This supplement extends the term of the Rate Schedule and modifies the service provided under the Rate Schedule. The supplement is proposed to become effective January 1, 1978, and Central Hudson therefore requests waiver of the Commission's notice requirements.

Copies of the filing by Central Hudson were served upon the New York State Electric & Gas Corp. and the Public Service Commission of New York.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this petition are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12666 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-303]

CITIES SERVICE GAS CO.

Application

MAY 3, 1978.

Take notice that on April 19, 1978, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP78-303 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a pipeline tap, measuring, regulating and appurtenant facilities to enable it to render direct natural gas service to one new customer, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to tap its existing Dilworth 20-inch transmission pipeline in Sumner County, Kans., to provide gas service to one customer, Forrest G. Butts, for rural domestic and irrigation purposes. Applicant states that this customer has requested gas service pursuant to the terms of a right-of-way easement and agreement, and that the proposed customer has relied upon the provisions for natural gas service as contained in the right-of-way easement and agreement as such provision constituted a major portion of the consideration given to him by Applicant for the voluntary grant of such easement.

It is indicated that the estimated cost of the proposed measuring and regulating facilities is $960, which cost would be paid from treasury cash. It is estimated that the annual sales made pursuant to this application would average approximately 3,000 to 5,000 Mcf, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12692 Filed 5-9-78; 8:45 am]

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[6740-02]

[Docket No. RP72-122 (PGA78-2a)]

COLORADO INTERSTATE GAS CO.

Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

MAY 1, 1978.

Take notice that Colorado Interstate Gas Co. (CIG), on April 24, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1. The proposed changes are in compliance with the March 31, 1978 letter of the Commission's Secretary requiring and allowing certain revisions to CIG's Purchased Gas Adjustment filing made February 24, 1978.

The filing was made to enable CIG to reflect in its rates, pursuant to section 21 of CIG's FERC Gas Tariff, Second Revised Volume No. 1, net increased purchased gas costs it will experience as the result of rate filings made by Northwest Pipeline Corp., Mountain Fuel Supply Co., McCulloch Interstate Gas Corp., and Western Transmission Corp., which are four of CIG's pipeline suppliers.

In accordance with the March 31, 1978, letter of the Commission's Secretary, CIG requests that the proposed tariff changes be made effective April 1, 1978, and April 2, 1978.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12667 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. RM77-14]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

MAY 1, 1978.

Take notice that Consolidated Gas Supply Corp. (Consolidated), on April 27, 1978, tendered for filing proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes, made pursuant to ordering Paragraph (C) of the Commission's Opinion No. 11 reflects, on Third Revised Sheet No. 16, the Gas Research Institute Charge Adjustment Provision of 0.12¢ per dekatherm to be effective June 1, 1978.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12668 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER76-887]

DAYTON POWER AND LIGHT CO.

Certification of Settlement Agreement and Record

MAY 2, 1978.

Take notice that on April 18, 1978, the Presiding Judge in Docket No. ER76-887, Dayton Power and Light Co., certified to the Commission a settlement agreement between the parties in that proceeding. In addition to the settlement agreement and the parties' joint motion for certification, the four volumes of transcript which constitute the record have also been certified to the Commission.

Any person desiring to be heard or to protest this settlement agreement should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12689 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket Nos. CI77-372; CI77-373; CI77-409]

ECEE, INC. ET AL.

Order Denying Request to Collect Rates in Excess of the Applicable Nationwide Rate Under Temporary Authorization and Granting Authorization at the Nationwide Rate

MAY 2, 1978.

On January 18, 1978, Ecee, Inc. (Ecee) and Pinto, Inc. (Pinto) filed, in their respective dockets, requests for issuance of temporary authorizations, pursuant to 18 CFR 157.28, to initiate sales of their gas interests underlying West Cameron Block 586, offshore Louisiana, at a price of $2.50 Mcf at 14.73 psia, subject to refund. TBP Offshore Co. (TBP) filed in its docket, an essentially identical request covering its interest in West Cameron 586, on January 23, 1978. The three companies taken together own 6.67 percent of the working interest in West Cameron 586.

On January 27, 1978, the United Muncipal Distributors Group (MDG) filed a response in opposition to the requests of Ecee, Pinto, and TBP. On February 10, 1978, TBP, joined by Ecee and Pinto, replied in opposition to MDG's January 27, 1978 response and again argued for their respective requests for temporary authorization of the requested $2.50/Mcf rates.

Ecee and Pinto filed applications for permanent certificates and petitions for special relief under 18 CFR 2.56a(g) for their respective interests in West Cameron 586 on March 29, 1977. TBP filed a similar application and petition for special relief on April 14, 1977. All three applicants requested an initial rate of $4.02/Mcf for the sale of each company's respective gas to Sea Robin Pipeline Company (Sea Robin). By a May 4, 1977 order in the instant dockets the Commission consolidated these three applications together with similiar applications and petitions for special relief of Pennzoil Offshore Gas Operators, Inc. (POGO), Docket No. CI76-806, and Mesa Offshore Co. (Mesa), Docket No. RI77-13, and set the consolidated proceeding for a hearing to determine whether the proposed rates should be authorized as being just and reasonable.

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Evidentiary hearings commenced before the Presiding Administrative Law Judge on September 8, 1977, and concluded December 21, 1977. On October 4, 1977, the instant three applicants amended their individual applications to reflect reduction of their initial rate request to $3.74/Mcf.

Mobil Oil Corp., owning 33% of West Cameron 586, applied for a permanent certificate at the nation-wide rate in Docket No. CI76-464 on April 12, 1976, and the Commission granted Mobil a permanent certificate by order dated February 15, 1977, at the applicable Opinion No. 770-A rate. Cities Service Co., filed for a temporary and permanent certificate at the nation-rate on April 20, 1977 in Docket No. CI77-421, for its 10% interest in West Cameron 586, and the Commission issued Cities a temporary certificate at the applicable nationwide rate on May 5, 1977. POGO, owning 50 percent of West Cameron 586, filed for a temporary certificate at the nationwide rate on April 28, 1977, in Docket No. CI76-806 and the Commission granted the temporary certificate on May 10, 1977, at the applicable Opinion No. 770-A rate.

Deliveries from West Camron 586 commenced May 4, 1977. The three present applicants have been "banking" their gas pursuant to a balancing arrangement with the Blocks' other working interest owners. They, individually, now request the Commission to authorize each of them respectively to commence sales under a temporary certificate at a rate substantially higher than the applicable nationwide rate. This we have declined to authorize in the past,[1] and see no reason to authorize it here on the facts presented. The Commission authorizes Ecee, Pinto and TBP, respectively, to commence sales of their gas to Sea Robin under respective temporary certificates at rates no higher than the applicable Opinion No. 770—A rate, effective the date this order is issued. The language of 18 CFR 2.56a(g) is explicit. A "seller may not file for any rate increase which results in a rate in excess of the adjusted national rates * * * *unless and until* the Commission grants such petition for special relief." (emphasis added)

In several orders,[2] the Commission has expressed its concern with contractual provisions which shift an increasing amount of production related expenses to the pipeline purchasers without a concurrent reduction in the rate charged by producers for the gas. To the extent the contracts involved herein contain such provisions, the producers and the pipeline purchasers are advised that issuance of the certificates and acceptance of the related rate schedules does not constitute approval of such contractual provisions. In the event the purchaser incurs costs associated with processing, dehydration, compression or other conditioning of the subject gas and seeks to include these costs in its rates, the purchaser will be required to prove that these costs have not been compensated for in the applicable national ceiling rate. The attachment of this condition is subject to whatever action is taken by the Commission on rehearing in Docket Nos. CI77-412, CP77-558 and CP77-577.

The Commission orders: (A) The requests of Ecee, Pinto and TBP, respectively, for temporary authorizations to commence sales in these dockets at $2.50/Mcf, subject to refund, are hereby denied.

(B) Based upon the allegations presented in the individual requests of Ecee, Pinto, and TBP in the instant dockets for temporary authorization to initiate sales of natural gas pursuant to 18 CFR 157.28, the Commission finds that an emergency exists and a temporary certificate is hereby issued to each respective applicant, pursuant to Section 7 of the Natural Gas Act.

(C) Each temporary certificate is issued subject to the Commission's Opinion No. 770, as amended and any further orders issued thereunder, subject to the following express conditions:

(1) The initial rate shall be the lesser of the rate or the applicable nationwide rate.

(2) Within 30 days of the date of initial delivery, each applicant shall file 3 copies of a revised billing statement (Schedule 0507 of Form 108) for each subject rate schedule, clearly demonstrating the monthly sales volumes (Mcf) and the applicability of the authorized rates and the components of the initial rate.

(3) Each applicant shall submit a written waiver required by 18 CFR 2.56a(i) within 30 days of the issuance of this order.

(4) 18 CFR 154.93 is hereby waived only to the extent necessary to permit the filing of each contract which contains inpermissible pricing provisions and/or provides excess royalty payments. The granting of such waiver, however, does not constitute approval of such provisions, and any rate increase based upon said pricing provisions to the extent it is inconsistent with the provisions of 18 CFR 154.93 is subject to rejection.

(5) If the spirit and intent of 18 CFR 154.103 is violated in the contracts by the buyers not having 5 years to make up deficiencies in volumes paid for but not taken in the first 3 years of deliveries, because the daily contract quantity is based on 100% of deliverability, the applicant shall submit a contract amendment within 30 days of this order's issuance which complies with the spirit and intent of 18 CFR 154.103.

(D) Applicant's acceptance or rejection of the temporary certificate issued herein shall be filed within 30 days of this order's issuance. If accepted, the temporary certificate shall be effective upon the date of initial delivery. Service under the instant temporary certificates shall commence within 30 days of the date this order is issued. Such service shall be continued unless and until abandonment authorization is granted pursuant to Section 7(b) of the Natural Gas Act whether the contract has expired or not.

(E) All persons making jurisdictional sales pursuant to the authority granted by this certificate are hereby given notice that the contractual obligations between the buyer and the seller are incorporated into the certificate obligations, and the certificate is further conditioned to require that the seller shall observe the standard of a prudent operator to develop and maintain deliverability from reserves dedicated hereunder (Required by Order No. 539-B, issued July 30, 1976, Docket No. RM76-8; 18 CFR 154.71). This provision is void unless the decision of the United States Court of Appeals for the Fifth Circuit in *Shell Oil Company, et al.* v. *F.E.R.C.*, Nos. 76-3066, *et al.*, decided January 20, 1978, which reversed the Commission's Order No. 539-B is vacated upon further judicial review.

(F) The issuance of the subject temporary certificates and the acceptance of the subject rate schedules, are, without prejudice to such final disposition of the applications for permanent certificates and petitions for special relief in the consolidated Docket CI76-806, et al., as the record may require.

(G) Each related rate schedule will be considered accepted for filing upon compliance with the instant authorization, to be effective on the date of initial delivery subject to 18 CFR 154.94(c) and 154.101 and Opinion No. 770-A. The rate schedule filings have been designated as follows:

Docket No.	Description	Designation
CI77-372.....	Contract dated Mar. 1, 1977.	Ecee, Inc., FERC gas rate schedule No. 2.
CI77-373.....	.....do.....	Pinto, Inc., FERC gas rate schedule No. 4.
CI77-409.....	Contract dated Mar. 29, 1977.	TBP Offshore Co. FERC gas rate schedule No. 1.

Please advise the Commission of the date of commencement of deliveries under each rate schedule, within 10 days thereof, referring in your communication to each rate schedule as designated above.

(H) In the event the pipeline purchaser incurs costs associated with processing, dehydration, compression or other conditioning of the subject gas and seeks to include these costs in its rates, the pipeline purchaser will be required to provide that these costs have not been compensated for in the applicable national ceiling rate. This condition is subject to whatever action is taken by the Commission on rehearing in Docket Nos. CI77-412, CP77-558 and CP77-577.

By direction of the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12670 Filed 5-9-78; 8:45 am]

[1] Marathon Oil Company, Docket No. CI78-164, *Order Granting Temporary Certificate Of Public Convenience And Necessity And Granting Intervention*, issued March 20, 1978. Continental Oil Co., et al., Docket No. RI76-35, *et al., Order Consolidating Proceedings, Setting Consolidated Proceeding For Hearing and Granting Interventions*, issued April 28, 1976, *mimeo* at 3. Tenneco Exploration, Ltd., *et al., Docket No. CI76-633, et al.*, Order Denying Petition And Motion For Waiver of Section 2.75(o) And Denying Motions For Authorization To Collect Rates Sought In Certificate Applications Pending Final Commission Action, issued February 22, 1978. Tenneco Exploration, Ltd., *et al.*, Docket No. CI76-633 *et al., Order Denying Motion For Partial Waiver of Section 2.75(o) And Denying Petition For Waiver of Section 157.29(d)*, issued April 19, 1977, *mimeo* 3-4. *But see*, Coleve, *et al.*, Docket No. CI75-438, *et al., Order Granting Request For Temporary Certificate*, issued March 29, 1976. We decline to extend Coleve further to cover the facts herein.

[2] Orders issued on December 9, 1977, in *Phillips Petroleum Co.*, Docket No. CI77-412, and on December 30, 1977, in *United Gas Pipe Line Co.*, Docket No. CP77-558 and *Michigan Wisconsin Pipe Line Co.*, Docket No. CP77-577.

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[6740-02]

[Docket No. CP78-291]

EL PASO NATURAL GAS CO.

Application

MAY 1, 1978.

Take notice that on April 17, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-291 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain gas purchase facilities consisting of 8 gas purchase meter stations and approximately 0.74 mile of pipeline, and certain gas sales facilities, consisting of 5 mainline right-of-way taps, with associated appurtenances, together with the related natural gas services heretofore rendered by means of such facilities from Applicant's interstate transmission system, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to abandon the following gas purchase facilities:

(1) EPNG 10¾-inch O.D. Ft. Stockton Meter Station located in Pecos County, Tex., authorized in Docket No. G-13374. Applicant states that the station is no longer required due to the expiration of an associated gas purchase agreement, and that since the subject gas purchase agreement had expired, no further deliveries of residue gas were to be made by Texas Oil & Gas Corp. to Applicant, thereby obviating the need for Applicant's meter station facilities. Subsequently, on February 18, 1977, the idle meter station was removed from natural gas service by Applicant's operating personnel inadvertently without requisite authorization, it is stated. Applicant indicates that the salvageable materials have been placed in stock pending a future need thereof.

(2) Rojo Caballo Purchase Meter Station located in Pecos County, Tex., authorized in Docket No. CP64-211, et al., due to change in delivery point to applicant for the Rojo Caballo Field gas supplies.

(3) Phillips-Ector Plant Meter Station and Pipeline located in Ector County, Tex., authorized at Docket No. CP64-68, due to the change in processing and delivery points of gas to Applicant.

(4) The Keystone Emperor Purchase No. 2 Meter Station located in Winkler County, Tex., authorized at Docket No. CP70-114. Said meter station is no longer required due to the decline in deliverability of gas supplies in the area.

(5) The Walker No. 1 Well head Meter Station located in Pecos County, Tex., authorized at Docket No. CP68-86. Said meter station is no longer required due to the producer's intent to plug the Walker No. 1 well.

(6) The Gamble No. Wellhead meter station located in Pecos County, Texas, authorized at Docket No. CP68-86. Said meter station is no longer required due to the plugging of the Gamble No. 1 well.

(7) The Patterson No. 1 Wellhead Meter Station located in Pecos County, Tex., authorized at Docket No. CP68-86. Said meter station is no longer required due to the converson of the Patterson No. 1 well into a water injection well; and

(8) The Government 134 No. 1 Meter Station and pipeline located in Eddy County, New Mexico, authorized at Docket No. CP73-82, due to the expiration of the limited-term certificate and the producer's intent to plug such well.

Applicant also proposes to abandon the following gas sales facilities:

(1) The W. A. Dobson tap located in Maricopa County, Arizona, installed without specific certificate authorization, no longer required due to the City of Mesa's accepting this service.

(2) The Woodman of the World Hall tap located in San Juan County, N. Mex., authorized in Docket No. G-12319, no longer required due to Southern Union Company's construction of a distribution line from its Farmington System to the Woodman of the World Hall tap.

(3) The Robert Draper Tap located in Gaines County, Tex., authorized in Docket No. CP69-23, no longer required due to the non-production of the water wells which such tap served.

(4) The Magnolia Pipeline Co. tap located in Hockley County, Tex., no longer required due to the gas consumers' switch from natural gas to electricity as a source of energy; and

(5) The Shell Pipe Line Corp.-Meyers Lease Pump Production tap located in Lea County, N. Mex., authorized in Docket No. CP69-23, no longer required due to Shell Pipe Line Corp.'s request that Jal Gas Co., Inc., cancel the contract between them.

Applicant proposes to abandon such facilities and thereafter to remove and place in stock the salvable materials and scrap the non-salvable items, without material change in Applicant's average cost of service. Applicant states that the total cost of abandonment of the proposed facilities is estimated to be $11,385.70. Applicant further states that the abandonment of the proposed facilities would not result in or cause any interruption, reduction or termination of natural gas service presently rendered by Applicant to any of its customers, other than those services as hereinbefore described.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 22, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12685 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER78-265]

GEORGIA POWER CO.

Compliance Filing

MAY 1, 1978.

Take notice that Georgia Power Co. (Company) on April 19, 1978, tendered for filing two Revised Sheets No. 3 to Georgia Power's FERC Electric Tariff, Original Volume No. 2. Company indicates that this filing is made in compliance with the Commission's letter dated April 13, 1978, in the above-noted docket requiring revised sheets setting forth the Company's index of purchasers under its partial requirements tariff.

The Company states it served copies of the filing on each of its partial requirements customers.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before May 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12669 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP66-110, etc.]

GREAT LAKES GAS TRANSMISSION CO.

Petition to Amend

MAY 2, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —: *Provided*, That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on April 20, 1978, Great Lakes Gas Transmission Co. (Petitioner), 2100 Buhl Building, Detroit, Mich. 48226, filed in docket No. CP66-110 a petition to amend the Federal Power Commission (FPC) orders in the instant docket so as to authorize Petitioner to transport and deliver natural gas by displacement to Northern Natural Gas Co. (Northern) in Minnesota and Michigan, which gas Northern has imported from Canada, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that by order of June 20, 1967, in docket No. CP66-110, et al., Petitioner was authorized, among other things, to construction and operate facilities, to import natural gas into the United States from Canada and to transport natural gas. It is further indicated that this filing is a companion filing to the application filed by Northern on March 17, 1978, in docket No. CP78-237 in which Northern seeks authorization to import gas by displacement. Petitioner states that Northern proposes to import into the United States up to 75,000 Mcf per day of gas during the period November 1 through March 31 of each year for a period of 5 years commencing in November, 1978.

It is stated that pursuant to a gas transportation contract dated September 12, 1967, between Petitioner and TransCanada PipeLines Ltd. (TransCanada), Petitioner is obligated to transport up to 815,000 Mcf of natural gas per day for TransCanada from the Emerson interconnection to the Sault Ste. Marie and St. Clair interconnections of Petitioner's pipeline with those of TransCanada.

It is further stated that pursuant to an agreement dated March 15, 1978, TransCanada, Northern, and Petitioner agreed to the deliveries of gas by displacement as proposed in Northern's application and this petition. Such agreement provides for the sale and delivery of gas to Northern by displacement of up to 10,000,000 Mcf during the winter months in each of the 5 contract years beginning November 1, 1978. Petitioner states that it would deliver at TransCanada's direction such volumes as are nominated during the winter months to Northern at points of interconnection between Petitioner's and Northern's pipeline systems at Carlton, Minn., and by mutual agreement of the parties at Grand Rapids, Minn., and Wakefield, Mich. Petitioner indicates that it would reduce its deliveries to TransCanada at St. Clair under the Agreement dated September 12, 1967, by the volumes delivered to Northern.

It is stated that the only change in Petitioner's operations would be that a part of the transportation gas which otherwise would be redelivered to TransCanada at existing interconnections at Sault Ste. Marie and St. Clair, Mich., would be delivered at TransCanada's direction to Northern.

The petition states that Petitioner and Northern have agreed that volumes delivered by Petitioner to Northern at the three delivery points would be ascribed first to Petitioner's rate schedule T-5 volumes, then to any other volumes Petitioner has heretofore agreed to deliver to Northern at Carlton, and any volumes in excess thereof would be considered to be under the March 15, 1978, agreement, it is stated. Petitioner's rate schedule T-5 covers transportation service presently being provided for Northern, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to partricipate as a party in any hearing therein must file a petititon to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12686 Filed 5-9-78; 8:45 am]

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[6740-02]

KANSAS CITY POWER & LIGHT CO.

Docket No. ER78-330]

Cancellation

MAY 1, 1978.

Take notice that Kansas City Power & Light Co. on April 24, 1978, tendered for filing a Notice of Cancellation of Rate Schedule FPC No. 82 and Supplement No. 1 to Rate Schedule FPC No. 80, between the Company and the City of Armstrong, Mo. The Company proposes that the cancellation be effective as of May 24, 1978. The Company indicates that this Notice of Cancellation has been served upon Armstrong. Armstrong has filed a certificate of concurrence with this filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12671 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket Nos. CI61-1281, etc.]

MOBIL OIL CORP. (OPERATOR), ET AL.

Findings and Order After Statutory Hearing Issuing Certificates of Public Convenience and Necessity; Correction

APRIL 26, 1978.

TABULATION, page 8, Docket No. CI77-468, issued March 6, 1978, *Anadarko Production Company*, Under column headed "Description and Date of Document" change footnote "[27]" to "[26]" opposite No. 233.

INSERT, page 8, Insert "7-1-77" after "(Eff. Date)" opposite No. 233.

FOOTNOTES, page 8, Add footnote "[29]" to read: "Depths limited to the Upper Morrow Formation only."

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12672 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-306]

MONTANA-DAKOTA UTILITIES CO.

Application

MAY 3, 1978.

Take notice that on April 24, 1978, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, N. Dak. 58501, filed in Docket No. CP78-306 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Wyoming Gas Co., all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Wyoming Gas Co. has contractd for a supply of intrastate gas in the Five Mile Field, Big Horn County, Wyo., which gas is not available for the interstate market. Applicant indicates that it presently has gathering and transmission facilities, and that pursuant to a transportation agreement, dated April 10, 1978, with Wyoming Gas Co., Wyoming Gas Co. would deliver the subject gas to Applicant at a point on Applicant's gathering system in the Five Mile Field of Wyoming, and that Applicant would redeliver the gas to Wyoming Gas Co. at an existing delivery point near Worland, Wyo.

It is stated that all facilities required to be constructed to effectuate the propose transportation of gas would be constructed and owned by Wyoming Gas Co.

The application states that Wyoming Gas Co. estimates that the daily volumes tendered for transportation hereunder would range between 280 and 465 Mcf per day with an estimated total minimum annual volume of 102,000 Mcf.

Applicant states that it would charge Wyoming Gas Co. an initial transportation rate of 2.86 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12693 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-297]

NATIONAL FUEL GAS SUPPLY CORP.

Application

MAY 3, 1978.

Take notice that on April 19, 1978, National Fuel Gas Supply Corp. (Applicant), Ten Lafayette Square, Buffalo, N.Y. 14240, filed in Docket No. CP78-297 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period May 1, 1978, through April 30, 1979, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange of gas with Applicant.

Applicant states that the total estimated cost of the proposed facilities would not exceed $3,195,000, with the cost of any single project not to exceed $800,000. The cost of the pro-

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posed facilities would be financed with internally generated funds and/or interim short-term bank loans, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unneccessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12694 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-289]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Pipeline Application

APRIL 27, 1978.

Take notice that on April 17, 1978, Natural Gas Pipeline Company of America, 122 South Michigan Avenue, Chicago, Ill. 60603; Panhandle Eastern Pipe Line Co., 3000 Bissonnet Avenue, Houston, Tex. 77005, and 3444 Broadway, Kansas City, Mo. 64111, and Consolidated Gas Supply Corp., 445 West Main Street, Clarksburg, W. Va. 26301 (Applicants), filed in Docket No. CP78-289 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of joint offshore gas gathering facilities in the Vermilion Area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have the right to purchase natural gas reserves located in Vermilion Blocks 329, 338, 339, and 340. Applicants propose to construct jointly a gathering line from a production platform in Block 329 to a sub-sea tie-in Block 340 to a gathering line to be constructed jointly by Applicants from a production platform in Block 340 to a sub-sea tie-in on the Stingray Pipeline Company facility located in Block 321. Applicants estimate the total cost of the proposed facilities will be $10,085,000. Applicants state that their respective shares of said costs will be financed initially through revolving credit arrangements, short-term loans, funds on hand, and, in some cases, from funds obtained from parent companies. Permanent financing will be undertaken as part of Applicants' respective overall long-term financing programs at later dates.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12687 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP-285]

SHENANDOAH GAS CO.

Application

APRIL 27, 1978.

Take notice that on April 14, 1978, Shenandoah Gas Co. (Applicant), 1100 H Street NW., Washington, D.C. 20080, filed in Docket No. CP78-285 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate facilities for the delivery of natural gas to ultimate consumers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct and operate taps along its pipeline system described below for the purpose of rendering service on a firm basis in Virginia and West Virginia to serve new high priority residential and small commercial customers located in its franchise areas in the vicinity of certificated facilities, which certificated facilities include:

1. Applicant's principal pipeline from Middletown, Va., to Martinsburg, W. Va., consisting of 36.2 miles of 6⅝-inch, 0.7 mile of 8-inch, and 1.8 miles of 12-inch pipeline authorized by orders issued April 30, 1954, in Docket No. G-1448 (13 FPC 579, at 593) and September 12, 1966, in Docket No. CP66-428. The original certificate in Docket No. G-1448 included service to two industrial customers, M. J. Grove Lime Co., near Stephens City, Va., and Shenandoah Brick and Tile Co., near Winchester, Va. (13 FPC 79, at 382, footnote 3).

2. Applicant's branch line to serve Strasburg, consisting of approximately 10,000 feet of 2- and 3-inch pipeline extending from a point of connection with Columbia Gas Transmission Corp. (Columbia) to a point of connection with Applicant's distribution facilities in Strasburg, Va., and vicinity, was authorized by order issued June 29, 1965, in Docket No.CP65-287.

3. Applicant's branch line to serve New Market, consisting of approximately 7,500 feet of 2-inch pipeline extending from a point on Columbia's 24-inch main line to the community of New Market, Va., was authorized by order issued September 12, 1966, in Docket No. CP66-428. In addition, in Docket No. CP66-428, Applicant was authorized to continue operation of facilities for the direct sale of gas to the industrial plants of Continental Clay Products Company near Martinsburg, W. Va., C. H. Musselman (Pet Milk Co.), Inwood, W. Va., Corning Glass Works, Inc., near Inwood, W. Va., and Minnesota Mining and Manufacturing Co., near Middleway, W. Va. The facilities installed to serve these four customers aggregated approximately 26,800 feet of 2-, 3-, 4-, and 6-inch pipeline. Applicant was also authorized in Docket No. CP66-428 to continue operation of approximately 15,000 feet of 6-, 8-, and 12-inch pipeline near Stephens City and Middletown, Va., which had been installed to replace, due to highway construction, 13,802 feet of 6-inch pipeline of the original facilities installed pursuant to authorization in Docket No. G-1448.

4. Pursuant to authority issued March 1, 1967, in Docket No. CP67-216, Applicant constructed, to serve a new plant of Lockheed Georgia Co., aproximately 1,300 feet of 6-inch and 300 feet of 2-inch pipeline extending from the terminus of the lateral pipeline described in 3 above now serving Corning Glass Works.

5. In addition, a short branch line of approximately 1,050 feet of 2-inch pipeline from a tap off of the 24-inch pipeline of Columbia, near New Market, was constructed to serve Howell Metal Co., pursuant to order issued July 31, 1967, in Docket No. CP67-352.

6. Pursuant to authority granted September 30, 1968, in Docket No. CP68-196, Applicant constructed and placed in operation 20 miles of 12-inch transmission pipeline extending from a new point of connection with Columbia on Columbia's 26-inch main line near Nineveh, Va., to a point of connection with Applicant's existing main line near Clearbrook, Va.

7. Pursuant to authority granted October 20, 1971, in Docket No. CP72-20, Applicant constructed and placed into operation four taps on existing certificated facilities as well as accompanying one-half to two-inch distribution and service lines necessary to serve several residential and small commercial customers in Berryville and Winchester, Va., and in Inwood and Martinsburg, W. Va.

Applicant states that it proposes to tap, when necessary, the above mentioned certificated facilities in order to serve more economically at retail either present or prospective high-priority customers seeking gas service.

It is indicated that the total cost of the proposed facilities would not exceed $100,000, which cost would be financed by Applicant from open account advances from Washington Gas Light Co.

Any person desiring to be hear or to make any protest with reference to said application should on or before May 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12688 Filed 5-9-78; 8:45 am]

[6740-02]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

[Docket Nos. RP75-35 and RP75-36]

Compliance Filing

MAY 3, 1978.

Take notice that on April 26, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Ninth Revised Volume No. 1, to be effective May 27, 1978. The proposed tariff sheets consist of the following:

Original Sheet Nos. 213K1, 213K2, 213K3, and 213K4.
First Revised Sheet Nos. 213E, 213F, and 213I.
Second Revised Sheet Nos. 213D, 213G, 213H, and 213J 213.
Third Revised Sheet No. 213K.

Tennessee states that the proposed tariff sheets are filed to comply with the Commission's January 26, 1978 order in this proceeding. According to Tennessee, the tariff sheets expand the language of the curtailment plan in Article XXIV of the General Terms and Conditions of its tariff to explain more specifically its curtailment implementation procedures.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 10, 1978. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filing. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12695 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-295]

UNITED GAS PIPE LINE CO.

Pipeline Application

APRIL 27, 1978.

Take notice that on April 7, 1978, United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, filed an application in Docket No. CP78-295, pursuant to section 7(c) of the Natural Gas Act, as amended, requesting authorization to transport gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Federal Energy Regulatory Commission (Commission).

United states that pursuant to a transportation agreement dated April 7, 1978, between United and Southern, Southern will deliver or cause to be delivered to United for transportation up to 9,400 Mcf per day at a point of receipt on United's offshore pipeline system in Eugene Island Area, Block 32, Offshore Louisiana. United will redeliver equivalent volumes, less fuel

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and company-used gas, to Southern at various existing and proposed points of interconnection between United and Southern.

Any person desiring to be heard or to make any protests with reference to said application, on or before May 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12690 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER77-311]

UTAH POWER & LIGHT CO.

Filing of Settlement Agreement

MAY 2, 1978.

Take notice that on April 24, 1978, Utah Power & Light Co. (Utah) tendered for filing a proposed settlement agreement in the above-referenced docket. Utah states that all parties to the action or customers who have not become party to the proceeding have filed either a statement of intent to be bound or a statement indicating that they do not object to the settlement agreement as drafted.

Any person to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 19, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12691 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER77-588]

WASHINGTON WATER POWER CO.

Certification of Proposed Settlement Agreement

MAY 4, 1978.

Take notice that on May 2, 1978, Presiding Administrative Law Judge Mercogliano certified to the Commission a proposed Settlement Agreement filed by the Washington Water Power (WWP) Co. in the above-captioned proceeding on April 28, 1978.

Under the terms of the proposed Settlement, WWP agrees to reduce its proposed revenue increase to its jurisdictional customers by $12,650, based on the twelve-month test period ending June 30, 1977.

Any person desiring to be heard or to protest the Settlement Agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 22, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12696 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. RP78-55]

WEST TEXAS GATHERING CO.

Filing of Revision in Gas Tariff

MAY 4, 1978.

Take notice that on April 19, 1978, West Texas Gathering Co. (West Texas) tendered for filing certain revisions to its FPC Gas tariff Original Volume No. 1. West Texas states that its Rate Schedule T-1 is a Gas Gathering Agreement with Northern Natural Gas Co. which agreement has been amended by the parties. These amendments, according to West Texas, require the present modifications.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 19, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12697 Filed 5-9-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180185; FRL 893-6]

OREGON AND WASHINGTON DEPARTMENTS OF AGRICULTURE

Issuance of Specific Exemptions To Use Metribuzin To Control Cheatgrass on Winter Wheat

The Environmental Protection Agency (EPA) has granted specific exemptions to the Oregon and Washington State Departments of Agriculture (hereafter referred to as "Oregon" and "Washington") to use the herbicide matribuzin in a single post-emergence application for the control of cheatgrass on a maximum of 20,000 acres in Oregon and 28,000 acres in Washington. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to Oregon and Washington, cheatgrass (downy brome) is an annual grass weed found throughout both States; cheatgrass infestation of winter wheat is a problem every year, but the problem is particularly severe this year due to excessive fall and winter moisture that has resulted in favorable conditions for seed germination. Oregon and Washington estimated that wheat loss due to competition with cheatgrass might run as much as $2,310,000 if an effective herbicide was not applied.

Both Atrazine and Igran are registered for cheatgrass control in Oregon and Washington; however, Atrazine should not be applied post-emergence and Igran provides only partial control of cheatgrass. Atrazine, which is registered as a fallow treatment, was not applied by most growers last year due to drought conditions in the Northwest. In addition, since cheatgrass is not normally a severe problem in winter wheat, the Atrazine fallow treatment is not usually applied for control of this past. Finally, although Igran is registered for post-emergence application to winter wheat, both States reported irregular and partial control of cheatgrass.

Therefore, a single post-emergence application of metribuzin (4-Amino-6-(1,1-dimethylethly)-3-(methylthio)-1,2,4-triazin-(4H)-one), distributed under the trade names of Sencor and Lexone, was requested. A maximum of 20,000 acres in the following counties of eastern Oregon may require treatment: Gilliam, Morrow, Sherman, Umatilla, Union, Wasco, and Wallowa. A maximum of 28,000 acres in Washington east of the crest of the Cascade Mountains may require treatment. Application instructions were to be furnished by the Oregon and Washington Departments of Agriculture. Application of metribuzin to winter wheat in these two States is expected to pose minimal hazard to the environment.

After reviewing the applications and other available information, EPA determined that (a) a pest outbreak of cheatgrass on winter wheat has occurred; (b) there is no pesticide presently registered and available for use to control cheatgrass in Oregon and Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the cheatgrass is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, Oregon and Washington have been granted specific exemptions to use the pesticide noted above until April 1, 1978, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. A single post-emergence application of Lexone 50WP (EPA Reg. No. 352-375) or Sencor 50WP (EPA Reg. No. 3125-277) may be made at a rate of 0.25 to 0.50 pound active ingredient per acre;
2. Applications will be made with ground or air equipment;
3. Spray mixture volumes of 10-40 gallons per acre will be applied by ground equipment of 5-10 gallons by aircraft;
4. A maximum of 20,000 acres in Oregon and 28,000 acres in Washington may be treated;
5. All applications will be made by qualified growers or by State-licensed commercial applicators. Information on rates and timing will be furnished by Oregon State University research specialists and extension agents, and Washington State University extension agents;
6. Precautions will be taken to avoid spray drift to nontarget areas;
7. Residue levels of metribuzin and its triazinone metabolites are not expected to exceed 0.75 ppm in or on wheat grain, 1.0 ppm in or on wheat straw, and 2.0 ppm in or on wheat forage. Wheat grain and straw with residues which are not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;
8. Do not graze treated fields for 14 days following application;
9. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed.
10. The Oregon and Washington Departments of Agriculture are responsible for ensuring that all of the provisions of these specific exemptions are met, and must submit reports summarizing the results of these programs by November 15, 1978.
11. The EPA shall be immediately informed of any adverse effects resulting from the use of metribuzin in connection with these exemptions.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 *et seq.*).

Dated: May 4, 1978.

EDWIN L. JOHNSON
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-12631 Filed 5-9-78; 8:45 am]

[6560-01]

[PP-101; FRL 893-3]

PESTICIDE AND FOOD ADDITIVE PETITIONS

Filing

Pursuant to the provisions of sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for considerations.

PP 8F2073. Fisons Inc., Agricultural Chemicals Division, Two Preston Court, Bedford, Mass. 01730. Proposes that 40 CFR 180 be amended by the establishment of a tolerance for the combined residues of the herbicide 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate and its metabolites in or on the raw agricultural commodity grass hay at 0.5 part per million (ppm). Proposed analytical method for determining residues is by gas liquid chromatographic determination process using a flame photometric detector in the sulphur mode. PM24. (202-755-2197)

FAP 8H5184. Phostoxin Sales, Inc., Box 469, Alhambra, Calif. 98102. Proposes that 21 CFR 193.20 be amended by establishing a regulation permitting direct contact by fumigation of the formulation containing aluminum phosphide in or on processed rice and malt stored in breweries for the manufacture of beer with a tolerance limitation of 0.01 ppm. PM11. (202-755-9315)

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Inquiries concerning these petitions may be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 4, 1978.

MARTIN H. ROGOFF,
Acting Director, Registration Division.

[FR Doc. 78-12628 Filed 5-9-78; 8:45 am]

[6560-01]

[OPP-30147; FRL 893-2]

PESTICIDE PROGRAMS

Receipt of Application To Register a Pesticide Product Containing New Active Ingredients

Revenge Insect Repellent Corp., P.O. Box 1425, Savannah, Ga. 31402, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product Revenge (EPA file symbol 40195-R), containing 16 percent each of the active ingredients isopropyl palmitate and isopropyl stearate which have not been included in any previously registered pesticide products. The application proposes that the product be classified for general use as a sand gnat repellent.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The comments must be received on or before June 9, 1978, and should bear a notation indicating the EPA file symbol "40195-R." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202-426-9425. The label furnished by Revenge Insect Repellent Corp., as well

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as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Notice of approval or denial of this application to register Revenge will be announced in the FEDERAL REGISTER. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: May 4, 1978.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

[FR Doc. 78-12629 Filed 5-9-78; 8:45 am]

[6560-01]

[OPP-31015; (FRL 893-7)]

PESTICIDE PROGRAMS

Receipt of Application To Register a Pesticide Product Entailing a Changed Use Pattern

M & T Chemicals, Inc., P.O. Box 1104, Rahway, N.J. 07065, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product Biomet Antifouling Paint (EPA file symbol 5204-AN), which contains 15.0 percent of the active ingredient triphenyltin fluoride. The application received from M & T Chemicals, Inc., proposes that the use pattern of this pesticide be changed from technical chemical for reformulating into antifouling paints to an active ingredient in an antifouling formulation. The application also proposes that the product be classified for general use. PM24

Notice of receipt of this application does not indicate a decision by this Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW, Washington, D.C. 20460.

The comments must be received on or before June 9, 1978, and should bear a notation indicating the EPA file symbol "5204-AN." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202-755-2196. The label furnished by M & T Chemicals, Inc., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Notice of approval or denial of this application to register Biomet Antifouling Paint will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: May 3, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-12630 Filed 5-9-78; 8:45 am]

[6560-01]

[OPP-33000/543 and 544; FRL 893-4]

PESTICIDE REGISTRATION DATA TO BE CONSIDERED IN SUPPORT OF APPLICATIONS

Receipt of Application

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with repect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("interim policy statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the interim policy statement which were effected by the enactment of the amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the interim policy statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who: (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, are being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, or (d) wishes to assert confidential status under section 10 for his data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, and 13—202-755-9315.
PM 15, 16, and 17—202-426-9425.
PM 21 and 22—202-426-2454.
PM 23—202-755-1397.
PM 24—202-755-2196.
PM 25—202-426-2632.
PM 31—202-426-2635.
PM 32—202-426-9486.
PM 33—202-755-9041.
PM 34—202-426-9490.

The interim policy statement requires that claims for compensation be filed on or before July 10, 1978. EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before June 9, 1978. Registration will be delayed pending resolution of section 10 claims.

Dated: May 4, 1978.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/543)

EPA Reg. No. 100-501. Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409. SUPRACIDE 2E. Active Ingredients: Methidathion: O,O-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methoxy- 2-1,3,4-thiadiazolin-5-one 24.4 percent, Aromatic petroleum derivative solvent 65.1 percent. Method of Support: Application proceeds under 2(b) of interim policy. Amendment. PM12.

EPA Reg. No. 201-369. Shell Chemical Company, A Division of Shell Oil Company, Agricultural Chemicals, Suite 200, 1025 Connecticut Ave., N.W., Wash. DC 20036. VENDEX 50 WETTABLE POWDER MITICIDE. Active Ingredients: Hexakis (2-methyl-2-phenylpropyl)-distannoxane 50 percent, Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM13.

EPA File Symbol 271-GR. IMC Chemical Group, Inc., 1331 S. First Street, P.O. Box 207, Terre Haute, IN 47808. BIOBAN CS-1135 ATIMICROBIAL AGENT. Active Ingredients: 4,4-Dimethyloxazolidine 76 percent, 3,4,4-Trimethyloxazolidine 2 percent. Method of Support: Application proceeds under 2(a) of interim policy. Republished: New offer to pay statement. PM33.

EPA Reg. No. 352-342. E.I. duPont de Nemours & Co. Inc., Biochemicals Department, Wilmington, DE 19898. LANNATE INSECTICIDE FOR USE ON BLUEBERRIES. Active Ingredients: S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate 90 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12.

EPA Reg. No. 352-362. E.I. duPont de Nemours & Co., Inc. LANNATE WP INSECTICIDE FOR USE ON BLUEBERRIES. Active Ingredients: S-methyl-N-[(methylcarbamoyl)oxy]thioacetimidate 25 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12.

EPA Reg. No. 352-370. E.I. duPont de Nemours & Co., Inc. LANNATE L INSECTICIDE. Active Ingredients: S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate 24 percent. Method of Support: Application proceeds under 2(b) of the interim policy. Republished: Added use. PM12.

EPA File Symbol 453-ETL. Wood Treating Chemicals Dept., Koppers Company, Inc., 5137 Southwest Avenue, St. Louis, MO63110. TRIBUCIDE D 75. Active Ingredients: Bis(Tri-n-Butyltin) Oxide 0.75 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 453-ETA. Wood Treating Chemicals Dept., Koppers Co., Inc., TRIBUCIDE IL 75. Active Ingredients: Bis(Tri-n-Butyltin) Oxide 0.75 percent. Method of Support: Application proceeds under 2(b) of interim policy PM 22.

EPA File Symbol 453-ETT. Wood Treating Chemicals Dept., Koppers Co., Inc. TRIBUCIDE P 75. Active Ingredients: Bis(Tri-n-Butyltin) Oxide 0.75 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA Reg. No. 524-308. Monsanto Company, Agricultural Products, 800 N. Lindbergh Blvd., St. Louis, MO 63166. ROUNDUP HERBICIDE. Active Ingredients: Isopropylamine salt of Glyphosate 39.9 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25.

EPA Reg. No. 707-128. Rohm and Haas, Independence Mall West, Philadelphia, PA 19105. KATHON WT INDUSTRIAL MICROBICIDE. Active Ingredients: 5-Chloro-2-methyl-4-isothiazolin-3-one 8.6 percent; 2-Methyl-4-isothiazolin-3-one 2.6 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM33.

EPA Reg. No. 707-129. Rohm and Haas. KATHON 886 MW INDUSTRIAL MICROBICIDE. Active Ingredients: 5-Chloro-2-methyl-4-isothiazolin-3-one 8.6 percent, 2-Methyl-4-isothiazolin-3-one 2.6 percent. Method of Support: Application proceeds under 2(b) and interim policy. Republished: Added uses. PM33.

EPA File Symbol 1021-RGIG. McLaughlin Gormley King Co. 8810 Tenth Avenue North, Minneapolis, MN 55427. MGK SUMITHRIN 90 PERCENT CONCENTRATE. Active Ingredients: 3-phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methyl-propenyl) cyclopropanecarboxylate 86 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM 17.

EPA File Symbol 1021-RGIU. McLaughlin Gormley King Co. NEO-PYNAMIN 80 PERCENT CONCENTRATE. Active ingredients: N-(hydroxymethyl)-1-cyclohexene-1, 2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 80.00 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17.

EPA File Symbol 1021-RGIL. McLaughlin Gormley King Co., MGK MULTICIDE INTERMEDIATE 2082. Active Ingredients: N-(hydroxymethyl)-1-cyclohexeme-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclo-propanecarboxylate 10.00 percent, 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclo- propanecarboxylate 4.78 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17.

EPA File Symbol 1021-RGIA. McLaughlin Gormley King Co. MULTICIDE INTERMEDIATE 2086. Active Ingredients: N-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 8.90 percent, 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclo- propanecarboxylate 8.51 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17.

EPA File Symbol 1021-RGIT. McLaughlin Gormley King Co. MULTICIDE INTERMEDIATE 2084. N-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 12.50 percent, 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 7.17 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17.

EPA Reg. No. 1109-1. Cities Service Co., Copperhill Operations, P.O. Drawer 50360, Atlanta, GA 30302. COPPER SULFATE LARGE CRYSTALS. Active Ingredients: Copper Sulfate (Pentahydrate) 99 percent, copper expressed as metallic 25.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM24.

EPA Reg. No. 1109-27. Cities Service Co. COPPER SULFATE LARGE BRIKS. Active Ingredients: Copper Sulfate (Pentahydrate) 99 percent, copper expressed as metallic 25.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM24.

EPA Reg. No. 1258-842. Olin Chemicals, Specialty Products Department, Olin Corporation, 120 Long Ridge Road, Stamford, CT 06904. SODIUM OMADINE POWDER. Active Ingredients: Sodium 2-pyridinethiol-1-oxide 90 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM33.

EPA Reg. No. 1448-42. Buckman Laboratories, Inc., 1256 North McLean Blvd., Memphis, TN 38108. BUSAN 77. Active Ingredients: Poly[oxyethylene (dimethylimino) ethylene (dimethyliminio) ethylene dichloride] 60.0 percent. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM34.

EPA File Symbol 1706-RUO. Nalco Chemical Co., 2910 Butterfield Rd., Oak Brook, IL 60521. NALCO 5WC-475 MICROORGANISM CONTROL CHEMICAL. Active Ingredients: bis tributylin oxide 10 percent. Republished: Change in Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA Reg. No. 2139-101. Nor-Am Agricultural Products, Inc., 1275 Lake Avenue, Woodstock, IL 60098. BETANAL POST-EMERGENCE HERBICIDE POR CONTROL OF WEEDS IN BEETS. Active Ingredients: Phenmedipham 15.9 percent. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM25.

EPA Reg. No. 2224-44. Mobil Chemical Company, P.O. Box 26683, Richmond, VA 23261. MOCAP EC. Active Ingredients: Ethroprop (O-Ethyl S,S-Dipropyl Phosphorodithioate 70.6 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM16.

EPA File Symbol 2829-RRT. Ventron Corporation, Chemicals Division, Congress Street, Beverly, MA 01915. VINYZENE SB-8. Active Ingredients: 2-n-octyl-4-isothiazolin-3-one 12.5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 4581-GGA. Pennwalt Corporation, Agchem Division, 900 First Avenue, P.O. Box C, King of Prussia, PA 19406. TOPSIN E TECHNICAL FUNGICIDE. Active Ingredients: Thiophanate diethyl 4,4'-o-phenylenebis[3-thioallophanate] 94 percent. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM21.

EPA File Symbol 8959-RR. Applied Biochemists Inc., 5300 W. County Line Rd., Mequon, WI 53092. RICETRINE. Active Ingredients: Copper as elemental 7.1 per-

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cent. Method of Support: Application proceeds under 2(b) of interim policy. PM24.

APPLICATIONS RECEIVED (OPP-33000/544)

EPA Reg. No. 10148-3. Nationwide Chemical Company, Inc., 56 North First Street, Brooklyn, NY 11211. NATIONWIDE GERMICIDAL CLEANER. Active Ingredients: Soap 14.90 percent, ortho-benzyl-para-chlorophenol 7.12 percent, Isopropanal, tetrasodium ethylenediamine 2.38 percent, Tetra acetate 0.01 percent. Method of Support: Application proceeds under 2(a) of interim policy. Republished: formulation change. PM32.

EPA File Symbol 41716-R. Charles P. Keith Associates, 1761-C McCoba Drive, Smyrna, GA 30080. BYASYDE 610. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0 percent. Method of Support:. Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 10445-EN. Calgon Corporation, P.O. Box 1346, Calgon Center, Pittsburgh, PA 15230. B-66 MICROBIOCIDE. Active Ingredients: n-Dodecylguanidine Hydrochloride 9.5 percent. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 10445-ER. Calgon Corporation. B-33 MICROBIOCIDE. Active Ingredients: n-Dodecylguanidine Hydrochloride 9.5 percent. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 10581-E. Sonford Products Corp., 100 E. Broadway, St. Paul Park, MN 55075. STA-RITE-T. Active Ingredients: Bis(tri-n-butyltin) oxide 0.75 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 11558-L. Celanese Chemical Co., 1211 Avenue of the Americas, New York, NY 10036. PARAFORMALDEHYDE (POWDER). Active Ingredients: 95 percent Formaldehyde (Minimum). Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 11558-A. Celanese Chemical Co., PARAFORMALDEHYDE (FLAKE). Active Ingredients: 91 percent Formaldehyde (Minimum). Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 11558-RR. Celanese Chemical Co., FORMALDEHYDE SOLUTION. Active Ingredients: 37 percent Formaldehyde. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 16065-R. Clarkson Chemical Co., Inc., P.O. Box 97, Williamsport, PA 17701. CLORO-TOL. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of Support: Application proceds under 2(b) of interim policy. PM34.

EPA File Symbol 34164-T. American Refining & Mfg. Co., 2375 N.W. 75th Street, Miami, FL 33147. ACTION DISINFECTANT. Active Ingredients: Alkyl (60 percent, C14; 30 percent, C16; 5 percent, C12; 5 percent, C18) Dimethyl Benzyl Ammonium Chlorides 1.28 percent; Alkyl (68 percent, C12; 32 percent, C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28 percent; Sodium carbonate 2.00 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 34736-RN. Owens Services Corp., 930 East 80th Street, Minneapolis, MN 55420. POOL ALGUARD. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 34892-E. Russall Products Co., Inc., 2253 Light Street, Bronx, NY 10466. N-GERM. Active Ingredients: n-Alkyl (60 percent C14, 30 percent C16, 5 percent C12, 5 percent C18) dimethyl benzyl ammonium chlorides 2.25; n-Alkyl (68 percent C12, 32 percent C14) dimethyl ethylbenzyl ammonium chlorides 2.25; Sodium Carbonate 3.00 percent Tetrasodium ethylenediamine tetraacetate 1.00 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 36795-R. Eastern Crown, Inc., P.O. Box 216, Vernon, NY 13476. ECI SANITIZING SOLUTION. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 36993-E. Tarson Chemical & Supply Co., 650 Burnet Avenue, Syracuse, NY 13203. CRYSTAL KLEAR. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37621-E. American Bleach Mfg. Co., 1706 Portland Avenue, Louisville, KY 40203. CHEMI-CAL. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37621-G. American Bleach Mfg. Co. Active Ingredients: Sodium Hypochlorite 5.25 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 38421-R. Hydrotreat Engineering, 6832 Hawthorne Park Dr., Indianapolis, IN 46220. BIO-TREAT 12. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethylimino) ethylene dichloride] 10.0 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 38518-R. Rule Pool Maintenance Co., 5780 North Federal Highway, Fort Lauderdale, FL 33308. RULE POOLAID. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39327-A. Aqua Treat Chemicals, Inc., 1166 67th St., Daly City, CA 94015. A-106 ALGAECIDE. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethylimino) ethylene dichloride] 15 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39327-RU. Aqua Treat Chemicals, Inc., A-806 ALGAECIDE. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethylimino) ethylene dichloride] 15 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39398-T. Sumitomo Chemical America, Inc., 345 Park Ave., New York, NY 10022. SUMITHION CONCENTRATE. Active Ingredients: O,O-dimethyl O-(4-nitro-m-tolyl) phosphorothioate 93.0 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM16.

EPA File Symbol 41379-R. Dolphin Pool Service, Division of Porpoise Pools, 18789 S.W. 105th Pl., Miami, FL 33157. DOLPHIN POOL SERVICE SANTTIZER. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41380-R. Mister Chemical, 160 N.W. 24th St., Boca Raton, FL 33422. MR. CHEMICAL. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41381-R. Patrician Pools, Inc., 303 N.W. 1st Ave., Boca Raton, FL 33432. SODIUM HYPOCHLORITE. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41382-R. Pools By Bracken, P.O. Box 7335, 2377 E. Tamiami Trail, Naples, FL 33942. BRACKEN SPARKLE. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41404-R. Industrial Equipment & Supplies, Div. of Commodity Control Corp., 2055 N.W. 7th Ave., Miami, FL 33127. INDUSTRIAL SODIUM HYPOCHLORITE. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41577-R. Complete Pool Service, 195 Coquina Court, Ormond Beach, FL 32074. COMPLETE POOL SERVICE (CPS). Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41678-R. Construction Specialties, Inc., P.O. Box 380, Muncy, PA 17756. ACROVYN HANDRAILS. Active Ingredients: 1.00 percent 2,4,4'-Trichloro-2', Hydroxydiphenyl Ether. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA File Symbol 41678-E. Construction Specialties, Inc., ACROVYN CORNER GUARDS. Active Ingredients: 1.00 percent 2,4,4'-Trichloro-2', Hydroxydiphenyl Ether. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA File Symbol 41678-G. Construction Specialties, Inc., ACROVYN BUMPER GUARDS. Active Ingredients: 1.00 percent 2,4,4'-Trichloro-2', Hydroxydiphenyl Ether. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

[FR Doc. 78-12633 Filed 5-9-78; 8:45 am]

[6560-01]

[FRL 892-8]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Additional Delegation of Authority to the State of Oregon

On November 19, 1975, the Regional Administrator of EPA Region X delegated to the State of Oregon the authority to implement and enforce the Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). A notice announcing this delegation was published in the FEDERAL REGISTER on February 20, 1976 (41 FR 7809).

On November 29, 1977, the Director of the Oregon Department of Environmental Quality requested EPA to extend the delegation of authority to include authority for Federal facilities, which were not included in EPA's November 10, 1975 delegation.

EPA reviewed the State's request and on April 3, 1978, delegated to the State of Oregon authority to implement and enforce the NSPS and NESHAPS programs for Federal facilities as those programs were delegated to the State on November 10, 1975.

The April 3, 1978 letter of delegation follows:

DEAR MR. YOUNG: This is in response to your letter of November 29, 1977 requesting delegation of authority to carry out the requirements relative to the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) for Federal facilities. We have reviewed your request and hereby grant delegation of the NSPS and NESHAPS for Federal facilities to the State of Oregon.

The delegation applies to the twelve NSPS source categories and the three NESHAPS pollutants for which EPA delegated authority to the State for non-Federal facilities by letter of November 10, 1975 (41 FR 7809-7810, February 20, 1976). For NSPS, the sources include fossil fuel-fired steam generators, incinerators, portlan cement plants, nitric acid plants, sulfuric acid plants, asphalt concrete plants, petroleum refineries, storage vessels for petroleum liquids, secondary lead smelters, secondary brass and branze ingot production plants, sewage treatment plants and iron and steel plants. For NESHAPS, the pollutants include asbestos, beryllium and mercury.

This delegation supersedes Condition 5 of our original letter of delegation dated November 10, 1975. Condition 5 exempted Federal Facilities from complying with State or local administrative procedures relating to air pollution control.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. A notice announcing this delegation will appear in the FEDERAL REGISTER in the near future.

Sincerely yours,

DONALD. P. DUBOIS,
Regional Administrator.

AUTHORITY: Section 111(c)(1) of the Clean Air Act, as amended (42 U.S.C. 7411c-1).

Dated: April 26, 1978.

DONALD P. DUBOIS,
Administrator.

[FR Doc. 78-12627 Filed 5-9-78; 8:45 am]

[6560-01]

[OPP-180181; FRL 893-5]

STATES OF MICHIGAN, NEW HAMPSHIRE, OREGON, AND WASHINGTON

Specific Exemptions To Use Triforine To Control Monilinia Mummyberry on Blueberries

The Environmental Protection Agency (EPA) has granted specific exemptions to the Michigan, New Hampshire, Oregon, and Washington Departments of Agriculture (hereafter referred to as "Applicants") to use triforine for the control of *Monilinia* mummyberry on blueberries; 2,000 acres in Michigan, 700 acres in Washington, 500 acres in Oregon, and 400 acres in New Hampshire are involved. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in this notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (MH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

Mummyberry is caused by the fungus *Monilinia vaccinii corymbosi.* Primary infection by ascospores takes place early in the spring just as the leaf and flower buds begin to grow. These ascospores are released from spore cups that develop from mummified fruit. Spore cup emergence coincides with the emergence of the young susceptible tissues of the plant. Mummies are a result of the disease from the previous crop and have overwintered on or near the surface of the soil beneath the bushes. Infected blossoms and leaves turn brown and wither as a result of these primary infections. The fungus then produces a second spore type on these infected tissues. These are blown onto remaining blossoms where secondary infection takes place on the developing pistil of the flowers. These flower infections remain undetected until the fruit begins to enlarge. The infected fruit turns off color and usually drops to the ground before healthy berries mature. These mumified fruits persist through the winter and act as a source of the fungus for the primary infection the following spring.

Currently there are four fungicides registered for the control of primary infection stage: Benomyl, Captan, Ferbam, and Ziram. The Applicants submitted data which indicated that these fungicides are relatively ineffective in controlling primary infections of this disease. Cultural practices have also not been successful in commercial planting. However, triforine (N,N-[1,4-piperazinediylbis (2,2,2-trichloroethylidene)]-bis-[formamide]) appeared to be efficacious in suppressing this pathogen. Triforine is registered in the United States under the trade name Funginex EC.

The Applicants estimated that the following acreages would require treatment for *Monilinia* mumyberry: 2,000 acres in Michigan, 700 acres in Washington, 500 acres in Oregon, and 400 acres in New Hampshire. It was estimated by the Applicants that the economic loss from shoot damage and fruit loss might be as much as $2,800,000, if an effective fungicide was not available this growing season.

The Applicants proposed to use Funginex EC at a maximum rate of 0.3 pound active ingredient per acre. Three of the requests proposed up to five applications; New Hampshire proposed a maximum of three applications. Applications would be made by either air or ground equipment. Applications would be made by licensed commercial applicators or State-certified private applicators. Based on the low toxicity, short half-life, and low application rate, no serious hazards to fish and wildlife are expected.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of *Monilinia* mummyberry is likely to occur this year on blueberries in Michigan, New Hampshire, Oregon, and Washington; (b) there is no pesticide presently registered and available for use to control this pest in the four States; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until July 30, 1978, to the extent and in the manner set forth in the applications. The specific exemptions are all subject to the following conditions:

1. The product Funginex EC, EPA Reg. No. 21137-4, may be applied;

2. Applications of this pesticide will be made by licensed commercial applicators or State-certified private applicators. Information pertaining to timing, rates, and procedures will be made available to the applicators through the respective University or Cooperative Extension Services;

3. If applied by aircraft, precautions will be taken to avoid or minimize spray drift to non-target areas;

4. A triforine residue level not to exceed 0.1 ppm in or on harvested blueberries has been determined to be adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

5. All applicable directions, restrictions, and precautions on the product label must be followed;

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6. The EPA will be immediately informed of any adverse effects resulting from the use of triforine in connection with this exemption; and

7. The respective State Departments of Agriculture are responsible for assuring that all of the provisions of these specific exemptions are met and must submit a report summarizing the results of each program by October 30, 1978, except for Michigan, which must submit the report by November 30, 1978.

There are additional conditions which relate particularly to progress in certain States; these conditions are listed below.

OREGON AND WASHINGTON

1. The total acreage treated in Oregon will not exceed 500 acres. The total acreage treated in Washington will not exceed 700 acres;

2. Triforine will be applied at a rate of 0.3 pound active ingredient per acre in sufficient water for coverage by ground. If applied by air, triforine will be applied at a rate of 0.3 pound active ingredient in five gallons of water per acre;

3. A maximum of five applications may be made. The first application may be made at bud break. Thereafter, application may be made at seven to ten day intervals, with the last application at full bloom; and

4. A minimum of 40 days will elapse between the last application of triforine and harvest.

NEW HAMPSHIRE

1. The total acreage treated will not exceed 400 acres;

2. Triforine will be applied at a rate of 0.3 pound active ingredient per acre in 20 to 50 gallons of water by ground. If applied by air, triforine will be applied at a rate of 0.3 pound active ingredient in five gallons of water per acre;

3. A maximum of three applications may be made at seven to ten day intervals. Applications may begin at bud break and end at the pink bud stage; and

4. A minimum of 60 days will elapse between the last application of triforine and harvest.

MICHIGAN

1. The total acreage treated will not exceed 2,000 acres;

2. A maximum of five applications may be applied at seven to ten day intervals. Applications may begin at bud break and end between full bloom and early petal fall. The first four applications will be made at a rate of 0.3 pound active ingredient per acre, and the final application will be made at a rate of 0.2 pound active ingredient per acre;

3. Triforine will be applied in sufficient water for coverage by ground. If applied by air, triforine will be applied in at least five gallons of water per acre; and

4. A minimum of 40 days will elapse between the last application of triforine and harvest.

AUTHORITY: Section 18 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).

Dated; May 4, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-12832 Filed 5-9-78; 8:45 am]

[6820-34]

GENERAL SERVICES ADMINISTRATION

ADVISORY COMMITTEE FOR THE PRESIDENT'S ADMINISTRATIVE SERVICES REORGANIZATION PROJECT

Meeting of Subcommittee

Pursuant to the Pub. L. 92-463, notice is hereby given of the Real Property Subcommittee meeting on May 15, 1978, from 10 a.m., to 3 p.m. The meeting will be held in Room 5141A at the GS Building, 18th and F Streets NW., Washington, D.C. 20405.

The subcommittee is a part of the Advisory Committee for the President's Administrative Services Reorganization Project. The purpose of this meeting is to discuss in detail effective means of organizing and managing real property. In order to meet the scheduled requirements of the full committee it will be necessary to hold the meeting on the date scheduled. This meeting will be open to the public.

Dated: may 5, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-12826 Filed 5-9-78; 8:45 am]

[6820-34]

ADVISORY COMMITTEE FOR THE PRESIDENT'S ADMINISTRATIVE SERVICES REORGANIZATION PROJECT

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Advisory Committee for the President's Administrative Services Reorganization Project on May 23, 1978, from 9:00 a.m., to 3:30 p.m. The meeting will be held in room 5141A at the GS Building, 18th and F Streets NW., Washington, D.C. 20405.

The Committee will review and make recommendations relating to the delivery of administrative services within the Federal establishment. This meeting will be open to the public.

Dated: May 5, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-12827 Filed 5-9-78; 8:45 am]

[411-84]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

PHS HOSPITALS AD HOC ADVISORY COMMITTEE

Meeting; Amendment

In FR Doc. 78-9846 appearing at page 15781 in the issue for Friday, April 14, 1978, the notice of meeting for the "PHS Hospitals Ad Hoc Advisory Committee" has been amended as follows:

Name: PHS Hospitals Ad Hoc Advisory Committee.
Date and Time: May 12, 1978, 8:30 a.m. (open).
Place: PHS Carville Hospital.
Conference Room, Training Building, Carville, La. 70721.
Date and Time: May 13, 1978, 8:30 a.m. (closed).
Place: PHS New Orleans Hospital.
Conference Room C, 210 State Street, New Orleans, La. 70118.
Open on May 12, 1978.
Closed on May 13, 1978.

Purpose. Agenda items for the open portion of the meeting include a review of the Committee's charge and development of a work plan, a discussion of methodology and eligibility data, and an overview of PHS hospitals. On May 13 the meeting will be closed to the public to conduct an in-depth examination of each PHS hospital. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Services Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Jordan Popkin, Office of the Administrator, Health Services Administration, Parklawn Building, Room 14-15, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-2245.

Agenda items are subject to change as priorities dictate.

Dated: May 8, 1978.

W. HARELL LITTLE,
Acting Associate Administrator for Management.

[FR Doc. 78-12835 Filed 5-9-78; 8:45 am]

[4110-92]

Office of Human Development Services

[Program Announcement No. 13637-782]

TRAINING PROJECTS

Announcement of Dissertation Program Grants for Fiscal Year 1978

The Administration on Aging (AOA), Office of Human Development Services (OHDS), announces that applications will be accepted until June 16, 1978 from public or non-profit private institutions of higher education wishing to compete for grants in fiscal year 1978 under the Dissertation Program authorized by Title IV-Part A of the Older Americans Act of 1965, as amended (42 U.S.C. 3001, 3031 et seq.).

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and consideration for an award.

Regulations applicable to this program are published in the Code of Federal Regulations under 45 CFR Part 1320 and 45 CFR Part 1323.

SCOPE OF THIS PROGRAM ANNOUNCEMENT

This program announcement covers the Dissertation Training Program. A separate program announcement covering training grants for gerontology career training projects has previously appeared in the FEDERAL REGISTER.

A. PROGRAM PURPOSE AND OBJECTIVE

The purpose of the Administration on Aging Dissertation Program is to provide one year grants to institutions of higher education in support of doctoral dissertation projects in social gerontology and related areas. The program's objective is to enable doctoral students to conduct dissertation projects on topics relevant to the development of programs and policies which would improve the circumstances of older Americans.

B. FUNDING PRIORITIES

The fiscal year 1978 Dissertation Program will give funding priority to dissertation projects which focus on two areas. The first area is research related to public and private policies which impact on the elderly in such areas as employment, retirement, income, housing, health care, and community services. The second area is research related to the development and implementation of comprehensive community-based long-term care services which will enable older persons (especially the most vulnerable, chronically ill, socially isolated, impaired, and low income) to remain in their homes or in the least restrictive setting.

Consideration will also be given to dissertation projects on topics in other than the above priority areas such as the characteristics, conditions, and needs of the elderly; informal support systems; and the provision and delivery of services to the elderly. Topics relating to biological and clinical issues are not acceptable.

This program will place special emphasis on applications which propose studies of national scope to be carried out by means of secondary analysis of national datasets to the extent available.

C. ELIGIBLE APPLICANTS

Applications for Dissertation Program grants may be submitted only by institutions of higher education which grant doctoral degrees. Doctoral candidates who have or by September 1, 1978 will have passed all doctoral degree qualifications except the dissertation are eligible to be Dissertation Program trainees. The dissertation proposal must be approved by the appropriate faculty advisor and committee before submission to AOA. Separate proposals must be submitted for each dissertation project.

Institutions of higher education are encouraged to apply for Dissertation Program grants for doctoral candidates belonging to the following minority groups: Black, Hispanic, Asian, and American Indian.

D. AVAILABLE FUNDS

During Fiscal Year 1978, AOA expects to award 20 to 30 new Dissertation Program grants totaling between $110,000 and $165,000. Twenty grants of $5,500 each will be awarded in the general competition. Up to ten additional grants of $5,500 will be awarded for projects involving minority doctoral candidates.

E. CONDITIONS OF GRANT AWARD

Dissertation Program grants are made subject to the following conditions:

(1) The grantee university shall provide $5,500 to the doctoral candidate over the one-year period covered by the grant to provide support for the student's research and writing of the project outlined in the approved dissertation proposal.

(2) No supplemental allowances are provided for dependents or for other expenses such as travel, computer time, supplies, and preparation of the final dissertation copy.

(3) No indirect costs or allowances for administrative costs to the university will be provided.

(4) Doctoral candidates cannot receive a grant from another United States Government agency during the budget period covered by the AOA Dissertation grant for the purpose of writing the dissertation.

F. THE APPLICATION PROCESS

(1) *Application Forms and Program Guidelines.* Additional information about this program and the application forms are contained in a Guidelines document which may be obtained by contacting:

Dissertation Program—Kit, Administration on Aging, OHDS, DHEW North Building, Room 4640, 330 Independence Avenue SW, Washington, D.C. 20201, 202-245-0004.

(2) *Submission of Applications.* A signed original and two additional copies should be submitted. The original and the two additional copies, which are for review purposes, are to be submitted to the central receiving office of the Office of Human Development Services.

(3) *Closing Date for Receipt of Applications.* The closing date for receipt of applications under this program announcement is June 16, 1978. Applications may be mailed or hand delivered to:

Receiving Office, Division of Grants and Contracts Management, Office of Human Development Services, DHEW, Room 1427, Mary E. Switzer Building, 330 C Street SW, Washington, D.C. 20201, Attention: AOA Dissertation Program.

Hand delivered applications are accepted during normal working hours of 9 a.m. to 5 p.m..

An application will be considered to have arrived by the closing date if:

(a) The application is at the OHDS Receiving Office on or before the closing date, or

(b) The application is postmarked at least two days prior to the closing date.

(4) *Late Applications.* Late applications are not accepted and applicants are notified accordingly.

(5) *Review of Applications.* Applications which do not conform to this announcement or are late or are not complete are not accepted and applicants are notified accordingly. Otherwise, all applications which meet the requirements for a grant award will be considered. All accepted grant applications are subjected to a comprehensive review and evaluation conducted by qualified reviewers who are not employees of the Administration on Aging.

(6) *Criteria for Evaluation of Applications.* The reviewers will evaluate dissertation grant applications against the following criteria:

1. That the proposed topic is clearly defined—10 points.

2. That the methodology proposed is sound and appropriate for use in the dissertation project—20 points.

3. That the proposed project will make a significant contribution to

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knowledge relevant to programs and policies for the aging—25points.

4. That the proposed project addresses one or more of the priority issues identified in this announcement—20 points.

5. That the proposed project is a study of national scope and uses secondary analysis of national datasets to the extent feasible—5 points.

6. That the project is feasible and can be successfully completed on the basis of the plan of work submitted—15 points.

7. That the doctoral candidate is well qualified by reason of academic training and experience including relevant academic and work experience to undertake the activities proposed in the application.

Applications will not be funded unless they receive a score of at least 60 points.

(7) *Grant Awards.* The Commissioner on Aging determines the final action to be taken with respect to each grant application. The results of the competitive review supplement and assist the Commissioner's consideration. After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available for the purpose of supporting dissertation projects in aging. The official grant award document is the Notice of Grant Awarded. The Notice of Grant Awarded sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, and the budget period for which support is given.

(Catalog of Federal domestic Assistance Program Number: 13.637, Programs for the Aging: Grants to Insitutions of Higher Education and Training Organizations)

Dated: April 28, 1978.

ROBERT BENEDICT,
Commissioner on Aging.

Dated: May 5, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-12733 Filed 5-9-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 33325]

NEW MEXICO

Application

MAY 2, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 10 W.,
Sec. 1, lots 8 and 9.

This pipeline will convey natural gas across 0.348 mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12659 Filed 5-9-78; 8:45 am]

[4310-84]

[W-63214]

WYOMING

Application

APRIL 28, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct six additional 4½-inch o.d. pipelines to add to their proposed gathering system for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 25 N., R. 107 W., 6th P.M.,
Sec. 31, W½NE¼.
T. 25 N., R. 109 W.,
Sec. 30, lot 4 and SE¼SW¼;
Sec. 31, NE¼NW¼.
T. 24 N., R. 110 W.,
Sec. 7, W½NE¼ and NW¼SE¼.
T. 23 N., R. 111 W.,
Sec. 5, SE¼SE¼;
Sec. 8, W½NE¼, NE¼NE¼ and NW¼SE¼;
Sec. 9, NW¼SE¼;
Sec. 28, N½SE¼.

The proposed pipelines will transport natural gas from several wells to connect into Northwest Pipeline Corp.'s proposed trunk lines in Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so under what terms and conditions.

Interested persons desiring to express their views should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1868, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12717 Filed 5-9-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Dr. Kenneth E. Campbell, 5801 Wilshine Boulevard, Los Angeles, Calif. 90036.

The applicant requests a permit to import not more than 100 Vicuna (*Vicugna vicugna*) skeletons for scientific purposes. The specimens will be removed from the wild because of overpopulation on the Vicuna preserves in Peru. Specimens will be obtained from El Director, Direccion General Forestal y de Fauna, Proyecto-Vicuna, Ministerio de Agricultura y Alimentacion, Natalio Sanchez 220, Jesus Maria, Lima, Peru. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2444. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 9, 1978. Please refer to the file number when submitting comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-12643 Filed 5-9-78; 8:45 am]

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[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Department of Vertebrate Zoology, National Museum of Natural History, Smithsonian Institution, Washington, D.C. 20560.

The applicant requests a permit to salvage dead or dying specimens of the following species from United States coastal areas, for scientific purposes: Hawksbill sea turtle (*Eretmochelys imbricata*), Atlantic Ridley sea turtle. (*Lepidochelys kempii*), and Leatherback sea turtle (*Dermochelys coriacea*).

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2381. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 9, 1978. Please refer to the file number when submitting comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-12644 Filed 5-9-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Ronald F. Escher, Twin Pine Game Farm, Dumont, Minnesota 56236.

The applicant requests a permit to purchase, in interstate commerce, captive-produced eggs of Elliot's pheasants (*Syrmaticus ellioti*) and white-eared pheasants (*Crossoptilon crossoptilon*) from the Woodland Game Farm, of Buffalo, Mo., for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1762. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 9, 1978. Please refer to the file number when submitting comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-12645 Filed 5-9-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Hawaiian/Pacific Islands NWR Complex, 300 Ala Moana Boulevard, Room 5302, Honolulu, Hawaii 96850.

The applicant requests a permit to take (capture) and band or mark Hawaiian stilts (*Himantopus himantopus knudseni*) Hawaiian coots (*Fulica americana alai*), Hawaiian gallinules (*Gallinula chloropus sandvicensis*) and Hawaiian ducks (*Anas wyvilliana*) in cooperation with the Hawaii Division of Fish and Game, for scientific purposes.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2433. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-12646 Filed 5-9-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C. or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Interested persons may comment on these applications on or before June 9, 1978 by submitting written data, views, or arguments to the Director at the above address.

Applicant: John G. Delladio, 351 5th Street, Atco, N.J. 08004, PRT 2-2454;
Applicant: King's Kingdom Game Farm, 6303 Von Kanel Street, Schofield, Wis. 54476, PRT 2-2406;
Applicant: Hollis Carlos, Ozark Bantam Game Farm, Route 5, Box 132, Hillsboro, Mo. 63050, PRT 2-2415;
Applicant: Charles Fleming, Box 167, Rural Route 4, Iowa Falls, Iowa 50126, PRT 2-2446;
Applicant: Mr. Eugene H. Montag, Route 1, Chili, Wis. 54420, PRT 2-2439;
Applicant: Ronald F. Escher, Twin Pine Game Farm, Dumont, Minn. 56236, PRT 2-2419.

Please refer to the individual applicant and the appropriately assigned PRT 2- file number when submitting comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-12647 Filed 5-9-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C. or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Interested persons may comment on these applications on or before June 9, 1978, by submitting written data, views, or arguments to the Director at the above address.

Applicant: Roy Louis Nicolet, Wild Wings Farm, Box 204, Florence, Mont. 59833, PRT 2-2413;
Applicant: Frank C. Edge, Route 1, Box 41, Mt. Hope, Wis. 53816, PRT 2-2431;
Applicant: Mr. Buddie M. Neatherlin, Route 3, Box 129A, Ulysses, Kan. 67880, PRT 2-2423;
Applicant: Mr. Dean McClearly, Route 1, Box 319, North Platte, Nebr., PRT 2-2430;
Applicant: Stanley Luczai, 155 Moody Road, Enfield, Conn. 06082, PRT 2-2424;
Applicant: J. A. Carney, 5721 North 32nd Street, Birmingham, Ala. 35207, PRT 2-2438.

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Please refer to the individual applicant and the appropriately assigned PRT 2- file number when submitted comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12648 Filed 5-9-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of animals listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C. or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Interested persons may comment on these applications on or before June 9, 1978 by submitting written data, views, or arguments to the Director at the above address.

Applicant: Alan Mootnick, 21219 Lassen Street, Chatsworth, Calif. 91310, PRT 2-1867;

Applicant: Dickerson Park Zoo, Division of Springfield Park Board, 3043 North Fort, Springfield, MO. 65803, PRT 2-2452.

Please refer to the individual applicant and the appropriately assigned PRT 2- file number when submitted comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12649 Filed 5-9-78; 8:45 am]

[4310-31]

Geological Survey

[NTL-3A]

NOTICE TO LESSEES AND OPERATORS—OIL AND GAS LEASES

Reporting of Undesirable Events

AGENCY: U.S. Geological Survey, Interior.

ACTION: Proposed revision of NTL-3.

SUMMARY: This proposed revision of the existing NTL-3 would define more specifically for industry those undesirable events occurring on onshore Federal and Indian oil and gas leases and on State or private land leases within federally supervised unit or communitized areas which must be reported to the Geological Survey. The provisions of NTL-3 require that a separate report be made in all cases, some of which have now been determined as unnecessary for the proper performance of the Survey's regulatory duties. The proposed revision will reduce the number of such separate reports by about 50 percent.

DATES: Comments must be received on or before July 10, 1978.

ADDRESSES: Interested persons are invited to participate in the evaluation of the proposed revision by submitting written comments, suggestions, or objections. Responses should identify the subject matter and be directed to the Acting Chief, Conservation Division, U.S. Geological Survey, National Center (650), 12201 Sunrise Valley Drive, Reston, Va. 22092. Comments received will be available for public inspection in the Conservation Division on regular working days from 8 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT:

Mr. Eddie Wyatt, Conservation Division, U.S. Geological Survey, National Center (620), 12201 Sunrise Valley Drive, Reston, Va. 22092, 703-860-7535, commercial; 928-7535, FTS.

SUPPLEMENTARY INFORMATION: The primary author of the proposed NTL-3A is Mr. Gerald R. Daniels, Physical Scientist, U.S. Geological Survey, phone 703-860-7535.

In accordance with the regulations and the terms of the various oil and gas leases issued pursuant to the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. 181-287), the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351-359), the implied authority of the executive branch as defined in the Attorney General's opinion of April 2, 1941 (Vol. 40, Op. Atty. Gen. 41), the Allotted Indian Land Leasing Act of March 3, 1909, as amended (25 U.S.C. 396), and the Unallotted Indian Leasing Act of May 11, 1938, as amended (25 U.S.C. 396a), the area oil and gas supervisor (supervisor) is authorized to require such special reports as necessary to carry out the intent of the applicable laws and regulations and to issue instructions for the filing of such reports.

The existing notice to lessees and operators, NTL-3, requires operators to report certain spills, discharges, accidents, or other undesirable events by telephone within 18 hours, followed by a written report within 15 days, and to report all other undesirable events in writing within 15 days. After some 3 years of experience with the system and development of the data base associated therewith, the Geological Survey has determined that its regulatory functions may be adequately performed with less stringent reporting requirements. Therefore, it is proposed that the reporting requirements be modified to require: (1) A telephone report within 24 hours for those events identified in section I of the proposed NTL-3A followed by a written report; (2) only a written report within 15 days for those events described in section III of proposed NTL-3A; and (3) no written or telephone report for minor events. However, all volumes of oil and gas lost, including that lost in minor events, must continue to be reported in the Monthly Report of Operations, Form 9-329.

As proposed, NTL-3 would be revised and reissued as NTL-3A to read as follows:

NOTICE TO LESSEES AND OPERATORS OF FEDERAL AND INDIAN ONSHORE OIL AND GAS LEASES (NTL-3A)

REPORTING OF UNDESIRABLE EVENTS

This notice, which supersedes NTL-3, dated January 1, 1975, is issued pursuant to the authority prescribed in 30 CFR 221.5, 221.7, and 221.36. Operators of onshore Federal and Indian oil and gas leases shall report all spills, discharges, or other undesirable events in accordance with the requirements of this notice. All such events which occur on State or private land leases within federally supervised unit or communitized areas must likewise be reported in accordance with the requirements of this notice. However, compliance with this notice does not relieve an operator from the obligation of complying with the applicable rules and regulations of any State or any other Federal agencies regarding notification and reporting of undesirable events.

As used in this notice, the term "District Engineer" means that officer of the U.S. Geological Survey having supervisory jurisdiction for the geographic area in which the undesirable event occurs.

I. *Major undesirable events requiring immediate notification.* The following incidents, when occurring on a lease supervised by the Geological Survey, shall be reported to the appropriate District Engineer as soon as practical but within a maximum of 24 hours:

A. Oil, condensate, distillate, saltwater, and toxic liquid spills, or any combination thereof, which result in the discharge (spilling) of 100 or more barrels of liquid; however, discharges of such magnitude, if entirely contained within the facility firewall, may be reported only in writing pursuant to section III of this notice;

B. Equipment failures or other accidents which result in the venting of 500 or more Mcf of gas;

C. Any fire which consumes volumes as specified in I.A. and I.B. above;

D. Any spill, venting, or fire, regardless of the volume involved, which occurs in an environmentally sensitive area, i.e., areas such as parks, recreation areas, wildlife refuges, lakes, reservoirs, major streams, urban or suburban areas, and cultivated lands.

E. Each accident which involves a fatal injury; and

F. Every blowout (loss of control of any well) that occurs.

II. *Written reports.* A written report shall be submitted in duplicate to the District Engineer no later than 15 days following a fatal injury or the control or containment of any of the other major undesirable events identified in section I hereof. When required by the District Engineer, interim reports will be submitted until final containment and cleanup operations have been accomplished. The final written report for each such event shall, as appropriate, provide:

A. The date and time of occurrence and time reported to USGS;

B. The location where the incident occurred, including surface ownership and lease number;

C. The specific nature and cause of the incident;

D. A description of the resultant damage and estimated volume of pollutants discharged;

E. The action taken and the length of time required for control of the incident, for containing the pollutants, and for subsequent cleanup;

F. The make or manufacturer, size, working and test pressure, date of installation, and type of use for each piece of equipment whose malfunction has been identified as a direct or indirect cause of the incident;

G. A listing of all pieces of equipment destroyed beyond repair, the approximate value thereof, and the volume of hydrocarbons irretrievably lost;

H. The cause of death when fatal injuries are involved;

I. Actions that have been or will be taken to prevent a recurrence of the incident;

J. Other Federal or State agencies notified of the incident; and

K. Other pertinent remarks.

III. *Other undesirable events.* All other undesirable events do not have to be reported orally within 24 hours; however, a written report, as required by section II of this notice, must be provided for the following incidents:

A. Oil, saltwater, and toxic liquid spills, or any combination thereof, which result in the discharge (spilling) of at least 10 but less than 100 barrels of liquid in nonsensitive areas, and all discharges of 100 or more barrels when the spill is entirely contained by the facility firewall;

B. Equipment failures or other accidents which result in the venting of at least 50 but less than 50 Mcf of gas in nonsensitive areas;

C. Any fire which consumes volumes in the ranges specified in III.A. and III.B. above; and

D. Each accident involving a personal injury that requires professional medical services.

Spills or discharges in nonsensitive areas involving less than 10 barrels of liquid, or 50 Mcf of gas, or personal injuries not requiring professional medical attention do not require an oral or written report; however, the volumes discharged or vented as a result of all such minor incidents must be reported in accordance with section V hereof.

IV. *Contingency plans.* Upon request of the District Engineer, a copy of any spill prevention control and countermeasure plan (SPCC plan), required by the Environmental Protection Agency (EPA) under Title 40. CFR 112, or other acceptable contingency plan must be submitted. All plans shall provide the names, addresses, and telephone numbers (both business and private) of at least two technically competent company or contract personnel authorized to order equipment or supplies, and to expend funds necessary to control emergencies.

V. *Monthly report of operations/monthly report of sales and royalty.* All volumes of oil spilled, gas vented, and all hydrocarbons consumed by fire or otherwise lost must be reported monthly on the Monthly Report of Operations (Form 9-329). The volume and value of such losses must also be reported on the Monthly Report of Sales and Royalty (Form 9-361).

VI. *Liquidated damages.* Failure to file adequate contingency plans, when required, to provide the necessary notification or reports provided for by this notice, or to otherwise conform with the written orders of the District Engineer in this regard, may result in other measures being taken to secure compliance, including the assessment of liquidated damages as provided by 30 CFR 221.54.

NOTE.—It has been determined that the proposed revision of NTL-3 does not constitute a "major" Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C 4332 (2)(C)).

It has also been determined that a regulatory analysis does not have to be prepared according to the guidelines provided in section 3a of Executive Order 12044.

Dated: April 27, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-12651 Filed 5-9-78; 8:45 am]

[4310-70]

National Park Service

BOSTON NATIONAL HISTORICAL PARK ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92-463, that a meeting of the Boston National Historical Park Advisory Commission will be held at 11 a.m. on May 26, 1978 at the Commandant's House, Charlestown Navy Yard, Boston, Mass.

The Commission was established by Pub. L. 93-431 to advise the Secretary of the Interior on matters relating to the development of the Boston National Historical Park.

The members of the Advisory Commission are as follows: Mr. Richard Berenson, Chairman, Brookline, Mass., Dr. Evelyn Murphy, Lexington, Mass., Mr. Byron Rushing, Boston, Mass., Mrs. Katharine Kane, Boston, Mass., Mr. Maurice O'Shea, Charlestown, Mass., Ms. Gail Seybold, Boston, Mass., Mr. Guy Beninati, Boston, Mass.

The matters to be discussed at this meeting include:

1. Alternatives for boundary adjustments to include additional historic buildings at the Charlestown Navy Yard;

2. Progress report on cooperative agreements;

3. Progress report on the Water-Chelsea Connector and Gate 4 roadway projects as they affect the Charlestown Navy Yard;

4. Briefing on possible inclusion of Dorchester Heights in Boston National Historical Park;

5. Discussion of efforts to improve transportation to Charlestown sites;

6. Prospects for the 1978 visitor season; and

7. Report and discussion of park administration and operations.

The meeting will be open to the public. However, facilities and space are limited, and it is expected that not more than 25 persons will be able to attend the session. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Hugh D. Gurney, Superintendent, Boston National Historical Park at 617-223-1128. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Office of the Superintendent, 15 State Street, Boston, Mass.

Dated: April 27, 1978.

LARRY J. HOVIG,
Acting Regional Director,
North Atlantic Region.

[FR Doc. 78-12737 Filed 5-9-78; 8:45 am]

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[4310-70]

Intention to Extend Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with MV Pack and Saddle, authorizing it to continue to provide concession facilities and services for the public at Mesa Verde National Park for a period of two (2) years from January 1, 1978, through December 31, 1979.

It has been determined that the proposed extension of this contract does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants MV Pack and Saddle, as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if, thereafter, the offer of MV Pack and Saddle is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: April 28, 1978.

DAVID J. TOBIN, Jr.,
Associate Director,
National Park Service.

[FR Doc. 78-12739 Filed 5-9-78; 8:45 am]

[4310-70]

NATIONAL CAPITAL MEMORIAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal advisory Committee Act that a meeting of the National Capital Memorial Advisory Committee will be held at 1:30 p.m. on Tuesday, June 13, 1978, in Classroom A at the National Capital Region Headquarters, 1100 Ohio Drive SW., Washington, D.C.

The Committee was established for the purpose of preparing and recommending to the Secretary broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended) through the media of monuments, memorials, and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary with respect to site location on Federal land in the National Capital Region and to serve as an information focal point for those seeking to erect memorials on Federal land in the National Capital Region.

The members of the Committee are as follows:

Mr. William J. Whalen (Chairman), Director, National Park Service, Washington, D.C.
Mr. George M. White, Architect of the Capitol, Washington, D.C.
General Mark W. Clark, Chairman, American Battle Monuments Commission, Washington D.C.
Mr. J. Carter Brown, Chairman, Fine Arts Commission, Washington, D.C.
Mr. David Childs, Chairman, National Capital Planning Commission, Washington, D.C.
Honorable Walter E. Washington, Mayor of the District of Columbia, Washington, D.C.
Mr. James B. Shea, Jr., Commissioner Public Buildings Service, Washington, D.C.

The purpose of the meeting is to review alternatives for placing the names of Hawaii and Alaska on the Lincoln Memorial as contained in Pub. L. 94-556, and to review alternative sites for the American Legion Freedon Bell.

The meeting will be open to the public. Any person may file with the Committee a written statement concerning the matters to be discussed. Persons who wish to file a written statement or who want further information concerning the meeting may contact Mr. John G. Parsons, Associate Regional Director, Land Use Coordination, National Capital Region, at area code 202-426-7750. Minutes of the meeting will be available for public inspection 2 weeks after the meeting at the Office of National Capital Region, Room 208, 1100 Ohio Drive SW., Washington, D.C.

Dated: April 28, 1977.

MANUS J. FISH, Jr.,
Regional Director, National Capital Region.

[FR Doc. 78-12738 Filed 5-9-78; 8:45 am]

[4310-70]

SANDY HOOK, GATEWAY NATIONAL RECREATION AREA N.J.

Availability of Assessment of Alternatives and Public Meeting

Notice is hereby given that the National Park Service has prepared an assessment of long range alternatives for the re-establishment and maintenance of the South Beach area, Sandy Hook Unit, Gateway National Recreation Area. A public meeting will be held as indicated below to enable the public to comment on these alternatives.

The assessment document is available from or may be inspected at: the Assistant Superintendent's office, Sandy Hook Unit, Fort Hancock (Box 437, Highlands, N.J. 07732), the Superintendent's office, Gateway National Recreation Area, Floyd Bennett Field, Brooklyn, N.Y. 11234, or the North Atlantic Regional Office, 15 State Street, Boston, Mass. 02109.

This assessment of long range alternatives is related to, but a separate document from, the currently available draft environmental impact statement on the General Management Plan for the entire National Recreation Area. This assessment discusses a number of structural as well as sand replenishment alternatives and includes consideration of a bridge to maintain vehicular access to Sandy Hook in view of the threat of natural inlet formation. In addition to describing the alternatives, the assessment analyzes the impacts of each, considers mitigative measures where possible, discusses unavoidable adverse effects, the relationship of short term liabilities and long term enhancements as well as the irreversible and irretrievable commitments of resources, and presents an order of magnitude cost estimate for each alternative.

A public meeting will be held on Wednesday, May 25, 1978 at 8 p.m. in the Sandy Hook Auditorium in the Fort Hancock area of the Sandy Hook Unit (New Jersey) of Gateway National Recreation Area. This meeting is to afford all interested parties an opportunity to openly present their views on the matter of re-establishment of the South Beach. It should be clearly understood that this public meeting concerns only the south end of Sandy Hook and is not to be a forum for discussion of the management planning for the entire National Recreation Area.

Written comments on this assessment of long range alternatives are invited. Such written statements should be addressed to the Superintendent, Gateway National Recreation Area, Floyd Bennett Field, Brooklyn, N.Y. 11234 and may be submitted at the public meeting. The official record for receipt of written comments will close on June 27, 1978.

Dated: April 4, 1978.

DENIS P. GALVIN,
Acting Regional Director,
North Atlantic Region.

[FR Doc. 78-12736 Filed 5-9-78; 8:45 am]

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Solicitation Regarding Competitive Research Grant

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant aimed at examining a variety of modern management concepts, principally those used in business, industry and the military, to determine their possible use as police department tools. The research effort is intended to result in the design of modern management model(s) which would improve police management practices.

The solicitation asks for the submission of concept papers rather than full proposals. Full proposals will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be received by June 16, 1978, for award in September, 1978, with funding support of approximately 250,000 and a grant period of 24 months duration. Because this is a research grant, profit-making organizations are prohibited by LEAA policy from receiving funding support.

Further information and copies of the solicitation can be obtained by contacting: Kay Monte or David J. Farmer, Office of Research Programs, NILECJ, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3967.

BLAIR S. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 78-12718 Filed 5-9-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-249]

COMMONWEALTH EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating License No. DPR-25, issued to Commonwealth Edison Co. (the licensee), which revised the license and Technical Specifications appended thereto for operation of Dresden Station Unit No. 3 (the facility) located in Grundy County, Ill. The amendment is effective as of its date of issuance.

The amendment (1) authorized operation with additional 8x8 fuel assemblies, (2) incorporated revised MCPR limits in response to the plant specific analysis for reload 5, and (3) modified License Condition 3.E to more concisely state plant operating plant described in the licensee reload submittal dated December 28, 1977.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 28, 1977 and supplement dated March 27, 1978, (2) Amendment No. 34 to License No. DPR-25 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Ill. 60451. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3rd day of May 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-12725 Filed 5-9-78; 8:45 am]

[7590-01]

[Docket No. 50-341A]

DETROIT EDISON CO. (ENRICO FERMI ATOMIC POWER PLANT UNIT NO. 2)

Assignment of Atomic Safety and Licensing Appeal Board.

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this antitrust proceeding:

Alan S. Rosenthal, Chairman
Michael C. Farrar
Richard S. Salzman

Dated: May 3, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-12726 Filed 5-9-78; 8:45 am]

[7590-01]

[Docket No. 50-321]

GEORGIA POWER CO., ET AL

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. DPR-57 issued to Georgia Power Co., Oglethorpe Electric Membership Corp., Municipal Electric Association of Georgia and City of Dalton, Ga., which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Ga. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications which revises the definition and specification of detection capability for principal gamma emitters in radioactive liquid effluents.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact ap-

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praisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 23, 1978, (2) Amendment No. 54 to License No. DPR-57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Ga. 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 4th day of May 1978.

For the Nuclear Regulatory Commission

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-12727 Filed 5-9-78; 8:45 am]

[7590-01]

[Docket Nos. 50-266, 50-301]

WISCONSIN ELECTRIC POWER CO.

Proposed Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Co. (the licensee), for operation of the Point Beach Nuclear Plant, Units Nos. 1 and 2, located in the town of Two Creeks, Manitowoc County, Wis.

The amendments would increase the authorized storage capacity of the spent fuel storage pools from 351 fuel assemblies to 1484 fuel assemblies and involve modifications to the spent fuel cask handling system in support of the licensee's proposal to (1) increase the licensed capacity of the cask handling system, and (2) to modify current restrictions on the placement of a spent fuel shipping cask into the spent fuel pool while fuel assemblies are stored therein.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By June 9, 1978, the license may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Bruce W. Churchill, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendments dated March 21, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the local public document rooms established at the University of Wisconsin, Stevens Point Library, Stevens Point, Wis. 54481, and at the Manitowoc Public Library, 808 Hamilton Street, Manitowoc, Wis. 54220. The local public document room at the Manitowoc Public Library has been established on a temporary basis to make available to the public documents related to the matters set forth in this Notice. The license amendments and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained on request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Md., this 3rd day of May 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-12724 Filed 5-9-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT

New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires the agencies to give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period April 3, 1978 through April 28, 1978, the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF THE INTERIOR

System name:

Personnel Research Records.

Report date:

April 4, 1978.

Point-of-contact:

Richard R. Hite, Deputy Assistant Secretary of the Interior, Washington, D.C. 20240.

Summary:

The Department of the Interior proposes this system to document selection procedures used in filling DOI positions and thereby assure that they are not discriminatory.

DEPARTMENT OF STATE

System names:

(1) Skills Catalogue Records (2) Family Liaison Office Records.

Report date:

April 5, 1978.

Point-of-contact:

Ben H. Read, Deputy Under Secretary of State for Management, Washington, D.C.

Summary:

The Skills Catalogue Records are intended to provide information about Foreign Service spouses who seek employment to potential employers; the Family Liaison Office records are intended to inform Foreign Service families of governmental and community services available to them.

DEPARTMENT OF DEFENSE

System name:

Defense Audit Service Management Information System.

Report date:

April 7, 1978.

Point-of-contact:

D. O. Cooke, Deputy Assistant Secretary of Defense, Washington, D.C. 20301.

Summary:

This proposed system "mechanizes and replaces" an existing system of records, "because the function and responsible activity for the system has been realigned with the Defense Audit Service."

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

System names:

(1) Prepurchase Counseling Demonstration and Evaluation Records, (2) HUD Child Care Center Files.

Report date:

April 12, 1978.

Point-of-contact:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, Washington, D.C. 20410.

Summary:

The HUD Child Care Center Files will "consist of socio-economic, educational, and medical information on applicants, their children, and center staff members." The Prepurchase Counseling Demonstration and Evaluation Records are part of a program which assists first time homeseekers.

System name:

Urban Reinvestment Task Data.

Report date: April 12, 1978.

Point-of-contact:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, Washington, D.C. 20410.

Summary:

This system is being established to help evaluate the Neighborhood Housing Services Program and will consist of a survey of 45 Neighborhood Housing Services Program areas.

NATIONAL SCIENCE FOUNDATION

System name:

Study to Evaluate Scientific Information Services.

Report date:

April 14, 1978.

Point-of-contact:

Mr. Herman Fleming, NSF Privacy Act Officer, Washington, D.C. 20550.

Summary:

This system of records will be a survey of physicists, to consider their perception of scientific and technical information services.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

System name:

ACDA-15, Fellowship Grants Records.

Report date:

April 14, 1978.

Point-of-contact:

Mr. Charles R. Oleszycki, Office of General Counsel, U.S. Arms and Disarmament Agency, Washington, D.C. 20451.

Summary:

This proposed system is being developed to administer recently established Hubert H. Humphrey Fellowships.

SECURITIES AND EXCHANGE COMMISSION

System name:

SEC-100, Automated Personnel Information System.

Report date:

April 20, 1978.

Point-of-contact:

James H. Schropp, Assistant General Counsel, Securities and Exchange Commission, Room 271, 500 North Capitol Street, Washington, D.C. 20549.

Summary:

This system, intended to supplement existing SEC systems of records, is expected to provide more rapid handling of personnel action, and updating of personnel folders, as well as more accurate management reporting for SEC staff.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-12803 Filed 5-9-78; 8:45 am]

[3110-01]

Office of Federal Procurement Policy

ISSUANCE OF OMB BULLETIN NO. 78-11

Guidelines for the Use of Consultant Services

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Issuance of OMB Bulletin No. 78-11, Guidelines for the Use of Consultant Services.

SUMMARY: OMB Bulletin No. 78-11, dated May 5, 1978, is issued for immediate implementation. This Bulletin establishes a standard definition for "consulting services" and uniform management controls to assure that abuses in the use of consulting services do not occur.

A draft of this policy was published in the FEDERAL REGISTER on December 16, 1977 on pages 63492-63493 (3110-01) with comments requested by February 10, 1978. The comments received were given consideration in finalizing the Bulletin.

In addition to incorporating many useful suggestions to clarify the intent of the policy three changes were made:

(1) The definition was changed from "consultant services" to "consulting services" to more accurately define the resulting service and not the performers;
(2) The inclusion of "Services of a Federal Funded Research and Development Center" in the Services included in the Appendix of the draft was deleted for the same reason—not to define the performers but the resulting service. If Federal Funded Research and Development Centers perform a consulting service that arrangement is included within the definition and management controls of this Bulletin; and,
(3) An Exhibit was added to assist the agencies in providing the required one-time report due June 30, 1978.

DATES: The Bulletin is effective immediately.

ADDRESSES: All questions of inquiries should be submitted to the Office of Management and Budget, Administrator for Federal Procurement Policy, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. Herman E. Shipley, Deputy Associate Administrator, for Systems and Technology, telephone 202-393-3340.

LESTER A. FETTIG,
Administrator.

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EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

BULLETIN No. 78-11, May 5, 1978

To the heads of executive departments and establishments.

Subject: Guidelines for the Use of Consulting Services.

1. *Purpose.* The Bulletin establishes policy and guidelines to be followed by executive branch agencies in determining and controlling the appropriate use of consulting services obtained from individuals and organizations.

2. *Background.* The President, in a memorandum of May 12, 1977 (Attachment A) asked the heads of agencies to review the consulting service arrangements of their organizations to assure that they were both appropriate and necessary. As requested, the agencies reported the results of their review to the Director, Office of Management and Budget (OMB), along with the criteria used in determining when it is appropriate to use consulting services. While many agencies have excellent management controls to assure that abuses do not occur, there was a lack of uniformity of definition, criteria, and management controls among the agencies.

Based largely upon the data received from the agencies, this Bulletin establishes a standard definition, uniform criteria for determining the appropriate use of consulting services, and outlines management controls required of the agencies.

3. *Coverage.* The provisions of this Bulletin apply to consulting services obtained by the following arrangements:

(a) Personnel appointment;
(b) Procurement contract; and
(c) Advisory committee membership (not otherwise covered).

When one of the above arrangements for consulting services is entered into, any applicable statutory requirements, such as those in 5 U.S.C. 3109 for personnel appointments will govern.

4. *Definition.* As used for administrative direction in this Bulletin, *Consulting Services* means those services of a purely advisory nature relating to the governmental functions of agency administration and management and agency program management. (See Attachment B for examples of the type of services to which this Bulletin does and does not apply.)

These services are normally provided by persons and/or organizations who are generally considered to have knowledge and special abilities that are not generally available within the agency. The form of compensation is irrelevant to the definition.

5. *Basic Policy.* a. Consulting services will not be used in performing work of a policy/decisionmaking or managerial nature which is the direct responsibility of agency officials.

b. Consulting services will normally be obtained only on an intermittent or temporary basis; repeated or extended arrangements are not to be entered into except under extraordinary circumstances.

c. Consulting services will not be used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

d. Former Government employees per se will not be given preference in consulting service arrangements.

e. Consulting services will not be used under any circumstances to specifically aid in influencing or enacting legislation.

f. Grants and cooperative agreements will not be used as legal instruments for consulting service arrangements.

6. *Guidelines for use of Consulting Services.* Consulting service arrangements may be used, when essential to the mission of the agency, to:

a. Obtain specialized opinions or professional or technical advice which does not exist or is not available within the agency or another agency.

b. Obtain outside points of view to avoid too limited judgment on critical issues.

c. Obtain advice regarding developments in industry, university, or foundation research.

d. Obtain the opinion of noted experts whose national or international prestige can contribute to the success of important projects.

e. Secure citizen advisory participation in developing or implementing Government programs that by their nature or by statutory provision call for such participation.

7. *Management Controls.* a. Each agency will assure that for all consulting service arrangements:

(1) Every requirement is appropriate and fully justified in writing. Such justification will provide a statement of need and will certify that such services do not unnecessarily duplicate any previously performed work or services;

(2) Work statements are specific, complete and specify a fixed period of performance for the service to be provided;

(3) Contracts for consulting services are competitively awarded to the maximum extent practicable to ensure that costs are reasonable;

(4) Appropriate disclosure is required of, and warning provisions are given to, the performer(s) to avoid conflict of interest; and

(5) Consulting service arrangements are properly administered and monitored to ensure that performance is satisfactory.

b. Each agency will establish specific levels of delegation of authority to approve the need for the use of consulting services, based on the policy and guidelines contained in this Bulletin. Approval of all consulting service arrangements should be required at a level above the organization sponsoring the activity.

c. OMB Circular No. A-63, Advisory Committee Management, governs policy and procedures regarding advisory committees and their membership.

d. The Federal Personnel Manual (FPM), Chapter 304, governs policy and procedures regarding personnel appointments.

e. Until the Federal Acquisition Regulation is published, the Federal Procurement Regulation and the Armed Services Procurement Regulations govern policy and procedures regarding contracts.

8. *Data Requirements.* By October 1, 1978, the following data systems will have the capability to provide information on consulting service arrangements within the executive branch:

a. Central Personnel Data File (CPDF), operated by the Civil Service Commission, will have data on personnel appointments, segregating consultants, experts, and advisory committee members (as defined in OMB Circular No. 63).

b. Federal Procurement Data System (FPDS) will have data on contract arrangements.

c. Advisory committee data will continue to be maintained in accordance with OMB Circular No. A-63.

9. *Reporting Requirements.* Agencies will submit a report to the Office of Federal Procurement Policy, OMB, on June 30, 1978. The report will be submitted in the format of the Exhibit as follows. For each type of consulting service arrangement in effect as of June 1, 1978, specify:

a. The number of such arrangements; and
b. The total dollars (in thousands) in terms of outlays.

This is a one-time report.

10. *Effective date.* This bulletin is effective immediately.

11. *Recission.* This bulletin is rescinded following incorporation of basic policy, guidelines, and management controls into agencies' policies and procedures, the submission of the required data due on June 30, 1978, and implementation of the data system requirements due October 1, 1978.

12. *Inquiries.* All questions or inquiries should be submitted to the Office of Management and Budget, Administrator for Federal Procurement Policy. Telephone Number (202) 395-3340.

JAMES T. MCINTYRE, JR.,
Director.

ATTACHMENT A

THE WHITE HOUSE,
Washington, May 12, 1977.

Memorandum for the Heads of Executive Departments and Agencies

In a continuing search for ways to improve the efficiency and effectiveness of the executive branch, I have become aware of a need for improved management of the excessively large volume of consulting and expert services used by the Federal Government. A recent survey by a Senate subcommittee of the use of personal and non-personal consultant and expert services identified more than 30,000 contract arrangements and 10,777 individual appointments. Additionally, there are such services provided by grant arrangements and through advisory committee memberships.

There has been, and continues to be, evidence that some consulting services, including experts and advisors, are being used excessively, unnecessarily, and improperly.

This must be corrected without delay.

Some areas of concern include:

Use of consultants to perform work of a policymaking or managerial nature which should be retained directly by agency officials.

Repeated appointments or contract extensions which raise questions whether the work is beter suited to other more appropriate arrangements.

Use of consultants to provide studies and analyses which have no useful impact on agency operations, either because the subject itself is non-essential or because there are no disciplined agency procedures to (a) check priorities and (b) insure follow-up on the results.

Use of consultant arrangements as a device to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

"Revolving door" abuses whereby former Government employees may be improperly favored for individual or contracted consulting arrangements.

Intra-agency duplication of consultant efforts, especially in large, multi-agency departments such as Defense and Health, Education and Welfare, because there is no central coordination of consulting efforts or dissemination of results.

Conflicts of interest between consultants' advice and their other outside financial interests and affiliations.

In order to improve the use of consultants, I want you to:

1. Review all data that is available or can be readily assembled to describe:

The principal purposes for which consulting services are being used;

The types of consulting arrangements being used (Civil Service Commission appointment, contract, grant advisory committee membership, other); and

The number of such arrangements in effect and the total dollars involved.

2. Review and revise the management controls and decision criteria used for consultants which will effectively prevent abuses.

3. Eliminate those consultant arrangements found to be neither appropriate nor necessary.

4. Report the results of the above items to the Director of the Office of Management and Budget by June 30, 1977.

I am asking the Director of the Office of Management and Budget to review your reports and, where appropriate, to suggest additional measures that you might apply to strengthen your management control of the purposes and arrangements for consulting and expert services.

JIMMY CARTER.

ATTACHMENT B

This attachment contains some, but not all, examples of the type of services to which this Bulletin does and does not apply.

SERVICES INCLUDED

Advice on discriminatory practices in labor;
Advice on organizational structure and management methods;
Advice on artistic and cultural matters;
Advice on and analysis of electric power projects;
Evaluation of the effectiveness of agency publications;
Advice on mail handling procedures;
Advice on plans for conducting census enumerations;
Analysis of the impact of a program;
Advice on maritime labor policy and maritime market development;
Advice on legal and technological problems in patent and trademark examinations;
Policy and program analysis evaluation and advice;
Services of grant peer review panelists.

SERVICES EXCLUDED

Commercial and insutrial products and services (see OMB Circular No. A-76);
Conduct of research (see OMB Circular No. A-11);
Performance of operating functions and supervision of those functions;
Automatic data processing/keypunching services;
Information system development;
Audits made by Certified Public Accountants;
Architect and engineering services and other associated services directly related to a particular structure;
Purchase of real or personal property;
Stenographic services;
Direct operation and management of Government-owned facilities;
Installation or testing of equipment;
Services performed by technicians or nonprofessional persons to meet unusual or peak work demands;
Consultant-type services provided by one Federal entity for another Federal entity under a Memorandum of Understanding or similar arrangement;
Physicians, dentists, nurses, and other health care professionals providing medical services;
Employee training and executive development; Legal research services that do not include advice or recommendations;
Editing and proofreading services;
Educational-vocational guidance counseling for veterans;
Court reporting;
Translation services;
Advisory services provided directly to the public or foreign governments as part of an agency's programs of assistance.
Geological, archeological, and cadastral surveys.

Exhibit—Consulting Service Arrangements

[*Name of Department or Agency*]

Types of consultant arrangements:	No.	In thousands of dollars
1. Personnel appointments		
2. Procurement contracts		
3. Advisory committee memberships		
Total		

[FR Doc. 78-12805 Filed 5-9-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release NO. 34-14739; File No. SR-PHLX 78-7]

PHILADELPHIA STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. 94-29,16 (June 4, 1975), notice is hereby given that on May 4, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange, Inc., ("PHLX) proposes to amend Rule 1014, as follows: (Brackets indicate deletions; italics indicate new language.)

Rule 1014: (i) With respect to classes of options other than those to which he has been assigned, an ROT, whenever he enters the trading crowd or is called upon by a Floor Official, shall undertake the obligations specified in paragraph [d(iii)] (c) of this Rule.

. . . Commentary:

.03 The Exchange has determined for purposes of paragraph [d(iii)] (c) of this Rule that, except for unusual circumstances at least 50% of the trading activity in any quarter (measured in terms of contract volume) of an ROT shall ordinarily be in classes of options to which he is assigned. Temporarily undertaking the obligations of paragraph [d(iii)](c) at the request of a member of the Floor Procedure Committee in non-assigned classes of options shall not be deemed trading in non-assigned option contracts.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing rule change are as follows:

PURPOSE OF PROPOSED RULE CHANGE

The purpose of the proposed rule change is to make certain corrections of erroneous citations in Rule 1014 in order to reflect PHLX's practice of subjecting Registered Options Traders ("ROT's") to affirmative obligations in connection with their trading outside of their assigned classes of option contracts.

Further, because of this erroneous reference in Rule 1014, PHLX ROT's may have appeared technically unqualified for market maker exemption provided in section 11(a)(1)(A) of the Act with respect to their trading in unassigned options although PHLX has and continues to follow a practice of requiring ROT's to undertake affirmative obligations whenever they enter the trading crowd in unassigned options.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The basis under the Act for the proposed rule change is section 6(b)(5) in that transactions in securities are facilitated by deeper and more liquid markets which tend to result from ROT's undertaking affirmative obligations in unassigned options. The proposed rule change also relates to the Exchange's capacity to enforce compliance with Exchange Rule 1014(i) and section 11(a)(1)(A) under the Act concerning PHLX's requirements that ROT's undertake affirmative obligations in connection with their trading in nonassigned option classes.

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COMMENTS RECEIVED FROM MEMBERS OR OTHERS ON PROPOSED RULE CHANGE

PHLX states that no comments have been received from members or others on the proposed rule change.

BURDEN ON COMPETITION

PHLX asserts that no burden will be imposed upon competition as a result of this proposed rule change.

On or before June 15, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or
(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 5, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 5, 1978.

[FR Doc. 78-12768 Filed 5-9-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Application No. 09/5219]

AMERICAN SMALL BUSINESS ASSISTANCE CORP.

Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) has been filed by American Small Business Assistance Corp. (applicant) with the Small Business Administration pursuant to 13 CFR 107.102 (1977).

The officers and directors are as follows:

Don C. Winkler, 8641 Edwin Place, Los Angeles, Calif. 90046, president and chairman of the board.
Michael R. McCoy, 5737 Magnolia Avenue, Apartment No. 2, Whittier, Calif. 90001, secretary and director.
David A. Phifer, 9715 Belmar Avenue, Northridge, Calif. 91324, vice president and director.

Hiland Enterprises, Inc., (Hiland) American Bank of Commerce Complex, Suite 300, 200 Lomas Boulevard NW., Albuquerque, N. Mex. 87102 is the sole stockholder of the applicant. Financial International Life Insurance Co. of New Mexico, located at the same address, is the sole stockholder of Hiland.

The applicant will maintain its principal place of business at 10100 Santa Monica Boulevard, Suite 1325, Los Angeles, Calif. 90067. It will begin operations with $500,000 of private capital derived from the sale of 500,000 shares of common stock to Hiland.

The applicant will conduct its operations principally in the State of California and in other areas within the United States of America as may be approved by the Small Business Administration.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Notice is hereby given that any person may, not later than May 25, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Los Angeles, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 3, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-12710 Filed 5-9-78; 8:45 am]

[8025-01]

[Application No. 09/09-5222]

ASSOCIATES VENTURE CAPITAL CORP.

Application for License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Associates Venture Capital Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1977).

The officers, directors, and stockholders of the applicant are as follows:

Walter P. Strycker, president, director, general manager, 33 West Shore Road, Belvedere, Calif. 94920.
Harold T. McCormick, executive vice president, director, 3540 Spring Valley Court, Birmingham, Ala. 35223.
Jess S. Jackson, Jr., secretary, director, general counsel, 916 Jackling Drive, Hillsborough, Calif. 94010.
Rowland Hsu, vice president, treasurer, 35879 Salvador Court, Fremont, Calif. 94536.
Majorven Associates, Inc., 100 percent stockholder, 611 Front Street, San Francisco, Calif. 94111.

The above noted officers and directors own 60 percent of the voting stock of Majorven Associates, Inc. The shares of the applicant constitute 100 percent of the total assets of Majorven Associates, Inc.

The applicant, a Delaware corporation, with its principal place of business located 611 Front Street, San Francisco, Calif. 94111, will begin operations with $525,000 of paid-in capital and paid-in surplus, derived from the sale fo 525 shares of common stock.

The applicant will conduct its activities principally in the Sate of California, and in other areas within the United States of America.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA rules and regulations.

Any person may, not later than May 25, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Francisco, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-12711 Filed 5-9-78; 8:45 am]

[8025-01]

[Proposed License No. 09/09-0220]

LANDERS CAPITAL CORP.

Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 (1978) by Landers Capital Corp., 9255 Sunset Boulevard, Los Angeles, Calif. 90069, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. et seq.).

The proposed officers, directors and principal stockholders are:

Harold A. Landers, 9255 Sunset Boulevard, Los Angeles, Calif. 90069, chairman of the board, president, 100 percent.
Jay Landers, 9255 Sunset Boulevard, Los Angeles, Calif. 90069, vice president, secretary, chief financial officer, director.
Mark B. Sandground, 1025 Connecticut Avenue NW., Washington, D.C. 20036, director.

The SBIC will begin operations with an initial capitalization of $485,000. They contemplate a plan of operation which centers on a diversified investment policy. The applicant, a California corporation, intends to make investments in small business concerns located principally in the State of California, with particular emphasis in Los Angeles County.

Matters involved in SBA's consideration of the application include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing action would be in furtherance of the purpose of the Act.

Notice is hereby given that any person may, not later than May 25, 1978, submit to SBA in writing comments on the proposed SBIC to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Los Angeles, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 3, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-12740 Filed 5-9-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1463]

LOUISIANA

Declaration of Disaster Loan Area

Caddo Parish and adjacent parishes within the State of Louisiana constitute a disaster area as a result of damage caused by tornado which occurred on April 17, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 3, 1978, and for economid injury until the close of business on February 5, 1979 at:

Small Business Administration, District Office, Plaza Tower, 17th Floor, 1001 Howard Avenue, New Orleans, La. 70113

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 3, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12741 Filed 5-9-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1461]

MINNESOTA

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Becker, Clay, Kittson, Marshall, Norman, Pennington, Polk, Red Lake, Traverse and Wilkin Counties constitute a disaster area because of damage resulting from severe storms, ice jams, snowmelt and flooding beginning about March 13, 1978. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above-named counties and adjacent counties within the State of Minnesota. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on June 22, 1978, and for economic injury until the close of business on January 22, 1979, at:

Small Business Administration, District Office, Plymouth Building, Room 530, 12 South Sixth Street, Minneapolis, Minn. 55402

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 3, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12742 Filed 5-9-78; 8:45 am]

[8025-01]

[License No. 06/06-0190]

SAN ANTONIO VENTURE CAPITAL, INC.

Issuance of License to Operate as a Small Business Investment Company

On March 21, 1977, a notice was published in the FEDERAL REGISTER (42 FR 15393) stating that an application had been filed by San Antonio Venture Group, Inc., 535 S. Main, San Antonio, Tex. 78204, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1977)), for a license to operate as a small business investment company (SBIC). The present address is 2300 West Commerce Street, San Antonio, Tex. 78207.

Also, in order to amend a statement in the above notice, it should be noted here that The National Council of La Raza, 1725 Eye Street NW., Washington, D.C., is not the parent of or associated with the Mexican American Unity Council, the major shareholder of San Antonio Venture Group, Inc.

Interested parties were given until the close of business April 5, 1977, to submit their written comments to SBA. No comments were received.

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Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 06/06-0190 on March 23, 1978, to San Antonio Venture Group, Inc. to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

PETER F. MCNEISH,
Deputy Associate Administor for Investment.

[FR Doc. 78-12712 Filed 5-9-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1457, Amdt. No. 1]

TEXAS

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 16584) is amended by adding the following counties:

County	Natural disaster(s) and date(s)
Duval	Drought, July 1, 1977 to Mar. 22, 1978.
Foard	Drought, July 1, 1977 to Mar. 31, 1978.
Hansford	Drought, Jan. 1, 1977 to Mar. 24, 1978.
Do.	Hail and high wind, Aug. 30, 1977.
Hardeman	Drought, June 1, 1977 to Mar. 22, 1978.
Haskell	Drought, July 1, 1977 to Mar. 20, 1978.
Randall	Drought, Sept. 1, 1977 to Mar. 1, 1978.
Zapata	Drought, Jan. 1, 1977 to Mar. 14, 1978.

and adjacent counties within the State of Texas as a result of natural disasters as indicated. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 1, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12713 Filed 5-9-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1467]

VIRGINIA

Declaration of Disaster Area

The Independent Cities of Roanoke and Salem and the County of Roanoke and adjacent counties within the State of Virginia, constitute a disaster area because of damage resulting from high winds, rain and flooding which occurred on April 25, 1978 through April 27, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 3, 1978, and for economic injury until the close of business on February 5, 1979, at:

Small Business Administration, District Office, Federal Building, Room 3015, 400 North Eighth Street, Richmond, Va. 23240

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 4, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12743 Filed 5-9-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Amended Notice of Meeting

In 43 FR 19309, May 4, 1978, AID announced a meeting of the Board for International Food and Agricultural Development to be held on **May 25**, 1978, from 9 a.m. to 4:30 p.m. in Room 1107 of the State Department Building. The purpose of this notice is to indicate that the time and room number of the meeting have been changed. The meeting will convene at 2 p.m. and adjourn at 4:30 p.m. on **May 25**, 1978, and will be held in room 6320 of the State Department Building.

Dated: **May** 5, 1978.

ERVEN J. LONG,
AID Advisory Committee Representative Board for International Food and Agricultural Development.

[FR Doc. 78-12715 Filed 5-9-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Office of the Secretary

Imported Steel Mill Products Trigger Price Mechanism: Quarterly Revision of Trigger Prices

The Treasury Department is hereby announcing increases in trigger prices for imported steel mill products reflecting increased costs of production for the Japanese steel industry and appreciation in the value of the yen, effective for all shipments exported on or after July 1, 1978.

A. INTEGRATED PRODUCERS

With respect to the categories of steel mill products produced primarily by the integrated steel producers, the price revision is based on changes since the end of 1977 in the costs of basic raw materials and labor and in the rate of exchange. Coal and iron ore costs increased in the aggregate by 3.5 percent in dollar terms. In April 1978, the integrated companies agreed to a new industry-wise labor contract which provides for an estimated overall 4.2 percent increase in hourly labor costs for the current fiscal year ending March 31, 1979. Finally, as reflected in the average daily exchange rate from March 1 through April 30, the Japanese yen has appreciated to a level of 226 yen to the dollar.

These changes in costs and the exchange rate have increased by approximately 5.5 percent the average costs of production and, correspondingly, both the base prices and "extras" for products in Categories 2,[1] 3,[2] 4, 5, 10,[3] 14,[1] 15,[1] 22, 23, 25, 26, 27, and 32 will be increased by 5.5 percent. The magnitude of this increase is due to the coincidence of the timing of the bulk of the annual wage increases in Japan and the appreciation of the yen. The calculation leading to the indicated increase for these products was made as follows:

TABLE 1.—*Estimated Japanese costs of production*

[Dollars per metric ton of finished product]

	Jan. 9, 1978	Revision for third quarter
Basic raw materials	116.91	120.62
Other raw materials	66.12	67.10
Labor	75.60	83.61
Other expenses	21.38	22.70
Depreciation	18.51	19.65
Interest plus profit	37.28	39.59
Less scrap credit	(6.57)	(6.67)

Increased estimated cost of production: 5.5 percent.

B. ELECTRIC FURNACE PRODUCERS

Trigger prices for products produced by electric furnace producers were published on Monday, March 27, 1978 (43 FR 12783).

Trigger price revisions for these steel mill products reflect only an adjustment for scrap prices and the exchange rate since these companies have not yet concluded their collective bargaining for the current fiscal year. A complete description of the methodology used in computing the original trigger prices for these products is set forth below. The original input costs are provided in Table 2. The revised input costs are provided in Table 3.

[1] With the exception of those specific products listed in Table 3.

[2] Only wide flange beams and bearing piling (Trigger Price Handbook pp 3-1 to 3-4). Other products in this category are covered in Table 3.

[3] Only hot rolled carbon bars: sepcial quality (Trigger Price Handbook pp 10-1 and 10-2). Other products in this category are covered in Table 3.

The trigger prices for the carbon steel products listed below are based upon the costs of production of Japan's main electric arc furnace steel mills, submitted to the Treasury Department by the Japanese Ministry of International Trade and Industry. Three sets (A, B, and C) of cost data for these electric arc mills were submitted. The cost of particular products within a cost group were obtained by applying relative cost coefficients provided by the Japanese to the appropriate group average cost.

Cost group	Products
A	Equal angles.
A	Unequal angles.
A	Channels.
A	I Beams (S4 through S8).
B	Hot rolled strip produced on bar mills.
B	Merchant quality hot bars.
B	Merchant quality hot rolled round bars
B	Merchant quality squares and round cornered squares.
B	Bar size channels.
C	Plain concrete reinforcing bars.
C	Deformed concrete reinforcing bars.

Because of a different input mix, output mix and production technology, the base production costs estimated for the electric furnace steel mills differ from the base costs reported for the six major Japanese producers.

The principal assumptions originally utilized by Treasury in estimating the Japanese electric arc furnace costs are (the only assumptions affected by the quarterly revisions are the exchange rate and the scrap netback):

a. *Exchange rate.* Where relevant, Japanese cost data have been converted to U.S. dollars on the basis of 240 yen per dollars (revised to 226 yen per dollar for the third quarter).

b. *Capacity utilization.* All costs pertain to a standard operating rate of 85 percent.

c. *Labor productivity.* Group A products (equal angles) require 3.3 man hours per metric ton of raw steel, Group B products (flat bars) 3.6 man hours per metric ton of raw steel, and Group C products (reinforcing bars) 2.9 man hours per metric ton of raw steel.

d. *Yield.* The electric arc furnace products are generally fabricated from continuously cast semifinished shapes. Therefore, the yield of Group A (angles) and Group C products (reinforcing bars) per ton of raw steel is taken to be 0.95 and the yield of Group B products (flat bars) of 0.92.

e. *Capital costs.* Total depreciation charges, net interest expenses and a margin for profit on average amount to slightly over 13 percent to total assets related to steel production.

f. *Scrap netback.* As previously, yield factors reported by the Japanese electric furnace mills were not used in the calculation of trigger prices in the belief that some of the products considered "finished" would be regarded by U.S. standards as low quality. However, this low quality product receives a cost credit based on the current market price of scrap, which increased for the third quarter.

The total costs of production for products in Groups A, B, and C, based on the above assumptions, are estimated to be:

TABLE 2.—*Original estimated Japanese electric furnace mill base production costs*

[Dollars per metric ton of finished product]

	Group A	Group B	Group C
Raw materials	147.19	159.59	148.33
Labor	24.52	27.94	19.55
Other expenses	10.06	12.28	12.68
Depreciation	5.47	6.96	5.80
Interest plus profit	21.48	25.85	20.81
Less scrap credit	(1.94)	(2.14)	(2.00)
Total original average cost	206.78	230.48	204.97

TABLE 3.—*Revised estimated Japanese electric furnace mill base production cost*

[Dollars per metric ton of finished product]

	Group A	Group B	Group C
Basic raw materials (primarily scrap)	140.42	150.92	139.16
Other raw materials	32.29	36.16	34.88
Labor	26.05	29.64	20.76
Other expenses	10.88	13.04	13.47
Depreciation	5.81	7.39	5.94
Interest plus profit	22.79	27.45	22.10
Less scrap credit	(2.49)	(2.80)	(2.58)
Revised average cost	235.55	263.80	233.75
Original average cost	206.76	230.48	204.97
Increased estimated cost of production (in percent)	13.9	14.5	14.0

C. OTHER PRODUCTS

Data from which to compute quarterly revisions on a number of items has not yet been received from the Japanese government. When this data is available, quarterly revisions will be computed and published. Until such time, the 5.5 percent increase applicable to the products made by the integrated producers will be appliéd to such products as well.

Item and trigger price handbook page

Alloy wire rod, pages 2-11 to 2-13.
Light rails, page 6-3.
Tie plates, page 6-5.
Hot rolled bar, pages 11-1 and 11-2.
Cold finished bar, pages 12-1 to 12-14.
Welded stainless steel pipe, pages 14-14 to 14-17.
Hot rolled tube, page 15-44.
Cold rolled tube, page 15-45.
Stainless steel ornamental tube, page 15-46 to 15-49.
Wire, pages 16-1 to 16-25.
Barbed wire, page 21-1.

D. OTHER REVISIONS

Aside from these general revisions to the trigger prices now in effect, the Treasury Department hopes in the course of the current calendar quarter to undertake analyses of individual trigger prices in the light of comments received with respect to their relationships with other trigger prices. Further, apparent gaps in product coverage as well as the prior inclusion of trigger prices for products not imported in significant quantities will be reviewed. The results of these studies should be available not later than the next quarterly revisions in trigger prices to be published from 60 to 90 days prior to their effective date.

Dated: May 5, 1978.

W. M. BLUMENTHAL
Secretary of the Treasury.

[FR Doc. 78-12735 Filed 5-9-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Revised Service Order No. 1315; Exception No. 1]

Apache Railway Co., Et Al.

Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(ix) of Revised Service Order No. 1315, the free-time periods authorized by the following items in General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply to cars subject to those items in lieu of the free-time periods specified in section (a)(2) of Revised Service Order No. 1315.

Item Nos. and Railroad

116—The Apache Railway Co.
118-119—The Atchison, Topeka & Santa Fe Railway Co.
121-123—Burlington Northern Inc.
125-126—Chicago, Rock Island & Pacific Railroad Co.
132—Denver & Rio Grande Western Railroad Co.
140—Oregon & Northwestern Railroad Co.
142-151—Union Pacific Railroad Co.
176—Burlington Northern Inc.

Effective 7 a.m., May 5, 1978.

Issued at Washington, D.C., May 3, 1978.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

ROBERT S. TURKINGTON,
Acting Chairman, Railroad Service Board.

[FR Doc. 78-12747 Filed 5-9-78; 8:45 am]

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[7035-01]

[Notice No. 657]

ASSIGNMENT OF HEARINGS

MAY 5, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 10 (Sub-No. 11), Norfolk & Western Railway Co. abandonment between New Castle and Rushville, in Henry and Rush Counties, Ind., and AB 10 (Sub-No. 12), Norfolk & Western Railway Co. abandonment between Connersville and New Castle, in Henry, Wayne, and Fayette Counties, Ind., are now assigned for hearing July 24, 1978 (1 week), at New Castle, Ind., at a location to be later designated.

No. MC 114211 (Sub-No. 317), Warren Transport, Inc., now assigned for hearing May 31, 1978, at Denver, Colo., will be held at OSHA, Room 1718, Prudential Plaza, 1050 17th Street.

No. MC 105006 (Sub-No. 5), L. L. Smith Trucking, now assigned June 5, 1978, at Denver, Colo., will be held at OSHA, Room 1718, Prudential Plaza, 1050 17th Street.

No. MC 128270 (Sub-No. 24), Rediehs Interstate, Inc., now assigned June 12, 1978, at Denver, Colo., will be held at OSHA, Room 1718, Prudential Plaza, 1050 17th Street.

No. MC-C-10037, *O.N.C. Freight Systems, Inc. v. Windecker, Inc.*, d.b.a. Windecker Truck Line, now assigned June 15, 1978, at Denver, Colo., will be held in Room 1718 at OSHA, Prudential Plaza, 1050 17th Street.

No. MC 136285 (Sub-No. 26), Southern Intermodal Logistics, Inc., is assigned for hearing June 28, 1978, at Atlanta, Ga., and will be held at Room 305, 1252 West Peachtree Street NW.

No. MC 125808 (Sub-No. 7), Aaacon Auto Transport, Inc., is assigned for hearing June 19, 1978, at Memphis, Tenn., and will be held at Tax Court Room 1006, Federal Building, 167 North Main Street.

No. MC 141871 (Sub-No. 6), WNI, Inc., now assigned May 16, 1978, at Salem, Oreg., will be held in Room 347, State Capitol Building.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12748 Filed 5-9-78; 8:45 am]

[7035-01]

[Docket No. AB-6 (Sub-No. 46F)]

BURLINGTON NORTHERN, INC.

Abandonment Near Quincy and East Hannibal in Adams and Pike Counties, Ill.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated April 28, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977), and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Burlington Northern, Inc. of a line of railroad known as the Quincy to East Hannibal Line extending from railroad milepost 267.28 near Quincy, Ill., to railroad milepost 279.88 at the end of the line near East Hannibal, Ill., a distance of 12.60 miles, in Adams and Pike Counties, Ill. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern, Inc. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 25, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 26, 1978.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12755 Filed 5-9-78; 8:45 am]

[7035-01]

[Docket No. AB-6 (Sub-No. 50F]

BURLINGTON NORTHERN, INC.

Discontinuance of Service in Spokane County, Wash.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated April 26, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977), the present and future public convenience and necessity permit the discontinuance of service over the Union Pacific Railroad Co. (UP) tracks between UP milepost 163.46 near Spokane, Wash., to UP milepost 131.21 at the end of the line near Fairfield, Wash., a distance of 32.25 miles, and to discontinue service over its own line of railroad between milepost 7.1 near Dishman, Wash., to milepost 6.1 near Spear, Wash., a distance of 1 mile, in Spokane County, Wash., for a total distance of 33.25 miles. A certificate of public convenience and necessity permitting discontinuance of service was issued to the Burlington Northern, Inc. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of discontinuance of service decisions in the *Federal Register* be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 25, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing discontinuance of service shall become effective June 26, 1978.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12753 Filed 5-9-78; 8:45 am]

[7035-01]

CHANGES IN PROCEDURES FOR PENDING RAIL ABANDONMENT CASES

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Change in Procedures for Certain Offers of Financial Assistance.

SUMMARY: The "Procedures for Pending Rail Abandonment Cases" required the use of the publicly quoted yield on United States Treasury Bonds to calculate "a reasonable return on the value of the rail properties." In the future, parties are instructed to use the cost of capital to the railroad as set forth in 49 CFR 1121.44, for purposes of this calculation.

FOR FURTHER INFORMATION CONTACT:

Edward J. Schack, Phone: 202-275-7581.

SUPPLEMENTARY INFORMATION: On March 31, 1976, we issued Procedures For Pending Rail Abandonment Cases (Procedures), at 41 FR 13691. These procedures implemented section 1a(8) of the Interstate Commerce Act, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, (4-R Act) as it relates to abandonment or discontinuance of operations proceedings filed prior to the promulgation of new regulations. The Procedures set out the methods to be followed by persons offering financial assistance for continued rail service.

The Procedures instruct parties to use the Standards for Determining Rail Service Continuation Subsidies, 49 CFR § 1125, in computing the extent to which the avoidable costs of providing rail service plus a reasonable return on the value of the rail properties involved exceeds the revenues attributable to such line of railroad. Section 1125.7 states that in calculating the return on value, the interest rate should be equal to the publicly quoted yield to maturity for United States Treasury Bonds or Notes maturing or having an earliest call date approximately coterminus with the end of the subsidy period.

The regulations promulgated in Ex Parte No. 274 (Sub-No. 2), Abandonment of Railroad Lines and Discontinuance of Service, codified at 49 CFR Part 1121, apply the cost of capital of the railroad to the investment base to calculate a reasonable return on value. 49 CFR 1121.44. This is consistent with the 4-R Act, which defines reasonable return as the cost of capital to the railroad.

In view of the regulations and the provisions of the 4-R Act, we instruct parties, making offers of financial assistance after this date, to use the cost of capital to the railroad in making the calculations required in the Procedures. Further, we will apply the cost of capital to the railroad in calculating the extent to which the avoidable costs of providing rail service plus a reasonable return on the value of the rail property exceeds the revenue attributable to the line of railroad as required by section 1a(7) of the Act, 5 U.S.C. 1a(7).

Decided May 1, 1978.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12756 Filed 5-9-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 5, 1978.

These applications for long- and short-haul relief have been filed with the ICC.

Protests are due at the ICC on or before May 25, 1978.

FSA No. 43538, Forest Lines' No. 1, on intermodal rates on general commodities, from rail carriers' terminals at U.S. Gulf Coast ports in Louisiana and Texas, to ports in the Far East, by way of ports in California, in its tariff No. 1, ICC No. 1, to become effective June 1, 1978. Grounds for relief—water competition.

FSA No. 43539, Neptune Orient Lines Ltd., No. 1, on intermodal rates on general commodities, between ports in the Far East, on the one hand, and rail carriers' terminals at ports on the U.S. Atlantic and Gulf Coasts, by way of ports on the U.S. Pacific Coast, to be published in its tariffs Nos. 1, 2, and 3, ICC Nos. 1, 2, and 3, respectively. Grounds for relief—water competition.

By the Commission.

H.G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12750 Filed 5-9-78; 8:45 am]

[7035-01]

[Docket No. AB-30]

GEORGIA SOUTHERN & FLORIDA RAILWAY CO.

Abandonment in Palatka, Putnam County, Fla.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated April 17, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977), the present and future public convenience and necessity permit the abandonment by the Georgia Southern & Florida Railway Co. of a stub-end line of railroad extending from railroad milepost 285-B minus 1,023 feet to railroad milepost 285-B plus 1,558 feet, a distance of approximately 0.5 mile, in Palatka, Putnam County, Fla. A certificate of public convenience and necessity permitting abandonment was issued to the Georgia Southern & Florida Railway Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 25, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 26, 1978.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12752 Filed 5-9-78; 8:45 am]

[7035-01]

[Notices No. 68]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 26, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effects on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and comes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 25, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 26, 1978.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12752 Filed 5-9-78; 8:45 am]

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also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 21866 (Sub-No. 95TA), filed April 12, 1978. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Avenue, Boyertown, PA 19152. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* (except in bulk), from the facilities of the Wegro Division of Old Fort Industries, Inc., in or near Grand Rapids, OH, to points in NY and NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wergro Division, Old Fort Industries, Inc., 3rd and Mill Streets, Grand Rapids, OH 43522. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 36734 (Sub-No. 10TA), filed March 24, 1978. Applicant: FLEMING'S EXPRESS, INC., 105 Main Street, Falmouth, MA 02536. Applicant's representative: Robert G. Parks, 20 Walnut Street, Wellesley Hills, MA 02181. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Cocoa beans and cocoa products*, from Philadelphia, PA, to Mansfield, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nabisco Confections, Inc., 810 Main Street, Cambridge, MA 02139. Send protests to: Gerlad H. Curry, District Supervisor, 24 Weybosset Street, Room 102, Providence, RI 02903.

No. MC 14286 (Sub-No. 1TA), filed April 13, 1978. Applicant: MCO TRANSPORT, INC., 1121 South Front Street, Wilmington, NC 28401. Applicant's representative: James L. Prince, Jr., 1 Cowan Street, Wilmington, NC 28402. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Wilmington, NC, on the one hand, and, on the other, points in Greenville and Spartanburg Counties, SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jacky Maeder Ltd., 4530 Park Road, Suite 336, Charlotte, NC 28209. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 70903 (Sub-No. 6TA), filed March 28, 1978. Applicant: OKANOGAN-SEATTLE TRANSPORT CO., INC., P.O. Box 722, Ellensburg, WA 98926. Applicant's representative: Michael D. Duppenthaler, 607 third Avenue, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Common, irregular, chemicals, fertilizer, and soap* from the facilities of U.S. Borax Co., located at or near Boron, South Gate, and Wilmington, CA, to the United States-Canada international boundary line located at or near Blaine, Sumas, and Oroville, WA, for 180 days. Supporting shipper(s): Mackenzie & Feimann, Ltd., 970 Malkin Avenue, Vancouver, BC V6A 2K8. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland OR 97204.

No. MC 89716 (Sub-No. 52 TA), filed April 12, 1978. Applicant: DICK JONES TRUCKING, Box 965, Powell, WY 82435. Applicant's representative: Stockton and Lewis, The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oilfield motors and oilfield pumps*, between the plantsite of TRW Reda Pump Co., at or near Thermopolis, WY on the one hand and on the other, points in NM, for 180 days. Supporting shipper(s): TRW Reda Pump, Box 1366, Thermopolis, WY 82443. Send protests to: Paul A. Naughton District Supervisor, Interstate Commerce Commission, Room 105 Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

No. MC 97457 (Sub-No. 4TA), filed April 13, 1978. Applicant: WARNER & SONS TRUCKING CO., 3224 Sand Creek Hwy, Route 1, Adrian, MI 49221. Applicant's representative: William B. Elmer, 21635 East nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastics and plastic products*, between the facilities of Alma Plastics, Inc., located at Greenville, MI on the one hand and, on the other, Detroit, MI; Grand Rapids, MI, and Lansing, MI, restricted to traffic interlined at those points with other carriers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alma Plastics, Inc., 501 Cedar Street, Greenville, MI 48838. Send protests to: C. R. Flemming District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

No. MC 104683 (Sub-No. 45TA), filed April 13, 1978. Applicant: TRANSPORT, INC., P.O. Box 1524, Hattiesburg, MS 39401. Applicant's representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing asphalt*, (in bulk, in tank vehicles), from Smackover and El Dorado, AR, to Meridian, MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Masonite Corp., P.O. Box 5777, Meridian, MS 39302. Send protests to: Alan C. Tarrant District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 108520 (Sub-No. 2TA), filed April 14, 1978. Applicant: DON WALDRON, d.b.a. DONALD WALDRON TRUCKING, 21414 7 Mile Road, Franksville, WI 53126. Applicant's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia* (in bulk, in shipper owned tank trailers), from Seneca, IL, to Burlington and Genoa City, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Burlington Consumers Corp., P.O. Box 220 Burlington, WI (Robert Schulte). Send protests to: Bail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 111401 (Sub-No. 519TA), filed April 12, 1978. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Applicant's representative: Victor R. Comstock, P.O. Box 632, Enid, OK 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions* (except petroleum products), in bulk, in tank vehicles, from the facilities of Kugler Oil Co., at or near Ulysses, KS, to points in CO and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kugler Oil Co., Box 308, Culbertson, NE 69024. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 NW., 3rd, Oklahoma City, OK 73102.

No. MC 112617 (Sub-No. 387TA), filed April 13, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Applicant's representative: Charles R.

Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solution* (in bulk, in tank trucks), from Burns Harbor, IN, to points in MI, IN, ILL, and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. J. Stefanec, Director, Transportation and Research, Agrico Chemical Co., P.O. Box 3166, Tulsa, OK 74101. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 112696 (Sub-No. 57TA), filed April 14, 1978. Applicant: HARTMANS, INC., P.O. Box 898, 833 Chicago Avenue, Harrisonburg, VA 22801. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Rich Products Corp. at or near Murfreesboro, TN, to points in DE, FL, GA, IL, IN, IA, KY, MD, MI, MN, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI and DC, for 180 days. Supporting shipper(s): Rich Products Corp., Buffalo, NY. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

No. MC 112963 (Sub-No. 74TA), filed April 12, 1978. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Applicant's representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, MA 01866. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonate* (in bulk, in tank vehicles), from Johnson, VT to Woodbury, NJ, for 180 days. Supporting shipper(s): Dewey & Almy Chemical Division of W. R. Grace, 55 Hayden Avenue, Lexington, MA 02173. Send protests to: Paul A. Roberts, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

No. MC 113406 (Sub-No. 7TA), filed March 28, 1978. Applicant: DOT LINES, INC., P.O. Box 1526, Lima, OH 45802. Applicant's representative: Beery & Spurlock Co., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Cleaning, scouring and washing compounds* (except in bulk), from the facilities of Proctor and Gamble Manufacturing Co. in Bath Township, Allen County, OH, to points in IN: (B) *materials* used in the manufacture of cleaning, scouring and washing compounds (except in bulk), from Evansville, IN, to the facilities of Proctor and Gamble Manufacturing Co. in Bath Township, Allen County, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Proctor & Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Keith D. Warner, District Supervisor, Bureu of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 114194 (Sub-No. 198TA), filed April 13, 1978. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Applicant's representative: A. Bruce Fraser (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard*, in tank vehicles, from St. Joseph, MO, to Pittsburg, KS, and Joplin, MO, vehicle must stop to partially unload at Pittsburg, KS, with final stop to complete unloading at Joplin, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D. A. Chute, Manager, Transportation and Distributing, Armour Food Co., 111 West Clarendon, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 115311 (Sub-No. 280TA), filed April 13, 1978. Applicant: J. & M. TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Kim G. Meyer, P.O. Box 872, 1200 Gas Light Tower, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated metal products, iron and steel coils and iron and steel sheets*, from the facilities of United States Gypsum Co. at or near Warren, OH, to points in AL, GA, LA, MS, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United States Gypsum Co., 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Steet NW., Room 300, Atlanta, GA 30309.

No. MC 115651 (Sub-No. 38TA), filed April 12, 1978. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Applicant's representative: R. D. Higgins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, and fertilizer ingredients*, in bulk or bag, from the facilities of the N-Ren Corp., at or near East Dubuque, IL, to points in IL, IN, IA, KS, MO, NE, OH, SD, MN and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: N-Ren Corp., Jack Hanson, Manager of Transportation, P.O. Box D, East Dubuque, IL 61025. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 115841 (Sub-No. 618TA), filed March 28, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Applicant's representative: D. R. Beeler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air conditioning and heating equipment and materials, equipment, and supplies*, used in the manufacturing and distribution thereof, from Davidson County, TN, to points in AZ, AR, CA, CO, LA, NE, NV, OK, OR, SD, TX, UT, and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Heil Quaker, 1714 Heil Quaker, La Vergne, TN 37086. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 115826 (Sub-No. 297TA), filed February 22, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, P.O. Box 5088, Terminal Annex, Denver, CO 80217. Applicant's representative: Howard Gore (same address as applicant). Authority sought to transport *grocery items, canned goods, and articles* dealt in by wholesale grocery warehouses while moving in trailer equipped with mechanical refrigeration units. From all points in CA to El Paso and Lubbock, TX, Phoenix, AZ, and Albuquerque, NM. Restricted to traffic consigned to Furr's Inc., and destined to the aforementioned destination points for 180 days. Supporting shipper: Furr's Inc., 1708 Avenue G, Lubbock, TX 79408. Send protests to: H. C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 117303 (Sub-No. 14TA), filed April 12, 1978. Applicant: HUDSON VALLEY CEMENT LINES, INC., Route 23B, Claverack, NY 12513. Applicant's representative: Michael R. Werner, P.O. Box 1409, Fairfield, NJ

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07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Kingston, NY, to points in ME, CT, MA, NH, VT, RI, NY, NJ, and PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Independent Cement Corp., 65 William Street, Wellesley, PA 02181. Send protests to: Robert A. Radler, District Supervisor, P.O. Box 1167, Albany, NY 12201.

No. MC 118202 (Sub-No. 90TA), filed April 10, 1978. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magazines and periodicals*, from Pewaukee, WI, to Bethany, CT, Baltimore and Cottage City, MD, Boston, MA, Hoboken, North Bergen, and Bayonne, NJ, Troy and Carle Place, NY, Columbus, OH, McKeesrocks and Harrisburg, PA, and Washington, DC, for 180 days. Supporting shipper(s): Quad/Graphics, Inc., Duplainville Road, Pewaukee, WI 53072. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MI 55401.

No. MC 118838 (Sub-No. 23TA), filed April 13, 1978. Applicant: GABOR TRUCKING, INC., P.O. Box 124B, R.R. 4, Detroit Lakes, MN 56501. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and plywood*, from Libby, MT, to IA, IL, MN, NE, ND, SD, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): St. Regis Paper Co., 1203 East D Street, Tacoma, WA 98401. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268, Federal Building and U.S. Post Office, 657 2d Avenue North, Fargo, ND 58102.

No. MC 121654 (Sub-No. 12TA), filed March 31, 1978. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 458, Forest Part, GA 30050. Applicant's representative: Alan E. Serby and Richard M. Tettlebaum, Fifth Floor Lenox Towers I, 3390 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-stressed concrete slabs*, from facilities of Houdaille-Duval-Wright Co., Division of Houdaille-Industries, Inc., Jonesboro, GA, to points in AL, NC, KY, SC, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Houdaille-Duval-Wright Co., Division of Houdaille-Industries, Inc., P.O. Box 246, Jonesboro, GA 30236. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 121805 (Sub-No. 1TA) (Correction), filed March 8, 1978, and published in the FEDERAL REGISTER issue of April 12, 1978, and republished as corrected this issue. Applicant: ARKANSAS EXPRESS, INC., 1612 East 31st Street, North Little Rock, AR 72116. Applicant's representative: James M. Duckett, 1021 Pyramid Life Building, Little Rock, AR 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (with usual exceptions) (1) between Pine Bluff, AR, and the AR-LA State line, from Pine Bluff over U.S. Hwy 65 to the intersection of AR Hwy 81, then over AR Hwy 81 to the AR-LA State line, and return over the same route, serving all intermediate points, (2) between Warren, AR, and the AR-LA State line, from Warren over AR Hwy 15 to the intersection of AR Hwy 275, then over AR Hwy 275 to the AR-LA State line, and return over the same route, serving all intermediate points, (3) between the intersection of U.S. Hwy 65 and U.S. Hwy 165 to the AR-LA State line, from the intersection of U.S. Hwy 65 and U.S. Hwy 165 over U.S. Hwy 165 to the AR-LA State line, and return over the same route, serving all intermediate points, (5) between Strong, AR, and the Mississippi River, from Strong over U.S. Hwy 82 to the Mississippi River, and return over the same route, serving all intermediate points, (6) between Hamburg, AR, and the Mississippi River, from Hamburg over AR Hwy 8 to the Mississippi River, and return over the same route, serving all intermediate points, (7) between Wilmot, AR, and Eudora, AR, from Wilmot over AR Hwy 52 to the intersection of AR Hwy 159, then over AR Hwy 159 to Eudora, and return over the same route, serving all intermediate points, (8) between Eudora, AR and the AR-LA State line, from Eudora over AR Hwy 159 to the AR-LA State line, and return over the same route, serving all intermediate points, (9) between Monticello, AR, and McGehee, AR, from Monticello over AR Hwy 4 to McGehee, and return over the same route, serving all intermediate points, (10) between Jerome, AR, and the Mississippi River, from Jerome over AR Hwy 144 to the Mississippi River, and return over the same route, serving all intermediate points, (11) between Pine Bluff, AR, and Marianna, AR, over U.S. Hwy 79, for operating convenience only, serving no intermediate points, for 180 days. Applicant proposes to tack requested routes, at all common points of joinder, and with existing authority. Applicant intends to tack the authority here applied for to its authority in MC 121805 R-2. Applicant intends to interline with other carriers at Little Rock, AR, primarily. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201. The purpose of this republication is to add the commodity description, which was inadvertently omitted.

No. MC 124887 (Sub-No. 53TA), filed April 14, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Applicant's representative: Sol Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, from points in Bastrop County, TX., to points in AL, FL, GA, LA, MS, NC, and SC, for 180 days. Supporting shipper(s): Elgin-Butler Brick Co., P.O. Box 45019, Baton Rouge, LA 70895. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 128527 (Sub-No. 110TA), filed April 14, 1978. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, ID 83661. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail grocery stores, between points in IN, OR, WA, UT, NV, CA and MT, restricted to transportation of shipments destined to the facilities of Keynote Marketing or originating at the facilities of Keynote Marketing, for 180 days. Applicant does not intend to tack or interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Keynote Marketing, P.O. Box 4008, Boise, ID 83704. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

No. MC 133689 (Sub-No. 190TA), filed April 12, 1978. Applicant: OVERLAND EXPRESS, INC., 710 First Street, SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting*, from Ringgold, GA, to SD, ND and MN, for 180 days. Supporting shipper(s): Reinhard Bros., Co., 4301 Hwy 7, St. Louis Park, MN 55416. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court house, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 134405 (Sub-No. 48TA), filed April 13, 1978. Applicant: BACON TRANSPORT, CO., P.O. Box 1134, Ardmore, OK 73401. Applicant's representative: Dean Williamson, 280 National Foundation Lide Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, (in bulk, in tank vehicles), from Ardmore, OK, to Pleasanton, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Riffe Petroleum Co., 1111 Philtower Building, Tulsa, OK 74103. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 135326 (Sub-No. 9TA) (correction), filed January 31, 1978, and published in the FEDERAL REGISTER issue of March 14, 1978, and republished as corrected this issue. Applicant: BILLY R. ALMAND, d.b.a. ALMAND TRUCKING CO., P.O. Box 7959, Shreveport, LA 71107. Applicant's representative: J. D. Haynes, P.O. Box 7959, 4277 N. Market Street, Shreveport, LA 71107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, particleboard, and wood paneling*, from plantsites or facilities of Georgia Pacific Corp., located in AR, to points in AR, LA, TX, OK, KS, NM, CO, and those points in MO, located on and south of Interstate 70, and (2) *Materials, equipment, and supplies* used in the manufacture of the commodities in (1) from points in the destination States in (1) to the plantsites or facilities of Georgia Pacific Corp., located in AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia Pacific Corp., P.O. Box 520, Crossett, AR 71635. Send protests to: Ray C. Armstrong, Jr., District Supervisor, T-9038 S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113. The purpose of this republication is to correct the territorial description.

No. MC 135553 (Sub-No. 13 TA) (Correction), filed March 9, 1978, and published in the FEDERAL REGISTER issue of April 3, 1978, and republished as corrected this issue. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film*, in vehicles equipped with mechanical refrigeration, from the facilities of Reynolds Metals Co., at or near Grottoes, VA, to points in AZ, CA, ID, IL, IN, IA, MI, NM, MT, NV, ND, OH, OR, SD, UT, WA, WV, WI, and WY, under a continuing contract, or contracts with Reynolds Metals Co., for 180 days. Supporting shipper(s): Mr. Ralph H. Bell, General Manager, Transportation, Reynolds Metals Co., P.O. Box 27003, Richmond, VA 23261. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, VA 23240. The purpose of this republication is to correct the territorial description.

No. MC 135874 (Sub-No. 120 TA), filed April 12, 1978. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Petrick, 550 East Fifth Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Milton, PA, and its commercial zone to La Porte, IN, and Chicago, IL, and points in its commercial zone, for 180 days. Supporting shipper(s): American Home Foods, 685 Third Avenue, New York, NY 10017. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Post Office, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 136987 (Sub-No. 18TA) (correction), filed February 17, 1978, and published in the FEDERAL REGISTER issue of March 29, 1978, and republished as corrected this issue. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cocoa powder* in bags, and pallets on exchange, from facilities of ICP Cocoa, Inc., at Camden and Glassboro, NJ, to all points and places in IL, WI, IN, OH, and MN, and Waverly, Sibley, and Sioux City, IA; Kansas City, KS; St. Louis, MO; Denver, CO; Louisville, KY; Oakland, Los Angeles and Burlingame, CA, under a continuing contract, or contracts, with ICP Cocoa, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: ICP Cocoa, Inc., 2500 Broadway, Building Q, Camden, NJ 08104. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802. The purpose of this republication is to change the authority sought from common to contract.

No. MC 138225 (Sub-No. 7TA) filed April 13, 1978. Applicant: HEDRICK ASSOCIATES, INC., R.R. No. 2, Box 10A2, Douglass Road, Far Hills, NJ 07931. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Marine and industrial engines*, from the facilities of Chrysler Corp., Marine Division, at or near Beaver Dam, WI, to the facilities of Mack Boring & Parts Co., at or near Union, NJ, under a continuing contract, or contracts, with Mack Boring & Parts Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mack Boring & Parts Co., Engine City, Route 22, Union, NJ 07083. Send protests to: Robert E. Johnson, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 138762 (Sub-No. 19TA), filed April 13, 1978. Applicant: MUNICIPAL TANK LINES LTD, P.O. Box 3500, Calgary, Alberta, Canada. Applicant's representative: D. S. Vincent (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous aluminum chloride* (in bulk, in tank vehicles), from ports of entry on the International Boundary line between the United States and Canada located at or near Port Huron, MI, to Wood River, IL, restricted to shipments having an immediate prior movement in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): T. Dupuis, Assistant Manager, Welland Chemical, Ltd., Sarnia, On.

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Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 138882 (Sub-No. 61TA), filed March 28, 1978. Applicant: WILEY SANDERS, INC., P.O. Drawer 707, Troy, AL 36081. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and conduit and fittings, valves, and accessories, therefor*, from points in Geneva County, AL to points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Samson Plastic Conduit and Pipe Corp., P.O. Box 325, Samson, AL 36477. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 140024 (Sub-No. 96TA), filed April 10, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52d Avenue, Commerce City, CO 80022. Applicant's representative: John F. DeCock, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat*, in vehicles equipped with mechanical refrigeration, from New York, NY, and Philadelphia, PA, to points in IN, and OH, and the Chicago, IL, commercial zone, for 180 days. Supporting shipper(s): (1) Tupman Thurlow Co., Inc., 420 Lexington Avenue, New York, NY; (2) Thomas Brothwick & Sons, USA Ltd., 2 Penn Plaza, New York, NY. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 142668 (Sub-No. 8TA), filed April 13, 1978. Applicant: AERO DISTRIBUTING CO., INC., 7299 Delta Circle, Mableton, GA 30336. Applicant's representative: Kim G. Meyer, 235 Peachtree Street, P.O. Box 872, Atlanta, GA. 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors for the account of Stanley Home Products, Inc., from Jackson, MS, to points in AL and those points in LA, in and east of Pointe Coupee, Iberville, Assumption, part of St. Martin and St. Mary Parishes, under a continuing contract, or a contracts, with Stanley Home Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stanley Home Products, Inc., 116 Pleasant Street, Easthampton, MA 01027. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, NW., room 300, Atlanta, GA 30309.

No. MC 142668 (Sub-No. 9TA), filed April 13, 1978. Applicant: AERO DISTRIBUTING CO., INC., 7259 Delta Circle, Mableton, GA 30336. Applicant's representative: Kim G. Meyer, P.O. Box 872, 235 Peachtree Street NE., Atlanta, GA 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors for the account of Avon Products, Inc., from Chattanooga, Knoxville and Kingsport, TN, to points in and east of Clay, Jackson, Putnam, DeKalb, Warren, Grundy, and Marion Counties, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Avon Products, Inc., 2200 Cotillion Drive, Atlanta, GA 30303. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, NW., room 300, Atlanta, GA 30309.

No. MC 142733 (Sub-No. 4TA), filed April 17, 1978. Applicant: UNITED TRANSPORT, INC., 7225 NW., 8th Street, Miami, FL 33136. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plantains* in mixed loads with exempt commodities (203(b)(6) from points in FL, to points in Washington, D.C., NY, NJ, MA, LA, TX, and CA., under a continuing contract, or contracts, with Caribe Wholesale Produce Corp., for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Caribe Wholesale Products Corp., 1147 NW., 22d Street, Miami, FL 33127. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, 8410 NW., 53d Terrace, Miami, FL 33166.

No. MC 143179 (Sub-No. 2TA) (correction), filed February 14, 1978, and published in the FEDERAL REGISTER issue of March 14, and April 19, 1978, and republished as corrected this issue. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Applicant's representative: Foster L. Kent (same address as applicant). Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers and lids, and plastic foam products*, from Omaha, NE, to points in CO, IL, IA, KS, MI, MN, MO, OK, TX, and WI, under a continuing contract, or contracts, with Air Tite Plastics Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M. L. Arendt Traffic Manager, Air Tite Plastics Co., 13724 Industrial Road, Omaha, NE. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102. The purpose of this republication is to correct the territorial description.

No. MC 143179 (Sub-No. 3TA), filed March 28, 1978. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Applicant's representative: Foster L. Kent, Traffic Manager, 400 No. 10th Street, Council Bluffs, IA 51501. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers and lids, and plastic foam products*, from Omaha, NE to points in AR, under a continuing contract or contracts with Air Tite Plastics Co., for 180 days. Applicant has also filled an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M. L. Arendt, Traffic Manager, Airlite Plastic Co., 13724 Industrial Road, Omaha, NE. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 144134 (Sub-No. 1TA), filed April 10, 1978. Applicant: SCHWINNEN GRAIN & TRUCKING, INC., R. F. D. No. 1, Venedocia, OH. 45984. Applicant's representative: John L. Alden-Stiverson and Alden, 1396 West Fifth Avenue, Columbus, OH 43212. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: *Corn germ*, from the facilities of Cargill, Inc., at Dayton, OH, to Archer Daniel Midland, Inc., at Decatur, IL, under a continuing contract, or contracts, with Cargill, Inc., for 180 days. Supporting shipper(s): Cargill, Inc., Box 1400A, 3201 Needmore Road, Dayton, OH 45414. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 144359 (Sub-No. 1TA) (correction), filed March 6, 1978, and published in the FEDERAL REGISTER issue of April 12, 1978, and republished as corrected this issue. Applicant: STANLEY G. DUNIGAN, d.b.a., DUNIGAN TRUCKING CO., 5271 Henderson Drive, Delaware, OH 43015. Applicant's representative: Anthony M. Heald, 125 North Sandusky Street, Delaware, OH 53015. Authority sought to operate as a *contractor carrier*, by

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motor vehicle, over irregular routes, transporting: *Plastic signs and lighting fixtures*, from the facilities of Vacuform Corp., Columbus, OH, to points in AL, AZ, DE, FL, GA, IL, IN, KY, LA, MD, MI, NJ, NM, NY, NV, NC, OK, PA, SC, TN, TX, VA, WI, and WV, under a continuing contract, or contracts, with Vacuform Corp., for 180 days. Applicant has also filled an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vacuform Corporation, 1877 East 17th Avenue, Columbus, OH 43219. Send protests to: Frank L. Calvary District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215. The purpose of this republication is to correct the territorial description.

No. MC 144415 (Sub-No. 1TA), filed April 11, 1978. Applicant: KACHINA STONE CO., 8900 North Central Avenue, Suite 212, Phoenix, AZ 85020. Applicant's representative: Zelba Butler, 8900 North Central Avenue, Suite 212, Phoenix, AZ 85020. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals* (in bulk, in dump trucks), between points in AZ, CA, NM and El Paso County, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) V.S.S. Co., Inc., P.O. Box 27176, Tempe, AZ 85282. (2) Reclaimed Metals, Goodyear, AZ 85338. (3) B&B Metals, 400 East Weber Street, Compton, CA 90222. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025

No. MC 144423 (Sub-No. 1TA), filed April 6, 1978. Applicant: CLAXTON TRUCKING CO., Route 3, Box 7, Wrightsville, GA 31096. Applicant's representative: Ronald K. Kolins, 1055 Thomas Jefferson Street NW., Washington, DC 20007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite and storage facilities of Midland Glass Co., Inc., at or near Warner Robins, GA, to Williamsburg, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 144425 (Sub-No. 1TA), filed March 27, 1978. Applicant: CLIFTON A. WOOD, R.F.D. No. 1, Fairfield Center, ME 04937. Applicant's representative: Clifton A. Wood (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed cars, motor blocks, transmissions, rear ends, and wheels*, from points in ME to Madbury, NH, and Everett, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ron's Used Parts, Inc., Route 32, East Vassalboro, ME 04935. (2) Johnson's Car Crushers, Inc., Ballard Road, Wilton, NY. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

No. MC 144428 (Sub-No. 1TA) (correction), filed March 17, 1978, and published in the FR issue of April 14, 1978, and republished as corrected this issue. Applicant: TRUCKADYNE, INC., Route 16, Mendon, MA 01756. Applicant's representative: S. L. Watts, 1050 Waltham Street, Lexington, MA 02173. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paints, coatings, sealants, varnishes, shellacs, thinning and reducing compounds, mats and mattings*, from Cambridge, MA to the 48 contiguous States (excepting CT, RI, MA, NH, ME, and VT, and *materials* used in manufacture of the above products in the return direction, under a continuing contract, or contracts, with California Products Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): California Products Corp., 169 Waverly Street, Cambridge, MA 02139. Send protests to: David M Miller, District supervisor, Interstate Commerce Commission, 338 Federal Building and U.S. Courthouse, 436 Dwight Street, Springfield, MA 01103. The purpose of this republication is to correct the territorial description and also to correct the applicant's representative's name.

No. MC 144451TA (correction), filed March 15, 1978, and published in the FR issue of April 4, 1978, and republished as corrected this issue. Applicant: HIGGINS HAULING, INC., Route 5, Box 289, Hillsboro, OH 45133. Applicant's representative: James W. Muldoon, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, equipment, and supplies*, except commodities in bulk, between Dodson township, Highland County, OH, on the one hand, and, on the other, AL, AR, GA, IL, IN, IA, KS, KY, MI, MS, MO, NY, NC, OK, PA, SC, TN, WV, and WI. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Higgins Construction and Supply Co., of Hillsboro, OH, for 180 days. Supporting shipper(s): Higgins Construction and Supply Co., James R. Higgins, President, Route 5, Box 289, Hillsboro, OH 45133. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202. The purpose of this republication is to correct the territorial description.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12751 Filed 5-9-78; 8:45 am]

[7035-01]

[Docket No. AB-51 (Sub-No. 2F)]

OREGON ELECTRIC RAILWAY CO.

Abandonment in Hillsboro, Washington County, Oreg.; Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated April 26, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977) the present and future public convenience and necessity permit the abandonment by the Oregon Electric Railway Co. of a line of railroad known as the Hillsboro Line extending from railroad milepost 2.83 to railroad milepost 4.56 in Hillsboro, Oreg., a distance of 1.73 miles, in Washington County, Oreg. A certificate of public convenience and necessity permitting abandonment was issued to the Oregon Electric Railway Co. Since no investigation was instituted, the requirement or § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 25, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and

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(3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 26, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12754 Filed 5-9-78; 8:45 am]

[7035-01]

[Revised Service Order No. 1322; Exception No. 7]

SOO LINE RAILROAD CO.

By the provisions of Revised Service Order No. 1322 the Soo Line Railroad Co. is required to use seventy (70) percent of its serviceable ownership of jumbo covered hoppers for transporting shipments of raw grain. A review of the normal use of these cars by that line discloses that is requires the use of a large portion of its fleet for transporting grain and soybean products, fertilizer and other bulk freight. The required use of seventy (70) percent of its serviceable fleet of jumbo covered hopper cars for transporting shipments of grain will result in undue hardship to other shippers normally using a portion of these cars. Accordingly, it is the opinion of the Railroad Service Board that an exception to the basic requirements of Revised Service Order No. 1322 should be granted to the Soo Line Railroad Co.

It is ordered, That, pursuant to the authority vested in me by section (f) of Revised Service Order No. 1322, the Soo Line Railroad Co. is directed to assign to grain service at least forty (40) percent of its ownership of jumbo covered hoppers as defined in section (a)(2) of Revised Service Order No. 1322, regardless of the provisions of section (c)(1) of the order.

The additional cars made available by this exception for transporting shipments other than grain shall be used for transporting shipments of grain products, soybeans products or cottonseed products.

Effective: 12:01 a.m., April 26, 1978.

Issued at Washington, D.C., April 26, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-12749 Filed 5-9-78; 8:45 am]

[7035-01]

[Notice No. 12]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
MC 110420-748	110420-741	Apr. 20, 1977
MC 111729-587	111729-596	Apr. 14, 1978
MC 115311-177	115311-179	Oct. 28, 1977
MC 117427-69	117427-70	Aug. 15, 1977
MC 123361-1	123361-2	Feb. 25, 1977
MC 124892-141	124892-1 and 66.	Apr. 28, 1978
MC 126555-38	126555-39	Mar. 16, 1977
MC 128030-62	128030-75	Oct. 5, 1977
MC 129994-2	129994-5	Dec. 14, 1976
MC 133123-10	133123-9	Feb. 23, 1977
MC 133937-15	133937-16	Jan. 31, 1977
MC 134979-4	134979-1	Sept. 26, 1977
MC 136343-69	136343-70	Aug. 10, 1977
MC 136899-15	136899-18	Aug. 10, 1977
MC 139269-5	139269-7	Mar. 30, 1978
MC 140033 TA	140033-3	Apr. 8, 1977
MC 140074-3	140074-4	Oct. 1, 1976
MC 140580-2	140580-1	Nov. 22, 1978
MC 141138-2	141138-3	Feb. 10, 1977

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12746 Filed 5-9-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List No. 372]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

APRIL 22, 1978.

Call letters	Location	Power kilowatts	Antenna	Schedule	Class	Antenna height (feet)	Ground system: No. of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		590 kHz							
CJCW (correction on night pattern RMS from list 3661) (PO 0.5D/0.25N).	Sussex, New Brunswick, N. 45° 41' 06", W. 65° 31' 29"	1D/0.25N	DA-2	U	III				E.I.O., Aug. 26, 1976.
		690 kHz							
CBF (change in antenna system P.N., ND-N-226.3 575 180, 600 ave.) (PO ND-236, 585, 120, 585, N. 45° 49' 13", W. 73° 17' 50").	Montreal, Quebec, N. 45° 25' 42", W. 73° 26' 58"	50	ND-D-254.6, ND-N-226.3#[1].	U	I-A	*675*	*120*	*162-600*	E.I.O., June 1, 1976.
		730 kHz							
(New) (PN N. 50° 13' 45", W. 119° 20' 35", change of antenna heights, addition of top loading).	Vernon, British Columbia, N. 50° *12' 50"*, W. 119° *12' 45"*	10	DA-2	U	II				E.I.O., Apr. 7, 1979.
		940 kHz							
CBM (change in antenna system, minor pattern change) (PO ND-246, 525, 120, 500, N. 45° 26' 09", W. 73° 10' 40").	Montreal, Quebec, N. 45° 25' 42", W. 73° 26' 58"	50	DA-1						E.I.O., June 1, 1978.
		1000 kHz							
CFLP (increase in antenna tower heights and day and night radiation pattern RMS).	Rimouski, Quebec, N. 48° 23' 07", W. 68° 41' 12"	10	DA-2	U	II				E.I.O., Aug. 3, 1978.
		1050 kHz							
CPGP (PO N. 55° 11' 47", W. 118° 47' 47").	Grande Prairie, Alberta, N. 55° *07' 10"*, W. 118° *56' 45"*	10	DA-1	U	II				E.I.O., Apr. 7, 1979.
		1150 kHz							
CKJQ (PO 10D/1N).	Kelowna, British Columbia, N. 49° 50' 52", W. 119° 27' 54"	*10*	DA-N, ND-D-196.	U	III				Do.
		1440 kHz							
CJOI (now in operation).	Wetaskiwin, Alberta, N. 52° 57' 30", W. 113° 27' 00"	10	DA-N, ND-D-190.	U	III				

[1] Sectionalized tower.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc. 78-12732 Filed 5-9-78; 8:45 am]

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[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

MEXICAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

MARCH 8, 1978.

MEXICAN LIST NO. 283

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system: No. radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
		540 kHz							
(New)	San Felipe, B.C.N., N. 31°03'48", W. 114°50'10".	1.000	ND-D-190		D	II	455	120	455 Sept. 15, 1978.
		560 kHz							
XEHA	Tecate, B.C.N., N. 32°34'00", W. 116°37'00".	.250	ND-U-175		U	III	279	90	279 Immediately.
		630 kHz							
XEFU (shares antenna with XEQO, 980 kHz).	Cosamaloapan, Ver., N. 18°20'37", W. 95°47'49"	5.000D .750N	ND-U-175		U	III	251	120	361 Do.
		710 kHz							
XEPQ (PO 1KwD/0.1 kW N, ND-U-175).	Muzquiz, Coah., N. 27°54'00", W. 101°30'00"	5.000D .100N	ND-N-175, DA-D.		U	II	347	90	284 Do.
		810 kHz							
XEAGR	Acapulco, Gro., N. 16°50'21", W. 99°55'01".	1.000D .150N	ND-U-190		U	II	304	120	304 Do.
		820 kHz							
XEESC	FCO. Escarcega, Camp., N. 18°36'25", W. 90°43'55".	.750	ND-D-175		D	II	240	120	240 Do.
		860 kHz							
XEAL (PO 1 KwD/0.1 kW N, ND-U-176).	Manzanillo, Col., N. 19°02'00", W. 104°19'30"	5.000D .100N	ND-U-176		U	II	262	90	253 Do.
		980 kHz							
XETU	Tampico, Tam., N. 22°12'43", W. 97°49'53".	10.000 D/1.00N	ND-N-190, DA-D.		U	III	251	120	251 Do.
		980 kHz							
XEQO (shares antenna with XEFU, 630 kHz).	Cosamaloapan, Ver., N. 18°20'37", W. 95°47'49"	5.000	ND-D-209, DA-N.		U	III	251	120	361 Do.
		1000 kHz							
XEVMA (delete assignment).	Acapulco, Gro., N. 16°50'21", W. 99°51'01"	1.000	ND-D-190		D	II	246	120	246
XELTZ (delete assignment).	Loreto, Zac., N. 22°19'59", W. 101°59'59"	.500	ND-D-190		D	II	246	120	246
		1020 kHz							
XECAA	Calvillo, Ags., N. 21°50'45", W. 102°44'14".	.500	ND-D-175		D	II	167	120	241 Do.
		1020 kHz							
XEWO	Chetumal, Q.R., N. 18°29'39", W. 88°17'56".	1.000	ND-D-190		D	II	241	120	241 Do.
		1020 kHz							
XESPA	Macuspana, Tab., N. 17°45'00", W. 92°35'00".	1.000D .100N	ND-U-195		U	II	295	120	295 Do.
		1040 Khz							
XECX	Tala, Jal., N. 20°40'37", W. 103°20'22".	.250	ND-D-175		D	II	213	90	213 Sept. 15, 1978.
		1120 kHz							
XEGV	Villa Del. Pueblo, Qro., N. 20°32'09", W. 100°25'54".	.500	ND-D-190		D	II	220	120	220 Immediately.
		1120 kHz							
XEUK	Caborca, Son., N. 30°41'50", W. 112°09'29".	.250	DA-D		D	II			Do.
		1120 kHz							
XEZAZ	Zacatecas, Zac., N. 22°46'30", W. 100°04'45".	.250	ND-D-175		D	II	220	90	180 Do.
		1130 kHz							
XEMOS	Los Mochis, Sin., N. 25°47'00", W. 109°00'00".	.500	ND-D-175		D	II	218	90	179 Do.

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system: No. radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
		1150 kHz							
XEAD (PO 0.5 kWD/0.125 kW N., N. 20°39'44", W. 103°23'47").	Guadalajara, Jal., N. 20°39'52", W. 103°14'44"	20.00OD .500N	*DA-2*		U	III			Sept. 15, 1978.
		1160 kHz							
XEIU	Oaxaca, Oax., N. 17°03'43", W. 96°43'18".	.500	ND-D-175		D	II	170	120	170 Immediately.
		1200 kHz							
XEPLA	Pabellon, Ags., N. 22°10'23", W. 102°18'49".	1.000	ND-D-190		D	II	205	120	205 Do.
		1200 kHz							
(New)	Loreto, B.C.S., N. 26°02'59", W. 111°21'30".	5.000	DA-D		D	II			Sept. 15, 1978.
		1200 kHz							
(New)	Chilapa, Gro., N. 17°38'03", W. 99°13'01".	1.000	ND-D-190		D	II	205	120	205 Do.
		1260 kHz							
XEL (PO 1 kW N., ND-N-185).	Mexico, D.F., N. 19°23'07", W. 99°07'16"	10.000D 5.000N	ND-D-185, *DA-N.*		U	III	203	90	194 Do.
		1260 kHz							
XELTZ (previously on 1000 kHz).	Loreto, Zac., N. 22°17'00", W. 101°59'23"	.500	ND-N-190		D	III	195	120	195 Do.
		1270 kHz							
XEAZ (PO 0.5 kW, ND-U-175).	Tijuana, B.C.N., N. 32°32'20", W. 117°02'40"	5.000	*DA-2*		U	III			Do.
		1270 kHz							
XERPL (PO 1 kW D, N. 21°04'33", W. 101°48'44").	Leon, Cto., N. 21°06'43", W. 101°40'28"	5.000D .150N	DA-D, ND-N-190.		U	III	197	120	197 Do.
		1280 kHz							
XESQ	San Miguel A, Gto., N. 20°54'49", W. 100°44'37".	.500D/.250N	ND-U-175		U	III	164	90	185 Immediately.
		1330 kHz							
XEBO	Irapuato, Gto., N. 20°37'52", W. 101°21'32".	5.000D 1.000N	DA-N, ND-N-184.		U	III	185	90	187 Do.
		1330 kHz							
XEFC (PO 1 kW ND-U-188).	Merida, Yuc., N. 21°00'00", W. 89°36'36"	5.000D/1.000N	*ND-N-188, DA-D.*		U	III	199	90	197 Sept. 15, 1978.
		1340 kHz							
XEVSS	Villa De Seris, Son., N. 29°03'30", W. 110°58'40".	1.000	ND-D-150		D	IV	184	90	184 Immediately.
		1360 kHz							
XEVAL	Cd. Valles, S.L.P., N. 21°59'04", W. 99°00'58".	5.000	ND-D-190		D	III	181	120	181 Do.
		1370 kHz							
(New)	Huayacocotla, Ver., N. 20°32'36", W. 98°29'12".	.250	ND-D-175		D	III	126	120	165 Sept. 15, 1978.
		1380 kHz							
(New)	Apatzingan, Mich., N. 19°04'54", W. 102°15'31".	1.000D .100N	ND-U-190		U	III	178	120	178 Immediately.
		1390 kHz							
XERUY (previously on 1400 kHz).	Merida, Yuc., N. 20°59'00", W. 89°38'43"	10.000D .250N	ND-N-185, DA-D.		U	III	167	120	167 Sept. 15, 1978.
		1400 kHz							
XEOJ	Lazaro Cardenas, Mich., N. 18°00'10", W. 102°15'40".	1.000D .100N	ND-U-170		U	IV	131	120	134 Do.
		1400 kHz							
XERUY (delete assignment).	Merida, Yuc., N. 20°59'00", W. 89°38'00"	1.000D .250N	ND-U-185		U	IV	167	120	167
		1430 kHz							
XEVMA (previously on 1000 kHz).	Acapulco, Gro., N. 16°50'21", W. 99°51'01"	1.000	ND-D-190		D	III	172	120	172 Do.
		1430 kHz							
XETI	Temposl, Ver., N. 21°31'00", W. 98°22'00".	1.000	ND-D-184		D	III	172	90	172 Immediately.
		1450 kHz							
XEIN (PO 1 kW D/0.2 kW N, ND-U-175).	Cintalapa, Chis., N. 16°41'58", W. 93°43'24"	1.000D .200N	ND-D-175, DA-N.		U	IV	246	120	246 Do.

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Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system: No. radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
		1460 kHz							
(New)	Oaxaca, Oax., N. 17°03'45", W. 96°44'00".	1.000	ND-D-190	D	III	169	120	169	Sept. 15, 1978.
		1460 kHz							
XEHX (shares antenna with XEHO, 910 kHz).	Cd. Obregon, Son., N. *27°34'22"*, W. *109°57'04"*	1.000D .250N	ND-U-*208*	U	III	*205*	120	*233*	Do.
		1460 kHz							
XEOLA	Altamira, Tam., N. 22°30'40", W. *97°55'47"*.	1.000	ND-U-190	U	III	169	120	197	Immediately.
		1470 kHz							
(New)	Tlanchinol, Hgo., N. 20°56'41", W. 98°38'04".	.250	ND-D-190	D	III	167	120	167	Sept. 15, 1978.
		1490							
XEMK	Huixtla, Chis., N. *15°08'01"*, W. *92°27'01"*.	.500D .200N	ND-U-166	U	IV	118	100	131	Immediately.
		1490 kHz							
XEHES	Chihuahua, Chih., N. 28°38'12", W. 106°04'42".	1.000D .250N	ND-U-175	U	IV	148	90	148	Do.
		1510 kHz							
XEQI (PO 0.5 kW D, ND-D-175).	Monterrey, N.L., N. 25°45'24", W. 100°17'54"	10.000	ND-D-*190*	D	II	*163*	120	*163*	Sept. 15, 1978.
		1510 kHz							
XERB	Cozumel, Q.R., N. 20°30'00", W. 86°56'35".	5.000	DA-D	D	II				Immediately.
		1520 kHz							
(New)	Cd. Camargo, Chih., N. 27°41'49", W. 105°10'09".	1.000	ND-D-175	D	II	162	90	162	Sept. 15, 1978.
		1520 kHz							
XEGAJ	Guadalajara, Jal., N. 20°40'32", W. 103°23'09".	1.000	ND-D-175	D	II	197	90	197	Immediately.
		1540 kHz							
XEYK	Motul, Yuc., N. 21°06'00", W. 89°26'35".	.500	ND-D-175	D	II	161	90	161	Do.
		1560 kHz							
XEVIP	Sar R Chamapa, Mex., N. 19°30'00", W. 99°13'03".	10.000	ND-D-224, DA-N.	U	II	*307*	120	*164*	Do.
		1580 kHz							
XEVAB	Valle De Bravo, Mex., N. 19°11'28", W. 100°08'06".	.250	ND-D-175	D	II	125	120	131	Do.
		1590 kHz							
XEAGA	Aguascalientes, Ags., N. 21°52'43", W. 102°18'04".	.250	ND-D-190	D	III	155	120	155	Do.
		1590 kHz							
XEVOZ	Mexico, D.F., N. *19°25'01"*, W. *99°05'10"*.	10.000D 5.000N	ND-U-175	U	III	*203*	90	149	Do.
		1600 kHz							
(New)	Etzatlan, Jal., N. 20°46'35", W. 104°05'05".	.250	ND-D-190	D	III	154	120	154	Sept. 15, 1978.
		1600 kHz							
XEGEM	Toluca, Mex., N. 19°17'33", W. 99°39'38".	2.000	DA-D	D	III				Immediately.
		1600 kHz							
(New)	San Luis Potosi, S.L.P., N. 22°09'10", W. 100°58'38".	1.000	ND-D-190	D	III	153	120	153	Sept. 15, 1978.
		1600 kHz							
(New)	El Higo, Ver., N. 21°44'45", W. 98°24'24".	.250	ND-D-175	D	III	123	120	129	Do.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc. 78-12540 Filed 5-9-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1
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[6320-01]

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[M-128, May 5, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., May 12, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 29789, Houston/New Orleans-Yucatan Route Proceeding—Memorandum of issues and request for instructions (Memo No. 6382-D OGC, BIA).
3. Docket 30782, *California-Toronto/Montreal Route Proceeding*, Opinion and Order on Review (OGC).
4. Docket 30452, UATP Agreement (OGC).
5. Docket 31957, Part 221, Rulemaking requested by TWA for modification of advance filing period of property tariffs (Memo No. 7844-A, OGC).
6. Docket 31976, *California-Florida Low-Fare* case. (Previously, *Miami-Los Angeles Low-Fare* case)—Consolidation of American's application (Memo No. 7354-J OGC).
7. H. R. 10749—Request for comments (Memo No. 7947, OGC).
8. Dockets 30979, 26761, 32223, and 32191, applications of Continental Airlines, Frontier Airlines, Hughes Airwest and Western Air Lines for authority between various California/Southwestern U.S. points and various Western Mexico points (Memo No. 7942, BIA BALJ, OGC).
9. Docket 32186, application of British Caledonian Airways Ltd. for amendment of its 402 permit (BIA).
10. Docket 32038, Tropics International, Inc. dba. Skyfreight—Exemption authority to operate C-46 type aircraft with a maximum payload capacity up to 15,000 pounds in scheduled service for the transportation of property (Memo No. 7946, BIA).
11. Docket 31752, Air Sunshine's request for an exemption to operate CV-440's between Miami, Ft. Lauderdale, Kissimmee, Tampa, Key West, and Marathon (Memo No. 4219-C, BPDA, OGC).
12. Docket 32075, Eastern's motion for hearing on Albany-New York/Newark (Memo No. 7817, BPDA).
13. Docket 31552, amendment to Part 302 which requires all applications for new or modified certificated route authority to be accompanied by a motion for hearing which contains certain economic and operational data (Memo No. 7488-A, BPDA, OGC).
14. Docket 32118, increased excess baggage charges proposed by Pan American (Memo No. 7756-D, BPDA, BIA).
15. Docket 32041, ATC's request for approval of reduced-rate transportation to travel agents/counsel/witnesses to attend hearings before the Travel Agency Commissioner (Memo No. 5264-L, BPDA).
16. Docket 31871, report to the Congress on the feasibility and economic impact of youth standby fares (BPDA).
17. Evergreen International Airlines, Inc., and McCulloch International Airlines., Inc.—Petition for review of staff action denying a request for refund of filing fees for "gambling" charter waivers (Memo No. 7001-B, BPDA, OMD, OGC).
18. Docket 20665, application of Hughes Air Corp. dba. Hughes Airwest for approval of intercorporate transactions and clarification of Order 69-12-66 (Memo No. 587-H, BPDA).
19. Petition for reconsideration of the Board's conditioned approval of American Airlines' overbooking volunteer experiment (Memo NO. 7768-A, BPDA).
20. Consumer abuses by tour operators—Proposed interpretive letter (Memo No. 7497-A, BOE, BPDA, OEA,OCA, OGC).
21. Petition of National Airlines, Inc., for review for Staff action denying National's request for special tariff permission to meet competitive fares of Western (Review of) (Memo No. 7893, Chairman's memo dated April 17, and Member Bailey's memo dated April 28, BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-985-78 Filed 5-8-78; 3:53 pm]

[6335-01]

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MAY 5, 1978.

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, May 15, 1978, 9 a.m. to 12 noon; 2 to 4:30 p.m.; Tuesday, May 16, 9 to 11:30 a.m.

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

MONDAY, MAY 15, 9 A.M. TO 12 NOON

I. Approval of agenda.
II. Approval of minutes from last meeting.
III. Staff Director's report:
A. Status of funds.
B. Personnel report.
C. Correspondence: (1) Letter from OMB to MC Don Edwards re Commission extension. (2) Letter to OMB Director McIntyre on Commission Age and Handicap Program.
D. Office Directors' reports.
IV. Report on civil rights developments in the southwestern region.
V. Appointment of Missouri Advisory Committee chairperson.
VI Review status of current projects in Office of General Counsel.
VII. Review higher education desegregation plans.
VIII. Review analysis of Manhard decision.
IX. Discuss update on Commission Extension and Age and Handicap Program.

MONDAY, MAY 15, 2 TO 4:30 P.M.

X. View southern regional office film on "Discrimination in Alabama State Employment".
XI. Review social indicators report.

TUESDAY, MAY 16, 1978, 9 TO 11:30 A.M.

XII. Review position on Eagleton-Biden amendment.
XIII. Discuss followup to Puerto Rican report.
XIV. Review California Advisory Committee Report on Los Angeles Motion Picture Industry.

FOR FURTHER INFORMATION CONTACT:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-980-78 Filed 5-8-78; 10:32 am]

[6740-02]

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FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 19753, published May 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 10, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CP-8.—CP78-222, Columbia Gulf Transmission Co. and Southern Natural Gas Co.

KENNETH F. PLUMB,
Secretary.

[S-984-78 Filed 5-8-78; 11:16 am]

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[6720-02]

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FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m., May 12, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-624-7107.

MATTERS TO BE CONSIDERED:

Consideration of New Building Status Report.
Consideration of Conflict of Interest Regulations.
Consideration of Corporate ByLaws.
Consideration of Appointment of Assistant Secretary.
Consideration of Appointment of Advisory Committee Members.

Announcement is being made at the earliest practicable time, No. 150, May 5, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-983-78 Filed 5-8-78; 11:16 am]

[7030-01]

5

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., May 17, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Docket 59, *Saginaw Chippewa.*
Docket 332-C, *Yankton Sioux.*
Docket 343, *Cayuga Nation, et al.*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-981-78 Filed 5-8-78; 10:32 am]

[7020-02]

6

[USITC SE-78-23]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, May 18, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): s. Rayon staple fiber from Belgium (Docket No. 510).
5. Investigation 337-TA-41 (Tile Setters)—Recommended determination with respect to respondent Ceramica Regiomontana, S.A. (see document CC-B-091).
6. Ceramic articles (Inv. TA-203-4, TA-131(b)-2, and 332-100)—Vote and approval of report.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-979-78 Filed 5-8-78; 9:50 am]

[4410-01]

7

PAROLE COMMISSION. National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Thursday, May 18, 1978; 9:30 a.m.

PLACE: Room 338, Federal Home Loan Bank Board Building, 320 1st Street NW., Washington, D.C. 20537.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-982-78 Filed 5-8-78; 10:32 am]

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federal register

WEDNESDAY, MAY 10, 1978
PART II



DEPARTMENT OF ENERGY

■

CONVENTIONAL RANGES, COOKING TOPS, OVENS, MICROWAVE OVENS, MICROWAVE/ CONVENTIONAL RANGES, FURNACES AND VENTED AND UNVENTED HOME HEATING EQUIPMENT

Final Energy Conservation Test Procedures

federal register

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[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Conventional Ranges, Conventional Cooking Tops, Conventional Ovens, Microwave Ovens, and Microwave/Conventional Ranges

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges. DOE has determined to continue the delay in the publication of test procedures for any class of the type of covered product designated by the Act as "kitchen ranges and ovens" other than conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges. Appliance test procedures are one element of the energy conservation program for appliances required by the Energy Policy and Conservation Act. The effect of this action is to establish standard methods of testing when testing is required by the Act or by regulations implementing other parts of the program.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Office of Conservation and Solar Applications), Room 307, Old Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-4635.

Jim Merna (Media Relations), Room 3104, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9833.

Michael T. Skinker (Office of General Counsel), Room 7148, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION:

A. Background

On October 1, 1977, the Department of Energy (DOE) assumed the Federal Energy Administration's (FEA) authority under the Energy Policy and Conservation Act (Act) (Pub. L. 94-163), with regard to the energy conservation program for appliances, pursuant to section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91).

The Department of Energy hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges pursuant to Section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). These test procedures were proposed by DOE by notice issued on December 21, 1977 (42 FR 65576, December 30, 1977), which solicited oral and written comments from interested persons and a public hearing on the proposed test procedures was held on February 16, 1978. A notice correcting a number of provisions contained in the proposed test procedures was issued on February 7, 1978 (43 FR 6234, February 14, 1978).

By notice issued on May 24, 1977 (42 FR 27896, June 1, 1977), FEA established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. By notice issued on April 5, 1978 (43 FR 15138, April 11, 1978). DOE established Subpart C of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in Subpart A. Final test procedures for room air conditioners, central air conditioners, dishwashers, clothes dryers, water heaters, television sets, electric refrigerators, electric refrigerator-freezers, freezers, clothes washers, humidifiers, and dehumidifiers have been prescribed in Subpart B. Test procedures for furnaces and vented and unvented home heating equipment have been proposed for inclusion in Subpart B. Appliance energy improvement targets for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes dryers, room air conditioners, television sets, humidifiers, dehumidifiers, and central air conditioners have been prescribed in Subpart C. Several other targets have been proposed for inclusion in Subpart C.

An outline of the provisions of Subparts A and B of Part 430 which have so far been established, including provisions in today's rulemaking, is as follows:

SUBPART A—GENERAL PROVISIONS

Sec.
430.1 Purpose and Scope.
430.2 Definitions.

SUPART A—GENERAL PROVISIONS

430.21 Purpose and Scope.
Sec.
430.22 Test Procedures for Measures of Energy Consumption.
(a) Refrigerators and regfrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.

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(h) Television sets.
(i) Kitchen ranges and ovens.
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditoners.
430.23 Units to be Tested [Reserved]
430.24 Representations Regarding Measures of Energy Consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.

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(h) Television sets.
(i) Kitchen ranges and ovens.
(j) Clothes washers.
(k) Humidifiers
(l) Dehumidifiers.
(m) Central air conditioners.

APPENDICES TO SUBPART B

Appendix A1—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-Freezers.

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Appendix B—Uniform Test Method for Measuring the Energy Consumption of Freezers.
Appendix C—Uniform Test Method for Measuring the Energy Consumption of Dishwashers.
Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers.
Appendix E—Uniform Test Method for Measuring the Energy Consumption of Water Heaters.
Appendix F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners.

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Appendix H—Uniform Test Method for Measuring the Energy Consumption of Television Sets.
Appendix I—Uniform Test Method for Measuring the Energy Consumption of Conventional Ranges, Conventional Cooking Tops, Conventional Ovens, Microwave Ovens and Microwave/Conventional Ranges.
Appendix J—Uniform Test Method for Measuring the Energy Consumption of Clothes Washers.
Appendix K1—Uniform Test Method for Measuring the Energy Consumption of Central System Humidifiers.
Appendix K2—Uniform Test Method for Measuring the Energy Consumption of Room Humidifiers.
Appendix L—Uniform Test Method for Measuring the Energy Consumption of Dehumidifiers.
Appendix M—Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners.

[1] EDITORIAL NOTE.—It is contemplated that Chapter II will be renamed at a future date to reflect the fact that it contains regulations, such as this regulation, administered by the Office of Conservation and Solar Applications of the Department of Energy.

B. Discussion of Comments

Comments were received from individual manufacturers, trade associations, and the Consumers Union (CU), a consumer oriented nonprofit organization. Most of the comments were directed toward technical areas of the proposed test procedures, although some of them were specifically directed toward the information that was to be placed on the label. Those comments directly concerned with the content of the label were applicable to the labeling program under section 324 of the Act, rather than to the prescription of final test procedures, and were therefore forwarded to the Federal Trade Commission for consideration in developing labeling rules applicable to kitchen ranges and ovens. The major issues raised by the comments on the proposed test procedures are discussed below.

1. ENERGY CONSUMPTION

(a) *Measures of energy consumption.* Several comments were received concerning the measures of energy consumption provided in the proposed test procedures. One commenter questioned the use of the energy consumption of electric clocks and the use of the energy consumption of self-cleaning operation of conventional ovens in determining the energy factors for the different classes of kitchen ranges and ovens. It was also recommended that the test procedures provided an additional measure or measures of energy consumption that would account for overall resources energy requirements. In other words, the commenter wanted a value that would represent the efficiency of a kitchen range and oven measured from the source of energy to the point-of-use.

The proposed test procedures provided three different measures of energy consumption—the estimated annual operating cost, the cooking efficiency and the energy factor. The energy use or annual energy consumption utilized in the test methods for determining these three measures account for the quantity of energy directly consumed by the product at its point of use. The cooking efficiencies provided in the test procedures only measure the efficiency of the appliance in terms of the energy required to perform its principle function, which is to cook food. They do not take into account the energy consumed by electric clocks or self-cleaning operations of the appliances. The energy factor, however, does include these energy consumptions.

DOE is required by section 323(a)(4)(A) of the Act to prescribe test procedures for different consumer products, including kitchen ranges and ovens, for the determination of an estimated annual operating cost for that product and at least one other measure of energy consumption which DOE determines is likely to assist consumers in making purchasing decisions. DOE has determined that the three proposed measures of energy consumptions will be useful to consumers and are likely to assist them in making purchasing decisions. DOE has, therefore, retained these measures in the test procedures prescribed today. DOE does not feel that it is necessary to proposed any additional measures of energy consumption for kitchen ranges and ovens at this time.

(b) *Implied accuracy of cooking efficiencies and energy factors.* It was suggested by certain comments that the test procedures require that the cooking efficiencies and the energy factors be expressed in three significant digits. DOE has accepted this siggestion since the rounding off of these calculated values to three significant digits is consistent with the measurement accuracy in the data derived from the test procedures. Sections 430.22(i) (2), (3), and (4) have been modified accordingly.

(c) *Oven maintenance rate.* One manufacturer recommended that the test procedures provide an additional measure of energy consumption which would account for the steady state heat loss or maintenance rate for conventional ovens. The steady state heat loss or oven maintenance rate is the amount of heat lost by conduction through the oven walls plus the amount of heat lost up the vent. The commenter was concerned that the application of the proposed test procedures would incorrectly reflect that larger ovens, due to their size and mass, would necessarily have smaller cooking efficiencies. It was felt that the proposed test procedures would not give sufficient credit for well planned oven insulation because of the emphasis placed on oven size and mass.

The steady state heat loss of an oven is only one factor of the cooking efficiency of that oven. Although oven cooking efficiency could be characterized by two separate measurements, the energy required to bring the oven up to operating temperature and the maintenance rate, there is no apparent advantage in using separate measurements. The proposed test procedures were designed to simulate an average oven cooking operation lasting approximately 50 minutes. It was assumed that the same type and amount of food was being cooked regardless of the size of the oven. The measured energy consumption during the proposed test includes the steady state heat losses as well as the energy required to being the oven up to operating temperature. Since the test simulates average cooking time, DOE believes that the relative importance of these two types of energy losses is properly accounted for in the proposed test procedures without a separate test for steady state heat losses.

(d) *Degradation of cooking efficiency.* One manufacturer claimed that the cooking efficiencies and energy factors for some conventional cooking tops may degrade during the life of the product. No quantitative data was provided, however, to support this statement.

DOE does not presently have sufficient data to indicate any degradation of the cooking efficiencies or energy factors of conventional cooking tops, or of any other kitchen ranges and ovens, over time and, therefore, the test procedures prescribed today do not account for any possible degradation.

(e) *Other changes.* In the proposed test procedures the cooking efficiency of conventional ovens, conventional ranges and microwave/conventional ranges had been expressed as the ratio of the annual useful energy output for cooking to the annual energy input for cooking. To simplify these calculations and make them more straightforward, the equations for determining the cooking efficiencies of the different kitchen ranges and ovens have been revised. These changes do not have any effect on the numerical values determined for the cooking efficiencies. Likewise, the additional equations in sections 4.1.4.2 and 4.5.1.3 of appendix I do not change the total annual energy consumption, but are given to show more explicitly the separate calculation of gas and electrical energy. Definitions of primary energy and secondary energy have been added in sections 1.6 and 1.7 of appendix I to help distinguish between the calculation of gas energy consumption and electrical energy consumption.

2. CONVERTIBLE COOKING APPLIANCES

Some of the comments stated that the test procedures did not clarify the method for testing products which are designed by the manufacturer to be changed in service to operate with either natural gas of LP-gas. The commenters felt that their testing burden would be greatly reduced if testing of these products was required with only one gas. They felt that acceptable measures of energy consumption could be derived from testing these convertible cooking appliances using only natural gas and, if necessary, data for LP-gas testing could be predicted using appropriate conversion factors.

More than 97 percent of all LP-gas used by consumers is propane. Based on recommendations from the National Bureau of Standards (NBS), DOE had determined that the use of propane for testing convertible cooking appliances to represent LP-gas usage would provide representative test results that could be used to derive

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measures of energy consumption that would be useful to consumers and would insure uniformity of testing for LP-gas appliances without being unduly burdensome on the manufacturers conducting the tests. DOE has, therefore, modified the test procedures to permit the testing of convertible cooking appliances with propane in addition to natural gas. The test procedures also require the use of propane for testing appliances which are designed to operate using only LP-gas.

In response to the comments, NBS performed laboratory tests and reviewed test data provided by the Gas Appliance Manufacturers Association (GAMA) for the cooking efficiencies of convertible cooking tops and conventional ovens tested using both natural gas and propane. All of the tests performed with conventional ovens yielded slightly higher cooking efficiencies for products tested with propane as opposed to those tested with natural gas. Six out of eight tests of conventional cooking tops yielded cooking efficiencies which were slightly higher for products tested with propane as opposed to natural gas. Also, one of the commenters indicated that their testing of appliances with natural gas and propane did not indicate any material difference in the efficiencies of the product between two gases. Based on the above information and its own testing, NBS has recommended that since the actual cooking efficiencies of products tested with propane are not lower, and probably slightly higher, than the cooking efficiencies of those same products when tested using natural gas, the data derived for the amount of energy consumed would be sufficiently accurate to represent operation with both gases if the test procedures permitted testing of these convertible appliances using only natural gas.

Based also on NBS' recommendation, DOE feels that the GAMA testing may not be representative of results obtained during actual consumer use. After consultation with NBS and further analysis of the testing done, DOE also does not believe that the limited testing performed by NBS provides sufficiently reliable data on which to base an appropriate conversion factor from which the amount of energy consumed during testing with natural gas could be converted into the equivalent amount of energy that would have been consumed if the appliance had been tested with propane. Any data or information related to this issue that would be representative of actual consumer use would be considered by DOE, as it becomes available, in determining whether or not an appropriate conversion factor should be incorporated in these test procedures.

The proposed test procedures did not specify whether a convertible cooking appliance may be tested with only one gas or whether testing must be performed using each gas. The test procedures prescribed today provide for the testing of convertible cooking appliances with both natural gas and propane. Based on NBS' recommendation, however, DOE has modified the test procedures to allow the manufacturer to test a convertible cooking appliance with natural gas only to determine the amount of energy consumed. These energy consumption figures must then be used to represent propane testing, if the appliance is not actually tested with propane.

In any event, the test procedures prescribed today require two estimated annual operating cost for convertible cooking appliances. The manufacturers must provide an estimated annual operating cost for a convertible cooking appliance which reflects testing with natural gas and a cost for the appliance which reflects testing with propane. As mentioned above, the manufacturer may use the amount of energy consumed during the test with natural gas for determining the estimated annual operating cost of the appliance which reflects testing with propane, but he must then multiply this amount times the appropriate cost of propane and any other factors that are applicable.

Accordingly, DOE has added a definition for "convertible cooking appliance" in § 430.2 and clarified § 430.24 with respect to representations regarding convertible cooking appliances and sections 2.2.2.2 and 2.2.2.3 of appendix I concerning the installation of convertible cooking appliances. A method for determining the estimated annual operating costs, cooking efficiencies and energy factors for convertible cooking appliances has also been added to § 430.22.

3. UNITS OF MEASUREMENT

It was suggested that the test procedures use both English and metric units of measurement. The commenter suggested that all measures in the test procedures be expressed in English units followed in parenthesis by the equivalent value in metric units.

DOE has attempted to use the most common units of measurement in the test procedures, which, in general, are the English units of measurement. The metric unit values have been used in certain instances in order to provide consistency with usual laboratory practices (e.g. beaker diameter of 85 millimeters) or consistency with existing commercial standards (e.g. microwave oven test loads expressed in millimeters). DOE does not consider it necessary in the final test procedures to provide the equivalent units of measurement in all instances.

4. INSTALLATION CONDITIONS

Several comments were received suggesting changes in the installation instructions proposed in section 2.1 of appendix I. One comment suggested that the installation of electric freestanding conventional ranges, conventional ovens, conventional cooking tops, and microwave/conventional ranges be set up in the manner specified in the proposed test procedures for gas appliances. It was also requested that in order to be consistent with existing industry standards, electric built-in and drop-in products be installed for testing according to the Underwriters Laboratories Inc. (UL) standard for household electric ranges, UL-858, and that the built-in as products be installed for testing according to the American National Standards Institute (ANSI) standard for household cooking appliances, ANS-Z21.1-1974 (as amended by Z21.1a-1974 and Z21.1b-1976).

In response to these comments, NBS reviewed the above industry standards and has recommended that the test procedures provide consistent installation provisions for gas and electric appliances and an installation approach which is consistent with these standards. DOE has adopted NBS' recommendation and amended section 2.1 of appendix I accordingly.

Another comment pointed out that drop-in appliances were not included in the built-in classification, and should therefore be specifically addressed in the test procedures. DOE agrees with this comment and has modified the installation instructions in section 2.1 of appendix I to indicate that drop-in appliances are to be installed in the same manner as built-in and wall-mounted appliances.

Some of the comments noted that the positioning of any broiling pan in conventional electric ovens and single compartment gas ovens was not made clear in the proposed test procedures. One comment specifically requested that the test procedures permit removal of the broiling pan during the test. NBS recommends that the broiling pan be removed during the test in order to be more representative of actual conditions in the home during baking in an oven. Based on NBS' recommendation and in order to provide uniformity of testing between manufacturers, DOE has amended section 2.1 of appendix I to provide that the broiling pan be removed during the test.

One commenter requested that the treatment of features or devices which operate continuously in proposed sections 2.1.1 and 2.1.2 of appendix I be clarified. In response to this comment DOE is prescribing in section 2.1 of appendix I a requirement to only disconnect electric clocks which use energy continuously and no other electrical devices. This will provide test methods for conventional appliances and microwave appliances which are consistent

in the sense that any energy consumed by features or devices on the different appliances in included in the amount which represents the total energy consumption for the test.

5. ELECTRICAL ENERGY SUPPLY

Some of the comments requested that the test procedures be changed to permit the testing of conventional electric ovens and conventional electric cooking tops at their rated wattage rather than at a fixed voltage.

It was suggested that this was needed to make the instructions for setting the electrical energy supply consistent with the instructions for setting the gas energy supply. Wattage is equivalent to the rate of gas flow and voltage is equivalent to gas pressure. DOE believes that the test procedures already provide for consistent instructions for measuring the energy supplies. Section 2.2.2 of appendix I specifies the gas supply in terms of gas pressure rather than the rate of gas flow and section 2.2.1 of appendix I specifies the electrical energy supply at a fixed voltage.

It was also commented that testing at rated wattages would reduce variations in the test results derived for the different measures of energy consumption thereby permitting a smaller number of models to be tested. NBS' testing indicated that the measures of energy consumption determined according to the proposed test procedures are rather insensitive to variations in the test wattage. Therefore, any additional variation in the test data due to testing at a rated wattage would be expected to be relatively small.

Although testing at the rated wattage may reduce possible variations in the test results, DOE belives that the use of fixed voltages would provide results that are more representative of actual home use. Therefore, based on NBS' recommendation and analysis, DOE has determined to retain the proposed method of testing conventional electric ovens and conventional electric cooking tops at a fixed voltage rather than at a rated wattage.

It was also pointed out that testing appliances at their rated wattage would make the test less burdensome to conduct since measuring the electrical energy supply with a watt-hour meter is easier than measuring it with a voltmeter, since to obtain the same degree of accuracy, the wattage would need to be held to with 2 percent, whereas the voltage would need to be held only to within 1 percent. NBS testing, however, indicates that testing of conventional electric cooking tops at their rated wattage would cause a greater testing burden on the maufacturer due to the need to measure the wattage of each heating element and adjust the voltage supply accordingly.

Another comment requested that the tolerance on the test voltage be increased from 1 percent to at least 2 percent. DOE and NBS recognize that test results for the different measures of energy consumption are relatively insensitive to small changes in the test voltage. Therefore, DOE has modified section 2.2.1 to increase the test voltage tolerance from 1 percent to 2 percent in order to ease the burden of testing on the manufacturers.

6. GAS ENERGY SUPPLY

(a) *Gas burner adjustment.* Some of the comments suggested that it was not sufficient simply to specify in the test procedures that the gas burners should be adjusted in accordance with the manufacturer's instructions. It was also recommended that the gas burner adjustment be in a manner that would not conflict with the operating characteristics required to comply with approval testing under the ANSI Standard for Household Cooking Gas Appliances, ANS-Z21.1-1974 (as amended by ANSI-Z21.1a-1974 and ANS-221.1b-1976). This ANSI standard requires that the air adjustment of the burner give a good flame, that is, a blue flame, rather than one with yellow flame tips. The standard also requires cooking appliances to pass a combustion test which requires that the appliance produce essentially no carbon monoxide.

Since the adjustment of the air to the burner can influence the burner's efficiency, it is important that this adjustment be representative of typical installation practices in the home. DOE believes that this can best be achieved by requiring that the test be conducted by installing the gas burner in accordance with the manufacturer's instructions. After reviewing the comment, DOE has agreed that additional instructions on proper air adjustment would be useful. Therefore, section 2.2.2.1 of appendix I has been modified to require that in addition to using the manufacturers installation instructions, the gas burner must be adjusted in every case so as not to result in a yellow flame, or a yellow tipped flame. This approach is consistent with the gas burner adjustment instructions of section 2.3.5 of the ANSI standard mentioned above.

DOE does not feel that it is necessary to provide that the appliance, after the adjustment of the air to the gas burner, comply with the combustion test specified in the ANSI standard. This is a safety test and would not be consistent with usual installation practices.

(b) *Heating value of gas.* Several comments were received which requested that sections 2.2.2.2 and 2.2.2.3 of appendix I specify the "net" heating value of the different test gases, natural gas and propane, rather than the "gross" heating value. DOE has determined, however, that the appropriate value to be used in the test procedures is the "gross" heating value of the gas, since the continous flow calorimeter measures the "gross" value and all values certified on bottled gas represent "gross" values.

Concerning the requirement in the test procedures for the determination of the gross heating value of the natural gas used for testing, a comment was made that this requirement should be eliminated and a fixed nominal gross heating value be assumed for all natural gas used for test purposes. It was suggested that this fixed nominal gross heating value for natural gas should be 1,000 or 1,025 Btu's per cubic foot. It was further stated that few, if any, gas range manufacturers have continuous flow calorimeters and that the cost of the calorimeter including installation is estimated at $15,000. One commenter stated that laboratory testing performed by the American Gas Association (AGA) indicated that the heating value of natural gas varies only slightly over a sustained period of time.

To assume reliable test results, DOE considers it essential to be able to accurately monitor and thereby control the heating value of the natural gas used for energy consumption testing. If natural gas supplied through the distributor network of local utilities were used there would be no way of knowing the actual heating value or the magnitude of any fluctuations that occurred during the test. However, in lieu of requiring the gases to be measured with a standard continuous flow calorimeter, the test procedures permit the use of bottled gas, if the gross heating value of the bottled gas is certified to be at least as accurate a value as could be obtained with measurements derived from using a standard continuous flow calorimeter. This alleviates the necessity of purchasing and installing a standard continuous flow calorimeter.

7. MEASUREMENT OF THE OVEN TEMPERATURE FOR CALIBRATION

(a) *Oven cycles.* In section 2.4.1 and 2.4.2 of appendix I of the proposed test procedures it was specified that for the purpose of calibrating the oven's controls, the temperature of the oven should be measured over three consecutive cut-off/cut-on cycles of the oven thermostat which regulates the oven's energy source. One of the commenters suggested that the instructions in the proposed test procedures were confusing and could be interpreted to mean the three cycles immediately following the initial cut-off/cut-on operation of the oven's energy source. In order to permit greater flexibility in the testing, the commenter recommended that the

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test procedures be modified to allow measurement of the oven temperature, on ovens that have "cycling" thermostats, during any three consecutive cut-off/cut-on cycles following the initial cycle.

NBS laboratory testing of conventional ovens using different sets of three consecutive cut-off/cut-on cycles did not produce any adverse effects on the method of calibrating the oven. Therefore, based on NBS testing, DOE has amended sections 2.4.1 and 2.4.2 of appendix I of the test procedures to permit testing over any three consecutive cut-off/cut-on cycles following the initial cycle.

(b) *Use of thermocouples.* Different methods for measuring the oven temperatures of conventional electic ovens and conventional gas ovens were specified in the proposed test procedures. A single thermocouple was used to measure the temperature in an electric oven while five thermocouples were used to measure the temperature in a gas oven. One comment suggested that the temperature calibration of the electric oven controls would be more accurate if five parallel thermocouples were used as is the case for gas ovens. CU also questioned the use of different methods for measuring oven temperature and urged that the same test method be used for both conventional electric ovens and conventional gas ovens.

A conventional electric oven has a relatively small vent and less air movement within the oven compartment than a conventional gas oven. There is, therefore, less variation in temperature over a horizontal plane within the compartment of an electric oven than in the compartment of a gas oven. This horizontal plane concept is used since it is representative of actual cooking on an oven shelf.

DOE has determined that no change is necessary to section 2.4.1 of appendix I regarding the number of thermocouples used to measure the temperature of a conventional electic oven, in order to calibrate properly the oven's temperature controls.

(c) *Non-cycling controls.* In several sections of the test procedures instructions are given for measuring oven temperatures or test block temperatures in terms of the cycling action of the oven thermostat. Two commenters remarked that no provision has been made for measuring the test energy consumption of a gas oven equipped with a bypass-type thermostat or any other modulating control. A bypass-type thermostat is one which controls the oven temperature by modulating the gas flow rather than by cycling on and off.

The objectives of the pertinent sections of the test procedures are either to obtain a thermostat setting which will produce a desired average internal oven temperature or to determine the energy required by the oven to heat a test load to a specified temperature. These two objectives may be achieved by direct measurement when testing an oven which utilizes a modulating thermostat to maintain a reasonably steady internal temperature.

In response to this comment, sections 2.4.1, 2.4.2, 3.1.1, and 3.2.1 of appendix I have been modified to explain that interpolation of data from "on" and "off" points is not necessary for ovens which do not operate in such cycles.

(d) *Temperature indicator system for measuring oven temperature.* One of the comments requested that the temperature range for the temperature indicator system for measuring oven temperature provided in section 2.9.3.2 of appendix I be increased. The proposed test procedures specified a range of 65° F to 400° F. A review of the oven temperature measurements required by the test procedures indicates that it may be necessary to use an instrument which could measure temperatures above 400° F. After consultation with NBS, DOE has, therefore, increased the upper limit of the temperature range in section 2.9.3.2 of appendix I to 500° F in order to provide an indicator system that would be consistent with any necessary measurements in the test procedures.

8. NORMAL NONOPERATING TEMPERATURE

Several comments were made regarding the proposed normal nonoperating temperatures of the appliances to be tested. One manufacturer also pointed out that the proposed test procedures did not specify a method for measuring the normal nonoperating temperatures of conventional cooking tops.

NBS and DOE have reexamined section 2.6 of appendix I which proposed normal nonoperating temperatures for kitchen ranges and ovens. As a result, DOE has modified section 2.6 and added a definition of "normal nonoperating temperature" in section 1.5 in order to insure that the normal nonoperating temperature of the appliances being tested is achieved before any testing is begun. The normal nonoperating temperature is now permitted to be achieved in any manner, as long as the temperature of all of the areas of the appliance are within 5° F of the temperature that that area would have attained if the appliance had been left in the test room for 24 hours while not operating. Section 2.9.3.5 of appendix I has also been added in order to specify a method for measuring surface temperatures.

9. TEST BLOCKS

(a) *Black finish on test block for conventional ovens.* CU commented on the test block finish used for the testing of conventional ovens. Instead of using an anodic black coating as the test procedures specify, CU suggested that leaving the block's natural aluminum finish without a coating might better simulate the heat absorption characteristics of the aluminum or stainless steel pans normally used in an oven by consumers. CU was also concerned that since a black block absorbs radiant energy better than a shiny block, an unfair advantage may be given to electric ovens.

Several studies have been conducted to determine what type of test load would best simulate foods normally cooked in conventional ovens. The results of one such study are summarized by the AGA Research Report No. 1510, entitled "Methods to Determine the Thermal Efficiency and Estimated Annual Energy Consumption of Conventional Gas and Electric Ranges." After experimenting with 10 different types of test loads, AGA concluded that test results achieved using an 8.5 lb. black anodized aluminum block, which is the same test block proposed in the test procedures, corresponded the closest to the energy consumptions and efficiencies observed in the actual cooking of foods in conventional gas and electric ovens.

Laboratory tests conducted by NBS indicate that the energy consumed by conventional gas and electric ovens when tested with the proposed black test block provide results that are more representative of actual cooking in the home than results from testing with a shiny test block. The tests compared the amount of energy consumed when testing with shiny aluminum test blocks, when testing with black test blocks, and when testing with food in conventional gas and electric ovens both with and without forced convection.

Based on NBS recommendation, DOE has determined to retain the use of anodic black aluminum test blocks for testing conventional ovens.

Some of the comments also suggested that the test procedures permit the conventional oven test block to be finished with something other than the anodic black coating which incorporates an inorganic dye as was proposed. One comment indicated that an inorganic dye for anodized aluminum is not available. Another comment suggested that the ability of an anodic black test block to absorb radiant energy would decrease over time and therefore affect the accuracy of the testing. Based on NBS' recommendations, DOE has modified section 2.7.1 of appendix I to eliminate the requirement of incorporating an inorganic black dye in the coating of the test block.

Laboratory tests at NBS over a period of about 1 year indicate that the deterioration of the absorptivity

level of the test blocks is not a serious problem. However, in recognition of the possibility of some deterioration in the absorptivity level of a test block finished with an anodic black coating, DOE has also modified section 2.7.1 to permit the use of any finish which has the same level of absorptivity as the anodic black coating.

(b) *Installation of Thermocouple on Test Blocks.* It was suggested that the method of installing the thermocouple to the test block proposed in section 2.7.2 of appendix I may result in improper installation, which could lead to variations in the test results. DOE agrees with this comment and has modified section 2.7.4 of appendix I to permit the manufacturer conducting the test to use appropriate means to ensure that a positive contact between the thermocouple and the test block and an adequate sealing of the hole in the test block to prevent the entry of moisture is achieved.

(c) *Test Blocks for Conventional Cooking Tops.* One manufacturer requested that the required temperature rise of the test block for conventional cooking tops be 135° F instead of the 144° F specified in the proposed test procedures. The commenter felt that the temperature at the time the energy input is reduced (before being turned off) should equal the boiling point of water, 212° F, in order more closely to simulate actual cooking conditions in the home. No data, however, was provided to support the proposition that this would be more representative of actual cooking.

The commenter was also concerned that testing with the 6.25-inch diameter test block would unduly penalize small glass-ceramic cooking tops by producing a lower cooking efficiency than would be obtained with the 9-inch test block. It was felt that this method of testing precludes a valid comparison of small electric surface units with similar sized gas surface units which are tested with the 9-inch test block. The commenter recommended that the test procedures require that the large test block (9-inch diameter) be used for testing all electric surface units, as is the case for testing all gas surface units.

The proposed test procedures are designed to measure the cooking efficiency of all electric surface units under conditions which would most accurately simulate actual cooking in the home. The temperature rise of 144° F was selected for inclusion in the test procedures by DOE based upon NBS' recommendation that it would represent the average temperature rise of food being cooked in the home. After review of the above comment, NBS determined that it is not necessary, as the commenter suggested, that the test procedures provide that the test block temperature equal the boiling point of water at the time that the energy source to the surface unit is turned down. Based on this recommendation, DOE has decided not to change the temperature rise of 144° F as originally proposed.

In regard to the size of the test block, NBS believes that the small test block (6.25-inch diameter) more closely approximates the bottom diameter of the cooking utensils generally used by consumers for cooking on small surface units. Based on NBS' recommendation, DOE has, therefore, determined that the small test block is the appropriate size to use for testing and determining the cooking efficiency of small glass-ceramic cooking tops.

Another manufacturer wanted the test procedures to credit the energy saving aspects of glass-ceramic cooking tops which have a built-in automatic thermostatic control and which are sold with matching flat-ground cookware. No data was provided by the commenter, however, and DOE does not have sufficient data at this time on the energy saving aspects of these features to give any possible credit to them in the test procedures. DOE will review any reliable data, as it becomes available, concerning the consumer usage of these glass-ceramic cooking tops and any possible energy savings derived from their use.

(d) *Initial temperature of the test block.* One comment suggested that the initial test block temperature for conventional ovens and conventional cooking tops should be referenced to the nonoperating temperature of the appliance being tested, rather than to the ambient room air temperature. The comment, however, did not present any arguments to justify making this change. The proposed test procedures referenced the initial test block temperature to the ambient room air temperature in order to simulate typical consumer usage.

For some of the tests, following this suggestion would not cause a significant difference in the test results because the nonoperating temperature would be essentially the same as the ambient room air temperature. The suggested change would not be applicable for conventional gas ovens with continuously burning pilot lights, because the test block in that case should be near room temperature, rather than oven temperature, in order to simulate actual consumer usage. Based on NBS' recommendation, DOE has determined to retain the definition of the initial temperature of the test block as proposed in section 2.7.5 of appendix I.

CU also commented regarding the rate at which the test block is cooled to the initial test block temperature. They were concerned that if the test block was cooled too rapidly between tests that the initial temperature reading would not be representative of the temperature of the entire block. It was suggested that specifications for the thermal equilibrium of the block be added to the test procedures to assure that all parts of the block are at the same temperature before starting any test.

DOE agrees that the test procedures should clearly require that the test block be in thermal equilibrium before starting any test. Therefore, instructions for assuring thermal equilibrium have been added to section 2.7.5 of appendix I.

(e) *Weight of test block.* Section 3.3.2 of appendix I of the proposed test procedures requires that the actual weight of the test blocks be determined. Since these measurements need only be determined once for each test block, they have not been included in the test measurements in section 3.2 of appendix I. However, DOE has determined that a tolerance should be specified for these measurements in order to be consistent with other test measurements. With regard to this issue, NBS has recommended that the scale used for weighing the test blocks have a maximum error no greater than 1 ounce. DOE has accepted this recommendation and modified section 2.9 of appendix I accordingly by adding a section 2.9.5.

10. TEST BEAKERS

One commenter requested that "brosilicate glass" be required as the material to constitute the test beakers for the microwave oven tests. Brosilicate glass includes pyrex glass and has a low coefficient of thermal expansion. It is, therefore, less likely to crack as a result of the microwave testing. DOE has modified section 2.8 of appendix I to require that the test beakers be made of a thin walled brosilicate glass, which is the kind generally used in the laboratory.

11. CONVENTIONAL OVEN TEST METHOD

(a) *Calculation of oven energy consumption.* In the proposed test procedures the method for determining the amount of energy consumed by the oven during the test using the prescribed test blocks is calculated by an interpolation formula. The interpolation is based on energy and temperature measurements taken at different cut-off and cut-on points in the cycles of the oven's energy source. Several commenters suggested that the method of interpolation should be based only on data taken at the cut-on points. It was claimed that this would more accurately measure the actual amount of energy required to heat the test block, whereas the proposed test method would result in measurements that were 1.5 to 3 percent too high.

The commenter presented two hypothetical examples to illustrate that the

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method of interpolation in the proposed test procedures would yield erroneous results, whereas his new method would produce correct results. These examples were analyzed by NBS. In general, the NBS analysis indicated that although the ovens in the examples would have identical efficiencies when tested by this new method, ovens under actual use conditions in the home would not be equally efficient and that this actual difference in efficiency would be more accurately measured by the DOE method in the proposed test procedures.

The new method proposed by the commenter is based on the assumptions that an oven's heating cycle begins at the cut-on point of the oven's energy source and ends at the following cut-on point, and that the amount of energy consumed during a portion of such a cycle is determined on a prorated basis. This new procedure, which is based on only two data collection points, appears to be less burdensome to conduct than the proposed DOE test method which is based on four data points. This new procedure, however, has two disadvantages. First, the oven's temperature varies considerably during the heating cycle and is near a minimum at the cut-on point. At this point the oven's temperature is below its average temperature and the measurement of the energy consumption would be too low, or lower than it would be if the oven were at its average temperature. Second, the oven temperature at cut-on may vary from one model to another due only to differing thermostat characteristics. This would mean that the error in the energy consumption measurement would depend on the thermostat characteristics. Hence, energy measurements derived from this new method would not accurately correspond to values that would be achieved during actual consumer usage.

The interpolation procedure proposed in the test procedures was essentially based on the average oven temperature as determined from measurements at both cut-on and cut-off points of the oven's energy source. NBS believes that this method will provide results that are representative of average oven conditions in the home.

In view of the above considerations, DOE concurs with the NBS recommendation that the interpolation procedure in the proposed test procedures is a better and more representative method for accurately measuring the energy consumption of a conventional oven without being unduly burdensome, and has therefore retained this method in the test procedures prescribed today.

(b) *Oven modes to be tested.* CU raised an issue as to which oven modes of operation shoud be tested. The comment stated that the test procedure requires the testing of ovens in "each baking mode," but does not clearly explain what types of baking modes should be included. CU recommends that the test procedure specify that all modes of operation including "timed baked," "preheat," etc., be tested.

The proposed test procedures require that conventional ovens which can be operated either with forced convection or without forced convection shall be tested in both of these modes of operation. Sections 3.1.1 and 4.1.1.1 of appendix I have been modified to state this requirement more clearly. Testing the oven in both of these modes is required because the different modes may have significantly different cooking efficiencies.

On the other hand, NBS laboratory data indicates that the use of a "preheat" setting, has very little effect on the cooking efficiency when it is followed by resetting to "bake" after the oven has reached operating temperature. On conventional electric ovens the only difference between the "preheat" setting and the "bake" setting is in that during preheat both the upper and lower resistance heaters are operated at 240 volts, while during "bake" only the lower resistance heater operates at 240 volts and the upper resistance heater is either not used or operates at 120 volts (one-fourth power).

For most conventional electric ovens the method of heating is identical for "timed bake" and "bake." However, as suggested by CU, there are some conventional electric ovens which use the upper resistance heater at 120 volts during "bake" but do not use the upper resistance heater for "timed bake." For these ovens the difference in oven heating wattage is about 20 percent. Based on laboratory tests at NBS of ovens at both 240 and 208 volts, which involved a difference in heating wattage of about 25 percent, NBS concluded that any differences in the cooking efficiency due to different wattages for "bake" and "timed bake" are not significant. Based on NBS' recommendation, DOE does not believe that testing in all possible baking modes is necessary to achieve accurate and representative test results.

(c) *Measurement of pilot light consumption.* CU commented that accurate measurement of the gas consumption of pilot lights could be obtained in less time than the 24-hour period specified in the proposed test procedures. CU suggested that two methods for measuring the gas consumption of pilot lights be permitted; one involving the use of positive displacement gas meters (referred to simply as "gas meters" in the proposed test procedures), and the other involving the use of gas flow meters (not addressed in the proposed test procedures). CU stated that the adoption of this suggestion would facilitate testing and conserve gas.

For positive displacement gas meters, CU suggested that rather than specifying a fixed minimum time period for the measurement, a minimum quantity of gas consumption should be specified where this minimum quantity is a function of the resolution of the gas meter used for making the measurement. It was suggested that a minimum gas consumption of 200 times the resolution of the gas meter be specified.

DOE finds that the adoption of this suggestion would reduce the time required to measure the rate of gas consumption of pilot lights without reducing the accuracy of the measurement appreciably. Using CU's suggested method, it is estimated that it would require about 1 hour to measure the gas consumption rate of a pilot light with a gas meter that has a resolution of 0.001 cubic foot. Although the maximum error associated with taking a reading from such a gas meter using CU's suggested method would be larger than for the 24-hour duration test proposed (0.5 percent for CU's method, compared to approximately 0.02 percent for the 24-hour test) the overall measurement error would still be determined primarily by the allowable meter error of 2 percent.

DOE has adopted CU's suggestion and has changed sections 3.1.1.2 and 3.1.2.1 of appendix I to specify that the duration of the tests shall be sufficient to measure a gas consumption which is at least 200 times the resolution of the gas meter.

In further consideration of CU's suggestion, DOE finds that if a gas meter with a resolution of 0.01 cubic foot was used to measure the gas consumption of pilot lights instead of one with a resolution of 0.001 cubic foot as stipulated in the proposed test procedures, the measurement would require approximately ten hours to complete. By allowing the use of a gas meter with a resolution of 0.01 cubic foot, the duration of the pilot light gas consumption measurement would still be significantly reduced from the 24-hour duration measurement specified in the proposed test procedures, but manufacturers could secure one gas meter which meets the accuracy measurements for measurement of the gas consumption of both pilot lights and gas burners.

DOE has, therefore, changed section 2.9.2 of appendix I to allow the use of a gas meter with a resolution of at least 0.01 cubic foot for measurement of pilot gas consumption.

CU had a further comment bearing on the measurement of the gas consumption of pilot lights to the effect that DOE should permit the use of a gas flow meter with a resolution of at least 1 percent of the gas consumption rate and a maximum error no greater than 2 percent, in lieu of the volume measuring gas meter specified in the proposed test procedures.

This suggestion has been accepted by DOE with the modification that the meter error must not exceed 1.5 percent in order to maintain an overall measurement accuracy (meter error plus possible reading error) comparable to that required of the positive displacement type gas meter. Section 2.9.2 of appendix I has been modified to allow the use of either a positive displacement gas meter or a gas flow meter to measure the gas consumption of pilot lights. Sections 3.2.1.2 and 3.2.2.1 of appendix I have been modified to provide for the measurement of the gas flow rate directly when a gas flow meter is used and sections 4.1.2.2 and 4.2.2.2.2 have been modified to provide for the direct substitution of the gas flow rate measurements into the equations for the annual energy consumption.

(d) *Representative use of self-cleaning operation of conventional oven.* In the proposed test procedures the annual energy consumed for conventional oven self-cleaning operations was based upon 11 cleanings per year for electric ovens and 7 cleanings per year for gas ovens. One manufacturer suggested that 7 cleanings per year for an electric oven would more accurately represent the average annual use of this feature. Another commenter suggested that since the conventional oven usage is somewhat less in a microwave/conventional range than in a conventional range, the annual self-cleaning energy consumption for a microwave/conventional range should be less than that for a conventional range.

The number of self-cleaning operations per year proposed in the test procedures are based upon very limited industry data. DOE will review these numbers should more complete field data become available. Likewise, additional data on conventional ovens, when used as a component of a microwave/conventional range may allow a better determination of the average number of self-cleaning operations which best represents consumer usage. DOE is not, however, aware of any data at this time which would justify changing the proposed self-cleaning oven usage of 11 times per year for electric ovens and 7 times per year for gas ovens.

It was also suggested that the test procedures should account for the self-cleaning energy consumption of cooking appliances consisting of two or more self-cleaning ovens. Another commenter recommended that the calculation of the self-cleaning energy for two or more self-cleaning ovens be based on the same total number of self-cleaning operations per year as for a single oven.

The method of calculating the annual energy consumption for cooking with multiple conventional ovens is based on the premise that the total usage of multiple ovens is the same as that of a single oven. It follows that if the usage is the same, the total number of self-cleaning operations should be the same. Section 4.1.2.6 of appendix I has been changed to provide for multiple self-cleaning ovens. The total self-cleaning energy consumption is now computed as the average of the separate ovens, which is analogous to the computation of cooking energy for multiple ovens.

12. MICROWAVE OVEN TEST METHOD

(a) *Test load temperature.* The proposed test procedures provide that microwave ovens be tested with test loads consisting of water in glass beakers. It was recommended in one comment that the starting water temperature of the test load should be changed from ±4° F of the ambient room air temperature as proposed, to 68° F ±9° F (20° C ±5° C), as specified in the international Electrotechnical Commission (IEC) standard, IEC-SC-59H, 1975, entitled "Methods of Measuring Performance of Microwave Cooking Appliances for Household and Similar Purposes." The commenter indicated that a temperature below room ambient air temperature is not inappropriate because foods are often taken directly from the refrigerator to the microwave oven.

For a nominal room temperature of 77° F the proposed initial water temperature would be within the range of 77° F ±4°, which would overlap the allowable range of 59° to 77° F in the above IEC standard by only 4° F. With such an overlap of only 4° F it was claimed that it would be difficult and burdensome to obtain test data which would satisfy both the DOE test procedures and those tests required to be conducted in accordance with the above IEC standard.

Any change to the starting water temperature naturally affects the final water temperature achieved after a specified temperature rise. NBS has determined from laboratory testing, as published in the NBS report, NBSIR-77-1387, September 1977, entitled "Evaluation of a Test Method for Measuring Microwave Oven Cooking Efficiency," that the final test load temperature may have a considerable effect on the microwave oven cooking efficiency. For extreme conditions the tolerance in the proposed test procedures would allow a maximum variation of ±22° F in the final water temperature, since the final water temperature in the proposed test procedures is determined by three factors: the difference between the initial water temperature and the room temperature (±4° F), the ambient room air temperature (77°±9° F), and the temperature rise of the water during the test (45°±9° F).

Complying with the commenter's recommendation would reduce the above variation in final water temperature to ±18° F. NBS recommends that this variation be further limited by specifying that the initial test load temperature be within the range of 68° to 77° F. This would allow the same possible overlap between the initial water temperature and the ambient room air temperature as allowed in the proposed IEC test procedure, but would limit the maximum variation in the final water temperature. NBS feels that this temperature range adequately represents consumer usage. NBS recommends against the adoption of that portion of the comment which suggested a temperature below 68° F, since that particular change to the test procedures would seriously degrade the accuracy and repeatability of the test results by permitting too wide a tolerance on the final water temperature.

Based on the recommendation of NBS, DOE has specified in section 2.8.2.1 of appendix I that the initial temperature of the test loads be within the range of 68° F to 77° F.

(b) *Cooking efficiency.* In section 4.4.3 of appendix I, the test procedures proposed a method for determining the cooking efficiency of the microwave oven in which the cooking efficiencies for each test load were added and divided by 4, the number of test loads. One comment recommended that the cooking efficiency be determined instead by dividing the average output power derived using the four different test loads by the average input power for those tests, in order to be consistent with the method used in the proposed AHAM standard, ER-4-MWO, 1977, entitled "Performance Evaluation Procedure for Microwave Cooking Appliances."

Using laboratory test data, NBS compared the resulting cooking efficiencies determined according to both of the above methods. NBS concluded that there was no significant difference in the resulting cooking efficiency when determined by either the proposed test method or the suggested method. Based on NBS' recommendation, DOE has retained in section 4.4.2 of appendix I the proposed method for determining the microwave oven cooking efficiency.

(c) *Test energy consumption.* One commenter recommended that the starting point for the measurement of time, t, and the input energy, E, proposed in section 3.2.3 of appendix I, should be after the time when the magnetron (which is a type of vacuum

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tube used to generate power in microwave ovens) reaches full power output, instead of the beginning of the test as proposed. The suggested change would make the test procedures consistent with the procedures in the proposed AHAM standard ER-4-MWO, 1977. The commenter also claimed that this change would have no effect on the test results.

NBS recommends against adopting this change since there could be cases when the amount of energy used by the microwave oven before the magnetron reaches full power may be significant.

DOE has, therefore, retained the method proposed in section 3.2.3 of appendix I of measuring the data from the time that the microwave oven is turned on. This method will produce test results that are representative of actual consumer use.

(d) *Resolution of the watt-hour meter.* NBS has determined that the accuracy and repeatability of the microwave oven test results could be significantly improved if the watt-hour meter used to measure the microwave oven energy consumption had a resolution of 0.1 watt-hour, rather than 1 watt-hour as indicated in section 2.9.1 of the proposed test procedures. Watt-hour meters with a resolution 0.1 watt-hour are available at about the same cost as watt-hour meters with a resolution of only 1 watt-hour and their use would significantly increase the accuracy of the test measurements. DOE has determined that the accompanying improvement in accuracy of the derived test results outweighs the possible increase in the test burden. Therefore, DOE adopts the suggested change by modifying section 2.9.1 of appendix I.

13. USAGE FACTORS FOR MICROWAVE/CONVENTIONAL RANGES

The proposed test procedures prescribed usage factors, K and L, to account for a reduced usage of the conventional oven and conventional cooking top of a microwave/conventional range compared to the usage of the conventional oven and cooking top of a conventional range. The usage factor K was defined as the annual energy consumption for cooking of the conventional oven component of a microwave/conventional range divided by the annual energy consumption for cooking of the conventional oven component of a conventional range. The usage factor L was defined as the annual energy consumption for cooking of the conventional cooking top component of a microwave/conventional range divided by the annual energy consumption for cooking of the conventional cooking top component of a conventional range. In the proposed test procedures, K equaled 0.8196 in section 4.5.1.1 of appendix I and L equaled 0.9076 in section 4.5.1.2 of appendix I.

Several commenters expressed concern about the proposed numerical values of the usage factors, K and L, and recommended different values for these usage factors. In the proposed test procedures, the total useful cooking energy output of a microwave/conventional range was assumed to be the same as that of a conventional range. The commenters recommended that in the final test procedures the total useful cooking energy output of microwave/conventional range should be less than that of a conventional range in order to be consistent with AHAM field data. The commenter also felt that this would reflect the proper energy savings obtained through the use of the microwave oven. This AHAM field data, supplied to NBS and FEA on August 3, 1976, showed a 14 percent energy savings for those households which had a microwave oven and a conventional range as opposed to a conventional range alone. One manufacturer presented additional data to support his claim that microwave/conventional ranges save 15 percent more cooking energy than conventional ranges. Both the AHAM data and the manufacturer's data indicated higher cooking efficiencies for microwave ovens than for conventional cooking tops. This conclusion, however, is contrary to results obtained from NBS laboratory testing. NBS conducted tests according to the proposed tests procedures of microwave ovens and conventional cooking tops. The cooking efficiencies of these products were derived from the NBS test results, and NBS concluded that the cooking efficiency of a conventional cooking top was higher than the cooking efficiency of a microwave oven, when tested in accordance with the proposed test procedures. NBS has determined that the proposed method for measuring the useful cooking energy output of microwave ovens and conventional cooking tops adequately represents consumer cooking in the home.

Another manufacturer submitted data based upon a limited field survey which monitored households which used conventional ranges in conjunction with microwave ovens. The amount of energy consumption was measured before and after the addition of the microwave oven to the household. This survey indicated that the total average energy savings for these households as a result of the addition of the microwave oven was 3 percent. The data from this field survey indicates that the total useful cooking energy output for a microwave/conventional range is less than for a conventional range. NBS has determined that the results of this survey are the most representative consumer usage data available. They were derived from an accurate method of comparing the effect of the addition of a microwave oven into the home, since the same households with and without the microwave oven were used for the tests. This minimized any possible variations in energy consumptions that could have been caused by differences in consumer cooking habits. NBS has therefore recommended that the usage factors, K and L, be changed to conform to the above field survey results.

DOE has adopted the NBS recommendation and has provided usage factor K of 0.83 and a usage factor L of 0.85 in section 4.5 of appendix I. The usage factors have been expressed in two significant figures, rather than four significant figures as in the proposed test procedures, in order to be compatible with the data which has been used to generate these usage factors. Consistent with these changes, the value of total annual useful energy output for a microwave/conventional range, O_{RM}, in section 4.5 of appendix I has been reduced by 4.9 percent to 808.9 kWh (1,054,000 Btu).

14. CONVENTIONAL COOKING TOP TEST METHOD

One manufacturer claimed that the use of an aluminum test block proposed in the test procedures for testing conventional cooking tops does not properly relate to the cooking of food. The commenter claimed that the cooking efficiencies of conventional cooking tops would be more accurately measured using water in a beaker as the test load. The commenter also felt that the cooking efficiency obtained by using the proposed test block would be too high. The data presented by the commenter to support this proposition was reviewed by NBS, and determined not to be representative of actual consumer use because of the smallness of the test load used and the failure to collect any data at reduced wattage settings.

In response to this comment, NBS reviewed existing industry data on the cooking efficiencies of conventional cooking tops when tested with food. NBS also conducted laboratory tests of conventional cooking tops using the proposed aluminum test block and using various types of cooking utensils with water loads. The results of these tests were then compared to the industry data derived when cooking with food.

NBS concluded that testing conventional cooking tops with a test block will provide more representative and repeatable test results than testing with a water test load. Based on the NBS recommendation, DOE has retained the use of the aluminum test block for testing conventional cooking tops in the test procedures prescribed today.

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15. OVEN SIZE CATEGORIES

All conventional ovens regardless of size are treated in the same manner in the proposed test procedures. A number of manufacturers recommended that the test procedures provide for different oven categories to be determined on the basis of the size of the oven's cooking compartment. The commenters were concerned that if a minimum standards program should be established, the present test procedures could lead to the elimination from the marketplace of larger ovens, since larger ovens would not appear to be as energy efficient, based on the test procedures, as the smaller ovens. Any attempt to relate the prescription of final test procedures to a minimum standards program under the Act would be premature at this time. DOE has also determined that although the test procedures provide for only one category of ovens, the derived measures of energy consumption still are likely to assist consumers in making purchasing decisions.

16. REPRESENTATIONS REGARDING MEASURES OF ENERGY CONSUMPTION

Test procedures prescribed under section 323 of the Act are intended ultimately to be used for labeling under section 324 of the Act, for monitoring the progress of manufacturers toward accomplishing the energy efficiency improvement targets under section 325 of the Act, and for enforcement testing under section 326 of the Act. All of these aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions on how a test procedure should be applied (e.g., sampling of production units), may differ. DOE, NBS, and FTC are continuing to evaluate the appropriate method or methods for applying the test procedures in order to comply with the statute and satisfy all of the different elements of the appliance program. Thus, a generalized test methodology for applying test procedures is inappropriate at this time.

While all of the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
>
> (1) In writing (including a representation on a label), or
>
> (2) In any broadcast advertisement, respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to implement this statutory requirement, the sampling requirements prescribed today in § 430.24(i) apply only where a representation is made with respect to the energy consumption of kitchen ranges and ovens.

Section 430.24(i) provides a method by which the minimum size of a sample of kitchen ranges and ovens is to be determined. Representations regarding the energy consumption of kitchen ranges and ovens must be based upon the testing of that sample. Under the regulations, the sample will have to be of sufficient size to assure that, for each representation regarding a measure of energy consumption described in § 430.22(i), there is a 95 percent confidence that the true mean of such measures of the basic model to which the representation applies is within 5 percent of the mean of such measures of the sample.

Strict sampling of conventional and microwave/conventional ranges could, in many cases, result in duplicative testing. This is because it is likely that the conventional cooking tops, conventional ovens, and microwave ovens which comprise these products would be marketed as distinct products and would, therefore, have already been tested. In order to avoid re-testing the components of conventional and mircowave/conventional ranges, § 430.24(i) permits data obtained from the testing of the major cooking components (conventional cooking tops, conventional ovens, and microwave ovens) which comprise conventional ranges and microwave/conventional ranges to be used in making representations concerning those ranges.

As discussed above, § 430.24(i) has been modified to clarify that for purposes of making representations respecting the energy consumption of kitchen ranges and ovens, convertible cooking appliances need only be tested using natural gas if the manufacturer does not wish to test using both natural gas and propane. This will ease the burden on the manufacturer conducting the test. In this case, however, the manufacturer must utilize the values derived for the annual energy consumptions from testing with natural gas to determine the appropriate measures of energy consumption that would represent the LP-gas usage of that convertible cooking appliance. However, cooking appliances which are designed to use only natural gas must be tested using natural gas and cooking appliances which are designed to use only LP-gas must be tested using propane gas. Except for these modifications, § 430.22(i) prescribed today is similar in all respects to the section proposed. The comments which addressed § 430.22(i) found the substance of its provisions acceptable as proposed.

Until a labeling rule for kitchen ranges and ovens has been implemented pursuant to section 324, manufacturers are not required to test, unless they choose to make representations regarding a measure of energy consumption identified in or based upon § 430.22(i). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model.

17. PRODUCTS NOT COVERED BY TEST PROCEDURES

One commenter recommended that the definition of microwave/conventional range be expanded to include the following two products which he felt were being excluded from the proposed test procedures: (1) A microwave oven in combination with a conventional oven and (2) a microwave oven in combination with a conventional cooking top. No consumer usage data on these products was provided.

Section 323(a)(3) of the Act requires that proposed test procedures for kitchen ranges and ovens be published not later than September 30, 1976. Section 323(a)(6) of the Act, however, provides that the publication of proposed test procedures for a type of covered product (or class thereof) may be delayed beyond the required dates of publication, if it is determined that publication of the proposed test procedures cannot be made within the applicable time period and notice of such determination is published in the FEDERAL REGISTER.

In addition to prescribing test procedures today for most classes of "kitchen ranges and ovens", DOE gives notice of its determination to delay further the publication of proposed test procedures for any class of the type "kitchen ranges and ovens" other than conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges. In particular, DOE is delaying further the publication of proposed test procedures for the following consumer products which are relatively new products and, therefore, presently represent only a small percentage of the market: (1) Cooking tops which utilize induction surface heating elements; (2) single compartment ovens which are capable of heating food by means of electric resistance heaters and microwave energy in the same compartment; (3) a microwave oven in combination with a conventional oven; and (4) a microwave oven in combination with a conventional cooking top. NBS has determined that there is not sufficient data at this time on the consumer usage of these products to develop adequate test procedures to measure their energy consumption, cooking efficiency or energy factor. DOE will publish proposed test procedures for such products, as soon as practicable, unless it determines that test procedures cannot be developed which meet the

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requirements of section 323(b) of the Act and publishes such determination in the FEDERAL REGISTER together with the reasons therefor.

18. MISCELLANEOUS

After careful consideration of all of the comments and further consultation with NBS and FTC, DOE has made some editorial and minor technical changes in the proposed test procedures that were not discussed above and incorporated them in the final rule prescribed today.

C. REGULATIONS PRESCRIBED

1. TEST PROCEDURES

The test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens and microwave/conventional ranges prescribed today are included in Subpart B and are substantially the same as those proposed, with the addition of the changes discussed above. As with the proposed procedures, the test methodology incorporates the field survey data and the general approach of the proposed AHAM Standard Test Method for Measuring Energy Consumption of Electric and Gas Ovens and Surface Units and Microwave Ovens (ER-5-EC) dated August 2, 1976 and of the proposed AHAM Standard Performance Evaluation Procedure for Microwave Cooking Appliances (ER-4-MWO). The test procedures also incorporate the general approach contained in the American National Standards Institute (ANSI) standard ANS-C71.1-1972 for household electric ranges. Some provisions for conventional ranges, conventional cooking tops and conventional ovens contained in the ANSI standard ANS-Z21.1-1974 (as amended by ANS-Z21.1a-1974 and ANS-Z21.1b-1976) for household cooking gas appliances and the Underwriters Laboratories Incorporated (UL) standard UL-858 for household electric ranges were also incorporated. For purposes of DOE's appliance program, the incorporated approaches remain applicable as presently written, regardless of any subsequent amendment by the standard setting organizations until such time as DOE may further amend the test procedures.

Pursuant to section 301 of the DOE Act, DOE became responsible for complying with section 32 of the Federal Energy Administration Act of 1974 (FEA Act) (15 U.S.C. 761 et seq.), as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70). Under the requirements of section 32(c) of the FEA Act, the Attorney General and the Chairman of the Federal Trade Commission must be consulted concerning the impact on competition of any rules prescribed by DOE which utilize or incorporate any commercial standards. DOE has transmitted copies of the test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges, which incorporate the above-mentioned commercial standards, to the Attorney general and the Chairman of the Federal Trade Commission for their comments concerning the impact of such standards on competition, in accordance with section 32(c). Neither official had any unfavorable comments nor did they recommend against the incorporation or use of these commercial standards in the final test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges.

2. GENERAL PROVISIONS

Definitions of "electric range," "non-electric range," and "surface unit," were originally proposed by notice issued May 10, 1976 (41 FR 19977, May 14, 1976). The proposed test procedures withdrew these definitions in § 430.2 and provided a new definition of "surface unit" and added definitions for "DOE," "Secretary," "kitchen ranges and ovens" and each of the different classes of the type "kitchen ranges and ovens." Today's rulemaking prescribes definitions for "conventional cooking top," "conventional oven," "conventional range," "convertible cooking appliance," "DOE," kitchen ranges and oven," "LP-gas," "major cooking component," "microwave/conventional range," "microwave oven," "Secretary," and "surface unit." The definition of the term "basic model" for "kitchen ranges and ovens" has also been added. Any comments which were received regarding these definitions and the issues which they raised have been discussed earlier in this rulemaking.

3. APPLICATION OF TEST PROCEDURES

As discussed previously, the final test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. It is expected that instructions for applying the standard test methodology to these other elements of the appliance program will be proposed for comment in the near future.

The requirements of § 430.24(i) of the final regulations apply until such time as the final labeling requirements for a particular measure of energy consumption and the provision for applying the associated test procedures are prescribed. After that time, any representations regarding a measure of energy consumption covered by a labeling rule must be the same as the measure of energy consumption specified on the label.

D. UNIT COST OF ENERGY

Under section 323(b)(2) of the Act, FEA was to provide manufacturers with information on representative average unit costs of energy. This information was provided by notice issued by FEA on July 11, 1977 (42 FR 36549, July 15, 1977).

E. PREEMPTION

Today's rulemaking prescribing final test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges, or which provide for an energy efficiency standard or similar requirement regarding the energy efficiency or energy use of conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges must now employ test procedures identical to those specified in today's final rule.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administation Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; Department of Energy Organization Act, Pub. L. 95-91; EO 11790, 39 FR 23185.)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations is amended as set forth below, effective June 15, 1978.

Issued in Washington, D.C., May 2, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

1. Section 430.2 is amended by adding paragraph (9) as part of the definition of "basic model," and by adding in the appropriate alphabetical order definitions of "conventional cooking top," "conventional oven," "conventional range," "convertible cooking appliance," "DOE," "kitchen ranges and ovens," "LP-gas," "major cooking component," "microwave/conventional range," "microwave oven," "other kitchen ranges and ovens," "Secretary," and "surface unit" to read as follows:

§ 430.2 Definitions.

• • • • •

"Basic model" means all units of a given type of covered product (or class thereof) manufactured by one manufacturer and—

• • • • •

(9) With respect to kitchen ranges and ovens, whose major cooking components have the same primary energy source, which have electrical characteristics that are essentially identical, and which do not have any differing physical or functional characteristics that affect energy consumption.

• • • • •

"Conventional cooking top" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a horizontal surface containing one or more surface units which include either a gas flame or electric resistance heating.

• • • • •

"Conventional oven" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of one or more compartments intended for the cooking or heating of food by means of either a gas flame or electric resistance heating. It does not include portable or countertop ovens which use electric resistance heating for the cooking or heating of food and are designed for an electrical supply of approximately 120 volts.

• • • • •

"Conventional range" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a conventional cooking top and one or more conventional ovens.

• • • • •

"Convertible cooking appliance" means any kitchen range and oven which is a household cooking appliance designed by the manufacturer to be changed in service from use with natural gas to use with LP-gas, and vice versa, by incorporating in the appliance convertible orifices for the main gas burners and a convertible gas pressure regulator.

• • • • •

"DOE" means the Department of Energy.

• • • • •

"Kitchen ranges and ovens" means consumer products that are used as the major household cooking appliances. They are designed to cook or heat different types of food by one or more of the following sources of heat: Gas, electricity, or microwave energy. Each product may consist of a horizontal cooking top containing one or more surface units and/or one or more heating compartments. They must be one of the following classes: Conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, microwave/conventional ranges and other kitchen ranges and ovens.

• • • • •

"LP-gas" means liquified petroleum gas, and includes propane, butane, and propane/butane mixtures.

• • • • •

"Major cooking component" means either a conventional cooking top, a conventional oven or a microwave oven.

• • • • •

"Microwave/conventional range" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a microwave oven, a conventional oven, and a conventional cooking top.

• • • • •

"Microwave oven" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a compartment designed to cook or heat food by means of microwave energy.

• • • • •

"Other kitchen ranges and ovens" means any class of kitchen ranges and ovens other than the conventional range, conventional cooking top, conventional oven, microwave oven, and microwave/conventional range classes.

• • • • •

"Secretary" means the Secretary of Energy.

• • • • •

"Surface unit" means either a heating unit mounted in a cooking top, or a heating source and its associated heated area of the cooking top, on which vessels are placed for the cooking or heating of food.

• • • • •

2. Section 430.22 is amended by adding a paragraph (i), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

• • • • •

(i) *Kitchen ranges and ovens.* (1) The estimated annual operating cost for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges shall be the sum of the following products: (i) The total annual electrical energy consumption for any electrical energy usage, in kilowatt-hours (kWh's) per year, times the representative average unit cost for electricity, in dollars per kWh, as provided pursuant to section 323(b)(2) of the Act; plus (ii) the total annual gas energy consumption for any natural gas usage, in British thermal units (Btu's) per year, times the representative average unit cost for natural gas, in dollars per Btu, as provided pursuant to section 323(b)(2) of the Act; plus (iii) the total annual gas energy consumption for any propane usage, in Btu's per year, times the representative average unit cost for propane, in dollars per Btu, as provided pursuant to section 323(b)(2) of the Act. The total annual energy consumption for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges shall be as determined according to 4.3.1, 4.2.2, 4.1.2.5 or 4.1.2.6, 4.4.3, and 4.5.1.3, respectively, of appendix I to this subpart. The estimated annual operating cost shall be rounded off to the nearest dollar per year, except for microwave ovens, for which the estimated annual operating cost shall be rounded off to the nearest one-quarter of a dollar per year.

(2) The cooking efficiency for conventional cooking tops, conventional ovens, and microwave ovens shall be the ratio of the cooking energy output for the test to the cooking energy input for the test, as determined according to 4.2.1.3, 4.1.3 and 4.4.2, respectively, of appendix I to this subpart. The final cooking efficiency values shall be rounded off to three significant digits.

(3) The cooking efficiency for conventional ranges, and microwave/conventional ranges shall be determined according to 4.3.2 and 4.5.2, respectively, of appendix I to this subpart, which weights the cooking efficiencies of the major cooking components of the range. The final cooking efficiency values shall be rounded off to three significant digits.

(4) The energy factor for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges shall be the ratio of the annual useful cooking energy output to the total annual energy input, as determined according to 4.3.3, 4.2.3, 4.1.4, 4.4.4 and 4.5.3, respectively, of appendix I to this subpart. The final energy factor values shall be rounded off to three significant digits.

(5) There shall be two estimated annual operating costs, two cooking efficiencies, and two energy factors for convertible cooking appliances—(i) an

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estimated annual operating cost, a cooking efficiency and an energy factor which represent values for those three measures of energy consumption for the operation of the appliance with natural gas; and (ii) an estimated annual operating cost, a cooking efficiency and an energy factor which represent values for those three measures of energy consumption for the operation of the appliance with LP-gas.

(6) The estimated annual operating cost for convertible cooking appliances which represents natural gas usage, as described in paragraph (i)(5)(i) of this section, shall be determined according to paragraph (i)(1) of this section using the total annual gas energy consumption for natural gas times the representative average unit cost for natural gas.

(7) The estimated annual operating cost for convertible cooking appliances which represents LP-gas usage, as described in paragraph (i)(5)(ii) of this section, shall be determined according to paragraph (i)(1) of this section using the representative average unit cost for propane times the total annual energy consumption of the test gas, either propane or natural gas.

(8) The cooking efficiency for convertible cooking appliances which represents natural gas usage, as described in paragraph (i)(5)(i) of this section, shall be determined according to paragraphs (i)(2) and (i)(3) of this section when the appliance is tested with natural gas.

(9) The cooking efficiency for convertible cooking appliances which represents LP-gas usage, as described in paragraph (i)(5)(ii) of this section, shall be determined according to paragraphs (i)(2) and (i)(3) of this section, when the appliance is tested with either natural gas or propane.

(10) The energy factor for convertible cooking appliances which represents natural gas usage, as described in paragraph (i)(5)(i) of this section, shall be determined according to paragraph (i)(4) of this section when the appliance is tested with natural gas.

(11) The energy factor for convertible cooking appliances which represents LP-gas usage, as described in paragraph (i)(5)(ii) of this section, shall be determined according to paragraph (i)(4) of this section when the appliance is tested with either natural gas or propane.

(12) Other useful measures of energy consumption for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens and microwave/conventional ranges shall be those measures of energy consumption which the Secretary determines are likely to assist consumers in making purchasing decisions and which are derived from the application of appendix I to this subpart.

3. Section 430.24 is amended by adding a paragraph (i) to read as follows:

§ 430.24 Representations regarding measures of energy consumption.

* * * * *

(i) *Kitchen ranges and ovens.* (1) Except as provided in paragraphs (i)(6) and (7) of this section, no manufacturer, distributor, retailer, or private labeler of kitchen ranges and ovens may make any representation with respect to, or based upon, a measure or measures of energy consumption for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges described in § 430.22(i) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart, such that, for each such measure of energy consumption, there is at least 95 percent confidence that the true mean of such measures of the basic model lies within ±5 percent of the mean of such measures of the sample.

(2) Any sample selected under this paragraph shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) A basic model of a convertible cooking appliance must be tested with natural gas, but may also be tested with propane.

(4) Any basic model of a conventional range, conventional cooking top and conventional oven which is designed to operate using only natural gas as the gas energy source must be tested with natural gas.

(5) Any basic model of a conventional range, conventional cooking top and conventional oven which is designed to operate using only LP-gas as the gas energy source must be tested with propane gas.

(6) With respect to conventional ranges and microwave/conventional ranges, representations made with respect to, or based upon, measures of energy consumption described in § 430.22(i) may be derived from test results obtained from application of the test method of appendix I to this subpart to basic models of such conventional cooking tops, conventional ovens and microwave ovens which comprise the cooking appliance to which such representations apply.

(7) Whenever a rule applicable to kitchen ranges and ovens is prescribed under section 324 of the Act, § 430.24 (i) shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption specified on the label.

* * * * *

4. Subpart B of Part 430 is amended to add an appendix I, to read as follows:

APPENDIX I—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF CONVENTIONAL RANGES, CONVENTIONAL COOKING TOPS, CONVENTIONAL OVENS, MICROWAVE OVENS AND MICROWAVE/CONVENTIONAL RANGES

1. *Definitions.*

1.1 "Built-in" means the product is supported by surrounding cabinetry, walls, or other similar structures.

1.2 "Drop-in" means the product is supported by horizontal surface cabinetry.

1.3 "Forced convection" means a mode of conventional oven operation in which a fan is used to circulate the heated air within the oven compartment during cooking.

1.4 "Freestanding" means the product is not supported by surrounding cabinetry, walls, or other similar structures.

1.5 "Normal nonoperating temperature" means the temperature of all areas of an of an appliance to be tested that is within 5 degrees of the temperature that the identical areas of the same basic model of the appliance would attain if it remained in the test room for 24 hours while not operating with all oven doors closed and with any gas pilot lights on and adjusted in accordance with manufacturer's instructions.

1.6 "Primary energy consumption" means either the electrical energy consumption of a conventional electric oven or the gas energy consumption of a conventional gas oven.

1.7 "Secondary energy consumption" means any electrical energy consumption, other than clock energy consumption, of a conventional gas oven.

1.8 "Standard cubic foot of gas" means that quantity of gas that occupies 1 cubic foot when saturated with water vapor at a temperature of 60° F and a pressure of 30 inches of mercury (density of mercury equals 13.595 grams per cubic centimeter).

1.9 "Thermocouple" means a device consisting of two dissimilar metals which are joined together and, with their associated wires, are used to measure temperature by means of electromotive force.

2. *Test conditions.*

2.1 *Installation.* A free standing appliance shall be installed with the back directly against, or as near as possible to, a vertical wall which extends at least 1 foot above and on either side of the appliance. There shall be no side walls. A drop-in, built-in or wall-mounted applicance shall be installed in an enclosure in accordance with the manufacturer's instructions. These appliances are to be completely assembled with all handles, knobs, guards and the like mounted in place. Any electric resistance heaters, gas burners, baking racks, and baffles shall be in place in accordance with the manufacturer's instructions; however, broiler pans are to be removed from the oven's baking compartment.

Disconnect any electrical clock which uses energy continuously. Do not disconnect or modify the circuit to any other electrical devices or features, except as indicated in 2.1.3.

2.1.1 *Conventional electric ranges, ovens and cooking tops and microwave/conventional electric ranges.* These products shall be connected to an electrical supply circuit with voltage as specified in 2.2.1 with a watt-hour meter installed in the circuit. The watt-hour meter shall be as described in 2.9.1.1.

2.1.2 *Conventional gas ranges, ovens, and cooking tops and gas microwave/conventional gas ranges.* These products shall be connected to a gas supply line with a gas meter installed between the supply line and the appliance being tested, according to manufacturer's specifications. The gas meter shall be as described in 2.9.2. Conventional gas ranges, ovens and cooking tops and microwave/conventional gas ranges with electrical ignition devices or other electrical components shall be connected to an electrical supply circuit of nameplate voltage with a watt-hour meter installed in the circuit. The watt-hour meter shall be as described in 2.9.1.1.

2.1.3 *Microwave ovens.* Install the microwave oven in accordance with the manufacturer's instructions and connect to an electrical supply circuit with voltage as specified in section 2.2.1. Disconnect all electrical devices or features, including clocks, which draw power when the microwave oven is turned off and which are not required for the operation of the oven. A watt-hour meter shall be installed in the circuit and shall be as described in 2.9.1.1.

2.2 *Energy supply.*

2.2.1 *Electrical supply.* Maintain the electrical supply to the conventional range, conventional cooking top, conventional oven, and microwave/conventional range being tested at 240/120 volts except that basic models rated only at 208/120 volts shall be tested at that rating. Maintain the electrical supply to a microwave oven at 120 volts and at 60 hertz. In every case, maintain the voltage within 2 percent of the voltage at which the appliance is tested.

2.2.2 *Gas supply.*

2.2.2.1 *Gas burner adjustments.* Conventional gas ranges, ovens, and cooking tops and microwave/conventional gas ranges shall be tested with all of the gas burners adjusted in accordance with the installation or operation instructions provided by the manufacturer. In every case, the burner must be adjusted with sufficient air flow to prevent a yellow flame or a flame with yellow tips.

2.2.2.2 *Natural gas.* For testing convertible cooking appliances or appliances which are designed to operate using only natural gas, maintain the natural gas pressure immediately ahead of all controls of the unit under test at 7 to 10 inches of water column. The regulator outlet pressure shall be approximately that recommended by the manufacturer. The natural gas supplied should have a heating value of approximately 1,025 Btu's per standard cubic foot. The actual gross heating value, H_n, in Btu's per standard cubic foot, for the natural gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in 2.9.4 or by the use of bottled natural gas whose gross heating value is certified to be at least as accurate a value as could be obtained from measurements taken with a standard continuous flow calorimeter as described in 2.9.4.

2.2.2.3 *Propane.* For testing convertible cooking appliances with propane or for testing appliances which are designed to operate using only LP-gas, maintain the propane pressure immediately ahead of all controls of the unit under test at 11 to 13 inches of water column. The regulator outlet pressure shall be approximately that recommended by the manufacturer. The propane supplied should have a heating value of approximately 2,500 Btu's per standard cubic foot. The actual gross heating value, H_p, in Btu's per standard cubic foot, for the propane to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in 2.9.4 or by the use of bottled propane whose gross heating value is certified to be at least as accurate a value as could be obtained from measurements taken with a standard continuous flow calorimeter as described in 2.9.4.

2.3 *Air circulation.* Maintain air circulation in the room sufficient to secure reasonably uniform temperature distribution, but do not cause a direct draft on the unit under test.

2.4 *Setting the conventional oven thermostat.*

2.4.1 *Conventional electric oven.* Install a thermocouple approximately in the center of the usable baking space. Provide a temperature indicator system for measuring the oven's temperature with an accuracy as indicated in 2.9.3.2. If the oven thermostat does not cycle on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325°±5° F higher than the room ambient air temperature. If the oven thermostat operates by cycling on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325°±5° F higher than the room ambient air temperature. This shall be done by measuring the maximum and minimum temperatures in any three consecutive cut-off/cut-on actions of the electric resistance heaters, excluding the initial cut-off/cut-on action, by the thermostat after the temperature rise of 325°±5° F has been attained by the conventional electric oven. Remove the thermocouple after the thermostat has been set.

2.4.2 *Conventional gas oven.* Install five parallel-connected weighted thermocouples, one located at the center of the conventional gas oven's usable baking space and the other four equally spaced between the center and the corners of the conventional gas oven on the diagonals of a horizontal plane through the center of the conventional gas oven. Each weighted thermocouple shall be constructed of a copper disc that is 1-inch in diameter and ⅛-inch thick. The two thermocouple wires shall be located in two holes in the disc spaced ½-inch apart, with each hole being located ¼-inch from the center of the disc. Both thermocouple wires shall be silver-soldered to the copper disc. Provide a temperature indicator system for measuring the oven's temperature with an accuracy as indicated in 2.9.3.2. If the oven thermostat does not cycle on or off, adjust or determine the conventional gas oven thermostat setting to provide an average internal temperature which is 325° ±5° F higher than the room ambient air temperature. If the oven thermostat operates by cycling on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325°±5° F higher than the room ambient air temperature. This shall be done by measuring the maximum and minimum temperatures in any three consecutive cut-off/cut-on actions of the gas burners, excluding the initial cut-off/cut-on action, by the thermostat after the temperature rise of 325°±5° F has been attained by the conventional gas oven. Remove the thermocouples after the thermostat has been set.

2.5 *Ambient room air temperature.* During the test, maintain an ambient room air temperature, T_a, of 77°±9° F as measured at least 5 feet and not more than 8 feet from the nearest surface of the unit under test and approximately 3 feet above the floor. The temperature shall be measured with a thermometer or temperature indicating system with an accuracy as indicated in 2.9.3.1.

2.6 *Normal nonoperating temperature.* All areas of the appliance to be tested shall attain the normal nonoperating temperature, as defined in 1.5, before any testing begins. The equipment for measuring the applicable normal nonoperating temperature shall be as described in 2.9.3.1, 2.9.3.2, 2.9.3.4, and 2.9.3.5, as applicable.

2.7 *Test blocks for conventional oven and cooking top.* The test blocks shall be made of aluminum alloy No. 6061, with a specific heat of 0.23 Btu's/lb-°F and with any temper that will give a coefficient of thermal conductivity of 0.37 to 0.41 cal/cm-°C-sec. Each block shall have a hole at its top. The hole shall be 0.08 inch in diameter and 0.80 inch deep. The manufacturer conducting the test may provide other means which will ensure that the thermocouple junction is installed at this same position and depth.

The bottom of each block shall be flat to within 0.002 inch TIR (total indicator reading). Determine the actual weight of each test block with a scale with an accuracy as indicated in 2.9.5.

2.7.1 *Conventional oven test block.* The test block for the conventional oven, W_1, shall be 6.25±0.05 inch in diameter, approximately 2.8 inches high and shall weigh 8.5±0.1 lbs. The block shall be finished with an anodic black coating which has a minimum thickness of 0.001 inch or with a finish having the equivalent absorptivity.

2.7.2 *Small test block for conventional cooking top.* The small test block, W_2, shall be 6.25±0.05 inches in diameter, approximately 2.8 inches high and shall weigh 8.5±0.1 lbs.

2.7.3 *Large test block for conventional cooking top.* The large test block for the conventional cooking top, W_3, shall be 9±0.05 inches in diameter, approximately 3.0 inches high and shall weigh 19±0.1 lbs.

2.7.4 *Thermocouple installation.* Install the thermocouple such that the thermocouple junction (where the thermocouple contacts the test block) is at the bottom of the hole provided in the test block and that the thermocouple junction makes good thermal contact with the aluminum block. If the test blocks are to be water cooled between tests the thermocouple hole should be sealed, or other steps taken, to insure that the thermocouple hole is completely dry at the start of the next test. Provide a temperature indicator system for measuring the test block temperature with an accuracy as indicated in 2.9.3.3.

2.7.5 *Initial test block temperature.* Maintain the initial temperature of the test blocks, T_i, within ±4° F of the ambient room air temperature as specified in 2.5. If the test block has been cooled (or heated) to bring it to room

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temperature, allow the block to stabilize for at least 2 minutes after removal from the cooling (or heating) source, before measuring its initial temperature.

2.8 *Test beakers.*

2.8.1 *Test beaker description.* The five test beakers shall be made of a thin walled borosilicate glass. Two of the test beakers shall have an inside diameter of approximately 85 millimeters (mm). Three of the test beakers shall have an inside diameter of approximately 110 mm.

2.8.2 *Test beaker load.* Fill one of the 85 mm diameter test beakers with 275 milliliters (ml)±2.75 ml of distilled water containing 1 percent sodium chloride (NaCl) by weight. Fill one of the 85 mm diameter test beakers with 500 ml±5.0 ml of distilled water containing 1 percent NaCl by weight. Fill each of the 110 mm diameter test beakers with 1,000 ml±10.0 ml of distilled water containing 1 percent NaCl by weight.

2.8.2.1 *Test beaker water load temperature.* Maintain the initial temperature of the test beaker water load within the range of 68° F to 77° F. The temperature shall be measured with a thermometer or other equipment with an accuracy as indicated in 2.9.3.4.

2.9 *Instrumentation.* Perform all test measurements using the following instruments, as appropriate:

2.9.1 *Electrical Measurements.*

2.9.1.1 *Watt-hour meter.* The watt-hour meter for measuring the electrical energy consumption of conventional ovens and cooking tops shall have a resolution of at least 1 watt-hour and a maximum error no greater than 1.5 percent of the measured value for any demand greater than 100 watts. The watt-hour meter for measuring the energy consumption of microwave ovens shall have a resolution of at least 0.1 watt-hour and a maximum error no greater than 1.5 percent of the measured value.

2.9.1.2 *Wattmeter.* The wattmeter shall have a resolution of at least 0.2 watt and a maximum error no greater than 5 percent of the measured value over the range of 0 to 10 watts.

2.9.2 *Gas Measurements.*

2.9.2.1 *Positive displacement meters.* The gas meter to be used for measuring the gas consumed by the gas burners of the oven or cooking top shall have a resolution of at least 0.01 cubic foot and a maximum error no greater than 1 percent of the measured value for any demand greater than 2.2 cubic feet per hour. If a positive displacement gas meter is used for measuring the gas consumed by the pilot lights, it shall have a resolution of at least 0.01 cubic foot and have a maximum error no greater than 2 percent of the measured value.

2.9.2.2 *Flow meter.* If a gas flow meter is used for measuring the gas consumed by the pilot lights, it shall be calibrated to have a maximum error no greater than 1.5 percent of the measured value and a resolution of at least 1 percent of the measured value.

2.9.3 *Temperature measurement equipment.*

2.9.3.1 *Room temperature indicating system.* The room temperature indicating system shall have an error no greater than ±1° F over the range 65° to 90° F.

2.9.3.2 *Temperature indicator system for measuring conventional oven temperature.* The equipment for measuring the conventional oven temperature shall have an error no greater than ±4° F over the range of 65° to 500° F.

2.9.3.3 *Temperature indicator system for measuring test block temperature.* The system shall have an error no greater than 2° F when measuring specific temperatures over the range of 65° to 330° F. It shall also have an error no greater than 2° F when measuring any temperature difference up to 240° F within the above range.

2.9.3.4 *Microwave oven and test load temperatures.* The thermometer or other equipment used to measure the microwave oven temperature and its test load temperature shall have an error no greater than 1° F over the range of 65° to 140° F.

2.9.3.5 *Temperature indicator system for measuring surface temperatures.* The temperatures of an external surface of an appliance shall be measured by means of a thermocouple in firm contact with the surface. The temperature indicating system shall have an error no greater than ±1° F over the range 65° to 90° F.

2.9.4 *Standard continuous flow calorimeter.* The calorimeter shall have an operating range of 750 to 3,500 Btu's per cubic foot. The maximum error of the basic calorimeter shall be no greater than 0.2 percent of the gross heating value of the gas used in the test. The indicator readout shall have a maximum error no greater than 0.5 percent of the measured value within the above operating range and a resolution of 0.2 percent or less of the full scale reading of the indicator instrument.

2.9.5 *Scale.* The scale used for weighing the test blocks shall have a maximum error no greater than one ounce.

3. *Test methods and measurements.*

3.1 *Test methods.*

3.1.1 *Conventional oven.* Perform a test by establishing the testing conditions set forth in 2 of this appendix, and adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top, if so equipped.

Before beginning the test, the conventional oven shall be at its normal nonoperating temperature as defined in 1.5 and described in 2.6. Set the conventional oven test block W_1 approximately in the center of the usable baking space. If there is a selector switch for selecting the mode of operation of the oven, set for normal baking. If an oven permits baking by either forced convention using a fan, or without forced convection, the oven is to be tested in each of those two modes. If the oven thermostat does not cycle on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325° ±5° F higher than the room ambient air temperature. If the oven thermostat operates by cycling on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325° ±5° F of higher than the room ambient air temperature. If the oven thermostat operates by cycling on and off, the oven shall remain on for at least one complete thermostat "cut-off/cut-on" of the electrical resistance heaters or gas burners after the test block temperature has increased 234° F above its initial temperature.

3.1.1.1 *Self-cleaning operation of a conventional oven.* Perform a test by establishing the test conditions set forth in 2 of this appendix. Adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top. The temperature of the conventional oven shall be its normal nonoperating temperature as defined in 1.5 and described in 2.6. Then set the conventional oven's self-cleaning process in accordance with the manufacturer's instructions. If the self-cleaning process is adjustable, use the average time recommended by the manufacturer for a moderately soiled oven.

3.1.1.2 *Continuously burning pilot lights of a conventional gas oven.* Perform a test by establishing the test conditions set forth in 2 of this appendix. Adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top. If a positive displacement gas meter is used the test duration shall be sufficient to measure a gas consumption which is at least 200 times the resolution of the gas meter.

3.1.2 *Conventional cooking top.* Perform a test by establishing the test conditions set forth in 2 of this Appendix. Adjust any pilot lights of a conventional gas cooking top in accordance with the manufacturer's instructions and turn off the gas flow to the conventional oven(s), if so equipped. The temperature of the conventional cooking top shall be its normal nonoperating temperature as defined in 1.5 and described in 2.6. Set the test block in the center of the surface unit under test. The small test block, W_3, shall be used on electric surface units of 7 inches or less in diameter. The large test block, W_2, shall be used on electric surface units over 7 inches in diameter and on all gas surface units. Turn on the surface unit under test and set its energy input rate to the maximum setting (100 percent). When the test block reaches 144°F above its initial test block temperature, immediately reduce the energy input rate to 25±5 percent of the maximum energy input rate. After 15±0.1 minutes at the reduced energy setting, turn off the surface unit under test.

3.1.2.1 *Continuously burning pilot lights of a conventional gas cooking top.* Perform a test by establishing the test conditions set forth in 2 of this Appendix. Adjust any pilot lights of a conventional gas cooking top in accordance with the manufacturer's instructions and turn off the gas flow to the conventional oven(s). If a positive displacement gas meter is used the test duration shall be sufficient to measure a gas consumption which is at least 200 times the resolution of the gas meter.

3.1.3 *Microwave oven.* Perform the tests by establishing the testing conditions set forth in 2 of this Appendix. Four tests are to be conducted with the water test loads in the following sequence: 2,000 ml, 1,000 ml, 500 ml and 275 ml. For each test, place the appropriate test beaker(s) containing the water load specified in 2.8.2 in approximately the center of the load carrying surface of the oven, and operate the microwave oven at its maximum microwave power setting until the temperature of the water load has been raised 45±9° F. Allow one minute for changing the test load beakers between each of the tests.

For the 2,000 ml test, set the two test beakers, each containing 1,000 ml of the specified water load, side by side, in the approximate center of the oven.

3.2 *Test measurements.*

3.2.1 *Conventional oven test energy consumption.* If the oven thermostat is a type which controls the oven temperature without cycling on and off, measure the energy consumed, E_A, when the temperature of the block reaches T_o (T_o is 234° F above the initial block temperature, T_I). If the oven thermostat operates by cycling on and off, make the following series of measurements: Measure the block temperature, T_A, and the energy consumed, E_A, at the end of the last "ON" period of the conventional oven before the block reaches T_o. Measure the block temperature, T_B, and the energy consumed, E_B, at the beginning of the next "ON" period. Measure the block temperature, T_C, and the energy consumed, E_C, at the end of that "ON" period. Measure the block temperature, T_D, and the energy consumed, E_D, at the beginning of the following "ON" period. Energy measurements for E_A, E_B, E_C and E_D should be expressed in watt-hours for conventional electric ovens or standard cubic feet of gas for conventional gas ovens. For a gas oven measure in watt-hours any electrical energy, E_{IG}, consumed by an ignition device or other electrical components required for the operation of a conventional gas oven while heating the test block to T_o.

3.2.1.1 *Energy consumption of self-cleaning operation.* Measure the self-cleaning conventional electric or gas oven energy consumption, E_S, specified as the number of watt-hours of electrical energy or standard cubic feet of gas, respectively, consumed during the self-cleaning test set forth in 3.1.1.1. For a gas oven also measure in watt-hours any electrical energy, E_{IS}, consumed by an ignition device or other electrical components required during the self-cleaning test.

3.2.1.2 *Gas consumption of continuously burning pilot lights.* Measure the gas consumption of the pilot lights, P_{cs}, in standard cubic feet of gas and the test duration, L_c, in hours for the test set forth in 3.1.1.2. If a gas flow meter is used, measure the flow rate, P_s, in standard cubic feet per hour.

3.2.1.3 *Clock power.* If the conventional oven, conventional range, or microwave/conventional range includes an electric clock which is on continuously, and the power rating in watts of this feature is not know, measure the clock power, P_{CL}, in watts.

3.2.2 *Conventional surface unit test energy consumption.* For the surface unit under test, measure the energy consumption, E_{CT}, in standard cubic feet of gas or watt-hours of electricity, respectively, and the test block temperature, T_{CT}, at the end of the 15 minute (reduced input setting) test interval for the test specified in 3.1.2 and the total time, T_T, in hours, that the unit is under test. Measure any electrical energy, E_{IC}, consumed by an ignition device of a gas heating element in watt-hours.

3.2.2.1 *Gas consumption of continuously burning pilot lights.* If the conventional gas cooking top under test has one or more continuously burning pilot lights, measure the gas consumed during the test by the pilot lights, P_c, in standard cubic feet of gas, and the test duration, L_c, in hours as specified in 3.1.2.1. If a gas flow meter is used, measure the flow rate, P, in standard cubic feet per hour.

3.2.3 *Microwave oven test energy consumption.* Measure the initial, T_I, and final, T_F, temperatures, in degrees Fahrenheit (°F), of the water test load for the 2,000 ml, 1,000 ml, 500 ml and 275 ml tests. The final temperature, T_F, shall be measured after the test load has been stirred to insure uniform temperature distribution. Measure the elapsed time, t, in seconds, until the temperature rise of the water load is 45±9° F.

Measure for each test specified in 3.1.3 the electical input energy, E_M, in watt-hours consumed by the microwave oven during the elapsed time, t.

3.3 *Recorded values.*

3.3.1 Record the test room temperature, T_R, at the start and end of each test.

3.3.2 Record measured test block weights W_1, W_2, and W_3 in pounds.

3.3.3 Record the initial temperature, T_I, of the test block under test.

3.3.4 For a conventional oven with a thermostat which operates by cycling on and off, record the conventional oven test measurements T_A, E_A, T_B, E_B, T_C, E_C, T_D, and E_D. If the thermostat controls the oven temperature without cycling on and off, record E_o. For a gas oven which also uses electrical energy for the ignition or operation of the oven, also record E_{IG}.

3.3.5 Record the measured energy consumption, E_S, and for a gas oven, any electrical energy, E_{IS}, for the test of the self-cleaning operation of a conventional oven.

3.3.6 Record the gas flow rate, P_S; or the gas consumption, P_c, and the elapsed time, L_c, that any continuously burning pilot lights of a conventional oven are under test.

3.3.7 Record the clock power measurement or rating, P_{CL}, in watts.

3.3.8 For the surface unit under test, record the energy consumption, E_{CT}, the final test block temperature, T_{CT}, the total test time, T_T. For a gas cooking top which uses electrical energy for ignition of the burners, also record E_{IC}.

3.3.9 Record the gas flow rate, P; or the gas consumption, P_c, and the elapsed time, L_c, that any continuously burning pilot lights of a conventional cooking top are under test.

3.3.10 Record the heating value, H_n, as determined in 2.2.2.2 for the natural gas supply.

3.3.11 Record the heating value, H_p, as determined in 2.2.2.3 for the propane supply.

3.3.12 Record the electrical input energy, E_M, the elapsed time, t, and initial, T_I, and final, T_F, temperature of the water load for each microwave oven test.

4. *Calculation of derived results from test measurements.*

4.1 *Conventional oven.*

4.1.1 *Test energy consumption.* For a conventional oven with a thermostat which operates by cycling on and off calculate the test energy consumption, E_o, corresponding to T_o with the aid of the figure in 5 of this Appendix, expressed in watt-hours for electric ovens and in Btu's for gas ovens, and defined as:

$$E_o = E_{AB} + \left[\left(\frac{T_o - T_{AB}}{T_{CD} - T_{AB}}\right) \times (E_{CD} - E_{AB})\right]$$

for electric ovens,

and,

$$E_o = (E_{AB} \times H) + \left[\left(\frac{T_o - T_{AB}}{T_{CD} - T_{AB}}\right) \times \left(E_{CD} - E_{AB}\right) \times H\right]$$

for gas ovens

where:

H=either H_n or H_p, the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3, expressed in Btu's per standard cubic foot.

T_o = 234°F plus the initial test block temperature

$$T_{AB} = \frac{T_A + T_B}{2}$$

$$T_{CD} = \frac{T_C + T_D}{2}$$

$$E_{AB} = \frac{E_A + E_B}{2}$$

$$E_{CD} = \frac{E_C + E_D}{2},$$

where:

T_A=block temperature at the end of the last "ON" period of the conventional oven before the test block reaches T_o.

E_A=volume of gas consumed in standard cubic feet at the end of the last "ON" period before the test block reaches T_o.

T_B=block temperature at the beginning of the "ON" period following the measurement of T_A.

E_B=volume of gas consumed in standard cubic feet of gas at the beginning of the "ON" period following the measurement T_A.

T_C=block temperature at the end of the "ON" period which starts with T_B.

E_C=volume of gas consumed in standard cubic feet of gas at the end of the "ON" period which starts with T_B.

T_D=block temperature at the beginning of the "ON" period which follows the measurement of T_C.

E_D=volume of gas consumed in standard cubic feet of gas at the beginning of the "ON" period which follows the measurement of T_C.

4.1.1.1 *Average test energy consumption.* If the conventional oven can be operated with or without forced convection, deter-

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mine the average test energy consumption, E_O and E_{IO}, using the following equations:

$$E_O = \frac{(E_O)_1 + (E_O)_2}{2}$$

$$E_{IO} = \frac{(E_{IO})_1 + (E_{IO})_2}{2},$$

where:

$(E_o)_1$, $(E_o)_2$=Test energy consumption in each baking mode as measured in 3.2.1 or as calculated in 4.1.1.

$(E_{IO})_1$, $(E_{IO})_2$=electrical energy consumption of a gas oven in each baking mode as measured in 3.2.1.

4.1.2 *Conventional oven annual energy consumption.*

4.1.2.1. *Annual cooking energy consumption.*

4.1.2.1.1. *Annual primary energy consumption.* Calculate the annual primary energy consumption for cooking, E_{CO}, expressed in kilowatt-hours for electric ovens and in Btu's for gas ovens, and defined as:

$$E_{CO} = \frac{E_O \times H_E \times O_O}{W_1 \times C_p \times T} \quad \text{for electric ovens,}$$

where:

E_O=test energy consumption as calculated in 4.1.1 of 4.1.1.1.

H_E=3.412 Btu's/Wh, conversion factor of watt-hours to Btu's.

O_O=47.09 kWh's, annual useful cooking energy output of conventional electric oven.

W_1=measured weight of test block in pounds.

C_P=0.23 Btu/lb-°F, specific heat of test block.

or,

T=234°F, temperature rise of test block.

$$E_{CO} = \frac{E_O \times O_O}{W_1 \times C_P \times T} \quad \text{for gas ovens,}$$

where:

E_O=test energy consumption as measured in 3.2.1. or as calculated in 4.1.1 or 4.1.1.1.

O_o=160,700 Btu's, annual useful cooking energy output of conventional gas oven.

W_1C_p and T are the same as defined above.

4.1.2.1.2 *Annual secondary energy consumption for cooking of gas ovens.* Calculate the annual secondary energy consumption for cooking, E_{SO}, expressed in kilowatt-hours and defined as:

$$E_{SO} = \frac{E_{IO} \times H_E \times O_O}{W_1 \times C_p \times T},$$

where:

E_{IO}=electrical test energy according to 3.2.1 or as calculated in 4.1.1.1.

O_O=47.09 kWh's, annual useful cooking energy output.

H_E, W, C_P, and T are as defined in 4.1.2.1.1.

4.1.2.2 *Annual energy consumption of any continuously burning pilot lights.* Calculate the annual energy consumption of any continuously burning pilot lights, E_{PO}, expressed in Btu's and defined as:

$$E_{PO} = P_R \times H \times (A\text{-}B),$$

where:

$$P_R = \frac{P_O}{L_O}$$

=pilot flow rate in standard cubic feet per hour where P_O and L_O are defined below.

P_O=Standard cubic feet of gas consumed by any continuously burning pilot lights as determined in 3.2.1.2.

H=H_s or H_e,the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3 in Btu's per standard cubic foot.

L_o=elapsed test time in hours for any continuously burning pilot lights tested.

A=8,760, number of hours in a year.

B=300, number of hours any continuously burning pilot lights contribute to the heating of an oven for cooking food.

4.1.2.3 *Annual conventional oven self-cleaning energy.*

4.1.2.3.1 *Annual primary energy consumption.* Calculate the annual primary energy consumption for conventional oven self-cleaning operations, E_{SC}, expressed in kilowatt-hours for electric ovens and in Btu's for gas ovens, and defined as:

$$E_{SC} = E_S \times S_s \times C, \text{ for electric ovens,}$$

where:

E_S=energy consumption in watt-hours as measured in 3.2.1.1.

S_s=11, average number of times a self-cleaning operation of a conventional electric oven is used per year.

C=.001 kW/W conversion factor of watts to kilowatts.

or

$$E_{SC} = E_S \times H \times S_s, \text{ for gas ovens,}$$

where:

E_S=gas consumption in standard cubic feet per oven tested according to 3.2.1.1.

H=H_s or H_e, the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3 in Btu's per standard cubic foot.

S_s=7, average number of times a self-cleaning operation of a conventional gas oven is used per year.

4.1.2.3.2 *Annual secondary energy consumption for self-cleaning operation of gas ovens.* Calculate the annual secondary energy consumption for self-cleaning operations of a gas oven, E_{SS}, expressed in kilowatt-hours and defined as:

$$E_{SS} = E_{IS} \times S_s \times C,$$

where:

E_{IS}=electrical energy consumed during the self-cleaning operation of a conventional gas oven, as measured in 3.2.1.1.

S_s and C are the same as defined in 4.1.2.3.1.

4.1.2.4 *Annual clock energy consumption.* Calculate the annual energy consumption of any constantly operating electric clock, E_{CL}, expressed in kilowatt-hours and defined as:

$$E_{CL} = P_{CL} \times H_K,$$

where:

P_{CL}=power rating, in watts, of clock which is on continuously.

K_K=8.76, thousands of hours in a year.

4.1.2.5 *Total annual energy consumption of a single conventional oven.*

4.1.2.5.1 *Electric oven energy consumption.* Calculate the total annual energy consumption of a conventional electric oven, E_{AO}, expressed in kilowatt-hours and defined as:

$$E_{AO} = E_{CO} + E_{SC} + E_{CL},$$

where:

E_{CO}=annual cooking energy consumption as determined in 4.1.2.1.1.

E_{SC}=annual self-cleaning energy consumption as determined in 4.1.2.3.1.

E_{CL}=annual clock energy consumption as determined in 4.1.2.4.

4.1.2.5.2 *Conventional gas oven energy consumption.* Calculate the total annual gas energy consumption of a conventional gas oven, E_{AOG}, expressed in Btu's and defined as:

$$E_{AOG} = E_{CO} + E_{PO} + E_{SC},$$

where:

E_{CO}=annual primary cooking energy consumption as determined in 4.1.2.1.1.

E_{PO}=annual pilot energy consumption as determined in 4.1.2.2.

E_{SC}=annual primary self-cleaning energy consumption as determined in 4.1.2.3.1.

If the conventional gas oven uses electrical energy, calculate the total annual electrical energy consumption, E_{AOE}, expressed in kilowatt-hours, and defined as:

$$E_{AOE} = E_{SO} + E_{SS} + E_{CL},$$

where:

E_{SO}=annual secondary cooking energy consumption as determined in 4.1.2.1.2.

E_{SS}=annual secondary self-cleaning energy consumption as determined in 4.1.2.3.2.

E_{CL}=annual clock energy consumption as determined in 4.1.2.4.

The total annual energy consumption of a conventional gas oven, E_{AO}, is comprised of E_{AOG}, expressed in Btu's and E_{AOE}, expressed in kilowatt-hours, as computed above.

4.1.2.6. *Total annual energy consumption of multiple conventional ovens.* If the cooking appliance includes more than one conventional oven calculate the total annual energy consumption of the conventional ovens using the following equations:

4.1.2.6.1 *Conventional electric ovens energy consumption.* Calculate the total annual energy consumption, E_{TO}, in kilowatt-hours and defined as:

$$E_{TO} = E_{ACO} + E_{ASC} + E_{CL},$$

where:

$$E_{ACO} = \frac{1}{n} \sum_{i=1}^{n} (E_{CO})_i,$$

average annual primary energy consumption for cooking, where:

n=number of conventional ovens in the basic model.

E_{CO}=annual primary energy consumption for cooking as determined in 4.1.2.1.1.

$$E_{ASC} = \frac{1}{n} \sum_{i=1}^{n} (E_{SC})_i,$$

average annual self-cleaning energy consumption, where:

n=number of self-cleaning conventional ovens in the basic model.

E_{SC}=self-cleaning energy consumption as determined according to 4.1.2.3.1.

E_{CL}=clock energy consumption as determined according to 4.1.2.4.

4.1.2.6.2 *Conventional gas ovens energy consumption.* Calculate the total annual gas energy consumption, E_{TOG}, in Btu's and define as:

$$E_{TOG} = E_{ACO} + E_{ASC} + E_{TPO},$$

where:

E_{ACO}=average annual primary energy consumption in Btu's as defined in 4.1.2.6.1.

E_{ASC}=average annual self-cleaning energy consumption in Btu's as defined in 4.1.2.6.1.

$$E_{TPO} = \sum_{i=1}^{n} (E_{PO})_i,$$

total annual energy consumption of any pilot lights, where:

E_{PO}=annual energy consumption of any continuously burning pilot lights determined according to 4.1.2.2.

n=number of pilot lights in the basic model.

If the ovens also use electrical energy calculate the total annual electrical energy consumption, E_{TOE}, in kilowatt-hours and defined as:

$$E_{TOE} = E_{ASO} + E_{ASS} + E_{CL},$$

where:

$$E_{ASO} = \frac{1}{n} \sum_{i=1}^{n} (E_{SO})_i,$$

average annual secondary energy consumption for cooking, where:

n=number of conventional ovens in the basic model.

E_{SO}=annual secondary energy consumption for cooking as determined in 4.1.2.1.2.

$$E_{ASS} = \frac{1}{n} \sum_{i=1}^{n} (E_{SS})_i,$$

average annual secondary self-cleaning energy consumption, where:

n=number of self-cleaning ovens in the basic model.

E_{SS}=annual secondary self-cleaning energy consumption as determined in 4.1.2.3.2.

E_{CL}=annual clock energy consumption as determined in 4.1.2.4.

The total annual energy consumption of multiple gas ovens, E_{TO}, is comprised of E_{TOG} expressed in Btu's, and E_{TOE} expressed in kilowatt-hours, as computed above.

4.1.3 *Conventional oven cooking efficiency.*

4.1.3.1 *Single conventional oven.* Calculate the conventional oven cooking efficiency, Eff_{AO}, using the following equations:

For electric ovens:

$$Eff_{AO} = \frac{W_1 \times C_p \times T}{E_O \times H_E},$$

For gas ovens:

$$Eff_{AO} = \frac{W_1 \times C_p \times T}{E_O + (E_{IO} \times H_E)},$$

where:

W_1=measured weight of test block in pounds.

C_p=0.23 Btu/lb-° F, specific heat of test block.

T=234° F, temperature rise of test block.

E_O=test energy consumption as measured in 3.2.1 or calculated in 4.1.1 or 4.1.1.1.

H_E=3.412 Btu's/Wh, conversion factor for watt-hours to Btu's.

E_{IO}=electrical test energy consumption according to 3.2.1 or as calculated in 4.1.1.1.

4.1.3.2 *Multiple conventional ovens.* If the cooking appliance includes more than one conventional oven, calculate the cooking efficiency for all of the conventional ovens in the appliance, Eff_{TO}, using the following equation:

$$Eff_{TO} = \frac{n}{\sum_{i=1}^{n} \left(\frac{1}{Eff_{AO}}\right)_i},$$

where:

n=number of conventional ovens in the cooking appliance.

Eff_{AO}=cooking efficiency of each oven determined according to 4.1.3.1.

4.1.4 *Conventional oven energy factor.*

4.1.4.1 *Single conventional oven.* Calculate the energy factor, or the ratio of useful cooking energy output to the total energy input, R_O, using the following equations:

For electric ovens,

$$R_O = \frac{O_O}{E_{AO}},$$

where:

O_o=47.09 kWh's per year, annual useful cooking energy output.

E_{AO}=total annual energy consumption as determined in 4.1.2.5.1.

For gas ovens,

$$R_O = \frac{O_O}{E_{AOG} + (E_{AOE} \times H_e)},$$

where:

O_o=160,700 Btu's per year, annual useful cooking energy output.

E_{AOG}=total annual gas energy consumption as determined in 4.1.2.5.2.

E_{AOE}=total annual electrical energy consumption as determined in 4.1.2.5.2.

H_e=3.412 Btu's/kWh, conversion factor for kilowatt-hours to Btu's.

4.1.4.2 *Multiple conventional ovens.* If the cooking appliance includes more than one conventional oven, calculate the energy factor for all of the ovens, R_{TO}, using the following equations:

For electric ovens,

$$R_{TO} = \frac{O_O}{E_{TO}},$$

where:

O_o=47.09 kWh's per year, annual useful cooking energy output.

E_{TO}=total energy consumption as determined according to 4.1.2.6.

For gas ovens,

$$R_{TO} = \frac{O_O}{E_{TOG} + (E_{TOE} \times H_e)},$$

where:

O_o=160,700 Btu's per year, annual useful cooking energy output.

E_{TOG} and E_{TOE} are determined according to 4.1.2.6.2.

H_e=3,412 Btu's/kWh, conversion factor for kilowatt-hours to Btu's.

4.2 *Conventional cooking top*

4.2.1 *Conventional cooking top cooking efficiency*

4.2.1.1 *Electric surface unit cooking efficiency.* Calculate the cooking efficiency, Eff_{SU}, of the electric surface unit under test, and defined as:

$$Eff_{SU} = W \times C_P \times \left(\frac{T_{su}}{\frac{H \times E}{E_{CT}}}\right),$$

where:

W=measured weight of test block, W_1 or W_s, expressed in pounds.

C_p=0.23 Btu's/lb-° F, specific heat of test block.

T_{su}=temperature rise of the test block: final test block temperature, T_{CT}, as determined in 3.2.2, minus the initial test block temperature, T_I, expressed in ° F.

H_E=3.412 Btu's/Wh, conversion factor of watt-hours to Btu's.

E_{CT}=measured energy consumption, as determined according to 3.2.2, expressed in watt-hours.

4.2.1.2 *Gas surface unit cooking efficiency.* Calculate the cooking efficiency, Eff_{SU}, of the gas surface unit under test, and defined as:

$$Eff_{SU} = \frac{W \times C_P \times T_{su}}{\frac{3}{E}},$$

where:

W_s=measured weight of test block according to 3.3.2, expressed in pounds.

C_p and T_{su} are the same as defined in 4.2.1.1.

$$E = \left[(E_{CT} - E_{CP}) \times H\right] + (E_{IC} \times H_E),$$

where:

E_{CT}=total gas consumption for the gas surface unit test as defined in 3.2.2.

E_{IC}=electrical energy consumed by an ignition device of a gas surface unit as defined in 3.2.2.

H_E=3.412 Btu's/Wh, conversion factor of watt-hours to Btu's.

H=either H_s or H_e, the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3, expressed in Btu's per standard cubic foot of gas.

E_{CP}=P x T, (pilot consumption, in standard cubic feet, during unit test) where

$P = \frac{P_c}{L_c}$, (pilot flow in standard cubic feet per hour)

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where:
P_c=any pilot lights gas consumption defined in 3.2.2.1.
I_e=elapsed time of the cooking top pilot lights test as defined in 3.1.2.1.
T_T=the elapsed test time as defined in 3.2.2.

4.2.1.3 *Conventional cooking top cooking efficiency.* Calculate the conventional cooking top cooking efficiency, Eff_{CT}, using the following equation:

$$Eff_{CT} = \frac{1}{n} \sum_{i=1}^{n} (Eff_{SU})_i,$$

where:
n=number of surface units in the cooking top.
Eff_{SU}=the efficiency of each of the surface units, as determined according to 4.2.1.1 or 4.2.1.2.

4.2.2 *Conventional cooking top annual energy consumption.*

4.2.2.1 *Conventional electric cooking top energy consumption.* Calculate the annual energy consumption of an electric cooking top, E_{CA}, in kilowatt-hours per year and defined as:

$$E_{CA} = \frac{O_{CT}}{Eff_{CT}},$$

where:
O_{CT}=277.7 kWh per year, annual useful cooking energy output.
Eff_{CT}=conventional cooking top cooking efficiency as defined in 4.2.1.3.

4.2.2.2 *Conventional gas cooking top*

4.2.2.2.1 *Annual cooking energy consumption.* Calculate the annual energy consumption for cooking, E_{CC}, in Btu's per year for a gas cooking top and defined as:

$$E_{CC} = \frac{O_{CT}}{Eff_{CT}},$$

where:
O_{CT}=947,500 Btu's, annual useful cooking energy output.
Eff_{CT}=the gas cooking top efficiency as defined in 4.2.1.3.

4.2.2.2.2 *Annual energy consumption of any continuously burning gas pilots.* Calculate the annual energy consumption of any continuously burning gas pilot lights of the cooking top, E_{PC}, in Btu's per year and defined as:

$$E_{PC} = P \times A \times H,$$

where:
P=pilot light flow rate as defined in 4.2.1.2, or as measured in 3.2.2.1.
A=8,760 hours, the total number of hours in a year.
H=either H_n or H_p, the heating value of the gas used in the test as specified in 2.2.2.2. and 2.2.2.3, expressed in Btu's per standard cubic foot of gas.

4.2.2.2.3 *Total annual energy consumption of a conventional gas cooking top.* Calculate the total annual energy consumption of a conventional gas cooking top, E_{CA}, in Btu's per year and defined as:

$$E_{CA} = E_{CC} + E_{PC},$$

where:
E_{CC}=energy consumption for cooking as determined in 4.2.2.2.1.
E_{PC}=annual energy consumption of the pilot lights as determined in 4.2.2.2.2.

4.2.3 *Conventional cooking top energy factor.* Calculate the energy factor, or ratio of useful cooking energy output for cooking to the total energy input, R_{CT}, as follows:

For an electric cooking top the energy factor is the same as the cooking efficiency as determined according to 4.2.1.3.

For gas cooking tops,

$$R_{CT} = \frac{O_{CT}}{E_{CA}},$$

where:
O_{CT}=947,500 Btu's per year, annual useful cooking energy output of cooking top.
E_{CA}=total annual energy consumption of cooking top determined according to 4.2.2.2.3.

4.3 *Conventional range.*

4.3.1 *Conventional range annual energy consumption.* Calculate the conventional range annual energy consumption, E_R, in kWh's per year for electrical energy and Btu's per year for gas energy, and defined as:

$E_R = E_{AT} + E_{CA}$, where gas and electrical energy are added separately, and where

$E_{AT}=E_{AO}$ or E_{TO}, the conventional oven(s) annual energy consumption in kWh's per year and/or Btu's per year as determined in 4.1.2.5 or 4.1.2.6.
C_{CA}=the conventional cooking top annual energy consumption in kWh's per year or Btu's per year as defined in 4.2.2.

4.3.2 *Conventional range cooking efficiency.* Calculate the conventional range cooking efficiency, Eff_R, and defined as:

$$Eff_R = \frac{1}{\frac{0.145}{Eff_O} + \frac{0.855}{Eff_{CT}}},$$

where:
$Eff_O=Eff_{AO}$ or Eff_{TO}, the cooking efficiency of the oven(s) as determined according to 4.1.3.1 or 4.1.3:2.
Eff_{CT}=cooking top efficiency as determined in 4.2.1.3.

The constants 0.145 and 0.855 are fractions of the annual useful energy output represented by oven usage and cooking top usage respectively.

4.3.3 *Conventional range energy factor.* Calculate the energy factor, or the ratio of the useful cooking energy output to the total energy input on a yearly basis for the complete range, R_R, and defined as:

$$R_R = \frac{O_R}{E_R},$$

where:
O_R=1,108,000 Btu's, annual useful cooking energy output.
E_R=total annual energy consumption as determined in 4.3.1 and with all values for electrical energy converted from kilowatt-hours to Btu's by multiplying by 3,412 Btu's per kWh.

4.4 *Microwave oven.*

4.4.1 *Specific microwave oven cooking efficiency for each test load.* Calculate the specific microwave oven cooking efficiency, Eff_i, for each test load and defined as:

$$Eff_i = \frac{W \times F \times T_M}{E_M},$$

where:
W=size of the test load, in milliliters
$T_M=T_F-T_I$,
where:
T_F=the final temperature expressed in °F of the test load as defined in 3.2.3.
T_I=the initial temperature expressed in °F of the test load as defined in 3.2.3.
F=.000646 Watt-hr/Ml-°F (used to convert milliliters of water times degrees Fahrenheit to watt-hours).
E_M=the energy consumption as defined in 3.2.3.

4.4.2 *Microwave oven cooking efficiency.* Calculate the microwave oven cooking efficiency, Eff_{MO}, and defined as:

$$Eff_{MO} = \frac{1}{n} \sum_{i=1}^{n} Eff_i$$

n=4, the number of test loads.
Eff_i=the specified microwave cooking efficiency of each test load as determined in 4.4.1.

4.4.3 *Microwave oven annual energy consumption.* Calculate the microwave oven annual energy consumption, E_{MO}, in kWh's per year, and defined as:

$$E_{MO} = \frac{O_M}{Eff_{MO}} + (P_{MC} \times H_k),$$

where:
O_M=34.2 kWh's per year, the microwave oven annual useful cooking energy output.
Eff_{MO}=the microwave oven cooking efficiency as defined in 4.4.2.
P_{MC}=the power rating of features (such as clocks), expressed in watts. The power rating is the power drawn from the electrical supply when the microwave oven is turned off.
H_k=8.76, the number of thousand hours in a year.

4.4.4 *Microwave oven energy factor.* Calculate the energy factor or the ratio of the useful cooking energy output to total energy input on a yearly basis, R_{MO}, and defined as:

$$R_{MO} = \frac{O_M}{E_{MO}},$$

where:
O_M=34.2 kWh, annual useful cooking energy output.
E_{MO}=annual total energy input as determined in 4.4.3.

4.5 *Microwave/conventional range.*

4.5.1 *Annual energy consumption.*

4.5.1.1 *Annual energy consumption of the conventional oven for cooking.*

4.5.1.1.1 *Annual primary energy consumption.* Calculate the annual primary energy consumption for cooking of a conventional oven in combination with a microwave oven, E_{COM}, expressed in Btu's for gas ovens and in kilowatt-hours for electric ovens, with the following equation:

$$E_{COM} = K \times E_{CO},$$

where:
K=0.82, estimated fraction of usage for a conventional oven due to microwave oven usage.
E_{CO}=energy consumption as calculated in 4.1.2.1.1.

4.5.1.1.2 *Annual secondary energy consumption for a gas oven.* Calculate the annual secondary energy consumption for cooking of a gas oven in combination with a microwave oven, E_{SOM}, expressed in kilowatt-hours, with the following equation:

$$E_{SOM} = K \times E_{SO},$$

where:
K=0.82, as defined in 4.5.1.1.1.
E_{SO}=energy consumption as calculated in 4.1.2.1.2.

4.5.1.2 *Annual energy consumption of the conventional cooking top.* Calculate the annual energy consumption of a cooking top in combination with a microwave oven, E_{CAM}, expressed in kilowatt-hours for an electric cooking top and in Btu's for a gas cooking top, with the following equations:

For electric cooking tops:

$$E_{CAM} = L \times E_{CA},$$

where:
L=0.85, estimated fraction of usage for a conventional cooking top due to mircowave oven usage.
E_{CA}=energy consumption as calcuated in 4.2.2.1.

For gas cooking tops:

$$E_{CAM} = (L \times E_{CC}) + E_{PC},$$

where:
E_{CC}=annual energy consumption for cooking as determined in 4.2.2.2.1.
E_{PC}=annual energy consumption of surface pilots as determined in 4.2.2.2.2.
L=0.85, as defined above.

4.5.1.3 *Total annual energy consumption of microwave/conventional range.*

4.5.1.3.1 *Microwave/conventional electric range.* Calculate the total annual energy consumption of all-electric microwave/conventional range, E_{RM}, expressed in kilowatt-hours per year with the following equation:

$$E_{RM} = E_{COM} + E_{SC} + E_{CL} + E_{CAM} + E_{MO},$$

where:
E_{COM}=primary energy consumption for oven cooking as determined in 4.5.1.1.1.
E_{SC}=primary energy consumption for oven self-cleaning as determined in 4.1.2.3.1.
E_{CL}=conventional oven clock energy consumption as determined in 4.1.2.4.
E_{CAM}=cooking top energy consumption as determined in 4.5.1.2.
E_{MO}=microwave oven energy consumption as determined in 4.4.3.

4.5.1.3.2 *Microwave/conventional gas range.* For a microwave/conventional range with a conventional gas cooking top and gas oven calculate the total annual gas consumption, E_{RMG}, in Btu's and defined as:

$$E_{RMG} = E_{COM} + E_{SC} + E_{CAM} + E_{PO} + E_{PC},$$

where:
E_{COM}, E_{SC}, and E_{CAM} are the same as defined in 4.5.1.3.1.
E_{PO}=gas oven pilot energy consumption as determined in 4.1.2.2.
E_{PC}=gas cooking top pilot energy consumption as determined in 4.2.2.2.2.

Calculate the total annual electrical energy consumption, E_{RME}, in kilowatt-hours and defined as:

$$E_{RME} = E_{MO} + E_{SOM} + E_{SS} + E_{CL},$$

where:
E_{MO}=microwave oven energy consumption as determined in 4.4.3.
E_{SOM}=secondary energy consumption for oven cooking as determined in 4.5.1.1.2.
E_{SS}=secondary energy consumption for oven self-cleaning as determined in 4.1.2.3.2.
E_{CL}=conventional oven clock energy consumption as determined in 4.1.2.4.

The total annual energy consumption of a gas and electric microwave/conventional range, E_{RM}, is comprised of E_{RMG}, expressed in Btu's, and E_{RME}, expressed in kilowatt-hours, as computed above.

4.5.2. *Cooking efficiency of microwave/conventional range.* Calculate the cooking efficiency of a microwave/conventional range, Eff_{RM}, and defined as:

$$Eff_{RM} = \frac{1}{\frac{0.1250}{Eff_{AO}} + \frac{0.7643}{Eff_{CT}} + \frac{0.1107}{Eff_{MO}}},$$

where:
Eff_{AO}=cooking efficiency of conventional oven as determined in 4.1.3.1.
Eff_{CT}=cooking efficiency of the cooking top as determined in 4.2.1.3.
Eff_{MO}=microwave oven cooking efficiency as determined in 4.4.2.

The constants 0.1250, 0.7643 and 0.1107 are the fractions of total annual useful energy output represented by conventional oven usage, cooking top usage, and microwave oven usage respectively.

4.5.3. *Energy factor of microwave/conventional range.* Calculate the energy factor of a microwave/conventional range, R_{RM}, and defined as:

For all-electric ranges,

$$R_{RM} = \frac{O_{RM}}{E_{RM}},$$

where:
O_{RM}=308.9 kWh, annual useful cooking energy output.
E_{RM}=total annual energy consumption as determined in 4.5.1.3.1.

For ranges which use both gas and electrical energy,

$$R_{RM} = \frac{O_{RM}}{(E_{RME} \times H_e) + E_{RMG}},$$

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where:

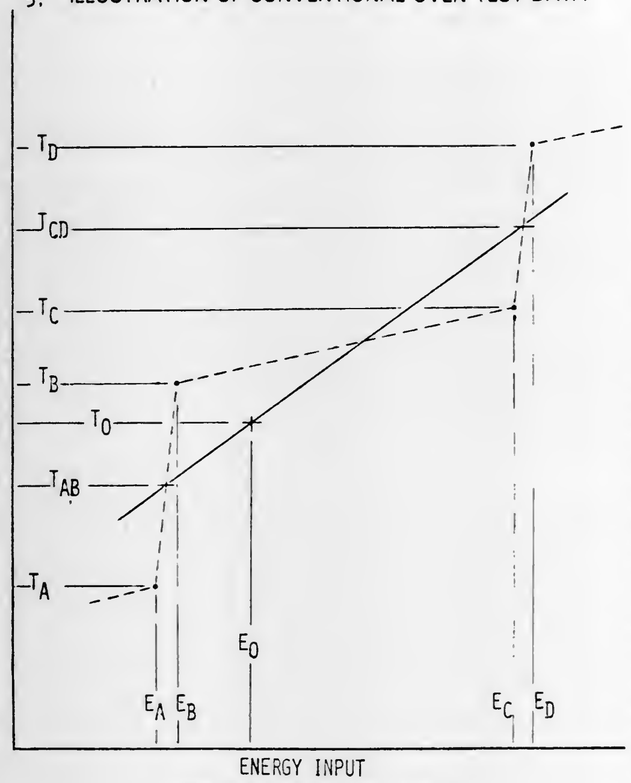
O_{Rm} = 1,054,000 Btu, annual useful cooking energy output.

E_{RME} = total annual electrical energy consumption as determined in 4.5.1.3.2.

E_{RMG} = total annual gas energy consumption as determined in 4.5.1.3.2.

H_e = 3412 Btu's/kWh, conversion factor for kilowatt-hours to Btu's.

5. ILLUSTRATION OF CONVENTIONAL OVEN TEST DATA



[FR Doc. 78-12460 Filed 5-9-78; 8:45 am]

[3128-01]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Unvented Home Heating Equipment

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for unvented home heating equipment. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act. The effect of this action is to establish standard methods of testing when testing is required by the Act or by regulations implementing other parts of the program.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

A. Background

On October 1, 1977, pursuant to the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91) the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) under the Energy Policy and Conservation Act (Act) (Pub. L. 94-163), with regard to the energy conservation program for consumer products. DOE hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for unvented home heating equipment pursuant to section 323 (43 U.S.C. 6293) of the Act. These test procedures were proposed by notice issued May 11, 1977 (42 FR 23860) for unvented home heating equipment. Public hearings on the proposed test procedures were held on July 6, 1977.

By notice issued May 24, 1977 (42 FR 27896), DOE established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in subpart A. Final test procedures for room air conditioners, dishwashers, electric refrigerators and electric refrigerator-freezers, freezers, television sets, clothes dryers, waters heaters, clothes washers, dehumidifers, humidifiers, and central air conditioners have been prescribed in subpart B. Test procedures for ranges and ovens, furnaces, and vented home heating equipment have been proposed for inclusion in subpart B. DOE has also established a subpart C for appliance energy efficiency improvement targets. An outline of the provisions of subparts A and B of part 430 which have so far been established, including provisions in this rulemaking, is as follows:

SUBPART A—GENERAL PROVISIONS SECTION

Sec.
430.1 Purpose and scope.
430.2 Definitions.

SUBPART B—TEST PROCEDURES

430.21 Purpose and scope.
430.22 Test procedures for measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
(g) Unvented home heating equipment.
(h) Television sets.

. . . . .

(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.

. . . . .

430.22 Units to be tested (reserved).
430.24 Representations regarding measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
(g) Unvented home heating equipment.
(h) Television sets.

. . . . .

(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.

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APPENDICES TO SUBPART B

Appendix A1—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-freezers

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Appendix B—Uniform Test Method for Measuring the Energy Consumption of Freezers
Appendix C—Uniform Test Method for Measuring the Energy Consumption of Dishwashers
Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers
Appendix E—Uniform Test Method for Measuring the Energy Consumption of Water Heaters
Appendix F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners
Appendix G—Uniform Test Method for Measuring the Energy Consumption of Unvented Home Heating Equipment
Appendix H—Uniform Test Method for Measuring the Energy Consumption of Television Sets

. . . . .

Appendix J—Uniform Test Method for Measuring the Energy Consumption of Clothes Washers
Appendix K1—Uniform Test Method for Measuring the Energy Consumption of Central System Humidifiers
Appendix K2—Uniform Test Method for Measuring the Energy Consumption of Room Humidifiers
Appendix L—Uniform Test Method for Measuring the Energy Consumption of Dehumidifiers
Appendix M—Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners

B. Discussion of Comments

Comments were received from industry, trade associations and members of the public. The major issues raised by the comments are discussed below.

1. ANNUAL OPERATING COST CALCULATIONS FOR PRIMARY HEATERS

Comments were received stating that primary heaters are typically not sized to meet exactly the design heat loss of a structure and that annual operating costs calculated on such a basis would be misleading. The proposed test procedures used an assumption that the maximum power input of a primary heater matched the design heat loss of the structure in which it was to be installed. Information was presented by commenters that showed the typical sizing of primary heaters to be 10 to 20 percent larger than the design heat loss of the structure. The National Bureau of Standards (NBS) has recommended to DOE that a change be made to the unvented home heating equipment test procedures which incorporates a 20 percent oversizing factor as being representative of residential applications of primary heaters. This recommendation has been accepted by DOE and a change has been made in today's final rule whereby the equation for the average annual energy consumption contained in section 3.1 has been modified. This modification replaces the term, "P_E", the maximum power input of primary heaters, with the term, "design heating requirement". The design heating requirement is equal to "P_E" divided by 1.2, the oversizing factor.

Several other commenters pointed out that if heaters are oversized more than the typical 20 percent, the annual operating cost would not be any higher than a heater that is oversized by 20 percent. This comment relates to the fact that the value of the design heating requirement is derived from the heater size in the test procedures. DOE agrees that oversized (larger than 20 percent) heaters will not consume more energy than properly sized heaters. However, in order to determine an estimated annual operating cost based on a representative average-use cycle, it was necessary to assume a typical fixed oversizing factor.

A comment was received that suggested using a 68° F indoor temperature instead of 70° F in the annual energy consumption calculations. DOE has determined that a 70° F indoor temperature is representative of typical thermostat settings used today. If data become available that show different consumer usage patterns, the energy consumption calculations can be modified to reflect those patterns.

Another commenter suggested that consumers might be influenced to buy smaller heaters that may not meet their particular heating requirements. This comment apparently was based upon the assumption that the consumer would use information derived from the test procedures without information on the heat output needed for the particular space the consumer wished to heat. While it is imperative that a consumer have basic information about his heating requirements prior to making any decisions concerning the purchase of a heater, DOE believes this information is more appropriately found elsewhere then by operation of the test procedures themselves. It is expected, for example, that labels for heating equipment under the Federal Trade Commission (FTC) labeling program can deal adquately with this item of needed additional information.

2. ANNUAL OPERATING COST CALCULATIONS FOR SUPPLEMENTARY HEATERS

Many comments were submitted criticizing the use of 133 hours per year as a representative average use cycle for supplementary heaters. Other commenters suggested that both primary and supplementary heaters be labeled on the basis of cost per hour of continuous use. Several commenters stated that primary and supplementary heaters should have annual operating costs based on the same number of hours of use per year.

A review of background information revealed that data was unavailable to support the 133 hours per year of use for supplementary heaters. DOE examined the possibility of comparing primary and supplementary heaters based on the same number of hours of use per year but has determined that treating a supplementary heater as a primary source of heat is not consistent with the typical usage patterns of supplementary heaters.

DOE has determined that there is not sufficient data available at this time on which to base the establishment of a representative average-use cycle for supplementary heaters. Therefore, DOE has determined to

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delay that portion of the test procedures dealing with establishing estimated annual operating costs for supplementary heaters. DOE will propose test procedures for determining estimated annual operating costs of supplementary heaters as soon as practicable, unless it determines that the test procedures cannot be developed which meet the requirements of section 323(b) of the Act and publishes such determination in the FEDERAL REGISTER together with the reasons therefor.

The test procedures promulgated today, do, however, provide for the determination of an estimated hourly operating cost for supplementary heaters. This is based on cost per hour of continuous use. DOE has determined that the estimated hourly operating cost is a measure of energy consumption that is likely to assist consumers in making purchasing decisions.

Several commenters were concerned that consumers could be misinformed if primary and supplementary heaters had different labeled operating costs based on different usage patterns. DOE agrees this possibility could occur but also recognizes that the differences in usage patterns for these two products do in fact exist. Through DOE consumer education programs and FTC labeling program information is expected to be made available to the consumer so that he can make an informed decision when purchasing a heating device.

3. AVERAGE ANNUAL ENERGY CONSUMPTION EQUATION

Commenters suggested that a common method of calculating annual energy consumption should be adopted for all types of heating systems, i.e., unvented home heating equipment, vented home heating equipment, and furnaces and boilers. The final rule prescribed today contains modifications to the annual energy consumption calculation in section 3.1. The equation in section 3.1 has been changed to be consistent with the annual energy consumption equation in the final rule for furnaces and boilers and for vented heaters. The changes made to the equation in section 3.1 include: replacing the maximum power input term, "P_E", with the term "design heating requirement", which is equal to "P_E" divided by 1.2 (oversizing factor); replacing the expression—"D" . (4,000 degree days) times "A" (24 hours per day) divided by "At" (60° F design temperature difference) with the value 2080 (the national average heating load hours); and using the constant adjustment factor "C" (0.77) in place of "C_D" (the ASHRAE correction factor). In addition, the degree day map of the United States contained in the proposed test procedures has been changed to a heating load hour map.

Several commenters criticized the value of the correction factor "C_D" used in the proposed average annual energy consumption equation. Another commenter stated that use of a constant "C_D" factor to determine estimated annual operating costs for different geographic regions was not correct.

NBS has reviewed the development of the "C_D" factor that was published in Table 2 of Chapter 43 in the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Systems Handbook—1976. The available background information supports the use of a correction factor to adjust energy consumption calculations to measured field values. However, very little evidence was found to substantiate the use of a "C_D" factor that varied by geographic region. As a result of this review, NBS has recommended to DOE that a correction factor of 0.77 be used in the energy consumption equations for all types of heating systems and all fuel types. The value 0.77 was selected from the 1973 ASHRAE Systems Handbook as being representative of typical heating system installations. The selection of a constant correction factor is based on the best available information and will be used in the final test procedures until such time as further data can be developed to determine an energy consumption equation, without an adjustment factor, that yields agreement with energy consumption measurements taken in the field.

Another commenter stated that the degree day method is only valid in geographic regions with the range of 3,000 to 7,000 degree days per heating season. NBS has recommended that the energy consumption calculations prescribed in this rule be used for all geographic regions in the United States. DOE has accepted this recommendation and therefore no limitation has been made on the useful range of the degree day method.

4. UNITS TO BE TESTED

Several commenters criticized the sampling provision contained in proposed § 430.23. The commenters stated that the 5 percent tolerance on the mean of the sample was too restrictive and would lead to the testing of a large number of units in order to satisfy the sampling requirements. Information was supplied by the commenters that showed typical industry tolerances on heater output are +5 to −10% of the nameplate rating. DOE has evaluated these inputs and has determined that a change in the sampling provision is warranted. The sampling provision contained in the final rule prescribed today allows a ±7.5% tolerance on the mean of the sample.

Test procedures prescribed under section 323 of the Act are intended ultimately to be used throughout the program, such as for labeling under section 324, for monitoring the progress of manufacturers toward meeting the energy efficiency improvement targets under section 325, and for enforcement testing under section 326. These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions as to how a test procedure should be applied (e.g., sampling of production units), may differ. DOE, NBS, and FTC are continuing to evaluate the appropriate method or methods for sampling the units to be tested in order to comply with the statute and satisfy all of the different elements of the appliance program.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
>
> (1) in writing (including a representation on a label), or
>
> (2) in any broadcast advertisement, respecting the energy consumption of such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate some of the difficulties associated with a general sampling provision, § 430.23, which is concerned with the number of units to be tested, has been reserved in the final test procedures. Also, sampling requirements which apply only for advertising unvented home heating equipment have been reorganized into § 430.24(g) of the final test procedures. Section 430.24(g) has been revised slightly from the proposed § 430.23(g). Most notably, the units tested are now required only to be representative of production units or actual production units. This change is intended to reduce the burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act. Until a labeling rule has been implemented pursuant to section 324, manufacturers are not required to test unless they choose to make representations regarding a measure of energy consumption identified in or based upon § 430.22(g). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model where representations under § 430.24(g) are concerned.

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5. HEATER DESIGN, LOCATION AND METHOD OF CONTROL

One commenter stated that heater design, location, and method of control will have substantial impact on energy consumption. DOE agrees that these design characteristics may influence energy consumption, but because of insufficient data with which to evaluate these effects DOE has determined that changes to the test procedures are not technically feasible at this time. Therefore, no changes have been made to the final test procedures in this regard.

6. UNVENTED GAS HEATERS

The test procedures proposed for unvented home heating equipment included provisions for unvented gas home heating equipment. Several comments were submitted suggesting that unvented heaters be eliminated from the consumer product efficiency and labeling program because of the pending ban on the sale of unvented gas heaters by the Consumer Product Safety Commission (CPSC). The CPSC proposed a ban on the sale of unvented gas heaters on February 14, 1978 (43 FR 6235) and conducted public hearings on March 6, 1978. A final determination is expected by CPSC in July, 1978. Therefore, DOE has delayed the issuance of the portions of the test procedures that deal exclusively with unvented gas heaters pending the CPSC decision.

C. REGULATIONS PRESCRIBED

1. TEST PROCEDURES

The test procedures for unvented home heating equipment prescribed today are included in Subpart B and are substantially the same as those proposed, with the exception of the changes discussed above.

2. GENERAL PROVISIONS

Also prescribed today are definitions of "Baseboard electric heater," "Basic model," with respect to unvented home heating equipment, "Ceiling electric heater," "Floor electric heater," "Home heating equipment, not including furnaces," "Portable electric heater," "Unvented home heating equipment," and "Wall electric heater." These definitions for unvented home heating equipment were previously proposed in subpart A (42 FR 23860, May 11, 1977). The definitions of the terms "primary heater" and "supplementary heater" have been added. Comments which were received regarding these definitions and the issues which they raised have been discussed earlier in this notice.

3. APPLICATION OF TEST PROCEDURES

As discussed previously, the final test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. Instructions on how to apply the standard test methodology to these other elements of the appliance program will be proposed for comment in the near future.

The requirements of § 430.24(g) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedure application provision are prescribed. After that time, all representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. UNIT COSTS OF ENERGY

Under section 323(b)(2) of the Act, FEA is to provide manufacturers information as to the representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. PREEMPTION

Today's rulemaking prescribing final test procedures for unvented home heating equipment supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of unvented home heating equipment, or which provide for any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of unvented home heating equipment, must now employ test procedures identical to those specified in today's final rule.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, part 430 of chapter II of title 10, Code of Federal Regulations, is amended as set forth below, effective June 15, 1978.

Issued in Washington, D.C., May 2, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

1. Section 430.2 is amended by adding a subparagraph (7)(i) as part of the definition of "Basic model," and by adding in appropriate alphabetical order the definitions of "baseboard electric heater," "ceiling electric heater," "electric heater," "floor electric heater," "home heating equipment, not including furnaces," "portable electric heater," "primary heater," "supplementary heater," "unvented home heating equipment," and "wall electric heater," to read as follows:

§ 430.2 Definitions.

. . . . . .

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and—

. . . . . .

(7)(i) with respect to unvented home heating equipment, having essentially identical functional physical and electrical characteristics.

. . . . . .

"Baseboard electric heater" means an electric heater which is intended to be recessed in or surface mounted on walls at floor level, which is characterized by long, low physical dimensions, and which transfers heat by natural convection and/or radiation.

"Ceiling electric heater" means an electric heater which is intended to be recessed in, surface mounted on, or hung from a ceiling, and which transfers heat by radiation and/or convection (either natural or forced).

"Electric heater" means an electric appliance in which heat is generated from electrical energy and dissipated by convection and radiation and includes baseboard electric heaters, ceiling electric heaters, floor electric heaters, portable electric heaters, and wall electric heaters.

"Floor electric heater" means an electric heater which is intended to be recessed in a floor, and which transfers by radiation and/or convection (either natural or forced).

"Home heating equipment, not including furnaces" means vented home heating equipment and unvented home heating equipment.

"Portable electric heater," means an electric heater which is intended to stand unsupported, and can be moved from place to place within a structure. It is connected to electric supply by means of a cord and plug, and transfers heat by radiation and/or convention (either natural or forced).

"Primary heater" means a heating device that is the principal source of heat for a structure and includes baseboard electric heaters, ceiling electric heaters, and wall electric heaters.

"Supplementary heater" means a heating device that provides heat to a space in addition to that which is supplied by a primary heater. Supplementary heaters include portable electric heaters.

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"Unvented home heating equipment" means a class of home heating equipment not including furnaces, used for the purpose of furnishing heat to a space proximate to such heater directly from the heater and without duct connections and includes electric heaters and unvented gas heaters.

• • • • •

"Wall electric heater" means an electric heater (excluding baseboard electric heaters) which is intended to be recessed in or surface mounted on walls, which transfers heat by radiation and/or convection (either natural or forced) and which includes forced convectors, natural convectors, radiant heaters, high wall or valance heaters.

• • • • •

2. Section 430.22 is amended by adding a paragraph (g), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

• • • • •

(g) Unvented Home Heating Equipment.

(1) The estimated annual operating cost for primary heaters, shall be the product of (i) the average annual electric energy consumption in kilowatt-hours per year, determined according to 3.1 of appendix G of this subpart and (ii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(2) The estimated hourly operating cost for supplementary heaters, shall be the product of (i) the maximum power input in kilowatts, determined according to 2.1 of appendix G of this subpart, (ii) 1 hour of continuous use, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest 0.01 dollar per hour.

(3) The estimated hourly operating cost for unvented home heating equipment shall be the product of (i) the maximum power input in kilowatts for electric heaters, determined according to 2.1 of appendix G of this subpart, (ii) 1 hour of continuous use, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest 0.01 dollar per hour.

(4) The estimated regional annual operating cost for primary heaters, shall be the product of (i) the regional annual electric energy consumption in kilowatt-hours per year for primary heaters determined according to 3.2 of appendix G of this subpart and (ii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(5) Other useful measures of energy consumption for unvented home heating equipment shall be those measures of energy consumption for unvented home heating equipment which the Secretary of Energy determines are likely to assist consumers in making purchasing decisions and which are derived from the application of appendix G of this subpart.

• • • • •

3. Section 430.24 is amended by adding paragraph (g) to read as follows:

430.24 Representations regarding measures of energy consumption.

• • • • •

(g) *Unvented home heating equipment.* (1) Except as provided in paragraph (g)(3) of this section, no manufacturer, distributor, retailer, or private labeler of unvented home heating equipment may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(g) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that for each such measure of energy consumption, there is 95 percent confidence that the true mean of such measures of the basic model lies within ±7.5 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (g)(1) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) Whenever a rule applicable to unvented home heating equipment is prescribed under section 324 of the Act, § 430.24(g) shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption of the label.

• • • • •

4. Subpart B of Part 430 is amended to add an Appendix G, to read as follows:

APPENDIX G—UNIFORM METHOD FOR MEASURING THE ENERGY CONSUMPTION OF UNVENTED HOME HEATING EQUIPMENT

1. *Testing Conditions.*

1.1 *Installation.*

1.1.1 *Electric heater.* Install heater according to manufacturer's instructions. Heaters shall be connected to an electrical supply circuit of a nameplate voltage with a wattmeter installed in the circuit. The wattmeter shall have a maximum error not greater than 1 percent.

1.2 *Temperature regulating controls.* All temperature regulating controls shall be shorted out of the circuit or adjusted so that they will not operate during the test period.

1.3 *Fan controls.* All fan controls shall be set at the highest fan speed setting.

1.4 *Ambient temperature.* Maintain the room ambient air temperature (T_r) between 68° and 72° F.

1.5 *Energy supply.*

1.5.1 *Electrical supply.* Supply electricity to the heater within 1 percent of the nameplate voltage.

1.6 *Energy flow instrumentation.* Install one or more wattmeters which measure the quantity of electrical energy supplied to the heater, with error no greater than 1 percent.

2. *Test procedures and measurements.*

2.1 *Electric power measurement.* Establish the test conditions set forth in 1 of this appendix. Allow an electric heater to warm up for at least 5 minutes before recording the maximum electric power measurement from the wattmeter.

2.2 *Recorded values.*

2.2.1 Record the test room temperature, T_r, for each test in degrees Fahrenheit.

2.2.2 *Electrical power values.*

2.2.2.1 Primary heaters, the maximum electric power input (P_E).

2.2.2.2 Supplementary heaters, the maximum electric power input (P_{ES}).

3. *Calculation of Derived Results from Test Measurements.*

3.1 Average Annual Electric Energy Consumption for Primary Heaters.

Calculate the average annual electric energy consumption for primary heaters, E_E, expressed in kilowatt-hours per year, and defined as:

$$E_E = \frac{(\text{design heating requirement})(2080)(C)}{M_E}$$

where:

2080 = national average annual heating load hours.

M_E = 1.0, rated full load efficiency for electric heaters.

C = 0.77, adjustment factor design heating requirement = $P_E/1.2$.

where:

P_E = the maximum power input of primary heater, in kilowatts, as measured in 2 of this Appendix.

1.2 = oversizing factor corresponding to heater being typically 20% larger than the design hearing requirement.

3.2 Average Annual Electric Energy Consumption for Primary Heaters by Geographic Region of the United States. Calculate the average annual electric energy consumption by geographic region of the United States, $E_{E,R}$, expressed in kilowatt-hours per year, and defined as:

$$E_{E,R} = \frac{(HLH)\ (\text{design heating requirement})(C)}{M_E}$$

where:

HLH = heating load hours for a specific geographic region determined in accordance with the heating load hour map in Figure 1.

design heating requirement as defined in 3.1; C as defined in 3.1; and M_E as defined in 3.1.

[FR Doc. 78-12461 Filed 5-9-78; 8:45 am]

FIGURE 1

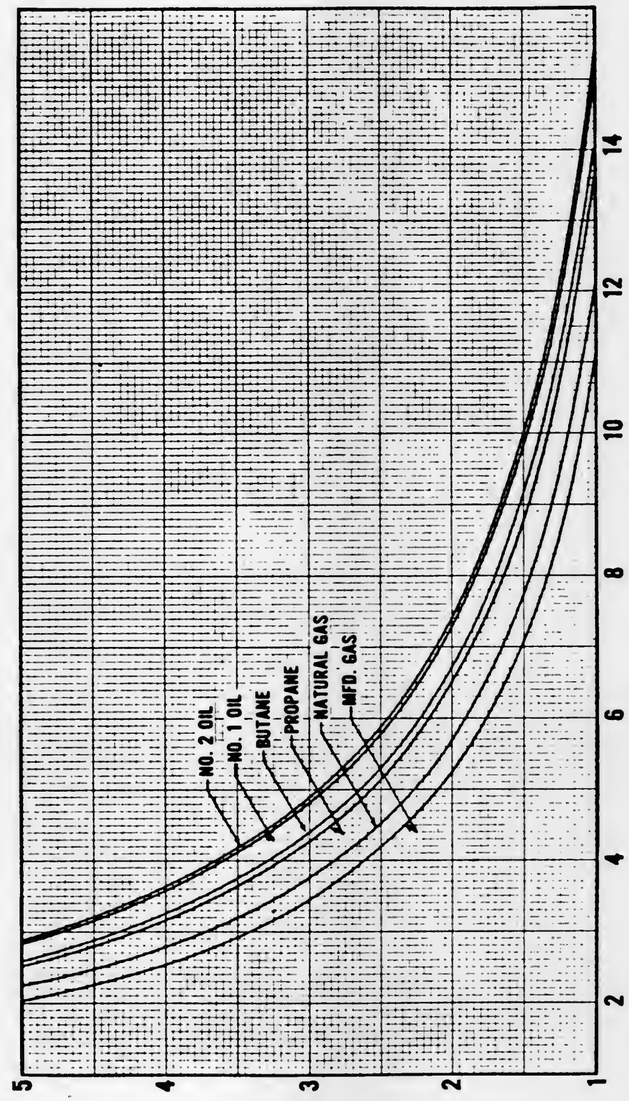


FIGURE 2a

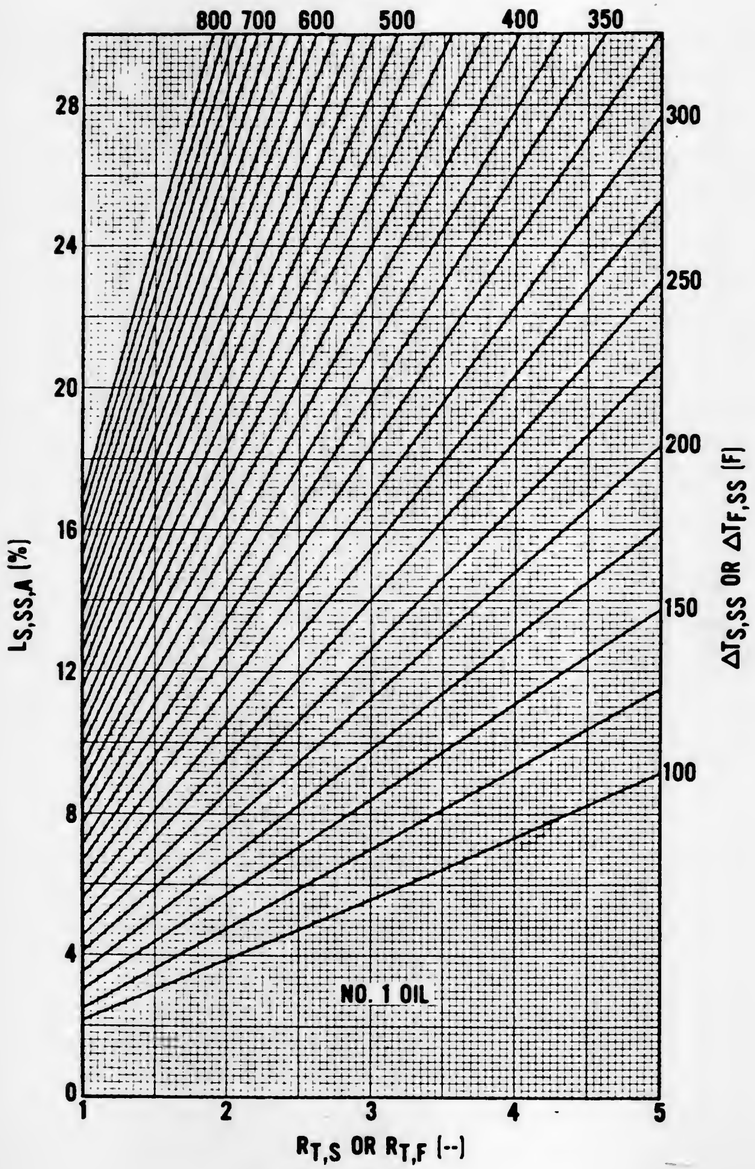
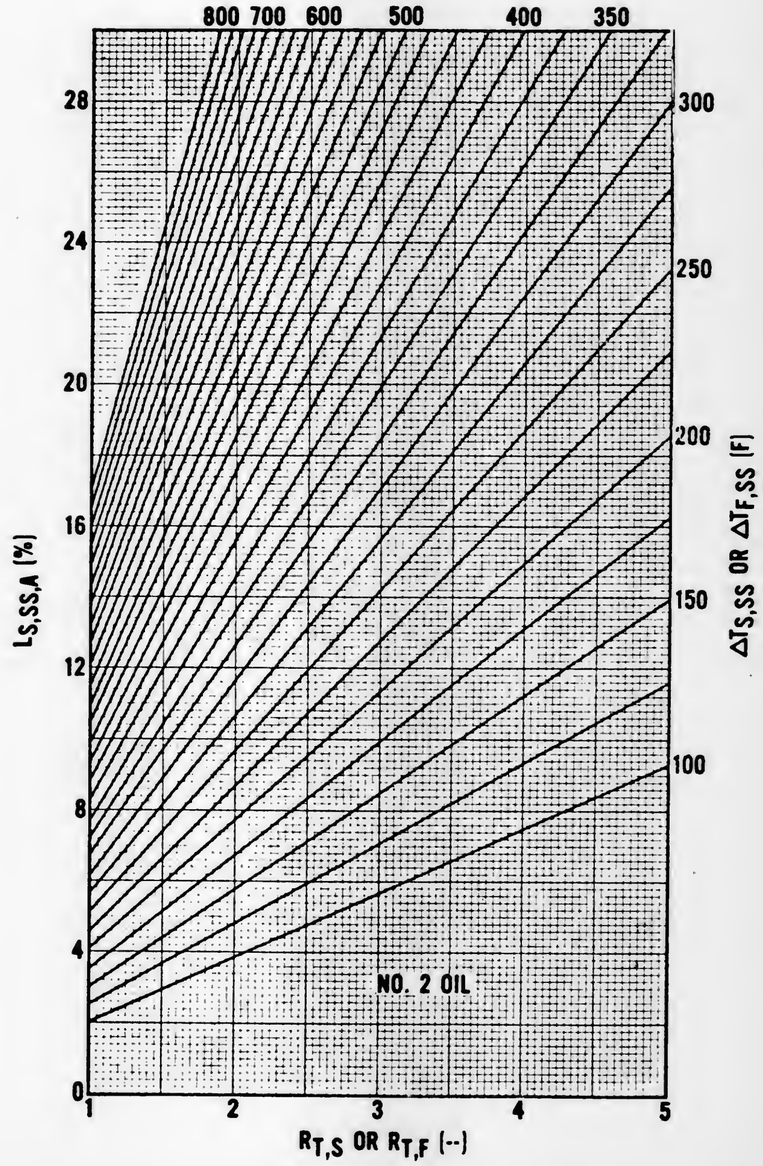


FIGURE 2b



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FIGURE 2c

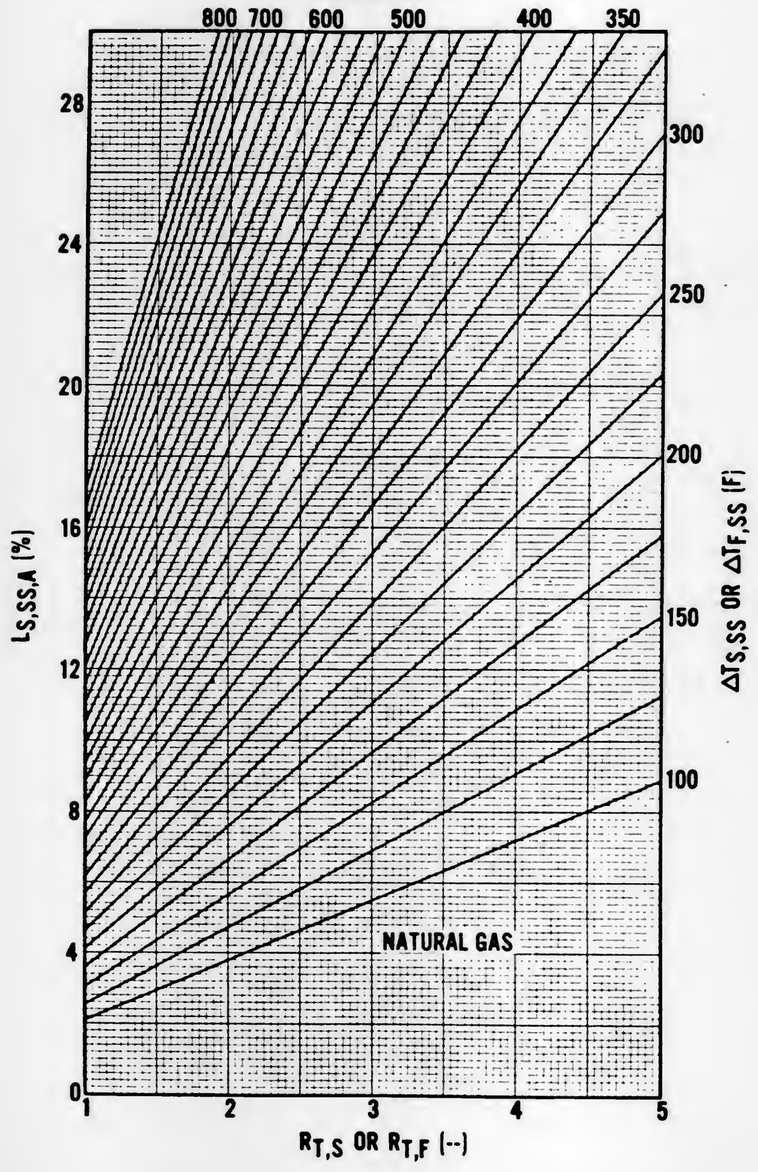
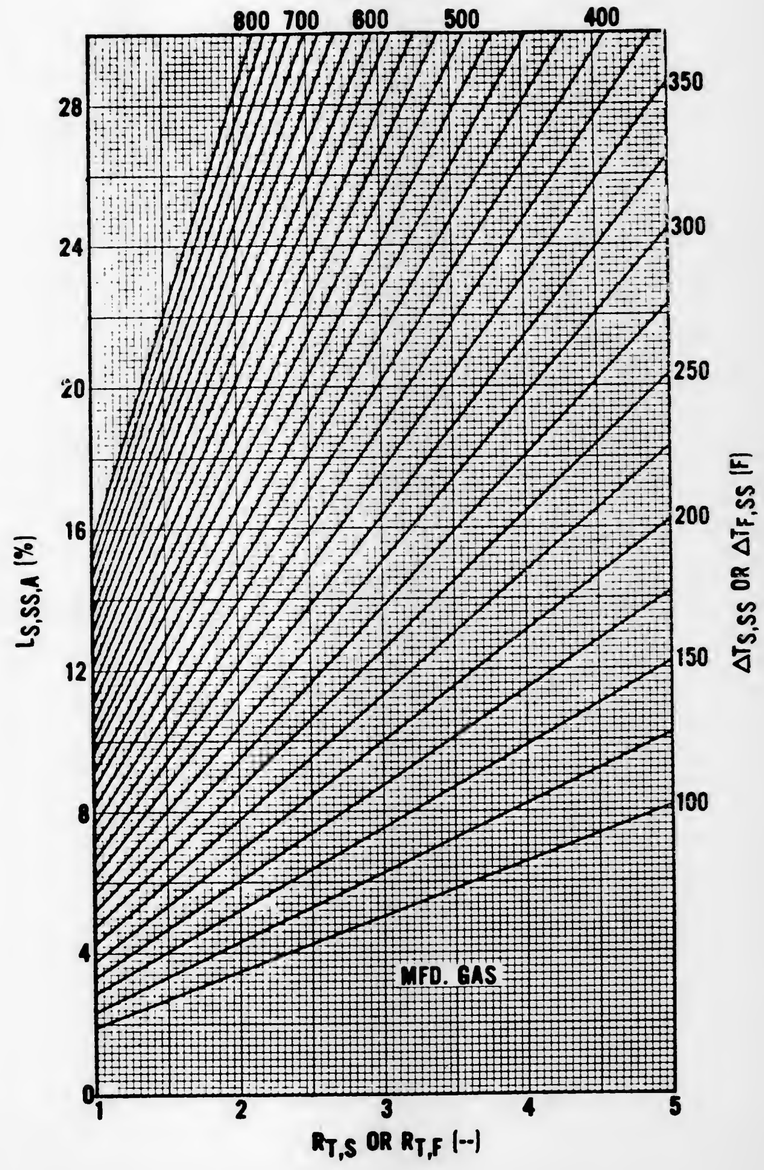


FIGURE 2d



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FIGURE 2e

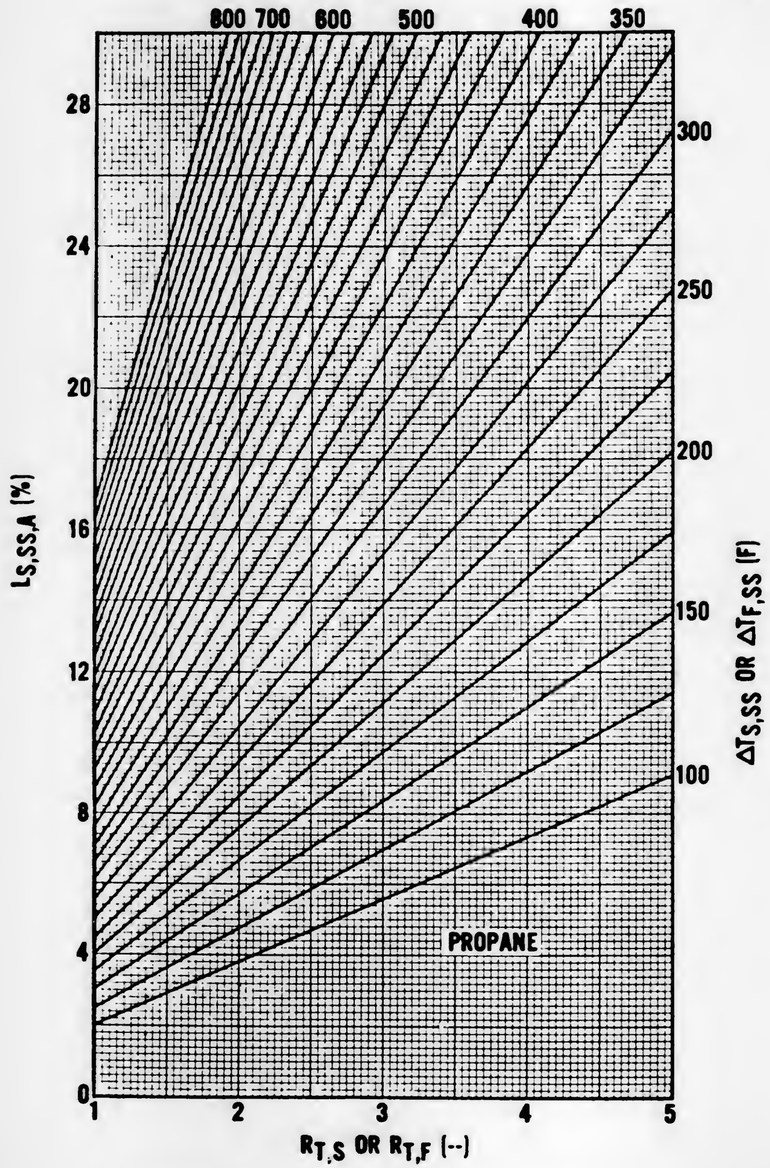
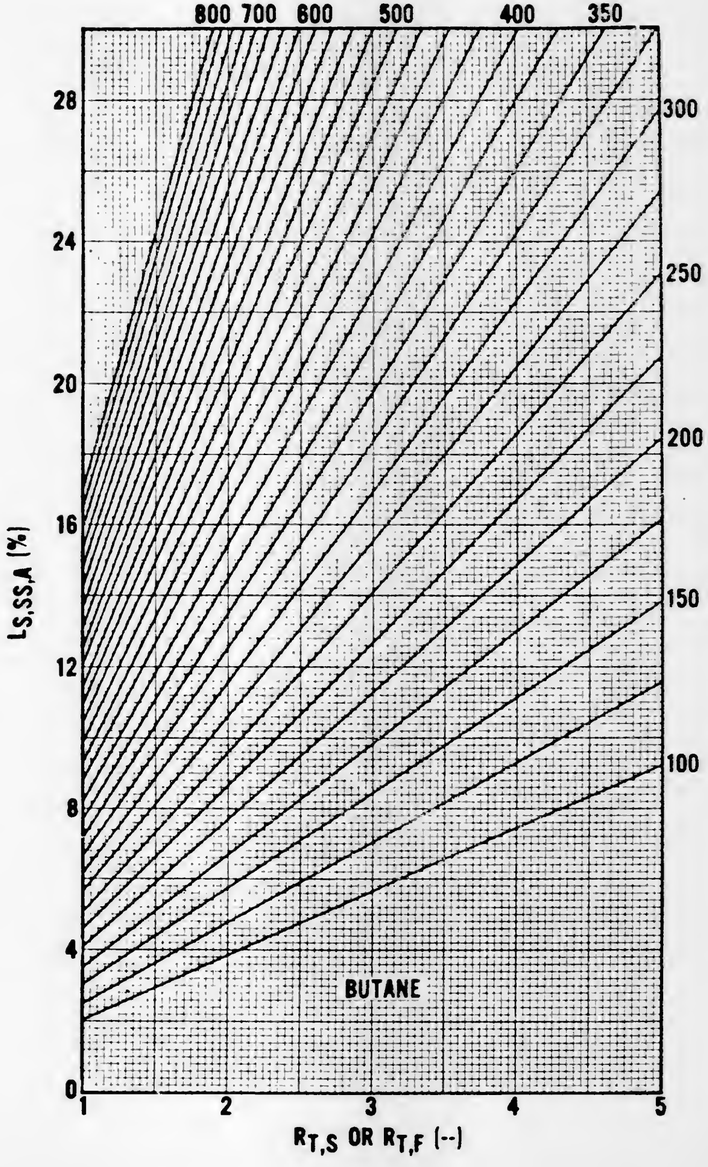


FIGURE 2f



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FIGURE 3

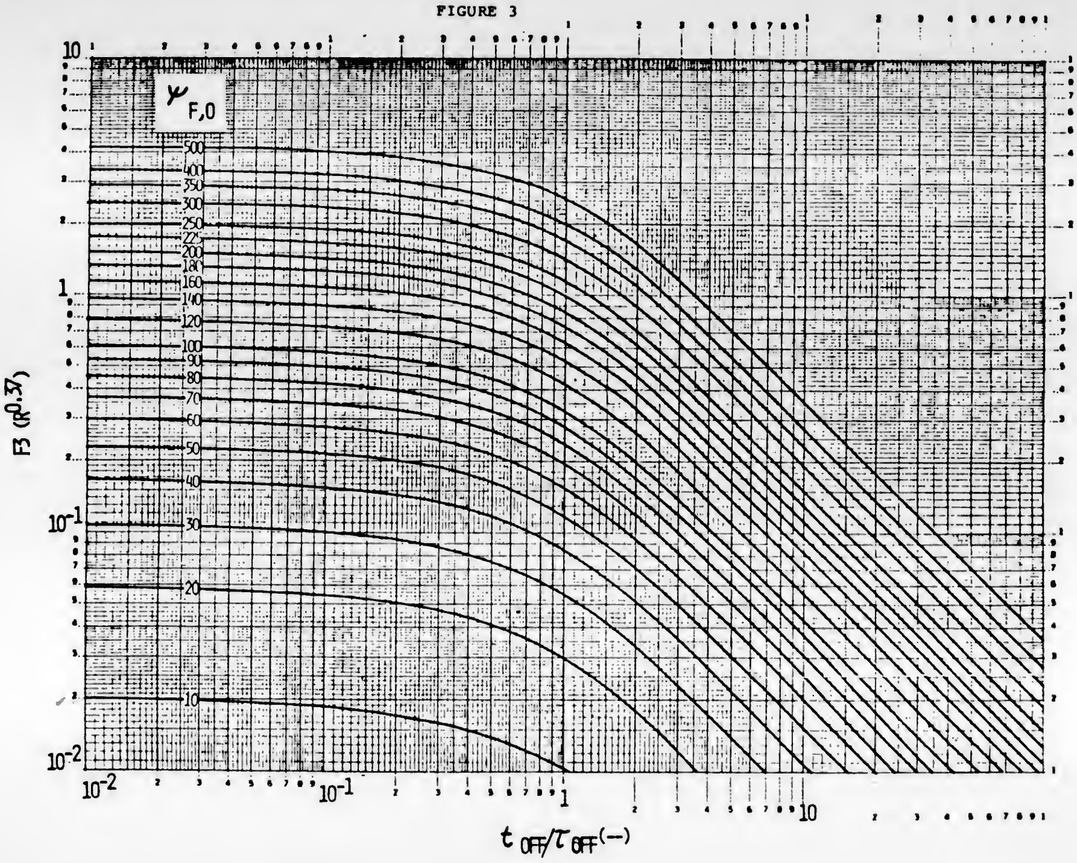
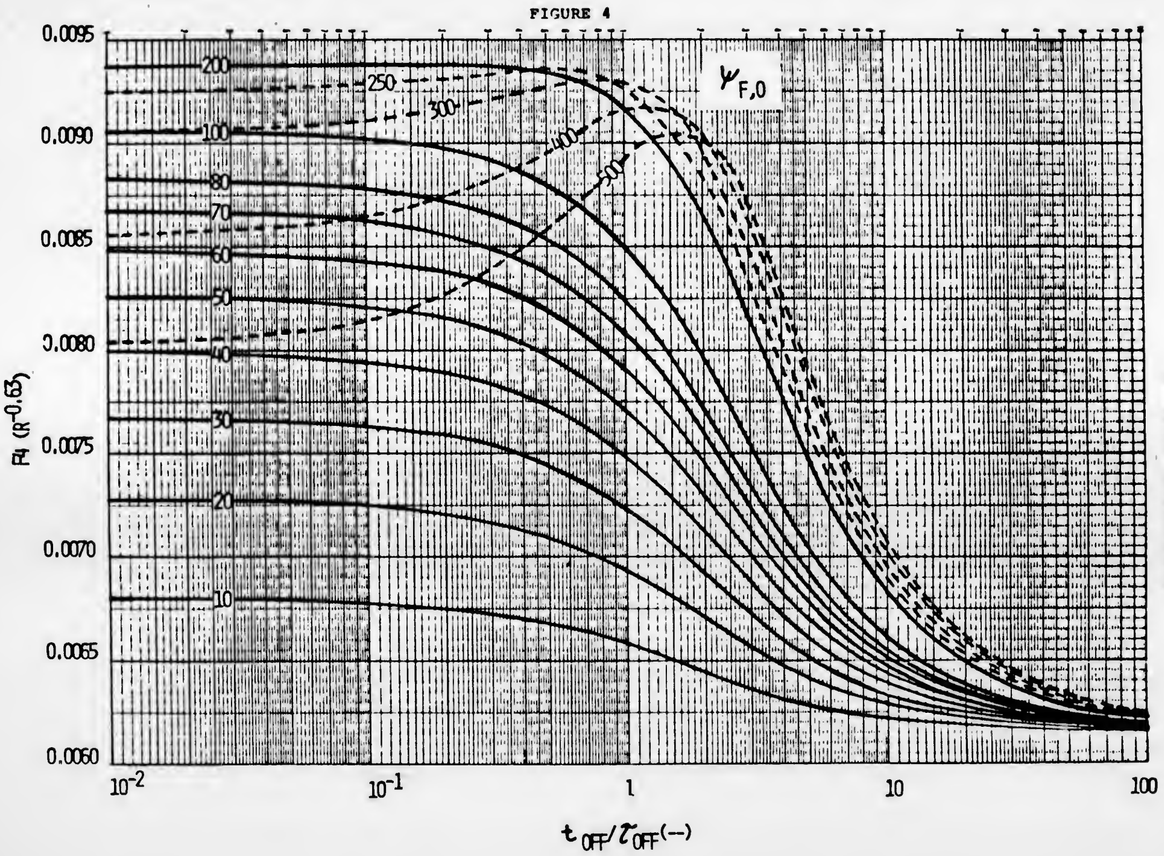


FIGURE 4



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FIGURE 5

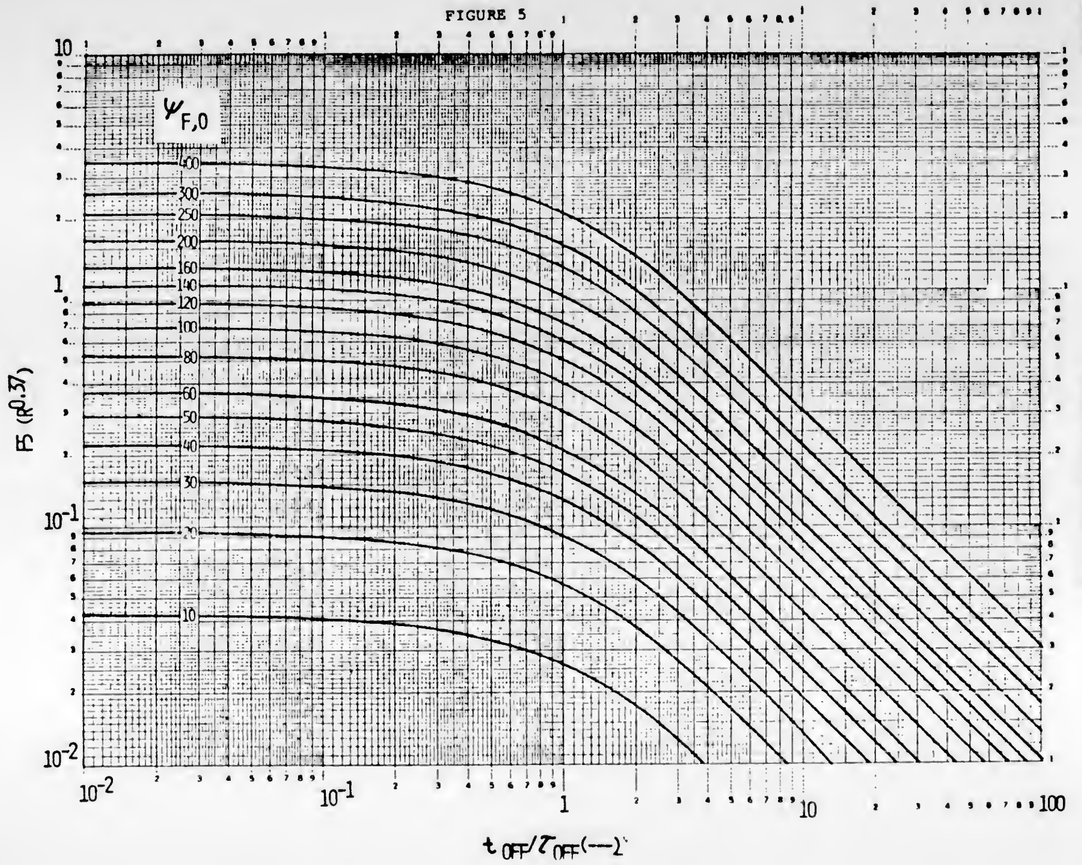


FIGURE 6

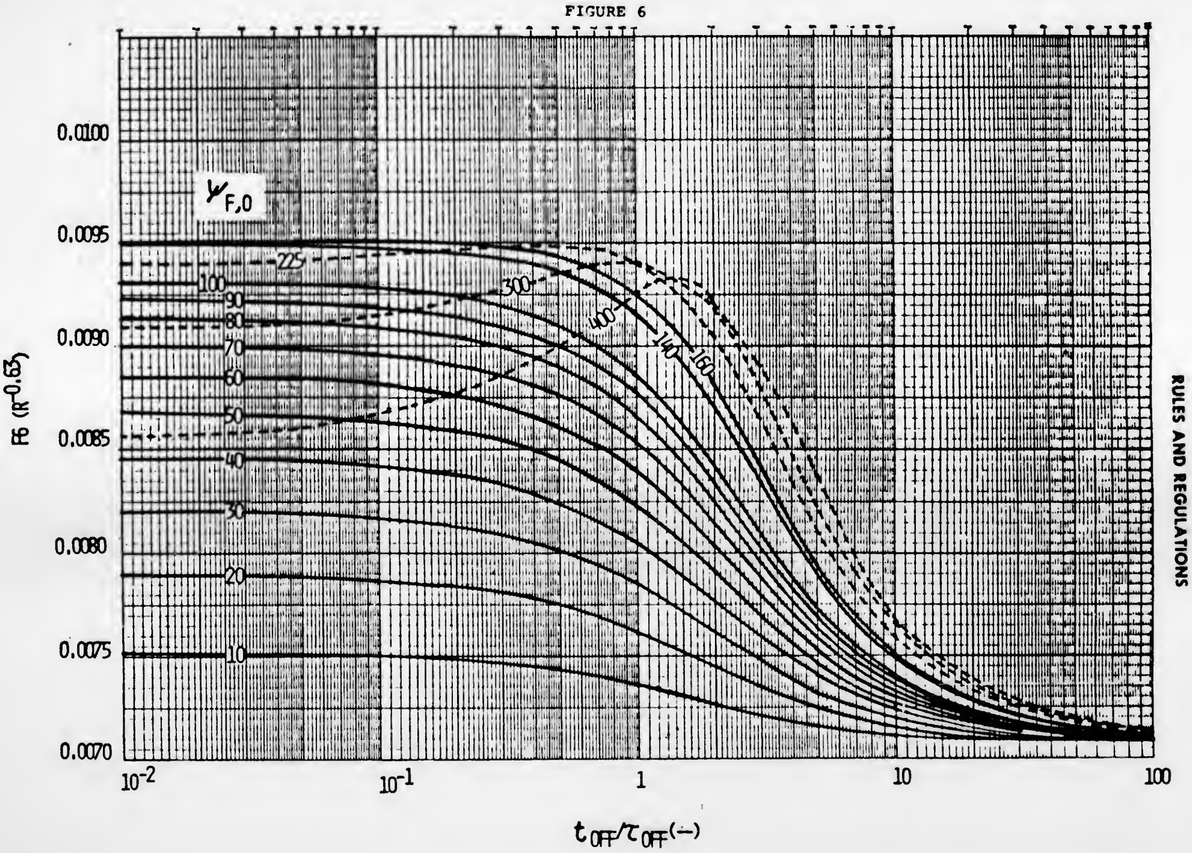


FIGURE 7

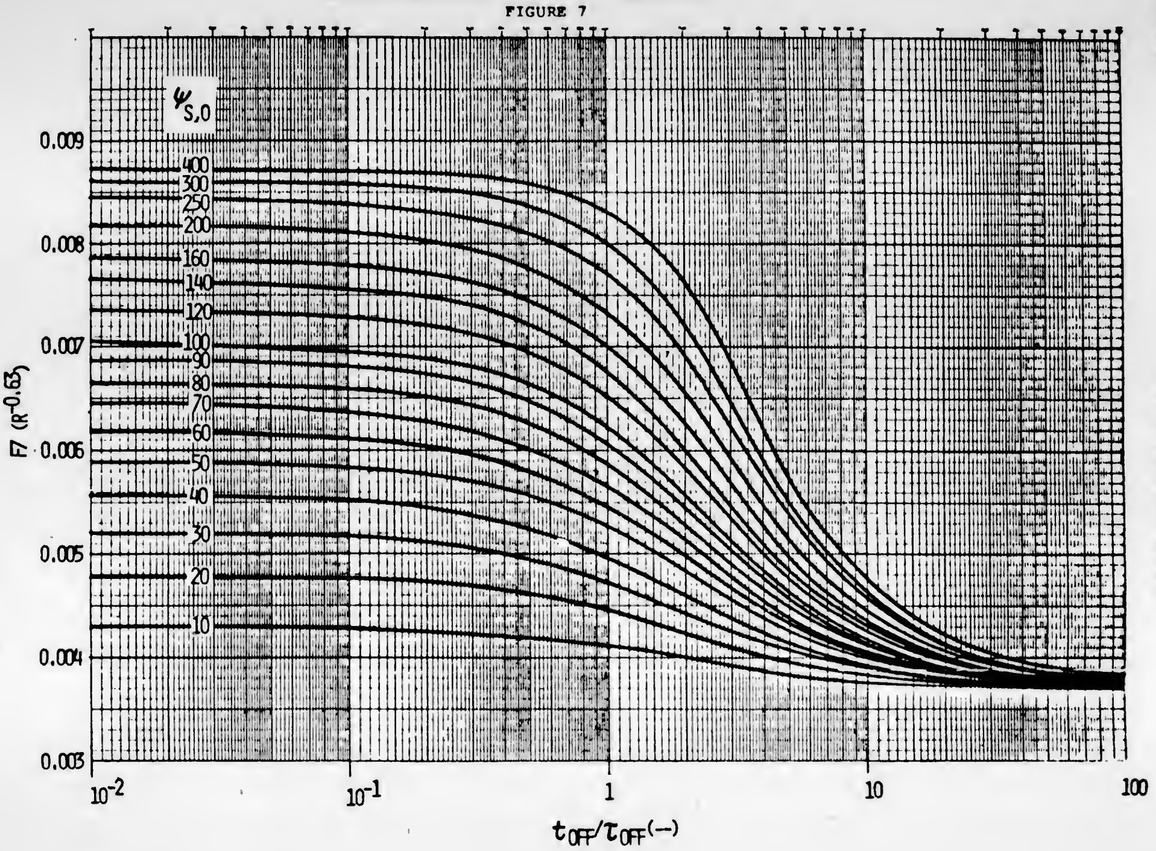
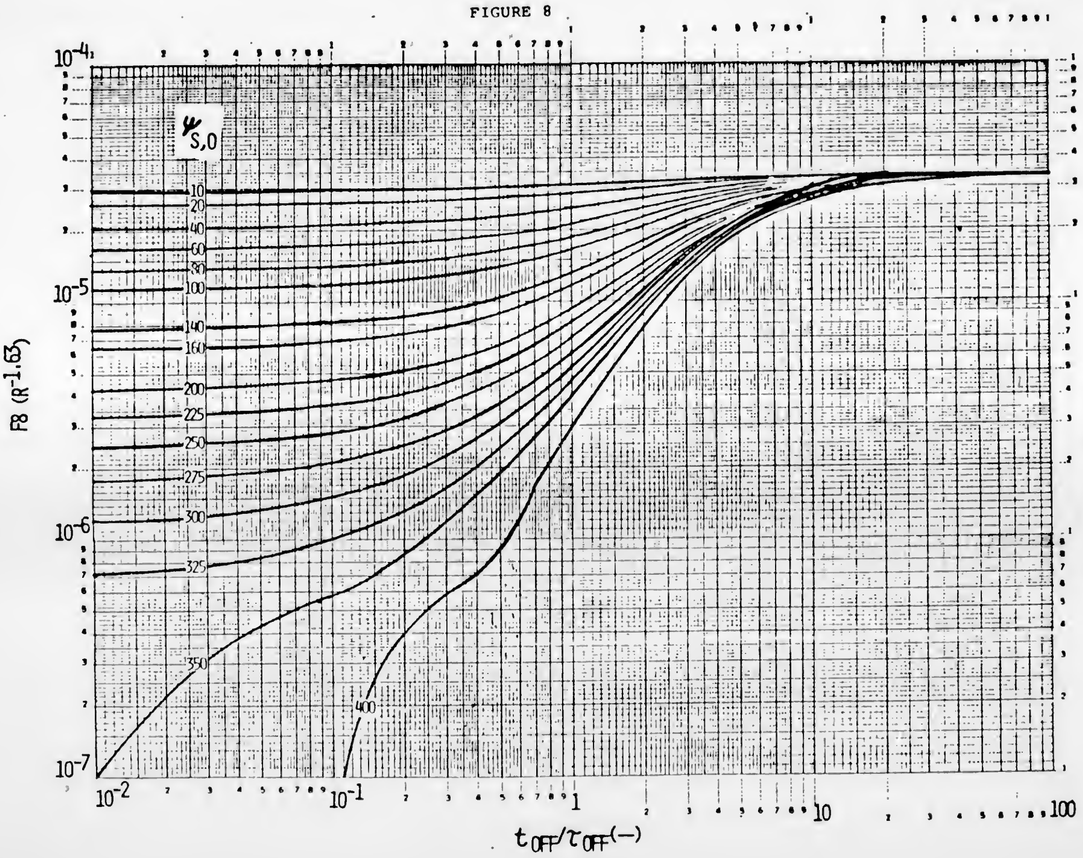


FIGURE 8



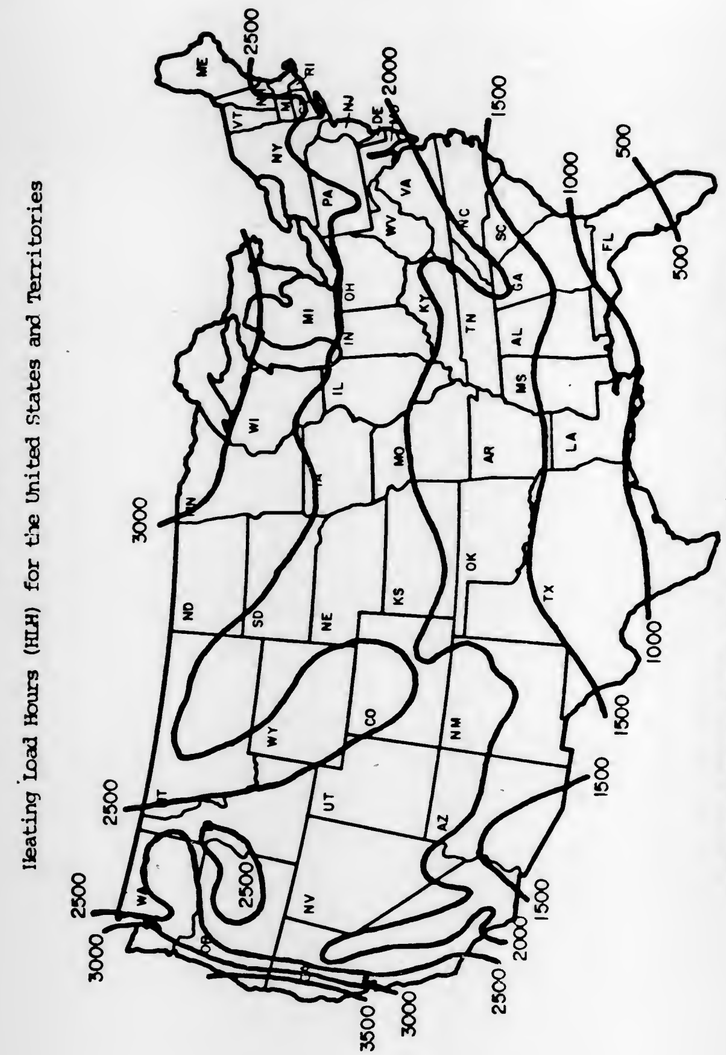


FIGURE 9

This map is reasonably accurate for most parts of the United States but is necessarily highly generalized and consequently not too accurate in mountainous regions, particularly in the Rockies.

[3128-01]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Furnaces and Vented Home Heating Equipment

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for furnaces and vented home heating equipment. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act. The effect of this action is to establish standard methods of testing when testing is required by the Act or by regulations implementing other parts of the program.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Office of Conservation), Room 307, Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-4635.

Jim Merna (Media Relations), Room 3104, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 292-566-9833.

Laurence J. Hyman (Office of General Counsel), Room 7150, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION:

A. Background

On October 1, 1977, pursuant to the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91), the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) under the Energy Policy and Conservation Act (Act) (Pub. L. 94-163), with regard to the energy conservation program for consumer products. DOE hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for furnaces and vented home heating equipment pursuant to section 323 (42 U.S.C. 6293) of the Act. These test procedures were proposed by notice issued August 11, 1977 (42 FR 40826), for furnaces and August 31, 1977 (42 FR 43930), for vented home heating equipment. Public hearings on the proposed test procedures were held on October 4, 1977, for furnaces and on November 2, 1977, for vented home heating equipment.

By notice issued May 24, 1977 (42 FR 27896), DOE established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in subpart A. Final test procedures for room air conditioners, dishwashers, electric refrigerators and electric refrigerator-freezers, freezers, television sets, clothes dryers, water heaters, clothes washers, dehumidifiers, humidifiers, and central air conditioners have been prescribed in subpart B. Test procedures for ranges and ovens and unvented home heating equipment have been proposed for inclusion in subpart B. DOE has also established a subpart C for appliance energy efficiency improvement targets. An outline of the provisions of part 430 which have so far been established, including the provisions in this rulemaking, is as follows:

SUBPART A—GENERAL PROVISIONS

Sec.
430.1 Purpose and scope.
430.2 Definitions.

SUBPART B—TEST PROCEDURES

430.21 Purpose and scope.
430.22 Test procedures for measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
. . . . . .
(h) Television sets.
. . . . . .
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.
(n) Furnaces.
(o) Vented home heating equipment.
430.23 Units to be tested (reserved).
430.24 Representations regarding measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
. . . . . .
(h) Television sets.
. . . . . .
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.
(n) Furnaces.
(o) Vented home heating equipment.

APPENDICES TO SUBPART B

Appendix A1—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-freezers.
. . . . . .
Appendix B—Uniform Test Method for Measuring the Energy Consumption of Freezers
Appendix C—Uniform Test Method for Measuring the Energy Consumption of Dishwashers
Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers
Appendix E—Uniform Test Method for Measuring the Energy Consumption of Water Heaters
Appendix F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners
. . . . . .
Appendix H—Uniform Test Method for Measuring the Energy Consumption of Television Sets
. . . . . .
Appendix J—Uniform Test Method for Measuring the Energy Consumption of Clothes Washers
Appendix K1—Uniform Test Method for Measuring the Energy Consumption of Central System Humidifiers
Appendix K2—Uniform Test Method for Measuring the Energy Consumption of Room Humidifiers
Appendix L—Uniform Test Method for Measuring the Energy Consumption of Dehumidifiers
Appendix M—Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners
Appendix N—Uniform Test Method for Measuring the Energy Consumption of Furnaces
Appendix O—Uniform Test Method for Measuring the Energy Consumption of Vented Home Heating Equipment

SUBPART C—ENERGY EFFICIENCY IMPROVEMENT TARGETS

Sec.
430.31 Purpose and scope.
430.32 Energy efficiency improvement targets
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) [Reserved].
(f) Television sets.
(g) [Reserved].
(h) Television sets.
(i) [Reserved].
(j) [Reserved].
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.

B. Discussion of Comments

Comments were received from industry, trade associations and members of the public. The major issues raised by the comments are discussed below.

1. BURDEN OF TESTING

Several commenters criticized various aspects of the proposed test procedures as imposing significant testing burdens upon the industry.

Several commenters stated that, under their understanding of proposed sampling provisions 430.23 (n) and (o),

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the number of units to be tested would be large, and consequently burdensome. The commenters provided examples of the large number of units they believed would be required to be tested.

While it is not clear how these numbers were derived, they appear to result from misunderstanding the application of the proposed sampling plan. DOE verified the appropriateness of using the sampling provisions for furnaces and vented heaters by using typical furnace data. The correct application of the sampling provisions resulted in sample sizes much more reasonable than those cited by the commenters.

Also cited by the commenters as contributing to the burden of testing was the large number of basic models existing in the furnace and vented heater industry which would have to be tested. In an attempt to reduce the number of basic models to be tested, commenters suggested DOE adopt a definition of basic model in which models would be grouped by common design characteristics. All units within such a basic model grouping would have energy efficiency characteristics either nearly identical to, or capable of correlation with, each other. DOE does not have sufficient information to determine the validity of such an approach. Therefore, DOE has determined that the definition of basic model in the proposed test procedures will remain the same in the final rules described today.

Many commenters suggested other alternative sampling plans they believed were less burdensome. DOE has weighed these alternative sampling plans against the need for accuracy in the determination of any energy measure and, after an analysis of the available statistical and economic information, DOE has determined that the proposed sampling plan results in reasonable accuracy without producing an unreasonable testing burden. Therefore, DOE has not changed the proposed sampling provision in the final rule issued today.

In addition to the large sample sizes discussed above, several of those commenting cited the cost and time of conducting tests as contributing substantially to the burden of testing. One of those commenting noted the cost of energy to conduct the test, due to the long test time, would itself become a significat factor contributing to high testing cost.

These comments have been considered, and DOE has agreed to modify slightly the test procedures for the final rule. The modifications simplify the test procedures and result in reducing the testing time without reducing the accuracy of the test results. DOE believes these modifications, discussed separately in item 5, significantly reduce the cost of implementing the tests.

2. SAMPLING REQUIREMENTS

Several commenters addressed themselves to aspects of the sampling provisions contained in the proposed test procedures.

The test procedures prescribed under section 323 of the Act are intended to be used throughout the consumer products program, such as for labeling under section 324, for monitoring the progress of manufacturers towards meeting the energy efficiency improvement targets under section 325, and for enforcement testing under section 326.

These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions as to how a test procedure should be applied (e.g., sampling of production units), may differ. DOE, the National Bureau of Standards (NBS) and the Federal Trade Commission (FTC) are continuing to evaluate the appropriate method or methods for sampling the units to be tested in order to comply with the statute and satisfy all of the different elements of the appliance program.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
>
> (1) in writing (including a representation on a label), or
>
> (2) in any broadcast advertisement, respecting the energy consumption of such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate some of the difficulties associated with a general sampling provision, section 430.23, which is concerned with the number of units to be tested, has been reserved in the final test procedures. Also, sampling requirements which apply only for purposes of advertising furnaces and vented heaters have been reorganized into §§ 430.24 (n) and (o) of the final test procedures. Sections 430.24 (n) and (o) have been revised slightly from proposed §§ 430.23 (n) and (o). Most notably, the units tested may now be representative of production units as well as actual production units. This change is intended to reduce any burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act. Until a labeling rule has been implemented pursuant to section 324, manufacturers are not required to test unless they choose to make representations regarding a measure of energy consumption identified in or based upon §§ 430.22 (n) or (o). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model where representations under §§ 430.24 (n) and (o) are concerned.

Comments pertaining to several proposed test procedures criticized the language of the proposed sampling provisions for incorrectly relating the sample mean and the true mean. DOE has corrected the language to relate the two means properly. Specifically, there is to be at least 95 percent confidence that the true mean of any measure of the basic model lies within ±5 percent of the mean of such measures of the sample.

3. TEST PROCEDURE SCOPE

Several commenters stated that the proposed test procedures did not consider all relevant factors. Others stated the test procedures did not accurately characterize the factors they did consider.

The test procedures incorporate a heat loss method in which the sensible and latent heat losses through the stack and flue are determined. Since these losses will depend on such factors as load, cycling rate, chimney height, oversizing, the type of draft control device, the infiltration characteristics of the residence and the weather profile, it is desirable to measure in the laboratory the qualities which characterize the performance of a furnace or boiler under standardized conditions to provide the best prediction of its performance under field conditions. The furnaces and vented heater test procedures prescribed today evaluate the unit plus any vent system component, or other auxiliary equipment essential to the performance of the unit, that accompanies it when it is distributed in commerce.

Under these procedures, testing is done only on new units and estimated annual operating costs refer only to the product's efficiency and performance under laboratory conditions. Annual maintenance costs, product reliability and other factors contributing to estimates of life cycle costs are not included.

One of those commenting stated that the proposed test procedures for furnaces could not serve as a reliable guide to the energy efficiency of heating systems unless it considered the entire heating system, including the smoke pipe and chimney. This individual stated that a significant energy savings potential is available by improving heat recovery in the smoke pipe and chimney. DOE agrees that there is some energy savings opportunity in this area but considers it unfeasible in the test procedure to credit accurately smoke pipe and chimney heat recovery to a furnace system considering the multitude of installation arrangements encountered in the field.

This individual also suggested the proposed test procedures be expanded to allow flexibility in the determination of the draft factors. He believed credit should be given in the test procedures to devices that restrict stack flow, thereby improving the efficiency of the heating system. DOE believes it is inappropriate at this time to give credit to a device that restricts stack flow when there is a possibility the furnace will be installed with a stack system that is sized such that the heating system will receive little or no benefit from the device. Furthermore, such a device is not within the scope of these procedures because it would not accompany the furnace when it is distributed in commerce.

Other commenters believed the proposed test procedures for furnaces were too limited because they did not include credits for night setback and zone control in estimating annual operating costs. DOE has determined these items should not be directly addressed in the furnace and vented heater test procedures because data is unavailable at this time to determine typical consumer usage patterns.

Finally, commenters stated the proposed definition of "furnace" was too broadly drafted. They stated that the proposed definition, by including in its scope units with hourly heat input rates of up to 400,000 British thermal units (Btu's) for furnaces and boilers, did not accurately represent the residential furnace market and that a substantial number of units manufactured for commercial purposes were being incorrectly included in these test procedures. It was suggested that the limit be reduced to 175,000 Btu's per hour for gas furnaces and 225,000 Btu's per hour for oil furnaces.

As a result of these comments DOE has made an analysis of the residential furnace market and has determined that a reduction of the upper limit of input rate is warranted. DOE has also determined it appropriate to separate the upper limits for furnaces from those for boilers, but not for different types of fuel. The upper limits prescribed in the final rule are 300,000 Btu's per hour for boilers and 225,000 Btu's per hour for furnaces.

4. ESTIMATED ANNUAL OPERATING COSTS

Many of those commenting raised questions regarding accuracy and usefulness of the estimated annual operating costs to be derived from the test procedures. These questions concerned the effects of variations in heating season and energy costs across the country, variations due to the type of home construction, temperature controls (zone control), night setback and consumer preferences), and overestimation of the average number of heating load hours in a season from the use of 65° F as a balance point temperature for degree day computations. Usefulness of estimated annual operating costs to the consumer was also criticized on the basis that equipment selection is usually made by builders or heating system contractors and not by the consumer.

DOE agrees these factors can have an effect on how closely annual operating costs derived from these test procedures approximate the costs of actual operation. The test procedures have been designed to evaluate the energy efficiency and typical cost of operation of a furnace or vented heater during a representative average use cycle rather than the actual operating cost of a specific furnace in a specific application. The primary purpose of the estimated annual operating costs derived from the test procedures is to provide a basis for comparing the efficiency levels of different heating systems when operating under a typical usage pattern. This comparison should be useful both to consumers and to builders or contractors selling homes to consumers conscious of energy costs.

In addition, several commenters suggested a change in the outdoor balance point temperature (currently 65° F) used in the test procedures. DOE is aware of the fact that the use of 65° F as a balance point temperature may not represent current house construction techniques and the trend toward reducing residential infiltration rates. However, changing the balance point temperature would require an extensive and lengthy analysis and, until such data is available, DOE has determined that the existing standard practice of using 65° F as a base temperature will be used in these test procedures.

5. STEADY STATE, HEAT-UP, AND COOL-DOWN TESTING PROCEDURES (FLUE AND STACK REQUIREMENTS)

A commenter suggested an improved method of measuring the steady state efficiency as well as the heat-up and cool-down temperature. It was suggested that this be used for gas and oil fueled furnaces, boilers, and vented heaters.

This procedure claimed to improve the DOE proposed procedures in the following respects:

- A single stack procedure, instead of a 5 foot stack for steady state tests and a 2 foot stack for heat-up and cool-down tests as proposed by DOE, would be easier to conduct because it would not require a shutdown and restart of the furnace for removal of the 5-foot stack and replacement with the 2-foot stack.
- Standardizing the stack height at a constant 5 feet, instead of using a length whose top is 5 feet 6 inches above the highest point of the draft hood relief opening as originally proposed, would make it possible to use the same stack on all appliances with the same draft hood outlet size.
- The 5-foot stack would be more representative of stack heights in the field than the 2-foot stack used in the proposed test procedures for heat-up and cool-down temperature measurements.
- The use of a thermocouple grid on nine thermocouples rather than a single thermocouple would be more accurate for the heat-up and cool-down test.

As a result of NBS' evaluation and recommendation, modifications based on part of the procedures suggested by the commenter have been incorporated and are now a part of the final test procedures prescribed today. The modified steady state portion of the suggested procedures has not been accepted because it would allow heat transfer from the flue gases to the conditioned air in a manner that is not representative of normal operation (i.e., with the draft hood open). The suggested 5-foot stack has been adopted and the proposed 2-foot stack has been eliminated. Also, the location of the thermocouples for measuring stack temperature in the steady state test has been made common with the location for heat-up and cool-down tests. These changes have eliminated the need to replace the 5-foot stack with a 2-foot flue pipe, and reduced the testing time from that required by the procedures as proposed.

The suggested method of achieving identical CO_2 levels upstream of dilution, through restricting the stack outlet during the heat-up and cool-down tests, has been incorporated into the test procedures for units with integral draft diverters.

The use of nine parallel, connected thermocouples, instead of one centrally located thermocouple, has also been accepted.

It was also suggested that all temperature and CO_2 measurements be made downstream of the draft control device. However, due to possible cooling and dilution of the flue gases, DOE considered it preferable to measure temperature and CO_2 concentration upstream of dilution whenever possible. In furnaces or vented heaters with a common flue gas collection point, this presents no problem. Flue gases of such furnaces and vented heaters are now measured upstream of dilution and with a 5-foot stack pipe rather than the 2-foot flue pipe as proposed. Units with integral draft di-

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verters, however, typically have no common collection point. To measure flue gases upstream of dilution, one must therefore simulate a flue by sealing the draft diverter and restricting the stack to reduce air flow. Thus, for furnaces and vented heaters with integral draft diverters, DOE has accepted the suggestions of these commenters and appropriately modified the test procedures. Also, instructions have been incorporated into section 2.6 of appendix N and O to insure that radiation shields be used on the thermocouples where radiation may be a problem.

6. DESIGN HEATING REQUIREMENT FOR ELECTRIC FURNACES

The proposed test procedures contained a constant, 0.5, as the typical ratio of steady state efficiency to 100 times the average furnace sizing factor (assumed to be 1.7). The constant was criticized by commenters as oversimplifying the ratios for different categories of furnaces and vented heaters. DOE agrees and has removed this constant, 0.5, from the test procedures. The calculation employing the constant has been replaced by a calculation of typical design heating requirement based upon a common table now incorporated into the final rule for electric, gas or oil fueled furnaces, boilers, or vented heaters for various output capacities. The output capacity is now a specified part of the test procedures.

7. TEST ROOM AIR TEMPERATURE

Several comments were received regarding the proposed limitation of 65° to 75° F on test room air temperature. These comments expressed concern that this limitation would require equipment to air-condition the test lab at substantial cost. One of those commenting estimated that an initial investment of $60,000 would be required to air-condition a typical test facility. Several recommendations suggested wider ranges of test room air temperatures be allowed. NBS evaluated the impact that such a change would make on test data and determined that enlarging the allowable range would have a negligible effect on test results if the data was mathematically corrected to a standard ambient air temperature. Therefore, a provision has been added to section 4 of Appendices N and O that allows a test room air temperature range of 65° to 100° F, with a correction factor to be applied in the calculation procedure adjusting the test results to a standard ambient temperature of 70° F.

8. BURNER AIR SHUTTER ADJUSTMENTS

Comments were directed at the proposed method of adjusting the air shutter of gas burners at their maximum setting prior to testing. The recommendation was that burners be adjusted in accordance with the manufacturer's instructions to avoid improper operation such as poor combustion, slow ignition, lifting flames, etc. DOE has reviewed this suggestion and agrees the manufacturer's recommended adjustment is appropriate. The test procedure has been changed to incorporate this recommendation.

9. BOILER WATER FLOW ADJUSTMENTS

Comments noted that the proposed sections 2.5.4 and 2.5.5 for adjusting the water flow rate were inconsistent. These proposed sections referenced different ANSI standards for gas and oil fueled boilers, which used different outlet water temperatures. The test procedures have been changed to make the outlet water temperature adjustment proposed for oil fueled equipment the adjustment for gas and electric equipment as well. Comments also noted that test conditions were not specified for oil fueled steam boilers. A steam boiler adjustment setting for steam pressure has now been specified in section 2.5.4.

10. HEATING CAPACITY RATING

A suggestion was made that the test procedures include a definition of heating capacity as the product of the measured steady state efficiency and the input to the appliance. This suggestion has been accepted and incorporated in the test procedures.

11. STEADY STATE CALCULATIONS FOR FLUE LOSS

A comment stated that flue losses calculated by the DOE procedures do not agree closely with those used and accepted as established industry practices for natural gas and, in particular, the methods employed by American Gas Association Laboratories (AGA Labs). NBS investigated these practices and recommended several changes to the assigned values of stoichiometric air to fuel ratio (A/F) in table 3, used to calculate flue losses, to represent typical properties of natural gases being distributed in the field. DOE has adopted this change in order to obtain closer agreement with existing methods.

12. EFFECTIVENESS OF STACK (OR FLUE) DAMPERS

A comment was made that calculations used to predict savings associated with the use of stack (or flue) dampers did not appear to reflect adequately boundary layer flow effects. It was claimed that the factor D_0, which is derived from the percentage of open area in the stack or flue, did not take into account the location and shape of that open area (i.e., an open area in the center of the damper plate as opposed to a space around the outside edge when the damper is closed). This comment predicted that stack (or flue) dampers would not be properly evaluated by the proposed calculation for D_0 in section 4.3.

NBS has investigated the effects of boundary layer flow by testing various dampers. The results of these tests showed that the equation as proposed was sufficient to measure accurately stack (or flue) damper effectiveness. However, as a result of this investigation, the equation in section 4.3 has been changed from that proposed to correct a discontinuity of the curve at $A_D/A_S=0.59$. As a result of this change, the discontinuity is no longer present, and calculated values of D_0 are now available for all ratios of A_D/A_S.

Another commenter stated that the proposed test procedures indicated that a furnace equipped with a stack (or flue) damper, which when closed has an effective area of 80 percent or less, will use more energy than a furnace or vented heater without a stack (or flue) damper. The commenter believed this was incorrect. DOE agrees and has eliminated the draft factor in the equations for determining effective flue temperatures if the factor exceeds unity.

13. STACK (OR FLUE) DAMPER OPERATION DURING THE COOL-DOWN TEST

In the proposed rule, to evaluate the unit's fuel utilization efficiency, direct vent systems equipped with a flue damper were to be tested with the device in place and closed during the cool-down portion of the test, while nondirect vent units that utilize a stack damper were to have a calculation rather than a test. This procedure was criticized as inconsistent.

This apparent inconsistency is explained by considering the importance of measuring flue gas temperatures. On furnaces with a stack (or flue) damper it is more representative of normal operation if the stack (or flue) damper is in place and closed during the cool-down test. Therefore, DOE has retained this method in the test procedures wherever possible. However, this method is possible only on a direct vent unit with a flue damper or a unit with a stack damper and barometric draft regulator. Units equipped with an integral draft diverter or a draft hood have these draft relief devices sealed during the cooled-down test to measure accurately flue gas temperature and CO_2 as discussed in item 5. However, this procedure of blocking the draft relief devices does not allow the heat trapped by the stack damper to spill into the room as it normally would in the home. Therefore, to account for this effect on these units the procedures contain an additional correction factor to evaluate damper effectiveness.

14. EFFICIENCY DEGRADATION OF OIL FUELED FURNACES

In one comment it was indicated that soot build-up occurs in normal operation of most oil burning furnaces in the field which, in turn, causes a reduction of the fuel utilization efficiency of those furnaces. It was requested that the test procedures incorporate a measurement of fuel utilization efficiency under conditions representative of the soot build-up during typical usage.

DOE has been unable to determine a representative condition of soot build-up given the variations in maintenance to which any furnace or vented heater may be exposed. As a result, DOE has determined that the test procedures prescribed today should be used to test new units only.

It was also suggested that the cost of annual maintenance, such as removing soot build-up, be a component of the estimated annual operating cost. The term "estimated annual operating cost" is defined in the Act as "the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product." Therefore, the annual cost of maintenance does not fall within the definition of "estimated annual operating costs," and is not included in the final rule prescribed today.

15. STACK (OR FLUE) DAMPERS ON OUTDOOR FURNACES, BOILERS, OR VENTED HEATERS

One comment stated the proposed test procedures would show greater energy savings for the use of a stack damper on outdoor furnaces than on indoor furnaces, a result he believed inconsistent with known data.

In practice, a stack damper on outdoor equipment does not result in an energy savings since all heat trapped by the damper is discharged through the draft relief openings to the outdoors. The test procedures for furnaces and vented heaters intended for installation outdoors or in unheated areas, such as attics or crawl spaces, specify a D_0 factor only for flue dampers. A flue damper is the only type of damper that saves energy on outdoor units since heat can be trapped in the heat exchanger on the furnace side of the draft relief device. This savings is correctly accounted for in the test procedures.

16. BLOCKING THE SOURCE OF COMBUSTION AIR

One commenter stated that following the procedures for outdoor installation resulted in blocking off the air intake. To avoid the possibility, a cautionary statement has been added to section 2.2.3 stating: "care should be taken not to block the air intake with insulation."

17. ENERGY SAVINGS DUE TO ELECTRIC-IGNITION

According to some commenters, the proposed test procedures failed to reflect accurately the energy savings available by using electric-ignition devices. NBS investigated this claim and determined that a modification to the calculation procedure was necessary to produce more realistic values. This has been accomplished by including a correction factor in the calculation of $C_{T\text{-}OFF}$ in section 4.2.23 for furnaces and section 4.1.23 for vented heaters.

18. EFFICIENCIES AT REDUCED FIRING RATES

One commenter suggested DOE further evaluate the assumption that a furnace with a reduced firing rate will have the same efficiency at both reduced and full firing rates. He suggested efficiencies are generally lower at reduced firing rates.

DOE has determined that conventional reduced firing rate furnaces have lower steady state efficiencies at the reduced firing rate since the inlet air openings, sized for the full firing rate, provide large amounts of excess air. However, when considering seasonal efficiency, the effect of reduced steady state efficiency at the reduced firing rate is offset by reduced cycling. Consequently, even though the test procedures do not directly account for the lower steady state efficiency at reduced firing rates, they do correctly predict the seasonal efficiency of the conventional reduced firing rate furnace.

19. CONSTANT PART LOAD UTILIZATION EFFICIENCIES

Commenters also suggested DOE further evaluate the assumption that part load utilization efficiency is constant for all climatic conditions in all parts of the country. NBS performed an evaluation of this assumption prior to the issuance of the proposed test procedures. The same furnace or vented heater will have different representative part loads in different parts of the country. However, these differences were not found to be of a magnitude requiring expanded test procedures to determine a regional annual utilization efficiency. The efficiency, as now determined, uses a one temperature "bin" approach to calculate the representative part load for furnaces or vented heaters in each region of the United States during one heating season. A multitemperature "bin" approach would be needed to provide a more exact regionalized test procedure. NBS considered a six temperature "bin" method and found the additional incremental accuracy did not warrant the more lengthy calculation procedure.

20. SPECIFIED FUEL CHARACTERISTICS

At the public hearing, it was suggested the tolerances for natural gas as specified for testing (i.e., higher heat value equal to 1,025 Btu's per cubic foot, ±5 percent) be deleted and that whatever pipeline gas is distributed to be used for the test gas.

The higher heating value of natural gas varies for many parts of the country depending on the source of the natural gas. Also, in winter many companies "peak shave;" that is, in periods of high demand, the natural gas delivered to customers is supplemented by mixing it with propane gas. Consequently, during periods of high demand (i.e., cold weather) the heating value and specific gravity of the distributed gas can vary.

The ±5 percent tolerance on higher heating value for all test gases is specified because the constants used for determining steady state flue loss, A/F (stoichiometric air to fuel ratio), and $L_{L\text{-}A}$ (latent heat loss), are dependent on maintaining the test gases within the specified tolerances. In these test procedures it is necessary both to limit the variation of the specific heating value of the fuel and to measure the actual value with an accuracy of 1 percent. Thus, the test procedures prescribed today retain the tolerances for natural gas originally specified.

21. WATER PUMP ENERGY MEASUREMENT

Section 3.1.6 required pump energy (PE) to be measured. Comments noted that due to the variety of piping arrangements that can be attached to a boiler in the field, the PE consumption can differ considerably from one installation to another. It was recommended that a typical electric power rating be used for the calculation instead of a laboratory measurement. NBS recommended a typical rating of 0.13 kW which has now been incorporated into section 3.1.2 of appendix N.

22. OIL BURNER ADJUSTMENTS

Section 2.4.2 specified that oil burners be adjusted to give the best CO_2 reading. Comment was received that this was not a realistic setting for boiler burners. It was further noted that boilers are sold in two basic ways: as bare boilers to be equipped with any oil burner available in the field (as decided by the customer or the installing contractor), or as a boiler-burner unit incorporating a flame retention burner matched to the boiler by the manufacturer. According to the comment, boilers in both categories are rated by the manufacturer in terms of CO_2 adjustment which is 10 percent for the bare boiler and 12 percent for the boiler with the burner as part of the package. It was stated there are oil burners available that can produce 13 percent to 14 percent CO_2 in the labo-

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ratory. However, such values cannot be obtained in practice since a margin must be allowed for safety to cover daily variations in available draft, air density, etc.

To better represent the field installed condition, the statement directing the tester to adjust the unit to the "best" CO_2 has been changed to direct him to adjust the unit to the CO_2 reading recommended by the manufacturer. Additionally, the specification for smoke has been changed from a No. 2 to a No. 1 smoke adjustment to better represent field conditions.

The statement, "adjust to the manufacturers CO_2 recommendation" is not intended to limit the CO_2 to 10 percent or 12 percent. If a higher CO_2 level is possible while achieving the prescribed smoke setting, then that adjustment is permissible if the manufacturer normally recommends it for field adjustment. In any case, the No. 1 smoke setting governs burner adjustment irrespective of the manufacturer's CO_2 recommendations.

23. BURNER OPERATING HOURS

Comments were made that the number of burner operating hours predicted by the proposed test procedures was greater than the actual number of burner operating hours of furnaces in the field.

The calculation for burner operating hours is based on an average or typical design heating requirement and the average or typical heating load hours. The design heating requirement is determined in the test procedures using a value of output capacity (Q_{out}) for a particular furnace or vented heater. The heating load hours are determined using the standard 65° F base. These determinations do not fully account for internal loads and the dynamic nature of the heating flow of the structure. As a consequence, the design heating requirements and heat load hours determined by these calculations tend to be larger than the actual heating loads required to be met by the heating appliances and, therefore, the burner operating hours and the annual energy consumption are over-estimated. NBS has reviewed much of the technical information available on this subject; in particular, the information published by the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE). DOE has adopted the NBS recommendation of including a constant adjustment factor in the furnace, vented heaters and unvented heater test procedures. This adjustment factor will improve the agreement between the average calculated operating cost and the actual cost incurred by the consumer.

After reviewing data, NBS recommended, and DOE accepted the value of 0.77 as the adjustment factor. This is applied in the determination of burner operating hours for fossil fueled units and in the determination of annual energy consumption for electric units.

Also, some commenters criticized the assumed oversizing factor of 70 percent used in the calculation of burner operating hours. In the field, many furnaces and vented heaters are considerably more than 70 percent oversized. Consequently, they operate fewer hours, at a higher firing rate, than would less oversized furnaces or vented heaters. However, the oversizing practices of the past are being moderated today because of an increasing awareness that oversized equipment is less efficient. Therefore, DOE believes the 70 percent oversizing factor is currently an appropriate factor to use in these calculation procedures.

These procedures provide a basis for comparing furnaces and vented heaters based on the design heat loss of the house. Consequently, a larger capacity furnace or vented heater will show approximately the same cost of operation as a smaller furnace or vented heater when each is compared for cost of operation at the same design heat loss, providing both have the same seasonal efficiency.

24. JACKET LOSS MEASUREMENT PROCEDURE

One comment stated that the procedures used in the referenced ANSI Standard for jacket loss measurement (ANSI Z21.47) would not properly evaluate the jacket loss of an underfired boiler. According to the commenter, the most significant jacket loss of such boilers is through the bottom. As an alternate method of determining this jacket loss, he suggested conducting a full thermal efficiency test as specified in other ANSI standards for boilers. These standards measure and add the output energy, in the heated water at steady state operation, to the flue loss, expressed as a percent of the total input, and subtract this total from 100 percent.

The standards suggested by the commenter themselves do not measure jacket loss through the bottom, although they do provide for determining the total boiler jacket losses. These standards deduce jacket losses from a measured heat output.

A direct measure of the heat output of a furnace or vented heater would be considerably more difficult, and as yet has not been developed. Since the proposed procedure accurately measures fuel utilization efficiency for both furnaces and boilers, DOE has determined to retain the procedure originally proposed for measuring jacket losses.

25. SIMPLIFICATION OF DATA COLLECTION AND COMPUTATION

Several commenters expressed concern over the lengthy and difficult calculations and the many measurements contained in the proposed test procedures. The calculations as proposed were necessary to allow a fair comparison of diverse central heating equipment types and produce reasonably realistic numerical results. Existing industry test procedures measure steady state efficiencies, but do not account for any part load or seasonal performance effects. The additional data requirements of the DOE test procedures are due to the treatment of the part load and seasonal effects necessary to estimate annual operating costs and to give credit for equipment features that improve efficiency under part load conditions.

26. MANUAL CALCULATIONS

The proposed test procedures were designed to allow manual computation methods and included several tables and families of graphs. Several members of industry attempted to carry out the indicated calculations, using specific equipment examples and manual methods. Unsatisfactory results were reported in terms of repeatability, precision and manpower costs. Commenters noted that computers are generally available and that their use as the normal computation method would be far more practical. DOE recognizes the validity of these comments by industry and will assist in the transformation from manual to computer procedures. A computer program for the calculations, based on the worksheet contained in the test procedures, is available to all interested parties in the DOE Public Reading Room, Freedom of Information Office, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461

27. UTILIZATION EFFICIENCY BASED ON PRIMARY ENERGY SOURCE

One commenter believed it would be deceptive to the consumer to consider energy efficiency only at the point of use. The commenter stated that energy efficiency should be determined from the primary energy source, i.e., the power plant.

Section 323(a)(4)(A) of the Act requires DOE to prescribe test procedures for different consumer products for the determination of an estimated annual operating cost for each product and at least one other measure of energy consumption which DOE determines is likely to assist consumers in making purchasing decisions. DOE has determined the measures of energy consumption prescribed today will be useful to consumers and are likely to assist them in making purchasing decisions. DOE does not consider it necessary to prescribe any additional measures of energy consumption at this time.

28. PROPANE PILOT UTILIZATION

Comment was received from the liquid petroleum (LP) gas industry emphasizing their concern with any action which would preclude the use of gas pilots on LP gas fueled heaters. These test procedures do not preclude the use of pilots on LP gas heaters.

29. COMPARISON OF VENTED HEATERS AND FURNACES

A commenter stated the test procedures should allow for a fair comparison of all types of heating equipment and therefore must be as consistent as possible among types and still consider the different usage patterns and conditions of operation to which vented heaters and furnaces are exposed. The commenter suggested that a correction factor could be applied to the vented heater calculation to account for these differences.

DOE has determined it appropriate to address vented heaters in the test procedures in the same way as furnaces, since the typical use of vented heaters is as a primary heat source in a home. Furthermore, DOE believes a correction factor applied to the vented heater test procedures in order to reflect typical differences between annual cost of operation of vented heaters and furnaces could be misleading. Such a correction factor giving higher annual operating costs for furnaces might imply to a consumer that the seasonal efficiencies of furnaces are generally lower than those of vented heaters.

30. MISCELLANEOUS

After careful consideration of all of the comments and further consultation with NBS and FTC, DOE has made some editorial and minor technical changes in the proposed test procedures that were not discussed above and incorporated them in the final rule prescribed today.

C. REGULATIONS PRESCRIBED

1. TEST PROCEDURES

The test procedures for furnaces and vented home heating equipment prescribed today are included in subpart B and are substantially the same as those proposed, with the exception of the changes discussed above. As with the proposed procedures, the methodology of the tests incorporate parts of the following standards: American National Standards Institute (ANSI) Z11.182-1965 (R1971), Z21.11.1-1974, Z21.13-1974, Z21.44-1973, Z21.47-1973, Z21.48-1976, Z21.49-1975, and Z91.1-1972, Underwriters Laboratory (UL) 729-1976, 730-1974, and 896-1973, Air Conditioning and Refrigeration Institute (ARI) 280-74, and The Hydronic Institute (HI) "Testing and Rating Standard for Cast Iron and Steel Heating Boilers — January 1977." These standards are used in the test procedures with additional methodology to determine energy consumption. For purposes of DOE's program, the incorporated standards remain applicable as presently written, regardless of any subsequent amendment of the ANSI, UL, ARI, or HI standards, until further amendment by DOE. Copies of these standards are available for inspection at the DOE Public Reading Room.

Under the requirements of section 32(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70), the Administrator of FEA is to consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact on competition of any rules prescribed by FEA which utilize or incorporate any commercial standards. As noted earlier, the Administrator's functions have been assumed by the Secretary of Energy.

Copies of the test procedures for furnaces and vented home heating equipment, which incorporate the abovementioned commercial standards, have been transmitted to the Attorney General and to the Chairman of the Federal Trade Commission for their comments concerning the impact of such standards on competition, in accordance with section 32(c). Neither official has any comments, nor do they recommend against the incorporation or use of these commercial standards in the final test procedures for furnaces and vented home heating equipment.

2. GENERAL PROVISIONS

Also prescribed today are definitions of "Basic model" with respect to furnaces and vented home heating equipment, "Direct vent system," "Electric central furnace," "Forced air central furnace," "Furnace," "Gravity central furnace," "Low pressure steam or hot water boiler," "Outdoor furnace or boiler," "Vented home heating equipment," "Vented heater," "Vented wall furnace," "Vented floor furnace," and "Vented room heater." The definitions for furnaces and boilers were previously proposed in subpart A issued July 28, 1977, (42 FR 40826, August 11, 1977). The definitions for vented home heating equipment were previously proposed in subpart A issued August 22, 1977 (42 FR 43930 August 31, 1977). Comments which were received regarding these definitions and the issues which they raised have been discussed earlier in this notice.

3. APPLICATION OF TEST PROCEDURES

As discussed previously, the final test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. It is expected that instructions on how to apply the standard test methodology to these other elements of the appliance program will be proposed for comment in the near future.

The requirements of § 430.24 (n) and (o) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedure application provision are prescribed. After that time, all representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. UNIT COSTS OF ENERGY

Under section 323(b)(2) of the Act, FEA is to provide manufacturers information as to the representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. PREEMPTION

Today's rulemaking prescribing final test procedures for furnaces and vented home heating equipment supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of furnaces or vented home heating equipment, or which provide for any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of furnaces or vented home heating equipment, must now employ test procedures identical to those specified in today's final rule.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 FR 23185 Department of Energy Organization Act, Pub. L. 95-91.)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulation, is amended as set forth below, effective.

Issued in Washington, D.C., May 2, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

1. Section 430.2 is amended by adding subparagraphs (14) and (15) as part of the definition of "basic model" and by adding in appropriate alphabetical order the definitions of "direct vent system," "electric boiler," "electric central furnace," "forced air central furnace," "furnace," "gravity central furnace," "low pressure steam or

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hot water boiler," "outdoor furnace or boiler," "vented home heating equipment" or "vented heater," "vented floor furnace," "vented room heater," and "vented wall furnace," to read as follows:

§ 430.2 Definitions.

• • • • •

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and—

(14) with respect to furnaces, having the same primary energy source and essentially identical functional, physical and electrical characteristics.

(15) with respect to vented home heating equipment, having the same primary energy source and essentially identical functional, physical and electrical characteristics.

• • • • •

"Direct vent system" means a system supplied by a manufacturer which provides outdoor air or air from an unheated space (such as an attic or crawl space) directly to a furnace or vented heater for combustion and for draft relief if the unit is equipped with a draft control device.

"Electric boiler" means an electrically powered furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 pounds per square inch gauge (psig) steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

"Electric central furnace" means a furnace designed to supply heat through a system of ducts with air as the heating medium, in which heat is generated by one or more electric resistance heating elements and the heated air is circulated by means of a fan or blower.

"Forced air central furnace" means a gas or oil burning furnace designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas or oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower.

"Furnace" means a device designed to be the principal heating source for the living space of a residence having a heat input rate less than 300,000 Btu's per hour for electric boilers and low pressure steam or hot water boilers, or 225,000 Btu's per hour for forced air central furnaces, gravity central furnaces, and electric central furnaces.

"Gravity central furnace" means a gas fueled furnace which depends primarily on natural convection for circulation of heated air and which is designed to be used in conjunction with a system of ducts.

"Low pressure steam or hot water boiler" means an electric, gas or oil burning furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 pounds psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

"Outdoor furnace or boiler" is a furnace or boiler normally intended for installation out-of-doors or in an unheated space (such as an attic or a crawl space).

"Vented home heating equipment" or "vented heater" means a class of home heating equipment, not including furnaces, designed to furnish warmed air to the living space of a residence, directly from the device, without duct connections (except that boots not to exceed 10 inches beyond the casing may be permitted) and includes: vented wall furnace, vented floor furnace, and vented room heater.

"Vented floor furnace" means a self-contained vented heater suspended from the floor of the space being heated, taking air for combustion from outside this space. The vented floor furnace supplies heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

"Vented room heater" means a self-contained, free standing, nonrecessed, vented heater for furnishing warmed air to the space in which it is installed. The vented room heater supplies heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

"Vented wall furnace" means a self-contained vented heater complete with grilles or the equivalent, designed for incorporation in, or permanent attachment to, a wall of a residence and furnishing heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

2. Section 430.22 is amended by adding paragraphs (n) and (o), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

• • • • •

(n) *Furnaces.* (1) The estimated annual operating cost for furnaces is the sum of (i) the product of the average annual fuel energy consumption, in Btu's per year for gas or oil furnaces or in kilowatt-hours per year for electric furnaces, determined according to 4.8 or 4.10 of appendix N of this subpart, respectively, and the representative average unit cost in dollars per Btu for gas or oil, or dollars per kilowatt-hour for electric, as appropriate, as provided pursuant to section 323(b)(2) of the Act, plus (ii) the product of the average annual auxiliary electric energy consumption in kilowatt-hours per year, determined according to 4.9 of appendix N of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting sum then being rounded off to the nearest dollar per year.

(2) The annual fuel utilization efficiency for furnaces, expressed in percent, is the ratio of annual output of useful energy delivered to the heated space to the annual fuel energy input to the furnace determined according to 4.2.33 of appendix N of this subpart for gas and oil furnaces and determined in accordance with 4.1 of appendix N of this subpart for electric furnaces.

(3) The estimated regional annual operating cost for furnaces is the sum of (i) the product of the regional annual fuel energy consumption in Btu's per year for gas or oil furnaces or in kilowatt-hours per year for electric furnaces, determined according to 4.12 and 4.14 of appendix N of this subpart, respectively, and the representative average unit cost in dollars per Btu for gas or oil, or dollars per kilowatt-hour for electric, as appropriate, as provided pursuant to section 323(b)(2) of the Act, plus (ii) the product of the regional auxiliary electrical energy consumption in kilowatt-hours per year, determined according to 4.13 of appendix N of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting sum then being rounded off to the nearest dollar per year.

(4) Other useful measures of energy consumption for furnaces shall be those measures of energy consumption which the Secretary of Energy determines are likely to assist consumers in making purchasing decisions and which are derived from the application of appendix N of this subpart.

(o) *Vented home heating equipment.* (1) The estimated annual operating cost for vented home heating equipment is the sum of (i) the product of the average annual fuel energy consumption in Btu's per year, determined according to 4.7 of appendix O of this subpart, and the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Administrator, plus (ii) the product of the average annual auxiliary electric energy consumption in kilowatt-hours per year, determined according to 4.8 of appendix O of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum rounded off to the nearest dollar per year.

(2) The annual fuel utilization efficiency for vented home heating equipment, expressed in percent, is the ratio of annual output of useful energy delivered to the heated space to the annual fuel energy input to the vented heater determined according to 4.1.33 of Appendix O of this subpart.

(3) The estimated regional annual operating costs for vented home heating equipment computed for different typical design heating requirements is the sum of (i) the product of the regional annual fuel energy consumption for the typical design heating requirement being used, in Btu's per year for gas or oil vented heaters determined according to 4.10 of Appendix O of this subpart, and the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Administrator plus (ii) the product of the regional annual auxiliary electrical energy consumption in kilowatt-hours per year determined according to 4.11., as appropriate, of Appendix O of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(4) Other useful measures of energy consumption for vented home heating equipment shall be those measures of energy consumption which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix O of this subpart.

3. Section 430.24 is amended by adding paragraphs (n) and (o) to read as follows:

§ 430.24 Representations regarding measures of energy consumption.

• • • • •

(n) *Furnaces.* (1) Except as provided in paragraph (n)(3) of this section, no manufacturer, distributor, retailer, or private labeler of furnaces may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(n) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that for each such measure of energy consumption, there is 95 percent confidence that the true mean of such measures of the basic model lies within ±5 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (n)(1) of this section is to be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) Whenever a rule applicable to furnaces is prescribed under Section 324 of the Act, this paragraph (n) shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption of the label.

(o) *Vented home heating equipment.* (1) except as provided in paragraph (o)(3) of this section, no manufacturer, distributor, retailer, or private labeler of vented home heating equipment may make any representation with respect to or based upon a measure or measures of energy consumption described in Section 430.22(o) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that for each such measure of energy consumption, there is 95 percent confidence that the true mean of such measures of the basic model lies within ±5 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (o)(1) of this section is to be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) Whenever a rule applicable to vented heaters is prescribed under Section 324 of the Act, this paragraph (o) shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption on the label.

(4) Subpart B of Part 430 is amended to add Appendices N and O, to read as follows:

APPENDIX N—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF FURNACES

1.0 *Definitions.*

1.1 "Steady-state conditions" means equilibrium conditions as indicated by temperature variations of not more than 3° F (1.7° C) in the stack gas temperature for units equipped with integral draft diverters, or not more than 5° F (2.8° C) in flue gas temperature for units equipped with draft hoods, barometric draft regulators, or direct vent systems, in three successive temperature readings taken 15 minutes apart.

1.2 "Steady-state conditions for low pressure steam and hot water boilers" means steady-state conditions as defined in 1.1 above and variations of not more than 4° F (2.2° C) in the outlet water temperature for hot water boilers in three successive readings taken 15 minutes apart.

1.3 "Flue gases" means all gases in the flue during the duration of combustion in the combustion chamber, including reaction products, inerts and any excess air.

1.4 "Excess air" means air which passes through the combustion chamber and the furnace flues in excess of that which is theoretically required for complete combustion.

1.5 "Flue" means a conduit between the flue outlet of the furnace and the integral draft diverter, draft hood, barometric draft regulator, vent terminal, or any other point of draft relief.

1.6 "Furnace outlet" means the opening provided in a furnace for the exhaust of the flue gases from the combustion chamber.

1.7 "Flue losses" means the sum of sensible and latent heat losses above room temperature of the flue gases leaving the furnace.

1.8 "Stack" means the portion of the exhaust system downstream of the draft diverter, draft hood or barometric draft regulator.

1.9 "Stack gases" means the mixture of the flue gases and air that enters at the draft diverter, draft hood, integral draft diverter, or barometric draft regulator.

1.10 "Barometric draft regulator or barometric damper" means a device designed to maintain a constant draft in a furnace or boiler.

1.11 "Air shutter" means an adjustable device for varying the size of the primary air inlet(s) to the combustion chamber or power burner.

1.12 "Power burner" means a furnace burner which supplies air for combustion at a pressure exceeding atmospheric pressure, or a burner which depends on the draft induced by a fan incorporated in the furnace for proper operation.

1.13 "Vent limiter" means a device which limits the flow of air from the atmospheric diaphragm chamber of a gas pressure regulator to the atmosphere. A vent limiter may be a limiting orifice or other limiting device.

1.14 "Vent/air intake terminal" means a device which is located on the outside of a building and is connected to a furnace by a system of conduits. It is composed of an air intake terminal through which the air for combustion is taken from the outside atmosphere, and an exhaust terminal from which flue gases are discharged.

1.15 "Resistance heating element" means the electrical conducting medium which is intended to be heated by an electric current and which dissipates this heat into the air or water.

1.16 "Induced draft" means drawing air into the combustion chamber by mechanical means.

1.17 "Plenum" means an air compartment, that is attached to, or is an integral part of a forced air furnace and which is designed to either distribute the heated air after it leaves the heat exchanger in the case of a supply plenum, or collects the air which enters the return inlet in the case of a return plenum.

1.18 "Heat input" (Q_{in}) means the rate of energy supplied in a fuel to a furnace, operating under steady state conditions, expressed in Btu's per hour. It includes any input energy to the pilot light and is obtained by multiplying the measured rate of fuel consumption by the measured higher heating value of the fuel.

1.19 "Draft hood" means a device that is not an integral part of the furnace or boiler, and which is connected to the furnace or boiler by a short length of flue pipe. It is designed to (1) provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft hood, (2) prevent a back draft from entering the furnace, and (3) neutralize the effect of stack action of the chimney or gas vent upon the operation of the furnace.

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1.20 "Higher heating value" (HHV) means the heat produced per unit of fuel when complete combustion takes place at constant pressure and the products of combustion are cooled to the initial temperature of the fuel and air and when the water vapor formed during combustion is condensed. The higher heating value is expressed in Btu's per pound, Btu's per cubic foot for gaseous fuel, or Btu's per gallon for liquid fuel.

1.21 "Integral draft diverter" means a device that is an integral part of a furnace and which is designed to (1) provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft diverter, (2) prevent a back draft from entering the furnace, (3) neutralize the effect of stack action of the chimney or gas vent upon the operation of the furnace.

1.22 "Stack damper" is a device installed downstream of the integral draft diverter, draft hood, or barometric draft regulator and which is designed to automatically open the venting system when the appliance is in operation and to automatically close off the venting system when the appliance is in a standby condition.

1.23 "Flue damper" is a device installed between the furnace and the integral draft diverter, draft hood, barometric draft regulator or vent terminal on a unit not equipped with a draft control device and which is designed to automatically open the venting system when the appliance is in operation and to automatically close-off the venting system when the appliance is in a standby condition.

1.24 "Air tube" means a tube which carries combustion air from the fan to the burner nozzle for combustion.

1.25 "Infiltration parameter" means that portion of unconditioned outside air drawn into the heated space as a consequence of loss of conditioned air through the exhaust system of a furnace or boiler.

1.26 "Vent pipe" means passages and conduits in a direct vent system through which gases pass from the combustion chamber to the outdoor air.

1.27 "Heating capacity" (Q_{out}) means the rate of useful heat output from a furnace, operating under steady state conditions, expressed in Btu's per hour. For furnaces intended to be installed indoors it is obtained by multiplying the "heat input" (Q_{in}) by the steady state efficiency (η_{ss}) divided by 100. For furnaces intended to be installed outdoors it is obtained by multiplying (A) the "heat input" (Q_{in}) by (B) the difference of the steady state efficiency divided by 100 and the quantity (3.3) (L_j) divided by 100, where L_j is the jacket loss as determined in 3.4 of this appendix.

2.0 *Testing conditions.*

2.1 *Installation of test plenum, duct work, and piping.*

2.1.1 Gravity central furnaces (including direct vent systems). Install and equip gravity central furnaces with a vertical supply test plenum or extended casing and horizontal test ducts as described in section 2.9.1 of ANSI Standard Z21.47-1973.

2.1.2 Forced air central furnaces (including direct vent systems). Equip gas-fueled forced air central furnaces with a plenum and test duct as described in Sections 2.1.9 and 2.1.10 of ANSI Standard Z21.47-1973. Equip oil fueled forced air central furnaces with a plenum and test duct as described in Section 6.2 of ANSI Standard Z91.1-1972.

2.1.3 Low pressure steam and hot water boilers (including direct vent systems). Install gas-fueled low pressure steam and hot water boilers as prescribed in section 2.9 of ANSI Standard Z21.13-1974. Install oil-fueled low pressure steam and hot water boilers as prescribed in sections 7.0 and 8.1.1 through 8.1.3 of the Hydronic Institute Testing and Rating Standard for Cast Iron and Steel Heating Boilers, January 1977 edition.

2.1.4 Electric central furnaces. Install equipment for testing in accordance with ARI Standard 280-74, section 4 and figure 1.

2.1.5 Electric boilers.

Install equipment in accordance with manufacturer's instructions.

2.2 *Flue and Stack Requirements*

2.2.1 Gravity and Forced air central furnaces. 2.2.1.1 Gravity and gas fueled forced air central furnaces employing integral draft diverters.

Attach to, and vertically above, the diverter outlet of gas fueled gravity and forced air central furnaces employing draft diverters with vertically discharging outlets, a test stack having a length of five (5) feet and a cross sectional area the same size as the furnace outlet. Cover the test stack with insulation having an R value of not less than 7 ($°F\text{-}HR\text{—}ft^2/Btu$) and an outer layer of aluminum foil. Attach a 90 degree elbow and a vertical test stack 5 feet long to the diverter outlet of furnaces employing draft diverters with horizontally discharging outlets. Cover the elbow and test stack with insulation having an R value of not less than 7 ($°F\text{-}HR\text{—}ft^2/Btu$) and an outer layer of aluminum foil.

2.2.1.2 Gas fueled gravity and forced air central furnaces which employ draft hoods. Test gas fueled gravity and forced air central furnaces which employ draft hoods having vertically discharging outlets with the draft hood in place and a five foot long insulated pipe attached to the hood outlet. Test gas fueled furnaces having a horizontally discharging hood outlet, with the draft hood in place and an insulated elbow and a five foot long vertical insulated pipe attached to the hood outlet. Insulate with insulation having an R value not less than 7 ($°F\text{-}HR\text{—}ft^2/Btu$) and an outer layer of aluminum foil. Use an elbow and pipe with a cross sectional area the same size as the hood discharge outlet.

2.2.1.3 Oil fueled forced air central furnaces.

Flue connections for oil fueled forced air central furnaces are to be as described in Figures 1 and 2 of ANSI Standard Z91.1-1972. Use elbows and flue connections with the same cross sectional area as the furnace outlet and covered as described in Figure 2 of ANSI Standard Z91.1-1972 with insulation having an R value not less than 7 ($°F\text{-}HR\text{—}ft^2/Btu$) and an outer layer of aluminum foil. Allow no opening between the furnace and the point where the flue gas sample is to be taken or the flue gas temperature is to be measured. If a barometric draft regulator is incorporated in the furnace, seal it during all tests.

2.2.2 Gas and oil fueled low pressure steam and hot water boilers (not including direct vent systems). Set up gas fueled low pressure steam and hot water boilers employing draft diverters with the same flue and stack arrangement described in section 2.2.1.1 for gas fueled furnaces with draft diverters.

Set up gas fueled low pressure steam and hot water boilers employing draft hoods with the same flue and stack arrangement described in section 2.2.1.2 for gas fueled furnaces with draft hoods.

Flue connections for oil fueled low pressure steam and hot water boilers are the same as those described in section 2.2.1.3 for oil fueled forced air central furnaces.

2.2.3 Direct vent systems. Keep the vent/air intake system supplied by the manufacturer in place during all tests. Test units intended for installation with a variety of vent pipe lengths with the minimum vent length recommended by the manufacturer. Do not connect a furnace or boiler employing a direct vent system to a chimney or induced draft source. Vent combustion products solely on the provision of venting incorporated in the furnace and the vent/air intake system supplied with it. On units which are not designed to significantly preheat the incoming air, insulate the first 18 inches of vent pipe downstream of the furnace outlet with a layer of insulation having an R value of 7 ($°F\text{-}HR\text{—}ft^2/Btu$) covered with a layer of aluminum foil. Care should be taken not to block the air intake with insulation. For units designed to significantly preheat the incoming combustion air cover all surfaces of the vent/air intake system exposed to ambient air with insulation having an R value not less than 7 ($°F\text{-}HR\text{—}ft^2/Btu$) and a layer of aluminum foil, where the combustion air temperature exceeds the room temperature by more than 30° F (16.76 C°).

2.3 *Fuel supply.*

2.3.1 Natural gas. For a furnace utilizing natural gas, maintain the gas supply to the unit under test at a normal inlet test pressure of 7 to 10 inches water column immediately ahead of all controls. Maintain the regulator outlet pressure at normal test pressure approximately at that recommended by the manufacturer. Use natural gas having a specific gravity of approximately 0.65 and a higher heating value within ±5% of 1025 Btu per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the natural gas to be used in the test with an error no greater than one percent.

2.3.2 Propane gas. For a furnace or boiler utilizing propane gas, maintain the gas supply to the unit under test at a normal inlet pressure of 11 to 13 inches water column. Immediately ahead of all controls maintain the regulator outlet pressure, on units so equipped, approximately at that recommended by the manufacturer. Use propane HD-5 having a specific gravity of approximately 1.53 and a higher heating value within ±5% of 2500 Btu's per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the propane to be used in the test with an error no greater than one percent.

2.3.3 Other test gas. The specific gravity of other test gases shall approximate the values given in Table IX of ANSI Standard Z21.47-1973. Maintain the test pressures immediately ahead of all controls between the "normal" and "increased" values of test pressures given in Table X in the ANSI Standard. Use gas with a measured higher heating value within ±5% of the values specified in Table IX of ANSI Standard Z21.47-1973. Determine the actual higher heating value of the gas used in the test with an error no greater than 1 percent.

2.3.4 Oil supply. For a furnace or boiler utilizing fuel oil, use fuel oil No. 1 or No. 2 conforming to the specifications outlined in Tables 2 and 3 of ANSI Standard Z91.1-1972. Measure the higher heating value of the test fuel oil with an error no greater than one percent.

2.3.5 Electrical supply. For an electric furnace or boiler, or for an auxiliary electric component of a gas or oil fueled furnace or boiler, maintain the electrical supply to the test unit within one percent of the nameplate voltage for the entire duration of the test. If a voltage range is used for nameplate voltage, maintain the electrical supply within one percent of the center of the nameplate voltage range.

2.4 *Burner adjustments.*

2.4.1 Gas Burner adjustments. Adjust burners of gas fueled furnances or boilers to their maximum Btu ratings at normal test pressure specified in 2.3 of this Section. Correct the burner input rate to 60° F and 30 inches of mercury barometric pressure and within ±2 percent of the hourly Btu rating specified by the manufacturer, as measured after 15 minutes of operation starting with all parts of the furnace at room temperature. Set the primary air shutters in accordance with the manufacturer's recommendation to give a good flame at this adjustment. If, however, the setting results in the deposit of carbon during any test specified herein, the tester shall adjust the shutters and burners until no more carbon is deposited and shall perform the tests again with the new settings.

If a vent limiting means is provided on a gas pressure regulator, keep it in place during all tests.

2.4.2 Oil burner adjustments. Adjust the burners of oil fueled furnaces or boilers to give the CO_2 reading recommended by the manufacturer and an hourly Btu input during the steady-state performance test described below which is within plus or minus 2 percent of the furnace manufacturer's specified normal hourly Btu input rating. Smoke in the flue may not exceed a No. 1 smoke during the steady-state performance test as measured by the procedure in ANSI Standard Z11.182-1965 (R1971) (American Society for Testing and Materials D 2156-65 (1970)). Maintain the average draft over the fire and in the flue during the steady-state performance test at that recommended by the manufacturer. Do not allow draft fluctuations exceeding 0.005 inches of water gauge. Do not make additional adjustments to the burner during the required series of performance tests. The instruments and measuring apparatus for this test are described in section 6.3 of ANSI Standard Z91.1-1972.

2.5 *Circulating air, steam, or water flow adjustments.*

2.5.1 Gas fueled forced air central furnaces (including direct vent systems).

Adjust the external static pressure and air flow rate as specified in sections 2.1.11, 2.1.12, and 2.1.13 of ANSI Standard Z21.47-1973. Measure outlet air temperature in accordance with section 2.1.9 of the same standard.

2.5.2 Gravity central furnaces (including direct vent systems). Maintain the air flow rate through the furnace such that the average normal air temperature rise at steady-state is not greater than 130° F above the inlet air temperature when the furnace is equipped with the vertical test plenum of extended casing and horizontal test ducts as described in section 2.1.1. Measure the outlet air temperature as specified in section 2.9.1 of ANSI Standard Z21.47-1973. Measure the inlet air temperature measured at the center of the plane of each inlet air opening by means of a single No. 24 American Wire Gauge (AWG) thermocouple, suitably shielded from direct radiation.

2.5.3 Oil fueled forced air central furnaces (including direct vent systems). Adjust the external static pressure and air flow rate as specified in table 5 and section 6.2 of ANSI Standard Z91.1-1972.

2.5.4 Gas and oil fueled low pressure steam and hot water boilers (including direct vent systems). For hot water boilers, adjust the water flow rate to produce a water temperature rise, during steady-state operation, of between 120° F (48.9 C) and 165° F (73.9 C) and an outlet water temperature of 200° F (93.3 C) plus or minus 5° F (2.8 C). For steam boilers, conduct the steady-state performance test described in 3.1 at atmospheric pressure or at a pressure not exceeding 2 psig.

2.5.5 Electric central furnaces. Use the air quantity and pressures specified by the Air Conditioning and Refrigeration Institute (ARI) Standard 280-74, section 6.2.1 and 6.2.3.

2.5.6 Electric boilers. Adjust the flow of water or steam as specified in section 2.5.4 for gas and oil fueled boilers.

2.6 *Location of temperature measuring instrumentation.*

2.6.1 Gas fueled gravity furnaces, forced air furnaces, and boilers (including direct vent systems). For units employing an integral draft diverter, install nine thermocouples, wired in parallel, in a horizontal plane in the 5-foot test stack located 1 foot from the test stack inlet. Equalize the length of all thermocouple leads before paralleling. Arrange the thermocouples in a grid with one thermocouple in the center of the test stack, and eight thermocouples along imaginary lines intersecting at right angles in the horizontal plane at points one-third and two-thirds of the distance betweeen the center of the pipe and the pipe wall.

For units which employ a draft hood, or a direct vent system which does not significantly preheat the incoming combustion air, install nine thermocouples, wired in parallel, in a horizontal plane located within 12 inches (304.8 mm) of the furnace or boiler outlet, and upstream of the draft hood on units so equipped. Equalize the length of all thermocouple leads before paralleling and arrange the thermocouples as described above.

For funaces or boilers which employ direct vent systems that significantly preheat the incoming comoustion air, install nine thermocouples, wired in parallel, in a plane parallel to and located within 6 inches (152.4 mm) of the vent/air intake terminal. Equalize the length of all thermocouple leads before paralleling and arrange the thermocouples as described above.

Use bead-type thermocouples having wire size not greater than No. 24 AWG. If there is a possibility that the thermocouples could receive direct radiation from the flame, install radiation shields on the flame side of the thermocouples only and position the shields so that they do not touch the thermocouple junctions.

Locate the thermocouples used for measuring conditioned warm air as described in ANSI Z21.47-1973, sections 2.1.9 and 2.9.1. Measure the temperature of the inlet air by means of a single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

Measure the inlet and outlet water temperature on gas fueled hot water boilers as shown in figure 3 of ANSI Standard Z21.13-1974.

2.6.2 *Oil fueled forced air central furnaces and boilers (including direct vent systems).* Install nine thermocouples, wired in parallel and having equal length leads, in a plane perpendicular to the axis of the flue pipe. For systems other than direct vent systems which significantly preheat the incoming air, locate this plane at the position of the single thermocouple shown in figure 2 of ANSI Standard Z91.1-1972. For direct vent systems which significantly preheat the incoming air, locate the plane within 6 inches (152.4 mm) of the outlet of the vent/air intake terminal. Arrange the thermocouples as described in section 2.6.1.

Use bead-type thermocouples having a wire size not greater than No. 24 AWG. If there is a possibility that the thermocouples could receive direct radiation from the flame, install radiation shields on the flame side of the thermocouples only and position the shields so that they do not touch the thermocouple junctions.

Locate the thermocouples for measuring conditioned warm air as described in section 6.2 of ANSI Standard Z91.1-1972. Measure the temperature of the inlet air by means of a single thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

Measure the inlet and outlet water temperatures on oil fueled hot water boilers as described in section 7.4 and figure 2 of the January 1977 edition of the Hydronic Institute Standard "Testing and Rating Standard for Cast Iron and Steel Heating Boilers."

2.6.3 *Electric furnaces.* Install nine thermocouples, wired in parallel and having equal length leads, as shown in figure 1 of ARI Standard 280-74, for measuring the conditioned warm air temperature. Establish the temperature of the inlet air by means of a single thermocouple suitably shielded from radiation and located in the center of the plane of each inlet air opening. Use bead-type thermocouples having a wire size not greater than No. 24 AWG.

2.6.4 *Electric boilers.* Measure the inlet and outlet water temperatures on electric hot water boilers as specified in section 2.6.2 for oil fueled hot water boilers.

2.7 *Combustion measurement instrumentation.* Analyze the samples of stack and flue gases for furnaces and determine the concentration by volume of carbon dioxide present in the dry stack or flue gas, with instrumentation providing readings with an accuracy of ±0.1 percentage points.

2.8 *Energy flow instrumentation.* Install one or more instruments, which measure, as appropriate, the rate of electrical energy combustion, gas flow, or fuel oil supplied to the furnace or boiler, with an error no greater than one percent.

2.9 *Room ambient temperature.* During the time period required to perform all the testing and measurement procedures specified in section 3.0, maintain the room temperature within ±5° F (+2.8 C) of the value T_{RA} measured during the steady state performance test. During these tests, the room temperature may not exceed 100° F (37.8 C) or fall below 65° F (18.3 C). Use the procedure outlined in section 2.1.14 of ANSI Standard Z21.47-1973 to measure room temperature.

2.10 *Equipment used to measure mass flow rate in flue and stack.* The tracer gas chosen for this task should have a density which is less than or approximately equal to the density of air. Use a gas that is of a different chemical species or different concentration from the flue gas to be measured

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and unreactive with the environment to be encountered. Using instrumentation of either the batch or continuous type, measure the concentration of tracer gas with an accuracy of ±2 percent of the value of the concentration measured.

3.0 *Testing and measurements.*

3.1 *Steady-State testing.*

3.1.1 *Gas fueled gravity furnaces, forced air central furnaces, and low pressure steam and hot water boilers (including direct vent systems).* The following procedure is to be used for gas fueled gravity furnaces, forced air central furnaces, and boilers (including direct vent systems).

Set up the furnace or boiler as specified in sections 2.1., 2.2, and 2.3. Begin the steady-state performance test by operating the burner and the circulating air blower or water pump, with the adjustments specified by 2.4.1 and 2.5, until steady-state conditions are attained as indicated by a temperature variation of not more than—(1) 3° F (1.7C) in the stack gas temperature for furnaces and boilers equipped with draft diverters (2) 5° F (2.8C) in the flue gas temperature for furnaces and boilers equipped with either draft hoods, or direct vent systems, and (3) 4° F (2.2C) in the outlet water temperature for hot water boilers; in three successive readings taken 15 minutes apart.

On units employing draft diverters, measure the room temperature (T_{RA}) as described in 2.9 and measure the steady-state stack gas temperature ($T_{s.ss.x}$) using the nine thermocouples located in the 5 foot test stack as described in 2.6.1. Secure a sample of the stack gases in the plane where $T_{s.ss.x}$ is measured and determine the concentration by volume of carbon dioxide ($X_{CO7.s}$) present in dry stack gas.

On units employing draft hoods or direct vent systems, measure the room temperature (T_{RA}) as described in 2.9 and measure the steady-state flue gas temperature, ($T_{F.SS.X}$) using the nine thermocouples located in the flue pipe as described in Section 2.6.1. Secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2($X_{CO2.F}$) present in dry flue gas.

Determine the steady-state heat input rate (Q_{in}), including pilot gas, by multiplying the measured higher heating value of the test gas by the steady-state gas input rate corrected to standard conditions of 60° F and 30 inches of mercury. Use measured values of gas temperature and pressure at the meter and the barometric pressure to correct the metered gas flow rate to standard conditions.

Measure the steady-state electric power to the power burner (PE) on units so equipped. For furnaces, measure the steady-state electrical power to the conditioned air blower (BE). For hot water boilers, use a steady state water pump power of 0.13kW.

After the above test measurements have been complete on units employing integral draft diverters, secure a sample of the flue gases at the inlet to the draft diverter and determine the concentration of CO_2 ($X_{CO2.F}$) present. In obtaining this sample of flue gas, move the sampling probe around to assure that an average value is obtained for the CO_2 concentration. For units with multiple heat exchanger outlets, draw and weight a sample from each outlet, to obtain the average CO_2 concentration for the unit. Block the draft diverter relief opening and cover the draft diverter and flue gas collection box (on a power vented unit) with insulation having an R value no less than 7 (°F-HR—ft²/Btu) and an outer layer of aluminum foil. If the unit is turned off during the process of blocking the diverter relief opening, run it until steady-state conditions (as defined above) are again achieved. Progressively restrict the test stack outlet until the concentration of CO_2 in flue gas samples secured from the test stack in the plane where $T_{S.SS.X}$ was measured is within ±0.2 percentage points of the previously determined value of $X_{CO2.F}$. Measure the flue gas temperature ($T_{F.SS}$) using the nine thermocouples located in the 5 foot test stack as described in 2.6.1.

3.1.2 Oil fueled forced air central furnaces and low pressure steam and hot water boilers (including direct vent systems). Set up and adjust the furnace or boiler as specified in sections 2.1, 2.2 and 2.3.4. Begin the steady-state performance test by operating the burner and the circulating air blower or water pump with the adjustments specified by 2.4.2 and 2.5 until steady-state conditions are attained as indicated by a temperature variation of not more than—(1) 5° F (2.8C) in the flue gas temperature for furnaces and boilers and (2) 4° F (2.2C) in the outlet water temperature for hot water boilers; in three successive readings taken 15 minutes apart.

Smoke in the flue for units equipped with power burners, may not exceed a No. 1 smoke during the steady-state performance test as measured by the procedure described in ANSI Standard Z11.182-1975 (R1971) (ASTM D 2156-65 (1970)). Maintain the average draft over the fire and in the breeching during the steady-state performance test at that recommended by the manufacturer. Draft fluctuations may not exceed 0.005 inches of water gauge.

Measure the room temperature (T_{RA}) as described in 2.9 and measure the steady state flue gas temperature ($T_{F.SS}$) using nine thermocouples located in the flue pipe as described in 2.6.1. Secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2 ($X_{CO2.F}$) present in dry flue gas.

Measure and record the steady-state heat input rate (Q_{in}) and the steady-state electrical power to the power burner (PE) on units so equipped. For furnaces, measure the steady-state electrical power to the conditioned air blower (BE). For hot water boilers, use a steady-state water pump power of BE=0.13 kW.

3.1.3 Electric forced air central furnaces. Measure the rated power input (E_{in}) of electric furnaces according to the test procedure specified in ARI Standard 280-74, section 5.1. Take all measurements at the standard rating condition described in 6.2.1 of ARI Standard 280-74. Supply electricity as specified in section 2.3.5 of this appendix.

3.1.4 Electric boilers. Adjust flow conditions as specified in section 2.5.4. Maintain electrical supply as specified in section 2.3.5. Operate the boiler until steady state conditions are reached as indicated in section 1.2 of this appendix. Take three measurements of the total power input to the boiler each at a 10-minute interval, and average the measurements to find the rated power input (E_{in}).

3.2 *Flue temperature measurements—cool down test.*

3.2.1 Gas and oil fuel gravity and forced air central furnaces (including direct vent systems). Turn off the main burner after steady-state testing is completed, and measure the flue gas temperature, by means of the 9 thermocouples described above, at 1.5 ($T_{F.OFF}(t_x)$) and 9.0 minutes ($T_{F.OFF}(t_x)$) after the burner shuts off. By-pass the damper control in units employing stack dampers and integral draft diverter or draft hood so that the damper remains open during the cool down test.

During this off-period, allow a time delay, t^-, between burner shut down and blower shut down of either 3 minutes or until the supply air temperature drops to a value of 40° F (22.2C) above the inlet air temperature, whichever results in the longest blower on time. However, if the furnace employs a single motor to drive a power burner and an indoor air circulating blower, turn off the blower and the burner together. If the blower delay time exceeds 3 minutes, measure the time t^- between burner shut off and blower shut off using a stop watch. For oil fueled furnaces not equipped with stack dampers, maintain the draft in the flue pipe within a range of −0.001 and +0.005 inches of water gauge of the average draft maintained during the steady state test described in 3.1 if the optional test in 3.6 is being carried out, or within ±0.01 inches of water gauge of the average steady-state draft if it is not. For a direct vent system with a flue damper or a furnace equipped with both a stack damper and a barometric damper, close the flue or stack damper during the cool down test. Keep the main burner(s) off until equilibrium conditions are attained, as indicated by variations in the flue gas temperature of not more than 3° F (1.7C) between three successive readings taken 15 minutes apart. For units employing a continuously burning pilot light, take a third flue gas temperature measurement and determine the off-period minimum flue gas temperature ($T_{F.OFF.}$ (∞)). For units not employing a continuously burning pilot light, set ($T_{F.OFF.}$ (∞)) equal to the room temperature T_{RA}. During this cool down test, measure the energy input rate to the pilot light (Q_p), if the unit is so equipped, within an accuracy of ±3%. Record all measured values.

3.2.2 Gas and oil fueled boilers (including direct vent systems). After steady-state testing has been completed, turn the main burner(s) off and measure the flue gas temperature at 3.75 ($T_{F.OFF}(t_x)$) and 22.5 ($T_{F.OFF}(t_x)$) minutes after the burner shuts off, using the 9 thermocouples described above. During this off-period, do not allow water to circulate through the hot water boilers. Make a third flue gas temperature measurement 45 minutes after the burner shuts off to determine the off-period minimum flue gas temperature ($T_{F.OFF.}$ (∞)). During this cool-down test, measure the energy input rate to the pilot light (Q_p), if the unit is so equipped, to within an accuracy of ±3 percent. Record all measured values. For oil fueled units not equipped with stack dampers, maintain the draft in the flue within the same ranges called out in section 3.2.1 above. For direct vent systems with flue dampers or boilers equipped with both stack dampers and barometric dampers, close the flue or stack damper during the cool down test.

3.3 *Flue gas temperature measurements—Heat-up test.*

3.3.1 Gas and oil fueled central furnaces (including direct vent systems). After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature using the 9 thermocouples described above, at 0.5 ($T_{F.ON}(t_x)$) and 2.5 ($T_{F.ON}(t_x)$) minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up

by 1.5 minutes (t^-), unless—(1) the furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together or (2) the delay time would result in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the burner at the highest temperature. If the fan control is permitted to start the blower, measure the time delay, t^-, using a stop watch. Record the measured temperatures. During the heat up test for oil fueled furnaces, maintain the draft in the flue pipe within ±0.01 inches of water gauge of the manufacturer's recommended on-period draft.

3.3.2 Gas and oil fueled boilers (including direct vent systems). Fifty minutes after the main burner(s) is turned off for the cool down test, turn on the steam or hot water boiler and measure the flue gas temperature using the 9 thermocouples described above, at 1.0 ($T_{F.ON}(t_x)$) and 5.5 ($T_{F.ON}(t_x)$) minutes after the main burner(s) comes on. Start the pump circulating the water through the hot water boiler simultaneously with the main burner(s) and maintain the water flow rate at that maintained during the steady state test described in Section 3.1. During the heat up test for oil fired boilers, maintain the draft in the flue pipe within ±0.01 inches of water column of the manufacturer's recommended on-period draft. Record the measured temperatures.

3.4 *Jacket loss measurement.* For units intended to be installed outdoors or in a unheated space perform a jacket loss test. Measure the jacket loss (L_j) in accordance with the following ANSI standards and record the total loss and ambient room temperature during the test:

(i) Gas fueled gravity and forced air central furnaces—Z21.47–1973, section 2.9.1 and appendix F.

(ii) Gas and oil fueled low pressure steam and hot water boilers—ANSI Z21.47-1973, section 2.9.1 and appendix F.

(iii) Oil fueled forced air central furnaces—Z91.1-1972, appendix B.

3.5 *Measurement for determining effectiveness of automatic stack damper.* Measure the cross sectional area of the stack (A_s), the net area of the damper plate (A_D) (the area of the damper plate minus the area of any holes in the plate), and the angle (Ω) the damper plate makes, when closed, with a plane perpendicular to the axis of the stack.

3.6 *Optional procedure for determining D_P, D_F, D_S for systems equipped with power burners.* On power burner systems not employing automatic stack dampers, or power burner systems with a stack damper and a draft diverter or draft hood, measure D_F (the ratio of gas mass flow rate through the flue during the off-cycle to the gas mass flow rate though the flue during the on-cycle at identical temperatures) during the cool down test described in Section 3.2. On systems for which the flue or stack damper is to be closed during the cool down test described in section 3.2, measure D_P (the ratio of the rate of flue gas mass flow through the furnace during the off-period to the rate of flue gas mass flow through the furnace during the on-period) during a separate cool down test. Conduct this separate cool down test after the heat up test described in section 3.3 is completed by running the unit after the heat up test until steady-state conditions are reached, as indicated by a temperature variation of not more than—(1) 5° F (2.8 C) in the flue gas temperature for furnaces and boilers, and (2) 4° F (2.2 C) in the outlet water temperature for hot water boilers; in three successive readings taken 15 minutes apart, and then shutting the unit off with the stack or flue damper controls by-passed or adjusted so that the stack or flue damper remains open during the resulting cool down period. If a draft was maintained on oil furled units in the flue pipe during the steady-state performance test described in section 3.1 maintain the same draft (within 0.001 and +0.005 inches of water gauge of the average steady-state draft) during this cool down period. Measure the flue gas mass flow rate ($m_{F.OFF}$) during the cool down test described above at a specific off-period flue gas temperature and correct to obtain its value at the steady-state flue gas temperature ($T_{F.SS}$), using the procedure described below.

Within 1 minute after the unit is shut off to start the cool down test for determining D_P, begin feeding a tracer gas into the combustion chamber at a constant flow rate of V_T, and at a point which will allow for the best possible mixing with the air flowing through the chamber. (On units equipped with an oil fired power burner the best location for injecting this tracer gas appears to be through a hole drilled in the air tube). Periodically measure the value of V_T with an instantaneously reading flow meter having an accuracy of ±3 percent of the quantity measured and maintain that value at less than 1 percent of the air flow rate through the furnace. If a combustible tracer gas is used, there should be a delay period between the time the unit is shut off and the time the tracer gas is first injected to prevent ignition of the tracer gas.

Between 5 and 6 minutes after the unit is shut off to start the cool down test, measure the flue gas temperature, $T_F{}^*{}_{OFF}$, using the 9 thermocouples described above. At the same time the flue gas temperature is measured, measure the percent volumetric concentration of tracer gas, C_T, in the flue gas in the same plane where $T_F{}^*{}_{OFF}$ is determined. Obtain the concentration of tracer gas using an instrument which will result in an accuracy of ±² percent in the measured value of C_T. If the use of a continuous readings type instruments results in a delay time between drawing of a sample and its analysis, take this delay into account so the temperature measurement and the measurement of tracer gas concentration coincide. Determine the temperature of the tracer gas entering the flow (T_T) and the barometric pressure (P_B).

The rate of the flue gas mass flow through the furnace and the factors D_P, D_F, and D_S are calculated by the equations in sections 4.4.1, 4.4.2, and 4.4.3 of this appendix.

4.0 Calculation of derived results from test measurements.

4.1 Annual fuel utilization efficiency for electric furnaces and boilers. The annual fuel utilization efficiency for electric furnaces and boilers, $EFFY_{A-E}$, is given by:

$EFFY_{A-E}$=100 (for indoor units).

$EFFY_{A-E}$=100−3.3 L_j (for electric forced air central furnaces intended for outdoor installation).

$EFFY_{A-E}$=100−4.7 L_j (for electric boilers intended for outdoor installation).

where

L_j=the jacket loss as determined in section 3.4 of this Appendix, in percent.

4.2 *Annual fuel utilization efficiency for gas or oil furnaces.* Perform the following calculations to determine the annual fuel utilization efficiency of a gas or oil furnace. Figure 10 provides an illustration of a worksheet which may be used to tabulate the results of test measurements and calculations.

4.2.1 System number. Determine the system number for the type of furnace being tested in accordance with table 1 or 2.

4.2.2 Ration of combustion air to stoichiometric air. Determine the ratio of combustion air mass flow rate of stoichiometric air mass flow rate, $R_{T.F}$, for the test fuel from Figure 1 by using the value of dry flue gas CO_2 concentration, $X_{CO2.F}$, determined in accordance with section 3.1 of this appendix.

4.2.3 Ratio of combustion and relief air to stoichiometric air. For a system employing an integral draft diverter, or draft hood, determine the ratio of the sum of combustion and relief air mass flow rate stoichiometric air mass flow rate, $R_{T.S}$, from figure 1 for the type of test fuel, by using the value of dry stack gas CO_2 concentration, X_{CO7S}, determined in accordance with section 3.1 of this appendix.

4.2.4 Average sensible heat loss at full-load steady state operation. For a system employing an integral draft diverter, determine the average sensible heat loss at full-load steady-state operation, $L_{S.SS.A}$, expressed as a percent, from figure 2 using the value of $R_{T.S}$ determined in 4.2.3, the type of test fuel, and $\Delta T_{S.SS}$, where

$$\Delta T_{S.SS}=T_{S.SS.X}-R_A$$

where:

$T_{S.SS.X}$=measured stack gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this appendix, in degrees Fahrenheit.

T_{RA}=measured room temperature of conditioned space in which furnace or boiler is tested, determined in accordance with section 2.9 of this appendix, in degrees Fahrenheit.

For systems not employing an integral draft diverter, determine the average sensible heat loss at full-load steady-state operation, $L_{S.SS.A}$, expressed as a percent, from figure 2 using the value of $R_{T.F}$ determined in 4.2.2, the type of test fuel, and $\Delta T_{F.SS}$, where:

$\Delta T_{F.SS}=T_{F.SS}-T_{RA}$

where:

$T_{F.SS}$=flue gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this appendix, in degrees Fahrenheit.

T_{RA} as defined above.

4.2.5 Steady state efficiency. Calculate the steady-state efficiency (excluding jacket loss), η_{SS}, expressed in percent and defined as

$$\eta_{SS}=100-L_{L.A}-L_{S.SS.A}$$

where:

$L_{L.A}$=average latent heat loss of the test fuel determined in accordance with Table 3, in percent.

$L_{S.SS.A}$=as defined in 4.2.4

4.2.6 Average ration of stack gas mass flow rate to flue gas mass flow rate at full-load steady-state operation. Determine the average ration of stack gas mass flow rate to flue gas mass flow rate at full-load steady-state operation, S/F, for the system number to be tested from table 1 or 2.

4.2.7 Equivalent field stack gas temperature at full-load steady-state operation. Calculate the equivalent field stack gas tem-

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perature at full-load steady-state operation, $T_{S,SS}$, expressed in degrees Fahrenheit and defined as:

$$T_{S,SS} = \frac{1}{S/F}\left[T_{F,SS} - T_{RA}\right] + T_{RA},$$

where:
$T_{F,SS}$ as defined in 4.2.4.
T_{RA} as defined in 4.2.4.
S/F as defined in 4.2.6.

4.2.8 On-cycle time constant. Calculate the on-cycle time constant, τ_{on}, expressed in minutes and defined as:

$$\tau_{on} = \frac{t_2 - t_1}{\ln\left[\frac{T_{F,SS} - T_{F,on}(t_1)}{T_{F,SS} - T_{F,on}(t_2)}\right]}$$

where:
for furnaces:
t_1=0.5 minutes.
t_2=2.5 minutes.
for boilers:
t_1=1.0 minute.
t_2=5.5 minutes.
$T_{F,on}(t_1)$=flue gas temperature measured at time (t_1) from start-up of the system burner determined in accordance with section 3.3 of this appendix, in degrees Fahrenheit.
$T_{F,on}(t_2)$=flue gas temperature measured at time (t_2) from start-up of the system burner determined in accordance with section 3.3 of this appendix, in degrees Fahrenheit.
$T_{F,SS}$ as defined in 4.2.4.

4.2.9 Effective flue gas temperature difference at startup. Calculate the effective flue gas temperature difference at start-up of the system burner, $\theta_{F,O,X}$, expressed in degrees Fahrenheit and defined as:

$$\theta_{F,O,X,} = \left[T_{F,SS} - T_{F,on}(t_1)\right] e^{\frac{t_1}{\tau_{on}}}$$

where:
$T_{F,SS}$ as defined in 4.2.4.
$T_{F,on}(t_1)$ as defined in 4.2.8.
t_1 as defined in 4.2.8.
τ_{on} as defined in 4.2.8.

4.2.10 Off-cycle time constant. Calculate the off-cycle time constant, τ_{off}, expressed in minutes and defined as:

$$\tau_{off} = \frac{t_4 - t_3}{\ln\left[\frac{T_{F,OFF3} - T_{F,OFF}(\infty)}{T_{F,OFF4} - T_{F,OFF}(\infty)}\right]}$$

where:
for furnaces:
t_3=1.5 minutes.
t_4=9.0 minutes.
for boilers:
t_3=3.75 minutes.
t_4=22.5 minutes.
$T_{F,OFF}(t_3)$=flue gas temperature measured at time (t_3) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this appendix, in degrees Fahrenheit.
$T_{F,OFF}(t_4)$=flue gas temperature measured at time (t_4) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this appendix, in degrees Fahrenheit.
$T_{F,OFF}(\infty)$=minimum flue gas temperature determined in accordance with section 3.2 of this appendix, in degrees Fahrenheit.

4.2.11 Effective flue gas temperature difference at shut-down. Calculate the effective flue gas temperature difference at shut-down of the system burner, $\psi_{F,O,X}$, expressed in degrees Fahrenheit and defined as:

$$\psi_{F,O,X} = \left[T_{F,OFF3}(t_3) - T_{F,OFF}(\infty)\right] e^{\frac{t_3}{\tau_{off}}}$$

where:
$T_{F,OFF}(t_3)$ as defined in 4.2.10.
$T_{F,OFF}(\infty)$ as defined in 4.2.10.
t_3 as defined in 4.2.10.
τ_{off} as defined in 4.2.10.

4/2/12 Minimum flue gas temperature difference above room temperature. Calculate the minimum flue gas temperature difference above room temperature, $\psi_{F,\infty,X}$, expressed in degrees Fahrenheit and defined as:

$$\psi_{F,\infty,X} = T_{F,OFF}(\infty) - T_{RA}$$

where:
$T_{F,OFF}(\infty)$ as defined in 4.2.10.
T_{RA} as defined in 4.2.4.

4.2.13 Minimum stack gas temperature difference above room temperature. Calculate the minimum stack gas temperature difference above room temperature, $\psi_{S,\infty,X}$ expressed in degrees Fahrenheit and defined as:

For systems numbered 1-4, and systems 5-8 for which

$$\left(\frac{S}{F}\right)\left(\frac{D}{S}\right) > \frac{D}{F}:$$

$$\psi_{S,\infty,X} = \frac{(D)}{(S/F)\ (D)_S}\left(\psi_{F,\infty,X}\right).$$

For systems numbered 5-8 for which

$$\left(\frac{S}{F}\right)\left(\frac{D}{S}\right) \leq \frac{D}{F}:$$

$$\psi_{S,\infty,X} = \psi_{F,\infty,X}$$

where:
D_F=off-cycle flue gas draft factor selected from table 1 or, for units with power burners where D_F is measured, determined in accordance with section 4.4.2 of this appendix.
D_S=off-cycle stack gas draft factor selected from table 1 or, for units with power burners where D_F is measured, determined in accordance with section 4.4.3 of this appendix.
S/F as defined in 4.2.6.
$\psi_{F,\infty,X}$ as defined in 4.2.12.

4.2.14 Effective stack gas temperature difference at shut-down. Calculate the effective stack gas temperature difference at shut-down, $\psi_{S,O,X}$, expressed in degrees Fahrenheit and defined as:

For systems numbered 1-4, and systems 5-8 for which

$$\left(\frac{S}{F}\right)\left(\frac{D}{S}\right) > \frac{D}{F}:$$

$$\psi_{S,O,X} = \frac{(D)}{(S/F)\ (D)_S}\left(\psi_{F,O,X}\right)$$

For systems 5-8 for which

$$\left(\frac{S}{F}\right)\left(\frac{D}{S}\right) \leq \frac{D}{F}:$$

$$\psi_{S,O,X} = \psi_{F,O,X}$$

where:
D_F as defined in 4.2.13.
$\psi_{F,O,X}$ as defined in 4.2.11.
S/F as defined in 4.2.6.
D_S as defined in 4.2.13.
$\psi_{F,O,X}$ as defined in 4.2.11.

4.2.15 Correction factors for systems 9-12. Calculate a correction factor which corrects for the use of outdoor air for combustion instead of air at room temperature, C_S, defined as;

$$C_S = 1 + \frac{(70-42)\,\eta_{SS}}{(T_{F,SS} - T_{RA})\ 100}$$

where:
42=average outdoor temperature corresponding to 5,200 degree day location, in degrees fahrenheit.
η_{SS} as defined in 4.2.5.
$T_{F,SS}$ as defined in 4.2.4.
70 assumed average indoor air temperature.
T_{RA} as defined in 4.2.4.

The correction factor which corrects for the effect of outdoor air passing through the heat exchanger during the off-period, C'$_S$, is defined as;

$$C'_S = 1.22$$

4.2.16 Multiplication factor for sensible heat loss during burner on-cycle. Calculate a multiplication factor for sensible heat loss during burner on-cycle, $K_{S,on}$, defined as:

$$K_{S,on} = \frac{100\ C_P\left[1 + (R_{T,F})\ (A/F)\right]}{HHV_A}$$

where:
C_p=0.24 Btu per pound—degree Fahrenheit, specific heat of air.
$R_{T,F}$ as defined in 4.2.2.
A/F=stoichiometric air/fuel ratio determined in accordance with Table 3.
HHV_A=average higher heating value of the test fuel determined in accordance with Table 3, in Btu's per pound.

4.2.17 Multiplication factor for sensible heat loss during burner off-cycle. Calculate a multiplication factor for sensible heat loss during burner off-cycle, $K_{S,OFF}$, defined as:

For systems numbered 1-4:

$$K_{S,OFF} = \frac{(T_{F,SS} - T_{RA} + 530)^{1.19}\ (D_F)\ (K_{S,on})}{(T_{F,SS} - T_{RA})^{0.56}}$$

where:
530=assumed average indoor temperature in degrees Rankine.
$T_{F,SS}$ as defined in 4.2.4.
T_{RA} as defined in 4.2.4.
D_F as defined in 4.2.13.
$K_{S,on}$ as defined in 4.2.16.

For systems numbered 5-8:

$$K_{S,OFF} = \frac{(T_{S,SS} - T_{RA} + 530)^{1.19}\ (D_F)(S/F)(K_{S,on})}{(T_{S,SS} - T_{RA} + 70-42)^{0.56}}$$

where:
$T_{S,SS}$ as defined in 4.2.7.
D_S as defined in 4.2.13.
T_{RA} as defined in 4.2.4.
S/F as defined in 4.2.6.
$K_{S,on}$ as defined in 4.2.16.
530 as defined above.
42 as defined in 4.2.15.
70 as defined in 4.2.15.

For systems numbered 9-12:

$$K_{S,OFF} = \frac{(T_{F,SS} - T_{RA} + 530)^{1.19}\ (K_{F,on})\ (D_F)}{(T_{F,SS} - T_{RA} + 70-42)^{0.56}}$$

where:
$T_{F,SS}$ as defined in 4.2.4.
D_F as defined in 4.2.13.
T_{RA} as defined in 4.2.4.
$K_{S,on}$ as defined in 4.2.16.
530 as defined above.
42 as defined in 4.2.15.
70 as defined in 4.2.15

4.2.18 Multiplication factor for infiltration loss during burner on-cycle. Calculate a multiplication factor for infiltration loss during burner on-cycle, $K_{I,on}$, defined as:

For systems numbered 1-8:

$$K_{I,on} = (\phi)(S/F)(K_{S,on})$$

where:
ϕ=0.7, infiltration parameter.
S/F as defined in 4.2.6.
$K_{S,on}$ as defined in 4.2.16.

4.2.19 Multiplication factor for infiltration loss during burner off-cycle. Calculate a multiplication factor for infiltration loss during burner off-cycle $K_{I,OFF}$, defined as:

For systems numbered 1-8:

$$K_{I,OFF} = \frac{(T_{S,SS} - T_{RA} + 530)^{1.19}\ (K_{I,on})\ (D_S)}{(T_{S,SS} - T_{RA} + 70-42)^{0.56}}$$

where:
$T_{S,SS}$ as defined in 4.2.7.
530 as defined in 4.2.17.
42 as defined in 4.2.15.
$K_{I,on}$ as defined in 4.2.18.
D_S as defined in 4.2.13.
70 as defined in 4.2.15.
T_{RA} as defined in 4.2.4.

4.2.20 Ratio of average burner on-time per cycle to on-cycle time constant. Calculate the ratio of average burner on-time per cycle to on-cycle time constant, t_{on}/τ_{on}, defined as:

$$\frac{t_{on}}{\tau_{on}}$$

where:
For furnaces:
t_{on}=3.87 minutes, the average burner on-time per cycle.
τ_{on} as defined in 4.2.8.

For boilers:
t_{on}=9.68 minutes, the average burner on-time per cycle.
τ_{on} as defined in 4.2.8.

4.2.21 Ratio of average burner off-time per cycle to off-cycle time constant. Calculate the ratio of average burner off-time per cycle to off-cycle time constant, t_{on}/τ_{off}, defined as:

$$\frac{t_{off}}{\tau_{off}}$$

where:
For furnaces:
t_{on}=13.3 minutes, the average burner off-time per cycle,
τ_{off} as defined in 4.2.10.
For boilers:
t_{on}=33.26 minutes, the average burner off-time per cycle,
τ_{on}=as defined in 4.2.10.

4.2.22 Effective flue gas temperature difference at burner start-up, corrected for burner cycling effect. Calculate the effective flue gas temperature difference at burner start-up, corrected for burner cycling effect, $\theta_{F,O}$, expressed in degrees Fahrenheit and defined as:

For systems 1-8:

$$\theta_{F,O} = (C_{I,on})(\theta_{F,O,X})$$

For systems 9-12:

$$\theta_{F,O} = (C_{I,on})(C_S)(\theta_{F,O,X})$$

where:

$$C_{I,on} = \frac{1 - \frac{(\psi_{F,O,X})(e)^{-t_{on}/\tau_{off}}}{(T_{F,SS} - T_{F,OFF}(\infty))}}{1 - \frac{(\theta_{F,O,X})(\psi_{F,O,X})(e^{-(t_{on}/\tau_{on} + t_{on}/\tau_{off})})}{(T_{F,SS} - T_{F,OFF}(\infty))^2}}$$

where:
$\theta_{F,O,X}$ as defined in 4.2.9
C_S as defined in 4.2.15
$\psi_{F,O,X}$ as defined in 4.2.11
t_{OFF}/τ_{OFF} as defined in 4.2.21
t_{on}/τ_{on} as defined in 4.2.20
$T_{F,SS}$ as defined in 4.2.4
$T_{F,OFF}(\ )$ as defined in 4.2.10

4.2.23 Effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect. Calculate the effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{F,O}$.

For systems 1-8:

$$\psi_{F,O} = (C_{I,OFF})(\psi_{F,O,X})$$

For systems 9-12:

$$\psi_{F,O} = (C_{I,OFF})(C_S')(\psi_{F,O,X})$$

where:

$$C_{I,on} = \frac{1 - \frac{\left[(\theta_{F,O,X})(e^{-t_{on}/\tau_{on}})\right]}{(T_{F,SS} - T_{F,OFF}(\infty))}}{1 - \frac{(\theta_{F,O,X})(\psi_{F,O,X})(e^{-(t_{on}/\tau_{on} + t_{on}/\tau_{off})})}{(T_{F,SS} - T_{F,OFF}(\infty))^2}}$$

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where:
$\psi_{F,O,X}$ as defined in 4.2.11.
C_s' as defined in 4.2.15.
$\theta_{F,O,X}$ as defined in 4.2.9.
t_{off}/τ_{off} as defined in 4.2.21.
t_{on}/τ_{on} as defined in 4.2.20.
$T_{F,SS}$ as defined in 4.2.4.
$T_{F,OFF,(\infty)}$ as defined in 4.2.10.
C_{UD}=1, for units with continuously burning pilot lights, 0.90 for units with intermittent ignition devices or cycling pilots.

4.2.24 Effective minimum flue gas temperature difference above room temperature, corrected for burner cycling effect. Calculate the effective minimum flue gas temperature difference above room temperature, $\psi_{F,\infty}$, corrected for burner cycling effect, expressed in degrees Fahrenheit and defined as:

For systems numbered 1-8:

$$\psi_{F,\infty} = \psi_{F,\infty,X}$$

For systems numbered 9-12:

$$\psi_{F,\infty} = (C_s')(\psi_{F,\infty,X})$$

where:
C_s' as defined in 4.2.15.
$\psi_{F,\infty,X}$ as defined in 4.2.12.

4.2.25 Effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect. Calculate the effective stack as temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{S,O}$, expressed in degrees Fahrenheit and defined as:

For systems numbered 1-8:

$$\psi_{S,O} = (\psi_{S,O,X})(C_{L,off})$$

Where:
$C_{L,off}$ as defined in 4.2.23.
$\psi_{S,O,X}$ as defined in 4.2.14.

4.2.26 Off-cycle sensible heat loss integration factors. For systems numbered 1-4, determine off-cycle sensible heat loss integration factors, F3 and F4, from Figures 3 and 4, respectively, using values of $\psi_{F,O}$ defined in section 4.2.23, and t_{off}/τ_{off} defined in section 4.2.21.

For systems numbered 5-8 determine off-cycle sensible heat loss integration factors, F5 and F6, from Figures 5 and 6, respectively, using values of $\psi_{S,O}$ defined in section 4.2.25, and and t_{off}/τ_{off} defined in section 4.2.21.

For systems numbered 9-12 determine the off-cycle sensible heat loss integration factors, F5 and F8, from Figures 5 and 6, respectively, using values of $\psi_{F,O}$ defined in section 4.2.23 and t_{off}/τ_{off} defined in section 4.2.21.

4.2.27 Off-cycle infiltration heat loss integration factors. For systems numbered 1-8, determine off-cycle infiltration heat loss integration factors, F7 and F8, from Figures 7 and 8, respectively, using values of $\psi_{S,O}$ defined in section 4.2.25, and and t_{off}/τ_{off} defined in section 4.2.21.

4.2.28 On-cycle sensible heat loss. Calculate the on-cycle sensible heat loss of the system, $L_{S,ON}$, expressed in percent and defined as:

For systems numbered 1-8:

$$L_{S,ON} = L_{S,SS,A} - (K_{S,ON})(\theta_{F,O}) \times \left[\frac{1}{t_{on}/\tau_{on}}\right]\left[(1-e^{-\frac{t_{on}}{\tau_{on}}})\right],$$

For systems numbered 9-12:

$$L_{S,ON} = (K_{S,OFF})(t_{off}/t_{on}) \times \left[(F5) + (\psi_{F,\infty,X})(F6)\right],$$

where:
$K_{S,OFF}$ as defined in 4.2.17.
t_{off} as defined in 4.2.21.
t_{on} as defined in 4.2.20.
F3, F4, F5, and F6 as defined in 4.2.26.
$\psi_{F,\infty}$ as defined in 4.2.24.
$\psi_{S,\infty,X}$ as defined in 4.2.13.

4.2.30 On-cycle infiltration heat loss. Calculate the on-cycle infiltration heat loss of the system, $L_{I,ON}$, expressed in percent and defined as:

For systems numbered 1-8:

$$L_{I,ON} = K_{I,ON}(70-42),$$

where:
$K_{I,ON}$ as defined in 4.2.18.
70 as defined in 4.2.15.
42 as defined in 4.2.15.

For systems numbered 9-12:

$$L_{I,ON} = 0$$

4.2.31 Off-cycle infiltration heat loss. Calculate the off-cycle infiltration heat loss of the system $L_{I,OFF}$, expressed in percent and defined as:

For systems numbered 1-8:

$$L_{I,OFF} = K_{I,OFF}(70-42)(t_{off}/t_{on}) \times \left[(F7) + (\psi_{S,\infty,X})(F8)\right],$$

where:
$K_{I,OFF}$ as defined in 4.2.19.
70 as defined in 4.2.15.
42 as defined in 4.2.15.
t_{off} as defined in 4.2.21.
t_{on} as defined in 4.2.20.
F7, F8 as defined in 4.2.27.
$\psi_{S,\infty,Y}$ as defined in 4.2.13.

For systems numbered 9-12:

$$L_{I,OFF} = 0$$

4.2.32 Part-load fuel utilization efficiency. Calculate the part-load fuel utilization efficiency, expressed in percent and defined as:

for indoor units -

$$r_u = 100 - L_{L,A} - \left[\frac{t_{on}}{t_{on}+\left[\frac{Q_{in}}{P}\right](t_{off})}\right] \times \left[L_{S,ON} + L_{S,OFF} + L_{I,ON} + L_{I,OFF}\right]$$

for outdoor units -

$$r_u = 100 - L_{L,A} - C_j(L_j) - \left[\frac{t_{on}}{t_{on}+\left[\frac{Q_{in}}{P}\right](t_{off})}\right] \times \left[L_{S,ON} + L_{S,OFF}\right]$$

where:
C_j=3.3 for furnaces intended to be installed outdoors.
4.7 for boilers intended to be installed outdoors.
Q_P=Pilot flame fuel input rate determined in accordance with section 3.2 of this Appendix, in Btu's per hour.
Q_{IN}=Full-load input rate (including pilot flame fuel input rate) determined in accordance with section 3.1 of this Appendix, in Btu's per hour.
L_j=Jacket loss determined in accordance with section 3.4 of this Appendix, in percent.
$L_{L,A}$ as defined in 4.2.5.
t_{on} as defined in 4.2.20.
t_{off} as defined in 4.2.21.
$L_{S,ON}$ as defined in 4.2.28.
$L_{S,OFF}$ as defined in 4.2.29.
$L_{I,ON}$ as defined in 4.2.30.
$L_{I,OFF}$ as defined in 4.2.31

4.2.33 Annual fuel utilization efficiency. Calculate the annual fuel utilization efficiency, $EFFY_A$, defined as:

$$EFFY_A = \frac{(r_u)(r_u)(5200)}{(r_{ss})(5200) + (2.5)(r_u)(Q_u)(1.7)(4600)}$$

where:
5,200=The average number of annual heating degree-days for the United States.
4,600=The average number of nonheating season hours per year that the energy to the pilot light is assumed wasted.
1.7=Average furnace sizing factor.
n_{ss}=As defined in 4.2.5.
n_u=As defined in 4.2.32.
Q_P=As defined in 4.2.32.
Q_{IN}=As defined in 4.2.32.

4.3 *Additional requirements for furnaces utilizing a stack (or flue) damper.* Calculate the stack (or flue) damper effectiveness, D_o, defined as:

$$D_o = \sqrt{\frac{5}{5 + \frac{(2.6)\left(\frac{A_b'}{A_s}\right)^{1.58}}{\left(1-\frac{A_b}{A_s}\right)^2}}}$$

where:
$A_b' = A_b\cos(\Omega)$.
A_s=Cross sectional area of the stack determined in accordance with section 3.5 of this appendix, in square inches.
A_b=Net area of the damper plate determined in accordance with section 3.5 of this appendix, in square inches.
Ω=The angle the damper plate makes, when closed, with a plane perpendicular to the axis of the stack, determined in accordance with section 3.5 of this appendix.

4.4 *Additional requirements for furnaces utilizing indoor air for combustion and draft control.* For units obtaining combustion air and draft control air from inside the residence, determine the appropriate factor describing the ratio of on-cycle stack flow to on-cycle flue flow (S/F), the ratio of off-cycle flue flow to on-cycle flue flow at identical temperatures (D_F), and the ratio of off-cycle stack flow to on-cycle stack flow at identical temperatures (D_S) from Table 1.

4.4.1 *Optional procedure for determination of D_F* for furnaces or boilers employing a power burner. Calculate the ratio (D_F) of the rate of flue gas mass flow through the furnace or boiler during the off period, $m_{F,OFF}$ ($T_{F,SS}$), to the rate of flue gas mass flow during the on-period, $m_{F,SS}$ ($T_{F,SS}$), and defined as:

$$D_P = \frac{\dot{m}_{F,OFF}\,(T_{F,SS})}{\dot{m}_{F,SS}\,(T_{F,SS})},$$

For gas fueled units or oil fueled units for which no draft is maintained during the steady-state or cool down test:

$$\dot{m}_{F,OFF}\,(T_{F,SS}) = \dot{m}_{F,OFF}\,(T^*_{F,OFF}) \times \left[\frac{T_{F,SS}-T_{RA}}{T_{F,OFF}-T_{RA}}\right]^{0.5}\left[\frac{T_{F,OFF}+460}{T_{F,SS}+460}\right]^{1.19}$$

For oil fueled units tested with an imposed draft as described in section 3.6:

$$m_{F,OFF}\,(T_{F,SS}) = m_{F,OFF}\,(T^*_{F,OFF})$$

where:
$T_{F,SS}$=As defined in 4.2.4.
$T^*_{F,OFF}$=Flue gas temperature during the off-period measured in accordance with section 3.6 of this appendix, in degrees fahrenheit.
42 as defined in 4.2.15.
460=Conversion factor to convert degrees fahrenheit to degrees rankine.
T_{RA} as defined in 4.2.4.

where:
$R_{T,F}$ as defined in 4.2.2.
A/F as defined in 4.2.16.
Q_{in} as defined in 4.2.32.
HHV_A as defined in 4.2.16.
60=Conversion factor to convert hours to minutes.

4.4.2 Optional procedure for determination of off-cycle draft factor for flue gas flow for furnaces or boilers employing a power burner. Calculate the off-cycle draft factor for flue gas flow, D_F, defined as:
for systems numbered 2, 4, 6, 8 or 10: $D_F = D_P$,
for system number 12: $D_F = (D_P)(D_o)$,
where:
D_P as defined in 4.4.1.
D_o as defined in 4.3.

4.4.3 Optional procedure for determination of off-cycle draft factor for stack gas flow for furnaces or boilers employing a power burner. Calculate the off-cycle draft factor for stack gas flow, D_S, defined as:
for system number 2: D_S=1.0.
for system number 4: $D_S = (0.79 + D_P)/1.4$.
for system number 6: $D_S = D_o$.
For system number 8:

$$\dot{m}_{F,OFF}\,(T^*_{F,OFF}) = (100-C_T)\,\dot{V}_{T,F}\,\rho_{F,OFF}$$

where:
$\dot{V}_{T,F}$=Flow rate of tracer gas through the furnace measured in accordance with section 3.6 of this appendix, in cubic feet per minute.
C_T=Concentration by volume of tracer gas present in the flue gas sample measured in accordance with section 3.6 of this appendix, in percent.
ρ_F=The density the flue gas would have at the temperature T_T in lb per cu ft. It may be approximated by the equation:

$$\rho_F \simeq 1.325\left(\frac{P_B}{T_T + 460}\right).$$

where:
T_T=Temperature of tracer gas entering flow meter measured in accordance with section 3.6 of this appendix, in degrees fahrenheit.
P_B=Barometric pressure measured in accordance with section 3.6 of this appendix, in inches of mercury.

$$\dot{m}_{F,SS}\,(T_{F,SS}) = \left[(R_{T,F})\left(\frac{A}{F}\right) + 1\right]\frac{Q_{in}}{(HHV_A)(60)}$$

where:
$R_{T,F}$ as defined in 4.2.2.
A/F as defined in 4.2.16.
Q_{in} as defined in 4.2.32.
HHV_A as defined in 4.2.16.
60=Conversion factor to convert hours to minutes.

4.4.2 Optional procedure for determination of off-cycle draft factor for flue gas flow for furnaces or boilers employing a power burner. Calculate the off-cycle draft factor for flue gas flow, D_F, defined as:
for systems numbered 2, 4, 6, 8 or 10: $D_F = D_P$,
for system number 12: $D_F = (D_P)(D_o)$,
where:
D_P as defined in 4.4.1.
D_o as defined in 4.3.

4.4.3 Optional procedure for determination of off-cycle draft factor for stack gas flow for furnaces or boilers employing a power burner. Calculate the off-cycle draft factor for stack gas flow, D_S, defined as:
for system number 2: D_S=1.0.
for system number 4: $D_S = (0.79 + D_P)/1.4$.
for system number 6: $D_S = D_o$.
For system number 8:

$$D_S = \begin{cases} (D_o)(D_P), & \text{if } D_o \le \frac{1}{(S/F)} \\ (D_o)(D_P) + \frac{(0.85-(D_o)(D_P))(D_o - \frac{1}{(S/F)})}{1 - \frac{1}{(S/F)}}, & \text{if } D_o > \frac{1}{(S/F)} \end{cases}$$

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where:
D_p as defined in 4.4.1.
D_s as defined in 4.3.

4.5 *Additional Requirements for Furnaces Utilizing a Direct Vent System.* For furnaces utilizing a direct vent system or intended for outdoor installation, determine the appropriate S/F factor and D_f factor from Table 2. If a unit is equipped with a power burner, the optional procedure described in section 4.4.2 of this section may be used to calculate D_f using the value of D_p determined in section 4.4.1 of this section.

4.6 *Additional Requirements for Furnaces Which Modulate or Vary Fuel Input Without Controlling Excess Combustion Air.* Test a furnace which is equipped with a mechanism for reducing the rate of fuel input, but does not provide a means for controlling excess combustion air, at its maximum firing rate in accordance with test procedures in section 3. Use these test results to calculate a seasonal efficiency and an annual operating cost based upon a single fixed fuel input rate.

4.7 *National Average Number of Burner Operating Hours.* Calculate the average number of burner operating hours, BOH, defined as:

BOH=(A)(C) (2,080) (average design heating requirement)−B (2,080).

where:
2,080=National average annual heating load hours (average design heating requirement) is expressed in KBtu/hr and is obtained from Table 4 using the proper value of Q_{out}.
$Q_{out}=(\eta_u/100)\ (Q_{in})$ rounded off to the nearest 1,000 Btu/hr for units intended for installation in a heated space and $Q_{out}=Q_{in}[(\eta_u/100)-(3.3)\ (L_t/100)]$ rounded off to the nearest 1,000 Btu/hr for units intended for installation outdoors or in an unheated space.
η_u as defined in 4.2.5.
Q_{IN} as defined in 4.2.32.

$$A = \frac{100,000}{(341,300)\ (PE + y\ BE) + (Q_{in} - Q_{ir})\ \eta_u}$$

$$B = \frac{(2)\ (Q_p)\ (\eta_u)\ (A)}{100,000},$$

C=0.77, adjustment factor which serves to adjust the calculated design heating requirement and heating load hours to the actual heating load experienced by a heating system.
PE=Power burner electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this appendix, in kilowatts.
BE=Circulating-air blower (or circulating-water pump) electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this appendix, in kilowatts.
y=1+((t⁺−t⁻)/3.87) for furnaces, 1.00 for boilers and 1.00 for furnaces employing a single motor to drive a power burner and air circulating fan or blower, the ratio of average blower or pump on time to average burner on time.
where:
t^+=Blower delay time determined in accordance with section 3.2.1 of this appendix, in minutes
t^-=Blower delay time determined in accordance with section 3.3.1 of this appendix, in minutes.
Q_{in} as defined in 4.2.32.
Q_p as defined in 4.2.32.
η_u as defined in 4.2.32.
(2)=Ratio of the average length of a heating season in hours to the average heating load hours.
100,000=Factor that accounts for percent and KBtu.

4.8 *Average Annual Fuel Energy Consumption for Gas or Oil Fueled Furnaces or Boilers.* Calculate the average annual fuel energy consumption for gas or oil fueled furnaces or boilers, E_F, expressed in Btu's per year, and defined as:

$E_F=(Q_{IN}-Q_P)(BOH)+(8760)(Q_P)$,

where:
Q_{IN} as defined in 4.2.32.
Q_P as defined in 4.2.32.
BOH as defined in 4.7.
8,760=Total number of hours in a year.

4.9 *Average Annual Auxiliary Electrical Energy Consumption for Gas or Oil Fueled Furnaces or Boilers.* Calculate the average annual auxiliary electrical energy consumption, E_{AE}, expressed in kilowatt-hours per year and defined as:

$E_{AE}=(PE+_{Y\ BE})(BOH)$

where:
PE as defined in 4.7.
BE as defined in 4.7.
y as defined in 4.6.
BOH as defined in 4.7.

4.10 *Average Annual Electric Energy Consumption for Electric Furnaces or Boilers.* Calculate the average annual electric energy consumption for electric furnaces or boilers, E_E, expressed in kilowatt-hours per year, and defined as:

$$E_E = \frac{(100)\ (2080)\ (\text{design heating requirement})\ (C}{(\ ^{n}\ Y_{A-E}\ (3,413)}$$

where:
100=Conversion factor to convert percent to decimal fraction
(design heating requirement) is expressed in KBtu/hr and is obtained from Table 4 with Q_{out} set equal to the quantity (E_{IN}) (3.413) rounded off to the nearest 1000 Btu's per hour for units intended for installation in a heated space and (E_{IN}) (3.413) ((100−(3.3)(L_t))/(100) for units intended for installation out-of-doors or in an unheated space.
where:
E_{in}=electric power input in watts measured in accordance with sections 3.1.3 and 3.1.4 of this Appendix.
2,080 as defined in 4.7.
$EFFY_{A-E}$ as defined in 4.1.
3.413 conversion factor corresponding to 1 watt=3.413 Btu/hr.
L_t as defined in 3.4.
C as defined in 4.7.

4.11 *Average Number of Burner Opening Hours in Different Geographic Regions of the United States and in Buildings with Different Design Heating Requirements.* Calculate the average number of burner operating hours by geographic region of the United States, BOH_R, defined as:

$BOH_R=(C)(A)(HLH))$(typical design heating requirement)−B(HLH)

where:
HLH=Heating load hours for a specific geographic region determined in accordance with the heating load hour map in Figure 9.

$$B = \frac{(2)\ (A)\ (Q_p)\ (\eta_u)}{100,000},$$

where:
(2) as defined in 4.7.
A as defined in 4.7.
Q_P as defined in 4.2.32.
η_u as defined in 4.2.32.
100,000 as defined in 4.7.
C as defined in 4.7.
Typical design heating requirement as given in Table 4 for the appropriate value of Q_{OUT}, where Q_{out} is defined in 4.7.

4.12 *Average annual fuel energy consumption for gas or oil fueled furnaces or boilers located in different geographic regions of the United States and in buildings with different design heating requirements.* Calculate the average annual fuel energy consumption for a specific geographic region and for a specific typical design heating requirement, $E_{F,R}$, expressed in Btu's per year, and defined as:

$E_{F,R}=(Q_{IN}-Q_P)+(8760)\ (Q_P)$

where:
Q_{IN} as defined in 4.2.32.
Q_P as defined in 4.2.32.
BOH_R as defined in 4.11.
8760 as defined in 4.8.

4.13 *Average annual auxiliary electrical energy consumption for gas or oil fueled furnaces or boilers in different geographic regions of the United States and in buildings with different design heating requirements.* Calculate the average annual auxiliary electrical energy consumption for a specific geographic region and for a specific typical design heating requirement, $E_{AE,R}$ expressed in kilowatt-hours per year and defined as:

$E_{AE,R}=(PE+y\ BE)\ (BOH_R)$

where:
PE as defined in 4.7.
BE as defined in 4.7.
y as defined in 4.6.
BOH_R as defined in 4.11.

4.14 *Average annual electric energy consumption for electrical furnaces or boilers in different geographic regions of the United States and in buildings with different design heating requirements.* Calculate the average annual electric energy consumption by geographic region of the United States, $E_{E,R}$, expressed in kilowatt-hours per year, and defined as:

$$E_{E,R} = \frac{(100)\ (C)\ (HLH)\ (\text{design heating requirement})}{(EFFY_{\ \ A-E})\ (3,413)}$$

where:
100 as defined in 4.10.
HLH as defined in 4.11.
(design heating requirement) as defined in 4.10.
$EFFY_{A-E}$ as defined in 4.1.
3.413 as defined in 4.10.
C as defined in 4.7.

where:
100 as defined in 4.10.
HLH as defined in 4.11.
(design heating requirement) as defined in 4.10.
$EFFY_{A-E}$ as defined in 4.1.
3.413 as defined in 4.10.
C as defined in 4.7.

Table 1

Factors Describing Air Flow Rate for Gas and Oil-Fired Furnaces or Boilers Utilizing Indoor Air for Combustion and Draft Control

Type of Burner	Units Without a Stack Damper but with Draft Hood or Draft Diverter				Units With a Stack Damper and Draft Hood or Draft Diverter			
	System #	S/F	D F	D S	System #	S/F	D F	D S
Atmospheric	1	2.4	1.0	1.0	5	2.4	1.0	D_o
Power *	2	2.4	0.4	1.0	6	2.4	0.4	D_o

Type of Burner	Units Without a Stack Damper but with Barometric Draft Control				Units With a Stack Damper and Barometric Draft Control			
	System #	S/F	D F	D S	System #	S/F	D F	D S
Atmospheric	3	1.4	1.0	1.0	7	1.4	1.0	D_o
Power *	4	1.4	0.4	0.85	8	1.4	0.4	$(D_o)(D'_p)$

where

$$D'_p = \begin{cases} 0.4, \text{if } D \le 1/(S/F) \\ 0.4 + \dfrac{(0.85 - (0.4)\ (D_o))\ (D_o - 1/(S/F))}{D_o\ (1 - 1/(S/F))}, \text{if } D > 1/(S/F) \end{cases}$$

The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and DOE.

*A power burner may incorporate a device on its air inlet which opens the air inlet when the appliance is in operation and closes the air inlet when the appliance is in the standby condition.

Table 2

Factors Describing Air Flow Rates for Gas or Oil-Fired Furnaces/Boilers Intended for Installation Out-of-Doors or Intended for Indoor Installation But Equipped With a Direct Vent System

Type of Burner	Units Without A Stack or Flue Damper		Units With a Flue Damper		Type of Draft	S/F
	System#	D F	System#	D F		
Atmosphere	9	1.00	11	D_o	None	1
					barometric damper	1.4
Power	10	0.40	12	$0.40 \times D_o$	draft diverter	2.4

The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and DOE.

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Table 3

Values of Higher Heating Value (HHV_A), Stoichiometric Air/Fuel Ratio (A/F), and Latent Heat Loss ($L_{L,A}$) for Typical Fuels

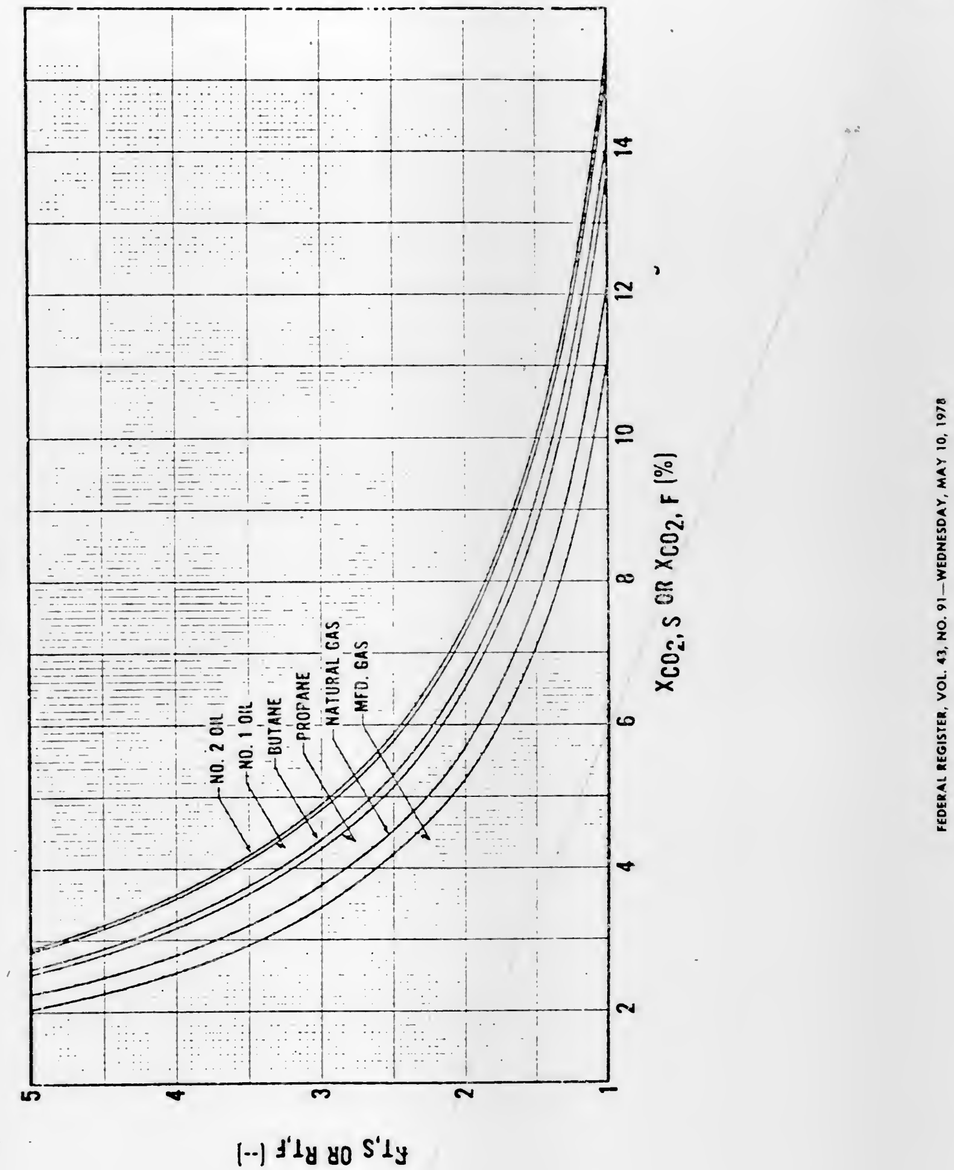
Fuels	HHV (Btu/lb) $_A$	A/F(--)	$L_{L,A}$ (%)
No. 1 Oil	19,800	14.56	6.55
No. 2 Oil	19,500	14.49	6.50
Natural Gas	20,120	14.45	9.55
Manufactured Gas	18,500	11.81	10.14
Propane	21,500	15.58	7.99
Butane	20,890	15.36	7.79

Table 4

Average and Typical Design Heating Requirements for Furnaces and Boilers with Different Output Capacities

Furnace or Boiler Output Capacity, Q_{OUT} (Btu/hr)	Average Design Heating Requirements (KBtu/hr)	Typical Design Heating Requirements (KBtu/hr)
26,000 - 34,000	20	15,20
35,000 - 42,000	25	20, 25, 30
43,000 - 51,000	30	25, 30, 35
52,000 - 59,000	35	30, 35, 40, 45
60,000 - 76,000	40	35, 40, 45, 50
77,000 - 93,000	50	40, 45, 50, 60
94,000 - 110,000	60	50, 60, 70, 80
111,000 - 127,000	70	60, 70, 80, 90
128,000 - 144,000	80	70, 80, 90, 100
145,000 - 161,000	90	80, 90, 100, 110, 120
162,000 - 178,000	100	90, 100, 110, 120, 130
179,000 - 195,000	110	100, 110, 120, 130, 140
over 196,000	130	120, 130, 140, 150, 160

FIGURE 1



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FIGURE 2a

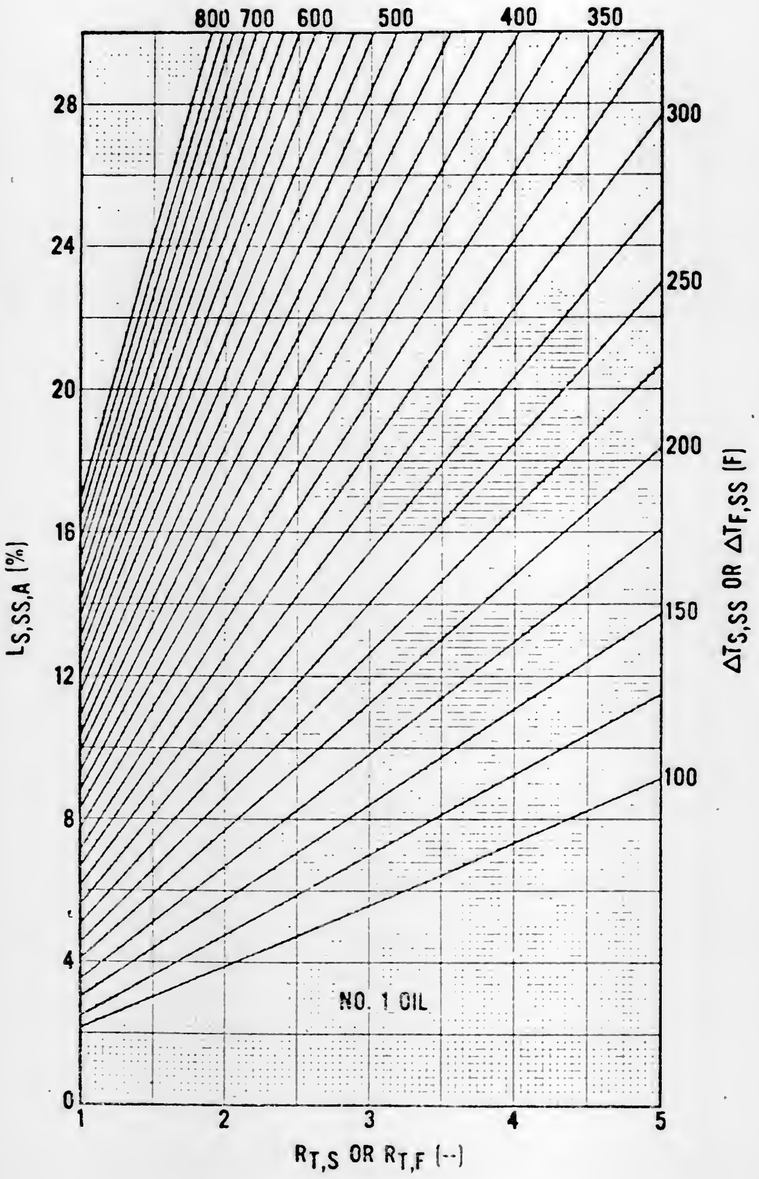
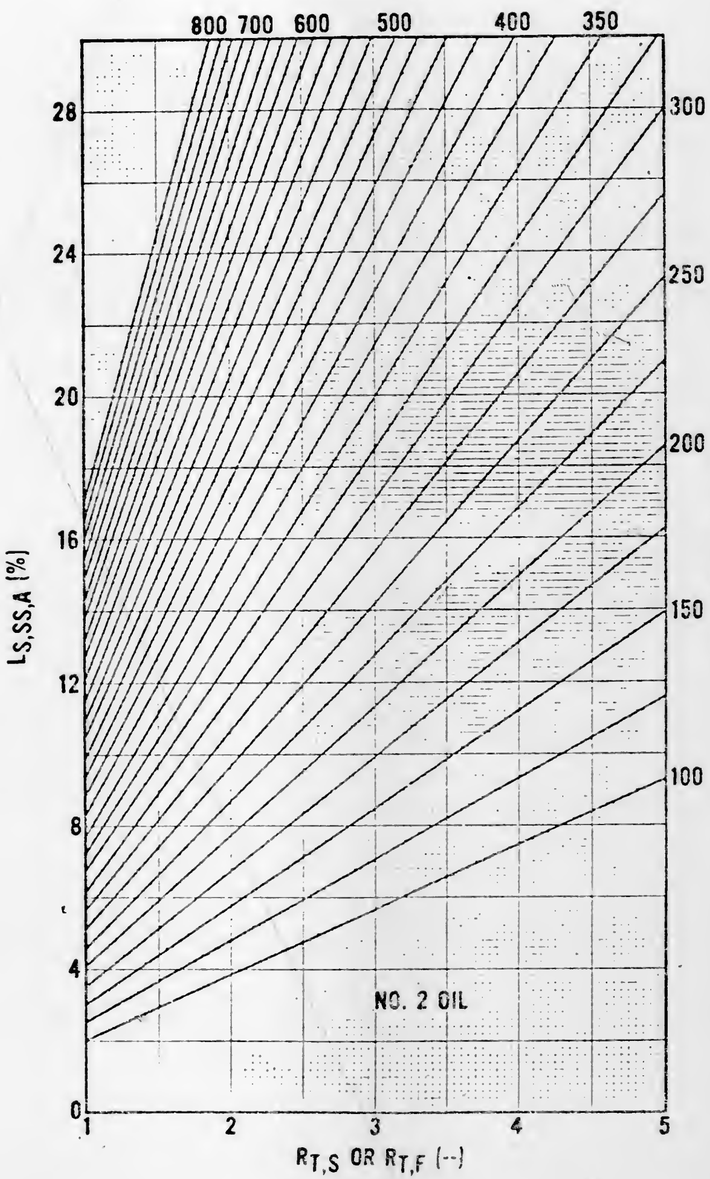


FIGURE 2b



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FIGURE 2c

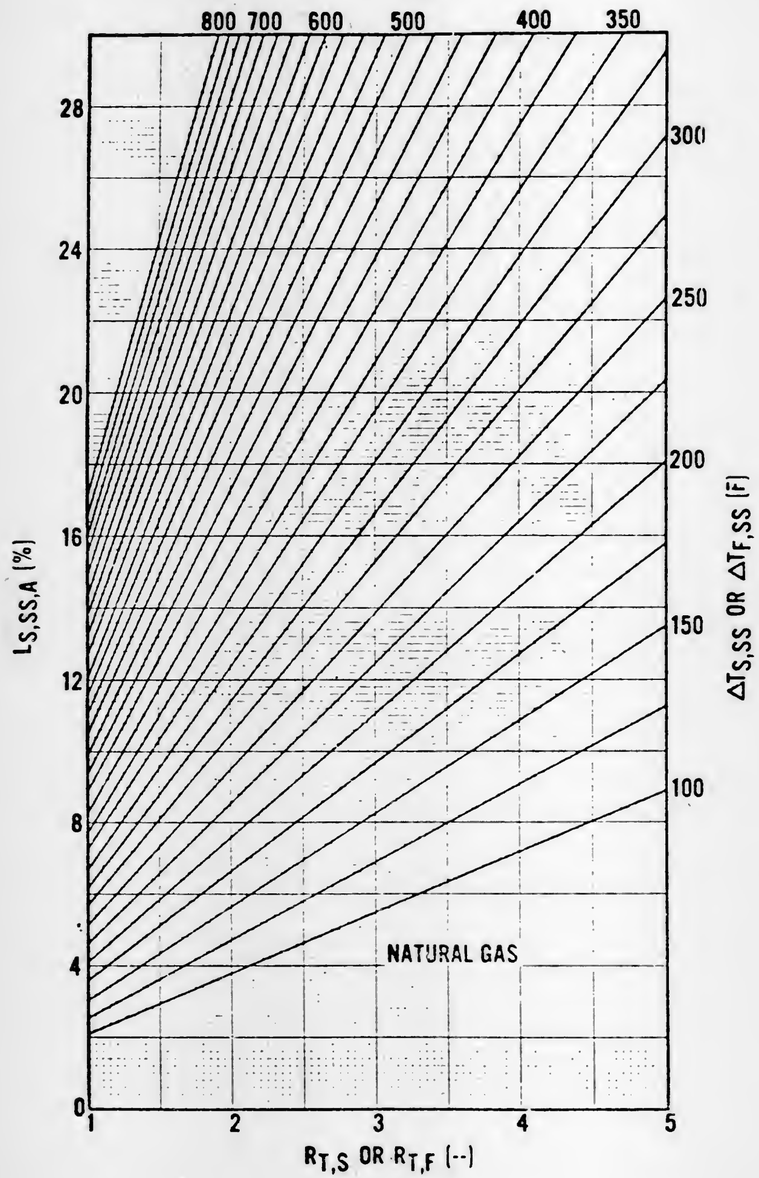
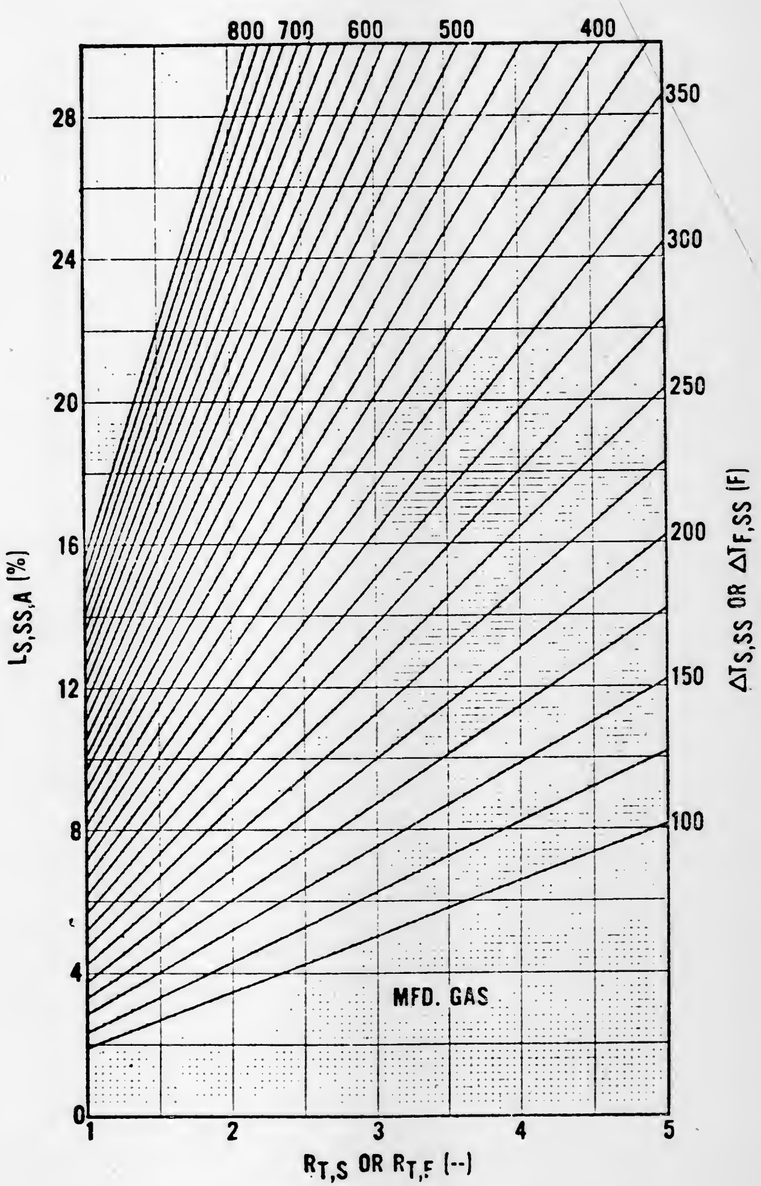


FIGURE 2d



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FIGURE 2e

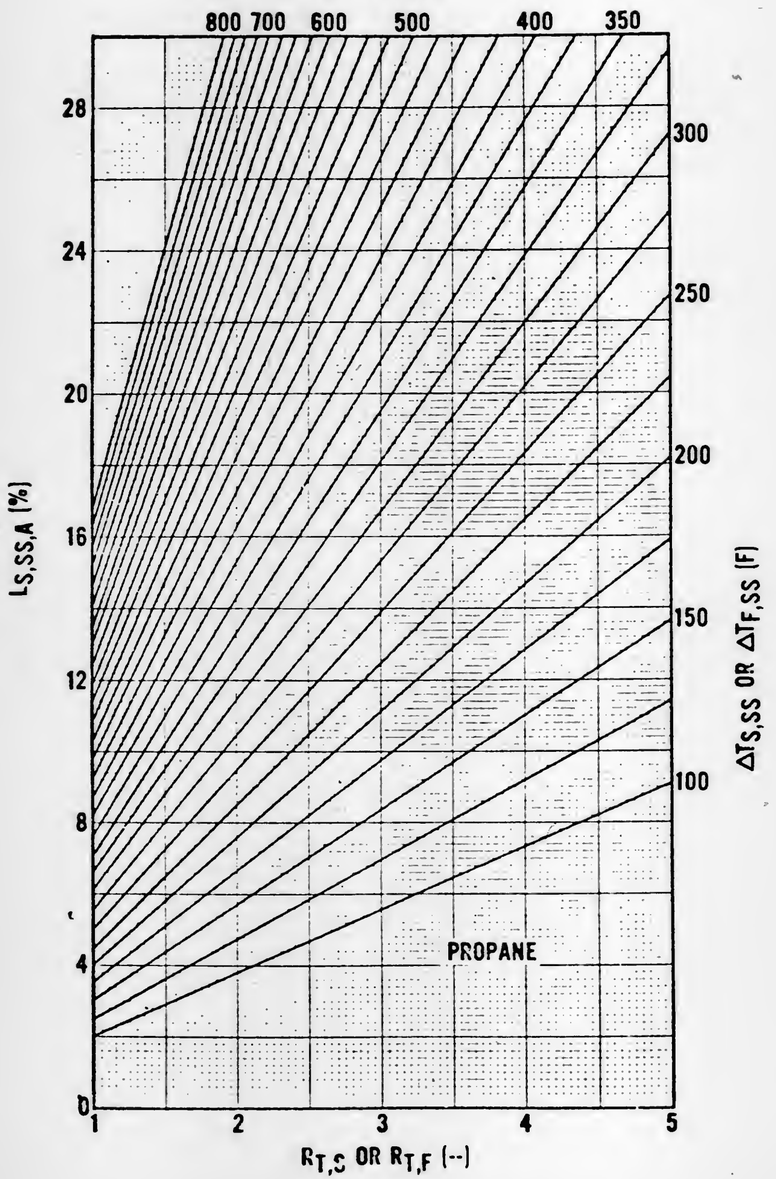
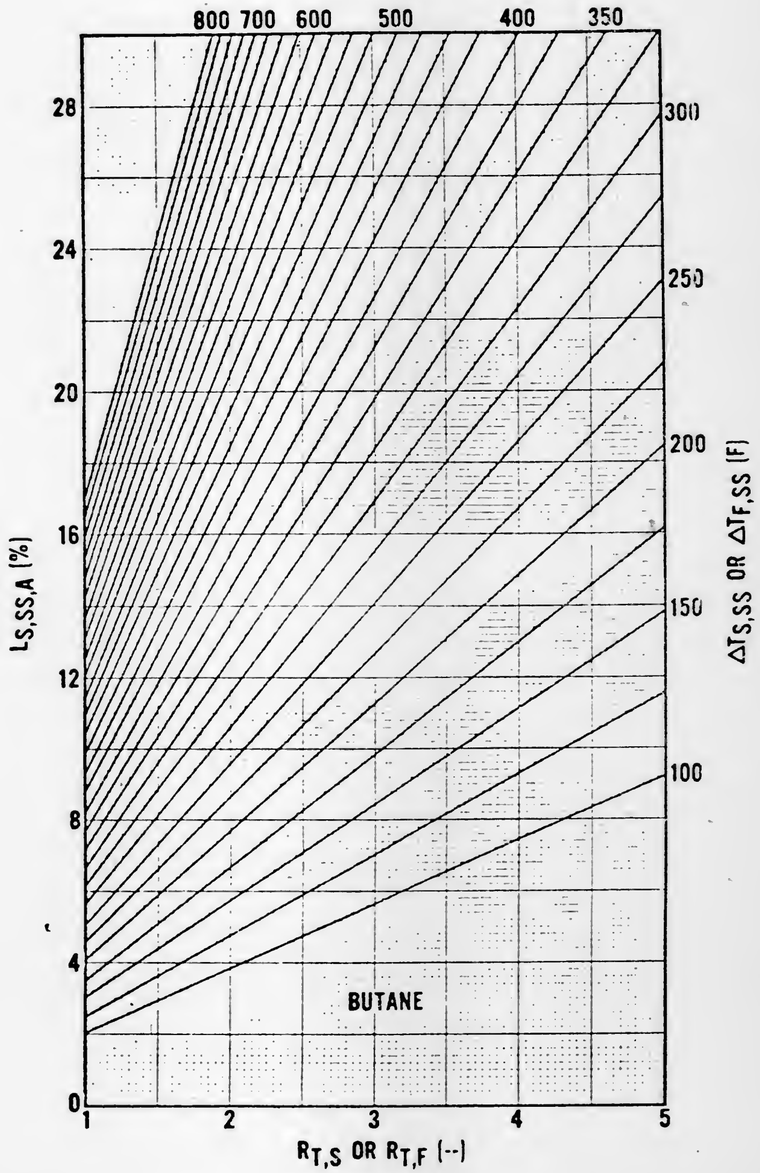


FIGURE 2f



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FIGURE 3

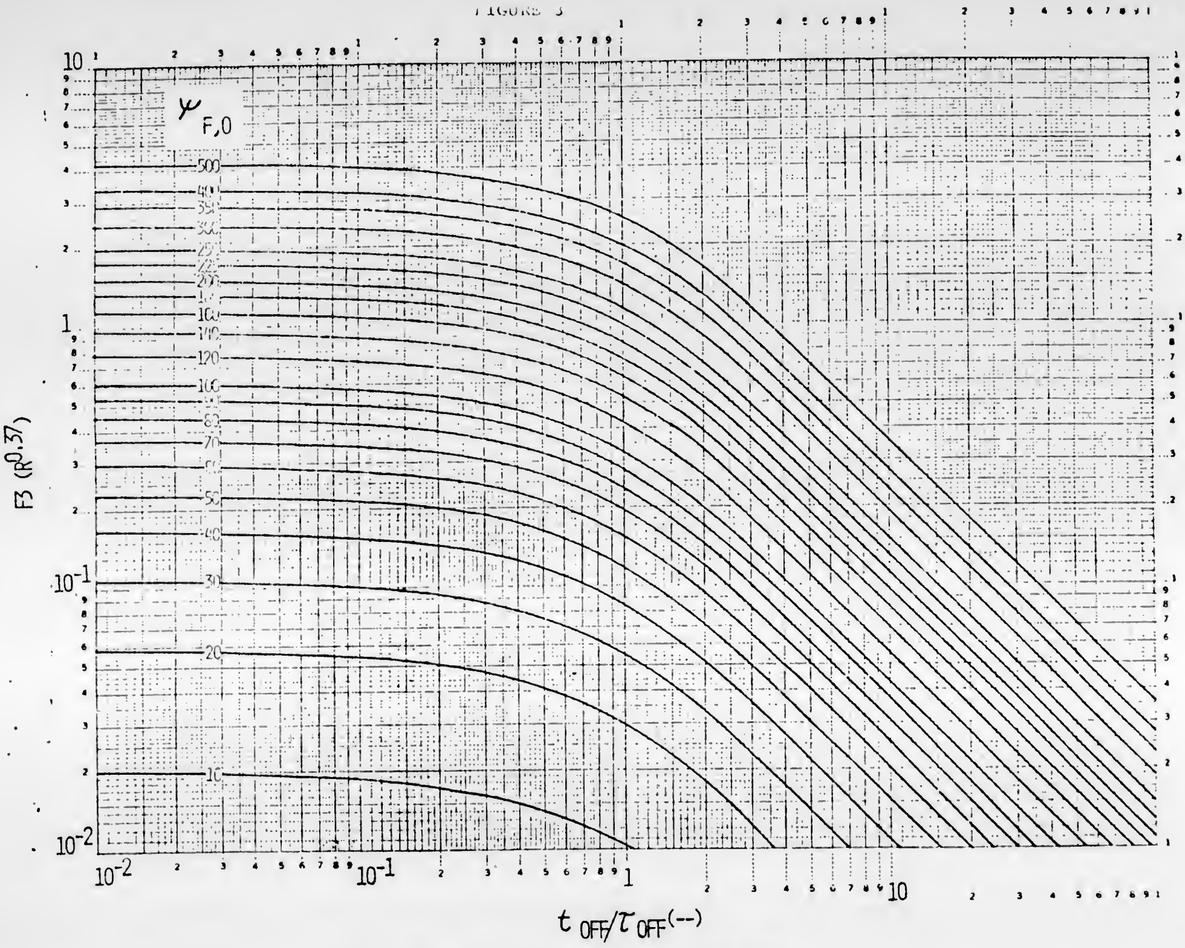
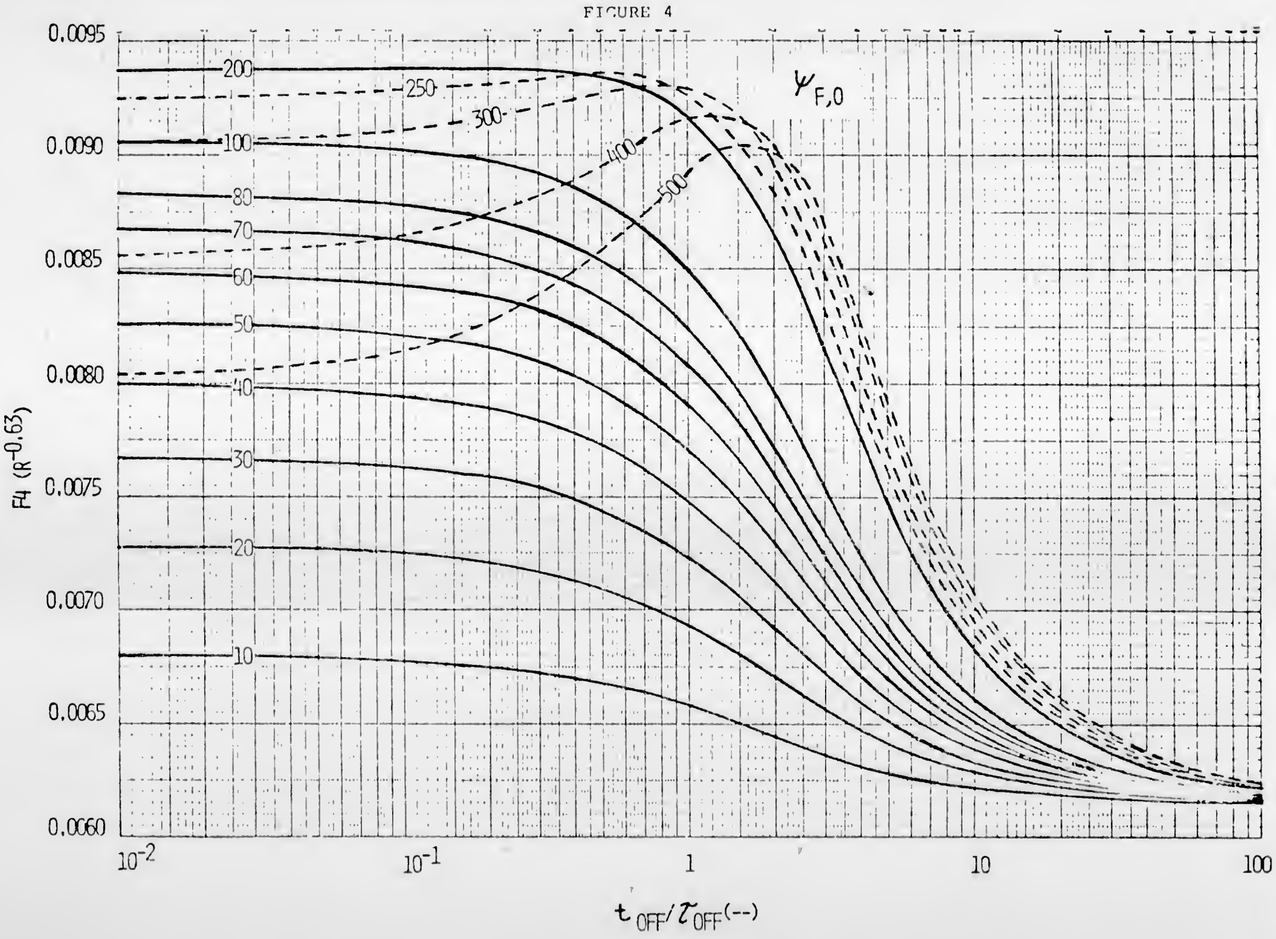


FIGURE 4



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FIGURE 5

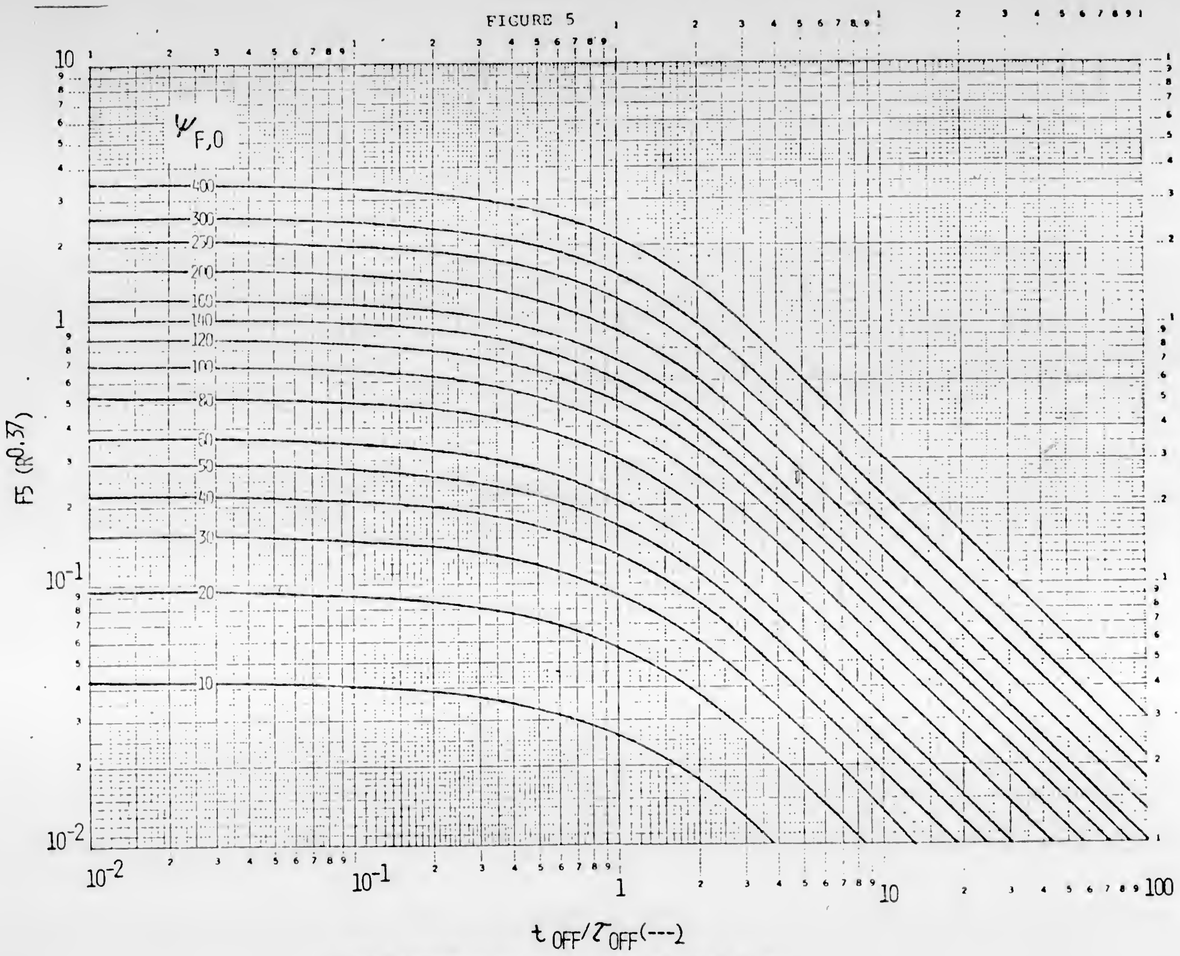
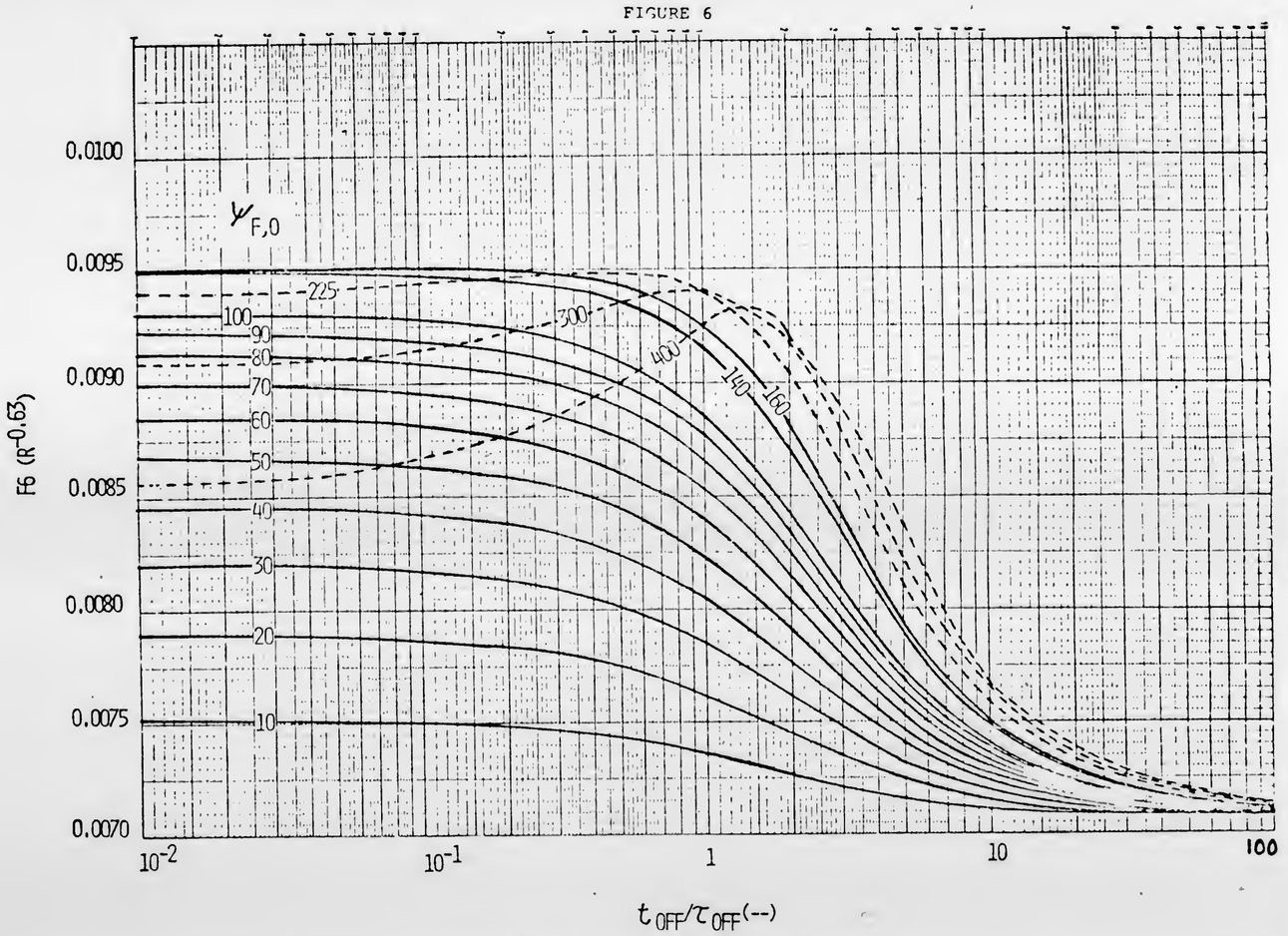


FIGURE 6



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FIGURE 7

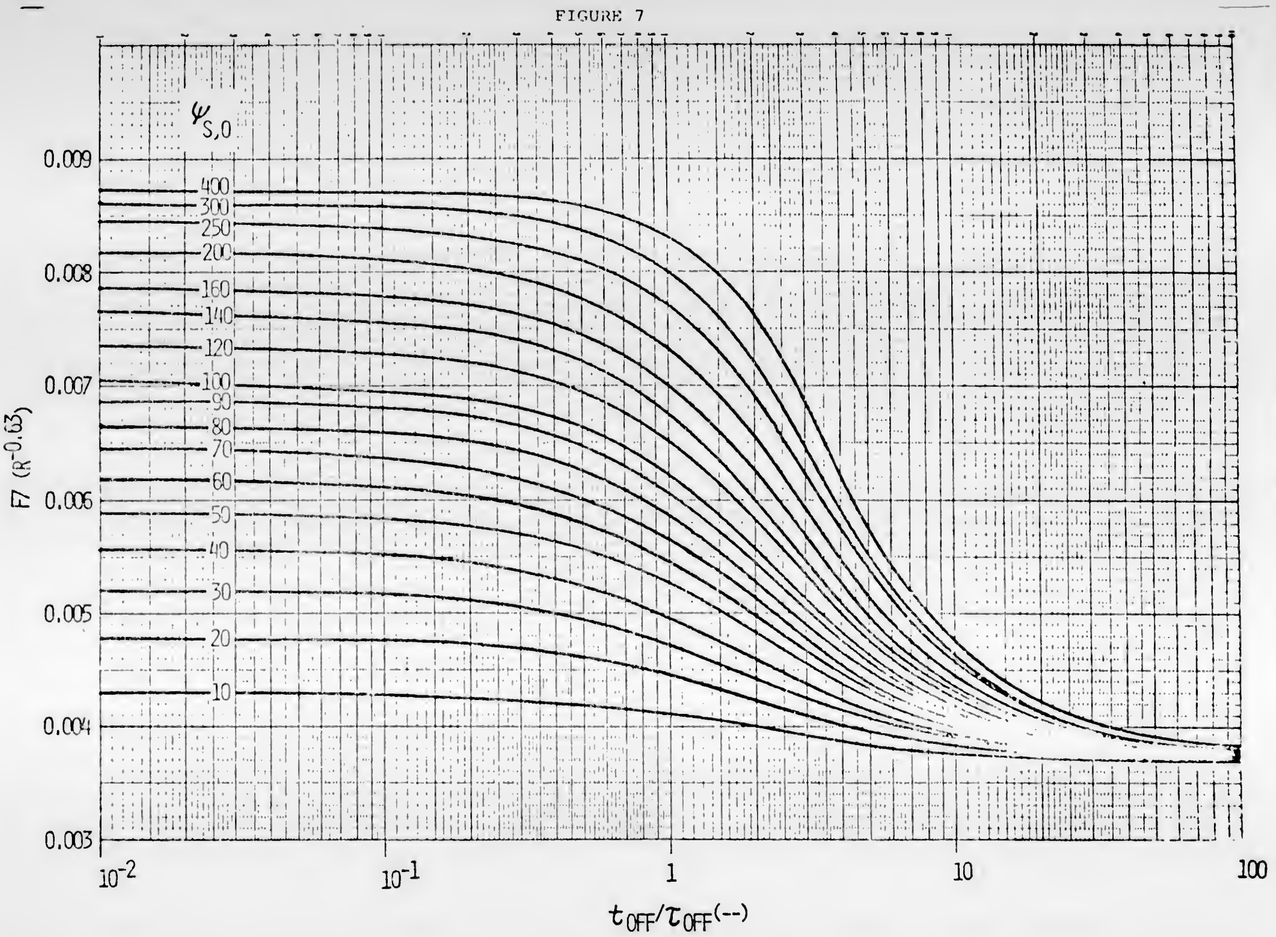
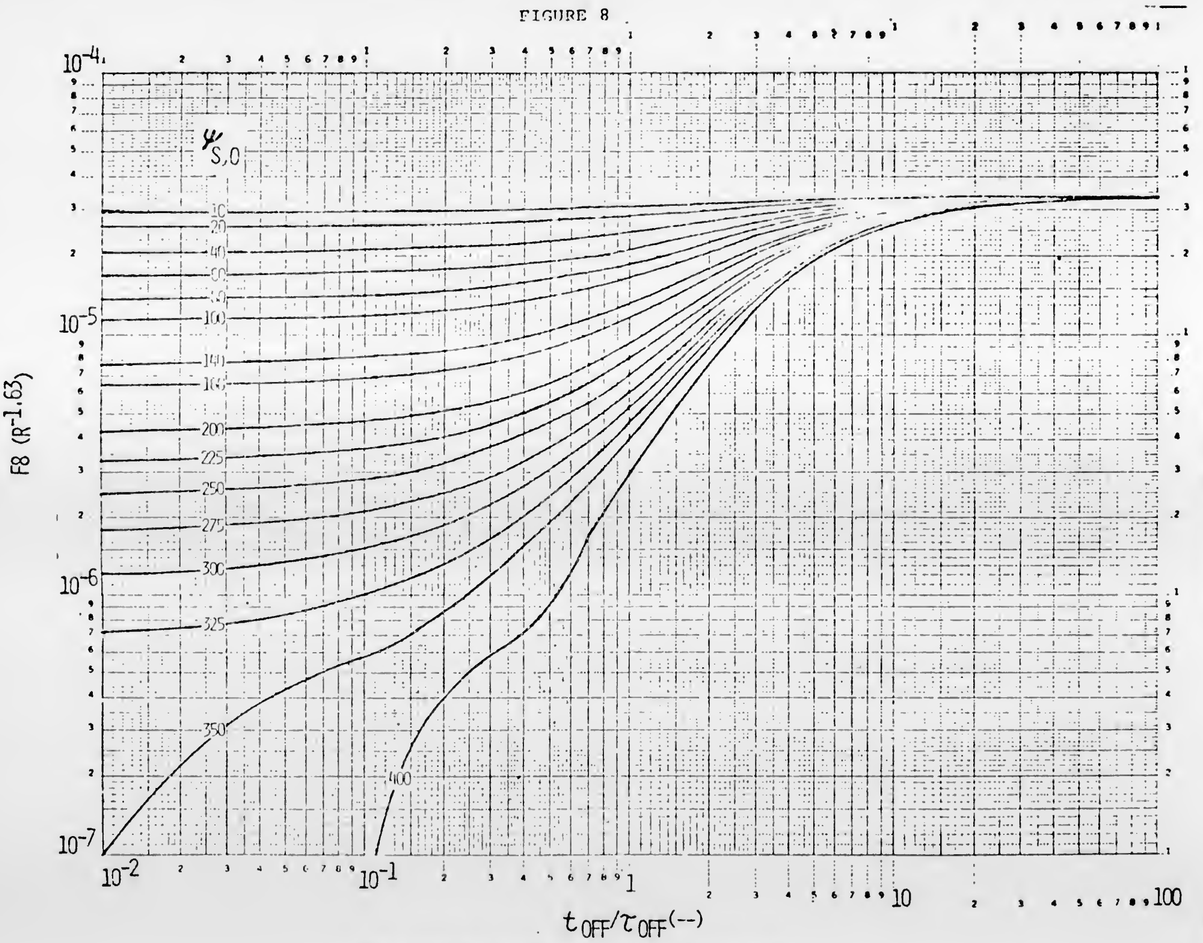


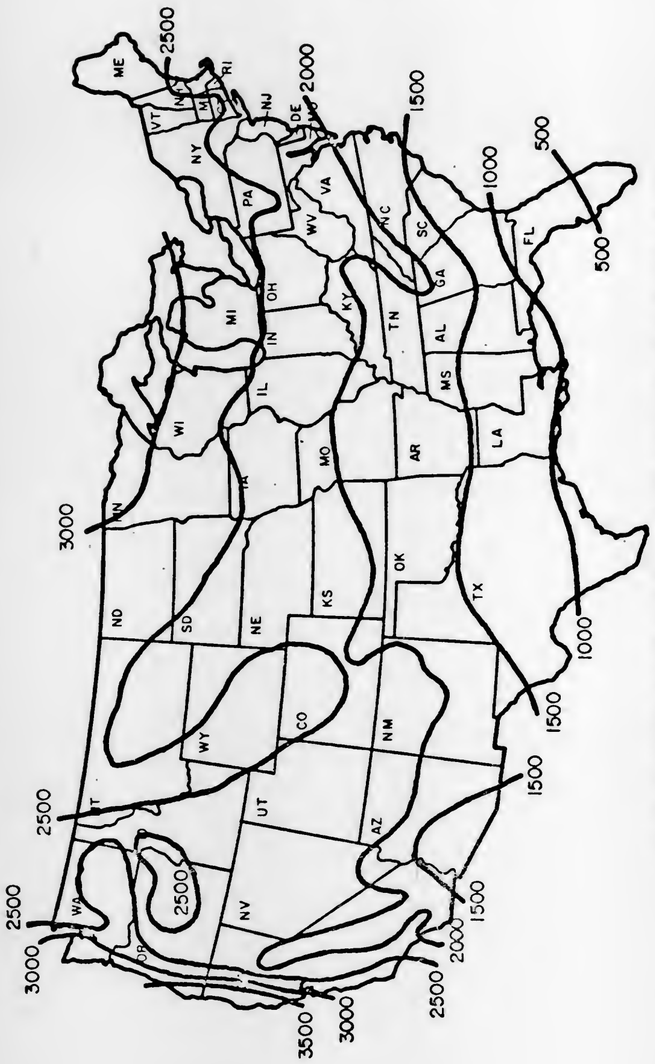
FIGURE 8



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FIGURE 9

Heating Load Hours (HLH) for the United States and Territories



This map is reasonably accurate for most parts of the United States but is necessarily highly generalized and consequently not too accurate in mountainous regions, particularly in the Rockies.

Alaska - 3500 HLH
Hawaii and - 0 HLH
Territories

FIGURE 10

WORK SHEET FOR FURNACE/BOILER SYSTEM

Measured Quantities and System Characteristic Constants

1	2	3	4	5	6	7	8
SYS# (-)	TFUEL (-)	HHV Btu/lb.	Q_{IN} Btu/hr.	Q_F Btu/hr.	PE kW	BE kW	$X_{CO_2,S}$ %

9	10	11	12	13	14	15	16
$T_{S,SS,X}$ F	$X_{CO_2,F}$ %	$T_{F,SS}$ F	$T_{F,ON}(t_1)$ F	$T_{F,ON}(t_2)$ F	$T_{F,OFF}(t_3)$ F	$T_{F,OFF}(t_4)$ F	$T_{F,OFF}(\infty)$ F

17	18	19	20	21	22
T_{RA} F	L_J %	S/F (-)	D_F (-)	D_S (-)	y (-)

Derived System Parameters

23	24	25	26	27	28	29	30
PF (-)	HHV_A Btu/lb.	A/F (-)	$L_{L,A}$ %	C_J (-)	$R_{T,F}$ (-)	$L_{S,SS,A}$ %	η_{SS} %

31	32	33	34	35	36	37	38
$\tau_{S,SS}$ F	τ_{ON} minutes	$\theta_{F,O,X}$ F	τ_{OFF} minutes	$\psi_{F,O,X}$ F	$\psi_{F,\infty,X}$ F	$\psi_{S,\infty,X}$ F	$\psi_{S,O,X}$ F

39	40	41	42	43
C_S (-)	$K_{S,ON}$ (%)/F	$K_{S,OFF}$ (%)/$R^{0.37}$	$K_{I,ON}$ (%)/F	$K_{I,OFF}$ (%)/$R^{0.37}$

Calculation of System Losses and Annual Fuel Utilization Efficiency

44	45	46	47	48	49	50	51
T_{OA} F	t_{ON} minutes	t_{OFF} minutes	t_{ON}/τ_{ON} (-)	t_{OFF}/τ_{OFF} (-)	$\theta_{F,O}$ F	$\psi_{F,O}$ F	$\psi_{F,\infty}$ F

52	53	54	55	56	57	58	59
$\psi_{S,O}$ F	$\psi_{S,\infty}$ F	F3 $R^{0.37}$	F4 $R^{-0.63}$	F5 $R^{0.37}$	F6 $R^{-0.63}$	F7 $R^{-0.63}$	F8 $R^{-1.63}$

60	61	62	63	64	65	66	67
$L_{S,ON}$ %	$L_{S,OFF}$ %	$L_{I,ON}$ %	$L_{I,OFF}$ %	η_u %	DD °F-days	HR hours	$EFFY_A$ %

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APPENDIX O—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF VENTED HOME HEATING EQUIPMENT

1.0 *Definitions.*

1.1 "Steady-state conditions for vented home heating equipment" means equilibrium conditions as indicated by temperature variations of not more than 5° F (2.8C) in the flue gas temperature for units equipped with draft hoods, barometric draft regulators or direct vent systems, in three successive readings taken 15 minutes apart or not more than 3° F (.17C) in the stack gas temperature for units equipped with integral draft diverters in three successive readings taken 15 minutes apart.

1.2 "Flue gases" means reaction products resulting from the combustion of a fuel with the oxygen of the air, including the inerts and any excess air.

1.3 "Excess air" means air which passes through the combustion chamber and the vented heater flues in excess of that which is theoretically required for complete combustion.

1.4 "Flue" means a conduit between the flue outlet of a vented heater and the integral draft diverter, draft hood, barometric damper or vent terminal through which the flue gases pass prior to the point of draft relief.

1.5 "Heater outlet" means the opening provided in a vented heater for the exhaust of the flue gases from the combustion chamber.

1.6 "Flue losses" means the sum of sensible and latent heat losses above room temperature of the flue gases leaving a vented heater.

1.7 "Stack" means the portion of the exhaust system downstream of the integral draft diverter, draft hood or barometric draft regulator.

1.8 "Stack gases" means the flue gases combined with dilution air that enters at the integral draft diverter, draft hood or barometric draft regulator.

1.9 "Barometric draft regulator or barometric damper" means a mechanical device designed to maintain a constant draft in a vented heater.

1.10 "Air shutter" means an adjustable device for varying the size of the primary air inlet(s) to the combustion chamber power burner.

1.11 "Power burner" means a vented heater burner which supplies air for combustion at a pressure exceeding atmospheric pressure, or a burner which depends on the draft induced by a fan incorporated in the furnace for proper operation.

1.12 "Vent limiter" means a device which limits the flow of air from the atmospheric diaphragm chamber of a gas pressure regulator to the atmosphere. A vent limiter may be a limiting orifice or other limiting device.

1.13 "Vent/air intake terminal" means a device which is located on the outside of a building and is connected to a vented heater by a system of conduits. It is composed of an air intake terminal through which the air for combustion is taken from the outside atmosphere, and a vent terminal from which flue gases are discharged.

1.14 "Induced draft" means a method of drawing air into the combustion chamber by mechanical means.

1.15 "Plenum" means an air compartment, that is attached to, or is an integral part of, a vented heater and which is designed to either distribute the heated air after it leaves the heat exchanger in the case of a supply plenum, or in the case of a return plenum, collects the air which enters the return inlet.

1.16 "Heat input" (Q_{in}) means the rate of energy supplied in a fuel to a vented heater, operating under steady state conditions, expressed in Btu's per hour. It includes any input energy to the pilot light and is obtained by multiplying the measured rate of fuel consumption by the measured higher heating value of the fuel.

1.17 "Higher heating value" (HHV) means the heat produced per unit of fuel when complete combustion takes place at constant pressure and the products of combustion are cooled to the initial temperature of the fuel and air and when the water vapor formed during combustion is condensed. The higher heating value is usually expressed in Btu's per pound, Btu's per cubic foot for gaseous fuel, or Btu's per gallon for liquid fuel.

1.18 "Integral draft diverter" means a device which is an integral part of a vented heater, designed to (1) provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft diverter, (2) prevent a back draft from entering the vented heater, (3) neutralize the stack action of the chimney or gas vent upon the operation of the vented heater.

1.19 "Draft hood" means a device which performs the same function as an integral draft diverter, but is not an integral part of the vented heater, and is connected to the vented heater by a short length of flue pipe.

1.20 "Vent pipe" means the passages and conduits in a direct vent system through which gases pass from the combustion chamber to the outdoor air.

1.21 "Infiltration parameter" means that portion of unconditioned outside air drawn into the heated space as a consequence of loss of conditioned air through the exhaust system of a vented heater.

1.22 "Vaporizing type oil burner" means a device with an oil vaporizing bowl or other receptacle designed to operate by vaporizing liquid fuel oil by the heat of combustion, and mixing the vaporized fuel with air.

1.23 "Air tube" means a tube which carries combustion air from the burner fan to the burner nozzle for combustion.

1.24 "Stack damper" is a device installed downstream of the integral draft diverter, draft hood, or barometric draft regulator, designed to open the venting system when the appliance is in operation and to close off the venting system when the appliance is in the standby condition.

1.25 "Flue damper" is a device installed between the furnace and the integral draft diverter, draft hood, barometric draft regulator or, vent terminal which is not equipped with a draft control device, designed to open the venting system when the appliance is in operation and to close the venting system when the appliance is in a standby condition.

1.26 "Heating capacity" (Q_{out}) means the rate of useful heat output from a vented heater, operating under steady state conditions, expressed in Btu's per hour. For room and wall heaters, it is obtained by multiplying the "heat input" (Q_{in}) by the steady state efficiency (n_{ss}) divided by 100. For floor furnaces, it is obtained by multiplying (A) the "heat input" (Q_{in}) by (B) the steady state efficiency divided by 100, minus the quantity (3.3) (L_j) divided by 100, where L_j is the jacket loss as determined in 3.4 of this appendix.

2.0 *Testing conditions.*

2.1 *Installation of test unit.*

2.1.1 Vented wall furnaces (including direct vent systems). Install gas fueled vented wall furnaces for test as specified in Sections 2.1.3 and 2.1.4 of ANSI Z21.49-1975. Install gas fueled wall furnaces with direct vent systems for test as described in 2.1.3 and 2.1.4 of ANSI Z21.44-1973. Install oil fueled vented wall furnaces as specified in UL-730-1974, Section 33. Install oil fueled vented wall furnaces with direct vent systems as specified in UL-730-1974, section 34.

2.1.2 Vented floor furnaces. Install vented floor furnaces for test as specified in sections 35.1 through 35.5 of UL standard 729-1976.

2.1.3 Vented room heaters. Install in accordance with manufacturer's instructions.

2.2 *Flue and stack requirements.*

2.2.1 Gas fueled vented home heating equipment employing integral draft diverters and draft hoods (excluding direct vent system). Attach to, and vertically above the outlet of gas fueled vented home heating equipment employing draft diverters or draft hoods with vertically discharging outlets, a five (5) foot long test stack having a cross sectional area the same size as the draft diverter outlet. Cover the test stack with insulation having an R value of not less than 7 (°F-HR-Ft²/Btu) and an outer layer of aluminum foil.

Attach to the outlet of vented heaters having a horizontally discharging draft diverter or draft hood outlet a 90 degree elbow, and a five (5) foot long vertical test stack. A horizontal section of pipe may be used on the floor furnace between the diverter and the elbow if necessary to clear any framing used in the installation. Use the minimum length of pipe possible for this section. Use stack, elbow, and horizontal section with same cross sectional area as the diverter outlet. Cover with insulation having an R value of not less than 7 (°F-HR-Ft²/Btu), and an outer layer of aluminum foil.

2.2.2 Oil fueled vented home heating equipment (excluding direct vent systems). Use flue connections for oil fueled vented floor furnaces as specified in section 35 of UL 729-1976, section 34.10 through 34.18 of UL 730-1974 for oil fueled vented wall furnaces and sections 36.2 and 36.3 of UL 896-1973 for vented room heaters.

Allow no opening on the oil heater between the heater and the point where the flue gas sample is to be taken or the flue gas termperature is to be measured. If a barometric draft regulator is incorporated in the heater, it shall be sealed during all tests. Cover all elbows and flue connectors between the heater outlet and a point 12 inches (304.8mm) downstream of the thermocouple location described in section 2.6 with insulation having an R value not less than 7 (°F-HR-Ft²/Btu) and an outer layer of aluminum foil.

2.2.3 Direct vent systems. Have the exhaust/air intake system supplied by the manufacturer in place during all tests. Test units intended for installation with a variety of vent pipe lengths with the minimum length recommended by the manufacturer. Do not connect a heater employing a direct vent system to a chimney or induced draft source. Vent the gas solely on the provision for venting incorporated in the heater and the vent/air intake system supplied with it. On units which are not designed to preheat the incoming air, cover the first 18 inches of vent pipe downstream of the heater outlet with insulation having an R value of not less than 7 (°F-HR-ft²/Btu) and an outer layer of aluminum foil. Care should be taken to not block the air intake with insulation.

For units designed to significantly preheat the incoming combustion air, cover all surfaces of the vent/air intake system exposed to ambient air where the combustion air temperature exceeds the room temperature by more than 30° F 16.7C) with insulation having an R value not less than 7 (°F-HR-ft²/Btu) and a layer of aluminum foil.

2.3 *Fuel supply.*

2.3.1 Natural gas. For a vented heater utilizing natural gas, maintain the gas supply to the unit under test at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches water column. Maintain the regulator outlet pressure at normal test pressure approximately at that recommended by the manufacturer. Use natural gas having a specific gravity of approximately 0.65 and a higher heating value within ±5 percent of 1,025 Btu per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the natural gas to be used in the test with an error no greater than one percent.

2.3.2 Propane gas. For a vented heater utilizing propane gas, maintain the gas supply to the unit under test at a normal inlet pressure of 11 to 13 inches water column and a specific gravity of approximately 1.53. Maintain the regulator outlet pressure, on units so equipped, approximately at that recommended by the manufacturer. Use propane having a specific gravity of approximately 1.53 and a higher heating value within ±5 percent of 2,500 Btu's per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the propane to be used in the test with an error no greater than one percent.

2.3.3 Other test gas. Use other test gases with characteristics as described in section 2.2, table VII, of ANSI Standard Z21.11.1-1974. Use gases with a measured higher heating value within ±5 percent of the values specified in the above ANSI standard. Determine the actual higher heating value of the gas used in the test with an error no greater than one percent.

2.3.4 Oil supply. For a vented heater utilizing fuel oil, use No. 1 fuel oil (kerosene) for vaporizing type burners and either No. 1 or No. 2 fuel oil, as specified by the manufacturer, for mechanical atomizing type burners. Use No. 1 fuel oil with a viscosity meeting the specification as specified in UL-730-1974, section 36.9. Use test fuel conforming to the specifications given in tables 2 and 3 of ANSI Standard Z91.1-1972 for No. 1 and No. 2 fuel oil. Measure the higher heating value of the test fuel with an error no greater than one percent.

2.3.5 Electrical supply. For an auxiliary electric component of a vented heater, maintain the electrical supply to the test unit within one percent of the nameplate voltage for the entire test cycle. If a voltage range is used for nameplate voltage, maintain the electrical supply within one percent of the mid-point of the nameplate voltage range.

2.4 *Burner adjustments.*

2.4.1 Gas burner adjustments. Adjust the burners of gas fueled vented heaters to their maximum Btu ratings at the test pressure specified in 2.3 of this section. Correct the burner input rate to 60° F (15.6C) and 30 inches of mercury barometric pressure and within ±2 percent of the hourly Btu rating specified by the manufacturer as measured after 15 minutes of operation starting with all parts of the vented heater at room temperature. Set the primary air shutters in accordance with the manufacturer's recommendations to give a good flame at this adjustment. Do not allow the deposit of carbon during any test specified herein.

If a vent limiting means is provided on a gas pressure regulator, have it in place during all tests.

2.4.2 Oil burner adjustments. Adjust the burners of oil fueled vented heaters to give the CO_2 reading recommended by the manufacturer and an hourly Btu input, during the steady-state performance test described below, which is within plus or minus 2 percent of the heater manufacturer's specified normal hourly Btu input rating. On units employing a power burner do not allow smoke in the flue to exceed a No. 1 smoke during the steady-state performance test as measured by the procedure in ANSI Standard Z11.182-1965 (R1971) (ASTM D 2156-65(1970)). If, on units employing a power burner, the smoke in the flue exceeds a No. 1 smoke during the steady-state test, readjust the burner to give a lower smoke reading, and, if necessary a lower CO_2 reading, and start all tests over. Maintain the average draft over the fire and in the flue during the steady-state performance test at that recommended by the manufacturer and draft fluctuations at less than 0.005 inches of water gauge. Do not make additional adjustments to the burner during the required series of performance tests. The instruments and measuring apparatus for this test are described in Section 6.3 of ANSI Standard Z91.1-1972.

2.5 *Circulating air adjustments.*

2.5.1 Forced air vented wall furnaces (including direct vent systems). During tests maintain the air flow through the heater as specified by the manufacturer and operate the vented heater with the outlet air temperature between 80° F and 130° F above room temperature. If adjustable air discharge registers are provided, adjust them so as to provide the maximum possible air restriction. Measure air discharge temperature as specified in Section 2.14 of ANSI Z21.49-1975.

2.5.2. Fan type vented room heaters and floor furnaces. During tests on fan type furnaces and heaters, adjust the air flow through the heater as specified by the manufacturer. If adjustable air discharge registers are provided, adjust them to provide the maximum possible air restriction.

2.6 *Location of temperature measuring instrumentation.*

2.6.1 Gas fueled vented home heating equipment (including direct vent systems). For units employing an integral draft diverter, install nine thermocouples, wired in parallel, in a horizontal plane in the five foot test stack located one foot from the test stack inlet. Equalize the length of all thermocouple leads before paralleling. Locate one thermocouple in the center of the stack. Locate eight thermocouples along imaginary lines intersecting at right angles in this horizontal plane at points one third and two thirds of the distance between the center of the stack and the stack wall.

For units which employ a draft hood or units which employ a direct vent system which does not significantly preheat the incoming combustion air, install nine thermocouples, wired in parallel, in a horizontal plane located within 12 inches (304.8 mm) of the heater outlet and upstream of the draft hood on units so equipped. Locate one thermocouple in the center of the pipe and eight thermocouples along imaginary lines intersecting at right angles in this horizontal plane at points one third and two thirds of the distance between the center of the pipe and the pipe wall.

For units which employ direct vent systems that significantly preheat the incoming combustion air, install nine thermocouples, wired in parallel, in a plane parallel to and located within 6 inches (152.4 mm) of the vent/air intake terminal. Equalize the length of all thermocouple leads before paralleling. Locate one thermocouple in the center of the flue pipe and eight thermocouples along imaginary lines intersecting at right angles in this plane at points one third and two thirds of the distance between the center of the flue pipe and the pipe wall.

Use bead-type thermocouples having wire size not greater than No. 24 American Wire Gauge (AWG). If there is a possibility that the thermocouples could receive direct radiation from the fire, install radiation shields on the fire side of the thermocouples only and position the shields so that they do not touch the thermocouple junctions.

Install thermocouples for measuring conditioned warm air temperature as described in ANSI Z21.49-1975, section 2.14 establish the temperature of the inlet air by means of a single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

2.6.2 Oil fueled vented home heating equipment (including direct vent systems).

Install nine thermocouples, wired in parallel and having equal length leads, in a plane perpendicular to the axis of the flue pipe. Locate this plane at the position shown in Figure 34.4 of UL 730-1974, or Figures 35.1 and 35.2 of UL 729-1976 for a single thermocouple, except that on direct vent systems which significantly preheat the incoming combustion air, it shall be located within 6 inches (152.4mm) of the outlet of the vent/air intake terminal. Locate one thermocouple in the center of the flue pipe and eight thermocouples along imaginary lines intersecting at right angles in this plane at points one third and two thirds of the distance between the center of the pipe and pipe wall.

Use bead-type thermocouples having a wire size not greater than No. 24 AWG. If there is a possibility that the thermocouples could receive direct radiation from the fire, install radiation shields on the fire side of the thermocouples only and position the shields so that they do not touch the thermocouple junctions.

Install thermocouples for measuring the conditioned warm air temperature as described in section 35.12 through 35.17 of UL 730-1974. Establish the temperature of the inlet air by means of a single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

2.7 *Combustion measurement instrumentation.* Analyze the samples of stack and flue gases for vented heaters to determine the concentration by volume of carbon dioxide present in the dry gas with instrumentation which will result in a reading having an accuracy of ±0.1 percentage points.

2.8 *Energy flow instrumentation.* Install one or more instruments, which measure the rate of gas flow or fuel oil supplied to the vented heater, and if appropriate, the

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electrical energy with an error no greater than one percent.

2.9 *Room ambient temperature.* During the time period required to perform all the testing and measurement procedures specified in section 3.0, maintain the room temperature within ±5° F (±2.8C) of the value T_{RA} measured during the steady state performance test. At no time during these tests shall the room temperature exceed 100° F (37.8C) or fall below 65° F (18.3C). Use the procedure outlined in section 2.1.14 of ANSI Standard Z21.47-1973 to measure room temperature.

2.10 *Equipment used to measure mass flow rate in flue and stack.* The tracer gas chosen for this task should have a density which is less than or approximately equal to the density of air, and be of a different chemical species or different concentration from the flue or stack gas to be measured. Use a gas unreactive with the environment to be encountered. Using instrumentation of either the batch or continuous type, measure the concentration of tracer gas with an accuracy of ±2 percent of the value of the concentration measured.

3.0 *Testing and measurements.*

3.1 *Steady-State testing.* 3.1 1 Gas Fueled Vented Home Heating Equipment (Including Direct Vent Systems).

Set up the vented heater as specified in 2.1, 2.2, and 2.3. Begin the steady-state performance test by operating the burner and the circulating air blower, on units so equipped, with the adjustments specified by 2.4.1 and 2.5, until steady-state conditions are attained as indicated by a temperature variation of not more than 3° F (1.7° C) in the stack gas temperature for vented heaters equipped with draft diverters or 5° F (2.8° C) in the flue gas temperature for vented heaters equipped with either draft hoods or direct vent systems; in three successive readings taken 15 minutes apart.

On units employing draft diverters, measure the room temperature (T_{RA}) as described in 2.9 and measure the steady-state stack gas temperature ($T_{S,SS,X}$) using the nine thermocouples located in the 5 foot test stack as specified in 2.6.1. Secure a sample of the stack gases in the plane where $T_{S,SS,X}$ is measured and determine the concentration by volume of carbon dioxide ($X_{CO2,S}$) present in dry stack gas.

On units employing draft hoods or direct vent systems, measure the room temperature (T_{RA}) as described in 2.9 and measure the steady state flue gas temperature, ($T_{F,SS}$), using the nine thermocouples located in the flue pipe as described in Section 2.6.1. Secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2 ($X_{CO2,F}$) present in dry flue gas. In addition, for units employing draft hoods, secure a sample of the stack gas in a horizontal plane in the five foot test stack located one foot from the test stack inlet; and determine the concentration by volume of CO_2 ($X_{CO2,S}$) present in dry stack gas.

Determine the steady-state heat input rate (Q_{in}) including pilot gas by multiplying the measured higher heating value of the test gas by the steady-state gas input rate corrected to standard conditions of 60° F and 30 inches of mercury. Use measured values of gas temperature and pressure at the meter and the barometric pressure to correct the metered gas flow rate to standard conditions.

Measure the steady-state electric power to the power burner (PE) and the steady state electrical power to the conditioned air blower (BE), on units so equipped.

After the above test measurements have been completed on units employing draft diverters, secure a sample of the flue gases at the inlet to the draft diverter and determine the concentration of CO_2 ($X_{CO2,F}$) present. In obtaining this sample of flue gas, move the sampling probe around to assure that an average value is obtained for the CO_2 concentration. For units with multiple heat exchanger outlets, draw and weight a sample from each outlet to obtain the average CO_2 concentration for the unit. Block the draft diverter relief opening and cover the draft diverter and flue gas collection box (on a power vented unit) with insulation having an R value no less than 7 (°F-HR-ft 2/Btu) and an outer layer of aluminum foil. However, if the design is such that applying insulation to all areas of the draft diverter housing would result in a reduction of normal air flow over the heat exchanger, do not insulate those areas of the draft diverter housing. If the unit is turned off during the process of blocking the diverter relief opening, run it until steady-state conditions (as defined above) are again achieved. Then, progressively restrict the test stack outlet until the concentration of CO_2 in flue gas samples secured from the test stack in the plane where $T_{S,SS,X}$ was measured is within ± 0.2 percentage points of the previously determined value of $X_{CO2,F}$. Measure the flue gas temperature ($T_{F,SS}$) using the nine thermocouples located in the 5 foot test stack as specified in 2.6.1.

3.1.2 Oil Fueled Vented Home Heating Equipment (Including Direct Vent Systems).

Set up and adjust the vented heater as specified in sections 2.1, 2.2, and 2.3.4. Begin the steady-state performance test by operating the burner and the circulating air blower, on units so equipped, with the adjustments specified by 2.4.2 and 2.5 until steady-state conditions are attained as indicated by a temperature variation of not more than 5° F (2.8° C) in the flue gas temperature in three successive readings taken 15 minutes apart.

Do not allow smoke in the flue, for units equipped with power burners, to exceed a No. 1 smoke during the steady-state performance test as measured by the procedure described in ANSI Standard Z11.182–1965 (R1971) (ASTM D 2156-65 (1970)). Maintain the average draft over the fire and in the breeching during the steady-state performance test at that recommended by the manufacturer and do not allow draft fluctuations to exceed 0.005 inches of water gauge.

Measure the room temperature (T_{RA}) as described in 2.9 and measure the steady state flue gas temperature ($T_{F,SS}$) using nine thermocouples located in the flue pipe as described in 2.6.2. Secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2 ($X_{CO2,F}$) present in dry flue gas.

Measure and record the steady-state heat input rate (Q_{in}) and the steady-state electrical power to the power burner (PE) and the conditioned air blower (BE), on units so equipped.

3.2 *Flue temperature measurements—cool down test.* After steady-state testing is completed, turn off the main burner and measure the flue gas temperature by means of the nine thermocouples described above, at 1.5 ($T_{F,OFF}$ (t_3)) and 9 ($T_{F,OFF}$ (t_4)) minutes after the burner shuts off. Bypass the damper control on units employing stack dampers and draft diverters or draft hoods so that the damper remains open during the cool down test. During this off-period, operate the indoor air circulating blower, on units so equipped, during the first 3 minutes of the off period and then turn it off, unless the vented heater employs a single motor to drive a power burner and an indoor air circulating blower in which case both shall be turned off together. For oil fueled vented heaters not equipped with stack dampers, maintain the draft in the flue pipe within −0.001 and +0.005 inch of water gauge of the manufacturers recommended on-period average draft if the optional test in 3.6 is being carried out, and within ±0.01 inch of water gauge of the average steady-state draft if it is not. For a direct vent system with a flue damper or a vented heater equipped with both a stack damper and a barometric damper, close the flue or stack damper during the cool down test. Keep the main burner(s) off until equilibrium conditions are attained, as indicated by variations in the flue gas temperature of not more than 3° F (1.7° C) between three successive readings taken 15 minutes apart. For units employing a continuously burning pilot light, take a third flue gas temperature measurement to determine the off-period minimum flue gas temperature ($T_{F,OFF}$, (∞)). For units not employing a continuously burning pilot light, set $T_{F,OFF}$, (∞) equal to the room temperature T_{RA}. During this cool down test, measure the energy input rate to the pilot light (Q_P). If the unit is so equipped, within an accuracy of ±3 percent. Record all measured values.

3.3 *Flue gas temperature measurements—heat up test.* No heat up test shall be performed for oil fueled vented heaters equipped with vaporizing type burners. For all other vented heaters, after equilibrium conditions are achieved following the cool down test and the required measurements performed, turn on the vented heater and measure the flue gas temperature, using the nine thermocouples described above, at 0.5 ($T_{F,ON}(t_1)$) and 2.5 ($T_{F,ON}(t_2)$) minutes after the main burner(s) comes on. Keep the indoor air circulating fan off, on units so equipped, during the first 1.5 minutes of this warm up test and then turn it on unless the vented heater employs a single motor to drive a power burner and an indoor air circulating blower, in which case start both together. Record the measured temperatures. During the heat up test for oil fueled vented heaters maintain the draft in the flue pipe within ±0.01 inch of the manufacturer's recommended on-period draft.

3.4 *Jacket loss measurement.* Conduct a jacket loss test for vented floor furnaces. Measure the jacket loss (L_s) in accordance with the ANSI standard Z21.48–1976 Section 2.12, and record result.

3.5 *Measurement for determining effectiveness of automatic stack damper.* Determine the effectiveness of an automatic stack damper (D_e), in vented heaters so equipped, by measuring the cross sectional area of the stack (A_s), the net area of the damper plate (A_D) (the area of the damper plate minus the area of any holes in the plate), and the angle which the damper plate makes when closed with a plane perpendicular to the axis of the stack. The equation in section 4.2 is then employed to calculate D_e.

3.6 *Optional procedure for determining D_P, D_F, and D_S for systems equipped with power burners.* On power burner systems not employing automatic stack dampers, or power burner systems with a stack damper and a draft diverter or draft hood, measure D_P during the cool down test described in section 3.2. On systems for which the flue or stack damper is to be closed during the cool down test described in section 3.2, measure D_P during a separate cool down test. Conduct this separate cool down test after the heat up test described in section 3.3 is completed. Conduct the test by letting the unit run after the heat up test until steady-state conditions are reached, as indicated by temperature variation of not more than plus or minus 5° F (2.8° C) in the flue gas temperature in three successive readings taken 15 minutes apart, and then shutting the unit off with the stack or flue damper controls by-passed or adjusted so that the stack or flue damper remains open during the resulting cool down period. If a draft was maintained on oil fueled units in the flue pipe during the steady-state performance test described in section 3.1, maintain the same draft (within a range of −.001 to +.005 inches of water gauge of the average steady-state draft) during this cool down period.

Measure the flue gas mass flow rate ($m_{F,OFF}$) during the cool down test described above at a specific off-period flue gas temperature and corrected to obtain its value at the steady-state flue gas temperature ($T_{F,SS}$), using the procedure described below.

Within one minute after the unit is shut off to start the cool down test for determining D_P, begin feeding a tracer gas into the combustion chamber at a constant flow rate of V_T, and at a point which will allow for the best possible mixing with the air flowing through the chamber. (On units equipped with an oil fired power burner, the best location for injecting this tracer gas appears to be through a hole drilled in the air tube.) Periodically measure the value of V_T with an instantaneously reading flow meter having an accuracy of ±3 percent of the quantity measured. Maintain V_T at less than 1 percent of the air flow rate through the furnace. If a combustible tracer gas is used, there should be a delay period between the time the unit is shut off and the time the tracer gas is first injected to prevent ignition of the tracer gas.

Between 5 and 6 minutes after the unit is shut off to start the cool down test, measure the flue gas temperature, $T^*_{F,OFF}$, using the 9 thermocouples described above. At the same instant the flue gas temperature is measured, also measure the percent volumetric concentration of tracer gas C_T in the flue gas in the same plane where $T^*_{F,OFF}$ is determined. Obtain the concentration of tracer gas using an instrument which will result in an accuracy of ±2 percent in the value of C_T measured. If use of a continuous reading type instrument results in a delay time between drawing of a sample and its analysis, this delay should be taken into account so that the temperature measurement and the measurement of tracer gas concentration coincide. In addition, determine the temperature of the tracer gas entering the flow meter (T_T) and the barometric pressure (P_B).

The rate of the flue gas mass flow through the vented heater and the factors D_P, D_F, and D_S are calculated by the equations in sections 4.3.1, and 4.3.3 of this Appendix.

4.0 CALCULATION OF DERIVED RESULTS FROM TEST MEASUREMENTS.

4.1 *Annual Fuel Utilization Efficiency for Gas or Oil Vented Home Heating Equipment.* The following calculations are to be performed to determine the annual fuel utilization efficiency of gas or oil vented home heating equipment. Figure 10 provides an illustration of a worksheet which may be used to tabulate the results of test measurements and calculations.

4.1.1 **System number.** Determine the system number for the type of vented heater being tested in accordance with Table 1 or 2.

4.1.2 **Ratio of combustion air mass flow rate to stoichiometric air mass flow rate.** Determine the ratio of combustion air mass flow rate to stoichiometric air, mass flow rate, $R_{T,F}$, from Figure 1 for the test fuel, by using the value of dry flue gas CO_2 concentration, $X_{CO_2,F}$, determined in accordance with section 3.1 of this Appendix.

4.1.3 Ratio of combustion and relief air mass flow rate to stoichiometric air mass flow rate. For systems employing an integral draft diverter or draft hood, determine the ratio of the sum of combustion and relief air mass flow rate to stoichiometric air mass flow rate $R_{T,S}$, from Figure 1 for the type of test fuel, by using the value of dry stack gas CO_2 concentration, $X_{CO2,S}$, determined in accordance with section 3.1 of this Appendix.

4.1.4 Average sensible heat loss at full-load steady state operation. For systems employing an integral draft diverter, determine the average sensible heat loss at full-load steady-state operation, $L_{S\ SS\ A}$, expressed as a percent, from Figure 2 using the value of $R_{T,S}$ determined in 4.1.3, the type of test fuel, and $\Delta T_{S,SS}$, where

$$\Delta T_{S,SS} = T_{S,SS} - T_{RA}$$

where

$T_{S,SS}$ = measured stack gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in degrees Fahrenheit

T_{RA} = measured room temperature of the conditioned space in which the vented heater is tested, in degrees Fahrenheit, determined in accordance with section 2.9 of this Appendix

For systems not employing an integral draft diverter, determine the average sensible heat loss at full-load steady-state operation, $L_{S,SS\ A}$, expressed as a percent; from Figure 2 using the value of $R_{T,F}$ determined in 4.1.2, the type of test fuel, and $\Delta T_{F,SS}$, where

$$\Delta T_{F,SS} = T_{F,SS} - T_{RA}$$

where

$T_{F,SS}$ = flue gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in degrees Fahrenheit.

T_{RA} = as defined above.

4.1.5 Steady-state efficiency. Calculate the steady-state efficiency (excluding jacket loss), η_{SS}, expressed in percent and defined as

$$\eta_{SS} = 100 - L_{L,A} - L_{S,SS,A}$$

where

$L_{L,A}$ = average latent heat loss of the test fuel determined in accordance with Table 3, in percent.

$L_{S,SS,A}$ = as defined in 4.1.4.

4.1.6 Average ratio of stack gas mass flow rate to flue gas mass flow rate at full-load steady-state operation. Determine the average ratio of stack gas mass flow rate to flue gas mass flow rate at full-load steady state operation S/F, from Table 1 or 2 for the system number to be tested.

For units with integral draft diverters or draft hoods calculate the quantity ($1.3\ (R_{T,S}/R_{T,F})$). If this calculated quantity is greater than the value of S/F obtained from Table 1 or 2, use it in place of the value from the Table, in all other calculations in this section involving the parameter S/F.

4.1.7 Equivalent field stack gas temperature at full-load steady-state operation. Calculate the equivalent field stack gas temperature at full-load steady-state operation, $T_{SS,S}$, expressed in degrees Fahrenheit and defined as:

$$T_{S,SS} = \frac{1}{S/F}\left[T_{F,SS} - T_{RA}\right] + T_{RA}$$

where

$T_{F,SS}$ as defined in 4.1.4

T_{RA} as defined in 4.1.4

S/F as defined in 4.1.6

4.1.8 On-cycle time constant. Calculate the on-cycle time constant, τ_{on}, expressed in minutes and defined as:

$$\tau_{on} = \frac{t_2 - t_1}{\ln\left[\frac{T_{F,SS} - T_{F,on}(t_1)}{T_{F,SS} - T_{F,on}(t_2)}\right]}$$

where

t_1 = 0.5 minutes

t_2 = 2.5 minutes

$T_{F,on}(t_1)$ = flue gas temperature measured at time (t_1) from a cold start-up of the system burner determined in accordance with section 3.3 of this Appendix, in degrees Fahrenheit

$T_{F,on}(t_2)$ = flue gas temperature measured at the time (t_2) from a cold start-up of the system burner determined in accordance with section 3.3 of this Appendix, in degrees Fahrenheit

$T_{F,SS}$ = as defined in 4.1.4

For vaporizing type oil burners, $\tau_{on} = 0$.

4.1.9 Effective degree gas temperature difference at start-up. Calculate the effective flue gas temperature difference at start-up of the system burner, $\theta_{F,O,X}$, expressed in degrees Fahrenheit and defined as:

$$\theta_{F,O,X} = [T_{F,SS} - T_{F,on}(t_1)]\, e^{\frac{t_1}{\tau_{on}}}$$

where:

$T_{F,SS}$ as defined in 4.1.4

$T_{F,on}(t_1)$ as defined in 4.1.8

t_1 as defined in 4.1.8

τ_{on} as defined in 4.1.8

For vaporizing type oil burners, $\theta_{F,O,X} = 0$.

4.1.10 Off-cycle time constant. Calculate the off-cycle time constant, τ_{off}, expressed in minutes and defined as

$$\tau_{OFF} = \frac{t_4 - t_3}{\ln\left[\frac{T_{F,OFF}(t_3) - T_{F,OFF}(\infty)}{T_{F,OFF}(t_4) - T_{F,OFF}(\infty)}\right]}$$

where

t_3 = 1.5 minutes

t_4 = 9.0 minutes

$T_{F,OFF}(t_3)$ = flue gas temperature measured at time (t_3) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit

$T_{F,OFF}(t_4)$ = flue gas temperature measured at time (t_4) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit.

$T_{F,OFF}(\infty)$ = minimum flue gas temperature determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit

4.1.11 Effective flue gas temperature difference at shut-down. Calculate the effective flue gas temperature difference at shut-down of the system burner, $\Psi_{F,O,X}$, expressed in degrees Fahrenheit and defined as:

$$\Psi_{F,O,X} = [T_{F,OFF}(t_3) - T_{F,OFF}(\infty)]\, e^{\frac{t_4}{\tau_{OFF}}}$$

where

$T_{F,OFF}(t_3)$ as defined in 4.1.10

$T_{F,off}(\infty)$ as defined in 4.1.10

t_3 as defined in 4.1.10

τ_{off} as defined in 4.1.10

4.1.12 Minimum flue gas temperature difference above room temperature. Calculate the minimum flue gas temperature difference above room temperature, $\Psi_{F,\infty,X}$ expressed in degrees Fahrenheit and defined as:

$$\Psi_{F,\infty,X} = T_{F,OFF}(\infty) - T_{RA}$$

where

$T_{F,OFF}(\infty)$ as defined in 4.1.10

T_{RA} as defined in 4.1.4

4.1.13 Minimum stack gas temperature difference above room temperature. Calculate the minimum stack gas temperature difference above room temperature, $\Psi_{S,\infty,X}$ expressed in degrees Fahrenheit and defined as:

For systems numbered 1 through 4 and systems 5 through 8 for which $(S/F)D_S > D_F$

$$\Psi_{S,\infty,X} = \frac{(D_F)(\Psi_{F,\infty,X})}{(S/F)(D_S)}$$

where

D_F = off-cycle flue gas draft factor selected from Table 1, for units with power burners where D_F is measured, determined in accordance with section 4.3.2 of this Appendix.

D_S = off-cycle stack gas draft factor selected from Table 1, or, for units with power burners where D_F is measured, determined in accordance with section 4.3.3 of this Appendix.

S/F = as defined in 4.1.6

$\Psi_{F,\infty,X}$ = as defined in 4.1.12

for systems numbered 5–8 for which $(S/F)D_S \leq D_F$

$$\Psi_{S,\infty,X} = \Psi_{F,\infty,X}$$

4.1.14 Effective stack gas temperature difference at shut-down. Calculate the effective stack gas temperature difference at shut-down, $\Psi_{S,O,X}$ expressed in degrees Fahrenheit and defined as:

For systems numbered 1 through 4 and systems 5 through 8 for which $(S/F)D_S > D_F$

$$\Psi_{S,O,X} = \frac{(D_F)(\Psi_{F,O,X})}{(S/F)(D_S)}$$

where

D_F as defined in 4.1.13

$\Psi_{F,O,X}$ as defined in 4.1.11

S/F as defined in 4.1.6

D_S as defined in 4.1.13

for systems numbered 5–8 for which $(S/F)D_S \leq D_F$

$$\Psi_{S,O,X} = \Psi_{F,O,X}$$

4.1.15 Correction factors for systems 9 through 12 Calculate a correction factor which corrects for the use of outdoor air for combustion instead of air at room temperature, C_S, defined as

$$C_S = 1 + \frac{(70-42)\eta_{SS}}{(T_{F,SS} - T_{RA})\,100}$$

where

42 = average outdoor temperature corresponding to 5200 degree day location, in degrees Fahrenheit

η_{SS} as defined in 4.1.5

$T_{F,SS}$ as defined in 4.1.4

70 assumed average indoor temperature

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Calculate the correction factor which corrects for the effect of outdoor air passing through the heat exchanger during the off-period, C'_S, defined as:

$$C'_S = 1.22$$

4.1.16 Multiplication factor for sensible heat loss during burner on-cycle. Calculate a multiplication factor for sensible heat loss during burner on-cycle, $K_{S,\infty}$, defined as:

$$K_{S,\infty} = \frac{100 C_P (1 + (R_{T,F})(A/F))}{HHV_A}$$

Where
- C_P = 0.24 Btu per pound-degree Fahrenheit, specific heat of air
- $R_{T,F}$ = as defined in 4.1.2
- A/F = stoichiometric air/fuel ratio determined in accordance with Table 3
- HHV_A = average higher heating value of the test fuel determined in accordance with Table 3, in Btu's per pound.

4.1.17 Multiplication factor for sensible heat loss during burner off-cycle. Calculate a multiplication factor for sensible heat loss during burner off-cycle, $K_{S,OFF}$, defined as:

for systems numbered 1-4:

$$K_{S,OFF} = \frac{(T_{F,SS} - T_{RA} + 530)^{1.19} (D_F)(K_{S,\infty})}{(T_{F,SS} - T_{RA})^{0.56}}$$

where
- 530 = assumed average indoor temperature in degrees Rankine
- $T_{F,SS}$ as defined in 4.1.4
- T_{RA} as defined in 4.1.4
- D_F as defined in 4.1.13
- $K_{S,\infty}$ as defined in 4.1.16

for systems numbered 5-8:

$$K_{S,OFF} = \frac{(T_{S\ SS} - T_{RA} + 530)^{1.19} (D_S)(S/F)(K_{S,\infty})}{(T_{S,SS} - T_{RA} + 70 - 42)^{0.56}}$$

where
- $T_{S,SS}$ as defined in 4.1.7
- D_S as defined in 4.1.13
- S/F as defined in 4.1.6
- $K_{S,\infty}$ as defined in 4.1.16
- 530 as defined above
- 42 as defined in 4.1.15
- 70 as defined in 4.2.15
- T_{RA} as defined in 4.1.4

for systems numbered 9-12:

$$K_{S,OFF} = \frac{(T_{F,SS} - T_{RA} + 530)^{1.19} (D_F)(K_{S,\infty})}{(T_{F,SS} - T_{RA} + 70 - 42)^{0.56}}$$

where
- $T_{F,SS}$ as defined in 4.1.4
- D_F as defined in 4.1.13
- $K_{S,\infty}$ as defined in 4.1.16
- 530 as defined above
- 42 as defined in 4.1.15
- 70 as defined in 4.2.15
- T_{RA} as defined in 4.1.4

4.1.18 Multiplication factor for infiltration loss during burner on-cycle. Calculate a multiplication factor for infiltration loss during burner on-cycle, $K_{I,\infty}$, defined as:

for systems numbered 1-8:

$$K_{I,\infty} = (\Phi)(S/F)(K_{S,\infty})$$

where
- Φ = 0.7 infiltration parameter
- S/F as defined in 4.1.6
- $K_{S,\infty}$ as defined in 4.1.16

4.1.19 Multiplication factor for infiltration loss during burner off-cycle. Calculate a multiplication factor for infiltration loss during burner off-cycle $K_{I,OFF}$, defined as:

for systems numbered 1-8:

$$K_{I,OFF} = \frac{(T_{S\ SS} - T_{RA} + 530)^{1.19} (K_{I,\infty})(D_S)}{T_{S,SS}(-T_{RA} + 70 - 42)^{0.56}}$$

where
- $T_{S,SS}$ as defined in 4.1.7
- 530 as defined in 4.1.17
- 42 as defined in 4.1.15
- $K_{I,\infty}$ as defined in 4.1.18
- D_S as defined in 4.1.13
- 70 as defined in 4.2.15
- T_{RA} as defined in 4.1.4

4.1.20 Ratio of average burner on-time per cycle to on-cycle time constant. Calculate the ratio of average burner on-time per cycle to on-cycle time constant, t_{on}/τ_{on}, defined as:

$$\frac{t_{on}}{\tau_{on}}$$

where
- t_{on} = 3.87 minutes, the average burner on-time per cycle
- τ_{on} as defined in 4.1.8

4.1.21 Ratio of average burner off-time per cycle to off-cycle time constant. Calculate the ratio of average burner off-time per cycle to off-cycle time constant, t_{off}/τ_{off}, defined as:

$$\frac{t_{off}}{\tau_{off}}$$

where
- t_{off} = 13.3 minutes, the average burner off-time per cycle
- τ_{off} as defined in 4.1.10

4.1.22 Effective flue gas temperature difference at burner start-up, corrected for burner cycling effect. Calculate the effective flue gas temperature difference at burner start-up, corrected for burner cycling effect, $\Theta_{F,O}$, expressed in degrees Fahrenheit and defined as:

For systems 1-8:

$$\theta_{F,O} = (C_{t,\infty})(\theta_{F,O,X})$$

For systems 9-12:

$$\theta_{F,O} = (C_{t,\infty})(C_S)(\theta_{F,O,X})$$

where $C_{t,\infty}$ is given by:

$$C_{t,\infty} = \frac{1 - \frac{(\psi_{F,O,X})(e)^{-t_{off}/\tau_{off}}}{(T_{F,SS} - T_{F,OFF}(\infty))}}{1 - \frac{(\theta_{F,O,X})(\psi_{F,O,X})(e^{-(t_{on}/\tau_{on} + t_{off}/\tau_{off})})}{(T_{F,SS} - T_{F,OFF}(\infty))^2}}$$

for vaporizing type oil burners, $\theta_{F,O} = 0$.
where
- $\theta_{F,O,X}$ as defined in 4.1.9
- C_S as defined in 4.1.15
- $\psi_{F,O,X}$ as defined in 4.1.11
- t_{off}/τ_{off} as defined in 4.1.21
- t_{on}/τ_{on} as defined in 4.1.20
- $T_{F,SS}$ as defined in 4.1.4
- $T_{F,OFF}(\infty)$ as defined in 4.1.10

4.1.23 Effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect. Calculate the effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{F,O}$.
For systems 1-8:

$$\psi_{F,O} = (C_{t,off})(\psi_{F,O,X})$$

For systems 9-12:

$$\psi_{F,O} = (C_{t,off})(C_S')(\psi_{F,O,X})$$

Where $C_{t,off}$ is given by:

$$C_{t,off} = \frac{C_{IID}\left[1 - \frac{(\theta_{F,O,X})(e^{-t_{on}/\tau_{on}})}{(T_{F,SS} - T_{F,OFF}(\infty))}\right]}{1 - \frac{(\theta_{F,O,X})(\psi_{F,O,X})(e^{-(t_{on}/\tau_{on} + t_{off}/\tau_{off})})}{(T_{F,SS} - T_{F,OFF}(\infty))^2}}$$

where
- C_{IID} = 1, for units with continuously operating pilot light 0.80, for units with intermittent ignition devices or cycling pilots

- $\psi_{F,O,X}$ as defined in 4.1.11
- C_S' as defined in 4.1.15
- $\theta_{F,O,X}$ as defined in 4.1.9
- t_{off}/τ_{off} as defined in 4.1.21
- t_{on}/τ_{on} as defined in 4.1.20
- $T_{F,SS}$ as defined in 4.1.4
- $T_{F,OFF}(\infty)$ as defined in 4.1.10

4.1.24 Effective minimum flue gas temperature difference above room temperature, corrected for burner cycling effect. Calculate the effective minimum flue gas temperature difference above room temperature, $\Psi_{F,\infty}$, corrected for burner cycling effect, expressed in degrees Fahrenheit and defined as:

for systems numbered 1-8:

$$\Psi_{F,\infty} = \Psi_{F,\infty,X}$$

for systems numbered 9-12:

$$\Psi_{F,\infty} = (C_S')(\Psi_{F,\infty,X})$$

where
- C_S' as defined in 4.1.15
- $\Psi_{F,\infty,X}$ as defined in 4.1.12

4.1.25 Effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect. Calculate the effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{S,O}$, expressed in degrees Fahrenheit and defined as:

for systems 1-8:

$$\psi_{S,O} = C_{t,off}\psi_{S,O,X}$$

where
- $C_{t,off}$ as defined in 4.2.23
- $\psi_{S,O,X}$ as defined in 4.2.11

4.1.26 Off-cycle sensible heat loss integration factors. For systems numbered 1-4, determine off-cycle sensible heat loss integration factors, $F3$ and $F4$, from Figures 3 and 4, respectively, using values of $\Psi_{F,O}$ defined in section 4.1.23, and t_{off}/τ_{off} defined in section 4.1.21.

For systems numbered 5-8, determine off-cycle sensible heat loss integration factors, $F5$ and $F6$, from Figures 5 and 6, respectively, using values of $\psi_{S,O}$, defined in section 4.1.25, and t_{off}/τ_{off} defined in section 4.1.21.

For systems numbered 9-12, determine, off-cycle sensible heat loss integration factors, $F5$ and $F6$, from Figures 5 and 6, respectively, using values of $\Psi_{F,O}$ defined in section 4.1.23, and t_{off}/τ_{off} defined in section 4.1.21.

4.1.27 Off-cycle infiltration heat loss integration factors. For systems numbered 1-8, determined off-cycle infiltration heat loss integration factors, $F7$ and $F8$, from Figures 7 and 8, respectively, using values of $\Psi_{S,O}$ defined in section 4.1.25, and t_{off}/τ_{off} defined in section 4.1.21.

4.1.28 On-cycle sensible heat loss. Calculate the on-cycle sensible heat loss of the system, $L_{S,ON}$, expressed in percent and defined:

for systems numbered 1-8:

$$L_{S,ON} = L_{S,SS,A} - (K_{S,ON})(\Theta_{F,O})\left(\frac{1}{t_{on}/\tau_{on}}\right)\left(1 - e^{-\frac{t_{on}}{\tau_{on}}}\right),$$

for systems numbered 9-12:

$$L_{S,ON} = (C_S)(L_{S,SS,A}) - (K_{S,ON})(\Theta_{F,O})\left(\frac{1}{t_{on}/\tau_{on}}\right)\left(1 - e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

where
- C_S as defined in 4.1.15
- $L_{S,SS,A}$ as defined in 4.1.4
- $K_{S,ON}$ as defined in 4.1.16
- $\Theta_{F,O}$ as defined in 4.1.22
- t_{on}/τ_{on} as defined in 4.1.20

4.1.29 Off-cycle sensible heat loss. Calculate the off-cycle sensible heat loss of the system, $L_{S,OFF}$, expressed in percent and defined as:

for systems numbered 1-4:

$$L_{S,OFF} = (K_{S,OFF})\left(\frac{t_{off}}{t_{on}}\right)[(F3) + \Psi_{F,\infty})(F4)],$$

for systems numbered 5-8:

$$L_{S,OFF} = (K_{S,OFF})\left(\frac{t_{off}}{t_{on}}\right)[(F5) + (\Psi_{S,\infty,X})(F6)],$$

for systems numbered 9-12:

$$L_{S,OFF} = (K_{S\,OFF})\left(\frac{t_{off}}{t_{on}}\right)[(F5) + (\Psi_{F,\infty})(F6)],$$

where
- $K_{S,OFF}$ as defined in 4.1.17
- t_{off} as defined in 4.1.21
- t_{on} as defined in 4.1.20
- $F3$, $F4$, $F5$, and $F6$ as defined in 4.1.26
- $\psi_{F,\infty}$ as defined in 4.1.24
- $\Psi_{S,\infty,X}$ as defined in 4.1.13

4.1.30 On-cycle infiltration heat loss. Calculate the on-cycle infiltration heat loss of the system, $L_{I,ON}$ expressed in percent and defined as:

for systems numbered 1-8:

$$L_{I,ON} = K_{I,ON}(70 - 42),$$

where
- $K_{I,ON}$ as defined in 4.1.18
- 70 as defined in 4.1.4
- 42 as defined in 4.1.15

for systems numbered 9-12:

$$L_{I,ON} = 0$$

4.1.31 Off-cycle infiltration heat loss. Calculate the off-cycle infiltration heat loss of the system $L_{I,OFF}$ expressed in percent and defined as:

for systems numbered 1-8:

$$L_{I,OFF} = K_{1,OFF}(70 - 42)\left(\frac{t_{of}}{t_{on}}\right)[(F7) + (\Psi_{S,\infty,X})(F8)]$$

where
- $K_{I,OFF}$ as defined in 4.1.19
- 70 as defined in 4.1.15
- 42 as defined in 4.1.15
- t_{off} as defined in 4.1.21
- t_{on} as defined in 4.1.20
- $F7$, $F8$ as defined in 4.1.27
- $\Psi_{S,\infty,X}$ as defined in 4.1.13

for systems numbered 9-12:

$$L_{I,OFF} = 0$$

4.1.32 Part-load fuel utilization efficiency. Calculate the part-load fuel utilization efficiency, expressed in percent and defined as:

for indoor units—

$$\eta_u = 100 - L_{L,A} - \left[\frac{t_{on}}{t_{on} + \left(\frac{Q_P}{Q_{IN}}\right)(t_{off})}\right] \times [L_{S,ON} + L_{S,OFF} + L_{I,ON} + L_{I,OFF}],$$

for vented floor furnaces

$$\eta_u = 100 - L_{L,A} - C_i(L_i) - \left[\frac{t_{on}}{t_{on} + \left(\frac{Q_P}{Q_{IN}}\right)(t_{off})}\right] \times [L_{S,ON} + L_{S,OFF} + L_{I,ON} + L_{I,OFF}]$$

where
- C_i = 3.3 for vented floor furnaces
- Q_P = pilot flame fuel input rate determined in accordance with section 3.2 of this Appendix, in Btu's per hour
- Q_{IN} = full-load input rate (including pilot flame fuel input rate) determined in accordance with section 3.1 of this Appendix, in Btu's per hour
- L_i = jacket loss determined in accordance with section 3.4 of this Appendix, in percent
- $L_{L,A}$ as defined in 4.1.5
- t_{on} as defined in 4.1.20
- t_{off} as defined in 4.1.21
- $L_{S,ON}$ as defined in 4.1.28
- $L_{S,OFF}$ as defined in 4.1.29
- $L_{I,ON}$ as defined in 4.1.30
- $L_{I,OFF}$ as defined in 4.1.31

4.1.33 Annual fuel utilization efficiency. Calculate the annual fuel utilization efficiency, $EFFY_A$, defined as:
where

$$EFFY_A = \frac{(\eta_{SS})(\eta_u)(5200)}{(\eta_{SS})(5200) + (2.5)(\eta_u)\left(\frac{Q_P}{Q_{IN}}\right)(1.7)(4600)}$$

where
- 5200 = the average number of annual heating degree days for the United States
- 4600 = the average number of non heating season hours per year that the energy to the pilot light is assumed wasted
- 1.7 = average vented heater sizing factor
- η_{SS} = as defined in 4.1.5
- η_u = as defined in 4.1.32
- Q_P = as defined in 4.1.32
- Q_{IN} = as defined in 4.1.32

4.2 *Additional Requirements for Vented Home Heating Equipment Utilizing a Stack (or Flue) Damper.* Calculate the stack (or flue) damper effectiveness, D_o, defined as:

$$D_o = \sqrt{\frac{5}{5 + \frac{(2.6)\left(\frac{A'_D}{A_S}\right)^{1.58}}{\left(1 - \frac{A'_D}{A_S}\right)^2}}}$$

where
- $A_D = A'_D \cos(\Omega)$
- A_S = cross sectional area of the stack determined in accordance with section 3.5 of this Appendix, in square inches
- A_D = net area of the damper plate determined in accordance with section 3.5 of this Appendix, in square inches
- Ω = the angle the damper plate makes when closed with a plane perpendicular to the axis of the stack determine in accordance with section 3.5 of this appendix

4.3 *Additional Requirements for Vented Home Heating Equipment Utilizing Indoor Air for Combustion and Draft Control.* For units obtaining combustion air and draft control air from inside the residence, the appropriate factor describing the ratio of on-cycle stack flow to on-cycle flue flow (S-E), the ratio of off-cycle flue flow to on-cycle flue flow at identical temperatures (D_F), and the ratio of off-cycle stack flow to on-cycle stack flow at identical temperatures (D_S) shall be determined from Table 1.

4.3.1 Optional procedure for determination of D_F for vented home heating equipment employing a power burner. Calculate the ratio (D_F) of the rate of flue gas mass flow through the vented heater during the off period, $\dot{m}_{F,OFF}(T_{F,SS})$, to the rate of flue gas mass flow during the on-period, $\dot{m}_{F,SS}(T_{F,SS})$, and defined as:

$$D_F = \frac{\dot{m}_{F,OFF}(T_{F,SS})}{\dot{m}_{F,SS}(T_{F,SS})},$$

For gas fueled units or oil fueled units for which no draft is maintained during the steady state or cool down tests:

$$\dot{m}_{F,OFF}(T,SS) = \dot{m}_{F,OFF}(T^*_{F,OFF}) \times \left[\frac{T_{F,SS} - T_{RA}}{T^*_{F,OFF} - T_{RA}}\right]^{0.56}\left[\frac{T^*_{F,OFF} + 460}{T_{F,SS} + 460}\right]^{1.19}$$

For oil fueled units tested with an imposed draft as described in section 3.6:

$$\dot{m}_{F,OFF}(T_{F,SS}) = \dot{m}_{F,OFF}(T^*_{F,OFF})$$

where
- $T_{F,SS}$ as defined in 4.1.4
- $T^*_{F,OFF}$ = flue gas temperature during the off-period measured in accordance with section 3.6 of this Appendix, in degrees Fahrenheit
- T_{RA} as defined in 4.1.4

460 = conversion factor to convert degrees Fahrenheit to degrees Rankine

$$\dot{m}_{F,OFF}(T_{F,OFF}) = \frac{(100 - C_I)\dot{V}_T \rho_F}{C_T}$$

where
- $\dot{V}_T$ = flow rate of tracer gas through the vented heater measured in accordance with section 3.6 of this Appendix, in cubic feet per minute
- C_T = concentration by volume of tracer gas present in the flue gas sample measured in accordance with section 3.6 of this Appendix, in percent
- ρ_F = the density the flue gas would have at the temperature T_i in lb. per cu. ft. It may be approximated by the equation:

$$\rho_F \simeq 1.325\left(\frac{P_B}{T_i + 460}\right)$$

where
- T_i = the temperature of the tracer gas entering the flow meter measured in accordance with section 3.6 of this appendix, in degrees Fahrenheit.
- 460 = as defined above
- P_B = barometric pressure measured in accordance with section 3.6 of this Appendix, in inches of mereury

$$\dot{m}_{F,SS}(T_{F,SS}) = \left[(R_{T,F})\left(\frac{A}{F}\right) + 1\right]\frac{Q_{IN}}{(60)(HHV_A)},$$

where
- $R_{T,F}$ as defined in 4.1.2
- A/F as defined in 4.1.16
- Q_{IN} as defined in 4.1.32
- HHV_A as defined in 4.1.16

4.3.2 Optional procedure for determination of off-cycle draft factor for flue gas flow for vented home heating equipment employing a power burner. Calculate the off-cycle draft factor for flue gas flow, D_F, defined as:

for systems numbered 2, 4, 6, 8, or 10: $D_F = (D_F)$

for system number 12: $D_F = (D_F)(D_o)$,

where
- D_F as defined in 4.3.1
- D_o as defined in 4.2

4.3.3 Optional procedure for determination of off-cycle draft factor for stack gas flow for vented home heating equipment employing a power burner. Calculate the off-cycle draft factor for stack gas flow, D_S, defined as:

for system number 2: $D_S = 1.0$

for system number 4: $D_S = (0.79 + D_p)/1.4$

for system number 6: $D_S = D_o$

for system number 8:

$$D_S = \begin{cases} (D_o)(D_p), \text{ if } D_o \leq 1/(S/F) \\ (D_o)(D_p) + \dfrac{(0.85 - (D_o)(D_p))(D_o - 1/(S/F))}{\left(1 - \dfrac{1}{(S/F)}\right)}, \text{ if } D_o > \dfrac{1}{(S/F)} \end{cases}$$

where
- D_p as defined in 4.3.1
- D_o as defined in 4.2

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4.4 *Additional requirements for wall furnaces equipped with a direct vent system or floor furnaces designed to take combustion and draft control air from an unheated space.* For wall furnaces utilizing a direct vent system or floor furnaces designed to take their combustion and draft control air from an unheated space (such as a crawl-space), determine the appropriate S/F factor and D_F factor from Table 2. If a unit is equipped with a power burner, D_F, may be calculated as described in section 4.3.2 using the value of D_F determined in section 4.3.1 of this section.

4.5 *Additional requirements for vented home heating equipment which modulate or vary fuel input without controlling excess combustion air.* Test a vented heater, which is equipped with a mechanism for reducing the rate of fuel input but does not provide a means for controlling excess combustion air, at its maximum firing rate in accordance with test procedures in Section 3. Use these test results to calculate a seasonal efficiency and an annual operating cost which is based upon a single fixed fuel input rate.

4.6 *National average number of burner operating hours.* Calculate the average number of burner operating hours, BOH, defined as:

BOH=(A)(C)(2080)(average design heating requirement)—B(2080),

where:

2080=national average annual heating load hours average design heating requirement is expressed in KBtu/hr and is obtained from Table 4 using the proper value of Q_{OUT}.

where:

Q_{OUT} = the capacity of the unit equal to the quantities

$\frac{(Q_{in})(\eta_{ss})}{100}$ for room and wall heaters and

$\frac{(Q_{in})(\eta_{ss} - 3.3\ (L_f))}{100}$ for floor furnaces,

rounded off to the nearest 1000 Btu/hr.

Q_{IN} = as defined in 4.1.32

$A = \frac{100,000}{(341,550)\ (PE + y\ BE) + (Q_{in} - Q_p)\ (\eta_u)}$

$B = \frac{(2)\ (Q_p)\ (\eta_u)\ (A)}{100,000}$,

C=0.77, adjustment factor which serves to adjust the calculated design heating requirement and heating load hours to the actual heating load experienced by a heating system.

PE=power burner electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in kilowatts.

2=ratio of the average length of a heating season in hours to the heating load hours.

BE=circulating-air blower electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in kilowatts.

Y=1.00 for vented heaters employing a single motor to drive a power burner and air circulating fan or blower, and 1.38 for all other vented heaters, the ratio of average blower on time to average burner time.

Q_{IN}=as defined in 4.1.32.

Q_P=as defined in 4.1.32.

η_u=as defined in 4.1.32.

100,000=factor that accounts for percent and KBtu.

4.7 *Average annual fuel energy consumption for vented home heating equipment.* Calculate the average annual fuel energy consumption for vented heaters, E_F, expressed in Btu's per year, and defined as:

$$E_F=(Q_{IN}-Q_P)\ (BOH)+(8760)\ (Q_P)$$

Q_{IN} as defined in 4.1.32.

Q_P as defined in 4.1.32.

BOH as defined in 4.6.

8760 total number of hours in a year.

4.8 *Average annual auxiliary electrical energy consumption for vented home heating equipment.* Calculate the average annual auxiliary electrical energy consumption, E_{AE}, expressed in kilowatt-hours per year and defined as:

$$E_{AE}=(PE+y\ BE)\ (BOH)$$

where:

PE as defined in 4.6.

BE as defined in 4.6.

y as defined in 4.6.

BOH as defined in 4.6.

4.9 *Average number of burner operating hours for vented home heating equipment located in different geographic regions of the United States and in buildings having different design heating requirements.* Calculate the average number of burner operating hours for different typical design heating requirements and for the geographic regions of the United States, BOH_R, defined as:

BOH_R=(C)(A)(HLH) (typical design heating requirement)—B (HLH)

where:

A as defined in 4.6.

HLH=heating load hours for a specific geographic region determined in accordance with the heating load hour map in Figure 9.

(Typical design heating requirement) as given in Table 4 for the appropriate value of Q_{OUT}, where $_{out}$, is as defined in 4.6.

B as defined in 4.6.

C as defined in 4.6.

A as defined in 4.6.

4.10 *Average annual fuel energy consumption for vented home heating equipment located in different geographic regions of the United States in buildings with different design heating requirements.* Calculate the average annual fuel energy consumption for a specific geographic region and for a specific typical design heating requirement, $E_{F,R}$, expressed in Btu's per year, and defined as:

$$E_{F,R}=(Q_{IN}-Q_P)\ (BOH_R)+(8760)\ (Q_P)$$

where:

Q_{in} as defined in 4.1.32.

Q_P as defined in 4.1.32.

BOH_R as defined in 4.9.

8760 as defined in 4.8.

4.11 *Average annual auxiliary electrical energy consumption for vented home heating equipment located in different geographic regions of the United States and in buildings with different design heating requirements.* Calculate the average annual auxiliary electrical energy consumption for a specific geographic region and for a specific typical design heating requirement, $E_{AE,R}$, expressed in kilowatt-hours per year and defined as:

$$E_{AE,R}=(PE+y\ BE)\ (BOH_R)$$

where:

PE as defined in 4.6.

BE as defined in 4.6.

y as defined in 4.6.

BOH_R as defined in 4.9.

Table 1

Factors Describing Air Flow Rate for Gas and Oil-Fueled Vented Home Heating Equipment Utilizing Indoor Air for Combustion and Draft Control

Type of Burner	Units Without a Stack Damper but with Draft Hood or Draft Diverter				Units With a Stack Damper and Draft Hood or Draft Diverter			
	System #	S/F	D_F	D_S	System #	S/F	D_F	D_S
Atmospheric or Vaporizing	1	2.4	1.0	1.0	3	1.4	1.0	1.0
Power *	2	2.4	0.4	1.0	4	1.4	0.4	0.85

Type of Burner	Units Without a Stack Damper but with Draft Hood or Draft Diverter				Units With a Stack Damper and Draft Hood or Draft Diverter			
	System #	S/F	D_F	D_S	System #	S/F	D_F	D_S
Atmospheric or Vaporizing	5	2.4	1.0	D_o	7	1.4	1.0	D_o
Power *	6	2.4	0.4	D_o	8	1.4	0.4	$(D_o)(D'_p)$

where

$$D'_p = \begin{cases} 0.4, \text{if } D_o \leq 1/(S/F) \\ \dfrac{0.4 + (0.85 - (0.4)\ (D_o))\ (D_o - 1/(S/F))}{D_o\ (1 - 1/(S/F))}, \text{if } D_o > 1/(S/F) \end{cases}$$

The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and DOE.

*A power burner may incorporate a device on its air inlet which opens the air inlet when the appliance is in operation and closes the air inlet when the appliance is in the standby condition.

Table 2

Factors Describing Air Flow Rates for Gas or Oil-Fueled Vented Heaters Equipped with a Direct Vent System or a Floor Furnace

Type of Burner	Units Without A Stack or Flue Damper		Units With a Flue Damper		Type of Draft	S/F
	System#	D_F	System#	D_F	None	1
Atmosphere or Vaporizing	9	1.00	11	D_o	barometric damper	1.4
Power	10	0.40	12	0.40 x D_o	draft diverter	2.4

The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and DOE.

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Table 3

Values of Higher Heating Value (HHV_A), Stoichiometric Air/Fuel Ratio (A/F), and Latent Heat Loss ($L_{L,A}$) for Typical Fuels

Fuels	HHV (Btu/lb) $_A$	A/F(--)	$L_{L,A}$ (%)
No. 1 Oil	19,800	14.56	6.55
No. 2 Oil	19,500	14.49	6.50
Natural Gas	20,120	14.45	9.55
Manufactured Gas	18,500	11.81	10.14
Propane	21,500	15.58	7.99
Butane	20,890	15.36	7.79

Table 4

Average and Typical Design Heating Requirements for Vented Heaters with Different Output Capacities

Vented Heaters Output Capacity, Q_{OUT} (Btu/hr)	Average Design Heating Requirements (KBtu/hr)	Typical Design Heating Requirements (KBtu/hr)
5,000 - 10,000	5	5
11,000 - 16,000	10	5, 10
17,000 - 25,000	15	10, 15
26,000 - 34,000	20	15, 20
35,000 - 42,000	25	20, 25, 30
43,000 - 51,000	30	25, 30, 35
52,000 - 59,000	35	30, 35, 40, 45
60,000 - 76,000	40	35, 40, 45, 50

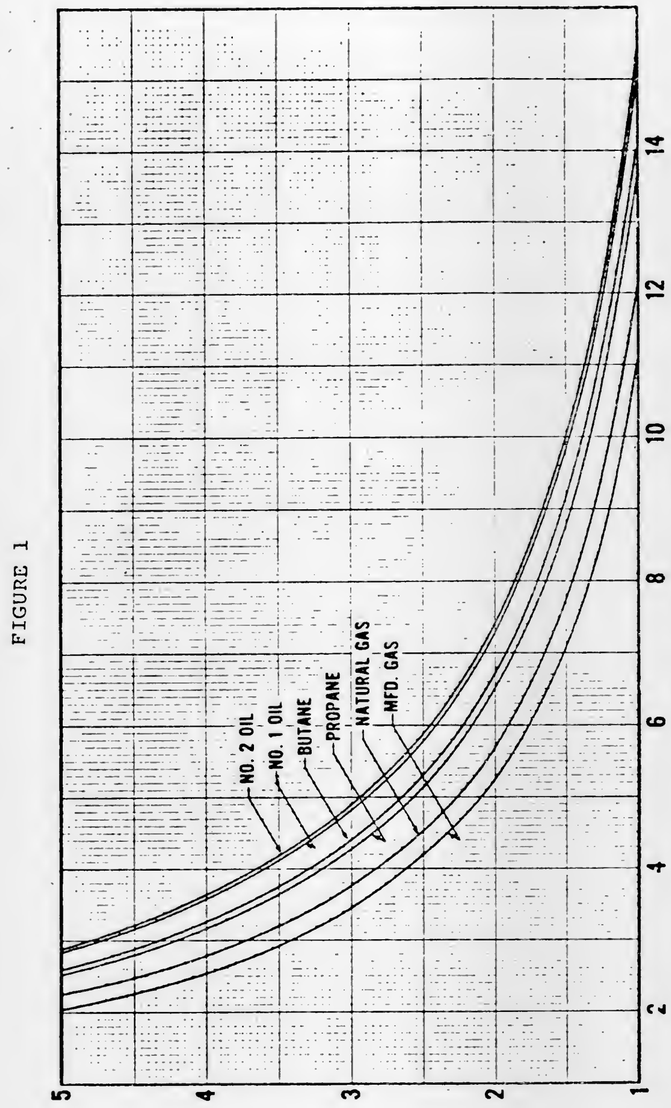


FIGURE 1

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FIGURE 2a

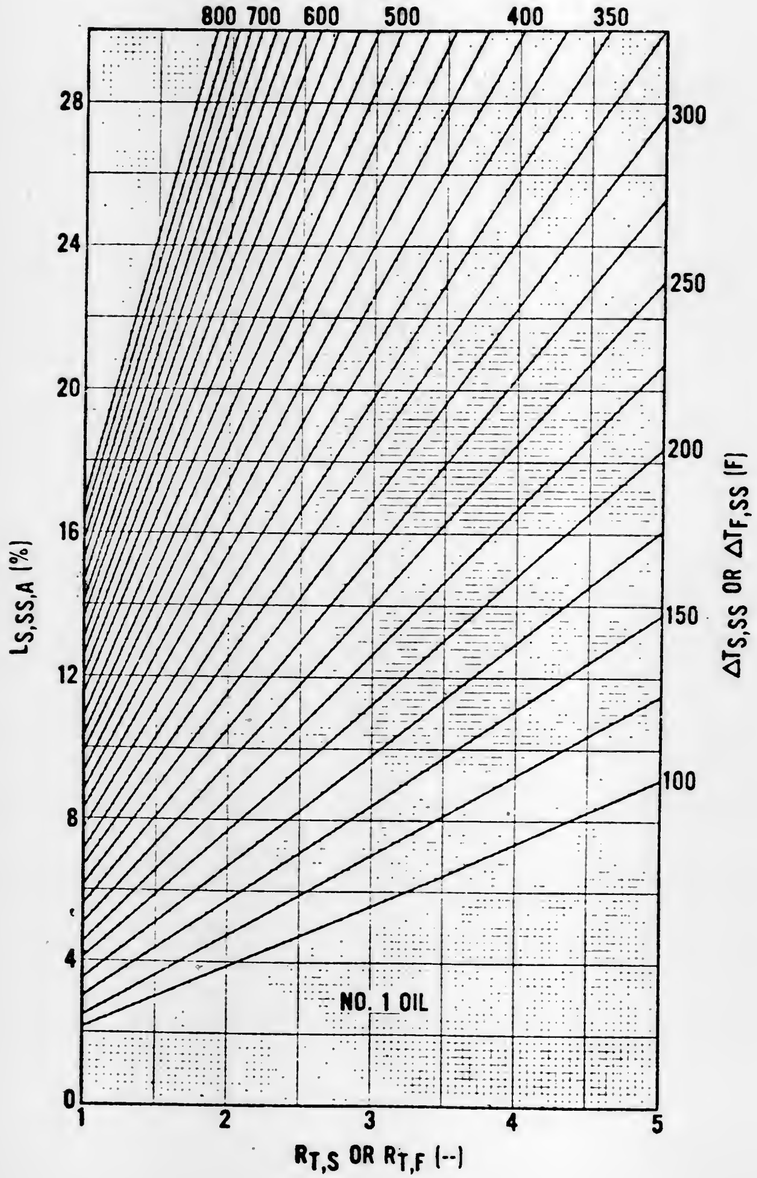
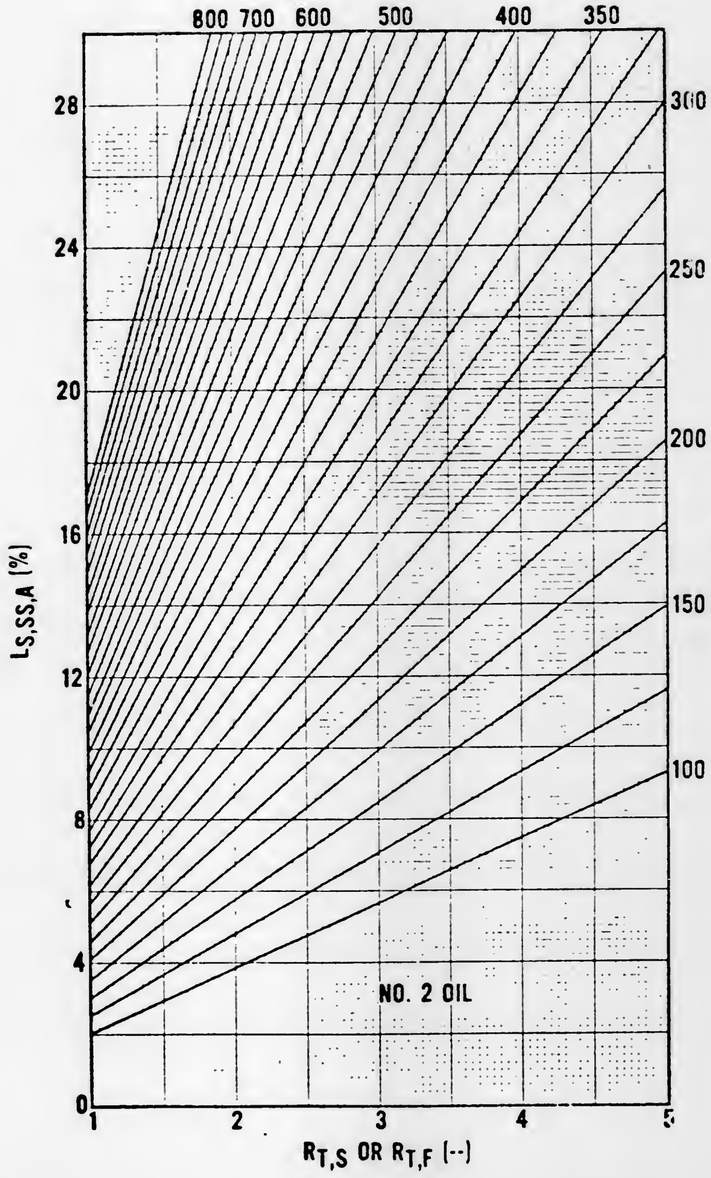


FIGURE 2b



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FIGURE 2c

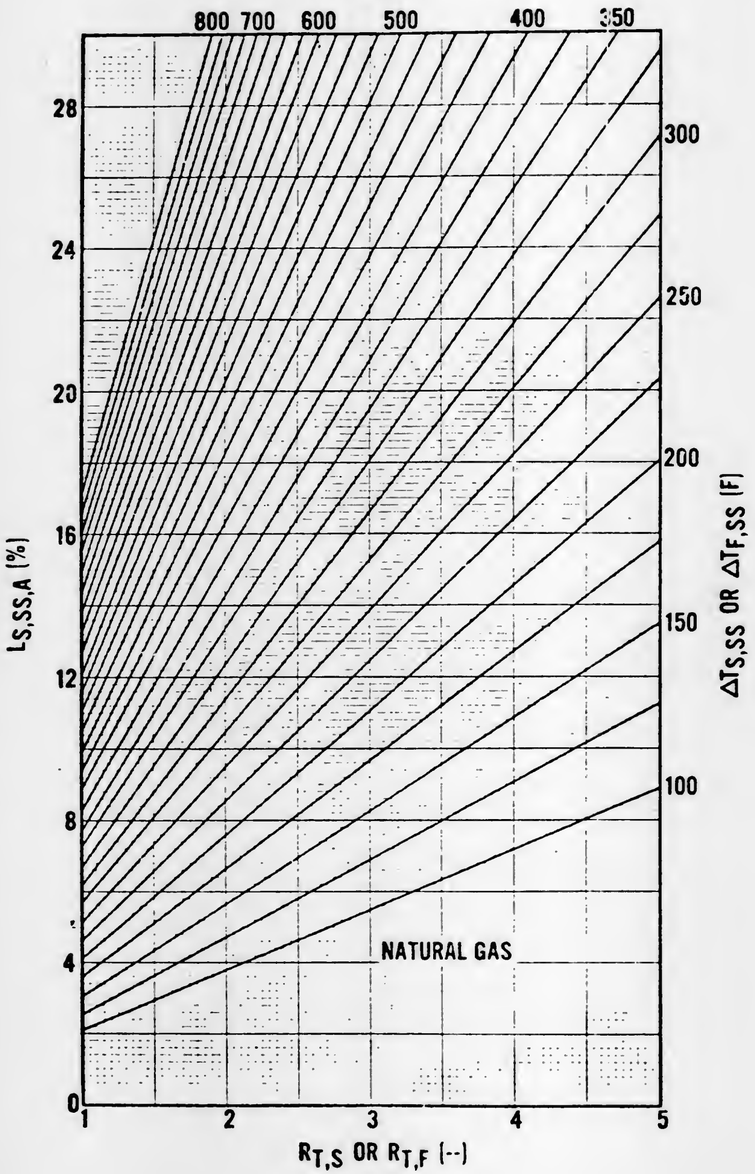
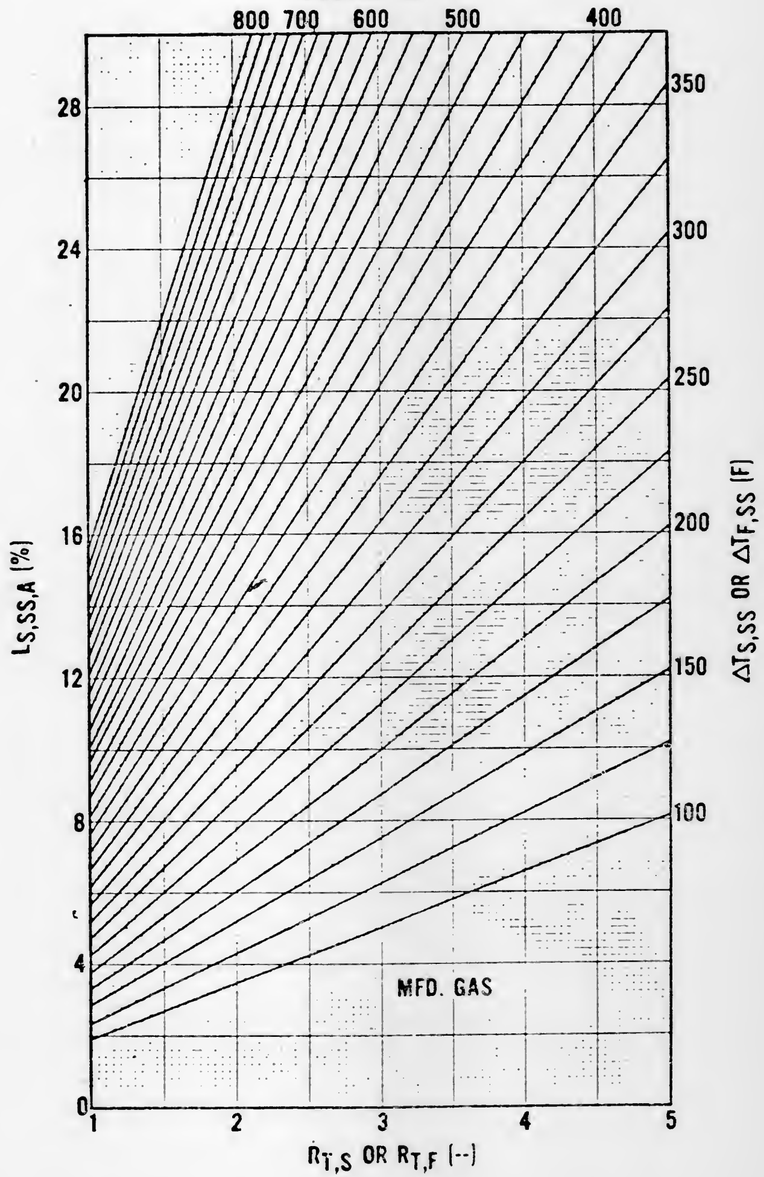


FIGURE 2d



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FIGURE 2e

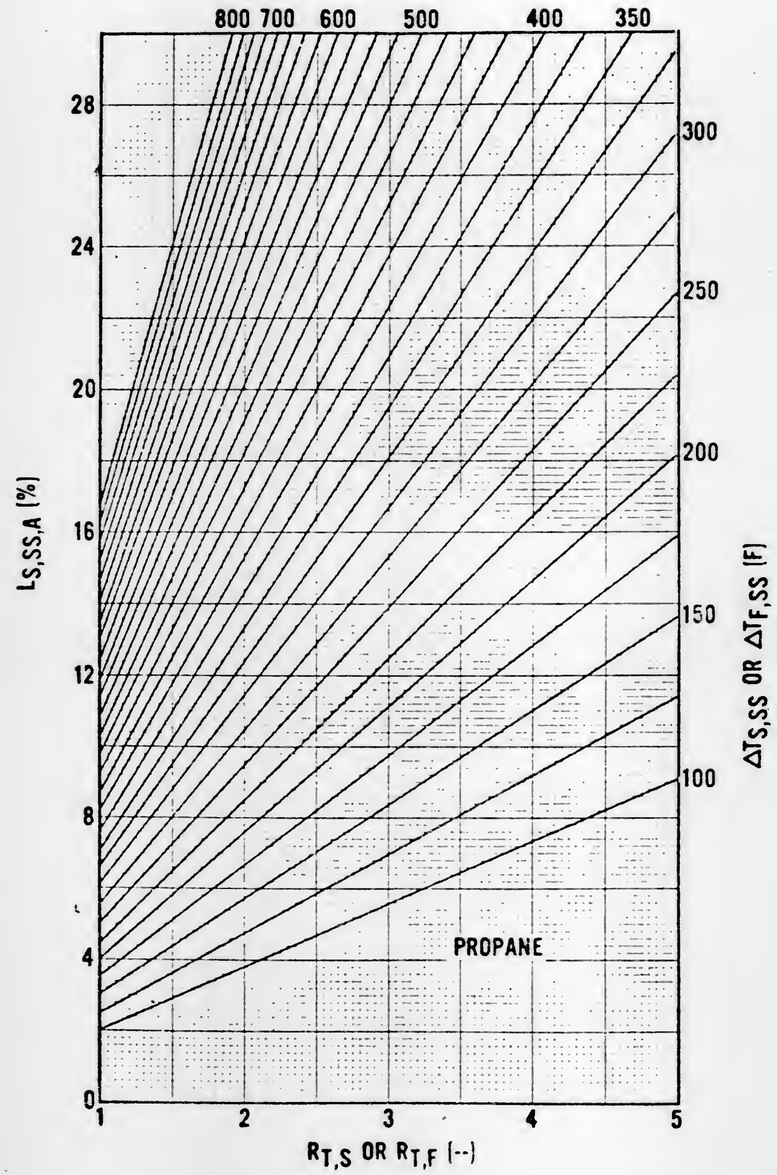
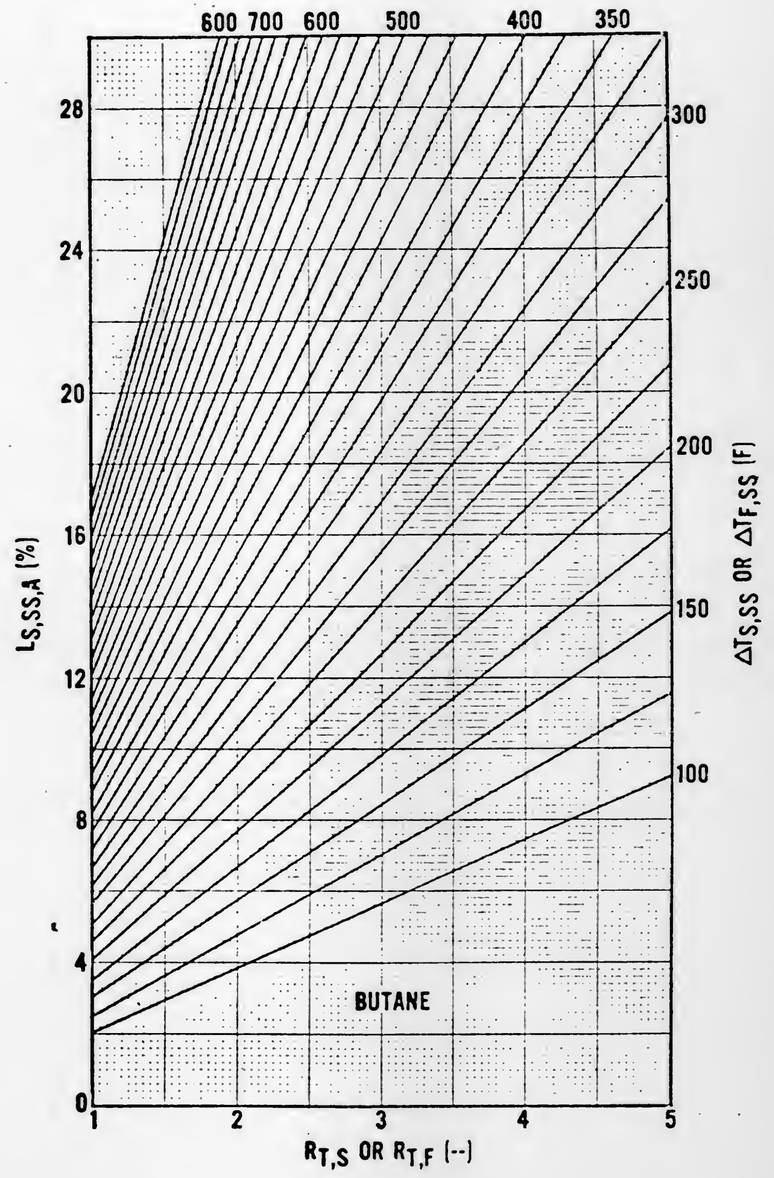


FIGURE 2f



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FIGURE 3

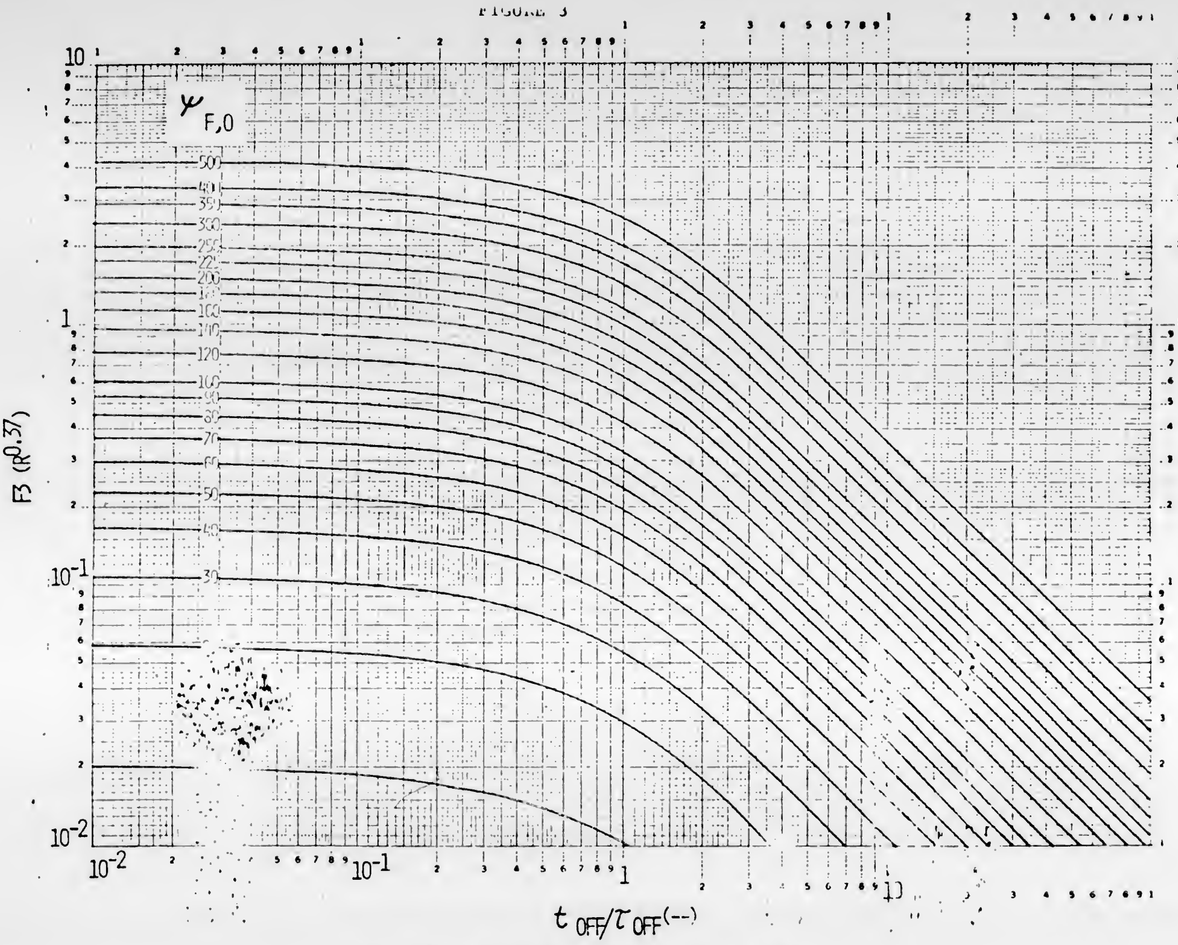
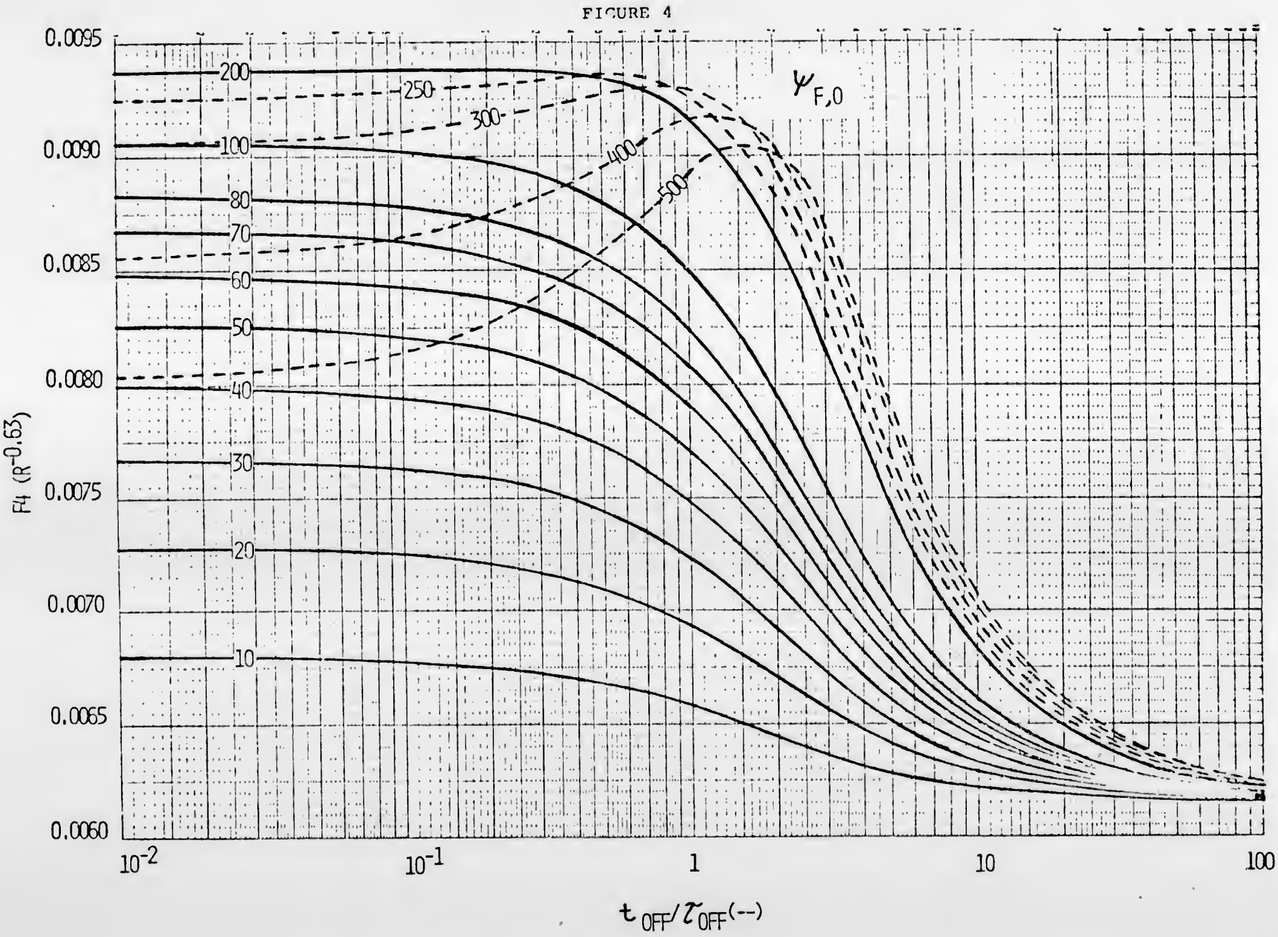


FIGURE 4



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FIGURE 5

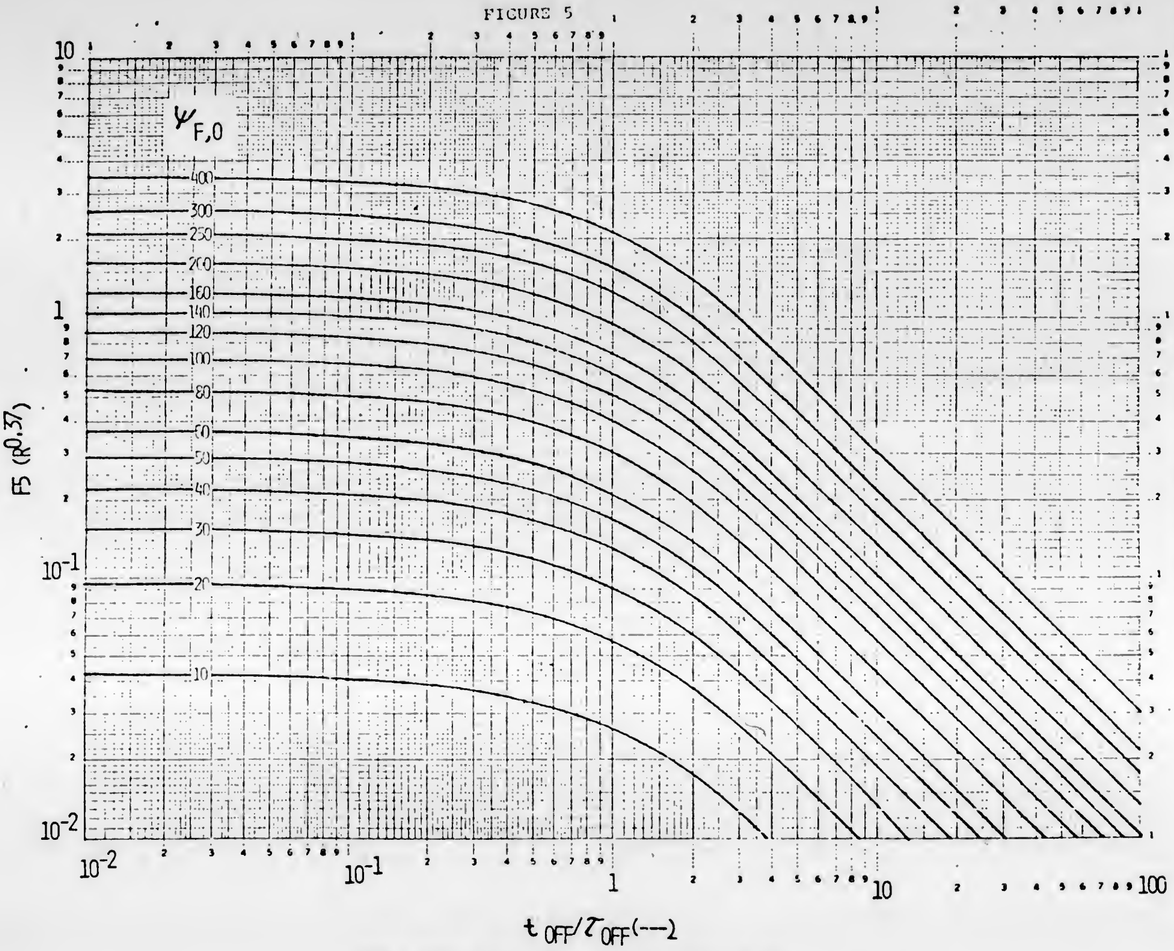
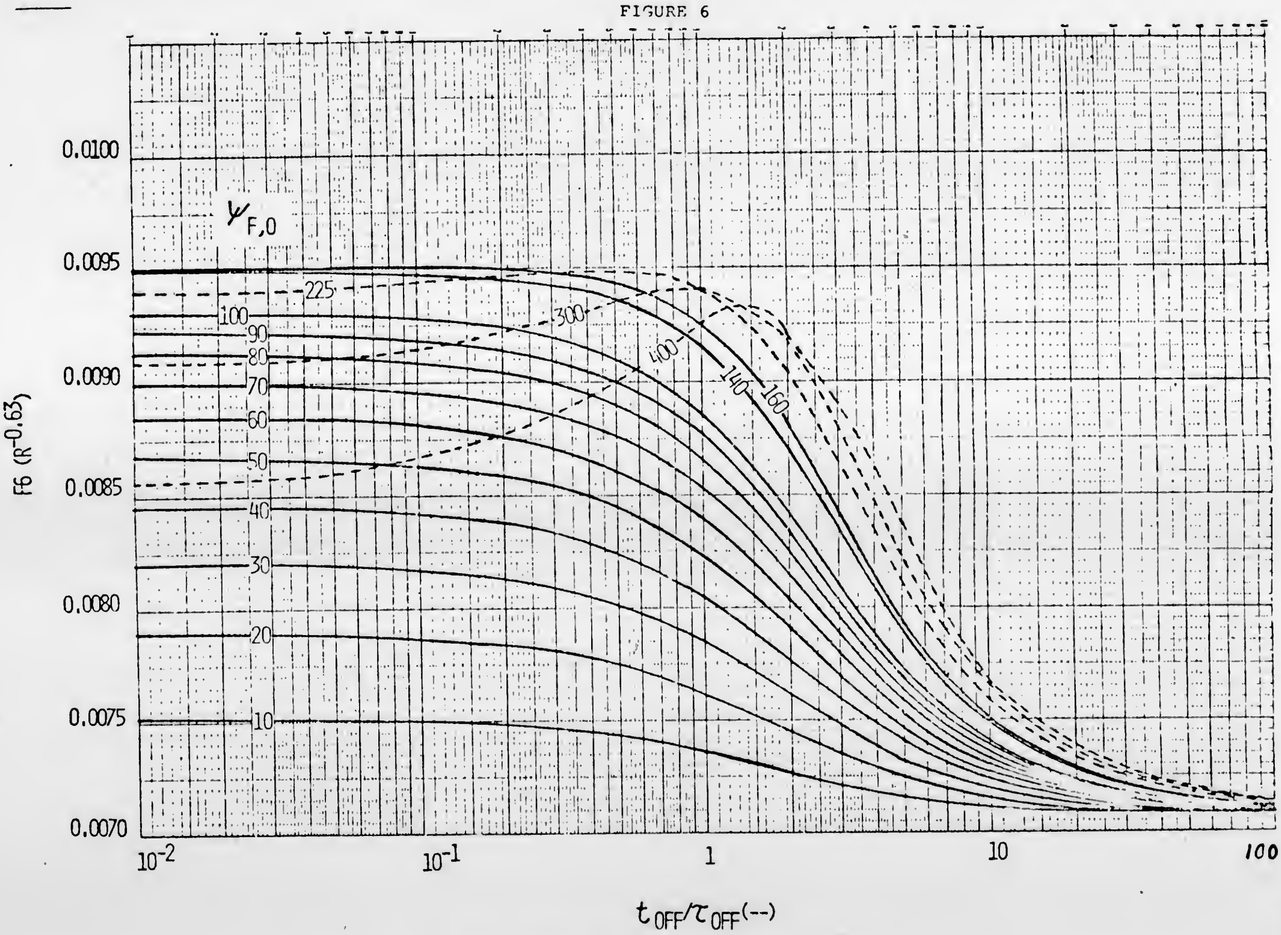


FIGURE 6



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FIGURE 7

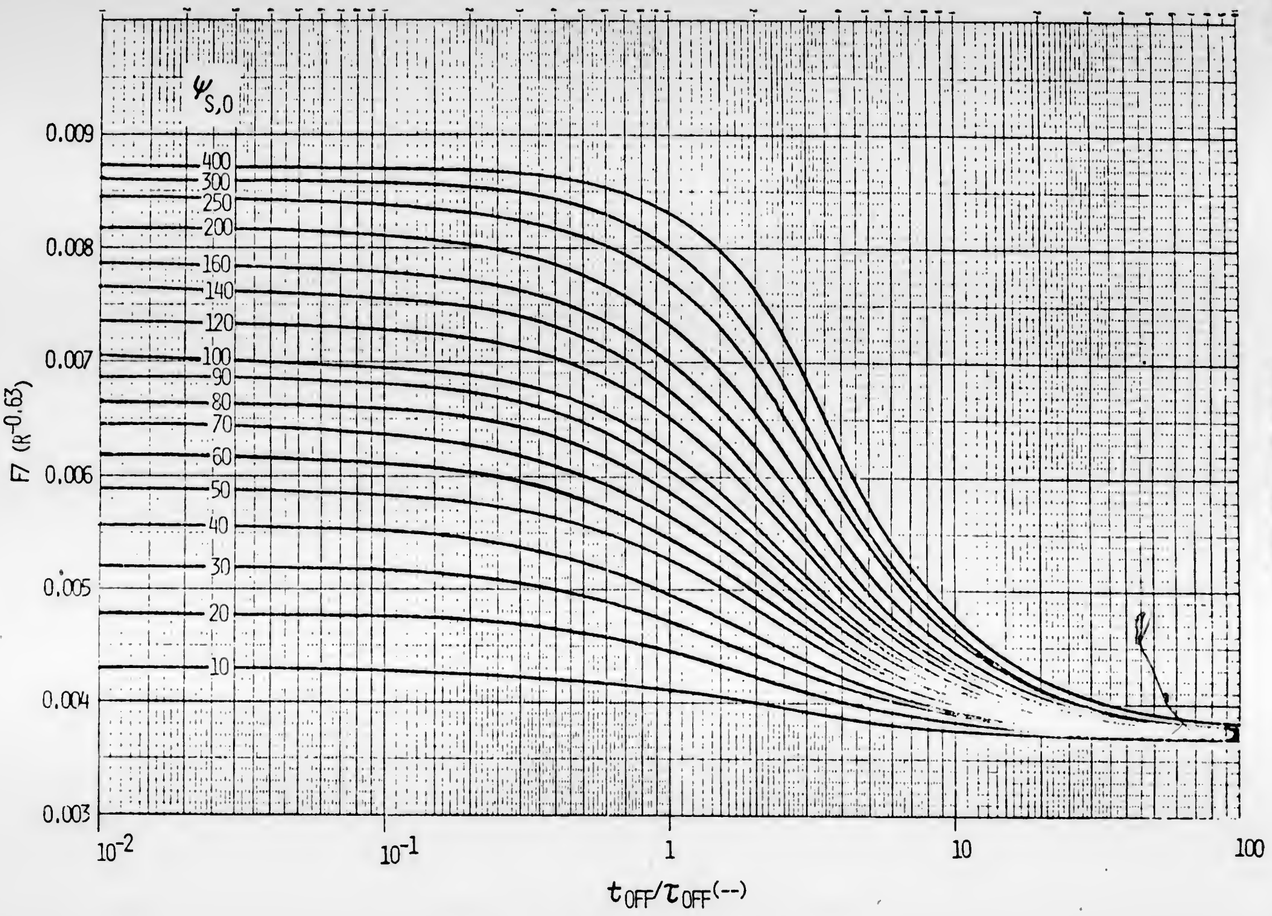


FIGURE 8

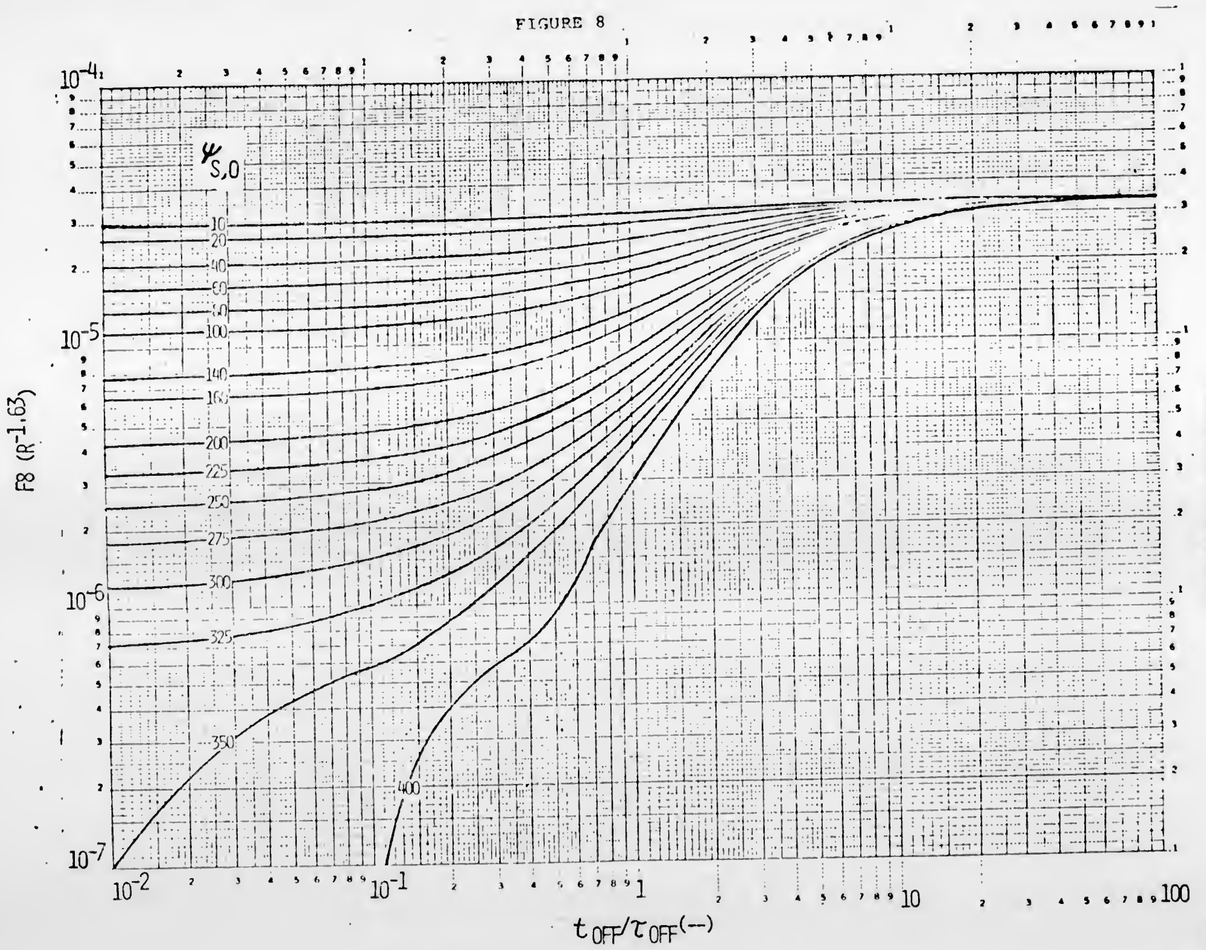
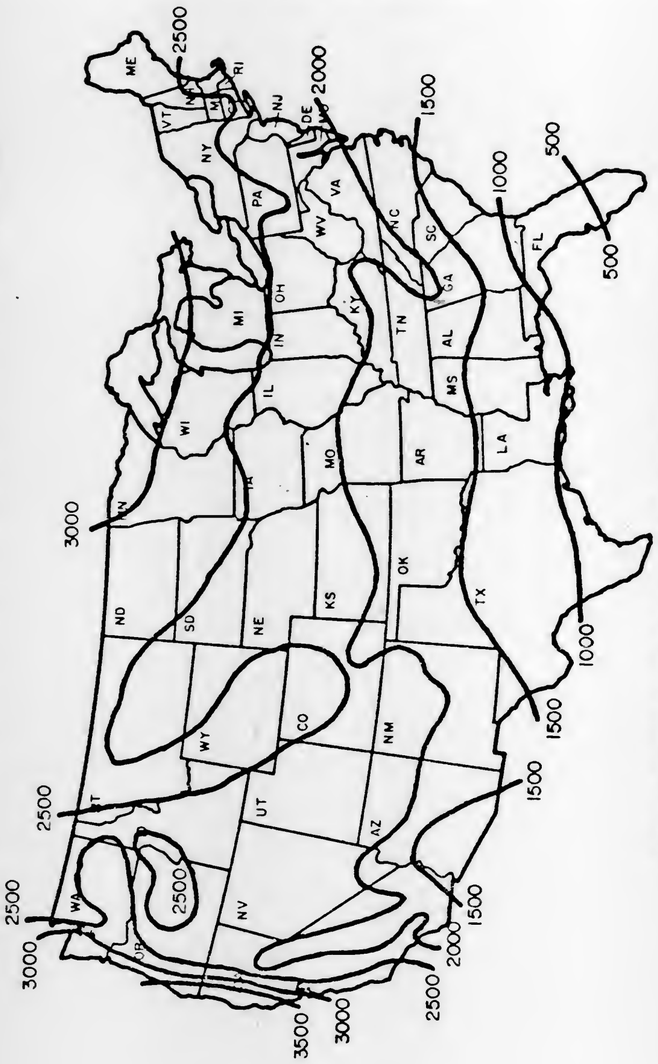


FIGURE 9

Heating Load Hours (HLH) for the United States and Territories



This map is reasonably accurate for most parts of the United States but is necessarily highly generalized and consequently not too accurate in mountainous regions, particularly in the Rockies.

Alaska - 3500 HLH
Hawaii and - 0 HLH
Territories

FIGURE 10

WORK SHEET FOR VENTED HEATER SYSTEM

Measured Quantities and System Characteristic Constants

1	2	3	4	5	6	7	8
SYS# (-)	TFUEL (-)	HHV Btu/lb.	Q_{IN} Btu/hr.	Q_F Btu/hr.	PE kW	BE kW	$X_{CO_2,S}$ %

9	10	11	12	13	14	15	16
$T_{S,SS,X}$ F	$X_{CO_2,F}$ %	$T_{F,SS}$ F	$T_{F,ON}(t_1)$ F	$T_{F,ON}(t_2)$ F	$T_{F,OFF}(t_3)$ F	$T_{F,OFF}(t_4)$ F	$T_{F,OFF}(\infty)$ F

17	18	19	20	21	22
T_{RA} F	L_J %	S/F (-)	D_F (-)	D_S (-)	y (-)

Derived System Parameters

23	24	25	26	27	28	29	30
PF (-)	HHV_A Btu/lb.	A/F (-)	$L_{L,A}$ %	C_J (-)	$R_{T,F}$ (-)	$L_{S,SS,A}$ %	η_{SS} %

31	32	33	34	35	36	37	38
$T_{S,SS}$ F	τ_{ON} minutes	$T_{F,0,X}$ F	τ_{OFF} minutes	$T_{F,0,X}$ F	$T_{F,\infty,X}$ F	$T_{S,\infty,X}$ F	$T_{S,0,X}$ F

39	40	41	42	43
C_S (-)	$K_{S,ON}$ (%)/F	$K_{S,OFF}$ (%)/$R^{0.37}$	$K_{I,ON}$ (%)/F	$K_{I,OFF}$ (%)/$R^{0.37}$

Calculation of System Losses and Annual Fuel Utilization Efficiency

44	45	46	47	48	49	50	51
t_{OA} F	t_{ON} minutes	t_{OFF} minutes	t_{ON}/τ_{ON} (-)	t_{OFF}/τ_{OFF} (-)	$\theta_{F,0}$ F	$\theta_{F,0}$ F	$\theta_{F,\infty}$ F

52	53	54	55	56	57	58	59
$\theta_{S,0}$ F	$\theta_{S,\infty}$ F	F3 $R^{0.37}$	F4 $R^{-0.63}$	F5 $R^{0.37}$	F6 $R^{-0.63}$	F7 $R^{-0.63}$	F8 $R^{-1.63}$

60	61	62	63	64	65	66	67
$L_{S,ON}$ %	$L_{S,OFF}$ %	$L_{I,ON}$ %	$L_{I,OFF}$ %	η_u %	DD °F-days	HR hours	$EAFY_A$ %

[FR Doc. 78-12461 Filed 5-9-78; 8:45 am]

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federal register

WEDNESDAY, MAY 10, 1978
PART III



INTERSTATE COMMERCE COMMISSION

■

CANONS OF CONDUCT

Proposed Revision

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[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1000]

CANONS OF CONDUCT

Proposed Revision

AGENCY: Interstate Commerce Commission.

ACTION: Proposed Rules.

SUMMARY: The Commission proposes to revise its existing Canons of Conduct, to adopt implementing and clarifying guidelines for some of the canons, to amend the list of employees required to submit confidential statements of employment and financial interests, and to prescribe additional canons of conduct applicable only to members of the Commission. The purpose is to simplify, clarify, and update the existing standards governing the conduct of members and employees.

COMMENTS: Interested persons may submit written comments on the proposed rules on or before June 9, 1978.

ADDRESS: Comments should be submitted to: Acting Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Mark L. Evans, General Counsel, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7312.

SUPPLEMENTARY INFORMATION: In April 1977, a staff committee was appointed to review the Commission's existing Canons of Conduct and to recommend changes. After the staff committee submitted its report, an Ad Hoc Committee of Commissioners was designated to make recommendations to the entire Commission. The Ad Hoc Committee proposed certain changes and additions to the Canons, including new Canons for Members, and also recommended the adoption of guidelines to interpret the Canons.

Both the staff and the Commission found that the existing Canons are sound and as tightly drawn as any agency's. At the same time, everyone agreed that the Canons needed further clarification in several critical areas.

The result of this comprehensive review is that the Commission proposes to tighten up the Canons even further in several places, to add a supplemental set of Canons for members only, and to expand the list of employees who are required, because of the sensitivity of their positions, to submit confidential statements of their employment and financial interests. As supplemented by the new guidelines for several provisions, the Canons now give members and employees a much clearer idea of what conduct is permitted and what conduct should be avoided.

The following paragraphs describe the key changes in the Canons and the principal provisions of the new guidelines. The following Canons remain as is except for minor editorial changes: Canon II; Canons 17 through 21, (which have been renumbered as 18 through 22, due to the establishment of new Canon 12, in lieu of former Canon 28); Canons 25 and 26 (formerly Canons 24 and 25); and Canons 30 and 31 (formerly Canons 29 and 30).

Canon 12: Amended version of former Canon 28. The Canon establishes a formal interpretation and advisory service under the direction of the Commission's General Counsel (who is designated Ethics Counselor) and Director of Personnel (who is designated Principal Deputy Ethics Counselor). Provision is made for the designation of additional Deputy Ethics Counselors as needed to furnish advice concerning the interpretation and application of the Canons of Conduct.

Canon 13: Amended version of former Canon 12. Clause (b) has been added which specifies that members and employees may not hold a financial interest in a firm that in turn owns or controls a for-hire transportation company if the firm has more than two percent of its assets invested in, or derives more than two percent of its income from, the transportation company.

Clauses (a), (b), and (c) distinguish between financial interests that are sufficiently direct, certain, and substantial to give rise to a possible appearance of a conflict of interest on the part of a member or employee, and financial interests that are so indirect, inconsequential, or remote as to avoid any such appearance. Both the former Canon and the amended Canon allow members and employees to own shares in a conglomerate or a mutual fund as long as the conglomerate or mutual fund has no more than ten percent of its assets invested in, and dervies no more than ten percent of its income from, for-hire transportation companies. The Commission recognized, however, that there may be a difference between a conglomerate that merely invests in a for-hire transportation company and one that owns or controls such a company. Clause (b) provides that a member or employee may own shares in a firm that owns or controls a transportation company only if the firm has no more than two percent of its assets invested in, and derives no more than two percent of its income from, the transportation company.

The guidelines provide that members and employees may rely on a company's most recent financial statement in determining whether the Canon's two-percent and ten-percent limitations are applicable. They also allow up to nine months for the disposition of any financial interest previously permitted but now prohibited by the amended Canon. Provision is made for a waiver of the Canon's prohibitions on the basis of serious financial hardship.

Canon 14: Amended version of former Canon 13. Subsection (a) substitutes the phrase "in which their impartiality might reasonably be questioned" for "interest which might affect or appear to affect their actions in this matter." The substitution is not intended to make any significant change in substance. The new phrase is taken from Canon 3 of the American Bar Association's Code of Judicial Conduct.

Subsection (b) is new. It provides that members and employees who are disqualified from participating in a matter may not engage in a discussion of the matter and may not be present during any action relating to the matter.

The guidelines provide that a member is the sole judge of his or her own qualification but that the Chairman may make a final determination of an employee's qualification if it is questioned. The guidelines also give some guidance in applying the phrases "substantial pecuniary interest" and "impartiality might reasonably be questioned."

Canon 15: Amended version of former Canon 14. The new Canon omits as superfluous two sentences in former subsection (a) that addressed reimbursement of travel expenses for attending industry meetings and conventions.

The guidelines define "gift, gratuity, entertainment, favor, loan, or any other thing of monetary value," and set forth the list of persons and associations from whom such things may not be accepted. They state a policy of favoring the Canon's prohibitions rather than stretching its exceptions.

The guidelines provide that members and employees may not accept reimbursement from certain prospective employers for travel costs associated with employment negotiations unless a waiver is obtained from the Ethics Counselor.

The guidelines give guidance in applying the Canon's three exceptions. Members and employees are advised, in applying the family or personal relationship exception, to consider whether the donor would have offered the gift or favor if he or she were in a different business and if the recipient were not a Commission employee. Employees may be authorized to attend events sponsored by persons subject to Commission regulation if attendance will further the interests of the Commission. Among the relevant considerations are the identity of the sponsor, the size of the event, and the class of persons invited. In general, attendance is more likely to be authorized if the sponsor is a large, multi-industry group rather than a small, single-industry group, if the event is large rather than intimate, and if persons in addition to Commission employees are invited.

The guidelines provide that, when an employee is authorized to attend an out-of-town event and wishes for personal reasons to remain beyond the authorized time, the employee may do so only if the Chairman approves the request for leave. The purpose of this provision is to establish an effective review mechanism to ensure proper use by Commission employees of official travel.

The guidelines specify that candy, fruit, and alcoholic beverages are not the sort of inexpensive items that qualify as "advertising or promotional material" within the scope of exception (iii) in the Canon.

Canon 16: Former Canon 15. The guidelines provide that proprietary information submitted to the Commission in confidence and decisional orders that have not been served or otherwise officially released may not be disclosed either to non-employees or to employees who do not need to know the information. The Chairman may authorize disclosure of such information, either in individual cases or in classes of cases, if the public interest requires.

Canon 17: Former Canon 16. The guidelines specify that authorized outside employment may be engaged in only during non-working hours and only to the extent that it does not interfere with performance of official duties.

Canon 23: Revised version of former Canon 22. The previous version prohibited "criminal, infamous, dishonest, improper or disgraceful conduct which violates common decency or morality or subjects the Commission to adverse criticism or disrepute." The new provision eliminates the ambiguity and narrows the focus of the prohibition. It now proscribes criminal or dishonest conduct or conduct that clashes with an employee's official position or responsibilities. The guidelines emphasize that the Canon is not intended to reach legitimate private conduct unrelated to job performance or position.

Canon 24: Former Canon 23. The general reference lists of intermediaries that the Canon allows employees to make available refer to lists compiled by reputable professional associations. The Canon does not authorize the furnishing of lists compiled by an employee personally from his or her own knowledge.

Canon 27: Shortened version of former Canon 26. Subsections (a) and (b) are unchanged from former Canon 26. The material formerly contained in subsections (c), (d), (e) and (f) now is contained in the guidelines to the Canon. A new provision has been added to excuse reporting of the interest of a spouse or other relative when the employee certifies that he or she does not have access to the required information despite reasonable efforts to obtain it and neither derives not expects to derive any benefit from the financial interests involved.

Canon 28: This provision, together with the accompanying guidelines, establishes a simplified procedure for review of confidential statements of employment and financial interests. The procedure is similar to that provided for in former Canon 27.

Canon 29: this Canon is new. It is designed, on the model of Canons 27 and 28, to ensure that facts concerning the employment by a regulated carrier of an employee's close relatives are reported by the employee and reviewed by the Director of Personnel for possible conflict of interest or appearance of a conflict of interest.

Appendix I: The list of employees required to submit confidential statements of employment and financial interests has been expanded to include the confidential assistants and the professional staff in the Office of the Chairman and the Commissioners' Offices, and the officers in charge of all field offices. The purpose is to cover all employees whose positions are sufficiently sensitive, because of their ability to influence official action, to warrant application of the protective measure of requiring the submission of confidential financial statements.

Additional Canons of Conduct for Members: The additional Canons applicable to members supplement rather than replace the Canons applicable to both members and employees.

* * * * *

The Commission invites comment from employees and all interested persons. When a comment identifies a problem or raises a question concerning the proposed Canons and Guidelines, the Commission would particularly welcome suggestions of alternative provisions that would solve the problem or answer the question. The Commission also solicits suggestions for enhancing clarity and eliminating ambiguity.

* * * * *

The Commission proposes to adopt the following rules:

H. G. Homme, Jr.,
Acting Secretary.

Subpart B—Canons of Conduct

Sec.
1000.735-11 General standard of conduct.
1000.735-12 Interpretation and Advisory Service.
1000.735-13 Prohibited financial interests.
1000.735-14 Disqualifying interests.
1000.735-15 Gifts, entertainment, and favors.
1000.735-16 Disclosure and misuse of information.
1000.735-17 Outside employment.
1000.735-18 Future employment.
1000.735-19 Ex parte communication.
1000.735-20 Use of Federal property.
1000.735-21 Use of intoxicants.
1000.735-22 Indebtedness.
1000.735-23 Prohibited Conduct.
1000.735-24 Intermediaries.
1000.735-25 Gambling, betting, and lotteries.
1000.735-26 Miscellaneous statutory provisions.
1000.735-27 Statements of employment and financial interests.
1000.735-28 Review of statements of employment and financial interests.
1000.735-29 Disclosure of employment of spouse or child.
1000.735-30 Specific provisions governing special Government employees.
1000.735-31 Disciplinary and other remedial action.
Appendix I—Employees Required to Submit Periodic Disclosure Statements
Appendix II—Miscellaneous Statutory Provisions

Subpart C—Additional Canons of Conduct for Members

1000.736-1 General policy.
1000.736-2 Maintaining Independence.
1000.736-3 Official Duties.
1000.736-4 Extra-Official Activities.
1000.736-5 Qualification to Participate.

Subpart B—Canons of Conduct

§ 1000.735-11 General standard of conduct.

Members and employees of the Commission shall perform their duties so as to insure that the Interstate Commerce Act and related statutes are administered fairly and expeditiously and with a view to carrying out the National Transportation Policy. They shall be courteous and prompt in serving the public.

§ 1000.735-12 Interpretation and Advisory Service.

(a) The Commission's General Counsel shall be the Ethics Counselor. The Director of Personnel shall be the principal Deputy Ethics Counselor. The Ethics Counselor, with the approval of the Chairman, shall designate additional Deputy Ethics Counselors as he or she deems necessary or appropriate to carry out his or her responsibilities under these Canons.

(b) Guidelines shall be issued for appropriate sections, including §§ 1000.735-14 and 1000.735-15, within 60 days of the adoption of the revised Canons. An ad hoc committee of Commissioners shall recommend the initial

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guidelines for Commission consideration and action. After approval by the Commission the guidelines shall be published in the FEDERAL REGISTER. Thereafter, on January 1, and June 30 of each year, the Ethics Counselor shall report to the Commission on the operation of the Canons and guidelines with any recommendations the Counselor deems advisable.

(c) The Director of Personnel shall furnish copies of the Canons of Conduct and guidelines to each new member and new employee upon his or her entrance on duty. The Ethnics Counselor shall annually, or as circumstances may warrant, bring to the attention of each member or employee the Canons of Conduct, and their guidelines. The Ethics Counselor shall inform all members and employees of the names of the Deputy Ethics Counselors and of the procedures for seeking advise concerning the interpretation and application of these Canons.

§ 1000.735-13 Prohibited financial interests.

Members and employees shall not be employed by or hold any official relation to, or own any securities of, or be in any manner pecuniarily interested in carriers to the extent prohibited by the Interstate Commerce Act. This Canon prohibits (a) any direct interest in any for-hire transportation company whether or not subject to the Interstate Commerce Act, (b) any interest in any company that (1) owns or controls and (2) has more than two percent of its assets invested in or derives more than two percent of its income from a for-hire transportation company whether or not subject to the Interstate Commerce Act, and (c) any interest in any company, mutual fund, or other enterprise which in turn has an interest of more than ten percent of its assets invested in or derives more than ten percent of its income from any for-hire transportation company whether or not subject to the Interstate Commerce Act.

GUIDELINES

The two-percent and ten-percent limitations of (b) and (c) should be interpreted as applying only to direct holdings of a company, mutual fund, or other enterprise, and not to indirect holdings. In determining whether these limitations are applicable, members and employees may rely on the most recent financial statement issued by the enterprise.

Where a previously-proper holding of a member or employee becomes prohibited because of the enterprise's acquisition of an interest in a for-hire transportation company, the holding must be disposed of within nine months.

The financial interests prohibited by this section are absolute unless a waiver, based on serious financial hardships, is obtained from the Ethics Counselor.

§ 1000.735-14 Disqualifying interests.

(a) Members and employees shall not participate in any matter in which they have a substantial pecuniary interest or in which their impartiality might reasonably be questioned.

(b) Once members or employees have been disqualified from participating in any matter, they shall not engage in any discussion or be present during any action relating to the matter.

GUIDELINES

Members and employees should disqualify themselves whenever, in their own judgment, a disqualifying interest exists. If an employee's qualification to participate in a matter is questioned by someone else and the employee declines to disqualify himself or herself, the final determination as to whether the employee should be disqualified will be made by the Chairman. A member is the sole judge of his or her own qualification.

A "substantial pecuniary interest" should be interpreted to include any situation in which members or employees, or their parents, spouses, or children, have a direct or indirect financial interest that could be materially affected.

Matters in which members or employees' "impartiality might reasonably be questioned" should be interpreted to include, among other things, any matter in which they or their parents, spouses, or children have a past or present association with a party or a representative of a party affected by the matter which reasonably appears to affect their decision.

§ 1000.735-15 Gifts, entertainment, and favors.

(a) Members and employees of the Commission shall not solicit or accept, directly or indirectly, any gift, gratuity, entertainment, favor, loan, or any other thing of monetary value, which might reasonably be interpreted as being of such a nature that it could affect their impartiality, from any person, association, or group, that (1) has, or is seeking to obtain, contractual or other business or financial relationships with the Commission; or (2) conducts operations or activities that are subject to regulation by the Commission; or (3) has interests which may be substantially affected by the member's or employee's performance or nonperformance of his or her official duty; or (4) is in any way attempting to affect the member's or employee's official actions. The requirements of this subparagraph do not apply to (i) obvious family or personal relationships when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors; (ii) acceptance of food or refreshments of nominal value on infrequent occasions in the course of a luncheon, dinner, or other meeting or an inspection tour where a member or employee may properly be in attendance; or (iii) acceptance of unsolicited advertising or promotional material of nominal intrinsic value, such as, pens, pencils, note pads, calendars, and other similar items.

(b) Members and employees shall avoid any action, whether or not specifically prohibited which might result in, or create the appearance of: (1) Using public office for private gain; (2) giving preferential treatment to any person; (3) impeding Commission efficiency or economy; (4) losing complete independence or impartiality; (5) making a Commission decision outside official channels; or (6) affecting adversely the confidence of the public in the integrity of the Commission.

(c) Members and employees shall not solicit a contribution from any other member or employee, or make a donation for a gift to a member or employee in a superior official position or accept gifts from members or employees receiving less salary than themselves. This paragraph does not prohibit a voluntary gift or donation of nominal value made on a special occasion such as marriage, illness, or retirement.

(d) Members and employees shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

GUIDELINES

SUBSECTION

(1) This canon is designed to prohibit conduct which gives the appearance of or creates on actual conflict of interest for members or employees.

The term "gift, gratuity, entertainment, favor, loan, or any other thing of monetary value" includes such things as invitations to lunches, dinners, parties, or other social events; tickets to cultural or sporting events; free use of facilities such as hotels or other accommodations; free transportation; free use of club privileges or similar facilities.

The persons, associations and groups from whom gifts and other things of value may not be accepted include, but are not limited to, regulated entities, associations of regulated entities, and firms whose work involves to a substantial extent the representation of regulated entities.

If none of the exceptions enumerated in this section applies, acceptance of a gift or other valuable consideration will in most cases by subject to a reasonable interpretation that it could affect the member's or employee's impartiality. A policy favoring the prohibitions rather than stretching the exceptions is intended.

(2) Members and employees considering possible proposals for future employment with persons, associations, or groups described in the canon and this guideline should pay their own travel and living costs in connection with employment negotiations unless a waiver, based on financial hardship, the position of the employee, and other factors deemed relevant by the Ethics Counselor, is obtained by an employee from the Ethics Counselor. When Members and employees leave the Commission and become employed elsewhere, they may accept reimbursement from their new employers for expenses incurred during the employment negotiations.

(3) The "obvious family or personal relationship" exception permits the exchange of gifts and entertainment where it is reasonably clear that the offering is prompted by the personal or family relationship. If the donor's business interests might be the motivating factor behind the gift or entertainment, the member or employee should carefully consider the circumstances surrounding the offer before accepting. The purpose of this exception is to make it clear that this canon is not intended to affect a member's or employee's personal relationships or private interests which are unrelated to performing his or her job.

A gift or entertainment from a relative is normally permissible, unless it appears that it is motivated by the relative's business interests. In the case of personal friends, members and employees should carefully consider the circumstances surrounding an offer and should take reasonable steps to avoid the appearance of a conflict of interest. For example, members and employees are free to meet personal friends for lunch or dinner but to avoid the appearance of a conflict of interest should pay their own checks. Similarly, members and employees may accept gifts from personal friends on a special occasion, such as a birthday, wedding, or Christmas, if such gifts are normally exchanged by them. Members and employees should consider whether the donor would have offered the favor if he or she were in a different business and if the recipient were not a Commission employee. If there is doubt concerning the application of the exception, the offered item should not be accepted.

(4) Exception (ii) applies to those events at which members and employees may properly be in attendance.

Members may attend any event which in their own opinion will benefit the Commission and assist in performing their official duties, as long as attendance would not reflect adversely on their impartiality. In deciding whether to attend an event members should carefully consider (1) the identity of the sponsor, (2) the location, (3) the duration, (4) the purpose, and (5) the persons expected to attend.

Employees may properly attend events sponsored by a person or entity subject to Commission regulations where authorized by the Chairman or where their attendance is ruled to be proper by the Ethics Counselor. The Ethics Counselor may, upon request, issue an opinion concerning employee attendance at events which larger numbers of employees may be invited to attend. Attendance will be authorized only if it will further the interests of and provide benefits to the Commission, in light of the employee's job duties and level or responsibility.

Attendance at large events sponsored by a multi-industry group, such as the ICC Practitioners, and attended by large numbers of persons in addition to Commission members or employees, will normally be authorized, unless the circumstances are such as to create an appearance of impropriety. Attendance at events sponsored by a single industry or by one or a small group of companies, or events, to which only ICC Commissioners and employees are invited, will be closely scrutinized and attendance will be authorized only if there is a clear benefit to the Commission.

When authorizing an employee to attend an event of more than one day's duration, the Chairman will designate the period of time the employee may be in attendance, based on his or her judgment as to which segments of the event are relevant to the employee's responsibilities. If an employee authorized to attend an out-of-town event wishes to remain for a longer period for personal purposes, he or she may do so only if the request for annual leave is approved by the Chairman.

When attending a meeting or other event, members and employees may accept a plaque or similar memento in honor of their appearance, and any other item of nominal value given to all participants.

(5) The "advertising of promotional material" exception is intended to include only inexpensive items that businesses commonly distribute to large numbers of persons. Candy, fruit, alcoholic beverages, and similar items do not ordinarily qualify under this exception.

(6) Although the canon allows the accepting of certain items, it does not require acceptance. Members and employees may always decline gifts that the canon allows them to accept.

SUBSECTION C

This subsection does not prohibit the voluntary exchange of inexpensive gifts on occasions such as birthdays or holidays.

§ 1000.735-16 Disclosure and misuse of information.

Members and employees of the Commission shall not use for personal gain or disclose to unauthorized persons confidential information not available to the general public. They shall not disclose or release official information prior to the time authorized for its release.

GUIDELINES

"Confidential information not available to the general public" includes proprietary information submitted to the Commission with the reasonable expectation that it will be treated confidentially. "Official information" includes decisional orders and other agency action that have not yet been served or otherwise officially released to the public.

This canon prohibits disclosure or releases of information in either cateory to persons not employed by the Commission or employees whose official responsibilities do not require access to the information. The Chairman of the Commission may authorize disclosure or released of confidential information or official information prior to the official release date if he or she determines, in individual cases or in an appropriate class of cases, that such disclosure or release would further important interests of the Commission or the public and would neither significantly compromise the rights of any person nor allow any person improperly to use such information for private financial gain.

§1000.735-17 Outside employment and other activity.

(a) Members and employees shall not engage in any outside employment or other outside activity, including teaching, lecturing, writing, consultation, discussion, or appearance, with or without compensation, in circumstances which might (1) reasonably result in a conflict of interest or an apparent conflict of interest between their private interests and their official Government duties and responsibilities; or (2) interfere with the efficient performance of their official duties; or (3) bring discredit upon, or cause unfavorable criticism of, the Commission.

(b) Advance authorization for employees to engage in outside employment or other outside activity described in paragraph (a) of this section, in any event, shall be obtained from the Director of Personnel, via supervising channels. See Manual—Administration 22-781 and 24-311.

GUIDELINES

Employees will not be authorized to engage in any outside employment during working hours. If outside employment is authorized it must be confined strictly to nonworking hours and shall not interfere in any other way with employees' performance of their official duties. Employees will not be authorized to engage in any activity during working hours which interferes with the performance of their duties.

§1000.735-18 Future employment.

If a member or employee of the Commission entertains a proposal for future employment by any person subject to regulation by the Commission or by associations or representatives of these persons, the member or employee should refrain from participating in the decision or disposition of any matter in which the person, association, or representative is known to have a direct or substantial interest, both during such negotiation and, if employment is accepted, until he or she servers the connection with the Commission.

§1000.735-19 Ex parte communication.

Members and employees of the Commission must conform to the standards adopted by the Commission reprinted in Appendix C of the Rules of Practice of the Commission (Part 1100 of this chapter).

§1000.735-20 Use of Federal property.

Members and employees of the Commission shall not directly or indirectly use, or allow the use of, Federal property of any kind, including property leased to the Government, for other than officially approved activities. They also have a positive duty and responsibility to protect and conserve all Federal property, including equipment, supplies, and other property, which is entrusted or issued to them.

§1000.735-21 Use of intoxicants.

Members and employees of the Commission shall not consume intoxicants so as to impede the discharge of their official duties.

§1000.735-22 Indebtedness.

Members and employees shall pay each just financial obligation in a proper and timely manner, especially

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one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court or one imposed by law such as Federal, State, or local taxes, and "in a timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his or her employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§1000.735–23 Prohibited Conduct.

Members and employees shall not engage in criminal or dishonest conduct, conduct that significantly interfers with their effective performance of official responsibilities, or conduct that is materially incompatible with their official position.

GUIDELINES

This canon is intended to prohibit unlawful or dishonest conduct. It will not be construed to prohibit legitimate private conduct or to prevent members or employee exercise of rights guaranteed by the laws and Constitution of the United States.

§1000.735–24 Intermediaries.

Members and employees of the Commission shall not recommend or suggest the use of any nongovernment intermediary (individual, firm, corporation, or other entity) offering any service as consultant, agency representative, attorney, expeditor, or specialist for the purpose of assisting in any negotiations, transactions, or other business with or before this Commission: *Provided, however,* That making available general reference lists of nongovernmental intermediaries, the use of which is authorized by the Secretary of the Commission, shall not be deemed to be in violation of this section.

GUIDELINES

"General reference lists" refers only to such lists of licensed attorneys and registered practitioners as may be compiled and maintained by a state or local bar association, the ICC Practitioners Association, the Motor Carrier Lawyers Association, and similar organizations. Any lists compiled by employees on the basis of their own knowledge or experience are not "general reference lists" within the meaning of the Canon.

§1000.735–25 Gambling, betting, and lotteries.

Members and employees shall not participate, while on federally owned or leased property or while on duty for the Commission, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip, ticket, chance, voice, share, or any other similar device.

§1000.735–26 Miscellaneous statutory provisions.

Members and employees shall acquaint themselves with the statutory provisions in appendix II to this subpart which relate to ethical and other conduct as a member and employee of the Commission and the Government.

§1000.735–27 Statements of employment and financial interests.

(a) All employees in the positions specified in appendix I to this subpart shall submit to the Director of Personnel within 90 days from the effective date of the regulations to this subpart, or if appointed after the effective date, within 30 days after their entrance on duty, a confidential statement of employment and financial interests on ICC Form No. 1164. Pursuant to the grievance procedures enumerated in the Manual-Administration 22–725, employees so specified may file and have reviewed a complaint that the positions have been improperly designated as requiring the submission of a statement of employment and financial interests.

(b) Any changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. Where no changes or additions occur, a negative report is required.

GUIDELINES

The financial statements required by this section are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of financial statements by employees does not permit them or any other person to participate in matters in which participation is prohibited by law, order, or regulation. Notwithstanding the filing of these statements, employees shall at all times avoid acquiring a financial interest that could result, or taking an action that would result in a violation of the conflicts-of-interest provisions of 18 U.S.C. 208, or these Canons of Conduct.

In the event of any required information, including holdings placed in trust, is not known to the employee but is known to another person, the employee should request that other person to submit the information on his or her behalf and should report the request in Part IV of ICC Form 1164.

The interest, if any, of a spouse, minor child, or any blood relation who is a member of, and resident in an employee's immediate household shall be reported as his or her interest. If that information is to be supplied by others, it should be so indicated in Part IV of ICC Form 1164. This information will not be required if the reporting individuals certify that they have no knowledge of the required information, have made every reasonable effort to obtain it, and neither derive or expect to derive any benefit from the financial interests involved.

Employees are not required to submit any information relating to their connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from contracts with the Government are deemed "business enterprises" for purposes of this report and should be included.

§1000.735–28 Review of statements of employment and financial interests.

(a) The Director of Personnel shall review the annual statements and supplementary statements of employment and financial interests to ascertain conflicts of interest or appearance of conflicts of interest by employees.

(b) Financial statements shall be held confidential. The Director of Personnel is responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, these statements except as provided by law or regulation.

GUIDELINES

Whenever, in the opinion of the Director of Personnel following review of the annual and supplementary statements of employment and financial interests, a conflict of interest may exist or appear to exist, the Director of Personnel shall notify the employee concerned who shall promptly submit an explanation to the Director of Personnel regarding the existence or the appearance of a conflict of interest.

If, after reviewing the employee's submitted explanation and after consulting with the Ethics Counselor, the Director of Personnel concludes that the conflict or appearance of conflict of interest does exist, the Director of Personnel shall advise the employee of the steps necessary to remedy the situation.

§1000.735–29 Disclosure of employment of parent, spouse, or child.

Each employee whose parent, spouse or child is employed by a person subject to regulation by the Commission shall promptly notify the Director of Personnel of the parent's, spouse's, or child's employment and shall furnish a detailed statement of the parent's, spouse's, or child's job duties and responsibilities. The employee shall promptly notify the Director of Personnel of any change in the parent's, spouse's, or child's employment, including a change in job duties or responsibilities.

GUIDELINES

The term "employed by a person subject to regulation by the Commission" includes those who represent and perform a majority of their services for a person subject to Commission regulation, as well as those directly employed by such a person.

Each notification furnished under subparagraph (a) will be reviewed by the Director of Personnel to determine whether the situation presents a conflict of interest or appearance of a conflict of interest.

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(i) Whenever, in the opinion of the Director of Personnel, the situation may present a conflict of interest or appearance of a conflict of interest, the director of Personnel shall notify the employee who shall promptly submit an explanation regarding the existence or the appearance of a conflict of interest together with any additional information requested by the Director of Personnel.

(ii) If, after reviewing the submitted explanation and information and after consulting with the Ethics Counselor, the Director of Personnel concludes that the situation does present a conflict of interest or an appearance of a conflict of interest, the Director of Personnel shall advise the employee of the necessary steps to remedy the situation. The Director of Personnel may, after consulting with the employee and employee's Bureau or Office Head, effect any personnel action that may be appropriate to eliminate the conflict of interest or appearance of a conflict of interest.

§1000.735–30 Specific provisions governing special Government employees.

(a) Special Government employees, as defined in 18 U.S.C. 202 shall not use (1) their Government employment for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or another person, particularly one with whom they have family, business, or financial ties; (2) any inside information obtained as a result of Government employment for private gain for themselves or another person either by direct action on their part or by counsel, recommendation, or suggestion to another person, particularly one with whom they have family, business, or financial ties; (3) the Government to coerce, or give the appearance of coercing, a person to provide financial benefit to themselves, or another person, particularly one with whom they have family, business, or financial ties.

(b) Special Government employees shall adher to all Canons of Conduct specified in this subpart except §§ 1000.735–17(b) and 1000.735–27. In lieu thereof, each special Government employee shall submit a statement of his or her employment and financial interest on ICC Form No. 1164, to the Director of Personnel at the time of his or her employment and shall keep the statement current throughout employment by submitting supplementary statements whenever any change in, or addition to, the information contained in the statement occurs.

§1000.735–31 Disciplinary and other remedial action.

Any violation of these Canons of Conduct by an employee shall be cause for appropriate disciplinary or other remedial action as provided in the Manual-Administration 22–751, which may be in addition to any penalty prescribed by the law.

APPENDIX I—EMPLOYEES REQUIRED TO SUBMIT PERIODIC DISCLOSURE STATEMENTS (49 CFR 1000.735–26)

OFFICE OF THE CHAIRMAN

1. Attorneys (or other professional staff).
2. Confidential Assistant to the Chairman.
3. Writer Editor (Assistant to the Chairman).
4. Public Information Officer.
5. Director, Policy Review Office.
6. Small Business Assistance Officer.
7. Congressional Relations Officer.
8. Deputy Congressional Relations Officer.
9. Chief, Clearance Unit.

COMMISSIONERS' OFFICE

1. Attorneys (or other professional staff).
2. Confidential Assistants to the Commissioners.

OFFICE OF THE MANAGING DIRECTOR

1. Managing Director.
2. Assistant Managing Director.
3. Assistant Managing Director (Operations and Assessment).
4. Assistant to the Managing Director (Field Operations).
5. Attorney-Adviser (General).
6. Director of Personnel.
7. Budget and Fiscal Officer.
8. Assistant Budget and Fiscal Officer.
9. Section Chiefs.
10. Chief, Procurement and Property Management Branch, Section of Administrative Services.

OFFICE OF THE REGIONAL MANAGING DIRECTORS (FIELD)

1. Regional Managing Directors.
2. Assistant Regional Managing Directors.
3. Regional Auditors.
4. Assistant Regional Auditors.
5. Regional Counsels.
6. Assistant Regional Counsels.
7. Regional Operations Directors.
8. Assistant Regional Operations Directors.
9. Chief Special Agents.
10. Officers in Charge, all offices.

OFFICE OF THE SECRETARY

1. Secretary.
2. Assistanty Secretary.
3. Chief, Section of Dockets and Service.

OFFICE OF THE GENERAL COUNSEL

1. General Counsel.
2. Deputy General Counsel.
3. Associate General Counsels.

RAIL SERVICES PLANNING OFFICE

1. Director.
2. Section Chiefs.
3. Branch Chiefs.

OFFICE OF HEARINGS

1. Chief Administrative Law Judge.
2. Assistant Chief Administrative Law Judges.
3. Administrative Law Judge.

OFFICE OF PROCEEDINGS

1. Director.
2. Associate Director.
3. Deputy Directors.
4. Assistant Deputy Directors.
5. Chief, Section of Case Control and Information.
6. Chief, Section of Energy and Environment.
7. Branch Chiefs, Section of Finance.
8. Branch Chiefs, Section of Rates.
9. Branch Chiefs, Section of Operating Rights.
10. Chairmen and Members of Employee Boards.

BUREAU OF ACCOUNTS

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.
5. Assistant Section Chiefs.
6. Branch Chiefs.

BUREAU OF ECONOMICS

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.

BUREAU OF INVESTIGATIONS AND ENFORCEMENT

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.

BUREAU OF OPERATIONS

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.
5. Assistant Section Chiefs.
6. Branch Chiefs.
7. Chairmen and Members of Employee Boards.

BUREAU OF TRAFFIC

1. Director.
2. Assistant Director.
3. Section Chiefs.
4. Branch Chiefs.
5. Chairmen and Members of Employee Boards.

APPENDIX II—MISCELLANEOUS STATUTORY PROVISIONS

Members and employees have a positive duty to acquaint themselves with each statute that relates to their ethical and other conduct as a member or employee of the Interstate Commerce Commission and of the Government, therefore, they shall acquaint themselves with the following statutory and nonstatutory provisions:

1. The House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the Code of Ethics for Government Service;

2. The prohibition against bribery of public officials (18 U.S.C. 201) which imposes a maximum penalty of $20,000 fine or three times the money or thing received, whichever is greater; 15 years' imprisonment; or both; and removal;

3. The prohibition against receiving compensation for claims, contracts, etc. (18 U.S.C. 203), which imposes a maximum penalty of $10,000 fine; 2 years' imprisonment; or both; and removal;

4. The prohibition against prosecuting claims against and other matters affecting the Government (18 U.S.C. 205), which imposes a maximum penalty of $10,000 fine; 2 years' imprisonment; or both;

5. The prohibition against prosecuting claims involving matters connected with former duties (18 U.S.C. 207), which imposes a maximum penalty of $10,000 fine; 2 years' imprisonment or both; disqualification of partners from prosecuting claims involving another partner's former duties (18 U.S.C. 207) which imposes a maximum penalty of $5,000 fine; 1 year imprisonment or both;

6. The prohibition against an interested person acting as a Government agent (18 U.S.C. 208), which imposes a maximum penalty of $10,000 fine; 2 years' imprisonment; or both;

7. The prohibition against salaries or contributions from other than Government sources (18 U.S.C. 209), which imposes a maximum penalty of $5,000 fine; 1 year imprisonment; or both;

8. The prohibition against acceptance of solicitation to obtain public office (18 U.S.C. 211), which imposes a maximum penalty of $1,000 fine; 1 year imprisonment; or both;

9. The prohibition against lobbying with appropriated funds (18 U.S.C. 1913), which imposes a maximum penalty of $500 fine; 1 year imprisonment; or both; and removal;

10. The prohibition against disloyalty and striking (5 U.S.C. 7311). The penalty imposed for such activities (18 U.S.C. 1918) is maximum of $1,000 fine; 1 year and a day's imprisonment; or both, and removal.

11. The prohibition against disclosing of classified information (18 U.S.C. 798), which imposes a maximum penalty of $10,000 fine; 10 years' imprisonment; or both;

12. The prohibition against disclosing of confidential information (18 U.S.C. 1905); which imposes a maximum penalty of $1,000 fine; 1 year imprisonment; or both; and removal;

13. The prohibition against habitual use of intoxicants to excess (5 U.S.C. 7352), which imposes a maximum penalty of removal;

14. The prohibition against the misuse of Government vehicles (31 U.S.C. 638a(c)), which imposes a maximum penalty of removal;

15. The prohibition against the misuse of franking privilege (18 U.S.C. 1719), which imposes a maximum penalty of $300 fine;

16. The prohibition against the deceit in examination or personnel action (18 U.S.C. 1917), which imposes a maximum penalty of $1,000 fine; 1 year imprisonment; or both;

17. The prohibition against fraud and false statement (18 U.S.C. 1001), which imposes a maximum penalty of $10,000 fine; 5 years' imprisonment; or both;

18. The prohibition against mutilating or destroying public records (18 U.S.C. 2071), which imposes a maximum penalty of $2,000 fine, 3 years' imprisonment; or both; and removal;

19. The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508), which imposes a maximum penalty of $5,000 fine; 10 years' imprisonment; or both;

20. The prohibition against the embezzlement and theft of Government money, property, or records (18 U.S.C. 641), which imposes a maximum penalty of $10,000 fine; 10 years' imprisonment; or both;

21. The prohibition against failure to account for public money (18 U.S.C. 643), which imposes a maximum penalty of fine equal to amount embezzled; imprisonment not more than 10 years; or both;

22. The prohibition against wrongfully converting property of another (18 U.S.C. 6 which imposes a fine equal to amount embezzled; imprisonment not more than 10 years; or both;

23. The prohibition against unauthorized use of documents relating to duties (18 U.S.C. 285), which imposes a maximum penalty of $5,000 fine; 5 years, imprisonment; or both;

24. The prohibition against political activity (Subch. III of Ch. 73, of Title 5, U.S.C.), which imposes a maximum penalty of removal;

25. The prohibition against solicitation of political contributions (18 U.S.C. 602), which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

26. The prohibition against solicitation of political contributions in Federal buildings (18 U.S.C. 603), which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

27. The prohibition against making political contributions (18 U.S.C. 607), which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

28. The prohibition limiting political contributions and purchases (18 U.S.C. 608), which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

29. The prohibition against making a donation as a gift to an employee in a superior official position (5 U.S.C. 7351);

30. The prohibition against holding stocks or having other pecuniary interest in any mode of transportation (49 U.S.C. 11 and 305(1));

31. The prohibition against participating in any hearing or proceedings in which there is pecuniary interest (49 U.S.C. 17(3)); and,

32. The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Subpart C—Additional Canons of Conduct for Members

§ 1000.736-1 General policy.

Members of the Interstate Commerce Commission should participate in establishing, maintaining, and enforcing, and should themselves observe, high standards of conduct so that the integrity and independence of the Commission may be preserved. The provisions of these canons should be construed and applied to further that objective. Members of the Commission shall observe the standards of personal conduct in the Canons of Conduct for Members and Employees as set forth in Subpart B of this Part 1000.

§ 1000.736-2 Maintaining independence.

Members should not allow their family, social, or other relationships to influence their official conduct or judgment. They should not lend the prestige of their office to advance the private interests of others; nor should members convey the impression that they are subject to influence by others. Members should not change or tailor their views to appease any particular interest or group.

§ 1000.736-3 Official duties.

(a) Official Duties, both administrative and adjudicative, should be carried ouit diligently and impartially. In performing adjudicative functions, members should avoid discussion of a matter with any person outside the Commission and its staff while that matter is pending. In performing their rule-making and administrative functions, members have a duty to solicit the views of interested persons. Insofar as it is consistent with the dignity of their official positions, members should maintain contact with the persons outside the agency who may be affected by their rulemaking and administrative functions, but they should not accept unreasonable hospitality in so doing.

(b) Members have the obligation to urge the Congress, whenever necessary, to amend, modify, or repeal particular parts of the statutes they administer.

(c) The members' decision to investigate should be based only on the facts known to them and the reasonable inferences from those facts. A member should never suggest, vote for, or participate in an investigation aimed at a person for reasons of animus, prejudice, vindictiveness.

(d) Members have the obligation to adopt rules necessary to carry out the National Transportation Policy. The rules should not be burdensome; on the other hand, necessary rules should be adopted, modified, or appealed as changing requirements demand.

§ 1000.736-4 Extra-official activities.

Members must not engage in any business, employment, or vocation while in office, nor may they use the power of their offices or the influence of their names to promote the business interests of others. Members may participate in nonbusiness endeavors, such as civic and charitable activities, that do not reflect adversely upon their impartiality or interfere with the performance of official duties.

§ 1000.736-5 Qualification to participate.

Members should disqualify themselves in any matter in which their impartiality might reasonably be questioned. They should weigh carefully the question of their qualification in any matter where they or their relatives or former business associates or clients are involved. If an interested person suggests that a member should disqualify himself or herself in a particular matter because of bias or prejudice, the member shall be the sole judge of his or her own qualification.

[FR Doc. 78-12781 Filed 5-8-78; 10:07 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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[3195-01]

Title 3—The President

PROCLAMATION 4569

National Historic Preservation Week, 1978

By the President of the United States of America

A Proclamation

America's ability to meet the challenges of its third century with confidence and strength will depend upon an appreciation and understanding by the American people of their past.

Among our most important links with the past are the historic sites, structures, and landmarks of earlier times. Together, they form a vast legacy of cultural resources. This legacy, however, is not merely one of monuments, battlefields, and historic buildings. It includes the houses, streets, stores and factories that make up our communities—those familiar places and structures that remind us of the accomplishments, character, and dreams of our forebears.

For our own sake, and for that of future generations of Americans, we must do all that lies within our power to preserve this cultural heritage.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week beginning May 7, 1978, as National Historic Preservation Week. I call upon Government agencies at all levels, interested private individuals and organizations, and Americans everywhere, to mark this observance with appropriate ceremonies and activities in their communities and neighborhoods.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of May, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc. 78-13091 Filed 5-10-78; 11:38 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and the General Officers of the Department to reflect the creation of the World Food and Agricultural Outlook and Situation Board.

EFFECTIVE DATE: May 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Terry Barr, Room 3506, South, World Food and Agricultural Outlook and Situation Board, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6030.

SUPPLEMENTARY INFORMATION: This document amends the delegations of authority to the Director of Economics, Policy Analysis and Budget, and makes new delegations to the Chairman, World Food and Agricultural Outlook and Situation Board to reflect the creation of the World Food and Agricultural Outlook and Situation Board (Board). The Board is charged with: (1) Improving the consistency, objectivity, and reliability of situation and outlook material being disseminated to the public by the Department; (2) integrating and coordinating the USDA domestic and international food and agriculture information system; (3) coordinating all weather and climate information and monitoring activities within the Department. Accordingly, part 2, subtitle A, title 7, Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

1. Section 2.27 is amended by adding new paragraphs (f) and (g) to read as follows:

§ 2.27 Delegations of authority to the Director of Economics, Policy Analysis and Budget.

* * * * *

(f) *Related to weather and climate.* (1) Advise the Secretary on climate and weather activities, and coordinate the development of policy options on weather and climate for consideration by the Program and Budget Review Board.

(2) Coordinate all weather and climate information and monitoring activities within the Department and provide a focal point in the Department for weather and climate information and impact assessment.

(3) Arrange for appropriate representation to attend all meetings, hearings, and task forces held outside the Department which require such representation.

(4) Designate the Executive Secretary of the USDA Weather and Climate Program Coordinating Committee.

(g) *Related to Interagency Commodity Estimates Committees.* (1) Establish Interagency Commodity Estimates Committees for Commodity Credit Corporation price-supported commodities, for major products thereof, and for commodities where a need for such a committee has been identified, in order to bring together estimates and supporting analyses from participating agencies, and to develop official estimates of supply, utilization, and prices for commodities, including the effects of new program proposals on acreage, yield, production, imports, domestic utilization, price, income support programs, carryover, exports, and availabilities for export.

(2) Designate the Chairman, who shall also act as Secretary, for all Interagency Commodity Estimates Committees.

(3) Assure that all committee members have the basic assumptions, background data, and other relevant data regarding the overall economy and market prospects for specific commodities.

(4) Review for consistency of analytical assumption and results all proposed decisions made by Commodity Estimates Committees prior to any release outside the Department.

Subpart K—Delegations of Authority by the Director of Economics, Policy Analysis and Budget

2. Subpart K is amended by adding a new § 2.86 to read as follows:

§ 2.86 Chairman, World Food and Agricultural Outlook and Situation Board.

(a) *Delegations.* Pursuant to § 2.27 (b), (f), and (g) the following delegations are made by the Director of Economics, Policy Analysis and Budget to the Chairman, World Food and Agricultural Outlook and Situation Board:

(1) *Related to food and agriculture outlook and situation.* (i) Coordinate and review all crop and commodity data used to develop outlook and situation material within the Department.

(ii) Oversee and clear for consistency of analytical assumptions and results all estimates and analyses which significantly relate to international and domestic commodity supply and demand, including such estimates and analyses prepared for public distribution by the Foreign Agricultural Service, the Economics, Statistics, and Cooperatives Service, or by any other agency or office of the Department.

(2) *Related to weather and climate.* (i) Coordinate all weather and climate information and monitoring activities within the Department, serving as the representative of the Director of Economics, Policy Analysis and Budget, and acting as the overall focal point in the Department for weather and climate information and impact assessment.

(ii) Arrange for appropriate representation to attend all meetings, hearings, and task forces held outside the Department which require such representation.

(iii) Serve as Executive Secretary of the USDA Weather and Climate Program Coordinating Committee.

(3) *Related to interagency commodity estimates committees.* (i) Establish Interagency Commodity Estimates

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Committees for Commodity Credit Corporation price-supported commodities, for major products thereof, and for commodities where a need for such a committee has been identified, in order to bring together estimates and supporting analyses from participating agencies, and to develop official estimates of supply, utilization, and prices for commodities, including the effects of new program proposals on acreage, yield, production, imports, domestic utilization, price, income, support programs, carryover, exports, and availabilities for export.

(ii) Serve as Chairman or designate a Chairman, who shall also act as Secretary, for all Interagency Commodity Estimates Committees.

(iii) Assure that all committee members have the basic assumptions, background data and other relevant data regarding the overall enonomy and market prospects for specific commodities.

(iv) Review for consistency of analytical assumption and results all proposed decisions made by Commodity Estimates Committees prior to any release outside the Department.

(b) *Reservations.* The following authorities are reserved to the Director, Economics, Policy Analysis and Budget:

(1) Review all proposed decisions having substantial economic policy implications.

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

Dated: May 5, 1978.

For subpart C.

M. RUPERT CUTLER,
Acting Secretary of Agriculture.

For subpart K.

HOWARD W. HJORT,
Director of Economics, Policy Analysis and Budget.

[FR Doc. 78-12875 Filed 5-10-78; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 588]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 12-18, 1978. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of Valencia oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on May 9, 1978 to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges has improved for size 113's and larger, but is slower on size 138's and smaller.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 908.888 Valencia Orange Regulation 588.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 12, 1978 through May 18, 1978, are established as follows: (1) District 1: 378,000 cartons; (2) District 2: 483,000 cartons; (3) District 3: 189,000 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: May 10, 1978.

CHARLES R. BRADER,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 13089 Filed 5-10-78; 12:16 pm]

[3410-02]

[Nectarine Reg. 10]

PART 916—NECTARINES GROWN IN CALIFORNIA

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipments of California nectarines for the period May 12 through July 15, 1978. These requirements are designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916), regulating the handling of nectarines grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Nectarine Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of nectarines, as hereafter provided, will tend to effectuate the declared policy of the act.

This regulation is based upon the Department's appraisal of the current and prospective market conditions for California nectarines. The committee estimates a record large 13,576,000 packages of nectarines will be available for fresh shipment during the 1978 season compared to the 12,948,000 packages shipped last season. The 1978 California nectarine crop is reported to be of good quality with normal size development. Industry reports indicate that large supplies of California peaches and plums will provide strong market competition for fresh California nectarines. The grade and size requirements are necessary to

prevent the shipment of California nectarines of a lower grade and smaller size than specified and are designed to provide ample supplies of good quality nectarines in the interest of producers and consumers pursuant to the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 916.352 Nectarine Regulation 10.

(a) Nectarine Regulation 9 (42 FR 24229, 35143) is hereby terminated as of the effective date hereof.

(b) During the period May 12, 1978, through July 15, 1978, no handler shall handle:

(1) Any package or container of any variety of nectarines unless such nectarines grade at least U.S. No. 1: *Provided,* That nectarines 2 inches in diameter or smaller, shall not have fairly light colored, fairly smooth scars which exceed the aggregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle ½ inch in diameter: *Provided further,* That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen.

(2) Any package or container of Mayred variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 112 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 105 nectarines.

(3) Any package or container of Mayfair variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (3) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 102 nectarines.

(4) Any package or container of Crimson Gold, June Belle, June Grand, May Grand, Red June, Spring Grand, Armking, Zee Gold, Apache, Spring Red, Red King, Early Sungrand, Independence, Moon Grand, Star Grand I, Star Grand II, Summer Grand, Sun Grand, Kent Grand, Early Star, Firebrite, or Red Diamond variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (4) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 90 nectarines.

(5) Any package or container of Autumn Grand, Clinton-Strawberry, Fantasia, Flamekist, Flavortop, Gold King, Granderli, Grand Prize, Harry Grand, Hi-Red, Late Le Grand, Le Grand, Niagara Grand, Red Grand, Regal Grand, Richards Grand, Royal Grand, September Grand, Fairlane, Red Free, Bob Grand, Tom Grand, or Kings Kanyon variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (5) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 78 nectarines.

(6) As used in this section, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Grades of Nectarines (7 CFR 51.3145-51.3160); "No. 22D standard lug box" means the same as defined in section 1387.11 of the "Regulations of the California Department of Food and Agriculture"; and all other terms mean the same as defined in this marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 9, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-12962 Filed 5-10-78; 8:45 am]

[3410-02]

[Peach Reg. 10]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Regulation by Grades and Sizes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation, effective during the period May 12 through July 2, 1978, requires that fresh shipments of California peaches grade at least U.S. No. 1. It also establishes minimum sizes for certain specified varieties and a minimum size for all other varieties. The regulation recognizes the marketing situation facing the industry and is necessary to assure that the peaches shipped will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the amended marketing agreement and Order No. 917 (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Peach Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the regulation of shipments of peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

This regulation is based upon an appraisal of the current and prospective market conditions for California peaches. The committee estimates that 11,807,000 packages of peaches will be available for shipment in the 1978 season compared to actual shipment of 11,434,000 packages last season. Industry reports also indicate that 1978 shipments of fresh California plums will total 10,110,000 packages compared to 11,117,000 packages last year. Fresh shipments of California nectarines are estimated at 13,576,000 packages compared to 12,948,000 packages a year age. The estimated crops of California plums and nectarine will provide strong market competition for California fresh peaches. The grade and size requirements hereinafter set forth are necessary to prevent the handling of California peaches of a lower grade or

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smaller size than specified herein for such peaches so as to provide good-quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than May 12, 1978. A reasonable determination as to the supply of, and the demand for, such peaches must await the development of the crop thereof, and adequate information thereon was not available to the Peach Commodity Committee until May 3, 1978, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such peaches. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified was promptly submitted to the Department on May 4, 1978; shipments of the current crop of such peaches are currently underway; this regulation should be applicabel to all such shipments during the period hereinafter specified in order to effectuate the declared policy of the act; the provisions of this regulation are identical, as to minimum grade and size, with the aforesaid recommendation of the committee; information concerning such provisions and effective time has been disseminated among handlers of such peaches; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 917.446 Peach Regulation 10

Order. (a) During the period May 12, 1978, through July 2, 1978, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade.

(2) Any package or container of Armgold, Desertgold, Pat's Pride, Royal April, Royal Gold, Springold, or Springtime variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(3) Any package or container of any type of Babcock, Blazing Gold, Bonjour, Cardinal, Dixired, June Lady, Merrill Gemfree, Royal May, Early Coronet, Flavorcrest, Springcrest, Early Royal May, or May Lady variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (3) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 79 peaches.

(4) Any package or container of Aurora, Coronet, Indian Red, Merrill Gem, Peterson Elberta, Redhaven, Regina, or Redtop variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of these subparagraph (4) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 71 peaches.

(5) Any package or container of Alamar, Angelus, Belmont, Carnival, Fairtime, Fay Elberta, Fayette, Fiesta, Fortyniner, Franciscan, Halloween, John Gee, Jody Gaye, July Elberta, (Early Elberta, Kim Elberta, and Socala), Madera Gem, Mardigras, Merricle, O'Henry, Pacifica, Pageant, Parade, Paradise, Preuss Suncrest, Regular Elberta, Redglobe, Red Lady, Rio Oso Gem, Scarlet Lady, Summerset, Summertime, Suncrest, Toreador, July Lady, Windsor, Gem Crest, Autumn Gem, Cal Red, Early Fairtime, Early O'Henry, Fire Red, Red Cal, Sparkle, Flamecrest, Treasure, or Williams Gem variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (5) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 64 peaches.

(b) During the period May 12 through July 2, 1978, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), or (5) of paragraph (a) unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(2) Such peaches in any container when packed other than as specified in subparagraph (1) of this paragraph (b) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(c) Peach Regulation 9 (42 F.R. 24230, 33023) is hereby terminated as of the effective date hereof.

(d) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said amended marketing agreement and order: "U.S. No. 1" and "standard pack" shall have the same meaning, respectively, as when used in the United States Standards for Peaches (7 CFR 51.1210-1223); "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" shall have the same meaning as set forth, respectively, in section 1387.11 of the "Regulations of the California Department of Food and Agriculture."

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, May 9, 1978, to become effective May 12, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 78-12961 Filed 5-10-78; 8:45 am]

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[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS

SUBPART C—LAND CONSERVATION AND DEVELOPMENT LOANS

DELETION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration deletes regulations concerning land conservation and development loans in the Appalachian Region. The intended effect is to remove regulations that are no longer required. This action is taken because the program is no longer funded.

EFFECTIVE DATE: May 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Carl O. Opstad, 202-447-4572.

SUPPLEMENTARY INFORMATION: Subpart C of Part 1821 is deleted from Subchapter B, Chapter XVIII, Title 7 of the Code of Federal Regulations. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. this deletion, however, is not published for proposed rulemaking since the purpose of the deletion is to remove unnecessary regulations from the CFR and publication is therefore unnecessary.

§§ 1821.81-1821.86 (Subpart C) [Reserved]

Subpart C of Part 1821 is hereby deleted and reserved.

(7 U.S.C. 1989; 40 U.S.C. App. 203; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 5, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-12815 Filed 5-10-78; 8:45 am]

[3410-07]

[FmHA Instruction 442.13]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart P—Development Grants for Community Domestic Water and Waste Disposal Systems

APPLICATION PROCESSING

AMENDMENT

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule with comments requested.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations on development grants for community domestic water and waste disposal systems. The intended effect of this amendment is to allow:

(1) The use of multiple advances of FmHA grant funds when interim financing is not available at reasonable rates and terms,

(2) Requires the FmHA State Director to make the determination that interim financing is not available at reasonable rates and terms,

(3) Requires grantees to submit an audit of funds to FmHA only when interim financing is used.

The amendment is the result of an administrative decision to give greater latitude in the disbursing of grant funds.

EFFECTIVE DATES: May 11, 1978. However, comments must be received on or before June 12, 1978.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Ken Lee, telephone 202-447-5717.

SUPPLEMENTAL INFORMATION: Section 1823. 472 of Subpart P of Part 1823, Chapter XVIII, Title 7 in the Code of Federal Regulations (39 FR 20475, as amended at 40 FR 27475; 41 FR 53003; 41 FR 56626) is amended. Paragraph (e)(2), of this section is amended to provide for the use of multiple advances in disbursing grant funds and to require the FmHA State Director to determine if interim financing is available at reasonable rates and terms. Paragraph (e)(2)(ii) is amended to require the submission of audits to FmHA only when interim financing is used.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment not withstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rule making because this action is taken to provide more efficient and responsive service to rural communities that have need for grant assistance by, in effect, relieving a current restriction. For this reason publication in proposed rulemaking format is unnecessary. The agency is interested, however, in receiving comments which should be submitted to the address given above.

Accordingly, §§ 1823.462 (e)(2) and (e)(2)(ii) are amended as follows:

§ 1823.462 Application processing.

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(e) *Grant closing and delivery of funds.* * * *

(2) When FmHA is not making a loan and all or a portion of the grant is for construction, the grant will not be closed and funds will not be delivered before construction is completed if interim commerical financing is available. However, in the event interim commercial financing is not legally permissible or not available at reasonable rates and terms, FmHA grant funds will be disbursed by using multiple advances in accordance with § 1933.17(a)(13)(iii). Before the grant is closed or commencement of construction, whichever occurs first, the applicant will certify that it has no other resources to pay for completion of the construction and the State Director will determine that interm commercial financing is not available.

(i) * * *

(ii) When interim financing is used, grantees will be required to submit an audit report prepared in sufficient detail to allow FmHA to determine that grant funds have been used in compliance with the proposal, any applicable laws and regulations, and the grant agreement when grants are closed and funds delivered in accordance with paragraph (e)(2) of this section. Such audit reports should ordinarily be available for review prior to grant closing; however, FmHA may, upon receipt of the grantee's request accompanied by supporting factual data, permit the grantee a period of time up to 90 days from grant closing to submit the audit report. Audit reports shall be prepared in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants licensed on or before December 31, 1970, who are certified or licensed by a regula-

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tory authority of a State or other political subdivision of the United States.

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(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture. 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that the document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 29, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-12814 Filed 5-10-78; 8:45 am]

[6714-01]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 329—INTEREST ON DEPOSITS

Automatic Transfers of Funds From Savings Accounts

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule will permit insured nonmember banks to make automatic transfers of funds from savings accounts to other accounts of the same individual depositor where he or she has authorized such transfers. Among other things, this will allow depositors to authorize periodic transfers of funds from their savings accounts to cover checks drawn on their demand accounts, thus avoiding the need to return overdraft items. Until now, such automatic transfers have been expressly prohibited by FDIC regulations. However, the FDIC has concluded that allowing them will promote good banking relationships and benefit both the industry and consumers by reducing the number of overdraft return items handled by banks and thus reduce the inconvenience and processing costs associated with such items.

EFFECTIVE DATE: This final rule will be effective on November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

F. Douglas Birdzell, Senior Attorney, Legal Division, Bank Regulation Section, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, 202-389-4324.

SUPPLEMENTARY INFORMATION: In March 1976, FDIC solicited comments on a proposed amendment to part 329 of its regulations governing the payment of interest on deposits. The 1976 proposal would have permitted insured nonmember banks to make automatic transfers of funds from savings deposits to a depositor's demand or other account, among other things, for the purpose of covering overdraft items. (The 1976 proposal appeared at 41 FR 11563.) The Board of Governors of the Federal Reserve System proposed a similar amendment for member banks. No action was taken by either the FDIC or the Federal Reserve on the 1976 proposals.

In February of 1978, the Federal Reserve published a new automatic transfer proposal which modified its 1976 proposal (43 FR 5008). The 1978 Federal Reserve proposal limits the automatic transfers to individual accounts, thus excluding business and public unit accounts. Both the FDIC and Federal Reserve 1976 proposals would have required the forfeiture of 30 days' interest on funds transferred from a savings account. The 1978 Federal Reserve proposal required only forfeiture of the interest actually earned (up to 30 days) during the period prior to transfer. Both 1976 proposals required that transfers be made in $100 increments. The 1978 Federal Reserve proposal eliminated this requirement.

After publication of the 1978 Federal Reserve proposal, FDIC, rather than publish a detailed proposal of its own, solicited comments on the Federal Reserve proposal as well as on certain issues which were not specifically addressed in it (43 FR 7705). These were directed to:

(1) Whether the proposal was legal. The principal question here was whether the proposal would permit the illegal payment of interest on demand deposits. In this regard, FDIC requested comment on the effect, if any, of (1) the requirement that the bank retain the option to require 30 days' notice prior to withdrawal (transfer) from any savings account and (2) any transfer penalty. FDIC also requested comment on whether the effect of the Federal Reserve proposal would be to authorize illegal NOW accounts.

(2) The interest forfeiture provisions. Here FDIC sought comment on three alternatives to the forfeiture of interest. They were:

(A) A lower interest rate on savings accounts subject to automatic transfer than on regular savings accounts.

(B) A fixed fee on each transfer (geared to the bank's cost of making the transfer).

(C) No transfer fee as long as the funds are transferred to a checking account (and thus cease to earn interest) at the time an overdraft item is paid by the bank, subject to the optional 30 days' notice provision in FDIC's present regulations.

Finally, FDIC requested comment on whether mutual savings banks having checking account or similar powers should be allowed to pay interest on their savings accounts as to which a transfer order is in effect at rates above those afforded commercial banks.

As of March 29, 1978, FDIC had received a total of 436 responses to its request for comments on the Federal Reserve proposal. Three hundred and thirty-eight comments were received from banks; five from bank holding companies; two from Congressmen; seventy from individuals; thirteen from trade associations; four from savings and loan associations; and two from miscellaneous sources.

A general analysis of the comments received show that 263 favor automatic transfers and 169 are opposed to them.

By category of response: Of the 338 bank responses received, 189 generally favored the proposal; 146 opposed it; and 3 stated no opinion. Commercial banks supervised by FDIC opposed the proposal by a slight margin (130-100). Federal Reserve State member banks were opposed 4 to 3.[1] Mutual savings banks supervised by FDIC were opposed by a 4 to 2 margin. National banks were heavily in favor of the proposal by 84 to 8.[1]

Bank holding companies favored the proposal by a margin of 3 to 2. Both congressional responses were opposed. The sole Federal Government agency (the Department of Health, Education, and Welfare) response was favorable. Individual responses were heavily favorable (63 for, 6 against, 1 no opinion).

Of the four savings and loan associations responding, all were opposed. Trade associations were opposed (8 to 5). Of three miscellaneous responses, one favored the proposal, one opposed it, and one registered no opinion.

Of those opposing the automatic transfer proposal, the dominant negative comment was in the area of legality. Forty-two commentators said that the proposal was illegal. Forty-seven stated that it would preempt congressional action on NOW accounts and would authorize nationwide NOW accounts despite existing restrictions in Federal law. Seventy-two stated that it violated the statutory prohibition against the payment of interest on demand deposits.

The majority of insured State nonmember banks opposed the proposal.

[1]This includes only those State member and national banks which submitted comments to FDIC.

Of 230 nonmember banks commenting, 130 opposed the proposal and 100 favored it. Of the 130 opposed, 41 called the proposal illegal. By contrast, only 1 national bank questioned the proposal's legality. None of the Federal Reserve State member banks commenting raised the issue of legality.

In addition to questions of legality, smaller banks also questioned the proposal for economic and administrative reasons. For example, 38 banks stated that the proposal would be too costly. Thirty-two stated that it would create bank operation problems.

Thrift institution groups (savings and loan associations, mutual savings banks, and their respective trade associations) were, with the exception of two mutual savings banks, unanimously opposed to the proposal. The crux of their opposition was in the area of legality (the proposal would constitute the illegal payment of interest on demand deposits, preempt congressional action on NOW accounts or both) and competition (the proposal would cause deposit outflows from thrift institutions which would be harmful to thrifts and the housing industry).

As far as the other major issues are concerned, a clear majority of those commenting opposed any interest forfeiture or penalty. The trend of the comments was in opposition to a flat fee transfer charge. Seventy-seven comments favored the same interest rate ceilings for commercial banks as for thrift institutions. The majority of comments on effective date favored a long-deferred date, mainly for administrative reasons.

After analyzing the comments, FDIC's Board of Directors has decided to issue a regulation which will permit automatic transfers. No interest forfeiture or transfer fee will be required and there will be no minimum transfer amount requirement. However, banks may impose a transfer fee or minimum amount at their option. The current requirement that banks retain the option to require 30 days' notice of withdrawal from a savings deposit will be retained. The regulation will allow a depositor to authorize the bank to make transfers at any time and under any circumstances agreed upon between them. While overdraft protection is a major reason for the new rule, it is not the sole reason. Hence, transfers from a savings to a demand deposit may be authorized without regard to actual overdrafts. Also, automatic transfers will be permitted from savings deposits to other accounts as, for example, from one savings account to another, or from a savings account to a time deposit open account.

On the question of legality, FDIC's Board has determined that this regulation does not authorize the payment of interest on demand deposits. This is so because two separate accounts are involved, and because transferred funds cease to earn interest once the transfer has taken place. No question of illegal NOW accounts is involved because no check or other negotiable instrument is drawn on the savings account from which the transfer is made. It is drawn on the noninterest-bearing account to which funds have been transferred. The preauthorized transfer service is simply a logical extension of the present telephone transfer service where banks are allowed to make transfers from savings to checking accounts if authorized to do so by a telephone call from the account holder.

Under the authority contained in Sections 9 and 18 of the Federal Deposit Insurance Act (12 U.S.C. §§ 1819 and 1828), and after consultation with the Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board, Section 329.5(c)(2) of FDIC's rules and regulations is amended by deleting subparagraph 2 and substituting the following subparagraph 2:

§329.5 Withdrawal of saving deposits.

• • • • • •

(c) *Manner of payment of savings deposits.*

(1) • • •

(2) An insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists of funds deposited to the credit of, and in which the entire beneficial interest is held by one or more individuals, through transfer of credit to a demand or other deposit account of the same depositor pursuant to a written agreement between the bank and the depositor authorizing such payments or transfers in connection with checks or drafts drawn by the depositor upon the bank, or for any other purpose not prohibited by law or regulation. Interest earned on a savings deposit may be transferred pursuant to the provisions of this subparagraph whether or not the depositor is an individual. In accordance with Section 329.1(e)(1)(iii) of this Part 329, the bank must reserve the right to require the depositor to give notice in writing of an intended withdrawal (transfer) not less than 30 days before such withdrawal (transfer) is made. This reservation shall be expressly set forth in the written agreement authorizing transfers pursuant to this subparagraph. The bank may not require the depositor to enter into an agreement providing for the automatic transfer of savings deposits as a condition to maintaining a savings or other deposit account.

• • • • • •

By order of the Board of Directors, May 5, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-12791 Filed 5-10-78; 8:45 am]

[6714-01]

PART 329—INTEREST ON DEPOSITS

Purchase of Funds From U.S. Treasury

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Correction of final rule.

SUMMARY: On March 10, 1978, the Federal Deposit Insurance Corporation ("FDIC") published in the FEDERAL REGISTER (43 FR 9789) an amendment to section 329.10 of the FDIC regulations. A footnote was inadvertently omitted from the publication after the word "bank" in section 329.10(b)(1)(i). This correction is designed to remedy the omission.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

F. Douglas Birdzell, Senior Attorney, Legal Division, Bank Regulation Section, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, 202-389-4324.

§ 329.10 Obligations other than deposits.

• • • • • •

(b) *Exceptions.* The provisions of this Part 329 shall not apply to any obligation other than a deposit obligation of an insured nonmember bank that:

(1) Is issued to (or undertaken with respect to), and held for the account of (i) a bank,[17] (ii) any organization the time deposits of which are exempt from § 329.6 pursuant to the provisions of § 329.3(g), (iii) the United States or an agency thereof, or the Government Development Bank of Puerto Rico, or (iv) Minbanc Capital Corp. (where such obligation is subordinated to the claims of depositors to the extent of

[15] • • •

[16] • • •

[17]The term "bank" includes a member bank, a nonmember commercial bank, a savings bank (mutual or stock), a building or savings and loan association or cooperative bank, the Export-Import Bank of the United States, or a foreign bank. It also includes bank subsidiaries that engage in business in which their parents are authorized to engage and subsidiaries the stock of which is by statute explicitly eligible for purchase by national banks.

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any deposits they may have in the issuing bank); • • •

• • • • •

Dated: May 5, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-12792 Filed 5-10-78; 8:45 am]

[6720-01]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 78-271]

PART 571—STATEMENTS OF POLICY

Investment in State Housing Corporations

MAY 5, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board's present Statement of Policy concerning investment in "state housing corporations" by Federal savings and loan associations and institutions insured by the Federal Savings and Loan Insurance Corporation provides that certain private corporations and agencies are considered "state housing corporations." This amendment revises that statement of policy to provide that only private corporations and agencies established under a statute which specifically limits their purpose to providing housing and incidental services, particularly for families of low or moderate income, will be considered "state housing corporations". The purpose of this amendment is to bring such Statement of Policy more clearly within the meaning and purpose of the enabling statute.

EFFECTIVE DATE: June 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, 202-377-6440.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 77-500, dated August 18, 1977, proposed to amend § 571.8 of the rules and regulations for Insurance of Accounts (12 CFR 571.8) to revise the Board's Statement of Policy regarding investment in "state housing corporations." Notice of such proposed rulemaking was published in the FEDERAL REGISTER on August 24, 1977 (42 FR 42691), with an invitation to interested persons to submit comments by September 24, 1977.

Having considered all relevant material presented by interested persons and otherwise available to it, the Board has decided to adopt the proposed revision of this Statement of Policy modified as discussed below.

Section 5 of Pub. L. 93-100 ("the act") provides for (1) investment by Federal associations in "state housing corporations" and (2) regulation by the Board of such investment by insured institutions. The Board's Statement of Policy at § 571.8 provides that certain public and private corporations and agencies are considered "state housing corporations" within the meaning of the act. The proposed amendment would have restricted investment under the Statement of Policy to investment in public corporations. The proposal's purpose was to bring the Statement of Policy more precisely within the meaning and purpose of the statute.

The Board now believes that, although Board policy should be restated to more clearly reflect the investment authority in the act, the proposed revision might be unnecessarily restrictive. The Board is therefore amending its Statement of Policy to state that investment in "state housing corporations" should be restricted to investment in (1) public corporations and agencies, and instrumentalities thereof, established to provide housing and incidental services, particularly for families of low or moderate income, and (2) private corporations and agencies established under a statute which specifically limits them to the same purpose.

DISCUSSION OF MAJOR COMMENTS

The 13 public comments received argued generally that the proposed amendment would be to restrictive. One respondent suggested that restrictions should not be imposed absent clear congressional intent. Several respondents argued that Congress intended that both public and private "state housing corporations" be eligible for investment by insured institutions. In support of that argument, respondents quoted statements concerning the meaning of the term "state housing corporations" made during consideration of state housing corporation legislation in the House of Representatives. They cited a particular private state housing corporation, authorized by state statute, which was specifically mentioned as the type of investment the House bill was intended to authorize. One respondent argued that there are presently no publicly sponsored private corporations at the state level, and that Congress would not have passed legislation having no application.

The Board believes that, since the act (unlike the bill which was the subject of the comments in the House mentioned above) provides a definition of "state housing corporation" in section 5(e)(3) thereof, that definition is controlling. The definition requires that a "state housing corporation" be established by a state for the limited purpose of providing housing and incidental services, particularly for families of low or moderate income. The Board believes that a private corporation, including an instrumentality thereof, satisfies this requirement only if it is established under a statute which specifically limits it to that purpose.

One respondent argued that the term "established by a state" is equivalent to "incorporated by a state."

The Board believes that interpretation would remove from the act's investment authority the limitation clearly expressed in the statutory definition. "Incorporation by a state" does not limit a private corporation's purpose to that specified in section 5 of the act.

Two respondents expressed concern that the proposal might prevent investment by insured institutions in nonprofit agencies or instrumentalities of public state housing corporations.

The final amendment clarifies that authority to invest in public state housing corporations includes authority to invest in instrumentalities thereof.

One respondent commented that a number of states have constitutional limitations that prohibit state competition with the private sector.

The authority of Federal associations and insured institutions to invest in state housing corporations would of course have no application in any state where establishment of such corporations is precluded by constitutional limitations or otherwise. It should be noted, however, that under this amendment investment continues to be permitted in private corporations, as explained above.

The Board also takes this opportunity to revise further the Statement of Policy to delete unnecessary discussion of the quality of investments in State housing corporations. Accordingly, the Board hereby amends § 571.8, effective June 9, 1978, to read as follows:

§ 571.8 Investment in state housing corporations.

Sections 545.6-25 and 563.9-5 of this chapter authorize investment by Federal associations, and regulate investment by State-chartered insured institutions, in state housing corporations under section 5 of Pub. L. 93-100. A "state housing corporation" is defined in section 5(e)(3) of that law as "a corporation established by a State for the limited purpose of providing housing and incidental services, particularly for families of low or moderate income." The Board believes the investment authority thereby provided is meant to be restricted to investment in (a) public corporations and agencies, and instrumentalities thereof, established for such limited purpose, and (b) private corporations and agencies established under a statute which specifically limits them to the same purpose.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 78-12838 Filed 5-10-78; 8:45 am]

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[7535-01]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: Section 701.22 of the National Credit Union Administration Rules and Regulations is being amended to make it clear to the public that a Federal credit union may issue to its members negotiable checks (including travelers checks) and money orders.

EFFECTIVE DATE: May 11, 1978.

ADDRESS: National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Robert M. Fenner, Assistant General Counsel, at the above address, telephone 202-632-4870.

SUPPLEMENTARY INFORMATION: Section 107(12) of the Federal Credit Union Act (12 U.S.C. 1757(12)) empowers Federal credit unions, in accordance with rules and regulations prescribed by the Administrator, to sell to members negotiable checks (including travelers checks) and money orders, for a fee which does not exceed the direct and indirect costs of providing such service. The National Credit Union Administration has interpreted Section 107(12) to authorize Federal credit unions to issue and sell their own negotiable checks (including travelers checks) and money orders. See, e.g., Accounting Manual for Federal Credit Unions (NCUA 8022) 5-89, 5-90. However, it would appear that this interpretation is not always clear to the general public, since the National Credit Union Administration has been asked recently whether Federal credit unions may issue their own money orders.

In order to clarify this matter, § 701.22 of the National Credit Union Administration Rules and Regulations, which governs the conditions upon which Federal credit unions may exercise the power granted by § 107(12) of the Federal Credit Union Act, is being amended. In § 701.22, the word "sell" is being replaced by the phrase "sell or issue."

The notice and public participation requirements of 5 U.S.C. 553 are not being followed because no substantive changes are being made. The amendment is for purposes of clarity only.

LAWRENCE CONNELL,
Administrator.

MAY 3, 1978.

(Sec. 107(12), 73 Stat. 630 (12 U.S.C. 1757(12)), sec. 120, 73 Stat. 635 (12 U.S.C. 1766), and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

Accordingly, 12 CFR 701.22 is amended as follows:

(1) Replace the word "sell" in § 701.22(a) with the phrase "sell or issue."

(2) Replace the word "sell" in § 701.22(b)(3) with the phrase "sell or issue."

[FR Doc. 78-12825 Filed 5-10-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-SO-28]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Gainesville, Fla., Transition Area and Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Gainesville, Fla., Transition Area and Control Zone. The name of the Gainesville Municipal Airport has been changed to Gainesville Regional Airport. The action of the city of Gainesville, officially changing the name, requires this to be reflected in the transition area and control zone descriptions.

EFFECTIVE DATE: 0901 GMT, July 13, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In a regular meeting, the city of Gainesville officially changed the name of the Gainesville Municipal Airport to Gainesville Regional Airport. Therefore, it is necessary to alter the descriptions of the Gainesville, Fla., Transition Area and Control Zone to reflect the name changes. Since these alterations are editorial in nature, notice and public procedures hereon are not necessary.

DRAFTING INFORMATION

The principal authors of this document are Donald Ross, Airspace and Procedures Branch, Air Traffic Division, and Richard L. Faber, Office of Regional Counsel.

ADOPTION OF AMENDMENT

Accordingly, part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, July 13, 1978, as follows:

In subpart F, § 71.171 (43 FR 355), the Gainesville, Fla., Control Zone is amended as follows:

"• • • Gainesville Municipal Airport • • •" is deleted and

"• • • Gainesville Regional Airport • • •" is substituted therefor.

In subpart G, § 71.181 (43 FR 440), the Gainesville, Fla., Transition Area is amended as follows:

"• • • Gainesville Municipal Airport • • •" is deleted and

"• • • Gainesville Regional Airport • • •" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on May 3, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-12831 Filed 5-10-78; 8:45 am]

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[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20561; FCC 78-288]

PART 76—CABLE TELEVISION SERVICES

Definition of a Cable Television System and the Creation of Classes of Cable Systems

AGENCY: Federal Communications Commission.

ACTION: Second Report and Order in Docket 20561.

SUMMARY: Commission adopts "Second Report and Order in Docket 20561" which raises the level of the class of "small" cable television systems from 500 to 1,000 subscribers, to which only limited regulation applies: Minimal reporting and recordkeeping requirements, exemption from annual technical performance tests, exemption from franchising and certification requirements, and exemption from distant (but not mandatory) signal carriage and "sports blackout" rules. This action will reduce the burdens of regulations on these smaller systems and reduce the Commission's own burdens attendant to full regulation of these systems.

EFFECTIVE DATE: June 12, 1978.

ADDRESS: Policy and Rules Division, Cable Television Bureau, Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James H. Hudgens, Cable Television Bureau, 202-632-6468.

SUPPLEMENTARY INFORMATION:

SECOND REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: April 25, 1978.

Released: May 10, 1978.

In the matter of amendment of Part 76 of the Commission's rules and regulations with respect to the definition of a Cable Television System and the Creation of Classes of Cable Systems, Docket No. 20561.[1]

INTRODUCTION

1. The "First Report and Order" in this proceeding adopted March 9, 1977 (FCC 77-205, 63 FCC 2d 956 (1977)), *inter alia*, amended our definition of a cable television system and created a class of small cable systems, defined as having 50-499 subscribers, to which limited regulation would apply. To briefly summarize that action, cable systems were newly defined upon a headened basis (as opposed to the former separate community standard) and the newly created small systems were exempted from franchise and certification requirements, technical performance tests, public inspection file requirements, "sports blackout" rules, and distant signal limitations. Then, in a companion "Further Notice of Proposed Rulemaking in Docket No. 20561" adopted simultaneously, (FCC 77-215, 63 FCC 2d 1007 (1977)), we suggested that it might be appropriate to extend some or all of these reduced regulatory measures to somewhat larger systems—those having between 500-999 subscribers[a]—and requested comments upon that proposal.

2. The "Further Notice" acknowledged that these intermediate sized systems were larger, both in terms of revenue base and percentage of industry and total subscribers[2] than the 50-499 sized systems, but nevertheless observed that our research to date did not indicate that such systems were significantly different from the smaller systems, either in relation to their manner of operating or potential impact, upon over-the-air broadcasting. However, the "Further Notice" continued, it may be that where differences exist, they might be such as to require some refinement, and that it is the purpose of this second proceeding to ascertain the extent to which the similarities existing between these systems would indicate the appropriateness of applying the same regulatory program to all systems with fewer than 1,000 subscribers.

3. Acknowledging that the removing of distant signal limitations from 500-999 subscriber systems would be the most important single aspect of this proceeding, the "Further Notice" undertook, and published for comment, an analysis of the projected impact, upon a nationwide market-by-market basis, of the anticipated audience diversion from local broadcasters likely to result from lifting such restrictions from all existing systems with less than 1,000 subscribers. (Paragraphs 23-25, *infra*, contain a more detailed explanation of the methodology of this survey.) Interested parties were invited to comment on the survey and its bearing on the following questions:

1. Should the distant signal limitations be lifted from all systems having between 500-999 subcribers? Or should market-by-market, or case-by-case, approach be utilized?

2. Are there any reasons, not apparent from the results of the survey, that would militate against any relaxation of the distant signal limitations? Comments also were solicited upon whether extending to these larger systems the other areas of re-regulatory relief established in the "First Report and Order" would serve the public interest. Lastly, the "Further Notice" cautioned all parties that the Commission sought to limit its inquiry herein so as not to duplicate the work of the initial "Notice" in this docket,[3] and parties were urged "to focus upon the similarities or dissimilarities perceived between the two classes of systems and how whatever recommendations are made would appropriately deal with them."

COMMENTS

4. Some nineteen parties filed comments and/or reply comments. Participating parties are cable trade associations (both national and State), a broadcasting trade association, cable system and television station operators, a national television network, sports interests, a public interest organization, a state cable regulatory board, a financial organization, and interested individuals. We make the initial observation that the parties responding to our "Further Notice" generally were unable to provide the type of factually-based comments which we had both solicited and anticipated.

5. Cable interests generally support the extension of the small system class to the 1000 subscriber level. The Community Antenna Television Association (CATA), which primarily represents smaller, independent cable operators "applauds" the Commission's proposal and further suggests that the study be expanded to determine the similar impact "of systems in general and at least up to 3500 subscribers." CATA asserts that it should not be of any significance what percentage of the industry is included in any possible exception, and that only those segments of the cable industry shown to have adverse impact should be regulated, even if that turns out to be only ten systems. In direct response to the "Further Notice's" distant signal questions (Para. 3, *supra*), CATA urges that all limitations be lifted from these systems because the Commission's own analysis shows no basis for the "protectionist" rules, and that a case-by-case, market-by-market approach should not be used, arguing

[1] See 42 FR 23510, May 9, 1977.

[a] Here, as in the earlier proceeding, all calculations of subscriber count are to be made upon a "headend," technically integrated basis, and not upon a separate community basis.

[2] Systems having fewer than 500 subscribers comprise 24 percent of all systems but provide service to only 2 percent of the total subscribers nationwide. Systems having fewer than 1,000 subscribers constitute 42 percent of all systems but serve only 6 percent of all subscribers.

[3] "Notice of Proposed Rulemaking in Docket 20561," FCC 75-896, 54 FCC 2d 825 (1975).

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that the Commission attempted that approach for years and abandoned it in 1972 and that such approach would be a totally unmanageable burden for all concerned. In response to the question of whether there is anything to militate against relaxation of the rules, CATA finds none. Lastly, as to whether the proposed general re-regulation would serve the public interest, CATA states:

> • • • a significant number of its members have expressed reluctance toward building new 'small' systems, both in rural and metropolitan areas, inside or outside television 'markets' because of the regulatory restraints and costs associated with doing so. A segment of the American viewing public, that segment that lives in lower-density areas, is currently being injured because of the cable industry's understandable desire to avoid having to run the regulatory gauntlet now required for the modest return that can be derived from serving 'small' communities. That industry reluctance is directly attributable to the Commission's Rules. Relaxation, or preferably elimination of those rules, CATA believes, would result in a resurgence of interest in providing cable television service to the viewing public in low-density areas. Such a result is certainly in the public interest.

6. The National Cable Television Association (NCTA) similarly advocates lifting distant signal limitations from systems with 500-999 subscribers, asserting that there are no valid reasons militating against such re-regulation and, indeed, that the Commission should commence proceedings to lift signal carriage, exclusivity, and nonduplication requirements from all systems. With respect to the characteristics of 500-999 subscriber systems, NCTA comments that, with an assumed annual gross revenue of $72,000, such a system "is significantly smaller than a typical mom or pop grocery store." Further, NCTA continues, these systems "often produce no profit at all due to the capital intensive nature of system construction and operation," and are typically run by one person on a part time basis. And, due to "economic realities," these systems rarely carry signals which are unavailable off-the-air in the community, and in NCTA's opinion it is unlikely that such systems would add any significant number of signals should they be exempted from the carriage restrictions in our rules. NCTA argues that lifting signal restrictions from an additional 4 percent of the nationwide subscribers would have a *de minimis* effect upon commercial broadcasting, "an industry which had gross revenues of $2.4 billion in 1976." NCTA further asserts that the Commission's audience fractionalization study shows negligible impact, but takes issue with the Commission's methodology. (This latter point is detailed and discussed at Para. 26, *infra*). NCTA asserts that one of the Commission's important regulatory objectives should be the simplification of its rules, that there is no reason to distinguish systems with 500-999 subscribers from those with less than 500, and that the exemption level should be raised to 1000 to avoid confusion and a multiple tier approach. NCTA concludes that the Commission should only impose limitations which are grounded upon clear evidence that they are necessary to protect the public interest, and that no limitations can be justified here.

7. Other participating cable interests concur with CATA and NCTA vis-a-vis the distant signal issue but also comment upon the other re-regulatory actions under consideration herein. The Kentucky and the Arizona state cable associations fully support increasing the size of the small systems class. The Arizona association states:

> In terms of profitability and nature of operation, Arizona cable systems serving between 500-999 are only slightly distinguishable from those serving between 50-499. With few exceptions, these systems are marginally profitable at best, and in some instances, unprofitable. Most of them are owned by small independent cable operators and serve small, remote communities with poor or limited over-the-air television reception. The overwhelming majority of these systems experience substantial competition in the form of broadcast signals and/or translators. It is an extreme burden for small cable operators in Arizona to go through the lengthy, complicated and expensive process of performing the requisite FCC technical tests, comply with FCC sports blackout regulations, obtain FCC certificates of compliance and maintain local records. In one instance, a small system cable operator in Arizona spent $6,000 obtaining a certificate of compliance.

Similarly, the comments submitted by "73 CATV Companies" urge adoption of the larger sized class, also observing that systems between 500-999 subscribers do not differ significantly from smaller systems "in relation to their manner of operating or their potential impact on over-the-air broadcasting," noting in this latter connection that the staff study showed only a "handful" of markets where the projected audience fractionalization potentially exceeds 2 percent. These respondents also support the lifting of "disproportionate burdens" from these systems. They further assert however, that the Commission is in error in newly applying its definition of a cable system (and subscriber count) upon a headend rather than a separate community basis. The comments filed by several "small" operators—e.g., Fall City Cable TV Inc., Emco CATV, J. K. Shirah, and Jones Intercable, Inc. and Basil Cable Systems, Inc.—essentially reiterate the points made by the above parties. The Minnesota Cable Communications Board generally supports the proposals, observing not only that this should enable the Commission to concentrate its energies on larger systems which are of greatest significance from a national standpoint, but also that "by diminishing the amount of federal regulation for smaller systems, the Commission makes it possible for state and local governments to implement their own franchise oversight programs in accordance with unique local needs without overburdening the cable system operators. We welcome this development."

8. However, two cable interests focused upon a somewhat different aspect of this proceeding. That is, both Storer Cable and the Florida Cable Television Association, apparently because of extensive construction of condominium and similar units in the state of Florida, urge that the Commission establish regulatory "parity" between co-located cable systems and MATV systems. For example, Storer Cable urges, if an MATV development is located within or adjacent to "an existing non-exempt and FCC-compliant cable television system, it should be subject to the same regulations as that system or it should be required to allow access to that system."

9. Broadcasting and certain other interests oppose the enlargement of the class of small systems. The comments of the ABC Television Network and those of fifteen Television Licensees (both groups being represented by the same counsel) are generally similar and therefore hereinafter summarized together. These parties believe that such expansion is particularly unjustified in the cases of the distant signal and sports blackout rules. They assert that whereas "deregulation" might be justified to eliminate requirements which impose needless economic burdens (technical performance tests, franchise standards, public inspection file requirements, and certification requirements) no such reasoning applies to distant signal limitations where, they argue, no expense is involved in compliance and all a system need do is fail to carry the particular signals. Conversely, they continue, exemption of so many systems will create substantial administrative and enforcement problems arising from a "patchwork" of uneven signal carriage. These parties also are concerned that the Commission could grandfather such systems based upon their size at the present time and that the systems thereafter would expand into much larger operations. Additionally, the broadcasting interests argue, the "Further Notice" does not cite evidence suggesting that the elimination of signal carriage limitations is necessary to the economic health of cable systems but instead includes a study indicating that the exception would not result in any financial impact upon television stations. But, they continue, the study "is general and fails to take

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into account individual, and varying, market circumstances which would have to be considered in reaching a determination of impact in particular market situations. Since small systems are also typically in small television markets, least able to withstand unlimited signal imports, generalized projections are inadequate." Lastly, concerning the sports blackout aspect of this proceeding, the broadcasting interests state that virtually the same arguments apply except that there is some expense entailed for switching equipment, but that "there are alternative means of achieving compliance and that there is no showing that compliance is onerous." And, they continue, such an exception would place the Commission in an impossible regulatory posture because of the pervasive nationwide interest in sports.

10. The National Association of Broadcasters (NAB) filed comments containing three major arguments. First, citing the language of the "Further Notice" that any re-regulation of 500-999 subscriber systems must be based on "the most complete record possible" because of affecting 42 percent of all systems, NAB urges that there be no further exemption from the distant signal limitations until the Commission's pending broadcast/cable economic inquiry,[4] is concluded. "The results of that inquiry," NAB continues, "may provide far more precise and accurate conclusions as to the impact of distant signal importation on broadcast stations and the benefits derived by cable systems from carriage of distant signals than can be generated in this proceeding." Moreover, NAB argues, the need to await completion of the inquiry is more substantial in light of "a critical flaw in the Commission's audience impact estimates." NAB's position, in brief, is that—citing only the statistics for the Hazard, Kentucky market—the Commission's study omits a number of small cable systems. (Details of NAB's allegations on this point and the resolution thereof are set forth at Para. 27, *infra* and will not be repeated here.) This "discrepancy," NAB contends, raises doubts as to the reliability of the study and it urges that the Commission verify its subscriber counts against other sources, "mere reference to FCC Form 325" being insufficient. Further, NAB continues, the number of subscribers served is fluid because existing systems will grow and new systems will be built, and the Commission's analysis "could be reliable only for a brief period of time." Lastly, NAB reiterates its arguments made in its initial comments in this proceeding that distant signal limitations are not burdensome and the basic justification for re-regulation does not exist.

[4] "Notice of Inquiry in Docket 21284," FCC 77-407, 65 FCC 2d 9 (1977).

11. Expansion of the class of small systems also is opposed by Citizens for Cable Awareness in Pennsylvania (CCAP) and by Mr. Robert Jacobson of Los Angeles, Calif. CCAP is particularly concerned with the proposal to exempt larger systems from the requirements of public inspection files, ownership, and franchising, arguing that small communities need cable service the most, need the most help in franchising, and are the most likely to be "abused." Further, CCAP continues, small communities must be included in any plan for a nationwide, broadband communications system. Expanding upon the ownership issue, CCAP asserts that the potential for corruption is great in cable franchising and that Commission filings are necessary in order to review character qualifications and to prevent interlocking ownership. CCAP further asserts that such data also should be available in public inspection files. CCAP concludes that the burden of the retention of these rules is slight for both operators and the Commission, "but the abuse to the public [is] large. Mr. Jacobson, while conceding that perhaps signal carriage might be relaxed "without disastrous results for cable operators or broadcasters, especially considering the small audiences affected in any particular market," opposes other re-regulation. Mr. Jacobson declares that until cable operators can provide comparative breakdowns of cost and other factors involved in meeting the Commission's regulatory requirements, the Commission should not create a "favored" category of system which deprives the Commission of oversight of system operations. Mr. Jacobson also is concerned that the proposed re-regulation would create a regulatory vacuum not filled by local authorities. He also feels that systems of 500-999 subscribers are dissimilar from 50-499 sized systems, stating that whereas the latter could be confined to a single neighborhood, the former "usually serve substantial portions of communities" or "whole rural and suburban communities." The bulk of Mr. Jacobson's submission is then devoted to urging that the Commission retain jurisdiction over such systems in order to achieve nationwide communications goals. [5]

12. Two parties—the National Hockey League (NHL) and the National Collegiate Athletic Association (NCAA)—submitted comments directed solely to the sports blackout aspect of this proceeding. The NHL takes issue with the conclusions of the "First Report and Order" that sports programming is not sufficiently dissimilar from other television programming to warrant special treatment and that the number of subscribers involved is too small to impact upon gate receipts. It also takes issue with the statement in the "Further Notice" that, having exempted systems under 1000 from both syndicated and network exclusivity requirements, it appears onerous to require systems to sustain the same financial and operational burdens solely to comply with the sports blackout rules. The NHL feels this pre-judges the issue and that, in any event, the rationale is invalid. It asserts that whereas network or syndicated exclusivity requires daily or hourly switching, for hockey protection this season only a few systems would have had to switch only nine programs, and that could be done manually. The NCAA similarly takes issue with the Commission's rationale, asserting that the "First Report and Order" "ignored entirely the specific holding on which the sports rule was actually based, which is that the impact of cable carriage on gate receipts • • • warranted a rule limiting cable carriage in certain locations." The NCAA asserts that the "Further Notice" appears to state that the issue should be resolved by a comparison of burdens upon cable with the impact upon broadcasters, whereas the ultimate public interest, as recognized by the Congress and by the Commission in Docket 19417, "requires consideration of the impact of the cable carriage upon both the health of the sports programs concerned • • • and the future availability of those sports programs to over-the-air broadcasting if cable carriage is not limited," and that the Commission cannot here regard amateur sports as "just another source of television programming."

13. The reply comments were relatively brief. Those of Becker Communications Associates ("Becker") are more in the nature of original comments than of a reply. Becker explains that it is a lender and financial advisor to the cable industry and that it supports the proposed action. Becker is concerned that the Commission's signal carriage restrictions weigh most heavily upon smaller systems located on the fringes of television markets, just within a 35-mile zone. New systems in such locations, it explains, are not allowed to carry strong off-air signals from adjacent (but distant) markets, service which often is available off-air to local subscribers, and this fact can prevent such a system from being built. It then cites a specific example: An application in which Becker was involved was made for a community of 1000 homes, with a potential of

[5] A lengthy portion of Mr. Jacobson's submission is devoted to arguing that two-way and channel capacity requirements be made applicable to these systems, an idea rejected some two years ago in our "Report and Order in Docket 20508," FCC 76-313, 59 FCC 2d 294 (1976), and not germane to this proceeding.

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750 subscribers; some 150 of the homes were located within the 35-mile zone of an out-of-state market; in-state television service was poor to non-existent; a waiver of the signal carriage rules for carriage of additional in-state network signals was denied [6] and the system was not built and the residents deprived of in-state service. Usually, Becker states, systems of this potential size cannot even afford the costs of special relief, and the Commission doesn't learn of such unbuilt systems.

14. In their reply comments, ABC and the Television Licensees reiterate that there is no burden attendant to compliance with distant signal carriage, and, on the other hand, that the creation of numerous small systems carrying inconsistent signals will "inevitably lead to public complaint and increasing pressure to eliminate signal carriage limitations for all systems." They further feel that the Commission should not re-regulate upon a piecemeal basis but should defer to the economic inquiry proceeding. The broadcasting interests also join the sport interests in opposing any change in the sports blackout provisions. ABC concludes that while there might be some support for re-regulation of the non-signal carriage provisions, no need has been demonstrated for exemption from distant signal and sports blackout provisions, and to do so "would seriously undercut the effectiveness of the cable regulatory program as a whole."

15. In its reply comments, NCTA observes that with respect to the Commission's impact study, "None of the parties filing in this proceeding have taken issue with either the Commission's general methodology or its findings" (emphasis by NCTA) except the NAB's objection to one market which NCTA opines "can be easily addressed by reviewing the data available at the Commission and in any case does not detract from the Commission's general methodology or its conclusions." Responding next to the comments of the two sports interests, NCTA opposes treating sports programming differently from other programming, arguing that this approach would open the door to other special interest groups. Further, NCTA continues, and contrary to the NHL's assertions, compliance cannot be achieved simply by manually "pulling the plug"; virtually none of these systems can afford a full time technician for this or any other purpose, and once automatic switching equipment is required to be purchased, it makes no difference how frequently it is used. Also NCTA argues that "there simply is no record in this proceeding or any other before the Commission which demonstrates that these small systems can have any adverse effect—individually or collectively—on the gate receipts of the sporting interests." Concerning the NAB's position that any change in distant signal limitations should await the conclusion of the economic inquiry, NCTA feels that this is a "delaying tactic," and that since the NAB cannot find any "significant holes" in the Commission's impact study it chooses to ignore it. NCTA states that the "Further Notice" asked two questions—whether systems under 1000 should be re-regulated and whether there are any non-apparent reasons militating against re-regulation—and concludes that, since "nothing in the comments detracts from the substantial public interest benefits which would be produced," the Commission should take such action immediately.

[6] Connersville Cable TV, 53 FCC 2d 72, recon. denied, 54 FCC 2d 59 (1975).

DISCUSSION

General

16. Briefly stated, based upon both our initial impact study herein and the record now before us, we have concluded that it is appropriate to raise the level of the class of small systems to that of 999 subscribers. In reaching this conclusion, we reject the argument that lifting the distant signal limitations from these systems is likely to impact so adversely upon either local broadcasting or sports interests as to result in diminution of service to the public. We also reject the argument that this proceeding should be held in abeyance pending resolution of the broadcasting/cable economic inquiry. Despite our carefully posed request for evidence to the contrary, this record simply contains neither meaningful data nor valid theoretical reasons to dissuade us from taking this action. One crucial reason for this lack of likely impact is that systems with less than 1000 subscribers constitute only 6 percent of the nation's cable subscribers. This also is the reason that we can take this action now and not await the resolution of the pending inquiry; these systems, even collectively, could not product any meaningful shifts, positive or negative, from existing levels of television service available to the public. Yet these systems also constitute 42 percent of the nation's cable television systems and thus by re-regulating these systems we can lift substantial regulatory burdens from both a significant portion of the regulated industry and from ourselves.

17. As previously observed (Para. 3, *supra*) the Further Notice requested commenting parties "to focus upon the similarities or dissimilarities perceived between the two classes of systems (50-499 and 500-999) and how whatever recommendations are made would appropriately deal with them." Despite this specific solicitation, few comments were received on this subject; indeed, none of the participating broadcasting interests even addressed this point. In our view, there appear to be no significant differences between the two groupings,[7] either in their manner of operation or their negligible potential impact upon over-the-air broadcasting.[8] On the other hand, there appear to be many significant similarities, both groupings may realistically be termed "small" in a number of contexts. They are small in subscriber size. Even those systems with 900-plus subscribers are small cable entities, equaling, for example, less than 1 percent in size of the 116,000 subscriber San Diego, Calif. system which we also regulate. They are small in staff size. The operational staff of under-1000 systems usually consists of 1 or 2 full- or part-time personnel. Both groupings are small in terms of physical size. For example, assuming a subscriber density of 80 homes per mile, a 499 subscriber system and a 999 subscriber system would have only 6 and 12 miles of cable plant, respectively, and similar systems with a subscriber density of 20 homes per mile (reflecting a very rural operation) would have 25 and 50 miles of plant, respectively. Further, both groupings are small financial entities. The annual gross revenues, whether $36,000 for a 499 subscriber system or $72,000 [9] for a 999 subscriber system is, as NCTA observes, less than that of a "mom and pop grocery store." And, when considered in terms of financial investment, the comments indicate that these systems are not particularly profitable ventures. In addition to the commonality of smallness, the groupings are similar in other characteristics. For example, over one-half of all systems with fewer than 1000 subscribers are located outside all television markets, serving small communities. We estimate these communities to generally be of only a 5,000-10,000 person population. Even with respect to the under-1000 systems located within major or minor television markets, the vast majority of present systems consists of pre-1972, grandfathered systems. Moreover, it appears that these two groupings reflect the same general signal carriage

[7] We note that it is not totally accurate to make a general assumption of a 500 subscriber difference in all comparisons; many of the over 500 systems have only 500 or 600 plus subscribers and, serving almost 100 percent of homes passed, are unlikely to attain any substantial number of additional subscribers.

[8] As to this latter point, our impact analysis shows conclusively that the contemplated re-regulation of under-1000 systems is unlikely to cause material losses to any broadcaster, let alone any diminution of service to the public with which we legitimately would be concerned.

[9] This figure assumes a $6 per month subscriber rate.

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characteristics and similar lack of impact upon nationwide broadcast service. Lastly, we note that for both groupings we calculate subscribers upon a headend basis; in this manner, we not only are certain that we are now dealing with small entities, but our future adherence to this concept also is assured.

18. In this proceeding, as was the case in our "First Report and Order," two of our strongest motivating factors are (1) to reduce the burdens of regulation on these systems and, (2) to reduce the Commission's own burdens attendant to full regulation of these systems. Turning first to the burdens upon the 500-999 sized systems, the costs of regulatory compliance appear disproportionately high when calculated upon a per-subscriber basis. In this connection, we note that, other than being exempt from our requirements concerning network and syndicated exclusivity and channel capacity and access, these small systems are subject to the full plethora of our rules, the same as the nation's largest cable systems in San Diego, New York, or Los Angeles. The burden of compliance with our "paperwork" requirements—franchising, certification, public inspection files, annual ownership reports, annual financial reports, etc.—generally falls on one employee (possibly part-time) who often is not familiar with the details of all such matters. Similarly, the burden of compliance with our extensive technical requirements often falls upon a single technician who may not always possess all the necessary technical background or equipment.

19. With respect to the burden of regulation upon the Commission, the full regulation of systems with less than 1,000 subscribers appears both burdensome and inefficient. It is burdensome because of the total number of such systems and because it takes the Commission just as much effort and supervision (and often more because of the lack of sophistication of these small operations) with respect to certification applications, requests for special relief, and enforcement proceedings for these small systems as for larger systems. Concerning the efficiency of regulation, we recently stated in our reconsideration of the "First Report and Order" herein ("Memorandum Opinion and Order in Docket 20561", FCC 78-87, —FCC 2d—, February 24, 1978), at Para. 22:

> A sensible regulatory program requires that a division between the regulated and unregulated be made in a manner which best conserves regulatory energies and allows the most cost effective use of available resources. In attempting to make this division we have focused on subscriber numbers • • • on the theory that the very small are inefficient to regulate and can safely be ignored in terms of their potential for impact on broadcast service to the public • • •

That language was, of course, adopted in explanation of the creation of the class of 50-499 subscriber systems; however, the rationale is equally applicable to the slightly larger grouping of systems with 500-999 subscribers. These latter systems also are small and equally inefficient to fully regulate. Calculated upon a headend basis, as we have earlier observed, systems of under-1,000 subscribers constitute 42 percent of the nation's cable systems, yet serve only 6 percent of the subscribers (571,933). Further, these subscribers constitute only 0.81 percent of the nation's 70,573,300 television households.[10] It thus is apparent that these systems do not have great potential impact when calculated upon a nationwide basis nor, as subsequently discussed herein, upon an individual market basis.

20. Utilization of the 1000 subscriber figure as the new boundary for the classification of small systems achieves both simplification and consistency in our rules—two long-standing re-regulatory goals. We concur with NCTA and others that where possible it is important to avoid a "multiple tier" regulatory approach, and the elimination of the under-500 subscriber class achieves this objective. The use of the 1000 subscriber figure also establishes a consistency within our regulatory framework for cable television. The 1000 figure was adopted in our network non-duplication proceeding[11] in April of 1975 when, as here, we raised the original 500 subscriber figure. The 1000 figure also is utilized for exemption from our syndicated exclusivity rules,[12] and for both rules the subscriber level is, as here, calculated upon a headend basis to reflect true physical and economic entities. In those two proceedings it was felt that the failure of such entities to comply with the respective exclusivity provisions would not impact adversely upon existing levels of television service to the public and, further, that systems of that small a size should not be saddled with the financial and operational burdens attendant to the purchase and operation of switching apparatus. Similarly, we here utilize the same 1000 subscriber level for connoting unlikely impact and for warranting relief from additional burdens of regulation. The 1000 subscriber figure thus now will represent "small" for multiple purposes—i.e., not only for exemption from the network and syndicated exclusivity rules but also from franchise and certification filing requirements, certain reporting requirements, public inspection file requirements, technical performance tests, and distant signal limitations. There is nothing new in this concept; our rules (§§ 76.95 and 76.161) specifically require that within 60 days after a system attains the 1000 subscriber level it make proper notification thereof not only to the Commission but to all television stations carried by the System as well.

Signal Carriage

21. We acknowledged in both the "First Report and Order" herein (Para. 29) and in the "Further Notice" (Para. 4) that "our signal carriage rules are the core of our regulatory program for cable television." Accordingly, we shall now consider that aspect of this proceeding in detail, including the interrelated subject of the sports blackout provisions.

22. In our "First Report and Order" we retained the mandatory signal carriage rules for the newly established class of small systems but eliminated the distant signal limitations because of the unlikelihood that any resultant increase in distant signal carriage would produce any adverse impact on local broadcasters such as to result in diminution of service to their communities. In reaching that conclusion, we studied the universe of 50-499 subscriber systems and their marker locations, and found no likely reduction in existing levels of service, even upon an individual market basis. We then undertook, and published for comment, an analysis of the projected impact of similarly removing the distant signal carriage limitations from systems with 500-999 subscribers. The methodology and results of that study are hereinafter explained and analyzed.

23. The objective of the overall study was to estimate the extent of audience fractionalization that local television stations might sustain if all cable television systems having fewer than 1000-subscribers were exempted from distant signal limitations. Three tables were prepared and offered for comment. Tables 1 and 2 presented *general* approximations of audience impact in each of the major and minor television markets. For these tables, all systems located in the 35-mile zones of such markets having fewer than 1000 subscribers were identified and a presumption was made that all systems would add one or more distant signals. Then, the total number of cable subscribers was broken down within each television market into two categories: (i) Total subscribers of systems with 1000 or fewer subscribers, and (ii) total subscribers of systems with 500 or fewer subscribers. In this matter, the collective impact of the "First Report and Order" (50-499) and the proposed impact of the "Further Notice" (500-999) could be ascertained and studied as well as the total figure. Next, it was assumed that new distant signal viewing would cause a 50 percent fractionalization of local stations' cable audience. The number of in-market subscribers to systems in each of the respective size categories was then multiplied by the assumed fractionalization figure (50 percent) to yield the total number of cable households potentially lost by distant signal importation. This number was then divided by the number of television households in the Area of Dominant Influence (ADI). (Where there was no ADI, metro county audience figures were utilized.) For these Tables 1 and 2, the resultant total market impact figures generally were so insignificant that it became apparent that no valid purpose would be served by making any further breakdowns to ascertain predicted impact upon individual stations in the markets, since such figures would often be, for example, one-third or one-fourth of an already *de minimis* figure. The purpose of Tables 1 and 2 was simply to determine the general degree and scope of likely audience impact by markets and to determine whether any extensive concentration—or "clustering"—of small systems existed in any particular markets, and the data which was thus prepared accomplished these objectives. To illustrate the generally minimal impact, these are sample impact figures for entire markets:

New York, Market No. 1 0.01 percent
Paducah, Market No. 51 0.15 percent
Tucson, Market No. 101 0.07 percent
Lake Charles, Market No. 151 0.47 percent
Zanesville, Market No. 195 2.69 percent

24. Next, for "worst-case" purposes, a more detailed impact analysis was prepared in Table 3 for the 15 markets which Tables 1 and 2 indicated were likely to sustain the largest percentages of potential audience fractionalization. Before explaining the detailed methodology of this Table 3 it is important to note that it presents the results of potential impact *per station* as contrasted with the results of the potential audience impact *per market* projected by the initial general approximation methodology utilized for Tables 1 and 2. Moreover, not only are the calculations made upon a per station basis, but other additional statistical factors were included in the impact analysis in order to reach as accurate and realistic a result as possible.

25. For table 3 the following data was collected: (i) Identification of home market television stations; (ii) ADI counties designated to market; (iii) systems within the 35-mile zone having less than 1,000 subscribers by subscriber count, homes passed by cable, number and affiliation of signals carried, date operations began, and channel capacity; and (iv) current audience data by day parts and station share. Additionally, the data was rechecked, including telephone verification. Estimates of audience impact were computed for each station, utilizing the following formula:

$$\text{Audience Impact} = \frac{\text{(1) number of cable subscribers} \times \text{(2) market rating} \times \text{(3) station share} \times \text{(4) fractionalization}}{\text{Total television households in ADI using television (HUT) 9 A.M.-Midnight}\ ^{13}} \quad (5)$$

This formula was than applied as follows: (1) The number of cable subscribers on systems within the 35-mile zone was computed, first by 50-499 and then by 500-999 subscriber levels, and the totals were used as factor 1; (2) the average percentage of households viewing television in the market during the 9 a.m. to midnight period was ascertained and used as factor 2; (3) each market station's audience share during the 9 a.m. to midnight period was ascertained and used as factor 3; if one or more new distant signal(s) were assumed to be imported, it was then assumed that 50 percent of the local station's cable viewers would watch such distant signal(s) instead (factor 4); and factors 1-4 were then first multiplied together to give the number of cable households that were assumed to be lost if distant signals were imported, and this number was then divided by the total number of television households using television in the station's ADI (9 a.m. to midnight), and that final figure represents the percentage of predicted audience impact per station.

26. Before drawing conclusions from these impact studies, certain objections thereto should be considered—i.e., NCTA opposes the use of a fractionalization figure as high as 50 percent, and NAB challenges the validity of the studies in general and specifically questions the data for the Hazard, Ky., market. Also, ABC challenges the studies as being too generalized, but in light of the specificity contained in our table 3 analyses this argument must be rejected. The fractionalization argument can be treated very briefly. For the purposes of this proceeding, even assuming arguendo that the percentage is too high (which it well might be) the resultant impact figures upon a nationwide basis are so minimal that we need not be concerned here as to the absolute accuracy of the 50 percent figure. We note, however, that this very point—the statistical correctness of the use of the 50 fractionalization figure—is placed directly in issue and comments thereon have been solicited in our broadcast/cable economic inquiry, supra.

27. The NAB asserts that the Commission's impact study is unreliable, charging that the study omitted a number of small systems, stating:

> For example, the Bureau's subscriber counts in the Hazard, Ky., market show 1,368 cable subscribers on systems with fewer than 1,000 subscribers and 518 subscribers on systems with fewer than 500 subscribers. The NAB Research Department compilation shows 6,838 subscribers on cable systems with fewer than 1,000 subscribers—or 5 times the Cable Bureau's figures • • •. This discrepancy raises serious doubts about the reliability of the Bureau's study, therefore, NAB urges the Commission to verify its subscriber counts against other sources.

Because the Hazard market presented one of the "worst-case" situations, our staff gave it particular attention in the process of preparing the study—e.g., telephone verification of facts and channel capacity determination. Now, at the NAB's urging, supra, we have again reviewed our original data, and our figures are correct. The additional systems specified by the NAB are not includable in the impact study for several reasons: Some systems, although listed in some trade publications and elsewhere as separate systems actually share a common headend and exceed

[10] This figure was extrapolated from data reported to the Commission on FCC Form 325 and information gathered by "Television Digest, Inc." and reported in the "Services Volume, Television Factbook," 1977 edition.

[11] "First Report and Order in Docket 19995," FCC 75-413, 52 FCC 2d 519 (1975).

[12] "Report and Order in Docket 20482," FCC 75-1065, 55 FCC 2d 529 (1975).

[13] The original formula published in the "Further Notice" (in app. A thereof) did not contain this reference to "HUT"; however, the figures listed in the impact analysis did utilize this factor and are correct. The language, then, is merely added here for purposes of clarity.

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1,000 total subscribers (Melvin, Wallins Creek); two of the systems cited by the NAB lie outside the Hazard 35 mile zone (Beatyville, Pennington Gap); one system appears not to be operational according to our files (Salyerville); several of the systems cited by the NAB were not included because they are old 5-6 channel systems already saturated and thus unable to add any additional distant signals (Bonneville, Hazard (2), Seco, Walkerstown Station, Whitesburg); and others were not included because they are presently capable of only receiving off-air signals, already are carrying all such available signals, and would not likely entail microwave expense to reach this remote area because they already have almost 100 percent penetration of homes passed (Hyden, Lynch, Seco, Vicco). We thus shall continue to utilize the 0.7 percent adverse impact figure for the Hazard market.[14] We observe, however, that the practical utilization of that figure may even be unrealistic. That is, we observe that only three cable systems (under 1,000) in that market have the present capacity to carry additional distant signals, but they cannot do so without undertaking expensive microwave or satellite delivery equipment and, further, have little incentive to do so since they have very high subscriber penetration levels. Finally in connection with the impact studies, it is possible that some small systems may not have been included. However, it is not felt that any such omissions exist in either sufficient number or market concentration so as to affect our conclusions, and, we further note that, other than the above-discussed Hazard market, the comments did not call our attention to any such omissions.

28. Turning now to the actual impact figures and the conclusions to be drawn therefrom, it is our view that even the "worst cases" do not reflect a sufficient level of impact to dissuade us from enlarging the size of the class of small cable television systems. Significantly, out of the 15 "worst-case" analyses, only 5—or one-third—even showed per station impact figures in excess of 1 percent, the highest being 1.7 percent. Such minimal figures could not form part of a sufficient premise either to conclude that the proposed rulemaking is not in the greater public interest or, indeed, to create any general exceptions to the rule. In the latter connection, we note that not a single broadcaster submitted comments alleging the likelihood of adverse impact within its own market, despite our specific listings not only of all national markets but further listing the fifteen "worst-case" markets. Thus, our conclusion to the specific question posed in the "Further Notice" (See para. 3 supra) as to whether the distant signal limitations should be lifted from all systems or whether a market-by-market or case-by-case approach should be utilized is that such limitations should be lifted from all systems. We also observe that the companion question posed in the "Further Notice"—"whether there are any reasons, not apparent from the results of the survey, that would militate against any relaxation of the distant signal limitations"—must, on this record, be answered in the negative.

29. While there is no record evidence to support the establishment of any market exceptions to our action, by rule, our Special Relief procedures (See § 76.7 of our Cable Television rules and regulations) remain available for any station believing it is particularly aggrieved by today's action, now or in the future. We would envision two circumstances where a case for special relief possibly could be established: (1) Where future construction of multiple new systems in a specific market—"clustering"—results in what the broadcaster demonstrates to be adverse collective impact, and (2) where the same cable operator constructs two or more small systems in the same community and/or market, not premised upon good engineering practices but rather for the purpose of avoiding compliance with our distant signal limitations. With respect to the first matter, we observe that one goal of this proceeding is to remove obstacles to the construction of new systems, particularly in more remote areas, which might not otherwise be built. Nevertheless, we also acknowledge that a situation conceivably could come to exist where, through "clustering" in a single market, the collective impact of actual signal importation of otherwise inconsistent signals might cause adverse economic impact to a local broadcaster and hence upon his ability to operate in the public interest. Special relief in the form of the removal of inconsistent distant signals might be appropriate if an adequate showing of likely injury to the public is established. With respect to the second matter, we here establish that this rule is intended primarily for small stand-alone operations and caution that it should not be abused; special relief in the form of removal of the inconsistent distant signals would be one form of regulatory relief which we also envision in this area.

30. In sum, we are convinced that the appropriate action to take herein is to remove the distant, but not the mandatory signal carriage rules, for systems with 500-999 subscribers, just as we already have done for 50-499 sized systems. The impact likely to occur, even from a worst-case analysis, is not sufficient to reverse this result. We note here that although our overall impact study assumed substantial shifts in viewing patterns in all cases, from a practical standpoint, more than half of the existing 500-999 sized systems should not be expected to add additional signals because: (1) They are located outside all markets, and already exempt from distant signal limitations, or (2) they are fully saturated, grandfathered systems with neither incentive nor present channel capacity to add any distant signals. Further, because of important cost considerations for these small business entities, many might regard either microwave or satellite delivery of additional signals to be financially unsound and would add only additional off-air signals (if such are available). Thus, we anticipate no major near-term nationwide changes from this action; hopefully it will increase viewers' choices in some cases; it should reduce the operating costs of small cable companies in most cases. Also, according to the comments, this action could remove an obstacle to development of some new systems. Through our registration process (§ 76.10) and brief, annual reports we will be in a position to monitor the development of this new class and, if necessary, make future modifications.

31. Several parties herein (NCTA, 73 CATV Cos., Storer Cable, Florida Cable Television Association) requested that the Commission take two additional actions in the general area of signal carriage: (1) Permit signal carriage upon a system wide basis irrespective of size, and (2) establish regulatory "parity" between co-located cable and "MATV" systems. These issues were treated fully in our recent reconsideration of our original action herein, supra. Both arugments were thoroughly considered but rejected. We stated, in important part:

> The NCTA suggestion, because it would allow otherwise inconsistent signals to be carried not just to a small number of additional nearby subscribers but from existing systems in small suburban municipalities into adjoining major metropolitan areas, would constitute a major revision of the signal carriage rules of a type which we believe should only be considered after the conclusion of the pending economic inquiry (para. 11).

* * * * *

> As we stated in the "First Report and Order", not only did we feel that MATV systems were substantially different from traditional cable television systems so as to justify continued exemption from our regulations but we also were strongly impressed by the arguments that none of the 50 participating parties demonstrated actual or potential harm to over-the-air broadcasting by existing MATV systems—a nexus of our jurisdiction over cable systems. Accordingly, in this essentially de-regulatory proceeding, we found no support for extending FCC jurisdiction to cover thousands of MATV entities throughout the country (para. 19).

Sports Blackout

32. Interrelated to the subject of signal carriage is that of whether exemption from our sports blackout rules should be granted to the 500-999 subscriber sized systems. As was the case with the 50-499 subscriber systems, and for the same reasons, we conclude that such exception should be granted. We stated in the "First Report and Order;"

> Consistent with the broad goals of this overall proceeding, we have concluded that this rule does indeed constitute an unreasonable burden upon small systems and should be rendered inapplicable to them. Having determined that it is burdensome for systems under 1,000 to have to purchase and operate switching equipment for network and syndicated program exclusivity, it hardly is justifiable to require systems with half that number to "blackout" the remaining type of programming. Moreover, as we stated in paragraph 42 of the Report and Order in Docket 19417, supra, it is our view that sports is but one form of television programming and is not sufficiently dissimilar from other programming to warrant special treatment because of its impact upon local television audiences. Thus, having broadly concluded that small systems should be as unrestricted as possible in carrying television programming, sports programming is not a valid exception to that conclusion.

That rationale is equally applicable here, despite the protestations of the NHL and the NCAA. The NHL is incorrect in asserting that the number of subscribers on systems under 1,000 (perforce located within the 35-mile zones of cities which have professional sports teams) is large enough to impact upon gate receipts. According to the statistics compiled by our staff for this proceeding, only some 226 total systems with under 1,000 subscribers are located within all of the Top-100 markets, which alone is de minimis without calculating how many of these are located in markets with professional sports teams. We acknowledge the long-range possibility that a substantial number of future small systems could be constructed in a specific market and theoretically might pose harm to gate receipts, but there is nothing on this record to warrant taking any anticipatory rulemaking actions with respect thereto. The special relief procedures and remedies are available if there are situations where "clustering" portends a loss of broadcast sports programming. However, in our view, the carriage of otherwise restricted sports events by small cable systems should not cause any more impact than the present carriage of such programming by unregulated "MATV" systems such as those in apartment houses and hotels. We further reject NHL's argument that manual switching is a viable alternative to costly automatic switching gear; for a major market with several professional teams representing different sports and each demanding protection, the overtime costs to an affected system might well exceed that of basic equipment over an extended period. Turning to the NCAA's arguments, we first comment that it is erroneous in asserting that the "First Report and Order" "ignored entirely the specific holding on which the sports rule was actually based, which is that the impact of cable carriage on gate receipts • • • warrant a rule limiting carriage in certain locations." We call its attention to footnote 27 of the "First Report and Order":

> It should be noted, moreover, that the reasons for adopting the cable television sports blackout rules related to a concern that fewer patrons would attend games if they could view the games on cable television and the impact on sports gate receipts would cause teams to reduce areas where games were broadcast and hence picked up by cable systems, in order to restore their live gate receipts. Our records reflect that there are so few systems in this smaller class with so few subscribers in major market areas that the likelihood of any adverse consequence resulting from this change in the rules is extremely remote.

As earlier observed, the above conclusion is equally valid for 500-999 subscriber systems as for 50-499 subscriber sized systems. The combined total of small system cable subscribers in major markets is de minimis viewed from the perspective of gate receipts. We simply do not believe that today's action will have a detrimental effect upon "the future availability of those sports programs to over-the-air broadcasting," as NCAA warns.

33. One final matter should be discussed in connection with the broad subject of signal carriage—namely, that of the "patchwork" argument raised by ABC and others. Stated simply, this argument is that a proliferation of small systems exempt from distant signal and sports blackout restrictions will create a "patchwork" of inconsistent signal carriage which ultimately will lead to total erosion of our signal carriage provisions. We disagree with this argument for several reasons. We are aware of practical problems which could arise when adjacent or nearby systems offer different signal complements; however, this concern is not of such weight as to dissuade us from lifting the distant signal carriage restrictions from this class of small systems. There are many anomalies in the practical application of our rules to adjacent or nearby systems which have existed for years without major disruption of our signal carriage restrictions—e.g., older systems with grandfathered signals operate near new systems with lesser signals; some systems comply with the network and syndicated exclusivity rules while other nearby systems, because of their size or location, do not; some systems utilize converters, and thus furnish more than 12 signals, while other nearby systems do not; systems with 3,500 or more subscribers offer multiple access services while smaller systems do not; some systems have earth stations and offer both television signals and pay programming which other nearby systems do not. It is thus apparent that many substantial differences among cable systems already exist. If additional alterations in the signal carriage rules are undertaken, it will be the result of our studied judgment of the consequences of such alterations upon service to the public and not a mechanistic response to the differing impact our rules may have on neighboring cable systems.

Other Rules

34. As already detailed (para. 17, supra), the substantial number of similarities between 50-499 subscriber sized systems and 500-999 subscriber systems have led us to the conclusion that the class of small systems should now be expanded to encompass both groupings. Moreover, because there has been no valid showing to the contrary, this expansion shall be in toto, there being no specific rule or rules from which the 50-499 subscriber sized systems have been exempted which warrant disparate regulatory treatment for 500-999 subscriber size systems. In reaching this conclusion, we do not agree with the arguments of CCAP and Mr. Jacobson that continued regulation is essential for these systems. Essentially these same arguments have been made and rejected earlier in this proceeding; the following conclusion in our recent reconsideration action (at para. 24) is directly in point here:

> CCAP's petition is directed to the elimination of ownership reports, public inspection files and franchise standards for systems with under 500 subscribers. We initially observe that not only has petitioner not submitted any new data for our consideration but that we have already given a rather detailed explanation in the *First Report and Order* of why we felt it appropriate to take each of these specific actions. Indeed, it should be noted that those franchise standards petitioner would have us restore for small systems, were subsequently deleted from the rules even in their application to large systems. *Report and Order in Docket 21002*, FCC 77-530, 66 FCC 2d 380 (1977). With respect to deletion of the public inspection file requirement for small systems, we considered the attendant burden upon the system and noted (Para. 66) that in most instances, requisite material would be available in the files of the franchising authority. Concerning the deletion of ownership reports (Schedule III of FCC Form

[14] In the general consideration of the Hazard market, our Commission files reveal that the Hazard television station actually evolved from (and is still co-owned by) a local cable operation which wished to reach additional area audiences with its cable-originated programming. (WKYH TV, BPCT-3996, Mar. 3, 1969.)

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325), we explained (Para. 62) that these forms not only are both complex and burdensome for the small operator but also are of less value to us for either regulatory or statistical purposes. Accordingly, CCAP's requests are denied. (Footnote omitted)

35. The rationale for our regulatory framework for small systems is set forth at length in the "First Report and Order" and, because it applies with equal logic to this extended proceeding, it is herein incorporated by reference. This removes the necessity for a repeated discussion here of each topic, and we need only highlight the parameters of regulation for present purposes.

Technical standards. The technical standards of Subpart K, Part 76 shall remain applicable to small systems except that, with the following exceptions, the technical measurement requirements of § 76.601(c) shall be inapplicable: (1) Any system utilizing frequencies outside the TV and FM radio broadcast allocations (e.g.—mid-band) remain subject to all testing obligations relating to signal leakage, and (2) we reserve the right to require specific measurements (among those measurements which may be required of larger systems) in the case of complaints or disputes.

Annual reports. Small systems need file only Schedules I and II of FCC Form 325 (Annual Report of Cable Television Systems), FCC Form 326 (Annual Financial Report), and annual reports of equal employment opportunity complaints pursuant to § 76.311(c)(1).

Public inspection files. Small systems are exempt from the requirement of § 76.305 that a file of documents relating to the system's authorization and operations be maintained for public inspection.

Cross-ownership. The cross-ownership prohibitions between cable television systems and local telephone companies (§ 64.601), local translator stations (§ 76.501(a)(3)), local television stations (§ 76.501(a)(2)), and national television networks (§ 76.501(a)(1)) shall remain applicable.

Franchising and certification. Systems with fewer than 1,000 subscribers will now also be exempt from the obligation to obtain a Certificate of Compliance from the Commission before commencing operation. They will instead be subject to the § 76.10 registration process under which systems need only notify the Commission of the owner's name, the system's location, and the signals to be carried at the time operations are commenced. This registration statement is to be filed within 30 days after adding the 50th subscriber and thus becoming a cable system under our definition (§ 76.5(a)).

Under the 500 subscriber exemption rule, a number of requests for Certificates were received from exempt systems that nevertheless wanted to have their operations certified in order to prove the legality of their operation in connection with a sale, bank loan or similar financial transaction, raising the question of how we should now proceed with such applications. Because all systems with any prospect of exceeding 1,000 subscribers are encouraged to commence operations fully in compliance with the rules to which they will ultimately be subject, we do not intend to second guess applicants whose own estimates indicate an eventual 1,000 subscriber or larger size. We will, however, only certify signals for carriage that are compliant with the signal carriage limitations applicable to systems with 1,000 or more subscribers and do not see any need to issue certificates in those situations where the basic signal carriage rules do not and will not apply. Systems that have Certificate applications now pending may convert these to the required registration simply by notifying the commission that they wish this to be done. Parties are requested to take this step as promptly as possible to aid us in eliminating from the backlog those applications which there is no longer any intent to prosecute. In the course of processing applications we will also convert to registrations those which we find on our own are clearly for systems in this smaller class. In each instance, however, this will only be done after prior notice to the applicant. Those systems with existing Certificates are already registered and need not file any further registration statement. Moreover, they are free to comply with the rules applicable to under 1,000 subscriber systems without further administrative process upon the effective date of these rule changes.

Our withdrawal from applying the certification process and franchise standards to systems with under 1,000 subscribers carries with it an end to the limitation on local franchise fees contained in § 76.31. Although other areas of federal preemption will remain, such as those relating to local regulation of pay television operations, we believe the fee limitation can be safely eliminated without danger of significant long run adverse impact on the national telecommunications system. Because of the size of the entities involved, the connection between burdens imposed and the quality of service received is likely to be more visible than with larger systems and thus the imposition of unreasonable fees is less likely to occur. Moreover, because of the types of operations involved and their relatively small number of subscribers, it does not appear that the administrative effort involved in continuing this rule can be justified.

We would urge most strongly that local and state authorites regard our re-regulatory efforts in this area as an example to be followed and not an invitation to fill a void that has been created. From the point of view of the cable subscriber and the system operator, the source of burdensome regulation is of little consequence; the totality of paperwork and other compliance activity is the only concern.

36. *Transition.* Here, as in the case of establishing the original parameters of the class of small systems, we again strongly caution operators to only utilize this small system classification under circumstances where their fully constructed system will remain under the 1000 subscriber level (calculated, of course, upon a headend basis).[15] This is not a difficult task—as a business person, the operator can be expected to know the total homes in his area to be served and to make a sophisticated estimate of likely penetration among homes passed. The exceptions to our rules promulgated herein are premised upon smallness of the systems affected and the unlikelihood of their having any adverse impact upon existing levels of local broadcast service; these exceptions will not apply once a system goes beyond the 1000 subscriber threshold, and we again caution that we do not envision granting waiver requests to systems which later exceed the 1000 level and seek to retain the signals obtained as a member of the class of small systems. The need to operate in full compliance with the rules once the 1000th subscriber is connected, entailing, if necessary, "rollback" of signal carriage, highlights the need for proper initial planning by system operators. We also remind operators that the provisions of §§ 76.95 and 76.161 shall remain in effect, requiring notification of both the Commission and all television stations carried on the system within 60 days of reaching the 1000 subscriber level.

[15] *Subscriber count.* In view of the critical impact of the transition beyond the 999 subscriber level, it will be of assistance to here set forth the precise method for counting subscribers. We note initially that in our *First Report and Order* in this docket (at Para. 19) we both defined a subscriber (§ 76.5(nn)) and reaffirmed the method for counting bulk-rate subscribers. The following method of counting subscribers is consistent with our earlier action and it is the method which we shall utilize to resolve any disputes concerning a system's qualification as a small system. (We are aware that this method differs from the method for counting subscribers set forth in the instructions for filing FCC Form 325, "Annual Report of Cable Television Systems"; we shall amend such instructions, prior to their issuance for fiscal 1978, so as to conform with the method set forth herein.) The method is simple, and it meets our two-fold goal of considering potential impact upon local broadcasters as well as the ability of the cable system to sustain regulatory burdens. To calculate "subscribers," simply total the number of single-family dwelling subscribers as well as the number of individual households living in multiple dwelling units (apartments, condominiums, etc.) which pay at the basic subscriber rate; to this add any bulk-rate customers, calculated by dividing the total annual charge for the bulk-rate contract by the system's basic annual subscription rate for an individual household by the method set forth in § 1.1116(b) (Note 2) of the rules. For example, if an apartment house pays an annual bulk rate of $1000 and the annual rate for individual subscribers is $50, there are 20 subscriptions. (1000 ÷ 50 = 20). Several additional matters should be mentioned. Do not count or otherwise include additional outlets within the same individual households nor installation or disconnection fees. Also, since the element of payment was deleted from our definition of a cable television system (§ 76.5(a)) by our *First Report and Order* herein, "courtesy" and other free service should be counted. Only the number of individual households taking the basic cable service is what is desired; therefore, do not include either pay-only subscribers or pay revenues in any calculations.

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CONCLUSION

37. We believe that the changes made will simplify the administration of the rules, relieve significant and unnecessary burdens for small cable television system operators, and will not adversely affect the provision of television broadcast service to the public. We believe that their adoption is, therefore, in the public interest.

Authority for adoption of the rules herein is contained in Sections 2, 4(i) and (j), 303, 307, 308, and 309 of the Communications Act of 1934, as amended.

Accordingly, it is ordered, That effective June 12, 1978, Part 76 of the Commission's rules and regulations are amended as set forth below.

It is further ordered, That the proceeding in Docket 20561 is terminated.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; (47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317).)

FEDERAL COMMUNICATIONS COMMISSION,
William J. Tricarico,
Secretary.

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 76.10 [Amended]

1. In Subpart B, Applications and Certificates of Compliance, § 76.10 (Registration of systems of fewer than 500 subscribers) is amended as follows:

In the title thereof, the number "500" is deleted and the number "1000" is substituted.

In the preamble thereof, the number "499" is deleted and the number "999" is substituted.

2. In the following sections of the cable television rules, the number "500" is deleted and the number "1000" is substituted:

§§ 76.11 and 76.30 [Amended]

In Subpart B, Applications and Certificates of Compliance:

Section 76.11(a) and (b) (Certificate of Compliance Required)

Section 76.30 (Scope of Application)

§§ 76.59, 76.61, 76.65 and 76.67 [Amended]

In Subpart D, Carriage of Television Broadcast Signals:

Section 76.59(b) (Provisions for smaller television markets)

Section 76.61(b) (Provisions for first 50 major television markets)

Section 76.65(b) (Grandfathering Provisions)

Section 76.67(f) (Sports broadcasts)

§ 76.300 [Amended]

In Subpart H, General Operating Requirements:

Section 76.300(b) (Scope of application)

§ 76.403 [Amended]

In Subpart I, Forms and Reports:

Section 76.403 (Cable television system reports)

§ 76.601 [Amended]

In Subpart K, Technical Standards:

Section 76.601(f) (Performance tests)

3. In § 76.305, paragraph (a) is amended to read as follows:

§ 76.305 Records to be maintained locally by cable television system operators for public inspection.

(a) *Records to be maintained.* The operator of every cable television system having 1000 or more subscribers shall maintain for public inspection a file containing the following:

* * * * * *

[FR Doc. 78-12860 Filed 5-10-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1326]

PART 1033—CAR SERVICE

Norfolk & Western Railway Co. Authorized to Operate Over Tracks of Detroit, Toledo & Ironton Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1326.

SUMMARY: The Tecumseh, Mich., branch of the Detroit, Toledo & Ironton Railway (DTI) is unserviceable between Malinta, Ohio, and Adrian, Mich., isolating the remainder of the line from other parts of the DTI. A major industry located at Tecumseh requires uninterrupted rail service to continue its operations. Service Order No. 1326 authorizes the Norfolk & Western Railway to operate over the serviceable portion of the DTI's Tecumseh branch between Adrian, Mich., and Tecumseh, Mich., in order to provide continued service to shippers served by that line.

DATES: Effective 12:01 a.m., May 5, 1978. Expires 11:59 p.m., October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 5th day of May 1978.

The Tecumseh branch of the Detroit, Toledo & Ironton Railway Co., (DTI) is inoperable between Malinta, Ohio, and Adrian, Mich., a distance of approximately 45 miles, thus isolating the eleven-mile segment between Adrian and Tecumseh from the remainder of the DTI system. An application to abandon the line between Malinta and Adrian is pending in Docket AB-111. The Norfolk & Western Railway Co. (N&W), in Finance Docket No. 28643 has requested authority to acquire the segment of the DTI Tecumseh branch between Adrian and Tecumseh, a distance of approximately 11.1 miles and is willing to commence immediate operation of this line segment in order to provide needed railroad service to shippers at Tecumseh.

It is the opinion of the Commission that an emergency exists requiring operation of N. & W. trains over these tracks of the DTI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1326 Service Order No. 1326.

(a) *Norfolk & Western Railway Co. authorized to operate over tracks of Detroit, Toledo & Ironton Railway Co.* The Norfolk & Western Railway Co. (N. & W.) is authorized to operate over tracks of the Detroit, Toledo & Ironton Railway Co. (DTI) between Adrian, Mich., and Tecumseh, Mich., a distance of approximately 11.1 miles, pending disposition of the application of the N. & W. in Finance Docket No. 28643 seeking permanent authority to

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acquire and operate this line.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the N. & W. over tracks of the DTI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the N. & W. over the tracks of the DTI shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., May 5, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12862 Filed 5-10-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Certain National Wildlife Refuges to Sport Fishing: Maryland, Virginia and North Carolina; Correction

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

SUMMARY: The Fish and Wildlife Service issues a correction document for a special regulation appearing at 43 FR 13577, March 31, 1978, because of incorrect address information for the Mackay Island National Wildlife Refuge, Knotts Island, N.C.

FOR FURTHER INFORMATION CONTACT:

Howard N. Larsen, 617-965-5100, Ext. 200.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

CORRECTION

In FEDERAL REGISTER, Vol. 43, No. 63, page 13577, dated Friday, March 31, 1978, third paragraph of special regulation text, fifth line should be changed from: Building, South 218, 287 Pembroke, to Building, Suite 218, 287 Pembroke.

HOWARD N. LARSEN,
REGIONAL DIRECTOR,
Fish and Wildlife Service.

APRIL 25, 1978.

[FR Doc. 78-12811 Filed 5-10-78; 8:45 am]

[4310-55]

PART 33—SPORT FISHING

Opening of Tewaukon National Wildlife Refuge, N. Dak., to Summer Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Tewaukon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: May 6, 1978, through November 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Forrest W. Cameron, Refuge Manager, Tewaukon National Wildlife Refuge, Cayuga, N. Dak. 58013, 701-724-3598.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing on the Tewaukon National Wildlife Refuge, N. Dak., is permitted only on the areas designated by signs as being open to fishing. These areas comprising 1,440 acres are Lake Tewaukon, Mann Lake and Sprague Lake and are shown on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Box 1897, Bismarck, N. Dak. 58501. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on Sprague Lake and Mann Lake extends from May 6, 1978, through September 30, 1978, daylight hours only.

(2) The open season for sport fishing on Lake Tewaukon extends from May 6, 1978, through November 19, 1978, daylight hours only.

(3) Access to Lake Tewaukon will be limited to certain designated shoreline areas from October 1, 1978, through November 19, 1978.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 1, 1978.

FORREST W. CAMERON,
Refuge Manager.

[FR Doc. 78-12782 Filed 5-10-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Parts 526 and 531]

[No. 78-272]

FEDERAL HOME LOAN BANK SYSTEM

Proposed Amendments Relating to Distribution of Maturities of Certificate Accounts

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: Present regulations (1) limit the amount of savings account certificates of $100,000 or more receiving a rate of return greater than 6.75 percent that a member of the Federal Home Loan Bank System may have outstanding at one time and (2) prescribe Board policy regarding distribution of maturities of certificate accounts with terms of one year or more issued by such members. This proposed rule would delete those provisions and substitute specific limitations only on distribution of maturities of all certificate accounts. The purpose of the proposed changes is to prevent more effectively excessive withdrawals of savings accounts in a single month caused by "bunching" of their maturities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 9, 1978.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address:

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 202-377-6440 at the above address.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board proposes to delete § 531.7 and subsection (b) of § 526.5-1 of the Regulations for the Federal Home Loan Bank System (12 CFR 526.5-1(b) and 531.7) and add a new § 526.10 thereto. Section 526.5-1(b) limits the total amount of certificate accounts of $100,000 or more receiving a rate of return in excess of 6.75 percent to 15 percent of a member's total savings accounts outstanding, and limits such certificate accounts having an original term of less than two years to 10 percent of the member's total savings accounts outstanding. Section 531.7 states that Board policy requires that a member avoid issuing or renewing a certificate account with a term of one year or more if, as a result of such issuance or renewal, the total of such accounts maturing in a particular month would exceed 5 percent of the member's total savings accounts. The effect of those provisions is to limit the likelihood of excessive withdrawals from certificate accounts in a single month caused by "bunching" of maturities.

In view of the sensitivity of certificate accounts to fluctuations in market rates of interest, the Board believes a more specific limitation on the amount of all certificate accounts maturing in any single month is necessary to more effectively protect members from the risk of unusually large withdrawals. The Board further believes that is such a specific limitation on "bunching" of maturities is adopted there may be no need for an overall limit on acceptance of such accounts by member institutions. Therefore, the Board proposes to delete the present limitation and Statement of Policy and adopt a new § 526.10, which would limit a member's certificate accounts maturing in a single month to five percent of the member's total savings accounts. Section 526.10 would also limit members' certificate accounts with an original amount of $100,000 or more maturing in a single month to one percent of the member's total savings accounts. The Board believes these provisions would be simpler and more direct and would provide greater safety for members.

If the proposed limitations are adopted, members would be permitted to achieve compliance therewith by attrition of outstanding certificates.

Accordingly, the Board hereby proposes to delete § 531.7, amend § 526.5-1, and add a new § 526.10, to read as follows:

§ 526.5-1 Certificate account of $100,000 or more

No maximum rate of return shall apply to a certificate account of $100,000 or more ($50,000 or more if the issuing member's home office is in Puerto Rico) with a term of at least 30 days. (The $50,000 minimum shall apply only if the member does not advertise or promote the account outside Puerto Rico.)

§ 526.10 Distribution of maturities of certificate accounts

(a) *General.* No member shall issue or renew a certificate account if such issuance or renewal would cause the total of such accounts maturing in a single month to exceed five percent of the member's total savings accounts at the end of the month preceding the issuance or renewal.

(b) *Additional limitations on certificate accounts of $100,000 or more.* No member shall issue or renew a certificate account with an original amount of $100,000 or more if such issuance or renewal would cause the total of such accounts maturing in a single month to exceed one percent of the member's total savings accounts at the end of the month preceding the issuance or renewal.

(c) *Geographic exception.* For a member whose home office is in Puerto Rico, the limitations in paragraphs (a) and (b) of this section shall apply to accounts of $50,000 or more.

(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425b, 1437). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 78-12866 Filed 5-10-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 78-WE-6-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection and modification of leading edge outboard slat drive arms and drum shafts on McDonnell Douglas DC-10 series airplanes. The proposed AD is needed to prevent failure of an outboard slat drive arm or drum shaft, allowing de-

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parture of leading edge slats from the aircraft which may present a hazard to persons on the ground.

DATE: Comments must be received on or before June 29, 1978.

ADDRESSES: Send comments on the proposal in duplicate to:

Department of Transportation, Federal Aviation Administration, Western Region, Attention, Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The applicable DC-10 service bulletin may be obtained from:

McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention, L. A. Eisenberg, CI-750, 54-60.

Also, a copy of the service bulletin may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Administration, at the address given in the opening section of this AD. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been two instances of failure of an outboard slat drive arm in flight. In one of these cases, slat system parts fell to the ground. Inspection of other Model DC-10 aircraft revealed additional slat drive arms with cracks. The failures/cracks are attributed to a manufacturing defect which grows due to stress corrosion.

As a result of these slat failures, a reevaluation of the slat drive system was made, including the drum shafts. Analysis and tests revealed that the ARHO565-1 or -2 drum shafts should be replaced by ARHO565-505 or 506 drum shafts. Failure of the drum shaft can result in overextension of the slats.

The National Transportation Safety Board believes that leading edge slat system failures present a hazard to persons on the ground, and has recommended mandatory corrective action (NTSB Safety Recommendation A78-16).

Since this situation is likely to exist or develop on other airplanes of the same type design, the proposed AD would require inspection, replacement of cracked drive arms, replacement of ARHO565-1 and -2 drum shafts, and sealing at drum shafts and drum arm splines.

Drafting Information

The principal authors of this document are Douglas T. Sharman, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDonnell Douglas: Applies to DC-10-10, -10F, -30, -30F and -40 airplanes certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent failure of outboard slat drive arm or drum shaft, accomplish the following:

(a) Within the next 1500 hours time in service after the effective date of this AD, unless the inspection and modifications specified in McDonnell Douglas DC-10 Service Bulletin No. 27-160, dated March 1, 1978, are already accomplished, inspect the outboard slat drive arms ultrasonically for cracks in accordance with McDonnell Douglas DC-10 Service Bulletin No. A27-160, Revision 2, dated March 22, 1978.

(b) Within the next 4000 hours time in service after the effective date of this AD, inspect by magnetic particle methods for cracks and modify or replace the outboard slat drive arms and drum shafts in accordance with McDonnell Douglas DC-10 Service Bulletin No. 27-160, dated March 1, 1978.

(c) Any outboard slat drive arm or drum shaft found to be cracked must be replaced prior to further flight.

(d) The inspections and modifications specified in this AD may be accomplished in accordance with later FAA approved revisions of the service bulletins.

(e) Equivalent inspections, modifications or parts may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for accomplishment of the inspections required by this AD.

[Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.]

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on April 28, 1978.

W. R. FREHSE,
Director,
FAA Western Region.

[FR Doc. 78-12830 Filed 5-10-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-17]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Proposed Alteration of Transition Area: Lafayette, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Lafayette, La., transition area to provide controlled airspace for aircraft executing the newly established instrument landing system (ILS) instrument approach procedure to runway 21 and the nondirectional radio beacon (NDB) instrument approach procedure to runway 03 to the Lafayette Regional Airport.

DATE: Comments must be received by June 12, 1978.

ADDRESSES: Send comments on the proposal to:

Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location:

Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Ex.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G 71.181 (43 FR 440) of FAR Part 71, the description of the Lafayette, La., transition area reflects the controlled airspace provided for the present instrument approach procedures to the Lafayette Regional Airport. The newly established ILS and NDB instrument approach procedures will require alteration of the transition area to provide the necessary controlled airspace for these procedures.

Comments Invited

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before June 12, 1978 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Lafayette, La., transition area. The FAA believes this action will enhance IFR operations at the Lafayette Regional Airport by providing additional controlled airspace for aircraft executing the newly established instrument approach procedures for the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

Drafting Information

The principal authors of this document are John A. Jarrell, Airspace & Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) by altering the Lafayette, La., transition area as follows:

LAFAYETTE, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lafayette Airport (latitude 30°12'00" N., longitude 91°59'40" W.); within 1.5 miles each side of the Lafayette ILS localizer north course extending from the OM to the 5-mile radius area; within 2 miles each side of the 276° bearing from the Lake Martin RBN (latitude 30°11'35" N., longitude 91°52'58" W.), extending from the RBN to the 5-mile radius area; within 2 miles each side of the Lafayette VORTAC 139° radial extending from the 5-mile radius area of the Lafayette Airport to the 5-mile radius area of the Acadiana Regional Airport (latitude 30°02'15" N., longitude 91°53'00" W.); within a 5-mile radius of the Acadiana Regional Airport; within 3 miles each side of the 348° and 168° bearings from the Acadiana NDB (latitude 29°57'21" N., longitude 91°51'45" W.), extending from the 5-mile radius area of the Acadiana Airport to 8 miles south of the Acadiana NDB; within 3 miles each side of the Lafayette VORTAC 145° radial extending from the 5-mile radius area of Acadiana to 17.5 miles from the Lafayette VORTAC; within 2 miles each side of the Lafayette VORTAC 171° radial extending from the 5-mile radius area of the Lafayette Airport to 8 miles south of the VORTAC; within 2 miles each side of the Lafayette VORTAC 206° radial extending from the VORTAC to the 5-mile radius area of the Abbeville Municipal Airport (latitude 29°58'19" N., longitude 92°05'06" W.); within a 5-mile radius of the Abbeville Municipal Airport; within 2.5 miles each side of the Lafayette LOM 208° bearing extending from the 5-mile radius area of the Lafayette Airport to a point 1.5 miles southwest of the 5-mile radius area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., April 26, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-12829 Filed 5-10-78; 8:45 am]

[4910-13]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 78-RM-11]

TEMPORARY RESTRICTED AREAS

Proposed Establishment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This notice corrects a proposed rule on restricted areas in the vicinity of Fort Carson, Colorado Springs, Colo., which appears at 43 FR 17368 in the FEDERAL REGISTER of April 24, 1978. This correction reflects the correct coordinates as they are used in adjacent restricted areas.

EFFECTIVE DATE: May 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTAL INFORMATION: FEDERAL REGISTER Document 78-11130, (Airspace Docket No. 78-RM-11), was published on April 24, 1978, (43 FR 17368), as a notice of proposed rule making with typographical errors. Action is taken herein to correct the last coordinate in R-260D (R-2605D) and the second coordinate in R-2605E.

Drafting Information

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, FEDERAL REGISTER Document 78-11130 (Airspace Docket No. 78-RM-11) as published on April 24, 1978, page 17368, is amended in the twelfth line from the end of the left column on page 17369 by deleting "Long.

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105°19'00"W.;" and substituting "Long. 104°19'00"W.;" therefor, and is also amended in the sixth line from the top of the center column on page 17369 by deleting "Long. 104°15'00"W.;" and substituting "Long. 104°50'00"W.;" therefor.

In addition, the following typographical errors are corrected as follows: In the fourth line from the top in the left column on page 17369, delete "Lat. 38°15'00"N.," and substitute "Lat. 38°55'00"N.," therefor; in the eighteenth line from the bottom of the left column on page 17369, delete "R-260D" and substitute "R-2605D" therefor; and in the sixteenth line from the top of the middle column on page 17369, delete "10°47'00"W.;" and substitute "104°47'00"W.;" therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 2, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-12843 Filed 5-10-78; 8:45 am]

[4910-13]

[14 CFR Part 75]

[Airspace Docket No. 78-SW-11]

JET ROUTE

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Jet Route No. 86 between Junction, Tex., and Humble, Tex., via radials that will intersect at the MARCS noncompulsory reporting point. J-86 and J-15 are presently designated from Junction to Humble via Austin, Tex., and J-15 will remain in this position. The effect of this action is to provide an additional jet route that will assist in reducing the congestion in the San Antonio, Tex., area.

DATE: Comments must be received on or before June 7, 1978.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Southwest Region, Attention, Chief, Air Traffic Division, Docket No. 78-SW-11, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone, 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention, Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before June 7, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention, Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would realign J-68 between Junction and Humble via the INT of Junction 112°T (102°M) and Humble 269°T (261°M) radials which is located at the MARCS noncompulsory reporting point. This route will by-pass the San Antonio, Tex., and the Austin, Tex., VORTACs and help to reduce the congestion at these locations.[1]

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (43 FR 714) as follows: In Jet Route No. 86 "Austin, Tex.; Humble, Tex.;" is deleted and "INT Junction 112° and Humble, Tex., 269° radials; Humble;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 3, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-12836 Filed 5-10-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208 and 212]

[EDR-351A; Docket 31788; Dated May 5, 1978]

PROPOSED AMENDMENT TO ALLOW SPLIT ALL-CARGO CHARTERS AND SPLIT PASSENGER-CARGO CHARTERS

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Notice of proposed rulemaking.

SUMMARY: The notice extends for 30 days the filing date for comments and reply comments in this rulemaking proceeding, which proposes rules that would allow split all-cargo and passenger-cargo charters. The extension will permit all parties to adequately consider these proposed major changes in the Board's rules. This extended comment period is at the request of British Airways.

DATES: Comments by: June 15, 1978. Reply comments by: July 5, 1978. Comments and other relevant information received after these dates will

[1] Map filed as part of the original document.

be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 31788, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTAL INFORMATION: By Notice of Proposed Rulemaking EDR-351, dated March 30, 1978 (43 FR 14519, April 6, 1978), the Board proposed rules which would permit split all-cargo charters and passenger-cargo charters, and asked for comment on re-defining the concept of cargo charters. Comments are due in response to the notice on May 16 and reply comments are due on June 5, 1978.

In a letter dated May 1, 1978, the counsel for British Airways requested an extension until June 15 for the filing of initial comments in this rulemaking. Counsel stated in support of the request that additional time is required to study the economic implications of the proposed changes and to discuss them with their government authorities. These government personnel, as well as those of British Airways, have been extensively involved in the recent bilateral negotiations with the United States and with the high volume of Board rulemaking activity in the charter area.

Upon consideration of the foregoing, the undersigned finds that good cause has been shown for the granting of the requested extension. The date for filing reply comments will also be extended for a corresponding period of 30 days. It does not appear that this extension will prejudice any party to the proceeding.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR § 385.20(d)), the time for filing of comments and reply comments is extended to June 15, 1978, and July 5, 1978, respectively.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

SIMON J. EILENBERG,
Associate General Counsel, Rules Division.

[FR Doc. 78-12790 Filed 5-10-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Chapter I]

[Docket No. RM78-12]

INCENTIVE RATE OF RETURN FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Proposed Rulemaking

MAY 8, 1978.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Regulatory Commission (the Commission) hereby gives notice of a proposal to establish certain terms and conditions to the conditional certificates of public convenience and necessity previously issued in the Alaska Natural Gas Transportation System proceeding. The proposed terms and conditions would establish an incentive rate of return on equity to reward the applicants for final certificates for project completion under budgeted cost and penalize them for project completion over budgeted cost.

DATES: Notices of intention to participate by May 19, 1978; written comments by May 31, 1978; reply comments by June 9, 1978.

ADDRESSES: All filings should reference Docket No. RM78-12 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

John Adger, Director, Alaska Natural Gas Project Office, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-3827.

SUPPLEMENTARY INFORMATION: Notice is hereby given, pursuant to the Administrative Procedure Act, 5 U.S.C. section 552, the Natural Gas Act, sections 4, 5, 7, and 16 (15 U.S.C. secs. 717c, 717d, 717f, and 717o), and the Alaska Natural Gas Transportation Act, section 9 (15 U.S.C. sec. 719g), that the Federal Energy Regulatory Commission is considering the adoption of terms and conditions concerning an incentive rate of return on equity on the conditional certificates of public convenience and necessity for the Alaska National Gas Transportation System, issued by the Commission on December 16, 1977 (*Alcan Pipeline Company, et al.*, Docket Nos. CP78-123, CP78-124 and CP78-125).

A. BACKGROUND

The President's "Decision and Report to Congress on the Alaska Natural Gas Transportation System" (the Decision) transmitted to the Congress on September 22, 1977, and approved by both Houses on November 2, 1977, states in the second finance term and condition on pages 36-37 that this Commission shall fix a variable rate of return on equity that will reward the applicant for project completion under budgeted cost and penalize the applicant for project completion over budgeted cost. The Decision also states that the final capital cost estimates filed with this Commission prior to the issuance of a final certificate of public convenience and necessity will be used as the basis for determining the variable rate of return on equity. If final cost estimates materially and unreasonably exceed the comparable capital cost estimates filed by Alcan with the Federal Power Commission on March 8, 1977, this Commission may determine that a certificate should not be issued for the project.

A specific proposal for implementing these conditions of the President's Decision is presented here in the form of a proposed rule. The Commission seeks comments of interested parties on the Commission's proposals and alternatives for a variable rate of return on equity mechanism. In this rulemaking, specific values are not given for a number of key parameters or schedules. This will be done in future rulemakings or orders, but the Commission solicits comments and opinions as to the appropriate values.

B. DISCUSSION OF THE PROPOSED TERMS AND CONDITIONS

The proposed terms and conditions describe a mechanism to implement the proposal in the President's Decision that the equity investors in the Alaska Natural Gas Transportation System be rewarded for completing the project for less than estimated construction costs and penalized for cost overruns. The basic approach is to lower the return on equity during operation as the actual rate base increases relative to the projected rate base. However, incentive rates of return would not actually be employed to calculate the cost of service. Instead, an adjustment to the rate base would be made which is equivalent to the difference between the incentive rate and a normal rate. This rulemaking does not specify a schedule or formula for determining the rate of return for each level of cost control performance; specification of these parameters will be the subject of a subsequent proceeding.

The measure of cost control performance used to establish the variable rate of return will be a cost performance ratio that is described in condition 1. This is the ratio of the conventional or normal rate base to the projected rate base. Condition 2

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specifies how the conventional rate base will be calculated; and condition 3 specifies how the projected rate base will be calculated. The projected rate base will be derived from the final capital cost estimate submitted by the applicant, and reviewed by the Commission, after adjustment for inflation and for changes in cost that result from certain changes in scope of the project.

Condition 4 requires that the applicant submit its final cost estimate both in 1975 dollars and in current dollars. The final estimate must be submitted in a format to be specified by the Commission at a later date. Also the March 1977, estimate, referred to in finance condition 2 of the Decision (p. 36), must be resubmitted in the same format. The requirement of comparability in the two cost estimates is necessary so that the Commission can determine the extent to which the final cost estimate exceeds the March 1977, estimate. Condition 5 states that the applicant may submit a proposed format for the final cost estimate to the Commission prior to the submittal of the final cost estimate itself.

The final direct capital cost estimates submitted by the applicant and approved by the Commission will be adjusted for actual inflation experienced in the U.S. economy during the period of construction. This will be done by specifying cost or price indexes for each of the major cost categories in the cost estimate prior to final certification. Again, the applicant is invited to propose to the Commission a format for final cost or price indexes.

One of the most difficult issues in specifying an incentive or variable rate of return scheme is whether to hold the applicant responsible for all cost increases. The Commission believes that there is a limited number of changes in the scope of the basic design and configuration of the project for which the applicant should not be held accountable for purposes of calculating the incentive rate of return. Condition 7 lists those changes in scope, and the Commission invites suggestions for changes in that list. If any of the listed changes in scope occur during the construction of the pipeline, the applicant shall submit a revised final cost estimate that shows how the estimated cost would have been increased if the changes in scope were known before the final cost estimate was approved by the Commission.

The Commission anticipates that the Office of the Federal Inspector, established by ANGTA and elaborated in the Decision, will have a role in recommending that the Commission approve any change in scope which might be allowed. The Commission will provide by rule for that role after the Office of the Federal Inspector has been established.

As a result of the incentive rate of return scheme, equity investors in the Alaska Gas Pipeline Project may be allowed a rate of return on equity by the Commission that is substantially higher or lower than allowed for other gas pipelines. It could be higher because of outstanding performance in controlling costs, or lower because of poor performance in controlling costs. The Commission, however, believes that difficulties may result from an abnormally high or low return on equity extending over the 25-year or longer life of the project. Thus, a better alternative is to make a one-time adjustment to the rate base that to the equity investor is equivalent in present value to the higher or lower rate of return resulting from the incentive rate of return scheme. After making this one-time adjustment to the rate base, this Commission and future Commission would then allow a normal or conventional rate of return on the adjusted rate base that is appropriate for the risks of this project and for the financial conditions at that time. Determination of the rate of return commensurate with the risks involved in this project will be the subject of subsequent Commission action.

Condition 11 specifies how the adjustment to the rate base shall be calculated. The procedure is demonstrated by the following example. Assume that the Commission has determined that the normal rate of return on equity should be 12 percent. This rate of return should then be used by the applicant to calculate both the projected rate base and the unadjusted conventional rate base that form the cost performance ratio. The actual rates of interest on debt experienced during the construction period will be used to calculate the interest component of the allowance for funds used during construction (AFUDC) in both the projected and conventional rate base.

Next, assume that because of superior cost control performance by the applicant, the incentive rate of return specified by the incentive schedule approved by the Commission is 15 percent. In other words, the allowed rate of return on equity has been increased by 300 basis points over the normal rate. Using the 15 percent rate of return, the next step is to project the return of and return on equity over the operating life of the project based upon the conventional rate base and a financing and capitalization plan approved by the Commission. A discounted cash flow calculation is then made to determine the present worth or present value of this time stream of cash flow to equity investors, assuming a discount rate equal to the normal rate of return on equity, or 12 percent. In this example, the present value total will be substantially greater than the equity capital account that would otherwise be assumed for calculating the cost of service of the pipeline. The proposal would require that this present value total shall be assumed to be the amount of equity investment in the equity capital account. Similarly, the total rate base assumed for the pipeline at the time of commissioning[1] will be increased by the difference between the present value total and the conventional or normal equity capital account.

The Commission has attempted to structure its proposal to make equity investors in this pipeline indifferent between this adjustment to the rate base or a rate of return on equity equal to the incentive rate. The Commission believes that the one-time rate base adjustment provides more certainty of reward or penalty to equity investors without prejudicing their future financial condition. We invite comments as to situations in which the equity investors would not be indifferent as between these two methods of reward and penalty for cost control performance.

We request suggestions concerning appropriate values for those parameters not specified in this notice of methodologies or procedures for determining just and reasonable values. Parameters for which values must be determined at a later date include: (1) Incentive rate of return schedule, (2) cost price indexes, (3) cost estimate format, and (4) normal rate of return. The Commission observes that different values of these parameters could be set for the three main segments of the system, i.e., the Alaska Pipeline, Northern Border, and the Western Leg.

C. Alternative Approach

In addition to the described above, the Commission considered an alternative approach to implementing the variable rate of return concept in the President's "Decision." The difference between the two is that the rate of return on equity during the construction period (the equity AFUDC rate) would be varied, rather than making a rate-base adjustment which is the present-value equivalent to the difference in equity return between that for an incentive rate of return and that for a normal rate of return.

The other features of the proposal would remain essentially unchanged. A conventional rate base would be calculated from actual construction costs using the normal rate of return on equity set by the Commission as the equity AFUDC rate. A projected rate base would be calculated from the final cost estimates submitted by the applicant after adjustment for inflation and changes in scope. From these, the cost performance ratio would be calculated.

In the alternative approach, a schedule relating the performance ratio and the allowed AFUDC equity rate would be specified by the Commission. Upon commissioning of the pipeline, this schedule would be used to determine the allowed AFUDC equity rate. The rate base would be recalculated using this new rate. Thereafter during the operating period of the pipeline, a normal rate of return on equity would be allowed for determining the cost of service. If the incentive AFUDC rate were higher than the normal rate, the rate base would increase, and vice-versa.

The Commission perceives two disadvantages of this alternative approach. The first is that there would be an undesirable reduction in the incentive to control cost overruns near the end of the construction period. At the beginning of construction, a cost overrun has two effects: It lowers the allowed AFUDC equity rate on the previous equity capital investment; additionally, the equity share of the cost overrun will also earn this lower rate for the entire construction period. If, on the other hand, the same cost overrun occurred at the very end of the construction period, only the first effect of the overrun would be experienced. The allowed equity AFUDC rate would be lowered on the already invested equity, but there would be no effect on the new equity to finance the cost overrun. This equity investment would almost immediately begin to earn the normal rate of return on equity instead of the incentive rate as the pipeline begins operations.

The second disadvantage is that the schedule relating cost performance to the AFUDC rate would have to provide a much broader range of rates of return in order to have the same incentive effect as the proposal of varying the rate of return during operation. This results from the fact that the AFUDC equity rate only applies during the three-to-five-year construction period while the incentive rate during the operating period would apply for at least twenty years.

The following table presents an example that compares the incentive rate of return approach proposed in this rulemaking to the alternative of adjusting the AFUDC equity rate. The table gives a range of values for the incentive rate of return during operation and the equivalent values for the AFUDC equity rate that would produce the same rate base at the start of pipeline operations. This table uses as an example a purely hypothetical pipeline with direct construction costs of $614 million spread over three years. $116 million is spent the first year, $243 million the second year, and $255 million the third year. The normal rate of return on equity both during construction and operation is assumed to be 12 percent and the rate of interest on debt is assumed to be 10 percent.

The table demonstrates that the AFUDC equity rate must be increased or decreased by a large amount to have the same effect as a much smaller change in the equity rate during operation. An 18 percent return during operation is equivalent to a 40.2 percent AFUDC rate when compared to the normal rate of 12 percent. For rates of return during operation below a level of approximately 10 percent, the equivalent AFUDC rate of return is negative, resulting in a negative AFUDC on equity. A 6 percent return during operation is equivalent to a 36 percent AFUDC rate in this hypothetical example.

The major advantage of the alternative, however, is that no new procedure would be required for adjusting the rate base as is used in the incentive rate of return approach in the proposed terms and conditions. Adjusting the equity AFUDC rate automatically adjusts the rate base.

Comparison of incentive role of return (ROR) methods

Variable equity ROR during operation				Variable equity ROR during construction		
Equity ROR	Present value of equity cash flow	Adjustment to rate base	Adjusted rate base	Equity ROR	AFUDC on equity	Rate base
	(Million dollars)				(Million dollars)	
6.0 pct	85	−77	623	−36.3 pct	−53.2	623
9.0 pct	123	−39	662	−8.2 pct	−14.5	662
12.0 pct	162	0	701	12.0 pct	24.6	701
15.0 pct	200	38	739	27.4 pct	63.0	739
18.0 pct	239	77	778	40.2 pct	101.7	778

NOTE.—Initial adjusted rate base at 12 pct AFUDC equity ROR is composed of $614.1 direct capital costs, $24.6 equity AFUDC, and $62.2 debt AFUDC. The debt capitol ratio is 0.75.

D. Incentive Rate of Return Schedule

Though this rulemaking does not propose a specific schedule relating the cost performance ratio to the incentive rate of return on equity, we believe it is useful to discuss the key considerations in choosing a schedule. We solicit comments or suggestions about these or any other factors that are important.

In order to illustrate this discussion, the following table gives four hypothetical schedules. Each schedule gives the average rate or overall rate of return on equity that would be allowed for each level of the cost performance ratio. Also provided is the marginal rate of return, which, is described below.

The Commission believes that four factors are important in choosing the appropriate incentive rate of return schedule:

1. CENTER POINT

The normal rate of return on equity for this pipeline including a premium for any abnormal risks should be allowed if the pipeline is built at "budgeted cost" (the term in the President's "Decision"). The issue then is whether budgeted cost is the final cost estimate to be submitted by the applicant with no expected cost overruns included or whether the Commission should include some cost overruns in the term budgeted cost? The answer to this question may very well depend on how much the final cost estimate submitted by the applicant differs from the March, 1977, estimate. If the final estimate "materially and unreasonably" exceeds the original, the President's "Decision" allows this Commission to not issue a final certificate.

Alternatively, the Commission could use these final cost estimates as the basis for the incentive rate of return schedule, but the normal rate of

[1] "Commissioning," in this context, is a term used herein to describe that point in the Commission's procedures where a final certificate has been issued, construction is complete, and service has commenced. See 18 CFR 157.20(c)(3).

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return would only be allowed if actual costs were equal to or even less than the final cost estimate. In the four hypothetical schedules, the normal rate of return is assumed, for purely illustrative purposes only, to be 12 percent. This rate of return is allowed if the cost performance ratio is 1.3. In other words, the rate of return would only be reduced to below normal if actual costs exceeded budget costs by more than 30 percent, which is approximately the cost overrun expected in the report which accompanies the President's "Decision". The setting of this central point of the schedule will depend on such factors as the relationship between the final cost estimate and the likelihood that the pipeline will experience cost overruns.

Hypothetical incentive rate of return schedules

Performance ratio	Average (marginal) rate of return			
	I	II	III	IV
0.8	19.50 (0)	16.38 (5)	22.63 (−5)	17.63 (5)
0.9	17.33 (0)	15.11 (5)	19.56 (−5)	16.22 (4)
1.0	15.60 (0)	14.10 (5)	17.10 (−5)	15.00 (3)
1.1	14.18 (0)	13.27 (5)	15.09 (−5)	13.91 (2)
1.2	13.00 (0)	12.58 (5)	13.42 (−5)	12.92 (1)
1.3	12.00 (0)	12.00 (5)	12.00 (−5)	12.00 (0)
1.4	11.14 (0)	11.50 (5)	10.79 (−5)	11.14 (−1)
1.5	10.40 (0)	11.07 (5)	9.73 (−5)	10.33 (−3)
1.6	9.75 (0)	10.68 (5)	8.81 (−5)	9.58 (−4)
1.7	9.18 (0)	10.35 (5)	8.00 (−5)	8.82 (−4)
1.8	8.67 (0)	10.06 (5)	7.28 (−5)	8.11 (−5)
1.9	8.21 (0)	9.79 (5)	6.63 (−5)	7.42 (−6)
2.0	7.80 (0)	9.55 (5)	6.05 (−5)	6.75 (−7)

NOTE.—The values in all schedules are based on the formula:

$$r_i = (R_{i+1}A_{i+1} - R_iA_i)/(A_{i+1} - A_i)$$

where r = marginal rate of return
R = average rate of return
A = cost performance ratio
i = step in the schedule

2. RANGE OF VALUES

The second important issue is the range of values in the schedule. Should the rate of return fall rapidly as costs exceed budgeted costs? Should the rate allowed be substantially higher than normal if the pipeline is built for less than budgeted cost? Should the schedule be symmetrical around the central point? In other words, should the penalty for overruns be different from the reward for underruns? In these four hypothetical schedules, schedule II has the smallest range of values, schedule III the largest.

If the pipeline sponsors are confident that they will not experience significant cost overruns, it would be to their advantage to have a symmetrical schedule with a broad range of values. Thus the incentive rate of return would be substantially larger than normal when the cost performance ratio is low. On the other hand, a narrow range of values may be desired if there is a great deal of uncertainty about project costs.

3. MARGINAL RATE OF RETURN

The hypothetical schedules give an estimate of the marginal rate of return on equity. This is the rate of return that the sponsors will, in effect, receive on each additional dollar of equity investment needed to finance cost overruns. As an example, suppose that construction costs are such that the cost performance ratio is 1.3 in these schedules. Schedule I provides that existing equity investment will earn a rate of 12 percent, but than an additional dollar will earn a zero rate. Obviously low rates of return are not actually contemplated, but this schedule is equivalent to two rates, an average rate and a marginal rate. As cost overruns occur and since the marginal rate is less than the average, the average will fall.

Schedule I has a constant marginal rate of zero. Schedule II has a constant positive marginal rate of 5 percent. Schedule III has a negative marginal rate of −5 percent, schedule IV has a variable marginal rate ranging from −5 to −7 percent. Schedules with higher marginal rates also have the smaller range in values for the average rate.

The marginal rate is a key factor in choosing a schedule since it is this rate that determines the incentive to control cost overruns. A higher marginal rate provides less incentive than a near-zero or negative rate. A marginal rate near the opportunity cost of equity capital for the pipeline sponsors will create almost no incentive to control cost overruns since the sponsors will be receiving a near normal rate of return on the equity invested to finance the overrun. In addition, if the investment tax credit is considered, the actual marginal rate could be substantially higher than shown here. In schedule IV, the marginal rate declines, and thus the incentive to control overruns increases as the performance ratio increases.

4. CONSUMER SHARE OF COST OVERRUNS

Without the incentive rate of return mechanism, consumers would normally pay for any increases in construction costs as these costs would be included in the rate base if found to be prudently incurred. However, in this case, cost overruns also lower the rate of return on equity, which results in effect, in a sharing by equity investors in the cost overruns. Calculating the share of cost overruns incurred by consumers and by equity investors requires a number of assumptions about the capitalization of the pipeline and maturities of the debt component of the invested capital, and has not been attempted here. However, this fact will be considered by the Commission in choosing the schedule.

The final issue concerning the incentive rate of return schedule is when should the Commission establish the schedule? On the one hand, it should be set as soon as possible in order that sponsors of the pipeline will know the conditions under which they are expected to build the pipeline. On the other hand, the Commission can not finally choose a schedule until the final cost estimates are available.

E. WRITTEN COMMENT PROCEDURES

The Commission invites interested persons to submit written data, views and other information concerning the matters set forth in this notice. An original and 14 copies should be filed with the Secretary of the Commission by May 31, 1978. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should reference Docket No. RM78-12.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street NE., Washington, D.C. 20426, during regular business hours.

The Commission intends that persons participating in this proceeding should serve their comments on other participants, and have an opportunity to reply to initial comments in response to this notice. Thus, in order that parties serve their initial comments on other parties and have the opportunity to reply to initial comments, any person intending to file initial comments shall notify the Secretary in writing on or before May 19, 1978, of his or her intention to participate. A service list will be prepared and mailed to those who have stated an intention to participate. Initial comments shall be filed with the Secretary as stated above, and in addition, each party shall serve initial comments on parties on the service list by May 31, 1978. Parties may file reply comments with the Secretary in accordance with the procedures set forth above, and shall serve them upon parties on the service list by June 9, 1978.

In consideration of the foregoing, it is proposed that the following terms and conditions be attached to the conditional certificates of public convenience and necessity issued by the Commission on December 16, 1977 ("Alcan Pipeline Co., et al.", Docket Nos. CP78-123, CP78-124, and CP78-125), as set forth below.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

TERMS AND CONDITIONS

DEFINITIONS

For purposes of the following terms and conditions, the Alaska Natural Gas Transportation System within the United States as specified in the President's "Decision and Report to Congress on the Alaska Natural Gas Transportation System" (the "Decision"), transmitted to Congress on September 22, 1977, and approved by both Houses on November 2, 1977, will be divided into three pipelines: (1) The portion of the system within the State of Alaska, (2) the portion of the system from the United States/Canada border near Monchy, Saskatchewan, to a point near Dwight, Ill., and (3) the portion of the system from the United States/Canada border near Kingsgate, British Columbia, to the State of California. In the following terms and conditions the term pipeline refers to each of the three pipelines, and the terms and conditions apply to each. The schedules, parameters, or variables to be established by the Commission in order to implement the following terms and conditions may be different for each of the three pipelines that compose the Alaska natural gas transportation system. The term system will refer to the entire Alaska natural gas transportation system in the United States.

TERMS AND CONDITIONS

(1) *Cost Performance Ratio.* Pursuant to the second finance term and condition of the President's "Decision," the rate of return on equity allowed during the operating period of the pipeline will be increased if the pipeline is completed under budgeted cost and lowered if the pipeline is completed over budgeted cost. The basis for determining the allowed rate of return will be a cost performance ratio. This is the ratio of the conventional or normal rate base or gross plant in service. The conventional rate base is defined in Condition 2, and the projected rate base is defined below in Condition 3. The Commission will determine at a later date a schedule or formula that will specify the allowed rate of return for each value of the cost performance ratio.

(2) *Conventional Rate Base.* The conventional rate base will be determined by established principles and will be based on actually experienced capital or construction costs found by the Commission to be prudently incurred with an allowance for funds used during construction (AFUDC). The AFUDC will be based on the amount of debt and equity outstanding during construction, the actual interest rates paid on the debt, and a normal or conventional rate of return on equity to be established by the Commission pursuant to Condition 8.

(3) *Projected Rate Base.* The projected rate base will be based on the final cost estimate submitted to and approved by the Commission pursuant to Condition 4 after adjustment for inflation pursuant to Condition 6 and for changes in scope pursuant to Condition 7. The amount of AFUDC included in the projected rate base will be based on the actual interest rates experienced during construction, on the amounts of debt and equity that would have been outstanding if the expenditures for construction as projected in the final cost estimate after adjustment for inflation and changes in scope had actually occurred, and on the normal return to equity to be specified by the Commission.

(4) *Final Cost Estimate.* Pursuant to the second finance condition in the President's "Decision," the applicant shall submit to the Commission a final direct capital cost estimate in 1975 constant dollars adjusted to reflect any design changes that result from the Agreement on Principles with Canada and any Addendum thereto. This final cost estimate must also be submitted in a format and with costs set forth in categories to be specified by the Commission (see Condition 5). The March, 1977, cost estimate referred to in the second finance term and condition in the "Decision" (p. 36), must also be resubmitted in the same format for comparability with the final cost estimate. An explanation for any significant differences between cost components in the March, 1977, and in the final cost estimate must be provided. The Commission reserves the right to withhold certification if the final cost estimate materially and unreasonably exceeds the cost estimate submitted by the applicant in March, 1977.

(5) *Cost Estimate Format.* In order to assure comparability between cost estimates submitted by the applicant and to measure the impact of changes in scope, all cost estimates must be submitted in a format or according to specifications to be determined by the Commission. Prior to submittal of the final design cost estimate, the applicant may submit a proposed format for these estimates. The format proposal should specify the cost components of the estimate broken down by pipeline segment, pipeline facility, timing of expenditure, and cost category. The breakdown of costs in the format shall be in sufficient detail that the Commission may compare the various cost estimates and determine the reasonableness of any changes.

(6) *Adjustment for Inflation.* For each major cost category or component of the final cost estimate, the Commission will specify a price or cost index that will be used to measure the increase in costs due to general inflation in the economy. Each cost or price index will be an existing index that is widely used to measure the increase in prices or costs for that category of commodities or services. The Commission will give first preference to indexes published by the U.S. Government, but indexes calculated by private institutions may also be used if they are widely used and generally accepted. The applicant may submit to the Commission proposed price or cost indexes along with his proposed cost estimate format referred to in Condition 5. The price or cost indexes specified by the Commission will be used to convert the constant dollar estimates in the final cost estimate into current dollar estimates prior to calculating the projected rate base.

(7) *Changes In Scope.* Prior to calculating the projected rate base for purposes of determining the cost performance ratio, the final cost estimate will be adjusted to reflect increases and decreases in cost that result from a limited number of changes in scope of the project. For the changes in scope that occur, the applicant shall submit a revised final cost estimate showing how the changes in scope would have altered the cost estimate if the changes in scope and the time of their occurrence were known prior to submitting the final cost estimate. The revised cost estimate will reflect the fact that the changes in scope occurred during the construction period and thus may result in a larger cost change than if they occurred prior to the start of construction. The revised final cost esti-

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mate must be submitted in the format specified by the Commission pursuant to Condition 5, and all changes in the final cost estimate must be explained and justified. Except for changes in cost assumptions resulting from the changes in scope, all other assumptions in the cost estimate such as assumptions about labor productivity or prices of labor and materials shall remain unchanged. The changes in scope for which changes in the final cost estimate shall be made are limited to the following:

1. Changes in volumes and location of gas inputs to the system, in volumes and location of gas offtakes from the system, compression or horsepower requirements, and refrigeration requirements;

2. Changes in pipeline size or operating pressure;

3. Delay in date of startup or initial operation of the system due to delays in completion of the pipeline segments in Canada or delays in delivery of gas by the gas producers or sellers;

4. Changes in design or location of pipeline segments and related facilities in order to be compatible with facilities or pipeline segments in Canada;

5. Changes in design or location of the pipeline and related facilities that meet three conditions: they (a) are necessary to meet environmental protection requirements by the Federal or State governments, (b) could not reasonably have been anticipated by the applicant prior to submission of final cost estimate, and (c) would not otherwise be necessary to protect the integrity of the pipeline, public health and safety, or neighboring facilities and structures;

6. Changes in Federal and State laws and regulations that occur after the submission of the final cost estimates and require changes in the design or routing or the system or significantly effect costs of construction for the system.

(8) *Normal Rate of Return.* Prior to final certification, the Commssion shall specify a normal rate of return on equity for this pipeline that is within the general range for rates of return for other pipelines allowed by the Commission. This rate of return on equity will be determined separately and independently from the incentive rate of return. This rate of return will reflect, or compensate equity investors for, any unusual risks asssociated with this pipeline. Throughout the construction or operation of the pipeline pursuant to Section 5 of the Natural Gas Act, the Commission may alter this rate of return to reflect changes in rates of return allowed on other pipelines, the need to attract capital for expansion of the system, or to provide just and reasonable compensation to equity investors including consideration of any abnormal risks that may be associated with this pipeline that are not common to other pipelines.

(9) *Cost of Service Calculation.* Instead of calculating the cost of service of the pipeline over the operating life based on what may possibly be an abnormally high or low rate of return on equity equal to the incentive rate, the cost of service will be based on a normal return on equity established pursuant to Condition 8 and on an adjusted rate base. The adjustment to the rate base is designed so that from the point of view of the equity investors the adjusted rate base and the normal rate of return will offer a stream of income over the life of the project that is equivalent in present value terms to the unadjusted rate base and the incentive rate of return.

(10) *Adjustment to Rate Base.* For purposes of calculating the allowed cost of service, the rate base and the equity capital account at the time of commissioning the pipeline will be adjusted either up or down by an amount to be calculated in three steps. First, the return of equity and the after-tax return on equity over the life of the system will be estimated based on the unadjusted rate base determined pursuant to Condition 2 above, on an after-tax rate of return on equity capital equal to the incentive rate, and on a financing and capitalization plan approved by the Commission. Second, the present worth or present value of this time stream of return to and of equity will be calculated using a discount rate equal to the normal rate of return on equity established pursuant to Condition 8. Third, the equity capital account set at the time of commissioning will be equal to this present value total. The rate base will be assumed to be increased or decreased by the same amount as the equity capital account is increased or decreased.

[FR Doc. 78-12910 Filed 5-10-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[PP 6F1713/P75; FRL 894-3]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Terbacil

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the herbicide terbacil. The proposal was submitted by E. I. du Pont de Nemours & Co. This amendment to the regulations would establish a maximum permissible level for residues of terbacil on mint hay.

DATE: Comments must be received by June 12, 1978.

ADDRESS: Comments to: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 202-426-2632.

SUPPLEMENTARY INFORMATION: On January 19, 1976, notice was given (41 FR 2671) that E. I. du Pont de Nemours & Co., Wilmington, Del. 19898, had filed a petition (PP 6F1713) with the EPA. This petition proposed to amend 40 CFR 180.209 by increasing the established tolerance for residues of the herbicide terbacil (3-*tert*-butyl-5-chloro-6-methyluracil) in or on the raw agricultural commodity mint hay (peppermint and spearmint) from 0.1 part per million (ppm) to 1 ppm and by expanding the tolerance to include both the parent terbacil and its hydroxylated metabolites (calculated as terbacil). (After the issuance of this notice in the FEDERAL REGISTER, an order was published on June 10, 1976 (41 FR 23386), expanding the terbacil regulation to include the hydroxylated metabolites.)

Subsequently, the petitioner amended the petition by increasing the proposed tolerance from 1 ppm to 2 ppm. Because of the potential increase in exposure to humans of terbacil residues, the tolerance is being proposed at this time to provide an opportunity for public comment.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included an acute oral toxicity study in the rat, which yielded a lethal dose (LO_{50}) value greater than 7.5 grams/kilogram (kg) of body weight; a two-year rat-feeding study with a no-effect level (NEL) of 250 ppm; a two-year dog-feeding study with an NEL of 50 ppm; a three-generation rat reproduction study with an NEL of 250 ppm; a teratogenic study conducted in conjunction with the reproduction study (negative); and a mutagenicity assay in a bacterium-bacteriophage system (negative).

The teratogenic potential of terbacil must be reevaluated upon reregistration or if tolerances requested in the future will significantly affect the theoretical maximal residue contribution (THRC). For purposes of this tolerance, the teratogenicity data were considered adequate to assess the hazard. Expansion and completion of mutagenicity testing will be requested upon finalization of EPA requirements for such testing.

The requirement of an oncogenicity study in a second mammalian species will not be fulfilled until September 1980. In the event that the oncogenicity study should give any indication of potential or actual adverse effects, the Agency will revoke this tolerance. The petitioner also agreed in a letter to the Agency on December 16, 1977, to remove the use from the label should the results of the oncogenicity study exceed the risk criteria for chronic toxicity in 40 CFR 162.11. Thus, it has been determined that the tolerance of 2 ppm can be established at this time.

Tolerances have previously been established for residues of terbacil on a variety of raw agricultural commodities at levels ranging from 5 ppm to 0.1 ppm, including tolerances on spearmint hay and peppermint hay at 0.1 ppm. The established tolerances add up to an TMRC of 0.076 mg (milligram)/day for a 60-kg man. The proposed tolerance will contribute such a small amount of residue to the diet that it is impractical to include the amount. Thus, since only about 10 percent of the calculated acceptable daily intake (ADI) is used up by the established tolerances, the ADI for terbacil will not be exceeded by the proposed tolerance. (The ADI is 0.012 mg/kg of body weight, and the maximum permissible intake for a 60-kg man is 0.72 mg/day.)

No regulatory actions against the registration of terbacil are pending. The most relevant consideration for supporting the proposed tolerance is that human exposure, for all practical purposes, will not be affected by the 2 ppm residue on mint hay. The metabolism of terbacil is adequately understood, and an adequate method of analysis (gas chromatography using a microcoulometric detector) is available for enforcement purposes. There is no reasonable expectation of residues in eggs or poultry as delineated in 40 CFR 180.6(a)(3). The established tolerances for residues in meat and milk are adequate to cover secondary residues resulting from the proposed use as delineated in 40 CFR 180.6(a)(2).

The pesticide is considered useful for the purpose for which a tolerance is sought and it is concluded that the tolerance of 2 ppm established by amending 40 CFR 180.209 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Gungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, June 12, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject and the petition/document control number, "PP7E2001/P64". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the FEDERAL REGISTER from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: May 4, 1978.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e).)

It is proposed that Part 180, Subpart C, section 180.209 be amended by alphabetically inserting a tolerance of 2 ppm in or on mint hay (peppermint and spearmint) in the list of commodities in paragraph (b) to read as follows:

§ 180.209 Terbacil; tolerances for residues.

• • • • • •

(a)* * *

(b)* * *

Commodity:	*Parts per million*
• • • • • •	
Mint hay (peppermint and spearmint).....	2
• • • • • •	

[FR Doc. 78-12795 Filed 5-10-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-129; RM-3008; RM-3009]

FM BROADCASTING STATIONS IN YERMO AND MOUNTAIN PASS, CALIF.

Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of Class B FM channels to Yermo, Calif., and Mountain Pass, Calif. Petitioner, Howard Anderson, claims that the proposed stations would provide aural broadcast service to the larger numbers of people traveling on Interstate Hwy 15.

DATES: Comments must be received on or before June 27, 1978, and reply comments on or before July 17, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: Revised copy of the Notice of Proposed Rule Making in BC Docket No. 78-129 (RM's-3008 and 3009), adopted April 7, 1978, and released April 21, 1978.

Adopted: April 28, 1978.

Released: May 5, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Yermo and Mountain Pass, Calif., BC Docket No. 78-129, RM-3008, RM-3009.

1. The Commission has before it two petitions[1] filed by Howard Anderson ("petitioner"), proposing the assignment of Class B FM Channels 251 and 258 to Yermo, Calif., and Mountain Pass, Calif., respectively, as those communities' first FM assignments. The proposed assignments could be made in conformity with the minimum distance separation requirements provided the transmitter site at Yermo is located approximately 10 kilometers (6 miles) north of Yermo, and 19 kilometers (12 miles) northeast of Barstow, Calif. Neither community has any local aural broadcast service.

2. Yermo (pop. 1,304), in San Bernardino County (pop. 682,233),[2] is located approximately 18 kilometers (11 miles) east of Barstow, California, and about 144 kilometers (90 miles) from the California border along Interstate Hwy. 15.

3. Mountain Pass (pop. less than 100),[3] in San Bernardino County, is located approximately 16 kilometers (10 miles) west of the California-Nevada border along Interstate Hwy. 15, and about 112 kilometers (70 miles) northwest of Needles, Calif.

4. These two proposals are being considered in a single proceeding because the arguments in favor of the assignments rest on essentially the same showing of the need for service

[1] Public Notice of the petitions were given on December 14, 1977, Report No. 1093.

[2] Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

[3] Petitioner's estimate.

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to an area along Interstate Hwy 15.[4] Although petitioner acknowledges the sparse permanent population along the portion of the highway which passes through this desert area, it estimates that 8 million people traveled the 150-mile stretch between Barstow, Calif., and Las Vegas, Nev. According to petitioner, there are no AM or FM stations and no means of public communication in this entire area. He contends that radio stations from adjoining metropolitan areas penetrate only a portion of the proposed service area and cannot provide effective service to the people traveling the highway because of their obligation to serve all the people living in their metropolitan coverage areas. Petitioner also asserts that the proposed assignments to Yermo and Mountain Pass would provide for a first aural broadcast service which would feature important local highway and weather information, news, public interest and entertainment features. He adds that while he indends to operate the proposed station in Yermo and Mountain Pass to serve the needs and interests of the respective communities, much attention will be given to serving the needs and interests of the mobile population passing daily through Interstate Hwy 15.

5. Although it has been the usual Commission policy to assign Class B channels only to communities of over 10,000 persons, exceptions have been made where it is necessary to provide service to unserved or underserved areas and populations. In these cases we based our decision on a showing that first or second FM and nighttime aural service could result if the channels were to be assigned. Petitioner alleges that both first and second FM service would be provided to Yermo and Mountain Pass if the proposed assignments were made. With this in mind, there appears to be a basis for considering whether these proposals warrant an exception to our general policy. However, as indicated below, additional showings on such first and second service are required.

YERMO

6. In its preclusion study, petitioner shows eight[5] communities with populations over 1,000 which would be precluded as a result of the assignment of Channel 251 to Yermo. Of these eight communities, six are without an FM assignment or local AM service (China Lake, Fort Irwin, Searles Valley, Nebo Center, Lenwood, and California City). The remaining two have an AM station and FM assignment. Petitioner is requested to indicate whether alternate channels are available for assignment to the six communities which have no FM assignments.

7. Although petitioner has submitted *Roanoke Rapids*[6] and *Anamosa*[7] showings of first and second service, coverage is based on the present facilities of FM stations. Petitioner is requested to submit a proper *Roanoke Rapids* showing based on a Class B FM station operating at Yermo, with proposed maximum facilities (50 kW and 152 meters (500 feet) AAT), existing stations operating with reasonable facilities values (or greater in the event the station is already authorized greater facilities) and stations on all unoccupied assignments in the area operating with reasonable facilities values. We also note that a number of stations which should have been considered are not included in petitioner's study. Also, the location of some 1 mV/m contours, including those of Stations KOLA, San Bernardino, KDUO, San Bernardino, KBIG, Los Angeles, and KNX, Los Angeles, needs to be depicted with greater accuracy.

MOUNTAIN PASS

8. Seven communities[8] of over 1,000 population would be precluded on one or more channels as a result of the proposed assignment of Channel 258 to Mountain Pass. Of these seven communities, Eagle Mountain is without an FM assignment and local AM service. The remaining six have one or more AM stations and FM assignments with the exception of Boulder City, which has an FM assignment but no local AM service. Petitioner is requested to indicate in comments whether an alternate FM channel is available for assignment to Eagle Mountain.

9. Petitioner's *Roanoke Rapids* and *Anamosa* showings indicate a Mountain Pass station, operating with maximum facilities, would provide first and second FM services to a 5,928 square kilometers (1,903 square miles) and 3,582 square kilometers (1,383 square miles) area, respectively. However, no data has been submitted as to the population residing these areas. Since the above showings were based on facilities of stations presently in operation, a proper *Roanoke Rapids* study made in accordance with the *Roanoke Rapids* values, would show that the second FM service would be 40 to 50 percent less than indicated. The missing information should be provided.

10. Because Mountain Pass' status is not clear, some additional information is needed before the channel could be assigned, namely:

(a) Information which demonstrates whether Mountain Pass in fact is a community. This information should include economic, political and cultural data, and any other information which could demonstrate that Mountain Pass is a community.

(b) Information as to the permanent population of the unincorporated area in which petitioner claims Mountain Pass is situated, the unofficial boundary of the community and the location of the community relative to any neighboring unincorporated communities.

11. Since Yermo and Mountain Pass are located within 320 Kilometers (199 miles) of the United States-Mexico border, proposed Channels 251 and 258 to Yermo and Mountain Pass, California, respectively, require coordination by the Mexican Government.

12. Comments are invited on the following proposals to amend the Table of Assignments with regard to the communities of Yermo and Mountain Pass, California, as follows:

City	Channel No.	
	Present	Proposed
Yermo, Calif		251
Mountain Pass, Calif		258

13. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

14. Interested parties may file comments on or before June 27, 1978, and reply comments on or before July 17, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 78-12856 Filed 5-10-78; 8:45 am]

[4] The main highway between Los Angeles and Las Vegas.

[5] California: China Lake (pop. 11,105); Ridgecrest City (7,629); Fort Irwin (2,991); Searles Valley (3,838); Nebo Center (1,828); Lenwood (3 834); and California City (1,309).

[6] *Roanoke Rapids-Goldsboro, N.C.*, F.C.C. 2d 672 (1967).

[7] *Anamosa-Iowa City, Iowa*, 46 F.C.C. 2d 520 (1974).

[8] Nevada: Boulder City (pop. 5,223); Henderson City (16,395); Las Vegas City (125,787); California: Eagle Mountain (2,453); Needless (4,051); Utah: St. George (7,087); Arizona: Kingman (7,312).

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-129; RM-3008; RM-3009]

FM BROADCAST STATIONS IN BARSTOW, YERMO AND MOUNTAIN PASS, CALIF.

Proposed Changes in Table of Assignments; Order Setting Aside Notice of Proposed Rule Making

AGENCY: Federal Communications Commission.

ACTION: Order withdrawing notice of proposed rule making.

SUMMARY: Action taken herein sets aside the original Notice of Proposed Rule Making concerning proposed FM channel assignments in Barstow, Yermo and Mountain Pass, Calif. This action is taken because after further consideration the Commission believes it is preferable to offer petitioner Howard Anderson's own proposal for comment.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 28, 1978.

Released: May 5, 1978.

Order. In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Barstow, Yermo and Mountain Pass, Calif. BC Docket No. 78-129, RM-3008, RM-3009.

1. The Commission has before it the Notice of Proposed Rule Making adopted April 7, 1978, and released April 21, 1978.

2. Petitioner, Howard Anderson, had suggested class B assignments to Yermo and Mountain Pass, Calif. but the Notice did not follow petitioner's urgings in regard to a possible Yermo assignment. Instead, it proposed assigning the channel to nearby Barstow, Calif.

3. On our own motion we are reconsidering the adoption of the original Notice. After further consideration we believe it is preferable to offer petitioner's own proposal for comments.[1] Therefore, we are rescinding the earlier action adopting the Notice and separately we are issuing a revised Notice instead.

4. *It is ordered*, That the original Notice in this proceeding is set aside.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-12855 Filed 5-10-78; 8:45 am]

[1] This does not preclude comments on behalf of assigning the channel to Barstow.

[6712-01]

[47 CFR Part 83]

[SS Docket No. 78-146; FCC 78-296]

PERMITTING SHIP RADIOTELEGRAPH STATIONS TO COMMUNICATE WITH AMATEUR STATIONS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule making.

SUMMARY: This document proposes the deletion of certain sections of the Commission's rules and regulations relating to the granting of licenses, modification of licenses, renewal of license, or special temporary authorization permitting a ship radiotelegraph station to communicate with amateur stations. These rules no longer serve any useful purpose in the present regulatory scheme, consequently, the Commission is proposing to delete them from the regulations.

DATES: Comments must be received on or before June 12, 1978, and Reply Comments must be received on or before June 22, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John C. K. Hays, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: April 26, 1978; Released: May 9, 1978. By the Commission:

1. Notice of Proposed Rulemaking in the above-entitled matter is hereby given.

2. Under sections 83.50 and 83.70 of the rules, the Commission may grant a license, modification of license, renewal of license, or special temporary authorization permitting a ship radiotelegraph station on board a vessel not engaged in commerce or a vessel used, or intended to be used, for scientific research or expedition, to transmit by means of Class A1 or A2 emission on authorized ship telegraph frequencies within the band 2000 kHz to 25,000 kHz, for the purpose of exchanging radiotelegraph communications directly with licensed amateur stations on land. This authorization may only be granted upon a showing that: (1) Unusual circumstances make direct communications with amateur stations extremely beneficial to persons on board or to persons responsible for the scientific expedition; (2) messages will not relate to commercial communications; and (3) no harmful inteference will result to stations in the maritime mobile service nor to stations in the radiolocation service.

3. It now appears that these rule sections, which were adopted in 1939, serve no useful purpose under the present regulatory scheme. A review of our license file disclosed that no ship station is presently authorized under these sections to communicate with amateur stations. Moreover, if communications between a vessel and amateur stations is desired, an amateur mobile station, which is a radio installation separate from the ship station, can be operated aboard the vessel provided the operator is a licensed amateur and the requirements of sections 97.101 and 97.114 of the Amateur Rules are observed. We, therefore, are proposing to delete sec-

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tions 83.50 and 83.70, as shown in the attached Appendix.

4. The proposed amendments to the rules as set forth in the Appendix are issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

5. Pursuant to applicable procedures set forth in section 1.415 of the Commission's rules, interested persons may file comments on or before June 12, 1978, and reply comments on or before June 22, 1978. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

6. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 83.50 [Deleted]

1. Section 83.50 is deleted and designated as [Reserved].

§ 83.70 [Deleted]

2. Section 83.70 is deleted and designated as [Reserved].

[FR Doc. 78-12895 Filed 5-10-78; 8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

Office of Hazardous Materials Operations

[Docket No. HM-144; Notice No. 78-5]

[49 CFR Parts 173 and 179]

SHIPPERS: SPECIFICATION FOR PRESSURE TANK CAR TANKS

AGENCY: Materials Transportation Bureau, Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: As a result of a series of recent serious railroad accidents involving certain uninsulated pressure tank cars transportating hazardous materials, it is proposed to shorten the period of time for the retrofit program specified in this Docket under Amendments numbered 173-108 and 179-19 as follows:

1. Existing specification 112 and 114 tank cars used to transport flammable gases such as propane, vinyl chloride and butane, whose owners have elected to retrofit with jacketed insulation and integral tank head protection (known as the "J" retrofit), would have to be retrofitted over a 3-year period ending on December 31, 1980 (existing deadline: December 31, 1981).

2. Existing specification 112 and 114 tank cars used to transport flammable gases such as propane, vinyl chloride and butane, whose owners have elected to retrofit with a nonjacketed thermal protection system and tank head protection (known as the "T" retrofit) would have to be retrofitted with tank head protection over a 2-year period ending December 31, 1979 (existing deadline: December 31, 1981), and with the nonjacketed thermal protection system over a 3-year period ending on December 31, 1980 (existing deadline: December 31, 1981).

3. Existing specification 112 and 114 tank cars used to transport anhydrous ammonia would be required to be retrofitted with tank head protection over a 2-year period ending on December 31, 1979 (Existing deadline: December 31, 1981).

4. Existing specification 112 and 114 tank cars, regardless of the hazardous lading being transported, would have to be retrofitted with special couplers designed to resist coupler vertical disengagements over a time period ending on December 31, 1978 (existing deadline: June 30, 1979).

ADDRESS: All written comments received in this proceeding are available for examination during regular business hours in room 6500, Transpoint Building, 2100 Second Street SW., Washington, D.C.

DATE: Comments by June 26, 1978.

ADDRESS COMMENTS TO: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

William F. Black, Office of Safety, Federal Railroad Administration, 202-426-2748.

SUPPLEMENTARY INFORMATION: This Notice is the result of the joint efforts of the Federal Railroad Administration (FRA) and the Materials Transportation Bureau (the Bureau). In accordance with internal DOT procedures, the FRA has developed the substantive proposals of this Notice for review and issuance by the Bureau. Accordingly, further information concerning substantive provisions of this Notice may be obtained from the above contact.

BACKGROUND INFORMATION

EMERGING NEED FOR EXPEDITED RETROFIT

On September 15, 1977, the Bureau published in the FEDERAL REGISTER (42 FR 46306) a final rule concerning specifications for tank cars which included the following timetable:

1. Existing specification 112 and 114 tank cars used to transport flammable gases were to be retrofitted with thermal and tank head protection (such as a "head shield") over a 4-year period ending on December 31, 1981.

2. Existing specification 112 and 114 tank cars used to transport anhydrous ammonia were to be retrofitted with tank head protection (such as a head shield) over a 4-year period ending on December 31, 1981.

3. All specification 112 and 114 tank cars were to be equipped with special couplers designed to resist coupler vertical disengagements. These couplers were to be retrofitted on all cars by July 1, 1979.

The recent major accidents at Pensacola, Fla., on November 9, 1977, at Waverly, Tenn., on February 22, 1978, and at Lewisville, Ark., on March 29, 1978, in combination with an incident of apparent vandalism near Youngstown, Fla., on February 26, 1978, have again focused attention on measures to improve the safety of rail transportation of hazardous materials. In the decade prior to the issuance of these new tank car safety requirements, under Amendments 173-108 and 179-19, 20 persons were killed because of accidental lading release from specification 112 and 114 tank cars. However, in the 6 months following the issuance of the rule, 17 additional persons have been killed.

While it is not possible to prevent the release of dangerous products in all situations, the severity and variety of circumstances relating to the occurrence of recent accidents have pointed out the need to take all feasible steps to protect the public against potential major disasters involving the transportation of flammable gases, anhydrous ammonia, and other hazardous materials. In particular, attention has been directed toward the possibility of accelerating the retrofit timetable for 112 and 114 tank cars.

On March 15, 1978, the Transportation and Commerce Subcommittee of the House Committee on Interstate and Foreign Commerce conducted hearings on railroad safety matters which had come to national attention as a result of the incidents which had occurred at Pensacola, Waverly, and Youngstown. At this hearing, the National Transportation Safety Board (NTSB) stated that it believed that

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with a strong sustained effort the special couplers and head shields could be installed on all 112 and 114 tank cars by late in December 1978.

On March 20, 1978, a second hearing was conducted jointly by the Subcommittee on Federal Spending Practices and Open Government and the Subcommittee on Civil Service and General Services of the Senate Committee on Governmental Affairs. At this hearing the NTSB reiterated its position regarding the acceleration of the retrofit schedule. After reviewing the testimony, the subcommittees requested that the FRA consider revising the retrofit schedule.

Further, on April 4-6, 1978, the National Transportation Safety Board conducted a special hearing in which a major focus was the timetable for the retrofit installation of the 112 and 114 tank car safeguards. At the conclusion of that hearing, its Chairman stated that the NTSB had determined that shelf couplers and tank head protective shields should and could be installed on all 112 and 114 tank cars by the end of 1978.

On April 7, 1978, the FRA conducted a special safety inquiry into the retrofit timetable for 112 and 114 uninsulated pressure tank cars. The purpose of this special inquiry was to obtain sufficient information to enable the FRA to determine whether the existing tank car retrofit schedule could be accelerated. The FRA received pertinent manufacturing, maintenance and cost data pertaining to this retrofit program from persons representing the National Transportation Safety Board, railroad carriers, tank car shippers, tank car owners, tank car builders, and coupler manufacturers.

Data submitted in the FRA special safety inquiry, together with other information available to the Department of Transportation, have made it possible to describe more accurately the problems associated with the retrofit process and to fashion a revised retrofit schedule which will improve the safety of specification 112 and 114 tank cars as quickly as possible without creating major economic disruptions. The balance of this Notice will describe the affected tank car pool and retrofit plans which have been made with respect to these cars, summarize the major obstacles to acceleration of the retrofit program, and outline the basic rationale underlying the proposed new schedule.

NUMBER OF TANK CARS AND RETROFIT ELECTIONS

As a result of the special safety inquiry and other information received, the following summarizes the current 112 and 114 tank car pool.

The Universal Machine Language Equipment Register (UMLER), which is maintained by the Association of American Railroads, lists a total of 22,228 DOT and Canadian Transport Commission (CTC) specification 112 and 114 tank cars and 105 individual reporting marks covering these tank cars as of April 11, 1978. Included in this UMLER listing are United States, Canadian and Mexican owned tank cars and car owners (UMLER lists one Mexican owner with fifty tank cars).

Based upon UMLER information and information received from United States tank car owners, the number of DOT specification 112 and 114 tank cars currently does not exceed 20,400 and the number of United States owners is fewer than 100.

Data submitted to the FRA indicate that approximately 3,400 of these 112 and 114 tank cars will be dedicated to anhydrous ammonia service. These tank cars will require "head shields," but not thermal protection, and will be retrofitted to DOT specifications 112S and 114S. Approximately 700 of these tank cars have already been equipped with head shields.

Approximately 2,000 of these tank cars are used to transport vinyl chloride monomer, a flammable compressed gas, on essentially an exclusive basis. Because weight is a critical factor, it is expected that these tank cars will be retrofitted with systems having the least additional weight, e.g., a "spray-on" thermal protection with separate head shields. Consequently, these tank cars will be retrofit converted to DOT specifications 112T and 114T.

Owners of an additional 2,000 specification 112 and 114 tank cars used in flammable gas service such as for transporting propane appear to have elected to use the "spray-on" thermal protection and separate head shields, thereby retrofit converting to DOT specifications 112T and 114T.

Another group of approximately 500 of these 112 and 114 tank cars will be used exclusively in non-flammable gas and hazardous liquids services. These tank cars will require only a shelf coupler retrofit.

Owners of the remaining 112 and 114 tank cars (approximately 12,500) have elected or are expected to use a jacketed insulation with integral tank head protection and will be retrofit converting their cars to DOT specifications 112J and 114J.

RELATIVE DIFFICULTY OF RETROFIT TASKS

As described above, specification 112 and 114 tank cars used in various services will be subject to the application of various retrofit "packages." All 112 and 114 cars are required to be equipped with shelf couplers, and that task is not integrally related to any other part of the process—either with regard to car availability or the mechanical steps involved. Therefore, both the existing retrofit program and the program proposed by this Notice treat the application of shelf couplers as a matter separate from the application of tank head protection and thermal protection.

The head protection and thermal protection tasks present a more complicated problem. The rationale of the existing schedule contemplated that these two elements of the retrofit would likely be accomplished in most cases as a single process so as to hold down costs and out-of-service time and minimize unfavorable impacts on the transportation of essential products.

In the case of the jacketed retrofit, which will evidently be used for the vast majority of cars requiring both protective devices, existing techniques of application will continue to mandate a unified retrofit process. However, the "spray-on" thermal protection method in combination with a "head shield," which is expected to be employed for roughly 4,000 cars, is capable of separation into two retrofit stages.

The NTSB and others have identified shelf couplers and head protection as those measures requiring most urgent attention. Shelf couplers, as discussed below, should not present a major problem based on recently developed information.

Representatives of the major tank car companies, in testimony before the FRA special safety inquiry, made statements supporting the conclusion that the complete retrofit program could probably be accomplished in a three-year period by utilizing extra shifts and withdrawing additional cars from service at any given time. However, these witnesses warned that a significant reduction of allowed time below three years could upset plans already established for the orderly accomplishment of the retrofit and could actually delay the final overall completion of the retrofit tasks.

The FRA and the Bureau have attempted to evaluate what reductions might be possible in the time allowed to complete the application of tank head protection. In doing so, it has been necessary to consider two factors as they apply to each of the retrofit packages ("S," "T," "J").

The first factor is car availability. That is, given a proposed regulatory deadline, how many cars would be removed from service at any given time? Can these cars be made available for retrofit in a orderly manner?

The second factor is capacity. That is, do the affected parties have reasonable access to the necessary plant, equipment, skilled labor and any other components necessary to do the job?

In addition to the two factors bearing on feasibility, the effect of various proposed deadlines on retrofit elections has been considered. Most particularly, the FRA and the Bureau

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have given some weight to the superior protective qualities of the jacketed retrofit package. Any new regulatory deadlines which might require the immediate application of head protection would have the likely effect of discouraging the use of the jacketed retrofit, since the unitary process requires more shop time and can be accomplished at fewer facilities.

Thus, the proposed schedule outlined below emphasizes the completion of retrofit tasks which are more easily accomplished with less out-of-service time at a greater number of potential facilities. Although it is proposed to accelerate the timetable for the unitary jacketed retrofit, an effort has been made to leave undisturbed the elections which have already been made concerning the use of that approach.

Proposed Schedule

SHELF COUPLER APPLICATION

Based upon information gathered from coupler manufacturers, tank car owners and tank car shippers, it appears that shelf couplers can be applied to all 112 and 114 tank cars not later than December 31, 1978. An adequate supply of these couplers is or soon will be available, and application is not difficult. Such application can be performed at any location having a light duty crane. Railroad repair facilities ("rip tracks") on major tank car shipping routes are able to assist in applying these couplers. Accordingly, it is proposed to amend section 173.31(a)(5) to require retrofit installation of shelf couplers not later than December 31, 1978. Since the proposed accelerated coupler retrofit schedule would not result in additional "shopping," or significant "out-of-service" time, this change in schedule should not result in any appreciable change in retrofit cost.

NON-JACKETED THERMAL PROTECTION WITH SEPARATE TANK HEAD PROTECTION (SPECIFICATIONS 112T AND 114T)

As stated, it appears that approximately 4,000 specification 112 and 114 tank cars will be equipped with non-jacketed, "spray-on" thermal protection and separate tank head protection ("T" retrofit package). These cars when retrofitted will be specification 112T and 114T tank cars. Due to the urgency of placing tank head protection on these cars at the earliest possible time, it is proposed to amend section 179-105-3(d) to require that:

1. All tank head protection (head shields) be applied not later than December 31, 1979; and
2. Thermal, "spray-on" coating be applied not later than December 31, 1980.

Since this change in schedule could result in as many as 50 percent of these tank cars (e.g., the tank cars originally scheduled for retrofit in 1980 and 1981) having to be out-of-service twice (once for "head shield" application and once for thermal protection application) additional retrofit costs could occur. It was indicated at the FRA special safety inquiry that each such retrofit application could remove the car from service for up to 45 days. Since these non-retrofitted tank cars have an average monthly rental of $300, the overall maximum additional cost would be $900,000 (e.g., 2,000 tank cars×$300/mo.×1½ mo.). As noted below, 45 days is a relatively high estimate.

Although some participants in the FRA special saftey inquiry suggested that "head shields" could be applied by not later than the end of 1978, the Bureau believes that such a drastic compression is not feasible.

Considerable concern exists among some parties as to the methods of retrofitting head shields to the tank cars. Several persons have questioned whether the "trapezoidal" head shield can be adequately attached to the tank car draft sill. Nine specification 112 tank cars were equipped with trapezoidal type head shields and fatigue tested at the Transportation Test Center at Pueblo, Colo. As of March 24, 1978, these head shields had been subjected to an average of 248 coupling impacts (ranging in speed from 4 to 10 miles per hour) and approximately 100,000 miles of over the road service. No fatigue problems were detected. Also, another type of head shield consisting of a half tank car head was installed on each end of one tank car. As of the same date, these two head shields were subjected to 248 coupling impacts and approximately 78,000 miles of over the road service. Again, no fatigue problems were detected. This testing indicates that no fatigue problems should occur when the head shield is attached to the tank car using proper welding techniques and a sound attachment design.

However, the welded attachment of all of these head shields to the tank cars was performed under controlled conditions. Most shield designers and manufacturers indicated that this welding operation was the critical factor and needed to be performed by highly skilled welders under controlled conditions in enclosed shops in order to avoid a risk of failure during train operations and consequent serious derailment. Since this retrofit application can result in a significant out-of-service period, the reduction in the supply of tank cars which would result from compressing this schedule to any greater degree could cause severe economic difficulty.

TANK-HEAD PROTECTION WITHOUT THERMAL PROTECTION (SPECIFICATIONS 112S AND 114S)

It appears that approximately 3,400 specification 112 and 114 tank cars will be dedicated to the transportation of anhydrous ammonia. These cars, which are required to be equipped with tank head protection ("head shields") ("S" retrofit package), will when retrofitted be specification 112S and 114S tank cars. Again, due to the urgency of placing tank head protection on these cars at the earliest possible time, it is proposed to amend section 179-105-3(d) to require that this tank head protection be applied not later than December 31, 1979.

It appears that such a change in schedule will not result in any appreciable increase in retrofit costs.

As was indicated in the discussion of the application of head shields to tank cars being retrofitted to the 112T and 114T specifications, suggestions have been made that head shield application be completed by the end of 1978. These tank cars are used exclusively to store and transport anhydrous ammonia. Due to the prolonged cold weather, most of these cars will not be available for retrofitting until early July and will be needed to store manufactured anhydrous ammonia beginning in early September. Any significant out-of-service disruption could result in a severe fertilizer shortage in the spring of 1979. For this reason, it appears that a second year (1979) will be required to perform this retrofit if significant disruption is to be avoided.

JACKETED INSULATION WITH INTEGRAL TANK HEAD PROTECTION (SPECIFICATIONS 112J AND 114J)

Of the roughly 20,400 specification 112 and 114 tank cars subject to the retrofit requirements of HM-144, approximately 12,500 are planned to be retrofitted with a jacketed insulation system incorporating integral tank head protection ("J" retrofit package). These cars when retrofitted will be specification 112J and 114J tank cars. Several major tank car builders have indicated that these cars could be completely retrofitted not later than December 31, 1980 and our analysis supports this conclusion. Accordingly, it is proposed to amend section 179.105-3(d) to require this retrofit operation to be performed so that:

1. Twenty-five percent of these tank cars owned by each tank cars owner be retrofitted not later than December 31, 1978;
2. An additional 40 percent of these tank cars owned by each tank car owner be retrofitted not later than December 31, 1979; and
3. An additional 35 percent of these tank cars owned by each tank car owner be retrofitted not later than December 31, 1980.

Likewise, based upon statements made at the FRA safety inquiry as well as other information received, it is believed that this proposed acceleration of the retrofit schedule should not result in any appreciable increase in retrofit costs.

Consideration has been given to requiring either total completion of this type of retrofit at an earlier date or increasing the percentage of tank cars required to be retrofitted during 1978 and 1979. Since this type of retrofit requires considerable ability in metalsforming and insulation application, only a few tank car repair shops have the existing capacity to perform this work. Construction of additional plant capacity would consume considerable time, while use of new car construction shops could cause severe tank car shortages and cause economic problems for many petroleum and chemical shippers and users. More importantly, any additional compression could cause critical out-of-service problems during the heating and fertilizing seasons, resulting in insufficient fuel during the winter and insufficient fertilizer in the spring. For this reason, as well as considering shop facility capacity, it appears that this retrofit schedule would cause the least overall economic disruption while achieving a more rapid implementation of the safety standards.

AVAILABILITY OF CARS DURING THE RETROFIT PERIOD

Without question the most serious constraint facing the FRA and the Bureau in the development of a compressed timetable has been the availability of pressure tank cars to perform essential transportation services. Witnesses at the FRA special safety inquiry indicated that the pressure tank car fleet is fully utilized during much of the year either to carry or to store fuels, fertilizer and industrial chemicals. This testimony is consistent with other information available to the Department of Transportation. Therefore, the FRA and the Bureau have attempted to fashion the proposed new retrofit schedule in a way which is intended to minimize disruptions in service. However, it is recognized that the compression of the program into a shorter time period may result in localized shortages of essential products. Comment is specifically solicited, therefore, on the following analysis of out-of-service time and the consequences of that analyses for users of the products transported and stored in 112 and 114 tank cars.

Application of a shelf coupler is a relatively simple operation requiring not more than a total elapsed time of one-hour per tank car using a two or three man crew and a light duty crane. The difficulty arises in having the appropriate pair of shelf couplers at the proper location so as to be ready for application to a specific tank car. However, this is a problem which is solvable through proper planning. In terms of total out-of-service time, coupler retrofit can cause a tank car to be "out-of-service" for a time period of up to one day. This one-day time period is caused by switching the tank car to and later from a "repair" or "work" track. Since many 112 and 114 tank cars will have to be moved to repair tracks for other purposes prior to the end of the year, this impact should not be significant. Through the exercise of proper initiative, couplers may also be applied at major shipping points without any out-of-service time attributable to the application of the couplers.

Application of "head shields," "spray-on" thermal protection and jacketed insulation systems require the tank car to be shipped to a repair facility. Shippers, car owners and tank car lessors agreed that a time period of from twelve to fifteen days is required to move a tank car from an unloading point to a repair shop and that a like period of time is required to move a tank car from a repair shop to a loading point. Estimates of the time required to perform the retrofit operations and related maintenance ranged from twelve to thirty days. This includes provision for preinstallation operations. An average period of fifteen days appears to be realistic. Thus, to total out-of-service time estimate range from 36 to 60 days. An average out-of-service time of 45 days is used in the following analyses. However, some time credit must be assigned to the fact that during this 45-day period the empty tank car has moved from the consignee's unloading facility to the shipper's loading facility. A ten-day time period would be the minimum average time required for this empty movement were not retrofit or maintenance shoping involved. Accordingly, the net retrofit out-of-service time chargeable to this program has been determined at 35 days (five weeks) for each shop cycle.

In order to determine the effect of out-of-service time, it is assumed that the major retrofit program will begin about July 1, 1978. Thus, there will be approximately five 5-week cycles in 1978, 10 such cycles in 1979 and 10 additional such cycles in 1980. Allowance for plant vacations and possible holiday interruption is taken into account by using a fifty, rather than a fifty-two week year.

The effect of this five-week retrofit cycle on approximately 2,000 vinyl chloride tank cars being converted to specifications 112T and 114T can be analyzed.

1. Under the existing retrofit schedule, fifty-percent (1,000) of these tank cars were to be retrofitted with "spray-on" thermal insulation and "head shields" not later than December 31, 1979.
2. Under the proposed accelerated retrofit schedule all 2,000 of these tank cars would have to be retrofitted with "head shields" by that date.
3. Therefore, at least 1,000 vinyl chloride monomer tank cars already have been scheduled for total retrofit not later than December 31, 1979; and thus, not more than 1,000 such tank cars will require two shoppings, one shopping between the present date and the end of 1979 for application of "head shields," and one shopping during 1980 for the application of "spray-on" thermal protection. By careful planning, some owners should be able to complete additional cars in a single shopping.
4. 2,000 tank cars will be out-of-service for a five-week retrofit cycle between the present date and December 31, 1979, with fifteen such cycles. This means that an average of 133 (2,000 tank cars divided by fifteen cycles) will be out-of-service at any one time due to retrofit applications being performed during the time period of July 1, 1978, through December 31, 1979.
5. A maximum of 1,000 tank cars will require retrofit installation of "spray-on" thermal protection during 1980. This means that an average of 100 (1,000 tank cars divided by ten cycles) will be out-of-service at any one time due to the retrofit applications being performed during 1980.

In the same manner, the effect of this five-week retrofit cycle on the approximately 2,000 specification 112 and 114 tank cars transporting liquefied flammable gases which are being converted to specifications 112T and 114T can be analyzed as follows:

An average of 133 tank cars will be out-of-service at any one time during the time period of July 1, 1978, through December 31, 1979; and an average of 100 tank cars will be out-of-service at any one time during 1980.

Likewise, the effect of this five-week retrofit cycle on the approximately 3,400 dedicated anhydrous ammonia tank cars being converted to specifications 112S and 114S can be analyzed.

1. Approximately 700 of these tank cars have been converted or built to specifications 112S and 114S.
2. Approximately 2,700 of these tank cars must have "head shields" retrofit installed by December 31, 1979.
3. With fifteen such cycles, this means that an average of 180 of these tank cars will be out-of-service during any one cycle for the time period of July 1, 1978, through December 31, 1979.

The proposed accelerated retrofit schedule would require that the approximately 12,500 specification 112 and 114 tank cars being converted to specifications 112J and 114J be retro-

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fitted according to the following schedule: 25 percent in 1978; and additional 40 percent in 1979; and an additional 35 percent 1980.

Thus, during the time period of July 1, 1978, through December 31, 1978, there would be five, five-week retrofit cycles. Approximately 3,125 (25 percent of 12,500) tank cars would require retrofit shopping during this time period. Approximately 625 (3,125 tank cars divided by 5 cycles) such tank cars would be out-of-service at any one time during July 1, 1978, through December 31, 1978.

During 1979, approximately 5,000 (40 percent of 12,500) of these tank cars would require retrofit shopping. Approximately 500 (5,000 tank cars divided by 10 cycles) such tank cars would be out-of-service at any one time during the year.

During 1980, approximately 4,375 (35 percent of 12,500) of these tank cars would require retrofit shopping. Approximately 438 (4,375 tank cars divided by 10 cycles) such tank cars would be out-of-service at any one time during the year.

In summary, this analysis shows that under the requirements of the proposed retrofit schedule an average of 848 tank cars (4.2 percent) will be out-of-service at any one time between July 1, 1978, and December 31, 1980. Average units out-of-service for individual years are (a) 1,071 tank cars during 1978, (b) 946 tank cars during 1979, and (c) 638 tank cars during 1980. Greater impacts may be experienced within individual categories of service. These numbers represent an overall lower percentage than that estimated by the tank car companies. Since the analysis assumes an even flow of cars through the shops the number of cars actually withdrawn from service at any given time may be higher or lower.

Since most of the tank car builders indicated that retrofit operations will be performed at facilities other than their principal new car fabrication facilities, and since current production of tank cars of all types is considerably less than total capacity, additional new pressure tank car construction could ease shortages occurring during the retrofit period.

CANADIAN 112 AND 114 TANK CARS

Approximately 2,000 specification 112 and 114 tank cars have been constructed to specifications promulgated by the Canadian Transport Commission (CTC) and are used principally in Canada. However, approximately 80 percent of these CTC specification 112 and 114 tank cars transport hazardous commodities on the United States railroad network at some time. Accordingly, it is proposed to amend § 179.105-1(c) to require shelf couplers on all such CTC tank cars transporting hazardous materials in the United States not later than December 31, 1978, and require total retrofit not later than December 31, 1980.

COMPLIANCE

In order to assist in monitoring compliance with the HM-144 retrofit schedule, a separate Notice of Proposed Rulemaking is being developed. This Notice will propose requirements for car owner reporting of retrofit plans and accomplishments.

ECONOMIC IMPACT

In analyzing the effect of accelerating the retrofit schedule as proposed in this Notice of Proposed Rulemaking, the FRA and the Bureau have attempted to identify additional costs resulting from compression of the schedule. A specific possible increased cost of $900,000 has been identified for non-jacketed thermal protection and separate tank head protection application. Other additional costs are not now identifiable in definitive terms. However, the Bureau recognizes that compliance with the compressed retrofit schedule proposed in this Notice will result in some additional costs such as overtime payments, second and third shift differential payments, and possible premium payments for components. Also there may be additional transportation costs associated with "double shopping" of a small number of DOT specification 112T and 114T tank cars, as well as some additional labor cost. It is the belief of the Bureau that such additional costs will be only a small percentage of the cost of the initial rule and that the benefits to public safety and industry of accelerating the retrofit of these safety features will far outweigh any additional cost. Commenters are requested to submit cost information pertinent to this proposal.

Primary drafters of this document are William F. Black and Rolf Mowatt-Larssen, Office of Safety, and Edward F. Conway, Jr., Office of the Chief Counsel, Federal Railroad Administration, and George W. Tenley, Jr., Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, it is proposed to amend Parts 173 and 179 of Title 49, Code of Federal Regulations as follows:

1. In § 173.31 paragraph (a)(5) would be revised to read as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

(a) • • •

(5) After December 31, 1978, each specification 112 and 114 tankcar built before January 1, 1978, must be equipped with shelf couplers in accordance with § 179.105-6 of this subchapter.

• • • • •

2. In § 173.314 paragraph (c) Table Note 23 and Note 24 would be revised to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

• • • • •

(c) • • •

NOTE 23.—After December 31, 1980, each specification 112 and 114 tankcar built before January 1, 1978, used for the transportation of flammable compressed gases must be equipped with thermal protection and tank head puncture resistance systems in accordance with § 179.105 of this subchapter.

NOTE 24.—After December 31, 1979, each specification 112 and 114 tankcar built before January 1, 1978, used for the transportation of anhydrous ammonia must be equipped with a tank head puncture resistance system in accordance with § 179.105 of this subchapter.

• • • • •

3. In § 179.105 paragraph (c) in § 179.105-1 would be revised; paragraphs (a) and (d) in § 179.105-3 would be revised to read as follows:

§ 179.105 Special requirements of specifications tankcars.

§ 179.105-1 General.

• • • • •

(c) Notwithstanding the provisions of § 173.8 of this subchapter, no 112 and 114 tankcar manufactured to specifications promulgated by the Canadian Transport Commission may be used:

(1) After December 31, 1978, to transport hazardous materials in the United States unless it is equipped with a coupler vertical restraint system under § 179.105-6; nor

(2) After December 31, 1980, to transport compressed gases in the United States unless it is equipped with thermal protection under § 179.105-4 and tank head puncture resistance under § 179.105-5.

• • • • •

§ 179.105-3 Previously built cars.

(a) After December 31, 1978, each specification 112 and 114 tank car built before January 1, 1978, shall be equipped with a coupler restraint system that meets the requirements of § 179.105-6.

• • • • •

(d) Each tank car owner shall equip its tank cars which are subject to paragraphs (b) and (c) of this section in accordance with the following schedule:

(1) Each tank car which is being retrofitted in accordance with paragraph (b) shall be retrofitted not later than December 31, 1979.

(2) Each tank car which is being retrofitted in accordance with paragraph (c) with a non-jacketed thermal protective system and a separate tank head puncture resistance system (112T/114T) shall be retrofitted:

(i) With the tank head puncture resistance system not later than December 31, 1979; and

(ii) With thermal protection not later than December 31, 1980.

(3) All tank cars being retrofitted in accordance with paragraph (c) with a thermal protective system enclosed in a metal jacket (112J/114J) shall be retrofitted such that—

(i) At least 25 percent of those cars owned on December 31, 1978, are so equipped by not later than that date;

(ii) At least 65 percent of those cars owned on December 31, 1979, are so equipped by not later than that date; and

(iii) All of those cars owned on December 31, 1980, are so equipped by not later than that date.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e))

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107 nor an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A draft evaluation of the estimated cost and anticipated benefits of this proposed amendment has been prepared in accordance with departmental policies and procedures for simplification, analysis and review of regulations (43 FR 9582) and has been placed in the public docket for this proceeding.

Issued in Washington, D.C., on May 4, 1978.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc. 78-12639 Filed 5-10-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 258]

FISHERMEN'S PROTECTIVE ACT PROCEDURES

Compensation for Damage Caused by Foreign Vessels in the Fishery Conservation Zone

AGENCY: National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

ACTION: Proposed rulemaking.

SUMMARY: The National Marine Fisheries Service proposes regulations to govern section 10 ("section 10") of the Fishermen's Protective Act of 1967, as amended (the "Act"). Section 10, recently enacted, provides a program to compensate domestic fishermen who have suffered vessel or gear damage, loss or destruction as the result of foreign vessel operations in the U.S. Fishery Conservation Zone, and beyond, in appropriate instances.

DATE: Comments must be received no later than June 12, 1978.

ADDRESS: Financial Assistance Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Michael L. Grable, Chief, Financial Assistance Division, National Marine Fisheries Service, Washington, D.C. 20235. Telephone 202-634-7496.

SUPPLEMENTARY INFORMATION: On November 18, 1977, the Act was amended by adding a new section 10 (Pub. L. 95-194). Section 10 authorizes the establishment of a loan program for domestic fishermen who have had their fishing vessels or gear damaged, lost, or destroyed as the result of foreign vessel operations off the coast of the United States. The program will apply to incidents occurring in the geographical area defined in these regulations on the "fishermen's protective zone," and consisting of the fishery conservation zone (FCZ) established by the Fishery Conservation and Management Act of 1976 and an area beyond the FCZ in appropriate instances.

This notice proposes procedures and standards for the loan program authorized by section 10. Rules governing the Act currently appear at 50 CFR 258.1 through 258.9. Under this proposal 50 CFR would be amended to include regulations governing section 10 by adding a new heading "Subpart A" for the Act's existing regulations (sections 258.1 through 258.9) and adding a new "Subpart B" to implement section 10.

Section 10 authorizes the Secretary of Commerce (the "Secretary") to make low-interest loans to eligible fishermen after making a determination that the eligibility and evidentiary criteria of section 10 relating to the lost, destroyed, or damaged property have been met. After making the loan the Secretary is directed to investigate the circumstances of the incident resulting in the compensated loss, damage, or destruction and determine whether the loan will continue according to its original terms, be canceled or be rapad over a shortened time period.

This proposed rulemaking governs: (1) Eligibility for the program; (2) evidence to be submitted with loan applications; (3) procedures for making loans; (4) guidelines for the determination of the amount of the loans; (5) procedures and standards by which the Secretary will determine whether to modify or cancel loans; and (6) loan repayment and cancellation requirements.

One section governing the Government's disposition of rights assigned to it by loan recipients is being reserved for a proposal of rules to be made at a later time. The proposed rule follows:

Dated: May 5, 1978.

RICHARD A. FRANK,
Administrator, National Oceanic and Atmospheric Administration.

Amend part 528 as follows:

1. Add a new heading "Subpart A—Seizures of U.S. Commercial Fishing Vessels" for §§ 258.1 through 258.9.

2. Add a new subpart B as follows:

Subpart B—Compensation for Damage Caused by Foreign Vessels in the Fishery Conservation Zone

Sec.
258.20 Purpose.
258.21 Definitions.
258.22 Eligibility.
258.23 Applications.
258.24 Approval of loan applications.
258.25 Terms and conditions of loans.
258.26 Determination of amount of loss, damage, or destruction.
258.27 Determination of fault.
258.28 Loan repayment or cancellation.
258.29 Government collection. [Reserved]

AUTHORITY: Sec. 10, 91 Stat. 1413 (22 U.S.C.1980).

Subpart B—Compensation for Damage Caused by Foreign Vessels in the Fishery Conservation Zone

§ 258.20. Purpose.

This subpart provides rules and procedures for the granting, repayment, and cancellation of loans to owners and operators of United States Commercial fishing vessels for the loss, damage, or destruction of their fishing vessels or gear caused by a vessel of a foreign nation operating in the U.S. Fishermen's Protective Zone.

§ 258.21. Definitions.

Unless the context otherwise requires, in this subpart:

(a) "Alternative claim" means any claim not made under this subpart which seeks compensation for the same loss, damage, or destruction of a fishing vessel or fishing gear as is covered by a loan application under § 258.23.

(b) "At fault" means negligent or willful, through action or inaction causing the loss, damage, or destruction involved.

(c) "Fishermen's protective zone" means: (1) The area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal states to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured, (2) all areas in which U.S. continental

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shelf fishery resources are found, and (3) the area representing the migratory range of any species of anadromous fish of the United States, except that such area shall not extend within any foreign nation's territorial sea or fishery conservation zone (or the equivalent) to the extent that such sea or zone is recognized by the United States.

(d) "Foreign vessel" means a vessel of a foreign nation, its crew, or fishing gear.

(e) "Secretary" means the Secretary of Commerce or his or her designated representative.

(f) "Loan" means a loan under section 10 of the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1980).

§ 258.22 Eligibility.

(a) *Applicants.* An applicant must be the owner or operator of a vessel which is used primarily for the commercial catching, processing, or transporting of fish or shellfish and which is either documented under the laws of the United States in the fisheries trade, or certified or registered under the laws of any political subdivision of the United States in order to be eligible to apply for a loan.

(b) *Loss, damage, or destruction.* To be eligible for a loan the applicant's vessel or its fishing gear must have been lost, damaged, or destroyed after July 1, 1976, as a result of the operation of a foreign vessel in the fishermen's protective zone. The total amount of such loss, damage, or destruction must exceed $2,000, as determined by the Secretary under section 258.26.

(c) *Alternative claims.* Any applicant for a loan who has made an alternative claim shall not be eligible for a loan if the Secretary determines that the alternative claim is substantially resolved at the time of the application or at the time of the loan. An alternative claim shall be regarded as substantially resolved if, at the time of the application or loan, the alternative claim proceeding has resulted in compensation for the claimant (whether or not such compensation is less than the amount applied for under a loan application) or in a final denial of the claim.

(d) *Insurance.* An applicant shall not be eligible for a loan for such loss, damage, or destruction as would ordinarily be covered under the collision clause, or other clauses, of a full hull and machinery policy of commercial insurance, whether or not such a policy was in force.

§ 258.23 Applications.

(a) *Form.* Applications for loan shall be submitted to The Financial Assistance Division, National Marine Fisheries Service, Washington, D.C. 20235, by the owner or operator of the vessel concerned. Each application must be in a form suitable to establish that the situation involved meets the eligibility criteria in § 258.22 and must include as attachments the affidavits and estimates referred to in this section.

(b) *Affidavit of vessel master.* Applications shall include an affidavit by the master of the vessel fully describing the circumstances before, during, and after the incident resulting in loss, damage, or destruction, which states, among other things:

(1) Time, date, and locational coordinates of the incident;

(2) Actions of the foreign vessel alleged to have caused the loss, damage, or destruction, before, during, and after the incident (if observed);

(3) Actions of the applicant's vessel or crew before, during, and after the incident, including a full description of circumstances involving deployment and retrieval of fishing gear (for example, time, date, locational coordinates, and means of deployment, retrieval, and all attempts at retrieval);

(4) Description of the foreign vessel's size, type, flag, identifying numbers, color of house or hull, or other identifying characteristics, including a photograph of the foreign vessel if available (if observed);

(5) Reasons for belief that the loss, damage, or destruction was caused by a foreign vessel and not by wind, weather, sea, or other natural conditions; defective gear, defective deployment (for example, means of fixing gear), or defective retrieval (for example, means to have been used for relocating gear); or a domestic vessel;

(6) Names and statements of any eyewitnesses;

(7) Nature and extent of loss, damage, or destruction, including if possible, photographs of the damage, even if taken after return to port; and

(8) Description of the property which was lost, damaged, or destroyed, including type, size, material of construction, number of units, and remaining ecomonically useful life at the time of the incident.

(c) *Affidavit of owner or operator.* Applications shall include an affidavit of the owner or operator concerned stating the date, cost, and place of acquisition of the property which was lost, damaged, or destroyed, as well as its age and remaining economically useful life when acquired, and shall attach, if available, any copy of the original invoice or bill of sale of the property concerned.

(d) *Estimates.* Applications shall include three estimates from commercial sources acceptable to the Secretary setting forth both the repair cost and the replacement cost of the property concerned.

(e) *Evidence of foreign vessels in the area.* Applications shall include documentation from the U.S. Coast Guard or National Marine Fisheries Service indicating all foreign vessels known to have been in the vicinity of the incident after deployment of gear and before retrieval or attempted retrieval.

(f) *Other evidence.* The Secretary may in his or her discretion require further affidavits, other evidence, or supplementary information.

(g) *Application fee.* Applications shall be accompanied by a fee in the form of a check or money order made payable to "National Marine Fisheries Service" in the amount of $50. This fee shall not be refunded.

(h) *Time requirement.* After September 1, 1978, applications must be received by the appropriate official of the National Marine Fisheries Service at least 60 calendar days after the date the claimed loss, damage, or destruction occurred.

(i) *Abandoned applications.* As soon as practicable after receipt of an incomplete or improperly executed application, the applicant shall be notified by the National Marine Fisheries Service of the deficiency in the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 60 calendar days following the date of notificaiton, the application shall be abandoned and the loan application fee shall not be returned.

§ 258.24 Approval of loan applications.

A loan may be made to the applicant, if the Secretary finds that:

(a) The eligibility requirements of § 258.22 are met;

(b) The application satisfies the requirements of § 258.23; and

(c) The Secretary reasonably determines that the claimed loss, damage, or destruction was caused by the operation of a foreign vessel in the fishermen's protective zone.

§ 258.25. Terms and conditions of loans.

(a) *Loan amount.* The amount of a loan will equal the extent of the loss, damage, or destruction involved, as determined under § 258.26.

(b) *Time period.* The term of a loan shall not exceed the economically useful life of the vessel or gear acquired or repaired with the proceeds of the loan, and may, at the discretion of the Secretary, be for a shorter period of time.

(c) *Collateral.* Collateral for the loan shall be required at the discretion of the Secretary and may include a secured interest in the vessel or gear acquired or repaired with the proceeds of the loan or the promissory note of the owner of such vessel or gear, or both.

(d) *Interest rate.* The interest rate for loans will be 3½ per centum per annum.

(e) *Loan fees.* A fee for granting the loan shall be charged. The amount of this fee shall be equal to the difference during the loan's first year between the loan's 3½ percent interest rate and the approximate cost of Government borrowings of about a 7-year maturity. This fee shall be deducted from the proceeds of the loan.

(f) *Payment.* The proceeds of a loan will ordinarily be escrowed after execution of all loan documents and subsequently paid directly to the supplier of goods or services in connection with the replacement or repair of vessels or gear, upon presentation of proper invoices and authorizations to pay.

(g) *Assignment.* Loan recipients shall assign, or agree to assign, to the Secretary any rights they might have to recover monies or damages from any person for the loss, damage, or destruction for which a loan is made.

(h) *Repayment or cancellation.* Loans shall be repaid or canceled in accordance with § 258.28.

(i) *Collection efforts.* Loan recipients shall agree to assist the Secretary's efforts under § 258.29.

(j) *Other terms and conditions.* Loans shall be subject to such other terms and conditions as the Secretary deems necessary and appropriate.

§ 258.26. Determination of amount of loss, damage, or destruction.

(a) *Value of property.* In cases of units of property which have been totally lost or destroyed, the Secretary shall determine the property-value component of the loss or destruction by using the replacement cost of such property as if it had been the original acquisition cost of such property and by depreciating such replacement cost on a straightline basis over the economically useful life of such property. In cases of units of property which are capable of being repaired, the Secretary shall determine the property-value component of damage in light of the estimates of repair submitted under § 258.23(d), but in no event shall damage determinations exceed the depreciated present replacement cost of the property concerned. Example: 100 lobster pots with a present replacement cost of $100 each were totally lost. Each pot had an economically useful life of 36 months and was 18 months old, leaving a remaining economically useful life of 18 months. The property-value component of the loss would be calculated as follows:

(1) 100 pots×$100=$10,000 present replacement cost.

(2) $10,000÷36 months=$277.78 depreciation per month.

(3) $277.78×18 months remaining useful life=$5,000 for depreciated present replacement cost.

If the casualty was confined to damage which could be repaired, the property-value component of the casualty would be the actual cost of repair up to, but not exceeding, the depreciated replacement cost of $5,000 as calculated above.

(b) *Direct damages.* In addition to the property-value determination of paragraph (a), the Secretary shall also determine the amount of any other loss and damage incurred by the owner or operator of the vessel concerned which are the direct and proximate result of the incident concerned.

§ 258.27 Determination of fault.

(a) *Investigation.* Following the granting of each loan, the Secretary, in cooperation with other agencies or departments, shall investigate the circumstances of the incident resulting in the loss, damage, or destruction concerned to ascertain the facts required for a determination of whether or not the loan recipient was at fault for the loss, damage, or destruction.

(b) *Factors to be considered.* In making a determination of fault, the Secretary shall take into account: (1) Evidence submitted with the application in accordance with § 258.23; (2) whether the loan recipient, prior to the incident involved, reported the location of the fishing gear to the U.S. Coast Guard for broadcasting to foreign vessels in accordance with 50 CFR § 611.11; and (3) such other matters as the Secretary may deem appropriate.

(c) *Notification of preliminary determination.* Upon completing the investigation, the Secretary shall make a preliminary determination of whether it is possible to ascertain who was at fault for the incident, and if so, whether the loan recipient was at fault and notify the loan recipient of these determinations.

(d) *Review of record.* The loan recipient may examine the complete record upon which the determinations of the Secretary are made under this section.

(e) *Comments.* The loan recipient shall have 30 calendar days after the receipt of notification under paragraph (c) to submit any comments, data, or other information concerning the preliminary determination of the Secretary. All timely comments, data, or other information shall be considered by the Secretary prior to making a final determination.

(f) *Final determination.* As soon as practicable after the termination of the period described in paragraph (e) the Secretary shall make a final determination of fault.

§ 258.28 Loan repayment or cancellation.

Based upon the final determinations made under § 258.27 the Secretary shall:

(a) If he or she determines that the loan recipient was not exclusively at fault, cancel repayment of the loan and refund any principal and interest payments made thereon;

(b) If he or she determines that the loan recipient was at fault, require that the loan be repaid prior to its original term within a reasonable time as determined by the Secretary, taking into account its original duration and the percentage of fault attributable to the loan recipient; or

(c) If he or she cannot determine which party was at fault, continue the loan according to its original terms.

§ 258.29 Government collection. [Reserved]

[FR Doc. 78-12880 Filed 5-10-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON AGENCY DECISIONAL PROCESSES

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Agency Decisional Processes of the Administrative Conference of the United States, to be held at 9 a.m., Thursday, June 8, 1978, in the office of Ginsburg, Feldman and Bress, 1700 Pennsylvania Avenue NW., Suite 300, Washington, D.C.

The Committee will meet to discuss Professor Michael Baram's study of the use of cost-benefit analysis in Federal regulation.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David Pritzker, 202-254-7065. Minutes of the meeting will be available on request.

Dated: May 4, 1978.

RICHARD K. BERG,
Executive Secretary.

[FR Doc. 78-12817 Filed 5-10-78; 8:45 am]

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A605]

NORTH CAROLINA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Northampton County, N.C., as a result of excessive rainfall November 1, 1977, through March 9, 1978.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor James B. Hunt, Jr. that such designation be made.

Applications for emergency loans must be received by this Department no later than October 26, 1978, for physical losses and April 30, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 5th day of May 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-12810 Filed 5-10-78; 8:45 am]

[3410-11]

Forest Service

CANAL FRONT LAND MANAGEMENT PLAN OLYMPIC NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Canal Front Land Management Plan, Olympic National Forest, USDA-FS-R6-DES(Adm)-78-9.

The environmental statement concerns the management of 238,782 acres of National Forest land, The preferred alternative includes the addition of 5,482 acres to the 70,054 acres of Wilderness Study (Further Study) identified through the RARE I process in 1973. Three other areas requiring special management direction are identified to retain dispersed, roadless recreation opportunities; three are designed to maintain soil stability and water quality; and one area is proposed to preserve botanical values. The existing character of the Duckabush River Valley will be managed to retain the opportunity for study as a Wild and Scenic River.

The draft environmental statement was transmitted to the Environmental Protection Agency on May 2, 1978.

Copies of the environmental statement are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Forest Service, Pacific Northwest Region, 319 S.W. Pine Street, Portland, Oreg. 97208.

USDA, Forest Service, Olympic National Forest, 801 South Capitol Way, Olympia, Wash. 98507.

A limited number of singel copies are available upon request to Forest Supervisor Richard D. Beaubien, Olympic National Forest, P.O. Box 2288, Olympia, Wash. 98507.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards and from Federal agencies having jurisdication by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Richard D. Beaubien, Olympic National Forest, P.O. Box 2288, Olympia, Wash. Comments must be received by July 3, 1978, in order to be considered in the preparation of the final environmental statement.

Dated: May 2, 1978.

CURTIS L. SWANSON,
Regional Environmental Coordinator, Planning, Programing and Budgeting.

[FR Doc. 78-12818 Filed 5-10-78; 8:45 am]

[3410-11]

OCHOCO-CROOKED RIVER PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Ochoco-Crooked River Unit, Ochoco National Forest, USDA-FS-R6-DES(Adm)-78-7.

The environmental statement propsed land management direction for 544,060 acres of the Ochoco National Forest. The planning unit is located mainly in Crook and Wheeler Counties with a small portion in Grant Count, Oreg.

The preferred land management alternative strives to provide for a balance of all forms of current and projected uses within the planning unit.

The draft environmental statement was transmitted to the Environmental Protection Agency on May 2, 1978.

Copies of the environmnental statement are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Forest Service, Pacific Northeast Region, 319 S.W. Pine Street, Portland, Oreg. 97208.

USDA, Forest Service, Ochoco National Forest, Federal Building, Prineville, Oreg. 97754.

A limited number of single copies are available upon request to Forest Supervisor William L. McCleese, Ochoco National Forest, P.O. Box 490, Prineville, Oreg. 97754.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically. Comments received as a result of the draft environmental statement will be available for review at the Ochoco National Forest Supervisor's Office in Prineville, Oreg. during normal working hours.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor William L. McCleese, Ochoco National Forest, P.O. Box 490, Prineville, Oreg. 97754.

Comments must be received by July 3, 1978, in order to be considered in the preparation of the final environmental statement.

Dated: May 2, 1978.

CURTIS L. SWANSON,
Regional Environmental Coordinator, Planning, Programing and Budgeting.

[FR Doc. 78-12819 Filed 5-10-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

ALASKA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Alaska Advisory Committee (SAC) of the Commission will convene at 4 p.m. and will end at 6:30 p.m. on June 1, 1978, United Bank Alaska, 645 G Street, Anchorage, Alaska. 99501.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Wash. 98174.

The purpose of this meeting is to discuss program plans for remainder of fiscal year 1978, 1980. Discuss status of employment study in Alaska.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 8, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12867 Filed 5-10-78; 8:45 am]

[6335-01]

INDIANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Indiana Advisory Committee (SAC) of the Commission will convene at 5 p.m. and will end at 9 p.m. on June 11, 1978, Holiday Inn, North, 5601 State Road Lafayette, Ind. 47906.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Ill. 60604.

The purpose of this meeting is to discuss other projects for fiscal year 1980 and SAC Reports on Insurance Redlining. Project proposed employment study on the City of Indianapolis, Ind., city's work force.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 8, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12868 Filed 5-10-78; 8:45 am]

[6335-01]

NEVADA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nevada Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 9:30 p.m. on May 26, 1978, Showboat Hotel, 2800 East Fremont, Las Vegas, Nev.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to discuss State Advisory Committee program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 8, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12869 Filed 5-10-78; 8:45 am]

[6335-01]

NEW JERSEY ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 10 p.m. on June 20, 1978, Ramada Inn, New Brunswick, N.J.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rule and Regulations of the Commission.

Dated at Washington, D.C., May 8, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12871 Filed 5-10-78; 8:45 am]

[6335-01]

NEW YORK ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York Advisory Committee (SAC) of the Commission will convene at 4 p.m. and will end at 7 p.m. on June 1, 1978. 10 East 87th Street, New York, N.Y. 10028.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss programs for the coming year.

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This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 8, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12870 Filed 5-10-78; 8:45 am]

[6335-01]

OREGON ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oregon Advisory Committee (SAC) of the Commission will convene at 5 p.m. and will end at 7 p.m. on June 8, 1978, Federal Building, Room 774, 1220 Southwest 3rd Avenue, Portland, Oreg. 97204.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Wash. 98174.

The purpose of this meeting is to discuss program plans for remainder of fiscal year 1978, fiscal year 1979, 1980.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 8, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12873 Filed 5-10-78; 8:45 am]

[6335-01]

PENNSYLVANIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 11:30 a.m. and will end at 3 p.m. on May 24, 1978, Federal Building and Court House, 228 Walnut Street, Room 392, Harrisburg, Pa. 17108.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Washington, D.C. 20037.

Program planning, including follow-up to the mushroom workers report, plans for Lewisburg prison project, release of voting rights report, and plans for Commission hearing in Philadelphia on police is the purpose of this meeting.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 8, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12872 Filed 5-10-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 4, 1978.

The USAF Scientific Advisory Board Ad Hoc Committee to Review the Air Force Human Resources Laboratory will hold meetings at Air Force Human Resources Laboratory (AFHRL) Headquarters, Brooks Air Force Base, Tex., on June 19-20, 1978, from 7:30 a.m. to 5 p.m. each day.

The purpose of the meeting is to review the AFHRL mission and program to include review of R. & D. support for personnel use, training, and other personnel practices.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (2) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-12806 Filed 5-10-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 4, 1978.

The USAF Scientific Advisory Board Air Defense Subgroup of the Joint Scientific Advisory Board/Army Science Board Summer Study on Battlefield Systems Integration will hold meetings in the Pentagon on June 8 and 9, 1978, from 8:30 a.m. to 5 p.m. each day.

The Subgroup will receive classified briefings on various foreign systems as well as projected U.S. command and control systems. The meetings will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4811.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-12807 Filed 5-10-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 5, 1978.

The USAF Scientific Advisory Board Aeronautics Panel Subcommittee on Aeropropulsion System Test Facility, will hold a meeting on May 30 and 31, 1978, at the Arnold Engineering Development Center, Arnold AFS, Tenn.

The Subcommittee will review the technical design and installation plans of the Aeropropulsion System Test Facility on May 30 ; and 31 from 9 a.m. to 4:30 p.m. This meeting will be open to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-597-8845.

FRANKIE S. ESTEP,
Air Force Federal Register, Liaison Officer, Directorate of Administration.

[FR Doc. 78-12808 Filed 5-10-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Construction Orders To Certain Major Fuel Burning Installations

The Department of Energy (DOE) hereby gives notice of its intention to issue Construction Orders pursuant to Section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended, and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 307 to the following installations in the early planning process:

Docket No.	Owner	Installation	Units	Location
OCU-3060-2-1	General Electric Co..	Noryl Utility Division.	6001A	Selkirk, N.Y.
OCU-3060-2-2	....do	....do	6001B	Do.

DOE hereby also gives notice of the opportunity for written and oral presentation of data, views, and arguments by interested persons regarding these proposed Construction Orders.

The proposed orders would require the above-named installations in the early planning process to be designed and constructed to be capable of using coal as their primary energy source.

Prior to the issuance of a Construction Order to an installation, section 2(c) of ESECA and 10 CFR 303.46(b), 307.3(b), and 307.3(c), require that DOE make certain findings. A Construction Order may not be issued unless DOE finds that the installation is in the early planning process and meets a minimum design firing rate requirement. Furthermore, no Construction Order will be issued if DOE finds that an adequate and reliable supply of coal is not expected to be available. DOE's proposed findings, as well as its proposed conclusions and rationale with respect to the findings for the installations named above are set out in section I of the appendix to this notice. The proposed findings, conclusions, and rationale may be amended as a result of comments received by DOE pursuant to this notice and of other information available to DOE. DOE's findings, conclusions, and rationale with respect to these required findings will be included in any subsequent Construction Orders issued.

In addition, section 2(c) of ESECA and 10 CFR 303.46(b) and 307.3(d) require DOE to consider certain other factors prior to issuance of a Construction Order. DOE's initial conclusions for the installations named above and a brief statement of the rationale for each, with respect to such required considerations, are set out in section II of the appendix to this notice. These conclusions and rationale may be amended as a result of comments received by DOE pursuant to this notice and other information available to DOE. The conclusions and rationale will be included, with any amendments, in any subsequent Construction Orders issued.

Upon completion of the proceeding described in this notice, DOE may determine to issue Construction Orders to both or either one of the above-named installations. The Construction Orders will not become effective, however, until DOE has considered their environmental impact, pursuant to 10 CFR 208.3(a)(4) and 307.7, and has served the affected installations with Notices of Effectiveness as provided in 10 CFR 303.10(b), 303.47(b), and 307.5. 10 CFR 307.7(c) requires that, prior to the issuance of a Notice of Effectiveness to an installation, DOE shall perform an analyses of the environmental impact of the issuance of such Notice of Effectiveness. That analyses shall result in either (1) A declaration that the Construction Order will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment; or, (2) the preparation by DOE of an environmental impact statement covering the significant site-specific impacts that are likely to result from the Construction Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If DOE prepares an environmental impact statement covering significant site-specific impacts from the Construction Order, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

Public comment on the proposal to issue Construction Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments.

Comments should address: (1) The adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, as well as the conclusions with respect to the other factors DOE must consider and rationale in support of these conclusions; (2) the environmental impact of the issuance of notices making effective the Construction Orders, including any site-specific environmental impacts; and (3) any other aspects or impacts of the proposed Construction Orders believed to be relevant.

Pursuant to 10 CFR 303.173 (a) and (d), DOE hereby announces that a public hearing to receive oral presentation of data, views, and arguments from interested persons will be held beginning at 10 a.m., on May 23, 1978, at the Legislative Office Building, Hearing Room C, Albany, N.Y. 12248. Any person who has an interest in the subject of the hearing, or who is a representative of a group of class of persons which has an interest in the subject of the hearing, may make a written request, or a verbal request if confirmed in writing, for an opportunity to make oral presentation. That request should be directed to Donald Combria, DOE Region II, Room 3206, 26 Federal Plaza, New York, N.Y. 10007, 212-264-9834. The request should be received before 4:30 p.m., May 16, 1978. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 22, 1978. Speakers should submit 10 copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Donald Combria, Department of Energy, Room 3206, 26 Federal Plaza, New York, N.Y. 10007, before 4:30 p.m., May 19, 1978. Speakers will be contacted by a DOE representative before 4:30 p.m., May 18, 1978, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. the oral presentation itself should be a summary of those written comments.

While DOE will endeavor to provide adequate opportunity to all who desire to speak, DOE reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. DOE will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

A DOE official will be designated to preside at the hearing, which will not be a judicial or evidentiary hearing. During oral presentations, only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if she or he so

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desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by DOE and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the DOE Regional Office, Room 3206, 26 Federal Plaza, New York, N.Y. 10007, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to these proposed contruction Orders to Public Hearing Management, Box TG, Department of Energy, room 2313, 2000 M Street NW., Washington, D.C. 20461.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Construction Orders for the General Electric Co., Selkirk, N.Y. Installations." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., June 12, 1978, all oral presentations, and all other relevant information submitted to or otherwise available to DOE will be considered by DOE prior to issuance of Construction Orders.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 of ESECA (10 CFR Parts 303 and 307) are available from the following DOE Regional offices:

REGION, ADDRESS, AND PHONE

I: Robert W. Mitchell, Acting Regional Representative, 150 Causeway Street, room 700, Boston, Mass. 02114, 617-223-3701.

II: William W. Wood, Acting Regional Representative, 26 Federal Plaza, room 3206, New York, N.Y. 10007, 212-264-1021.

III: Bernard Snyder, Acting Regional Representative, 1421 Cherry Street, room 1001, Philadelphia, Pa. 19102, 215-597-3390.

IV: Donald Allen, Acting Regional Representative, 1655 Peachtree Street, NE.—8th floor, Atlanta, Ga. 30309, 404-526-2837.

V: William Peterson, Acting Regional Representative, Federal Office Building, 175 West Jackson Boulevard, room A-333, Chicago, Ill. 60604, 312-353-0540.

VI: Curtis E. Carlson, Acting Regional Representative, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235, 214-749-7345.

VII: James R. Newman, Acting Regional Representative, 324 East 11th Street, Kansas City, Mo. 64106, 816-374-2061.

VIII: C. Dale Eriksen, Acting Regional Representative, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226, 303-234-2420.

IX: William C. Arntz, Acting Regional Representative, 111 Pine Street, San Francisco, Calif. 94111, 415-556-7216.

X: Jack B. Robertson, Acting Regional Representative, 1992 Federal Building, 915 Second Avenue, Seattle, Wash. 98174, 206-442-7280.

MFBI CONSTRUCTION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

On February 3, 1977, the Federal Energy Administration published in the FEDERAL REGISTER (42 FR 6621) a notice requiring owners of major fuel burning installations (MFBI's) which on or after December 27, 1976 enter the early planning process and which meet the design firing rate requirements, to file FEA Form C-607-S-O, entitled "Major Fuel Burning Installation Early Planning Process Identification Report." The purpose of the Report is to enable DOE to identify potential MFBI Construction Order candidates in accordance with Section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended (15 U.S.C. 791, et seq.). A construction order will require the MFBI to be designed and constructed to be capable of using coal as its primary energy source.

An MFBI is considered to have entered the early planning process upon completion of its preliminary feasibility study. The design firing rate requirements are met for each MFBI that has individually a design firing rate of 100 million Btu's/hour or greater, or individually a design firing rate of 50 million Btu's/hour or greater and a design firing rate of 100 million Btu's/hour or greater when taken in the aggregate with other MFBI's at the same location which have design firing rates of 50 million Btu's/hour or greater and were in the reporting interval as of December 27, 1976, or entered thereafter.

The FEA Form C-607-S-O is divided into Schedules A-1, A-2, and A-3. Schedule A-1 contains basic identifying data for a particular MFBI. Schedule A-2 is designed to provide DOE with information on conbustor capacity, combustor use, the primary energy source, and the design and construction schedule, including the processing status of any required government permits.

After receiving Schedules A-1 and A-2, DOE first determines that the MFBI reported on meets the design firing rate criterion in § 307.6(b)(3) and is in the early planning process as defined in § 307.2 of DOE Regulations. An MFBI which does not meet one of the above criteria is notified by letter that it is not within the jurisdiction of DOE and will not be considered further as a potential Construction Order candidate.

In evaluating the information contained in Schedules A-1 and A-2, DOE has, up to the present time, exercised its administrative discretion not to consider the following types of MFBI's:

(a) Those planning to use other than petroleum products or natural gas fuels as their primary energy source;

(b) Those planning to be capable of using only coal as their primary energy source;

(c) Those planning to construct process use units that require utilization of natural gas or petroleum products and for which alternate fuels are not technically feasible (10 CFR, 303.2); and

(d) Those planning exclusively to use waste gas that would not be added to the nationwide pipeline supply, or petroleum by-products that are not suitable for general commercial uses (typically these fuels are waste gases or petroleum by-products generated by refinery processes and are used in refinery steam generators).

Issuing orders to the first category of MFBI's, above, would not contribute to the saving of any oil or natural gas. Burning of non-fossil fuels, furthermore, contributes to the purpose of ESECA to aid in meeting the essential needs of the United States for fuels in the same manner as does the increased burning of coal.

In addition, DOE has exercised its administrative discretion to eliminate from further consideration MFBI's currently planning to burn coal as their only energy source because of programmatic necessity to establish reasonable priorities. Should units planning to use a non-fossil fuel, or units planning to burn only coal change their current plans, they are to amend their response to Form FEA C-607-S-O.

DOE has applied its administrative and technical expertise to determine that certain types of facilities should be covered by the "process use" exemption referred to in subparagraph (c) above. Certain of these processes

reflect uses for which the burning of coal is not technically feasible or coal-capable equipment is not commerically available. The following types of facilities have been included to date in the "process use" exemption:

(1) Refinery heaters and furnaces;

(2) Copper refining and melting furnaces;

(3) Chemical plant process heaters and recovery furnaces;

(4) Oxygen blown steelmaking vessels;

(5) Primary float glass tanks; and

(6) Direct fired kilns (producing low alkaline products).

DOE has also determined that not issuing NOI's to those MFBI's that use waste gas or petroleum by-products not suitable for other commercial uses would best serve the purposes of ESECA. The uses to which these waste fuels are currently put represent efficient use of national resources. Prohibiting the use of these waste fuels would not significantly conserve national supplies of scarce fuels.

MFBI's eliminated on the basis of the above criteria are notified by letter that they will not be issued construction orders. All other MFBI's in the early planning process are required by DOE to complete Schedule A-3 of Form FEA C-607-S-O. Schedule A-3 is designed to elicit detailed financial information about the MFBI owner's estimate of capital costs that would be associated with the construction of a coal capable unit. Comparative fuel costs and the net operating cost differential resulting from burning coal are also elicited by Schedule A-3. The owner's financial history and information on coal availability are also obtained.

After receipt of the information contained in Schedule A-3, DOE, pursuant to Section 2(c) of ESECA and 10 CFR 307.3(d)(2), analyzes the capability of the owner of the MFBI to recover any increase in projected capital investment costs required as a result of a Construction Order. An owner of an MFBI is capable of recovering any increase in projected capital investment that might be required as a result of a Construction Order if the MFBI is able to make the original investment planned (prior to issuance of a Construction Order) plus any increase required as a result of a Construction Order and continue in business in at least a financially breakeven posture over the long run. DOE presumes that an MFBI owner's capability to recover capital is confirmed when that owner can both raise the necessary capital for construction of an MFBI with coal burning capability and can show a historical profit profile. Factors used in analyzing that presumption include the size of the additional capital investment necessary to comply with a Construction Order, net property and plant assets, historical construction expenditures and total equity of the owner. DOE also considers any loss of revenue resulting from a delay caused by a Construction Order. Such losses, if any, are considered in terms of increase or additional costs which an MFBI incurs for goods or services, including power, which must be purchased by the MFBI to replace those goods or services which the MFBI would have produced for itself but for the issuance of a Construction Order. Such costs will be limited to the difference between the anticipated cost of production of the goods or services at the MFBI, and the cost of purchasing replacement goods or services.

In addition, Section 2(c) of ESECA and 10 CFR 307.3(c)(2) provide that DOE may not issue a Construction Order to an MFBI if it determines that an adequate and reliable supply of coal is not expected to be available. To meet this requirement, DOE considers the availability nationwide of total tonnages of coal, based upon the presumption that an MFBI in the early planning process can be designed and constructed to use a wide range of coal types available.

Section 2(c) of ESECA and 10 CFR 307.3(d)(1) also require that DOE consider, prior to issuance of a Notice of Intention (NOI) to Issue a Construction Order, the existence and effects of any contractual commitments for the construction of the MFBI.

It is to be noted that much of the information used by DOE in issuing this NOI is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to this NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the DOE National Headquarters as follows: Mr. Walter Romanek, Department of Energy, Code OCU (Construction Orders: General Electric Co., Noryl Utility Division, Selkirk, New York Installations), Washington, D.C. 20461, telephone 202-254-3910.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 95-70; Department of Energy Organization Act (Pub. L. 95-91); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267))

Issued in Washington, D.C., May 5, 1978.

DORIS J. DEWTON,
Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

APPENDIX PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE CONSTRUCTION ORDERS

ESECA and the Department of Energy (DOE) regulations require DOE to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI)[1] DOE's proposed findings, as well as its proposed conclusions with respect to the factors DOE has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

[1]Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 pursuant to the Department of Energy Organization Act, from the Federal Energy Administration to the Department of Energy.

Docket No.	Owner	Installation	Units	Location
OCU-3060-2-1	General Electric Co.	Noryl Utility Division.	6001A	Selkirk, N.Y.
OCU-3060-2-2	do	do	6001B	Do.

These findings, determinations and considerations, which are now proposed by DOE, are based on the information that has been provided to and developed by DOE prior to the issuance of this Notice of Intention (NOI) to issue Construction Orders. DOE intends, as necessary, to fully update, for purposes of currency, the information and data pertinent to the issuance of this NOI prior to the issuance of a Construction Order. DOE invites the MFBI or other interested persons to submit more current information or data if such is available.

General Electric Co. shall be referred to as the "owner". Units 6001A and 6001B shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to DOE by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, DOE proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

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2. Information supplied by the owner or otherwise acquired by DOE indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, DOE has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]. Within these recoverable reserves approximately 100 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

(B) *National coal production and demand.* A comparison of estimated national coal production and national coal demand shows that there should be sufficient production of coal to meet the total national demand through 1984.

(1) *National coal production.* It is conservatively estimated that it will be possible to produce coal nationally in at least the following quantities:

Year	Production potential[1]
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7

[1]Million tons.

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1984 projection, therefore, tends to underestimate actual production potential.

(2) *National coal demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from DOE action under the authority of section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year	Demand[1]
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985

[1]Million tons.

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all outstanding Notices of Intention to issue Prohibition Orders currently under consideration and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows:

Year	Demand[1]
1978	9.6
1979	14.0
1980	20.4
1981	22.7
1982	29.5
1983	29.5
1984	29.5

[1]In millions of tons.

The above estimated demand figures for 1978 through 1984 include projections for Prohibition Orders issued in June 30, 1975 which are currently effective through December 31, 1978 and are subject to extension through December 31, 1984.

(c) *State or local laws.* DOE has found no State or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend the far into the future. The projection for national coal production potential in 1984 cited in paragraph 1.(b)(1), above, tends to underestimate actual production potential.

DOE has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational.

DOE expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, and the *FEA 1976 National Energy Outlook*) that national coal production potential will exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Constuction Orders under section 2(c) of ESECA. Pursuant to the terms of ESECA, and the implementing regulations, DOE proposes to find that coal is not expected to be unavailable for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producerts according to regional supply/demand relationships related to the MFBI's location. DOE observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* DOE has considered the availability of national coal transportation facilities. Generally, DOE considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES DOE TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of these MFBI's.* DOE has considered the existence and effects of any contractual commitment for the construction of these MFBI's which the owner has reported to DOE in a Schedule of Plan Change Costs attachment to Form FEA C-607-S-O, Schedule A-3, or otherwise. DOE has considered the additional costs which would be incurred in connection with existing contractual commitments should DOE require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, DOE has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* DOE has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* DOE has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing DOE information and analysis, as well as information filed with DOE by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in Standard & Poors and the General Electric Annual Report. Where necessary, DOE has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, DOE related the additional capital investment costs discussed in paragraph II.B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, DOE has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, DOE presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

[FR Doc. 78-12816 Filed 5-10-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

ALGONQUIN GAS TRANSMISSION CO.

[Docket Nos. RP76-15 and RP76-98]

Order Approving Plan of Refund and Extending Purchased Feedstock Adjustment Clause, Subject To Modification

MAY 1, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

By order issued May 23, 1977, the Federal Power Commission approved a settlement agreement in the instant dockets which continued the effectiveness of Algonquin Gas Transmission Co.'s (Algonquin) Purchased Feedstock Adjustment Clause (PFAC). This clause provides for the flow-through of increases or decreases in the costs of naphtha used in the manufacture of synthetic natural gas (SNG) at Algonquin's Freetown, Mass., SNG plant for the life of the settlement agreement. As noted in the May 23 order, "under Algonquin's contracts with its suppliers, the price of naphtha feedstock can be changed at any time. Feedstock costs account for approximately 70 percent of total SNG project costs. • • • Under the PFAC, Algonquin establishers a base cost for naphtha to be used for purposes of current billings. Any differences between actual feedstock costs and the base cost during a winter heating season are recorded in a deferred account. Amounts recorded in the deferred account are charged or credited to Algonquin's customers during the succeeding winter heating season by means of a surcharge adjustment to the base cost."[1]

The PFAC further provides for the annual filing of an SNG cost of service and revenue study for the period during which the deferred account was generated. Algonquin is also obligated by its existing SNG-1 Rate Schedule to file a post-audit report relating to SNG services for each heating season. The May 23, 1977, order approved continuation of the PFAC for one additional cycle covering the 1977-78 winter heating season and subsequent 1978-79 amortization period. The PFAC also provides for interest at 9 percent per annum for overcollection in the deferred account and carrying charges at a rate of 9 percent per annum for undercollection in the deferred account.

On October 21, 1977, 1977, Algonquin filed a "Motion For Order Approving Plan of Refunds And Extending Purchased Feedstock Adjustment Clause". This motion states that, "as required by section 10.8 of the PFAC, Algonquin Gas on September 30, 1977 filed a post-audit report comparing the SNG-1 revenues and cost of service during the 1976-77 winter season. Such report, as amended, shows that SNG-1 revenues for such period exceeded costs by $194,051."[2] Upon review of the cost of service calculations underlying the SNG cost of service refunds, we find that Algonquin has properly computed these refunds. Accordingly, we shall approve the proposed plan of refund (attached as Appendix A). We also conclude that the $194,051 SNG cost of service refund, in conjunction with the refunds already ordered in Docket Nos. RP73-112, et al. constitute the entire refund liability of Algonquin for the 1976-77 SNG season.

We turn now to the question of continuing the effectiveness of Algonquin's existing PFAC. As noted previously, naphtha feedstock constitutes a substantial portion of Algonquin's SNG cost of service. Specifically, the September 30, 1977 post-audit report reveals that for the 1976-77 SNG season, feedstock and fuel constituted 78.46 percent of the overall cost of producing SNG. The price of naphtha pursuant to Algonquin's contracts is determined at the time of deliver, based on market place conditions. Algonquin contends, and no one challenges, that it is difficult to estimate with any certainty the delivered cost of naphtha far in advance of its actual arrival.

The PFAC would, according to Algonquin, alleviate the need to file formal rate cases to protect itself from possible changes in naphtha costs. Furthermore, in support of its position, Algonquin states that the PFAC passes on all of the cost fluctuations, upward as well as downward, from the base cost of naphtha.

We agree with the company that the PFAC should be continued subject to the conditions discussed below. We find that the consumer is protected by the requirement for the company to file an annual SNG cost-of-service and by the requirement for the company to file an annual post-audit report. We find further that the nature of Algonquin's naphtha feedstock supply contracts is such that the company could be subject to a widely fluctuating price for naphtha feedstock. The PFAC obviates the need of Algonquin to file "protective" annual rate cases to cover these fluctuating costs. However, we are not persuaded that Algonquin's permanent PFAC tariff provision should include the interest and carrying charge provisions contained in Algonquin's proposed clause. The Commission has precluded inclusion of carrying charge provisions in pipeline PGA clauses except where the pepeline has been able to demonstrate that it has been carrying excessive amounts in its deferred account.[3] No such showing, or any other appropriate showing has been made in the instant proceeding to justify the collection of carrying charges for undercollections in naphtha costs. Also, for that matter, has there been sufficient justification presented for accrual of interest charges for overcollections in naphtha costs. Elimination of interest charges for overcollections in naphtha costs. Elimination of interest charges would provide Algonquin an incentive to seek the lowest possible price for naphtha feedstock. This incentive would be present because to the

[1] *Algonquin Gas Transmission Co.*, Docket Nos. RP76-15 and RP76-98, order issued May 23, 1977, mimeo at 1.

[2] Motion at 2-3.

[3] Furthermore, accrual of carrying charges in PGA clauses has been made subject to any changes in treatment of carrying charges required in a final order in Docket No. R-406 or in any other proceedings where such change or changes may be required.

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extent Algonquin is able to purchase naphtha feedstock below the rate stated in its PFAC tariff, it would have available to it interest free money accrued in the deferred account from the period such money was accrued until the time the overcollections are refunded to Algonquin's customer.

Accordingly, we shall permit Algonquin to include the PFAC in its tariff subject to elimination of the carrying charge and interest provisions. Waiver of section 154.38(d)(3) is granted for good cause shown to permit inclusion of the PFAC in Algonquin's tariff, as hereinafter conditioned.

The Commission finds: (1) The report of refunds contained in Algonquin's October 21, 1977 motion should be approved.

(2) The existing Purchased Feedstock Adjustment Clause (PFAC) should be continued as a permanent part of Algonquin's tariff, as hereinafter ordered and conditioned.

The Commission orders: (A) The Report of Refund contained in Algonquin's October 21, 1977 motion is hereby approved.

(B) For good cause shown, waiver of section 154.38(d)(3) of the Regulations is hereby granted.

(C) The Purchased Feedstock Adjustment Clause presently contained in Algonquin's tariff pursuant to our May 23, 1977 order issued in these dockets included in Algonquin's filed FERC tariff subject to elimination of the carrying charge and interest provisions for undercollections and overcollections respectively, of naphtha costs accrued in the deferred account.

(D) Algonquin shall make all refunds ordered herein within 15 days of this order and shall file with this Commission and all interested State commissions a full report of said refunds within 30 days thereafter.

(E) The Secretary shall cause prompt publication of this order to be published in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX A.—*Algonquin Gas Transmission Co.*

[PLAN OF REFUND[1] Refund by Buyer (Exclusive of Interest) *Rate Schedule SNG-1*]

Long-term buyers	Volume	Refund[2]
Bay State Gas Co	2,416,000	$26,267.48
Boston Gas Co	1,940,455	21,097.22
Bristol & Warren Gas Co	90,600	985.02

[1]Plan of refund of overcollection of $194,051 for 1976-1977 SNG season. See Schedule A, p. 1 of 2 of Purchased Feedstock Adjustment Clause Cost of Service Report filed with the Commission on September 30, 1977.

APPENDIX A.—*Algonquin Gas Transmission Co.*—Continued

Long-term buyers	Volume	Refund[2]
Cape Cod Gas Co	630,244	6,852.22
Commonwealth Gas Co	1,510,000	16,417.16
The Connecticut Gas Co	2,498,875	27,168.52
Connecticut Natural Gas Corp	1,477,096	16,059.43
Fall River Gas Co	1,091,531	11,867.45
The Hartford Electric Light Co	151,000	1,641.72
Town of Middleborough, Mass	30,200	328.34
New Bedford Gas & Edison Light Co	755,000	8,208.60
North Attleboro Gas Co	12,080	131.32
City of Norwich, Conn	30,200	328.34
Orange and Rockland Utilities, Inc	453,000	4,925.14
The Pequot Gas Co	30,200	328.34
Providence Gas Co	2,015,487	21,913.01
South County Gas Co	45,300	492.51
The Southern Connecticut Gas Co	1,870,012	20,331.34
Tiverton Gas Co	6,795	73.89
Subtotal long-term buyers	17,054,075	185,417.05
Temporary buyers:		
New Jersey Natural Gas Co.	616,525	6,703.04
Pottsville Gas Co., et al	177,600	1,930.91
Subtotal temporary buyers	794,125	8,633.95
Total	17,848,200	194,051.00

[2]Calculation of Unit Refund Rate: Revenues Over Cost of Service ($194,051)÷SNG Demand Determinants (17,848,200)=1.087230084826 cents.

PLAN OF REFUND.—*Demand billing determinants by buyer 1976-77 SNG season, rate schedule SNG-1*

[Million British thermal units]

	1976	1977					
	October	November	December	January	February	March	April	Total
Long-term buyers:								
Bay State Gas Co		420,000	496,000	496,000	448,000	496,000		2,416,000
Boston Gas Co		360,000	372,000	372,000	336,000	489,638	10,817	1,940,455
Bristol & Warren Gas Co		18,000	18,600	18,600	16,800	18,600		90,600
Cape Cod Gas Co		120,000	124,000	124,000	112,000	132,361	17,883	630,244
Commonwealth Gas Co		300,000	310,000	310,000	280,000	310,000		1,510,000
The Connecticut Gas Co		480,000	496,000	496,000	448,000	578,875		2,498,875
Connecticut Natural Gas Corp		270,000	279,000	279,000	252,000	279,000	118,096	1,477,096
Fall River Gas Co		210,000	217,000	217,000	196,000	239,135	12,396	1,091,531
The Hartford Electric Light Co		30,000	31,000	31,000	28,000	31,000		151,000
Town of Middleborough, Mass		6,000	6,200	6,200	5,600	6,200		30,200
New Bedford Gas & Edison Light Co		150,000	155,000	155,000	140,000	155,000		755,000
North Attleboro Gas Co		2,400	2,480	2,480	2,240	2,480		12,080
City of Norwich, Conn		6,000	6,200	6,200	5,600	6,200		30,200
Orange & Rockland Utilities, Inc		90,000	93,000	93,000	84,000	93,000		453,000
The Pequot Gas Co		6,000	6,200	6,200	5,600	6,200		30,200
Providence Gas Co		390,000	403,000	403,000	364,000	419,000	36,487	2,015,487
South County Gas Co		9,000	9,300	9,300	8,400	9,300		45,300
The Southern Connecticut Gas Co		360,000	372,000	372,000	336,000	430,012		1,870,012
Tiverton Gas Co		1,350	1,395	1,395	1,260	1,395		6,795
Subtotal long-term buyers		3,288,750	3,398,375	3,398,375	3,069,500	3,703,396	195,697	17,054,075
Temporary buyers:								
New Jersey Natural Gas Co			6,775	210,025	189,700	210,025		616,525
Pottsville Gas Co., et al			15,600	55,800	50,400	55,800		177,600
Subtotal temporary buyers			22,375	265,825	240,100	265,825		794,125
Total SNG demand		3,288,750	3,420,750	3,664,200	3,309,600	3,969,221	195,679	17,848,200

[FR Doc. 78-12661 Filed 5-10-78; 8:45 am]

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[6740-02]

[Docket No. RM77-14]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to Gas Research Institute Charge Adjustment Provision

MAY 4, 1978.

Take notice that Algonquin Gas Transmission Co. ("Algonquin Gas") on April 25, 1978, tendered for filing 40th Revised Sheet No. 10 and 4th Revised Sheet No. 10-A to its FERC Gas Tariff, First Revised Volume No. 1.

The purpose of this filing is to include in Algonquin Gas' rates a $0.0012 per MMBtu Gas Research Institute Charge approved by the Commission in its order dated March 22, 1978, in Docket No. RM77-14.

The proposed effective date of the revised tariff sheets is June 1, 1978.

A copy of this filing is being served upon all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12797 Filed 5-10-78; 8:45 am]

[6740-02]

[Docket No. EL78-13]

CENTRAL VIRGINIA ELECTRIC COOPERATIVE, INC., ET AL. v. APPALACHIAN POWER CO.

Application

MAY 3, 1978.

Take notice that Central Virginia Electric Cooperative, Inc., Craig-Botetourt Electric Cooperative, Inc., and Southside Electric Cooperative on March 14, 1978, tendered for filing an Application for an order pursuant to section 202(b) of the Federal Power Act directing Appalachian Power Company to sell electricity to the Applicants.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12798 Filed 5-10-78; 8:45 am]

[6740-02]

[Docket No. RP75-62]

CITIES SERVICE GAS CO.

Order Granting Petitions for Leave To Intervene Out of Time

MAY 3, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402(a) (1) or (2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On December 8, 1977, the Kansas Manufactured Housing and Recreational Vehicle Institute, Inc. (KMHRVI) filed, pursuant to Section 1.8 of the Commission's Rules of Practice and Procedure (18 CFR 1.8), a Petition for Leave to Intervene Out of Time.

The petition states that KMHRVI represents the interests of mobile home manufacturers, mobile home dealers, and mobile home park operators in the State of Kansas. The KMHRVI also represents firms and industries which provide materials and supplies to mobile home manufacturing plants within and without the State of Kansas. The Petition to Intervene alleges that a moratorium on new gas connections will result in extreme economic hardship for the mobile home industry.

On March 20, 1978, two candidates for the Congress of the United States from the State of Kansas jointly filed a Petition to Intervene Out of Time. Charles B. Pike and Dr. Robert Whittaker seek intervention on behalf of individuals and small commercial entities who may, at a future date, seek to obtain natural gas indirectly from the Cities Service Gas Co. (Cities).

No party has filed in opposition to either of these petitions to intervene. After review of these requests, and with specific reference to the terms of Section 1.8(b) of the Commission's Rules of Practice and Procedure (18 CFR § 1.8(b)), we have determined

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CFR 1.8(c)), that the grant of intervention would unduly delay the proceedings, and that the Petitioner fails to demonstrate an adequate interest.

A response to the petition of the NOJC was filed by the Home Builders Association of Greater Kansas City (HBA) on April 18, 1978. The HBA opposes the late petition to intervene of the NOJC on the grounds of relevancy and objects to the potential delay the intervention might cause.

On April 18, 1978, an opposition to the petition of the NOJC was filed by the Gas Service Co. (Service), which adopts the rationale of Cities.

Review of the petition to intervene of the NOJC convinces us that oil could be considered an alternative to natural gas in certain situations. We shall therefore grant the petition to intervene and leave to the good judgment of the Presiding Judge the question of the admissibility of the prepared testimony which was filed contemporaneously with the petition to intervene. We believe that this action will insure a more complete record and is mandated by the public interest.

Although the NOJC has stated no specific reason for the late filing of its petition to intervene, we infer that its late petition results from statements made on the record, after the date set for the filing of interventions. Its late petition is therefore not unreasonable. If the several Petitioners take the record as it now stands, the interventions, however late, will not result in an undue delay in this proceeding.

The Commission finds: Participation by the Kansas Manufactured Housing and Recreational Vehicle Institute, Inc., Charles B. Pike and Dr. Robert Whittaker, and the National Oil Jobbers Council in this proceeding may be in the public interest, and good cause exists for granting the late interventions.

The Commission orders: (A) Petitioners are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That participation of the Intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of petitioners shall not be construed as recognition by the Commission that they may be aggrieved because of any Order or Orders of the Commission entered in this proceeding.

(B) Petitioners shall take the record as it now stands in this proceeding. The interventions granted herein shall not be the basis for unduly delaying or deferring any procedural schedules heretofore established for the orderly and expeditious determination of this proceeding.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12799 Filed 5-10-78; 8:45 am]

[6740-02]

[Docket No. CI75-602]

ROY M. HUFFINGTON, INC.

Order Reopening Record

MAY 2, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission with-in the Department of Energy, was activated on October 1, 1977.[1]

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

[1]The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

Roy M. Huffington, Inc. on July 27, 1977, addressed a letter to the Secretary of the Commission stating that its operations in the Lawson Field, Acadia Parish, La. have become uneconomical and requesting the Commission to grant a certificate of abandonment conditioned upon Huffington entering into a new contract with its customer, Michigan Wisconsin Pipe Line Co. (Mich Wis) at the national area rate presently in effect for new gas, subject to such increases as may hereafter be approved by the Commission for small producer sales.

In this proceeding Huffington originally filed a petition to abandon service to Mich Wis or, alternatively to abandon approximately 30 percent of the sale representing the royalty interest share of the gas and to increase the price of the working interest share. Huffington alleged that its lessor, the City of Crowley, La., is demanding increased royalty payments based on the current market value of the gas in accordance with the terms of its lease. The State of Louisiana, an intervenor, has a lease to Huffington containing similar provisions, but we are not aware that it has made a similar demand. Upon order of the Commission a hearing was held on October 21, 1975, and an initial decision was issued on May, 2, 1976, in which the Administrative Law Judge denied the abandonment or alternative partial abandonment and any price relief. The proceeding was submitted to the Commission on exceptions to the initial decision.

This proceeding involves difficult questions of law and policy and the Commission has not yet acted because of the *Pennzoil* litigation involving a similar situation. *Pennzoil Producing Co. et al.*, —— FPC ——, Opinion N. 753, Docket No. RI76-8 *et al.*, issued January 30, 1976, rehearing denied, —— FPC ——, Opinion No. 753-A, issued February 27, 1976, reversed and remanded *Pennzoil Producing Co.* v. *F.P.C.*, 553 F. 2d 485 (CA5-1977), modified on rehearing —— F. 2d —— (1977), petition for certiorari pending, Sup. Ct. No. 77-648.

In its letter, Huffington says that it is now uneconomical for it to continue to produce its share of the remaining Lawson Field gas even if Huffington should never be required to pay a royalty based on a price higher than the contract price. It attaches tables purporting to show that revenues will not return its investment in the Field and that expenses are now greater than revenues. Huffington says that since

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the hearing in 1975 rates allowed for new interstate gas sales now approach market value, so this should eliminate demands by royalty owners that their royalties be paid on rates which exceed interstate gas prices. It says that its operations have become so uneconomical that it does not feel justified in incurring additional attorney's fees and other expenses in connection with the property, but it requests that consideration be given to its request in order to stop its operating losses.

Huffington has, in effect, filed an amendment to its original application without the formalities of the Commission's Rules, particularly as to the number of copies and service on the intervenors. We are therefore attaching a copy of the Huffington letter with the tables to this order and will mail the order to all parties and intervenors. We shall reopen the record to receive the letter and tables as evidence, but will afford all parties and intervenors opportunity to file any objections they may have or to request a hearing. Upon the completion of these further procedures, if any, we shall proceed to determine Huffington's application subject, if necessary, to the course of the *Pennzoil* litigation.

The Commission further finds: It is necessary and appropriate that the record be reopened to receive the additional evidence presented by Huffington in its letter filed July 27, 1977, subject to objection and opportunity for hearing as provided below.

The Commission orders: (A) The record is reopened to receive into evidence the letter filed by Huffington on July 27, 1977, with the attached tables subject to objection within 30 days of this order by any party or intervenor, who may request a hearing on this additional evidence.

(B) The Secretary shall cause publication of this order in the Federal Register.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

ROY M. HUFFINGTON, INC.,
INTERNATIONAL PETROLEUM OPERATIONS,
3600 THE 1100 MILAM BUILDING,
Houston, Tex., July 21, 1977.

Re: Lawson Field, BNG-PL/PRD, Roy M. Huffington, Inc. FPC Docket No, CI 75-602

MR. KENNETH F. PLUMB, Secretary,
Federal Power Commission,
825 North Capitol Street NE.,
Washington, D.C.

GENTLEMEN: On April 9, 1975 Roy M. Huffington, Inc. filed its application to abandon service to Michigan Wisconsin Pipe Line Co. from the Lawson Field, Acadia Parish, La. On September 4 prepared testimony was filed and a hearing was held on October 21, 1975 to consider Huffington's application. Huffington's application was prompted by a demand by its principal lessor, the City of Crowley, La., that its royalty payments be based on current market prices paid by Cities Service Oil Co. In the Lawson Field rather than on Huffington's contracted price with Michigan Wisconsin Pipe Line Co. Since it was impossible to meet the demands of the City of Crowley and operate the leases at a profit, Huffington submitted its application for abandonment.

Nearly 2 years has elapsed since the hearing before the Administrative Law Judge who denied Huffington's application. Huffington filed exceptions to the decision of the Administrative Law Judge and has not to this date received any response or ruling thereon. During this period Huffington's working interest share of Lawson Field production has declined approximately 80 percent. The production drop was more severe in the early part of 1977 when two wells in which Huffington had a substantial interest were depleted. As is apparent from the attached revenue and expense statement, it is now uneconomical for Huffington to continue to produce its share of the remaining Lawson Field gas even if Huffington should never be required to pay royalty based on a price higher than the contract price. The revenue and expense statement does not include income from one well which was redrilled in early 1975, because Huffington could not justify the investment at the current contract price. Under penalty provisions of the operating agreement, income from this well is retained by Cities Service until 200 percent of the investment is recovered. The payout status of this well is attached. Huffington anticipates the well will deplete before payout is reached unless the contract price is revised.

In order to permit Huffington to continue to deliver gas produced from its leases in the Lawson Field in Interstate Commerce to Michigan Wisconsin several alternative actions were proposed to the Commission at the October, 1975 hearing. One was that a Certificate of Abandonment be conditioned on Huffington entering into a new contract with Michigan Wisconsin and that Huffington be permitted to collect the national area rate presently in effect for new gas.

Huffington appreciates the Commission's concern in dealing with the market value royalty problem. However, since the hearing in 1975 on Huffington's application, rates allowed for new interstate gas sales now approach market value. This fact should soon eliminate demands by royalty owners that their royalties be paid on rates which exceed interstate gas prices. However, Huffington's operations in the Lawson Field have become so uneconomical that Huffington does not feel justified in incurring additional attorney's fees and other expenses in connection with this property. A "prudent operator" under normal circumstances would have already released these leases to the lessor rather than to continue to produce at a loss; however, the Administrative Law Judge in this case has ruled that relinquishment of the leases would constitute a violation of the Natural Gas Act. Huffington does not believe that it is the intention of the Natural Gas Act to require producing companies to operate properties at a loss.

Therefore, Huffington respectfully requests that the Commission grant a Certificate of Abandonment conditioned upon Huffington entering into a new contract with Michigan Wisconsin on the same terms and conditions as that contained in Docket No. CI 67-201 but that Huffington be permitted to collect the national area rate presently in effect for new gas, subject to such increases as may hereafter be approved by the Commission for small producer sales. This approach offers the following advantages:

(1) Huffington's working interest and royalty gas continues to be delivered to the interstate market.
(2) Huffington can economically produce its remaining share of Lawson Field reserves from existing wells.
(3) Huffington can economically participate in redrilling and well workovers in the Lawson Field that will yield additional gas for the interstate market.

Roy M. Huffington, Inc. respectfully requests your immediate consideration in granting this request in order to permit it to stop its operating losses.

Very truly yours,

ROY M. HUFFINGTON, INC.,
S. C. BERRY,
Vice President, Production,

Attachments.
cc: Mr. Dave Breish/Michigan Wisconsin

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that granting intervention to KMHRVI and Mr. Pike and Dr. Whittaker may be in the public interest.

On March 31, 1978, the national Oil Jobbers Council (NOJC) filed a Petition to Intervene Out of Time. The NOJC is a federation of 43 state and regional trade associations representing thousands of independent petroleum marketers. The NOJC alleges that it is an interested party because evidence of fuel oil as an alternate energy source has been presented in the direct case herein. The NOJC Petition outlines the role of oil as an alternative during the 1977 natural gas shortage and the 1978 coal strike.

On April 13, 1978, the Cities Service Gas Co. (Cities) filed an answer to the Petition to Intervene Out of time of the NOJC. Cities alleges that the NOJC petition does not comply with Section 1.8(c) of the Commission's Rules of Practice and Procedure (18

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Roy M. Huffington, Inc., Lawson field, 1977 Revenue and expense statement

Month	RMHI share of Lawson field gas production (1,000 ft³)	Gross gas revenue	Louisiana severence tax	Royalty and overrides	Lease operating expense	RMHI net gas (loss) income	RMHI net gas liquids income	RMHI net field (loss) income
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
January 1977	(1)9,617	2,438.87	673.19	554.67	2,875.30	(1,664.29)	208.70	(1,455.59)
February 1977	7,026	1,781.79	491.82	405.31	2,301.14	(1,416.48)	127.85	(1,288.63)
March 1977	7,847	1,990.00	549.29	452.60	1,831.87	(843.76)	188.47	(655.29)
April 1977	(2)3,853	977.12	269.71	222.46	2,473.41	(1,988.46)	150.02	(1,838.44)
May 1977	5,252	1,331.91	367.64	303.29	2,224.94	(1,563.96)	122.05	(1,441.91)
5 mo. total, 1977	33,595	8,519.69	2,351.65	1,938.33	11,706.66	(7,476.95)	797.09	(6,679.86)

(1) Hayes sand unit E depleted.
(2) Hayes sand unit D depleted.
(A) Sales are not balanced against production on a monthly basis so actual sales may be more or less than the volume shown.
(F)=(B)−(C+D+E).
(G) After royalty and severence tax.
(H)=(F)+(G).

Month	RMHI share of suf prod.	Net gas revenue	Net lease liquid revenue	Total revenue	Well investment and operating expense	Cumulative payout status
(A)	(B)	(C)	(D)	(E)	(F)	(G)
Jaunuary 1975					$101,635	($101,835)
February 1975	645	$72		$72	49	(101,612)
March 1975	8,951	1,012	$652	1,664	82	(100,010)
April 1975	8,579	970	564	1,534	117	(98,593)
May 1975	8,882	1,004	467	1,471	97	(97,219)
June 1975	8,639	977	751	1,728	81	(95,572)
July 1975	9,322	1,054	665	1,719	74	(93,927)
August 1975	10,943	1,237	629	1,866	101	(92,162)
September 1975	10,684	1,325	688	2,013	69	(90,218)
October 1975	8,629	1,070	675	1,745	82	(88,555)
November 1975	8,396	1,041	615	1,656	108	(87,007)
December 1975	6,183	767	670	1,437	1,042	(86,612)
January 1976	8,592	1,151	663	1,814	457	(85,255)
February 1976	8,988	1,204	462	1,666	190	(83,779)
March 1976	8,590	1,151	580	1,731	77	(82,125)
April 1976	9,461	1,268	589	1,857	80	(80,348)
May 1976	9,630	1,290	609	1,899	75	(78,524)
June 1976	9,124	1,223	589	1,812	111	(76,823)
July 1976	9,421	1,262	622	1,884	64	(75,003)
August 1976	9,142	1,225	601	1,826	111	(73,288)
September 1976	9,416	1,262	541	1,803	71	(71,556)
October 1976	9,632	1,291	703	1,994	87	(69,649)
November 1976	9,644	1,292	649	1,941	112	(67,820)
December 1976	10,570	1,416	514	1,930	153	(66,043)
January 1977	9,091	1,218	571	1,789	87	(64,341)
February 1977	8,737	1,171	548	1,719	76	(62,698)
March 1977	9,785	1,311	614	1,925	75	(60,848)
April 1977	9,974	1,337	626	1,963	68	(58,953)
May 1977	9,538	1,278	599	1,877	75	(57,151)
Total	249,188	31,879	16,456	48,335	105,486	(.....)

(B) Entitlement if Huffington had participated in drilling replacement well.
(C) After royalty and production tax.
(D) After royalty and production tax.
(E)=(C)+(D).
(F) 200 pct of Huffington working interest share of new well investment shown in January 1975. Huffington working interest share of direct lease operating expense shown monthly beginning February 1975.
(G)=(E)−(F).

[FR Doc. 78-12662 Filed 5-10-78; 8:45 am]

[6740-02]

[Docket No. RI77-132]

JOHN H. HURBROUGH, ET AL.

Order Granting Petition for Special Relief

MAY 2, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Public Law 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 64267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ———, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above menticned authorities.

On September 13, 1977, John H. Hurbrough, et al. (Hurbrough) filed a petition for special relief in Docket No. RI77-132 pursuant to section 2.76 (18 CFR § 2.76) of the Commission's General Policy and Interpretations. Hurbrough requests a total rate of $2.10 per Mcf at 14.65 psia for the sale of natural gas to United Gas Pipeline Co. (United) from the J. C. Beard No. 1 well, Boggy Creek Field, Anderson County, Tex.

United stated in a letter dated September 2, 1977, to Hurbrough that it will pay the requested rate.

Presently, Hurbrough is selling its gas at the authorized rate of 76 cents per Mcf. This sale of gas is being made pursuant to Hurbrough's small producer certificate issued in Docket No. CS76-446 on February 2, 1976.

Hurbrough proposes to spend $10,000 reworking the J. C. Beard No. 1 well, which will enable the recovery of estimated gross volumes of 47,761 Mcf of gas over the next 1⅔ years. The reworking of the well includes acidizing, perforating, and testing. Further, Hurbrough avers that if its petition for special relief is not granted, plugging of the well will be necessary.

Based on the data filed by the applicant, staff determined Hurbrough's net remaining book investment to be $28,709 and its estimated production expenses to be $15,000 annually for a total of $25,505 over the remaining 1⅔ year of production, including an annual 5 percent inflation factor. Based upon staff's analysis of the data submitted by Hurbrough, these figures are reasonable.

Staff, using the above costs and the net working interest reserves of 34,083 Mcf [1] in a traditional cost study wherein the modified Btu method was utilized to allocate cost between gas and liquids, concludes that a total rate of $2.10 per Mcf is required to allow Hurbrough to recoup the costs associated with this project, including a 15 percent rate of return.[2]

Hurbrough's petition was noticed on September 30, 1977 and published in the FEDERAL REGISTER on October 7, 1977 (42 FR 54602). A timely petition to intervene was filed by United, in support of Hurbrough's petition on October 19, 1977.

For the foregoing reasons we conclude that Hurbrough's proposed rate is cost supported. Accordingly, we further conclude that Hurbrough's petition for special relief should be granted.

The Commission finds

(1) It is in the public interest to grant Hurbrough's petition for special relief.

(2) The petition for special relief by Hurbrough meets the criteria set forth in section 2.76 of the Commission's General Policy and Interpretations.

The Commission orders

(A) The petition for special relief filed by Hurbrough, et al. in Docket No. RI77-132 is hereby granted.

(/b) Hurbrough is authorized to collect a total rate of $2.10 per Mcf at 14.65 psia for all gas produced from its J. C. Beard No. 1 Well and sold to United, effective on the date of completion of the workover of the well, or the date of the order herein, whichever is later subject to the conditions set forth in paragraphs (C) and (D) below.

(C) Within 30 days of the effective date of the rate specified in paragraph (B), Hurbrough shall file a statement setting forth the date the proposed work has been completed to United's satisfaction.

(D) Within 30 days of the date of this order herein, Hurbrough must file an executed amendment to its contract with United providing for payment of the rate granted above and a notice of independent producer rate change reflecting the above authorized rate.

(E) United is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission; *Provided, however,* that its participation shall be limited to matters affecting asserted rights and interest specifically set forth in its petition for leave to intervene; and *Provided, further,* that the admission of United in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that United agrees to accept the record as it now stands.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[1] This figure was derived by multiplying the gross volumes by the net working interest percentage. (47,761 Mcf times 0.713 = 34,083)

[2] See Appendix A, attached hereto.

APPENDIX A

JOHN H. HURBROUGH, ET AL.—*Unit cost of gas*

[Docket No. RI77-132]

Line No. and item (a)	Amount (b)
1. Net working interest volumes:	
2. Gas (1,000 ft³ 14.65 psia)[1]	34,083
3. Liquids (bbls.)[2]	75
4. Cost of Production:	
5. Return on rate base at 15 pct[3]	$5,052
6. D. D. & A.[4]	36,709
7. Production expense[5]	25,505
8. Subtotal	67,266
9. Allocated to gas[6]	65,920
10. Regulatory expense[7]	34
11. Total cost of production	$65,954
12. Unit cost of gas (cents per 1,000 ft³):	
13. Cost of production[8]	194.00
14. Production tax[9]	16.00
15. Total unit cost	210.00

[1] 47,761 1,000 ft³ times 0.713616 net working interest.
[2] 105 bbls. times 0.713616 net working interest.
[3] Line 9 of sheet 3 times 0.15 times 1.667 year productive life.
[4] From line 6, sheet 2.
[5] Based on estimated future operating expenses of $15,000 per year, escalated 5 percent for second year.
[6] Line 8 times line 12 of sheet 2.
[7] Line 2 times 0.1 cent per 1,000 ft³ per Opinion No. 749.
[8] Line 11 divided by line 2.
[9] 7.5 percent times line 15.

JOHN H. HURBROUGH, ET AL.—*Investment and allocation of costs*

[Docket No. RI77-132]

Line No. and item (a)	Amount (b)
1. Investment:	
2. Remaining net book value, July 31, 1977	$28,709
3. Rework well	10,000
4. Total investment	38,709
5. Less salvage value[1]	2,000
6. Depreciable investment	36,709
7. Depreciation per unit of production[2]	1.077
8. Allocation of costs (MMBtu):[3]	
9. Gas[4]	35,617
10. Liquids[5]	613
11. Total	36,230
12. Percentage allocated to gas[6]	.98

[1] Net salvage value as estimated by petitioner.
[2] Line 6 divided by 34,083 1,000 ft³.
[3] Modified Btu per Opinion No. 749.
[4] 34,083 times 1.045 MMBtu per 1,000 ft³.
[5] 75 bbls. times 5.448 MMBtu per bbl. times 1.5 modifier.
[6] Line 9 divided by line 11.

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JOHN H. HURBROUGH, ET AL.—*Average investment and annual rate base*

[Docket No. R177-132]

Line No. and year	Annual N.W.I. production (1,000 ft³)	Beginning of year investment	Depreciation [1]	End of year investment	Average investment [2]
(a)	(b)	(c)	(d)	(e)	(f)
1. Average investment:					
2. 1977	24,281	$38,709	$26,151	$12,558	$25,634
3. 1978 (8 mo)	9,802	12,558	10,558	2,000	[4] 4,855
4. Totals			36,709		30,489
5. Average annual investment [3]					18,290
6. Average annual rate base:					
7. Average annual investment					18,290
8. Average annual working capital allowance [5]					1,913
9. Total annual rate base					20,203

[1] Col. (b) times line 7 of sheet 2.
[2] Col. (c) plus col. (e) divided by 2.
[3] Col. (f) of line 4 divided by 1.667 yr productive life.
[4] 0.125 times line 7 of sheet 1 divided by 1.667 yr productive life.
[5] Adj. for ⅝ yr.

[FR Doc. 78-12663 Filed 5-10-78; 8:45 am]

[6740-02]

[Docket No. RP78-23]

MIDWESTERN GAS TRANSMISSION CO.

Filing of Substitute Tariff Sheets

MAY 4, 1978.

Take notice that on May 1, 1978, Midwestern Gas Transmission Co. (Midwestern) tendered for filing the following tariff sheets to its FERC Gas Tariff, to be effective on June 1, 1978:

Third Revised Volume No. 1

Substitute Twenty-Second Revised Sheet No. 5
Substitute Fifth Revised Sheet No. 5A
Substitute Fourth Revised Sheet No. 80
Second Substitute Third Revised Sheet No. 85
First Revised Sheet No. 93
Second Revised Sheet No. 94

Original Volume No. 2

Substitute Second Revised Sheet No. 37

Midwestern states that the purpose of these tariff sheets is to make certain revisions in the rates proposed in Midwestern's December 1, 1977 Section 4 rate filing, which rates were suspended to June 1, 1978, Docket No. RP78-23. Midwestern states that such revisions include (1) the revision of the Northern System rates to reflect the *United* 25-75 classification methodology pursuant to the Commission's warning in its December 30, 1977, suspension order (2) revisions to reflect the current cost of purchased gas and revised surcharges to recover unrecovered purchased gas costs and curtailment credits reflected in Midwestern's PGA filing of December 16, 1977; (3) revisions to reflect the rate adjustments reflected in Midwestern's Gas Research Institute rate adjustment filing of April 6, 1978; and (4) revisions to permit, beginning June 1, 1978, the flow-through to Midwestern's customers of curtailment credits received from Tennessee Gas Pipeline Co.

Midwestern states that copies of the filing have been mailed to all affected customers, the regulatory commissions of each state in which any such customer distributes gas, and the parties in docket No. RP78-23.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12800 Filed 5-10-78; 8:45 am]

[6740-02]

[Docket Nos. G-3359, et al.]

Notice of Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

MAY 3, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all a more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-3359, C, Apr. 21, 1978	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Cities Service Gas Co., Edmond plant located in sec. 31-T14N-R3W, Oklahoma County, Okla.	[12]	14.65
G-17888, D, Apr. 20, 1978	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	El Paso Natural Gas Co., Clear Lake Field, Beaver County, Okla.	[3]	
G-17888, D, Apr. 20, 1978	Shell Oil Co	El Paso Natural Gas Co., Clear Lake Field, Beaver County, Okla.	[4]	
CI63-578, C, Apr. 20, 1978	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Cities Service Gas Co., certain acreage in the northwest Lovedale field, Harper County, Okla.	[5]	14.65
CI77-850, C, Apr. 12, 1978	Columbia Gas Development Corp., P.O. Box 1350, 1700 West Loop South, Houston, Tex. 77001.	Columbia Gas Transmission Corp., block 267, Vermilion area, offshore Louisiana.	[6]	15.025
CI78-29, C, Apr. 20, 1978	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Hawkins "B" No. 1 and Oklahoma State "J" No. 1 wells from the Morrow series and the Cherokee group of the Pennsylvanian systems only in the Goff Creek and Unity northwest fields, Texas County, Okla.	[5]	14.65
CI78-625, A, Apr. 10, 1978	Shell Oil Co	Transcontinental Gas Pipe Line Corp., South Marsh Island block 132 field, offshore Louisiana.	[5]	15.025
CI78-626, A, Apr. 10, 1978	....do	Natural Gas Pipeline Co. of America, South Marsh Island block 115 field, offshore Louisiana.	[5]	15.025
CI78-627, A, Apr. 10, 1978	Columbia Gas Development Corp	Southwest Gas Corp., Federal "E" well in Eddy County, N. Mex.	[5]	14.73
CI78-628, A, Apr. 10, 1978	Louisiana Land Offshore Exploration Co., Inc., 225 Baronne St., P.O. Box 60350, New Orleans, La. 70160.	United Gas Pipe Line Co., certain acreage in block A-480, High Island area, offshore Texas.	[5]	14.65
CI78-629 (CI67-960), B, Apr. 10, 1978.	Austral Oil Co., Inc., 2700 Exxon Bldg., Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., certain acreage in the Bancker field, Vermilion Parish, La.	[7]	
CI78-630, A, Apr. 10, 1978	Murphy Oil Corp., 200 Jefferson Ave., El Dorado, Ark. 71730.	Michigan Wisconsin Pipe Line Co., High Island area blocks A-369 and A-370 in the Gulf of Mexico, offshore Texas.	[5]	15.025
CI78-631, A, Apr. 11, 1978	J. M. Huber Corp., 2000 West Loop South, Houston, Tex. 77027.	Colorado Interstate Gas Co., West Panhandle field, Hutchinson and Carson Counties, Tex.	[8]	14.65
CI78-632, A,* Apr. 12, 1978	Aminoil USA, Inc., Golden Center 1, 2800 North Loop West, Houston, Tex. 77018.	El Paso Natural Gas Co., certain acreage in Eddy County, N. Mex.	[5]	14.73
CI78-633 (CI61-399), B, Apr. 12, 1978.	Caroline Hunt Schoellkopf, 2500 1st National Bank Bldg., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., La verne field, Beaver County, Okla.	Depleted, leases released from contract.	
CI78-634, A, Apr. 13, 1978	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79189.	Phillips Petroleum Co., Mitchell "A" Unit No. 1, located in sec. 123, block 42, H. & T.C. survey, Hemphill County, Tex. and limited to production from surface to base of Morrow formation.	[5]	14.73
CI78-635 (CI77-211), B, Apr. 13, 1978.	Pioneer Production Corp., et al	United Gas Pipe Line Co., Littlefield No. 1, Morgan's Creek field, Isaac Parker survey, A-61, Polk County, Tex.	Depletion of production in paying quantities.	
CI78-656, A, Apr. 17, 1978	American Natural Gas Production Co., 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Tex. 77056.	Michigan Wisconsin Pipe Line Co., Wheeler County, Tex.	[10 11]	14.65
CI78-657, A, Apr. 17, 1978	Aminex U.S.A. Inc.(successor in interest to Superior Oil Co.), P.O. Box 1521, Houston, Tex. 77001.	Columbia Gas Transmission Corp., blocks A-337, A-342, and A-343, High Island area, offshore Texas.	[5]	15.025
CI78-658 (CI62-244), B, Apr. 17, 1978.	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Arkansas Louisiana Gas Co., Richland field, Stephens County, Okla.	[12]	
CI78-659, A, Apr. 17, 1978	Natresco Inc. (successor in interest to the Superior Oil Co.), P.O. Box 1521, Houston, Tex. 77001.	Columbia Gas Transmission Corp., blocks A-337, A-342, and A-343, High Island area, offshore Texas.	[5]	15.025
CI78-660, A, Apr. 17, 1978	American Natural Gas Production Co., 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Tex. 77056.	Michigan Wisconsin Pipe Line Co., Wheeler County, Tex.	[13 11 G 2]	14.65
CI78-661, A, Apr. 17, 1978	Canadian Superior Oil (U.S.) Ltd., P.O. Box 1521, Houston, Tex. 77001.	Columbia Gas Transmission Corp., blocks A-337, A-342, and A-343, High Island area, offshore Texas.	[5]	15.025
CI78-662, A, Apr. 19, 1978	Union Oil Co. of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	Southern Natural Gas Co., blocks 47 and 52, Main Pass area, Plaquemines Parish, La.	[5]	15.025

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Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI78-663 (G-16501), B, Apr. 19, 1978.	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	Trunkline Gas Co., sec. 15, the east one-half of sec. 17, the northeast quarter of sec. 20, the north one-half of sec. 21, and the north one-half of sec. 22, all in T15S, R2E, Vermilion Parish, La.	The dedicated leasehold acreage has been released and there has ben no production therefrom.	
CI78-664, A, Apr. 19, 1978.....	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Colorado Interstate Gas Co., Wilburton field, Morton County, Kans.	(1)	14.73
CI78-665 (CI72-854) (G-18063) (G13274), B, Apr. 19, 1978.	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	Getty Oil Co., Reinecke and Von Roeder fields, Borden County, Tex.	(11)	.....
CI78-666 (CI69-1035), F, Apr. 17, 1978.	Ocean Production Co., et al., (successor in interest to the Preston Oil Co.), P.O. Box 61780, New Orleans, La. 70161.	Columbia Gas Transmission Corp., a portion of Vermilion block 161, in the Gulf of Mexico, offshore Louisiana.	(2 13)	15.025
CI78-668, A, Apr. 19, 1978.....	Felmont Oil Corp., 1446 Buffalo St., Olean, N.Y. 14760.	Columbia Gas Transmission Corp., Detweiler No. 1 well, Pineton gas field, Indiana County, Pa.	(3)	14.73
CI78-669, A, Apr. 19, 1978.....	Felmont Oil Corp	Columbia Gas Transmission Corp., C.B.C. No. 5 well, Pineton gas field, Indiana County, Pa.	(3)	14.73
CI78-670, A, Apr. 19, 1978.....	Arkla Exploration Co., P.O. Box 21734, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., Carthage field, Panola County, Tex.	(14)	14.65
CI78-671, A, Apr. 20, 1978.....	Ashland Exploration, Inc., P.O. Box 1503, Houston, Tex. 77001.	Colorado Interstate Gas Co., from eight wells located in Hamilton and Stanton Counties, Kan.	(3)	14.65
CI78-672, A, Apr. 20, 1978.....	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Transwestern Pipeline Co., Empire Abo unit, Eddy County, N. Mex., limited to the interval between the surface and the Wolfcamp formation, less and except rights in the Premier Sand-Grayburg formation, which rights are not owned by applicant.	(3)	14.65
CI78-673, A, Apr. 20, 1978.....	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa, Okla. 74114.	El Paso Natural Gas Co., unnamed field, Roger Mills County, Okla.	(17)	14.73
CI78-674, A, Apr. 20, 1978.....	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Northern Natural Gas Co., certain acreage in the Oates northeast field, Pecos County, Tex.	(3)	14.65
CI78-675, B, Apr. 21, 1978.....	Lloyd W. Roberts, P.O. Box 1077, Spearman, Tex. 79081.	Northern Natural Gas Co., Clementine field, Hansford County, Tex.	Well will no longer meet line pressure. Applicant proposes to utilize remaining gas production for irrigation purposes.	
CI78-676 (CI60-63), B, Apr. 21, 1978.	Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.	South Texas Natural Gas Gathering Co., various fields, Hidalgo County, Tex.	(18)	.....

[1] Applicant is filing under residue gas sales agreement dated Apr. 14, 1978.
[2] Applicant requests its certificate of public convenience and necessity be amended to change delivery point from Edmond plant to Kingfisher plant located in section 9-T15N-R5W, Kingfisher County, Okla.
[3] Depleted, plugged, and abandoned and release of oil and gas lease was executed by applicant in favor of the lessors on Sept. 15, 1977.
[4] Ceased production, plugged, and abandoned, and leases dated Aug. 17, 1977 and Aug. 24, 1977 were released to the mineral interest owners.
[5] Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.
[6] Applicant is filing under gas purchase and sales agreement dated Sept. 14, 1977, amended by amendment dated Mar. 7, 1978, to reflect that the depth limitation of said contract has been extended.
[7] At the time of assignment to Seaboard, Austral assigned all of its remaining leasehold interest in Bancker field.
[8] Applicant is filing under gas purchase agreement dated Mar. 31, 1978
[9] Applicant seeks authorization to make a sale to El Paso for a 5-yr. term.
[10] Applicant is filing under gas purchase contract dated Apr. 14, 1978.
[11] Applicant and purchaser are affiliated.
[12] Ceased production, only well on the lease has been plugged and abandoned and lease subject to the contract was released in 1971.
[13] Applicant is filing under gas sales contract dated Apr. 13, 1978.
[14]
[15] Contract terminated Apr. 2, 1977. Residue gas will be delivered to same purchaser, El Paso Natural Gas Co., at tailgate of new plant.
[16] Effective Jan. 1, 1978, Odeco Drilling Inc., assigned all of its right, title, and interest in Vermilion block 161 to Ocean Production Co.
[17] Applicant is filing under gas sales contract dated Jan. 24, 1978.
[18] Applicant is filing under gas purchase contract dated Mar. 20, 1978.
[19] On Mar. 24, 1978, applicant and buyer agreed to the termination of their contract dated Jan. 1, 1960, and the services related thereto because the subject contract covers sale of surplus gas and there has been no surplus gas available since early 1972.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Succession. F—Partial succession.

[FR Doc. 78-12664 Filed 5-10-78; 8:45 am]

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[6740-02]

[Docket No. CP78-304]

SOUTHERN NATURAL GAS CO. AND UNITED GAS PIPE LINE CO.

Application

APRIL 27, 1978.

Take notice that on April 21, 1978, Southern Natural Gas Co. (Southern), P.O. Box 2563, Birmingham, Ala. 35202, and United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-304 an application pursuant to section 7(c) of the Natural Gas Act authorizing the exchange of natural gas between Applicants to enable United to receive a supply of natural gas located remote from its system, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that United has the right to purchase natural gas from Exchange Oil and Gas Co. in the Loisel Area, Iberia Parish, La., and that such gas is accessible to Southern's Fish Island Receiving Station in Sec. 35, T. 12 S., R. 8 E., in Iberia Parish. United proposes to deliver up to 800 Mcf of gas per day to Southern and Southern proposes to redeliver equivalent volumes to United at the following locations:

1. The interconnection with United on Sea Robin Pipeline Co.'s system near Erath, Vermilion Parish, La.;
2. The interconnection at the outlet side of the measuring station installed and operated by Natural Gas Pipeline Co. of America at the outlet of the Texaco Henry Plant in Sec. 21, T. 13 S., R. 4 E., Vermilion Parish, La.;
3. The interconnection between the facilities of Applicants at Southern's Shadyside Compressor Station, St. Mary's Parish, La., where United delivers gas to Southern; or
4. Any other mutually agreeable existing authorized point of interconnection between United and Southern, including interconnections at Perryville, Ouachita Parish, La., and Kosclusko, Miss.

Applicants state that the service will be on an Mcf-for-Mcf basis, that no new facilities will be required, and that there will be no charge for the service.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12802 Filed 5-10-78; 8:45 am]

[6740-02]

[Docket No. CP73-300]

TEXAS GAS TRANSMISSION CORP.

Application

MAY 3, 1978.

Take notice that on April 21, 1978, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP73-300 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation during the 12-month period commencing on the date of issuance of the requested authorization of a maximum of 12 rural delivery points necessary for the establishment of new and additional delivery points for the delivery of natural gas to existing utility customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it, in acquiring pipeline right-of-way, has, in certain right-of-way agreements, agreed to install a farm tap as part of the consideration for such right-of-way, subject to a utility distribution company assuming operation and control of such farm tap. Applicant further states that certain of its customers have a controlled attachment policy which allows them to add new residential and small commercial customers to offset attrition of existing customers.

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It is stated that the proposed facilities will consist of one side valve for each rural delivery point constructed and would be used by the customer for the installation of a meter for such new service. The cost of installation of each new rural delivery point is estimated at $1,000, with a total overall expenditure not to exceed $12,000 for the period, which cost would be financed by Applicant from funds on hand, it is stated.

Applicant states that service to be rendered through the proposed delivery points would be provided for by the utility customers of Applicant without increase in either their contract demands or quantity entitlement. It is indicated that service would be primarily for residential use.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12801 Filed 5-10-78; 8:45 am]

[3128-01]

Office of Hearings and Appeals

SYSTEM TO MONITOR NO. 2 (HOME) HEATING OIL PRICES

Rules of Procedure

AGENCY: Department of Energy, Office of Hearings and Appeals.

ACTION: Amendments to rules of procedure.

FOR FURTHER INFORMATION CONTACT:

George B. Breznay, Deputy Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street NW., Room 8014, Washington, D.C. 20461, telephone number, 202-254-9681.

I. DISCUSSION

On April 24, 1978, the Office of Hearings and Appeals of the Department of Energy announced the adoption of certain interim rules of procedure. 43 FR 17393 (April 24, 1978). The rules of procedure were established for the purpose of governing the conduct of an evidentiary hearing which the Office of Hearings and Appeals plans to hold in August 1978. The purpose of the evidentiary hearing will be to consider the need for further regulatory action with regard to the pricing and allocation of No. 2 (home) heating oil in light of information compiled by the Department of Energy. In the April 24, 1978 notice, the Office of Hearings and Appeals indicated that it would accept written comments with respect to the interim rules until May 8, 1978. In addition, the rules provided that any person wishing to participate in the evidentiary hearing must submit a petition to intervene to the Office of Hearings and Appeals no later than May 15, 1978.

On May 5, 1978, the subcommittee of the Fuel Oil Marketing Advisory Committee (the subcommittee), which was designated to assist the Department of Energy in the analysis of home heating oil prices, requested that the Office of Hearings and Appeals extend the final dates for accepting both comments regarding the proposed rules and petitions to intervene. The members of the subcommittee asserted that the filing requirements set forth in the rules of procedure did not provide interested persons an adequate amount of time in which to formulate comments on the interim rules or prepare their petitions to intervene. Therefore, the subcommittee requested that the Office of Hearings and Appeals amend the filing dates to require that comments on the interim rules be submitted by May 15, 1978 and that petitions to intervene be submitted on or before May 25, 1978.

The purpose of establishing the filing dates set forth in the April 24, 1978 Notice is to ensure that this proceeding is administered in a fair and efficient manner. The subcommittee is comprised of members of the petroleum industry, consumer groups, state energy offices, and the DOE, who represent the various interests most likely to be involved in this proceeding, and their views as to the appropriate time period for filing comments and Petitions to Intervene should be very seriously considered. Moreover, it does not appear that the filing extensions requested by the subcommittee would unduly delay the proceedings. Under these circumstances, the Office of Hearings and Appeals has determined that the filing dates with respect to comments regarding the interim rules should be extended to May 14, 1978. The filing date for submitting Petitions to Intervene will also be extended to May 25, 1978. The Office of Hearings and Appeals intends to issue a determination with respect to the Petitions to Intervene no later than June 9, 1978.

All other filing dates specified in the April 24, 1978 Notice remain unchanged at the present time. However, these dates will be subject to reconsideration pending the submission of comments regarding the interim rules of procedure to the Office of Hearings and Appeals.

II. AMENDMENTS

(1) The effective date by which comments with respect to the interim rules must be submitted is hereby amended to May 15, 1978.

(2) Rule 2 (Petition to Intervene) is hereby amended in the following manner:

(a) *Filing Requirement.* Any person who wishes to be designated a party to this proceeding shall file a Petition to Intervene no later than May 25, 1978.

(3) Rule 3 (Decision With Respect to Petition to Intervene) is hereby amended in the following manner:

(c) The Order of the Office of Hearings and Appeals with respect to a Petition to Intervene shall not be subject to further administrative review or appeal. The Office of Hearings and Appeals intends to issue a determination with respect to Petitions to Intervene no later than June 9, 1978.

Issued in Washington, D.C., May 5, 1978.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals, Department of Energy.

[FR Doc. 78-12874 Filed 5-10-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 894-1]

AIR QUALITY CRITERIA FOR COKE OVEN EMISSIONS SUBCOMMITTEE

Open Meeting

As required by Pub. L. 92-463, this is to announce a public meeting of the Science Advisory Board's subcommittee to review the Environmental Protection Agency's draft document relating to the human health effects of atmospheric emissions from coke ovens. The draft documents to be reviewed are entitled An Assessment of the Health Effects of Coke Oven Emissions, Human Population Exposures to Coke Ovens, and Carcinogen Assessment Group's Preliminary Report on Population Risk to Ambient Coke Oven Exposure.

The meeting will be for one and a half days, starting at 10 a.m. on May 30 and at 9 a.m. on May 31, Room 2117 of the Mall, 401 M Street SW., Washington, DC. The meeting is open to the public. Any member of the public wishing to attend or submit written comments regarding the scientific and technical information in the documents should call or write Ms. Elaine Hance or Mr. Lloyd Taylor, Science Advisory Board (A-101), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. The telephone number is 703-557-7720.

Dated: May 4, 1978.

RICHARD M. DOWD,
Staff Director, Science Advisory Board.

[FR Doc. 78-12765 Filed 5-10-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENT FILED

Revision

Notice of Agreement filed by:
Edward Schmeltzer, Esquire, Schmeltzer, Aptaker and Sheppard, P.C., Counselors at Law, Suite 305, 1150 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 9929-5, among the parties to the Combi Line Joint Service Agreement, previously appeared in the FEDERAL REGISTER of February 7, 1978, Vol. 43, No. 26, page 5065. This amendatory agreement has now been revised relative to the parties' coordinated container service to: (1) Extend the overall limitation on the carriage of cargo in containers to include all vessels operated by the joint service, (2) include within this limitation service between United States ports and ports in Mexico, (3) further limit the

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carriage and the loading and discharging of containerized cargo at U.S. South Atlantic ports moving to and from Europe, (4) limit the carriage of reefer containers to the current reefer capacity of approximately 30,000 cubic feet weekly in each direction, (5) provide that the limitations on the carriage of containers shall apply to containers both loaded and discharged at ports covered by the agreement regardless of the ultimate destination, except containers carrying motor vehicles or parts originating at or destined to ports or points in Mexico, (6) provide that the parties may jointly schedule and advertise their sailings, and (7) provide for the pooling of revenues and the sharing of operational expenses until Agreement No. 10266, as amended, has been approved and implemented.

This agreement has been incorporated into Docket No., 77-7 which concerns Agreement No. 9929-5, as amended, and as herein clarified. The above is due to a prehearing conference held on February 27, 1978, concerning Docket No. 77-7 wherein the proponents voluntarily withdrew Amendments 2 and 4 to the subject agreement. All persons, except parties to Docket No. 77-7, desiring to comment upon this revision may do so by filing petitions to intervene in this proceeding. However, comments should be restricted to these latest changes and only comments thereon shall be considered.

By the Order of the Federal Maritime Commission.

Dated: May 5, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12857 Filed 5-10-78; 8:45 am]

[6730-01]

NOUVELLE COMPAGNIE DE PAQUEBOTS (PAQUET LINES)

Order of Revocation

In the matter of certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P-82 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,077.

Whereas, Nouvelle Compagnie de Paquebots (Paquet Lines), c/o Paquet Cruises, Inc., 1370 Avenue of the Americas, New York, New York 10019, has ceased to operate the passenger vessel Renaissance; and

Whereas, Nouvelle Compagnie de Paquebots (Paquet Lines) has retured Certificate (Performance) No. P-82 and Certificate (Casualty) No. C-1,077 applying to the Renaissance for revocation;

It is ordered, That Certificate (Performance) No. P-82 and Certificate (Casualty) No. C-1,077 applying to the Renaissance be and are hereby revoked effective May 4, 1978.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served on certificant.

By the Commission May 4, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12858 Filed 5-10-78; 8:45 am]

[1505-01]

FEDERAL MARITIME COMMISSION

[Docket No. 72-35]

PACIFIC WESTBOUND CONFERENCE

Investigation of Rates, Rules and Practices Pertaining to the Movement of Wastepaper and Woodpulp from United States West Coats Ports to Ports in Japan; Draft Environmental Impact Statement

Correction

In FR Doc. 78-9137, appearing at page 14538 in the issue for Thursday, April 6, 1978; on page 14539, first column, first line, the date "May 8, 1978" should read "May 22, 1978".

[6730-01]

SECURITY FOR THE PROTECTION OF THE PUBLIC; INDEMNIFICATION OF PASSENGERS FOR NONPERFORMANCE OF TRANSPORTATION

Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 C.F.R. Part 540):

Venture Cruise Lines, Inc., 1175 N.E. 125th Street—Suite No. 103, North Miami, Fla. 33161.

Dated: May 8, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12859 Filed 5-10-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

DECATUR COUNTY BANKSHARES, INC.

Formation of Bank Holding Company

Decatur County Bankshares, Inc., Oberlin, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85.2 percent of the voting shares of Decatur County National Bank, Oberlin, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 1, 1978.

Board of Governors of the Federal Reserve System, May 4, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-12839 Filed 5-10-78; 8:45 am]

[6210-01]

FIRST & MERCHANTS CORP.

Proposed Commencement of Reinsurance Activities

First & Merchants Corp., Richmond, Va., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand the activities of its subsidiary Security-Atlantic Life Insurance Co., Phoenix, Ariz. Notice of the application was published on March 24, 1978 in The Richmond Times-Dispatch, a newspaper circulated in Richmond, Va. and on March 28, 1978 in The Arizona Republic, a newspaper circulated in Maricopa County, Ariz.

Applicant states that the proposed subsidiary would engage in the activity of reinsuring credit life and credit accident and health insurance sold at offices in North Carolina in connection with extensions of credit by nonbanking subsidiaries of First & Merchants Corp. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 2, 1978.

Board of Governors of the Federal Reserve System, May 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-12842 Filed 5-10-78; 8:45 am]

[6210-01]

KENCO BANCSHARES, INC.

Formation of Bank Holding Company

Kenco Bancshares, Inc., Jayton, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of Kent County State Bank, Jayton, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 2, 1978.

Board of Governors of the Federal Reserve System, May 5, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-12840 Filed 5-10-78; 8:45 am]

[6210-01]

NATIONAL BANCSHARES CORP. OF TEXAS

Acquisition of Bank

National Bancshares Corp. of Texas, San Antonio, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of Brooks Field National Bank, San Antonio, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 5, 1978.

Board of Governors of the Federal Reserve System, May 4, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-12841 Filed 5-10-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Eduction

NATIONAL CENTER FOR RESEARCH IN VOCATIONAL EDUCATION ADVISORY COUNCIL

Establishment

The Secretary of Health, Education, and Welfare has determined that the establishment of the National Center for Research in Vocational Education Advisory Council, as identified hereinafter, to be in the public interest, and necessary and appropriate to provide advice to the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, the Commissioner of Education and the Director of the National Center for Research in Vocational Education. The Council is established in accordance with and will be governed by the provisions of the Federal Advisory Committee Act, Pub. L 92-463.

1. Designation—National Center for Research in Vocational Education Advisory Council.
2. Establishment date and date of termination—The Council was established April 24, 1978, and will terminate 2 years from that date unless renewed by appropriate action prior to its expiration.
3. Purpose—To assist the Director of the National Center and to advise the Commissioner when and if necessary in determining the location of one or more Regional Research Centers.
4. Membership—The Council shall consist of 13 public members knowledgeable about, or from some of the fields of: State administration of vocational education, Research Coordinating Units, State advisory councils on vocational education, teacher education, a vocational educator, a State or local superintendent of schools, community college and junior college educators, employers, labor, management, economics, psychology-sociology, and special needs of the disadvantaged and handicapped. At least one member shall be a student. In addition, a representative of the Department of Defense and a representative of the Department of Labor will be appointed *ex-officio* (non-voting) members.
5. Meetings—Notice of meetings, to be held not less than two times each year, will be given to the public in accordance with the Federal Advisory Committee Act.

Signed at Washington, D.C., on May 3, 1978.

ANN V. BAILEY,
Committee Management Officer, Office of Education.

[FR Doc. 78-12834 Filed 5-10-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

CHEMEHUEVI INDIAN RESERVATION, CALIF.

Ordinance Legalizing the Introduction, Sale, or Possession of Intoxicants

MAY 3, 1978.

In accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 230 DM 2 (32 FR 13938) and in accordance with the Act of August 15, 1953, Pub. L. 277, 83d Congress, 1st Session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Chemehuevi Indian Reservation, Calif., was adopted September 24, 1977, by the Chemehuevi Indian Tribal Council which has jurisdiction over the area of Indian country included in the Ordinance, reading as follows:

Pursuant to the authority vested in the Tribal Council of the Chemehuevi Indian Tribe by its Constitution, the Tribal Council of the Chemehuevi Indian Tribe unanimously takes, adopts, and enacts the following Ordinance.

Whereas, title 18, section 1161 of the United States Code provides that certain laws prohibiting the sale and consumption of alcoholic beverages on Indian country are not applicable to an act or transaction which is in conformity both with the applicable laws of the State of California and with an ordinance duly adopted by the Tribe having jurisdiction over such area of Indian country, certified by the Secretary of Interior and published in the FEDERAL REGISTER; and

Whereas, the Chemehuevi Tribal Council has heretofore enacted Tribal Ordinance No. 7 with respect to the sale and consumption of alcoholic beverages on the Reservation, which ordinance was certified by the Secretary of the Interior and published in volume 37, No. 217 of the FEDERAL REGISTER on November 9, 1972; and

Whereas, the Chemehuevi Tribal Council has heretofore enacted Tribal Ordinance No. 14 with respect to the sale and consumption of alcoholic beverages on the Reservation, which ordinance was certified by the Secretary of the Interior and published in volume 41, No. 186 of the FEDERAL REGISTER on September 23, 1976; and

Whereas, the Chemehuevi Tribal Council wishes to amend such ordinance.

Now, therefore, the following ordinance is hereby enacted:

The possession and consumption of alcoholic beverages on the Chemehuevi Indian Reservation shall be lawful, provided that such possession and consumption is in con-

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formity with the applicable laws of the State of California. The purchase and sale of alcoholic beverages on the Chemehuevi Reservation shall be lawful only within that portion of the reservation riparian to Lake Havasu designated by U.S. Secretary of the Interior Ickes on November 25, 1941, bounded on the North by a line parallel to and 200 feet south of the north boundary of section 31, T5N, R25E, San Bernardino Meridian and bounded on the south by the east-west centerline of the SW¼ of section 31; provided that such purchase and sale is in conformity with the applicable laws of the State of California.

Resolved further, That Tribal Ordinance No. 14 is hereby repealed; and

Resolved further, That the Chairman of the Tribe is hereby directed to submit the foregoing ordinance, or cause such ordinance to be submitted, to the Superintendent of the Colorado River Agency, Bureau of Indian Affairs, for submission to the Secretary of the Interior for certification and publication in the FEDERAL REGISTER.

CERTIFICATION

The foregoing resolution was presented at the regular meeting of the Chemehuevi Tribal Council, meeting on this 24th day of September 1977, with a quorum present, by motion of Ralph Esquerra, seconded by Nina Murdock and approved by a vote of 8 yes and 0 nos.

HERBERT W. PENCILLE,
Chairman.
ROSIE M. LEIVAS,
Secretary/Treasurer
FORREST J. GERARD,
Assistant Secretary for Indian Affairs.
LAFOLLETTE BUTLER,
Acting Assistant Area Director.

[FR Doc. 78-12774 Filed 5-10-78; 8:45 am]

[4310-02]

INDIAN TRIBES PERFORMING LAW ENFORCEMENT FUNCTIONS

Determination—Amendment

MAY 3, 1978.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 2.

Section 601(d), Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90-351, places responsibility on the Secretary of the Interior to determine those Indian tribes which perform law enforcement functions. The listing published beginning on page 13758 of the May 25, 1973, FEDERAL REGISTER (38 FR 13758) identified all eligible Indian tribes and the specific law enforcement functions they have responsibility to exercise. Determinations and certifications concerning Indian tribes not listed are made on an individual basis upon application by such tribes.

It has been determined by the Assistant Secretary—Indian Affairs that the Absentee Shawnee and the Cheyenne-Arapaho Tribes of Indians in Oklahoma have responsibility to perform the six functions listed below:

Therefore, the listing published beginning on page 13758 of the May 25, 1973, FEDERAL REGISTER (38 FR 13758) is further amended by adding the entry for the Absentee Shawnee and Cheyenne-Arapaho Tribes of Indians in the State of Oklahoma to read as follows:

Tribal entities recognized by the Federal Government and listed by State	To employ tribal police	To establish a tribal court	To adopt a tribal law and order code	To undertake correction functions	To undertake programs aimed at preventing crime and juvenile delinquency	To undertake adult and juvenile rehabilitation programs
Oklahoma:						
Absentee Shawnee	x	x	x	x	x	x
Cheyenne-Arapaho	x	x	x	x	x	x

FORREST J. GERARD,
Assistant Secretary, Indian Affairs.

[FR Doc. 78-12773 Filed 5-10-78; 8:45 am]

[4310-84]

Bureau of Land Management

[Serial No. I-14476]

IDAHO

Application

MAY 3, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation filed an application for a right-of-way to construct a cathodic protection station on the following described Federal lands:

BOISE MERIDIAN, IDAHO

T. 2S., R. 6E.,
Sec. 33, NW¼SW¼.

This facility is necessary for the protection and safe operation of their natural gas pipe line system.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702.

EUGENE E. BABIN,
Acting Chief,
Branch of L&M Operations.

[FR Doc. 78-12820 Filed 5-10-78; 8:45 am]

[4310-84]

[NM 33322, 33323 and 33324]

NEW MEXICO

Applications

MAY 2, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Co. of New Mexico has applied for three 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 6 W.,
Sec. 11, E½SE¼;
Sec. 15, NW¼SW¼.
T. 29 N., R. 11 W.,
Sec. 26, E½SE¼.

These pipelines will convey natural gas across 0.497 of a mile of public lands in Rio Arriba and San Juan Counties, N. Mex.

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The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12821 filed 5-10-78; 8:45 am]

[4310-84]

[N-19622]

NEVADA

Proposed Withdrawal and Reservation of Lands of Military Purposes

The Department of the Navy, Western Division, Naval Facilities Engineering Command, on behalf of the Naval Air Station at Fallon, Nev., filed application N-19622 on March 6, 1978, for the withdrawal of lands described below from mining, settlement, sale, location, or entry under the public land laws.

The applicant desires to use the lands in the B-20 Target Range for aerial bombing practice, target gunnery operations, and the jettison of unsafe ordnance.

On or before June 12, 1978, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 (hereinafter referred to as the act), an opportunity for a public hearing is hereby afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, within the 30 day period allowed. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

Some of the lands involved are presently segregated from the operation of the public land laws by virtue of withdrawals effeeted by Secretarial Orders of July 2, 1902 and August 4, 1904.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will submit a legislative proposal to the Congress of the United States for its consideration to determine whether the lands will be withdrawn as requested by the applicant agency.

The lands involved in the application are described below and are delineated on a map designated Proposed Acquisition Map of Extended B-20 Range, copies of which are on file in Case No. N-19622, Nevada State Office, Bureau of Land Management.

All correspondence in connection with this withdrawal should be directed to the Bureau of Land Management, Department of the Interior; Chief, Division of Technical Services, 300 Booth Street, Reno, Nev. 89509.

MOUNT DIABLO MERIDIAN, NEVADA

T. 23 N., R. 32 E.
Secs. 1-30 inclusive.
T. 24 N., R. 32 E.
Secs. 19-36 inclusive.
T. 23 N., R. 33 E.
Secs. 5, 6, 7, 8, 17, 18, 19, 20, 29, and 30.
T. 24 N., R. 33 E.
Secs. 19, 20, 29, 30, 31, and 32.

The lands described above aggregate 21,600 acres more or less in Churchill County.

WM. J. MALENCIK,
Chief, Division of Technical Services.

[FR Doc. 78-12775 Filed 5-10-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[332-98; 332-99]

THE PROBABLE ECONOMIC EFFECT OF U.S. ADOPTION OF NEW RULES OF CUSTOMS VALUATION; CONVERSION OF SPECIFIC AND COMPOUND RATES OF DUTY TO AD VALOREM RATES

Extension of Deadline for Written Submissions

AGENCY: United States International Trade Commission.

ACTION: The Commission is extending the deadline for written submissions on Investigations 332-98, "The Probable Economic Effect of U.S. Adoption of New Rules of Customs Valuation" and 332-99, "Conversion of Specific and Compound Rates of Duty to Ad Valorem Rates," from previously announced deadlines to not later than June 1, 1978.

The deadline for written submissions for Investigation 332-98 is being changed from April 28, 1978, the deadline announced in a Commission notice on this investigation which appeared in the FEDERAL REGISTER of March 23, 1978 (43 FR 12096-12130).

The deadline for written submissions for Investigation 332-99 is being changed from May 3, 1978, the deadline announced in the Commission notice on this investigation which appeared in the FEDERAL REGISTER of April 4, 1978 (43 FR 14156).

Although the Commission is not providing additional hearings in these investigations, persons who testified at the hearings and/or submitted written statements within the original deadlines are welcome to submit additional information not later than June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Investigation 332-98—Mr. E. Rosengarden, Office of Nomenclature, Valuation, and Related Activities, 202-523-0370.

Investigation 332-99—Mr. Aaron Chesser, Office of Industries, 202-523-0171.

SUPPLEMENTARY INFORMATION: Interested persons may submit written statements expressing their positions on the above investigations. Any business information which a submitted desires the Commission to treat as confidential shall be submitted on separate sheets, each clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be made available for inspection by interested persons. The original and 19 copies of each written submission are required. To be assured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than June 1, 1978. All submissions should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

Issued: May 8, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-12876 Filed 5-10-78; 8:45 am]

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[4410-01]

DEPARTMENT OF JUSTICE

Office of the Attorney General

UNITED STATES v. HUDSON PULP AND PAPER CO.

Proposed Consent Judgment in Action To Enjoin Discharges of Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on or about April 28, 1978, a proposed consent decree in *United States* v. *Hudson Pulp and Paper Company*, No. 77-274-CIV-J-S (M.D. Fla.) was lodged with the United States District Court in Jacksonville, Fla. The proposed consent decree requires the company to attain compliance with its NPDES permit issued under the Clean Water Act by July 1, 1978.

The Department of Justice will receive written comments relating to the proposed consent decree until June 12, 1978. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Hudson Pulp and Paper Company*, D.J. Ref. 90-5-1-1-637.

The proposed consent decree may be examined at the office of the United States Attorney, P.O. Box 600, Jacksonville, Fla. 32201, at the office of the Clerk of the District Court, Middle District of Florida, Jacksonville Division, Jacksonville, Fla. 32201, at the office of the Environmental Protection Agency, Region IV, Enforcement Division, 345 Courtland Street, Atlanta, Ga. 30308, and at the office of the Pollution Control Section, Land and Natural Resources Division, Room 2625, Department of Justice Building, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-12776 Filed 5-10-78; 8:45 am]

[4410-18]

Law Enforcement Assistance Administration

ADVISORY COMMITTEE OF THE NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Meetings

Notice is hereby given that the Advisory Committee of the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, will meet on May 30, 1978 from 9:15 a.m. to 4:30 p.m. and on May 31, 1978 from 9:15 a.m. to 12 p.m. at the Holiday Inn, 480 King Street, Old Town Alexandria, Va.

The major topic of discussion will concern the long range research agenda for fiscal year 1979 and beyond with particular focus on selected priority areas including community crime prevention and crime correlates.

The meeting will be open to the public.

For further information, please contact Blair G. Ewing, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3606.

BLAIR G. EWING, ACTING,
Director, NILECJ.

[FR Doc. 78-12822 Filed 5-10-78; 8:45 am]

[7535-01]

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION BOARD

Meeting and Agenda

Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on June 13-14, 1978, at the Offices of the National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456. The meetings will commence at 9 a.m. daily in Room 4002.

The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration. An NCU Board review will also be held.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

LAWRENCE CONNELL,
Administrator.

MAY 5, 1978.

[FR Doc. 78-12767 Filed 5-10-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; WORKING GROUP ON ANTICIPATED TRANSIENTS WITHOUT SCRAM

Meeting

The ACRS Working Group on Anticipated Transients Without Scram will hold an open meeting on May 26, 1978, in room 1046, 1717 H Street NW., Washington, D.C. 20555, to discuss various issues pertaining to anticipated transients during reactor operations that might take place without the occurrence of reactor scram.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Friday, May 26, 1978, 8:30 a.m. until the conclusion of business.

The working group may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the working group will hear presentations by and hold discussions with representatives of the NRC staff and their consultants pertinent to the above topics. The working group may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether additional meetings of the working group will be required.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Friday, May 26, 1978, 8:30 a.m. until the conclusion of business.

The working group may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the working group will hear presentations by and hold discussions with representatives of the NRC staff and their consultants pertinent to the above topics. The working group may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether additional meetings of the working group will be required.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Dr. Thoman G. McCreless, telephone 202-634-1374, between 8:15 a.m. and 5 p.m., EDT.

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Dated: May 3, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-12548 Filed 5-10-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE MAINE YANKEE NUCLEAR PLANT

Changed Meeting

The postponed May 2, 1978 meeting of the ACRS Subcommittee on the Maine Yankee Nuclear Plant has been rescheduled to be held on May 25. The meeting will start at 10 a.m. on Thursday, May 25, 1978.

All other items pertaining to this meeting remain the same as announced in the FEDERAL REGISTER On April 17, 1978.

Dated: May 9, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-12932 Filed 5-10-78; 8:45 am]

[7590-01]

[DOCKET NO. STN 50-437]

OFFSHORE POWER SYSTEMS, FLOATING NUCLEAR POWER PLANTS

Availability of Revised Draft Environmental Statement, Part III

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's (Commission) regulations in Appendix M of 10 CFR Part 50 and 10 CFR Part 51, notice is hereby given that the Commission's Office of Nuclear Reactor Regulation has prepared a Revised Draft Environmental Statement, Part III (Revision 1, NUREG-0127).

The original Draft Environmental Statement (DES) considered the comparative risks and consequences between floating nuclear plants and land-based nuclear plants associated with the accidental release of radioactive material to the aqueous environment. Notice of availability of the original Draft Environmental Statement, Part III, was published in the FEDERAL REGISTER on October 18, 1976 (41 FR 45899). Comments received on the original DES have been included as Appendix A, and discussed in section 5 of the Revised DES.

This Revised DES differs from the original DES in that it considers the overall risk and consequences between floating and land-based nuclear plants resulting from the accidental releases of radioactivity to the environment. It also provides a total cost-benefit balance for the proposed licensing action, which considers the findings made in the FES, Parts I and II, (NUREG-75/091 and NUREG-0056), the Draft Addendum to the Final Environmental Statement (FES), Part II (NUREG-0056; Addendum) and the Part III Draft Statement.

The Final Liquid Pathway Generic Study (NUREG-0440) was used as a primary reference by the NRC staff in the preparation of this Part III Environmental Statement. The Notice of availability of NUREG-0440 was published in the FEDERAL REGISTER on March 10, 1978 (43 FR 9891).

The Revised DES is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.; the Jacksonville Public Library, 122 North Ocean Street, Jacksonville, Fla. 32204; the Stockton State College Library, Pomona, N.J. 08240; and the New Orleans Public Libary, Business and Science Division, 29 Loyola Avenue, New Orleans, La. 70140. The Revised DES is also being made available at the Bureau of Intergovernmental Relations, Division of State Planning, Department of Administration, 660 Apalachee Parkway, Tallahassee, Fla. 32304 and at the Jacksonville Area Planning Board, 330 East Bay Street, Jacksonville, Fla. 32202.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Revised Draft for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the Revised Draft. Comments by those officials or other persons received by the Commission will be available for public inspection at the Commission's Public Document Room in Washington, D.C., and the other locations indicated above.

Upon consideration of comments submitted with respect to this Revised Draft, the Commission's staff will prepare a Final Environmental Statement, Part III, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Revised Draft from interested members of the public should be sent to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Site Safety and Environmental Analysis and are due by July 3, 1978.

Copies of the Commission's Revised Draft, Part III, may be obtained by request addressed to the U.S. Nuclear Regulatory Commission. Washington D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

Dated at Bethesda, Md. this 5th day of May 1978.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-12933 filed 5-10-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. SA-462]

AIRCRAFT ACCIDENT—RICHLAND, WASH.

Investigation Hearing

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9 a.m. (local time) on May 23, 1978, in Conference Room H, Center House, Seattle Center Conference Center, Seattle, Wash.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving a Columbia Pacific Airlines, Inc. Beech 99, N199EA, which occurred February 10, 1978, at Richland, Wash.

MARTIN SPEISER,
Senior Hearing Officer.

MAY 5, 1978.

[FR Doc. 78-12882 Filed 5-10-78; 8:45 am]

[4910-58]

THIRD PARTY COMMUNICATIONS

Board Policy

Notice is hereby given that on May 4, 1978, the NTSB adopted the following policy statement by unanimous vote:

It is the policy of the National Transportation Safety Board that the Members thereof will not solicit or subject themselves to third party communications regarding any matter[1] pending before the Board after the notation with a notation number has been received by the Board.

MARGARET L. FISHER,
Federal Register Liaison Officer.

MAY 5, 1978.

[FR Doc. 78-12883 Filed 5-10-78; 8:45 am]

[1]Enforcement opinions and orders are not included since they are adjudications and thereby subject to the Board's rules concerning Ex Parte Communication (49 CFR § 821.60 and 825.40).

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[4910-58]

[N-AR 78-19]

SAFETY EFFECTIVENESS EVALUATION; RECOMMENDATIONS AND RESPONSES

Printed copies of the following report have recently been made available to the public by the National Transportation Safety Board:

Report to Congress-Safety Effectiveness Evaluation of the National Highway Traffic Safety Administration's National Accident Sampling System (Report No. NTSB-SEE-78-1).—On March 3, 1977, the Subcommittee on Transportation and Related Agencies of the Senate Appropriations committee asked the National Transportation Safety Board to study the National Accident Sampling System (NASS), which was being developed by the National Highway Traffic Safety Administration (NHTSA). Specifically, they urged the Safety Board to evaluate NASS to determine if a sufficient ammount of reliable data will be collected in order to accurately determine accident trends and to assess the impact of vehicle safety standards.

Based on this evaluation, the Safety Board, on May 3, made recommendations to the Federal Highway Administration, and to the National Highway Traffic Safety Administration, respectively.

To the Federal Highway Administration:

Conduct a comprehensive study to identify highway safety accident problem factors for which data must be collected to identify the problem magnitude, and support research and countermeasure formulation. Such problem factors should include elements such as geometric design factors, roadway surface skid resistance qualities, traffic control devices, traffic barrier systems, roadside hazards, and other factors related to highway operational safety. This study should be designed to support both the NHTSA NASS Program as well as the activities of FHWA and State and local agencies involved in highway safety. (H-78-20) (Class II, Priority Action)

To the National Highway Traffic Safety Administration:

Establish a NASS Advisory Committee to provide NHTSA with a broader perspective of types of data that should be collected and methods of data storage and retrieval. The committee membership should be balanced and include persons from automobile manufacturers, highway user groups, the insurance industry, governors' highway safety representatives, highway engineering agencies, medical and legal professions, statistical and economic professions, and the private and governmental highway safety research community. (H-78-21) (Class II, Priority Action)

Study the practical problems associated with collecting key data, such as injury data, to determine the magnitude of any problems and to assess the impact on the effectiveness of the NASS program before selecting the number and location of future NASS investigation sites. (H-78-22) (Class II, Priority Action)

Study the effects on the cost and quality of data collection that could result from the need for NASS investigators to testify in liability cases resulting from motor accidents. The Study should consider the need, advisability, and obtainment of a limited shield for NASS investigators. (H-78-23) (Class II, Priority Action)

Assure that the number of NASS accident investigation sites will not be expanded beyond the original 10 until after experience with field data collection and processing is evaluated; the exposure data system design, sample design, accident causation methodology, and other NASS studies are completed; and a comprehensive plan for further implementation of NASS is developed and made public. (H-78-24) (Class II, Priority Action)

Ensure that copies of the sanitized accident reports and case files including photographs completed by each team are retained and systematically filed at a central location for easy retrieval for future use by persons interested in further in-depth research. (H-78-25) (Class II, Priority Action.)

Revise the currently proposed data collection forms to include substantially increased emphasis on the highway environment. The recommendations and counsel of the Federal Highway Administration should be sought and utilized. (H-78-26) (Class II, Priority Action.)

SAFETY RECOMMENDATION

Highway: H-78-19.—On July 14, 1977, a 1972 Ford sedan southbound on U.S. Route 69 about 19.4 miles south of McAlester, Oklahoma, went out of control on wet pavement, crossed the centerline sideways, and collided with a northbound Midas Mini Motor Home. All six persons in the automobile were killed; the driver and right front passenger in the motor home were also killed and the six other passengers of the motor home were injured.

As a result of its investigation of this accident, the Safety Board on May 1, recommended that the Federal Highway Administration:

Develop expeditiously procedures to determine the skid resistant characteristics of newly constructed and resurfaced roadways before they are opened to the public. (H-78-19) (Class II, Priority Action.)

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation.—The Federal Aviation Administration (FAA) on February 21 advised the Safety Board of actions taken regarding the following recommendations:

A-71-18.—This recommendation sought appropriate regulatory action to prohibit the servicing of oxygen systems while passengers are on board. FAA reports issuance of Notice 74-21 in this connection and, as a result of comments received, issued Notice 74-21A, which was withdrawn October 17, 1977, based on FAA's evaluation of the comments. FAA notes that the rationale for this decision is provided in the notice of withdrawal, appearing at 42 FR 55480.

A-72-179.—FAA states that this recommendation (to amend FAR 135.136 to provide that all flying, including private, shall not exceed the prescribed flight time limitations) was considered in preparing the FAR Part 135 Review. FAA advises that this item was not included in the proposal since no information was available to support regulatory action in this area; further, "private" flying by individuals could not be controlled nor could such a requirement be effectively enforced.

A-74-30 through 34.—These recommendations asked FAA to install conventional transmissometers or other visibility measuring devices in the approach areas of instrument runways, to combine the approach zone transmissometer or visibility readings with the ceilometer readings to produce estimates of "threshold contact height," and to reassess the operational meteorological minimums to make full use of the new observations, respectively.

FAA reports that, as referred to in its letters of May 21 and October 24, 1974, the Slant Visual Range Measurement System development program did not produce sufficiently promising results to warrant continuance as a high priority effort. Also, because of several recent serious and fatal accidents involving encounters with wind shear in the takeoff, approach and landing phases of flight, the highest priority was assigned to research for developing a suitable wind shear detection system as soon as possible. FAA states that it has no plans to reinstate the Slant Visual Range program unless significant advancements and requirements become evident.

A-76-20.—In answer to this recommendation, which asked FAA to require after a certain date that passenger emergency supplemental oxygen systems have readily discernible means to indicate that oxygen is flowing, FAA issued Advisory Circular AD-121-24 on June 23, 1977.

A-76-85 and 86.—The recommendations called for the development of a simple, economical wind measuring system for use particularly at relatively small airports primarily by general aviation aircraft, and, through the FAA/NWS Working Group on Improving Pilot Education, the placing of special emphasis on the hazards associated with unfavorable winds during the landing regime.

Concerning A-76-85, FAA reports that it has evaluated the "pole streamer" type wind indicator referred to in its October 15, 1976, letter, and finds that this type of indicator is too limited for practical, universal use, especially at night. Concerning A-76-86, FAA states that revised Private Pilot—Airplane Written Test Guide, Advisory Circular AC-61-32B, containing questions on critical weather situations, was issued May 2, 1977. Paragraphs emphasizing the problems of unfavorable and variable wind conditions/wind shear during approach, flare and touchdown, have been included in the revised Private Pilot's Handbook of Aeronautical Knowledge, AC-61-23B.

A-76-129 through 131.—These recommendations asked FAA to evaluate the service life of hubs with truncated and short-peened retention threads and limit the life of the hubs accordingly, to issue an airworthiness directive to require periodic inspection of the threaded area until an appropriate life limit is established on these propellers, and to issue an airworthiness directive to require that the relevant provisions of AD-75-24-2 are applied to all model propellers which have been involved in ground strikes or sudden stops.

FAA reports that its evaluation of fatigue test data reveals no requirement for a life limit. FAA has issued Airworthiness Directives 77-17-09, 77-20-03, 77-23-1, and 77-24-04, requiring initial and repetitive inspections or replacement with oil-filled hubs. FAA states that it is unable to correlate blade strikes with hub failures. Compliance with these airworthiness directives provides additional means of damage/failure discovery.

A-77-23.—This recommendation called for issuance of an airworthiness directive to require an immediate one-time magnetic particle inspection of all Bell main rotor hub trunnions P/N 206-011-113-1, in accordance with Bell Helicopter published maintenance and overhaul procedures, to detect machining deficiencies, surface irregularities and cracks. FAA reports that after issuance on June 6, 1977, of notice of proposed rulemaking 77-SW24 (AD) specifying magnetic particle inspection, seven comments objecting to the proposal and one (from the Safety Board) in support were received. FAA said that the consensus of those objecting to the proposal is that if the trunnion is properly inspected every 1200 hours in accord with the manufacturer's recommended procedures, an acceptable level of safety is assured. FAA has determined that the proposed airworthiness directive is not required at this time.

A-77-33.—This recommendation asked the FAA to reevaluate the current inspection interval and issue requirements for more frequent periodic inspections if necessary to ensure continued safe operation. FAA assessments have been completed and Airworthiness Directive 77-16-06 issued, effective August 18, 1977.

A-77-34.—In answer to this recommendation, which called for issuance of an advisory circular to establish criteria for the design, installation, and use of livestock restraining systems and to ensure that carriage of livestock will not adversely affect the operation of the aircraft or function of crewmembers, FAA Order 8110.29, Cargo Compartment Requirements for Air Shipment of Livestock, was issued July 27, 1977.

A-77-51.—In answer to this recommendation, which would require that the sliding cockpit door on the Sikorsky S-61 helicopter be removed or retained open so that it cannot obstruct the entrance from the cockpit to the cabin area, FAA reports that New York Airways removed the sliding doors from their aircraft; also, FAA issued Operations Bulletin 77-5 instructing inspectors to notify other operators of S-61 aircraft.

Copies of all above-referenced documents are attached to the responses.

Highway: H-72-51 through 53, H-72-56, H-75-8, and H-75-34 and 36.—The National Highway Traffic Safety Administration on February 27 responded to the Safety Board's inquiry of last December 22 concerning these recommendations which deal with reduced visibility driving. NHTSA's letter refers to its October 21, 1977, letter which indicated that "the significance of the reduced visibility crash experience cannot presently be determined with acceptable accuracy."

Referring to the Board's citing of statistical data from the Fatal Accident Reporting System (FARS), NHTSA states that the source of the FARS data is the investigating police officer's accident report, and that in many instances, the officer does not make nor record the distinction between "conditions existing" and "conditions existing and contributing to the accident." According to NHTSA, based upon the current accident data system, the distinction, even if recorded by the investigating officer, may be omitted in the data processing system. NHTSA states, however, that the uncertain data base does not diminish the fact that "reduced visibility" is and accident causative factor which requires NHTSA's attention. Highway Safety Program Standard No. 15 requires States to adopt procedures for investigating, recording, and reporting causative factors in individual accidents and hazardous highway defects and conditions.

NHTSA has informed the States of the recommendations developed by the International Association of Chiefs of Police, and states that, obviously, adoption and enforcement of the Uniform Vehicle Code's basic speed rule (i.e., reasonable and prudent for existing weather and highway conditions) is the single most effective driver control countermeasure now available. Accordingly, NHTSA has emphasized speed enforcement in numerous manuals, policy documents and other guidance materials developed and issued to the States by NHTSA.

NHTSA is informed that the Federal Highway Administration is also concerned over the reduced visibility problem and is studying the feasibility of highway engineering aids and solutions.

NOTE.—The above notice consists of summaries of Board documents recently released and responses to safety recommendations received.

The Board's safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4 for service and 10¢ per page for reproduction.

Single copies of the Safety Effectiveness Evaluation report may be obtained from the Safety Board without charge; multiple copies may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

All requests to the Board for copies must be in writing, identified by the report or recommendation number and the date of publication of this notice in the FEDERAL REGISTER. Address requests to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594

Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

MAY 8, 1978.

[FR Doc. 78-12884 Filed 5-10-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

BOSTON STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 2, 1978.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Fleetwood Enterprizes, Inc. (Del.), capital stock, $1 par value, File No. 7-5030.

Upon receipt of a request, on or before May 31, 1978 from any interested person, the Commission will determine whether the applications with respect to the companies named shall be set down for hearing. Any such request should include a brief statement

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as to the title of the security in which the person is interested, the nature of his interest in making the request, and the position which he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12769 Filed 5-10-78; 8:45 am]

[8010-01]

MIDWEST STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 2, 1978.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Levitz Furniture Corp., common stock, $0.40 par value, File No. 7-5025.

Upon receipt of a request, on or before May 31, 1978 from any interested person, the Commission will determine whether the applications with respect to the companies named shall be set down for hearing. Any such request should include a brief statement as to the title of the security in which the person is interested, the nature of his interest in making the request, and the position which he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12770 Filed 5-10-78; 8:45 am]

[8010-01]

PHILADELPHIA STOCK EXCHANGE, INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 2, 1978.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Marshall Field & Co., Common Stock, $1 Par Value; File No. 7-5024.
Clarkson Industries, Inc., Common Stock, $1 Par Value; File No. 7-5026.
National Starch & Chemical Corp., Common Stock, $0.50 Par Value; File No. 7-5027.
Sycor, Inc., Common Stock, $0.50 Par Value; File No. 7-5028.
Fleetwood Enterprises, Inc. (Delaware), Common Stock, $1 Par Value; File No. 7-5029.
Flying Diamond Oil Corp., Common Stock, $1 Par Value; File No. 7-5031.

Upon receipt of a request, on or before May 31, 1978, from any interested person, the Commission will determine whether the applications with respect to the companies named shall be set down for hearing. Any such request should include a brief statement as to the title of the security in which the person is interested, the nature of his interest in making the request, and the position which he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12771 Filed 5-10-78; 8:45 am]

[8010-01]

[File No. 500-1]

SEQUENTIAL INFORMATION SYSTEMS, INC.

Suspension of Trading

MAY 4, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Sequential Information Systems, Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:30 p.m. (e.d.t.) on May 4, through May 13, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12772 Filed 5-10-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

NONRUBBER FOOTWEAR

Amendment to Subpart A, Part 2 of the Appendix to the Tariff Schedules of the United States

The Government of the United States concluded orderly marketing agreements on nonrubber footwear with the Governments of the Republics of China and Korea on June 14 and June 21, 1977, respectively. These agreements were implemented by Presidental Proclamation No. 4510 of June 22, 1977, which authorized the Special Representative for Trade Negotiations to act for the U.S. Government in undertaking modifications of the agreements.

On May 8, 1978, letters were exchanged between the Special Representative for Trade Negotiations and Minister Yoonsae Yang, on behalf of the Republic of Korea, amending the orderly marketing agreement on nonrubber footwear between the United States and the Republic of Korea. This amendment increases the amount by which the restraint levels specified in the agreement may be exceeded in the first restraint year, provided that any amount by which the restraint levels are exceeded in the first restraint year are subracted from the restraint levels for the second restraint year. The letters amending the agreement, which will explain more fully the reasons for the amendments, are set forth at Annex I to this notice.

In order to implement these amendments, subpart A, part 2, of the appendix to the Tariff Schedules of the United States is modified by amending Headnotes 3(g) and 3(h) thereof to read as follows:

"(g) *Exceeding restraint levels.*—Upon appropriate request of the foreign government involved and to the extent consistent with an orderly marketing agreement existing between the Government of the United States of America and such Government, restraint levels for each item may be exceeded by not more than 20 percent during the first restraint period, at the discretion of the Special Representative for Trade Negotiations, and by not more than 6 percent during any subsequent restraint period, except as provided for in paragraph (h). If a restraint level is exceeded during a restraint period, the Special Representative for Trade Negotiations shall make a downward adjustment of the restraint level for the next succeeding restraint period in the absolute amount by which the preceding restraint level was exceeded.

"(h) *Limitation of paragraphs (f) and (g).*—Except at the discretion of the Special Representative for Trade Negotiations in the first restraint period, paragraphs (f) and (g) may not be used in combination to increase the restraint level applicable to any item in any restraint period by more than 11 percent."

These amendments will be effective one day after this notice is published in the FEDERAL REGISTER.

The Republic of Korea has requested that the restraint level for the first restraint year be increased in accordance with the amendments implemented by this notice. A letter from the Special Representative for trade Negotiations to the Commissioner of Customs, directing the Commissioner to make this adjustment, is set forth at Annex II.

ROBERT S. STRAUSS,
Special Representative for Trade Negotiations.

ANNEX I

Minister YOONSAE YANG,
Embassy of the Republic of Korea, 23220 Massachusetts Avenue NW., Washington, D.C.

DEAR MR. MINISTER: I have the honor to refer to the agreement between the Government of the Republic of Korea and the Government of the United States of America regarding exports from the Republic of Korea of nonrubber footwear, hereinafter referred to as the "Agreement".

Paragraph 2(d) of that Agreement contained special provisions regarding footwear that was exported from the Republic of Korea before the date that the visa requirement became effective under the Agreement (June 28, 1977). These provisions state in part that non-rubber footwear exported from the Republic of Korea before June 28, 1977, and that entered the United States on or after June 1, 1977 but before September 1, 1977, would not be counted against the first year's restraint levels unless such exports exceeded 9 million pairs. All such exports in excess of 9 million pairs would be counted against the restraint levels for the first year.

The purpose of this provision was to permit a reasonable amount of footwear exports that were "in the pipeline" at the time the agreement was signed to enter without being counted against the restraint levels, but to count those "pipeline" shipments in excess of the specified levels.

The Government of the Republic of Korea has stated that at the time the Agreement was signed a far greater volume of footwear was in transit to the United States than it had anticipated. It has asked for relief from the reduction in the first annual restraint levels that has resulted from counting "pipeline" shipments in excess of 9 million pairs against the first year's levels.

The Government of the United States of America has consented to amend the Agreement in order to permit the Government of the Republic of Korea to request increases in the first year's restraint levels by borrowing from the second year's levels a larger amount than the Agreement originally permitted. Thus the Government of the United States of America and the Government of the Republic of Korea have agreed to the amendment set forth below, which increases the amount of footwear that can be taken from the second year's restraint levels and allocated to the first year's levels.

Accordingly, pursuant to discussions that have been held between representatives of our Governments, I hereby propose to amend subparagraphs 4(c) and 4(d) of the Agreement to read as follows:

"4. (c) The restraint levels for each category may be exceeded by not more than 6 percent in any one restraint period, except that in the restraint period June 28, 1977–June 30, 1978, the restraint level for each category may be exceeded by not more than an additional 14 percent at the discretion of the Special Representative for Trade Negotiations (1,610,000 pairs for category K1 and 2,990,000 pairs for category K2). Any restraint level that is exceeded in one restraint period will be reduced for the next succeeding restraint period by the absolute amount by which it was exceeded.

"4. (d) Except at the discretion of the Special Representative for Trade Negotiations during the first restraint period, subparagraphs (a) and (c) may not be used in combination to increase the restraint level applicable to any category in any restraint period by more than 11 percent."

It is also my understanding that the Government of the Republic of Korea will continue to adhere to the commitments made at the time of the signing of the Agreement and under foreseeable circumstances will not make similar approaches for relief from delayed entry of nonrubber footwear covered by the Agreement.

I would appreciate your confirming that this proposal is acceptable to your Government.

With best wishes, I am,

Sincerely yours,

(Signed) ROBERT S. STRAUSS.
EMBASSY OF THE REPUBLIC OF KOREA,
Washington, D.C., May 8, 1978.

His Excellency Ambassador ROBERT S. STRAUSS,
Special Representative for Trade Negotiations, Executive Office of the President, Washington, D.C.

DEAR MR. AMBASSADOR. I have the honor to acknowledge the receipt of your letter of today's date which reads as follows:

"I have the honor to refer to the Agreement between the Government of the Republic of Korea and the Government of the United States of America regarding exports from the Republic of Korea of non-rubber footwear, hereinafter referred to as the 'Agreement'.

"Paragraph 2[d] of that Agreement contained special provisions regarding footwear that was exported from the Republic of Korea before the date that the visa requirement became effective under the Agreement [June 28, 1977]. These provisions state in part that non-rubber footwear exported from the Republic of Korea before June 28, 1977, and that entered the United States on or after June 1, 1977 but before September 1, 1977, would not be counted against the first year's restraint level unless such exports exceeded 9 million pairs. All such exports in excess of 9 million pairs would be counted against the restraint level for the first year.

"The purpose of this provision was to permit a reasonable amount of footwear exports that were 'in the pipeline' at the time the Agreement was signed to enter without being counted against the restraint levels, but to count those 'pipeline' shipments in excess of the specified level.

"The Government of the Republic of Korea has stated that at the time the Agreement was signed a far greater volume of footwear was in transit to the Unted States than it had anticipated. It has asked for relief from the reduction in the first annual restraint level that has resulted from counting 'pipeline' shipments in excess of 9 million pairs against the first year's level.

"The Government of the United States of America has also consented to amend the Agreement in order to permit the Government of the Republic of Korea to request increases in the year's restraint levels by borrowing from the second year's levels a larger amount than the Agreement originally permitted. Thus the Government of the United States of America and the Government of the Republic of Korea have agreed to the amendment set forth below, which increases the amount of footwear that can be taken from the second year's restraint levels and allocated to the first year's levels.

"Pursuant to discussions that have been held between representatives of our two Governments, I hereby propose to amend subparagraphs 4[c] and 4[d] of the Agreement to read as follows:

'4. [c] The restraint levels for each category may be exceeded by not more than 6 percent in any one restraint period, except that in the restraint period June 28, 1977–June 30, 1978, the restraint level for each category may be exceeded by not more than an additional 14 percent at the discretion of the Special Representative for Trade Negotiations [1,610,000 pairs for category K1 and 2,990,000 pairs for category K2]. Any restraint level that is exceeded in one restraint period will be reduced for the next succeeding restraint period by the absolute amount by which it was exceeded.

'4. [d] Except at the discretion of Special Representative for Trade Negotiations during the first restraint period, subparagraphs [a] and [c] may not be used in combination to increase the restraint level applicable to any category in any restraint period by more than 11 percent.'

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"It is also my understanding that the Government of the Republic of Korea will continue to adhere to the commitments made at the time of the signing of the Agreement and under foreseeable circumstances will not make similar approaches for relief from delayed entry of non-rubber footwear covered by this Agreement.

"I would appreciate your confirming that this proposal is acceptable to your Government."

I have further the honor to confirm that the proposal and your understanding contained in your letter is acceptable to the Government of the Republic of Korea.

Accept, Excellency, the renewed assurances of my highest consideration.

YOONSAE YANG,
Minister.

ANNEX II

THE SPECIAL REPRESENTATIVE
FOR TRADE NEGOTIATIONS,
Washington, May 8, 1978.

MR. ROBERT CHASEN,
Commissioner, U.S. Customs Service, Department of the Treasury, Washington, D.C. 22029.

DEAR MR. COMMISSIONER: We have exchanged letters on May 8, 1978, with the representative of the Government of the Republic of Korea, concerning the orderly marketing agreement on non-rubber footwear concluded between that Government and the Government of the United States of America. These letters state, in pertinent part, as follows:

"• • • amend subparagraphs 4(c) and 4(d) of the Agreement to read as follows:

"4. (c) The restraint levels for each category may be exceeded by not more than 6 percent in any one restraint period, except that in the restraint period June 28, 1977-June 30, 1978, the restraint level for each category may be exceeded by not more than an additional 14 percent at the discretion of the Special Representative for Trade Negotiations (1,610,000 pairs for category K1 and 2,990,000 pairs for category K2). Any restraint level that is exceeded in one restraint period will be reduced for the next succeeding restraint period by the absolute amount by which it was exceeded.

"4. (d) Except at the discretion of the Special Representative for Trade Negotiations during the first restraint period, subparagraphs (a) and (c) may not be used in combination to increase the restraint level applicable to any category in any restraint period by more than 11 percent."

Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (TSUS) has been amended to reflect these changes.

Pursuant to these amendments and to authority delegated by operative paragraph (6) of Proclamation 4510 of June 22, 1977, you are directed to allow, during the restraint period June 28, 1977-June 30, 1978, entry or withdrawal from warehouse for consumption of additional non-rubber footwear covered by the agreement, in the amounts of 1.61 million pairs for TSUS category 923.93 and 2.99 million pairs for category 923.94. For the restraint period, July 1, 1978-June 30, 1979, you are directed to reduce the restraint levels applicable to each category by the absolute amount by which entries for the current restraint period exceed the original restraint levels (11.52 million pairs for category 923.93, and 21.48 million pairs for category 923.94).

This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT S. STRAUSS.

[FR Doc. 78-12911 Filed 5-10-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

[Public Notice CM-8/58]

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES

Meeting

The Department of State will hold a meeting on May 23 for the Working Group on Transborder Data Flows of the Advisory Committee on Transnational Enterprises. The Working Group will meet from 9 a.m. until 12 noon. The meeting will be held in Room 3524 of the State Department, 2201 C Street NW., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting will be to discuss ongoing work in international bodies in the area of transborder data flows, particularly the work of the Organization for Economic Cooperation and Development toward formulating "guidelines" for international data flows.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on 202-632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meetings.

Dated: May 2, 1978.

RICHARD D. KAUZLARICH,
Executive Secretary.

[FR Doc. 78-12777 Filed 5-10-78; 8:45 am]

[4710-09]

[Public Notice 608]

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of State has prepared a draft environmental impact statement, dated May 10, 1978, for the Renegotiation of the International Convention for the High Seas Fisheries of the North Pacific Ocean. The Convention provides for the protection of North American-origin Salmon pursuant to the Fishery Conservation and Management Act of 1976.

Copies of the draft environmental impact statement may be obtained by writing to William H. Mansfield, Office of Environmental Affairs, Department of State, room 7820, Washington, D.C. 20520. Written comments on the proposed action should be submitted to Mr. Mansfield no later than June 26, 1978.

For the Secretary of State.

DONALD R. KING,
Acting Deputy Assistant Secretary for Environment and Population.

MAY 4, 1978.

[FR Doc. 78-12779 Filed 5-10-78; 8:45 am]

[4710-07]

[Public Notice CM-8/57]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on the carriage of dangerous goods of the Shipping Coordinating Committee's (SHC) Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 a.m. on Thursday, June 8, 1978 in room 8334 of the Nasiff Building, Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting is to: Discuss the report of the 28th session of the Subcommittee on the Carriage of Dangerous Goods of the Intergovernmental Maritime Consultative Organization (IMCO); consider U.S. positions on matters to be considered at the 29th session of the IMCO Subcommittee; relate the progress of continuing IMCO activities in this area such as implementation of the IMCO International Maritime Dangerous Goods (IMDG) Code.

Requests for further information on the meeting should be directed to: Captain C. E. Mathieu, U.S. Coast Guard (G-MHM/83), Washington, D.C. 20590, telephone 202-426-2296.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

APRIL 27, 1978.

[FR Doc. 78-12778 Filed 5-10-78; 8:45 am]

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[4710-02]

Agency for International Development

MISSION DIRECTOR, USAID INDIA

Redelegation of Authority

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 38, dated June 3, 1977 (42 FR 31511) with respect to Project Agreements, Trust Fund Agreements, and Grants to International Organizations; and No. 112, dated October 12, 1975 (40 FR 48955), with respect to other authorities and functions delegated to me, I hereby redelegate to the Mission Director, USAID/India and to any person acting in that official capacity, authority to exercise any of the following functions, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate and execute loan and grant agreements and amendments thereto, with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended (the Act), in accordance with the terms of the authorization of such loan or grant; such grant agreements for purposes of this authority and all other authorities contained in this redelegation shall mean agreements with foreign governments, foreign government agencies and international organizations having a membership consisting primarily of such foreign governments;

2. Authority to implement loan and grant agreements with respect to loans and grants authorized under the Act or predecessor legislation, including the following:

(a) Authority to prepare, negotiate, sign and deliver letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such loan or grant agreements;

(c) Authority to negotiate, execute and implement all agreements and other documents ancillary to such loan and grant agreements;

(d) Authority to sign or approve Project Implementation Orders—Technical Services (PIO/T); and

(e) Authority to approve contractors, review and approve the terms of contracts, amendments and modifications thereto, and invitations for bids with respect to such contracts financed by funds made available under such loan or grant agreements.

The authorities enumerated above may be redelegated by the individual listed above, as appropriate, but not successively redelegated, except that the authority described above in paragraph 1 with respect to execution of loan and grant agreements and amendments may not be redelegated.

The authority enumerated above in paragraph 1 with respect to execution of loan and grant agreements is also hereby redelegated under the same terms and conditions set forth herein to the U.S. Ambassador to India.

Redelegation of Authority No. 164-13 dated February 14, 1977 from Michael H. B. Adler, Acting Assistant Administrator to the AID Affairs Officer, India is hereby rescinded.

This Redelegation of Authority is effective immediately.

Dated: April 21, 1978.

JOHN H. SULLIVAN,
Assistant Administrator,
Bureau for Asia.

[FR Doc. 78-12780 Filed 5-10-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[OE Docket No. 78-WA-OE-4; Aeronautical Study No. 77-AEA-1038-OE]

DISCRETIONARY REVIEW OF DETERMINATION OF HAZARD TO AIR NAVIGATION

Hearing Rescheduled

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of hearing rescheduled.

SUMMARY: This notice reschedules a hearing set for May 17, 1978, in Pomona, N.J., to receive evidence from parties to the hearing and other interested persons regarding a proposed hotel in Atlantic City, N.J. The hearing date is changed to July 19, 1978, as a result of a request by the petitioner for a delay in the scheduled hearing.

HEARING DATE: July 19, 1978, at 9:00 a.m.

ADDRESSES: Hearing location, Auditorium, Building 11, Headquarters, National Aviation Facilities Experimental Center (NAFEC), Federal Aviation Administration, Pomona, N.J.

Make request to be heard at the hearing to Presiding Officer, Mr. William E. Broadwater, Chief, Airspace and Air Traffic Rules Division (AAT—200), Federal Aviation Administration, Air Traffic Service, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone 202-426-3731. (This is not a toll-free number).

FOR FURTHER INFORMATION CONTACT:

Mr. James E. Shipman, Airspace Obstruction and Airports Branch (AAT-244), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8777. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On Thursday, April 20, 1978, the Federal Aviation Administration (FAA) published a notice of hearing in the FEDERAL REGISTER (43 FR 16835) regarding the proposed construction of a high rise hotel and casino in Atlantic City, N.J. Aeronautical Study No. 77-AEA-1038-OE was conducted of the proposal which resulted in the issuance of a Determination of Hazard to Air Navigation on December 22, 1977.

As explained in the original notice of hearing, the FAA granted a discretionary review of the determination on February 9, 1978, by Notice of Petition for and Grant of Review, OE Docket Number 77-WA-OE-4.

On May 4, 1978, the petitioner requested a 60-day delay of the May 17, 1978, hearing date. The FAA has determined that such action would not adversely effect the safe and efficient utilization of the navigable airspace and a delay in the hearing date is so ordered.

As stated above, the hearing will be convened at 9 a.m., on July 19, 1978. If response to this notice exceeds the time allotaed for the hearing, it will be continued at 9 a.m., July 20, 1978, at the same location. All other hearing details set forth in the notice published on April 20, 1978, in the FEDERAL REGISTER (43 FR 16835) remain the same.

(Secs. 104, 307, 313, 1001, and 1101, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1304, 1328, 1354, 1481, and 1501); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 77.49).)

Issued in Washington, D.C. on May 9, 1978.

B. KEITH POTTS,
Alternate Presiding Officer.

[FR Doc. 78-12955 Filed 5-10-78; 8:45 am]

[4910-60]

Materials Transportation Bureau

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comments by June 12, 1978.

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ADDRESSED TO: Dockets Sections, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature or Application" portion of the table below as follows: (1) Motor vehicle, (2) Rail freight, (3) Cargo vessel, (4) Cargo-only aircraft, (5) Passenger-carrying aircraft.

NEW APPLICATION

Application No.	Applicant	Regulation(s) affected	Nature of application
7968-N	SCM Corp., Cleveland, Ohio	49 CFR 173.224	To authorize shipment of pinane hydroperoxide in MC-310, MC-311, and MC-312 tank motor vehicles. (Mode 1.)
7969-N	Royalvac, Inc., Fort Lauderdale, Fla	49 CFR 173.119, 173.245	To manufacture, mark, and sell non-DOT specification cargo tanks for transporting certain flammable and corrosive liquids. (Mode 1.)
7971-N	Hydraulic Research Textron, Pacoima, Calif.	49 CFR 173.304, 178.53	To manufacture, mark, and sell cylinders built in compliance with DOT specification 4D, except the minimum service pressure shall be 700 lb/in², for the transportation of nonflammable compressed gas. (Modes 1, 2, 3, 4, and 5.)
7972-N	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 172.504	To authorize shipment of explosive samples in nonplacarded private motor vehicles. (Mode 1.)
7973-N	Provost Cartage Inc., Ville D'Anjou, Que., Canada.	49 CFR pt. 172, subpt. F	To authorize use of UN placards on tank motor vehicles transporting hazardous materials. (Mode 1.)
7974-N	Koppers Co., Inc., Pittsburgh, Pa	49 CFR 173.348	To authorize shipment of arsenic acid solution in DOT 103CW rail cars. (Mode 2.)
7976-N	Trans International Airlines, Oakland, Calif.	49 CFR 172.101, 175.3, 175.30.	To authorize transportation of class A explosive projectiles by cargo-only aircraft. (Mode 4.)
7978-N	Magnavox Government & Industrial Electronics Co., Fort Wayne, Ind.	49 CFR 172.504	To authorize transportation of certain hazardous materials packages containing lithium batteries without placarding the transport vehicle. (Mode 1.)
7979-N	Texas Gas Transport Co., Austin, Tex	49 CFR 173.302(a)(3)	To authorize shipment of hydrocarbon gas, consisting primarily of methane and ethane, in DOT-3T cylinders. (Mode 1.)
7980-N	Applied Equipment Co., Van Nuys, Calif	49 CFR 173.302, 175.3	To manufacture, mark, and sell non-DOT specification welded cylinders for shipment of nonflammable compressed gases. (Modes 1, 2, and 4.)
7981-N	do	49 CFR 173.302, 175.3	To manufacture, mark, and sell non-DOT specification cylinders fabricated of precipitation hardening corrosion resistant steel for shipment of nonflammable compressed gases. (Modes 1, 2, and 4.)
7982-N	do	49 CFR 173.302, 175.3	To manufacture, mark, and sell non-DOT specification high pressure welded cylinders for shipment of nonflammable compressed gases. (Modes 1, 2, and 4.)
7983-N	Union Carbide Corp., New York, N.Y	49 CFR pt. 100-189	To authorize transportation of miniature batteries containing lithium metal without complying with the hazardous materials regulations. (Modes 1, 2, 3, 4, and 5.)
7984-N	Air Products & Chemicals Inc., Allentown, Pa.	49 CFR 173.154	To authorize shipment of a liquid fertilizer mixture classed as an oxidizer in DOT 105A200W tank cars. (Mode 2.)
7985-N	Process Engineering Inc., Plaistow, N.H	49 CFR 173.315	To manufacture, mark, and sell non-DOT specification portable tanks for shipment of liquefied nitrogen. (Modes 1 and 3.)
7986-N	The Aluminum Association, Washington, D.C.	49 CFR pt. 172, subpt. E, 172.232(b)(c).	To authorize shipment of metallic aluminum powder in packages and gross weights other than as prescribed in 173.232 and without labels. (Modes 1, 2, 3, 4, and 5.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on May 4, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc. 78-12852 Filed 5-10-78; 8:45 am]

[4910-60]

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal of Exemption or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein. Normally, the modes of transportation would be identified and the nature of application would be described. However, this notice is abbreviated to expedite docketing and public notice. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments by May 26, 1978.

ADDRESSED TO: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Application No.	Applicant	Renewal of an Exemption
1479-X	Jet Propulsion Laboratory, Pasadena, Calif.	1479
2787-X	U.S. Department of the Army, Washington, D.C.	2787
3307-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	3307
4175-X	Allied Chemical Corp., Morristown, N.J.	4175
4248-X	MC/B Manufacturing Chemists, Inc., Norwood, Ohio.	4248
4390-X	Enthone Inc., New Haven, Conn.	4390
4554-X	The BF Goodrich Co., Cleveland, Ohio.	4554
4575-X	ICI Americas Inc., Wilmington, Del.	4575
5196-X	Shell Oil Co., Houston, Tex	5196
5200-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	5200
5243-X	IMC Chemical Group, Inc., Allentown, Pa.	5243
5243-X	E. I. duPont de Nemours & Co., Inc., Wilmington, Del.	5243
5615-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	5615
5849-X	Olin Chemicals Group, Stamford, Conn.	5849
5948-X	Department of Energy, Washington, D.C.	5948
5951-X	Jones Chemicals, Inc., Caledonia, N.Y.	5951
6039-X	Rohm and Haas Co., Philadelphia, Pa.	6039
6113-X	L. P. Transportation, Inc., Chester, N.Y.	6113
6113-X	Public Service Electric and Gas Co., Newark, N.J.	6113
6113-X	Providence Gas Co., Providence, R.I.	6113
6113-X	The Southern Connecticut Gas Co., New Haven, Conn.	6113
6113-X	New Jersey Natural Gas Co., Asbury Park, N.J.	6113
6113-X	Valley Gas Co., Cumberland, R.I.	6113
6113-X	The Hartford Electric Light Co., Wethersfield, Conn.	6113
6197-X	The Connecticut Light and Power Co., Berlin, Conn.	6197
6197-X	Providence Gas Co., Providence, R.I.	6197
6225-X	Great Lakes Chemical Corp., El Dorado, Ark.	6225
6253-X	United States Navigation Inc., New York, N.Y.	6253
6253-X	Atlantic Cargo Services AB, Gothenburg, Sweden.	6253
6309-X	Insta-Foam Products, Inc., Joliet, Ill.	6309
6309-X	Olin Chemicals Group, Stamford, Conn.	6309
6398-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J.	6398
6675-X	Olin Chemicals Group, Stamford, Conn.	6675
6749-X	Bio-Lab, Inc., Conyers, Ga	6749
6816-X	U.S. Department of the Army, Washington, D.C.	6816
6844-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6844
6859-X	Pyronetics Devices Inc., Cerritos, Calif.	6859
7014-X	Eastern Mediterranean (Containers) Co. Ltd., London, England.	7014
7015-X	Gardner Cryogenics Division, Bethlehem, Pa.	7015
7024-X	Burlington Industries, Inc., Burlington, N.C.	7024
7031-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	7031
7052-X	Eagle Picher Industries, Inc., Joplin, Mo.	7052
7052-X	GTE Sylvania Inc., Seneca Falls, N.Y.	7052
7052-X	Honeywell Inc., Horsham, Pa	7052
7052-X	Mallory Battery Co., Tarrytown, N.Y.	7052
7094-X	The Lubrizol Corp., Wickliffe, Ohio.	7094
7094-X	Champion Chemicals, Inc., Odessa, Tex.	7094
7409-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J.	7409
7423-X	Hart Metals, Inc., Tamaqua, Pa.	7423
7483-X	Hugonnet S.A., Paris, France	7483
7503-X	Lowaco, S.A., Geneva, Switzerland.	7503
7584-X	Eastern Mediterranean (Containers) Co., Ltd., London, England.	7584
7584-X	Orval Tank Containers, Paris, France.	7584
7584-X	Interox Chemicals Ltd., Bedfordshire, England.	7584
7596-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J.	7596
7611-X	Richfood, Inc., Richmond, Va	7611
7616-X	Missouri Pacific Railroad Co., St. Louis, Mo.	7616
7621-X	Great Lakes Chemical Corp., El Dorado, Ark.	7621
7632-X	Enterprise Service Co., Houston, Tex.	7632
7633-X	Sea Containers, London, England.	7633
7671-X	Sea Containers, London, England.	7671
7690-X	Prestex Products Co., St. Paul, Minn.	7690
7714-X	Suttons International Limited, London, England.	7714
7719-X	Turner Co., Sycamore, Ill	7719
7725-X	Economics Laboratory, Inc., St. Paul, Minn.	7725
7752-X	Eurotainer, Paris, France	7752
7753-X	Stauffer Chemical Co., Westport, Conn.	7753
7770-X	Ugine Kuhlmann of America, Inc., Paramus, N.J.	7770
7820-X	Permal International, Inc., New York, N.Y.	7820
7830-X	Orval Tank Containers, Paris, France.	7830
7893-X	Orval Tank Containers, Paris, France.	7893
7925-X	A/S Cheminova, Lemvig, Denmark.	7925
4108-P	C & C Oxygen Co., Chattanooga, Tenn.	4108
4497-P	Bill Munn, Enid, Okla	4497
5196-P	Mobil Chemical Co., Beaumont, Tex.	5196
5520-P	Amchem Products, Inc., Ambler, Pa.	5520
6234-P	Chem Lab Products Inc., Anaheim, Calif.	6234
6348-P	Airwick Industries, Inc., Carlstadt, N.J.	6348
6614-P	Hill Brothers Chemical Co., City of Industry, Calif.	6614
6847-P	Olin Chemicals Group, Stamford, Conn.	6847
6858-P	Orval Tank Containers, Paris, France.	6858
*7052-P	Beech Aircraft Corp., Wichita, Kans.	7052
7094-P	Rohm and Haas Co., Philadelphia, Pa.	7094
7584-P	Compagnie Des Containers Reservoirs, Paris, France.	7584
7597-P	Woolfolk Chemical Works, Inc., Fort Valley, Ga.	7597
7597-P	Apollo Enterprises, Inc., Altheimer, Ark.	7597
7597-P	United Seed Co., Bunkie, La	7597
*7014-P	Eurotainer, Paris, France	7014
7597-P	Thompson-Hayward Chemical Co., San Antonio, Tex.	7597
7597-P	Mirco Chemical Co., Winnsboro, La.	7597
7597-P	Cleveland Chemical Co., Cleveland, Miss.	7597
7633-P	Orval Tank Containers, Paris, France.	7633
7654-P	Eastman Kodak Co	7654

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 CFR 1806; 49 CFR 1.53(e).)

Issued in Washington, D.C., on May 4, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc. 78-12851 Filed 5-10-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

1971-76 FORD PINTO AND 1975-76 MERCURY BOBCAT

Public Proceeding Scheduled

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (Pub. L. 93-492, 88 Stat. 1470; October 27, 1974), 15 U.S.C. § 1412, the Deputy Administrator, National Highway Traffic Safety Administration, has made an initial determination that a safety related defect exists in the fuel tanks and filler necks installed in 1971-76 Ford Pinto and 1975-76 Mercury Bobcat automobiles (not including station wagons).

A public proceeding will be held at 10 a.m., June 14, 1978, in Room 2230, Department of Transportation Building, 400 Seventh Street SW., Washington, D.C. 20590, at which the Ford Motor Co. will be afforded an opportunity to present data, views and arguments to establish that there is no safety related defect in the 1971-76 Ford Pintos and 1975-76 Mercury Bobcats (not including station wagons).

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Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Mrs. Nancy Martus, Office of Defects Investigation, National Highway Traffic Safety Administration, Room 5326, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (telephone 202-426-2850) before close of business on June 7, 1978.

The agency's investigative file in this matter is available for public inspection during working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Library, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on May 8, 1978.

HOWARD J. DUGOFF,
Deputy Administrator.

[FR Doc. 78-12653 Filed 5-10-78; 8:45 am]

[4910-59]

1977 CHEVROLET CHEVETTE

Public Proceeding Scheduled

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (Pub. L. 93-492, 88 Stat. 1470; October 27, 1974), 15 U.S.C. § 1412, the Deputy Administrator, National Highway Traffic Safety Administration, has made an initial determination that a noncompliance with Federal Motor Vehicle Safety Standard No. 301-75, *Fuel System Integrity*, exists with respect to the 1977 Chevrolet Chevette automobile.

A public proceeding will be held at 10 a.m., June 6, 1978, in room 2230, Department of Transportation Building, 400 Seventh Street, SW., Washington, D.C. 20590, at which the General Motors Corp. will be afforded an opportunity to present data, views and arguments to establish that there is no failure to comply in the 1977 Chevrolet Chevette.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Mrs. Gail Willis, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, room 3222, Transpoint Building, 2100 Second Street SW., Washington, D.C. 20590, telephone 202-426-2832, before close of business on May 30, 1978.

The agency's investigative file in this matter is available for public inspection during working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Library, room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8).

Issued on May 4, 1978.

HOWARD J. DUGOFF,
Deputy Administrator.

[FR Doc. 78-12615 Filed 5-10-78; 8:45 am]

[4910-59]

[Docket No. IP78-4, Notice 1]

VOLVO OF AMERICA

Receipt of Petition for Determination of Inconsequential Noncompliance

Volvo of American Corp. of Rockleigh, N.J., ("Volvo" herein) has petitioned to be exempted from the notification and recall requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.110, Motor Vehicle Safety Standard No. 110, "Tire Selection and Rims for Passenger Cars," on the basis that it is inconsequential as it related to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S4.3(b) of Standard No. 110 requires that the information on the placard affixed to the glove compartment door include the designated seating capacity of the vehicle, expressed in terms of total numbers of occupants and in terms of occupants for each seat location. Volvo has discovered that the placard installed on 17,780 model year passenger cars lacks this information. The vehicles include 2-door sedans (Model 242), 4-door sedans (Models 244 and 264) and station wagons (Models 245 and 265). Volvo argues that the noncompliance is inconsequential as the total number of designated seating positions in each model is five (two front and three rear) and the configuration of the vehicles is such that extra passengers cannot be added to overload the vehicle.

Interested persons are invited to submit written data, views and arguments on the petition of Volvo of America Corp. described above. Comments should refer to the docket number and be submitted to: Docket section, National Highway Traffic Safety Administration, room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date:

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on T4May 4, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-12616 Filed 5-10-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 47F)]

BURLINGTON NORTHERN, INC.

Abandonment Near Adrian and Odair, in Grant County, Wash.

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Order dated April 28, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Burlington Northern, Inc. of a line of railroad known as the Adrian to Odair Line extending from railroad milepost 126.24 near Adrian, Wash., to railroad milepost 106.70 near Odair, Wash., a distance of 19.54 miles, in Grant County, Wash. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern, Inc. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 26, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 26, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12861 Filed 5-10-78; 8:45 am]

[7035-01]

DECISIONS VOLUME NO. 2

Order-Notice

The following applications are governed by Special Rule 247 of the Commission's rules of practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concutrently upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission notice, order or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

We find preliminarily that, with the exception of those applications involving duly noted impediments (e.g., unapproved common control, unresolved fitness questions, and jurisdictional problems) to authorization of proposed services, each applicant has demonstrated, in accordance with the applicable provisions of the Interstate Commerce Act and with the Commission's rules and regulations, that its proposed service should be authorized. This decision is not a major Federal action significantly affecting the quality of the human envirinment within the meaning of the National Environmental Policy Act of 1969.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this order-notice (or, if at any prescribed time thereafter, the application becomes unopposed), an appropriate certificate, permit, or license (which subsequently may reflect administratively acceptable restrictive amendments to the service proposed below) will be issued to each applicant upon compliance with certain requirements which will be set forth in a notification of effectiveness of this order-notice. To the extent that the authority sought by each applicant below may duplicate its existing authority, such duplicating authorities shall be construed, for all purposes, as a single operating right. Some of the applications may have been modified to conform to the Commission's policy of symplifying grants of operating authority.

Dated: May 8, 1978.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. HOMME, Jr.,
Acting Secretary.

No. MC 409 (Sub-No. 66F), filed April 21, 1978. Applicant: SCHROETLIN TANK LINE, INC., P.O. Box 511, Sutton, NE 68979. Applicant's representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the facilities of Farmland Industries, Inc., at or near Hoag, NE, to points in IA, KS, and MO. (Hearing site: Kansas City, MO.)

No. MC 42405 (Sub-No. 36F), filed April 17, 1978. Applicant: MISTLETOE EXPRESS SERVICE, d.b.a. Mistletoe Express, P.O. Box 25125, Oklahoma City, OK 73125. Applicant's representative: Max G. Morgan, 223 Ciudad Building, Oklahoma City, OK 73112. Authority granted to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, and articles of unusual value), moving in express service, between points in OK (except Cimarron, Texas, Beaver, Ellis, and Delaware Counties), as intermediate and off-route points in connection with carrier's authorized regular-route operations. (Hearing site: Oklahoma City, OK.)

No. MC 80443 (Sub-No. 11F), filed April 25, 1978. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Road, Roseville, MN 55113. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated houses*, knocked-down, from Minneapolis, MN, to points in IL, IN, IA, MI, MO, NE, ND, SD, and WI. (Hearing site: Minneapolis, or St. Paul, MN.)

No. MC 105413 (Sub-No. 39F), filed April 17, 1978. Applicant: PETROLEUM TRANSPORT SERVICE, INC., 3908 Richland Drive, Council Bluffs, IA 51501. Applicant's representative: ARTHUR J. CERRA, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Anhydrous ammonia*, in bulk, in tank vehicles, from the facilities of Farmland Industries, Inc., at or near Hoag, NE, to points in IA, KS, and MO. (Hearing site: Kansas City, MO.)

No. MC 116077 (Sub-No. 392F), filed April 24, 1978. Applicant: DSI TRANSPORTS, INC., 4550 Post Oak Place Drive, P.O. Box 1505, Houston, TX 77001. Applicant's representative: Pat H. Robertson, 500 West Sixteenth Street, P.O. Box 1945, Austin, TX 78767. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the facilities of Jefferson Chemical Co., Inc., located at or near Port Neches, Austin, and Youens, TX, to points in the United States (except TX, AK, and HI), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Houston, TX, or New Orleans, LA.)

No. MC 107010 (Sub-No. 65F), filed April 19, 1978. Applicant: BULK CARRIERS, INC., P.O. Box 423, Auburn, NE 68305. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the facilities of Farmland Industries, Inc., at or near Hoag, NE, to points in IA, KS, and MO. (Hearing site: Kansas City, MO.)

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No. MC 108248 (Sub-No. 14F), filed April 14, 1978. Applicant: SHAW TRUCKING, INC., P.O. Box E, Brockway, PA 15824. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. Authority granted to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Glass and plastic containers,* from points in Clearfield and Jefferson Counties, PA, to points in Cayuga, Onondaga, and Oswego Counties, NY, and points in MD; and (2) *Equipment, materials, and supplies,* used in the production and distribution of glass containers, from the destination points described above, to points in Clearfield and Jefferson Counties, PA. (Hearing site: Philadelphia, PA.)

No. MC 112963 (Sub-No. 75F), filed April 18, 1978. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Applicant's representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, MA 01866. Authority granted to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Dry sugar,* in bulk, in dump vehicles, (1) From New York, NY, to points in ME, NH, VT, MA, CT, RI, and NJ; and (2) From Philadelphia, PA, to points in ME, NH, VT, MA, CT, RI, NY, and NJ. (Hearing site: Boston, MA, or New York, NY.)

No. MC 113624 (Sub-No. 81F), filed April 17, 1978. Applicant: WARD TRANSPORT, INC., P.O. Box 100, Commerce City, CO 81001. Applicant's representative: Leslie R. Kehl, Lincoln Center, 1600 Lincoln Street, Denver, CO 80264. Authority granted to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia,* in bulk, in tank vehicles, from the facilities of Farmland Industries, Inc., at or near Hoag, NE, to points in IA, KS, and MO. (Hearing site: Kansas City, MO.)

No. MC 116725 (Sub-No. 25), filed April 11, 1978. Applicant: INDIAN VALLEY ENTERPRISES, INC., 855 Maple Avenue, Harleysville, PA 19438. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Authority granted as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Beatrice Foods Co., at Archbold, OH, to points in PA, NY, NJ, RI, CT, and MA. (Hearing site: Harrisburg, PA.)

No. MC 118959 (Sub-No. 168F), filed April 24, 1978. Applicant: JERRY LIPPS, INC., 130 S. Frederick Street, Cape Girardeau, MO 63701. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, KY 42101. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *Paper and paper products,* from the facilities of the Procter & Gamble Distributing Co., at or near Albany, GA, to points in LA and MS; and (2) *equipment, supplies, and materials* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in LA and MS, to the facilities of the Procter & Gamble Manufacturing Co., at or near Albany, GA. (Hearing site: Louisville, KY or Washington, DC.)

No. MC 123424 (Sub-No. 9F), filed April 14, 1978. Applicant: POSA, INC., 122-24 Kingsland Avenue, Brooklyn, NY 11222. Applicant's representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, NY 11375. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers,* between the facilities of Midland Glass Co., Inc., at Cliffwood, NJ, on the one hand, and, on the other, the facilities used by Midland Glass Co., Inc., at points in Onondaga County, NY. (Hearing site: New York, NY.)

No. MC 129908 (Sub-No. 5F), filed April 24, 1978. Applicant: AMERICAN FARM LINES, INC., 8115 Southwest 15th Street, P.O. Box 75410, Oklahoma City, OK 73107. Applicant's representative: William L. Peterson, Jr., P.O. Box 917, Oklahoma City, OK 73101. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Flat glass,* from the facilities of PPG Industries, Inc., at or near Crystal City, MO, to points in AZ, CA, CO, ID, NV, OR, UT, and WA. (Hearing site: Oklahoma City, OK; Pittsburgh, PA.)

No. MC 133035 (Sub-No. 25F), filed April 24, 1978. Applicant: DILTS TRUCKING, INC., Route No. 1, P.O. Box 156, Crescent, IA 51526. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia,* in bulk, in tank vehicles, from the facilities of Farmland Industries, Inc., at or near Hoag, NE, to points in IA, KS, and MO. (Hearing site: Omaha, NE or Kansas City, MO.)

No. MC 133689 (Sub-No. 195F), filed April 26, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street, SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sugar* (except in bulk), from Renville, East Grand Forks, Moorhead, and Crookston, MN, to Altavista, VA. (Hearing site: St. Paul, MN.)

No. MC 134477 (Sub-No. 236F), filed April 20, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Green coffee,* in bags, from New York, NY to Omaha, NE. (Hearing site: Minneapolis, MN.)

No. MC 142999 (Sub-No. 4F), filed April 24, 1978. Applicant: TRANSPORT MANAGEMENT SERVICE CORP., Route 332 and Terry Drive, Newtown, PA 18940. Applicant's representative: Ronald N. Cobert, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority granted to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products* (1) from Miquon, PA, to points in AZ, CA, CO, FL, GA, ID, NM, NV, OR, UT, and WA, and (2) from Longview, WA, to points in NJ, NY, and PA. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Weyerhaeuser Co. (Hearing site: Washington, DC.)

No. MC 144595 (Sub-No. 1F), filed April 17, 1978. Applicant: ROBERT D. ANTHOLZ, d.b.a. PAWNEE GRAIN CO. Route 3, Box 42, Pawnee City, NE 68420. Applicant's representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Authority granted to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, and wooden products,* from points in AR, CA, ID, LA, MT, OK, OR, SD, TX, and WA, to points in KS, IA, and NE. Restriction: Limited to a transportation service to be performed under a continuing contract, or contracts, with Braun, Ray Bros. & Finley Co., of Omaha, NE. (Hearing site: Omaha, NE.)

No. MC 144604F, filed April 17, 1978. Applicant: JOHN HALEY d.b.a. J & R AUTO TRANSPORT, P.O. Box 27, Summersville, MO 65571. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Building, 101 West Eleventh Street, Kansas City, MO 64105. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Used automobiles and trucks,* in secondary movements, in truckaway service, between points in WA, OR, CA, ID, NV, UT, AZ, MT, CO, WY, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, MI, ID, and OH. (Hearing site: Kansas City, MO.)

[FR Doc. 78-12864 Filed 5-10-78; 8:45 am]

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[7035-01]

[No. MC-C-10095]

DECLARATORY ORDER--EXECUTIVE COACH SERVICE

Filing of Petition

Petitioners: Blue Bird Coach Lines, Inc., Indian Trails, Inc., and Peter Pan Bus Lines, Inc. Petitioners' representative: Charles A. Webb, Suite 600, 1250 Connecticut Avenue NW., Washington, DC. 20036.

By petition filed April 13, 1978, Blue Bird Coach Lines, Inc., Indian Trails, Inc., and Peter Pan Bus Lines, Inc., seek a ruling defining a new type of bus service in charter and special operations as "executive coach service."

Petitioners are Class I motor carriers of passengers operating over described regular routes. Charter and special service is also offered. Each petitioner either operates or has ordered executive motor coaches. An executive coach is manufactured from the shell of a conventional 35 or 40 foot intercity motor coach by modifying the interior to include most or all of these Luxury features: (1) Lounge type seats; (2) Low-density seating; (3) conference or card tables; (4) electric kitchenette and bar; (5) stereo, movie, or video systems; (6) supplemental power unit for stationary heating and cooling; (7) radiotelephone; and (8) carpeting and draperies. Petitioners consider items (1) and (2) to be the most distinguishing features of this service.

Petitioners assert that executive coach charter service and ordinary charter service are non-competitive. Because of the limited number of prospective users, they argue that it is not economically feasible to restrict the origination of charters to a small geographic area. If petitioners seek an expanded origin territory for executive coach service, the application would be opposed by carriers offering an essentially non-competitive service. They, therefore, propose the following definition:

As used in certificate and permits authorizing the transportation of passengers in charter or special operations, the term "executive coach service" means service in a motor coach having Lounge-type seating, a minimum length of 35 feet, a maximum seating capacity of 25 passengers or less, and other significant Luxury features which distinguish such coaches from conventional motor coaches.

Each petitioner has filed applications for authority to provide this type of service.

Any interested person or persons desiring to participate in this proceeding may file an original and six (6) copies of his or her written representations, views or arguments in support of or against the petition on or before ————. No oral hearing is contemplated at this time.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-12784 Filed 5-10-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

May 8, 1978.

This application for long- and short-haul relief has been filed with the ICC.

Protests are due at the ICC on or before May 26, 1978.

FSA No. 43540, Southwestern Freight Bureau, Agent's No. B-738, rates on clam shells, from stations in Louisiana and/or Texas, to stations in official, southern, and western trunk line territories; also, between stations in southwestern territory; and, also returned shipments in the reverse direction, in sup. 22 to its tariff 4-D, ICC 5153, and other schedules named in the application, to become effective June 5, 1978. Grounds for relief—kindred articles and returned shipments.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-12865 Filed 5-10-78; 8:45 am]

[7035-01]

[Ex Parte No. 349]

INCREASED FREIGHT RATES AND CHARGES, 1978, NATIONWIDE (AUTHORITY TO FILE MASTER TARIFF)

Decision

The railroad industry, by petition and verified statements filed May 1, 1978, seeks authority to increase freight rates and charges by 4 percent within Eastern territory, within Western territory and between Eastern and Western territory, and by 2 percent from, to and within Southern territory. The proposed general increase is subject to certain exceptions and holddowns. For example, coal traffic, with specified exceptions, is proposed to be increased by 7 percent and no increase is proposed on certain commodities destined for points on the Long Island Rail Road. Other major variances involve fibreboard, paperboard, pulpboard and iron and steel scrap. A complete list of exceptions and holddowns is set forth in Appendix II of the petition. A copy of the petition and verified statements may be obtained from Albert B. Russ Esq., 527 American Railroad Building, 1920 L Street, NW., Washington, D.C. 20036.

Petitioners seek permission to make the proposed increases effective June 1, 1978, subject to the condition that refunds shall be made in the event that, after any investigation that the Commission deems necessary, no increase or a lesser increase than that requested is authorized. Petitioners also seek entry of an order modifying all outstanding Commission orders to the extent necessary to enable the railroads to file and make effective the proposed increased rates and charges. Such order is also requested to allow the entry of appropriate orders under Sections 4 and 6 of the Interstate Commerce Act.

The petitioners have filed and served 32 verified statements constituting their evidential case pursuant to the requirements set forth in Ex Parte No. 290, *Procedures Governing Rail Carrier General Increase Proceedings,* 49 CFR 1102, effective January 1, 1978. Petitioners have also submitted data of the type called for in Ex Parte No. 290 (Sub-No. 1), *Procedures--Rail Car General Increase Proceedings,* 349 ICC 22 (1974), namely detailed information on estimated revenues which would have been obtained had the last authorized increase been fully applied, and the actual total increase in revenues realized by application of the last authorized general increase.

The petitioners have given notice of the petition and have furnished data to the public in compliance with Ex Parte No. 286, *Notice of Increases of Frt. Rates and Pass. Fares,* 349 ICC 741 (1975), and with section 5b of the Interstate Commerce Act.

The petitioners have also submitted information of the type called for in Ex Parte No. 55 (Sub-No. 4), *Revised Guidelines for the Implementation of the National Environmental Policy Act of 1969,* 352 ICC 451 and 49 CFR 1108, namely a supplemental evaluation of environmental considerations with regard to the petitioner's increased rate proposal. The petitioners contend that the requested increases will have no significant adverse effects upon the movement of the traffic or transportation of recyclable commodities by rail. Any person or persons believing that the requested increases, if authorized, would have a significant impact upon the quality of the human environment are invited to comment upon this matter in verified statements authorized to be filed pursuant to this order. Environmental matters and the requirements of the National Environmental Policy Act of 1969 will be considered by this Commission in any subsequent action on the merits of the requested general increases.

It is ordered:

1. All common carriers by railroad are made respondents to this proceeding. 2. Under the special permission authority granted in conjunction with this order, the tariff schedules shall be published and filed upon not less than 30 days' notice effective not earlier than June 8, 1978, nor later than July

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8, 1978,[1] *subject to protest and possible suspension.* These schedules are to contain an appropriate refund provision.

3. Any person opposing or wishing to comment on the proposed increase in rates and charges shall file and serve verified statements, as provided below, on or before May 30, 1978.[2]

(a) The verified statements shall contain all evidence relevant and material to the issues in this proceeding which the parties desire to have considered by the Commission as a basis for a decision on the merits. Any submission on asserted environmental impact shall be set forth under an appropriate subheading in order to identify properly such subject matter.

(b) Verified statements may include arguments in support of an affiant's position but such argument shall be set forth in a separate section of the document containing the verified statement. If desired, such argument may be contained in a separate document simultaneously filed and served.

(c) Each verified statement shall be signed in ink by affiant and verified (notarized) in the manner provided by Rule 28 and Form No. 6 of the Commission's Rules of Practice (See 49 CFR 1100.48 and Appendix B, Form No. 6, to 49 CFR 1100). The post office address of affiant or his counsel shall be shown.

(d) Verified statements and arguments shall be filed and served as follows:

The original and 20 copies of each such document for the use of the Commission shall be addressed to the Secretary, and sent to the Office of Proceedings, room 5342, Interstate Commerce Commission, Washington, D.C. 20423, except that a lesser number of copies may be filed with the Commission in this matter shall contain the following notation on the envelope: *Ex Parte No. 349.*

One copy shall be served upon the representative of the petitioning railroads, Albert B. Russ, Esq., 527 American Railroads Building, 1920 L Street NW., Washington, D.C. 20036, which service shall constitute service upon all respondents. However, all parties able to do so shall serve 20 copies upon the railroads' representative. In all cases, where service is made by mail, the document shall be mailed in time to be received by the respective due dates.

(e) Each verified statement shall contain a certificate of service stating that it has been timely served on opposing parties, as herein provided.

(f) Verified statements and arguments by persons opposed to the proposed increases in rates and charges shall include all matters which they desire the Commission to consider with respect to statutory suspension of the rates pending completion of the investigation, as well as evidence relevant to the ultimate decision.

4. On or before June 2, 1978, the respondents shall file with the Commission and serve upon opposing parties such replies to protests or other pleadings and rebuttal evidence on the merits of the proceeding as they desire to present. Such evidence shall be in the form and served in the same manner as the opening statements filed in accordance with the regulations published in 49 CFR 1102, except that replies and rebuttal evidence need be served only upon the party (and his counsel if known) to whose evidence the reply or rebuttal is directed. However, replies or rebuttal statements proposing changes in the tariff shall be served on all parties. All such statements shall be furnished to interested parties upon request.

5. The request for fourth-section relief will be considered following the filing of verified statements and replies.

By Special Permission Order No. 78-2700, served in conjunction with this order, the Commission is authorizing the filing of tariff schedules increasing rates and charges sought in the petition. These tariff schedules are to become effective upon not less than 30 days' notice to the Commission and the general public, subject to protest and possible suspension as provided by the Interstate Commerce Act. By this Special Permission Order, the Commission upon a showing of good cause shown. All documents filed with the Commission in this matter shall contain the following notation on the envelope: *Ex Parte No. 349.*

SPECIAL PERMISSION No. 78-2700

It is ordered:

1. All railroads, and water and motor carriers to the extent they have joint rates with the railroads, and their tariff-publishing agents, are authorized to depart from the Commission's tariff publishing rules in Tariff Circular No. 20 (49 CFR 1300), when publishing and filing tariffs, and tariff amendments, to become effective upon not less than 30 days' notice to the Commission and the public but not earlier than June 8, 1978, nor later than July 8, 1978, providing for increased rates and charges as set forth in the petition:

(a) By publishing and filing a master tariff of increased rates charges, and supplements to the master tariff, providing increases by means of conversion tables of rates and charges, which shall include, and maintain in effect, a refund provision reading as follows:

In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increase resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with percent interest.[3]

In the event any increase resulting from the application of this tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with —— percent interest.[4]

The master tariff shall be indicated to expire on interstate and foreign commerce with a date not beyond one year after the effective date, which may not be extended or cancelled except upon specific authorization of this Commission, and all relief granted in this order expires with that date. Respondents are placed on notice that they must comply with the regulations, 49 CFR 1300.32 governing the transfer of railroad general increases from master tariffs. The master tariff must initially contain all provisions for application of the increases (including provisions for no increase, part of the overall proposal) following which (unless suspended) any provisions other than those of a general character may be cancelled and transferred to the particular tariff affected upon a common effective date with appropriate notation to that effect in the master tariff amendment.

(b) By publication and filing of a connecting link supplement to each tariff to be made subject to the master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs).

(c) The master tariff and connecting link supplements issued and filed under this order shall not provide for nonapplication on interstate traffic competitive with intrastate traffic between the same points unless the interstate rates and routes are specifically identified in the connecting link supplements.

(d) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariffs and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publication is identified in the tariffs and made subject to a refund clause worded substantially as in paragraph (a) above.

(e) By publication of provisions in tariffs or amendments thereto subjecting rates and charges therein to the provisions of the master tariff, subject to the restriction in (c) above.

2. (a) The master tariff, as amended, and all other tariffs and amendments to tariffs, that employ the shortform methods authorized herein shall bear the notation: Form of publication authorized, ICC permission No. 78-2700; and (b) Tariffs or amendments to tariffs publishing specifically increased rates or charges hereunder shall bear a notation reading: Publication made in accordance with ICC permission No. 78-2700.

3. Connecting-link supplements authorized herein shall be exempted from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

4. The master tariff filed under this order shall not be amended except to correct errors and to comply with findings and orders of the Commission, except when specifically authorized to do so. The terms of rule 9(e) (40 CFR 1300.9(e)) are not waived as to supplements to the master tariff.

5. Outstanding orders of the Commission are hereby modified only to the extent necessary to permit the filing of tariff publications containing the proposed increases, and all tariff publications filed shall be subject to protest and possible suspension and rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See, for example, *Increased Freight Rates and Charges, 1972,* 341 ICC. 288, 336, and *Increased Freight Rates, 1970 and 1971,* 339 ICC 125, 188. The rate increase table on grain shall progress in one-half cent increments.

Notice of the filing of a railroad general increase petition will be given by sending a copy of this decision to each party to the Ex Parte No. 343 proceeding, to the Governor and public utility regulatory body of each State, the Environmental Protection Agency, the Special Assistant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register for publication in the FEDERAL REGISTER.

Decided May 4, 1978.

By the Commission, Commissioner Murphy not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12863 Filed 5-10-78; 8:45 am]

[1] In the event the tariff is not filed prior to May 19, 1978, the due date specified for the filing of protests and verified statements will be extended to a date 20 days prior to the effective date, and the reply date will be correspondingly extended.

[2] Section 15 (3)(d) of the Interstate Commerce Act specifically requires the filing of verified complaints seeking suspension of proposed rate changes.

[3] The interest rate to be inserted in the refund provision shall be equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. See Section 15(8)(e) of the Interstate Commerce Act.

[4] See, footnote 3.

[7035-01]

[Volume No. 88]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

MAY 3, 1978.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before June 12, 1978. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issued or allegations phrased generally. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative, is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 409 (Sub-No. 65F), filed March 13, 1978. Applicant: SCHROETLIN TANK LINE, INC., P.O. Box 511, Saunders Avenue and Hwy 6, Sutton, NE 68979. Applicant's representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid fertilizer,* in bulk, in tank vehicles, from Optic, NE to points in KS and CO. (Hearing site: Sioux City, IA or Omaha, NE.)

No. MC 921 (Sub-No. 31F), filed March 17, 1978. Applicant: DEAN TRUCK LINE, INC., P.O. Drawer 631, Cornith, MS 38834. Applicant's representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined in 17 MCC 467, livestock, commodities in bulk, and articles which because of size or weight require special equipment), between Tupelo and New Albany, MS: from Tupelo, over U.S. Hwy 78, to New Albany and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Tupelo, MS or Memphis, TN.)

No. MC 4405 (Sub-No. 576F), filed March 16, 1978. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, OK 74103. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Commodities* which because of size and weight, require the use of special equipment or handling, and *parts* thereof, and *accessories* thereto when transported with such commodities, and (2) *self-propelled articles,* each weighing 15,000 lbs, or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to commodities which are transported on trailers, between points in AL, FL, GA, MS, SC, and TN, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, and RI. (Hearing site: Washington, DC.)

NOTE.—The purpose of this application is seeking the substitution of a single-line serv-

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ice for an existing joint line service. Common control may be involved.

No. MC 4687 (Sub-No. 17F), filed: March 27, 1978. Applicant: BURGESS & COOK, INC., P.O. Box 458, Fernandina Beach, FL 32304. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyethylene products* (except in bulk) from Jacksonville, FL, to points in AL, FL, and GA. (Hearing site: Jacksonville or Tallahassee, FL).

No. MC 5623 (Sub-No. 37F), filed March 23, 1978. Applicant: ARROW TRUCKING CO., a corporation, P.O. Box 7280, Tulsa, OK 74105. Applicant's representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cooling accessories, components, equipment, and parts*, and (2) *equipment, materials, and supplies* (except commodities in bulk) used in, or in connection with, the installation, manufacture, or distribution of the commodities named in (1) above, between points in Mayes County, OK, and Tulsa, OK, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to shipments originating at or destined to the facilities of the Marley Cooling Tower Co., Mayes County, OK, or its vendors at Tulsa, OK. (Hearing site: Washington, DC).

No. MC 5888 (Sub-No. 43F), filed March 23, 1978. Applicant: MID-AMERICAN LINES, INC., 127 West 10th Street, Kansas City, MO 64105. Applicant's representative: Louis A. Hoger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical distribution transformers or parts thereof* (except commodities in bulk), between the facilities of RTE Corp. at or near Waukesha, WI, on the one hand and points in IL, IN, and NE on the other. (Hearing site: Milwaukee, WI, or Chicago, IL).

NOTE.—Common control may be involved.

No. MC 8973 (Sub-No. 48F), filed March 24, 1978. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Avenue, North Bergen, NJ 07047. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products* (except in bulk), from the facilities of The Dow Chemical Co., at or near Carteret, NJ, and Hanging Rock, OH, to points in the United States, on and east of U.S. Hwy 85. (Hearing site: Washington, DC or Chicago, IL.)

No. MC 9644 (Sub-No. 6F), filed: March 24, 1978. Applicant: B. T. L., Inc., 631 Santa Fe, Kansas City, MO 64101. Applicant's representative: William J. Burns, 631 Santa Fe, Kansas City, MO 64101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between St. Joseph, MO, and Omaha, NE: From St. Joseph, MO, north via Interstate Hwy 29 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Omaha and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. Service at St. Joseph, MO, limited to joinder with applicant's present route between St. Joseph and Kansas City, MO. (Hearing site: Omaha, NE.)

No. MC 25798 (Sub-No. 308F), filed: March 24, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Applicant's representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Slate;* from Middle Granville, NY, to points in AL, GA, MS, NC, SC, and TN; (2) *clay tile;* from Dallas, TX, to points in AL, FL, GA, MS, NC, SC, and TN; (3) *tile cleaning compound, tile setting binder, mortar, grout*, and *ceramic tile adhesive* (except in bulk, in tank vehicles); from Atlanta, GA, to points in FL; (4) *tile setting binder* (except in bulk, in tank vehicles); from Clifton, NJ, to points in AL, FL, GA, MS, NC, SC, and TN. (Hearing site: Atlanta, GA.)

NOTE.—Common control may be involved.

No. MC 25798 (Sub-No. 309F), filed: March 24, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Applicant's representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from Plover, WI, to points in AZ, AR, CA, ID, LA, NV, OR, TX, UT, WA, and FL. (Hearing site: San Francisco, CA.)

NOTE.—Common control may be involved.

No. MC 25798 (Sub-No. 310F), filed March 24, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC. P.O. Box 1186, Auburndale, FL 33823. Applicant's representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds and animal and poultry feed supplements*, from points in FL, east and south of Jefferson County to points in the United States (except AL, AK, FL, GA, HI, MS, NC, SC, and TN.) (Hearing site: Tampa, FL.

NOTE.—Common control may be involved.

No. MC 29886 (Sub-No. 342F), filed March 24, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4200 39th Avenue, Kenosha, WI 53140. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Material-handling equipment and parts, attachments, and accessories* for such equipment, from New Bremen, OH, to points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Washington DC.)

NOTE.—Common control may be involved.

No. MC 30844 (Sub-No. 603F), filed: March 23, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Applicant's representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic bottles*, from Cincinnati, OH, to Iowa City, IA; (2) *shampoo, toilet preparations, and permanent hair wave kits in boxes* (except electric), from Iowa City, IA, to Cincinnati, OH. (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 31389 (Sub-No. 243F), filed March 22, 1978. Applicant: McLEAN TRUCKING CO., a corporation, 617 Waughtown Street, Winston-Salem, NC 27107. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over regular routes: Between Jacksonville, FL and Atlanta, GA, serving Atlanta, GA; for purposes of joinder only: From Jacksonville over U.S. Hwy 23 to the junction of Interstate Hwy 16 near Macon, GA, then over Interstate Hwy 16 to the junction of Interstate Hwy 75, then over Interstate Hwy 75 to Atlanta, GA, and return over the same route. (Hearing site: Washington, DC, or Winston-Salem, NC.)

NOTE.—Common control may be involved. The purpose of this application is to eliminate the gateway of Memphis, TN.

No. MC 40757 (Sub-No. 18F), filed: March 20, 1978. Applicant: CREECH

BROS. TRUCK LINES, INC., 100 Industrial Drive, Troy, MO 63379. Applicant's representative: Francis W. McInerny, 1000 6th Street NW., Suite 502, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Deodorants; disinfectants; breath fresheners; cleaning compounds; swimming pool treatment compounds; insecticides; and materials, supplies, and equipment* used by deodorant and cleaning compound manufacturers (except commodities in bulk, in tank vehicles), between St. Peters and O'Fallon, MO; WI, IL, MI, OH, IN, and NJ. Restriction: The authority sought herein is limited to the transportation of shipments originating at or destined to the facilities used by Airwick Industries, Inc. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 40978 (Sub-No. 38F), filed March 24, 1978. Applicant: CHAIR CITY MOTOR EXPRESS CO., a corporation, 3321 Business 141 South Sheboygan, WI 53081. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles and parts and accessories thereof*, from Chicago, IL, and points in the Chicago, IL commercial zone, to points in the Upper Peninsula of MI, MN, and WI. (Hearing site: Milwaukee, WI or Chicago, IL.)

No. MC 41406 (Sub-No. 68F), filed March 27, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts and materials, supplies equipment and related articles* used in the manufacture and production of motor vehicles, from points in MI and points in Allen, Defiance, Erie, Hamilton, Lucas, Ottawa, Sandusky, Seneca, and Wood Counties, OH to points in WI, IA, MO, KY, IL, MI, IN, OH, WV, PA, NY, NJ, MD, and DE. (Hearing site: Detroit, MI.)

No. MC 45163 (Sub-No. 12F), filed March 22, 1978. Applicant: CARL J. EDDY, d.b.a. CARL EDDY TRUCKING, P.O. Box 350, Independence, IA 50644. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between Waterloo, IA, on the one hand, and, on the other, points in IA, restricted to the transportation of shipments having a prior or subsequent movement by rail in other than TOFC (trailer-on-flat-car) service. (Hearing site: St. Paul, MN or Chicago, IL.)

No. MC 47171 (Sub-No. 106F), filed March 23, 1978. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4259, Greenville, SC 29608. Applicant's representative: Harris G. Andrews, P.O. Box 4259, Greenville, SC 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dental and hospital supplies*, including needles, from the facilities of Becton-Dickinson & Co., North Canaan, CT to Atlanta, GA. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 50935 (Sub-No. 19F), filed March 24, 1978. Applicant: WOLVERINE TRUCKING CO., a corporation, 1020 Doris Road, Pontiac, MI 48057. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority to engage in operation, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Malt beverages and related advertising materials*, from the facilities of Pabst Brewing Co. in Houston County, GA, to Detroit, MI and points in its commercial zone, and (2) *empty malt beverage containers, pallets and rejected shipments of malt beverages*, from Detroit, MI and points in its commercial zone to the facilities of Pabst Brewing Co. in Houston County, GA. (Hearing site: Milwaukee, WI Or Chicago, IL.)

No. MC 59367 (Sub-No. 119F), filed March 22, 1978. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and nonedible food products*, from the facilities of Terminal Ice & Cold Storage Co., of Bettendorf, IA, to points in AR, AL, CO, CT, FL, GA, LA, MA, ME, MI, NJ, NY, NH, OK, PA, RI, SC, TN, TX, VT, and WV. (Hearing site: Chicago, IL or Minneapolis, MN.)

No. MC 60157 (Sub-No. 26F), filed March 24, 1978. Applicant: C. A. WHITE TRUCKING CO., a corporation, 5327 North Central Expressway, Suite 310, Dallas, TX 75205. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Valves, hydrants;* and (2) *parts, attachments and accessories* for the commodities named in (1) above, from the facilities of American Darling Valve & Manufacturing Co., located at or near Beaumont, TX to points in the United States, including AK, but excluding HI. (Hearing site: Houston or Dallas, TX).

No. MC 61592 (Sub-No. 416F), filed March 17, 1978. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Applicant's representative: E. A. DeVine, 101 First Avenue, P.O. Box 737, Moline, IL 61265. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products* (except in bulk), from the facilities of the Dow Chemical Co., at or near Hanging Rock, OH, Magnolia, AR, Pevely, MO, and Channahon, IL to points in the United States on and east of U.S. Hwy 85. (Hearing site: Washington, DC or Chicago, IL, and at the same time and place as similar applications).

No. MC 61592 (Sub-No. 417F), filed March 17, 1978. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ventilation equipment, environmental control equipment, housing modules; air penthouses, air moving, heating and cooling equipment, motors and electrical equipment;* (2) *parts, tools and accessories* designed to be used with the articles described in (1) above, from Memphis, TN to points in the United States (except AK and HI); and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above (except commodities in bulk), from points in the United States (except AK and HI) to Memphis, TN. (Hearing site: Memphis, TN).

No. MC 69397 (Sub-No. 35F), filed March 24, 1978. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and fence posts*, (1) from the Federalsburg Industrial Park, Federalsburg, MD, to points in the United States in and east of MN, IA, MO, AR and LA (except points in DE, MD, NJ, NY, those in PA on and east of the Susquehanna River, and the Washington, DC); and

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(2) from points in Somerset, Worcester, and Wicomico Counties, MD, to points in VA. (Hearing site: Washington, DC or Salisbury MD.)

NOTE.—Common control may be involved.

No. MC 69833 (Sub-No. 129F), filed March 20, 1978. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue NW., 6th Floor, Grand Rapids, MI 49503. Applicant's representative: Harry Pohlad (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Dow Chemical Co. at or near Midland, MI as an off-route point in connection with carrier's authorized regular route operations. (Hearing site: Lansing, MI or Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 69833 (Sub-No. 130F), filed March 27, 1978. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW., 6th Floor, Grand Rapids, MI 49503. Applicant's representative: Harry Pohlad (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (1) Over regular routes: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Evart, MI, as an off-route point in connection with carrier's regular route operations; and (2) over irregular routes: *Auto parts and related articles*, between Evart, MI, on the one hand, and, on the other, the facilities of American Motors Corp. located at or near Kenosha and Milwaukee, WI. (Hearing site: Chicago, IL or Lansing, MI.)

NOTE.—Common control may be involved.

No. MC 73165 (Sub-No. 436F), filed March 22, 1978. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, AL 35202. Applicant's representative: R. Cameron Rollins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Zinc, zinc alloy and zinc products*, from Montgomery County, TN to points in and east of ND, SD, NE, KS, OK and TX, (2) *equipment, machinery, materials, and supplies* (except commodities in bulk), used in the manufacture, process or distribution of commodities in (1) above, from points in and east of ND, SD, NE, KS, OK, and TX, to points in Montgomery County, TN. (Hearing site: Nashville, TN.)

No. MC 73165 (Sub-No. 432F), filed March 6, 1978. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, AL 35202. Applicant's representative: R. Cameron Rollins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel piling and pile-driving equipment and machinery*, from Jacksonville, FL to points in the United States (except AK and HI). (Hearing site: Jacksonville or Tampa, FL.)

No. MC 74107 (Sub-No. 2F), filed March 6, 1978. Applicant: SUPER MOTOR LINES, INC., 1800 East Bessemer Avenue, Greensboro, NC 27405. Applicant's representative: F. Kent Burns, P.O. Box 1406, Raleigh, NC 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1)(A) between points in Forsyth, Guilford, Wilkes, Orange, Durham, Wake, Vance, Wilson, Wayne, Greene, Pitt, Yadkin, Washington, Lee, Harnett, Cumberland, Bladen, Columbus, Pender, New Hanover, Brunswick, Craven, Lenoir, Edgecombe, Nash, Johnston, Alamance, Robeson, Sampson, Davidson, Caldwell, Randolph, Chatham, Iredell, Beaufort and Rockingham Counties, NC. (B) between Wilmington, NC, on the one hand, and, on the other, the counties shown in (1)(A) above; and (C) between Wilmington, NC, on the one hand, and, on the other, points in SC on and east of Interstate Hwy 26 between Charleston and Columbia, SC and on and east of Interstate Hwy 77 from Columbia, SC to Charlotte, NC; (2) *furniture and materials, finishes and products* used in the manufacture of furniture from Wayne and Beaufort Counties, NC, to Guilford, Forsyth and Caldwell Counties, NC; and (3) *pipe, iron or steel, conduit pipes, insulated copper wire, steel switch or conduit outlet boxes, switch boxes conduit outlet, plastic or plastic and steel combined, insulated aluminum wire, wooden reel and wooden pallets* (A) from Guilford and Forsyth Counties, NC to Whiteville, NC; and (B) between points in NC and SC within 100 mile radius of Whiteville, NC. Common control may be involved. (Hearing site: Greensboro or Raleigh, NC.)

No. MC 75320 (Sub-No. 194F), filed March 26, 1978. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Applicant's representative: John A. Crawford, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the facilities of Wal-Mart Stores, Inc. at or near Searcy (White County), AR, as an off-route point in connection with carrier's authorized regular-route operations. (Hearing site: Little Rock, AR.)

No. MC 77061 (Sub-No. 11F), filed March 20, 1978. Applicant: LARMER TRANSFER CO., a corporation, P.O. Box 706, Eugene, OR 97440. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel plate, angle iron, bars, pipe* and *channels*, from the facilities of Farwest Steel Corp. and Farwest Rebar Co. at or near Eugene, OR, to points in Adams, Washington, Payette, Gem, Ada, Canyon and Owyhee Counties, ID. (Hearing site: Portland or Eugene, OR.)

NOTE.—Applicant holds motor contract carrier authority in MC 142346 (Sub-No. 1), therefore, dual operations may be involved.

No. MC 78228 (Sub-No. 74F), filed March 24, 1978. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in dump vehicles, from Buffalo, NY, to points in CT, DE, ME, MD, MA, MI, NH, OH, PA, RI, VA, VT and WV. (Hearing site: Washington, DC or Buffalo, NY.)

No. MC 82492 (Sub-No. 188F), filed March 24, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the facilities of Welch Foods, Inc. at or near Lawton, MI, to points in KS, MO and TN. (Hearing site: Washington, DC.)

No. MC 82492 (Sub-No. 189F), filed March 27, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of

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Continental Freezers of Illinois at Chicago, IL, to points in IN, KY, Lower Peninsula of MI, and OH, and to St. Louis, Scotts City and Sikeston, MO and points in their commercial zones. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 83539 (Sub-No. 488F), filed March 22, 1978. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Applicant's representative: Mr. Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Gypsum wallboard, lath and plaster*, from points in Clark County, NV, to points in AZ, CA and UT. (Hearing site: Los Angeles, CA or Dallas, TX.)

No. MC 87523 (Sub-No. 95F), filed March 23, 1978. Applicant: STEWART TRANSPORT, INC., P.O. Box 504, Londonderry, NH 03053. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501 Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from East Ryegate, VT and Claremont, NH, to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, and VA, (2) *waste paper and waste paper products*, from points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, and VA to East Ryegate, VT. (Hearing site: Concord, NH or Washington, DC.)

No. MC 88182 (Sub-No. 4F), filed March 22, 1978. Applicant: SHIRAR FEED CO. INC., P.O. Box 51, Flora, IN 46929. Applicant's Representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry feed and feed ingredients, insecticides, and poultry and livestock remedies*, from Shipshewana, IN, to points in OH, and (2) *dry feed ingredients, insecticides, and poultry and livestock remedies*, from points in OH, to Shipshewana, IN, under a continuing contract or contracts with Hubbard Milling Co. of Mankato, MN. (Hearing site: Indianapolis, IN or Chicago, IL.)

No. MC 95350 (Sub-No. 8F), filed March 20, 1978. Applicant: R. W. JONES TRUCKING CO., a corporation, P.O. Drawer T, Vernal, UT 84078. Applicant's representative: Harry D. Pugsley, Suite 1200, 310 South Main Street, Salt Lake City, UT 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, materials, equipment, supplies, and facilities* used in, or incidental to, or in connection with the discovery, development, production, extraction, and preservation of oil shales, natural gas, and petroleum and the construction, dismantling, operation, processing, repressuring, and blending of oil shale, natural gas, gasoline, and petroleum, together with like commodities for discovery, development and production of geothermal and nuclear resources, from points in UT, ID, WY, CO, and NV, to points in Uintah, Duchesne, Daggett, Cache, Summit, Rich, Grand, Emery, and Carbon Counties, UT, Madison, Fremont, Clark, Jefferson, Teton, Bonneville, Bingham, Bannock, Caribou, Power, Bear Lake, Oneida, and Franklin Counties, ID, Moffatt, Rio Blanco, Routt, Mesa, and Garfield Counties, CO, Sweetwater, Fremont, Teton, Uinta, Lincoln, Carbon, Sublette, and Natrona Counties, WY, and all of NV. (Hearing site: Salt Lake City, UT.)

No. MC 99427 (Sub-No. 39F), filed March 23, 1978. Applicant: ARIZONA TANK LINES, INC., 3200 Ruan Center, 666 Grand Avenue, Des Moines, IA 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cottonseed oil*, in bulk, from Casa Grande, AZ, to Houston, TX. (Hearing site: Des Moines, IA or Phoenix, AZ.)

No. MC 95540 (Sub-No. 1005F), filed March 21, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Applicant's representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery products and equipment, materials, and supplies* used in the production and transportation of confectionery products, between the facilities of Charms Co., located at or near Covington, TN on the one hand, and, on the other, the facilities of the Charms Co., located at or near Freehold, NJ. (Hearing site: New York, NY, Washington, DC, or Tampa, FL.)

No. MC 96881 (Sub-No. 19F), filed March 24, 1978. Applicant: FINE TRUCK LINE, INC., 801 West Dodson Avenue, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Valliant, OK and Broken Bow, OK, from Valliant over U.S. Hwy 70 to junction OK Hwy 147, then over OK Hwy 147 to junction OK Hwy 7, then over OK Hwy 7 to Broken Bow, and return over the same route, serving all intermediate points, (2) between Waskom, TX and Texarkana, TX, from Waskom over U.S. Hwy 80 to junction U.S. Hwy 165, then over U.S. Hwy 165 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Texarkana, and return over the same route, serving all intermediate points, (3) between Broken Bow, OK and Fort Smith, AR, from Broken Bow over U.S. Hwy 259 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction OK Hwy 112, then over OK Hwy 112 to junction U.S. Hwy 271, then over U.S. Hwy 271, to Fort Smith, and return over the same route, as an alternate route for operating convenience only. (Hearing site: Shreveport, LA or Texarkana, TX.)

No. MC 100449 (Sub-No. 93F), filed March 27, 1978. Applicant: MALLINGER TRUCK LINE, INC., Rural Route No. 4, Fort Dodge, IA 50501. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corp. located at Logansport, IN and Monmouth, IL, to points in OK and TX. Restricted to the transportation of traffic originating at the above-named origins and destined to the named destinations. (Hearing site: Dallas, TX or Kansas City, MO.)

No. MC 102616 (Sub-No. 942F), filed March 23, 1978. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, Akron, OH 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from (1) Louisville, KY, to points in IN and (2) from Lawrenceville and Robinson, IL, to Evansville and Newburgh, IN. (Hearing site: Columbus, OH or Chicago, IL.)

NOTE.—Common Control may be involved.

No. MC 102616 (Sub-No. 945F), filed March 23, 1978. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, Akron, OH 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as

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a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions*, in bulk, in tank vehicles, from Sullivan, IL, to points, in IN, KY, and TN. (Hearing site: Columbus, OH or Chicago, IL.

NOTE.—Common Control may be involved.

No. MC 103498 (Sub-No. 50F), filed March 24, 1978. Applicant: B & L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Applicant's representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *plastic pipe and fitting and material used in the installation of plastic pipe*, from the plantsite of Johns-Manville Sales Corp. at or near Wilton, IA to points in AR, AL, MS, OK, and TX. (Hearing site: Dallas, TX or Lubbock, TX.)

NOTE.—Common Control may be involved.

No. MC 105636 (Sub-No. 39F), filed March 27, 1978. Applicant: ARMELLINI EXPRESS LINES, INC., Oak and Brewster Roads, Vineland, NJ 08360. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: (1) *Petroleum products*, in containers, from the facilities of Shell Oil Co. at or Sewaren, NJ., and the facilities of Sun Oil Co. at or near Marcus Hook, PA, to Riviera Beach, FL; and (2) *petroleum refinery materials, supplies* and *equipment* (except in bulk), from the facilities of Hess Oil V.I. Corp. at or near Woodbridge and Avenel, NJ., to West Palm Beach, FL, restricted in (1) and (2) above to traffic having an immediately subsequent movement by water. (Hearing site: New York, NY, Washington, DC, or Miami, FL.)

No. MC 105782 (Sub-No. 9F), filed March 3, 1978. Applicant: HUGHES REFRIGERATED EXPRESS, INC., P.O. Box 2106, Haines City, FL 33844. Applicant's representative: James E. Wharton, Suite 811, Metcalf Building, 100 South Orange Avenue, Orlando, FL 32801. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *Frozen foods, and fresh, cold-packed, and partially frozen fruit, berries, and vegetables*, when transported in the same vehicle, and at the same time with the preceding commodities, between points in CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MO, NJ, NY, NC, OH, PA, RI, SC, VA, TN, WI, and DC. (Hearing site: Orlando or Tampa, FL.)

NOTE.—The purpose of this application is to eliminate the gateways of Philadelphia and Doylestown, Pennsylvana; Camden, Beech Haven and Brant Beach, New Jersey; and Crisfield, MD.

No. MC 105813 (Sub-No. 237), filed March 24, 1978. Applicant: BELFORD TRUCKING CO., 1759 S.W. 12th Street, P.O. Box 1936, Ocala, FL 32670. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs;* (2) *Animal Foods;* and (3) *Such Merchandise* as is dealt in by retail gift and curio shops and catalog distribution centers, from points in WI to points in AL, FL, GA, KY, LA, MS, NC, SC, and TN. (Hearing site: Chicago, IL.)

No. MC 106074 (Sub-No. 61F), filed March 23, 1978. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, NC 28043. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products*, and articles distributed by meat packinghouses (except hides and commodities in bulk) as defined in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the plantsite and facilities of Wilson Foods Corp. at Albert Lea, MN, to points in NC, SC, and VA. Restriction: Restricted to traffic originating at the above named origins and destined to the named destinations. (Hearing site: Dallas, TX or Kansas City, MO.)

No. MC 106674 (Sub-No. 301F), filed March 24, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles from the facilities utilized by Translake, Inc. located at or near Burns Harbor, IN to points in IL, OH, and the Lower Peninsula of MI. (Hearing site: Chicago, IL or Indianapolis, IN.)

No. MC 106674 (Sub-No. 303F), filed March 24, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Paper, paper products and woodpulp* from the facilities of Bowater Southern Paper Corp. at Calhoun, TN to points in DE, IL, IN, KY, MD, MI, OH, VA, WI, and DC; and (2) *materials, equipment and supplies* from IL, IN, MI, OH, and WI to the facilities of Bowater Southern Paper Corp. at Calhoun, TN. Restriction: Restricted to the transportation of traffic originating at the named origin points and destined to the indicated destination points. (Hearing site: Chicago, IL or Indianapolis, IN.)

MC 107010 (Sub-No. 64F), filed March 27, 1978. Applicant: BULK CARRIERS, INC., P.O. Box 423, Auburn, NE 68305. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible tallow*, in bulk, in tank vehicles, from Phelps City, MO, to Lawrence, KS. (Hearing site: Omaha, NE).

No. MC 108207 (Sub-No. 478F), filed March 24, 1978. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 5888, Dallas, TX 75222. Applicant's representative: Mike Smith, P.O. Box 5888, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the facilities of Welch Foods, Inc., at or near Lawton, MI, to points in AR, KS, LA, MS, MO, NM, OK, TN, and TX, Restricted to traffic originating at the named facilities and destined to points in the named States.

(Hearing site: Buffalo, NY or Washington, DC.)

No. MC 108341 (Sub-No. 93F), filed March 16, 1978. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air compressors and earth drilling machinery and equipment*, between Claremont, NH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Philadelphia, PA or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 108449 (Sub-No. 407F), filed March 23, 1978. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, dry, in bulk, from Grand Forks, ND, to points in MN and ND. (Hearing site: St. Paul, MN, or Chicago, IL.)

No. MC 108859 (Sub-No. 65F), filed March 13, 1978. Applicant: CLAIRMONT TRANSFER CO., a corporation, 1803 Seventh Avenue North, Escanaba, MI 58929. Applicant's representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Dixon, IL, and Belvidere, IL, serving all intermediate points: From Dixon over IL Hwy 2 to Rockford, IL, and then over U.S. Hwy 20, to Belvidere, IL, and return over the same route; (2) between Rochelle, IL, and Rockford, IL, as an alternate route for operating convenience only, serving no intermediate points, in connection with carrier's otherwise authorized regular route operations: From Rochelle over U.S. Hwy 51 to junction U.S. Hwy 20, and return over the same route; (3) between Rochelle, IL, and Veedersburg, IN, as an alternate route for operating convenience only, serving no intermediate points, in connection with carrier's otherwise authorized regular route authority; from Rochelle, IL, over U.S. Hwy 51 to junction Interstate Hwy 74, then over Interstate Hwy 74 to junction with U.S. Hwy 41 at or near Veedersburg, IN, and return over the same route; (4) between Rockford, IL, and Milwaukee, WI, as an alternate route for operating convenience only, serving no intermediate points, in connection with carrier's otherwise authorized regular route operations: From Rockford over U.S. Hwy 20 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction WI Hwy 15, then over WI Hwy 15 to junction U.S. Hwy 41 at Milwaukee, WI, and return over the same route; (5) between Belvidere, IL, and Melrose Park, IL, as an alternate route for operating convenience only, serving no intermediate points, in connection with carrier's otherwise authorized regular route operations: From Belvidere, IL, over U.S. Hwy 20, to Melrose Park, IL, and return over the same route; (6) between Fort Wayne, IN, and junction U.S. Hwy 24 and U.S. Hwy 6 (near Napoleon, OH), as an alternate route for operating convenience only, serving no intermediate points, in connection with carrier's otherwise authorized regular route operation: From Fort Wayne, IN, over U.S. Hwy 24 to junction U.S. Hwy 6, and return over the same route; (7) between junction U.S. Hwy 24 and U.S. Hwy 6 (near Napoleon, OH) and Toledo, OH, as an alternate route for operating convenience only, serving no intermediate points, in connection with carrier's otherwise authorized regular route operations: From junction U.S. Hwy 24 and U.S. Hwy 6, over U.S. Hwy 24, to Toledo, OH, and return over the same route; (8) between Hammond, IN, and Toledo, OH, as an alternate route for operating convenience only, serving no intermediate points, in connection with carrier's otherwise authorized regular route operations: From Hammond, IN, over U.S. Hwy 20, to Toledo, OH, and return over the same route. (Hearing site: Chicago, IL, or Madison, WI.)

No. MC 109633 (Sub-No. 32F), filed March 27, 1978. Applicant: ARBET TRUCK LINES, INC., 222 East 135th Place, Chicago, IL 60627. Applicant's representative: Arnold L. Burke, 180 North La Salle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials* (except in bulk), and *supplies and equipment* used in the manufacture of plastic articles, between the facilities of Mobil Chemical Co., Plastics Division at Jacksonville and Springfield, IL, on the one hand, and on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

No. MC 109704 (Sub-No. 3F), filed March 23, 1978. Applicant: CHEMTRANS, INC., Suite 917, 400 Penn Center Boulevard, Pittsburgh, PA 15235. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and vegetable oils*, in bulk in tank vehicles, between the borough of Bridgeville and the township of South Fayette, PA, and the township of Stickney, IL, on the one hand, and, on the other, points in and east of MN, IA, MO, KS, OK, and TX, under a continuing contract, or contracts, with Koppers Co., Inc. (Hearing site: Pittsburgh, PA, or Washington, DC.)

No. MC 109708 (Sub-No. 77F), filed March 23, 1978. Applicant: INDIAN RIVER TRANSPORT CO., d.b.a., INDIAN RIVER TRANSPORT, INC., P.O. Box AG, Dundee, FL 33838. Applicant's representative: Bruce A. Bullock, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, (1) From ports of entry on the United States-Canada Boundary Line located at NY, to Silverton, OH; and (2) from Silverton, OH, to Peoria, IL. (Hearing site: Peoria, IL, St. Louis, MO, or Chicago, IL.)

No. MC 110098 (Sub-No. 165F), filed March 27, 1978. Applicant: ZERO REFRIGERATED LINES, 1400 Ackerman Road, P.O. Box 20380, San Antonio, TX 78220. Applicant's representative: T. W. Cothren (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts* and articles distributed by meat packinghouses (except hides and commodities in bulk), as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the facilities of Wilson Foods Corp. at Logansport, IN, and Monmouth, IL, to points in AR, NM, OK, and TX. Restriction: Restricted to the transportation of traffic originating at the above named origins and destined to the named destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

No. MC 110098 (Sub-No. 166F), filed March 27, 1978. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, P.O. Box 20380, San Antonio, TX 78220. Applicant's representative: T. W. Cothren (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts* and articles distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates 61 of MCC 209 and 766 (except hides and commodities in bulk), from Indianapolis, IN, and points in IA, MN, NE, and SD, to points in AR, OK, LA, NM, and TX. (Hearing site: Omaha, NE, or San Antonio, TX.)

No. MC 110525 (Sub-No. 1233F), filed March 24, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Dry fertilizer and fertilizer materials, urea, and soda ash*, in bulk, in tank vehicles, from points in Richmond County, GA, to points in KY, TN, VA, and WV. (Hearing site: Atlanta, GA.)

No. MC 111231 (Sub-No. 232F), filed March 24, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); between the plantsite of William Wrigley, Jr. Co., at or near Flowery Branch, GA, on the

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one hand, and, on the other, Dallas-Ft. Worth, TX, Memphis, TN, Atlanta, GA, and Greenville and Meridian, MS. (Hearing site: Chicago, IL, or Washington, DC.)

No. MC 111231 (Sub-No. 233F), filed March 27, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Applicant's representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except commodities in bulk), from the facilities of Welch Foods, Inc., at or near Lawton, MI, to points, in AR, KS, LA, MS, MO, NM, OK, TN, and TX. (Hearing site: Chicago, IL, or Washington, DC.)

No. MC 111302 (Sub-No. 119F), filed March 13, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Applicant's representative: David A. Petersen, P.O. Box 10470 Knoxville, TN 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, in bulk, in tank or hopper type vehicles, from the facilities of Cargill, Inc., at or near Sidney, OH, to CT, DE, IL, IN, KY, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, TN, VT, VA, WV, and WI. (Hearing site: Minneapolis, MN.)

NOTE.—Common control may be involved.

No. MC 111611 (Sub-No. 34F), filed March 22, 1978. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Avenue, Lewistown, PA 17044. Applicant's representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass pellets and marbles* (except in bulk), between the facilities of Owens-Corning Fiberglas Corp. at or near Anderson, SC, on the one hand, and, on the other, the facilities of Owens-Corning Fiberglas Corp. at or near Huntingdon, PA. (Hearing site: Anderson or Greenville, SC, or Washington, DC.)

No. MC 112304 (Sub-No. 140F), filed March 27, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: John D. Herbert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the warehouse and shipping facilities of Parker Steel Co., at or near Andrews, SC, to all points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC, or Detroit, MI.)

NOTE.—Common control may be involved.

No. MC 112801 (Sub-No. 200F), filed March 22, 1978. Applicant: TRANSPORT SERVICE CO., a corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean oil*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., at or near Sidney, OH, to points in IL, IN, KY, GA, MD, ME, NC, NY, NJ, PA, OH, VA, and TN. (Hearing site: Chicago, IL, or Washington, DC.)

No. MC 113170 (Sub-No. 7F), filed March 23, 1978. Applicant: PEET FRATE LINE, INC., 1315 South Route 47, P.O. Box 529, Woodstock, IL 60098. Applicant's representative: Eugene L. Cohn, One North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food cookers* and *parts* thereof and *Foodstuffs, food seasoning, food flavoring and materials, supplies and accessories* used or useful in the manufacture, distribution, shipping and sale thereof; between the facilities of Broaster Co. at Beloit, WI on the one hand and, on the other, points in the Chicago, IL commercial zone, as defined by the Commission, and points in IL within 50 miles of Marengo, IL, including Marengo. (Hearing site: Chicago, IL.)

No. MC 113362 (Sub-No. 320F), filed March 16, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue NE., P.O. Box 429, Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum, petroleum products, vehicle body sealer, and sound deadener compound* (except commodities in bulk), from the facilities of Witco Chemical Corp. at Houston, TX to points in NC, SC, GA, FL, AL, MS, TN, KY, OH, MI, IL, WI, IN, MN, IA, MO, AR, LA, TX, OK, KS, NE, SD, ND, and CO. Restriction: Restricted to traffic originating at the above named origin point and destined to the above named destination States. (Hearing site: Pittsburgh, PA or Washington, DC.)

No. MC 113434 (Sub-No. 96F), filed March 24, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Materials, products* and *supplies used in or produced by the food processing industry* (except commodities in bulk), from points in Allegan, Berrien and Van Buren Counties, MI, to OH, IN, IL and St. Louis, MO. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 113666, (Sub-No. 128F), filed March 23, 1978. Applicant: Freeport Transport, Inc., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC. 20036. Authority sought to operate as a *Common carrier* by motor vehicle over irregular routes, transporting, (1) *advertising materials;* (2) *aluminum foil;* (3) *animal and poultry feeds, and ingredients* thereof, in containers; (4) *boards and sheets*, plastic or wood; (5) *cabinets, parts and components thereof;* (6) *carbon black*, in containers; (7) *chemicals, dyes, drugs, ad pharmaceuticals*, in containers; (8) *cloth;* (9) *containers;* (10) *documents and printed matter;* (11) *earth*, diatomaceous or infusorial, in containers; (12) *gases*, compressed, in containers; (13) *cleaning compounds*, in containers; (14) *machinery, and components and parts thereof;* (15) *naval stores*, in containers; (16) *paints*, liquid, dry or paste, in containers; (17) *paper and paper products;* (18) *petroleum oils*, in containers; (19) *plastic materials*, dry, in containers; (20) *recording devices;* (21) *rubber*, synthetic or natural; (22) *shampoos and toilet preparations*, in containers; (23) *sizings*, in containers; (24) *sugar*, in containers; (25) *surgical materials and supplies;* (26) *vegetable oils*, in containers: (27) *personal protective devices*, including hats, goggles, ear protectors. From Danbury, Shippan, Stamford and Wallingford, CT; South Lee and West Springfield, MA; Westbrok, ME; Bound Brook, Clifton, Linden, Princeton, Warners, and Woodbridge, NJ; Buchanan, Pearl River and Solvay, NY; Cincinnati and Marietta, OH; Hazelton, PA; and Willow Island, WV., To Ports of entry on the International Boundary Line between the United States and Canada in MI, NY, and VT. Restriction, restricted to foreign traffic originating at or destined to fallities of American Cyanamid Co. and Cyanamid Canada Inc. (Hearing site: Washington, DC.)

No. MC 113678 (Sub/No. 733F), filed March 22, 1978. Applicant: Curtis, Inc., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative Roger M. Shaner, (Same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, food products, and foodstuffs* (except commodities in bulk in tank vehicles), in vehicles equipped with mechanical refrigeration, from points in CA to points in ID, OR, and WA (Hearing site: Los Angeles, CA or San Francisco, CA.)

No. MC 113678 (Sub-No. 736F), filed March 22, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner, (Same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tea*, (except commodities in bulk in tank or hopper type vehicles), from New Orleans, LA; Houston, TX; Philadelphia, PA; and Baltimore, MD; to Denver, CO, restricted to traffic having a prior movement by water. (Hearing site: Los Angeles, CA.)

No. MC 113678 (Sub-No. 737F), filed March 22, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner, (Same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soup mixes, Salad Dressings, Tea, and dry beverage preparations* (except commodities in bulk), from the facilities of Thomas J. Lipton, Inc., located at or near Independence, MO to Denver, CO; Santa Cruz, CA and points in their respective commercial zones, restricted to traffic originating at and destined to the named points. (Hearing site: New York City, NY.)

No. MC 113843 (Sub-No. 252F), filed March 24, 1978. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer street, Boston, MA 02210. Applicant's representative: Willima J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Bananas and Agricultural Commodites* (exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas) from Batimore, MD; New York, NY; and Albany, NY, to points in NY, NJ, PA, OH, IN, KY, IL, MD, DE, VA, WV, and DC. (Hearing site: New York, NY or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 114211 (Sub-No. 351F), filed March 20, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Applicant's representative: Adelor Warren, P.O. Box 420, Waterloo, IA 50704. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Lumber, lumber products, wood products, and forest products*, between the ports of entry on the international boundary line between the United States and Canada, located at points in ND and MN, on the one hand, and, on the other, points in MN, ND, SD, NE, KS, IA, WI, IL, IN, MI, OH, MO, and KY. (Hearing site: Minneapolis, MN or Fargo, ND.)

NOTE.—Applicant may have further movements in foreign commerce.

No. MC 114211 (Sub-No. 354F), filed March 27, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420 Waterloo, IA 50704. Applicant's representative: Adelor J. Warren, (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Composition board*, from Jacksonville, TX, to points in the United States (except AL and HI). (Hearing site: Dallas, TX of Fort Worth, TX.)

No. MC 114457 (Sub-No. 366F), filed March 23, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Willis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mops, brooms, brushes, and wooden and plastic articles*, from Greenville, NC, to points in the United States in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: St. Paul, MN or New York, NY.)

No. MC 115162 (Sub-No. 411F), filed March 27, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and construction materials*, from the plantsite of the Celotex Corp., located at or near Texarkana, AR, to points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials and supplies* used in the manufacture of and/or the distribution of commodities named in (1) above (except commodities in bulk, in tank vehicles), from the destination States named in (1) above, to the facilities of the Celotex Corp., located at or near Texarkana, AR. (Hearing site: Tampa, FL or Mobile, AL.)

No. MC 115904 (Sub-No. 97F), filed March 27, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings*, from Denver, CO, to points in OK and MO. Restriction: Restricted against the transportation of those commodities falling within the category described in the Mercer Extension—Oil Field Commodities, 74 MCC 459, and further restricted to the transportation of traffic originating at the facilities of Amoco Chemicals Corp. at Denver, CO. (Hearing site: Denver, CO or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 115931 (Sub-No. 59F), filed March 24, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wall board joint treatment systems* (except in bulk), from Madison, SD, to points in ID, MT, ND, and WY. (Hearing site: Sioux Falls, SD.)

No. MC 116260 (Sub-No. 9) (correction), filed January 16, 1978 published in the FEDERAL REGISTER issue of March 9, 1978 and partially republished in the FEDERAL REGISTER issue of April 20, 1978 and republished as corrected this issue. Applicant: PASHA TRUCKAWAY, a corporation, 1308 Canal Boulevard, Richmond, CA 94804. Applicant's representative: Ann M. Pougiales, 100 Bush Street, 21st Floor, San Franisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles and trucks*, in secondary movements in truckaway service, and *parts for the above-described vehicles* when accompanying the shipment thereof, from points in CA to points in AZ, CO, ID, MT, NV, NM, OR, TX, UT, WA and WY. (Hearing site: San Francisco, CA.)

NOTE.—The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 116645 (Sub-No. 24F), filed March 27, 1978. Applicant: DAVIS TRANSPORT CO., a corporation, P.O. Box 56, Gilcrest, CO 80623. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feeds, liquid animal feed supplements, and molasses*, in bulk, in tank vehicles, from the facilities of Cargill, Inc. at Sterling, CO, to points in SD, east of U.S. Hwy 83 and points in NE, east of U.S. Hwy 281. (Hearing site: Denver, CO.)

NOTE.—Common control may be involved.

No. MC 116763 (Sub-No. 409F), filed March 24, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Applicant's representative: H. M. Richters, North West Street, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, plastic bags and bags constructed of paper and plastic combined*, from the facilities of Great Plains Bag Corp., at or near Jacksonville, AR, to points in FL, GA, IL, IN, OH, and WI. Restricted to traffic originating at the facilities of

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Great Plains Bag Corp. and destined to the named States. (Hearing site: Memphis, TN.)

No. MC 116915 (Sub-No. 53F), filed March 27, 1978. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, Kokomo, IN 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cable*, from points in Madison County, KY, to points in the United States (including AK, but excluding HI); and (2) *empty cable reels*, from points in the United States (including AK, but excluding HI), to points in Madison County, KY. (Hearing site: Lexington or Louisville, KY, or Washington, DC.)

No. MC 117257 (Sub-No. 3F), filed March 24, 1978. Applicant: D-S TRANSPORT, INC., 324 Sixteenth Street North, Moorehead, MN 56560. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Malt beverages*, from St. Louis, MO and LaCrosse, WI, to Detroit Lakes and Perham, MN, (b) *empty malt beverage containers and empty pallets* used in the transportation of malt beverages, from Detroit Lakes and Perham, MN, to St. Louis, MO and LaCrosse, WI, restricted in (1)(a) and (1)(b) to service under contract with D-S Beverages, Inc., Morehead, MN; (2)(a) *malt beverages*, from Milwaukee, WI, to Morehead, MN, (b) *empty malt beverage containers and empty pallets* used in the transportation of malt beverages, from Moorehead, MN, to Milwaukee, WI, restricted in (2)(a) and (2)(b) to service under contract with Valley Distributing Co., and Hansen Distributing, Inc., Moorehead, MN; (3)(a) *malt beverages*, from Milwaukee, WI, to Fargo, ND, (b) *empty malt beverage containers and empty pallets* used in the transportation of malt beverages, from Fargo, ND, to Milwaukee, WI, restricted in (3)(a) and (3)(b) to service under contract with Bergseth Bros. Co., Inc., and Beverage Wholesalers, Inc., Fargo, ND; (4)(a) *malt beverages*, from St. Paul, MN and St. Louis, MO, to Wahpeton, ND, (b) *empty malt beverage containers and empty pallets* used in the transportation of malt beverages, from Wahpeton, ND, to St. Paul, MN and St. Louis, MO, restricted in (4)(a) and (4)(b) to service under contract with Red River Jobbing, Wahpeton, ND. (Hearing site: Fargo, ND or Minneapolis or St. Paul, MN.)

No. MC 117765 (Sub-No. 238F), filed March 27, 1978. Applicant: HAHN TRUCK LINE, INC., 1100 South MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Plastic articles and materials and supplies and equipment* used in the manufacture and distribution of plastic articles and materials (except in bulk), between the facilities of Mobil Chemical Co., Plastics Division at Jacksonville and Springfield, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Oklahoma City, OK.)

No. MC 118535 (Sub-No. 118F), filed March 16, 1978. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, MO 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Center, 3535 NW 58th, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea, ammonium nitrate, fertilizer and fertilizer ingredients* (except in liquid), from (1) Gainesville, Littlefield, Pittsburg, Terrell and Vernon, TX to all points in AR, CO, KS, LA, MO, MS, NE, NM and OK; (2) Kerens, TX to all points in LA and MS; (3) Kerens, TX to all points in AR, CO, KS, MO, NE, NM and OK, restricted against commodities, in bulk, in tank vehicles. (Hearing site: Kansas City, MO.)

No. MC 119489 (Sub-No. 49F), filed March 27, 1978. Applicant: PAUL ABLER, d.b.a. CENTRAL TRANSPORT CO., 2500 North 13th Street, P.O. Box 249, Norfolk, NE 68701. Applicant's representative: Bruce A. Bullock, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Blair, NE, to points in IA, MN, ND, SD, WI, and IL. (Hearing site: Omaha, NE.)

NOTE.—Common control may be involved.

No. MC 119726 (Sub-No. 119F), filed March 20, 1978. Applicant: N. A. B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Applicant's representative: James L. Beattey, 130 East Washington, Street, Suite 1000, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from Eden, NC, to points in AL, DE, DC, FL, GA, KY, MD, SC, TN, VA, and WV, and (2) *materials, supplies and equipment* used in the manufacture, sale, and distribution of malt beverages, and *returned empty malt beverage containers*, from points in AL, DE, DC, FL, GA, KY, MD, SC, TN, VA, and WV, to Eden, NC. Restricted in (1) and (2) above against the transportation of commodities in bulk, in tank vehicles. (Hearing site: Indianapolis, IN, or Chicago, IL.)

No. MC 119765 (Sub-No. 50F), filed March 23, 1978. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Applicant's representative: Arlyn L. Westergren. Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses*, as described in sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and skins and commodities in bulk), from the facilities of John Morrell & Co., at Sioux Falls, SD and Sioux City, IA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, and, (2) *meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and skins and commodities in bulk), from the facilities of John Morrell & Co. at Estherville, IA, to points in CT, ME, MD, MA, NH, NJ, NY, PA, RI, and VA. (Hearing site: Omaha, NE or Chicago, IL.)

No. MC 119789 (Sub-No. 442F), filed March 27, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of E. J. Brach & Sons at or near NV, to points in AZ, CA, ID, MT, OR, UT, and WA. (Hearing site: Chicago, IL.)

No. MC 119934 (Sub-No. 224F), filed March 23, 1978. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, IN 46040. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, In 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials*, dry, in bul, in tank vehicles, from Illiopolis, IL, to points in GA, IN, KA, KY, MA, MI, MN, MS, MO, OH, TN, VA, and WI. (Hearing site: Columbus, OH or Indianapolis, IN.)

No. MC 118989 (Sub-No. 185F), filed March 23, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, WI 53221. Applicant's representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food*, from St. Joseph, MO, Jefferson WI, Fort Dodge, IA, and Sebring, OH, to points in IL, IN, MI, OH, PA, KY, TN, MO, KS, IA, WI, and MN. (Hearing site: Chicago, IL.)

No. MC 119988 (Sub-No. 136F), filed March 24, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, TX 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Water heaters, house heating boilers, glasslined tanks, and garbage disposals*, from Kankakee, IL, to points in TX, OK, LA, and AR. (Hearing site: Chicago, IL or Dallas, TX.)

No. MC 121060 (Sub-No. 57F), filed March 24, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Building materials*, and materials, equipment and supplies used in the manufacture and installation of building materials (except commodities in bulk), between Franklin (Warren County) OH, on the one hand, and, on the other, points in IL, IN, KY, MI, and MO. (Hearing site: Washington, DC.)

No. MC 123048 (Sub-No. 396F), filed March 23, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021-21st Street, Post Office Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, supplies* and *paraphernalia* used in exhibitions, shows, business meetings, product introductions, motion picture and television productions and demonstrations (except commodities in bulk), between points in the United States (except AK and HI), in non-radial movement, restricted to the transportation of traffic originating at and destined to facilities utilized by Wilding Corp. Division of Bell and Howell Co. (Hearing site: Detroit, MI or Washington, DC.)

No. MC 123048 (Sub-No. 397F), filed March 24, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021-21st Street, Post Office Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and forest products*, from Fargo, ND, to points in IL, IN, IA, MI, MO, OH, and WI., restricted to shipments having a prior movement by rail or truck from Manitoba Forestry Resources, Ltd. located in Manitoba, Canada. (Hearing Site: Minneapolis, MN or Fargo, ND.)

No. MC 123048 (Sub-No. 399F), filed March 24, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cooling towers and accessories*, materials and supplies used for cooling towers; and (2) *materials, equipment* and *supplies* used in the manufacture, distribution and sale of commodities in (1) above, between Tulsa, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tulsa, OK or Dallas, TX.)

No. MC 123255 (Sub-No. 145F), filed March 21, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, OH 43055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container accessories and materials, equipment and supplies* used in the manufacture and distribution of containers and container accessories, between the facilities of Brockway Glass Company, Inc. in Pittsylvania County, VA, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, KY, LA, MD, MI, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI. (Hearing site: Columbus, OH.)

NOTE.—Common control may be involved.

No. MC 123255 (Sub-No. 146F), filed March 23, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, OH 43055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, printing paper, and wrapping paper*, from the facilities of Union Camp Corp. at or near Franklin, VA, to points in IL, IN, KY, MI, OH, and WI. (Hearing site: Columbus, OH.)

NOTE.—Common control may be involved.

No. MC 123255 (Sub-No. 152F), filed March 24, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products* (except commodities in bulk), between the ports of entry between the United States and Canada at Port Huron and Detroit, MI, and Buffalo, NY, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, OH, WV, WI, and that portion of PA and NY on and west of U.S. Hwy 219. Restricted to traffic originating in Canada. (Hearing site: Columbus, OH.)

NOTE.—Common control may be involved.

No. MC 123389 (Sub-No. 43F), filed March 23, 1978. Applicant: CROUSE CARTAGE CO., a corporation, P.O. Box 151, Carroll, IA 51401. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of and facilities utilized by Farmland Foods, Inc., at or near Crete, Lincoln, and Omaha, NE and Carroll, Denison, Des Moines, Fort Dodge, Sioux City, and Iowa Falls, IA to points in KY, TN, NC, SC, MS, AL, GA, LA, and FL. Restriction: Restricted to the transportation of traffic originating at the above named origins and destined to the above named destinations. (Hearing site: Omaha, NE.)

NOTE.—Common control may be involved.

No. MC 123407 (Sub-No. 446F), filed March 13, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel pipe, fittings and valves*, from Nitro, WV, to points in the United States in and east of WI, IL, KY, TN, MS, LA, and TX. (Hearing site requested: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 124078 (Sub-No. 788F), filed March 23, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carri-*

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er, by motor vehicle, over irregular routes, transporting: *Fly ash,* from the facilities of Georgia Power Plant Wansley at or near Roopville, GA, to points in AL, FL, GA, MS, and TN. (Hearing site: Atlanta, GA.)

NOTE.—Common control may be involved.

No. MC 124078 (Sub-No. 792F), filed March 27, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cement,* from the plantsite of the Alpha Portland Cement Co., at or near Cementon, NY, to points in CT. (Hearing site: Washington, DC.)

No. MC 124170 (Sub-No. 80F), filed March 17, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk) in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA, to points in IL, IN, MI, MO, KY, OH, MN, WI, PA, and NY. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 124170 (Sub-No. 82F), filed March 23, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (other than bulk), from the plantsite of American Home Foods, a Division of American Home Products Corp. in La Porte, IN to points in the Lower Peninsula of MI. (Hearing site: Washington, DC or New York City, NY.)

No. MC 124692 (Sub-No. 197F), filed March 14, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: J. David Douglas, (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, wood products and forest products,* from Lawrence and Meade Counties, SD, to points in MN, WI, IL, IN, MI, OH, PA, MO, IA, NE, KS, and MT. (Hearing site: Billings, MT or Minneapolis, MN.)

NOTE.—Common control may be involved.

No. MC 124692 (Sub-No. 199F), filed March 22, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: J. David Douglas, P.O. Box 4347, Missoula, MT 59806. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fire sprinkler systems, and materials and supplies* used in the installation and operation thereof, from Denver, CO, to points in CO, WY, NE, IA, KS, MO, NM, OK, and MN. Restriction: Restricted to traffic originating at Denver, CO. (Hearing site: Denver, CO.)

NOTE.—Common control may be involved.

No. MC 124692 (Sub-No. 201F), filed March 24, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: J. David Douglas, P.O. Box 4347, Missoula, MT 59806. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles, wire rope, strand and fittings,* from St. Joseph, MO, points in CA, ID, MT, NV, OR, UT, WA and WY. (Hearing site: Kansas City, KS.)

No. MC 124692 (Sub-No. 202F), filed March 24, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: J. David Douglas, P.O. Box 4347, Missoula, MT 59806. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Log homes, and parts, materials and accessories therefor,* from Englewood, CO, to points in SD, MN, WI and MI. (Hearing site: Denver, CO.)

NOTE.—Common control may be involved.

No. MC 124692 (Sub-No. 204F), filed March 24, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, wood products and millwork,* from points in WA and OR to points in CA. (Hearing site: Portland, OR or San Francisco, CA.)

NOTE.—Common control may be involved.

No. MC 125129 (Sub-No. 5F), filed March 21, 1978. Applicant: INDEPENDENT FREIGHT, INC., Route 44, R.F.D. No. 1, Putnam, CT 06260. Applicant's representative: Richard B. Greene, Maple Street, Danielson, CT 06239. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers, bottles demijohns, jars, caps, covers, stoppers, tops, fiber board boxes,* (1) between Dayville, CT, on the one hand, and on the other, Lincoln, RI, (2) between Lincoln, RI, on the one hand, and, on the other, Cranston, RI, and points in MA on and east of Interstate Hwy 91, (3) Between Framingham, MA, on the one hand, and, on the other, Cranston, RI and points in MA on and east of Interstate Hwy 91, (4) between Holyoke, MA, on the one hand, and, on the other, Worcester, MA, and points in MA on and east of Interstate Hwy 91, under contract or continuing contract with Glass Corp. (Hearing site: Hartford, CT or Springfield MA.)

No. MC 125254 (Sub-No. 39F), filed March 27, 1978. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), between the facilities of Terminal Ice & Cold Storage, Inc. and Ore-Ida Foods, Inc. at or near Plover, WI, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MN, MO, NE, ND, OH, SD, and TN, restricted to traffic originating at or destined to the named origin point. (Hearing site: Milwaukee, WI, or Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 125777 (Sub-No. 212F), filed March 17, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th avenue, Gary, IN 46403. Applicant's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lime and limestone products,* in dump vehicles, from points in WI to points in IL and IN. (Hearing site: Chicago, IL.)

No. MC 126276 (Sub-No. 189F), filed March 24, 1978. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Applicant's representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Containers and container ends,* from Michigan City, IN, to OK, TX, IL, MO, MN, WI, MI, OH, NY, and NJ, under a continuing contract or contracts with National Can Corp. (Hearing site: Chicago, IL.)

NOTE.—Applicant has motor common carrier authority pending in No. MC 134612 (Sub-No. 2), therefore, dual operations may be involved.

No. MC 126736 (Sub-No. 105F), filed March 6, 1978. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st Street, P.O. Box 1559, Jacksonville, FL 32201. Applicant's representative: L. H. Blow (address same as above). Authority sought to operate as a *common carrier,* by motor vehicle,

over irregular routes, transporting: (1) *Mineral sand and ore,* in bulk, from the facilities of E. I. DuPont at or near Starke and Lawtey, FL, to points in KY, NC, OH, and VA; (2) *Flue dust,* in bulk, from points in FL to points in AL, FL, GA, NC, SC, and TN; (3) *Sand blasting sand and mineral aggregates,* in bulk, from points in FL to points in AL, FL, GA, NC, SC, and TN. (Hearing site: Jacksonville, FL.)

No. MC 128273 (Sub-No. 294F), filed March 27, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Applicant's representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) (a) *Pads, padding, cushioning material and sorbents,* (b) *Wallboard,* (c) *insulation and insulating materials,* (d) *mulch,* (e) *equipment, materials and accessories* used in the installation or application of the commodities named in (a), (b), (c), and (d) above, from Cloquet, MN, to points in the United States (except AK, HI, IL, IA, KS, MN, MO, NE, ND, SD, WI, and the Upper Penninsula of MI); and (2) *machinery, materials, equipment and supplies* (except commodities in bulk in tank vehicles) used in or in connection with the manufacture, distribution, application, or use of the commodities in (1) above, from the destination territory in (1) above, to Cloquet, MN. (Hearing site: Minneapolis, MN, or Washington, DC.)

No. MC 133545 (Sub-No. 5F), filed March 23, 1978. Applicant: DAVID LEMONS, d.b.a. LEMONS HOUSE MOVING, 1250 Houston Road, Idaho Falls, ID 83401. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Prefabricated modulars in sections, without fixed undercarriages,* from the facilities of Boise Cascade Corp. at or near Pocatello, ID to points in UT. (Hearing site: Boise, ID.)

No. MC 133590 (Sub-No. 16F), filed March 27, 1978. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Applicant's representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by *sporting goods stores; sporting goods departments of department stores, discount houses, hardware stores and other establishments;* and *materials, supplies and equipment* used in the manufacture, distribution and sale of such commodities; except in bulk (1) between points in MA, VT, New York, NY, Sparks, NV and ports of entry on the United States-Canada Boundary Line located in VT on the one hand, and, on the other, points in the United States (except AK and HI); and (2) Between Houston, TX, Clearfield, UT and San Francisco, CA on the one hand and, on the other, points in the United States east of MN, IA, MO, AR, and LA (except Chicago, IL, NC, SC, GA, FL and AL), under a continuing contract or contracts with Rossignol Ski Co., Inc. (Hearing site: Montpelier, VT, Concord, NH, or Boston, MA.)

No. MC 133880 (Sub-No. 5-F), filed March 22, 1978. Applicant: ALTER TRUCKING AND TERMINAL CORP., P.O. Box 3122, Davenport, IA 52808. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting (1) *Scrap metal;* and (2) *machinery* and *supplies* used in the processing of scrap metal (except liquid commodities in bulk, in tank vehicles), between points in the Unites States (except AK and HI), under continuing contract or contracts with Alter Co. (Hearing site: Chicago, IL or Kansas City, MO.)

NOTE.—Applicant holds common carrier authority under MC 126045 and Subs, therefore, dual operations may be involved.

No. MC 134064 (Sub-No. 10 F), filed March 27, 1978. Applicant: INTERSTATE TRANSPORT, INC., 1820 Atlanta Hwy, Gainesville, GA 30501. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of: *Petroleum products, in containers, oil filters, and vehicle body sealers and sound deadener compounds* (except in bulk), from the facilities utilized by Quaker State Oil Refining Corp. at or near St. Marys and Congo, WV, to points in AL, FL, GA, and SC. (Hearing site: Pittsburgh, PA or Atlanta, GA.)

NOTE.—Common control may be involved.

No. MC 134068 (Sub No. 39F), filed March 21, 1978. Applicant: KODIAK REFRIGERATED LINES, INC., P.O. Box 1018, Denver, CO 80201. Applicant's representative: Joseph W. Harvey, P.O. Box 1018, Denver, CO 80201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from points in AZ and CA, to points in CO, IL, IA, KS, MN, MO, NE, NM, ND, OK, SD, TX, WI, and WY. (Hearing site: Los Angeles or San Francisco, CA.)

NOTE.—Purpose of this application (in part) is to remove mixed load restriction in Basic Certificate. Common control may be involved.

MC 134477 (Sub-No. 224F), filed March 27, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative:—Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *footwear and materials, supplies and equipment* used in the manufacture and distribution of footwear (except commodities in bulk), from Brockton, MA, to Chippewa Falls, WI. (Hearing site: Minneapolis, MN.)

No. MC 134477 (Sub-No. 227F), filed March 27, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: such *commodities as are dealt in by retail and wholesale department stores* (except foodstuffs, and commodities in bulk), from Boston, MA to the facilities of Montgomery Ward at or near Chicago, IL. Restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Minneapolis, MN.)

No. MC 134922 (Sub-No. 251F), filed March 16, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes transporting: *Chemicals* (except in bulk), *packing materials and supplies* used in the distribution thereof, (1) From Glasgow, DE to Jonesboro, AR and Monrovia, CA (2) From Jonesboro, AR to Monrovia, CA. Applicant states the purpose of this application is to replace existing interline service it is now providing with its affiliated company. (Hearing site: Washington, DC or Little rock, AR.)

NOTE.—Common control may be involved.

No. MC 134922 (Sub-No. 252F), filed March 24, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Mirror supports, caddy stands, clothes racks, clothes driers, hand shopping carts, laundry carts, laundry sorters, ironing tables and bed frames* from Seymour, IN, to points in AZ, CA, NV, UT, ID, OR, and WA. (Hearing site: Columbus, OH, or Little Rock, AR.)

NOTE.—Common control may be involved.

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No. MC 135410 (Sub-No. 17F), filed March 27, 1978. Applicant: COURTNEY J. MUNSON d.b.a. MUNSON TRUCKING, 700 South Main, Monmouth, IL 61462. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods* (except commodities in bulk), from the facilities of or utilized by Ore-Ida Foods, Inc. or Terminal Ice and Cold Storage Co., located at or near Plover, WI to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC; (2) *returned, refused or rejected merchandise* named in part (1) from CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC, to the facilities of or utilized by Ore-Ida Foods, Inc. or Terminal Ice and Cold Storage Co., located at or near Plover, WI, restricted in parts (1) and (2) to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing sites: Chicago, IL; Milwaukee, WI.)

No. MC 135797 (Sub-No. 106F), filed March 14, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Applicant's representative: Paul A. Maestri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feeds* (except liquid in bulk), (1) From points in Humphreys County, MS, to points in AR, LA, OK, and TX; (2) From Muscatine, IA, to points in IL, IN, MI, OH, PA, and WV; (3) From Joplin, MO, to points in AR, KS, OK, and TX; and (4) From Rolla, MO, to points in AR, CT, IL, IN, KY, MI, OH, PA, VA, WV, and WI. (Hearing site: Memphis, TN, or Birmingham, AL.)

NOTE.—Common control may be involved.

No. MC 135874 (Sub-No. 106F), filed March 23, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075). Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Albert Lea, MN, to points in IL, IA, KS, MO, NE and CO. (Hearing site: Minneapolis-St. Paul, MN.)

NOTE.—Common control may be involved.

No. MC 136100 (Sub-No. 6F), filed March 24, 1978. Applicant: K. & K. TRANSPORTATION CORP., 4515 North 24th Street, Omaha, NE 68110. Applicant's representative: Marshall D. Becker, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Adhesives*, from Kansas City, MO, and Carol Stream, IL, to Omaha, NE; (2) *plywood*, from Chicago, IL, and Gillett, WI, to Omaha, NE; (3) *plastic film*, from Joliet, IL, to Omaha, NE; (4) *printing powder*, from Chicago, IL, and Cincinnati, OH, to Omaha, NE; and (5) *paperboard, plain and coated*, from Milwaukee, WI, Crossett and McGehee, AR, Lewiston, ID, Wabash, IN, Augusta, GA, and Addison, IL, to Omaha, NE, under a continuing contract or contracts with Malnove Inc. (Hearing site: Omaha, NE.)

NOTE.—Applicant holds motor common carrier authority in MC 139835, therefore, dual operations may be involved.

No. MC 136155 (Sub-No. 6F), filed March 21, 1978. Applicant: GAY TRUCKING CO., a corporation, P.O. Box 7179, Savannah, GA 31408. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copper products*, between Savannah, GA and Carrollton, GA. (Hearing site: Washington, DC.)

No. MC 136511 (Sub-No. 20F), filed March 27, 1978. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furniture parts and clocks* from Knoxville and Jefferson City, TN to points in CA, AZ, WA, OR, ID, MT, WY, CO, UT, NV, NM, TX, OK. (Hearing site: Knoxville, TN.)

No. MC 136713 (Sub-No. 11F), filed March 14, 1978. Applicant: AERO LIQUID TRANSIT, INC., 1717 Four Mile Road NE., Grand Rapids, MI 49505. Applicant's representative: Daniel J. Kozera, Jr., The McKay Tower, Suite 2-A, Grand Rapids, MI 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from Lima, OH to points in MI. (Hearing site: Lansing or Detroit, MI or Chicago, IL.)

NOTE.—Dual operations may be involved.

No. MC 136828 (Sub-No. 24F), filed March 27, 1978. Applicant: COOK TRANSPORTS, INC., 214 South 10th Street, Birmingham, AL 35233. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hydrants, valves, castings, fittings, parts and accessories* (except commodities in bulk) from Beaumont, TX to points in the United States (except AK and HI); and (2) *materials, equipment and supplies* used in the manufacturing, processing and distribution of the commodities described in (1) above (except commodities in bulk), from points in the United States (except AK and HI), to Beaumont, TX. (Hearing site: Houston, TX or Dallas, TX.)

No. MC 138157 (Sub-No. 62F), filed March 23, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, Chattanooga, TN. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpeting* from the facilities of Hollytex Carpet Mills, Inc., at or near City of Industry, CA to points in the United States (except AK and HI); and (2) *materials, equipment and supplies* used in the manufacture, production and distribution of carpeting, from points in the United States (except AK and HI), to the facilities of Hollytex Carpet Mills, Inc. at or near City of Industry, CA. (Hearing site: Los Angeles or San Francisco, CA.)

NOTE.—Applicant holds contract carrier authority in MC 134150 and subs thereunder, therefore dual operations may be involved. Common control may also be involved.

No. MC 138313 (Sub-No. 36F), filed March 24, 1978. Applicant: BUILDERS TRANSPORT, INC., 409-14th Street SW., Great Falls, MT 59404. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pumice*, in bulk, from pumice mines located in Wright's Creek Canyon, approximately 22 miles northwest of Malad City, ID, to points in Yellowstone County, MT. (Hearing site: Billings, MT or Salt Lake City, UT.).

No. MC 138469 (Sub/No. 63F), filed March 27, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gas cylinders*, (A) from the facilities of Chesterfield Cylinder Co., Inc., at or near Enid, OK to points in the United States (except AK, HI and OK); and (B) from Houston, TX to the facilities of Chesterfield Cylinder Co., Inc. at or near Enid, OK, restricted to the transportation of shipments either originating at or destined to the facilities of Chesterfield Cylinder Co., Inc. at or near Enid, OK; and in part (B) to the transportation of shipments having a prior movement by water; and, (2) *equipment, materials and supplies* (except commodities in bulk), used in the manufacture and distribution of gas cylinders, from points in the United States (except AK, HI and OK), to the facilities of Chesterfield Cylinder Co., Inc., at or near Enid, OK, restricted to the transportation of shipments destined to the named destinations. (Hearing site: Oklahoma City, OK.)

No. MC 138469 (Sub-No. 67F), filed March 27, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and food products*, (except commodities in bulk), from points in OK to points in the United States (except AK, HI and OK), restricted to the transportation of traffic originating at the named origin. (Hearing site: Oklahoma City, OK.)

NOTE.—Applicant holds motor contract carrier authority in No. MC 136375 and sub numbers thereunder, therefore dual operations may be involved.

No. MC 138635 (Sub-No. 52F), filed March 27, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Applicant's representative: Eric Meierhoefer, Suite, 712, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from the facilities of Chef Pierre, Inc. located at or near Forest, MS to points in AL, FL, GA, NC, SC, TN, VA, WV, and KY. (Hearing site: Jackson, MS or Memphis, TN.)

NOTE.—Applicant holds contract carrier authority in No. MC 136464 and subnumbers thereunder, therefore dual operations may be involved.

No. MC 138941 (Sub-No. 28F), filed March 27, 1978. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir Street, Pomona, CA 91766. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials, supplies and equipment* used in the manufacture of plastic articles, (except in bulk), between the facilities of Mobile Chemical Co., Plastic Division, at Jacksonville and Springfield, IL, on the one hand, and, on the other, points in the United States (except in AK and HI), under a continuing contract or contracts with Mobile Chemical Co., Plastics Division, of Mecedon, NY. (Hearing site: Chicago, IL.)

No. MC 139083 (Sub-No. 1F), filed March 23, 1978. Applicant: BUILDING SYSTEMS TRANSPORTATION, INC., P.O. Box 142, Washington Court House, OH 43160. Applicant's representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel buildings, knocked down, and fabricated metal products, and equipment, material, and supplies* used in the manufacturing of steel buildings and fabricated metal products (except commodities in bulk), between Washington Court House, OH, on the one hand, and, on the other, points in NC, TN, MD, VA, WV, IN, PA, NY, MI, IL, WI, and KY. (Hearing site: Columbus, OH.)

Docket No. MC 139193 (Sub-No. 72F), filed March 22, 1978. Applicant: ROBERTS & OAKE, INC., 527 East 52nd Street North, Sioux Falls, SD 57101. Applicant's representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen onion rings, frozen bakery products, and frozen fish*, otherwise exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with frozen onion rings and frozen bakery products, from the facilities of or utilized by Boston Bonnie, Inc., located at or near Boston, MA, to points in the United States (except AK and HI), under a continuing contract or contracts with Boston Bonnie, Inc. (Hearing site: Washington, DC.)

No. MC 139206 (Sub-No. 24F), filed March 24, 1978. Applicant: F.M.S. TRANSPORTATION, INC., Box 1597, 2564 Harley Drive, Maryland Heights, MO 64043. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought by applicant to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Seats* and *parts* and *accessories* therefor; and (2) *materials, equipment* and *supplies* used in the assembly, manufacture, sale, distribution, maintenance, repair, finishing, coating, packing and transportation of commodities in (1) above (except commodities in bulk), between Mansfield, OH on the one hand, and on the other, points in the United States (except AK and HI), restricted to the transportation of traffic moving under a continuing contract, or contracts, with National Seating Co. a subsidiary of Chromalloy American Corp. (Hearing site: St. Louis, MO.)

NOTE.—Applicant states that it is a commonly controlled contract carrier for Chromalloy American Corp., and that National Seating Co. is a subsidiary of said company and that the purpose of this application is to expand the contract carrier services of applicant so as to enable it to serve this subsidiary of Chromalloy American Corp. Applicant further states that it holds authority to allow it to provide similar service for Chromalloy American between thirteen (13) points on the one hand and, on the other, points in the United States (except AK and HI). (2) Applicant, also, states that common control and dual operations may be involved. Dual operations and common control were approved in Docket No. MC-F-12514.

No. MC 139206 (Sub-No. 26F), filed March 24, 1978. Applicant: F.M.S. TRANSPORTATION, INC., Box 1597, 2564 Harley Drive, Maryland Heights, MO 63043. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought by applicant to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals* (except in bulk); and (2) *materials, equipment* and *supplies* used in the manufacture, sale, processing, production, blending, packaging and transportation of the commodities in (1) above (except commodities in bulk), between Berwick, LA on the one hand and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic moving under a continuing contract, or contracts, with Chromalloy American Corp. (Hearing site: St. Louis, MO.)

NOTE.—(1) Applicant states that it is a commonly-controlled contract carrier for Chromalloy American Corp. and that the purpose of this application is to allow the shipper to replace its private carriage with the contract carrier services of applicant. Applicant further states that it already holds authority to thirteen (13) other points on the one hand and, on the other, points in the United States (except AK and HI). (2) Applicant further states that common control and dual operations may be involved. Dual operations and common control were approved in Docket No. MC-F-12514.

No. MC 139482 (Sub-No. 51F), filed March 27, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Spaghetti, macaroni and spaghetti and macaroni products*, from Jersey City, NJ, to points in MI. (Hearing site: Minneapolis or St. Paul, MN.)

No. MC 139495 (Sub-No. 331F), filed March 21, 1978. Applicant: NATION-

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AL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such *merchandise, materials, equipment and supplies* as are dealt in by manufacturers and distributors of home products (except commodities in bulk, in tank vehicles), from the facilities of Stanley Home Products, Inc. at or near Easthampton and Westfield, MA to IA, OH, MO, IL, KY, TN, and NC. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 332F), filed March 23, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Materials, supplies and accessories* (except in bulk in tank vehicles) used in the manufacture, assembly, and distribution of trailers, mobile homes, and recreational vehicles, from points in the U.S. in and east of AR, IA, MN, MO, and TX to AL, AR, KS, MS, and TX. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 333F), filed March 23, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, component parts, and accessories* (except in bulk in tank vehicles) used in the manufacture or assembly of recreational vehicles, from Elkhart, IN to points in AL, CA, CO, GA, ID, KS, MN, OK, OR, PA, and TX. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 334F), filed March 23, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Such merchandise* as dealt by wholesale and retail stores, in vehicles equipped with mechanical refrigeration, from the facilities of Dry Storage Corp. at or near Chicago, IL to AL, AR, FL, GA, KS, LA, MS, MO, NC, OK, SC, and TN. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 345F), filed March 17, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed* (except in bulk) from Indianapolis, IN, to points in CT, DE, DC, GA, ME, MD, MA, NC, NH, NJ, NY, OH, PA, RI, SC, VT, VA, and WV. (Hearing site: Washington, DC.)

No. MC 139787 (Sub-No. 5F), filed March 23, 1978. Applicant: M & M TRUCKING CO., INC., P.O. Box 1743, Auburn, AL 36830. Applicant's representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, in bulk, in dump trucks, from Montgomery, Marion and Elmore Counties, AL, to points in GA and those points in FL in and north of Brevard, Orange, Lake, Sumter and Hernando Counties, FL. (Hearing site: Montgomery, AL or Atlanta, GA.)

No. MC 139836 (Sub-No. 4F), filed March 22, 1978. Applicant: LINT TRANSFER, INC., 4549 Delaware Avenue, Des Moines, IA 50313. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment), between Des Moines, IA on the one hand and, on the other, points in that part of IA located on and west of U.S. Hwy 63, on and south of U.S. Hwy 20, and on and east of U.S. Hwy 71, restricted to shipments having an immediately prior or subsequent movement by rail trailer-on-flatcar service. (Hearing site: Des Moines, IA or Minneapolis, MN.)

No. MC 140024 (Sub-No. 93F), filed March 27, 1978. Applicant: J. B. MONTGOMERY, INC. (a Delaware corporation), 5565 East 52d Avenue, Commerce City, CO 80022. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods, frozen*, from the facilities of White Castle System, Inc., at or near Cartaret, NJ, to the facilities of White Castle System, Inc., at or near Chicago, IL, Cincinnati and Columbus, OH, Detroit, MI, Indianapolis, IN, Louisville, KY, Minneapolis, MN, and St. Louis, MO, restricted to traffic originating at the named origin and destined to the named destinations. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 140549 (Sub-No. 8F), filed March 24, 1978. Applicant: FRITZ TRUCKING, INC., Clara City, MN 56222. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds and feed ingredients*, in bulk or in bags; also in bags when moving in mixed loads with bulk, in or on auger equipped vehicles, from Minneapolis, MN, to points in IA, NE, and SD. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—Applicant holds contract carrier authority, therefore dual operations may be involved.

No. MC 140581 (Sub-No. 25F), filed March 27, 1978. Applicant: TOMMY HAGWOOD, d.b.a., HAGWOOD ENTERPRISES, 2472 Pinson Highway, Birmingham, AL 35217. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles, in truckaway service*, between Los Angeles, CA, on the one hand, and, on the other, points in OH. (Hearing site: Los Angeles, CA.)

No. MC 140829 (Sub-No. 87F), filed March 23, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, cooking oils, shortening, and related products*, from the facilities of SCM Durkee Foods at or near Chicago and Joliet, IL, to points in CT, IN, KY, MD, MA, NJ, NY, OH, PA, and TX, restricted to traffic originating at the named origins and destined to the above named destination States. (Hearing site: Washington, DC.)

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder; therefore dual operations may be involved.

No. MC 141532 (Sub-No. 21F), filed March 24, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98002. Applicant's representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Solar energy products*, from Weiser, ID, to points in CA, MT, NV, OR, WA, and WY. (Hearing site: Boise, ID.)

No. MC 141652 (Sub-No. 25F), filed March 22, 1978. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, MS 39208. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Power tools and power tool stands, electric motors, and industrial vacuum cleaners*, from Tupelo, MS, and Jackson, TN, to Denver, CO, and Sparks, NV. (Hearing site: Atlanta, GA.)

NOTE.—Applicant holds motor contract carrier authority in MC 138807 and other subs, therefore, dual operations may be involved.

No. MC 141776 (Sub-No. 24F), filed March 24, 1978. Applicant: FOOD-TRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Applicant's representative: Pauline E. Myers, Suite 407, Walker Building, 734 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in mechanically refrigerated equipment, except in bulk, (1) from the plantsite of Ore-Ida Foods, Inc., at Plover, WI, to points in the States of CT, DE, KY, MD, MA, NJ, NY, PA, RI, TN, VA, WV, and DC. and; (2) from the storage facilities of Terminal Ice & Cold Storage Co. at or near Plover, WI, to points in CT, DE, KY, MD, MA, NJ, NY, PA, RI, TN, VA, WV, and DC. Returned, refused, and rejected merchandise in the reverse direction. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 141994 (Sub-No. F), filed March 8, 1978. Applicant: EDWARD J. HROBAK, INC., 11280 Center Road, Garrettsville, OH 44231. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, from Monett, MO, to Cleveland, Columbus, Dayton, and Toledo, OH, under a continuing contract or contracts with L. D. Schreiber Cheese Co., Inc., located at Green Bay, WI. (Hearing site: Milwaukee, WI or Chicago, IL.)

No. MC 142018 (Sub-No. 1F), filed March 27, 1978. Applicant: ROBERT B. CARR, d.b.a., BOB CARR REFRIGERATED TRANSPORTATION, P.O. Box 1205, Orange, CA 92688. Applicant's representative: Richard Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, to transport: *Meat and meat products, cheese, and salad dressing* (except in bulk), in vehicles equipped with mechanical refrigeration, from Los Angeles, CA, to points in OR and WA. (Hearing site: Los Angeles, CA.)

No. MC 142463 (Sub-No. 3F), filed March 23, 1978. Applicant: SPECIALIZED HAULING, INC., 1500 Omaha Street, Sioux City, IA 51102. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, from the facilities of Spencer Foods, Inc., at or near Spencer, IA, to points in ME, MD, MA, NH, NJ, NY, PA, and VA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Omaha, NE.)

NOTE.—Applicant holds motor contract carrier authority in No. MC 135117 and sub numbers thereunder, therefore, dual operations may be involved.

No. MC 142606 (Sub-No. 5F), filed March 24, 1978. Applicant: WESCO TRANSPORTATION, INC., 2222 West Garvey, Suite L, West Covina, CA 91790. Applicant's representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts*, from Leitchfield, KY, to points in AZ, CA, CO, CT, IL, IA, LA, MD, MA, MN, NJ, NY, OK, PA, TX, and WI, under a continuing contract or contracts with Hoover Universal, Inc., Hardware Systems Division. (Hearing site: Los Angeles, CA.)

No. MC 143059 (Sub-No. 13F), filed March 24, 1978. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th and Main Streets, P.O. Box 11129, Louisville, KY 40211. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes in the transportation of: (1) *Water and sewer line gaskets*, from Middlefield, OH, to points in the United States (except AK and HI), and (2) *materials and supplies* (except commodities in bulk), used in the manufacture of the commodities specified in (1) above, from points in the United States (except AK and HI, to Middlefield, OH. (Hearing site: Cleveland, OH or Washington, DC.)

No. MC 143268 (Sub-No. 3F), filed March 13, 1978. Applicant: TROCHU TRUCKING SERVICES, LTD., 915 48th Avenue SE., Calgary, Alberta, Canada T2G 2A7. Applicant's representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, from Green River, WY, to the ports of entry on the international boundary line between the United States and Canada located in MT, for furtherance into Alberta, Canada. Restriction: Restricted to the transportation services performed under a continuing contract or contracts with Johns-Manville, Ltd. and Fiberglas Canada, Ltd. (Hearing site: Billings, MT.)

NOTE.—Applicant holds Common Carrier Authority in MC 140656, therefore, dual operations may be involved.

No. MC 143645 (Sub-No. 2F), filed March 24, 1978. Applicant: HOMER JONES, d.b.a. HOMER JONES TRUCKING, Route 4, Box 354, Minden, LA 71055. Applicant's representative: John W. Montgomery, P.O. Box 1173, Minden, LA 71055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gravel*, from Wilton, AR, to Shreveport and Bossier City, LA, and points in Bienville, Bossier, Caddo, Caldwell, Claiborne, De Soto, East Carroll, Jackson, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Red River, Richland, Sabine, Union, Webster, West Carroll, and Winn Parishes, LA, under a continuing contract or contracts with Braswell Industries, Inc. of Shreveport, LA. (Hearing site: Shreveport, LA.)

No. MC 143651 (Sub-No. 3F), filed April 10, 1978. Applicant: BLACKHAWK EXPRESS, INC., P.O. Box 705, Lake View, IA 51450. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products and articles* distributed by meat packinghouses as described in sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Estherville and Sioux City, IA and Sioux Falls, SD to points in AL, AR, CT, DE, DC, FL, PA, GA, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, RI, SC, TN, VT, VA, and WV. Restriction: Restricted to traffic originating at the facilities of John Morrell & Co., located at the above origins and destined to the named destination states. (Hearing site: Chicago, IL or Kansas City, MO.)

No. MC 144041 (Sub-No. 9F), filed March 20, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Fireplace logs*, from Camilla, GA to points in the United States on and east of U.S. Hwy 85, (2) *charcoal briquettes and fireplace logs*, from Marion, OH to points in the United States on and east of U.S. Hwy 85, and

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(3) *carbon and graphite products* (except in bulk), from Morganton, NC to points in the United States on and east of U.S. Hwy 85. (Hearing site: New York NY.)

NOTE.—Applicant holds contract carrier authority in MC 140883 and Subs thereto; therefore, dual operations may be involved.

No. MC 144258 (Sub-No. 1F), filed March 24, 1978. Applicant: PINEWOOD TRANSPORT, INC., P.O. Box 311, Glenwood, AR 71943. Applicant's representative: William G. Wright, P.O. Drawer 968, Fort Smith, AR 72902. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Wood chips*, from the plantsites of Georgia-Pacific Corp. at Glenwood, Pike County, AR to the plantsites of International Paper Co. at Atlanta, TX, near Texarkana, TX, under a continuing contract or contracts with Georgia-Pacific Corp. (Hearing site: Hot Springs, Little Rock, or Fort Smith, AR.)

No. MC 144273 (Sub-No. 330) (Correction), filed January 16, 1978, published in the FEDERAL REGISTER issue of March 9, 1978, and partially republished in the FEDERAL REGISTER issue of April 20, 1978, and republished this issue. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Knock down metal buildings and parts* used in the manufacturing thereof from Monticello, IA, to points in IL, IN, OH, MI, WI, PA, MO, NY, VA, WV, and TN. (Hearing site: Washington, DC or Chicago, IL.)

NOTE.—The purpose of this republication is to include the destination point "MICHIGAN" which was omitted from the FEDERAL REGISTER publication of March 9, 1978. Common control may be involved.

No. MC 144279 (Sub-No. 2F), filed March 27, 1978. Applicant: A-W TRANSPORTATION CO., a corporation, Armstrong, IA 50514. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery, implements, accessories* and parts, from Armstrong, IA, to points in the United States, (except AK and HI), and equipment, materials and supplies used or useful in the manufacture and distribution of agricultural machinery, implements, accessories, and parts, from points in the United States (except AK and HI), to Armstrong, Iowa, under a continuing contract or contracts with Arts-Way Manufacturing Company, Inc., of Armstrong, IA and (2) *electrical scales, equipment, accessories* and parts, from Fairmont, MN, to points in the United States (except AK and HI), and equipment, materials and supplies used or useful in the manufacture and distribution of electrical scales, equipment, accessories and parts from, points in the United States (except AK and HI), to Fairmont, MN, under a continuing contract or contracts with Weigh-tronex, Inc. of Fairmont, MN. (Hearing site: Minneapolis, MN or Omaha, NE.)

No. MC 144364 (Sub-No. 2F), filed March 23, 1978. Applicant: ART BETZ, P.O. Box 955, South Sioux City, NE 68776. Applicant's representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Authority is sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Suspended hog carcasses*, from the facilities of Sioux Preme Packing Co., located at or near Sioux Center, IA, to points in CA, OR, and WA. (Hearing site: Omaha NE.)

No. MC 144396 F, filed March 7, 1978. Applicant: DENNIS WIERZBICKI & JACK HERMAN, d.b.a. H & W Transport, 907 Kingsbury, Belle Fourche, SD 57717. Applicant's representative: Dennis Wierzbicki, 308 9th Avenue, Belle Fourche, SD 57717. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Coal*, from points in Campbell County, WY, to points in Crook County, WY, under contract with Federal Bentonite Division Aurora Metal Co. (Hearing site: Rapid City or Pierre, SD, or Cheyenne, WY.)

No. MC 144450 (Sub-No. 1F), filed March 21, 1978. Applicant: HARRISON TRANSFER & STORAGE CO., a corporation, P.O. Box 2276, Augusta, GA. 30903. Applicant's representative: R. Frank Allen, 412 Old Evans Road, Martinez, GA 30907. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household goods, unaccompanied baggage*, and *personal effects*, crated, as defined by the Commission, between points in Richmond County, GA, on the one hand, and on the other, points in Columbia, Burke, Jefferson, Lincoln, McDuffie, Emanuel, Glascock, Jenkins, Screvan, Taliaferro, Warren, and Wilkes Counties, GA, and Aiken, Edgefield, Allendale, Barnwell, Hampton, and McCormick Counties, SC, under a continuing contract, or contracts, with the contracting officer, Fort Gordon, GA. (Hearing site: Augusta or Atlanta, GA.)

NOTE. —Applicant holds common carrier authority in No. MC 30821 and subnumbers, therefore dual operations may be involved. Common control may be involved.

No. MC 144479 (Sub-No. 1F), filed March 24, 1978. Applicant: JOSEPH T. BORCHERS d.b.a., SAV-A-DAY AIR FREIGHT, Knox County Airport, Mt. Vernon, OH 43050. Applicant's representative: Robert W. Minor, P.O. Box 1008, 52 East Gay Street, Columbus, OH 43216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk), restricted to shipments having an immediate prior or subsequent movement by air, between Mt. Vernon and Fredericktown, OH, on the one hand, and, on the other, Columbus (OH) International Airport and Cleveland Hopkins Airport, OH. (Hearing site: Mt. Vernon, OH.)

No. MC 144519F, filed March 27, 1978. Applicant: BOND WAREHOUSING, INC., 235 Cook Avenue, Oconto, WI 54153. Applicant's representative: Edward Solie, Executive Building—Suite 100, 4513 Vernon Boulevard, Madison, WI 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Bond Pickle Co., Inc. at or near Oconto, WI, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NB, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and Washington, DC, and *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs from points in the destination states named above to the facilities of Bond Pickle Co., Inc. at or near Oconto, WI, limited to a transportation service to be performed under a continuing contract, or contracts, with Bond Pickle Co., Inc., Oconto. (Hearing site: Madison, WI.)

NOTE.—Applicant is a wholly-owned subsidiary of supporting shipper and the authority being sought herein is to substitute applicant's service for shipper's existing proprietary trucking.

No. MC 144528F, filed March 20, 1978. Applicant: ROGERS TRUCKING, INC., Route 4, Box 369, Olympia, WA 98502. Applicant's respresentative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *common carrier* over irregular routes transporting: *Red cedar shakes, shingles* and *trim*, from points in WA on and west of U.S. Hwy 97, to points in CA, NE, ID, UT, CO, and AZ. (Hearing site: Seattle, WA.)

No. MC 144531 F, filed March 21, 1978. Applicant: SULLI-VAN LINES, INC., 43 Cortland, Highland Park, MI 48203. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, in the transportation of (1) *Recycleable scrap rags and recycleable scrap plastic*, between points in and east of MN, IA, MO, AR, and LA, in non-radial movements only, and (2) *absorbent compounds and disposable paper and plastic products* between Detroit, MI, on the one hand, and, on the other, points in that portion of the United States located in and east of MN, IA, MO, AR, and LA, under contract with O'Brien Textiles Corp. (Hearing Site: Detroit, MI; Chicago, IL.)

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No. MC 144540 F, filed March 27, 1978. Applicant: JOHNSON BROTHERS TRUCKING CO., a corporation, 211 Spring Street, Herndon, VA 22070. Applicant's representative: James Anton, 1133 Munsey Building, 1329 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone*, from points in Loudoun, Arlington, and Fairfax Counties, Richmond, Winchester, and Fredericksburg, VA to the DC and points in MD. (Hearing site: Washington, DC.)

NOTE.—Dual Operations may be involved.

No. MC 144542 F, filed March 25, 1978. Applicant: CAR TRANSPORTERS CORP., Route 1, Box 220 VW, Five Oaks Industrial Park, Hillsboro, OR 97123. Applicant's representative: John R. Bagileo, 918—16th Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automobiles*, in secondary movements, in truckaway service, (a) between points in OR, WA, ID, MT, and AK and (b) from San Francisco and Los Angeles, CA, Denver, CO, Houston, TX, and Salt Lake City, UT, to points in OR, WA, ID, MT, and AK: and (2) *Vans and van conversions*, in secondary movements, in truckaway service, (a) between points in OR, WA, ID, and MT, and (b) between Emeryville and Signal Hill, CA, on the one hand, and, on the other, points in OR, WA, ID, and MT, under a continuing contract or contracts with Riviera Motors, Inc. of Hillsboro, OR, Porsche Audi Northwest, Inc. of Hillsboro, OR, Volkswagen of America, Inc. of Englewood Cliffs, NJ, and Automotive Services, Inc. of Vancouver, WA. (Hearing site: Portland, OR or Washington, DC.)

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12758 Filed 5-10-78; 8:45 am]

[7035-01]

[Volume No. 89]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

MAY 3, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before June 12, 1978. Such protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 134793 (Sub-No. 2) (M1), (Notice of filing of petition to change contracting shipper and modify territorial description), filed December 19, 1977. Petitioner: EAST-WEST REFRIGERATED FREIGHT LINES, INC., 7900 North Frontage Road, Hinsdale, IL 60521. Petitioner's representative: Donald S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Petitioner holds a motor *contract carrier* permit in No. MC 134793 (Sub-No. 2), issued January 21, 1976, authorizing transportation, over irregular routes, as pertinent, of: (1) *Adhesives, adhesive cement, caulking compounds, cleaning and polishing compounds and solutions, emulsions*, used as a mixing material, *latex solutions, mastic material, sealing primer*, and *solvents*, and (2) *equipment, supplies, and tools* necessary for the application of the commodities in (1) above, from the facilities of Chicago Mastic Co. at Chicago and Rosemont, IL, to points in the United States (except AK, HI, AL, FL, GA, NC, and SC), restricted in (1) and (2) above against the transportation of commodities in bulk; and limited to a transportation service to be performed, under a continuing contract, or contracts, with Chicago Mastic Co., of Rosemont, IL. By the instant petition, petitioner seeks to modify the territorial description to read: From the facilities of Durabond Products Co. (a subsidiary of United States Gypsum Co.) at or near Chicago, Des Plaines, Elk Grove Village, and Rosemont, IL, to points in the United States (except AK, HI, AL, FL, GA, NC, and SC); and to change the second portion of the restriction to read: limited to a transportation service to be performed, under a continuing contract, or contracts, with Durabond Products Co., of Rosemont, IL.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served

*Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, DC 20423.

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on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 381 (Sub-No. 14F), filed March 9, 1978. Applicant: GENOVA EXPRESS LINES, INC., P.O. Box 136, Williamstown, NJ 08094. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: (1) *Baled textile waste*, for recycling purposes only, from Wellford, SC, to Dover, DE; and (2) paper and paper products, between Landisville, NJ, and Chester, PA on the one hand and, on the other, Rogers, AR. (Hearing site: New York, NY; Philadelphia, PA, or Washington, DC.)

No. MC 381 (Sub-No. 15F), filed March 9, 1978. Applicant: GENOVA EXPRESS LINES, INC., P.O. Box 136, Williamstown, NJ 08094. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Powdered iron* (except in bulk), from Riverton, NJ, to Coral Springs, FL. (Hearing site: Philadelphia, PA or Washington, DC.)

No. MC 720 (Sub-No. 52F), filed March 27, 1978. Applicant: BIRD TRUCKING CO., INC., P.O. Box 227, Waupun, WI 53963. Applicant's representative: Wayne W. Wilson 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from the facilities of Terminal Ice & Cold Storage Co. at or near Plover, WI, to points in and east of ND, SD, NE, KS, OK and TX and returned, refused and rejected shipments from points in and east of ND, SD, NE, KS, OK and TX, to the facilities of Terminal Ice & Cold Storage Co. at or near Plover, WI. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at the named origins and destined to the named destinations. (2) *Frozen foods* (except in bulk), from the facilities of Ore-Ida Foods, Inc. at or near Plover, WI, to points in and east of ND, SD, NE, KS, OK, and TX. Restriction: Restricted to traffic originating at the named origin and destined to the named States. (Hearing site: Boise, ID or Stevens Point, WI.)

No. MC 2900 (Sub-No. 326F), filed March 3, 1978. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Applicant's representative: John Carter, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy Products* (except in bulk in tank vehicles); and (2) *Foodstuffs* (except in bulk), in mixed loads with Dairy Products, in vehicles equipped with mechanical refrigeration, from facilities utilized by Kraft Foods Division of Kraftco Corp. at points in WI, to Atlanta, GA, restricted to the transportation of shipment originating at named origins and destined to Atlanta, GA. (Hearing site: Chicago, IL or Atlanta, GA.)

NOTE.—Common control may be involved.

No. MC 13267 (Sub-No. 1F), filed March 20, 1978. Applicant: MOUNTAINSIDE TRANSPORT, INC., 4828 Hollins Ferry Road, Baltimore, MD 21227. Applicant's representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as dealt in by wholesale, retail, and chain grocery foodbusiness houses; and (2) *equipment, materials, and supplies* used in the conduct of the business described in (1), restricted in (2) above against the transportation of commodities in bulk, for the account of The Great Atlantic & Pacific Tea Co., Inc., between Baltimore, MD on the one hand and, on the other, points in New Castle County, DE; points in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Salem, Somerset, Warren Counties, NJ, and points in Berks, Bucks, Carbon, Chester, Delaware, Lancaster, Lehigh, Monroe, Montgomery, Northampton, Philadelphia and Schuylkill Counties, PA, under continuing contract or contracts in (1) and (2) above, with The Great Atlantic & Pacific Tea Co., Inc. (Hearing site: New York, NY, or Newark, NJ.)

NOTE.—Common control may be involved.

No. MC 15558 (Sub-No. 6F), filed March 27, 1978. Applicant: WARWOOD TRANSFER CO., 2233-41 Warwood Avenue, Wheeling, WV 26003. Applicant's representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus; OH 43215. Authority sought to operate as a *common carrier*, over irregular routes, transporting: Such merchandise as is dealt in by retail discount, department or variety stores, between the facilities of Sears Roebuck and Co. located in Belmont County, OH on the one hand and, on the other, points in Muskingum, Guernsey, Coshocton, Holmes, Tuscarawas, Stark, Columbiana, Jefferson, Harrison, Belmont, Monroe, Washington, Morgan, Noble and Carroll Counties, Ohio; Allegheny, Washington, Greene, Beaver and Fayette Counties, PA; and Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Pleasants, Doddridge, Harrison, Marion, Monongalia and Taylor Counties, WV. (Hearing site: Washington, DC, or Columbus, OH.)

No. MC 20992 (Sub-No. 45F), filed March 27, 1978. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Pumps and pump accessories*, from Barron, WI, to points in the United States (except AK and HI), and (2) *equipment, materials, and supplies* used in the manufacture, production, and distribution of the commodities named in (1) above, from points in the United States (except AK and HI), to Barron, WI. Restriction: Restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to traffic originating at or destined to Barron, WI. (Hearing site: Minneapolis, MN.)

NOTE.—Common control may be involved.

No. MC 21436 (Sub-No. 7F), filed March 20, 1978. Applicant: RELIANCE VAN CO., INC., 67 West Kings Hwy, Maple Shade, NJ 08052. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue, Suite 1200, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Empty wooden household goods shipping containers*, between points in AZ, CA, CO, ID, KS, MS, MT, NE, NV, NM, OK, OR, SD, TX, UT, WA, WY, LA, MO, and AR, in non-radial movement. (Hearing site: Philadelphia, PA.)

NOTE.—Common control may be involved.

No. MC 22195 (Sub-No. 174F), filed March 27, 1978. Applicant: DAN DUGAN TRANSPORT CO., a corporation, 41st and Grange Avenue, Sioux Falls, SD 57105. Applicant's representative: F. Fred Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from the facilities of the Cochin Pipeline Co., located at or near New Hampton, IA, Mankato and Benson, MN, and Carrington, ND, to points in IA, MN, ND, SD, WI, and IL. (Hearing site: Minneapolis, MN or Sioux Falls, SD.)

No. MC 29886 (Sub-No. 341F), filed March 14, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4200 39th Avenue, Kenosha, WI 53140. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles and motor vehicle chassis*, in initial movements, in driveaway and truckaway service, and bodies, cabs and parts or accessories for such vehicles, from the facilities of Freightliner Corp., at Mount Holly (Gaston County), NC, to points in the United States (including AK, but excluding HI). (Hearing site: Portland, OR or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 30844 (Sub-No. 602F), filed March 27, 1978. Applicant: KROBLIN REFRIGERATED XPRESS INC., P.O. Box 5000, Waterloo, IA 50704. Applicant's representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Synthetic plastics, adhesives, sealants, cements, chemicals, chemical compounds, cleaning compounds, rubber compounds, soldering flux, coatings, lubricants, and equipment, materials, and supplies* used in the application of the commodities named above, from Cambridge, MA, to points in the United States (except AK and HI), (2) *synthetic plastics, adhesives, sealants, cements, chemicals, chemical compounds, gas absorbing compounds, rubber compounds, soldering flux, coatings, lubricants, and equipment, materials, and supplies* used in the application of the commodities named above, from Woodbury, NJ, and Atlanta, GA, to points in the United States (except AK and HI), (3) *synthetic plastics, adhesives, sealants, cements, chemicals, chemical compounds, gas absorbing compounds, rubber compounds, soldering flux, coatings, lubricants, air entraining agents, cement clinker or grinding compounds, concrete or masonary plasticizer and water reducing compounds, tall oil, lignin liquors, and equipment, materials, and supplies* used in the application of the commodities named above, from Chicago, IL, to points in the United States (except AK and HI), (4) cleaning compounds, chemicals, chemical compounds, and fertilizer compounds from Nashua, NH, to points in the United States (except AK and HI), (5) *synthetic plastics, synthetic latex, battery insulating partitions, and pulpboard*, from Owensboro, KY, to points in the United States (except AK and HI), (6) *synthetic plastics, synthetic latex, battery insulating partitions, and cleaning compounds*, from Acton, MA, to points in the United States (except AK and HI), (7) *Materials, equipment, and supplies* used in the manufacture, production, and distribution of the commodities named in 1 through 6 above, from points in the United States (except AK and HI), to the origins named in 1 through 6 above, and to San Leandro, CA. Restrictions: Restricted against the transportation of commodities in bulk, in tank vehicles, and commodities which by reason of size and weight require the use of special equipment and further restricted to traffic originating at or destined to the facilities of W. R. Grace & Co. (Hearing site: Boston, MA or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 33520 (Sub-No. 12F), filed February 22, 1978. Applicant: FOLLMER TRUCKING CO., a corporation, Hummels Wharf, PA 17831. Applicant's representative: S. Berne Smith, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier* by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods in use, commodities in bulk, and commodities requiring special equipment), between Beech Creek, PA, and Lock Haven, PA, from Beech Creek over U.S. Hwy 220 to Lock Haven, and return over the same route, serving all intermediate points. (Hearing site: Williamsport or Harrisburg, PA.)

NOTE.—Common control may be involved.

No. MC 35628 (Sub-No. 399F), filed March 22, 1978. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville Avenue SW., Grand Rapids, MI 49503. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the facilities utilized by General Electric Co. and Mead Johnson & Co., located at or near Mount Vernon, IN, as an off-route point in connection with applicant's currently authorized operations. (Hearing site: Chicago, IL, or Indianapolis, IN; however applicant requests consolidated hearing with other similar applications.)

No. MC 39411 (Sub-No. 8F), filed March 23, 1978. Applicant: GEORGE E. TREYZ, INC., 186 State Street, Binghamton, NY 13902. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue, Suite 1200, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Used household goods* as defined by the Commission, restricted (1) to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and (2) to the performance of pickup and delivery service in connection with packing, crating, or containerization, or unpacking, uncrating, or decontainerization of such shipments between points in Steuben, Chemung, Tioga, Broome, Chenango, Cortland, Tompkins, Schuyler, Yates, Seneca, Delaware, Cayuga, Allegany, Wayne and Ontario Counties, NY, and points in Bradford, Tioga, Potter and Susquehanna Counties, PA. (Hearing site: New York, NY.)

No. MC 50935 (Sub-No. 18F), filed March 22, 1978. Applicant: WOLVERINE TRUCKING CO., a corporation, 1020 Doris Road, Pontiac, MI 48057. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from the facilities of the G. Heileman Brewing Co., Inc., at LaCrosse, WI, Newport, KY, and Evansville, IN, to Detroit, MI, and points within its commercial zone; and (2) *empty malt beverage containers, pallets and rejected shipments of malt beverages*, from Detroit, MI, and points in its commercial zone, to the facilities of the G. Heileman Brewing Co., Inc., at LaCrosse, WI, Newport, KY, and Evansville, IN. (Hearing site: Madison, WI, Chicago, IL or Detroit, MI.)

No. MC 50935 (Sub-No. 20F), filed March 27, 1978. Applicant: WOLVERINE TRUCKING CO., a corporation, 1020 Doris Road, Pontiac, MI 48057. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Malt beverages and related advertising materials* from Louisville, KY, to Drayton Plains, MI; and (2) *empty containers* from Drayton Plains, MI, to Louisville, KY. (Hearing site: Louisville, KY or Chicago, IL.)

No. MC 59150 (Sub-No. 126F), filed March 23, 1978. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Roofing and building materials* (except in bulk), from the facilities of Bird & Son, Inc., Charleston, SC, to points in GA and FL (on and east of the Apalachicola River). (Hearing site: Charleston, SC or Jacksonville, FL.)

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No. MC 61440 (Sub-No. 163F), filed March 27, 1978. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 NW 63rd Street, Oklahoma City, OK 73157. Applicant's representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the facilities of K-Mart Corp. at or near Shenandoah, Coweta County, GA, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing site: Oklahoma City, OK.)

NOTE.—Common Control may be involved.

No. MC 63417 (Sub-No. 144F), filed March 27, 1978. Applicant: BLUE RIDGE TRANSFER CO. INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *New furniture and furniture parts* from Chocowinity, Goldsboro and Sanford, NC and Roanoke, VA to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY; and returned shipments of new furniture and furniture parts from above destinations to above origins. (Hearing site: Roanoke, VA.)

No. MC 63417 (Sub-No. 145F), filed March 27, 1978. Applicant: BLUE RIDGE TRANSFER CO. INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Glass containers and container accessories and materials, equipment and supplies* used in the manufacture and distribution of glass containers and container accessories, from the facilities of Brockway Glass Co. located at Lapel, (Madison County) IN, Zanesville, (Muskingham County) OH, Washington County, PA, and Montgomery County, AL, to the NC counties of Rockingham, Stokes, Caswell, Guilford, Alamance, Forsyth and Vance and VA counties of Pittsylvania, Henry and Halifax. (Hearing site: Roanoke, VA.)

No. MC 71652 (Sub-No. 17F), filed March 13, 1978. Applicant: BYRNE TRUCKING, INC., 4569 Crater Lake Highway, Medford, OR 97501. Applicant's representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products, particleboard and fiberboard*, from points in OR, to points in Clark County, NV. (Hearing site: Portland, OR or San Francisco, CA.)

No. MC 75320 (Sub-No. 195F), filed March 27, 1978. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Applicant's representative: John A. Crawford, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the facilities of Olin Works-Olin Corp. at or near Olin (Covington), IN as an off-route point. (Hearing site: Indianapolis, IN or Raleigh, NC.)

No. MC 82492 (Sub-No. 191F), filed March 27, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, (except commodities in bulk), from the facilities of or utilized by Ore-Ida Foods, Inc. or Terminal Ice and Cold Storage Co., located at or near Plover, WI, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, TN, points in NY in and west of Broome, Cortland, Onondaga and Oswego Counties, and points in PA on and west of U.S. Hwy 219; and (2) *returned, refused or rejected merchandise* described in part (1) from IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, TN, points in NY in and west of Broome, Cortland, Onondaga and Oswego Counties, and points in PA on and west of U.S. Hwy 219 to the facilities of or utilized by Ore-Ida Foods, Inc. or Terminal Ice and Cold Storage located at or near Plover, WI, restricted in parts (1) and (2) to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Chicago, IL or Milwaukee, WI.)

No. MC 82492 (Sub-No. 195F), filed March 27, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Cheese, cheese products, and synthetic cheeses* (except commodities in bulk), from the facilities utilized by the L. D. Schreiber Cheese Co., Inc., in Jasper, Newton, Barry, and Lawrence Counties, MO, to points in IN, MI, and OH. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 95540 (Sub-No. 1010F), filed March 24, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Applicant's representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Foodstuffs* in mechanically refrigerated vehicles (except commodities in bulk, in tank vehicles) from the plantsites and warehouse facilities of Standard Brands, Inc., located at or near Chicago and Franklin Park, IL to all points in AL, FL, GA, LA, MS, NC, SC, and TN. (Hearing site: Chicago, IL, Washington, DC, or Tampa, FL.)

NOTE.—Common control may be involved.

No. MC 95540 (Sub-No. 1014F), filed March 27, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Applicant's representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles) in vehicles equipped with mechanical refrigeration from the facilities of Kraft, Inc., located at or near Champaign, IL to points in FL and GA, restricted to the transportation of traffic originating at the named facilities and destined to the named destinations. (Hearing site: Chicago, IL, Washington, DC, or Tampa, FL.)

NOTE.—Common control may be involved.

No. MC 99614 (Sub-No. 3F), filed March 13, 1978. Applicant: MIKE CONROTTO TRUCKING, a corporation, P.O. Box 638, Gilroy, CA 95020. Applicant's representative: William D. Taylor, 100 Pine Street—Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (A) (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment), and (2) *commodities* otherwise exempt from economic regulation under section 203(b) when transported in mixed loads with the commodities in (1) above, (a) between points in the San Francisco Territory, as described below, and the International Boundary Line between the United States and Mexico, over U.S. Hwy 101; (b) between Sacramento, CA and junction of U.S. Hwy 99 and Interstate Hwy 5, at or near Wheeler Ridge, CA, over U.S. Hwy 99; (c) between Sacramento CA, and junction of U.S. Hwy 99 and Interstate Hwy 5, at or near Wheeler Ridge, CA, over Interstate Hwy 5; (d) between junction U.S. Hwy 99 and Interstate Hwy 5, at or near Wheeler Ridge, CA, and the International Boundary Line between the United States and Mexico, over Interstate Hwy 5; (e) between Los Angeles, CA and the CA-AZ State line, from Los Angeles, over U.S. Hwy 60 to junction Interstate Hwy 10 at or near Beaumont, CA, then over Interstate Hwy 10 to the CA-AZ state line; (f) between San Diego and Holtville, CA, over U.S. Hwy 80; (g) between San Francisco and Sacramento, CA, over Interstate Hwy 80; (h) between Gilroy, CA and junction of CA Hwy 152 and U.S. Hwy 99, over CA Hwy 152; (i) serving all intermediate points on the routes described in (a) through (h) above; (j) serving all points in the San Francisco Territory as off-route points in connection with the above-described routes; and (k) serving points in San Mateo, Alameda, Sacramento, San Joaquin, Stanislaus, Merced, San Francisco, Santa Clara, Fresno, Madera, Kings, Kern, Ventura, Los Angeles, San Diego, Riverside, Imperial, Contra Costa, and Solano Counties, as off-route points in connection with the above-described routes; and (B) The San Francisco Territory includes the area embraced by the following boundary: Beginning at the points the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean, then easterly along said boundary line to a point 1 mile west of U.S. Hwy 101, then southerly along a line 1 mile west of and paralleling U.S. Hwy 101 to its intersection with the corporate boundary of the City of San Jose, then southerly, easterly, and northerly along said corporate boundary to its intersection with CA Hwy 17, then northerly along CA Hwy 17 to Warm Springs, then northerly along unnumbered highway through Mission San Jose and Niles to Hayward, then northerly along Foothill Blvd. to Seminary Ave., then easterly along Seminary Ave. to Mountain Blvd., then northerly along Mountain Blvd. and Moraga Ave., to Estates Dr., then westerly along Estates Dr., Harbor Dr. and Broadway Terrace to College Ave., then northerly along College Ave. to Dwight Way, then easterly along Dwight Way to the Berkeley-Oakland boundary line, then northerly along said boundary line to the campus boundary of the University of California, then northerly and westerly along the campus boundary of the University of California to Euclid Ave., then northerly along Euclid Ave., to Marin Ave., then westerly along Marin Ave. to Arlington Ave., then northerly along Arlington Ave., to U.S. Hwy 40, (San Pablo Ave.), then northerly along U.S. Hwy 40 to and including the City of Richmond, then southwesterly along the hwy. extending from the City of Richmond to the San Francisco Waterfront at the foot of Market St., then westerly along said waterfront and shore line to the Pacific Ocean, then southerly along the shore line of the Pacific Ocean to the point of beginning. (Hearing site: San Francisco, CA.)

NOTE.—The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and necessity and is filed in connection with applicant's application in No. MC 99614 (Sub-No. 2), currently pending before the Commission.

No. MC 102616 (Sub-No. 943F), filed March 27, 1978. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, Akron, OH 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Dry fertilizer*, in bulk, from the plantsite of Agrico Chemical Co., Melbourne, KY, to points in IL, IN, KY, MI, OH, VA, and WV. (Hearing site: Washington, DC or Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 103498 (Sub-No. 51F), filed February 17, 1978. Applicant: B & L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Applicant's representative: Richard Hubbert, 1607 Broadway, Lubbock, TX 79401. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Charcoal briquettes*, from Dierks, AR, to points in AZ. (Hearing site: Little Rock, AR, or Dallas, TX.)

NOTE.—Common control may be involved.

No. MC 106603 (Sub-No. 167F), filed February 9, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Insulation board*, from Pennsauken, NJ to points in KY, IND, IL, MI, OH, and WV. (Hearing site: Chicago, IL or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 106674 (Sub-No. 306F), filed March 27, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from the facilities of A. E. Staley Manufacturing Co. at or near Lafayette and Frankfort, IN, to points in IL, KY, MI, and OH. (Hearing site: Chicago, IL or Indianapolis, IN.)

No. MC 107107 (Sub-No. 462F), filed March 13, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 Northwest 42nd Avenue, Opa Locka, FL 33054. Applicant's representative: Ford W. Sewell (same as applicant). Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Foods* and *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Burlington, WI, to Memphis, TN, and points in NC and FL. (Hearing site: Miami, FL.)

No. MC 107107 (Sub-No. 465F), filed March 27, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 Northwest 42nd Avenue, Opa Locka, FL 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: (1) *Such commodities* (except commodities in bulk), as are used by, sold by and dealt in by nurseries or distributors of nursery stock; and (2) *agricultural* and *horticultural commodities* (otherwise exempt from Economic Regulation of Section 203(b)(6) of the Act), when transported in mixed loads with commodities embraced in (1) above, from points in FL to points in the United States in and east of AZ, CO, NE, ND, and SD. (Hearing site: Miami, FL.)

No. MC 107496 (Sub-No. 1128F), filed March 24, 1978. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center 666 Grand Avenue, Des Moines, IA 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Liquid sugar, corn syrup, and blends thereof*, in bulk, in tank vehicles, from Memphis, TN, to points in TX. (Hearing site: Des Moines, IA or Memphis, TN.)

NOTE.—Common control may be involved.

No. MC 107496 (Sub-No. 1139F), filed March 27, 1978. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center 666 Grand Avenue, Des Moines, IA 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Phosphate feed grade*, in bulk, from Marseilles, IL, to all points in IN, OH, WI, IL, KY, IA, MO, MN, NE, and

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KS. (Hearing site: Des Monies, IA or Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 108341 (Sub-No. 94F), filed March 24, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Copper articles* from Pulaski, TN, to points in the United States in and east of ND, SD, NE, CO, OK, and TX; and (2) *scrap copper*, from points in the United States in and east of ND, SD, NE, CO, OK, and TX, to Pulaski, TN. (Hearing site: Nashville, TN or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 108460 (Sub-No. 62F), filed March 20, 1978. Applicant: PETROLEUM CARRIERS CO., a corporation, P.O. Box 762, Sioux Falls, SD 57101. Applicant's representative: Gary Mundhenke (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from the Cochin Pipe Line, located at Carrington, ND, Mankato and Benson, MN, and New Hampton, IA, to points in ND, SD, IA, MN, and WI. (Hearing site: Minneapolis, MN or Sioux Falls, SD.)

NOTE.—Common control and dual operations may be involved.

No. MC 109397 (Sub-No. 399F), filed March 13, 1978. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractor attachments and parts;* (2) *fabricated steel products; and* (3) *machinery, equipment, parts, and attachments* used in the logging, forestry, and construction industries, from the facilities of Medford Steel Division of C.S.C., Inc., located at or near Medford, OR, to points in the United States (except AK and HI). (Hearing site: Portland, OR or San Francisco, CA.)

NOTE.—Common control may be involved.

No. MC 109397 (Sub-No. 401F), filed March 13, 1978. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tanks, pressure vessels, custom fabrications* of stainless steel and high alloys, from the facilities of Alloy Fabricators, Inc., located at or near Trenton, GA, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 110525 (Sub-No. 1229F), filed March 9, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicles over irregular routes, transporting: *Dry fertilizer*, in bulk, in tank vehicles, from the plant-site of Agrico Chemical Co. at Melbourne, KY, to points in IL, IN, KY, MI, OH, VA, and WV. Restricted to the transportation of traffic originating at the above mentioned plantsite. (Hearing site: Tulsa, OK.)

No. MC 112223 (Sub-No. 108F), filed March 2, 1978. Applicant: QUICKIE TRANSPORT CO., a corporation, 1700 New Brighton Boulevard, Minneapolis, MN 55413. Applicant's representative: Earl Hacking (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum gas*, in bulk, in tank vehicles, from the facilities of Cochin Pipeline Co., located at or near New Hampton, IA, Benson and Mankato, MN, and Carrington, ND, to points in IA, IL, MN, ND, SD, and WI. (Hearing site: Minneapolis or St. Paul, MN.)

No. MC 113362 (Sub-No. 323F), filed March 22, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue NE., P.O. Box 429, Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural pesticides* (except in bulk), from the facilities utilized by Shell Chemical Co., a division of Shell Oil Co., at or near El Paso, IL, to all points in the United States in and east of ND, SD, NE, CO, and NM. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 113434 (Sub-No. 97F), filed March 27, 1978. Applicant: GRA-BELL TRUCK LINES, INC., 679 Lincoln Avenue, Holland, MI 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (A) *Glass containers and container accessories*, (1) between the facilities of Brockway Glass Co., Inc. at points in Jefferson, Clearfield and Washington Counties, PA, on the one hand, and points in IL, IN and MI, on the other; and (2) between the facilities of Brockway Glass Co. in Muskingum County, OH, on the one hand, and points in IL, IN, and MI on the other; and (B) *materials, equipment, and supplies* used in the manufacture and distribution of glass containers and accessories from points in IL, IN, and MI to points in Jefferson, Clearfield and Washington Counties, PA and Muskingum County, OH. (Hearing site: Pittsburgh, PA or Washington, DC.)

No. MC 113651 (Sub-No. 267F), filed March 27, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Muncie, IN 47305. Applicant's representative: Daniel C. Sullivan, 10 South La Salle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Such commodities* as are manufactured or dealt in by manufacturers of (1) *safety razors and razor blades*, (2) *toilet preparations*, (3) *home security equipment*, (4) *cigarette lighters*, (5) *personal care products*, and (6) *stationery products* (except commodities in bulk), (a) from the facilities of the Gillette Co. at Andover, MA to points in OH, IN, lower peninsula of MI, MN, GA, FL, and Arlington, TX; (b) from the facilities of the Gillette Co. at St. Paul, MN, to points in IL, IN, lower peninsula of MI, OH, PA, NJ, MD, Andover, MA, St. Louis, MO, Arlington, TX, and Atlanta, GA; and (c) from the facilities of the Gillette Co. at La Grange Park, IL to St. Louis, MO, Louisville, KY, Indianapolis and Ft. Wayne, IN, and Grand Rapids, MI. (Hearing site: Boston, MA or Chicago, IL.)

No. MC 113678 (Sub-No. 732F), filed March 22, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Meat, meat products, and meat byproducts* (except commodities in bulk in tank vehicles), from Boulder, CO to points in the United States (except AK, CO, and HI). (Hearing site: Denver, CO.)

No. MC 113843 (Sub-No. 251F), filed March 27, 1978. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* (otherwise exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act), when transported in mixed loads with bananas, from Baltimore, MD, New York, City NY, and Albany, NY to points in ME, NH, VT, MA, RI and CT. (Hearing site: New York, NY or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 113855 (Sub-No. 411F), filed March 9, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a corporation, 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: (1) *Industrial furnaces and industrial furnace parts;* (2) *equipment* used in conjunction with industrial furnaces, and (3) *incinerators and incinerator parts*, from Meadville, PA to points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 113855 (Sub-No. 416F), filed March 27, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Source, special nuclear and byproduct materials, radioactive materials and related reactor experiment equipment, component parts, and associated materials*, from points in Hartford County, CT to points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 114273 (Sub-No. 343F), filed February 16, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles) from (1) Des Moines, IA to points in OH and (2) from Toledo, OH to Galesburg, IL. The purpose of this application is to substitute single-line service for existing joint-line service. (Hearing site: Washington, DC or Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 114552 (Sub-No. 156F), filed March 23, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Iron and steel articles and materials and supplies* (except commodities in bulk), used in the manufacture of iron and steel articles, between points in Georgetown County, SC, on the one hand, and on the other, points in the United States in and east of WI, IA, MO, AR, and TX. (Hearing site: Columbia, SC, Charlotte, NC, or Georgetown, SC.)

No. MC 114569 (Sub-No. 211F), filed February 23, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs* (except in bulk) moving in mechanically refrigerated equipment, from the facilities of Terminal Ice & Cold Storage at or near Bettendorf, IA, to points in and east of AL, TN, MO, IA, and MN, restricted to traffic originating at the facilities of Terminal Ice & Cold Storage and destined to the named destinations. (Hearing site: Chicago, IL or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 114632 (Sub-No. 151F), filed March 9, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael L. Carter, P.O. Box 287, Madison, SD 57042. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Commodities* as are dealt in by hardware discount and department stores and supermarkets (except commodities in bulk), from the facilities of Action Industries, Inc. at Pittsburgh and Cheswick, PA to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved.

No. MC 114725 (Sub-No. 86F), filed March 27, 1978. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Applicant's representative: Bruce A. Bullock, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Blair, NE to points in IA, MN, ND, SD, WI, and IL. (Hearing site: Omaha, NE.)

NOTE.—Common control may be involved.

No. MC 115730 (Sub-No. 48F), filed March 27, 1978. Applicant: THE MICKOW CORP., 531 SW. Sixth Street, P.O. Box 1774, Des Moines, IA 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: *Iron and steel articles*, from points in IL and MO, to points in Polk County, IA. (Hearing site: Chicage, IL or Des Moines, IA.)

No. MC 115826 (Sub-No. 301F), filed March 20, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, P.O. Box 5088 T.A., Denver, CO 80217. Applicant's representative: Howard Gore, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, between Laramie, WY, and points in AL, AZ, AR, CO, LA, MN, MO, NM, NV, ND, SD, and TX, in a non-radial movement. (Hearing site: Denver, CO.)

No. MC 116763 (Sub-No. 405F), filed March 13, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Applicant's representative: H. M. Richters, North West Street, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen, and commodities in bulk, in tank vehicles), from Coloma, MI, to points in GA, NC, SC, and VA. Restricted to traffic originating at and destined to the named points. (Hearing site: Chicago, IL.)

No. MC 117068 (Sub-No. 93F), filed March 24, 1978. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Hwy 63, Rochester, MN 55901. Applicant's representative: Richard C. McGinnis, 711 Washington Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled vehicles, attachments, accessories and parts*, between the facilities of Master Craft Industrial Equipment Corp., in Tift County, GA on the one hand and, on the other, points in the United States (except AK and HI), restricted to commodities that are transported on trailers. (Hearing site: Washington, DC.)

No. MC 117344 (Sub-No. 269F), filed March 13, 1978. Applicant: THE MAXWELL CO., a corporation, 10380 Evendale Drive, Cincinnati, OH 45215. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus OH 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup, sugar and blends thereof*, in bulk, from Cincinnati, OH to points in IL, MI, MS, NC, TN, VA, WV and St. Louis, MO. (Hearing site: Columbus, OH.)

No. MC 117574 (Sub-No. 301F), filed March 22, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076

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Harrisburg Pike, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Air compressors and earth drilling machinery* and *equipment*, between Claremont, NH on the one hand and, on the other, points in the U.S. including AK, but (excluding HI). (Hearing site: Boston, MA or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 117686 (Sub-No. 210F), filed March 20, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Applicant's representative: George L. Hirschbach, (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Chef Pierre, Inc., located at or near Forest, MS, to points in AZ, CA, CO, GA, KS, MN, MO, NE, NV, NM, NC, OK, SC, TN and TX. (Hearing site: Grand Rapids or Detroit, MI.)

NOTE.—Common control may be involved.

No. MC 118130 (Sub-No. 84F), filed March 15, 1978. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, TX 76115. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Insulating materials* (except in bulk), (1) from Fruita, CO, to points in AZ, CA, KS, NV, NM, OR, TX, WA and WY; and (2) from Ruston, LA, to points in AL, FL, GA, MS, OK, SC and TX. (Hearing site: Dallas, TX or San Francisco, CA.)

No. MC 118142 (Sub-No. 69F), filed March 27, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Foodstuffs*, between the facilities of Stokely-Van Camp, Inc., at or near Lawrence, KS, on the one hand, and on the other, points in the United States (except AK and HI). (Hearing site: Indianapolis, IN or Chicago, IL.)

No. MC 118831 (Sub-No. 159F), filed March 27, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Applicant's representative: Earlie O. Jones, P.O. Box 7007, High Point, NC 27264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry plastics* (except expanded) and *dry polyester resins*, in bulk, in tank or hopper-type trailers, from Spartanburg County, SC, to points in CT, DE, GA, MA, MD, NJ, NY, PA, and RI; and (2) *Dry sodium sulphate*, in bulk, in tank or hopper-type vehicles, from Lowland, TN, to points in GA, KY, NC, SC, and VA. (Hearing site: Spartanburg, SC or Atlanta, GA.)

NOTE.—Common control may be involved.

No. MC 118989 (Sub-No. 184F), filed March 23, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, WI 53221. Applicant's representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, container ends, container accessories, and materials and supplies* used in the manufacture, sale and distribution of the aforementioned commodities, (1) from Mt. Vernon and St. Joseph, MO, to points in WI, IA, IL, IN, MN, OH, TN, KY, MS, TX, AL, and AR; (2) from Mansfield, TX to points in MS, IL, TN, AR, WI, MN, and IA; and (3) from Waupun, Oconomowoc and Menomonee Falls, WI to points in IL, TN, KY, MO, OH, IN, IA, TX, MI, and MN. (Hearing site: Chicago, IL.)

No. MC 119789 (Sub-No. 444F), filed March 27, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: Lewis Coffey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber and lumber products* from Gilmer TX to points in NM and OK; and (2) *lumber* from points in LA and MS to Gilmer, TX. (Hearing site: Dallas, TX.)

No. MC 119789 (Sub-No. 445F), filed February 16, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment and parts*, between Columbia and Moberly, MO on the one hand and, on the other, points in the United States in and east of TX, AR, MO, IA, and MN, restricted to shipments originating at or destined to facilities of McGraw-Edison Co. (Hearing site: Kansas City or St. Louis, MO.)

No. MC 121060 (Sub-No. 58F), filed March 27, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Applicant's representative: William P. Jackson, Jr., 3426 Norht Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, (a) between Greenville, MS, on the one hand, and, on the other, points in TX, OK, AR, LA, TN, AL, GA, NC, SC, KY, IL, and FL; and (b) between Peoria, IL, on the one hand, and, on the other, points in LA, TX, and AR; and (2) *materials, equipment, and supplies*, used in the manufacture, distribution, and installation of the commodities in (1) above (except in bulk), (a) from the States in (a) above to Greenville, MS; and (b) from points in AL, TN, MO, and MS, to Peoria, IL. (Hearing site: Chicago IL.)

No. MC 123115 (Sub-No. 20F), filed February 28, 1978. Applicant: PACKER TRANSPORTATION CO., a corporation, 465 South Rock Boulevard, Sparks, NV 89431. Applicant's representative: Ben Packer, 465 South Rock Boulevard, Sparks, NV 89431. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from points in WA to points in CA and NV. (Hearing site: Carson City, NV.)

No. MC 123255 (Sub-No. 144F), filed March 20, 1978. Applicant: B&L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee Jr., 140 Everett Avenue, Newark, OH 43055. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Containers, fibreboard or pulpboard*, with or without ends of same material; and *material and supplies* used in the manufacture and distribution thereof (except commodities in bulk), from the facilities of Sonoco Products Co. located at or near Alpha, and Dayton, OH, to points in the United States (except AK and HI). (Hearing site: Columbus, OH.)

NOTE.—Common control may be involved.

No. MC 123407 (Sub-No. 447F), filed March 27, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, tubing, fittings, connections, and materials, supplies, and accessories* used in the manufacture and installation thereof (except in bulk, in tank vehicles) from Cleveland, OH, Stone Mountain and Social Circle, GA, Sun Valley, Bakersfield, and Santa Ana, CA, Pompano Beach, FL, and Houston, TX, to points in the United States (except HI). (Hearing site: San Francisco, CA.)

NOTE.—Common control may be involved.

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No. MC 123407 (Sub-No. 448F), filed March 27, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, .U.S. Hwy 6, Valparaiso, IN 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings and couplings, and materials and supplies* used in the installation of the foregoing commodities, from Bristol, IN, to points in the United States in and west of MT, WY, CO, and NM. (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 123407 (Sub-No. 449F), filed March 27, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paneling* (except commodities in bulk); and (2) *materials and supplies* used in the manufacture thereof, (1) From Elkhart, IN, Birmingham, AL, and Tualatin, OR, to points in the United States (except AK and HI); and (2) from points in the United States (except AK and HI), to Elkhart, IN, Birmingham, AL, and Tualatin, OR. (Hearing site: Chicago, IL or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 124117 (Sub-No. 28F), filed March 24, 1978. Applicant: EARL FREEMAN AND MARIE FREEMAN d.b.a. MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, related advertising materials, related packing and insulating materials, containers and pallets*, (1) between the facilities of Miller Brewing Co. located at or near South Volney, NY, and points in TN; (2) between Louisville, KY, on the one hand, and, on the other, points in GA and SC; and (3) between Bellville, IL, and points in AL. (Hearing site: Nashville, TN or Birmingham, AL.)

No. MC 124711 (Sub-No. 58F), filed March 27, 1978. Applicant: BECKER CORP., P.O. Box 1050, El Dorado, KS 67042. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrogen fertilized solutions*, in bulk, in tank vehicles, from Culbertson, NE, to points in KS and CO. (Hearing site: Kansas City, MO or Oklahoma City, OK.)

NOTE.—Common control may be involved.

No. MC 126118 (Sub-No. 74F), filed March 3, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Louisville, KY, to points in GA. (Hearing site: Atlanta, GA or Washington, D.C.)

NOTE.—Applicant holds contract carrier authority in No. MC 128375 (Sub-No. 1) and other subnumbers thereunder, therefore dual operations may be involved. Common control may also be involved.

No. MC 127584 (Sub-No. 6F), filed March 27, 1978. Applicant: AERO TRANSPORTERS, INC., Box 551, Ellenville, NY 12428. Applicant's representative: Martin Werner, 888 Seventh Avenue, New York, NY 10019. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum mill products, and materials, supplies*, and equipment used in connection with the manufacture, production, and distribution of aluminum and aluminum products (except commodities in bulk, in tank vehicles), between town of Wawarsing (Ulster County), NY, on the one hand, and, on the other, all points in the United States (except AK, CT, DE, DC, HI, IL, IN, KY, MD, MA, MI, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, and WV), under continuing contract with V.A.W. of America, Inc., of the town of Wawarsing (Ulster County), NY. (Hearing site: Albany, NY or New York, NY.)

No. MC 127840 (Sub-No. 65F), filed March 13, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Applicant's representative: William H. Towle, 180 North La Salle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean oil*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., located at or near Sidney, OH, to points in IL, IN, OH, Pa, NY, NJ, MD, and KY. (Hearing site: Columbus, OH.)

No. MC 133097 (Sub-No. 22F), filed March 27, 1978. Applicant: SYSTEM REEFER SERVICE, INC., 4614 Lincoln Avenue, Cypress, CA 90630. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer of household and electrical appliances, from North Canton and Canton, OH, to points in WA, OR, ID, MT, WY, UT, NM, AZ, NV, CA, and CO, under a continuing contract or contracts with The Hoover Co. (Hearing site: Los Angeles, CA.)

No. MC 133219 (Sub-No. 23F), filed March 27, 1978. Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, NE 68317. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid feed and liquid feed supplements*, in bulk, in tank vehicles, from the facilities of Feed Service Corporation at or near Crete, NE, to points in CA, NV, UT, OR, WA, ID, MT, AR, TN, NC, VA, KY, and IL; and (2) *materials, equipment and supplies* used in the manufacture and production of liquid feed and liquid feed supplements, from points in the destination states named in (1) above, to the facilities of Feed Service Corporation at or near Crete, NE. Restriction: Restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Lincoln, NE.)

No. MC 133220 (Sub-No. 12F), filed March 27, 1978. Applicant: RECORD TRUCK LINE, Inc., 31 E. L. Morgan Drive, Jackson, TN. Applicant's Representative: R. Conner Wiggins Jr., 100 North Main Building, Memphis, TN 38103. Authority sought to operate as a *contract carrier* by motor vehicle over irregular routes, transporting: (1) *Pipe, tubing, and conduit;* (2) *fittings, pipe, tubing, and conduit;* (3) *pipe hangers and pipe supports;* (4) *valves and hydrants;* and, (5) *articles, materials, tools, equipment, supplies, and accessories* used in the manufacture, construction, installation, maintenance, operations, and repair of commodities in (1), (2), (3), and (4) above, and of sprinkler systems, fire prevention systems, heating systems, cooling systems, piping systems, irrigation systems, plumbing systems, water systems, sewer systems, drainage systems, and refrigeration systems. Between the plantsite and warehouse facilities of ITT—Grinnel Corp. At Indianapolis, IN, on the one hand, and on the other, points in the United States, (excluding AK and HI.) Under continuing contract or contracts with ITT Grinnel Corp. (Hearing site; Little Rock, AR., Memphis, TN., or Washington, DC.)

No. MC 133689 (Sub-No. 176F), filed, March 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transpo-t-

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ing: *Meat, meat products, meat byproducts, dairy products* and articles distributed by meat packinghouses, as described in Sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Mason City, IA, to points in ND, SD, NE, KA, MN, MO, IL, MI, IN, KY, TN, AL, OH, GA, SC, NC, VA, WV, MD, DE, PA, and NY, NJ, RI, CT, MA, NH, VT, ME, and DC. (Hearing site: St. Paul, MN.)

No. MC 133689 (Sub-No. 177F), filed March 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise as is dealt in by wholesale and retail department stores* (except foodstuffs and commodities in bulk), and (2) *foodstuffs* (except commodities in bulk) in mixed shipments with the commodities described in (1) above, I. from points in VT, NH, MA, CT, RI, NY, PA, NJ, MD, WV, DE, VA, KY, OH, IN and Chicago, IL and points in its commercial zone and Washington, DC, to the facilities of Dayton-Hudson Corp. and Target Stores, Inc. located in IL, WI, MN, IA, MO, KS, NE, SD and ND. II. from points in NC, SC, GA, AL, and TN, to the facilities of Dayton-Hudson Corp. and Target Stores, Inc. located in WI, IL, MO, IA, KS, and NE. III. return shipments of the commodities described in (1) and (2) above from the described facilities to the above named origins. Restriction. Restricted in I, II, and III above to the transportation of shipments originating at the above named origins and destined to the above named destinations. (Hearing site: St. Paul, MN.)

No. MC 133883 (Sub-No. 6F), filed March 27, 1978. Applicant: GERALD N. EVENSON, INC., 835 1st Street Southwest, P.O. Drawer I, Pelican Rapids, MN 56572. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cabinets*, in cartons or crates from the facilities of United Cabinet Corp. at or near Jasper, IN, to points in IA, MN, NE, those points in ND and SD on and east of U.S. Hwy 281, and those points in WI on and west of U.S. Hwy 53. Under continuing contract or contracts with A. N. Miller & Associates. (Hearing site: Minneapolis-St. Paul, MN.)

NOTE.—Applicant holds common carrier authority in MC 143939, therefore dual operations may be involved.

No. MC 134300 (Sub-No. 22F), filed March 27, 1978. Applicant: TRIPLE R EXPRESS, INC., 498 First Street Northwest, New Brighton, MN 55112. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier, over irregular routes*, by motor vehicle, transporting: *Windows, screens, doors, building woodwork, and materials and accessories* used in the installation thereof, from the plant site and storage facilities of Andersen Corporation at Bayport, MN, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV and DC. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—Common control may be involved.

No. MC 134645 (Sub-No. 21F), filed March 27, 1978. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Avenue South, St. Cloud, MN 56301. Applicant's representative: Anthony E. Young, 29 S. LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of John Morrell & Co. located at or near St. Paul, MN, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV and DC. Restricted to the transportation of traffic originating at the named origins and destined to points in the named destination States. (Hearing site: Chicago IL or St. Paul, MN.)

NOTE.—Applicant holds motor contract carrier authority under MC 124071 therefore dual operations may be involved.

No. MC 134925 (Sub-No. 3F), filed March 13, 1978. Applicant: CUMMINGS TRUCKING COMPANY, INC., P.O. Box 10492, Birmingham, AL 35202. Applicant's representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Roofing paper, building paper, roofing cement, asphaltum, roofing asphalt, prepared roofing, prepared shingles, filter felt, and materials and supplies* used in the installation thereof (except liquid in bulk, in tank vehicles) from points in Tuscaloosa County, AL, to points in GA, FL, SC, NC, KY, TN, AR, LA, and MS; and (2) *materials and supplies* used in the manufacture of items in (1) above (except liquid in bulk, in tank vehicles), from the destination states in (1) above, to points in Tuscaloosa County, AL. (Hearing sites: Birmingham or Tuscaloosa, AL.)

NOTE.—Common control may be involved.

No. MC 135082 (Sub-No. 65F), filed February 28, 1978. Applicant: BURSCH TRUCKING, INC., d.b.a. Roadrunner Trucking, Inc., P.O. Box 26748, 415 Rankin Road N.E., Albuquerque, NM 87125. Applicant's representative: Randall R. Sain (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Roofing and roofing products* and materials, from Camden, AR to points in AZ, CA, CO, ID, MT, NE, NM, OR, WA, WY, and UT. (Hearing site: Albuquerque, NM or Tampa, FL.)

NOTE.—Applicant holds contract carrier authority in No. MC 115524 and sub-numbers thereunder, therefore dual operations may be involved.

No. MC 135410 (Sub-No. 16F), filed March 27, 1978. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, 700 South Main, Monmouth, IL 61462. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, container accessories, and materials, equipment and supplies used in the manufacture and distribution of glass containers and container accessories* (except commodities in bulk), between the facilities of Brockway Glass Co., Inc., located at points in Washington County, PA, Muskingum County, OH, and Madison County, IN, on the one hand, and, on the other, points in IL, IA, and MO, restricted to the transportation of shipments originating at the named origins and destined to the named destinations. (Hearing site: Washington, DC.)

No. MC 135539 (Sub-No. 15F), filed March 2, 1978. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 5351, Evansville, IN 47715. Applicant's representative: Robert J. Gill, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pre-engineered steel buildings and greenhouses*, and (2) *parts, equipment, materials, accessories, and supplies* used in the manufacture and distribution of pre-engineered steel buildings and greenhouses, between the facilities of Superior Equipment Manufacturing Co. located at or near St. Peters, MO, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract or contracts with Superior Equipment Manufacturing Co. (Hearing site: St. Louis, MO, Springfield, IL, or Indianapolis, In.)

No. MC 135797 (Sub-No. 103F), filed March 13, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Applicant's representative: Paul A. Maestri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trash or refuse collection bins, collection boxes for deposit of clothing and other reusable commodities, stoves or fireplaces, chimney assemblies and spark arresters, hearths and other equipment and supplies* used in the installation or use thereof, in containers or on pallets, from Santa Cruz, CA, to points in the United States (except AK and HI), and (2) *machinery, materials, equipment*, and supplies used in or in connection with the manufacture, distribution, application or use of the commodities named in (1) above (except liquids in bulk), between points in the United States (except AK and HI), on the one hand, and, on the other, Santa Cruz, CA. (Hearing site: San Francisco, CA or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 136161 (Sub-No. 9F), filed March 27, 1978. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and chemical compounds* (except in bulk), from Lemont, Mapleton, and Morris, IL to points in IN, KY, MI, OH, TN, WV, and WI. (Hearing site: Chicago, IL.)

No. MC 136161 (Sub-No. 10F), filed March 27, 1978. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and chemical compounds* (except in bulk), from Wyoming, IL to points in IN, KY, MI, OH, TN, WV, and WI. (Hearing site: Chicago, IL.)

No. MC 136168 (Sub-No. 25F), filed March 27, 1978. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 717, Marshall, MO 65340. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, cooked, cured, or preserved* from the facilities of Wilson Foods Corp. at Clarinda, IA to points in IN, MA, MI, NJ, NY, PA, and OH. Restricted to the transportation of traffic originating at the above named origin and destined to the named destinations, under continuing contract or contracts with Wilson Foods Corp. (Hearing site: Kansas City, MO or Dallas, TX.)

NOTE.—Applicant holds common carrier authority in MC 141641 and other subs, therefore dual operations may be involved. Common control may be involved.

No. MC 136258 (Sub-No. 4F), filed March 23, 1978. Applicant: HARDING TRUCKING, INC., P.O. Box 306, Whiting, IA 51063. Applicant's representative: D. Douglas Titus, Suite 510, Benson Building, Sioux City, IA 51101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hides, pelts, skins, and pieces therefrom;* and (2) *materials, supplies, and equipment* used in the conduct of business by hide companies, between points in IA, NE, and MN. Restriction: The operations requested herein are limited to a transportation service to be performed under a continuing contract with Iowa Beef Processors, Inc. (Hearing site: Omaha, NE or Kansas City, MO.)

No. MC 136343 (Sub-No. 130F), filed March 9, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Glass containers*, from the facility of Midland Glass Co., located at or near Warner Robins, GA to Williamsburg, VA. (Hearing site: New York, NY or Washington, DC.)

No. MC 136511 (Sub-No. 17F), filed March 13, 1978. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, and furniture parts*, (1) from Richmond and Kenbridge, VA, to points in NM, NV, MO, TX, and OK; and, (2) from Waynesville, NC, to points in CO, CA, AZ, UT, OR, WA, WY, ID, NM, NV, MT, TX, and OK. (Hearing site: Richmond, VA or Washington, DC.)

No. MC 136605 (Sub-No. 47F), filed March 27, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MO 59807. Applicant's representative: Joe Gerbase, 100 Transwestern Building, Billings, MO 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Lumber*, from WA, OR, CA, to points in ND, SD, NE, KS, IA, WI, MN, IL, and MO. (Hearing site: Portland, OR or Seattle, WA.)

NOTE.—The purpose of this application is to replace present interline with a single operation under one authority.

No. MC 138018 (Sub-No. 43F), filed March 27, 1978. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, CO 80201. Applicant's representative: Joseph W. Harvey, P.O. Box 1018, Denver, CO 80201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Frozen foods* (except commodities in bulk), from the facilities used by Ore-Ida Foods, Inc., located at or near Plover, WI, to points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, SD, UT, WA, and WY. Restricted to traffic originating at and destined to the points named. (Hearing site: Seattle, WA or Portland, OR.)

NOTE.—Common control may be involved.

No. MC 138054 (Sub-No. 25F), filed March 27, 1978. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Tool stands, service carts, benches, seats, cabinets, shelving, room dividers, partitions, sheet metal products, and related parts and accessories*, from Warren, PA, to points in the United States in and west of WI, IL, KY, TN, NC, SC, GA, and FL (except AK and HI); and (2) *materials, supplies, and equipment*, utilized in the manufacture, sales and distribution of commodities named in (1) above, from points in the United States in and west of WI, IL, KY, TN, NC, SC, GA, and FL (except AK and HI) to Warren, PA. Restriction: Restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed under a continuing contract, or contracts, with InterRoyal Corp. of Warren, PA. (Hearing site: Pittsburgh, PA, or Cleveland, OH.)

No. MC 138157 (Sub-No. 65F), filed March 24, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410.. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpets, carpeting, carpet padding, and yarn*, from the facilities of TCP, Inc., located at or near Dalton, GA to points in the United States in and east of ND, SD, NE, KS, OK, and TX: and (2) *materials, equipment, and supplies* used in the manufacture, production, and distribution of the commodities named in (1) above, from the destination States named in (1) above, to the facilities of TCP, Inc., located at or near Dalton, GA. Restrictions: Restricted against the transportation of commod-

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ities in bulk, in tank vehicles. Further restricted to traffic originating at or destined to the facilities of TCP, Inc. (Hearing site: Atlanta, GA.)

NOTE.—Applicant holds contract carrier authority in MC 134510 Sub 5 and subs thereunder, therefore dual operations may be involved. Common control may be involved.

No. MC 138517 (Sub-No. 67F), filed March 27, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market St., Chattanooga, TN 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Synthetic plastics, adhesives, sealants, cements, chemicals, chemical compounds, cleaning compounds, rubber compounds, soldering flux, coatings, lubricants*, and *materials, equipment and supplies* used in the application of the commodities named above, from Cambridge, MA to points in the United States (except AK and HI); (2) *Synthetic plastics, adhesives, sealants, cements, chemicals, chemical compounds, gas absorbing compounds, rubber compounds, soldering flux, coatings, lubricants*, and *materials, equipment and supplies* used in the application of the commodities named above, from Woodbury, NJ and Atlanta, GA to points in the United States (except AK and HI); (3) *Synthetic plastics, adhesives, sealants, cements, chemicals, chemical compounds, gas absorbing compounds, rubber compounds, soldering flux, coatings, lubricants, air entraining agents, cement clinker or grinding compounds, concrete or masonary plasticizer and water reducing compounds, tall oil, lignin liquors* and *materials, equipment and supplies* in the application of the commodities named above, from Chicago, IL to points in the United States (except AK and HI); (4) *Cleaning compounds, chemicals, chemical compounds*, and *fertilizer compounds*, from Nashua, NH to points in the United States (except AK and HI); (5) *Synthetic plastics, synthetic latex, battery insulating partitions, and pulpboard*, from Owensboro, KY to points in the United States (except AK and HI); (6) *Synthetic plastics, synthetic latex, battery insulating partitions, and cleaning compounds*, from Acton, MA to points in the United States (except AK and HI); and (7) *Materials, equipment and supplies* used in the manufacture, production and distribution of the commodities named in (1) through (6) above, from points in the United States (except AK and HI) to the origins named in (1) through (6) above, and to San Leandro, CA. Restrictions: Restricted against the transportation of commodities in bulk, in tank vehicles, and commodities which by reason of size and weight require the use of special equipment and further restricted to traffic originating at or destined to the facilities of W. R. Grace & Co. (Hearing site: Boston, MA; or Washington, DC.)

NOTE.—Applicant holds contract carrier authority in MC 134150 and subs thereunder, therefore dual operations may be involved. Common control may also be involved.

No. MC 138469 (Sub-No. 66F), filed March 27, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Frozen foods* (except commodities in bulk), from the facilities of or utilized by Ore-Ida Foods, Inc., or Terminal Ice and Cold Storage Co., located at or near Plover, WI to points in AZ, AR, CA, KS, LA, MO, NE, NM, OK, and TX; and (2) *returned, refused or rejected merchandise* described in part (1) from AZ, AR, CA, KS, LA, MO, NE, NM, OK, and TX to the facilities of or utilized by Ore-Ida Foods, Inc., or Terminal Ice and Cold Storage Co., at or near Plover, WI. (Hearing sites: Chicago, IL or Milwaukee, WI.)

No. MC 138469 (Sub-No. 68F), filed March 27, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Applicant's representative: Jack Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the facilities of Welch Foods, Inc., at or near Lawton, MI, to points in AR, KS, LA, MS, MO, NM, OK, TN, and TX. (Hearing site: Chicago, IL or Detroit, MI.)

NOTE.—Applicant holds contract carrier authority in MC 136375 and dual operations may be involved.

No. MC 138635 (Sub-No. 50F), filed March 3, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Applicant's representative: Erick Meierhoefer, Suite 712, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), which are at the time moving on bills of lading issued to nonprofit shipper associations, from points in CA, to points in AL, AR, FL, GA, LA, KY, MS, NC, SC, VA, and TN. (Hearing site: Los Angeles, CA.)

NOTE.—Applicant holds contract carrier authority in No. MC 136464 (Sub 2) and other subnumbers thereunder, therefore dual operations may be involved.

No. MC 138635 (Sub-No. 51F), filed March 20, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC, 28052. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Foods* (except commodities in bulk), (a) from the facilities of Terminal Ice & Cold Storage Co., and Ore-Ida Foods, In. located at or near Plover, WI, to points in AL, CT, DE, GA, FL, MD, MA, MS, NJ, NY, NC, PA, RI, SC, VA, WV, and DC; and (b) *returned, refused and rejected merchandise*, from points in AL, CT, DE, GA, FL, MD, MA, MS, NJ, NY, NC, PA, RI, SC, VA, WV, and DC, to the facilities of Terminal Ice & Cold Storage Co. and Ore-Ida Foods, Inc. located at or near Plover, WI. (Hearing site: applicant does not specify a location)

NOTE.—Applicant holds contract carrier authority in No. MC-136464 (Sub-2), and subnumbers thereunder, therefore dual operations may be involved.

No. MC 138875 (Sub-No. 84F), filed March 20, 1978. Applicant: SHOEMAKER TRUCKING, a corporation, 11900 Franklin Road, Boise, IA 83705. Applicant's representative: F. L. Sigloh, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trusses, constructed of wood and steel combined and laminated wooden beams*, from the facilities of Trus Joist Corp. located at near Phoenix, AZ, to points in CA, NV, UT, NM, TX; (2) *steel tubing and steel components*, from points in CA to the facilities of Trus Joist Corp. located at or near Phoenix, AZ; and (3) *lumber and laminated wood products* from OR and WA, to the facilities of Trus Joist Corp. located at or near Phoenix, AZ. Restriction: Restricted to traffic originating at or destined to the above-named destination points. (Hearing site: Phoenix, AZ.)

No. MC 138882 (Sub-No. 49F), filed March 13, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, TROY, AL 36081. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Malt Beverages and related advertising materials*, from the facilities of Pabst Brewing Co., located at or near Pabst (Houston County) GA., to points in IL, IN, OH, and MI. (Hearing site: Atlanta, GA, or Birmingham, AL).

No. MC 139495 (Sub-No. 324F), filed March 14, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ladders*, from Newbern, TN to points in AZ, CA, FL, IL, IN, MI, NJ, NY, NC, OH, OR, PA, SC, and TX. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 325F), filed March 15, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *aluminum, aluminum products, and magnesium products*, from Shelbina, MO to points in AR, CT, FL, KY, MA, NJ, NY, OH, TX, and WI. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 355F), filed March 22, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk in tank vehicles) from points in FL, IL, IN, KY, LA, MO, MI, NJ, NY, PA, TN, TX, OH and WI to points in KS and Kansas City, MO. (Hearing site: Kansas City, MO.)

No. MC 139973 (Sub-No. 42F), filed March 27, 1978. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Applicant's representative: Larry D. Knox, 600 Hubbill Building, Des Moines IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), between the facilities of Terminal Ice & Cold Storage, Inc. and Ore-Ida Foods, Inc. at or near Plover, WI, on the one hand, and, on the other, points in DC, OH, MA, PA, MD, DE, NY, NJ, CT, and RI, restricted to traffic originating at or destined to the named origin point. (Hearing site: Milwaukee, WI or Chicago, IL.)

NOTE.—Applicant holds motor contract carrier authority in MC-138375 and sub numbers thereunder, therefore, dual operations may be involved.

No. MC 140033 (Sub-No. 43F), filed March 22, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Applicant's representative: Lawrence A. Winkle, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings and materials and supplies* used in the installation of floor coverings, from Trenton and Salem, NJ, Norwood, MA, Vailsgate, NY, and Whitehall, Lehigh, Lancaster, Marietta and Marcus Hook, PA, to points in TX, Denver, CO, and Kansas City, KS and Kansas City, MO. (Hearing site: Dallas, TX or Washington, DC.)

NOTE.—Applicant holds contract carrier authority in MC-142296, therefore dual operations may be involved

No. MC 140241 (Sub-No. 9F), filed March 27, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tank trailers*, between Moundridge, KS, on the one hand, and, on the other, points in the United States (except HI and AK); and (2) *materials and supplies used in the manufacture of (1) above*, from points in the United States (except HI and AK) to Moundridge, KS. Restriction: Parts (1) and (2) restricted to traffic originating at points of origin and destined to points of destination. (Hearing site: Kansas City, MO.)

No. MC 140581 (Sub-No. 24F), filed March 23, 1978. Applicant: TOMMY HAGWOOD, d.b.a. HAGWOOD ENTERPRISES, 2472 Pinson Hwy, Birmingham, AL 35217. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers), in truckaway service, from New York, NY, to points in AZ, CA, CO, NV, and UT. (Hearing site: Washington, DC.)

No. MC 140581 (Sub-No. 26F), filed March 27, 1978. Applicant: TOMMY HAGWOOD, d.b.a. HAGWOOD ENTERPRISES, 2472 Pinson Hwy, Birmingham, AL 35217. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers weighing over 15,000 pounds), in secondary movements, in truckaway service, from points in MI, IL, KY, and OH, to points in TX. (Hearing site: Houston, TX.)

No. MC 140645 (Sub-No. 6F), filed March 24, 1978. Applicant: UNITED TRUCKING, INC., 100 Stoffel Drive, Tallapoosa, GA 30176. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal containers and metal container ends;* and (2) *machinery, materials and supplies* used in the manufacture and distribution of metal containers, (A) between Tallapoosa, GA, on the one hand, and on the other, points in AZ, CA, CO, ID, ME, MT, NV, NM, NH, ND, OR, RI, SD, UT, VT, WA, and WY; and (B) between points in Montgomery County, PA, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, and WY, under a continuing contract or contracts with Southern Can Co., at Tallapoosa, GA. (Hearing site: Atlanta, GA.)

No. MC 140762 (Sub-No. 1F), filed February 15, 1978. Applicant: TRINITY INDUSTRIES TRANSPORTATION, INC., 4001 Irving Boulevard, P.O. Box 10587, Dallas, TX 75207. Applicant's representative: James W. Hightower, 136 Wynnewood, Professional Building, Dallas, TX 75224. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, cylinders, and commodities*, the transportation of which, because of size or weight, require the use of special equipment, between Oklahoma City, OK, Jackson, GA, Houston, TX, New Orleans, and Madisonville, LA, on the one hand, and, on the other, points in the United States, including AK, but excluding HI. Restricted to operations performed under continuing contract with (1) Trinity Industries, Inc., (2) Delta Tank, Inc., (3) Texas Metal Fabricating Co., and (4) Equitable Shipyards, Inc. (Hearing site: Dallas, TX.)

No. MC 141534 (Sub-No. 5F), filed March 27, 1978. Applicant: IREDELL MILK TRANSPORTATION, INC., Route 3, Box 368, Mooresville, NC 28115. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Raw apple juice*, in bulk, in tank vehicles, from Ranson, WV, to Asheville, Charlotte, Hendersonville and Lincolnton, NC, under a continuing contract, or contracts, with Ranson Fruit Company, Inc. (Hearing site: Charlotte, NC or Washington, DC.)

No. MC 141804 (Sub-No. 103F), filed March 3, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, TN 37072. Applicant's representative: Frederick J. Coffman

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(same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances and garbage disposals*, from the facilities of Thermador/Waste King, located at points in Los Angeles County, CA to points in the United States in and east of MN, IA, MO, AR, and TX. (Hearing site: Nashville, TN or Los Angeles, CA.)

NOTE.—Common control may be involved.

No. MC 142018 (Sub-No. 2F), filed March 27, 1978. Applicant: ROBERT B. CARR, d.b.a., BOB CARR REFRIGERATED TRANSPORTATION, P.O. Box 1205, Orange, CA 92688. Applicant's representative: Richard Cello, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such products* as are ordinarily dealt in by wholesalers and distributors of health foods (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Calistoga, Los Angeles, Oakland, Paradise, San Diego, and San Francisco, CA, to Kent and Redmond, WA. (Hearing site: Los Angeles, CA.)

No. MC 142152 (Sub-No. 2F), Filed March 24, 1978. Applicant: N.A.T. TRANSPORTATION, INC., 229 North Main Street, Bradner, OH 43406. Applicant's representative: Robert J. Gill, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, and apparatus* used in the analysis, movement, and treatment of gases, liquids, and solids, and (2) *parts, materials, equipment, accessories, and supplies* (except commodities in bulk) used in the manufacture, operation, and installation of the commodities in (1) above, between the facilities of Application Engineering Corp. located at or near Elk Grove Village, IL, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract or contracts with Application Engineering Corp. (Hearing site: Chicago, IL, or Washington, DC.)

No. MC 142258 (Sub-No. 5F), filed March 13, 1978. Applicant: DALE BLAND TRUCKING, INC., Rural Route No. 1, Switz City, IN 47465. Applicant's representative: Michael V. Gooch, 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in IN on and south of U.S. Hwy 50, to points in KY, on and north of a line beginning at the IL-KY State line, then south and east on Interstate Hwy 24, to its intersection with U.S. Hwy 60; then on U.S. Hwy 60 to U.S. Hwy 62; then northeast on U.S. Hwy 62 to U.S. Hwy 31E; then north on U.S. Hwy 31E to the KY-IN State line. (Hearing site: Indianapolis, IN, or Louisville, KY.)

No. MC 142310 (Sub-No. 3F), filed March 27, 1978. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Applicant's representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods* (except in bulk), from the facilities of Terminal Ice & Cold Storage Co. at or near Plover, WI, to points in and east of ND, SD, NE, KS, OK, and TX and returned, refused and rejected shipments, from points in and east of ND, SD, NE, KS, OK, and TX, to the facilities of Terminal Ice & Cold Storage Co. at or near Plover, WI. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at the named origins and destined to the named destinations. (2) *Frozen foods* (except in bulk) from the facilities of Ore-Ida Foods, Inc. at or near Plover, WI, to points in and east of ND, SD, NE, KS, OK, and TX. Restriction: Restricted to traffic originating at the named origin and destined to the named States. (Hearing site: Boise, ID or Stevens Point, WI.)

No. MC 142341 (Sub-No. 2F), filed March 27, 1978. Applicant: THE WEST BROS. CORP., P.O. Box 645, Melbourne, IA 50162. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), between the facilities of Terminal Ice & Cold Storage, Inc. and Ore-Ida Foods, Inc. at or near Plover, WI, on the one hand, and, on the other, points in IL, IN, IA, KS, MO, and OH, restricted to traffic originating at or destined to the named points. (Hearing site: Milwaukee, WI or Chicago, IL.)

No. MC 142559 (Sub-No. 7F), filed March 27, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Applicant's representative: John P. McMahon, Suite 1800, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hot tops and materials and supplies* used in the manufacture and installation of hot tops from Conneaut, OH, to Marshall, TX. (Hearing site: Columbus, OH.)

NOTE.—Applicant holds common carrier authority in MC-12919, therefore, dual operations may be involved. Common control may also be involved.

No. MC 142559 (Sub-No. 8F), filed March 27, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Applicant's representative: John P. McMahon, Suite 1800, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances and parts, materials and supplies* used in the manufacture, packaging, sale and distribution of such commodities, from Louisville, KY to points in CT, DE, ME, MA, MI, NH, NJ, NY, PA, RI, VT, DC, and Arlington County, VA. (Hearing site: Louisville, KY or Columbus, OH.)

NOTE.—Applicant holds contract carrier authority in No. MC-139254 and subs thereunder therefore dual operations may be involved. Common control may also be involved.

No. MC 142559 (Sub-No. 9F), filed March 27, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Applicant's representative: John P. McMahon, Suite 1800, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Valves, insulators, clamps, arresters, couplers, wheels, switches, poles and harps, and fittings, fixtures, shields, compounds, bolts, nuts and parts* used in the manufacture, assembling and installation of such commodities, (1) from Mansfield and Barberton, OH to points in and east of the states of MN, IA, MO, AR, and LA (except OH), and (2) from Newell, WV to points in and east of the states of MN, IA, MO, AR, and LA (except WV). (Hearing site: Columbus, OH.)

NOTE.—Applicant holds contract carrier authority in No. MC-129254 and subs thereunder therefore dual operations may be involved. Common control may also be involved.

No. MC 142559 (Sub-No. 10F), filed March 27, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Applicant's representative: John P. McMahon, Suite 1800, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and materials and supplies* used in the manufacture and assembling of furniture parts, (1) from Ennis, TX to Atlanta, GA; and (2) from Simpsonville, KY, to Ennis, TX. (Hearing site: Dallas, TX.)

NOTE.—Applicant holds contract carrier authority in MC-139254 and other subs, therefore dual operations may be involved. Common control may be involved.

No. MC 143277 (Sub-No. 1F), filed March 23, 1978. Applicant: PRINTERS EXPRESS, INC., One Hackensack Avenue, South Kearny, NJ 07032. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: I. (1) *Printed matter, advertising materials, business forms, envelopes*, and (2) *materials and supplies* used in the manufacture, sale and distribution of the commodities in (1) above, between East Rutherford, NJ, on the one hand, and, on the other, New York City, NY; Nassau and Suffolk Counties, NY; Philadelphia, PA; Concord, NH and West Haven, CT. (1) *Printed matter, advertising materials, business forms, envelopes* and (2) *commodities* the transportation of which is partially exempt from the economic regulation of the Commission under Section 203(b)(7) of the Interstate Commerce Act when shipped in mixed loads or shipments with the commodities named in (1) above, from East Rutherford, Clifton, Kearny, Fairview, Fairfield, Pennsauken, Hillside, Jersey City, Carlstadt, Fairlawn, NJ; Philadelphia, PA; Concord, NH; West Haven, CT; New York City, NY; and points in Nassau and Suffolk Counties, NY, to points in CA, CO, GA, IL, IA, KS, MI, MN, MO, NC, OH, WA, PA, TX, UT, FL, IN, MA, NY, KY, WV, SC, TN, MD, LA, AZ, WI, AL, CT, OK, RI, VA, and DC under a continuing contract or contracts with Meehan-Tooker, Division of John Blair & Co. (Hearing site: Newark, NJ.)

No. MC 144041 (Sub-No. 11F), filed March 27, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Applicant's representative: K. Edward Wolcott, Watkins & Daniell, P.C., P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials and supplies and equipment* used in the manufacture of plastic articles (except in bulk), between the facilities of Mobil Chemical Co., Plastics Division at Jacksonville, and Springfield, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Chicago, IL.)

NOTE.—Applicant holds contract carrier authority in MC 140883 and Sub Numbers thereunder; therefore dual operations may be involved.

No. MC 144077 (Sub-No. 2F), filed March 9, 1978. Applicant: MINI TRUCK LINES, INC., Route 3, Lawrenceburg, TN 38464. Applicant's representative: Jane Jennings (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated mini cars, replicas, (toys)*, from Phoenix, AZ, to points in the United States (except AK and HI), under a continuing contract or contracts with Mid Town Motors. (Hearing site: Phoenix, AZ or Lawrenceburg, TN.)

No. MC 144180 (Sub-No. 2F), filed March 23, 1978. Applicant: LOUIS HOFFMAN, d.b.a. LOUIS HOFFMAN TRUCKING, P.O. Box 86, Westfield, IA 51062. Applicant's representative: D. Douglas Titus, Suite 510 Benson Building, Sioux City, IA 51101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hides, pelts, skins and pieces therefrom;* and (2) *materials, supplies and equipment* used in the conduct of business by hide companies, between points in IA, NE, and MN, in non-radial movement. Restriction: The operations requested herein are limited to a transportation service to be performed under a continuing contract or contracts, with Iowa Beef Processors, Inc. (Hearing site: Omaha, NE or Kansas City, MO.)

No. MC 144315 (Sub-No. 1F), filed March 3, 1978. Applicant: JOHN M. PFEIFER, d.b.a. PORT CITY LEASING, 602 20th Street North, Lewiston, ID 83501. Applicant's representative: Boyd Hartman, 10655 Northeast Fourth, Suite 210, Bellevue, WA 98004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, particle board and millwork*, from points in Idaho, Clearwater, Lewis, Nez Perce, Latah, Kootenia, Benewah, Bonner, and Boundary Counties, ID, and Asotin County, WA, to points in UT and CO. (Hearing site: Salt Lake City, UT or Boise, ID.)

No. MC 144327 (Sub-No. 1F), filed February 27, 1978. Applicant: JOHN S. NIHILL, d.b.a. NIHILL TRUCKING, Box 233, Ypsilanti, ND 58497. Applicant's representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Lumber and wood products*, from points located at or near Arlington, Centralia, and Stanwood, WA, and Eugene, OR, to Valley City, ND, under a continuing contract or contracts with Arkota Industries, Inc. (Hearing site: Fargo, Valley City, ND or Minneapolis-St. Paul, MN.)

No. MC 144401 F, filed March 3, 1978. Applicant: GENERAL OILFIELD TRUCKING, INC., P.O. Box 943, Morgan City, LA 70380. Agent: J. N. Thomas, P.O. Box 947, Morgan City, LA 70380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, materials, supplies, and equipment* incidential to, or used in the construction and maintenance of facilities for the discovery, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas, petroleum and sulphur, and oil and gasoline, between points in LA on the one hand, and, on the other, points in Cameron, Willacy, Kenedy, Hidalgo, Kleberg, Nueces, San Patricio, Aransas, Refugio, Calhoun, Matagorda, Brazoria, Chambers, Jefferson, Orange, Liberty, Harris, Montgomery, Victoria, Lavaca, Wharton, Austin, Midland, Ector, Martin, Howard, Wichita, Clay, Jackson, Bee, McLennan, Taylor, Uvalde, Medina, Reeves, Ward, and Lubbock Counties, TX. (Hearing site: Baton Rouge or New Orleans, LA.)

No. MC 144470 F, filed March 15, 1978. Applicant: COBB TRUCKING SERVICE, Route 3, Box 177, Bryan, TX 77801. Applicant's representative: Lawrence A. Winkle, Winkle and Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate, urea, fertilizer and fertilizer material*, in bags and in bulk (except in tank vehicles), from the facilities of NIPAK, Inc., located at or near Kerens, Gainesville, Littlefield, Terrell, and Pittsburg, TX, to points in AR, CO, KS, LA, MO, NM, and OK. (Hearing site: Dallas, TX.)

No. MC 144518 F, filed March 27, 1978. Applicant: LEE'S READY MIX & TRUCKING, INC., 130 North State, North Vernon, IN 47265. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Forgings, castings, and steel*, from the plantsite of North Vernon Forge, Inc., in North Vernon, IN, to points in MI, KY, and OH, under a contract or continuing contracts with North Vernon Forge, Inc., of North Vernon, IN. (Hearing site: Indianapolis, IN or Chicago, IL.)

No. MC 144578 F, filed March 27, 1978. Applicant: LIME, INC., 10111 Mercier Avenue, Dearborn, MI 48120. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone and limestone products*, from Detroit, MI to points in IL, IN, IA, KY, MO, NY, OH, PA, WV, WI, MD, VA, DC, DE, and NJ. (Hearing site: Chicago, IL.)

NOTE.—Dual operations may be involved. Common control may be involved.

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No. MC 2661 (Sub-No. 16F), filed April 11, 1978. Applicant: INDIAN TRAILS, INC., 109 East Comstock Street, Owosso, MI 48867. Applicant's representative: Charles A. Webb, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, in executive coach service, beginning and ending at points in MI and extending to points in the United States, (including AK and excluding HI). (Hearing site: Detroit, MI.)

NOTE.—Applicant is filing concurrently a petition for a declaratory order defining executive coach service in MC-C-10095.

No. MC 2890 (Sub-No. 54F), filed March 27, 1978. Applicant: AMERICAN BUSLINES, INC., 1501 South Central Avenue, Los Angeles, CA 90021. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers in the same vehicle with passengers*, between Indio, CA and Calexico, CA, from Indio, CA over CA Hwy 111 to Calexico, CA, serving all intermediate points, and return over the same route. (Hearing site: El Centro, CA.)

No. MC 61016 (Sub-No. 48F), filed April 11, 1978. Applicant: PETER PAN BUS LINES, INC., 1776 Main Street, Springfield, MA 01103. Applicant's representative: Charles A. Webb, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle, with passengers, in charter and special operations, in executive coach service, (1) between points in ME, NH, VT, MA, RI, CT, and NY; and (2) beginning and ending at the points named in (1) above, and extending to points in the United States (including AK but excluding HI). (Hearing site: Boston, MA.)

NOTE.—Applicant is filing concurrently a petition for a declaratory order defining executive coach service in MC-C-10095.

No. MC 100327 (Sub-No. 8F), filed March 27, 1978. Applicant: LONGUEIL TRANSPORTATION, INC., 144 Shaker Road, P.O. Box 473, East Longmeadow, MA 01028. Applicant's representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Passengers and their baggage*, in special operations, between points in Hampden County, MA and Hartford County, CT, on the one hand, and, on the other, John F. Kennedy International Airport and LaGuardia Airport located in New York, NY and Newark Airport at Newark, NJ. (Hearing site: Hartford, CT or Boston, MA.)

No. MC 108531 (Sub-No. 21F), filed April 11, 1978. Applicant: BLUE BIRD COACH LINES, INC., 502-04 Barry Street, Olean, NY 14760. Applicant's representative: Ronald W. Malin, Bankers Trust Building, Jamestown, NY 14701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, in executive coach service, (1) between points in OH, PA, and NY; and (2) beginning and ending at the points named in (1) above, and extending to points in the United States including AK but excluding HI. (Hearing site: Buffalo, NY.)

NOTE.—Applicant is filing concurrently a petition for a declatory order defining executive coach service in MC-C-10095. Common control may be involved.

No. MC 109173 (Sub-No. 4F), filed March 27, 1978. Applicant: DELTA BUS CO., a corporation, 12154 North Saginaw, Clio, MI 48420. Applicant's representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round trip and one way sightseeing and pleasure tours, in charter or special operations, between Emmet, Charlevoix, Leelanau, Antrim, Benzie, Grand Traverse, Kalkaska, Manistee, Wexford, Missaukee, Mason, Lake, Osceola, Clare, Oceana, Newaygo, Mecosta, Isabella, Montcalm, and Gratiot Counties, MI, on the one hand, and, on the other hand, points in the United States (except HI). Restriction: The one-way operations are restricted to transportation of passengers and their baggage having a prior or subsequent movement from or to one of the above-named counties in MI and further restricted to passengers who are residents of one of the above-named counties in MI. (Hearing site: Lansing, MI.)

NOTE.—Common control may be involved.

No. MC 109736 (Sub-No. 39F), filed March 27, 1978. Applicant: CAPITOL BUS CO., a corporation, 1061 South Cameron Street, Harrisburg, PA 17104. Applicant's representative: S. Berne Smith, P.O. Box 1166, (100 Pine Street), Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, (1) between Baltimore, MD, and Washington, DC, serving Baltimore, MD for purposes of joinder only, and serving no intermediate points except the junction of MD Hwy 46 and the Baltimore-Washington Parkway for purposes of joinder only, from Baltimore, MD over MD Hwy 3 and Baltimore-Washington Parkway to junction U.S. Hwy 50, then over U.S. Hwy 50 to Washington, DC and return over the same route; (2) between the junction of MD Hwy 46 and the Baltimore-Washington Parkway and Baltimore-Washington International Airport, serving no intermediate points, and restricted to traffic moving to or from points north of Baltimore, MD, and serving the junction of MD Hwy 46 and the Baltimore-Washington Parkway for purposes of joinder only, from the junction of MD Hwy 46 and the Baltimore-Washington Parkway over MD Hwy 46 to the Baltimore-Washington International Airport, and return over the same route. (Hearing site: Harrisburg, PA or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 109780 (Sub-No. 76F), filed March 27, 1978. Applicant: TRAILWAYS, INC., 1500 Jackson Street, Dallas, TX 75201. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Bakersfield and Barstow, CA; from Bakersfield, CA over CA Hwy 58 to Barstow, CA, serving all intermediate points, and return over the same route. (Hearing site: Fresno, CA.)

No. MC 109802 (Sub-No. 36F), filed March 23, 1978. Applicant: LAKELAND BUS LINES, INC., 425 East Blackwell Street, Rockaway Township, NJ 07866. Applicant's representative: William Ryan, 345 Parsippany Boulevard, Parsippany, NJ 07054. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (A) Over regular routes: (1) *Passengers and their baggage and express and newspapers*, in the same vehicle with passengers between Bernards Township, NJ and the Borough of Manhattan, New York, NY over the following route: Commencing at the entrance to the U.S. Veterans Hospital on Valley Road (NJ Hwy 512) then proceeding easterly over Valley Road through Passaic Township to the Township of Berkeley Heights, NJ, then continuing on NJ Hwy 512, also herein known as Springfield Avenue, through Berkeley Heights to the Borough of New Providence, NJ, then continuing on NJ Hwy 512 (Springfield Avenue) through New Providence to Summit, NJ to the junction of Springfield Avenue and Morris Avenue, Summit, NJ, then proceeding easterly through Summit, NJ over Morris Avenue and Broad Street to the junction composed of NJ Hwy 24, Morris and Essex Turnpike, Springfield Avenue and Millburn Avenue all in and at the area where Summit, Millburn, and Springfield Township meet, and hereby described as confluent junction (SSM), then from said junction easterly over NJ Hwy 24 to its junction with Interstate Hwy 78, then over Interstate Hwy 78 to its junction with the NJ Turnpike to Secaucus, NJ to the Lincoln Tunnel connecting artery at the vicinity of Exit 16-E of the NJ Turnpike, then over said connecting hwy to and through the Lincoln Tunnel to the Port Authority of NY and NJ at 41st Street and 8th Avenue, New York, NY, also return over said routes from said Port Authority Bus Terminal to point of beginning in Bernards Township, NJ, serving all intermediate points in both directions, except those east of Vaux Hall Road and Liberty Street, Union, NJ. (2) Between the confluent junction described in paragraph one as (SSM) and using the traffic pattern described thereat, and Borough of Manhattan, New York, NY as follows: Commencing from said junction, including Essex and Main Streets, proceeding easterly over Millburn Avenue through Millburn Township to junction with Vaux Hall Road in the Vaux Hall section of Union Township, then easterly on Vaux Hall Road to Liberty Street, Union, NJ, to junction NJ Hwy 24 and Interstate Hwy 78, then as described in paragraph one easterly to the Port Authority Bus Terminal, 41st Street and 8th Avenue, New York, NY, over Interstate Hwy 78, the NJ Turnpike to connecting hwy in Secaucus for the Lincoln Tunnel over said hwy and tunnel to said termini, and return therefrom, serving all intermediate points in both directions between the junction (SSM) at point of beginning and points on and west of Liberty Street and Vaux Hall Road, Union, NJ. (3) Between Morris Township, NJ and the Borough of Manhattan, NY, as follows: Commencing at the intersection of Normandy Road and Madison Avenue, Morris Township, NJ, from said intersection easterly on Madison Avenue (NJ Hwy 24) through Madison to its junction with Main Street, Madison, and then continuing easterly on Main Street through the remainder of Madison to the Borough of Chatham, NJ, then from there continuing on Main Street, Chatham, through Chatham to junction with NJ Hwy 24 just east of Passaic River and at NJ Hwy 24 and River Road, Summit, NJ (also a junction for several hwys known locally as the Short Hills Mall (Millburn Township) then easterly on NJ Hwy 24, using both express and service roads on and along NJ Hwy 24 through Millburn Township and Summit (the road in part divides the municipalities) to the confluent junction (SSM) on NJ Hwy 24, then continuing on to the Port Authority Bus Terminal, New York, NY as described in paragraph one (1), namely over Interstate Hwy 78 to the NJ Turnpike and then northerly to the Lincoln Tunnel exit of the NJ Turnpike, then easterly over the Lincoln Tunnel access hwy through the Lincoln Tunnel to the Port Authority Bus Terminal, with return from said termini over same said routes to the point of beginning at the Morris Township intersection of Normandy Road and Madison Avenue, serving all intermediate points in both directions on and west of the junction of Liberty Street and Vaux Hall Road with Interstate Hwy 78, Union, NJ (NJ Hwy 24 to exit 50-B westbound, and Liberty Street to NJ Hwy 24, eastbound). (4) Authority is also sought to regularly operate an alternate segment of this route by operating over River Road, Summit, from its junction with NJ Hwy 24 to its intersection with Morris Avenue, Summit, and then over Morris Avenue, Summit, where it intersects Springfield Avenue, Summit, described in paragraph one (1), from which point service will continue eastward to New York, NY as described in paragraph one (1), namely, over Broad Street, Summit, to the (SSM) junction, then over NJ Hwy 24 to its junction with Interstate Hwy 78, then over Interstate Hwy 78 to its junction with the NJ Turnpike, Lincoln Tunnel access road, and through the Lincoln Tunnel to the Port Authority Bus Terminal, and also as described in paragraph two (2), namely, over the route over Millburn Avenue, Millburn. Return from New York, NY will be over said routes, serving all points on this segment to Summit, both inbound to, and outbound from New York, NY. Tacking is intended where segments join in paragraphs (1), (2), (3) and (4). (B) Over irregular routes: *Passengers and their baggage* in charter and special operations between points in Somerset, Morris, Union, and Essex Counties, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Suburban Hotel, Summit, NJ.)

NOTE.—Common control may be involved.

No MC 140554 (Sub-No. 1F), filed March 13, 1978. Applicant: HEY, INC., Box 366, Jasper, MN 56144. Applicant's representative: Grant J. Merritt, 415 Peavey Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers and in separate vehicles, in round-trip charter operations and in special operations in round-trip sightseeing and pleasure tours beginning and ending at points in, (1) Cottonwood and Murray Counties, MN, and (2) Willmar, MN, and extending to points in the United States (including AK but excluding HI). (Hearing site: Minneapolis, MN.

No. MC 141922 (Sub-No. 2F), filed March 22, 1978. Applicant: A. B. MINI BUS TOURS, INC., 37 29 31st Street, Long Island City, NY 11101. Applicant's representative: Bruce J. Robbins, 118 21 Queens Boulevard, Forest Hills, NY 11374. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, of: *Passengers and their baggage*, in special and charter operations, limited to the transportation of not more than 14 passengers in any one vehicle, not including the driver and not including children under 10 years of age who do not occupy a seat or seats, (1) between the airport facilities at Newark, NJ, and hotels in New York County, NY, and (2) between Atlantic City, NJ, on the one hand, and, on the other, the airport facilities at Newark, NJ, and New York, NY, and hotels in New York County, NY. (Hearing site: New York, NY.)

No. MC 142710 (Sub-No. 1F), filed March 27, 1978. Applicant: NOMADIC ENTERPRISES, INC., d.b.a., AMERIKAMP OVERLAND ADVENTURE TOURS, 40 Highland Avenue, Easthampton, MA 01027. Applicant's representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Passengers and their baggage and camping equipment*, in special operations, in camping tours, between Portland ME, Portsmouth, NH, New Haven, Hartford, Storrs, Fairfield, New London, and Bradley International Airport, Windsor Locks, CT, Providence, RI, Los Angeles, Berkeley, and San Francisco International Airport, San Francisco, CA, Syracuse, Albany, Buffalo, Hamilton, Plattsburg, Rochester, and New York, NY, Logan International Airport, located at Boston, MA, and points in Worcester, Hampden, Hampshire, Franklin and Berkshire Counties, MA, Red Bank and Asbury, NJ, Washington, DC, Atlanta, GA, Miami, Orlando, Tampa, and Daytona, FL, New Orleans, LA, Houston, Austin, and Dallas, TX, Phoenix and Tuscon, AZ, Ann Arbor, Kalamazoo, and Detroit, MI, Denver, Durango, and Boulder, CO, Seattle, Tacoma, and Bellingham, WA, St. Paul, MN,

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Portland and Eugene, OR, Anchorage, AK, and Alburquerque, NM, on the one hand, and, on the other, all points in the United States (excluding HI) but including AK and all ports of entry on the International Boundary Line between the United States and Canada and Mexico). Restriction: The service authorized herein to be performed at Logan International Airport, Boston, MA, shall be restricted to the transportation of passengers having a prior or subsequent movement by air in foreign commerce. (Hearing site: Washington, DC.)

No. MC 143296 (Sub-No. 2F), filed March 27, 1978. Applicant: PEACH STATE BUS LINES, INC., 151 Mills Street NW., Atlanta, GA 30313. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes in the transportation of: *Passengers and their baggage* in round-trip charter operations beginning and ending at points in Fulton and DeKalb Counties, GA, and extending to points in AL, CA, DC, FL, IL, IN, LA, MI, MS, MO, NE, NV, NJ, NM, NY, NC, OH, PA, SC, TN, TX, and VA. (Hearing site: Atlanta, GA.)

No. MC 144324 (Sub-No. 1F), filed March 15, 1978. Applicant: AUTOBUS LATERRIERE INC., 4543 Boulevard Talbot, Chicoutimi (PQ) G7H 5a9. Applicant's representative: Guy Poliquuin, 580 Grande Allee east, Quebec (PQ) G1R 2K3. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Passengers and their baggage*, from the ports of entry on the international boudnary line between the United States and Canada, located in ME, NH, VT, NY, and MI, to points in the United States (except AK and HI), restricted to the transportation of passengers beginning and ending at Vallayfield, PQ, Canada. (Hearing site: Montpelier, VT.)

No. MC 144464F, filed March 16, 1978. Applicant: U.S. STUDENT TRAVEL SERVICE, INC., d.b.a., TRAVELON TOURS, 801 Second Avenue, Room 1500, New York, NY. 10017. Applicant's representative: Herbert A. Rosenthal, 1747 Pennsylvania Avenue NW., Suite 300, Washington, DC 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Passengers and their baggage*, in all-expense paid special tours, in vehicles with a capacity greater than 35 pasengers, beginning and ending New York, NY, and San Francisco, CA, and extending to points in the United States (except HI, and AK). (Hearing site: New York, NY, or Washington, DC.)

No. MC 144469 F, filed March 22, 1978. Applicant: OLE SOUTH DIXIE-LAND TOURS, LTD., 212 South Pearl Street, Natchez, MS 39120. Applicant's representative: Joseph S. Zuccaro, P.O. Box 1047, Natchez, MS 39120. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle from Adams County, MS (Natchez) to points in TX, LA, AR, TN, AL, and FL as well as to other points in MS. (Hearing site: Natchez or Jackson, MS.)

No. MC 144534-F, filed March 23, 1976. Applicant: HURON BAY TRANSIT, INC., Route 2, Box 39, L'Anse, MI 49946. Applicant's representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomsfield Hills, MI 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip and one-way sightseeing and pleasure tours in special and charter operations between points in Alger, Baraga, Delta, and Marquette Counties in the Upper Peninsula and MI, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). Restriction: The one-way operations authorized immediately above are restricted to the transportation of passengers and their baggage having a prior or subsequent movement from or to one of the above-named points in MI and are further restricted to the transportation of residents of one of the above-named counties in MI. (Hearing site: Marquette, MI, Green Bay, or Milwaukee, WI.)

BROKERS

No. MC 130486 F, filed March 27, 1978. Applicant: DURKEE TRAVEL BUREAU, INC., P.O. Box 3599, Reno, NV 89505. Applicant's representative: Richard G. Campbell, One East First Street, Suite 900, Reno, NV 89501. Authority sought to engage in operation, in interstate commerce, as a *broker* at Reno, NV, to sell or offer to sell the transportation of: *Passengers and their baggage*, in special and charter operations, in sightseeing and pleasure tours by motor bus transportation, between points in CA and NV, on the one hand, and, on the other, points in CA, NV, WA, OR, AZ, UT, CO, WY, MT, and ID. (Hearing site: Reno, NV or Carson City, NV.)

No. MC 130499F, filed April 11, 1978. Applicant: OMNI TRAVELS, INC., 48 Salem Street, Thomasville, NC 27360. Applicant's representative: James F. Morgan, Law Building, 212 East Green Street, High Point, NC 27260. Authority sought to engage in operation in interstate or foreign commerce, as *a broker* at Thomasville, NC, to sell or offer to sell the transportation of Passengers and their baggage in the same vehicle, in special and charter operations in round trip sightseeing, pleasure and eudcational tours by *motor carrier*, beginning and ending at points in Alamance, Chatham, Davidson, Forsyth, Guilford, Lee, Montgomery, Moore, Orange, Randolph and Stanley Counties, NC and extending to points in the United States, including AK and HI. (Hearing site: Greensboro, Charlotte, or any city in NC.)

No. MC 130492 F, filed April 6, 1978. Applicant: DONALD J. FIEKER AND CHARLOTTE FIEKER, a Partnership, d.b.a. D. and C. TOURS, 332 East First South Street, Carlinville, IL 62626. Applicant's representative: William Hebron, North Side Square, Carlinville, IL 62626. Authority sought to engage in operation, in interstate or foreign commerce, as *a broker*, at Carlinville, IL, to sell or offer to sell the transportation of Passengers and their baggage, in round-trip sight seeing and pleasure tours by *motor common carrier*, beginning and ending at points in Macoupin, Sangamon, Jersey, Morgan, Greene and Montgomery Counties, IL and extending to points in the United States (except AK and HI). (Hearing site: Springfield, IL.)

No. MC 130493F, filed April 12, 1978. Applicant: J. I. O'DELL, d.b.a. TOPEKA TRAVEL CENTER, 120 West 6th Street, Topeka, KS 66603. Applicant's representative: Michael J. Unrein, P.O. Box 4385, Topeka, KS 66604. Authority sought to engage in operations, in interstate or foreign commerce as *a broker* at Topeka, KS, to sell or offer to sell the transportation of Passengers and their baggage in special and charter operations, by *motor*, beginning and ending at Topeka, KS and extending to points in the United States, including AK and HI. (Hearing site: Kansas City, KS.)

FINANCE APPLICATION

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission on or before June 12, 1978. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13187 (second supplemental notice). In the original notice published April 21, 1977, Kroblin Refrigerated Xpress, Inc. controlled by Allen E. Kroblin sought authority to permanently control A.C.E. Freight, Inc. through the purchase of the capital stock of A.C.E.'s parent Fleetwood Investment Co. The transaction was amended and direct acquisition through control and merger was approved in an order served October 12, 1977. The first supplemental FEDERAL REGISTER notice of that amendment was published October 27, 1977. The parties have now filed a petition for further modification of the transaction. It has been proposed that Kroblin Transportation Systems, Inc., an affiliate of Kroblin Refrigerated Xpress, Inc., be substituted as vendee in the 210a(b) and the section 5 applications. Kroblin Transportation Systems, Inc. is a *general* and *specific commodities* carrier operating over regular and irregular routes primarily in midwestern States. Substitution of this carrier as temporary lessee has already been approved in the 210a(b) matter in an order served April 21, 1978.

No. MC-F-13572. Authority sought for purchase by PUTNAM TRANSFER & STORAGE CO., 1502 Woodlawn Avenue, Zanesville, OH, 43701, of a portion of the operating rights of Automotive Merchandisers of Texas, Inc. and Ohio Merchandising Corp., 1880 Moler Avenue, Columbus, OH, 43207, and for acquisition by Ralph E. Hennessey, 1502 Woodlawn Avenue, Zanesville, OH, 43701, of control of such rights through the purchase. Applicant's attorney: A. Charles Tell, 100 East Broad Street, Columbus, OH, 43215. Operating rights sought to be purchased: *General commodities*, except those of unusual value, classes A and B explosives, *household goods* as defined by the Commission, commodities in bulk, and those requiring special equipment, over regular routes, between Chillicothe, OH and Huntington, WV over U.S. Hwys 23 and 52, serving no intermediate points. Vendee is authorized to operate as a *common carrier* in OH. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-57311 (Sub-No. 12)F is a directly related matter.

No. MC-F-13575. Authority sought for purchase by SEWELL MOTOR EXPRESS, INC., 149 South Mulberry Street, Wilmington, OH 45177, of a portion of the operating rights of Automotive Merchandisers of Texas, Inc. and Ohio Merchandising Corp., 1800 Moler Street, Columbus, OH 43207, and for acquisition by Howard Sewell, 684 Timberlane, Wilmington, OH 45177, of control of such rights through purchase. Applicant's attorneys: Joe F. Asher, 88 East Broad Street, Columbus, OH 43215 and John Fessenden, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Operating rights sought to be transferred: *General commodities*, with exceptions, over regular routes, between Charleston, WV and Beckley, WV over U.S. Hwy 119 and WV Hwy 3; from Ashland, KY to Oceana, WV and Williamson, WV, over U.S. Hwy 60 and WV Hwy 10, and U.S. Hwy 119; between Huntington, WV and Williamson, WV over U.S. Hwy 52; between Huntington, WV and Logan, WV over WV Hwy 10; between Racine, WV and Logan, WV over U.S. Hwy 119; between Huntington, WV and Welch, WV over U.S. Hwy 52, WV Hwy 80, WV Hwy 83, WV Hwy 16, WV Hwy 10 and U.S. Hwy 119; between Bluefield, WV and Honaker, VA over U.S. Hwy 19 and U.S. Hwy 80; between Claypool Hill, VA and the VA-KY line over U.S. Hwy 460; from Bluefield, WV to Bristol, TN over U.S. Hwy 21 and U.S. Hwy 11; from Bluefield, WV to Appalachia, VA over U.S. Hwy 19, VA Hwy 71, Alt. U.S. Hwy 58 and U.S. Hwy 23; from Bluefield, WV to Rich Creek, VA over U.S. Hwy 21 and U.S. Hwy 219; malt beverages and empty malt beverage containers between Columbus, OH and Montgomery, WV and between Newark, OH and Lancaster, OH; auxiliary truck-rail service between Beckley, WV and Mabscott, WV, Raleigh, WV, Skelton, WV and Cranberry, WV over WV Hwy 16, WV Hwy 3 and U.S. Hwys 19 and 21, including certain intermediate and off-route points as more fully described in Certificate MC-32562 and certain subs thereunder. Sewell Motor Express, Inc. is authorized to operate in OH under Certificates of Registration, as a *common carrier*, in MC-57992 and subs numbers thereunder. Approval of proposed transaction will result in split of Transferors' authority. Application has not been filed for temporary authority under Section 210a(b). (Hearing site: Columbus, OH.)

No. MC-F-13577. Authority sought for purchase by MISTLETOE EXPRESS SERVICE, d.b.a. Mistletoe Express, 111 N. Harrison, P.O. Box 25125, Oklahoma City, OK 73125, of a portion of the operating rights of McLean Trucking Co., P.O. Box 21B, Winston-Salem, NC 27102, and for acquisition by The Oklahoma Publishing Co., 500 North Broadway, OK 73102, of control of such right through the transaction. Applicant's attorneys: Max G. Morgan, 223 Ciudad Building, Oklahoma City, OK 73112 and David F. Eshelman, Box 213, Winston-Salem, NC 27102. Operating rights sought to be transferred: *General commodities* (with exceptions), as a *common carrier* over regular routes, between Memphis, TN and Little Rock, AR, serving the intermediate points of Lonoke, AR; from Memphis, TN to Little Rock, AR over U.S. Hwy 70, and return over the same route. Transferee is authorized to operate as a *common carrier* in AR, KS, MO, OK, and TX. Application has not been filed for temporary authority under Section 210a(b).

No.MC-F-13581. Authority sought for purchase by ST. JOHNSBURY TRUCKING CO., INC., 87 Jeffrey Avenue, Holliston, MA 01746, of a portion of the operating rights of Old Colony Transportation Co., Inc., 676 Dartmouth Street, South Dartmouth, MA 01746 and for acquisition by S.J.T., Inc., 87 Jeffrey Avenue, Holliston, MA 01746 of control of such rights through the purchase. Applicants' Attorneys: Francis P. Barrett, P.O. Box 238, Milton, MA 02187 and Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Operating rights sought to be transferred: *General commodities*, with the usual exceptions, as a *common carrier*, over regular routes between Albany, NY and Champlain, NY. From Albany over U.S. Hwy 9, serving all intermediate points and points in Clinton, Essex, Rensselaer, Saratoga, Warren and Washington Counties, NY as off-route points in connection with carrier's regular route operation; between Malone, NY and Rouses Point, NY serving all intermediate points and the off-route point of Burke, NY. From Malone over U.S. Hwy 11 to Rouses Point and return over the same route; between Malone, NY and Lake Placid, NY, serving all intermediate points and the off-route points of Bloomingdale, Vermontville, and Gabriels, NY. From Malone over NY Hwy 30 to jct NY Hwy 86, then over NY Hwy 86 to Lake Placid, and return over the same route; between Malone, NY and Piercefield, NY serving all intermediate points and the off-route point of Conifer, NY from Malone over NY Hwy 30 to jct NY Hwy 3, then over NY Hwy 3 to Piercefield and return over the same route; between Malone, NY and St. Regis Falls, NY, serving all intermediate points and the off-route point of S. Bangor, NY. From Malone over U.S. Hwy 11 to jct NY Hwy 95 to jct unnumbered Hwy then unnumbered Hwy via Dickincon and Dickinson Center to St. Regis Falls and return over the same route. Between Malone, NY and Plattsburgh, NY serving all intermediate points. From Malone over U.S. Hwy 11 to jct unnumbered Hwy, then over unnumbered Hwy via Bellmont Center to jct NY Hwy 374, then over NY Hwy 374 to jct NY Hwy 3, then over NY Hwy 3 to Plattsburgh and return over the same route; between Piercefield and Goucerneur, NY serving all intermediate points and the off-route point of Newton Falls, NY. From Piercefield over NY Hwy 3 to jct NY Hwy 58, then over NY Hwy 58 to Gouverneur and return over the same route; between Malone, NY and Hogansburg, NY. From Malone over U.S. Hwy 11 to Moira, NY, then over NY

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Hwy 95 to Hogansburg and return over the same route; from Malone over NY Hwy 37 to Hogansburg and return over the same route; between Malone, NY and Dickinson Center, NY. From Malone over NY Hwy 30 to jct NY Hwy 99, then over NY Hwy 99 to jct NY Hwy 95, then over NY Hwy 95 to Dickinson Center, and return over the same route; between Malone, NY and Fine, NY. From Malone over NY Hwy 30 to jct NY Hwy 3, then over NY Hwy 3 to jct NY Hwy 58 at or near Fine and return over the same route. Irregular routes *General commodities*, with exceptions, from Malone, NY to points in Franklin and St. Lawrence Counties, NY with no transportation for compensation on return except as otherwise authorized. Transferee operates as a *common carrier* over regular and irregular routes in the States of CT, DE, ME, MA, NH, NJ, NY, PA, RI, VT, DC. S.J.T. holds no authority from the Commission. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Boston, MA.)

No. MC-F-13582. Authority sought for control through stock purchase by ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Boulevard, Winnipeg, Manitoba, Co., R2J 3K4, of S. S. Baird & Sons, Ltd., 1000 Hanwell Road, Fredericton, New Brunswick, CO and for acquisition by F. E. Arnold and G. R. Arnold for control of such rights and property through the purchase. Applicant's attorney: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be controlled are: *lumber* and *fuel blocks*, as a *common carrier*, over irregulr routes, from Ports of Entry on the U.S.-Canada Boundary Line at or near Calais, Houlton, and Vanceboro, ME, to points in ME, NH, VT, MA, RI, CT, NY and NJ as more fully described in Certificate No. MC-125628 (Sub-No. 1). Vendee is authorized to operate as a *common carrier* of numerous *specified commodities*, including lumber, over irregular routes, between Ports of Entry on the U.S.-Canada Boundary Line west of ME and the Continental U.S. as more specifically described in Certificate No. MC-118806 and Subs thereto. Approval of the transaction will complement, rather than duplicate, applicant's existing lumber and lumber products authorities, moving from the Ports of Entry on the U.S.-Canada Boundary Line in the Midwest and West. No dual operations are involved. Applicant has not concurrently filed for temporary authority under Section 210a(b).

No. MC-F-13583. Authority sought for purchase by UNIVERSAL CARTAGE, INC., 640 West Ireland Road, South Bend, IN, of a portion of the operating rights of Monkem Co., P.O., Box 1196, Joplin, MO, and for acquisition by Ronald D. Whiteford and Florence S. Whiteford, 640 West Ireland Road, South Bend, IN, of control of such rights through the purchase. Applicants' attorneys: Donald W. Smith, P.O. Box 40659, Indianapolis, IN, 46240, and Harry Ross, 58 South Main, Winchester, KY. Operating rights sought to be transferred: *Coated iron and steel articles*, as a *common carrier*, from the plantsite of Roll Coater, Inc., at or near Kingsbury, IN to points in IN, IL, IA, MI, OH, MO, WI, those in that part of NY, on and west of U.S. Hwy 62, those in that part of PA, on and west of U.S. Hwy 219, and those points in that part of WV, on and north of U.S. Hwy 40, with no transportation for compensation on return except as otherwise authorized. Vendee has pending *common carrier* authority in Docket No. MC 136635 and is under common control by Ronald W. Whiteford and Florence S. Whiteford. Ronald W. Whiteford and Florence S. Whiteford also control Whiteford Transport, Inc., who under MC 109682 and subs thereunder is authorized to operate as a *common carrier* in all points in the United States and C & C Cartage, Inc., who under MC 138479 and subs thereunder is authorized to operate as a contract carrier in IN, AL, AK, DE, FL, GA, IL, IA, KY, LA, MD, MA, MI, MS, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, and DC. Dual operations may be involved. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13585. Authority sought for purchase by FREILER TRUCK LINES, INC., P.O. Box 636, Amite, LA 70422, of the operating rights of Mid-Way Transportation, Inc., 8800 Oakdale Drive, Waco, TX 76710, and for acquisition by Freiler Truck Lines, Inc., P.O. Box 636, Amite, LA 70422, of control of such rights through the purchase. Applicant's attorney: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. Operating rights sought to be transferred: *Brick and tile*, as a *common carrier*, over irregular routes, from points in that part of TX on and east of a line beginning at the TX-OK State line and proceeding along U.S. Hwy 283 to junction U.S. Hwy 67 at or near Coleman, TX, then along U.S. Hwy 277 to the United States-Mexico boundary line at or near Del Rio, TX (except points in Dallas and Tarrant Counties, TX), to points in LA, MS, AL, and FL. Freiler Truck Lines, Inc. is authorized to operate as a *common carrier* in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VA, WV, and WI. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13586. authority sought for control by SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383, of Warsaw Trucking Co., Inc., P.O. Box 1017, Warsaw, IN 46580, and for control by Robert W. Sawyer, South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Applicant's attorney: H. E. Miller, Jr., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Operating rights sought to be controlled: *Specific commodities*, such as animal feed, building materials, clay, cloth, coal, foodstuffs, insulating materials, iron and steel articles, metal articles, paper and paper products, as well as other specified commodities, as a *common carrier*, over regular and irregular routes, from and to points in the United States in and east of ND, SD, WY, CO, NM, AZ, and NV, with certain restrictions, as more specifically described in Docket No. MC 123294 and sub numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating in full the entirety thereof. A complete description of the operating rights of the carrier to be controlled may be obtained from the applicant's representative upon request. Sawyer Transport, Inc., is authorized to operate as a *common carrier*, over irregular routes, throughout the United States, as more specifically described in Docket No. MC 123407. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13587. Authority sought for purchases by SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501, of a portion of the operating rights of Contract Steel Carriers, Inc., 2641 Sheffield Avenue, Hammond, IN 46320, and for acquisition by Harold C. Smith, Russell J. Hilken, William G. Smith, P.O. Box 404, Fort Dodge, IA 50501, and Robert E. Miller, 709 Coachlight Drive, St. Louis, MO, of control of such rights through the transaction. Applicant's attorneys: Arlyn L. Westergren; Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106, and Richard A. Kerwin, Suite 3520, 180 North LaSalle Street, Chicago, IL 60601. Operating rights sought to be transferred: *Steel articles and such materials* as are used or useful on highway construction projects (except cement, rock, sand, and gravel), as a *common carrier*, over irregular routes, from Chicago, IL, to points in IA, and *iron and steel articles*, as a *common carrier*, over irregular routes from Portage, IN to points in IA. Vendee is authorized to operate as a *common carrier* in ND, SD, NE, KS, MN, MO, MI, WI, IL, IN, LA, AR, KY, OH, OK, TN, and PA. Application has been filed for temporary authority under section 210a(b).

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No. MC-F-13588. Authority sought for control by M B TRANSPORT SERVICES, INC. (non-carrier), 3841 North Columbia Boulevard, Portland, OR 97217, of Con-Ag Transport, Inc. (non-carrier), 2645 East 51st Avenue, Denver, CO 80216, and for acquisition by Malcolm B. Stephenson, 3841 North Columbia Boulevard, Portland, OR 97217, of control of con-Ag Transport, Inc., through the acquisition by M B Transport Services, Inc. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Operating rights sought to be controlled: Con-Ag Transport, Inc., a non-carrier is a holding company which controls and owns all of the outstanding stock of Lester Smith Trucking, Inc. and Boyer Truck Line, Inc. Lester Smith Trucking, Inc., is authorized to operate under MC 57697, over irregular routes, as a *common carrier*, Transporting: *Agricultural commodities*, other than in containers, between points in Logan County, CO, between points in Sedgewick, Phillips, Logan, and Morgan Counties, CO, that part of Weld County, CO, east of a line drawn north and south through Briggsdale, CO, and that part of Washington County, CO, north of a line drawn east and west through Rago, CO, on the one hand, and on the other, points in WY, NE, IA, MO, and KS; *building and fencing materials, farm machinery, used farm equipment, feed, seed, hides, wool, and irrigation supplies*, between points in Sedgewick, Phillips, Logan, and Morgan Counties, CO, that part of Weld County, CO, east of a line drawn north and south through Briggsdale, CO, and that part of Washington County, CO, north of a line drawn east and west through Rago, CO, on the one hand, and on the other, points in WY, NE, IA, MO, and KS; *machines*, other than farm, maximum 5,000 pounds each, between points in Sedgewick, Phillips, and Logan Counties, CO, and that part of Washington, County, CO, on and north of CO Hwy 38 on the one hand, and on the other, points in WY, KS, NE, IA, and MO; *Oil well casing, pipe, and supplies*, between Sterling, CO, and points within 25 miles of Sterling, on the one hand, and on the other, points in WY, with restrictions. By an order served in MC-F-12827 on July 12, 1976, Lester Smith Trucking, Inc. was granted temporary authority of a portion of the operating rights of Archer Freight Lines, Inc. and by order served February 6, 1978, was authorized to purchase this same authority which was set forth in Docket MC-F-12827, published in FEDERAL REGISTER May 6, 1976. Lester Smith Trucking, Inc. pending authority as follows: MC 47697 (Sub-No. 2), published in the FEDERAL REGISTER June 10, 1976, MC 57697 (Sub-No. 4), published in the FEDERAL REGISTER November 18, 1976, MC 57697 (Sub-No. 6), published February 24, 1977, MC 59697 (Sub-No. 7), published September 1, 1977, MC 57697 (Sub-No. 8), published September 1, 1977, MC 57697 (Sub-No. 9), published September 15, 1977, MC 57697 (Sub-No. 10), published September 22, 1977, MC 57697 (Sub-No. 11), published October 20, 1977, MC 57697 (Sub. No. 12), published December 1, 1977, MC 57697 (Sub-No. 13), published December 30, 1977, MC 57597 (Sub-No. 14), published March 9, 1978, MC 57697 (Sub-No. 15), published March 9, 1978

BOYER TRUCK LINE, INC. is authorized to operate under MC 93674, as a *common carrier*, over regular routes transporting: *Livestock*, between DeWitt, IA, and Chicago, IL, serving the intermediate and off-route points within 15 miles of DeWitt; from DeWitt over U.S. Hwy 30 to junction IL Hwy 65, then over IL Hwy 65 to junction U.S. Hwy 34, and then over U.S. Hwy 34 to Chicago, and return over the same route; *feed, chip-board, boxes, paper, fibre-board, pulp-board, binder twine, and farm machinery*, from Chicago, IL to DeWitt, IA serving the off-route point of Forest Park, IL for pick up of feed only. From Chicago over the above specified route to DeWitt, and return over the same route; *Binder twine and farm machinery*, from Sandwich, Rockford, Moline, East Moline, and Rock Island, IL to DeWitt, IA; *livestock*, from Low Moor and DeWitt, IA, to points in Carroll, Whiteside, Rock Island, and Henry Counties, IL. From Geneseo, IL to points in Scott and Clinton Counties, IA. From Maquoketa, IA, and points within 35 miles thereof, to Chicago, IL and points in that part of IL north of U.S. Hwy 34 and west of a line beginning at Princeton, IL, and extending along IL Hwy 26 to Dixon, IL, then along U.S. Hwy 52 to Polo, IL, and then along IL Hwy 26 to the IL-WI State line, including points on the indicated portion of the highways specified. *General commodities*, with exceptions from Chicago, IL to Maquoketa, IA; and *empty malt beverage containers*, from Maquoketa, IA, to Chicago, IL. *Coal*, from points in rock Island, Henry, and Mercer Counties, IL, to Maquoketa, IA, and points within 35 miles thereof. *Agricultural implements*, from Rock Falls, Rockford, Moline, and Canton, IL, to Maquoketa, IA, and points within 35 miles thereof. *Feed and livestock*, from Chicago, IL to Maquoketa, IA, and points within 35 miles thereof. Boyer Truck Line, Inc. pending authority is as follows: MC 93674 (Sub-No. ——) *building and construction materials, equipment and supplies, telephone and power line materials, mining materials, equipment and supplies, farm and agricultural equipment, machinery and implements and iron and steel articles*, except in bulk, between points in CO, on the one hand, and, on the other, points in WY and MT. MB Transport Services, Inc. a noncarrier is a holding company which controls and owns all of the outstanding stock of Mitchell Bros. Truck Lines which is authorized to operate as a *common carrier* in all of the continental States except AK. An application has been filed for temporary authority under section 210a(b).

No. MC-F-13592. Authority sought for purchase by PHILIPP TRANSIT LINES, INC., 1808 East 5th Street, Washington, MO 63090 of the operating rights of Pic-Walsh Freight Co., 731 Campbell Avenue, St. Louis, MO 63147, and for acquisition by Paul F. Philipp and Eva Bernice Philipp, of control of such rights through the purchase. Applicant's representative: Tom B. Kretsinger, Esquire, 910 Brookfield Building, 101 West Eleventh Street, Kansas City, MO 64105. Operating rights sought to be transferred are contained in certificate No. MC 45657 as follows: (a) *General commodities* (usual exceptions) between Hannibal, MO and Bowling Green, MO, (b) *Livestock*, from Vandalia, MO to National Stock Yards, IL and from Vandalia, MO to Bowling Green, MO, and return, (c) *General commodities* (usual exceptions) between Vandalia, MO and St. Louis, MO, (d) *General commodities* (usual exceptions) between Louisiana, MO and East St. Louis, IL, (d) *Livestock*, between Old Monroe, MO and National City, IL, (e) *Brick* from Vandalia, MO to points in IL, (f) *Feed, hay and molasses*, from East St. Louis, IL to Old Monroe, MO, (g) *Hides and live poultry*, from Old

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Monroe, MO to East St. Louis, IL, and (g) *General commodities* (usual exceptions) between Bowling Green, Clarksville, Elsberry, Foley, Louisiana, Old Monroe, St. Charles, Troy, Vandalia, and Winfield, MO and Quincy, IL. Vendee is authorized to operate as a common carrier in KS, MO, and IL. Application has been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission on or before June 12, 1978. Such protest shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 FR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 57311 (Sub-No. 12F), filed April 11, 1978. Applicant: PUTNAM TRANSFER & STORAGE CO., a corporation, 1502 Woodlawn Avenue, Zanesville, OH 43701. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes, A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Zanesville and Cincinnati, OH on the one hand, and, on the other, points in OH, (2) between Malta and Malta Township, Morgan County, OH on the one hand, and, on the other, points in OH, (3) between Union Township, Muskingum County, OH on the one hand, and, on the other, points in OH, (4) between Ravenna, OH and points within five miles thereof on the one hand, and, on the other, points in OH, (5) between points in OH, and (6) between points in OH on the one hand, and, on the other, Huntington, WV. (Hearing site: Columbus, OH.)

NOTE.—This application is directly related to MC-F-13572, Putnam Transfer & Storage Co.—Purchase (Portion)—Automotive Merchandisers of Texas and Ohio Merchandising Corp., and seeks to convert existing certificate of registration to certificate of public convenience and necessity, and to eliminate the gateways of Zanesville, OH and the intersection of OH Hwy 797 and Interstate Hwy 70 in (5) above; and Zanesville, OH, Chillicothe, OH and the intersection of OH Hwy 797 and Interstate Hwy 70 in (6) above, resulting from said purchase. (Hearing site: Columbus, OH.)

No. MC 144587F, filed March 27, 1978. Applicant: J. D. CARTON & SON, INC., 41 Watchung Avenue, Chatham, NJ 07928. Applicant's representative: Thomas F. X. Foley, Colts Neck Professional Plaza, State Hwy 34, Colts Neck, NJ 07722. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in FL, GA, IL, IN, NC, OH, and SC, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and DC (Gateway eliminated—points in Essex, Bergen, Hudson, and Passaic Counties, NJ, within the New York, NY Commercial Zone); and (2) between points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and DC, on the one hand, and, on the other, New York, NY, and points in Nassau and Suffolk Counties, NY (Gateway eliminated—points in Essex, Bergen, Hudson, and Passaic Counties, NJ, within the New York, NY Commercial Zone). (Hearing site: Not specified.)

NOTE.—Common control may be involved. This application is directly related to MC-FC-77596. The purpose of this application is to eliminate the gateways as specified in (1) and (2) above.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter—notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before June 12, 1978.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 110325 (Deviation No. 24), TRANSCON LINES, 101 Continental Boulevard, El Segundo, CA 90245, filed March 27, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Dallas, TX, over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction U.S. Hwy 11, then over U.S. Hwy 11 to Harrisburg, PA, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Dallas, TX, over U.S. Hwy 77 to junction U.S. Hwy 66, then over U.S. Hwy 66 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 160, then over U.S. Hwy 160 to junction U.S. Hwy 169, then over U.S. Hwy 169 to junction U.S. Hwy 166, then over U.S. Hwy 166 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction U.S. Hwy 66, then over U.S. Hwy 66 to junction U.S. Hwy 40, then over U.S. Hwy 40 to junction U.S. Hwy 42, then over U.S. Hwy 42 to junction U.S. Hwy 224, then over U.S. Hwy 224 to junction U.S. Hwy 21, then over U.S. Hwy 21 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 22, then over U.S. Hwy 22 to Harrisburg, PA, and return over the same route. ge b11ma3.228

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before June 12, 1978.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 735), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed March 21, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Texarkana, TX, over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 Memphis, TN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Texarkana, TX, over U.S. Hwy 67 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction unnumbered highway (formerly portion of U.S. Hwy 82) west of Waldo, AR, then over unnumbered highway to Waldo, then over AR Hwy 98 to McNeil, then over U.S. Hwy 79 to Beech Grove, then over U.S. Hwy 79B via Fordyce to junction U.S. Hwy 79, then over U.S. Hwy 79 to junction U.S. Hwy 79B west of Altheimer, then over U.S. Hwy 79B via Altheimer to junction U.S. Hwy 79, then over U.S. Hwy 79 to junction U.S. Hwy 79C, then over U.S. Hwy 79C to junction AR Hwy 11, then over AR Hwy 11 via Stuttgart to junction U.S. Hwy 79, then over U.S. Hwy 79 to junction AR Hwy 17 east of Clarendon, then over AR Hwy 17 to junction U.S. Hwy 70 at Brinkley then over U.S. Hwy 70 to Memphis, TN, and return over the same route.

No. MC 45626 (Deviation No. 38), VERMONT TRANSIT CO., INC., Burlington, VT 05401, filed March 28, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of: *Passengers and their baggage*, and *express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From White River Junction, VT, over Interstate Hwy 89 to junction Interstate Hwy 93 at Concord, NH, then over Interstate Hwy 93 to junction U.S. Hwys 4 and 202 at Concord, NH, then over U.S. Hwys 4 and 202 to Northwood, NH, then over U.S. Hwy 202 to junction NH Hwy 11 at Rochester, NH, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From White River Junction, VT, over U.S. Hwy 4 to Danbury, NH, then over NH Hwy 104 to Bristol, NH, then over NH Hwy 3A to Franklin, NH, then over U.S. Hwy 3 to junction NH Hwy 11, then over NH Hwy 11 to Rochester, NH, and return over the same route.

No. MC 45626 (Deviation No. 39), VERMONT TRANSIT CO., INC., Burlington, VT 05401, filed April 3, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of: *Passengers and their baggage*, and *express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From White River Junction, VT, over Interstate Hwy 89 to junction Interstate Hwy 93 at Concord, NH, then over Interstate Hwy 93 to junction U.S. Hwy 4 at Concord, NH, then over U.S. Hwy 4 to Portsmouth, NH, then over Interstate 95 to junction ME Hwy 111 near Biddeford, ME, and return over the same route for operating convenience only. The notice indicated that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From White River Junction, VT, over U.S. Hwy 4 to Danbury, NH, then over NH Hwy 104 to Bristol, NH, then over NH Hwy 3A to Franklin, NH, then over U.S. Hwy 3 to junction NH Hwy 11, then over NH Hwy 11 to Rochester, NH, then over U.S. Hwy 202 to Alfred, ME, then over ME Hwy 111 to junction Interstate Hwy 95, and return over the same route.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-12783 Filed 5-10-78; 8:45 am]

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[Volume No. 87]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

APRIL 28, 1978.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before June 12, 1978. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Such pleading shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 113678 (Sub-No. 661) (republication), filed March 7, 1977, published in the FEDERAL REGISTER issue of April 28, 1977, and republished this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. An Order of the Commission, by the initial decision, served March 3, 1978, effective April 13, 1978, finds that the present and future public convenience and necessity require operation, by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting, carpet padding, and such commodities* as are used in the installation of carpeting and carpet padding, from the facilities of General Felt Industries, Inc., located at or near Philadelphia, PA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, restricted to traffic originating at the named origins and destined to the named destination States, and restricted against the transportation of the described commodities in bulk; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to broaden the commodity description; delete IA, KS, MN, and NE as destination States, and add a restriction.

No. MC 129615 (Sub-No. 26) (republication), filed February 4, 1977, published in the FEDERAL REGISTER issue of August 11, 1977, and republished this issue. Applicant: AMERICAN INTERNATIONAL DRIVEAWAY, a corporation, P.O. Box 545, 123 North First Street, Decatur, ID 46733. Applicant's representative: E. Drayson Helmer (same address as applicant). An order of the Commission, Review Board No. 1, decided April 12, 1978, and served April 18, 1978, finds that the present and future public convenience and necessity require operation, by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passenger automobiles*, in driveaway service, in secondary movements, from the facilities of Travco, Inc., at Brown City, MI, to points in the United States, (including AK, but excluding HI and MI); (2) *motor homes*, in driveaway service, from the facilities of Travco, Inc., at Mt. Clemens, MI, to points in the United States, (including AK, but excluding HI and MI); (3) *passenger automobiles*, in driveaway service, in secondary movements, between points in HI, restricted to the transportation of traffic originating at the origin named in (1) above; (4) *motor homes*, in driveaway service, between points in HI, restricted to the transportation of traffic originating at the origin named in (2) above; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to broaden the commodity and territorial description.

No. MC 133689 (Sub-No. 124) (republication), filed May 3, 1977, published in the FEDERAL REGISTER issue of June 9, 1977, and republished this issue. Ap-

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plicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. An Order of the Commission, by the initial decision, served February 24, 1978, effective March 28, 1978, finds that the present and future public convenience and necessity require operation, by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds, fabric softener, starch, bleach and ammonia* (except commodities in bulk), from Toledo, OH, to points in MN, WI, IA, ND, SD, NE, and Kansas City, KS, restricted to traffic originating at the plantsite and storage facilities of the Sinclair Manufacturing Co., located at or near Toledo, OH, and destined to the named destination states; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to broaden the commodity description.

No. MC 134531 (Sub-No. 9) (republication), filed August 3, 1977, published in the FEDERAL REGISTER issue of September 8, 1977, and republished this issue. Applicant: AGGREGATE HAULERS, INC., Route 2, Box 559-A.W., Columbia, SC 29169. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, DC 20005. An Order of the Commission, Review Board No. 2, decided March 29, 1978, and served April 17, 1978, finds that the present and future public convenience and necessity require operation, by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilized materials* (except in bulk, in tank or hopper-type vehicles), (a) between points in Wayne, Iredell, New Hanover, and Columbus Counties, NC, on the one hand, and, on the other, points in SC; and (b) from Columbia, SC, to Augusta, GA, and Charlotte, NC; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to indicate the broadening of the commodity description; and the addition of New Hanover county, SC, in lieu of Brunswick County, SC, in (a) above.

No. MC 136343 (Sub-No. 111) (republication), filed June 23, 1977, published in the FEDERAL REGISTER issue of August 11, 1977, and republished this issue. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. An Order of the Commission, by the initial decision, served February 23, 1978, effective April 13, 1978, finds that the present and future public convenience and necessity require operation, by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Highway marking strip glass, ballotini, materials, equipment and supplies* used in the manufacture and sale of the foregoing commodities (except commodities in bulk, in tank vehicles), (1) between the facilities of Potters Industries, Inc., at Cleveland, OH, on the one hand, and, on the other, points in IL, IN, IA, KY, MD, MI, MN, MO, NJ, NY, NC, PA, TN, TX, VA, WV, and WI; and (2) between the facilities of Potters Industries, Inc., at Carlstadt, NJ, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VT, VA, and WV; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to indicate the addition of NJ, NY, NC, PA, and TN as destination states in part (1) above.

No. MC 139495 (Sub-No. 238) (republication), filed May 31, 1977, published in the FEDERAL REGISTER issue of July 21, 1977, and republished this issue. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. An Order of the Commission, by the initial decision, served February 8, 1978, effective March 28, 1978, finds that the present and future public convenience and necessity require operation, by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Peanut butter*, from Livonia, MI, to Atlanta, GA, and points in AR, DE, MD, NJ, NY, NC, OK, PA (except Pittsburgh and points in the Pittsburgh Commercial Zone), SC, VA, WV and DC; (2) *peanut butter*, and in mixed loads with peanut butter, *agricultural commodities*, the transportation of which is otherwise exempt from economic regulation pursuant to Section 203 (b)(6) of the Interstate Commerce Act, from Onsted, MI, to Atlanta, GA, and points in AR, DE, MD, NJ, NY, NC, OK, PA (except Pittsburgh and points in the Pittsburgh Commercial Zone), SC, VA, WV, and DC, restricted in (1) and (2) above, to traffic originating at the facilities of Walker and Sons Apiaries, at Livonia and Onsted, MI, and destined to the above-named points, that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to broaden the commodity and territorial description.

No. MC 141033 (Sub-No. 17) (republication), filed October 22, 1976, published in the FEDERAL REGISTER issue of November 18, 1976, and republished this issue. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Applicant's representative: R. A. Peterson, P.O. Box 81849, Lincoln, NE 68501. An Order of the Commission, Division 1, Acting as an Appellate Division, decided April 4, 1978, and served April 13, 1978, finds that the present and future public convenience and necessity require operation, by applicant, in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn tools, garden tools, striking tools and snow tools*, from Parkersburg, WV to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to broaden the territorial description.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before June 12, 1978. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality fo the human environment resulting from approval of its application.

No. MC 989 (Sub-No. 28F), filed March 20, 1978. Applicant: IDEAL TRUCK LINES, INC., P.O. Box 330, Norton, KS 67654. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Rubber products and materials and supplies* used in the manufacture of rubber products, between the facilities of Electric Hose and Rubber Co. at McCook, NE, and the facilities of Electric Hose and Rubber Co. at Olney, TX. Restricted to traffic originating at and destined to above-named points. (Hearing site: Kansas City, MO.

No. MC 1459 (Sub-No. 8F), filed March 20, 1978. Applicant: ROYAL MOTOR EXPRESS, INC., 240 Harmon Avenue, Lebanon, OH 45036. Applicant's representative: James Duvall, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cellulose insulation and materials, equipment and supplies* used in the manufacture, sale, distribution and application of cellulose insulation, between Lebanon, OH, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Air Maintenance, Inc. (Hearing site: Columbus, OH.)

No. MC 2202 (Sub-No. 559F), filed March 20, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron OH 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue. Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the facilities of National Presto Industries located at or near Canton, MS as an off-route point in connection with applicant's regular routes. (Hearing site: Madison WI or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 2228 (Sub-No. 69F), filed March 21, 1978. Applicant: MERCHANTS FAST MOTOR LINES, INC., East Hwy 80 (P.O. Box 591), Abilene, TX 79604. Applicant's representative: Jerry Prestridge, P.O. Box 1148, Austin, TX 78767 and Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between El Paso, TX and Phoenix, AZ, serving all intermediate points, and serving points in the respective commercial zones of El Paso and Phoenix, from El Paso over IH 10 to junction U.S. Hwy 70, then over U.S. Hwy 70 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Phoenix, and return over the same route; (2) between Seminole, TX and El Paso, TX serving no intermediate points: from Seminole over U.S. Hwy 62/180 to El Paso and return over the same route. (Hearing site: Dallas, TX; El Paso, TX; Phoenix, AZ.)

No. MC 2900 (Sub-No. 328F), filed March 6, 1978. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mining equipment and parts*, from the facilities of Joy Manufacturing Co. at Franklin, PA to points in AL, CO, IL, KY, OH, UT, VA, WV, and WY, and used or rejected mining equipment on return; and (2) *materials and supplies* used in the manufacture of mining equipment, from AL, IN, IL, and OH to the facilities of Joy Manufacturing Co. at Franklin, PA. (Hearing site: Pittsburgh, PA or Washington, DC.)

NOTE:—Common control may be involved.

No. MC 19157 (Sub-No. 49F), filed March 20, 1978. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., R.D. 3, Bos 4, Campbell Road, Schenectady, NY 12306. Applicant's representative: Paul Montarello (same address as Applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by wholesale and retail tire stores (except commodities in bulk and those which because of size or weight require the use of special equipment) between Muncie and Shelbyville, IN, on the one hand, and, on the other, points in and east of AL, TN, KY, IN, and MI. (Hearing site: San Francisco, CA or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 44302 (Sub-No. 7), filed December 14, 1977. Applicant: DEFAZIO EXPRESS, INC., 1028 Springbrook Avenue, Moosic, PA 18507. Applicant's representative: Thomas R. Melvin, 1028 Springbrook Avenue, Moosic, PA 18507. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Paper mill products and supplies, materials and equipment, and machinery* used in paper mills, between the facilities of Proctor and Gamble Co. and its subsidiaries in the Township of Washington (Wyoming County) PA, and the counties of Luzerne and Lackawanna, PA on the one hand, and, on the other, Trenton, NJ, Beacon and Newburg, NY, and that portion of the Easton, PA commerical zone in NJ and that portion of the Philadelphia, PA commercial zone in DE and NJ.

NOTE.—The applicant presently holds operating authority at Docket No. MC 44302 issued August 10, 1971 and Docket No. MC 44302 Sub. 4 to perform the service requested by tacking at a point within 25 miles of New York, NY. No new service is sought.

(b) *Paper and paper products*, between Scranton, PA, on the one hand, and on the other, Trenton, NJ, Beacon and Newburg, NY and that portion of the Easton, PA commercial zone in NJ and that portion of the Philadelphia, PA commercial zone in DE and NJ, and Ansonia, South Norwalk, New Haven, and Hartford, CT.

NOTE.—The applicant presently holds authority at Docket No. MC 44302 issued on August 10, 1971 to perform the service sought here by tacking at a point in NJ within the commercial zone of New York, NY.

(Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved.

No. MC 69397 (Sub-No. 36-F), filed March 22, 1978. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666

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11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, treated lumber, ties, poles, piles, fence posts*, and *wooden pallets*, from the facilities of Potomac Supply Corp. at Kinsale, VA, to points in the United States in and east of MN, WI, IL, KY, TN, MS, and LA. (Hearing site: Washington, DC, or Richmond, VA.)

NOTE.—Common control may be involved.

No. MC 71043 (Sub-No. 10F), filed March 20, 1978. Applicant: LAPORTE TRANSIT CO., INC., P.O. Box 578, Hwy 2, Laporte, IN 46350. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) Between LaPorte, IN and Muskegon, MI: From LaPorte, IN, over IN Hwy 39 to the IN-MI State line, then over unnumbered Hwy to New Buffalo, MI, then over unnumbered Hwy generally known as Red Arrow Hwy to junction U.S. Hwy 33, then north over U.S. Hwy 33 to Benton Harbor, MI, then north over U.S. Hwy 33 to junction U.S. Hwy 31, then north over U.S. Hwy 31 to Muskegon, MI and return ove the same route, serving all intermediate points; (2) Between Muskegon, MI and Middlebury, IN: From Muskegon, MI over Interstate Hwy 96 to U.S. Hwy 131, then south over U.S. Hwy 131 to the MI-IN State line, then south over IN Hwy 13 to Middlebury, IN and return over the same route, serving all intermediate points; (3) Between South Bend, IN and Battle Creek, MI: From South Bend, IN north over U.S. Hwy 31 to Interstate Hwy 94, then east over Interstate Hwy 94 to Battle Creek, MI and return over the same route, serving all intermediate points; (4) Between Battle Creek, MI and Howe, IN: From Battle Creek, MI, west over Interstate Hwy 94 to MI Hwy 66, then south over MI Hwy 66 to the MI-IN State line, then south over IN Hwy 9 to Howe, IN and return over the same route, serving all intermediate points; (5) Between South Bend, IN and Holland, MI: From South Bend, IN north over U.S. Hwy 31 to MI Hwy 140, then north over U.S. Hwy 140 to U.S. Hwy 31, then north over U.S. Hwy 31 to Holland, MI and return over the same route, serving all intermediate points; (6) Between Holland, MI and Bristol, IN: From Holland, MI southeast over MI Hwy 40 to U.S. Hwy 12, then east over U.S. Hwy 12 to MI Hwy 103, then south over MI Hwy 103 to the MI-IN State line, then south over IN Hwy 15 to Bristol, In and return over the same route, serving all intermediate points; (7) Between New Buffalo, MI and Sturgis, MI: From New Buffalo, MI over U.S. Hwy 12 to Sturges, MI and return over the same route, serving all intermediate points, (8) Between Holland, MI and Grand Rapids, MI: From Holland, MI over MI Hwy 21 to Grand Rapids, MI and return over the same route, serving all intermediate points; (9) Between Allegan, MI and Battle Creek, MI: From Allegan, MI over MI Hwy 89 to Battle Creek, MI and return over the same route, serving all intermediate points; (10) Between South Bend, IN and Paw Paw, MI: From South Bend, IN north over U.S. Hwy 31 to MI Hwy 51 then north over MI Hwy 51 to Interstate Hwy 94, then east over Interstate Hwy 94 to MI Hwy 40, then north over MI Hwy 40 to Paw Paw, MI and return over the same route, serving all intermediate points; (11) Between South Bend, IN and Leonidas, MI: From South Bend, IN over IN Hwy 23 to the IN-MI State line, then north over MI Hwy 62 to MI Hwy 60, then east over MI Hwy 60 to Leonidas, MI and return over the same route, serving all intermediate points; (12) Between Niles, MI and Cassopolis, MI: From Niles, MI over MI Hwy 60 to Cassopolis, MI and return over the same route, serving all intermediate points; (13) Between Elkhart, IN and Union, MI: From Elkhart, IN over IN Hwy 19 to the IN-MI State Line, then north over MI Hwy 205 to U.S. Hwy 12, then east over U.S. Hwy 12 to Union, MI and return over the same route, serving all intermediate points; (14) Serving Brook and Foresman, IN as off-route points in conjuction with carrier's authorized regular route operations; (15) Serving Boubonnais, Bradley, Kankakee, Manteno and St. Anne, IL as off-route points in conjunction with carriers authorized regular route operations; and (16) Serving Kenosha, WI as an off-route point in conjunction with carrier's authorized regular route operations. (Hearing site: Chicago, IL.)

No. MC 83539 (Sub-No. 486F), filed March 10, 1978. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Applicant's representative: Thomas E. James (same address as applicant. Authority sought to operate a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled vehicles*, from Howell County, MO, to points in the United States (except AK and HI). (Hearing site: Kansas City, MO or Dallas, TX.)

NOTE.—Common control may be involved.

No. MC 85934 (Sub-No. 78F), filed March 20, 1978. Applicant: MICHIGAN TRANSPORTATION CO. 3601 Wyoming, P.O. Box 248, Dearborn, MI 48120. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48180. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, from Cairo, OH to points in MI and IN. (Hearing site: Washington, DC or Chicago, IL.)

No. MC 95540 (Sub-No. 1004F), filed March 20, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL. Applicant's representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Foods* (except in bulk), from (1) The facilities utilized by Terminal Ice and Cold Storage Co., located at or near Portland, OR; and (2) The facilities utilized by Ore-ida Foods, Inc., located at or near Plover, WI to points in AL, AR, FL, GA, LA, MS, NC, SC, TN, and TX; and (3) Returned, refused and rejected merchandise from the destination states named in (1) and (2) above to the origin points named in (1) and (2) above. (Hearing site: San Francisco, CA, Washington, DC or Tampa, FL.)

NOTE.—Common control may be involved.

No. MC 95876 (Sub-No. 232F), filed March 20, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bl., Minneapolis, MN 55402. Authority sought to operate as a *common carrier* by motor vehicle, over *irregular* routes, transporting: *Iron and steel articles*, from St. Louis, MO, to points in IA, MN, MT, NE, ND, SD, WI, and WY. (Hearing site: St. Louis, MO.)

NOTE.—Common control may be involved.

Docket No. MC 96328 (Sub-No. 5F), filed March 16, 1978. Applicant: Illinois Short Line, Inc., 3525 South Leavitt Street, Chicago, IL 60609. Applicant's representative: Robert J. Gill, 29 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: (1) *General comodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk and commodities requiring special equipment) (a) between points in Cook and DuPage Counties, IL; and (b) between points in Cook and DuPage Counties, IL, on the one hand, and, on the other, points in Lake, McHenry, Kane, DeKalb, Will, Kendall, Grundy, and Kankakee Counties, IL; (2) *Parts, equipment, materials, accessories and supplies* used in the manufacture, distribution, maintenance and repair of agricultural equipment, heavy machinery, fork lift trucks and internal combustion engines, restricted to shipments in automobiles as defined by the Commission in 117 MCC 403, between points in IL, IN, MI, OH, and WI, on the one hand, and, on the other, Aurora, Batavia, Carol Stream, Deerfield, Harvey, Matteson, and Springfield, IL, LaPorte, IN, Appleton, Milwaukee, Port Washington, and West Allis, WI. (Hearing site: Chicago, IL or Washington, DC.)

NOTE.—Applicant states that only part (1) of this application is a conversion request.

Docket No. MC 105016 (Sub-No. 10F), filed March 23, 1978. Applicant: PELLISSIER TRUCKING, INC., P.O. Box 192, The Dalles, OR 97058. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured livestock and pet feed*, from Spokane, WA to points in Sherman and Wasco Counties, OR. (Hearing site: Dalles or Portland, OR.) 000

No. MC 106674 (Sub-No. 298F), filed March 20, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123 Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction and building materials* (except in bulk), from the facilities of the Celotex Corp. at Pennsauken, NJ to points in and east of MT, WY, CO, and NM. Restriction: Restricted to the transportation of shipments originating at the named origin point and destined to the named destination points. (Hearing site: Chicago, IL or Indianaplois, IN.)

No. MC 106674 (Sub-No. 304), filed March 20, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Linda J. Sundy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Construction and building materials* (except in bulk), from the facilities of the Celotex Corp. at Lagro, IN to points in the United States (except AK and HI). (Hearing site: Chicago, IL or Indianapolis, IN.)

No. MC 107064 (Sub-No. 122F), filed March 20, 1978. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products and chemicals*, between the facilities utilized by Drew Chemical Co. in Houston, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

No. MC 107295 (Sub-No. 875F), filed March 17, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Lumber and lumber products*, from points in AZ, CO, NM, and UT, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Albuquerque, NM or Phoenix, AZ.)

No. MC 106674 (Sub-No. 305F), filed March 20, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Iron and steel articles*, from the facilities of the Republic Steel Corp. at Canton, Cleveland, Massillon, Niles, Warren and Youngstown, OH to points in IN and KY. Restriction: Restricted to the transportation of traffic originating at the above named origins. (Hearing site: Chicago, IL or Indianapolis, IN.)

No. MC 107403 (Sub-No. 1065F), filed March 13, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Methanol, in bulk, in tank vehicles*, from New Haven, CT to points, in RI; MA; Me and NH. (Hearing site: Washington, DC.)

No. MC 107403 (Sub-No. 1073F), filed March 20, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Liquid chemicals, in bulk, in tank vehicles*, from: Chicopee, MA to points in ME; NH; VT and RI. (Hearing site: Washington, DC.)

No. MC 107818 (Sub-No. 88F), filed March 14, 1978. Applicant: GREENSTEIN TRUCKING COMPANY, a corporation, 280 NW. 12th Avenue, P.O. Box 608, Pompano Beach, FL 33061. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical temperature controls, from the facilities of Standard Brands Confectionary, a Division of Standard Brands, Inc., located within the Chicago Commercial Zone, to points in FL, GA, NC, and SC. (Hearing site: Chicago, IL.)

No. MC 108460 (Sub-No. 61F), filed March 20, 1978. Applicant: PETROLEUM CARRIERS CO., a corporation, P.O. Box 762, Sioux Falls, SD 57101. Applicant's representative: Gary Mundhenke (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Feed*, in bag and bulk, from Minnehaha County, SD, to points in ND, MN, IA, NE, and SD. (Hearing site: Sioux Falls, SD or Kansas City, MO.)

NOTE.—Common control may be involved.

No. MC 109397 (Sub-No. 403F), filed March 20, 1978. Applicant: TRISTATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Commodities*, which because of their size or weight, require the use of special equipment or handling, and *parts* thereof, or *accessories* thereto when transported with such commodities; (2) *Self-propelled articles*, each weighing 15,000 pounds or more, and related *machinery, tools, parts*, and *supplies* moving in connection therewith—restricted to commodities which are transported on trailers; between points in TN, MS, AL, GA, SC, and FL, on the one hand, and, on the other, points in RI, CT, MA, NY, NJ, PA, MD, and DE. (Hearing site: Washington, DC or Birmingham, AL.)

NOTE.—The purpose of this application is to substitute single-line service for existing joint-line service. Common control may be involved.

No. MC 110098 (Sub-No. 163F), filed March 20, 1978. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, P.O. Box 20380, San Antonio, TX 78220. Applicant's representative: T. W. Cothren (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from the facilities used by Ore-Ida Foods, Inc., at or near Plover, WI, and the facilities of Terminal Ice and Cold Storage Co., at or near Plover, WI, to points in AR, KS, LA, MO, NM, OK, and TX, and refused, returned, or rejected shipments of frozen foods from the named destinations to the named origins. Restriction: Restricted to traffic originating at and destined to the points named. (Hearing site: San Antonio, TX or Chicago, IL.)

No. MC 111401 (Sub-No. 515F), filed March 13, 1978. Applicant: GROEN-

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DYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Applicant's representative: Alvin L. Hamilton, 2510 Rock Island Boulevard, P.O. Box 632, Enid, OK 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Kansas City, KS to points in NC, VA, LA, TN, IN, AL and Ga. (Hearing site: Tulsa, OK or Oklahoma City, OK.)

No. MC 111612 (Sub-No. 559F), filed March 20, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Applicant's representative: Ralph H. Jinks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and nonedible food products* (except in bulk), in vehicles equipped with mechanical regrigeration, from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA, to points in FL, GA, IL, IN, KS, KY, MI, MN, MO, NE, ND, OH, SD, TN and WI; restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Des Moines, IA.)

NOTE.—Common control may be involved.

No. MC 112184 (Sub-No. 59F), filed March 20, 1978. Applicant: MANFREDI MOTOR TRANSIT CO., a corporation, 11250 Kinsman Road, Newbury, OH 44065. Applicant's representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: *Soybean oil*, in bulk, in tank vehicles, from the facilities of Cargill, Inc. at or near Sidney, OH, to points in IL, IN, KY, NC, GA, NY, PA, NJ, TN, OH, VA, MD, and MA. Restriction: Said operations are limited to a transportation service to be performed under a continuing contract, or contracts, with Cargill, Inc. of Sidney, OH. (Hearing site: Columbus, OH or Washington, DC.)

NOTE.—Applicant holds common carrier authority in No. 128302 and subs thereunder, therefore, dual operations may be involved.

No. MC 112520 (Sub-No. 352F), filed March 13, 1978. McKenzie Tank Lines, Inc., P.O. Box 1200, Tallahassee, FL 32302. Applicant's representative: Thomas F. Panebianco, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude tall oil and pulp mill liquid*, in bulk, in tank vehicles, from Georgetown, SC to Panama City, FL. (Hearing site: Atlanta, GA or Washington DC.)

NOTE.—Common control may be involved.

No. MC 112617 (Sub-No. 384F), filed March 13, 1978. LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal and soybean oil*, in bulk, in tank vehicles; from the facilities of Cargill, Inc., at or near Sidney, OH, to (1) on *soybean meal* to the States of CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, TN, VT, VA, WV, and WI, (2) on *soybean oil*, to the States of GA, IL, IN, KY, MD, MA, NJ, NY, NC, OH, PA, TN and VA. (Hearing site: Louisville, KY or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 113362 (Sub-No. 321F), filed March 22, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue NE., P.O. Box 429, Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Frozen foods*, (except commodities in bulk), from the facilities utilized in Ore-Ida Foods, Inc. and Terminal Ice & Cold Storage Co., located at or near Plover, WI, to points in AR, CT, DE, IL, IN, IA, KY, LA, MD, OK, MA, MN, MS, MO, NE, NJ, NY, ND, OH, PA, RI, SD, TN, TX, VA, WV, and DC. Restriction: Restricted to traffic originating at the above named origin points and destined to the above named destination states. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 113362 (Sub-No. 324F), filed March 20, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue NE., P.O. Box 429, Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in packages (except commodities in bulk), from New Kensington, PA, to points in AL, AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OK, SD, TN, TX, and WI. (Hearing site: Pittsburgh, PA or Washington, DC.)

No. MC 113362 (Sub-No. 326F), filed March 20, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue NE., P.O. Box 429, Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Paper and paper products and woodpulp*, from the plantsite and facilities of Bowater Southern Paper Corp., at or near Calhoun, TN, to points in IL, IA, IN, MI, MN, MO, OH, WV, PA, and WI. (Hearing site: Washington, DC or Atlanta, GA.)

No. MC 113434 (Sub-No. 93F), filed March 22, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Applicant's representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), in vehicles equipped with mechanical refrigeration, from Plover, WI, to OH, IL, IN, and MI, restricted to the movement of traffic originating at the named origin point and destined to the destination states named. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 113434 (Sub-No. 95F), filed March 23, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Applicant's representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise dealt in by wholesale, retail, chain grocery and food business houses*, in mechanically refrigerated equipment (except in bulk, in tank vehicles), from the facilities of Kraft, Inc. at Taylor, MI to points in IN, KY, OH, WV and PA on the west of U.S. 15, restricted to traffic originating at named facilities and destined to named destinations. (Hearing site: Chicage, IL or Detroit, MI.)

No. MC 113459 (Sub-No. 120F), filed March 20, 1978. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94650, Oklahoma City, OK 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Prefabricated wood buildings and components of wood buildings*, from Ravalli County, MT, to points in CO, IL, IA and WI, restricted to traffic originating at the plantsites of Rocky Mountain Log Homes. (Hearing site: Missoula, MT, or Dallas, TX.)

No. MC 113651 (Sub-No. 270F), filed March 27, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552; Riggin Road, Muncie, IN 47305. Applicant's representative: H. Barney Firestone, 10 South LaSalle Street, Suite No. 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Bananas and agricultural commodities, otherwise exempt from economic regulation under section 203(b)(6) of the Act, when transported in mixed loads with bananas, restricted to the transportation of traffic having immediately prior movement by water, from Charleston, SC, to points in WV, OH, IN, KY, TN, MI, WI, IL, MO, KS, IA, MN, SD, ND, and NE. Restriction: Restricted to the transportation of traffic having an immediately prior movement by water. (Hearing site: Charleston, SC or Chicago, IL.)

No. MC 113678 (Sub-No. 725F), filed March 3, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Mid-Continent Underground Storage, Division of Southeastern Public Service Co., located at or near Bonner Springs, KS to points in OK and TX, restricted to traffic originating at and destined to the named points. (Hearing site: Kansas City, MO.)

No. MC 113678 (Sub-No. 734F), filed March 22, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), while at the same time moving on bills of lading issued by freight forwarders as defined under Part IV of the Interstate Commerce Act; from Los Angeles, CA. to Denver, CO, restricted to traffic orignating at and destined to the facilities of Coast Carloading Co. located at the named points. (Hearing site: Los Angeles, CA.)

No. MC 113678 (Sub-No. 735F), filed March 22, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk and tank vehicles), from the facilities of Miami Margarine Co., located at or near Albert Lea, MN to points in the United States (except AK, HI, and MN). Restricted to traffic originating at the above-named facilities and destined to the above-named destinations. (Hearing site: Cincinnati or Columbus, OH.)

No. MC 113855 (Sub-No. 412F), filed March 20, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment* including, but not limited to, forklifts and industrial trucks, (2) *attachments and parts* for (1) above, from Chenango County, NY, to points in the United States, including AK (excluding HI). (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 113855 (Sub-No. 418F), filed March 27, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a corporation, 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: James M. Sanden, 502 First National Bank Bldg., Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, interstate or foreign commerce, transporting: *Air compressors and earth-drilling machinery and equipment*, between Claremont, NH, on the one hand, and, on the other, points in the United States, including AK but excluding HI). (Hearing site: Washington, DC.)

NOTED—Common control may be involved.

No. MC 114045 (Sub-No. 496F), filed March 27, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/fw Airport, TX 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hair care toiletries and hair care equipment* (except in bulk), from Camarillo and LaMirada, CA, to Dallas, TX; Stamford, CT; Atlanta, GA; Bedford Park and Chicago, IL. (Hearing site: Washington, DC or New York, NY.)

NOTE.—Common control may be involved.

No. MC 114211 (Sub-No. 350F), filed March 20, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South La Salle, Chicago, IL 60604. Authority sought to operate as a *common carrier* over irregular routes, by motor vehicle, transporting: *Such commodities* as are dealt in or used by agricultural machinery and equipment manufacturers and dealers, between Keokuk County, IA on the one hand, and on the other points in the United States, including AK but excluding HI, and, including all ports of entry on the international boundary line between the United States and Canada for furtherance into Canada. (Hearing site: Chicago, IL or Des Moines, IA.)

No. MC 114273 (Sub-No. 354F), filed March 6, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel shot* (1) from Adrian, MI and Butler, PA, to Keokuk, IA; Kansas City, KS and points in IL on and north of U.S. Hwy 36 (except points in the Chicago commercial zone) and (2) from Butler, PA, to points in LA, MI, OK, TN, TX and WI. Restriction: Restricted to traffic originating at Butler, PA and the facilities of Alloy Metal Abrasives at or near Adrian, MI and destined to the named points. (Hearing site: Chicago, IL or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 115931 (Sub-No. 56F), filed March 17, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3897, Missoula, MT 58901. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in ID, MT, OR, and WA to points in IL, IA, MN, NE, SD, and WI. (Hearing site: Spokane, WA or Portland, OR)

No. MC 115931 (Sub-No. 60-F), filed: March 22, 1978. BEE LINE TRANSPORTATION, INC., P.O. Box 3897, Missoula, MT 59801. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Semitrailers, dump trailers and dump trailer bodies* (except those designed to be drawn by passenger automobiles), from the facilities of Ravens Metal Products, Inc., at or near Dover, OH, and Elizabeth, WV, to points in the U.S. in and west of WI, IL, MO, OK, and TX (except AK and HI). (Hearing site: Charleston, WV.)

No. MC 116763 (Sub-No. 410F), filed: March 21, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Applicant's Representative: H. M. Richters, North West Street, Versailles, OH. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except frozen, and in bulk, in tank vehicles), from the facilities of Campbell Soup Co., at or near Chicago, IL, to points in AL, FL, GA, NC, SC, and TN, restricted to traffic originating at and destined to the named points. (hearing site: Chicago, Ill.)

No. MC 117119 (Sub-No. 680F), filed March 21, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Applicant's representative: M. M.

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Geffon, P.O. Box 338, Willingboro, NJ 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Frozen meat*, from Philadelphia, PA to the facilities of the Campbell Soup Co. at Napoleon, OH; Chicago, IL; and Omaha, NE. Restricted to the transportation of traffic originating at and destined to the named points. (Hearing site: Philadelphia, PA or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 117574 (Sub-No. 295F), filed March 20, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bituminious fiber pipe and conduit, and accessories*, from West Bend, WI to points in TX. (Hearing site: (Chicago, IL or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 117574 (Sub-No. 296F), filed: March 20, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17108. Applicant's representative: E. S. Moore, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Boiler systems, filtering machines, boiler accessories and parts and attachments*, from Greenville, MS to points in the United States, including AK (but excluding HI); (2) *materials, equipment and supplies*, used in the manufacture and distribution of the commodities described in (1) above, from points in the United States, including AK (but excluding HI) to Greenville, MS. (Hearing site: Washington, D.C.)

NOTE.—Common control may be involved.

No. MC 117574 (Sub-No. 297F), filed March 20, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts, and materials, accessories, and supplies* used in the installation, erection and construction of buildings, building panels, and building parts (except commodities in bulk), from the facilities of Butler Manufacturing Co. at or near Annville, Lebanon County, PA, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TX, UT, WA, WI, and WY. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 117686 (Sub-No. 209F), filed March 20, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Applicant's representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products*, and (2) *polyurethane bags* in mixed shipments with paper and paper products, from Hodge, LA, to: Rock Island, IL, and points in IA, KS, MN, MO, NE, ND, SD, and WI. Restriction: Restricted to traffic originating at the named origin and destined to the named destinations. (Hearing site: Omaha, NE or Des Moines, IA.)

No. MC 117940 (Sub-No. 264F), filed March 22, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Applicant's representative: Allen L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Frozen foods (except commodities in bulk), from Chicago, IL to points in IN, KY, MI, and OH, restricted to transportation of traffic originating at the facilities of Continental Freezers of Illinois at named origin and destined to points in the named destination States. (Hearing site: Chicago, IL).

No. MC 118159 (Sub-No. 256F), filed March 20, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic plumbing fixtures and equipment, materials, and supplies* used in the manufacture or distribution thereof (except commodities in bulk), from Walden, GA to points in AR, CT, DE, KS, LA, ME, MA, MD, MI, NE, NH, NJ, NY, ND, OK, PA, RI, SD, TX, VT, WV, WI, and the District of Columbia. (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 118739 (Sub-No. 14F), filed March 3, 1978. Applicant: FRITZ TRUCKING, INC., East Highway 7, Clara City, MN 56222. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Arlington and Ortonville, MN, to points in MT, ND, SD, and WI, and from points in WI to points in AZ, CA, CO, MT, MN, ND, SD, UT, and to Arlington and Ortonville, MN, under a continuing contract with Big Stone, Inc. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—Applicant also holds common carrier authority MC 140549 and subs thereunder, therefore dual operations may be involved.

No. MC 118838 (Sub-No. 21F), filed: March 20, 1978. Applicant: GABOR TRUCKING, INC., Rural Route 4, Box 124B, Detroit Lakes, MN 56501. Applicant's representative: Richard P. Anderson, 502 First National Bank Building., Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from the international boundary line between the United States and Canada located at Noyes, MN, and Pembina, ND, to points in ND, SD, IA, MN, WI and IL. Restricted to traffic moving from the facilities utilized by Manitoba Forestry Resources, Ltd., located in the province of Manitoba, Canada. (Hearing site: Minneapolis/St. Paul, MN.)

No. MC 119789 (Sub-No. 440F), filed March 24, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: Lewis Coffey, P.O. Box 6188, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, moulding, plywood and plywood paneling*. (1) from Galveston, TX and New Orleans, LA to points in AR, KS, LA, MO, OK, and TX. (2) from Houston, TX to points in LA, MS, TN, and TX. (3) from Gulfport, MS to points in MO and TX. (Hearing site: Dallas, TX.)

No. MC 121420 (Sub-No. 9F), filed March 3, 1978. Applicant: DART TRUCKING CO., INC., P.O. Box 158, 61 Railroad Street, Canfield, OH 44406. Applicant's representative: Beery & Spurlock Co., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural limestone, in dump vehicles*, from the plantsite and facilities of Basic, Inc. located at or near Maple Grove, OH to points Chautauqua and Allegany Counties, NY; points in PA on and west of U.S. Hwy 15; and those points in WV which are on and north of U.S. Hwy 60 and on and west of U.S. Hwy 219. (Hearing site: Columbus, OH.)

No. MC 123255 (Sub-No. 159F), filed March 30, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 430455. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, OH 43055. Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: (1) *Paper and paper products*, (a) from the plantsites of International Paper Co. located at or near Bastrop and Springhill, LA, to points in AR, CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, NM, ND, OH, OK, SD, TN, TX and WI; and (b) from the plantsite of International Paper Co. located at or near Pine Bluff, AR, to points in AL, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NM, OK, TN, TX, and WI; and (2) *materials and supplies* used in the manufacture of paper and paper products (except commodities in bulk, in tank vehicles), (a) from points in AR, CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, NM, ND, OH, OK, SD, TN, TX and WI, to plantsites of International Paper Co. located at or near Bastrop and Springhill, LA; and (b) from points in AL, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NM, OK, TN, TX and WI, to the plantsite of International Paper Co. located at or near Pine Bluff, AR. (Hearing site: Columbus, OH.)

NOTE.—Common control may be involved.

No. MC 123997 (Sub-No. 3F), filed March 20, 1978. Applicant: COMET FAST FREIGHT INC., 101 Wellham Avenue NE., Glen Burnie, MD 21061. Applicant's representative: Ralph L. Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass Containers, closures* therefor and *fibreboard boxes, and equipment, materials and supplies* used or useful in the manufacture and shipment of glass containers (except commodities in bulk), between the plantsite and shipping facilities of Chattanooga Glass Co. at or near Keyser, WV, on the one hand, and, on the other, points in CT, DE, DC, GA, IL, IN, KY, MD, MI, MS, OH, NJ, NY, NC, PA, SC, TN, VA, WV, and WI. Applicant intends to tack the requested authority with its authority held in MC 123997 to provide a thru service to points in MD and WV. (Hearing site: Washington, DC or Cumberland, MD.)

No. MC 124692 (Sub-No. 200F), filed March 21, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: J. David Douglas, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood products and millwork*, (1) from points in MT to points in IN, MO, and the Lower Peninsula of MI; (2) from points in MT lying east of the Continental Divide to points in IL, IA, and WI; (3) from points in ID to points in MO. (Hearing site: Billings, MT or Boise, ID).

No. MC 124947 (Sub-No. 105F), filed March 20, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Castings, parts and accessories* for combines (except in bulk), between Independence, MO, on the one hand, and, on the other, Topeka, KS. Restricted to shipments originating at or destined to the facilities of Allis-Chalmers Corp. located at or near the named points. (Hearing: Chicago, IL.

NOTE.—Common control may be involved.

No. MC 126118 (Sub-No. 70F), filed March 22, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Applicant's representative: Duane W. Acklie, P.O. Box 81228, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts and equipment, materials and supplies* used in the manufacture of motor vehicle parts, (1) between Columbus, NE; Marianna, AR, Cleveland, MS; Detroit, MI; Red Oak, IA; Carrollton, Adel, Atlanta, Columbus, and Newnan, GA, on the one hand, and, on the other, points in DE. (2) between Columbus, NE; Marianna, AR; Cleveland, MS; Detroit, MI; Red Oak, IA; Carrollton, Adel, Atlanta, Columbus, and Newnan, GA; and Phenix City, AL, on the one hand, and, on the other, points in SC. (3) between Milan, TN, on the one hand, and, on the other, points in the United States. (4) between Phenix City, AL, on the one hand, and, on the other, points in TN. Restricted to traffic originating at or destined to the facilities utilized by Douglas & Lomason Co. (Hearing site: Lincoln, NE or Detroit, MI.)

NOTE.—Common control may be involved.

No. MC 127042 (Sub-No. 210F) (correction), filed February 27, 1978 published in the FEDERAL REGISTER issue of April 6, 1978 and republished this issue. Applicant: HAGEN, INC., P.O. Box 98-Leeds Station, Sioux City, IA 51108. Applicant's representative: Robert G. Tessar, Director of Traffic, Hagen, Inc., P.O. Box 98-Leeds Station, Sioux City, IA 51108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation and insulation materials*, from Kenosha, WS, to points in MN, ND, SD; and (2) *fertilizer and fertilizer ingredients* (except in bulk), from Kenosha and Union Grove, WI, to points in IL, IN, IA, MN, MO, ND, and SD. (Hearing site: Milwaukee or Madison, WI.)

NOTE.—The purpose of this republication is to coordinate the listed commodities with their proper destination points.

No. MC 127303 (Sub-No. 35F), filed March 13, 1978. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought by applicant to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container accessories*, from Plainfield, IL, to points in IA, MN, MO, NE, SD, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

No. MC 127303 (Sub-No. 37) (correction), filed November 11, 1977, published in the FEDERAL REGISTER issue of December 29, 1978 and republished this issue: Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 63126. Applicant's representative: Dwight L. Koerber, Jr., 805 Mc Lachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, WI to points in NE and MO.

NOTE.—The purpose of this republication is to show change in sub-no., i.e. 37 instead of 24, and to include the hearing information. The above proceeding is assigned for hearing on May 4, 1978 (2 days) at 9:30 a.m. local time at Omaha, NE. Location of hearing room will be set by subsequent notice.

No. MC 127840 (Sub-No. 67F), filed March 23, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Applicant's representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry core compounds*, in bulk, in tank vehicles, from Chicago, IL, to points in TX, OK, OH, PA, WI, IN, and MI. (Hearing site: Chicago, IL.)

No. MC 128205 (Sub-No. 49F), filed March 20, 1978. Applicant: BULKMATIC TRANSPORT CO., 12000 South Doty Avenue, Chicago, IL 60628. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone and limestone products*, from the plantsite of Marblehead Lime Co. in Centre County, PA to IL, IN, KY, MI, OH, WV, VA, DE, WA, DC, NJ, NY, CT, RI, MS, VT, NH, ME, and MD. (Hearing site: Chicago, IL.)

No. MC 128235 (Sub-No. 20F), filed March 22, 1978. Applicant: AL JOHNSON TRUCKING, INC., 1516 Marshall NE., Minneapolis, MN 55413. Applicant's representative: Earl Hacking, 1700 New Brighton Boulevard, Minne-

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apolis, MN 55413. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Malt beverages*, in containers, (1) from St. Louis, MO to Hibbing, MN, Grand Rapids, MN and Madison, SD, and (2) from Minneapolis and St. Paul, MN, to Menomonie, WI. (Hearing site: Minneapolis or St. Paul, MN.)

No. MC 128270 (Sub-No. 28F), filed March 15, 1978. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, Lake Station, IN 46405. Applicant's representative: Richard A. Kerwin, 180 North La Salle, Chicago, IL 60601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between Sterling, IL on the one hand, and, on the other hand, points in IA, WI, MN, ND, SD, MT, WY, NE, CO, KS, MO, NM, TX, OK, AR, TN, KY, IN, and MI. (Hearing site: Chicago, IL.)

No. MC 128698 (Sub-No. 17F), filed March 21, 1978. Applicant: ERDNER BROS., INC., Davidson Road, Swedesboro, NJ 08085. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street, NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from the facilties utilized by Campbell Soup Co. located at points in DE, MD and those in PA located on and east of U.S. Hwy 15, to points in DE, MD, NJ, NY, OH, PA, VA, WV, MI, and DC. (Hearing site: Washington, DC.)

No. MC 133095 (Sub-No. 183F), filed March 21, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Applicant's representative: Rocky Moore, P.O. Box 434, Euless, TX 76039. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corp., at Cherokee and Des Moines, IA to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and VA. Restriction: Restricted to the transportation of traffic originating at the above named origins and destined to the named destinations. (Hearing site: Kansas City, MO or Dalias, TX.)

No. MC 133655 (Sub-No. 109F), filed March 20, 1978. Applicant: TRANSNATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, TX 79105. Applicant's representative: Jim Steffel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter* from North Kansas City, MO to points in TX, NM, AZ, NC, VT, NH, ME, MA, RI, CT, and points in GA north of U.S. Hwy 280. (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 134150 (Sub-No. 15F), filed March 20, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a., SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nutritional supplements*, from Fremont, MI; and Elgin and Greenville, IL to Bensenville, IL; Kenner, LA; East Brunswick, NJ; Dallas, TX; Tukwila, WA; and Miami, FL. Restrictions: Restricted (1) against the transportation of commodities in bulk; (2) to traffic destined to the facilities of Cutter Laboratories, Inc.; and (3) further restricted to a transportation service to be performed under a continuing contract or contracts with Cutter Laboratories, Inc. (Hearing site: Chicago, IL or Los Angeles, CA.)

NOTE.—Applicant holds common carrier authority in MC 138157 and subs thereunder, therefore dual operations may be involved.

No. MC 134645 (Sub-No. 22F), filed March 27, 1978. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Avenue South, St. Cloud, MN 56301. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials and supplies and malt beverage dispensing equipment* when shipped therewith, from Milwaukee, WI to St. Cloud, MN (2) rejected shipments and empty malt beverage containers, from St. Cloud, MN to Milwaukee, WI. (Hearing site: St. Paul, MN.)

NOTE.—Applicant holds contract carrier authority in MC 124071 and other subs, therefore dual operations may be involved.

No. MC 134755 (Sub-No. 139F), filed March 20, 1978. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum, petroleum products, vehicle body sealers, deadner compounds* (except in bulk) *oil filters, and air filters*, from Houston, TX, to points in AL, LA, AR, FL, GA, MO, KS, OK, CO, MS, ND, and SD. (Hearing site: Pittsburgh, PA or Kansas City, MO.)

NOTE.—Applicant holds motor contract carrier authority in MC 138398 and sub numbers thereunder, therefore, dual operations may be involved. Common control may also be involved.

No. MC 135352 (Sub-No. 12F), filed March 20, 1978. Applicant: LITTLE DUTCH LINES, INC., 1111 North Prairie, Pella, IA 50219. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts* and articles distributed by meat packinghouses, as described in Appendix I, Sections A and C to report in Descriptions In Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Rawhide Ranch Bavarian Meats Corp., near Sigourney, IA to points in IL, MN, MO, NE, MD, SD, FL, and WI, under continuing contract or contracts with Rawhide Ranch Bavarian Meats Corp. (Hearing site: Chicago, IL, Kansas City, MO, or Omaha, NE.)

No. MC 136318 (Sub-No. 51F), filed March 23, 1978. Applicant: COYOTE TRUCK LINE, INC., 5367 West 86th Street, Indianapolis, IN 46268. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Lenoir, Shelby, Statesville and Troutman, NC, to points in ID, MT, UT, and WY. Restrictions: (1) Traffic to originate at the facilities of Bernhardt Furniture Co. (2) Restricted to a transportation of commodities under a continuing contract or contracts with Bernhardt Furniture Co. (Hearing site: Denver, CO.)

No. MC 136464 (Sub-No. 36F), filed March 20, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles, textile products, and materials and supplies* used in the manufacture and sale thereof, from High Point and Kernersville, NC to points in CA under a continuing contract or contracts with Adams-Millis Corp. (Hearing site: Charlotte, NC.)

NOTE.—Applicant holds motor common carrier authority in No. MC 138635 (Sub-No. 16) and other subs, therefore dual operations may be involved.

No. MC 136786 (Sub-No. 135F), filed March 24, 1978. Applicant: ROBCO TRANSPORTATION, INC., 433 Park Avenue, Des Moines, IA 50321. Applicant's representative: Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, MN 55344. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting and carpet padding*, from Shelbyville, TN, to points in CO, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, and WI. (Hearing site: Minneapolis, MN.)

No. MC 136919 (Sub-No. 3F), filed March 14, 1978. Applicant: B. A. MILLER & SONS TRUCKING, INC., State Route 109, Liberty Center, OH 43532. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and foodstuffs, and equipment, materials and supplies* used in the production of food products (except commodities in bulk, in tank vehicles), between Napoleon, OH on the one hand, and, on the other, Camden, NJ and points in KY, PA, NY, and WV; under a continuing contract or contracts with Campbell Soup Co. of Camden, NJ. (Hearing site: Columbus, OH.)

No. MC 138018 (Sub-No. 41F), filed March 20, 1978. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, CO 80201. Applicants representative: Joseph W. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shakes, shingles and related products* (except in bulk), from points in WA, to points in AZ, CA, CO, KS, MN, MT, NE, NV, ND, OK, SD, TX, UT. (Hearing site: Seattle, WA.)

NOTE.—Common control may be involved.

No. MC 138018 (Sub-No. 42F), filed March 20, 1978. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, CO 80201. Applicants representative: Joseph W. Harvey, P.O. Box 1018, Denver, CO 80201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts*, as described in section A of the report in Descriptions In Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from ports of entry in the State of WA located on the International Boundary Line between the United States and Canada to points in CA, OR and WA. Restriction: Restricted to traffic originating in British Columbia, Canada. (Hearing site: Seattle, WA.)

NOTE.—Common control may be involved.

No. MC 138157 (Sub-No. 63F), filed March 20, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products, in packages*, from Bradford, Rouseville, Reno, Karns City and Petrolia, PA to points in AL, GA, KY and TN. (Hearing site: Pittsburgh, PA; Washington, DC.)

NOTE.—Applicant holds contract carrier authority in MC 134150 and subs thereunder, therefore, dual operations may be involved. Common control may also in involved.

No. MC 138253 (Sub-No. 8) (correction), filed January 26, 1978, published in the FEDERAL REGISTER issue of March 9, 1978 and partially republished in the FEDERAL REGISTER issue of April 20, 1978 and republished this issue. Applicant: MONFORT TRANSPORTATION CO., a corporation, P.O. Box G, Greeley, CO 80631. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products*, and *articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and *such other commodities as are usually dealt in, or used by restaurants and restaurant supply houses*. From ports of entry located in AL, AZ, CA, DE, FL, GA, LA, MD, MA, MS, NJ, NM, NY, NC, OR, PA, SC, TX, VA, and WA, to points in the United States (except AK and HI). Restrictions: (1) Restricted to shipments moving in foreign commerce, (2) Restricted to shipments moving under a continuing contract or contracts with Monfort of Colorado, Inc. (Hearing site: Denver, CO.)

NOTE.—The purpose of this republication is to show the State of Washington as a destination point and not Washington, DC as incorrectly published the FEDERAL REGISTER.

Docket No. MC 138328 (Sub-No. 61F), filed March 13, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Hwy 50, P.O. Box 37308, Omaha, NE 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal buildings*, knocked down or in sections, and *materials, equipment and supplies* used in the installation and sale of metal buildings; *steel studs; tracks and channels; metal roof trim and guttering;* and *lathing*, from the facilities of The Ceco Corp. located at or near Broadview, IL, to points in CO, IN, IA, KS, MI, MN, MO, MT, NE, ND, OH, PA, SD, WI and WY, restricted against traffic destined to facilities used by Edward Hines Lumber Co., of Chicago, IL. (Hearing site: Chicago, IL or Omaha, NE.

No. MC 139206 (Sub-No. 23F), filed March 20, 1978. Applicant: F.M.S. TRANSPORTATION, INC., Box 1597, 2564 Harley Drive, Maryland Heights, MO 63043. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals* (except in bulk); and (2) *materials, equipment* and *supplies* used in the manufacture, sale, processing, production, blending, packaging and transportation of the commodities in (1) above (except commodities in bulk), between Midwest City and Shattuck, OK, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic moving under a continuing contract, or contracts, with Chromalloy American Corporation. (Hearing Site: St. Louis, MO.)

NOTE.—(1) Applicant states that it is a commonly controlled contract carrier for Chromalloy American Corp. and that the purpose of this application is to allow the shipper to replace its private carriage with the contract carrier services of applicant. Applicant further states that it already holds authority to thirteen (13) other points, on the one hand, and, on the other, points in the United States (except AK and HI). (2) Applicant further states that common control and dual operations may be involved. Dual operations and common control were approved in Docket No. MC-F-12514.

No. MC 139206 (Sub-No. 25-F), filed March 22, 1978. Applicant: F.M.S. TRANSPORTATION, INC., Box 1597, 2564 Harley Drive, Maryland Heights, MO 63043. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought by applicant to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *Spreaders, balers, oilers, grain dryers, shredders, applicators, choppers, farm equipment, machinery, materials*, and *supplies, feed lot cleaners*, and *parts*, and *accessories* therefor; and (2) *materials, equipment*, and *supplies* used in the manufacture, production, assembly, sale, distribution, finishing, repair and transportation of the commodities in (1) above (except in bulk), between Vinton, IA and Baxter Springs, KS, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic moving under a

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continuing contract, or contracts, with Chromalloy American Corp. (Hearing site: St. Louis, MO.)

NOTE.—(1) Applicant states that it is a commonly controlled contract carrier for Chromalloy American Corp. and that the purpose of this application is to allow the shipper to replace its private carriage with the contract carrier services of applicant. Applicant further states that it already holds authority to perform similar service for this shipper between thirteen (13) other points, on the one hand, and, on the other points in the United States (except AK and HI). (2) Applicant also states that common control and dual operations may be involved. Dual operations and common control have been approved in MC-F-12514.

No. MC 139482 (Sub-No. 35F) (correction), filed February 13, 1978 published in the FEDERAL REGISTER issue of March 30, 1978 and republished this issue. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, New Ulm, MN 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co. at or near Bettendorf, IA, to points in CT, DE, DC, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV and WI, and (2) *returned, rejected and refused foodstuffs* (except commodities in bulk), from points in the destination States named above to the facilities of Terminal Ice & Cold Storage Co. at or near Bettendorf, IA. (Hearing site: Chicago, IL.

NOTE.—The purpose of this republication is to amend applicants destination points.

No. MC 139495 (Sub-No. 335F), filed March 22, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting, hard surface floor covering, wallboard, wall panels, floor screens, ceiling panels, insulation material and materials accessories, and supplies* used in the installation of the foregoing commodities, from Lancaster County and Beaver Falls, PA to points in AL, AR, KS, LA, MS, MO, OK, TN, and TX. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 338F), filed March 24, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles, rugs, carpets, carpeting and materials and supplies used in the installation thereof*, from the facilities of Armstrong Cork Co. at or near Dalton, and Ringgold, GA and Winchester, TN to AZ, CA, CO, ID, MT, NM, NV, OK, OR, TN, UT, WA, and WY. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 339F), filed March 20, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparations, cosmetics, shampoo, and washing compounds* (except in bulk, in tank vehicles), from Cockeysville and Essex, MD, to AL, FL, GA, NC, SC, and TX. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 344F), filed March 24, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doughnut mix, flour, sugar, shortening, yeast fruit filling, juices and materials and supplies* used in the operation of a doughnut shop, in vehicles equipped with mechanical refrigeration, from the facilities of Winchell Donut House at La Mirada, CA, to Arlington, TX; Blooming, MN; Itasca, IL; Denver, CO; Kansas City, MO; and Portland, Or. (Hearing site: Washington, DC.)

No. MC 139850 (Sub-No. 16F), filed March 28, 1978. Applicant: FOUR STAR TRANSPORTATION, INC., P.O. Box 66, Underwood, IA 51576. Applicant's representative: Leonard D. Wilkins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Swift & Co., located at or near Grand Island and Omaha, NE; Des Moines, Glenwood, Marshalltown, and Sioux City, IA; to points in AL, FL, GA, NC, SC, TN. Hearing: May 11, 1978 (2 days) at 9:30 a.m., local time, in room 616, Union Pacific Bldg., 110 North 14th St. and Dodge, Omaha, NE.

No. MC 139973 (Sub-No. 40F), filed March 13, 1978. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except commodities the transportation of which because of size or weight requires the use of special equipment), (1) from the facilities of Keystone Consolidated Industries, Inc. at or near Peoria, IL, to Greenville, MS, and (2) from the facilities of Keystone Consolidated Industries, Inc., at or near Greenville, MS, to points in AR, TN, TX, LA, and OK. (Hearing site: Kansas City, MO, or Chicago, IL.)

NOTE.—Applicant holds contract carrier authority in MC 138375 and other subs therefore dual operations may be involved.

No. MC 140530 (Sub-No. 2F), filed March 24, 1978. Applicant: FREEWAY TRANSPORT, INC., 635 Southeast 11th Avenue, Portland, OR 97214. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, in the transportation of: *Canned goods*, in vehicles equipped with mechanical refrigeration, from points in OR to points in AZ, CA, and NV; under contract with North Pacific Canners & Packers, Inc. (Hearing site: Portland, OR.)

NOTE.—Applicant holds common carrier authority in MC 134498 and subs thereunder, therefore dual operations may be involved.

No. MC 141167 (Sub-No. 3F), filed March 20, 1978. Applicant: LANGDON TRANSPORTATION, INC., 14625 Carmenita, Norwalk, CA 90650. Applicant's representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Molded plastic parts and hardware* used in the manufacture of seat belts, and *seat belt parts*, from Los Angeles and Fresno, CA, to the facilities of American Safety Equipment Corp., located at or near Palmyra, MO; (2) *molded plastic parts, hardware and webbing* used in the manufacture of seat belts, and *seat belt parts*, from Hindsdale and Rockford, IL, Grand Rapids, Sterling Heights, Midland, Romulus, Madison Heights, and Millington, MI, and Greenville, SC, to the facilities of American Safety Equipment Corp., located at Pacoima and Fresno, CA, and Palmyra, MO; (3) *coil steel*, in vehicles equipped with mechanical refrigeration, from Indianapolis, IN and Lousiville, OH, to the facilities of American Safety Equipment Corp., located at Pacoima, CA; and (4) return shipments of the commodities named in (1) to (3) above, to their respective origin points, under a continuing contract or contracts, in (1) to (4) above, with American Safety Equipment Corp., of Encino, CA. (Hearing site: Los Angeles, CA.)

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No. MC 141599 (Sub-No. 5F), filed March 17, 1978. Applicant: MOUNTAIN PACIFIC TRANSPORT (EDMONTON), LTD., 241 Schoolhouse Road, Coquitlan, BC, Canada. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes in the transportation of *talc*, from Three Forks, MT, to ports of entry on the international boundary line between the U.S. and Canada, located at or near Eastport or Porthill, ID, restricted to traffic moving in foreign commerce, for further movements to the province of BC, Canada. (Hearing site: Seattle, WA.)

No. MC 141804 (Sub-No. 104F), filed March 13, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, TN 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 422, Goodlettsville, TN 37072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and display materials* from Secaucus, NJ, to New Orleans, LA, Houston, Dallas and Arlington, TX, and Los Angles and San Francisco, CA. Restricted to traffic originating at the facilities of Petrie Stores Corp. and destined to the named destination points. (Hearing site: New York, NY, or Nashville, TN.)

NOTE.—Common control may be involved.

No. MC 142672 (Sub-No. 13F), filed March 20, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Applicant's representative: Don Garrson, attorney at law, 324 North Second, Rogers AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toys, games, and children's vehicles*, from Columbus, OH, Girard, PA and Wheeling, VW, to points in AR, FL, GA, LA, MS, OK, and TX. (Hearing site: is Stanford, CT, or Little Rock , AR

NOTE.—Applicant holds common carrier authority in MC 142065 and subs thereunder, therefore dual operations may be involved.

No. MC 142672 (Sub-No. 14F), filed March 20, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Applicant's representative: Don Garrison, attorney at law, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs (except in bulk)*, in vehicles equipped with mechanical refrigeration, from Suffolk, VA, to Buena Park and Modesto, CA; and Portland, OR. (Hearing site: New York, NY, or Little Rock, AR.)

NOTE.—Applicant holds common carrier authority in MC 141065 and subs thereunder, therefore dual operations may be involved.

No. MC 142948 (Sub-No. 8F), filed March 20, 1978. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, TN 37211. Applicant's representative: Edward C. Blank, II, Middle Tennessee Bank Building, P.O. Box 1004, Columbia, TN 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rovings, glass fiber, fabric woven, glass fiber cloth, synthetic fiber*, from Irwindale and Huntington Beach, CA, to points in AR, CO, FL, IL, IN, KS, LA, MN, NY, PA, TN, TX, VA, WA, OR, MO, and ID. (Hearing site: Nashville, TN, or Irwindale, CA.)

NOTE.—Dual operations may be involved.

No. MC 142955 (Sub-No. 1F), filed March 20, 1978. Applicant: J & G SWARTZ, INC., 3755 Fenwick Drive, Spring Valley, CA 92077. Applicant's representative: Patricia M. Schnegg, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Metal slides*, from Jamestown, NY, to points in California. (Hearing site: Spring Valley, CA.)

No. MC 143053 (Sub-No. 1F), filed March 20, 1978. Applicant: B & B TRANSPORT, INC., P.O. Box 580, Sultant, WA 98294. Applicant's representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: *Procelain-steel enamelware, vitreous china earthenware, toilet seats, garbage disposals, plastic lavatories and tubs, glass lined water heaters, shower doors, metal bifold doors, and plastic tubing*, from Atlanta and Conyers, GA, Aurora, IL, Lapeer, MI, Perrysville, OH, Somerset, PA, Union City, TN, and Racine and Sheboygan Falls, WI, to the facilities of Son Sales, Ltd., at Portland, OR, and the facilities of Pacific Western Pipe & Supply at Tigard, Portland and Eugene, OR, and to ports of entry on the U.S.-Canadian border at or near Oroville, WA, Sweetgrass, MT, and Eastport, ID, under a continuing contract or contracts with Son Sales, Ltd., of Portland, OR. (Hearing site: Portland, OR, or Seattle, WA.)

No. MC 143246 (Sub-No. 2F), filed March 17, 1978. Applicant: LAND TRANSPORT CORP., 24 Sabrina Road, Wellesley, MA 02181. Applicant's representative: James E. Mahoney, 84 State Street, Boston, MA 02109. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: *such commodities as are sold in drug, chain, discount and department stores* (except commodities in bulk, in tank vehicles), between the distribution centers and warehouses of American Warehousing Corp., located in MA, on the one hand, and, on the other, points in ME, NH, VT, RI, CN, MA, NY, NJ, PA, IL MD, NC, SC, OH, IN, VA, and DE, under a continuing contract with American Warehousing Corp., Boston, MA. (Hearing site: Boston, MA or Providence, RI.)

No. MC 143696 (Sub-No. 1F), filed March 20, 1978. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1193, Henderson, TX 75652. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: *Power equipment* and *parts* thereof, between points in TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract with C. Jim Stewart and Stevenson, Inc. (Hearing site: Dallas, TX.)

No. MC 143761 (Sub-No. 2F), filed March 24, 1978. Applicant: JOHN W. SMOOT, Post Office Box 445, Mt. Jackson, VA 22842. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, Post Office Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials and supplies* used in the manufacture and distribution thereof, between Winchester, VA on the one hand, and, on the other, points in LA and TX, under a continuing contract or contracts with Rubbermaid Commercial Products, Inc. (Hearing site: Washington DC.)

NOTE.—Applicant holds motor common carrier authority in No. MC 134875 and Subs thereunder. Therefore, dual operations may be involved.

No. MC 143924 (Sub-No. 2F), filed March 20, 1978. Applicant: GENE C. FUGATE, dba Fugate Trucking, 1080 Old River Side Drive, Danville, VA 24541. Applicant's representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles, corrugated cartons and*

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bottle carriers, from the facilities of Brockway Glass Co., Inc., Pittsylvania County, VA to the facilities of Miller Brewing Co., Rockingham County, NC. (Hearing site: Roanoke, VA or Washington DC.)

No. MC 144023 (Sub-No. 1F), filed March 13, 1978. Applicant: TAYLOR TRANSPORT, INC., Route 9, Poplen Road, Monroe, NC 28110. Applicant's Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *contrat carrier*, by motor vehicle, over irregular routes, transporting: *copper, brass, items made totally or partially of copper and brass, and scrap*, between the facilities of Mueller Brass Co., located at or near Fulton, MS, on the one hand, and, on the other, points in the United States (except AK, HI, point in OH, Memphis, TN, Louisville, KY, Melrose Park, IL, and points in their respective commercial zones). Under continuing contract or contracts with Mueller Brass Co. (Hearing site: Washington DC.)

No. MC 144041 (Sub-No. 10F), filed March 17, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 39301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container accessories and sprayer*, from Homerville, GA, to points in the U.S. (except AK, and HI) (2) *Materials, equipment and supplies* (except commodities in bulk), from points in the U.S. (except AK and HI), to Homerville, GA. (Hearing site: Atlanta GA.)

NOTE.—Applicant holds motor contract carrier authority in No. MC 140883 (Sub-No. 2), therefore dual operations may be involved.

No. MC 144068F, filed March 13, 1978. Applicant: E. W. FEDDERLY, 4999 Perimeter Street, Seattle, WA 98174. Applicant's representative: William Davidson 2455 E. 27th Street, Vernon, CA 90058. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sash, doors, window and wall sections, and related parts, fittings and hardware*, from the facilities of Fentron Industries, Inc. at Seattle, WA and Woodinville, WA, on the one hand on the other, points and places in the States of NV, OR, CO, UT, WY, ID, AZ, CA, NM, and MT; and (2) *the return movement of raw aluminum, aluminum extrusion, steel, paint, glass and chemicals*, from VE, OR, CO, UT, WY, ID, AZ, CA, NM, and MT, on the one hand the facilities of Fentron Industries, Inc. at Seattle, WA and Woodinville, WA, under continuing contract or contracts with Fenton Industries Inc. (Hearing site: Seattle, WA or San Francisco, or Los Angeles, CA.)

No. MC 144112 (Sub-No. 2F), filed March 17, 1978. Applicant: PHILP, INC., 10550 Canyon Road, Omaha, NE 68112. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City IA 51104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Iowa Beef Processores, Inc., located at or near Dension, IA, Ft. Dodge, IA, Luverne, MN, Dakota City, NE, West Point, NE, to: Points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC. Restriction: Restricted to the transportation of shipments originating at the named facilities at or near the named origins and destined to the named destination states, except when moving in foreign commerce. (Hearing site: Omaha, NE.)

No. MC 144117 (Sub-No. 5F), filed March 20, 1978. Applicant: TLC LINES, INC., 1666 Fabick Drive, P.O. Box 1090, Fenton, MO 63026. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, plastic bags, plastic liners, plastic film, and foil*, from the facilities of the St. Regis Paper Co. at Troy, OH and Louisville, KY to points in TX, CA, OR, WA, WY, MT, CO, NM, AZ, UT, ID, and NV. Restriction: Restricted to traffic originating at above named origins and destined to the above named destinations. (Hearing site: Chicago, IL or St. Louis, MO.)

No. MC 144165 (Sub-No. 1F), filed March 13, 1978. Applicant: ALAGA WHITFIELD LINES, INC., 1101 North Court Street, Montgomery, AL 36104. Applicant's representative: R. S. Richard, P.O. Box 2069, Montgomery, AL 36103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pickles, olives, table syrups, cherries, peppers, onions, sauerkraut, fruit drinks, vegetable drinks, and similar food items and food products* (except in bulk, in tank vehicles), from the facilities of Alaga Whitfield Foods, Inc., at or near Montgomery, AL to points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI; and (2) *Material, equipment, and supplies* used in the manufacture of (1), above (except in bulk, in tank vehicles), from points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI, to the facilities of Alaga Whitfield Foods, Inc., at or near Montgomery, AL, in (1) and (2) above under a continuint contract or contracts with Alaga Whitfield Foods, Inc. of Montgomery, AL. (Hearing site: Montgomery or Birmingham, AL.)

No. MC 144174 (Sub-No. 1F), filed March 6, 1978. Applicant: K T LINES, INC., 125 South Main, Buhler, KS 67522. Applicant's representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Flour, baking mix, corn meal and wheat milling by-products*, (except in bulk), from the facilities of Buhler Mills, Inc., at Buhler and Inman, KS; and Memphis and Nashville, TN, to points in AL, AR, CT, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MS, MO, NE, NJ, NC, NY, OK, PA, TN, TX, VA, and WV, under a continuing contract or contracts with Buhler Mills, Inc.; (b) *materials and supplies* used in the production of (1) above (except in bulk), from points in AL, AR, GA, IL, IA, KS, KY, MS, MO, MI, NE, OH, and TN to the facilities of Buhler Mills, Inc., at Buhler and Inman, KS, and Memphis and Nashville, TN, under a continuing contract or contracts with Buhler Mills, Inc. (2) *Materials and supplies used in the manufacture of textile bags* (except in bulk), from points in SC, GA, AL, TN, LA, and TX to the facilities of Hutchinson Bag Corp at Hutchinson, KS, under a continuing contract or contracts with Hutchinson Bag Corp. (3) *Calcium carbonate* (except in bulk), from Sylacauga, AL, to points in IA, IL, KS, NE, OK, and points in TX on and north of Interstate Hwy 10 and on and east of U.S. Hwy 281, under a continuing contract or contracts with J. P. Bailey, Inc. (4) *Crushed decorative stone* (except in bulk), from Sylacauga, AL; and Tate, Whitestone, and Rockmart, GA, to points in AR, IA, KS, MO, NE, and OK, under a continuing contract or contracts with Crown Stone Co. (5)(a) *Empty cans and canning materials and supplies*, from Elwood, IN; Cincinnati, OH; and Atlanta, GA, to the facilities of Southern Style Foods, Inc., at Nashville, TN, under a continuing contract or contracts with Southern Style Foods, Inc., of Nashville, TN; (b) *canned foodstuffs*, from the facilities of Southern Style Foods, Inc., at Nashville TN, to Washington, DC; Clarksburg, VA; Lexington and Louisville, KY; and Sikeston, MO, under a continuing contract or contracts with Southern Style Foods, Inc., of Nashville, TN. (Hearing site: Kansas City, MO.)

NOTE.—The purpose of this portion of the application is to allow K T Lines, Inc., the wholly-owned subsidiary of Buhler Mills, Inc., to replace the present private carriage operated by Buhler Mills, Inc.

No. MC 144212 (Sub-No. 2F), filed March 20, 1978. Applicant: SLACK TRANSPORT LTD., a corporation, Box 579, Caledonia, Ontario, Canada N0A 1A0. Applicant's representative: William J. Hirsh, Suite 1125, 43 Court Street, Buffalo, NY 14202. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum Products and roofing materials*, from ports of entry on the International Boundary line between the United States and Canada at Detroit and Port Huron, MI, and points in NY, to points in IL, IN, MI, NY, OH, and PA, and (2) *Returned shipments, pallets, and materials, and supplies* used in the manufacture of gypsum products and roofing materials, from points in LI, IN, MI, NY, OH, and PA, to ports of entry on the International Boundary line between the United States and Canada at Detroit and Port Huron, MI, and points in NY. Under a continuing contract or contracts with Domtar Construction Materials Group of Domtar Inc., of Montreal, Quebec, Canada. (Hearing site: Buffalo, NY.)

NOTE.—All traffic either originates at or is destined to Brantford or Caledonia, Ontario, Canada.

No. MC 144213 (Sub-No. 2F), filed March 20, 1978. Applicant: CHANDLER & CLARK, INC., Knobs Road, Union, WV 24983. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed and ground limestone, in bulk, in dump vehicles*, from points in Greenbrier County, WV, to points in Allegheny, Bath, Craig, Giles and Highland Counties, VA, under a continuing contract or contracts with Acme Limestone Co., located at Fort Spring, WV. (Hearing site: Charleston, WV or Roanoke, VA.)

No. MC 144244 (Sub-No. 2F), filed March 17, 1978. Applicant: CRESTON TRANSPORTATION, INC., East Highway 34. Creston, IA 50801. Applicant's representative: Frank W. Davis, Jr., 2600 Ruan Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Omaha, NE; Milwaukee, WI; and Peoria, IL; to Creston, IA, under a continuing contract with Southwest Distributing Co., Inc., Creston, IA. (Hearing site: Des Moines, IA.)

No. MC 144265 (Sub-No. 1F), filed March 6, 1978. Applicant: AID, INC., P.O. Box 53154, Baton Rouge, LA 70805. Applicant's representative: Lynn Lyons (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *General commodities* (except commodities moving in bulk or tank trucks), between points in the following LA Parishes: Lafayette, St. Landry, Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, WA, St. Tammany, Livingston, East Baton Rouge, West Baton Rouge, Iberville, St. Martin, Iberia, Ascension, St. James, St. John the Baptist, St. Charles, Assumption, Lafourche, Terrebonne and St. Mary; and points in TX, AR and MS. (Hearing site: New Orleans, LA, or Baton Rouge, LA.)

No. MC 144343F, filed February 21, 1978. Applicant: FLORIDA CAR TRANSPORT, INC., 5800 Corporate Way, West Palm Beach, FL 33407. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles* and *personal effects* of owner when moving at same time in secondary movements in truckaway service, between points in Dade, Broward, Palm Beach, Pinellas and Sarasota Counties, FL, on the one hand, and, on the other, points in NY, NJ, CT, MA, RI, PA, IL, and MO. (Hearing site: Miami, FL or New York, N.Y.

No. MC 144400F, filed March 6, 1978. Applicant: BI-RITE AUTO TRANSPORT, INC., 1902 West Grand Avenue, Porterville, CA 93257. Applicant's representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, in secondary movements between points in AZ, CA, CO, ID, NV and UT. (Hearing site: Los Angeles or San Francisco, CA.)

No. MC 144417 (Sub-No. 1F), filed March 13, 1978. TK&H TRUCKING, INC., Rural Route 1, Firth, NE 68358. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849 Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, from the facilities of Cargill, Inc., at or near Sioux City, IA, and Farmland Industries, Inc., at or near Sergeant Bluff, IA, to Firth, NE, under a continuing contract or contracts with Firth Cooperative of Firth, NE. (Hearing Site: Lincoln or Omaha, NE.

No. MC 144429F, filed March 13, 1978. Applicant: TODD TRUCKING, INC., Pine Street, New Eagle, PA 15067. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Household and industrial cleaning compounds, moth preventatives and liquid chemicals*, from the plantsite of Allied Block Chemical Co., at New Eagle, PA, to points in NY, RI, CT, MA, VT, NH, ME, NJ, DE, MD, WV, DC, VA, KY, IN, IL, OH, and MI; and (2) *materials* used in the manufacture of the commodities specified in (1) hereof on return; under continuing contract or contracts with Allied Block Chemical Co., of New Eagle, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

No. MC 144435F, filed March 13, 1978. Applicant: J & L REFRIGERATED SERVICE, INC., 312 Willow Way, Lee's Summit, MO 64063. Applicant's representative: Clyde N. Christey, Kansas Credit Union Building, Suite 110 L, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packing houses*, as described in sections A and C of Appendix I to the Report and Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except hides, skins and pieces therefrom and commodities in bulk), from Kansas City, KS, to points in MO, on and north of U.S. Interstate Hwy No. 44; on and west of MO Hwy No. 19, and on and south of U.S. Hwy No. 36. (Hearing site: Kansas City, MO.)

No. MC 144446 (Sub-No. 1F), filed March 17, 1978. Applicant: PRODUCER'S SERVICE, INC., 68 East Church Street, Xenia, OH 45385. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic products*, from the facilities of Tech II, Inc. and Encon, Inc. located in German Township, Clark County, OH to points in the United States (except AK and HI); and (2) *equipment, materials and supplies* used in the manufacture of plastic products, from points in the United States (except AK and HI) to the facilities of the above-named shippers, under a continuing contract, or contracts, with Tech II, Inc. and Encon, Inc., of German Township, Clark County, OH. (Hearing site: Columbus, OH.)

No. MC 144451 (Sub-No. 1F), filed March 16, 1978. Applicant: HIGGINS HAULING, INC., Route 5, Box 289, Hillsboro, OH 45133. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as

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a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, equipment, and supplies* (except commodities in bulk), between Dodson Township, Highland County, OH, on the one hand, and, on the other, AL, AR, GA, IL, IN, IA, KS, KY, MI, MS, MO, NY, NC, OK, PA, SC, TN, WV, and WI. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Higgins Construction and Supply Co., of Hillsboro, OH. (Hearing site: Columbus, OH, or Washington, DC.)

No. MC 144461F, filed March 16, 1978. Applicant: BILLY M. EDMONDSON d.b.a. EDMONDSON SWIFT MEAT TRANSPORT, Route 1, Georgetown, GA 31754. Applicant's representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and articles distributed by meat packinghouses* as described in the *Descriptions* case, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plant site and shipping facilities of Swift Fresh Meats Co. at or near Guymon, OK, to points in AL, GA, NC and SC, under a continuing contract with Swift Fresh Meats Co., a division of Swift & Co. (Hearing site: Washington, DC or Atlanta, GA.)

No. MC 144462F, filed March 16, 1978. Applicant: CROSBY VENTURES, INC., d.b.a. SEAFOOD DISTRIBUTORS AND SUPPLY, P.O. Box 5813, Tampa, FL 33605. Applicant's representative: Steven J. Kalish, Suite 1105, 1750 Pennsylvania Avenue NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by seafood processors (except commodities in bulk), between the facilities of Singleton Packing Corp., at Tampa, FL, on the one hand, and, on the other hand, points in the United States (except AK and HI), DC, and for furtherance into the Provinces of ON, MB, and BC, Canada, under contract or contracts with Singleton Packing Corp. (Hearing site: Tampa, FL or Washington, DC.)

No. MC 144463F, filed March 15, 1978. Applicant: PIERSON TRUCKING CO., 7355 Southeast Johnson Creek Boulevard, P.O. Box 22141, Milwaukie, OR 97222. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from points in OR and WA to points in CA, under a continuing contract or contracts with Western International Forest Products. (Hearing site: Portland, OR.)

No. MC 144465F, filed March 14, 1978. Applicant: L. P. TRANSPORT, Ltd., 120 River Avenue, Holland, MI 49423. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting of: *Scrap iron, scrap nonferrous metals, scrap paper, scrap plastics and scrap rag cuttings*, all for recycling, between points in MI, on the one hand, and, on the other, points in OH, IL, IN, WI, IA, PA and MO, under contract with Louis Padnos Iron and Metal Co. (Hearing site: Lansing, MI or Detriot, MI.)

No. MC 144466F, filed March 14, 1978. Applicant: ROBERT B. SCHUNEMAN TRUCKING, INC., 11920 North Milford Road, Holly, MI 48442. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: *Pianos, organs, musical instruments and parts and accessories* thereof, between Chicago, IL; French Lick, IN; West Baden, IN; Memphis, TN; Altanta, GA; Marion, NC; Rochester, NY; Port Jersey, NJ; and South Haven, MI, on the one hand, and, on the other, the stores and facilities of Grinnell Brothers, Inc. located at points in the Lower Peninsula of MI; South Bend, IN; and Toledo and Lima, OH, under contract with Grinnell Brothers, Inc. (Hearing site: Chicago, IL or Detroit or Lansing, MI.)

No. MC 144480 (Sub-No. 1F), filed March 20, 1978. Applicant: UNITED SUPPLIERS, INC., Airport Road, P.O. Box 538, Eldora, IA 50627. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Monies, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Livestock confinement systems and buildings, and material, equipment, and supplies* used in the manufacture, construction, operation, and distribution of livestock confinement systems and buildings (except commodities in bulk); (1) between Eldora, IA, on the one hand, and, on the other, points in CO, IL, IN, KS, KY, MI, MN, MT, MO, NE, ND, OH, PA, SD, WI, and WY; and (2) between points in IA, CO, IL, IN, KS, KY, MI, MN, MT, MO, NE, ND, OH, PA, SD, WI, and WY. Restriction: Restricted in part (2) above to shipments moving in mixed loads with shipments originating at or destined to Eldora, IA, and further restricted in parts (1) and (2) above to transportation performed under continuing contract or contracts with Confinement Livestock Systems, Inc., of Eldora, IA. (Hearing site: St. Paul, MN.)

No. MC 144486 (Sub-No. 1F), filed March 20, 1978. Applicant: MAS-MOR CORP., Route 1, Box 45, Higbee, MO 65257. Applicant's representative: Dale E. Sporleder, 614 Central Trust Building, Jefferson City, MO 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal and coal products*, from points in Randolph County, MO, to all points in IL and IA. (Hearing site: Jefferson City, MO; Kansas City, MO.)

No. MC 144492F, filed March 20, 1978. Applicant: THOMAS T. WHITE, 2525 Railroad Street, Pittsburgh, PA 15222. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of White Terminal Co., located in Pittsburgh, PA, to points in that part of PA on and south of U.S. Hwy 322, and on and west of U.S. Hwy 220; points in WV on and north of U.S. Hwy 50; and points in OH on and south of U.S. Hwy 80, and on and east of U.S. Hwy 21; under continuing contract or contracts with White Terminal Co. of Pittsburgh, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

No. MC 144493F, filed March 20, 1978. Applicant: DOYLE EDDINS POPE, d.b.a., D&E HAULING CO., Route 2, Box 146, Quincy, FL 32351. Applicant's representative: Doyle Eddins Pope (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bulk, in dump vehicles, between points in Gadsden County, FL, and points in Grady County, GA, in nonradial movements, under a continuing contract or contracts with Floridin Co. of Quincy, FL. (Hearing site: Quincy, FL.)

No. MC 144494F, filed March 20, 1978. Applicant: NEWPORT OIL CORP., 128 Long Wharf, Newport, RI 02840. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *contract carrier* by motor vehicle over irregular routes, transporting: *gasoline and diesel fuel* in bulk, from East Providence and Tiverton, RI, to points in Newport and Bristol Counties, RI, and Bristol County, MA, under a continuing contract or contracts with Concord Oil of Newport, Inc. (Hearing site: Providence, RI, or Boston, MA.)

No. MC 144516F, filed March 20, 1978. Applicant: 4-S CO., a corporation, Pennsylvania Route No. 255, Penfield, PA 15849. Applicant's representative: Gregory B. Fraser, Bankers Trust Building, Jamestown, NY 14701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *coal*, in bulk, in dump vehicles, from Armstrong, Clearfield, Indiana, and Jefferson Counties, PA, to OH and NY, restricted to transportation originating at the mines and other facilities of Glen Irvan Corp. under a continuing contract or contracts with Glen Irvan Corp. (Hearing site: Pittsburgh, PA.)

No. MC 144527F filed, March 20, 1978. Applicant: BULS EYE TRANSPORT, INC., Suite 2424, 33 North Dearborn Street, Chicago, IL 60602. Applicant's representative: Patrick H. Smyth, Suite 521, 19 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products and commodities used by packinghouses*, as described in appendix I of the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk, section D, and hides), from the facilities of Swift & Co. at Bradley, Chicago, Rochelle, and St. Charles, IL, to CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, under a continuing contract, or contracts, with Swift & Co. of Chicago, IL. (Hearing site: Chicago, IL.)

No. MC 144529F, filed March 20, 1978. Applicant: BUFFALO FUEL CO., INC., S-3030 Baker Road, Orchard Park, NY 14127. Applicant's representative: William J. Hirsch, 43 Court Street, Suite 1125, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, over irregular routes, transporting: (1) *Coke*, from Erie County, NY, to points in CT, MA, MI, NJ, NY, OH, PA, RI, VT, VW, and returned shipments in the reverse direction; (2) *scrap metal*, between all points in CT, MA, MI, NJ, NY, OH, PA, RI, VT, VW. (Hearing site: Buffalo, NY.)

NOTE.—Common control may be involved.

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No. MC 30318 (Sub-No. 5F), filed March 21, 1978. Applicant: YANKEE TRAILS, INC., Rural Delivery No. 2, Third Avenue Extension, Rensselaer, NY 12144. Applicant's representative: Edward L. Merrigan, 6000 Connecticut Avenue NW., Washington, DC 20015. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle in: (a) special operations consisting of round-trip all expense sightseeing or pleasure tours sold on an individual fare basis, and (b) charter and special operations, from points in Albany and Rensselaer Counties, NY, and Bennington, VT, to points in the United States (except AK and HI) and return. (Hearing site: Albany, NY.

No. MC 61802 (Sub-No. 17F), filed March 20, 1978. Applicant: THE COLONIAL TRANSIT CO. INC., P.O. Box 508 Fredericksburg, VA 22401. Applicant's representative: L. C. Major, Jr., Suite 400 Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Authority being sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, between Safari Campground, Route 1, Stafford County, VA; Prince William Travel Trailer Park, Prince William County, VA; and Pohick Bay Regional Park, Fairfax County, VA, and DC in nonradial movements. (Hearing site: Fredericksburg, VA, or Washington, DC.)

No. MC 78296 (Sub.-No. 2F), filed March 14, 1978. Applicant: MID-AMERICA COACH LINES, INC., 2513 E. Higgins Road, Elk Grove Village, IL 60007. Applicant's representative: Bruce E. Mitchell, Serby & Mitchell, P. C., Suite 375 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, to transport: *Passengers and their baggage*, in the same vehicle with passengers, in charter operations, from Chicago, IL, and points in IL, WI, IN, and MI within 100 miles of Chicago, to points in NM, AZ, CA, UT, NV, ID, OR, WA, and MT, and return. (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 94742 (Sub.-No. 39F), filed March 13, 1978. Applicant: MICHAUD BUS LINES, INC., 63 Jefferson Avenue, Salem, MA 01970. Applicant's representative: Robert G. Parks, 20 Walnut Street, First Floor, Wellesley Hills, MA 02181. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: (1) *Passengers, and their baggage*, in special and charter operations, and (2) *passenger automobiles*, in secondary movements in truckaway service, between Boston, MA and points within its commercial zone; Hartford, CT and points within its commercial zone and Stamford, CT on the one hand, and, on the other, Jacksonville, FL; Daytona Beach, FL, and points within its commercial zone, and Cocoa, FL and points within its commercial zone. Restrictions: The above authority is restricted to the transportation of passengers having immediately prior movement in a passenger automobile tendered to carrier for transportation on a separate automobile-carrying vehicle and to the transportation of the passenger automobiles tendered to carrier by such passengers, as part of a unit movement. Operations are to be restricted to the period of May through October of each year. (Hearing site: Boston, MA.)

NOTE.—Common control may be involved.

No. MC 101134 (Sub.-No. 8F), filed March 14, 1978. Applicant: ARO COACHES, INC., 107 South Wood Avenue, Linden, NJ 07036. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers in round-trip charter operations, beginning and ending at New York, NY (all boroughs), and points in Union, Essex, and Morris Counties, NJ, and extending to points in the United States, including Alaska but excluding Hawaii. (Hearing site: New York, NY.)

NOTE.—Common control may be involved.

No. MC 104656 (Sub-No. 14F), filed March 27, 1978. Applicant: MANDRELL MOTOR COACH, INC., 312—5th Avenue, Denton, MD 21629. Applicant's representative: Chester A. Zyblut, 366 Excecutive Building, 1036 Fifteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip charter operations, beginning and ending at points in Caroline, Talbot, Queen Annes, Kent, and Dorchester Counties, MD; Georgetown, DE, and points in that part of DE located on and west of a line beginning at a point on the MD-DE State line and extending northerly along U.S. Hwy 13 to junction DE Hwy 6, then westerly along DE Hwy 6, to the MD-DE State line, and extending to points in the United States (including Alaska but excluding Hawaii). (Hearing site: Easton, or Cambridge, MD.)

No. MC 142692 (Sub-No. 4F), filed March 13, 1978. Applicant: OHIO VALLEY REGIONAL TRANSPORTATION AUTHORITY, a public transit operator, P.O. Box 311, Wheeling, WV 26003. Applicant's representative: Terry A. LaBar, P.O. Box 311, Wheeling, WV 26003. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (1) *Passengers and their baggage*, and express in the same vehicle with passengers, between Wheeling, WV, and Avella, PA, serving all intermediate points: from Wheeling over WV Hwy 88 to junction WV Hwy 67, then over WV Hwy 67 to Bethany

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College, Bethany, WV, then return over WV Hwy 67 to junction WV Hwy 88, then over WV Hwy 88 to junction WV Hwy 27, then over WV Hwy 27 to the WV-PA State line, then over PA Hwy 844 to junction PA Hwy 50, and then over PA Hwy 50 to Avella, and return over the same route. Between junction U.S. hwy 40 and WV Hwy 88 and junction WV Hwy 88 and OH County Hwy 9, serving all intermediate points: from junction U.S. Hwy 40 and WV Hwy 88 over WV Hwy 88 to junction OH County Hwy 7, then over OH County Hwy 7 to junction OH County Hwy 1, then over OH County Hwy 1 to junction OH County Hwy 9, and then over OH County Hwy 9 to junction WV Hwy 88, and return over the same route. (2) *passengers and their baggage*, in round trip special and charter operations, beginning and ending at points on the regular described route and extending to points in PA, OH, and WV. (Hearing site: Wheeling, WV; Pittsburgh, PA.)

No. MC 143564 (Sub-No. 1F), filed March 15, 1978. Applicant: BANANA BELT BUS SERVICE, INC. P.O. Box 323 Spearfish, SD 57783. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, and their baggage* between points in Crook County, WY, on the one hand, and on the other points in Butte County, SD, under a continuing contract or contracts with (a) IMC Foundry Products; (b) Federal Bentonite; and (c) Baroid Division NL Industries. (Hearing site: Belle Fourche, SD.)

No. MC 144457-F filed March 20, 1978. Applicant: JONES BROOKS, d.b.a., PRAIRIE JAYS CHARTER BUS CO., 1408 Eastern Drive, Urbana, IL 61801. Applicant's representative: Douglas G. Brown, The INB Center—Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Passengers and their baggage* in the same vehicle with passengers in charter operations, from points in the following IL counties: Iroquois, Ford, DeWitt, Piatt, Champaign, Vermilion, Moultrie, Douglas, Coles, and Edgar to points throughout the United States, (except Alaska and Hawaii), and return. (Hearing site: St. Louis, MO or Chicago, IL.)

No. MC 144530-F filed March 20, 1978. Applicant: CARL LEONARD WHITTED, d.b.a. HACARONEE BUS SERVICE, 170 Rock Hill Road, Castle Hayne, NC, 28429. Applicant's representative: L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip charter operations, beginning and ending at points in Brunswick, Columbus, New Hanover, and Pender Counties, NC, and extending to AL, DE, FL, GA, LA, MD, NJ, NY, PA, SC, TN, VA, and DC. (Hearing site: Wilmington, NC.)

No. MC 12808 (Sub-No 1F), filed March 1, 1978. Applicant: EASTERN TOURS, LTD., 433 Chestnut Street, Oneonta, NY 13820. Applicant's representative: Jeremy Kahn, Suite 733 Investment Building, Washington, DC 20005. Authority sought to engage in operation in interstate or foreign commerce as a *broker* at Oneonta and Binghamton, NY, to sell or offer to sell the transportation of: *Passengers and their baggage* in the same vehicle with passengers, in all-expense, one way and roundtrip special and charter sightseeing and pleasure tours, between points in the United States, including AK and HI. (Hearing site: Albany, NY.)

NOTE.—Common control may be involved.

No. MC 130480-F filed March 17, 1978. Applicant: CHIN BROS ENTERPRISES, INC., 132 North Main Street, Salinas, CA 93901. Applicant representative: David W. Chin, 516 San Felipe Street, Salinas, CA 93901. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Salinas, CA to sell or offer to sell the transportation of: *Passengers and their baggage*, in round-trip, sightseeing and pleasure tours, in special and charter operations, beginning and ending at points in CA and extending to points in NV. (Hearing site: Salinas, Monterey, San Jose, or San Francisco, CA.)

No. MC 130481F filed March 13, 1978. Applicant: UNIQUE ADVENTURES, INC. 7200 Southwest Gable Parkway, Portland, OR 97225. Applicant's representative: Howard R. Lonergan, 811 Southwest 6th Avenue, Portland, OR 97204. Authority sought to engage in interstate commerce, as a *broker* at Portland, OR, to sell of offer to sell the transportation of: *Groups of passengers* on personally conducted sighseeing, pleasure and educational tours by motor carrier, beginning and ending in Portland, OR, and extending to points in WA. (Hearing site: Portland, OR.)

No. MC 130482-F filed March 15, 1978. Applicant: CENTRAL TRAVEL & TICKET, INC., 4612 Talmadge Road, Toledo, OH 43623. Applicant's representative: Joseph W. Westmeyer, Jr., 1314 Toledo Trust Building, Toledo, OH 43604. Authority sought to engage in operation in Toledo, OH, in interstate or foreign commerce, as a *broker* to sell or offer to sell the transportation of: *Individual passengers and their baggage*, groups of passengers, or both, and personal effects of such passengers by motor coach, in round-trip sigh-seeing, business and pleasure tours, in special and charter bus operations and travel to be rendered, between points in the United States, including AK and HI. (Hearing site: Toledo, OH, or as alternataive choices Cleveland or Columbus, OH.)

No. MC 130489 F filed March 21, 1978. Applicant: BROADCASTERS, INC., d.b.a. B. I. TOURS, Milford-Harrington Highway (P.O. Box 324), Milford, DE 19963. Applicant's representative: Dennis S. Hazzard (same address as applicant). Authority sought to engage in operation in interstate or foreign commerce, as a *broker* at Milford, DE, to sell or offer to sell the transportation of: *Passengers and their baggage* in special and charter operations in round trip sightseeing, pleasure and educational tours by motor carrier, beginning and ending at points in Kent and Sussex Counties, DE, and extending to points in the United States, including AK and HI and all ports of entry on the International Boundary line between the United States and Canada and the Republic of Mexico for furtherance in foreign commerce. (Hearing site: Milford or Georgetown, DE.)

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers of motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An Original and two copies of protests against the granting of the requested authority must be filed with the commission on or before June 12, 1978. Such protests shall comply with Special Rules 240(c) or 24)(d) of the Commission's general rules of practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13450 (amendment) (REEVES TRANSPORTATION CO.,— Purchase (portion)—Patterson Trucking Co.), published in the December 30, 1977, issue of the FEDERAL REGISTER. Previous publication inadvertently omitted part of the authority to be purchased, and should be modified to reflect the operating rights as follows: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the commission, commodities in bulk, and commodities the transportation of which requires the use of special equipment, as a

common carrier over regular routes, "Serving the Holiday Industrial Park, in DeSota County, MS, as an off-route point in connection with carrier's regular route operations." Transferee is authorized to operate as a *common carrier* in FL, GA, TX, and AR.

No. MC-F-13522. (GEORGE B. KING, an individual, d.b.a. KING TRANSFER—Purchase (portion)—Momsen Trucking Co.), published in the March 16, 1978, issue of the FEDERAL REGISTER. Application filed February 22, 1978, for temporary authority under section 210a(b).

No. MC-F-13541. (ROAD RUNNER TRUCKING, INC.—Purchase (portion)—Schultz Transit, Inc.), published in the April 6, 1978, issue of the FEDERAL REGISTER. Application filed March 13, 1978, for temporary authority under section 210a(b).

No. MC-F-13553. Applicant: DENNIS TRUCKING COMPANY, INC.—and—DENNIS TRUCK RENTAL AGENCY, INC., 6951 Norwitch Drive, Philadelphia, PA 19153. A. T. PINTO, INC., 3320 South 3rd Street, Philadelphia, PA 19148. Applicant's representative: James W. Patterson, Esquire, Harper, George, Buchanan & Driver, 1200 Western Savings Bank Building, Philadelphia, PA 19107. Authority sought for purchase by Dennis Trucking Company, Inc., and Dennis Truck Rental Agency, Inc., 6951 Norwitch Drive, Philadelphia, Pa. 19153, of the operating rights of A. T. Pinto, Inc., 3320 South 3rd Street, Philadelphia, Pa. 19148. Operating rights sought to be transferred: *Pipe*, over irregular routes, as a common carrier, from the facilities of Certain-Teed Products Corp., at Ambler, PA, to points in CT, DE, NJ, NY, MD, MA, RI, VT, VA, and WV, and points in DC, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier in CT, DE, DC, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and WV. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13563. Authority sought for purchase by CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077, of a portion of the operating rights of C.P.T. Freight, Inc., 2600 Calumet Avenue, Hammond, IN 46320, and for acquisition of control of such rights by T. J. Moroun, and M. J. Moroun, both of 34200 Mound Road, Sterling Heights, MI 48077, through the purchase. Applicant's Attorneys: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603, and Eugene L. Cohn, One North LaSalle Street, Chicago, IL 60602. Operating rights sought to be transferred are as a *common carrier*, over irregular routes as follows: (A) MC 1042 *general commodities*, with the usual exceptions, between points and places in Lake County, IN, on the one hand, and, on the other, Hebron, IN, Chicago Heights, IL, and points in the Chicago, IL, commercial zone as defined by the Commission in 1 MCC 673; (B) MC 1042 (Sub-No. 1) *general commodities*, with the usual exceptions, between Chicago, IL, and Portage, IN; (C) MC 1042 (Sub-No. 2) *general commodities*, with the usual exceptions, between points in the Chicago, IL, commercial zone as defined by the Commission; between points in the above-specified commercial zone, on the one hand, and, on the other, points in Cook, Du Page, and Will Counties, IL on and north of U.S. Hwy 30; between points in Cook, Du Page, and Will Counties, IL, on the north of U.S. Hwy 30, on the one hand, and, on the other, points in Lake and Porter Counties, IN on and north of U.S. Hwy 30; (D) MC 1042 (Sub-No. 3) *general commodities*, with the usual exceptions, between points in Cook, Du Page, and Will Counties, IL, and Porter County, IN, located on and north of U.S. Hwy 30, Hebron, IN, and points in Lake County, IN, on the one hand, and, on the other, Demotte, Kouts, and Boone Grove, IN; (E) MC 1042 (Sub-No. 4) *general commodities*, with the usual exceptions, between the plant site of the Bethlehem Steel, Corp., located at Burns Harbor, Porter County, IN, on the one hand, and, on the other, points in IL within a territory bounded by a line beginning at the IL-IN State line, and extending west along IL Hwy 114 to junction IL Hwy 17, then west along IL Hwy 17 to junction U.S. Hwy 66, then southwest along U.S. Hwy 66 to junction U.S. Hwy 24, then west along U.S. Hwy 24 to junction U.S. Hwy 150, then northwest along U.S. Hwy 150 to junction IL Hwy 88, then north along IL Hwy 88 to junction IL Hwy 2, then north and northeast along IL Hwy 2 to the IL-WI State line, including all points on the aforesaid highways; (F) MC 1042 (Sub-No. 7) *general commodities*, with the usual exceptions, between Portage, IN, on the one hand, and, on the other, points in that part of IL bounded by a line beginning at the IL-IN State line and IL Hwy 114, then extending west along IL Hwy 114 to junction IL Hwy 17, then west along IL Hwy 17 to junction U.S. Hwy 66, then southwest along U.S. Hwy 66 to junction U.S. Hwy 24, then west along U.S. Hwy 24 to junction U.S. Hwy 150, then northwest along U.S. Hwy 150 to junction IL Hwy 88, then north along IL Hwy 88 to junction Hwy 2, then north and northeast along IL Hwy 2 to the IL-WI State line, including all points on the aforesaid highways; (G) MC 1042 (Sub-No. 8) *Iron and steel articles and contractors' machinery, equipment, supplies and materials* (except commodities in bulk), between Indian Oaks, IL, on the one hand, and, on the other, points in IN: Restricted: to the transportation of shipments originating at or destined to the facilities of the Chicago Bridge & Iron Co. at Indian Oaks, IL, on the one hand, and, on the other, destined to or originating at the points in the particular area authorized; (H) MC 1042 (Sub-No. 9G) *general commodities*, with the usual exceptions, between Hebron, DeMotte, Kouts, and Boone Grove, IN, and points in Lake County, IN, on the one hand, and, on the other, points in that part of IL on, north, and east of a line beginning at the IN-IL State line, and extending along IL Hwy 114 to junction IL Hwy 17, then along IL Hwy 17 to junction U.S. Hwy 66, then along U.S. Hwy 66 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 150, then along U.S. Hwy 150 to junction IL Hwy 88, then along IL Hwy 88 to junction IL Hwy 2, and then along IL Hwy 2 to the IL-WI State line. Central Transport, Inc. is authorized to operate as a common carrier in IL, IN, KY, MI, NY, OH, PA, WV and WI. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC 19311 (Sub-No. 45F) is a directly related matter.

No. MC-F-13564. Authority sought for purchase by G. P. TRUCKING CO., 1990 Hays Lane, Woodland, CA 95695, of all of the operating rights of Robert Patrick McCarthy, an individual, d.b.a Trico, P.O. Box 1319, Tulare, CA 93274, and for authority to bring the operating rights or Robert Patrick, McCarthy, d.b.a. Trico and of A. W. Hays Trucking, Inc. under the common control of G. P. Trucking Co. through the transaction. Applicant's attorney: Thomas M. Loughran, Loughran & Hegarty, 100 Bush Street, 21st Floor, San Francisco. CA 94104. Operating rights to be purchased: (1) *Dry Fertilizer*, over irregular routes, as a *contract carrier*, from the facilities (1) of the Occidental Chemical Co. near Lathrop, CA, (2) of the Filtrol Corp. in Los Angeles, CA, (3) of the Collier Carbon & Chemical Corp. at Brea Chem, CA, (4) of the California Chemical Co., at Richmond, CA, (5) of the Western States Chemical Co., at Nichols, CA, (6) of the Shell Chemical Co. at Nitroshell, about 5 miles north of Ventura, CA, and at Shell Point, near Pittsburg, CA, and (7) at Dominguez, CA, to points in OR, with restrictions. (2) *Agricultural fertilizer*, dry, in bulk, in hopper type vehicles or self unloading vehicles, as a contract carrier over irregular routes, for the account of Occidental Chemical Co.,

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from Lathrop, CA, to points in WA, and ID as set forth in Permit No. MC 140678 (Sub-No. 1TA). (3) *Dry Fertilizer*, in bulk in hopper type vehicles or self unloading vehicles, as a contract carrier, over irregular routes, from Conda, Soda Springs and Don, ID to points in WA, OR and CA, as set forth in Permit No. MC 140678 R-3. (4) *Dry fertilizer*, in bulk, as a contract carrier, for the account of Valley Nitrogen Producers, Inc., over irregular routes, from El Centro, Bena, Edison, Stockton, Helm and Hercules, CA, to points in WA, OR and ID, as set forth in Permit No, MC 140678 (Sub-No. 3TA.)

Note.—Applicants also request transfer of such authority as may be issued in Docket No. MC 140678 (Sub-No. 2) which corresponds to the above described (Sub-No. 3TA). The Sub-No. 2 proceeding is pending decision and involves the request of Robert Patrick McCarthy for authority to transport fertilizer, in bulk as a contract carrier, (1) from El Centro, Bena, Edison, Stockton, Helm and Hercules, CA to points in AZ, NV, UT, CO, ID, OR and WA; and (2) from Pocatello and Conda, ID and Wendover, UT, to points in CA, under a continuing contract or contracts, with Valley Nitrogen Producers, Inc. Applicants will request that G. P. Trucking Co., be substituted as applicant in Application No. MC 140678 (Sub-No. 4) which corresponds to the above described Sub-No. 1TA and Sub-No. R-3 authorities and which is awaiting assignment for handling through oral hearing or modified procedure. G. P. Trucking Co. holds no authority from this Commission. However, it owns 100 percent of the outstanding stock of A. W. Hays Trucking, Inc., which operates as a common carrier under Docket No. MC-62151 and subs thereunder in the States of CA. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13566. Authority sought for purchase by GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312, of a portion of the MC 111398 (Sub-No. 16) Certificate of Fischbach Trucking Co., 921 Sherman Street, Akron, OH 44311, and for acquisition by George W. Kugler, Inc., 2800 East Waterloo Road, Akron, OH 44312, of control of such rights through purchase. Applicant's representative: John P. McMahon, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be transferred are that portion of Certificate No. MC 111398 (Sub-No. 16) which authorizes the transportation of *general commodities*, except commodities in bulk, and motor vehicles, as a *common carrier* over irregular route between Akron, OH, on the one hand, and on the other, part of OH on and north of a line beginning at Martins Ferry, OH and extending along U.S. Hwy 250 to Wooster, OH, then along U.S. Hwy 30 to the OH-IN State line. Vendee is authorized to operate as a common carrier in IL, CT, DE, IN, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, WVA, DC, TN, WI, IA, KY, MO, MN, ND, SD, NB, KS, OK, and TX. Application has been filed for temporary authority under section 210a(b).

Note.—MC 125533 (Sub-No. 23F) is a directly related matter.

No. MC-F-13568. Authority sought for the purchase by TUCKER FREIGHT LINES, INC., 1415 South Olive Street, South Bend, IN 46619 of a portion of the operating rights of Great Lakes Express Co., 114 Fifth Avenue, New York, NY 10011 and for acquisition by Samuel Raitzin, 1415 South Olive Street, South Bend, IN 46619 of control of the rights through the purchase. Applicants' attorneys: Eugene L. Cohn, One North LaSalle Street, Chicago, IL and Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, DC 20036. Operating rights to be purchased: Regular routes: *General commodities* with exceptions, in connection with carrier's regular route operations described herein below, service is authorized to and from the off-route points in that part of OH bounded by a line beginning at Cleveland, OH, and extending along Interstate Hwy 77 to junction U.S. Hwy 62, at or north of Canton, OH, then along U.S. Hwy 62 to junction OH Hwy 14A, then along OH Hwy 14A via Salem, OH, to junction OH Hwy 14, then along OH Hwy 14 to the OH-PA State line, then north along the OH-PA State line to U.S. Hwy 422, then along U.S. Hwy 422 to junction OH Hwy 534, then along OH Hwy 534 to Southington, OH, then along OH Hwy 305 to junction U.S. Hwy 422, then along U.S. Hwy 422 to Cleveland, including the points on the indicated portions of the highways specified, except Akron, Canton, and Youngstown, OH. Between Toledo, OH, and Cleveland, OH, serving the intermediate points of Norwalk and Elyria, OH, for delivery only, and the off-route points within 10 miles of Cleveland, unrestricted: From Toledo over OH Hwy 51 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Cleveland, and return over the same route; Between Toledo, OH, and Cleveland, OH, serving no intermediate points: From Toledo over Interstate Hwy 280 to junction Interstate Hwy 80 (OH Turnpike), then over Interstate Hwy 80 to junction U.S. Hwy 42, then over U.S. Hwy 42 to Cleveland, and return over the same route. From Toledo over OH Hwy 65 to Perrysburg, OH, then over U.S. Hwy 20 to Cleveland, and return over the same route. From Toledo over OH Hwy 51 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction OH Hwy 113, at or near Bellevue, OH, then over OH Hwy 113 to Elyria, OH, then over U.S. Hwy 20 to Cleveland, and return over the same route. From Toledo over Interstate Hwy 280 to junction Interstste Hwy 80, then over Interstate Hwy 80 to junction OH Hwy 10, then over OH Hwy 10 to Cleveland, and return over the same route. Between Toledo, OH, and Akron, OH, serving no intermediate points, except as otherwise indicated: From Toledo over U.S. Hwy 25 or Interstate Hwy 75 to Findlay, OH, then over U.S. Hwy 224 to Akron, and return over the same route. From Toledo over Interstate Hwy 280 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 250, then over U.S. Hwy 250 to Norwalk, OH, then over U.S. Hwy 20 to junction OH Hwy 19, then over OH Hwy 19 to Akron, and return over the same route. Serving the intermediate point of Wellington, OH, for delivery only, in connection with the route described immediately above. From Toledo over OH Hwy 65 to Perrysburg, OH, then over U.S. Hwy 23 to Fostoria, OH, then over OH Hwy 13 to junction U.S. Hwy 224, then over U.S. Hwy 224 to Akron, and return over the same route. Serving the intermediate point of Fostoria, OH, and the off-route point of Tiffin, OH in connection with the route described immediately above for delivery only: From Toledo to Norwalk, OH, as specified above, then over U.S. Hwy 250 to junction U.S. 224, then over U.S. Hwy 224 to Akron, and return over the same route. Between Toledo, OH, and Canton, OH, serving no intermediate points, except as otherwise indicated: From Toledo over Interstate Hwy 280 and U.S. Hwy 20 as specified to Norwalk, OH, then over U.S. Hwy 250 to junction U.S. Hwy 30 at or near Jefferson, OH, then over U.S. Hwy 30 to Canton, and return over the same route. Serving the intermediate points of Wooster and Ashland, OH, and the off-route point of Mansfield, OH, for delivery only, and the intermediate point of Massillon, OH, unrestricted, in connection with the route described immediately above. From Toledo over OH Hwy 65 to Perrysburg, OH, then over U.S. Hwy 23 to Fostoria, OH, then over OH Hwy 18 to junction U.S. Hwy 224, then over U.S. Hwy 224 to junction U.S. Hwy 224, or Interstate Hwy 80S and U.S. Hwy 21, then over U.S. Hwy 21 to Massillon, OH, then over U.S. Hwy 30 to Canton, and return over the same route. Serving the off-route points of Rittman and Dover, OH, for delivery only, in connection with the route described immediately above. Between Cleveland, OH, and Youngstown, OH, serving intermediate and off-route points within 10 miles of Youngstown: From Cleveland over U.S. Hwy 422 to Youngstown, and return over the same route. Authority to be acquired is part of operating rights held by vendor in Docket No. MC 28478 (Sub-No. 10). Vendee is authorized to provide service

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as a general freight transporter over regular and certain irregular routes in IL, IN, IA, KY, KA, MI, MN, MO, OH, OK, TN, TX, and WI. Application has been filed for temporary authority under Section 210a(b). (Hearing site: July 11, 1978, at 9:30 a.m. local time at the office of the Interstate Commerce Commission, Washington, DC.)

No. MC-F-13571. Authority sought for purchase by SCHWERMAN TRUCKING CO., 611 South 28th Street, P.O. Box 1601, Milwaukee, WI 53201, of the operating rights of Asphalt Transport, Inc., 11419 Almonaster Avenue, New Orleans, LA 70189, and for acquisition by Fred J. Schwerman and Carl L. Schwerman, both of 611 South 28th Street, Milwaukee, WI 53215, of control of such rights through the purchase. Applicants' attorney: James R. Ziperski, P.O. Box 1601, Milwaukee, WI 53201 and Edward A. Winter, Transportation Consultant, 235 Rosewood Drive, Metairie, LA 70005. Operating rights sought to be transferred: *Asphalt* and *asphalt products*, as a *common carrier* over irregular routes from Vicksburgh, MS to points in Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSota, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, West Carroll and Winn Parishes, LA, with no transportation for compensation on return except as otherwise authorized; *Blasting sand* and *mineral fillers*, from Sun, LA to points in that part of MS on and south of U.S. Hwy 82, and points in Mobile, Baldwin, and Escambia Counties, AL, with no transportation for compensation on return except as otherwise authorized. *Blasting sand* from the facilities of Stan-Blast Abrasives Co., Inc., at or near Harvey, LA, to Mobile, AL, Beaumont and Houston, TX: and Pascagoula and Vicksburg, MS. Schwerman Trucking Co. is authorized to operate as a *common carrier* in all the States in the United States (except AK and HI). Application has not been filed for temporary authority under Section 210a(b).

No. MC-F-13573. Authority sought for control by MERCHANTS DELIVERY CO., 1212 East 19th Street, Kansas City, MO, 64108, of Iowa Parcel Service, Inc., 3123 Delaware, Des Moines, IA, 50313, and for acquisition by William K. Walker, 1212 East 19th Street, Kansas City, MO, 64108, of control of Iowa Parcel Service, Inc., through the transaction. Applicants' attorneys: Leonard Rose and John F. Michaels, 601 West 47th Street, Kansas City, MO, 64112. Operating rights sought to be controlled: *Motion picture films, film accessories, advertising material* used in connection with the exhibition of such films, newspapers, magazines, and periodicals publications, as a *common carrier* over regular routes between Des Moines, IA, and East Moline, IL, serving all intermediate points and the off-route points of Kellogg, Montezuma, Williamsburg, and Cedar Rapids, IA; between Des Moines, IA, and Leon, IA, serving all intermediate points; between Osceola, IA, and Burlington, IA, serving all intermediate points; between Leon, IA, and Davenport, IA, serving all intermediate points and the off-route points of Garden Grove, Humeston, Allerton, Seymour, Mystic, Moulton, Keosauqua, Bonaparte, Morning Sun, and Columbus Junction, IA; between Des Moines, IA, and Corydon, IA, serving all intermediate points; between Mount Pleasant, IA, and Iowa City, IA, serving all intermediate points and the off-route points of Winfield and Columbus Junction, IA; between Des Moines, IA, and Omaha, NB, serving all intermediate points and the off-route point of Audubon, IA; between Des Moines, IA, and Spirit Lake, IA, serving all intermediate points and the off-route points of Panora, Guthrie Center, Coon Rapids, Manning, Manilla, Wall Lake, Odebolt, Sac City; Newell, Graettinger, Rembrandt, and Lakota, IA; Cosmetics, toilet preparations, and advertising materials related thereto; and chemicals limited to the following household articles: *Mothproofers, deodorants, room fresheners, insect repellants, household insecticides*, and *advertising materials* related thereto, as a *common carrier* over irregular routes from Des Moines, IA, to points in Adair, Adams, Allamakee, Appanoose, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Chickasaw, Clarke, Clay, Clayton, Clinton, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Henry, Howard, Humboldt, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mitchell, Monroe, Montgomery, Muscatine, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Ringgold, Sac, Scott, Shelby, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, Winnebago, Winneshiek, Worth and Wright Counties, IA; and returned shipments of the next above-specified commodities, from the next above-specified destination points, to Des Moines, IA. *General commodities*, with exceptions as a *common carrier* over irregular routes between points in Adair, Adams, Allamakee, Appanoose, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Chickasaw, Clarke, Clay, Clayton, Clinton, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Henry, Howard, Humboldt, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mitchell, Monroe, Montgomery, Muscatine, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Ringgold, Sac, Scott, Shelby, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, Winnebago, Winneshiek, Worth, and Wright Counties, IA, with restrictions. *General Commodities*, with exceptions as a *common carrier* over irregular routes between the Des Moines Municipal Airport at Des Moines, IA, on the one hand and, on the other, points in IA, with restrictions. *Motion picture films, film accessories, advertising material* used in connection with the exhibition of such films, newspapers, magazines, and periodical publications, between Omaha, NB on the one hand and, on the other, Fulton, IL, points in Polk, Humboldt, Pocahontas, Calhoun, Dallas, Cass, and Cedar Counties, IA, and those in IA on and north of a line beginning at the IL–IA State line and extending along U.S. Hwy 30 to junction unnumbered hwy (formerly portion U.S. Hwy 30) then along unnumbered hwy through Wheatland, IA, to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction IA Hwy 150 (formerly portion U.S. Hwy 30), then along IA Hwy 150 to junction unnumbered hwy (formerly portion U.S. Hwy 30), Sioux, O'Brien, Plymouth, Cherokee, Woodbury, Monona, Ida, Crawford, Harrison, Mills, and Fremont Counties, IA, between points in Lyon, Osceola, Sioux, O'Brien, Plymouth, Cherokee, Woodbury, Ida, Monona, Crawford, Harrison, Mills, and Fremont Counties, IA on the one hand and, on the other, points in IA, with restrictions; *Motion picture films, film accessories, advertising material* used in connection with exhibition of such films, and magazines, and periodical publications, as a *common carrier* over irregular routes between points in IA; general commodities, with exceptions between the Des Moines Municipal Airport at Des Moines, IA on the one hand and, on the other, points in IA (except Marshalltown and Newton and points in their respective commercial zones as defined by the Commission), with restrictions; *general commodities*, with exceptions between Eppley Airfield at Omaha, NB on the one hand and, on the other, points in IA, with restrictions; between Eppley Airfield, Omaha, NB on the one hand and, on the other, the Des Moines Municipal

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Airport, Des Moines, IA; between points in Rock Island County, IL, and Scott County, IA, with restrictions. Vendee is authorized to operate as a *common carrier* in MO, KS, NB, and OK. Application has been filed for temporary authority under section 210a(b).

Authority sought for purchase by J. R. CHRISTONI, INC., North Cherry Street, Ext., Wallingford, CT 06492 of the operating rights of David Mongillo & Son, Inc., 53 West Main Street, Southington, CT 06479, and for acquisition by Joseph R. Christoni, Sr. (same address as above) of control of such rights through the purchase. Applicants' attorneys: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117 and LeRoy Jones, 26 Elm Street, New Haven, CT 06502. Operating rights sought to be transferred: Under a Certificate of Registration in Docket No. MC-121515 covering the transportation of *property*, in heavy hauling service and *steel tanks, steel boilers, steel stacks, structural steel*, namely *steel beams, steel girders, steel trusses, steel plates, steel angles, and bridge steel*, and in connection with the foregoing the necessary *accessorial equipment;* and *industrial machinery* and parts thereof, between points in CT. Vendee is authorized to operate as a *common carrier* in CT, RI, NY, and NJ. Application has been filed for a temporary authority under Section 210a(b).

NOTE.—No. MC 9153 (Sub-No. 6) is a directly related matter.

No. MC-F-13579. Authority sought for purchase by KAPS TRANSPORT (Alaska), INC., 801 West First Avenue, Anchorage, AK 99501, of the operating rights of Ar-Dees Alaska Truck Lines, Inc., 3025 Rampart Drive, Anchorage, AK 99501, and for acquisition by KAPS Transport, Inc., of Anchorage, AK 99501, and in turn, KAPS Transport, Ltd., of Edmonton, AB, Canada, of control of such rights through the purchase. Applicant's attorney, Julian C. Rice, 330 Wendell Street, Fairbanks, AK 99501. Operating rights sought to be purchased: Certificate No. MC 113573 (Sub-No. 6) authorizing the transportation of *general commodities*, except those of unusual value, classes A and B explosives, and commodities requiring special equipment, as a *common carrier*, over irregular routes, (1) between Minneapolis and Duluth, MN, Minot, ND, and Seattle, WA on the one hand and, on the other, points in AK except points in the AK panhandle located east of an imaginary line constituting a southward extension of the United States (AK)—Canada (Yukon Territory) Boundary Line; and (2) between points in AK except points in the AK Panhandle located east of an imaginary line constituting a southward extension of the United States (AK)—Canada (Yukon Territory) Boundary Line. Transfere is presently authorized to operate as a *common carrier* under certificate No. MC 123298 in AK. Some duplication is involved. Application has been filed for temporary authority under section 210a (b). (Hearing site: Anchorage, AK.)

No. MC-F-13580. Authority sought for control and merger by NORTH IOWA EXPRESS, INC., 1921 North East 58th Avenue, Des Moines, IA 50313, of Kaler Freight Lines, Inc. 504-12th Street, South East, Mason City, IA 50401, and for the acquisition by Don Schneider and Lee Stein, 1921 North East 58th Avenue, Des Moines, IA 50313, of control of the operating rights held by Kaler Freight Lines, Inc. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. The operating rights sought to be transferred are issued under Docket No. MC 63973 as *common carrier* authority over *regular routes of general commodities* with usual exceptions between specified points in the eight north-central IA counties of Hancock, Cerro Gordo, Floyd, Mitchell, Howard, Franklin, Butler, and Wright, which is deemed sufficient to identify the scope of the subject authority. Applicant conducts operations in the State of IA. An application has been filed under 210(a)(b) for temporary control.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days of this notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Protests shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 9153 (Sub-No. 6F), filed April 19, 1978. Applicant: J. R. CHRISTONI, INC., North Cherry Street Extension, Southington, CT 06492. Applicant's representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* which because of size or weight require the use of special equipment, *steel articles and equipment* used in connection with the above named commodities; and *industrial machinery and parts* thereof; between points in CT; and (2) *machinery and steel*, between points in MA, RI, NY, and NJ, on the one hand, and, on the other, points in CT. (Hearing site: Hartford, CT.)

NOTE.—The purpose of this filing is to eliminate gateways of Wallingford, CT and points in CT within 15 miles thereof, and to convert the Certificate of Registration in No. MC 121515 of Davis Mongillo & Son, Inc. to a Certificate of Public Convenience and Necessity. This proceeding is directly related to a MC-F-13576 entitled J. R. Christoni, Inc.—Purchase—David Mongillo & Son, Inc.

No. MC 19311 (Sub-No. 45F), filed April 13, 1978. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Applicant's repesentative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment): (1) between the IL-WI State line and junction U.S. Hwy 41 and IN Hwy 10, serving all intermediate points from the Il-WI State line over U.S. Hwy 41 to junction IN Hwy 10, and return over the same route; (2) between junction U.S. Hwy 12 and IN Hwy 49 and junction IL Hwys 17 and 88, serving all intermediate points, from U.S. Hwy 12 and IN Hwy 49 over IN Hwy 49 to IN Hwy 10, then over IN Hwy 10 to junction IL Hwy 114, then over IL Hwy 114 to IL Hwy 17, then over IL Hwy 17 to IL Hwy 88, and return over the same route; (3) between Chicago and Chenoa, IL, serving all intermediate points, from Chicago over Interstate Hwy 55 to junction IL Hwy 17, then over unnumbered hwy (formerly U.S. Hwy 55) to Chenoa, and return over the same route; (4) between Chenoa and Peoria, IL, serving all intermediate points, from Chenoa over U.S. Hwy 24 to IL Hwy 8, then over IL Hwy 8 to U.S. Hwy 150, then over U.S. Hwy 150 to Peoria, and return over the same route; (5) between Peoria and South Beloit, IL, serving all intermediate points, from Peoria over IL Hwy 88 to Sterling, then over IL Hwy 2 to South Beloit, and return over the same route; (6) between South Beloit and El Paso, IL, serving all intermediate points, from South Beloit over U.S. Hwy 51 to El Paso, and return over the same route; (7) between Dixon, and East Peoria, IL, serving all intermediate points, from Dixon over IL Hwy 26 to East Peoria, and return over the same route; (8) between Hebron and Dwight, IL, serving all intermediate points, from Hebron over IL Hwy 47 to Dwight, and return over the same route; (9) between Antioch and Shorewood, IL, serving all intermediate points, from Antioch over IL Hwy 59 to Shorewood, and return over the same route; (10) between Chicago and Momence, IL, serving all intermediate points, from Chicago over IL Hwy 1 to Momence, and return over the same route; (11) between Langley, IL and junction U.S. Hwy 6 and IN Hwy 2, serving all intermediate points, from Langley over U.S. Hwy 6 to junction IN Hwy 2, and return over the same route; (12) between Grant Park, IL and junction U.S. Hwy 6 and IN Hwy 2, serving all intermediate points, from Grant Park over IL Hwy 17 to junction in Hwy 2, then over IN Hwy 2 to junction U.S. Hwy 6, and return over the same route; (13) between Rock Falls, IL and Valparaiso, IN, serving all intermediate points, from Rock Falls over U.S. Hwy 30 to Valparaiso, and return over the same route; (14) between Rockford, IL and Michigan City, IN, serving all intermediate points, from Rockford over U.S. Hwy 20 to Michigan City, and return over the same route; (15) between Dixon and Kankakee, IL, serving all intermediate points, from Dixon over U.S. Hwy 52 to Kankakee, and return over the same route; (16) between Big Foot and Chicago, IL, serving all intermediate points, from Big Foot over U.S. Hwy 14 to Chicago, and return over the same route; (17) between Dixon and Chicago, IL, serving all intermediate points, from Dixon over IL Hwy 38 to Chicago, and return over the same route; (18) between Richmond, IL and Michigan City, IN, serving all intermediate points, from Richmond over U.S. Hwy 12 to Michigan City, and return over the same route; (19) between Latham Park and Winthrop Harbor, IL, serving all intermediate points from Latham Park over IL Hwy 173 to Winthrop Harbor, and return over the same route; (20) between junction IL Hwys 47 and 113 to West Kankakee, IL, serving all intermediate points, from junction IL Hwys 47 and 113 over IL Hwy 113 to West Kankakee, and return over the same route; (21) between Harvard and Pontiac, IL, serving all intermediate points, from Harvard over IL Hwy 23 to Pontiac, and return over the same route; serving as off route points in connection with all of the above described routes, all points and places, including their commercial zones, located as follows: (a) in Lake County and Porter County, IN; and (b) those points in IL on, east, and north of a line commencing at the IN-IL State line over IL Hwy 114 to junction IL Hwy 17, then over IL Hwy 17 to Dwight, then over unnumbered Hwy (formerly U.S. Hwy 55) to Chenoa, then over U.S. Hwy 24 to junction IL Hwy 8, then over IL Hwy 8 to junction U.S. Hwy 150, then over U.S. Hwy 150 to junction IL Hwy 88, then over IL Hwy 88 to Sterling, then over IL Hwy 2 to the WI State line. (Hearing site: Chicago, IL.)

NOTE.—The purpose of this application is to convert irregular routes to regular routes. This application is related to MC-F-13563 Central Transport, Inc.—Purchase (portion)—C.P.T. Freight, Inc. Common control may be involved.

No. MC 125533 (Sub-No. 23F), filed April 6, 1978. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Applicant seeks authority to operate as a *common carrier*, by motor vehicle, over irregular routes in the transportation of: (1) *such commodities* as are manufactured, processed, or dealt in by rubber manufacturers, and steel product manufacturers, and *equipment, materials, and supplies* used in the conduct of such businesses, from points in OH on and north of a line beginning at Martins Ferry, OH, and extending along U.S. Hwy 250 to Wooster, OH, then along U.S. Hwy 30 to the OH-IN State line to points in MA and CT, those in that part of NY east of a line beginning at Port Jervis, NY and extending along U.S. Hwy 209 to Kingston, NY, then along U.S. Hwy 9W to Albany, NY, then along U.S. Hwy 20 to Fayette, NY, then along U.S. Hwy 11 to Watertown, NY, then along NY Hwy 12 to Clayton, NY, including the points named and including New York, NY, points on Long Island, and those in NJ on and north of New Jersey Hwy 33; (2) *tire fabric* from Fall River and New Bedford, MA, to points in OH on and north of a line beginning at Martins Ferry, OH and extending along U.S. Hwy 250 to Wooster, OH, and then along U.S. Hwy 30 to the OH-IN State line; (3) *chemicals* (except liquid commodities in bulk in tank vehicles), from Naugatuck, CT, to points in OH on and north of a line beginning at Martins Ferry, OH and extending along U.S. Hwy 250 to Wooster, OH, then along U.S. Hwy 30 to the OH-IN State line; (4) *scrap tires and tubes*, from Boston, Cambridge, New Bedford, Pittsfield, Fall River, and Springfield, MA, Hartford, CT, Newark, NJ, and Albany, NY, and points on Long Island, NY to points in that part of OH on and north of a line beginning at Martins Ferry, OH and extending along U.S. Hwy 250 to Wooster, OH and then along U.S. Hwy 30 to the OH-In State line; (5) *fiber pipe, plastic pipe, cast iron pipe, manhole covers, gratings, and castings and attachments, parts and fittings for fiber pipe, plastic pipe, cast iron pipe, manhole covers, gratings, and castings* from points in that part of OH on and north of a line beginning at Martins Ferry, OH and extending along U.S. Hwy 250 to Wooster, OH and then along U.S. Hwy 30 to the OH-IN State line to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NJ, NY, NC, PA, RI, TN, VT, VA, WV, WI, and DC, and returned shipments from these named destination States to that part of OH on and north of a line beginning at Martins Ferry, OH and extending along U.S. Hwy 250 to Wooster, OH, and then along U.S. Hwy 30 to the OH-IN State line. (Hearing site: Columbus, OH.)

NOTE.—The gateway to be eliminated in paragraphs (1) through (4) above is Akron, OH and its commercial zone and the gateway to be eliminated in (5) above is the facilities of United States Concrete Pipe Co. at Magadore, OH (also in the Akron, OH commercial zone). This gateway elimination application is directly related to George W. Kubler, Inc.—Purchase (Portion)—Fischbach Trucking Co., Docket No. MC-F-13566, published in a previous section of this FEDERAL REGISTER issue.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 10343 (Deviation No. 25), CHURCHILL TRUCK LINES, INC., Highway 36 West, Chillicothe, MO 64601, filed April 11, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From St. Joseph, MO over Interstate Hwy 29 to Kansas City, MO and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to

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transport the same commodities over a pertinent service route as follows: From St. Joseph, MO, over U.S. Hwy 36 to Cameron, MO, then over U.S. Hwy 69 to Kansas City, MO, and return over the same route.

No. MC 109533 (Deviation No. 17), OVERNITE TRANSPORTATION CO., P.O. Box 1216, Richmond, VA 23209, filed April 7, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Memphis, TN over U.S. Hwy 78 to junction Interstate Hwy 20 then over Interstate Hwy 20 to Atlanta, GA and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Memphis, TN over U.S. Hwy 70 to Dickson, TN, then over TN Hwy 47, to junction U.S. Hwy 70, then over U.S. Hwy 70 to Nashville, TN, then over Interstate Hwy 24 to Chattanooga, TN, then over U.S. Hwy 41 to Atlanta, GA, and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Tennessee Docket No. MC. 7174 (Sub-No. 1) filed April 7, 1978. Applicant: MAURY-GILES COUNTY EXPRESS, INC., 402 Maplewood Avenue, Nashville, TN 37201. Applicant's representative: Ward Crutchfield, 1776 Commerce Union Tower, Chattanooga, TN 37450. Certificate of public convenience and necessity sought to operate a freight service, as follows: Transportation of: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment or handling), between all points in Giles County, TN, and Nashville, TN, serving Columbia as an intermediate point, and Close Doors between Columbia and Nashville, TN, over U.S. Hwy 31 and all Hwys in Giles County, TN, with alternate use of Interstate Route 65 and State Route 99 for convenience, and between all points in Giles County, TN, and Chattanooga, TN, over all Hwys in Giles County, TN, and U.S. Hwy 64 to Monteagle, and then over Interstate Route 24 Close Doors between Giles County, TN, and Chattanooga, TN, and restricted against through service between Nashville, TN, and Chattanooga, TN, and co-extensive authority in interstate or foreign commerce, pursuant to Section 206(a)(6) of the Interstate Commerce Act. Intrasatate, interstate and foreign commerce sought (Hearing site: May 11, 1978, at 9:30 a.m., at the Commission's Hearing Room, C-1 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, CI-102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.)

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12757 Filed 5-10-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Dockets 30591/30587]

COLONIAL AIRLINES, INC.

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on May 24, 1978, at 10 a.m. (local time), in room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before May 9, 1978, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., May 1, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-12849 Filed 5-10-78; 8:45 am]

[6320-01]

[Docket 28672]

IATA AGREEMENTS CONCERNING AGENCY MATTERS; UNIFORM COMMISSION RATES

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on June 7, 1978, at 10 a.m. (local time), in room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before May 15, 1978, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., May 5, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-12850 Filed 5-10-78; 8:45 am]

[6320-01]

[Docket 32009; Order 78-5-20]

NATIONAL AIRLINES, INC.

Order Dismissing Application for Orlando-New Orleans nonstop authority, under Subpart N

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of May 1978.

On January 18, 1978, National filed a Subpart N application for Orlando-New Orleans authority. Answers were filed by Delta, requesting dismissal, and by the city of New Orleans, urging expedited hearing of proposals to improve service in the market.

By Order 78-3113, March 23, 1978, we grated a motion of Delta in Docket 31921 and expanded the scope of the Houston-Tampa/Orlando Investigation to include the issue of nonstop New Orleans-Orlando authority, and renamed the case the Houston-Tampa/Orlando; New Orleans-Orlando Investigation. Since the market for which National requests nonstop authority is now directly in issue in a pending proceeding, its application no longer qualifies under Subpart N. It will, therefore, be dismissed.

Accordingly, *it is ordered that:* The application of National Airlines in Docket 32009 be dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,[1][2]
Secretary.

[FR Doc. 78-12845 filed 5-10-78; 8:45 am]

[1] 14 CFR 302.1401.
[2] All Members concurred.

[6320-01]

[Docket 30777; Agreements C.A.B. 27250, 27252, R-1 through R-17; Order 78-5-39]

NORTH ATLANTIC-AFRICA PASSENGER FARES

Order of Agreements Adopted by the Joint Traffic Conferences of the International Air Transport Association

Issued under delegated authority May 8, 1978.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and part 261 of the Board's Economic Regulations between various U.S. and foreign member air carriers of the International Air Transport Association (IATA). The agreements were adopted at the Reconvened Meeting of Joint Traffic Conferences 1 and 2, held in Geneva, March 20-22, 1978, and were filed with the Board on April 13 and 17, 1978.

The agreements, which involve fares between the United States and Africa and thus have direct application in air transportation as defined by the Act, would amend the North Atlantic-Africa fare structure, effective June 1, 1978, through March 31, 1979. Specifically, the agreements would increase first-class fares by 4 percent; increase round-trip economy and excursion fares by approximately $22 and $27, respectively, to and from points south of Lagos; introduce new APEX fares in several markets and reduce existing APEX fare levels; maintain GIT fares at present levels but increase the minimum tour price from $120 to $200 for the 13-day minimum stay period; and introduce a special 14/30-day GIT from New York to Nairobi at $795.[1]

[1] A comparison of present and proposed fares in selected United States-Africa markets is shown in the Appendices.

The purpose of this order is to establish procedural dates for the submission of carrier justification in support of the agreements and comments from interested persons. The carrier's justification for the agreements should assign costs attributable to scheduled combination passenger service, treating cargo both on the "space method", Nonpriority Mail Rate Case, Docket 18381 (Orders 70-4-9 and 70-4-10, April 2, 1970), and the "revenue-offset method" adopted April 2, 1971, in Phase 7 of the Domestic Passenger-Fare Investigation, Docket 21866-7 (Orders 71-4-59 and 71-4-60).[2] The data should be set out in the tabular format suggested in Order 75-7-88, July 17, 1975, starting with historical data as reported to the Board in Form 41 Reports by functional account for total transatlantic services for the year ended March 1978. These data should be adjusted to exclude those market areas not covered by the agreement,[3] as well as any scheduled all-cargo and charter services in the United States-Africa market, the remainder, pertaining to United States-Africa scheduled combination services, should show the present economic status of scheduled passenger services in the market area covered by the agreements. Similarly, using the above two methods for the treatment of cargo, the carrier is expected to submit forecast results for the year ending May 1979, both including and excluding implementation of the agreement.

In addition, the carrier will be expected to submit detailed traffic data showing revenue passenger-miles and revenue by specific fare category, as well as capacity and load-factor information, for the historical period and for the forecast period, including and excluding implementation of the agreement.

Accordingly, *It is ordered that:* 1. Pan American World Airways, Inc., the only United States air carrier member of the International Air Transport Association providing service within the area covered by the agreements, shall file within 10 calendar days after the date of service of this order full documentation and economic justification for the fares and related conditions embodied in the subject agreements; 2. Comments and objections from interested persons and parties shall be submitted within 10 calendar days after the date of service of this order; 3. Replies to submissions received in response to ordering paragraph 1 above and replies to comments received pursuant to ordering paragraph 2 above shall be submitted within 20 calendar days after the date of service of this order; and 4. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreements shall not be filed in advance of Board approval of the agreements.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan,
Associate Director, Pricing.

PHYLLIS T. KAYLOR,
Secretary.

[2] In furnishing the data requested, the carrier should attach complete explanatory data describing the methods used in allocating the various cost items and entity investments.

[3] United States-Europe and United States-Middle East. These two areas are defined in IATA Resolutions 012 and 012b. Africa is defined in IATA Resolution 012e.

North Atlantic-Africa: Present and proposed fares—U.S. originating passengers

	New York to Abidjan			New York to Dakar			New York to Johannesburg			New York to Kinshasa			New York to Nairobi		
	Present	Proposed	Percent change	Present	Proposed	Percent change	Present	Proposed	Percent change	Present	Proposed	Percent change	Present	Proposed	Percent change
First class	$1,932	$2,008	3.93	$1,664	$1,730	3.97	$2,426	$2,522	3.96	$2,168	$2,256	4.06	$2,426	$2,522	3.96
Economy:															
Basic	1,192	1,192	0	1,022	1,022	0	1,604	1,626	1.37	1,376	1,396	1.60	1,604	1,626	1.37
Peak	1,316	1,316	0	1,144	1,144	0	1,604	1,626	1.37	1,462	1,484	1.50	1,604	1,626	1.37
14/21 and 14/45-day excursion:															
Basic	849	849	0	720	720	0	1,176	1,202	2.22	1,067	1,094	2.53	1,176	1,202	2.22
Peak	978	978	0	848	848	0	1,176	1,202	2.22	1,123	1,149	2.32	1,176	1,202	2.22
APEX[1]	—	—	—	—	—	—	1,007	875	(13.11)	—	—	—	—	—	—
APEX (new):[2]															
Basic	—	678	—	—	583	—	—	—	—	—	—	—	—	—	—
Peak	—	742	—	—	647	—	—	—	—	—	—	—	—	—	—
13/30-day GIT:															
Basic	638	638	0	534	534	0	1,021	1,021	0	891	891	0	948	948	0
Peak	708	708	0	607	607	0	1,021	1,021	0	957	957	0	948	948	0
14/30-day GIT (new).	—	—	—	—	—	—	—	—	—	—	—	—	—	795	—
6/16-day winter GIT.	590	596	1.02	511	511	0	—	—	—	—	—	—	—	—	—

[1] IATA Resolution 071r; for conditions, see app. II.
[2] IATA Resolution 071tt; for conditions, see app. II.

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APPENDIX II.—*Comparison of present and proposed APEX fares, from New York to Africa*

	Present APEX (resolution 071r)			Proposed APEX (resolution 071tt)		
Markets	Beira, Johannesburg, and Maputo			Abidjan, Accra, Dakar, Lagos, and Monrovia.		
	Present	Proposed		Basic	Peak	
Fare levels	NYC-BEW	$1,087	$954	NYC-ABJ	$678	$742
	NYC-JNB	1,007	875	NYC-ACC	706	760
	NYC-MPM	1,087	954	NYC-DKR	583	647
				NYC-LOS	726	790
				NYC-MLW	657	721
Validity	All year			Basic: Sept. 15 to May 14; peak: May 15 to Sept. 14.		
Minimum/maximum stay	14 to 45 d			13 to 45 d.		
Stopovers	1 inbound or outbound; 1 additional stopover permitted at $20, for a maximum of 1 inbound and 1 outbound.			No stopovers permitted.		
Ticketing	Not later than 45 d before outbound departure.			Do.		
Cancellation penalty	10 pct or $50, whichever is higher			Do.		
Combinations	Combinable with domestic and international normal fares.			Combinable with domestic fares.		

[FR Doc. 78-12844 Filed 5-10-78; 8:45 am]

[6320-01]

[Docket 30861; Order 78-5-21]

OVERSEAS NATIONAL AIRWAYS, INC., ET AL.

Order To Show Cause for Approval of Control and Interlocking Relationships Pursuant to Sections 408 and 409 of the Federal Aviation Act of 1958, as Amended

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of May, 1978.

Overseas National Airways, Inc. (ONA), Prestwick Investments, Inc. (Prestwick), and Marline Resources Co., Inc. (Marline), have requested that the Board approve, under sections 408 and 409 ofthe Act, the acquisition of control of ONA by Prestwick and Marline, and the resulting interlocking relationships as more fully described below.

ONA is a supplemental air carrier holding certificated authority to operate domestic passenger and cargo charters and worldwide military passenger and cargo charters. It also holds temporary authority to operate transatlantic passenger charters, as well as passenger and cargo charters across the Pacific (except Japan, Australia and New Zealand), and to the Carribean, Mexico and Central and South America.

Prestwick's sole function is to loan money to ONA and to hold ONA's debentures, warrants and stock. Prestwick is wholly owned by Marline.

Marline is engaged in the making of investments for its own account. It is wholly controlled by Louis Marx, Jr., who holds all of Marline's voting stock as well as a majority of its non-voting stock. Mr. Marx is an officer and director of both Marline and ONA, and is the largest stockholder of ONA, with holdings in excess of 10 percent of the outstanding stock. Marline is the second largest stockholder of ONA, holding approximately 15 percent of its stock. Marline also holds 96 shares of the common stock of UAL, Inc., the holding company for United Airlines, and 500 shares of the common stock of Braniff International Corp. the holding company for Braniff Airways, Inc.

Applicants assert that in November 1975 and January of 1976, ONA sustained the loss of both of its DC-10 aircraft. As a result, ONA suffered severe financial losses during 1976. ONA has entered into contracts for the acquisition of three new DC-10 aircraft, two of which were scheduled for delivery during mid-1977. In order to satisfy the financial requirements arising as a result of this program of equipment acquisition, as well as to satisfy the requirement for operating capital generated by its 1976 losses, it has sought the infusion of new capital. Thus, a Debenture and Warranty Agreement between ONA and Prestwick was consumated on February 16, 1977, whereby Prestwick has loaned ONA $4 million in return for ONA's 8 percent subordinated debenture due November 1, 1991, and convertible into ONA stock, and ONA's warrant, expiring in March of 1978, to purchase 674,000 shares of ONA common stock at a price of $3.00 per share, as adjusted. It is this transaction which comprises the acquisition for which approval is sought.

No comments on this application have been received.

We tentatively find that the ownership by both Mr. Louis Marx, Jr., and Marline of more than 10 percent of the stock of ONA places these parties presumptively in control of ONA under section 408(f) of the Act; that, moreover, the acquisition of control of additional ONA stock by Prestwick, which may arise as a result of the Debenture and Warrant Purchase Agreement described here, will create a control relationship subject to section 408(a)(5) of the Act. We tentatively conclude, however, that the relationships and the proposed transaction will not result in the creation of a monopoly or monopolies which might restrain competition or otherwise jeopardize any other air carrier; nor does it appear that the requirements of section 408 will otherwise be unfulfilled. Marline's holdings of the common stock of Braniff International Corp. and UAL are insignificant and it has no holdings in any common carrier or person engaged in a phase of aeronautics. Moreover, we find that there do not appear to be any disputed facts in issue which require a hearing for their resolution, and that a protracted hearing on the matter could adversely affect the interests of the parties to the transaction and result in delays or prevent the exercise of the warrants.

Applicants also seek approval under section 409(a) of the Act of the interlocking relationships arising as a result of the acquisition of control described here. Louis Marx, Jr., is an officer and director of both ONA and Marline. Prestwick is a wholly owned subsidiary of Marline. We conclude that both Marline and Prestwick constitute phases of aeronautics within the meaning of section 409(a) of the Act by virtue of the debt and equity control relationships described here To the extent however, that interlocking relationships that are subject to section 409 of the Act will arise as a result of the authorization of these transactions under section 408 of the Act, they are subject to the exemptions from section 409 afforded by sections 287.3 and 287.4 of the Board's Economic Regulations.

Consistently with similar past procedures, we will direct all interested persons to show cause why the tentative findings and conclusions and the proposed approval should not be made final.[1]

Accordingly, *It is ordered*, That: 1. Interested persons are directed to show cause why the Board should not issue an order granting approval under section 408(b) of the Act of the proposed transaction described here;

2. Any person disclosing a substantial interest in the acquisition and supporting or objecting to the issuance of an order making final the tentative findings and conclusions set forth here or desiring the imposition of additional conditions on approval, shall file comments with the Board within 14 days of the date of service of this order; and

3. A copy of this order shall be served upon the Department of Justice, Antitrust Division.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,[2]
Secretary.

[FR Doc. 78-12846 Filed 5-10-78; 8:45 am]

[1] See the Black and Decker Manufacturing Co., Order 73-11-5, November 1, 1973, and IMM Acceptance Corp., International Metals & Machines, Inc., *et al.*, Order 76-10-64, October 15, 1976.

[2] All Members concurred.

[6320-01]

[Docket 32193; Order 78-5-33]

PAN AMERICAN WORLD AIRWAYS, INC.

Order to Show Cause for Amendment of its Certificate of Public Convenience and Necessity for Route 136

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of May, 1978.

On March 3, 1978, Pan American World Airways, Inc. filed an application for amendment of its certificate of public convenience and necessity for Route 136 (Segment I.B.3.(c)(i)) to add Los Angeles, Washington, Baltimore and New York as coterminal points with Houston. On March 10, 1978, Pan American filed a petition requesting that its application be processed by show cause procedures.[1]

In support of its request, Pan American states, among other things, that it has been designated under the United States-Mexico Air Transport Agreement for U.S. Route H (Houston-Mexico City and beyond to points in Central America and beyond); that on January 20, 1978, the United States and Mexico agreed to amend the Agreement to describe Route H as Route C.4 and to add to that route the coterminals New York, Washington, Baltimore and Los Angeles;[2] that the proposed amendment would allow it to expand and integrate its existing United States-Mexico/beyond service;[3] that the public would benefit from its proposed lower fares;[4] that it is prepared to immediately implement a New York-Mexico City one-stop service;[5] that it would be able to carry New York-Mexico City passengers without a significant increase in expenses; and that the new service would be profitable and provide Pan American increased operating flexibility.[6] Pan American forecasts that in the first year it will carry 24,750 New York-Mexico City passengers of which 2,250 will be generated by the proposed coach fare. Moreover, it estimates that the New York-Mexico City traffic will result in an addition to operating profit of approximately $3 million.

On March 21, 1978, Braniff Airways, Inc. filed an answer to Pan American's petition for an order to show cause.[7] No other answers were filed in response to Pan American's petition.

In view of the foregoing and all the facts of record, we have decided to issue an order to show cause why Pan American's certificate for Route 136 which authorizes, among other services, service from the terminal point Houston, the intermediate points Mexico City and Guatemala City and beyond should not be amended to add Los Angeles, Washington, Baltimore, and New York as coterminal points with Houston.[8] We tentatively find and conclude that the public convenience and necessity require such an amendment.[9]

It is therefore ordered that: 1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated in this order and amend the certificate of public convenience and necessity of Pan American World Airways, Inc. for Route 136 so as to have part (i) under Segment I.B.3.(c) of that route read as follows:

beyond Guatemala City, the intermediate point Mexico City, Mexico; and the coterminal points Houston, Tex.; Los Angeles, Calif.; Washington, D.C.; Baltimore, Md.; and New York, N.Y.;[10]

[1] We will grant Pan American's petition for issuance of a shown cause order.

[2] The January 20, 1978 amendment to the United States-Mexico Agreement restricts operations on U.S. Route C.4 as follows: "The designated airline shall make an intermediate stop between Mexico City and New York and between Mexico City and Panama. It may omit the intermediate stop between Mexico City and Panama without local traffic rights but with the right to carry passengers between Mexico City and Panama who are scheduled to make connections within a period of twelve (12) hours. All nonstop flights between Los Angeles and Mexico City must also serve a point beyond Mexico. The designated airline shall not initiate nonstop service between Los Angeles and Mexico City before April 15, 1982." Pan American is subject to the restrictions pertaining to U.S. Route C.4 by virtue of a condition contained in its certificate for Route 136 which requires the holder to operate ". . .in accordance with all treaties and agreements between the United States and other countries." Therefore, we will not include these restrictions in the proposed certificate.

[3] Pan American currently operates daily roundtrip combination service using B-707 aircraft between Houston and Mexico City and beyond to Guatemala City and Managua. The flights continue to Panama City/Balboa: five times a week.

[4] Pan American proposes to offer a New York-Mexico City economy coach fare of $165 which is 13 percent lower than the existing coach fare.

[5] A daily roundtrip B-747 flight with a stop in Houston.

[6] Pan American will be operating a Houston-New York-London and beyond flight (Pan American Route 132) pursuant to new transatlantic authority received as a result of the Bermuda II Agreement. The carrier states that it can substantially increase revenues without a proportional increase in expenses if it is granted the requested authority since it will fly Mexico City-Houston-New York even if it is not granted the amendment to Route 136.

[7] Although supporting Pan American's petition, Braniff objected to Pan American's suggestion that its application for certificate amendment pursuant to the United States-Mexico Agreement be delayed and consolidated with Pan American's.

[8] Based upon our review of Pan American's Environmental Evaluation, we tentatively find that the proposed additional services will not constitute a "major" federal action within the meaning of the National Environmental Policy Act of 1969. Morcoever, since Pan American's proposed operations will not result in the near-term consumption of 10 million gallons of fuel, our action here will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975.

[9] We tentatively find that Pan American is fit, willing, and able to properly perform the air transportation authorized by the certificate proposed to be issued by this order and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[10] In order to allow Pan American maximum flexibility in scheduling its services,

Footnotes continued on next page

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2. All interested persons having objections to the issuance of an order making final the proposed findings and conclusions, or the proposed certificate amendment set forth in this order shall, within 15 days [11] after the date of service, file with the Board and serve upon all persons listed in paragraph 6 below a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections. If an oral hearing is requested the objector should state in detail why such hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be given the matters and issues raised by the objections before further action is taken by the Board; *Provided,* That the Board may proceed to enter an order if it is determined that there are no factual issues present that warrant the holding of an oral hearing. [12]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Secretary shall enter an order which, subject to the approval of the President, (1) makes final the Board's tentative findings and conclusions set forth in this order, and (2) issues an amended certificate of public convenience and necessity for Route 136 to Pan American World Airways, Inc. in the form attached;

5. The petition of Pan American World Airways, Inc. for issuance of an order to show cause is granted; and

6. A copy of this order shall be served upon Pan American World Airways, Inc.; Braniff Airways, Inc.; Western Air Lines, Inc.; the Mayors and airport authorities of Los Angeles, California; Washington, D.C.; Baltimore, Md.; and New York, N.Y.

This order shall be published in the FEDERAL REGISTER.

Footnotes continued from last page

we will make the new authority for Segment I.B.3.(c)(1) of Route 136 permissive.

[11] In order for Pan American to commence operations on July 1, 1978, we find that the public interest requires the allowance of only 15 days for objections to this order.

[12] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR, [13]
Secretary.

[Specimen Certificate]

UNITED STATES OF AMERICA CIVIL AERONAUTICS BOARD WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (AS AMENDED) FOR ROUTE 136

Pan American World Airways, Inc.

is hereby authorized, subject to the provisions hereinafter set forth, the provisions of Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in air transportation with respect to persons, property, and mail, as follows:

I. Between the terminal point Buenos Aires, Argentina; the intermediate points Montevideo, Uruguay; Sao Paulo, Rio de Janeiro, Brasilia, and Belem, Brazil; Paramaribo, Surinam; Georgetown, Guyana; and Port of Spain, Trinidad; and

A. Beyond Port of Spain, the intermediate points Barbados; Fort de France, Martinique; Pointe a Pitre, Guadeloupe; St. Johns, Antigua; St. Croix and St. Thomas, Virgin Islands; and San Juan, Puerto Rico; and

1. Beyond San Juan, the coterminal points Boston, Mass.; New York, N.Y.-Newark, N.J.; Philadelphia, Pa.; Washington, D.C.; and Baltimore, Md.; and

2. Beyond San Juan, the intermediate points Santo Domingo, Dominican Republic; Port-au-Prince, Haiti; and Kingston, Jamaica; and

(a) Beyond Kingston, the intermediate point Montego Bay, Jamaica; points in the Bahama Islands; and the coterminal points Miami, Fla.; Washington, D.C.; and New York, N.Y.-Newark, N.J.; and

(b) Beyond Kingston, the intermediate points Montego Bay, Jamaica; and Camaguey, Cuba; and the terminal point Miami, Fla.; and

(c) Beyond Kingston, the intermediate points Balboa, Canal Zone-Panama City, Panama; San Jose, Costa Rica; Managua, Nicaragua; Tegucigalpa, Honduras; San Salvador, El Salvador; and the terminal point Guatemala City, Guatemala; and

3. Beyond San Juan, the intermediate points Caracas and Maracaibo, Venezuela; Barranquilla, Colombia; and Balboa, Canal Zone-Panama City, Panama; and

B. Beyond Port of Spain, the intermediate point Caracas, Venezuela; and

1. Beyond Caracas, the intermediate point San Juan, Puerto Rico; and the coterminal points Boston, Mass.; New York, N.Y.-Newark, N.J.; Philadelphia, Pa.; Baltimore, Md.; and Washington, D.C.; and

2. Beyond Caracas, the intermediate points Santo Domingo, Dominican Republic; Port-au-Prince, Haiti; and Kingston, Jamaica; and beyond Kingston, as described in I.A.2.(a) and (b) above; and

3. Beyond Caracas, the intermediate points Maracaibo, Venezuela; and Barranquilla, Colombia; and

(a) Beyond Barranquilla, the intermediate point Kingston, Jamaica; and beyond Kingston, as described in I.A.2.(a) and (b) above; and

(b) Beyond Barranquilla, the intermediate points Balboa, Canal Zone-Panama City, Panama; and Kingston, Jamaica; and beyond Kingston, as described in I.A.2.(a) and (b) above; and

(c) Beyond Barranquilla, the intermediate points Balboa, Canal Zone-Panama City, Panama; San Jose, Costa Rica; Managua, Nicaragua; Tegucigalpa, Honduras; San Salvador, El Salvador; and Guatemala City, Guatemala; and

(i) Beyond Guatemala City, the intermediate point Mexico City, Mexico; and the coterminal points Houston, Tex.; Los Angeles, Calif.; Washington, D.C.; Baltimore, Md.; and New York, N.Y.; and

(ii) Beyond Guatemala City, the intermediate point Merida, Mexico; and the coterminal points New Orleans, La.; Dallas/Fort Worth and Houston, Tex.; and

(iii) Beyond Guatemala City, the intermediate points Merida, Mexico; Havana, Cuba; and the terminal point Miami, Fla.; and

(iv) Beyond Guatemala City, the coterminal points Miami, Fla.; Washington, D.C.; and New York; NY.-Newark, N.J.; and

(v) Beyond Guatemala City, the coterminal points Los Angeles and San Francisco, Calif.

II. Between the coterminal points Miami and Tampa, Fla.; the intermediate point Merida, Mexico; and the terminal point Mexico City, Mexico.

III. Between the terminal point Chicago, Ill., and the coterminal points Montego Bay and Kingston, Jamaica.

The approved service plan designating the specific points to be served by the holder in the Bahama Islands shall be in accordance with any applicable procedure prescribed by the Board.

The service authorized by this certificate is subject to the following terms, conditions, and limitations:

(1) Notwithstanding any other provision of this certificate, the holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements, and to any orders of the Board issued pursuant to or for the purpose of requiring compliance with such treaties and agreements.

(2) The holder shall render service at the points named in the approved service plan except as otherwise provided here and as temporary suspensions of service may be authorized by the Board; and shall not render service to any point not included in the approved service plan or not included among the points specifically named here. The holder may begin or terminate, or begin and terminate, trips at points short of terminal points.

(3) The holder may continue to serve regularly any point named here through the airport last used regularly to serve such point before the effective date of this certificate. Upon compliance with such procedures as the Board may prescribe and when not prohibited by any other provision of this certificate, the holder may in addition regularly serve the points named here through any convenient airport and may operate nonstop service between any two points not consecutively named here.

(4) The holder shall serve St. Thomas or St. Croix, Virgin Islands only on flights which originate or terminate at a point on the U.S. mainland.

(5) Flights serving points in the Dominican Republic, Haiti, Jamaica, and the Lesser Antilles (including Trinidad) shall originate or terminate on the U.S. mainland and shall serve not more than two of the above points as intermediate points, St. Thomas and St. Croix, Virgin Islands to be counted as one point: *Provided,* That if San Juan is served on a mainland-Lesser Antilles flight, San Juan shall be counted as one of the two intermediate points.

(6) Flights between Havana and points south of Guatemala shall also serve Merida, Mexico or Guatemala City, Guatemala.

(7) Flights between Jamaica and Caracas shall also serve either Port-au-Prince, Santo Domingo, Balboa-Panama City or Barranquilla.

(8) The holder shall not carry persons, property, or mail which, with respect to the points named here, originate at any one of the domestic coterminal points and terminate at any of the other domestic coterminal points: *Provided, however,* That the holder may grant stopover privileges at Los Angeles, Calif. and Miami, Fla. to passengers moving between any domestic coterminal point, on the one hand, and any overseas or foreign point named here, on the other; *Provided, further,* That the authority granted here with respect to passengers moving to or from a point in Puerto Rico, the Virgin Islands or the Bahama Islands shall expire on April 17, 1975. [1]

(9) Flights serving Los Angeles or San Francisco, Calif., on the one hand, and Jamaica or a point beyond, on the other hand, shall serve a point in Central America.

(10) The holder shall not schedule singleplane service between New York, N.Y.-Newark, N.J., or Washington, D.C., on the one hand, and Port-au-Prince, Haiti, on the other hand.

(11) Flights serving Boston, Mass.; Philadelphia, Pa. or Baltimore, Md. shall also serve San Juan.

(12) Flights between Miami, Fla. and Mexico City, Mexico shall serve a minimum of one intermediate point.

(13) The holder shall not schedule singleplane service between New York, N.Y.-Newark, N.J. or Washington, D.C., and Miami, Fla. via the Bahama Islands, nor shall it hold out to the public expressly or by course of conduct that it provides service between New York, N.Y.-Newark, N.J. or Washington, D.C., and Miami, Fla.

(14) Washington, D.C. shall not be served through Washington National Airport on flights between Washington, D.C. and San Juan, Puerto Rico.

(15) Washington, D.C shall be served only through Dulles International Airport on flights between Washington, D.C., on the one hand, and points in Jamaica or in the Bahama Islands, on the other hand.

(16) The holder shall not serve both the Bahama Islands and Jamaica on flights serving Washington, D.C.

(17) The holder shall schedule service to a minimum of one intermediate point on flights (a) between New York, N.Y.-Newark, N.J. and Balboa-Panama City, and (b) between Washington, D.C. and Balboa-Panama City, except on Balboa-Panama City flights originating or terminating at New York, N.Y.-Newark, N.J. and serving Washington, D.C.

(18) With respect to operations between New York, N.Y.-Newark, N.J., on the one hand, and Santo Domingo, Dominican Republic, or Barbados, on the other, the holder shall enplane at one of said points and deplane at another only those passengers making a stopover of not less than 24 hours at an intermediate point.

(19) The authority to serve Dallas/Fort Worth, Tex. on segment I.B.3.(c)(ii) shall be permissive.

(20) The authority to serve Los Angeles, Calif.; Washington, D.C.; Baltimore, Md.; and New York, N.Y. on segment I.B.3.(c)(i) shall be permissive.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This certificate shall be effective on ——— *Provided, however,* That the continuing effectiveness of the coterminal points Los Angeles, Calif.; Washington, D.C.; Baltimore, Md. and New York, N.Y. in Segment I.B.3.(c)(i) as well as the authority to serve Dallas/Fort Worth, Tex., shall be conditioned upon the timely payment by the holder of such license fees as may be prescribed by the Board.

The Civil Aeronautics Board has directed its Secretary to execute this certificate, and to affix the Board's Seal, on the ——— day of ———.

——— ———,
Secretary.

[SEAL]

This certificate was approved by the President of the United States on ——— in Order ———.

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[13] All Members concurred.

[1] Order 74-11-111 extended this authority until a final decision in Docket 27177.

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[FR Doc. 78-12847 Filed 5-10-78; 8:45 am]

[6320-01]

[Docket 32615; Order 78-5-23]

PAN AMERICAN WORLD AIRWAYS, INC.

Order of Investigation and Suspension Proposed Passenger-Fare Increases in the Honolulu-Pago Pago Market

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of May 1978.

By tariff revisions [1] market to become effective May 21, 1978, Pan American World Airways, Inc. proposes a two-fold revision of its fares in the Honolulu-Pago Pago market. The first would raise the present one-way economy fare of $149 to $169; the second would raise it further to $176. First-class fares under both revisions would be set at 150 percent of the economy fare.

Pan American contends that increased passenger loads in its Pacific operations have raised maintenance and depreciation expenses; other cost increases have continued unabated; and current Board guidelines on anticipated costs fully justify its proposals.

No complaints were filed.

The Board concludes that the proposed increases may be unlawful and should be suspended pending investigation.

When we last considered a general fare increase proposal in this entity (Order 77-12-156, December 29, 1977), we were concerned whether the very high increases in maintenance and depreciation costs, allegedly caused by higher engine power settings due to increased passenger loads, would continue and should be included in the cost-inflation adjustment. We concluded that the risk of projecting such a sharply divergent cost trend was too great, and suspended Pan American's proposal. The lower of the alternative fare proposals now before us is in response to that concern; the cost-escalation factor used excludes the changes in maintenance and depreciation expense.

We have four basic problems with Pan American's analysis in support of its new proposals. First, it relies on very old data, using as a starting point costs allocated to the Honolulu-Pago Pago market from the Pacific operating entity on the basis of 1975 origin-destination traffic with costs updated to the year ending June 1977. Second, the further cost projections beyond fiscal year 1977 are computed on the basis of year ended September 1977 data, although December data are now available, and March 1978 data soon will be available. Third, the cost-escalation factors are incorrectly applied and, as a result, Pan American projects costs nine months beyond the tariff effective date instead of the intended three. (If we adjust for this error in applying cost inflation, the proposed fares may be excessive even on the basis of Pan American's own data.) Fourth, we are not satisfied that the recent steep rates of increase in depreciation and maintenance expenses are indicative of a trend which should be projected in calculating revenue need. [2] The carrier concedes these rates of increase do not represent solely cost inflation, but continues to argue they are heavily influenced by revised operating procedures, including increased throttle settings, necessitated by higher loads experienced in Pacific operations, and that such cost increases will continue. We are not persuaded, however, that it is reasonable to project this type of cost increase. To support its contention that this trend will continue i.e., that loads will continue to increase, causing continued higher throttle settings, Pan American states that it is in the process of converting its B-747 fleet to 10-abreast high density seating. This argument ignores the fact that on a per-passenger basis, this change will reduce costs.

In the absence of more recent data our own analysis necessarily starts

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[1] Revisions of Air Tariffs Corp., Agent, Tariff CAB No. 67.

[2] We are also concerned about the very wide fluctuations in expense levels from quarter to quarter. This may simply reflect aircraft maintenance cycles, but comparisons between periods and projection of such comparisons is difficult with the limited data available.

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with the fiscal year 1977 data projected by the Board in the *Pacific Overseas Fares Investigation*.[3] Thus, we accept Pan American's methodology of adjusting those data to reflect cost inflation experienced since then. We have used December 1977 data to calculate cost escalation beyond fiscal year 1977 to August 31, 1978.[4] This leaves only the issue of how to treat the depreciation and maintenance expenses in our cost calculations; therefore, the parameters of the allowable fare increase can be determined by calculating cost inflation with and without those expenses. Doing this produces a $4.50 range; $168.23 with and $163.73 without.[5] Thus, the higher of the two fare increase proposals is excessive, and the lower is acceptable only if we include in our calculations Pan American's reported maintenance and depreciation expenses, which we have decided not to do for the reasons stated.

Clearly, an increase in fare is justified to offset experienced cost increases, and we do not wish to deny the carrier fare relief to which it is entitled. Therefore, we are prepared to permit the economy fare to be increased to $164.00 on short notice. We will, of course, consider an additional increase on statutory notice, provided Pan American can satisfactorily resolve our doubts about including its depreciation and maintenance expenses in the calculation of cost escalation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002,

It is ordered, that: 1. An investigation be instituted to determine whether the fares and provisions in Table 305, on 16th and 17th Revised Pages 145 to Transpacific Passenger Fares Tariff No. 1, C.A.B. No. 67, issued by Air Tariffs Corp., Agent, and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Paragraph 1 above are suspended and their use deferred to and including August 17, 1978, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Copies of this order shall be filed in the above tariff and served upon Pan American World Airways, Inc.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,[6]
Secretary.

[FR Doc. 78-12848 Filed 5-10-78; 8:45 am]

[3] We would expect any future fare increase proposal to reflect costs allocated on the basis of updated traffic.

[4] We use cost per available seat-mile rather than cost per block hour to calculate cost escalation. Block-hour costs give no consideration to increased seating density. While Pan American's B-747 seating density is up only slightly sence our decision in the fares case, we note that the carrier contemplates going to 10-abreast seating.

[5] We apply the cost inflation factors to total expenses. Depreciation and maintenance expenses are excluded only in determining the rate of increase.

[6] All Members concurred except Member O'Melia who was not here.

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

[M-127, Amdt 5, May 8, 1978]

NOTICE OF ADDITION OF ITEM TO THE MAY 5, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1 p.m., May 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1a. Dockets 30646 and 32435, Exemption, pendente lite the Bismarck/Fargo-Minneapolis Subpart M proceeding; Emergency Air Transportation Requirements (Memo No. 7948, 7948-A, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This item concerns the staff's recommendation that the Board take review of Judge Hartsock's initial decision issued May 5, 1978, granting North Central's request for improved operating authority in markets now affected by the present strike of Northwest Airlines. so that the Board will be in a position to decide this case quickly, the following Board Members have voted that agency business requires the addition of this item to May 5, 1978 calendar on less than seven days' notice and that no earlier announcement of the addition was possible.

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Elizabeth E. Bailey

[S-997-78 Filed 5-9-78; 3:46 pm]

[6320-01]

2

[M-127, Amdt 4, May 4, 1978]

NOTICE OF ADDITION OF ITEM TO THE MAY 5, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1 p.m., May 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1a. Dockets 30646 and 32435, Exemption, pendente lite the Bismarck/Fargo-Minneapolis Subpart M proceeding; Emergency Air Transportation Requirements (BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Board action on this item is required as soon as possible to ensure service during the Northwest's strike. Accordingly, the following Members have voted that agency business requires the addition of Item 1a to the May 5, 1978 agenda and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Elizabeth E. Bailey

[S-996-78 Filed 5-9-78; 3:46 pm]

[6570-06]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-973-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Thursday, May 11, 1978.

CHANGE IN THE MEETING: The time of the meeting is changed to 11 a.m. (eastern time). A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner.
Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued May 5, 1978.

[S-986-78 Filed 5-9-78; 10:51 am]

[6712-01]

4

FEDERAL COMMUNICATIONS COMMISSIONS.

TIME AND DATE: 2 p.m., Tuesday, May 9, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

CHANGES IN THE MEETING: The following item has been deleted:

Agenda, Item No., and Subject

Cable Television—1—State of New Jersey petition for special relief from sections 76.59 and 76.61 of the Commission's Rules.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: May 5, 1978.

[S-990-78 Filed 5-9-78; 10:51 am]

[6714-01]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF CHANGE IN SUBJECT MATTER OF AGENCY MEETING

At the commencement of its closed meeting held at 11 a.m. on Friday, May 5, 1978, the Corporation's Board of Directors unanimously voted, on motion of Chairman George A. LeMaistre, seconded by Director William M. Isaac, with Director John G. Heimann (Comptroller of the Currency)

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concurring, to withdraw the following matters from the agenda for consideration at the meeting:

Applications of Unity Bank & Trust Co., Boston (Roxbury), Mass., for consent to change the location of its main office and to establish two branches.

Application of Industrial Valley Bank & Trust Co., Jenkintown, Pa., for a reversal of the Division of Bank Supervision's finding that the bank's 1976 financial reports subject to Part 335 of the Corporation's rules and regulations were improperly prepared.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: May 5, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-991-78 Filed 5-9-78; 10:51 am]

[6740-02]

6

FEDERAL ENERGY REQULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 19753, published May 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. May 10, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

ER-O.—Investigation into the wholesale transactions during the coal shortage.

KENNETH F. PLUMB,
Secretary.

[S-987-78 filed 5-9-78; 10:51 am]

[6730-01]

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 2:30 p.m., May 17, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly report of actions taken pursuant to authority delegated to the Managing Director.
2. Agreement No. 9902-3 (Sub. 3): Modification of Euro-Pacific Joint Service Agreement to permit chartering of additional container capacity.
3. Agreement No. 5850-35: Modification of the North Atlantic Westbound Freight Association Agreement to provide for appointment of a resident representative in the United States.
4. Proposed change of cost experience period—General Order 29—Regulations governing level of military rates.
5. Docket No. 74-24: Agreement No. 770 DR-4—North Atlantic French Atlantic Freight Conference—Modification of merchant's exclusive patronage freight contracts—Review of order of discontinuance.
6. Special Docket No. 534: *Cutler-Hammer Denver* v. *Lykes Bros. Steamship Co., Inc.*—Review of supplemental initial decision.
7. Special Docket No. 558: *Aero Mayflower Transit Co.* v. *Sea-Land Service, Inc.*—Review of initial decision.
8. Special Docket No. 569: *Georgia-Pacific Corporation* v. *Gulf United Kingdom Conference*—Review of initial decision.
9. Special Docket No. 570: *Deutsche Schachtbau-Und Tiefbohrgesellschaft MBH* v. *Lykes Bros. Steamship Co., Inc.*—Review of initial decision.
10. Docket No. 77-61: *Mitsui & Co. (U.S.A.), Inc.* v. *Sea-Land Service, Inc.*, and *Nippon Yusen Kaisha (NYK Line)*—Review of initial decision.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-995-78 Filed 5-9-78; 3:30 pm]

[6210-01]

8

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 12 noon, Monday, May 15, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Conceptual design for the proposed building of the Federal Reserve Bank of San Francisco.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: May 8, 1978.

CATHY E. MINEHAN.

[S-988-78 Filed 5-9-78; 10:51 am]

[4910-58]

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, May 18, 1978 (MN-78-22).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Pipeline accident report—Atlanta Gas Light Co., High-Pressure Gas Main Rupture, Atlanta, GA., December 1, 1977.
2. Aircraft accident report—Continental Air Lines, Inc., Boeing 727-224 N32745, Tucson, Ariz., June 3, 1977.
3. Recommendation to the Federal Aviation Administration re certification requirements for gliders.
4. Request to cancel special study P-SS-75-7, aircraft accidents and incidents involving safety role of dispatcher.
5. Discussion of highway and railroad model objectives and goals.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-989-78 Filed 5-9-78; 10:51 a.m.]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of May 1 and May 8, 1978 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

MAY 4, 1978—AFFIRMATION ITEMS

11:30 a.m. (approximately)—c. Cross-Examination of ACRS Consultants is cancelled.
2:30 p.m.—Joint NRC/ACRS Meeting (public meeting—had previously been announced as open and closed).

SHORT NOTICE MEETINGS

Approval: By vote of 3-0 on May 4, the Commission (Commissioner Gilinsky not participating), determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business requires that this agenda item be held on less than 1 week's notice to the public. The meeting is a continuation of one held on May 4.

Meeting: Monday, May 8, 1:30 p.m.—Discussion of export-import regulations, part 110 (approximately 1 hour—public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

[S-994-78 Filed 5-9-78; 3:03 pm]

[7710-12]

11

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS.

NOTICE OF MEETING

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9 a.m. on Friday, May 19, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. Except as indicated in the following paragraphs, the meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

On May 2, 1978, the Board of Governors voted to close to public observation a portion of the May 19, 1978, meeting. Each of the members of the Board voted in favor of partially closing the meeting, which is expected to be attended by the following persons: Governors Wright, Holding, Ching, Codding, Hardesty, and Robertson; Postmaster General Bolger; Deputy Postmaster General Conway; and Secretary to the Board Cox.

The portion of the meeting to be closed will consist of a discussion of the Postal Service's possible strategies and positions in current collective bargaining negotiations involving parties to the 1975 National Agreement between the Postal Service and four labor organizations representing certain postal employees, which is scheduled to expire in July of 1978.

AGENDA

1. Minutes of the previous meeting.
2. Recommended decision of the Postal Rate Commission on rates and fees.

(The Governors will consider the recommended decision of the Postal Rate Commission on changes in rates of postage and fees for Postal Services (Commission Docket No. R77-1), which is expected to be transmitted to the Governors by the Commission on or about May 12, 1978. If the Governors should decide to order the decision into effect, the Board will determine the effective date.)

3. Discussion of strategies and positions in collective bargaining negotiations.

(The Board will discuss possible strategies and positions in current collective bargaining negotiations for a new labor agreement. As stated above in the Notice of Meeting, the part of the meeting that will be devoted to this matter will be closed to the public.)

LOUIS A. COX,
Secretary.

[S-992-78 Filed 5-9-78; 3:03 pm]

[7710-12]

12

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS.

NOTICE OF COMMITTEE MEETING

The Committee on Postal Rates of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 7:30 p.m. on Thursday, May 18,1978, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

The Committee will discuss the Recommended Decision of the Postal Rate Commission on Changes in Rates of Postage and Fees for Postal Services (Commission Docket No. R77-1), which is expected to be transmitted to the Governors by the Commission on or about May, 12, 1978.

The Committee meeting is to be held in anticipation of a meeting of the Board of Governors which is scheduled to commence at 9 a.m. on May 19. A report of the Committee is on the agenda for the Board meeting.

LOUIS A. COX,
Secretary.

[S-993-78 Filed 5-9-78; 3:03 pm]

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Federal Register

THURSDAY, MAY 11, 1978
PART II



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

OPERATIONS REVIEW PROGRAM NOTICE NO. 8

Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft Certification and Operations of Scheduled Air Carriers With Helicopters

Federal Register

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[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 121 and 127]

[Docket No. 17897; Notice No. 78-7]

OPERATIONS REVIEW PROGRAM NOTICE NO. 8

Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft Certification and Operations of Scheduled Air Carriers With Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the requirements applicable to airmen and crewmembers, training programs, flight operations, dispatching and flight release, records and reports of air carriers and commercial operators of large aircraft, and scheduled air carriers with helicopters. These proposed amendments are part of the Operations Review Program that provided a comprehensive review of the Federal Aviation Regulations (FAR), taking into account the significant changes in the environment in which airmen, air agencies and aircraft operators function by updating the FAR which apply to them.

DATE: Comments must be received on or before August 11, 1978.

ADDRESS: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. 17897, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald A. Schroeder, Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before August 11, 1978, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

For convenience, each proposal in this notice is numbered separately. The FAA requests that interested persons, when submitting comments, refer to proposals by these numbers and by the sections to which they relate.

AVAILABILITY OF THIS NOTICE

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should request a copy of Advisory Circular No. 11-2 which describes the application procedures.

BACKGROUND

The aviation industry in the United States and abroad has grown substantially during the last ten years. Paralleling its rapid growth and numerous technological advances are significant changes in the operating environment in which airmen, air agencies, and aircraft operators function.

To enable the FAA to become more responsive to the needs of the general public and the aviation community in fulfilling the agency's aviation safety responsibilities, the FAA issued Notice No. 75-9 (40 FR 8585; February 28, 1975), inviting all interested persons to submit proposals for consideration during the Operations Review Program.

In response to that invitation, the FAA received more than 5,000 individual comments contained in 123 submissions. Based on those comments and on the Compilation of Proposals, the FAA prepared a number of working documents for the Operations Review Conference held in Arlington, Va. on December 1-5, 1975. The FAA distributed those documents to each person who participated in the Operations Review Program and to all other interested persons who requested them.

The Operations Review Conference was attended by more than 600 persons. Various committees discussed all scheduled agenda items during the conference. Summaries were given by the FAA Committee Chairmen at the close of the discussions on each agenda item. Persons present were given the opportunity to correct those oral summaries. Those summaries were edited and combined with an attendee list for the conference and with transcripts of certain plenary session speeches and were distributed to all attendees and to all persons requesting them in accordance with a Notice of Availability (Notice No. 75-9A; 41 FR 9413; March 4, 1976).

THE PROPOSALS

The notice deals with selected proposals concerning Parts 121 and 127 contained in the following Operations Review Committee Workbooks:

Committee No.:	*Title*
3	Aircraft Operating Rules.
4	Airman Certification.
6	Certificated Operators and Agencies.
7	Flight Attendants.
9	Training.

A number of the proposals contained in both the Compilation and the working documents are not included in this notice. The Proposals listed in Appendices I and II fall into two categories as follows:

APPENDIX I—MISCELLANEOUS PROPOSALS WITHDRAWN BY PROPONENT

APPENDIX II—MISCELLANEOUS PROPOSALS REMOVED FROM CONSIDERATION FROM THE OPERATIONS REVIEW PROGRAM

DRAFTING INFORMATION

The principal authors of this document are W. J. Biron, Flight Standards Service, and R. B. Elwell, Office of the Chief Counsel.

THE PROPOSED AMENDMENTS

Accordingly, the Federal Aviation Administration proposes to amend Parts 121 and 127 of the Federal Aviation Regulations (14 CFR Parts 121 and 127) as follows:

§ 121.177 [Amended]

8-1. By amending § 121.177(b) by deleting the word "any" in the first sentence and inserting in its place the words "the effective."

Explanation. This proposal would replace the word "any" with the words "the effective", using the phrase defined in AC 150/5325-3 which provides a greater margin of safety in computing takeoff limitations. This proposal would also make this paragraph consistent with § 121.189(e) which uses the term "effective runway gradient."

Ref. Proposal No. 392, § 121.177. Committee 3, Item C-2.

8-2. By revising § 121.311(b) to read as follows:

121.311 Seat and safety belts.

* * * * *

(b) During flight time each passenger shall occupy an approved seat or berth with a separate safety belt secured about that passenger. During en route flight, passengers may leave their seats or berths for physiological needs or when authorized by a crewmember. A person who is less than two years old may be held by an adult.

* * * * *

Explanation. This proposal and Item Nos. 8-3, 8-11, 8-23, 8-24 and 8-25 would require Parts 121 and 127 certificate holders to install "Fasten Seat Belt While Seated" signs on each forward bulkhead and seat back in each of its passenger-carrying aircraft. The proposed amendments also would require passengers to keep their safety belts fastened at all times when seated and would allow them to be absent from their seats only when necessary in connection with their physiological needs or when specifically authorized for other reasons by a crewmember. This proposal also would apply to air travel clubs certificated under Part 123 and to air taxi operators certificated under Part 135, when conducting operations with large airplanes.

During the en route portion of flight, passengers are not required by current regulations to keep their safety belts fastened while seated. However, on airplanes operated under Parts 121 and 123, and on large airplanes operated by Part 135 certificate holders under the applicable rules of Part 121, an announcement must be made after each takeoff informing passengers that they should keep their safety belts fastened when seated, even when the seat belt sign is off. This requirement does not apply to Part 127 operations. This proposal would require that the passenger briefing announcements state that passengers are required to keep their safety belts fastened while seated.

A petition from the Air Line Pilots Association (ALPA) states that many of the injuries on aircraft that have been attributed to clear air turbulence and flight control malfunctions could have been prevented. In this connection, petitioner states, in essence, that during flights of two hours or more passengers typically leave their seats many times, and that some of them forget to refasten their safety belts upon returning to their seats. As a result, when turbulence or flight control malfunctions have occurred, some of those passengers have been thrown from their seats and have sustained injuries. Therefore, petitioner concludes that most of the turbulence and flight control malfunction related injuries that have occurred in recent years could have been avoided if the persons who sustained injury had refastened their safety belts upon returning to their seats.

Accordingly, these proposed amendments would allow passengers to leave their seats during the en route portion of flight only for the purpose of meeting their physiological needs and would require that passengers be properly secured by a safety belt when seated.

The FAA believes that appropriate seat belt signs, if installed on forward bulkheads and seat backs, would help achieve compliance with a requirement to fasten safety belts during the en route portion of flight.

Ref. Proposal Nos. 439, 450, 451, 588, 589, 686, 688 and 693, and ALPA petition of April 8, 1974, Docket No. 13670; §§ 121.311, 121.571, 127, 109, 127.115, 127.226; Committee 1 and 7; Agenda Items C3 and D.

8-3. By revising § 121.317 by redesignating paragraph (b) as (c), and adding a new paragraph (b) to read as follows:

§ 121.317 Passenger information.

* * * * *

(b) After ————, no person may operate a passenger-carrying airplane under this part unless there is affixed to each forward bulkhead, and each passenger seatback, a sign that reads "Fasten Seat Belt While Seated." These signs or placards need not meet the requirements of paragraph (a) of this section.

* * * * *

Explanation. This proposal would require operators to place "Fasten Seat Belts While Seated" signs on forward bulkheads and on each passenger seatback. The signs or placards required by this proposed revision need not meet the requirements of § 121.317(a) but must be visible to the passengers. See item 8-2 for further explanation.

Ref. Proposal No. 451; § 121.317; Committee 1; Agenda Item C3.

8-4. By revising § 121.391(d) by adding a sentence to the end to read as follows:

§ 121.391 Flight attendants.

* * * * *

(d) * * * During taxi, required by this section, flight attendant must remain at that attendant's duty location with safety belts and shoulder harnesses fastened except to perform duties related to the safety of the airplane and its occupants.

Explanation. This proposal would require flight attendants to remain at their duty locations with safety belts and shoulder harnesses fastened while the airplane is taxiing, except to perform duties related to the safety of the airplane and its occupants. Several malfunctions, such as brake fires, have occurred during taxi that required emergency evacuations of the airplane. In several instances these malfunctions occurred while flight attendants were away from their duty locations and unable to return (because of passengers blocking the aisles) to assist in proper evacuation of the aircraft.

Ref. Proposal Nos. 494 and 566; § 121.391(d)(1); Committee 7; Agenda Item C.

§ 121.434 [Amended]

8-5. By amending § 121.434 as follows:

1. By amending paragraph (f) by inserting the words "for flight crewmembers" after the word "experience";

2. By amending the flush paragraph at the end of paragraph (f) by inserting the words "(e) and" after the word "paragraph"; and

3. By amending paragraph (e) by adding a sentence at the end to read as follows:

§ 121.434 Operating experience.

* * * * *

(e) * * * Satisfactorily completed training time acquired in an approved training program conducted in a full-scale (except for length) cabin simulator of the type airplane in which they are to serve may be substituted for 50 percent of the hours required by this paragraph.

* * * * *

Explanation. This proposal allows certificate holders to substitute flight attendant training time in a cabin simulator for up to 50 percent of the operating experience requirement.

Since June 1973, the FAA has issued exemptions to the current rule allowing flight attendants to substitute satisfactorily completed training time received in cabin simulators to meet part of the operating experience required by this section. Satisfactory results have been achieved without an adverse effect on safety.

The FAA believes that the use of realistic cabin simulators provides a level of training equal to in-flight training in the aircraft, thus making the full five hours of in-flight operating experience for the flight attendants unnecessary.

Additionally, this proposal adds the words "for flight crewmember" after the word "experience" in paragraph (f) to clarify the fact that this method of reduction does not include flight attendants.

Ref. Proposal No. 538; § 121.434(f); Committee 9; Agenda Item B-8.

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8-6. By revising § 121.441(a) to read as follows:

§ 121.441 Proficiency checks.

(a) No certificate holder may use any person, nor may any person serve, as a required pilot flight crewmember unless that person has satisfactorily completed either a proficiency check or an approved simulator course of training under § 121.409 for the airplane type in which that pilot is to serve, as follows:

• • • • •

Explanation. This proposal clarifies the fact that proficiency checks required by this section must be administered in the airplane type in which the person is to serve. Pilots serving in more than one type of aircraft would require a flight check or an approved simulator course of training in each type of aircraft.

Ref. Proposal No. 544; § 121.441(a); Committee 4; Agenda Item E.

8-7. By revising § 121.443 to read as follows:

§ 121.443 Pilot in command qualification: route and airports.

(a) Each certificate holder shall provide a system acceptable to the Administrator for disseminating the information required by paragraph (b) of this section to the pilot in command and appropriate flight operation personnel. The system must also provide an acceptable means for showing compliance with § 121.445.

(b) No certificate holder may use any person, nor may any person serve, as pilot in command unless the certificate holder has provided that person current information concerning the following subjects pertinent to the areas over which that person is to serve, and to each airport and terminal area into which that person is to operate, and ensures that that person has adequate knowledge of, and the ability to use, the information:

(1) Weather characteristics appropriate to the season.

(2) Navigation facilities.

(3) Communication procedures, including airport visual aids.

(4) Kinds of terrain and obstructions.

(5) Minimum safe flight levels.

(6) En route and terminal area arrival and departure procedures, holding procedures and all instrument approach procedures for the airports involved.

(7) Congested areas and physical layout of each airport in the terminal area in which the pilot will operate.

(8) Notices to Airmen.

Explanation. This proposal and Item Nos. 8-8 and 8-9 would eliminate the present route qualification and requalification provisions and proposes a regulation that makes the certificate holder responsible for ensuring that the pilot in command has current knowledge concerning certain information regarding each operation, and is qualified to use it as required of a pilot in command. These proposals would: (1) delete the requirement that the domestic and flag air carrier pilot in command make a qualifying entry into each airport into which that pilot scheduled to fly; (2) require a qualifying initial entry and subsequent entries only at "special" airports; and (3) provide that the pilot in command for supplemental air carriers and commercial operators be required to meet these requirements.

Airline pilots have for years demonstrated their ability to operate charter and other special flights over routes they have not previously flown and into airports where they have not previously landed. These operations have been conducted with an excellent safety record.

Since the regulations were first published, radio navigation has become more sophisticated and a wide-spread network of en route and terminal approach navigation aids, particularly VOR and ILS, have been developed. The air traffic control system has been improved and terminal and en route radar now provide flexible or direct routing.

With these improvements, the FAA no longer believes it necessary that the domestic and flag air carrier pilot in command make a qualifying entry into each airport into which that pilot is scheduled to fly. Instead, that pilot should be required to make a qualifying entry (including a takeoff and landing), or qualify by using pictorial means acceptable to the Administrator only at those airports that are unique because of terrain, obstacles, or complex approach or departure procedures.

The FAA believes that to provide a standard level of safety for all certificate holders operating into special areas and airports, the pilot in command for supplemental air carriers and commercial operators should be required to meet these same training requirements. These proposals would combine the requirements of current §§ 121.443, 121.445, and 121.447 into § 121.443. Section 121.445 has been completely revised to require airport qualification for special areas and airports. The proposal would also delete and reserve § 121.447.

Ref. Proposal Nos. 549 and 549A, §§ 121.443, 121.445, and 121.447; Committee 4; Agenda Item E.

8-8. By revising § 121.445 to read as follows:

§ 121.445 Pilot in command airport qualification: special areas and airports.

(a) The Administrator may determine that certain airports (due to items such as surrounding terrain, obstructions, or complex approach or departure procedures) are special airports requiring special airport qualifications and that certain areas between terminals require a special type of cockpit navigation qualification.

(b) Except as provided in paragraph (c) of this section, no certificate holder may use any person, nor may any person serve, as pilot in command to or from an airport determined to require special airport qualifications unless, within the preceding 12 calendar months:

(1) The pilot in command or second in command has made an entry to that airport (including a takeoff and landing) while serving as a pilot flight crewmember; or

(2) The pilot in command has qualified by using pictorial means acceptable to the Administrator for that airport.

(c) Paragraph (b) of this section does not apply when an entry to that airport (including a takeoff or a landing) is being made if the ceiling at that airport is at least 1,000 feet above the lowest MEA, MOCA, or altitude prescribed for the instrument approach procedure for that airport, and the visibility at that airport is at least three miles.

(d) No certificate holder may use any person, nor may any person serve, as pilot in command between terminals over an area determined to require a special type of cockpit navigation qualification unless, within the preceding 12 calendar months that person has, with respect to that area, demonstrated qualification, in a manner acceptable to the Administrator, by one of the following methods:

(1) By flying over the area as pilot in command using the special type of cockpit navigation.

(2) By flying over the area as pilot in command under the supervision of a check airman using the special type of cockpit navigation.

(3) By completing the training program requirements of Appendix G to Part 121.

Explanation. This proposal would require pilots to make a qualifying entry (including a takeoff and landing), or qualify by using pictorial means acceptable to the Administrator for those airports that are unique because of terrain, obstacles, or complex approach or departure procedures. Additionally, this proposal would require a special type of cockpit navigation qualification for certain areas between terminals. See Item No. 8-7 for further explanation.

Ref. Proposal No. 549A, § 121.445; Committee 4; Agenda Item E.

§ 121.447 [Reserved]

8-9. By deleting § 121.447 and marking it [Reserved]

Explanation. See Item No. 8-7 for further explanation.

Ref. Proposal No. 549, § 121.447; Committee 4; Agenda Item E.

8-10. By revising § 121.563 to read as follows:

§ 121.563 Reporting mechanical irregularities.

The pilot in command shall ensure that all mechanical irregularities occurring during flight are entered in the maintenance log of the airplane at the next place of landing.

Explanation. This proposal would revise § 121.563 by establishing a specific time-period for entering in the maintenance log mechanical irregularities that occurred during flight, and would delete the requirement to ascertain the status of the airplane before each flight, since this is provided for in other sections of this Part.

Current § 121.563 has been interpreted by the National Transportation Safety Board as requiring the pilot in command to enter a mechanical irregularity in the maintenance log at the end of a flight which could involve several intermediate stops. However, the FAA believes that the mechanical irregularity should be entered in the maintenance log at the end of each flight leg, i.e., from takeoff to the next place of landing. The FAA believes that such an entry is timely and alerts maintenance personnel at en route stops that maintenance may be necessary.

Ref. Proposal No. 578, § 121.563; Committee 3; Agenda Item L.

§ 121.571 [Amended]

8-11. By amending § 121.571(a)(2) by deleting the word "should" and substituting the word "must."

Explanation. This proposal would require that the passenger briefing announcements state that passengers are required to keep their safety belts fastened while seated. See Item 8-2 for further explanation.

Ref. Proposal Nos. 588 and 589; § 121.571; Committee 7; Agenda Item D.

8-12. By amending § 121.574(a)(4) by inserting the words ", to be kept in that person's possession and" between the words "statement" and "signed;" and by revising § 121.574(b) to read as follows:

§ 121.574 Oxygen for medical use by passengers.

• • • • •

(b) No person may and no certificate holder may allow any person to smoke in the same row, the row forward of, aft of, or across from a person using oxygen under paragraph (a) of this section.

• • • • •

Explanation. This proposal would amend § 121.574(a)(4) by requiring passengers needing medical oxygen to retain in their possession a written statement signed by a physician. Problems arise when a passenger needing medical oxygen checks in for a flight and the airline retains the signed statement. Subsequently, on another leg of the same flight or return flight, the passenger needs this statement and it is not available placing a burden on the passenger to provide another statement. The FAA believes that requiring the passenger to retain the required written statement would prevent this.

Current § 121.574(b) prohibits smoking within 10 feet of a person using oxygen equipment. The FAA believes that this is overly restrictive and proposes to amend this section to not allow persons to smoke in the same row, the row forward of, aft of, or across from a person using oxygen. The FAA believes that this proposal would not adversely affect safety.

Ref. Proposal No. 594, § 121.574; Committee 10; Agenda Item F.

8-13. By revising § 121.579(b) to read as follows:

§ 121.579 Minimum altitudes for use of autopilot.

• • • • •

(b) Approaches.

(1) When using an instrument approach facility, no person may use an autopilot, without an approach coupler, at an altitude above the terrain that is less than twice the maximum altitude loss specified in the Airplane Flight Manual for a malfunction of the autopilot under approach conditions, or less than 50 feet below the approved minimum descent altitude or decision height for that facility, whichever is higher.

(2) For ILS approaches, no person may use an autopilot with an approach coupler at an altitude above the terrain that is less than the maximum altitude loss specified in the Airplane Flight Manual for the malfunction of the autopilot with approach coupler, or 50 feet, whichever is higher.

• • • • •

Explanation. This proposal deletes the references to IFR and VFR weather conditions establishing one autopilot approach minimum for autopilots with an approach coupler, and adds the phrase "without an approach coupler," to the first paragraph for clarifying purposes. The current rule allows descent to as low as 50 feet under VFR conditions, and 50 feet higher that the maximum altitude loss specified in the Airplane Flight Manual for the malfunction of the autopilot with approach coupler under IFR conditions. The FAA believes that this distinction is no longer necessary, and this proposal allows ILS approaches made with an autopilot with an approach coupler to a minimum altitude as low as 50 feet in both VFR or IFR weather conditions.

During any IFR approach (except Category IIIa zero visibility landings), a pilot will have adequate visual references at 50 feet, unless a missed approach has been initiated at the decision height. Thus, if an autopilot or approach coupler malfunction occurred at 50 feet the distinction between IFR and VFR is irrelevant. Based upon the comments received on this proposal the agency may decide to revise proposed § 135.81(b) to be compatible with the proposed revision to § 121.579(b). Comments are requested concerning the proposed revision to § 135.81(b).

Ref. Proposal No. 601; § 121.579; Committee 3; Agenda Item G.

8-14. By revising § 121.583(a)(4)(iii) to read as follows:

§ 121.583 Carriage of persons without compliance with the passenger-carrying requirements of this part.

(a) • • •

(4) • • •

(iii) The safe handling of hazardous materials whose carriage is governed by regulations prescribed in 49 CFR Part 175.

• • • • •

Explanation. This proposal deletes the reference to Part 103, and adds the reference to regulations of the Materials Transportation Bureau (DOT) prescribed in 49 CFR Part 175. In effect this revision states that a person necessary for the safe handling of hazardous materials may accompany that shipment aboard an aircraft without the certificate holder having to comply with the passenger-carrying aircraft operational requirements.

Ref. Proposal No. 906; § 121.583(a)(4)(iii); Committee B; Agenda Item H.

8-15. By revising § 121.589 to read as follows:

§ 121.589 Carry-on baggage.

(a) No certificate holder may allow the boarding of carry-on baggage on an aircraft unless the baggage can be stowed in accordance with this section. No certificate holder may allow an aircraft to take off or land unless each article of baggage carried aboard the aircraft is stowed—

(1) In a suitable closet or baggage/cargo stowage compartment placarded for its maximum weight and providing proper restraint for all baggage or cargo stowed therein. Such stowage must not hinder the possible use of any emergency equipment;

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(2) As provided in paragraph (c) of § 121.285; or

(3) Under a passenger seat.

(b) Baggage, other than articles of loose clothing, shall not be placed in an overhead rack unless that rack is equipped with approved restraining devices or doors.

(c) Each passenger shall comply with instructions given by crewmembers regarding compliance with paragraphs (a) and (b) of this section.

(d) Each passenger seat under which baggage is allowed to be stowed shall be fitted with a means to prevent articles of baggage stowed under it from sliding forward or sideways under crash impacts severe enough to induce the ultimate inertia forces specified in § 25.561(b)(3) of this chapter or in the emergency landing condition regulations under which the aircraft was type certificated.

Explanation. This proposal gives the certificate holder specific authority to prevent the boarding of carry-on baggage which cannot be property stowed in a suitable closet or baggage/cargo stowage compartment placarded for its maximum weight. Additionally, baggage must not hinder possible use of emergency equipment located in stowage compartments.

This proposal also prevents placing baggage other than loose clothing in an overhead rack, unless that rack is equipped with approved restraining devices or doors. The FAA believes that objects placed in open racks above passengers' seats should not be of the type which could, if they become dislodged and fall, inflict injury to passengers. Additionally, this proposal provides that baggage be restrained sideways as well as forward under certain impacts or under certain emergency landing conditions.

During hard or crash landings carry-on baggage has become dislodged from stowage areas, inflicting injuries to passengers and hampering the emergency evacuation of the aircraft. The FAA believes that all carry-on baggage should be screened before being allowed aboard the aircraft to prevent loading of baggage which cannot be properly stowed.

Ref. Proposal No. 604; § 121.589, Committee 6A; Agenda Item H.

8-16. By revising § 121.619(a) (1) and (2) to read as follows:

§ 121.619 Alternate airport for destination: IFR or over-the-top: domestic air carriers.

(a) • • •

(1) For at least one hour before and one hour after the estimated time of arrival at the destination airport, the appropriate weather reports or forecasts or any combination of them indicate:

(i) That the ceiling will be at least 1,500 feet above the lowest circling MDA, if a circling approach is required and authorized for that airport; or

(ii) A ceiling of at least 1,500 feet above the lowest published instrument approach minimum or 2,000 feet above the airport elevation, whichever is higher.

(2) The visibility at that airport will be at least three miles, or two miles more than the lowest applicable visibility minimums, whichever is greater, for the instrument approach procedure to be used at the destination airport.

• • • • •

Explanation. This proposal reduces the two-hour weather requirement for alternate airports to one hour. It also changes the 1,000 feet above the MEA or MOCA to 1,500 feet above the MDA, circling approach; or 1,500 feet above the lowest published minimums, or 2,000 feet above the airport elevation, whichever is higher. The visibility minimums would be three miles or two miles more than the lowest minimums for the instrument approach procedure to be used.

The FAA believes that using at least 1,500 feet above the circling MDA, instead of MOCA, MEAs, or other altitudes, would aid the pilot in determining his alternate weather requirements as these minimum are depicted on the approach charts. Revision of the forecast time period from two hours to one hour would reduce unnecessary tankering of fuel on the aircraft.

The present rule has proven burdensome, both operationally and economically, by requiring designation of an alternative airport based solely on a weather forecast.

Ref. Proposal Nos. 186, 609; § 121.619; Committee 3; Agenda Item B, and Committee 6; Agenda Item J.

8-17. By revising § 121.621(a)(1) to read as follows:

§ 121.621 Alternate airport for destination: Flag air carriers.

(a) • • •

(1) The flight is scheduled for not more than six hours and, for at least one hour before and one hour after the estimated time of arrival at the destination airport, the appropriate weather reports or forecasts, or any combination of them, indicate that the ceiling will be:

(i) At least 1,500 feet above the lowest circling MDA, if a circling approach is required and authorized for that airport; or

(ii) At least 1,500 feet above the lowest published instrument approach minimum or 2,000 feet above the airport elevation, whichever is higher; and

(iii) The visibility at that airport will be at least three miles, or two miles more than the lowest applicable visibility minimums, whichever is greater, for the instrument approach procedures to be used at the destination airport.

• • • • •

Explanation. This proposal was not discussed at the Operations Review but is in keeping with changes made to § 121.619 that provided relief to domestic air carriers, related to the same subject matter. See Item 8-16 for further justification.

Ref. Proposal No. 611; § 121.621; Committee 6; Agenda Item J.

§ 121.691 [Reserved]

8-18. By deleting § 121.691 and marking if [reserved].

§ 121.693 [Amended]

8-19. By amending § 121.693 as follows:

1. By deleting from the heading the words, "supplemental air carriers and commercial operators."

2. By inserting the words, "loading of the" between the words, "the" and "airplane" in the introductory phrase of the section.

3. By amending § 121.693(a) by inserting the parenthetical words, "(including mail)" between the words "cargo" and "and".

4. By revising § 121.693(e) to read as follows:

§ 121.693 Load manifest: air carriers and commercial operators.

• • • • •

(e) Names and home addresses of passengers, unless such information is maintained by other means by the air carrier or commercial operator.

Explanation. This proposal and item 8-18 would delete § 121.691 and combine the load manifest requirements of §§ 121.691 in 121.693, making the requirements of § 121.693 applicable to all operators. Section 121.691 load manifest requirements for domestic and flag air carriers were repeated in § 121.693 for supplemental air carriers and commercial operators with some additional requirements which the FAA believes should also be applicable to domestic and flag air carriers. Some domestic air carriers no longer issue tickets to passengers before departure in shuttle operations, leaving the operator without a passenger list in case of an accident. The FAA believes this situation would be corrected by making the load manifest applicable to all air carriers and commercial operators.

Ref. Proposal Nos. 35 and 636; §§ 121.691 and 121.693; Committee 6A; Agenda Item J.

Part 121 Appendix E [Amended]

8-20. By amending appendix E of part 121 as follows:

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1. Item I(a) by adding the following sentence at the end:

• • "If a flight engineer is a required crewmember for the particular type airplane, the visual inspection may be replaced by using an approved pictorial means that realistically portrays the location and detail of preflight inspection items.

2. Item III(g)(3) by:

a. Deleting the symbols "B," "AT," and "BU" from the "Inflight" column under the captions "Initial," "Transition," and "Upgrade Training";

b. Adding the "B" symbol in the "Non-Visual Simulator" column under the caption "Initial Training";

c. Adding the "AT" symbol in the "Non-Visual Simulator" column under the caption "Transition Training"; and

d. Adding the "BU" symbol in the "Non-Visual Simulator" column under the caption "Upgrade Training."

3. Item III(h) by deleting the "P" symbol in the "Inflight" column, and by adding the "P" symbol in the "Non-Visual Simulator" column under the caption "Initial Training."

4. Items III(i) and (j) by:

a. Deleting the "B" symbols in the "Inflight" column under the caption "Initial Training";

b. Adding the "B" symbols in the "Non-Visual Simulator" column under the caption "Initial Training";

c. Deleting the "SF" symbol in the "Inflight" column, and deleting "PS" in the "Non-Visual Simulator" column under the caption "Upgrade Training"; and

d. Adding the "BU" symbol in the "Non-Visual Simulator" column under the caption "Upgrade Training."

5. Items III(l) (1) and (2) by deleting the "B" symbols in the "Inflight" column and by adding the "B" symbols in the "Visual Simulator" column under the caption "Initial Training."

6. Item III(l)(1) by:

a. Deleting the "AT" symbol in the "Inflight" column and by adding the "AT" symbol in the "Visual Simulator" column under the caption "Transition Training"; and

b. Deleting the "BU" symbol in the "Inflight" column and by adding the "BU" symbol in the "Visual Simulator" column under the caption "Upgrade Training."

7. Items III(p) (1) and (4) by deleting the "B" symbols in the "Inflight" column and adding the "B" symbols in the "Visual Simulator" column under the caption "Initial Training."

Explanation. This proposal would allow the use of pictorial means to complete the visual inspection requirements of the training program. Visual inspection training is difficult to schedule and conduct, due to lack of airplanes available for complete exterior inspection. The FAA believes that, on aircraft requiring a flight engineer, the pilot's preflight visual inspection may be conducted effectively through approved pictorial means. This proposal would allow power plant failure training to be conducted in a non-visual simulator. Power plant failure is a procedural drill that can efficiently be taught in a non-visual simulator. The effects of symmetrical thrust will be covered elsewhere in the flight training program. No compromise in safety will result, since the efficiency of simulator training is a well-established fact.

This proposal would allow the use of visual simulators to accomplish engine-out and normal ILS approaches and missed approach procedures, and would allow the use of non-visual simulators for steep turns, approaches to stalls, and recovery from specific flight characteristics. The FAA believes that visual simulator capabilities are fully adequate for training and checking on all ILS approaches. Training in normal and abnormal maneuvers conducted in a simulator is safer than in the airplane, and past experience has proven that transfer of learning from the simulator training program to the aircraft has been very good.

Ref. Proposal Nos. 652, 653, 654, 659, and 660; part 121; appendix E; Committee E; Agenda Item C-1.

§ 121 Appendix F [Amended]

8-21. By amending appendix F of part 121 as follows:

1. Item I(a) by inserting the following sentence between the second and third sentences:

• • • The equipment examination is not required if the pilot has satisfactorily completed, within the preceding sixty days a Part 121 approved training program in a cockpit procedural trainer or airplane simulator for that type aircraft. • • •

• • • • •

2. Item III(c)(2) by deleting the "B" symbol in the "Inflight" column and by adding the "B" symbol in the "Visual Simulator" column.

3. Item III(e) by amending the last flush paragraph by deleting the sentence "At least one missed approach must be performed in flight."

Explanation. This proposal would eliminate the requirement for an equipment examination if the pilot satisfactorily completed a part 121 training program within the last sixty days for that type aircraft.

The FAA approves all airline training courses, and FAA inspectors routinely spot check the quality of the instruction and testing being administered by the air carriers. This should assure that the FAA has control over the quality of the instruction and the adequacy of performance. In addition, FAA inspectors who are assigned to air carriers employing training programs that include training in cockpit procedural trainers or simulators would still have ample opportunity to observe the performance of these pilots and test their knowledge, since these pilots are subject to further examination during the inflight portion of the practical test and during initial operating experience on the line.

This proposal would allow ILS approaches with simulated powerplant failure and missed approaches to be conducted in a visual simulator. See Item 8-20 for further explanation and justification.

Ref. Proposal Nos. 659, 660, 662, 663, and 665; Part 121, Appendix F; Committee 9; Agenda Item C-1.

8-22. By revising Appendix G to Part 121 by revising the heading, and sections 1(a), 2, 3, 4, 5, and 6 to read as follows:

APPENDIX G—DOPPLER RADAR, INERTIAL NAVIGATION SYSTEM (INS), OR OTHER SPECIALIZED NAVIGATION EQUIPMENT; REQUEST FOR EVALUATION; EQUIPMENT AND INSTALLATION; TRAINING PROGRAM; EQUIPMENT ACCURACY AND RELIABILITY; EVALUATION PROGRAM

1. *Application authority.* (a) An applicant for authority to use a Doppler Radar, Inertial Navigation System or other Specialized Navigation Equipment must submit a request for evaluation of the system to the Flight Standards District Office charged with the overall inspection of its operations 30 days before the start of the evaluation flights.

• • • • •

2. *Equipment and equipment installation—pilot operated long range navigation systems.* (a) All pilot operated specialized navigation equipment systems must be installed in accordance with applicable airworthiness requirements.

(b) Installation must consist of at least dual long range navigation systems (including navigational computers). This may consist of two like systems (i.e., two INS) or two unlike systems (i.e., one INS and one Doppler). However, when an intermix of systems is used, this intermix must be approved by the Administrator. At least two systems must be operational at takeoff.

(c) Cockpit arrangement must be visible and usable by either while pilot seated at that pilot's duty station.

(d) The equipment must provide, by visual, mechanical, or electrical output signals, indications of the invalidity of output data upon the occurrence of probable failures or malfunction within the system.

(e) A probable failure or malfunction within the system may not result in loss of the required navigation capability of the aircraft.

(f) The alignment, updating, and navigation computer functions of the system may not be invalidated by normal airplane power interruption and transients.

(g) The system may not be the source or cause of objectionable radio frequency interference and must not be adversely affected by radio frequency interference from other airplane systems.

(h) The FAA approved flight manual, or the applicant's operations manual required by § 121.133, must include pertinent materi-

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al as required to define normal, abnormal, and emergency operating procedures and applicable operating limitations associated with the navigation system.

(i) In addition to meeting the requirements of paragraphs (a) through (b) of this section, each automated system must automatically provide the following:

(1) Indications needed to gain and maintain a desired track to the next waypoint and destination, and to determine deviations from the desired track.

(2) Indications showing distance or a means of determining time to go to the next waypoint or destination.

(3) The present position of the aircraft in suitable coordinates, or a means of determining these coordinates.

3. *Equipment and equipment installation*—Inertial Navigation Systems (INS). When INS are used in operations under this part, in addition to meeting the requirements of paragraphs (a) through (i) of section 2, each system must also provide the following:

(a) Valid ground alignment capability at all latitudes appropriate for the proposed operation.

(b) A display of alignment status or a ready-to-navigate light showing completed alignment to the flight crew.

(c) For installations that do not have memory or other inflight alignment means, a separate electrical power source (independent of the main power system) which can supply, for at least five minutes, enough power (as shown by analysis or as demonstrated in the airplane) to maintain the INS in such condition that its full capability is restored upon the reactivation of the normal electrical supply.

4. *Equipment and equipment installation—Doppler Radar Systems.* In addition to meeting the requirements of paragraphs (a) through (h) of section 2, if an applicant elects to use Doppler Radar in operations under this part, each installation must also provide the following:

(a) Dual antenna or a combined antenna designed for multiple operation.

(b) Dual operating transmitters, or a single operating transmitter with a standby capable of operation.

(d) Separate heading source information to each system, except that a single heading source may be used if a compass comparator is installed and inflight operating procedures require frequent cross-checks of all compasses by flight crewmembers.

(d) Compass heading information to the Doppler Radar must be maintained to an accuracy of ±1 degree and total system deviation may not exceed 2 degrees. When free gyro techniques are used, procedures must be used to insure that an equivalent level of heading accuracy and total system deviation is attained.

(e) As determined by the Administrator and specified in the certificate holder's operations specifications, external navigation aids may be required to update the Doppler Radar for proposed operations. These may include, but are not limited to, VOR, DME, Loran, or Omega, ground based radar and satellite transmissions. When these aids are required, the cockpit controls must be accessible to each pilot seated at that pilot's duty station. Their suitability will be determined by the Administrator after considering the accuracy, reliability, associated flight crew workload and the manner in which the systems are affected by atmospheric conditions and propogation anomalies.

5. *Training programs.* The initial training program for long range navigation systems must include the following:

(a) Duties and responsibilities of flight crewmembers, dispatchers, and maintenance personnel.

(b) For pilots, instruction in the following:

(1) Theory and procedures, limitations, detection or malfunctions, preflight and inflight testing and cross-checking methods.

(2) The use of computers, an explanation of all systems, compass limitations at high latitudes, a review of navigation, flight planning and applicable meteorology.

(3) The methods of updating by means of reliable fixes.

(4) The actual plotting of fixes.

(5) Compilation of terminal system errors.

(c) Each pilot assigned as an operational crewmember must satisfactorily complete an initial qualification check (either in actual operation or in an approved simulator) to ensure that pilot's qualification in the system and to enable certification of proficiency as required by § 121.401.

(d) Each pilot must receive recurrent training and a line check within the preceding 12 calendar months.

6. *Equipment accuracy and reliability.* Each long range navigation system must meet the following accuracy requirements, as appropriate:

(a) For a system that is affected by errors which accrue with time, (as with INS), the applicant must show that the system can be operated on a flight of at least 10 hours with a radial error accural rate not exceeding 2 nautical miles per hour for 95 percent of system flights.

(b) For a system other than one covered under paragraph (a) of this section, the applicant must show that the system can be operated with no more than 20 nautical miles cross-track, and 25 miles along track, error for 95 percent of system flights.

(c) Notwithstanding the requirements in paragraphs (a) and (b) of this section, the applicant must show that 95 percent of system flights, including those of 10 hours or more, can be operated to comply with ATC, ADIZ, and other operational requirements.

(d) For systems required for use in airspace in which International Civil Aviation Organization (ICAO) minimum navigation performance specifications apply, accuracy requirements contained in the specifications must be met.

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Explanation. This proposed revision rearranges present requirements of Appendix G and adds additional requirements to make it compatible for all long range navigation systems. As it is presently written, reference is made only to Inertial Navigation Systems and Doppler Radar units. Those items in present sections 2 and 3 which apply to all long range navigation systems have been incorporated into a rewrite of section 2. Section 3 (INS and Doppler) has been rewritten to delete items that have now been placed in revised section 2. Section 5 (Training programs) has been revised to include specific requirements for an initial qualification check and recurrent training and check on long range navigation systems.

This proposal would add a new training program requirement for pilots operating long range navigation systems. When heading information is recorded, effective reference and comparison can be made to detect gradual deterioration of a system. Experience has shown that compass comparator systems detect gross errors on the order of five degrees or more. The correct computation of system errors is essential for maintenance analysis to insure operational accuracy. Therefore, training in this procedure is necessary.

Ref. Proposal Nos. 666, 667 and 668; § 121, Appendix G, Committees 1 and 9; Agenda Items C-2 and C-6.

8-23. By revising § 127.109(b) to read as follows:

§ 127.109 Seat and safety belt.

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(b) During flight time each passenger shall occupy an approved seat with a separate safety belt secured about that passenger. During en route flight passengers may leave their seats for physiological needs or when authorized by a crewmember. A person who is less than two years old may be held by an adult.

• • • • •

Explanation. This proposal would require passengers to keep their safety belts fastened at all times, except for physiological needs or as authorized by a crewmember. See Item 8-2 for further explanation.

Ref. Proposal No. 688; § 127.109; Committee 3; Agenda C3.

8-24. By redesignating § 121.115 as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 127.115 Passenger information.

(a) • • •

(b) After ————, 1978, no person may operate a passenger-carrying helicopter under this part, unless there is affixed to each forward bulkhead and each passenger seatback a sign or placard that reads: "Fasten Seat Belt While Seated." These signs or placards need not meet the requirements of paragraph (a) of this section.

Explanation. This proposal would require operators to place "Fasten Seat Belts While Seated" signs or placards on forward bulkheads and on each passenger seatback. See Item 8-2 for further explanation.

Ref. Proposal No. 688; § 127.115; Committee I; Agenda Item C3.

8-25. By adding a new § 127.226 to read as follows:

§ 127.226 Briefing passengers after takeoff.

After each takeoff of a helicopter that has separate passenger and crew compartments, immediately before or immediately after turning the seat belt sign off, an announcement shall be made that passengers must keep their safety belts fastened while seated, even when the seat belt sign is off.

Explanation. This proposal would require that passenger briefing announcements state that passengers must keep their safety belts fastened while seated. See Item 8-2 for further explanation.

Ref. Proposal No. 693; § 127.226; Committee 1; Agenda Item D.

APPENDIX I—MISCELLANEOUS PROPOSALS WITHDRAWN BY PROPONENT

The proposals listed below were withdrawn by their proponents during or after the conference. The withdrawal of FAA proposals does not commit the FAA to any future course of action.

14 CFR (FAR section)	Proposal No.	Committee No.	Agenda Item	Proponent
121.433	529	9	B-8	Association of Flight Attendants.
121.434	533	9	B-8	Air Transport Association of America.
121.441	547	4	E	Do.
121.441	548	4	E	Do.
121.533	562	6A	H	Do.
121.574	592	10	F	Association of Flight Attendants.
121.575	596	10	B	Do.
121.645	621	3	I	Air Transport Association of America.
121.703	643	2	P	Air Line Pilots Association.
121.703	644	9	C-1	Air Transport Association of America.
App. E	655	9	C-1	Do.
App. E	657	9	C-1	National Transportation Safety Board.
App. E and F	685	9	C-1	Do.

Proposal No. 529. This proposal would have amended § 121.433 by requiring training for all crewmembers. The current rule places responsibility on the crewmember and the certificate holder to complete specified training, before serving or being assigned duties as a required crewmember. The FAA believes that insufficient justification was presented to support a rule change.

Proposal No. 533. This proposal would have amended § 121.434 by allowing all second in command flight training to be accomplished in an approved simulator. The FAA does not agree with this proposal due to the inability of the aircraft simulators and visual systems currently in use by the airlines to adequately duplicate the ground handling characteristics and the landing maneuvers of the aircraft.

Proposal No. 547. This proposal would have amended § 121.441 to eliminate the check pilot authority to require demonstration of maneuvers already satisfactorily performed. The FAA believes insufficient justification was presented to support a rule change.

Proposal No. 562. This proposal would have amended §§ 121.533; 121.99; 121.107; 121.395; 121.535; 121.537; 121.539; 121.591; 121.593; 121.595; 121.597; 121.599; 121.601; 121.603; 121.607; 121.609; 121.616; 121.619; 121.621; 121.623; 121.627; 121.629; 121.633; 121.635; 121.637; 121.663; 121.667; 121.683; 121.687; 121.689; 121.695; and 121.697 to allow certificate holders to use a flight following system in place of a dispatch system. The FAA believes that the proponent has not presented sufficient justification to show that the proposal would maintain the level of safety now existing under the current rule.

Proposal No. 592. This proposal would have amended § 121.574 to require a responsible able-bodied attendant to accompany each person using oxygen in flight. This proposal would be discriminatory toward passengers who are fully able to use their oxygen equipment to care for themselves. The FAA believes this proposal would pose an undue burden on passengers who require oxygen in flight.

Proposal No. 596. This proposal would have amended § 121.575 to limit the amount of alcoholic beverages served aboard commercial aircraft. The FAA believes that the proposal is related to passenger service and that insufficient justification was presented to support a rule change.

Proposal No. 621. This proposal would have amended § 121.645 by allowing reduced fuel reserves on specific routes. The FAA believes that the basic intent of this proposal was covered in Notice No. 77-12 (42 F.R. 37417; July 21, 1977), item 5-20, which allows operators to use domestic fuel reserves on selected overseas routes.

Proposal No. 643. This proposal would have amended § 121.703 to add "pitotstatic malfunctions or failure" to the mechanical reliability reports. The FAA believes that insufficient justification was presented to support a rule change.

Proposal No. 644. These proposals would have amended § 121.703 by revising the times that mechanical reliability reports are to be sent to the FAA. The FAA believes that insufficient justification was presented to support a rule change.

Proposal No. 657. This proposal would have amended Appendices E and F of Part 121 to require pilots to demonstrate their ability to recover from abnormal regime of flight by reference to flight instruments. The FAA believes that the current rules covering the flight crew training programs are adequate, and that insufficient justification was presented to support a rule change.

Proposal No. 658. This proposal would have amended Appendices E and F of Part 121 to allow maneuvers that are currently required in the airplane to be accomplished in a visual simulator. This proposal was dropped for the same reasons given in Proposal No. 533.

APPENDIX II—MISCELLANEOUS PROPOSALS REMOVED FROM CONSIDERATION FROM THE OPERATIONS REVIEW PROGRAM

Based on the FAA's review of the discussions at the Operations Review Conference, and of the information submitted by interested persons, the following proposals considered at the Operations Review Conference are removed from consideration during the Operations Review for the reasons listed.

14 CFR (FAR section):	Proposal No.	Proponent
121.391	491	Federal Aviation Administration.
121.547	589	Do.
121.659	627	Do.
121.661	628	Do.
121.687	632	Do.
121.689	633	Do.

(Secs. 313, 314, 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, 1421 through 1430); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement Under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 5, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-12793 Filed 5-10-78; 8:45 am]

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Federal Register

THURSDAY, MAY 11, 1978
PART III



DEPARTMENT OF COMMERCE

Patent and Trademark Office

RULES OF PRACTICE IN PATENT CASES

Rule Promulgation Relating to Implementation of the Patent Cooperation Treaty

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[3510-16]

Title 37—Patents, Trademarks and Copyrights

CHAPTER I—PATENT AND TRADEMARK OFFICE, DEPARTMENT OF COMMERCE

IMPLEMENTATION OF THE PATENT COOPERATION TREATY

Rule Promulgation

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: This notice adopts rule changes which permit the filing of United States national patent applications in the format required by the Patent Cooperation Treaty which entered into force on January 24, 1978. Some of these rule changes are necessary in order that international applications arriving for national examination in the United States Patent and Trademark Office as a Designated Office are formally acceptable. The changes also permit applicants for United States patents to file their United States national applications in the same format as that required by the Patent Cooperation Treaty, which is also the format required by the European Patent Convention. Other changes are made in the rules which relate to the filing of international and national applications.

DATES: Effective date, June 1, 1978. The amended rules apply to national and international applications filed on and after the effective date. It should be noted that international applications may be filed on and after June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Louis O. Maassel by telephone at 703-557-3070, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This notice promulgates a number of previously proposed rule changes relating to the filing of international applications under the Patent Cooperation Treaty and the filing of United States national applications which have the same format as international applications. Notice was given on January 12, 1977, in the FEDERAL REGISTER (42 FR 2632-2644) and on February 8, 1977, in the Official Gazette (955 O.G. 350-363) of a proposal to amend Title 37 of the Code of Federal Regulations upon the entry into force of the Patent Cooperation Treaty and Pub. L. 94-131 (94th Congress; 89 Stat. 685). Interested persons were invited to comment on the proposal on or before May 26, 1977, on which date a public hearing was held. The time for submitting written comments was extended until August 31, 1977, by a notice published on June 23, 1977, in the FEDERAL REGISTER (42 FR 31812) and on July 12, 1977, in the Official Gazette (960 O.G. 8). Twenty-four comments relevant to the proposed rule changes were received. The comments relating to the rules established in this notice are discussed in the commentary of the rules. A transcript of all comments presented by two persons at the oral hearing, and the written statements received are available for public inspection in Room 11E10 of Crystal Plaza Building 3, 2021 Jefferson Davis Highway, Arlington, Va. Some of the rules of the above-mentioned proposal, namely, §§ 1.75, 1.81, and 1.83, have already been promulgated by the rule change which appeared in the FEDERAL REGISTER of January 31, 1978, at 43 FR 4014-4015 and on February 21, 1978, in the Official Gazette at 967 O.G. 12. This promulgation permits the filing to United States national applications in the same format as international applications and also makes a number of other changes in the rules.

COMMENTS ON ADOPTED RULES

No comments were received relating to §§ 1.1, 1.4, 1.5, 1.8, 1.9, and 1.12. These sections are promulgated as proposed.

Section 1.14 received three comments. One letter suggested adding another paragraph (e) to mention that defense agencies are given access to applications relating to national security. Another letter indicated no objection to such an addition but did not consider it necessary. The first mentioned comment was not adopted since the proposed paragraph (e) would be restating a provision appearing in § 5.1(b). The third letter questioned whether the Patent and Trademark Office would supply a copy of the international application "pamphlet" after it was published. In response to this comment it should be noted that the Office will supply copies of the "pamphlet" at the regular price of 30 cents per page but that it will not give access to or supply copies of any pending national or international application without the written authorization of the applicant, assignee or attorney or agent of record. Paragraph (c) has been revised to refer to the Department of Energy which now has the pertinent responsibilities under the Atomic Energy Act.

Section 1.21 received one comment indicating that it was not clear whether the fee was required for both the international-type search and search report or only for the search report. The rule has been amended in order to clarify that the fee is required for the report only.

Sections 1.23 and 1.25 received no comments and are adopted as proposed.

Section 1.26 has been revised from the proposal by providing for only three choices as to refund rather than five. This change was made to simplify the determination of the amount of the refund, if any. In addition, the rounding of refunds was changed from the next higher multiple of $10 to the next higher multiple of $5 for greater preciseness.

Section 1.52 received one comment which proposed changing the wording of § 1.52(c) to permit applicant's representative, as well as the applicant himself, to initial changes to application papers made before filing. Since no change in § 1.52(c) had been proposed, and the suggested change is not required by the Patent Cooperation Treaty, the proposal is not being adopted in this promulgation.

Two comments were received noting that the proposed wording in § 1.55 did not distinguish between the prior art effective dates of international applications filed in the United States and those filed outside the United States. The proposed wording is correct since it corresponds with the language of 35 U.S.C. 102(e) as amended by Pub. L. 94-131.

Section 1.57 received two comments to the effect that applicants of international applications were given greater rights than national applicants since the proposed rule states that it is not required that the applicant of an international application have the oath or declaration attached to the specification at the time of signing. In response, it is acknowledged that the practice set forth in proposed § 1.57 is somewhat different for the two filing routes; however, the proposed wording follows the concepts set forth in 35 U.S.C. 371(c) as added by Pub. L. 94-131. Accordingly, no change is considered to be necessary or desirable.

One comment was received relating to § 1.58. The comment indicated the rule should relate only to complex chemical and mathematical formulas and tables. This comment has been adopted by revising § 1.58(c) to add the word "complex" before "formulas."

Section 1.61 received two comments from one person. The first comment relating to a question of where an international application would be examined for issuance, is not understood since international applications are not issued. However, since the comment did raise the matter of examination, a phrase has been added to indicate clearly that the requirements of section 1.61 must be followed if an examination for a U.S. patent is desired in an international application. The second comment indicated that there

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was no antecedent basis for the "mailing date of the declaration to the applicant." The declaration is clearly mentioned at the beginning of paragraph 1.61(b). The meaning of the mailing date of such a document to the applicant appears to be sufficiently clear. No change is considered to be necessary in response to the second comment. In addition, numbers have been added to each of the listed items to improve readability.

Section 1.70 received two comments. Both related to providing uniformity between §§ 1.65 and 1.70. It should be noted that § 1.65 was amended shortly after the time the proposal was published. Proposed § 1.70 has accordingly been amended to include the newly added wording of § 1.65. The wording of proposed § 1.70 has also been amended to provide for both genders.

Section 1.72 received no comments and is adopted as proposed.

One comment was submitted concerning § 1.77 which suggested that the rule specify that an attorney's docket number and the name of the inventor may be placed on the initial page of an application. Such a procedure is currently permitted, although not specifically mentioned in the rules. Since such data is not considered to be one of the application elements, the amendment of § 1.77 is not considered to be necessary. The rule is adopted as proposed.

No comments were received concerning § 1.78. This rule is adopted as proposed.

Section 1.84 relating to standards for drawings received four comments. One suggestion, not adopted, was that drawings on 8½ by 11 inch paper be permitted. Although this size is close to DIN size A4, the additional processing and printing problems which would result from three different paper sizes appear to be greater than the resulting benefits at this time. Some experience with the two sizes proposed is felt to be desirable before any additional alternatives are permitted. One comment proposed that this rule be adopted as early as possible. Since drawings under existing rules can also be prepared in a way which will later permit easy compliance with PCT requirements, it was considered unnecessary to adopt this suggestion. Two comments were received concerning the interpretation of paragraph (i). Although the wording of this paragraph is in substance the wording of PCT Rule 11.13(i), second sentence, it appears that some clarification is necessary. Therefore proposed paragraph (i) has been amended to clarify the intended requirements. The reference to blue ink in subparagraph (c) has been deleted since it has been deleted from the Treaty regulations.

Section 1.104 received one comment, which also related to § 1.21, to the effect that the proposed wording was not clear. The proposed section has been slightly revised and a note added for purpose of clarity. The preparation of a formal international-type search report is not required by the U.S. Patent and Trademark Office in order for the international-type search to serve as the basis for a search fee refund in a later international application.

Section 1.141 was commented upon by seven persons. The comments of several persons indicated that it appeared that paragraph 1.141(e) was unnecessary. This view is accepted; accordingly, paragraph 1.141(e) has been deleted from the promulgation. Another comment indicated that no need was seen to limit the wording of subparagraph (c) to only a few categories of claims. The treaty requires that the arrangements of claims described in (c) (i) and (ii) be considered as one invention, subject to the conditions stated in PCT Rule 13.2. It should be noted that proposed paragraphs (c) (i) and (ii) are substantially a copy of PCT Rule 13.2. However, in view of this and other comments and for clarity, §§ 1.141 and 1.146 and 1.481 and 1.482 have been substantially rewritten, amplified, and reorganized to clarify the meaning of certain terms; namely, "specially adapted" and "specifically designed", to conform more closely to current Office practice as set forth in MPEP sections 806.05(e)-(g). Both proposed rules for §§ 1.141 and 1.146 have been modified to clarify that the rules make little change in current restriction practice. The differences between the PCT unity of invention requirement and current restriction practice are minimal. The rewriting and reorganization of proposed §§ 1.141 and 1.146 substantially states the current rule language except that the five species limitation is removed. Other comments indicated additional clarification of the other paragraphs would also be helpful. Such amendments have been made as mentioned.

Four comments were submitted relating to section 1.146. One comment received indicated that no reason was found in the PCT as to why an election of species is required regardless of whether or not there is an allowable generic claim. Although there is no reason in the PCT for such a requirement, the rule was amended to reflect current Office practice which in MPEP § 808.01(a) allows the examiner to require an election of species prior to the search. The second comment indicated a preference to maintain current restriction practice in all national applications which were not filed under the PCT route. This comment has been satisifed by the rewriting of the rules mentioned above. The third and fourth comments indicated that no need was seen to seek a requirement for restriction in all cases. These comments are similarly satisfied by the rewriting of the rules.

No comments were received concerning §§ 1.318 and 1.331. These rules have been adopted as proposed.

Section 1.401 received no comments; however, "or" has been changed to —and— in paragraph (a).

Section 1.412 was commented on by two persons. One comment suggested that a subparagraph (5) be added to refer to the licensing requirements of part 5. This proposal has been adopted. The other comment considered the addition unnecessary.

Section 1.413 received no comments. However, the wording has been revised to provide for the U.S. Patent and Trademark Office to act as an International Searching Authority for other Receiving Offices subject to the approval of an agreement as such by the Commissioner. The name of the International Searching Authority has also been changed to follow the Administrative Instructions.

One comment was received relative to section 1.414 questioning the use of the word "will" in subparagraph (a). After review, no problem is seen with the proposed wording; therefore, no change is considered to be necessary.

Section 1.415 received no comments and is adopted as proposed.

Section 1.421 received comments from two persons. One comment is related to the requirement that the inventor must file the international application if patent protection is desired in the United States as a Designated State. This provision is set forth in 35 U.S.C. 373 and cannot be changed by modification of the rules. However, the rules, as proposed, have been amended and subparagraph (d) added to permit the attorney or agent to sign on behalf of the inventor. The other comment relates to the requirement that only nationals and residents of the United States can file in the U.S. Receiving Office. The requirement appears in 35 U.S.C. 361(a). As to the situation involving an invention made in this country by an inventor who is neither a resident nor national, such an inventor may file a regular U.S. national application or may obtain a license under 35 U.S.C. 184 to file in the foreign Receiving Office for the country of which the inventor is a resident or national.

No comments were received concerning §§ 1.422, 1.423, 1.424, and 1.425. Except for the addition of one reference to the feminine gender, these rules are adopted as proposed.

Sections 1.431 and 1.432 were both the subject of a question as to whether the withdrawal of the international application would result in withdrawal of the national application. The withdrawal of the international application would result in the withdrawal of the

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designation of all States. If the United States was designated in an international application which was withdrawn before the requirements of 35 U.S.C. 371 were fulfilled, no processing of that withdrawn application would occur except as provided under PCT Article 25. These sections are adopted as proposed.

Section 1.433 received two comments, both related to the fact that the broad reference to PCT Rule 11 did not clearly indicate what size papers were required. This matter has been clarified in the promulgated rule to indicate that DIN A4 size sheets are required.

One comment was received concerning § 1.434 which correctly noted that the second arrow used to indicate additions in the proposal, should have been at the end of the paragraph.

No comments were received concerning §§ 1.435, 1.437, and 1.438. These sections are adopted as proposed.

Section 1.436 has been amended to specifially include the requirement of PCT Rule 6.1(a), that the number of claims shall be reasonable.

Two comments were received relating to section 1.445 which indicated that the proposed fee amounts were too high. After review, it is felt that the fee amounts are set as required to cover 100 percent of the costs involved.

No comments were received concerning § 1.446; however, the number of refund choices has been reduced from 5 to 3 to simplify the determination choices.

No comments were received concerning § 1.451. Paragraph (c) was amended to clarify the intent of the rule.

Section 1.455 received one comment which indicated that the expression "common representative" was not understood. This comment has been answered by adding a citation to PCT Rule 4.8, which explains the expression.

Section 1.461 received comments from four persons which proposed that a new paragraph (c) be added which warns that a foreign filing license may be required to transmit a copy of the international application outside the United States. This suggestion has been adopted.

One comment relative to section 1.465 noted that the notation "PCT" was inadvertently omitted before a rule citation. This, along with a rule citation, have been corrected in the promulgation.

Section 1.468 received two comments, both related to problems raised by subparagraph (b). Upon reconsideration it appears that the broad language of subparagraph (a) and the reference to PCT Rule 82 is sufficient; accordingly, proposed paragraph (b) has been deleted.

Section 1.471 received one comment which related to amendments at the national stage. Since this rule relates only to international stage amendments, the rule is promulgated as proposed.

No comments were received relating to § 1.475; accordingly, the rule is promulgated as proposed.

Section 1.481 received one general comment which related to national practice rather than the international practice covered by this rule. However, changes were made in the proposed rules for §§ 1.481 and 1.482 to clarify them and make them more understandable. For one, it now makes clear that PCT Rule 13 is consistent with much of current practice under §§ 1.141 and 1.146 with several exceptions specifically set out in § 1.481. The protest provisions have also been moved from § 1.481 to § 1.482 since the handling of protests is somewhat different subject matter than the other contents of § 1.481. In addition, subsection (c) of proposed § 1.482 was moved to § 1.481 where the subject matter is more pertinent. The other subsections of proposed § 1.482 were eliminated as unnecessary since they are part of existing practice and do not require inclusion in the rules specifically. The reference in § 1.481 to PCT Rule 13 in effect, includes these deleted subsections by reference.

A number of references to sections of the Administrative Instructions have been changed to reflect changes in the numbering of sections in the current version of the Administrative Instructions.

PART 3

Sections 3.56 and 3.57 received two comments. One comment essentially involved deleting the basic requirements of § 1.70. This proposal has not been adopted since it also affects § 1.65 and must be given careful study and an opportunity for comment allowed before any such change may be made. The other proposal indicated that the "duty of disclosure" provisions were not in these forms. The forms have been revised to include this duty.

PART 5

Section 5.1 received comments from two persons. Paragraph (a) has been substantially rewritten to provide for filing of international applications in the U.S. Receiving Office without a license for foreign filing but for limiting the transmittal of the international application to a foreign national or international agency. Paragraph (b) has been revised to refer to the Department of Energy.

Section 5.3 received comments from two persons which related to paragraph (d). This paragraph has been rewritten in view of the comments received.

Section 5.11 received comments from 10 persons who all suggested that the rule be rewritten to permit the initial filing of an international application in the United States Receiving Office without a license. The rule has been rewritten in this manner.

Section 5.13 is amended due to a submitted proposal although the rule was not included in the proposed rule change notice. The changes made in § 5.13 follow the concepts suggested by numerous comments to § 5.11. Therefore, it is felt that the change can be made even though such a change was not proposed.

Section 5.14 received one comment as to possible processing problems but no suggestion was made; accordingly, the section is adopted as proposed.

Section 5.15 has been revised as suggested by two persons to refer to transmittal of the international application rather than filing thereof.

No comments were received relative to § 5.17; this rule is adopted as proposed.

In a number of instances, references to the masculine gender have been deleted.

The Patent and Trademark Office has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement Under Executive Orders 11821 and 11949 and OMB Circular A-107.

The following table of contents indicates the contents of the promulgated subparts and the location of added sections and section headings.

PART 1—RULES OF PRACTICE IN PATENT CASES

Subpart A—General Provisions

(§§ 1.1-1.26)

GENERAL INFORMATION AND CORRESPONDENCE

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Sec.
§ 1.9 *Definitions.*

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Subpart B—National Processing Provisions

(§§ 1.31-1.352)

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THE APPLICATION

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Sec.
§ 1.61 *Filing of applications in the United States of America as a Designated Office.*

OATH OR DECLARATION

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§ 1.70 *Content of oath or declaration relating to content of and amendments to an application under 35 U.S.C. 371(c)(4).*

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ALLOWANCE AND ISSUE OF PATENT

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Sec.
§ 1.318 *Notification of national publication of a patent based on an international application.*

• • • • • •

Subpart C—International Processing Provisions

(§§ 1.401-1.482)

GENERAL INFORMATION

Sec.
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1.413 The United States International Searching Authority.
1.414 The United States Designated Office.
1.415 The International Bureau.

WHO MAY FILE AN INTERNATIONAL APPLICATION

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1.422 When the inventor is dead.
1.423 When the inventor is insane or legally incapacitated.
1.424 Joint inventors.
1.425 Filing by other than inventor.

THE INTERNATIONAL APPLICATION

1.431 International application requirements.
1.432 Designation of States and payment of designation fees.
1.433 Physical requirements of international application.
1.434 The request.
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1.436 The claims.
1.437 The drawings.
1.438 The abstract.

FEES

1.445 International application filing and processing fees.
1.446 Refund of international application filing and processing fees.

PRIORITY

1.451 The priority claim and priority document in an international application.

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1.455 Representation in international applications.

TRANSMITTAL OF RECORD COPY

1.461 Procedures for transmittal of record copy to the International Bureau.

TIMING

1.465 Timing of application processing based on the priority date.
1.468 Delays in meeting time limits.

AMENDMENTS

1.471 Corrections and amendments during international processing.
1.475 Changes in person, name, address of applicants and inventors.

UNITY OF INVENTION

1.481 Determination of unity of invention before the International Searching Authority.
Sec.
1.482 Protest to lack of unity of invention.

PART 3—FORMS FOR PATENT CASES

• • • • • •

3.56 Oath to be filed with United States Designated Office under 37 U.S.C. 371(c)(4).
3.57 Declaration to be filed with United States Designated Office under 35 U.S.C. 371(c)(4).

Accordingly, 37 CFR Parts 1, 3 and 5 are amended as follows:

1. By revising § 1.1 to read as follows:

§ 1.1 All communications to be addressed to Commissioner of Patents and Trademarks.

All letters and other communications intended for the Patent and Trademark Office must be addressed to "Commissioner of Patents and Trademarks," Washington, D.C. 20231. When appropriate, a letter should also be marked for the attention of a particular officer or individual. Letters and other communications relating to international applications during the international stage and prior to the assignment of a national serial number should be additionally marked "Box PCT."

NOTE.—§§ 1.1 to 1.26 are applicable to trademark cases as well as to national and international patent cases except for provisions specifically directed to patent cases. See § 1.9 for definitions of "national application" and "international application."

2. By revising paragraph (a) of § 1.4 to read as follows:

§ 1.4 Nature of correspondence.

(a) Correspondence with the Patent and Trademark Office comprises (1) correspondence relating to services and facilities of the Office, such as general inquiries, requests for publications supplied by the Office, orders for printed copies of patents or trademark registrations, orders for copies of records, transmission of assignments for recording, and the like, and (2) correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing, processing, or other proceedings of national applications in Subpart B, §§ 1.31 to 1.352; of international applications in Subpart C, §§ 1.401 to 1.482; and of Trademark applications §§ 2.11 to 2.189.

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3. By revising paragraph (a) of § 1.5 to read as follows:

§ 1.5 Identification of application, patent, or registration.

(a) When a letter concerns an application for patent, it should state the name of the applicant, the title of the invention, the serial number or international application number of the application, the date of filing the same, and, if known, the group art unit and name of the examiner to which it has been assigned (see § 1.55).

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4. By revising paragraph (a)(i) and adding (a)(xi) to § 1.8 to read as follows:

§ 1.8 Certificate of mailing.

(a) Except in the cases enumerated below, papers and fees required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if: (1) they are addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, and deposited with the U.S. Postal Service with sufficient postage as first class mail prior to expiration of the set period, and (2) they are accompanied by a certificate stating the date of deposit (see forms, §§ 3.55 and 4.23). The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed on or before the date indicated. the actual date of receipt of the paper or fee will be used for all other purposes. This procedure does not apply to the following:

(i) The filing of national applications for patent;

• • • • • •

(xi) The filing of international applications for patent and papers relating thereto.

• • • • • •

5. A new § 1.9 is added to read as follows:

§ 1.9 Definitions.

(a) A national application as used in this chapter means a U.S. national application for patent which was either filed in the Office under 35 U.S.C. 111 or which resulted from an international application after compliance with 35 U.S.C. 371.

(b) An international application as used in this chapter means an international application for patent filed under the Patent Cooperation Treaty prior to entering national processing at the Designated Office stage.

6. By revising § 1.12 to read as follows:

§ 1.12 Assignment records open to public inspection.

The assignment records, relating to original or reissue patents, including digests and indexes, are open to public inspection and copies of any instrument recorded may be obtained upon payment of the fee therefor. Assignment records, digests, and indexes, relating to any pending or abandoned

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application are not available to the public. Copies of any such assignment records and information with respect thereto shall be obtainable only upon written authority of the applicant or his assignee or attorney or agent or upon a showing that the person seeking such information is a bona fide prospective or actual purchaser, mortgagee, or licensee of such application, unless it shall be necessary to the proper conduct of business before the Office or as provided by these rules. An order for a copy of an assignment should give the identification of the record. If identified only by the name of the patentee and number of the patent, or in the case of a trademark registration by the name of the registrant and number of the registration, or by name of the applicant and serial number or international application number of the application, an extra charge will be made for the time consumed in making a search for such assignment.

7. By revising paragraphs (a) and (c) of § 1.14 to read as follows:

§ 1.14 Patent applications preserved in secrecy.

(a) Except as provided in § 1.11(b) pending patent applications are preserved in secrecy. No information will be given by the Office respecting the filing by any particular person of an application for a patent, the pendency of any particular case before it, or the subject matter of any particular application, nor will access be given to or copies furnished of any pending application or papers relating thereto, without written authority in that particular application from the applicant or his assignee or attorney or agent of record, unless the application has been identified by serial number in a published patent document or the United States of America has been indicated as a Designated State in a published international application, in which case status information such as whether it is pending, abandoned or patented may be supplied, or unless it shall be necessary to the proper conduct of business before the Office or as provided by this part. Where an application has been patented, the patent number and issue date may also be supplied.

* * * * *

(c) Applications for patents which disclose, or which appear to disclose, or which purport to disclose, inventions or discoveries relating to atomic energy are reported to the Department of Energy, which Department will be given access to such applications, but such reporting does not constitute a determination that the subject matter of each application so reported is in fact useful or an invention or discovery or that such application in fact discloses subject matter in categories specified by sections 151(c) and 151(d) of the Atomic Energy Act of 1954, 68 Stat. 919; 42 U.S.C. 2181 (c) and (d).

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8. By adding a new paragraph (w) to § 1.21 to read as follows:

§ 1.21 Patent and miscellaneous fees and charges.

* * * * *

(w) For preparing an international-type search report of an international-type search made at the time of the first action on the merits in a national patent application—$25.

NOTE.—The Patent and Trademark Office does not require that a formal report be prepared of an international-type search in order to obtain a search fee refund in a later filed international application. For fees relating to processing of international applications, see § 1.445.

9. By revising § 1.23 to read as follows:

§ 1.23 Method of payment.

All payments of money required for Patent and Trademark Office fees, including fees for the processing of international applications (§ 1.445), should be made in U.S. specie, Treasury notes, national bank notes, post office money orders, or by certified check. If sent in any other form, the Office may delay or cancel the credit until collection is made. Money orders and checks must be made payable to the Commissioner of Patents and Trademarks. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required. Money sent by mail to the Patent and Trademark Office will be at the risk of the sender; letters containing money should be registered.

10. By revising paragraph (b) of § 1.25 to read as follows:

§ 1.25 Deposit accounts.

* * * * *

(b) Filing, issue, appeal, international-type search report, international application processing, and petition fees may be charged against these accounts.

11. By revising § 1.26 to read as follows:

§ 1.26 Refunds.

Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw his application or to withdraw an appeal, will not entitle a party to demand such a return. Refund of a portion of any international search fee paid to the Patent and Trademark Office may be made where the prior art search made during the subsequent examination of a national application is wholly or partly based on the earlier international search made in the international application for which the search fee was paid. The amount of the refund will be as determined by the examiner according to the value of the prior international search made by the Patent and Trademark Office as an International Searching Authority, as 90 percent, 45 percent, or 0 percent of the international search fee. If the amount of the refund is not a multiple of $5, it will be rounded to the next higher multiple of $5. (Note § 1.446 for refund of the search fee in an international application.) Amounts of 10 cents or less will not be returned unless specifically demanded, within a reasonable time, nor will the payer be notified of such amount; amounts over 10 cents but less than $1 may be returned in postage stamps, and other amounts by check.

12. By revising paragraphs (a) and (b) of § 1.52 to read as follows:

§ 1.52 Language, paper, writing, margins.

(a) The application, any amendments or corrections thereto, and the oath or declaration must be in the English language except as provided for in § 1.69, or be accompanied by a verified translation of the application and a translation of any corrections or amendments into the English language. All papers which are to become a part of the permanent records of the Patent and Trademark Office must be legibly written, typed, or printed in permanent ink or its equivalent in quality. All of the application papers must be presented in a form having sufficient clarity and contrast between the paper and the writing, typing, or printing thereon to permit the direct production of readily legible copies in any number by use of photographic, electrostatic, photooffset, and microfilming processes. If the papers are not of the required quality, substitute typewritten or printed papers of suitable quality may be required.

(b) The application papers (specification, including claims, abstract, oath or declaration, and papers as provided for in §§ 1.42, 1.43, 1.47, etc.) and also papers subsequently filed, must be plainly written on but one side of the paper. The size of all sheets of paper should be 8 to 8½ by 10½ to 13 inches (20.3 to 21.6 cm. by 26.6 to 33.0 cm.). A margin of at least approximately one inch (2.5 cm.) must be reserved on the left-hand of each page. The top of each page of the application, including claims must have a margin of at least approximately ¾ inch (2 cm.). The lines of text must not be crowded too closely together; typewritten lines should be 1½ or double spaced. The pages of the application, including claims and abstract, should be numbered consecutively, starting with 1, the numbers being centrally located above or preferably, below, the text.

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13. By adding paragraph (d) to § 1.55 to read as follows:

§ 1.55 Serial number and filing date of application.

* * * * *

(d) The filing date of an international application designating the United States of America shall be treated as the filing date in the United States of America under PCT Article 11(3), except as provided in 35 U.S.C. 102(e).

14. By revising § 1.57 to read as follows:

§ 1.57 Signature.

(a) The application must be signed by the applicant in person. The signature to the oath or declaration under § 1.65 will be accepted as the signature to the application provided the oath or declaration under § 1.65 is attached to and refers to the specification and claims to which it applies. Otherwise the signature must appear at the end of the specification after the claims.

(b) The signature to the oath or declaration under § 1.70 will be accepted as the signature to the application provided the oath or declaration under § 1.70 specifically refers to the specification and claims to which it applies.

(c) Full names must be given, including at least one given name without abbreviation together with any other given name or initial.

15. By revising § 1.58 to read as follows:

§ 1.58 Chemical and mathematical formulas and tables.

(a) The specification, including the claims, may contain chemical and mathematical formulas, but shall not contain drawings or flow diagrams. The description portion of the specification may contain tables; claims may contain tables either if necessary to conform to 35 U.S.C. 112 or if otherwise found to be desirable.

(b) All tables and chemical and mathematical formulas in the specification, including claims, and amendments thereto, must be on paper which is flexible, strong, white, smooth, nonshiny, and durable in order to permit use as camera copy when printing any patent which may issue. A good grade of bond paper is acceptable; watermarks should not be prominent. India ink or its equivalent, or solid black typewriter, should be used to secure perfectly black solid lines.

(c) To facilitate camera copying when printing, the width of formulas and tables as presented should be limited normally to 5 inches (12.7 cm.) so that it may appear as a single column in the printed patent. If it is not possible to limit the width of a formula or table to 5 inches (12.7 cm.), it is permissible to present the formula or table with a maximum width of 10¾ inches (27.3 cm.) and to place it sideways on the sheet. Typewritten characters used in such formulas and tables must be from a block (nonscript) type font or lettering style having capital letters which are at least 0.08 inch (2.1 mm.) high (e.g., elite type). Hand lettering must be neat, clean, and have a minimum character height of 0.08 inch (2.1 mm.). A space at least ¼ inch (6.4 mm.) high should be provided between complex formulas and tables and the text. Tables should have the lines and columns of data closely spaced to conserve space, consistent with high degree of legibility.

16. By adding a new § 1.61 to read as follows:

§ 1.61 Filing of applications in the United States of America as a Designated Office.

(a) To maintain the benefit of the international filing date and obtain an examination as to the patentability of the invention in the United States, the applicant shall furnish to the U.S. Patent and Tradmark Office not later than the expiration of 20 months from the priority date: (1) A copy of the international application with any amendments, unless it has been previously furnished by the International Bureau or unless it was originally filed in the U.S. Patent and Trademark Office; (2) a verified translation of the international application and a translation of any amendments into the English language, if originally filed elsewhere in another language; (3) the national fee (see § 1.445(a)(4)); and (4) an oath or declaration of the inventor (see § 1.70).

(b) Where an International Searching Authority has made a declaration that no international search report will be established because the international application relates to subject matter which it is not required to search, or because the application fails to comply with the prescribed requirements to such an extent that a meaningful search could not be carried out, the time for performing the acts referred to in paragraph (a) of this section is 2 months from the mailing date of the declaration to the applicant.

17. By adding a new § 1.70 to read as follows:

§ 1.70 Content of oath or declaration relating to content of and amendments to an application under 35 U.S.C. 371(c)(4).

(a)(1) When an applicant of an international application, if the inventor, desires to enter the national stage under 35 U.S.C. 371, he or she must specifically identify the international application and any amendments thereto and state that he or she has reviewed the referred to application and any amendments, and that he or she verily believes himself or herself to be the original and first inventor or discoverer of the process, machine, manufacturer, composition of matter, or improvement thereof, for which he or she solicits a patent; that he or she does not know and does not believe that the same was ever known or used in the United States of America before his or her invention or discovery thereof, and shall state of what country he or she is a citizen and where he or she resides and whether he or she is a sole or joint inventor of the invention claimed in his or her international application as filed or as amended. In every application the applicant must distinctly state that to the best of his or her knowledge and belief the invention has not been in public use or on sale in the United States of America more than one year prior to his or her international application, or patented or described in any printed publication in any country before his or her invention or more than one year prior to his or her international application, or patented or made the subject of an inventor's certificate in any foreign country prior to the date of his or her international application on an application filed by himself or herself or his or her legal representatives or assigns more than twelve months prior to his or her international application. He or she must acknowledge a duty to disclose information he or she is aware of which is material to the examination of the application. He or she shall state whether or not any application for patent or inventor's certificate on the same invention has been filed in any foreign country, either by himself or herself, or by his or her legal representatives or assigns. If any such application has been filed, the applicant shall name the country in which the earliest such application was filed, and shall give the day, month, and year of its filing; he or she shall also identify by country and by day, month, and year of filing, every such foreign application filed more than twelve months before the filing of the international application.

(2) This statement (i) must be subscribed to by the applicant, and (ii) must either (a) be sworn to (or affirmed) as provided in § 1.66, or (b) include the personal declaration of the applicant as prescribed in § 1.68.

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(b) If the international application was made as provided in §§ 1.422, 1.423 or 1.425, the applicant shall state his or her relationship to the inventor and, upon information and belief, the facts which the inventor is required by this section to state.

18. By revising paragraph (b) of § 1.72 to read as follows:

§ 1.72 Title and abstract.

* * * * *

(b) A brief abstract of the technical disclosure in the specification must be set forth on a separate sheet, preferably following the claims under the heading "Abstract of the Disclosure." The purpose of the abstract is to enable the Patent and Trademark Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure. The abstract shall not be used for interpreting the scope of the claims.

19. By revising text and heading of § 1.77 to read as follows:

§ 1.77 Arrangement of application elements.

The elements of the application should appear in the following order:

(a) Title of the invention; or an introductory portion stating the name, citizenship, and residence of the applicant, and the title of the invention may be used.

(b) (Reserved).

(c) Cross-references to related applications, if any.

(d) Brief summary of the invention.

(e) Brief description of the several views of the drawing, if there are drawings.

(f) Detailed description.

(g) Claim or claims.

(h) Signature. (See § 1.57).

(i) Abstract of the disclosure.

(j) Drawings.

20. By revising paragraph (a) of § 1.78 to read as follows:

§ 1.78 Cross-references to other applications.

When an applicant files an application claiming an invention disclosed in a prior filed copending national application or international application designating the United States of America of the same applicant, the second application must contain or be amended to contain in the first sentence of the specification following the title a reference to such prior application, identifying it by serial number and filing date or international application number and international filing date and indicating the relationship of the applications, if the benefit of the filing date of such prior application is to be claimed. Cross-references to other related applications may be made when appropriate. (See § 1.14(b)).

21. By revising paragraphs (a), (b), (c), (d), (e), (f), (i), (j) and (l) of § 1.84 to read as follows:

§ 1.84 Standards for drawings.

(a) *Paper and ink.* Drawings must be made upon paper which is flexible, strong, white, smooth, non-shiny and durable. Two-ply or three-ply bristol board is preferred. The surface of the paper should be calendered and of a quality which will permit erasure and correction with India ink. India ink, or its equivalent in quality, is preferred for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not normally acceptable.

(b) *Size of sheet and margins.* The size of the sheets on which drawings are made may either be exactly 8½ by 14 inches (21.6 by 35.6 cm.) or exactly 21.0 by 29.7 cm. (DIN size A4). All drawing sheets in a particular application must be the same size. One of the shorter sides of the sheet is regarded as its top.

(1) On 8½ by 14 inch drawing sheets, the drawing must include a top margin of 2 inches (5.1 cm.) and bottom and side margins of ¼ inch (6.4 mm.) from the edges, thereby leaving a "sight" precisely 8 by 11¾ inches (20.3 by 29.8 cm.). Margin border lines are not permitted. All work must be included within the "sight". The sheets may be provided with two ¼ inch (6.4 mm.) diameter holes having their centerlines spaced 1⅛ inch (17.5 mm.) below the top edge and 2¾ inches (7.0 cm.) apart, said holes being equally spaced from the respective side edges.

(2) On 21.0 by 29.7 cm. drawing sheets, the drawing must include a top margin of at least 2.5 cm., a left side margin of 2.5 cm., a right side margin of 1.5 cm., and a bottom margin of 1.0 cm. Margin border lines are not permitted. All work must be contained within a sight size not to exceed 17 by 26.2 cm.

(c) *Character of lines.* All drawings must be made with drafting instruments or by a process which will give them satisfactory reproduction characteristics. Every line and letter must be durable, black, sufficiently dense and dark, uniformly thick and well defined; the weight of all lines and letters must be heavy enough to permit adequate reproduction. This direction applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. All lines must be clean, sharp, and solid. Fine or crowded lines should be avoided. Solid black should not be used for sectional or surface shading. Freehand work should be avoided wherever it is possible to do so.

(d) *Hatching and shading.* (1) Hatching should be made by oblique parallel lines spaced sufficiently apart to enable the lines to be distinguished without difficulty. (2) Heavy lines on the shade side of objects should preferably be used except where they tend to thicken the work and obscure reference characters. The light should come from the upper left-hand corner at an angle of 45°. Surface delineations should preferably be shown by proper shading, which should be open.

(e) *Scale.* The scale to which a drawing is made ought to be large enough to show the mechanism without crowding when the drawing is reduced in size to two-thirds in reproduction, and views of portions of the mechanism on a larger scale should be used when necessary to show details clearly; two or more sheets should be used if one does not give sufficient room to accomplish this end, but the number of sheets should not be more than is necessary.

(f) *Reference characters.* The different views should be consecutively numbered figures. Reference numerals (and letters, but numerals are preferred) must be plain, legible and carefully formed, and not be encircled. They should, if possible, measure at least one-eighth of an inch (3.2mm.) in height so that they may bear reduction to one twenty-fourth of an inch (1.1mm.); and they may be slightly larger when there is sufficient room. They should not be so placed in the close and complex parts of the drawing as to interfere with a thorough comprehension of the same, and therefore should rarely cross or mingle with the lines. When necessarily grouped around a certain part, they should be placed at a little distance, at the closest point where there is available space, and connected by lines with the parts to which they refer. They should not be placed upon hatched or shaded surfaces but when necessary, a blank space may be left in the hatching or shading where the character occurs so that it shall appear perfectly distinct and separate from the work. The same part of an invention appearing in more than one view of the drawing must always be designated by the same character, and the same character must never be used to designate different parts. Reference signs not mentioned in the description shall appear in the drawing, and vice versa.

* * * * *

(i) *Views.* The drawing must contain as many figures as may be necessary to show the invention; the figures should be consecutively numbered if possible in the order in which they appear. The figures may be plain, elevation, section, or prespective views, and detail views of portions of elements, on a larger scale if necessary, may also be used. Exploded views,

with the separated parts of the same figure embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. When necessary, a view of a large machine or device in its entiretly may be broken and extended over several sheets if there is no loss in facility of understanding the view. Where figures on two or more sheets form in effect a single complete figure, the figures on the several sheets should be so arranged that the complete figure can be understood by laying the drawing sheets adjacent to one another. The arrangement should be such that no part of any of the figures appearing on the various sheets are concealed and that the complete figure can be understood even though spaces will occur in the complete figure because of the margins on the drawing sheets. The plane upon which a sectional view is taken should be indicated on the general view by a broken line, the ends of which should be designated by numerals corresponding to the figure number of the sectional view and have arrows applied to indicate the direction in which the view is taken. A moved position may be shown by a broken line superimposed upon a suitable figure if this can be done without crowding, otherwise a separate figure must be used for this purpose. Modified forms of construction can only be shown in separate figures. Views should not be connected by projection lines nor should center lines be used.

(j) *Arrangement of views.* All views on the same sheet should stand in the same direction and, if possible, stand so that they can be read with the sheet held in an upright position. If views longer than the width of the sheet are necessary for the clearest illustration of the invention, the sheet may be turned on its side so that the top of the sheet with the appropriate top margin is on the right-hand side. One figure must not be placed upon another or within the outline of another.

* * * * *

(l) *Extraneous matter.* Identifying indicia (such as the attorney's docket number, inventor's name, number of sheets, etc.) not to exceed 2¾ inches (7.0 cm.) in width may be placed in a centered location between the side edges within three-fourths inch (19.1 mm.) of the top edge. Authorized security markings may be placed on the drawings provided they are outside the illustrations and are removed when the material is declassified. Other extraneous matter will not be permitted upon the face of a drawing.

* * * * *

22. By adding new paragraphs (c) and (d) to § 1.104 to read as follows:

§ 1.104 Nature of examination; examiner's action.

* * * * *

(c) An international-type search will be made in all national applications filed on and after June 1, 1978.

(d) Any national application may also have an international-type search report prepared thereon at the time of the national examination on the merits, upon specific written request therefor and payment of the international-type search report fee. See § 1.21(w) for amount of fee for preparation of international-type search report.

NOTE.—The Patent and Trademark Office does not require that a formal report of an international-type search be prepared in order to obtain a search fee refund in a later filed international application.

23. By revising § 1.141 to read as follows:

§ 1.141 Different inventions in one application.

(a) Two or more independent and distinct inventions, that is, inventions which do not form a single general inventive concept, may not be claimed in one application, except that more than one species of an invention, not to exceed a reasonable number, may be specifically claimed in different claims in one application, provided the application also includes an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form (§ 1.75) or otherwise include all the limitations of the generic claim.

(b) A group of claims of different categories in an application so linked as to form a single inventive concept are considered to be one invention. In particular any of the following groupings of claims of different categories may be included in the same application:

(1) in addition to a claim for a given product,

(i) a claim for one process specially adapted for the manufacture of the said product, as where the process of making as claimed cannot be used to make other and materially different products;

(ii) a claim for one use of the said product, as where said use as claimed cannot be practiced with another materially different product; or

(iii) both (i) and (ii);

(2) in addition to a claim for a given process, a claim for one apparatus or means specifically designed for carrying out of the said process, that is, it cannot be used to practice another materially different process.

(c) If the situation of paragraph (b)(1) of this section exists where claims to all three categories, product, process and use, are included, and the product claims are not allowable, the use and process claims are not so linked as to form a single general inventive concept. Where the process and use claims are not so joined by an allowable linking product claim, the applicant will be required to elect either the use or the process for prosecution with the product claim.

24. By revising § 1.146 to read as follows:

§ 1.146 Election of species.

In the first action on an application containing a generic claim and claims restricted separately to each of more than one species embraced thereby, the examiner may require the applicant in his response to that action to elect that species of his or her invention to which his or her claim shall be restricted if no generic claim is held allowable. However, if such application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the case.

25. By adding a new § 1.318 to read as follows:

§ 1.318 Notification of national publication of a patent based on an international application.

The Office will notify the International Bureau when a patent is issued on an application filed under 35 U.S.C. 371, and there has been no previous international publication.

26. By revising paragraphs (a) and (c) of § 1.331 to read as follows:

§ 1.331 Recording of assignments.

(a) Assignments, including grants and conveyances, of patents, national applications, or international applications which designate the United States of America, will be recorded in the Patent and Trademark Office under 35 U.S.C. 261. Other instruments affecting title to a patent, a national application, or an international application which designates the United States of America, and licenses, even though the recording thereof may not serve as constructive notice under 35 U.S.C. 261, will be recorded as provided in this section or at the discretion of the Commissioner.

* * * * *

(c) An instrument relating to a patent should identify the patent by number and date (the name of the inventor and title of the invention as stated in the patent should also be given); an instrument relating to a national application, or an international application which designates the United States of America should identify the application by serial number

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or international application number and date of filing (the name of the inventor and title of the invention as stated in the application should also be given), but if an assignment is executed concurrently with or subsequent to the execution of the application but before the application is filed or before its serial number or international application number and filing date are ascertained, it should adequately identify the application, as by its date of execution and name of the inventor and title of the invention; so that there can be no mistake as to the patent or application intended.

Subpart C—International Processing Provisions

27. By adding a new § 1.401 to read as follows:

§ 1.401 Definitions of terms under the Patent Cooperation Treaty.

(a) The abbreviation "PCT" and the term "Treaty" mean the Patent Cooperation Treaty.

(b) "International Bureau" means the World Intellectual Property Organization located in Geneva, Switzerland.

(c) "Administrative Instructions" means that body of instructions for operating under the Patent Cooperation Treaty referred to in PCT Rule 89.

(d) "Request", when capitalized, means that element of the international application described in PCT Rules 3 and 4.

(e) "International application", as used in this Subchapter is defined in § 1.9(b).

(f) "Priority date" for the purpose of computing time limits under the Patent Cooperation Treaty is defined in PCT Art. 2 (xi). Note also § 1.465.

(g) Other terms and expressions in this Subpart C not defined in this section are to be taken in the sense indicated in PCT Art. 2 and 35 U.S.C. 351.

28. By adding a new § 1.412 to read as follows:

§ 1.412 The United States Receiving Office.

(a) The United States Patent and Trademark Office is a Receiving Office only for applicants who are residents or nationals of the United States of America.

(b) The Patent and Trademark Office, when acting as a Receiving Office, will be identified by the full title "United States Receiving Office" or by the abbreviation "RO/US."

(c) The major functions of the Receiving Office include:

(1) According of international filing dates to international applications meeting the requirements of PCT Art. 11(1), and PCT Rule 20;

(2) Assuring that international applications meet the standards for format and content of PCT Art. 14(1), PCT Rule 9, 26, 29.1, 37, 38, 91, and portions of PCT Rules 3 through 11;

(3) Collecting and, when required, transmitting fees due for processing international applications (PCT Rule 14, 15, 16);

(4) Transmitting the record and search copies to the International Bureau and International Searching Authority, respectively (PCT Rules 22 and 23); and

(5) Determining compliance with applicable requirements of Part 5 of this chapter.

29. By adding a new § 1.413 to read as follows:

§ 1.413 The United States International Searching Authority.

(a) Pursuant to appointment by the Assembly, the United States Patent and Trademark Office will act as an International Searching Authority for international applications filed in the United States Receiving Office and in other Receiving Offices as may be agreed upon by the Commissioner, in accordance with agreement between the Patent and Trademark Office and the International Bureau (PCT Art. 16(3)(b)).

(b) The Patent and Trademark Office, when acting as an International Searching Authority, will be identified by the full title "United States International Searching Authority" or by the abbreviation "ISA/US."

(c) The major functions of the International Searching Authority include:

(1) Approving or establishing the title and abstract;

(2) Considering the matter of unity of invention;

(3) Conducting international and international-type searches and preparing international and international-type search reports (PCT Art. 15, 17 and 18, and PCT Rules 25, 33 to 45 and 47); and

(4) Transmitting the international search report to the applicant and the International Bureau.

30. By adding a new § 1.414 to read as follows:

§ 1.414 The United States Designated Office.

(a) The United States Patent and Trademark Office will act as a Designated Office for international applications in which the United States of America has been designated as a State in which patent protection is desired.

(b) The Patent and Trademark Office, when acting as a Designated Office during international processing will be identified by the full title "United States Designated Office" or by the abbreviation "DO/US."

(c) The major functions of the United States Designated Office in respect to international applications in which the United States of America has been designated, include:

(1) Receiving various notifications throughout the international stage;

(2) Accepting for regular national patentability examination international applications which satisfy the requirements of 35 U.S.C. 371; and

(3) Conducting reviews under PCT Article 25 for those international applications declared withdrawn.

31. By adding a new § 1.415 to read as follows:

§ 1.415 The International Bureau.

(a) The International Bureau is the World Intellectual Property Organization located at Geneva, Switzerland. It is the international intergovernmental organization which acts as the coordinating body under the Treaty and the Regulations (PCT Art. 2 (xix) and 35 U.S.C. 351 (h)).

(b) The major functions of the International Bureau include:

(1) Publishing of international applications and the International Gazette;

(2) Transmitting copies of international applications to Designated Offices;

(3) Storing and maintaining record copies; and

(4) Transmitting information to authorities pertinent to the processing of specific international applications

32. By adding a new § 1.421 to read as follows:

§ 1.421 Applicant for international application.

(a) Only residents or nationals of the United States of America may file international applications in the United States Receiving Office.

(b) Although the United States Receiving Office will accept international applications filed by any resident or national of the United States of America for international processing, an international application designating the United States of America will be accepted by the Patent and Trademark Office for the national stage only if filed by the inventor or as provided in §§ 1.422, 1.423 or 1.425.

(c) International applications which do not designate the United States of America may be filed by the assignee or owner.

(d) The attorney or agent of the applicant may sign the international application Request and file the international application for the applicant if the international application when filed is accompanied by a separate power of attorney to that attorney or agent from the applicant. The separate power of attorney from the applicant may be submitted after filing if sufficient cause is shown for not submitting it at the time of filing. Note that paragraph (b) of this section requires that the applicant be the inventor if the United States of America is designated.

(e) Any indication of different applicants for the purpose of different Designated Offices must be shown on the Request portion of the international application.

(f) Changes in the person, name, or address of the applicant of an international application shall be made in accordance with PCT Rule 18.5.

33. By adding a new § 1.422 to read as follows:

§ 1.422 When the inventor is dead.

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may file an international application which designates the United States of America.

34. By adding a new § 1.423 to read as follows:

§ 1.423 When the inventor is insane or legally incapacitated.

In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may file an international application which designates the United States of America.

35. By adding a new § 1.424 to read as follows:

§ 1.424 Joint inventors.

Joint inventors must jointly file an international application which designates the United States of America; the signature of either of them alone, or less than the entire number will be insufficient for an invention invented by them jointly, except as provided in § 1.425.

36. By adding a new § 1.425 to read as follows:

§ 1.425 Filing by other than inventor.

(a) If a joint inventor refuses to join in an international application which designates the United States of America or cannot be found or reached after diligent effort, the international application which designates the United States of America may be filed by the other inventor on behalf of himself or herself and the omitted inventor. Such an international application which designates the United States of America must be accompanied by proof of the pertinent facts and must state the last known address of the omitted inventor. The Patent and Trademark Office shall forward notice of the filing of the international application to the omitted inventor at said address.

(b) Whenever an inventor refuses to execute an international application which designates the United States of America, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may file the international application on behalf of and as agent for the inventor. Such an international application which designates the United States of America, must be accompanied by proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, and must state the last known address of the inventor. The assignment, written agreement to assign or other evidence of proprietary interest, or a verified copy thereof, must be filed in the Patent and Trademark Office. The Office shall forward notice of the filing of the application to the inventor at the address stated in the application.

37. By adding a new § 1.431 to read as follows:

§ 1.431 International application requirements.

(a) An international application shall contain, as specified in the Treaty and the Regulations, a Request, a description, one or more claims, an abstract, and one or more drawings (where required). (PCT Art. 3(2) and Section 207 of the Administrative Instructions.)

(b) An international filing date will be accorded by the United States Receiving Office, at the time of receipt of the international application, provided that:

(1) The applicant is a United States resident or national (35 U.S.C. 361(a), PCT Art. 11(1)(i)).

(2) The international application is in the English language (35 U.S.C. 361(c), PCT Art. 11(1)(ii)).

(3) The international application contains at least the following elements (PCT Art. 11(1)(iii)):

(i) an indication that it is intended as an international application (PCT Rule 4.2);

(ii) the designation of at least one Contracting State of the International Patent Cooperation Union;

(iii) the name of the applicant, as prescribed (note § 1.422);

(iv) a part which on the face of it appears to be a description; and

(v) a part which on the face of it appears to be a claim.

(c) Payment of the basic portion of the international fee (PCT Rule 15.2) and the transmittal and search fees (§ 1.445) shall be made in full at the time the international application papers required by paragraph (b) of this section are deposited. Failure to make full payment on the same date as the deposit of the international application papers required by subparagraph (b) of this section will result in the international application being considered withdrawn (PCT Art. 14(3)(a)).

38. By adding a new § 1.432 to read as follows:

§ 1.432 Designation of States and payment of designation fees.

(a) The names of Designated States shall appear in the Request upon filing and must be indicated as set forth in Section 201 of the Administrative Instructions.

(b) The designation fees may be paid upon filing of the international application, but must be paid at the latest before the expiration of one year from the priority date (PCT Rule 15.4(b)). Failure to timely pay the designation fee for a particular Designated State will result in the withdrawal of that designation (PCT Art. 14(3)(b)). Failure to timely pay at least one designation fee will result in the withdrawal of the international application (PCT Art. 14(3)(a)).

39. By adding a new § 1.433 to read as follows:

§ 1.433 Physical requirements of international application.

(a) The international application and each of the documents that may be referred to in the check list of the Request (PCT Rule 3.3(a)(ii)) shall be filed in one copy only.

(b) All sheets of the international application must be on A4 size paper (21.0 x 29.7 cm.).

(c) Other physical requirements for international applications are set forth in PCT Rule 11 and Sections 201-207 of the Administrative Instructions.

40. By adding a new § 1.434 to read as follows:

§ 1.434 The request.

(a) The request shall be made on a standardized printed form (PCT Rules 3 and 4). Copies of such printed Request forms are available from the Patent and Trademark Office. Letters requesting such forms should be marked "Box PCT."

(b) The Check List portion of the Request form should indicate each document accompanying the international application on filing.

(c) All information, for example, addresses, names of States and dates, shall be indicated in the Request as required by PCT Rule 4 and Administrative Instructions 110 and 201.

(d) International applications which designate the United States of America shall include:

(1) The name, address and signature of the inventor, except as provided by §§ 1.421(d), 1.422, 1.423 and 1.425;

(2) A reference to any copending national application or international ap-

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plication designating the United States of America, if the benefit of the filing date for the prior copending application is to be claimed.

41. By adding a new § 1.435 to read as follows:

§ 1.435 The description.

(a) Requirements as to the content and form of the description are set forth in PCT Rules 5, 9, 10 and 11 and Administrative Instruction 204, and shall be adhered to.

(b) In international applications designating the United States the description must contain upon filing an indication of the best mode contemplated by the inventor for carrying out the claimed invention.

42. By adding a new § 1.436 to read as follows:

§ 1.436 The claims.

The requirements as to the content and format of claims are set forth in PCT Art. 6 and PCT Rules 6, 9, 10 and 11 and shall be adhered to. The number of the claims shall be reasonable, considering the nature of the invention claimed.

43. By adding a new § 1.437 to read as follows:

§ 1.437 The drawings.

(a) Subject to paragraph (b) of this section, when drawings are necessary for the understanding of the invention, or are mentioned in the description, they must be part of an international application as originally filed in the United States Receiving Office in order to maintain the international filing date during the national stage (PCT Art. 7).

(b) Drawings missing from the application upon filing will be accepted if such drawings are received within 30 days of the date of first receipt of the incomplete papers. If the missing drawings are received within the 30-day period, the international filing date shall be the date on which such drawings are received. If such drawings are not timely received, all references to drawings in the international application shall be considered non-existent (PCT Art. 14(2), Administrative Instruction 310).

(c) The physical requirements for drawings are set forth in PCT Rule 11 and shall be adhered to.

44. By adding a new § 1.438 to read as follows:

§ 1.438 The abstract.

(a) Requirements as to the content and form of the abstract are set forth in PCT Rule 8, and shall be adhered to.

(b) Lack of an abstract upon filing of an international application will not affect the granting of a filing date. However, failure to furnish an abstract within one month from the date of the notification by the Receiving Office will result in the international appplication being declared withdrawn.

45. By adding a new § 1.445 to read as follows:

§ 1.445 International application filing and processing fees.

(a) The following fees and charges are established by the Patent and Trademark Office under the authority of 35 U.S.C. 376:

(1) A transmittal fee (see 35 U.S.C. 361(d) and PCT Rule 14)—$35.00.

(2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16)—$300.00.

(3) A supplemental search fee when required (see PCT Art. 17(3)(a) and PCT Rule 40.2)—$200.00 per additional invention.

(4) The national fee, that is, the amount set forth as the filing fee under 35 U.S.C. 41(a)(1).

(5) A special fee when required (see 35 U.S.C. 372(c))—$10.00 per claim.

(b) The basic fee and designation fee portions of the international fee shall be as prescribed in PCT Rule 15.

46. By adding a new § 1.446 to read as follows:

§ 1.446 Refund of international application filing and processing fees.

(a) Money paid for international application fees, where paid by actual mistake or in excess, such as a payment not required by law or Treaty and its Regulations, will be refunded.

(b) Refunds of a portion of the search fee may be made if the international search report is wholly or partly based on an earlier international or international-type search (PCT Rules 16 and 41). The amount of the refund will be as determined by the examiner according to the value of the prior international-type search or international search as 90%, 45% or 0% of the international search fee. If the amount of the refund is not a multiple of $5.00, it will be rounded to the next higher multiple of $5.00. See § 1.26 for refund of a portion of the international search fee during subsequent national examination of the application.

(c) Refund of the supplemental search fees will be made if such refund is determined to be warranted by the Commissioner or the Commissioner's designee acting under PCT Rule 40.2(c).

(d) The international and search fees will be refunded if no international filing date is accorded (PCT Rules 15.6 and 16.2).

47. By adding a new § 1.451 to read as follows:

§ 1.451 The priority claim and priority document in an international application.

(a) The claim for priority must be made on the Request (PCT Rule 4.10) in a manner complying with Section 110 and 201 of the Administrative Instructions.

(b) Whenever the priority of an earlier United States national application is claimed in an international application, the applicant may request in a letter of transmittal accompanying the international application upon filing with the United States Receiving Office, that the Patent and Trademark Office prepare a certified copy of the national application for transmittal to the International Bureau (PCT Art. 8 and PCT Rule 17). The fee for preparing a certified copy is stated in § 1.21(b) and 35 U.S.C. 41(11).

(c) If a certified copy of the priority document is not submitted together with the international application on filing, or, if the priority application was filed in the United States and a request and appropriate payment for preparation of such a certified copy do not accompany the international application on filing, the certified copy of the priority document must be transmitted directly by the applicant to the International Bureau within the time limit specified in PCT Rule 17.1(a).

48. By adding a new § 1.455 to read as follows:

§ 1.455 Representation in international applications.

(a) Applicants of international applications may be represented by attorneys or agents licensed to practice before the Patent and Trademark Office or by a common representative (PCT Art. 49, Rules 4.8 and 90 and § 1.341).

(b) Appointment of an agent, attorney or common representative (PCT Rule 4.8) must be effected either in the Request form, signed by all applicants, or in a separate power of attorney submitted either to the United States Receiving Office or to the International Bureau.

(c) Powers of attorney and revocations thereof should be submitted to the United States Receiving Office until the issuance of the international search report.

(d) The addressee for correspondence will be as indicated in Section 108 of the Administrative Instructions.

49. By adding a new § 1.461 to read as follows:

§ 1.461 Procedures for transmittal of record copy to the International Bureau.

(a) Transmittal of the record copy of the international application to the International Bureau shall be made, at the option of the applicant, either by the United States Receiving Office or by the applicant. Subject to paragraph (b) of this section, any applicant who chooses to make such transmittal personally shall notify the United States Receiving Office to that effect in writing, by way of a notice filed together with the international application. Such notice shall also state whether the applicant wishes to collect the record copy at the United States Receiving Office or to have the record copy mailed directly to him. The record copy of an international application which was filed without being accompanied by such notice will be transmitted to the International Bureau by the United States Receiving Office (PTC Rule 22).

(b) An applicant may transmit the record copy to the International Bureau as privided in PCT Rule 22.2 only if the international application is filed with the United States Receiving Office before the expiration of 11 months from the priority date.

(c) No copy of an international application may be transmitted to the International Bureau, a foreign Designated Office, or other foreign authority by the United States Receiving Office or the applicant, unless the applicable requirements of Part 5 of this chapter have been satisfied.

50. By adding a new § 1.465 to read as follows:

§ 1.465 Timing of application processing based on the priority date.

(a) For the purpose of computing time limits under the Treaty, the priority date shall be defined as in PCT Art. 2(xi).

(b) When a claimed priority date is cancelled under PCT Rule 4.10(d), or considered not to have been made under PCT Rule 4.10(b), the priority date for the purposes of computing time limits will be the date of the earliest valid remaining priority claim of the international application, or if none, the international filing date.

(c) When corrections under PCT Art. 11(2), Art. 14(2) or PCT Rule 20.2(a)(i) or (iii) are timely submitted, and the date of receipt of such corrections falls later than one year from the claimed priority date or dates, the Receiving Office shall proceed under PCT Rule 4.10(d).

51. By adding a new § 1.468 to read as follows:

§ 1.468 Delays in meeting time limits.

Delays in meeting time limits during international processing of international applications may only be excused as provided in PCT Rule 82. For delays in meeting time limits in a national application, see § 1.137.

52. By adding a new § 1.471 to read as follows:

§ 1.471 Corrections and amendments during international processing.

(a) All corrections submitted to the United States Receiving Office must be in the form of replacement sheets and be accompanied by a letter that draws attention to the differences between the replaced sheets and the replacement sheets, except that the deletion of lines of text, the correction of simple typographical errors, and one addition or change of not more than five words per sheet may be stated in a letter and the United States Receiving Office will make the deletion or transfer the correction to the international application, provided that such corrections do not adversely affect the clarity and direct reproducibility of the application (PCT Rule 26.4).

(b) Amendments of claims submitted to the International Bureau shall be as prescribed by PCT Rule 46.

53. By adding a new § 1.475 to read as follows:

§ 1.475 Changes in person, name, or address of applicants and inventors.

All requests for a change in person, name or address of applicants and inventor be sent to the United States Receiving Office until the time of issuance of the international search report. Thereafter requests for such changes should be submitted to the International Bureau.

54. By adding § 1.481 to read as follows:

§ 1.481 Determination of unity of invention before the International Searching Authority.

(a) Before establishing the international search report, the International Searching Authority shall determine whether the international application complies with the requirement of unity of invention as set forth in PCT Rule 13 and as set forth in §§ 1.141 and 1.146 except as modified below in this section.

(b) If the International Searching Authority considers that the international application does not comply with the requirement of unity of invention, it shall inform the applicant accordingly and invite the payment of additional fees (note § 1.445 and PCT Art. 17(3)(a) and PCT Rule 40). The applicant will be given a time period in accordance with PCT Rule 40.3 to pay the additional fees due.

(c) In the case of non-compliance with unity of invention and where no additional fees are paid, the international search will be performed on the invention first mentioned ("main invention") in the claims.

(d) Lack of unity of invention may be directly evident before considering the claims in relation to any prior art, or after taking the prior art into consideration, as where a document discovered during the search shows the invention claimed in a generic or linking claim lacks novelty or is clearly obvious, leaving two or more claims joined thereby without a common inventive concept. In such a case the International Searching Authority may raise the objection of lack of unity of invention.

55. By adding § 1.482 to read as follows:

§ 1.482 Protest to lack of unity of invention.

(a) If the applicant disagrees with the holding of lack of unity of invention by the International Searching Authority, additional fees may be paid under protest, accompanied by a request for refund and a statement setting forth reasons for disagreement or why the required additional fees are considered excessive, or both (PCT Rule 40.2(c)).

(b) Protest under paragraph (c) of this section will be examined by the Commissioner or the Commissioner's designee. In the event that the applicant's protest is determined to be justified, the additional fees or a portion thereof will be refunded.

(c) An applicant who desires that a copy of the protest and the decision thereon accompany the international search report when forwarded to the Designated Offices, may notify the International Searching Authority to that effect any time prior to the issuance of the international search report. Thereafter, such notification should be directed to the International Bureau (PCT Rule 40.2(c)).

56. By adding a new § 3.56 to read as follows:

§ 3.56 Oath to be filed with United States Designated Office under 35 U.S.C. 371(c)(4).

As a below named inventor, being duly sworn (or affirmed), I depose and say that:

My residence, post office address, and citizenship are as stated below next to my name;

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled:

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described and claimed in international application No. ——— filed ———, and as amended on ——— (if any), which I have reviewed and for which I solicit a patent;

I do not know and do not believe the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to my international application, that the same was not in public use or on sale in the United States of America more than one year prior to my international application, that the intention has not

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been patented or made the subject of an inventor's certificate issued before the date of my international application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to my international application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns except as follows:

_____

_____

Full name of sole or first inventor .....
Inventor's signature .....
Date
Residence .....
Citizenship .....
Post office address .....
.....

Full name of second joint inventor, if any .....
Second Inventor's signature .....
Date
Residence .....
Citizenship .....
Post Office address .....
.....

(Supply similar information and signature for third and subsequent joint inventors)

_____
ss:
_____

Sworn to and subscribed before me this ——— day of ————, 19—. ————

.....
(Signature of notary or officer)

[Seal]

.....
(Official character)

57. By adding a new § 3.57 to read as follows:

§ 3.57 Declaration to be filed with United Stated Designated Office under 35 U.S.C. 371(c)(4).

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled:

_____

described and claimed in international application No. ——— filed ———— and as amended on ———— (if any), which I have received and for which I solicit a patent;

I do not know and do not believe the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to my international application, that the same was not in public use or on sale in the United States of America more than one year prior to my international application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of my international application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to my international application, that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns, except as follows:

_____

_____

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor .....
Inventor's signature .....
Date
Residence .....
Citizenship .....
Post Office Address .....
.....

Full name of second joint inventor, if any .....
Second Inventor's signature .....
Date
Residence .....
Citizenship .....
Post office address .....
.....

(Supply similar information and signature for third and subsequent joint inventors.)

PART 5—SECRECY OF CERTAIN INVENTIONS AND LICENSES TO FILE APPLICATIONS IN FOREIGN COUNTRIES

58. By revising § 5.1 to read as follows:

§ 5.1 Defense inspection of certain applications.

(a) The provisions of this part shall apply to both national and international applications filed in the Patent and Trademark Office and, with respect to inventions made in the United States, to applications filed in any foreign country or any international authority other than the United States Receiving Office. The (1) filing of a national or an international application in a foreign country or with an international authority other than the United States Receiving Office, or (2) transmittal of an international application to a foreign agency or an international authority other than the United States Receiving Office is considered to be a foreign filing within the meaning of Chapter 17 of Title 35, United States Code.

(b) In accordance with the provisions of 35 U.S.C. 181, patent applications containing subject matter the disclosure of which might be detrimental to the national security are made available for inspection by defense agencies as specified in said section. Only applications obviously relating to national security, and applications within fields indicated to the Patent and Trademark Office by the defense agencies as so related, are made available. The inspection will be made only by responsible representatives authorized by the agency to review applications. Such representatives are required to sign a dated acknowledgement of access accepting the condition that information obtained from the inspection will be used for no purpose other than the administration of 35 U.S.C. 181-188. Copies of applications may be made available to such representatives for inspection outside the Patent and Trademark Office under conditions assuring that the confidentiality of the applications will be maintained, including the conditions that: (a) all copies will be returned to the Patent and Trademark Office promptly if no secrecy order is imposed, or upon rescission of such order if one is imposed, and (b) no additional copies will be made by the defense agencies. A record of the removal and return of copies made available for defense inspection will be maintained by the Patent and Tradmark Office. Applications relating to atomic energy are made available to the Department of Energy as specified in § 1.14 of this chapter.

59. By revising § 5.3 to read as follows:

§ 5.3 Prosecution of application under secrecy orders; withholding patent.

Unless specifically ordered otherwise, action on the application by the Office and prosecution by the applicant will proceed during the time an application is under secrecy order to the point indicated in this section:

(a) National applications under secrecy order which come to a final rejection must be appealed or otherwise prosecuted to avoid abandonment. Appeals in such cases must be completed by the applicant but unless otherwise specifically ordered by the Commissioner will not be set for hearing until the secrecy order is removed.

(b) An interference will not be declared involving national applications under secrecy order. However, if an applicant whose application under secrecy order copies claims from an issued patent, a notice of that fact will be placed in the file wrapper of the patent.

(c) When the national application is found to be in condition for allowance except for the secrecy order the applicant and the agency which caused the secrecy order to be issued will be notified. This notice (which is not a notice of allowance under § 1.311 of this chapter) does not require response by the applicant and places the national application in a condition of suspension until the secrecy order is removed. When the secrecy order is removed the Patent and Trademark Office will issue a notice of allowance under § 1.311 of this chapter, or take such other action as may then be warranted.

(d) International applications under secrecy order will not be mailed, delivered or otherwise transmitted to the international authorities or the applicant. International applications under secrecy order will be processed up to the point where, if it were not for the secrecy order, record and search copies would be transmitted to the international authorities or the applicant.

60. Section 5.11 text and heading are revised to read as follows:

§ 5.11 License for filing application in foreign country or for transmitting international application.

(a) When no secrecy order has been issued under § 5.2, a license from the Commissioner of Patents and Trademarks under 35 U.S.C. 184 is required before filing any application for patent or for the registration of a utility model, industrial design, or model, in a foreign country, or transmitting an international application to any foreign patent agency or any international agency other than the United States Receiving Office, or causing or authorizing such filing or transmittal, with respect to an invention made in the United States, if:

(1) The foreign application is to be filed or its filing caused or authorized before a national or international application for patent is filed in the United States, or

(2) The foreign application is to be filed, or its filing caused or authorized, or the transmittal of the international application is caused or authorized, prior to the expiration of six months from the filing of the application in the United States.

(b) When there is no secrecy order in effect, a license under 35 U.S.C. 184 is not required if:

(1) The invention was not made in the United States, or

(2) The foreign application is to be filed or the international application is to be transmitted, or its filing or transmittal caused or authorized, after the expiration of six months from the filing of the national application in the United States.

(c) When a secrecy order has been issued under § 5.2, an application cannot be filed in a foreign country, nor can an international application be transmitted to any agency other than the United States Receiving Office except in accordance with § 5.5.

61. By revising § 5.13 text and heading to read as follows:

§ 5.13 Petition for license; no corresponding application.

Where there is no corresponding national or international application, the petition for license must be accompanied by a legible copy of the material upon which license is desired. This copy will be retained as a measure of the license granted. For assistance in the identification of the subject matter of each license so issued, it is suggested that the petition or requesting letter be submitted in duplicate and provide a title and other description of the material. The duplicate copy of the petition will be returned with the license or other action on the petition. Where an international application is being filed in the United States Receiving Office, the petition may accompany the international application.

62. By revising paragraphs (b) and (c) of § 5.14 to read as follows:

§ 5.14 Petition for license; corresponding U.S. application.

• • • • •

(b) Two or more United States applications should not be referred to in the same petition for license unless they are to be combined in the foreign or international application, in which event the petition should so state and the identification of each United States application should be in separate paragraphs.

(c) Where the application to be filed or transmitted abroad contains matter not disclosed in the United States application or applications, including the case where the combining of two or more United States applications introduces subject matter not disclosed in any of them, a copy of the application as it is to be filed in the foreign country or international application which is to be transmitted to a foreign international or national agency as it is to be filed in the Receiving Office must be furnished with the petition. If, however, all new matter in the foreign or international application to be filed is readily identifiable, the new matter may be submitted in detail and the remainder by reference to the pertinent United States application or applications.

63. By revising § 5.15(a) to read as follows:

§ 5.15 Scope of license.

(a) A license to file an application in a foreign country or transmit an international application to any foreign or international agency other than the United States Receiving Office, when granted, includes authority to forward all duplicate and formal papers to the foreign country or international agencies and to make amendments and take any action in the prosecution of the foreign or international application, provided subject matter additional to that covered by the license is not involved. In those cases in which no license is required to file the foreign application or transmit the international application, no license is required to file papers in connection with the prosecution of the foreign or international application not involving the disclosure of additional subject matter. Any paper filed abroad or with an international agency following the filing of a foreign or international application which involves the disclosure of additional subject matter must be separately licensed in the same manner as a foreign or international application.

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64. By revising § 5.17 to read as follows:

§ 5.17 Who may use license.

Licenses may be used by anyone interested in the foreign filing or international transmittal for or on behalf of the inventor or the inventor's assigns.

AUTHORITY: 35 U.S.C. 6; Pub. L. 94-131, 89 Stat. 685.

Dated: April 25, 1978.

LUTRELLE F. PARKER,
Acting Commissioner of Patents and Trademarks.

Approved: May 5, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-12832 filed 5-10-78; 8:45 am]

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FRIDAY, MAY 12, 1978

highlights

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Reservations for May are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
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	HEW/NIH			HEW/NIH
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[3195-01]

Title 3—The President

PROCLAMATION 4570

Mother's Day, 1978

By the President of the United States of America

A Proclamation

Motherhood is a lifelong commitment.

It is a promise to share in fulfilling all the unique potential of a helpless newborn child, and to shape that person into an independent, responsible adult. For some, motherhood means guiding bright minds, strong bodies, and exquisite talents—maintaining a delicate balance between humanity and the special gifts of God. For others, motherhood means helping a weak body or an unawakened mind overcome burdens that may often seem too great to bear. For both, motherhood brings the privilege of seeing the tired world through fresh eyes and the satisfaction of knowing that one has met another's needs in a way no other could.

To the mothers of America, in recognition of their achievements in the art of raising a new generation of Americans and as an acknowledgment of all they have done to shape our national character, the Congress, by joint resolution of May 8, 1914 (38 Stat. 770; 36 U.S.C. 141), has set aside the second Sunday in May of each year as a day of special tribute.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby request that Sunday, May 14, 1978, be observed throughout our nation as Mother's Day. I ask all Americans to take this opportunity to express their personal gratitude to their own mothers and to thank all those women whose tireless devotion to their families has so enriched our nation.

I ask all public officials to display the flag of the United States on all government buildings and urge all Americans to display our flag at their homes or other suitable places on that day as a public expression of our love for the mothers of our country.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc. 78-13204 Filed 5-11-78; 12:17 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 1, Amdt. 12]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES AND TANGELOS GROWN IN FLORIDA

Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum diameter requirements on domestic shipments of Florida seedless grapefruit from 3$^{9}/_{16}$ inches (size 48) to 3$^{5}/_{16}$ inches (size 56). Specification of minimum size requirements for Florida grapefruit is necessary because of current and prospective supply and demand for the fruit, and to maintain orderly marketing conditions in the interest of producers and consumers.

DATES: The amendment is effective May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Findings. (1) Pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905; 42 FR 59367; 61853), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committee established under the marketing agreement and order, and upon other information, it is found that the regulation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The amendment reflects the Department's appraisal of the current and prospective supply and market demand conditions for Florida grapefruit. Less restrictive size requirements for such fruit are consistent with the character of much of the fruit available for fresh shipment.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act; and this amendment relieves restrictions on the handling of seedless grapefruit.

Accordingly, it is found that the provisions of § 905.301 (42 FR 57947; 59367; 59955; 60918; 61590; 62470; 63635; 63881; 43 FR 2820; 5497; 10910; 17797) should be and hereby are amended by revising in Table I (applicable to domestic shipments of the specified fruit) the minimum size applicable to seedless grapefruit as follows:

§ 905.301 **Orange, Grapefruit, Tangerine, and Tangelo Regulation 1.**

(a) • • •

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Grapefruit:			
Seedless, except pink	May 8 to Aug. 28, 1978	Improved No. 2	3$^{5}/_{16}$
Do	Aug. 28 to Sept. 24, 1978	do	3$^{5}/_{16}$
Seedless, pink	May 8 to Aug. 28, 1978	do	3$^{5}/_{16}$
Do	Aug. 28 to Sept. 24, 1978	do	3$^{5}/_{16}$
•	•	•	•

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: May 8, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-12881 Filed 5-11-78; 8:45 am]

[3410-02]

[Lemon Reg. 145]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 14-20, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown

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in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on May 9, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues good, with larger sizes remaining strong.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.445 Lemon Regulation 145.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period May 14, 1978, through May 20, 1978, is established at 300,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: May 10, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-13142 Filed 5-11-78; 8:45 a.m.]

[3410-02]

[Peach Reg. 1, Amdt. 1]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action extends by 7 days the period during which 1¾-inch Georgia peaches may be shipped. Such action is designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Industry Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of peaches, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on May 3, 1978, to consider crop and market conditions and other factors affecting the need for amending the current regulation, and recommended extending the period during which peaches at least 1¾ inches in diameter could be shipped through May 22, 1978. The committee reports that abnormally cold weather has delayed the normal size development of the peach crop, and as a result the earlier maturing varieties, which normally mature at smaller sizes than later maturing varieties, are not expected to meet the 1⅞-inch requirement which would become effective May 16, under the current regulation.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. This amendment relieves restrictions on the handling of peaches. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

§ 918.320 [Amended]

Paragraphs (a) (2) and (3) in § 918.320 Peach Regulation 1 (43 FR 18642), are hereby amended to read:

(a) No handler shall ship, except peaches in bulk to destinations in the adjacent markets, any peaches which:

(1) • • •

(2) During the period May 3 through May 22, 1978, are smaller than 1¾ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1¾ inches in diameter.

(3) During the period May 23 through August 31, 1978, are smaller than 1⅞ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1⅞ inches in diameter.

• • • • •

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: May 8, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 78-12960 Filed 5-11-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER III—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION [1]

PART 791—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, DEMONSTRATION, AND PRODUCTION LOAN GUARANTIES

Final Rule

AGENCY: Department of Energy.

ACTION: Final rule establishing new Part 791.

SUMMARY: These regulations promulgated today establish policies and procedures for loan guaranties by which lenders, as well as borrowers, may participate in accelerating the development and production of electric and hybrid vehicles under the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976. They are intended to assure that qualified small business concerns and other qualified borrowers are not excluded from participation in such development and production due to lack of adequate capital.

EFFECTIVE DATE: June 12, 1978.

[1] EDITORIAL NOTE: Chapter III will be renamed at a future date to reflect that it contains regulations administered by the Department of Energy.

FOR FURTHER INFORMATION CONTACT:

Anthony H. Ewing, U.S. Department of Energy, Office of Conservation and Solar Applications, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-4747.

SUPPLEMENTARY INFORMATION: On April 19, 1977, the Energy Research and Development Administration (ERDA) issued proposed regulations concerned with enabling lenders to obtain Federal guaranties on loans to qualified borrowers for purposes related to the commercial development, demonstration, and production of electric and hybrid vehicles (42 FR 20831, April 22, 1977). These regulations were intended to provide for the implementation of section 10 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (Act) (Pub. L. 94-413, 15 U.S.C. 2501 et seq.).

Generally, the proposed regulations stated policies and procedures for loan guaranties which would enable lenders and qualified borrowers to participate in accelerating the development and production of electic and hybrid vehicles. The regulations provided for priorities, preferences, and criteria which ERDA intended to apply to the consideration of applications for, and approval or disapproval of, Federal guaranties on loans. Further, they established the types of information required to be developed by the borrower or lender, or both, and submitted to ERDA, in support of loan guaranty applications. The Department of Energy (DOE) became responsible for carrying out the functions of ERDA under the Act, pursuant to section 301 of the Department of Energy Organization Act (Pub. L. 95-91, 42 U.S.C. 7101).

Interested parties were invited to submit written comments on the proposed regulations. Six comments were received. The comments were thoughtful and well organized and full and careful consideration was given to all of them.

Two comments were rhetorical in nature and suggested no change in the regulations. Comments recommending changes in the definition of "electric vehicle" and "hybrid vehicle" were not incorporated because the definitions of these terms are established by the Act. Section 791.2(a) was revised as recommended in a comment to make the wording of the regulations consistent with the Act by substituting the words "qualified borrowers" for the words "private sector."

A new section was inserted as § 791.4 to delineate program management responsibilities. The former § 791.30, and the subsequent sections in Subpart C have been renumbered except for § 791.45. All references in this preamble to sections are to sections as renumbered.

Recommendations to delete § 791.7 (a), (d) and (e) were not incorporated. Section 791.7(a) is intended to recognize genuine interest and good faith on the part of applicants, most of whom will be small business concerns, and is not intended to provide advantage to bigger and better established businesses. By deleting § 791.7(d), the Federal Government's right to the results of the project would have been forfeited, and this was determined not to be in the best interest of the Government. Section 791.7(e) gives small business concerns special consideration as required by the Act.

As suggested in a comment, § 791.37(b)(1) was changed to delete the availability of funds as the governing criterion for payment of the guarantied amount of unpaid principal and accrued interest in the event of default. As revised, the lender will be paid "in full or on a proportionate basis, in accordance with the guaranty agreement." This revision avoids any ambiguity as to the coverage of loan guaranties by the full faith and credit of the United States.

A recommendation to change § 791.37(b)(2) to require the payment of interest, in the event of default, at the same rate in effect for the loan prior to default was not incorporated because the payment of such rate of interest would be inconsistent with rates paid on general obligations of the United States.

Section 791.22(c) was revised as recommended in a comment to read "[i]n carrying out this responsibility, the Secretary may utilize employees of Federal agencies or may direct the borrower to submit to a review performed by an independent public accountant, licensed to practice by the regulatory authority of a State or other political subdivision of the United States." This reflects the Comptroller General's position concerning the conduct of audits of financial representations.

The Federal Financing Bank, in addition to other qualified lenders, is eligible to act as a primary lender for the loan guaranty transactions. In those cases where the Federal Financing Bank is used, loan servicing arrangements, satisfactory to both the Department of the Treasury and DOE, will be developed.

The regulations are adopted as proposed except for the changes noted above and other changes made to improve clarity. The regulations will become effective on or before June 12, 1978. However, the Department of the Interior and Related Agencies Appropriation Act for Fiscal Year 1978 (Pub. L. 95-74) requires that prior to implementation of certain loan guaranty programs, including this one, a specific provision permitting such implementation be provided. Accordingly, DOE will not accept applications for loan guaranties until such specific provision is enacted. At that time, public notification will be issued in an appropriate manner and the program will be implemented.

Further, on February 25, 1978, the President signed into law the DOE Act of 1978—Civilian Applications (Pub. L. 95-238), also known as the ERDA Authorization Act, section 603 of which contains amendments to the Act that would affect certain aspects of these regulations. Therefore, it is anticipated that amendments to these regulations will be forthcoming in the near future.

(Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, Pub. L. 93-413; Energy Reorganization Act of 1974, Pub. L. 93-438; Department of Energy Organization Act, Pub. L. 95-91.)

In consideration of the foregoing, Chapter III of Title 10 of the Code of Federal Regulations is amended by adding new Part 791 as set forth below.

Issued in Washington, D.C., May 9, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration, Department of Energy.

Subpart A—General Provisions

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AUTHORITY: Sec. 10, Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, Pub. L. 94-413; sec. 105(a) of the Energy Reorganization Act of 1974, Pub. L. 93-438; sec. 301(a) Department of Energy Organization Act, Pub. L. 95-91.

Subpart A—General Provisions

§ 791.1 Purpose.

The purpose of this regulation is to set forth policies and procedures under which lenders may obtain a Federal guaranty on loans to qualified borrowers for purposes related to the research, development, demonstration, and commercial production of electric or hybrid vehicles in an environmentally acceptable manner.

§ 791.2 Objectives.

The objectives of the Electric and Hybrid Vehicle Loan Guaranty Program are:

(a) To encourage and assist qualified borrowers to accelerate development, employing environmentally acceptable processes, of electric and hybrid vehicles for introduction into the Nation's transportation fleet;

(b) To assure that qualified small business concerns and other qualified borrowers are not excluded from participation in such development due to lack of adequate capital by enabling the Secretary of Energy to effectively reduce the lender's financial risk associated with new electric or hybrid vehicle technology; and

(c) To develop normal borrower-lender relationships which will, in time, encourage the flow of credit so as to assist in the continued development and production of electric and hybrid vehicles without the need for Federal guaranties.

§ 791.3 Definitions.

For the purposes of this regulation:

(a) "Aggregate net cost" means all project costs, less those costs excluded in paragraph (b) of § 791.22, "Project cost illustrations", and less any potential tax savings from investment tax credits and other tax benefits through the first year of operations;

(b) "Default" means the nonpayment of principal, interest, or user charge (if the user charge is passed to the borrower) by the borrower within the time period allowed in § 791.31, "Loan servicing by lender";

(c) "Electric vehicle" means a vehicle, which is powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and which may include a non-electrical source of power designed to charge batteries and components thereof;

(d) "Hybrid vehicle" means a vehicle, propelled by a combination of an electric motor and an internal combustion engine or other power source and components thereof;

(e) "Lender" means any individual, partnership, corporation, or other legal entity formed for the purpose of or engaged in the business of lending money and having the capability to have the loan serviced as required in § 791.31, "Loan servicing by lender". Examples of lenders may include, but are not limited to, commercial banks, savings and loan institutions, insurance companies, factoring companies, investment banking organizations, institutional investors, venture capital investment companies, trusts, or entities designated as trustees acting on behalf of bondholders or other lenders;

(f) "Production" means the conversion of raw materials into products and components or both through a series of manufacturing processes. Production is also characterized by the investment of capital for manufacturing equipment and facilities or both which will be recovered over time from planned product sales, and by the existence of provisions for product distribution and, when applicable, for product servicing. It includes the functions of production engineering, production control, quality assurance, and determination of resource requirements. It does not include product improvement of existing models, unless contemplated production is in commercial quantities, nor production of demonstration models only;

(g) "Program" means the Electric and Hybrid Vehicle Loan Guaranty Program;

(h) "Prototype" means a model suitable for evaluation of design, performance, and production potential of electric or hybrid vehicle technology and is capable of performing research and development or production of electric or hybrid vehicles or components thereof;

(i) "Qualified borrower" means any individual, partnership, corporation, or other legal entity having authority to enter into a loan agreement which, as determined by the Secretary, has presented satisfactory evidence of an interest in electric or hybrid vehicles or components thereof in an acceptable manner. A borrower seeking a guaranty must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Secretary determines that it satisfactorily meets all the requirements of Section 2 of the Shipping Act of 1916 (46 U.S.C. 802), for determining such citizenship, except that the provisions in Subsection (a) of such Section 2 concerning (1) the citizenship of officers or directors of a corporation, and (2) the equity interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable. The Secretary, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association in which controlling interest is owned by citizens of countries which are participants in the International Energy Agreement;

(j) "Research and development" means theoretical analysis, exploration, or experimentation directed toward increasing knowledge and understanding in those fields of the physical, engineering, and environmental sciences as they relate to electric or hybrid vehicles, or electric or hybrid vehicle component technology, including the experimental production and testing of models, devices, equipment, materials, and processes;

(k) "Secretary" means the Secretary of Energy; and

(l) "Small business concern" means an entity which satisfies the criteria established in 13 CFR 121.310, which generally defines a small business as one which is independently owned and operated; is not dominant in its field; and meets applicable employment and sales standards.

§ 791.4 Program management.

Program management responsibility is vested in the Chief, Demonstration and Incentives Branch, Division of Transportation Energy Conservation, Department of Energy, Washington, D.C. 20545. Specific questions regarding this regulation or electric and hybrid vehicle loan guaranties should be directed to the program manager.

§ 791.5 Eligible loans.

(a) The Secretary may enter into agreements to guaranty lenders against the loss of principal and accrued interest on loans made by such lenders to qualified borrowers. Any such agreements shall be made subject to the application of priorities and preferential considerations for guaranties as set forth in § 791.6, "Priorities", and § 791.7, "Preferential consideration", and also subject to the criteria in § 791.9, "Loan guaranty criteria". Such guaranty agreements may be entered into only for the purposes of:

(1) Construction or purchase of capital equipment related to research, development, and production of electric or hybrid vehicles or components thereof;

(2) Initial operating expenses associated with the development and production of electric or hybrid vehicles or components thereof;

(3) Prototype development for electric or hybrid vehicles or components thereof; or

(4) Research and development related to electric or hybrid vehicle technology.

§ 791.6 Priorities.

In complying with the objectives of the Electric and Hybrid Vehicle Loan Guaranty Program, the Secretary will invoke priorities for loan guaranty applications in the following order:

(a) First priority consideration will be given to those applications which directly relate to projects which will result in the early commercial production of electric or hybrid vehicles or components thereof.

(b) Second priority consideration will be given to those applications which are related to projects for the development of prototype electric or hybrid vehicles or components thereof.

(c) Third priority consideration will be given to those applications related to projects for research and development activities involving electric or hybrid vehicle technology.

§ 791.7 Preferential consideration.

Within each priority category described above, the Secretary shall give preferential consideration to qualified applicants in the following order:

(a) The borrower provides greater than 10 percent of the aggregate net costs;

(b) The lender is providing a portion of the project debt for which a guaranty is not requested, i.e., the lender does not require that 100 percent of the loan be guarantied;

(c) The Federal government will receive royalty payments or the planned project is based upon technology previously developed under federally sponsored research and development;

(d) The Federal government will receive the rights to the results of the project; or

(e) The applicant is a small business concern as defined in paragraph (1) of § 791.3, "Definitions".

§ 791.8 Ineligibility.

Applicants will not be considered for a loan guaranty if any of the following conditions prevail:

(a) A loan application meets the lender's standards without a Federal guaranty;

(b) An applicant is not a citizen or a national of the United States as defined in paragraph (i) of § 791.3, "Definitions";

(c) The project will not be performed in the United States, its territories or possessions; or on property owned or leased by the United States, its territories or possessions;

(d) The source of funds is derived directly or indirectly from an instrumentality which is financed mainly by borrowings in the tax exempt securities market; or

(e) The borrower is a public body whose borrowings associated with the project are tax exempt.

§ 791.9 Loan guaranty criteria.

In addition to meeting the requirements for eligibility set forth in § 791.5, "Eligible loans", a loan guaranty may be made only if the following conditions are met as determined by the Secretary:

(a) When proposals addressing only research and development efforts are submitted, the application is subjected to detailed review based on the policy for unsolicited research proposals in effect at DOE at the time the application is received. This review, which is to be completed prior to any consideration under this loan guaranty program, will consider, among other factors, the soundness of the proposed research effort, the plan by which it will be accomplished, the technical competence of personnel conducting the research, and a determination that the research is in fact original and does not duplicate existing projects;

(b) The loan is to be made only to a qualified borrower as defined in paragraph (i) of § 791.3, "Definitions";

(c) The loan is made by a lender as defined in paragraph (e) of § 791.3, "Definitions";

(d) Except as provided in § 791.43, "Other Federal assistance", the maximum amount of any guaranty shall not exceed 90 percent of the aggregate net cost of the project for which the loan is made. However, there is no prohibition against the guaranty being equal to 100 percent of the loan to be made by the lender;

(e) The lender has set forth reasons why the loan would not be made to the borrower without a Federal loan guaranty;

(f) There is satisfactory evidence that the lender is competent to administer loan terms and conditions, and is competent to administer the terms and conditions of the guaranty agreement that are applicable to the lender;

(g) When the maximum permissible guaranty is requested as stated in paragraph (d) of this section, the lender has set forth the reasons for being unwilling to undertake a loan having less than the maximum permissible guaranty;

(h) The loan bears interest at a rate not to exceed an annual percentage, on the principal obligation outstanding, as determined by the Secretary to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar government obligations of comparable risk;

(i) The terms of such loans require full repayment over a period not to exceed 15 years, or 75 percent of the expected average useful economic life of the major physical assets, or other collateral securing such loans, whichever is less;

(j) The amount of the loan, when combined with funds available to the qualified borrower from other sources, will be sufficient to carry out the project for which the loan is made;

(k) There is reasonable assurance of payment of interest and the guaranteed portion of the loan by the qualified borrower and the Secretary finds that sufficient collateral has been pledged by the borrower;

(l) The amount of the guaranty on any loan shall not exceed $3,000,000 principal unless the Secretary finds that a higher guaranty level for specific loan guaranties is necessary in order to carry out the purposes of Pub. L. 94-413;

(m) The total principal amount of guaranties made under this regulation, for any combination of outstanding loans for separate projects, to any single qualified borrower, may not exceed $6,000,000;

(n) The project is to be performed in the United States, its territories or possessions, or on property owned or leased by the United States, its territories or possessions;

(o) The project is believed to be technically feasible, uses environmentally acceptable processes and, if applicable, results in environmentally acceptable products;

(p) There is sufficient evidence that the borrower will initiate and complete the project in a timely, efficient, and acceptable manner and the borrower agrees that no material change of project ownership will occur without prior written consent of the Secretary;

(q) The terms and conditions set forth in the loan agreement are acceptable to the Secretary;

(r) The borrower and any lender having a nonguarantied loan with the borrower shall agree in writing that:

(1) The terms and conditions set forth in a nonguarantied loan agreement relating to the project shall be acceptable to the Secretary; and

(2) The guarantied loan shall not be subordinate to the nonguarantied loan and shall be in first lien position regarding all assets acquired or produced with the proceeds of the guarantied loan;

(s) No loan shall be guarantied by the Secretary under this regulation unless the Secretry finds that no other reasonable means of financing or refinancing is realistically available to the applicant;

(t) The borrower must show evidence of valid application to and rejection by lenders, or evidence of unreasonable terms proposed by lender(s); and

(u) The aggregate amount of guaranties outstanding at any one time under this regulation shall not exceed $60,000,000.

§ 791.10 Interest assistance.

With respect to any loan guarantied pursuant to this regulation, the Secretary may enter into an interest assistance contract with the borrower to pay the lender, on behalf of the borrower, the interest charges which

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become due and payable on the unpaid balance of any such loan if the Secretary finds:

(a) That the borrower is unable to meet interest payments, and that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such interest will be less than that which would result in the event of a default;

(b) The amount of such interest charges which the Secretary is authorized to pay is no greater than the amount of interest which the borrower is obligated to pay under the loan agreement; and

(c) The borrower has agreed to repayment of interest charges paid by the Federal Government, to the payment of any deferred user charge as provided in §791.32, "User charge", and to the payment of interest on such principal, interest, and deferred user charges, at an annual rate to be set by the Secretary and as stated in the interest assistance contract.

§791.11 Default payment.

In the event of default by a borrower, as defined in paragraph (b) of §791.3, "Definitions", with respect to any loan guarantied pursuant to this regulation, and except as provided in §791.10, "Interest assistance", and paragraph (b) of §791.31, "Loan servicing by lender", the Secretary will, as provided in §791.37, "Default and demand", make payment of principal and accrued interest in accordance with the terms and conditions of the guaranty contract. Thereupon, the Attorney General of the United States shall take such action as deemed necessary to recover the amounts of such payments including any obligations under paragraph (c) of §791.10, "Interest assistance", from such assets of the defaulting borrower as are associated with the project or as specified in the guaranty agreement, including patent and proprietary rights resulting from the project, as provided in §791.44, "Patent and proprietary rights", or from any other surety, security, collateral, guaranty, asset, or bond included in the terms of the guaranty. Any recovery achieved by the Attorney General, which exceeds the cost of recovery, amounts included in paragraph (c) of §791.10, "Interest assistance", and the amount paid to the lender including principal and interest on any nonguarantied portion, in accordance with the guaranty agreement of interest assistance contract, shall be returned to the borrower, unless the guaranty agreement provides otherwise.

§791.12 Period of guaranties and interest assistance.

No loan guaranty agreements will be made or interest assistance contracts entered into after September 17, 1981. Guaranty agreements in effect at that time will continue until the term of the loan is completed or until the guarantied portion of the loan is repaid in full with accrued interest, whichever occurs first. Interest assistance contracts in effect on that date will remain in effect thereafter until the contract term expires or the contract is terminated in accordance with its provisions.

Subpart B—Applications

§791.20 Filing.

Loan guaranty applications shall be filed in accordance with the following procedures:

(a) An application, in authorized format for a loan guaranty, must be signed by the prospective borrower and lender, or their authorized representatives, and jointly submitted to the Secretary.

(b) Prior to receipt of a loan guaranty application, the Secretary is authorized to conduct preliminary discussions with prospective borrowers or lenders, or both, who wish to obtain information or advice regarding eligibility for a loan guaranty, and requirements for compliance with filing instructions, including the submission of supporting information as illustrated in §791.21, "Supporting information".

(c) Subject to the requirements of law and this regulation, trade secrets, commercial information, financial information, and other data which the borrower or lender, or both, makes available to DOE during preliminary discussion, or at any other time during the project, and for which they claim privilege or confidentiality, will be so treated by DOE. Information deemed to fall into one of the foregoing categories shall be clearly marked or otherwise appropriately identified to DOE by the borrower or lender, or both.

§791.21 Supporting information.

The applicant shall provide information in support of the application such as prescribed by the Secretary.

(a) The following items illustrate the range of information which may be required, dependent upon the type, complexity, and cost of the project:

(1) Full description of the scope, nature, extent, and location of the proposed project;

(2) A description of the project's technical and economic feasibility;

(3) A description of the borrower's organization and a copy of the business certificate, partnership agreement or corporate charter, by-laws, and appropriate authorizing resolutions;

(4) Evidence of the borrower's previous and current interest in electric or hybrid vehicles, or related technologies;

(5) Evidence supporting the borrower's ability to complete the project;

(6) A description of the borrower's management concept and business plan, or plan of operations to be employed in carrying out the project;

(7) Information covering the management experience of each officer or key person in the borrower's organization who is to be associated with the project;

(8) A description of salaries and other financial remuneration, including profit sharing and stock options, to be paid to officers and employees of the borrower who are, or will be, directly associated with the project;

(9) Evidence showing that the amount of the loan, together with equity or other financing, will be sufficient to carry out and complete the project;

(10) A detailed, budget-type cash flow breakdown of both the estimated cost of the project and the amount to be borrowed;

(11) The past financial history of the firm, including financial statements and projections as to the firm's future financial status;

(12) A listing of assets associated or to be associated with the project, including appropriate data as to the value and useful life of any physical assets; financial statements of any party or firm that will guaranty the repayment of indebtedness; and a description including the value of any other associated security;

(13) The borrower's plan of interest charge payments and principal repayment;

(14) The borrower's assumptions regarding marketability of the project's results or product;

(15) The original aggregate amount of any previous or currently outstanding guaranty commitments or guarantied loans, or both, made to the borrower under the provisions of this regulation;

(16) A description of other Federal financial assistance (e.g., direct loans, guarantied loans, grants, contracts) available or expected to be made available to the borrower in connection with the project;

(17) A description of the intended sources and amount of capital and its form (equity, loans from principals, loans from the lender, outside financing, factoring, etc.) together with evidence of a commitment from these sources, a copy of each such agreement, and evidence of the financial ability of each source to honor its commitment;

(18) A written affirmation by the lender supporting the necessity for a Federal loan guaranty;

(19) The lender's written assessment of all aspects of the borrower's loan application, in sufficient detail as would be completed by any prudent lender considering a loan without a guaranty, together with copies of investigations from credit bureaus, references, bank inquiries, and professional organizations;

(20) Written assurance from guarantied and, when appropriate to the project, nonguarantied lenders that the loan amounts, as well as terms and conditions imposed by such lenders, will not be altered in any significant respect without prior approval of the Secretary;

(21) The amount and maturity of the loan, and the percentage of the aggregate net cost to be guarantied;

(22) Interest rate to be charged by the lender;

(23) A copy of the loan agreement executed by the borrower and lender;

(24) Copies of all applications, when filed, and approvals when issued by Federal, State, and local government agencies, for permits and authorizations to conduct operations associated with the project;

(25) A description of the processes and methods the borrower plans to utilize so as to comply with acceptable environmental considerations; and

(26) A written affirmation by the borrower that he will adhere to Equal Employment Opportunity policies throughout the life of the project.

(b) In addition to supporting information illustrated in paragraph (a) of this section, the Secretary may independently obtain, or may require the lender to include with the guaranty application, information regarding the lender as deemed necessary by the Secretary, including but not limited to:

(1) Description of the lender's organization and a copy of the business certificate, partnership agreement or corporate charter, by-laws, and appropriate authorizing resolutions;

(2) Copies of investigations obtained from credit bureaus, references, inquiries, and professional associations;

(3) Information covering the management experience of each officer or key person in the lender's organization who is or will be associated with the loan;

(4) A description of the management concept to be employed by the lender in administration of the loan; and

(5) When appropriate to the project, evidence of the lender's experience in surveying the financial aspects of new technology projects.

(c) The Secretary shall review the application and other relevant information and shall be responsible for:

(1) Determining whether the application is in compliance with all applicable provisions of this regulation;

(2) Assessing and evaluating the financial, technical, environmental, management, marketing, and legal aspects of the project; and

(3) Approving or disapproving of the application.

(d) The Secretary will provide the borrower and lender with a written statement setting forth the basis for the Secretary's disapproval of an application.

§791.22 Project cost illustrations.

The cost elements set forth in paragraphs (a) and (b) of this section are only for the purpose of illustrating the manner by which the estimated aggregate net cost of the project, before subtracting tax savings as described in paragraph (a) of §791.3, "Definitions", may be determined. It is expected that costs will be accumulated in accordance with generally accepted accounting principles and practices which are consistently applied.

(a) Except as set forth in paragraph (b) of this section, reasonable and customary costs paid by the borrower that are directly connected to the project are generally permitted in computing the estimated aggregate net cost. These costs include, but are not limited to:

(1) Costs incurred by the borrower prior to approval of the guaranty agreement that are directly connected with the project;

(2) Professional services and fees necessary to obtain licenses and permits and to prepare environmental reports and data;

(3) Financial and legal services costs;

(4) Costs to provide safety and environmental protection equipment, facilities, and services;

(5) Fees for royalties and licences negotiated through "arms length" transactions;

(6) Bond financing costs and trustee fees;

(7) Any current or fixed assets directly related to the project including cash reserves and other forms of working capital;

(8) Taxes to be paid to Federal, State, and local government agencies, and other taxing authorities;

(9) Research and development necessary to complete the project;

(10) Employees' salaries and wages, consultant fees, and other outside assistance;

(11) Travel and transportation costs;

(12) Necessary and appropriate insurance and bonds of all types;

(13) Interest costs and other normal charges affixed by the lender;

(14) Interest payments to other lenders;

(15) Other normal operating expenses, such as production costs, building costs, plant equipment, and machinery; and

(16) Costs to comply with terms and conditions specified in the guaranty agreement or required by regulations and issuances by Federal, State, and local government agencies.

(b) Costs which are not considered as allowable project costs include, but are not limited to, the following:

(1) Company organizational expenses;

(2) Parent corporation general and administrative expenses and other parent corporation assessments;

(3) Dividends and profit sharing to stockholders, officers, and employees;

(4) Goodwill, franchises, or trade or brand name costs;

(5) Except as provided in §791.32, "User charge", fees and commissions charged to the borrower for obtaining Federal assistance;

(6) Finder's fees;

(7) Expenses not paid or incurred by the borrower; and

(8) Costs that are excessive or are not directly required to carry out the project as determined by the Secretary.

(c) The Secretary may initiate a review of any or all cost elements included by the borrower in the estimated aggregate net cost. The borrower shall make available records and other data necessary to permit the Secretary to carry out such review. In carrying out this responsibility, the Secretary may utilize employees of Federal agencies or may direct the borrower to submit to a review performed by an independent certified public accountant, or by an independent public accounting, licensed to practice by the regulatory authority of a State or other political subdivision of the United States.

(d) When costs incurred prior to the approval of the guaranty agreement, as provided in paragraph (a)(1), of this section, are included in the estimated aggregate net cost, and when requested to do so by the Secretary, the borrower will make available to auditors selected by the Secretary, financial and other records necessary to complete and audit of such costs.

§791.23 Mandatory purchase of flood insurance.

The Flood Disaster Protection Act of 1973, Pub. L. 92-234, may require purchase by the borrower of flood insurance as a condition of receiving a guaranty on loans for acquisition of real estate or construction purposes in an identified flood plain area having special flood hazards. Questions emanating from borrowers or lenders regarding compliance with provisions of the Flood Disaster Protection Act and guidelines should be referred to the Department of Housing and Urban Development's Federal Insurance Administration. When the purchase of flood insurance is required, such costs can be included by the borrower in the estimated aggregate net cost.

Subpart C—Closing and Servicing

§791.30 Closing.

The major activities leading to the closing of the guaranty agreement include the following:

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(a) When an application for a loan guaranty has been approved by the Secretary, the Secretary will so notify the borrower and the lender and provide them with a copy of the approved guaranty agreement.

(b) A preclosing conference will be arranged by the Secretary, if the borrower or lender, or both so request, to discuss the terms and conditions contained in the guaranty agreement.

(c) Requests by the borrower or lender, or both for modification of the terms and conditions set forth in the guaranty agreement shall be submitted to the Secretary, supported by such documentation and facts as would justify the requests.

(d) Immediately after a determination has been made on requested modifications and after agreement to terms and conditions has been reached, the Secretary shall arrange with the borrower and the lender for the preparation and review of necessary documents, and agree upon a date for execution of the guaranty agreement and payment of the user charge. In accordance with § 791.32, "User charge", payments shall be made at the time each disbursement is made and on the anniversary date of closing, or at other intervals to be determined by the Secretary.

§ 791.32 Loan servicing by lender.

Loan guaranty agreements approved in accordance with this regulation shall provide that:

(a) The lender shall exercise such care and diligence in the disbursement, servicing, and collection of the loan as would be exercised by a prudent lender in dealing with a loan without guaranty.

(b) The loan agreement shall provide a period of grace of sixty days for the making of any payment of principal or interest. The lender shall not grant to the borrower any further extension of time over and above the specified period of grace for the making of any payment in whole or in part under the loan agreement without the prior written consent of the Secretary. This consent will be readily granted and it will be the policy of the Secretary to extend the full support of DOE to lenders and borrowers who earnestly attempt to rectify default situations and salvage worthwhile projects. Should such attempts fail, the lender retains the option to call default. However, where remedial actions are successful, the lender's right to call default ceases when payments become current.

(c) The lender shall notify the Secretary in writing without delay;

(1) That the first disbursement is ready to be made, together with evidence from the borrower that the project has commenced or is about to commence;

(2) The amount and date of each subsequent disbursement under the loan;

(3) Of any nonpayment by the borrower of principal or interest as required by the loan agreement, if such nonpayment is not rectified within the grace period, together with evidence of appropriate notifications made by the lender to the borrower;

(4) Of any failure, known to the lender, by an intended source of capital to honor its commitment;

(5) Of any failure by the borrower, known to the lender, to comply with material terms and conditions as set forth in the loan agreement or guaranty agreement; or

(6) When the lender has reason to believe that the borrower may not be able to meet any future scheduled payment of principal or interest.

(d) The lender will not release to the borrower any disbursements without the written authorization of the Secretary.

(e) The lender will not withhold from the borrower any authorized disbursements without the written authorization of the Secretary.

(f) If the loan agreement so provides, the guaranty agreement shall permit the borrower to defer payments of principal until such time that income from the project is sufficient to meet this obligation.

(g) Lenders will pass on to the Secretary periodic reports from the borrower on the status and condition of the loan guarantied under this regulation. The Secretary will prescribe the frequency, format, and content of such statements. However, a report on each loan guaranty agreement entered into under this regulation shall, as a minimum, be submitted to the Secretary annually. The initial report will be submitted 60 days after the borrower's year-end closing. Reports will be furnished to the Secretary until such time as the guarantied portion of the loan or interest assistance is repaid.

(h) The lender will perfect and maintain all necessary first liens on assets associated with or pledged to secure the loan.

§ 791.32 User charge.

User charges imposed on the guarantied portion of the loan are computed at a rate of one percent per annum on the estimated outstanding balance. Payments of the user charge will be made by the lender at the time each disbursement is made and annually on the anniversary date of closing, or at other intervals to be determined by the Secretary. The user charge will be collected from the lender and used for the purposes of defraying the cost of administration and possible Federal loss associated with the program. The user charge may be passed from the lender to the borrower, and in such instances, may be included in the aggregate net cost. If interest assistance is in effect, payments of this charge, if passed from the lender to the borrower, may be deferred for the term of the interest assistance contract.

§ 791.33 Project monitoring.

The guaranty agreement shall provide that authorized employees and representatives of DOE shall, with the Secretary's approval, have access to the project site. The lender and the borrower, to the extent lawful and within their control, will assure availability of information related to the project as is necessary to permit the Secretary to determine technical progress, soundness of financial condition, management stability, compliance with the environmental protection requirements, and other matters pertinent to the guaranty.

§ 791.34 Loan disbursements by lender.

Unless otherwise provided in the guaranty agreement, the lender shall not make any disbursement on the loan until:

(a) Notification requirements as set forth in § 791.31, "Loan servicing by lender", have been accomplished; and

(b) Satisfactory documentary evidence, as provided in § 791.35, "Satisfactory documentary evidence", has been received.

§ 791.35 Satisfactory documentary evidence.

The borrower shall furnish to DOE, through the lender, a written statement in support of each request by the borrower for loan disbursements setting forth, in such detail as the lender or Secretary may require, the purposes for which disbursement is requested and an attestation that such disbursements will be used only for such purposes. At the time of the first request for disbursement, the borrower will also attest, in writing, that all capital from all sources, other than those guarantied by the Secretary, has been received. Signature on the requesting document shall be made by a person authorized to order the expenditure of the borrower's funds.

§ 791.36 Withdrawal of guaranty.

The Secretary shall not authorize disbursements pursuant to any guaranty agreement and shall notify the borrower and the lender of the withholding of disbursements if he finds that any of the following conditions exists:

(a) Initiation of activity on the project has not occurred within the period of time set forth in the guaranty agreement;

(b) There is failure by the borrower to acquire capital from intended sources, and the borrower is unable to acquire alternate sources within a reasonable time as may be approved by the Secretary;

(c) The borrower has failed to comply with any material term or condition set forth in the guaranty or loan agreement, in which case the Secretary shall notify the borrower and the lender that the guaranty shall be reduced to the amount that has been disbursed by the lender as of the date of the notice. Disbursements made by the lender after such notification is received will not be covered by a guaranty; or

(d) The lender has failed to comply with any material term or condition set forth in the guaranty or loan agreement. Notice of the Secretary's finding that any material term has not been complied with shall be served by the Secretary upon the borrower and the lender. Following notification, the borrower will be allowed reasonable time to acquire a substitute lender that is capable of complying with the provisions in this regulation. If the borrower obtains a substitute lender satisfactory to the Secretary, a new guaranty agreement will be negotiated. Upon issuance of the new guaranty to the substitute lender, the original lender shall be reimbursed by the borrower for unpaid principal and accrued interest. In any event, excluding fraud, misrepresentation, or gross negligence, the first lender shall be reimbursed for unpaid principal and accrued interest.

§ 791.37 Default and demand.

If the borrower defaults in making payment of principal, interest, or user charge (if the user charge is passed to the borrower), and the lender calls the loan and has complied with the requirements placed on it as set forth in § 791.31, "Loan servicing by lender", and § 791.34, "Loan disbursements by lender", the lender may make demand in writing upon the Secretary for payment pursuant to the guaranty, subject to the conditions described in paragraphs (a), (b), and (c) of this section.

(a) The Secretary shall, pursuant to the provisions of § 791.10, "Interest assistance", determine whether an interest assistance contract shall be executed. In the event that interest assistance is not warranted, the Secretary shall so notify the borrower and the lender. The lender shall make available without delay such documents and certifications, as the Secretary may reasonably require, evidencing the lender's compliance with notification provisions of the guaranty agreement.

(b) Upon default by the borrower and notification by the lender:

(1) The Secretary shall pay to the lender in full or on a proportionate basis, in accordance with the guaranty agreement, the guarantied amount of unpaid principal and accrued interest outstanding at the date of demand by the lender. Such payment will normally be made within sixty days; and

(2) During the period beginning from the date of demand and until payment is made by the Secretary, interest payable by the United States will accrue on the guarantied debt at a rate to be determined by the Secretary.

(c) The lender shall, concurrently with payment in full of all amounts guarantied by the United States, assign to the United States and transfer and deliver to the Secretary the loan documents, together with all collateral documents evidencing any and all security for any guaranties of the loan then held by the lender as set forth in the loan or guaranty agreement.

§ 791.38 Security with respect to borrower's assets.

Each loan guarantied under this regulation will be secured by liens or assignments of rights in assets associated with the project, or such other security specified in the guaranty agreement as may be reasonably required to protect the interests of the United States. Upon default by the borrower, as set forth in § 791.11, "Default payment", the Attorney General shall seek recovery from the assets that are associated with the project or specified in the guaranty agreement.

§ 791.39 Preservation of collateral.

Upon default by the borrower, the holder of collateral associated with the project shall take such actions as the Secretary may reasonably require to provide for the care, preservation, and maintenance of such collateral so as to achieve maximum recovery upon liquidation of collateral, security, and guaranties for the loan. Except as provided in § 791.37, "Default and demand", and § 791.41, "Assignment and incontestability", the lender shall not waive or relinquish, without the consent of the Secretary, any collateral or guaranty for the loan to which the Government would be subrogated upon payment under the guaranty agreement to the lender.

§ 791.40 Treatment of payments.

When the lender holds a guarantied and nonguarantied portion of a loan, payments of principal made by the borrower in accordance with the loan agreement shall be applied by the lender to reduce the guarantied and nonguarantied portions of the loan on a basis that reflects the proportions which the guarantied and nonguarantied portions bear to the total loan.

§ 791.41 Assignment and incontestability.

Except as may be required by law, the lender may assign to another lender rights and obligations under the loan or guaranty agreement only with the prior written consent of the Secretary or as follows:

(a) The lender may provide other lenders with participating shares in the loan without the prior consent of the Secretary. Written notice shall be given by the lender to the Secretary when participating shares are so provided. However, the original lender shall continue to be responsible for and perform the provisions of the guaranty agreement pertaining to the lender, unless the Secretary approves a substitute lender; and

(b) The guaranty agreement shall be conclusive evidence that the guaranty and the underlying loan are in compliance with the provisions of this regulation, and that such loan has been approved and is legal as to principal, interest, and other material loan terms. Such a guaranty shall be valid and incontestable by the Government, except for fraud or misrepresentation by the holder of the obligation.

§ 791.42 Survival of guaranty agreement.

The guaranty agreement shall be binding upon the lender, the borrower, the Secretary, and upon their successors and assignees. No delay or failure of the Secretary in the exercise of any right or remedy and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof; and no action taken or omitted by the Secretary shall be deemed a waiver of any such right or remedy.

§ 791.43 Other Federal assistance.

Nothing in this regulation shall be interpreted to deny or limit the borrower's right to seek and obtain other Federal financial assistance (e.g., contracts, grants, direct loans or guarantied loans) providing:

(a) The total amount of Federal financial assistance, including guaranties made under this regulation, obtained by the borrower for the project, shall not exceed 90 percent of the estimated aggregate net cost of the project to be undertaken by the borrower; and

(b) After closing of the loan guaranty agreement, the borrower will not undertake any work in connection with the project, by contract or grant, for a Federal agency without the Secretary's written finding that performance of the work will not adversely affect the borrower's ability to comply with pertinent terms and conditions in the loan and guaranty agreement.

§ 791.44 Patent and proprietary rights.

Patents and other proprietary rights accruing to the borrower and resulting from the project will remain with the borrower, except:

(a) Such rights shall be, in the case of default, treated as project assets in

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accordance with the terms and conditions in the guaranty agreement.

(b) The guaranty agreement may provide that patents or other proprietary rights utilized in, or resulting from, the project, which are owned or controlled by the borrower, shall be made available to other domestic parties, upon reasonable terms and conditions which protect the confidentiality of information, if such action is determined by the Secretary to be in the public interest.

§ 791.45 Appeals.

All decisions by the Secretary relating to disputes arising under a guaranty agreement or loan agreement, made under and entered into pursuant to this regulation, shall be in writing. The borrower or lender, as applicable, may request the Secretary to reconsider any such decision. If not satisfied with the final decision made by the Secretary, the borrower or lender, upon receipt of such written decision, may appeal the decision within 30 days, in writing, to the Chairman, Board of Contract Appeals, Department of Energy, Washington, D.C. 20545. That Board, when functioning to resolve such loan guaranty disputes, shall proceed in the same general manner as when it presides over appeals involving contract disputes. The decision of the Board with respect to such appeals shall be the final decision of DOE.

[FR Doc. 78-13017 Filed 5-11-78; 8:45 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Revision of Commodity Control List

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This revision places off-highway wheel tractors of carriage capacity 10 tons or more, and parts and accessories therefor, under validated license control to Libya. Previously, these commodities could be exported to this destination under the provisions of general license G-DEST, i.e., no license application was required to be submitted to the Office of Export Administration and no license document issued. The Office of Export Administration now requires individual applications so that proposed transactions can be reviewed to determine whether they would be in the foreign policy interests of the United States.

EFFECTIVE DATE OF ACTION: May 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

Accordingly, the Commodity Control List, incorporated by reference at 15 CFR 399.1(a), is revised to add the following entry:

• • • • •

Export control commodity number and commodity description	Unit	Processing code	Validated license required	CLV dollar value limits		
				T	V	Q
6490F Off/highway wheel tractors of carriage capacity 10 tons or more; and parts and accessories, n.e.s.	.....	MG	SZ and Libya.....	—	—	—

• • • • • • • • •

(Sec. 4, Pub L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; EO 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: May 9, 1978.

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-13024 Filed 5-9-78; 4:58 pm]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5929]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

Guide for Reports or Memoranda Concerning Registrants

AGENCY: Securities and Exchange Commission.

ACTION: Publication of amended guide.

SUMMARY: The Commission has authorized publication of an amendment to the guide for preparation and filing of registration statements which requires certain reports or memoranda concerning the registrant to be furnished to the staff as supplemental information in connection with submission of a registration statement. The amendment responds to a need for clarification of the guide and also relaxes the requirements of the guide in certain instances.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Catherine C. Scanlon, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C., 202-755-1998.

SUPPLEMENTARY INFORMATION: The Commission has authorized publication of an amendment to Guide 42, "Reports or Memoranda Concerning the Registrant," of the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933[1] (15 U.S.C. 77a et seq.). The Guides are not Commission rules nor do they bear the Commission's official approval; they represent policies and practices followed by the Division of Corporation Finance in administering the disclosure requirements of the Securities Act of 1933 (the "1933 Act").

Guide 42 relates to the submission of supplemental material to the staff in connection with the filing of a registration statement under the 1933 Act. The guide indicates in general the particular types of material the Division

[1]Securities Act Release No. 4936, December 9, 1968 (33 FR 18617), as amended.

believes should be submitted. Guide 42 material serves two purposes: that of providing the staff with materials which assist in its review of 1933 Act registration statements; and that of enabling the staff to consider whether "gun-jumping" activities may have taken place.[2]

The Commission authorized the Division to solicit comments on the possible clarification or amendment of Guide 42 in Securities Act Release No. 5834, June 13, 1977 (42 FR 31458). That release requested comments specifically on several possible avenues for amendment as well as generally on the need for clarification of the intended operation of the guide. While Release No. 33-5834 did not include a proposed text for comment thereon, the Commission has authorized publication of these amendments because (1) the guide is not a Commission rule and therefore notice publication and opportunity for comment are not required under the Administrative Procedure Act (5 U.S.C. 553), (2) notice and opportunity to comment have already been provided with respect to the points pertinent to the amendment of the guide, and (3) the amendments of the Guide represent a relaxation of the provisions.

A discussion of the amendments published today, the points raised in Release No. 33-5834 and the comments received thereon follows, but attention is directed to the text of the amended Guide 42 for a more complete understanding.

SUMMARY OF AMENDED GUIDE 42 PROVISIONS

Guide 42 as amended in this release provides that the Division be furnished supplementally the following materials in connection with a registration statement filed under the 1933 Act:

(a) Where the registrant does not meet the conditions for the use of Form S-7 (17 CFR 239.26), the provisions of clause one of the first paragraph of Guide 42 remain unchanged. That clause calls for furnishing of any engineering, management or similar reports or memoranda relating to the broad aspects of the business, operations or products of the registrant prepared during the previous twelve months for or by the registrant, certain principal security holders or any principal underwriter. The amendment makes an exception, however, if the subject materials are comprised solely of recommendations[3] which have not changed within the past six months or of information already contained in documents filed with the Commission.

(b) Where the registrant meets the conditions for the use of Form S-7, the amendments provide that only the materials relating to policing of "gun-jumping" (see (c) below) or to specified business transactions (see (d) below) need be furnished.

(c) "Clause two," the portion of the first paragraph of Guide 42 relating to furnishing materials to assist in consideration of possible "gun-jumping" problems, remains unchanged, but appears in sub-paragraph (c) of the amended guide.[4]

(d) A provision has been added as sub-paragraph (d) to make clear that the guide contemplates furnishing any feasibility studies, management analyses, "fairness" opinions or similar reports prepared by or for any party to a merger, consolidation, reclassification, acquisition of assets, exchange or tender offer or similar transaction.

Paragraph two of the guide has been amended to provide that, upon request and where consistent with the protection of investors and with the Freedom of Information Act (5 U.S.C. 552), the staff will return materials furnished pursuant to Guide 42 to the furnishing party upon completion of review of the contents of such materials. This provision, which is similar to that contained in the Instruction to Item 1(c)(1) of the recently adopted Regulation S-K (17 CFR Part 239),[5] responds to concerns about confidentiality and possible competitive harm expressed by a number of commentators.

DISCUSSION OF CHANGES SUGGESTED BY COMMENTATORS

Comments were received from 20 interested parties on Release No. 33-5834. The amended Guide 42 reflects a number of changes made as a result of such comments.

I. EXCEPTION FOR MATERIALS PREPARED IN THE ORDINARY COURSE OF BUSINESS

It has come to the Division's attention that Guide 42's requirement of submission of "any • • • report or memorandum relating to broad aspects of the business • • • of the registrant"[6] was being interpreted by some registrants and their counsel to include an exception for reports prepared by an underwriter in the ordinary course of business, prior to knowledge of the offering or of participation therein and not distributed after acquisition of such knowledge. As a result, the Division solicited comments in Release No. 33-5834 as to whether such an exception would be warranted, whether and how it could be drafted and defined with sufficient specificity, and whether full disclosure might be affected as a result.

Most commentators favored such an exception. However, there was no consensus as to either the general breadth of the exception or the specific items which should be included within such an exception. This lack of consensus and the imprecise or subjective nature of many of the suggested definitions and criteria indicated to the Division the questionable utility of enumerating included or excluded materials or establishing specific criteria or definitions. The Division noted, however, the consensus in favor of a relaxation of Guide 42 and the consensus of reasons advanced for a relaxation. These reasons included doubt that all materials required to be submitted under the guide actually aided staff review of registration statements; doubt that Guide 42 originally was intended to be as broad in scope as the Division has interpreted it to be; doubt that the possible benefit to investors from submission of all materials without exception outweighs the burden imposed on registrants and underwriters; and an observation that much of the material proposed to be excepted is already public.

The Division agrees that Guide 42 no longer needs to be as broad in scope as it has been. However, rather than an attempt to develop a list of exceptions, the Guide has been amended to classify issuers, based on the amount of information generally available about their activities. Accordingly, different provisions are applied depending on whether the registrant meets the conditions for the use of Form S-7. This approach will permit a great number of registrants to submit only information relating to possible "gun-jumping" or to specified business transactions. The Division believes that in the case of less seasoned registrants, however, the benefits of submission of other materials outweighs the burden.

Even registrants not meeting the Form S-7 conditions will be exempted from submitting any materials solely comprised of recommendations, so long as the recommendations have not changed in the previous 6 months, and from submitting information already publicly available in documents filed with the Commission. These two types of material, which are already identifiable and definable, are not necessary for review assistance and therefore

[2]The first and second clauses, respectively, of paragraph one of existing Guide 42 address these two purposes.

[3]The term recommendation in this context is limited to brief recommendations where the substance is no more than to buy, sell or hold any securities of the registrant.

[4]In accordance with usual practice, registrants and underwriters should also continue to advise the staff of recent newspaper or magazine articles or similar publications about the registrant which may have had the effect of preconditioning of the market for the securities to be registered.

[5]See Securities Act Release No. 5893, December 28, 1977 (42 FR 65554).

[6]Securities Act Release No. 4936, December 9, 1968 (33 FR 18617) at 42.

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need not be submitted unless they come within the provision of subparagraph (c) of the amended guide.

II. EXCEPTION FOR RULE 138 (17 CFR 230.128) AND RULE 139 (17 CFR 230.139) MATERIALS

Comments were sought as to the advisability of a specific exception in Guide 42 for materials permitted to be used under the conditions specified in Rules 138 and 139 under the 1933 Act. Most commentators favored such an exception, particularly if other exceptions were not adopted.

Use of Rules 138 and 139 material by definition does not constitute "gun-jumping," and does not come within the ambit of subparagraph (c) of the amended guide. Such material is deemed to consist solely of recommendations for Guide 42 purposes, and will not come within subparagraph (a) of the amended guide unless the recommendations have changed in the previous 6 months. Accordingly, the Division does not believe a specific exception for Rules 138 and 139 material is necessary.

III. DISTINCTION AMONG UNDERWRITERS' DUTIES

In its effort to investigate possible avenues for relaxation of Guide 42's requirements, the Division suggested that a distinction might be made between managing underwriters and other members of the underwriting group and that only the former should be required to comply with the guide.

Most commentators opposed this distinction because they failed to see adequate basis for it. Because of the other amendments to the Guides and in light of the comments in opposition to this suggestion, the Division has determined that the guide will continue to apply to principal underwriters as defined in Rule 405 (17 CFR 230.405) under the 1933 Act.[1]

IV. SHORTENING OF TIME PERIOD

Almost all commentators who addressed Guide 42's 12-month period of coverage advocated shortening this period. Some, however, were in favor of a shortening of the period only if other substantive exceptions or relaxations were not adopted. No consensus on a more appropriate period emerged from the commentators' suggestions.

The Division believes that 12 months is an appropriate time period for issuers which do not meet the conditions for the use of Form S-7. In light of this, and the substantial relaxations being made in the guide's provisions, the Division has determined that no change in the time period is warranted.

V. COMPLIANCE RESPONSIBILITY

In order to assure that there is an understanding as to who bears the responsibility for compliance with the guide, the Division requested comment on this subject. Most commentators who addressed the point seemed to agree that each party covered by the guide, registrant, selling shareholders and principal underwriters, should be responsible for submission of materials which it prepared or had prepared. Accordingly, no further clarification of this point appears necessary at this time.

VI. NO DISTRIBUTION AFTER KNOWLEDGE OF OFFERING; DUAL PURPOSES OF GUIDE 42

Guide 42 has two purposes in requiring certain materials to be submitted: (1) assistance to the staff in registration statement review; and (2) determination of possible gun-jumping activities. The Division sought to determine whether these two distinct functions were sufficiently understood and whether those provisions of Guide 42 (clauses one and two, respectively, of paragraph one thereof) which specified the materials necessary to satisfy the two purposes were being complied with are not confused.

The comments received on this issue indicate that the distinct purposes are well understood and that no amendment or clarification of the gun-jumping portion of the guide, now sub-paragraph (c) of the amended guide, appears necessary.

TEXT OF AMENDED GUIDE

The text of the amended Guide 42 is as follows:

42. *Reports or Memoranda Concerning the Registrant.*

(1) The following should be furnished to the Division as supplemental information prior to any pre-filing conference or, if none, at the time of filing the registration statement or as soon as practicable thereafter:

(a) In the case of a registration statement filed under the Securities Act of 1933 by a registrant not meeting the conditions for the use of Form S-7, any engineering, management or similar reports or memoranda relating to broad aspects of the business, operations or products of the registrant which have been prepared within the past twelve months for or by the registrant, any security holder named in answer to Item 19(a) of Form S-1, or any principal underwriter, as defined in Rule 405, of the securities being registered (reports solely comprised of recommendations to buy, sell or hold registrant's securities, unless such recommendations have changed within the past 6 months, and/or of information already contained in documents filed with the Commission are excepted from this paragraph);

(b) In the case of a registration statement filed by a registrant which meets the conditions for the use of Form S-7, only those reports or memoranda called for by sub-paragraphs (c) and (d) of this guide;

(c) In all cases, any reports or memoranda which have been prepared for external use by the registrant or a principal underwriter in connection with the proposed offering;

(d) In the case of a registration statement relating to a reclassification of securities, merger, consolidation, acquisition of assets, exchange offer, tender offer or similar transaction, any feasibility studies, management analyses, fairness opinions or similar reports prepared by or for any of the parties to the subject transaction in connection with such transaction.

(2) There should also be furnished at the same time a statement as to the actual or proposed use and distribution of such report or memorandum. Such statement should identify each class of persons who have received or will receive the report or memorandum, and state the number of copies distributed to each such class. If no such report or memorandum has been prepared, the Division should be so informed in writing at the time the report or memorandum would otherwise have been submitted. Upon request made at the time of submission of materials pursuant to this guide and where consistent with the protection of investors and with the Freedom of Information Act (15 U.S.C. 552), the supplemental information furnished in response to this guide will be returned to the person who furnished it.

AUTHORITY

The Commission hereby authorizes the publication of amended Guide 42, "Reports or Memoranda Concerning the Registrant," pursuant to the Securities Act of 1933, particularly Sections 5, 7 and 10 thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 5, 1978.

[FR Doc. 78-13062 Filed 5-11-78; 8:45 am]

[1] Rule 405 defines a principal underwriter as "an underwriter in privity of contract with the issuer of the securities as to which he is underwriter, the term 'issuer' having the meaning given in Sections 2(4) and 2(11) of the Act."

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart B—Redelegations of Authority From the Commissioner of Food and Drugs

INSULIN REGULATIONS

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority regarding issuance of insulin regulations. The Director and Deputy Director of the Bureau of Drugs and the Assistant Director for Regulatory Affairs of that Bureau are being delegated this authority as a means of expediting the publication of insulin regulations in the FEDERAL REGISTER.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: A new § 5.74 is being established authorizing the Director and Deputy Director of the Bureau of Drugs and the Assistant Director for Regulatory Affairs of that Bureau to issue, amend, or repeal regulations governing drugs containing insulin.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended by adding new § 5.74 to read as follows:

§ 5.74 Issuance, amendment, or repeal of regulations pertaining to drugs containing insulin.

The Director and Deputy Director of the Bureau of Drugs and the Assistant Director for Regulatory Affairs of that Bureau are authorized to perform all of the functions of the Commissioner of Food and Drugs under section 506 of the Federal Food, Drug, and Cosmetic Act regarding the issuance, amendment, or repeal of regulations pertaining to drugs containing insulin.

Effective date: This regulation shall be effective May 12, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: May 5, 1978.

JOSEPH P. HILE,
Associate Commissioner For Regulatory Affairs.

[FR Doc. 78-12963 Filed 5-11-78; 8:45 am]

[4110-03]

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Commissioner of Food and Drugs, et al.

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority and organization. Reorganizations within the Public Health Service and the Food and Drug Administration and corresponding amendments to delegations of authority require these revisions. The amendments are intended to clarify the new organizational and authority structure.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: As a part of the reorganization of the Public Health Service (PHS), published in the FEDERAL REGISTER of December 2, 1977 (42 FR 61317), the Assistant Secretary for Health, in the FEDERAL REGISTER of December 20, 1977 (42 FR 63821), revoked all existing delegations of authority relating to Public Health Service programs and delegated them to the Deputy Assistant Secretary for Health-Programs. The Deputy Assistant Secretary concurrently redelegated all authority back to PHS agency heads; § 5.1 (21 CFR 5.1) is being amended to reflect that change.

Additionally, § 5.100 (21 CFR 5.100) is being amended to reflect changes in the organizational structure made by reorganizations in the Office of the Commissioner of Food and Drugs (published in the FEDERAL REGISTER of April 18, 1978 (43 FR 16418)), Bureau of Biologics (published in the FEDERAL REGISTER of October 18, 1977 (42 FR 55653)), Bureau of Foods (published in the FEDERAL REGISTER of January 6, 1978 (43 FR 1136)), and Executive Director of Regional Operations (published in the FEDERAL REGISTER of November 9, 1977 (42 FR 58450)).

Under the reorganization of the Office of the Commissioner, § 5.20 (21 CFR 5.20) is being amended to include title changes, add the new order of succession, and further clarify the contents.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 5 is amended as follows:

1. Section 5.1 is amended by revising the section heading and the introductory text of paragraph (a) to read as follows:

§ 5.1 Delegations from the Secretary, Assistant Secretary for Health, and Deputy Assistant Secretary for Health-Programs.

(a) The Deputy Assistant Secretary for Health-Programs has redelegated to the Commissioner of Food and Drugs, with authority to redelegate all authority delegated by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health and redelegated in turn to the Deputy Assistant Secretary for Health-Programs, as follows:

* * * * * *

2. Section 5.20 is revised to read as follows:

§ 5.20 General redelegations of authority from the Commissioner to other officials of the Food and Drug Administration.

(a) Final authority of the Commissioner of Food and Drugs is redelegated as set forth in this subpart.

(b) The Deputy Commissioner and the Associate Commissioner for Regulatory Affairs are authorized to perform all of the functions of the Commissioner of Food and Drugs.

(c) During the absence or disability of the Commissioner or in the event of a vacancy in that position, the first official listed who is available shall act as Commissioner:

(1) Deputy Commissioner.

(2) Associate Commissioner for Regulatory Affairs.

(3) Associate Commissioner for Health Affairs.

(4) Associate Commissioner for Policy Coordination.

(5) Associate Commissioner for Management and Operations.

(6) Associate Commissioner for Planning and Evaluation.

(7) Associate Commissioner for Legislative Affairs.

(8) Associate Commissioner for Public Affairs.

For a planned period of absence, the Commissioner may specify a different order of succession.

(d) Authority delegated to a position by title may be exercised by a person officially designated to serve in that position in an acting capacity or on a temporary basis, unless prohibited by a restriction in the document designating him as "acting" or unless not legally permissible.

(e) Authority delegated in the following sections of this subpart may not be redelegated.

3. Section 5.100 is amended by revising the listings for the Office of the

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Commissioner, the Bureau of Biologics, the Bureau of Foods, and the Executive Director of Regional Operations to read as follows:

§ 5.100 **Headquarters.**

The central organization of the Food and Drug Administration consists of the following:

OFFICE OF THE COMMISSIONER[1]

Commissioner of Food and Drugs.
Deputy Commissioner.

ADMINISTRATIVE LAW JUDGE

Office of Regulatory Affairs.
Office of Health Affairs.
Office of Policy Coordination.
Office of Management and Operations.

HEARING CLERK

Office of Planning and Evaluation.
Office of Legislative Affairs.
Office of Public Affairs.

BUREAU OF BIOLOGICS[2]

Office of the Director.
Division of Compliance (Biologics).
Division of Virology.
Division of Blood and Blood Products.
Division of Control Activities.
Division of Pathology.
Division of Bacterial Products.
Division of Biologics Evaluation.

. . . . .

BUREAU OF FOODS[3]

Office of the Director.
Associate Director for Compliance.
Division of Regulatory Guidance.
Division of Compliance and Industry Programs.
Division of Food and Color Additives.
Associate Director for Sciences.
Division of Chemistry and Physics.
Division of Toxicology.
Division of Pathology.
Division of Microbiology.
Division of Mathematics.
Associate Director for Technology.
Division of Food Technology.
Division of Chemical Technology.
Division of Color Technology.
Division of Cosmetics Technology.
Associate Director for Nutrition and Consumer Sciences.
Division of Consumer Studies.
Division of Retail Food Protection.
Division of Nutrition.

. . . . .

EXECUTIVE DIRECTOR OF REGIONAL OPERATION[1]

Office of the Executive Director.
Office of Resource Planning and Management.
Division of Federal-State Relations.
Division of Field Science and Technology.
Division of Field Investigations.

[1]Mailing address: 5600 Fishers Lane, Rockville, MD 20857.
[2]Mailing address: 8800 Rockville Pike, Bethesda, MD 20014.
[3]Mailing address: 200 C Street SW., Washington, DC 20204.

Division of Field Regulatory Guidance.

. . . . .

Effective date. This regulation shall be effective May 12, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: April 30, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-12786 Filed 5-11-78; 8:45 am]

[4110-03]

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Termination of Panel on Review of Antiperspirant Drug Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: In accordance with the public advisory committee procedures, this document announces the termination of the Panel on Review of Antiperspirant Drug Products and amends the regulation listing the standing advisory committees. The Panel was terminated on April 13, 1978 because it was no longer needed.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Lee Geismar, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: The Panel on Review of Antiperspirant Drug Products reviewed and evaluated available data concerning the safety and effectiveness of nonprescription antiperspirant drug products. Its conclusions and recommendations will be published in a future issue of the FEDERAL REGISTER.

Accordingly, the Panel is no longer needed because its usefulness has been served. On April 13, 1978, the Panel was abolished by the Secretary, Department of Health, Education, and Welfare as the Commissioner of Food and Drugs requested.

Because this is a technical conforming amendment to Part 14 (21 CFR Part 14), the Commissioner of Food and Drugs finds there is good cause for the rule to be effective immediately.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under the authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 *List of standing advisory committees*, by deleting paragraph (c)(20)(i)(l) and marking it reserved.

Effective date. This amendment shall be effective May 12, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: May 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12789 Filed 5-11-78; 8:45 am]

[6560-01]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[FAP 6H5140/T36; FRL 895-3]

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends food and feed additive regulations permitting the experimental use of the herbicide glyphosate in sugarcane molasses. The extension was requested by Monsanto Co. This rule will permit the marketing of sugarcane molasses while further data is collected on the subject pesticide.

EFFECTIVE DATE: Effective May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James G. Touhey, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington D.C. 20460, 202-755-4851.

SUPPLEMENTARY INFORMATION: On November 11, 1977, the EPA announced (42 FR 58738) that in response to a petition (FAP 6H5140) submitted by Monsanto Agricultural Products Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63116, 21 CFR 193.235 and 561.253 were being amended to permit the experimental use of the herbicide glyphosate (*N*-(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in a proposed experimental program involving application of the herbicide to growing sugarcane with a tolerance limitation of 2 parts per million (ppm) for residues of the herbicide in sugarcane molasses in accordance with an experimental use permit that was being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.). This experimental program expires June 15, 1978.

Monsanto Co. has requested a 1-year extension of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the herbicide to the growing raw agricultural commodity sugarcane.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in sugarcane molasses from the agricultural use provided for in the experimental use permit, the food and feed additive regulations should be extended along with the tolerance limitation. (A related document concerning the extension of temporary tolerances for residues of the subject pesticide in or on sugarcane and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in today's FEDERAL REGISTER.)

Accordingly, food and feed additive regulations are amended as set forth below.

Any person adversely affected by this regulation may, on or before June 12, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective May 12, 1978, 21 CFR Part 561 is amended as set forth below.

(Section 409(c)(1) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

Dated: May 5, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

1. Part 193, Subpart A, § 193.235(b), is amended as followed:

§ 193.235 [Amended]

Section 193.235 *Glyphosate* is amended by changing the date at the end of the last line in paragraph (b) from "June 15, 1978" to "May 3, 1979."

2. Part 561, Subpart A, § 561.253(c), is amended as follows:

§ 561.253 [Amended]

Section 561.253 *Glyphosate* is amended by changing the date at the end of the last line in paragraph (c) from "June 15, 1978" to "May 3, 1979."

[FR Doc. 78-12958 Filed 5-11-78; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Levamisole Phosphate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by American Cyanamid Co., providing for subcutaneous use of 13.65 percent levamisole phosphate injection as an anthelmintic in cattle.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., P.O. Box 400, Princeton, N.J. 08540, filed a new animal drug application (102-437V) providing for subcutaneous use of a levamisole phosphate injection containing the equivalent of 13.65 percent levamisole hydrochloride. The drug is administered to cattle as an anthelmintic for treating infections of certain stomach worms, intestinal worms, and lungworms. The animal drug regulations are amended to provide for a formulation containing 13.65 percent active drug ingredient. The drug is currently approved for a formulation containing 18.2 percent. The approval of this application did not involve a review of the human safety data for levamisole, and the approval does not constitute a reaffirmation of the human safety data.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, Monday through Friday, from 9 a.m. to 4 p.m., except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 522 is amended by revising § 522.1244 to read as follows:

§ 522.1244 **Levamisole phosphate injection.**

(a) *Specifications.* Each milliliter of sterile aqueous solution contains levamisole phosphate equivalent to 136.5 or 182 milligrams of levamisole hydrochloride (13.65 or 18.2 percent).

(b) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 2 milliliters per pound of body weight, subcutaneously in the neck.

(2) *Indications for use.* (i) The 13.65 percent injection is used as an anthelmintic in cattle for treatment of the following parasites: stomach worms (*Haemonchus, Ostertagia*), intestinal worms (*Trichostrongylus, Cooperia, Nematodirus, Bunostomum, Oesophagostomum, Chabertia*), and lungworms (*Dictyocaulus*).

(ii) The 18.2 percent injection is used as an anthelmintic in cattle for treatment of the following parasites: stomach worms (*Haemonchus, Trichostrongylus, Ostertagia*), intestinal worms (*Trichostrongylus, Cooperia, Nematodirus, Bunostomum, Oesophagostomum*) and lungworms (*Dictyocaulus*).

(3) *Limitations.* Do not administer more than 10 milliliters per site. Cattle that are severely parasitized or maintained under conditions of constant helminth exposure may require re-treatment within 2 to 4 weeks after first treatment. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. Consult your veterinarian before using in severely debilitated animals or animals under severe stress. Do not administer to cattle within 7 days of slaughter. Do not administer to dairy animals of breeding age.

Effective date. May 12, 1978.

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(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 4, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-12788 Filed 5-11-78; 8:45 am]

[4710-02]

Title 22—Foreign Relations

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

PART 216—ENVIRONMENTAL PROCEDURES

Amendment of Regulations—Pesticide and Other Environmental Procedures

AGENCY: Agency for International Development (A.I.D.).

ACTION: Final rule.

SUMMARY: This rule adds to current A.I.D. regulations supplemental procedures for the environmental assessment of proposed A.I.D. projects involving the procurement and use of pesticides and makes other changes in A.I.D.'s environmental procedures required as a result of changes in A.I.D.'s project review and approval process.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Albert Printz, A.I.D. Environmental Coordinator, Agency for International Development, Department of State, Washington, D.C. 20523, telephone No. 202-632-1036.

SUPPLEMENTARY INFORMATION: On December 21, 1977, a notice was published in the FEDERAL REGISTER (42 FR 63900) proposing certain amendments to A.I.D.'s environmental procedures. The proposed amendments would add supplemental procedures for the environmental assessment of all proposed A.I.D. projects involving assistance for the procurement or use, or both, of pesticides. Additional modifications were proposed to A.I.D.'s environmental procedures in order to adapt them to recent changes in A.I.D.'s project and program review and approval process that have eliminated the stage in those processes at which initial environmental examinations were previously conducted. All comments with respect to the proposed revisions were given due consideration.

As a result of comments received, the following changes in the revised procedures have been made:

1. The definition of "minor donor" as proposed in § 216.1(c)(12) has been more clearly stated, in response to a comment from several bureaus within A.I.D.

2. Section 216.3(b)(1)(i) has been revised by deleting the words "for research or limited field evaluation purposes, or if the pesticides are". In conjunction with this, a new § 216.3(b)(2)(iii) has been added, excepting from the supplemental evaluation procedures those projects including assistance for procurement or use, or both, of pesticides for research or limited field evaluation purposes. Certain limitations are established for such projects. The revisions respond to recommendations received from pesticide specialists from several universities and the Environmental Protection Agency who commented that it would be impractical to apply the supplemental evaluation procedures to pesticides being used for research purposes and for which development of risk/benefit data was the object of the research.

3. The word "costs" in § 216.3(b)(1)(i) has been changed to "risks" to emphasize the importance of non-economic factors in the supplemental evaluation.

4. Based upon a recommendation from the Department of the Interior, hydrology and soils have been added to the list of factors to be considered in the risk/benefit evaluation (§ 216.3(b)(1)(i)(h)).

Certain other recommendations have been carefully considered but have not been accepted. The following suggestions were not adopted for the reasons indicated.

1. Two commentors suggested that the contribution levels used in the definition of "minor donor" in § 216.1(c)(12) be lowered. A third commentor suggested that the minor donor exception should not be used to exempt the Agency from applying the supplemental pesticide evaluation procedures in multidonor projects.

The monetary and percentage limitations used in the definition are based on A.I.D. experience in multidonor projects and represent levels below which A.I.D. generally has little voice in the conduct of the project in the absence of control provisions in the agreement establishing the project. Accordingly, these limits have not been modified. A.I.D. intends, however, to reassess continually the appropriateness of these levels. In instances where A.I.D. is a minor contributor to a multidonor project, A.I.D. will attempt to influence others to conduct comprehensive assessments and incorporate integrated pest management techniques to the fullest extent possible.

2. The automatic requirement for the preparation of an EA or EIS in § 216.3(b)(1)(iii) in the case of a pesticide for which EPA has issued a notice of rebuttable presumption against reregistration (RPAR) was questioned on the basis of the informal nature of the RPAR process and the absence of an established finding of environmental problems with the use of a pesticide prior to the issuance of a RPAR. The Agency believes that the issuance of an RPAR raises serious questions about the safety of a pesticide that should be taken into account in determining the acceptability of that chemical under the unique conditions in the requesting country. Accordingly, the mandatory requirement for an EA or EIS in such instances has been retained.

3. One commentor suggested the addition of a separate policy section to the regulations summarizing an A.I.D. policy of not financing unregistered pesticides and recommended that the regulations include a preference for the use of integrated pest management techniques before chemical pesticides are used. These and other agency policies relating to pest management will be addressed in separate agency policy statements and need not be included in these procedural regulations.

4. It was proposed that the regulations provide for notice in the FEDERAL REGISTER whenever pesticides are approved for which either RPAR's, notices of cancellation or suspension have been issued by EPA.

The proposed regulations require that either an EA or EIS be prepared in each of these cases. A.I.D. believes that procedures for preparing such assessments already provide adequate information to the concerned agencies or interest groups; therefore, no changes were made in the proposed procedures.

5. One commentor questioned the need for an exception from the pesticide procedures under both "emergency conditions" and "compelling circumstances." Each of these exceptions was included to cover different circumstances and accordingly no change has been made in the proposed revisions.

6. One commentor suggested that the regulations should treat as registered, unregistered pesticides with the same active ingredients as pesticides already registered by EPA. This suggestion was not adopted because the environmental effects of a pesticide may vary significantly depending on the specific formulation utilized. While EPA has considered registering pesticides based on active ingredients, it has not yet adopted such an approach.

All comments received in response to the proposed procedures are available for public inspection at A.I.D.

Because of the importance of promptly making known to A.I.D. offices, other governments and U.S. Federal agencies, and other interested persons, the content of these regulations, the Administrator finds good cause to declare these regulations effective upon publication. A.I.D.'s Interim Pesticide Procedures (41 FR 1297, January 7, 1976) are hereby superseded and revoked.

Accordingly, 22 CFR part 216 is amended as follows:

§ 216.1 [Amended]—

1. By revising the last sentence of § 216.1(c)(2) to read:

• • • • • •

(c) • • •

(2) • • • The Initial Environmental Examination will be an integral part of the Project Identification Document or equivalent document which will be circulated to selected Federal agencies for comment, when an Environmental Assessment is to be prepared.

• • • • • •

2. By revising the first sentence of § 216.1(c)(3) to read:

• • • • • •

(c) • • •

(3) • • • A formal Agency decision which determines, based on an Initial Environmental Examination, whether a proposed agency action is or is not a major action significantly affecting the human environment, and, if so, whether an Environment Assessment or an Environment Impact Statement is required.

• • • • • •

3. By deleting §§ 216.1(c)(10), *Project Review Paper* (PRP), and 216.1(c)(11), *Program Assistance Review Document* (PARD).

4. By renumbering §§ 216.1(c)(12), *Project Paper* (PP), and 216.1(c)(13), *Program Assistance Approval Document* (PAAD) to read respectively, 216.1(c)(10) and 216.1(c)(11).

5. By adding a new § 216.1(c)(12) to read as follows:

• • • • • •

(c) • • •

(12) *Minor Donor.* For the purposes of these procedures, A.I.D. is a minor donor to a multidonor project when (i) A.I.D.'s total contribution to the project will not exceed either $1,000,000 or 25 percent of the estimated project cost; and (ii) A.I.D. does not, under the terms of the agreement governing its contribution, control the planning or design of the multidonor project.

6. By revising § 216.3, *General Procedures*, to read:

§ 216.3 Procedures.

(a) *General Procedures*—(1) *Preparation of the Initial Environmental Examination.* An Initial Environmental Examination will be prepared by the originator of a project concurrently with the Project Identification Document (PID) or Program Assistance Initial Proposal (PAIP). For projects including the procurement or use, or both, of pesticides, the procedures set forth in § 216.3(b) will be followed in addition to the procedures in paragraph (a). If some of the activities to be conducted under the project are not identified in sufficient detail to permit the completion of an Initial Environmental Examination at the PID or PAIP stage, the PID or PAIP will include (i) an explanation indicating why the Initial Environmental Examination cannot be completed; (ii) an estimate of the amount of time required to complete the initial environmental analysis; and (iii) a recommendation that a Threshold Decision be deferred until the Initial Environmental Examination is completed. The responsible Assistant Administrator will act on the request for deferral concurrently with action on the PID or PAIP and will designate a time for completion of the Initial Environmental Examination. In all instances this completion date will be in sufficient time to allow for the completion of an Environmental Assessment or Environmental Impact Statement, if required, before a final decision is made to provide A.I.D. funding for the project.

(2) *Threshold Decision.* If the Initial Environmental Examination is completed prior to or at the same time as the Project Identification Document or Program Assistance Initial Proposal, a Threshold Decision will be specifically recommended in the Project Identification Document or Program Assistance Initial Proposal and acted upon at the Bureau or office level concurrently with approval of those documents. When a Initial Environmental Examination is completed subsequent to approval of the Program Identification document or Program Assistance Initial Proposal pursuant to § 216.3(a)(1) above, it will be immediately forwarded to the responsible Assistant Administrator with a recommended Threshold Decision. If the Threshold Decision is negative (i.e. an Environmental Assessment or an Environmental Impact Statement is not required), the cognizant Bureau or office will record this decision and such record will constitute a Negative Determination. If the Threshold Decision based on an Initial Environmental Examination is positive (i.e. a significant environmental impact is likely to occur), then the activity is to be evaluated to determine if an EIS is to prepared pursuant to § 216.6 of these procedures. When a Threshold Decision based on an Initial Environmental Examination indicates that an Environmental Assessment is required the procedures of § 216.5 will be followed and the approved Project Identification Document or other document containing the Initial Environmental Examination will be circulated to selected U.S. Federal agencies with relevant expertise, utilizing the list provided in the CEQ Guidelines. Such agencies will be invited to make written comments within thirty days on the Examination and on matters that should be considered in preparation of the Environmental Assessment. Comments received on environmental aspects from reviewing Federal agencies will be forwarded to the originating project office for consideration in the formulation of the design and implementation of the project and the required Environmental Assessment, and will form part of the project file when the project comes forward in the Project Paper stage for final approval.

(3) *Preparation of Environmental Assessments and Environmental Impact Statements.* If the Project Identification Document or Program Assistance Initial Proposal is approved, and if the Threshold Decision is positive, the originator of the project will prepare, prior to or concurrently with the Project Paper or Program Assistance Approval Document, an Environmental Assessment or draft Environmental Impact Statement as required. Draft Environmental Impact Statements will be circulated for review and comment as part of the review of Project Papers and as outlined further in § 216.6 of these procedures. Final approval of the Project Paper or Program Assistance Approval Document and the method of implementation will include consideration of the Environmental Assessment or final Environmental Impact Statement, as well as other required (non-environmental) analyses. If loans or grants for broad sector activities (e.g. river basin development etc.) are proposed, a general or programmatic Environmental Assessment or Environmental Impact Statement consistent with the scope of the proposed loan or grant will be prepared in conjunction with the Project Paper and agreement will be reached with the recipient government that a detailed Assessment will be prepared and considered on each individual project as it is developed and prior to its approval.

(4) *Processing and Review Within A.I.D.* Initial Environmental Examinations, Environmental Assessments and final Environmental Impact Statements will be processed within A.I.D. in accordance with the normal A.I.D. procedures for other documents. These procedures call for participation in the project review process of technical, legal and country specialists. Environmental Assessments and final Environmental Impact Statements will be reviewed as an integral part of the

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Project Paper or equivalent. In addition to these normal procedures, Environmental Assessments will be reviewed by the appointed Bureau environmental officer and, periodically, by the Environmental Coordinator who will monitor the Environmental Assessment process. Draft and final Environmental Impact Statements will be reviewed by the Environmental Coordinator and the Office of the General Counsel.

(5) *Monitoring.* To the extent feasible and relevant, projects and programs for which Environmental Impact Statements or Environmental Assessments have been prepared, should be designed to include measurement of any changes in environmental quality, positive or negative, during their implementation. This will require recording of baseline data at the start. To the extent that available data permits, originating offices of A.I.D. will formulate systems in collaboration with the recipient nation(s), to monitor such impacts during the life of A.I.D.'s involvement in the activity.

(6) *Revisions.* If, after a Threshold Decision is made resulting in a Negative Determination, a project is revised or new information becomes available which indicates that a proposed action might be "major" and its effects "significant", the Negative Determination will be reviewed and revised by the cognizant Bureau and an Environmental Assessment of Environmental Impact Statement will be prepared, if appropriate. Environmental Assessments and Environmental Impact Statements will be amended and processed appropriately if there are major changes in the project or program, or when significant new information becomes available. When on-going programs are revised to incorporate a change in scope or nature, a determination will be made as to whether such change may have an environmental impact not previously assessed. If so, the procedures outlined above will be followed.

(b) *Pesticide Procedures*—(1) *Project Assistance.* Except as provided in § 216.3(b)(2), all proposed projects involving assistance for the procurement or use, or both, of pesticides shall be subject to the procedures prescribed in § 216.3(b)(1) (i) through (v) below. These procedures shall also apply, to the extent permitted by agreements entered into by A.I.D. before the effective date of these pesticide procedures, to such projects that have been authorized but for which pesticides have not been procured as of the effective date of these pesticide procedures.

(i) When a project includes assistance for procurement or use, or both, of pesticides registered for the same or similar uses by USEPA without restriction, the Initial Environmental Examination for the project shall include a separate section evaluating the economic, social and environmental risks and benefits of the planned pesticide use to determine whether the use may result in significant environmental impact. Factors to be considered in such an evaluation shall include, but not be limited to the following:

(*a*) The USEPA registration status of the requested pesticide;

(*b*) The basis for selection of the requested pesticide;

(*c*) The extent to which the proposed pesticide use is part of an integrated pest management program;

(*d*) The proposed method or methods of application, including availability of appropriate application and safety equipment;

(*e*) Any acute and long-term toxicological hazards, either human or environmental, associated with the proposed use and measures available to minimize such hazards;

(*f*) The effectiveness of the requested pesticide for the proposed use;

(*g*) Compatibility of the proposed pesticide with target and nontarget ecosystems;

(*h*) The conditions under which the pesticide is to be used, including climate, flora, fauna, geography, hydrology, and soils;

(*i*) The availability and effectiveness of other pesticides or nonchemical control methods;

(*j*) The requesting country's ability to regulate or control the distribution, storage, use and disposal of the requested pesticide;

(*k*) The provisions made for training of users and applicators; and

(*l*) The provisions made for monitoring the use and effectiveness of the pesticide.

In those cases where the evaluation of the proposed pesticide use in the Initial Environmental Examination indicates that the use will significantly effect the human environment, the Threshold Decision will include a recommendation for the preparation of an Environmental Assessment or Environmental Impact Statement, as appropriate. In the event a decision is made to approve the planned pesticide use, the Project Paper shall include to the extent practicable, provisions designed to mitigate potential adverse effects of the pesticide. When the pesticide evaluation section of the Initial Environmental Examination does not indicate a potentially unreasonable risk arising from the pesticide use, an Environmental Assessment or Environmental Impact Statement shall nevertheless be prepared if the environmental effects of the project otherwise require further assessment.

(ii) When a project includes assistance for the procurement or use, or both, of any pesticide registered for the same or similar uses in the United States but the proposed use is restricted by the USEPA on the basis of user hazard, the procedures set forth in § 216.3(b)(1)(i) above will be followed. In addition, the Initial Environmental Examination will include an evaluation of the user hazards associated with the proposed USEPA restricted uses to ensure that the implementation plan which is contained in the Project Paper incorporates provisions for making the recipient government aware of these risks and providing, if necessary, such technical assistance as may be required to mitigate these risks. If the proposed pesticide use is also restricted on a basis other than user hazard, the procedures in § 216.3(b)(1)(iii) shall be followed in lieu of the procedures in this subsection.

(iii) If the project includes assistance for the procurement or use, or both of:

(*a*) Any pesticide other than one registered for general use or for restricted use on the basis of user hazard; or

(*b*) Any pesticide for which a notice of rebuttable presumption against reregistration, notice of intent to cancel, or notice of intent to suspend has been issued by USEPA,

The Threshold Decision will provide for the preparation of an Environmental Assessment or Environmental Impact Statement, as appropriate (§ 216.6(a)). The EA or EIS shall include, but not be limited to, an analysis of the factors identified in § 216.3(b)(1)(i) above.

(iv) Notwithstanding the provisions of §§ 216.3(b)(1) (i) through (iii) above, if the project includes assistance for the procurement or use, or both, of a pesticide against which USEPA has initiated a regulatory action for cause, or for which it has issued a notice of rebuttable presumption against reregistration, the nature of the action or notice, including the relevant technical and scientific factors will be discussed with the requesting government and considered in the IEE and, if prepared, in the EA or EIS. If USEPA initiates any of the regulatory actions above against a pesticide subsequent to its evaluation in an IEE, EA or EIS, the nature of the action will be discussed with the recipient government and considered in an amended IEE or amended EA or EIS, as appropriate.

(v) If the project includes assistance for the procurement or use, or both of pesticides but the specific pesticides to be procured or used cannot be identified at the time the IEE is prepared, the procedures outlined in §§ 216.3(b)(i) through (iv) will be followed when the specific pesticides are identified and before procurement or use is authorized. Where identification of the pesticides to be procured or used does not occur until after Project Paper approval, neither the procurement nor the use of the pesticides shall be undertaken unless approved, in writing, by the Assistant Administrator (or in the case of projects authorized at the Mission level, the Mission Director) who approved the Project Paper.

(2) *Exceptions to Pesticide Procedures.* The procedures set forth in § 216.3(b)(1) above shall not apply to the following projects including assistance for the procurement or use, or both, of pesticides.

(i) Projects under emergency conditions.

Emergency conditions shall be deemed to exist when it is determined by the Administrator, A.I.D., in writing that:

(*a*) A pest outbreak has occurred or is imminent; and

(*b*) Significant health problems (either human or animal) or significant economic problems will occur without the prompt use of the proposed pesticide; and

(*c*) Insufficient time is available before the pesticide must be used to evaluate the proposed use in accordance with the provisions of this regulation.

(ii) Projects where A.I.D. is a minor donor, as defined in § 216.1(c)(12) above, to a multi-donor project.

(iii) Projects including assistance for procurement or use, or both, of pesticides for research or limited field evaluation purposes by or under the supervision of project personnel. In such instances, however, A.I.D. will ensure that the manufacturers of the pesticides provide toxicological and environmental data necessary to safeguard the health or research personnel and the quality of the local environment in which the pesticides will be used. Furthermore, treated crops will not be used for human or animal consumption unless appropriate tolerances have been established by EPA or recommended by FAO/WHO, and the rates and frequency of application, together with the prescribed preharvest intervals, do not result in residues exceeding such tolerances. This prohibition does not apply to the feeding of such crops to animals for research purposes.

(3) *Non-Project Assistance.* In a very few limited number of circumstances A.I.D. may provide non-project assistance for the procurement and use of pesticides. Assistance in such cases shall be provided if the A.I.D. Administrator determines in writing that (i) emergency conditions, as defined in § 216.3(b)(2)(i) above exists; or (ii) that compelling circumstances exist such that failure to provide the proposed assistance would seriously impede the attainment of U.S. foreign policy objectives or the objectives of the foreign assistance program. In the latter case, a decision to provide the assistance will be based to the maximum extent practicable, upon a consideration of the factors set forth in § 216.3(b)(1)(i) and, to the extent available, the history of efficacy and safety covering the past use of the pesticide the in recipient country.

Dated: May 3, 1978.

JOHN J. GILLIGAN,
Administrator.

[FR Doc. 78-13027 Filed 5-11-78; 8:45 am]

[4810-31]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-50]

RECORD RETENTION REQUIREMENTS

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule.

SUMMARY: This document increases the required time period for retention of records prescribed by the regulations listed above. The new time period is 3 years, and the regional regulatory administrator is given discretionary authority to prescribe an additional retention period of not more than 3 years. The purpose of the change is to insure that records will be available long enough to support any action that might be taken within the applicable statutes of limitation.

EFFECTIVE DATE: June 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Steven C. Simon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Room 622B, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION: On page 3137 of the FEDERAL REGISTER for Monday, January 23, 1978, there was published a proposed rule to increase to 3 years the record retention period of 27 CFR Parts 18, 194, 250, and 251. The proposed amendments also granted discretionary authority to the regional regulatory administrator to prescribe an additional retention period of up to 3 years.

Public participation was solicited, and a 60-day comment period was prescribed. No written public comments have been received during this period. Accordingly, the proposed amendments are adopted without change (except to incorporate the changes of T.D. ATF-48, published March 31, 1978).

DRAFTING INFORMATION

The principal drafter of this document was Steven C. Simon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, supervisors and reviewers from both the Bureau and the Department of the Treasury exercised control over the development of the regulations, both as to matters of substance and style.

AUTHORITY: This Treasury decision is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: April 20, 1978.

REX D. DAVIS,
Director.

Approved: May 1, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

PARAGRAPH A. The regulations in 27 CFR Part 18 are amended as follows:

1. Section 18.11 is amended to add, in alphabetical order, a definition of "regional regulatory administrator," and to revise the definition of "regional director." As amended, the affected portions of § 18.11 read as follows:

§ 18.11 Meaning of terms.

* * * * *

Regional regulatory administrator. The principal regional official responsbile for administering regulations in this part.

* * * * *

2. Section 18.141 is amended to increase the records retention period to 3 years (rather than 2 years, as it currently is), and to provide that the regional regulatory administrator may prescribe an additional retention period of up to 3 years in certain circumstances. (Currently, the regulations have only a 2-year discretionary additional period.) The amendment also reflects the change in title from "regional director" to "regional regulatory administrator," and it includes clarifying and stylistic changes. As amended, § 18.141 reads as follows:

§ 18.141 Records and reports.

Each proprietor shall keep records and submit reports (including applications and notices) as required by this part. These records, and copies of applications, notices, and reports, shall be maintained on or convenient to the concentrate plant, and be available for inspection by ATF officers during business hours. The records and copies of applications, notices and reports shall be retained for not less than three years from the date they were made, or the date of the last entry required to be made in them, whichever is the later. Furthermore, the regional regulatory administrator may require these records and copies of applications, notices, and reports to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable.

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PART 194 LIQUOR DEALERS

PAR. B. The regulations in 27 CFR Part 194 are amended as follows:

1. Section 194.11 is amended to provide, in alphabetical order, definitions of "ATF officer" and "regional regulatory administrator"; to revise the definitions of "assistant regional commissioner", "internal revenue officer", and "regional director"; and to delete the definition of "regional commissioner". As amended, the affected portions of § 194.11 read as follows:

§ 194.11 Meaning of terms.

• • • • •

Assistant regional commissioner. A regional regulatory administrator as defined in this section.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) duly authorized to perform any function relating to the administration or enforcement of this part.

• • • • •

Internal revenue officer. An ATF officer as defined in this section.

• • • • •

Place, or place of business. • • •

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

Sale at retail or retail sale. • • •

• • • • •

2. Section 194.222 is amended to change the reference to the records retention period from "not less than two years" to "not less than three years", to substitute "regional regulatory administrators" for "assistant regional commissioners", and to make stylistic changes. As amended, § 194.222 reads as follows:

§ 194.222 Requirements as to wines and beer.

Each wholesale dealer in liquors who receives wines, or wines and beer, and each wholesale dealer in beer shall keep at his place of business a complete record of all wines and beer received, showing (a) the quantities thereof, (b) from whom received, and (c) the receiving dates. This record, which must be kept for a period of not less than three years as prescribed in § 194.242, shall consist of all purchase invoices or bills covering wines and beer received or, at the option of the dealer, a book record containing all of the required information. Wholesale dealers are not required to prepare or submit reports to regional regulatory administrators of transactions relating to wines and beer.

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1395 (26 U.S.C. 5114, 5124, 5146, 5555).)

3. Section 194.242 is amended to change the records retention period from "not less than 2 years" to "not less than three years", to change "internal revenue officers" to "ATF officers", to add a provision that the regional regulatory administrator may require records to be kept for an additional period of not more than three years, and to make stylistic changes. As amended, § 194.242 reads as follows:

§ 194.242 Retention of records and files.

All records prescribed by this part, documents or copies of documents supporting these records, and file copies of reports submitted, shall be retained by the person required to keep the documents for a period of not less than three years, and during this period shall be available, during business hours, for inspection and copying by ATF officers. Furthermore, the regional regulatory administrator may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1395 (26 U.S.C. 5114, 5124, 5146, 5555).)

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

PARAGRAPH C. The regulations in 27 CFR Part 250 are amended as follows:

1. Section 250.11 is amended to provide, in alphabetical order, definitions of "ATF officer" and "regional regulatory administrator"; and to revise the definitions of "assistant regional commissioner," "Director, alcohol, tobacco and firearms division", "region" and "regional director." As amended, the affected portions of § 250.11 read as follows:

§ 250.11 Meaning of terms.

• • • • •

Assistant regional commissioner. A regional regulatory administrator as defined in this section.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) duly authorized to perform any function relating to the administration or enforcement of this part.

• • • • •

Director, Alcohol, Tobacco and Firearms Division. The Director, Bureau of Alcohol, Tobacco and Firearms as defined in this section.

• • • • •

Region. A geographical region of the Bureau of Alcohol, Tobacco and Firearms.

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

• • • • •

2. Paragraph (b) of § 250.143 is amended to delete instructions that apply only to ATF personnel. As amended, § 250.143 reads as follows:

§ 250.143 Procurement and custody of red strip stamps.

• • • • •

(b) *Alternative method.* When the Chief, Puerto Rican Operations, determines that the interest of the government will be best served thereby, the stamps may be shipped directly to the Commonwealth revenue agent at the plant from the Bureau of Engraving and Printing. In this case, orders on Form 428 for standard size red strip stamps shall be in multiples of 100,000 stamps, and orders for small size shall be in multiples of 50 stamps (one sheet).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205).)

3. Section 250.276 is amended to replace "assistant regional commissioner" with "regional regulatory administrator"; "internal revenue officers" is replaced with "ATF officers"; and "director of customs" is replaced with "district director of customs." The retention period is changed from "not less than two years" to "not less than three years"; a provision is added that the regional regulatory administrator may require records to be kept for an additional period of not more than three years; and minor stylistic changes are made. As amended, § 250.276 reads as follows:

§ 250.276 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part to be submitted to the regional regulatory administrator or to the district director of customs shall be retained for not less than three years, and during this period shall be available, during business hours, for inspection and copying by ATF or customs officers. Furthermore, the regional regulatory administrator may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1361, 1395 (26 U.S.C. 5114, 5124, 5146, 5207, 5555).)

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PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Par. D. The regulations in 27 CFR Part 251 are amended as follows:

1. Section 251.11 is amended to revise the definitions of "alcohol, tobacco and firearms officer", "assistant regional commissioner", "Director, alcohol, tobacco and firearms division", "internal revenue officer", "region", and "regional director." A new definition of "regional regulatory administrator" is added in alphabetical order. As amended, the affected portions of § 251.11 read as follows:

§ 251.11 Meaning of terms.

• • • • •

Alcohol, tobacco and firearms officer, or ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) duly authorized to perform any function relating to the administration or enforcement of this part.

Assistant regional commissioner. A regional regulatory administrator as defined in this section.

• • • • •

Director, Alcohol, Tobacco and Firearms Division. The Director, Bureau of Alcohol, Tobacco and Firearms, as defined in this section.

• • • • •

Internal revenue officer. An ATF officer as defined in this section.

• • • • •

Region. A geographical region of the Bureau of Alcohol, Tobacco and Firearms.

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

• • • • •

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1361, 1395 (26 U.S.C. 5114, 5146, 5207, 5555).)

2. Section 251.137 is amended to replace "assistant regional commissioner" with "regional regulatory administrator," to change the retention period from "not less than two years" to "not less than three years", to replace "internal revenue officers" with "ATF officers", to replace "director of customs" with "district director of customs," to add a provision that the regional regulatory administrator may require records to be kept for an additional period of not more than three years, and to make minor stylistic changes. As amended, § 251.137 reads as follows:

§ 251.137 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part to be submitted to the regional regulatory administrator or to the district director of customs, shall be retained for not less than three years, and during this period shall be available, during business hours, for inspection and copying by ATF or customs officers. Furthermore, the regional regulatory administrator may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

[FR Doc. 78-12971 Filed 5-11-78; 8:45 am]

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 146a—CITIZEN EDUCATION FOR CULTURAL UNDERSTANDING PROGRAM

Awards of Grants and Contracts

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This regulation sets forth rules and criteria governing the award of grants and contracts to any public or private agency or organization to increase the understanding of students in the United States about the actions and cultures of other nations, and to enable these students to make informed judgments with respect to the international policies and actions of the United States. The regulation has no immediate effect because the program is unfunded.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provision therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Edward L. Meador, Director, Division of International Education, 7th and D Streets SW., Room 3907, Regional Office Building No. 3, Washington, D.C. 20202, 202-245-9692.

SUPPLEMENTARY INFORMATION: The Education Amendments of 1976 amended Title VI of the National Defense Education Act of 1958 to provide for a Citizen Education for Cultural Understanding Program. Although it is anticipated that the program will not be funded in fiscal year 1977-78, the Office of Education, is required by statute, to develop regulations without regard to funding status.

Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on August 9, 1977 (42 FR 40221-40223) setting forth regulations for this new program and requesting public comment on the proposed regulations. Of the more than 30 comments received, the majority of the commenters agreed that the regulations have defined the program sufficiently broadly for funds to be targeted in ways that provide maximum impact and that allow flexibility to individuals and institutions in developing their programs.

The following is a discussion of the comments received, with each comment followed by the response of the Office of Education.

SUMMARY OF COMMENTS AND RESPONSES

1. § 146a.1 PURPOSE AND SCOPE

Comment. Two commenters questioned why the regulations refer to students as the beneficiaries of this program. One commenter suggested that the word "citizen" would be an appropriate substitute for the word "student" so that businessmen, teachers, and administrators could also benefit from the program.

Response. This suggestion is not adopted. The reference to students is taken directly from Section 603 of Title VI of the National Defense Education Act, as amended which states, "The Commissioner is authorized • • • to stimulate locally designed educational programs to increase the understanding of students in the United States • • •" (emphasis added). However, the definition of student is sufficiently broad so as to include teachers, businessmen, administrators, etc, who are enrolled in an educational program.

Comment. Two commenters suggested that, in addition to the study of the

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cultures and actions of other nations, the program should include the study of U.S. ethnic groups.

Response. This suggestion is not adopted. The legislation specifically states that this program is limited to programs about the cultures and actions of other nations.

Comment. One commenter was concerned that the stated purpose of the program excludes the possibility of examining the influence which policies of state governments have on U.S. foreign policy.

Response. This program is designed to have students learn about the cultures, policies, and actions of other nations so that the student can better understand our international relationships and the impact these relationships have domestically. Therefore, activities concerning the impact state governments may have on our foreign relationships are not included in this program.

2. § 146a.2 GENERAL AUTHORITY

Comment. Several commenters requested clarification of the word "local" specifically as it relates to the phrase "locally designed". Many commenters urged that its interpretation should not exclude (a) professional associations and organizations of national or regional scope or membership or (b) projects with regional and/or national applicability.

Response. The regulations place no restrictions on the scope or membership of applicant agencies or organizations that may apply for funds. Section 603(b) of the Act requires that programs be locally designed. Therefore projects under this authority must be designed to meet particular local needs. However, if a project meets particular local needs but also has regional or national applicability, that would not make that project ineligible. On the other hand, projects designed to be national or regional in scope would not be eligible for funding.

3. § 146a.6 PROJECT REQUIREMENTS

Comment. One commenter suggested that while § 146a.6(b) prohibits the development of new curriculum, the translation of materials for use in funded projects should be permitted.

Response. The Commissioner does not view the translation of materials as the development of curriculum, therefore such activities are permissible.

Comment. Several commenters noted that there appears to be an inconsistency between §146a.6(a)(2) and § 146a.6(b) since the commenters view the compilation of existing information and resources as a form of curriculum development; § 146a.6(a)(2) states that funds may be used for the compilation of existing information and resources but § 146a.6(b) states that funds may not be used for the development of new curriculum.

Response. The compilation of existing information and resources about other nations is authorized by the statute. For purposes of this program, the compilation of existing information and resources is therefore not the development of new curriculum.

Comment. One commenter asked whether program funds could be used to hire foreign nationals to serve as experts about their cultures and nations.

Response. Funds under this program may be used to hire foreign nationals.

Comment. One commenter asked whether program funds could be used for payment of travel and other expenses.

Response. Funds under this program be used for payment of travel and other expenses. The regulations have been amended to clarify allowable expenses for travel in § 146a.6(b)(1).

Comment. One commenter questioned whether § 146a.6(a) permits the use of funds for library acquisitions and for utilization of computer hardware and software in cataloging existing materials.

Response. Funds under this program may be used for library acquisitions and for the use of computer hardware or software. For example, fees for purchasing time on a computer, and for the use of existing computer programs, and for salaries and expenses related to personnel necessary to operate a computer, are allowable expenses under this program. However, funds may not be used for the acquisition of computers or any other type of equipment, either by purchase or rental, as indicated in § 146a.6(c). The regulations have been amended to clarify allowable expenses for the use of computer hardware or software in § 146a.6(b)(2).

Comment. Several commenters, for a variety of reasons, urged the elimination, revision, and/or expansion of the program requirements set forth in § 146a.6 feeling that these requirements place too many restrictions on this new program and do not reflect the intent of the legislation.

Response. The suggestions are not adopted. Section 146a.6 quotes the language of Section 603 of Title VI of the National Defense Education Act as Congress amended it in the Education Amendments of 1976.

4. § 146a.7 EVALUATION CRITERIA

Comment. One commenter asked for an example to clarify the phrase "appropriate segments of the local community".

Response. What is appropriate would depend on a particular project. For example, if a project focuses on elementary or secondary education in a given school district, it would be appropriate for the grant administrators to carry out the project in consultation and in cooperation with such segments of the community as the school board, and administrators and teaching staff of the school(s) in that district. Similarly, if a university plans an interdisciplinary program in multinational business, it would be appropriate for it to involve the international studies faculty, the business faculty, and area business interests.

Comment. Several commenters requested clarification of the phrase "maximum use of non-Federal resources".

Response. Non-Federal resources include components of the proposed program which do not require Federal financial assistance. Making maximum use of these resources means involving teaching personnel committed to and available for the project for whom Federal reimbursement is not requested, existing library resources and facilities, volunteer sevices, and other on-going activities of the applicant agency or organization which demonstrate a commitment to the additional activities proposed for Federal funding.

After consideration of all comments, Title 45 of the Code of Federal Regulations is amended by adding a new Part 146a, to read as set forth below.

NOTE.—The Officer of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: November 14, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: May 3, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Program No. 13.581, Citizen Education for Cultural Understanding Program.)

PART 146a—CITIZEN EDUCATION FOR CULTURAL UNDERSTANDING PROGRAM

Sec.
146a.1 Purpose and scope.
146a.2 General authority.
146a.3 Definitions.
146a.4 Eligible applicants.
146a.5 Applications.
146a.6 Project requirements.
146a.7 Evaluation criteria.

AUTHORITY: Sec. 603, Title VI of the National Defense Education Act of 1958 (20 U.S.C. 512a), as amended by sec. 302(b), Pub. L. 94-482 (Education Amendments of 1976), unless otherwise noted.

§ 146a.1 Purpose and scope.

(a) This part governs the awarding of Federal assistance to projects that will increase the availability to students in the United States of information about the cultures, actions, and policies of other nations so that these students might make more informed judgments with respect to the international policies and actions of the United States.

(b) The assistance provided under this part is subject to the applicable provisions of Subchapter A of this Chapter, pertaining to fiscal, administrative, and other matters (General Provisions for Office of Education Programs, 45 CFR Part 100a).

(20 U.S.C. 512a.)

§ 146a.2 General authority.

The Commissioner may award grants and contracts for projects to stimulate locally designed educational programs to increase the understanding of students in the United States about the cultures, actions, and policies of other nations in order to allow them to better evaluate the international and domestic impact of major policies of the United States and other nations. The Commissioner may make these grants and contracts for projects at all levels of education including community, adult, or continuing educational levels.

(20 U.S.C. 512a.)

§ 146a.3 Definitions.

"Student" means any person enrolled in an educational program.

(20 U.S.C. 512a.)

§ 146a.4 Eligible applicants.

(a) Any public or private non-profit agency or organization, including but not limited to, institutions of higher education, State and local educational agencies, professional associations, educational consortia, and organizations of teachers is eligible to receive a grant or contract under this part. A profit-making organization is eligible to receive a contract.

(b) If an educational consortium applies for this assistance, is must include in its application (1) a description of the role of each member of the consortium in carrying out the project and (2) a written commitment from each participating member stating that it will perform the activities ascribed to it.

(20 U.S.C. 512a).

§ 146a.5 Applications.

(a) Eligible applicants that wish to apply for a grant or contract must file their applications with the Commissioner before the established closing date for such applications. Each application must contain (1) a description of the proposed activities and (2) sufficient information to enable the Commissioner to evaluate the application on the basis of the criteria set out in § 146a.7 and to determine whether the applicant will satisfy the project requirements set out in § 146a.6.

(b) Each applicant must assess the local need for the proposed project.

(20 U.S.C. 512a.)

§ 146a.6 Project requirements.

(a) Funds under this part may be used to carry out the following activities:

(1) The in-service training of teachers and other educational personnel with regard to the cultures, actions, and policies of other nations;

(2) The compilation of existing information and resources about other nations in forms useful to various types of educational programs; or

(3) The dissemination of information and resources pertaining to the cultures, actions, and policies of other nations to educators and education officials upon their request.

(b) Costs that are reasonably related to carrying out the activities listed in paragraph (a) (1), (2), and (3) of this section will be permitted. These costs may include: (1) Funds for salaries, supplies, travel and related expenses; and (2) Funds used for library acquisition and for the use of computer hardware or software.

(c) Funds may not be used for the development of new curriculum or the acquisition of equipment or remodeling of facilities.

(20 U.S.C. 512a.)

§ 146a.7 Evaluation criteria.

(a) In addition to evaluation on the basis of the criteria found in the Office of Education's General Provisions Regulations, 45 CFR 100a (26(b)), the Commissioner will also evaluate applications under this part on the basis of the following criteria:

(1) The extent to which appropriate segments of the local community were consulted on the development of the application;

(2) The degree to which the proposed project or program provides specifically for cooperation with appropriate segments of the local community; and

(3) The commitment of the agency or organization to the establishment and operation of the program as evidenced by maximum use of non-Federal resources (including financial support). Non-Federal resources include components of the proposed program, such as teaching personnel committed to and available for the project for whom Federal reimbursement is not requested, existing library resources and facilities, volunteer services, and other on-going activities of the applicant agency or organization which demonstrate a commitment to the additional activities proposed for Federal funding.

[FR Doc. 78-12972 Filed 5-11-78; 8:45 am]

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[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21481; RM-2899]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Dickinson and Williston, N. Dak. and Glendive, Mont.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns, and reserves for educational use, an additional VHF television channel to Williston, N. Dak.; substitutes television channels in Dickinson, N. Dak., and Glendive, Mont. By making these changes, most of the people in North Dakota would be assured of receiving noncommercial educational television service.

EFFECTIVE DATE: June 19, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER.—PROCEEDING TERMINATED

Adopted: May 5, 1978.

Released: May 10, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Dickinson and Williston, N. Dak. and Glendive, Mont.), Docket No. 21481, RM-2899.

1. On November 14, 1977, at the request of Prairie Public Television, Inc. ("petitioner"), licensee of noncommercial educational television Stations KFME, Channel 13, Fargo, N. Dak., and KGEE, Channel 2, Grand Forks, N. Dak., the Commission adopted a Notice of Proposed Rulemaking, 42 FR 59766, proposing the assignment of television Channel 4 and its reservation for noncommercial educational use at Williston, N. Dak. The proposal requires substitution and reservation of Channel 9 for reserved Channel 4 at Dickinson, N. Dak., and of Channel 13 for Channel 9 at Glendive, Mont. Supporting comments were filed by petitioner. Opposing comments were filed by Meyer Broadcasting Co. ("Meyer"), licensee of television Station KUMV-

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TV, Williston, N. Dak., and television translator Station K09JY Channel 9, Glendive, Mont., and the Association of Maximum Service Telecasters, Inc. ("MST").

2. Williston, N. Dak. (pop. 11,280), seat of Williams County (pop. 19,301),[1] is located in northwestern North Dakota, about 32 kilometers (20 miles) east of the Montana border and 177 kilometers (110 miles) west of Minot, N. Dak. It has three television assignments: Channel 8 (KUMV-TV); Channel 11 (KXMD-TV); and Channel *15 (unoccupied and unapplied for).

3. Dickinson, N. Dak. (pop. 12,405), seat of Stark County (pop. 19,613), is located in southwestern North Dakota, about 96 kilometers (60 miles) east of the Montana border and 153 kilometers (95 miles) west of Bismarck, N. Dak. It has three television assignments: Channel 2 (KDIX-TV); Channel *4 (unoccupied and unapplied for); and Channel 7 (pending application (BPCT-4910), filed by Meyer Broadcasting Co.).

4. Glendive, Mont. (pop. 6.305), seat of Dawson County (pop. 11,269), is located in east central Montana about 48 kilometers (30 miles) west of the North Dakota border. It has three television assignments: Channel 5 (KXGN-TV); Channel 9 (occupied only by a 100 watt translator (K09JY) licensed to Meyer Broadcasting Co.); and Channel *16 (unoccupied and unapplied for).

5. Petitioner states it wants to bring noncommercial educational television service to the entire State of North Dakota, and if Channel *4 in Williston and Channel *9 in Dickinson were assigned as proposed, and its applications granted for all four channels[2], it would accomplish this purpose.

6. Channel 4 could be assigned to Williston provided the transmitter site is located at least 5 kilometers (3 miles) southeast of the community so as to meet the spacing requirement to Station CBKMT, Channel 4, Moose Jaw, Saskatchewan. In order to assign the substitute Channel 9 to Dickinson, the transmitter site must be located at least 7.3 kilometers (4.5 miles) southwest of the community to meet the spacing requirement to Station CKX-TV-02, Channel 9, Melita, Manitoba. In Glendive, Mont., Channel 13 could be substituted for Channel 9 in conformity with the spacing requirements provided the transmitter site is located 32 kilometers (20 miles) southwest of Glendive. Though a maximum facility television station could provide the requisite city-grade coverage from that distance, the translator station would not be able to serve the city from that site. K09JY's continued operation at its present site on Channel 13, would involve short-spacings. However, the extent of the separations [266 kilometers (166 miles) to KXMC-TV, Channel 13, Minot, N. Dak., and 300 kilometers (186 miles) to KSPD-TV, Channel 13, Eagle Butte, S. Dak.], indicate that no interference would be predicted to either station. Rather, any impact would be on the translator which has agreed to the change in channels if required not to move from its present operating location.

7. In comments, Meyer states it does not oppose the granting of petitioner's proposal provided Meyer's translator license at Glendive is amended to specify operation on Channel 13 and a waiver is granted so that it may continue to operate at its present location or continue to operate on Channel 9 at its present site. It asserts that it has provided the Glendive community with a valuable broadcast service which would not otherwise be available to the community. Meyer contends that any Commission action requiring it to relocate its translator to a different site, or to expose it to a competing application, would jepardize the continuation of this service to Glendive.

8. In reply, MST contends that it does not oppose the assignment of television channels provided the use of each channel is consistent with all distance separation requirements. In this case, it asserts, the operation of a high-powered translator on either Channel 9 or Channel 13 at the present Station K09JY location in Glendive would entail major short separations. It argues that, if Meyer wishes to continue a high-powered translator at Glendive, it could apply for a 1,000 watt UHF translator on Channel *16, which is assigned to Glendive and involves no short separation, or it can petiton for rulemaking to assign an unreserved UHF channel. MST notes that petitioner has indicated agreement with either Meyer proposal, and has even advocated a waiver of the rules for continued operation of a high-powered Channel 9 translator. However, MST asserts that private parties should not be permitted to waive the public's right to television service free from interference which the Commission's own standards would hold to be objectionable, citing *United Television, Inc.* 48 FCC 2d 265 (1974). MST asserts that the Tabie of Assignments should not be amended in anticipation of the grant of a waiver since such a procedure not only prejudges the waiver request but could provide precedent for other short-spaced assignments on the basis of subsequent waivers of the translator rules. MST has no objection to the assignment. Finally, MST urges that if the proposed assignments and substitutions of channels are made, the Commission should decline to modify the license of Station K09JY and should instead specifically state that a site must be selected to meet all distance separation requirements for new stations or new translator locations for existing stations on any of the assigned and affected channels.

9. We have carefully considered the record in this proceeding and conclude that it would be in the public interest to assign Channel 4 for noncommercial educational use at Williston, N. Dak., and to substitute and reserve Channel 9 for Channel 4 at Dickinson, N. Dak.; and Channel 13 for Channel 9 at Glendive, Mont. By making these changes, the petitioner would be provided with an opportunity to bring noncommercial educational television service to important portions of the State of North Dakota. As stated in the Notice, the only impact these changes might have would be on translator Station K09JY operating on Channel 9 in Glendive. It has agreed to the change in channels, if not required to move from its present operating location. That, however, is not a matter which can properly be resolved through rulemaking. Rather, it should be raised in connection with the application translator Station K09JY needs to file as a result of our decision to substitute Channel 13 for Channel 9 at Glendive. The granting of waiver is not a prerequisite for the channel change as translators represent a secondary channel use which must yield as necessary to permit regular television operations. Finally, in this regard, even if waiver is granted for a short-spacing, this has no bearing on the use of the channel for a full fledged operation, as any television broadcast station that would operate on Channel 13 at Glendive, must comply with the mileage separation requirements. Likewise, any station on Channel 9 in Dickinson must also comply with the mileage separation requirements.

10. The concurrence of the Canadian Government has been obtained on all of the proposals.

11. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules: *It is ordered* That effective June 19, 1978, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended for the cities listed below to read as follows:

City	Channel No.
Dickinson, N. Dak.	2+, *9–, 7
Williston, N. Dak.	*4, 8–, 11–, *15–
Glendive, Mont.	5+, 13+, *16–

[1]Population figures are taken from the 1970 U.S. Census.

[2]Petitioner also intends to file applications for construction permits for new noncommercial educational television stations on Channel 3 at Bismark and Channel 8 at Minot, N. Dak.

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12. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-13007 Filed 5-11-78; 8:45 a.m.]

[Docket No. 21511; RM-2752]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station Harrison, Ark.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Harrison, Ark. The channel assignment provides for a second FM station which could provide a third local aural broadcast service to the community.

EFFECTIVE DATE: June 19, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: May 5, 1978.

Released: May 8, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Harrison, Ark.), Docket No. 21511, RM-2752.

1. The Commission has before it the *Notice of Proposed Rulemaking,* 42 FR 1513, proposing the assignment of Channel 244A to Harrison, Ark., as its second FM assignment. The proceeding was instituted on the basis of a petition filed by Charles E. Bowman and Don E. Loveland ("petitioners"). Supporting comments were filed by petitioners reaffirming their intention to file for the channel, if assigned, and their willingness to compete under such circumstances. No oppositions were received.

2. Harrison (pop. 7,239), in Boone County (pop. 19,073),[1] is located in northwestern Arkansas, 176 kilometers (110 miles) northwest of Little Rock. It presently receives local service from Station KHOZ-FM (Channel 275), and daytime-only AM Station KHOZ, both licensed to Harrison Broadcasting Corp.

3. Petitioners state that Harrison's population has increased 23 percent during the last 5 years. They assert that the area's economy depends on agriculture, light manufacturing and leisure industry. Petitioners note that food processing, wood products, apparel, electrical, and plastic manufacturing are the major industries. In support of its proposal, petitioners have submitted letters from local officials and citizens indicating their support for the proposed assignment.

4. Petitioners show that there is no Class C channel available for assignment to Harrison, but they state that the proposed Class A FM channel could be used to provide a second FM and second nighttime aural service to 10,800 persons residing in an area of 15,000 square kilometers (580 square miles). Preclusion would occur only on Channel 244A, affecting a small area in which Harrison is located.

5. While the proposed assignment would contravene the usual policy of avoiding intermixture of a Class A with a Class C channel in a particular community, we have deviated from this policy when there is no Class C channel available for assignment and there is a demand for a Class A channel and there is a willingness to compete under such circumstances. Yakima, Wash., 42 FCC 2d 548, 550 (1973); Key West, Fla., 45 FCC 2d 142. 145 (1974). There is no Class C FM channel that could be assigned to Harrison, and petitioner has expressed a desire to apply for Channel 244A at Harrison in spite of the intermixture situation. We believe it is in the public interest to make the assignment which would provide a second local FM service to the community.

6. In view of the foregoing: *It is ordered,* That effective June 19, 1978, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read as follows for the community listed below:

City and Channel No.
Harrison, Ark.; 244A, 275.

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

8. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-13008 Filed 5-11-78; 8:45 am]

[1]Population figures are taken from the 1970 U.S. Census.

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Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Listing of the African Elephant as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the African elephant (*Loxodonta africana*) to be a Threatened species. Special regulations are issued for importation of and interstate commerce in this species. These regulations represent a modified and more restrictive version of Option II of the Service's proposed rulemaking of January 16, 1978. Ivory and other African elephant products will be able to enter the U.S. only if exported under specified conditions from countries that are parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora. A review of the status of the African elephant has shown that it is declining in may parts of its range and that illegal poaching for ivory is a factor in the decline. It is anticipated that this rule will provide additional protection to the species.

DATE: This rule will become effective on June 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The African elephant has a long history of conflict with and exploitation by man. Even during the era of the Romans some elephant populations were depleted through the taking of animals for ivory or entertainment purposes. In modern times, elephants were exterminated in large parts of their range by ivory hunters and pressure from growing human populations. After passage of the Endangered Species Act of 1973, the Service came to consider the African elephant as a possible candidate for listing in the new Threatened category provided by the Act. The Service has been especially concerned about reports that the species was declining rapidly in some

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areas, partly because of intensified killing for ivory.

On August 18, 1977, the Service was petitioned by the Fund for Animals (1765 P Street NW., Washington, D.C. 20036) to "protect the African elephant as an endangered species." The Service decided that this petition presented insufficient data on which to base an immediate proposed rulemaking, and also rejected the idea that the status of the species was so desperate as to warrant listing in the highly restrictive Endangered category. The best available information indicates that there are at least 1.3 million of these animals still in existence, and that there still are some large, apparently well-protected populations.

On November 23, 1977, the Service telegrammed Dr. Iain Douglas-Hamilton, Chairman of the Elephant Specialist Group of the International Union for Conservation of Nature and Natural Resources (IUCN). Dr. Douglas-Hamilton has completed two years of a three-year survey of the African elephant, sponsored by the IUCN and World Wildlife Fund. He is a highly respected authority on the biology and conservation of the species, and is in continuous contact with numerous other experts. Through detailed correspondence and his own field investigations, he has assembled an immense amount of information, covering all major parts of the range of the elephant. The Service considers him to be the best available source for data on the general status of the species. On December 8, 1977, Douglas-Hamilton cabled a summary of his data to the Service, and subsequently, at the expense of the U.S. Government, he personally traveled to Washington, D.C., to present information to the House Merchant Marine and Fisheries Committee, and to the staff of the Service's Office of Endangered Species. On the basis of this information and the Service's own review of pertinent literary references, the African elephant was proposed for listing as a Threatened species in the FEDERAL REGISTER of January 16, 1978 (43 FR 2193-2196). New information and comments received following the proposal have not altered the Service's view that this classification is warranted for the elephant, because of its history of exploitation, considerable loss of habitat and range, and recent drastic declines in some areas.

In its proposal, the Service stated that it recognized "that the conservation of the elephant is intimately associated with the ivory trade. It would be advisable to carefully control commercial activity for the welfare of the species, and quite possibly for the ultimate benefit of the trade itself. Nevertheless, it may not be advisable to completely stop commerce or, insofar as can be accomplished by the Service, importation into the United States. Substantial amounts of ivory are collected from elephants that die of natural causes or are killed legally to protect human life or property. A limited number of elephants can be killed each year, and their ivory used, without detriment to overall populations. The sale of such ivory could result in extra funds for conservation programs, or at least could provide an economic incentive for such programs. On the other hand, legal sales may stimulate poaching, and it may be impossible to determine how a particular product was obtained."

Because of the difficulty in formulating appropriate conservation measures, the Service issued a series of options that could be considered by the public, scientific community, government officials, and commercial interests. The Service indicated that in any final rulemaking it might issue a variation of one or more of these options, or other reasonable measures that were in accord with sound conservation principles.

Option I simply would have applied all the standard prohibitions (and permit exceptions) for Threatened species to the African elephant, and so essentially would have ended legal commercial import of ivory and other elephant products into the United States. Option II would have allowed importation and other utilization of elephant products from nations that were party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Option III would have allowed importation only from nations providing satisfactory certification and evidence that exports to the United States were consistent with effective conservation programs for the elephant. Option IV would have provided for importation from countries meeting the criteria of Option II or III, and from countries that might not have elephant populations, but which could demonstrate that the product involved originated in a nation meeting the criteria of Option II or III.

SUMMARY OF COMMENTS

Approximately 580 of the persons who responded to the proposal during the designated comment period supported Option I or even more restrictive measures for the protection of the African elephant. Approximately 207 persons indicated that their livelihood was totally or partly dependent on ivory, and that they were opposed to a complete ban on its importation and interstate movement. Almost all of these persons, however, observed that they did not consider their business to be detrimental to the elephant, and that they would favor measures to insure that only ivory taken legally and in accordance with sound conservation practices could be imported; about 155 of these persons indicated support for Option III. Approximately 90 other parties also supported Option III. In addition, about 50 persons wrote to express concern that a ban on ivory importation would adversely affect the economic status of some people, but did not indicate that they were referring to themselves, and did not express support for a particular option. Approximately 35 parties suggested that any ban on importation of elephant products should not apply to trophies taken legally by big game hunters. Approximately 50 persons expressed the view that the elephant was not Endangered or Threatened, and did not indicate that they preferred any particular option for regulation.

Among the parties supporting Option I, or comparative measures, were the Defenders of Wildlife; Earthforce Environmental Society (which, based on extensive interviews with authorities in Kenya, Tanzania, and Zambia, recommended a total ban for six months, followed by implementation of Option II); Elsa Wild Animal Appeal; Fund for Animals; Natural Resources Defense Council; Mr. Thomas O. Nicholson, Director of the American Museum of Natural History; Mr. R. Marlin Perkins, Acting Director of the Wild Canid Survival and Research Center; U.S. Representative Anthony C. Beilenson of California; U.S. Representative G. William Whitehurst of Virginia; State Senator George Rogers of New Bedford, Massachusetts; and the following member organizations of the Monitor Consortium: Fund for Animals, Animal Welfare Institute, Humane Society of the United States, Rare Animal Relief Effort, National Parks and Conservation Association, Society for Animal Protective Legislation, Let Live, Washington Humane Society, International Primate Protection League, Committee for the Preservation of the Tule Elk, Massachusetts Audubon Society, and Connecticut Cetacean Society. Most of these parties pointed out that any option, other than Option I, might allow opportunity for considerable smuggling and other abuse of the regulations. Congressman Beilenson, for example, wrote that the basic problem with the other options "arises from the difficulty in obtaining satisfactory documentation showing that the product came from an elephant killed legally in an exempt country of origin. Efforts to enforce a selective prohibition on imports would depend entirely on the ability of Customs and the U.S. Fish and Wildlife Service inspectors to determine the authenticity and accuracy of the required documents • • •. The enforcement officials feel that there is a much higher incidence of falsified or inaccurate documents than they can

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uncover. Thus, efforts to implement regulations requiring documentation are difficult, and the difficulties may be insurmountable". Congressman Beilenson, however, also recommended "that the Department establish a procedure under which African nations with legitimate claims of hardship can petition for an exemption. These can then be dealt with on a case-by-case basis, and precise quotas for direct shipment of ivory and other products could be established in line with those nations' conservation programs."

Such an approach would seem to be a modified version of Option III, and would involve U.S. analyses and approval or disapproval of the conservation programs of foreign nations. As stated above, there is no established mechanism for such procedures, and the Service does not consider them to be necessary at this time.

Although nearly all African nations, and several of the major ivory reexporting countries, were officially notified of the proposal, responses were received from only eight foreign governments. Liberia, noting that the elephant had become rare because of poaching, favored Option I. Botswana, Mozambique, and Rhodesia stated that the elephant was not endangered or threatened in their territory, that they had effective conservation programs for the species, and that a ban on ivory export would be detrimental to their economies. Support for Option II was received from the following parties in the Republic of South Africa: Secretary for Planning and the Environment, National Parks Board of Trustees, and Kruger National Park. Tanzania, which reported a large, adequately protected elephant population, indicated preference for both Options II and III, and noted that it would very soon ratify the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Zambia stated that it had a large elephant population that could sustain a considerable annual take for ivory, and that Option III would be most suitable. Hong Kong supported Option IV, observing that its ivory carving industry provided employment for 3,000 craftsmen and had sent 30 percent of its $24,000,000 of exports in 1977 to the United States.

Option IV also was supported by the Endangered Wildlife Trust (Republic of South Africa), the American Association of Zoological Parks and Aquariums, and the IUCN Elephant Specialist Group. The comments of the latter party, submitted by Dr. Iain Douglas-Hamilton, explained that it would be preferable for the United States to remain involved with the ivory trade, and so have the means of helping to regulate and control such trade.

The National Wildlife Federation suggested that the United States limit its importation of ivory to raw ivory directly from the country of origin, and accompanied by export permits and documentation showing that such export would not be detrimental to the population. It was pointed out that whole tusks, unlike manufactured products, can be easily traced and their movement controlled. It also was explained that such tusks often became available through natural death, necessary cropping, or confiscation, and that their sale could provide funds for conservation measures. The Service understands this position, but considers that any plan involving required documentation for a conservation program essentially involves a version of Option III, which has been rejected for reasons set forth above. Limitation of import to whole tusks may indeed make enforcement easier, but the Service is not at this time prepared to state that a ban on manufactured products is in itself necessary for the conservation of the elephant. Reexporting nations, that are willing to follow the provisions of the International Convention, as implemented by the regulations issued herewith, in their own importation and utilization of ivory, should not be denied the opportunity to trade with the United States, unless specific circumstances warrant a change in policy.

The National Rifle Association of America opposed the proposed listing measure, because of the following given reasons: (1) the proposal allegedly stated that the ivory trade was the principal reason for the decline of the elephant, when actually other major factors were involved; (2) the proposal did not present substantial evidence warranting a threatened listing; (3) the draft impact assessment prepared in conjunction with the proposal was inadequate, and an environmental impact statement was required; (4) the Service did not prepare a "regulatory analysis" as was allegedly required by a Proposed Executive Order issued November 18, 1977; and (5) all four of the published options were defective as a matter of law or should be rejected as a matter of policy. In response, the Service considers that the information contained in the proposal, and in this rulemaking, adequately supports the listing measures, and makes it clear that the ivory trade is not the only major factor of concern. The Service feels that all requirements of law have been met in the preparation of the final rulemaking, and that the regulations selected are both legally appropriate and meaningful to the conservation of the elephant. The points made by the National Rifle Association have been considered in the preparation of the final version of the impact assessment.

The Safari Club International, the Safari Club International Conservation Fund, and the American Hunters' Educational and Legal Protection Fund submitted a joint response. A total ban on importation of elephant products was opposed as being detrimental to the economies of several African countries and unnecessarily restrictive to American trophy hunters. Legitimate sport hunting was not considered a threat to the elephant and was said to actually be beneficial to the species by providing an economic incentive to maintain populations and a means of guarding against poaching. It was proposed that the elephant be listed as threatened only in certain African countries where the situation reportedly warranted such a measure, and that export from such countries be allowed in the case of legitimate trophy hunters, nations that had ratified the International Convention, and nations that provided certification of adequate conservation programs. The Service appreciates the effort involved in preparing this detailed plan, but does not consider it more advantageous than that published herein. The Service prefers to deal with the African elephant as a single entity and to determine a classification expressing its overall status. The history and current problems of the species call for a threatened listing. The International Convention provides a mechanism for controlling the export of the elephant, and so long as this mechanism is functioning properly, there is no call for the United States to set up more, or less restrictive measures.

The American Ivory Importers Association, one concern of which is the movement of ivory products from Hong Kong, opposed Options I and II as being unnecessary and possibly detrimental to the conservation of the elephant, and as adversely affecting the economic interests of some African countries. The Association suggested a modified version of Option III, which would add provisions for reexport. There would be an initial U.S. evaluation of the conservation programs of African nations, and export would be allowed only directly from those countries approved, or from reexporting nations that could demonstrate that the product involved had originated from an approved African country. It was suggested that certificates of origin be issued by the U.S. consulate in the source country, and that all manufacturers and importers be required to maintain detailed records to facilitate investigation. The Service appreciates the interest of the Association in insuring that ivory exports are not detrimental to elephant populations, but considers that the existing control mechanism of the International Convention would be more advantageous than newly imposed measures. The suggestion that manufacturers and importers maintain adequate rec-

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ords could just as well apply to an Option II situation.

Mr. Kenneth N. Enright, managing director of Midwest Distributors of Urbana, Ill., a firm involved in the importation of raw ivory, submitted a detailed response stating that the African elephant was not seriously threatened and that claims of the detrimental effects of the ivory trade had been greatly exaggerated. He pointed out that warnings of the imminent extinction of the elephant, because of the take for ivory, had been made nearly a century ago, but that the species was still abundant and even increasing in some areas. The utilization of ivory was said to have actually declined in recent years, and since the 1960's many firms involved in the trade reportedly had left the business. Within the United States, however, there still were about 3,170 persons said to be "engaged, wholly or in part, in the manufacture of articles, artwork or jewelry based on raw ivory." Mr. Enright disputed widely circulated statements that the price of ivory had increased tenfold in recent years, and stated that the Service should not have based its proposal on such a factor. He presented documentation suggesting that the average price paid by his own firm had increased only about fourfold since the late 1960's, and noted that part of the increase had been caused by such factors as rising taxes and transport costs, rather than higher profits for suppliers. Although acknowledging that there were problems in some parts of the elephant's range, he stated that the amount of ivory being used in the trade was not excessive. He recommended that the U.S. continue to allow the importation of legally taken whole tusks from African nations, and from those reexporting nations that had ratified the International Convention. He observed that it would be easy to control commerce in whole tusks, but that there should be a temporary ban on the importation of manufactured goods from reexporting countries.

The Service is impressed with the effort that undoubtedly went into Mr. Enright's response, but disagrees with the suggestion, to which much of this response is devoted, that the proposed rulemaking was based mainly on the belief that rising prices were jeopardizing the African elephant. The proposal and this final rulemaking make it clear that the elephant is considered threatened because of a decline in numbers and distribution resulting from a variety of factors, among which is exploitation for ivory. The price being paid for the ivory is an incidental factor and is not in itself a major reason for listing. The Service continues to hold that available evidence shows that exploitation for ivory has been and is a problem for some elephant populations, and that it is advisable to place controls on commercial activity involving the United States.

Conclusion

The Service has decided to reject Option I, considering that a total ban on international and interstate commercial activity in ivory and other products is not in itself necessary for the conservation of the African elephant. If such factors as natural mortality and the need to relieve excessive population pressures in certain areas are taken into account, there seems no doubt that a substantial amount of ivory and other products, and a certain number of big game trophies could be taken on a regular basis without being detrimental to the overall status of the species. The Service recognizes that problems could develop in verifying that the particular items to be imported or sold were taken in accordance with proper conservation programs, and that there may be some basis for the argument that merely allowing the ivory trade to function will encourage some poaching and ill-advised exploitation. No substantive basis, however, has been presented to show that such problems, particularly if mitigated by the regulatory measures herewith provided, would be insurmountable or would result in significant declines of elephant populations. The Service also has considered the argument that some commercial and sporting take gives an economic incentive for the maintenance of the species. While not yet convinced that such a position is fully valid, the Service is willing to allow the benefit of the doubt, within the scope of the regulations now being issued.

Option III, and the several variations thereof suggested by respondents, also have been rejected. Option IV likewise has been rejected, because it incorporated the provisions of Option III. No mechanism has been established to implement such measures, and they would have put the United States in the difficult position of evaluating and passing judgement on the conservation and law enforcement policies of foreign nations. The comments of some respondents, including certain African governments, suggest that the Service did not sufficiently explain the implications of Option III. This measure would not have required simply a certificate stating that export of a particular item was in accord with an effective conservation program, but probably would have involved detailed U.S. investigation of the involved program. It is likely that the immediate effect of Option III would have been a total ban on importation of elephant products. Individual nations then would have had to provide evidence to the Service, which could have been used for an assessment and decision on whether import could be allowed. The Service now thinks that such measures would not be practical, and would not be necessary since the means of receiving certification of the effectiveness of foreign conservation and legal policies already exists in the form of the International Convention.

The Service has decided to adopt a modified version of Option II, which will allow importation to the U.S. of African elephants and products thereof which have originated in the wild in a country that is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and have been exported from such country of origin, and in any case of reexportation have been reexported, in accordance with Article IV of such Convention (compliance with Article VII, Paragraphs 2 or 3 of such Convention will not constitute compliance with this provision); and have remained in customs control and in an unaltered condition in any country not a party to such Convention that they enter while in transit to the United States. A special purpose permit may be issued in accordance with the provisions of 50 CFR 17.32 authorizing any activity otherwise prohibited with regard to the African elephant, upon submission of proof that such wildlife was already in the United States on the effective date of this rulemaking, or was imported into the United States in accordance with the above provisions.

The African elephant is on Appendix II of the Convention, which means that when exported from a member nation a permit must be issued certifying that the item involved was taken legally and that its export is not detrimental to the survival of the species. Article IV, however, does more than merely require issuance of a written certificate. It calls for the establishment of a scientific authority in the nation of origin, which is to advise on whether export is detrimental, and for the establishment of a management authority to determine that the laws of the nation are followed.

The regulations issued herewith take advantage of the mechanism established by the Convention. Moreover, these regulations specify that the original export and any subsequent reexports must comply with Article IV. A nation that is a party to the Convention may reexport elephant products to the United States, but only if the involved material had been derived from an African country that had wild elephants and that was party to the Convention, and had been exported from such country of origin in accordance with Article IV. No ivory should enter the United States that is not derived from elephants living wild in nations that are party to the Convention. In the case of African elephants and products thereof that enter the U.S. in accordance with these provisions, or which already are in the U.S. on the effective date of this rulemaking, permits may be issued to allow interstate commerce or any activity otherwise prohibited.

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The Service is aware that there have been questions regarding the validity and substance of some export permits issued relative to the Convention. At this time, however, there is no basis for restricting the importation of elephant products from any current or future Convention member, so long as the provisions of the regulations are followed. The Service considers that the pledges made by a sovereign nation, when entering into an agreement with fellow countries for the common good of all, are not to be taken lightly, and that any member nation must be assumed to intend to comply fully with the obligations imposed by Article IV and the other portions of the Convention.

It is not the intent of the Service to either deny commerce to any particular nation that is not a Convention member, or to attempt to pressure any nation to become a member. The Service does encourage all nations to consider membership and establishment of the regulatory bodies called for by the Convention. The immediate objective of the Service, however, is only to find a practical means of insuring that the entry of African elephant products into the United States is not detrimental to the survival of wild populations. The Convention, through its provisions for an international framework of control, the establishment of a common system of regulatory authorities in all member nations, and pledges made at the highest level of Government to numerous fellow nations, now appears to offer the best method.

Summary of Factors Affecting the Species

Section 4(a) of the Act states that the Secretary of the Interior may determine a species to be Endangered or Threatened because of any of five factors. These factors, and their application to the African elephant, are listed below.

1. *The present or threatened destruction, modification or curtailment of its habitat or range.* The African elephant originally occupied all of Africa, except for extremely dry areas, and it probably inhabited the territory of every existing nation on the continent. Its range once included the Mediterranean coast, the lower Nile Valley, and possibly parts of southwestern Asia, but it probably had been exterminated in these areas by about 2,000 years ago. More recently, the species has disappeared in the countries of Afars and Issas, Gambia, Guinea-Bissau, Lesotho, Swaziland, and Western Sahara. The elephant still occurs in all other African countries to the south of the Sahara Desert, but its range has been restricted considerably in most of them. This is especially true in western and southern Africa, where the species has held out in remote border areas or in small, isolated patches of suitable habitat. Throughout nearly its entire remaining range, however, the elephant is progressively losing habitat to the expanding human population and associated agricultural development. Many elephants are killed directly because they are considered a threat to man and his crops and settlements, and others die because remaining habitat cannot support them. Certain elephant "population explosions" have received much publicity, but these often are associated with forced crowding imposed by man, and, in any case, represent only a small percentage of the overall range of the species.

According to information provided by Douglas-Hamilton, the African elephant is known to be declining in 18 of 33 countries where it still survives, and in five of these the decrease is rapid. In two other countries, with comparatively small remaining populations, there is a decline in some areas, but an increase in others. Of the other countries, no data are available for eight, populations are reportedly stable in four (though three of these have only small remnant populations), and numbers are increasing in one (Somalia).

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Because of its ivory, the African elephant is among the world's most commercially valuable animals. The species has been hunted for this purpose since ancient times, but exploitation greatly increased as Africa was opened to the outside world in the nineteenth and twentieth centuries. According to Douglas-Hamilton, ivory hunting, mainly illegal, is the greatest immediate threat to the species. For example, poaching appears to have been largely responsible for a drastic reduction of elephants in Uganda, and for eliminating about half of the elephants in Kenya, since the early 1970's. The still substantial populations in eastern and central Africa are threatened with further reduction, and the remnant populations in western Africa could be entirely wiped out, if large scale poaching continues.

3. *Disease or predation.* Not major factors in current situation.

4. *The inadequacy of existing regulatory mechanisms.* It always has been difficult for most African nations to enforce wildlife laws, because of a lack of funds and trained personnel, and because of the vast, remote areas that are involved. With a considerable rise in the price of ivory in the early 1970's, there was a greater incentive for many more people to carry out illegal hunting and trade, and local enforcement measures became ineffective in some areas. In addition, there seems to be little regulation of international commerce. Large quantities of illegally taken ivory apparently have been sent out of African countries and purchased overseas. According to Douglas-Hamilton, the ivory trade is not well understood and is in need of extensive investigation. He states that strict application of the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora would be helpful. Relatively few of the major ivory exporting and importing countries, however, are now members of the Convention. If through the Convention or other procedures, means could be found to insure that only lawfully taken ivory could be imported by other countries, the incentive for poaching would be greatly reduced.

5. *Other natural or manmade factors affecting its continued existence.* None now known to be significant.

Effects of the Rulemaking

This rulemaking designates the African elephant as a threatened species, and promulgates a special regulation applying the provisions of 50 CFR 17.31, and additional provisions relative to the importation and utilization of elephant products. The prohibitions of 50 CFR 17.31, with respect to foreign species, are essentially the same as those for endangered species, as set forth in Section 9(a)(1) of the Act and implemented by 50 CFR 17.21. These prohibitions, in part, will make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species (except as provided in the regulation). It also will be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. In accordance with 50 CFR 17.32, permits for threatened wildlife are available for scientific purposes, enhancement of propagation or survival, economic hardship, zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. Economic hardship permits could, under certain conditions, allow persons who had already contracted to perform an otherwise prohibited action to carry out the terms of their contract.

The prohibition against importation incorporated into 50 CFR 17.31 will not apply to African elephants and products thereof which have originated in the wild in a country that is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; *and* have been

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exported from such country of origin, and in any case of reexportation have been reexported, in accordance with Article IV of such Convention (compliance with Article VII, Paragraphs 2 or 3 of such Convention will not constitute compliance with this provision); *and* have remained in customs control and in an unaltered condition in any country not a party to such Convention that they enter while in transit to the United States. A special purpose permit may be issued in accordance with the provisions of 50 CFR 17.32 authorizing any activity otherwise prohibited with regard to the African elephant, upon submission of proof that such wildlife was already in the United States on the effective date of this rulemaking, or was imported into the United States in accordance with the above provisions.

Therefore, the rulemaking provides for possible interstate commerce and other use of future imports, as well as for continued utilization of existing ivory stocks and other products now in the United States. There will be no effect on importation of African elephants and products thereof that originated in nations that are party to the Convention, provided that exportation from such nations complied with Article IV of the Convention. Reexporting countries that are Convention members will be able to continue to send products to the United States, if it can be demonstrated that such products had originated in the wild in a country that is a party of the Convention, and that the original export had been in accordance with Article IV.

These exemptions, none of which are expected to adversely affect wild elephant populations, will allow continued importation of ivory and hunting trophies under prescribed conditions. It is likely, however, that there will be an initial reduction in the amount of raw and worked ivory entering the United States, because some of the major exporting and reexporting nations are not Convention members. The only nations with populations of African elephants, that are Convention members, are Nigeria, Republic of South Africa, Niger, Ghana, Zaire, Senegal, and Botswana. Tanzania, however, has informed the Service that it will ratify the Convention very soon. When it does, two of the three countries (Tanzania, Zaire, Zambia) with the largest elephant populations will be eligible to export to the United States. As additional African nations join the Convention, the potential supply of exports would increase. Hong Kong, which is covered by the Convention through the membership of the United Kingdom, is currently the largest reexporter of ivory to the United States.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. The assessment is the basis for a decision that this rulemaking is not a major Federal action which would significantly affect the quaility of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rulemaking is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, Subparts B and D of Part 17, Title 50 of the Code of Federal Regulations, are amended as set forth below:

1. Section 17.11 is amended by adding, in alphabetical order under "MAMMALS," the following to the List of Endangered and Threatened Wildlife and Plants:

§ 17.11 Endangered and threatened wildlife.

Species		Range					
Common name	Scientific name	Population	Known distribution	Portion endangered	Status	When listed	Special rules
Mammals:							
•	•	•	•	•	•	•	•
Elephant, African.	*Loxodonta africana*	N/A	Africa	Entire	T		17.40(e)

2. Section 17.40 is amended by adding a new paragraph (e) which reads as follows:

§ 17.40 Special Rules—Mammals.

• • • • •

(e) African elephant (*Loxodonta africana*)—(1) Except as provided in subparagraphs (2) or (3) of this paragraph, the prohibitions incorporated into § 17.31(a) shall apply to any African elephant, alive or dead, and to any part, product, or offspring thereof.

(2) The prohibition against importation referred to in paragraph (e)(1) of this section shall not apply to any such wildlife which:

(A) Has originated in the wild in a country that is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, March 3, 1973, TIAS No. 8249; and

(B) Has been exported from such country of origin, and, in any case of reexportation has been reexported, in accordance with Article IV of such Convention: *Provided that:* Neither compliance with Article VII, Paragraph 2 of such Convention nor compliance with Article VII, Paragraph 3 of such Convention shall constitute compliance with this subparagraph (2)(B); and

(C) Has remained in customs control and in an unaltered condition in any country not a party to such Convention that it enters while in transit to the United States.

(3) A special purpose permit may be issued in accordance with the provisions of § 17.32 authorizing any activity otherwise prohibited with regard to such wildlife, upon submission of proof that such wildlife was already in the United States on June 11, 1978 or that such wildlife was imported into the United States in accordance with subparagraph (2).

Dated: May 8, 1978.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-12854 Filed 5-11-78; 8:45 am]

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[3510-22]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 651—ATLANTIC FISHERIES: HADDOCK, COD, YELLOWTAIL FLOUNDER

Emergency Regulations Repromulgated

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Emergency regulations.

SUMMARY: The Assistant Administrator has determined that the emergency which required the March 31, 1978 promulgation of emergency regulations for the Atlantic groundfish fishery continues to exist. This rule extends these emergency regulations, as amended, for an additional 45 days, from May 18, 1978 to June 30, 1978, inclusive. The public comment period for the original proposed regulations published on March 31, 1978, as amended, is extended to June 2, 1978, in order to avoid confusion.

EFFECTIVE DATES: 0001 hours e.d.t., May 16, 1978. The public may submit written comments on the March 31, 1978 proposed regulation, as amended, until June 2, 1978.

ADDRESS: Comments may be addressed to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. William C. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: On March 31, 1978, the Assistant Administrator for fisheries, National Oceanic and Atmospheric Administration, published emergency regulations in the FEDERAL REGISTER (43 FR 13578) to implement the fishery management plan for 1978 prepared by the New England Fishery Management Council for Atlantic groundfish. Those emergency regulations were subsequently amended twice. The first amendment, which was published in the FEDERAL REGISTER on April 10, 1978 (43 FR 14968), abolished the open, directed fishery for cod in an effort to relieve some fishing pressure on that species, thereby reducing the probability of a closure near the end of the allocation period. The second amendment, which was published on April 24, 1978 (43 FR 17361), changed the daily trip limitation on both cod and haddock to a weekly limitation. This amendment also provided a method for the lawful landing of excessive quantities of cod and haddock in order to minimize the discard problem, thereby enhancing the conservation of those species. Both amendments had been adopted by the New England Fishery Management Council at the March 22-23, 1978 meeting and were approved by the Assistant Administrator. These amendments are continued with the original emergency regulations, which the Assistant Administrator has determined should be continued for an additional 45 days as authorized by section 305(c) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq, as amended, because the Assistant Administrator finds and determines that the emergency which required the March 31, 1978 promulgation of emergency regulations continues to exist. The Secretary also finds that formal notice of proposed rulemaking is impractical, unnecessary, and contrary to the public interest because of the emergency described above.

Therefore, the emergency regulations adopted on March 31, 1978, as amended on April 10, 1978, are continued in full force and effect for an additional 45 days beginning 0001 hours EDT, May 16, 1978, and ending 2400 hours EDT, June 30, 1978, unless sooner amended or terminated by appropriate notice.

The public comment period has been extended to June 2, 1978, for the original proposed final regulations published on March 31, 1978, the first amendment published on april 10, 1978, and the second amendment which was published on April 24, 1978, in order to avoid confusion.

Signed at Washington, D.C., this 9th day of May 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine fisheries Service.

[FR Doc. 78-13174 Filed 5-11-78; 10:00 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-34]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Miscellaneous Amendments; Proposed Rulemaking

AGENCY: Animal and Plant Health Inspection Service (APHIS).

ACTION: Proposed Rule.

SUMMARY: This proposed amendment adds two new sections to the regulations under the Virus-Serum-Toxin Act regarding the requirements for purity, safety, potency, and efficacy to be met by all biological products containing Feline Calicivirus Vaccine and Feline Rhinotracheitis Vaccine, and one new section which contains a purity test for the detection of chlamydial agents. It also revises the cat safety test prescribed in the regulations for testing vaccines recommended for use in cats by adding an additional test to be used in testing Master Seed Virus. At the present time, such requirements and tests appear in each Outline of Production for such products filed with Veterinary Services. This amendment would make uniform requirements and tests available to all licenses.

DATE: Comments must be received on or before July 12, 1978.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301-436-8245.

SUPPLEMENTARY INFORMATION: The Standard Requirements found in Part 113 of the regulations consist of test methods, procedures, and criteria established by Veterinary Services for evaluating biological products for purity, safety, potency, and efficacy. Until such Standard Requirements are developed by Veterinary Services and are codified in the regulations, the test methods, procedures, and criteria used in the evaluation of a product are developed by the licensee and are written into the applicable Outline of Production which is required to be filed with Veterinary Services.

When Standard Requirements for evaluating a biological product have been developed by Veterinary Services, they are proposed for codification in the regulations. Such codification assures uniformity and general availability of such Standard Requirements to all licensees and to the general public. This proposed amendment adds two new sections to the regulations containing the Standard Requirements for evaluating all licensed products containing Feline Calicivirus Vaccine and Feline Rhinotracheitis Vaccine.

When the same test methods or procedures can be used in Standard Requirements regarding more than one product, they are codified in one section of the regulations and incorporated by reference in other sections. Section 133.39 is such a section and it contains a cat safety test used to evaluate vaccines recommended for use in cats. This proposed amendment contains a revision of that section which adds a second cat safety test for use in evaluating Master Seed Virus used to make vaccines recommended for use in cats.

This proposed amendment also adds a new section to Part 113 in which a purity test for chlamydial agent (a form of microorganism) contamination is provided. Reference to this test will be made in Standard Requirements for vaccines recommended for cats.

The first letter of each word in the headings for §§ 113.149 and 113.150 shall be capitalized.

1. Section 113.39 is amended by revising the introductory portion, by revising paragraph (a), by adding new paragraphs (a)(1) and (a)(2), and by adding a new paragraph (b) to read:

§ 113.39 Cat safety tests.

The safety tests provided in this section shall be conducted when prescribed in a Standard Requirement or in the filed Outline of Production for a biological product recommended for use in cats.

(a) The cat safety test provided in this paragraph shall be used when the Master Seed Virus is tested for safety.

(1) The test animals shall be determined to be susceptible to the virus under test as follows:

(i) Throat swabs shall be collected from each cat and individually tested on susceptible cell cultures for the presence of the virus: Blood samples shall also be drawn and individual serum samples tested for antibody to the virus.

(ii) The cats shall be considered susceptible if swabs are negative for virus isolation and the serums are free of virus antibody at the 1:2 final dilution in a 50 percent plaque reduction test or other serum-neutralization test of equal sensitivity.

(iii) When determining susceptibility to a virus which does not lend itself to the methods in subparagraphs (1) (i) and (ii) of this paragraph, a method acceptable to Veterinary Services shall be used.

(2) Each of at least 10 susceptible cats shall be injected with a sample of the Master Seed Virus equivalent to the amount of virus to be used in one cat dose of the vaccine, in the manner to be recommended on the label, and observed for 14 days.

(3) If unfavorable reactions attributable to the virus occur in any of the cats, the Master Seed Virus is unsatisfactory for vaccine production.

(b) The cat safety test provided in this paragraph shall be used when a serial of vaccine is tested for safety before release.

(1) Each of two healthy cats shall be injected with 10 cat doses by the method recommended on the labels and the cats observed each day for 14 days.

(2) If unfavorable reactions attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated; *Provided*, That, if not repeated, the serial shall be unsatisfactory.

2. Part 113 is amended by adding three new sections to read:

§ 113.43 Detection of chlamydial agents.

The test for chlamydial agents provided in this section shall be conducted when such a test is prescribed in an applicable Standard Requirement or in a filed Outline of Production.

(a) The yolk sac of 6-day-old chicken embryos shall be injected. Three groups of 10 embryos shall be used sequentially.

(1) The inoculum for each embryo in the first group shall consist of 0.5 ml of a mixture of equal parts of the seed virus with phosphate buffered saline containing 2 mg/ml each of Streptomycin, Vancomycin, and Kanomycin.

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(2) On the tenth day postinoculation, the yolk sac of viable embryos shall be harvested, pooled, homogenized as a 20 percent suspension in phosphate buffered saline antibiotic diluent, and 0.5 ml of the mixture injected into the second group of chicken embryos. This process shall be repeated for the injection of the third group of embryos using the yolk sacs of viable embryos from the second group.

(3) For each of the three passages, embryo deaths occurring within 48 hours of injection shall be disregarded except that if more than three such deaths occur at any passage, that passage shall be repeated.

(b) If one or more embryo deaths occur at any passage after 48 hours postinjection, the yolk sacs from each of the dead embryos shall be subcultured into 10 additional embryos. If one or more embryo deaths again occur, the Master Seed Virus is unsatisfactory for use to produce vaccine.

§ 113.149 Feline Calicivirus Vaccine.

Feline Calicivirus Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) The Master Seed Virus shall be tested for chlamydial agents as prescribed in § 113.43.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Thirty feline calicivirus susceptible cats shall be used as test animals (20 vaccinates and 10 controls). Throat swabs shall be collected from each cat and individually tested on susceptible cell cultures for the presence of feline calicivirus. Blood samples shall be drawn and individual serum samples tested. The cats shall be considered suitable for use if all swabs are negative for virus isolation and if all serums are negative for calicivirus antibody at the 1:2 final dilution in a 50 percent plaque reduction test or other SN test of equal sensitivity.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 cats used as vaccinates shall be injected with a predetermined quantity of vaccine virus and the remaining 10 cats shall be held as controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used. If two doses are used, five replicate confirming titrations shall be conducted on each dose.

(3) Twenty-one days after the final dose of vaccine, the vaccinates and controls shall each be challenged intranasally with virulent feline calicivirus furnished or approved by Veterinary Services and observed each day for 14 days postchallenge. The rectal temperature of each animal shall be taken and the presence or absence of clinical signs, particularly lesions on the oral mucosa, noted and recorded each day.

(i) If at least 70 percent of the controls do not show signs of feline calicivirus infection including dyspnea, depression, lesions of the oral mucosa, and a temperature of over 104° F, the test is inconclusive and may be repeated.

(ii) If at least 70 percent of the vaccinates are not protected against a temperature of 104° F or higher and against one or more of the signs of disease observed in the controls, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. At least five vaccinates and five controls shall be used in the retest: *Provided*, That, 70 percent of the vaccinates and 70 percent of the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) *Test requirements for release.* Each serial and subserial shall meet the requirements prescribed in § 113.135 and in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety Test.* The mouse safety test prescribed in § 113.33(a) and the cat safety test prescribed in § 113.39 shall be conducted.

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{3.5}$ plaque forming units per dose.

§ 113.150 Feline Rhinotracheitis Vaccine.

Feline Rhinotracheitis Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) The Master Seed Virus shall be tested for chlamydial agents as prescribed in § 113.43.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Thirty feline rhinotracheitis susceptible cats shall be used as test animals (20 vaccinates and 10 controls). Blood samples shall be drawn from these animals and individual serum samples tested. The cats shall be considered susceptible if the results are negative at a 1:2 final dilution in a 50 percent plaque reduction test or other test of equal sensitivity.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 cats used as vaccinates shall be injected with a predetermined quantity of vaccine virus and the remaining 10 cats shall be held as controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used. If two doses are used, five replicate confirming titrations shall be conducted on each dose.

(3) Twenty-one days after the final dose of vaccine, the vaccinates and controls shall each be challenged intranasally with virulent feline rhinotracheitis virus furnished or approved by Veterinary Services and observed each day for 14 days postchallenge. The rectal temperature of each animal shall be taken and the presence of respiratory or other clinical signs of feline rhinotracheitis noted and recorded each day.

(i) If at least 80 percent of the controls do not show signs of feline rhinotracheitis, including conjunctivitis, rhinitis, and a temperature of 104.5° F or higher, the test is inconclusive and may be repeated.

(ii) If a statistically significant difference cannot be demonstrated between temperatures of vaccinates and controls, and if 80 percent of the vaccinates do not remain free of severe upper respiratory signs, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years

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and each 5 years thereafter unless use of the lot previously tested is discontinued. At least five vaccinates and five controls shall be used in the retest: *Provided,* That, 80 percent of the vaccinates and 80 percent of the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) *Test requirements for release.* Each serial and subserial shall meet the requirements prescribed in § 113.135 and in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety test.* The mouse safety test prescribed in § 113.33(a) and the cat safety test prescribed in § 113.39 shall be conducted.

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{3.5}$ plaque forming units per dose.

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 8th day of May 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc. 78-12824 Filed 5-11-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 7]

[Docket No. 78N-0104]

ENFORCEMENT POLICY

Opportunity for Presentation of Views Before Report of Criminal Violation

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: This document proposes to revise the procedures applicable to an FDA notice of an opportunity to present views before the agency reports a criminal violation to a United States attorney for prosecution, and to identify those situations when such notice need not be given. The revisions are proposed, in part, to clarify and simplify the hearing procedures.

DATE: Comments by June 12, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

William L. Schwemer, Compliance Coordination Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs proposes to revise the regulations governing procedures under section 305 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335) concerning the report of a criminal violation to a United States attorney for prosecution. The revisions are designed to (1) specify that a refereal by FDA for further investigation, rather than for immediate prosecution, need not be preceded by an opportunity to present views under section 305 of the act, (2) identify those statutes enforced by FDA to which section 305 applies, (3) define the "exceptional circumstances" under which a notice under section 305 will not be issued, (4) simplify the procedures to more closely resemble conferences customarily held with potential defendants, and (5) delete the phrase "informal hearing" because the Medical Device Amendments of 1976 have now established a statutory definition for this phrase in section 201(y) of the act (21 U.S.C. 321(y)).

Regulations describing FDA's practices and procedures governing informal hearings held before reporting a criminal violation of the Federal Food, Drug, and Cosmetic Act to a United States attorney, pursuant to section 305 of the act, were published as a final rule in the FEDERAL REGISTER of March 22, 1977 (42 FR 15567). Since that time, the need for certain modifications in the regulations has become apparent.

Section 305 of the act, by its terms, applies only when the agency has determined that "a violation" of the act has occurred and the agency intends to refer the case to a United States attorney for a "criminal proceeding," that is, prosecution. A request for a grand jury investigation does not constitute the reporting of a violation for prosecution. Accordingly, the revised regulation, in §7.85(a) (21 CFR 7.85(a)), makes clear that the agency need not hold a section 305 hearing when it is considering recommending a grand jury investigation instead of a criminal prosecution based on the evidence then available.

Ordinarily, a hearing is held only after FDA investigation has revealed violations of the act and has identified the individuals who appear to be responsible. Section 305 of the act offers an opportunity for the prospective defendants to present their views on why the case should not be referred to the United States attorney for prosecution. In those instances when FDA has not been able to determine through its own investigative authority that violations have in fact occurred or which individuals are responsible, the agency's recommendation to the Justice Department may be to investigate the matter further through a grand jury. Indeed, it may not be possible to issue a 305 notice because an appropriate recipient—a person who appears to have been responsible for the violation—may be unknown. In such cases, a section 305 proceeding is replaced, in effect, by the proceedings before the grand jury.

Since a 305 notice alerts a prospective defendant that prosecution may be imminent, it may result in the alteration or destruction of potentially incriminating evidence. Such action would jeopardize the potential success of the criminal prosecution. When FDA has reason to believe that such alteration or destruction will occur, or that a potential defendant will flee, a 305 notice need not be issued.

The current regulation states that the Charge Sheet (Form FD-1854) accompanying the 305 notice shall include references not only to apparent violations of the Federal Food, Drug, and Cosmetic Act, but also to violations of "other laws administered by the agency." In addition, when the regulation was proposed, the preamble stated that a 305 hearing would include violations of other related Federal laws. However, the statute refers only to "any violation of this Act

• • •." FDA's current practice is to reference in the 305 notice other Federal statutes violated by the same conduct that violates the Federal Food, Drug, and Cosmetic Act. This practice is retained in revised § 7.84(c). However, if the agency does not contemplate proceeding with a recommendation under the Federal Food, Drug, and Cosmetic Act, no 305 hearing will be held with regard to the violation of other statutes.

The existing regulation requires the use of preprinted forms to notify the prospective defendants of the alleged violations and gives them the opportunity to present their views. These forms contain introductory language and certain terminology that may not be appropriate in every case. To afford flexibility in preparing the 305 notice and related documents, the reference to specific forms is deleted from § 7.84(d) and replaced by a generic description of the type of information that will be sent.

As a result of the Medical Device Amendments of 1976, the term "informal hearing" is now defined in section 201(y) of the Federal Food, Drug, and Cosmetic Act. That statutory term describes a formal proceeding, inconsistent with the informal opportunity to present views provided in section 305 of the act. To avoid confusion, the term "informal hearing" is deleted from the 305 regulations and replaced with the term "opportunity to present views."

Since preprosecution hearings were first provided for in the Food and Drugs Act of 1906, the opportunity to be heard has had the character of an informal conference. Respondents have been afforded wide latitude to explain voluntarily why criminal prosecution should not be recommended. Because these nonadversary proceedings have served their purpose well, FDA is proposing procedural revisions intended to preserve the informal character of the opportunity to present views.

The Food and Drug Administration has determined that this document does not contain an agency action covered by 21 CFR 25.1(b), and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 305, 701(a), 52 Stat. 1045, 1055 (21 U.S.C. 335, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 7 be amended as follows:

1. By revising § 7.3, to read as follows:

§ 7.3 Definitions.

(a) "Agency" means the Food and Drug Administration.

(b) "Citation" or "cite" means a document and any attachments thereto that provide notice to a person against whom criminal prosecution is contemplated of the opportunity to present views to the agency regarding an alleged violation.

(c) "Respondent" means a person named in a notice who presents views concerning an alleged violation either in person, by designated representative, or in writing.

(d) "Responsible individual" includes those in positions of power or authority to detect, prevent, or correct violations of the Federal Food, Drug, and Cosmetic Act.

2. By revising § 7.84, to read as follows:

§ 7.84 Opportunity for presentation of views before report of criminal violation.

(a)(1) Except as provided in paragraph (a)(2) and (3) of this section, a person against whom criminal prosecution under the Federal Food, Drug, and Cosmetic Act is contemplated by the Commissioner of Food and Drugs shall be given appropriate notice and an opportunity to present information and views to show cause why criminal prosecution should not be recommended to a United States attorney.

(2) Notice and opportunity need not be provided of the Commissioner has reason to believe that it may result in the alteration or destruction of evidence or in the prospective defendant fleeing to avoid prosecution.

(3) Notice and opportunity need not be provided if the Commissioner contemplates recommending further investigation by the Department of Justice.

(b) Where a statute enforced by the Commissioner does not provide for an opportunity to present views, the Commissioner need not, but may in the Commissioner's discretion, provide notice and an opportunity to present views.

(c) Where an apparent violation of the Federal Food, Drug, and Cosmetic Act also constitutes a violation of any other Federal statute, and the Commissioner contemplates recommending prosecution under such other statute(s) as well, the notice of opportunity to present views will include all violations.

(d) Notice of an opportunity to present views may be by letter, standard form, or other document(s) identifying the products and/or conduct alleged to violate the law. The notice shall (1) be sent by registered or certified mail, telegram, telex, personal delivery, or any other appropriate mode of written communication; (2) specify the time and place where those named may present their views; (3) summarize the violations that constitute the basis of the contemplated prosecution; (4) describe the purpose and procedure of the presentation; and (5) furnish a form on which the legal status of any person named in the notice may be designated.

(e) If more than one person is named in a notice, a separate opportunity for presentation of views shall be scheduled on request. Otherwise, the time and place specified in a notice may be changed only upon a showing of reasonable grounds. A request for any change shall be addressed to the Food and Drug Administration office that issued the notice and shall be received in that office at least 3 working days before the date set in the notice.

(f) A person who has received a notice is under no legal obligation to appear or answer in any manner. A person choosing to respond may appear personally, with or without a representative, or may designate a representative to appear for him or her. Alternatively, a person may respond in writing. If a person elects not to respond on or before the time scheduled, the Commissioner will, without further notice, decide whether to recommend criminal prosecution to a United States attorney on the basis of the information available.

(g) When a respondent chooses to appear solely by designated representative, such representative shall present a signed statement of authorization. When a representative appears for more than one respondent, the representative shall submit independent documentation of authority to act for each respondent. If a representative appears without written authorization, the opportunity to present views with respect to that respondent may be provided at that time only if the authenticity of the representative is first verified by telephone, or other appropriate means.

3. By revising § 7.85, to read as follows:

§ 7.85 Conduct of a presentation of views before report of criminal violation.

(a) The presentation of views shall be heard by a designated Food and Drug Administration employee. Other Food and Drug Adminstrtation employees may be present.

(b) A presentation of views shall not be open to the public. The agency employee designated to receive views will permit participation of other persons only if they appear with the respondent or the respondent's designated representative and at the request of and on behalf of the respondent.

(c) A respondent may present any information of any kind bearing on the Commissioner's determination to recommend prosecution. Information may include statements of persons appearing on such respondent's behalf, letters, documents, laboratory analyses, if applicable, or other relevant data or arguments. The opportunity to present views shall be informal. The

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rules of evidence shall not apply. Any information given by a respondent, including statements by the respondent, may be introduced at any subsequent trial. The Food and Drug Administration is under no obligation to present evidence or witnesses.

(d) If the respondent holds a "guaranty or undertaking" as described in section 303(c) of the act (21 U.S.C. 333(c)) that is applicable to the notice, such document, or verified copy thereof, may be presented by the respondent.

(e) With the approval of the agency employee designated to receive views, a respondent may have a verbal presentation transcribed at such respondent's expense, in which case a copy of such transcription shall be furnished to the Food and Drug Administration office from which the notice issued. The employee designated to receive views may order a presentation of views transcribed at agency expense, in which case a copy of such transcription shall be provided to each respondent.

(f) If an oral presentation is not transcribed, the agency employee designated to receive views shall dictate a written summary of the presentation at its conclusion. A copy of the summary shall be provided to each respondent.

(g) A respondent may supplement any response by additional written or documentary evidence. Such addition shall be furnished to the Food and Drug Administration office where the respondent's views were presented. If additions are submitted within 10 calendar days after receipt of the copy of the summary or transcription of the presentation, as applicable, they will be considered before a final decision whether or not to recommend prosecution. Any evidence received after the supplemental response period generally will be considered only if the final decision has not yet been made.

(h)(1) When consideration of criminal prosecution recommendation involving the same violations is closed by the Commissioner with respect to all persons named in the notice, the Commissioner will so notify each person in writing.

(2) When it is determined that a person named in a notice will not be included in the Commissioner's recommendation for criminal prosecution, the Commissioner will notify that person if and when the Commissioner concludes that notification will not prejudice the prosecution of any other person.

(3) When a United States attorney informs the agency that no persons recommended will be prosecuted, the Commissioner will so notify each person in writing.

(4) When a United States attorney informs the agency of intent to prosecute some but not all persons who had been provided an opportunity to present views and were subsequently named in the Commissioner's recommendation for criminal prosecution, the Commissioner will notify those persons after being advised by the United States attorney that such notification will not prejudice the prosecution of any other person.

4. By revising § 7.87, to read as follows:

§ 7.87 Records related to opportunities for presentation of views conducted before report of criminal violation.

(a) Records relating to a section 305 opportunity for presentation of views constitute investigatory records for law enforcement purposes and may include inter- and intra-agency memoranda.

(1) Notwithstanding the rule established in § 20.21 of this chapter, no record relating to a section 305 presentation is available for public disclosure until consideration of criminal prosecution has been closed in accordance with paragraph (b) of this section, except as provided in § 20.82 of this chapter. Only very rarely and only under circumstances that demonstrate a compelling public interest will the Commissioner exercise the Commissioner's discretion to disclose records (in accordance with § 20.82 of this chapter) relating to a section 305 presentation before the consideration of criminal prosecution is closed.

(2) After consideration of criminal prosecution is closed, such records are available for public disclosure in response to a request under the Freedom of Information Act, except to the extent that the exemptions from disclosure in Subpart D of Part 20 of this chapter are applicable. No statements obtained through promises of confidentiality shall be available for public disclosure.

(b) Consideration of criminal prosecution based on a particular section 305 opportunity for presentation of views shall be deemed to be closed within the meaning of this section and § 7.85 when a final decision has been made not to recommend criminal prosecution to a United States attorney based on charges set forth in the notice and considered at the presentation, or when such recommendation has been finally refused by the United States attorney, or when criminal prosecution has been instituted and the matter and all related appeals have been concluded, or when the statute of limitations has run.

(c) Before disclosure of any record specifically reflecting consideration of a possible recommendation for criminal prosecution of any individual, all names and other information that would identify an individual whose prosecution was considered but as to whom prosecution was not recommended, or who was not prosecuted, shall be deleted, unless the Commissioner concludes that there is a compelling public interest in the disclosure of such names.

(d) Names and other information that would identify a Food and Drug Administration employee shall be deleted from records relating to a section 305 presentation of views before public disclosure only under § 20.32 of this chapter.

Interested persons may, on or before (June 12, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107.

Dated: May 4, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12787 Filed 5-11-78; 8:45 am]

[1505-01]

[21 CFR Part 101]

[Docket No. 77P-0413]

FOOD LABELING

Ingredient Labeling Exemption

Correction

In FR Doc. 78-10035, appearing at page 16347 in the issue for Tuesday, April 18, 1978, make the following changes:

1. The second word in the third line of the "Summary" paragraph on page 16347 should read, "in".

2. On page 16348, the first line of the "Date" paragraph in column one should read, "DATE: Written comments by June 19," and the second line of the second complete paragraph in column three should read, "June 19, 1978, submit to the Hearing".

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[7532-01]

NATIONAL COMMISSION ON NEIGHBORHOODS

[24 CFR Part 4000]

PRIVACY ACT OF 1974

Proposed Regulations for Implementation

AGENCY: National Commission on Neighborhoods.

ACTION: Proposed Rule.

SUMMARY: The National Commission on Neighborhoods proposes regulations to implement the Privacy Act of 1974 (5 U.S.C. 552a). Interested parties are invited to comment.

DATES: Comments are due on or before June 7, 1978.

ADDRESS: Send comments to: Robert L. Kuttner, Executive Director-designate, National Commission on Neighborhoods, 2000 K Street NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Robert L. Kuttner, Executive Director-designate, Area 202-632-5200.

Signed this 8th day of May 1978 by:

FRANCES PHIPPS,
Deputy Director.

1. Chapter XXIV of Title 24 is proposed to read as follows: "Chapter XXIV—National Commission on Neighborhoods"

2. It is proposed to add the following part 4000 to Title 24 of the CFR

PART 4000—PRIVACY ACT IMPLEMENTATION

Sec.
4000.1 Purpose and scope.
4000.2 Definitions.
4000.3 Procedures for requests pertaining to individual records in a record system.
4000.4 Times, places, and requirements for the identification of the individual making a request.
4000.5 Access of requested information to the individual.
4000.6 Request for correction or amendment to the record.
4000.7 Agency review of request for correction or amendment of the record.
4000.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
4000.9 Disclosure of record to a person other than the individual to whom the record pertains.
4000.10 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 4000.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the National Commission on Neighborhoods (hereafter known as the Commission) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 4000.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her employment history, payroll information, and financial transactions, and that contains his or her name, or the indentifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 4000.3 Procedures for requests pertaining to individual records in a record system.

An individual shall submit a request to the Excecutive Director of the Commission to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Executive Director of the Commission which states the individual's desire to review his or her record.

§ 4000.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Executive Director of the Commission pursuant to § 4000.3 of this Part shall present the request at the Commission offices, 2000 K Street NW., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5:30 p.m. The individual submitting the request should present himself or herself at the Commission's offices with a form of identification which will permit the Commission to verify that the individual is the same individual as contained in the record requested.

§ 4000.5 Access to requested information to the individual.

Upon verification of identity the Commission shall disclose to the individual the information contained in the record which pertains to that individual.

§ 4000.6 Request for correction or amendment to the record.

The individual should submit a request to the Executive Director of the Commission which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with the provisions of § 4000.4 of this Part.

§ 4000.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Executive Director of the Commission will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 4000.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

(a) An individual who disagrees with the refusal of the Executive Director of the Commission to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director, National Commission on Neighborhoods, 2000 K Street NW., Washington, D.C. 20006.

(b) The Executive Director will not later than thirty working days from the date on which the individual requests such review, completes such review and make a final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a (g)(1)(A).

§ 4000.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than to the individual to whom the record per-

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tains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Commission's notices of its system of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b)).

§ 4000.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record in advance of receipt of the pages.

[FR Doc. 78-13020 Filed 5-11-78; 8:45 am]

[7532-01]

[24 CFR Part 4001]

ORGANIZATION AND INFORMATION

AGENCY: National Commission on Neighborhoods.

ACTION: Proposed rule.

SUMMARY: The National Commission on Neighborhoods propose regulations to implement the Freedom of Information Act (5 U.S.C. 552). Interested parties are invited to comment.

DATE: Comments are due on or before June 7, 1978.

ADDRESS: Send comments to: Robert L. Kuttner, Executive Director-designate, National Commission on Neighborhoods, 2000 K Street NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Robert L. Kuttner, Executive Director-designate, area 202-632-5200.

It is proposed to add the following part 4001 to Title 24 of the CFR.

Pursuant to section 552 of title 5, United States Code, as amended, the following Part 4001 is published:

PART 4001—ORGANIZATION AND INFORMATION

ORGANIZATION

Sec.
4001.1 General.
4001.2 Authority and functions.
4001.3 Organization.

PROCEDURES

4001.4 Methods of operation.

AVAILABILITY OF INFORMATION

4001.5 Inspection and copying.

CHARGES FOR SEARCH FOR REPRODUCTION

4001.6 Schedule of fees and method of payment for services rendered.

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502.

ORGANIZATION

§ 4001.1 General

This information is furnished for the guidance of the public and in compliance with the requirements of section 552 of title 5, United States Code, as amended.

§ 4001.2 Authority and functions.

(a) The National Commission on Neighborhoods was established pursuant to Pub. L. 95-24.

(b) The functions of the National Commission on Neighborhoods are carried out pursuant to the provisions of Pub. L. 95-24.

§ 4001.3 Organization.

The central organization of the National Commission on Neighborhoods consists of:

(a) Twenty Commission members selected pursuant to the provisions of Pub. L. 95-24.

(b) An Executive Director appointed by the President, and with the advice and consent of the Senate, from among individuals recommended by the Commission.

(c) Various support staff.

(d) The National Commission on Neighborhoods is presently located in Suite 350, 2000 K Street NW., Washington, D.C. 20006. Regular office hours are from 9 a.m. to 5:30 p.m., Monday through Friday.

PROCEDURES

§ 4001.4 Methods of operation.

(a) A request for records maintained by the National Commission on Neighborhoods should be addressed in writing to the Executive Assistant, National Commission on Neighborhoods, Suite 350, 2000 K Street NW., Washington, D.C. 20006, 202-632-5200. Requests for information shall be as specific as possible.

(b) Upon receipt of any request for information or records, the Executive Assistant will determine within 10 days (excepting Saturdays, Sundays, and legal public holidays) whether it is appropriate to grant the request and will immediately (Receipt of a request as used herein means the date the request is received in the office of the Commission.) provide written notification to the person making the request. If the request is denied, the written notification will include a notice that an appeal may be lodged with the Executive Director, NCN Suite 350, 2000 K Street NW., Washington, D.C. 20006.

(c) In the event the request is denied and that denial is appealed, the Executive Director will make a determination with respect to such appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays). Appeals shall be set forth in writing and addressed to the Executive Director at the address specified in paragraph (b) of this section. The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be set forth in writing and signed by the Executive Director or his designee. If, on appeal, the denial is in whole or in part upheld, the written determination will also contain a notification of the provisions for judicial review and the names of the persons who participated in the determination.

(d) In unusual circumstances, the time limits prescribed in paragraphs (b) and (c) of this section, may be extended for not more than 10 working days (excepting Saturdays, Sundays, or legal public holidays). Extensions may be granted by the Executive Assistant in the case of initial requests and by the Executive Director in the case of appeals. The extension period may be split between the initial request and the appeal but in no instance may the total period exceed 10 working days. Extensions will be by written notice to the persons making the request and will set forth the reasons for the extension and the date the determination is expected. As used herein, but only to the extent reasonably necessary to the proper processing of the particular request, the term "unusual circumstances" means:

(1) The need to search for and collect the requested records from locations that are separate from the Commission office;

(2) The need to search for, collect, and examine a voluminous amount of separate and distinct records which are demanded in a single request.

AVAILABILITY OF INFORMATION

§ 4001.5 Inspection and copying.

(a) When a request for information has been approved pursuant to section 4 above, the person making the request may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the Executive Director at the address or telephone number listed in § 4001.4. Such materials may be copied manually without charge, and reasonable facilities will be made available for that purpose. Also, copies of individual pages of such materials will be made available at the price per page specified in paragraph (a) of § 4001.6.

CHARGES FOR SEARCH AND REPRODUCTION

§ 4001.6 Schedule of fees and method of payment for services.

(a) Following is the fees schedule for the search and reproduction of information available under the Freedom of Information Act (5 U.S.C. 552), as amended.

(1) Search for records. $5 per hour when the search is conducted by a clerical employee. $8 per hour when the search is conducted by a professional employee. No charge for searches of less than 1 hour.

(2) Duplication of records. Records will be duplicated at a rate of $0.25 per page for all copying of 4 pages or more. There is no charge for duplicating 3 or less pages.

(3) Other. When no specific fee has been established for a service, or the request for a service does not fall under one of the above categories due to the amount or type thereof, the Executive Director is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act and in accordance with Office of Management and Budget Circular No. A-25, "User charges." Examples of service covered by this provision include searches involving computer time or special travel, transportation, or communications costs.

(b) If records requested under this part are stored elsewhere than the headquarters of the National Commission on Neighborhoods at Washington, D.C., the special costs of returning such records to the headquarters for review will be added to the search costs. Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made.

(c) Where it is anticipated that the fees chargeable under this section will amount to more than $25, or the maximum amount specified in the request, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In instances where the estimated fees will greatly exceed $25, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to consult with the Commission personnel in order to reformulate the request in a manner which will reduce the fees, yet still meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Commission until a reply is received from the requester.

(d) Fees must be paid in full prior to issuance of requested copies. In the event the requestor is in arrears for previous requests for which the Commission was unable to find or provide the requested information (see paragraph (b) of this section), copies of records will not be provided for any subsequent request until the arrears have been paid in full.

(e) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed or delivered to the Administrative Officer, NCN, Suite 350, 2000 K Street NW., Washington, D.C. 20006.

(f) A receipt for fees paid will be given upon request. Refund of fees paid for services actually rendered will not be made.

(g) The Executive Director, or an officer designated by the Executive Director may in accordance with the Freedom of Information Act, as amended, waive all or part of any fee provided for in this section when the Executive Director or the designated officer deems it to be in either the Commission's interest or in the general public interest.

For the National Commission on Neighborhoods.

FRANCES PHIPPS,
Deputy Director.

[FR Doc. 78-13026 Filed 5-11-78; 8:45 am]

COPYRIGHT ROYALTY TRIBUNAL

[37 CFR Part 303]

ACCESS TO PHONORECORD PLAYERS

Proposed Phonorecord Player Access Regulation; Public Hearing

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of proposed regulation and public hearing.

SUMMARY: This notice of proposed rulemaking is issued by the Copyright Royalty Tribunal (CRT) to implement the Act for General Revision of the Copyright Law. This Act directs the CRT to promulgate regulations under which persons who may reasonably be expected to have claims resulting from public performance of nondramatic musical works by coin-operated phonorecord players may have such access to such establishments and to the phonorecord players as may be necessary to determine the proportion of contribution of the musical works of such person to the earnings of the phonorecord players for which fees have been deposited. The proposed regulation requires the recording in the offices of the Copyright Royalty Tribunal of current listings of locations where licensed phonorecord players are placed, and the number of players at such location.

DATES: A public hearing on the proposed regulation will commence at 10 a.m., Wednesday, June 21, and will continue on such subsequent days as may be necessary. All persons desiring to participate at the hearing must advise the Chairman, Copyright Royalty Tribunal not later than June 5 of an intention to appear. Any written testimony or documentary evidence to be presented by persons appearing at the hearing must be submitted not later than June 15. The record will remain open for other written comments until July 5. The rules of procedure for this hearing will provide that proponents and opponents of the proposed regulation will have the opportunity to call and examine witnesses, and to cross-examine witnesses.

ADDRESSES: The hearing will be held at 2033 K Street NW., Washington, D.C., Fifth Floor Hearing Room. Notices of intention to appear, written testimony, documentary evidence and written comments should be sent to Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Brennan, Chairman, Copyright Royalty Tribunal, 202-653-5175.

37 CFR Chapter III is amended by adding a new Part 303, reading as follows:

PART 303—ACCESS TO COIN-OPERATED PHONORECORD PLAYERS

Sec.
303.1 General.
303.2 Access to establishments.
303.3 Access to the interior of a phonorecord player.
303.4 Recording of location listing in Copyright Royalty Tribunal.

AUTHORITY: (17 U.S.C. 116(c)(5).)

§ 303.1 General.

This regulation prescribes the procedures pursuant to 17 U.S.C. 116 by which persons who can reasonably be expected to have claims to royalty fees paid by the operators of coin-operated phonorecord players under the compulsory license established by 17 U.S.C. 116 may have access to the establishments in which such phonorecord players are located and to the phonorecord players located therein to obtain information which may be reasonably necessary to determine the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. The terms "operator" and "coin-operated phonorecord player" have the meanings given to them by paragraph (3) of section 116 of Title 17.

§ 303.2 Access to establishments.

A person, or authorized representatives of such person, who can reasonably be expected to have claims to royalty fees paid by the operators of phonorecord players shall have access to the establishments in which such phonorecord players are located during customary business hours on regular business days. Such access shall be only for the purpose of obtaining information concerning the performance of musical works by the

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phonorecord players. The right of access shall be exercised in such a manner as not to cause any significant interference with the normal functioning of an establishment.

§ 303.3 Acces to the interior of a phonorecord player.

No access to the interior of a phonorecord player to examine phonorecords, record selection (title strips), poularity indicators or other features of the phonorecord player is authorized under these regulations unless such access is essential to obtain accurate information concerning the performance of musical works on the particular phonorecord player, and such information is not otherwise available. No access to the interior of a phonorecord player is authorized under these regulations unless the person desiring such access has notified the operator of the phonorecord player or his authorized representative of the need for such access not less than seven days prior to the date of the proposed examination of the phonorecord player.

§ 303.4 Recording of location listings in Copyright Royalty Tribunal.

(a) Not later than September 1, 1978, every operator of a phonorecord player who has filed in the Copyright Office an application for a phonorecord player compulsory license according to the requirements of 17 U.S.C. 116 and the regulations of the Copyright Office and been issued prior to August 1, 1978, a Copyright Office phonorecord player certificate shall record in the offices of the Copyright Royalty Tribunal a list identifying the location or locations where licensed phonorecord players of the operator are placed, and the number of phonorecord players at any location with more than one such player.

(b) Every operator of a phonorecord player who subsequent to August 1, 1978, obtains his initial Copyright Office phonorecord certificate shall record in the office of the Copyright Royalty Tribunal within thirty days after the issuance of the initial certificate a list identifying the location or locations where licensed phonorecord players of the operator are placed, and the number of phonorecord players at any location with more than one such player.

(c) Every operator of a phonorecord player who alters the number of phonorecord players at a location reported under clause (a) or (b) shall, within thirty days of the alteration, record the revised number of phonorecord players in the offices of the Copyright Royalty Tribunal.

(d) Every operator of a licensed phonorecord player who moves a licensed phonorecord player or players to a location not previously reported to the Copyright Royalty Tribunal shall report such new location, and the number of licensed phonorecord players at that location, within thirty days of the installation of the first phonorecord player at the new location.

(e) The location listing required under this section shall include the full address of the location, including a specific number and street name or rural route.

Dated: May 8, 1977.

THOMAS C. BRENNAN,
Chairman.

[FR Doc. 78-12923 Filed 5-11-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 895-1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—MASSACHUSETTS

Proposed Rulemaking: Extension of the Effective Period of the Sulfur in Fuel Regulation for the Southeastern Massachusetts APCD.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The proposed revision changes the expiration date of Regulation 5.1 for the Southeastern Massachusetts Air Pollution Control District (APCD), "Sulfur Content of Fuels and Control Thereof," from May 1, 1978 to July 1, 1979. The regulation, which relaxes the sulfur limitations for fossil fuels burned by large sources in the Southeastern Massachusetts APCD, was approved by EPA as a revision to the State Implementation Plan in FEDERAL REGISTER notices published on September 2, 1977 and January 12, 1978. Comments are solicited on the effect of this extension.

DATES: Comments must be received on or before June 12, 1978.

ADDRESSES: Copies of the Massachusetts submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 2113, J. F. K. Federal Building, Boston, Mass. 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and Department of Environmental Quality Engineering, Air and Hazardous Materials Division, Room 320, 600 Washington Street, Boston, Mass. 02111. Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, J. F. K. Federal Building, Boston, Mass. 02203.

FOR FURTHER INFORMATION CONTACT:

David Stonefield, Air Branch, EPA Region I, Room 2113, J. F. K. Federal Building, Boston, Mass. 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On January 31, 1978, the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted a revision to the State Implementation Plan (SIP) which would change the expiration date of Regulation 5.1 for the Southeastern Massachusetts Air Pollution Control District (APCD), "Sulfur Content of Fuels and Control Thereof," from May 1, 1978 to July 1, 1979. Regulation 5.1 permits sources with an energy input capacity of one hundred million Btu per hour or more to burn fossil fuel with a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent by weight sulfur content residual fuel oil). Sources of less than one hundred million Btu per hour energy input capacity are required to burn fossil fuel with a sulfur content not in exess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1.0 percent sulfur content residual oil). The federal Air Quality Control Region (AQCR) corresponding to the Southeastern Massachusetts APCD is the Massachusetts portion of the Metropolitan Providence Interstate AQCR.

This regulation was approved by EPA as a revision to the Massachusetts SIP in FEDERAL REGISTER notices published on September 2, 1977 (42 FR 44235) and January 12, 1978 (43 FR 1793). Of the seventeen sources in the size category eligible to burn the higher sulfur content fuel, the Administrator required four sources to continue burning 1 percent sulfur content fuel oil, as required by the original SIP. The Administrator's determination was made on the basis of dispersion modeling results which predicted violations of the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2) if these sources were to convert to the higher sulfur content fuel; consequently, they would be required to continue burning lower sulfur content fuel during the period of the proposed extension.

All sources must be reviewed by the Massachusetts Department and be granted a permit prior to burning the higher sulfur content fuel. Approval is contingent on a demonstration by the source of its ability to comply with applicable regulations, including the particulate emission limitations (compliance to be determined by emission testing) and opacity regulations. Any violation of applicable state regulations or of the NAAQS within the area of impact of a source will result in revocation of the permit and a mandatory return by that source to lower sulfur fuel.

The Massachusetts Department submitted ambient monitoring data collected after the approved sources commenced burning of higher sulfur fuel. The data from the state monitoring network show no exceedances of the NAAQS for SO_2. In addition, SO_2 data from the monitoring network operated by the New England Power Company and a limited analysis of meteorological conditions during this time indicate that the Brayton Point station has not caused NAAQA exceedances.

Since violations of the NAAQS for total suspended particulates (TSP) have occurred throughout Massachusetts, and since use of higher sulfur fuel may result in increased particulate emissions, all sources converting to higher sulfur fuel were required by the Massachusetts Department to conduct emission tests for particulate matter. The Massachusetts Department submitted emission test results for Canal Electric Company; emissions were well below the regulatory limit. In no case would a source be allowed to continue burning higher sulfur fuel if its particulate emissions exceed the regulatory limits of the SIP.

Although the presently available data show that implementation of the revision has not contributed to violations of the NAAQS in the Southeastern Massachusetts APCD, the data are too limited to be conclusive. In accordance with the requirements of the August 7, 1977 Clean Air Act Amendments (Pub. L. 95-95), the Massachusetts Department is developing SIP revisions for non-attainment areas in the state, including this AQCR. Monitoring and emission data collected as part of a study now being conducted by the State and available prior to the time when these SIP revisions are submitted to EPA will be used in developing SO_2 and particulate control strategies.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)-(H) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: May 3, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator,
Region I.

[FR Doc. 78-12956 Filed 5-11-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 894-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Notice of Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposal announces receipt of a request from the State of New York to revise its State Implementation Plan. The State is seeking approval from the Environmental Protection Agency (EPA) of a temporary relaxation of the current fuel oil sulfur content limitation of 0.37 percent, by weight, applicable to the Village of Freeport Plant No. 2 generating facility, Units 1 and 2, in Nassau County, N.Y. This "special limitation" proposed by the State would permit the use, until July 31, 1980, of fuel oil having a maximum sulfur content of either 1.0 percent or 2.2 percent. To burn 2.2 percent sulfur content fuel oil the "special limitation" would require that the height of the facility's stacks be increased to approximately 180 feet (55 meters) above ground level. EPA is proposing to approve only the use of 1.0 percent sulfur content fuel oil because EPA regulations concerning stack height and emission increases currently are being developed under section 123 of the Clean Air Act.

DATES: Comments must be received on or before June 12, 1978.

ADDRESSES: All comments should be addressed to: Eckardt C. Beck, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007. Copies of the proposal are available for public inspection during normal business hours at: U.S. Environmental Protection Agency, Air Programs Branch, room 908, Region II Office, 26 Federal Plaza, New York, N.Y. 10007; U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460; New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, N.Y. 12233; and New York State Department of Environmental Conservation, Region I Office, Building No. 40, State University of New York, Stony Brook, N.Y. 11794.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007, 212-264-2517.

SUPPLEMENTARY INFORMATION: On May 6, 1977, the State of New York submitted a request to the Environmental Protection Agency (EPA) to approve a proposed revision to the New York State Implementation Plan (SIP). The contents of the State submittal included a technical evaluation of the impact of the proposed revision on air quality and an evaluation report prepared by the hearing officer for a State public hearing held on April 17, 1975. Also contained in the submittal was Order No. 3161C, dated May 3, 1977 and signed by the Commissioner of the New York State Department of Environmental Conservation.

The Commissioner's Order was issued to the Village of Freeport under the provisions of Title 6 of the New York State Official Compilation of Codes, Rules, and Regulations (6 NYCRR 225.2). On August 1, 1977, the State submitted a revised order also dated May 3, 1977. The revised order superseded the one contained in the May 6, 1977 State submittal and corrected certain technical defects in the original. The State's revision request was submitted in accordance with all EPA requirements under 40 CFR Part 51.

The proposed SIP revision is a "special limitation" which, if approved by EPA for inclusion in the SIP, would allow the Village of Freeport to temporarily use higher sulfur content fuel oil than currently allowed at its Plant No. 2 generating facility, Units 1 and 2, located in Nassau County, New York. The "special limitation" would allow the use, until July 31, 1980, of residual fuel oil having a maximum sulfur content either of 1.0 percent or 2.2 percent, by weight. The 1.0 percent limitation would be allowed with the existing stack heights of 108 feet (32 meters) above ground level and 2.2 percent limitation would be allowed with the heights of the stacks increased to approximately 180 feet (55 meters) above ground level. The current sulfur-in-fuel-oil limitation applicable to this facility is 0.37 percent, by weight. The existing stack heights of 108 feet include stack extensions of 18 feet installed at the Freeport facility subsequent to the public hearing.

The State technical evaluation and hearing officer's report indicate that with the existing stacks, when burning 2.2 percent sulfur content fuel oil, contraventions of the three-hour national secondary ambient air quality standard and the one-hour New York State ambient air quality standard for sulfur dioxide are expected to occur under occasional high wind conditions. If the stacks are permitted to be raised to 180 feet, the State predicts that no contraventions of either standard will occur.

An initial review of the impact of the proposed SIP revision was per-

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formed by EPA utilizing, in part, a document entitled, "Achievement and Maintenance of National and New York State Sulfur Dioxide Standards on Long Island, The Impact of Special Limitations Concerning Fuel Use at the Village of Freeport Electric Generating Plant No. 2," prepared for the Village of Freeport by Environmental Research & Technology, Inc. (ERT), March 1975 and an analysis of aerodynamic downwash, also prepared by ERT entitled, "The Effect of Aerodynamic Downwash on SO_2 Concentrations in the Vicinity of the Freeport Power Plant No. 2." The initial EPA review agrees with the finding by the State which indicates that contraventions of the 3-hour sulfur dioxide air quality standard can occur with the use of 2.2 percent sulfur content fuel oil with the existing stacks. This air quality problem is a result of an atmospheric phenomenon called aerodynamic downwash. This occurs when the height of a stack is relatively close to that of a nearby building causing the emissions to become trapped in a concentrated form close to the facility. At the Freeport facility the stack is located on a building 71 feet (22 meters) above ground level; the top of the stack is 108 feet (32 meters) above ground level. This configuration meets the criteria for downwash potential. As a result, high concentrations of sulfur dioxide are expected in the vicinity of the facility with the use of 2.2 percent sulfur content fuel oil with the existing stacks, although no contraventions are expected to occur with the use of 1.0 percent sulfur content fuel oil. In addition, no contraventions are expected to occur with the use of either 1.0 percent or 2.2 percent sulfur content fuel oil with the height of the stacks increased to 180 feet.

It is the current position of EPA that the use of 1.0 percent sulfur content fuel oil with the existing stacks is an approvable provision of this proposed SIP revision. However, EPA's current position on the approvability of the proposal to use 2.2 percent sulfur content fuel oil with extended stacks is that no action can be taken at this time. This is because EPA is currently in the process of developing regulations concerning stack height and emission increases under the provisions of section 123 of the Clean Air Act which is the section that mandates the conditions under which emission limitations may be affected by stack height. Thus, any approval or disapproval action at this time could subsequently be found to be inconsistent with the regulations currently being developed.

The hearing officer's report documents several complaints made by the public concerning the emission of soot, ash, debris, and foul odors from the Freeport facility. These problems have occurred with the existing stacks and with the facility using residual fuel oil. While the proposed increase in stack height to 180 feet may reduce the impact of the emissions of the Freeport facility on nearby areas and may alleviate the public nuisance problems which have occurred in the past, for the reasons previously stated, EPA cannot take action on the proposed use of 2.2 percent sulfur content fuel oil with a stack height increase at this time.

In the hearing officer's report it is also indicated that, based on stack tests performed at the Freeport facility, the State particulate matter emission limitation is exceeded when residual fuel oil is used. Residual fuel oil will probably be used if EPA approves any part of the plan revision. In a letter dated November 3, 1977, EPA informed the Village of Freeport that the State particulate matter emission limitation must be met and that the Village of Freeport would be subject to penalties if the limitation were violated. EPA informed the Village of Freeport in the letter that particulate matter control equipment would have to be installed prior to the use of residual fuel oil if use of such fuel oil were approved.

This notice is issued as required by section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New York State Implementation Plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Section 110(a)(2)(A)-(K) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

(Sections 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601).)

Dated: April 14, 1978.

ECKARDT C. BECK,
Regional Administrator,
Environmental Protection Agency.

[FR Doc. 78-13129 Filed 5-11-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 450]

MEDICAL ASSISTANCE PROGRAM

Public Notice of Changes in the Method or Level of Reimbursement for Health Care Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This regulation would require State Medicaid agencies to give 60 days public notice of any proposed change in the method or level of reimbursement for services provided under the Medicaid program before such changes can become effective. This 60 day period would allow the Federal Government, in cooperation with the States, and the public to evaluate the justification for the changes.

DATES: Closing date for receipt of comments: July 11, 1978.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013. Please refer to file code MMB-248-P. Agencies and organizations are requested to submit comments in duplicate. Beginning two weeks from today, the public may review the comments Monday through Friday of each week, from 8:30 a.m. to 5 p.m.: Department of Health, Education, and Welfare, Health Care Financing Administration, Room 5225, 330 C Street SW., Washington, D.C. 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Milton Dezube, 202-245-8990.

SUPPLEMENTARY INFORMATION: We are deeply concerned about the rapid rise in the cost of medical care in this country. As Secretary Califano noted in his press conference on April 12, 1978, during the period 1975 to 1977, cost for medical services rose at the rate of 9.5 percent per year, which is more than 1½ times the overall rate of increase for all consumer prices. This rapid rise in health care costs can make it difficult for people to obtain the health care services they need. Moreover, since the health care industry is the third largest industry in the nation, the rapid increase in health care costs is a major contributor to the national problem of inflation.

This proposed rule is one of several initiatives we are taking to try to restrain the increase in health care costs. We believe that requiring State Medicaid agencies to give the public, and other government agencies, an opportunity to evaluate and comment on proposed changes in Medicaid reimbursement to health care providers may being new information, concerns and ideas to the attention of the State Medicaid agency and have a beneficial impact on the rapid rise in health care costs.

We propose requiring the State Medicaid agency to publish a notice of proposed changes in Medicaid reimbursement at least 60 days before the changes take effect. The notice would have to explain the basis for the change and describe the economic impact it is expected to have.

In some instances, Medicaid services are reimbursed in accordance with the principles, methods and reimbursement levels established under the Medicare program. (See 42 CFR 450.30). If the State Medicaid agency is merely making a change in its reimbursement practices to conform to a change in the Medicare program, a public notice 60 days prior to the change would not appear to serve a significant purpose and, therefore, would not be required.

This proposed rule is based on sections 1902(a)(4)(A) and 1902(a)(3) of the Social Security Act. Section 1902(a)(4)(A) specifies that a State plan for medical assistance shall provide for "such methods of administration • • • as are found by the Secretary to be necessary for the proper and efficient operation of the plan." Section 1902(a)(30) requires that a State plan must:

> provide such methods and procedures relating to the utilization of, and payment for, care and services available under the plan • • • as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments (including payments for any drugs provided under the plan) are not in excess of reasonable charges consistent with efficiency, economy, and quality of care.

42 CFR Part 450 is amended by adding a new § 450.29 to read as follows:

§ 450.29 Public notice of changes in the method or level or reimbursement for health care services.

(a) The State plan must provide public notice of any proposed changes in the levels or methods of reimbursement for health care services, except as specified in paragraph (c) of this section. The notice must:

(1) Describe the proposed change, the reason for it, and its expected economic impact;

(2) Be published at least 60 days prior to the proposed effective date of the change;

(3) Appear as a public announcement in the newspaper of widest circulation in each city with a population of 50,000 or more;

(4) Identify a local agency in each county (such as the social services agency or health department) where copies of the proposed changes are available for public review;

(5) Specify an address where written comments may be sent; and

(6) If there are to be public hearings, either specify the location, date, and time for the hearings or explain how information concerning them can be obtained.

(b) The State plan must also provide for notifying HCFA of the proposed changes, concurrently with publication of the notice.

(c) Public notice is not required if the changes in Medicaid reimbursement are being made to conform to changes in the level or method of reimbursement under the Medicare program.

(Sections 1102, 1902(a)(4) and 1902(a)(30) of the Social Security Act; 49 Stat. 647, 79 Stat. 344; 42 U.S.C. 1302, 1396(a)(4) and 1396(a)(30).)

(Catalogue of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program).

Dated: April 13, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: May 8, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-12959 Filed 5-11-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-148; RM-2694]

TELEVISION BROADCAST STATION IN SALEM, OREG.

Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rulemaking.

SUMMARY: Federal Communications Commission proposes to reserve existing Channel 3 television assignment in Salem, Oreg., for noncommercial educational use. This action would reflect the actual operation of Station KVDO-TV on this channel assignment. This action was initiated by a petition for rulemaking filed by the State Board of Higher Education of the State of Oregon, licensee of Station KVDO-TV.

DATES: Comments must be received on or before July 5, 1978, and reply comments must be received on or before July 25, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Gordon W. Godfrey, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: May 5, 1978.

Released: May 10, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations, Salem, Oreg., BC Docket No. 78-148, RM-2694.

1. The Commission, by the Chief, Broadcast Bureau, has under consideration a petition for rulemaking filed by the State of Oregon acting by and through the State Board of Higher Education ("Board"). The Board seeks amendment of the Television Table of Assignments to reserve television Channel 3 at Salem, Oreg., for noncommercial educational use.

2. Salem (pop. 68, 296), seat of Marion County (pop. 151,309) and capital of the State of Oregon, is located in northwest Oregon, about 50 miles south of Portland. Salem is currently assigned VHF Channel 3 (used by petitioner's Station KVDO-TV), and UHF Channels *22 and 32. Channels *22 and 32 are both vacant and no applications for their use have been filed.

3. On February 19, 1976, the Commission granted its consent to the assignment of license (BALCT-571) for television Station KVDO-TV, Channel 3, Salem, Oreg., from Corvallis TV Cable Co. to the Board.[1] The Board presently operates noncommercial educational television, FM and AM broadcast stations in the State of Oregon, and since the assignment of Station KVDO-TV, has operated it as a noncommercial educational television station.

4. Inasmuch as the reservation of Channel 3 in Salem, Oreg., for noncommercial educational use would be a recognition of the operation of the petitioner on Channel 3, the Commission is persuaded that a rulemaking proceeding should be instituted. Thus, we are requesting comments on the Board's proposal. Also, since there appears to be no interest in a second reserved channel, we propose to delete the reservation on Channel 22.

5. Therefore, we propose to consider the following revision in the Television Table of Assignments (§ 73.606(b) of the rules) with respect to the city listed below:

City and Channel Number	
Salem, Oreg.,	Present: 3+, *22, 32; Proposed: *3+, 22, 32.

6. As Salem is within 250 miles of the United States-Canadian border,

[1] An opposition to the petition seeking its dismissal was filed by Intercontinental Ministries, Inc. ("Intercontinental") on June 8, 1976. At that time, Intercontinental had pending before the Commission a petition for rehearing and reconsideration of the grant of the assignment of the KVDO-TV license to the Board. Because of the pendency of this filing, Intercontinental contended the reassignment of license was not final. Therefore, it argued, no petition to amend the Television Table of Assignments concerning the channel specified in that license should be considered. Subsequent to the filing of this opposition, the Commission denied Intercontinental's petition for rehearing and reconsideration, 59 FCC 2d 1282, and the Commission's action was reaffirmed in the courts, June 2, 1977, 181 U.S. App. D.C. 410. Therefore, the points raised in the opposition are no longer germane to the consideration of the Board's petition.

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Canadian concurrence in the proposal to amend the Television Table of Assignments will be necessary.

7. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures and filing requirements are contained in the attached appendix below and are incorporated by reference herein.

8. Interested parties may file comments on or before July 5, 1978, and reply comments on or before July 25, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend that the TV Table of Assignments, §73.606(b) of the Commission's rules and regulations, as set forth in the Notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponents of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of §1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-13006 Filed 5-11-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the Maryland Darter

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Critical Habitat proposal.

SUMMARY: The Service hereby proposes Critical Habitat for the Maryland darter (*Etheostoma sellare*) in northeastern Maryland. This proposal would make this area subject to full protection under section 7 of the Endangered Species Act of 1973 and is being taken to insure the integrity of the Deer Creek and Gasheys Creek aquatic ecosystem. This area is the native range of the Maryland darter and contains the only habitat for this species. The Maryland darter was listed as Endangered in 1967.

DATES: Comments from the public must be received by July 11, 1978. Comments from the Governors of States involved with this action must be received by August 10, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Maryland darter is presently known only from the lower portion of Deer Creek and Gasheys Creek, tributaries of the Susquehanna River, in Harford County, Md. It has also been reported from Swan Creek, also in Harford County. Precise locality information for the Swan Creek locality is not known; however, numerous samples from several localities have not revealed the presence of the Maryland darter. The darter was probably more widespread in the past, but how wide ranging is not known. Factors which could have resulted in the elimination of populations in the lower Susquehanna River include impoundments, pollution, and siltation.

Threats to the continued existence of the Maryland darter are related to the maintenance of its aquatic ecosystem. Siltation and pollution are factors which presently threaten the darter's habitat. Possible increased withdrawal of water from Deer Creek is an additional factor which could adversely impact the species. The proposed Critical Habitat is the only known habitat for the Maryland darter.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation," states:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatend species or result in the destruction of modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "Critical Habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) (to be codified as 50 CFR Part 402) and is reprinted below:

> "Critical habitat" means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the regulations for Interagency Cooperation as published in the January 4, 1978, FEDERAL REGISTER (43 FR 870), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

The application of these factors, based on data presently available, to the proposed Critical Habitat of the Maryland darter are discussed in the following paragraph.

The proposed streams include sufficient area for normal population growth and individual movements. Riffle and pool areas provide habitat for aquatic insects and snails, the Maryland darter's food. Large gravel and cobbles in the streams proposed as Critical Habitat provide cover for the Maryland darter. Although reproduction has not been observed, it is presumed to occur in the proposed area since the fish is not known to occur elsewhere. The streams proposed include the only known habitat of the Maryland darter.

The areas included in this proposal do not necessarily include the entire Critical Habitat of the Maryland darter, and modifications of its Critical Habitat designations may be proposed in the future. In accordance with Section 7 of the Act, all Federal departments and agencies are required to insure that actions authorized, funded, or carried out by them would not result in the destruction or adverse modification of the Critical Habitat of the Maryland darter.

There may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species. This point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives, for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under Section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service and the National Marine Fisheries Service, in cooperation with other Federal agencies, have drawn up regulations which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat. Provisions for Interagency Cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) (to be codified as 50 CFR Part 402) to assist Federal agencies in complying with Section 7 of the Endangered Species Act of 1973.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate as possible in delineating the Critical Habitat of the Maryland darter. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these proposed rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this proposal.

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this proposed rule is Dr. James D. Williams, Office of Endangered Species, 202-343-7814.

REGULATION PROMULGATION

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below.

§ 17.95 [Amended]

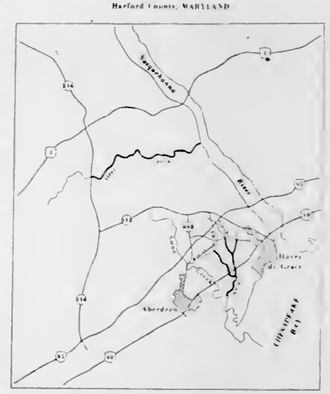
The Service proposes to amend § 17.95(e) by adding Critical Habitat of the Maryland darter after that of the slackwater darter as follows:

* * * * * *

(e) *Fishes.* * * *

MARYLAND DARTER (*Etheostoma sellare*)

Maryland. Harford County. Deer Creek main channel from Maryland highway 136 downstream to its junction with the Susquehanna River, Gasheys Creek main channel including its eastern and western branches from Maryland highway 157 and Robinhood Road downstream to its junction with Swan Creek.



NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 1, 1978.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-12896 Filed 5-11-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Ch. VII]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Hearing

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

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ACTION: Announcement of public hearing.

SUMMARY: This document announces a public hearing to be held by the New England Fishery Management Council. The hearing is being held to receive comments from the public on the fishery management plan and the proposed regulations of the herring fishery.

DATES: The hearings will be held on May 15, May 19, May 23, and May 25, 1978. See Supplementary Information below.

ADDRESSES: The hearings will be held in Rockport, Maine, Portland, Maine, Galilee, R.I., and Gloucester, Mass. See Supplementary Information below.

FOR FURTHER INFORMATION CONTACT:

Mr. Spencer Appollonio, 617-535-5450.

The New England Fishery Management Council announces a series of Public Hearings on the Atlantic sea herring (*Clupea harengus*) management plan. The hearings will be held to receive public comment on the plan and proposed regulations of the herring fishery in the Fishery Conservation Zone established under the 200 mile Act.

The hearings will be held from 7 to 10:30 p.m. at the following locations and dates:

May 15, 1978—Treadway Inn, Warrenton Avenue, Rockport, Maine 04856.
May 19, 1978—Portland Public Safety Building, 109 Middle Street, Portland, Maine 04101.
May 23, 1978—Dutch Inn, Great Island Road, Gaillee, R.I. 02882.
May 25, 1978—Gloucester City Hall, Dale Avenue, Gloucester, Mass. 01930.

The proposed plan would set herring quotas by area and by season through 1979 and 1980 with the purpose of controlling harvests of adult herring in the Gulf of Maine to permit rebuilding of that stock. The proposed quotas take account of seasonal migrations and intermixing of herring stocks to maximize total allowable catches without further depletion of the Gulf of Maine stock.

Copies of the management plan and further information are available by contacting Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Mass. 01960, 617-535-5450.

Dated: May 5, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-12764 Filed 5-11-78; 9:12 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214, 221, 371, 372, 372a, 373, 378, 378a]

[EDR-332A, SPDR-60A; Docket 30654; Dated May 5, 1978]

EXEMPTION OF AIR CARRIERS FROM FILING TARIFFS FOR INTERSTATE AND OVERSEAS CHARTERS

In the matter of Part 207—*Charter Trips and Special Services;* Part 208—*Terms, Conditions and Limitations of Certificates to Engage in Supplemental Air Transportation;* Part 212—*Charter Trips by Foreign Air Carriers;* Part 214—*Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only;* Part 221—*Construction, Publication, Filing and Posting of Tariffs of Air Carriers and Foreign Air Carriers;* Part 371— *Advance Booking Charters;* Part 372—*Overseas Military Personnel Charters;* Part 372a—*Travel Group Charters;* Part 373—*Study Group Charters by Direct Air Carriers and Study Group Charters;* Part 378—*Inclusive Tour Charters;* Part 378a—*One-Stop-Inclusive Tour Charter.*

SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Board proposes to relieve air carriers and foreign air carriers from the requirement to file tariffs with the Board stating their rates and charges for charter air transportation. This supplemental notice is in response to a comment of NACA.

DATE: Comments by June 12, 1978. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 30654, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Juhnke, Associate General Counsel, Rates and Agreements, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5436.

SUPPLEMENTARY INFORMATION: In response to a petition by the National Air Carrier Association (NACA)[1] the Board proposed to relieve air carriers from filing rate tariffs for their interstate and overseas charters (both passenger and cargo). EDR-332, SPDR-60, 42 FR 43409, August 29, 1977. NACA had proposed an exemption that also covered charters in foreign air transportation, but the Board tentatively concluded that section 416(b) of the Act did not give it authority to exempt foreign air carriers from the tariff-filing requirements of section 403. Lacking that authority, we did not propose to give domestic carriers an advantage over their foreign competitors by exempting them from filing tariffs for their foreign charters.

A number of comments to that notice have been filed, including a comment by NACA suggesting that the Board does have the authority in section 403(c) of the Act to relieve foreign and, by implication domestic air carriers from filing charter tariffs. That provision states that:

> The Board may in the public interest, by regulation or otherwise, * * * modify the requirements of this section with respect to filing and posting of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

The rationale for our tentative findings in EDR-332—i.e., that special circumstances affecting charter operations made the filing of charter rate tariffs an undue burden—applies equally to foreign and domestic charter tariffs. The sole reason for not extending the proposal to foreign charters was our perceived lack of authority under section 416(b). We therefore seek comment on the Board's legal authority to relieve foreign air carriers from section 403 of the Act; on whether special circumstances justify a modification of the tariff-filing charter tariffs pursuant to section 403(c) of the Act; and, if so, whether the Board should grant that relief.

We also limited our proposal in EDR-332 to rate, as opposed to rules tariffs because we were concerned that the elimination of certain of the latter tariffs would be detrimental to consumers. We are now considering extending relief from tariff filing to rules tariffs, and using other means to ensure minimum levels of consumer protection such as in liability for lost, damaged or delayed baggage. We invite comment on which of the current rules tariffs offer important protection to the consumer, and how to ensure that protection by means other than requiring tariffs. Along this line, if we adopt this rule, we specifically propose to adopt a rule requiring charter carriers to comply with the baggage liability rules set forth in Docket 27859, the Domestic Baggage Liability Rules Investigation. Orders 77-2-9; 77-5-132; 77-7-43; 77-9-80. See also, 77-4-73; 77-4-82.

Accordingly, the Board proposes to amend parts 207, 208, 212, 214, and 221 of its Economic Regulations (14 CFR parts 207, 208, 212, 214, and 221) and parts 371, 372, 372a, 373, 378, and 378a of its Special Regulations (14 CFR parts 371, 372, 372a, 373, 378, and 378a) as set forth below.

1. Amend § 221.3 to add a new paragraph (d) to read as follows:

§ 221.3 Carrier's duty

* * * * * * *

(d) *Exemption for charter operations.* Notwithstanding any provision in this chapter, air carriers and foreign air carrers are exempt from filing tariffs for their charter operations.

2. Delete the following sections from chapter II of title 14, Code of Federal Regulations:

14 CFR § 207.4.
14 CFR § 208.32.
14 CFR § 212.3.
14 CFR § 214.13.
14 CFR § 371.42.
14 CFR § 372.26.
14 CFR § 372a.26.
14 CFR § 373.14.
14 CFR § 378.15.
14 CFR § 378a.42.

(Secs. 102, 204, 403, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 740, 743, 758, and 771; 49 U.S.C. 1302, 1324, 1373, and 1386.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-13184 Filed 5-11-78; 10:41 am]

[1] NACA is acting as attorney in fact for: Evergreen International Airlines, Inc.; Overseas National Airways, Inc.; Trans International Airlines, Inc.; and World Airways, Inc.

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-15]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

BASIN ELECTRIC POWER COOPERATIVE

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a request for a loan guarantee commitment from the Rural Electrification Administration for Basin Electric Power Cooperative of Bismarck, N. Dak. This loan guarantee commitment is planned to assist in obtaining financing for the construction of two 455 MW lignite-fired generating units planned for construction near Beulah, N. Dak., in conjunction with a proposed adjacent gasification plant to be built by American Natural Gas Coal Gasification Co., a major transmission facility between the plant site and Huron, S. Dak., other minor area transmission facilities, and coal mine development.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 5th day of May 1978.

JOSEPH VELLONE,
Administrator, Rural Electrification Administration.

[FR Doc. 78-12809 Filed 5-11-78; 8:45 am]

[3410-15]

Rural Electrification Administration

SEMINOLE ELECTRIC COOPERATIVE, INC.

Public Information Meeting

Notice is hereby given that the Rural Electrification Administration shall hold public information meetings in connection with a possible loan guarantee for Seminole Electric Cooperative, Inc., 2410 East Busch Boulevard, Suite 108, Tampa, Fla. 33612 (hereinafter referred to as "Seminole") which would provide financing for construction of or otherwise acquiring generation facilities and associated transmission lines in the State of Florida.

Seminole has proposed the construction of two 600 MW coal-fired electric generating units to be completed in 1983 and 1985. In discussions among Federal agencies who may have responsibilities with respect to the proposed project, the Rural Electrification Administration has been tentatively identified as lead agency in the preparation of a joint Federal Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969. Seminole has been and is presently exploring all viable alternatives and their environmental impacts for meeting the increasing power requirements of its member electric distribution cooperatives. Such studies are being conducted in consultation with and using input from Federal, State and local agencies and officials.

As a result of analyses conducted, Seminole proposes construction of two 600 MW coal-fired electric generating units at a single site. Three finalist sites for this facility have been tentatively identified near Bostwick and Satsuma in Putnam County, Fla., and near Sumterville in Sumter County, Fla.

Public information meetings shall be held in order to receive public input and comments concerning the need for the project, finalist sites proposed by Seminole, other potential alternatives, significant issues that should be addressed in the Environmental Impact Statement, designation of the Rural Electrification Administration as lead agency and other matters concerning the proposal. A representative of the Rural Electrification Administration will act as chairperson for said meetings. The May 23, 1978, meeting will be held at the County Commissioners Board Room, Room 209, County Courthouse, St. Johns Avenue and Fourth Street, Palatka, Fla., beginning at 7:30 p.m. The May 24, 1978, meeting will be held in the Board Room, Sumter Electric Cooperative, at the intersection of Florida Highways 301 and 471, Sumterville, Fla., starting at 7:30 p.m.

The Rural Electrification Administration encourages the general public to attend these meetings and provide their input. Any person or group which desires to place its comments, questions or recommendations in writing may do so either at the meetings or by submitting them to Mr. Richard F. Richter, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. A record will be made of the meeting and comments made will be responded to in the Draft Environmental Impact Statement. In addition, the records of the proceeding will be held open through June 1, 1978.

Any questions prior to the meeting concerning the nature of the project or meetings should be directed to Seminole at the address given above.

Dated at Washington, D.C., this 8th day of May 1978.

THOMAS R. MCDONALD,
Acting Assistant Administrator, Electric Rural Electrification Administration.

[FR Doc. 78-12942 Filed 5-11-78; 8:45 am]

[6820-32]

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (the Act), and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on June 8, 1978, from 9 a.m. to 6 p.m. and on June 9, 1978, from 9 a.m. to 6 p.m. at 2201 C Street NW., Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involved national security matters classified in accordance with Executive Order 11652 dated March 10, 1972.

The meeting will be closed to the public in accordance with the determination of May 2, 1978, made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: May 5, 1978.

SIDNEY D. ANDERSON,
Advisory Committee Management Officer.

[FR Doc. 78-12968 Filed 5-11-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 8 p.m. and will end at 10 p.m. on June 2, 1978, Los Angeles Bonaventure Hotel, 404 South Figueroa Street, San Fernando Room, Los Angeles, Calif. 90071.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to discuss State Advisory Committee programming planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Committee.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12980 Filed 5-11-78; 8:45 am]

[6335-01]

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on June 8, 1978, Little America Westgate Hotel, Madrid Room, 1055 Second Avenue, San Diego, Calif. 92101.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to review agenda witnesses and hearing book for the one-day open meeting on enforcement of immigration laws.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12981 Filed 5-11-78; 8:45 am]

[6335-01]

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a fact-finding meeting of the California Advisory Committee (SAC) of the Commission will convene at 8:30 a.m. and will end at 5:30 p.m. on June 9, 1978, Little American Westgate Hotel, Seville Room, 1055 Second Avenue, San Diego, Calif. 92101.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is an one-day open meeting to collect information on enforcement of immigration laws.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12982 Filed 5-11-78; 8:45 am]

[6335-01]

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning and briefing session of the California Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on June 14, 1978, The Biltmore Hotel, Moroccan Room, 515 South Olive, Los Angeles, Calif. 90013.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to review agenda witnesses and hearing book for the two-day open meeting.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12983 Filed 5-11-78; 8:45 am]

[6335-01]

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a fact-finding meeting of the California Advisory Committee (SAC) of the Commission will convene at 8:30 a.m. and will end at 5:30 p.m. on June 15 and 16, 1978, The Biltmore Hotel, Renaissance Room and the Roman Room, 515 South Olive, Los Angeles, Calif. 90013.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to collect information on enforcement of immigration laws.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12984 Filed 5-11-78; 8:45 am]

[6335-01]

COLORADO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado Advisory Committee

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(SAC) of the Commission will convene at 9 a.m. and will end at 12 p.m. on June 3, 1978, Suite 1700, 1405 Curtis Street, Denver, Colo. 80202.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Suite 1700, Denver, Colo. 80202.

The purpose of this meeting is to plan activities for the remainder of the fiscal year.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12985 Filed 5-11-78; 8:45 am]

[6335-01]

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee (SAC) of the Commission will convene at 12 p.m. and will end at 3 p.m. on June 8, 1978, 1328 New York Avenue NW., Washington, D.C. (2nd Floor).

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program plans for fiscal year 1978 and report on the Regional Conference held April 12-14, 1978. The draft report on Revitalization in D.C. will be reviewed for final comments.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12986 Filed 5-11-78; 8:45 am]

[6335-01]

NORTH DAKOTA ADVISORY COMMITTEE

Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Dakota Advisory Committee originally scheduled for May 20, 1978, in FR Doc. 78-12372 of page 19699 of the FEDERAL REGISTER has been changed to May 26, 1978 at 12:30 p.m. and will end at 3:30 p.m.

The place of the meeting will remain the same.

Dated at Washington, D.C., May 9, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-12987 Filed 5-11-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

ALLOWANCES AND DIFFERENTIALS

Cost of Living Allowance (COLA-Nonforeign Areas Requirements of 205(b)(2) of E.O. 10,000

Notice

AGENCY: Civil Service Commission.

PURPOSE: Solicitation of Comments on Civil Service Commission Interpretation of Requirements of Executive Order 10,000, as Amended (3 CFR 792 (1943-48 Comp.)).

Notice is hereby given that the Civil Service Commission is soliciting comments from all interested parties on the interpretation it has given to the requirements of section 205(b)(2) of E.O. 10,000 regarding deductions from COLA because of access to commissary and exchange facilities or receipt of governmental housing benefits.

Effective December 5, 1976, the Commission promulgated regulations applicable in Alaska and other COLA areas which established COLA rates to reflect the requirement of section 205(b)(2) of the Executive order that the Commission "make appropriate deductions when quarters or subsistence, commissary or other purchasing privileges are furnished at a cost substantially lower than the prevailing local cost." The Commission interpreted the "are furnished" language of section 205(b)(2) to require that the deductions be made applicable to all employees receiving these privileges or benefits from the Federal government regardless of whether the basis for receiving them if Federal employment itself or other reasons such as military retirement or marriage to an active duty member of the military service. The comments solicited by this notice should address the issue of the appropriateness of the Commission's interpretation of the "are furnished" language of section 205(b)(2) as requiring the COLA reductions to be made regardless of the basis for receipt of the privileges or benefits. Following consideration of comments received, the Commission will decide whether its interpretation is appropriate. These comments are being solicited in compliance with the order of the United States District Court for the District of Alaska in *Curlott* v. *Hampton*, 438 F. Supp. 505 (D.AK 1977).

BACKGROUND: Congress authorized the payment of cost-of-living allowances (COLA) to certain Federal employees working "outside the continental United States or in Alaska" in 5 U.S.C. 5941. This statute directed that the COLA be paid "only in accordance with regulations prescribed by the President establishing the rates and defining the area, groups of positions and classes of employees to which each rate applies." In E.O. 10,000, the President promulgated those regulations, which among other things, directed the Commission to prescribe further regulations regarding the COLA "as may be necessary."

In section 205(b)(2) the President stated: "The * * * Commission shall * * * (2) in fixing the cost-of-living allowance * * * make appropriate deductions when quarters or subsistence, commissary or other purchasing privileges are furnished at a cost substantially lower than the prevailing local cost."

Section 210 of the Executive order directs the Commission to at least annually review the places where the COLA is paid, the rates at which it is paid, and the Commission's own regulations to "insure that payment [of the COLA] shall continue only during the continuance of conditions justifying such payment and shall not in any instance exceed the amount justified."

The Commission first required reduction in the COLA rate pursuant to section 205(b)(2) and its own regulations in Guam and the Virgin Islands in 1974, because survey information gathered during the Commission's annual reviews of living costs experienced by employees in these areas indicated that the living costs of employees receiving the privileges were significantly lower than those of other employees not receiving them. Based on this survey information, the Commission concluded that to set one rate for each area, as it had done until this time, would be inconsistent with the requirement of section 205(b)(2) that rates established take into account these lower costs being experienced by some employees. The establishment of different rates resulted in COLA rate which more accurately reflect living costs of COLA recipients because living costs experienced by each group are considered separately in reaching appropriate indexes.

The implementation of separate rates in Guam and the Virgin Islands in 1974 was the first step in applying section 205(b)(2) to all COLA areas. On December 31, 1975, CSC Bulletin 591-18 notified all agencies that the actions taken in 1974 would be extended to the remaining COLA areas in 1976. The agencies were instructed to advise their employees working in those areas that the extension of the section 205(b)(2) requirements to all allowance areas could mean lower rates, if warranted by survey findings.

On December 5, 1976, the Commission put into effect the results of its survey findings. This action resulted in a reduction or elimination of allowance rates for certain employees in Alaska and other areas who had access to military, commissary and exchange facilities, occupied Governmental housing units or who had other related benefits. It also led to the litigation which resulted in the district court ordering this notice.

DATE: Comments must be received by June 12, 1978, in order to be considered.

ADDRESS: Submit comments to: Office of Allowances and Special Rates, Pay Policy Division, Bureau of Policies and Standards, Room 3353, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Richard J. Carney, 202-632-5595.

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant To the Commissioners.

[FR Doc. 78-13092 Filed 5-11-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

Z. DRESS CO., AND SELVIN SHOE CO., INC.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing from two firms: (1) Z. Dress Co., 700 Grand Street, Hoboken, N.J. 07030, a producer of shirts and sportswear for women and children (accepted May 1, 1978); and (2) Selvin Shoe Co., Inc., 2413 Eastern Avenue, Baltimore, Md. 21224, a producer of children's shoes (accepted May 4, 1978). The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN,
Chief, Trade Act Certification Division Office of Planning and Program Support.

[FR Doc. 78-12828 Filed 5-11-78; 8:45 am]

[3510-25]

Foreign-Trade Zones Board

[Order No. 129]

CITY OF GALVESTON, TEX. FOR A FOREIGN-TRADE ZONE IN GALVESTON

Resolution and Order Approving Application

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board had adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the City of Galveston, Tex., filed with the Foreign-Trade Zones Board (the Board) by the Board of Trustees of the Galveston Wharves on August 19, 1977, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone consisting of two separate sites in Galveston within the Galveston Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal includes open land on which the possible construction of buildings by parties other than the grantee might be involved, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Foreign-Trade Zones Board

Washington, D.C.

Grant

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN GALVESTON, TEX.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of Galveston, Tex. (the Grantee) has made application (filed August 19, 1977) in due and proper form to the Board requesting the establishment, operation and maintenance of a general-purpose foreign-trade zone consisting of two sites in Galveston, within the Galveston Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a general-purpose foreign-trade zone, designated on the records of the Board as Zone No. 36, at the site locations mentioned above and more particularly described on the maps and drawings accompanying the application Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the zone sites shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto, the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Ex-

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ecutive Officer at Washington, D.C. this 4th day of May 1978, pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DA PONTE,
Executive Secretary.

[FR Doc. 78-12898 Filed 5-11-78; 8:45 am]

[3510-25]

[Order No. 130]

OUNTY OF ORANGE, N.Y. FOR A FOREIGN-TRADE ZONE IN THE TOWN OF NEW WINDSOR, N.Y.

Resolution and Order Approving Application

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the County of Orange, N.Y., filed with the Foreign-Trade Zones Board (the Board) on September 19, 1977, requesting a grant of authority for establishing, operating, and maintaining a general purpose foreign-trade zone consisting of two sites within the Town of New Windsor, Orange County, adjacent to the New York City Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves an industrial park type zone that envisages the construction of buildings by parties other than the grantee, this approval includes authority to the Grantee to permit the erection of such buildings, pursuant to Section 400 815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the Grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Excecutive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Foreign-Trade Zones Board

Washington, D.C.

Grant

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN THE TOWN OF NEW WINDSOR, COUNTY OF ORANGE, N.Y.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the County of Orange (the Grantee) has made application (filed September 19, 1977) in due and proper form to the Board requesting the establishment, operation and maintenance of a general-purpose foreign-trade zone consisting of two sites in the Town of New Windsor, Orange County, N.Y., adjacent to the New York City Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a general-purpose foreign-trade zone, designated on the records of the Board as Zone No. 37, at the site locations mentioned above (Site 1—Sage Building) (Site 2—industrial park) and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the zone sites shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto, the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone sites.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 4th day of May 1978, pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DA PONTE,
Executive Secretary.

[FR Doc. 78-12899 Filed 5-11-78; 8:45 am]

[3510-25]

[Order No. 131]

SOUTH CAROLINA STATE PORTS AUTHORITY FOR A FOREIGN-TRADE ZONE IN SPARTANBURG COUNTY, S.C.

Resolution and Order Approving Application

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the South Carolina State Ports Authority, filed with the Foreign-Trade Zones Board (the Board) on October 3, 1977, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Spartanburg County, S.C., within the Greenville/Spartanburg Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves an industrial park type zone that envisages the possible construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400,815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Foreign-Trade Zones Board

Washington, D.C.

Grant

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN SPARTANBURG COUNTY, S.C.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the South Carolina State Ports Authority (the Grantee) has made application (filed October 3, 1977) in due and proper form to the Board requesting the establishment, operation, and maintenance of a foreign-trade zone in Spartanburg County, S.C., within the Greenville/Spartanburg Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 38, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 4th day of May 1978, pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DA PONTE,
Executive Secretary.

[FR Doc. 78-12900 Filed 5-11-78; 8:45 am]

[3510-25]

Industry and Trade Administration

COLORADO STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00093. Applicant: Colorado State University, Department of Biochemistry, Fort Collins, Colo. 80523. Article: LKB 2127-001 Tachophor complete with power Supply Unit. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigation of purity of protein in snake venoms and lizard venoms which will contribute to more efficient treatment in envenomation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for counter flow isotachorphoresis. The Department of Health, Education, and Welfare advises in its memorandum dated April 11, 1978, that (1) the capability of the article described above is pertinent to the applicant's intended research and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12946 Filed 5-11-78; 8:45 am]

[3510-25]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, NATIONAL INSTITUTE OF DENTAL RESEARCH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00092. Applicant: DHEW, PHS, NIH, National Institute of Dental Research, Building 30, Room B-20, 9000 Rockville Pike, Bethesda, Md. 20014. Article: LKB 2128-010/Ultrotome IV Ultramicrotome complete with Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for electron microscopical studies of the neurons of trigeminal nucleus caudalis, a region of the brain which receives pain and temperature input from the face and oral cavity. These studies examine the morphology, synaptic connections, development of neurons in trigeminal pain pathways as well as their response to the loss of input from the teeth. The objectives of these studies are to understand basic pain mechanisms and mechanisms of chronic pathological pain states.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a cutting speed range of 0.1 to 60 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the National Bureau of Standards in its memorandum dated April 17, 1978, that (1) the cutting speed range of the foreign article is pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the

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foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12947 Filed 5-11-78; 8:45 am]

[3510-25]

GEOLOGICAL SURVEY—RESTON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-Free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00112. Applicant: U.S. Geological Survey Water Resources Division, National Center, Mail Stop 430, 12201 Sunrise Valley Drive, Reston, Va. 22092. Article: Water Level Gauge, Model 750 and Accessories. Manufacturer: Applied Microsystems, Canada. Intended use of article: The article is intended to be used to measure and record in situ, precisely timed long-term sequences of water-level elevations in the shallow waters of lakes, waterways, estuaries, and coastal embayments. The data are to be used, in connection with other data collected from surface vessels and from the ERTS satellites. These data will provide the input values used to initialize, calibrate, and otherwise verify large-scale, mathematical/numerical computer models. The field data together with the data produced by the computer simulation model are to be used to quantitatively and qualitatively assess the environment impact of existing features, as well as, alternative proposed changes to be introduced into the waterbody under study.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides (1) high resolution and accuracy to better than 0.001 and 0.005 percent, respectively, of the scale range, (2) transmission of data via underwater acoustics, (3) self-contained operation capable of recording digitally on magnetic tapes, (4) rapid machine processing of collected data, and (5) a long deployment interval (up to two years possible). The National Bureau of Standards advises in its memorandum dated April 17, 1978 that (1) all capabilities of the article described above are pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12948 Filed 5-11-78; 8:45 am]

[3510-25]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00119. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Optoelectronic Movement Monitoring System. Manufacturer: Selective Electronic Co., Sweden. Intended use of article: The article is intended to be used to investigate the trajectories of the arm and consequently to advance the understanding of the way in which the central nervous system controls the large numbers of degrees of freedom of the human multi-joint apparatus.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides up to 30 targets and a sampling rate of 10,000 points per second. The Department of Health, Education, and Welfare advises in its memorandum dated April 19, 1978 that (1) the features of the article described above are pertinent to the applicant's intended uses, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials).

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12949 Filed 5-11-78; 8:45 am]

[3510-25]

NORTH CAROLINA STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00096. Applicant: North Carolina State University, Department of Botany, 2214 Gardner Hall, Raleigh, N.C. 27607. Article: Combination Scanning Microinterferometer and Scanning Microdensitometer, Model M860010 with camera accessories. Manufacturer: Vickers Instrument Inc., United Kingdom. Intended use of Article: The article is intended to be used for the measurement of amounts of biological macromolecules DNA, RNA, proteins, and enzyme substrate precipitates at the cell level in order to procure quantitative data on the behavior of genetic

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material during growth and differentiation of prokaryotic and ukaryotic organisms. Other phenomena to be studied will include endopolyploidy, polyploidy pattern recognition, intra and interspecific plant and avian DNA values, sex determination and internal DNA reference standard establishment. In addition, the article will be used to provide basic understanding of quantitative cytochemistry and its application to both basic and applied plant science and biomedical reserach in the courses: Botany/Zoology 414 Cell Biology, Botany 421-510 Plant Anatomy, Botany 620 Advanced Plant Taxonomy, and Botany 590 Quantitative Microscopy.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides microspectrophotometric measurement of small (0.25 to 0.5 micron) areas. The Department of Health, Education, and Welfare advises in its memorandum dated April 19, 1978, that (1) the capability of the article described above is pertinent to the applicant's intended use, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12950 Filed 5-11-78; 8:45 am]

[3510-25]

PURDUE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00324. Applicant: Purdue University, Purchasing Department, ADMS Building, West Lafayette, Ind. 47907. Article: DDV-11-C Rheovibron Dynamic Viscoelastometer, DDV-LFS Low Frequency Sweep System, and DDV-SF Set Grips for testing Shear Modulus. Manufacturer: Toyo Baldwin Co., Ltd., Japan. Intended use of article: The article will be used for studies of a range of glassy and crystalline materials primarily inorganic in character, which are of interest in materials science. The experiment will consist of determinations of the temperatures at which small fibers of these glasses, or small crystals of B-alumina type materials, dissipate mechanical energy at fixed frequency of mechanical stressing, and of the frequency range over which mechanical energy is dissipated at fixed temperatures. The objectives of this experiment are (i) to characterize the shape of the mechanical loss spectrum to permit comparison with the shape of the electrical loss spectrum at the same temperature and pressure for superionic conducting crystalline materials with this object of understanding the material characteristics necessary to produce superionic conducting ability, and (ii) to study the shape and temperature dependence of the mechanical loss spectrum in both primary and secondary relaxation regions in glassy materials to permit comparisons with electrical relaxation and magnetic relaxation characteristics.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for measurements on samples as small as 5 x 0.4 x 0.05 cubic centimeters. The National Bureau of Standards advises in its memorandum dated March 1, 1978, that (1) the capability of the article described above is pertinent to the applicant's intended use, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12951 Filed 5-11-78; 8:45 am]

[3510-25]

UNIVERSITY OF CALIFORNIA

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before June 1, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00200. Applicant: University of California—Lawrence Berkeley Laboratory, L Cyclotron Road, Berkeley, Calif. 94720. Article: High Resolution Goniometer. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is an accessory to an existing electron microscope and will be used for observation of thin sections of biological material; blood, bone marrow, lungs, conjunctiva, brain, and neural ganglia of pollutant-exposed animals will be examined. In addition, the hydrocarbon and rubber producing tissue of Guayule will be studied. Changes in morphology, enzyme content and localization membrane relationships, etc. which occur in the cells of these tissues in response to non-nuclear pollutants will be investigated. The influence of magnetic fields on the growth and architecture of the brain and the organization of actin in non-muscle cells, and the expression of viruses associated with atherosclerosis and cancer will be studied.

Application received by Commissioner of Customs: April 14, 1978.

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Docket No.: 78-00209. Applicant: Virginia Commonwealth University-Medical College of Virginia, Box 17, MCV Station, Richmond, Va. 23298.

Article: Electron Microscope, Model EM 400 with Goniometer Stage and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to examine the ultrastructural pathology of a wide variety of animal and human tissues. Animal experiments will be conducted in the areas of infection, immunology, cancer, and vascular disease, etc. and the diseased tissues will be studied with the electron microscope. Analysis of diseased human tissue obtained by biopsy or autopsy will also be carried out using the article. Application received by Commissioner of Customs: April 24, 1978.

Docket No.: 78-00210. Applicant: University of Florida, Department of Pathology, College of Medicine, J. Hillis Health Center, Gainesville, Fla. 32610. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the ultrastructural study of mammalian tissue, isolated cellular organelled, and single cell cultures. Plant, animal, and fungal tissues will be embedded in hardened epoxy resins for sectioning. Experiments to be conducted will include ultrastructural studies on cellular injury in the inner cortex of the rat kidney resulting from oxalosis. In addition, plant and fungal material which manufacture calcium oxalate crystals will be examined ultrastructurally. Application received by Commissioner of Customs: April 24, 1978.

Docket No.: 78-00211. Applicant: Dartmouth College, Gilman Hall, Hanover, N.H. 03755. Article: Electron Microscope, Model JEM-100CX with accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the following research projects in the general areas of cellular, molecular and developmental biology:

(1) Exploring the mechanisms of a number of motile systems including amoeboid movement, cytoplasmic streaming in plant and animal cells and in slime molds, axoplasmic transport, reticular bidirectional streaming in foraminifera and mitotic movements;

(2) The study of plant mitosis;

(3) The study of rotational cytoplasmic streaming in *Nitella;*

(4) Study of the fine structure of the rotifer resting egg which is part of his overall program of research dealing with the life cycles of rotifers and other invertebrates;

(5) Investigation of cell movement mechanisms and in particular is interested in the mechanisms for the growth and development of microvilli;

(6) Investigation of the membrane ultrastructure of the synapse, photosynthetic bacteria, reconstituted membranes and the study of the interaction between DNA and certain binding proteins; and

(7) Study of microtubule formation in cells and in vitro.

The article will also be used in the course Biology 67. Techniques in Electron Microscopy to familiarize students with the various techniques of high resolution transmission and scanning electron microscopy. Application received by Commissioner of Customs: April 24, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12953 Filed 5-11-78; 8:45 am]

[3510-25]

VA HOSPITAL—IOWA CITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00082. Applicant: VA Hospital, Highway 6, Iowa City, Iowa 52240. Article: High Resolution Goniometer Stage for Elmiskop 101 and Accessories. Manufacturer: Siemens Corp., West Germany. Intended use of article: The article is an accessory to an existing electron microscope which will be used to study ultrathin sections of: Tooth dentin and enamel; endothelial, pericyte, and smooth muscle cells cultured from the blood vessels of the retina, optic disc, and optic nerve; and junctional complexes of hepatocytes. The properties to be investigated include: The geometry of early crystalline phases in dentin and enamel; the formation and differentiation of junctional complexes in cultured retinal endothelial cells, particularly the resolution of differences between tight and gap junctions. The permeability and structure of liver cells tight junctions will also be examined.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated April 19, 1978 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses.

The Department of Commerce knows of no other similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-12952 Filed 5-11-78; 8:45 am]

[3510-03]

Maritime Administration

[MA Design IB6-MT-130a]

TANKER CONSTRUCTION PROGRAM AND BULK CHEMICAL CARRIER CONSTRUCTION PROGRAM

Determination That Vessels Which Are the Subject of Certain Applications Are Covered by Tanker Program and Chemical Carrier Program

An environmental impact statement entitled, Maritime Administration Tanker Construction Program, NTIS Report No. EIS730-725F, was published on May 30, 1973. The statement concerns proposed assistance to private industry to aid in the construction in the United States of a fleet of oil-carrying vessels during the decade of the 1970's. Vessel classes included range from approximately 35,000 DWT to 400,000 DWT.

An environmental impact statement entitled, Maritime Administration Bulk Chemical Carrier Construction Program, NTIS Report No. MA-EIS-7302-74043-F, was published on August 9, 1974. The statement concerns proposed assistance to private industry to aid in the construction in the United States of a limited number of highly specialized bulk chemical carriers during the next 10 years. Vessel classes included are in accordance with the IMCO Chemical Code and the U.S. Department of Transportation (U.S. Coast Guard) Safety Rules For Self-Propelled Vessels Carrying Hazardous liquids.

The Maritime Subsidy Board has received the following applications for assistance under the Construction-Differential Subsidy Program and has determined that the vessels to be constructed with such assistance are of the type, design and characteristics of those vessels treated in the above mentioned environmental impact statements. As a consequence the Board has found that no supplement to the impact statements mentioned herein, nor any new impact statement need be prepared with respect to these vessels. Future Board action with respect to the applications will be, from an environmental standpoint, based on the above mentioned impact statements. These applications are:

SUWANNEE RIVER FINANCE, INC., for one Integraged Tug-Barge Combination Chemical and Liquid Bulk Carrier; SUWANNEE RIVER SPA FINANCE, INC., for one Integrated Tug-Barge Combination Chemical and Liquid Bulk Carrier; SUWANNEE RIVER PHOSPHATE FINANCE, INC., for one Integrated Tug-Barge Combination Chemical and Liquid Bulk Carrier. They are to be under 20,000 DWT when carrying bulk oil and about 39,500 DWT when carrying Super Phosphoric Acid as proposed to be built to plans and specifications developed for the Owners by J. J. Henry Co., Inc., Naval Architects and Marine Engineers. This class of vessel when used as a liquid bulk carrier is described in the EIS for Tanker Construction as an example of a, "Handy Tanker" given in section II. When used in the chemical carrier mode it is described as a class in sections I and IV and in specific in Appendix AI-10. The environmental impact of such designs are covered in the Statements in various sections.

The bases for the Board's determinations, as described herein, are available for public inspection in the Office of the Secretary, room 3099-B, Maritime Administration, Commerce Department Building, 14th and E Streets NW., Washington, D.C. 20230.

By Order of the Maritime Subsidy Board, Maritime Administration.

Dated: May 9, 1978.

ROBERT J. PATTON, JR.,
Assistant Secretary.

[FR Doc. 78-13016 Filed 5-11-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

ATLANTIC GROUNDFISH

Public Hearing and Notice of Availability of Draft Supplement to Final Environmental Impact Statement

The Secretary of Commerce and the New England Fishery Management Council announce a series of public hearings on the fishery management plan for Atlantic Groundfish as amended and the draft Supplement No. 2 to the Final Environmental Impact Statement. The hearings are being held to receive public comment on the current and proposed regulations governing the cod, haddock, and yellowtail flounder fisheries in the fishery conservation zone under the Fishery Conservation and Management Act of 1976 (the Act).

The hearings will be held from 7 p.m. to 10 p.m. at the following locations and dates:

May 22—Holiday Inn, Hathaway Road, New Bedford, Mass.

May 24—Public Safety Building, 109 Middle Street, Portland, Maine.

May 30—Holiday Inn, Junction of Routes 1 and 128, Peabody, Mass.

May 31—Holiday Inn, Route 25, Riverhead, Long Island, N.Y.

Each hearing will consist of two parts: (1) a Secretarial hearing on the current fishery management plan, as amended; and (2) a joint hearing on the draft Supplement No. 2 to the Final Environmental Impact Statement and proposed amendments to the fishery management plan prepared by the New England Fishery Management Council. The hearings are being held concurrently for the convenience of the public.

The Secretarial hearing will be chaired and conducted by an official of the National Marine Fisheries Service, NOAA, pursuant to section 305(b) of the Act. The purpose of the Secretarial hearing is to supplement the record with additional information and public comment on the following items:

1. Optimum yields of cod and haddock.
2. Allocation of optimum yields of cod and haddock among recreational and commerical (United States and Canadian) users.
3. Vessel class allocation system.

The second part of each hearing will be conducted jointly by the New England Fishery Management Council and the National Marine Fisheries Service. This portion of the hearing on the draft Supplement No. 2 to the Final Environmental Impact Statement dated May, 1978, will be chaired by an official of the National Marine Fisheries Service, NOAA, pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969. The portion of the hearing on the proposed amendments to the fishery management plan for Atlantic Groundfish will be chaired by a representative of the New England Fishery Management Council. The purpose of this portion of the hearing is to provide information to the public and receive public comments and views on the following Council recommendations:

1. Increase the optimum yield of haddock to 20,000 metric tons (mt) from 8,000 mt.
2. Increase the optimum yield of cod in the area of Georges Bank and southern New England to 26,000 mt from 22,000 mt.
3. Establish recreational allocations (charter and headboat industry) for cod of 1,000 mt in the Georges Bank Southern New England area and haddock in all areas of 2,000 mt.
4. Establish a minimum mesh size for gill nets used in the groundfish fishery of 5½ inches.
5. Require mandatory retention of all regulated species taken; i.e., a "no discard" rule.
6. Establish new incidental catch provisions for vessels not employing groundfish gear.
7. Establish revised fishery closure procedures.

This Notice also announces the availability of the draft Supplement No. 2 to the Final Environmental Impact Statement, proposed amendments to the Fishery Management Plan. Large numbers of copies have been distributed to individuals in the industry, conservation organizations, States, and Federal agencies. A copy of the document is available for public review at:

1. Northeast Regional Office, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester Mass. 01930.
2. New England Fishery Management Council Office, 1 Newbury Street, Peabody Mass., 01960.
3. Mid-Atlantic Fishery Management Council Office, Room 2115, Federal Building, North and New Streets, Dover, Del., 19901.

Copies of the document will be available to interested members of the public at the public hearings or may be obtained by contacting one of the three offices listed above.

Written comments on any of the items identified for public discussion may be submitted by any interested member of the public. Comments on the items to be discussed in the Secretarial hearing should be sent to:

Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

as follows: Item 1 (optimum yield) and Item 2 (allocation)—no later than May 25; Item 3 (vessel class allocation system)—no later than June 25.

Comments on the items to be discussed in the joint hearing should be sent no later than June 1 to:

Regional Director Northeast National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

To ensure timely consideration of comments sent to the Regional Director, the outside of the envelope should be marked: *Groundfish, SEIS, May 1978.*

Dated: May 9, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-12990 Filed 5-11-78; 8:45 am]

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[3510-12]

U.S./FOREIGN FISHING VENTURES WITHIN FISHERY CONSERVATION ZONE

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Policy Statement.

SUMMARY: The National Oceanic and Atmospheric Administration ("NOAA") announces a policy regarding foreign vessel permit applications to receive U.S. harvested fish from vessels in the U.S. fishery conservation zone (the "FCZ"). Such permit applications will be approved if the application and the activities described therein meet the requirements of the Fishery Conservation and Management Act of 1976 (the "Act") and other applicable law.

DATE: This policy is effective May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Alfred J. Bilik, Enforcement Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235, telephone number 202-634-7265.

SUPPLEMENTARY INFORMATION: On February 8, 1978 an interim policy was proposed for public comment, 43 FR 5398.

The proposed interim policy, in addition to considering conservation and management factors, would have granted a preference to the domestic processing industry by allowing permits to be approved only when "the capability and intent of the U.S. fishing industry to harvest fish * * * exceeded the capability and intent of the U.S. processing industry to process such fish." Comments on the proposed interim policy were received until February 23, 1978. Additionally, certain other comments concerning the legal authority of the Secretary to adopt the proposed interim policy were received after the comment period ended. All of these comments were considered in the adoption of this final policy.

Several of the comments questioned the legal authority of the Secretary of Commerce (the "Secretary") under the Act to adopt a policy which would deny a foreign fishing permit application for support activities at sea for reasons other than conservation and management, or failure to meet the requirements of the Act. Additionally, many persons commented that the Secretary of Commerce does not have the authority under the Act to adopt a policy for approving or disapproving applications for foreign fishing permits which would grant a preference to U.S. processors over foreign processors and thereby limit the opportunity of U.S. fishermen to sell fish to foreign vessels in the FCZ.

Several commenters focused on the domestic advantages and disadvantages which would have been created by our proposed policy. Some fishermen objected to the proposed interim policy because it would have limited their access to foreign markets. Some domestic processors supported the proposed interim policy since it would have allowed a better opportunity to develop a capacity in underutilized fisheries and would have protected existing markets for more fully developed fisheries. Others, however, opposed the approval of any foreign fishing permit applications for the receipt of U.S. harvested fish in the FCZ and alleged that such activities would constitute unfair competition. Additionally, several localities and Regional Fishery Management Councils opposed the proposed interim policy since it would have allowed foreign competition which they believed could hinder the development of local industry and diminish the resulting economic benefits. These Regional Councils believe more time should be allowed to monitor progress by domestic processors toward utilizing species which are the subject of present applications or to evaluate more information on the impacts of such operations.

Our analysis and consideration of these comments, as well as our review of the legal and policy issues, has led to the conclusion that a permit approval/disapproval policy which gives a preference to domestic processors should not be adopted. We believe the Secretary lacks sufficiently clear legislative direction to adopt a policy which considers factors not directly related to conservation and management of the resource and the requirements of the Act. In addition, since the FCMA is a conservation and management statute, NOAA has concluded that decisions to approve or deny foreign fishing permit applications for the receipt of U.S. harvested fish in the FCZ should not be made on the basis of the competitive factors referred to above.

Other comments focused on the procedural aspects of the proposed policy. These comments concerned the role of the regional Councils, opportunity for public comments on a final decision by the Secretary and the creation of an administrative record for judicial review of the permit decision. We have determined that existing statutory provisions adequately address these procedural matters, and that there is no need to incorporate special procedures into this final policy.

Several commenters raised several international problems which would have been created by implementing the policy as originally proposed. These problems included the inconsistency of the proposed policy with the Administration's current foreign trade policy of non-interference with the export of food products; and the possibility that foreign nations will view our policy as being protectionist, thereby causing those nations to adopt similar policies. We have determined that these concerns are valid and substantial, and have altered our policy accordingly.

In light of NOAA's review of the proposed interim policy and the comments received during the public comment period, the proposed interim policy has been revised as set forth below.

POLICY

The Secretary of Commerce will encourage the development of the U.S. fishing industry consistent with the purposes of the Act and other applicable law. As one means of carrying out this objective, the Secretary may approve applications for foreign fishing vessel permits to allow foreign vessels to receive U.S. harvested fish from vessels within the U.S. fishery conservation zone. Any such permits granted will be approved if the application and the activities described therein meet the requirements of the Act (including the national standards) and other applicable law.

Any permits issued will contain appropriate conditions and restrictions, which may include (but are not limited to) the following:

1. The vessels may receive only species designated in the permit;
2. When fish are transferred to the vessel, from either a U.S. or foreign vessel, the information required by 50 C.F.R. section 611.9(b) shall be recorded in the receiving vessel's log before the next transfer operation begins;

The Secretary may include any other restriction or condition deemed necessary for conservation and management purposes or as may be required under existing FMP's or PMP's.

In addition, current Foreign Fishing Regulations require foreign vessels to take aboard an observer at NMFS's request, and to maintain logs of all fish transferred, including information about the species and amounts of fish, and name and nationality of vessels involved.

The policy will apply to applications for foreign fishing permits to allow foreign vessels to receive U.S. harvested fish from vessels in the U.S. fishery conservation zone. This policy is established on an interim basis.

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Dated: May 10, 1973.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-13097 Filed 5-11-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1978 commodities to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 12, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On February 17, 1978 and March 10, 1978, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (43 FR 6992 and 43 FR 9842) of proposed additions to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the commodities and the service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities and service are hereby added to Procurement List 1978:

CLASS 6532

Gown, Hospital, Personnel (SH)
6532-01-045-5380 (Medium)
6532-01-045-5381 (Large)

SIC 0782

Lawn Maintenance (SH)
Naval Weapons Station
Yorktown, Virginia
for the following areas:
1. Area 6 Officer's Club Building 58
2. Area 7 Buildings 380A, 380B and Credit Union
3. Area 8 Industrial Area
4. Area 9 Industrial Area

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-12976 Filed 5-11-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has recieved a proposal to add to Procurement List 1978 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 14, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severly Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1978, November 14, 1977 (42 FR 59015):

CLASS 8405

Strap, Chin, Vinyl
8405-00-152-3952

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-12977 Filed 5-11-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

BOARD OF VISITORS FOR NDU AND DIS

Consolidation

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the consolidation of the Boards of Visitors for the National Defense University (NDU) and the Defense Intelligence School (DIS) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The consolidated committee will be known as the Board of Visitors for NDU and DIS.

The nature and purpose of the Board of Visitors for NDU and DIS is to provide advice to the president, NDU, the Director of the Defense Intelligence Agency and the Commandants of the National War College, Industrial College of the Armed Forces, and the DIS on matters relating to mission, policy, faculty, students, curricula, educational methodology, research, and administration for both resident and non-resident programs.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MAY 19, 1978.

[FR Doc. 78-12973 Filed 5-11-78; 8:45 am]

[3810-70]

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows:

Tuesday, June 20, 1978, San Bernardino, Calif.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the United States Code and therefore will be closed to the public. Subject matter will be used in a study on ICBM Refire potential.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MAY 9, 1978.

[FR Doc. 78-12975 Filed 5-11-78; 8:45 am]

[3810-70]

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows:

Wednesday, Thursday, Friday, June 14, 15, 16, 1978, Pomponio Plaza, Rosslyn, Va.

The entire meeting, commencing at 0900 hours each day, is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the United States Code and therefore will be closed to the public. Subject

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matter will be used in a study on nuclear weapon technology.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MAY 9, 1978.

[FR Doc. 78-12974 Filed 5-11-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

CONDUCT OF EMPLOYEES

Waiver Pursuant to Subsection 602(c) of the Department of Energy Organization Act (Pub. L. 95-91).

Subsection 602(c) of the Department of Energy Organization Act (Pub. L. 95-91, hereinafter referred to as the "Act") authorizes the Secretary of Energy to grant waivers from the divestiture requirements of subsection 602(a) of the Act to "supervisory employees" (as defined in subsection 601(a) of the Act) of the Department of Energy who have financial interests in "energy concerns" (as defined in subsection 601(b) of the Act), where exceptional hardship would result or where such interest is vested.

It has been established to my satisfaction that the interest of the individual "supervisory employee" of the Department of Energy whose name is listed below satisfies the requirements of subsection 602(c) of the Act. Accordingly, I have granted him a waiver from the divestiture provisions of subsection 602(a) of the Act for his vested insurance interests until such time as the entity in which he has an interest no longer qualifies as an "energy concern" within the meaning of the Act, or until his employment with the Department of Energy terminates, whichever first occurs. Additionally, I have granted a waiver of the provisions of subsection 602(a) of the Act for four months from the date he assumed office in the Department of Energy in order to allow the employee to sell stock to be received from the Rockwell Savings Plan on the grounds that to do otherwise would cause an extreme hardship to result.

Name and Energy Concern: Dale D. Myers, Rockwell International.

The employee named above will be directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect on the energy concern in which he has an interest, unless the Secretary, on advice of counsel, concludes that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him.

Dated: May 3, 1978.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc. 78-12927 Filed 5-11-78; 8:45 am]

[3128-01]

RESEARCH FOR BRAILLE COMMUNICATION

Grant of Exclusive License

In accordance with the Department of Energy *Standard Specifications for the Granting of Patent Licenses*, 10 CFR 781, the Department of Energy announces the grant to Research for Braille Communication, of Chicago, Ill., a not-for-profit corporation, an exclusive license for the manufacture, use, and sale in the United States of the invention described in U.S. Patent No. 3,624,772, entitled "Reading and Writing Machine Using Raised Patterns." The effective date of the license is March 16, 1978. The duration of the exclusive license is for five (5) years.

Notice of intent to grant the subject exclusive license was published in 42 FR 41469, August 17, 1977.

Dated at Washington, D.C., this 9th day of May, 1978.

WILLIAM B. DAVIS,
Deputy Director of Administration, Department of Energy.

[FR Doc. 78-12928 Filed 5-11-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

The Department of Energy (DOE) hereby gives notice of its intention to issue a Prohibition Order, pursuant to the authorities granted it by section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 et seq. (ESECA) and Chapter II, Title 10, Code of Federal Regulations (10 CFR Parts 303 and 305) to the following powerplants:

Docket No.	Owner	Generating station	Powerplant No.	Location
DCU-166	City of Colorado Springs, Department of Public Utilities.	Martin Drake	5	Colorado Springs, Colo.
DCU-167	do	do	6	Do.
DCU-168	do	do	7	Do.

DOE hereby also gives notice of the opportunity for oral and written presentation of data, views and arguments by interested persons regarding this proposed Prohibition Order.

The proposed order would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3(b), require that DOE find that the powerplant had on June 22, 1974, or thereafter acquired or was designed with, the capability and necessary plant equipment to burn coal. A Prohibition Order may not be issued unless DOE can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable, and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. DOE's proposed findings regarding the above-named powerplants, as well as its proposed conclusions and rationale with respect to these findings, are set out in the appendix to this notice. These findings, conclusions, and rationale may be amended as a result of comments received by DOE pursuant to this notice and other information made available to DOE. The findings, conclusions, and rationale will be included, with any amendments, for any Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, DOE may determine to issue a Prohibition Order to the above-named powerplants. The Prohibition Order will not become effective, however, (1) until either (a) the Administrator of the Environmental Protection Agency (EPA) has notified the DOE, as required by section 2(b) of ESECA, that the particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a delayed compliance order pursuant to the provisions of the Clean Air Act, as amended, (CAA), 42 U.S.C. 7413 (d)(5) and the act of August 7, 1977, Public Law 95-95, section 112, or (b) if no such notification is given by EPA, the date that the Administrator of EPA certifies is the earliest date that the particular powerplant will be able to burn coal and to comply with all applicable air pollution requirements, CAA, *supra*; Public Law 95-95, *supra*; and (2) until DOE has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b), and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to a powerplant, DOE shall perform an analysis of the environmental impact of the issuance of such a Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by DOE of an environmental impact statement covering significant site-specific impacts that are likely to result from the prohibition Order and that have not been addressed in the Final Revised (Programmatic) Environmental Impact Statement (FES 77-3, dated May 1977) or in other official documents made publicly available.

If DOE prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to any powerplant that has been issued an order. A powerplant to which a Prohibition Order is issued may be eligible for a delayed compliance order issued by EPA. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views and arguments by interested persons.

Public comment on the proposal to issue a Prohibition Order to the powerplants listed above is invited in the form of written and oral presentation of data, views and arguments. Comments should make reference to the relevant docket number(s).

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173(a) and (d), DOE hereby announces that a public hearing to receive oral presentation of data, views and arguments of persons interested in the proposed Prohibition Order will be held beginning at 9 a.m. on May 31, 1978 in the El Paso County Centennial Hall, Centennial Hall Auditorium, 200 South Cascade, Colorado Springs, Colo. 80903. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Luther S. Clemmer, Department of Energy, Region VIII, 1075 South Yukon, Post Office Box 26247, Belmar Branch, Lakewood, Colo. 80226, 303-234-3596. The request should be received before 4:30 p.m., May 22, 1978.

The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a telephone number where the person may be contacted. Speakers will be contacted by a DOE representative before 4:30 p.m., May 25, 1978, and should submit ten (10) copies of their oral presentation, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Luther S. Clemmer, Department of Energy, 1075 South Yukon, P.O. Box 26247, Belmar Branch, Lakewood, Colo. 80226, before 4:30 p.m., May 30, 1978.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While DOE will endeavor to provide adequate opportunity to all who desire to speak, DOE reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. DOE will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

A DOE official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and be subject to time limitations.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with pertinent written comments submitted to DOE in the course of the hearing, will be retained by DOE and made available for inspection and copying at the Freedom of Information reading room, located in Room 2107, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, and DOE Regional Office VIII, Room 206, 1075 South Yukon, P.O. Box 26247, Belmar Branch, Lakewood, Colo. 80226, between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views and arguments with respect to this Notice of Intention to Issue a Prohibition Order to Public Hearing Management, Box TB, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which

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they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Martin Drake Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., June 12, 1978, all oral presentations, and all other relevant information submitted to or available to DOE will be considered by DOE prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing section 2(a) and (b) of ESECA (10 CFR Parts 303 and 305) are available for inspection at the following DOE Regional Offices:

Region	Address	Phone
I	Director for Fuels Regulation, 150 Causeway St., Room 700, Boston, Mass. 02114.	617-223-5265
II	Director for Fuels Regulation, 26 Federal Plaza, Room 3200, New York, N.Y. 10007.	212-264-8051
III	Director for Fuels Regulation, 1421 Cherry St., Room 1001, Philadelphia, Pa. 19102.	215-597-3915
IV	Director for Fuels Regulation, 1655 Peachtree St., NE., 8th floor, Atlanta, Ga. 30309.	404-881-2722
V	Director for Fuels Regulation, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Ill. 60604.	312-353-3053
VI	Director for Fuels regulation, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235.	214-749-7705
VII	Director for Fuels Regulation, 324 East 11th St., Kansas City, Mo. 64106.	816-374-2936
VIII	Director for Fuels Regulation, Post Office Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226.	303-234-2596
IX	Director for Fuels Regulation, 111 Pine St., San Francisco, Calif. 94111.	415-556-4640
X	Director for Fuels Regulation, 1992 Federal Building, 915 Second Ave., Seattle, Wash. 96174.	206-442-7320

Any questions regarding this notice should be directed to the DOE National Office as follows: Department of Energy, Code DCU (Prohibition Order: Martin Drake Powerplant), Washington, D.C. 20461, 202-254-5436.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 95-70; the Department of Energy Organization Act (Pub. L. 95-91); E.O. 11790 (39 FR 23185), E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C., May 8, 1978.

BARTON R. HOUSE,

Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

APPENDIX—PROPOSED FINDING AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and DOE regulations require DOE to make certain findings before issuing a Prohibition Order to a powerplant. DOE's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Powerplant No.	Location
DCU-166	City of Colorado Springs, Department of Public Utilities.	Martin Drake	5	Colorado Springs, Colo.
DCU-167	do	do	6	Do.
DCU-168	do	do	7	Do.

These findings, which are now proposed by DOE, are based on information that has been provided to and developed by DOE prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order. DOE intends, as necessary, to fully update, for purposes of currency, the information and data pertinent to the issuance of this NOI prior to the issuance of a Prohibition Order. DOE invites the utility or other interested persons to submit more current information or data, if such is available.

City of Colorado Springs, Department of Public Utilities shall be referred to as the "utility" and as "CCS-DPU."

I. *Capability and necessary plant equipment to burn coal*

DOE proposes to find that, on June 22, 1974, Powerplants Number 5, 6 and 7 at Martin Drake Generating Station (Martin Drake 5, 6 and 7) had, or thereafter acquired or were designed with the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Based on information supplied to the Federal Energy Regulatory Commission by CCS-DPU and a site visit performed by DOE representatives, it has been determined that each powerplant had in place, on June 22, 1974, boilers that were capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that, on June 22, 1974, the powerplants may not have been burning coal as their primary energy source.

The 1976 annual fuel consumption information reported by CCS-DPU was used to calculate the heat input of Martin Drake boilers 5, 6 and 7. Boiler No. 5 was 81 percent coal and 19 percent natural gas, boiler No. 6 was 91 percent coal and 9 percent natural gas and boiler No. 7 was 91 percent coal and 9 percent natural gas.

B. Based on information CCS-DPU provided to DOE during the above-mentioned site visit and other information available to DOE, it was determined that Martin Drake 5, 6 and 7 would have to upgrade an ash handling system, a waste-water treatment system and a solid waste disposal system in order to burn coal 100 percent of the time.

C. DOE proposes to find that on June 22, 1974, Martin Drake 5, 6 and 7 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, absence of the facilities listed in paragraph B, above, does not constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA*

DOE proposes to find that the burning of coal at Martin Drake 5, 6 and 7 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESCEA. This finding is based upon the presumption that Martin Drake 5, 6 and 7 will be operated at a 60.3 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have an average remaining useful life of 32 years (as of the date of this NOI), are expected to have at least 31 years of remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*

1. *Costs associated with burning coal.*

a. *Capital investment costs.*—The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Martin Drake 5, 6 and 7 are estimated to be approximately $3,406,000. This estimate is based on information developed by PEDCo as a result of its site visit.

b. *Annual operating and maintenance costs.*—Based upon information supplied by CCS-DPU and by PEDCo, the expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal at Martin Drake 5, 6 and 7 is estimated to be approximately $137,000 per year.

c. *Fuel costs.*—(i) Based on information supplied by the utility, the price of natural gas available to Martin Drake 5, 6 and 7 is approximately $1.18 per million Btu's. This represents $1.17 per Mcf of natural gas, assuming 987,000 Btu's per Mcf.

(ii) Based on information supplied by the utility to the Federal Energy Regulatory Commission (FERC) and from other sources available to DOE, the price of coal available to Martin Drake 5, 6 and 7 is approximately $.97 per million Btu's. This represents $20.19 per ton of delivered coal, assuming 20.8 million Btu's per ton.

(iii) DOE estimates that the burning of coal in lieu of natural gas by these powerplants will result in an overall reduction of approximately $0.21 per million Btu's, or $327,000 per year in fuel costs.

(iv) Based on information supplied by CCS-DPU, DOE has determined that Martin Drake 5, 6 and 7 are presently burning coal and should continue to experience curtailment of their supply of alternate fuel, natural gas. DOE, therefore, proposes to find that Martin Drake 5, 6 and 7 can continue to burn coal as their primary energy source with a decrease in fuel costs as a result of a prohibition order.

d. *Total annual costs associated with conversion.*—As a result of the conversion of Martin Drake 5, 6 and 7, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $592,000, assuming coal is used to replace natural gas.

2. *Reasonableness of costs of conversion.*

The foregoing analyses of the costs of conversion provides the basis for deciding whether the conversion of Martin Drake 5, 6 and 7 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $455,000 (this is based on a fixed charge rate of 13.4 percent of the total initial capital investment of $3,406,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $137,000 (these figures are derived from the figures in paragraphs A.1.a. and b.), but will experience an annual fuel cost savings of approximately $327,000 (see paragraph A.1.c.). The estimated net annual increase in cost of producing electricity at Martin Drake 5, 6 and 7 after conversion is estimated to be $265,000.

The use of coal at Martin Drake 5, 6 and 7 will result in an estimated annual equivalent savings of 1,563,000 Mcf of natural gas that otherwise would be used in providing steam for electric power generation. The cost of conversion per Mcf of natural gas is estimated to be $0.17.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Martin Drake 5, 6 and 7, DOE concludes that the cost, even using current prices, per Mcf of natural gas saved, is not unreasonable. This determination is based on consideration of the substantial savings of natural gas that will result from this conversion. This determination also takes into account the fact that DOE has determined that Martin Drake 5, 6 and 7 should continue to experience curtailment of its alternate fuel, natural gas. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 31 years remaining useful life of the powerplants after conversion, the size and resources of the utility as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increase in the fuel cost difference in favor of coal.

3. *Financial capabilities of CCS-DPU.*

a. *Recovery of capital investment.*—DOE proposes to find that compliance with a Prohibition Order to Martin Drake 5, 6 and 7 will be economically feasible. DOE's analysis took into consideration the $3,406,000 additional capital investment costs required for CCS-DPU to comply with this NOI and any other NOI's which are currently under consideration, as well as additional capital investment costs resulting from all Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to CCS-DPU's powerplants.

DOE related these additional capital investment costs to CCS-DPU's estimate of its 1978 construction budget of $52.5 million, the total capitalization of the utility of $334 million, and the average remaining useful life of 31 years after conversion of Martin Drake 5, 6 and 7.

DOE does not consider the effect of this added capital investment cost of represent an unreasonable burden, given the financial capabilities of CCS-DPU to assume such costs.

b. *Total annual costs associated with conversion.*—The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal, as opposed to natural gas attributable of compliance with the NOI would be $592,000. This also represents the total estimated annual incremental increase in revenue requirements of CCS—DPU. (DOE also took into consideration revenue requirements of CCS-DPU resulting from compliance with all other outstanding Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to CCS-DPU powerplants.) This estimate of $592,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled *Computer Methodology For Coal Conversion Cost Determination.* August 1976 (hereafter "Ultrasystems Computer Model").

The total estimated annual increase in costs of $592,000 associated with conversion will be offset by the potential aggregate value of fuel costs savings of approximately $327,000 attributable to compliance with this NOI and all other NOI's currently under consideration, if any. Therefore, the net annual revenue requirements of CCS-DPU should increase by approximately $265,000.

DOE does not consider the effect of these added annual costs associated with conversion an unreasonable burden given the financial capabilities of the utility to assume such costs.

4. *Consumer impact.*

The potential initial impact of a Prohibition Order to Martin Drake 5, 6 and 7 is a net increase in revenues required from CCS-DPU consumers of approximately $.0002 per kilowatt hour of electricity sold by CCS-DPU. This estimate is based on DOE's analysis of the Ultrasystems Computer Model results.

The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which CCS-DPU selects to finance the increased cost associated with burning coal as a primary energy source at Martin Drake 5, 6 and 7, the extent to which the cost increase is spread among CCS-DPU customers, the regulations or policies of the regulatory agencies with jurisdiction over CCS-DPU regarding inclusion of such cost increase in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.*

Because the issuance of a Prohibition Order to Martin Drake 5, 6 and 7 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, DOE proposes to conclude that this action will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act, as amended, and other applicable environmental protection requirements, DOE proposes to conclude that issuance of a Prohibition Order to Martin Drake 5, 6 and 7 will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*

A. *Coal availability.*

1. *National coal reserves.*

United States coal reserves are more than sufficient to supply national needs for the forseeable future. United States Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable. (*Demonstrated Coal Reserve Base of the United States by Sulfur Category, on January 1, 1974,* Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 100 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*

A comparison of estimated national coal production and national coal demand shows that there should be sufficient production of coal to meet the total national demand through 1984.

a. *National coal production.*—It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

[Production potential (million tons)]

Year:	
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7

The figures shown above are derived from FEA's Coal Mine Expansion Study (May

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1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1984 projection, therefore, tends to underestimate actual production potential. DOE intends to fully update, for purposes of being current, its coal availability finding pertinent to Martin Drake 5, 6 and 7 prior to the issuance of a Notice of Effectiveness.

b. *National demand exclusive of ESECA Prohibition Order demand.*—The estimated national demand, excluding any increased demand resulting from DOE actions under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

[Demand (millions of tons)]

Year:	
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985

c. *National ESECA Prohibition Order demand.*—DOE has estimated potential demand for coal resulting from this NOI, from all outstanding Notices of Intention to issue Prohibition Orders currently under consideration and from all Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows:

[Demand (million tons)]

Year:	
1978	9.6
1979	14.0
1980	20.4
1981	22.7
1982	29.5
1983	29.5
1984	29.5

(The above estimated demand figures include projections for Prohibition Orders issued on June 30, 1975 which are currently effective through December 31, 1978 and are subject to extension through December 31, 1984.)

3. *Characteristic coal, production and demand.*

a. *Characteristic coal requirements for these powerplants.*—Based on information provided by CCS-DPU, DOE proposes to conclude that wet-bottom boilers, of the type used at Martin Drake 5, 6 and 7, will be able to burn coal with the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb., 10,325 approximate
Moisture, 15.0% maximum
Ash, 20% maximum
Volatile, 15% minimum
Ash softening temperature, 2200 (° F) maximum
Sulfur, .56% maximum

b. *Characteristic coal demand from these powerplants.*—The potential average annual demand for coal, of the type described above, which would result from this Notice of Intention, is estimated to be as follows:

[Potential annual demand (thousand tons)]

Years:	
1979-84	74

c. *Characteristic coal available to these powerplants.*—Based on information provided by the utility, DOE proposes to find that CCS—DPU has entered into three long-term contracts with Pittsburg-Midway Coal Co., Colowyo Coal Co., and Empire Energy Coal Co. for supplies to Martin Drake 5, 6 and 7 of characteristic coal through 1984.

4. *State and local laws.*

DOE has found no State or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion.*

On the basis of CCS-DPU's present coal contract commitments, DOE proposes to find that coal of the characteristics required will be available to Martin Drake 5, 6 and 7 through 1984. Furthermore, on the basis of the BOM Survey, the *Coal Mine Expansion Study*, and the *FEA 1976 National Energy Outlook*, DOE expects that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand resulting from this NOI, from all outstanding Notices of Intention to issue Prohibition Orders, and from all Prohibition Orders issued to date under authority of section 2(a) of ESECA. In addition, CCS-DPU indicates that it can purchase coal for Martin Drake 5, 6 and 7 in the "spot market."

B. *Coal transportation.*

1. *Location of powerplants and coal supply.*

Based on information provided by CCS-DPU, coal for Martin Drake 5, 6 and 7 will be supplied and transported from Colowyo Coal Co. and Empire Energy Corp., which are located in Moffat County, Colo., and from Pittsburgh—Midway, which is located in Routt County, Colo. to Martin Drake 5, 6 and 7 at Colorado Spring, Colo.

2. *Route of coal shipment.*

Based on information provided to DOE by CCS-DPU, the primary route for coal delivery for Martin Drake 5, 6 and 7 would originate on the Craig Branch of the Denver & Rio Grande Western Railroad (D&RGWRR) and later would switch into the Drake Plant so that all coal movements would be completed on the D&RGWRR.

3. *Originating trunk carrier.*

D&RGWRR, the expected carrier of coal for Martin Drake 5, 6 and 7, has indicated that it is able and willing to acquire any needed capacity involved in shipment to Martin Drake 5, 6 and 7.

Based on an FEA study, *Utility Analysis of Coal Transportation Availability*, November 1976, DOE has concluded that for all potential Prohibition Order candidates studied, there will be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA. D&RGWRR has indicated that the rail facilities of Moffat County and Routt County, Colo. are readily available to CCS-DPU and that the D&RGWRR has adequate handling and loading facilities to service the required coal volumes.

DOE has not found nor has it been informed of any apparent constraints to transporting coal.

4. *Powerplant facilities.*

Martin Drake 5, 6 and 7 presently have coal unloading facilities which CCS-DPU has advised DOE are adequate to handle the projected coal demand. There are no apparent obstacles to the handling and delivery of coal to Martin Drake 5, 6 and 7.

5. *Conclusion.*

On the basis of the information above, DOE proposes to find that coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Martin Drake 5, 6 and 7 presently exist.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants*

Based on an analysis of the information submitted to DOE by CCS-DPU, DOE proposes to find that the issuance of a Prohibition Order to Martin Drake 5, 6 and 7 will not impair the reliability of service in the area served by these powerplants since there will be no outage as a result of a Prohibition Order.

CCS-DPU has indicated that Martin Drake 5, 6 and 7 was designed to burn natural gas and coal and is currently burning coal. Therefore, there will be no impairment of reliability of service within the meaning of ESECA in the area served by Martin Drake 5, 6 and 7 as a result of a Prohibition Order.

[FR Doc. 78-12989 Filed 5-11-78; 8:45 am]

[3128-01]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention to Issue Prohibition Orders to Certain Powerplants

The Department of Energy (DOE) hereby gives notice of its intention to issue a Prohibition Order, pursuant to the authorities granted it by section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 et seq. (ESECA), and chapter II, title 10, Code of Federal Regulations (10 CFR parts 303 and 305) to the following powerplants:

Docket No.	Owner	Generating station	Powerplant No.	Location
DCU-164	Southern Colorado Power Division, Central Telephone & Utilities Corp.	W. N. Clark	1	Canon City, Colo.
DCU-165	do	do	2	Do.

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DOE hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding this proposed Prohibition Order.

The proposed order would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3(b), require that DOE find that the powerplant had on June 22, 1974, or thereafter acquired or was designed with, the capability and necessary plant equipment to burn coal. A Prohibition Order may not be issued unless DOE can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. DOE's proposed findings regarding the above-named powerplants, as well as its proposed conclusions and rationale with respect to these findings, are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by DOE pursuant to this notice and other information made available to DOE. The findings, conclusions and rationale will be included, with any amendments, for any Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, DOE may determine to issue a Prohibition Order to the above-named powerplants. The Prohibition Order will not become effective, however, (1) until either (a) the Administrator of the Environmental Protection Agency (EPA) has notified the DOE, as required by Section 2(b) of ESECA, that the particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a delayed compliance order pursuant to the provisions of the Clean Air Act, as amended, (CAA), 42 U.S.C. 7413 (d)(5) and the Act of August 7, 1977, Pub. L. 95-95, § 112, or (b) if no such notification is given by EPA, the date that the Administrator of EPA certifies is the earliest date that the particular powerplant will be able to burn coal and to comply with all applicable air pollution requirements, CAA, supra; Pub. L. 95-95, supra; and (2) until DOE has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to a powerplant, DOE shall perform an analysis of the environmental impact of the issuance of such a Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by DOE of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been addressed in the Final Revised (Programmatic) Environmental Impact Statement (FES 77-3, dated May, 1977) or in other official documents made publicly available.

If DOE prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environment Policy Act of 1969 (42 U.S.C. 4332) prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to any powerplant that has been issued an order. A powerplant to which a Prohibition Order is issued may be eligible for a delayed compliance order issued by EPA. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views and arguments by interested persons.

Public comment on the proposal to issue a Prohibition Order to the powerplants listed above is invited in the form of written and oral presentation of data, views and arguments. Comments should make reference to the relevant docket number(s).

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173(a) and (d), DOE hereby announces that a public hearing to receive oral presentation of data, views and arguments of persons interested in the proposed Prohibition Order will be held beginning at 9:00 a.m. on May 31, 1978 in the El Paso County Centennial Hall, Centennial Hall Auditorium, 200 South Cascade, Colorado Springs, Colo. 80903. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Luther S. Clemmer, Department of Energy, Region VIII, 1075 South Yukon, Post Office Box 26247, Belmar Branch, Lakewood, Colo. 80226, 303-234-2596. The request should be received before 4:30 p.m., May 22, 1978.

The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a telephone number where the person may be contacted.

Speakers will be contacted by a DOE representative before 4:30 p.m., May 25, 1978, and should submit ten (10) copies of their oral presentation, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Lutner S. Clemmer, Department of Energy, 1075 South Yukon, Post Office Box 26247, Belmar Branch, Lakewood, Colo. 80226, before 4:30 p.m., May 30, 1978.

Detailed technical data, views and arguments should be contained in a written submission in support of the

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oral presentation. The oral presentation itself should be a summary of those written comments.

While DOE will endeavor to provide adequate opportunity to all who desire to speak, DOE reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. DOE will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

A DOE official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebutal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with pertinent written comments submitted to DOE in the course of the hearing, will be retained by DOE and made available for inspection and copying at the Freedom of Information reading room, located in Room 2107, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, and DOE Regional Office VIII, Room 206, 1075 South Yukon, Post Office Box 26247, Belmar Branch, Lakewood, Colo. 80226, between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views and arguments with respect to this Notice of Intention to Issue a Prohibition Order to Public Hearing Management, Box TK, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the W.N. Clark Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., June 12, 1978, all oral presentations, and all other relevant information submitted to or available to DOE will be considered by DOE prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations i mplementing section 2(a) and (b) of ESECA (10 CFR Parts 303 and 305) are available for inspection at the following DOE Regional Offices:

Region	Address	Phone
I	Director for Fuels Regulation, 150 Causeway St., Room 700, Boston, Mass. 02114.	617-223-5265
II	Director for Fuels Regulation, 26 Federal Plaza, Room 3200, New York, N.Y. 10007.	212-264-8051
III	Director for Fuels Regulation, 1421 Cherry St., Room 1001, Philadelphia, Pa. 19102.	215-597-3915
IV	Director for Fuels Regulation, 1655 Peachtree St., NE., 8th Floor, Atlanta, Ga. 30309.	404-881-2722
V	Director for Fuels Regulation, Federal Office Building 175 West Jackson Blvd, Room A-333, Chicago, Ill. 60604.	312-353-3053
VI	Director for Fuels Regulation, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235.	214-749-7705
VII	Director for Fuels Regulation, 324 East 11th St., Kansas City, Mo. 64106.	816-374-2936
VIII	Director for Fuels Regulation, Post Office Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226.	303-234-2596
IX	Director for Fuels Regulation, 111 Pine St., San Francisco, Calif. 94111.	415-556-4640
X	Director for Fuels Regulation, 1992 Federal Building, 915 Second Ave., Seattle, Wash. 98174.	206-442-7320

Any questions regarding this notice should be directed to the DOE National Office as follows: Department of Energy, Code DCU (Prohibition Order: W.N. Clark Powerplant), Washington, D.C. 20461, 202-254-5436.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 95-70; The Department of Energy Organization Act (Pub. L. 95-91); E. O. 11790 (39 F.R. 23185), E. O. 12009 (42 F.R. 46267).)

Issued in Washington, D.C., May 8, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

APPENDIX—PROPOSED FINDING AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and DOE regulations require DOE to make certain findings before issuing a Prohibition Order to a powerplant. DOE's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

These findings, which are now proposed by DOE, are based on information that has been provided to and developed by DOE prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order. DOE intends, as necessary, to fully update, for purposes of currency, the information and data pertinent to the issuance of this NOI prior to the issuance of a Prohibition Order. DOE invites the utility or other interested persons to submit more current information or data, if such is available.

Docket No	Owner	Generating station	Powerplant No.	Location
DCU-164	Southern Colorado Power Division, Central Telephone & Utilities Corp	164W. N. Clark.	1	Canon City, Colo.
DCU-165	...do	...do	2	Do.

Southern Colorado Power division, Central Telephone & Utilities Corporation shall be referred to as the "utility" and as "SCPD-CTUC".

I. *Capability and necessary plant equipment to burn coal.*

DOE proposes to find that on June 22, 1974, Powerplants Number 1 and 2 at W. N. Clark Generating Station (W. N. Clark 1 and 2) had, or thereafter acquired or were designed with the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Based on information supplied to the Federal Energy Regulatory Commission by SCPD-CTUC and a site visit performed by DOE representatives, it has been determined that each powerplant had in place, on June 22, 1974, boilers that were capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplants may not have been burning coal as their primary energy source.

The 1976 annual fuel consumption information reported by SCPD-CTUC was used to calculate the heat input of W. N. Clark boiler No. 1 and boiler No. 2. Boiler No. 1 was 48 percent coal and 52 percent natural gas and boiler No. 2 was 68 percent coal and 32 percent natural gas.

B. Based on information SCPD-CTUC provided to DOE during the above-mentioned site visit and other information available to DOE, it was determined that W. N. Clark 1 and 2 would have to upgrade an ash handling system, waste water treatment system and a solid waste disposal system in order to burn coal 100 percent of the time.

C. DOE proposes to find that on June 22, 1974, W. N. Clark 1 and 2 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, absence of the facilities listed in paragraph B, above, does not constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

DOE proposes to find that the burning of coal at W. N. CLark 1 and 2 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA.

This finding is based upon the presumption that W. N. Clark 1 and 2 will be operated at a 82.0 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have an average remaining useful life of 20 years (as of the date of this NOI and after the estimated date of conversion), and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*

1. *Costs associated with burning coal.*

a. *Capital investment costs.*—The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at W. N. Clark 1 and 2 are estimated to be approximately $650,000. This estimate is based on information developed by PEDCo as a result of a site visit.

b. *Annual operating and maintenance costs.*—Based upon information supplied by SCPD-CTUC and by PEDCo, the expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of cosl at W. N. Clark 1 and 2 is estimated to be approximately $37,000 per year.

c. *Fuel costs.*—(i) Based on information supplied by the utility, the price of natural gas available to W. N. Clark 1 and 2 is approximately $1.01 per Mcf. This represents $0.99 per million BTU's of natural gas, assuming 981,000 BTU's per Mcf.

(ii) Based on information supplied by the utility to the Federal Energy Regulatory Commission (FERC) and from other sources available to DOE, the price of coal available to W. N. Clark 1 and 2 is approximately $0.66 per million BTU's. This represents $13.48 per ton of delivered coal, assuming 20.3 million BTU's per ton.

(iii) DOE estimated that the burning of coal in lieu of natural gas by these powerplants will result in the reduction of approximately $0.33 per million BTU's or $548,000 per year in fuel costs.

(iv) Based on information supplied by SCPD-CTUC, DOE has determined that W. N. Clark 1 and 2 are presently burning coal and should continue to experience curtailment of their supply of alternate fuel, natural gas. DOE therefore, proposes to find that W. N. Clark 1 and 2 can continue to burn coal as their primary energy source with a decrease in fuel costs as a result of a Prohibition Order.

d. *Total annual costs associated with conversion.*—As a result of the conversion of W. N. Clark 1 and 2, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $168,000, assuming coal is used to replace natural gas burned.

2. *Reasonableness of costs of conversion.*—The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of W. N. Clark 1 and 2 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $131,000 (this represents an amortized cost over the 20 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 20.2 percent of the total initial capital investment of $650,000 and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $37,000 (these figures are derived from the figures in paragraphs A.1.a. and b.), but will experience an annual fuel cost savings of approximately $548,000 (see paragraph A.1.c.). Considering the fuel cost savings, the total annual cost of operating W. N. Clark 1 and 2 after conversion is estimated to be reduced by $380,000. Since all increased costs of conversion will be offset by the decrease in fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at W. N. Clark 1 and 2.

The burning of coal as the primary energy source at W. N. Clark 1 and 2 will result in an estimated annual equivalent savings of 1,625,000 Mcf of natural gas that otherwise would be used in providing steam for electric power generation.

DOE proposes to find that, since the increased annual capital investment costs and operating and maintenance costs at the powerplants are offset by the current fuel cost differential between natural gas and coal burning at W. N. Clark 1 and 2, and because of the potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal will result in even greater savings.

3. *Financial capabilities of SCPD-CTUC.*

a. *Recovery of capital investment.*—DOE proposes to find that compliance with a Prohibition Order to W. N. Clark 1 and 2 will be economically feasible. DOE's analysis took into consideration $650,000 additional capital investment costs required for SCPD-CTUC to comply with this NOI and any other NOI's which are currently under consideration, as well as additional capital investment costs resulting from all Prohibition or Construction Orders, if any, issued to date under authority, of section 2 (a) and (c) of ESECA to SCPD-CTUC's powerplants.

DOE related these additional capital investment costs to Central Telephone & Utilities Corporation's estimate of its 1977 construction budget of $1 million, the 1977 total capitalization of Central Telephone & Utilities Corp. of $1.0 billion, and average remaining useful life of 20 years after conversion of W. N. Clark 1 and 2.

DOE does not consider the effect of this added capital investment cost to represent an unreasonable burden, given the financial capability of SCPD-CTUC to assume such costs.

b. *Total annual costs associated with conversion.*—The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal, as opposed to natural gas, attributable to compliance with this NOI would be $168,000. This also represents the total estimated annual incremental increase in revenue requirements of SCPD-CTUC. (DOE also took into consideration revenue requirements of SCPD-CTUC resulting from compliance with all other outstanding Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to SCPE-CTUC powerplants.) This estimate of $168,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled *Computer Methodology For Coal Conversion Cost Reasonableness Determination*, August 1976, (hereafter "Ultrasystems Computer Model").

The total estimated annual increase in costs of $168,000 associated with conversion will be offset by the potential aggregate value of fuel costs savings of approximately $548,000 attributable to compliance with this NOI and all other NOI's currently under consideration, if any. Therefore, the net annual revenue requirements of SCPD-CTUC should decrease by approximately $380,000.

4. *Consumer Impact.*

The potential initial impact of a Prohibition Order to W. N. Clark 1 and 2 is a net decrease in revenues required from SCPD-CTUC consumers of approximately $.0005 per kilowatt hour of electricity sold by SCPD-CTUC. This estimate is based on DOE's analysis of the Ultrasystems Computer Model results.

The actual amount of the decrease will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which SCPD-CTUC selects to finance the increased costs associated with burning coal as a primary energy source at W. N. Clark 1 and 2, the extent to which the cost decrease is spread among SCPD-CTUC customers, the regulations or policies of the regulatory agencies with jurisdiction over SCPD-CTUC regarding inclusion of such cost decrease in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.*

Because the issuance of a Prohibition Order to W. N. Clark 1 and 2 will discourage the use of natural gas or petroleum products and encourage the increased use of

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coal, DOE proposes to conclude that this action will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act, as amended, and other applicable environmental protection requirements, DOE proposes to conclude that issuance of a Prohibition Order to W. N. Clark 1 and 2 will be consistent with the purposes of ESECA to provide for a means to asssist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*

A. *Coal availability.*

1. *National coal reserves.*

United States coal reserves are more than sufficient to supply national needs for the foreseeable future. United States Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable, (*Demonstrated Coal Reserve Base of the United States by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 100 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*

A comparison of estimated national coal production and national coal demand shows that there should be sufficient production of coal to meet the total national demand through 1984.

a. *National coal production.*—It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

[Production potential (million tons)]

Year:	
1978	791.8
1979	851.4
1980	911 7
1981	980.0
1982	994 3
1983	1,017.4
1984	1,028.7

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1984 projection, therefore, tends to underestimate actual production potential. DOE intends to fully update, for purposes of being current, its coal availability finding pertinent to W. N. Clark 1 and 2 prior to the issuance of a Notice of Effectiveness.

b. *National demand exclusive of ESECA Prohibition Order demand.*—The estimated national demand, excluding any increased demand resulting from DOE actions under the authority of section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

[Demand (millions of tons)]

Year:	
1978	730
1979	784
1980	799
1981	842
1982	887
1983	935
1984	985

c. *National ESECA Prohibition Order demand.*—DOE has estimated potential demand for coal resulting from this NOI, from all outstanding Notices of Intention to issue Prohibition Orders currently under consideration and from all Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows:

[Demand (million tons)]

Year:	
1978	9.8
1979	14.0
1980	20.4
1981	22.7
1982	29.5
1983	29.5
1984	29.5

(The above estimated demand figures include projections for Prohibition Orders issued on June 30, 1975 which are currently effective through December 31, 1978 and are subject to extension through December 31, 1984).

3. *Characteristic coal, production and demand.*

a. *Characteristic coal requirements for these powerplants.*—Based on information provided by SCPD-CTUC, DOE proposes to conclude that dry-bottom boilers, of the type used at W. N. Clark 1 and 2, will be able to burn coal with the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb., 10,150 approximate.
Moisture, 15.0% maximum.
Ash, 20% maximum.
Volatile, 15.0% minimum.
Ash softening temperature, 2200 (°F) minimum.
Sulfur, 0.7 maximum.

b. *Characteristic coal demand from these powerplants.*—The potential average annual demand for coal, of the type described above, which would result from this NOI, is estimated to be as follows:

[Potential annual demand (thousand tons)]

Years:	
1979-84	79

c. *Characteristic coal available to these powerplants.*—SCPD-CTUC presently purchases characteristic coal in the "spot market" from Bureau of Mines (BOM) District 17, in Fremont and Las Animas Counties. Based on information provided by the Denver Geological Survey, Fremont and Las Animas Counties have demonstrated reserves of 646 million short tons of coal. The Bureau of Mines Information Circular, 1975, entitled *The Reserve Base of U.S. Coals by Sulfur Content*, states that recoverable reserves by underground mining methods are generally estimated to be 50 percent of demonstrated reserves. Consequently, the estimated recoverable reserves, pertinent here are 323 million short tons of coal. SCPD-CTUC has advised DOE that there are sufficient quantities of characteristic coal to meet the above-stated incremental annual demand at Twin Pines, GEC and Delanga Mines through 1984. DOE, therefore, proposes to find that coal of the type that is burned at W. N. Clark 1 and 2 is available through 1984.

4. *State or local laws.*

DOE has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion*

DOE proposes to find that coal of the characteristics required will be available to W. N. Clark 1 and 2 through 1984. Furthermore, on the basis of the BOM Survey, the *Coal Mine Expansion Study* and the *FEA 1976 National Energy Outlook*, DOE expects that the national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand resulting from this NOI, from all outstanding Notices of Intention to issue Prohibition Orders and from all Prohibition Orders issued to date under authority of section 2(a) of ESECA.

B. *Coal transportation.*

1. *Location of powerplant and coal supply.*

The primary and alternate source of coal supply for W. N. Clark 1 and 2 at Canon City, Colorado, is from BOM District 17, Fremont and Las Animas Counties. SCPD-CTUC presently purchases coal in the "spot market" from coal mines in Fremont County, about 10 miles from the plant, and from another supplier in Las Animas County, approximately 110 miles distant.

2. *Route of coal shipment.*

The primary route for coal delivery to W. N. Clark 1 and 2 originates in BOM District 17. Within BOM District 17 coal is presently being delivered from Fremont County in the Florence coal field by truck, but the Denver and Rio Grande Western Railroad (D&RGW) is available to serve the plant.

3. *Originating trunk carrier.*

W. N. Clark has advised DOE that within BOM District 17 there are several probable originating-destination truck carriers for transporting coal to W. N. Clark 1 and 2. These trucking companies include the following: (A) Ben Moscheti Trucking Co., which presently transports coal to W. N. Clark 1 and 2 from Twin Pines Mine in Fremont County, 6 days each week, 24 ton load capacity per truck; (B) Corley Trucking Co., which also transportation coal to W. N. Clark 1 and 2 from GEC Mineral Mines in Fremont County, 6 days each week, 30 ton load capacity per truck; and (C) Cal Garis Trucking Co., which now transports coal to W. N. Clark 1 and 2 from the Delanga Mine in Las Animas County, 6 days each week 20-30 ton load capacity per truck. In addition, the Carestia Trucking Co. and the Berta Trucking Co. have indicated interest in transporting coal to the W. N. Clark powerplant if given the opportunity. Both would provide an added capacity availability of approximately 28 coal trucks. The above-mentioned trucking companies are able and willing to provide the required coal demand for W. N. Clark 1 and 2, which are expected to be adequate through December 31, 1984. DOE has not found nor has it been informed of any apparent constraints in transporting coal to W. N. Clark 1 and 2.

Whenever truck transportation of coal is not available, rail transportation, offered by D&RGW, is available to W. N. Clark 1 and 2 as an alternate mode.

4. *Powerplant facilities.*

W. N. Clark 1 and 2 presently have coal unloading facilities which are adequate to handle the projected coal demand. There are no apparent obstacles to the handling and delivery of coal to W. N. Clark 1 and 2.

5. *Conclusion.*

Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery to W. N. Clark 1 and 2 presently exist.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.*

Based on an analysis of the information submitted to DOE by SCPD-CTUC, DOE proposes to find that the issuance of a Prohibition Order to W. N. Clark 1 and 2 will not impair the reliability of service in the area served by these powerplants since there will be no outage as a result of a Prohibition Order. SCPD-CTUC has indicated that W. N. Clark 1 and 2 was designed to burn natural gas and coal and is currently burning coal. Therefore, there will not be an impairment on reliability of service within the meaning of ESECA in the area served by W. N. Clark 1 and 2 as a result of a Prohibition Order.

[FR Doc. 78-11367 Filed 5-11-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. G-4542, et al.]

ATLANTIC RICHFIELD CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

MAY 4, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 1, 1978 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure-base
G-4542, C, Jan. 12, 1978	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	El Paso Natural Gas Co., casinghead gas in the SE/4 of the SW/4 of sec. 32-24S-37E, Lea County, N. Mex.	(1)	14.73
G-6083, et al., D, Apr. 24, 1978.	Mesa Petroluem Co., P.O. Box 2009, Amarillo, Tex. 79189.	El Paso Natural Gas Co., Aztec, Pictured Cliffs field, San Juan County, N. Mex.	Depleted. Lease will terminate by its own terms, plugged and abandoned..	
G-11576, D, Apr. 24, 1978	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79189.	Northern Natural Gas Co., (successor in interest to Pioneer Gathering System, Inc.), Sonora field, Sutton County, Tex.	Depletion of production in paying quantities; Applicant's leases and its interests therein have terminated..	
CI78-721, C, Apr. 24, 1978	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co., Antelope Ridge, et al. field, Eddy and Lea Counties, N. Mex.	(2)	14.65
CI77-242, C, Apr. 26, 1978	Exchange Oil & Gas Corp., 16th Floor, 1010 Common St., New Orleans, La. 70112.	Texas Gas Transmission Corp., a portion of the block 23 field, Ship Shoal area, Terrebonne Parish, La.	(2)	15.025
CI77-344 C, D, Apr. 26, 1978	Southland Royalty Co., 1000 Forth Worth Club Tower, Forth Worth, Tex. 76102.	Panhandle Eastern Pipe Line Co., Shannon sandstone formation, from wells located in secs. 3 and 10, T44N, R75W, and secs. 21, 28, and 34, T45N, R75W, Campbell County Wyo.—(C); SW/4 sec. 28-T46N-R76W, Campbell County, Wyo.—(D).	(4)	15.025
CI77-567, C, Apr. 26, 1978	Union Oil Co., of California, Union Oil Center, Box 7600, Los Angeles, Calif. 90051.	Northern Natural Gas Co., blocks 34 and 60, Vermillion area, offshore Louisiana.	(2)	15.025
CI78-42, C, Apr. 27, 1978	Ladd Petroleum Corp., 1730 M St. NW., Washington, D.C. 20038.	Transcontinental Gas Pipe Line Corp., Mosquito Bay field, Terrebonne Parish, La.	(4)	15.025
CI78-52, C, Apr. 27, 1978	Ladd Petroleum Corp	Southwest Gas Corp., Blanco Pictured Cliffs field, San Juan County, N. Mex.	(2)	15.025
CI78-641, A, Apr. 17, 1978	Case-Pomeroy Oil Corp., P.O. Box 1511, Midland, Tex. 79701.	Northern Natural Gas Co., from a portion of High Island area block A-532, south addition, offshore Tex.	(1)	14.65
CI78-667, A, Apr. 24, 1978	Napeco Inc., 122 South Michigan Ave., Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America, Hardy No. 1 well, Panola County, Tex.	(1)	14.65
CI78-678, A, Apr. 24, 1978	Felmont Oil Corp., P.O. Box 2266, Midland, Tex. 79701.	Columbia Gas Transmission Corp., South Marsh Island block 142 field unit, offshore Louisiana.	(1)	15.025
CI78-679, A, Apr. 25, 1978	Felmont Oil Corp	Columbia Gas Transmission Corp., block 34, East Cameron area, offshore Louisiana.	(1)	15.025

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Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI78-680, B, Apr. 24, 1978.....	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Universal Gasoline Co. (now Aminoil USA, Inc.), Alyesworth field, Marshall County, Okla.	(*).....	
CI78-681 (CI60-331), B, Apr. 24, 1978.	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	Cities Service Co., (successor to the Nueces Co.), Agua Dulce (7,150 ft.) field, Nueces County, Tex..	Depleted, last producing gas well plugged and abandoned..	
CI78-682 (G-4141), B, Apr. 24, 1978.	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., South Crowley field, Arcadia Parish, La..	Nonproduction and contract expired by its own terms..	
CI78-683, A, Apr. 24, 1978.....	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Transcontinental Gas Pipe Line Corp., Mary E. F. Barrett No. 1 well, Bear field, Beauregard Parish, La. and limited to the Wilcox A sand reservoir A.	(*).....	15.025
CI78-684, A, Apr. 24, 1978.....	William Herbert Hunt trust estate (successor in partial interest to Emory M. Spencer), 2500 1st National Bank Bldg., Dallas, Tex. 75202.	Natural Gas Pipeline Co. of America, Fulton Beach field, Aransas County, Tex.	(10).....	14.73
CI78-685, A, Apr. 25, 1978.....	Case-Pomeroy Oil Corp., P.O. Box 1511, Midland, Tex. 79701.	Columbia Gas Transmission Corp., block 34, east Cameron area, offshore Louisiana.	1(*).....	15.025
CI78-686, A, Apr. 26, 1978.....	Amerada Hess Corp., 1200 Milam, 6th Floor, Houston, Tex. 77002.	El Paso Natural Gas Co., Jicarilla Apache field, Rio Arriba County, N. Mex.	(*).....	14.65
CI78-687, A, Apr. 26, 1978.....	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Columbia Gas Transmission Corp., South Marsh Island area, block 267, offshore Louisiana.	(*).....	14.73
CI78-688, A, Apr. 26, 1978.....	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Michigan Wisconsin Pipe Line Co., High Island area blocks A-327 and A-332, offshore Texas.	(*).....	14.65
CI78-689, B, Apr. 24, 1978.....	Wood & Locker, Inc., 206 North Main, Midland, Tex. 79701.	Warren Petroleum Co., Williams Penn North field, Lea County, N. Mex.	Uneconomical, plugged and abandoned Mar. 21, 1978..	
CI78-691, A, Apr. 26, 1978.....	Ashland Exploration, Inc., P.O. Box 1503, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Boehs No. 1-33 well and the Rother No. 1-34 well, both located in Major County, Okla.	(*).....	14.65
CI78-692 (CI75-618), B, Apr. 24, 1978.	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	Natural Gas Pipeline Co. of America, Hairston gas unit, C. C. Hairston well No. 1, Steve field, Bowie County, Tex.	Last production from the well was September 1976, leases expired by their own terms, plugged and abandoned Feb. 9, 1977..	
CI78-693, A, Apr. 24, 1978.....	Cities Service Co.....	Northern Natural Gas Co., west Cameron 222 wells Nos. 1-1, 1-2, 1-3, and 1-4, West Cameron block 222, offshore, Louisiana.	(*).....	15.025
CI78-694 (CI60-35), B, Apr. 24, 1978.	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., North Borcher field, Meade County, Kans.	All acreage dedicated to the Nov. 19, 1959 contract has been either assigned or surrendered..	
CI78-695 (CI68-1180), B, Apr. 24, 1978.	Edwin L. Cox, 3800 1st National Bank Bldg., Dallas, Tex. 75202.	Texas Gas Transmission Corp., North Maurice field, Lafayette Parish, La.	Depleted, lease terminated, plugged and abandoned..	
CI78-696, A, Apr. 24, 1978.....	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Northern Natural Gas Co., the A. B. Baker "B" well No. 16 in the Drinkard formation, Lea County, N. Mex.	(*).....	14.73
CI78-697, A, Apr. 24, 1978.....	HNG Oil Co., P.O. Box 1188, Houston, Tex. 77001.	El Paso Natural Gas Co., Ogden "8" Com. No. 1 well, (Morrow formation), east one-half of sec. 8, T24S, R28E, Malaga West Morrow field, Eddy County, N. Mex.	(*).....	14.73
CI78-698, A, Apr. 24, 1978.....	Cotton Petroleum Corp. (successor by merger to Wewoka Exploration Co., 4200 1 Williams Center, Tulsa, Okla. 74103.	United Gas Pipe Line Co., certain acreage in the South Dubina field, Colorado County, Tex.	(*).....	14.65

[1]Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.
[2]Applicant is requesting its certificate of public convenience and necessity be amended to authorize applicant to sell natural gas under and in accordance with the gas purchase agreement of May 25, 1976, as amended by amendment dated Feb. 24, 1978, during the remainder of the term of said certificate.
[3]Applicant is filing under Gas Purchase contract dated Oct. 1, 1976, amended by amendment dated Jan. 10, 1978.
[4]Applicant is filing under gas purchase and sales agreement dated Sept. 24, 1976, amended by amendment dated Mar. 27, 1978.
[5]Applicant is filing to change the point of delivery of gas to be sold by seller to Northern from Vermilion block 34 production from seller's "C" platform on Vermilion block 26 to seller's "B" platform on Vermilion block 35, under gas purchase contract dated June 2, 1977, amended by amendment dated Mar. 17, 1978.
[6]Applicant is filing under gas purchase contract dated Sept. 1, 1977, amended by amendment dated Feb. 17, 1978.
[7]Applicant is filing under gas purchase contract dated July 15, 1977, amended by amendment dated Jan. 16, 1978.
[8]The Aug. 31, 1948 casinghead gas contract has been terminated; the well on the Gipson lease was plugged and abandoned and the acreage released in August 1967; and the Sharp Bros. unit was sold in March 1970. Another lease, the Lake lease, was covered by the contract; however, it was sold in June 1950, prior to regulation.
[9]Applicant is filing under gas purchase contract dated Feb. 16, 1978.
[10]Applicant requests to continue the sale of natural gas to Natural Gas Pipeline Co. of America from the Fulton Beach field which was previously made by Emory M. Spencer. On Mar. 29, 1978, Mr. Emory M. Spencer assigned to William Herbert Hunt trust estate, Placid Oil Co. and George W. Graham all of his rights in and to the gas which was heretofore been sold to Natural Gas Pipeline Co. of America.
[11]Applicant is filing under gas purchase contract dated Mar. 17, 1978.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Succession. F—Partial succession.

[FR Doc. 78-12796 Filed 5-11-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. CP78-305]

COLUMBIA GAS TRANSMISSION CORP.

Application

MAY 3, 1978.

Take notice that on April 24, 1978, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP78-305 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Orange and Rockland Utilities, Inc. (Orange and Rockland), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that on February 29, 1978, National Fuel Gas Supply Corp. (National Supply) filed in Docket No. CP78-209 an application requesting authorization to render limited term underground gas storage service for Orange and Rockland, et al., for the period April 1, 1978 through March 31, 1979. The application further states that National Supply also proposed to continue for one year the limited term storage service as provided to non-affiliated customer utilites in each storage year commencing in 1975-1976. This continuation was requested in lieu of long-term storage service for which authorization was requested in Docket No. CP76-492, it is said.

It is stated that Orange and Rockland has requested Applicant to deliver up to 1,000,000 Mcf of gas annually to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), for storage injection; to receive from Tennessee up to 1,000,000 Mcf of gas withdrawn from storage, and to transport and redeliver like volumes to Orange and Rockland, in order to take advantage of the limited term storage service proposed by National Supply.

Applicant states that it would deliver a portion of Orange and Rockland's CDS rate schedule entitlement to Tennessee during summer injection periods at Tennessee's existing South Ceredo, Wayne County, W. Va., delivery point by nominating a portion of its CD rate schedule purchases for retention by Tennessee for Orange and Rockland's account. Applicant further states that it would receive during the withdrawal period up to 10,000 Mcf per day of natural gas from Tennessee at an existing delivery point to Applicant located in Pike County, Pa., and that it would transport the gas on an interruptible basis and redeliver it to Orange and Rockalnd at existing points of delivery in eastern New York.

Applicant indicates that it would charge Orange and Rockland for the proposed transportation 20.56 cents per Mcf of gas transported and would retain for company-use and unaccounted-for gas a percentage of the gas so delivered, which percentage is currently 4.0 percent. Applicant states that its transportation charge reflects its average systemwide unit storage and transmission costs exclusive of company-use and unaccounted-for gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12902 Filed 5-11-78; 8:45 am]

[6740-02]

[Docket No. RP72-157]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

MAY 3, 1978.

Take notice that Consolidated Gas Supply Corp. (Consolidated) on April 18, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. According to Consolidated, the proposed changes, reflected on Second Substitute Alternate Second Revised Sheet No. 16, to be effective May 1, 1978, represent PGA adjustments because of changes in the Base Tariff rates for producer purchases included in a revised filing in Docket No. RP78-52 and a decrease in costs of gas purchased from Texas Eastern, previously filed to become effective May 1, 1978.

Consolidated requests a waiver of any of the Commission's Rules and Regulations as may be deemed necessary by the Commission.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12903 Filed 5-11-78; 8:45 am]

[6740-02]

[Docket No. RM77-14]

EL PASO NATURAL GAS CO.

Tariff Filing

MAY 4, 1978.

Take notice that on May 1, 1978, El Paso Natural Gas Co. ("El Paso") tendered for filing and acceptance Substitute Fourth Revised Sheet No. 1-D.2 to its FERC Gas Tariff, Third Revised Volume No. 2.

El Paso states that on April 6, 1978, it tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A.[1] El Paso states that such tariff filing, proposed to become effective on June 1, 1978, provides for:

(i) The establishment in each volume of El Paso's tariff, its Gas Research Institute ("GRI") General Research, Development and Demonstration Funding Unit Provision ("R.D. & D. Funding Adjustment");[2]

(ii) Modification of the narrative statement contained on each of the Statement of Rates tariff sheets contained in El Paso's tariff to incorporate the proposed GRI R.D. & D. Funding Adjustment Provision; and

(iii) Inclusion in each of El Paso's Statement of Rates tariff sheets, where applicable, the approved GRI R.D. & D. Funding Unit Adjustment of 0.12 cents per Mcf.

[1]Commission notice of such tariff filing was issued April 12, 1978, at Docket No. RM77-14.

[2]El Paso's tariff tender for its GRI R.D. & D. Funding Adjustment was submitted in conformity with the provisions of ordering paragraph (G) of the Commission's Opinion No. 11 issued March 22, 1978, at Docket No. RM77-14.

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El Paso states that as part of such filing, it tendered Substitute Third Revised Sheet No. 1-D.2 to its Volume No. 2 tariff, which sheet comprises the Statement of Rates Sheet applicable to certain transportation services rendered by El Paso that are subject to the proposed GRI R.D. & D. Funding Unit Adjustment Provision. El Paso further states that the transportation rates reflected on such tendered tariff sheet are based upon El Paso's effective rates approved at Docket No. RP77-18,[3] adjusted by the proposed 0.12 cents per Mcf GRI Funding Unit. Such transportation services and applicable rates which are reflected on said Statement of Rates tariff sheet are subject to the final disposition of the transportation rate design issue then pending in the proceedings at Docket Nos. CP77-40 and RP77-97.

El Paso states that subsequent to its GRI filing, by letter order issued April 20, 1978, at Docket Nos. CP77-40 and RP77-97, the Commission approved El Paso's Stipulation and Agreement filed November 7, 1977, in settlement of the transportation rate design issue in said proceedings.[4] El Paso further states that the settlement transportation rates prescribed in that proceeding differ from the base transportation rates included in the pending GRI tariff tender. In order to eliminate such inconsistency, El Paso tendered the subject Substitute Fourth Revised Sheet No. 1-D.2 to its Volume No. 2 tariff, containing the Statement of Rates applicable to transportation services, which sheet contains the above described settlement transportation rates and El Paso's proposed revisions necessary to include therein the proposed GRI provisions. El Paso states that said Substitute Fourth Revised Sheet No. 1-D.2 was submitted in substitution for the counterpart Substitute Third Revised Sheet No. 1-D.2 now pending in El Paso's GRI tariff tender filed April 6, 1978.

El Paso has requested that the Commission, to the extent deemed necessary, grant waiver of its Rules and Regulations so as to permit tendered Substitute Fourth Revised Sheet No. 1-D.2 to be accepted for filing in substitution for Substitute Third Revised Sheet No. 1-D.2 presently pending effectiveness in El Paso's April 6, 1978, tariff filing at Docket No. RM77 14 and that such substituted sheet be made effective as of June 1, 1978, as requested.

El Paso states that copies of the filing have been transmitted to all affected customers served under El Paso's FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A and all interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tender should, on or before May 23, 1978, file with the Federal Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12904 Filed 5-11-78; 8:45 am]

[3]See order issued August 31, 1977, approving Stipulation and Agreement filed at Docket No. RP77-18.

[4]Such order, inter alia, requires El Paso to file within ten (10) days after the date of the order, a revised Statement of Rates tariff sheet which reflects the settlement transportation rates set forth on the pro forma tariff sheet attached to the Stipulation and Agreement. In this regard El Paso concurrently filed Fourth Revised Sheet No. 1-D.2 to its Volume No. 2 tariff to become effective as of June 2, 1977, in compliance with said letter order issued April 20, 1978, at Docket Nos. CP77-40 and RP77-97.

[6740-02]

EQUITABLE GAS CO.

[Docket No. CP73-321]

Petition To Amend

MAY 3, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on April 13, 1978, Equitable Gas Co. (Petitioner), 420 Boulevard of the Allies, Pittsburgh, Pa. 15219, filed in Docket No. CP73-321 a petition to amend the order of October 30, 1973 (50 FPC 1336) issued by the Federal Power Commission in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction of 38.27 miles of 20-inch transmission lines and 17.05 miles of 16-inch transmission lines in Lewis, Harrison, Marion and Monongalia Counties, W. Va., in lieu of the 47.6 miles of 20-inch pipe previously authorized in the instant docket, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of October 30, 1973, Petitioner was authorized to construct 47.6 miles of 20-inch transmission lines in the aforementioned counties, West Virginia, and that by letter dated May 27, 1977, Petitioner advised the Commission that 38.27 miles of 20-inch and 17.05 miles of 16-inch, or a total of 55.32 miles of transmission line, had been actually constructed.

Petitioner states that the general reason for the difference in mileage of pipe and the total mileage actually installed and reported is that the estimate for pipe required was made in 1972 and determined from system base maps and office records. Petitioner further states that in the early planning stages, it was recognized that this would be a multi-year project and that it would not be practical to make a complete land survey and check out all possible rights of way problems three to four years in advance of construction. Decision was therefore made to survey and secure permits for only that section scheduled for actual construction within a particular year, it is stated.

It is indicated specifically, that reasons for the additional miles of pipeline required to complete the project are as follows:

A. The final field survey versus lengths scaled from base maps resulted in additional pipeline required to complete the project.

B. Field inspections also revealed that existing rights-of-way, especially on some ridges, would not accommodate additional construction. This was due to either other existing lines in a limited area or where additional construction would create a potential land slippage problem. This occurred in several areas and right-of-way had to be relocated around the area which resulted in additional length of pipeline.

C. Rights-of-way in several areas had to be relocated because current landowners had completed or were planning surface development that precluded additional construction such as:

(1) New coal mining and coal stripping, some in progress at the proposed right-of-way or approaching, required additional footage to circumvent the area.

(2) Small mine communities were built up around the area of proposed construction and required relocation.

(3) Proximity of coal mine facilities such as tipples, storage areas, and tracks required relocation.

(4) A power company developed as ash haul disposal area that obstructed construction and access to existing right-of-way.

(5) The construction of interstate highway I-79 also required relocations.

All of the above accounted for the 7.72 miles of additional pipeline.

Petitioner indicates that the original Application recited that the total project would consist of 20-inch pipe, but after considering the economics of 16-inch pipe, a combination of the two pipe sizes was actually constructed. The original design anticipated increased volumes in this particular section of Petitioner's transmission system and when the anticipated increase volumes failed to materialize, the pipe size was scaled down accordingly, it is said. It is indicated that studies showed that sections of the pipeline could be reduced to 16-inch diameter and still maintain the required delivery capacity and also would result in a savings in labor and materials.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of practices and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12905 Filed 5-11-78; 8:45 am]

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[6740-02]

MOUNTAIN FUEL SUPPLY CO.

[Docket No. CP77-442]

Petition To Amend

MAY 3, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on April 20, 1978,[1] Mountain Fuel Supply Co. (Petitioner), 180 East First Street, Salt Lake City, Utah 84139, filed in Docket No. CP77-442 a petition to amend the order of August 3, 1977 (57 FPC —) issued by the Federal Power Commission (FPC) in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation and exchange of natural gas with Colorado Interstate Gas Co. (CIG) for the entire Shell Creek Area, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of August 3, 1977, Petitioner was authorized to transport and exchange gas from the acreage attributable to the Shell Creek Unit Well No. 2, and that Petitioner was also authorized to construct and operate a new delivery point on Petitioner's existing 20-inch line in Moffat County, Colo.

The petition states that according to CIG's amendment filed December 31, 1977, in Docket No. CP75-231, a development and well drilling program is continuing in the Shell Federal Unit Area, and it is anticipated that the gas from a recently completed well, currently undergoing testing, would be available soon. Petitioner indicates that pursuant to a contract amendment dated August 1, 1977, it and CIG have included the entire Shell Creek Area under the January 2, 1975, gas purchase agreement. Petitioner fully anticipated that significant quantities of additional natural gas would be produced from the expanded area, it is stated.

It is indicated that a delivery point on Petitioner's 20-inch line in Moffat County, Colo., has been established pursuant to authority granted in Docket No. CP77-442, and that it is anticipated that this mainline delivery point would be used to accommodate the gas from the expanded Shell Creek area.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12906 Filed 5-11-78; 8:45 am]

[1]The application was initially tendered for filing on April 20, 1978; however, the fee required by § 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 21, 1978 thus, filling was not completed until the latter date.

[6740-02]

[Docket No. CP78-299]

NATIONAL FUEL GAS SUPPLY CORP.

Application

MAY 3, 1978.

Take notice that on April 20, 1978, National Fuel Gas Supply Corp. (Applicant), Ten Lafayette Square, Buffalo, N.Y. 14240, filed in Docket No. CP78-299 an application pursuant to Section 7 of the Natural Gas Act for a

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certificate of public convenience and necessity authorizing the construction and operation of certain enlarged facilities to replace existing facilities on its Line D in Vanango and Greene Townships, Erie County, Pa., and to construct and operate pipelines facilities designed to relocate, enlarge, and replace existing facilities, and for permission and approval to abandon the facilities proposed to be replaced and relocated, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to continue a replacement program for its Line D, Applicant's main transmission pipeline rendering service to Applicant's substantial market area in Jamestown, N.Y., and Erie, Pa., which was begun several years ago pursuant to authorization issued to Applicant's predecessor in interest, Pennsylvania Gas Co., in Docket Nos. CP67-280, CP72-239, and CP74-225. Applicant states that it would remove from its Line D approximately 26,900 feet of 8-inch O.D. line; 26,900 feet of 12-inch O.D. line; and 26,900 feet of 10-inch O.D. line extending from the Phillipsville Control Station, near Phillipsville, Pa., to the valves at Hammett, Pa. Applicant further states that it would replace these parallel sections with a single pipeline consisting of 29,268 feet of new 20-inch O.D. APL 5LX, Grades X-52, 0.375-inch wall pipeline; and 610 feet of 24-inch O.D. 0.250-inch wall, used, bare steel line pipe as a conduit on eight road crossings. To the extent necessary, Applicant proposes to abandon the facilities so replaced; in this regard, Applicant would remove such lines and sell them for scrap. Gas service would be maintained during construction, it is said. It is stated that the sections of Line D which Applicant would replace are very old, having been installed in 1886, 1929, and 1903, and that replacement is the most economical means of maintaining such facilities. The total cost of this project is estimated to be $1,315,000, it is stated.

It is indicated that while replacement of Line D facilities would realize some increased capacity, the existing market served from the Line D transmission system require the proposed replacement under current restricted gas supply conditions.

Applicant also requests authorization to relocate facilities on Applicant's Line H located in Pinegrove and Glade Townships, in the vicinity of Russell, Warren County, Pa. Applicant states that it would relocate a section of Line H, which presently runs through the center of the village of Russell, by constructing approximately 16,200 feet of new, 12¾-inch, coated steel pipeline to bypass the center of the village of Russell. Applicant indicates that the pipe will be Grade X-52, with a 0.250-inch wall thickness. It is indicated that the total estimated cost of such facilities would be $388,000. Gas service will be maintained during the period of the construction, it is said.

The application states that Applicant's proposed 12-inch bypass line would serve in place of the existing 10-inch line segment which is proposed to be abandoned, and that while some increased capacity would result from the use of the larger line size, the proposed use of the 12-inch pipe is part of a long range plan, begun many years ago, to replace Line H with 12-inch pipe. In this regard, of the total 18.9 miles of Line H between McWilliams Station and Stillwater, 8.6 miles of 10-inch line have already been replaced with new coated 12-inch pipe; the additional 2-mile Russel bypass now being proposed would leave only 7.1 miles of the smaller diameter pipe left, it is said. Applicant states that Line H continues to be needed as a high pressure transmission line and that the increased size to 12-inch pipe as proposed would provide a needed safety factor to supply the Jamestown and Erie areas which are substantial existing markets of Applicant. Applicant further states that the present facilities since 1974 have been operated at reduced pressure in view of the leak history experienced on that segment.

Applicant indicates that the facilities it proposes to construct would be financed with internally generated funds and/or interim short term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12907 Filed 5-11-78; 8:45 am]

[6740-02]

[Docket No. CP78-301]

TEXAS GAS TRANSMISSION CORP.

Application

MAY 3, 1978.

Take notice that on April 21, 1978, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP78-301 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon certain facilities located in Acadia Parish, La., and for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas transmission facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests permission and approval to abandon 7.41 miles of 8-inch pipeline, 8.97 miles of 6-inch pipeline and 4 purchase meter stations, all located in Acadia Parish, La. Applicant states that the pipelines which it proposes to abandon were constructed in 1950 and 1951 by Louisiana Natural Gas Corp. (Louisiana Natural), a predecessor of Applicant, and that Applicant acquired the facilities of Louisiana Natural by merger approved by the order of May 13, 1955, in Docket No. G-6853. Applicant further states that in recent years, the pipelines have been operated at low pressures and have been used primarily to serve five delivery points which Applicant proposes to relocate. The pipelines have been replaced by a new 20-inch pipeline constructed under authorization granted in Docket No. CP77-362, it is stated. It is further stated that the four purchase meter stations which Applicant proposes to abandon are located on the above-mentioned pipelines, and have not been used for several years. Applicant indicates that it does not contemplate that any of the four stations will be used in the future and are, therefore, not necessary in Applicant's operations.

Applicant proposes to relocate five delivery points presently located on the pipelines proposed to be abandoned to the new 20-inch pipeline. Applicant states that the cost of relocating the proposed facilities is estimated at $2,400, which cost would be financed by Applicant from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12908 Filed 5-11-78; 8:45 am]

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[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 871-1]

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Waiver of Federal Preemption

On June 22, 1977, I announced by publication in the FEDERAL REGISTER, see 42 FR 31639, a waiver of Federal preemption to enforce the 1979 California heavy-duty motor vehicle and engine exhaust emission standards. This waiver was granted on the condition that California adopt an alternate set of standards and certification procedures for the 1979 model year identical to those in effect under the California heavy-duty regulations for the 1978 model year.

By letter dated January 12, 1978, the California Air Resources Board (CARB) informed me that it had adopted an optional set of heavy-duty vehicle standards and certification procedures for the 1979 model year identical to those in effect in California for the 1978 model year. Upon reviewing this action taken by the CARB, I have determined that the condition for the waiver has been met.

In its January 12 letter, the CARB also indicated that it had made minor technical and administrative changes to the 1979 and subsequent model year California heavy-duty vehicle regulations. The technical changes involved the adoption of amendments to these regulations to incorporate the changes made by the Environmental Protection Agency (EPA) to its proposed regulations applicable to 1979 and subsequent model year heavy-duty engines. See 42 FR 45132 (September 8, 1977). The administrative changes involved the separation of the 1979 model year standards and certification procedures from the 1980 and subsequent model year standards and certification procedures previously combined within the California regulations.

With respect to the 1979 California heavy-duty motor vehicle and engine regulations, I have determined that the administrative and technical changes mentioned above fall within the scope of a waiver currently in effect and do not require a new waiver. See 42 FR 31639 (June 22, 1977). Therefore, as the condition of the June 10, 1977 waiver decision has been met and the administrative and technical changes fall within the scope of a waiver currently in effect, no further action is required under section 209(b) of the Clean Air Act, as amended, with respect to the enforcement of the 1979 California heavy-duty motor vehicle and engine exhaust emission standards. The applicable section of Title 13 of the California Administrative Code is:

Section 1956.5, adopted October 5, 1976, as amended November 21, 1977, and "California Exhaust Emission Standards and Test Procedures for 1979 Model Year Heavy-Duty Engines and Vehicles," adopted November 21, 1977.

Furthermore, as to the 1980 and subsequent model year California heavy-duty vehicle and engine regulations, I have determined that the technical and administrative changes mentioned above fall within the scope of a waiver previously granted for these regulations and do not require a new waiver. The applicable section of Title 13 of the California Administrative Code is:

Section 1956.6, adopted November 21, 1977, and "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Year Heavy-Duty Engines and Vehicles," adopted October 5, 1976, as amended November 21, 1977.

Dated: May 5, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-12878 Filed 5-11-78; 8:45 am]

[6560-01]

[FRL 894-4]

COMMONWEALTH OF PENNSYLVANIA

Request for State Program Approval for Control of Discharges of Pollutants to Navigable Waters; Correction

In the April 27, 1978 issue of FEDERAL REGISTER, at page 18018, column one, add a period after the words "described program" on line 17; and immediately before the word "unless", add the words "The Administrator is required to approve each such submitted program".

Dated: May 1, 1978.

A. R. MORRIS,
Acting Regional Administrator, Region III.

[FR Doc. 78-12877 Filed 5-11-78; 8:45 am]

[6560-01]

[PP 6G1826/T150]

GLYPHOSATE

Extension of Temporary Tolerances

On May 13, 1977, the Environmental Protection Agency (EPA) announced (42 FR 24306) the establishment of temporary tolerances for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities sugarcane and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.1 part per million (ppm). These tolerances were established in response to a pesticide pe-

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tition (pp 6G1826) submitted by Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166. These temporary tolerances will expire May 6, 1978.

Monsanto Co. has requested a one-year extension of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit that is being extended concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.). (A related document establishing food and feed additive regulations for residues of glyphosate in sugarcane molasses appears elsewhere in today's FEDERAL REGISTER.)

The scientific data reported and all other relevant material have been evaluated, and it has been determined that an extension of the temporary tolerances will protect the public health. Therefore, the temporary tolerances are extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire May 3, 1979. Residues not in excess of 0.1 ppm remaining in or on sugarcane and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to the Special Registrations Branch, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-755-4851.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: May 2, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-12957 Filed 5-11-78; 8:45 am]

[6560-01]

[FRL 895-6]

FUELS AND FUEL ADDITIVES

Applications for Suspension of January 1, 1978, Lead Phase-down Standard

Notice is hereby given by the Environmental Protection Agency (EPA) that requests for suspension of the gpg lead standard pursuant to 40 CFR 80.20(a)(4) will not be accepted after (30 days after publication) with respect to any refinery for which enforcement of the lead standards set out in 40 CFR 80.20(a)(1) has not been suspended. Enforcement of the lead standards set out in 40 CFR 80.20(a)(1) was suspended for all refineries of 30,000 barrels per day or less crude oil or bona fide feedstock capacity by notice of April 1, 1977, at 42 FR 17515, and for refineries with greater than 30,000 barrels per day, but not greater than 50,000 barrels per day, crude oil or bona fide feedstock capacity owned or controlled by refiners with crude oil or bona fide feedstock capacity of 137,500 barrels per day or less by notice of January 31, 1978, at 43 FR 4116.

Dated: April 24, 1978.

MARVIN B. DURNING,
Assistant Administrator
for Enforcement.

[FR Doc. 78-13013 Filed 5-11-78; 8:45 am]

[6560-01]

[FRL 895-5; OPP-30126A]

PESTICIDE PROGRAMS

Approval of Application To Register Pesticide Product Containing a New Active Ingredient

On January 31, 1977, notice was given (42 FR 5750) that the U.S. Forest Service, U.S. Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, had filed an application (EPA File Symbol No. 27586-E) with the Environmental Protection Agency (EPA) to register the pesticide product GYPCHEK Biological Insecticide for the Gypsy Moth containing 20 percent of the active ingredient polyhedral inclusion bodies of gypsy moth nucleopolyhedrosis virus which was not previously registered at the time of submission. As stated in the January 31 notice, the U.S. Forest Service proposed that the product be classified for general use.

This application was approved on April 13, 1978, and the product has been assigned the EPA Registration No. 27586-2. GYPCHEK Biological Insecticide for the Gypsy Moth is classified for general use in the control of gypsy moth.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), will be available for public inspection in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of April 13, 1978. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M Street SW., Washington, D.C. 20460. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

Dated: May 5, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 78-13009 Filed 5-11-78; 8:45 am]

[6560-01]

[FRL 895-8]

ENVIRONMENTAL IMPACT STATEMENTS

Change in Availability Publication Date

Pursuant to the President's Reorganization Plan No. 1 and subsequent Memorandum of Agreement entered into between the Council on Environmental Quality and the Environmental Protection Agency (EPA), EPA is the official recipient for environmental impact statements (EIS's) and is required to publish on a weekly basis the availability of each EIS received. This Notice has normally been published on Friday.

However, this week the notice due on Friday, May 12, will instead be published on Monday, May 15, 1978. It will describe the EIS's received during the week of May 1-5, 1978. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date for submission of comments is June 26, 1978.

We apologize for any inconvenience this delay may cause.

Dated: May 9, 1978.

JOSEPH M. MCCABE,
Acting Director,
Office of Federal Activities.

[FR Doc. 78-13015 Filed 5-11-78; 8:45 am]

[6712-01]

[Report No. 909]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MAY 8, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's rules.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Applications accepted for filing:

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21320-CD-AL-(2)-78 Telpage of Iowa, Inc. Consent to Assignment of License from Telpage of Iowa, Inc., Assignor to Terry Rhoades, d.b.a. as Iowa Communications, Assignee. Stations: KWT959, Ida Grove; KWT962, Fort Dodge, Iowa.

21322-CD-P-78 Beep Communication Systems, Inc. (KUS282) C.P. for additional facilities to operate on 454.025 MHz at a new site described as Loc. No. 2: Near intersection of Route No. 66 and South End Road, Approximately 1 mile east of Millidale, Conn.

21323-CD-P-78 Airsignal International of Philadelphia, Pennsylvania, Inc. (KGC223) C.P. for additional facilities to operate on 72.86 MHz (control) at Loc. No. 7: Lewis Tower Building, 225 South 15th Street, Philadelphia, Pa.

21324-CD-MP-(3)-78 RadioCall, Inc. (KUA215) Mod permit to replace transmitter, change antenna system and relocate facilities operating on 152.06 152.12 152.15 MHz from Loc. No. 6 to new location described as Loc. No. 7: Huling Tunnel, Diamond Head, Honolulu, Hawaii.

21325-CD-P-78 J. M. Blodgett d.b.a. Radio Page Communications (KWT885) C.P. for additional facilities to operate on 35.58 MHz at a new site described as Loc. No. 6: Highway No. 9, Forked River, N.J.

21326-CD-P-78 L & L Services, Inc. d.b.a. Metro Communication Service (KUC905) C.P. to change power operating on 152.21 MHz located at Parkway Hospital Grounds, Decatur, Ala.

21327-CD-P-(2)-78 Blue Earth Telephone Co. (KBM521) C.P. to change antenna system operating on 152.75 MHz and additional facilities to operate on 152.78 MHz to be located Route 169, 3.78 miles northwest of Blue Earth, Minn.

21328-CD-P-78 Fresno Mobile Radio, Inc. (KME200) C.P. for additional facilities to operate on 2116.0 MHz (repeater) at Loc. No. 1: Panoche Mountain, 10 miles northnortheast of Panoche; 2166.0 MHz (control) at Loc. No. 3: 160 North Broadway, Fresno, Calif.

21329-CD-P-78 Radio Telephone Inc. (new) C.P. for a new 2-way station to operate on 454.300 MHz: 4.6 miles southwest of Kewaunee, Wis.

21330-CD-P-(2)-78 Com-Nav, Inc. d.b.a. Radio Telephone of Maine (KRS712) C.P. for additional facilities to operate on 152.24 MHz at a new site described as Loc. No. 2: Bald Mountain, 3½ miles southeast of Dedham and 454.025 MHz at Loc. No. 3 (Control): 12 Acme Road, Brewer, Maine.

21331-CD-P-78 Lakeland Radiophone, Inc. (new) C.P. for a new 2-way station to operate on 152.12 MHz; Highway 47 and Mid Lake Road, 2.5 miles southeast of Minocqua, Wis.

21332-CD-P-78 Airsignal International, Inc. (KKG561) C.P. to relocate facilities operating on 35.22 MHz at Loc. No. 4 to be located 13627 Stafford Road, Stafford, Tex.

21333-CD-P-(2)-78 The Offshore Telephone Co. (KKB396) C.P. to relocate facilities operating on 35.30 35.62 MHz to be located on Roof of Brigantine Motor Inn, Brigantine, N.J.

21334-CD-P-78 Scuylkill Mobile Fone, Inc. (KGA589) C.P. for additional facilities to operate on 454.050 MHz at Loc No. 2: Broad Mountain, St. Clair, Pa.

21335-CD-P-78 Southern Bell Telephone & Telegraph Co. (KIG298) C.P. to change antenna system, replace transmitter and relocate facilities operating on 152.21 MHz to be located 100 South Eugene Street, Greensboro, N.C.

21336-CD-P-(8)-78 The Pacific Telephone & Telegraph Co. (KMA400) C.P. to change antenna system operating on 35.38 35.46 MHz at Loc. No. 1, relocate facilities operating on 454.400 454.450 454.500 454.550 MHz from Loc. No. 2 to Loc. No. 1 and 35.38 35.46 MHz (standby) from Loc. No. 3 to Loc. No. 1: 2.6 miles north northeast of Burbank, Calif.

21337-CD-P-(3)-78 Mobilefone Northwest (KLF563) C.P. for additional facilities to operate on 454.225 459.225 MHz to be located at Loc. No. 6; relocate facilities operating on 454.050 MHz (control) from Loc. No. 2 to Loc. No. 6: 3707 North Monroe, Spokane, Wash.

21338-CD-AL-78 AAA Answering Service, Inc. Consent to Assignment of License from AAA Answering Service, Inc., Assignor to Mid-South Telecommunications, Inc., Assignee. Station: KLB703, Meridian, Miss.

21339-CD-TC-(3)-78 Certified Communications, Inc., Consent to Transfer of Control from Communications Properties, Inc. Transferor to Paul D. Jones and Otis L. Hale, Transferee. Stations: KAD625, University City, KAF240, Clayton and KRS635, St. Louis, Mo.

21340-CD-P-78 James R. Marckres d.b.a. West Central Pagers (new) C.P. for a new 1-way station to operate on 43.58 MHz: 8th and Warford Streets, Perry, Iowa.

21341-CD-P-78 S.F. McNeill, d.b.a. Communications Specialists Co. (new) C.P. for a new 1-way station to operate on 158.70 MHz: on Highway 133, 5 miles north of Southport, N.C.

21321-CD-P-78 S.F. McNeill, d.b.a. Communication Specialists Co., C.P. for a new 1-way station to operate on 152.24 MHz: 300 feet west of Highway 17 North and Cox Avenue, Jacksonville, N.C.

21342-CD-TC-(2)-78 Terre Haute Communications, Inc., Consent to Transfer of Control from Communications Properties, Inc. Transferor to Certified Communications, Inc. Transferee. Stations: KUS291 KSB655, Terre Haute, Ind.

21343-CD-AL-78 AAA Answering Service, Inc., Consent to Assignment of License from AAA Answering Service, Inc., Assignor to Mid-South Telecommunications, Inc., Assignee. Station: KUS302, Meridian, Miss.

21344-CD-MP-78 Schaller Telephone Co. (KWU471) Mod permit to change antenna system replace transmitter operating on 152.51 MHz: Intersection U.S. 20 and S.R. 110, 1.6 miles southeast of Schaller, Iowa.

Renewal of License (Developmental) expiring 6-1-78, TERM June 1, 1978 to June 1, 1979

Temporary fixed, KAR68

CORRECTION

21080-CD-P-78 Collins Radio Communications Corp., Gillette, Wyo. (KUO574). Correction to add Control location operating on 454.025 MHz at 3 miles east and 0.25 mile north of Intersections. Wyoming 59 and Highway 16, Gillette, Wyo. All other particulars are to remain the same as reported on PN No. 907 dated 4-24-78.

RURAL RADIO SERVICE

60336-CR-P-78 Wyoming Telephone Co., Inc. (new) C.P. for a new Rural Sub-

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scriber station to operate on 157.80 MHz: Approximately 12.25 miles east of Pinedale, Wyo.

60337-CR-P-78 Wyoming Telephone Co., Inc. (new) C.P. for a new Rural Subscriber station to operate on 157.80 157.92 MHz: Approximately 10.75 miles south of Big Piney, Wyo.

60338-CR-P/L-78 The Mountain States Telephone & Telegraph Co. (new) C.P. for a new Rural Subscriber station to operate on 157.86 MHz: 17.2 miles west of Hiland, Wyo.

POINT TO POINT MICROWAVE RADIO SERVICE

VA—2101-CF-P-78 Chesapeake & Potomac Telephone Co. of Virginia (WGI22), 901 Prince Edward Street, Fredericksburg (Spotsylvania), Va. Lat. 38°18'06" N., Long. 77°27'44" W. C.P. to add frequencies 10855H MHz toward Corbin, Va., 10735V MHz toward Berea, Va., change frequencies 10735H and 10895H MHz to 11015H, 11095H MHz toward Berea, VA.

VA—2102-CF-P-78 Same (KJJ31), 0.3 miles SW of Berea (Stafford), Va. Lat. 38°21'33" N., Long. 77°31'27" W. C.P. to add frequencies 11425V MHz toward Fredericksburg, Va. and 11365V MHz toward Morrisville, Va.; move and replace antennas on frequencies 5937.8V, 11225V MHz toward Bowling Green, Va. and 11285H, 5952.6H MHz toward Morrisville, Va.

VA—2103-CF-P-78 Same (KJJ30), 3.4 miles SW of Morrisville (Fauquier), Va. Lat. 38°28'47" N., Long. 77°44'59" W. C.P. to add frequencies 10915V MHz toward Berea, Va., 6219.5V MHz toward Culpeper, Va., replace antennas on frequencies 6234.3H, 10835H MHz toward Berea, Va. and 6308.4H, 10755V MHz toward Culpeper, Va.

VA—2104-CF-P-78 Same (KYS83), East Piedmont Street and Brandy Road, Culpeper (Culpeper), Va. Lat. 38°28'33" N., Long. 77°59'28" W. C.P. to add frequency 5967.4V MHz and replace antennas on frequencies 6056.4H and 11685V MHz toward Morrisville, Va.

FL—2109-CF-P-78 General Telephone Co. of Florida, 830 Arlington Avenue, St. Petersburg (Pinellas), Fla. Lat. 27°46'19" N., Long. 82°38'44" W. C.P. to add frequency 6256.54H MHz on azimuth 101.5° toward Wimauma, Fla.

FL—2110-CF-P-78 Same (WIU84), 2.4 miles WNW from Wimauma (Hillsborough), Fla. Lat. 27°42'57" N., Long. 82°20'13" W. C.P. add frequencies 6004.50H MHz on azimuth 281.6° toward St. Petersburg, and 3890H MHz on azimuth 335.6° toward Tampa, Fla.

FL—2111-CF-P-78 Same (KIL88), 519 Zack Street, Tampa (Hillsborough), Fla. Lat. 27°57'01" N., Long. 82°27'24" W. C.P. to add frequency 3930H MHz on azimuth 155.5° toward Wimauma, Fla.

SD—2119-CF-P-78 Northwestern Bell Telephone Co. (KAW77), 4.5 miles south of Philip (Jackson), S Dak. Lat. 43°58'52" N., Long 101°38'32" W. C.P. to replace antennas on frequencies 4050V, 4130V MHz toward Capa, and 3750V, 3830V MHz toward Wall, S. Dak.

SD—2120-CF-P-78 Northwestern Bell Telephone Co. (KBD64), 2.0 miles NE of Chamberlain (Brule), S. Dak., Lat. 43°49'50" N., Long. 99°18'09" W. C.P. to correct coordinates and increase power on frequencies 6219.5V and 6338.1V MHz, correct azimuths to read 190.5° toward Dixon, 342.1° toward Fort Thompson, and 115.5° toward White Lake, S. Dak.

SD—2121-CF-P-78 Same (KBL70), 3.0 miles east of Dixon (Gregory), S. Dak. Lat. 43°23'12" N., Long. 99°24'56" W. C.P. to correct coordinates, increase power and replace antennas on frequencies 5937.8V, 6056.4V MHz, correct azimuth to read 10.5° toward Chamberlain, S. Dak. and 5982.3V, 6100.9V MHz and correct azimuth to read 265.9° toward Winner, S. Dak.

SD—2122-CF-P-78 Same (KBL82), 0.66 miles south of Winner (Tripp), S. Dak. Lat. 43°21'48" N., Long. 99°50'54" W. C.P. to increase power on frequencies 6204.7V and 6323.3V MHz, correct azimuth to read 85.8° toward Dixon, S. Dak.

WA—2133-CF-P-78 Pacific Northwest Telephone Co. (KOC66), 3.3 miles ENE of Kalama (Cowlitz), Wash. Lat. 46°00'58" N., Long. 122°46'26" W. C.P. move and replace antennas on frequency 3730H MHz toward Portland, Wash.

CO—2073-CF-P-78 Mountain States Telephone Co. (KAN27), 931 14th Street, Denver (Denver), Colo. Lat. 39°44'43" N., Long. 104°59'45" W. C.P. to replace transmitters on frequencies 10715V and 10955H MHz toward Martin M passive reflector and from passive reflector to Martin Mar, Colo.

CO—2074-CF-P-78 Same (KAJ64), Martin Mar 0.7 miles NW of Kassler (Jefferson), Colo. Lat. 39°29'42" N., Long. 105°06'23" W. C.P. to replace transmitters on frequencies 11405V and 11645H MHz toward Martin M passive reflector and from passive reflector to Denver, Colo.

OR—1915-CF-P-78 Pacific Northwest Bell Telephone Co. (KGP87), Auburn, 13 miles south of Baker, Oreg. Mod of License to correct coordinates from Lat. 44°35'12" N., Long. 117°47'27" W. to read Lat. 44°35'13" N., Long. 117°47'16" W.

AZ—2081-CF-MP-78 Navajo Communications Co. Inc. (WPY28), Dilkon (Navajo), Ariz. Lat. 35°22'15" N., Long. 110°19'37" W. Mod of C.P. (3493-CF-P-77) to change polarization from V to H on frequency 2164 MHz on azimuth 273.1° toward Newbry Mesa, Ariz.

AZ—2082-CF-MP-78 Same (WCT953), Leupp School, Leupp (Coconino), Ariz. Lat. 35°17'49" N., Long. 111°00'26" W. Mod of C.P. (3495-CF-P-77) to change polarization from V to H on frequency 2172 MHz on azimuth 46.4° toward Newbry Mesa, Ariz.

KS—2090-CF-P-78 Southwestern Bell Telephone Co. (KAY79), 0.42 miles SE of RR Station Satanta (Haskell), Kans. Lat. 37°26'18" N., Long. 100°58'46" W. C.P. to add a new point of communication on frequencies 11095V and 10855V MHz on azimuth 298.1° toward Ryus, Kans.

VA—2095-CF-P-78 Chesapeake & Potomac Telephone Co. of Virginia (KIR29), 703 East Grace Street, Richmond, Va. Lat. 37°32'26" N., Long. 77°26'13" W. C.P. to add frequency 10895H MHz toward Glen Allen, Va.

VA—2096-CF-P-78 Same (WBB200), 2.1 miles west of Glen Allen (Henrico), Va. Lat. 37°40'06" N., Long. 77°32'37" W. C.P. to add frequency 11585 MHz toward Richmond and Ashland, Va.

VA—2097-CF-P-78 Same (WBA999), 1.65 miles NNE of Ashland (Hanover), Va. Lat. 37°46'46" N., Long. 77°27'55" W. C.P. to add frequencies 10895 MHz toward Glen Allen, Va. and 11035H MHz toward Ruther Glen, Va.

VA—2098-CF-P-78 Same (WCG259), 2.65 miles east of Ruther Glen (Caroline), Va. Lat. 37°55'52" N., Long. 77°24'27" W. C.P. to add frequency 11485H MHz toward Ashland and Bowling Green, Va., move receive antennas on frequency 11325 MHz toward Bowling Green, Va.

VA—2099-CF-P-78 Same (KJJ32), 2.2 miles N of Bowling Green (Caroline), Va. Lat. 38°04'36" N., Long. 77°22'02" W. C.P. to add frequency 11035H MHz toward Ruther Glen and Corbin, Va., move and replace antennas on frequencies 6219.5V, 10815V MHz toward Berea and 6204.7V, 10775H MHz toward Cauthornvle, Va.

VA—2100-CF-P-78 Same (WCG260), 2.4 miles SW of Corbin (Caroline), Va. Lat. 38°12'44" N., Long. 77°21'28" W. C.P. to add frequency 11485H MHz, move receive antennas on frequency 11325V MHz toward Bowling Green, Va. and add frequency 11465H MHz toward Fredericksburg, Va.

CA—2077-CF-R-78 The Pacific Telephone & Telegraph Co. (KMQ44). Temporary fixed locations. Renewal of Developmental License expiring May 29, 1978. Term: May 29, 1978 to May 29, 1979.

CA—2080-CF-P-78 American Television and Communications Corp. (KNK60) Cuesta Ridge, 5.5 miles north of San Luis Obispo, Calif. (Lat. 35°21'37" N., Long. 120°39'18" W.) C.P. to add 6271.4H and 6301.0V MHz toward Paso Robles, Calif. on azimuth 352.5°. (Note: Carrier requests a waiver of section 21.701(l).)

MO-KS—2087-CF-P-78 United Video, Inc. (WAY25) Highway 66 and Shifferdecker, Joplin, Mo. (Lat. 37°04'49" N., Long. 94°33'25" W.) C.P. to change frequency 10735H MHz to 11135H MHz toward Pittsburg, Kans. via power split on azimuth 335.2°.

IN-KY—2142-CF-P-78 Microband Corp. of America (new) 1030 Spring Street, Jeffersonville, Ind. (Lat. 38°16'50" N., Long. 85°44'45" W.) C.P. for a new station to operate on 11385.0H MHz toward First National Bank, Louisville, Ky. on azimuth 199.8°.

CA—2161-CF-P-78 American Television and Communications Corp. (KTR46) Frazier Mountain, 7 miles west of Gorman, Calif. (Lat. 34°46'30" N., Long. 118°58'05" W.) C.P. to add 6182.4V MHz toward Broadcast Peak, Calif. on azimuth 253.3°. (Note: Carrier requests a waiver of Section 21.701(l).)

CA—2162-CF-P-78 Same as above (KVU78 Broadcast Peak, 16 miles NW. of Santa Barbara, Calif. (Lat. 34°31'31" N., Long. 119°57'29" W.) C.P. to add 11265.0H MHz toward San Antonio, Calif. on azimuth 305.5°.

CA—2163-CF-P-78 Same (WDD52) San Antonio, 1.7 miles east of Casmalia, Calif. (Lat. 34°50'30" N., Long. 120°29'53" W.) C.P. add 10815.0H MHz toward Cuesta Ridge, Calif. on azimuth 346.1°.

CA—2164-CF-P-78 Same (KNK60) Cuesta Ridge, 5.5 miles north of San Luis Obispo, Calif. (Lat. 35°32'37" N., Long. 120°39'18" W.) C.P. to add 11545.0H MHz toward Williams Hill, Calif. on azimuth 334.6°.

CA—2165-CF-P-78 Same (KNL77) Williams Hill, 7 miles SW. of San Ardo, Calif. (Lat. 35°57'04" N., Long. 121°00'03" W.) C.P. add 6286.2V MHz toward Fremont Peak, Calif. on azimuth 33.4°. (Note: Carrier requests a waiver of Section 21.701(l).)

CA—2166-CF-P-78 Same (KNL31) Fremont Peak, 6.5 miles south of San Juan Bautista, Calif. (Lat. 36°45'20" N., Long. 121°30'06" W.) C.P. add 10775.0V MHz toward Mt. Chual, Calif. on azimuth 323.9°.

CA—2167-CF-P-78 Same (KNL46) Mt. Chual, 8 miles SW. of Coyote, Calif. (Lat. 37°07'08" N., Long. 120°49'57" W.) C.P. add 11685.0V MHz toward San Bruno, Calif. on azimuth 319.6°.

MO—2048-CF-P-78 MCI Telecommunications Corp. (WOF86) a mile north of Creve Coeur, Mo. (Lat. 38°42'43" N., Long. 90°25'14" W.) Construction Permit to change transmit station location from Broadway to Creve Coeur, Mo., and to add: 6197.2H, 6226.9V, 6256.5H and 6286.2V MHz towards High Ridge, Mo. on azimuth 194.1°; 6197.2H MHz towards St. Louis, Mo. on azimuth 115.0°; and 6197.2V, 6226.9H, 6256.5V and 6286.2H MHz towards Bridgeton, Il. on azimuth 40.1°.

MO—2049-CF-P-78 Same (WOF87) 2.0 miles SE. of High Ridge, Mo. (Lat. 38°26'16" N., Long. 90°30'30" W.) Construction Permit to change location of receive station from Broadway to Creve Coeur; and to add 5945.2V, 5974.8H, 6004.5V and 6034.2H MHz towards Creve Coeur on azimuth 194.1°.

MO—2051-CF-P-78 Microwave Communications, Inc. (WAX74) 720 Olive Street, St. Louis, Mo. Construction Permit to change location of receive station from Brighton to Creve Coeur and add 5945.2H MHz towards Creve Coeur, Mo. on azimuth 295.1°.

IL—2052-CF-P-78 Same (WAX73) 35 miles east of Brighton, Brighton, Ill. Construction Permit to change location of receive station from St. Louis to Creve Coeur and add 5945.2V, 5074.8H, 6004.5V and 6034.2H MHz towards Creve Coeur on azimuth 220.3°.

CORRECTION

Correct the following applications which appeared on Public Notice No. 903 dated March 27, 1978. All other particulars remain the same.

PA—1578-CF-P-78 Bell Telephone Co. of Pennsylvania. (new) Allentown, Pa. Correct azimuth 322.48° toward Allentown and 180.07° toward Finland.

PA—1579-CF-P-78 Same (new) Finland, Pa. Correct azimuth 0.07° toward Lanark and 186.99° toward Schwenksville.

PA—1580-CF-P-78 Same (new) Schwenksville, Pa. Correct azimuth 6.97° toward Finland and 164.85° toward Eagleville.

PA—1581-CF-P-78 Same (new) Eagleville, Pa. Correct azimuth 344.88° toward Schwenksville and 169.85° toward Wayne.

WI—2002-CF-P-78 Wisconsin Telephone Co. (WBB354) 5 Miles SW. of Waukesha Cth X Waukesha, (Waukesha) Wis. Correct frequencies to read 10975V and 10815V MHz. All other particulars remain the same as reported on Public Notice No. 907, dated April 24, 1978.

WI—2018-CF-P-78 Same (WBB355) 1 Mile South of North Prairie, (Waukesha) Wis. Correct entry to read; also increase power on frequencies 11425V and 11585V MHz toward Waukesha, Wis. All other particulars remain the same as reported on Public Notice No. 907, dated April 24, 1978.

UT—1762-CF-P-78 Western Tele-Communications, Inc. (WBA854) Correct Call Sign to read WBA854 not WBA844. All other particulars remain the same as previously reported on Public Notice, dated May 1, 1978, Report No. 908.

[FR Doc. 78-12897 Filed 5-11-78; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1117]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

MAY 8, 1978.

Docket or RM No.	Rule No.	Subject	Date received
21116	Pt. 2	Amendment of pt. 2 of the Commission's rules to prohibit the marketing of external radio frequency power amplifiers capable of operation on any frequency from 24 to 35 MHz.	
21117	Pts. 2 and 97	Amendment of pts. 2 and 97 of the Commission's rules to require type acceptance of equipment marketed for use in the amateur radio service.	
		Filed by Robert M. Booth, Jr., attorney for The American Radio Relay League, Inc.	Apr. 21, 1978.
		Filed by Ronald Giesnes, (K2RG)	Apr. 24, 1978.
		Filed by Bruce P. Bogert, (WA2SZV)	Do.
		Filed by R. Russell Eagan and David E. Hilliard, attorneys for R. L. Drake Co.	Apr. 26, 1978.
		Filed by Dennis J. Had (K8KXK), president for DenTron Radio Co., Inc. (This petition was filed in Docket No. 21116 only).	Do.
21318, RM-2638, RM-2773, RM-2777.	Pt. 95	Revision of subpt. D of pt. 95 of the Commission's rules, citizens band radio service.	
		Filed by Michael A. Brown, executive director for the Consumer Product Safety Commission.	May 3, 1978.
19528		Proposals for new or revised classes of interstate and foreign message toll telephone service (MTS) and wide area telephone service (WATS).	
		Filed by Jan David Jubon, P.E.	May 1, 1978.

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-12901 Filed 5-11-78; 8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 245]

TROPICAL SAVINGS INVESTORS, INC.

Receipt of Application

MAY 9, 1978.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Tropical Savings Investors, Inc. ("Investors") for approval of acquisition of control of Tropical Savings & Loan Association, Harlingen, Tex. ("Tropical"), and Jefferson Savings & Loan Association, McAllen, Tex. ("Jefferson"), both insured institutions, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and section 584.4 of the Regulations for Savings & Loan Holding Companies, said acquisitions to be effected through an exchange offer of one share of Investors' common stock for each share of Tropical's capital stock, conditioned on a minimum tender of 81 percent of Tropical's shares, and through the purchase for cash of all the outstanding capital stock of Jefferson. Comments on the proposed acquisitions should be submitted to the Director, or Deputy Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this Notice appears in the FEDERAL REGISTER.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc. 78-12979 Filed 5-11-78; 8:45 am]

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[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 22, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO. 9981-7.

FILING PARTY: Charles F. Warren, Attorney, Warren & Associates. P.C., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

SUMMARY: Agreement No. 9981-7 would extend the term of the Far East Discussion Agreement for three years from the date of its approval by the Federal Maritime Commission. In addition, the agreement would delete from the scope of discussions authorized under Agreement No. 9981, as amended, Item 2. "Cost of Service;" and in consequence thereof, Item 3 is being renumbered as Item 2. Agreement No. 9981, as amended, is presently set to expire with June 20, 1978.

Notice is also hereby given that Agreement No. 9981-6, which would extend the term of the Far East Discussion Agreement for one year from the date of its approval by the Commission, has been withdrawn by its proponents. Notice of Agreement No. 9981-6 appeared in the FEDERAL REGISTER of May 1, 1978, in Volume 43, No. 84, at Page 18612

By Order of the Federal Maritime Commission.

Dated: May 9, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12978 Filed 5-11-78; 8:45 am]

[6820-34]

GENERAL SERVICES ADMINISTRATION

ADVISORY COMMITTEE FOR THE PRESIDENT'S ADMINISTRATIVE SERVICES REORGANIZATION PROJECT

Meeting of Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the Telecommunications Subcommittee meeting on May 18, 1978, from 10 a.m. to 3 p.m. The meeting will be held in Room 334, Colgate Building, Darden Graduate School of Business Administration, University of Virginia, Charlottesville, Va.

The subcommittee is a part of the Advisory Committee for the President's Administrative Services Reorganization Project. The purpose of this meeting is to discuss in detail effective means of organizing and managing telecommunications. In order to meet the scheduled requirements of the full committee it will be necessary to hold the meeting on the date scheduled. This meeting will be open to the public.

Dated: May 9, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-13081 Filed 5-11-78; 8:45 am]

[6820-34]

ADVISORY COMMITTEE FOR THE PRESIDENT'S ADMINISTRATIVE SERVICES REORGANIZATION PROJECT

Meeting of Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the Supply and Support Services Subcommittee meeting on May 16, 1978, from 9:30 a.m. to 3 p.m. The meeting will be held in room 1129 of Crystal Mall Building No. 4, 1945 Jefferson Davis Highway, Arlington, Va.

The subcommittee is a part of the Advisory Committee for the President's Administrative Services Reorganization Project. The purpose of this meeting is to discuss in detail effective means of organizing and managing supply and support services. In order to meet the scheduled requirements of the full committee it will be necessary to hold the meeting on the date scheduled. This meeting will be open to the public.

Dated: May 8, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-12924 Filed 5-11-78; 8:45 am]

[6820-34]

[Intervention Notice 63; Docket No. 36786]

AMERICAN BUS ASSOCIATION

Definition of For-Hire Motor Transportation of Passengers

The Administrator of General Services seeks to intervene in a proceeding before the Interstate Commerce Commission involving a Petition for a Declaratory Order by the American Bus Association, which concerns a rulemaking proceeding involving transportation services for certain disadvantaged persons. The Administrator of General Services will represent the interests of federally funded entities providing transportation for disadvantaged persons and is acting on behalf of the United States, in its soverign capacity for the health, welfare, and general betterment of its citizens.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, on or before June 12, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C 481(a)(4))

Dated: May 2, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-12964 Filed 5-11-78; 8:45 am]

[6820-34]

[Intervention Notice 57]

MISSOURI PUBLIC SERVICE COMMISSION, GAS SERVICE CO.

Proposed Intervention in Rate Increase Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Missouri Public Service Commission involving an application of Gas Service Co. for an increase in its tariffed rates for intrastate gas service. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, on or before June 12, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: April 4, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-12886 Filed 5-11-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

EMPLOYEES OF NEW YORK STATE PSYCHIATRIC INSTITUTE

Research on Mental Health; Authorization of Confidentiality

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by Section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a) all persons who—

1. Are employed by the New York State Psychiatric Institute; and

2. Have, in the course of such employment, access to information which would identify individuals who are the subjects of research on mental health, pursuant to the Department of Health, Education, and Welfare grant numbered MH 19560 pertaining to the study of children at risk for schizophrenia referred to as A Prospective Study of Children of Schizophrenic Parents, are hereby authorized to protect the privacy of the individuals who are the subjects of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals.

As provided in Section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)):

Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

This authorization does not authorize employees of New York State Psychiatric Institute to refuse to reveal to qualified personnel of the Department of Health, Education, and Welfare for the purpose of management or financial audits or program evaluation, the names or other identifying characteristics of individuals who are the subjects of the research conducted pursuant to Department of Health, Education, and Welfare Grant numbered MH 19560. Such personnel will hold any identifying information so obtained strictly confidential in accordance with 45 CFR 5.71.

This authorization is applicable to all information obtained pursuant to Department of Health, Education, and Welfare Grant numbered MH 19560 which would identify individuals who are subjects of the research conducted under the grant.

Dated: April 27, 1978.

THOMAS F. A. PLAUT,
Deputy Director, National Institute of Mental Health.
ROBERT L. DUPONT,
Director, National Institute on Drug Abuse.
GERALD L. KLERMAN,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-12823 Filed 5-11-78; 8:45 am]

[4110-86]

Center for Disease Control

COAL MINE HEALTH RESEARCH ADVISORY COMMITTEE

Cancellation of Meeting

The meeting of the Coal Mine Health Research Advisory Committee, scheduled for May 12, 1978, in Rockville, Md., is hereby cancelled. Notice of this meeting was announced in the FEDERAL REGISTER, Vol. 43, No. 68, page 14736, April 7, 1978.

Dated: May 2, 1978.

WILLIAM C. WATSON, Jr.,
Acting Director, Center for Disease Control.

[FR Doc. 78-12970 Filed 5-11-78; 8:45 am]

[4110-86]

SAFETY AND OCCUPATIONAL HEALTH STUDY SECTION

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Safety and Occupational Health Study Section.

Date: June 7-8-9, 1978.

Place: Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Time: 9 a.m.

Type of Meeting: Open: 9 a.m. to 10:30 a.m. on June 7, 1978. Closed: Remainder of meeting.

Contact Person: Donald P. Flick, Ph. D., Executure Secretary, 5600 Fishers Lane, Parklawn Building, Room 8-63, Rockville, Md. 20857. Telephone: 301-443-4493.

Purpose: The Committee is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda: Agenda items for the open portion of the meeting will include consideration of minutes of previous meeting, and administrative and staff reports. Beginning at 10:30 a.m., June 7, 1978, through adjournment on June 9, 1978, the Study Section will be performing the initial review of research grant and training grant applications for Federal Assistance, and will not be open to the public, in accordance with the provisions set forth in Section 552b(cX6), Tile 5 U.S. Code, and the Determination of the Director, Center for Disease Control, pursuant to Public Law 92-463. Agenda items are subject to change as priorities dictate. The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 2, 1978.

WILLIAM C. WATSON, Jr.,
Acting Director, Center for Disease Control.

[FR Doc. 78-12969 Filed 5-11-78; 8:45 am]

[4110-03]

Food and Drug Administration

ARTHRITIS ADVISORY COMMITTEE

Agenda Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Arthritis Advisory Committee meeting announced by a notice in the FEDERAL REGISTER of April 25, 1978 (43 FR 17542) for May 18 and 19, 1978, has made an agenda change. Discussion of Topical Dimethyl Sulfoxide (DMSO) for Scleroderma will not be held as planned. The meeting will be held in Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, with the open committee discussion beginning at 9 a.m. on May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

John G. Harter, M.D., Bureau of Drugs (HFD-150), Food and Drug Administration, Department of

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Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4260.

Dated: May 8, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13067 Filed 5-11-78; 8:45 am]

[4110-03]

PANEL ON REVIEW OF CONTRACEPTIVES AND OTHER VAGINAL DRUG PRODUCTS

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document gives notice that the Panel on Review of Contraceptives and Other Vaginal Drug Products meeting announced by a notice published in the FEDERAL REGISTER of April 21, 1978 (43 FR 17049) for May 19 and 20, 1978, with the open public hearing scheduled for May 19, from 9 a.m. to 10 a.m., has been changed. The open public hearing will be held on May 20, 1978, from 9 a.m. to 10 a.m., during which a presentation regarding evaluations of vaginal contraceptives will be given by William H. Masters, M.D. The open committee discussion will be held on May 19, 1978, from 9 a.m. to 4:30 p.m., and on May 20, 1978, from 10 a.m. to 4:30 p.m. The meeting will be held in Conference Room A, Parklawn, Building, 5600 Fishers Lane, Rockville, Md. 20857, on May 19, 1978, and in the Georgia Room, Holiday Inn, Bethesda, Md. 20014, on May 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Armond M. Welch, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

Dated: May 8, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13068 Filed 5-11-78; 8:45 am]

[4110-03]

[Docket No. 78N-0115]

CERTAIN VASCULAR GRAFTS

Transfer of Responsibility From Bureaus of Biologics and Drugs to Bureau of Medical Devices

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that it has transferred responsibility for regulating vascular grafts of animal (including human) origin from the Bureau of Biologics and the Bureau of Drugs to the Bureau of Medical Devices.

ADDRESS: Address all submissions (e.g., inquiries, and applications for premarket approval or investigational exemptions) concerning vascular grafts described in this notice to Document Control Center (HFK020), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910.

FOR FURTHER INFORMATION CONTACT:

Joseph Hackett, Ph. D., Bureau of Medical Devices (HFK-403), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7443.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration published a notice in the FEDERAL REGISTER of December 16, 1977 (42 FR 63472) explaining how FDA is implementing section 520(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 et seq.). Because the Medical Device Amendments broadened the definition of "device" in section 201(h) of the act (21 U.S.C. 321(h)), certain products that were once regarded as devices are now regarded as drugs. Section 520(1) (21 U.S.C. 360(1)), a provision of the Medical Device Amendments of 1976 (Pub. L. 94-295), assures that premarket approval requirements continue for devices that the agency once regarded as new drugs or antibiotic drugs. The December 16, 1977 notice explained that, within FDA, the Bureau of Medical Devices would gradually assume responsibility for regulating devices that have been regulated as drugs.

Under the new definition of device and section 520(1), vascular grafts of animal origin (including human origin) are devices that have been classified by statute into class III, the premarket approval category, because FDA had regarded them as new drugs. These vascular grafts are made from veins and arteries of humans or other animals. For example, grafts have been made from blood vessels removed from human umbilical cords or from cows. Surgeons may implant vascular grafts as prostheses in patients suffering from certain vascular diseases.

Vascular grafts of nonhuman origin have been the responsibility of the Bureau of Drugs; vascular grafts of human origin have been the responsibility of the Bureau of Biologics. Effective immediately, regulation of both of these types of vascular grafts is the responsibility of the Bureau of Medical Devices.

Dated: May 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-12944 Filed 5-11-78; 8:45 am]

[4110-03]

[Docket No. 77N-0213]

DRUGS FOR HUMAN USE; DRUG EFFICACY STUDY IMPLEMENTATION

Revocation of Exemption from Periodic Reporting for New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice revokes the previously granted exemptions from periodic reporting for certain new drug applications (NDA's) covering prescription drug products. The exemptions were granted in the Drug Efficacy Study Implementation (DESI) notices listed below.

DATES: Effective May 12, 1978; initial reports due on or before August 10, 1978, or on the anniversary of the date that the application was approved or became effective, whichever date is later.

ADDRESSES: Reports in response to this notice should be identified with Docket No. 77N-0213 and the appropriate NDA or abbreviated new drug application (ANDA) number, directed to the attention of the office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. For NDA's: If known, appropriate division in New Drug Evaluation, or if not known, Documents and Records Section (HFD-106), room 8B-21, Bureau of Drugs. For ANDA's: Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Behrens, Bureau of Drugs (HFD-105), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4320.

SUPPLEMENTARY INFORMATION: Under the authority of section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)), §§ 310.300(b)(4) and 310.302(e) (21 CFR 301.300(b)(4) and 310.302(e)) of the new drug regulations require the holder of an NDA to submit reports of experience periodically on the anniversary of the date that the application was approved or became effective. In the following DESI notices published in the FEDERAL REGISTER between 1969 and early 1971, FDA exempted effective drug products named or covered by the notices from the requirements:

DESI numbers	Date published and FEDERAL REGISTER citations
159	Nov. 8, 1969, 34 FR 18098.
1096	Oct. 15, 1970, 35 FR 16191.
2139	Aug. 25, 1970, 35 FR 13538.
2245	Sept. 25, 1969, 34 FR 14775.
3158	Aug. 1, 1970, 35 FR 12356.
4054	Nov. 26, 1970, 35 FR 18215.
4203	Sept. 17, 1970, 35 FR 14576.
5596	Feb. 26, 1969, 34 FR 2619.
5963	Sept. 10, 1969, 34 FR 14248.
6188	Mar. 19, 1969, 34 FR 5392.
6470	Mar. 12, 1969, 34 FR 5126.
6535	Sept. 9, 1969, 34 FR 14161.
6811	Sept. 26, 1969, 34 FR 14856.
7073	June 23, 1970, 35 FR 10239.
7750	Oct. 21, 1970, 35 FR 16424.
7898	Mar. 9, 1971, 36 FR 4561.
8279	May 21, 1969, 34 FR 7995.
8564	Apr. 8, 1969, 34 FR 6262.
8729	Sept. 10, 1969, 34 FR 14247.
9551	Mar. 8, 1969, 34 FR 5036.
9698	Sept. 19, 1970, 35 FR 14663.
10956	Apr. 8, 1969, 34 FR 6264.
11340	Oct. 15, 1970, 35 FR 16200.
11836	Aug. 26, 1970, 35 FR 13608.
11919	Sept. 23, 1970, 35 FR 14802.
12665	Sept. 17, 1970, 35 FR 14581.
13026	Feb. 13, 1969, 34 FR 2144.

After this relatively short trial period, it became apparent to FDA's staff responsible for reviewing NDA's that the periodic reports were needed to maintain surveillance of the products after approval. In particular it was useful for the agency to receive annual distribution information—one of the items required to be reported—and currently used labeling—another item required to be submitted. Accordingly, no further exemptions from periodic reporting were granted. Although some NDA holders continued to submit the reports, notwithstanding the exemption, others did not. This notice revokes those early exemptions and will restore those drugs to the same reporting requirements applicable to all other drugs that are the subject of an approved NDA.

Accordingly, this notice revokes the exemption and reinstates the periodic reporting requirement for all prescription drugs that are the subject of an approved NDA or ANDA covered by the DESI notices listed above or any other DESI notice. For complying with this notice, the first report is to contain the required information for the past year (1977). The report is to be submitted on or before August 10, 1978, or on the anniversary of the date that the application was approved or became effective, whichever date is later. Thus, all NDA holders will have at least 90 days to prepare and submit the required report. Thereafter, a report is to be submitted at 3-month, 6-month, or 12-month intervals, as specified in the regulations, on the anniversary of the date that the application was approved or became effective.

At one time, drugs identified on the so-called "PMA list" were exempted from certain reporting required by § 130.35 (recodified as § 310.302) pending litigation instituted by the Pharmaceutical Manufacturers Association and a number of its members (the litigation was subsequently dismissed by stipulation). But the requirements of §§ 310.300(b)(4) and 310.302(e) for reporting on the anniversary of the approval date or effectiveness date of an NDA apply to all drugs, including those on the "PMA list." This is mentioned so that it will be clear to all affected persons that, on publication of this notice revoking exemptions that appeared in previous FEDERAL REGISTER DESI notices, no exemptions from the periodic reporting requirements of §§ 310.300(b)(4) and 310.302(e) are in effect for prescription drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: May 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affair.

[FR Doc. 78-12943 Filed 5-11-78; 8:45 am]

[1505-01]

Food and Drug Administration

[Docket No. 78N-0072]

FOOD CHEMICALS CODEX MONOGRAPHS

Opportunity for Public Comment on Revisions

Correction

In FR Doc. 78-10333, appearing at page 16413 in the issue of Tuesday, April 18, 1978, the last line of the second full paragraph in the third column should read, "June 25, 1971 (36 FR 12093)." and the 19th entry in the list of substances proposed for revision should read, "Caramel".

[4110-83]

Health Resources Administration

HEALTH SYSTEMS AGENCY APPLICATION INFORMATION

Pursuant to section 1515 of the Public Health Service Act notice is hereby given that application materials are available in DHEW Regional Office IX for entities interested in applying for designation as the health systems agency (HSA) for Arizona Health Service Area 3. This health systems agency will be responsible for health planning for the health service area and for the promotion of the development of health services, manpower and facilities which meet identified needs, reduce documented inefficiencies and implement the health plans of the agency.

There presently is a conditionally designated health systems agency, a public regional planning body, for this health service area. However, this agency recognizes that it will most likely not be able to meet the requirements of full designation as it is currently constituted. Therefore, we are seeking applications for a new agency.

Those entities interested in applying for designation must file a letter of intent to apply for such designation with DHEW Regional Office IX by June 26, 1978, and an application by July 26, 1978.

Application materials and further information may be obtained from the Regional Health Administrator, DHEW Regional Office IX, 50 United Nations Plaza, San Francisco, Calif. 94102.

Once the health systems agency is designated it will be entitled to receive a planning grant under section 1516 of the Act. The amount of the planning grant will be determined in accordance with a formula set forth in the regulations governing this program (42 CFR Part 122, Subpart C), and will be based in part, upon a determination by the Secretary of the population of the health service area. Section 122.204 of the governing regulations provides that the Secretary will determine the populations of such areas based upon the latest available estimate from the Department of Commerce and will publish annually in the FEDERAL REGISTER a list of all health service areas and their populations.

Dated: May 8, 1978.

HAROLD MARGULIES,
Acting Administrator.

[FR Doc. 78-12833 Filed 5-11-78; 8:45 am]

[4110-84]

PHS HOSPITALS AD HOC ADVISORY COMMITTEE

Meeting; Amendment

NOTE.— This document originally appeared at page 200056, in the FEDERAL REGISTER for May 10, 1978. It is reprinted in this issue to meet assigned day-of-the-week requirements.

In FR Doc. 78-9846 appearing at page 15781 in the issue for Friday, April 14, 1978, the notice of meeting for the "PHS Hospitals Ad Hoc Advisory Committee" has been amended as follows:

Name: PHS Hospitals Ad Hoc Advisory Committee.

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Date and Time: May 12, 1978, 8:30 a.m. (open).
Place: PHS Carville Hospital, Conference Room, Training Building, Carville, La. 70721.
Date and Time: May 13, 1978, 8:30 a.m. (closed).
Place: PHS New Orleans Hospital, Conference Room C, 210 State Street, New Orleans, La. 70118.
Open on May 12, 1978.
Closed on May 13, 1978.
Purpose: Agenda items for the open portion of the meeting include a review of the Committee's charge and development of a work plan, a discussion of methodology and eligibility data, and an overview of PHS hospitals. On May 13 the meeting will be closed to the public to conduct an in-depth examination of each PHS hospital. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Services Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Jordan Popkin, Office of the Administrator, Health Services Administration, Parklawn Building, Room 14-15, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-2245.

Agenda items are subject to change as priorities dictate.

Dated: May 8, 1978.

W. HARELL LITTLE,
Acting Associate
Administrator for Management.

[FR Doc. 78-12835 Filed 5-9-78; 8:45 am]

[4110-02]

Office of the Assistant Secretary for Education

STATEMENT OF MISSION, ORGANIZATION, FUNCTIONS, AND ORDER OF SUCCESSION

Part E, Education Division, Chapter EA, Office of the Assistant Secretary for Education, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, published in the FEDERAL REGISTER at 39 FR 32342 on September 6, 1974, and at 41 FR 52540 on November 30, 1976, is hereby deleted and a new statement is added as follows: This effects a realignment of functions within the Office of the Assistant Secretary for Education.

Sec. EA.00 *Mission.* The Assistant Secretary for Education is responsible for general direction and supervision of the Education Division, a Principal Operating Component of the Department of Health, Education, and Welfare; and serves as key advocate for assuring that the Department provides professional and financial assistance to strengthen education in accordance with Federal laws, rules, and regulations. In addition, the Assistant Secretary serves as principal advisor to the Secretary on education affairs. Executive Order 11761 designates the Assistant Secretary for Education as Chairperson of the Federal Interagency Committee on Education, which was established to facilitate the coordination of education activities of Federal agencies. Under the Order, the Secretary of the Department of Health, Education, and Welfare, with the assistance of the Assistant Secretary for Education, identifies the Nation's education needs and goals and recommends, to the President, policies promoting the progress of education.

Sec. EA.10 *Organization.* A. The Office of the Assistant Secretary for Education is under the supervision of the Assistant Secretary for Education who heads the Education Division and reports directly to the Secretary.

B. The Office of the Assistant Secretary for Education includes the following positions and their respective staffs:

Assistant Secretary for Education
Executive Director, Federal Interagency Committee on Education
Director, Office of Policy Communication
Deputy Assistant Secretary for Education
Deputy Assistant Secretary for Education (Policy Development)
Deputy Assistant Secretary for Education (Management and Budget)
Administrator, National Center for Education Statistics
Director, Fund for the Improvement of Postsecondary Education

Sec. EA.20 *Functions.* 1. The Assistant Secretary for Education is the principal officer in the Department responsible to the Secretary for direction and supervision of the Education Division and for providing advice and consultation to the Secretary on all aspects of the Department's education activities. As Chairperson of the Federal Interagency Committee on Education, the Assistant Secretary for Education also is responsible for facilitating coordination of education activities of other Federal agencies with Education Division programs. The Executive Director of the Federal Interagency Committee on Education is responsible for the planning and administration of the Committee's activities.

The Director, Office of Policy Communication, reports directly to the Assistant Secretary for Education. The Office of Policy Communication is responsible for monitoring the activities of the education community to provide timely and accurate information on its program and legislative objectives. The work of the office of policy Communication also includes the development and implementation of information activities to assure that the programs and policies of the Education Division are communicated effectively to the education community and the general public. The Office of Policy Communication coordinates all public affairs activities of the Division involving relationships with the education community, including appropriate State agencies.

2. The Deputy Assistant Secretary for Education serves as principal deputy to the Assistant Secretary for Education and acts as Assistant Secretary during the absence or disability of the Assistant Secretary, or if a vacancy occurs in the position of Assistant Secretary for Education.

Represents the Assistant Secretary for Education and interprets Federal education policies and programs to the education community and the general public. Provides day-to-day guidance and support to the Office of Policy Communication. The Deputy Assistant Secretary for Education is responsible for ensuring that the views of the education community are considered in the policymaking processes of the Division.

The Deputy Assistant Secretary for Education participates in the policy development and implementation process as it pertains to the development of legislation. Advises and consults with the Assistant Secretary for Education on new policy initiatives, establishment of priorities, and provision of policy guidance to Education Division agency public information offices. Provides principal day-to-day support and guidance to the Federal Interagency Committee on Education.

Serves as the Education Division's principal liaison to the Office of the Deputy Under Secretary for Intergovernmental Affairs. Also serves as principal liaison between the Department and the Department's Regional Centers on all aspects of the Education activities of the Regional Centers.

3. The Deputy Assistant Secretary for Education (Policy Development) coordinates development of general programmatic education policies in the Education Division, including formulation of program and legislative initiatives. Provides guidance in determination of priorities, objectives, and goals for education, including formulation of recommendations to the Assistant Secretary. Facilitates communication among components of the Division to ensure effective implementation of short- and long-term policy decisions.

Coordinates 5-year plans and program evaluation for the Assistant Secretary for Education. Monitors research and statistical activities in the agencies comprising the Education Division, as they relate to policy development. Advises the Assistant Secretary for Education on key implementation issues. Chairs the Education Data Acquistion Council.

Recommends program and policy issues for analysis and coordinates necessary studies and actions to be undertaken within the Education Division. Coordinates development of data used at the level of the Assistant Secretary for Education and within the agencies comprising the Education Division.

4. The Deputy Assistant Secretary for Education (Management and Budget) is the principal advisor to the Assistant Secretary for Education, and promotes the Assistant Secretary's policies and goals, on all aspects of the relationship of budget formulation to the development of federal education policy, and in all areas of oversight and coordination of management functions in the Education Division. Applies an intimate knowledge of policy development processes and educational administration in the Education Division, as well as detailed familiarity with the personal policy positions of the Assistant Secretary for Education, to review of education agency budget requests and analysis of agency program management. Works closely with the Deputy Assistant Secretary for Education (Policy Development) to ensure that the education budget, as proposed to the Office of Management and Budget and as presented to the Congress, reflects Federal education policy as determined by the Assistant Secretary for Education, the Secretary, and the President; and to ensure that activities undertaken in the formulation of education policy reflect the concerns of the Department and the Congress which the incumbent is aware of through representation of the Assistant Secretary for Education in the budget formulation process.

In furtherance of the foregoing, the Deputy Assistant Secretary for Education (Management and Budget) is principal advisor to the Assistant Secretary for Education on Education Division matters pertaining to formulation, analysis, and presentation of budgets; staff resource allocations; and all aspects of administrative and financial management. Establishes Education Division policy in management and budget, and oversees the management and budget activities of the Department's education agencies.

Represents the Assistant Secretary for Education with the staff of other Assistant Secretaries, the Office Management and Budget, the general public and, in coordination and consultation with the Assistant Secretary for Legislation, the Congress on policies and procedures relating to management and budget activities of the education Division. Represents the Assistant Secretary for Education in presenting, justifying, and interpreting the Education Division budget and related appropriations matters to the Secretary, the Office of Management and Budget, and, in consultation and coordination with the ASL, the Congress.

Works with the Assistant Secretary for Management and Budget and the Under Secretary in the preparation of budget estimates and forecasts of resources required to support programs and activities of the Education Division. Establishes and maintains appropriate management policies, procedures, and systems throughout the Education Division. Provides administrative policy guidence to the Education Division. Supervises all management, administrative, budget, and financial activities within the Office of the Assistant Secretary for Education.

5. The Administrator, National Center for Education Statistics (NCES), collects and disseminates statistics and other data related to education in the United States and in other nations. Collects, reviews, and annually reports to Congress statistics on the condition of education in the United States. Conducts and publishes reports on in-depth analyses of the meaning and significance of such statistics. Assists State and local educational agencies in improving and automating their statistical and data collection activities. Reviews statistics and reports on education activities in other nations. Conducts intensive research and development activities in the areas of survey methods and statistical applications. Provides statistical consultation to officials of the Education Division and others.

The National Center for Education Statistics includes the Office of the Administrator and the following divisions. The functions of each are as follows:

a. Office of the Administrator. Establishes and maintains consultative and working relations with the Education Division, the Department, Congressional committees, other governmental agencies, and other users and producers of education statistics. Deliberates with and provides senior staff technical support to the Advisory Council on Education Statistics. Coordinates NCES activities with the Federal interagency Committee on Education. Directs the Federal interagency Consortium of Users of Education Statistics. Provides staff assistance to the Education Data Acquisition Council, including the Executive Director. Prepares the annual Data Acquisition Plan for the Education Division. Provides NCES with administrative, logistical, and management services. Promotes formulation of statistical standards appropriate to the work of NCES. Develops improved statistical methods and techniques for application in NCES operations. Develops and enforces standards designed to protect the confidentiality of personal data in the collection, reporting, and publiction of data.

b. Division of Elementary and Secondary Education Statistics. Coordinates, designs, develops, and implements an integrated data system of elementary and secondary education statistics to meet Federal, State, and local, governmental and private institutional needs for planning, management, and evaluation purposes. Develops standardized terminology and data definitions to promote compatibility of reporting of data. Plans, designs, conducts, and reports on statistical surveys and studies of elementary and secondary institutions and populations and educational manpower. Provides statistics and anaylses in these areas in support of the Center's mission to collect and report statistics on the condition of education in the United States. Ascertains from the elementary and secondary education community the need for additions to, modifications in, or deletions from the data collected by NCES, as well as the periodicity of recurring survey activity. Conducts in-depth statistical analyses of elementary and secondary education data bases, derived from both NCES data and data available from other sources and prepares analytical reports applying the data to education policy issues and problems.

c. Division of Postsecondary and Vocational Education Statistics. Coordinates, designs, develops, and implements an integrated data system of postsecondary and vocational education statistics to meet Federal, State, local and private institutional needs for planning, management, and evaluation purposes. Develops standardized terminology and data definitions in these fields to promote compatibility of reporting of data. Plans, designs, conducts, and reports on statistical surveys and studies of colleges and universities; adult, continuing, and vocational education institutions; and postsecondary and vocational populations. Provides statistics and analyses in these areas in support of the Center's mission to collect and report statistics on the condition of education in the United States. Ascertains from the postsecondary and vocational education community the need for additions to, modifications in, or deletions from the data collected by NCES, as well as the periodicity of recurring survey activity. Conducts in-depth statistical analyses of postsecondary and vocational education data bases, derived from both sources and prepares analytical reports applying the data to education policy issues and problems.

d. Division of Multilevel Education Statistics. Plans, designs, conducts, analyzes, and reports on statistical surveys and studies of libraries and learning resources, including educational broadcasting and technology. Develops, conducts, and analyzes all longitudinal surveys and studies in NCES. Is responsible for the development and application of education indicators and assessment tools, includ-

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ing the National Assessment of Educational Progress. Develops indicators and conducts such surveys to compare education in the United States to that in other Nations, and maintains data on education statistics in foreign countries. Operates the Fast Response Survey System to provide rapid data on topics of immediate concern to education.

e. Division of Statistical Services. Develops and creates computerized data bases which are readily available to the education community. Operates the EDSTAT computerized information retrieval system for education statistics. Provides computer programming services for NCES. Ensures that contracts involving automated data processing comply with NCES standards and requirements. Plans, develops, coordinates and oversees the State assistance activities of NCES. Drafts regulations, guidelines, and procedure for Federal-State cooperative projects. Provides statistical information and analyses for other Federal components, the education community, and the general public. Develops and publishes an annual report on the condition of education, pursuant to section 406(d) of Pub. L. 93-380. Develops and applies statistical time-series techniques and models to project education statistics. Provides editorial and publication services for NCES. Provides forms control for all public use forms for NCES, and provides forms design service for all parts of the Education Division.

6. The Director, Fund for the Improvement of Postsecondary Education, is responsible for the planning and administration of the Fund, including preparation of program and budgetary plans and supervision of staff necessary to implement those plans.

Sec. EA.30 *Order of succession.* During the absence or disability of the Assistant Secretary for Education, or in the event of a vacancy in that position, the first official listed below who is available shall act as Assistant Secretary, except during a period of planned absence for which a different order has been designated as provided in (b) below.

(a) (1) Deputy Assistant Secretary for Education.

(2) Deputy Assistant Secretary for Education (Policy Development).

(3) Deputy Assistant Secretary for Education (Management and Budget).

(b) For a planned period of absence, the Assistant Secretary may specify a different order of succession.

Dated: April 27, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-13101 Filed 5-11-78; 8:45 am]

[4110-85]

Office of the Assistant Secretary for Health

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of March 1978 the following entities have been determined to be qualified health maintenance organizations (HMO's) under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

In addition, several corrections are announced at the end of the list: 1. A name change and an address correction, and 2. An HMO model designation correction with respect to previously qualified HMO's.

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

NAME, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

1. Capitol Health Care, Inc., (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 960 Broadway, NE., suite 1, Salem, Oreg. 97301. Service area: Counties of Marion and Polk, Oreg. Date of qualification: March 1, 1978.

2. The Northern California Institute for Medical Service, Inc. d.b.a. Rockridge Health Care Plan, (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 420 40th Street, Oakland, Calif. 94609. Service area: Cities of Alameda, Albany, Berkeley, El Cerrito, Emeryville, Kensington, Oakland, Piedmont, and Richmond, Calif. Date of qualification: March 31, 1978.

(Preoperational Qualified Health Maintenance Organizations: 42 CFR 110.603(c))

3. Health Maintenance Organization of Baton Rouge, Inc., (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 9151 Interline Avenue, Baton Rouge, La. 70609. Service area: Parishes of Ascension, East Baton Rouge, Livingston, and West Baton Rouge, La. Date of qualification: March 13, 1978.

4. Crossroads Health Plan, (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 141 South Harrison Street, East Orange, N.J. 07018. Service area: Essex County, N.J. (city of Newark to be included beginning November 1, 1978). Date of qualification: March 17, 1978.

(Transitionally Qualified Health Maintenance Organization: 42 CFR 110.603(b))

5. HMO Concepts, Inc., (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 1110 East Chapman Avenue, Orange, Calif. 92666. Service area: Orange County, Calif. Date of qualification: March 17, 1978.

NAME CHANGE AND ADDRESS CORRECTION

Change from: Colorado Health Care Services, Inc., 2040 South Oneida Street, Denver, Colo. 80206.

Change to: Comprecare, Inc., P.O. Box 22047, 2040 South Oneida Street, Denver, Colo. 80222.

Date of qualification: Transitionally qualified—August 20, 1976 (41 FR 41137).

HMO MODEL DESIGNATION—CORRECTION

In the annual cumulative list of qualified HMO's published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14908), delete the following name from the medical group listing and insert it in the alphabetical listing of staff models:

Community Health Care Center Plan, Inc., Date of qualification: Transitionally qualified—October 31, 1975 (40 FR 54606).

Files containing detailed information regarding qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Division of Health Maintenance Organizations Qualification and Compliance, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, room 16A-08, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: May 5, 1978

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-13023 Filed 5-11-78; 8:45 am]

[4110-02]

Office of Education

FOLLOW THROUGH

Closing Date for Receipt of Applications (By Invitation Only) for Additional Fiscal Year 1978 Funds

Notice is hereby given that under the authority contained in title V, parts B and C of the Economic Opportunity Act, as amended by section 8(a) Pub. L. 93-644, applications will be accepted for additional fiscal year 1978 funds for the purpose of conducting expanded demonstration activities.

CLOSING DATE—JULY 17, 1978

A. *Application forms and information.*—Applicants will be invited to apply for these funds by letter of invitation from the Commissioner of Education or his authorized representative. Letters of invitation are expected to be mailed by June 15, 1978. Enclosed with the letters of invitation will be the necessary application forms and instructions for completing these forms.

B. *Applications sent by mail.*—An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention 13.433D, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to unexpected circumstances, the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than July 12, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service: or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered applications.*—An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays.

D. *Program information.*—It is anticipated that approximately 20 grant awards will be made in fiscal year 1978 for the 1978-79 school year. In fiscal year 1977 for the 1977-78 school year, the individual awards for this purpose ranged from $91,000 to $169,761.

E. *Eligibility requirements.*—The Commissioner or his authorized representative will extend invitations from among those agencies, organizations, or institutions: (1) whose fiscal year 1978 applications for operating local Follow Through projects have been approved for refunding; and (2) whose fiscal year 1978 applications for operating local Follow Through projects were judged to be satisfactory according to the funding criteria stated in § 158.15 (a) through (k), (m), and (n) of the Follow Through final regulations (45 CFR part 158), and were judged to be outstanding according to the criteria stated in § 158.15 (l) and (o) of those regulations. In order to be noted outstanding according to the criterion stated in § 158.15(o), the applicant must have had educational practices validated by the Office of Education/National Institute of Education's Joint Dissemination Review Panel. Each applicant submitting applications to receive additional funds for expanded demonstration activities must show that the applicant has the capability of demonstrating educational practices to large numbers of interested persons. Factors to be used in determining capability include the following: geographic location, ease of accessibility, availability of transportation and lodging facilities for large numbers of persons, and personnel resources.

F. *For further information contact.*—Ms. Rosemary C. Wilson, Director, Division of Follow Through, U.S. Office of Education, 400 Maryland Avenue SW., Room 3624, ROB 3, Washington, D.C. 20202.

G. *Applicable regulations.*—The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR part 100 and 100a) and the Follow Through regulations (45 CFR part 158) published in the FEDERAL REGISTER on June 29, 1977 at 42 FR 33146 et. seq.

(Title V, parts B and C of the Economic Opportunity Act, as amended by Pub. L. 93-644, sec. 8(a), 42 U.S.C. 2929 et. seq.)

(Catalog of Federal Domestic Assistance No. 13.433 Follow Through Program.)

Dated: May 8, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-12988 Filed 5-11-78; 8:45 am]

[4110-12]

Office of the Secretary

DEPARTMENTAL GRANT APPEALS BOARD

Statement of Organization, Functions, and Delegations of Authority

Part A of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Office of the Secretary, is amended to add new chapter AHP, Departmental Grant Appeals Board. The new chapter reads as follows:

Section AHF.00 Mission. The Departmental Grant Appeals board is established by 45 CFR part 16 as an independent office receiving administrative support from the Office of the Assistant Secretary for Personnel Administration for the purpose of reviewing and deciding certain post-award disputes between grantees and constituent agencies (Principal Operating Components) of the Department.

Section AHF.10 Organization. The Departmental Grant Appeals Board is headed by a Chairman who operates under the supervision of the Under Secretary. The Chairman is assisted by an Executive Secretary of the Board, who is not a member of the Board, and who is responsible for nominating Board members, assuring compliance with the procedural requirements of the grant appeals process, determining and recommending such changes to the procedures as may be needed to enhance their effectiveness, and for supervising the staff of analysts and other personnel providing research, administrative, clerical, and other services in support of the Board.

Section AHF.20 Functions. The Board has jurisdiction over determinations (including termination in whole or in part of a grant, voiding of a grant, disallowance of expenditures, disapproval of a grantee's request for approval for expenditures, and determinations with respect to negotiated cost allocation plans, indirect cost rates, and other special rates) made be an official of the granting agency under direct, discretionary grants and under other programs (including formula grants) which the constituent agency, with the approval of the Secretary, may designate. The Board does not have jurisdiction over disputes for which the grantee is entitled to a hearing under the Administrative Procedures Act or for which the Secretary has approved an alternative procedure for review and resolution of the dispute.

Although a constituent agency may establish intermediate appeal processes prior to submission of a dispute to the Board, the Departmental Grant Appeals Board is the final level of appeal within the Department. With respect to reconsiderations under section 1116(d) of the Social Security Act, the decision of the Board is the final administrative decision. With respect to decisions under other programs, the decision of the Board is subject to review on the record by the head of the appropriate constituent agency.

The Board is composed of members appointed by the Secretary for such terms as may be designed by him. Board members may be from within or outside the Department. With the exception of the member designated by the Secretary as Chairman of the Board, who serves on a full-time basis, Board members normally serve on an as-needed basis. Decisions of the Board are made by a panel of not less than three members designated by the

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Chairman, or, at the Chairman's discretion, by the entire board. Members of a panel designated to decide an appeal may not have been associated with the particular case either directly or by reason of organizational affiliation. The procedures used in deciding appeals are found in 45 CFR part 16.

Dated: May 2, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-13022 Filed 5-11-78; 8:45 am]

[4110-88]

Public Health Service

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HM (Alcohol, Drug Abuse, and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (39 FR 1654, January 11, 1974, as amended by 41 FR 31249, July 27, 1976) is revised to reflect the transfer of the functions of construction management, safety management, energy conservation, and pollution control from the Division of General Services to the Division of Management Policy, Office of Administrative Management, Alcohol, Drug Abuse, and Mental Health Administration.

Section HM-B, *Organization and Functions* is amended as follows:

1. Under *Division of General Services (HMA75)*, delete "construction management, safety management, energy conservation, pollution control," from item (1).

2. Under *Division of Management Policy (HMA74)*, after item 7, change the period to a semicolon and add item (8) "plans and coordinates the activities of construction mangagement, safety mangagement, energy conservation, and pollution control for the Alcohol, Drug Abuse, and Mental Health Administration; (9) coordinates responsibility for the National Environmental Policy Act of 1969 within the Alcohol, Drug Abuse, and Mental Health Adminstration."

Dated: May 3, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-13201 Filed 5-11-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF PYRAZINAMIDE FOR POSSIBLE CARCINOGENICITY

Availability

Pyrazinamide (CAS 98-96-4) has been tested for cancer-causing activity with rats and mice in the Carginogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of the tuberculostatic drug pyrazinamide for possible carcinogenicity was conducted by administering the test chemical in feed to Fisher 344 rats and B6C3F1 mice.

Groups of 35 rats and 35 mice of each sex were administered pyrazinamide at one of two doses, either 5,000 or 10,000 ppm, for 78 weeks, and then observed for an additional 26 or 27 weeks. Matched controls consisted of groups of 15 untreated rats and 15 untreated mice of each sex. High-dose male mice died or were killed by week 91; all other surviving animals were killed at weeks 104 or 105.

Mean body weights of the dosed male rats were slightly lower than those of the matched controls, while mean body weights of the dosed females were more nearly comparable to those of the controls. A sufficient number of rats in each group was at risk to termination of the study at weeks 104-105 for the development of late-appearing tumors.

In mice, administration of pyrazinamide had no consistent effect on mean body weights. Survival to termination of the study was low, particularly among the control groups.

It is concluded that under the conditions of this bioassay, the early deaths and small size of the control group precluded a conclusion regarding the carcinogenicity of pyrazinamide in female B6C3F1 mice. Pyrazinamide was not carcinogenic for Fischer 344 rats or for male mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: May 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-12705 Filed 5-11-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 4,4'-THIODIANILINE FOR POSSIBLE CARCINOGENICITY

Availability

4,4'-Thiodianiline (CAS 139-65-1) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 4,4'-thiodianiline for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice.

Groups of 35 rats and 35 mice of each sex were administered 4,4'-thiodianiline 5 days per week at one of the following doses, either 1,500 or 3,000 ppm for the rats and either 2,500 or 5,000 ppm for the mice. The period of administration of the chemical was 68-72 weeks for the rats and 77 or 79 weeks for the mice, depending on the length of survival time of the animals. Matched controls consisted of groups of 15 untreated rats and 14 untreated mice of each sex. All surviving matched-control rats were killed at 104 weeks; all surviving matched-control mice were killed at 91 weeks.

The administration of 4,4'-thiodianiline resulted in marked reduction in mean body weights of the rats and mice of each sex, and all dosed animals died prior to the scheduled end of the study.

It is concluded that under the conditions of this bioassay, 4,4'-thiodianiline was carcinogenic for Fischer 344 rats, inducing tumors in the liver, thyroid, colon, and ear canal of male rats, and the thyroid, uterus, and ear canal of female rats. 4,4'-Tiodianiline was carcinogenic for B6C3F1 mice, inducing tumors in the liver and thyroid of both males and females.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: May 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-12706 Filed 5-11-78; 8:45 am]

[4110-08]

COMBINED MODALITY COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Combined Modality Committee, National Cancer Institute, National Institutes of Health, May 24, 1978, which was published in the FEDERAL REGISTER on April 4, 1978 (43 FR 14130). This meeting is cancelled because no contract proposals are scheduled for review at this time.

Dated: May 2. 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-12707 Filed 5-11-78; 8:45 am]

[4110-08]

STATE-OF-THE-ART CONFERENCE IN SCREENING AND EARLY DETECTION OF COLORECTAL CANCER

Meeting

Notice is hereby given of a State-of-the-Art Conference in Screening and Early Detection of Colorectal Cancer, sponsored by the Division of Cancer Control and Rehabilitation, National Cancer Institute to be held June 26-28, 1978, at the Holiday Inn of Bethesda, 8120 Wisconsin Avenue, Bethesda, Md. 20014.

The meeting will be open to the public from 9 a.m. to 5 p.m., on June 26 and 27, and from 9 a.m. to adjournment on June 28, to review and evaluate the techniques which have been proposed for colorectal cancer screening, the experience gained in screening programs which have already been undertaken, and the information available on the influence of early detection on the effectiveness of treatment. Attendance by the public will be limited to space available.

Those wishing to attend the meeting should contact Dr. Dorothy Brodie, Program Director for Radiology, Detection, Diagnosis, and Pretreatment Evaluation Branch, Division of Cancer Control and Rehabilitation, Blair Building, Room 628, telephone 301-427-7990, National Institutes of Health.

Dated: May 2, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-12908 Filed 5-11-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFFSHORE THE MID-ATLANTIC STATES

Availability of Draft Environmental Statement and Holding of Public Hearing Regarding Proposed Oil and Gas Lease Sale No. 49

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement concerning a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 136 tracts consisting of 313,344 hectares (774,273 acres) of submerged lands on the OCS in the Baltimore Canyon offshore of the Mid-Atlantic States.

Single copies of the draft environmental statement can be obtained from the Office of the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Suite 32-120, New York, N.Y. 10007, and the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for review in the following public libraries:

Massachusetts: Boston Public Library, Copley Square, Boston.
Rhode Island: Providence Public Library, 150 Empire Street, Providence.
Connecticut: Hartford Public Library, 500 Main Street, Hartford.
New York: Albany Public Library, Harmons Bleeker Building, 19 Dove Street, Albany; New York City Public Library, Fifth Avenue and 42nd Streets, New York; Nassau County Library System, Lower Concourse, Roosevelt Field, Garden City; and Suffolk County Cooperative Library System, 627 Sunrise Service Road, Bellport.
New Jersey: Trenton Free Library, 120 Academy Street, Trenton; Atlantic City Free Library, Illinois and Pacific Streets, Atlantic City; and Free Library of Elizabeth, 11 South Broad Street, Elizabeth.
Pennsylvania: Free Library of Philadelphia, Logan Circle, Philadelphia.
Delaware: Rehoboth Beach Public Library, Municipal Center, Rehoboth Avenue, Rehoboth Beach; and Wilmington Institute Free Library and Newcastle County Free Library, 10th and Market Streets, Wilmington.
Maryland: Eastern Shore Area Library, 122-126 South Division Street, Salisbury; and Enoch Pratt Free Library, 400 Cathedral Street, Baltimore.
Virginia: Norfolk Public Library System, 301 South City Hall Avenue, Norfolk.
North Carolina: Olivia Raney Public Library, 104 Fayetteville Street, Raleigh.

In accordance with 43 CFR 3301.4, a public hearing will be held beginning at 9 a.m. on June 27, 1978, and continuing through June 30, 1978, in the Ocean One Hotel, 3100 Boardwalk, Atlantic city, N.J. 08401. The hearing is scheduled between 9 a.m. and 5 p.m. June 27, 29 and 30 and between 9 a.m. and 9 p.m. on June 28. Depending upon the number of persons registering to testify, an additional evening session may be scheduled on June 29. The public hearing is held for the purpose of receiving comments and suggestions relating to the proposed lease sale.

The hearing will provide the Secretary with additional information from both public and private groups to help evaluate fully the potential effects of the proposed offering of the 136 tracts. Comments are solicited concerning effects on area marine, aesthetic, recreation, and other resources and on the Mid-Atlantic environment as a whole, as a result of exploration, development, and production phases of the proposed OCS lease sale. The hearing will also provide the Secretary with the opportunity to receive additional comments and views of interested State and local agencies.

Interested individuals, representatives of organizations, and public officials wishing to testify at the public hearing are requested to contact the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, at the above address by 4:45 p.m., June 12, 1978. Written comments from those unable to attend the hearing also should be addressed to the Manager, New York Outer Continental Shelf Office, Bureau of Land Management at the above address. The Department will accept written testimony and comments from the public on the draft environmental statement until July 12, 1978. This should allow ample time for those unable to testify at the hearing to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the Manager, New York Outer Continental Shelf Office, at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, others present will be given an opportunity to be heard.

After all testimony and comments have been received and analyzed, a final environmental statement will be prepared.

GEORGE L. TURCOTT,
Associate Director, Bureau of Land Management.

Approved:

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-12912 Filed 5-11-78; 8:45 am]

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[4310-84]

Bureau of Land Management

[W-63231]

WYOMING

Notice of Application

MAY 4, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a value assembly site located on the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 14 N., R. 109 W.,
Sec. 1, SE¼NW¼

The proposed site is an addition to Northwest Pipeline Corp's. gathering system and will connect into their proposed 26 inch O.D. Ignacio to Sumas Loop Line all within the SE¼SW¼ of Section 1, T. 14 N., R. 109 W., Sweetwater County, Wyo. and will consist of 0.04 acres.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12965 Filed 5-11-78; 8:45 am]

[4310-31]

Geological Survey

COSO HOT SPRINGS, CALIF.

Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described landa are hereby defined as a known geothermal resources area effective January 2, 1978:

(5) CALIFORNIA

COSO HOT SPRINGS KNOWN GEOTHERMAL AREA
MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 22 S., R. 37 E.
Sec. 25;
Sec. 36.
T. 22 S., R. 38 E.
Sec. 6;
Sec. 8;
Sec. 13;
Secs. 15 through 17;
Secs. 19 through 36.
T. 23 S., R. 38 E.
Secs. 1 through 5;
Secs. 9 through 12.
T. 21 S., R. 39 E.
Secs. 22 through 26;
Secs. 35 and 36.
T. 22 S., R. 39 E.
Secs. 1 and 2;
Secs. 11 through 35.
T. 23 S., R. 39 E.
Secs. 4 through 7.
T. 21 S., R. 40 E.
Secs. 30 and 31.
T. 22 S., R. 40 E.
Secs. 6 and 7;
Sec. 18.

The area described aggregates 49,918 acres, more or less.

Dated: April 6, 1978.

HILLARY A. ODEN,
Acting Conservation Manager, Western Region.

[FR Doc. 78-12885 Filed 5-11-78; 8:45 am]

[4310-09]

Bureau of Reclamation

MCGEE CREEK PROJECT, OKLA.

Public Hearing on Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the McGee Creek Project, Okla. This statement (INT DES 78-12, dated April 20, 1978) was made available to the public on April 21, 1978.

The draft environmental statement deals with a surface water project to meet expanding M&I water needs of Oklahoma city and parts of south central Oklahoma. Flood control, fish and wildlife, and environmental enhancement are other project purposes. The project includes a 155-foot-high, 2,300-foot-long dam; a 59-foot-high, 4,800-foot-long dike; a 3,350-acre reservoir; an 18.5-mile-long pipeline; an 8,900-acre natural scenic recreation area; a 10,000-acre wildlife management area; and appurtenant facilities.

Public hearings will be held at the Atoka County Community Center, Atoka, Okla., on June 12, 1978, and Civil Center, Hall of Mirrors, 200 N. Dewey, Oklahoma City, Okla., on June 13, 1978, to receive views and comments from interested organizations or individuals relating to the environmental impacts of this program. The hearings will commence at 7 p.m. Oral statements at the hearings will be limited to a period of 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request whenever possible, and any scheduled speaker not present when called will lose his privilege in the scheduled order and his name will be recalled at the end of the scheduled speakers. Requests for scheduled presentation will be accepted up to 4 p.m., June 5, 1978, and any subsequent requests will be handled on a first-come-first-served basis following the scheduled presentation.

Organizations or individuals desiring to present statements at the hearing should contact the office of the Regional Director, Bureau of Reclamation, Herring Plaza, Box H-4377, Amarillo, Tex. 79101, telephone 806-376-2401, and announce their intention to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentation at the hearing should be received by June 20, 1978, for inclusion in the hearing record.

Dated: May 9, 1978.

R. KEITH HIGGINSON,
Commissioner of Reclamation.

[FR Doc. 78-13065 Filed 5-11-78; 8:45 am]

[4310-84]

Office of the Secretary

[INT DES 78-18]

PROPOSED LIVESTOCK GRAZING IN THE TULE-DAD-HOMECAMP AREAS OF LASSEN AND MODOC COUNTIES, CALIF., AND WASHOE COUNTY, NEV., SUSANVILLE DISTRICT, CALIF.

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an environmental statement for proposed livestock grazing in Modoc and Lassen Counties, Calif., and Washoe County, Nev. The proposal involves construction of fences and facilities to implement livestock grazing systems, provision of adequate forage and habitats for wildlife species, and consideration of other public uses on approximately 600,000 acres of public lands. The Department of the Interior invites written comments on the draft statement. Comments shoud be submitted within 45 days of this notice to the California State Director, Bureau of Land Management, 2800 Cottage Way, E-2841, Sacramento, Calif. 95825.

A limited number of copies are available upon request at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240. Telephone: 202-343-5717.

California State Office, Bureau of Land Management, Federal Building, 2800 Cottage Way, Sacramento, Calif. 95825. Telephone: 916-484-4541.

Susanville District Office, Bureau of Land Management, 705 Hall Street, P.O. Box 1090, Susanville, Calif. 96103. Telephone: 916-257-5385.

Dated: May 8, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-12813 Filed 5-11-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administation

Final 1978 Revised Aggregate Production Quotas and Establishment of an Interim 1978 Aggregate Production Quota for Amphetamine

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedule I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On March 21, 1978, a notice of the proposed revised aggregate production quotas for 1977 was published in the FEDERAL REGISTER (43 FR 11765-6). All interested parties were invited to comment on or object to the proposed aggregate production quotas on or before April 21, 1978. Comments were received from Joseph Barrows, Ph.G., Consultant, of Valley Stream, N.Y., on behalf of his client, Rexar Pharmacal Corp. of Valley Stream, N.Y., from the National Association of Pharmacautical Manufacturers (NAPM) of New York, N.Y., from the Obesity and Nutrition Council of New York, N.Y., and from the Delco Chemical Company of Mt. Vernon, N.Y.

Relative to amphetamine, the NAPM, the Obesity and Nutrition Council and Delco Chemical Co. commented that the legitimate market demand and medical need for amphetamine is greater than the supply. In addition, the NAPM and the Obesity and Nutrition Council questioned the basis for the proposed reduction.

Also relative to amphetamine, Mr. Barrows commented that the proposed quota was insufficient to meet the legitimate medical needs for this substance and restricted competition among amphetamine dosage from manufacturers. Based on these comments, Mr. Barrows requested a hearing on behalf of his client, Rexar Pharmacal Corp.

DEA is reviewing the comments and request for hearing submitted by Mr. Barrows. To provide for the on-going manufacture of amphetamine in order to meet the legitimate medical needs for this substance, an interim aggregate production quota is established.

Therefore, under the authority vested in the Attorney General by Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the interim aggregate production quota for amphetamine and the revised aggregate production quotas for the other below-listed controlled substances, expressed in grams of anhydrous acid or base be established as follows:

Basic class	Interim 1978 aggregate production quota
Amphetamine	3,020,000
	Revised 1978 aggregate production quota
Aphaprodine	77,000
Amobarbital	8,348,000
Anileridine	234,000
Codeine (for sale)	58,089,000
Codeine (for conversion)	1,518,000
Desoxyephedrine(1,765,000 g for the production of levodesoxyephedrine for use in noncontrolled, nonprescription product and 456,000 g for the production of methamphetamine	2,221,000
Diphenaxylate	1,495,000
Ethylmorphine	23,000
Hydrocodone	794,000
Hydromorphone	103,000
Levorphanol	8,400
Meperidine	10,912,000
Methadone	1,561,000
Methadone Intermediate (4-cyano-2-dimethylamino-4, 4-diphenylbutane)	2,153,000
Methaqualone	16,115,000
Methylphenidate	1,848,000
Mixed Alkaloids of Opium	39,000
Morphine (for sale)	694,000
Morphine (for conversion)	54,869,000
Opium (for tinctures, extracts, et ceters, expressed in terms of USP powdered opium in morphine content)	2,435,000
Oxycodone (for sale)	1,895,000
Oxycodone (for conversion)	14,000
Pentobarbital	14,851,000
Phenmetrazine	5,073,000
Secobarbital	6,809,000
Thebaine (for sale)	2,714,000
Thebaine (for conversion)	1,255,000

This order is effective May 12, 1978.

Dated: May 5, 1978.

PETER B. BENSINGER,
Administrator.

[FR Doc. 78-12945 Filed 5-11-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

V 43 93

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 8th day of May 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MAY 5, 1978

Name of applicant and location of enterprise	Principal product or activity
Darby Grain Elevator, Inc., Conecuh County, Ala.	Grain handling facility.
F&W Farm Service, Inc., Thomasville, Ga.	Fertilizer mixing plant.
Bush Oil Co., Americus, Ga.	Bulk plant and distribution and sales of gasoline.
Doxey Plywood Corp., Aberdeen, N.C.	Manufacture of vinyl laminated hardwood furniture and hardwood plywood furniture parts.
Koy-Yan, Inc., London, Ohio.	Athletic facility and conditioning center.
Northern Sash & Door Co. (Tenant of Marenisco Township), Marenisco, Mich.	Manufacture of millwork.
Kelley Development Co., Wynne, Ark.	Shopping center.
Cox Cotton Co., Inc., Reyno, Ark.	Cotton gin and grain elevator.
Trinity Basin Wood Products, Shepherd, Tex.	Manufacture of wooden pallets.
Energy Systems Co., El Dorado, Ark.	Rail car cleaning facility.
Arotoho Irrigation Co., Cortex, Colo.	Sales and installation of all irrigation equipment.
Dwayne P. and Carol D. Herman, Estes Park, Colo.	Retail shopping complex.
Valley Dehydrating Co., Inc., Sterling, Colo.	Manufacture and sale of various alfalfa products.
CMI, Inc., Minturn, Colo	Manufacture, assembly, administration, research and development of electronics equipment.
Mid-Continent Engineering Corp., Broomfield, Colo.	Manufacture and distribution of pumps and equipment.
Cochise Canning Company, Inc., McNeal, Ariz.	Processing and canning of green chile products.
Humboldt Sand & Rock, Inc., Humboldt, Ariz.	Ready-mix concrete sales and service of sand and gravel.
Lowe Aquafarm Inc., Kahuku, Hawaii.	Growing, processing and marketing of Malaysian prawns.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MAY 5, 1978—Continued

Name of applicant and location of enterprise	Principal product or activity
Grande Machinery, Inc., Casa Grande & Gila Bend, Ariz.	Farm equipment retail dealership.

[FR Doc. 78-12928 Filed 5-11-78; 8:45 am]

[4510-29]

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Proposed Alternative Method of Compliance for the Sponge Rubber Products Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of proposed alternative method of compliance.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed alternative method of compliance with the reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 (the Act) for the Sponge Rubber Products Pension Plan (the Plan). The proposed alternative method of compliance, if granted, would affect participants and beneficiaries of the Plan and the trustee of the Plan.

DATE: Written comments must be received by the Department on or before June 6, 1978.

ADDRESSES: All written comments (six copies) should be submitted to: Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, Washington, D.C. 20216, Attention: Sponge Rubber Alternative. The petition for an alternative method of compliance and all comments received will be available for public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Charles Edelstein of the Department, 202-523-8444. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed alternative method of compliance with certain reporting and disclosure requirements of the Act for the Plan. The proposed alternative method of compliance was requested in a petition filed by William M. Cullina, the trustee of the Plan acting in his capacity as the administrator of the Plan, pursuant to section 110(a) of the Act.

SUMMARY OF FACTS AND REPRESENTATIONS

The petition contains facts and representations with regard to the proposed alternative method of compliance which are summarized below. Interested persons are referred to the petition on file with the Department for the complete representations of the petitioner.

The Plan was initially adopted in 1943 by the Sponge Rubber Products Co. (the company). In 1954, the company was acquired by the B. F. Goodrich Co. (Goodrich) which continued the Plan. In 1974, Goodrich sold its Sponge Rubber Products Division (the division) to the Grand Sheet Metal Products. Co. (Grand) which assumed responsibility for the continuation of the Plan. The Plan provided benefits for employees at five plants, all in the towns of Shelton and Derby, Conn. During 1974, the business of the Division contracted, resulting in layoffs which substantially reduced the number of active participants in the Plan. On March 1, 1975, one of the division plants was destroyed by explosion and fire resulting in the layoff of a large number of plan participants employed at that location. On May 1, 1975, Grand filed a voluntary petition under chapter XI of the Bankruptcy Act in the U.S. District Court for the Northern District of Illinois. On or about July 21, 1975, substantially all the remaining employees of the division were laid off.

The predecessor trustees of the Plan announced a suspension of further lump-sum distributions of plan benefits until the termination status of the Plan was reviewed by the Pension Benefit Guaranty Corp. (PBGC). On September 23, 1975, counsel for the Plan requested the PBGC to seek to have a trustee appointed to take control of the Plan. PBGC declined, but suggested that the Plan Administrator might have a trustee appointed under the authority of section 4041(g) of the Act. On November 14, 1975, a petition was filed with the U.S. District Court for the District of Connecticut seeking the appointment of William M. Cullina as trustee. The petition was approved on November 25, 1975, and the court granted Mr. Cullina those powers and duties set forth in section 4042(d) of the Act which includes the power to do any act authorized by the Plan or title IV of the Act to be done by the Plan administrator. The assets of the Plan have been and are being held and invested by the Fidelity Mutual Insurance Co. of Philadelphia, Pa.

The trustee petitioned the district court for its approval of the termination of the Plan effective April 30, 1976. An order terminating the Plan effective April 30, 1976, was entered by the court on July 13, 1976. Prior to the court hearing on the petition for termination, PBGC issued a determination of sufficiency respecting the Plan.

Plan participants have been fully informed of the trustees actions. Pursuant to court order, formal notice of the trustee's appointment was given shortly after his appointment. Subsequently, the trustee requested each participant by mail to verify the amount of his vested benefits in the Plan as disclosed by the records available to the trustee and requested that the participant notify the trustee in the event of any differences. The trustee's petition for authority to terminate the Plan contained schedules setting forth the benefits to which each of the more than 850 participants were entitled and legal notice of the filing of that petition was, pursuant to court order, mailed to each participant. Copies of the petition were made available upon request to any participant.

On September 15, 1976, $7,550,000, more than 90 percent of the Plan's assets, was distributed to participants pursuant to an order of the U.S. District Court. The September 15, 1976 payments represented a full distribution of all vested benefits.

The remaining assets of the Plan consist of approximately $600,000. After payment of administrative expenses and claims for disability benefits in excess of vested benefits, the balance of the assets will be distributed among the participants. On September 14, 1977, a hearing was held on the trustee's Petition for Allowance of Account and Final Distribution and Approval of Compromise of Disputed Claim. Notice of the hearing was provided to all participants and other persons claiming an interest under the Plan.

On March 22, 1978, judgment was entered which, among other things, allowed the trustee's account and directed the distribution of any remaining assets within 90 days. The distribution ordered by the Court will be pursuant to a formula devised in cooperation with the PBGC. All fees and expenses incurred by the Plan and approved by the Court require the approval of the PBGC pursuant to section 4042(h) of the Act.

The trustee asserts that the supervision by the PBGC and the U.S. District Court provides safeguards to permit the trustee to seek an alternative method of compliance with certain reporting and disclosure requirements of the Act. In addition, the trustee asserts compliance with certain reporting and disclosure requirements of the Act would cause an unreasonable administrative burden to the Plan, increase the costs to the Plan, and not be in the interests of Plan participants because the increased cost would reduce the amounts otherwise available for distribution.

Further, all notices of hearings regarding any distribution of Plan assets informed Plan participants that any authorization by the Court would be a final and binding determination, discharging the trustee and fixing the participants' rights to the Plan assets and finally determining all other matters involved at the hearing and that, therefore, if participants had an objection to any of the matters to be heard, they should appear and make their objection known to the Court.

Accordingly, the trustee requests that he not be required to comply with the following reporting and disclosure requirements of the Act:

1. Preparation and filing of Forms 5500, Schedules A and B thereto and certified financial statements relating thereto, for the Plan years ending October 14, 1976, and October 14, 1977, and the Plan year beginning October 15, 1977, and ending on the date of final distribution of Plan assets;

2. Engaging an independent qualified public accountant to examine the books and records of the Plan and render an opinion thereon;

3. Engaging an enrolled actuary to review the operation of the Plan and render an opinion thereon;

4. Preparation and filing of any terminal report following complete distribution of the assets of the Plan;

5. Preparation and distribution of summary annual reports to Plan participants, and

6. Preparation and distribution of summary plan discriptions to Plan participants and the Secretary of Labor.

In lieu of complying with the above requirements of the Act, the trustee will provide the Secretary of Labor and Plan participants as of October 15, 1974, copies of all his accountings as trustee from the date of his appointment through the final distribution of the Plan assets. Participants as of October 15, 1974, will be notified because all prior notices involving the Plan were sent to persons who were participants of the Plan as of October 15, 1974.

NOTICE TO INTERESTED PERSONS

Not later than May 22, 1978, the trustee will furnish to each participant (as of October 15, 1974) a notice that a petition has been filed for an alternative method of compliance with the reporting and disclosure requirements of the Act. Such notice shall contain a copy of the proposed alternative method of compliance as published in the FEDERAL REGISTER and shall include the following statement:

Any interested person, including any participant in the Sponge Rubber Products Pension Plan and any employer of the Sponge Rubber Products Division of the Grand Sheet Metal Products Co. may present his or her view on the proposed alternative method of compliance with the reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 for the Sponge Rubber Products Pension Plan on or before June 6, 1978, by writing to Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, Department of Labor, Washington, D.C. 20216, Attention: Sponge Rubber Alternative.

GENERAL INFORMATION

Before an alternative method of compliance with the reporting and disclosure requirements may be prescribed under section 110 of the Act, the Department must determine that the use of such alternative method is consistent with the purpose of Title I of the Act and that it provides adequate disclosure to the participants in the plan and adequate reporting in the Department, that the application of the reporting and disclosure requirements of the Act would increase the costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan, having regard to the particular characteristics of the plan or the type of plan involved, and that the application of the reporting and disclosure requirements of the Act would be adverse to the interests of plan participants in the aggregate.

ALTERNATIVE METHOD OF COMPLIANCE

Based upon the facts and representations set forth in the petition, the Department is considering granting the requested alternative method of compliance under the authority of section 110 of the Act. If an alternative method of compliance is granted the trustee of the Plan is not required to comply with the reporting and disclosure requirements set forth in Section 1 below, provided that the conditions set forth in section 2 are met:

SECTION 1.—*Alternative Method of Compliance:*

(a) Preparation and filing of forms 5500, schedules A and B thereto and certified financial statements relating thereto, for the Plan years ending October 14, 1976, and October 14, 1977, and the Plan year beginning October 15, 1977, and ending on the date of final distribution of Plan assets;

(b) Engaging an independent qualified public accountant to examine the books and records of the Plan and render an opinion thereon;

(c) Engaging an enrolled actuary to review the operation of the Plan and render an opinion thereon;

(d) Preparation and filing of any terminal report following complete distribution of the assets of the Plan;

(e) Preparation and distribution of summary annual reports to Plan participants; and

(f) Preparation and distribution of summary plan descriptions to Plan

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participants and the Secretary of Labor.

SEC. 2.—*Conditions to the Granting of an Alternative Method of Compliance:*

(a) The remaining Plan assets are distributed in accordance with a formula approved by the PBGC and the United States District Court.

(b) Not later than 30 days after the trustee's final accounting has been approved by the United States District Court, the trustee shall mail by first class mail to each Plan participant and the Secretary of Labor, copies of all accountings (from November 25, 1975) filed with and approved by the United States District Court. For purposes of this subsection (b), the term "participant" means every person who was a participant of the Plan on or after October 15, 1974.

(c) The accountings required to be furnished to participants in (b) above shall be accompanied by a statement signed by the trustee explaining the basis on which the surplus assets of the Plan were allocated among the Plan participants.

Signed at Washington, B.C., this 10th day of May 1978.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 78-13098 Filed 5-11-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-13]

JAPAN ENGINEERING DEVELOPMENT CO.

Intent To Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405(e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Development Co., Tokyo, Japan, a limited, exclusive patent license in Japan for the three NASA-owned inventions covered by the Japanese counterparts of (1) U.S. Application Serial No. 850,507 for "Improvements in Microelectrophoretic Apparatus and Process", filed by NASA on November 10, 1977; (2) U.S. Application Serial No. 830,382 for "Stainless Steel Panel for Selective Absorption of Solar Energy", filed by NASA on September 2, 1977; and (3) U.S. Application Serial No. 829, 390 for "Aluminum or Copper Substrate Panel for Selective Absorption of Solar Energy and Method", filed by NASA on August 31, 1977. Copies of the above U.S. Patent Applications can be purchased from the National Technical Information Services, Springfield, Va. 22161, at a cost of $3.75 a copy. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code GP-4, National Aeronautics and Space Administration, Washington, D.C. 20546.

Dated: May 8, 1978.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc. 78-12954 Filed 5-11-78; 8:45 am]

[7532-01]

NATIONAL COMMISSION ON NEIGHBORHOODS

PRIVACY ACT OF 1974

Systems of Records

Pursuant to 5 U.S.C. 552a(e)(4). The National Commission on Neighborhoods hereby publishes the systems of records as currently maintained by the agency. Any person interested in commenting on the information contained in this notice may do so by submitting comments in writing to the Executive Director-designate, National Commission on Neighborhoods, Suite 350, 2000 K Street NW., Washington, D.C. 20006. Comments must be submitted on or before June 12, 1978. This will become effective June 12, 1978, unless the Commission publishes notice to the contrary.

Dated at Washington, D.C. on May 8, 1978.

FRANCES PHIPPS,
Deputy Director.

NCN-1

System name:

General Financial Records—NCN

System location:

General Services Administration, Central Office; Copies held by the NCN. (GSA holds records for the NCN under contract.)

Categories of individuals covered by the system:

Committee employees and members.

Categories of records in the system:

SF1038. Application and account for advance of funds; vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the NCN who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C., generally; also Pub. L. 95-24.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See appendix following this notice. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and tape.

Retrievability:

Manual and automated by name.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

NCN Executive Assistant, Suite 350, 2000 K Street NW., Washington, D.C. 20006 .

Notification procedure:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Record access procedures:

Commission members, past or present, or employees, past or present, who desire access to their individual records in the custody of the NCN or GSA should contact the Commission's Executive Director in writing. See Commission access regulations in 24 CFR 4000.

Contesting record procedures:

Commission members, past or present, or employees, past or present, who desire to contest record procedures in the custody of the NCN or GSA should contact the Commission's Executive Director in writing. See Commission record contest regulations in 24 CFR 4000.

Record source categories:

The subject individual: the Commission.

NCN-2

System name:

Payroll Records—National Commission on Neighborhoods.

System location:

General Services Administration. Region 3 Office: copies held by the NCN (GSA holds records for the National Commission on Neighborhoods under contract.)

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Categories of records in the system:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefit records requests for deductions; tax forms, W-2 forms, overtime requests, leave data; retirement records. Records are used by the NCN and GSA employees to maintain adequate payroll information for NCN employees, and otherwise by the NCN and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C. generally. Also, Pub. L. 95-24.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2 Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Director, National Commission on Neighborhoods, Suite 350, 2000 K Street NW., Washington, D.C. 20006. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Executive Director.

In the absence of a withholding agreement, the Social Security number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security number, in accordance with Section 7 of the Privacy Act, Pub. L. 93-579.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Paper and microfilm.

Retrievability:

Social Security number.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

Executive Assistant, National Commission on Neighborhoods, Suite 350, 2000 K Street NW., Washington, D.C. 20006.

Notification procedure:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Record access procedures:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Contesting record procedures:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Record source categories:

The subject individual; the Commission.

NCN-3

System name:

Correspondence records—National Commission on Neighborhoods.

System location:

National Commission on Neighborhoods, Suite 350, 2000 K Street NW., Washington, D.C. 20006.

Categories of records in the system:

All correspondence, attachments, both incoming and outgoing; invitations, requests for information, field hearing information, general letters.

Authority for maintenance of the system:

Pub. L. 95-24.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosed to other Federal agencies in furtherance of the Commission's statutory responsibilities. Correspondence is filed to retrieve information and/or to continue correspondence.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and carbons.

Retrievability:

Manual and alphabetically and chronologically for outgoing; alphabatically for incoming.

Safeguards:

Stored in guarded building; released only by authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager and address:

NCN Executive Assistant, Suite 350, 2000 K Street NW., Washington, D.C. 20006.

Notification procedure:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Record access procedure:

Refer to NCN access regulations contained in 24 CFR Part 4000.

Contesting record procedures:

Refer to NCN access regulations contained in 24 CFR Part 4000.

APPENDIX

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency,

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in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaint examiner, equal opportunity investigator, arbitrator or other authorized official engaged in investigation, or settlement grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

A record from this system of records may be disclosed as a routine use to state and local governments for authorized taxing purposes.

[FR Doc. 78-13025 Filed 5-11-78; 8:45 am]

[1410-03]

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS (CONTU)

MEETING

Change in Location

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 19080, May 3, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE: 2 p.m. Thursday, May 18 and 9:30 a.m. Friday, May 19, 1978.

PREVIOUSLY ANNOUNCED PLACE: Dean's Conference Room, University of Minnesota Law School, 229 19th Avenue South, Minneapolis, Minn.

STATUS: Meeting open to the public.

CHANGES IN THE MEETING: The meetings will be held in New York City, at the McGraw Hill Building, 1221 Avenue of the Americas, New York, N.Y. 10020, Thursday's session will be held in Room 206 and will begin at 2 p.m. Friday's session will be held in the Second Floor Gallery, and will begin at 9:30 a.m.

CONTACT PERSON FOR MORE INFORMATION:

Dolores K. Dougherty, Administrative Officer, 202-557-0996.

ARTHUR J. LEVINE,
Executive Director, National Commission on New Technological Uses of Copyrighted Works (CONTU).

[FR Doc. 78-13028 Filed 5-11-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

FEDERAL-STATE PARTNERSHIP ADVISORY PANEL

Amended Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Federal State Partnership Advisory Panel to the National Council on the Arts which is scheduled for May 8, 1978, from 9 a.m. to 5 p.m.; May 9, 1978, from 9 a.m. to 5 p.m.; and May 10, 1978, from 9 a.m. to 5 p.m., and was reported in the Volume 43, No. 77 issue of the FEDERAL REGISTER (page 16819) is amended in the following way:

A portion of this meeting will be open to the public on May 8, 1978, from 11 a.m. to 5 p.m.; May 9, 1978, from 9 a.m. to 5 p.m.; and May 10, 1978, from 9 a.m. to 5 p.m. The topic for discussion will be policy.

The remaining sessions of this meeting on May 8, 1978, from 9 a.m. to 11 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

Dated: May 5, 1978.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-12966 Filed 5-11-78; 8:45 am]

[7537-01]

NATIONAL COUNCIL ON THE ARTS

Amended Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Council on the Arts which will be held May 12, 1978, from 9 a.m. to 5:30 p.m.; May 13, 1978, from 10 a.m. to 5:30 p.m.; and May 14, 1978, from 9 a.m. to 1 p.m., and was reported in the Volume 43, No. 81 issue of the FEDERAL REGISTER (page 17875) is amended in the following way:

A portion of the meeting will be open to the public on May 12, 1978, from 9 a.m. to 3:30 p.m.; May 13, 1978, from 10 a.m. to 11:30 a.m., and from 4:15 p.m. to 5:30 p.m.; and May 14, 1978, from 9 a.m. to 1 p.m. The topics of discussion will include: Museum Program Review and Guidelines, Artists-in-Schools Guidelines, and Composer/Librettist Guidelines; reports to the Council; and policy matters.

The remaining sessions of this meeting on May 12, 1978, from 3:30 p.m. to 5:30 p.m.; and May 13, 1978, from 11:30 a.m. to 4:15 p.m., are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions may be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

Dated: May 5, 1978.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-12967 Filed 5-11-78; 8:45 am]

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[7555-01]

NATIONAL SCIENCE FOUNDATION

SUBCOMMITTEE ON MEMORY AND COGNITIVE PROCESSES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Memory and Cognitive Processes of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: May 30 and 31, 1978; 9 a.m. to 5 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Joseph L. Young, Program Director, Memory and Cognitive Processes Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-634-1583.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Memory and Cognitive Processes.
Agenda: To review and evaluate research proposals as part of the selection processes for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 9, 1978.

[FR Doc. 78-12920 Filed 5-11-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON SENSORY PHYSIOLOGY AND PERCEPTION

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Sensory Physiology and Perception of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: May 30 and 31, 1978. Hours: 9 a.m. to 5 p.m. each day.
Place: Room 536, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Sherman L. Guth, Program Director, Sensory Physiology and Perception Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-634-1624.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Sensory Physiology and Perception.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provision of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 9, 1978.

[FR Doc. 78-12921 Filed 5-11-78; 8:45 am]

[7555-01]

STEERING COMMITTEE OF THE NSF ADVISORY COUNCIL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Steering Committee of the NSF Advisory council.
Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Date: Tuesday, May 30, 1978.
Time: 9 a.m. until 5 p.m.
Type of meeting: Open.
Contact person: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street NW., Washington, D.C. 20550. Telephone: 202-632-4368.
Purpose of steering committee: The purpose of the Steering Committee, composed of members of the NSF Advisory Council, is to assist the Chairperson and Foundation staff in planning Council activity and related matters not requiring the formation of a separate task group.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, National Science Foundation, Room 248, 1800 G Street NW., Washington, D.C. 20550.
Agenda: To review with cognizant NSF staff the issues being studied by the task groups and other issues of general concern.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 9, 1978.

[FR Doc. 78-12922 Filed 5-11-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE DAVIS BESSE NUCLEAR POWER STATION, UNITS 2 AND 3

Meeting Rescheduled

The May 18, 1978 meeting of the ACRS Subcommittee on the Davis Besse Nuclear Power Station, Units 2 and 3, has been rescheduled to be held on June 30, 1978 in Room 1046,1717 H Street NW., Washington, D.C. 20555.

All items pertaining to this meeting remain the same as announced in the FEDERAL REGISTER on May 3, 1978.

Dated: May 10, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-13082 Filed 5-11-78; 8:45 am]

[7590-10]

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-26, issued to Consolidated Edison Co. of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility), located in Buchanan, Westchester County, N.Y. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to allow the deletion of certain snubbers and the replacement of some shock suppressors (snubbers) with other (fixed) support systems and to appropriately change the testing requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant

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to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment transmitted by letter dated March 30, 1977, as supplemented January 6, 1978 and April 28, 1978, (2) Amendment No. 39 to License No. DPR-26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 5th day of May 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-12936 Filed 5-11-78; 8:45 am]

[7590-01]

[Dockets Nos. 50-269, 50-270 and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 61, 61 and 58 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Co. for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, S.C. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications by eliminating reactor trip on loss of a single reactor coolant pump for Oconee Units Nos. 2 and 3.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated February 16, 1978, (2) Amendments Nos. 61, 61, and 58 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, S.C. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3rd day of May 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-12937 Filed 5-11-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-510; 50-511]

GULF STATES UTILITIES COMPANY; (BLUE HILLS STATION, UNITS 1 AND 2)

Hearing on Application for Early Site Review

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Gulf States Utilities Co. (the Applicant) for an early review, hearing and partial initial decision on issues of site suitability within the purview of the applicable provisions of 10 CFR Parts 50, 51 and 100 for a proposed site designated as the Blue Hills Station site. The Blue Hills Station site is located in Newton County, Tex., two miles southwest of Toledo Bend Reservoir and nine miles west of the Texas-Louisiana border.

The hearing, which will be scheduled to begin in the vicinity of the proposed site, will be conducted by an Atomic Safety and Licensing Board, which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Mr. Lester Kornblith, Jr., Dr. Linda W. Little and Marshall E. Miller, Chairman.

Pursuant to 10 CFR § 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER at a later date.

Pursuant to 10 CFR §§ 2.606 and 2.761a, respectively, the Board will make findings on the issues of site suitability for which early consideration is sought and render a partial decision.

In 1974, the Applicant submitted an application for a construction permit for two pressurized light water reactors. On November 12, 1975, a Notice of Hearing concerning the construction permit was published (40 FR 52768), and a correction to that Notice was published November 20, 1975 (40 FR 54031). The State of Texas submitted a request to participate as an interested state, pursuant to 10 CFR § 2.715(c), in response to the Notice. Subsequently, in January 1976, the Applicant notified the NRC that it wished to change its construction permit application to an early site review. On September 20, 1976, a Notice of Availability of Applicants Environmental Report Relating to an Early Site Review was published (41 FR 40537) and the Staff issued its Early Site Review (NUREG-0131) concerning safety matters in January 1977. On June 9, 1977, the NRC Draft Environmental Statement (NUREG-0276) concerning the Blue Hills site was issued and a Notice of Availability of the DES was published (42 FR 29571). This Notice informed the public of the new Commission rule regarding early site reviews; asked for comments on the DES from interested persons; and advised that a notice of hearing would be published. Also in June 1977, Supplement No. 1 to the Blue Hills Site Review concerning the review of this application by the Advisory Committee on Reactor Safeguards was published. On October 31, 1977, the Applicant submitted an amendment to its application to comply with the new rule which requires proposed findings on issues on which the Applicant seeks a partial initial decision.

As described in detail in Applicant's proposed findings dated October 31, 1977, the Applicant identified the issues of site suitability for which early consideration is sought, including: whether, from both an environmental and safety standpoint, the Blue Hills site is suitable with respect

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to geographical and demographical characteristics; terrestrial and acquatic ecology considerations; meteorology considerations; hydrology considerations; water and land use; geology and seismology considerations; regional historic, archaeological, scenic, cultural and natural landmark features; and economic impact considerations.

In the event the Board makes favorable findings on these issues, the partial decision shall remain in effect for a period of five years or, where the Applicant for the construction permit has made timely submittal of the information required to support the application, until the proceeding for a permit to construct a facility on the site identified in the partial decision has been concluded, unless the Commission, Atomic Safety and Licensing Appeal Board, or Atomic Safety and Licensing Board, upon its own initiative or upon motion by a party to the proceeding, finds that there exists significant new information that substantially affects the earlier conclusions and reopens the hearing record on site suitability issues.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR § 2.4(n), the Board will determine without conducting a de novo evaluation of the application whether the application and the record of the proceeding contain sufficient information and whether the review conducted by the Commission's Staff pursuant to the National Environmental Policy Act of 1969 (NEPA) has been adequate.

With respect to the Commission's responsibilities under NEPA and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with § 51.52(c) of 10 CFR Part 51:

(1) Determine whether the requirements of § 102(2)(A), (C) and (E) of NEPA and Part 51 as far as applicable have been complied with in this proceeding;

(2) Independently consider the final balance among conflicting factors contained in the record of the proceeding; and

(3) Determine after weighing the environmental, economic, technical and other benefits against environmental and other costs, and considering available alternatives, the suitability of the site with respect to the factors reviewed, and whether the partial Initial Decision should be issued, denied or appropriately conditioned to protect environmental values.

On or before June 12, 1978, any person whose interest may be affected by the proceedings, and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene in accordance with the provisions of 10 CFR § 2.714, as amended. As required by 10 CFR § 2.714, as amended, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the following factors:

(1) The nature of the petitioner's right under the Act to be made a party to the proceeding;

(2) The nature and extent of the petitioner's property, financial or other interest in the proceeding; and

(3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest, and the specific aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above. Not later than fifteen (15) days prior to a special prehearing conference held pursuant to 10 CFR § 2.751a, the petitioner shall file a supplement to his petition to intervene which must include a list of the contentions which he seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A petition for leave to intervene must be filed with the Secretary of the Commission and others as specified below by June 12, 1978. A petition for leave to intervene which is not timely will not be entertained absent a determination by the Board that the petition should be granted based upon a balancing of the factors set out in 10 CFR § 2.714(a)(1)(i-v), as amended, in addition to the matters specified in 10 CFR § 2.714(d).

An answer to this notice, pursuant to the provisions of 10 CFR § 2.705 must be filed by the Applicant by June 1, 1978.

Papers required to be filed in this proceeding shall be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR § 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of any petition for intervention should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Conner, Moore and Corber, Attention: Mr. Troy B. Conner, Jr., 1747 Pennsylvania Avenue NW., Washington, D.C. 20006, attorney for the Applicant.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within ninety (90) days after the notice of hearing is published or at such other time as the Board deems appropriate, for the purpose of dealing with the matters specified in 10 CFR § 2.751a, as amended.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any required special prehearing conference, and within sixty (60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR § 2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing, and the respective notices will be published in the FEDERAL REGISTER.

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715, as amended. A person making a limited appearance may make an oral or written statement on the record. He does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of site suitability. Limited appearances will be permitted at any session of the hearing or any prehearing conference at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by July 11, 1978. The presiding Atomic Safety and Licensing Board may make further provisions with respect to limited appearances subsequently during the course of this proceeding.

For further details, see the application for an early site review consisting of the Environmental Report and the Preliminary Safety Analysis Report, which, along with any amendments or

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supplements thereto, and the Draft Environmental Statement and Early Site Review Report, are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. between the hours of 8:30 a.m. and 5 p.m. on weekdays. Copies of these documents are also available at the Newton County Library, Newton, Tex. 77034. When available, the Final Site Environmental Statement, the transcripts of the prehearing conferences and of the hearing and other relevant documents will also be available at the above locations. Copies of the Office of Nuclear Reactor Regulation's Final Site Environmental Statement, when available, may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md. this 3rd day of May 1978.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
Chairman.

[FR Doc. 78-12934 Filed 5-11-78; 8:45 am]

[7590-01]

[Docket No. 50-289]

METROPOLITAN EDISON CO. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Co., Jersey Central Power and Light Co. and Pennsylvania Electric Co. (the licensees), which revised the Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pa. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to reflect plant operating limitations for the first 130 effective full power days of operation in Cycle 4.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 9, 1978, as supplemented April 3, 10, 17, and 20, 1978, (2) Amendment No. 39 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pa. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 27th day of April 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-12938 Filed 5-11-78; 8:45 am]

[7590-01]

[Docket No. 50-289]

METROPOLITAN EDISON CO., ET AL. (THREE MILE ISLAND NUCLEAR STATION UNIT NO. 1)

Exemption

I.

Metropolitan Edison Co., Jersey Central Power and Light Co., and the Pennsylvania Electric Co. (the licensees), are the holders of Facility Operating License No. DPR-50 which authorizes the operation of the nuclear power reactor known as Three Mile Island Nuclear Station, Unit No. 1 (TMI-1 or the facility), at steady reactor power levels not in excess of 2535 megawatts thermal (rated power). The facility consists of a Babcock & Wilcox Co. (B&W) designed pressurized water reactor (PWR) located at the licensees' site in Dauphin County, Pa.

II.

In accordance with the requirements of the Commission's Emergency Core Cooling System (ECCS) Acceptance Criteria, 10 CFR 50.46, Metropolitan Edison Co. (Met Ed) submitted on July 9, 1975, as supplemented August 8, 1975, an ECCS evaluation for the facility. The ECCS performance submitted by Met Ed was based upon an ECCS Evaluation Model developed by the B&W, the designer of the Nuclear Steam Supply System for this facility. The B&W ECCS Evaluation Model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50.46, and Appendix K. The evaluation indicated that with the limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

On April 12, 1978, B&W informed the NRC that it had determined that in the event of a small break Loss of Coolant Accident (LOCA) on the discharge side of a reactor coolant pump, high pressure injection (HPI) flow to the core could be reduced somewhat. Subsequent calculations indicated that in such a case the calculated peak clad temperature might exceed 2200F.

Previous small break analyses for B&W 177 fuel assembly (FA) lowered loop plants had identified the limiting small break to be in the suction line of the reactor coolant pump. Recent analyses have shown that the discharge line break is more limiting than the suction line break.

TMI-1 has an ECCS configuration which consists of two high pressure injection (HPI) trains. Each train has an HPI pump and the train injects into two of the four reactor coolant system (RCS) cold legs on the discharge side of the RCS pump. (There is also a third HPI pump installed.) The two parallel HPI trains are connected but are kept isolated by manual valves (known as the cross-over valves) that are normally closed. Upon receiving a safety injection signal the HPI pumps are started and valves in the four injection lines are opened. Assuming loss of offsite power and the worst single failure (failure of diesel to start) only one HPI pump would be available and two of the four injection valves would fail to open.

If a small break is postulated to occur in the RCS piping between the RCS pump discharge and the reactor vessel, the high pressure injection flow injected into this line (about half of the output of one high pressure pump) could flow out the break. Therefore, for the worst combination of break location and single failure, only one-half of the flow rate of a single high pressure ECCS pump would contribute to maintaining the coolant inventory in the reactor vessel. This situation had not been previously analyzed and B&W had indicated that the limits specified in 10 CFR 50.46 may be exceeded.

B&W has stated that they have analyzed a spectrum of small breaks in the pump discharge line and have determined that to meet the limits of 10 CFR 50.46, operator action is required to open the two manually operated crossover valves and to manually open the two motor driven isolation valves which had failed to open and align all four isolation valves. This would allow the flow from the one HPI pump to feed all four reactor coolant legs. B&W has assumed that 30 percent of the flow would be lost through the break and 70 percent would refill the core. B&W has prepared a summary entitled "Analysis of Small Breaks in the Reactor Coolant Pump Discharge Piping for the B&W Lowered Loop 177 FA Plants", April 24, 1978 (the B&W Summary), which describes the methods used and the results obtained in the above analysis. The analysis models operator action by assuming a step increase in flow to the reactor vessel (with balanced flow in the three intact loops) ten minutes after the LOCA reactor protection system trip signal occurs.

By letter dated April 27, 1978, Met Ed submitted a copy of the B&W Summary for our review. In their submittal Met Ed stated that they had reviewed the B&W Summary and determined that the results were applicable to TMI-1 and that operation of TMI-1 at 100 percent of full power (2535 Mwt) would be in full conformance with 10 CFR 50.46. Recognizing, however, that there was insuffient time available to the NRC staff to fully review the B&W Summary and make a similar determination prior to the scheduled startup of TMI-1 in Cycle 4 (estimated startup date of April 27, 1978), Met Ed requested an exemption from 10 CFR 50.46, until such time as the NRC staff had completed their review. The requested exemption would authorize startup and power operation of TMI-1 up to 100 percent of full power (2535 Mwt).

In their submittal of April 27, 1978, Met Ed also stated that they had modified certain plant procedures to provide the necessary operator actions on a time scale consistent with that assumed in the analysis, and that they had conducted a drill to verify that the assumed operator response time was achievable. Met Ed also committed to submit as soon as possible a request for amendment of the TMI-1 Technical Specifications as appropriate to reflect adoption of these procedures, and committed to submit a proposal for a permanent solution to this problem by July 24, 1978.

We have completed a preliminary review of the B&W Summary. In the Summary, B&W states that a .15 ft.^{2} discharge line break, with operator actions consistent with that modeled in the analysis, is the most limiting case. To arrive at this conclusion, B&W has performed analyses at break sizes of 0.3, 0.2, 0.15, 0.1, and 0.04 ft.^{2}. The results, which were obtained using an approved Appendix K model for blowdown, indicate core uncovery for about 500 seconds for the 0.15 ft.^{2} break. For this break size B&W has conservatively calculated the peak clad temperature to be approximately 1760 F; well below the limits of 10 CFR 50.46(b).

Based on review of the B&W Summary, however, we find that the calculations do not clearly support the conclusion that a .15 ft.^{2} discharge line break is the most limiting case. In addition, the Summary does not demonstrate that the assumptions employed in supplying heat inputs to the FOAM portion of the calculations were conservative. We are also reviewing whether use of simplified input in the FOAM calculations satisfies the requirement for calculation using an approved model. Accordingly, we cannot conclude at this time that operation of TMI-1 at 100 percent of licensed power would be fully in conformance with 10 CFR 50.46. On the other hand, for operation of this facility at power levels up to 91 percent of full power (2311 Mwt), ECCS performance calculations for the limiting small break indicate that this break does not result in core uncovering, if appropriate operator action is properly taken (as described above), thus providing a very substantial margin on peak clad temperature below the limits of 10 CFR 50.46(b).

Therefore, until we have had the opportunity to fully assess the B&W calculations, supplemented as required, operation of TMI-1 at 100 percent of licensed power (2535 Mwt) would be technically in nonconformance with the requirements of 50.46 in that revised calculations by B&W applicable to this facility are not yet complete. However, operation of TMI-1 at power levels of up to 2311 Mwt and in accordance with appropriate operating procedures, will assure the the ECCS system will conform to the performance criteria of 50.46. Accordingly, while B&W calculations applicable to this facility are completed to achieve full compliance with 10 CFR 50.46, operation of the facility at power levels up to 2311 Mwt with appropriate operating procedures will not endanger life or property or the common defense and security.

In the absence of any safety problem associated with operation of the facility during the period until the B&W calculations, as supplemented, are completed, there appears to be no public interest consideration favoring undue restriction of the operation of the captioned facility. Accordingly, the Commission has determined that an exemption in accordance with 10 CFR 50.12 is appropriate. The specific exemption is limited to the period of time necessary to complete computer calculations.

III.

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and are being placed in the Commission's local public document room at the State Library of Pennsylvania, Harrisburg, Pa.

(1) The application for exemption dated April 27, 1978, and

(2) This Exemption in the matter of Metropolitan Edison Co., Jersey Central Power and Light Co., and Pennsylvania Electric Co., Three Mile Island Nuclear Station, Unit No. 1

Wherefore, in accordance with the Commission's regulations as set forth in 10 CFR Part 50, the licensees are hereby granted an exemption from the requirements of 10 CFR 50.46(a)(i) that ECCS performance be calculated in accordance with an acceptable calculational model which conforms to the provisions in Appendix K. This exemption is conditioned as follows:

(1) Metropolitan Edison Co. shall submit supplementary analyses of ECCS cooling performance calculated in accordance with the B&W Evaluation Model, as requested by the Commission, as soon as possible.

(2) Until further authorization by the Commission, the power level shall not exceed 2311 Mwt, and

(3) Until further authorization by the Commission, Metropolitan Edison Co. shall operate the facility in accordance with the procedures described in its letter of April 27, 1978.

Dated at Bethesda, Md., this 27th day of April 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, JR.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-12939 Filed 5-11-78; 8:45 am]

[7590-01]

MIXED OXIDE FUEL

Memorandum of Decision

On December 23, 1977, the Commission issued an order concerning its proceedings on the Generic Environmental Statement on Mixed Oxide Fuel (GESMO), pending license applications, and other matters related to the reprocessing of spent light water nuclear reactor fuel and the recycling of uranium and plutonium in mixed oxide fuel. 42 FR 65334 (December 30, 1977). In that order the Commission announced its decision—

(1) To terminate the GESMO proceeding;

(2) To terminate the proceedings on pending or future plutonium recycle-related license applications, except for:

(a) Proceedings on licenses for the fabrication or use of small quantities

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of mixed oxide fuel for experimental purposes, and

(b) Those portions of proceedings which involve only spent fuel storage, disposal of existing waste, or decontamination or decommissioning of existing plants;

(3) To re-examine the above matters after the completion of the ongoing domestic and international studies of alternative fuel cycles, now expected to take about 2 years;

(4) To publish the draft safeguards supplement to the GESMO document as a staff technical report;

(5) As a consequence of the above decisions, to withdraw the November 1975 policy statement on mixed oxide fuel, 40 FR 53056; and

(6) To reserve for decision, if it arises, the question whether a facility such as the Allied-General Nuclear Services (AGNS) Nuclear Fuels Plant at Barnwell, S.C., may be licensed for experimental and feasibility purposes on a non-commercial basis to investigate processes which support the nation's nonproliferation objectives.

This Memorandum provides the reasons for the December 23 decision.

Background

The use of mixed oxide fuel has been before the Commission and its predecessor, the AEC, for more than a decade. In 1960, Nuclear Fuel Services (NFS) began a small reprocessing plant at West Valley, N.Y., which operated from 1966 through 1971. Construction of the AGNS Plant at Barnwell began in 1970 and parts of the plant are now essentially complete. AGNS' application for an operating license is currently before the Commission. In 1973, Westinghouse Electric Corp. (Westinghouse) requested a construction authorization letter for a mixed oxide fuel fabrication plant near Anderson, S.C. Finally, Exxon Nuclear Company, Inc. (Exxon) is currently seeking permission to construct a reprocessing plant at Oak Ridge, Tenn.

The health, safety, and environmental impacts of the wide-scale use of mixed oxide fuel were evaluated in the draft Generic Environmental Statement on Mixed Oxide Fuel, published in August, 1974. The draft GESMO prompted many public comments, including a January, 1975 letter from the President's Council on Environmental Quality which stressed the need to consider the safeguards aspects of wide-scale plutonium recycle. In May, 1975, the Commission announced its provisional intention to supplement GESMO with an analysis of safeguards and to limit interim licensing of recycle-related activities to experimental purposes. 40 FR 20142 (May 8, 1975). Over 200 public comments were received in response. In November, 1975, the Commission published a policy statement which announced that safeguards alternatives would be a part of the GESMO decision, provided for hearings on the GESMO documents, and stated criteria under which interim licensing of non-experimental recycle-related activities would be considered. 40 FR 53056 (November 14, 1975), corrected 40 FR 59497 (December 24, 1975). The United States Court of Appeals for the Second Circuit affirmed the Commission's hearing procedures but held that interim licensing of recycle-related activities on a commercial scale violated the National Environmental Policy Act (NEPA). *Natural Resources Defense Council, Inc.* v. *Nuclear Regulatory Commission*, 539 F.2d 824 (1976), vacated and remanded to determine mootness, 434 U.S. 1030 (January 16, 1978).

The final impact statement on health, safety, and the environment was published in August, 1976 and associated public hearings began that November. The hearings progressed through questioning of the NRC staff on its testimony and the filing of written testimony by all participants and proposed questions on that testimony.

Congress and other parts of the Federal Government, members of the public, and experts in the national security field have continued to express concerns related to the nuclear weapons proliferation risks of plutonium recycle technology as it is presently conceived. That technology produces separated plutonium, which can be used in the production of nucelar explosives. The concern is basically that the international spread of plutonium recycle technology for commercial nuclear power production creates a risk that non-nuclear weapons states might turn plutonium from the commercial fuel cycle to the production of nuclear explosives. See generally Senate Committee on Government Operations, 94th Cong., 1st Sess., Peaceful Nuclear Exports and Weapons Proliferation—A Compendium (Comm. Print 1975). Moreover, a decision by the United States to proceed with commercial plutonium recycle domestically would undermine U.S. efforts to restrain premature international resort to plutonium. This risk led the Commission in late summer 1976 to direct its staff to begin an analysis for GESMO of international proliferation risks and safeguards.

On October 28, 1976, President Ford discussed these risks in his Statement on Nuclear Policy, and stated that the nation "should pursue reprocessing and recycling in the future only if they are found to be consistent with our international [non-proliferation] objectives" (p. 4).

President Carter expressed his concern over the proliferation risks of plutonium recycle and the potential availability of other weapons grade materials in the nuclear fuel cycle in his April 7, 1977, Statement on Nuclear Power Policy. As part of his response to these risks, the President stated that the Administration's policy would be to defer indefinitely domestic plutonium recycle and to initiate a multinational evaluation of alternative fuel cycles in order to promote the Government's international non-proliferation goals. The GESMO hearings wer indefinitely postponed by the GESMO Hearing Board and on May 3 the Commission announced that it intended to reassess "the future course and scope of GESMO, the review of recycle-related license applications, and the matter of interim licensing." 42 FR 22964 (May 5, 1977). Public comments were received in June.

On May 5, Marcus Rowden, then Chairman of the Commission, wrote the President requesting his views on these matters. Stuart Eizenstat, Assistant to the President for Domestic Affairs and Policy, responded for President Carter on October 4. The letter (reprinted at 42 FR 57186 (November 1, 1977)) states that "the President believes that his non-proliferation initiatives would be assisted both domestically and internationally if the Commission were to terminate the GESMO proceedings," "terminat[e] • • • staff reviews and hearings relating to recycle activities, • • • den[y] • • • interim licensing of fuel cycle facilities, den[y] • • • interim licensing for use of mixed oxide fuel in reactors, except in small quantities for experimental purposes," and publish the staff's safeguards supplement.

The Commission sought public comment on the President's views and on several specific alternative courses of action. 42 FR 57185 (November 1, 1977). Over forty comments were received from public interest groups, industry, states, utilities, individuals, and the GESMO Hearing Board. The major issues raised in these comments and those received in June are addressed below.

In light of these events and after consideration of all the comments received, the Commission issued its December 23 order, based on the reasons which follow.

The Administration's Policy and Its Reception in Congress

The proliferation risk arising from the availability of separated plutonium in the commercial nuclear fuel cycle is an important problem for United States foreign policy. In his constitutional role as the chief architect of foreign policy, the President adopted a policy of deferring implementation of plutonium fuel cycles in the United States, and has begun important international initiatives and negotiations seeking a re-evaluation of

plutonium recycle abroad and an examination of alternative fuel cycles which offer greater resistance to proliferation. See the President's April 7 Statement.[1] The Eizenstat letter explicitly linked the Commission's domestic recycle/related proceedings to the President's foreign policy goals and stated the President's view that U.S. international non-proliferation initiatives would be assisted if the Commission were to terminate its proceedings. In particular, the letter stated that continuation of "staff reviews and hearings relating to recycle activities" "could lead other nations to question the United States commitment to deter commercial reprocessing and plutonium recycle."[2]

The basis for the President's request is evident. Under most agreements for cooperation between the United States and recipient nations, the United States possesses the right to approve any reprocessing of U.S.-supplied fuel or any fuel irradiated in a U.S.-supplied reactor. See, e.g., Agreement for Cooperation Concerning Civil Uses of Atomic Energy, May 10, 1974, United States-Sweden, art. II, para. C, T.I.A.S. No. 7854, amending id., July 28, 1966, T.I.A.S. No. 6076. section 123(a)(7) of the Atomic Energy Act, recently added by section 401 of the Nuclear Non-Proliferation Act of 1978, Pub. L. No. 95-242, 92 Stat. 120,[3] requires such a right of prior approval in all future agreements for cooperation, and section 404 of the Nuclear Non-Proliferation Act mandates a program of renegotiation to bring current agreements into conformity with the new statute. Moreover, a substantial proportion of enriched uranium fuel which has been irradiated to date in reactors abroad is of U.S. origin because, until recently, no other nation has had a substantial commercial uranium enrichment capacity. The United States thus asserts the right under its cooperative agreements to deny approval for reprocessing of most spent fuel currently held by U.S. nuclear trading partners. However, if the United States were to deny other nations the right to reprocess while continuing to pursue commercial reprocessing at home, it would undermine the credibility of our concern about the use of plutonium and our international initiatives toward nonproliferation.

Although the GESMO proceeding and the individual recycle-related license proceedings concern domestic activities, it is clearly appropriate for us to consider the foreign policy matters dscussed above in deciding to terminate the proceedings. Congress has determined the common defense and security to be an essential element which the Commission must consider in all the domestic licensing decisions affected by this decision. Atomic Energy Act §§ 53(b), 57(c)(2), 103(b)(3), (d), 104(d), 161(b), (i)(2), 182(a). Each of the individual license applications was considered under one or more of these sections. Our decision concerning the GESMO proceeding must be made in light of this statutory consideration.[4]

The President's request is also due substantial deference. It has been settled that regulatory agencies such as this Commission are independent of executive control. *Humphrey's Executor* v. *United States*, 295 U.S. 602, 628 (1935); *Weiner* v. *United States*, 357 U.S. 349 (1958). But it is also well established that the President is the national spokesman in the area of foreign policy. See *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952); *Chicago and Southern Air Lines Co.* v. *Waterman S.S. Corp.*, 333 U.S. 103 (1948); see also *New York Times Co.* v. *United States*, 403, U.S. 713 (1971). Thus while the Commission is not compelled to adhere to the President's views, it has accorded due regard to Executive Branch views in matters affecting United States foreign policy in the absence of a clear statutory mandate to the contrary.[5]

In addition, it is significant that Congress as a body has not taken any action disagreeing with the President's position on plutonium recycle in light water reactors.[6] Over a year has passed since the President made the deferral of plutonium recycle a matter of national policy and no substantial Congressional opposition has appeared. Indeed, the Congress has in several instances supported the actions the President has taken to implement the Administration's policy. The Department of Energy Act of 1978—Civilian Applications, Pub. L. 95-238, 92 Stat. 47,[7] provides $13 million for various activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies and the nation's non-proliferation objectives, but "none of the authorized funds may be used for operations of the plant to process spent fuel from reactors."[8] Sections 101(20), 106.[9] Congress has

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[1] This position has been further developed by U.S. foreign policy spokesmen in international forums. See Statement by Joseph S. Nye, Jr., Deputy to the Under Secretary of State for Securjty Assistance, Science and Technology at the International Conference on Nuclear Power and its Fuel Cycle, Salzburg, Austria (May 2, 1977); Address of Joseph S. Nye, Jr. before the Ebert Conference on Problems of Nuclear Energy Supply, Bonn, Germany (October 3, 1977).

[2] President Ford's October 28, 1976 Statement on Nuclear Policy also focused on the proliferation risks of separated plutonium. It announced the President's conclusion that "the reprocessing and recycling of plutonium should not proceed unless there is sound reason to conclude that the world community can effectively overcome the associated risks of proliferation" (p. 4). To implement this decision it announced, inter alia, accelerated international initiatives "to control the spread of plutonium and technologies for separating plutonium" (p. 4), the need for the U.S. to "undertake a program to evaluate reprocessing in support of" these international policies (p. 6), and that the nation's "domestic policies must be changed to conform to [the President's] decision on deferral of the commercialization of chemical reprocessing • • • which results in the separation of plutoium" (p. 5). The statement also suggested that the GESMO studies should continue (p. 12).

[3] This statute was pending at the time of our December 23 decision as H.R. 8638 and S. 897, 95th Cong., 1st Sess. (1977). The Commission has relied before on the policy expressed in it in passing on export matters. See *Ten Applications for Low Enriched Uranium Exports to Euratom Member Nations*, CLI-77-24, 6 NRC 525 (1977).

[4] We do not find at this time that issuance of any of the licenses would be inimical to the common defense and security. As is discussed in detail below, we are not required in these circumstances to make any such finding.

[5] This has been formally recognized in the Commission's recent export licensing decisions:

"The Federal judiciary has often expressed the view that expressions of the Executive Branch on matters affecting the conduct of United States foreign policy are entitled to great weight in evaluating the claims of litigants. The Supreme Court stated in *Republic of Mexico* v. *Hoffman*, 324 U.S. 30, 35 (1944) "• • • it is a guiding principle • • • that the courts should not so act as to embarrass the executive arm in its conduct of foreign affairs." In like measure here, the Commission must pay due regard to the potential damage to the conduct of foreign relations which the Department of State believes could result from delaying action in the instant license application."

Babcock & Wilcox (Application for Facility Export License) 5 NRC 1332, 1349 (1977); see id. at 1344; *Westinghouse Electric Corporation* (Application for Export of Reactor to Associacion Nuclear ASCO II, Barcelona, Spain), 3 NRC 739, 755-756 (1976).

[6] While Congress has strongly disagreed with the Administration's proposal to discontinue the Clinch River Breeder Reactor project, see note 7 infra, that debate has not extended to the deferral of recycle for light water reactors.

[7] At the time of our December 23 decision, an act of the same name and identical in the relevant provisions had been passed by Congress and vetoed by President Carter because of its provisions funding the Clinch River Breeder Reactor. S. 1811, 95th Cong., 1st Sess. §§ 101(20), 107 (1977); Veto Message from the President, S. Doc. No. 95-73, 95th Cong., 1st Sess. (November 5, 1977). Though vetoed, it indicated Congressional intentions at the time.

[8] The conferees on the previous vetoed version of the Act, see note 7 supra, also indicated their opinion that "the Barnwell facility should be used in such a way as to not to limit the potential for eventual use as a reprocessing plant." H.R. Rep. No. 714, 95th Cong., 1st Sess. 86 (1977).

[9] See also debates on NRC Authorization Act of 1978, S. 1131, 123 Cong. Rec. S8592 (daily ed. May 25, 1977) (remarks of Senator

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also explicitly supported the President's alternative fuel cycle studies in section 105 of the Nuclear Non-proliferation Act of 1978:

> The President shall take immediate initiatives to invite all nuclear supplier and recipient nations to reevaluate all aspects of the nuclear fuel cycle, with emphasis on alternatives to an economy based on the separation of pure plutonium or the presence of high enriched uranium, methods to deal with spent fuel storage, and methods to improve the safeguards for existing nuclear technology • • •[10]

In addition, Congress has strongly supported the non-proliferation goals of the Administration's policy. Section 2 of the Nuclear Non-Proliferation Act of 1978 states the following policy:

> The Congress finds and declares that the proliferation of nuclear explosive devices or of the direct capability to manufacture or otherwise acquire such devices poses a grave threat to the security interests of the United States and to continued international progress toward world peace and development. Recent events emphasize the urgency of this threat and the imperative need to increase the effectiveness of international safeguards and controls on peaceful nuclear activities to prevent proliferation. Accordingly, it is the policy of the United States to—
>
> (a) actively pursue through international initiatives • • • the establishment of more effective international controls over the transfer and use of nuclear materials and equipment and nuclear technology for peaceful purposes in order to prevent proliferation • • •.

Moreover, section 3 states that

> It is the purpose of this Act to promote the policies set forth above by—
>
> (a) establishing a more effective framework for international cooperation • • • to ensure that the worldwide development of peaceful nuclear activities and the export by any nation of nuclear materials and equipment and nuclear technology intended for use in peaceful nuclear activities do not contribute to proliferation • • •.

Finally, section 2(c) strongly endorses the Treaty on the Non-proliferation of Nuclear Weapons, July 1, 1968, T.I.A.S. No. 6839, the sole function of which is to halt the proliferation of nuclear weapons.[11]

The Alternative Fuel Cycle Studies

The alternative fuel cycle studies initiated by the President provide another important reason for termination. The studies will at least provide important information on plutonium recycle and its alternatives which the Commission must consider to reach a sound decision on wide-scale commercial plutonium recycle. The primary study is the International Nuclear Fuel Cycle Evaluation (INFCE), a multinational study of alternative fuel cycles aimed at "minimiz[ing] the danger of the proliferation of nuclear weapons without jeopardizing energy supplies or the development of nuclear energy for peaceful purposes." Final Communique of the Organizing Conference of INFCE (October 21, 1977). It will entail a comprehensive evaluation of the proliferation, technical, economic, and safeguards aspects of spent fuel reprocessing and alternative fuel cycles. INFCE may materially influence the nuclear fuel cycle plans of many of the over 50 participating countries, including the United States, although participants are not bound by the study's results. The INFCE organizing conference was held in Washington in October, 1977, at which time 8 working groups were established to examine all facets of the subject, including reprocessing and recycle.[12] The entire study is expected to take at least two years. See generally Statement of President Carter, Plenary Session of the Organizing Conference of INFCE (October 19, 1977); Final Communique, supra. Commission staff members are actively participating in the support effort for the United States' participation.

In order to develop a technical basis for United States contributions to INFCE, the Energy Research and Development Administration (now DOE) initiated an interagency Non-Proliferation Alternative System Assessment Program (NASAP). NASAP is intended as a comprehensive review and analysis of a wide variety of reactors and reactor fuel cycle systems and concepts emphasizing proliferation risks and considering technical, economic, and commercial feasibility, resource utilization, safety, the environment, and other factors.

The specific focus of both studies is on alternatives which combine superior proliferation resistance with efficient use of resources. In these circumstances, with the results of the studies expected in the near term, it would be inappropriate for the Commission to continue its present proceedings. The Commission must consider the information and alternatives developed in these studies before reaching a decision either on the GESMO proceedings or on licensing plutonium recycle functions.[13] If the studies reveal preferable alternatives, domestic plutonium recycle as it is presently conceived may be abandoned in favor of other processes. In any event, the information developed on plutonium recycle and its alternatives will probably be sufficiently extensive that any record compiled by the Commission in the interim would have to be substantially supplemented or entirely revised to reflect this information. Moreover, the viability of commercial plutonium recycle depends substantially on future energy demands and the availability and cost of uranium. Changes in projections of these factors during the pendency of the alternative fuel cycle studies would also require substantial revision of any record compiled in the interim.

In sum, the pending alternative fuel cycle studies together with the Administration's policy and the President's request strongly support the Commission's decision to terminate the GESMO proceeding and pending proceedings on plutonium recycle-related license applications.[14] As a result of this decision, the Commission also withdrew the November 1975 policy statement on mixed oxide fuel, 40 FR 53056 (November 14, 1975), which announced the policies under which the terminated proceedings had gone forward.

Commission Re-examination

The Commission's decision to terminate these proceedings does not involve their final disposition on the merits. As we have noted, the present state of studies and national fuel cycle policy evaluations precludes an informed decision on the merits of plutonium recycle at this time. Morever, the Administration has not taken a final position on plutonium fuel cycles, but rather opposes premature entry into a plutonium economy.

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Hart). But see id. at S8593 (remarks of Senator McClure).

[10] While the Act did not pass until after our December 23 decision, nearly identical language had been reported out of committee and was before the Senate in October, 1977. S. 897, 95th Cong., 1st Sess. § 105. Similar language had passed the House in September, 1977. H.R. 8638, 95th Cong., 1st Sess. § 103.

[11] Language identical to that quoted or referred to in the text had been reported out of committee and was before the Senate in October, 1977. S. 897, 95th Cong., 1st Sess. §§ 2 (a), (c), 3(a). Language of similar intent passed the House of September, 1977. H.R. 8638, 95th Congress 1st Sess. §§ 2 (1), (3), 3 (1), (3), (4).

[12] They are: (1) Fuel and Heavy Water Availability, (2) Enrichment Availability, (3) Assurances for Long-Term Supply, (4) Reprocessing, Plutonium Management, and Recycle, (5) Fast Breeder Reactors, (6) Spent Fuel Management, (7) Waste Management and Disposal, and (8) Advanced Reactors and Fuel Cycle Concepts.

[13] Accord, GAO Report, An Evaluation of the Administration's Proposed Nuclear Non-Proliferation Strategy, B-181963 (October 4, 1977). The Report analyzed at length the President's policy of deferring domestic reprocessing (pp. 36-52). Although it recommended that the Commission continue the GESMO proceedings, it also recommended that they be expanded to include alternatives to current reprocessing technology, and that the Commission "defer any irrevocable decision until," inter alia, "the feasibility of the alternatives to reprocessing is determined" (p. 52).

[14] The exceptions to termination of the recycle-related proceedings are discussed below.

Statement of Joseph Nye at Salzburg, supra. The Administration's policy will take appropriate account of the studies' results when they become available. Congress has also indicated that its position on non-proliferation may require re-examination after the completion of the studies. See Nuclear Non-Proliferation Act of 1978 § 602(e); 124 Cong. Rec. S1456, S1459 (daily ed. February 7, 1978) (remarks of Senators McClure and Glenn). The Commission is committed to re-examining its decision to terminate recycle-related proceedings in light of the completed studies, expected to take about two years, and any revisions of the Administration's policies. At the present time it is not possible to determine whether our proceedings will then be reinstituted or whether some other course will be adopted. But in this posture, termination is not a final disposition of the issues surrounding wide-scale plutonium recycle or of the individual license applications on the merits.[15] As we discuss in more detail below, we are empowered to decline to process applications while fundamental policy questions are being examined. See *Kessler v. FCC*, 326 F. 2d 673 (D.C. Cir. 1963); *Mesa Microwave, Inc. v. FCC*, 262 F. 2d 723 (D.C. Cir. 1958).

Arguments Favoring Continuation as a Policy Matter

The Commission does not find persuasive other arguments for continuing the recycle-related proceedings.

Some commentors have said that plutonium is as much-needed energy source and that the proceedings should be continued to permit its timely development. The Commission is acutely aware of the nation's need for electrical energy. However, as previously noted, the development of plutonium recycle entails substantial problems, and it is not yet clear whether they will outweight the potential energy benefits. The proliferation risks of foreign plutonium recycle are an overriding foreign policy concern, and the President's efforts to reduce them justify at least some delay in related domestic activities. Furthermore, we expect to re-examine our decision in about two years. A delay in the implementation of plutonium recycle for this period of time does not provide substantial grounds for concern about the economic aspects of the Commission's decision.[16]

Finally, significant progress probably could not be made in these proceedings in the interim, since any record would probably have to be substantially supplemented or entirely revised in light of the alternative fuel cycle studies and changes in energy demand and uranium availability and costs in the interim.

Some commentors have also argued that the Commission's proceedings should continue so that the considerable resources invested by the NRC and the participants in the proceedings will not be wasted. We think such an argument rests on several false premises. We recognize the magnitude of the investment that participants and the staff have made in the proceedings. But we reject the notion that an unnecessary proceeding must continue to absorb time and resources simply because a substantial investment has already been made in it. Also if the proceedings are ultimately reopened, the record already created will be reintroduced to the extent appropriate. The contribution already made will thus be used to the extent possible. However, parts of the record which may have become outdated as a result of new information from the alternative fuel cycle studies and changing conditions could not somehow retrain their validity merely because the proceedings were continued on an interim basis. Indeed, a more substantial waste of effort would ensue if the proceedings were continued now and the record later required substantial revision.

Commentors have also contended that the GESMO proceedings would produce information important to the alternative fuel cycle studies by thoroughly investigating plutonium recycle as a "base case" against which other fuel cycles could be compared. This argument misconceives the Commission's function. The purpose of GESMO was to determine whether and under what conditions plutonium recycle would be licensed, as a prerequisite to review of pending or anticipated license applications for particular recycle-related facilities. While we closely cooperate with other agencies of government as appropriate, it is not the Commission's intention to transform a proceeding of this sort into a general study unrelated to the licensing of particular facilities.

Congress has determined that such studies, when appropriate, should be performed by the Department of Energy, which is currently engaged in studies necessary to implement INFCE and NASAP. Finally, as to the view of some commentors that continuing the GESMO proceeding would be useful to the President's domestic and international initiatives, we would only note that he has indicated that it would not.

Arguments that Continuation is Legally Required

We now turn to contentions that the Commission is legally required to continue the proceedings. Westinghouse, B. & W., and NLCPI contend that the Atomic Energy Act requires the Commission to continue individual plutonium recycle-related license application proceedings and that NEPA requires the Commission to continue GESMO.

Arguments based on the Atomic Energy Act

Westinghouse, B. & W., and NLCPI first observe that section 189(a) of the Atomic Energy Act requires that "[i]n any proceeding • • • for the granting • • • of any license or construction permit • • • the Commission shall grant a hearing upon the request of any person whose interest may be affected • • •." They contend that applicants constitute "person[s] • • • affected" and therefore that section 189(a) requires that the adjudicatory hearings on the license applications be completed. In addition, Westinghouse observes that section 103(b) of the Atomic Energy Act states that the Commission "shall" issue commercial licenses to applicants who meet the criteria set forth in that section, and that section 103(d) prohibits the issuance of any license which would "in the opinion of the Commission • • • be inimical to the common defense and security or to the health and safety of the public." Westinghouse argues, essentially, that an applicant's compliance with section 103(b) mandates issuance of a license unless the Commission makes an affirmative finding of inimicality under section 103(d), supported by a substantial basis in fact developed on an appropriate public record compiled at a public hearing under section 189(a). We disagree.[17]

The argument that the Act's licensing provisions somehow compel the processing of all applications is without merit. The Commission has the discretion to stop processing applications and to refuse to accept new ones when there are sound regulatory reasons to do so. This principle is particularly applicable when foreign policy considerations involving non-prolifera-

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[15] The license applications in these proceedings have been denied without prejudice to the applicants' rights to have consideration of their applications resumed at the point they were terminated, if a future Commission decision permits such a resumption and it is appropriate under the circumstances.

[16] The Commission's staff concluded in the final GESMO document that delaying plutonium recycle for five years would cost about $74 million. Final GESMO, vol. 4, VIII-9, XI-79. While this figure and other economic analyses were sharply contested in the GESMO hearings, we believe that the economic costs of our decision, whatever the proper value may be, are not so high that they are of substantial concern compared to the risks of nuclear explosives proliferation that are the basis for the Administration's policy.

[17] The discussion below applies as well to sections 53, 57, and 104 as it does to section 103.

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tion have been strongly asserted by the President in his constitutional role as chief foreign policymaker. His judgment in such matters requires substantial deference. Also, the usefulness of the present record will be significantly affected by ongoing studies in which many nations are examining major policy questions involving the nuclear fuel cycle. Judicial decisions in analogous situations support this principle.

The *Permian Basin Area Rate Cases*, 390 U.S. 747, 776–781 (1968), dealt with the authority of the Federal Power Commission to impose a two and one half year "moratorium" on rate filings, while its new area ratemaking concept took hold. The Court sustained this moratorium, even though a section of the relevant statute seemed to authorize gas producers to file rate increases with the Commission to be effective in 6 months, subject to a later refund mechanism. Another section of that statute authorized the Federal Power Commission to determine whether existing rates are "just and reasonable", and to prescribe future rates by order. The Court rejected the argument that the statute gave gas producers an unrestricted right to file rate changes, such as to preclude a moratorium upon those increases.

In upholding the moratorium the Court specifically referred to the FPC's general rulemaking authority under section 16 of the Natural Gas Act as a source of its authority to impose moratoria. Id. at 776 n.40, 781. That section is nearly identical to section 161(p) of the Atomic Energy Act, which provides the NRC with general authority to issue "such rules and regulations as may be necessary to carry out the purposes of this Act." Moreover, section 103, under which applicants seek licenses, contains similar authority for the Commission to subject commercial licenses "to such conditions as the Commission may by rule or regulation establish to effectuate the purposes and provisions of this Act."

The Court also reasoned generally that "the width of administrative authority must be measured in part by the purposes for which it was conferred • • •," and that "the Commission's broad responsibilities • • • demand a generous construction of its statutory authority." 390 U.S. at 776 (footnote omitted); and cases cited therein. It further noted that the Commission's discretion in its authority to make rates necessarily extended to its entire process, "embracing the method used in reaching the legislative determination as well as that determination itself." *Id., American Commercial Lines* v. *Louisville & Nashville R. Co.*, 392 U.S. 571, 592 (1968). After analyzing the particular sections of the Act relied upon by the Commission and the gas producers, the Court concluded that the consequences of the gas producers' construction of the statute would be the "enervation" of the section under which the Commission had proceeded and the destruction of the Commission's new area ratemaking concept. 390 U.S. at 780. Having previously observed that "the ultimate achievement of the Commission's regulatory purposes (might) easily depend upon" its ability to adopt such concepts, id. at 777, the Court was "in the absence of compelling evidence that such was Congress' intention, unwilling to prohibit administrative action imperative for the achievement of the agency's ultimate purposes," id. at 780 "We cannot, in these circumstances, conclude that Congress has given authority inadequate to achieve with reasonable effectiveness the purposes for which it has acted." Id. at 777.

We see no reason why the NRC's statutory authority should be construed any less broadly. The Atomic Energy Act gives the Commission very wide authority and discretion to regulate the possession and use of nuclear materials through all of the usual administrative methods. Section 161(p), for example, has been quoted above, and section 161(b) provides that the Commission is authorized to:

> Establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protest health or to minimize danger to life or property • • •.

Indeed, the Court of Appeals for the District of Columbia Circuit has characterized the Atomic Energy Act as enacting:

> A regulatory scheme which is virtually unique in the degree to which broad responsibility is reposed in the administering agency, free of close prescription in its charter as to how it shall proceed in achieving the statutory objectives.

Siegel v. *AEC*, 400 F. 2d 778, 783 (1968); *Union of Concerned Scientists* v. *AEC*, F. 2d 1069, 1079 (D.C. Cir. 1974). We thus conclude that the Commission possesses general authority to terminate consideration of licenses under section 103, subject to later re-examination, without reaching the specific question of inimicality with respect to any particular facility under section 103(d) based on an adjudicatory record.

The argument that applicants are entitled to a hearing on their applications under section 189(a)[18] must be rejected for similar reasons, by analogy to judicial decisions supporting the FCC's power to "freeze" license applications. Despite a statute which required either a hearing or a summary grant of applications, the FCC has on several occasions instituted a "freeze" on specified classes of license applications, neither granting them nor conducting hearings, when it was developing new response to a particular problem which would be exacerbated by granting licenses. Even though the freezes appear to contravene the statute, the courts have consistently upheld them, and have found no right to a hearing. *Kessler* v. *FCC*, 326 F. 2d at 684; *Mesa Microwave, Inc.* v. *FCC*, *supra*; *Weintronics, Inc.* v. *FCC*, 331 F. 2d 782 (D.C. Cir. 1964); *Harvey Radio Laboratories, Inc.* v. *United States*, 289 F. 2d 458 (Cir. 1961). In *Mesa Microwave*, the court sustained a freeze on all pending and future cable TV applications pending a broad technological review. The courts have also indicated that under the new policies developed during a freeze, previous license applicants might not receive licenses. See *Harvey Radio Laboratories, supra*, at 460.

The decisions rest not so much on any statutory provision as on broad considerations of a regulatory agency's proper authority—general findings that the agency was to regulate in the public interest and that its actions were in the public interest and were not arbitrary and capricious. While the Atomic Energy Act uses the terms "public health and safety" and "common defense and security," we see no reason why the same regulatory tools available to other agencies to carry out their statutory mandates should not also be available to the NRC, so long as the line between regulation and promotion drawn by the Energy Reorganization Act of 1974 is observed. In addition, when the President has expressly requested that the Commission terminate individual licensing proceedings to assist the implementation of an important national and foreign policy, we are hard-pressed to see how the interests of the individual license applicants here could outweigh the government's interest in preventing the proliferation of nuclear explosives. This is particularly so when our refusal to follow the President's request could substantially undermine the international studies and sensitive negotiations which the President has initiated. We would take such a course only if the law clearly compelled it and, as we have shown above, that is not the case here. We thus conclude that this Commission is empowered to terminate licensing hearings and other licensing proceeding under section 189(a), subject to later re-examination. See *Siegel* v. *AEC*, *supra*.

[18] The courts have read this section flexibly. See *BPI* v. *AEC*, 502 F. 2d 424 (D.C. Cir. 1974), holding that the Commission had the authority (under section 161) to deny a petition to intervene for failure to set forth specific contentions, notwithstanding section 189's guarantee of a hearing to anyone with the requisite interest.

Arguments Based on NEPA

Westinghouse, B&W, and NLCPI also contend that terminating the GESMO proceedings would itself be a major federal action under NEPA, and thus an environmental impact statement on plutonium recycle must be completed before the GESMO proceedings may be terminated.[19] This contention draws some apparent support from the conclusion in the final GESMO document on health, safety, and the environment that recycling plutonium could reduce impacts from the mining and milling of uranium by approximately 20 percent. Final GESMO, vol. 3, pp. IV-F-19 to -23; vol. 4, pp. VIII-25 to -26, VIII-44, XI-71, XI-74; see New Mexico comment of June 1977. Discontinuing consideration of such a program could be argued to have a significant environmental impact and thus required an impact statement. The commentors concluded that NEPA requires continuation of GESMO.

We disagree. As we stated above, we terminated GESMO in part because any record assembled in GESMO before the completion of the alternative fuel cycle studies would be an inadequate basis for a Commission decision on plutonium recycle. This course of awaiting information on alternatives is consistent with NEPA's requirement that we carefully develop and thoroughly evaluate alternatives. NEPA §§ 1092(2) (C)(iii), (E); *Natural Resources Defense Council* v. *Morton*, 458 F. 2d 827 (D.C. Cir. 1972). The alternative fuel cycle studies are broad in scope and will produce a great deal of information about alternatives to plutonium recycle as it is presently conceived, and a full evaluation of these alternatives must await the availability of that information. While NEPA might permit us to proceed without the results of these studies, in the face of substantial uncertainty, it does not require us to complete proceedings on an impact statement when we do not yet have a substantial part of the information required to make the record of those proceedings adequate for responsible decisionmaking

Moreover, NEPA does not require public hearings. *Jicarilla Apache Tribe of Indians* v. *Morton*, 471 F. 2d 1275, 1286 (9th Cir. 1973). The hearings we held on GESMO were appropriate as a matter of informed decisionmaking. See 40 FR at 53507, 53060. Once the Commission embarked on hearings, NEPA required consideration of environmental factors in those proceedings, as as well as health, safety, and economic factors. See *Calvert Cliffs' Coordinating Committee* v. *AEC*, 449, F. 2d 1109 (D.C. Cir. 1971). However, NEPA did not compel initiation of the hearings to begin with, and does not now prevent their termination.

We also disagree with the proposition that the termination itself—not on the merits and due to be re-examined—requires its own impact statement. It is not the kind of "recommendation or report on a proposal" which the Supreme Court has determined to require an impact statement. *Aberdeen & Rockfish R. Co.* v. *SCRAP*, 422 U.S. 289, 320-321 (1975) (*SCRAP II*); *Kleppe* v. *Sierra Club*, 427 U.S 390 (1976). This decision simply preserves the status quo, rather than causing any new damage to the environment. NEPA has never, to our knowledge, been interpreted to require an impact statement in such circumstances. GESMO is a study of a proposed course of action, and its termination will simply continue the status quo. This situation is thus the reverse of that in *National Helium Corp.* v. *Morton*, 455 F. 2d 650 (10th Cir. 1971), and *City of New York* v. *United States*, 337 F. Supp 150 (E.D.N.Y. 1972), where termination of long-standing activities substantially altered the status quo and impact statements were required. It is also the converse of *Scientists' Institute for Public Information* v. *AEC*, 481 F. 2d 1079 (D.C. Cir. 1973) (*SIPI*), where the AEC was required to write a generic statement on the ongoing Liquid Metal Fast Breeder Reactor research program and the impacts future commercial use of the technology might have. In the instant case, commercial implementation of recycle technology is being postponed at least until a fuller evaluation can be carried out. The mere fact that this will be accomplished through a policy statement, the only parallel to *SIPI* that commentors cite, hardly requires an impact statement.[20]

Finally, it is only necessary to consider the practical implications of commentors' interpretation of NEPA to demonstrate its absurdity. By turning NEPA on its head, the result would be to overwhelm the government by requiring preparation of impact statements each time an agency decided not to pursue a major federal action. Such a result was not intended by Congress when it enacted NEPA and defies a reasonable construction of the statute.

Remaining Points

Exceptions to the termination of recycle-related proceedings

Two kinds of plutonium recycle-related license application proceedings were excepted from this decision. The first is "proceedings on licenses for the fabrication or use of small quantities of mixed oxide fuel for experimental purposes." The exception for "use" covers the three operating commercial reactors which currently have partial loads of mixed oxide fuel—Big Rock Point, Dresden Unit 1, and Quad Cities Unit 1. The "fabrication" exception covers the operation of small-scale facilities which fabricate small quantities of plutonium-bearing fuel for experimental purposes.

These activities are essentially experimental in nature, and are thus outside the scope of this decision, which concerns wide-scale commercial reprocessing.[21] They were exempted from the Second Circuit decision, which similarly distinguished commercial-scale reprocessing from licensing for "experimental and feasibility purposes." 539 F.2d at 845, vacated and remanded to determine mootness, 434 U.S. 1030. These limited activities may thus proceed without completion of GESMO. Moreover, the use exception was specifically mentioned in the Eizenstat letter. While no exception for fabrication appeared there, we think one along the lines of the use exception may properly be implied, since use would be impossible without the related fabrication capability. We thus believe that these facilities are outside the scope of the President's request, and that there is no reason not to allow their acitivites to continue.

The second class of excepted proceedings is "those portions of proceedings which involve only spent fuel storage, disposal of existing waste, or decontamination or decommissioning of existing plants." These proceedings are related to plutonium recycle only in that they may occur at reprocessing facilities. They do not otherwise involve commercial implementation of plutonium recycle, and therefore are not subject to this decision. Additional spent fuel storage capacity is currently needed, partly as a result of the nation's deferral of reprocessing. The use of storage facilities available or planned at existing or planned reprocessing plants thus should not be fore-

[19] As several commentors noted, if the Commission continued the individual license application proceedings, it would not be appropriate to terminate GESMO. Licensing the Barnwell plant or the proposed Exxon facility for commercial use would constitute approval of wide-scale plutonium recycle, and prior completion of GESMO or similar generic proceedings would be required. Cf. November 1975 policy statement, 40 FR at 53057, 53061-53062 (November 14, 1975).

[20] We think these arguments also adequately demonstrate that no impact statements are required for termination of individual plutonium recycle-related license applications.

[21] The licenses for the Naval reactor program and the Fast Flux Test facility are also outside the scope of this decision, since they are not related to commercial plutonium recycle.

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closed by our decision here.[22] The NFS West Valley reprocessing plant, which is no longer in commercial operation, generated high level wastes which are currently stored at the site. A program for their disposal is being investigated. Decontamination or decommissioning of the plant is also being investigated by DOE. The Commission is involved in that investigation, which may result in NRC licensing activity. The December 23 order should be read as allowing storage as well disposal of existing waste and the possession of radioactive materials.[23]

PUBLICATION OF THE GESMO DRAFT SAFEGUARDS SUPLEMENT

In accordance with the November 1975 policy statement, the staff began work on a safeguards supplement to the GESMO document. That supplement is now essentially complete. All commentors favor its release, and we believe it would be in the public interest to publish it as a staff technical report. It should provide considerable safeguards information useful in the alternative fuel cycle studies.

LIMITED EXCEPTION FOR NON-PROLIFERATION PURPOSES

The order also stated that the Commission "reserve[d] for decision, if it arises, the question of whether a facility such as the Barnwell facility may be licensed for experimental and feasibility purposes on a noncommercial basis to investigate processes which support the nation's non-profileration objectives."[24] This reservation was in response to the provisions in the DOE authorization bill, discussed above, and AGNS' comment that such activities should not be foreclosed (no other commentors addressed this particular issue). So long as such activities support the nation's non-proliferation objectives, the Commission believes they would not conflict with the policy underlying the decision to terminate these proceedings. Limited to "experimental and feasibility purposes on a noncommercial basis," such activities would also be consistent with the Second Circuit's decision. See 539 F. 2d at 845. Activities at Barnwell may not need NRC approval if they are "under contract with and for the account of" DOE. See Atomic Energy Act § 110(a). However, our decision here should not foreclose activities requiring a Commission license which fall within the above category.

CONCLUSION

The reasons stated above express the basis for the Commission's actions stated in its order of December 23, 1977. This memorandum shall be filed in the dockets of all the proceedings listed in that order and shall be served on all parties of record.

The separate views of Commissioner Kennedy appear below.

Commissioner Gilinsky was not present at the Commission meeting at which this document was approved.

Dated at Washington, D.C., this 8th day of May, 1978.

For the Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

CONCURRING VIEW OF COMMISSIONER KENNEDY

I concur in the Commission's decision to bring the GESMO proceeding to a halt. As indicated in the Commission's order of December 23, 1977, however, I would have preferred that the Commission "defer" rather than "terminate" the GESMO proceeding and the proceedings on pending or future plutonium recycle-related license applications. I take this view for the following reasons.

"Deferral", in my view, is more consistent with the President's Policy Statement of April 7, 1977. The President stated that the U.S. should "defer indefinitely the commercial reprocessing and recycling of the plutonium produced in U.S. nuclear power programs." Since that time, as Mr. Eizenstat's letter of October 4, 1977 notes, "(t)he Administration has proposed an accelerated research and development program to examine alternative fuel cycles not involving direct access to plutonium. The President has also asked other countries to join us in an International Nuclear Fuel Cycle Evaluation to examine alternative approaches to advanced nuclear technologies." Thus it is the Administration's position that any final decision on reprocessing and recycle will have to await the completion of the domestic and international studies on alternative fuel cycles. Meanwhile, deferral of reprocessing would be a clear signal to other countries that the United States was forgoing any concrete steps toward implementation of plutonium recycle pending results of the ongoing studies. This is a significant argument bearing on the foreign policy of the United States and, as such, deserves to be given considerable weight in our deliberations. And in that light, I believe that it would have been more appropriate to hold in abeyance our consideration of domestic reprocessing than to "terminate" the very process which was designed to lead to a decision. For "termination" may be seen by some as evidence of a predetermined conclusion.

"Deferral" also is more consistent with active participation by the NRC in the INFCE study of alternative fuel cycles, and the Commission's December 23 decision to re-examine the issues of reprocessing and recycle following the alternative fuel cycle studies. "Termination" of the GESMO proceeding implies that the agency has ceased to consider matters related to an eventual decision on reprocessing. This is not the case. The NRC has not foreclosed consideration of plutonium reprocessing and recycle. Indeed, the Commission's very considerable participation in the INFCE clearly demonstrates that we are continuing to develop and analyze not only information directly related to the "base case" of plutonium recycle considered in GESMO, but also information regarding more proliferation-resistant fuel cycles. All of this information will be demonstrably relevant at some point in the future to a final Commission decision on reprocessing and recycle. It would seem clear, therefore, that we have not terminated our examination of the questions addressed by GESMO. We have instead merely halted a hearing on one option alone, while we determine which other available options ought also to be considered.

Finally, I believe that "deferral" rather than "termination" of the GESMO proceeding is the closer analogy to the several "freeze" cases which the Commission referenced in support of our decision to halt consideration of individual license applications.[25] I agree that those cases strongly support the concept of the Commission's suspending action on all licenses in a particular class, while it develops new policy related to that class. In each of those situations, however, a "policy" was being developed. The cases, therefore, are of questionable relevance in a situation in which it was believed that even consideration by the Commission of one class of licenses would be counterproductive to the President's policy.

Deferral of these proceedings would have avoided the unfortunate appearance that the Commission has made a final decision not to act upon license applications which are properly before it. Additionally, deferral would have left the Commission less susceptible to the argument that the Commission is improperly deferring to a Presidential request affecting not only a rulemaking hearing but also specific licenses which are being treated in an adjudicatory context.

[FR Doc. 78-12935 Filed 5-11-78; 8:45 am]

[22] AGNS currently holds a construction permit for portions of the Barnwell facility not covered by the exception for spent fuel storage, and thus within the ambit of activities for which proceedings have been terminated. However, since those facilities have already been essentially completed and the operating license proceedings have been terminated, we see no need to disturb the outstanding construction permit, or to continue the pending NEPA proceedings on the modification, suspension, or revocation of the construction permit.

[23] NFS currently holds an operating license for the West Valley facility. The facility was shut down in 1971 for modification, and NFS has since indicated that it will not reopen it. The staff's plans to convert the operating license to possession only are appropriate in light of our decision here.

[24] Commissioner Gilinsky noted that he considered the inclusion of this item unnecessary and inappropriate in the order.

[25] See pages 22-24 of the Commission's opinion.

[7590-01]

[Docket Nos. 50-556; 50-557]

PUBLIC SERVICE CO. OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC. AND WESTERN COOPERATIVE (BLACK FOX STATION, UNITS 1 AND 2)

Order

1. Pursuant to the Commission's amendment to Table S-3 of 10 CFR Part 51 and the directions therein (43 FR 15613, Apr. 14, 1978), the record in this case is reopened on National Environmental Policy Act issues for the limited purpose of receiving new evidence on radon releases and on health effects resulting from radon releases.

2. In a conference call on May 5, 1978, Intervenors' counsel advised that Dr. Robert Pohl would be called as an expert witness. Applicants' counsel advised that no witnesses would be presented. Staff counsel advised that Dr. Reginald Gotchy and Mr. Paul Magno would be called to testify, that Messrs. Homer Lowenberg, Jack Rothfleisch and Ralph Wilde might be called to testify, and that the pre-filed written testimonies of the witnesses called to testify will be the affidavits attached to the "Staff's Motion for Leave To Admit Radon Testimony," dated April 20, 1978.

3. The parties promptly shall initiate and conclude discovery procedures, if any, and on or before May 22, 1978, the Intervenors shall file the written testimony of Dr. Pohl. Upon service of this Order, the Staff will identify those witnesses who, in addition to Dr. Gotchy and Mr. Magno, will appear as expert witnesses.

4. This hearing, reopened for the limited purpose set forth in paragraph 1, above, will be held on June 5 and 6, 1978 at 9 a.m. in courtroom No. 3, United States Courthouse, 333 West Fourth Street, Tulsa, Okla.

5. In light of the instant Order, "Staff's Motion for Leave To Admit Radon Testimony," dated April 20, 1978, is denied. Applicants' motion for conference call, dated May 1, 1978, has been mooted by the conference call of May 5, 1978, and thus is denied.

6. The public is invited to attend the hearing.

It is So Ordered.

Dated at Bethesda, Md., this 8th day of May 1978.

For The Atomic Safety and Licensing Board.

SHELDON J. WOLFE,
Chairman.

[FR Doc. 78-12940 Filed 5-11-78; 8:45 am]

[7590-01]

[Docket Nos. 50-445 and 50-446]

TEXAS UTILITIES GENERATING CO., ET AL. (COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2)

Receipt of Application for Facility Operating Licenses

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has docketed a portion of an application for facility operating licenses from Texas Utilities Generating Co., Dallas Power & Light Co., Texas Electric Service Co., and Texas Power & Light Co., (the applicants), which would authorize the applicants to possess, use, and operate two pressurized water nuclear reactors (the facilitites), located in Somervell County, Tex. Each unit would operate at a reactor core power level of 3411 megawatts thermal. Construction of the facilities was authorized by Construction Permits Nos. CPPR-126 and CPPR-127, issued by the Atomic Energy Commission[1] on December 19, 1974. Construction of Unit 1 is anticipated to be completed by August 1, 1981, and Unit 2 by August 1, 1983.

The portion of the application docketed by the Commission on April 25, 1978, consisted of the Final Safety Analysis Report, which is currently undergoing review. The applicants submitted an Environmental Report which has not yet been accepted for docketing. Upon docketing of the Environmental Report, the Commission will notice an opportunity for hearing on radiological safety and environmental issues to be considered during the review. After the Environmental Report has been accepted and analyzed by the Commission's Director of Nuclear Reactor Regulation or his designee, a Draft Environmental Statement will be prepared by the Commission's staff. Upon preparation of the Draft Environmental Statement, the Commission will cause to be published in the FEDERAL REGISTER a notice of availability of the Draft Statement, requesting comments from interested persons on the Draft Statement. The Draft Environmental Statement will focus only on matters which differ from those previously discussed in the final Environmental Statement prepared in connection with the issuance of the construction permits. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the staff will prepare a Final Environmental Statement, the availability of which will be noticed in the FEDERAL REGISTER.

Upon completion of the staff's safety and environmental reviews, the Commission will consider the issuance of facility operating licenses to Texas Utilities Generating Co., Dallas Power & Light Co., Texas Electric Service Co., and Texas Power & Light Co., which would authorize the applicants to possess, use, and operate the Comanche Peak Steam Electric Station, Units 1 and 2.

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated Fedruary 27, 1978, which is available for public inspection at the Commission's Public document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Somervell County Public Library, On the Square, P.O. Box 417, Glen Rose, Tex. 76043. Additionally, all correspondence documenting the staff's review of the application is available at these locations. As they become available, the following documents may be inspected at the above locations: (1) the Safety Evaluation Report prepared by the Office of Nuclear Reactor Regulation; (2) the Draft Environmental Statement; (3) the Final Environmental Statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

Dated at Bethesda, Md., this 8th day of May 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc. 78-12941 Filed 5-11-78; 8:45 am]

[1] Pursuant to the Energy Reorganization Act of 1974, as amended, the Atomic Energy Commission (AEC) was abolished. the Nuclear Regulatory Commission assumed the licensing and related regulatory functions of the AEC.

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, on May 8, 1978, the President received a report from the United States International Trade Commission (USITC) on the case of Certain Stainless Steel Flatware (Investigation

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No. TA-201-30). The Commission submitted a report containing an affirmative determination that Certain Stainless Steel Flatware, provided for in items 650.08, 650.09, 650.10, 650.12, 650.38, 650.39, 650.40, 650.42, 650.54, 650.55 and, if included in sets, 651.75 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission finds and recommends that, to prevent or remedy the serious injury to the domestic industry, it is necessary to impose rates of duty, in lieu of the present rates of duty, with respect to U.S. imports of knives, forks, spoons, and ladles, having stainless steel handles, valued under 60 cents each, as follows:

Recommended rates of duty

Item	1st year	2d year	3d year	4th year	5th year
Knives and forks: Valued under 25¢ each (TSUS items 650.08, 650.10, 650.38, and 650.40).	1¢ each +55 pct ad valorem.	1¢ each +50 pct ad valorem.	1¢ each +45 pct ad valorem.	1¢ each +40 pct ad valorem.	1¢ each +30 pct ad valorem.
Valued 25¢ or more but under 60¢ each (TSUS items 650.09, 650.12, 650.39, and 650.42).	0.5¢ each +55 pct ad valorem.	0.5¢ each +50 pct ad valorem.	0.5¢ each +45 pct ad valorem.	0.5¢ each +40 pct ad valorem.	0.5¢ each +30 pct ad valorem.
Spoons valued under 60¢ each (TSUS items 650.54 and 650.55).	55 pct ad valorem	50 pct ad valorem	45 pct ad valorem	40 pct ad valorem	30 pct ad valorem.

Under TSUS item 651.75, knives, forks, spoons, and ladles having stainless steel handles will continue to be dutiable at the rate of duty applicable to that article in the set subject to the highest rate of duty including, for such articles valued at under 60 cents each, the rates recommended above.

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest, and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) the geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States market is a focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Additional information on this case is available in USITC report 201-30).

Briefs should be submitted in twenty (20) copies to Secretary, Trade Policy Staff Committee, room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506.

to be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than the close of business Tuesday, May 30, 1978.

WILLIAM B. KELLY, Jr.
Chairman, Trade Policy Staff Committee.

[FR Doc. 78-13005 filed 5-11-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20535; 70-6128]

ALABAMA POWER CO.

Proposal To Acquire Municipal Distribution System

MAY 5, 1978.

Notice is hereby given that Alabama Power Co. ("Alabama"), P.O. Box 2641, Birmingham, Ala. 35291, a public-utility subsidiary company of The Southern Co. ("Southern"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Alabama proposes to acquire the electric distribution system ("Distribution System") of The Utilities Board of The town of Fulton, Ala. ("the Board") from the Board. Alabama presently serves the Board with its electric power requirements and the Board resells such power to its customers in the town of Fulton, Ala. The Board presently serves seventeen commercial customers and 163 residential customers. Upon consummation of the acquisition, Alabama would serve the Board's customers and the Board would discontinue selling power. Alabama states that it has been advised by the Board that the Board seeks to sell the facilities because the limited number of customers served and the associated revenues do not justify the maintenance of a staff of qualified engineers, electricians, and other technicians required for the maintenance and operations of the Distribution System.

Alabama states that the total purchase price of the Distribution System is $120,000.00 and was arrived at through arms-length negotiations between Alabama and the Board. The original cost and the Board's book cost of the Distribution System is $68,840.00, and, as of September 30, 1977, the applicable accumulated depreciation is $68,157.00. The reproduction cost depreciated of the Distribution System, including a reasonable rate of return over its remaining useful life, is $129,796.15. Alabama estimates that the addition of the Board's existing customers as retail customers of Alabama will result in increased annual revenues to Alabama of $36,210.35, based on present rates.

It is stated that upon acquisition of the Distribution System, the Distribution System will become part of the integrated transmission and distribution system of Alabama. The Distribution System is currently connected to Alabama's transmission system at its Scotch Lumber Co. Substation.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $4,000, including legal fees estimated at $1,000. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 30, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12887 Filed 5-11-78; 8:45 am]

[8010-01]

[Release No. 14737; SR-Amex-78-7; SR-NYSE-78-12]

AMERICAN STOCK EXCHANGE, INC. AND NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Changes

MAY 4, 1978.

On February 23 and 24, 1978, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, N.Y. 10006, and the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, N.Y. 10006, respectively filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of proposed rule changes which would provide investors with a simple and inexpensive procedures for the arbitration of small claims against member firms.[1] The proposed rules would provide for determination by a single arbitrator knowledgeable in securities matters of disputes between brokerage firms and customers involving amounts not exceeding $2,500.[2]

Notice of the proposed rule changes together with the terms of substance of the proposed rule changes was given by publication of Commission releases (Securities Exchange Act Release Nos. 14546 and 14547, March 10, 1978) and by publication in the FEDERAL REGISTER (43 FR 10994 and 10996, March 16, 1978). All written statements with respect to the proposed rule changes which were filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person were considered and were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NYSE and the Amex, and in particular, the requirements of Section 6 and the rules and regulations thereunder. The proposed rule changes will provide a more effective efficient and economical dispute resolution system for public investors with small claims and thus will protect investors and the public interest.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12894 Filed 5-11-78; 8:45 am]

[8010-01]

[Release No. 14624; File No. SR-CBOE-77-21]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Filing of Amendment to Proposed Rule Change

MARCH 31, 1978.

The Chicago Board Options Exchange, Inc. ("CBOE") submitted on October 25, 1977, a proposed rule change under rule 19b-4, designated by the CBOE as Interpretations .01 and .02 to its existing rule 4.16, providing for the imposition of trading restrictions on discount opening uncovered option writing transactions during the pendency of underwritten distributions of securities underlying call options traded on the CBOE. Notice of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14136 (November 4, 1977)) and by publication in the FEDERAL REGISTER (42 FR 59141 (November 15, 1977)).

As originally filed, the proposed rule change would have imposed trading restrictions on discount opening uncovered option transactions ("discount transactions") at the request of an issuer of securities underlying a CBOE-traded call option which is engaged in a public underwritten distribution of such underlying securities (or securities exchangeable for or convertible into such underlying securities), or at the request of the representative of the underwriters of such distribution and would have been in effect for the period that the underwriters were engaged in stabilizing activities. The proposed rule change would have excepted discount transactions effected by marketmakers acting in the course of contributing to a fair and orderly market. On March 27, 1978, the CBOE filed an amendment to Interpretation .01 of the proposed rule change which eliminates the exception for discount transactions by CBOE marketmakers as well as the re-

[1] On April 12, 1978 the NYSE filed with the Commission an amendment to its proposed rule change clarifying its constitutional provisions with respect to the composition of its arbitration panels.

[2] The proposed rules also provide a procedure for interposing related counterclaims. This procedure is to be clarified by the NYSE and the Amex with respect to the scope of "related" counterclaims; the clarification will be reflected in the stated policies, practices, or interpretations of the exchanges, as well as in the arbitration booklet to be distributed to public investors.

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quirement that the issuer or underwriter submit a written request that the CBOE impose restrictions on discount transactions. On the basis of the proposed rule change, as amended, restrictions on discount transactions (including discount transactions by CBOE marketmakers) would be imposed commencing at the time the CBOE is advised by the issuer or underwriter (or the Secretary of the CBOE is otherwise notified) that the underwriters have initiated stabilizing activities in the underlying securities and terminating upon the termination of such stabilizing activities.

Publication of the release which provides notice of the amendment to the proposed rule change is expected to be made in the FEDERAL REGISTER during the week of April 3, 1978. In order to assist the Commission to determine whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views, and arguments concerning the submission on or before June 12, 1978. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file No. SR-CBOE-77-21.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12893 Filed 5-11-78; 8:45 am]

[8010-01]

[Release No. 34-14725; File No. SR-CBOE-1978-12]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on April 19, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows (additions are italicized; deletions are bracketed):

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 4.17 Restriction of Out-of-the-Money-Options

(a) (No change)
(b) (1)-(3) (No change)
(b) [or] (4) *the entry of an order for the purchase of a put against a long position on a share-for-share basis in either the underlying security or a security immediately exchangeable or convertible without restriction other than the payment of money into the underlying security;* or [(4)] (5) any transaction of a Market-Maker pursuant to the provisions of Rule 8.7.
(c) (No change)
. . . Interpretations and Policies: (No change)

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of this proposed change to rule 4.17 is to allow investors which have a postion in a security underlying Exchange-traded options or a security which is exchangeable for or convertible into a security underlying Exchange-traded options to purchase a put option on a share-for-share basis which would have the effect of protecting such purchaser from a decline in the price of the underlying stock.

The operation of this proposed exception to the prohibitions in paragraph (a) of rule 4.17 is the same as that of paragraph (b)(1). Both provide a means whereby investors may protect their long securities positions from market declines through effecting offsetting options transactions.

The basis under the Act for this proposed rules change is found in that portion of section 6(b)(5) which specifies that rules of the Exchange be designed to promote just and equitable principles of trade and protect investors and the public interest.

Oral comments from member firms doing business with the public suggest that this proposed rules change is desired by and would be beneficial to the public.

The Exchange does not believe that this proposed rules change will impose any burden upon competition.

On or before June 16, 1978, or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 30, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 1, 1978.

[FR Doc. 78-12895 Filed 5-11-78; 8:45 am]

[8010-01]

[Rel. No. 10231; 811-915]

INTEGON GROWTH FUND CORP.

Filing of Application for an Order Declaring That Applicant Has Ceased to Be an Investment Company

MAY 4, 1978.

Notice is hereby given that Integon Growth Fund Corp. ("Applicant"), 420 North Spruce Street, Winston-Salem, N.C. 27102, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on March 27, 1978, pursuant to section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a corporation organized under the laws of the State of North Carolina, registered under the Act on November 24, 1959. Subsequently, on December 14, 1959, it filed a registration statement on form S-5 under the Securites Act of 1933 (file No. 2-15928) for the public offer and sale of shares of its common stock. This registration statement was declared effective by the Commission on April 29, 1960, and Applicant was thereby authorized to offer 290,000 shares of its common stock for sale to the public.

At a Substitute Annual Meeting of Applicant's shareholders held on December 30, 1976, more than two-thirds of Applicant's shareholders approved

an Agreement and Plan of Reorganization which provided for, among other things, the sale by Applicant of substantially all of its assets to Bullock Fund, Ltd. ("Bullock"), a Maryland corporation and a diversified, open-end management investment company registered under the Act, in exchange for shares of voting stock of Bullock, and the distribution of Bullock shares to the holders of Applicant's outstanding shares in liquidation of Applicant. The sale and exchange transaction was consummated on January 6, 1977, at which time all outstanding shares of the Applicant became shares of Bullock.

The application states that Applicant currently has no assets, no securityholders, no outstanding debts, and that it is not a party to any pending litigation or administrative proceedings. The application also states that Applicant is not currently engaged and does not propose to engage in any business activities. The application further states that Applicant is currently in the process of being liquidated pursuant to North Carolina State law; and that it intends to file a certificate of dissolution pursuant to such law, which will complete the process of its formal dissolution under North Carolina State law.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 30, 1978, at 5:30 p.m., submit to the Commission in writing a request for hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12888 Filed 5-11-78; 8:45 am]

[8010-01]

[Release No. 20533; 70-6159]

LOUISIANA POWER & LIGHT CO.

Proposed Sale and Leaseback of Nuclear Fuel

MAY 5, 1978.

Notice is hereby given that Louisiana Power & Light Co. ("Louisiana"), 142 Delaronde Street, New Orleans, La. 70174, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Louisiana proposes to enter into a lease with Bayou Fuel Co. ("Bayou"), under which Louisiana would lease nuclear fuel and incident facilities from Bayou. The nuclear fuel will be used to satisfy the fuel requirements of Louisiana's Waterford Unit No. 3 nuclear-fired electric generating facility under construction near Killona, La. Bayou will be a wholly owned subsidiary of Lehman Leasing, Inc. ("Lehman Leasing"), a leasing subsidiary of Lehman Bros. Kuhn Loeb, Inc., an investment banking firm.

Louisiana currently has contracts for the supply of nuclear materials and services and for the fabrication of nuclear fuel cores to be used in Waterford 3. It is expected that the fabrication of the initial core will be completed in 1980, and that fuel loading of the initial core in the reactor will commence that same year. Immediately upon receipt of the order of the Commission in this matter, Louisiana will sell to Bayou its interest in the supply of nuclear fuel for the first core of Waterford 3 and simultaneously will enter into a lease with Bayou. Bayou will pay Louisiana its book cost (including applicable allowance for funds used during construction) of such interest, which at February 28, 1978, was $7,999,259.

Under the terms of the lease, Bayou will make additional payments to suppliers, processors, and manufacturers necessary to carry out the terms of Louisiana's contracts for nuclear fuel for Waterford 3 or Louisiana will make such payments and will be reimbursed by Bayou; Bayou may also make payments to future suppliers of nuclear fuel for Waterford 3 or Louisiana will make such payments, subject to reimbursement by Bayou. Bayou's maximum commitment to make payments for nuclear fuel is $59,000,000 at any one time outstanding.

Under the lease, Louisiana will be responsible for operating, maintaining, repairing, replacing, and insuring the nuclear fuel and for paying all taxes and costs arising out of the ownership, possession, or use thereof. The term of the lease will be through June 1, 2028; however, if either party gives written notice of termination by June 1, 1980, or any subsequent June 1, the lease shall automatically terminate on June 1 of the third following year.

The obligation to make lease payments will commence the term of the lease; they will be payable quarterly. These payments will include: (A) a quarterly lease charge, which will represent an administrative charge of ⅛ of 1 percent per annum of the stipulated loss value, as payable by Bayou to Lehman Leasing, and Bayou's other allocated operational costs, and (B) a burn-up charge equal to the cost of the nuclear fuel consumed while it is in the reactor and producing heat. Prior to commercial operation of Waterford 3 or when the nuclear fuel is not in the reactor and producing heat, Louisiana may elect to capitalize quarterly lease charges or daily portions thereof so long as the amount of credit still available to Bayou under its $60,000,000 credit agreement with Security Pacific National Bank ("Bank") exceeds the sum of the stipulated loss value of the nuclear fuel, the amount of such charges, and $1,000,000. Louisiana may consequently, subject to the foregoing limitation, defer rental payments until those times during commercial operations when the nuclear fuel is in the reactor and producing heat in the production of electric energy.

Louisiana may terminate the lease at any time. Bayou may terminate the lease under certain circumstances, including, among others, if it becomes subject to certain adverse rules, regulations, or declarations with respect to its status or the conduct of its business, if there is a nuclear incident of sufficient magnitude, and by notice of a desire not to renew the lease by June 1, 1980, or by any subsequent June 1 followed by the lapse of 3 years. Upon the occurence of any event of termination, title to the nuclear fuel shall automatically be transferred to Louisiana. Within 120 days, but not less than 90 days after notice of termination, Louisiana will be unconditionally obligated to purchase the nuclear fuel from Bayou at a purchase price equal

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to the sum of the stipulated loss value of the nuclear fuel plus the termination rent (defined as an amount which, when added to the stipulated loss value then payable by Louisiana, will enable Bayou to retire all of its obligations under the credit agreement at their respective maturities) both computed as of the day of purchase. Upon consummation of such purchase, all obligations of Louisiana under the lease will terminate except to the extent provided therein.

Upon the occurence or an event of default, Bayou may: (A) treat the event of default as an event of termination with the results specified in the proceeding paragraph and proceed at law or in equity for enforcement of the applicable provisions of the lease or for damages, and/or (B) it may terminate the lease. If Bayou terminates the lease as a result of the occurrence of an event of default, Louisiana's interest in the nuclear fuel will terminate and Bayou may take possession of the nuclear fuel and sell it. In the event of such a termination, Bayou may recover from Louisiana damages and expenses resulting from the breach of the lease, all accrued unpaid amounts owed to it by Louisiana, and liquidated damages.

Louisiana proposes to charge the rent under the lease to fuel expense and to account for the transaction as a lease rather than a purchase.

Under the terms of the lease, the amount of the quarterly lease payments by Louisiana will be measured by, among other things, the amount of costs incurred by Bayou in connection with its acquisition of nuclear fuel. Bayou has advised Louisiana that it will finance its obligations under the lease through the credit agreement with the Bank. As required by the lease, Louisiana would approve of Bayou's entry into the credit agreement.

Under the credit agreement, Bayou would issue and sell its commerical paper, supported by an irrevocable letter of credit issued by the Bank. Bayou proposes to use Lehman Bros. Kuhn Loeb, Inc., or Lehman Commercial Paper, Inc. (collectively or separately referred to as "Lehman") as dealers in connection with the sale of the commercial paper, which sale will be at a rate expected to be equal to the best rate available (including a ⅛ of 1 percent per annum dealer discount) consistent with prudent marketing considerations. Marine Midland Bank ("Depositary") would, under a depositary agreement, act as issuing agent for Bayou's commercial paper. Under the credit agreement, Bayou could also make revolving credit borrowings to be evidenced by its promissory notes when it is impossible or impracticable to issue commercial paper. The term of the credit agreement will be through June 1, 2028; however, if any party gives written notice of termination by June 1, 1980, or any subsequent June 1, the credit agreement shall automatically terminate on June 1 of the third following year.

In consideration for the issuance of the letter of credit, Bayou will pay the Bank a quarterly fee of 1 percent per annum (computed on the basis of a 365-day year) on the average principal amount outstanding of Bayou's commercial paper (determined on a daily basis). In addition, Bayou will pay the Bank a commitment fee at a rate per annum (based on a 365-day year and actual days elapsed) of ¼ of 1 percent of the difference between the Bank's commitment of $60,000,000 and the total principal amount of outstanding commercial paper, provided that no commitment fee shall be paid when the amount of outstanding commercial paper exceeds $45,000,000. Should there be a drawing under the letter of credit, Bayou may reimburse the Bank either in immediately available funds or by means of a revolving credit borrowing.

Each promissory note issued to evidence a revolving credit borrowing shall bear interest (computed on the basis of a 365-day year and payable quarterly) on the unpaid principal amount thereof at an interest rate equal to 120 percent of the base rate in effect from time to time. Base rate is the greater of: (A) the Bank's prime rate for 90-day commercial loans to substantial and responsible commercial borrowers, as such rate may change from time to time, or (B) the latest 3-week moving average interest rate payable on 90- to 119-day dealer-placed commercial paper as published weekly by the Federal Reserve Bank of New York.

The aggregate amount of Bayou's revolving credit borrowing and commercial paper at any time outstanding will not exceed the maximum credit limit under the credit agreement.

Louisiana has been advised by Bayou that the Bank will grant participations in the loan arrangements evidenced by the credit agreement to other commercial banks and that the Bank will receive an assignment of the rents and other obligations under the lease as security for, among other things the Bank's letter of credit and its loans under the credit agreement. Bayou has also advised that the Bank will receive a security interest in the nuclear fuel. Louisiana will agree in the lease to acknowledge notice, and agree to the terms, of the assignment. Louisiana further understands from Bayou that Lehman Leasing will guarantee the payment of up to 15 percent of the obligations of Bayou under the credit agreement.

A statement of the fees, commissions, and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that the Louisiana Public Service Commission must either approve or indicate its non-opposition to the proposed transaction. The U.S. Nuclear Regulatory Commission has leasing and regulatory jurisdiction over the ownership, possession, storage, and handling of the nuclear fuel involved in the transaction. It is stated that no other State of Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 30, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12889 Filed 5-11-78; 8:45 am]

[8010-01]

[Release No. 20534; 70-6148]

LOUISIANA POWER & LIGHT CO.

Proposal for Sale of Electric Utility Facilities

MAY 5, 1978.

Notice is hereby given that Louisiana Power & Light Co. ("LP&L"), 142 Delaronde Street, New Orleans, La. 70174, and electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

LP&L serves the present electric power requirements of an oil refinery ("Garyville Refinery") located at or near Garyville in St. John the Baptist Parish, La. The Garyville Refinery is owned by Marathon Oil Co. ("Marathon"), a nonaffiliate. The Garyville Refinery is served at 13.8 KV through a 230/13.8 KV substation ("Frisco Substation") which was constructed to serve the Garyville Refinery. Marathon is now proceeding with an expansion of the Garyville Refinery which will add approximately 42 MW to its electric power requirements. Additional substation capacity will be needed to serve this additional load. LP&L states that it is not in a position at this time to commit itself to finance the construction of this additional substation capacity and that it has negotiated for the purchase by Marathon of that part of the Frisco Substation containing the transformation facilities and 13.8 KV switchgear, thereby putting Marathon in a position to effect the necessary expansion of capacity at its own expense as its own project, and thereafter to take service from LP&L at 230 KV. In order to divide ownership of the substation facilities in this manner, it will also be necessary for LP&L to sell Marathon that portion of the existing control house containing the 13.8 KV switchgear and associated relaying, and a portion of the substation site and fencing.

Accordingly, LP&L and Marathon have entered into an agreement dated March 27, 1978, for the sale of such assets, including real property, at its original cost of $1,428,361. To accomodate the proposed division of ownership, certain other items of equipment presently located in that portion of the substation to be retained by LP&L must be relocated and installed in that portion of the substation to be acquired by Marathon. LP&L will be reimbursed by Marathon for the relocation of such items.

LP&L states it anticipates making equipment investments estimated at approximately $44,750 by the time Marathon takes service at 230 KV and an additional amount not exceeding $150,000 by the time the refinery expansion has been completed and Marathon's load has increased by approximately 42 MW. It is stated that such investments will, in effect, be financed by the proceeds of the proposed sales. In any event, Alabama considers these investments relatively minor if the revenues anticipated to result from the increased Marathon load are considered.

LP&L further requests that the 60-day period provided by Rule 24(c)(1) within which the transactions proposed are to be carried out be extended through September 30, 1978.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $6,500, including legal fees estimated at $4,500. Under the terms of the Agreement, these fees and expenses are to be paid by Marathon. No state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 30, 1978, request in writing that a hearing be held on such declaration stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations permitted under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12890 Filed 5-11-78; 8:45 am]

[8010-01]

[File No. 81-339]

OLI, INC. AND OLSON LABORATORIES, INC.

Application and Opportunity for Hearing

MAY 5, 1978.

Notice is hereby given that OLI, Inc., formerly known as Olson Laboratories, Inc., has filed an application pursuant to Section 12(h) of the Securities, Exchange Act of 1934, as amended (the "Exchange Act") for an order exempting Olson Laboratories, Inc. ("Olson") from filing the Forms 10-K for the fiscal years ended December 31, 1977 and 1978, the interim Forms 10-Q, and all other reports required under Section 15(d) of the Exchange Act.

OLI, Inc.'s application discloses in part:

(1) On March 2, 1978, the stockholders of Olson approved a Plan of Merger pursuant to which Olson was merged into OLI, Inc., a wholly-owned subsidiary. Approximately 84 percent of the outstanding common stock of Olson was owned by Envirodyne Products Corporation ("Products") which in turn is wholly-owned by Envirodyne Industries, Inc. As a result of this merger Olson is now wholly-owned by Products and no longer has any public stockholders.

(2) In addition to the audited financial statements for the year ended December 31, 1976, the latest available financial statements of Olson, the unaudited financial statements for the period ending September 30, 1977, were included in the proxy statement sent to Olson stockholders in connection with the merger. No financial statements for any subsequent period have been prepared.

(3) On March 21, 1978, Olson sold substantially all of its assets and business to an unaffiliated corporation, Systems Control, Inc. By reason of such sale, Olson no longer has any day to day operations.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than May 30, 1978, may submit to the Commission in writing his view or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12892 Filed 5-11-78; 8:45 am]

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[8010-01]

[Rel. No. 20529; 70-6156]

PENNSYLVANIA ELECTRIC CO.

Proposed Issuance of First Mortgage Bonds at Competitive Bidding

MAY 3, 1978.

Notice is hereby given that Pennsylvania Electric Co. ("Penelec"), 1001 Broad Street, Johnstown, Pa. 15907, an electric utility subsidiary of General Public Utilities Corp. ("GPU"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Penelec proposes to issue and sell, in accordance with the competitive bidding requirements of Rule 50, up to $60,000,000 principal amount of First Mortgage Bonds ("New Bonds"). The New Bonds are to be issued under the Mortgage and Deed of Trust of Penelec to Bankers Trust Co., as Trustee, dated as of January 1, 1942, as heretofore amended and supplemented and as to be further amended and supplemented by a supplemental indenture creating the New Bonds. The proceeds from the sale are expected to be applied to the payment at or before maturity of up to $60,000,000 of Penelec's $75,000,000 principal amount of short-term bank loans expected to be outstanding at the date of sale of the New Bonds or for construction purposes. Premium, if any, resulting from the sale of the New Bonds will be used for financing the business of Penelec, including the payment of the expenses of this financing.

Penelec estimates the cost of its 1978 construction program to be approximately $115,000,000 (including allowance for funds used during construction) for additions to property in principal categories, and approximate amounts, as follows: Generation, $83,000,000; Transmission, $6,000,000; Distribution, $25,000,000; and other, $1,000,000.

Penelec states that the bidding procedures which it will use with respect to the New Bonds will require (a) that the price specified in the bids shall be not less than 98 percent and not more than 101 percent of the principal amount thereof and (b) that the interest rate to be borne by the New Bonds which shall be specified in the bids shall be a multiple of ⅛ of 1 percent, and will not establish a minimum or maximum interest rate within which bids may be submitted. Penelec further states that prior to June 1, 1983, none of the New Bonds may be redeemed at its option if the funds for such redemption are obtained by Penelec directly or indirectly from or in anticipation of borrowings by or for the account of Penelec at an interest cost (calculated after adjustment, in accordance with generally accepted financial practice, for any premium received or discount granted) less than the annual yield to maturity, calculated to the nearest 1/100 of 1 percent, of the New Bonds based on the interest rate and initial price thereof to the public, except under certain circumstances, in connection with any merger or consolidation to which Penelec may be a party.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $179,000, including $44,000 in legal fees and $15,500 in accountant fees. It is further stated that the fee of counsel for the prospective underwriters will be filed by amendment.

Penelec states that the Pennsylvania Public Utility Commission has jurisdiction with respect to the issuance and sale of the New Bonds. Penelec further states that no other state commission and no federal commission, other than this Commission, has jurisdiction with respect to the proposed transaction.

Notice is further given that any interested person may, not later than May 30, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reason for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-12891 Filed 5-11-78; 8:45 am]

[8010-01]

[Administrative Proceeding File No. 3-5423; File No. 81-343]

BEM HOLDING CORP.

Application and Opportunity for Hearing

MAY 5, 1978.

Notice is hereby given, That BEM Holding Corp. (the "Applicant") has filed an application pursuant to section 12(h) of the Securities Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of section 15(d) of the 1934 Act.

The Applicant states, in part:

1. Applicant has only one stockholder, El Paso Products Co., which is a wholly owned subsidiary of El Paso Natural Gas Co.

2. As of February 27, 1977, Applicant sold substantially all of its operating assets to another corporation and is no longer an operating company.

3. On May 2, 1977, Applicant redeemed all of its outstanding 4¼ percent Convertible Subordinated Debentures due 1990 and 4¼ percent Series A Convertible Subordinated Debentures due 1990.

4. Applicant no longer has any outstanding securites.

Accordingly, Applicant believes that the granting of an exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given, That any interested person not later than May 30, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13019 Filed 5-11-78; 8:45 am]

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[8010-01]

[Administrative Proceeding File No. 3-5430; File No. 81-346]

FARRELL LINES, INC. AND AMERICAN EXPORT LINES, INC.

Application and Opportunity for Hearing

MAY 5, 1978.

Notice is hereby given, That Farrell Lines, Inc., successor by merger to American Export Lines, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On March 28, 1978, Applicant was merged into Farrell Lines, Inc. As a result of the merger, there is no longer any market for Applicant's securities.

2. The Applicant has filed its Form 10-Q for the period ended September 30, 1977.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given, That any interested person not later than May 30, 1978, may submit to the Commission in writing his views on any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13018 Filed 5-11-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1465]

ALABAMA

Declaration of Disaster Loan Area

Monroe County and adjacent counties within the State of Alabama constitute a disaster area as a result of damage caused by tornadoes, strong winds, hail, and rains which occurred on April 18 through April 19, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 6, 1978, and for economic injury until the close of business on February 5, 1978, at:

Small Business Administration, District Office, 908 South 20th Street, Birmingham, Ala. 35205,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 5, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-12913 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1441; Amdt. No. 4]

CALIFORNIA

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 9546), Amendment No. 1 (see 43 FR 12418), Amendment No. 2 (see 43 FR 14196) and Amendment No. 3 (see 43 FR 15378) are amended in accordance with the President's declaration of February 15, 1978, to include Mono County and adjacent counties within the State of California. The Small Business Administration will accept applications for disaster relief loans from disaster victims in Mono County and adjacent counties within the State of California. The filing date for Mono and adjacent counties only is until the close of business on June 29, 1978, for physical damage and until the close of business on January 29, 1979, for economic injury. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 5, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-12914 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1468]

INDIANA

Declaration of Disaster Loan Area

The listing below of the 3 counties and adjacent counties within the State of Indiana constitutes a disaster area as a result of natural disasters as indicated:

Counties	Natural disaster(s)	Date(s)
Lake	Flooding	Apr. 1 to Apr. 17, 1978.
La Grange	High water and flooding.	Mar. 14 to Mar. 12, 1978.
Starke	Flooding	Mar. 25 to Apr. 8, 1978.

Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 6, 1978, and for economic injury until the close of business on February 5, 1979, at:

Small Business Administration, District Office, Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Ind. 46204.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 5, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-12915 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1413; Amdt. No. 6]

KANSAS

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 2966), Amendment No. 1 (see 43 FR 4892), Amendment No. 2 (see 43 FR 8603), Amendment No. 3 (see 43 FR 12140), Amendment No. 4 (see 43 FR 16232), and Amendment No. 5 (see 43 FR 19091), are amended by adding the following county:

County	Natural disaster(s)	Date(s)
Barton	Hailstorms.	May 2, and May 28, 1977.

and adjacent counties within the State of Kansas due to natural disasters as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on August 31, 1978, and for economic injury until the close of business on November 30, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

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Dated: May 3, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12916 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1466]

MISSISSIPPI

Declaration of Disaster Loan Area

Lawrence and Washington Counties and adjacent counties within the State of Mississippi constitute a disaster area as a result of damage caused by tornadoes which occurred on April 17, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 6, 1978, and for economic injury until the close of business on February 5, 1979, at:

Small Business Administration, District Office, Petroleum Building, Room 690, 200 East Pascagoula, Jackson, Miss.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 5, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-12917 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1453; Amdt. No. 3]

NEBRASKA

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 14368), Amendment No. 1 (see 43 FR 16584), Amendment No. 2 (see 43 FR 19092), are amended in accordance with the President's declaration of March 24, 1978, to include Dawson County. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named county and adjacent counties within the State. The termination dates for filing applications for physical damage are extended to the close of business on June 26, 1978, and for economic injury the close of business on January 25, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 3, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12918 Filed 5-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1460; Amdt. No. 1]

NORTH DAKOTA

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 19093) is amended in accordance with the President's declaration of April 17, 1978, to include Oliver County in the State of North Dakota. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named county, and adjacent counties within the State. The termination date for filing applications for physical damage is extended to the close of business on June 21, 1978, and for economic injury the close of business on January 29, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 5, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-12919 Filed 5-11-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 78-323; Reference: ATF O 1100.85]

DELEGATION TO THE ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT) OF AUTHORITIES OF THE DIRECTOR IN 27 CFR PART 170, MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 170, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel in Bureau Headquarters.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the filing of tax returns and payment of taxes, refund or credit of tax, restamping of packages, redemption of stamps, transfer of Virgin Islands or Puerto Rican spirits from customs custody to internal revenue bond, losses caused by major disasters, wine and wine products rendered unfit for beverage use, manufacture and sale of certain compounds, preparations, and products containing alcohol, and other miscellaneous provisions. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 170, Miscellaneous Regulations Relating to Liquor, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 170, Miscellaneous Regulations Relating to Liquor:

a. To prescribe all forms required by subpart G of 27 CFR Part 170, under 27 CFR 170.154.

b. To approve, pursuant to 27 CFR 250.55, formulas on ATF F 27-B Supplemental (5110.38), Formula and Process for Rectified Products, covering Puerto Rican spirits to be brought into the United States in bulk, under 27 CFR 170.155.

c. To prescribe all forms required by regulations, including applications, claims, records, and reports, under 27 CFR 170.302.

d. To request manufacturers to submit, or to receive from manufacturers, formulas for and samples of products for examination to verify claims of exemption from tax, under 27 CFR 170.613(b).

e. To approve changes of formulas which render products unfit for beverage use, under 27 CFR 170.615.

f. To declare other products to be unfit for use for beverage purposes, under 27 CFR 170.616(b), 27 CFR 170.617(a), and 27 CFR 170.618.

g. To approve formulas and processes described on ATF F 698 Supplemental (5120.29), Formula and Process for Wine, and to require the submission of samples of the matreials used in rendering wine or wine products unfit for beverage use, under 27 CFR 170.686.

4. *Redelegation.* a. The authorities in paragraphs 3a and 3c above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 3b and 3g above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist (GS-11).

c. The authorities in paragraphs 3d, 3e, and 3f above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the positon of ATF specialist.

Effective date: This order becomes effective on May 2, 1978.

Signed: May 2, 1978.

REX D. DAVIS,
Director.

[FR Doc. 78-12837 Filed 5-11-78; 8:45 am]

[3510-17]

THE WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

ADVISORY COMMITTEE MEETING

Scheduling

The Advisory Committee to the White House Conference on Balanced National Growth and Economic Development will meet on Monday, May 22, 1978 in Room 2010 of the New Executive Office Building, 726 Jackson Place NW., Washington, D.C., from 2 p.m. to 5 p.m.

The Committee will be discussing transmittal of the final Conference report to the President which is due to be delivered no later than July 29, 1978.

The meeting will be open to public observation. Approximately 40 seats will be available on a non-reserved basis. Copies of the minutes may be obtained on request thirty days after the meeting.

Inquiries may be addressed to Mr. James Childress, White House Conference on Balanced National Growth and Economic Development, 2001 S Street NW., Washington, D.C. 20009, telephone 202-673-7925.

Dated: May 10, 1978.

MICHAEL S. KOLEDA,
Director, White House Conference on Balanced National Growth and Economic Development.

[FR Doc. 78-13130 Filed 5-11-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 658]

ASSIGNMENT OF HEARINGS

MAY 9, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 142268 (Sub 28), Gorski Bulk Transport, Inc., now assigned August 9, 1978 for continued hearing at Washington, D.C. is advanced to August 2, 1978 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 116073 (Sub-No. 365), Barrett Mobile Home Transport, Inc., now assigned June 6, 1978, at Elkhart, Ind. is canceled and transfered to Modified Procedure.

MC 66505 (Sub 5), Peerless Stages, Inc., is assigned for hearing June 5, 1978 at San Francisco, Calif. and will be held at 5th Floor room 510 211 Main Street.

MC 141871 (Sub 5), Wni, Inc., is assigned for hearing June 1, 1978 at San Francisco, Calif. and will be held at 5th Floor room 510 211 Main Street.

MC 143178 (Sub 1), Golden State Coaches, Inc., is assigned for hearing June 12, 1978 at Chico, Calif. and will be held at Native Daughters Hall, 965 Salem Street.

MC 143059 (Sub-4), Mercer Transportation Co., & MC 141804 (Sub 95), Western Express, Division of Interstate Rental, Inc., is assigned for hearing May 31, 1978 at San Francisco, Calif., and will be held at 5th Floor, room 510 211 Main Street.

MC 144041, Downs Transportation Co., Inc., now being assigned June 6, 1978 (1 day) at Atlanta, Ga. and will be held in room 305, 1252 West Peachtree Street NW.

MC 99498 (Sub 5), Jimmy Stein Motor Lines, Inc., now assigned June 5, 1978 at Montgomery , Ala., will be held in room 816, Aronov Building, 474 South Court Street.

No. MC 116073 (Sub-No. 86), Barrett Mobile Home Transport, Inc., application dismissed.

MC 130281 (Sub 2), Holiday Travel, Inc., now assigned May 16, 1978 at Eau Claire, Wis. is canceled and transfered to Modified Procedure.

No. MC-C-9820, National Trailer Convoy, Inc. v. Dealers Transit, Inc., now assigned June 26, 1978, at Atlanta, Ga. is canceled.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13002 Filed 5-11-78; 8:45 am]

[7035-01]

[Exception No. 6 to Revised Service Order No. 1322]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.

Maintaining Car Order and Distribution Report

Pursuant to the authority vested in me by section (f) of Revised Service Order No. 1322, the Atchison, Topeka and Santa Fe Railway Co. is authorized to maintain the car order and distribution report at its regional system car distribution offices in Kansas City, Mo; Amarillo, Tex., and Barstow, Calif. Instead of maintaining such reports separately at each division headquarters regardless of the provisions of section (g)(1) of Revised Service Order No. 1322.

Effective 12:01 a.m., April 18, 1978.

Issued at Washington, D.C., April 18, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Chairman, Railroad Service Board.

[FR Doc. 78-12994 Filed 5-11-78; 8:45 am]

[7035-01]

[Docket No. AB-123]

CHICAGO PRODUCE TERMINAL CO.

Abandonment of Line in Chicago, Cook County, Ill.; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on December 13, 1977, and the decision of the Commission, Division 1, served April 14, 1978, as modified, adopted the report and decision of the Commission, Review Board No. 5, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission discussed in *Oregon Short Line R. Co.—Abandonment—Goshen,* 354 I.C.C. 76 (1977), to be born by the Atchison, Topeka, and Santa Fe Railway Co. and the Illinois Central Gulf Railroad Co., in equal amounts or as the two of them may otherwise agree. By letters dated April 18, 1978, and April 27, 1978, respectively, the Commission found that the above-described condition to which authority to abandon the line had been subject has been satisfied and the present and future public convenience and necessity permit the abandonment by the Chicago Produce Terminal Co. of its entire line of railroad, consisting only of a receiving and classification yard and team tract yard, in total length of approximately 1 mile and occupying an area of approximately 101 acres, all in Cook County, Ill. A certificate of abandonment will be issued to the Chicago Produce Terminal Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financially assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line; or (b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such

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abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-13003 Filed 5-11-78; 8:45 am]

[7035-01]

[I.C.C. Order No. 56 under Revised Service Order No. 1252]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Rerouting Traffic

To All Railroads:

In the opinion of Joel E. Burns, Agent, the Chicago, Rock Island, and Pacific Railroad Co. is unable to transport promptly all traffic offered for movement over its lines between St. Louis, Mo., and Kansas City, Mo., because of track conditions.

It is ordered, That:

(a) *Rerouting traffic.* The Chicago, Rock Island, and Pacific Railroad Co. being unable to transport promptly all traffic offered for movement over its lines between St. Louis, Mo., and Kansas City, Mo., because of track conditions, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4 p.m., April 27, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-12998 Filed 5-11-78; 8:45 am]

[7035-01]

[Exemption No. 123-A]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To all railroads:

Upon further consideration of Exemption No. 123, issued April 9, 1978.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 123 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is vacated.

This exemption shall become effective at 11:59 p.m., April 30, 1978.

Issued at Washington, D.C., April 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-12993 Filed 5-11-78; 8:45 am]

[7035-01]

[Amendment No. 1 to Exception No. 3]

ILLINOIS CENTRAL GULF RAILROAD CO.

Exception Under Section (a), Paragraph (6) Corrected Service Order No. 1304

By the Board:

The Illinois Central Gulf derailed and damaged forty-two (42) privately owned jumbo covered hopper cars in a train of 115 such cars in the vicinity of Edgewood, Ill., on April 2, 1978. The railroad has requested authority to substitute thirty-five (35) of its cars for the damaged cars in order to provide time to repair those cars suffering minor damage and to locate and assemble privately owned cars to replace those which cannot be repaired promptly.

It is ordered, That, pursuant to the authority vested in the Railroad Service Board by section (a)(6) of Corrected Service Order No. 1304, the Illinois Central Gulf Railroad Co. is authorized to operate thirty-five (35) additional jumbo covered hopper cars in unit-grain-train service to replace a like number of privately owned cars damaged in a derailment in the vicinity of Edgewood, Ill., on April 2, 1978, regardless of the provisions of section (a)(1), of section (a)(4)(i) and of section (a)(5).

Effective April 30, 1978.

Expires May 31, 1978.

Issued at Washington, D.C., April 27, 1978.

JOEL E. BURNS,
Chairman, Railroad Service Board.

[FR Doc. 78-12997 Filed 5-11-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MAY 3, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission by May 22, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a common carrier, by motor vehicles, over irregular routes.

No. MC 5101 (Sub-No. E1) (correction), filed June 4, 1974, and published in the FEDERAL REGISTER issue of July 15, 1975, and republished September 25, 1975, and partially republished, as corrected, this issue. Applicant: SREIN FURNITURE CARRIERS, INC., 2307 Bristol Pike, Craydon, PA 19020. Applicant's representative: James H. Sweeney, P.O. Box 684, Woodbury, NJ 08096. (2) *New upholstered furniture,* uncrated, and *parts and materials* used in the manufacture thereof; (a) from points in NJ on and north of NJ Hwy 33 and those points in NY, on and north and east of a line beginning at NY Hwy 7 at the NY-VT State line to Schenectady, NY, then along Interstate Hwy 90 to Utica, NY, then along NY Hwy 12 to Lowville, NY, then along NY Hwy 3 to Fargo, NY, then along NY Hwy 185 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction NY Hwy 87 to Odgensburg, NY, to points in VA and WV (excluding points in WV north of U.S. Hwy 40). The purpose of this filing is to eliminate the gateways of Philadelphia, PA, Hightstown, NJ, and/or Baltimore, MD.

NOTE.—The purpose of this republication is to correct the territorial description. The remainder of this letter-notice remains as previously published.

No. MC 40215 (Sub-No. E3) (correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of March 9, 1978, and partially republished, as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North 5th Street, Salina, KS 67401. Applicant's representative: James F. Flint, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (1)(B) from points in AR on and north of a line beginning at the AR-OK State line, and extending along U.S. Hwy 270, then east on U.S. Hwy 270 to junction U.S. Hwy 79, then northeast along U.S. Hwy 79 to junction U.S. Hwy 49, then east along U.S. Hwy 49 to the AR-MS State line, to points in AZ (Garden City, KS*). (8)(A) From points in AR on and north of a line beginning at the OK-AR State line, and extending along Interstate Hwy 40, then extending east along Interstate Hwy 40 to junction U.S. Hwy 64, then east along U.S. Hwy 64 to the AR-TN State line, to points in NM on and north of a line beginning at the TX-NM State line, and extending U.S. Hwy 380, then southwest along U.S. Hwy 380 to junction U.S. Hwy 70, then west along U.S. Hwy 70 (380) to junction U.S. Hwy 54 to the NM-TX State line (Garden City, KS*). The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

NOTE.—The purpose of this republication is to correct the territorial description. The remainder of this letter-notice remains as originally published.

No. MC 40215 (Sub-No. E8) (clarification), filed May 17, 1974, published in the FEDERAL REGISTER issue of March 9, 1978, and partially republished, as clarified, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Street, Salina, KS 67401. Applicant's representative: James Flint, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (7)(B) from points in ID to those points in KS on and south and east of a line beginning at the KS-NE State line, and extending along U.S. Hwy 81 (now Interstate Hwy 35), then along U.S. Hwy 81 to junction U.S. Hwy 56, then along U.S. Hwy 56 to junction U.S. Hwy 156 (formerly 50N), then along U.S. Hwy 156 to Garden City, KS, then east along U.S. 50 Alternate to U.S. Hwy 81 (now Interstate Hwy 35), to the junction of KS Hwy 99, then along KS Hwy 99 to junction KS Hwy 4, then along KS Hwy 4 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the KS-MO State line. The purpose of this filing is to eliminate the gateway of Wichita, KS.

NOTE.—The purpose of this republication is to clarify the highway changes. The remainder of this letter-notice remains as previously published.

No. MC 40215 (Sub-No. E27), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Street, Salina, KS 67401. Applicant's representative: James Flint, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (1)(A) from points in SD to points in AZ on and south of Interstate Hwy 40; (B) from those points in SD on and east of a line beginning at the ND-SD State line, and extending along SD Hwy 65, then along SD Hwy 65 to junction U.S. Hwy 212, to junction SD Hwy 63, then along SD Hwy 63 to junction Interstate Hwy 90, then along Interstate Hwy 90 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the SD-NE State line (Garden City, KS*). (2) From points in SD to points in AR (points in KS*). (3) From points in SD on and east of a line beginning at the ND-SD State line, and extending along U.S. Hwy 83, then south along U.S. Hwy 83 to the SD-NE State line, to points in CA (Coolidge, KS*). (4) From points in SD on and east of a line beginning at the ND-SD State line, and extending along U.S. Hwy 83 to junction U.S. Hwy 16, then along U.S. Hwy 16 to junction U.S. Hwy 183, then along U.S. Hwy 183 to the SD-NE State line, to points in CO (Concordia and/or Garden City, KS*). (5) From points in SD to points in DC (Marysville, KS; Kansas City, MO; Ravenna, OH*). (6) From points in SD on and west and south of a line beginning at the ND-SD State line, and extending along SD Hwy 37, then to junction U.S. Hwy 212, then along U.S. Hwy 212 to the SD-IA State line, to points in IN on and south of a line beginning at the IL-IN State line, and extending along U.S. Hwy 50 to junction U.S. Hwy 150, then east along U.S. Hwy 150 to the IN-KY State line, (Manhattan, KS, Kansas City, MO*). (7) From points in SD to points in KS (points in KS*). (8) From points in SD to points in KY (Kansas City, KS, or Manhattan, KS*). (9) From points in SD to points in LA (points in KS and Kansas City, MO*). (10) From points in SD on and west of a line beginning at the SD-ND State line, and extending along U.S. Hwy 83 to junction Interstate Hwy 90, then along Interstate Hwy 90 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the SD-NE State line, to points in MD (Manhattan, KS; Kansas City, MO; Ravenna, OH*). (11)(A) From points in SD on and west of a line beginning at the ND-SD State line, and extending south along U.S. Hwy 83 to junction U.S. Hwy 14, then east along U.S. Hwy 14 to junction SD Hwy 47, then along SD Hwy 47 to the SD-NE State line, to points in MO; (B) from points in SD to those points in MO on and west and south of a line beginning at the MO-IA State line, and extending along MO Hwy 5 to junction U.S. Hwy 36, then along U.S. Hwy 36 to the MO-IL State line (points in KS*). (12)(A) From points in SD on and east of a line beginning at the NE-SD State line, and extending along U.S. Hwy 83 to the SD-ND State line, to those points in NV on and south of a line beginning at the NV-CA State line, and extending along U.S. Hwy 6 to junction NV Hwy 25 then southeast along NV Hwy 25 to junction U.S. Hwy 93, then along U.S. Hwy 93 to the NV-AZ State line; (B) from points in SD on and east of a line beginning at the NE-SD State line near Tyndall, SD, and extending north along SD Hwy 37 to the SD-ND State line near Hecla, SD, to points in NV on and south and west of a line beginning at the CA-NV State line near Reno, NV, and extending east along U.S.

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Hwy 40 to junction U.S. Hwy 95 at Fallon, NV, then south along U.S. Hwy 95 to junction NV Hwy 31 at Hawthorne, NV, then south along NV Hwy 31 to the NV-CA State line (Garden City, KS*). (13) From points in SD to points in NM (Coolidge, KS*). (14) From points in SD to points in NY (Marysville, KS; Kansas City, MO; Ravenna, OH*). (15) From points in SD to points in NC (Manhattan, KS; Kansas City, MO*). (16) From points in SD on and west of a line beginning at the SD-ND State line near Lemmon, SD, and extending south along SD Hwy 73 to the SD-NE State line near Martin, SD to points in OH south of a line beginning at the OH-WV State line at Parkersburg, WV, and extending west along U.S. Hwy 50 to junction OH Hwy 28 at Chillicothe, OH, then west along OH Hwy 28 to junction OH Hwy 73 at Vienna, OH, then north and west along OH Hwy 73 to the OH-IN State line at Ford, OH (Marysville, KS; and Kansas City, MO*). (17) From points in SD to points in OK (points in KS*). (18) From points in SD on and west of a line beginning at the SD-ND State line near Buffalo, SD, and extending south along U.S. Hwy 85 to its intersecting of SD Hwy 70, then south along SD Hwy 79 to junction U.S. Hwy 385 near Hot Springs, SD, then south along U.S. Hwy 385 to the SD-NE State line, to points in PA (Marysville, KS and/or Manhattan, KS; Kansas City, MO, and Ravenna, OH*). (19) From points in SD to points in TN (Kansas City, KS*). (20) From points in SD to points in TX (points in KS*). (21) From points in SD on and east of a line beginning at the SD-ND State line, near Ellendale, ND, and extending south along U.S. Hwy 281 to the SD-NE State line near Pickston, SD, to points in Juab, San Pete, Carbon, Millard, and Kane Counties, UT (Garden City, KS*). (22)(A) From points in SD on and west of a line beginning at the ND-SD State line, and extending along U.S. Hwy 83 to the SD-NE State line near Valentine, NE to points in VA south and east of a line beginning at the Potomac River near Fredericksburg, VA, and extending west along VA Hwy 218 to junction VA Hwy 3 at Fredericksburg, VA, then west along VA Hwy 3 to junction VA Hwy 20, then along VA Hwy 20 to junction VA Hwy 231, at Orange, VA, then south along VA Hwy 231 to junction U.S. Hwy 250, then west along U.S. Hwy 250 to junction U.S. Hwy 225 at Monterey, VA, then south along U.S. Hwy 220 to junction VA Hwy 39 at Warm Springs, VA, then east along VA Hwy 39 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction U.S. Hwy 29 at Amherest, VA, then south along U.S. Hwy 29 to the VA-NC State line; (B) from points in SD to points in VA on and east and south of a line beginning at the VA-NC State line near Franklin, VA, and extending north along U.S. Hwy 258 to junction U.S. Hwy 65, then along U.S. Hwy 65 to Virginia Beach, VA. (Manhattan, KS; Kansas City, MO; Ravenna, OH*). (23) From points in SD on and west and south of a line beginning at the ND-SD State line, and extending south along SD Hwy 37 to junction Interstate Hwy 90 at Mitchell, SD, then east along Interstate Hwy 90 to the SD-MN State line near Sioux Falls, SD, to points in WV (Marysville, KS; Kansas City, MO*). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 61825 (Sub. No. E1249), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in KY to those points in NC on and east of a line beginning at the NC-VA State line, and extending along NC Hwy 8 to junction U.S. Hwy 311, to junction U.S. Hwy 220, to junction U.S. Hwy 74 to junction NC Hwy 38 to the NC-SC State line. The purpose of this filing is to eliminate the gateways of Smyth County, or Pulaski, VA, and Martinsville, VA.

No. MC 61825 (Sub. No. E1250), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from those points in KY on and north of a line beginning at the KY-VA State line, and extending along U.S. Highway 23 to junction U.S. Hwy 119, to junction KY Hwy 15, to junction KY Hwy 52, to junction KY Hwy 587, to junction U.S. Hwy 421, to junction KY Hwy 89 to junction U.S. Hwy 25, to junction U.S. Hwy 150, to junction KY Hwy 461, to junction KY Hwy 80, to junction U.S. Hwy 68, to junction U.S. Hwy 231, to junction U.S. Hwy 62 to the MO-KY State line at Wickliffe, KY, to those points in SC on and east of a line beginning at the NC-SC State line, and extending along U.S. Hwy 52 to junction SC Hwy 527, to junction SC Hwy 41 to junction U.S. Hwy 521, to junction U.S. Hwy Alternate 17 to the junction of U.S. 17 to the Winyah Bay, then to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of points in Smyth County, VA and Martinsville, VA.

No. MC 61825 (Sub. No. E1251), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, except commodities in bulk, household goods as defined by the Commission, from points in PA on and bounded by a line beginning at NJ-PA State line, and extending along U.S. Hwy 202 to Norristown, PA, then along U.S. Hwy 422 to Harrisburg, PA, then along U.S. Hwy 15 to junction U.S. Hwy Business 15 to the PA-MD State line, then along the PA-MD State line to the PA-DE State line to the PA-NJ State line, and then along the PA-NJ State line to the point of beginning, to points in AR, OK and TX and those points in KS west of a line beginning at the MO-KS State line, and extending north to junction U.S. Hwy 160, to junction U.S. Hwy 69, to junction KS Hwy 57, to junction U.S. Hwy 59, to junction U.S. Hwy 54, to junction U.S. Hwy 75, to junction U.S. Hwy 50, to junction KS Hwy 177, to junction U.S. Hwy 24, to junction U.S. Hwy 81 to the NE-KS State line. The purpose of this filing is to eliminate the gateway of Martinsville, VA

No. MC 61825 (Sub-No. E1252), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from those points on and bounded by a line beginning at the NY-PA State line, and extending along U.S. Hwy 15, then south along U.S. Hwy 15 to junction U.S. Hwy 220, to junction PA Hwy 144, to junction U.S. Hwy 322, to junction U.S. Hwy 522, to junction PA Hwy 641, to junction PA Hwy 997, to junction U.S. Hwy 11 to the MD-PA State line, then west along the MD-PA State line to junction U.S. Hwy 219, to junction PA Hwy 403, to junction PA Hwy 580, to junction U.S. Hwy 219, to junction PA Hwy 879, to junction Interstate Hwy 80, to junction PA Hwy 153, to junction PA Hwy 255, to junction PA Hwy 555, to junction PA Hwy 872, to junction PA Hwy 44, to junction PA Hwy 49, to junction PA Hwy 449 to the PA-NY State line, then east along the PA-NY State line to the point of beginning, to those points in OK and TX on and south of a line beginning at the LA-TX State line, and extending along TX Hwy 49, then west along TX Hwy 49 to junction U.S. Hwy 271 to the TX-OK State line, to junction U.S. Hwy 271, to junction U.S. Hwy 70, to junction U.S. Hwy 69 to the TX-OK State line, to junction U.S. Hwy 82, to junction TX Hwy 51, to junction U.S. Hwy 380, to junction U.S. Hwy 83, to junction U.S. Hwy 82 to the NM-TX State line. The purpose of this filing is to elimininate the gateways of Pulaski, and Martinsville, VA.

No. MC 61825 (Sub-No. E1253), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th

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Street NW., Washington, DC 20036. *New furniture*, from points in PA on and bounded by a line beginning at the NY-PA State line, and extending along U.S. Hwy 15, to junction U.S. Hwy 220, to junction PA Hwy 144, to junction U.S. Hwy 522, to junction PA Hwy 641, to junction U.S. Hwy 997, to junction U.S. Hwy 11 to the MD-PA State line, to junction U.S. Business Hwy 15, to junction Interstate Hwy 81, to junction U.S. Hwy 6, to junction PA Hwy 652, to the NY-PA State line, then along the PA-NY State line to the point of beginning, to points in AR, OK and TX on and south of a line beginning at the TN-AR State line, and extending along to junction Interstate Hwy 40, to junction Interstate Hwy 55, to junction U.S. Hwy 64 to the AR-OK State line, to junction OK Hwy 9, to junction U.S. Hwy 271, to junction OK Hwy 31, to junction OK Hwy 1, to junction OK Hwy 29, to junction U.S. Hwy 81, to junction OK Hwy 7, to junction U.S. Hwy 62 to the TX-OK State line, to junction U.S. Hwy 83, to junction U.S. Hwy 66 to the NM-TX State line. The purpose of this filing is to eliminate the gateways of Pulaski, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1254), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in PA on and bounded by a line beginning at the NY-PA State line, and extending along PA Hwy 652 to junction U.S. Hwy 6, to junction Interstate Hwy 81, to junction Interstate Hwy 83, to junction U.S. Hwy 422, to junction U.S. Hwy 202 to the PA-NJ State line, to the PA-NY State line to the point of beginning, to points in TX and AR those points in AR and OK on and south of a line beginning at the AR-MO State line at AR Hwy 25 to junction U.S. Hwy 63, to junction U.S. Hwy 62 to the AR-OK State line, to junction U.S. Hwy 62, to junction OK Hwy 16, to junction OK Hwy 33, to junction U.S. Hwy 270, to junction OK Hwy 3, to junction U.S. Hwy 64 to the OK-NM State line. The purpose of this filing is to eliminate the gateways of Pulaski, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1255), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street, NW., Washington, DC 20036. *New furniture*, from points in PA on and bounded by a line beginning at the MD-PA State line, and extending along U.S. Hwy 219 and extending northeast to junction PA Hwy 403, to junction PA Hwy 580, to junction U.S. Hwy 219, to junction PA Hwy 879, to junction Interstate Hwy 80, to junction PA Hwy 153, to junction PA Hwy 255, to junction PA Hwy 555, to junction PA Hwy 872, to junction PA Hwy 44, to junction PA Hwy 49, junction PA Hwy 449 to the PA-NY State line, then west along the PA-NY State line to junction U.S. Hwy 62, then southwest along U.S. Hwy 62 to junction PA Hwy 36, to junction PA Hwy 66, to junction PA Hwy 28, to junction Interstate Hwy 79, to junction Interstate Hwy 70 to the PA-WV State line to the PA-Md State line, then east along the PA-MD State line to the point of beginning, to those points in TX on and south of a line beginning at the TX-LA State line, and extending along TX Hwy 63, to junction U.S. Hwy 190, to junction U.S. Hwy 59, to junction U.S. Hwy 290, to junction TX Hwy 21, to junction Interstate Hwy 35, to junction U.S. Hwy 90, to junction U.S. Hwy 285, to to junction Interstate Hwy 10 to the US-MX International Boundary line. The purpose of this filing is to eliminate the gateways of Pulaski, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1256), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, except commodities in bulk, those of unusual value, household goods as defined by the Commission, (1) between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, and WA on and west of a line beginning at the NM-TX-MX International Boundary line near El Paso, TX, and extending east and north along the NM-TX State line to the NM-OK State line, then along the OK-NM State line to the OK-CO State line, then along OK-CO State line to junction U.S. Hwy 385, then north along U.S. Hwy 385 to junction U.S. Hwy 160, to junction CO Hwy 101, to junction U.S. Hwy 50 to junction Interstate Hwy 25, to junction U.S. Hwy 40 to the CO-UT State line, to junction U.S. Hwy 40 to junction Interstate Hwy 15 to the UT-ID State line, to junction Interstate Hwy 15, to junction U.S. Hwy 26, to junction U.S. Alternate Hwy 93, to junction U.S. Hwy 93 to the ID-MT State line to junction U.S. Hwy 93 to the Canadian-United States International Boundary line, on the one hand, and, on the other, those points in NJ on and northwest of a line beginning at the PA-NJ State line at U.S. Hwy 202, then northwest along U.S. Hwy 202 to the NJ-NY State line. The purpose of this filing is to eliminate the gateways of Pulaski, VA, Lynchburg, Va, and Smyth County, VA.

No. MC 61825 (Sub-No. E1257), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, except commodities in bulk, household goods as defined by the Commission, from points in NJ bounded by a line beginning at the Atlantic Ocean, at NJ Hwy 520 and extending southwest to junction NJ Hwy 34, to junction NJ Hwy 537, to junction NJ Hwy 33, to junction U.S. Hwy 1, to the PA-NJ State line, then north along the PA-NJ State line to junction U.S. Hwy 202, then to the NY-NJ State line, then south along the NY-NJ State line to Raritan Bay, then to the Atlantic Ocean, then south along the NJ coast line to the point of beginning, to points in AZ, CA, CO, ID, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY on and west of a line beginning at the NM-TX-MX International Boundary line near El Paso, TX, and extending east and north along the NM-TX State line to the NM-OK State line, then to the CO-KS State line to the KS-NE State line, then to the NE-MO State line, then along the NE-MO State line to the NE-IA State line, then along the NE-IA State line to junction U.S. Hwy 34 near Union NE, then west along U.S. 34 to junction U.S. Hwy 81 to junction NE Hwy 92, to junction NE Hwy 14, to junction U.S. Hwy 275, to junction U.S. Hwy 281 to the SD-NE State line, to junction U.S. Hwy 18, to junction SD Hwy 47, to junction U.S. Hwy 14, to junction U.S. Hwy 281 to the ND-SD State line, to junction U.S. Hwy 281 to junction ND Hwy 20, to junction ND Hwy 200 to junction ND Hwy 18, to junction U.S. Hwy 2 to the ND-MN State line, then north along the ND-MN State line to the Canadian-United States International Boundary line. The purpose of this filing is to eliminate the gateways of Lynchburg, VA, and Smyth County, VA.

No. MC 61825 (Sub-No. E1258), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, except commodities in bulk, household goods as defined by the Commission: (1) Between points in AZ, CA, CO, ID, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY on, west and south of a line beginning at the NE-IA State line at NE Hwy 2, and extending west to junction NE Hwy 11 to junction U.S. Hwy 20, to junction U.S. Hwy 83 to the NE-SD State line, to junction U.S. Hwy 83, to junction SD Hwy 10, to junction SD Hwy 45 to the SD-ND State line, to junction ND Hwy 3, to junction ND Hwy 34, to junction U.S. Hwy 281, to junction ND Hwy 20, to junction ND Hwy 15, to junction U.S. Hwy 81 to the ND-MN State line at Grand Forks,

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ND, then north along the ND–MN State line, to the United States-Canadian International Boundary line, on the one hand, on the other, points in NJ within 15 miles of Newark, NJ including Newark, NJ; (2) between points in NJ within 15 miles of Newark, NJ, including Newark, NJ, on the one hand, and, on the other, points in Origin in (1) above. The purpose of this filing is to eliminate the gateways of (1) Smyth County, VA, Lynchburg, VA, and Baltimore, MD; (2) Baltimore, MD, Lynchburg, VA, and Smyth County, VA.

No. MC 61825 (Sub-No. E1259), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, from those points in NJ on and north of U.S. Hwy 202 to points in AR, KS, OK, and TX on and south of a line beginning at the AR-TN-MO State lines, then along the AR-MO State line to the AR-OK State line, to junction OK Hwy 20, to junction U.S. Hwy 59, then south along U.S. Hwy 59 to junction U.S. Hwy 62, to junction OK Hwy 16, to junction OK Hwy 33, to junction U.S. Hwy 177, to junction U.S. Hwy 64, to junction U.S. Hwy 83 to the OK–KS State line, to junction U.S. Hwy 83, to junction KS Hwy 96 to the KS–CO State line. The purpose of this filing is to eliminate the gateway of Pulaski, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1260), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, except commodities in bulk, household goods, as defined by the Commission, from those points in NJ on, east and south of U.S. Hwy 202 to points in AR, KS, OK, and TX. The purpose of this filing is to eliminate the gateway of Martinsville, VA.

No. MC 61825 (Sub-No. E1269), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, as described in Appendix II to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from points in CO, ME, MA, NH, RI, and VT to points in AL. The purpose of this filing is to eliminate the gateways of a point in Smyth County, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1270), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, from points in CT, ME, MA, NH, RI, and VT to points in FL, LA and MS. The purpose of this filing is to eliminate the gateways of a point in Smyth County, VA, Martinsville, VA, and a point in GA.

No. MC 61825 (Sub-No. E1271), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, from points in ME, NH, and VT and points in MA and RI on, north, and east of a line beginning at the NY-MA State line, and extending east along U.S. Hwy 20 to junction U.S. Hwy 7, to junction MA Hwy 9, to junction MA Hwy 8-A, to junction MA Hwy 2, to junction MA Hwy 122, to junction Interstate Hwy 290, to junction MA Hwy 146, to junction Interstate Hwy 95, to junction U.S. Hwy 1, to junction RI Hwy 138 to Newport, RI, and then to the Atlantic Ocean, to Martinsville, VA. The purpose of this filing is to eliminate the gateway of points in Smyth County, VA.

No. MC 61825 (Sub-No. E1272), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in CT, ME, MA, NH, RI, and VT to points in NC and SC on and southwest of a line beginning at the TN-NC State line, and extending southeast along Interstate Hwy 40 to junction U.S. Hwy 25, to junction U.S. Hwy 176, to junction U.S. Hwy 21, and then to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of a point in Smyth County, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1273), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in ME, MA, NH, RI, and VT and those points in CT on, north and east of a line beginning at the NY-CT State line, and extending east along CT Hwy 4 to junction U.S. Hwy 6, to junction CT Hwy 2, to junction CT Hwy 85 to New London, CT, and then to the Block Island Sound, to points in NC and SC on and bounded by a line beginning at the VA-NC State line, and extending southwest along the Blue Ridge Parkway to junction U.S. Hwy 421, to junction U.S. Hwy 321 to the NC-TN State line, then southwest to junction Interstate Hwy 40, to junction U.S. Hwy 25, to junction U.S. Hwy 176, to junction U.S. Hwy 21, to junction U.S. Hwy 17, to junction SC Hwy 303, to junction U.S. Hwy 15, to junction SC Hwy 261, to junction U.S. Hwy 521 to Charlotte, NC, then along U.S. Hwy 21 to junction NC Hwy 268, to junction U.S. Hwy 601, to junction NC Hwy 103 to the NC-VA State line, and then west to the point of beginning. The purpose of this filing is to eliminate the gateways of a point in Smyth County, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1274), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in ME and points in MA, NH, and VT on and north of a line beginning at the NY-MA State line, and extending east along MA Hwy 2 to junction MA Hwy 8, to junction VT Hwy 8, to junction VT Hwy 9, to junction NH Hwy 9, to junction NH Hwy 101, to junction NH Hwy 101-A, to junction U.S. Hwy 3 to Boston, MA, and then to the MA Bay to points in NC and SC on and bounded by a line beginning at the VA-NC State line, and extending south along U.S. Hwy 220 to junction U.S. Hwy 1, to junction U.S. Hwy 52, to junction SC Hwy 7, to junction SC Hwy 171 to Folly Beach, SC, then along the Atlantic Shore to Hunting Island, SC, then along U.S. Hwy 21 to junction U.S. Hwy 17, to junction SC Hwy 303, to junction U.S. Hwy 15, to junction SC Hwy 261, to junction U.S. Hwy 521 to Charlotte, NC, then along U.S. Hwy 21 to junction NC Hwy 268, to junction U.S. Hwy 601, to junction NC Hwy 103 to the NC-VA State line, and then west to the point of beginning. The purpose of this filing is to eliminate the gateways of a point in Smyth County, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1275), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in FL to points in ME, NH, and VT on and northeast of a line beginning at Burlington, VT, and extending east along VT Hwy 15 to junction U.S. Hwy 2, to junction VT Hwy 18, to junction NH Hwy 18, to junction U.S. Hwy 302 to Portland, ME, and then to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Pulaski, Martinsville, VA, and Elizabeth City, NC.

No. MC 61825 (Sub-No. E1276), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *New furniture*, from points in FL on and bounded by a line beginning at the GA-FL State line, and extending

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south along U.S. Hwy 129 to junction FL Hwy 339, to junction U.S. Hwy 27 Alternate, to junction U.S. Hwy 27, to junction U.S. Hwy 441, to junction FL Hwy 50 to Titusville, FL, then south along the Atlantic coast to Riviera Beach, FL, then northwest along FL Hwy 710 to junction FL Hwy 70, to junction U.S. Hwy 98, to junction U.S. Hwy 27, to junction FL Hwy 60 to Clearwater, FL, then northwest along the shore of the Gulf of Mexico to Green Point, FL, then north along FL Hwy 65 to junction FL Hwy 12, to junction FL Hwy 20, to junction FL Hwy 71, to junction U.S. Hwy 90, to junction U.S. Hwy 231 to the FL-AL State line, then along the AL-FL State line, to the FL-GA State line, then along the GA FL State line to the point of beginning, to points in RI and points in CT, ME, MA, NH, and VT on and bounded by a line beginning at the NY MA State line, and extending west along U.S. Hwy 20 to junction MA Hwy 9, to junction MA Hwy 8, to junction U.S. Hwy 20, to junction Interstate Hwy 91, to junction CT Hwy 190, to junction CT Hwy 32, to junction U.S. Hwy 44, to junction CT Hwy 101, to junction CT Hwy 169, to junction CT Hwy 14 A, to junction CT Hwy 49 to the CT RI State line, then south to the Block Island Sound, then along the coast of RI, MA, NH, and ME to Portland, ME, then northwest along U.S. Hwy 302 to junction NH Hwy 18, to junction U.S. Hwy 2, to junction VT Hwy 15 to Burlington, VT, then to the VT-NY State line, then south along the NY-VT State line to the NY MA State line, then along the NY MA State line to the point of beginning. The purpose of this filing is to eliminate the gateways of Pulaski, Martinsville, VA, and Elizabeth City, NC.

No. MC 78228 Sub-No. E237) (Correction), filed September 25, 1975, published in the FEDERAL REGISTER issue of January 20, 1978, republished, as corrected, this issue. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, PA 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Alloys, ores, and silicon metals*, from points in WV on or north of U.S. Hwy 50 to points in PA on or north and east of a line beginning at the PA NY State line, then along U.S. Hwy 219 to junction PA Hwy 59, then along PA Hwy 59, to junction U.S. Hwy 6, then along U.S. Hwy 6 to Wellsboro, PA, then along PA Hwy 287, to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction PA Hwy 442, then along PA Hwy 442 to junction PA Hwy 42, then along PA Hwy 42 to Ashland, PA, then along PA Hwy 54 to junction O.S. Hwy 209, then along U.S. Hwy 209 to junction Interstate Hwy 80, then along Interstate Hwy 80 to the PA NJ State line. The purpose of this filing is to eliminate the gateway of Braddock, PA.

NOTE.—The purpose of this correction is to correct the territorial description.

No. MC 107002 (Sub-No. E20) (correction), filed May 20, 1974, published in the FEDERAL REGISTER issue of September 19, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Petroleum products*, in bulk, in tank vehicles, from points in Shelby County, TN, to points in FL (points in MS north of U.S. Hwy 80 and Mobile, AL, and points within 10 miles thereof*), NC, SC (points in MS north of U.S. Hwy 80 (except Crupp and Rogerslacy, MS), and Tuscaloosa, AL*), LA (points in MS north of U.S. Hwy 80, and Vicksburg, MS*), and those poinst in TX on and south of a line beginning at the LA TX State line, and extending along TX Hwy 7 to junction Hwy 79, to junction TX Hwy 95, to junction TX Hwy 29, to junction Interstate Hwy 10, to the TX-NM State line (points in MS north of U.S. Hwy 80, and Natchez, MS*), restricted to the transportation of petroleum products, as defined by the Commission, to points in LA and TX. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

NOTE.—The purpose of this republication is to correct the restriction.

No. MC 107002 (Sub-No. E21), filed May 20, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representatives: Harold D. Miller, Jr., P.O. Box 22567, Jackxon, MS 39205 and John J. Borth, P.O. Box 8573 Battlefield Station, Jackson, MS 39204. *Petroleum and petroleum products*, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, in bulk, in tank vehicles, (a) from Helena, AR, to points in AL (Lula, MS*), (B) from Helena, AR, to points in FL (Lula, MS, or Mobile, AL or Tuscaloosa, AL*), (C) from Helena, AR, to points in GA Lula, MS and/or Tuscaloosa, AL*), (D) from Helena, AR, to points in MO on, east and south of a line beginning at the AR MO State line, and extending along U.S. Hwy 65 to Springfield, then along U.S. Hwy 66 to St. James, then along MO Hwy 8 to junction U.S. Hwy 67, then along U.S. Hwy 67 to Farmington, and then along MO Hwy 32 to Ste. Genevieve (Friars Point, MS, the site of the terminal facilities of the OK-MS River Products Line, Inc., near West Memphis, AR, and the site of Southland Oil Co., located in Memphis, TN). (E) from Helena, AR, to points in NC. (Lula, MS and Tuscaloosa, AL*). (F) from Helena, AR, to those points in KY on and east of U.S. Hwy 231 (points in Memphis, TN Commercial zone which extends into MS*). (G) from Helena, AR, to those points in IL on and south of a line beginning at Chester and extending along IL Hwy 150 to junction IL Hwy 154, then along IL Hwy 154 to junction U.S. Hwy 51, then along U.S. Hwy 51 to Ashley, and then along U.S. Hwy 460 to the IL-IN State line (Friars Point, MS; the site of the pipeline terminal of OK-MS River Products Line, Inc., near West Memphis, AR; and the plantsite of Southland Oil Co. at Memphis, TN*). (H) from Helena, AR, to points in TN on and south of U.S. Hwy 50 (points in the Memphis, TN Commercial zone which extends into MS*). (I) from Helena, AR, to those points in LA on, south and east of a line beginning at Logansport and extending along U.S. Hwy 84 to junction U.S. Hwy 165, then along U.S. Hwy 165 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the LA-MS State line (Washington County, MS, and Vicksburg, MS*). (J) From Helena, AR, to Cincinnati, OH, and points in OH within 25 miles thereof (Lakeview, MS*). (K) from Helena, AR, to points in SC (Lula, MS and Tuscaloosa, AL*). (L) from Helena, AR, to points in TN on, north and east of a line beginning at the KY TN State line, and extending along TN Hwy 5 to junction TN Hwy 22, then along TN Hwy 22 to junction U.S. Hwy 70, then along U.S. Hwy 70 to the TN River, and then along the TN River to the TN-AL State line (Lula, MS or Tuscaloosa, AL, or Friars Point, MS, or the site of the pipeline facilities of the OK-MS River Products Line, Inc., located near West Memphis, AR*). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107002 (Sub-No. E75) (Correction), filed May 12, 1974, published in the FEDERAL REGISTER issue of May 21, 1975, and republished, as corrected this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Anhydrous ammonia and acids*, in bulk, and *ammonium nitrate, urea, fertilizer and fertilizer ingredients*, which are chemicals, in bulk, from the plant and storage facilities of Arkla Chemical Corp. in Phillips County AR, to points in MI. The purpose of this filing is to eliminate the gateways of Barfield, AR, and points within 10 miles thereof.

NOTE.—The purpose of this republication is to correct the commodity description.

No. MC 107002 (Sub-No. E215) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER issue of July 22, 1974, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's

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representative: John J. Borth (same as above). *Vegetable oil*, in bulk, in tank vehicles, from points in MS west and north of a line beginning at the TN-MS State line, and extending along U.S. Hwy 51 to junction Interstate Hwy 20, then along Interstate Hwy 20 to the MS-LA State line, to points in AR on and east of a line beginning at the AR-TN State line, and extending along Interstate Hwy 55 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the AR-MO State line. The purpose of this filing is to eliminate the gateway of Memphis, TN.

NOTE.—The purpose of this republication is to correct the territorial description.

No. MC 107002 (Sub-No. E218) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER issue of July 22, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Petroleum chemicals*, in bulk, in tank vehicles, from points in Adams County, MS, to points in LK, IN, IA, KS on and north of U.S. Hwy 40, KY, MI, MO, on, north, and east of a line beginning at the AR-MS State line, and extending along AR Hwy 5 to junction of U.S. Hwy 50, and then along U.S. Hwy 50 to the MO-KS State line, OH and WS. Restriction: Restricted against the transportation of dry petrochemicals, to the St. Louis, MO-East St. Louis, IL Commercial zone as defined by the Commission. The purpose of this filing is to eliminate the gateways of Vicksburg, MS, and points within 10 miles of Barfield, AR.

NOTE.—The purpose of this republication is to correct the restriction.

No. MC 107002 (Sub-No. E238), (correction), filed May 12, 1974, published in the FEDERAL REGISTER issue of August 26, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Petroleum products*, in bulk, in tank vehicles, from Jacksonville, FL, to points in AR (Jackson County, MS, and Cripp and Rogerslacy, MS*), LA (Jackson County, MS, and Vicksburg, MS*), OK (Jackson and Washington Counties, MS*), TX (Jackson County, MS*), those in MS on, south and west of a line beginning at the AL-MS State line, and extending along MS Hwy 19 to junction MS Hwy 15, then along MS Hwy 15 to junction MS Hwy 9, then along MS Hwy 9 to junction MS Hwy 7, then along MS Hwy 7 to the MS-TN State line (Jackson County, MS*), those in MO on, west and south of a line beginning at the AR-MS State line, and extending along U.S. Hwy 67 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction MO Hwy 34, then along MO Hwy 34 to junction MO Hwy 21, then along MO Hwy 21 to junction MO Hwy 49, then along MO Hwy 49 to junction MO Hwy 19, then along MO Hwy 19 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction MO Hwy 22, then along MO Hwy 22 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the IA-MO State line, to those in Choctaw, Mobile and Washington Counties, AL, and those in Shelby County, TN (Jackson County, MS, and points in MS within the Memphis, TN Commercial zone)*, those in Choctaw, Mobile, and Washington Counties, AL (Jackson and Union Counties, MS, and the site of the pipeline terminal of OK-MS River Products Co., Inc., near West Memphis, AR*); *petroleum products*, in bulk, in tank vehicles, from Lynn Haven, FL, to points in AR, LA, MS, MO, OK, TX and those in TN on and west of a line beginning at the MS-TN State line, and extending along U.S. Hwy 72 to junction TN Hwy 57, then along TN Hwy 57 to Collerville, then along unnumbered highway to Arlington, then along U.S. Hwy 79 to Brownsville, then along TN Hwy 19 to Ripley, and then along U.S. Hwy 51 to the TN-KY State line, restricted to the transportation of petroleum products described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 to points in AR, TN, and OK and restricted against the transportation of asphalt, points in OK and dry chemicals to points in TX. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

NOTE.—The purpose of this republication is to correct the restriction.

No. MC 107002 (Sub-No. E256), (correction), filed July 21, 1975, published in the FEDERAL REGISTER issue of August 18, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Liquid fertilizer*, in bulk, in tank vehicles, from Eudora, AR, to points in AL, GA (Vicksburg, MS*), FL (the plant site of Mississippi Chemical Corp. at Yazoo City, MS*), IL, IN, KY, MI, OH (Greenville, MS, and Memphis, TN*), IA (Greenville, MS, and Garfield, AR, and points within 10 miles thereof*), MO (Greenville, MS, and Memphis, TN, or the storage facilities of Allied Chemical Corp. at Pine Bluff, AR*), NC, SC (MS, except Crupp, Rogerslacy, and Zetus, MS, and Fox, AL*), OK, TN, TX (Greenville, MS*), WV (Hamilton, MS, and the plant site of Monsanto Chemical Co., at Anniston, AL*), WI (Greenville, MS, and Garfield, AR, and points within 10 miles thereof)* and those points in AR on and east of a line beginning at the AR-MO State line, and extending along AR Hwy 115 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction AR Hwy 1, then along AR Hwy 1 to the White River, then along the White River to the AR-MS State line (Greenville, MS, and the storage facilities of Allied Chemical Corp.), restricted against the transportation of anhydrous ammonia to points in AR and restricted against the transportation of fertilizer solutions as described in Appendix XIII, 61 MCC 209. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this republication is to add the State of WI, previously omitted.

No. MC 107002 (Sub-No. E258) (correction), filed July 21, 1975, published in the FEDERAL REGISTER issue of August 18, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Liquid animal and poultry feed ingredients*, in bulk, in tank vehicles, from those points in MS on, west, and south of a line beginning at the MS-TN State line, and extending along Interstate Hwy 55 to junction Interstate Hwy 20, then along Interstate Hwy 20 to the MS-AL State line, to points in Lake, Obion, Dyer, Lauderdale, Tipton, and Shelby Counties, TN (points in MS within the Memphis, TN, commercial zone*), and those in TN on and east of a line beginning at the TN-KY State line and extending along U.S. Hwy 41 Alternate to Clarksville and then along TN Hwy 13 to the TN-AL State line (Decatur, AL*). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this republication is to correct the territorial description of MS, previously omitted.

No. MC 107002 (Sub-No. E265) (correction), filed July 10, 1975, published in the FEDERAL REGISTER issue of August 18, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Petroleum and petroleum products*, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, in bulk, in tank vehicles, from Friars Point, MS, to those points in IN on and south of U.S. Hwy 50, those in KY on and east of U.S. Hwy 231 (the plant site of the OK-MS River Products Lines, Inc., near West Memphis, AR, and Memphis, TN*), those in TN within 300 miles of West Memphis, AR (the plant site of the OK-MS River Products Lines, Inc., near West Memphis, AR*), and Cincinnati, OH, and points in OH within 25 miles thereof (the site of the OK-MS River Products Lines, Inc., near West Memphis, AR*), and *petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carriers Certificates*, 61 MCC 209, in bulk, in tank vehicles, from Friars Point, MS, to points in MO (the plant site of the OK-MS River Products Lines, Inc., near West Memphis, AR*), and those in IL on and south of a line beginning at Chester and extending along IL Hwy 150 to junction IL Hwy 154, then along IL Hwy 154 to junction U.S. Hwy 51, then along U.S. Hwy 51 to Ashley, and then along U.S. Hwy 460 to the IL-IN State line (the plant site of the OK-MS River Products Lines, Inc., near West Memphis, AR, and the plant site of the Southland Co. at Memphis, TN*); restricted against the transportation of the involved commodities to points in KY within 200 miles of West Memphis, AR, and restricted against the transportation of asphalt to points in IL. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this republication is to correct the highway in IN to U.S. Hwy 50.

No. MC 107002 (Sub-No. E270), (correction), filed July 7, 1975, published in the FEDERAL REGISTER issue of August 18, 1975, and republished, as corrected, this issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Applicant's representative: John J. Borth (same as above). *Petroleum and petroleum products*, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, in bulk, in tank vehicles; (1) from those points in MS on and bounded by a line beginning at the AL-MS State line, and extending along MS Hwy 19 to Kosciusko, then along MS Hwy 14 to the AL-MS State line, and then along the AL-MS State line to point of beginning, including all points on the designated line, to points in AR. (2) From points in MS bounded by a line beginning at the Al-MS State line, and extending along MS Hwy 14 to junction MS Hwy 12, then along MS Hwy 12 to junction U.S. Hwy 49E, then along U.S. Hwy 49E to junction MS Hwy 8, then along MS Hwy 8 to junction U.S. Hwy 278, then along U.S. Hwy 278 to the Al-MS State line, then along the AL-MS State line to point of beginning, including all points on designated line, to those points in AR north of a line beginning at the TX-AR State line, and extending along U.S. Hwy 67 to Malvern, then along U.S. Hwy 270 to Sheridan, then along U.S. Hwy 167 to Fordyce, then along U.S. Hwy 79 to junction U.S. Hwy 49, then along U.S. Hwy 49 to the AR-MS State line; and (3) from those points in MS north of MS Hwy 8 and U.S. Hwy 278 to points in AR, restricted against the transportation of liquefied petroleum gases. The purpose of this filing is to eliminate the gateways of Washington and Union Counties, MS, Crupp and Friars Point, MS, and Memphis, TN.

NOTE.—The purpose of this republication is to correct the territorial description.

No. MC 107012 (Sub-No. E343), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated*, from points in MT to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (Greene County, AR*); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (points in IL within the Burlington, IA commercial zone*); Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg, Pushmataha, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK (Kansas City, MO*). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107012 (Sub-No. E344), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated*, from points in Arthur, Blaine, Boyd, Brown, Buffalo, Cherry, Custer, Garfield, Grant, Greeley, Hall, Holt, Hooker, Howard, Keyapana, Lawson, Logan, Loup, McPherson, Rock, Sherman, Thomas, Valley, Wheeler, Box Butte, Dawes, Sheridan, Sioux, Chase, Dundy, Franklin, Frontier, Furnas, Gosper, Harlan, Hayes, Hitchcock, Kearney, Keith, Lincoln, Perkins, Phelps, Redwillow, Antelope, Boone, Burt, Butler, Cedar, Colfax, Cuming, Dakota, Dixon, Dodge, Knox, Madison, Merrick, Pierce, Platte, Polk, Stanton, Thurston, Vance, Washington, Wayne, Banner, Cheyenne, Deuel, Garden, Kimball, Morrill, and Scotts Bluff Counties, NE, to Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA. The purpose of this filing is to eliminate the gateway of points in IL within the Burlington, IA commercial zone.

No. MC 107012 (Sub-No. E345), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated*: (1) From points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Bottineau, Burke, McHenry, McLean, Mountrail, Renville, Ward, Divide, McKenzie, and Williams Counties, NC, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (Green County, AR*); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA (points in IL within the Burlington, IA Commercial zone); Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg, Pushmataha, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole, and Stephens Counties, OK (Kansas City, MO*); points in SC (Greene County, AR*); (2) from points in Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, and Traill Counties, ND, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun,

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Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (Greene County, AR*); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA (points in IL within the Burlington, IA commercial zone*); points in OK (Kansas City, MO*); Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg, Abbeville, Anderson, Greenville, Ocomee, and Pickens Counties, SC (Greene County, AR*); and (3) from points in Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, and Wells Counties, ND, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (Greene County, AR*); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA (points in IL within the Burlington, IA commercial zone*); Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Ouachita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg, Pushmataha, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole, and Stephens Counties, OK (Kansas City, MO*); points in SC (Greene County, AR*). The purpose of this filing is to eliminate the gateway indicated by asterisks above.

No. MC 107012 (Sub-No. E346), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated:* (1) From points in Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, and Socorro Counties, NM, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA (points in IL within the Burlington, IA commercial zone*); Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, and Woodson Counties, KS (points in AR*); Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, and Wright Counties, MN (points in IL within the Burlington, IA commercial zone*); and (2) from points in McKinley, Rio Arriba, and San Juan Counties, NM, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, and ???.

No. MC 107515 (Sub-No. E1508), filed May 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettelbaum, Suite 375, 3379 Peachtree Road, Northeast, Atlanta, GA 30326. (1) *Fresh and cured meats, and such commodities* as are classified as dairy products in the Appendix to the report in *Modification of Permits—Packing House Products*, 46 MCC 23, and *frozen foods*, from points in AL on, south or east of a line beginning at the GA-AL State line, and extending along U.S. Hwy 78 to junction AL Hwy 21, then along AL Hwy 21 to junction Alternate U.S. Hwy 231, then along Alternate U.S. Hwy 231 to junction U.S. Hwy 231, then along U.S. Hwy 231 to junction Interstate Hwy 65, then along Interstate Hwy 65 to junction Interstate Hwy 10, then along Interstate Hwy 10 to the AL-MS State line to (A) points in MN and MI, (B) to points in WS on and north of a line beginning at the IA-WI State line, and extending along WI Hwy 171 to junction U.S. Hwy 14, then along U.S. Hwy 14 to junction WI Hwy 130, then along WI Hwy 130 to junction WI Hwy 23, then along WI Hwy 23 to WI Hwy 11, then along WI Hwy 11 to junction WI Hwy 78, then along WI Hwy 78 to the WI-IL State line, (C) to those points in OH on and north of a line beginning at the IN-OH State line, and extending along U.S. Hwy 35 to junction U.S. Hwy 42, then along U.S. Hwy 42 to junction Interstate Hwy 80, then along Interstate Hwy 80 to the OH-PA State line, (D) to those points in IN on and north of a line beginning at the OH-IN State line, and extending along U.S. Hwy 40 to junction U.S. Hwy 52, then along U.S. Hwy 52 to the IL-IN State line, (E) to those points in IL on, north or east of a line beginning at the IN-IL State line, and extending along U.S. Hwy 52 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction U.S. Hwy 20, then along U.S. Hwy 20 to IL Hwy 26, then along IL Hwy 26 to the IL-WI State line. (2) *Bananas*, from Mobile, AL, to points named in (1) above, (3) *canned vegetables*, from Uniontown, AL, to points named in (1) above, (4) *frozen foods, fresh and cured meats and dairy products*, from points in MS on, south and east of a line beginning at the AL-MS State line, and extending along U.S. Hwy 80 to junction Interstate Hwy 59, then along Interstate Hwy 59 to MS-LA State line, to points in the lower peninsula of MI and to those points in OH on and north of Interstate Hwy 90, (5) *bananas*, from Gulfport, MS, to the territory in (4) above. The purpose of this filing is to eliminate the gateways of Atlanta, GA, and Louisville, KY.

No. MC 107515 (Sub-No. E533), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettelbaum, Suite 375, 3379 Peachtree Road, Northeast, Atlanta, GA 30326. *Frozen foods:* (1) From Englewood, OH, to points to WA, OR, ID, CA, UT, NV, AZ, NM and those points in CO on, south and west of a line beginning at the CO-NM State line, and extending along Interstate Hwy 25 to CO Springs, then along U.S. Hwy 24 to junction CO Hwy 9, then along CO Hwy 9 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction CO Hwy 789 to CO-WY State line, those points in WY on, south and west of a line beginning at the WY-CO State line, and extending along WY Hwy 789 to junction Interstate 80, then along Interstate Hwy 80 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction WY Hwy 28, then along WY Hwy 28 to junction U.S. Hwy 287, then along U.S. Hwy 287 to Lander, then

along WY Hwy 789 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction U.S. Hwy 310, then along U.S. Hwy 310 to the WY-MT State line, and those points in MT on and west of a line beginning at the MT-WY State line, and extending along U.S. Hwy 310 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction U.S. Hwy 191, then along U.S. Hwy 191 to junction U.S. Hwy 87, then along U.S. Hwy 87 to Great Falls, then along Interstate Hwy 15 to the International Boundary line between US and CD; (2) from Tiffin, OH, to points to OR, CA, NV, UT, AZ, NM and those points in CO on, south and west of a line beginning at the CO-NM State line, and extending along U.S. Hwy 85 to Denver, CO, then along U.S. Hwy 40 to Craig, then along CO Hwy 13 to the CO-WY State line, Bozeman and Butte, MT, points in ID (except points north of U.S. Hwy 12, and except points in ID County east of U.S. Hwy 95); and those points in WA on and west of a line beginning at the ID-WA State line, and extending along U.S. Hwy 195 to junction U.S. Hwy 395, then along U.S. Hwy 395 to the International Boundary line between the United States and Canada. Restriction: Operations authorized herein are restricted to the transportation of shipments originating at the plantsite of Evelyn Sprague, Inc., at Englewood, OH, and Fry Foods, at Tiffin, OH. The purpose of this filing is to eliminate the gateway of points in TN.

No. MC 107515 (Sub-No. E536), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettelbaum, Suite 375, 3379 Peachtree Road, Northeast, Atlanta, GA 30326. *Fresh and cured meats:* (1) From San Francisco and San Jose, CA, to those points In MS on, south and east of a line beginning at the LA-MS State line, and extending along Interstate Hwy 59 to Laurel, then along MS Hwy 45 to the MS-TN State line, all points in AL, and points in TN on and east of U.S. Hwy 45 and U.S. Hwy 25E; (2) from Los Angeles, CA, to points to AL, those points in MS on and east of U.S. Hwy 45 and on or north of U.S. Hwy 82, points in TN on, south and east of a line beginning at the TN-MS State line, and extending along TN Hwy 22 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction TN Hwy 13, then along TN Hwy 13 to junction U.S. Hwy 79, then along U.S. Hwy 79 to the TN-KY State line. The purpose of this filing is to eliminate the gateway of Columbus or Carrollton, GA.

No. MC 113855 (Sub-No. E420), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Signs, sign parts, and sign accessories*, which are metal or metal articles, (1) from points in WA and OR (except points in Douglas, Klamath, Lake, Coos, Curry, Josephine, and Jackson Counties, OR) to points in NM, CO and AZ (except points in Yuma County, AZ). The purpose of this filing is to eliminate the gateway of Clearfield, UT. (2)(a) from points in CA north of Monterey, San Benito, Fresno and Inyo Counties, to points in CO: (b) from points in CA in and south of Moneterey, San Benito, Fresno and Inyo counties, to points in CO on and north of U.S. Hwy 24; (c) from points in CA north of Alameda, San Joaquin, Calaveras, and Alpine Counties, to points in NM north and east of a line beginning at the NM-AZ State line, and extending along U.S. Hwy 60 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the US-MX International Boundary line. The purpose of this filing is to eliminate the gateway of Clearfield, UT. (3) from points in ID to points in AZ, CO and NM. The purpose of this filing is to eliminate the gateway of Clearfield, UT. (4)(a) from points in NV on and north of U.S Hwy 6 to points in CO; (b) from points in NV south of U.S. Hwy 6 to points in Co on, north and east of a line beginning at the CO-UT State line, and extending along U.S. Hwy 40 to junction Interstate Hwy 25, then along Interstate Hwy 25 to junction U.S. Hwy 50 to the CO-KS State line; (c) from points in NV to points in WY and MT. The purpose of this filing is to eliminate the gateway of Clearfield, UT. (5) from points in WI, IA, MI, OH, PA, DE, NJ, NY, MD, CT, RI, MA, DC, points in IL on and north of IL Hwy 9, points in IN on and north of IN Hwy 26, points in WV on, north and east of U.S. Hwy 60, and points in VA on and north of U.S. Hwy 60 and on and east of U.S. Hwy 29, to points in AZ on, west and north of a line beginning at the UT-AZ State line, and extending along U.S. Hwy 89 to junction Interstate Hwy 17, then along Interstate Hwy 17 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the AZ-CA State line. The purpose of this filing is to eliminate the gateway of Clearfield, UT. (6) from points in ND to points in AZ (except points in Cochise County). The purpose of this filing is to eliminate the gateways of SD and Clearfield, UT. (7) from points in SD to points in AZ on, north and east of a line beginning at the AZ-NM State line, and extending along U.S. Hwy 66 to junction AZ Hwy 77, then along AZ Hwy 77 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the US-MX International Boundary line. The purpose of this filing is to eliminate the gateway of Clearfield, UT. (8) from points in MN to points in AZ on, west and north of a line beginning at the UT-AZ State line, and extending along U.S. HWy 89 to junction Interstate Hwy 17, then along Interstate Hwy 17 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the AZ-CA State line (points in MN within 50 miles of Sioux Falls, SD). The purpose of this filing is to eliminate the gateways of SD and Clearfield, UT.

No. MC 113855 (Sub-No. E421), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Irrigation systems, and parts for irrigation systems*, which are metal or metal articles (except those commodities which because of size or weight, would require the use of special equipment to load, unload, or transport), (1) (a) from points in CA south of Santa Cruz, San Benito, Fresno, and Mono Counties to points in KS on, east and north of a line beginning at the KS-NE State line, and extending along U.S. Hwy 75 to junction KS Hwy 68, then along KS Hwy 68 to the KS-MO State line; (b) from points in CA in and north of Santa Crug, San Benito, Fresno, and Mono Counties, to points in KS on and east of U.S. Hwy 81 except points in Summer, Cowley, Sedwick, and Butler Counties; (c) from points in CA on and north of a line beginning at the Pacific Ocean and extending along CA Hwy 20 to junction Interstate Hwy 80, then along Interstate Hwy 80 to the CA-NV State line, to points in OK on and east of Interstate Hwy 35, points in TX on and east of U.S. Hwy 77, and points in LA; (d) from points in CA in and north of Santa Cruz, Santa Clara, Stanislaus, Tuolumne, and Alpine Counties to points in AR; (e) from points in CA on and north of Interstate Hwy 80 to points in LA (except points in Calcasieu, Cameron, and Jefferson Davis Counties); (f) from points in UT (except points in Grand and San Juan Counties), to points in KS on and east of U.S. Hwy 75. The purpose of this filing is to eliminate the gateway of Douglas County, NE (except Omaha and points in its commercial zone). (2) (a) from points in SD to points in OK on and east of U.S. Hwy 81, points in AR, LA, and points in TX on and east of U.S. Hwy 83; (b) from points in SD on and east of U.S. Hwy 281 to points in NM and AZ. The purpose of this filing is to eliminate the gateway of Douglas County, NE (except Omaha and points in its commercial zone). (3) (a) from points in WI south of WI Hwy 60 to points in TX on and west of U.S. Hwy 281, points in KS on and west of U.S. Hwy 77, points in OK on and west of Interstate Hwy 35, and points in AZ and NM; (b) from points in WI on and north of WI Hwy 60 to

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points in OK and TX; (c) from points in IL on and north of U.S. Hwy 6 to points in KS, OK, and TX on and west of U.S. Hwy 83, and points in NM; (d) from points in IL on and north of U.S. Hwy 40 and west of U.S. Hwy 67, to points in AZ; (e) from points in IN on and north of U.S. Hwy 30, to points in KS on and west of U.S. Hwy 281; (f) from points in IN on and north of Interstate Hwy 74, to points in AZ and NM. The purpose of this filing is to eliminate the gateways of SD and Douglas County, NE (except Omaha and points in its commercial zone). (4) (a) from points in OH on and north of U.S. Hwy 224 to points in KS on and west of U.S. Hwy 281 and points in NM; (b) from points in OH to points in AZ; (c) from points in PA to points in KS on and west of U.S. Hwy 183, points in OK on and west of U.S. Hwy 83, and points in NM and TX; (d) from points in PA on and east of U.S. Hwy 219 to points in TX on and west of U.S. Hwy 83. The purpose of this filing is to eliminate the gateways of SD and Douglas County, NE (except Omaha and points in its commercial zone). (5) (a) from points in MT to points in AR, LA, points in OK on and east of U.S. Hwy 281, and points in TX on and east of a line beginning at the US-MX International Boundary line, extending along U.S. Hwy 81 to junction U.S. Hwy 281, then along U.S. Hwy 281 to the TX-OK State line; (b) from points in WY on and north of U.S. Hwy 26, to points in AR and LA. The purpose of this filing is to eliminate the gateways of SD east of the MO River and Douglas County, NE (except Omaha and points in its commercial zone). (6) (a) from points in WA to points in KS on and east of U.S. Hwy 81; (b) from points in WA on and west of U.S. Hwy 97 and points in OR to points in KS on and east of U.S. Hwy 281; (c) from points in WA to points in OK and TX on and east of Interstate Hwy 35, and points in AR and LA. The purpose of this filing is to eliminate the gateways of UT and Douglas County, NE (except Omaha and points in its commercial zone).

No. MC 113855 (Sub-No. E422), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Aluminum pipe* (except oilfield pipe as described in Mercer Extension—Oil Field Commodities, 74 MCC 459), (A)(1) from points in MN, to points in AZ, NM, TX and points in OK west of U.S. Hwy 75; (2) from points in MN on and west of U.S. Hwy 71, to points in LA; (3) from points in IA on and north of U.S. Hwy 20, to points in OK on and west of Interstate Hwy 35 and points in TX; (4) from points in IA, to points in NM and AZ; (5) from points in WI on and north of WI Hwy 60, to points in TX and points in OK on and west of Interstate Hwy 35; (6) from points in WI to points in NM, AZ and CO; (7) from points in WI on and north of U.S. Hwy 10, to points in KS on and west of U.S. Hwy 81; (8) from points in IL on and north of U.S. Hwy 36, to points in AZ (except Apache, Greenlee and Graham Counties); (9) from points in IL on and north of IL Hwy 9, to points in NM; (10) from points in IN to points in AZ (except Navajo, Apache, Greenlee, Graham and Cochise Counties); (11) from points in IN on and north of IN Hwy 26, to points in NM; (12) from points in MI to points in AZ, points in OK on and west of U.S. Hwy 283, points in KS on and west of U.S. Hwy 281, and points in TX on and west of U.S. Hwy 80 and on and west of U.S. Hwy 87; (13) from points in the Upper Peninsula of MI to points in TX and OK; (14) from points in PA to points in AZ, NM, points in OK on and west of U.S. Hwy 83 and points in TX on and west of U.S. Hwy 277; (15) from points in OH to points in AZ, points in NM on and west of Interstate Hwy 25 and points in OK on and west of U.S. Hwy 83; (16) from points in OH on and north of U.S. Hwy 36 to points in NM east of Interstate Hwy 25. The purpose of this filing is to eliminate the gateways of SD and Hall County, NE. (B)(1) from points in NY (except in Niagara, Erie, Cattaraugus, and Chautauqua Counties), to points in AZ; (2) from points in NY east of Cayuga, Tomkins and Tioga Counties), to points in NM. The purpose of this filing is to eliminate the gateways of Scranton, PA, SD and Grand Island, NE. (C)(1) from points in MA, CT, RI and NJ, to points in AZ, NM and points in TX on and west of U.S. Hwy 83. The purpose of this filing is to eliminate the gateways of Eastern PA, SD and Grand Island, NE.

No. MC 113855 (Sub-No. E424), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles*, (a) between points in WI, on the one hand, and, on the other, points in KS on and west of U.S. Hwy 77, (b) between points in WI on and north of a line beginning at Sheboygan, WI, and extending along WI Hwy 23 to junction Interstate Hwy 90, then along Interstate Hwy 90 to the WI-MN State line, on the one hand, and, on the other, points in KS east of U.S. Hwy 77 and on and west of U.S. Hwy 75, and (c) between points in WI on and north of U.S. Hwy 8, on the one hand, and, on the other, points in KS east of U.S. Hwy 75. The purpose of this filing is to eliminate the gateways of points in MN within 15 miles of the MN-IA State line, and points in SD.

No. MC 114552 (Sub-No. E132) (Correction), filed August 25, 1975, published in the FEDERAL REGISTER issue of March 29, 1978, and republished, as corrected, this issue. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, VA 22210. *Gypsum and gypsum products, composition board, urethane and urethane products, and such insulation materials and roofing and roofing materials and supplies* as are useful in the manufacture and distribution of roofing and roofing materials (except in bulk), from those points in NC, on and south of a line beginning at the Pamlico River, then extending along U.S. Hwy 264 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the NC-SC State line, to points in D.C. The purpose of this filing is to eliminate the gateway of points in Wayne County, NC.

NOTE.—The purpose of this republication is to add the gateway that was omitted in the previous publication.

No. MC 117574 (Sub-No. E106), filed July 4, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's respresentative: William A Chesnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Boilers, water purifying, and water conditioning equipment and materials*, (2) *accessories and supplies* used in the shipping and installation of the commodities described above when moving in connection with the commodities (3) *industrial and processing machinery*, and (4) *attachments, accessories and parts* of all of the above described commodities, from Lancaster, PA, to points in the States of CA, ID, MT, NV, ND, OR, SD, UT, WA, and WY. Restriction: The transportation of the above described commodities, which because of size or weight, do not require the use of special equipment, is limited to the movement then in the same vehicle or vehicles as part of which because of size or weight do require the use of special equipment. The purpose of this filing is to eliminate the gateways of Carlisle, PA and Waynesboro, PA.

No MC 117574 (Sub-No. E107), filed July 4, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: William A. Chesnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Air, water, and gas cooling and heating equipment* and (2) *materials, accessories and supplies* used in the installation thereof, (3) *industrial and processing machinery and attachments*, (4) *accessories and parts* of all of the above described commodities which because of size or weight require the use of special equipment and (5) *commodities*

listed in (1) above which do not require the use of special equipment when moving in the same vehicle or as part of the same shipment with commodities in (1) above, between Lebanon, PA, on the one hand, and, on the other, points in the States of CA, ID, MT, MV, ND, OR, SD, UT, WA, and WY. The purpose of this filing is to eliminate the gateway of Carlisle, PA.

No. MC 117574 (Sub. No. E108), filed July 4, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: William A. Chestnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Agricultural implements and agricultural machinery, tractors with or without attachments, cranes, industrial and processing machinery, and* (2) *attachments, accessories and parts of all of the above described commodities, which are also heavy machinery, building and contractor's equipment, materials and supplies* which because of size or weight require the use of special equipment, (1) between points in the PA counties of Carbon and Monroe, on the one hand, and, on the other, points in the states of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY and points in the following described states; points in MD in and west of the counties of Frederick and Montgomery; points in MI, except those in the counties of Lenawee and Monroe; points in NC on and west of a line commencing at the NC-VA State line on NC Hwy 32, then along NC Hwy 32 to junction with the Albemarle Sound, and then along the south shore of the Albemarle Sound to the Pamlico Sound and the Atlantic Ocean; points in OH on and south of a line commencing at the MI-OH State line on OH Hwy 15, then along OH Hwy 15 to junction U.S. Hwy 23, then along U.S Hwy 23 to junction U.S. Hwy 30N, then along U.S. Hwy 30N to junction OH Hwy 39, then along OH Hwy 39 to junction OH Hwy 83, then along OH Hwy 83 to junction U.S. Hwy 40, then along U.S. Hwy 40 to the OH-WV State line; points in VA on and west of a line commencing at the MD-VA State line on U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 17, then along U.S. Hwy 17 to junction VA Hwy 32, then along VA Hwy 32 to the NC-VA State line; points in WV on and south of U.S. Hwy 40. (2) between points in the PA counties of Pike and Wayne, on the one hand, and, on the other, points in the following states; AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, ND, NM, OK, OR, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY and points in the following described states; points in MD in and west of the counties of Frederick and Montgomery; points in MI on, north and west of a line commencing at the IN-MI State line on MI Hwy 66, then along MI Hwy 66 to junction MI Hwy 46, then along MI Hwy 46 to the shore of Lake Huron; points in NC on and west of a line commencing at the NC-VA State line on NC Hwy 32, then along NC Hwy 32 to the Albemarle Sound, then along the south shore of the Albemarle Sound to the Pamlico Sound and the Atlantic Ocean; points in OH on and south of a line commencing at the IN-OH State line on OH Hwy 34, then along OH Hwy 34 to junction OH Hwy 15, then along OH Hwy 15 to junction OH Hwy 65, then along OH Hwy 65 to junction U.S. Hwy 30S, then along U.S. Hwy 30S to junction OH Hwy 95, then along OH Hwy 95 to junction OH Hwy 13, then along OH Hwy 13 to junction U.S. Hwy 40, then along U.S. Hwy 40 to the OH-WV State line; points in VA on and west of a line commencing at the MD-VA State line on U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 17, then along U.S. Hwy 17 to junction VA Hwy 32, then along VA Hwy 32 to the NC-VA State line; points in WV on and south of U.S. Hwy 40. (3) between points in the PA county of Columbia, and those in the PA counties of Lycoming, Montour, Northumberland, east of a line commencing at the PA-MD State line near New Freedom, PA, on PA Hwy 851, then along PA Hwy 851 to junction Interstate Hwy 83, then along Interstate Hwy 83 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction PA Hwy 147, then along PA Hwy 147 to U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 6, then along OH Hwy 6 to PA Hwy 14, then along PA Hwy 14 to the NY-PA State line near South Waverly, PA, on the one hand, and, on the other, all points in the states of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY and points in the following described states; points in IN on south of a line commencing at the IN-OH State line on U.S. Hwy 35, then along U.S. Hwy 35 to junction U.S. Hwy 30,then along U.S. Hwy 30 to the IL-IN State line; points in MI on and north of MI Hwy 55; points in OH on and south of U.S. Hwy 35; points in VA on and south of a line commencing at the VA-WV State line on U.S. Hwy. 250, then along U.S. Hwy 250 to junction Interstate Hwy 64, then along Interstate Hwy. 64 to the Chesapeake Bay; points in WV on and south of a line commencing at the WV-VA State line on U.S. Hwy 250, then along U.S. Hwy 250 to junction WV Hwy 42, then along WV Hwy 42 to junction WV Hwy 39, then along WV Hwy 39 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 35, then along U.S. Hwy 35 to the OH-WV State line. The purpose of this filing is to eliminate the gateways of Waynesboro, PA, and a point on Interstate Hwy 83 near Shrewsbury, PA, just north of the MD-PA State line within the 25 mile radius of Baltimore, MD, and located in York County, PA.

No. MC 117574 (Sub. No. E109), filed July 4, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: William A. Chestnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Agricultural implements and agricultural machinery, tractors with or without attachments, cranes, industrial and processing machinery, and* (2) *attachments, accessories and parts of all of the above described commodities, which are also heavy machinery, building and contractor's equipment, materials and supplies* which because of size or weight require the use of special equipment, (1) between points in PA counties of Bucks, Montgomery, and Philadelphia on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY, and points in the following described states; points in OH on and west of a line commencing at Lake Erie on OH Hwy 46, then along OH Hwy 46 to its junction OH Hwy 11, then along OH Hwy 11 to junction OH Hwy 82, then along OH Hwy 82 to junction OH Hwy 193, then along OH Hwy 193 to junction with U.S. Hwy 422, then along U.S. Hwy 412 to the OH-PA State line; points in PA on and south of a line commencing at the OH-PA State line on U.S. Hwy 422, then along U.S. Hwy 422 to junction U.S. Hwy 22, then along U.S. Hwy 22 to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction PA Hwy 16, then along PA Hwy 16 to junction Interstate Hwy 81, then along Interstate Hwy 81 to MD-PA State line; points in MD in and west of Frederick County; points in NC on and west a line commencing at the NC-VA State line on NC Hwy 86, then along NC Hwy 86 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 422, then along U.S. Hwy 422 to the Atlantic Ocean; points in VA on and west of a line commencing at the VA-WV-MD State lines on U.S. Hwy 50, then along U.S. Hwy 50 to junction VA Hwy 7, then along VA Hwy 7 to junction with U.S. Hwy 340, then along U.S. Hwy 340 to junction U.S. Hwy 211, then along U.S. Hwy 211 to Interstate Hwy 81, then along Interstate Hwy 81 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 501, then along U.S. Hwy 501 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the NC-VA State line; (2) between points

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in PA counties of Chester and Delaware, on the one hand, and, on the other, points in the states of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY and points in the following described states: points in MD in and west of a line commencing at the NC-VA State line on U.S. Hwy 501, then along U.S. Hwy 501 to junction with U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction NC Hwy 50, then along NC Hwy 50 to junction U.S. Hwy 70, then along U.S. Hwy 70 to the Atlantic Ocean; points in OH on and west of a line beginning at Lake Erie on OH Hwy 46, then along OH Hwy 46 to junction OH Hwy 11, then OH Hwy 11 to junction OH Hwy 82, then along OH Hwy 82 to junction OH Hwy 193, then along OH Hwy 193 to junction U.S. Hwy 422, then along U.S. Hwy 422 to the OH-PA State line; points in PA on and south of a line commencing at the OH-PA State line on U.S. Hwy 422 , then along U.S. Hwy 422 to junction U.S. Hwy 22, then along U.S. Hwy 22 to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction PA Hwy 16, then along PA Hwy 16 to junction U.S. Hwy 11, then along U.S. Hwy 11 to the MD-PA State line; points in VA on and west of a line commencing at the MD-VA State line on U.S. Hwy 15, then along U.S. Hwy 15 to VA Hwy 7, then along VA Hwy 7 to junction U.S. Hwy 340, then along U.S. Hwy 340 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 250 Bypass, then along U.S. Hwy 250 Bypass easterly around Charlottesville, VA, to junction VA Hwy 20, then along VA Hwy 20 to junction U.S. Hwy 15, then along U.S. Hwy 15 to NC-VA State line. (3) between the PA counties of Lehigh and Northampton, on the one hand, and, on the other, points in the states of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY, and points in the following described states: points in MD in and west of Washington County; points in NC on and west of a line commencing at the NC-VA State line on U.S. Hwy 13, then along U.S. Hwy 13 to junction U.S. Hwy 17, then along U.S. Hwy 17 to junction with the Neuse River, then along the southern bank of the Neuse River to junction with the Pamlico Sound and the Atlantic Ocean; points in OH on and west of a line commencing at Cleveland, OH, on OH Hwy 14, then along OH Hwy 14 to the OH-PA State line; points in PA on and south of a line commencing at the OH-PA State line on PA Hwy 51, then along PA Hwy 51 to junction PA Hwy 856, then along PA Hwy 856 to junction U.S. Hwy 19, then along U.S. Hwy 19 to Interstate Hwy 76, then along Interstate Hwy 76 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction PA Hwy 16, then along PA Hwy 16 to junction U.S. Hwy 11, then along U.S. Hwy 11 to the MD-PA State line; points in VA on and west of a line commencing at the MD-VA State line on VA Hwy 15, then along VA Hwy 15, to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction Interstate Hwy 95, then along Interstate Hwy 95 to junction VA Hwy 35, then along VA Hwy 35 to junction U.S. Hwy 58, then along U.S. Hwy 58 to junction VA Hwy Legislative Route 653, then along VA Legislative Route 653 to the NC-VA State line.

(4) Between points in the PA counties of Berks and Schuylkill, on the one hand, and, on the other, points in the states of AL, AZ, AR, CA, CO, FL, GA, HI, ID, IL, IN, IA, KS, LA, MI, MN, MS, MO, MT, NE, MV, NM, ND, OK, OR, SC, SD, TN, UT, WA, WI, WY, and points in the following described states; points in MD in and west of Washington County; all points in MI on, west and north of a line commencing at the MI-OH State line on U.S. Hwy 127, then along U.S. Hwy 127 to junction Interstate Hwy 94, then along Interstate Hwy 94 to junction U.S. Hwy 12, then along U.S. Hwy 12 to the Detroit River; points in NC on and west of a line commencing at the NC-VA State line on U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 401, then along U.S. Hwy 401 to junction NC Hwy 58, then along NC Hwy 58 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction U.S. Hwy 13, then along U.S. Hwy 13 to junction NC Hwy 33, then along NC Hwy 33 to the north bank of the Pamlico River, then along the Pamlico River to the Pamlico Sound and the Atlantic Ocean; points in OH on, south, and west of a line commencing at the OH-WV State line on Interstate Hwy 77, then along Interstate Hwy 77 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction OH Hwy 209, then along OH Hwy 209 to junction OH Hwy 83, then along OH Hwy 83 to junction OH Hwy 16, then along OH Hwy 16 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction OH Hwy 13, then along OH Hwy 13 to junction OH Hwy 19, then along OH Hwy 19 to junction U.S. Hwy 30N, then along U.S. Hwy 30N to junction U.S. Hwy 23, then along U.S. Hwy 23 to junction OH Hwy 15, then along OH Hwy 15 to the MI-OH State line; points in VA on and west of a line commencing at the MD-VA State line on U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction Legislative VA Route 609, then along VA Legislative Route 609 to junction U.S. Hwy 360, then along U.S. Hwy 360 to junction VA Legislative Route 614, then along VA Legislative Route 614 to junction VA Legislative Route 625, then along VA Legislative Route 625 to junction VA Hwy 40, then along VA Hwy 40 to junction VA Hwy 138, then along VA Hwy 138 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the NC-VA State line; points in WV on and south of a line commencing at the OH-WV State line on U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction U.S. Hwy 119, then along U.S. Hwy 119 to the PA-WV State line.

(5) Between points in the PA counties of Lancaster and Lebanon, and those points in the counties of Dauphin and York on and east of a line beginning at the MD-PA State line near New Freedom, PA, and extending north on PA Hwy 851, then along PA Hwy 851 to junction Interstate Hwy 83, then along Interstate Hwy 83 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction PA Hwy 147, then along PA Hwy 147 to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 6, then along U.S. Hwy 6 to PA Hwy 14, north to the NY-PA State line near South Waverly, PA, on the one hand, and, on the other, all points in the states of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY, and points in the following described states; points in OH on and west of a line commencing at the shore of Lake Erie, Sandusky, OH, then along U.S. Hwy 250 to the OH-WV State line; points in VA on, south and west of a line commencing at the VA-WV State line on U.S. Hwy 250, then along U.S. Hwy 250 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction VA Legislative Route 622, then along VA Legislative Route 622 to junction VA Legislative Route 604, then along VA Legislative Route 604 to junction U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction U.S. Hwy 60 at the Chesapeake Bay; points in WV on and west of U.S. Hwy 250. The purpose of this filing is to eliminate the gateways of Waynesboro, PA, and points on Interstate Hwy 83, near Shrewsbury, PA, just north of the MD-PA State line within the 25-mile radius of Baltimore, MD located in York County in PA.

No. MC 117574 (Sub-No. E112), filed July 4, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: William A. Chesnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Printing presses, printing press parts, and subassemblies, and equipment used in the operation of printing presses,* the transportation of which, because of size or weight, requires the use of special equipment, and (2) *commodities listed in part (1),* the transportation of which, because of size or weight, does not require the use of special equipment, when moving in the same vehicle with the commodities in (1) of this paragraph, from the facilities of J. C. Motter Printing Press Co. near York, PA, to points in the following States east of the Continental Divide; CO, ID, MT, NM, and WY with no transportation for compensation on return except as otherwise authorized; (1) *Welding, baking and chemical mixing and blending equipment, and parts* (2) *parts for commodities in (1),* the transportation of which, because of size or weight, requires the use of special equipment, and (3) *parts for commodities listed in part (1),* the transportation of which, because of size or weight does not require the use of special equipment when moving in the same vehicle with the commodities described in (1) of this paragraph, from York, PA, to points in the following States east of the Continental Divide: CO, ID, MT, NM, and WY, with no transportation for compensation on return except as otherwise authorized.

NOTE.—The purpose of this filing is to eliminate the gateway of Carlisle, PA.

No. MC 117574 (Sub-No. E150), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). (1) *Commodities,* the transportation of which because of size or weight, require the use of special equipment, and *related materials, supplies, and parts* of such commodities when their transportation is incidental thereto, and, (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of self-propelled articles transported on trailers, (1) between points in Adair and Metcalfe Counties, KY, on the one hand, and, on the other, points in MI and PA and Ashland, KY and points in that part of IN on, north and east of a line commencing at the IN-OH State line, then along U.S. Hwy 40 to IN Hwy 3, to IN Hwy 18, to IN Hwy 21, to U.S. Hwy 31, to IN Hwy 14, to U.S. Hwy 35, to U.S. Hwy 20, to Lake Michigan; and points in that part of WV on and east of a line commencing at the WV-VA State line then along WV Hwy 83 to WV Hwy 80, to U.S. Hwy 52, to U.S. Hwy 119, to WV Hwy 10, to U.S. Hwy 60 to the KY-WV State line; (2) between points in Cumberland and Monroe Counties, KY, on the one hand, and, on the other, points in PA and points in that part of IN on and north of a line beginning at the IN-OH State line then along IN Hwy 38 to IN Hwy 25, to IN Hwy 28, to U.S. Hwy 41, to Interstate Hwy 74, to the IN-IL State line; and points in that part of WV on and east of a line commencing at the VA-WV State line, then to the WV-OH State line; (3) between points in Green and Taylor Counties, KY, on the one hand, and, on the other, points in MI and PA and Ashland, KY, points in that part of IN on, north, and east of a line commencing at the IN-OH State line, then along U.S. Hwy 40 to IN Hwy 3, to IN Hwy 18, to IN Hwy 21, to U.S. Hwy 31, to IN Hwy 14, to U.S. Hwy 35, to U.S. Hwy 20, to Lake Michigan and points in that part of WV on and east of a line commencing at the WV-VA State line, then along WV Hwy 83 to WV Hwy 80, U.S. Hwy 52, to U.S. Hwy 119, to WV Hwy 10, to U.S. Hwy 60 to the KY-WV State line; (4) between points in Marion and Washington Counties, KY, on the one hand, and, on the other, points in PA and points in that part of IN on and north of a line commencing at the IN-OH State line, then along U.S. Hwy 35 to IN Hwy 15, to IN Hwy 114, to U.S. Hwy 31, to U.S. Hwy 30, to U.S. Hwy 35, to Lake Michigan and points in that part of WV on and east of a line commencing at VA-WV State line, then along WV Hwy 83 to WV Hwy 80, to U.S. Hwy 552, to U.S. Hwy 119, to WV Hwy 10, to Interstate Hwy 64, to U.S. Hwy 60, to the OH-WV State line; (5) between points in Nelson and Spencer Counties, KY, on the one hand, and, on the other, points in PA and points in that part of IN on and north of a line commencing at the IN-OH State line, then along U.S. Hwy 27 to U.S. Hwy 30, to U.S. Hwy 31, to the IN-MI State line and points in that part of MI north and east of a line commencing at the MI-IN State line then along U.S. Hwy 31 to Lake Michigan and points in that part of WV on and east of a line commencing at the WV-VA State line then along WV Hwy 83 to WV Hwy 80, to U.S. Hwy 52, to U.S. Hwy 119 to WV Hwy 10, to Interstate Hwy 64, to U.S. Hwy 60 to the OH-WV State line. The purpose of this filing is to eliminate the gateways of Columbus, OH, and points within 80 miles thereof.

No. MC 117574 (Sub-No. E-151), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). (1) *Commodities,* the transportation of which because of size or weight, require the use of special equipment, and *related materials, supplies, and parts* of such commodities when their transportation is incidental thereto, and, (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of self-propelled articles transported on trailers, (1) Between points in Henry and Shelby Counties, KY, on the one hand, and, on the other, points in MI and PA and Ashland, KY, and points in that part of IN on, north, and east of a line commencing at the IN-OH State line, then along U.S. Hwy 40 to junction IN Hwy 1, to junction IN Hwy 124, to junction IN Hwy 5, to junction U.S. Hwy 30, to junction U.S. Hwy 35, to junction U.S. Hwy 20, to Michigan City and Lake Michigan; points in that part of WV on and east of a line commencing at the WV-VA State line, then along WV Hwy 83 to junction WV Hwy 80, to junction U.S. Hwy 52, to junction U.S. Hwy 119, to junction WV Hwy 10, to junction U.S. Hwy 60 to the KY-WV State line.

(2) Between points in Carroll and Gallatin Counties, KY, on the one hand, and, on the other, points in PA and WV and points in that part of IN on and north of a line commencing at the IN-OH State line, then along U.S. Hwy 224 to junction U.S. Hwy 27, to junction U.S. Hwy 30, to junction U.S. Hwy 31, to the IN-MI State line; points in that part of MI on and north and east of a line beginning at IN-MI State line, then along U.S. Hwy 31 to St. Joseph, MI. (3) Between points in Clinton and Russell Counties, KY, on the one hand, and, on the other, points in MI and PA and Ashland, KY, and points in that part of IN on, north, and east of a line commencing at the IN-IL State line, then along U.S. Hwy 24 to junction U.S. Hwy 35, to junction IN Hwy 9, to junction IN Hwy 38, to junction IN Hwy 3, to junction IN Hwy 44, to the IN-OH State line; points in that part of WV on and east of a line commencing at the WV-VA State line, then along WV Hwy 83 to junction WV Hwy 80, then to junction U.S. Hwy 52, to junction U.S. Hwy 119, to junction U.S. Hwy 3, to junction WV Hwy 34, to junction U.S. Hwy 35, to junction U.S. Hwy 35 to the WV-OH State line. (4) Between points in Boyle and Mercer Counties, KY, on the one hand, and, on the other, points in MI and PA and Ashland, KY, and points in that part of IN on, north and east of a line commencing at the IL-IN State line, then along U.S. Hwy 24 to junction U.S. Hwy 35, then to junction IN Hwy 9, to junction IN Hwy 38, to junction IN Hwy 3, to junction IN Hwy 44, to junction IN-OH State line; points in that part of WV on and east of a line commencing at the WV-VA state line then along WV Hwy 83 to junction WV Hwy 80, to junction U.S. Hwy 52, to junction U.S.

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Hwy 119, to junction WV Hwy 10, to junction U.S. Hwy 60, to the KY-WV State line. (5) Between points in McCreary, Pulaski, and Wayne Counties, KY, on the one hand, and, on the other, points in MI and PA and points in that part of IN on and north of a line commencing at the IN-OH State line, then along U.S. Hwy 40 to junction U.S. Hwy 36, to the IN-IL State line; points in that part of WV on and east of a line commencing at the VA-WV State line, then along WV Hwy 3 to junction WV Hwy 99, to junction WV Hwy 85, to junction WV Hwy 10 to the WV-OH State line. The purpose of this filing is to eliminate the gateways of Columbus, OH, and points within 80 miles thereof.

By the Commission.

H.G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12999 Filed 5-11-78; 8:45 am]

[7035-01]

[Exception No. 8 to Revised Service Order No. 1322]

MISSOURI-KANSAS-TEXAS RAILROAD CO.

By the provisions of Revised Service Order No. 1322 the Missouri-Kansas-Texas Railroad Co. (MKT), is required to use seventy (70) percent of its serviceable ownership of jumbo covered hoppers for transporting shipments of raw grain. A review of the normal use of these cars by that line discloses that it requires the use of a large portion of its fleet for transporting grain and soybean products and other bulk freight. The required use of seventy (70) percent of its serviceable fleet of jumbo covered hopper cars for transporting shipments of grain will result in undue hardship to other shippers normally using a portion of these cars. Accordingly, it is the opinion of the Railroad Service Board that an exception to the basic requirements of Revised Service Order No. 1322 should be granted to the MKT.

It is ordered, That pursuant to the authority vested in me by section (f) of Revised Service Order No. 1322, the Missouri-Kansas-Texas Railroad Co. is directed to assign to grain service at least fifty-five (55) percent of its ownership of jumbo covered hoppers as defined in section (a)(2) of Revised Service Order No. 1322, regardless of the provisions of section (c)(1) of the order.

The additional cars made available by this exception for transporting shipments other than grain shall be used for transporting shipments of grain products, soybean products or cottonseed products.

Effective 12:01 a.m., April 28, 1978.

Issued at Washington, D.C., April 28, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Chairman, Railroad Service Board.

[FR Doc. 78-13004 filed 5-11-78; 8:45 am]

[7035-01]

[Docket No. AB-51 (Sub-No. 1F)]

OREGON ELECTRIC RAILWAY CO.

Abandonment in Forest Grove, Washington County, or; Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated April 28, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen,* 354 ICC 76 (1977), the present and future public convenience and necessity permit the abandonment by the Oregon Electric Railway Co. of a line of railroad known as the Forest Grove Line extending from railroad milepost 10.27 to railroad milepost 10.86 in Forest Grove, OR, a distance of 0.59 miles, in Washington County, OR. A certificate of public convenience and necessity permitting abandonment was issued to the Oregon Electric Railway Co. Since no investigation was instituted, the requirement of section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 26, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13001 Filed 5-11-78; 8:45 am]

[7035-01]

[Investigation and Suspension Docket No. M-29792]

PICKUP AND DELIVERY ON SAME DAY—PERKINS TRUCKING

Directing Modified Procedure

MAY 5, 1978.

It is ordered: This proceeding will be handled under the modified procedure, following rules 43 to 52 of the Commission's Rules of Practice, 49 CFR 1100.43-52. Filing and service or pleadings shall follow this schedule: (a) opening statement of facts and arguments by respondent(s) and any parties supporting respondent(s) within 20 days from the service date of this order; (b) 30 days after that date, statement of facts and argument by protestants(s) and any supporting parties; and (c) reply by respondent(s) and any supporting parties 20 days thereafter.

Protestant(s) shall timely advise respondent(s) and this Commission of the identity and addresses of the individuals composing the protestant's(s) defense committee, if any, and shall specify the number of copies of respondent's(s') statement which are desired, and to whom the copies are to be sent.

Because of the necessity for deciding the issues within the 7-month suspension period, no recommended report and order is contemplated.

Decided May 5, 1978.

By the Commission, Robert J. Brooks, Director, Office of Proceedings.

H. G. HOMME, Jr.,
Acting Secretary.

REPRESENTATIVES OF THE PARTIES

Ralph Malloy (Respondents), Perkins Trucking Co., Inc., 250 Miller Place, Hicksville, N.Y. 11801.

R. E. Mutter (Respondents), Tariff Issuing Officer, Middle Atlantic Conference, P.O. Box 10213, Washington, D.C. 20018.

Myron Smith (Interested Party), National Small Shipments Traffic Conference, Inc., 685 Third Avenue, New York, N.Y. 10017.

[7035-01]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in *"Waste" Products,* Ex Parte No. MC 85, 124 MCC 583 (1976).

An original and one copy or protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before June 1, 1978. A copy must also be served upon applicant or its representative. Protests against applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence on or before June 12, 1978, subject to its tariff publication effective date.

P-43-76 (Special Certificate—Waste Products), amendment, filed February 27, 1978. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Applicant's representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes transporting: *Waste products* for recycling or reuse in the furtherance of a recognized pollution control program between all points in the United States (except AK and HI), in furtherance of a recognized pollution control program sponsored by Copperweld Steel of Warren, OH for the purpose of recycling and reusing waste products.

NOTE.—Applicant holds an Ex Parte No. 85 special certificate in No. P-43-76 issued February 8, 1977 and served February 16, 1977 which was published in the FEDERAL REGISTER issue of January 10, 1977. The purpose of this amendment is to add the sponsor of Copperweld Steel of Warren, OH.

P-8-78 (Special Certificate—Waste Products), filed April 2, 1978. Applicant: DEES TRANSPORTATION, INC., 113 Grace Street, P.O. Box 446, Worland, WY 82401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Rags, cloth, and old clothing,* for recycling or reuse (1) from points in ID, MT, WY, CO, and UT, to Denver, CO; and (2) from Denver, CO, to Los Angeles and Fresno, CA in furtherance of a recognized pollution control program sponsored by (1) the Salvation Army of Denver, CO; and (2) Denver, Waste Materials, Inc. of Denver, CO, for the purpose of transporting and recycling rags, cloth and old clothing.

P-9-78 (Special Certificate—Waste Products), filed March 26, 1978. Applicant: LEON F. STARBIRD, P.O. Box 462, R.F.D. 1, Hollis Center, ME 04042. Applicant's representative: John G. Feehan, One Canal Plaza, Portland, ME 04112. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass cullet and by-metal scrap* (beverage containers), from the facilities of Maine Beverage Container Services, Inc., located at Portland, ME, to Dayville, CT and Elizabeth, NJ in furtherance of a recognized pollution control program sponsored by Maine Beverage Container Services, Inc. of Portland, ME for the purpose of transporting and recycling glass cullet and by-metal scrap (beverage containers).

P-10-78 (Special Certificate—Waste Products), filed April 14, 1978. Applicant: MALONE TRUCKING CO., a corporation, 21-21st Street, Texas City, TX 77590. Applicant's representative: Kenneth R. Hoffman, 1100 Milam Building, Suite 3300, Houston, TX 77002. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid waste products for reuse and recycling,* between points in the United States, including Alaska, but excluding Hawaii in furtherance of a recognized pollution control program sponsored by Malone Service Co. of Texas City, TX for the purpose of transporting and recycling liquid waste products for reuse and recycling.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13000 Filed 5-11-78; 8:45 am]

[7035-01]

VOLUNTARY PREPARATION OF CERTIFICATES IN MOTOR CARRIER FINANCE CASES

AGENCY: Interstate Commerce Commission.

ACTION: Instruction for preparation of certificates in motor carrier finance cases.

SUMMARY: The purpose of this document is to encourage applicants in motor carrier finance proceedings to prepare for Commission review draft certificates or permits.

FOR FURTHER INFORMATION CONTACT:

G. M. Bober, Section of Finance, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423. 202-275-7564.

VOLUNTARY PREPARATION OF CERTIFICATES IN MOTOR CARRIER FINANCE CASES

MAY 3, 1978.

Motor carrier transactions under section 5 of the Act, with the exception of acquisitions of control, necessitate the preparation of new certificates. The new certificates are issued to reflect that portion of the operating authority to be acquired by the vendee, as well as any authority to be retained by the vendor. Many finance transactions involve the preparation and issuance of a substantial volume of certificated authority. The administrative burden imposed upon the Commission as a result of this procedure is substantial.

In order to alleviate a considerable portion of this burden, applicants (vendee and/or vendor) are encouraged to draft for review by the Commission certificates or permits reflecting the authority authorized to be acquired as well as any authority to be retained.

Assistance and appropriate forms may be obtained from the Certificates Unit, Room 2372, 202-275-7251. The draft certificate or permit should also be addressed to the Interstate Commerce Commission, Certificates Unit, Room 2372, 12th Street and Constitution Avenue, N.W., Washington, D.C. 20423.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-12991 Filed 5-11-78; 8:45 am]

[7035-01]

[ICC Order No. 55 Under Revised Service Order No. 1252]

WESTERN MARYLAND RAILROAD CO.

Rerouting Traffic

To all Railroads: In the opinion of Joel E. Burns, Agent, the Western Maryland Railroads Co. is unable to transport promptly all coke traffic offered for movement via its lines serving Baltimore, Md., because of congestion.

It is ordered, That: (a) *Rerouting traffic.* The Western Maryland Co. being unable to transport promptly all coke traffic offered for movement via its lines serving Baltimore, Md., because of congestion, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurence of other

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railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Comission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 a.m., April 27, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-12995 Filed 5-11-78; 8:45 am]

[7035-01]

[Amendment No. 3 to Exemption No. 143]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To: *All Railroads*

Upon further consideration of Exemption No. 143 issued January 26, 1978.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 143 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire June 30, 1978.

This amendment shall become effective April 30 1978.

Issued at Washington, D.C., April 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-12996 Filed 5-11-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., May 16, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Oral report on State Advisory Committee meeting.
Definition of Proprietary Accounts/reg. 1.3.
Proposed revision of remaining May Calendar.
Petition for interim rulemaking (amendment of regulation section 32.11) from Mocatta Metals Corporation, Metals Quality Corporation
Petition for general exemption from the provisions of regulation sec. 32.11 from Rosenthal and Company
Petition for general exemption from the provisions of regulation section 32.11 from Dowdex Corporation

Portions closed to the public:

Enforcement Matters/application for registration as FCM; revocation of registration of AP.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1002-78 Filed 5-10-78; 9:52 am]

[6570-06]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATIONS OF PREVIOUS ANNOUNCEMENTS: S-973-78 and S-986-78.

PREVIOULY ANNOUNCED TIME AND DATE OF MEETING: 11 a.m. (eastern time), Thursday, May 11, 1978.

CHANGE IN THE MEETING: The following item is added to the portion open to the public.

Designation of the Commonwealth of Puerto Rico Department of Labor and the Austin (Texas) Human Relations Commission as 706 agencies.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner.
Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued May 9, 1978.

[S-998-78 Filed 5-10-78; 8:55 am]

[6715-01]

3

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, May 17, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports, Compliance, Personnel.

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DATE AND TIME: Thursday, May 18, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of future meetings.
Correction and approval of minutes.
Election of Chairman and Vice Chairman.
Appropriations and budget.
Nonfiler procedures.
Rules of procedures of the FEC pursuant to 2 U.S.C. 437c(e).
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.

Portions closed to the public:

Any matters not concluded at the Executive Session of May 10, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1006-78 Filed 5-10-78; 3:18 am]

[6740-02]

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 19753, May 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 10, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

M-4.—Annual applications of the Gas Research Institute.

KENNETH F. PLUMB,
Secretary.

[S-1003-78 Filed 5-10-78; 9:52 am]

[6210-01]

5

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 19497, May 5, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, May 10, 1978.

CHANGES IN THE MEETING: Deletion of the following open item from the agenda:

Proposed expansion of the System's computer hardware monitoring pro-

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gram. This matter will be rescheduled at a later date.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Asssistant to the Board, 202-452-3204.

Dated: May 9, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[S-1004-78 Filed 5-10-78; 9:52 am]

[6210-01]

6

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Wednesday, May 17, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20331.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Proposed negotiation of competitive purchases of computers and computer equipment within the Federal Reserve System.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

4Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: May 9, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[S-999-78 Filed 5-10-78; 8:55 am]

[7020-02]

7

[USITC SE-78-210]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 18628, May 1, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m. Thursday, May 11, 1978.

CHANGES IN THE MEETING: Agenda Item No. 7, FOIA Appeal from Mr. John Heise, Jr., regarding request No. 78-16, previously announced as open to the public, was closed to the public by a vote of a majority of the entire membership of the Commission.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1005-78 Filed 5-10-78; 3:18 pm]

[7035-01]

8

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, May 16, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue, NW., Washington, D.C.

STATUS: Open regular conference.

MATTERS TO BE CONSIDERED:

1. Briefing on Freight Subsidy Program (RSPO).
2. First periodic briefing on Betterment versus Depreciation Accounting (Accounts).
3. Quarterly abandonment briefing (Proceedings).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

MAY 9, 1978.

[S-1001-78 Filed 5-10-78; 8:55 am]

[8010-01]

9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities ane Exchange Commission will hold the following meetings during the week of May 15, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, May 16, 1978, at 10 a.m. and on Thursday, May 18, 1978, immediately following the open meeting. Open meetings will be held on Wednesday, May 17, 1978, at 9 a.m. and on Thursday, May 18, 1978, at 1:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 16, 1978, at 10 a.m., will be:

Formal orders of investigation.
Referral of investigatory files to Federal, State, or Self-Regulatory authorities.
Dismissal of injunctive action.
Institution injunctive action.
Settlement of injunctive action.
Settlement of an administrative proceeding of an enforcement nature.
Freedom of Information Act appeal.

The subject matter of the closed meeting scheduled for Thursday, May 18, 1978, immediately following the open meeting, will be:

Institution of injunctive action.
Regulatory matter bearing enforcement implications.
Opinion.

The subject matter of the open meeting scheduled for Wednesday, May 17, 1978, at 9 a.m., will be:

1. Applications filed by Richmond, Fredericksburg and Potomac Railroad for an exemptive order from certain reporting requirements under the Securities Exchange Act of 1934.
2. Application filed by Horn & Hardart Co. for Commission review of a request for an extension of time within which to file the company's annual report on Form 10-K for the fiscal year ended December 31, 1977.
3. Affirmation of duty officer action to extend the comment period concerning accounting practices of oil and gas producers and give notice of an additional hearing date concerning this matter.
4. Affirmation of duty officer action authorizing the transmittal of oral comments to the Office of Management and Budget, concerning the Department of Commerce Options Paper on Product Liability and Accident Compensation.
5. Consideration of a Freedom of Information Act appeal of Mr. John A. Byrne for information concerning Commissioners and staff members in grades GS-15 and above who have been employed in industries regulated by the Commission either before or after joining the Commission or its staff.
6. Consideration of proposed amendments to the Uniform System of Accounts for Mutual and Subsidiary Service Companies pursuant to the Public Utility Holding Company Act of 1935, which would follow, with modifications, the Federal Energy Regulatory Commission's Uniform System of Accounts; proposed amendments to Rule 93, which would require service companies to keep accounts and records in accordance with the proposed amended Uniform System of Accounts.
7. Consideration of a proposed rule interpreting section 3(a)(8) of the Securities Act of 1933, to provide guidance in determining when a contract, though issued by an insurance company and styled an annuity, is ineligible for such an exemption and required to be registered. The proposal would set forth a number of factors to be considered in determining the status under the Federal securities laws of a contract issued by an insurance company.

The subject matter of the open meeting scheduled for Thursday, May 18, at 1:30 p.m., will be:

1. Proposed order extending effective date of the withdrawal from listing and registration in the matter of Pacific Resources, Inc. on the Pacific Stock Exchange, Inc.; Application by the Pacific Stock Exchange, Inc. for unlisted trading privileges in the common stock of Pacific Resources, Inc.
2. Consideration of a proposed amendment to section 21 of the Securities Exchange Act of 1934, that would enhance the Commission's ability to obtain information in the course of investigations and a proposed amendment to section 22 of the Act, which would authorize the Commission to issue cease and desist orders.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Edward B. Horahan at 202-376-8072 or John Sweeney at 202-376-7077.

MAY 19, 1978.

[S-1000-78 Filed 5-10-78; 8:55 am]

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FRIDAY, MAY 12, 1978
PART II



federal register

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

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[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determinations Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arizona:	
AZ77-5058; AZ77-5059	June 17, 1977.
California:	
CA78-5002	Feb. 24, 1978.
CA78-5003	Apr. 21, 1978.
Connecticut:	
CT78-3003	Feb. 17, 1978.
Hawaii:	
HI78-5016	Mar. 17, 1978.
Idaho:	
ID78-5017	Apr. 7, 1978.
Illinois:	
IL78-2017; IL78-2018; IL78-2020; IL78-2021; IL78-2022; IL78-2024; IL78-2026; IL78-2027; IL78-2028; IL78-2031; IL78-2034; IL78-2035; IL78-2036; IL78-2037; IL78-2038; IL78-2041; IL78-2042.	Mar. 17, 1978.
Kansas	
KS78-4008; KS78-4009	Feb. 3, 1978.
Maryland:	
MD78-3020	Apr. 14, 1978.
Massachusetts:	
MA78-3022; MA78-3024; MA78-3029; MA78-3031.	Apr. 21, 1978.
MA78-3025; MA78-3030; MA78-3032.	Apr. 14, 1978.
Pennsylvania:	
PA78-3189	May 21, 1976.
PA77-3060	May 20, 1977.
PA77-3107	Aug. 26, 1977.
Texas:	
TX78-4025	Mar. 31, 1978.
TX78-4030; TX78-4031; TX78-4036; TX78-4040; TX78-4041; TX78-4043.	Apr. 14, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Kansas:	
KS77-4023 (KS78-4049); KS77-4024 (KS78-4060).	Feb. 18, 1977.
Louisiana:	
LA78-4001 (LA78-4052)	Jan. 6, 1978.
Ohio:	
OH78-2003 (OH78-2055); OH78-2004 (OH78-2057); OH78-2005 (OH78-2058).	Feb. 10, 1978.
OH78-2007 (OH78-2056)	Mar. 10, 1978.
Pennsylvania:	
PA77-3050 (PA78-3045); PA77-3053 (PA78-3043); PA77-3055 (PA78-3015).	May 13, 1977.
PA77-3059 (PA78-3044)	May 20, 1977.
South Carolina:	
SC75-1031 (SC78-1046)	Mar. 14, 1977.
Texas:	
TX76-4118 (TX78-4051)	July 16, 1976.
Virginia:	
VA77-3089 (VA78-3039); VA77-3091 (VA78-3042).	July 1, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 5th day of May 1978.

DOROTHY P. COME,
Acting Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA78-5002 - Mod. #2 (43 FR 7881 - February 24, 1978) Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, Eldorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California					
Add:					
Power Equipment Operators: (Areas 1 and 11)					
Group 3					
Rodman or Chainman:					
Area I	$ 9.73	$1.58*	$2.25	$1.00	.29
Area II	11.24	1.58*	2.25	1.00	.29
Group 7:					
Instrumentman:					
Area I	10.87	1.58*	2.25	1.00	.29
Area II	12.38	1.58*	2.25	1.00	.29
*Include $.28 per hour to Pensioned Health and Welfare Fund.					

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AZ77-5058 - Mod. #9 (42 FR 31056 - June 17, 1977) Statewide, Arizona					
Change:					
Plasterers:					
Phoenix Area:					
Zone A: 0 to 35 miles from Phoenix, Arizona	$10.22	.95	$1.10		.06
Zone B: 35 to 60 miles from Phoenix, Arizona	10.97	.95	1.10		.06
Zone C: 60 miles and over from Phoenix, Arizona	12.095	.95	1.10		.06
DECISION #AZ77-5059 - Mod. #7 (42 FR 31065 - June 17, 1977) Maricopa County, Arizona					
Change:					
Plasterers: (Northern 3/4 of County):					
Zone A: 0 to 35 miles from Phoenix, Arizona	$10.22	.95	$1.10		.06
Zone B: 35 to 10 miles from Phoenix, Arizona	10.97	.95	1.10		.06
Zone C: 60 miles and over from Phoenix, Arizona	12.095	.95	1.10		.06
Sprinkler Fitters	12.74	.75	1.05		.08

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MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA78-5003 - Mod. #3 (43 FR 17162 - April 21, 1978) Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, Eldorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California					
Omit:					
On MODIFICATION #1 - under DECISION NO. CA78-5002 - in 43 FR - 17162 - Dated April 21, 1978					
Power Equipment Operators: (Areas I and II)					
Residential Construction					
Group 3:					
Rodman or chainman:					
Area I	$ 9.73	$1.58	$2.25	$1.00	.29
Area II	11.24	1.58	2.25	1.00	.29
Group 7:					
Area I	10.87	1.58	2.25	1.00	.29
Area II	12.38	1.58	2.25	1.00	.29
DECISION NO. CT78-3003- Mod #1 (43 FR 7110- February 17, 1978) Fairfield, Litchfield, and Windham Counties, Conn.					
Change:					
Carpenters, millwrights, piledivermen, soft floor layers:					
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Redding, Ridgefield, Sherman, Stamford, & Wilton;					
Litchfield Co.: Barkhamsted, Bethlehem, Bridgewater, Canaan, Colebrook, Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, Norwalk, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, and Woodbury:					
Commercial	$10.10	.90	.65		.10
Residential-- up to and including 4 stories	6.90	.90	.65		.10

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #HI78-5016 - Mod. #2 (43 FR 11366 - March 17, 1978) Statewide Hawaii					
Change:					
Glaziers	$10.15	$1.11	.85	.97	.16
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Group 1	8.15	1.05	2.20	.75	.10
Group 2	8.26	1.05	2.20	.75	.10
Group 3	8.43	1.05	2.20	.75	.10
Group 4	8.70	1.05	2.20	.75	.10
Group 5	9.01	1.05	2.20	.75	.10
Group 6	9.66	1.05	2.20	.75	.10
Group 7	9.98	1.05	2.20	.75	.10
Group 8	10.09	1.05	2.20	.75	.10
Group 9	10.20	1.05	2.20	.75	.10
Group 9-A	10.43	1.05	2.20	.75	.10
Group 10	10.49	1.05	2.20	.75	.10
Group 10-A	10.64	1.05	2.20	.75	.10
Group 11	10.79	1.05	2.20	.75	.10
Group 12	11.15	1.05	2.20	.75	.10
Truck Drivers:					
Flatbed	8.43	1.05	2.20	.75	.10
Dump, 8 yds. and under; Water truck (up to and including 2000 gals.)	8.70	1.05	2.20	.75	.10
Water truck (over 2000 gals.):					
Tandem	9.01	1.05	2.20	.75	.10
Semi-trailer or Semi-dump	9.66	1.05	2.20	.75	.10
Slip-in or pup	9.98	1.05	2.20	.75	.10
End dumps, unlicensed (Euclid, Mack, Caterpillar or similar);					
Tractor trailer (hauling equipment)	10.09	1.05	2.20	.75	.10
DECISION #ID78-5017 - Mod. #2 (43 FR 14841 - April 7, 1978) Statewide Idaho					
Change:					
Electricians:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties:					
Electricians	$11.35	.70	3% + .75		1%
Cable Splicers	12.485	.70	3% + .75		1%

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2017 - Mod. #1 (43 FR 11371 - March 17, 1978) Adams, Brown & Pike Counties, Illinois					
CHANGE:					
Adams County:					
Carpenters & Soft Floor Layers	$10.50	.65	.35		.02
Millwrights & Piledrivermen	10.75	.65	.35		.02
DECISION #IL78-2018 - Mod. #1 (43 FR 11373 - March 17, 1978) Champaign & Vermilion Counties, Illinois					
CHANGE:					
Champaign County:					
Bricklayers, Stonemasons Marble-Tile & Terrazzo Workers	11.70	.45	.50		.05
	12.55	.50			
Carpenters & Soft Floor Layers	11.715	.45	1.00		.08
Millwrights & Piledrivermen	12.215	.45	1.00		.08
Electricians	12.55	.50	3%+.30		.3%
Ironworkers	11.55	.65	1.00		.08
Painters:					
Brush	11.57	.55	.40		.04
Open & Erected Steel	12.57	.55	.40		.04
Plasterers	11.915	.45			.025
Vermilion County:					
Remainder of County:					
Carpenters & Soft Floor Layers	11.645	.75	.80		.05
Millwrights & Piledrivermen	12.145	.75	.80		.05
Cement Masons & Plasterers	11.35		.80		

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2020 - MOD. #1 (43 FR 11379 - March 17, 1978) DuPage, Grundy, Kane, Kendall, Lake McHenry and Will Counties, Illinois					
Change:					
ELECTRICIANS:					
Lake County	$12.64	.65	3%+.90		½ of 1%
Omit:					
DECISION NO. IL77-2068					
Add:					
DECISION NO. IL78-2020					
Change:					
Laborers:					
Class 1	8.55	.57	1.10		
Class 2	8.65	.57	1.10		
Class 3	8.70	.57	1.10		
Class 4	8.75	.57	1.10		
Class 5	8.80	.57	1.10		
Class 6	8.90	.57	1.10		
Class 7	9.05	.57	1.10		
DECISION #IL78-2021 - MOD. #1 (43 FR 11384 - March 17, 1978) Fulton, Hancock, McDonough & Schuyler Counties, Illinois					
Change:					
Bricklayers:					
Hancock & McDonough Counties					
Bricklayers, Stonemasons, Cement Blocklayers, Marble-Tile & Terrazzo Workers	12.30				
Carpenters:					
McDonough County & Eastern 1/3 of Hancock County					
Carpenters & Soft Floor Layers	12.01	.40	.50		.05
Millwrights & Piledrivermen	12.51	.40	.50		.05
Cement Masons & Plasterers:					
Hancock, McDonough & Schuyler Counties					
Cement Masons	12.35				
Hancock & McDonough Counties					
Plasterers	12.10				
Painters:					
Remainder of Counties:					
Brush	10.75				
Structural Steel & Spray	11.25				

DECISION #IL78-2021 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Hancock & McDonough Counties					
Unskilled	$10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
Fulton County					
Projects under $375,000					
Unskilled	10.15	.60	.60		.035
Semi-Skilled	10.35	.60	.60		.035
Skilled	10.55	.60	.60		.035
Projects in excess of $375,000					
Unskilled	10.55	.60	.60		.035
Semi-Skilled	10.75	.60	.60		.035
Skilled	10.95	.60	.60		.035
DECISION #IL78-2022 - MOD. #1 (43 FR 11387 - March 17, 1978) Ford, Iroquios & Kankakee Counties, Illinois					
Change:					
Laborers:					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
Electricians					
Kankakee County and Remainder of Ford and Iroquois Counties	11.67	.50	3%+.70		.2 of 1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2024 - Mod. #1 (43 FR 11391 - March 17, 1978) Bureau, LaSalle, Livingston, Marshall, Putnam & Woodford Counties, Illinois					
CHANGE:					
Under Counties: Bureau, LaSalle, Livingston, Marshall, Putnam & Woodford					
Electricians:					
Northern ½ & Central Southern part of LaSalle County; Walnut; Ohio; Lamoille, Clarton, Bureau, Dover, Berrin & Westbille Township in Bureau County	$13.43	.50	3%+.70		.2 of 1%
Laborers:					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
DECISION #IL78-2026 - Mod. #1 (43 FR 11395 - March 17, 1978) Logan, Mason & Menard Counties, Illinois					
CHANGE:					
Bricklayers:					
Logan & Mason Counties					
Bricklayers, Stonemasons, Cement Blocklayers, Caulkers, Pointers, Cleaners & Plasterers	11.90				
Cement Masons:					
Logan County	11.45				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2027 - MOD. #1 (43 FR 11395 - March 17, 1978) McLean County, Illinois					
Change:					
Carpenters:					
Carpenters and Soft Floor Layers	$12.01	.40	.50		.05
Millwrights and Piledrivermen	12.51	.40	.50		.05
Cement Masons	12.53	.55			
Laborers:					
Unskilled	9.97	.55	.60		.035
Semi-Skilled	10.17	.55	.60		.035
Skilled	10.37	.55	.60		.035
DECISION #IL78-2028 - MOD. #1 (43 FR 11401 - March 17, 1978) Christian, DeWitt, Macon, Macoupin, Moultrie, Piatt, and Shelby Counties, Illinois					
Change:					
Bricklayers and Stonemason:					
Macon, Moultrie and Shelby Cos.	11.90	.60	.50		.005
Carpenters:					
Macon County, Moultrie County: (Bethany, Okaw River, Lovington, Williamsbury, Lake City and all areas north); Piatt County: (Cisco, Bement, Allerton Park and all areas South therof:					
Carpenters and Soft Floor Layers	11.935	.60	.65		.06
Millwrights & Piledrivermen	12.435	.60	.65		.06
Tile-Terrazzo-Marble Workers:					
Macon and Shelby Counties	11.60	.60	.50		.005

DECISION #IL78-2028 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cement Masons:					
Macon County, Christian County: (Northern part south to a line running east & west established north of Humphrey & including Stonington); Shelby County: (Northern part including Moweaqua); Moultrie County: Northeastern part including Lovington); Piatt County: (Southern portion) DeWitt County (Southern ½ of County including Clinton)	$12.05	.60	.425		
Remainder of Christian County	11.20		.65		
Painters:					
Macon, Shelby, Moultrie, Piatt & DeWitt Counties	11.00	.50	.40		
Plasterers:					
Southern ½ of Christian County	11.20		.65		
Macon County, Christian County: (Norhtern part south to a line running east & west established north of Humphrey and including Stonington); Shelby County: Northern part including Moweaqua); Moultrie County: (Northeastern part including Lovington); Piatt County: (Southern portion) DeWitt County (Southern ½ of County includin Clinton)	12.27	.60	.425		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2031 - MOD. #1 (43 FR 11401 - March 17, 1978) Madison & St. Clair Counties, Illinois					
Change:					
Roofers:					
Composition-Slate-Tile	$10.95	.67	.55		.03
Plumbers & Steamfitters:					
Alton & Northern part of Madison Co., North of Mitchell, Granite City; Southern ½ of Madison Co., & E. St. Louis & UIC. in St. Clair Co.	12.20	.40	1.00		
Truck Drivers:					
Group I	10.125	.65	a31.00		
Group II	10.525	.65	a31.00		
Group III	10.725	.65	a31.00		
DECISION #IL78-2034 - MOD. #1 (43 FR 11410 - March 17, 1978) Cass, Morgan and Scott Counties, Illinois					
Change:					
Bricklayers:					
Morgan & Scott Counties:					
Bricklayers, Stonemasons, Plasterers, Marble-Tile and Terrazzo Workers, Cement Block Layers-Pointers-Caulkers and Cleaners	10.80	.50	.52		.02
Cass County:					
Bricklayers	10.80	.50	.52		.02
Carpenters:					
Carpenters and Soft Floor Layers	10.40	.55	.25		.02
Millwrights	10.65	.55	.25		.02
Piledrivermen	10.90	.55	.25		.02
Cement Masons and Plasterers:					
Morgan and Scott Counties:					
Cement Masons	10.555	.50	.52		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2035 - MOD. #1 (43 FR 11412 - March 17, 1978) Peoria and Tazewell Counties, Illinois					
Change:					
Carpenters:					
Residential					
Tazewell County and Remainder of Peoria County	$12.01	.40	.50		.05
Commerical					
Tazewell County and Peoria County:					
Carpenters & Soft Floor Layers	12.01	.40	.50		.05
Millwrights & Piledrivermen	12.51	.40	.50		.05
Cement Masons	11.50	.70	.80		.05
Clarifers	11.53	.55	.55		
Ironworkers	11.975	.65	.925		
Marble & Tile Finishers	11.00	.60	.25		
Terrazzo Finishers:					
Terrazzo Finishers & Floor Machine Operators	11.13	.60	.25		
Base Machine Operators	11.38	.60	.25		
Plumbers & Steamfitters:					
Peoria County & North of Highway #98 in Tazewell County	12.70	.51	1.05		.15
Remainder of Tazewell	12.70	.51	1.02		.11
Roofers	12.00	.70	.40		.025
Laborers: Peoria County & the of East Peoria (Tazewell County)					
Class 1	10.75	.40	.60		.035
Class 2	10.875	.40	.60		.035
Class 3	11.00	.40	.60		.035
Class 4	10.925	.40	.60		.035
Class 5	11.125	.40	.60		.035
Class 6	10.875	.40	.60		.035
Class 7	11.00	.40	.60		.035
Laborers:					
Remainder of Tazewell County					
Unskilled	10.55	.60	.60		.035
Semi-Skilled	10.75	.60	.60		.035
Skilled	10.95	.60	.60		.035

DECISION #IL78-2035 - MOD. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators					
Group 1	$12.22	.45	.80		.05
Group 2	12.02	.45	.80		.05
Group 3	11.645	.45	.80		.05
Group 4	11.37	.45	.80		.05
Group 5	10.76	.45	.80		.05
Dredging Construction:					
Group 1	12.22	.45	.80		.05
Group 2	12.02	.45	.80		.05
Group 3	11.645	.45	.80		.05
Group 4	11.37	.45	.80		.05
Group 5	10.76	.45	.80		.05
DECISION #IL78-2036 - MOD. #1 (43 FR 11415 - March 17, 1978) Henderson, Henry, Knox, Mercer, Rock Island, Stark & Warren Counties, Illinois					
Change:					
Carpenters:					
Knox, Henderson and Warren Cos.					
Carpenters and Soft Floor Layers	12.01	.40	.50		.05
Millwrights & Piledrivermen	12.51	.40	.50		.05
Cement Masons:					
Knox and Warren Counties					
Cement Masons & Plasterers	12.80	.50	.25		
Painters:					
Remainder of Knox County					
Brush and Paperhangers	9.50	.55	.15		
Structural Steel	9.75	.55	.15		
Roofers:					
Rock Island, Henry & Mercer Counties	12.65		.80		
Remainder of Counties	10.20				

DECISION #IL78-2036 - MOD. #1 (Cont d)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Stark - Western ½					
Unskilled	$ 9.84	.45	.60		.035
Semi-Skilled	10.04	.45	.60		.035
Skilled	10.24	.45	.60		.035
Eastern Half of Stark County					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
Henry County					
Unskilled	9.84	.45	.60		.035
Semi-Skilled	10.04	.45	.60		.035
Skilled	10.24	.45	.60		.035
Knox, Henderson & Warren Cos.					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
DECISION #IL78-2037 - MOD. #1 (43 FR 11421 - March 17, 1978) Sangamon County, Illinois					
Change:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Pointers, Caulker & Cleaners	10.75	.50	1.00		.02
Ironworkers	11.75	.55	.90		.03
Plasterers	12.41	.65	1.00		.01
Plumbers	12.43	.35	.88		.07
Sprinkler Fitters	12.10	.75	1.05		.08
Laborers:					
Unskilled	10.55	.45	.45		.035
Semi-Skilled	10.75	.45	.45		.035
Skilled	10.90	.45	.45		.035

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
DECISION #IL78-2038 - MOD. #1 (43 FR 11423 - March 17, 1978) Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, White & Williamson Counties, Illinois					
Change:					
Carpenters:					
Hamilton, Jefferson & White Counties:					
Carpenters, Piledrivermen & Soft Floor Layers	$10.11	.45	.50		.02
Millwrights	10.46	.45	.50		.02
Marion County:					
Carpenters, Piledrivermen & Soft Floor Layers	10.06	.50	.50		.03
Millwrights	10.41	.50	.50		.03
Cement Masons & Plasters:					
Franklin, Hamilton, Jefferson, & Williamson Counties	10.70				
Saline, Gallatin, Hardin, Pope, Johnson, Massac & White Cos.	10.70				
Laborers:					
Hamilton, Jefferson & White Counties	8.60	.40	.30		.035
Remainder of Counties	8.30	.40	.30		.035

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
DECISION #IL78-2041 - MOD. #1 (43 FR 11436 - March 17, 1978) Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence, Richland, Wabash & Wayne Counties, Illinois					
Change:					
Carpenters:					
Coles, Clark, Cumberland, Edgar, Effingham, Cos; Western ½ of Jasper Co., & Southern Part of Douglas County:					
Carpenters & Soft Floor Layers	$12.325	.55	.30		.07
Millwrights & Piledrivermen	12.825	.55	.30		.07
Crawford & Lawrence Cos; Eastern ½ of Jasper County:					
Carpenters & Soft Floor Layers	10.67	.57	.50		
Millwrights & Piledrivermen	11.07	.57	.50		
Painters:					
Crawford, Jasper, Effingham, Lawrence & Richland Cos.:					
Commerical & Industrial	9.80		.85		
DECISION #IL78-2042 - MOD. #1 (43 FR 12538 - March 17, 1978) Boone, DeKalb, Dupage, Kane, Kendall, Lake, McHenry and Will Counties, Illinois					
Change:					
Electricians:					
Will County	$13.43	.50	3%+.70		.2 of 1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Decision #KS78-4008-Mod. #1 (43 FR-4812-February 3,1978) Sedgwick County,Kansas					
Change:					
Asbestos Workers	$ 10.90	.81	.50		.02
Painters:					
Group 1	10.07	.10	.30		.01
Group 2	10.67	.10	.30		.01
Group 3	10.67	.10	.30		.01
Group 4	10.82	.10	.30		.01
Plasterers	9.50				.01
Sprinkler Fitters	11.93	.75	1.05		.08
Decision #KS78-4009-Mod. #1 (43 FR-4814-February 3,1978) Shawnee County, Kansas					
Change:					
Glaziers	9.63	.61	.96	2.38	.04
Lathers	10.15		.20		
Painters:					
Brush,drywall,sanding & taping	10.40	.50			.02
Painting of structures of 50' (all types); spraying	10.90	.50			.02
Soft Floor Layers	8.80	.50	.45	.88	.04
Sprinkler Fitters	11.93	.75	1.05		.08
Decision #MD78-3020 - Mod. #1 (42 FR-16045 - April 14, 1978) Counties of Anne Arundel (excluding the D.C. Training School), Baltimore and Baltimore City, Maryland, and for Heavy Construction projects in Harford and Howard Counties, Maryland					
Change:					
Bricklayers	$10.33	.70	.50		.07
Marble Setters	10.33	.70	.50		.07
Roofers:					
Roofers, damp & waterproof workers	8.40	.35	.40		
Slate, tile, asbestos, & asphalt shingle	8.85	.35	.40		
Precast slab & woodblock layer	9.40	.35	.40		
Stone Masons	10.33	.70	.50		.07

DECISION NO. MA78-3027- Mod #1 (43 FR 17179- April 21, 1978) Barnstable County, Massachusetts

DECISION NO. MA78-3024- Mod #1 (43 FR 17180- April 21, 1978) Bristol County, Massachusetts

DECISION NO. MA78-3025- Mod #1 (43 FR 16048- April 14, 1978) Essex County, Massachusetts

DECISION NO. MA78-3029- Mod #1 (43 FR 17185- April 21, 1978) Middlesex County, Massachusetts

DECISION NO. MA78-3030- Mod #1 (43 FR 16056- April 14, 1978) Norfolk County, Massachusetts

DECISION NO. MA78-3031- Mod #1 (43 FR 17194- April 21, 1978) Plymouth County, Massachusetts

DECISION NO. MA78-3032- Mod #1 (43 FR 16059- April 14, 1978) Suffolk County, Massachusetts

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
LABORERS (Building)					
Laborers, Wrecking, laborers and carpenter tenders	8.00	.60	.75		.10
Asphalt rakers, Carbide Core Driller Ops., Saw Ops., Pipelayers, Jackhammer & Paving Breaker Op., Barco-type jumping tampers, Laser Beams op., concrete pump ops., & wagon drill ops., mason tenders, mortar mixers & ride-on motorized buggy ops. and plasterers tenders	$ 8.25	.60	.75		.10
Air track op., Block pavers rammers & curb setters	8.50	.60	.75		.10
Blasters & powdermen	8.75	.60	.75		.10
Open air caison, cylindrical work & boring crew:					
Bottom man	8.75	.60	.75		.10
Top man	8.00	.60	.75		.10
Test Boring:					
Driller	8.87	.60	.75		.10
Helper	8.12	.60	.75		.10

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	$ 8.00	.60	.75		.10
CLASS II	8.25	.60	.75		.10
CLASS III	8.50	.60	.75		.10
CLASS IV	8.75	.60	.75		.10
ELECTRICIANS: Middlesex County: Ashby, Ayer, Ft. Devens, Groton, Pepperell, Shirely,Townsend: Commercial & Residential	10.55	.75	3%+.70		.07

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DECISION #PA76-3169 - Mod. # 8 (41 FR 21133 - May 21, 1976) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Power Equipment Operators Heavy Construction					
GROUP I	$12.75	7%	10.3%		1.8%
GROUP II	12.49	7%	10.3%		1.8%
GROUP III	11.62	7%	10.3%		1.8%
GROUP IV	11.41	7%	10.3%		1.8%
GROUP V	11.10	7%	10.3%		1.8%
GROUP VI	10.93	7%	10.3%		1.8%
GROUP VII	10.42	7%	10.3%		1.8%
GROUP VIII	9.68	7%	10.3%		1.8%
Power Equipment Operators Highway Construction:					
WAGE GROUP 1	12.50	7%	10.3%	a	1.8%
WAGE GROUP 2	12.27	7%	10.3%	a	1.8%
WAGE GROUP 3	11.66	7%	10.3%	a	1.8%
WAGE GROUP 4	11.14	7%	10.3%	a	1.8%
WAGE GROUP 5	10.77	7%	10.3%	a	1.8%
WAGE GROUP 6	10.42	7%	10.3%	a	1.8%
WAGE GROUP 7	9.68	7%	10.3%	a	1.8%

DECISION #PA77-3060 - Mod. # 5 (42 FR 26179 - May 20, 1977) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
POWER EQUIPMENT OPERATORS: HEAVY CONSTRUCTION					
GROUP 1	$12.44	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10.3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1.8%
GROUP 4	10.51	7%	10.3%	a	1.8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%
POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION					
GROUP 1	10.84	7%	10.3%	a	1.8%
GROUP 2	10.00	7%	10.3%	a	1.8%
GROUP 3	9.49	7%	10.3%	a	1.8%
GROUP 4	9.05	7%	10.3%	a	1.8%
GROUP 5	8.05	7%	10.3%	a	1.8%
GROUP 6	11.09	7%	10.3%	a	1.8%
GROUP 6-A	11.34	7%	10.3%	a	1.8%
GROUP 6-B	11.59	7%	10.3%	a	1.8%
DECISION #PA77-3107 - Mod. # 10 (42 FR 43353 - August 26, 1977) Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pennsylvania					
Change:					
Power Equipment Operators:					
Class I	$12.75	7%	10.3%		1.8%
Class II	12.49	7%	10.3%		1.8%
Class III	11.62	7%	10.3%		1.8%
Class IV	11.41	7%	10.3%		1.8%
Class V	11.10	7%	10.3%		1.8%
Class VI	10.93	7%	10.3%		1.8%
Class VII	10.42	7%	10.3%		1.8%
Class VIII	9.68	7%	10.3%		1.8%

DECISION #TX78-4025 - Mod. #1 (43 FR 13739 - March 31, 1978) - Statewide Texas

Change Area Covered by Various Zone to Read as Follows:

ZONE 3 - Andrews, Brown, Callahan, Coke, Coleman, Comanche, Concho, Crane, Crockett, Eastland, Ector*, Erath, Glasscock, Howard, Irion, Kimble, Loving, Martin, McCulloch, Menard, Midland*, Mills, Mitchell, Nolan, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Taylor, Tom Green, Upton, Ward & Winkler Cos.

Description of Work: Heavy (excluding tunnels & dams) & Highway Construction (does not include building structures in rest area projects) & Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes & garden type apartments up to & including 4 stories).

*Not to be used for Paving & Utilities Incidental to General Building Construction in Ector & Midland Counties

DECISION #TX78-4030 - Mod. #2 (43 FR 16115 - April 14, 1978) Bee, Kleberg & Nueces Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Cement masons	$ 8.75				
DECISION #TX78-4031 - Mod. #2 (43 FR 16116 - April 14, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction: Plumbers & pipefitters:					
Zone 1 - Area within a 35 mile radius of Waco including Temple, Marlin, Clifton, Hillsboro & Belton	9.18	.30	.33		.03
Zone 2 - All other area	9.58	.30	.33		.03
Incidental Paving & Utilities: Plumbers:					
Zone 1 - 35 mile from Waco, Texas including towns of Temple & Belton	9.18	.30	.33		.03
Zone 2 - All area not included in Zone 1	9.58	.30	.33		.03
DECISION #TX78-4036 - Mod. #2 (43 FR 16125 - April 14, 1978) El Paso County, Texas					
Change:					
Painters - Group 1	7.70	.38			.02
Group 2	8.11	.38			.02
Group 3	8.415	.38			.02
Group 4	7.92	.38			.02
Group 5	9.06	.38			.02
Soft floor layers	7.45	.38	.10		.02

DECISION #TX78-4040 - Mod. #2 (43 FR 16131 - April 14, 1978) Jefferson & Orange Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters: Piledrivermen	$11.26	.55	.30		
DECISION #TX78-4041 - Mod. #1 (43 FR 16133 - April 14, 1978) Lubbock County, Texas					
Change:					
Bricklayers & stonemasons	9.67		.30		.03
DECISION #TX78-4043 - Mod. #2 (43 FR 16134 - April 14, 1978) Travis County, Texas					
Change:					
Carpenters: Carpenters	10.41	.48	.40		.04
Millwrights	10.66	.48	.40		.04

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SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Sedgwick
DECISION NO.: KS78-4049 DATE: Date of Publication
Supersedes Decision No.: KS77-4023 dated February 18, 1977 in 42 FR 10233
Description of Work: Highway (does not include bridges over navigable waters, tunnels; building structures in rest area projects; railroad construction) and Water and Sewer Line Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame truck	$ 3.90				
Asphalt paving machine	4.70				
Asphalt spreader screed operator	4.35				
Asphalt raker	4.00				
Batching plant scaleman	4.10				
Bulldozer operator	4.70				
Carpenters	4.50				
Carpenters tender	4.00				
Cement masons	4.55				
Compressor operator	4.00				
Concrete finisher (paving)	4.55				
Concrete paver	4.70				
Concrete paving curing machine	4.35				
Concrete saw	4.00				
Crane, or any machine power swing	5.00				
Distributor operator	4.35				
Finishing machine operator	4.22				
Form liner and setter	3.75				
Front end loader, over 1 C.Y.	4.55				
Front end loader, 1 C.Y. & less	4.20				
Laborer (Construction & General)	3.50				
Mechanic	5.00				
Mechanic helper	4.35				
Motor grader operator (finish)	5.00				
Motor grader operator (rough)	4.70				
Reinforcing steel setter	4.00				
Roller, pneumatic (self-propelled)	4.20				
Roller, steel (self-propelled)	4.20				
Roller, steel wheel (plant mix)	4.20				
Rotary broom operator	4.00				
Slurry machine operator	4.55				
Tractor operator, 50 HP or less	3.65				
Tractor operator, over 50 HP	4.20				
Trucks:					
Light	3.85				
Single axle	3.85				
Tandem axle	4.35				
Welder	4.35				

SUPERSEDEAS DECISION

STATE: Kansas COUNTIES: Barber, Barton, Cheyenne, Clark, Comanche, Decatur, Edwards, Ellis, Ellsworth, Finney, Ford, Grove, Graham, Grant, Gray, Greely, Hamilton, Haskel Hodgeman, Jewell, Kearny, Kiowa, Lane, Lincoln, Logan, Meade, Mitchell, Morton, Ness, Norton, Osborr Pawnee, Phillips, Pratt, Rawlings, Rice, Rooks, Rush, Russell, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Thomas, Trego, Wallace, and Wichita
DECISION NO.: KS78-4050 DATE: Date of Publication
Supersedes Decision No. KS77-4024 dated February 18, 1977 in 42 FR 10234
Description of Work: Highway (does not include bridges over navigable waters, tunnels; building structures in rest area projects; railroad construction) and Water and Sewer Line Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck	$ 3.55				
Air tool man	3.40				
Asphalt paving machine	4.50				
Asphalt spreader screed operator	3.80				
Asphalt plant heater attendant	3.85				
Asphalt plant operator	4.75				
Asphalt raker	3.30				
Back hoe	4.50				
Batching plant scaleman	4.00				
Blowing mechanism on straw blower	3.50				
Boring machine	4.00				
Brick mason	4.65				
Bulldozer operator	4.50				
Carpenters	4.65				
Carpenter tender	3.85				
Cement masons	4.30				
Compressor operator	3.85				
Concrete finisher (paving)	4.30				
Concrete paver	4.50				
Concrete saw	4.00				
Conveyo operator	4.00				
Crane, or any machine power swing	4.75				
Crushers & screening plant opr.	4.15				
Distributor operator	4.15				
Electrician	5.50				
Finishing machine operator	4.30				
Form liner and setter	3.85				
Front end loader, over 1 C.Y.	4.14				
Front end loader 1 C.Y. & less	4.00				
Harrow, Disc, Seeder	3.50				
Hot Mastic Kettleman	4.00				
Ironworkers (ornamental & structural)	3.55				
Laborer (Construction & General)	3.30				
Loader operator	3.68				
Mechanic	4.75				
Mechanic helpers	4.15				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mixer (skip)	3.85				
Motor grader operator (finish)	4.40				
Motor grader operator (rough)	4.50				
Motor scraper operator	3.47				
Oilers - greaser	4.15				
Painters (Structural steel & bridge)	$ 4.15				
Piledriverman	3.85				
Pipelayer	3.55				
Post driver operator	4.30				
Push cat operator	4.50				
Reinforcing steel setter	3.85				
Roller, pneumatic (self-propelled)	4.00				
Roller, not asphalt (self-propelled)	3.85				
Roller, steel (Self-propelled)	4.00				
Roller, steel wheel (plant mix)	4.00				
Rotary broom operator	3.85				
Sand blaster	4.15				
Scaleman	3.30				
Scoop operator (single engine)	4.30				
Scoop operator (twin engine)	4.65				
Spreader box operator (self-propelled)	4.30				
Tamper operator	3.65				
Tractor (50 H.P. or Less)	3.50				
Tractor operator (Over 50 H.P.)	4.00				
Traveling plant stabilizer	4.65				
Trenching machine operator	4.15				
Trucks:					
Light	3.65				
Single axle	3.65				
Tandem axle	4.15				
Lowboy, semi, transit mix	4.15				
Vibrating machine operator	3.85				
Welder	4.15				

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA78-4052 DATE: Date of Publication
Supersedes Decision No. LA78-4001, dated January 6, 1078, in 43 FR 1276
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories) & Construction of Highways, Roads, Streets (does not include building structures in rest area projects) & Parking Area (except those let with a building contract). Building Construction includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation, includes site preparation & incidental paving & utilities outside the building.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS - ZONE 1	$10.595	.525	.90		.04
ZONE 2	10.03	.40	.76		.025
ZONE 3	9.45	.50	1.10		.05
ZONE 4	9.82	.45	.50		

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Pars.

BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE 1	10.39	.80	.75		.31
ZONE 2	9.40	.53			
ZONE 3	10.85	.53	.30		.02
ZONE 4	10.80	.45	.30		.035
ZONE 5	10.25				
ZONE 6	9.55	.40	.45		
ZONE 7	8.95		.30		
ZONE 8	10.00		.25		
ZONE 9	10.70				

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 190) & Washington Pars.
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes

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ZONE 6 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr.
CARPENTERS(BUILDING CONSTRUCTION)					
ZONE 1 - Carpenters	$ 9.00	.50			
Millwrights	9.72	.50			
Piledrivermen	9.90	.50			
ZONE 2 - Carpenters, piledrivermen & soft floor layers	9.745	.40	.33		.05
Millwrights	11.245				.05
ZONE 3 - Carpenters	10.10	.35	.30		
Millwrights	11.75	.35	.30		
Piledrivermen	10.40	.35	.30		
ZONE 4 - Carpenters & piledrivermen	10.60	.40	.50		.04
Millwrights	12.275				.08
ZONE 5 - Carpenters & soft floor layers	10.42	.50	.35		.04
Millwrights	10.81	.50	.35		.04
Piledrivermen	10.52	.50	.35		.04
ZONE 6 - Carpenters & soft floor layers	10.255	.50	.35		.04
Millwrights	10.81	.50	.35		.04
Piledrivermen	10.52	.50	.35		.04
ZONE 7 - Carpenters & soft floor layers	9.50				
Millwrights	10.25				
Piledrivermen	10.00				
ZONE 8 - Carpenters & soft floor layers	9.30	.40	.35		.04
Millwrights	10.05	.40	.35		.04
Piledrivermen	9.55	.40	.35		.04
ZONE 9 - Carpenters & soft floor layers	9.30				
Millwrights	10.05				
Piledrivermen	9.80				
ZONE 10 - Carpenters & soft floor layers	9.20	.50	.30		.05
Millwrights	10.10	.50	.30		.05
Piledrivermen	9.70	.50	.30		.05

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Miss. River), West Baton Rouge & West Feliciana Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars. Parts of St. Tammany & Tangipahoa (south of I-12 from the Miss. State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes

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ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN (HIGHWAY CONSTRUCTION):					
ZONE 1	$ 9.76				
ZONE 2	10.76				
ZONE 3	10.87				
ZONE 4	10.175				
ZONE 5	8.87				
ZONE 6	8.65				
ZONE 7	8.10				

ZONE 1 - Bossier & Caddo Parishes
ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 3 - East Baton Rouge Parish
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Pars.

CEMENT MASONS (BUILDING CONSTRUCTION):				
ZONE 1	9.51			
ZONE 2	9.45			
ZONE 3	8.90	.50	.50	.05
ZONE 4	10.145	.45	.40	.04
ZONE 5	9.35			
ZONE 6	6.75			
ZONE 7	8.75	.35		
ZONE 8	8.72		.25	
ZONE 9	7.30		.30	

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Para.
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (lower half) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (HIGHWAY CONSTRUCTION)					
ZONE 1	$ 9.00	.45	.30		
ZONE 2	6.45				
ZONE 3	8.75	.35			
ZONE 4	9.10				
ZONE 5	8.60				
ZONE 6	8.10				
ZONE 7	8.60				
On concrete lined ditches	8.90	.50	.50		.05
ZONE 8	8.10				
On concrete lined ditches	8.90	.50	.50		.05
ZONE 9	6.30				
ZONE 10	5.72				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, U.S. Hwy. 61 in East Feliciana & West Feliciana Pars
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron & Jefferson Davis Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Acadia, Iberia, Lafayette, St. Landry, St. Martin & Vermilion Parishes
ZONE 8 - St. Mary Parish
ZONE 9 - Assumption, Avoyelles, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Hwy. 61), Evangeline, Iberville, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Parishes

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
ZONE 1 - Electricians	$12.30	5%	8%		3/10%
Cable splicers	12.55	5%	8%		3/10%
ZONE 2 - Electricians	10.65	.35	3%		
Cable splicers	11.15	.35	3%		
ZONE 3 - Electricians	12.30	.35	3%+.20		1/10%
Cable splicers	12.55	.35	3%+.20		1/10%
ZONE 4 - Electricians	11.90	.35	3%		2/10%
Cable splicers	12.15	.35	3%		2/10%
ZONE 5 - Electricians	11.65	.35	3%+.30		.03
Cable splicers	11.65	.35	3%+.30		.03
ZONE 6 - Electricians	10.85	.65	3%		1/2%
Cable splicers	11.35	.65	3%		1/2%
ZONE 7 - Electricians	11.40	1.00	3%		1%
Cable splicers	11.90	1.00	3%		1%
ZONE 8 - Electricians	11.15		3%	.30	1/2%
Cable splicers	11.40		3%	.30	1/2%

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ELEVATOR CONSTRUCTORS					
ZONE 1 - Mechanics	9.76	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
ZONE 2 - Mechanics	9.595	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				

FOOTNOTES FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; the Friday after Thanksgiving Day; Christmas Day
ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Pars.
ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Webster, West Carroll & Winn Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS - ZONE 1	$ 9.65				.02
ZONE 2	8.15				.01
ZONE 3	10.025	.17	.30		.01
ZONE 4	7.88		.30		.04
ZONE 5	6.80				
ZONE 6	8.10				

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy. 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 5 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes
ZONE 6 - St. Tammany (northern portion), Tangipahoa (east of Hwy. 51) & Washington Pars.

IRONWORKERS (BUILDING CONSTRUCTION)					
ZONE 1	10.76	.63	.35		.04
ZONE 2	10.99	.45	.65		.04
ZONE 3	10.75	.45	.50		.04
ZONE 4	10.75	.45	.95		.06
ZONE 5	8.80	.45	.85		.04
ZONE 6	10.30	.35	.60		.025

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line, then west along the southern border of Rapides Par.)
ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Peason to the Tex.-La. border)
ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border

through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line)
ZONE 5 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)
ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline Pars.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (HIGHWAY CONSTRUCTION					
ZONE 1	$10.92				
ZONE 2	8.70				
ZONE 3	10.50				
ZONE 4	10.36				
ZONE 5	8.65				
ZONE 6	8.10				
ZONE 7	6.99				
ZONE 8	6.45				
ZONE 9	5.84				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Calcasieu Parish
ZONE 4 - Bossier & Caddo Parishes
ZONE 5 - Cameron & Jefferson Davis Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Pars.
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

LABORERS (BUILDING CONSTRUCTION					
ZONE 1 - GROUP 1	6.45	.15			
GROUP 2	6.60	.15			
GROUP 3	6.70	.15			
ZONE 2 - GROUP 1	6.07	.15	.10		.05
GROUP 2	6.27	.15	.10		.05
ZONE 3 - GROUP 1	7.55	.15	.10		.05
GROUP 2	7.65	.15	.10		.05
GROUP 3	7.70	.15	.10		.05
GROUP 4	8.51	.15	.10		.05
GROUP 5	8.07	.15	.10		.05
GROUP 6	7.81	.15	.10		.05
GROUP 7	7.60	.15	.10		.05
ZONE 4 - GROUP 1	7.12	.25	.27		.05
GROUP 2	7.22	.25	.27		.05
GROUP 3	7.27	.25	.27		.05
ZONE 5 - GROUP 1	6.72	.25	.27		.05
GROUP 2	6.82	.25	.27		.05
GROUP 3	6.87	.25	.27		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 6 - GROUP 1	$ 7.65	.25	.27		.05
GROUP 2	7.75	.25	.27		.05
GROUP 3	7.90	.25	.27		.05
GROUP 4	7.81	.25	.27		.05
GROUP 5	7.91	.25	.27		.05
ZONE 7 - GROUP 1	7.325	.25	.27		.05
GROUP 2	7.475	.25	.27		.05
GROUP 3	7.525	.25	.27		.05
ZONE 8 - GROUP 1	5.71	.15	.10		.05
GROUP 2	5.91	.15	.10		.05
GROUP 3	5.96	.15	.10		.05
GROUP 4	6.01	.15	.10		.05
GROUP 5	6.36	.15	.10		.05
ZONE 9 - GROUP 1	6.25	.15	.10		.05
GROUP 2	6.35	.15	.10		.05
GROUP 3	6.40	.15	.10		.05
GROUP 4	6.45	.15	.10		.05
ZONE 10 - GROUP 1	6.00	.15	.10		.05
GROUP 2	6.10	.15	.10		.05
GROUP 3	6.25	.15	.10		.05

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)
GROUP 1 - Building and labor construction
GROUP 2 - Stone mason helpers; mechanical tool operators; sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
LABORERS - ZONE 2
GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewmen
GROUP 2 - Mason mixer; plaster mixer; mechanical tool op.; sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers, hot pot & pipe layers); gas & oil pipeline laborers, wrappers & dopers
LABORERS - ZONE 3
GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners
GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equip.
GROUP 3 - Mortar mixers & jackhammer ops.
GROUP 4 - Blastcerers
GROUP 5 - Blaster helpers; concrete cutters behind paving machine & puddlers; form setters & liner asphalt worker
GROUP 6 - Wiping joints, laying pipe & tile from pumpcrete
GROUP 7 - Interior of closed tanks & vessels manually
LABORERS - ZONES 4 & 5
GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool ops. (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw ops., etc.); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)

GROUP 1 - Building laborers
GROUP 2 - Laborers handling steel pans, stone masons helpers, mechanical tool ops., sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. & over), sand blaster (nozzlemen & pot tender); laying non-metallic pipe over 4 ft. deep, septic diggers & installers over 4 ft. deep, gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
GROUP 4 - Bricklayers tenders and mason tenders
GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers
LABORERS - ZONE 7
GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons helpers, vibratormen
GROUP 3 - Mortar mixers
LABORERS - ZONE 8
GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement); plasterers tenders; stone masons helpers; concrete workers; scaffold builders
GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster helpers
GROUP 5 - Powderman
LABORERS - ZONE 9
GROUP 1 - Building laborers
GROUP 2 - Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers
GROUP 3 - Mortar mixers
GROUP 4 - Air jack ops., vibrator ops.; sewer pipelayers, sewer pipe wrappers
LABORERS - ZONE 10
GROUP 1 - Laborers, tenders (bricknasons, stonemasons, cement masons, carpenters, plasterer) stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring
GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunite op.; tile, terrazzo & marble setters helpers
GROUP 3 - Pipe dopers & burners

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State line at Pearlington), Tangipahoa (all but southwestern corner) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.; Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U.S. Hwy. 61 (Airline Hwy.) then west on U.S. 61 to Blind River & on a direct line to Manchac)
ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac) & St. Tammany (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlington) Parishes
ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie) & Terrebonne Parishes

ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes
ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

		Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HIGHWAY CONSTRUCTION)						
GROUP 1 -	ZONE 1	$6.13	.20	.27		.05
	ZONE 2	4.80	.15	.10		.05
	ZONE 3	5.58	.20	.12		.05
	ZONE 4	6.28	.20	.12		.05
	ZONE 5	5.38	.20	.12		.05
	ZONE 6	5.18	.20	.12		.05
	ZONE 7	4.10	.15	.10		.05
	ZONE 8	3.85	.15	.10		.05
	ZONE 9	3.75	.15	.10		.05
GROUP 2 -	ZONE 1	6.23	.20	.27		.05
	ZONE 2	4.90	.15	.10		.05
	ZONE 3	5.68	.20	.12		.05
	ZONE 4	6.38	.20	.12		.05
	ZONE 5	5.48	.20	.12		.05
	ZONE 6	5.28	.20	.12		.05
	ZONE 7	4.20	.15	.10		.05
	ZONE 8	3.95	.15	.10		.05
	ZONE 9	3.85	.15	.10		.05
GROUP 3 -	ZONE 1	6.68	.20	.27		.05
	ZONE 2	5.35	.15	.10		.05
	ZONE 3	6.13	.20	.12		.05
	ZONE 4	6.83	.20	.12		.05
	ZONE 5	5.93	.20	.12		.05
	ZONE 6	5.73	.20	.12		.05
	ZONE 7	4.65	.15	.10		.05
	ZONE 8	4.40	.15	.10		.05
	ZONE 9	4.30	.15	.10		.05
GROUP 4 -	ZONE 1	6.93	.20	.27		.05
	ZONE 2	5.60	.15	.10		.05
	ZONE 3	6.38	.20	.12		.05
	ZONE 4	7.08	.20	.12		.05
	ZONE 5	6.13	.20	.12		.05
	ZONE 6	5.93	.20	.12		.05
	ZONE 7	4.85	.15	.10		.05
	ZONE 8	4.60	.15	.10		.05
	ZONE 9	4.50	.15	.10		.05

GROUP 1 - Laborers, including but not limited to signalman, foundation driller & demolishing & dismantling man
GROUP 2 - Raker, concrete spreader, carpenter helpers, distributor man, finisher helpers, formsetter helpers, jackhammer op.; jetting laborer, painter helpers, pit man, pipelayer or tile layer, power monkey helper, tamper, tree pruner, stone mason helpers, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.
GROUP 3 - Formsetter, head or master--high type pavement
GROUP 4 - Powderman
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron & Jefferson Davis Parishes

ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

		Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS -	ZONE 1	$ 8.90				.01
	ZONE 2	9.48	.20	.30		.05
	ZONE 3	10.585	.30			.01
	ZONE 4	10.75				
	ZONE 5	7.90				.01

ZONE 1 - All of Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, Vermilion, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (up to a 40 mile radius of Baton Rouge); Parts of Evangeline & St. Mary Pars. (up to a 40 mile radius of Lafayette)
ZONE 2 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Pars., Parts of Assumption & St. James Pars. (beyond a 40 mile radius of Baton Rouge); Part of St. Mary Par. (beyond a 40 mile radius of Lafayette)
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (that portion beyond a 40 mile radius of Lafayette), Jefferson Davis & Vernon Pars.
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Parishes
ZONE 5 - Rapides Parish

LINE CONSTRUCTION						
ZONE 1 -	GROUP 1	$11.65	.35	3%+.30		.03
	GROUP 2	75%JR	.35	3%+.30		.03
	GROUP 3	65%JR	.35	3%+.30		.03
	GROUP 4	45%JR	.35	3%+.30		.03
	GROUP 5	50%JR	.35	3%+.30		.03
GROUP 1 - Linemen						
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derrick working hot lines						
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines						
GROUP 4 - Op. using truck without winch; Groundmen (starting rate to 1½ yrs. service)						
GROUP 5 - Groundmen (1½ yrs. service or over)						
ZONE 2						
Linemen, line equipment & line truck ops.		12.30	5%	8%		3/10%
Cable splicers		12.55	5%	8%		3/10%
ZONE 3 - Linemen, equipment ops.		12.30	.35	3%+.20		1/10%
Cable splicers		12.55	.35	3%+.20		1/10%
Groundmen		10.30	.35	3%+.20		1/10%
ZONE 4 - Linemen, equipment ops.		11.90	.35	3%		
Cable splicers		12.15	.35	3%		
Groundmen		50%JR	.35	3%		

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5					
Linemen & equipment ops.	$11.15		3%	.30	1/2%
Cable splicers	11.40		3%	.30	1/2%
Groundmen	60%JR		3%	.30	1/2%
ZONE 6					
Linemen & equipment ops.	10.85	.65	3%		1/2%
Cable splicers	11.35	.65	3%		1/2%
Groundman, 1st 6 months	2.65	.65	3%		1/2%
Groundman, 2nd 6 months	3.24	.65	3%		1/2%
Groundmen, after 1 year	3.53	.65	3%		1/2%
ZONE 7					
Linemen; Operators	11.40	1.00	3%		1%
Cable splicers	11.90	1.00	3%		1%
Groundmen	9.40	1.00	3%		1%

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

MARBLE, TILE & TERRAZZO WORKERS & FINISHERS						
ZONE 1 -	Marble setters	10.80	.45	.30		.035
	Tile & terrazzo workers	9.10	.25			
	Marble, tile & terrazzo finishers	6.75	.25			
ZONE 2 -	Marble & terrazzo workers	10.85	.53	.30		.02
	Tile setters	7.65	.48	.30		.02
ZONE 3 -	Marble setters	10.70				
	Terrazzo workers	8.75				
ZONE 4 -	Marble, tile & terrazzo workers	8.97		.25		
ZONE 5 -	Marble, tile & terrazzo workers	8.55	.30			
ZONE 6 -	Marble, tile & terrazzo workers	11.10				
	Marble, tile & terrazzo finishers	6.75	.25			
ZONE 7 -	Tile setters	10.25				
	Tile finishers	6.75	.25			

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 7 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Pars.

		Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS						
ZONE 1 -	GROUP 1	$10.36				
	GROUP 2	10.485				
	GROUP 3	10.56				
	GROUP 4	10.705				
	GROUP 5	10.845				
ZONE 2 -	GROUP 1	9.35		.25		.05
	GROUP 2	10.32		.25		.05
ZONE 3 -	GROUP 1	8.575	.275	.30		.05
	GROUP 2	8.95	.275	.30		.05
	GROUP 3	9.825	.275	.30		.05
ZONE 4 -	GROUP 1	8.10				
	GROUP 2	8.40				
	GROUP 3	8.15				
	GROUP 4	9.00				
	GROUP 5	9.25				
	GROUP 6	8.55				
	GROUP 7	8.40				
ZONE 5 -	GROUP 1	8.50				
	GROUP 2	9.00				
	GROUP 3	9.50				
ZONE 6 -	GROUP 1	8.85	.40	.30		.05
	GROUP 2	9.10	.40	.30		.05
	GROUP 3	9.35	.40	.30		.05
	GROUP 4	9.45	.40	.30		.05
ZONE 7 -	GROUP 1	7.30				
	GROUP 2	8.30				
	GROUP 3	7.80				

ZONE 1 - GROUP 1 - Brush, wood or wall, rollers
GROUP 2 - Brush on steel, buffer on wood or wall
GROUP 3 - Paperhanging, taping & floating
GROUP 4 - Spray, wood or wall
GROUP 5 - Steeplejack, sandblasting, spider op.; rubberizing & pyroflexing, steam jennies, spray on steel
ZONE 2 - GROUP 1 - Brush; taping; floating & texture
GROUP 2 - Sandblasting, industrial & steel
ZONE 3 - GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 ft.: tanks, air conditioning, towers, smoke stacks, sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial
ZONE 4 - GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel; sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers

ZONE 5 - GROUP 1 - Painters, paperhangers, tapers, finishers; commercial steel, such as churches or any commercial building with closed roof deck or walls
GROUP 2 - Other commercial work brush spray, stage, window jacks, flagpoles & steeple work
GROUP 3 - All industrial work including sandblasting or power tools of any kind
ZONE 6 - GROUP 1 - Painters, tape, float & paperhangers; stage, window jacks & structural steel
GROUP 2 - Stage, window jacks & structural steel over 30 ft.
GROUP 3 - Stage, window jacks & structural steel over 75 ft.
GROUP 4 - Sandblasting, spray
ZONE 7 - GROUP 1 - Painters, paperhangers, tapers, floaters
GROUP 2 - Stage, window jacks, boson chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack
GROUP 3 - Structural steel brush

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - St. Tammany (northern portion), Tangipahoa (east of Hwy. 51) & Washington Pars.
ZONE 5 - Allen (northeastern most corner, north of Rt. 10), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (southern half, everything south of Rt. 6 including City of Natchitoches), Rapides, St. Landry (northern portion) & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71, including the town of Winnfield at that intersection) Parishes
ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to City of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 7 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half) Parishes

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS -	ZONE 1	$ 9.70				.01
	ZONE 2	8.50				
	ZONE 3	10.07				.01
	ZONE 4	9.75	.30	.20		.03
	ZONE 5	7.05				.01
	ZONE 6	7.00			1.00	
	ZONE 7	9.75		.25		
	ZONE 8	10.00		.30		
	ZONE 9	8.95				

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Pars
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jeffersonn Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy. 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS -	ZONE 1	$11.00	.45	.75		.08
	ZONE 2	10.85	.64	.875		.06
	ZONE 3	10.65	.50	.55		.10
	ZONE 4	10.34	.40	.50	.95	.09
	ZONE 5	11.15	.67	.72		.08

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/2 of Par.), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par.), St. Martin (southern part of eastern 1/2 of Par.), St. Mary, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Hwys. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Hwy. 10), West Carroll & Winn Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens)
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western 1/2 of Par.), Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Pars.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)					
ZONE 1 -	GROUP 1	7.19	.65	.48	.05
	GROUP 2	7.55	.65	.48	.05
	GROUP 3	7.88	.65	.48	.05
	GROUP 4	7.97	.65	.48	.05
	GROUP 5	8.29	.65	.48	.05
	GROUP 6	9.77	.65	.48	.05
ZONES 2, 3 & 4 -	GROUP 1	7.59	.65	.48	.05
	GROUP 2	7.95	.65	.48	.05
	GROUP 3	8.31	.65	.48	.05
	GROUP 4	8.37	.65	.48	.05
	GROUP 5	8.73	.65	.48	.05
	GROUP 6	10.27	.65	.48	.05
ZONE 5 -	GROUP 1	7.43	.65	.48	.05
	GROUP 2	7.11	.65	.48	.05
	GROUP 3	6.90	.65	.48	.05
	GROUP 4	7.71	.65	.48	.05
	GROUP 5	10.095	.65	.48	.05
	GROUP 6	8.12	.65	.48	.05
	GROUP 7	8.80	.65	.48	.05

NOTICES

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 6 -	GROUP 1	$ 8.01	.65	.48		.05
	GROUP 2	7.41	.65	.48		.05
	GROUP 3	7.20	.65	.48		.05
	GROUP 4	7.71	.65	.48		.05
	GROUP 5	8.65	.65	.48		.05
	GROUP 6	9.62	.65	.48		.05
	GROUP 7	10.73	.65	.48		.05
	GROUP 8	10.98	.65	.48		.05
	GROUP 9	11.23	.65	.48		.05
	GROUP 10	11.48	.65	.48		.05
ZONE 7 -	GROUP 1	10.33	.65	.65		.05
	GROUP 2	10.58	.65	.65		.05
	GROUP 3	7.50	.65	.65		.05
	GROUP 4	7.89	.65	.65		.05
	GROUP 5	8.65	.65	.65		.05
	GROUP 6	10.08	.65	.65		.05

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4 (CLASSIFICATION DEFINITIONS)
GROUP 1 - Oiler
GROUP 2 - Mechanic helper
GROUP 3 - Oiler-Driver
GROUP 4 - Scaleman
GROUP 5 - Air compressor; Asphalt plant; Bulldozers, D-4 & equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete Mixer (16-s or less); Concrete saw; Distributors (Bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)
GROUP 6 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings) Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Pildrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Well point system; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)
POWER EQUIPMENT OPERATORS - ZONE 5
GROUP 1 - Scale Op.; Oiler-driver on motor crane; Batch plant
GROUP 2 - Pumps under 3 inch suction; Mechanic helper
GROUP 3 - Oiler
GROUP 4 - Fireman
GROUP 5 - Combination oiler-compressor; Combination oiler-fireman; Asphalt spreaders; Backhoe (all types); Bulldozers; Cableways; Cherry pickers (all types); Concrete mixers (over 1 sack); Cranes; Deck winch (2 drums or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork lifts (other than farm type) outside warehouses; Foundation drill; Front end loaders (except farm type); Grease serviceman; Hoist-1 drum (4 stories or more on buildings); Hoist-1 drum (over 40 ft. on structures other than buildings); Hoist (2 drums or over); Locomotives (all types); Mechanic; Mixer Plant-Central Mix; Motor patrols; Pildrivers; Pull cat; Pump crete-6" & over discharge; Push cat; Road pavers; Rollers (Plant mix asphalt); Scrapers; Shovels; Sidebooms; Unit op.; Welder, journeyman; Well point system; Whirleys; Winch cats (Cat D-4 & over); Winch truck with A-frame (5 ton & over); Work boats-requiring licensed op.

GROUP 6 - Bush hog; Compressor; Concrete pump-under 6" discharge; Concrete saw; Deck winch (1 drum); Distributors; Ditching or trenching machines (non-riding type); Dowel bar machine; Farm-type tractors (when used to pull discs, grasscutters, etc.); Hoist-1 drum (under 4 stories on buildings); Hoist-1 drum (40 ft. or under on structures other than buildings); Kolum buff machines; Mixers (1 sack & under); Motorized street sweepers self-propelled; Pump (3" & over); Test pump-internal combustion engine powered; Water blast pumps
GROUP 7 - Asphalt plant; Boom trucks; Bullfloats; Concrete spreader; Farm-type front end loaders; Finishing machines (roadway, riding type); Roller (other than plant mix asphalt); Straddle buggies; Winch truck with A-frame (under 5 tons); Work boat-not requiring licensed operator
POWER EQUIPMENT OPERATORS - ZONE 6
GROUP 1 - Snatch cat; Pumps, 3 inch suction or more
GROUP 2 - Pumps, under 3 inch suction; Mechanic helper
GROUP 3 - Oiler
GROUP 4 - Batch plant operator
GROUP 5 - Air compressor; Asphalt plant engineer; Blade grader; Distributor (bitum surface); Finishing machine (concrete, paving); Hoist-1 drum, less than 4 stories; Concrete mixer under 16S; Oiler driver; Pump crete; Street & road sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operated bush hog & similar grass or bush cutting equipment
GROUP 6 - A-frame truck; Crew boat op.; Fireman; Fork lift; Straddle buggy; Traxcavator; Scoopmobile & similar front-end loading equipment with scoop or bucket under 1 cu. yd. capacity; Locomotive; Well point system; Unit op.; Hoist-1 drum, 4 stories or over
GROUP 7 - Backhoe; Cableway; Concrete mixer, 16S & up; Derrick; Crane; Dragline; Dredge; Equipment maintenance mechanic; Hoist-2 drums; Locomotive crane; Paving mixer; Piledriver; Road paver; Roller on asphalt or brick (5 tons or over); Shovel; Sideboom cats; Bulldozer; Motor patrol; Scraper; Hydrolift crane, hydrolift truck, yard crane, cherry picker, etc.; Foundation, boring & reaming machine; Cement stabilizer; Trenching machine; Asphalt spreader; Tractorvator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; Tug boat op.; Turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; Concrete pump (not pump crete)
GROUP 8 - Crane,60 tons & over; Crane,boom 100 ft. & over; Piledriver, leads 100 ft. & over
GROUP 9 - Crane,100 tons & over; Crane,boom 150 ft. & over; Piledriver, leads 150 ft. & over
GROUP 10 - Crane,boom 250 ft. & over; Piledriver, leads over 250 feet
POWER EQUIPMENT OPERATORS - ZONE 7
GROUP 1 - Assistant master mechanic
GROUP 2 - Master mechanic
GROUP 3 - Oilers
GROUP 4 - Batch plant op.; Mechanic helpers; Oilers (drivers)
GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; Air compressor Asphalt plant engineers; Asphalt finisher, screed men; Blade graders; Boat op.; Bullfloats; Concrete joining machines; Concrete mixers, 16s & under; Concrete spreader; Crusher; Deck winch (1); Distributors, asphalt "Ditch Witch" & similar equipment; Electric elevators (inside); Finishing machine; Fireman; Form grader; Fork lifts; Hoist, 1 drum, under 4 stories; Power subgrader; Pug mill; Pull tractors; Pump, pump crete; Rollers, except on brick & asphalt; Rubber tired front end loader (with or without blade attachments) less than 1 cu. yd. capacity; Scale op.; Scoopmobile; Snatch cats; Spray machines; Stabilizers, less than 3 drums; Straddle buggy; Track machines & equivalent machines; Tractors or bulldozers smaller than D-6
GROUP 6 - A-frame truck, when working with ironworkers & pipefitters; Bulldozers D-6 & larger; Cableways; Concrete mixers, over 16-s paving machines; Cranes, derricks; Draglines & clem shells; Deck winches (2); Gradealls; Hi-ho & similar type equipment; Hoist, 1 drum, 4 stories & over; Hoist, 2 drums or more; Hydro cranes; Mechanic; Motor patrols; Pildrivers; Rollers on brick & asphalt; Rubber tired front end loader, with or without attachments, 1 cu. yd. capacity or more; Scrapers; Shovels; Backhoes (all types); Sideboom cats; Stabilizers, 3 drums or more; Traxcavators; Trenching machines; Unit op.; Welder, journeymen; Well point systems (gas, diesel, electric, etc.); Concrete pump-boom combinations

NOTICES

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ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes
ZONE 3 - All of Acadia, Lafayette & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of a line drawn from the city of Berwick to the Junction of the Iberville-St. Landry Pars. border)
ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the La.-Miss. border)
ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern La. bounded on the north by the State of Miss., on the east by the State of Miss. & the Miss. Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the La.-Miss. boundary in Washington Par., due north of the town of Hackley, thence southwesterly in a straight line to a point on the east bank of the Miss. River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay & in a line due south to the Gulf of Mexico)

POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1 - ZONE 1	$ 9.76	.65	.55		.05
ZONE 2	8.31	.25	.39		.05
ZONE 3	9.23	.65	.55		.05
ZONE 4	9.41	.65	.55		.05
ZONE 5	7.45	.65	.55		.05
ZONE 6	6.95	.65	.55		.05
ZONE 7	6.69	.25	.30		.05
ZONE 8	6.14	.25	.30		.05
ZONE 9	5.53	.25	.30		.05
GROUP 2 - ZONE 1	10.01	.65	.55		.05
ZONE 2	8.56	.25	.39		.05
ZONE 3	9.48	.65	.55		.05
ZONE 4	9.66	.65	.55		.05
ZONE 5	7.70	.65	.55		.05
ZONE 6	7.20	.65	.55		.05
ZONE 7	6.94	.25	.30		.05
ZONE 8	6.39	.25	.30		.05
ZONE 9	5.78	.25	.30		.05
GROUP 3 - ZONE 1	9.51	.65	.55		.05
ZONE 2	8.06	.25	.39		.05
ZONE 3	8.98	.65	.55		.05
ZONE 4	9.16	.65	.55		.05
ZONE 5	7.20	.65	.55		.05
ZONE 6	6.70	.65	.55		.05
ZONE 7	6.44	.25	.30		.05
ZONE 8	5.89	.25	.30		.05
ZONE 9	5.28	.25	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 4 - ZONE 1	$ 8.26	.65	.55		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	7.93	.65	.55		.05
ZONE 4	7.94	.65	.55		.05
ZONE 5	6.23	.65	.55		.05
ZONE 6	5.73	.65	.55		.05
ZONE 7	5.58	.25	.30		.05
ZONE 8	5.02	.25	.30		.05
ZONE 9	4.46	.25	.30		.05
GROUP 5 - ZONE 1	7.91	.65	.55		.05
ZONE 2	6.39	.25	.39		.05
ZONE 3	7.34	.65	.55		.05
ZONE 4	7.33	.65	.55		.05
ZONE 5	5.71	.65	.55		.05
ZONE 6	5.21	.65	.55		.05
ZONE 7	5.02	.25	.30		.05
ZONE 8	4.48	.25	.30		.05
ZONE 9	3.97	.25	.30		.05
GROUP 6 - ZONE 1	7.11	.65	.55		.05
ZONE 2	5.75	.25	.39		.05
ZONE 3	6.53	.65	.55		.05
ZONE 4	6.53	.65	.55		.05
ZONE 5	4.98	.65	.55		.05
ZONE 6	4.48	.65	.55		.05
ZONE 7	4.86	.25	.30		.05
ZONE 8	4.31	.25	.30		.05
ZONE 9	3.81	.25	.30		.05
GROUP 7 - ZONE 1	6.80	.65	.55		.05
ZONE 2	5.46	.25	.39		.05
ZONE 3	6.19	.65	.55		.05
ZONE 4	6.19	.65	.55		.05
ZONE 5	4.69	.65	.55		.05
ZONE 6	4.19	.65	.55		.05
ZONE 7	4.86	.25	.30		.05
ZONE 8	4.31	.25	.30		.05
ZONE 9	3.81	.25	.30		.05
GROUP 8 - ZONE 1	8.16	.65	.55		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	7.83	.65	.55		.05
ZONE 4	7.84	.65	.55		.05
ZONE 5	6.18	.65	.55		.05
ZONE 6	5.68	.65	.55		.05
ZONE 7	5.58	.25	.30		.05
ZONE 8	5.02	.25	.30		.05
ZONE 9	4.46	.25	.30		.05
GROUP 9 - ZONE 1	8.41	.65	.55		.05
ZONE 2	7.38	.25	.39		.05
ZONE 3	8.08	.65	.55		.05
ZONE 4	8.09	.65	.55		.05
ZONE 5	6.43	.65	.55		.05
ZONE 6	5.93	.65	.55		.05
ZONE 7	5.83	.25	.30		.05
ZONE 8	5.27	.25	.30		.05
ZONE 9	4.71	.25	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 10 - ZONE 1	7.05	.65	.55		.05
ZONE 2	5.71	.25	.39		.05
ZONE 3	6.44	.65	.55		.05
ZONE 4	6.44	.65	.55		.05
ZONE 5	4.94	.65	.55		.05
ZONE 6	4.44	.65	.55		.05
ZONE 7	5.11	.25	.30		.05
ZONE 8	4.56	.25	.30		.05
ZONE 9	4.06	.25	.30		.05

GROUP 1 - 60 ton crane & over; Crane with 125' boom
GROUP 2 - Crane with 175' boom
GROUP 3 - Crane all types; deck winches (2); Hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point systems; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers; bulldozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, 1 cu. yd. or over; shovels & backhoes, all types, & equivalent equipment; piledrivers; sideboom cats; A-frame trucks when handling steel or pipe; work boats requiring licensed ops.; tugboats; fork lifts over 10 ton capacity; foundation drilling machines
GROUP 4 - 2 drums stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); 1 drum hoist under 40 vertical ft.; fireman; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent; bullfloats & equivalent; job grease man; unit op.; work boats not requiring licensed ops.; inboard motored crew boats
GROUP 5 - Single drum stabilizers; concrete mixer under 1 yd.; spray curing machines; rollers on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher ops.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type, rubber-tired tractor, with attachments, except backhoes; kolum buff & similar equipment; fork lifts, 10 ton capacity & under; outboard crew boats
GROUP 6 - Mechanic helper; Batch plant operator
GROUP 7 - Oiler
GROUP 8 - Fireman
GROUP 9 - Fireman operating steam valve
GROUP 10 - Oiler on crane using air to drive piles

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron, Jefferson Davis & Red River Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Bienville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington & Webster Parishes
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin, (south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana, & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1 - Roofers	$ 9.73		.10		
ZONE 2 - Roofers	8.24	.70	.65	.20	.70
ZONE 3 - Roofers	8.61	.35	.55		.04
ZONE 4 - Roofers	7.90		.10		
Kettlemen	7.15		.10		
ZONE 5 - Roofers	9.10		.20		.02
Kettlemen	6.31		.20		.02

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

SHEET METAL WORKERS -	ZONE 1	10.97	.40	.27		.10
	ZONE 2	10.55	3%+.55	.81		.14
	ZONE 3	11.65	.40	.50		.12
	ZONE 4	9.94	3%+.55	.40		.16

ZONE 1 - Calcasieu Parish
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

SPRINKLER FITTERS		10.80	.75	1.05		.08
TRUCK DRIVERS (BUILDING CONSTRUCTION)						
ZONE 1 -	GROUP 1	4.91				
	GROUP 2	5.34				
	GROUP 3	5.55				
	GROUP 4	5.35				
	GROUP 5	5.45				
	GROUP 6	5.37				
	GROUP 7	5.76				
ZONE 2 -	GROUP 1	6.70				
	GROUP 2	6.95				
	GROUP 3	7.50				
	GROUP 4	7.35				
	GROUP 5	7.80				
	GROUP 6	7.90				
	GROUP 7	8.20				
	GROUP 8	8.35				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ZONE 3 - GROUP 1	$ 5.47				
GROUP 2	5.55				
GROUP 3	5.80				
GROUP 4	5.95				
GROUP 5	6.10				
GROUP 6	6.30				
GROUP 7	6.65				
ZONE 4 - GROUP 1	7.80				
GROUP 2	8.10				
GROUP 3	8.25				
GROUP 4	8.45				
GROUP 5	8.60				
GROUP 6	8.40				

ZONE 1 - GROUP 1 - Teamsters, Pick-up drivers & chauffeurs
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.; Mixers on trucks over 3 yds.; Miss. wagons & Koehring dumpsters & similar dirt moving equipment (up to & incl. 8 yds.)
GROUP 4 - Mixers on trucks up to & including 3 yds.
GROUP 5 - Winch trucks
GROUP 6 - Trucks, dump
GROUP 7 - Miss. wagons & Koehring dumpsters & similar dirt moving equip. over 8 yds.

ZONE 2 - GROUP 1 - Teamster, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks, up to and including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpsters, tandem dumps & similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment, over 8 yds.

ZONE 3 - GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons, pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpsters, Koehring-dumps, 5 axle trucks, transit mix over 3 yds., fuel truck
GROUP 7 - Fork lift

ZONE 4 - GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton, up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting material

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
TRUCK DRIVERS (HIGHWAY CONSTRUCTION)					
GROUP 1 - ZONE 1	$ 6.38	.45			
ZONE 2	5.49				
ZONE 3	6.56				
ZONE 4	6.99				
ZONE 5	5.67				
ZONE 6	5.77				
ZONE 7	4.45				
ZONE 8	4.35				
ZONE 9	4.25				
GROUP 2 - ZONE 1	6.51	.45			
ZONE 2	5.61				
ZONE 3	6.66				
ZONE 4	7.12				
ZONE 5	5.80				
ZONE 6	5.90				
ZONE 7	4.56				
ZONE 8	4.46				
ZONE 9	4.36				
GROUP 3 - ZONE 1	6.57	.45			
ZONE 2	5.66				
ZONE 3	6.89				
ZONE 4	7.18				
ZONE 5	5.86				
ZONE 6	5.96				
ZONE 7	4.61				
ZONE 8	4.51				
ZONE 9	4.41				
GROUP 4 - ZONE 1	6.65	.45			
ZONE 2	5.73				
ZONE 3	7.10				
ZONE 4	7.25				
ZONE 5	5.93				
ZONE 6	6.03				
ZONE 7	4.67				
ZONE 8	4.57				
ZONE 9	4.47				
GROUP 5 - ZONE 1	6.84	.45			
ZONE 2	5.89				
ZONE 3	7.52				
ZONE 4	7.44				
ZONE 5	6.13				
ZONE 6	6.22				
ZONE 7	4.83				
ZONE 8	4.73				
ZONE 9	4.63				

GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper
GROUP 2 - 1½ tons to & including 2 tons (exclusive of dump trucks), truck mechanic helper
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, euclids & 5 axle moving equipment

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ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Allen & Beauregard Parishes
ZONE 6 - Cameron & Jefferson Davis Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St.Landry, St. Martin, (north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NO.: OH78-2055
Supersedes Decision No. OH78-2003, dated February 10, 1978 in 43 FR 5992
DESCRIPTION OF WORK: Building and Residential Construction
COUNTIES: Fulton & Lucas
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.43	.50	1.20		.04
BOILERMAKERS	13.10	.70	1.00		.03
BRICKLAYERS; Marble Setters; & Stonemasons:					
Fulton (Twps. of Amboy, Swan Creek & Fulton); & Lucas Cos.	12.155	.93	.90		.01
Fulton Co. (Remainder of Co.):					
Commercial	11.72	.93			
Residential	9.38	.93			
CARPENTERS; Millwrights; & Piledrivermen	12.32	.93	.75		.05
CEMENT MASONS	13.34	.60			.02
ELECTRICIANS:					
Commercial	13.80	.65	3%+.55		.1%
Residential	7.59	.65	3%+.55		.1%
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	12.355	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS	11.175	.55	1.00		.01
IRONWORKERS	12.30	.93	1.11		.05
LATHERS	12.38	.93	.10		.01
LINE CONSTRUCTION:					
Linemen	13.46	.50	3%	c	½%
Cable Splicers	13.71	.50	3%	c	½%
PAINTERS:					
Commercial:					
Brush; Drywall Tapers; Paperhangers	10.81	.93	.90		
Bridge; Railings; Powerhouse; Refinery Tanks	11.06	.93	.90		
Sandblasting; Spray; Pressure Cleaning	11.36	.93	.90		
Residential Work	9.67	.93	.90		
PLASTERERS	13.00	.60			.01
PLUMBERS; Steamfitters; Pipefitters	12.83	.80	.85		.02
ROOFERS	12.11	.93	.85		.02
SHEET METAL WORKERS	12.195	.93	1.15		.045

DECISION NO. OH78-2055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Commercial	$10.90	.93	.50		.04
Residential	10.30	.93	.50		.04
SPRINKLER FITTERS	12.75	.75	1.05		.08
TERRAZZO WORKERS; Tile Setters	11.81	.93	.50		
TERRAZZO WORKERS' FINISHERS; & Tile Setters' Finishers	10.10	.65	.40	.50	

DECISION NO. OH78-2055

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:

a. Seven paid holidays: A through F, & Day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. Ten paid holidays: A through F, Good Friday, Day after Thanksgiving Day, Christmas Eve, & New Year's Eve.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Fulton County:					
Unskilled laborers	$ 8.97	.65	.40		.10
Mason tenders; Gunite pot men	9.09	.65	.40		.10
All power driven tools & buggies; burners; Torchmen; Nozzlemen for concrete pump	9.115	.65	.40		.10
Plasterers' tenders	9.145	.65	.40		.10
Nozzle operators for gunite work	9.62	.65	.40		.10
Bellmen; Bottom men; Brick expeditor	9.205	.65	.40		.10
Lucas County:					
Unskilled laborers	10.81	.65	.55		.11
Mason Tenders	10.94	.65	.55		.11
Gunite pot men; Mortar mixers	11.01	.65	.55		.11
Concrete pump nozzle men; All power driven tools; Power buggies	10.965	.65	.55		.11
Pipe layers; Bellmen; Bottom men for fire brick work only					
Nozzle operators for gunnite work	11.72	.65	.55		.11

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$12.89	.66	1.00		.11
GROUP B	12.73	.66	1.00		.11
GROUP C	12.38	.66	1.00		.11
GROUP D	11.57	.66	1.00		.11
GROUP E	11.24	.66	1.00		.11
GROUP F	9.28	.66	1.00		.11

GROUP A - A-frames; rotary drills used on caisson work for foundations and sub-structure work; boiler or compressor operator mounted on crain (piggyback operation); boom truck (all types); cableways; cherry pickers; combination concrete mixer and tower; concrete pumps; cranes (all types); derricks (all types); draglines; dredge (dipper, clam or suction) 3 man crew; elevating grader or euclid loader; floating equipment; gradalls, helicopter operator and helicopter winch operator when hoisting builders materials; hoes (all types); hoisting engines (two or more drums); lift slab or panel jack operator; locomotives (all types); maintenance engineer (mechanic or welder); mixers paving (multiple drum); mobile concrete pumps with boom; panelboard (all types on site); pile driver; power shovels; side booms; slip form pavers; straddle carriers (building construction on site); hammerhead tower cranes; trench machines (over 24" wide); tug boat.
GROUP B - Asphalt paver; bulldozer; C.M.I type equipment; endloaders; Kohlman type loaders (dirt loading); lead greaseman; mucking machines; power grader; power scoops; power scrapers; push cat.
GROUP C - Air compressor (pressurizing shafts or tunnels); asphalt rollers; fork lifts; hoist (one drum); house elevators; man lift; power boilers (over 15 lbs. pressure); pump operators installing well points or other type of dewatering system; pumps (4" and over discharge); submersible pumps (4" and over discharge); trenchers 24" and under.
GROUP D - Compressors on building construction; conveyors (building material) generators; gunnite machines; mixers (capacity more than one bag); mixers (one bag capacity, side loader); post driver; post hole digger; pavement breaker (hydraulic or cable); road widening trencher; rollers; welder operator.
GROUP E - Backfillers & tampers; batch plant; bar and joint installing machines; bullfloats; burlap and curing machines; clefplanes; concrete spreading mach.; crushers; deck hands; drum firemen (asphalt) farm type tractors pulling attachments; finishing machines; form trenchers; high pressure pumps over 5" discharge; hydro seeders; self-propelled power spreader; self-propelled subgrader; tire repairmen; tractors pulling sheeps foot roller or grader; vibratory compactors (with integral power)
GROUP F - Oiler; helper; signalman; inboard & outboard motor boat launch; light plant operator; power driven heaters (oil fired); power boilers (less than 15 lbs. pressure; pumps under 4" discharge' submersible pumps under 4" discharge.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: OH78-2056
Supersedes Decision No.: OH78-2007, dated March 10, 1978 in 43 FR 10257
DESCRIPTION OF WORK: Building Construction (Does not include family homes & garden type apartments up to and including 4 stories)
COUNTIES: *See Below
DATE: Date of Publication

*ADAMS, BROWN, BUTLER, CHAMPAIGN, CLARK, CLERMONT, CLINTON, DARKE, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GEAUGA, GREENE, HAMILTON, HIGHLAND, LAWRENCE, LICKING, MADISON, MEIGS, MIAMI, MONTGOMERY, MUSKINGUM, PERRY, PICKAWAY, PIKE, PREBLE, ROSS, SCIOTO, SHELBY, UNION, AND WARREN

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Adams, Brown, Butler (excluding Middletown & vic.), Clermont, Hamilton, Highland, & Warren (excluding Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos.	$12.16	.75	1.00		.02
Butler (Middletown & vic.), Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren (Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos.	11.47	.75	1.00		.02
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross & Union Cos.	12.67	.45	.85		.02
Gallia, Lawrence, Meigs, Pike, & Scioto Cos.	12.05	.50	.70		.03
Geauga County	14.78				
BOILERMAKERS:					
Darke, Delaware, Shelby & Union Cos.	13.10	.70	1.00		.03
Geauga Co.	12.23	.60	1.10		.03
Remaining Counties	9.80	1.05	1.10	1.50	.02
BRICKLAYERS; Caulkers; Cleaners; Marble setters; Pointers; Stonemasons; Terrazzo workers; & Tile setters:					
Adams & Scioto Cos.:					
Bricklayers; Caulkers; Cleaners; Marble setters; Pointers; & Stonemasons	9.90				
Brown, Butler, Clermont, Hamilton, Preble (Twps. of Dixon, Israel, Lanier, Somers, & Gratis), & Warren Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	12.095	.55	.35		.02
Marble setters	11.485	.55	.35		
Terrazzo workers & Tile setters	11.435	.55	.35		
Champaign & Clark Cos.	10.60				
Clinton & Highland Cos.	9.25				
Darke, Miami, & Shelby Cos.	10.35	.75	.25		.02
Delaware, Franklin, Madison, Pickaway, & Union Cos.:					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS: (CONT'D)					
Bricklayers; Stonemasons	10.64	.80	.80		.02
Rubble work	10.24	.40	.80		.01
Marble setters; Terrazzo workers & Tile setters	10.85				
Fairfield & Perry Cos.	9.50	.60	.50		.02
Fayette, Pike & Ross Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	11.35				
Gallia & Meigs Cos.	11.25	.50			
Geauga County	13.22	.60	.80		
Greene, Montgomery, & Preble (Rem. of Co.) Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	10.35	.75	.75		.02
Marble setters; Terrazzo workers; & Tile setters	9.16	.75	.25		.05
Lawrence County	10.70		.50		.02
Licking & Muskingum Cos.	10.33	.60	.50		
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:					
Adams, Fayette, Gallia, Highland, Lawrence, Meigs, Pike, Ross, & Scioto Cos.:					
Carpenters; Soft floor layers	10.17	.50	.75		.03
Piledrivermen	10.46	.50	.75		.03
Millwrights	10.79	.40	.37		.03
Brown, Butler, Clermont, Clinton, Hamilton & Warren Cos.:					
Carpenters; Piledrivermen	11.55	.60	.65		.075
Millwrights	11.69	.50	.85		.10
Soft floor layers	8.70	.60	.65		.05
Champaign, Clark, Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, & Union Cos.:					
Carpenters	10.14	.53	.70		.02
Millwrights	10.79	.53	.70		.02
Piledrivermen	10.79	.53	.70		.02
Soft floor layers	10.14	.53	.70		.02
Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Carpenters; Piledrivermen	10.35	.65	1.00		.05
Millwrights	10.16	.65	1.00		
Soft floor layers	9.30	.65	.70		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Geauga Co.:					
Carpenters; Soft floor layers	12.87	.85	1.25		.03
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
CEMENT MASONS:					
Adams, Lawrence (excluding Fayette, Union, & Rome Twps.), Pike, & Scioto Cos.	11.02		.60		
Brown, Butler, Clermont, Hamilton & Warren Cos.	11.43	.75	.70		.15
Champaign, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	9.78	.50	.60		.07
Clark County	10.60				
Clinton & Highland Cos.	9.25				
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Pickaway, Ross, & Union Cos.	10.15	.50	.20		.03
Geauga Co. (Twps. of Auburn, Middlefield, Parkman & Troy	11.12	.40			.05
Geauga Co. (Rem. of Co.)	13.22	.60	.80		
Lawrence Co. (Fayette, Union & Rome Twps.)	10.70		.50		.05
ELECTRICIANS:					
Adams, Pike (S. part), & Scioto Cos.	10.75	.50	3%+.50	1.02	.04
Brown, Clermont & Hamilton Cos.:					
Up to & incl. 18 mi. radius from Hamilton Co. court House	11.95	.70	3%+.60		4%
18 to 21 mi. radius from Hamilton Co. Court House	12.25	.70	3%+.60		4%
21 to 25 mi. radius from Hamilton Co. Court House	12.35	.70	3%+.60		4%
Over 25 mi. radius from Hamilton Co. Court House	12.50	.70	3%+.60		4%
Butler, & Warren (Twps. of Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union, & Washington) Cos.:					
W. of Interstate #75:					
Electricians	12.10	.45	3%+.75		4%
Cable Splicers	12.60	.45	3%+.75		4%
E. of Interstate #75:					
Electricians	12.65	.45	3%+.75		4%
Cable Splicers	13.30	.45	3%+.75		4%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
Champaign, Clark, & Madison (Twps. of Paint, Pike, Somerford, Stokes, & Union) Cos.	11.14	.45	3%+.85		.04
Clinton, Darke, Greene, Miami, Montgomery, Preble, & Warren (Rem. of Co.) Cos.:					
Electrical communications installers within 11 mi. radius of 3rd & Main Street, Dayton	8.58	.75	3%+1.00		.5%
Electrical communications installers beyond 11 mi. radius of 3rd & Main Street, Dayton	11.81	.75	3%+1.00		.5%
Delaware, Fairfield, Franklin, Madison (E. portion), Pickaway (N. & central portions), & Union Cos.	11.48	.40	3%+.87		.03
Fayette, Highland, Pickaway (S. part), Pike (N. part), & Ross Cos.	11.60	.40	3%		.02
Gallia Co.	11.57	.50	3%+.60	1.00	.04
Geauga Co. (Bainbridge, Chester, & Russell Twps.)	13.75	.55	3%+.48		.02
Geauga Co. (Auburn, Middlefield, Parkman, & Troy Twps.)	12.59	.60	7%		.7%
Geauga Co. (Rem. of Co.)	13.13	.70	3%+.70		.3%
Lawrence Co.	11.12	.50	3%+.60	1.00	.04
Licking Co.	10.80	.40	3%+.62		.03
Meigs Co.	10.65	.50	3%+.77	1.27	.04
Muskingum & Perry Cos.	10.80	.40	3%+.62		.03
Shelby Co.	11.61	.45	3%+.37		.04
ELEVATOR CONSTRUCTORS:					
Adams, Brown, Butler, Clermont, Clinton, Darke, Hamilton, Highland, Miami, Preble, & Warren Cos.:					
Elevator Constructors	11.78	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
Champaign, Clark, Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Perry, Pickaway, Ross, Shelby & Union Cos.:					
Elevator constructors	11.705	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
Gallia & Meigs Cos.:					
Elevator Constructors	11.465	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helper (Prob.)	50%JR				
Geauga Co.:					
Elevator constructors	12.79	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
Greene & Montgomery Cos.:					
Elevator constructors	11.78	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (PRob.)	50%JR				
Lawrence, Pike, & Scioto cos.:					
Elevator Constructors	11.465	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Lawrence, & Scioto Cos.	10.60		.70		
Adams, Brown, Butler (Hamilton & Vic.), Clermont, Clinton, Hamilton, Highland (Part), & Warren (Lebanon & south) Cos.	12.10		.60		.01
Champaign, Butler (excluding Hamilton & Vic.), Clark, Darke, Fayette, Highland (Part), Miami, Montgomery, Preble, Shelby, & Warren (North of Lebanon) Cos.	9.88		.50		.01
Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Pike, Ross, & Union Cos.	10.52		.57		.005
Geauga Co.	12.83	.55	.65		.01
IRONWORKERS:					
Adams (Part), Gallia, Lawrence, Pike (Part), & Scioto Cos.:					
To 10 mi. from Union Hall in Ashland, Kentucky	11.27	.90	1.05		.01
10 to 15 mi. from Union Hall in Ashland, Kentucky	11.42	.90	1.05		.01

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IRONWORKERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
15 to 20 mi. from Union Hall in Ashland, Kentucky	11.52	.90	1.05		.01
20 mi. & over from Union Hall in Ashland, Kentucky	11.62	.90	1.05		.01
Adams (Part), Brown, Butler (S. ½ of Co.), Clermont, Hamilton & Warren (S. ½ of Co.) Cos.:					
Ornamental; Structural Reinforcing	11.48	.90	1.05		.03
	10.68	.90	1.85		.02
Butler (N. ½ of Co.), Champaign (W. 2/3 of Co.), Clark (W 3/4), Clinton, Darke, Fayette (Part), Greene, Highland (W 4/5), Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.:					
Within 15 mi. radius of Local Union #290 office	10.96	.90	1.25		.04
Beyond 15 mi. radius of Local Union #290 office	11.11	.90	1.25		.04
Champaign (Rem. of Co.), Clark (E. ¼), Fayette (Part), Highland (E. 1/5), Muskingum, Perry, Pike (Part), & Ross Cos.	11.10	.90	1.55		.05
Delaware, Fairfield, Licking, Madison, Pickaway, & Union cos.	11.00	.90	1.55		.05
Franklin Co.	10.85	.90	1.55		.05
Geauga Co.	11.72	1.05	1.20		.03
Meigs Co.	10.92	.75	.85		.01
LATHERS:					
Butler, Champaign, Clinton, Darke, Fayette, Greene, Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.	11.04		.20		.01
Clark, Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross, & Union Cos.	11.05		.10		.01
Clermont, Hamilton, Highland, & Warren (S. ½) Cos.	12.52		.25		.025
Geauga Co.	13.88		1.00		.01
Lawrence Co.	10.925		.10		
LINE CONSTRUCTION:					
Adams, Gallia, Lawrence, Meigs, Pike (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union), & Scioto Cos.:					
Linemen; Operators: All mechanized equipment	11.28	.45	3%+.50	1.00	5%
Cable splicers; Linemen welder	12.41	.45	3%+.50	1.00	5%
Groundmen	9.02	.45	3%+.50	1.00	5%
Brown, Clermont, & Hamilton Cos.:					
Linemen up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati	11.95	.70	3%+.60		5%
Linemen over 18 to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati	12.25	.70	3%+.60		5%
Linemen over 21 to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati	12.35	.70	3%+.60		5%
Linemen over 25 mi. radius from Hamilton Co. Court House, Cincinnati	12.50	.70	3%+.60		5%
Butler & Warren (Twps. of Deerfield, Hamilton, Harlem, Massie, Salem, Turtle Creek, Union & Washington Twps.) Cos.:					
E. of Interstate 75:					
Linemen	12.65	.45	3%+.75		5%
Cable splicers	13.15	.45	3%+.75		5%
Groundmen:					
0-1 yr.	6.33	.45	3%+.75		5%
1-2 yrs.	7.59	.45	3%+.75		5%
Over 2 yrs.	8.86	.45	3%+.75		5%
W. of Interstate 75:					
Equipment ops.; Linemen	12.10	.45	3%+.75		5%
Cable splicers	12.60	.45	3%+.75		5%
Groundmen:					
0-1 yr.	6.05	.45	3%+.75		5%
1-2 yrs.	7.26	.45	3%+.75		5%
Over 2 yrs.	8.47	.45	3%+.75		5%
Champaign & Clark Cos.:					
Cable splicers; Linemen	9.11	.35	3%		.25%
Equipment ops.:					
0 to ½ yr.	5.49	.35	3%		.25%
½ to 1 yr.	6.54	.35	3%		.25%
1 yr. or more	7.66	.35	3%		.25%
Groundmen or truck drivers:					
0 to 1 yr.	4.47	.35	3%		.25%
1 yr. or more	5.27	.35	3%		.25%
Clinton, Darke, Greene, Miami, Montgomery, Preble, Warren					

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LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(Twps. of Wayne, Clear Creek & Franklin) Cos.	11.58	.75	3%+1.00		5%
Delaware & Madison Cos. (Twps. of Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant), Pickaway Co. (Twps. of Darby, Circleville, Harrison, Jackson, Madison, Monroe, Muhlenberg, Scioto, Walnut, Washington) & Union Cos.:					
Cable splicers; Equipment Ops.; Linemen	12.41	.35	3%		5%
Groundmen:					
0 to 6 mos.	5.92	.35	3%		5%
After 6 mos.	6.30	.35	3%		5%
After 12 mos.	6.72	.35	3%		5%
After 18 mos.	7.11	.35	3%		5%
Fairfield & Licking Cos.:					
Cable Splicers	12.46	.50	3%		5%
Equipment ops.; Linemen	11.73	.50	3%		5%
Groundman; Truck drivers:					
Over 1 yr.	9.31	.50	3%		5%
0 - 1 yr.	8.32	.50	3%		5%
Fayette, Highland, Pickaway (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), Pike (excluding Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), & Ross Cos.:					
Equipment ops.; Linemen	10.95	.28	3%		5%
Truck Drivers	6.47	.28	3%		5%
Groundman	6.17	.28	3%		5%
Franklin Co.:					
Cable splicers; Linemen	9.88	.35	3%		5%
Equipment operators:					
0 to ½ yr.	6.30	.35	3%		5%
½ to 1 yr.	7.52	.35	3%		5%
1 yr. or more	8.81	.35	3%		5%
Groundmen or truck drivers:					
0 to 1 yr.	5.13	.35	3%		5%
1 yr. or more	6.06	.35	3%		5%
Geauga (Bainbridge, Chester, & Russell Twps.):					
Linemen; Cable splicers; Equipment ops.; & Welders	12.73	.35	3%		5%

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LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman after 12 mos.	6.72	.35	3%		5%
Groundman after 18 mos.	7.11	.35	3%		5%
Geauga (Auburn, Middlefield, Parkman, & Troy Twps.):					
Linemen; Cable splicers; Operator pole digging equipment	13.23	.45	3%		5%
Groundmen 1st 6 mos.	6.62	.45	3%		5%
Groundmen 2nd 6 mos.	7.94	.45	3%		5%
Groundmen 2nd yr.	9.26	.45	3%		5%
Groundmen 3rd yr.	9.92	.45	3%		5%
Groundmen over 3 yrs.	10.58	.45	3%		5%
Geauga (Rem. of Co.):					
Linemen; Cable splicers; Equipment op.	12.88	.70	3%+.70		5%
Truck Drivers	9.02	.70	3%+.70		5%
Groundmen more than 2 yrs.' experience	8.37	.70	3%+.70		5%
Groundmen less than 2 yrs.' experience	7.08	.70	3%+.70		5%
Muskingum & Perry Cos.:					
Cable splicer; Equipment ops.; & Linemen	11.43	.35	3%		5%
Groundmen:					
0 to 6 mos.	5.92	.35	3%		5%
After 6 mos.	6.30	.35	3%		5%
After 12 mos.	6.72	.35	3%		5%
After 18 mos.	7.11	.35	3%		5%
Pickaway (Twps. of Deer Creek, Perry, Pickaway, Salt Creek, & Wayne), Pike (N. part), & Ross Cos.:					
Equipment ops.; & Linemen	10.95	.28	3%		5%
Truck drivers	6.47	.28	3%		5%
Groundmen	6.17	.28	3%		5%
Shelby Co.:					
Linemen	11.93	.50	3%		5%
Groundmen; Truck drivers	7.72	.50	3%		5%
Equipment operators	10.74	.50	3%		5%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS:					
Adams, Brown, Butler, Clermont, Fayette, Gallia, Hamilton, Highland, Lawrence, Meigs, Pike, Ross, Scioto, & Warren Cos.:					
Marble setters' finishers	10.385				
Marble sanders; Polishers; stockmen; Waxers; & Sawyers	10.55				
Terrazzo workers' finishers; & grinders	10.335				
Terrazzo base grinders (While operating Base grinding machine)	10.755				
Tile setters' finishers	10.285				
Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	8.34				
Delaware, Fairfield, Franklin, Madison, Pickaway, & Union Cos.:					
Marble setters' finishers; Terrazzo workers' finishers; & Tile setters' finishers	8.65				
Terrazzo base grinders	9.00				
Terrazzo floor grinders	8.80				
Geauga Co.:					
Marble setters' finishers	12.26		1.00		
Terrazzo workers' finishers	12.97		.85		
Tile setters' finishers	12.79		1.00		
PAINTERS:					
Adams, Highland, Pike, & Scioto Cos.:					
Brush; Paperhangers; tapers; Wall covering, washing; Exterior buildings under 40'	11.00		.40		
Rollers; floor sanding; Power tools	11.25		.40		
Sandblasting; Steamcleaning; Hazardous material; & Burning	12.00		.40		
Brown, Clermont, & Hamilton Cos.:					
Commercial:					
Brush	11.55		.25		
Spray	11.95		.25		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
Industrial:					
Brush	11.70		.25		
Spray	12.10		.25		
Butler & Warren cos.:					
Commercial:					
Brush	10.08				
Spray	10.58				
Industrial:					
Brush	10.23				
Spray	10.73				
Champaign & Clark Cos.:					
Brush; Paperhangers (Tools Furnished)	7.80	.10	.25		
Swing stage	8.15	.10	.25		
Spray	8.50	.10	.25		
Structural Steel	8.35	.10	.25		
Clinton, Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Brush; Roller	11.05	.40	.40		.02
Scaffold; Structural steel; & Swing stage	11.45	.40	.40		.02
Sandblasting; Spray; & Steam-cleaning	11.55	.40	.40		.02
Paperhangers	11.30	.40	.40		.02
Spackling & finishing; & Taping	11.05	.40	.40		.02
Steeple jackwork	11.80	.40	.40		.02
Delaware, Fairfield, Fayette, Franklin, Madison, Pickaway, & Union Cos.:					
Brush; Paperhangers; Rollers; & Wall Washing	10.69	.65	.65		.02
Spray	11.19	.65	.65		.02
Structural steel; & Swing Stage	10.99	.65	.65		.02
Sandblasting; Steamcleaning; & Water tanks	11.39	.65	.65		.02
Drywall tapers & finishers	11.09	.65	.65		.02
Gallia, Lawrence, & Meigs Cos.:					
Brush; Roller	8.50			d	
Drywall taping; Paperhangers; & Wall Washers	9.05			d	
Spray	9.55			d	
Open Structural steel	9.25			d	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'd)					
Licking, Muskingum, & Perry Cos.					
Brush; Paperhangers	8.00				
Spray	8.45				
Ross County:					
Brush; Roller; & Taping	9.00				
Structural Steel	9.25				
Sandblast & Spray	9.75				
Shelby Co.:					
Brush; Roller; Drywall Taping	9.35	.73	.50		.03
Wallcovering; Swing stage; Safety belts; Spiders; Cherry pickers - brush or rollers	9.60	.73	.50		.03
Spray; Sandblasting; Steam-cleaning; Mitts; High pressure water cleaning & blow down	9.85	.73	.50		.03
Stilts & automatic drywall tools	10.10	.73	.50		.03
Petroleum storage tanks (over 30' high) brush, rollers	9.75	.73	.50		.03
Structural steel (open skeleton) - brush or rollers	9.65	.73	.50		.03
Elevated water tanks & stacks - brush, roller or spray	10.85	.73	.50		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Adams, Lawrence (except Twps. of Fayette, Union, & Rome), Pike & Scioto Cos.	11.02		.60		
Brown, Butler, Clermont, Hamilton, & Warren Cos.	12.295		.50		.02
Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	11.25				
Clinton and Highland Cos.	9.25				
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross and Union Cos.	10.34	.50	.30		.02
Gallia & Meigs cos.	11.25	.50			
Geauga County	13.22	.60	.80		
Lawrence Co. (Twps. of Fayette, Union & Rome Twps.)	10.70		.50		.05
PLUMBERS; Steamfitters:					
Adams, Gallia, Highland, Lawrence, Pike, & Scioto Cos.:					
Within 10 mi. radius of Portsmouth	11.67	.55	.75		
10 - 20 mi. radius of Portsmouth	11.92	.55	.75		
20 - 35 mi. radius of Portsmouth	12.02	.55	.75		
Over 35 mi. radius of Portsmouth	12.27	.55	.75		
Brown, Clermont, Hamilton, & Warren (N. of Rte #63 excl. Lebanon & S. Lebanon) Cos.:					
Plumbers; Gas Fitters	12.27	.75	1.05		.05
Pipefitters; Steamfitters	12.20	.90	1.225		.08
Butler Co. (N. ½)	12.35	.60	1.00		.05
Butler (S. ½) & Warren (S. of Rte. #63 incl. Lebanon & S. Lebanon) Cos.	12.27	.65	1.10		.02
Champaign, Clark, Greene (Twps. of Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), & Madison (W. of Rte. #38 incl. city of London) Cos.	11.81	.58	.80		.04
Clinton, Darke, Fayette, Greene (excl. Twps. of Miami, Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), Miami, Montgomery & Preble Cos.	12.21	.55	.70		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters: (Cont'd)					
Delaware, Fairfield, Franklin, Licking, Madison (E. of Rte. #38 not incl. city of London), Perry, Pickaway, Ross, & Union Cos.	12.47	.55	.80		.05
Geauga Co:					
Pipefitters	12.45	1.22	1.30		.10
Plumbers	12.88	.90	1.10		.02
Meiga Co.	11.43	.52	.55		.045
Muskingum Co.	10.83	.45	.50		.08
Shelby Co.	12.00	.50	.75		.05
ROOFERS:					
Adams, Gallia, Lawrence, Meigs, Muskingum, Pike & Scioto Cos.	11.00		.45		
Brown, Butler, Clermont, Hamilton, Highland, & Warren Cos.:					
Roofers	12.32		.85		.01
Pitch	12.92		.85		.01
Champaign, Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Perry, Pickaway, Ross, & Union Cos.	11.795	.60	.65		.01
Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Slate, Tile, & Asbestos Composition, Damp & Waterproof Workers	10.72	.80	.50		
	10.50	.80	.50		
Geauga Co.	14.03	.25	.50		
SHEET METAL WORKERS:					
Adams, Delaware, Fairfield, Fayette, Franklin, Gallia, Lawrence, Licking, Madison, Meigs, Muskingum, Perry, Pickaway, Pike, Ross, Scioto, & Union Cos.	10.82	.45+e	1.05		.10
Brown, Clermont, Hamilton, & Highland Cos.	12.035	.90	.81		.04
Butler, Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren Cos.	11.24	.55+f	.94		.15
Geauga Co.	12.85	.60	1.33		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS:					
Geauga Co.	12.45	1.22	1.30		.10
Remainder of Counties	12.75	.75	1.05		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 7 paid holidays: A through F, & Day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 9 paid holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve, providing employee who has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
d. 6 paid holidays: A,C,E,F, Decoration Day & Veterans' Day
e. 3% of gross earnings to SASMI
f. $.39 to SASMI

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Adams, Gallia, Highland, Lawrence, Meigs, Pike, & Scioto Cos.:					
Common laborers; Signalmen	7.77	.65	.55		.10
Sheeting & Shoring men	7.87	.65	.55		.10
Bottom men; Carpenters' tenders; Mason tenders; Mortar mixers; Plasterers' tenders; & Sewer pipe layers	7.92	.65	.55		.10
Air & machine driven tool op.; Asphalt rakers & smoothers; Burning & cutting torches; Chain saws; & Powered concrete buggies; Hand spikers	8.02	.65	.55		.10
Gunnite machine op.; Gunnite nozzlemen; Powdermen & blasters	8.34	.65	.55		.10
Brown, Clermont, Clinton, & Hamilton Cos.:					
GROUP 1	10.00	.60	.50		.05
GROUP 2	10.10	.60	.50		.05
GROUP 3	10.15	.60	.50		.05
GROUP 4	10.20	.60	.50		.05
GROUP 5	10.35	.60	.50		.05
GROUP 6	10.50	.60	.50		.05
GROUP 7	10.75	.60	.50		.05
GROUP 8	9.47	.60	.50		.05
GROUP 9	9.62	.60	.50		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					

GROUP 1: Common laborers; Cement Masons' helpers; Hand operated mechanical mule; Mechanical sweeper; Signal man
GROUP 2: Bottom man; Pipelayer
GROUP 3: Burning torch operator; Jackhammer; Mechanical & air tamper operator; Mechanical concrete buggies; Power operated mechanical mule; Concrete pump hose man; Vibrator man
GROUP 4: Plasterers' tender; Mason tender; Stone mason tender; Bottom jackhammer man
GROUP 5: Plaster mixer pump operator
GROUP 6: Tunnel laborer
GROUP 7: Gunnite nozzle operator
GROUP 8: Demolition Construction - Wrecking laborers
GROUP 9: Demolition Construction - Jackhammer man; Burner; & wall man

Butler & Warren Cos.:					
Common laborers	9.44	.55	.40		.05
Asphalt rakers; Tampers; Smoothers hand air pump; Hand air tamper chisel; Vibrator power tamper op.	9.54	.55	.40		.05
Gunnite operators; Sandblasters; Concrete pumps & hose men	9.79	.55	.40		.05
Mason tenders; Mortar mixers; & scaffold builders	9.77	.55	.40		.05
Champaign & Clark Cos.:					
Laborers general; Carpenters' tenders; Waterboy; Flagman; & Signalman	7.60	.55	.40		.05
Plasterers' tenders; Mason Tenders; Mortar mixers; Air & machine driven tool ops.; Jackhammer; Barko & chain saw; Sewer pipe layer; Bottom man; Wagon drill; Hand Spikers; Asphalt raker & tamper; Power concrete & buggies; Gunnite machine op. & nozzle man	7.85	.55	.40		.05
Miners & muckers for tunnel & caisson; Powdermen & blaster	8.10	.55	.40		.05
Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Unskilled	8.44	.55	.40		.05
All machine & Power driven tools; Power buggies; Vibrators; Chipping hammers; & railroad spikers					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
by hand; Swinging scaffold over 15'	8.59	.55	.40		.05
Jackhammer; Air drill; Sand blaster; Sewer pipe layers; Man-hole builders, & bottom men	8.64	.55	.40		.05
Caisson work; Scaffold with power tools	8.69	.55	.40		.05
Torch man on wrecking	8.74	.55	.40		.05
Caisson work with jackhammer	8.89	.55	.40		.05
Gunnite op.; Wagon drill op.; & blaster-powderman	8.94	.55	.40		.05
Tenders to bricklayers & masons	9.07	.55	.40		.05
Tenders to lathers & plasterers	9.11	.55	.40		.05
Delaware Co.:					
Building & Construction laborers; Signalman; Flagman; Tool crib-man; Carpenter tender; Finisher tender; Concrete handler; Utility construction laborers; Guardrail erectors	8.81	.70	.70		.10
Bottom men; Scaffold builders; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson work; Cofferdam worker; Powder men & dynamite blasters; Creosote worker; Mortar mixer tenders; Plasterers' tenders; Hod carrier; Laser beam set up men	9.01	.70	.70		.10
Gunnite op.	9.41	.70	.70		.10
Fairfield, Fayette, Franklin, Madison, Pickaway, & Union Cos.:					
Common laborers; Carpenter tenders; Pouring of all concrete; Cleaning debris; Cleaning of all material; General clean up; Landscape Sod layers; Salamander; Flagmen; Wire mesh handlers or setters; Loading & unloading all trucks; Handling & conveying all material; Washing of all					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D) windows; A man on bucket pouring concrete; Conveyor belt	8.34	.55	.40		.05
Brick tender; Stone mason tender; Plasterers' tenders; Mortar mixers & Operator; Cement mason tender; All scaffold builders (swinging scaffolds); Jackhammer op.; Air or electrical pneumatic tool op.; Power driven tools; Power buggy op.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sand & vacuum cleaning; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw op. & brush feeders on pulverizers; Pipelayers; Bottom man; Laser gun, Burners; Sandblasting of concrete; Vibrator man; Signal man; Caisson bottom man; & Forklift op.	8.54	.55	.40		.05
Geauga Co.: Laborers; Equipment replacing wheelbarrow & concrete buggy	10.52	1.37	1.40		
Power driven tools & vibrators; Sewer & Utilities laborers; Fine brick tenders	10.67	1.37	1.40		
Jackhammer; Acetylene burner mucker	10.72	1.37	1.40		
Swinging scaffold; Mason tender handling carbon block & bottom block material; Air track & Wagon drill	10.77	1.37	1.40		
Gunnite op.; Blasters & Shooters; Caisson; Well; Cylinder; Cofferdams; Mine workers w/o air	10.84	1.37	1.40		
Topman on free standing radial stack	11.02	1.37	1.40		
Acid brick tenders	10.92	1.37	1.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D) Licking Co.: Brick tender; Stonemason tender; Plasterer tender; Mortar mixer & operator; Cement mason tender; All scaffold builders; Swinging scaffolds; Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolitions; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man	8.49	.55	.40		.05
Common laborers; Carpenter tender; Pouring of all concrete; Cleaning of all material; General clean-up incl. vacuum cleaning; Landscape; Sod layers; All portable heaters; Loading & unloading all trucks; Handling & Conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; Water pumps up to & incl. 4" intake	8.27	.55	.40		.05
Muskingum & Perry Cos.: Planters (landscape); Tree Trimmers; Plumbers' helpers; Carpenters' tender; Building & construction laborers	8.42	.55	.40		.05
Air & machine driven tool ops.; Asphalt plant aggremeter ops.; Asphalt plant mixer men; Brick slingers; Car pushers & tunnel laborers; Caulkers; Yarners & Wrenchmen; Cement handlers; Concrete puddlers (behind mixers); Curb cutters & setters;					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D) Hand spikers ops.; Jackhammer ops.; Muckers; Mason tenders; Mortar mixers; Pipe layers; Proportioning plant ops.; Pumpmen (under 4"); Road form setters; Sewer bottom men; stone mason tenders; Sheeting & Shoring men; Vibrator op.; Plasterers' tenders; Cutting with burning torches; Dumpmen (batch trucks)	8.52	.55	.40		.05
Brick droppers; Lock tenders; Powdermen or blasters	8.67	.55	.40		.05
Ross Co.: Brick tenders; Stonemasons' tenders; Plasterers' tenders; Mortar mixer & ops.; Cement masons' tenders; All scaffold builders (Swinging scaffolds), Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolition; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man; Carpenters' tenders	8.26	.55	.40		.05
Common laborers; Pouring of all concrete; Cleaning debris; Clean-up incl. Vacuum cleaning; Landscape; Sod layers; Loading & unloading all trucks; Handling & conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; All water pumps up to & incl. 3" intake	8.06	.55	.40		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D) Shelby Co.: Building laborers; Laser beam Power wheelbarrow or Power buggy	7.85	.55	.40		.05
Vibrators; spikers by hand (Railroad); Cement finishers helpers	8.00	.55	.40		.05
All machine driven tools (gas, electric, air); Asphalt rakers; Caisson; Cofferdam; Demolition; Packers; Pot tenders; Pump man under 4" discharge; Tampers; Torchman; Tunnel	8.00	.55	.40		.05
Blaster helper; Cylinder, shaft; Jackhammer; Man-hole builders; Mason tenders; Mortar mixers; Plasterers' tenders; Sewer bottom man; Sewer pipelayer; Sewer, water conduit, gas, oil, pipeline, except mainlines; & Wagon drill helper	8.15	.55	.40		.05
Blaster-Powderman; Gunnite ops.; Muckers & miners (Tunnel & caisson) free air; Sandblasters; & Wagon drill/operator	8.35	.55	.40		.05

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POWER EQUIPMENT OPERATORS	Geauga Co.	Remaining Cos.	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	13.17	12.36	.66	1.00		.11
GROUP B	13.02	12.20	.66	1.00		.11
GROUP C	12.67	11.84	.66	1.00		.11
GROUP D	11.89	11.06	.66	1.00		.11
GROUP E	11.57	10.73	.66	1.00		.11
GROUP F	9.64	8.83	.66	1.00		.11

GROUP A: A-frame; All rotary drills used on caisson work for foundations & sub-structure work; Boiler operator or compressor operator (when compressor or boiler is mounted on crane, piggyback Op.); Boom trucks; Cableways; Cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes; Derricks; Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. hoisting building materials; Helicopter winch operator hoisting builders material; Hoes; Hoisting engines (2 or more drums); Lift slab or panel jack operators; Locomotives; Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps w/boom; Panelboard (all types on site); Piledriver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction on site); Trench machines(over 24" wide)

GROUP B: Asphalt paver; Bulldozer; CMI type equipment; End loaders; Kohlman type loaders (dirt loading); Mucking machines; Power grader; Power scoops; Power scrapers; Push cats

GROUP C: Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (1 drum); House elevators; Man lift; Power boilers (over 15 lbs., pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D: Compressors on building construction; Conveyors (building material); Gunnite machines; Mixers (cap. more than 1 bag); Mixers (1 bag cap. side 1 loaders); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welding op.

GROUP E: Backfillers & tampers; Batch plant; Bar & joint installing machine; Bullfloats; Burlap & curing machines; Cleftplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractor (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over 4' discharge); Hydro seeders; Self-propelled power spreaders; Self-propelled sub-grader; Tire repairman; Tractors pulling sheep foot roller or grader; Vibratory compactors (with integral power)

GROUP F: Oiler; Helper; Signalman; Light plant operator; Power driven heaters (oil fired); Power boiler (less than 15 lbs., pressure); Pumps (under 4" discharge); Submersible pumps (under 4" discharge)

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TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Brown, Highland, Lawrence (W. of Coal Grove & W. of St. Rte #75), Pike, Ross, & Scioto Cos.:					
Jeep; Station Wagons; Pickups; Fuel trucks; Dumps to & incl. 2 tons; Bus drivers (incl. all equipment used for hauling men & materials)	8.22	19.00a			
Dumps over 2 tons; Tandems; Semi-tractor; Lowboys; Fork lifts (incl. mason Tending work); Euclids	9.14	19.00a			
Butler Co. (N. ½):					
Tandem axle trucks; Tandem axle dump trucks; Winch trucks; Fork lifts; Truck warehouse men	8.79	25.00b	28.00a		
Single axle trucks; Jeeps; Pickups	8.64	25.00b	28.00a		
Euclid trucks; Mechanics	9.09	25.00b	28.00a		
Lowboys & drags	9.05	25.00b	28.00a		
Semi combination & combination of hauling units	8.89	25.00b	28.00a		
Clinton, Darke, Greene, Miami, Champaign, Montgomery, & Preble Cos.:					
Straight flat & dump truck; Winch truck	6.23	21.50a	8.00a	c&e	
Ready mix dump crete	6.29	21.50a	8.00a	c&e	
Tandem truck & tractor trailer combination	6.34	21.50a	8.00a	c&e	
Euclid to 12 yds.	6.40	21.50a	8.00a	c&e	
Euclid over 12 yds.	6.76	21.50a	8.00a	c&e	
Delaware, Fayette, Franklin Madison, & Pickaway cos.:					
Dump & straight	8.71	17.00a			
Tandem & semi-farm tractor	8.81	17.00a			
Lowboy	8.91	17.00a			

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TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gallia, Lawrence (E. of Ohio St. Rte #75), & Meigs Cos.:					
Truck helpers; pickups; Station wagons; Panel trucks; Yardmen; Warehousemen; Flatbody material truck (straight job); Greasers; Washers; Tiremen; Gas pump attendants; Dump trucks (up to 5 cubic yards)	9.15	82.33d	52.00d	1.00	
Tank trucks (straight)	9.25	82.33d	52.00d	1.00	
Dump trucks (5 cu. yds. & over); Semi-dump trucks; Semi-trailers (whether flat, rack or pole & hauled or pushed by truck or tractors); Agitator or mixer trucks (up to 5 cu. yds.); Tank truck (semi)	9.40	82.33d	52.00d	1.00	
Low boy trailers; Winch trucks; Fork trucks; Distributor trucks (front end & back end); Truck crane; Monorail truck	9.45	82.33d	52.00d	1.00	
Material checker & receiver	9.50	82.33d	52.00d	1.00	
Agitator or mixer truck (5 cu. yds. & over)	9.55	82.33d	52.00d	1.00	
Mechanic's helper	9.50	82.33d	52.00d	1.00	
Mechanic	9.80	82.33d	52.00d	1.00	
Tri-axle dump trucks; Hydraulic lift tailgate truck & farm type tractors; End dumpsters; Turnarockers; Ross carriers; Athey wagon or similar equipment; A-frame; Hydrolift; Dual purpose trucks	9.80	82.33d	52.00d	1.00	

FOOTNOTES:
a. per week per employee
b. per week per employee providing employee has been on payroll at least 30 days
c. 1 yr's employment - 1 wk's paid vacation; 7 yrs' employment - 2 wks' paid vacation providing the employee has been on payroll for 8 months during the previous 12 month period.
d. per month per employee
e. an employee who has been on the payroll 30 days or more & has worked his last scheduled workday within 7 calendar days before his next scheduled workday within 7 calendar days after New Yr's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, & Christmas Day shall receive 8 hrs. pay for said holidays

SUPERSEDEAS DECISION

STATE: OHIO — COUNTIES: *SEE BELOW
DECISION NUMBER: OH78-2057 — DATE: Date of Publication
Supersedes Decision No. OH78-2004, dated February 10, 1978 in 43 FR 5993
DESCRIPTION OF WORK: Building & Residential Construction

*ASHTABULA, CUYAHOGA, LAKE, LORAIN, PORTAGE, STARK, & SUMMIT

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Ashtabula (Cities of Ashtabula & Geneva), Cuyahoga, Lake, & Lorain Cos.	$14.78				
Ashtabula (Rem. of Co.)	10.74	.45	.70		.02
Remaining Cos.	12.135	.55	.80		.02
BOILERMAKERS	12.23	.60	1.10		.03
BRICKLAYERS; Stonemasons:					
Ashtabula Co.	11.76	.60	.50		
Cuyahoga Co.	12.90	1.00	1.00		.01
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage & Summit Cos.:					
Commercial Construction	12.46	.73	.55		.02
Residential Construction	10.46	.73	.55		.02
Stark Co.	10.79	.85	.60		.01
CARPENTERS; Millwrights; Piledrivermen; Soft Floor Layers:					
Ashtabula, Cuyahoga, & Lake Cos.:					
Carpenters; Soft Floor Layers	12.87	.85	1.25		.03
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
Portage & Summit Cos.:					
Carpenters	12.20	.50	.90		.02
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
Soft Floor Layers	10.40	.40	.70		
Stark Co.:					
Carpenters	10.28	.50	.50		.02
Millwrights; Piledrivermen	10.76	.50	.50		.02
Soft Floor Layers	10.11	.50	.50		.02
Lorain Co.:					
Carpenters; Soft Floor Layers	10.66	.70	1.00	a	.04
Millwrights; Piledrivermen	10.66	.70	1.00	a	.04
CEMENT MASONS:					
Ashtabula Co.	11.76	.60	.50		
Cuyahoga Co.	14.58				
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage, Stark, & Summit Cos.:					
Commercial Construction	11.54	.60	.75		.02
Residential Construction (excluding Stark Co.)	10.57	.60	.75		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Cuyahoga & Lorain (Twp. of Columbia) Cos.	$13.75	.55	3% + .48		.02
Lake Co.:					
Commercial Construction	13.13	.70	3% + .70		.3%
Residential Construction	6.25	.70	3%		1%
Lorain (Except Columbia Twp.):					
Commercial Construction	12.50	.60	3% + .80		.1%
Residential Construction	7.08	.60	3%		.1%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shelbyville, Streetsboro, & Suffield), & Summit Cos.:					
Commercial Construction	12.33	.47	3% + .50		.2%
Residential Construction	7.54	.68	3% + .50		.2%
Portage (Rem. of Co.) & Stark Co.:					
Commercial Construction	11.90	.40	3% + .40		.3%
Residential Construction	8.05	.40	3% + .30		.3%
Ashtabula Co. (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor)	12.59	.60	7%		.7%
Ashtabula Co. (Rem. of Co.)	13.05	.90	3% + .85		.2%
ELEVATOR CONSTRUCTORS:					
Ashtabula Co.:					
Elevator Constructors	11.04	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
Cuyahoga, Lake, & Lorain Cos.:					
Elevator Constructors	12.79	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
Portage, Stark, & Summit Cos.:					
Elevator Constructors	12.02	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Ashtabula,Cuyahoga, Lake, & Lorain Cos.	12.83	.55	.65		.01
Portage, Stark & Summit Cos.:					
Commercial	10.94	.71	1.01		
Residential	6.79	.64	.52		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Ashtabula (NE ¼ of Co.)	11.08	1.86	1.01		.10
Ashtabula (except NE ¼ of Co.), Cuyahoga, Lake, Lorain, Portage (excluding Ravenna Ordnance Depot), & Summit Cos.	11.72	1.05	1.20		.03
Portage (Ravenna Ordnance Depot) Co.:					
Ornamental; Reinforcing; & Structural	12.03	.40	1.30		.07
Bucker-up	12.155	.40	1.30		.07
Sheeter	12.53	.40	1.30		.07
Stark Co.:					
Ornamental; Reinforcing; & Structural	11.08	.70	.75		.03
Bucker-up	11.205	.70	.75		.03
Sheeter-side	11.33	.70	.75		.03
Sheeter-roof	11.58	.70	.75		.03
LATHERS:					
Ashtabula, Cuyahoga, Lake, Lorain (Eastern portion), & Summit (No. part of Co.) Cos.	13.88		1.00		.01
Lorain (Rem. of Co.)	12.45				.01
Portage & Summit (So. part of Co.) Cos.	11.01	.57	.15		.01
LEADBURNERS	10.75	.40		d	.01
LINE CONSTRUCTION:					
Ashtabula Co. (Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor):					
Cable splicer op.; Linemen; Pole digging equipment op.	13.23	.45	3%		½%
Groundmen:					
Over 3 yrs.	10.58	.45	3%		½%
3rd yr.	9.92	.45	3%		½%
2nd yr.	9.26	.45	3%		½%
2nd 6 mos.	7.94	.45	3%		½%
1st 6 mos.	6.62	.45	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Ashtabula Co. (Rem. of Co.):					
Cable splicer; Equipment op.; Line Truck Driver; Linemen	$13.05	.90	3% + .85		½%
Groundmen:					
Over 12 mos.	9.80	.90	3% + .85		½%
6 - 12 mos.	8.50	.90	3% + .85		½%
0 - 6 mos.	7.20	.90	3% + .85		½%
Cuyahoga & Lorain (Columbia Twp.) Cos.:					
Cable Splicers; Equipment ops.; Linemen; & Welders	12.73	.35	3%		½%
Lake Co.:					
Equipment Operators; Linemen	12.88	.70	3% + .70		½%
Lorain (Rem. of Co.) Co.:					
Cable Splicers; Equipment ops.; & Linemen	12.50	.60	3% + .80		½%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro, & Suffield), & Summit Cos.:					
Linemen	12.08	.57	3% + .65		½%
Cable Splicers	12.88	.57	3% + .65		½%
Groundmen; Truck Drivers	6.04	.57	3% + .65		½%
Equipment Operators	9.06	.57	3% + .65		½%
Portage (Rem. of Co.) Co.:					
Cable Splicer; Linemen; Pole Digging Equipment	13.23	.45	3%		½%
Stark Co.:					
Cable Splicers; Linemen	11.90	.40	3% + .40		½%
Truck Drivers	7.95	.40	3% + .40		½%
Groundmen:					
Over 1 yr's experience	7.50	.40	3% + .40		½%
Under 1 yr's experience	7.05	.40	3% + .40		½%
Line Equipment ops.	10.60	.40	3% + .40		½%
MARBLE SETTERS:					
Ashtabula Co.	11.76	.60	.50		
Cuyahoga Co.	12.90	1.00	1.00		.01
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage & Summit Cos.	11.40	.68	.50		
Stark Co.	9.10	.70	.45		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS:					
Cuyahoga, Lake & Lorain Cos.	$12.26		1.00		
Portage & Summit Cos.	10.90	.68	.50		
PAINTERS:					
Ashtabula, Cuyahoga, Lake, Portage (No. of East West Turnpike), & Summit (No. of East West Turnpike), Lorain (NE part):					
Brush; Rollers; Paperhangers	12.51	.63	.74		.05
Swing Stage; Window Jack Tapers	12.26	.63	.74		.05
	13.21	.63	.74		.05
Lorain (Except NE part):					
Commercial Construction:					
Brush	8.70				
Spray	9.30				
Roller; Taping	8.95				
Residential Construction:					
Brush	8.35				
Spray	8.85				
Taping	8.75				
Portage (Rem. of Co.), & Summit (Rem. of Co.) Cos.:					
Brush; Rollers; Paperhangers	9.40	.62	.60		
Drywall finisher & taper; Spray	9.90	.62	.60		
Structurel steel	9.65	.62	.60		
Stark Co.: (Commercial)					
Brush; Roller	9.61	.78	.60		.02
Paperhangers	9.71	.78	.60		.02
Drywall	10.01	.78	.60		.02
Spray	10.11	.78	.60		.02
Drywall with machines	10.36	.78	.60		.02
Stark Co.: (Residential)					
Brush; Rollers	9.17	.78	.60		.02
Paperhangers	9.27	.78	.60		.02
Spray	9.67	.78	.60		.02
Drywall	9.57	.78	.60		.02
Drywall with machines	9.92	.78	.60		.02
PIPEFITTERS:					
Ashtabula, Cuyahoga, Lake, & Loraim Cos.	12.45	1.22	1.30		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Ashtabula Co.	$11.76	.60	.50		
Cuyahoga Co.	14.88				.01
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage & Summit Cos.	11.41	.60	.75		.01
Stark Co.	10.79	.85	.60		.01
PLUMBERS:					
Ashtabula, Cuyahoga, Lake, & Summit (No. of Rtw. #303) Cos.	12.88	.90	1.10		.02
Lorain Co.	12.25	.60	.88		.05
Portage & Summit (So. of Rte. #303) Cos.	12.31	.79	.90		.05
Stark Co.	12.12	.50	.70	e	.05
ROOFERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	14.03	.25	.50		
Portage, Stark, & Summit Cos.	11.18	.73	.55		.02
SHEET METAL WORKERS:					
Ashtabula, Cuyahoga, & Lake Cos.	12.85	.60	1.33		.04
Lorain Co.	12.68	.60	.60		.04
Portage, Stark, & Summit Cos.	10.91	.61	.84		.05
SPRINKLER FITTERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	12.45	1.22	1.30		.10
Lake, Portage, Stark, & Summit Cos.	12.75	.75	1.05		.08
STEAMFITTERS:					
Lorain Co.	12.25	.60	.88		.05
TERRAZZO WORKERS:					
Ashtabula Co.	11.76	.60	.50		
Cuyahoga Co.	12.90	1.00	1.00		.01
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage & Summit Cos.	11.40	.68	.50		
Stark Co.:					
Terrazzo Workers	9.05	.70	.45		
Terrazzo Grinders	8.52	.70	.45		
TERRAZZO WORKERS' FINISHERS:					
Cuyahoga, Lake, & Lorain Cos.	12.97	.	.85		
Portage & Summit Cos.	10.90	.68	.50		
Stark Co.	8.09	.70	.45		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:					
Ashtabula Co.	$11.76	.60	.50		
Cuyahoga Co.	14.405		1.36		
Lake Co.	13.22	.60	.80		
Lorain Co.	12.20		.40		.01
Portage & Summit Cos.	11.40	.68	.50		
Stark Co.	8.94	.70	.45		
TILE SETTERS' FINISHERS:					
Cuyahoga, Lake, & Lorain Cos.	12.79		1.00		
Portage & Summit Cos.	10.90	.68	.50		
Stark Co.	8.09	.70	.45		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: B & D
b. 7 paid holidays: A through F, & Day after Thanksgiving
c. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
e. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.

LABORERS (Ashtabula County): Sheeting & Shoring Men; Asphalt Rakers & Tampers; Dumpmen (Batch Truck); Signalmen; Concrete Workers; Building Wreckers; Tool Checkers; Carpenters' Tenders; Construction Laborers; All work not mentioned in classifications below to be paid at the rate of conatruction laborers	$10.45				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Spreader Box Men (Asphalt); Stone Masons' Assistant; Plasterers or Mortar Mixers; Squeegee man	10.60				
Air & Machine Driven Tool op.; Industrial Sewer Cleaning; Sewer Pipe Layers; Bottom Men (6' & over); Power Driven Wheelbarrows & Sweepers; Brick Batter & Droppers; Burning & Cutting Torches; Mud Jacking of floors	10.65				
Stackmen; Swinging Scaffold men	10.75				
Tunnel Laborers	10.85				
Gunnite ops.	10.95				
Power Blasters	11.00				
LABORERS (Cuyahoga County):					
Construction	10.52	1.37	1.40		
Sewer & Utility; Power Driven Tools & Vibrators	10.67	1.37	1.40		
Jackhammer; Acetylene Burners; Muckers	10.72	1.37	1.40		
Swinging Scaffolds	10.77	1.37	1.40		
Gunnite ops.; Blasters; Shooters; Caisson; Well Cylinders; Mine Workers w/o air; & Cofferdams	10.84	1.37	1.40		
Topman on free standing radial stack	11.02	1.37	1.40		
LABORERS (Lake County):					
Building & Construction	10.65	.55	.40		
Gunite op.; Blasters & Shooters; Caissons; Wells; Cylinder cofferdams; Mine Workers w/o air; Swing Scaffolds; Acetylene Burners; Vibrators; Top man on free standing radial stacks; Slip forms higher than 30'; Fire Brick Tenders	10.90	.55	.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Lorain County):					
Building & Construction; Signalmen; Flagmen; Tool Crib; Carpenter Tender; Finisher Tender; Concrete Handler; Guard Rail Erector	$10.08	.70	.70		.10
Bottom Men; Scaffold Builder; Tunnel Laborers; Pipelayers; Air & Power Driven Tools; Burner on demolition work; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blasters; Creosote Workers; Mortar Mixers; Form Setter; Mason Tender; Plasterers' Tenders; Hod Carrier; Laser Beam set up man	10.28	.70	.70		.10
Gunnite Operator	10.68	.70	.70		.10
LABORERS (Portage & Summit Cos.) Residential Construction	9.07	.65	.40		.16
Common Laborers; Welders' Helpers; Carpenters' Tenders; Landscape Laborers; Mason Tender; Concrete Bucket Tender	11.12	.65	.40		.16
Air Driven Boring Machine; Tamper ops.; Asphalt Raker; Paving Bed Maker; Material Mixer; Wire Mesh Handler; Hook-up man on demolition work; Scaffold Erector; Structural Precast Erector; Power Tools-Air, Gas, or electric	10.82	.65	.40		.16
Pipe Layers; Rock Drillers; Muckers--Tunnel; Burners; Form Setters; Power Saws; Jackhammer; Barco Type Tampers; Bottom man; Hod Carrier; Power Buggy or Power Wheelbarrow	10.77	.65	.40		.16

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Gunite Nozzlemen; Tunnel Miners; Water Line Caulkers; Dynamite Men; Pump Hose Nozzlemen	$10.62	.65	.40		.16
LABORERS (Stark County):					
Building & Construction; Signalmen; Flagmen; Tool Cribman; Carpenters' Tenders; Finisher Tenders; Concrete Handler; Utility Construction Laborer; Guard Rail Erector	8.81	.70	.70		.10
Bottom Men; Scaffold Builder; Tunnel Laborers; Pipe Layers; Air & Power Driven Tools; Burner on demolition; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blaster; Creosote Workers; Mortar Mixers; Form Setter; Mason Tender; Plasterers' Tenders; Hod Carrier; Laser Beam Set-Up Men	9.01	. 70	. 70		.10
Gunnite Operator	9.41	. 70	. 70		.10
POWER EQUIPMENT OPERATORS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.:					
GROUP A	13.17	.66	1.00		.11
GROUP B	13.02	.66	1.00		.11
GROUP C	12.67	.66	1.00		.11
GROUP D	11.89	.66	1.00		.11
GROUP E	11.57	.66	1.00		.11
GROUP F	9.64	.66	1.00		.11
Portage, Stark, & Summit Cos.:					
GROUP A	12.89	.66	1.00		.11
GROUP B	12.73	.66	1.00		.11
GROUP C	12.38	.66	1.00		.11
GROUP D	11.57	.66	1.00		.11
GROUP E	11.24	.66	1.00		.11
GROUP F	9.28	.66	1.00		.11

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GROUP A - A-Frames; All rotary drills used on caisson work for foundations & sub-structure work; Boiler op. or compressor op. when compressor or boiler is mounted on crane (piggyback operation); Boom trucks (all types); Cableways; cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes (all types); Derricks (all types); Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. (hoisting builders materials); Helicopter winch op.;(hoisting builders materials); Hoes (all types); Hoisting engines (two or more drums); Lift slab or panel jack ops.; Locomotives (all types); Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps with boom; Panelboard (all types on site); Pile driver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction site); Tower derricks; Trench machines (over 24" wide)

GROUP B - Asphalt paver; Bulldozer; CMI type equipment; Endloaders; Kohlman type loaders (dirt loading); Mucking machines; Power graders; Power scoops; Power scrapers; Push cats

GROUP C - Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (one drum); House elevators; Man lift; Power boiler (over 15 lbs., pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D - Compressors on building construction; Conveyors (building material); Gunite machines; Mixers (cap., more than one bag); Mixers (one bag cap., side loader); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welder operator

GROUP E - Backfillers and tampers; Batch plant; Bar & joint installing machine; Bull floats; Burlap & curing machines; Cleiplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractors (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over ½" discharge); Hydro seeders; Self-propelled power spreader; Self-propelled subgrader; Tractors (pulling sheep foot roller or grader); Tire repairman; Vibratory compactors (with integral power)

GROUP F - Oiler; Helpers; Signalman; Light plant op.; Power driven heaters (oil fired); Power boilers (less than 15 lbs. pressure); Submersible pumps (under 4" discharge); Pumps (under 4" discharge)

SUPERSEDEAS DECISION

STATE: OH10 COUNTIES: *SEE BELOW
DECISION NO.: OH78-2058 DATE: Date of Publication
Supersedes Decision No. OH78-2005, dated February 10, 1978 in 43 FR 5999
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

*ASHLAND, CARROLL, COLUMBIANA, COSHOCTON, HOLMES, MEDINA, TUSCARAWAS, & WAYNE

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Ashland, Coshocton, Holmes, Medina, Tuscarawas & Wayne Cos.	$12.135	.55	.80		.02
Carroll & Columbiana Cos.	10.74	.45	.70		.02
BOILERMAKERS:					
Ashland Co.	13.10	.70	1.00		.03
Carroll, Coshocton, Holmes, Medina, Tuscarawas, & Wayne Cos.	12.23	.60	1.10		.03
Columbiana Co.	9.815	7.5%	7%		.01
BRICKLAYERS; Marble Setters; Stonemasons; Terrazzo Workers; & Tile Setters:					
Ashland, Holmes & Wayne (except Milton & Chippewa Twps.) Cos.	10.63	.60	1.00		.02
Carroll, Columbiana (Twps. of Knox, Butler, West & Hanover), & Tuscarawas Cos.:					
Bricklayers; Stonemasons	10.79	.85	.60		.01
Marble Setters	9.10	.70	.45		
Terrazzo Workers	9.05	.70	.45		
Tile Setters	8.94	.70	.45		
Columbiana (Twps. of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem, & Unity) Co.:					
Bricklayers; Stonemasons; Marble Setters; Terrazzo Workers; & Tile Setters	11.54	.60	.60		.02
Columbiana (Rem. of Co.) Co.	12.305				
Coshocton Co.	10.30	.60	.50		.02
Medina (Twps. of Hinckley, Granger, Brunswick, Medina, Liverpool, Montville, & York) Co.:	10.33	.60	.50		.02
Bricklayers; Marble setters; Stonemasons; & Terrazzo Workers	12.90	1.00	1.00		.01
Tile Setters	14.405		1.36		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Medina (Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon) & Wayne (Chippewa & Milton Twps.) Cos.:					
Bricklayers; Stonemasons	$12.46	.73	.55		.02
Marble Setters; Terrazzo Workers; & Tile Setters	11.40	.68	.50		
Medina (Twps. of Litchfield, Chatham, Harrisville, Homer, & Spencer) Co.	12.20		.40		.01
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:					
Ashland Co.:					
Carpenters; Soft Floor Layers	10.66	.70	1.00	a	.04
Millwrights	10.66	.70	1.00	a	.04
Piledrivermen	10.66	.70	1.00	a	.04
Carroll, Tuscarawas, & Wayne Cos.:					
Carpenters	10.28	.50	.50		.02
Millwrights; Piledrivermen	10.76	.50	.50		.02
Soft Floor Layers	10.11	.50	.50		.02
Columbiana Co.:					
Carpenters	10.05	.87	.85		.02
Millwrights	10.93	.50	6%	4%	.02
Piledrivermen	11.15	.55	10%		.5%
Coshocton & Holmes Cos.:					
Carpenters; Soft Floor Layers	10.14	.53	.70		.02
Millwrights	10.79	.53	.70		.02
Piledrivermen	10.79	.53	.70		.02
Medina Co.:					
Carpenters	12.20	.50	.90		.02
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
Soft Floor Layers	10.40	.40	.70		
CEMENT MASONS; Plasterers:					
Ashland Co.:					
Cement Masons	10.55				
Plasterers	10.45				
Carroll & Tuscarawas Cos.	10.79	.85	.60		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Columbiana Co.:					
Cement Masons	$10.57	.50	.50		.05
Plasterers:					
Twps. of Knox, Butler, West, & Hanover	10.79	.85	.60		.01
Remainder of Co.	11.61	.60			.03
Coshocton Co.:					
Cement Masons	10.33	.60	.50		.02
Holmes & Wayne (except Chippewa & Milton Twps.) Cos.	11.18	.05	1.00		.02
Medina Co. (exclusive Twps. of Homer, Harrisville, Chatham, Litchfield, & Spencer)					
Cement Masons	11.54	.60	.75		.02
Plasterers	11.41	.60	.75		.01
Medina Co. (Rem. of Co.):					
Cement Masons; Plasterer	12.20		.40		.01
ELECTRICIANS:					
Ashland Co.	11.50	.45	3% + .50		.1%
Carroll (N ½ incl. Fox, Harrison, Rose & Washington Twps.), Columbiana (Knox Twp.), Holmes, Tuscarawas (N of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green, & Wayne Twps.) Cos.	11.90	.40	3% + .40		.3%
Carroll (Rem. of Co.) Co.	12.95	6%	9%	8%	½%
Columbiana (Twps. of Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West, & Yellow Creek) Co.	11.03	.88	7%		.07
Columbiana (Twps. of Butler, Fairfield, Perry, Salem, & Unity) Co.	13.03	.59	7%		.3%
Coshocton & Tuscarawas (Auburn, York, Jefferson, Clay, Rush, Oxford, Washington, Salem, Perry, & Bucks Twps.) Cos.	10.80	.40	3% + .62		.03
Medina (Twps. of Litchfield, & Liverpool) Co.	12.50	.60	3% + .80		.1%
Medina (Rem. of Co.), & Wayne (N½ of Co.)	12.33	.47	3% + .50		.2%

DECISION NO. OH78-2058

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Ashland, Coshocton, Holmes, & Tuscarawas Cos.:					
Elevator Constructors	$11.705	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
Carroll Co.:					
Elevator Constructors	11.08	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
Columbiana Co.:					
Elevator Constructors	11.75	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
Medina & Wayne Cos.:					
Elevator Constructors	12.02	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Carroll, Coshocton, Holmes, Medina (S ½), Tuscarawas, & Wayne Cos.	10.94	.71	1.01		
Medina (N ½) Co.	12.83	.55	.65		.01
IRONWORKERS:					
Ashland, Carroll, Coshocton, Holmes, Tuscarawas, & Wayne Cos.:					
Ornamental; Reinforcing; & Structural	11.08	.70	.75		.03
Sheeter-roof	11.58	.70	.75		.03
Sheeter-side	11.33	.70	.75		.03
Bucker-up	11.205	.70	.75		.03
Columbiana Co.:					
Ornamental; Reinforcing; & Structural	12.03	.40	1.30		.07
Sheeters	12.53	.40	1.30		.07
Bucker-up	12.155	.40	1.30		.07
Medina Co.	11.72	L05	1.20		.03
LATHERS:					
Wayne Co.	11.01	.57	.15		.01
LEADBURNERS	10.75	.40		d	.01

DECISION NO. OH78-2058

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Ashland, & Medina (exclu. Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon) Cos.:					
Marble Setters' Finishers	12.26		1.00		
Terrazzo Workers' Finishers	12.97		.85		
Tile Setters' Finishers	12.79		1.00		
Carroll & Tuscarawas Cos.:					
Terrazzo Workers' Finishers					
Tile Setters' Finishers	8.09	.70	.45		
Columbiana Co.	11.455				
Medina (Rem. of Co.) & Wayne (Twps. of Milton & Chippewa)	10.90	.68	.50		
PAINTERS:					
Ashland Co.:					
Brush; Roller; Washer; Cleaner	8.80		.50		
Drywall; Paperhanger; Wall Coverer; Pot Tender	9.55		.50		
Structural Steel Tanks & Towers; Hazardous Materials incl. epoxy or any 2 component materials	9.30		.50		
Spray; Riggers & helpers on scaffolding over 30' above base level	9.55		.50		
Sign & Pictorial	9.65		.50		
Sandblaster Cleaner	9.95		.50		
Carroll, Holmes, Tuscarawas, & Wayne Cos.:					
Brush; Roller	9.61	.78	.60		.02
Paperhanger	9.71	.78	.60		.02
Spray	10.11	.78	.60		.02
Drywall	10.01	.78	.60		.02
Drywall with machines	10.36	.78	.60		.02
Columbiana Co.:					
Brush; Rollers; Waterproofing; Paperhanging; Wallwashing; Hydro-jet cleaning; Steam cleaning	11.10	.60	.80		
Spray; Epoxy-mastic (brush or roller)	11.60	.60	.80		
Swing; Interior scaffold (over 10 ft.); Window jacks & safety belts	11.27	.60	.80		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drywall taping	$11.55	.60	.80		
Open structural steel	11.31	.60	.80		
Dipping (when permitted)	11.45	.60	.80		
Epoxy-mastic (spray)	12.10	.60	.80		
Paperhangers (furnishing own tools)	12.35	.60	.80		
Coshocton Co.:					
Brush; Paperhangers; Wall washers; Wallpaper cleaners; & Drywall tapers	5.50				
Spray	6.00				
Swing stage; Scaffold & removal of wallpaper	5.75				
Medina Co.:					
Brush; Rollers; & Paperhangers	9.40	.62	.60		
Spray; Drywall finisher & taper	9.90	.62	.60		
Structural steel	9.65	.62	.60		
PIPEFITTERS; Sprinkler fitters: Medina (No. of State Rte. #18)	12.45	1.22	1.30		.10
PLUMBERS; Steamfitters: Ashland Co.	12.25	.60	.88		.05
Carroll (Twps. of Ross, Monroe, Union, Lee, Orange, Perry, & Loudon), Coshocton, Holmes, & Tuscarawas Cos.	10.83	.45	.50		.08
Carroll (Rem. of Co.), & Wayne Cos.	12.12	.50	.70	e	.05
Columbiana (Washington & Yellow Creek Twps., & Liverpool Twps. Secs. 35 & 36 - West of County Rd. #427)	12.61	.50	8%	8%	.12
Columbiana (Rem. of Co.)	12.31	.75	.50		.03
Medina (N. Of St. Rte. 18 & Smith Rd. incl. city of Medina) Co.:					
Plumbers	12.88	.90	1.10		.02
Medina (Rem. of Co.) Co.:					
Plumbers	12.31	.79	.90		.05
ROOFERS	11.18	.73	.55		.02
SHEET METAL WORKERS:					
Ashland, Carroll, Coshocton, Holmes, Medina, Tuscarawas, & Wayne Cos.	10.91	.61	.84		.05
Columbiana Co.	12.26	.75	.79		.04
SPRINKLER FITTERS (Excluding Medina Co. (No. of State Rte 18)	12.75	.75	1.05		.08

PAID HOLIDAYS:
A-New year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

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FOOTNOTES:
a. 2 paid holidays: B & D
b. 7 paid holidays: A through F, & Day after Thanksgiving
c. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
e. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Ashland Co.:					
General laborer; Carpenter tender; Concrete handler	8.81	.70	.70		.10
Mason & Plasterers' tenders; Air & power driven tools; Pipelayers; Dynamite blaster; Mortar mixer; & formsetter	9.01	.70	.70		.10
Gunnite operator	9.41	.70	.70		.10
Carroll Co.:					
Building & construction; Signalmen; Flagmen; Tool crib-man; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guard rail erector	8.81	.70	.70		.10
Bottom men; Scaffold builder; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition; Swing-ing scaffold; Mucker; Caisson worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setter; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set-up men	9.01	.70	.70		.10
Gunnite operator	9.41	.70	.70		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Columbiana Co.:					
General laborers; Carpenters' tenders	8.10	.65	.55		.10
Brick & cement mason tenders; Plasterers' tenders; Mortarmen	8.265	.65	.55		.10
Pipelayers; Air tool & power tool operators; Jackhammer ops.	8.30	.65	.55		.10
Coshocton, Holmes, & Tuscarawas Cos.:					
Laborers; Carpenters' tenders; Concrete handlers; Finisher tenders; Guard rail erector	8.66	.70	.70		.10
Bottom men scaffold builders; Air & power driven tools; Burners; Pipelayers; Mason & plasterers' tenders; Hod carriers; Laser beam set up men; Blasters & Dynamite man	8.86	.70	.70		.10
Gunnite operators	9.26	.70	.70		.10
Medina Co.:					
Common laborers; Welders helpers; Carpenters' tenders; Landscape laborers; Mason tender; Concrete bucket tender	11.12	.65	.40		.16
Air driven boring machine; Tamper ops.; Asphalt raker; Paving bed maker; Material mixer; Wire mesh handler; Hook-up man on demolition work; Scaffold erector; Structural precast erector; Power tools-air, gas, or elec-tric	10.82	.65	.40		.16
Pipe layers; Rock drillers; Muckers--Tunnel; Burners; Form setters; Power saws; Jackhammer; Barco type tampers; Bottom man; Hod carrier; Power buggy or Power wheelbarrow	10.77	.65	.40		.16
Gunite nozzlemen, Tunnel miners, Water line caulkers; Dynamite men; Pump hose nozzlemen	10.62	.65	.40		.16

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Wayne Co.:					
Building & Constructinn; Signalmen; Flagmen; Tool crib-man; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborers; Guard rail erector	8.81	.70	.70		.10
Bottom men; Scaffold builder; Tunnel laborers; Pipe layers; Air & power driven tools; Burner on demolition; Swing-ing scaffold; Mucker; Caisson worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setters; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set-up men	9.01	.70	.70		.10
Gunnite operator	9.41	.70	.70		.10
POWER EQUIPMENT OPERATORS:					
Ashland, Carroll, Coshocton, Holmes, Tuscarawas, & Wayne Cos.:					
Group A	12.89	.66	1.00		.11
Group B	12.73	.66	1.00		.11
Group C	12.38	.66	1.00		.11
Group D	11.57	.66	1.00		.11
Group E	11.24	.66	1.00		.11
Group F	9.28	.66	1.00		.11
Medina Co.:					
Group A	13.17	.66	1.00		.11
Group B	13.02	.66	1.00		.11
Group C	12.67	.66	1.00		.11
Group D	11.89	.66	1.00		.11
Group E	11.57	.66	1.00		.11
Group F	9.64	.66	1.00		.11

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GROUP A - A-frames, air compressor on steel eraction, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Nohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressurizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity; side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trenchwr rollers,welder operator

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 4" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submerisble pumps under 4" discharge

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POWER EQUIPMENT OPERATORS
Columbiana Co.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; Berm builder-automatic; Backfiller w/drag attachment; Boat derrick; Boat-tug; Boring mach. attached to tractor; Bullclam; Bulldozer; C.M.I. road builder & similar types; Cable placer & layer; Carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finisher comb., Crane; Crane-stationary or climbing; Crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car; Diggers-wheel (not trencher or road widener); Double nine; Drag line; Dredge; drill-Konny or similar type; Electromatic; Fork lift; Frankie pile; Gradall; Grader-power; Curry; Curry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvester w/boom; Mucking mach.; Paver-asphalt finishing mach.; Paver-road concrete; Paver-slip form; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reigs-drilling; Shovels; Spikemaster; Stonecrusher; Tie puller & loader; tie tamper; Tractor-double boom; tractor w/attachments; Trucks-boom; Truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley

CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.- pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; Concrete planer or asphalt; Concrete spreader; Elevator; Fork lift walk behind; form line mach.; Grease truck op.; Grout pump; Gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; Paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Saugen derrick; Seeding Mach.; Self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil stabilizer (pump type); Spray cure Mach.-Self propelled; Straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. or similar type; Tugger Hoist

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CLASS III - Batch plant-job related; Boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); Tractor; Trencher-form; Water Blaster

CLASS IV - Brake man; Compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; Deck hand; Drill wagon; fireman; Generator sets; Heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (fuel burning)

CLASS V - Oiler

CLASS VI - Rigs-pile driving or caisson type

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ashland Co.:					
Equipment operators; Linemen	$11.50	.45	3% + .50		½%
Line truck drivers	7.48	.45	3% + .50		½%
Groundman	6.90	.45	3% + .50		½%
Carroll (S. of Fox, Harrison, Rose, & Washington Twps.) Co.:					
Linemen; Line equipment ops.; & truck drivers	12.95	6%	9%	8%	½%
Groundman	8.42	6%	9%	8%	½%
Cable splicer	13.35	6%	9%	8%	½%
Carroll (Rem. of Co.), Columbiana (Knox Twp.), Holmes, Tuscarawas (N. of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green, & Wayne Twps.) Cos.:					
Cable splicers; Linemen	11.90	.40	3% + .40		½%
Line equipment operators	10.60	.40	3% + .40		½%
Groundmen:					
Under 1 yr's experience	7.05	.40	3% + .40		½%
Over 1 yr's experience	7.50	.40	3% + .40		½%
Truck drivers	7.95	.40	3% + .40		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Columbiana Co. (Rem. of Co.):					
Linemen; Heavy equipment Operator	$11.03	8%	7%		½%
Groundmen; Truck drivers	9.97	8%	7%		½%
Cable splicers	11.43	8%	7%		½%
Columbiana (Butler, Fairfield, Perry, Salem, & Unity Twps.) Co.:					
Linemen; Cable splicers; Operator - pole digging equipment	13.23	.45	3%		½%
Groundman 1st 6 mos.	6.62	.45	3%		½%
Groundman 2nd 6 mos.	7.94	.45	3%		½%
Groundman 2nd yr.	9.26	.45	3%		½%
Groundman 3rd yr.	9.92	.45	3%		½%
Groundman over 3 yrs.	10.58	.45	3%		½%
Coshocton & Tuscarawas (Rem. of Co.) Cos.:					
Cable splicers; Linemen; Equipment ops.	11.43	.35	3%		½%
Groundmen:					
0 - 6 mos.	5.92	.35	3%		½%
After 6 mos.	6.30	.35	3%		½%
After 12 mos.	6.72	.35	3%		½%
After 18 mos.	7.11	.35	3%		½%
Medina (Nw part) Co.:					
Linemen; Cable splicers; Equipment ops.	12.50	.60	3% + .80		½%
Beginning truck driver groundman; Beginning groundman	5.96	.60	3% + .80		½%
Advanced truck driver (winch) groundman; Groundman (over 2 years' experience)	7.04	.60	3% + .80		½%
Medina (Rem. of Co.), & Wayne (N ½ of Co.):					
Linemen	12.08	.57	3% + .65		½%
Cable splicer	12.88	.57	3% + .65		½%
Truck drivers; Groundmen	6.04	.57	3% + .65		½%
Equipment operators	9.06	.57	3% + .65		½%

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Greene, Somerset & Potter

DECISION No.: PA78-3015 DATE: Date of Publication

Supersedes Decision No.: PA77-3055 dated May 13, 1977, in 42 FR 24688.

DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE I	$11.56	.85	.90		
ZONE II	11.71	1.02	.55		.04

AREA COVERED BY ASBESTOS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

BOILERMAKERS					
ZONE I	12.80	1.05	1.00		.02
ZONE II	9.815	7.5%	7%		.01

AREA COVERED BY BOILERMAKERS ZONES

ZONE I - Potter County

ZONE II - Greene & Somerset Counties

BRICKLAYERS & STONEMASONS					
ZONE I	10.15	.45	.71		
ZONE II	10.55	.60	.80		.03
ZONE III	11.00	.55	.50		

AREA COVERED BY BRICKLAYERS AND STONEMASONS

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

CARPENTERS					
ZONE I	9.24	6%	8%	6%	.4%
ZONE II	9.73	6%	8%	6%	.2%

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AREA COVERED BY CARPENTERS ZONES

ZONE I - Somerset & Potter Counties

ZONE II - Greene County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS					
ZONE I	10.62	.64	1.70		
ZONE II	9.95	12%	6%		
ZONE III	10.10	.50	.50		

AREA COVERED BY CEMENT MASON ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

ELECTRICIANS					
ZONE I	12.10	.40	3%+.30	.60	.10
ZONE II	9.48	.50	3%+.30	.60	.02

AREA COVERED BY ELECTRICIANS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS					
ZONE I	10.09	.72	.82	.83	.01
ZONE II	9.74	1.40	.55		.10
ZONE III	8.09	.25	.30		.01

AREA COVERED BY GLAZIERS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Northern part of Potter County

ZONE III - Southern part of Potter County

IRONWORKERS					
ZONE I	8.95	.60	.50	5%	.03
ZONE II	10.835	.70	1.155		.07
ZONE III	9.34	.50	.60		

AREA COVERED BY IRONWORKERS ZONES

ZONE I - Greene County

ZONE II - Potter County

ZONE III - Somerset County

LABORERS					
ZONE I					
CLASS 1	8.67	.78	.65		
CLASS 2	8.795	.78	.65		
CLASS 3	8.92	.78	.65		
CLASS 4	9.17	.78	.65		
CLASS 5	9.37	.78	.65		
ZONE II					
CLASS 1	8.48	8%	6.5%		3.5%
CLASS 2	8.73	8%	6.5%		3.5%
CLASS 3	9.28	8%	6.5%		3.5%
ZONE III					
CLASS 1	7.70	10%	8%		
CLASS 2	8.20	10%	8%		
CLASS 3	8.30	10%	8%		
CLASS 4	8.20	10%	8%		
CLASS 5	7.75	10%	8%		

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LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE I - Greene County

CLASS 1 - Laborers, carryable pumps, west brick buggy or similar, vibrator operators, walk behind forklift or similar (non self-propelled), stripper & mover of forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, incl. starting & stopping)

CLASS 2 - West brick buggy or similar (self-propelled), power wheelbarrows & buggies, walk behind forklift or similar (self-propelled), wagon drill helper, drill runner, drill runner's helper, (incl. drill mounted on truck, track or similar), blaster's helpers, all operators of compacting equipment, pipe layer, burner, jackhammerman, concrete buster

CLASS 3 - Hod carrier, scaffold builder, bell & bottom man on furnances & stacks, mortar mixer, mortar mixing machine (regardless of power used, inc. starting & stopping), grout machine feeder & pump operator, concrete saw operator, wagon drill operator

CLASS 4 - Gunnite nozzleman

CLASS 5 - Blaster & wagon drill operator

ZONE II - Potter County

CLASS 1 - Common laborer, carpenter tender, scaffold builder for masons, window cleaner, form stripper and mover, scaffold and runways, building materials handlers (loading and unloading), concrete pitman, puddler, mason tender

CLASS 2 - Mechanical tampers (power) powered wheelbarrows and buggies & work-lifts, sweepers and similar, mortar mixer, bell bottom man on furnances and stacks, jackhammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (includes drill mounted trucks, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burnercutting torch, carryayable pumps, chain saw operator, pipe layers, all material conveyors and elevators, signal man, walk behind fork lift or similar, whacker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carrier, plasterer tender, form cleaning machine operator, plasterer applicating and/or pump machine operator, paving breaker, asphalt raker, lancer, berfix cutting tool, gunnite potman blacksmith, tool dresser (cable tools)

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LABORERS CLASSIFICATION DEFINITIONS AND AREA COVERED

CLASS 3 - Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and temper, walder, driller (cable tools)

ZONE III - Somerset County

CLASS 1 - Unskilled laborers

CLASS 2 - Ditch, trench or sumpwork exceeding 10' in depth including caissons

CLASS 3 - Blasters

CLASS 4 - Air track men, demolition of chimneys and erection of towers, antennas, cooling towers (on power plants) or other similar work in excess of 10' in height, suspension of workmen in swinging - cages, suspended scaffolds, swings, bosun's chair

CLASS 5 - Plasterers tenders

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEADBURNERS	10.75	.40	.25	d	.01
LINE CONSTRUCTION					
ZONE I					
Linemen, dynamite man, heavy equipment operator	10.80	.50	3%		3/8%
Winch truck operator	7.59	.50	3%		3/8%
Groundman	7.26	.50	3%		3/8%
ZONE II					
Linemen	12.83	.45	3%		3/8%
Groundman	7.70	.45	3%		3/8%
Winch truck operator	8.98	.45	3%		3/8%

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AREA COVERED BY LINE CONSTRUCTION

ZONE I - Potter County

ZONE II - Greene & Somerset Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS	9.86	6%	6%	.22%	1/2%
PAINTERS					
ZONE I					
Commercial					
Brush	8.85	.65	.40		.05
Spray	9.975	.65	.40		.05
Industrial					
Brush	9.35	.65	.40		.05
Spray	10.475	.65	.40		.05
ZONE II					
Commercial					
Brush & Roller	9.49	.75	.45		.02
Spray	9.54	.75	.45		.02
Industrial					
Brush	10.24	.75	.45		.02
Spray	10.74	.75	.45		.02
ZONE III					
Commercial					
Brush and Roller	9.10	.55	.80		
Spray	10.10	.55	.80		
Industrial					
Brush, Roller and Spray	10.10	.55	.80		

AREA COVERED BY PAINTERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	11.15	5.5%	10%		.50%
PLASTERERS					
ZONE I	9.39	.37	.70		
ZONE II	9.00		5%		.01
ZONE III	10.10	.50	.50		

AREA COVERED BY PLASTERERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

PLUMBERS					
ZONE I	11.20	.78	1.03		.22
ZONE II	11.07	.85	1.16		.07
ZONE III	10.56	.69	.50	.20	.05

AREA COVERED BY PLUMBERS ZONES

ZONE I - Somerset County & the extreme eastern portion or Greene County

ZONE II - Remainder of Greene County

ZONE III - Potter County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
ZONE I					
CLASS 1	11.625	.65	.80		.09
CLASS 1-A	11.875	.65	.80		.09
CLASS 1-B	12.125	.65	.80		.09
CLASS 1-C	12.375	.65	.80		.09
CLASS 2	11.475	.65	.80		.09
CLASS 3	10.40	.65	.80		.09
CLASS 3-A	10.90	.65	.80		.09
CLASS 4	10.40	.65	.80		.09
CLASS 5	9.65	.65	.80		.09
CLASS 6	9.40	.65	.80		.09
CLASS 6-A	9.50	.65	.80		.09
CLASS 6-B	9.65	.65	.80		.09
CLASS 6-C	10.15	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

ZONE I - Greene County Only

CLASS 1 - Austin-Western or similar type up to 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar), backhoe, batch plant when conveyors are used for direct feeding or discharge, batch plant - no conveyors for direct feeding or discharge (without oiler) cableway, caisson drill central mix plant, cranes (excluding overhead) truck or crawler type) cranes - tower (mobile) crenes tower (climbing type), derrick traveler (self propelled), derrick (all types) (when assistance required it will be an oiler or apprentice), derrick boats, dragline, dredge, engineer-maintenance (mechanic weekly rated), franki or similar type, pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposs, Hi- Lift 4 yds. or over hoist-hod (2 cages up to 10 floors) hoist-single cage with Chicago boom attached hoist (50 ft. or over) (stacks stoves or furnances), hoist (slipform jobs) hop-to or similar type with 180 swing, hop-to or similar type with 360 swing kocal, koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobile or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver - quard rail (truck mounted pumpkrete-mobile or similar type, quad nine, shovels (all types), slip form pever (CMI or similar, tractors - boom mounted (all types) tractors (all types with hydraulic backhoe attached), tug boat, whitley

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1-A - Austin-Western or similar type up to 25 tons with jib, austin western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft.or over up to & including 150 ft. (truck or crawler type) cranes - mobile (any type 15 ton or over) hoist-rod (2 cages over 10 floors)

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. (truck or crawler type), engineer - lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75

CLASS 2 - Auger - truck or tractor mounted, back filling machine, boat - material or personnel carrying (powered) boat of job work (inboard or outboard), bull-dozer, cable layer, compactor with blade, concrete belt placer, crane - over-head, crushing & screening plants, drill - davey or similar type, drill - core (truck or skid mounted), drill - well & core (truck mounted) elevator (new buildings and major remodeling old), euclid loader, excavating equipment (all other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), Hi-Lift less than 4 yds, hoist - one drum (4 floors or over), hoist - hod (building 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic), Mixer - paving, mucking machine, pipe cleaning machine, refrigeration plant (used for constr. jibs ie. cooling, concrete & holding banks), ross carrier (or similar type) scoop (single bowl) self-powered & tractor drawn) spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material) trencher, well point systems, grout pump (10 H.P. or over) paver operator asphalt (spreader), pumpcrete or similar type (not self-propelled) pumpkrete machine operator (stationary), tire repairman (when assigned to job), welder repairman) asphalt plant operator, athey loader

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 3 - Oilers, compactor (ridden or self-propelled), crane (carry) curb builder (self-propelled) drills-wells and horizontal, elevator (alterations of old building), forklifts (ridden or self-propelled), hoist one drum (regardless of power used) pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self-propelled, tractors (when used for snaking and hauling), tube finishing (CMI or similar type), tugger, truck (winch) truck or hydraulic boom (when hoisting & placing), ballast regular or, boring machine, broom, power (except push type), conveyor over 1 and up to units (regardless of power used) form line machine, hoists (monorial) regardless of power used), huck machine or similar type, mixer concrete (regardless of power used), mixer mortar - over 10 cu. ft. (regardless of power used), pump (over 1½" discharge regardless of power used), spray cure machine power driven steam jenny (or similar type) syphon (steam or air), welding machine single (300 amp or over) (other than electrically driven

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except pust type), compressor -silngle (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used), form line machine, generator (over 5 KW), hoists (monorail) (regardless of power used), hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used), mixer mortar - over 10 cu. ft. (regardless of power used), pump (over 1½" discharge regardless of power used), spray cure machine (power driven), steam jenny (or similar type), syphone (steam or air), welding machine single (300 amp or over) other than electrically driven, plant, private or industrial air or steam valve

CLASS 5 - Compressor - 65 cu. ft. or under (regardless of power used), conveyor one (1) unit (regardless of power used), heaters - up to and including 6, jack motor hydraulic (single type) power driven, ladavator, mixer mortar (10 cu. ft. or under), mulching machine, pin puller (powered), pulverizer, pump - 1'" discharge or less, seedming machine, spreader side delivery, shoulder (attachment), tie tamper (multiple heads), tractor farm (when used for landscaping), water blaster

CLASS 6 - Brake man, deck hand, helicopter signalman, oiler, mechanical helper

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENTOPERATORS					
ZONE II					
CLASS 1	12.275	.95	.80		.09
CLASS 1-A	12.525	.95	.80		.09
CLASS 1-B	12.775	.95	.80		.09
CLASS 1-C	13.025	.95	.80		.09
CLASS 2	12.125	.95	.80		.09
CLASS 3	10.25	.95	.80		.09
CLASS 3-A	10.75	.95	.80		.09
CLASS 4	9.60	.95	.80		.09
CLASS 5	8.55	.95	.80		.09
CLASS 6	8.85	.95	.80		.09
CLASS 6-A	8.95	.95	.80		.09
CLASS 6-B	9.10	.95	.80		.09
CLASS 6-C	9.85	.95	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

ZONE II - Somerset & Potter Counties

CLASS I - Austin-Western or similar type under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyers for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) useof oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types) (when assistance required it will be an oiler or apprentica) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod (2 cages up to 10 floors) Chicago Boom attached hoist (50 ft. or over) (stacks, stoves or furnances) hoist (slipform jobs hop to or similar type with 180 swing hop to or similar type with 360 swing kocal koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - boom mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes ((boom or mast over 200 ft. + .75)

CLASS 2 - Asphalt plant operator, athey loader, auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushing & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (new buildings), euclid loader, excavating equipment (all other), forkliftlull or similar, grader, grader elevating, greaser-equipment (head), hi-lift-less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, muching machine, pipe cleaning machine, refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (boisting or lowering material), trencher, well point systems, (the following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½ discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grouth pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumpcrete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1) (combination), crane (carry), curb builder (self-propelled), drills-well & horizonal truck mounted, forklifts (ridden or self-propessed), hoist one drum (regardless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self-propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (the following machines shall be considered minor) compressors (2) generators (2) mortar machine over 10 cu. ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3),(other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreador side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand, helicopter signalman, oiler, mechanic helper

CLASS 6-A - Crane truck oiler & fireman

CLASS 6-B - Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C - Oiler - truck crane 100 ton and over

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE I	11.41	.77	1.50		.06
ZONE II	8.50	.50	.45	.15+e	

AREA COVERED BY ROOFERS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

SHEET METAL WORKERS					
ZONE I	9.58	.75	.90		.03
ZONE II	10.90	.90	1.23		.14

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE I - Greene and Somerset Counties

ZONE II - Potter County

SOFT FLOOR LAYERS					
ZONE I	9.95	6%	6%	.60	5%
ZONE II	9.24	5%	8%	6%	.4 of 1%

AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE I - Greene County

ZONE II - Somerset & Potter Counties

SPRINKLER FITTERS	12.31	.75	1.05		.08
STEAMFITTERS					
ZONE I	12.19	.75	1.10		.11
ZONE II	9.73	.68	.68		.19
ZONE III	9.76	.64	.45	.20	.05

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AREA COVERED BY STEAMFITTERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS					
ZONE I	10.15	.45	.71		
ZONE II	11.26	.60	.85		
ZONE III	10.10	.50	.50		

AREA COVERED BY TERRAZZO WORKER ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

TILE SETTERS					
ZONE I	9.38	.75	2.00		
ZONE II	10.10	.50	.50		

AREA COVERED BY TILE SETTERS ZONES

ZONE I - Greene and Somerset Counties

ZONE II - Potter County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
ZONE I					
CLASS 1	8.27	a	b		
CLASS 2	8.35	a	b		
CLASS 3	8.42	a	b		
CLASS 4	8.17	a	b		
ZONE II					
CLASS 1	8.34	6.5%	5.6%	c	
CLASS 2	8.39	6.5%	5.6%	c	
CLASS 3	8.41	6.5%	5.6%	c	
CLASS 4	8.50	6.5%	5.6%	c	
CLASS 5	8.43	6.5%	5.6%	c	
CLASS 6	8.70	6.5%	5.6%	c	
CLASS 7	8.52	6.5%	5.6%	c	
CLASS 8	8.68	6.5%	5.6%	c	
ZONE III					
CLASS 1	7.20	.20	.20		
CLASS 2	7.30	.20	.20		
CLASS 3	7.40	.20	.20		
CLASS 4	7.50	.20	.20		
CLASS 5	7.35	.20	.20		
CLASS 6	7.45	.20	.20		
CLASS 7	7.40	.20	.20		
CLASS 8	7.70	.20	.20		
CLASS 9	7.80	.20	.20		
CLASS 10	7.45	.20	.20		

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TRUCK DRIVERS CLASSIFICATION DEFINITION AND ARE COVERED

ZONE I - Somerset County

CLASS 1 - Service, dump, flat top, jeep, fuel & water

CLASS 2 - Transit mix, dump trailer, winch truck

CLASS 3 - Euclids & tractor trailer

CLASS 4 - Helper

ZONE II - Greene County

CLASS 1 - Warehouseman, chauffeur, and ambulance driver, service truck (pickup, jeep, busses, station wagon, panel truck, escort vehicle, including fuel and water trucks)

CLASS 2 - Dump and flat top (including fuel and water trucks, fork lift in warehouse or job site storage area and single axle trucks with power tailgate); distributor truck over 33,000 lbs. -ross weight (oil, tar asphalt products two man operation, both men)

CLASS 3 - Transit mix, single axle

CLASS 4 - Transit mix, single axle

CLASS 5 - Heavy duty tractor and trailer with high bed, 4 wheels

CLASS 6 - Heavy duty tractor and trailer with low bed, 6 to 16 wheels and pole trailer and wide load

CLASS 7 - Distributor truck up to 33,000 lbs. gross weight (oil, tar asphalt products) one man operation; truck with dolly and scissor truck; truck with dump trailer or tandem, including fuel and water, tandem axle truck with power tailgate and scissor trucks; euclids or equivalent, tri-axle including mixer, drivers towing equipment

CLASS 8 - Winch truck and form truck

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TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED (CONT'D)

ZONE III - Potter County

CLASS 1 - Trucks up to 30,000 lbs. includes pickups, fuel and water trucks), warehousemen

CLASS 2 - Trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS 3 - Tri-axle trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS 4 - Low Boy

CLASS 5 - Concrete mixer trucks

CLASS 6 - Concrete mixer truck (Tri-Axle)

CLASS 7 - Semi-trailer

CLASS 8 - Earth moving equipment up to 35 ton (belly dump, side dump, end dump, etc.)

CLASS 9 - Earth moving equipment over 35 ton (belly dump, side dump, end dump, etc.)

CLASS 10 - A-frame and winch trucks (when used for hauling material on bed of truck)

CLASS 11 - Distributor truck (oil, tar, asphalt, etc.)

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

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FOOTNOTES:

a. $59.00 per month

b. $14.00 per week

c. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

d. Paid Holidays: New Year's Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holidays.

e. One to three months service 10 hours, three to six months service 20 hours, six to nine months service 30 hours, nine to twelve months service 40 hours paid vacation.

SUPERSEDEAS DECISION

STATE: Pennsylvania
COUNTIES: Elk, Forest, McKean and Warren
DECISION NUMBER: PA78-3043
DATE: Date of Publication
Supersedes Decision No. PA77-3053 dated May 13, 1977, in 42 FR 24672.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Zone 1 - Elk County	$ 11.56	.85	.90		
Zone 2 - Forest County	11.04	.35	.50		.02
Zone 3 - McKean and Warren Cos.	11.31	1.17	.80		.04
BOILERMAKERS	9.815	7.5%	7%		.01
BRICKLAYERS, CEMENT MASONS and STONEMASONS:					
Zone 1 - Elk, McKean and Warren Counties	11.00	.55	.50		
Zone 2 - Forest County	10.65	.45	.95		
CARPENTERS and SOFT FLOOR LAYERS:					
Zone 1 - Elk, Forest, all of McKean County except Kane and Bradford	9.80	6%	8%	6%	.40 of 1%
Zone 2 - McKean County - Townships of Kane, Bradford and Warren County	8.86	6%	6%	2%	1/2%
ELECTRICIANS:					
Zone 1 - Elk, Forest and Warren Counties	11.80	4.5%	3%+.375	.70	.06
Zone 2 - McKean County	11.25	.60	3%+.40		1%
GLAZIERS:					
Zone 1 - Forest and Warren Cos.	9.80	.30	.20		
Zone 2 - McKean County	9.74	1.40	.55		.10
Zone 3 - Elk County	10.09	.72	.82	.83	.01
IRONWORKERS:					
Zone 1 -Forest and Warren Cos.	11.08	1.86	1.01		.10
Zone 2 - Elk and McKean Cos.	10.835	.70	1.155		.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Common laborer, Carpenter tender, Scaffold builder for masons, Window cleaner, Form stripper and mover, Scaffold and runways, Building materilas handlers (loading and unloading), Concrete pitman, Puddler, Mason tender	$ 8.48	8%	6.5%		3.5%
Mechanical tamper (power) powered wheelbarrows and buggies and worklifts, sweepers and similar, Mortar mixer, Ball bottom man on furnaces and stacks, Jackhammer man, Concrete buster, Wagon drill helper, Concrete saw operator, Blaster's helper, Drill runner's helper (includes drill mounted truck, track or similar), Sheeters and shores, Vibrator operators, Power tamper torch, Carryable pumps, Chain saw operator, Pipe layers, all material conveyors and elevators, Signal man, Walk behind fork lift or similar, Whacker, Sand blaster, Maintenance man, West brick buggies or similar, Scaffold builder for plasterers regardless of height, Hod carrier, Plaster tender, Form cleaning machine operator, Plaster applicating and/or pump machine operator, Paving breaker, Asphalt Raker, Lancer, Refrix cutting tool, Gunnite potman, Blacksmith, Tool dresser (cable tools)	8.73	8%	6.5%		3/5%
Blasters, Wagon drill operator, Drill runner, Gunnite nozzle man, Grout machine operator, Walk behind power roller and tamper, welder, driller (cable tools)	9.28	8%	6.5%		3/5%

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Wrecking Laborers	$ 8.48	8%	6.5%		3.5%
Low Burner	8.73	8%	6.5%		3.5%
Jackhammer Operator	8.73	8%	6.5%		3.5%
High Burner	9.53	8%	6.5%		3.5%
High Burner Helper	9.23	8%	6.5%		3.5%
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen, Dynamite man, Heavy equipment operator	10.80	.50	3%		3/8 of 1%
Winch truck operator	7.59	.50	3%		3/8 of 1%
Groundman	7.26	.50	3%		3/8 of 1%
MARBLE SETTERS:					
Elk, McKean and Warren Cos.	10.10	.50	.50		
MILLWRIGHTS:					
Zone 1 - Elk and Forest Cos.	9.86	6%	6%	22%	1/2%
Zone 2 - McKean County	8.90	.35	.20		.02
Zone 3 - Warren County	8.65	.25			.02
PAINTERS:					
Zone 1 - Elk County					
Brush and Roller	6.75		a		
Spray	7.25		a		
Zone 2 - Forest County; Township in Warren County; Spring Creek, Southwest Truimp and Eldred, Township in McKean County, Wetmore, Hamlin, Hamilton, Sergeant and Norwich					
Commercial:					
Brush and Roller	10.10	.55	.80		
Spray	11.10	.55	.80		
Industrial:					
Brush and Roller	10.60	.55	.80		
Spray	11.15	.55	.80		
Zone 3 - Remainder of Warren Co.					
Brush	7.45	6%			
Spray	8.14	6%			
Zone 4 - Remainder of McKean Co.					
Brush and Roller	9.00				
Spray	10.15				

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	$ 11.15	5.5%	10%		.50%
PLASTERERS:					
Elk, McKean and Warren Cos.	9.60	.50	.50		
PLUMBERS and STEAMFITTETS:					
Zone 1 - Elk County	11.20	.78	1.03		.22
Zone 2 - Forest County and Tidioute Township in Warren Co.					
Contracts under $10,000	9.94	.60	.65		.08
Contracts over $10,000	10.45	.60	.65		.08
Zone 3 - McKean County					
Contracts under $500.00	8.32	.33	.50		.04
Contracts over $500.00	11.39	.33	.50		.04
Zone 4 - Remainder of Warren County	9.72	.30	.50		.04
POWER EQUIPMENT OPERATORS:					
Class 1	12.275	.65	.80		.09
Class 1-A	12.525	.65	.80		.09
Class 1-B	12.777	.65	.80		.09
Class 1-C	13.025	.65	.80		.09
Class 2	12.125	.65	.80		.09
Class 3	10.25	.65	.80		.09
Class 3-A	10.75	.65	.80		.09
Class 4	9.60	.65	.80		.09
Class 5	8.55	.65	.80		.09
Class 6	8.85	.65	.80		.09
Class 6-A	8.95	.65	.80		.09
Class 6-B	9.10	.65	.80		.09
Class 6-C	9.85	.65	.80		.09

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS

Class 1: Austin-Western or similar type, under 25 ton; Austin-Western or similar type, 25 ton or over; Auto grader (CMI or similar); Backhoe; Batch plant, when conveyors are used for direct feeding or discharge; Batch plant, no conveyors for direct feeding or discharge (without oiler); Cableway; Caisson drill; Central mix plant; Cranes (excluding overhead) (truck or crawler type); Cranes, tower (mobile); Cranes, tower (stationary)(climbing type); use of oiler to be discussed at pre job; Cranes, tower (climbing type); Cranes, hydraulic self contained, over 18 ton; Cranes, hydraulic self contained, 18 ton or less; Derrick traveler (self propelled); Derrick (all types)(when assistance required it will be an oiler or apprentice); Derrick boats; Dragline; Dredge; Engineer, maintenance; Franki or similar type pile driver; Gradall (remote control or otherwise); Helicopter (when used for erection purposes); Helicopter hoist operators (when used for eraction purposes); Hi-lift, 7 yds. or over; Hoist-hod (2 cages up to 10 floors); Chicago boom attached hoist (50 ft. or over); (stacks, stoves or furnaces); Hoist (slipform jobs); Hop-to or similar type with 180° swing; Hop-to or similar type with 360° swing; Kocal koehring scooper; Metro chip harvester or similar type; Mixmobile or similar type (with self-loading attachment); Mix mobiling or smilar type; Mucking machine (tunnel); Multiple bowl machines; Pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice); Post driver-guard rail (truck mounted); Post driver-guard (skid type); Pumpcrete - mobile or similar type; Quad nine; Shovels (all types); Slip form paver (CMI or similar); Tractors - boom mounted (all types); Tractors (all types with hydraulic backhoe attached); Tug boat; Whirley

Class 1-A: Austin-Western or similar type, under 25 ton with jib; Austin-Western or similar type, 25 ton or over with jib; Cranes (boom or mast 100 feet or over over up to and including 150 ft. +$.25) (truck or crawler type); Cranes, mobile (any type 15 ton or over placed on any building structure +$.25); Hoist-hod (2 cages over 10 floors); Class 1 rate +$.25; Hoist, single cage

Class 1-B: Cranes (boom or mast over 150 ft. up to and including 200 ft. +$.50) (truck or crawler type); Engineer, lead

Class 1-C: Cranes (boom or mast over 200 ft. +$.75)

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS (Cont'd)

Class 2: Asphalt plant operator; Athey loader; Auger-truck or tractor, mounted; Back filling machine; Boat material or personnel carrying (powered); Boat-job work (inboard or outboard); Bulldozer; Cable layer; Compactor with blade; Compressor (1) and air tugger (1) (combination); Compressor (1) and gunite machine (1) (combination); Concrete belt placer; Crane - overhead; Crushing and screening plants; Drill-Davey or similar type drill - Core (truck or skid mounted); Drill-well and core (truck mounted); Elevator (new buildings); Euclid loader; Excavating equipment (all other); Forklift-lull or similar; Grader; Grader-elevating; Greaser-equipment (head); Hi-lift, less than 4 yds., Hoist-one drum (4 floors or over); Hoist-hod (buildings, 4 floors or more); Hoist (2 drums or more in one unit); Jumbo operator; Locomotive; Lift slab machine (hydraulic); Mixer, paving; Mulching machine; Pipe cleaning machine; Refrigeration plant (used for construction jobs that is, cooling concrete and holding banks); Ross carrier (or similar type); Scoop (single bowl)(self-powered and tractor drawn); Spreader (concrete, asphalt and stone); Tower mobile (hoisting or lowering material); Trencher; Well point systems (the following machines shall be considered minor); Compressors (3 within a reasonable distance); Generators, electric (3) (over 5 KW up to 20 KW); Pumps (1½" discharge) (within reasonable distance); Welding machines (4 to 6 within reasonable distance)(other than electrically driven); Grout pump (10 H.P. or over); elevator (when used for alterations and remodeling all buildings); Paver operator, asphalt (spreader); Pumpcrete or similar type (not self-propelled); Pumpcrete machine operator (stationary); Tire repairman (when assigned job); Welder (repairman)

Class 3: Boiler; Compactor (ridden or self-propelled); Compressor (over 125 CFM and air pump); Compressor (1) and sandblasting machine (1)(Combination); Crane (carry); Curb builder (self-propelled); Drills-well and horizontal truck mounted; Forklifts (ridden or self-propelled); Hoist, one drum (regardless of power used); Pavement breaker (self-propelled or ridden); Pipe dream; Roller, Saw (concrete); Soil stabilizer (pump type); Stone crusher; Stone spreader, self-propelled; Tractors (when used for snaking and hauling); Tube finisher (CMI or similar type); Tugger; Truck (winch); Truck or hydraulic boom (when hoisting and placing); (The following machines shall be considered minor): Compressors (2); Generators (2); Mortar machines over 10 cu. ft., and single unit conveyor; Pumps (1½" discharge or less (2 to 3); Pumps (over 1½" discharge (2) in bank) (within reasonable distance); Welding machine (2 to 3) (other than electrically driven)

Class 3-A: Conveyors, 4 units or more

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POWER EQUIPMENT OPERATORS - CLASSIFICATIONS (Cont'd)

Class 4: Ballast regulator; Boring machine; Broom, power (except push type); Compressor - single (over 65 CFM); Conveyor, over 1 and up to 3 units (regardless of power used); Form line machine; Generator (over 5 KW); Hoist (monorail) (regardless of power used); Hoist, roof (regardless of power used); Muck machine or similar type; Mixer, concrete (regardless of power used); Mixer, mortar (over 10 ft. - regardless of power used); Pump (over 1½" discharge - regardless of power used); Spray cure machine (power driven); Steam jenny (or similar type); Syphon (steam or air); Welding machine, single (300 amp or over) (other than electrically driven); Plant, private or industrial air or steam valve

Class 5: Compressor, 65 cu. ft. or under (regardless or power used); Conveyor, one (1) unit (regardless of power used); Heaters, up to and including 6; Jack motor, hydraulic (single type); Power driven ladavator; Mixer, mortar (10 cu. ft. or under); Mulching machine; Pin puller (powered); Pulverizer; Pump, 1½" discharge or less; Seeding machine; Spreader, side delivery; Shoulder (attachment); Tie tamper (multiple heads); Tractor, farm (when used for landscaping); Water blaster; Oiler-truck crane, 50 ton up to not including 100 ton

Class 6: Brake man; Deck hand; Helicopter signalman; Oiler; Mechanic helper

Class 6-A: Crane, truck oiler and Fireman

Class 6-B: Oiler, truck crane , 50 ton up to and including 100 ton

Class 6-C: Oiler, truck crane, 100 ton and over

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Zone 1 - Elk and Forest Counties	$ 11.41	.77	$ 1.50		.06
Zone 2 - McKean and Warren Cos.	8.50	.50	.45	.15+b	
SHEET METAL WORKERS	9.58	.75	.80		.055
SPRINKLER FITTERS	12.31	.75	1.05		.08
SOFT FLOOR LAYERS:					
Zone 1 - Elk and Forest Counties	8.65	5%	8%	6%	.40 of 1%
Zone 2 - McKean County	6.90	.35	.20		.02
Zone 3 - Warren County	8.15	.25			.02
TILE SETTERS and TERRAZZO WORKERS:					
Zone 1 - Elk, McKean and Warren Counties	10.10	.50	.50		
Zone 2 - Forest County	9.65	.45	.45		
WELDER - rate of Craft					

FOOTNOTES:

a. Paid Holiday: Labor Day, provided the employee has worked six calendar months and appears on the payroll during the pay period in which the holiday occurs.

b. One to three months service 10 hours, three to six months service 20 hours, six to nine months service 30 hours, nine to twelve months 40 hours paid vacation.

c. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Luzerne
DECISION NUMBER: PA78-3044 DATE : Date of Publication
Supersedes Decision No. PA77-3059 dated May 20, 1977, in 42 FR 26176
DESCRIPTION OF WORK: Building Construction, including single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.70	.65	.60		.01
BOILERMAKERS	12.80	1.05	1.00		.02
BRICKLAYERS; Stonemasons:					
Hazleton, Berwick and Freeland: Commercial	9.70	.35	.50		
Nescopeck, Hollenback and Salem Townships	9.45	.55	.70		.01
Remainder of County	10.85	.50	.50		
CARPENTERS:					
Hazleton, Freeland, Black Creek, Butler, Dennison, Foster, Hazle, Hollenback, Nescopeck, Sugarloaf and lower part of Salem Twps.	10.14	.40	.50		.03
Remainder of County	10.61	.40	.50		.03
CEMENT MASONS:					
Pittston, Yatesville, Laflin, Exeter Wyoming, Deryea and Avoca	9.15	.40	.40		
All North of Hazleton, extending half-way between Wilkes-Barre and Hazleton, Harleigh, Jeddo, Cranberry; Foster Township, Butler Township, Dennison Township, Sugarloaf Township, Conyngham, Drums, S. Johns, Borough of Freeland, Borough of White Haven, Banks Township; Beaver Meadows, Trenckow, Jeansville and Audenried	11.25				
Remainder of County	11.05				
ELECTRICIANS:					
Hazleton:					
Commercial	10.79	.55	3%+.25	a	b
Remainder of County	10.74	.50	3%+.75		.03
ELEVATOR CONSTRUCTORS	11.04	.745	.56	c+d	.025
ELEVATOR CONSTRUCTORS' HELPERS	7.99	.745	.56	c+d	.025
ELEVATOR CONSTRUCTORS' HELPERS (PORR.)	5.52				
GLAZIERS	9.20	.40	.60		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Structural and Ornamental	$ 11.90	e			.10
Reinforcing	11.80	e			.10
LABORERS:					
Hazleton:					
Laborers	7.31	.30	.70		
Mason tenders including scaffold builders	7.71	.30	.70		
Pneumatic, electric and mechanical tool operators 2" pumps-non metallic pipelaying and making joint clay, Terra cotta, Ironstone vitrified concrete, Handling of burning torches, asphalt or other hot materials, Cement finishers and blasters' helpers, Power buggies, Walk along hoist	7.41	.30	.70		
Plasterers' tenders, Blasters, and wagon drill operators	7.56	.30	.70		
Remainder of County:					
Unskilled laborers	8.77	.30	.70		
Semi skilled laborers, Pneumatic and other mechanical tool operators; 2" pump or under, Handling and mixing of all material used by masons from stock pile to mason; Non-metallic pipelayer and making of joints, clay, terra cotta, ironstone, vitrified concrete, Handling of burning torches, asphalt or other hot material, Cement finishers and blasters' helpers	8.97	.30	.70		
Plasterers' tenders, Blaster, Wagon drill operators	9.09	.30	.70		
Mason tenders and scaffold builders	9.17	.30	.70		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Pittston, Avoca, Dupont and Duryea	$ 10.04		.10		.01
Remainder of County	11.78		.35		.01
LEADBURNERS	10.75	.40	.25	f	.01
LINE CONSTRUCTION:					
Linemen, Dynamiteman, Heavy equipment Operator	10.80	.50	3%		3/8 of 1%
Groundman	7.26	.50	3%		3/8 of 1%
Winch truck driver	7.59	.50	3%		3/8 of 1%
MARBLE SETTERS:					
Pittston	10.85	.50	.50		
Hazleton	9.20	.35	.50		
Remainder of County	10.00		.50		
MILLWRIGHTS	11.29	.40	.50		.03
PAINTERS:					
Pittston:					
Brush and Roller	8.40		1.20		
Structrual steel	9.40		1.20		
Remainder of County:					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
PILEDRIVERMEN	10.77	2.13	1.30	g	.12
PLASTERERS:					
Hazleton	9.40				
Pittston, Yatesville, Laflin, Exeter, Wyoming, Duryea and Avoca	10.85	.50	.50		
Remainder of County	9.83				
PLUMBERS; Steamfitters:					
Pittston	10.75	.39	.95		.04
Hazleton	9.35	.30	.25		
Wilkes Barre	11.49	.40	.75		.04
POWER EQUIPMENT OPERATORS:					
Group 1	12.44	7%	10.3%	k	1.8%
Group 2	12.15	7%	10.3%	k	1.8%
Group 3	11.28	7%	10.3%	k	1.8%
Group 4	10.51	7%	10.3%	k	1.8%
Group 5	10.04	7%	10.3%	k	1.8%
Group 6	9.13	7%	10.3%	k	1.8%
Group 7	12.69	7%	10.3%	k	1.8%
Group 7-A	12.94	7%	10.3%	k	1.8%
Group 7-B	13.18	7%	10.3%	k	1.8%

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS

Group 1: Machines doing hook work; Any machine handling machinery; Cable spinning machines; Helicopters; Machines similar to the above

Group 2: All types of Cranes; All types of backhoes; Cableways; Dragline; Keystones; All types of shovels; Derricks; Trench shovels; Trenching machines; Hoist with two towers; Pavers, 21E and over; All types of overhead cranes; Building hoists (double drum); Gradalls; Mucking machines in tunnel; All front end loaders, 3½ cu. yds. and over; Tandem scrapers; Pippin type backhoes; Boat captains; Batch plant operators (concrete); Drills; Self-contained rotary drills; Fork lifts, 20 ft. lift and over; machine similar to the above

Group 3: Conveyors; Building hoists (single drum); Scrapers and Tournapulls; Spreaders; High or low pressure boilers; Concrete pumps; Well drillers; Bulldozers and tractors; Asphalt plant engineers; Roller (high grade finishing); Ditch witch type trencher; All loaders under 3½ cu. yds.; Mechanic-welder; Motor patrols; Drill helper-self contained rotary drills; Core drill operator; Forklift trucks, under 20 ft. lift; Machine similar to the above

Group 4: Welding machines; Well points; Compressors; Pumps; Heaters; Farm tractors; Form line gardners; Fine grade machines; Road finishing machines; Concrete breaking machines; Rollers; Seaman pulverizing mixer; Power broom; Seeding spreaders; Fireman (for power equipment); Machines similar to above

Group 5: Fireman, Grease truck

Group 6: Oilers and deck hands (personnel boats); Core drill helper

Group 7: All machines with booms (including jib, masts, leads, etc.); 100 ft. and over

Group 7-A: 150 ft. and over

Group 7-B: 200 ft. and over

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers, Composition and Kettlemen	$ 9.65	.85	.80		
SHEET METAL WORKERS	11.12	.73	.40		.02
SOFT FLOOR LAYERS	8.88	.40	.50		.03
SPRINKLER FITTERS	12.31	.75	1.05		.08
TRUCK DRIVERS:					
Pittston:					
Class 1	8.97				
Class 2	9.04				
Class 3	8.53				
Remainder of County:					
Pickups service dump and flat including Z license	8.07	h	j		
All trucks over Z license	8.12	h	j		
Fork lifts; Tow motors; Front and pneumatic tired loaders	8.08	h	j		

TRUCK DRIVERS - CLASSIFICATIONS
PITTSTON

Class 1: Helper; Stake body truck (single axle dumpster)

Class 2: Dump trucks; Tandem and batch trucks; Semi-trailers; Agitator mixer trucks; Ready mix and dumpcrete type vehicles asphalt distributors; Farm tractor when used for transportation; Stake body truck (tandem)

Class 3: Euclids type; Off-highway equipment - back or belly dump trucks and double-hitched equipment; Straddle (Ross Carrier); Low-bed trailers

WELDERS: receive rate rate for craft

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
A. Paid Holidays: C and D

b. Employer shall contribute $.12 per day per employee

c. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

e. Employer contributes $2.20 per hour to Health and Welfare and Pension Fund.

f. Paid Holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

g. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

h. $41.00 per month for employees who have worked 60 hours or more during the month

j. $25.00 per month to employees employed for over 13 weeks.

k. Paid Holidays: A thru F provided the employee works the day before and the day after the holiday.

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SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Lackawanna, Sesquehanna, Wayne and Wyoming

DECISION NUMBER: PA78-3045

DATE: Date of Publication

Supersedes Decision No. PA77-3050 dated May 13, 1977, in 42 FR 24669

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.70	.65	.60		.10
BOILERMAKERS	12.80	1.05	1.00		.02
BRICKLAYERS; Stonemasons:					
Scranton in Lackawanna County	10.70	.75	.80		.01
Carbondale in Lackawanna Co.	9.95		1.05		
Susquehanna and Wyoming Cos.	10.85	.50	.50		
CARPENTERS:					
Lackawanna, Susquehanna and Wayne Counties	9.65	.43	.50		.05
Wyoming County:					
East of Susquehanna River	10.40	.43	.50		.05
West of Susquehanna River	10.61	.40	.50		.03
CEMENT MASONS:					
Wyoming, Waynee, Susquehanna Counties, Scranton in Lackawanna County	9.15	.40	.40		
Carbondale in Lackawanna Co.	9.95		1.05		
ELECTRICIANS:					
Lackawanna, Susquehanna and Wayne County	10.45	.50	3%+.50	.50	.10
Wyoming County:					
East of Susquehanna River	10.45	.50	3%+.50	.50	.10
West of Susquehanna River	10.74	.50	3%+.50	.50	.10
ELEVATOR CONSTRUCTORS	11.04	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	7.73	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.52				
GLAZIERS	9.75	.40	.70		
IRONWORKERS:					
Lackawanna, Wayne and Wyoming Cos.					
Structural and Ornamental	11.90	a			.10
Reinforcing	11.80	a			.10
Susquehanna County	9.75	.56	.72		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Lackawanna, Wayne, Susquehanna and Northern part of Wyoming County:					
Unskilled and Window Cleaners	$ 8.80	.48	.50		
Semi skilled Laborers; (each man when two required for operation of jackhammer); Vibrator and buster men; Wagon drill and all men handling dynamite; Gas buggies; 2" pumps and concrete mixers (up to 2 bags) and all penumatic tools	8.95	.48	.50		
Plaster tenders and mason tenders and handling of all material to be used; Masons and Scaffold builders	9.20	.48	.50		
Non-metallic pipe layers and making of joints, clay, terra cotta, ironstone, vitrified concrete handling of burning torches; Asphalt or other material	8.95	.48	.50		
Southern part of Wyoming County:					
Unskilled	8.77	.30	.70		
Semi skilled laborers; Pneumatic and other mechanical tool operator; 2" pump or under; Handling and mixing of all material used by masons from stock pile to mason; Non-metallic pipelayer and making of joints, clay, terra cotta, ironstone, vitrified concrete; Handling of burning torches; Asphalt or other hot material; Cement finishers and blasters' helpers	8.97	.30	.70		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Southern part of Wyoming County (Cont'd):					
Plasterers' tenders; Blaster; Wagon drill operators	$ 9.09	.30	.70		
Mason tenders and scaffold builders	9.17	.30	.70		
LATHERS	10.54		.10		.01
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Lineman; Dynamite man	10.80	.50	3%		3/8%
Winch Truck Driver	7.59	.50	3%		3/8%
Groundman	7.26	.50	3%		3/8%
MARBLE SETTERS	10.00		.50		
MILLWRIGHTS:					
Lackawanna, Susquehanna and Wayne Counties	10.98	.43	.50		.05
Wyoming County:					
East of Susquehanna River	10.98	.43	.50		.05
West of Susquehanna River	11.29	.40	.50		.03
PAINTERS:					
Brush and Roller	8.40		1.20		
Spray	9.90		1.20		
Steel	9.60		1.20		
PILEDRIVERMEN	10.77	2.13	1.30	d	.12
PLASTERERS	9.30	.40	.40		
PLUMBERS	11.49	.40	.75		.04
POWER EQUIPMENT OPERATORS:					
Group 1	12.44	7%	10.3%	a	1.8%
Group 2	12.15	7%	10.3%	a	1.8%
Group 3	11.28	7%	10.3%	a	1.8%
Group 4	10.51	7%	10.3%	a	1.8%
Group 5	10.04	7%	10.3%	a	1.8%
Group 6	9.13	7%	10.3%	a	1.8%
Group 7	12.69	7%	10.3%	a	1.8%
Group 7-A	12.94	7%	10.3%	a	1.8%
Group 7-B	13.18	7%	10.3%	a	1.8%

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works the day before and after the holiday.

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS

Group 1: Machines doing hook work; Any machine handling machinery; Cable spinning machines; Helicopters; Machines similar to the above

Group 2: All types of Cranes; All types of backhoes; Cableways; Dragline; Keystones; All types of shovels; Derricks; Trench shovels; Trenching machines; Hoist with two towers; Pavers, 21E and over; All types of overhead cranes; Building hoists (double drum); Gradalls; Mucking machines in tunnel; All front end loaders, 3½ cu. yds. and over; Tandem scrapers; Pippin type backhoes; Boat captains; Batch plant operators (concrete); Drills; Self-contained rotary drills; Fork lifts, 20 ft. lift and over; machine similar to the above

Group 3: Conveyors; Building hoists (single drum); Scrapers and Tournapulls; Spreaders; High or low pressure boilers; Concrete pumps; Well drillers; Bulldozers and tractors; Asphalt plant engineers; Roller (high grade finishing); Ditch witch type trencher; All loaders under 3½ cu. yds.; Mechanic-welder; Motor patrols; Drill helper-self contained rotary drills; Core drill operator; Forklift trucks, under 20 ft. lift; Machine similar to the above

Group 4: Welding machines; Well points; Compressors; Pumps; Heaters; Farm tractors; Form line garders; Fine grade machines; Road finishing machines; Concrete breaking machines; Rollers; Seaman pulverizing mixer; Power broom; Seeding spreaders; Tireman (for power equipment); Machines similar to above

Group 5: Fireman, Grease truck

Group 6: Oilers and deck hands (personnel boats); Core drill helper

Group 7: All machines with booms (including jib, masts, leads, etc.); 100 ft. and over

Group 7-A: 150 ft. and over

Group 7-B: 200 ft. and over

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition and Kettleman	$ 9.81	.42	.47		
SHEET METAL WORKERS	11.12	.73	.40		.02
SOFT FLOOR LAYERS:					
Lackawanna, Wayne and Susquehanna Counties	9.65	.43	.50		.05
Wyoming County	8.88	.40	.50		.03
SPRINKLER FITTERS	12.31	.75	1.05		.08
PIPEFITTERS	11.04	.65	.95		.04
TRUCK DRIVERS:					
Class I	8.97				
Class II	9.04				
Class III	9.53				

TRUCK DRIVERS - CLASSIFICATIONS

Class I: Helper; Stake body truck (single axle); Dumpster

Class II: Dump trucks; Tandem and batch trucks; Semi-trailers; Agitator mixer trucks; Ready mix and dumpcrete type vehicles asphalt distributors; Farm tractor when used for transporation; Stake body truck (tandem)

Class III: Euclid type; Off-highway equipment - back or belly dump trucks and double hitched equipment; Straddle (Ross) carrier; Low-bed trailers

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidential.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

c. Paid Holidays: A through F and Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

d. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day, Labor Day; Presidential Election Day; Veterans' Day , Thanksgiving Day.

e. Employer contributes $2.20 to a Combined Health and Welfare and Pension Fund.

SUPERSEDEAS DECISION

STATE: South Carolina COUNTY: Statewide
DECISION NUMBER: SC78-1046 DATE: Date of Publication
Supersedes Decision NO. SC75-1031 dated March 14, 1975 in 40 FR 12058
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	$ 3.06				
ASPHALT LAYDOWN MAN	2.65				
CARPENTER	4.69				
CARPENTER Helper	3.67				
CONCRETE FINISHER	4.25				
FORMSETTER ROAD	4.01				
IRONWORKERS Reinforcing & Structural	3.00				
LABORER, Common	2.91				
MASON	3.92				
MECHANIC	4.15				
MECHANIC Helper	4.00				
OILER	3.00				
PAINTER, Bridge	6.23				
PILEDRIVER, Leadman	4.75				
PIPELAYER	3.39				
SIGN ERECTOR	5.00				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	3.00				
Asphalt Paver	3.43				
Asphalt Plant	3.40				
Asphalt Plant Helper	2.80				
Bulldozer	4.41				
Bulldozer (utility)	3.58				
Cold Feed Attendant	3.36				
Concrete Finishing Machine	5.17				
Concrete Paver	4.63				
Crane, Backhoe, Dragline, Shovel: 1 yard & under	4.08				
Crane, Backhoe, Dragline, Shovel: over 1 yard	5.30				
Drill Operator	3.93				
Grade-all Operator	4.50				
Greaseman	3.36				
Hydro Seeder	4.38				
Loader Operator	3.61				
Motor Grader Oper. (fine grade)	4.35				
Motor Grader Oper. (rough grade)	3.96				
Power Tool Operator	3.00				
Roller Operator	2.97				
Roller Operator (finish)	3.41				

SC78-1046 Cont'd.

(2-2)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Scraper	$ 3.75				
Screed-asphalt	3.50				
Stone Spreader	3.00				
Striping Machine Operator	3.50				
Sweeper	2.93				
Tractor-crawler	3.25				
Tractor-utility	3.10				
Truck Driver (single-rear axle)	2.86				
Truck Driver (multi-rear axle)	3.02				
Truck Driver - Heavy Duty	3.44				
Weighman Scales (truck)	3.02				
Welder	4.77				

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SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX78-4051
COUNTIES: Ector & Midland
DATE: Date of Publication
Supersedes Decision No. TX76-411B, dated July 16, 1976, in 41 FR 29605.
DESCRIPTION OF WORK: Building Construction including Incidental Paving and Utilities (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.15	.70	.70		.07
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS & STONEMASONS:					
Ector County	8.00				
Midland County	9.60				.05
CARPENTERS	8.85				
CEMENT MASONS	6.00				
ELECTRICIANS:					
ZONE 1 - shall include that area covered by the city limits of Midland & Odessa & extend out 20 miles therefrom	9.95	.60	3%		1/10%
ZONE 2 - shall include that area extending from the outer limits of Zone 1 out to & including 50 miles from the city limits of Midland & Odessa	10.25	.60	3%		1/10%
ZONE 3 - shall include that area extending from the outer limits of Zone 2 & shall extend to the outside limits of the Union Jurisdiction	10.45	.60	3%		1/10%
GLAZIERS	5.48				
IRONWORKERS:					
Structural; Ornamental; Reinforing	8.83	.55	1.00		.10
All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland)	8.955	.55	1.00		.10
LABORERS	3.94				
LATHERS	9.45				
PAINTERS:					
Brush	7.35	.30	.20		.04
Spray & sandblasters	8.10	.30	.20		.04
PLASTERERS	8.20				.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - shall be 15 miles or less from the Courthouse of either Odessa	9.11		.44		.02
ZONE 2 - shall be more than 15 miles but less than 30 miles	9.21		.44		.02
ZONE 3 - shall be more than 30 miles but less than 45 miles	9.31		.44		.02
ZONE 4 - shall be more than 45	9.61		.44		.02

DECISION NO. TX78-4051

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 5.65				
SHEET METAL WORKERS	6.32				
TILE SETTERS	5.25				
TRUCK DRIVERS	3.94				
POWER EQUIPMENT OPERATORS:					
Asphalt paving machines	4.25				
Asphalt rakers	4.00				
Backhoes	4.90				
Bulldozers	4.50				
Cranes, derricks & draglines	5.59				
Foundation drills	4.12				
Front end loaders	4.00				
Motor graders	5.25				
Scrapers	4.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: VIRGINIA
DECISION NO.: VA78-3039
COUNTIES: HENRICO AND THE INDEPENDENT CITY OF RICHMOND
DATE: DATE OF PUBLICATION
Supersedes Decision No. VA77-3089 dated July 1, 1977 in 42 FR 34261
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.78	.65	.65		.01
BOILERMAKERS	10.20	1.00	.90		.02
BRICKLAYERS AND STONEMASONS	9.50	.55	.30		.01
CARPENTERS AND SOFT FLOOR LAYERS	9.00	.40	.35		.02
CEMENT MASONS	8.40				
CEMENT MASONS MACHINE MAN	8.50				
ELECTRICIANS:					
ZONE I-within a 12 air mile radius of Staples Mills Road and Broad Street in the City of Richmond	10.49	5%	3%		4%
ZONE II-remainder of city of Richmond and Henrico County	11.24	5%	3%		4%
ELEVATOR CONSTRUCTORS	9.66	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS	6.76	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	4.83				
GLAZIERS	5.95	.30	.10		.01
IRONWORKERS-STRUCTURAL, REINFORCING AND ORNAMENTAL:					
ZONE I-up to 10 miles from Capital Square	10.25	.55	.50		.05
ZONE II-from 10 miles to 30 miles radius	10.625	.55	.50		.05
ZONE III-from 30 miles and beyond	10.875	.55	.50		.05
LABORERS:					
Unskilled	5.60	.20	.20		.05
Tenders, Motorized Georgia Buggy Operators, Nozzlemen (gunite or sandblasting), Concrete Saw Operators, Air Tool and Vibrator Operators	5.70	.20	.20		.05
Mortar Mixers, Hod Carriers, Pipelayers, Caulkers, Marble and Tile and Terrazzo Workers Helpers	5.85	.20	.20		.05
Burners (wrecking)	5.95	.20	.20		.05
Floor, Base and Terrazzo Grinders	6.00	.20	.20		.05

DECISION No. VA78-3039

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Wagon Drill, Air Trac and Similar Drills	$ 6.10	.20	.20		.05
Powderman	6.35	.20	.20		.05
LATHERS:					
Plasterer and Drywall Finish	9.49		.20		.01
Sheet Rock Applicator	7.79		.20		.01
LEADBURNERS	10.75	.40	.25		.01
LINEMEN AND CABLE SPLICERS:					
ZONE I-within a 12 mile air radius of Staples Mill Road and Broad Street in the City of Richmond	10.49	5%	3%		4%
ZONE II-remainder of City of Richmond and Henrico COunty	11.24	5%	3%		4%
MARBLE, TILE AND TERRAZZO WORKERS	8.20				
MILLWRIGHTS	10.30	.40	.35		.01
PAINTERS:					
Brush, Paperhangers, Tapers and Finishers	8.05				
Structural Steel, Swing Stage and Bosun Chair	8.30				
Scaffold or Other Hazard Work Over 50 Feet	8.30				
Spray	8.55				
Sandblasting, Elevated Tanks, Smoke Stacks and All Towers	8.70				
PILEDRIVERMEN AND DOCKBUILDERS	8.20	.40	.35		
PLASTERERS	9.70				
PLUMBERS AND STEAMFITTERS	10.55	.45	.60		.05
ROOFERS COMPOSITION	6.20				
ROOFERS HELPERS	4.35				
SHEET METAL WORKERS:					
City of Richmond	10.32	.45	.35		.01
Remainder of County	10.57	.45	.35		.01
SPRINKLER FITTERS	9.48	.65	.96		.08
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. VA78-3039

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Paid Holidays: A through F, Day after Thanksgiving.

c. Paid Holidays: A through F; Washington's Birthday; Good Friday and Christmas Eve, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday.

DECISION NO. VA78-3039

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.65	.475	.40		.08
GROUP 2	7.70	.475	.40		.08
GROUP 3	6.30	.475	.40		.08
GROUP 4	6.10	.475	.40		.08
GROUP 5	5.91	.475	.40		.08

CLASSIFICATIONS:

GROUP 1
Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2
Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16 S, fork lift

GROUP 3
Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including well-points), A-frame trucks, mechanic's helper

GROUP 4
Firemen

GROUP 5
Oilers

SUPERSEDEAS DECISION

STATE: VIRGINIA

COUNTIES: YORK AND THE CITIES OF HAMPTON AND NEWPORT NEWS (including Langley AFB, Fort Eustis and Fort Monroe)

DECISION NO.: VA78-3042

DATE: DATE OF PUBLICATION

Supersedes Decision No. VA77-3091 dated July 1, 1977 in 42 FR 34266

DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories), Sewer and Water Line Construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.55	.55	.55		
BOILERMAKERS	10.20	1.00	.90		.02
BRICKLAYERS AND STONE MASONS	9.25				
CARPENTERS AND SOFT FLOOR LAYERS	9.00	.40	.35		.02
CEMENT MASONS:					
CEMENT MASONS	8.40				
MACHINE AND SCAFFOLD MEN	8.50				
ELECTRICIANS:					
ZONE I-within a 16 air mile radius of 7812 Warwick Blvd., Newport News:					
WIREMEN	9.85	6%	8%		1%
CABLE SPLICERS	10.10	6%	8%		1%
ZONE II-beyond a 16 air mile radius of 7812 Warwick Blvd., Newport News:					
WIREMEN	10.85	6%	8%		1%
CABLE SPLICER	11.10	6%	8%		1%
ELEVATOR CONSTRUCTORS	8.80	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS	6.16	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	4.40				
GLAZIERS	5.95	.30	.10		.01
IRONWORKERS:					
STRUCTURAL, ORNAMENTAL, RIGGERS, REINFORCING, FENCE ERECTORS, AND MACHINERY MOVERS	9.60	.60	.88		.08
LABORERS:					
UNSKILLED	5.60	.20	.20		.05
TENDERS, MOTORIZED GEORGIA BUGGY OPERATORS, NOZZLEMEN (gunite or sandblasting), CONCRETE SAW OPERATORS, AIR TOOL AND VIBRATOR OPERATORS	5.70	.20	.20		.05
MORTAR MIXERS, HOD CARRIERS, PIPELAYERS, CAULKERS, MARBLE, TILE AND TERRAZZO WORKER HELPERS	5.85	.20	.20		.05
BURNERS (wrecking)	5.95	.20	.20		.05
FLOOR, BASE, AND TERRAZZO GRINDER	6.00	.20	.20		.05

DECISION NO. VA78-3042

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
WAGON DRILL AND AIR TRAC	$ 6.10	.20	.20		.05
POWDERMEN	6.35	.20	.20		.05
LATHERS	10.00		.25		
LINE CONSTRUCTION					
ZONE I-within a 16 air mile radius of 7812 Warwick Blvd., Newport News:					
LINEMEN	9.85	6%	8%		4%
CABLE SPLICER	10.10	6%	8%		4%
ZONE II-beyond a 16 air mile radius of 7812 Warwick Blvd., Newport News:					
LINEMEN	10.85	6%	8%		4%
CABLE SPLICER	11.10	6%	8%		4%
MARBLE SETTERS	8.75				
MILLWRIGHTS	10.30	.40	.35		.01
PAINTERS:					
(York County from a point on the north shore of Queens Creek at the intersection of York River due west to a point on the eastern shore of James River including all cities therein the cities of Hampton and Newport News:)					
BRUSH AND ROLLER	7.70		.20		
PAPERHANGER, TAPER, SPRAY, ROLLER WITH A 6' HANDLE OR OVER, STRUCTURAL STEEL TO 74' FROM THE GROUND UP, SWING STAGE UNDER 40', SANDBLASTING	8.05		.20		
SWING STAGE OVER 40', SPRAY EPOXY BRUSHED OR ROLLED	8.30		.20		
ALL WORK OVER 74' FROM THE GROUND	7.95		.20		
BITUMINOUS COATINGS, HOT CREOSITE	8.20		.20		
	9.10		.20		

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DECISION NO. VA78-3042	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: REMAINDER OF COUNTY OF YORK					
BRUSH AND ROLLER	$ 8.30		.20		
PAPERHANGING, TAPER, SPRAY, ROLLER WITH A HANDLE 6' OR OVER, STRUCTURAL STEEL 74' FROM THE GROUND UP, SWING STAGE UNDER 40', SANDBLASTING	8.65		.20		
SWING STAGE OVER 40', EPOXY SPRAYED	8.90		.20		
EPOXY BRUSHED OR ROLLED	8.55		.20		
ALL WORK OVER 74' FROM THE GROUND	8.80		.20		
BITUMINOUS COATINGS, HOT CREOSITE	9.70		.20		
PILEDRIVERMEN AND DOCKBUILDERS	8.20	.40	.35		
PLASTERERS	10.51				
PLUMBERS AND STEAMFITTERS	10.20	.45	.45		.02
ROOFERS COMPOSITION	6.20				
ROOFERS HELPERS	4.35				
SHEET METAL WORKERS:					
NEWPORT NEWS AND HAMPTON	9.55	.45	.55		.005
YORK COUNTY	9.80	.45	.55		.005
SPRINKLER FITTERS	9.48	.65	.95		.08
TERRAZZO WORKERS AND TILE SETTERS	8.75				
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F, Day after Thanksgiving.
b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

DECISION NO. VA78-3042	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION					
GROUP 1	$ 9.65	.475	.40		.08
GROUP 2	7.70	.475	.40		.08
GROUP 3	6.30	.475	.40		.08
GROUP 4	6.10	.475	.40		.08
GROUP 5	5.91	.475	.40		.08

CLASSIFICATIONS:

GROUP 1
Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2
Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16 S, fork lift

GROUP 3
Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including well-points), A-frame trucks, mechanic's helper

GROUP 4
Firemen

GROUP 5
Oilers

DECISION NO. VA78-3042 SEWER AND WATER CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$5.30				
CEMENT MASONS	4.50				
LABORERS:					
LABORER	3.00				
PILELAYERS	3.24				
TRUCK DRIVERS	3.30				
POWER EQUIPMENT OPERATORS:					
BACKHOE	5.25				
BULLDOZER	4.70				
CRANE	7.30	.325	.30		.03
FORK LIFT OPERATOR	4.20				
FRONT END LOADER	3.75				
LOADER OPERATOR	4.00				
MOTOR GRADER	3.50				
OILER	4.15				
ROLLER	3.00				
SCRAPER	3.63				

[FR Doc. 78-12734 Filed 5-11-78; 8:45 am]

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federal register

FRIDAY, MAY 12, 1978
PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

MEDICAL DEVICES

Procedures for Investigational Device Exemptions

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[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 16, 20, and 812]

[Docket No. 76N-0324]

MEDICAL DEVICES

Procedures for Investigational Device Exemptions

AGENCY: Food and Drug Administration.

ACTION: Tentative final regulation.

SUMMARY: This tentative final regulation sets forth requirements for the conduct of investigations of medical devices involving human subjects, including procedures for the submission of applications for an investigational device exemption (IDE), a description of the responsibilities of sponsors of investigations, and requirements for obtaining informed consent from human subjects. This action is taken because the Medical Device Amendments of 1976 require the Food and Drug Administration (FDA) to prescribe by regulation procedures and conditions under which medical devices intended for human use might be exempted from certain requirements of the Federal Food, Drug, and Cosmetic Act to permit investigational studies concerning safety and effectiveness.

DATES: Comments on or before September 11, 1978; notices of appearance for the public hearing on this tentative final regulation to be filed with the Hearing Clerk on or before June 12, 1978.

Proposed effective dates: The Commissioner is proposing that the final regulation based on this tentative final regulation be effective 120 days after the date the final regulation is published in the FEDERAL REGISTER.

However, sponsors of ongoing investigational studies who wish to ensure that these studies can continue without interruption during the 30-day period for FDA review of applications should submit applications by 90 days after date of publication of the final regulation in the FEDERAL REGISTER.

ADDRESS: Comments (5 copies identified by Doc. No. 76N-0324) shall be submitted to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Frank Morlock, Bureau of Medical Devices (HFK-122), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of August 20, 1976 (41 FR 35282), FDA Proposed regulations on investigational device exemptions. Final regulations governing investigational studies of intraocular lenses were published in the FEDERAL REGISTER of November 11, 1977 (42 FR 58874). Based on the many comments received on the proposal, the Commissioner of Food and Drugs has revised the proposal with respect to devices other than intraocular lenses and is issuing it as a tentative final regulation with opportunity for comment and a public hearing. This action will be followed by the agency's consideration of comments on the tentative final regulation and publication of a final regulation. The tentative final regulation omits Subparts D and E of the proposal regarding the responsibilities of institutional review committees and investigators, respectively. These omitted matters will be addressed by comprehensive agency-wide regulations governing all FDA-regulated clinical investigations. Also omitted are portions of Subpart C regarding the responsibilities of sponsors that have been addressed in proposed regulations on obligations of sponsors and monitors of clinical investigations, published in the FEDERAL REGISTER of September 27, 1977 (42 FR 49611). If certain responsibilities of sponsors, investigators, and institutional review committees in the area of device investigations need to differ from, or are not addressed in, these comprehensive regulations, separate supplemental regulations concerning these special or different responsibilities will be published.

To provide interested parties an opportunity to begin clinical investigations in a way that anticipates future FDA requirements, FDA will accept applications for investigational device exemptions before the effective date of the final regulation, if the applicant complies with the requirements in this tentative final regulation. Procedures for early submission of applications for investigational device exemptions are discussed at the end of this preamble.

OPPORTUNITY FOR PUBLIC HEARING

The Food and Drug Administration will hold a public hearing on the investigational device regulations. Any interested person who files a notice of appearance may participate in the hearing in accordance with Part 15 (21 CFR Part 15). The hearing will be held approximately 90 days after the date of publication of this reproposal and will be governed by Part 15 of FDA's administrative practices and procedures regulations, which specifies the requirements for filing notices of appearance. A notice of the exact date, time, and place for the hearing will appear in a future issue of the FEDERAL REGISTER.

STATUTORY BACKGROUND

The Medical Device Amendments of 1976 (Pub. L. 94-295) (the Amendments), amending the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) (the act) became law on May 28, 1976. Section 520(g) (21 U.S.C. 360j(g)) authorizes the exemption of devices from otherwise applicable provisions of the act to permit devices to be shipped for investigational studies to determine their safety and effectiveness. To provide flexibility in regulatory requirements, section 520(g) of the act permits variations in the procedures and conditions governing investigational device exemptions, depending on the nature, scope, and purpose of the study. The preamble to the August 20, 1976 proposal contains a detailed description of the statute.

DECISION TO PUBLISH TENTATIVE FINAL REGULATION

The period for comment on the proposal closed on October 19, 1976. Although numerous requests for extension of the comment period were received, the Commissioner decided not to extend the comment period but did agree to consider all comments received before issuing a final regulation. Because of the heavy volume of comments and the desire to increase public participation in the development of the investigational device regulation, the Commissioner decided to issue a tentative final regulation in the FEDERAL REGISTER, to be followed by a public hearing, before issuing a final regulation. A tentative final regulation has the same legal status as a proposal or reproposal; i.e., it is not final agency action. It is an interim step sometimes used by FDA to permit additional public participation before promulgating a final regulation. (See § 10.40(f)(9) (21 CFR 10.40(f)(9)).) Unless otherwise indicated, all references in this preamble to proposals under part 812 refer to part 812 as reproposed in this tentative final regulation.

DEFERRAL OF ACTION ON SPONSOR MONITOR, INVESTIGATOR, AND INSTITUTIONAL REVIEW COMMITTEE RESPONSIBILITIES

The initial proposal under part 812 (21 CFR part 812) on investigational device exemptions contained seven subparts: Subpart A set forth general provisions and provisions of applicability; subpart B described the procedures for submission and review of applications for investigational device exemptions; subparts C, D, and E set forth the responsibilities of sponsors, institutional review committees, and investigators, respectively; subpart F stated requirements for informed consent of human subjects; and subpart H stated requirements for investigational studies that do not involve human subjects.

As discussed in the preamble to the proposal, FDA is currently making a number of efforts to improve, clarify, and strengthen its regulatory program for control of investigational articles. Included in these efforts is the development of comprehensive proposed regulations by internal FDA task forces composed of representatives of FDA bureaus. These task forces are responsible for developing and proposing to the Commissioner agency policy that is uniform to the extent practicable, given differences among products, on such matters as the responsibilities of clinical investigators, sponsors for the monitoring of clinical investigations, and institutional review committees. The task force efforts produced the proposed good laboratory practice regulations for nonclinical laboratory studies, published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51206), the proposed regulations on obligations of sponsors and monitors of clinical investigations mentioned above, and the proposed regulations on obligations of clinical investigators, which will be published in the FEDERAL REGISTER in the near future. These three proposals will apply to investigations of devices.

Because the investigational device proposal, with modifications, is being issued as a tentative final regulation rather than as a final regulation, and because several of the comprehensive proposed regulations prepared by the task forces will be ready for publication at the same time as this tentative final regulation or shortly thereafter, the Commissioner has decided that this tentative final investigational device regulation should cover only those matters that will not be covered in the comprehensive regulations. The Commissioner believes that the subject matter and the regulatory requirements for the conduct of clinical investigations of drugs, devices, and biologics are sufficiently similar to warrant uniform agency-wide regulatory policy in most instances.

Accordingly, this tentative final regulation revises subparts A, B, C, and F, based on comments received on the proposal. Subpart H is published substantially unchanged. Agency action on the remainder of the proposal, i.e., subparts D, E, and portions of subpart C dealing with responsibilities of sponsors for monitoring, are not addressed in this document and will be superseded by later final agency-wide regulations. Comments received on these matters are being considered by the FDA task forces in preparing the proposed comprehensive regulations. Any such proposed comprehensive regulations will, to the extent practicable, be incorporated into proposed part 812, directly or by reference, in future FEDERAL REGISTER notices. If it is necessary to deal with unique situations concerning device investigations only, the Commissioner will publish differing or additional proposed and final regulations on these matters.

In the interim, Subparts C, D, and E of the August 20, 1976 proposal governing the responsibilities of sponsors for monitoring studies, institutional review committees, and investigators, may be used as guidelines by persons filing applications for investigational device exemptions before the effective date of regulations on these subjects.

REFERENCES TO OTHER REGULATIONS AND TERMS

Where this tentative final regulation cites Part 52 (21 CFR Part 52) or sections thereof, it is referring to the proposed regulations on obligations of sponsors and monitors of clinical investigations, published in the FEDERAL REGISTER of September 27, 1977. The term "test article" in the sponsor proposal includes any "investigational device" in this tentative final regulation. The term "clinical investigation" in the sponsor proposal includes any "investigational study" in this tentative final regulation. The term "protocol" in the sponsor proposal includes any "investigational plan" in this tentative final regulation. The term "institutional review board" in the September 27, 1977 sponsor proposal and the term "institutional review committee" in this tentative final regulation are interchangeable.

Where this tentative final regulation cites Part 58 (21 CFR Part 58), it is referring to the proposed good laboratory practice regulations for nonclinical studies, published in the FEDERAL REGISTER of November 19, 1976 and originally designated as proposed Part 3e (21 CFR Part 3e). (Subchapter A was subsequently recodified and published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553); under the new numbering system, Part 3e will become final under Part 58.)

Where this tentative final regulation cites FDA regulations on the obligations of clinical investigators, it is referring to the proposal which will be published in the FEDERAL REGISTER in the near future and which will become final under Part 54 (21 CFR Part 54). Where this tentative final regulation cites FDA regulations on standards for institutional review committees or boards, it is referring to future agency regulations on this subject that will become final as Part 56 (21 CFR Part 56) and largely codify existing requirements under 21 CFR Part 312 and 45 CFR Part 46.

COMMENTS ON PROPOSAL—GENERAL

A total of 190 separate comments was received on the August 20, 1976 proposal. Of these, many were complex and quite constructive, and addressed numerous provisions of the proposal.

Many comments were received from industry, academic sources, and private practitioners, but none were received from public interest groups representing consumers and patient interests. The Commissioner hopes that these groups will comment on this tentative final regulation and will participate in the public hearing.

To obtain additional information on matters raised in the comments and to increase participation by members of the research community, FDA initiated contacts with several institutional review committees, scientists at the National Institutes of Health, the National Commission for the Protection of Human Subjects in Biomedical and Behavioral Research, and representatives of independent researchers. Memoranda of these meetings are available for review at the office of the Hearing Clerk, Food and Drug Administration.

GENERAL PROVISIONS

SCOPE

Numerous comments were received on § 812.1 (21 CFR 812.1) of the August 20, 1976, proposal. Many expressed concern that the objective of encouraging discovery and development of devices was subordinated to the objective of protecting the public health to such a degree that development of new devices would be effectively stifled. One comment suggested adding an objective of maintaining optimum scientific freedom for investigators. The Commissioner believes that changes made in the other sections of this tentative final regulation in response to comments preserve in proper balance the goal of encouraging the discovery and development of useful devices and the goal of protecting the rights of human subjects. Thus, no change was made in the statement of the scope of the regulation as originally proposed.

Because the Commissioner believes that sponsors will always request an exemption from all provisions of the act, he has deleted language in § 812.1(c)(2) of the August 20, 1976 proposal which stated that the device will not be exempted unless the sponsor requests the exemption specifically. The device will now be exempt from the requirements of the act enumerated in proposed § 812.1(c) unless the Commissioner indicates that the device is not exempt from specific provisions of the act in his order of approval or disapproval under proposed § 812.30 (21 CFR 812.30).

APPLICABILITY

Proposed § 812.2(a)(1) (21 CFR 812.2(a)(1)) provides that the regula-

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tions are applicable to any investigational device when used in an investigational study involving human subjects to determine whether the device is safe or effective (unless the device is excluded by the provisions of § 812.2 (b) or (d)). Proposed § 812.2(a)(2) provides that the regulations apply to any investigational study if the purpose of the investigational study is to develop data for premarket approval under section 515 of the act (21 U.S.C. 360e), to conduct research that involves a human subject, or to aid in the diagnosis or treatment of any human subject.

Proposed § 812.2(b) describes studies and devices that are not subject to investigational controls by these regulations. Although certain devices may be excluded from the controls applicable to investigational devices, they may be subject to other statutory or regulatory requirements. For example, they may be subject to a premarket approval requirement, or may be required to be manufactured in accordance with good manufacturing practice regulations, or tested in accordance with good laboratory practice regulations during preclinical testing.

Proposed § 812.2(b)(1) provides that the regulation does not apply to a device used in an experiment, if it is used in a manner and for a purpose included in its labeling (where the labeling is prescribed under the act or approved under the premarket approval provisions of the act).

Proposed § 812.2(b)(2) provides that proposed Part 812 does not apply to test marketing of a device where the only "test" involved is that of determining consumer preference on matters not related to device safety or effectiveness. This provision was added in response to comments that, as originally proposed, § 812.2 would include test marketing. The Commissioner cautions, however, that when consumer preference testing is coupled with testing designed to test the safety and effectiveness of the device, that portion of the study that relates to safety and effectiveness is subject to regulation under proposed § 812.2(a)(1).

Proposed § 812.2(b)(3) provides that Part 812 does not apply to modifications of devices that are made for purposes other than testing their safety and effectiveness. FDA received an oral inquiry asking whether an investigational device exemption will be required when a qualified anesthesiologist modifies a commercially available anesthesiolgy device, in the hospital, to meet the special needs of patients or to ensure the device's proper functioning. For example, the anesthesiologist may need to substitute a smaller breathing circuit for pediatric use, or to lengthen or shorten the device's tubing for convenience depending on the configuration of the operating room. The Commissioner recognizes that some such modifications may not meet all the requirements for exemption from Part 812 under the custom device provisions in proposed § 812.2(d); for example, the anesthesiology device as modified may be used by a number of physicians or for a number of patients. Under proposed § 812.2(b)(3), however, no investigational device exemption is required for an anesthesiologist to adjust an anesthesiology device in the hospital to ensure proper functioning under the particular circumstances of use, where the adjustment does not involve a test of the safety or effectiveness of the adjusted device.

Proposed § 812.2(b)(4) provides that Part 812 does not apply to a simple joining of devices together to form a new device unless the purpose of joining the devices is to investigate the safety and effectiveness of the resulting device. An example of such a joining of devices would be attaching a computer to an electrocardiogram for the rapid comparison of charts. The same results could be obtained by using each device separately. The devices would be joined as a matter of convenience rather than to test a new operation.

Proposed § 812.2(b)(5) exempts certain diagnostic devices from Part 812. The earlier proposal contained no such exemption but invited comments on the issue. The Commissioner received numerous comments objecting to provisions that would apply investigational requirements to in vitro diagnostic products when such products are not used for diagnostic purposes (or, if used for diagnosis, are used in parallel with an approved diagnostic product).

Where use of the in vitro diagnostic product does not involve taking an extra sample but involves merely a surplus sample remaining from a previously obtained one, the risk that concerned the Commissioner, as expressed in the proposal, was that larger than normal samples might be taken for the purpose of obtaining surplus materials with which to conduct experiments. Several comments argued that although taking extra samples is an unusual procedure, it is often good medical practice to take a large enough sample to provide a surplus, to avoid additional invasive procedures should additional testing be necessary. If no additional tests must be performed, the remainder is "surplus."

The Commissioner believes that in vitro diagnostic products employing surplus samples should not be subject to regulation under this proposal, except in those cases where samples are taken for experimental purposes, or where the procedure of taking a sample presents a substantial risk to subjects, or where an in vitro diagnostic product is used in diagnosis without the parallel use of an approved diagnostic product to verify the diagnosis. Accordingly, in vitro diagnostic products are excluded from regulation under Part 812 by proposed § 812.2(b)(5) when they are not invasive, do not introduce energy into the subject, and are not used in the diagnosis of the subject without confirmation by use of a similar approved diagnostic product or procedure of established effectiveness. (However, such devices continue to be subject to applicable requirements under the regulations on labeling of in vitro diagnostic products, 21 CFR 809.10(c).) A device is not "invasive" in the context of proposed § 812.2(b)(5) if the procedure used to obtain the sample does not penetrate or pierce the skin or mucous membranes of the body (or the urethra) or the mouth beyond the pharynx, or the anal canal beyond the rectum, or the vagina beyond the cervical os.

Proposed § 812.(b)(6) provides that Part 812 does not apply to devices intended for veterinary use. However, animal testing of devices intended for human use must comply with proposed Subpart H and proposed Part 58, the agency's proposed good laboratory practice regulations mentioned above.

Several proposals were submitted for restructuring the applicability of the regulation based on the risk presented by the investigational use of the device. While the Commissioner was unable to adopt any one of the proposals in its entirety, he agrees that applicability of the regulation should reflect the risk presented in a specific study. Accordingly, proposed Subpart B has been extensively revised to provide differing regulatory control depending on the nature of the device, (i.e., vital or nonvital investigational devices as defined in § 812.3 (q) and (r) (21 CFR 812.3 (q) and (r)), respectively) and on the degree of risk presented by the device to subjects participating in the study (i.e. substantial risk or low risk as defined in proposed § 812.3 (n) and (o) respectively).

Proposed § 812.2(c) (1) and (2) describe the applicability of the regulations to vital investigational devices and nonvital investigational devices.

All the requirements of Part 812 apply to vital investigational devices when such devices are used in studies presenting a substantial risk to subjects involved in the study. One of these requirements is that an application for an investigational device exemption be submitted to FDA under § 812.21 (21 CFR 812.21). When vital investigational devices are used in studies presenting low risk, the sponsor is required to submit to FDA only a notification under § 812.20 (21 CFR 812.20), rather than a full application under § 812.21. Upon receipt of the notification, FDA will inform the sponsor of the date it was received; 30 days after receipt, the sponsor may commence the study unless FDA has disapproved it. If FDA waives the 30-day waiting period, the sponsor may begin the study in accordance with the terms of the waiver.

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For nonvital investigational devices used in investigational studies, submission of a notification to FDA under § 812.20(a) is required, but not a full application under § 812.21. Only when a nonvital investigational device is used in a study presenting a substantial risk to subjects must the sponsor wait 30 days after the date FDA received the notification before commencing the study.

Several comments argued that devices classified as class I or class II are of necessity inherently low risk and should be exempt from IDE regulations. (The act requires all medical devices to be classified into one of three regulatory categories: class I, general controls; class II, performance standards; and class III, premarket approval.)

The Commissioner believes that certain devices, regardless of their statutory classification, may present risk to subjects because of the manner in which they are used in studies. In other instances a class III device may present little or no risk to subjects in a properly designed study with limited goals. Because the inherent nature of the device cannot be ignored in determining risk, a definition of "vital investigational device" has been added in proposed § 812.3(q) and includes (1) those devices that are intended to support or sustain life or are for surgical implantation, or are diagnostic devices (including in vitro diagnostic products) that provide data that might reasonably be regarded as life supporting or vital to the care of the subject; and (2) those devices whose failure could result in permanent injury to the subject.

The vital investigational device category is broader than the class III statutory category and may include investigational versions of class II or even class I devices. Although the classification of devices similar to the investigational device may be considered, the principal factor in determining whether a device is vital or a study presents "risk" is the possible consequences, for subjects, of its use.

The distinction between vital investigational devices and nonvital investigational devices and the distinction between substantial risk and low risk provides a means to avoid overregulation. They also permit the applicability of these regulations to be structured in a way that avoids reliance on the statutory classification of a device and focuses on the risk to the subject. This approach renders inapplicable the discussion in the originally proposed § 812.2(b) and the accompanying preamble or applicability of these regulations to devices subject to premarket approval and the discussion in the originally proposed § 812.2(c) of applicability of these regulations to devices not currently subject to a premarket approval requirement.

Under proposed § 812.20, the sponsor is responsible for an initial determination of whether a device is vital and of the degree of risk presented to subjects in the study; the sponsor's submissions to FDA are to be based on these initial determinations. The sponsor's assessment is subject to review and modification by an institutional review committee and by FDA.

The Commissioner believes that information contained in the notification required by proposed § 812.20 or the application required by proposed § 812.21 will provide sufficient information that errors in the sponsor's assessment of whether the device is vital and of the degree of risk will be corrected either by the institutional review committee participating in the review of the study or by FDA. The Commissioner agrees with comments that it is unreasonable to require a full submission for every study regardless of the degree of risk, and he has provided an abbreviated notification procedure. However, sufficient information must be supplied to the Commissioner in the notification to enable him to review and evaluate determinations of the sponsor and institutional review committee or require further data where necessary.

Proposed § 812.2(d) exempts certain custom devices from the investigational device regulations. This change responds to comments on the proposal, which had provided that custom devices would not be exempt from the regulations. The criteria for an exemption from the regulation are based in part on section 520(b) of the act, which exempts certain custom devices from performance standards issued under section 514 and premarket approval requirements imposed under section 515, but not from investigational device regulations (ref. 2, at 45). Under § 812.2(d)(1), a device is exempt from the investigational device regulations if it necessarily deviates from generally available devices to comply with the order of a health professional designated in § 812.2(d)(2); the device is not generally available in finished form for purchase or for dispensing upon prescription; the device is not offered through labeling or advertising for commercial distribution; the device is intended either for use by an individual patient named in the health professional's order and is to be made in a specific form for that patient, or to meet the special needs of the health professional in the course of the health professional's practice; and the device is not generally available to or generally used by other such health professionals. In addition to complying with these requirements based on section 520(b) of the act, the device must be made of safe and suitable materials if it is an implant, the device cannot be intended for use in an investigational study for the purpose of determining whether it is safe or effective, and the device cannot have been the subject of an administrative determination by the Commissioner that the device is subject to Part 812. These additional controls are authorized under section 520(g) of the act as requirements necessary for the protection of the public and under section 701(a) of the act as a regulation for the efficient enforcement of the act.

The proposed custom device exemption in 21 CFR 52.15(b)(2) of the proposed regulations on obligations of sponsors and monitors, published in the FEDERAL REGISTER of September 27, 1977, will be revised to conform to the custom device exemption promulgated in the final regulation resulting from this proposal.

Proposed § 812.2(d)(2) designates the health professionals authorized to use custom devices in accordance with the regulation: physicians and dentists. Other specially qualified persons may be authorized to use custom devices by future regulations published in the FEDERAL REGISTER after opportunity for an oral hearing before the Commissioner under 21 CFR Part 15, i.e., a public legislative type of hearing.

The term "custom device" has been subject to varying usages within FDA, among its advisory committee members, and among interested health professionals and manufacturers. Similarly, there have been varying interpretations both of the statutory exemption of custom devices from standards and premarket approval requirements and of the effect of the proposed investigational device regulations on practices of manufacturers and practitioners to supply devices that meet unique individual needs.

Accordingly, the Commissioner is providing in proposed § 812.2(d)(3) several examples of situations in which devices that may be regarded as custom products would, or would not, be subject to the investigational device regulations. These examples should reduce misunderstanding of the custom device exemption, promote compliance with the investigational device regulations where no exemption is provided, and address valid concerns of commenters that it is inappropriate to subject all custom devices to investigational device controls.

DEFINITIONS

The Commissioner received numerous comments on the definitions con-

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tained in the originally proposed § 812.3. Many comments objected that the proposed definitions lacked clarity, were circular, or did not provide information necessary to an applicant to understand the proposed regulation. Many proposed definitions were submitted that would have changed the effect of the applicability section (proposed § 812.2) in various ways. The Commissioner has revised many of the definitions appearing in § 812.3, added new definitions to accord with the changes made in proposed § 812.2 relating to applicability, and arranged them in alphabetical order (except that the definition of "nonvital device" follows the definition of "vital device" and the definition of "low risk" follows the definition of "substantial risk").

Several comments requested a better definition of "investigational device." Although the Commissioner believes that there will always be doubts in particular cases, the best guideline to follow is that a device is investigational when used in a study for determining whether the device is safe or effective for a particular use. Thus, a modified device that is being tested to determine the effectiveness or safety of the modification would be an investigational device. Because the definition of investigational device focuses strictly on the manner in which the device is being used, i.e., whether it is being tested for safety and effectiveness (including use of a device whose safety and effectiveness have not been established), the Commissioner has concluded that any distinction between "old" and "new" devices does not describe when the investigational device regulations would apply.

The Commissioner believes that the new definition of "investigational device" resolves most of the problems identified by the comments.

Additionally, some comments recommended that the definition of "medical device" be restricted to devices intended for therapeutic or diagnostic use involving living human subjects, as a means of removing in vitro diagnostic products from the scope of the regulation. The Commissioner notes that the term "device" is defined by statute (section 201(h) of the act) and thus cannot be amended administratively. He believes, however, that exclusion of most in vitro diagnostic products from coverage under § 812.2(b)(5) is responsive to these comments.

Proposed § 812.3(f) (21 CFR 812.3(f)) revises the definition of "investigational plan", which means a plan or protocol for using an investigational device in an investigational study, where the plan or protocol meets the requirements of proposed § 812.25 (21 CFR 812.25). Comments objected that the proposed regulations reversed the sense in which the terms "investigational plan" and "investigational study" are used in industry. Although the comments suggested that the terms be revised to reflect industry terminology, the Commissioner believes that such revision would be more confusing than the regulation as originally proposed.

Proposed § 812.3(g) revises the definition of "investigational study" to mean a study involving human subjects that is for the purpose of determining whether a device is safe or effective.

The Commissioner recognizes that the manufacturer of an old class III device may wish to gather information on clinical experience with the device for future submission to FDA after expiration of the grace period in section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)) or other purposes. (An old class III device is a device that either was in commercial distribution before the enactment of the Amendments, or is substantially equivalent to a device that was in commercial distribution before the Amendments, and that is placed in the premarket approval category, class III, by an FDA regulation under section 513(d) of the act (21 U.S.C. 360c(d)).) The Commissioner does not consider it an investigational study when the manufacturer of an old class III device distributes the device lawfully and requests some or all users to provide information on clinical experience with the device as used in its usual manner for "old" uses (commercial uses of the device, or of a substantially equivalent device, that predate the Amendments).

Proposed § 812.3(h) defines "investigator" as an individual who actually conducts an investigational study, i.e., under whose immediate direction the device is administered or dispensed to or used involving a subject. A corporation can never be an investigator. An investigator may be assisted in an investigation by other qualified investigators under his or her supervision, provided such individuals are identified as investigators in the application or notification submitted in accordance with Subpart B to obtain an investigational device exemption.

Proposed § 812.3(i) defines the term "monitor" to mean, when used as a noun, an individual selected by a sponsor or contract research organization to oversee the progress of a clinical investigation. Such a person may be a full-time employee of the sponsor or contract research organization or a consultant. When used as a verb, "monitor" means the act or reviewing the progress of a clinical investigation.

The definition of "sponsor" found in proposed § 812.3(k) is revised to eliminate the concept of financial support as a characteristic of the sponsor relationship. This change was made in response to comments that government agencies sponsoring research by means of grants would not in all instances wish to become sponsors within the meaning of the proposed regulation. Accordingly, language in the original proposal, which made a person who supported a study by financial or other resources a sponsor, was eliminated, and language was added to provide that a sponsor is any person who initiates an investigation but does not actually conduct the investigation. This change of language does not change the requirement that someone must assume the responsibilities of a sponsor in an application. However, the Commissioner is not requiring any particular person to assume these responsibilities. Thus, a government agency that supports an investigational device study by means of a grant, or a private foundation that funds such a study, would not necessarily be a sponsor unless it identified itself as such by submitting the notification or application for an investigational device exemption. However, the recipient of the grant or someone else must assume the responsibilities of a sponsor and submit an application for an exemption or notification.

The definitions of "investigator", "sponsor", and "sponsor-investigator" were modified to conform to definitions that will appear in other agency documents, e.g., "investigator" and "sponsor-investigator" are defined to refer only to a living individual. The definition of "sponsor" contemplates that the employees of a corporate sponsor may be considered investigators, not sponsor-investigators, when they undertake clinical investigations for the sponsor.

One comment noted that the term "institution" should not include a manufacturer because the manufacturer might be required to institute an in-house institutional review committee. The Commissioner believes that it is inappropriate to remove the term "manufacturer" from the definition in proposed § 812.3(b). However, he points out that a manufacturer of a device need not have an in-house institutional review committee unless a study using the manufacturer's employees as the subjects is being conducted.

Another comment suggested that "human subject" be redefined so that a human user of a device would not be a subject unless the investigational device placed the user at risk. Proposed § 812.3(m) does not change the definition of "subject." The Commissioner believes that introducing the concept of risk into the definition of "subject" would provide an opportunity to evade the regulation. The essence of being a subject is that the individual, whether healthy, sick, or at risk, is used in research.

A definition of "institutional review committee" appears in proposed § 812.3(d). An institutional review committee is any board or committee or other formally organized group appointed for the purpose of reviewing, in accordance with current professional standards, clinical investigations or other research involving humans as subjects. Protection of human subjects is accomplished by reviewing, approving, suspending, or terminating an investigation when necessary for the protection of human subjects. By "current professional standards," the Commissioner means the standards in effect in the medical profession at any given time, and would include the Helsinki Convention, the American Medical Association standards, Department of Health, Education, and Welfare regulations and guidelines, and such other standards as may emerge over time, either nationally or locally. The term is not intended to freeze professional standards. As professional standards change, it is expected that standards applied by the committee will reflect changes in medical community ethics. The committee also must provide human protection in accordance with the requirements of Part 812. Finally, an institutional review committee is synonymous with an institutional review board.

Proposed § 812.3(q) adds a definition of "vital investigational device" as a medical device intended to support or sustain life or intended for surgical implant into the body or as a diagnostic device (including any in vitro diagnostic product) used to provide data that might reasonable be considered life-supporting or vital to the care of the subject, or as a device whose failure could result in permanent injury to the user.

Several aspects of this definition are significant. First, specifically included are certain in vitro diagnostic products and other diagnostic devices that provide information that could be vital to patient care or are life-supporting in nature. Thus, the definition specifically covers devices that provide significant diagnostic information about a patient which, if misleading or inaccurate, could result in significant misdiagnosis of the patient or incorrect therapeutic care of the patient.

Second, the definition of "vital investigational device" is similar to the definition of "critical device" in the proposed good manufacturing practice (GMP) regulations for the manufacture, packing, storage, and installation of medical devices, published in the FEDERAL REGISTER of March 1, 1977 (42 FR 11998). However, the classes of products subject to the definition will vary. Also, the definition of "critical device" in the proposed GMP regulations makes no explicit reference to in vitro diagnostic products, but would include these products because they are within the definition of "device" in section 201(h) of the act. Nonetheless, because the commissioneer believes that investigational controls might be construed as not applying to certain in vitro diagnostic products and other diagnostic devices unless specific language were added including such devices, appropriate language has been added to proposed § 812.3(q). However, a number of in vitro products are exempt from the investigational controls, but will be considered critical devices for GMP purposes. Applying GMP's but not investigational controls to certain devices is consistent because, if manufactured properly, certain devices may present no substantial risk of being either unsafe or ineffective when used in investigational studies. The Commissioner has omitted language in the definition of "critical device" found in the GMP proposal which provides that a critical device is a device declared by the Commissioner to be a critical device after consultation with the Device Good Manufacturing Practice Advisory Committee. This language is omitted because it is inappropriate in these regulations. As with the GMP regulations, the Commissioner is considering publishing a list of devices that FDA regards as vital investigational devices.

Third, the mere fact that a device is vital does not result in an automatic assignment of a particular risk category, although it is treated differently from a nonvital investigational device.

"Nonvital investigational device" is defined in § 812.3(r) as all those devices that are not vital devices; in short, all other devices. By dividing devices into these two general categories, it is possible to apply the regulatory controls in such a manner as to minimize the regulation of those devices that are nonvital and present low risk.

Several comments suggested limiting the scope of the regulations to studies that place subjects "at risk." Suggestions were made that FDA use the definition of "at risk" found in 45 CFR 46.103, Department of Health, Education, and Welfare Guidelines, Protection of Human Subjects. The Commissioner believes that the broad definition contained in 45 CFR 46.103 of the term "at risk" would not be helpful in restructuring the proposed regulation because the breadth of the definition of "at risk" would subject practically every investigational study to full investigational controls. The Commissioner believes that definitions of "risk" in this proposed regulation must differentiate between low and substantial risk situations. Accordingly, the Commissioner has added a definition of "substantial risk"; in proposed § 812.3(n) as a risk that may result in death or may produce morbidity (including disfigurement, permanent injury, or interference with the capacity to continue employment); require operation or reoperation or extension of hospitalization beyond that expected for the condition being treated, or cause rehospitalization or increased invalidism; or, at the least, produce moderate personal discomfort and the need for extensive outpatient medical care. This definition identifies a range of risks from moderate to high that may threaten subjects. If, as a possible consequence of the study, any of the conditions set forth in the definition could occur, the study must be categorized as substantial risk. On the other hand, where none of the conditions set forth in the definition of substantial risk are likely foreseeable consequences of the study, the study will fall into the low risk category explained below.

The Commissioner received a comment from the National Institutes of Health that the probability of the risk actually occurring should be considered in the definition of "risk." He has not included this factor in the definition of risk because he believes that for many studies data are simply lacking on which to base such a judgment. The Commissioner agrees that where probability data are available, the likelihood of an event's occurrence may be a basis for assigning it to a higher or lower risk category, e.g., a risk may be evaluated in terms of whether it is certain, frequent, infrequent, or rare; and such a determination may enter into the determination of whether to treat the risk presented by the study as substantial or low. The assessment of risk is designed in part to determine how much information must be submitted to FDA (e.g., a notification or an application) as well as for the purpose of determining whether the study should be initiated or continued. The definitions of "substantial risk" and "low risk" look to the likely foreseeable consequences of a study, including the additional risk to which the subject may be exposed because of the use of the investigational device. The definition of "low risk" in proposed § 812.3(o) provides that any risk other than a substantial risk is a low risk, including a situation in which there is no risk of injury to the subject or to his or her rights.

In proposed § 812.3(p), "transitional period" is redefined in response to comments to apply only to those devices (1) which either were on the market prior to May 28, 1976 or are judged by FDA to be substantially equivalent to a device marketed prior to that date, and (2) which are classified in the class III category. The transitional period is defined as extending from May 28, 1976 to either (1) 30 calendar months after the device is classified as a class III device, or (2) 90 days after a regulation requiring the submission of a premarket approval application is promulgated, whichever occurs later.

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The Commissioner received one comment suggesting that the term "substantially equivalent" as it is used in § 812.3(p) be defined. The Commissioner believes, however, that the term cannot be better described at this time. A determination that a device is substantially equivalent is judgmental, and while reasons may appropriately be given for any particular decision so classifying a device, the terminology itself cannot be better defined except with synonyms which will provide little, if any, additional clarification. Accordingly, no definition is offered for this term. The Commissioner believes it may be possible to define the term at a later date as experience develops in determining substantial equivalency. The term is evolving into a term of art. The preambles to the proposed and final Device Establishment and Premarket Notification regulation published in the FEDERAL REGISTER of September 3, 1976 (41 FR 37458) and August 23, 1977 (42 FR 42520), contain useful guidance in interpreting this phrase.

GENERAL QUALIFICATIONS FOR AN EXEMPTION

Proposed § 812.5 (21 CFR 812.5) received only one significant comment, which stated that the proposed labeling requirements conflict with those in 21 CFR 809.10(c) for investigational in vitro diagnostic products. The Commissioner agrees and has changed the originally proposed § 812.5 to provide the option of using one of the statements prescribed in § 809.10(c) rather than the statement prescribed in § 812.5. The Commissioner notes that most in vitro diagnostic products are to be exempted from Part 812, so only some such products will have to comply with Part 812 as well as Part 809.

Proposed § 812.5(b) now includes provisions, formerly in § 812.47(a), that the labeling of an investigational device shall not represent that the safety and effectiveness of the device has been established for the purposes under investigation and shall describe relevant hazards, contraindications, adverse effects, interfering substances or devices, and precautions.

WAIVER

Proposed § 812.10 (21 CFR 812.10) elicited comments suggesting that the Commissioner be required to act on a petition for waiver in the same 30-day period in which he is required to act on the application for exemption. One comment argued that the petition for waiver should be incorporated into the application for investigational device exemption thereby requiring the Commissioner to respond within 30 days.

The Commissioner believes that by restructuring the applicability of the proposed regulation in terms of risk, and excluding from the applicability of the proposed regulation many in vitro diagnostic products and custom devices, he has reduced the need for waiver petitions. The Commissioner does not intend to delay action on a petition for waiver. However, he does not believe that in extending this privilege of requesting a waiver, which is not required by statute, he must be governed by the same 30-day response period prescribed for action on an application for an investigational device exemption. Such a time limitation in which to respond to waiver petitions may not be realistic if waiver is requested for many requirements or a major category of testing, because the evaluation of the petition may require extended discussion and review. The Commissioner assures all interested parties that petitions for waiver will be acted upon as soon as practicable, within 30 days in many cases, and that there is no intent to delay action on a petition for a waiver any longer than is necessary to evaluate it.

Another comment was that by fulfilling requirements imposed by other government agencies under a grant or contract, the petitioner should receive an automatic waiver of investigational device requirements.

The Commissioner believes that although fulfillment of requirements imposed by another agency would certainly be a major factor in determining whether to grant a petition for waiver of certain requirements, FDA's decision depends on whether the requirements imposed by the other agency sufficiently protect the public health and safety to permit the granting of the petition for waiver. The Commissioner notes that it is not the practice to waive compliance for investigational drug requirements even though a study is conducted under a grant from another government agency.

Two additional significant comments were received on proposed § 812.10. One suggested the compilation of a list of exempt products to reduce requests for waiver. The Commissioner believes that it is impossible at this time to exempt products in advance from the requirements of the proposed regulation because a product, regardless of the degree of risk associated with it in its approved use, may when used in an investigational study generate far higher degrees of risk. Additionally, the differences between individual products within a class are so great that the compilation of a list of exempt products is not feasible at this time.

A final comment suggested that any final regulation should make clear that confidential information contained in a petition for waiver would be protected from public disclosure.

The Commissioner responds that information contained in a petition for waiver is subject to the same protection as any information contained in an application for exemption as prescribed by proposed § 812.21 (21 CFR 812.21) and is disclosable to the public upon request according to the same rules that define when information contained in an application for exemption can be disclosed, i.e., proposed § 812.38.

INFORMATION PREVIOUSLY SUBMITTED

Proposed § 812.12 (21 CFR 812.12) provides that previously submitted data may be incorporated by reference in any subsequent submission. Proposed § 812.12 received no significant comment and remains unchanged.

REQUIREMENTS APPLICABLE TO EXPORTERS OF DEVICES

Proposed § 812.19 (21 CFR 812.19) received a number of negative comments. However, one comment supported FDA's position in attempting to protect other countries from the export of devices that would not be subject to adequate controls in the country of import since such a position is necessary to further the foreign policy interests of the United States.

Comments argued that the policy enunciated in proposed § 812.19 was unwise, unlawful, and unconstitutional. One comment argued that the provision requiring the exporter to obtain the foreign government's approval is probably unconstitutional because no clause in the Constitution supports a Federal police power protecting a foreign citizen. Additionally, the United States has no power or authority to "legislate for the health of the world." Other comments noted that proposed § 812.19(b)(2) (i) and (ii) afford protection to foreign citizens beyond that intended by the legislation. These comments suggested that exporters should have to comply only with the law of the foreign government receiving the exported product. Other comments stated that the export requirements should be satisfied where there is an approved application if the country to which the device is exported is willing to accept the device. Submission by the manufacturer of proof from the importing country of willingness to permit import of the device should satisfy FDA where there exists an approved investigational device exemption.

The Commissioner received several comments suggesting that many countries lack agencies or officials charged with regulating investigational devices. The fear was expressed that it would be impossible to comply with the requirements of this section when there is no available foreign official to certify approval of the device. Further, even where such a foreign official exists, there may be no administrative apparatus within the foreign country for controlling the device after import. Several comments argued that because such situation may be anticipated to exist, FDA must be satisfied with a notification from the sponsor-exporter of an intent to ship; in which case, after a stated time elapsed during which neither an approval nor denial was received from the foreign government, the exporter would be free to ship upon verifying the notification and certifying to FDA that the device complies with the law of the foreign country to which export is proposed. Other comments suggested that any limitations on exports should be confined to the health and safety of the United States.

The Commissioner believes that proposed § 812.19 closely parallels section 801(d) of the act (21 U.S.C. 381(d)) as amended and accurately reflects Congressional intent. The Commissioner believes that section 801(d) of the act is a constitutional exercise of Congress' plenary power to regulate imports and exports, by prescribing the conditions under which products manufactured in the United States may be exported. Any impact that section 801(d) and the proposed regulations would have on the conduct of foreign nationals is incidental to these legitimate product export controls. The Commissioner points out that export controls apply not only to investigational devices but also to investigational new drugs. Furthermore, the application of export controls to exported investigational devices serves U.S. interests by making it less attractive for firms to try to avoid the requirements of section 520(g) of the act (21 U.S.C. 352(g)) by conducting studies of investigational devices in foreign countries lacking similar requirements; reducing the unfair advantage that would accrue to such firms; and helping to ensure that data offered to FDA in support of device premarket approval applications were developed under conditions in which human subjects were protected and that ensure the collection of valid scientific data.

The Commissioner has concluded that Congress intended for FDA to consider the effects of exportation of an investigational device on the public health and safety of the receiving country, when he makes the determination required by section 801(d)(2) of the act (21 U.S.C. 381(d)(2)), "• • • that the exportation of the device is not contrary to public health and safety and has the approval of the country to which it is intended for export." He believes that it is constitutional for Congress to require FDA to consider effects of American exports on receiving countries, as a constitutional exercise of Congress' authority to control exports. In addition, the requirement is similar to the general duty of nations under international law to refrain from causing avoidable harm to other nations. For these reasons, in administering § 812.19, the Commissioner may in some cases decide that the mere existence of an investigational device exemption for domestic studies is not sufficient by itself to warrant the export of the device unless the Commissioner is assured that there is satisfactory provision within the importing country to control the device after import. In some instances, previously exported products are later imported into the United States.

The Commissioner has revised proposed § 812.19 to parallel the statute more closely. The statute requires that before export of an unapproved device that is currently subject to a performance standard, premarket approval requirement, investigational device exemption, or banned device regulation, FDA must determine that the exportation of the device is not contrary to the public health and safety and has the foreign government's approval.

The Commissioner prefers that the importing country have sufficient regulatory controls and organizational apparatus to ensure that the device is investigated under conditions equivalent to those under which it is being investigated or could be investigated within the United States. Although the revision of proposed § 812.19 does not require the exporter of an investigational device to obtain an investigational device exemption before export in every case, the Commissioner reserves the fight to refuse to permit the export of the device under section 801(d) of the act if he believes that the conditions under which the device will be tested in the importing country are such that the device would not be subject to adequate control

The Commissioner recognizes that in dealing with foreign governments, unique and unusual situations may occur, e.g., it may be difficult to determine which foreign government agency should approve importation of the device. Rather than rewrite the requirements of this regulation in terms of the unusual, the Commissioner prefers to deal with unusual situations as they are presented, on a case by case basis. If an exporter discovers that there is no foreign official who can grant clearance to the proposed import of the device, the manufacturer, or exporter, or sponsor should request a waiver. The Commissioner will respond to such situations as he deems appropriate after investigating the facts and, where necessary, in consultation with the Department of State or other Federal agencies.

The Commissioner rejects the suggested procedure for an exporter to be able to export the device after a given period of time had elapsed and to certify that he was in compliance with foreign law. The Commissioner does not believe that such a procedure complies with section 801(d) of the act.

NOTIFICATION AND APPLICATION

The Commissioner received numerous comments relating to the application form, many requesting a simplified notification procedure.

NOTIFICATION

The Commissioner agrees with comments that a simplified notification procedure is appropriate for many studies. Accordingly, proposed § 812.20 (21 CFR 812.20) has been revised to provide for an abbreviated application, called a notification, where a vital investigational device is to be used in a low risk investigational study or when a nonvital investigational device is to be used in an investigational study. The notification consists of the name and address of the sponsor, the signature of the sponsor or the sponsor's authorized representative, the name and description of the device, a summary of the investigational plan, the location(s) of the study, the sponsor's agreement to comply with FDA regulations and monitoring procedures, the institutional review committee's approval of the study and agreement to comply with FDA regulations on institutional review committees (future Part 56), a summary of the investigational study, the institutional review committee's assessment of whether the device is vital or nonvital and the risk presented by the study, and the name of the investigators and each investigator's agreement to comply with FDA regulations regarding the obligations of clinical investigators (including Subpart F and future Part 54).

The Commissioner emphasizes that the institutional review committee must specifically assess the risk to which the study exposes human subjects; and that the committee's approval, its determination whether a device is vital and its risk assessment, signed by the chairman, must be contained in, or attached to, the notification. Only if the committee assesses the risk presented by a vital investigational device to be low will the notification be accepted by FDA. The Commissioner cautions that the determination as to whether a device is vital and as to risk assessment by both the sponsor and the committee are subject to review and reversal by FDA. In the event that FDA determines that an application is needed and not a notification, the sponsor will be notified to postpone or suspend the study and submit an application containing the information required by § 812.21 (21 CFR 812.21).

Proposed § 812.20(a)(2) provides that three completed copies of the notification, together with all accompanying materials, should be sent by registered

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mail or hand delivered to the Bureau of Medical Devices, Document Control Center (HFK-20), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910. The outside wrapper must be appropriately labeled "Notification of Intent to Commence Testing an Investigational Device."

A sponsor who wishes to do so may always submit an application under proposed § 812.21, even though the study may qualify for the submission of a notification.

The Commissioner believes that this provision will simplify procedures for obtaining an exemption and that it is justified by the low risk associated with the studies eligible for the proposed notification procedure.

Additionally, the procedure for filing an application or notification was revised to permit hand delivery.

APPLICATIONS FOR EXEMPTION

Formerly proposed § 812.20, dealing with the contents of an application for an investigational device exemption, is renumbered § 812.21. Proposed § 812.21(b)(1), as revised, permits a description of the important components of the device in lieu of a complete statement of the components of the device. Any anticipated changes in the components of the device must be identified in the application.

All information furnished must be in sufficient detail that a scientist or physician familiar with the general type of device, by not necessarily expert with regard to the specific device, can make a knowledgeable judgment as to the anticipated safety or effectiveness of the device in the study. This change complements the change from "complete" to "important components"; the information provided must be sufficient so that a qualified person need not be an expert with respect to the specific device to make a knowledgeable judgment regarding the safety and effectiveness of the device in the proposed study.

Similarly, proposed § 812.21(b)(3) is modified to delete the requirement of including a complete statement of methods, facilities, and controls used in the manufacture, processing, packaging, and storage of the device. The Commissioner is requiring instead a description of those methods, facilities, and controls used for the manufacture, processing, packaging, and storage in enough detail that a person informed in that general area can make a knowledgeable judgment about the anticipated safety and effectiveness of the device in the proposed study.

The requirement in formerly proposed § 812.21(b)(4) that the sponsor list those sections of the act from which exemption is sought has been deleted because it is unlikely that a sponsor will seek less than a complete exemption from all statutory requirements for which an exemption can be requested.

Proposed § 812.21(b)(4) directs the sponsor to state the location of every institutional review committee that will monitor any portion of the study and state each such committee has received a copy of the investigational plan and report or prior investigations, together with all other materials required by the committee (such as separate protocols not described in the plan). Generally, the investigator rather than the sponsor would provide this and other information to the institutional review committee and otherwise deal with the committee; the investigator would inform the sponsor of his or her actions and those of the committee.

A copy of the plan, report, and other information required by any institutional review committee must also be submitted to FDA. The Commissioner has determined that it is necessary for the protection of the public health and safety for the Commissioner to have a copy of the full investigational plan to decide whether testing should commence, even where there has been review by an institutional review committee. The Commissioner points out that a summary of the plan is, however, adequate in a notification under proposed § 812.20 (unless the Commissioner requests a copy of the full plan after receiving a notification that contains only a summary).

The Commissioner cautions that although FDA will consider an application which requests waiver of the institutional review requirement of proposed § 812.42, the application will be evaluated on a basis different from that used when an institutional review committee has approved and will review the study. The Commissioner may disapprove an otherwise adequate application if the absence of a committee to monitor the study may expose subjects to undue risks.

Proposed § 812.21(b)(5) as revised requires only the committee chairman, rather than each member of the committee, to sign a statement that the committee has reviewed and approved the plan and report of prior investigations. The Commissioner agrees with the comments that the requirement for all members of the committee to sign, taken together with the quorum requirements, could have effectively given a minority member a veto over the project.

An objection was made to the use of the term "supervise" when referring to committee functions with respect to its review of the study. The Commissioner agrees that it is more appropriate for the committee to protect human subjects by reviewing reports of unexpected adverse effects, by periodic monitoring, and by determining whether the study should be continued rather than by supervising the study.

Proposed § 812.21(b)(6) was revised in response to a comment that the sponsor should submit all forms and informational material to be given to human subjects, including all forms to be used to obtain informed consent as required by Subpart F. Copies may be appended to the investigational plan.

One comment proposed that language be added stipulating that the sole purpose of requiring submission of all informed consent forms to be used in the study is to assure compliance with the informed consent requirements in proposed §§ 812.120 and 812.130 (21 CFR 812.120 and 812.130). The comment argued that no single type of informed consent should be mandatory and that each investigator should be responsible for obtaining the consent form best suited to the investigator's needs which complies with the regulation. The comment explained that the purpose of the suggested change is to clarify that no responsibility is assumed by FDA or the sponsor for professional liability where informed consent forms must be changed to comply with the regulations.

The Commissioner is not adopting this suggestion. the original proposal did not contain inflexible provisions as to the type of informed consent required, and none are required in this revision. The Commissioner expresses no opinion on the professional liability of sponsors or investigators where changes must be made in consent forms to meet FDA requirements.

Proposed § 812.21(b)(7) requires the sponsor to submit a copy of the investigator's curriculum vitae together with the investigator's agreement (as required) to comply with regulations regarding obligations of investigators. Copies of agreements signed by each investigator participating in the study shall be submitted.

Proposed § 812.21(b)(8) provides that the sponsor must submit (1) a copy of all informational material, including labels, to be supplied to investigators under § 812.47(a); (2) a description of the scientific training and experience the sponsor considers appropriate to qualify an individual as suitable to investigate the device; (3) the sponsor's written precedures for monitoring the investigational study in compliance with 21 CFR Part 52 (the proposed regulations on obligations of sponsors and monitors of clinical investigations, published in the FEDERAL REGISTER of September 27, 1977); and (4) the name and a summary of the training and experience of the individual who is to monitor the study for the sponsor.

Proposed § 812.21(b)(9) provides that the sponsor shall state, to the best of the sponsor's knowledge, whether an

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institutional review committee has ever disapproved or terminated any investigational study of the device and the reasons for such action.

A comment objected that this provision is irrelevant to determining whether the present application should be approved. The Commissioner believes that such information is relevant and, if not stated in the application, might give rise to further questions at a later stage in the proceeding. Should the study be suspended or terminated after it has begun because of questions relating to a previous institutional review committee disapproval, a sponsor might lose considerable investment and valuable scientific data might be lost. For this reason, the Commissioner believes that full disclosure in the application serves the best interests of all concerned. The Commissioner believes that a prior refusal by an institutional review committee to approve the study would not necessarily prejudice the present application unless the prior disapproval disclosed grounds which would justify disapproving the present study.

Proposed § 812.21(b)(10) requires the sponsor to state that the sponsor will comply with all the requirements applicable to sponsors under this chapter. This agreement includes the specific provisions of Subpart C and proposed Part 52 on the responsibilities of sponsors and monitors in clinical investigations.

Proposed § 812.21(b)(11) required the sponsor to notify FDA if the sponsor intends to charge investigators or subjects for the device.

The Commissioner believes that while it may be appropriate for sponsors in certain instances to charge for the device, the Commissioner is concerned that commercialization of the device not occur under the guise of recouping investment. Therefore, the Commissioner insists that he be notified of an intent to charge. Such notification is not to be construed as FDA approval to begin commercial distribution of the device. The Commissioner at his discretion may request additional information regarding the cost of manufacture and development in deciding whether to approve the application. However, the requirement that the sponsor justify the sponsor's decision to charge for the device has been omitted in response to comments that devices, unlike drugs, may individually be very costly to produce and that the only way a manufacturer can recoup such manufacturer's development cost is to charge for the device.

Proposed § 812.21(b)(12) requires the sponsor to state the sponsor's reasons for any request for a waiver of the requirement of § 812.30(a) that the study not begin before 30 days after FDA has received the application.

Proposed § 812.21(b)(13) permits the Commissioner at his discretion to request an environmental analysis report from the sponsor. Such a report need not be submitted on a routine basis. However, the Commissioner believes that when FDA would be required to prepare an environmental impact statement on approval of an investigational device exemption, the sponsor is in the best position to provide the information needed to prepare this statement. The Commissioner may condition his approval of the application on receipt of an accurate and adequate report. Failure to submit an adequate report, when requested, would be grounds for disapproving the application. Of course, as with other requests for information, the sponsor may refuse to provide the information and treat the request as a disapproval for purposes of requesting a regulatory hearing under Part 16 as discussed below.

Proposed § 812.21(b)(14) requires the sponsor to submit any other information relevant to the review of the application which FDA may require to be submitted. The type of information required may be obtained by making specific requests to sponsors either orally, by telephone, or in writing.

The Commissioner received comments that FDA could effectively prevent a sponsor from obtaining a hearing to review FDA administrative action simply by making repeated requests for information without ever approving or disapproving the application. The Commissioner agrees that the sponsor is entitled to request a hearing with respect to an application if FDA requests additional information.

Accordingly, proposed § 812.21(c) permits the sponsor to refuse to provide any information requested under proposed § 812.21(b)(14) and treat the application as disapproved for purposes of requesting a regulatory hearing under proposed § 812.30 to review the Commissioner's determination.

However, proposed § 812.21(c), as revised, also provides that if the Commissioner's request for information does not receive a response within the time stated in the request, the Commissioner will treat the application as withdrawn, and so notify the sponsor, to foreclose the possibility of a sponsor simply not responding to requests for information and arguing that such sponsor is still in technical compliance with the regulation because such sponsor's application is pending.

Other comments objected that the information that may be requested was not restricted to relevant information. The Commissioner agrees that only information related to the review of the application will be required to be submitted.

INVESTIGATIONAL PLAN

Proposed § 812.25 (21 CFR 812.25) states the requirements for an investigational plan.

Proposed § 812.25(a)(2) has been revised to delete the requirement that FDA be notified of all changes to be made in the plan, in response to comments that only foreseeable changes should be reported. Only anticipated or foreseeable changes need be cited in the investigational plan.

Proposed § 812.25(a)(11) requires the description of all important components of the device in the investigational plan. The Commissioner believes it would be illogical not to require a description of all important components of the device in the investigational plan while requiring them to be described in the application submitted to FDA, which the institutional review committee might not see.

Proposed § 812.25(d) has been added to prescribe the requirements or the contents of a summary of an investigational plan. Such requirements were not included in the original proposal. A summary of a plan would be required to include an adequate and accurate summary of each element of a plan under § 812.25(a).

REPORT OF PRIOR INVESTIGATIONS

Proposed § 812.27 (21 CFR 812.27) sets forth the requirements for reports of prior investigations and experience with the device that must be submitted.

Proposed § 812.27(b)(1) has been revised in response to comments that the report of prior investigations should not include complete information about preclinical investigations because the requirement may be difficult or impossible to meet if the device has a long market history. The Commissioner has revised proposed § 812.27(b)(1) so that the sponsor need only provide a bibliography of publications relevant to the study, which could be fewer in number than those relevant to the particular device, and provide copies of significant publications, both adverse and supporting. By eliminating the requirement that the bibliography submitted be complete, and by requiring instead that the publications be relevant to the clinical study, the Commissioner avoids imposing a burden of exhaustive and unnecessary research. The requirement will be satisfied if the bibliography is relevant to the investigational study proposed, thereby excluding studies not bearing on the specific test to which the device is to be subjected. Insofar as possible, all relevant material submitted should be complete.

Section 812.27(b)(2) now requires that unpublished information both adverse and supporting shall be provided (if available to the sponsor) in sufficient detail so that a scientist or physician not necessarily an expert with respect to a specific device could make a knowledgeable judgment regarding its anticipated safety and effectiveness in the proposed study.

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Proposed § 812.27(c) provides that prior investigations of a device shall not be considered adequate to justify clinical trials with human subjects unless the conditions of the prior investigations are comparable to the conditions of the proposed study.

Several comments indicated that it is unnecessary for FDA to know in every instance the place where the prior studies were conducted. The Commissioner agrees and proposed § 812.27(d)(2) limits the requirement to provide details on prior tests to information that is sufficiently detailed to permit scientific evaluation. Where scientific evaluation would necessitate identifying the qualifications of the person performing the test or including other precise information, such information must be submitted. Proposed § 812.27(d) also provides that, except where tests on laboratory animals would be unnecessary, e.g., where there have been adequate in vitro tests or clinical experience, prior investigations will be considered adequate only if there have been tests in animals and these tests show it is reasonably safe to begin clinical trials with humans.

Proposed § 812.27(e) provides that a summary of the same type of information concerning components or ingredients of a device (e.g., a bibliography and copies of other unpublished relevant information) must be provided as is required in proposed § 812.27(b) (1) and (2) when the components or ingredients may have a significant effect on the safety or effectiveness of the device and information concerning such components or ingredients is needed to justify investigational use of the device on human subjects.

FDA REVIEW OF AND ACTION ON AN APPLICATION

Section 812.30 (21 CFR 812.30) describes the procedure for FDA's review of applications for exemptions and prescribes criteria for acting on such applications.

Proposed § 812.30(b) was modified to permit the Commissioner, when rejecting a resubmitted application, to suggest that it be further revised and resubmitted, while authorizing the sponsor to treat the Commissioner's suggestion as a final disapproval for purposes of requesting a regulatory hearing for conformity with proposed § 812.21(c).

In response to comments, the criteria for disapproving applications in § 812.30(c) have been changed to give the Commissioner discretion to decide whether to disapprove an application (or notification), where grounds for disapproval exist. Thus, the words "shall disapprove" have been replaced by the words "may by order disapprove."

Proposed § 812.30(e) of the August 20th proposal contained criteria for assessing risks when disapproving an application. These criteria still apply but have been moved to proposed § 812.35(a)(11) (21 CFR 812.35(a)(11). To comply with section 520(h) of the act (21 U.S.C. 360j(h)), the Commissioner has added new § § 812.30(f) and 812.35(e) requiring FDA to make publicly available a detailed summary of information on which FDA bases a decision to approve an exemption from a banned device regulation, to disapprove an application, or to withdraw an exemption.

GROUNDS FOR WITHDRAWAL OF AN EXEMPTION

Proposed § 812.35 enumerates the grounds for withdrawal of an exemption.

The grounds are similar to the grounds contained in proposed § 812.35 (a) and (b) of the August 20th proposal.

Comments said that the provisions seem to show suspicion of the good faith of sponsors in the absence of any evidence that sponsors will not follow the rules. Accordingly, proposed § 812.35 deletes the provisions of formerly proposed § 812.20(b)(6) that the application might be disapproved merely because there is reason to believe the investigation would not be conducted in accordance with the investigational plan. However, in the event that evidence exists of actual failure to comply with the plan, grounds would exist as provided in § 812.35(a)(6) for withdrawing an exemption previously granted.

Proposed § 812.35(c) as revised provides that the Commissioner may, in his discretion, continue in effect an exemption for which there are grounds for withdrawal if the facts do not lead the Commissioner to conclude that the risks outweigh the benefits to subjects. Withdrawal will not occur mechanically. Failures to conform may be cured in some instances by submitting additional information or correcting procedures used in the study.

Proposed § 812.35(a)(11) provides that the Commissioner may withdraw an exemption if the Commissioner determines that the proposed investigational study subjects human subjects to undue risks.

Proposed § 812.35(a)(11) also provides that in assessing risks the Commissioner shall consider certain specified criteria. Formerly proposed § 812.30(e)(3) evoked comments objecting to the language "legally effective informed consent" as redundant since a consent that is not informed cannot be legally effective while a legally effective consent must be informed. The Commissioner believes that FDA should adopt the language of 45 CFR 46.103 (DHEW Guidelines, Protection of Human Subjects) since to delete this language might signal that the requirement differs in substance, which is not the case. This language was included in the DHEW Guidelines to make clear that the consent must comply with State laws to be "legally effective."

Proposed § 812.35(d) provides for reinstatement of the exemption if the sponsor satisfies the Commissioner that grounds for withdrawal no longer apply. Emphasis should be placed on the fact that the burden is on the sponsor to convince the Commissioner that the grounds for withdrawal no longer apply.

WITHDRAWAL OF AN INVESTIGATIONAL DEVICE EXEMPTION

The Commissioner received several comments suggesting a prehearing conference procedure prior to withdrawal of the exemption. The Commissioner believes that such a procedure is cumbersome and unduly restricts his power to take swift action to protect the public health. Experience with prehearing conferences relating to withdrawing IND's proved that the prehearing conference took on all the trappings of the hearing itself. The resulting delay from provision for a conference would not be in the public interest, particularly as the sponsor does have an opportunity for a hearing. However, in appropriate cases, informal meetings may be held in accordance with 21 CFR 10.65

One comment received on proposed § 812.35 suggested that, once the time period for evaluation of the application had elapsed, FDA could no longer reevaluate the data and withdraw the exemption. The same comment also suggested that approval of the report of prior investigations, once approved for purposes of this part, should be valid for support of any subsequent premarket approval application.

The Commissioner does not agree with this comment. The public health could be jeopardized if the sponsor had submitted false or misleading data in such sponsor's original application and if FDA, because it had failed to perceive the misstatement in its review of the application, was bound forever to its original determination and powerless to correct the mistake. All data submitted to FDA are subject to continual evaluation for the protection of the public health. The Commissioner would be remiss in his duty were he to allow himself to be bound by a prior mistake. A sponsor can be protected by ensuring that all data submitted to FDA are accurate.

For similar reasons, the Commissioner will not guarantee to sponsors that the report of prior investigations of a device submitted under part 812 will satisfy requirements for such a report in a premarket approval application. The Commissioner advises that the Commissioner is not now in a position

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to know whether the reports sponsors submit under part 812 will be of adequate quality to satisfy requirements for such reports in premarket approval applications.

CONFIDENTIALITY

Proposed § 812.38 (21 CFR 812.38) prescribes the rules governing confidentiality of information contained in a notification or application for an investigational device exemption and is comparable to § 312.5 of the IND regulations.

The Commissioner has already published for comment a proposed regulation concerning FDA policy on disclosure of the existence of investigational device exemptions. This proposal was published in the FEDERAL REGISTER of March 28, 1977 (43 FR 12869), correction published in the FEDERAL REGISTER of March 31 (43 FR 13587). Under the proposal, FDA would disclose the existence of an application or notice submitted to FDA seeking permission to conduct research on, or to market, a drug or device, whether or not the application or notice had previously been publicly disclosed or acknowledged. This proposal would reverse present FDA policy. Paragraph (a) of proposed § 812.38 has been published for comment as part of the March 28, 1977, proposal as corrected and, accordingly, is not published in this tentative final regulation. Comments on the issue of disclosure of the existence of investigation device exemption should be sent by May 30, 1978, to the docket on the March 28, 1977, proposal (Docket No. 77-0248) rather than to the docket of this tentative final regulation.

The section was also changed from the original proposal to clarify that an individual is only entitled to an adverse reaction report relating to use of a device on that individual. Useful guidance concerning the interpretation of this section may be found in the preamble to the final regulations promulgating § 312.5 (21 CFR 312.5), published in the FEDERAL REGISTER of December 24, 1974 (39 FR 44602) and January 14, 1977 (42 FR 3094).

The Commissioner received a comment relating to confidentiality, urging that FDA only disclose adverse reactions to investigators directly involved, arguing that such investigators have the training and experience to make proper evaluations of such reports while patients would not be able to interpret such reports correctly and could be unnecessarily concerned about information that is not understood. The comment argued that present conditions which focus on professional liability require that confidentiality be assured to prevent misuse of documentation in a manner unfairly adverse to the investigation, the investigator, the device, and the sponsor.

The Commissioner disagrees with this comment. It is not the duty of FDA to protect sponsors or investigators from lawsuits by subjects. It is reasonable to provide subjects access to data concerning their own adverse reactions. Such disclosure enhances the automomy of the subject and provides the subject with information that permits such subject to take whatever action he or she believes is necessary in his or her own best interest. Moreover, such disclosure is required by the Freedom of Information Act and is consistent with the objectives of the Privacy Act.

Comments asked whether adverse reaction reports required under this regulation will be subject to release to the public under the Freedom of Information Act. The Commissioner advises that prior to approval of a device under section 515 of the act (21 U.S.C. 360e), reports of adverse reactions occurring during any investigational device exemption study are not available to the public except as provided in proposed § 812.38(c). Under proposed § 812.38(c), a subject is entitled to a report concerning his or her own adverse reaction regardless of whether the existence of the IDE has been publicly disclosed or acknowledged. The Commissioner further advises that adverse reaction reports concerning devices approved under section 515 of the act will be released consistent with the provisions of § 314.14(d)(4).

SUPPLEMENTAL APPLICATIONS

Proposed § 812.39 (21 CFR 812.39) describes the situations in which a supplemental application is required to update a notification submitted under proposed § 812.20 or an application submitted under proposed § 812.21 Generally speaking, proposed § 812.39 has not been significantly changed.

In response to comments, the Commissioner has revised proposed § 812.39(b) to provide that when a hazardous situation exists which necessitates the use of an investigational device, prior notification to FDA before using the device is not required.

COMMENTS RELATING TO SUBPART B WHICH REFLECT DIFFERING CONCEPTIONS OF THE ROLE OF INSTITUTIONAL REVIEW COMMITTEES

Many comments on subpart B imply a different conception of the role of the institutional review committee than that held by the Commissioner. Several comments proposed that whenever an institutional review committee participates in the review of a study, it should be unnecessary to submit the curriculum vitae of the investigator to FDA. Similarly, a comment suggested the labeling should not be submitted to FDA but rather to the institutional review committee. Another suggested that no medically trained monitor was necessary in light of monitoring by the institutional review committee. Yet another suggested that the reverse of the formerly proposed scheme found in § 812.21(b) be adopted so that only a summary of prior studies should be submitted to the institutional review committee, the full report being submitted to FDA. Comments reflecting still another view of the role of the institutional review committee argued that the committee need not indicate at the time the application is submitted whether it would review and approve the study. Other comments stated that it is unnecessary to delay approving the investigational device exemption until the committee approves it; rather the procedure should be the same as that used with the IND, which permits simultaneous submissions to the committee and FDA. Delay, it was objected, serves no useful purpose.

Other comments stated the institutional review committee alone should pass on the sufficiency of the informed consent form and that FDA should not require submission of the informed consent form with the application.

The Commissioner disagrees with these comments because the Commissioner believes they confuse the role that the act assigns the institutional review committee. The institutional review committee is intended by Congress (see section 520(g)(3)(A) of the act) to be an integral part of the review process and is intended to review both the plan and report of prior investigations before the submission of this information to FDA. But the Commissioner does not believe that the institutional review committee can lawfully or practically substitute for the regulatory functions of FDA. The Commissioner must have the opportunity to pass on the qualifications of investigators, the adequacy of the informed consent forms used, and the labeling of the device. Furthermore, as discussed in more detail below, the Commissioner believes that the institutional review committee is not a substitute for the sponsor's monitor in controlling the quality of the entire study, although the Commissioner points out that no such monitor would be required where the sponsor is a sponsor-investigator.

SPONSOR RESPONSIBILITIES

Proposed subpart C states requirements applicable to sponsors of investigational studies. It supplements the agency-wide proposed regulations on obligations of sponsors and monitors of clinical investigations under part 52 (21 CFR part 52) published in the FEDERAL REGISTER of September 27, 1977 (42 FR 49611) and on good laboratory practices under part 58 (21 CFR part 58) published as proposed part 3e in the FEDERAL REGISTER of November 19, 1976 (41 FR 51206).

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Certain responsibilities of sponsors that were the subject of subpart C of the original investigational device proposal of August 20, 1976, have either been addressed in subpart B of this tentative final regulation or by proposed part 52. Other provisions of the original investigational device proposal will be replaced by future proposed FDA regulations on the obligations of clinical investigators and on standards for institutional review boards. This cross-reference chart explains these changes in proposed subpart C:

Provision	Aug. 20, 1976, proposal (sections)	Current (sections)
General	812.40	812.40
Review of an investigational study by FDA and institutional review committee.	812.42(a)-(b)	812.20, 812.21 812.42(a) 52.25
	812.60(a)	812.42(b)
	812.42(c)	812.20, 812.21 812.39 812.55 52.29(b)(ii)[1]
Selection of investigators	812.43(a)	812.43(a)
	812.43(b)	812.43(b)
Control over the investigational device	812.45(a)	812.45 52.29(b)(ii)
	812.45(b)	52.114
	812.45(c)	52.108
	812.45(d)	52.47
Monitoring the investigational study	812.46(a)	812.46(a) 52.28 52.126
	812.46(b)	52.28, 52.29
	812.46(c)	52.29(b)(ii)
	812.46(d)	812.46(b)
	812.46(e)	52.28, 52.29
	812.46(f)	812.46(c)
	812.46(g)	812.46(d)
Submitting information to investigators	812.47(a)	812.47(a)
	812.47(b)	812.46(c)
	812.47(c)	812.47(b)
	812.47(d)	[2]
Promotion and sale of an ivestigational device	812.50(a)	52.118 812.5 812.50(b)
	812.50(b)	52.118 812.50 (a), (b)
	812.50(c)	812.50(c)
Reporting to FDA, maintaining records, and permitting inspection.	812.55(a)	812.55(a)
	812.55(b)	812.55(b) 812.55(c)
	812.55(c)	812.55(d)
	812.55(d)	812.55(e), 812.55(f)
	812.55(e)	812.55(g)
	812.55(f)	52.195
	812.55(g)	812.55(h)
	812.55(h)	812.55(i)
	812.55(i)	812.55(j)

[1] Future FDA investigator and institutional review regulations.
[2] Deleted.

GENERAL

Proposed § 812.40 states that the requirements of this subpart are applicable to sponsors of investigational studies, including sponsor-investigators, except as specifically provided otherwise in FDA regulations, e.g., in proposed § 812.2(e), which exempts sponsor-investigators from certain requirements.

REVIEW OF THE INVESTIGATIONAL STUDY BY FDA AND THE INSTITUTIONAL REVIEW COMMITTEE

Proposed § 812.42(a) (21 CFR 812.42(a)) requires the sponsor to meet applicable requirements for institutional review, submit a notification or application to FDA, and be granted FDA approval, where required, before any human subject is allowed to participate in, or is requested formally to consent to participate in, the investigational study.

Comments questioned the proposal to require the approval of an institutional review committee, when one is to be used, before submission of an application to FDA. The current investigational new drug regulations merely require an assurance that institutional review will be obtained prior to actual commencement of the investigation. The Commissioner believes it is desirable to require institutional review before submission of a notification or an application for an investigational device exemption because such review will enable FDA to rely on committees to screen out studies that would not be performed even if FDA reviewed them favorably, and to provide FDA with better information on the committees being used by sponsors and investigators under investigational device exemptions. The Commissioner will, for the same reasons, propose a similar requirement of prior institutional review for other clinical investigations regulated by FDA, including investigational new drug investigations, in future proposed regulations establishing standards for institutional review boards.

Several comments suggested that it is appropriate to ask potential subjects whether they will be available to participate in the study before undertaking the expense of applying for an investigational device exemption. The Commissioner agrees that it may be permissible for sponsors to make preliminary surveys of potential subjects to determine whether there will be an adequate number of subjects willing to participate in the study. Language that might be interpreted to prohibit such preliminary contacts has been eliminated. The Commissioner cautions, however, that an investigator or sponsor must not request a subject to give informal consent to the study until the study has been approved by the institutional review committee and FDA, where these approvals are required.

The Commissioner received comments that monitoring by the sponsor duplicates the review by the institutional review committee. The comments argued that the monitoring function should be assigned either to the committee or to the sponsor, but not to both. The Commissioner maintains that both sponsors and institutional review committees need to oversee investigational studies, and the Commissioner doubts that duplication of effort really will result since the monitoring responsibilities of the two groups differ. The primary responsibility for monitoring the investigator's conformity to the plan and ensuring the validity of data from the study rests with the sponsor, although these also are concerns of an institutional review committee; the primary responsibility of a committee is to review the study to ensure protection of human subjects. The sponsor's duty is to monitor a study continuously; the committee has only a general responsibility to review a study periodically. The committee, unlike the sponsor, offers a disinterested review of a study. Moreover, the statute requires device studies to be both monitored by sponsors and reviewed by committees.

Several comments from institutional review committees objected to the provision for the sponsor rather than the investigator to submit the investigational plan to the institutional review committee for approval. The Commissioner agrees that it is better for investigators rather than sponsors to submit investigational plans to institutional review committees. However, section 520(g)(3) of the act speaks of the sponsor submitting the plan (and report of prior investigations) to an institutional review committee. To respond to the comments and the agency's own preference that investigators deal with committees, but without departing from congressional intent, the Commissioner has revised proposed § 812.42(a) so that the sponsor's responsibility is now stated as ensuring that institutional review occurs, rather than submitting an application to a committee, which will be primarily the investigator's responsibility under future FDA regulations.

Proposed § 812.42(b) describes the circumstances in which institutional review is required under the investigational device regulations. A counterpart provision, proposed § 812.60(a), in the August 20 proposal would have required an institutional review committee to review and monitor an investigational study in any of three situations: When the investigational study involves institutionalized human subjects; when the study is conducted by an individual affiliated with an institution that assumes responsibility for the investigation, or when the study is conducted in an institution that has a committee meeting FDA standards. (References to § 812.60 in proposed Part 52 on obligations of sponsors and monitors of clinical investigations, published in the FEDERAL REGISTER of September 27, 1977 (42 FR 49611) should now be considered references to propose § 812.42(b).

The Commissioner believes that the purposes and processes of institutional review are now so widely accepted, and its value so generally recognized, that all clinical investigations should undergo such review unless circumstances clearly make it unnecessary, or infeasible, or inimical to the subject's interest. Therefore, he is proposing in § 812.42(b) and future agency-wide regulations to make review by an institutional review committee a general precondition to submission of any clinical investigation that is subject to requirements of the act for prior submission to FDA for review, and in some cases approval, before it can be commenced. He further proposes that FDA generally will not consider any clinical investigation in support of an application for a research or marketing permit (as defined in § 52.3(b) in the September 27, 1977 proposal) unless the investigation was conducted under an institutional review committee. This proposal would not mean that the results of the investigation need not be submitted to FDA. The usual rule that all data and information relevant to a particular article (a proposed or marketed product, for example) must be submitted remains in effect. Even in situations where the scientific validity of an investigational drug study is not in question, FDA may receive data but not use it in support of a decision to approve testing or commercial distribution of a drug because of ethical improprieties in the conduct of the study (21 CFR 312.20).

The Commissioner recognizes that there may be situations in which an institutional review committee requirement may be unneccesary, redundant, or contrary to the interests of a subject. The Commissioner therefore proposes § 812.42(d) to accept an application for waiver of the institutional review committee requirement upon a showing that the requirement is not necessary either for protecting the subjects involved or for ensuring the validity or reliability of the scientific data. The section provides, however, that the requirement will not waived in three situations: (1) When the investigation involves institutionalized subjects; (2) When it is conducted on the premises of, or utilizes personnel or resources of, an institution having an institutional review committee meeting FDA's standards; and (3) When the Commissioner finds that the risks to the subjects in the investigation justify utilizing a committee to review it.

Except in these situations, the Commissioner may, upon petition, waive institutional review for specific ongoing device studies, especially where a study was initiated several years before the proposed requirement becomes effective or if he concludes that institutional review is not required considering the degree of risk posed by the investigational study.

Numerous objections were received to the requirement of § 812.42(c)(2)(iv) of the August 20, 1976 proposal that the sponsor assure that the institutional review committee complies with the requirements of Subpart D (to be superseded by future FDA regulations establishing standards for institutional review boards). The Commissioner agrees that the proposed requirement was impractical and that the sponsor cannot supervise the daily activities of the institutional review committee. However, he does not believe that the sponsor can continue to rely on the institutional review committee's agreement to comply with FDA requirements once he learns that the committee does not meet FDA standards. Accordingly, in proposed § 812.55(f) FDA is requiring a sponsor to report to FDA when the sponsor learns that a committee is not complying with its agreement to review the study or with applicable FDA regulations. Such reports will enable FDA to discover when committees are not meeting their obligations and to decide whether the committee's process of review is adequate for FDA-regulated clinical investigations.

A comment on § 812.42(c)(2)(ix) of the August 20, 1976 proposal objected to the requirement that the sponsor maintain or assure that an investigator maintains the records of all submissions to and actions by the committee. As revised, proposed § 812.55(g) now merely requires the sponsor to maintain copies of all communications he has engaged in with the committee and with any investigator regarding the study.

SELECTION OF INVESTIGATORS

Proposed § 812.43(a) (21 CFR 812.43(a)) requires the sponsor to select qualified investigators.

Proposed § 812.43(b) requires the sponsor to obtain the investigator's signed statement, which includes an agreement to comply with FDA regulations and a description of his or her qualifications.

Two comments were received on proposed § 812.43(b)(1). One was that an investigator of devices should not be required to certify his or her credentials to FDA since an investigator of drugs does not have to meet this requirement. This comment argued that Parts 812 and 312 should be consistent. A second comment argued that the sponsor should obtain assurance statements from investigators, file them, and submit only the sponsor's assurance to FDA that the investigator's statement was on file.

The Commissioner believes that for enforcement reasons it is better for FDA to have copies of the signed undertaking of the investigator. Moreover, this requirement is imposed by section 520(g)(3)(C) of the act. For these reasons, the Commissioner rejects both comments.

Proposed § 812.43(b)(1)(vi) requires that the sponsor describe the specific experience of the investigator with the device to be investigated, including the date, amount and description of the experience, and the name of the institution where the device was investigated. This language is adopted from a useful comment suggesting that such information is relevant in selecting the

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investigator and passing on his qualifications.

Proposed § 812.43(b)(3) as revised clarifies that subordinate investigators who are responsible to the named investigator may participate in the study.

Proposed § 812.43(b)(4) requires the investigator to state whether any study or research that such investigator has been involved in has been discontinued by order of a sponsor, institutional review committee, or FDA. Comments objected that such disclosure may unfairly prejudice the selection of an investigator. The Commissioner disagrees. The selection of a qualified investigator will not be prejudiced by this provision since it functions only to alert those responsible for selecting investigators and approving investigators' qualifications to matters that may require consideration. The Commissioner does not intend that qualified investigators be excluded from studies simply because prior studies have been suspended or terminated for reasons that do not refect on the investigator's qualifications. The Commissioner does not believe a sponsor will refuse to include an investigator simply because a study was terminated for reasons unrelated to investigator qualifications. If this information is not required to be disclosed, the sponsor and FDA may be deprived of information relevant in evaluating the investigator's ability to conduct the proposed investigation. Accordingly, the Commissioner has retained the provision.

The Commissioner received a comment objecting to the provision of proposed § 812.43(b)(5), which requires the naming of other investigators who are to participate under the supervision of the lead investigator, because there might be frequent turnover among a sponsor's house staff that reports to a lead investigator. The Commissioner believes it essential that all investigators participating in the study be identified in records submitted to FDA.

CONTROL OVER THE INVESTIGATIONAL DEVICE; FACILITIES

Proposed § 812.45(a) requires the sponsor to ship the device only to investigators who have signed statements in accordance with § 812.43(b) to abide by FDA regulation. The sponsor must also comply with FDA requirements on control of investigational devices and assuring the adequacy of facilities (proposed Subparts C and F of Part 52), described in the September 27, 1977 proposed regulations on obligations of sponsors and monitors of clinical investigations.

Proposed § 52.108 requires the sponsor to maintain records of all shipments of the device to investigators. Comments on proposed § 812.45(c) of the August 20th proposal objected to this procedure on the grounds that section 520(j) of the act prohibits unnecessary traceability requirements. The comment further argued that there was nothing in the preamble that would justify the recordkeeping requirement.

The Commissioner believes that only by strict accounting for the devices received can the control over investigational devices intended by Congress be ensured. The Commissioner believes that it is, or should be, standard practice for many investigational devices to bear an identification number enabling the shipper to determine where that device was shipped by referring to a record of that number. The Commissioner notes that only one comment objected to this provision. The Commissioner concludes that traceability requirements for investigational devices are necessary to ensure the protection of the public health and are not unreasonable or unduly burdensome.

The Commissioner received comments that the language of § 812.45(d) of the August 20th proposal concerning the adequacy of facilities incorrectly implied that the device must be "safe and effective for testing" when it is the very purpose of the study to determine safety and effectiveness. The Commissioner agrees that this language was inappropriate and has not included it in proposed § 52.47.

Another comment argued that § 812.45(d) of the August 20th proposal effectively imposed a good manufacturing practice (GMP) requirement on investigational devices. Since the statute provides for investigational devices to be exempted from GMP's, the comment suggested that proposed § 812.45(d) be deleted.

The Commissioner believes that the comment reflects a misunderstanding of the act and the regulation. The effect of proposed § 52.47 (which replaces § 812.45(d) of the August 20th proposal) is not to require a sponsor to comply with GMP regulations issued under section 520(f) of the act where such a requirement would be inappropriate. Rather, the proposal that a sponsor assure the adequacy of testing facilities is a requirement that is necessary both for the protection of the public health and safety and for efficient enforcement of the act, under sections 520(g)(2)(B) and 701(a) of the act.

MONITORING THE INVESTIGATIONAL STUDY

Proposed § 812.46(a) requires the sponsor to comply with the requirements of 21 CFR 52.28 and the sponsor's monitor to comply with 21 CFR 52.29. Sections 52.28 and 52.29 were proposed in the September 27, 1977 proposed regulations on obligations of sponsors and monitors.

One comment questioned the use of the term "appropriately trained and qualified" with respect to the individual designated to monitor the study. The comment argued that the sponsor's monitor could be an administrator and need not be scientifically qualified. The Commissioner will consider this comment in developing a final regulation on proposed §§ 52.28 and 52.29.

One comment suggested that although one individual within a company should be held responsible for the investigation, that person should be permitted to use subordinates to assist in monitoring studies. Proposed § 52.28 now provides explicitly for a sponsor to designate more than one monitor.

Proposed § 812.46(b) clarifies the sponsor's responsibility in the event the sponsor discovers that an investigator has not complied with FDA regulations or with his or her agreement to conduct the study in accordance with this regulation. The sponsor is required to secure the investigator's compliance with the requirements of this part or discontinue shipments to such investigator. In addition, the sponsor may suspend or terminate any study that the investigator is performing for the sponsor. In some cases, an investigator may be brought into compliance without discontinuance of shipment or suspension of the study. A sponsor must act quickly to secure investigator compliance. The sponsor cannot permit the investigation to continue without a convincing assurance from the investigator that he or she will comply in the future. The sponsor's responsibility to monitor the study under proposed §§ 52.28, 52.29, and 812.46(b) is not discharged by merely obtaining an agreement to comply from the investigator.

Proposed § 812.46(b), as revised, differs somewhat from the August 20th proposal and is proposed on the Commissioner's initiative rather than in response to comments. No specific action was required of the sponsor by the August 20th proposal. The Commissioner wishes to stress that while a sponsor can, in good faith, rely on an investigator's agreement to comply with regulations, once a sponsor discovers in any manner (either by monitoring or otherwise) that the investigator is no longer in compliance, the sponsor must act to secure compliance or suspend the study.

Proposed § 812.46(c)(1) requires the sponsor to undertake a special investigation whenever the sponsor learns of any serious adverse effect, death of subject, or life-threatening medical problem, that may reasonably be regarded as device-related. Once the sponsor has learned of any of these, the sponsor must relay the information to other investigators participating in the study and to FDA. The report must be made as soon as possible, but in no event later than 10 working days after the sponsor learns of the effect, death, or problem. This section was modified in response to comments arguing that only reactions which are both "device related" and "serious" should have to be reported. With respect to the term "device related," the Commissioner cautions that the term includes any reaction that may reasonably be regarded as caused by or associated with the device. This includes reactions associated with any part of an entire device system, including the packaging.

One comment proposed that special investigations be undertaken in cooperation with appropriate institutional officials and the investigator. The Commissioner expects that while a special investigation may often involve persons in addition to the sponosor, it is proper for FDA to place the primary responsibility on the sponsor to undertake such an investigation.

One comment suggested that an informal conference with the sponsor be held immediately if FDA suspends the study under § 812.46(c)(2). As indicated above, agency experience with prehearing conferences suggests that such conferences often become like formal hearings. The Commissioner believes that provision for a prehearing conference would unnecessarily delay the administrative process and would duplicate provisions for obtaining review of the withdrawal of an investigational device exemption. Accordingly, no provision is made for such an informal conference.

Several comments argued that the study should be suspended only after the sponsor has had the opportunity to assess adverse reactions. The Commissioner agrees that the point at which information is believed to exist which would warrant suspension of the study is initially a matter of the sponsor's judgement, although FDA or an institutional review committee may order suspension after reviewing the data. The Commissioner does not intend that a suspension be imposed automatically or that a suspension necessarily result in termination of a study. Only when the potential risks of continuation outwiegh the potential benefits should the study be terminated.

Each study must be assessed on its own merits. The Commissioner received a comment that the failure of a life-sustaining device in a study involving several subjects would not warrant the removal of that device from other subjects if removal would cause or threaten to cause the death of the ramaining subjects. The Commissioner agrees but believes it appropriate to provide that, after suspension, only those subjects whose medical needs require the continued use of the device may continue to receive the device. Also, no new subjects may be brought into the study.

The Commissioner believes that the 5 working days, or less, is not too short a period to suspend an investigation once sufficient information has been discovered to warrant suspension. The Commissioner did not intend to require that a study be suspended within 5 days on the basis of isolated adverse reports. The Commissioner does require the sponsor to investigate and correlate adverse information to determine whether it warrants suspension of the study. The Commissioner emphasizes that FDA may reverse the sponsor's decision not to suspend a study in appropriate cases.

Proposed § 812.46(d) prohibits sponsors from unduly prolonging a study. This paragraph was revised to respond to comments that FDA should not force a sponsor to submit a premarket approval application if the sponsor does not wish to do so. As revised, proposed § 812.46(d) provides that once data are developed which would support submission of an application for premarket approval, the sponsor must either submit such an application or discontinue the study. The sponsor is no longer required to give a statement of the sponsor's reasons for discontinuing the study without submitting an application for premarket approval to FDA.

One comment advocated that the sponsor be allowed to continue to provide the investigator with the device between the completion of the clinical trials and formal commercial marketing (e.g., while the premarket approval application is undergoing review).

The Commissioner advises that this practice will be permissible as long as the investigational device exemption is active while the premarket approval application is pending and the investigator remains a qualified investigator who complies with FDA regulations.

SUBMITTING INFORMATION TO INVESTIGATORS

Proposed § 812.47 requires the sponsor to provide all investigators with copies of the investigational plan, the report of prior investigations of the device, and labeling (including labels) for the device which shall meet the requirements of proposed § 812.5(b). Proposed § 812.47 does not apply to a sponsor-investigator who is the only investigator.

Proposed § 812.47(b) requires the sponsor to notify the investigator of the completion or discontinuance of the study or of the withdrawal of an exemption.

Proposed § 812.47(c) requires the sponsor to notify the investigator if a premarket approval application for the investigational device is granted.

One comment argued that there is no statutory basis for requiring the sponsor to notify the investigator if an application for premarket approval has been approved. The Commissioner believes it important for investigators to understand the regulatory status of products they use. Thus, the requirement is authorized under sections 520(g) and 701(a) of the act.

PROMOTION AND SALE OF AN INVESTIGATIONAL DEVICE

Proposed § 812.50(a) requires a sponsor to comply with 21 CFR 52.118. Proposed § 52.118, a section of the proposed regulations on obligations of sponsors and monitors, prohibits a sponsor from representing that an unmarketed investigational device is safe and effective for the purpose for which it is under investigation and from otherwise commercializing the device.

The Commissioner received several comments urging that the regulation not apply these requirements to devices for which the act provides a transitional period. The Commissioner has partially responded to these comments by not applying this requirement to lawful commercial shipments of devices during the transitional period under section 501(f)(2)(B) of the act. The requirement does, however, apply to all shipments for investigational use of devices, including devices previously regulated as new drugs that are subject to section 520(1) of the act.

Several comments defended the practice of making claims for safety when only the effectiveness of the device is being investigated. Such an investigation could occur where the device has a proven market history and is being investigated for a new use. Similarly, a device might be known to be effective but its safety might require further investigation.

The Commissioner believes that the concern expressed in the comments is partly addressed in proposed § 52.118. The Commissioner cautions that a maufacturer cannot make (1) claims of effectiveness for the purposes for which a device is under investigation if the device is being tested for effectiveness for those purposes, or (2) claims for safety for certain purposes if the device is being tested for safety for those purposes; or (3) claims for both safety and effectiveness for certain purposes if both safety and effectiveness for those purposes are under investigation.

Several comments were received on proposed § 812.50(b)(1) of the August 20, 1976 proposal which prohibited commercial distribution and test marketing of an investigational device or other commercialization until it has been approved for marketing for the purpose for which it is under investigation. (This restriction does not apply to lawful commercial shipments of Class III devices in commercial dis-

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tribution on or before May 28, 1976, or devices substantially equivalent to such devices, or to class I or II devices; the Commissioner has clarified that this restriction does apply to investigational devices in class III under section 520(1) of the act that were previously regarded as new drugs.)

One comment objected to a supposed restriction on test marketing of widely used consumer items since product testing to determine consumer attitudes is an important decision element in the company's operations plan. Once safety and effectiveness are proven, the comment argued, the company should be able to premarket test the device prior to incurring the cost of obtaining premarket approval of the device. The comment conceded that test marketing is not a substitute for adequate clinical testing and should not be a subterfuge to permit the commercial distribution of a product while the product is still undergoing testing or premarket approval. The comment urged that there be an opportunity for premarket testing before complying with sections 510(k) or 513(f) of the act.

In proposed § 812.2(b)(2) (21 CFR 812.2(b)(2)), the Commissioner has exempted from Part 812 test marketing of a device conducted solely to investigate consumer preference. Other test marketing can be accomplished under an investigational device exemption. The waiver provisions in § 812.10 provide a mechanism to avoid application of inappropriate requirements.

Proposed § 812.50(c) prohibits the sponsor from charging for use of the device if FDA finds the price to be unreasonable. This provision received several comments.

The Commissioner notes that traditionally FDA has rarely allowed a charge for an investigational new drug. The Commissioner concedes that the investment cost of developing a device may often be far greater than the cost of developing a new drug, and that the actual cost recovered by the manufacturer may be a factor in proceeding with development of the device. Thus, the Commissioner believes that it may be reasonable for a sponsor to recoup such sponsor's development cost, particularly for a high cost device, even while the device is being investigated.

However, because an effective means is needed to prevent commercialization of a device under the guise of recovering development costs, the Commissioner believes it necessary to retain a provision for FDA to find unreasonable the cost on an investigational device in particular cases. Evidence of profitmaking by means of charges for relatively inexpensive items may suggest that the device is actually being marketed prior to completion of the investigation in violation of the act and these regulations.

The Commissioner does not intend to substitute the Commissioner's judgment for that of the sponsor or manufacturer of the device as to the need to recoup development costs. The Commissioner will, however, determine whether the charge exceeds that necessary for appropriate recoupment. If the Commissioner finds that commercialization of the device is the actual objective of the charge, the Commissioner will notify the sponsor of this finding and that the application for an investigational device exemption is disapproved (or the exemption withdrawn) unless the sponsor agrees not to charge or to reduce the charge (and, where appropriate, to refund the charge). A sponsor who does not wish to eliminate or reduce the proposal to charge for the device may inform the agency of his interest in a regulatory hearing under the procedures in § 812.30(d) for disapproval of an application or, where appropriate, in § 812.35(b) for withdrawal of an investigational device exemption.

REPORTING TO FDA, MONITORING RECORDS, AND PERMITTING INSPECTION

Proposed § 812.55(a) requires the sponsor to maintain records on which to base reports to FDA. Reports are required to be made at appropriate intervals not exceeding 1 year.

Proposed § 812.55(b) requires the sponsors to notify FDA within 30 days of completion, termination, or discontinuation of the study (including withdrawal of the exemption). A final report is required to be furnished to FDA within 6 months after the study is concluded.

Proposed § 812.55(c) requires the sponsor to notify FDA whenever the sponsor requires investigators to return or dispose of the supplies of the device and of steps taken to comply with the provisions for alternate disposition of the device found in proposed § 32.114, a provision of the proposed regulations on obligations of sponsors and monitors of clinical investigations.

Proposed § 812.55(d) requires the sponsor to report to FDA a serious adverse reaction (including death or life-threatening medical problem) that is subject to the requirement of a special investigation and that occurs during the course of the study.

Proposed § 812.55(d) or § 812.55(c) in the August 20, 1976 proposal) was the subject of several comments. One comment argued that the meaning of "adverse" was unclear and asked how adverse the reaction must be for it to be reportable. The Commissioner has qualified this requirement so that only "serious" adverse effects will trigger the reporting requirement. Other comments were that the reporting period is too short and should be extended to 10, 15, or 30 days. The Commissioner has lengthened to 10 working days the period for reporting results to FDA, to conform to future agency regulations on responsibilities of investigators.

Another comment suggested that if an institutional review committee is monitoring the investigation, the sponsor need not provide FDA with the report of special investigation. The Commissioner disagrees. The notification to FDA is necessary; FDA is the repository of all information regarding the application, together with information relating to similar studies, and is in a better position than any individual institutional review committee to make findings both with respect to the study from the standpoint of national standards for device investigations, and with respect to other related studies of which a particular institutional review committee may be unaware.

Proposed § 812.55(e) requires the sponsor to submit to FDA a copy of any investigator's determination that informed consent could not be obtained from the subject. The report is required to be submitted within 5 working days after the sponsor receives the report of the determination from the investigator. One comment suggested extending the reporting period to 30 days. The Commissioner believes that extending the period to 30 days might make it more difficult to reconstruct the precise events by questioning subjects should an investigation be required.

The Commissioner believes that the requirement for informed consent is important and that deviations from informed consent warrant immediate notification.

Proposed § 812.55(f) requires a sponsor to report to FDA any discovery that an institutional review committee is not complying with its agreement to review the study or with applicable FDA regulations.

Proposed § 812.55(g) requires the sponsor to keep records of all applications, reports, and correspondence that the sponsor submits to FDA and of all communications between the sponsor and any institutional review committee or investigator regarding the study.

Proposed § 812.55(h) permits a sponsor to withdraw from recordkeeping requirements by transferring custody to another person. Notice of transfer of custody must be given to FDA.

Proposed § 812.55(i) authorizes FDA and the institutional review committee or their authorized representatives to inspect sponsor records and facilities. Proposed § 812.55(i) (§ 812.55(h) in the August 20, 1976 proposal) has been changed to clarify the authority of the sponsor to withhold from inspection by the institutional review committee trade secret or commercial or financial information that is confidential, as described in 21 CFR 20.61. This change

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was made in response to comments that the institutional review committee should not have access to a sponsor's trade secrets and concern that rival investigators and sponsors might gain access to proprietary information by means of membership on an institutional review committee. The Commissioner emphasizes that the committee may need to have access to safety and effectiveness data and that an institutional review committee is not required to approve a study when it lacks the data it requires for a proper determination of whether it is safe to begin or continue trials with human subjects.

Other comments argued that a sponsor's financial records should be exempt from FDA inspection. The Commissioner responds that financial records are relevant to determine whether or not a device is being commercially marketed and are required to be made available for inspection by FDA for that purpose.

Another comment argued that the sponsor should be responsible only for providing access to those facilities over which the sponsor has physical control, e.g., not those of investigators or government agencies. The Commissioner clarifies that this section is not to be interpreted to require the sponsor to provide access to material where the sponsor lacks authority to provide for such access.

Other comments expressed the view that FDA should be able to copy only those records relevant to the study under investigation. The Food and Drug Administration will only exercise its authority to copy records when these records are relevant to the study, but maintains that the initial judgment as to relevance must be FDA's rather than the sponsor's.

Comments expressed concern about the confidentiality of patient names in records subject to FDA inspection. The Commissioner perceives no conflict between these provisions and the DHEW regulation on protection of human subjects, 45 CFR Part 46, for the confidentiality of patient data. Although the Commissioner reasserts his right to inspect and obtain patient names when appropriate, the Commissioner recognizes that the issue may be decided by future legislation or other FDA regulations and that investigators have legitimate ethical concerns about protecting patient confidentiality, which FDA will carefully weigh before requiring patient data to be provided. The Commissioner regards exercise of the Commissioner's authority to obtain patient names as an unusual step, but one which the Commissioner may need to take in certain circumstances where necessary to protect the health of subjects or assure the validity of data.

A comment on proposed § 812.55(j) (§ 812.55(i) in the August 20, 1976 proposal) argued that the requirement for the sponsor to submit "any records" is too broad and should be narrowed. The Commissioner has the authority to require relevant records, but because the Commissioner cannot foresee which records may be required, the Commissioner believes the present language is appropriate.

PRACTICAL DIFFICULTIES IN DETERMINING THE SPONSOR RELATIONSHIP

The Commissioner received a comment arguing that there are practical difficulties in determining when a manufacturer is actually a sponsor within the meaning of the regulation. The comment cited the examples of an investigator who continues clinical testing of a device after the sponsor has suspended or discontinued a sponsored investigation, or who requests a sample of a marketed device from a sponsor for the purpose of testing a new use, or who conducts tests during the course of a sponsored investigation which were not part of the sponsor's investigational plan. The comment expressed concern that manufacturers might become sponsors involuntarily because of unauthorized actions by an investigator. The comment argued that the term "sponsor" should not include a person who might otherwise be considered a sponsor but who obtains a written agreement from the investigator that the investigator is a sponsor-investigator.

The Commissioner agrees. The agency generally does not object to an investigator assuming the responsibilities of a sponsor and has explicitly recognized the existence and status of sponsor-investigators in the September 27, 1977 proposed regulations on obligations of sponsors and monitors of clinical investigations. Nor does the Commissioner generally object to a manufacturer employing contractual or other means to clarify his relations with investigators or with respect to particular investigations which the manufacturer does not wish to sponsor. However, the Commissioner cautions that the actual relationship between the parties may be examined to determine whether the relationship between the parties is as described. The Commissioner would be concerned if a device manufacturer's efforts to avoid responsibility for device studies resulted in undue risks to subjects or undermined the validity of the data from the studies. In such cases, FDA may inform the manufacturer to cease shipments of the investigational device if the manufacturer is unwilling to assume the responsibilities of a sponsor. Aside from these concerns, however, manufacturers and investigators are free to tailor their relationships to their own needs.

The Commissioner also cautions that the question of who serves as a sponsor under proposed Part 812 is not intended to have any bearing on liability questions in product liability lawsuits.

RESPONSIBILITIES OF INSTITUTIONAL REVIEW COMMITTEES

Subpart D of the August 20th proposal concerning the responsibilities of institutional review committees will be superseded by a future FDA regulation applicable to clinical investigations of drugs, devices, and other articles. The substance of the future regulation is largely found in existing regulations in 21 CFR Part 312 and 45 CFR Part 46, as well as portions of the August 20th proposal. Comments on Subpart D are being considered by the internal FDA task force responsible to the Commissioner for the preparation of this document. Until the future FDA regulation is promulgated as a final order, Subpart D of the August 20th proposal can be followed as a guideline for device studies.

RESPONSIBILITIES OF INVESTIGATORS

Subpart E of the August 20th proposal concerned the responsibilities of investigators and will be superseded by an FDA proposed regulation on clinical investigators of drugs, devices, and other articles, which will be published in the FEDERAL REGISTER in the near future. Comments on Subpart E are being considered by the internal FDA task force responsible for preparation of this proposal, which, until the future FDA regulation is promulgated, can be followed as a guideline for device studies.

INFORMED CONSENT

Several comments objected to the informed consent requirement as it related to in vitro diagnostic products. The Commissioner believes that those comments are effectively met by the exemption in proposed § 812.2(b)(5) of most in vitro diagnostic products from the requirements of this regulation.

The Commissioner received few other comments on proposed Subpart F. Some comments argued that FDA should await the result of the study of informed consent being conducted by the National Commission for the Protection of Human Subjects in Biomedical and Behavioral Research. The Food and Drug Administration has been in contact with the staff of the National Commission and has received materials from them and placed these materials on public display in the Hearing Clerk's Office. However, because Congress has mandated that regulations relating to investigational devices be published promptly, and the National Commission will not make its report on informed consent in the immediate future, the Commissioner has decided not to wait for the

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National Commission to publish its recommendations. The Commissioner will, of course, consider any proposals made in the final report of the National Commission as they relate to the protection of human subjects and will make appropriate revisions in the proposed regulation after it is made final. Other revisions of Subpart F may occur if the Commissioner decides to promulgate general informed consent regulations applicable to clinical investigations of drugs, devices, and other articles.

Several comments argued that the requirement of informed consent should be related to the degree and nature of the risk presented to patient safety and privacy. The Commissioner agrees but believes that this flexibility is inherent in Subpart F.

Several comments argued that the regulations should provide for oral informed consent in certain cases. Most of these comments concerned studies of in vitro diagnostic products and have been addressed by the exemption of many such products from proposed Part 812. Although no provision for oral informed consent is being proposed, the Commissioner invites comments on a procedure, set out below as possible proposed § 812.123(c), that would enable an investigator to certify in writing that oral consent was obtained from the subject or the subject's legal representative. Use of the certification procedure would be limited to situations in which the device is both a nonvital device and is used in a low risk study, under a notification rather than an application for an investigational device exemption.

(c) (1) With the approval of the sponsor and the institutional review committee, the investigator may make a written record certifying that he has obtained the oral informed consent of the subject (or, where appropriate, the subject's legal representative) when the study involves a nonvital investigational device used in a low risk study for which the sponsor has submitted a notification under § 812.20, and the Food and Drug Administration's letter under § 812.20(c)(1) informing the sponsor of the date of receipt does not also inform the sponsor that (i) an application, rather than a notification, is required, (ii) that the agency disagrees with the determination as to whether the device is vital or with the determination as to risk assessment, or (iii) that written consent in accordance with paragraph (c) of this section shall be obtained.

(2) Where the certification procedure is permitted to be used, the investigator may certify that such investigator has obtained the oral informed consent either of a group of subjects or of every subject. Where the study involves repetitive procedures, e.g., the subsequent use of the same test, oral informed consent may be documented by a single record certifying that consent was obtained for the initial procedure and the subject, or group of subjects, was advised that the procedure might be repeated and of the approximate number of times the procedure might be performed. When the study involves additional, nonrepetitive procedures, e.g., different tests, involving a subject at a time later than when oral informed consent is obtained initially, the subject's oral informed consent shall be separately documented when each such additional procedure occurs.

(3) A certification shall detail all the information given to each subject to obtain the subject's oral informed consent and shall be signed by the investigator. The certification shall be maintained in the investigator's records for the time prescribed in § 52.195 of this chapter.

GENERAL REQUIREMENTS OF INFORMED CONSENT

Proposed § 812.120 sets forth the general requirements for obtaining informed consent.

One comment suggested there should be some means of obtaining consent of an illiterate subject who is not under a legal disability.

The Commissioner believes that written informed consent generally can be obtained from an illiterate individual who wishes to consent to use of an investigational device. In general, an illiterate but competent individual should have the same access to an investigational device as does a literate person. Where an individual from whom informed consent is sought is of limited literacy, the investigator should read the written agreement to the individual and obtain the individual's signature or mark. If an illiterate subject also has limited capacity to give informed consent (e.g., because of mental retardation), the investigator should obtain informed consent from the subject's representative. The Commissioner invites public comment whether the approach described here adequately covers those situations where written informed consent to use an investigational device would have to be obtained from an illiterate individual; whether there are likely to be illiterate subjects or representatives of subjects who are incapable of signing their names or marks; and, if so, whether there should be either a provision for independent witnesses to attest that the agreement was read to the illiterate and that the illiterate consented to use of the device, or an exception in emergency cases from the requirement that the consenting individual sign the written agreement, or both.

Another comment suggested that existing DHEW rules on the elements of informed consent are sufficient for this regulation. The Commissioner disagrees. The additional requirements found in this section were required in light of the legislative history of the act (House Report No. 94-1090, Conference Report on Medical Device Amendments of 1976, May 6, 1976, at p. 64), which lists elements of informed consent that the congressional conferees on the legislation believed should be included. Accordingly, proposed § 812.120 continues to provide for elements of informed consent in addition to those required in 45 CFR Part 46.

Another comment suggested that making exceptions to written consent should be the prerogative not of FDA but of the institutional review committee. The Commissioner believes that because of the inherent differences among investigational review committees, and the varying performance of such committees, it is not acceptable to leave the determination of when an exception may be granted entirely to the discretion of individual institutional review committees. An institutional review committee may properly reject a determination by an investigator that an exception to the requirement for written evidence of consent is appropriate. However, the Commissioner believes that to grant the institutional review committee discretion to dispense with the requirement for a written consent, without FDA review of this decision, would deprive human subjects of the protection that Congress intended them to have.

Accordingly, proposed § 812.120(c) provides that informed consent shall be evidenced by a written agreement, signed by the subject or the subject's legal representative.

One other change suggested in proposed § 812.120 was that the term "legally effective informed consent" read only as "informed consent" since the term "legally effective" adds nothing to the requirement. The Commissioner has retained the term since it appears in the DHEW Guidelines, for reasons stated in the preamble to Subpart B.

EXCEPTION FROM REQUIREMENT

Proposed § 812.123 was altered in only one way. The term "effective" has been inserted before the term "alternative" in paragraph (a)(2) so that the investigator must determine, among other things, that there is no effective alternative method of therapy that is approved or generally recognized which may save the life of the subject. The purpose of this change is to provide that the therapy that is available as an alternative must be an effective therapy, not additional therapy that is not likely to produce effective results. This change is in response to comments that the therapy ought to be more likely to save the subject's life or aid the patient rather than merely be an alternative.

Other comments suggested deletion of the required determination that no alternative therapy exists, as it goes beyond the language of section 520(g)(3) of the act and would significantly decrease the use of the procedure contemplated. The Commissioner has determined that information on alternative therapy is needed in informed consent forms for the protection of public health and safety, authorized in section 520(g)(2)(B) of the act. The Commissioner believes it appropriate to retain the alternative therapy provision, modified as described above.

Another comment argued that some subjects do not wish to be advised of the risks and benefits of the study being performed. The Commissioner is unable to see how the statutory requirement of obtaining informed consent can be met if the subject is not advised of the risks and benefits involved in the study. Regardless of the desires of the subject, there must be compliance with the statutory requirement with respect to investigational use of devices, that subjects involved in an experimental study be advised of the risks and benefits of the study so that their informed consent can be obtained.

A final comment noted that the time for determining in writing whether the situation was life-threatening should be after, not at the time of, the emergency. The Commissioner agrees that the determination of emergency may be reduced to writing by the investigator after the emergency situation has been treated.

ELEMENTS OF INFORMED CONSENT

Proposed § 812.130 has not been changed.

The Commissioner received several comments objecting to the use of the term "research." Substitution of the term "study" was suggested because it was felt that the subjects might equate "research" with "experimentation." The Commissioner sees no difference between the terms "research," "experimentation," and "study" and does not object to use of any of these terms in informed consent forms since the same idea is conveyed by all of these terms. There is no reason to change the proposal to achieve this flexibility. However, the Commissioner cautions against the substitution of euphemisms that disguise the investigational nature of the experiment. One way or another, the subject must be told that the device is an experimental device whose safety and effectiveness are not known and whose safety and/or effectiveness are currently the subject of investigation.

One comment was received on porposed § 812.130(a)(7) objecting to the requirement of informing subjects of the number of patients or subjects involved in the investigational study. The Commissioner believes that the number of subjects involved in an investigational study is relevant to the subject in assessing the risk to himself or herself. A subject might decline to participate in a study in which he or she was the only subject or one of a very small number of subjects. This information is relevant to the subject's assessment of the risks involved and should not be omitted. Furthermore, Congress specifically prescribed that one of the elements of informed consent was a description of the number of subjects involved (Conference Report, p. 64).

One comment argued that the requirement for informed consent in all testing of devices will effectively curtail testing of so-called "me too" devices, e.g., devices which are substantially equivalent to old devices. However, Congress elected to provide a licensing system for class III devices that requires manufacturers to establish individually the safety and effectiveness of their products. The Commissioner believes that he must give effect to the statute and its legislative history by requiring informed consent in any investigational study subject to the regulation and believes it proper for subjects to be told when they are part of an experiment.

TESTS THAT DO NOT INVOLVE HUMAN SUBJECTS

Subpart H relates to devices intended for nonclinical tests and was not controversial. Subpart H was not changed, except that a new paragraph (a)(4) was added to proposed § 812.160 requiring that the device be tested in accordance with any applicable regulations in proposed 21 CFR Part 58, regarding good laboratory practices, published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51206).

REFERENCES

Backgrougnd data and information on which the Commissioner relies in proposing this tentative final regulation and comments on the August 20, 1976 proposal have been placed on file for public review in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. This file includes memoranda of meetings between FDA employees and individuals outside FDA and representatives of other agencies, such as the National Institutes of Health and the following:

1. "Federal Control of New Drug Testing is Not Adequately Protecting Human Subjects and the General Public," General Accounting Office, July 15, 1976.
2. House Report No. 94-853, Medical Device Amendments, February 29, 1976 (Committee on Interstate and Foreign Commerce).
3. House Report No. 94-1090, Medical Device Amendments, May 6, 1976 (Conference Committee).

PROPOSED EFFECTIVE DATE

To provide interested parties an opportunity to begin clinical investigations prior to the effective date of the final regulation based on this tentative final regulation, FDA will accept applications for investigational device exemptions, if the applicant complies with the requirements set forth in the proposed regulation or, where different, this tentative final regulation.

Although applications may be submitted and will be processed, sponsors of investigational studies of devices are not required by law to submit applications before the final regulation is effective, and FDA is not obligated to respond within the 30-day period set forth in proposed §§ 812.20 or 812.21. Accordingly, until the final regulation becomes effective, a sponsor should not construe FDA silence as an approval of the application even if the 30-day period has elapsed. The Food and Drug Administration will attempt to notify sponsors that an application for exemptiom has been approved.

The Commissioner also cautions that changes in the final regulation may necessitate requiring a sponsor who relied on this tentative final regulation to submit additional information.

OPPORTUNITY FOR COMMENT AND PUBLIC HEARING

The final regulation will be published in the FEDERAL REGISTER after consideration of all comments submitted pursuant to this tentative final regulation and after an informal legislative hearing has been held at the end of the comment period pursuant to FDA's administrative practices and procedures regulations under Part 15 (21 CFR Part 15). Interested persons shall file a written notice of participation on or before June 12, 1978. In the event that no notice of appearance is filed, no hearing will be scheduled. A separate FEDERAL REGISTER notice will announce the exact date, time, and place of the hearing.

The Commissioner has carefully considered the environmental effects of the proposed regulation as revised in this tentative final regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Several comments argued that the proposal would have a serious adverse impact on the cost of conducting research on devices and thus, ultimately, on the prices charged consumers for devices. The Commissioner is sensitive to these concerns and believes the changes made to narrow the scope of the document and to provide an abbreviated application procedure will greatly reduce the industry's aggregate cost of complying with investigational device regulations. The Commissioner has not received any informa-

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tion to justify a change in his conclusion that the proposal, as revised in this tentative final regulation, does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 520, 701(a), 702, 704, 801(d), 52 Stat. 1042-1043 as amended, 1049-1051 as amended, 1055-1057 as amended, 90 Stat. 565-574, 587 (21 U.S.C. 331, 351, 352, 360j, 371(a), 372, 374, 381)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Chapter I of Title 21, of the Code of Federal Regulations as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. By revising § 16.1(b)(28) to read as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(28) Sections 812.30(d), 812.35(b), and 812.170 relating to approval, disapproval, or withdrawal of approval of an investigational device exemption.

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PART 20—PUBLIC INFORMATION

2. Be revising § 20.100(c)(30) to read as follows:

§ 20.100 Applicability; cross-reference to other regulation.

* * * * *

(c) * * *

(30) Investigational device exemptions in § 812.38 of this chapter.

3. By adding new Part 812 to read as follows:

PART 812—INVESTIGATIONAL DEVICE EXEMPTIONS

Subpart A—General Provisions

Sec.
812.1 Scope.
812.2 Applicability.
812.3 Definitions.
812.5 General qualifications for an exemption.
812.10 Petitions for waiver of requirements.
812.12 Information previously submitted.
812.19 Requirements applicable to importers and exporters of investigational devices.

Subpart B—Notifications and Applications for Exemption for Investigational Studies Involving Human Subjects

812.20 Notification.
812.21 Application.
812.25 Investigational plan.
812.27 Report of prior investigations of a device.
812.30 Food and Drug Administration review of and action on an application.
812.35 Withdrawal of an exemption.
812.38 Confidentiality of data and information in an application.
812.39 Supplemental applications and submissions concerning applications.

Subpart C—Sponsor Responsibilities in Investigational Studies Involving Human Subjects

812.40 General.
812.42 Review of the investigational study by the Food and Drug Administration and the institutional review committee.
812.43 Selection of investigators.
812.45 Control over the investigational device; facilities.
812.46 Monitoring the investigational study.
812.47 Submitting information to investigators.
812.50 Promotion and sale of investigational devices.
812.55 Reporting to the Food and Drug Administration, Maintaining records, and permitting inspections.

Subparts D and E—[Reserved]

Subpart F—Informed Consent of Human Subjects

812.120 General requirements of informed consent.
812.123 Exception from requirement.
812.130 Elements of informed consent in agreement.

Subpart G—[Reserved]

Subpart H—Tests That Do Not Involve Human Subjects

812.160 Conditions of exemption.
812.170 Termination of exemption.

AUTHORITY: Secs. 301, 501, 502, 520, 701(a), 702, 704, 801(d), 52 Stat. 1042-1043 as amended, 1049-1051 as amended, 1055-1057 as amended, 90 Stat. 565-574, 578 (21 U.S.C. 331, 351, 352, 360j, 371(a), 72, 374, 381(d)).

Subpart A—General Provisions

§ 812.1 Scope.

(a) This part implements section 520(g) of the act and provides that a device may be exempted from any of the requirements of the act enumerated in paragraph (c) of this section that would otherwise be applicable to the device, to permit investigational studies of the device by experts who are qualified by scientific training and experience to investigate the safety and effectiveness of devices intended for human use.

(b) This part has two objectives:

(1) To encourage the discovery and development of useful devices by applying special requirements to investigational studies of devices in lieu of those otherwise applicable requirements that may impede such discovery and development.

(2) To protect the public health and safety by assuring adequate safeguards for human subjects in investigational studies, by requiring studies to be conducted in conformity with ethical standards, and by fostering the development of reliable data concerning the safety and effectiveness of devices.

(c)(1) In general, an approved notification or application under § 812.30 exempts a shipment of a device for investigational use from provisions of the following sections of the act and regulations thereunder: Misbranding under 502, registration and premarket notification under 510, performance standards under 514, premarket approval under 515, records and reports under 519, restricted device requirements under 520(e), good manufacturing practice requirements under 520(f), and color additive requirements under 706.

These sections of the act and regulations thereunder apply to commercial shipments of a device that was in commercial distribution before May 28, 1976, or is substantially equivalent to such a device, and that is being commercially distributed at the same time the device is being investigated under this part.

(2) A device shall not be exempted from a provision of the act listed in paragraph (c)(1) of this section if the Commissioner determines that it is not exempt from such a provision in an order of approval or disapproval under § 812.30.

(3) A shipment of a device may be exempted from a banned device regulation under section 516 of the act if the Commissioner has approved an application for such an exemption under § 812.30(a)(2).

§ 812.2 Applicability.

This part applies as follows:

(a) *Studies subject to this part.* This part applies to:

(1) Any investigational device used in an investigational study involving human subjects for the purpose of determining whether the device is safe and/or effective, unless excluded by paragraph (b) or (d) of this section.

(2) Any investigational study concerning a device, except as otherwise provided in this section, whether it is undertaken to develop data to obtain approval for commercial distribution of a device (e.g., by approval under section 515 of the act), to conduct fundamental research involving human subjects for such scientific purposes as expanding medical knowledge but not for the purpose of obtaining approval for commercial distribution, or to aid diagnosis and treatment by means of use of an investigational device involving a human subject.

(3) An investigational study of a device pursuant to a product development protocol under section 515(f) of the act.

(b) *Studies not subject to this part.* Although studies described in this paragraph are not subject to this part, they may be subject to other requirements of the act or this chapter, e.g., the requirements in section 515 of the act regarding premarket approval, in Part 58 concerning good laboratory practices for nonclinical studies, in Part 809 regarding in vitro diagnostic products, and in Part 820 of this chapter concerning good manufacturing practices. This part does not apply to:

(1) An experiment involving use of a device in a manner and for a purpose which is included in labeling specifically prescribed for such device by regulation under the act or labeling approved under section 507 or 515 of the act.

(2) Test marketing of a device where the only testing involved is that of consumer preference. (Where consumer preference testing is coupled with or designed to accomplish testing of the safety or effectiveness of the device, the testing is subject to this part.)

(3) The modification of an existing device for purposes other than testing its safety and effectiveness.

(4) The conjunction of two lawfully marketed devices to form a third device unless the purpose of joining the devices is to investigate the safety and effectiveness of the modification. However, this part applies when a study is performed to determine the safety or effectiveness of an approved or marketed device or the joining of several such devices for a new use.

(5) Devices for diagnosis of any human disease or condition (including in vitro diagnostic products) which are not invasive (e.g., do not penetrate or pierce the skin or mucus membranes of the body or the urethra, or the mouth beyond the pharynx, or the anal canal beyond the rectum, or the vagina beyond the cervical os), do not introduce energy into the subject, and are not used in the diagnosis of any disease or other condition in the subject without confirmation by use of a diagnostic device or procedure whose effectiveness for such diagnosis is established.

(6) Any device intended for veterinary use. However, devices ultimately intended for human use, but which are being tested in animals, shall comply with Subpart H of this part and with applicable requirements in Part 58 of this chapter.

(c) *Vital and nonvital investigational devices.* The controls applicable to an investigational device vary, as described in §§ 812.20 and 812.21, depending on:

(1) The importance of the diagnostic or therapeutic uses of the device (i.e., whether a device is vital or nonvital), and

(2) The degree of risk presented by the device to the subjects participating in the study (i.e., substantial risk or low risk).

(d) *Custom devices*—(1) *Requirements.* This part does not apply to a device if all of the following requirements are met:

(i) The device necessarily deviates from generally available devices to comply with the order of a health professional designated in paragraph (d)(2) of this section.

(ii) The device is not generally available in finished form for purchase or for dispensing upon prescription.

(iii) The device is not offered through labeling or advertising by the manufacturer, importer, or distributor thereof for conumercial distribution.

(iv) The device is intended (*a*) for use by an individual patient named in the health professional's order and is to be made in a specific form for that patient, or (*b*) to meet the special needs of the health professional in the course of his or her practice.

(v) The device is not generally available to or generally used by other such health professional.

(vi) The device is made of safe and suitable materials (if an implant) and is not being used in a investigational study for the purpose of determining whether the device is safe or effective.

(vii) The Commissioner has not made an administrative determination that the device is subject to this part.

(2) *Health professionals.* A health professional authorized to use custom devices in accordance with this paragraph (d)(2) includes any licensed physician or dentist.

(3) *Examples.* The following examples illustrate the application of this paragraph.

(i) Alteration of an available device (for which sufficient information exists to determine that the device is safe and effective) to meet individual needs of patient or professional: A device that does not represent a new concept, and that is not being tested for safety and effectiveness, is available as a stock item off the shelf; the health professional orders the device and alters it, or has it altered, to meet the patient's, or the health professional's own, individual anatomical features (e.g., dimensions or disability). The basic device that is being customized in this manner is subject to the act and other requirements of this chapter (e.g., registration, classification, performance standards if class II, premarket approval if class III, good manufacturing practice regulations, etc.). However, the individual customizing of the device does not render it an investigational device subject to this part if the requirements of paragraph (d)(1) of this section are met.

(ii) Fabrication of a device (for which sufficient information exists to determine that the device is safe and effective) to meet individual needs of a patient or health professional: A manufacturer fabricates devices for health professionals, or a health professional fabricates devices, according to each individual patient's or health professional's anatomical features (e.g., using X-rays); the device does not involve new implant materials and does not otherwise represent a new concept. As in paragraph (d)(3)(i) of this section, the basic device that is being customized in this manner is subject to the act and other requirements of this chapter. However, the individual customizing of the device does not render it an investigational device subject to this part if the requirements of paragraph (d)(1) of this section are met.

(iii) Testing of a device (for which insufficient information exists to determine whether the device is safe and effective) for general use that will require individual customizing: A device that represents a new concept is being tested for safety and effectiveness; the device, by its nature, requires customization to meet individual patient or health professional anatomical features. The device is subject to this part and other requirements of this chapter and the act; the device is not exempt under this paragraph. (However, see paragraph (d)(3) (i) and (ii) of this section. Once the safety and effectiveness of the device are established, generally by means of premarket approval, the individual customizing of the device to meet patient or health professional needs will not render it again an investigational device subject to this part if the requirements of paragraph (d)(1) of this section are met.)

(iv) Fabrication of a device (for which insufficient information exists to determine whether the device is safe and effective) to meet unusual needs of patient: A health professional wants to order a device fabricated, or to fabricate a device, to meet the special needs of a patient who has unusual anatomical features; the device represents a new concept. The patient's special needs are such that the need for such a device is unlikely to recur, and these needs cannot be met by generally available devices or the devices described in paragraph (d)(3) (i) and (ii) of this section. The device shall meet the requirements of paragraph (d)(1) of this section.

(*a*) If the health professional informs the patient that the device represents a novel concept and is being specially fabricated to meet the patient's needs, the device is exempt from this part and section 514 (performance standards) and 515 (premarket approval) of the act if it is for use involving a single patient. It is subject to other requirements of this chapter and the act.

(*b*) If any health professional wishes to order such a device to meet similar special needs of any subsequent patient(s), the device is subject to the

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requirements of this part, this chapter, and the act, unless the device involves application of such commonly recognized principles that its first use was sufficient to establish its safety and effectiveness, in which case the regulations applicable to the device are described in paragraph (d)(3)(ii) of this section.

(v) Fabrication of a device (for which insufficient information exists to determine whether the device is safe and effective) to meet unusual needs of health professional: A health professional wants to order a device fabricated, or to fabricate a device, to meet the special needs of the health professional in the course of his or her practice; the device represents a new concept. The special needs must relate to unusual anatomical features of the health professional (e.g., disability) or special needs of his or her practice that are not shared by other health professionals of the same specialty. The special needs requiring use of the device described in this clause must be the needs of the health professional rather than those of any particular patient. The special needs must be incapable of being met by generally available devices or the devices described in paragraph (d)(3) (i) and (ii) of this section. If the requirements of paragraph (d)(1) of this section are met and the device is for use only by the health professional who ordered it, it is exempt from this part and section 514 (performance standards) and 515 (premarket approval) of the act. It is subject to other requirements of this chapter and the act. If any other health professional wishes to order such a device, the rules in paragraph (d)(3)(iv)(*b*) of this section apply.

(e) *Studies by sole sponsor-investigator.* Sections 812.21(b)(8) (ii) and (iii), 812.46 (a) and (b), and 812.47 shall not apply to an investigational study that involves a sponsor-investigator who is the only investigator.

§ 812.3 Definitions.

(a) "Act" means the Federal Food, Drug, and Cosmetic Act, (sections 201-902, 52 Stat. 1040 et seq., as amended (21 U.S.C. 301-392)).

(b) "Institution" means a person, other than an individual, who engages in the conduct of research on human subjects or in the delivery of medical services to patients as a primary activity or as an adjunct to providing residential or custodial care to humans. The term includes a hospital, retirement home, prison, academic establishment, or device manufacturer. "Facility" as used in section 520(g) of the act is synonymous with the term "institution" for purposes of this part.

(c) "Institutionalized subject" means:

(1) A human subject who is voluntarily confined for a period of more than 24 continuous hours on the premises of, and in the care of, an institution (e.g., a hospital in-patient, or a resident in a retirement home), whether or not that institution is a sponsor of the investigational study; or

(2) A human subject who is involuntarily confined for any period of time in a penal institution (e.g., jail, workhouse, house of detention, or prison), or other institution (e.g., a hospital) by virtue of a sentence under a criminal or civil statute, or awaiting arraignment, commitment, trial or sentencing under such a statute, or by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incarceration in a penal facility.

(d) An "institutional review committee" means any board, committee, or other group formally designated by institution for the purposes of reviewing clinical investigations or other types of biomedical research involving humans as subjects, approving the initiation of such investigations or research, overseeing the conduct of such investigations or research, and/or terminating or suspending such investigations or research, when necessary for the protection of subjects. The term has the same meaning as "institutional review board" in other Department regulations.

(e) "Investigational device" means a device that is used in an investigational study involving human subjects, where the purpose of the study is to determine whether the device is safe and/or effective.

(f) "Investigational plan" means a plan or protocol for using an investigational device in an investigational study where such plan or protocol meets the requirements of § 812.25.

(g) "Investigational study" means a study involving human subjects when the study is for the purpose of determining whether a device is safe and/or effective. An investigational study is considered a clinical investigation for purposes of Part 52 of this chapter.

(h) "Investigator" means an individual who actually conducts an investigational study, i.e., under whose immediate direction the investigational device is administered or dispensed to, or used involving, a subject.

(i) "Monitor," when used as a noun, means a designated individual selected by a sponsor or contract research organization to oversee the progress of an investigational study. The monitor may be a full-time employee of a sponsor or contract research organization or a consultant to the sponsor or contract research organization. "Monitor," when used as a verb, means the act of overseeing the progess of an investigational study in accordance with § 52.29 of this chapter.

(j) "Person" includes an individual, partnership, corporation, association, scientific or academic establishment, government agency or organizational unit thereof, and any other legal entity.

(k) "Sponsor" means a person who initiates a clinical investigation, but who does not actually conduct the investigation, i.e., the investigational device is administered or dispensed to or used involving a subject under the immediate direction of another individual. A person other than an individual (e.g., corporation or government agency) that uses one or more of its own employees to conduct a clinical investigation it has initiated is considered to be a sponsor (not a sponsor-investigator), and the employees are considered to be investigators.

(l) "Sponsor-investigator" means an individual who both initiates and actually conducts, alone or with others, an investigational study, i.e., under whose immediate direction the investigational device is administered or dispensed to, or used involving, a subject. The term does not include any person other than an individual, e.g., corporation or agency. The obligations or a sponsor-investigator under this part include those of an investigator.

(m) "Subject" means an individual who is or becomes a participant in an investigational study, either as a recipient of the investigational device or as a control. A subject may be either a human being in normal health or a patient to whom the investigational device might offer therapeutic benefit or as to whom it might provide diagnostic information.

(n) "Substantial risk" is a risk that may result in death or may produce morbidity (including disfigurement, permanent injury, or interference with the capacity to continue employment), require operation or reoperation, require extension of hospitalization (beyond that expected for the condition being treated), require rehospitalization, or cause increased invalidism; or, at the least, produce moderate personal discomfort and the need for extensive outpatient medical care.

(o) "Low risk" means a risk other than a substantial risk. It includes a situation in which no risk is presented, i.e., there is no possibility of injury to a subject's health or his or her rights.

(p) "Transitional period" applies only to those devices (other than devices that were regarded as new drugs or antibiotic drugs) which (1) were either in commercial distribution before May 28, 1976, or are judged by the Food and Drug Administration to be substantially equivalent to a device in commerical distribution before that date, and (2) are classified in class III under section 513(d) of the act. The transitional period for a particular device extends from May 28, 1976, to either (i) the last day of the 30th calendar month after the date the classification of that device into class III becomes effective, or (ii) the 90th day after the date a regulation requiring the submission of a premarket approval application with respect to that device is promulgated, whichever occurs later.

(q) "Vital investigational device" means a device intended to support or sustain life or intended for surgical implant into the body (or a diagnostic device, e.g., an in vitro diagnostic product, which provides data which might reasonably be considered life supporting or vital to the care of the subject), or a device whose failure could result in permanent injury to the subject.

(r) "Nonvital investigational device" refers to any device other than a vital investigational device.

§ 812.5 General qualifications for an exemption.

A shipment of an investigational device is exempt from any or all of the otherwise applicable requirements of the act enumerated in § 812.1(c) if all of the following conditions are met:

(a) The label of the device bears the following: The name and place of business of the manufacturer, packer, or distributor in accordance with § 801.1 of this chapter; the quantity of contents; and the following statement (or, where appropriate, a statement prescribed in § 809.10(c) of this subchapter for an in vitro diagnostic product): "Caution—Investigational device. Limited by Federal (or United States) law to investigational use."

(b) The labeling of the device is not false or misleading in any particular, does not represent that the device is safe and/or effective for the purpose(s) for which it is being investigated, and describes all relevant hazards, contraindications, adverse effects, interfering substances or devices, and precautions suggested by prior investigations and experience with the investigational device or any related device.

(c) If the shipment is for an investigational study involving human subjects:

(1) An application for investigational device exemption (or notification) covering that shipment was submitted by the sponsor under Subpart B of this part.

(2) The requisite time has elapsed following the date of receipt of the application (or notification) by the Food and Drug Administration to permit the investigational study to begin under §§ 812.20(c) or 812.30(b), or the Commissioner has approved the application where required by § 812.30 (a)(2).

(3) The Commissioner has not disapproved the application (or notification) or withdrawn the exemption.

(4) Each shipment of the device is made in accordance with the commitments in the application (or notification) and any conditions imposed in the Commissioner's approval pursuant to § 812.30.

(5) The sponsor has complied with the requirements of this part and Part 52 of this chapter; any institutional review committee that is to review and approve the investigational study for which shipment is made has complied with Food and Drug Administration regulations regarding standards for such committees; and the investigator(s) to whom the shipment is to be made has complied with Food and Drug Administration regulations regarding the obligations of clinical investigators.

(d) If the shipment is intended solely for tests in laboratory animals, or for other tests that do not involve human subjects, the requirements of Subpart H of this part and applicable requirements in Part 58 of this chapter have been met.

(e) If the shipment is to be imported into or exported from the United States, the requirements of § 812.19 have been met.

§ 812.10 Petitions for waiver of requirements.

(a) Any person subject to any requirement under this part may petition the Commissioner for a waiver of such requirement. Such a petition shall be submitted in accordance with § 10.30 of this chapter and shall set forth the basis for the petitioner's belief that compliance with the requirement is not necessary to achieve the objectives of this part and, where appropriate, any alternative means to achieve the objective of the requirement from which the waiver is sought.

(b) The Commissioner may, at the Commissioner's discretion, grant a petition for a waiver submitted under this section if he finds that compliance with the requirement from which the waiver is sought is not necessary to achieve the objectives of this part and, where appropriate, that the proposed alternative means will acheive the objective of the requirement from which the waiver is sought.

(c) The person who submits a petition under this section shall continue to be subject to the requirement from which the waiver is sought unless and until the Commissioner grants the petition.

§ 812.12 Information previously submitted.

Wherever this part requires the submission to the Food and Drug Administration of information or data that were previously submitted in accordance with this part or other parts of this chapter, the information or data need not be resubmitted but may be incorporated by reference.

§ 812.19 Requirements applicable to importers and exporters of investigational devices.

(a) Any person who imports or offers for importation into the United States an investigational device shall assure that all of the following requirements are met:

(1) The labeling of such device complies with § 812.5 (a) and (b).

(2) If the device is for an investigational study involving human subjects:

(i) The importer of such shipment is an agent in the United States of the foreign exporter or is the ultimate consignee, and the foreign exporter or the ultimate consignee has, before such shipment, completed and submitted to the Food and Drug Administration an application for an investigational device exemption in accordance with § 812.21 or, when permitted, a notification in accordance with § 812.20 and acts as the sponsor of the investigational study to assure compliance with applicable requirements of this chapter.

(ii) The requisite time has elapsed following the date of receipt of the notification or application by the Food and Drug Administration to permit the investigational study to begin under §§ 812.20(c) or 812.30(b), or the Commissioner has approved the application, where required by § 812.30(a)(2).

(iii) The Commissioner has not disapproved the application (or notification) or withdrawn the exemption

(b) (1) A device exported from the United States to a foreign country that does not comply with requirements of the Act shall not be deemed adulterated or misbranded if:

(i) The device conforms to the specifications of the foreign purchaser.

(ii) The device complies with the laws of the country to which it is being exported.

(iii) The label on the outside of the shipping package indicates that the device is intended for export.

(iv) The device is not sold or offered for sale in domestic commerce.

(v) The device complies with any applicable requirements of paragraph (b)(2) of this section.

(2) If the following requirements in addition to the requirements of paragraph (b)(1) of this section are met, any person may export from the United States for an investigational study involving human subjects a device that is subject to a performance standard in effect under section 514 of the act and that does not comply with such standard; or that is required to have in effect an approved application for premarket approval under section 515 of the act, and that is not currently subject to a transitional period, and that does not have in effect an approved application; or that is subject to an exemption under this part from

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sections 514 or 515 of the act; or that is subject to a banned device regulation under section 516 of the act:

(i) The exporter or any other person obtains documentation from the government of the foreign country that the export of the device to that country is approved by such government based upon adequate information about the device.

(ii) The exporter or other person submits to the Bureau of Medical Devices, Document Control Center (HFK-20), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, a copy of this documentation, an explanation of why the proposed export of the device is not contrary to public health and safety, and a request for a determination that the export is not contrary to public health and safety.

(iii) The Commissioner has determined that the export of the device to the foreign country is not contrary to the public health and safety and has notified the exporter or other person of this determination.

(3) The Commissioner may by order disapprove the export of the device under this section if he determines that such export is contrary to the public health and safety. Such an order may provide that export will be permitted if there is compliance with this part.

Subpart B—Notifications and Applications for Exemption for Investigational Studies Involving Human Subjects

§ 812.20 Notification.

(a) *When submitted.* (1) Except as provided in § 812.21(a) (ii) and (iii), a notification shall be submitted when:

(i) A vital investigational device is to be used in an investigational study that presents low risk to human subjects, or

(ii) A nonvital investigational device is to be used in an investigational study.

(2) The sponsor of a study described in paragraph (a)(1) of this section shall submit to the Food and Drug Administration three copies of a completed "Notification of Intent to Investigate a Device" and of all materials required by paragraph (b) of this section to accompany such a notification, bound and contained in volumes of reasonable size, by registered mail or hand delivery to the Bureau of Medical Devices, Document Control Center (HFK-20), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910. The outside wrapper shall be labeled "Notification of Intent to Commence Testing an Investigational Device." Any subsequent reports and correspondence concerning an application shall be submitted in triplicate by registered mail or hand delivery to this address.

(b) *Contents.* A notification shall include the name and address of the sponsor, the name and description of the investigational device; a summary of the investigational plan; location(s) of the study; an agreement to comply with Subpart C of this part and Part 52 of this chapter; written procedures established by the sponsor for monitoring the investigational study under Part 52 of this chapter (unless the study involves a sponsor-investigator who is the only investigator); institutional review committee(s) approval of the study in accordance with § 52.25 of this chapter and agreement to comply with Food and Drug Administration regulations on institutional review committees; a statement from each institutional review committee involved, signed by the chairman, assessing whether the device is vital or nonvital and the degree of risk to which the subjects will be exposed; and, in accordance with § 812.21(b)(7), the name(s) of investigators and the agreement of each investigator to comply with Food and Drug Administration regulations regarding obligations of clinical investigators. A notification shall be signed by an authorized representative of the sponsor.

(c) *FDA review.* After receipt of a notification, the Food and Drug Administration will send the sponsor a letter as soon as possible informing the sponsor of the date of receipt.

(2) The procedures in §§ 812.30 through 812.35 for approval or disapproval of an application for an investigational device exemption and for withdrawal of an exemption shall apply to a notification, except as provided in paragraph (d) of this section.

(d) *When study may begin.* Where the sponsor states that a nonvital investigational device is to be used in an investigational study that presents low risk to human subjects, and the Food and Drug Administration's letter informing the sponsor of receipt of the notification does not also inform the sponsor that an application is required rather than a notification, the exemption takes effect and the study may begin after the sponsor's receipt of the letter. Otherwise the exemption does not take effect and the study shall not begin until the notification is approved or deemed approved under § 812.30.

(e) *Other requirements.* Requirements in this subchapter (other than § 812.21) applicable to an application for investigational device exemption shall apply to a notification. Requirements in this subchapter for sponsors, investigators, and institutional review of clinical investigations apply to studies under an investigational devices exemption obtained under this section by a notification.

§ 812.21 Application.

(a) *When submitted.* (1) An application shall be submitted when:

(i) A vital investigational device is to be used in an investigational study that presents substantial risk to human subjects;

(ii) A sponsor of a study described in § 812.20(a) elects to submit an application instead of a notification; or

(iii) The Food and Drug Administration notifies the sponsor under § 812.20(d) that an application is required.

(2) The sponsor of an investigational study described in paragraph (a)(1) of this section shall submit to the Food and Drug Administration a completed "Application for an Investigational Device Exemption" that has been signed by an authorized representative of the sponsor. Three copies of the application and any material required to accompany the application, bound and contained in volumes of reasonable size, shall be submitted by registered mail or hand delivery to the Bureau of Medical Devices, Document Control Center (HFK-20), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910. Any subsequent reports, any correspondence concerning an application and any supplemental application submitted under § 812.39 also shall be submitted in triplicate by registered mail or hand delivery to this address. The outside wrapper of any application or supplemental application shall include the statement "Application or Supplemental Application for Investigation Device Exemption" and the outside wrapper of any reports or correspondence shall include the statement "Regarding an Investigational Device Exemption."

(b) *Contents.* An application for an investigational device exemption shall include: the sponsor's name, address, telephone number, the name of the sponsor's representative to whom communications should be sent, the location(s) where the study will be conducted, and the following information:

(1) The best available descriptive name of the device and a brief statement of its intended use(s) and how it is to be used.

(2) A description of the important components, ingredients, and properties and a description of the principle(s) of operation of the device and any anticipated changes in the device that may occur in the course of the study, in enough detail so that a scientist or physician familiar with the general type of device, but not necessarily an expert with regard to the specific device, can make a knowledgeable judgment about the anticipated safety and effectiveness of the device in the proposed investigational study.

(3) A description of those methods, facilities, and controls used for the manufacture, processing, packing, storage, and, where appropriate, installation of the device, in enough detail so that a person generally familiar with the manufacture of the general type of device can make a knowledgeable judgment about the safety and effectiveness of the device in the proposed investigational study.

(4) (i) A statement by the sponsor which tells the location of each institutional review committee that is to review a portion of the study (see § 812.42) and indicates that each committee has received a copy of an investigational plan (that meets the requirements of § 812.25), a report of prior investigations of the device (that meets the requirements of § 812.27), and any separate protocols or other materials required by such committee, and a statement that the committee(s) has approved the study.

(ii) If the study or any portion of the study is not to be reviewed by an institutional review committee at one or more locations where the study is to be conducted, a request for waiver of the institutional review requirement of § 812.42 that includes the sponsor's explanation (and supporting data) of why a committee is not necessary either for protecting the subjects or for ensuring the reliability of the scientific data.

(iii) A copy for the Food and Drug Administration of the investigational plan (that meets the requirements of § 812.25), the report of prior investigations of the device (that meets the requirements of § 812.27), and any separate protocols or other materials submitted to an institutional review committee.

(5) A statement from every institutional review committee involved in the study, signed by the chairman, that the committee has approved the investigational plan and has reviewed the report of prior investigations of the device, that the committee will review the study, in accordance with Food and Drug Administration regulations on institutional review, for its duration periodically at intervals appropriate to the degree of risk but not to exceed 1 year, and that it will review reports of unexpected adverse effects on a timely basis for the purpose of determining whether the study should be continued.

(6) A copy of all forms and informational materials to be given to human subjects including those to be used to obtain informed consent as required by Subpart F of this part. (The copy may be appended to the investigational plan.)

(7) A copy of the agreement(s), which includes a statement of the investigator's curriculum vitae, to comply with Food and Drug Administration regulations regarding the obligations of investigators, signed by each investigator who will be taking part in the investigational study as required by § 812.43(b).

(8)(i) A copy of all informational material, including labels and other labeling. Such informational material shall meet the requirements of § 812.5.

(ii) Except where the application is submitted by a sponsor-investigator who is the only investigator, a description of the scientific training and experience that the sponsor considers appropriate to qualify individuals as suitable experts to investigate the safety and effectiveness of the device, in view of the investigational plan, the report of prior investigations of the device, and what is known about the device.

(iii) Except where the application is submitted by a sponsor-investigator who is the only investigator, written procedures established by the sponsor for monitoring the investigational study in compliance with Part 52 of this chapter.

(iv) The name and a summary of the training and experience of the monitor(s) of the study under §§ 52.28 and 52.29 of this chapter.

(9) A statement to the best of the sponsor's knowledge as to whether any institutional review committee has ever disapproved or terminated any investigational study of the device and the reasons for such action.

(10) A statement that the sponsor will comply with the requirements applicable to sponsors under this chapter.

(11) A statement by a sponsor notifying the Food and Drug Administration of his intent, if any, to charge investigators and subjects for the device. (The Food and Drug Administration's failure to object to such a statement in an application is not authorization to begin commercial distribution of the device.)

(12) A statement by the sponsor of the reasons for requesting a waiver of the requirement that a study shall not begin before the expiration of 30 days after the Food and Drug Administration has received an application meeting the requirements of this subpart, if such a waiver is requested.

(13) An environmental analysis report meeting the requirements of Part 25 of this chapter when requested by the Food and Drug Administration after receipt of an application under this section.

(14) Any other information relevant to review of the applications, required by the Food and Drug Administration to be submitted.

(c) The sponsor may refuse to provide any information required by the Food and Drug Administration under paragraph (b)(14) of this section and treat the request as a disapproval of the application for purposes of requesting a hearing under § 812.30. In the event a sponsor fails to respond to a request for information within the time prescribed in the request, the Food and Drug Administration may treat the application as withdrawn and so notify the sponsor.

§ 812.25 Investigational plan.

(a) The investigational plan for the investigational study of a device shall include the following:

(1) A statement of the intended use of the device;

(2) A general outline of the plan and any anticipated or foreseeable changes or variations in the plan that may be made based on experience gained in the study;

(3) A statement describing the objectives of the investigational study;

(4) A justification for commencing the study, taking into account the report of prior investigations of the device;

(5) The expected duration of the investigational study;

(6) Identification of the investigator or investigators, the facilities where the study will occur, and any institutional review committees that will supervise the study;

(7) The patient population in which the device will be used (in terms of age, sex, and condition) and the size of such population;

(8) A justification for using such patient population and of the size of such population;

(9) A description of records to be maintained, and the reports to be made, by the investigator(s) and the sponsor to assure compliance with the plan and enable the progress of the investigation and the safety and effectiveness of the device to be reviewed by the sponsor, any institutional review committee, and the Food and Drug Administration;

(10) The plan for obtaining informed consent from subjects, including copies of all forms and informational materials to be provided to subjects; and

(11) A description of the important components, ingredients, properties and principle(s) of operation of the device in accordance with § 812.21(b)(2) and of any anticipated changes in the device that may occur in the course of the study.

(b) The procedures and conditions in the investigational plan may vary depending on (1) the scope and duration of the investigational study, (2) the number of human subjects who are to be involved in the study, (3) the need to permit changes to be made in the device during the study conducted in accordance with the plan, and (4) the purpose of the study, e.g., whether the study is designed for the purpose of developing data to obtain approval for the commercial distribution of the device.

(c) Where an investigational study is for the purpose of developing data to obtain premarket approval of the

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device, the Food and Drug Administration will not ordinarily regard an investigational plan as providing data that will support an application for such approval unless it provides for more than one independent qualified investigator to study an adequate number of subjects in accordance with this chapter.

(d) Any summary of an investigational plan required under §§ 812.20 or 812.21 shall include an adequate and accurate summary of each of the elements of an investigational plan under paragraph (a) of this section.

(e) The investigational plan may provide for additional animal tests to be made during the course of the study.

§ 812.27 Report of prior investigations of a device.

(a) The report of prior investigations of a device, to be submitted to an institutional review committee and to the Food and Drug Administration, shall include information concerning prior investigations of the device that is adequate to justify the clinical testing involving human subjects as proposed in the investigational plan under § 812.25.

(b) The report of prior investigations of a device shall include:

(1) A bibliography of any publications relevant to the investigational study and copies of the significant publications both adverse and supporting.

(2) Any other unpublished information available to the sponsor, both supporting and adverse, information relating to nonclinical investigations of the device, including appropriate tests in animals and tests in vitro, and prior clinical investigations of the device or clinical experience with the device from commercial marketing, whether in the United States or in foreign countries, in sufficient detail so that a scientist or physician familiar with the general type of device, although not necessarily an expert with regard to the specific device, could make a knowledgeable judgment about the safety and efffectiveness of the device in the proposed investigational study.

(3) If information on nonclinical investigations is provided and the device is subject to the good laboratory practice regulations in Part 58 of this chapter, either a statement that all nonclinical investigations have been conducted in compliance with such regulations or, if such investigations have not been conducted in compliance with such regulations, a detailed description of all differences between the practices used in the investigations and those required in the regulations.

(c) Prior investigations of a device shall not be considered adequate to justify an investigational study involving human subjects unless the conditions (except for the subjects involved) of the prior investigations of the device are comparable to the conditions of the proposed investigational study.

(d) Except where tests on laboratory animals would be unnecessary, e.g., where in the judgment of the institutional review committee and the Food and Drug Administration there have been adequate in vitro tests or there is ample literature concerning prior clinical investigations or clinical experience, prior investigation of a device will be considered adequate to justify the investigational use of the device in human subjects only if:

(1) The device has been tested in laboratory animals and these tests show that it is reasonably safe to begin an investigational study involving human subjects; and

(2) The report of prior investigations of the device provides sufficient details concerning such investigations to permit scientific evaluation.

(e) Where the device consists of several components or ingredients that may have a significant effect on the safety or effectiveness of the device, and information concerning such components or ingredients is needed to justify the investigational use of the device in human subjects, the report of prior investigations of a device shall include a summary of the same type of information relating to these components and ingredients required for the device by paragraph (b) (1) and (2) of this section.

§ 812.30 Food and Drug Administration review of and action on an application.

(a) Upon receipt of an application for an investigational device exemption submitted in accordance with this subpart, the Food and Drug Administration will notify the sponsor of the date of such receipt and inform the sponsor that the investigational study may not begin:

(1) Until 30 days after the date of receipt of the application by the Food and Drug Administration, unless the agency has decided to waive the 30-day time requirement and so informs the sponsor; or

(2) In the case of an application for an exemption from the banned device provisions of sections 516 of the act, until the Food and Drug Administration approves the application under this paragraph and notifies the sponsor of the approval.

(b) An application for an investigational device exemption (other than an application described in paragraph (a)(2) of this section), shall be deemed to be approved on the 30th day after receipt of the application by the Food and Drug Administration unless, on or before such day, the Commissioner finds that the application does not meet the requirements of this part and other provisions of this chapter concerning clinical investigations (e.g., Part 52 of this chapter) and by order disapproves the application for any of the grounds in paragraph (c) of this section and states his reasons therefor, or finds the application deficient and requests additional information, or suggests revisions. If the Commissioner requests additional information or suggests revisions, the sponsor may treat the application as disapproved for purposes of requesting a regulatory hearing under Part 16 of this chapter. The Commissioner may approve an application with modifications, e.g., subject to conditions.

(c) The Commissioner may by order disapprove an application if he makes any of the following findings:

(1) The application contains an untrue statement of a material fact or omits material information required by §§ 812.20 or 812.21.

(2) The report of prior investigations of the device is inadequate to support a conclusion that it is reasonably safe to begin or continue the proposed investigational study.

(3) There is reason to believe that the device may be unsafe or ineffective when used for the purpose or in the manner for which it is to be investigated.

(4) The investigational plan described in the application is not a reasonable plan, in whole or in part, for a scientific investigation to determine whether the device is safe or effective.

(5) The methods, facilities, and controls used for the manufacturing, processing, packing, storage, and, where appropriate, installation of the device do not adequately ensure the safety and effectiveness of the device.

(6) The sponsor's proposed use of the device is not intended solely for an investigational study because it is being or is to be sold or otherwise commercially distributed in a manner not justified by the requirements of the investigational study and not permitted by this part or Part 52 of this chapter.

(7) There has not been compliance with the requirements prescribed in this part or applicable requirements in Part 52 or other regulations in this chapter regarding responsibilities of sponsors, clinical investigators, and institutional review boards, respectively.

(8) The application contained a nonclinical laboratory study of a device that is subject to the good laboratory practice regulations in Part 58 of this chapter, and the study was not conducted in compliance with such regulations, or any differences between the practices and in conducting the study and those required in the regulations were not described in detail.

(9) The proposed investigational study subjects human subjects to undue risks. In assessing risks, the Commissioner shall consider, among other things, the factors enumerated in § 812.35(a)(11).

(d) The Commissioner shall notify the sponsor of an approval of an application with modifications, of an approval under paragraph (a)(2) of this section, or of a disapproval. The notification shall contain the order of approval or disapproval and a complete statement of the reasons for the order. A notification of approval with modifications or disapproval shall advise the sponsor that the sponsor has recourse to an opportunity for a regulatory hearing under Part 16 of this chapter.

(e) The Commissioner may, in the Commissioner's discretion, decide not to disapprove an application for which there are grounds for disapproval if the facts do not lead the Commissioner to conclude that the risks outweigh the benefits to subjects, considering the factors enumerated in § 812.35(a)(11).

(f) The Commissioner shall make publicly available a summary of the information on the safety and effectiveness of a device that was submitted under this part and was the basis for an order under paragraph (a)(2) of this section approving an exemption from a banned device regulation or under paragraph (c) of this section disapproving an application. The summary shall be made publicly available, on request, upon issuance of the order and shall include information on any adverse effects of the device on health.

§ 182.35 Withdrawal of an exemption.

(a) The Commissioner may by order withdraw an exemption granted under this part, if he makes any of the following findings:

(1) The application for such exemption or any subsequent report contains an untrue statement of a material fact or omits material information required by this part (e.g., §§ 812.20, 812.21, or 812.39) or Part 52 of this chapter.

(2) The report of prior investigations of the device is inadequate to support a conclusion that it is reasonably safe to continue the investigational study.

(3) There is reason to believe that the device may be or is unsafe and/or ineffective when used for the purpose or in the manner for which it is investigated.

(4) The investigational plan described in the application or notification is not a reasonable plan, in whole or in part, for a scientific investigation to determine whether the device is safe and/or effective.

(5) The methods, facilities, and controls used for the manufacturing, processing, packing, storage, and, where appropriate, installation of the device do not adequately ensure its safety and effectiveness.

(6) The investigational study is not being conducted in accordance with the investigational plan submitted to the Food and Drug Administration or the institutional review committee; or any change in or deviation from the investigational plan was not approved as required by § 812.39.

(7) The sponsor's use of the investigational device is not intended solely for an investigational study, because it is being or is to be sold or otherwise commercially distributed in a manner not justified by the requirements of the investigational study and not permitted by this part or Part 52 of this chapter.

(8) The sponsor has unduly prolonged an investigational study without submitting an application for premarket approval of the device as required by § 812.46(d).

(9) The investigational study is not being conducted in compliance with the requirements of this part or applicable requirements of Parts 52, 54, or 56 of this chapter regarding responsibilities of sponsors, clinical investigators and institutional review boards, respectively.

(10) The application contained a nonclinical laboratory study of a device that is subject to the good laboratory practice regulations in Part 58 of this chapter, and the study was not conducted in compliance with such regulations, or any differences between the practices used in conducting the study and those required in the regulations were not described in detail.

(11) The proposed investigational study subjects human subjects to undue risks. In assessing risks, the Commissioner shall consider, among other things, whether:

(i) The risks to the subject are so outweighed by the sum of the potential benefits to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks;

(ii) The rights and welfare of any such subject will be or have been adequately protected;

(iii) Legally effective informed consent will be or has been obtained by adequate and appropriate methods in accordance with the provisions of Subpart F of this part;

(iv) The conduct of the activity will be or has been reviewed at timely intervals by the institutional review committee, the sponsor, or both.

(12) The process of review or monitoring undertaken by the institutional review committee that is monitoring the study is inadequate.

(b) An order withdrawing an exemption shall include a complete statement of the reasons for the Commissioner's action. Such order shall be issued only after the sponsor has been afforded an opportunity for a regulatory hearing under Part 16 of this chapter, except that the order may be issued before providing an opportunity for such hearing if the Commissioner determines that the continuation of testing under the exemption concerning which the order is to be issued will result in an unreasonable risk to the public health or safety.

(c) The Commissioner may, in the Commissioner's discretion, decide not to withdraw an exemption for which there are grounds for withdrawal if the facts do not lead the Commissioner to conclude that the risks outweigh the benefits to subjects, considering the factors in paragraph (a)(11) of this section.

(d) An exemption that has been withdrawn under this section may be reinstated if the sponsor satisfies the Commissioner that the grounds for withdrawal no longer apply.

(e) The Commissioner shall prepare a summary of the information on the safety and effectiveness of a device that was submitted under this part and was the basis for an order under paragraph (a) of this section withdrawing an exemption that permitted an investigational study of the device. The summary shall be made publicly available, on request, upon issuance of the order and shall include information on any adverse effects on health of the device.

§ 812.38 Confidentiality of data and information in an application.

(a) [Reserved]

(b) The availability for public disclosure of all data and information in the Food and Drug Administration file concerning the application or notification shall be handled in accordance with the provisions established in § 314.14 of this chapter for the confidentiality of data and information in new drug applications.

(c) Notwithstanding the provisions of § 314.14 of this chapter, the Food and Drug Administration shall disclose upon request to an individual on whom an investigational device has been used a copy of any adverse reaction report relating to such individual as a result of such use.

§ 812.39 Supplemental applications and submissions concerning applications.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, information contained in an application submitted under § 812.21 or notification submitted under § 812.20 may be updated by means of a report to the Food and Drug Administration under § 812.55.

(b)(1) Whenever the sponsor or any investigator participating in an investigational study wishes to implement a change in, or deviation from, the investigational plan submitted to the Food and Drug Administration or an institutional review committee that may affect the validity of the study or

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the rights or safety of the human subjects under the criteria in paragraph (b)(3) of this section, the investigator shall obtain the prior review and approval of any institutional review committee involved in the study. If the sponsor is amending an application rather than a notification, he shall also submit to the Food and Drug Administration a supplemental application describing the proposed change or deviation and justification therefor. Except as provided in paragraph (b)(2) of this section, the sponsor shall submit the supplemental application before the change or deviation is implemented, with a copy of the approval of the change or deviation by any institutional review committee evidenced by a statement from the chairman. The sponsor shall not permit the change or deviation to be implemented unless and until the supplemental application is approved or deemed approved by the Food and Drug Administration under § 812.30(b), except as described in paragraph (b)(2) of this section.

(2) When a change or deviation is necessary to eliminate or reduce an apparent immediate hazard to the safety of a human subject who is already participating in the investigational study, the investigator and the sponsor are not required to comply with the prior approval requirements of paragraph (b)(1) of this section. The investigator shall instead notify any institutional review committee of the change or deviation and the justification therefor as soon as possible but in no event later than 5 days after the change or deviation has been implemented. The sponsor shall instead notify the Food and Drug Administration as soon as possible but in no event later than 5 days after learning of the change or deviation.

(3) The following changes in, or deviations from, an investigational plan illustrate some of the situations in which prior review and approval are required under paragraph (a) of this section:

(i) A significant change in the administration of, or where appropriate, in the application or frequency of, or a change in the method of, administration or use of the investigational device.

(ii) A significant change in the number of subjects participating in the study at one time or cumulatively.

(iii) The utilization of subjects with medical conditions unrelated to, but possibly affecting, the scope or validity of the study, e.g., use of terminally ill patients in an investigation unrelated to the terminal illnesses.

(iv) The utilization of human subjects who require special consideration or protection and who are not listed specifically in the plan, e.g., children, pregnant women, or mentally disabled individuals.

(v) The administration of concomitant or concurrent therapy where it is likely that an interaction or interference with the investigational device might occur.

(c) The sponsor shall submit to the Food and Drug Administration the signed statements required under §§ 812.43(b) and 812.21(b)(5) for any additional investigators and institutional review committees who are added to an investigational study after submission of a notification under § 812.20 or an application for an investigational device exemption under § 812.21(b). Any such additional statement shall be submitted before an investigator may begin participation in the investigational study except that:

(1) The sponsor may request Food and Drug Administration approval to add additional investigators to the study by rapid communication techniques before submitting the signed statements.

(2) When there exists a life-threatening situation that necessitates the use of an investigational device, prior notification is not required.

(3) When a study is being conducted under a notification pursuant to § 812.20, prior notification is not required.

(d) The sponsor shall submit to the Food and Drug Administration any additional forms, or revisions in forms, or other informational materials to be provided to human subjects and any additional informational materials, or revisions in such informational materials, supplied to investigators, which had not previously been submitted to the Food and Drug Administration. The sponsor shall submit such forms or materials to the Food and Drug Administration at the same time that they are provided to investigators.

Subpart C—Sponsor Responsibilities in Investigational Studies Involving Human Subjects

§ 812.40 General.

The requirements of this subpart are applicable to sponsors of investigational studies, including sponsor-investigators, except as specifically provided otherwise in this chapter, e.g., § 812.2(c). Sponsors also are subject to other requirements under this part and Parts 52 and 58 of this chapter.

§ 812.42 Review of the investigational study by the Food and Drug Administration and the institutional review committee.

(a) Before any human subject is allowed, or requested formally to consent to, participation in the investigational study, the sponsor shall ensure the following:

(1) The requirements of § 52.25 of this chapter concerning assurance of institutional review are met, where institutional review is required under paragraphs (b) through (d) of this section.

(2) The sponsor has both submitted a notification or application for an investigational device exemption to the Food and Drug Administration and obtained an exemption from the Food and Drug Administration in accordance with §§ 812.20(d) or 812.30(b).

(b) Except as provided in paragraph (d) of this section, the Food and Drug Administration will not accept any notification or application for an investigational device exemption unless the investigational study has been reviewed and approved, and remains subject to continuing review, by an institutional review committee meeting the requirements of Food and Drug Administration regulations.

(c) Except as provided in paragraph (d) of this section, the Food and Drug Administration will not consider in support of an application for a research or marketing permit (as defined in § 52.3(b) of this chapter) any data or information that has been derived from an investigational study unless that study had been approved by, and was subject to initial and continuing review by an institutional review committee meeting the requirements of Food and Drug Administration regulations. The determination that an investigational study may not be considered in support of an application for a research or marketing permit does not, however, relieve the applicant for such a permit of any obligation under any other applicable regulation to submit the results of the investigation to the Food and Drug Administration.

(d) (1) Except as provided in paragraph (d)(2) of this section, the Food and Drug Administration may waive the requirement for institutional review on request of a sponsor of an application for an investigational device exemption (but not a notification), if the Commissioner determines that the requirement is not necessary either for protecting the subjects involved or for assuring the validity or reliability of the scientific data. Any applicant for an investigational device exemption or other research or marketing permit may include a request for waiver, with supporting information, in the application.

(2) The requirement for institutional review will not be waived in any of the following situations:

(i) When the clinical investigation involves institutionalized human subjects.

(ii) When the clinical investigation is conducted on the premises of an institution that has an institutional review committee meeting the requirements of Food and Drug Administration regulations.

(iii) When the Food and Drug Administration determines that the risks to the subjects justify such review.

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§ 112.43 Selection of investigators.

(a) The sponsor shall select as investigators only individuals who, because of their training or experience, qualify as suitable experts to investigate the safety and effectiveness of the device (in view of the investigational plan, the report of prior investigations of the device, and what is known about the device) and who have the ability and commitment to comply with the investigational plan and Food and Drug Administration regulations regarding the obligations of investigators.

(b) The sponsor shall obtain from each investigator who will participate in the investigational study a signed statement for submission to the Food and Drug Administration under §§ 812.20(b) or 812.21(b)(7), which includes the following information:

(1) A statement of the investigator's education and experience in sufficient detail to allow determination of the investigator's qualifications for investigating the device. Such statement shall include:

(i) Colleges, universities, and medical or other professional schools attended, dates of attendance, degrees, and dates on which degrees were awarded.

(ii) Postgraduate medical or other professional training with dates, names of institutions, and nature of training.

(iii) Teaching or research experience, with dates, names of institutions, and a brief description of the experience.

(iv) Experience in medical practice or other professional experience, with dates, institutional affiliations, and nature of practice or other professional experience.

(v) A representative list of pertinent medical or other scientific publications of the investigator, with titles of articles, names of publications, and volume, number, page, and date.

(vi) Specific experience with the device to be investigated (when available), including date, amount, and description of experience, including the name of the institutions where investigated.

(2) An agreement to comply with the investigational plan Food and Drug Administration regulations regarding the obligations of investigators, and any conditions for approval of an application for an investigational device exemption imposed under § 812.30.

(3) An agreement that any use of the device involving human subjects will be under the investigator's supervision or under the supervision of another investigator who is responsible to him or her and who is named by the investigator in his or her signed statement under paragraph (b)(5) of this section.

(4) A statement as to whether an investigational study or other research by such investigator has been discontinued on the order of a sponsor, an institutional review committee, or the Food and Drug Administration.

(5) The name of any other investigator who will participate in the investigational study, who is under the investigator's supervision, and who is responsible to him or her, with information required in paragraph (b) (1), (2), and (4) of this section.

§ 812.45 Control over the investigational device; facilities.

The sponsor shall permit the investigational device to be shipped only to investigators who have signed statements which the sponsor has submitted to the Food and Drug Administration under §§ 812.20(a), 812.21(b)(7) or 812.39(c), and the sponsor shall comply with the requirements of Subparts C and F of Part 52 of this chapter.

§ 812.46 Monitoring the investigational study.

(a) The sponsor (other than a sponsor-investigator who is the only investigator) shall comply with the requirements of § 52.28 of this chapter in selection of and directions to trained and qualified individual(s) to monitor the progress of the investigational study. The monitor shall comply with the requirements of § 52.29 of this chapter.

(b) If the sponsor (other than a sponsor-investigator who is the only investigator) discovers that any investigator participating in the investigational study has not complied with the requirements of this part, other Food and Drug Administration regulations regarding the obligations of investigators, or such investigator's agreement under § 812.43(b), the sponsor shall secure such investigator's compliance or discontinue shipments to such investigator. The sponsor may require such investigator to make appropriate disposition of the device in accordance with § 52.114 of this chapter and may suspend or terminate any study being performed by such investigator for the sponsor.

(c) (1) The sponsor shall undertake a special investigation whenever learning of any serious adverse effect, death, or life-threatening problem that may reasonably be regarded as device-related (i.e., caused by or associated with the investigational device) and was not previously anticipated in nature, severity, or degree of incidence in the written information provided to investigators and to the Food and Drug Administration by the sponsor regarding the device. The sponsor shall report the results of the special investigation to other investigators, and to the Food and Drug Administration under § 812.55(d) within 10 working days after the sponsor learns of the effect, death, or problem.

(2) Where the sponsor learns from the special investigation that the serious adverse effect, death, or medical problem is device-related and presents unreasonable risk to subjects involved in the study, the sponsor shall suspend the study as soon as possible but in no event later than 5 working days after sufficient information is available to warrant suspension, except that if an institutional review committee or the Food and Drug Administration has ordered suspension by an earlier date, this earlier date shall apply. Suspension of an investigational study is warranted when the potential risks of continuation of the study outweigh the possible benefits. Suspension of the investigational study for purposes of this section means that no new subjects may be added to the study, and only those subjects whose medical needs require the continued use of the device may receive the device. Where the Food and Drug Administration regards a serious adverse effect, death, or medical problem as device-related and as presenting unreasonable risk to subjects, the agency may order the sponsor to suspend the study. The sponsor shall suspend the study as soon as possible but in no event later than the date prescribed in such request or order. Once the study has been suspended, the sponsor shall not resume the study without the concurrence of the Food and Drug Administration.

(d) A sponsor shall not unduly prolong an investigational study. Where data are developed in the study which would support submission of an application for premarket approval of the device pursuant to section 515 of the act, the sponsor shall either submit such an application or discontinue the study.

§ 812.47 Submitting information to investigators.

(a) The sponsor shall supply all investigators with copies of the investigational plan required under § 812.25, the report of prior investigations of the device required under § 812.27, and labeling (including labels) for the device which shall meet the requirements of § 812.5(b).

(b) The sponsor shall notify each investigator of the completion or discontinuance of the investigational study or the withdrawal of the exemption as soon as possible but in no event later than 5 working days after such action.

(c) The sponsor shall notify each investigator if an application for premarket approval of the device under section 515 of the act is approved.

(d) This section does not apply to a sponsor-investigator who is the only investigator.

§ 812.50 Promotion and sale of investigational devices.

(a) The sponsor and any person acting for or on behalf of the sponsor

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shall comply with § 52.118 of this chapter and shall not commercially distribute or test market an investigational device, until the device has been approved for marketing for the purpose for which it is being investigated.

(b) Section 52.118 of this chapter and paragraph (a) of this section shall not apply to lawful commercial shipments of a device (other than a device subject to section 520(1) of the act, i.e., a device the Food and Drug Administration had regarded as a new drug or antibiotic drug) that was in commercial distribution before May 28, 1976 or that is substantially equivalent to a device that was in commercial distribution before such date, before the device is classified under section 513(d) of the act and any transitional period for the device under section 501(f)(2)(B) of the act has expired. Section 52.118 of this chapter and paragraph (a) of this section shall, however, apply to shipments of the device for investigational use.

(c) The sponsor shall not commercialize the device by charging subjects or investigators for an investigational device if the Food and Drug Administration finds the compensation to be unreasonable in view of the manufacturing and other costs of the device itself, and has notified the sponsor of this finding.

§ 812.55 Reporting to the Food and Drug Administration, maintaining records, and permitting inspections.

(a) The sponsor shall maintain accurate and adequate records for reporting to the Food and Drug Administration on the progress of the investigational study. These reports shall be made at appropriate intervals not exceeding 1 year. Such reports shall include any significant findings of the investigational study and any amendments to the application or to previous reports that are necessary to keep them accurate and timely and that had not been submitted to the agency previously.

(b) The sponsor shall notify the Food and Drug Administration of the suspension, termination, completion or discontinuance of the investigational study within 30 working days and shall make an accurate and adequate final report to the agency on the study within 6 months after the study is suspended, terminated, completed or discontinued, or an exemption is withdrawn.

(c) The sponsor shall notify the Food and Drug Administration of any request that investigators return, or otherwise dispose of, any supplies of the investigational device and of steps taken to comply with § 52.114 of this chapter.

(d) The sponsor shall report to the Food and Drug Administration any serious adverse effect, death, or life-threatening medical problem that is subject to the requirement of a special investigation under § 812.46(c) as soon as possible, but in no event later than 10 working days after the sponsor learns of the adverse effect, death, or medical problem. The sponsor shall submit the results of the special investigation as soon as possible but in no event later than 10 working days after the special investigation is completed. Such reports shall be accurate and adequate in content.

(e) The sponsor shall submit to the Food and Drug Administration a copy of a report of a determination by an investigator under § 812.123 that informed consent cannot be obtained from a subject or the subject's legal representative. Such report shall be submitted as soon as possible but in no event later than 5 working days after such report is received from the investigator.

(f) The sponsor shall report to the Food and Drug Administration any discovery that an institutional review committee is not complying with its agreement to review the study or with applicable Food and Drug Administration regulations.

(g) The sponsor shall retain a copy of any application, report, or correspondence that the sponsor submits to the Food and Drug Administration under this part. The sponsor shall maintain copies of all communications between the sponsor and any committee or any investigator regarding the study.

(h) A sponsor may withdraw from the responsibility for maintaining records for the period of time required in § 52.195 of this chapter by transferring custody to any other person who will accept responsibility for the records, e.g., a manufacturer who has acquired the rights to the device. Notice of such transfer shall be given to the Food and Drug Administration.

(i) A sponsor shall permit an authorized employee of the Food and Drug Administration, at reasonable times and in a reasonable manner, to inspect any facilities where the investigational device is manufactured, processed, held, or used, and to inspect and copy any records of the sponsor concerning the investigational study, including any records required to be kept under this chapter to which the sponsor has the right to grant access. A sponsor shall permit a representative of an institutional review committee that is supervising all or any portion of an investigational study initiated by the sponsor, at reasonable times and in a reasonable manner, to inspect and copy any records of the sponsor relevant to the responsibilities of the committee concerning the investigational study except trade secret or confidential commercial information that is confidential as described in 21 CFR 20.61.

(j) The Food and Drug Administration may require a sponsor to submit to the agency any records concerning the investigational study, including any records required to be kept under this chapter.

Subpart D—Institutional Review Committee [Reserved]

Subpart E—Investigator Responsibilities in Investigational Studies Involving Human Subjects [Reserved]

Subpart F—Informed Consent of Human Subjects

§ 812.120 General requirements of informed consent.

(a) Except as provided in § 812.123, an investigator shall:

(1) Inform each human subject, or if the subject lacks legal capacity, the subject's legal representative, that the investigational device is being used for research purposes.

(2) Provide each human subject, or the subject's legal representative, an adequate explanation of pertinent information concerning the investigational device, including the information required in § 812.130.

(3) Obtain and document legally effective informed consent of such subject, or such subject's legal representative.

(b) Informed consent shall be obtained while the subject, or the subject's legal representative, can exercise free choice without undue inducement or the intervention of any element of force, fraud, deceit, duress, or other forms of constraint or coercion.

(c) Informed consent shall be evidenced by a written agreement and signed by the subject or the subject's legal representative.

(d) The investigator shall maintain copies of records required by this subpart for the time prescribed in § 52.195 of this chapter.

§ 812.123 Exception from requirement.

(a) The requirements of § 812.120 shall not apply when:

(1) The investigator determines in writing (i) that there exists a life-threatening situation involving the subject which necessitates the use of the investigational device, (ii) that it is not feasible to obtain informed consent from the subject, and (iii) that there is not sufficient time to obtain such consent from the subject's legal representative.

(2) Such determination has the concurrence of a licensed physician not involved in the testing of the device, unless the investigator determines, and documents these determinations, that immediate use of the device is necessary to save the life of the subject, that there is not sufficient time to obtain such concurrence, and that there is available no effective alternative method of therapy that is approved or generally recognized which may save the life of the subject. These determinations may be documented before use of the device or within 5 working days after use.

(b) If the investigator does not obtain informed consent and uses the investigational device in accordance with the requirements of paragraph (a) of this section, the investigator shall maintain records of, and shall report as soon as possible but in no event later than 5 working days after using the device, the determinations required by paragraph (a) (1) and (2) of this section to the sponsor, for submission by the sponsor to the Food and Drug Administration in accordance with § 812.55, and to the committee.

§ 812.130 Elements of informed consent in agreement.

(a) The investigator shall ensure that the agreement to be signed under § 812.120(c), or the information that is given to the subject or to the subject's legal representative, includes a complete explanation of pertinent information on the investigational device adequate to enable him or her to make a decision on his or her willingness to participate, or permit the subject to participate, in the investigation and also includes:

(1) A full and fair explanation of procedures to be followed, including an identification of any which are experimental.

(2) A full explanation of the nature, expected duration, and purpose of the administration of the investigational device.

(3) A description of any attendant discomforts and risks reasonably to be expected.

(4) An explanation of likely results should the procedures fail.

(5) A description of any benefits reasonably to be expected.

(6) A disclosure of any appropriate alternative procedures that might be advantageous for the subject.

(7) A description of the scope of the investigation, including the number of subjects involved in the investigational study.

(8) An offer to answer any inquiries concerning the investigational study.

(9) An instruction that the subject, or the subject's legal representative, is free to decline entrance into the investigational study or to withdraw his or her consent and to discontinue participation in the study at any time without prejudice to the subject.

(10) A statement that the investigational device is being used for research purposes.

(b) The agreement entered into by such person or his or her legal representative shall include no language through which the subject waives, or appears to waive, any of the subject's legal rights or releases or appears to release the institution or its agents, or the sponsor, or the investigator, from liability for negligence.

(c) An investigator shall provide to the sponsor and any institutional review committee participating in the review of the study a sample copy of any written materials given or read to the subject, or the subject's legal representative, regarding the information required to be given by this section and a sample copy of any form used to document the consent of such subject, or the subject's legal representative, which form shall have been approved by the committee.

Subpart G—[Reserved]

Subpart H—Tests That Do Not Involve Human Subjects

§ 812.160 Conditions of exemption.

(a) Where an investigational device is intended for use in humans, a shipment of the device that is intended solely for tests in animals used only for laboratory research purposes, or for in vitro or mechanical tests or similar tests that do not involve use of human subjects, shall be exempt from any of the otherwise applicable provisions of the act listed in § 812.1(c) if:

(1) The labeling of the device complies with the requirements of § 812.5 (a) and (b) and bears the following additional statement (or, where appropriate, a statement prescribed in § 809.10(c) of this chapter for an in vitro diagnostic product):

CAUTION—Device [or Diagnostic product] for investigational use only in laboratory animals or other tests that do not involve human subjects.

(2) The person who ships the device under this subpart uses due diligence to ensure (i) that the consignee is regularly engaged in conducting tests in animals used only for laboratory research, or for in vitro or other mechanical tests or similar tests that do not involve use of human subjects and (ii) that the shipment of the investigational device will actually be used only in such tests.

(3) The person who ships the device under this subpart maintains adequate records showing the name and address of the consignee to whom the device is shipped, date, quantity, and batch or code mark of each shipment for a period of 2 years after such shipment and, upon the request of a properly authorized employee of the Department at reasonable times, makes such records available for inspection and copying or submits such records to the Food and Drug Administration.

(4) The device will be tested in accordance with applicable requirements in Part 58 of this chapter.

(b) This subpart does not apply to any use of an investigational device that involves use of human subjects.

§ 812.170 Termination of exemption.

(a) The Commissioner shall terminate an exemption under this subpart if the Commissioner makes either of the following findings:

(1) The person shipping an investigational device under this subpart has failed to comply with one or more of the conditions for the exemption in this subpart.

(2) Any of the grounds for withdrawal of an investigational device exemption under § 812.35 applies.

(b) The Commissioner shall notify the sponsor of the termination of an exemption under this subpart by providing a full statement of the reasons for such termination and shall afford an opportunity for a regulatory hearing under Part 16 of this chapter. The person whose exemption is terminated shall recall or otherwise ensure the destruction of any unused devices.

Interested persons may, on or before September 11, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document.

Interested persons may file notices of appearance for a public hearing (in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) with the Hearing Clerk on or before June 12, 1978. The date, time, and place of the hearing will be announced in the FEDERAL REGISTER. Received comments and notices of appearance may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: April 29, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-12794 Filed 5-11-78; 8:45 am]

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Federal Register

FRIDAY, MAY 12, 1978
PART IV



DEPARTMENT OF LABOR

Office of the Secretary

■

EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AND TRAINING

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[4510-30]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY

PART 30—EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AND TRAINING

Final Rule

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: The regulation published today amends the Department of Labor's regulations concerning equal employment opportunity in apprenticeship and training to include specific provisions requiring affirmative action for women.

EFFECTIVE DATE: The regulations shall take effect June 12, 1978.

FOR FURTHER INFORMATION CONTACT:

James D. Henry, Associate Solicitor for Labor Relations and Civil Rights, Office of the Solicitor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8222, or James P. Mitchell, Deputy Administrator, Bureau of Apprenticeship and Training, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20212, 202-376-6488.

SUPPLEMENTARY INFORMATION: On September 30, 1977, the Office of the Secretary of Labor, U.S. Department of Labor, published in the FEDERAL REGISTER (42 FR 52441) a proposal to amend 29 CFR Part 30 to require specific affirmative action steps, including goals and timetables, for women. The September 30 proposal provided that comments on the proposal would be received until November 14, 1977. Subsequently, the comment period was extended to November 30, 1977. As of January 3, 1978, 1,030 separate written comments had been received. More than half (579) of these comments favored the proposed amendment; 451 of the comments opposed it. Of the 1,030 comments, 144 were from apprenticeship committees; 114 from unions; 373 from individuals; 69 from government agencies; 118 from women's organizations; 100 from employees; and 112 from other organizations. Comments were received after January 3, 1978, although they are not included in the above count. Each submission has been thoroughly reviewed and each criticism and suggestion given careful consideration.

SUMMARY OF COMMENTS

1. Some of the comments opposed the proposed amendment because of the requirement of goals and timetables for women. These comments expressed the opinion that goals were the same as quotas and were illegal. Some of these comments expressed the view that the Department of Labor should withhold any action on final regulations until the U.S. Supreme Court has rendered its decision in *The Regents of the University of California* v. *Allen Bakke*. These comments maintained that the Department's final regulation would have to be consistent with this decision.

Some of the comments from those opposed to the use of goals suggested alternative means to accomplish affirmative action for women in apprenticeship. Alternatives suggested included the use of outreach programs for women, emphasis on recruitment of women, and the development of special programs to prepare women with basic skills required to enter apprenticeship programs.

2. Some of the comments opposed goals for women because of a belief that women as a class were unable to do the work of the skilled trades and/or were not interested in doing such work. Some of these comments expressed the opinion that goals would require the hiring of unqualified people who would not be able to do the work and/or of people who were not sincerely interested in learning the trade.

3. Other comments were not opposed to the concept of goals for women but suggested that the proposed first-year goal for women in entering apprenticeship classes was unreasonable. They expressed the view that there were not enough women available who were able to do the work and/or interested in becoming apprentices to meet the proposed goal.

Some of these commentors suggested alternative methods for establishing goals and timetables for women. Included in these suggestions were proposals to base the goal on current participation of women in the skilled trades, on the number of women interested in entering apprenticeships, and/or on the number of women who apply for entrance into apprenticeship programs. Some commentors suggested that the Department delay requiring goals for women for 2 years, requiring vigorous recruitment of women during the 2-year period. Goals would then be based on the number of women who demonstrated interest in apprenticeship during this 2-year period.

4. A few comments maintained that the availability of women interested in entering apprenticeships would vary from one region to another. These comments proposed that the Department take account of this and set goals on a regional rather than a nationwide basis.

5. Other comments from those opposed to the proposed amendment included statements that the proposal was inflationary, that it was inappropriate during a time of high unemployment in the skilled trades, and that the time allowed for making the required changes in the sponsors' affirmative action plans was too short. In addition, some comments suggested that program sponsors be allowed to set minimum physical standards for entrance into their programs.

6. Most of the comments received from women's organizations, individuals, government agencies, and public interest organizations supported the proposed amendment. These comments stated that without the specified affirmative action requirements, especially the use of goals and timetables, very little would be accomplished in increasing the participation of women in apprenticeship programs.

7. A number of those who commented in favor of the proposed amendment objected to the use of the term "qualified" modifying minorities or women in the section of the preamble entitled "Proposed Changes." These comments pointed out that the term is not used in the current regulation or the proposed amendment. They advocated as an alternative the use of the word "trainable," claiming that there was a possibility that biased program sponsors may use this language as an excuse to exclude women on the basis that they were not "qualified."

8. Others who favored the amendment generally suggested that the Department adopt the position that the ultimate goal for women in apprenticeship be work force parity, and that the goal be set at this level in 5 years.

9. Some of those favoring the amendment proposed that the use of priviate review panels in connection with complaints of discrimination be eliminated and/or that complainants be given an option to file their complaints with the Department.

10. Some proponents of the amendments suggested that the Bureau of Apprenticeship and Training be required to conduct compliance reviews of programs annually.

11. A few organizations favoring the amendments suggested that the complaint procedure be changed in order to permit third-party complaints.

12. Some women's organizations and government agencies were concerned about the problem of double counting minority women.

13. Other suggestions made by those who favored the amendments included the elimination of age limits, increased coordination between the Bureau of Apprenticeship and Training and the Office of Federal Contract Compliance Programs of the Department of Labor, and shortening of the time periods allowed program sponsors to come into compliance.

In the Discussion section below we will take up each of the issues listed above as we discuss the amendment on a section-by-section basis.

BACKGROUND

Regulations published at 29 CFR Part 30 establish policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor or with recognized state apprenticeship agencies. The regulations prohibit discrimination based on race, color, religion, national origin or sex.

They also require the adoption of written affirmative action programs including the development of goals and timetables. But while the present regulations require the elimination of sex-based discrimination, they do not require that the written affirmative action plans cover women. Also, a sponsor currently is not required to establish and attain goals and timetables for women although goals and timetables are required for minorities.

Over the last several years the Department of Labor has received a number of requests to amend 29 CFR Part 30 to make the written affirmative action plan requirement, including goals and timetables, applicable to women. Most recently a group of organizations petitioned the Department of Labor pursuant to 5 U.S.C. 553(e) to initiate rulemaking proceedings to cover women in affirmative action plans relating to registered apprenticeship programs.

The Department of Labor has examined the status of women in apprenticeship programs and has concluded, based on their participation rate, that 29 CFR Part 30 should be amended to require that written affirmative action plans for apprenticeship programs cover women, including the establishment and implementation of goals and timetables.

As the petition for rulemaking states:

> The percentage of women in the civilian labor force has steadily increased from 1920 to 1976, when the percentage of the workforce which is female had climbed to a new high of 40.5 percent. However, despite a continuing climb in overall labor force participation, women are generally confined to five low-paying categories of work: clerical, domestic work, teaching, nursing and sales. Women comprised only 4.5 percent of all craft and kindred workers—"The skilled trades"—in 1975. A woman working full-time, year-around, in 1974 as a clerical had a median income of $6,827; a domestic earned $2,676; a salesperson $5,168; and a teacher below the college level, not a year-round worker, could expect $7,739. In contrast, male craft workers reached a median income of $12,028. [Footnote and reference omitted.]

Historically, women have had only limited participation in apprenticeship programs, which is how many skilled craftworkers enter their jobs.

In 1976 of the 11 million skilled blue-collar workers, only slightly over a half million (545,038) were women. Nearly 165,000 of these women were bakers; tailors; upholsterers; and decorators and window dressers; constituting, respectively, 37.2, 32.1, 28.6, and 70.6 percent of total employed. On the other hand, the proportion of women carpenters, electricians, painters, plumbers, machinists, mechanics, stationary engineers, and a few other skilled trades ranged from less than 1 percent to about 3 percent of the total. Although the number of women apprentices increased by 74 percent in one year (1974-75), they still represented only 1.2 percent of the total number of apprentices registered.

DISCUSSION

The following sections have not been significantly affected by the regulations adopted today, other than minor conforming and editorial changes: §§ 30.1, 30.2, 30.7, 30.9, 30.10, 30.12, 30.14, 30.16, 30.17, 30.18 and 30.19. The major change in the sections affected by the regulation is the insertion of appropriate words to show that the written affirmative action plan requirement applies to women as well as to minorities. Section 30.6 has been altered in this manner as well as through minor editorial and conforming changes. Other sections significantly affected by the regulation adopted today will be discussed below.

Section 30.3. This section sets forth the equal opportunity standards applicable to sponsors of apprenticeship programs.

1. Section 30.3(e) provided that a sponsor would not be required to adopt an affirmative action plan under § 30.4 or a selection procedure under § 30.5 if it submitted to the Department satisfactory evidence that it was in compliance with an equal employment opportunity program providing for the selection of apprentices and for affirmative action in apprenticeship which had been approved as meeting the requirements of Title VII of the Civil Rights Act of 1964, as amended, or Executive Order 11246, as amended.

The proposal published in the FEDERAL REGISTER on September 30, 1977, (42 FR 52441) proposed the following addition to § 30.3(e): "except to the extent that the goals and timetables in such program are less than would be required under this part." Several comments objected to this proposed addition, claiming that meeting the requirements of Executive Order 11246 or Title VII should adequately protect the rights of women and minorities with regard to apprenticeship. After considering these comments, the Department has decided to adopt the following language as an addition to § 30.3(e):

Provided, That programs approved, modified or renewed subsequent to the effective date of this regulation will qualify for the exception only if the goals and timetables for both minorities and women for the selection of apprentices provided for in such programs are equal to or greater than the goals required under this part.

Thus the regulation adopted today will permit sponsors with approved equal employment opportunity programs to be exempted from the requirement to adopt an affirmative action plan or a selection procedure during the duration of their currently approved program, provided such programs contain goals and timetables for women as well as for minorities. Programs approved subsequent to the effective date of this amendment will have to be consistent with this part in order for the exemption to be allowed.

2. Section 30.3(f) provided that sponsors of programs with fewer than five apprentices not be required to adopt an affirmative action plan under § 30.4 or a selection procedure under § 30.5. The proposal published in the FEDERAL REGISTER on September 30, 1977 (42 FR 52441) proposed the following addition to § 30.3(f): "provided that such program was not adopted to circumvent the requirements of this part." This proposal has been adopted.

Section 30.4. This section sets forth the requirement that program sponsors adopt a written affirmative action plan, including the establishment of goals and timetables. This section previously required the establishment of goals and timetables for minorities only. The regulation adopted today amends this section to require the establishment of goals and timetables for women as well as for minorities. A number of comments addressed the issue of goals. Some of the commentors, particularly some of the unions and joint apprenticeship councils, characterized goals as "quotas", stated that the goal requirement would require the hiring of unqualified persons, stated that women are not capable of or interested in working in the skilled trades, and stated that other workers would be displaced by women because of high unemployment in the skilled trades.

The Department of Labor's experience has demonstrated that goals and timetables are the most concrete and effective system for increasing the representation of women and minorities in employment areas from which they have previously been excluded or have not been represented in proportion to their availability. Initially, contractors subject to the requirements of Executive Order 11246, as amended, were required to implement goals and timetables for minorities only. Thereafter, non-construction contractors were required to establish goals and timetables for women also. Most recently, the Executive Order regulations were amended to require goals and ti-

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metables for women working in construction.

A review of the status of women in the skilled trades shows that unless specific affirmative action steps are prescribed, employment opportunities in these trades will not reach the female workforce. For example, when these regulations were proposed last September, the preamble contained the following statement (42 FR 52442):

According to the latest available data for January through June 1976, there were 3,545 women apprentices, representing 1.4 percent of the total apprentices (249,060). A further look at the number of women employed in several occupations for which apprenticeships are available shows generally that women are making very small gains, numerically and proportionately. The gains, in fact, are so small that if women are ever to be fairly representative in the skilled crafts, their entry into apprenticeship programs must be greatly accelerated. The Department of Labor's experience has shown that the use of goals and timetables is the most effective means for increasing the number of women and minorities in employment areas from which they previously have been excluded or have not been represented in proportion to their availability. Minority participation in apprenticeship and in individual construction trades, for example, has increased measurably as a result of the minority outreach program and the goals and timetables requirements under 29 CFR Part 30. The data for the first 6 months of 1976 indicate that monorities (who constitute 11.5 percent of the work force) are 17.7 percent of all apprentices. This is a rise from 9.1 percent in 1970, the last year before 29 CFR Part 30 was issued. During the same months in 1976, women (41.1 percent of the work force) held only 1.4 percent of all apprenticeship positions.

In view of these data, affirmative action goals and timetables for women in apprenticeship programs coupled with implementing affirmative action procedures would appear to be particulary appropriate at this time.

Many of the commentors opposed to this regulation claimed that women are not available for work in the skilled trades in the numbers required to achieve the goals. These commentors maintained either that women could not do the work or were not interested in apprenticeships. Information gathered by the Department, however, reveals that when opportunities are opened up for women in the skilled trades, women are available to take advantage of the opportunities.

The experience of World War II demonstrated the ability of women to perform jobs traditionally held as "male". During that period 6.7 million women entered the labor force with 2.9 million working in the crafts, as operatives or non-farm laborers. Approximately 350,000 women served in one of the four military services, and many others served in quasi-military support units. Women worked in essentially every occupation except direct combat. They drove trucks, repaired airplanes, rigged parachutes, were gunnery instructors, as well as air traffic controllers. Data provided to the Department by the Office of Women's Rights, Seattle, Wash., demonstrates the success in placing women in construction trades which was achieved when the City instituted a 12 percent goal for women in all levels of city-financed construction work. The Director of the Office of Women's Rights in a September 26, 1977 letter, wrote that the 12 percent overall goal has been so achieveable that it is likely it will be raised to 15 percent in 1978.

The Maritime Administration, which oversees enforcement of Executive Order 11246 in the shipbuilding industry, has provided the Department with some very useful documentation on both the availability of women for construction-related jobs and the positive impact of goals and timetables in the employment of women in those jobs. A number of the jobs in the shipbuilding industry are comparable to jobs in construction; the Maritime experience therefore is particularly useful. In early 1972 the Maritime Administration began requiring goals and timetables for women by shipbuilding contractors. The experience was that as more women were employed, more women applied. Once women knew that they would be hired without regard to sex, they applied in large numbers. In at least one shipyard the applicant flow is now running at the rate of the normal workforce rate of women in that area, greatly exceeding the 20 percent entry level goal originally set. Unquestionably, the key reason for the increase of women in that industry is goals and timetables.

Significant employment increases for women have resulted in the skilled and semi-skilled crafts in the Bell System of the American Telephone and Telegraph Co. under the goals required by the consent decree entered in 1973. Goals for women were set at the percentage of women in the workforce (then 38 percent) in all job groups in which they were under-represented, except for outside skilled and semiskilled craft jobs, where the goals were set at half the female workforce figure (i.e. 19 percent in 1973). Annual targets were set at these levels and carefully monitored. From January 1, 1973, to January 1, 1977, women in outside skilled crafts in AT&T rose in actual numbers from 38 to 970. Thus, despite the fact that the company was reducing its workforce in inside skilled and outside and inside semi-skilled job groups during the same years, the gains for women were marked in each of these categories. Goals were also required for women in the construction of the Alaska pipeline. Not only was the goal exceeded but women worked in areas and under conditions where many would have thought women would not accept jobs. Better than 2,500 women worked in the bush in such jobs as operating engineers, teamsters, laborers, etc. In fact, of the 19 construction crafts working on the pipeline, women were represented in all but four.

A major effort to include women in non-traditional jobs, many of them construction related, has been undertaken by the Department of Defense, particularly the Air Force. Between 1974 and 1976, the number of women trained by the Air Force in non-traditional areas increased from 19,465 to 29,235. By 1977, their number had reached 34,610. Also, many of the women who entered the Air Force training programs in the initial stages in 1972, are now entering the civilian labor force and would be available for apprenticeship programs. Some of the Air Force Speciality Codes open to women include: Telephone Switching Equipment Repairman Electrical/Mechanical in which women went from zero in 1972 to 72 in 1977; Helicopter Mechanic, Jet Engine Mechanic, Aircraft Maintenance Specialist, and other related mechanic categories, from zero in 1972 to 3,181 in 1977; Electrician, from one in 1972 to 105 in 1977; Pavement Maintenance Specialist, zero to 46; Carpenter, zero to 91; and Plumber, zero to 72. Air Force enlistees enter the service with a four year commitment; they receive training and perform the duties of these specialities for that period of time. The military has been and remains a primary source for apprenticeship training for many men entering the skilled trades. It should also become a source of recruitment for women.

Since 1971, the Department has funded outreach programs for nontraditional jobs for women. Apprenticeship outreach programs have special women's components in 23 cities which have been funded for recruitment and placement of women. The concept of nontraditional job development for women has now been incorporated in all apprenticeship outreach programs and is involving women in over 100 cities. These and other specialized on-the-job training programs funded by the Department's Office of National Programs have contributed to opportunities for women in trades in which they were previously unrepresented. At the same time, however, overall numbers have not shown a significant increase comparable to that of minorities. Among the most successful projects are:

Better Jobs For Women—Initiated in 1971 under the leadership of the Denver Metropolitan YWCA, this project was developed by the Bureau of Apprenticeship and Training of the Department of Labor. It is one of two

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outreach programs operating specifically to get women into nontraditional jobs. The target population was female heads of households. Each year this project has surpassed its stated goal for placements. It has reported that there is greater interest in apprenticeship by women than there are opportunities. For example, as of April 1977 a yearly average of 150–200 women applied for registered apprenticeship but only 20 were placed.

Advocates For Women—A San Francisco project, funded by the Department of Labor since January 1974, this project serves nine counties in the San Francisco Bay Area. Its goal is to place women in apprenticeship training with an emphasis on construction.

The project reports that 1,100 women apply each year; 125 are placed. The project has had to stop advertising because the interest generated so far exceeds the placements available.

National Urban League, LEAP Apprenticeship Outreach Program For Women.—This project was funded by the Department of Labor in May 1974 to provide for greater involvement of women in apprenticeship. It is operated in conjunction with LEAP projects already providing outreach for minorities. It has operated in 15 cities across the country. This project has placed women in more than 15 crafts. The crafts in which women are participating under this project include: Asbestos workers, bricklayers, carpenters (22.8 percent of placements), cement masons, drywall tapers, electricians, ironworkers, laborers (14.9 percent), pipe trades, roofers, sheet metal workers, tilesetters, and welders.

A number of representatives of outreach programs and women's organizations commented in favor of the proposed regulation, stating that many women are eager to enter apprenticeships but that there are insufficient openings due to lack of affirmative action goals.

Thus the Department's experience indicates that there are women available and interested in entering the skilled trades. However, the longstanding reputation of the trades for excluding women discourages many women from applying for these jobs. A study by two Stanford University psychologists demonstrates that the number of women applying for jobs in the construction trades would substantially increase were there goals for women. In that study, two groups of female job seekers were given three detailed job descriptions and were asked to rate their interest in the jobs on a scale of 1 to 5, from "not interested" to "extremely interested." Two of the three jobs described were traditionally female jobs and one was a construction job. Half of the booklets contained the following statement under the title of the construction jobs: "Equal Opportunity for Women, Note: Federal Law Now Requires That Companies Train and Hire a Certain Percentage of Women for the Job of [carpenter] Each Year." The other half of the booklets contained no statement about affirmative action. In the affirmative action group, 33 percent of the women indicated a strong interest in the construction job, twice the percentage indicating a strong interest as in the other group. Seventy percent of the women in the affirmative action group expressed some degree of positive interest in construction jobs, one and one half as many as the other group.

Thus it is clear that women are available for apprenticeship opportunities. Furthermore, if women are to receive a fair number of these opportunities it is necessary to establish specific affirmative action requirements, including goals and timetables.

The Department of Labor recognizes and adheres to the distinction between permissible affirmative action goals and timetables and impermissible quotas. In a March 23, 1973 memorandum, the Departments of Justice and Labor and the Equal Employment Opportunity Commission and the Civil Service Commission distinguished goals and timetables from quotas:

• • • Quota systems in the past have been used in other contexts as a quantified limitation, the purpose of which is exclusion, but this is not its sole definition. A quota system, applied in the employment context, would impose a fixed number or percentage which must be attained, or which cannot be exceeded; the crucial consideration would be whether the mandatory numbers of persons have been hired or promoted. Under such a quota system, that number would be fixed to reflect the population in the area, or some other numerical base, regardless of the number of potential applicants who meet necessary qualifications. If the employer failed, he would be subject to sanction. It would be no defense that the quota may have been unrealistic to start with, that he had insufficient vacancies, or that there were not enough qualified applicants, although he tried in good faith to obtain them through appropriate recruitment methods.

Any system which requires that consideration of relative abilities and qualifications be subordinated to considerations of race, religion, sex or national origin in determining who is to be hired, promoted, etc., in order to achieve a certain numerical position has the attributes of a quota system which is deemed to be impermissible under the standards set forth herein.

A goal, on the other hand, is a numerical objective, fixed realistically in terms of the number of vacancies expected, and the number of qualified applicants available in the relevant job market. Thus, if through no fault of the employer, he has fewer vacancies than expected, he is not subject to sanction, because he is not expected to displace existing employees or to hire unneeded employees to met his goal. Similarly, if he has demonstrated every good faith effort to include persons from the group which was the object of discrimination into the group being considered for selection, but has been unable to do so in sufficient numbers to meet his goal, he is not subject to sanction.

The Department of Labor continues to recognize the distinction between affirmative action and impermissible quotas, and also follows the policy enunciated in the memorandum quoted above.

The Congress and the courts also have recognized and acquiesced in the affirmative action programs (including goals and timetables) required under Executive Order 11246, as amended, which is administered by the Office of Federal Contract Compliance Programs of the Department. When Congress considered the Equal Employment Opportunity Act of 1972 (Pub. L. 92-261), Senator Saxbe made the following statement (118 Cong. Rec. 1385):

The OFCC[P]'s affirmative action programs have tremendous impact and require that 260,000 Government contractors in all industries adopt positive programs to seek out minorities and women for new employment opportunities. To accomplish this objective, the OFCC[P] has utilized the proven business technique of establishing "goals and timetables" to insure the success of the Executive Order Program. It has been the "goals and timetables" approach which is unique to the OFCC(P)'s efforts in equal employment, coupled with extensive reporting and monitoring procedures that has given the promise of equal employment opportunity a new credibility.

The Executive Order Program should not be confused with the judicial remedies for proven discrimination which unfold on a limited and expensive case-by-case basis. Rather, affirmative action means that all Government contractors must develop programs to insure that all share equally in the jobs generated by the Federal Government's spending. Proof of overt discrimination is not required.

Senator Saxbe's proposed amendment was adopted. (118 Cong. Rec. 1387-1398 (1972).) In addition, 2 days after hearing the comments of Senator Saxbe, quoted above, Congress rejected an amendment offered by Senator Ervin which would have proscribed the adoption of goals by Government contractors. See also *U.S. v. Elevator Constructors (IUEC) Local Union No. 5*, 538 F.2d 1012, (3rd Cir. 1976); *Constructors Ass'n of Eastern Pa. v. Shultz*, 442 F.2d 159 (3rd Cir. 1971), *cert. denied*, 404 U.S. 854 (1971).

Some of the comments which opposed the use of goals for women suggested alternative methods for achieving affirmative action. Alternatives suggested included the use of outreach programs, emphasis on recruitment, and the development of special programs to prepare women with basic skills required to enter apprenticeship programs. As has been discussed above, both outreach programs and re-

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cruitment have been used in the past and while there has been some notable success, there continues to be serious underrepresentation of women in apprenticeship programs. It has been the Department's experience that this underrepresentation can best be remedied through the use of goals and timetables.

3. Section 30.4(e) sets forth the factors which should be analyzed in writing as part of the affirmative action plan. Item (1) in the existing regulation provides the following: "The minority population of the labor market area in which the program sponsor operates." This factor was inadvertently omitted from the September 30, 1977, proposal (42 FR 52441). Several comments were addressed to this issue, suggesting that the existing item (1) be amended to include the female population. The appropriate factor, however, is the working age minority and female (minority and nonminority) population.

4. Section 30.4(f) sets forth the method by which program sponsors are to establish and attain their goals and timetables. The proposal published on September 30, 1977, (42 FR 52441) contained two additions to § 30.4(f) which are included in the regulation adopted today. The first addition reads as follows:

> A single goal for minorities and a separate single goal for women is acceptable unless a particular group is employed in a substantially disparate manner in which case separate goals shall be established for such group. Such separate goals would be required for example, if a specific minority group of women were underutilized even though the female goals generally had been achieved.

This addition requires sponsors to establish two goals: one for women and one for minorities. In instances where a particular group of women or a particular group of minority men is employed in a substantially disparate manner, the sponsor would be required to establish separate goals for the group in question. For example, a sponsor could meet its goals for women and minorities yet have substantial underrepresentation of minority women in its apprenticeship program. In this case the sponsor would be required to set separate goals for minority women. The same would be true if there were significant underrepresentation of white women or of a particular minority group.

The second addition to § 30.4(f) reads as follows:

> However, in order to deal fairly with program sponsors and with women who are entitled to protection under the goals and timetables requirements, during the first 12 months after the effective date of these regulations, the program sponsor would generally be expected to set a goal for women for the entering year class at a rate which is not less than one half the proportion women are of the workforce in the program sponsor's labor market area and set a percentage goal for women in all classes beyond the entering class which is not less than the participation rate of women currently in the preceding class. At the end of the first 12 months after the effective date of these regulations, sponsors are expected to make appropriate adjustments in goal levels. See 29 CFR 30.8(b).

A number of comments, primarily from unions and joint apprenticeship committees, opposed this method of establishing goals for women in the entering class of apprenticeship programs. Their main complaint was that the method would result in a goal which was unrealistic and impossible to meet because there were not enough women with the ability and/or interest to enter the skilled trades.

As we have discussed above, however, the information collected by the Department of Labor indicates that where opportunities are extended to women, there are women available. Furthermore, from the material the Department has studied in connection with the preparation of this regulation, it appears that the goal which will result from the regulation adopted today is a reasonable one. Sponsors will not be held to an absolute standard of achieving the goal but are expected to make good faith efforts to meet the goal.

As of 1976 women constituted 40.5 percent of the national labor force. While the figures will vary from one program sponsor's labor market area to another, the entering class goal resulting from the regulation adopted today should be at least 20 percent. It is to be noted that this was the goal successfully used by the Maritime Administration for apprenticeship and comparable entry level jobs in shipbuilding. Likewise the goals for hiring women in outside skilled and semi-skilled crafts under the American Telephone and Telegraph Company Consent Decree were set at half the female workforce figure. In addition, as discussed above, Seattle, Wash., instituted a 12 percent goal for women in city financed construction work. This goal applied to all levels and types of construction work, not just apprenticeship. As we have seen the Office of Women's Rights in Seattle has indicated that the goal has been so achievable it is likely to be raised to 15 percent. Although the goals required for women in construction under the Executive Order 11246 regulations are lower than the entering class goal required by this regulation, this is appropriate in view of the fact that the Executive Order 11246 goals supply to all levels of construction work, not just apprenticeship. Thus, the goals set reflect the fact that there are few women journeypersons and advanced apprentices available.

Several alternatives were proposed by those who opposed the method of establishing entering class goals required by this regulation. These included basing goals on the percentage of women currently working in the apprenticeable trades, on the number of women who apply for apprenticeships, and/or on the number of women interested in apprenticeship. The Department has considered these alternatives and found them to be unacceptable. To base goals on the current percentage of women in the skilled trades would serve to perpetuate the discrimination which has resulted in so few women entering the trades. Further, it would be inappropriate because apprenticeships are entry-level positions, requiring no previous skills or training. Thus the applicable labor market is not those in the labor force who have already acquired skills, but those who possess the capability to be trained. In the absence of any proof to the contrary, the Department assumes that the percentage of the female labor force capable of being trained in the skilled trades is approximately equal to the percentage of the male labor force with that capability. Thus the Department assumes that in the absence of discrimination women would be represented in the skilled trades in a fashion comparable to their representation in the total workforce in a given geographical area.

Basing goals on the numbers of women who have applied for apprenticeship or otherwise indicated interest in apprenticeship is likewise unacceptable. As a number of courts have held, people are often discouraged from applying for jobs with employers who have a reputation of not hiring members of their particular group. See *Lea* v. *Cone Mills Corp.*, 301 F. Supp. (M.D.N.C. 1969), *aff'd in relevant part*, 483 F.2d 86 (4th Cir. 1971); *U.S.* v. *Central Motor Lines, Inc.*, 338 F. Supp. 532 (W.D. N.C. 1971); *Dobbins* v. *Local 212, IBEW*, 292 F. Supp. 413, (S.D. Ohio 1968). Thus the number of women applying for apprenticeship should not be used as a basis for goal-setting. Basing goals on the number of women who have expressed interest in apprenticeship would be objectionable for the same reason.

Some of the comments suggested that the Department delay requiring goals for women for 2 years, requiring vigorous recruitment of women during that 2-year period. Goals would then be based on the number of women who demonstrated interest in apprenticeship during this 2-year period. It is the Department's position that this suggestion is unacceptable because women are so seriously underrepresented in the skilled trades it is necessary to begin remedial action immediately. As discussed previously, it is the Department's experience that goals and timetables are the most effective means for accomplishing such remedial action. Clearly vigorous recruitment is also required but experience has shown that it alone is not enough.

A few comments maintained that the availability of women would vary from one region to another and that this fact should be accounted for in the regulation. It is to be noted that goals are set based on a particular sponsor's labor market area. Thus if the percent of women is lower than the national average in a particular labor market area the entering class goal would be lower as well. Since we have no proof that the female interest in apprenticeship varies significantly from one geographic area to another, there is no reason to make any further distinctions based on region.

Some of the individuals and women's groups who commented in favor of the regulation recommended that the Department adopt workforce parity as the ultimate goal for women in apprenticeship and require that the goal be set at this level in 5 years. The regulation adopted today provides at § 30.8 that the goals and timetables shall be updated annually until workforce parity is achieved.

Section 30.5. This section sets forth the obligations of sponsors in the adoption of a method for the selection of apprentices.

1. Minor changes have been made in this section to make it consistent with the Office of Federal Contract Compliance Programs Guidelines on Employee Selection Procedures, 41 CFR Part 60-3.

2. Changes have been made in § 30.5(b)(1)(iii) and § 30.5(b)(4)(i)(B) to eliminate minimum physical requirements as acceptable qualifications for apprenticeship. Some of those who commented against the proposed regulation suggested that minimum physical requirements be permitted. Minimum physical requirements were eliminated from the proposal and from the regulation adopted today because such requirements have traditionally been used to exclude women and some minority groups from employment opportunities. By minimum physical requirements we are referring to such things as height and weight requirements and arbitrarily applied strength requirements. We note, however, that while a sponsor could not reject applicants on their height, weight, or apparent strength, there is nothing in the regulation adopted today which would prohibit properly job-related performance and physical ability tests. Such tests must meet the requirements of 41 CFR Part 60-3 in order to be acceptable.

3. In the proposal published on September 30, 1977 (42 FR 52441), changes were made in § 30.5(b)(4)(i)(A) to require that a sponsor complete development of its revised selection method along with the rest of its affirmative action program within 60 days of the effective date of this amendment. Some comments criticized this provision as not allowing enough time. The provision was changed from 60 to 90 days to make it consistent with § 30.3(c).

Section 30.11. This section sets forth the complaint procedure.

1. A number of comments addressed the provision that allows complaints to be filed with a private review body, stating that such procedures should not be imposed on complainants but should be voluntary. We note that both the proposal and the regulation adopted today do make the use of private review bodies optional, as the complainant has the choice of filing his or her complaint with the Department or the private review body.

2. Section 30.11(b)(3) was added in both the proposal and in the regulation adopted today to require that sponsors provide written notice of the complaint procedure to all applicants for apprenticeship and all apprentices. A number of individuals and groups commented favorably on this addition, stating that it was very important since without it many applicants and apprentices would not know what recourse they had in the event they believed they had been subjected to discrimination.

Section 30.15. This section sets forth procedures to be followed by State Apprenticeship Councils. The proposal and the regulation adopted today require that each State Apprenticeship Council complete development of a revised equal opportunity plan which shall be consistent with this part within 60 days of the effective date of this regulation. The revised State plan must require all State apprenticeship programs registered with the State Apprenticeship Council to comply with the requirements of the revised State plan within 90 days of the effective date of this regulation. Some of the comments criticized the proposal on the basis that these time requirements were too short, others criticized them on the basis that they were too long. It is the Department's decision that the time periods are adequate.

Other Comments

1. Some comments expressed the view that the Department of Labor should withhold a decision until the Supreme Court has ruled in *The Regents of the University of California* v. *Bakke* case. It, of course, is always difficult to predict with precision how the Supreme Court will rule in a specific case. However, it is not likely that a ruling in that case, a university admissions case, would have the type of impact on these regulations that they should be held in abeyance until the Supreme Court has ruled.

2. Some comments stated that the regulation adopted today should not be implemented in a time of high unemployment in the skilled trades. It is to be noted, however, that this regulation does not require that any current apprentices or other workers be laid off or removed from apprenticeship programs.

3. A number of those favoring the regulation objected to the use of the word "qualified" modifying minorities or women in the section of the Preamble entitled "Proposed Changes." These comments pointed out that the term is not used in the current regulation or the proposed amendment. They advocated as an alternative the use of the word "trainable," claiming that there was a possibility that biased program sponsors may use this language as an excuse to exclude women on the basis that they are not "qualified." As stated previously, the regulation adopted today reflects the Department's determination that apprenticeships, like other entry level jobs, do not require any particular training or qualification other than the capability to be trained. The use of the word "qualified" in the Preamble to the proposed regulation was not intended to signify anything contrary to this position.

4. Neither the proposed regulations nor the regulations adopted today amended 29 CFR 30.5(b)(4)(B) which permits school diplomas as a qualification standard. Comments were invited, however, on the issue of whether the school diploma should be retained as an alternative selection method. A number of comments were received on this issue both in favor and opposed to the retaining of the school diploma as a permissible selection criteria. No change was made in this section because current law is clear that if a high school diploma requirement has an adverse impact on any group, it must be validated. *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971). The current regulation requires such validation in accordance with the Guidelines on Employee Selection Procedures, 41 CFR Part 60-3.

In consideration of the foregoing, 29 CFR Part 30 is hereby amended as set forth below.

Dated: May 9, 1978.

ERNEST G. GREEN,
Assistant Secretary, Employment and Training Administration.

Sec.
30.1 Scope and purpose.
30.2 Definitions.
30.3 Equal opportunity standards.
30.4 Affirmative action plans.
30.5 Selection of apprentices.
30.6 Existing lists of eligibles and public notice.
30.7 [Reserved].
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Sec.
30.11 Complaint procedure.
30.12 Adjustment in schedule for compliance review or complaint processing.
30.13 Sanctions.
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30.15 State Apprenticeship Councils.
30.16 Hearings.
30.17 Intimidatory or retaliatory acts.
30.18 Nondiscrimination.
30.19 Exemptions.

AUTHORITY: Sec. 1, 50 Stat. 664, as amended; 29 U.S.C. 50; 40 U.S.C. 276c; 5 U.S.C. 301; Reorganization Plan No. 14 of 1950, 64 Stat. 1267, 3 CFR 1949-53 Comp. p. 1007.

§ 30.1 Scope and purpose.

This part sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor and in state apprenticeship programs registered with recognized state apprenticeship agencies. These policies and procedures apply to the recruitment and selection of apprentices, and to all conditions of employment and training during apprenticeship. The procedures established provide for review of apprenticeship programs, for registering apprenticeship programs, for processing complaints, and for deregistering noncomplying apprenticeship programs. This part also provides policies and procedures for continuation or withdrawal of recognition of state agencies for registering of apprenticeship programs for Federal purposes. The purpose of this part is to promote equality of opportunity in apprenticeship by prohibiting discrimination based on race, color, religion, national origin, or sex in apprenticeship programs, by requiring affirmative action to provide equal opportunity in such apprenticeship programs, and by coordinating this part with other equal opportunity programs.

§ 30.2 Definitions.

(a) "Department" means the U.S. Department of Labor.

(b) "Employer" means any person or organization employing an apprentice whether or not the apprentice is enrolled with such person or organization or with some other person or organization.

(c) "Apprenticeship program" means a program registered by the Department and evidenced by a Certificate of Registration as meeting the standards of the Department for apprenticeship, but does not include a state apprenticeship program.

(d) "Sponsor" means any person or organization operating an apprenticeship program, irrespective of whether such person or organization is an employer.

(e) "Secretary" means the Secretary of Labor, the Assistant Secretary of Labor for Employment and Training, or any person specifically designated by either of them.

(f) "State Apprenticeship Council" means a state apprenticeship council or other state agency in any of the 50 states, the District of Columbia, or any territory or possession of the United States, which is recognized by the Department as the appropriate agency for registering programs for Federal purposes.

(g) "State apprenticeship program" means a program registered with a State Apprenticeship Council and evidenced by a Certificate of Registration or other appropriate document as meeting the standards of the State Apprenticeship Council for apprenticeship.

(h) "State program sponsor" means any person or organization operating a State apprenticeship program, irrespective of whether such person or organization is an employer.

§ 30.3 Equal opprtunity standards.

(a) *Obligations of sponsors.* Each sponsor of an apprenticeship program shall:

(1) Recruit, select, employ, and train apprentices during their apprenticeship, without discrimination because of race, color, religion, national origin, or sex; and

(2) Uniformly apply rules and regulations concerning apprentices, including but not limited to, equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, imposition of penalties or other disciplinary action, and all other aspects of the apprenticeship program administration by the program sponsor; and

(3) Take affirmative action to provide equal opportunity in apprenticeship, including adoption of an affirmative action plan as required by this part.

(b) *Equal opportunity pledge.* Each sponsor of an apprenticeship program shall include in its standards the following equal opportunity pledge:

The recruitment, selection, employment, and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origin, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, Part 30.

(c) *Programs presently registered.* Each sponsor of a program registered with the Department as of the effective date of this part shall within 90 days of that effective date take the following action:

(1) Include in the standards of its apprenticeship program the equal opportunity pledge prescribed by paragraph (b) of this section;

(2) Adopt an affirmative action plan required by § 30.4; and

(3) Adopt a selection procedure required by § 30.5. A sponsor adopting a selection method under § 30.5(b) (1), (2), or (3) shall prepare, and have available for submission upon request, copies of its amended standards, affirmative action plans, and selection procedure. A sponsor adopting a selection method under § 30.5(b)(4) shall submit to the Department copies of its standards, affirmative action plan and selection procedure in accordance with the requirements of § 30.5(b)(4)(i)(a).

(d) *Sponsors seeking new registration.* A sponsor of a program seeking new registration with the Department shall submit copies of its proposed standards, affirmative action plan, selection procedures, and such other information as may be required. The program shall be registered if such standards, affirmative action plan, and selection procedure meet the requirements of this part.

(e) *Programs subject to approved equal employment opportunity programs.* A sponsor shall not be required to adopt an affirmative action plan under § 30.4 or a selection procedure under § 30.5 if it submits to the Department satisfactory evidence that it is in compliance with an equal employment opportunity program providing for the selection of apprentices and for affirmative action in apprenticeship including goals and timetables for women and minorities which has been approved as meeting the requirements of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.) and its implementing regulations published in Title 29 of the Code of Federal Regulations, Chapter XIV or Executive Order 11246, as amended, and its implementing regulations at Title 41 of the Code of Federal Regulations, Chapter 60: *Provided,* That programs approved, modified or renewed subsequent to the effective date of this amendment will qualify for this exception only if the goals and timetables for minorities and women for the selection of apprentices provided for in such programs are equal to or greater than the goals required under this part.

(f) *Program with fewer than five apprentices.* A sponsor of a program in which fewer than five apprentices are indentured shall not be required to adopt an affirmative action plan under § 30.4 or a selection procedure under § 30.5: *Provided,* That such program was not adopted to circumvent the requirements of this part.

§ 30.4 Affirmative action plans.

(a) *Adoption of affirmative action plans.* A sponsor's commitment to equal opportunity in recruitment, selection, employment, and training of apprentices shall include the adoption of a written affirmative action plan.

(b) *Definition of affirmative action.* Affirmative action is not mere passive nondiscrimination. It includes procedures, methods, and programs for the identification, positive recruitment, training, and motivation of present and potential minority and female (minority and nonminority) apprentices including the establishment of goals and timetables. It is action which will equalize opportunity in apprenticeship so as to allow full utilization of the work potential of minorities and women. The overall result to be sought is equal opportunity in apprenticeship for all individuals participating in or seeking entrance to the Nation's labor force.

(c) *Outreach and positive recruitment.* An acceptable affirmative action plan must also include adequate provision for outreach and positive recruitment that would reasonably be expected to increase minority and female participation in apprenticeship by expanding the opportunity of minorities and women to become eligible for apprenticeship selection. In order to achieve these objectives, sponsors shall undertake activities such as those listed below. It is not contemplated that each sponsor necessarily will include all the listed activities in its affirmative action program. The scope of the affirmative action program will depend on all the circumstances including the size and type of the program and its resources. However, the sponsor will be required to undertake a significant number of appropriate activities in order to enable it to meet its obligations under this part. The affirmative action plan shall set forth the specific steps the sponsor intends to take in the areas listed below. Whenever special circumstances warrant, the Department may provide such financial or other assistance as it deems necessary to implement the requirements of this paragraph.

(1) Dissemination of information concerning the nature of the apprenticeship, requirements for admission to apprenticeship, availability of apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor. For programs accepting applications only at specified intervals, such information shall be disseminated at least 30 days in advance of the earliest date for application at each interval. For programs customarily receiving applications throughout the year, such information shall be regularly disseminated but not less than semiannually. Such information shall be given to the Department, local schools, employment service offices, women's centers, outreach programs and community organizations which can effectively reach minorities and women, and shall be published in newspapers which are circulated in the minority community and among women, as well as in the general areas in which the program sponsor operates.

(2) Participation in annual workshops conducted by employment service agencies for the purpose of familiarizing school, employment service and other appropriate personnel with the apprenticeship system and current opportunities therein.

(3) Cooperation with local school boards and vocational education systems to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.

(4) Internal communication of the sponsor's equal opportunity policy in such a manner as to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees, and members and to encourage such persons to take the necessary action to aid the sponsor in meeting its obligations under this part.

(5) Engaging in programs such as outreach for the positive recruitment and preparation of potential applicants for apprenticeships; where appropriate and feasible, such programs shall provide for pretesting experience and training. If no such programs are in existence the sponsor shall seek to initiate these programs, or, when available, to obtain financial assistance from the Department. In initiating and conducting these programs, the sponsor may be required to work with other sponsors and appropriate community organizations. The sponsor shall also initiate programs to prepare women and encourage women to enter traditionally male programs.

(6) To encourage the establishment and utilization of programs of preapprenticeship, preparatory trade training, or others designed to afford related work experience or to prepare candidates for apprenticeship, a sponsor shall make appropriate provision in its affirmative action plan to assure that those who complete such programs are afforded full and equal opportunity for admission into the apprenticeship program.

(7) Utilization of journeypersons to assist in the implementation of the sponsor's affirmative action program.

(8) Granting advance standing or credit on the basis of previously acquired experience, training, skills, or aptitude for all applicants equally.

(9) Admitting to apprenticeship, persons whose age exceeds the maximum age for admission to the program, where such action assists the sponsor in achieving its affirmative action obligations.

(10) Other appropriate action to ensure that the recruitment, selection, employment, and training of apprentices during apprenticeship shall be without discrimination because of race, color, religion, national origin, or sex (e.g., general publication of apprenticeship opportunities and advantages in advertisements, industry reports, articles, etc.; use of present minority and female apprentices and journeypersons as recruiters; career counseling; periodic auditing of affirmative action programs and activities; and development of reasonable procedures between the sponsor and employers of apprentices to ensure that employment opportunity is being granted, including reporting systems, on-site reviews, briefing sessions, etc.). The affirmative action program shall set forth the specific steps the sponsor intends to take, in the above areas, under this paragraph (c). Whenever special circumstances warrant, the Department may provide such financial or other assistance as it deems necessary to implement the above requirements.

(d) *Goals and timetables.* (1) A sponsor adopting a selection method under § 30.5(b) (1) or (2) which determines on the basis of the analysis described in paragraph (e) of this section that it has deficiencies in terms of underutilization of minorities and/or women (minority and nonminority) in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the admission of minority and/or female (minority and nonminority) applicants into the eligibility pool.

(2) A sponsor adopting a selection method under § 30.5(b) (3) or (4) which determines on the basis of the analysis described in paragraph (e) of this section that it has deficiencies in terms of the underutilization of minorities and/or women in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the selection of minority and female (minority and nonminority) applicants for the apprenticeship program.

(3) "Underutilization" as used in this paragraph refers to the situation where there are fewer minorities and/or women (minority and nonminority) in the particular craft or crafts represented by the program than would reasonably be expected in view of an analysis of the specific factors in subparagraphs (1) through (5) in paragraph (e) of this section. Where, on the basis of the analysis, the sponsor determines that it has no deficiencies, no goals and timetables need be established. However, where no goals and timetables are established, the affirmative action plan shall include a detailed explanation why no goals and timetables have been established.

(4) Where the sponsor fails to submit goals and timetables as part of its affirmative action plan or submits goals and timetables which are unac-

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ceptable, and the Department determines that the sponsor has deficiencies in terms of underutilization of minorities or women (minority and nonminority) within the meaning of this section, the Department shall establish goals and timetables applicable to the sponsor for the admission of minority and female (minority and nonminority) applicants into the eligibility pool or selection of apprentices, as appropriate. The sponsor shall make good faith efforts to attain these goals and timetables in accordance with the requirements of this section.

(e) *Analysis to determine if deficiencies exist.* The sponsor's determination as to whether goals and timetables shall be established, shall be based on an analysis of at least the following factors, which analysis shall be set forth in writing as part of the affirmative action plan.

(1) The size of the working age minority and female (minority and nonminority) population in the program sponsor's labor market area;

(2) The size of the minority and female (minority and nonminority) labor force in the program sponsor's labor market area;

(3) The percentage of minority and female (minority and nonminority) participation as apprentices in the particular craft as compared with the percentage of minorities and women (minority and nonminority) in the labor force in the program sponsor's labor market area;

(4) The percentage of minority and female (minority and nonminority) participation as journeypersons employed by the employer or employers participating in the program as compared with the percentage of minorities and women (minority and nonminority) in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices; and

(5) The general availability of minorities and women (minority and nonminority) with present or potential capacity for apprenticeship in the program sponsor's labor market area.

(f) *Establishment and attainment of goals and timetables.* The goals and timetables shall be established on the basis of the sponsor's analyses of its underutilization of minorities and women and its entire affirmative action program. A single goal for minorities and a separate single goal for women is acceptable unless a particular group is employed in a substantially disparate manner in which case separate goals shall be established for such group. Such separate goals would be required, for example, if a specific minority group of women were underutilized even though the sponsor had achieved its standards for women generally. In establishing the goals, the sponsor should consider the results which could be reasonably expected from its good faith efforts to make its overall affirmative action program work. Compliance with these requirements shall be determined by whether the sponsor has met its goals within its timetables, or failing that, whether it has made good faith efforts to meet its goals and timetables. Its "good faith efforts" shall be judged by whether it is following its affirmative action program and attempting to make it work, including evaluation and changes in its program where necessary to obtain the maximum effectiveness toward the attainment of its goals. However, in order to deal fairly with program sponsors, and with women who are entitled to protection under the goals and timetables requirements, during the first 12 months after the effective date of these regulations, the program sponsor would generally be expected to set a goal for women for the entering year class at a rate which is not less than 50 percent of the proportion women are of the workforce in the program sponsor's labor market area and set a percentage goal for women in each class beyond the entering class which is not less than the participation rate of women currently in the preceding class. At the end of the first 12 months after the effective date of these regulations, sponsors are expected to make appropriate adjustments in goal levels. See 29 CFR 30.8(b).

(g) *Data and information.* The Secretary of Labor, or a person or agency designated by the Secretary, shall make available to program sponsors data and information on minority and female (minority and nonminority) labor force characteristics for each Standard Metropolitan Statistical Area and for other special areas as appropriate.

§ 30.5 Selection of apprentices.

(a) *Obligations of sponsors.* In addition to the development of a written affirmative action plan to ensure that minorities and women have an equal opportunity for selection as apprentices and otherwise ensure the prompt achievement of full and equal opportunity in apprenticeship, each sponsor shall further provide in its affirmative action program that the selection of apprentices shall be made under one of the methods specified in the following subparagraphs (1) through (4) of paragraph (b) of this section.

(b) *Selection methods.* The sponsor shall adopt one of the following methods for selecting apprentices:

(1) *Selection on basis of rank from pool of eligible applicants*—(i) *Selection.* A sponsor may select apprentices from a pool of eligible applicants created in accordance with the requirements of subdivision (iii) of this subparagraph on the basis of the rank order of scores of applicants on one or more qualification standards where there is a significant statistical relationship between rank order of scores and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in Guidelines on Employee Selection Procedures published at 41 CFR Part 60-3.

(ii) *Requirements.* The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivisions (iii) through (vii) of this subparagraph.

(iii) *Creation of pool of eligibles.* A pool of eligibles shall be created from applicants who meet the qualifications of minimum legal working age; or from applicants who meet qualification standards in addition to minimum legal working age: *Provided,* That any additional qualification standards conform with the following requirements:

(A) *Qualification standards.* The qualification standards, and the procedures for determining such qualification standards, shall be stated in detail and shall provide criteria for the specific factors and attributes to be considered in evaluating applicants for admission to the pool. The score required under each qualification standard for admission to the pool shall also be specified. All qualification standards, and the score required on any standard for admission to the pool, shall be directly related to job performance, as shown by a significant statistical relationship between the score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in 41 CFR Part 60-3. Qualifications shall be considered as separately required so that the failure of an applicant to attain the specified score under a single qualification standard shall disqualify the applicant from admission to the pool.

(B) *Aptitude tests.* Any qualification standard for admission to the pool consisting of aptitude test scores shall be directly related to job performance, as shown by significant statistical relationships between the score on the aptitude tests required for admission to the pool, and performance in the apprenticeship program. In determining such relationship, the sponsor shall follow the procedures set forth in 41 CFR Part 60-3. The requirements of this subparagraph (B) shall also be applicable to aptitude tests utilized by a program sponsor which are administered by a state employment agency, or any other person, agency, or organization engaged in the selection or evaluation of personnel. A national test developed and administered by a national joint apprenticeship committee will not by approved by the Department unless such test meets the requirements of this subsection.

(C) *Educational attainments.* All educational attainments or achievements as qualifications for admission to the pool shall be directly related to job performance as shown by a significant statistical relationship between the score required for admission to the pool and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall meet the requirements of 41 CFR Part 60-3. School records or a passing grade on the general education development tests recognized by the State or local public instruction authority shall be evidence of educational achievement. Education requirements shall be applied uniformly to all applicants.

(iv) *Oral interviews.* Oral interviews shall not be used as a qualification standard for admission into an eligibility pool. However, once an applicant is placed in the eligibility pool, and prior to selection for apprenticeship from the pool, he or she may be required to submit to an oral interview. Oral interviews shall be limited to such objective questions as may be required to determine the fitness of applicants to enter the apprenticeship program, but shall not include questions relating to qualifications previously determined in gaining entrance to the eligibility pool. When an oral interview is used, each interviewer shall record the questions and the general nature of the applicant's answers, and shall prepare a summary of any conclusions. Each applicant rejected from the pool of eligibles on the basis of an oral interview shall be given a written statement of such rejection, the reasons therefor, and the appeal rights available to the applicant.

(v) *Notification of applicants.* All applicants who meet the requirements for admission shall be notified and placed in the eligibility pool. The program sponsor shall give each rejected applicant who is not selected for the pool or the program notice of his or her rejection, including the reasons for the rejection, the requirements for admission to the pool of eligibles, and the appeal rights available to the applicant.

(vi) *Goals and timetables.* The sponsor shall establish where required by § 30.4(d), percentage goals and timetables for the admission of minorities and women (minority and nonminority) into the pool of eligibles, in accordance with the provisions of § 30.4 (d), (e), and (f).

(vii) *Compliance.* A sponsor shall be deemed to be in compliance with its commitments under subdivision (vi) of this subparagraph if it meets its goals or timetables or if it makes a good faith effort to meet these goals and timetables. In the event of the failure of the sponsor to meet its goals and timetables, it shall be given an opportunity to demonstrate that it has made every "good faith effort" to meet its commitments (see § 30.4(f)). All the actions of the sponsor shall be reviewed and evaluated in determining whether such good faith efforts have been made.

(2) *Random selection from pool of eligible applicants*—(i) *Selection.* A sponsor may select apprentices from a pool of eligible applicants on a random basis. The method of random selection is subject to approval by the Department. Supervision of the random selection process shall be by an impartial person or persons selected by the sponsor, but not associated with the administration of the apprenticeship program. The time and place of the selection, and the number of apprentices to be selected, shall be announced. The place of the selection shall be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at the program sponsor's place of business.

(ii) *Requirements.* The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivisions (iii) through (v) of subparagraph (1) of this paragraph relating to the creation of pool of eligibles, oral interviews, and notification of applicants.

(iii) *Goals and timetables.* The sponsor shall establish, where required by § 30.4(d), percentage goals and timetables for admission of minorities and women (minority and nonminority) into the pool of eligibles in accordance with the provisions of sections 30.4 (d), (e), and (f).

(iv) *Compliance.* Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivision (vii) of subparagraph (1) of this paragraph (b).

(3) *Selection from pool of current employees*—(i) *Selection.* A sponsor may select apprentices from an eligibility pool of the workers already employed by the program sponsor in a manner prescribed by a collective bargaining agreement where such exists, or by the sponsor's established promotion policy. The sponsor adopting this method of selecting apprentices shall establish goals and timetables for the selection of minority and female apprentices, unless the sponsor concludes, in accordance with the provisions of § 30.4 (d), (e), and (f) that it does not have deficiencies in terms of underutilization of minorities and/or women (minority and nonminority) in the apprenticeship of journeyperson crafts represented by the program.

(ii) *Compliance.* Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with provisions of subdivision (vii) of subparagraph (1) of this paragraph (b).

(4) *Alternative selection methods*—(i) *Selection.* A sponsor may select apprentices by means of any other method including its present selection method: *Provided,* That the sponsor meets the following requirements:

(A) *Selection method and goals and timetables.* Within 90 days of the effective date of this amendment, the sponsor shall complete development of the revised selection method it proposes to use along with the rest of its written affirmative action program including, where required by § 30.4(d), its percentage goals and timetables for the selection of minority and/or female (minority and nonminority) applicants for apprenticeship and its written analysis, upon which such goals and timetables, or lack thereof, are based. The establishment of goals and timetables shall be in accordance with the provisions of § 30.4 (d), (e), and (f). The sponsor may not implement any such selection method until the Department has approved the selection method as meeting the requirements of item (B) of this subdivision and has approved the remainder of its affirmative action program including its goals and timetables. If the Department fails to act upon the selection method and the affirmative action program within 30 days of its submission, the sponsor then may implement the selection method.

(B) *Qualification standards.* Apprentices shall be selected on the basis of objective and specific qualification standards. Examples of such standards are fair aptitude tests, school diplomas or equivalent, occupationally essential health requirements, fair interviews, school grades, and previous work experience. Where interviews are used, adequate records shall be kept including a brief summary of each interview and the conclusions on each of the specific factors, e.g., motivation, ambition, and willingness to accept direction which are part of the total judgement. In applying any such standards, the sponsor shall meet the requirements of 41 CFR Part 60-3.

(ii) *Compliance.* Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivisions (vii) of subparagraph (1) of this paragraph (b). Where a sponsor, despite its good faith efforts, fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action program to the extent necessary to obtain maximum effectiveness toward the attainment of its goals. The sponsor may also be required to develop and adopt an alter-

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native selection method, including a method prescribed by the Department, where it is determined that the failure of the sponsor to meet its goals is attributable in substantial part to the selection method. Where the sponsor's failure to meet its goals is attributable in substantial part to its use of a qualification standard which has adversely affected the opportunities of minorities and/or women (minority and nonminority) for apprenticeship, the sponsor may be required to demonstrate that such qualification standard is directly related to job performance, in accordance with the provisions of subparagraph (1)(iii)(A) of this paragraph.

§ 30.6 Existing lists of eligibles and public notice.

A sponsor adopting a selection method under § 30.5(b) (1) or (2) and a sponsor adopting a selection method under § 30.5(b)(4) who determines that there are fewer minorities and/or women (minority and nonminority) on its existing lists of eligibles than would reasonably be expected in view of the analysis described in § 30.4(e) shall discard all existing eligibility lists upon adoption of the selection methods required by this part. New eligibility pools shall be established and lists of eligibility pools shall be posted at the sponsor's place of business. Sponsors shall establish a reasonable period of not less than 2 weeks for accepting applications for admission to an apprenticeship program. There shall be at least 30 days of public notice in advance of the earliest date for application for admission to the apprenticeship program (see § 30.4(c) on affirmative action with respect to dissemination of information). Applicants who have been placed in a pool of eligibles shall be retained on lists of eligibles subject to selection for a period of 2 years. Applicants may be removed from the list at an earlier date by their request or following their failure to respond to an apprentice job opportunity given by certified mail, return receipt requested. Applicants who have been accepted in the program shall be afforded a reasonable period of time in light of the customs and practices of the industry for reporting for work. All applicants shall be treated equally in determining such period of time. It shall be the responsibility of the applicant to keep the sponsor informed of his or her current mailing address. Upon request, a sponsor may restore to the list of eligibles applicants who have been removed from the list or who have failed to respond to an apprenticeship job opportunity.

§ 30.7 [Reserved]

§ 30.8 Records.

(a) *Obligations of sponsors.* Each sponsor shall keep adequate records including a summary of the qualifications of each applicant, the basis for evaluation and for selection or rejection of each applicant, the records pertaining to interviews of applicants, the original application for each applicant, information relative to the operation of the apprenticeship program, including but not limited to job assignment, promotion, demotion, layoff, or termination, rates of pay, or other forms of compensation or conditions of work, hours including hours of work and, separately, hours of training provided, and any other records pertinent to a determination of compliance with these regulations, as may be required by the Department. The records pertaining to individual applicants, selected or rejected, shall be maintained in such manner as to permit identification of minority and female (minority and nonminority) participants.

(b) *Affirmative action plans.* Each sponsor must retain a statement of its affirmative action plan required by § 30.4 for the prompt achievement of full and equal opportunity in apprenticeship, including all data and analyses made pursuant to the requirements of § 30.4. Sponsors shall review their affirmative action plans annually and update them where necessary, including the goals and timetables.

(c) *Qualification standards.* Each sponsor must maintain evidence that its qualification standards have been validated in accordance with the requirements set forth in § 30.5(b).

(d) *Records of State Apprenticeship Councils.* State Apprenticeship Councils shall keep adequate records, including registration requirements, individual program standards and registration records, program compliance reviews and investigations, and any other records pertinent to a determination of compliance with this part, as may be required by the Department, and shall report to the Department as may be required by the Department.

(e) *Maintenance of records.* The records required by this part and any other information relevant to compliance with these regulations shall be maintained for 5 years and made available upon request to the Department or other authorized representative.

§ 30.9 Compliance reviews.

(a) *Conduct of compliance reviews.* The Department will regularly conduct systematic reviews of apprenticeship programs in order to determine the extent to which sponsors are complying with these regulations and will also conduct compliance reviews when circumstances, including receipt of complaints not referred to a private review body pursuant to § 30.11(b)(i), so warrant, and take appropriate action regarding programs which are not in compliance with the requirements of this part. Compliance reviews will consist of comprehensive analyses and evaluations of each aspect of the apprenticeship program, including onsite investigations and audits.

(b) *Reregistration.* Sponsors seeking reregistration shall be subject to a compliance review as described in paragraph (a) of this section by the Department as part of the reregistration process.

(c) *New registrations.* Sponsors seeking new registration shall be subject to a compliance review as described in paragraph (a) of this section by the Department as part of the registration process.

(d) *Voluntary compliance.* Where the compliance review indicates that the sponsor is not operating in accordance with this part, the Department shall notify the sponsor in writing of the results of the review and make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before undertaking sanctions under § 30.13. In the case of sponsors seeking new registration, the Department will provide appropriate recommendations to the sponsor to enable it to achieve compliance for registration purposes.

§ 30.10 Noncompliance with Federal and state equal opportunity requirements.

A pattern or practice of noncompliance by a sponsor (or where the sponsor is a joint apprenticeship committee, by one of the parties represented on such committee) with Federal or state laws or regulations requiring equal opportunity may be grounds for the imposition of sanctions in accordance with § 30.13 if such noncompliance is related to the equal employment opportunity of apprentices and/or graduates of such an apprenticeship program under this part. The sponsor shall take affirmative steps to assist and cooperate with employers and unions in fulfilling their equal employment opportunity obligations.

§ 30.11 Complaint procedure.

(a) *Filing.* (1) Any apprentice or applicant for apprenticeship who believes that he or she has been discriminated against on the basis of race, color, religion, national origin, or sex with regard to apprenticeship or that the equal opportunity standards with respect to his or her selection have not been followed in the operation of an apprenticeship program may, personally or through an authorized representative, file a complaint with the Department, or, at the apprentice's or applicant's election, with a private review body established pursuant to subparagraph (3) of this paragraph. The complaint shall be in writing and shall be signed by the complainant. It must include the name, address and telephone number of the person allegedly discriminated against, the program sponsor involved, and a brief description of the circumstances of the failure to apply the equal opportunity standards provided for in this part.

(2) The complaint must be filed not later than 180 days from the date of the alleged discrimination or specified failure to follow the equal opportunity standards; and, in the case of complaints filed directly with review bodies designated by program sponsors to review such complaints, any referral of such complaint by the complainant to the Department must occur within the time limitation stated above or 30 days from the final decision of such review body, whichever is later. The time may be extended by the Department for good cause shown.

(3) Sponsors are encouraged to establish fair, speedy, and effective procedures for a review body to consider complaints of failure to follow the equal opportunity standards. A private review body established by the program sponsor for this purpose should number three or more responsible persons from the community serving in this capacity without compensation. Members of the review body should not be directly associated with the administration of an apprenticeship program. Sponsors may join together in establishing a review body to serve the needs of programs within the community.

(b) *Processing of complaints.* (1)(i) When the sponsor has designated a review body for reviewing complaints, the Department, unless the complainant has indicated otherwise or unless the Department has determined that the review body will not effectively enforce the equal opportunity standards, shall upon receiving a complaint refer it to the review body.

(ii) The Department shall, within 30 days following the referral of a complaint to the review body, obtain reports from the complainant and the review body as to the disposition of the complaint. If the complaint has been satisfactorily adjusted and there is no other indication of failure to apply equal opportunity standards, the case shall be closed and the parties appropriately informed.

(iii) When a complaint has not been resolved by the review body within 90 days or where, despite satisfactory resolution of the particular complaint by the review body, there is evidence that equal opportunity practices of the apprenticeship program are not in accordance with this part, the Department may conduct such compliance review as found necessary, and will take all necessary steps to resolve the complaint.

(2) Where no review body exists, the Department may conduct such compliance review as found necessary in order to determine the facts of the complaint, and obtain such other information relating to compliance with these regulations as the circumstances warrant.

(3) Sponsors shall provide written notice of the above complaint procedure to all applicants for apprenticeship and all apprentices.

§ 30.12 Adjustments in schedule for compliance review or complaint processing.

If, in the judgment of the Department, a particular situation warrants and requires special processing and either expedited or extended determination, it shall take the steps necessary to permit such determination if it finds that no person or party affected by such determination will be prejudiced by such special processing.

§ 30.13 Sanctions.

(a) Where the Department, as a result of a compliance review or other reason, determines that there is reasonable cause to believe that an apprenticeship program is not operating in accordance with this part and voluntary corrective action has not been taken by the program sponsor, the Department shall institute proceedings to deregister the program or it shall refer the matter to the Equal Employment Opportunity Commission or to the Attorney General with recommendations for the institution of a court action under Title VII of the Civil Rights Act of 1964, as amended, or to the Attorney General for other court action as authorized by law.

(b) Deregistration proceedings shall be conducted in accordance with the following procedures:

(1) The Department shall notify the sponsor, in writing, that a determination of reasonable cause has been made under paragraph (a) of this section and that the apprenticeship program may be deregistered unless, within 15 days of the receipt of the notice, the sponsor requests a hearing. The notification shall specify the facts on which the determination is based.

(2) If within 15 days of the receipt of the notice provided for in subparagraph (1) of this paragraph the sponsor mails a request for a hearing, the Secretary shall convene a hearing in accordance with § 30.16.

(3) The Secretary shall make a final decision on the basis of the record, which shall consist of the compliance review file and other evidence presented and, if a hearing was conducted pursuant to § 30.16, the proposed findings and recommended decision of the hearing officer. The Secretary may allow the sponsor a reasonable time to achieve voluntary corrective action. If the Secretary's decision is that the apprenticeship program is not operating in accordance with this part, the apprenticeship program shall be deregistered. In each case in which deregistration is ordered, the Secretary shall make public notice of the order and shall notify the sponsor and the complainant, if any.

§ 30.14 Reinstatement of program registration.

Any apprenticeship program deregistered pursuant to this part may be reinstated upon presentation of adequate evidence to the Secretary that the apprenticeship program is operating in accordance with this part.

§ 30.15 State Apprenticeship Councils.

(a) *Adoption of consistent state plans.* (1) The Department shall encourage State Apprenticeship Councils to adopt and implement the requirements of this part.

(2) Within 60 days of the effective date of these regulations, each State Apprenticeship Council shall complete development of a revised equal opportunity plan which shall be consistent with this part. The revised State plan shall require all state apprenticeship programs registered with the State Apprenticeship Council to comply with the requirements of the revised State plan within 90 days of the effective date of these regulations. No State Apprenticeship Council shall continue to be recognized by the Department if it has not adopted within 60 days of the effective date of these regulations a plan implementing the requirements of this part.

(3) The Department retains authority to conduct compliance reviews and complaint investigations to determine whether the state plan or any state apprenticeship program registered with a State Apprenticeship Council is being administered or operated in accordance with this part.

(4) It shall be the responsibility of the State Apprenticeship Council to take the necesssary action to bring a noncomplying program into compliance with the state plan. In the event the State Apprenticeship Council fails to fulfill this responsibility, the Secretary may withdraw the recognition for Federal purposes of any or all state apprenticeship programs, in accordance with the procedures of deregistration of programs registered by the Department, or refer the matter to the Equal Employment Opportunity Commission or to the Attorney General with a recommendation for the institution of a court action under Title VII of the Civil Rights Act of 1964, as amended, or to the Attorney General for other court actions as authorized by law.

(5) Each State Apprenticeship Council shall notify the Department of any state apprenticeship program deregistered by it.

(6) Any state apprenticeship program deregistered by a State Apprenticeship Council for noncompliance with requirements of this part may,

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within 15 days of the receipt of a notice of deregistration, appeal to the Department to set aside the determination of the State Apprenticeship Council. The Department shall make its determination on the basis of the record. The Department may grant the state program sponsor, the State Apprenticeship Council and the complainant(s), if any, the opportunity to present oral or written argument.

(b) *Withdrawal of recognition.* (1) Whenever the Department determines that reasonable cause exists to believe that State Apprenticeship Council has not adopted or implemented a plan in accordance with the equal opportunity requirements of this part, it shall give notice to such State Apprenticeship Council and to appropriate state sponsors of this determination, stating specifically wherein the state's plan fails to meet such requirements and that the Department proposes to withdraw recognition for Federal purposes, from the State Apprenticeship Council unless within 15 days of the receipt of the notice, the State Apprenticeship Council complies with the provisions of this part or mails a request for a hearing to the Secretary.

(2) If within 15 days of the receipt of the notice provided for in subparagraph (1) of this paragraph the State Apprenticeship Council neither complies with the provisions of this part, nor mails a request for a hearing, the Secretary shall notify the State Apprenticeship Council of the withdrawal of recognition.

(3) If within 15 days of the receipt of the notice provided for in subparagraph (1) of this paragraph the State Apprenticeship Council mails a request for a hearing, the Secretary shall proceed in accordance with § 30.16.

(4) If a hearing is conducted in accordance with § 30.16, the Secretary upon receipt of the proposed findings and recommended decision of the hearing officer shall make a final decision whether the State Apprenticeship Council has adopted or implemented a plan in accordance with the equal opportunity requirements of this part.

(5) If the Secretary determines to withdraw recognition, for Federal purposes, from the State Apprenticeship Council, the Secretary shall notify the State Apprenticeship Council of this determination. The Secretary shall also notify the State sponsors that within 30 days of the receipt of the notice the Department shall cease to recognize, for Federal purposes, each State apprenticeship program unless the State program sponsor requests registration with the Department. Such registration may be granted contingent upon finding that the State apprenticeship program is operating in accordance with the requirements of this part.

(6) A State Apprenticeship Council whose recognition has been withdrawn pursuant to this part may have its recognition reinstated upon presentation of adequate evidence to the Secretary that it has adopted and implemented a plan carrying out the equal opportunity requirements of this part.

§ 30.16 Hearings.

(a) Within 10 days after receiving a request for a hearing, the Secretary shall designate a hearing officer. The hearing officer shall give reasonable notice of such hearing by certified mail, return receipt requested, to the appropriate sponsor (Federal or state registered), the State Apprenticeship Council, or both, as the case may be. Such notice shall include (1) a reasonable time and place of hearing, (2) a statement of the provisions of this part, pursuant to which the hearing is to be held, and (3) a concise statement of the matters pursuant to which the action forming the basis of the hearing is proposed to be taken.

(b) The hearing officer shall regulate the course of the hearing. Hearings shall be informally conducted. Every party shall have the right to counsel, and a fair opportunity to present his or her case including such cross-examination as may be appropriate in the circumstances. Hearing officers shall make their proposed findings and recommended decisions to the Secretary upon the basis of the record before them.

§ 30.17 Intimidatory or retaliatory acts.

Any intimidation, threat, coercion, or retaliation by or with the approval of any sponsor against any person for the purpose of interfering with any right or privilege secured by Title VII of the Civil Rights Act of 1964, as amended, Executive Order 11246, as amended, or because he or she has made a complaint, testified, assisted, or participated in any manner in any investigation proceeding, or hearing under this part shall be considered noncompliance with the equal opportunity standards of this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising therefrom.

§ 30.18 Nondiscrimination.

The commitments contained in the sponsor's affirmative action program are not intended and shall not be used to discriminate against any qualified applicant or apprentice on the basis of race, color, religion, national origin, or sex.

§ 30.19 Exemptions.

Request for exemption from these regulations, or any part thereof, shall be made in writing to the Secretary and shall contain a statement of reasons supporting the request. Exemptions may be granted for good cause. State Apprenticeship Councils shall notify the Department of any such exemptions granted affecting a substantial number of employers and the reasons therefor.

[FR Doc. 78-13064 Filed 5-11-78; 8:45 am]

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Federal Register

FRIDAY, MAY 12, 1978
PART V



DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

■

INDUSTRIAL HYDROCARBONS AND ALCOHOLS

Pilot Projects

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[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1480]

INDUSTRIAL HYDROCARBONS AND ALCOHOLS

Pilot Projects

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Proposed Rulemaking and Public Hearings.

SUMMARY: Section 1420 of the Food and Agriculture Act of 1977 (Pub. L. 95-113) directs the Secretary of Agriculture "to provide for four pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products by guaranteeing loans not to exceed $15,000,000 per each project to public, private, or cooperative organizations organized for profit or nonprofit, or to individuals for a term not to exceed twenty years at a rate of interest agreed upon by the borrower and lender."

The proposed regulations would provide policies and procedures for submission and evaluation of definitive proposals for the pilot projects which will be solicited simultaneously with the issuance of the final regulations.

Generally, the proposed regulations provide priorities and criteria which the Secretary will apply in determinations regarding approval of a Federal guaranty. They provide illustrations of information to be developed by the borrower and the lender and supplied to the Secretary, including especially a detailed description of the project planned to be undertaken by the borrower and an affirmation by the lender supporting the necessity for a Federal guaranty. The regulations, in addition, contain illustrations of costs which the borrower can include, when applicable, in arriving at the total project cost. Illustrations of costs not allowed to be included in project costs are also provided.

DATES: Written comments on the proposed regulations must be received by June 12, 1978, 4:30 p.m. Public hearings on the proposed regulations will be held as follows: May 26, 1978, 9:30 a.m., Washington, D.C.; June 1, 1978, 9:30 a.m., St. Louis, Mo.; June 3, 1978, Spokane, Wash.

ADDRESSES: The hearing locations are: Washington, D.C. hearing will be held at Jefferson Auditorium, South Agriculture Building, USDA, 12th and Independence Avenue SW., Washington, D.C. 20250; St. Louis, Mo. hearing will be held at Holiday Inn North, 4545 North Lindbergh, St. Louis, Mo.; Spokane, Wash. hearing will be held at Isabella Room, Davenport Hotel, West 807 Sprague Avenue, Spokane, Wash.

Written comments and requests to speak at one of the hearings should be directed to Mr. Harry Brown, Office of Energy, Room 3812, South Agriculture Building, USDA, 12th and Independence Avenue SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Harry Brown, Office of Energy, Room 3812, South Agriculture Building, USDA, 12th and Independence Avenue SW., Washington, D.C. 20250, 202-447-4515.

SUPPLEMENTARY INFORMATION: It is expected that, by minimizing the financial risk usually associated with new unique industrial processes or technologies, the Federal loan guarantees which may be made pursuant to final regulations (issued after receipt and consideration of comments upon these proposed regulations) will increase and accelerate the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products.

For the most effective implementation of the statute, the phrase "agricultural commodities and forest products" has been construed as not being limited to the more commonly recognized products from farms and forests, like grain and timber, but in the broadest sense as embracing all forms of farm and forest crops, vegetation byproducts and residues. For that reason, as well as brevity of reference, the proposed regulations equate the phrase with the term "biomass." "Biomass" includes for example, such diverse materials as the grain and stalks of corn, wheat, and rice; cottonseed hulls; fruits and vegetables and their processing byproducts and residues; poultry and livestock manures and residues; wood products including bark, pulp, chips and residues from logging and paper manufacturing; aquatic plants; specific energy plantation crops; and peat.

To achieve the goals of the statute, the Secretary wishes to receive many proposals employing diverse and innovative technologies and utilizing a wide variety of biomass materials.

In the interest of furthering the production of industrial hydrocarbons and alcohols from biomass, the Government would reduce the possible risk to lenders. These regulations would provide a Government guarantee in full for loans covering up to 90 percent of the cost of the approved projects, but such loan guarantees are not to exceed $15 million per project. As a further incentive toward expanding biomass use for energy purposes, there will be no user charge associated with these Federal loan guarantees.

COMMENT PROCEDURES:

A. WRITTEN COMMENTS

Participation in this rulemaking is invited by submitting views, data, or arguments with respect to the proposed regulations set forth in this Notice. Written comments should be submitted to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside with the designation "Proposed Regulations—Industrial Hydrocarbons and Alcohols." Five copies should be submitted. All comments received by June 12, 1978, and all relevant information will be considered before final action is taken on the proposed regulations. All written comments received will be available for public inspection and photocopying in Room 3812, South Agriculture Building, USDA, 12th and Independence Avenue SW., between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Information or data believed to be confidential, must be so identified and submitted in writing, one copy only. The Secretary reserves the right to determine the confidential status of the information or data and to treat it accordingly.

B. PUBLIC HEARINGS

1. Purpose. The purpose of the public hearings is to provide an opportunity for broad public consideration of the proposed regulations. It will be particularly desirable to have discussion of the types and diversity of operations possible within the regions represented by each of the hearings and the factors that must be considered in regard to the energy efficiency and the economic feasibility of such operations. Some examples of topics that may be addressed in the hearing statements are as follows:

(a) Full range of possible feedstocks that could be used under the law for producing alcohols and hydrocarbons;

(b) Economic feasibility of producing alcohols and hydrocarbons from agricultural commodities and forest products. These discussions should consider economic feasibility not only in terms of requirements for a loan guaranty but also in terms of local, regional, national, and international economic implications.

(c) Energy efficiency implications, not only in manufacturing processes but from the standpoint of entire systems of production, processing, marketing, and use.

2. Requesting Opportunity for Oral Statement. The times and places for the hearings are indicated in the "DATES" and "ADDRESSES" sections of this Notice. Material not presented orally may be submitted for the record.

A request to make an oral presentation at a hearing should be received not later than two days before the hearing by Mr. Harry Brown at the aforementioned address. Persons making such requests should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing. Fifteen copies of the presentation should be provided to the presiding officer at the hearing.

3. Conduct of the Hearings. USDA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons who have asked to be heard.

The hearings will be conducted under the auspices of the Office of Energy, USDA, and a USDA official will preside at each of the hearings. These will not be judicial or evidentiary-type hearings. Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained and made available for inspection at the USDA, Room 3812, South Agriculture Building, USDA, 12th and Independence Avenue SW., Washington, D.C., between the hours of 9 a.m. and 4 p.m., Monday through Friday.

On October 20, 1977, Notice was published in the FEDERAL REGISTER (42 FR 55904) requesting preliminary submissions of tentative project descriptions to assist the Department in the preparation of regulations for the evaluation of formal proposals for loan guarantees of the four pilot projects. Responses to that Notice (as extended to April 15, 1978, by 43 FR 3146) have been helpful in the drafting of these proposed regulations.

In consideration of the foregoing, the regulations set forth below are proposed to be included in Subchapter B of Chapter XIV, Title 7 of the Code of Federal Regulations as Part 1480.

PART 1480—INDUSTRIAL HYDROCARBONS AND ALCOHOLS PILOT PROJECTS

Sec.

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Appendix A.
Appendix B.

AUTHORITY: Sec. 1420, Pub. L. 95-113, 91 Stat. 998 (7 U.S.C. 2669).

§ 1480.1 General.

Section 1420 of the Food and Agriculture Act of 1977, Pub. L. 95-113, (the Act) authorizes the Secretary of Agriculture (the Secretary) to initiate a pilot program for the production and marketing of industrial hydrocarbons from agricultural commodities and forest products. In the Act, "the Secretary is authorized and directed to formulate and carryout a pilot program for the production and marketing of industrial hydrocarbons derived from agricultural commodities and forest products for the purpose of stabilizing and expanding the market for such commodities and products and expanding the Nation's supply of industrial hydrocarbons." The Act also states that "the Secretary shall provide for four pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products by guaranteeing loans not to exceed $15,000,000 per each such project, to public, private or cooperative organizations organized for profit or nonprofit, or to individuals for a term not to exceed twenty years at a rate of interest agreed upon by the borrower and lender." This section and the following sections of part 1480 of this Subchapter constitute regulations for submitting, evaluating, selecting, and approving applications for guaranteed loans under the Act. Project proposals conforming to the Act and these regulations will be considered by a panel of experts which will advise the Secretary concerning selection of pilot projects for loan guaranty under the Act.

§ 1480.2 Project description format.

Applications shall use the following project description format:

(a) Project title: Title should be descriptive and brief.

(b) Date of submission:

(c) Organization: The official name and address of the proposing organization.

(d) Responsible officer: The name and address of the official of the organization responsible for the project.

(e) Designated contact official: The name, address and telephone number of the official working contact for the proposing organization.

(f) Lender: Name and address of lending agency.

(g) Qualifications of proposer: Personal qualifications data of key personnel of proposer.

(h) Objectives of project: The objectives should establish specific pilot project goals of production, timing, information development, and followup.

(i) Justification (in terms of act): Statement showing how the project would address purposes of section 1420 of the Food and Agriculture Act of 1977.

(j) Raw materials and source area: Statement should describe the raw materials availability, sources and alternatives and describe the assembly process.

(k) Process and flow diagrams: Statement should contain a stepwise description of processing, production, storage and transport.

(l) Products and byproducts, uses and markets: Statement should list products, yields and their alternative uses and markets.

(m) Flexibility of raw material and products: Statement showing opportunities for using alternative raw materials and products in order to enhance economic return and energy output.

(n) Plant location, sites: Describe, anticipated plant location and auxiliary sites and the respective advantages of these locations.

(o) Facilities and equipment: Describe proposed plant, facilities, equipment, and marketing arrangements.

(p) Employment: List numbers and categories of employees and expected payroll.

(q) Construction and on-stream timetable: Tabulation or chart showing timetables for project construction, production start-up and sales progress.

(r) Amount of loan guarantee requested: Loans requested and percentage of total cost of project.

(s) Economic feasibility study:

(1) Capital costs: Tabulation and description of investments, loans and repayment of capital.

(2) Operating costs: Tabulation and descriptions of operating expenses related to output.

(3) Product output and value: Tabulation of production, sales and returns.

(4) Cost evaluation, economic information: Cost summary to provide evidence of the payment time and economic viability.

(t) External cooperators: Identification of assistance groups (i.e., Federal, State, local, etc.).

§ 1480.3 Definitions and other requirements.

(a) "Project" means an undertaking by the borrower which when completed will result in the production of industrial hydrocarbons and/or alcohols from biomass and otherwise conform to the requirements of these regulations, and Pub. L. 95-113, section 1420.

(b) The industrial hydrocarbons and alcohols must be produced from "agricultural commodities and forest products." For the most effective implementation of the statute, the phrase "agricultural commodities and forest products" has been construed in the broadest sense as all forms of farm crops, vegetation, and residues. For that reason, as well as brevity of reference, the regulations equate the phrase with the term "biomass". "Biomass" includes, for example, such diverse materials as the grain and stalks of corn, wheat, and rice; cottonseed hulls; fruits and vegetables and their processing byproducts and residues; poultry and livestock manures and residues; wood products including bark, pulp, chips, and residues from logging and paper manufacturing; aquatic plants; specific energy plantation crops; and peat.

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(c) An industrial hydrocarbon may chemically contain no more than 5 percent other constituents that are chemically reacted with the carbon and/or hydrogen atom and are a part of the molecule.

(d) Alcohols are a class of compounds which are hydroxyl derivations of hydrocarbons. Alcohols in these regulation may contain no more than 5 percent other constituents chemically bound to the alcohol molecule.

(e) Industrial hydrocarbons and alcohols in these regulations are primarily intended for non-food and non-feed uses such as direct fuels or industrial energy raw materials.

(f) The alcohol must be one of the major products in projects identified as alcohol processing units.

(g) Total energy content of the products and byproducts manufactured in the operation must exceed the total energy input from fossil fuels used in the manufacture of such products and byproducts.

(h) Fossil fuels include coal, natural gas and petroleum. Gas and fuels produced from grains, agricultural byproducts and residues, wood and wood products, peat and related materials are not considered fossil fuels.

§ 1480.4 Environmental considerations.

(a) Applicant must present adequate environmental impact information. For a proposed project being actively considered for a loan guaranty, an environmental assessment will be prepared by the responsible Federal official and utilized to determine the environmental consequences of the proposed project.

(1) If, as a result of the above assessment, the Secretary determines that undertaking the proposed project will have a significant effect on the quality of the human environment, an environmental statement in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 will be prepared and issued by the responsible Federal official.

(b) If the Secretary determines that undertaking the proposed project will not have a significant effect on the quality of the human environment, a negative determination will be prepared prior to final action on the guaranty application.

(c) Nothing in this regulation shall be construed to modify requirements imposed on the borrower or lender by Federal, State and local government agencies in connection with permits, licenses, or other authorization to conduct or finance these activities.

§ 1480.5 Trade secrets.

Subject to requirements of law and these regulations, trade secrets, commercial and financial information and data (including maps) which the borrower makes available to the Secretary during the preliminary discussion or at any other time throughout the duration of the project on a privileged or confidential basis, will be so treated and will not be publicly disclosed without the prior written approval of the borrower. In order to assist in carrying out this provision, information deemed by the borrower or lender to fall within one of the foregoing categories shall be identified and appropriately marked by the borrower or the lender.

§ 1480.6 Evaluation criteria.

(a) Proposed projects must meet the criteria of the Act and of these regulations, including but not limited to: (1) Total energy content of the products and byproducts manufactured in the operation must exceed the total energy input from fossil fuels used in the manufacture of such products and byproducts; (2) The operation as a whole is designed to demonstrate economic feasibility; (3) The technology used in the operation is potentially applicable at other locations on a regional or national scale.

(b) Additional criteria will also be considered, for example, criteria for evaluation of projects may include but not be limited to the following: Stabilization and expansion of the market for agricultural commodities and forest products; expansion of the Nation's supply of industrial hydrocarbons and alcohols; reduction of requirements for fossil fuels in production, conversion, marketing and utilization of biomass for alcohols and hydrocarbons; demonstration and utilization of new technological advances; provision for diversity of feedstocks, conversion processes, products and byproducts; minimal environmental impact.

§ 1480.7 Project monitoring and reports.

(a) The guaranty agreement shall provide that employees and representatives of USDA shall have access to the project site. To the extent lawful and within their control, the lender and borrower will assure availability of such information related to the project as is necessary to permit the Secretary to determine technical progress, soundness of financial condition, management stability, compliance with environmental protection requirements, and other matters pertinent to the guaranty.

(b) An annual progress report on each pilot project, not to exceed 12 pages, will be required from the borrower. The annual reports will be organized around the objectives, the installations, the processes, the production goals, and timetables. The annual reports will be due on September 30 of each fiscal year of the project.

(c) A comprehensive report covering all findings, accomplishments, and cost evaluations will be prepared at the end of the first 5 years. The purpose of this report will be to obtain fullest definitive information on the economic and technical feasibility of larger-scale application of the processes tested in the pilot project. The comprehensive report will use the following format:

Title page
Foreward
Abstract
Tables and figures
Definitions, abbreviations, symbols
Acknowledgements
Chapters:

1. Introduction
2. Findings and conclusions
3. Recommendations
4. Raw Materials, process and products
5. Marketing and utilization
6. Financing and cost analysis
7. Economic analysis and feasibility of scale-UP

Appendices

§ 1480.8 Patent and proprietary rights.

(a) Patents and other proprietary rights accruing to the borrower and resulting from the project will remain with the borrower, except that such rights shall be, in the case of default, treated as project assets in accordance with terms and conditions in the guaranty agreement.

(b) The guaranty agreement may provide that patents or other proprietary intellectual property rights utilized in or resulting from the project, which are owned or controlled by the borrower, shall be made available to other domestic parties upon reasonable terms and conditions which protect the confidentially of information, if such action is determined by the Secretary to be in the public interest.

§ 1480.9 Loan guaranty criteria.

(a) The Secretary may enter into agreements to guaranty lenders against the loss of principal and accrued interest on loans made by such lenders to qualified borrowers. Such agreements can be entered into only for the purposes of design, construction, and operation of equipment or facilities for the production of industrial hydrocarbons and alcohols from biomass.

(b) A loan application which meets a lender's standard without a Federal guaranty will be regarded by the Secretary as not eligible for a loan guaranty under this regulation. No loan shall be guaranteed if the income from such loan or the income from obligations issued by the holder of such loan is excluded from gross income for the purposes of Chapter 1 of the Internal Revenue Code of 1954.

(c) A guaranty may be made only if the following conditions are met as determined by the Secretary:

(1) The amount of a guaranty for any loan for a Project does not exceed $15,000,000.

(2) The guaranty as to principal shall apply only to so much of the principal amount of the loan as does not exceed 90 percent of the estimated aggregate cost of the Project with respect to which the loan is made. However, there is no prohibition against the guaranty being equal to 100 percent of the loan to be made by the lender.

(3) The lender has set forth reasons why the loan would not be made to the borrower without a Federal loan guaranty.

(4) The terms of the loan require full repayment over a period of no more than twenty years.

(5) The loan bears interest at a rate agreed upon by the borrower and lender and approved by the Secretary.

(6) The Project is to be performed in the United States, its territories or possessions, or on property owned or leased by the United States outside the United States, its territories or possession.

(7) The terms and conditions set forth in the loan agreement are acceptable to the Secretary.

(8) The borrower and any non-guaranteed lender agree in writing that (i) the terms and conditions set forth in a non-guaranteed loan agreement relating to the Project shall be acceptable to the Secretary and (ii) the non-guaranteed loan shall be subordinate "to the guaranteed loan.

§ 1480.10 Supporting loan guaranty information.

(a) The lender and borrower shall provide information in support of the application such as described by the following items:

(1) Full description of the scope, nature, extent and location of the proposed Project.

(2) A written affirmation by the lender supporting the necessity for a Federal loan guaranty.

(3) Evidence supporting the borrower's ability to complete the Project in a timely and efficient manner.

(4) Agreed upon interest rate to be charged by the lender.

(5) Period of repayment not to exceed 20 years and amount of the loan and the percent of the Project cost to be guaranteed.

(6) A detailed budget-type breakdown of both the estimated aggregate cost of the Project and the amount to be borrowed.

(7) Evidence showing that the amount of the loan together with equity or other financing will be sufficient to carry out the Project.

(8) The borrower's plan to pay interest charges and repay the loan, including assumptions regarding marketability of the Project's results or product.

(9) The aggregate amount of guaranty commitments and/or guaranteed loans outstanding made to the borrower under the provisions of this regulation.

(10) Where relevant to the purpose of the loan guaranty, a copy of the borrower's title or lease agreement to the property, supported by title opinion or other locally acceptable evidence of the borrower's interest, on which the Project is to be carried out.

(11) Information covering the management experience of each officer or key person in the borrower's organization who is to be associated with the Project.

(12) A description of the borrower's management concept and business plan or plan of operations to be employed in carrying out the Project.

(13) A description of the Project's technical and economic feasibility.

(14) A description of the intended sources and amount of capital and its form (equity, loans from principals, loans from the lender, outside financing, or factoring) together with evidence of a commitment from these sources and a copy of each such agreement, and evidence of the financial ability of each source to honor its commitment.

(15) A copy of the loan agreement to be executed by the lender and borrower.

(16) A listing of assets associated or to be associated with the Project, including appropriate data as to the useful life of any physical asset, and any other security for the loan and guaranty agreement.

(17) A description of other Federal financial assistance (e.g., direct loans, guaranteed loans, grants, contracts) available or expected to be made available to the borrower in connection with the Project.

(18) A description of the processes and methods the borrower plans to utilize.

(19) Copies of all applications when filed, and approvals when issued by Federal, State and local government agencies, for permits and authorizations to conduct operations associated with the Project.

(20) A description of the borrower's organization and a copy of the business certificate, partnership agreement or corporate charter, by laws and appropriate authorizing resolutions.

(21) The lender's written assessment of all aspects of the borrower's loan application in sufficient detail as would be completed by any prudent lender considering a loan without a guaranty together with copies of investigations from credit bureaus, references, bank inquiries, and professional organizations.

(22) Written assurance from guaranteed and, when appropriate to the Project, non-guaranteed lenders that the loan amounts as well as terms and conditions imposed by such lenders will not be altered in any significant respect without approval of the Secretary.

(23) A description of salaries (and other financial remuneration including profit sharing and stock options) to be paid to officers and employees of the borrower that are, or will be, directly associated with the Project.

(24) Evidence of consultation conducted by the borrower with appropriate agencies of any affected State regarding the proposed Project.

(b) In addition to supporting information illustrated in paragraph (a) of this section, the Secretary may independently obtain or may require the lender to include with the guaranty application the filing of information regarding the lender as deemed necessary by the Secretary including but not limited to:

(1) Description of the lender's organization and a copy of the business certificate, partnership agreement or corporate charter, by-laws, and appropriate authorizing resolutions demonstrating the lender's competence to administer loan terms and conditions.

(2) Copies of investigations obtained from credit bureaus, reference and bank inquiries, and professional associations.

(3) Descriptions covering the management experience of each officer or key person in the lender's organization who is or will be associated with the loan.

(4) A description of the management concept to be employed by the lender in surveillance of the loan.

(5) When appropriate to the Project, evidence of the lender's experience in surveying the financial aspects of complex technological projects.

(c) The Secretary shall consider the application and other relevant information and shall be responsible for (1) determining whether the application is in compliance with this regulation; (2) assessing and evaluating the financial, technical, environmental, management, and marketing aspects of the Project. The Secretary will provide the borrower and lender with a written statement setting forth the basis for the nonapproval of an application.

§ 1480.11 Closing.

The major activities leading to the closing of the guaranty agreement include the following:

(a) When an application for a loan guaranty has been approved by the Secretary, the Secretary will so notify the lender and the borrower and provide them with a copy of the proposed guaranty agreement.

(b) The Secretary shall arrange with the lender and the borrower for the preparation and review of necessary documents and agree upon a date for execution of a guaranty agreement.

§ 1480.12 Loan disbursements by lender.

Unless otherwise provided in the guaranty agreement, the lender shall not make any disbursement on the loan until it has followed notification requirements as set forth in Appendix B, section (c)(1), and has received written notice from the Secretary that disbursement is approved.

§ 1480.13 Preservation of collateral.

Unless otherwise provided in the loan guaranty documents, upon default by the borrower, the holder of collateral associated with project shall take actions such as the Secretary may reasonably require to provide for the care, preservation, and mainte-

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nance of such collateral so as to achieve maximum recovery upon liquidation of collateral, security and guarantees for the loan. The lender shall not waive or relinquish, without the consent of the Secretary any collateral or guaranty for the loan to which the Government would be subrogated upon payment under the guaranty agreement to the lender.

§ 1480.14 Security with respect to borrower's assets.

Each loan guaranteed under this regulation will be secured by liens or assignments of rights in assets associated with the project, or such other security specified in the guaranty agreement as the Secretary may determine to be reasonably required to protect the interests of the United States.

§ 1480.15 Treatment of payments.

When the lender holds a guaranteed and non-guaranteed portion of a loan, payments of principal made by the borrower in accordance with the loan agreement shall be applied by the lender to reduce the guaranteed and non-guaranteed portion of the loan on a proportionate basis.

§ 1480.16 Assignment and incontestability.

(a) Except as may be required by law, the lender may assign to another lender rights and obligations under the loan or guaranty agreement only with the prior written consent of the Secretary.

(b) The lender may provide other lenders with participating shares in the loan without the prior consent of the Secretary. Written notice shall be given by the lender to the Secretary and the borrower when participating shares are so provided. However, the original lender shall continue to be responsible for and perform the provisions of the guaranty agreement pertaining to the lender, unless the Secretary approves a substitute lender.

(c) The guaranty agreement shall be conclusive evidence that the guaranty and the underlying loan are in compliance with the provisions of Pub. L. 95-113, section 1420, and this regulation and that such loan has been approved and is legal as to principal and interest and other terms. Such a guaranty shall be valid and incontestable by the Government except for fraud or misrepresentation by the holder of the obligation.

§ 1480.17 Mandatory purchase of flood insurance.

The Flood Disaster Protection Act of 1973 (Pub. L. 92-234) may require purchase by the borrower of flood insurance as a condition of receiving a guaranty on loans for acquisition or construction purposes in an identified flood plain area having special flood hazards.

NOTE.—The Commodity Credit Corporation has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement as amended under Exective Order 11821 and OMB Circular A-107.

Dated: May 6, 1978.

BOB BERGLAND,
Secretary.

APPRENDIX A—PROJECT COST ILLUSTRATIONS.

(a) The cost elements set forth in paragraphs (b) and (c) of this section are only for the purpose of illustrating the manner by which the estimated aggregate cost of the Project can be determined. It is expected that Project costs will be accumulated in accordance with generally accepted accounting principles and practices which are consistently applied.

(b) Except as set forth in paragraph (c) of this section, reasonable and customary costs paid by the borrower that are directly connected to the Project are generally permitted in computing the estimated aggregate Project cost. These costs include, but are not limited to the folowing:

(1) Employee's salaries and wages, consultant fees, and other outside assistance.

(2) Land purchase or lease payments including reasonable real estate commissions.

(3) Engineering fees, surveys, plats, title insurance, recording fees, and local fees incurred in connection with land acquisition.

(4) Site improvements, site restoration and abandonment costs, access roads and fencing.

(5) Buildings, transmission lines, power plant equipment, and machinery.

(6) Taxes to be paid to Federal, State, and local government agencies and other taxing authorities.

(7) Insurance and bonds of all types.

(8) Engineering, architectural, and legal fees paid in connection with equipment selection, design, acquisition, and installation.

(9) Research and development necessary to complete the Project.

(10) Professional services and fees necessary to obtain licenses and permits and to prepare environmental reports and data.

(11) Interest costs charged by the lender.

(12) Interest payments to other lenders.

(13) Costs incurred by the borrower prior to approval of the guaranty agreement that are directly in connection with the project.

(14) Technical and socio-economic information dissemination costs.

(15) Costs to provide safety and environmental protection equipment, facilities, and services.

(16) Travel and transportation costs.

(17) Bond financing costs and trustee fees.

(18) Fees for royalties and licenses.

(19) Costs associated with acquiring technical data.

(20) Financial and legal service cost.

(21) Costs to comply with terms and conditions specified in the guaranty agreement or required by regulations and issuances by Federal, State, and local government agencies.

(22) A contingency reserve.

(c) Costs which are not considered as Project costs and are excluded from the guaranteed portion of the loan are illustrated below:

(1) Company organizational expenses.

(2) Parent corporation general and administrative expenses and other parent corporation assessments.

(3) Dividends and profit sharing to stockholders, employees, and officers.

(4) Goodwill, franchises, or trade or brand name costs.

(5) Fees and commissions charged to the borrower for obtaining loans and Federal assistance.

(6) Loan commitment fees charged b lenders and finders' fees.

(7) Expenses not paid or incurred by the borrower.

(8) Normal operating expenses incurred after an initial period of start-up.

(9) Costs that are excessive or are not directly required to carry out the Project.

(d) The Secretary may cause to be performed a review of any or all cost elements included by the borrower in the estimated aggregate Project cost. The borrower shall make available records and other data necessary to permit the Secretary to carry out such review. In carrying out this responsibility, the Secretary may utilize employees of Federal agencies or may direct the borrower to submit to a review performed by an independent public accountant or other competent authority.

(e) When costs incurred prior to the approval of the guaranty agreement, as provided in paragraph (b)(13) of this section, are included in the estimated aggregate Project cost, the borrower will make available to auditors selected by the Secretary financial and other records necessary to complete an audit of such costs if requested.

APPENDIX B—LOAN SERVICING BY LENDER

Loan guaranty agreements approved in accordance with this regulation shall provide that:

(a) The lender shall exercise such care and diligence in the disbursement, servicing, and collection of the loan as would be excercised by a reasonable and prudent lender in dealing with a loan without guaranty.

(b) The loan agreement shall provide the customary period of grace for the making of any payment of principal or interest. However, the lender shall not grant to the borrower any further extension of time over and above any period of grace for the making of any payment in whole or in part under the loan agreement without the prior written consent of the Secretary.

(c) The lender shall notify the Secretary in writing without delay:

(1) That the first disbursement is ready to be made, together with evidence from the borrower that the Project has commenced or is about to commence.

(2) At monthly, or at other agreed upon intervals, of the date and amount of each subsequent disbursement under the loan.

(3) Of any non-payment by the borrower of principal or interest as required by the loan agreement, if such non-payment is not cured within the grace period, together with evidence of appropriate notifications made by the lender to the borrower.

(4) Of any failure, known to the lender, by an intended source of capital to honor its commitment.

(5) Of any failure by the borrower, known to the lender, to comply with terms and conditions as set forth in the loan agreement or guaranty agreement.

(6) When the lender believes that the borrower may not be able to meet any future scheduled payment of principal or interest.

(d) In the event the lender retains the option to accelerate payment of the borrower's indebtedness, the lender shall not do so without the prior written consent of the Secretary.

[FR Doc. 78-13199 Filed 5-11-78; 11:48 am]

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Monday	Tuesday	Wednesday	Thursday	Friday
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S.J. Res. 106 ..... Pub. L. 95-274
To provide for the reappointment of A. Leon Higginbotham, Junior, as a citizen regent of the Board of Regents of the Smithsonian Institution. (May 10, 1978; 92 Stat. 233) Price: $.50.

S.J. Res. 107 ..... Pub. L. 95-275
To provide for the reappointment of John Paul Austin as a citizen regent of the Board of Regents of the Smithsonian Institution. (May 10, 1978; 92 Stat. 234) Price: $.50.

S.J. Res. 108 ..... Pub. L. 95-276
To provide for the appointment of Anne Legendre Armstrong as citizen regent of the Board of Regents of the Smithsonian Institution. (May 10, 1978; 92 Stat. 235) Price: $.50.

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Title 3—The President

Memorandum of May 11, 1978

Review of the Federal Statistical System

Memorandum for the Heads of Executive Departments and Agencies

THE WHITE HOUSE,
Washington, May 11, 1978.

I have directed my Reorganization Project staff to perform a comprehensive review of the organization of the system that collects, evaluates and disseminates statistical data for the Federal government.

This Nation has the most accurate and efficient statistical system in the world. But a number of persistent problems—including the burden placed upon respondents and the responsiveness of data to policy needs—indicate a pressing need to improve the coordination of Federal statistical activities, which are growing at an increasing rate.

The study will use to the maximum extent the work that has been done in previous efforts. During the course of the study the project staff will be seeking the advice and support—including staff assistance and other resources—of many of the agencies that are part of our statistical system. I trust you will cooperate to the fullest extent possible. In addition to Federal agencies, the project will need the advice and counsel of the Congress, State and local governments and the public.

To ensure that all affected parties are informed, I have directed that this memorandum be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc. 79-13376 Filed 5-12-78; 10:58 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-90]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Assistant Secretary for Administration to reflect the establishment of the Management Staff. The Assistant Secretary has determined that Department level management responsibilities require a single staff responsible for all Department level management improvement, analysis and review programs. The Director of the Management Staff will report to the Assistant Secretary for Administration.

EFFECTIVE DATE: May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Neil Van Vliet, Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6111.

SUPPLEMENTARY INFORMATION:

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

1. A new § 2.77 is added to read as follows:

§ 2.77 Director, Management Staff.

(a) *Delegations.* Pursuant to § 2.25(c), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Management Staff:

(1) Administer the Department's management improvement program including the provision of assistance to agencies through management studies, organization analysis and planning; review the management and operating policies and processes; search for more economical approaches to the conduct of business and provide such other assistance as will aid in improving the management effectiveness, organization, and operation of the Department's programs.

(2) Maintain, review, update, and amend departmental Delegations of Authority.

(3) Administer the Department's management review program. This authority includes the development and promulgation of departmental directives regulating the management review function.

(4) Develop, design, install, and revise systems, processes, work methods, and techniques, and undertake other system engineering efforts to improve the management and operational effectiveness of the USDA.

(5) Authorize organization changes which occur in:

(i) Departmental organizations:

(a) Service or office

(b) Division (or comparable component)

(c) Branch (or comparable component in departmental centers, only.)

(ii) Field organizations:

(a) First organization level.

(b) Next lower organization level required only for those types of field installations where the establishment, change in location, or abolition of same, requires approval in accordance with 1 AR 673.

(6) Exercises authority under the Department's Acquisition Executive to integrate and unify the management process for the Department's major system acquisitions and to monitor implementation of the policies and practices set forth in OMB Circular No. A-109: Major Systems Acquisitions. This delegation includes the authority to:

(i) Insure that OMB Circular No. A-109 is effectively implemented in USDA and that the management objectives of the Circular are realized.

(ii) Review the program management of each major system acquisition.

(iii) Review any departmental acquisition for designation as a major system acquisition under A-109.

(7) Formulate and promulgate department management policies, procedures and regulations.

(8) Promulgate departmental policies, standards, techniques, and procedures for the conduct of reviews and analysis of the utilization of the resources of state and local governments, other Federal agencies and of the private sector in domestic program operations; maintain the departmental inventory of government commercial or industrial activities resulting from such review in accordance with the Office of Management and Budget Circular A-76.

(b) *Reservations.* The following authority is reserved to the Assistant Secretary for Administration:

(1) Authorize organizational changes occurring in a Department service or staff office which affect the overall structure of that service or office; i.e., require a change to that service or office's overall organization chart.

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953).

Dated: May 8, 1978.

JOAN S. WALLACE,
Assistant Secretary for Administration.

[FR Doc. 78-13102 Filed 5-12-78; 8:45 am]

[3410-08]

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. No 1]

PART 410—FLORIDA CITRUS CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

CITRUS CROP INSURANCE POLICY

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Florida Citrus Crop Insurance Regulations effective with the 1978 crop year to provide for insuring white grapefruit on a fresh fruit and on a juice basis, and changes the method of juice loss determination on those types of citrus on which the amount of loss is determined by the amount of juice lost by insurable causes of loss. These amendments are made in response to many requests by producers of white grapefruit marketable as fresh fruit for such insurance.

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EFFECTIVE DATE: May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking, dated Thursday, March 9, 1978, (43 FR 9616), the Federal Crop Insurance Corporation gave notice that it was considering an amendment to the Florida citrus crop insurance regulations to permit white grapefruit to be insurable as fresh fruit in addition to being insurable on a juice basis. Consideration was also being given to changing the method of juice loss determination on those types of citrus on which the amount of loss is determined by the juice lost from insurable causes. The Corporation currently has the adjuster collect a sample of fruit and make a visual juice loss determination using a cut method. This method will be replaced by relating the juice marketing records of damaged fruit to the previous production history of the individual crop, or if such records are not available, to an established juice content provided on the actuarial table on file in the Corporation's office for the county. This method of juice loss determination has been found to be more accurate than the field cutting sample method used previously in tests conducted by the Florida Department of Citrus.

No comments, data, or views for consideration in connection with the proposed amendment were received. In view of there being no comment to the contrary, the amendment as proposed in the notice of intended rulemaking (43 FR 9616, March 9, 1978) is hereby issued as a final rule.

FINAL RULE

Accordingly, the Federal Crop Insurance Corporation, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), amends the Florida citrus crop insurance regulations effective with the 1978 crop year by amending subparagraphs 1 (p) and (q), 3(a), and 9 (f), (g), and (j) of 7 CFR 410.6 the policy to read as follows:

§ 410.6 The policy.

• • • • • •

1. *Meaning of terms.* • • •

(p) "Types of citrus" means any of the following seven types of fruit: Type I—Early and midseason oranges; Type II—Late oranges; Type III—Grapefruit, under which freeze damage will be adjusted on a juice basis for white grapefruit and on a fresh fruit basis for pink and red grapefruit; Type IV—Navel oranges, tangelos and tangerines; Type V—Murcott honey oranges (also known as Honey tangerines), and Temple oranges; Type VI—Lemons; and Type VII—Grapefruit, under which freeze damage will be adjusted on a fresh fruit basis for all grapefruit. Oranges commonly known as "Sour oranges" and "Clementines" shall not be included in any of the insurable types of citrus. (q) "Unit" means all insurable acreage in the county of any of the seven citrus types referred to in subsection (p) of this section located on contiguous land, on the date insurance attaches for the crop year, (1) in which the insured has a 100 percent share; (2) which is owned by one person and operated by the insured as a tenant; or (3) which is owned by the insured and rented to one tenant. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land shall be considered as owned by the lessee. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

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3. *Citrus insured.* (a) The citrus insured shall be any of the type(s) of citrus as defined in section 1(p) elected by the insured which is located on insurable acreage as shown on the actuarial map and in which the insured has a share on the date insurance attaches: *Provided,* That (1) if grapefruit is to be insured, only one type (III or VII) can be elected, (2) the citrus fruit can be expected to mature each crop year in the normal maturity period for the variety, and (3) the trees have reached at least the tenth growing season after being set out, unless otherwise provided on the actuarial table.

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9. *Claim for loss.* • • •

(f) Pink and red grapefruit of citrus Type III and citrus of Types IV, V, and VII, which are seriously damaged by freeze as determined by a fresh fruit cut of a representative sample of fruit in the unit in accordance with the applicable provisions of the Florida Citrus Code and could not be marketed as fresh fruit within the prescribed tolerance for freeze damage (including adulteration) shall be considered unmarketable as fresh fruit and the amount of damage shall be as follows: (1) If 15 percent or less of the fruit in a sample shows serious freeze damage, the fruit shall be considered undamaged, or (2) If 16 percent or more of the fruit in a sample shows serious freeze damage, the fruit shall be considered 50 percent damaged, except that: (i) For tangerines of citrus Type IV, damage in excess of 50 percent shall be the actual percent of damaged fruit. (ii) For other applicable varieties, if the Corporation determines that the juice loss in the fruit exceeds 50 percent, the amount so determined shall be considered the percent of damage.

(g) Any citrus of Types I, II, VI, and white grapefruit of Type III which is damaged by freeze, but may be processed by the canning or processing plants, shall be considered as marketable for juice. The percent of damage shall be determined by the Corporation by relating the juice content of the damaged fruit as determined by test house analysis to (1) the average juice content established by the Corporation based on acceptable records furnished by the insured showing the juice content of fruit produced on the unit for the three previous crop years, or (2) the juice content for that type fruit established on the actuarial table (if acceptable records are not furnished).

(j) Pink and red grapefruit of citrus Type III and citrus of Types IV, V, and VII which are unmarketable as fresh fruit due to serious damage from hail as defined in U.S. Standards for grades of Florida fruit shall be considered totally lost.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 26, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Approved: May 9, 1978.

CAROL TUCKER FOREMAN,
Acting Secretary.

[FR Doc. 78-13104 Filed 5-12-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

PART 1002—OFFICIAL SEAL AND DISTINGUISHING FLAG

Description and Use

AGENCY: Department of Energy (DOE).

ACTION: Final rulemaking.

SUMMARY: The DOE hereby prescribes the rules specifying the description and authorized use of its official seal and distinguishing flag.

DATE: Effective May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

George W. Barrow, Director, Office of Administrative Services, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

On October 1, 1977, DOE was activated pursuant to the Department of Energy Organization Act of 1977, Pub. L. 95-91. That Act provides at section 654 (42 U.S.C. 7264) that the Secretary of DOE may prescribe an official seal,

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which shall be noticed judicially. In accordance with that provision, the Secretary hereby adopts a seal, which shall also be displayed on the Department's distinguishing flag. These regulations describe the seal and flag, and provide for their use and display.

DOE is adopting these regulations as proposed with the addition of Subpart D—"Unauthorized Uses." This subpart clarifies provisions in the proposed regulations which limited authorized uses to certain purposes, by specifying particular uses which are not authorized. It should be noted that Subpart D is exemplary only, and that if a use is not specifically prohibited under Subpart D, but not specifically authorized elsewhere in the regulations, then such use shall be deemed to be not permissible.

B. COMMENT REVIEW

One comment was received which DOE determined not to be germane.

In consideration of the foregoing, Part 1002 of Chapter II of Title 10 of the Code of Federal Regulations is adopted as set forth below.

Issued in Washington, D.C., May 10, 1978.

WILLIAM P. DAVID,
Deputy Director of Administration, Department of Energy.

Subpart A—General

Sec.
1002.1 Purpose.
1002.2 Definitions.
1002.3 Custody of official seal and distinguishing flag.

Subpart B—Official Seal

1002.11 Description of official seal.
1002.12 Use of replicas, reproductions, and embossing seals.

Subpart C—Distinguishing Flag

1002.21 Description of distinguishing flag.
1002.22 Use of distinguishing flag.

Subpart D—Unauthorized Uses

1002.31 Unauthorized uses of the seal and flag.

AUTHORITY: 42 U.S.C. 7264.

Subpart A—General

§ 1002.1 Purpose.

The purpose of this Part is to describe the official seal and distinguishing flag of the Department of Energy, and to prescribe rules for their custody and use.

§ 1002.2 Definitions.

For purposes of this Part—

(a) "DOE" means all organizational units of the Department of Energy.

(b) "Embossing seal" means a display of the form and content of the official seal made on a die so that the seal can be embossed on paper or other medium.

(c) "Official seal" means the original(s) of the seal showing the exact form, content, and colors therof.

(d) "Replica" means a copy of the official seal displaying the identical form, content, and colors thereof.

(e) "Reproduction" means a copy of the official seal displaying the form and content thereof, reproduced in only one color.

(f) "Secretary" means the Secretary of DOE.

§ 1002.3 Custody of official seal and distinguishing flags.

The Secretary or his designee shall:

(a) have custody of:

(1) The official seal and prototypes thereof, and masters, molds, dies, and all other means of producing replicas, reproductions, and embossing seals; and

(2) Production, inventory and loan records relating to items specified in subparagraph (1); and

(b) Have custody of distinguishing flags, and be responsible for production, inventory, and loan records thereof.

Subpart B—Official Seal

§ 1002.11 Description of official seal.

The Department of Energy hereby prescribes as its official seal, of which judicial notice shall be taken pursuant to section 654 of the Department of Energy Organization Act of 1977, 42 U.S.C. 7264, the imprint illustrated below and described as follows:



(a) (1) The official seal includes a green shield bisected by a gold-colored lightning bolt, on which is emblazoned a gold-colored symbolic sun, atom, oil derrick, windmill, and dynamo. It is crested by the white head of an eagle, atop a white rope. Both appear on a blue field surrounded by concentric circles in which the name of the agency, in gold, appears on a green background. Detailing is in black.

(2) The colors used in the configuration are dark green, dark blue, gold, black, and white.

(3) The eagle represents the care in planning and the purposefulness of efforts required to respond to the Nation's increasing demands for energy. The sun, atom, oil derrick, windmill, and dynamo serve as representative technologies whose enhanced development can help meet these demands. The rope represents the cohesiveness in the development of the technologies and their link to our future capabilities. The lightning bolt represents the power of the natural forces from which energy is derived and the Nation's challenge in harnessing the forces.

(4) The color scheme is derived from nature, symbolizing both the source of energy and the support of man's existence. The blue field represents air and water, green represents mineral resources and the earth itself, and gold represents the creation of energy in the release of natural forces. By invoking this symbolism, the color scheme represents the Nation's commitment to meet its energy needs in a manner consistent with the preservation of the natural environment.

§ 1003.12 Use of replicas, reproductions, and embossing seals.

(a) The Secretary and his designees are authorized to affix replicas, reproductions, and embossing seals to appropriate documents, certifications, and other material for all purposes as authorized by this section.

(b) Replicas may be used only for:

(1) Display in or adjacent to DOE facilities, in Department auditoriums, presentation rooms, hearing rooms, lobbies, and public document rooms.

(2) Offices of senior officials.

(3) Official DOE distinguishing flags, adopted and utilized pursuant to Subpart C.

(4) Official awards, certificates, medals, and plaques.

(5) Motion picture film, video tape and other audiovisual media prepared by or for DOE and attributed thereto.

(6) Official prestige publications which represent the achievements or mission of DOE.

(7) Non-DOE facilities in connection with events and displays sponsored by DOE, and public appearances of the Secretary or other designated senior DOE Officials.

(8) For other such purposes as determined by the Director of the Office of Administrative Services.

(c) Reproductions may be used only on:

(1) DOE letterhead stationery.

(2) Official DOE identification cards and security credentials.

(3) Business cards for DOE employees.

(4) Official DOE signs.

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(5) Official publications or graphics issued by and attributed to DOE, or joint statements of DOE with one or more Federal agencies, State or local governments, or foreign governments.
(6) Official awards, certificates, and medals.
(7) Motion picture film, video tape, and other audiovisual media prepared by or for DOE and attributed thereto.
(8) For other such purposes as determined by the Director of the Office of Administrative Services.
(d) Embossing seals may be used only on:
(1) DOE legal documents, including interagency or intergovernmental agreements, agreements with States, foreign patent applications, and similar documents.
(2) For other such purposes as determined by the General Counsel or the Director of Administration.
(e) Any person who uses the official seal, replicas, reproductions, or embossing seals in a manner inconsistent with this Part shall be subject to the provisions of 18 U.S.C. 1017, providing penalties for the wrongful use of an official seal, and to other provisions of law as applicable.
(f) The official seal is being registered with the World Intellectual Property Organization through the U.S. Patent and Trademark Office.

Subpart C—Distinguishing Flag

§ 1002.21 Description of distinguishing flag.

(a) The base or field of the flag shall be white, and a replica of the official seal shall appear on both sides thereof.
(b) (1) The indoor flag shall be of rayon banner, measure 4'4" on hoist by 5'6" on the fly, exclusive of heading and hems, and be fringed on three edges with yellow rayon fringe, 2½" wide.
(2) The outdoor flag shall be of heavy weight nylon, and measure either 3' on the hoist by 5' on the fly or 5' on the hoist by 8' on the fly, exclusive of heading and hems.
(c) Each flag shall be manufactured in accordance with U.S. Department of Defense Military Specification Mil-F-2692. The official seal shall be screen printed on both sides, and on each side, the lettering shall read from left to right. Headings shall be Type II in accordance with the Institute of Heraldry Drawing No. 5-1-45E.

§ 1002.22 Use of distinguishing flag.

(a) DOE distinguishing flags may be used only:
(1) In the offices of the Secretarial officers, Chairman of the Federal Energy Regulatory Commission, and heads of field locations designated below:

Power Administrations.
Regional Offices.
Operations Offices.
Certain Field Offices and other locations as designated by the Director of Administration.

(2) At official DOE ceremonies.
(3) In Department auditoriums, official presentation rooms, hearing rooms, lobbies, public document rooms, and in non-DOE facilities in connection with events or displays sponsored by DOE, and public appearances of DOE officials.
(4) On or in front of DOE installation buildings.
(5) Other such purposes as determined by the Director of Administration.

Subpart D—Unauthorized Uses

§ 1002.31 Unauthorized uses of the seal and flag.

The official seal and distinguishing flag shall not be used except as authorized by the Director of Administration in connection with:
(a) Contractor-operated facilities.
(b) Souvenir or novelty items.
(c) Toys or commercial gifts or premiums.
(d) Letterhead design, except on official Departmental stationery.
(e) Matchbook covers, calendars, and similar items.
(f) Civilian clothing or equipment.
(g) Any article which may disparage the seal or flag or reflect unfavorably upon DOE.
(h) Any manner which implies Departmental endorsement of commercial products or services, or of the user's policies or activities.

[FR Doc. 78-13155 Filed 5-12-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. H; Docket No. R-0153]

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Loans by State Member Banks in Special Flood-Hazardous Areas; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction.

SUMMARY: This action corrects a previous FEDERAL REGISTER document because of certain errors of codification and punctuation. In addition, in the "Appendix A—Sample Notices section under the heading" "(1) Notice to Borrower of Special Flood-Hazards," the last sentence should read, "For example, during the life of a 30-year mortgage, a structure located in a special flood-hazardous area has a 26 percent chance of being flooded."

EFFECTIVE DATE: April 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen L. Raiken, Associate General Counsel, or John Walker, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3000.

In FR Document 78-11642 appearing at page 18162 of the issue for Friday, April 28, 1978, § 208.8 "Banking practices" and "APPENDIX A—SAMPLE NOTICES" should have read,

"§ 208.8 Banking practices.

• • • • •

(e) *Loans by State member banks in special flood-hazardous areas.*—(1) *Property securing loan must be insured against flood* • • •

(2) *Records of compliance.* • • •

(3) (i) *Notice of special flood hazards and availability of Federal disaster relief assistance.* Each State member bank shall, as a condition of making, increasing, extending or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards, mail or deliver as soon as feasible but not less than 10 days in advance of closing of the transaction (or not later than the bank's commitment, if any, if the period between commitment and closing is less than 10 days) a written notice to the borrower stating: (a) That the property securing the loan is or will be located in an area so identified, or in lieu of such notification a State member bank may obtain satisfactory written assurances from a seller or lessor stating that such seller or lessor has notified the borrower, prior to the execution of any agreement for sale or lease, that the property securing the loan is or will be located in an area so identified; and (b) whether, in the event of damage to the property caused by flooding in a federally-declared disaster, Federal disaster relief assistance will be available for such property. Each State member bank shall require the borrower, prior to closing, to provide the bank with a written acknowledgment that the property securing the loan is or will be located in an area so identified and that the borrower has received the above-required notice regarding Federal disaster relief assistance.

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(ii) *Sample notices.* A State member bank providing written notice containing the language presented in appendix A within the time limits prescribed in paragraph (a) of this section will be considered to be in compliance with the notice requirements of paragraph (a) of this section.

APPENDIX A—SAMPLE NOTICES

(1) *Notice to Borrower of Special Flood-Hazards*—Notice is hereby given to————— that the improved real estate or mobile home described in the attached instrument is or will be located in an area designated by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. This area is delineated on————'s Flood Insurance Rate Map ("FIRM") or, if the FIRM is unavailable, on the community's Flood Hazard Boundary Map ("FHBM"). This area has a 1 percent chance of being flooded within any given year. The risk of exceeding the 1 percent chance increases with time periods longer than 1 year. For example, during the life of a 30-year mortgage, a structure located in a special flood-hazardous area has a 26 percent chance of being flooded.

(2) *Notice to Borrower about Federal Disaster Relief Assistance*—(a) *Notice in participating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is now participating in the National Flood Insurance program. In the event such property is damaged by flooding in a federally-declared disaster, Federal disaster relief assistance may be available. However, such assistance will be unavailable if your community has been identified as a special flood-hazardous area for one year or longer and is not participating in the National Flood Insurance Program at the time assistance would be approved. This assistance, usually in the form of a loan with a favorable interest rate, may be available for damages incurred in excess of your flood insurance.

(b) *Notice in non-participating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is not participating in the National Flood Insurance program. This means that such property is not eligible for Federal flood insurance. In the event such property is damaged by flooding in a federally-declared disaster, Federal disaster relief assistance will be unavailable if your community has been identified as a special flood-hazardous area for 1 year or longer. Such assistance may be available only if at the time assistance would be approved your community is participating in the National Flood Insurance program or has been identified as a special flood-hazardous area for less than 1 year."

By order of the Board of Governors, May 5, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13077 Filed 5-12-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-CE-5-AD; Amdt. 39-3174]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 150 and 152 Series Airplanes; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects a rule issued on March 29, 1978, and appearing in FR Doc. 78-9399 on pages 14958 and 14959 in the issue of Monday, April 10, 1978 (78-CE-5-AD). A number was incorrectly cited in the body of the Airworthiness Directive which necessitates this correction.

EFFECTIVE DATE: April 13, 1978.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: The FAA issued a final rule with an effective date of April 10, 1978. In the final rule, in the body of the AD, Paragraph (A)1., line 10, a number was incorrectly cited as "M520365-428." It should read "MS20365-428." Action is taken herein to make this correction. Since the change is editorial in nature, notice and public procedure thereon are not considered necessary.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

In FR Doc. 78-9399 appearing at pages 14958 and 14959 in the FEDERAL REGISTER of April 10, 1978, line 10 of Paragraph (A)1. appearing on page 14959 should be corrected to read "AN365-428, MS20365-428, or MS21044N4 nut."

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); § 11.89, Federal Aviation Regulations (14 CFR 11.89).)

Issued in Kansas City, Mo., on April 28, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-13105 Filed 5-12-78; 8:45 am]

[4910-13]

[Docket No. 17907; Amdt. 39-3213]

PART 39—AIRWORTHINESS DIRECTIVES

Short Bros. Ltd. Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection, rerouting, and improved support and protection of the propeller proximity switch wiring on the Short Bros. Ltd. Model SD3-30 airplanes. The AD is needed to detect electrical shorting to ground that could cause an inadvertent feathering of the propeller in flight resulting in possible loss of control of the aircraft.

EFFECTIVE DATE: May 29, 1978. Compliance required as indicated.

ADDRESSES: The applicable service bulletins may be obtained from Product Support Department, Short Bros. Ltd., P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland.

A copy of the service bulletins is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, APO New York, N.Y. 09667.

SUPPLEMENTARY INFORMATION: There has been a report of a short circuit to ground in the propeller proximity switch wiring on certain Short Bros. Ltd. Model SD3-30- airplanes that could result in an in-flight malfunction of the propeller fine pitch control which can cause inadvertent feathering of the propeller. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection, rerouting and protection as necessary, and improved support and protection of the propeller electrical wiring in the Short Brothers Limited airplanes.

Since a condition exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are M. F. Rammelsberg, Europe, Africa, and Middle East Region, F.

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Kelley, Flight Standards Service, and P. Lynch, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following Airworthiness Directive:

SHORT BROS. LTD. (formerly Short Bros. & Harland, Ltd.). Applies to Model SD3-30 airplanes, Serial Nos. SH3004 to SH3013 inclusive, certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent unwanted propeller feathering, accomplish the following:

(a) Within the next 50 hours time in service after the effective date of this AD, visually inspect the electrical wiring between the proximity switch and the main cable loom for chafing, contact with engine case, and for security of clamping.

(b) If, during the inspection required by paragraph (a), chafing, loose clamps, or contact with engine is found, before further flight, except that the airplane may be flown in accordance with the provisions of FAR 21.197 and 21.199 to a base where the modifications required by this AD may be accomplished, correct the fault in accordance with paragraph 1.C.3. of Short Bros. Ltd. Service Bulletin No. SD3-61-A03, dated December 21, 1977, or an FAA-approved equivalent.

(c) Within 500 hours time in service after the effective date of this AD, accomplish Short Bros. Ltd. Modification No. 5471 in accordance with Shorts Service Bulletin No. SD3-61-03, dated January 19, 1978 (pages 1 through 4 are dated January 19, 1977), or an FAA-approved equivalent.

(d) Record the accomplishment of the AD in accordance with FAR 91.173.

(e) Equivalent methods of compliance with this AD or adjustment of the inspection intervals required by this AD may be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York 09667, if the request is submitted through an FAA Maintenance Inspector and contains substantiating data to justify the interval or method of compliance for that operator.

This amendment becomes effective May 29, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 4, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.78-13107 Filed 5-12-78; 8:45 am]

[4910-13]

[Docket No. 78-WE-4-AD, Amdt. 39-3210]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models D18C, D18S, E18S, E18S-9700, G18S, H-18, C-45G, TC-45G, C-45H, TC-45H, TC-45J (SNB-5), JRB-6, 3N, 3M, and 3NM, Which Have Been Modified in Accordance With STC SA1243WE, SA1016WE, or SA360WE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which provides for inspection and repair, of the lower rudder torque tube on those Beech 18 series airplanes equipped with the empennage conversion in accordance with STC SA1243WE, SA1016WE, or SA360WE. The AD is required to preclude possible failure of the rudder torque tube from ground gust induced cracks which could result in subsequent loss of controllability of the airplane.

EFFECTIVE DATE: May 17, 1978. Initial compliance required within the next 30 days after the effective date of this AD.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary,. Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: There have been reports of cracks in the lower section of the rudder torque tube on certain Beech Model 18 airplanes which, if allowed to propagate, could result in complete failure of the tube and potential loss of airplane controllability. The cracks are believed to result from ground gust loads on the rudder under conditions of non-installation of the gust lock. Gust loads force the rudder torque tube arm to contact the surface control stop, causing fatigue cracks in the lower torque tube when the rudder gust lock is not installed.

Since this condition is likely to exist or develop on other airplanes, of the same type design, an airworthiness directive is being issued which requires repair or replacement, as necessary, and recurring inspections of the lower rudder torque tube on Beach 18 series airplanes affected by this AD.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Robert L. Salas, Aircraft Engineering Division, and Mark T. McDermott, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

BEECH. Applies to Beech Models D18C, D18S, E18S, E18S-9700, G18S, H-18, C-45G, TC-45G, C-45H, TC-45J (SNB-5), JRB-6, 3N, 3M, and 3NM modified in accordance with STC SA1243WE, SA1016WE, or SA360WE.

To preclude failure of the lower rudder torque tube, accomplish the following; unless already accomplished:

(a) Within the next 30 days after the effective date of this AD visually inspect the lower rudder torque tube for cracks in the area of the access hole as noted in figure 1 of this AD. (Reference Part No. 452606-7.)

(b) If no cracks are found, reinspect at intervals not to exceed 30 days from the prior inspection.

(c) If cracks are found, prior to further flight:

(1) If any crack exceeds ¼ inch in length, replace with a like serviceable unit, Part No. 452606-7, and reinspect per paragraph (d);

(2) If cracks are ¼ inch or less in length, repair per a method approved by the Chief, Aircraft Engineering Division, FAA Western Region, and reinspect per paragraph (d);

(d) Reinspect at intervals not to exceed 30 days from repair, replacement, or prior inspection.

(e) The requirements of this AD may be terminated when modifications are incorporated which are approved by Chief, Aircraft Engineering Division. Submit proposed modifications schemes to:

Chief, Aircraft Engineering Division, FAA Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

for review and approval.

This amendment becomes effective May 17, 1978.

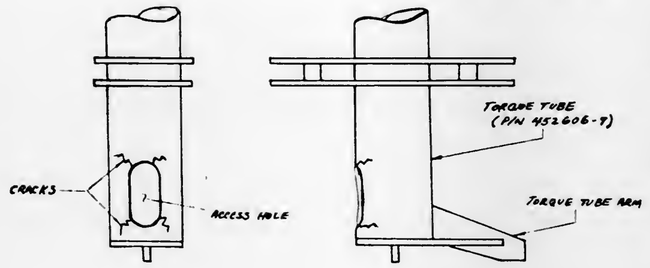
(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on May 2, 1978.

ROBERT H. STANTON,
Director, FAA Western Region.

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LOWER RUDDER TORQUE TUBE
FIGURE 1
DOCKET NO. 78-WE-4-AD

[FR Doc. 78-13109 Filed 5-12-78; 8:45 am]

[4910-13]

[Airspace Docket Number 77-CE-28]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area—Wahoo, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700-foot transition area at Wahoo, Nebr., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Wahoo, Nebr., Municipal Airport which is based on a Non-Directional Radio Beacon (NDB) navigational aid being installed on the airport.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The city of Wahoo, Nebr., is installing a Non-Directional Radio Beacon (NDB) on the Wahoo, Nebr., Municipal Airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Wahoo, Nebr., at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

DRAFTING INFORMATION

The principal authors of this document are Gary W. Tucker, Operations, Procedures and Airspace Branch, Air Traffic Division, and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On pages 7988 and 7989 of the FEDERAL REGISTER dated February 27, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Wahoo, Nebr. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended effective 0901 G.m.t. July 13, 1978, by adding the following transition area:

WAHOO, NEBR.

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Wahoo Municipal Airport (Latitude 41°14'27" N., Longitude 96°35'15" W.) and within 3 miles each side of the 032° bearing from the Wahoo Municipal Airport extending from the 5 mile radius 8.5 miles northeast of the airport excluding that portion which lies in the Freemont, Nebr., transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on May 1, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-13093 Filed 5-12-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area—Humboldt, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Humboldt, Nebr., to provide additional controlled airspace for aircraft executing a new instrument procedure to the Humboldt Municipal Airport, Humboldt, Nebr., utilizing the Pawnee City, Nebr., VORTAC.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-

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538, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Humboldt, Nebr., Municipal Airport is being established utilizing the Pawnee City, Nebr., VORTAC as a navigational aid. The establishment of a new instrument approach procedure based on the navigational aid entails the alteration of the transition area at Humboldt, Nebr., at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to insure additional adequate controlled airspace for aircraft executing this new instrument approach procedure.

DRAFTING INFORMATION

The principal authors of this document are Gary W. Tucker, Operations, Procedures and Airspace Branch, Air Traffic Division, and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 9620 of the FEDERAL REGISTER dated March 9, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Humboldt, Nebr. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, Subpart G, section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended, effective 0901 G.m.t. July 13, 1978, by altering the following transition area to read:

HUMBOLDT, NEBR.

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Humboldt Municipal Airport (latitude 40°09'50" N., longitude 95°55'54" W.) and within 1.75 miles each side of the 099° radial of the Pawnee City VORTAC extending from the 5 mile radius to 7 miles west of the airport and within 4.75 miles each side of the 137° bearing from Humboldt Municipal Airport extending from the 5 mile radius to 9.5 miles southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on May 3, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-13094 Filed 5-12-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-3]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area—Harlan, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the existing transition area at Harlan, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Harlan Municipal Airport which is based on a Non-Directional Radio Beacon (NDB) navigational aid installed at the airport.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The city of Harlan, Iowa, has installed a Non-Directional Radio Beacon (NDB) on the Harlan Municipal Airport. This navigational aid will provide new navigational guidance for aircraft utilizing this airport. The establishment of an instrument approach procedure based on this navigational aid entails alteration of the existing Harlan, Iowa, transition area at and above 700 feet above ground level (AGL) within which aircraft will be provided additional controlled airspace protection.

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division, and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On pages 9618 and 9619 of the FEDERAL REGISTER dated March 9, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Harlan, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended, effective 0901 G.m.t. July 13, 1978, by altering the following transition area to read:

HARLAN, IOWA

That airspace extending upward from 700 feet above the surface within a seven mile radius of Harlan Municipal Airport (latitude 41°35'15" N., longitude 95°20'15" W.) and within five miles each side of the Neola, Iowa VORTAC 064° radial extending from the seven mile radius to eight miles northeast of the VORTAC and three miles each side of the 136° bearing from the Harlan NDB to eight and one-half miles southeast excluding that portion which overlies the Atlantic, Iowa 700 foot transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).I

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on May 3, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-13095 Filed 5-12-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-2]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area—Milford, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a transition area at Milford, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Fuller Municipal Airport, Milford, Iowa, utilizing the Spirit Lake, Iowa, Non-Directional Radio Beacon (NDB) navigational aid.

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EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The city of Milford, Iowa, is establishing a new instrument approach to the Fuller Municipal Airport, Milford, Iowa, based on the Spirit Lake, Iowa, Non-Directional Radio Beacon (NDB), a navigational aid. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Milford, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division, and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On pages 9619 and 9620 of the FEDERAL REGISTER dated March 9, 1978, the Federal Aviation Administration published a notice of proposed rule making which would amend section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Milford, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended, effective 0901 GMT July 13, 1978, by adding the following transition area:

MILFORD, IOWA

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Fuller Municipal Airport (Latitude 43°19'57" N., Longitude 95°09'29" W.) and within 3 miles each side of the 019° bearing from the Fuller Municipal Airport extending from the 5 mile radius to 11.5 miles north of the airport excluding that portion which lies in the Spirit Lake, Iowa, Transition Area.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on May 3, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-13096 Filed 5-12-78; 8:45 am]

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION DEPARTMENT OF ENERGY

[Docket No. RM78-13]

PART 1—RULES OF PRACTICE AND PROCEDURE

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS

Order Permitting Recording and Photographing of Open Commission Meetings

MAY 9, 1978.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Energy Regulatory Commission's (Commission) regulations under the Government in the Sunshine Act to allow public observers at the Commission's open meetings to use tape recorders and other recording equipment and cameras without lighting aids. Restrictions in the regulations are designed so that this type of activity will not interfere with the orderly conduct of Commission meetings.

EFFECTIVE DATE: May 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Lois Cashell, Assistant Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4166.

SUPPLEMENTARY INFORMATION: On March 11, 1977, in Order No. 562, the Federal Power Commission (FPC) issued regulations to conform its open meeting procedures to the requirements of section 3 of the Government in the Sunshine Act, 5 U.S.C. 552b. The regulations invited the public to observe and listen to meetings, but not to participate or "record any of the discussions by means of electronic or other devices or cameras." (18 CFR 1.3a (b)(1)). Under section 705(a) of the Department of Energy Organization Act, (Pub. L. No. 95-91, 91 Stat. 565, 605) and Order No. 1, issued by the Federal Energy Regulatory Commission (FERC) on October 6, 1978, those regulations apply to meetings of the FERC.

In declining to allow such recording, the FPC cited the logistical difficulties involved and the potential for disruption, stating that ample provision is made for members of the press desiring to report on open meetings. The Federal Energy Regulatory Commission by this order amends its regulations to allow the use of tape recorders and other recording equipment and still and movie cameras without lighting aids. The Commission believes that these amendments are in the public interest by enhancing the opportunity for public observation of the decision-making process. Through the procedures established by this order, the Commission believes that this type of activity will not interfere with the orderly conduct of its meetings.

The Commission stresses that the expanded right to observe Commission meetings (and the possibility of obtaining transcripts or recordings of discussion at closed meetings) should not be viewed as creating new grounds for challenging the basis and rationale for Commission action. Observations made by individual members of the Commission during the course of deliberations may not necessarily reflect the reasoning underlying the Commission's final action on a given matter. Thus, the legal sufficiency of Commission action must, as in the past, be judged solely on the basis of the action itself and any official supporting statement released by the Commission—not on the basis of remarks or observations made prior thereto.

The Commission finds: (1) The amendments prescribed herein concern matters of agency organization and procedure which do not require notice or hearing under 5 U.S.C. 553.

(2) In view of the purpose, intent and effect of the amendments herein ordered, good cause exists for making them effective upon issuance of this order.

(3) It is appropriate and in the public interest in administering the Federal Power Act, the Natural Gas Act and the Department of Energy Organization Act to adopt the amendments hereinafter set forth.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 308 and 309 (49 Stat. 858, 859; 16 U.S.C. 825g, 825h), the provisions of the Natural Gas Act, particularly sec-

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tions 15 and 16 (52 Stat. 829, 830; 15 U.S.C. 717n, 717o), and the provisions of the Department of Energy Organization Act, particularly sections 401, 402, and 403 (91 Stat. 582-585), *orders:*

(A) Part 1, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended as set forth below:

Section 1.3a is amended in paragraph (b) by revising the third sentence of subparagraph (1) by redesignating subparagraph (2) as subparagraph (4) and by inserting new subparagraphs (2) and (3) to read as follows:

§ 1.3a Notice and procedures for Commission meetings.

• • • • •

(b) Open meetings. (1) • • • The public is invited to observe and listen to the meeting but not to participate. • • •

(2) The recording of discussions at Commission meetings by means of electronic or other devices (including tape recorders, stenotype, stenomask, or shorthand) and the photographing of Commission meetings by still and movie cameras, without lighting aids, is permitted. The Commission reserves the right to suspend the operation of this part of its regulations with respect to the consideration of a particular item on its agenda upon the motion of a member of the Commission and the affirmative vote of the Commission.

(i) Due to the limited space of the Commission meeting room, use of recording or photographic equipment which would require the user to move about the room during the meeting is not allowed. Recording and photographic equipment may be set up and used only in the public areas of the Commission meeting room as designated by the Commission.

(ii) Except for portable equipment which is used at an individual's seat in the audience, equipment must be in place and ready to use prior to the start of the meeting or set up during a recess of the meeting. Such equipment may be removed only at the conclusion of the meeting or during a recess. A pre-arranged recess for the set up or removal of equipment may be requested through the Commission's Director of Public Information.

(iii) No microphones may be placed on the tables used by the Commissioners and Staff.

(iv) Any deviation from the regulations in subparagraph (2) will require a waiver of the rules by the Commission.

(3) Transcripts of Commission meetings are not part of the "formal record" as defined in section 1.1(19) of this Part nor the "public records" of the Commission as defined in § 1.36(c)(2) of this Part.

(4) • • •

• • • • •

(B) Part 3, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended as set forth below:

Section 3.8 is amended in paragraph (j) by deleting the "." at the end of subparagraph (4) and inserting in lieu thereof a ";" and new subparagraph (5) to read as follows:

§ 3.8 Public information and submittals.

• • • • •

(j) • • •; (5) regulations pertaining to the use of television, movie and still cameras and recording equipment in connection with the Commission's open public meetings under the Government in the Sunshine Act are found in Section 1.3a of this Chapter.

(C) The amendments adopted herein shall be effective upon issuance of this order.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNNETH F. PLUMB,
Secretary.

[FR Doc. 78-13078 Filed 5-12-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7548]

PART 301—PROCEDURE AND ADMINISTRATION

Public inspection of written determinations issued in response to requests submitted before November 1, 1976

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the public inspection of written determinations issued in response to requests submitted before November 1, 1976. Written determinations are rulings, determination letters, and technical advice memoranda. Provisions for public inspection of these written determinations were added by the Tax Reform Act of 1976. The regulations would affect taxpayers who requested these written determinations and persons who want to inspect any of these written determinations.

DATE: The regulations are effective on May 3, 1978, with respect to written determinations issued in response to requests submitted before November 1, 1976.

FOR FURTHER INFORMATION CONTACT:

James Edward Maule of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (attention: CC:LR:T), 202-566-3299 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 16, 1977, proposed amendments to the regulations on procedure and administration (26 CFR Part 301) under section 6110(h) of the Internal Revenue Code of 1954 were published in the FEDERAL REGISTER (42 FR 63431). The amendments were proposed to conform the regulations to section 1201(a) of the Tax Reform Act of 1976 (90 Stat. 1660). A detailed description of the regulations appears in the preamble to the notice of proposed rulemaking published on December 16, 1977 in the FEDERAL REGISTER (42 FR 63431), and therefore is not repeated here. No public hearing was requested. After consideration of the several comments regarding the proposed amendments, those amendments are adopted without change by this Treasury decision.

COMMENTS RECEIVED

One comment was received which suggested that background file documents related to documents open to inspection under section 6104 be open to public inspection under section 6110. The comments expressed dissatisfaction with the rule in § 301.6110-6(a)(3)(B) of the regulations which states that background file documents related to written determinations that are not open to or available for public inspection are themselves not open to or available for public inspection. The rule in the regulations is retained because it is reasonable, is in accord with the legislative history, and avoids conceptual and administrative burdens and problems that otherwise would be raised.

Another comment suggested that the Internal Revenue Service send individual notices to recipients of written determinations issued in response to requests submitted before November 1, 1976, in addition to the FEDERAL REGISTER notice required by section 6110(h). To do so would impose financial and administrative burdens on the Internal Revenue Service, a fact that was recognized by Congress when it enacted section 6110(h). The comment also suggested that ruling recipients should be permitted to bring actions to restrain disclosure in the Tax Court without exhausting their administrative remedies. However, the procedures for administrative remedies in the notice of proposed rulemaking are not changed because they are fair to ruling requesters, will prevent congested dockets in the Tax Court, and have proved to be an exceptionally efficient pre-judicial means of resolving disagreements with respect to restraint of disclosure in current written determinations.

This same comment also contained a series of suggestions relating to the maintenance of taxpayer addresses by the Internal Revenue Service, the information needed to request inspection of rulings issued before July 5, 1967, persons permitted to represent ruling recipients, certain automatic deletions, and informal information requests. Most of the suggested procedures, or ones very similar to them, are or will be followed by the Internal Revenue Service, but are not detailed in the regulations. To do so would complicate and lengthen the regulation, and would impair the flexibility of the rulings disclosure process.

DRAFTING INFORMATION

The principal author of this regulation was James Edward Maule of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the proposed amendments of the regulations under 26 CFR Part 301 are adopted.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: May 3, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

§ 301.6110-6 Written determinations issued in response to requests submitted before November 1, 1976.

(a) *Inspection of written determinations and background file documents—*(1) *General rule.* Except as provided in this section, the text of any written determination issued in response to a request postmarked or hand delivered before November 1, 1976 and any related background file document shall be open or subject to inspection in accordance with the rules in §§ 301.6110-1 through 301.6110-5 and 301.6110-7. However, the rules in § 301.6110-4 do not apply to inspection under this section. The rules in § 301.6110-5 (a), (b) and (c) also do not apply, except with respect to background file documents.

(2) *Exclusions.* The Following written determinations are not open or subject to inspection under this section.

(i) Written determinations with respect to matters for which the determination of whether public inspection should occur is made under section 6104. Some of these matters are listed in § 301.6110-1(a).

(ii) Written determinations issued before September 2, 1974, dealing with the qualification of a plan described in section 6104(a)(1)(B)(i) or the exemption from tax under section 501(a) of an organization forming part of such a plan.

(iii) Written determination issued pursuant to requests submitted before November 1, 1976 with respect to the exempt staus under section 501(a) of organizations described in section 501 (c) or (d), the status of organizations as private foundations under section 509(a), or the status of organizations as operating foundations under section 4942(j)(3).

(iv) General written determinations that relate solely to accounting or funding periods and methods, as defined in § 301.6110-1(b)(3).

(v) Determination letters.

(3) *Items that may be inspected only under certain circumstances—*(i) *Background file documents.* A background file document relating to a particular written determination issued in response to a request submitted before November 1, 1976 shall not be subject to inspection until the related written determination is open to public inspection or available for inspection, and then only if a written request pursuant to § 301.6110-1(c)(4) is made for inspection of the background file document. However, the following background file documents are not open or subject to inspection:

(A) Background file documents relating to general written determinations issued before July 5, 1967.

(B) Background file documents relating to written determinations described in paragraph (a)(2) of this section.

(ii) *General written determinations issued before July 5, 1967.* General written determinations issued before July 5, 1967 shall not be subject to inspection until all other written determinations issued in response to requests postmarked or hand delivered before November 1, 1976 that are open to inspection under this section have been made open to public inspection, and then only if a written request pursuant to § 301.6110-1(c)(4) is made for inspection of the written determination. In this regard, the request for inspection must also contain the section of the Internal Revenue Code in which the requester is interested and the dates of issuance of the written determinations.

(b) *Notice and time requirements, and actions to restrain disclosure—*(1) *Notice—*(i) *General rule.* Before a written determination is made open to public inspection and before a particular written determination is subject to inspection in response to the first written request therefor, the Commissioner shall publish in the FEDERAL REGISTER a notice that the written determination is to be made open or subject to inspection. Notices with respect to written determinations, other than those described in paragraph (a)(3)(ii) of this section, shall be published at the earliest practicable time after this regulation is adopted as a Treasury decision. Notices with respect to written determinations subject to inspection upon written request shall be published within a reasonable time after the receipt of the first written request for inspection thereof, but no sooner than the day as of which all other written determinations open to public inspection under this section have been made open to public inspection. Notices with respect to background file documents shall be sent in accordance with the rules in § 301.6110-5(a) and will be mailed by the Internal Revenue Service to the most recent addresses of the persons to whom the background file document relates that are in the written determination file.

(ii) *Sequence of notices.* Notices with respect to written determinations, other than general written determinations issued before July 5, 1967, shall be published in the following order. The first category is notices with respect to reference written determinations issued under the Internal Revenue Code of 1954. The second category is notices with respect to general written determinations issued after July 4, 1967. The third category is notices with respect to reference written determinations issued under the Internal Revenue Code of 1939 or corresponding provisions of prior law. Within a category, the Commissioner may publish notices individually or for groups of written determinations arranged according to the jurisdictions of the ruling branches in the Office of the Assistant Commissioner (Technical) and the Assistant Commissioner (Employee Plans and Exempt Organizations), as the Commissioner may find reasonable. To the extent practicable, notices published individually shall be published in the reverse order of the issuance of the written determinations for which they are published, starting with the most recent written determination issued. To the extent practicable, each group shall consist of consecutively issued written determinations. Notices for groups shall be pub-

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lished, to the extent practicable, in the reverse order of the time period of issuance of the written determinations in each group, starting with the most recent time period.

(iii) *Contents of notice.* The notice required by paragraph (b)(1)(i) of this section shall:

(A) Identify by subject matter description and dates of issuance the written determinations that the Commissioner proposes to make open or subject to inspection.

(B) State that the written determinations will be made open or subject to inspection pursuant to section 6110(h),

(C) State that the persons to whom the written determinations pertain have the right to seek administrative remedies under paragraph (b)(2)(ii) of this section and to commence judicial proceedings under section 6110(h)(4) within indicated time periods,

(D) State that there exist the possibilities that someone might request additional disclosure under section 6110(f)(4) and that someone might request inspection of a related background file document, and

(E) State that any notice that must be mailed by the Internal Recenue Service will be sent to the most recent address of the person to whom the notice must be sent that is in the relevent written determination file.

(2) *Actions to restrain disclosure*—(i) *Information on written determinations described by notice.* Any person may, within 15 days after the Commissioner publishes in the FEDERAL REGISTER a notice of intention to disclose a written determination under section 6110(h), request the Internal Revenue Service to provide certain information. This information includes whether any of the written determinations described by the notice is one that was issued to the person requesting this information. The Internal Revenue Service will also inform the person whether any of the written determinations described by the notice is one that was issued to a person with respect to whom the person requesting this information is a successor in interest executor or authorized representative. However, in order to do so, the Internal Revenue Service must be given the name and taxpayer identifying number of this other person and documentation of the relationship between that person and the person requesting the information. If the person requesting this information is a person to whom a written determination described by the notice pertains, or a successor in interest, executor, or authorized representative of that person, the Internal Revenue Service will also provide the person with a copy of the written determination on which is indicated the material that the Commissioner proposes to delete under section 6110(c) and any substitution proposed to be made therefor.

(ii) *Administrative remedies.* Any person to whom a written determination described by the notice in the FEDERAL REGISTER pertains, and any successor in interest, executor or authorized representative of that person may pursue the administrative remedies described in this paragraph (b)(2)(ii). If after receiving the information described in paragraph (b)(2)(i) of this section, the person pursuing these administrative remedies desires to protest the disclosure of certain information in the written determination, that person must within 35 days after the notice is published submit a written statement identifying those deletions not made by the Internal Revenue Service which the person believes should have been made. The person pursuing these administrative remedies must also submit a copy of the version of the written determination proposed to be open or subject to inspection on which that person indicates, by the use of brackets, the deletions which the person believes should have been made. The Internal Revenue Service shall, within 20 days after receipt of the response by the person pursuing these administrative remedies, mail to that person its final administrative conclusion with respect to the deletions to be made.

(iii) *Judicial remedy.* Except as provided in paragraph (b)(2)(iv) of this section, any person permitted to resort to administrative remedies under paragraph (b)(2)(ii) of this section may, if that person proposed any deletion not made under section 6110 (c) by the Commissioner, file a petition in the United States Tax Court under section 6110(h)(4) for a determination with respect to the proposed deletion. If appropriate, the petition may be filed anonymously. Any petition filed under section 6110(h)(4) must be filed within 75 days after the date on which the Commissioner publishes in the FEDERAL REGISTER the notice of intention to disclose required under section 6110(h)(4).

(iv) *Limitations on right to bring judicial actions.* No petition shall be filed under section 6110(h)(4) unless the administrative remedies provided by paragraph (b)(2)(ii) of this section have been exhausted. However, under two circumstances the petition may be filed even though the administrative remedies have not been exhausted. The first circumstance is if the petitioner requests the information described in paragraph (b)(2)(i) of this section within 15 days after the notice of intention to disclose is published in the FEDERAL REGISTER, but does not receive it within 30 days after the notice is published. The other circumstance is if the petitioner submits the statement of deletions within 35 days after the notice is published, but does not receive the final administrative conclusion of the Internal Revenue Service within 65 days after the notice is published. No judicial action with respect to any written determination shall be commenced under section 6110(h)(4) by any person who has received a notice with respect to the written determination under paragraph (b)(2)(v) of this section.

(v) *Required notice.* If a proceeding is commenced under section 6110(h)(4) with respect to any written determination, the Secretary shall send notice of the commencement of the proceeding to any person to whom the written determination pertains. No notice is required to be sent to persons who have filed the petition that commenced the proceeding under section 6110(h)(4) with respect to the written determination. The notice shall be sent, by registered or certified mail, to the last known address of the persons described in this paragraph (b)(2)(v) within 15 days after notice of the petition filed under section 6110(h)(4) is served on the Secretary.

(vi) *Intervention.* Any person who is entitled to receive notice under paragraph (b)(2)(v) of this section has the right to intervene in any action brought under this paragraph (b)(2). If appropriate, this person shall be permitted to intervene anonymously.

(vii) *Background file documents.* The following qualifications of the rules in § 301.6110-5(b) apply with respect to the restraint of disclosure of background file documents related to written determinations to which this section applies. First, the administrative remedies described in §§ 601.105 (b)(5)(iii)(*i*) and 601.201(e)(11) of this chapter do not apply. Second, the rule in §§ 601.105(b)(5)(vi)(*f*) and 601.201(e)(16) that the Internal Revenue Service will not consider the deletion of material not proposed for deletion prior to the issuance of the written determination does not apply.

(3) *Time at which open to public inspection*—(i) *General rule.* Except as otherwise provided in paragraph (b)(3)(ii) of this section, the text of any written determination open to public inspection or available for inspection upon written request under section 6110(h) shall be made open to or available for inspection no earlier than 90 days and no later than 120 days after the date on which the Commissioner publishes in the FEDERAL REGISTER the notice of intention to disclose required under section 6110(h)(4). However, if an action is brought under section 6110(h)(4) to restrain disclosure of any portion of a written determination, the disputed portion of that written determination shall be made open to or available for inspection under paragraph (b)(3)(ii) of this section.

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(ii) *Limitation on account of court order.* The portion of the text of any written determination that was subject to an action under section 6110(h)(4) to restrain disclosure in which the court determined that the disclosure should not be restrained shall be made open to or available for inspection within 30 days of the date that the court order becomes final. However, in no event shall that portion of the text of that written determination be made open to or available for inspection earlier than 90 days after the date on which the Commissioner publishes in the FEDERAL REGISTER the notice of intention to disclose required by section 6110(h)(4) and paragraph (b)(1) of this section. This 30-day period may be extended for such time as the court finds necessary to allow the Commissioner to comply with its decision. Any portion of a written determination which a court orders open to public inspection or subject to inspection upon written request under section 6110(f)(4) shall be open or subject to inspection within such time as the court provides.

(iii) *Background file documents.* The rules in § 301.6110-5(c)(2)(ii) do not apply with respect to the time at which background file documents related to written determinations to which this section applies are subject to inspection.

[FR Doc. 78-13063 Filed 5-12-78; 8:45 am]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

Subpart Y—Authority to Compromise and Close Civil Claims and Responsibility for Judgments, Fines, Penalties, and Forfeitures

[Order No. 781-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Delegating Increased Settlement Authority to Assistant Attorneys General

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order increases the settlement authority of the Assistant Attorneys General in claims filed in behalf of the United States and in claims against the United States, and authorizes the Assistant Attorneys General to redelegate certain of their authority to subordinate division officials and to U.S. Attorneys. The purpose of the order is to enable more cases to be settled at the Assistant Attorney General level or below.

EFFECTIVE DATE: May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Frances M. Green, Deputy Associate Attorney General, U.S. Department of Justice, Washington, D.C. 20530, 202-739-3117.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Subpart Y of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.160 is revised to read as follows:

§ 0.160 Offers which may be accepted by Assistant Attorneys General.

Each Assistant Attorney General is authorized with respect to matters assigned to his division, to accept offers in compromise of claims in behalf of the United States in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $250,000 or 10 percent of the original claim, whichever is greater, and of claims against the United States in all cases, or in administrative actions to settle, in which the amount of the proposed settlement does not exceed $500,000 except:

* * * * *

2. Section 0.168(a) is revised to read as follows:

§ 0.168 Redelegation by Assistant Attorneys General.

(a) The Assistant Attorneys General are authorized to redelegate to subordinate division officials and U.S. Attorneys any of the authority delegated by §§ 0.160, 0.162, 0.164, and 0.172, except that when a disagreement between a U.S. Attorney or other Department attorney and a client agency over the terms of a proposed settlement cannot be resolved below the Assistant Attorney General level, the settlement must be presented to the appropriate Assistant Attorney General for approval.

Dated: May 8, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-13150 Filed 5-12-78; 8:45 am]

[4310-05]

Title 30—Mineral Resources

CHAPTER VII—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

PART 837—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

Establishment of an Interest Rate for Delinquent Reclamation Fee Payments and Method of Interest Computation

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Final rulemaking.

SUMMARY: These rules revise the reclamation fee payment regulations to establish an interest rate to be assessed against delinquent fee payments and to provide a method for computing interest on late payments.

EFFECTIVE DATE: June 14, 1978.

ADDRESSES: Office of Surface Mining Reclamation and Enforcement, United States Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

M. Richard Nalbandian, Chief, Division of Reclamation Planning and Standards, Abandoned Mine Land Reclamation, 202-343-4057.

SUPPLEMENTARY INFORMATION: Proposed rules establishing an interest rate for delinquent fee payments and providing a method of computation were published in the FEDERAL REGISTER on February 21, 1978. (43 FR 7305). At the close of the comment period on March 23, 1978, comments had been received from four commenters.

The purpose of these rules is to provide a financial inducement for operators to comply with the statutory requirement in section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) that reclamation fees must be paid no later than 30 days after the end of the calendar quarter for which they were due. The rules are issued under the Secretary's authority to promulgate rules and regulations that may be necessary or expedient to implement and administer the provisions of Title IV (section 412(a), 30 U.S.C. 1242(a)). The rule is deemed necessary to provide an administratively effective method for encouraging operators to make accurate and timely reclamation fee payments on coal produced each calendar quarter. The rate is established at a sufficiently high level to discourage

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operators from withholding payments in order to realize financial gains by using money due and payable for other purposes. Under this rule, interest assessed on delinquent payments will become part of the debt owed the federal government in the event legal action is necessary to compel payment.

The Office of Surface Mining Reclamation and Enforcement (OSM) has made a few changes of a non-substantive editorial nature. A change also has been made in response to one of the public comments.

EDITORIAL CHANGES

1. In § 837.15(d), the phrase "Except as provided in paragraph (e)," has been inserted at the beginning of the third sentence to clarify the time when interest shall first begin to accrue on delinquent payments. Paragraph (e) establishes the date when payments due on first and second calendar quarter coal production must be received to avoid being delinquent and the date when interest shall begin to accrue on those payments once they become delinquent.

2. The dates in § 837.15(e) establishing the times when interest shall begin to accrue, and when payments due on coal produced from October 1, 1977 through March 31, 1978 must be received to avoid an interest charge, have been changed to produce a result consistent with the effective date of this final rule.

3. In § 837.15(e), the word "on" before the date "April 1, 1978" has been deleted because it is unnecessary.

SUMMARY OF COMMENTS RECEIVED ON PROPOSED RULEMAKING

1. One commenter stated that OSM does not have any statutory authority to impose, by rule, an interest charge of one percent per month on delinquent fee payments. This comment was not accepted. Section 412(a) of the Act authorizes the Secretary of the Interior to do all things necessary or expedient, including promulgation of rules and regulations, to implement and administer the provisions of the Act relating to Abandoned Mine Reclamation (Title IV). Section 402(b) of the Act requires payment of reclamation fees on produced coal no later than thirty days after the end of each calendar quarter in which the coal was produced. Therefore, this rule is promulgated under the authority of Section 412(a) of the Act to provide the Secretary, through OSM, with an administratively effective method of assuring timely compliance with Section 402(b) of the Act.

2. One commenter suggested that the proposed amendments did not distinguish between an operator who had attempted, in good faith, to submit the appropriate fee and an operator who simply did not meet the payment deadline. The commenter argued that failure to distinguish between those two groups of operators would be inequitable. The commenter therefore proposed amending § 837.14(b) to provide that interest charged on fees subsequently redetermined by the Director should be at the prevailing prime interest rate and that the interest should not begin to accrue until the end of the calendar quarter in which the determination of a higher fee was made. To complete the distinction, the commenter also suggested amending § 837.15(d) by substituting "delinquent" for "late" in the last sentence of the paragraph, and amending § 837.15(e) by adding the word "delinquent" to modify the phrase "reclamation fee payments" found in the first sentence. The latter comment was partially accepted by substituting "delinquent" for "late" in the last sentence of paragraph (d) of § 837.15. That change provides consistency of word usage throughout the paragraph. However, for effective administration of Section 402(b) of the Act, it is necessary to provide a uniform rule applicable to all operators. It would be virtually impossible to distinguish between those operators who in good faith attempted to pay the appropriate fee and those who might use this commenter's proposed changes to avoid accurate reporting and timely payments required by the Act and the rules. Furthermore, a charge based on the prevailing prime interest rate would not provide sufficient incentive for operators to submit accurate production figures, although such a rule would allow operators to avoid a higher rate if they did report something on time. The Act and the rules requires both accurate reporting of production figures and timely payments.

3. Two commenters argued that the interest charge was unduly burdensome or punitive and that an interest charge greater than that paid by the Federal government on its general obligations and bonds would be unconscionable. This comment was not accepted. A sufficient financial inducement to encourage compliance within the time specified by Congress is necessary. OSM's goal is to collect the reclamation fee in an orderly and timely manner and, of course, the burden imposed by an interest charge will only fall on those operators who neglect their legal responsibility to pay on time.

4. Another commenter suggested that, with respect to coal mined during reclamation of previously abandoned areas, interest on delinquent fees should be eliminated entirely or should not begin to accrue until after reclamation is completed or until after an extended grace period of 90 days from the end of the applicable calendar quarter. No change was made because section 402(b) of the Act requires payment of reclamation fees "no later than thirty days after the end of each calendar quarter." Moreover, section 402(a) of the Act requires that "all operators of coal mining operations * * *" must pay a reclamation fee on coal produced, whether or not coal is produced during reclamation activities.

5. One commenter argued that he found no consideration given for the usury laws of various States and that the proposed interest charge would, in many cases, exceed statutory limits. To constitute usury, there must be a loan of money or an agreement by the lender to refrain during a given period of time from requiring the borrower to repay a loan or debt which is due and payable. Here, the annual percentage charged, although possibly in excess of some statutory rates of interest, cannot be regarded as usury, since the essential borrowing and lending are not present. The Act establishes an obligation to pay a reclamation fee by a certain date and interest is charged only if the payment is not received on time. The interest charge is not a condition of such an agreement between the operators liable for the fee and OSM, but, rather it is an inducement for operators to meet their financial obligations under the Act.

6. A comment was received suggesting that OSM had not carefully reviewed the economic consequences of this proposal. OSM did consider the economic impact of the proposed rule, as noted in the FEDERAL REGISTER notice of proposed rulemaking (43 FR 7305), and determined in accordance with Departmental regulations that the anticipated consequences would not be of the magnitude required for the preparation of an Economic Impact Statement.

EFFECTIVE DATE

Consistent with Department of the Interior policy, this final rulemaking will be effective June 14, 1978.

DRAFTING INFORMATION

The principal authors of this rulemaking are Paul Reeves, Office of Surface Mining Reclamation and Enforcement, and John Beattie, Office of the Solicitor, Department of the Interior.

In consideration of the comments received and pursuant to the authority of sections 201(c) and 412(a) of the Surface Mining Control and Reclamation Act of 1977, 30 CFR Part 837 is amended as follows:

1. Paragraph (b) of § 837.14 is revised to read as follows:

§ 837.14 Determination of percentage based fees.

* * * * *

(b) If the Director determines that a higher fee shall be paid, the operator shall submit the additional fee together with interest computed under § 837.15(d).

2. In § 837.15 paragraph (d) is revised, paragraph (e) is redesignated as paragraph (f) and a new paragraph (e) is added. Revised paragraph (d) and new paragraph (e) read as follows:

§ 837.15 Reclamation fee payment.

* * * * *

(d) The reclamation fee payment for each calendar quarter shall be paid no later than 30 calendar days after the end of the calendar quarter. Delinquent payments are subject to interest at the rate of 1 percent per month, or any part thereof, on any amounts due. Except as provided in paragraph (e), interest shall begin to accrue on the 31st day following the end of the calendar quarter and will run until the date of payment, or until judgment is rendered by a court of competent jurisdiction in an action to compel payment of debts. The Office of Surface Mining Reclamation and Enforcement will then compute the interest on delinquent payments and bill the operator in accordance with procedures followed by the Department of the Interior for the collection of debts.

(e) Interest shall begin to accrue (31 days after publication) on reclamation fee payments due on coal produced from October 1, 1977 through March 31, 1978 for which payments have not been received by (30 days after publication). For reclamation fee payments due on coal produced during succeeding calendar quarters, beginning with the quarter commencing April 1, 1978, interest, at the prescribed rate, shall accrue in accordance with paragraph (d) of this section.

(Secs. 201 and 412(a), Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201, 1242(a)).)

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 9, 1978.

JOAN M. DAVENPORT,
Assistant Secretary,
Energy and Minerals.

[FR Doc. 78-13072 Filed 5-12-78; 8:45 am]

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[3910-01]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER G—ORGANIZATION AND MISSION—GENERAL

PART 865—PERSONNEL REVIEW BOARDS

Subpart B—Air Force Discharge Review Board

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: This rule is revised to include changes necessitated by the passing on October 8, 1977, of a recent amendment to Section 301 of the Serviceman's Readjustment Act of 1944, and the resultant revision of Department of Defense Directive 1332.28, March 29, 1978. It establishes policies for the review of discharges and dismissals under DOD Directive 1332.28 "Discharge Review Boards", and explains the jurisdiction, authority and actions of the Air Force Discharge Review Board. It applies to all Air Force activities. These revised procedures are intended to result in better understanding by former Air Force members desiring amendment to their military records.

EFFECTIVE DATE: May 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Colonel Robert H. Lee, Principal Assistant for Discharge Review Matters, Office of the Secretary of the Air Force (Personnel Council), Commonwealth Building, 1300 Wilson Boulevard, Room 920, Arlington, Va. 22209, 202-694-5418.

SUPPLEMENTARY INFORMATION: Title 32, Chapter VII, Subchapter G, Subpart B is revised to implement DOD Directive 1332.28. This revision incorporates the uniform procedures and standards for the review of discharges or dismissals set forth in DOD Directive 1332.28 "Discharge Review Boards" dated March 29, 1978; provides definitions of terms used in the regulation; amplifies Secretarial responsibilities in discharge review board matters; provides for the review of applications from former members with discharges under other than honorable conditions without regard to the normal 15-year statute of limitations; establishes discharge review standards and outlines the procedural rights of an applicant who appeals his discharge to the Discharge Review Board.

The legal authority for this subpart is Sec. 8012, 70A Stat. 488, sec. 1553, 72 Stat. 1267, 10 U.S.C. 8012, 1553.

Accordingly, 32 CFR Part 865, Subpart B is revised as follows:

Subpart B—Air Force Discharge Review Board

Sec.
865.100 Purpose.
865.101 References.
865.102 Statutory authority.
865.103 Definition of terms.
865.104 Secretarial responsibilities.
865.105 Jurisdiction and authority.
865.106 Application for review.
865.107 DRB panel composition and meeting location.
865.108 Availability of records.
865.109 Procedures for hearings.
865.110 Contentions.
865.111 Decisions.
865.112 Implementation of discharge review decisions.
865.113 Decision process.
865.114 Decisional document.
865.115 Records of DRB proceedings.
865.116 Cases reviewed by the Secretary or his designee.
865.117 Final disposition of the record of proceedings.
865.118 Reconsideration.
865.119 Availability of discharge review board documents for public inspection and copying.
865.120 Privacy Act information.
865.121 Discharge review standards.
865.122 Approval of exceptions to directive.
865.123 Procedures for regional hearings.
865.124 Guidance sheet.
865.125 Report requirement RCS: DD-M (SA) 1489.
865.126 Sample report format.

AUTHORITY: Sec. 8012, 70A Stat. 488 Sec. 1553, 72 Stat. 1267, 10 U.S.C. 8012, 1553.

Subpart B—Air Force Discharge Review Board

§ 865.100 Purpose.

This subpart establishes policies for the review of discharges and dismissals under DOD Directive 1332.28 "Discharge Review Boards", dated March 29, 1978, and explains the jurisdiction, authority and actions of the Air Force Discharge Review Board. It applies to all Air Force activities. This subpart is affected by the Privacy Act of 1974. The system of records cited in this subpart is authorized by 10 U.S.C. 1553 and 8012. Each data gathering form or format which is required by this subpart contains a Privacy Act statement, either incorporated in the body of the document or in a separate statement accompanying each such document.

§ 865.101 References.

(a) Title 10, U.S.C. 1553.

(b) Title 38, U.S.C. 101, 3103, 3103a, as amended by Pub. L. 95-126, October 8, 1977.

(c) Stipulation of Dismissal, Civil Action No. 76-530, United States Court for the District of Columbia, *"Urban Law Institute of Antioch College, Inc., et al,* Plaintiffs v. *Secretary of Defense, et al,* Defendants," January 31, 1977.

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(d) DOD Directive 5400.11, "Personal Privacy and Rights of Individuals Regarding their Personal Records," August 4, 1975.

(e) DOD Directive 1332.14, "Enlisted Administrative Separations," December 29, 1976.

(f) DOD Directive 1332.28, "Discharge Review Boards," March 29, 1978.

(g) Air Force Regulation 35-41, Vol III, Separation Procedures for USAFR Members, October 30, 1975.

(h) Air Force Regulation 36-2, Officer Personnel, Administrative Discharge Procedures, August 2, 1976.

(i) Air Force Regulation 36-3, Officer Personnel, Administrative Discharge Procedures, August 2, 1976.

(j) Air Force Regulation 36-12, Officer Personnel, Administrative Separation of Commissioned Officers and Warrant Officers, July 15, 1977.

(k) Air Force Regulation 39-10, Separation Upon Expiration of Term of Service, for Convenience of Government, Minority, Dependency and Hardship, January 3, 1977.

(l) Air Force Manual 39-12, Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program, September 1, 1966.

(m) Air National Guard Regulation 39-10, Enlisted Personnel—Separation, December 30, 1971.

§ 865.102 Statutory authority.

The Air Force Discharge Review Board (DRB) was established within the Department of the Air Force under section 301 of the Serviceman's Readjustment Act of 1944, as amended (now 10 U.S.C. 1553) and further amended by Pub. L. 95-126 dated October 8, 1977.

§ 865.103 Definition of terms.

(a) *Discharge Review Board (DRB).* An administrative Board constituted by the Secretary of the Air Force and vested with discretionary authority to review discharges and dismissals under the provisions of Title 10, U.S.C. 1553.

(b) *DRB Panel.* An element of the DRB, consisting of five members, convened to review discharges and dismissals.

(c) *Applicant.* A former member of the Air Force who has been discharged or dismissed administratively in accordance with the directives of the Air Force or by sentence of a special court-martial under Title 10, U.S.C., 801 et seq. (Uniform Code of Military Justice) and, in accordance with statutory and regulatory provisions: (1) Whose case is heard by the DRB at the request of the former member, or, if he or she is dead, or mentally incompetent, the (surviving) spouse, next-of-kin, or legal representative; or (2) whose case is heard on the DRB's own motion, which includes reviews requested by the Veterans Administration under Title 38, U.S.C. 101 and 3103, as amended by Pub. L. 95-126.

(d) *Counsel/Representative.* An individual or agency designated by the applicant who agrees to represent the applicant in a case before the DRB. It includes, but is not limited to: A lawyer who is a member of the bar of a federal Court or of the highest court of a state; an accredited representative designated by an organization recognized by the Administrator of Veterans Affairs; a representative from a state agency concerned with veterans affairs; and representatives from private organizations or local government agencies.

(e) *Discharge.* A general term which includes dismissal and separation or release from active or inactive military status, as well as actions which accomplish a complete severance of all military status. This term also includes the assignment of a reason for such discharge and characterization of service.

(f) *Discharge Review.* The process by which the reason for separation, the procedures followed in accomplishing separation, and the characterization of service are evaluated. This includes determinations made under the provisions of 3103(e)(2) (§ 865.101 (b)).

(g) *Presiding Officer.* The senior line officer of any DRB panel convened for the purpose of conducting discharge reviews.

§ 865.104 Secretarial responsibilities.

(a) The Secretary of the Air Force is responsible for the overall operation of the discharge review program within the Department of the Air Force. The following delegations of authority have been made:

(1) To the Office of the Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations) to act for the Secretary of the Air Force in all discharge review actions specified in paragraph (b) of this section.

(2) To the Director, Air Force Personnel Counsel, for operation of all phases of the discharge review program and authority to take action in the name of the Secretary of the Air Force in all discharge review actions except those specified in paragraph (b) of this section.

(b) The following categories of discharge review requests are subject to the review of the Secretary of the Air Force or his designee (see paragraph (a)(1) of this section).

(1) All cases in which a minority of the DRB Panel requests their submitted opinion be forwarded for consideration (see § 865.113 (h)).

(2) Cases when required in order to provide information to the Secretary on specific aspects of the discharge function or of the discharge review function which are of interest to the Secretary.

(i) Any specific case in which the Secretary has an interest.

(ii) Any case which the Director, Air Force Personnel Council believes is of significant interest to the Secretary.

(c) Consideration by the Secretary in such cases will be in accordance with DOD Directive 1332.28 dated March 29, 1978, and § 865.121.

§ 865.105 Jurisdiction and authority.

The DRB has jurisdiction and authority in cases of former military personnel who, at the time of their separation from the Service, were members of the U.S. Army aviation components (Aviation Section, Signal Corps; Air service; Air Corps; or Air Forces) or the U.S. Air Force. The DRB does not have jurisdiction and authority concerning personnel of other arms and services who, at the time of their separation, were assigned to duty with the Army Air Forces or the U.S. Air Force.

(a) The DRB's review is based on the former member's available military records, contentions submitted by the applicant, and on any other evidence that is presented to the DRB. The DRB determines whether the type of discharge or dismissal the former member received is equitable and proper; if not, the DRB instructs the USAF Military Personnel Center (AFMPC) to change the discharge or to issue a new discharge according to the DRB's findings.

(b) The DRB is not authorized to revoke any discharge, to reinstate any person who has been separated from the military service, or to recall any person to active duty.

(c) The DRB, on its own motion, may review a case that appears likely to result in a decision favorable to the former military member, without the member's knowledge or presence. In this case, if the decision is:

(1) Favorable, the DRB directs AFMPC to notify the former member accordingly at the member's last known address.

(2) Unfavorable, the DRB returns the case to the files without any record of formal action. If the former member later files an application for review, the DRB then reconsiders the case without prejudice.

§ 865.106 Application for review.

(a) An applicant may submit a written request for review with such statements, affidavits, or documentation as desired. The request for review shall be made on DD Form 293, Application for Review of Discharge or Separation from the Armed Forces of the United States, which is available at most military installations and regional offices of the Veterans Administration.

(b) A motion or request for review must be made within 15 years after the date of discharge or dismissal except that, in accordance with Pub. L. 95-126, any former member administratively discharged under other than honorable conditions, and otherwise eligible to make application for review may do so without regard to the 15-year limitation period in Title 10, U.S.C. 1553, if such application is received prior to January 1, 1980.

(c) If the member is deceased or mentally incompetent, the spouse, next-of-kin, or legal representative may, as agent for the member, submit the application for the review along with proof of the member's death or mental incompetency.

(d) Applicants forward their requests for review to the National Personnel Records Center—mailing address: NPRC/MPR-AF, 9700 Page Boulevard, St. Louis, Mo. 63132. The National Personnel Records Center forwards all available military records of the former members to AFMPC for further processing to the DRB.

(e) Withdrawal of Application. An applicant shall be permitted to withdraw an application without prejudice at any time before the scheduled review.

§ 865.107 DRB Panel composition and meeting location.

(a) The Panel consists of five members, with the senior line officer acting as the presiding officer. The presiding officer convenes, recesses and adjourns the Panel.

(b) In addition to holding hearings in Washington, D.C., the DRB, as a convenience to applicants, periodically conducts hearings at selected locations throughout the Continental United States. Reviews are conducted at locations central to those areas with the greatest number of applicants. A continuing review and appraisal is conducted to ensure the selected hearing locations are responsive to a majority of applicants. Administrative details and responsibilities for traveling panels are outlined in § 865.123.

§ 865.108 Availability of records.

(a) Prior to a review, applicants or other designated representatives may obtain copies of military records by submitting a Standard Form 180, Request Pertaining to Military Records, to the National Personnel Records Center (NPRC), 9700 Page Boulevard, St. Louis, Mo. 63132. The request must be submitted prior to the time the DD Form 293 is submitted, since, once the DD Form 293 is submitted, the records will be transferred to AFMPC and will not be available to NPRC for reproduction.

(b) If the DRB is not authorized to provide copies of documents that are under the cognizance of another governmental department, office or activity, applications for such information must be made by the applicant to the cognizant authority. The DRB shall advise the applicant of the mailing address of the governmental department, office, or activity to which the request should be submitted.

(c) In the event that the military records relevant to the discharge review are not available at the agency having custody of the records, the applicant shall be notified of the situation and requested to provide such information and documents as may be desired in support of the request for discharge review. A period of not less than 30 days shall be allowed for such documents to be submitted. At the expiration of this time, the review may be conducted with information available to the DRB.

(d) The DRB may take steps to obtain additional evidence material to the discharge review under consideration beyond that found in the military records or submitted by the applicant, if a review of available evidence suggests certain aspects of the review would be incomplete without the additional information or when the applicant presents testimony or documents which require additional information to evaluate properly. Such information shall be made available to the applicant, upon request, with appropriate modifications regarding classified material.

(e) Prior to initiation of the decision process specified in § 865.113 the applicant and/or counsel/representative is entitled to request access to the records to be considered by the DRB in the discharge review.

(1) At a reasonable time prior to the initiation of the decision process, in any case heard on request of an applicant, the DRB shall provide the applicant and/or counsel/representative with a notice of the availability of all regulations and documents to be considered in the discharge review, except for documents in the military records and any documents submitted by the applicant when the DRB has taken action under § 865.108(d) to obtain such documents for use on the discharge review. The DRB shall also notify the applicant and/or counsel/representative: (*a*) Of the right to examine such documents or to be provided with copies of the documents upon request, (*b*) of the date by which such requests must be received, and (*c*) of the opportunity to respond within a reasonable period of time to be set by the DRB.

(2) When necessary to acquaint the applicant with the substance of a classified document, the classifying authority, on the request of the DRB, shall prepare a summary of or extract from the document deleting all references to sources of information and other matters, the disclosure of which, in the opinion of the classifying authority, would be detrimental to the national security interests of the United States. Should preparation of such summary be deemed impracticable by the classifying authority, information from the classified source shall not be considered by the DRB in its review of the case.

(f) Air Force regulations may be obtained, for a fee, by contacting the Chief, Central Base Administration at any major Air Force installation, or by writing the Armed Forces Discharge Review/Correction Board Reading Room, The Pentagon Concourse, Washington, D.C. 20310.

§ 865.109 Procedures for hearings.

(a) The applicant is entitled, by law, to appear in person at his or her request before the DRB in open session and to be represented by counsel of his or her own selection. The applicant also may present such witnesses as he or she may desire.

(1) There are three methods of presenting a case before the Discharge Review Board. These are:

(i) Nonpersonal appearance cases—when an applicant indicates that he or she does not desire to appear at the DRB, and does not desire to be represented by counsel.

(ii) Personal appearance cases—when an applicant desires to appear in person with or without counsel.

(iii) Nonpersonal appearance with counsel—when an applicant does not desire to appear in person but does want to be represented by counsel.

(2) The Government does not compensate or pay the expenses of the applicant, applicant's witnesses, or counsel.

(3) All applicants are provided a guidance sheet (§ 865.124), which suggests various types of information which could assist in the presentation of his/her case to the DRB.

(4) A summary of the available military records of the applicant is prepared for use by the DRB in the review process. A copy of this summary is available to the applicant and/or his or her counsel upon request.

(5) When an applicant has requested a personal appearance, the DRB sends the applicant (and designated counsel, if any) written notice of the hearing time and place. Evidence of such notification will be placed in the applicant's record.

(6) Personal appearance hearings shall be conducted with recognition of the rights of the individual to privacy. Accordingly, presence at hearings of individuals other than those whose presence is required will be limited to persons authorized by the presiding officer and/or expressly requested by the applicant, subject to reasonable limitations based upon available space.

(7) Except as authorized or directed by the Secretary of the Air Force, fur-

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ther opportunity for personal appearance shall not be made available to an applicant who requests a hearing and who, after being duly notified of the time and place of the hearing, fails to appear at the appointed time, either in person or by representative, not having made a prior, timely request for a continuance or withdrawal of the application. In such cases, the applicant shall be deemed to have waived the right to a personal appearance and the DRB shall complete its review of the discharge based upon the evidence of record. Further request for a personal hearing shall not be granted unless the applicant can demonstrate that the prior failure to appear or to request continuance or withdrawal of the application was due to circumstances beyond the applicant's control.

(8) Continuances and postponements:

(i) A continuance of a discharge review hearing may be authorized by the presiding officer of the panel concerned, provided that such continuance is of reasonable duration and is essential to achieving a full and fair hearing. Where a proposal for continuance is indefinite, the pending application shall be returned to the applicant with the option to resubmit when the case is fully ready for review.

(ii) Postponements of scheduled reviews normally shall not be permitted other than for demonstrated good and sufficient reason set forth by the applicant in a timely manner, or for the convenience of the government.

(b) The presiding officer ensures that hearings are conducted to afford full and fair inquiries by the DRB panel.

(1) The panel members and recorder are sworn as are the applicant and witnesses if they decide to testify under oath.

(2) All parts of an applicant's military record that may be viewed by the panel members are made available to the applicant and his or her counsel.

(c) Formal rules of evidence shall not be applied in DRB proceedings. The presiding officer shall rule on matters of procedure and shall insure that reasonable bounds of relevancy and materiality are maintained in the taking of evidence and presentation of witnesses. Witnesses may present evidence to the DRB panel either in person or by affidavit. If a witness testifies under oath or affirmation, he or she is subject to examination by panel members.

(d) There is a presumption of regularity in the conduct of Governmental affairs. This presumption can be applied in any review unless there is substantial credible evidence to rebut the presumption.

§ 865.110 Contentions.

(a) Applicants must state clearly and specifically any contention(s) and/or issue(s) of fact, law or discretion having a bearing on their case in order for a written determination to be made in accordance with § 865.114(b)(4). A DD Form 293 provided for this purpose must be completed or amended prior to the DRB's decision.

(b) In addition, the DRB shall consider such issues of fact, law, or discretion as are discerned by the DRB in the discharge review process.

(c) The DRB shall make findings and conclusions with respect to the contentions and issues as required by § 865.114(b)(4).

§ 865.111 Decisions.

On the basis of its findings and conclusions, the DRB shall record its decision as to whether relief should be granted. The nature of any change shall be specified clearly.

§ 865.112 Implementation of discharge review decisions.

A written notification shall be issued to implement the decision of the DRB, or that of higher authority, in each discharge review case.

§ 865.113 Decision process.

(a) The DRB panel shall meet in plenary session to review discharges and exercise its discretion on a case-by-case basis in applying the standards set forth in this subpart.

(b) The presiding officer is responsible for the conduct of the discharge review. The presiding officer shall convene, recess, and adjourn the DRB panel, as appropriate, and shall maintain an atmosphere of dignity and decorum at all times.

(c) Each panel member shall act under oath or affirmation requiring careful, objective consideration of the application. Panel members are responsible for eliciting all facts necessary for a full and fair hearing. They shall consider all relevant material and competent information presented to them by the applicant. In addition, they shall consider available military records, together with such other records as may be in the files and relevant to the issues before the DRB.

(d) If the applicant does not appear in person and the designated counsel/representative does not appear in the applicant's behalf, the DRB shall review the application on the basis of available military records, documentary evidence submitted by or on behalf of the applicant, and any other relevant evidence.

(e) Application of Standards.

(1) When the DRB determines that an applicant's discharge was improper, the DRB will determine which reason for discharge should have been assigned based upon the facts and circumstances properly before the discharge authority in view of the regulations governing reasons for discharge at the time the applicant was discharged. Unless it is also determined that the discharge was inequitable, any change will be based on the evaluation of the applicant's overall record of service and the relevant Air Force regulations.

(2) When the board determines that an applicant's discharge was inequitable, any change will be based on the evaluation of the applicant's overall record of service and relevant regulations.

(f) Voting shall be conducted in closed session, a majority of the five members' votes constituting the DRB panel's decision.

(g) Details of closed session deliberations of a DRB panel are privileged information and shall not be divulged.

(h) A formal minority opinion may be submitted in instances of disagreement between members of a panel. The opinion must cite findings, conclusions and reasons which are the basis for the opinion. The complete case with the majority and minority recommendations will be submitted to the Director, Air Force Personnel Council. If requested, the Director will forward the complete case with his recommendation to the Office of the Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations) for final resolution.

(i) The DRB may request advisory opinions from staff offices of the Air Force. These opinions are advisory in nature and are not binding on the DRB in its decision making process.

§ 865.114 Decisional document.

(a) A decisional document shall be prepared for each review conducted by the DRB.

(b) At a minimum, this decisional document shall contain:

(1) The date, character of, and reason for the discharge or dismissal certificate issued to the applicant upon separation from military service, including the specific regulatory authority under which the discharge or dismissal certificate was issued.

(2) The circumstances and character of the applicant's service as extracted from military records and information provided by other government authority or the applicant, such as, but not limited to:

(i) Date of enlistment.
(ii) Period of enlistment.
(iii) Age at enlistment.
(iv) Length of service.
(v) Periods of unauthorized absence.
(vi) Conduct and efficiency ratings (numerical or narrative).
(vii) Highest rank achieved.
(viii) Awards and decorations.
(ix) Educational level.
(x) Aptitude test scores.
(xi) Incidents of punishment pursuant to Article 15, Uniform Code of Military Justice (including nature and date of offense or punishment).
(xii) Conviction by court-martial.
(xiii) Prior military service and type of discharge received.

(3) Reference to the written brief, documentary evidence, and testimony presented to the DRB by or on behalf of the applicant.

(4) A statement of findings, conclusions, and reasons consisting of:

(i) Findings of all issues of fact, law, or discretion upon which the decision on the application is based, including those factors required by applicable Air Force regulations to be considered for determination of the character of and reason for the discharge or dismissal certificate in question.

(ii) Findings and conclusions on all other issues of fact, law, or discretion raised by the applicant, including claims by the applicant that statutory, regulatory, and/or constitutional provisions were violated, and such other claims made by the applicant, which in the opinion of the DRB would have warranted greater relief than that afforded the applicant by the DRB's decision if resolved in the applicant's favor.

(iii) Conclusions as to whether or not any change, correction, or modification should be made in the type or character of the discharge or dismissal and/or the reason and authority for the discharge or dismissal; and, if so concluded, the particular changes, corrections, or modifications that should be made.

(iv) A statement of the reasons for the findings and conclusions made in accordance with paragraph (b)(4) (i) through (iii) of this section.

(5) Advisory opinions, including those containing factual information, where such opinions have been relied upon for final decision or have been accepted as a basis for rejecting any of the applicant's claims. Such advisory opinions or relevant portions thereof that are not fully set forth in the statement of findings, conclusions, and reasons shall be incorporated by reference therein. A copy of such opinions shall be appended to the decision and included in the record of proceedings.

(6) A record of the DRB panel members' names and votes.

(7) The DRB's decision and written minority opinions or reports, if any.

(8) A listing of the contentions or issues presented by the applicant, if not included elsewhere.

(9) An authentication of the document by an appropriate official.

(10) Issuance of decisions following discharge review. The applicant and counsel/representative, if any, shall be provided with a copy of the decisional document and of any further action in review. Final notification of decisions shall be issued to the applicant with a copy to the counsel/representative, if any.

(i) Notification to applicants, with copies to counsel/representative, shall normally be made through the U.S. Postal Services. Such notification shall consist of a notification of decision, together with a copy of the decision document.

(ii) Notification to AFMPC shall be for the purpose of appropriate action and inclusion of review matter in military records. Such notification shall bear appropriate certification of completeness and accuracy.

(iii) Actions on review by the Secretary of the Air Force, when occurring, shall be provided to the applicant and counsel/representative in the same manner as the notification of the review decision.

§ 865.115 Records of DRB proceedings.

(a) When the proceedings in any review have been concluded, a record thereof will be prepared. Records may include written records, electromagnetic records, or a combination thereof.

(b) At a minimum, the record will include the following:

(1) The application for review.

(2) A record of the testimony in verbatim, summarized, or recorded form at the option of the DRB.

(3) Documentary evidence or copies thereof considered by the DRB other than the military record.

(4) Briefs/arguments submitted by or on behalf of the applicant.

(5) Advisory opinions considered by the DRB, if any.

(6) The findings, conclusions, and reasons developed by the DRB.

(7) Notification of the DRB's decision to the cognizant custodian of the applicant's records, or reference to the notification document.

(8) Minority reports, if any.

(9) A copy of the decisional document.

§ 865.116 Cases reviewed by the Secretary or his designee.

Cases reviewed by the Secretary or his designee shall be considered in accordance with the standards set forth in the DOD Directive and this subpart.

(a) On every decision of the DRB that is reviewed by the Secretary or his designee, the decision on review shall be made in writing.

(b) In every case, the decision of the DRB and the reviewing authority, if any, shall include a statement of findings, conclusions, and reasons, except where the reviewing authority expressly adopts, in whole or in part, the statement of findings, conclusions and reasons of the DRB. Similarly, where the reviewing authority adopts the DRB's statement of findings, conclusions and reasons, there is no requirement for duplicative publication and indexing.

§ 865.117 Final disposition of the record of proceedings.

The original record of proceedings and all appendices thereto shall in all cases be incorporated in the military record of the applicant and returned to the custody of the NPRC, St. Louis, Mo.

§ 865.118 Reconsideration.

A discharge review shall not be subject to reconsideration except:

(a) Where the only previous consideration of the case was on the motion of the DRB.

(b) When the original discharge review did not involve a personal hearing and a personal hearing is now desired, and the provisions of § 865.109(a)(7) do not apply.

(c) Where changes in discharge policy are announced subsequent to an earlier review of an applicant's discharge, and the new policy is made expressly retroactive.

(d) Where the DRB determines that policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a service-wide basis to discharges of the type under consideration: *Provided*, That such changes in policies or procedures represent a substantial enhancement of the rights afforded an applicant in such proceedings.

(e) Where an individual is to be represented by a counsel/representative, and was not so represented in any previous consideration of the case.

(f) Where the case was not previously considered under uniform standards published pursuant to Pub. L. 95-126 and application for such consideration is received before January 1, 1980, or within 15 years after the date of discharge.

(g) On the basis of presentation of new, substantial, relevant evidence not available to the applicant at the time of the original review. The decision as to whether evidence offered by an applicant in support of a request for reconsideration is in fact new, substantial, relevant, and was not available to the applicant at the time of the original review will be based on a comparison of such evidence with the evidence considered in the previous discharge review. If this comparison shows that the evidence submitted would have had a probable effect on matters concerning the propriety or equity of the discharge, the request for reconsideration shall be granted.

§ 865.119 Availability of Discharge Review Board documents for public inspection and copying.

(a) A copy of the decisional document prepared in accordance with § 865.114 shall be made available for public inspection and copying promptly after a notice of final decision is sent to the applicant.

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(b) To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details of the applicant and other persons will be deleted from documents made available for public inspection and copying. Names, addresses, social security numbers, and military service numbers must be deleted. Written justification shall be made for all other deletions and shall be available for public inspection.

(c) Any other privileged or classified material contained in or appended to any documents required to be furnished the applicant and counsel/representative or made available for public inspection and copying may be deleted therefrom only if a written statement of the basis for the deletions is provided the applicant and counsel/representative and made available for public inspection. It is not intended that the statement be so detailed as to reveal the nature of the withheld material.

(d) DRB documents made available for public inspection and copying shall be located in the Armed Forces Discharge Review/Correction Boards Reading Room. The documents shall be indexed in usable and concise form so as to enable the public and those who represent applicants before the DRBs to isolate from all these decisions that are indexed those cases that may be similar to an applicant's case and that indicate the circumstances under and/or reasons for which the DRB or the Secretary of the Air Force granted or denied relief.

(1) The reading file index shall include, in addition to any other items determined by the DRB, the case number, the date, character of, reason for, and authority for the discharge. It shall further include the decisions of the DRB and reviewing authority, if any, and the issues addressed in the statement of findings, conclusions and reasons.

(2) The index need be permanently maintained only at permanent DRB regional locations. This index will be made available at sites selected for traveling board hearings for such periods as the DRB is present and in operation. Applicants at such sites will be so advised in the notice of scheduled hearings.

(3) The Armed Forces Discharge Review/Correction Boards Reading Room shall publish indexes quarterly. The DRB will be responsible for timely submission to the Reading Room of individual case information required for update of the indexes. These indexes shall be available for public inspection and/or purchase at the Reading Room. This information will be provided to applicants in the notice of scheduled hearings.

(4) Correspondence relating to matters under the cognizance of the Reading Room (including requests for purchase of indexes) shall be addressed to:

Armed Forces Discharge Review/Correction Board Reading Room, The Pentagon Concourse, Washington, D.C. 20310.

§ 865.120 Privacy Act information.

Information protected under the Privacy Act is involved in discharge review functions. The provisions of 32 CFR 286a will be observed throughout the processing of a request for review of discharge or dismissal.

§ 865.121 Discharge review standards.

(a) *Objective review.* The objective of a discharge review is to examine the propriety and equity of the applicant's discharge and to effect changes, if necessary. The standards of review and the underlying factors which aid in determining whether the standards are met shall be historically consistent with criteria for determining honorable service. No factors shall be established which require automatic change or denial of a change in a discharge. Neither the DRB or the Secretary of the Air Force shall be bound by any methodology of weighting of the factors in reaching a determination. In each case, the DRB or Secretary of the Air Force shall give a full, fair, and impartial consideration to all applicable factors prior to reaching a decision.

(b) *Propriety.* A discharge shall be deemed to be proper unless, in the course of discharge review, it is determined that:

(1) There exists an error of fact, law, procedures, or discretion associated with the discharge at the time of issuance; and that the rights of the applicant were prejudiced thereby, (such error shall constitute prejudicial error, if there is substantial doubt that the discharge would have remained the same if the error had not been made); or

(2) A change in policy by the Air Force made expressly retroactive to the type of discharge under consideration, requires a change in the discharge.

(c) *Equity.* A discharge shall be deemed to be equitable unless: (1) In the course of a discharge review, it is determined that the policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a service-wide basis to discharges of the type under consideration: *Provided,* That: (i) Current policies or procedures represent a substantial enhancement of the rights afforded an applicant in such proceedings; and (ii) There is substantial doubt that the applicant would have received the same discharge if relevant current policies and procedures had been available to the applicant at the time of the discharge proceedings under consideration; (2) At the time of issuance, the discharge was inconsistent with standards of discipline in the Air Force; or (3) In the course of a discharge review, it is determined that relief is warranted based upon consideration of the applicant's military record and other evidence presented to the DRB viewed in conjunction with the factors listed in this subsection and the regulations under which the applicant was discharged, even though the discharge was determined to have been otherwise equitable and proper at the time of issuance. Areas of consideration include, but are not limited to:

(i) Quality of Service, as evidenced by factors such as:

(*a*) Service history, including date of enlistment, period of enlistment, highest rank achieved, conduct or efficiency ratings (numerical or narrative).

(*b*) Awards and decorations.

(*c*) Letters of commendation or reprimand.

(*d*) Combat service.

(*e*) Wounds received in action.

(*f*) Record of promotions and demotions.

(*g*) Level of responsibility at which the applicant served.

(*h*) Other acts or merit that may not have resulted in a formal recognition through an award or commendation.

(*i*) Length of service during the period which is the subject of the discharge review.

(*j*) Prior military service and type of discharge received or outstanding post-service conduct to the extent that such matters provide a basis for a more thorough understanding of the performance of the applicant during the period of service which is the subject of the discharge review.

(*k*) Convictions by court-martial.

(*l*) Record of non-judicial punishment.

(*m*) Convictions by civil authorities while a member of the Air Force, reflected in the discharge proceedings or otherwise noted in military records.

(*n*) Record of periods of unauthorized absence.

(*o*) Records relating to a discharge in lieu of courtmartial.

(ii) Capability to serve, as evidenced by factors such as:

(*a*) *Total capabilities.* This includes an evaluation of matters such as age, educational level, and aptitude scores. Consideration may also be given to whether the individual met normal military standards of acceptability for military service and similar indicators of an individual's ability to serve satisfactorily, as well as ability to adjust to the military service.

(*b*) *Family/personal problems.* This includes matters in extenuation or mitigation of the reason for discharge that may have affected the applicant's ability to serve satisfactorily.

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(c) *Arbitrary or capricious actions.* This includes actions by individuals in authority which constitute a clear abuse of such authority and which, although not amounting to prejudicial error, may have contributed to the decision to discharge or to the characterization of service.

(*d*) *Discrimination.* This includes unauthorized acts as documented by records or other evidence.

§ 865.122 Approval of exceptions to directive.

Only the Secretary of the Air Force may authorize or approve a waiver of, or exception to, any part of this subpart.

§ 865.123 Procedures for regional hearings.

(a) Composition of the panel for these hearings consists of three members from Washington with augmentation by two members from nearby local Air Force resources.

(b) The major commands of the Air Force installation selected are required to task subordinate units to provide two colonels on an additional duty basis, to serve as members of the DRB. Detailed information must be provided to the Chief, Personnel Division, of the installation involved before each hearing date.

(c) The administrative staff in Washington processes all cases for regional hearings, establishes hearing dates, and returns the records to the Military Personnel Center at Randolph AFB, Tex., when the case is finalized. Detailed information for the local panel members if provided to the Directors of Personnel of the bases involved approximately four weeks before each hearing date.

(d) Travel and per diem for all DRB panel members are funded by the Secretary of the Air Force Personnel Council (SAF/PC). The funding cite number is included in the information provided to the local panel members before each hearing date.

§ 865.124 Guidance sheet.

Regardless of the reason for your discharge, the suggested evidence listed below under No. 1 would assist in the presentation of your case to the Discharge Review Board. If you can recall the specific reason for discharge (types are shown in left hand column), additional suggested evidence is shown by the corresponding number in the right-hand column.

Reason for Discharge	Evidence Needed by the Board
1. Discharge for any reason.	1. Your statement on what happened that caused your discharge, what motivated you. Current police record (statement from local police department). Statement from schools and colleges (if you are attending or have completed any school or college since discharge, provide a copy of your transcript, diploma or letter of accomplishment from the school). Employment record (be specific—list jobs in order held—who supervisor was—reason for leaving job). Participation in civic or community affairs. Character references (frank statements about your character from members of your family, family friends, employer(s), family doctor or pastor, and other responsible people in the community).
2. General ineffectiveness (unsuitability, unfitness).	2. Indication that your attitude, ability, bearing and behavior are now improved. Indication that your capacity towards organizational loyalty, willingness to work and dedication are improved.
3. Financial irresponsibility.	3. Verification of good credit (statements from banks, lending institutions, department stores, etc., that would attest to your financial condition). Statement from you on how your previous debts were resolved (paid off, bankruptcy, etc.).
4. Alcoholism	4. Verification of good credit (statement from banks, lending institutions, department stores, etc. that would attest to your financial condition). Membership in Alcoholics Anonymous—how long. Medical statement (statement by competent authority on your physical condition).
5. Character and behavior disorder.	5. Medical statement (statement by competent authority on your physical and mental condition).
6. Hardship	6. If discharge was for financial reasons: Verification of good credit (statement from banks, lending institutions, department stores, etc., that would attest to your financial condition). If discharge was for medical reasons: A medical statement from competent medical authority disclosing the hardship no longer exists.
7. Civil convictions	7. If applicable: Statement by competent authority that a pardon has been granted.
8. Homosexuality	8. Circumstances surrounding act or acts for which discharged: Was the applicant seduced or coerced by someone in authority? Was alcohol a factor? Were there any familial or pre-service factors? Medical statement, if you have been receiving psychotherapy.
9. Drug abuse	9. Statement concerning the underlying causes of the offense: Was it because of youthful curiosity? Did you have a need to be a member of the gang? Did you have the habit prior to enlistment? Medical statement by competent medical authority if you have been receiving psychiatric treatment. Verification of good credit (statements from banks, lending institutions, department stores, etc., that would attest to your financial condition).
10. Conscientious objector.	10. Statement from applicant concerning past views and what has happened to change them.
11. Enuresis	11. Medical statement by competent medical authority on the applicant's physical condition.
12. Exceeding weight standards.	12. Medical statement by competent medical authority on the applicant's physical condition—specifically, your present weight and height.

Fire-related case: If you are advised that all or part of your records were destroyed by the fire in July 1973 at the National Personnel Records Center, it is doubly important that you provide as much evidence as possible to support your request. In these cases the Board may have limited or no record evidence available to it and must rely heavily on evidence presented by the applicant.

§ 865.125 Report requirement, RCS: DD-M (SA) 1489.

(a) Semi-annual reports will be submitted by the 20th day of April and October for the preceding six-month reporting period (October 1 through March 31 and April 1 through September 30).

(b) The reporting period will be inclusive from the first through the last days of each reporting period.

(c) The report will contain four parts: (1) Part I—Regular Cases; (2) Part II—Reconsideration of President Ford's memorandum of January 19, 1977/Special Discharge Review Program Cases; (3) Part III—Cases heard under Pub. L. 95-126 by waiver of Title 10, U.S.C. 1553 with regard to the statute of limitations; and (4) Part IV—Total Cases Heard.

(d) Report will be prepared by the Air Force Discharge Review Board and submitted to the Army Discharge Review Board (executive agent for DRB matters).

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§ 865.126 Sample report format.

SAMPLE REPORT FORMAT

SUMMARY OF STATISTICS FOR

AIR FORCE DISCHARGE REVIEW BOARD

(FY ——).

RCS: DD-M(SA) 1489

	Nonpersonal Appearance			*Personal Appearance*			*Total*		
Name of Board	*Appl.*	*No. Approved*	*% Appr.*	*Appl.*	*No. Approved*	*% Appr.*	*Appl.*	*No. Approved*	*% Appr.*

NOTES: Identify numbers separately for traveling panels, regional panels or hearing examiners, as appropriate.
Use of additional footnotes to clarify or amplify the statistics being reported is encouraged.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison,
Directorate of Administration.

[FR Doc. 78-13181 Filed 5-12-78; 8:45 am]

[3710-92]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 204—DANGER ZONE REGULATIONS

Pacific Ocean, Vandenberg AFB, Calif.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This rule amends regulations which establish a danger zone in the Pacific Ocean between Point Arguello and Point Conception, Calif., by extending the period of use to February 15, 1980. Continuation of the danger zone is necessary to provide maximum security for sensitive test operations and for the protection of life and property.

DATE: Effective on May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph T. Eppard, 202-693-5070, or write: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314. Attn: DAEN-CWO-N.

SUPPLEMENTARY INFORMATION: The Commander, Space and Missile Test Center, Vandenberg Air Force Base, Calif., has requested that the danger zone located in the Pacific Ocean between Point Arguello and Point Conception, Calif., be continued until February 15, 1980, unless terminated by the Secretary of the Army at an earlier date. The General Counsel has reviewed this matter and is of the opinion that notice of proposed rulemaking and public procedures thereto are unnecessary since this amendment only extends an existing restriction which is in the public interest by the continued protection of life and property and national security. Accordingly, pursuant to section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), and chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U.S.C. 3), we are hereby amending the regulations in 33 CFR 204.202a by revising paragraph (b)(9) as set forth below:

§ 204.202a Pacific Ocean, Space and Missile Test Center (SAMTEC) Vandenberg AFB, Calif.; danger zone.

* * * * *

(b) *The regulation.* * * *

(9) The regulations in this section shall be in effect until February 15, 1980, unless terminated by the Secretary of the Army at an earlier date.

AUTHORITY: (40 Stat. 266; 33 U.S.C. 1) (40 Stat. 892; 33 U.S.C. 3).

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 24, 1978.

CLIFFORD L. ALEXANDER, Jr.,
Secretary of the Army.

[FR Doc. 78-13149 Filed 5-12-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[PP 7F2003/R147; FRL 896-4]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Gossyplure

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the insecticide gossyplure. The amendment to the regulations was submitted by Conrel, Inc. This rule exempts gossyplure from the requirement of a maximum permissible level for residues on cottonseed.

EFFECTIVE DATE: May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles T. Mitchell, Product Manager (PM-17), Registration Division (WM-567), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460, 202-426-9426.

SUPPLEMENTARY INFORMATION: On January 12, 1978, notice was given (43 FR 1835) that Conrel, Inc., an Albany International Co., 735 Providence Highway, Norwood, Mass. 02062, had filed a pesticide petition (PP 7F2003) with the EPA. This petition proposed that 40 CFR 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticide gossyplure (1:1 mixture of (*Z,Z*)- and (*Z,E*)-7,11-hexadecadien-1-ol, acetate) in or on the raw agricultural commodity cottonseed.

The data submitted in the petition and other relevant material have been evaluated, and the pesticide is considered useful for the purpose for which the exemption is sought. In support of the proposed exemption, the petitioner submitted an acute oral test in rats showing a lethal dose (LD_{50}) of greater than 15 g/kg, an acute inhalation test in rats showing a lethal concentration (LC_{50}) of greater than 3.3 mg/l, an Ames mutagenicity study (negative), and 90-day feeding studies in rats and dogs showing no observable effect levels (NOEL) of greater than 3,000 parts per million (ppm). Based on factors, e.g., the mode of application (i.e., the dispensing of the insect pheromone gossyplure by slow evaporation from capillary fibers) and the very low dosage rate involved, it can reasonably be concluded that no residues of gossyplure are expected to be present in or on cottonseed.

Thus, acceptable daily intake (ADI) and maximum permissible intake (MPI) considerations are not relevant to this petition.

Exemptions from the requirement of a tolerance have previously been established (40 CFR 180.1036, 180.1037, and 180.1038) for residues of hydrogenated castor oil, polybutenes, and polyoxymethylene copolymer on cottonseed when used in gossyplure formulations to control the mating of the pink bollworm. There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3). The nature of the gossyplure residue on cotton plants and cottonseed is adequately understood, and an adequate analytical method (gas chromatography using flame ionization) is available for monitoring incidents of gross misuse. No data is currently considered desirable but lacking to support the requested exemption, nor are there any pending actions against continued registration of gosspylure.

The active ingredient of gossyplure (*Z,Z*)- and (*Z,E*)-7,11-hexadecadien-1-ol, acetate is the acetic acid ester of an alcohol of the same chain length and similar configuration as common fatty acids naturally occurring in fats and oils (as triglycerides) in the human diet. Based on the preceding considerations, it has been determined that establishment of the exemption from the requirement of a tolerance by amending 40 CFR 180 will protect the public health.

Any person adversely affected by this regulation may, on or before June 14, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on May 15, 1978, 21 CFR 561 is amended as set forth below.

Dated: May 8, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

AUTHORITY: Sec. 409(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).

Part 180, Subpart D, is amended by adding the new section 180.1043 to read as follows:

§ 180.1043 Gossyplure; exemption from the requirement of a tolerance.

The pheromone gossyplure, a 1:1 mixture of (*Z,Z*- and (*Z,E*)-7,11-hexadecadien-1-ol, acetate) is exempt from the requirement of a tolerance in or on the raw agricultural commodity cottonseed when applied to cotton from capillary fibers.

[FR Doc. 78-13206 Filed 5-12-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 87—AVIATION SERVICES

Editorial Amendments Concerning Application for Renewal of License

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Part 87 of the Commission's rules contains two sections with the same heading. These sections also deal with the same subject matter. This action will combine these two sections into one.

EFFECTIVE DATE: May 22, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Kemp J. Beaty, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: May 5, 1978.

Released: May 8, 1978.

In the matter of editorial amendment of §§ 87.33 and 87.125 of the Commission's rules.

1. Part 87 of the Commission's rules contains two sections entitled "Application for renewal of license," in two separate locations. Since these sections both deal with the same subject matter it is only appropriate that they be combined under one section.

2. Accordingly, the Commission's rules are being amended to combine section 87.125 with section 87.33 of the rules and to delete section 87.125. Authority for this amendment is contained in sections 4(i) and 303(c) and (r) of the Communications Act of 1934, as amended, and section 0.231(d) of the Commission's rules. Since the amendment is editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. In view of the above, *it is ordered,* That the rule amendment set forth in the attached Appendix is adopted, effective May 22, 1978.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

APPENDIX

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

1. Section 87.33 is amended to read as follows:

§ 87.33 Application for renewal of license.

(a) Application for renewal of station license without modification shall be submitted on FCC Form 405-A, except in the case of aircraft stations which shall be submitted on FCC Form 405-B. Where a modification of license is also sought, the application form applicable for a modification of such station shall be used for both the modification and renewal.

(b) All applications for renewal of license must be made during the license term and should be filed within 90 days but not later than 30 days prior to the end of the license term. In any case in which the licensee has, in accordance with the provisions of this chapter, made timely and sufficient application for renewal of license, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

2. Section 87.125 is deleted.

§ 87.125 [Deleted]

[FR Doc. 78-13074 Filed 5-12-78; 8:45 am]

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[4910-59]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-19; Notice 23]

PART 581—BUMPER STANDARD

Interpretation

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Interpretation.

SUMMARY: This notice compiles and publishes the NHTSA's previously announced interpretations of the bumper damageability requirements of the part 581, Bumper Standard, and is issued to clarify what damage will be permissible under the terms of the standard.

DATE: This interpretation is effective immediately.

FOR FURTHER INFORMATION CONTACT:

Mr. Dick Hipolit, Office of Chief Counsel, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-9511.

SUPPLEMENTARY INFORMATION: It has come to the attention of the NHTSA that some misunderstanding may exist with regard to the agency's interpretations to date of the damageability requirements of 49 CFR part 581, Bumper Standard. Those requirements impose limitations on damage resulting from low-speed front and rear collisions.

"Phase I" of the standard, effective September 1, 1978, allows unlimited damage to the "bumper face bar" and the components that directly attach the face bar to the chassis frame, including (by interpretation) filler panels and stone shields (shielding panel). The "Phase I" requirements have not been the source of interpretational confusion and are not discussed in this notice.

"Phase II" of the standard, effective September 1, 1979, requires in relevant part that:

> (10) • • • the exterior surfaces, except for the bumper face bar, shall have no separation of • • • materials from the surface to which they are bonded and no permanent deviations from their original contours • • •
>
> (11) • • • the bumper face bar shall have—
>
> (i) No permanent deviation greater than ¾ inch from its original contour and position relative to the vehicle frame; and
>
> (ii) No permanent deviation greater than ⅜ inch from its original contour on areas of contact with the barrier face or the impact ridge of the pendulum test device • • •

Interpretation of these Phase II requirements has become an issue since the agency's recent decision to terminate rulemaking that would have allowed shielding panels to undergo unlimited damage or, in the alternative, the same amount of damage as the bumper face bar (43 FR 12049; March 23, 1978). The agency's shorthand reference to shielding panel "no damage" requirements may have led some manufacturers to believe that the agency would not honor its earlier interpretations of "damage" as "normally observable changes in the stated areas following the prescribed test procedures" (42 FR 24058; May 12, 1977). In the interests of ensuring a fair and enforceable standard of performance, the agency therefore complies its previous interpretations in this notice and adds clarification of them as necessary.

Exterior Surfaces Other Than the Bumper Face Bar

A threshold question is whether a particular surface qualifies as an exterior surface and must therefore meet applicable requirements. Interpretations of this question have been made in a letter of March 27, 1978, to Volkswagen of America, Inc., and in a rulemaking preamble (42 FR 24056; May 12, 1977). The agency stated that a load bearing component in the bumper system that lies under a covering of rubber, plastic, or another material and is not visible when the bumper is mounted on the vehicle would not qualify as an exterior surface subject to the requirements of § 581.5(c) (10) or (11) of the standard. Also, internal deformation or internal cracking of the bumper face bar component would not violate (c) (10) or (11) of the standard.

The critical question has been whether a particular component qualifies as "bumper face bar" entitled to the allowable damage set forth in (c)(11). "Bumper face bar" is defined in § 581.4 to mean any component of the bumper system that contacts the impact ridge of the pendulum test device. The components in question are: (1) the bumper "end cuffs" that are attached to the extreme ends of the metal bumper face bar, (2) any part of the bumper system that underlies bumper guards, "nerf strips", or other plastic or rubber moulding along the leading edge of the metal surface (typically known as the bumper), (3) portions of multipiece bumpers which are not contacted by the impact ridge although the metal surfaces that they connect to do contact the ridge, and (4) shielding panels.

As noted in an earlier preamble, bumper end cuffs "are part of the bumper face bar if they conform to its definition, i.e., if 'they contact the impact ridge of the pendulum test device'" (42 FR 12049; March 23, 1978). Bumper guards, "nerf strips", and other plastic or rubber mouldings are considered "bumper face bar" if they contact the impact ridge of the pendulum (41 FR 9346; March 4, 1976).

Metal components of a multipiece bumper, either small fasteners between major surfaces or a major surface such as the upper flange of a multipiece bumper, are not technically "bumper face bar" if they do not contact the pendulum impact ridge. Chrysler Corp. raised this question in a request for interpretation and recommendation for rulemaking dated April 10, 1978, which is filed in the public docket. The agency concludes that this would be an arbitrary interpretation in the case of structural portions of multipiece bumpers, in that it would discriminate without purpose between one-piece and multipiece systems. Therefore, the agency interprets a bumper face bar to mean any component that contacts the impact ridge and any component that is connected as a part of the same load bearing structure.

Shielding panels typically lie between the body sheet metal and the bumper face bar. Because of their location near or against the bumper face bar, they are likely to suffer damage during bumper stroke and are thus of particular concern to manufacturers and the insurance industry.

Shielding panels are constructed in many different ways, either underlying or overlying the bumper face bar, in single or several pieces, and attached either to the bumper or the body of the vehicle. Some designs do contact the impact ridge in whole or part during impact and others do not.

When the agency terminated its proposal to permit unlimited damage to filler panels or, in the alternative, ¾-inch damage, it became significant to manufacturers whether or not these shielding components qualify as bumper face bar entitled to the "set" and "dent" deviations of (c)(11). Chrysler posed numerous hypotheticals in its April 10 letter, and Ford and General Motors posed numerous other questions in their April 5 and April 6 meetings with the agency. While some of these components do contact the impact ridge of the pendulum during testing, the companies pointed out many cases where this would not be so.

Those shielding panels that contact the impact ridge qualify as "bumper face bar" and are entitled to the "dent" and "set" deviations of (c)(11). As noted in an earlier preamble, which is discussed below, some additional blemishes in the exterior surfaces of these shielding panels as "bumper face bar" would also be allowed.

The many shielding panel designs that do not contact the impact ridge must be categorized as exterior surfaces subject to the damage criteria of (c)(10), i.e., no separation of materials from the surface to which bonded and no permanent deviation from original contours. Chrysler noted that bumper "set" could hold a shielding panel somewhat out of its original contour or permit it to "follow" the bumper, technically violating the rule against "permanent deviation" although the movement in fact enhances the appearance of the displaced bumper. Ford described cases in which a minute amount of nicking of the shielding panel surface could occur during bumper stroke, apparently violating the rule against separation of materials from the surface to which they are bonded. Chrysler and Ford also noted cases where simple movement of a resilient shielding panel during bumper stroke could result in imperceptible deviation of the surface.

The agency has already stated that the damage limitations do not apply to microscopic levels of displacement of surface coating or contours but to "normally observable changes in the stated areas following the prescribed test procedure" (42 FR 24058; May 12, 1977). A shielding panel that moves with the "set" of a bumper would not be "normally observable", even in the case where bumper movement leaves a gap which is closed only in part by movement of the shielding panel with the bumper. The "normally observable changes" interpretation applies as well to movement of small patches covering manufacturing process cut-outs on the face bar, and to Ford's concern about surface nicking or scuffs.

In deciding not to provide special damage levels for shielding panels, the agency relied on its own compliance testing of 20 1977 models and that of the Insurance Institute for Highway Safety as a basis for judging what is "normally observable." In the NHTSA testing, three insurance adjusters were used to make the observations because of their expertise in the automotive damage field. The manufacturers, however, point out that they would rely at their peril on the judgment of their three insurance adjusters while the agency relies on the judgment of other insurance adjusters. While such judgments are inherent in enforcement of any type, the agency believes that a simple expression of its means to judge deviations and surface nicks would resolve any such concerns, whether or not justified.

The agency has studied photographs contained in "FMVSS 215 Damage Appraisal Summary Report Front and Rear Pendulum and Barrier Impact Tests", May 1977, taken of vehicles before and immediately following compliance testing. This examination indicated that any significant damage to shielding panels was visible in the good quality, 8 by 10 inch prints used in the summary report. At the same time, certain minor damage, which appeared on close visual inspection of the subject vehicles, was undetectable in the photographs.

Such damage, although outside the reach of the regulation, may be a source of uncertainty to manufacturers in testing their bumper designs for compliance with the standard. Therefore, in order to simplify the evaluation process, the agency has concluded that deviations or surface separations not visible to the unaided eye in standard 8 by 10 inch photographic prints taken of the suspect area at a distance of 6 feet will not be considered "normally observable" and in violation of (c)(10). The Office of Standards Enforcement will establish standard procedures for the taking of evaluative photographs. The agency emphasizes that this technique seeks solution of a problem unique to shielding panels and will not be used for judging the body of the vehicle.

Chrysler asked whether a component qualifies as "bumper face bar" if it is attached to the vehicle, rather than the lateral metal component typically known as the bumper. As noted in an earlier preamble, these shielding panels are sufficiently identified with the bumper design to qualify as part of the "bumper system" and thus potentially as "bumper face bar." (42 FR 24056; May 12, 1977).

Permissible Bumper Face Bar Damage

Once a component qualifies as "bumper face bar", further interpretation is necessary in determining whether the damage incurred to that component in an impact exceeds the applicable limits in (c)(11):

> (i) No permanent deviation greater than ¾ inch from its original contour and position relative to the vehicle frame; and
>
> (ii) No permanent deviation greater than ⅜ inch from its original contour in areas of contact with the barrier face or the impact ridge of the pendulum test device • • •

Several interpretations of these limits have already been made. In a December 1, 1977, letter to Nissan Motor Co., the agency stated that the two types of deviation are additive in an area of contact with the barrier face or impact ridge (i.e., a total deformation of 9/8 of an inch is allowed at that point). The agency also stated that the localized deviation permitted by paragraph (ii) is measured taking any contour in the area of impact and measuring its movement from its location prior-to-impact to post-impact, whether a flat or curved surface is involved. The same interpretation was established for deviation under paragraph (i) except that it would not be limited to the area of contact. It was confirmed that an abrupt deviation outside the area of contact could only qualify as deviation under paragraph (i). Finally, it was noted in a further interpretation letter of April 18, 1978, that the "area of contact" for paragraph (ii) would include any surface that contacts the barrier surface or impact ridge during impact, as well as surfaces that contact at initial impact or at the completion of impact.

Two questions were raised by Ford about cracks that could occur in rubber or plastic components used in either hard or soft-face bumper designs. While the agency has already stated in the December 1, 1977, Nissan interpretation that a crack which does not have a measurable separation would not qualify as deviation, Ford asked about cracks which "open up" measurably, or which leave the surfaces on each side of the crack at different levels 30 minutes after impact. The latter situation apparently arises during impact of soft-face systems, and might generally conform to the outer edge of the pendulum impact ridge.

If measurable separation exists, a deviation in contour would be considered to exist and such a deviation would have to meet the ⅜ inch dent limitation of § 581.5(c)(11)(ii) when measured along any dimension, i.e., width, length, depth, from any line connecting the bumper contours adjacent to the crack. Cracks which leave surfaces at different levels would likewise be required to meet the ⅜ inch test when measured along any dimension.

The agency has also earlier stated in a preamble, that "[w]hile both barrier and pendulum impacts can cause some chipping or flaking of chrome or soft-face material (depending on the type of systems being tested), such damage is insignificant." (41 FR 9348; March 4, 1976). The same preamble also noted that "a dent ⅜ inch in depth would be inconsequential" in deciding that requiring a "dishing effect" as a necessary element of compliance "would not take into account the various types of impacts to which a vehicle is subject." Thus the type of surface dislocation described by Ford would be permissible up to ⅜ of an inch, despite the fact that this leaves an abrupt change of contour.

This notice responds to Chrysler's recommendation for rulemaking, dated April 10, 1978, and Ford's request for clarification, dated April 24, 1978. Except to the extent granted in this notice, the recommendations made are denied.

The program official and lawyer principally responsible for this document are Nelson Gordy and Tad Herlihy, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 102, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912); delegation of authority at 49 CFR 1.50).

Issued on May 9, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-13148 Filed 5-12-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contoins notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

[1620-01]

COST ACCOUNTING STANDARDS BOARD

[4 CFR Part 416]

ACCOUNTING FOR INSURANCE COSTS

Cost Accounting Standards

AGENCY: Cost Accounting Standards Board.

ACTION: Proposed rule.

SUMMARY: This proposed Standard, if adopted, would provide criteria for the measurement of insurance costs, the assignment of such costs to cost accounting periods, and the allocation of insurance costs to cost objectives. It is intended to resolve recurring problems involving the accounting for insurance premiums, self-insurance provisions, and insurance reserves, and the allocation of insurance costs among corporate segments. It is one of a series of Cost Accounting Standards which the Board is promulgating "to achieve uniformity and consistency in the cost accounting principles followed by defense contractors and subcontractors under Federal contracts." (See sec. 719(g) of the Defense Production Act of 1950, as amended.) It is anticipated that any contractor receiving an award of a contract subject to the rules, regulations, and Standards of the Cost Accounting Standards Board on or after the effective date of this Standard will be required to follow it in accordance with the provisions of § 416.80. The proposed Standard was originally published October 5, 1977. It is being republished today for further comments. The Board solicits comments which will assist the Board in its consideration of the proposal.

DATE: Written comments must be received on or before June 30, 1978.

ADDRESSES: Written comments should be sent to the Cost Accounting Standards Board, 441 G Street NW., Room 4836, Washington, D.C. 20548.

NOTE.—All written submissions made pursuant to this Notice will be made available for public inspection at the Board's Office during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Robert Straith, Associate Director, Cost Accounting Standards Board, 441 G Street NW., Room 4836, Washington, D.C. 20548, 202-275-6136.

SUPPLEMENTARY INFORMATION: (1) *Need for a Standard.* Work on a potential Standard on accounting for insurance costs was initiated for a number of reasons; these included (1) differences between Armed Services Procurement Regulation (ASPR) provisisons governing self-insurance and Financial Accounting Standards Board (FASB) Statement No. 5, (2) Armed Services Board of Contract Appeals (ASBCA) cases or other disputes related to insurance accounting, and (3) knowledge of unresolved problems obtained by discussions with contractors and audit agencies.

In 1962, the Air Force reviewed the insurance coverages, practices, and costs of 23 contractors. Their examination disclosed a number of problems, examples of which are cited in the following paragraphs.

In 1969, the Defense Contract Audit Agency (DCAA) conducted a special study of insurance procedures of 34 defense contractors and noted the continuing existence of the same problems. Recent staff discussions with the Contract Insurance Branch of Defense Contract Administrative Services (DCAS), with contract audit agencies, and with contractors, and a review of ASBCA cases disclosed that these problems still exist. Examples of specific problems are the following:

Premiums on multi-year insurance policies charged to a single cost accounting period.

Divergent practices among contractors in charging "deposit" premiums on experience-rated policies.

The holding by insurers of substantial "reserves" or funds on behalf of contractors. The Government has found, in numerous instances, that the purpose for which the fund is being accumulated is not clearly stated, that the obligation for which the fund was ostensibly established is highly contingent on decisions within the contractor's control, that payments are being made to accomplish the stated purpose of the fund out of current earnings rather than from the fund, that the amount actually necessary to fund the stated obligation has not been actuarially determined or the fund is in excess of the actuarial liability, and that the existence of the fund is not disclosed in the contractor's records.

Uncertainty regarding the proper method of recognizing the costs of self-insurance for contract costing purposes, and a corresponding lack of guidance on this point in contemporary cost accounting literature.

A statement of issues related to accounting for insurance and a preliminary draft Standard were developed by the Staff and circulated to contractors, agencies, and others. Responses to these Staff papers and information obtained in subsequent meetings with respondents and other interested persons were considered in developing the proposed Standard which was published in the FEDERAL REGISTER of October 5, 1977, with an invitation to interested parties to submit written views and comments to the Board. All comments (48) received in response to the FEDERAL REGISTER publication have been considered by the Board and those addressing areas of significance are discussed below, together with explanations of the changes made in the Cost Accounting Standard being proposed today from the proposal published in the FEDERAL REGISTER of October 5, 1977, or the Board's reasons for not making a suggested change. The Standard which is being proposed today has been revised from the previous version in such a way as to minimize or eliminate the administrative costs which were envisioned by some respondents.

The Board wishes to take this opportunity to express its appreciation for the helpful suggestions and constructive criticisms it has received, and for the time devoted to assisting the Board in this endeavor by the many organizations and individuals involved.

(2) *Coverage of Standard.* Some respondents stated that the coverage of the Standard was too broad and suggested the issuance of several Standards, each dealing with a specific type of insurance. In its research, the Board did not find significant differences in the applicable accounting practices which depended upon the type of risk or insurance. There is one exception—insurance on "retired lives"—and the Board has dealt with that exception in the proposed Standard.

Two respondents suggested that the Standard address the subject of "captive" insurers. However, one of these suggested that the Standard explicitly recognize payments to "captive" insurers as equivalent to premiums paid to unaffiliated insurers while the other cautioned against the unqualified acceptance of such payments. The Board believes that the proper amount of a premium paid to any insurer is a question of reasonableness rather than a matter of cost accounting. Consequently, no change has been made in the October 5, 1977, proposal.

(3) *Cost Accounting for Self-Insurance.* When the business entity purchases insurance coverage from an underwriter, the cost to the business—for the covered risk—is the premium. Where the business entity does not purchase insurance, the best method of assignment of cost to current activities is a matter of possible disagreement.

A contractor who self-insures can recognize the cost of self-insurance for product pricing purposes in either of two ways: (1) by recognizing actual losses as they occur and allocating them to the products of some time period, usually the cost accounting period in which the loss occurred, or (2) by estimating the long-term average loss per time period and allocating it to the products of each time period.

The proposal which was published in the October 5, 1977, FEDERAL REGISTER included criteria for selecting between these two approaches to cost recognition. A charge which would represent the projected average loss was required except in those situations where the actual losses in a cost accounting period could be expected to serve as a good representative of the long-term average loss for that period. The recognition of actual losses, rather than the use of a predetermined charge, would be expected where many units are exposed to loss and the maximum loss related to any one unit would be relatively small. Examples are the losses falling within the deductible portion of the automobile collision coverage for a fleet of vehicles or the worker's compensation claims of a large work force. The proposal was based on the belief that there would be little point in calculating a special self-insurance charge in such circumstances.

Some respondents to the FEDERAL REGISTER proposal suggested that only actual losses be recognized unless the contractor had a "self-insurance plan"; some suggested that the use of a self-insurance charge be optional. Some persons suggested that the crucial distinction should be whether the contractor voluntarily refrains from purchasing insurance. Finally, some suggested that uninsured losses should be regarded as distribution of profit rather than costs.

After considering all of these comments, the Board proposes to retain the requirement for the use of a self-insurance charge, as contained in the FEDERAL REGISTER proposal. As between the recognition of actual losses or the use of a self-insurance charge which represents the projected average loss, the Board believes that either method should produce the same long-term total cost but the second method is conceptually preferable. A reasonable assignment of cost should be made to products of each period in which there is exposure to the risk. The cost of each loss should be allocated to all work accomplished in that facility and its successors over the life of the enterprise, not just to the work of the day, month, or year in which the loss happened to occur. This can be accomplished by charging each period with a self-insurance charge which is equal to the projected average loss. This averaging is, in effect, what an outside insurer does in developing a premium charge.

In addition to its being conceptually preferable, the use of such a self-insurance charge has other advantages. The usual way to allow for losses in a fixed-price contract is to include an average of actual past losses. This alternative is inferior to the use of a self-insurance charge because it omits the cost of possible but infrequent large losses which may not yet have occurred. Although the Government's contracting base is sufficiently large that either the recognition of actual losses or the use of a self-insurance charge should provide the same total costs measured over all contractors and all contracts, the recognition of actual losses could result in misallocating costs among contracts.

The proposed Standard also retains the provision of the FEDERAL REGISTER proposal which permitted the recognition of actual losses in those limited circumstances in which the actual losses in any cost accounting period may be expected not to differ significantly from the projected average loss for that period.

Some respondents also suggested that the Board prescribe criteria for determining the existence of a "self-insurance plan", e.g., deposits in a fund, a resolution of the Board of Directors, maintenance of specified financial statement ratios. These are factors for the Contracting Officer to consider in determining whether the Government's interests are adequately protected if the contractor self-insures, but they are not considerations in determining the costs of self-insurance.

(4) *Limitation on Self-Insurance Charge.* The proposal which was published in the FEDERAL REGISTER provided that the self-insurance charge plus insurance administration expenses could be equal to, but could not exceed, the cost of comparable purchased insurance plus the associated administration expenses. Several respondents saw this as a question of allowability which was not within the jurisdiction of the Board. These respondents misconstrued the Board's intent, i.e., to permit the cost of comparable purchased insurance to be used as a means of estimating the projected average loss. The alternative would be to require such contractors to incur the costs of employing actuaries to perform for them the same kinds of computations as the actuaries have already performed for the insurance company in setting the premium.

Some respondents asked that contractors be permitted to adjust the self-insurance charge retroactively for actual losses. The self-insurance charge must, of necessity, be based on an estimate. Because the experience of an individual contractor may depart from the average of the industry, most insurance provides for rating of premiums based on individual experience. Similarly, the proposed Standard provides that contractor's actual loss experience shall be reviewed regularly and that self-insurance charges for subsequent periods shall reflect such experience in the same manner as would premiums for purchased insurance.

(5) *Terminology.* A few respondents suggested that the Standard contain a definition of "insurance" or otherwise describe what kinds of insurance are covered by the Standard, and one respondent suggested that the Standard define "purchased insurance." The Board has used these words in their usual, commonly understood meaning and, therefore, does not see a need to further define them.

Some respondents suggested that the definition of "insurance administration expenses" was too broad; others said that it was too narrow. The Board recognizes that there are costs related to the operation of an insurance program which represent the costs of specific services rather than payment of losses. In order to facilitate comparability among contractors, the Board intends that where such insurance-related costs are material, they be properly recognized as "insurance costs" and accounted for accordingly. The definition is not intended to be either restrictive or exhaustive; rather, it offers examples of costs which, if material, should be recognized as insurance costs. However, the Board does not intend to create excessive administrative expense by requiring the identification and segregation of immaterial amounts of contractors' salaries, space costs, etc., where the significant insurance services are purchased from outside sources. The proposed Standard specifically permits alternative treatment for immaterial amounts of insurance administration expenses.

Several respondents suggested that the word "theoretical" be removed from the definition of "projected average loss" and replaced by "estimated". It is true that, because the long-term average loss is measured over the life of the enterprise, it cannot be known with certainty at any interim time; it can only be estimated by various means. The definition, therefore, has been changed. However, it should be noted that the definition refers to the estimated *average* loss per period, not to an estimate of the specific losses which may occur in any particular period.

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Several respondents suggested the use of the term "self-insurance provision" rather than "self-insurance charge" because the suggested wording conforms more closely to that of ASPR § 15-205.16 which refers to "provisions for a reserve under an approved self-insurance program". The ASPR provision has historically been construed as refering to a formal accounting entry. The "self-insurance charge" referred to in the proposed Standard is a memorandum charge which is used to represent the projected average loss. Therefore, the proposed Standard has retained the use of the term "self-insurance charge." Other respondents suggested that the word "accrued" be deleted from the definition of "self-insurance charge" on the grounds that "accrued" connotes a formal accounting entry, whereas the "self-insurance charge" will be reflected in memorandum records. This change has been made.

(6) *Applicability to Purchased Insurance.* Some respondents asked that the fundamental requirement be clarified to state whether premiums on purchased insurance were included or excluded. The intention was to include premiums. Rather than change the fundamental requirement, § 416.50(a)(1) has been modified to clarify the way in which the premium payment represents the projected average loss.

(7) *Premiums and Refunds.* The proposed Standard provides that a premium refund or dividend shall become an adjustment to the pro rata premium cost for the earliest cost accounting period in which the refund or dividend is actually or constructively received. However, the Standard also permits the contractor the option of using estimated net premiums instead. Some respondents suggested that the Standard provide (in § 416.50(a)(1)(i)) that refunds be credited when received except in instances where the results would not be "equitable". "Equity" is not an objective criterion. The Board believes that the recognition of refunds or assessments as adjustments to current costs, as incorporated in the present Standard, is preferable because it is objective and fundamentally unbiased.

One respondent suggested that the words "becomes receivable" be substituted for the words "is constructively received", on the grounds that "this should avert any confusion about the interpretation of the term 'constructively received.'" The principle of "constructive receipt" is in common usage and is unlikely to cause confusion. Therefore, the proposed Standard has not been changed in this regard.

One respondent pointed out that if a contractor were to change his accounting practice from the gross premium to the net premium method, then a double charge or credit would occur in the year of change, and the respondent suggested that this situation be recognized and condoned in the Standard because the effect would always be minor. Either method is acceptable under the proposed Standard. However, the Board does not agree that the effect of the change will always be minor; therfore, each change should be evaluated in accordance with existing procedures governing changes to cost accounting practices.

(8) *Direct Charging of Premiums.* Paragraph 416.50(a)(1)(ii) provides that where insurance is purchased specifically for, and directly allocated to, a single final cost objective, the premiums need not be prorated. Some respondents suggested that this provision be deleted because it appeared too contrary to the concept of prorating insurance over the policy period which was embodied in § 416.50(a)(1)(i). The cost of insurance such as property and casualty insurance is proportionate to the length of the policy period. Such insurance is normally charged to overhead and prorated over the policy period because the work mix, i.e., the mix of final cost objectives, may be expected to change during the policy period. Therefore, the relationship between the risks insured against and the final cost objectives which benefit from the insurance or cause the risk will change, and the resulting allocation should reflect such changes. In contrast, the cost of insurance such as a special liability policy is not normally proportionate to the length of the policy period, and when such insurance is purchased for a single contract and allocated directly to that contract, the charge is to work in process, not overhead. There is no change in the beneficial or casual relationship over the policy period, and the amount of insurance cost allocated to the final cost objective is the same whether the entire insurance cost is allocated directly or first prorated over the policy period.

(9) *Deposits and Reserves.* Insurance agreements frequently provide for substantial amounts to be held by the insurer for various contingencies. Such amounts may be negotiated in advance or may represent the unrefunded excess of premiums over losses; in either event they are not arrived at by actuarial computations of known risks. The contractor typically retains a significant amount of interest in, and control over such funds. FASB Statement No. 5 provides that amounts which do not represent transfers of risk from the insured to the insurer are deposits and should be accounted for as such. The proposed Standard requires that anything which would be a deposit under that Statement be treated as a deposit for contract costing purposes.

Some respondents suggested that the provisions in the proposed Standard regarding "reserves" be deleted. The problems which these sections of the Standard 416.50(a)(1)(iv) and (v) were intended to address have already been cited under the heading "Need for a Standard." The Board believes that the proposed provisions are necessary in order to correct these problems.

One respondent objected to the requirement that reserves be actuarially determined. The Board believes that allowances for future losses should be based on established mathematical forecasting principles.

One respondent objected to the requirement that costs which represent additions to a "retired lives" reserve be evidenced by payments to an insurer or trustee. Retired lives benefits are analogous to pension costs in that a contract cost is to be recognized in the present but payment of the benefit is to take place in the relatively distant future. In most such programs, the employer reserves the right to discontinue the program at any time, and benefits are limited to those which can be provided by amounts already funded. If an amount is to be recognized currently as a cost of a retired lives program, there should be some evidence that a contractor has, in fact, incurred a liability which he cannot subsequently avoid by a unilateral decision.

Some respondents suggested the deletion of the requirement that the contractor have no right of recapture of the fund as long as any active or retired participant in the program remains alive. Under some fully prefunded programs, a substantial portion of the fund is to provide for liability to active employees. Without the cited provision, it would be possible for the contractor, at any time, to terminate the program as to employees who had not yet retired, thereby creating a surplus in the fund and obtaining a windfall.

Some respondents pointed out that where a contractor changes from a pay-as-you-go retired lives program to a terminal-funded program, or initially establishes a terminal-funded program, a liability arises to those employees who have already retired. The respondents suggested that the Standard provide a transition mechanism to deal with the newly recognized liability. The proposed Standard now provided in § 416.50(a)(1)(v)(C), that for such transitions, the actuarial present value of benefits applicable to employees already retired shall be amortized over a period of fifteen years.

One respondent suggested that the Board clarify its intent that in order to be recognized as costs, all payments to insurers or trustees for all funded reserves must be irrevocable. This was not the intent. For example, a self-insured contractor might be required to fund the actuarial present value of a long-term worker's compensation claim.

If the claim was subsequently to be settled for less, the contractor should be entitled to reclaim the excess from the fund. Except for retired lives reserves, as discussed above, the title to the funds is a matter for agreement between the parties.

Several respondents have asked the Board to explain or clarify its intent in requiring that the cost of retired lives benefits be spread over the working lives of the active employees in the plan. The Board believes that the cost of a retired lives program is, like other fringe benefits, a cost attributable to the use of labor; therefore, it is properly allocable to the cost objectives which benefited from that labor. In order to accomplish this *cost accounting* objective the contractor, ideally, would determine by accepted actuarial methods an annual premium for each employee. These premiums, if funded and accumulated over the working lives of all employees, would accumulate to the present value of a paid-up life insurance policy for each employee at retirement. Many contractors presently offer retired lives benefits in other ways, e.g., direct payment of death benefits to beneficiaries or purchase of annual term life insurance policies for retirees (pay-as-you-go), funding of the present value of future term life insurance premiums at the time of retirement (terminal funding). Full prefunding of retired lives benefits over the working lives of the individual employees requires current investment of large sums, far in advance of payment of benefits. If full prefunding were to be required, many contractors might discontinue their retired lives program. Other methods of providing these benefits will, in the long run, produce the same total costs if followed consistently. Therefore, the proposed Standard accepts these other methods as fairly allocating the costs of the coverage over the working lives of the active employees and contains illustrations (§ 416.60 (c), (d), and (e)) to emphasize the point.

(10) *Materiality of Self-Insured Losses and Administrative Expenses.* Some respondents asked that the reference to "insurance administration expenses" be deleted from the fundamental requirement; other respondents asked that the words "material amounts" be added to "insurance administration expenses"; still others asked that the Standard define "minor losses" or set a dollar limit on such losses. The respondents' comments appeared to reflect a concern that they would be required to identify and segregate immaterial amounts of losses or expenses. The Board did not so intend. The proposed Standard has been modified by the addition of § 416.50(a)(4) and § 416.50(b)(3) to make it clear that the identification and allocation provisions of the Standard apply only to self-insured losses and insurance administration expenses which are material in relation to total insurance costs.

(11) *Amount of a Loss.* The proposal which was published in the FEDERAL REGISTER provided, in part, that "the amount of an incurred loss shall be measured by (a) the net book value of property destroyed * * *." A number of respondents disagreed with this provision. Some suggested that the proper measure of the loss was "fair value"; other respondents suggested "replacement cost, net of depreciation", which normally approximates "fair value"; still others suggested "replacement cost"; and one respondent suggested "replacement cost if replaced and net book value if not replaced". Three principal arguments were advanced for these other bases; first, that premiums for purchased insurance would be allowable in full even if they covered replacement cost or fair market value (and a contractor would never insure only for book value); second, that the measure of the loss should reflect the economic value of the asset; and, third, that the purpose of insurance is to replace the asset, so that any lesser basis is unjustified.

The proposed Standard now embodies the concept that the measure of the loss should be related to the market value of similar assets; the insurance term "actual cash value", which is commonly defined as "replacement cost less depreciation," appears to achieve this objective. Therefore, § 416.50(a)(3)(i) has been changed to provide that "the amount an incurred loss shall be measured by (a) the actual cash value of property destroyed * * *" and a definition of "actual cash value" has been added to the Standard.

Contract audit agencies have reported occasional problems with contractors who charge the maximum potential loss for contract costing purposes and report a more conservative amount for published financial statements; therefore, the proposed Standard provides that where the amount of the loss is uncertain, the estimate of the loss shall be the amount includable in published financial statements. Some respondents suggested that this requirement be deleted. These respondents have offered no reasons, other than "materiality", for these amounts to differ and "materiality" is always implicit in the Board's pronouncements. FASB Interpretation No. 14 provides detailed guidance for the recognition of losses in published financial statements when the amounts thereof are uncertain. The Board believes this guidance is adequate.

Some respondents interpreted the proposed Standard as forbidding actuarially-determined loss reserves under self-insured welfare benefit plans. This interpretation is erroneous. The Standard does not restrict such cost recognition to a "claims paid" basis. To the extent that accruals for "incurred but not reported" or "claims in process" are acceptable methods of recognizing incurred losses under FASB Statement No. 5 and Interpretation No. 14, they are not precluded by the Standard. The contractor may elect to recognize such losses on a "claims paid" basis or on an accrual basis in accordance with his established practice.

(12) *Present Value of Future Losses.* Some respondents objected to the requirement for discounting amounts of losses to be paid in the future. The time value of money is a recognized economic and cost accounting principle which the Board has incorporated in other Standards.

Other respondents said that the Standard should prescribe the same discount rate as that used in ASPR, i.e., six percent. The Board believes that the additional computational effort received in using a rate for contracting costing different from that required by the various States is not warranted. Where no rate is prescribed by a State, the use of the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat. 97, as required by the Standard, is consistent with the Board's requirement in CAS 415 to use that rate in discounting deferred compensation awards.

(13) *Insurance Administration Expenses.* The October 5 proposal required that insurance administration expenses which are material in amount be combined with the projected average loss to determine the total insurance cost. A number of respondents expressed doubts as to the need for the provision. Because the Contracting Officer can request whatever cost information he believes will facilitate his evaluation of the contractor's self-insurance program, an explicit provision for this comparison is unnecessary and has been deleted.

(14) *Allocation of Insurance Costs from a Home Office to Segments.* The October 5 proposal contained criteria for the allocation of insurance costs from a home office to segments. The proposal provided in essence that costs incurred or refunds and dividends received by a home office on behalf of a segment were to be allocated directly to the segment. Where costs or refunds and dividends were identified with more than one segment, the proposal required an allocation on the basis of the beneficial or causal relationship existing between the insurance coverage and the segments. It

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further provided that the allocation is to give reasonable weight to both the exposure to risk and the loss experience by segment.

Various respondents questioned the need for this Standard to deal with the allocation of insurance costs from a home office to segments on the grounds that the provisions of CAS-403 are adequate for this purpose. CAS-403 requires that home office expenses shall be allocated on the basis of the beneficial or causal relationship between supporting and receiving activities. Specifically, with respect to central payments or accruals made by a home office on behalf of its segments, CAS-403 requires that these shall be allocated directly to segments to the extent that they can be identified. CAS-403 provides further that payments or accruals which cannot be identified with individual segments are to be allocated by means of an allocation base representative of the factors on which the total payment is based. Under the circumstances, the Board agrees that CAS-403 contains, in substance, the same allocation criteria as were included in the October 5, 1977, proposal for CAS-416. Accordingly, this provision has been deleted from the Standard being proposed today.

(15) *§ 416.50(b)(1)(ii) Home Office Reinsurance.* The proposed Standard permits a home office to share in catastrophic losses of a segment. Two respondents suggested that the home office absorb all losses in excess of each segment's self-insurance charge. The purpose of the home office loss-sharing is to cushion the impact of catastrophic losses on segment costs and avoid extreme cost fluctuations. The self-insurance charge is based on the projected *average* loss. If the home office were to absorb all losses in excess of the projected average loss in each segment, then the cost accounting effect of differences in segment experience would be recognized only over long time periods and differences in experience attributable to current work would tend to disappear. Accordingly, the proposed Standard was not changed in this regard.

(16) *Records.* Various respondents have questioned the need for a specific Standard provision stating the acceptability of memorandum records in view of the Board's previous pronouncements on the subject. A contractor who elects to make a self-insurance charge should be expected to provide sufficient documentation to support the amount of the charge. In addition, the proposed Standard requires that the contractor's own loss experience be evaluated regularly. Finally, the Standard requires the identification of losses to the segment in which they occur. While the cost of losses is already reflected in the contractor's formal accounting records, the data on loss frequency, amount, and location which may be necessary to comply with the proposed Standard may not be a normal part of such accounting records. The "records" provision of the proposed Standard recognizes both the need for such records and the probable memorandum nature of the records.

Some respondents suggested that the Standard require that a "self-insurance plan" be reflected in some formal commitment by the company. It should clearly establish the basis for estimating losses and the obligation undertaken to absorb the losses. The obligation could be represented by periodic deposits in a fund, maintenance of a specified liquidity or working capital ratio, or some other act which gives recognition to the existence and extent of the program. The Board agrees with the respondents that the plan should "clearly establish the basis for estimating losses and the obligation undertaken to absorb the losses." However, the other proposed criteria deal with the contractor's ability to withstand a loss should one occur; they deal with whether the contractor *should* self-insure and whether the government's interests are sufficiently protected when he does self-insure. They do not deal with cost accounting matters and, therefore, are not proper for inclusion in a Standard.

(17) *Illustrations.* The October 5 publication included an illustration (§ 416.60(f)) dealing with a fire loss under circumstances where there were a number of physical units at dispersed locations. The illustration was designed to show the applicability of the provision of § 416.50(a)(2)(ii) which deals with circumstances "where it is probable that the actual amount of losses which will occur in a cost accounting period will not differ significantly from the projected average loss for that period . . ." Some respondents criticized the inclusion in the illustration of the phrase "and the contracting officer approves this plan in accordance with existing procurement regulations," on the basis that such approval should not be an essential determinant of cost accounting treatment. The reference to contracting officer approval, in this and in other illustrations, was merely for purposes of describing a realistic set of events as they might occur in the course of contract administration. The presence or absence of such approval is not essential to the determination of the measurement or allocability of cost under the proposed Standard. References to such approvals have been deleted.

An illustration (§ 416.60(g)) in the October 5 publication included the statement that "the contractor has sufficient financial resources" to act as a self-insurer. Some respondents criticized this illustration on the basis that it seemed to impose a requirement for financial capability. No such requirement was intended; the illustration has been modified to delete this reference.

Some respondents objected to the dollar amounts used in the illustration of catastrophic losses (§ 416.60(1)) and suggested that the amounts be changed or the illustration deleted. The Board did not intend to establish dollar criteria to determine what would constitute a "catastrophic" loss. The example has been changed to avoid this implication.

(18) *Costs and Benefits.* A number of respondents suggested that the implementation costs of the Standard would be excessive or would exceed the benefits. Of these, some based their concern on the allocation provisions, some cited the self-insurance provisions, and some merely cited increased administrative costs.

The allocation provision with which the respondents were concerned has been deleted. In addition, the proposed Standard has been modified to specifically provide that immaterial amounts of losses or insurance administration expenses need not be identified or segregated.

Some respondents were concerned about the recordkeeping which they envisioned would be necessary to support a self-insurance provision, and they envisioned the Standard thereby driving contractors away from self-insurance toward purchased insurance at a higher ultimate cost to the government. The Standard provides for several methods of recognizing the costs of self-insurance.

First, the contractor may recognize actual losses in those situations in which the distribution of actual losses may be expected to not differ significantly from the projected average loss. This will normally be expected where there are many units exposed to loss and the potential loss per unit is low in relation to the total exposure, as, for example, with worker's compensation, group insurance, and the deductible portion of property and casualty insurance. In most such cases, contractors already charge actual losses, so no change will be necessary. Second, the contractor may use the premium cost of purchased insurance for comparable coverage as the basis for the self-insurance charge. This method would be appropriate when, for example, the contracator proposed to substantially increase a deductible provision for property and casualty insurance; he might propose to make a self-insurance charge equal to the premium reduction for the decreased coverage. Only in the event that neither of these two methods is appropriate would the contractor have to resort to the third method, that of actuarial review of his own or industry experience to develop a self-insurance charge, and this should occur infrequently. Therefore, in most instances the task of developing and supporting a self-insurance provision should not be difficult and the proposed Standard should not drive contractors either toward or away from self-insurance.

In summary, the majority of contractors will already be in compliance with the proposed Standard and the costs of compliance for the remainder should not be significant. Therefore, the Standard should have no significant inflationary impact.

Accordingly, it is proposed to publish 4 CFR Part 416 as follows:

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PART 416—ACCOUNTING FOR INSURANCE COSTS

Sec.

416.10 General applicability.
416.20 Purpose.
416.30 Definitions.
416.40 Fundamental requirement.
416.50 Techniques for application.
416.60 Illustrations.
416.70 Exemptions.
416.80 Effective date.

AUTHORITY: 84 Stat. 796 Sec. 103; 50 U.S.C. App. 2168.

§ 416.10 General applicability.

General applicability of this Cost Accounting Standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the Cost Accounting Standards contract clause in negotiated defense prime contracts and subcontracts (4 CFR 331.30).

§ 416.30 Definitions.

The following are definitions of terms which are prominent in this Standard.

Actual cash value. The cost of replacing damaged property with other of like kind and quality in the same physical condition; commonly defined as replacement cost less depreciation.

Insurance administration expenses. The contractor's costs of administering an insurance program, e.g., the costs of operating an insurance or risk-management department, processing claims, actuarial fees, and service fees paid to insurance companies, trustees, or technical consultants.

Projected average loss. The estimated long-term average loss per period for periods of comparable exposure to risk of loss.

Self-insurance. The assumption or retention of the risk of loss by the contractor, whether voluntarily or involuntarily. Self-insurance includes the deductible portion of purchased insurance.

Self-insurance charge. A cost which represents the projected average loss under a self-insurance plan.

§ 416.40 Fundamental requirement.

(a) The amount of insurance cost to be assigned to a cost accounting period is the projected average loss for that period plus insurance administration expenses in that period.

(b) The allocation of insurance costs to cost objectives shall be based on the beneficial or causal relationship between the insurance costs and the benefiting or causing cost objectives.

§ 416.50 Techniques for application.

(a) Measurement of projected average loss.

(1) For exposure to risk of loss which is covered by the purchase of insurance or by payments to a trusteed fund, the premium or payment, adjusted in accordance with the following criteria, shall represent the projected average loss:

(i) The premium cost applicable to a given policy term shall be assigned pro rata among the cost accounting periods covered by the policy term, except as provided in paragraghs (a)(1) (ii) through (vi) of this section. A refund, dividend or additional assessment shall become an adjustment to the pro rata premium costs for the earliest cost accounting period in which the refund or dividend is actually or constructively received or in which the additional assessment is payable.

(ii) Where insurance is purchased specifically for, and directly allocated to, a single final cost objective, the premium need not be prorated among cost accounting periods.

(iii) Any part of a premium or payment to an insurer or trustee, or any part of a dividend or premium refund retained by an insurer or trustee which would be includable as a deposit in published financial statements shall be accounted for as a deposit for the purpose of determining insurance costs.

(iv) Any part of a premium or payment to an insurer or to a trustee, or any part of a dividend or premium refund retained by an insurer, for inclusion in a reserve or fund established and maintained on behalf of the insured or the policyholder or trustor shall be accounted for as a deposit unless the following conditions are met:

(A) The objectives of the reserve or fund are clearly stated in writing;

(B) Measurement of the amount required for the reserve or fund is actuarially determined and is consistent with the objectives of the reserve or fund;

(C) Payments and additions to the reserve or fund are made in a systematic and consistent manner; and,

(D) If payments to accomplish the stated objectives of the reserve or fund are made from a source other than the reserve or fund, the payments into the reserve or fund shall be reduced accordingly.

(v) If an objective of an insurance program is to prefund insurance coverage on retired lives, then, in addition to the requirements imposed by subparagraph (iv) of this paragraph:

(A) Payments must be made to an insurer or trustee to establish and maintain a fund or reserve for that purpose;

(B) The policyholder or trustor must have no right of recapture of the reserve or fund so long as any active or retired participant in the program remains alive; and

(C) The amount added to the reserve or fund in any cost accounting period must not be greater than an amount which would be required to fairly apportion the cost of the insurance coverage provided over the working lives of the active employees in the plan. If a contractor establishes a terminal-funded plan for retired lives or converts from a pay-as-you-go plan to a terminal-funded plan, the actuarial present value of benefits applicable to employees already retired shall be amortized over a period of 15 years.

(vi) The contractor may adopt and consistently follow a practice of determining insurance costs based on the estimated premium and assessments net of estimated refunds and dividends. If this practice is adopted, then any difference between an estimated and actual refund, dividend, or assessment shall become an adjustment to the pro rata net premium costs for the earliest cost accounting period in which the refund or dividend is actually or constructively received or in which the additional assessment is payable.

(2) For exposure to risk of loss which is not covered by the purchase of insurance or by payments to a trusteed fund, the contractor shall follow a program of self-insurance accounting according to the following criteria:

(i) Except as provided in paragraph (a)(2) (ii) and (iii) of this section, actual losses shall not become a part of insurance costs. Instead, the contractor shall make a self-insurance charge for each period for each type of self-insured risk which shall represent the projected average loss for that period. If insurance could be purchased against the self-insured risk, the self-insurance charge plus insurance administration expenses may be equal to, but shall not exceed, the cost of comparable purchased insurance plus the associated insurance administration expenses. However, the contractor's actual loss experience shall be evaluated regularly, and self-insurance charges for subsequent periods shall reflect such experience in the same manner as would purchased insurance. If insurance could not be purchased against the self-insured risk, the amount of the self-insurance charge for each period shall be based

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on the contractor's experience, relevant industry experience, and anticipated conditions in accordance with accepted actuarial principles.

(ii) Where it is probable that the actual amount of losses which will occur in a cost accounting period will not differ significantly from the projected average loss for that period, the actual amount of losses in that period may be considered to represent the projected average loss for that period in lieu of a self-insurance charge.

(iii) Under self-insurance programs on retired lives, only actual losses shall be considered to represent the projected average loss unless a reserve or fund is established in accordance with § 416.50(a)(1)(v).

(iv) The self-insurance charge shall be determined in a manner which will give appropriate recognition to any indemnification agreement which exists between the contracting parties.

(3) In measuring the projected average loss under paragraph (a)(2) of this section:

(i) The amount of an incurred loss shall be measured by (A) the actual cash value of property destroyed, (B) amounts paid or accrued to repair damage, (C) amounts paid to estates and beneficiaries, and (D) amounts paid or accrued to compensate claimants, including subrogation. Where the amount of a loss which is represented by a liability to a third party is uncertain, the estimate of the loss shall be the amount which would be includable in published financial statements.

(ii) If a loss has been incurred and the amount of the liability to a claimant is fixed or reasonably certain, but actual payment of the liability will not take place for more than one year after the loss is incurred, the amount of the loss to be recognized currently shall not exceed the present value of the future payments, determined by using a discount rate equal to that prescribed for settling such claims by the State having jurisdiction over the claim. If no such rate is prescribed by the State, then the rate shall be equal to the interest rate as determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat. 97, in effect at the time the loss is recognized. Altenatively, where settlement will consist of a series of payments over an indefinite time period, as in worker's compensation, the contractor may follow a consistent policy of recognizing only the actual amounts paid in the period of payment.

(4) The contractor may elect to recognize immaterial amounts of self-insured losses or insurance administration expenses as part of other expense categories rather than as "insurance costs."

(b) Allocation of insurance costs:

(1) Where actual losses are recognized as an estimate of the projected average loss, in accordance with § 416.50(a)(2), or where actual loss experience is determined for the purpose of developing self-insurance charges by segment, a loss which is incurred in a given segment shall be identified with that segment. However, if the contractor's home office is, in effect, a reinsurer of its segments against catastrophic losses, a portion of such catastrophic losses shall be allocated to, or identified with, the home office.

(2) Insurance costs incurred by a segment or allocated to a segment from a home ofice may be combined with costs of other indirect cost pools if the resultant allocation to each final cost objective is substantially the same as it would be if the insurance costs were allocated on the basis of the factors used to determine the premium, assessment, refund, dividend, or self-insurance charge.

(3) Insurance administration expenses which are material in relation to total insurance costs shall be allocated on the same bases as the related premium costs or self-insurance charge.

§ 416.60 Illustrations.

(a) Contractor A paid a company-wide property and casualty insurance premium for the policy term July 1, 1976, to July 1, 1979, and charged the entire amount to expense in its cost accounting period which ended December 31, 1976. This is a violation of § 416.50(a)(1)(i) in that only one-sixth of the policy term fell within the cost accounting period which ended December 31, 1976, and therefore only one-sixth of the premium should have been charged to expense in that cost accounting period.

(b)(1) Contractor B has a retrospectively-rated worker's compensation insurance program. The policy term corresponds with the contractor's cost accounting period. Premium refunds are normally received and applied in the following cost accounting period. The contractor's practice is to charge the entire gross premium to insurance expense in the cost accounting period in which it is paid and to credit the refund against insurance expense in the cost accounting period in which it is received. This practice conforms with § 416.50(a)(1)(i).

(2) Under the provisions of § 416.50(a)(1)(vi), the contractor could have followed a practice of estimating such refunds in advance and charging the estimated net premium to insurance expense. If the contractor were to follow this practice, he would recognize the difference between the estimated and the actual refund as an adjustment to insurance costs in the period of receipt.

(c) Contractor C establishes a self-insured program of life insurance for active and retired employees. The contractor pays death benefits directly to the beneficiaries of deceased employees and charges such payments to insurance costs at the time of payment. This practice complies with § 416.50(a)(2)(iii) which requires that only the actual losses be recognized unless a trusteed reserve or fund is established in accordance with § 416.50(a)(1)(v).

(d) Instead of paying death benefits directly, Contractor D purchases annual group term life insurance on active and retired employees and charges the premiums to insurance costs (with proper recognition for refunds and dividends). Contractor D's retired employees wish to be protected against possible discontinuance of the program. Contractor D, therefore, establishes a trusteed fund. As each employee retires, Contractor D deposits in the fund an amount which is equal to the premium on a paid-up policy for that employee, and he advises the trustee that the fund is to be used to continue to pay premiums on retired lives in the event the program is discontinued. The contractor also continues to purchase group term insurance on both active and retired employees and charges both the premiums and the deposits to insurance costs. This practice does not comply with § 416.50(a)(1)(iv)(D) which requires that if payments to accomplish the stated objectives of the reserve or funds are made from a source other than the reserve or fund, the payments into the fund shall be reduced accordingly.

NOTE.—In this instance the contractor could comply with the Standard by paying from the fund that portion of the group term premium which represented the retired lives or by reducing the deposits to the fund by an equivalent amount in accordance with § 416.50(a)(1)(iv)(D). This method would also comply with the requirement of § 416.50(a)(1)(v)(C) that the amount added to the fund not be greater than an amount which would be required to fairly allocate the cost over the working lives of the active employees in the plan.

(e) Contractor E wishes to provide assurance of his life insurance program continuance to both active and retired employees. He establishes a trusteed fund in accordance with § 416.50(a)(1) (iv) and (v) and thereafter pays into the fund each year for each active employee an actuarially-determined amount which will accumulate to the equivalent of the premium on a paid-up life insurance policy at retirement. He charges the annual payments to insurance costs. Benefits are paid directly from the fund (or the fund is used to pay the annual premiums on group term life insurance for all employees). This practice also complies with the requirement of § 416.50(a)(1)(v)(C) that the amount added to the fund not be greater than an amount which would be required to fairly allocate the cost over the working lives of the active employees in the plan.

(f) Contractor F has a fire insurance policy which provides that the first $50,000 of any fire loss will be borne by the contractor. Because the risk of loss is dispersed among many physical units of property and the average potential loss per unit is relatively low, the actual losses in any period may be expected not to differ significantly from the projected average loss. Therefore, the contractor intends to let the actual losses represent the projected average loss for this exposure to risk. Property with an actual cash value of $80,000 is destroyed in a fire. The contractor charges $50,000 of the loss to insurance costs for contract costing purposes. The practice complies with the requirement of § 416.50(a)(2). However, had the contractor's plan been to make a self-insurance charge for such losses, then any difference between the self-insurance charge and actual losses in that cost accounting period would not have been allocable as an insurance cost.

(g) Contractor G is preparing to enter into a Government contract to produce explosive devices. the contractor is unable to purchase adequate insurance protection and must act as a self-insurer. There is a significant possibility of a major loss, against which the Government will not undertake to indemnify the contractor. The contractor, therefore, intends to make a self-insurance charge for this exposure to risk. The contractor may use data obtained from other contractors or any other reasonable method of estimating the projected average loss in order to determine the self-insurance charge.

(h) Contractor H purchases liability insurance for all of its motor vehicles in a single, company-wide policy which contains a $50,000 deductible provision. However, the company's management policy provides that when a loss is incurred in a segment, only the first $5,000 of the loss will be charged to the segment; the balance of the loss will be absorbed at the home-office level and reallocated among all segments. Because the risk of loss is dispersed among many physical units and the maximum potential loss per occurrence is limited, the actual losses in any cost accounting period may be expected not to differ significantly from the project average loss. Therefore, the contractor intends to let the actual losses represent the projected average loss for this exposure to risk. An analysis of the loss experience shows that many past losses exceeded $5,000. Contractor H's practice of allocating the loss in excess of $5,000 to the home office is a violation of § 416.50(b)(1)(ii). The limit of $5,000 cannot realistically be considered a measure of a "catastrophic" loss when losses frequently exceed this amount, and the use of a limit this low would obscure segment loss experience.

§ 416.70 Exemptions.

None for this Standard.

§ 416.80 Effective date.

(a) The effective date of this Standard is [————].

(b) This Standard shall be followed by each contractor on or after the start of his next cost accounting period beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc. 78-13169 Filed 5-12-78; 8:45 am]

[3410-01]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 6]

IMPORT QUOTAS AND FEES

Licensing Entry of Sugar Exempt From Fees

AGENCY: Foreign Agricultural Service.

ACTION: Proposed rule.

SUMMARY: The proposed rule would establish procedures and conditions for the issuance of licenses which will permit the importation of sugar exempt from the fees imposed by Presidential Proclamation 4547 of January 20, 1978, on sugar, sirups, and molasses. Sugar imported under such a license must be used solely for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption.

DATES: Comments must be received on or before: June 14, 1978. (It has been determined that it is impractical and contrary to the public interest to delay the implementation of this rule by providing a longer period for public comments. Given the size of the industry that shall be affected by this rule, it is felt that 30 days is a reasonable period of time to provide an adequate opportunity for public participation.)

ADDRESS: Mail comments to Director, Sugar and Tropical Products Division, Foreign Agricultural Service, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert M. McConnell, 202-447-3423.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 4547 of January 20, 1978, imposed fees on sugars, sirups, and molasses as provided for in items 956.05, 956.15, 957.15 of the Tariff Schedules of the United States (TSUS). Proclamation 4547 amended Headnote 4 of Part 3 of the Appendix to the TSUS to read as follows:

Licenses may be issued by the Secretary of Agriculture or his designee authorizing the entry of articles exempt from the fees provided for in items 956.05, 956.15, and 957.15 of this part on the condition that such articles will be used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. Such licenses shall be issued under regulations of the Secretary of Agriculture which he determines are necessary to insure the use of such articles only for such purposes.

Polyhydric alcohols are organic solvents containing two or more hydroxyl groups. Such alcohols are used in the production of other chemicals.

Under the proposed rule, a license may only be issued to a manufacturer of polyhydric alcohols. The license shall be effective for no more than one year, and is not assignable. However, the manufacturer may employ an agent to import sugar under the license on behalf of the manufacturer.

In order to guarantee that sugar imported under the license is used for the production of polyhydric alcohols, it is required that a bond be posted for each license that is issued. The monetary obligation under the bond automatically increases with the entry of sugar under the license, and is decreased as quantities of sugar are utilized for the production of polyhydric alcohols.

Sugar imported under a license must be used for the production of polyhydric alcohols within six months after the expiration of the license under which it was imported. Certificates of use are to be filed on a monthly basis, but in no case later than seven months after the expiration of the import license. These time limitations may be extended at the discretion of the Secretary.

It is anticipated that licenses will ordinarily be issued on a yearly basis, and that succeeding licenses shall be issued effective the day following the expiration of the previous license. A new license, however, may be issued at any time. In that case, the prior license shall be deemed to have expired upon the effective date of the succeeding license. Thus, no more than one effective license may be outstanding to a given manufacturer at any one time.

The public is invited to submit to the above address written comments, suggestions or objections regarding the proposed regulations. Each person submitting comments, suggestions, or objections regarding the proposed rule shall include his name and address and should give reasons for suggested changes. Copies of all written communications received will be available for examination by interested persons in

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Room 6095 South Building, USDA, during regular business hours.

In accordance with the above, it is proposed to amend 7 CFR Part 6 by adding the following subpart:

Subpart-Section 22 Import Fees

6.50 Definitions.
6.51 Issuance of an Import License.
6.52 Transferability of an Import License.
6.53 Entry of Sugar.
6.54 Entry of Sugar by an Agent.
6.55 Application for an Import License.
6.56 Bond Requirements.
6.57 Default.
6.58 Certificate of Use.
6.59 Revocation.

AUTHORITY: Sec. 22, 49 Stat. 773, as amended, 62 Stat. 1247, 64 Stat. 261 (7 U.S.C. 624); Presidential Proclamation 4547, January 20, 1978 (43 FR 3251).

EXEMPTION FROM FEES—SUGAR

§ 6.50 Definitions.

As used in this part: (a) The term "person" means an individual, partnership, corporation, association, estate, trust, or other business enterprise or legal entity, and, wherever applicable, any unit, instrumentality, or agency of a government, domestic or foreign.

(b) The term "Department" means the U.S. Department of Agriculture.

(c) The term "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has delegated the authority or to whom authority may herafter be delegated to act in his place.

(d) The term "Collector" means the District Director of Customs, or any other Customs officer of similar authority and responsibility, for the Customs District in which the port of entry is located.

(e) The term "import License" means a license issued by the Secretary permitting the entry of sugar exempt from the fees provided for in items 956.05, 956.15, and 957.15 of the Tariff Schedules of the United States, on condition that such sugar will be used solely for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption.

(f) The term "manufacturer" means a person that is engaged in the production (other than by distillation) of polyhydric alcohols from sugar.

(g) The term "agent" means a person that is engaged in the business of importing and/or refining sugar for eventual delivery to a manufacturer which has employed the agent for that purpose.

(h) The term "sugar" means sugars, sirups, and molasses as defined in items 956.05, 956.15, 957.15 of the Tariff Schedules of the United States.

§ 6.51 Issuance of an Import License.

(a) An import license may be issued to a manufacturer which complies with the provisions of this part. The license shall state the time period during which the license shall be effective and the maximum amount of sugar which may be imported under the license. In no case shall the effective period of a license exceed one year, nor shall the maximum amount of sugar which may be imported under the license exceed the anticipated requirements of the manufacturer for the twelve month period following the effective date of the license. The license may contain such other conditions as the Secretary, in his discretion, seem necessary.

(b) No more than one effective license may be outstanding at any one time to any one manufacturer. In order to ensure a dependable and orderly supply of sugar, a manufacturer may apply for a license prior to the expiration of a prior license. The prior license shall be deemed to have expired on its stated expiration date, or on the effective date of the succeeding license, whichever is earlier.

§ 6.52 Transferability of an Import License

An import license may not be transferred or assigned by the manufacturer to any other person. Any attempt to transfer or assign an import license shall be null and void, and shall constitute grounds for the revocation of the license by the Secretary.

§ 6.53 Entry of Sugar.

(a) A manufacturer or its agent may enter sugar into the United States exempt from the fees contained in items 956.05, 956.15, 957.15 of the Tariff Schedules of the United States under an import license issued pursuant to this Part. The Collector shall allow the entry of the sugar only in conformity with the conditions of the import license, if any.

(b) The Collector shall enter on the license (1) the amount of sugar entered; (2) the time of entry; and (3) the name of the person entering the sugar.

(c) A copy of the license, as marked by the Collector, shall be transmitted to the Sugar and Tropical Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250, by the person entering the sugar, within 10 business days after each entry of sugar.

§ 6.54 Entry of Sugar by an Agent.

(a) In those cases where sugar is to be entered by an agent of the manufacturer, the agent shall produce for inspection by the Collector a written authorization by the manufacturer designating such person to act as the agent of the manufacturer for the purpose of entering sugar.

(b) A copy of such authorization shall be attached to the relevant copy of the import license that is transmitted to the Sugar and Tropical Products Division pursuant to § 6.53(c).

§ 6.55 Application for an Import License.

(a) Only manufacturers are eligible to receive an import license.

(b) Each application for an import license shall contain the following information:

(1) Name and address of the manufacturer.

(2) A statement of the anticipated requirements of the manufacturer for sugar to be used in the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, during the effective period of the license.

(3) The anticipated amount of sugar to be imported during the specified effective period.

(4) The effective period of the import license (but not to exceed one year).

(c) Each application for an import license shall contain a certification that the manufacturer shall use the quantity of sugar entered under an import license solely for the production (other then by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption.

(d) Each application for an import license shall be accompanied by a bond meeting the requirements of § 6.56.

§ 6.56 Bond Requirements.

(a) An import license may not be issued until the Secretary has accepted a bond meeting the requirements of this section.

(b) The principal on the bond shall be the manufacturer to whom the import license is issued.

(c) The surety or sureties shall be from among those listed by the Secretary of the Treasury as acceptable on Federal bonds.

(d) Obligation. (1) The obligation under the bond shall be made effective by the Secretary's issuance of the import license.

(2) The monetary amount of the obligation under the bond shall be the sum of the amount applicable to each quantity of sugar entered under the import license, less the amount applicable to quantities of sugar accounted for by certificates of use submitted in accordance with § 6.58. The monetary amount applicable to each quantity of sugar entered under an import license shall be two times the applicable fee as set forth in items 956.05, 956.15, and 957.15 of the Tariff Schedule of the United States.

(e) The bond shall be subject to the following conditions;

(1) The sugar entered under an import license shall be used for the production of polyhydric alcohols as stated in § 6.50(e) within six months of the expiration of the import license. Such use shall be established by a certificate of use, as provided for in § 6.50.

(2) The bond shall become effective upon the issuance of an import license by the Secretary and notice need not be given the surety of this action. The obligations of the bond shall remain in full force and effect until the Secretary notifies the principal and surety of release from the obligation.

(f) The Secretary may release all or any part of the monetary amount of the obligation under the bond to the extent that quantities of sugar entered under an import license are accounted for by certificates of use. The Secretary may, in his discretion, extend the period of time specified in § 6.56(e)(1) for the use of the sugar. The Secretary may also release all or part of the monetary amount of the obligation if the Secretary determines that the destruction or other disposition of a quantity of sugar entered under an import license renders performance under the bond impossible or inequitable.

§ 6.57 Default.

Upon a failure to comply with the provisions of this subpart, and the expiration of the time limit contained in § 6.56(e)(1), payment shall be made to the United States of the monetary amount of the obligation under the bond which is, at the time of expiration, still outstanding.

§ 6.58 Certificate of Use.

(a) The certificate of use shall be a certification by the manufacturer that a quantity of sugar entered under an import license has been used for the purpose stated in § 6.1(e). Certificates of use shall be transmitted to the Sugar and Tropical Products Division by the manufacturer on a monthly basis. In no case shall a certificate of use be accepted more than 30 days after the expiration of the time limit contained in § 6.56(e)(1), unless the Secretary, in his discretion, extends the time period in which a certificate may be filed.

(b) The certificate of use shall be signed by the manufacturer and shall contain the following certification:

The undersigned hereby certifies that between ————, 19—, and ————, 19—, the undersigned has used —— pounds of sugar for the sole purpose of producing (other than by distillation) polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. The undersigned further certifies that the quantity of sugar shown on this certificate of use does not include any sugar previously covered by another certificate of use.

§ 6.59 Revocation.

If, at any time, the Secretary determines that the manufacturer has failed to comply with the requirements of this subpart, the Secretary may, in his discretion, revoke an import license issued pursuant to this subpart.

MAY 9, 1978.

CAROL TUCKER FOREMAN,
Acting Secretary.

[FR Doc. 78-13103 Filed 5-12-78; 8:45 am]

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Agricultural Marketing Service

[7 CFR Part 929]

[Docket No. AO-341-A4]

CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Decision on Proposed Further Amendment of the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the Federal marketing agreement and order for cranberries grown in certain States. Cranberry producers and processors will be given the opportunity to vote in a referendum to determine if they favor the proposed changes in the marketing order.

The principal change would provide for updating the allotment bases of existing producers and entry of new producers by allocation of base quantity from a reserve. Other changes would provide for a public member and alternate member on the committee, and allow funds representing unclaimed shares of deposits to secure release of withheld cranberries to accrue to the committee's account.

DATE: The representative period for purposes of the referendum herein ordered is September 1, 1977, through April 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued October 7, 1977; published October 13, 1977 (42 FR 55094); and Notice of Recommended Decision—Issued March 17, 1978; published March 23, 1978 (43 FR 12020).

PRELIMINARY STATEMENT

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at New Bedford, Mass., on November 1; Cherry Hill, N.J., on November 3; Wisconsin Rapids, Wis., on November 8; Bandon, Oreg., on November 11; and Long Beach, Wash., on November 14, 1977, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on March 17, 1978, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing the notice of the opportunity to file written exceptions thereto.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on March 17, 1978, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing the notice of the opportunity to file written exceptions thereto.

One exception was filed by Mr. William B. Stearns, Jr., Plymouth, Mass. He expressed the view that the proposed base quantity reserve equal to 2 percent of total base quantities may be insufficient and recommended that in allocating such base quantity priority consideration be given to growers who have registered production gains from cranberry acreage established during the representative period (1968-1973). The recommended decision provides for a base quantity reserve equal to 2 percent of total base quantities, and such reserve will be established annually. Furthermore, provision is made for increasing or decreasing the reserve percentage to permit adjustment to changing market conditions. The method of allocation of base quantity would be set forth in a uniform rule and such rule should recognize sales of cranberries. However, the order makes no distinction between sales of cranberries produced on acreage established during the representative period and sales of cranberries from later planted acreage. The decision correctly concluded that it would be appropriate to include all sales of record, including sales from acreage planted subsequent to the end of the representative period, in any formula recommended by the committee for distributing reserve base quantity to existing producers. Therefore, the exception is denied.

The material issues, findings and conclusions, rulings and general findings of the recommended decision published Thursday, March 23, 1978, in the FEDERAL REGISTER (43 FR 12020) are hereby incorporated by reference herein and made a part hereof, subject

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to correction of inadvertent, grammatical or obvious errors.

Ruling on exception. In arriving at the findings and conclusions and the regulatory provisions of this decision, the exception to the recommended decision was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with the exception, such exception is hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Further Amended, Regulating the Handling of Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York," and "Order amending the order, as amended, regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby directed that a referendum be conducted:

(1) Among the producers who, during the period September 1, 1977, through April 30, 1978 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, in the production of cranberries for market; and

(2) Among processors who, during the aforesaid representative period, canned or froze within the production area cranberries for market, to ascertain whether such producers and processors favor the issuance of said annexed order amending the order, as amended, regulating the handling of cranberries grown in the aforesaid production area.

William J. Doyle and Ronald L. Cioffi, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, are hereby designated agents of the Secretary of Agriculture to conduct said referendum severally or jointly.

The procedure applicable to this referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 et seq.).

Signed at Washington, D.C., on May 10, 1978.

JERRY C. HILL,
Deputy Assistant Secretary.

Order[1] amending the order, as amended, regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington and Long Island in the State of New York.

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of cranberries grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of cranberries grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of cranberries grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of cranberries grown in the production area shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follow:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator on March 17, 1978, and published in the FEDERAL REGISTER on March 23, 1978 (43 FR 12020) shall be and are the terms and provisions of this order amending the order and are set forth in full herein.

1. Section 929.20 *Establishment and membership* is revised by deleting the first two sentences and submitting in lieu thereof the following. As amended § 929.20 reads as follows:

§ 929.20 Establishment and membership.

There is hereby established a Cranberry Marketing Committee consisting of seven members, each of whom shall have an alternate. Except as hereafter provided, members and their alternates shall be growers or employees, agents, or duly authorized representatives of growers. Persons filling grower positions may be referred to as industry members. The committee may be increased by one public member and alternate nominated by the committee and selected by the Secretary. The public member and alternate shall be neither a grower nor a handler. Persons filling these positions may be referred to as non-industry members. The Committee, with the approval of the Secretary, shall prescribe qualifications and the procedure for nominating the public member. • • •

[1]This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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2. Section 929.27 *Alternate members* is revised by amending the last sentence thereof to read as follows:

§ 929.27 Alternate members.

• • • In the event both a grower member of the committee and his alternate are unable to attend a committee meeting, the committee may designate any other grower alternate member to serve in such member's place and stead at that meeting: *Provided,* That not more than four members and alternate members selected from those nominated pursuant to § 929.22(b)(1) shall serve as members at the same meeting. *And provided, further,* That grower alternates' shall not serve in place of an absent non-industry member.

3. Section 929.32 *Procedure* is revised by amending paragraph (a) to read as follows:

§ 929.32 Procedure.

(a) Five members of the committee, or alternates acting for members, shall constitute a quorum and any action of the committee shall require at least five concurring votes: *Provided,* That if the committee is increased by the addition of a public member and such public member or alternate is present at a meeting, 6 members shall constitute a quorum and any action of the committee on which the public member votes shall require 6 concurring votes. If the public member abstains from voting on any particular matter, 5 concurring votes shall be required for an action of the committee.

• • • • •

4. Section 929.48 *Base quantities* is revised by deleting paragraph (b) and adding a new paragraph (b) to read as follows:

§ 929.48 Base quantities.

(a) • • •

(b)(1) A base quantity reserve equal to 2 percent of the total base quantities shall be established annually: *Provided,* That upon recommendation of the committee the Secretary may increase or decrease such percentage except in no event shall the reserve be less than 2 percent. Such reserve shall include any base quantity that becomes available due to any reduction or invalidation because of non-use of base quantity under subparagraph (4) of this paragraph. Such reserve shall be used for the issuance of base quantities to new producers and adjustments in base quantities for existing producers with 25 percent being made available for new producers and 75 percent available for adjustments for existing producers. Any unallocated portion of the 25 percent available to new producers may at the discretion of the committee be prorated among eligible existing producers on an equitable basis.

(2) The committee shall, subject to approval of the Secretary; establish rules and procedures governing the issuance of base quantities under paragraph (b)(1) of this section. Such rules shall define the terms "new producer" and "existing producer" and specify standards for equitable and thorough consideration of pertinent factors relating to each case, including but not limited to, on-site inspection of applicant's acreage, past production of cranberries by applicant, acreage planted, average yields, and other economic and marketing factors.

(3) Each person filing an application hereunder for new base quantity or adjustment in an established base quantity shall be notified by the committee of its determination thereon.

(4) A condition for the continuing validity of a producer's base quantity is production of cranberries thereunder in a proprietary capacity. If no bona fide effort is made to produce and sell cranberries thereunder for five consecutive seasons, commencing with the 1978-79 season, the base quantity may be reduced or declared invalid due to lack of use and cancelled at the end of the fifth season of nonproduction. The committee shall establish criteria, subject to approval by the Secretary, whereby the committee may determine whether a bona fide effort has been made to produce and sell cranberries produced on the producer's own acreage.

(5) Each producer shall file with the committee such reports as may be necessary for the committee to perform its duties under this section.

• • • • •

5. Section 929.56 *Special provisions relating to withheld (restricted) cranberries* is revised by amending paragraph (d) to read as follows:

§ 929.56 Special provisions relating to withheld (restricted) cranberries.

• • • • •

(d) In the event any portion of the funds deposited with the committee pursuant to paragraph (a) of this section cannot, for reasons beyond the committee's control, be expended to purchase unrestricted (free percentage) cranberries to replace those released, such unexpended funds shall, after deducting expenses incurred by the committee in connection with the purchase and disposition of cranberries pursuant to paragraph (c) of this section, be offered and paid or credited proportionately to handlers on the basis of the volume of cranberries withheld by each handler. In the event that the offer is not accepted or directions given by a handler to credit the funds within 90 days, the funds will accrue to the committee's general account.

• • • • •

Subpart—Rules and Regulations

6. Section 929.105 *Reporting* is revised by amending paragraph (a) to read as follows:

§ 929.105 Reporting.

(a) Each report required to be filed with the committee pursuant to § 929.60 and § 929.48 shall be mailed to the committee office at Middleboro, Massachusetts, or delivered to that office. If the report is mailed, it shall be deemed filed when postmarked.

(b) • • •

[FR Doc. 78-13162 Filed 5-12-78; 8:45 am]

[3410-02]

[7 CFR Part 1079]

MILK IN THE IOWA MARKETING AREA

Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend an order provision affecting the regulatory status of milk supply plants. The action was requested by three coöperative associations to allow a cooperative association's direct delivery of milk from producers' farms to its own pool distributing plant to be included as a qualifying shipment for pooling the cooperative association's supply plant. The proposed suspension would be for the period of May 1978 through April 1979.

DATE: Comments are due by May 23, 1978.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of the following provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the months of May 1978 through April 1979:

V 43 94

In § 1079.7(b)(1) the words "pursuant to § 1079.9(c)".

All persons who want to comment about the proposed suspension should send four copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before May 23, 1978.

The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include the month of May 1978 in the period of suspension.

The comments that are sent will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

STATEMENT OF CONSIDERATION

The proposed suspension would remove for one year some pool supply plant provisions that prevent a cooperative association from earning pool plant shipping credit for milk which it causes to be delivered directly from producers' farms to its own pool distributing plant. Presently, only direct deliveries of milk by a cooperative association to the pool distributing plant of another handler are fully creditable as qualifying shipments for the cooperative's supply plant.

The suspension was requested by Land O'Lakes, Inc., Mid-America Dairymen, Inc., and Mississippi Valley Milk Producers Association, Inc. The cooperativers claim that uneconomic shipments of milk are required to maintain pool status for supply plants. This results because direct deliveries from farms to their pool distributing plants do not earn credit toward qualifying their supply plants.

Land O'Lakes states that occasionally it must make shipments from its Pine Island, Minn., supply plant to its Cedar Rapids, Iowa, distributing plant solely for the purpose of qualifying the Pine Island supply plant, even though sufficient direct shipped milk is available to the Cedar Rapids plant.

Mid-America Dairymen operates a pool distributing plant at Iowa City, Iowa, and supply plants at Twin Lakes, Minn., and Des Moines and Sully, Iowa. It states that although it supplies other distributing plants regulated under the Iowa order, its Iowa City distributing plant is the largest single fluid outlet for its member producer milk under the order. The cooperative claims that if sales to the other outlets decreased, the present order provisions could require unnecessary shipments from its supply plants to distributing plants for the sole purpose of meeting the supply plant pooling provisions of the order.

Mississippi Valley Milk Producers Association operates a supply plant at Dubuque, Iowa, and pool distributing plants at Rock Island, Ill., and Waterloo, Iowa. It states that at times in order to make room at the Rock Island distributing plant for qualifying shipments of milk from the Dubuque supply plant, the cooperative must reload the milk that is normally picked up on farms near Rock Island for direct delivery to pool distributing plants and ship it to another market. These procedures, to assure pooling for the supply plant, entail a substantial amount of uneconomic hauling.

It is the cooperatives' position that the requested suspension will remove the necessity of supplying milk through a supply plant simply to keep the plant qualified for pooling when milk can be more economically supplied direct from producers' farms. In their view, the suspension will provide the flexibility needed in supplying milk to pool plants and in disposing of reserve milk supplies during the period of suspension. It is anticipated that during the period of suspension a general hearing may be held at which proposed amendments to the supply plant provisions may be considered.

Signed at Washington, D.C., on May 10, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc 78-13163 Filed 5-12-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 17906]

AIRWORTHINESS DIRECTIVES

Airbus Industrie (AI) Type A300 Airplanes, All Models

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require periodic inspection for cracks in wing slat closing plate assemblies of AI Type A300 airplanes, and modification or replacement thereof as appropriate. The AD is needed to prevent in-flight loss of a closing plate which could jeopardize persons and property on the ground, and safety of flight by interfering with proper operation of the airplane's high-lift devices.

DATES: Comments must be received on or before June 30, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17906, 800 Independence Avenue SW., Washington, D.C. 20591. The applicable service bulletins may be obtained from: Airbus Support Division, Avenue Lucien Servanty, Boite Postale 33, 31700 Blagnac, France. A copy of each of the service bulletins is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D.C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed with the Rules Docket.

There have been reports of cracks in hinges and spring strut attachment brackets of No. 1 L.H. and R.H. wing slat closing plates on Airbus Industrie Type A300 airplanes, and in-flight loss of one closing plate has occurred. In-flight detachment of a slat closing plate could endanger persons and property on the ground, and could jeopardize safe operation of the airplane by interfering with normal operation of the airplane's high-lift devices. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require repetitive visual inspections, and modification as necessary, of No. 1 L.H. and R.H. wing slat closing plate assemblies on AI Type A300 airplanes until modified in accordance with AI Service Bulletin No. A300-57-065.

DRAFTING INFORMATION

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, F. Kelley, Flight Standards Service, and P. Lynch, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

AIRBUS INDUSTRIE (AI). Applies to Type A300 airplanes, all models certificated in all categories, not incorporating AI Modification No. 1909/AI Service Bulletin No. A300-57-065, dated December 15, 1977.

Compliance required as indicated.

To prevent in-flight loss of wing slat closing plates, accomplish the following:

(a) Within the next 20 flights after effective date of this AD, or prior to accumulation of 800 flights since new, whichever occurs later, and at intervals thereafter not exceeding 800 flights since the previous inspection until modified in accordance with AI Service Bulletin No. A300-57-065, dated December 15, 1977, or an FAA-approved equivalent, visually inspect No. 1 L.H. and R.H. wing slat closing plate assemblies for cracks in the piano hinges, for failure of rivets, and for cracks or distortion at spring strut attachment lugs, in accordance with Accomplishment Instructions, subparagraph 2.A., Inspection, of AI Alert Service Bulletin No. A300-57-063, Revision No. 1, dated September 5, 1977, or an FAA-approved equivalent.

(b) If, during any inspection required by paragraph (a) of this AD, piano hinge cracks of less than 2 inches in length are found, verify that the pin of the piano hinge is complete and correctly installed and repeat the inspection required by paragraph (a) of this AD within the next 800 flights and at intervals thereafter not exceeding 800 flights since the previous inspection, or, alternatively, proceed as prescribed in paragraph (c) of this AD.

(c) If, during any inspection required by this AD, hinge rivet failures, piano hinge cracks of 2 inches in length or greater, or cracks or distortion of the spring strut attachment brackets are found, before further flight, except that the airplane may be flown in accordance with FAR 21.197 and 21.199 to a place where the work can be performed, accomplish the following:

(1) Incorporate the modification specified in AI Service Bulletin No. A300-57-065, dated December 15, 1977, or an FAA-approved equivalent;

(2) For hinge rivet failures, and for hinge cracks of or greater than 2 inches in length, replace rivets or replace hinge, as appropriate, in accordance with subparagraph 2.C, Replacement of Cracked Hinges, of AI Service Bulletin No. A300-57-063, Revision No. 1, dated September 5, 1977, or an FAA-approved equivalent; and

(3) For cracks or distortion of the spring strut attachment brackets, replace in accordance with applicable portions of paragraph 2, Accomplishment Instructions, of AI Alert Service Bulletin No. A300-57-063, Revision 1, dated September 5, 1977, or an FAA-approved equivalent, the closing plate with serviceable plate of the same part number.

For purpose of this AD, one flight is one takeoff and landing cycle.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 5, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-13108 Filed 5-12-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-NE-07]

CONCORD, N.H., CONTROL ZONE

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to alter the Concord, N.H., control zone so as to provide more controlled airspace for aircraft executing a new VOR/DME instrument approach procedure which has been developed for the Concord Municipal Airport.

DATES: Comments must be received on or before June 28, 1978.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 78—NE-07, 12 New England Executive Park, Burlington, Mass. 01803. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operation Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7285.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 78-NE-07, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before June 28, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF COMMENTS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of the Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8085. Communications must identify the notice of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart F of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone at Concord, N.H. This amendment would add an extension area of approximately three (3) miles in depth and four (4) miles in width northwest of the Concord, N.H., VORTAC. This action will provide additional controlled airspace for aircraft executing the new VOR/DME instrument approach procedure to Concord Municipal Airport, Concord, N.H.

DRAFTING INFORMATION

The principal authors of this document are Richard G. Carlson, Air Traffic Division, New England Region, and George L. Thompson, Associate Regional Counsel, New England Region.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations by adding the following:

SECTION 71.171

CONCORD, N.H. CONTROL ZONE

And within two (2) miles each side of the Concord, N.H., VORTAC, 284° radial, extending from the five (5) mile radius zone to three (3) miles northwest of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

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Issued in Burlington, Mass., on May 1, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

[FR Doc. 78-13106 Filed 5-12-78; 8:45 am]

[4910-13]

[14 CFR PART 71]

[Airspace Docket No. 78-EA-22]

BECKLEY, W. VA.

Proposed Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to alter the Beckley, W. Va., Control Zone over Raleigh County Memorial Airport, Beckley, W. Va. This alteration will provide protection to aircraft executing the new VOR/DME RWY 19 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before June 29, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before June 29, 1978, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone over Raleigh County Memorial Airport, Beckley, W. Va. The zone will be altered by establishing an extension approximately 3 miles each side of the Beckley VORTAC 002° radial extending 2 miles from the control zone.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by adding the following to the description of the Beckley, W. Va., control zone:

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749 (49 U.S.C. 1348(a))) sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

"; within 3 miles each side of the Beckley VORTAC 002° radial, extending from the 6.5-mile radius zone to 8.5 miles north of the VORTAC.".

Issued in Jamaica, N.Y., on April 24, 1978.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 78-13110 Filed 5-12-78; 8:45 am]

[4910-61]

Saint Lawrence Seaway Development Corporation

[33 CFR Part 403]

RULES OF PROCEDURE OF THE JOINT TOLLS ADVISORY BOARD

Proposed Amendments

AGENCY: Saint Lawrence Seaway Development Corporation.

ACTION: Proposed rule.

SUMMARY: The Joint Tolls Advisory Board which was originally established to hear complaints regarding the interpretation of the Tariff of Tolls and alleged unjust discrimination arising from the administration of that tariff will henceforth be called the Joint Tolls Review Board. The proposed rule reflects this name change and is necessary due to a revised Memorandum of Agreement between the Governments of Canada and the United States which was finalized on March 20, 1978, through an Exchange of Notes. Section 6 of the revised Agreement indicates the name change and also assigns additional responsibilities to the Board. Amendment of part 403 will result in consistency between the Seaway Regulations and the aforementioned Memorandum of Agreement.

DATE: Comments received not later than June 30, 1978, will be considered.

ADDRESS: Comments should be directed to Mr. Robert D. Kraft, Deputy General Counsel, Saint Lawrence Seaway Development Corporation, Department of Transportation, 800 Independence Avenue SW., Washington, D.C. 20591; 202-426-3574.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert D. Kraft, 202-426-3574.

SUPPLEMENTARY INFORMATION: On March 20, 1978, a revised Memorandum of Agreement between the Governments of Canada and the United States was finalized relative to the jointly administered Tariff of Tolls and other matters concerning the St. Lawrence Seaway. Section 6 of the revised Agreement provides for the establishment of a Joint Tolls Review Board to hear complaints regarding the interpretation of the Tariff of Tolls and alleged unjust discrimination arising from the administration of that tariff. The Board also has an added responsibility to conduct an annual review of the tariff and the revenues generated by that tariff in order to evaluate and monitor its sufficiency in meeting the requirements of the two Seaway entities. Essentially the Board is an appeal and review body and it is felt that its new name will more accurately reflect its functions.

After a thorough review, it has been determined that the proposed amendments will not result in any added cost to or impact on the private sector, consumers, or Federal, State or local governments.

For the stated reasons, the Saint Lawrence Seaway Development Corporation proposes to amend part 403 as follows:

1. The title to part 403 is amended to read:

PART 403—RULES OF PROCEDURE OF THE JOINT TOLLS REVIEW BOARD

2. § 403.1 is amended to read as follows:

§ 403.1 Scope of rules [Rule 1].

These rules govern practice and procedure before the Joint Tolls Review Board unless the Board directs or permits a departure therefrom in any proceeding [Rule 1].

3. § 403.2 is revised to read as follows:

§ 403.2 Definitions [Rule 2].

* * * * *

(c) "Board" means the Joint Tolls Review Board;

(d) Words in the singular include the plural and words in the plural include the singular [Rule 2].

§ 403.3 [Amended]

4. In § 403.3, paragraph (c), substitute "Review" for "Advisory" wherever it appears.

(68 Stat. 92-97, 33 U.S.C. 981-990, as amended; Agreement between the Governments of the United States and Canada finalized on March 20, 1978.)

NOTE.—The Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

For the Saint Lawrence Seaway Development Corporation.

D. W. OBERLIN,
Administrator.

[FR Doc. 78-13151 Filed 5-12-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Chapter 1]

[FRL 872-8]

IMPLEMENTATION OF THE CLEAN WATER ACT AMENDMENTS OF 1977

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to develop rulemaking.

SUMMARY: This notice announces that the Environmental Protection Agency is developing regulations to implement the Clean Water Act of 1977 (P.L. 95-217). Because of the broad range of regulation amendments required by the new Act, they will be published as several separate documents at different times. This notice provides the status of the various regulations. Interested persons are invited to participate in the development of these rules and may do so by contacting the individuals listed below.

DATES: Comments on this Notice of Intent are invited from other Federal agencies and the public. In order to be considered, comments must be received on or before July 14, 1978.

ADDRESS: Comments should be sent to John D. Harris, Office of Analysis and Evaluation, (WH-586), EPA, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Regarding general implementation procedures: John D. Harris, Office of Analysis and Evaluation, (WH-586), EPA, 401 M Street SW., Washington, D.C., Telephone Number 202-755-6885. Regarding specific subjects: Contact the individual named below. Written inquiries must include the Mail Code, followed by EPA, Washington, D.C. 20460. The Area Code for all telephone numbers listed is 202.

SUPPLEMENTARY INFORMATION: Because of the short time frames involved in developing some of these regulations, public input has already been solicited on many of these through informal channels. Early drafts of the construction grant regulations, in particular, have been circulated widely. In addition, there have been several public meetings, announced in the FEDERAL REGISTER. As well as other meetings with States and other interested parties. Interested persons and groups are invited to continue to participate.

The construction grant amendments are (as indicated below) to be published as interim final and proposed rules very shortly. It is anticipated that the changes will be incorporated in a complete republication as final rulemaking of Subpart E in September 1978. In that republication, various other technical changes (which experience with the current regulations indicates is necessary to improve program administration) will be made to Subpart E.

The Clean Water Act Amendments concerning the National Pollutant Discharge Elimination System (N.P.D.E.S.) are being incorporated into a comprehensive re-write of the existing N.P.D.E.S. regulations. For further information contact Edward Kramer, Office of Water Enforcement (EN-336), EPA, 401 M Street SW., Washington, D.C. 20460, Telephone Number 202-755-0750.

Dated: May 5, 1978.

DOUGLAS M. COSTLE,
Administrator.

Short title and section of act	Brief description	Estimated date of publication	Contact name	Mail code	Telephone
Proposed amendments to 40 CFR pt. 35 subpt. E (construction grants) covers the following topics:					
CONSTRUCTION GRANT REGULATIONS					
Recreational use, 201(g)(6).	Future State, interstate, and intermunicipal grantees must demonstrate that project planning has analyzed potential recreation and open space opportunities.	May 1, 1978	M. Cook	WH-547	426-9404
Innovative technology, 201 (g)(5), (i), 202(a)(2), (3), and 304(d)(3).	Several provisions to encourage the use of innovative and unconventional waste water treatment systems.	do	do	WH-547	427-9404
Contract enforcement, 203(e).	Upon request, EPA may provide technical and legal assistance to administer and enforce contracts related to EPA grant-assisted treatment works.	do	do	WH-547	426-9404
Interim/final amendments to 40 CFR pt. 35 subpt. E covering the following topics:					
State priority, 201(i)(j), 203, 204, 216, 201(g)(5), (6), and 201(h)/205(h)(2).	Establishes State authority to determine relative priority of their eligible project categories.	do	do	WH-547	426-9404

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Short title and section of act	Brief description	Estimated date of publication	Contact name	Mail code	Telephone
Proposed amendments to 40 CFR pt. 35 subpt. E (construction grants) covers the following topics:					
CONSTRUCTION GRANT REGULATIONS					
Grant eligibilities, 211	Restricts the use of population data as test of eligibility of collector sewers; limits eligibility of these sewers and also makes separate storm sewers ineligible.	do	do	WH-547	426-9404
Land eligibility, 212	Land for the storage of waste water in a land treatment system is now grant eligible.	do	do	WH-547	426-9404
Industrial cost recovery, 204 (b)(3) and (b)(6).	Under certain conditions, small industrial dischargers with flows up to 25,000 gpd (requiring treatment comparable to domestic waste) may be exempted from industrial cost recovery.	do	do	WH-547	426-9404
User charges, 204(b) (1) and (5).	Specifies conditions where an ad valorem system may be used for user charges for residential and small nonresidential users.	do	do	WH-547	426-9404
Individual systems, 201(h).	Will make available grants to privately owned treatment works where such projects will be more cost-effective than a central publicly owned treatment works.	do	do	WH-547	426-9404
Step 2 and 3 combined, 203(a).	Construction grants for steps 2 and 3 may be combined for projects under $2,000,000 serving grantee population up to 25,000.	do	do	WH-547	426-9404
Buy America, 215	Requires preference for the use of American-made products in treatment works funded by construction grants.	do	do	WH-547	426-9404
Training grants, 109(b) (1), (2), and (3).	Will provide for grants to cover expenses of State treatment works operator training programs, and raise the maximum grant to $500,000.	do	do	WH-547	426-9404
Cost effectiveness guidelines, 201(j) and 217.	Regulations to provide for cost-effectiveness guidelines that emphasize identification of alternatives, e.g., recycling of wastes, use of sludge, and preference for innovative and alternative processes.	do	do	WH-547	426-9404
Reserve capacity, 204(a)(5).	Criteria for determining reserve capacity include reduction of unnecessary water consumption and sewage flows and the use of population data from 208 plans.	do	do	WH-547	426-9404
The water quality management regulations will be revised to: (1) incorporate the Clean Water Act Amendments, and (2) to consolidate and simplify the regulations in accordance with the Mar. 23, 1978, Executive order on improving Government regulations:					
WATER QUALITY MANAGEMENT REGULATIONS					
Open space and recreation, 208(b)(2)(A).	Water quality management plan must analyze open space and recreation opportunities.	June 23, 1978	J. Krivak	WH-554	755-4911
State best management practices (related to 404), 208(b)(4).	Authorizes States to establish regulatory programs for discharge of dredge and fill material.	do	do	WH-554	755-4911
Agricultural cost sharing, 208(j).	Department of Agriculture will provide up to 50 pct grant to install BMP's for soil conservation to improve water quality.	do	do	WH-554	755-4911
OTHER REGULATIONS					
Ocean discharge, 301(h)	Will provide for modification of secondary treatment requirements for existing deep marine dischargers if they meet specified conditions.	Apr. 18, 1978	T. O'Farrell	WH-547	426-8976
BCT definition and pollutant removals, 304(b).	Development of conventional pollutant effluent limitations.	Not scheduled	J. Denit	WH-552	426-2707
BMP's for industry, 304(e).	Control indirect discharges of toxic pollutants from various industrial point sources.	do	do	WH-552	426-2707
Pretreatment removal credit regulations, 307(b)(1).	Promulgated regulations allow modification of national toxic pretreatment standard if joint industry/treatment works treatment will meet direct discharge requirements.	May 8, 1978	S. Heare	WH-586	755-6885
Oil spill liability, 311 (a)-(d), (l)-(k), (p), (q), (r).	Will extend liability for oil spills to a 200 mi limit and provide for use of funds if there is a substantial threat of a discharge.	Not scheduled	K. Biglane	WH-548	245-3048
Marine sanitation devices, 312.	Prohibit waste water discharges from commercial vessels on the Great Lakes and provide protection for drinking water intake areas.	November 1978	J. Amson	WH-585	245-3036
Clean lakes, 314	Provides EPA assistance to States for the preparation of surveys on the quality of freshwater lakes.	December 1978	L. Guarraia	WH-585	245-3042
Dredge or fill, 404 (a-f), (k) (1) (n).	Final EPA site selection guidelines for disposal of dredge or fill material will be developed along with guidance for approval of State programs.	May 15, 1978	J. Lewis	WH-585	245-0581
Guidelines for sludge disposal, 405(b)(d).	EPA guidelines will address uses for sludge, costs of usage and disposal, and pollutant concentrations that interfere with use and disposal.	do	B. Weddle	WH-564	755-9120

[FR Doc. 78-12929 Filed 5-12-78; 8:45 am]

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[6560-01]

[FRL 896-3]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Glenn County Air Pollution Control District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to take action on revisions to the Glenn County Air Pollution Control District's (APCD) rules and regulations which were submitted to EPA by the California Air Resources Board for the purpose of revising the California State Implementation Plan (SIP). In addition, EPA is proposing to disapprove a portion of a rule which is now part of the applicable SIP. The intended effect of this proposal is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATE: Comments may be submitted by July 14, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations: Glenn County Air Pollution Control District, 777 North Colusa Street, Willows, Calif. 95988; California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, Calif. 95814; or Public Information Reference Unit, Room 2922 (EPA library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Wayne A. Blackard, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on November 4, 1977:

Section 78, Nuisance.
Section 79, Exceptions.
Section 82, Burning of Garbage.
Section 152, Analysis Fees.
Section 154, Authorization to Construct Fees.

Regulations were also submitted concerning new source review. Those regulations will be considered in a separate FEDERAL REGISTER action.

In addition, we have reevaluated rules concerning agricultural operations and found that a portion of Glenn County APCD's rule was approved in error. We are now proposing to disapprove section 77(e), *Exceptions*, submitted on June 30, 1972, and previously approved in 40 CFR 52.223. Paragraph (e) exempts "the use of other equipment in agricultural operations" from the visible emissions rule. Because the term "other equipment" is not defined, the rule is vague and unenforceable.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Public comments are also invited on the proposed disapproval of section 77(e). Comments received on or before July 14, 1978, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

AUTHORITY: Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).

Dated: May 5, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-13207 Filed 5-12-78; 8:45 am]

[6560-01]

[FRL 896-2]

[40 CFR Part 55]

STATE AND FEDERAL ADMINISTRATIVE ENFORCEMENT OF IMPLEMENTATION PLAN REQUIREMENTS AFTER STATUTORY DEADLINES

Proposed Delayed Compliance Order for Avtex Fibers Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to issue an administrative order to Avtex Fibers Inc. requiring its Boiler Numbers 1, 2, and 3 at Front Royal, Va. to achieve compliance with air pollution requirements under the Virginia State Implementation Plan by June 30, 1980.

DATE: Written comments and requests for a public hearing (and reasons therefore) must be received no later than June 14, 1978.

ADDRESS: All comments and requests for a public hearing should be submitted to: U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106. Attn: Director, Air & Hazardous Materials Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Bernard E. Turlinski, Regional Energy coordinator, Environmental Protection Agency, 6th and Walnut Streets, Philadelphia, Pa. 19106, 215-597-8176.

SUPPLEMENTARY INFORMATION: EPA has developed an administrative order it proposes to issue under section 113(d)(5) of the Clean Air Act (the Act), 42 U.S.C. 7401 et. seq., to Avtex Fibers Incorporated requiring its Boiler Numbers one (1), two (2), and three (3) at Front Royal, Va. to achieve compliance with Virginia State Air Pollution Control Board, Part IV, Rules Ex-2 and Ex-3 of the Virginia State Implementation Plan by June 30, 1980. The order would require the Avtex Front Royal manufacturing plant to install control equipment according to the schedule set forth below, and, also contains interim emission reduction requirements, specifies emission limitations, coal pollutant characteristics, and requires monitoring and reporting of air quality and air pollutant emissions data. If the order is issued, source compliance with its terms will preclude any further EPA enforcement action under section 113 of the Act, and any citizens suits under section 304 of the Act, against the source for violations of the Virginia Implementation Plan provisions covered by the order. The purpose of this notice is to invite public comments on whether or not EPA should issue this order under section 113(d)(5) and to offer an opportunity for public hearing, if significant public interest exists, to discuss this issue.

The actual terms of the order, as set forth below, may be modified prior to final EPA issuance. Background information applicable to Avtex Fibers Inc., may be viewed during normal business hours at the address provided above.

All interested persons are invited to submit written comments on the proposed order. Comments, submitted in person or by mail, on or before June 14, 1978, will be considered in determining whether EPA shoud issue the order. Any person may request a public hearing on the subject order by submitting a request in writing, and reasons, therefore, to the above Regional office on or before June 14, 1978. If there is significant public interest in holding such a hearing, it will be conducted by the Region III Office following 30 days prior notice of the time and place of the hearing.

The Clean Air Act Amendments (the Amendments) of 1977 have changed

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the authority of the Administrator to issue extensions of compliance dates to sources which receive orders from the Department of Energy prohibiting the use of oil or gas as a primary energy source under section 2 (a) of the energy Supply and Environmental Coordination Act (ESECA). Such extensions were issued under section 119 of the Clean Air Act (the Act) as in effect prior to the amendments, and regulations implementing section 119 were codified under 40 CFR Part 55. Section 112 of the amendments repealed section 119 and added a new section 113 (d) which provides for the issuance of extensions to all sources generally and to prohibited sources specifically [113(d)(5)]. Regulations promulgated in 40 CFR Part 55 under the authority of section 119 are being revised to reflect this statutory change and any extensions granted under the new authority of 113(d)(5) will be promulgated in Part 55. Because of the shorter time period necessary for promulgation of a delayed compliance order (DCO) as compared to the time necessary for revision of the regulations under 40 CFR Part 55, a small number of DCO's will be promulgated under Part 55 before the revised regulations are published.

The Clean Air Act Amendments of 1977 have changed the ESECA program in four major respects. These changes are: (1) Sources able to comply with the applicable State implementation plan by December 31, 1985 may be eligible for an extension as opposed to the previous date of January 1, 1979; (2) Extensions are to be provided for via section 113(d)(5) Delayed Compliance Orders, rather than section 119 Compliance Date Extensions; (3) The regional limitation of old section 119(c)(2)(D) has been made a rebuttable presumption by new section 113(d)(5)(D); and (4) Written consent of the Governor of the appropriate State must be obtained on any date EPA proposes to certify to the Department of Energy as the earliest date a prohibited source can convert to coal in compliance with applicable air pollution requirements.

Therefore, if the subject order is issued by EPA, 40 CFR Part 55 would be amended based upon the actual term of Order No. R-III—CC—003 appearing below:

[ORDER No. R-III-CC-003]

In the matter of the Avtex Fibers Inc.

This order is issued pursuant to subsection 113(d)(5) of the Clean Air Act, as amended, 42 U.S.C. 7413(d) ["the Act"]. This order contains a schedule for compliance, interim requirements, monitoring and reporting requirements, and other requirements of this subsection of the Act. Public notice has been provided pursuant to subsection 113(d)(1) of the Act and a copy of this order has been provided to the Governor of the Commonwealth of Virginia to seek his concurrence.

FINDINGS

On June 30, 1977, Avtex Fibers Inc. ("Company") received a Prohibition Order from the Federal Energy Administration ("FEA") pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792 (Supp. V, 1975), as implemented by 10 CFR Parts 303 and 305 (1976), as amended, 42 FR 23132 (1977). Said order prohibited, upon receipt of a Notice of Effectiveness, any further burning of natural gas or petroleum products as the primary energy source for the Company's Numbers one (1), two (2), and three (3) boilers ("source").

The Company's Numbers one (1), two (2), and three (3) boilers were burning petroleum products at the time the FEA Prohibition Order was issued, and, if converted to coal with no interim emissions reduction, would exacerbate the existing plant violation of the applicable particulate matter requirements under the Virginia State Implementation Plan ("SIP"). A violation of the annual primary ambient air quality standard for particulate matter in Roanoke County Va. resulted in a finding by the United States Environmental Protection Agency ("EPA") that the Valley of Virginia Intrastate Air Quality Control Region is a nonattainment region with respect to particulate matter and that regional limitation was applicable.

The Company, on September 27, 1977, sucessfully rebutted regional limitation, pursuant to section 113(d)(5)(D), by demonstrating that converting Numbers one (1), two (2), and three (3) boilers to coal would have an insignificant effect on the air quality concentrations in that portion of the region where particulate matter is being exceeded. The further demonstrated that conversion to coal would not contribute to the exceedance of the national primary ambient air quality standard for particulate matter in Roanoke County Va. The Company, therefore, formally requested from the EPA an order to allow the burning of coal as the primary energy source. After a thorough investigation of the information obtained from all sources, including public comment, the Administrator of EPA has determined that the emission limitations, coal pollution characteristics, and other enforceable measures contained in the order below, satisfy the requirements of subsection 113(d)(5)(B) of the Act. Further, pursuant to subsection 113(d)(5)(B), the Administrator has determined that compliance with the requirements of this order will assure that, during the period of the order before final compliance is achieved, the burning of coal by the source will not result in emissions which will cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

Pursuant to subsection 113(d)(6) of the Act, the Administrator has determined that the schedule for compliance set forth below is as expeditious as practicable.

Finally, pursuant to subsection 113(d)(7) of the Act, the Administrator has determined that the order provides that the source shall use the best practicable system or systems of continuous emission reduction, taking into account the requirement with which the sources must ultimately comply, during the period of said order. The source shall also be required to comply with interim requirements, set forth in said order, and determined to be necessary to comply with the requirements of the Virginia State Implementation Plan ("SIP") insofar as the Administrator has determined that the source is able to do so.

ORDER

Therefore, it is hereby ordered:

I. That the Company's boiler numbers one (1), two (2), and three (3) ("source") will comply with the requirements of the Virginia SIP, as specified in Part IV, Rules Ex-2 and Ex-3 of the federally approved Regulations for the Control and Abatement of Air Pollution in the Commonwealth of Virginia, as expeditiously as practicable, but in no event later than the dates specified in the following schedule:

A. Not later than December 31, 1977: Complete on-site construction of high efficiency multicyclone collector on Boiler Number three (3).

B. Not later than April 30, 1978: Complete on-site construction of efficiency multicyclone collector on Boiler Number one (1).

C. Not later than June 30, 1978: Complete on-site construction of high efficiency multicyclone collector on Boiler Number two (2).

D. Not later than April 30, 1978: Enter into contracts for particulate emission controls and other equipment necessary for final compliance.

E. Not later than May 10, 1978: Submit for approval to the EPA Region III, Air and Hazardous Materials Division Director, contracts for continuous particulate emission reduction systems and other equipment necessary for final compliance.

F. Not later than April 30, 1979: Initiate on-site construction or installation of continuous particulate control systems.

G. Not later than April 30, 1980: Complete on-site construction or installation of continuous particulate control systems.

H. Not later than June 30, 1980: Perform emission tests in accordance with 40 CFR Part 60 and submit reports demonstrating final compliance with the Regulations of the Commonwealth of Virginia State Air Pollution Control Board, Part IV, Rules Ex-2 and Ex-3 as approved by EPA.

II. With respect to the schedule increments set out in subparagraphs (A) through (H) of Paragraph I hereinabove, the Company shall notify the Division Director, Air and Hazardous Materials Division, EPA Region III within ten (10) days after each incremental requirement has been satisfied, or within ten (10) days after the final date set for achieving each such requirement, if such requirement has not been achieved.

III. That the Company's boiler numbers one (1), two (2), and three (3) ("the source") shall comply with the following interim requirements which are determined to be the best reasonable and practicable interim system of continuous emission reduction (taking into account the requirements of Paragraph I, above), and which are necessary to assure compliance with the federally approved Regulations, Ex-2 and Ex-3, of Part IV of the Virginia Regulations for the Control and Abatement of Air Pollution, insofar as the source referred to above is able during the period this order is in effect:

A. During the period of the order's effectiveness, prior to the date set for final compliance or the date on which final compliance is achieved (whichever is earlier), the source shall not burn coal with an ash content exceeding ten percent (10 percent) and a high heating value of less than 12,500 British Thermal Units (BTU's) per pound;

B. During the same period specified in subparagraph A hereinabove, the source shall not emit in excess of 218 pounds of particulate matter per hour at maximum load from either boiler numbers one (1), two (2), or three (3); and

C. During the same period specified in subparagraph A hereinabove, the source shall not emit in excess of 275 pounds of particulate matter per hour at maximum load from either boiler numbers four (4) or five (5).

The above conditions have been determined by the Administrator to be the best practicable interim system or systems of emission reduction for the period during which this order will be in effect. The conditions of this paragraph are also ordered to meet the requirements of subsection 113(d)(5) (B) of the Act, and are, therefore, subject to modification from time to time pursuant to said provision. Any modifications, if made, shall be accompanied by a determination of the Administrator that such modifications continue to meet the best practicable interim system of emission reduction, and other interim requirements of subsection 113(d)(7) of the Act, or shall include requirements to comply with said subsection.

IV. That the Avtex Fibers Inc. is not relieved by this order from compliance with any requirements imposed by the applicable State Implementation Plan, EPA, and/or the courts pursuant to section 303 of the Act during any period of imminent and substantial endangerment to the health of persons.

V. That the period of effectiveness of this order shall not include any interval in which a national primary ambient air quality standard for particulate matter is being exceeded, which Avtex Fibers is causing or contributing to, in the Valley of Virginia Air Quality Control Region. During such intervals, if any, full compliance with the standards and limitations of the Virginia State Implementation Plan (excluding said order) shall be required of Avtex Fibers, and violations by Avtex Fibers of said SIP shall be subject to enforcement under any or all authorities of section 113 of the Act.

VI. That the Avtex Fibers Inc. shall comply with the following emission monitoring and reporting requirements on or before the dates specified below:

A. EMISSION MONITORING

1. Within thirty (30) days of receipt of this order, the Avtex Fibers Inc. shall submit to the Director, Air and Hazardous Materials Division, EPA Region III, a proposal for a complete air quality monitoring network to be set up by the Company in the vicinity of the Source. Said network shall include monitors capable of measuring 24-hour average particulate concentrations. EPA Region III may, on its own initiative, direct that continuous sulfur dioxide monitors be located with particulate samplers and operated by the Company.

2. Within ninety (90) days of receipt of this order, the Company shall complete installation and begin operation of the network proposed under subparagraph A.1 of this paragraph, as approved, and with any modifications made by the Director, Air and Hazardous Materials Division, EPA Region III.

3. Within ninety (90) days of receipt of this order, the Company shall submit in writing for his approval to the Director, Air and Hazardous materials Division, EPA Region III, the methods, procedures and devices the Company intends to use to obtain the information required by subparagraph B of this paragraph.

4. Within thirty (30) days of approval by EPA of the monitoring and information gathering system proposed under subparagrah A.3 of this paragraph, the Company shall implement such system as may be modified by the Director, Air and Hazardous Materials Division, EPA Region III in his approval.

5. Within sixty (60) days of commencing the use of coal in the Company's boiler number two (2), the Company shall perform source testing for particulate emissions using EPA method five (5) as specified in Appendix A of Part 60, Title 40 of the Code of Federal Regulations, as amended. The Company shall perform such tests in a manner approved in writing by EPA Region III and shall provide to the EPA Region III Regional Energy Coordinator a minimum of fifteen (15) days written notice prior to conducting such tests. The Company shall provide to said Regional Energy Coordinator a complete report containing all information pertinent to the performance and results of said stack tests within thirty (30) days of completing such tests.

6. Within sixty (60) days of installation of the continuous opacity monitor required under subparagraph B.1 of this paragraph, the Company shall conduct a Performance Specification Test (PST) in accordance with Performance Specification 1, Appendix B of Part 60, Title 40 of the Code of Federal Regulations. The Company shall notify the Regional Energy Coordinator, EPA Region III, of the date on which the PST will be conducted at least thirty (30) days prior to such date.

7. Within forty-five (45) days of the PST required under subparagraph A.6 of this paragraph, the Company shall submit a complete report containing all information pertinent to the PST to the Regional Energy Coordinator, EPA Region III.

B. RECORDKEEPING AND REPORTING

1. The Company shall keep monthly records both of air quality monitoring data and of air pollutant emissions, of which records the Company shall submit copies to the EPA Region III Regional Energy Coordinator within fifteen (15) days of the end of each calendar month. Said air pollutant emission records shall detail daily emission for all combustion units of the Company and shall at a minimum, include: (a) For each steam generating unit, a breakdown of the fuel consumed each day of the preceding month: (b) For each steam generating unit, an analysis of the fuel consumed each week to include sulfur content, ash content and high heating value; and (c) For the stacks serving boiler numbers one (1), two (2), and three (3) only, a record of the hourly measurement of opacity, acquired by means of a continuous opacity monitoring device. Such device shall be installed, calibrated, and maintained in accordance with Performance Specification 1 of Appendix B, Part 60, Title 40 of the Code of Federal Regulations.

2. If, for any reason, the Company does not comply or will be unable to comply with the requirements of this order, the Company shall provide in writing to the Director, Air and Hazardous Materials Division, EPA region III, within five (5) days of becoming aware of such situation: (a) A description of the violation and its cause; and (b) The period during which noncompliance has occurred and/or is expected to occur, and the steps taken to reduce, eliminate and prevent recurrence of the violation.

3. If the air quality monitoring data collected by the Company pursuant to Section A of this paragraph indicates that the National Primary Ambient Air Quality Standards for particulates are being exceeded in the area, the Company shall notify the Director, Air and Hazardous Materials Division, EPA Region III of such occurrence by telephone or letter or other means, within seventy-two (72) hours of the collection of such data.

4. The requirement of subparagraph three (3) hereinabove shall apply with respect to monitoring data and the National Ambient Air Quality Standard for Sulfur Dioxide, if such monitoring requirements are imposed pursuant to Section A of this paragraph.

VII. Nothing herein shall affect the responsibility of Avtex Fibers to comply with State, local or other federal regulations.

VIII. Avtex Fibers Inc. is hereby notified that its failure to achieve final compliance at its boiler numbers one (1), two (2), and three (3) with the applicable particulate emission regulations of the Virginia SIP by June 30, 1980, or such other date as may be specified in a second order pursuant to subsection 113(d) of the Act, if issued, may result in a requirement to pay a noncompliance penalty under section 120 of the Act. Such requirement may be imposed at an earlier date, which is subsequent to July 1, 1979, as provided by subsection 113 (d) and Section 120 of the Act, either in the event that this order is terminated as provided in paragraph IX, below, or in the event that any requirement of this order is violated as provided in paragraph X, below. In any event, the Company will be formally notified, pursuant to subsection 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

IX. This order shall be terminated in accordance with subsection 113(d)(8) of the Act if the Administrator or his delegatee determines, on the record, after notice ad hearing, that an inability of the Company to comply with Rules Ex-2 and Ex-3, Part IV of the Virginia Regulations for the Control and Abatement of Air Pollution, as approved by EPA, no longer exists with respect to its boiler numbers one (1), two (2), and three (3).

X. Violation of any requirement of this order shall result in one or more of the following actions: (A) Enforcement of such requirement pursuant to subsection 113(a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution; (B) Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of the Virginia SIP in accordance with the preceding paragraph; and (C) If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of Act.

XI. This order is effective upon promulgation in the FEDERAL REGISTER and after having received concurrence from the Governor of the Commonwealth of Virginia.

Date: _____

_____

Administrator or Delegatee
U.S. Environmental Protection Agency

WAIVER OF RIGHTS TO CHALLENGE ORDER

The Avtex Fibers Inc., by the duly authorized undersigned, hereby consents to the

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terms of this Order and waives any and all rights under any provision of law to challenge this Order.
Date:

AUTHORITY: 42 U.S.C. 7413(d).

Dated: April 4, 1978.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc. 78-13205 Filed 5-12-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 3200, 3220]

GEOTHERMAL RESOURCES LEASING; GENERAL COMPETITIVE LEASES

Miscellaneous Amendments

AGENCY: Land Management Bureau, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking amends the procedures for leasing geothermal resources. Experience in the leasing program has led to more efficient procedures. Changes in lease acreage limitations, credit procedures for diligent exploration, plans required, readjustment of terms and conditions of leases, and bonus payment requirements will allow for greater efficiency in administrering the geothermal leasing program.

DATE: Comments are invited through July 14, 1978.

ADDRESS: Send comments to: Bureau of Land Management, Director (210), 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Billy R. Templeton, 202-343-8735.

SUPPLEMENTARY INFORMATION: 1. Section 3203.2 covering lease acreage limitations is amended to clearly state the discretionary authority of the Secretary to issue geothermal leases of less than 640 acres. This discretion may be exercised in cases where the resource is to be used for non-electrical purposes.

2. Section 3203.5 dealing with diligent exploration is amended to allow a lessee to credit expenditures for diligent exploration performed on a lease to another lease, as long as both leases are part of the same geothermal reservoir.

3. Section 3203.6 is amended to allow a lessee to conduct exploratory operations, such as drilling of shallow temperature gradient wells, on leased lands under a notice of intent rather than a formal plan of operation. However, such plan of operation will be required before deep drilling operations may be conducted.

4. Section 3204.3 dealing with readjustment of terms and conditions is amended to provide for the first readjustment of a geothermal lease beginning 10 years after geothermal resources are produced commercially.

5. Section 3220.5 pertaining to bidding requirements is amended to allow for deferred bonus payments. One-fifth of the bonus bid will be required at the time the bid is submitted, with the remainder of the bonus due in two installments on or before the second and third lease anniversary dates, respectively.

Doris Koivula and Richard Champney of the Division of Upland Minerals, Bureau of Land Management, are the principal authors of this proposed rulemaking.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is required.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Division of Legislation and Regulatory Management (Room 5555), Interior Building, Washington, D.C., during regular business hours (7:45 a.m. to 4:15 p.m.).

Under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) it is proposed to amend parts 3200 and 3220, group 3200, subchapter C, chapter II, title 43 of the Code of Federal Regulations as set forth below.

1. Section 3203.2 is revised to read as follows:

3203.2 Lease acreage limitation.

(a) A geothermal lease may not embrace more than 2,560 acres in a reasonably compact area, except where a departure is occasioned by an irregular subdivision or subdivisions, entirely within an area of 6 miles square or within an area not exceeding six surveyed or protracted sections in length or width measured in cardinal directions. A lease offer may not exceed 2,560 acres except where the rule of approximation applies.

(b) No lease will be issued for less than 640 acres, except at the discretion of the Secretary, or where geothermal resources will be utilized for non-electrical purposes, or as provided for in part 3230 of this chapter with respect to "conversion rights." Where a departure is occasioned by an irregular subdivision, the leased acreage may be less than 640 acres by an amount which is smaller than the amount by which the area would be more than 640 acres if the irregular subdivision were added.

(c) The authorized officer may add isolated tracts of more or less than 640 acres in nearby sections, to a lease application where it is determined that such addition is necessary for the proper management of the resource, provided the additional lands will not cause the lessee to exceed the maximum acreage limitation as provided in § 3201.2(a) of this chapter. However, prior to the issuance of such a lease based on the application as amended by the authorized officer, the applicant will be given the option to refuse such a lease. Failure of the applicant to execute and return the lease within 30 days after receipt thereof will constitute a withdrawal of the application, as amended, without further notice.

2. Section 3203.5 is revised to read as follows:

§ 3203.5 Diligent exploration.

(a) Each geothermal lease will include provisions requiring diligent exploration of the leased resources until there is production in commercial quantities applicable to the lands subject to the lease, and stating that failure to perform such exploration may subject the lease to termination. (1) Diligent exploration means exploration operations (subsequent to the issuance of the lease) on or related to the leased lands, including, but not limited to, operations such as geochemical surveys, heat flow measurements, core drilling or drilling of a test well. (2) Exploration operations, in order to qualify as diligent exploration, must be approved by the Supervisor. Evidence of all expenditures and the results thereof must be submitted annually to the Supervisor in compliance with applicable regulations and Geothermal Resources Operational (GRO) Orders or upon his request.

(b) After the fifth year of the primary lease term, exploration operations, to qualify as diligent exploration for any year, must entail expenditures during that year equal to at least two times the sum of (1) the minimum annual rental required by statute, and (2) the amount of rental for that year in excess of the fifth year's rental; however, the required expenditures cannot exceed twice the rental for the 10th year.

(c) Any expenditures for diligent operations during the first 5 years of the lease and any expenditures for diligent operations during any subsequent year in excess of the minimum required expenditures for that year may be credited, in such proportions as the lessee may designate, against (1) expenditures needed to qualify exploration operations as diligent operations for future years, or (2) any escalating rental required for that or any future years pursuant to § 3205.3-3 of this chapter.

(d) The lessee may designate a portion of excess expenditures as credit against expenditures needed to qualify as diligent operations or against escalating rental requirements on any other geothermal lease/leases held, the development of which will extract energy from the same geothermal reservoir. Where the extent of the reservoir is unknown, such lease/leases must be no further than 5 miles from the site where the diligent operations were conducted. In all cases, the lessee must pay the basic annual rental specified in the lease until there is production of geothermal resources in commercial quantities on the leased lands.

3. Section 3203.6 is revised to read as follows:

§ 3203.6 Plans of development and operation.

No entry upon the leased lands for purposes other than casual use as defined in § 3209.0-5(d) of this chapter will be permitted until either a notice of intent or a plan of operation has been approved.

(a) The lessee will be required to submit a notice of intent in accordance with 30 CFR 270.78 prior to entry upon the lands for purposes of conducting exploration operations as defined in § 3209.0-5 of this chapter.

(b) The lessee will be required to submit a plan of operation pursuant to 30 CFR 270.34, prior to entry upon the leased lands for purposes of drilling exploratory and development wells, including construction of testing and production facilities, except as provided in (a) of this section.

4. Section 3204.3 is revised to read as follows:

§ 3204.3 Readjustment of terms and conditions.

(a) (1) Except as otherwise provided by law, the terms and conditions of any geothermal lease may be readjusted as determined by the authorized officer at not less than 10-year intervals beginning 10 years after the date the geothermal resource is produced and utilized commercially for any purpose including the generation of electricity.

(2) At such time as the geothermal resource is being commercially produced, the authorized officer shall give notice to the lessee, by written decision, of any proposed readjustment of the terms and conditions of the lease and the nature thereof, and unless the lessee files with the authorized officer an objection to the proposed terms and conditions or relinquishes the lease within 30 days after receipt of such notice, the lessee shall be deemed conclusively to have agreed to such terms and conditions. If the lessee files objections, and agreement cannot be reached between the authorized officer and the lessee within a period of 60 days, the lease may be terminated by either party, subject to the provisions of § 3000.4 of this chapter. If the lessee files objections to the proposed readjusted terms and conditions, the existing terms and conditions will remain in effect until there has been an agreement between the authorized officer and the lessee on the new terms and conditions to be applied to the lease or until the lease is terminated. The readjustment of any terms concerning rental and royalty rates will be subject to § 3205.3 of this chapter.

(b) Any readjustment of the terms and conditions of any lease of lands withdrawn or acquired in aid of a function of a Federal department or agency may be made only with the approval of that other agency.

5. Section 3220.5 is revised to read as follows:

§ 3220.5 Bidding requirements.

(a) A separate identified sealed bid shall be submitted for each lease unit. Each bidder shall submit with the bid a certified or cashier's check, bank draft, money order, or cash in the amount of one-fifth of the amount bid, together with proof of qualifications as required by these regulations. The balance of the bonus bid shall be paid in two equal annual installments due and payable on the next two anniversary dates.

(b) All bidders are warned against violation of the provisions of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders.

(c) If the lease is terminated by relinquishment, or for failure to make timely payment of annual rentals or for any other reason, any unpaid installments of the bonus bid shall be immediately due and payable to the lessor.

6. Section 3220.6 is revised to read as follows:

§ 3220.6 Award of lease.

(a) All sealed bids shall be opened at the place, date, and hour specified in the notice. No bids will be accepted or rejected at that time.

(b) Leases will be awarded to the highest responsible qualified bidder, except as required under part 3230 of this chapter.

(c) The right to reject any and all bids is reserved. If the authorized officer fails to accept the highest bid for a lease within 30 days after the date on which the bids are opened (or such longer period as may be needed to comply with § 3230.1-6 of this chapter), all bids for that lease will be considered rejected. Deposits on rejected bids will be returned.

(d) If the lease is awarded, three copies of the lease will be sent to the successful bidder who shall be required to execute them within 30 days from receipt thereof, to pay the first year's rental, file the required bond or bonds; and submit the proposed plan of operation as required by § 3210.2-1(d) of this chapter. When the three copies of the lease are executed by the successful bidder and returned to the authorized officer, the lease will be executed by the authorized officer and a copy will be mailed to the lessee.

(e) If the successful bidder fails to execute the lease or otherwise comply with the applicable regulations, the deposit will be forfeited and disposed of as provided in section 20 of the Act. In this event, the lands will be reoffered when it is determined, in the opinion of the Secretary, that sufficient interest exists to justify a competitive lease sale.

GUY R. MARTIN,
Assistant Secretary of the Interior.

MAY 10, 1978.

[FR Doc. 78-13128 Filed 5-12-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[4310-10]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with § 800.5(c) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800) that on May 31, 1978, at 7 p.m., a public information meeting will be held at the Veteran's Memorial Hall, City Hall, 1211 South Main, Angels Camp, Calif. The purpose of this meeting is to provide an opportunity for representatives of public and private organizations, and interested citizens to receive information and express their views on the New Melones Lake Cultural Resources Program, an undertaking of the U.S. Army Corp. of Engineers, that is proposed to mitigate the adverse effect of the Lake project on extant cultural properties.

The following is a summary of the agenda of the public information meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. An explanation of the undertaking and an evaluation of its effects on the properties by the Corps of Engineers.

III. A statement by the California State Historic Preservation Officer.

IV. Statements from local officials, private organizations and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statements to approximately 10 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, P.O. Box 25085, Denver, Colo. 80225, or at 303-234-4946.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc. 78-13183 Filed 5-12-78; 8:45 am]

[1505-01]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Utah and Idaho Inspection Points

In FR Doc. 78-11308 appearing at page 17847 in the issue of Wednesday, April 26, 1978, the deadline date was inadvertently not computed. Please insert "May 26, 1978" in place of "(30 days after publication)" where it appears in the second full paragraph in the second column.

[1505-01]

Forest Service

FOREST SERVICE POLICY ON PESTICIDE USE

Revised Policy

Correction

In FR Doc 78-11949 appearing at page 18725 in the issue of Tuesday, May 2, 1978 on page 18726, first column, paragraph 6, in the first and second line, the word, "Wildlife" should be corrected to read, "Wilderness".

[3410-16]

Soil Conservation Service

CRITICAL AREA TREATMENT RC&D MEASURES PANHANDLE RC&D AREA, NEBR.

Intent Not to Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Panhandle RC&D Area Critical Area Treatment RC&D Measures in Sioux, Dawes, Sheridan, Box Butte, Scotts Bluff, Banner, Morrill, Garden, Kimball, Cheyenne, and Deuel Counties, Nebr.

The environmental assessment of these federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Benny Martin, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects.

The measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, diversions, critical area plantings, fencing, and grassed waterways.

The notice of intent not to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Benny Martin, State Conservationist, Soil Conservation Service, Federal Building-U.S. Courthouse, Room 345, Lincoln, Nebr. 68508, 402-471-5300. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 14, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: May 8, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-13112 Filed 5-12-78; 8:45 am]

[3410-16]

FOWLER AND PRAIRIE CREEK PARK CRITICAL AREA TREATMENT RC&D MEASURE, IND.

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Fowler and Prairie Creek Park Critical Area Treatment RC&D Measure, Vigo County, Ind.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of the findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include installation of one corrugated metal pipe grade stabilization structure in each of the two county parks. Grass seeding, fertilizing, and mulching will be performed on all disturbed areas.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Buell M. Ferguson, State Conservationist, Soil Conservation Service, Atkinson Square-West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Ind. 46224, 317-269-6515. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 14, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: May 8, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-13113 Filed 5-12-78; 8:45 am]

[3410-16]

HIGHWAY DISTRICT NO. 9 CRITICAL AREA TREATMENT RC&D MEASURE, VT.

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Highway District No. 9 Critical Area Treatment RC&D Measure, Orleans and Essex Counties, Vt.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment of 10 eroding areas which are adversely affecting State highways. The planned works of improvement include grading and shaping, placement of stone riprap, cribbing, revegetation, and fencing where necessary.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, 1 Burlington Square, Suite 205, Burlington, Vt. 05401, 802-862-6501, extension 6261. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 14, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: May 8, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-13114 Filed 5-12-78; 8:45 am]

[3410-16]

JACKS CREEK FLOOD PREVENTION RC&D MEASURE AND BULLBEGGER CREEK FLOOD PREVENTION AND DRAINAGE RC&D MEASURE, VA.

Intent to Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are being prepared for the Jacks Creek Flood Prevention and Bullbegger Creek Flood Prevention and Drainage RC&D Measures, Accomack County, Va.

The environmental assessment of these federally assisted actions indicates that the projects may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. David N. Grimwood, State Conservationist, has determined that the preparation and review of environmental impact statements are needed for these projects.

Jacks Creek is a plan for watershed protection and flood prevention. The planned works of improvement include land treatment and approximately 1 mile of channel enlargement.

Bullbegger Creek is a plan for watershed protection, flood prevention, and drainage. The planned works of improvement include land treatment, enlarging seven railroad culverts, five highway culverts, and enlarging about 13 miles of channel.

Draft environmental impact statements will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statements. The draft environmental impact statements will be developed by Mr. David N. Grimwood, State Conservationist, Soil Conservation Service, 400 North Eighth Street, Room 9201, Richmond, Va. 23240, 804-782-2455.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: May 8, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-13115 Filed 5-12-78; 8:45 am]

[3410-16]

MOON LAKE CRITICAL AREA TREATMENT RC&D MEASURE, MISS.

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Moon Lake Critical Area Treatment RC&D Measure, Coahoma County, Miss.

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The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical lake bank stabilization. The planned works of improvement include the stabilization of approximately 5,756 feet of eroding shoreline on the eastern and southern banks of Moon Lake.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, P.O. Box 610, 210 South Lamar Street, Jackson, Miss. 39205, 601-969-4335. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 14, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: May 8, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-13116 Filed 5-12-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 31044; Order 78-5-32]

HAZARDOUS ARTICLES RULES AND PRACTICES INVESTIGATION

Order Asking for Comments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of May 1978.

The general issues in this case will be: (1) The lawfulness of surcharges for hazardous articles—i.e., whether those charges are unjustly discriminatory, unduly preferential or prejudicial, predatory or otherwise unlawful; and (2) whether rules on acceptance of hazardous materials that are more restrictive than DOT requirements violate the carriers' duty to provide service upon reasonable request.[1]

The order instituting the case makes "all certificated carriers" parties. Order 77-6-116. After we issued that order, Congress amended the Act creating a new class of certificated all-cargo carriers operating pursuant to section 418, and the Board has issued interim rules governing those operations. Pub. L. 95-163; ER-1037, 41 FR 65139, December 30, 1977.

At the prehearing conference, Administrative Law Judge Janet D. Saxon ruled that carriers operating pursuant to section 418 should be served and made parties. The Board's Docket Section, however, would not serve them without a Board order expressly making them parties. Judge Saxon has referred the matter to the Board for a decision. See, Prehearing Conference Report of Administrative Law Judge Janet D. Saxon, Docket 31044, served April 7, 1978.

By way of background, domestic air freight is carried by several classes of carriers: (1) Those holding 401 certificates and operating all-cargo and/or passenger/cargo aircraft; and (2) those holding 418 certificates and operating all-cargo aircraft; and (3) those operating under to Part 298 of the Board's Regulations (14 CFR Part 298) and not operating "large aircraft" as defined in that part. Not all carriers' operations fall into a single category. For example, a carrier holding a 401 certificate may qualify for and operate under a 418 certificate, and the same is true for carriers operating small aircraft under Part 298. Finally, many carriers operating small aircraft have applied for and received 418 certificates even though they do not yet operate large aircraft. So far, only carriers holding 401 certificates are on the service list to this case. Judge Saxon has asked the Board whether to expand that list to make the new 418 carriers parties.

The significance of party status is that any final decision in the case directly can bind only the parties. Also, the Judge can order parties to supply information responses.[2] In deciding the question certified by Judge Saxon, we have at least three options. First, we could decide not to make any of the new 418 carriers parties. The problem with that approach is that if any of the 401 carriers' practices or tariffs are found to be unlawful, the corrective order would bind only those carriers. If section 418 carriers that have large aircraft operations have similar practices or tariffs, corrective action would require additional proceedings.[3] Second, only the 418 carriers now operating large aircraft would be made parties. This would solve the problem of binding those carriers, but not carriers who hold unused 418 authority they might decide to use later. If those carriers want to operate large aircraft in the future, we would need additional procedures to bind them to the decision in this case. Third, we could make all 418 certificated holders parties.[4] This would give those carriers notice that they may be bound and would force them to decide whether to participate to protect their rights in case they want to operate large aircraft in the future.[5]

We will give interested persons 15 days to comment on the issue of whether carriers newly certificated pursuant to section 418 of the Act should be made parties to this case.

Accordingly it is ordered, That:

1. Interested persons may comment on the issue outlined above by May 25, 1978; and

2. A copy of this order shall be served on all parties to this docket and all carriers holding certificates pursuant to section 418 of the Act, and shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[6]
Secretary.

[FR Doc. 78-13138 Filed 5-12-78; 8:45 am]

[6320-01]

[Docket Nos. 28848, etc.]

IMPROVED AUTHORITY TO WICHITA CASE, ET AL.

Omnibus Oral Argument

Improved Authority to Wichita Case, Docket 28848; Las Vegas-Dallas/Fort Worth Nonstop Service Investigation, Docket 29445; Memphis-Twin Cities/Milwaukee Case, Docket 29186; Midwest-Atlanta Nonstop Service Investigation, Docket 28115; Ohio/Indiana Points Nonstop Service Investigation, Docket 21162; Phoenix-Des Moines/Milwaukee Route Proceeding, Docket 28800.

Dated: May 10, 1978.

An omnibus oral argument in these cases will be held on May 17 and 18 to consider the value and extent of multiple permissive awards and the related options of delayed entry and backup authority. The Board's focus will be on the general policy and legal implications of these options. Among the issues will be:

1. Whether the Board can and should adopt a policy of granting route authority to all fit applicants, either generally or in certain categories of cases? Are environmental considerations a barrier to adopting such a policy at this time?

2. If such a policy is desirable and lawful, generally, can it be applied in the six cases specifically in issue, where it was not actually litigated by the parties at the trial stage of the proceedings?

3. On the other hand, if a general policy of open entry is not adopted, should the Board continue to make limited multiple awards as in the *Wichita* and *Ohio/Indiana Points* cases (and, tentatively, in *Las Vegas-Dallas/Fort Worth and Midwest-Atlanta*)? What standards should it apply in deciding how many carriers to certificate? Should awards be limited to the number that the market can support?

4. What role, if any, should delayed multiple authority or conditional backup awards play in the Board's routes policy? Are there any legal barriers to such awards, apart from those generally raised by multiple grants?

5. Should all new route awards be permissive? If not, when should they be permissive and when mandatory?

As announced earlier, the cases under formal consideration will provide varied factual contexts for a discussion of the general policy and legal issues. However, the Board will not hear arguments on narrow issues peculiar to individual cases—including, for example, the traffic forecasts for specific markets or the carrier or carriers to be selected if the Board decides not to grant all applications. Participants should be especially careful to avoid comment on the specific issues in cases in which they are not parties.

Turning to the format of the oral argument, participants will be divided into eight panels as indicated below:

PANEL 1

The Bureau of Pricing and Domestic Aviation
Delta Air Lines
Hughes Airwest
The Indianapolis Airport Authority

PANEL 2

Eastern Air Lines
The Federal Trade Commission
The Memphis Parties
North Central Airlines

PANEL 3

Aviation Consumer Action Project
Continental Air Lines
The Kansas Parties
Ozark Air Lines

PANEL 4

Allegheny Airlines
American Airlines
The City of Birmingham
The Columbus Parties
The Massachusetts Port Authority

PANEL 5

The Department of Justice
The Minnesota Department of Transportation
National Airlines
Southern Airways

PANEL 6

The Las Vegas Parties
Texas International Airlines
Trans International Airlines
Western Air Lines

PANEL 7

Braniff Airways
The Cincinnati Parties
Frontier Airlines
The Department of Transportation

PANEL 8

The Cleveland Parties
Northwest Airlines
Trans World Airlines
United Air Lines

The first four panels will be heard on May 17 and last four on May 18. On each day, two will be heard in the morning and two in the afternoon. Each panel, except No. 4, will be allotted a total of 70 minutes; each participant will have 8 minutes for an opening statement and the rest of the time will be devoted to questions by the Board, and to participants' answers to those questions and to each other's statements and comments. Panel 4, which has 5 participants rather than the usual 4, will be allotted an extra 20 minutes.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-13140 Filed 5-12-78; 8:45 am]

[6320-01]

[Docket Nos. 31003, 32276; Order 78-5-28]

NATIONAL AIRLINES, INC. AND PIEDMONT AVIATION, INC.

Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of May 1978.

Application of National Airlines, Inc., for deletion of Newport News-Hampton - Williamsburg - Yorktown, Va., Docket 31003; application of Piedmont Aviation, Inc., for removal of restriction between New York and Newport News-Hampton-Williamsburg-Yorktown, Va., Docket 32276.

By Order 77-11-108, November 22, 1977, the Board denied an application by National Airlines to suspend service at Newport News-Hampton-Williamsburg-Yorktown, Va. (Newport News), deferred action on its application to delete the point from its certificate, and invited interestred carriers to file applications for Newport News-Washington/New York authority. The Board indicated in its order that such applications would be processed by show-cause procedures.

On March 20, 1978, Piedmont filed a certificate amendment application requesting removal of a two-stop restriction in the Newport News-New York market. The application was accompanied by a consolidated petition of Piedmont and the Peninsula Airport Commission for an order to show cause why the requested amendment should not be made without a formal hearing. The petitioners request that the application be given the highest possible priority.

In support of their petition, Piedmont and the Commission state that the carrier has discussed this matter extensively with the community and desires to replace National's services between Patrick Henry International Airport at Newport News and New York;[1] that Piedmont's request involves merely the removal of a restriction whose purpose no longer exists;[2] that the initial service pattern will consist of one daily nonstop flight in each direction between Patrick Henry and Newark Airport;[3] and that prompt action is required so that the service void created by National's abrupt reduction in service in September can be filled. The petitioners state further that the community has discussed this matter with all other carriers which

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[1]The surcharges were investigated at the request of various shippers. (See, Order 77-6-116.) The acceptance practices were investigated in response to a court case holding that the lawfulness of tariff rules on the carriers' obligation to carry hazardous materials must be resolved in a hearing pursuant to section 1002 of the Act. See, *Delta Air Lines* v. *C.A.B.*, 543 F. 2d 247 (D.C. Cir. 1976).

[2]In this case, Judge Saxon has indicated that, even if all 418 carriers were made parties, only the three that operate large aircraft would be required to file information responses.

[3]Under our interim regulations governing 418 operations, 418 carriers are subject to the same statutory common carrier duty and prohibition against discriminatory rates as 401 carriers. We will be instituting shortly a proceeding to establish permanent rules governing those operations, and issues of common carrier and other statutory obligations will be considered there.

[4]No one suggests that all Part 298 carriers should be required to be parties.

[5]In any event, those carriers may want to intervene even if we do not force them to be parties, because any decision in this case will be likely to have strong precedential value in any later proceeding directed to them.

[6]All Members concurred.

[1]Piedmont's authority between Newport News and New York is subject to a two-stop restriction imposed originally to protect National's interest in the market.

[2]Petitioners indicate that Piedmont's application would be eligible for processing under subpart M of the Board's Rules of Practice. However, since the Board has already indicated that it proposes to process any application for Newport News-New York authority by show-cause procedures, the carrier has filed under subpart A of the Board's Rules.

[3]Two existing Norfolk-Newark flights would be routed to stop at Newport News. Piedmont is in the process of preparing a major revision in its system schedule, and intends to add a second round trip in the market as soon as is feasible.

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might be affected, and no opposition is anticipated.[4]

National has filed an answer in support of the petition for an order to show cause, as well as the expedited time frame requested by the petitioners.

The Commission filed a contingent motion for leave to file an otherwise unauthorized document.[5] It has no objection to grant of National's deletion application in Docket 31003, once Piedmont's application has been approved. However, it is concerned that only the Newport News-New York market will receive improved service under Piedmont's proposal, and it therefore requests that in granting National's application, the Board leave open the possibility of certificating a carrier to operate between the Patrick Henry Airport at Newport News and Washington and beyond to New York (with local Washington-New York traffic rights, subject to a long-haul restriction).

We have tentatively concluded, for the reasons discussed below, that the public convenience and necessity require (1) the modification of Piedmont's two-stop restriction in the Newport News-New York market to nonstop authority,[6] and (2) that National's Newport News authority be made permissive. We have also tentatively concluded that the applications present no questions of fact or law requiring a full evidentiary hearing complete with the opportunity for oral cross-examination; that all interested persons should be directed to show cause why the Board's tentative findings and conclusions should not be made final; and that Piedmont and National are citizens of the United States within the meaning of the Federal Aviation Act and are fit, willing, and able properly to perform the transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations and requirements. Since Piedmont has demonstrated that its proposal will not result in any substantial increase in air carrier operations at Newport News, we also tentatively find that the proposed action will not constitute a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975 (EPACA), as defined in § 313.4(a)(1) of the Board's Regulations.

In support of our determination, we tentatively find that the proposed amendment of Piedmont's certificate is consistent with the Board's policy of eliminating or modifying certificate restrictions absent an affirmative showing that their continuance is required. Here, we specifically invited any interested carrier to file an application for new or improved authority between Newport News, on the one hand, and New York and Washington, on the other. Our intent was to permit an orderly transition from the limited services being provided by National under its certificate to the services of a more willing carrier or carriers. In response to that invitation, Piedmont has requested that the two-stop restriction now in effect between New York and Newport News be lifted so as to permit nonstop operations.[7] The proposal is the result of months of discussions between community representatives and various carriers, and as such it represents a long sought-after solution to the air service needs of the area that warrants prompt action. Since September 1, 1977, Newport News has been without direct service to New York, causing inconvenience to a substantial number of passengers traveling to and from the Newport News/Hampton - Williamsburg - Yorktown area.[8] It is, therefore, in the public interest to authorize Piedmont to provide nonstop service in the market as expeditiously as possible. As requested by the Commission, we will certainly leave open the possibility of acting quickly and favorably upon any application for improved Newport News-Washington authority.

We further conclude that the public convenience and necessity require that National's authority to serve Newport News be made permissive. The carrier is providing only a token service at the point and has indicated its desire to eliminate all service, intending to concentrate its service at the nearby Norfolk airport. In view of our findings that the public convenience and necessity require the amendment of Piedmont's certificate to permit nonstop service between Newport News and New York, and given the losses National has been experiencing, we tentatively conclude that the amendment of National's certificate to make its authority at Newport News permissive is required.[9]

Because of the desirability of quick relief, we will grant the petitioners' request to limit the period for filing responses to this order to ten days; replies, if any, will be due five days later.

Accordingly, it is ordered, That: 1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending (1) the certificate of public convenience and necessity of Piedmont Aviation, Inc. for Route 87 to eliminate the two-stop restriction between New York, N.Y.-Newark, N.J., and Newport News-Hampton-Williamsburg-Yorktown, Va., and (2) the certificate of public convenience and necessity of National Airlines, Inc., for Route 31 to make its authority at Newport News-Hampton-Williamsburg-Yorktown, Va. permissive;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions or certificate amendments set forth in this order shall, within 10 days of the date of service, file with the Board and serve upon all persons listed in paragraph 6 a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections, and answers to such objections shall be filed five days later;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections, together with any answers timely filed, before action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

5. The motion filed by the Peninsula Airport Commission in Docket 31003 for leave to file an otherwise unauthorized document be granted; and

6. This order shall be served on National Airlines, Inc.; Allegheny Airlines, Inc.; American Airlines, Inc.; Braniff Airways, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; Northwest Airlines, Inc.; Ozark Air Lines, Inc.; Piedmont Aviation, Inc.; Southern Airways, Inc.; Trans World Airlines, Inc.; United Air Lines, Inc.; the City Managers of Hampton and Newport News; the Mayors of Newport News, Hampton, and Williamsburg; the Williamsburg Area Chamber of Commerce; the Peninsula Chamber of Commerce; the Peninsula Airport Commission; the Hampton Department of Development; the James City County Board of Supervisors; the Norfolk Port and Industrial Authority; the General Services Administration; the Veterans Administration Center at Hampton; the Secretary of the Army; the United States Coast Guard; and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[10]
Secretary.

[FR Doc. 78-13137 Filed 5-12-78; 8:45 am]

[4]The parties suggest that the Board provide for an abbreviated period of 10 days in which any interested party could respond.

[5]We will grant the motion.

[6]We have also concluded that if the authority is granted it will be a Category II subsidy-ineligible award.

[7]The carrier has a long-haul restriction on Newport News-Washington service, but has chosen not to request removal of that condition at this time.

[8]During the twelve months ended March 31, 1977, there were 44,660 O&D passengers in the New York-Newport News market.

[9]This action will permit National to exit the point, as it wishes, but it will also be able to resume service should its assessment of the traffic potential change, without the costly delay otherwise required if the point had been deleted from its certificate. As we noted in the *Improved Service to Wichita Case,* Order 78-3-78, we view the possible preemptive effect of such dormant authority as small, and counterbalanced by its use as a competitive spur.

[6320-01]

[Docket No. 26817; Order 78-5-44]

TEXAS INTERNATIONAL AIRLINES, INC.

Statement of Tentative Findings and Conclusions and Order To Show Cause Regarding Amendment of Its Certificate of Public Convenience and Necessity for Route 82-F

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of May 1978.

On December 30, 1977, Texas International Airlines, Inc. (TXIA) filed an application for amendment of its certificate of public convenience and necessity for Segment 1 of Route 82-F so as to add Guadalajara, Mexico, as a coterminal point on its existing Houston, Mission/McAllen/Edinburg-Monterrey, Mexico City route. On March 22, 1978, TXIA filed a petition requesting that the Board process the application by show cause procedures and consolidate its petition with similar petitions filed by Braniff Airways, Inc. (Docket 32037), Western Air Lines, Inc. (Docket 32050), and Pan American World Airways, Inc. (Docket 32193).[1]

In support of its application TXIA states, among other things, that it was designated under the U.S.-Mexico Air Transport Services Agreement for U.S. Route K (Houston, Mission/McAllen/Edinburg-Monterrey, Mexico City); that on January 20, 1978, the United States and Mexico agreed to amend the Agreement to describe U.S. Route K as U.S. Route B.6 and to add Guadalajara to that route;[2] that in order to implement service to Guadalajara, its certificate for Route 82-F must be amended to reflect the changes agreed to by the U.S. and Mexican Governments.

TXIA plans to operate a daily round-trip flight between Houston and Guadalajara if its application is approved. TXIA forecasts it will carry 40,000 passengers during its first year of operations to Guadalajara. The carrier estimates that its proposed operations will result in a net profit of $383,946 from revenues of $2,646,561. Since the route will be profitable from the outset, TXIA believes that it will reduce its subsidy need for the immediate future as well as over the long run. TXIA proposes to offer a Guadalajara peanuts fare which provides for a discount of 30 percent on Tuesdays and Wednesdays to stimulate traffic on these off-peak days.

No answers have been received.

In view of the foregoing and all the facts of record, we have decided to issue an order to show cause why TXIA's certificate should not be amended to add Guadalajara as an additional point on Segment 1 of its Route 82-F.[3] The new authority shall be placed in subsidy ineligible, Category II, of the list of subsidy ineligible points appended to Order 78-2-115 and shall be permissive. We tentatively find and conclude that the public convenience and necessity requires such an amendment and that an oral hearing is not required.[4]

It is therefore ordered, That: 1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated in this order and amend the certificate of public convenience and necessity of Texas International Airlines, Inc. for Segment 1 of Route 82-F to read as follows:[5]

Between the coterminal points Houston and Mission-McAllen-Edinburg, Tex., and the coterminal points Monterrey, Guadalajara, and Mexico City, Mexico.

2. All interested persons having objections to the issuance of an order making final the proposed findings and conclusions, or to the proposed certificate amendment set forth in this order shall, within 15 days[6] after service of this order, file with the Board and serve upon all persons listed in paragraph 7 below, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant or material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be given the matters and issues raised by the objections before further action is taken by the Board: *Provided,* That the Board may proceed to enter an order if it is determined that there are no factual issues present that warrant the holding of oral hearing.[7]

4. In the event no objections are filed, all further procedural steps will be waived, and the Secretary shall enter an order which, subject to the approval of the President, (1) makes final the Board tentative findings and conclusions set forth in this order, and (2) issues an amended certificate of public convenience and necessity for Route 82-F to Texas International Airlines, Inc. in the form attached;

5. The petition of Texas International Airlines, Inc. for issuance of an order to show cause is granted;

6. The petition of Texas International Airlines, Inc. for consolidation is denied; and

7. A copy of this order shall be served upon all air carriers certificated to serve Houston; the Governors of Texas and Jalisco, the Mayors of Houston and Guadalajara; and the Airport Directors of Houston Intercontinental Airport and Miguel Hidalgo International Airport in Guadalajara.

This order shall be published in the FEDERAL REGISTER.

[10]All Members concurred.

[1]We will grant the petition for issuance of an order to show cause and deny the petition for consolidation as we have decided to handle each application individually, e.g., Western Air Lines, Inc., Order 78-3-156, adopted March 31, 1978.

[2]New Route B.6 reads: Houston, Mission/McAllen/Edinburg-Monterrey, Mexico City, Guadalajara.

[3]Based upon a review of TXIA's Environmental Evaluation, we find that the addition of one daily take-off and landing cycle at Houston does not constitute a "major" federal action within the meaning of the National Environmental Policy Act of 1969. Moreover, since TXIA's proposed operations will not result in the near-term consumption of 10 million gallons of fuel, our action here will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 (EPACA).

[4]We also tentatively find that TXIA is fit, willing, and able properly to perform the air transportation authorized by the proposed certificate amendment and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

[5]In order to give TXIA maximum flexibility in scheduling its services, we will make the new authority to Guadalajara permissive.

[6]In order for TXIA to commence operations as quickly as possible, and considering the absence of objections to the applicant's petition for show cause procedures, we find that the public interest requires the allowance of only 15 days for objections to this order.

[7]Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

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By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[*]
Secretary.

SPECIMEN CERTIFICATE

UNITED STATES OF AMERICA CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (AS AMENDED) FOR ROUTE 82-F

Texas International Airlines, Inc. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation of persons, property, and mail, as follows:

1. Between the coterminal points Houston and Mission-McAllen-Edinburg, Tex., and the coterminal points Monterrey, Guadalajara, and Mexico City, Mexico;
2. Between the terminal point Harlingen-San Benito, Tex., the intermediate point Tampico, Mexico, and the terminal point Veracruz, Mexico.

The service here authorized is subject to the following terms, conditions, and limitations:

(1) Notwithstanding any other provisions of this certificate, the holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements, and to any other orders of the Board issued pursuant to, or for the purpose of requiring compliance with them.
(2) The holder shall render service to the points named here, except as temporary suspensions of service may be authorized by the Board; and may begin or terminate, or begin and terminate, trips at points short of terminal points on all segments. The authority to serve Guadalajara is permissive.
(3) The holder may continue to serve reguarly any point named through the airport last used regularly to serve such point before the effective date of this certificate. Upon compliance with such procedures as the Board may prescribe, the holder may in addition regularly serve the points named here through any convenient airport any may operate nonstop service between any two points not consecutively named here.
(4) The exercise of the authority granted here shall be subject to the carriers first obtaining the required operating rights from the Government of Mexico.
(5) The holder's authority to engage in the transportation of mail in the operations listed in Appendix A, categories I and II of Order 78-2-115, is limited to carriage on a nonsubsidy basis, i.e., on a service mail rate to be paid entirely by the Postmaster General; the authority listed in these categories shall, for purposes of profit sharing, be treated separately. The authority to operate over the segments listed in category II is conditioned upon compliance with the interim accounting procedures for profit sharing adoped in Docket 28800.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

In accepting this certificate the holder acknowledges and agrees that it is only entitled to receive service mail pay, as specified here, for the mail service rendered or to be rendered and that it is not authorized to request or receive any compensation for mail service rendered or to be rendered in excess of the amount payable by the Postmaster General.

This certificate shall become effective on ——: *Provided, however,* That the continuing effectiveness of the authority to Guadalajara granted here shall be conditioned upon the timely payment, by the holder, of such license fees as may be prescribed by the Board.

The Civil Aeronautics Board has directed its Secretary to execute this certificate, and affix the Board's seal, on ——.

(SEAL)

Secretary.

Issuance of this certificate to the holder approved by the President of the United States
On ——————————
In Order ——————————

[FR Doc. 78-13139 Filed 5-12-78; 8:45 am]

[*]All Members concurred.

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Wednesday, May 31, 1978, at 9:30 a.m. in room 6802, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. The meeting will continue June 1 in room 3817, Main Commerce Building to its conclusion.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Review of membership status and suggestion for new members.
(4) Discussion of the list of critical technologies developed by the Department of Defense which are applicable to the Committee's scope of interest.
(5) New business.
(6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (6), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 7978).

Dated: May 10, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 78-13156 Filed 5-12-78; 8:45 am]

[3510-03]

MARITIME ADMINISTRATION

CONSTRUCTION OF THREE/FOUR MA DESIGN C7-S-131A ROLL-ON/ROLL-OFF CONTAINERSHIPS

Computation of Foreign Cost; Intent

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of Section 501(a) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the construction of three/four MA Design C7-S-131a roll-on/roll-off containerships.

Any person, firm or corporation having any interest (within the meaning of Section 501(a)) in such computations may file written statements by the close of business on June 28, 1978, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Dated: May 10, 1978.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-13160 Filed 5-12-78; 8:45 am]

[3510-03]

RECONSTRUCTION OF FOUR MA DESIGN C4-S-1U CARGO VESSELS

Computation of Foreign Cost; Intent

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of Section 501(a) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the reconstruction of four MA Design C4-S-1u cargo vessels, for Moore-McCormack Lines, Inc., to correct design deficiencies in hatch cover systems.

Any person, firm or corporation having any interest (within the meaning of Section 501(a)) in such computations may file written statements by the close of business on May 24, 1978, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Dated: May 10, 1978.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-13159 Filed 5-12-78; 8:45 am]

[1505-01]

COMMODITY FUTURES TRADING COMMISSION

PROPOSED FUTURES CONTRACTS

Notice of Availability

Corrections

In FR Docs. 78-11838, 78-11839, and 78-11840 appearing at page 18738 in the issue for Tuesday, May 2, 1978, the telephone number appearing in the final paragraph of each document now reading, "202-254-6316," should read, "202-254-6314."

[3810-71]

DEPARTMENT OF DEFENSE

Department of the Navy

COMMAND, CONTROL, AND COMMUNICATIONS SUB-PANEL OF THE CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Command, Control, and Communications Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on June 7-8, 1978, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. on both days. All sessions of the meeting will be closed to the public.

The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order, including discussions of command, control, and communications long-range systems planning and related intelligence. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Commander Robert B. Vosilus, United States Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 1401 Wilson Boulevard, Room 405, Arlington, Va. 22209, telephone number 202-894-3191.

Dated: May 8, 1978.

K. D. LAWRENCE,
Captain, JAGC, U. S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-13117 Filed 5-12-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

Week of February 6 through February 10, 1978

Notice is hereby given that during the week of February 6 through February 10, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

APPEALS

Cotten, Day & Doyle, Washington, D.C., DFA-0099, Freedon of Information

Cotten, Day & Doyle (Cotten) appealed from a partial denial by the DOE Information Access Officer of a request for information which the firm submitted under the Freedom of Information Act (the Act). In its request for information, Cotten sought material deleted from the Responses to Requests for Additional Information submitted by the Guam Oil & Refining Co. (Gorco) to the FEA Office of Exceptions and Appeals on August 19, 1977 in Case No. FEE-4105. In the Order which was issued to Cotten, the Information Access Officer withheld portions of certain documents under Exemption 4 of the Act on the grounds that release of the material involved could cause substantial harm to the competitive position of Gorco. Cotten contended in its Appeal that the Information Access Officer erred in refusing to release the deleted material because it had already been made public. In considering Cotten's Appeal, the DOE determined that certain deleted information concerning Gorco's participation in a contracting program of the Small Business Administration and the regulations under which that participation is governed was a matter of public record. The DOE accordingly held that this material should be released to Cotten. However, with

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respect to the remainder of Cotten's Appeal, the DOE determined that none of the other deleted material had previously appeared in the public record, and that its release would cause substantial harm to the competitive position of Gorco. Cotten's Appeal was accordingly granted in part and denied in part.

Florida Gas Exploration Co., Winter Park, Fla., FRA-1329, Crude Oil

Florida Gas Exploration Co. filed an Appeal from a Remedial Order which was issued to the firm by the Regional Administrator of FEA Region IV on April 19, 1977. The Remedial Order found that during the period September 1, 1973 through December 31, 1974, Florida Gas had charged unlawful prices for crude oil produced from two properties. The Appeal, if granted, would result in the rescission of the Remedial Order and thereby relieve Florida Gas of the refund obligations specified in the Remedial Order. In its Appeal, Florida Gas contended that contrary to the findings of the Remedial Order, each of the two wells on the Discorbis 15 unit should be considered as a separate "property" for the purpose of the crude oil price regulations. In considering this contention, the DOE found that a significant alteration in producing patterns occurred subsequent to the date of unitization of the Discorbis property and therefore under the provisions of Ruling 1977-2 Florida Gas was required to treat the unit as one "property" for purposes of Part 212, Subpart D. In addition, Florida Gas contended that the applicable posted price in effect for the crude oil which it sold from the Unknown Pass Field on May 15, 1973 should not have been adjusted to reflect a "transportation allowance" which the firm accorded to the purchaser of the crude oil on that date. In considering this aspect of the firm's appeal, the DOE found that the price bulletin applicable to the Unknown Pass Field on May 15, 1973 specified prices for crude oil delivered to the purchaser at its facilities. The DOE also found that if delivery of the crude oil was made at the Field rather than at the purchaser's facilities, Florida Gas was required to reduce the price of the crude oil to reflect delivery costs incurred by the purchaser. Consequently, the DOE concluded that the Remedial was correct in finding that the elimination of a transportation allowance by Florida Gas constituted the unlawful receipt of a price in excess of the maximum permissible selling price computed under Section 212.73(b). On the basis of these considerations, the DOE denied the Florida Gas Appeal.

Fuels, Inc., Marietta, Ga., FRA-1261, Propane

Fuels, Inc. (Fuels) appealed from a Remedial Order which FEA Region IV issued to the firm on March 30, 1977. In the Remedial Order, Region IV found that during the period November 1973 through October 1975 Fuels had sold propane at unlawful prices. In considering the Appeal, the DOE determined that contrary to the contentions presented by Fuels, additional compliance action against the firm was not barred by the fact that a Remedial Order relating to propane pricing violations had previously been issued to Fuels by the Internal Revenue Service. The DOE also rejected the firm's contention that it should be permitted to offset certain undercharges against the refunds specified in the March 30 Remedial Order. In this connection, the DOE found that Fuels had failed to demonstrate that any undercharges were in fact made, or that they were made for the purpose of making restitution for prior overcharges. In addition, the DOE determined that FEA Region IV had properly calculated the firm's May 15, 1973 product-in-inventory cost and had properly accounted for increased transportation costs which Fuels had incurred since May 15, 1973 in bringing propane into its inventory. Finally, the DOE found that the March 30 Remedial Order did not set forth sufficient findings with respect to the manner in which an early payment discount which Fuels offered was accounted for in determining the amount of overcharges. Consequently, the Fuels Appeal was granted in part and the March 30 Remedial Order was remanded to the Regional Office for an explicit determination of the manner in which these overcharges were computed.

Kaye J. Maupin d.b.a. Maupin Retail Sales, Eaton Rapids, Mich., FRA-1320, Propane

Kaye J. Maupin d.b.a. Maupin Retail Sales (Maupin) filed an Appeal from a Remedial Order which was issued to him on May 3, 1977. The Remedial Order found that during the period November 1, 1973 through July 31, 1976 Maupin charged unlawful prices for propane. Based upon this finding, the Remedial Order directed Maupin to make refunds to his customers. In his Appeal Maupin challenged the calculation of the firm's maximum allowable selling prices. Specifically, Maupin asserted that an early payment discount which the firm offers to customers was erroneously included in the calculation of Maupin's maximum allowable selling prices. Maupin also stated that he was financially unable to comply with the refund requirements of the Order. In considering the Appeal the DOE found that the Maupin submission satisfied the criteria set forth in *Mobil Oil Corp.*, 4 FEA Par. 80,541 (September 24, 1976) under which contentions of hardship and irreparable injury will be evaluated in the context of a Remedial Order Appeal proceeding. Based upon an analysis of the financial and other operating material submitted by Maupin, the DOE determined that the Maupin business enterprise would be seriously jeopardized if Maupin were required to comply with the refund requirements of the Remedial Order, and that retroactive exception relief was granted in part and the March 30 Remedial Order was remanded to the Regional Office for an explicit determination of the manner in which these overcharges were computed.

W. E. Riley Oil Co., Petersburg, Va., FRA-1364, motor gasoline; middle distillates

The W. E. Riley Oil Co. (Riley) filed an Appeal from a Remedial Order which was issued to the firm by FEA Region III on May 9, 1977. In the Remedial Order, the FEA found that Riley has sold motor gasoline and middle distillates at unlawful prices. On the basis of the determination, the Remedial Order directed the firm to make appropriate refunds to its customers. In its Appeal, Riley claimed that since the firm had established its prices in reliance upon certain advice which it had received from an FEA official, the Remedial Order should be rescinded. After considering the record in this matter, the DOE concluded that although Riley had received certain incorrect information from an FEA auditor in May 1977, Riley had failed to substantiate its claim that it established its price levels in accordance with this advice. In this connection, the DOE noted that Riley failed to present any evidence which established the nature of the advice which it claimed it received or the specific action the firm allegedly took in direct reliance on that advice. Moreover, the DOE noted that unless extenuating circumstances are present, advice given by an auditor does not form a proper basis for a firm to adopt a course of conduct that is contrary to applicable regulatory requirements. Finally, the DOE determined that an Appeal was not the appropriate proceeding in which consider Riley's claim that compliance with the terms of the Remedial Order would have a material adverse effect on its financial condition. The Riley Appeal was therefore denied.

PETITIONS FOR SPECIAL REDRESS

Lamar Oil Co., Lamar, Colo., DSG-0011, DES-0018 reporting requirements

Lamar Oil Co., filed a Petition for Special Redress in which it sought rescission of Special Report Order issued to the firm by DOE Region VIII on October 5, 1977. Lamar also requested a stay of the provisions of the Special Report Order pending a determination on the merits of its Petition. In considering the Lamar Petition, the DOE noted 10 CFR Section 210.91(d) sets forth the procedures and criteria governing the consideration by the Office of Administrative Review of a Petition seeking rescission of a Special Report Order. Under those procedures, a preliminary review of the Petition is made in order to determine whether a reasonable probability exists that the petitioner will be able to satisfy the criteria for relief. Unless it is determined that the circumstances are so exceptional that immediate review is warranted to correct substantial errors of law, or to prevent substantial injury to legal rights or cure a gross abuse of administrative discretion, the petition is dismissed. 41 FR 55322 (1976). Upon review of the contentions which Lamar advanced in its Petition, the DOE concluded that the firm had failed to make the required threshold showing. The Lamar Petition for Special Redress was therefore dismissed and the Application for Stay was denied.

Romaco, Inc., Montgomery, AL, DSG-0009, motor gasoline

Romaco, Inc. filed a Petition for Special Redress in which it requested that the DOE reimburse the firm for costs incurred in attending a hearing on December 19, 1977. The hearing involved a prior petition for Special Redress in which Romaco sought review of the denial of its Motion to Quash a Special Order under 10 CFR 210.91(c). In its Petition, Romaco stated that on the basis of its expectation that it would have an opportunity to make an oral presentation on the merits at the December 19 hearing, the firm incurred substantial expense in sending representatives to the hearing. In considering the Romaco Petition, the DOE found that due to a jurisdictional question raised at the December 19 hearing by the Office of Enforcement of the DOE, the Office of Administrative Review had determined that a presentation on the merits by Romaco could not be heard at that time. The DOE concluded that Ramaco's apparent disappointment in not being able to present substantial arguments at the hearing did not provide a basis for reimbursing the firm for attending the hearing. The Romaco Petition was accordingly denied.

REQUESTS FOR EXCEPTION

Beacon Oil Co., Hanford, Calif., Fee-4459, crude oil

Beacon Oil Co. filed an Application for Exception which, if granted, would have resulted in the issuance of an order permitting the firm to include the crude oil which it blends with fuel oil in its "crude oil runs to stills" for purposes of the Old Oil Entitlements Program. In its Application, Beacon states that it has recently been experiencing a shortage of light crude oils and as a result the firm would have to purchase a larger than normal volume of heavy crude oil. Beacon maintained that running the heavy crude oil through its thermal unit to produce residual fuel oil would waste energy and refinery capacity and that it would be more efficient to omit the thermal unit stage and blend heavy crude oil directly with fuel oil. Since Beacon would not receive entitlements with respect to the crude oil if it were blended instead of run through the thermal unit, the firm claimed that it would not be economical to utilize the blending option unless it were issued entitlements. On January 13, 1978, after considering the Application, the DOE issued a Proposed Decision and Order which determined that Beacon's request should be denied. In the Proposed Decision, the DOE found that despite a reduction in Beacon's purchases of a certain type of light crude oil, the firm has not been adversely affected by this situation, has continued to purchase and run relatively high gravity crude oils, and has not yet found it necessary to purchase heavy crude oils to blend with its fuel oil production. The DOE also found that Beacon's runs to stills and rate of refinery capacity utilization had actually increased during the period when Beacon claimed it was experiencing difficulties in purchasing acceptable crude oils. The DOE therefore determined that the firm's claims were speculative and did not constitute a proper grounds for exception relief. Since Beacon did not file a Notice of Objection to the Proposed Decision within the prescribed period of time, the Decision and Order was issued as a final determination.

Funding Systems Refining Corp.; Crystal Oil Co., Washington, D.C., DEE-0031, crude oil

Funding Systems Refining Corp. (Funding) and Crystal Oil Co. (Crystal) filed a joint Application for Exception in which they requested that an order be issued permitting Funding to participate as a refiner in the Entitlements Program (10 CFR 211.67) as of April 1, 1977. The DOE noted that the Application arose from a March 11, 1977 transaction between Crystal and Funding involving Crystal's Adobe refinery. It was further noted that on June 17, 1977 the Office of Regulatory Programs issued a Decision and Order which denied an application for certification of the Adobe refinery capacity which Funding submitted pursuant to 10 CFR 211.67(a)(2). In considering the Application for Exception the DOE found that the only issue raised in the Application resulted from the firm's implicit assumption that Funding became a "refiner" as a result of the transaction involving the Adobe facility. The DOE further found that the principal basis for the June 17 Decision and Order was the determination that Funding is not a "refiner" as that term is defined in 10 CFR 211.67 and that the firms have already challenged this determination in the administrative Appeals which they have filed from the Order. Consequently, the DOE dismissed the exception application on the grounds that the appellate proceedings will afford a full opportunity for Funding and Crystal to present their position on the issue of whether Funding is a "refiner" to the Office of Hearings and Appeals.

Johnson Oil Co., Battle Creek, Iowa, DEE-0390, propane

Johnson Oil Co. filed an Application for Exception from the requirement that it complete Form P315-M-0 ("Monthly Survey of Propane Sales Volume to Ultimate Consumers"). In its evaluation of the exception request, the DOE observed that Johnson had failed to sumit any factual material in support of its claim that it will incur a serious hardship as a result of devoting the time and personnel necessary to file the form. The DOE also examined the data requirements of the form and concluded that Johnson should encounter little difficulty in obtaining the information elicited by the form. Finally, the DOE determined that Johnson had not demonstrated that the inconvenience which it is experiencing as a result of completing the form outweights the benefits derived from the aggregate data which is obtained from the form. On the basis of these considerations, the DOE denied Johnson's request for exception relief.

Van Fleet Brothers, Inc., Los Angeles, Calif., FEE-4127, motor gasoline

Van Fleet Brothers, Inc. filed an Application for Exception from the provisions of 10 CFR 212.93, which, if granted, would permit the firm to increase the prices it charges two classes of purchaser for motor gasoline to levels above the maximum selling prices allowed under the DOE pricing regulations. In considering the Van Fleet Application, the DOE found that as a result of substantial cost increases for motor gasoline which the firm incurred during April and May 1973 Van Fleet's May 15, 1973 markups to two classes purchaser were unrepresentative of the firm's historical levels. The DOE further found that the anomalous May 15 price levels had affected Van Fleet's operations in a significant manner. Based on these findings and financial data submitted by Van Fleet, the DOE granted the exception request to permit the firm to increase its selling prices for motor gasoline to the two classes of purchaser in question by $0.0115 and $0.0118 per gallon, respectively.

REQUEST FOR STAY

Gasco, Inc., Honolulu, Hawaii, DES-0036, propane

Gasco, Inc. (Gasco) requested that the DOE stay its consideration of an Appeal filed by Oahu Gas Service, Inc. (OGS) pending a Decision on a Freedom of Information request which Gasco filed on January 26, 1978. Gasco and OGS are the only two propane resellers in the State of Hawaii. On March 11, 1977, OGS filed an Application for Exception with FEA Region IX in which it requested that its annual base period use of propane be increased. On August 7, 1977, FEA Region IX issued a Decision and Order in which it determined that the OGS Application should be denied. OGS subsequently filed an Appeal of the August 7 Decision which is presently being considered. Since the exception relief which OGS has requested would necessarily affect Gasco in an adverse manner, Gasco has filed comments on each submission made by OGS. On January 25, 1978, the DOE convened a hearing in order to provide both OGS and Gasco with an opportunity to present oral arguments regarding the OGS Appeal. After being advised by OGS that it wished to present confidential financial data at the hearing, the DOE determined that the hearing should be divided into two portions and that the representatives of Gasco should be excluded from the portion of the hearing in which OGS presented proprietary financial data. In its Application for Stay Gasco contended that it was improperly excluded from the second portion of the hearing. The firm also stated that it had filed a Freedom of Information request in order to obtain the full transcript of the hearing. Gasco maintained that it would experience an irreparable injury if its Freedom of Information request were granted subsequent to the deadline established at the January 25 hearing for the submission of final written comments on the OGS Appeal. In considering the Gasco stay request, the DOE found that Gasco was incorrect in contending that it was improperly excluded from the second portion of the hearing. The DOE observed that the material submitted by OGS during that portion of the hearing certainly appeared to fall under Exemption 4 of the Freedom of Information Act. The DOE also rejected Gasco's contention that its interest in the outcome of the Appeal proceeding enhanced its position in the FOI proceeding, citing the determination reached by the Supreme Court in *NLRB* v. *Sears, Roebuck & Co.*, 421 U.S. 132 (1975). The DOE did, however, agree with Gasco that it had a legitimate need to analyze the material being withheld from it in the current Appeal proceeding. Nevertheless, the DOE concluded that a substantial question existed as to whether or not the DOE possessed the authority to authorize the release of that confidential material to Gasco. Based on these considerations, the DOE concluded that the Gasco request for stay should be denied.

SUPPLEMENTAL ORDERS

Laketon Asphalt Refining, Inc., Evansville, Ind., DEX-0032, crude oil

On February 10, 1978, the DOE issued a Decision and Order to Laketon Asphalt Refining, Inc. staying that firm's obligation to purchase entitlements to the extent specified in a Proposed Decision and Order which was issued to the firm on February 10, 1978. In granting the stay, the DOE stated that as a result of new exceptions procedures which had been adopted effective September 14, 1977, the Proposed Decision and Order would not be finalized for at least 10 days after service of the Order in proposed form. During the period between issurance of the Order in proposed form and issuance of the Order in final form, Entitlement Notices might be issued which would not take into consideration the relief proposed for Laketon. Therefore, the DOE determined that the entitlement purchase obligations of Laketon should be stayed to the extent specified in the Proposed Order until the conclusion of the pending exception proceeding.

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Young Refining Corp., Douglasville, Ga., DEX-0029, crude oil

On January 13, 1978, the Department of Energy issued a Decision and Order to Young Refining Corp. (Young) in which it stayed the firm's obligation to purchase the entitlements specified in the October and November 1977 Entitlement Notices. *Young Refining Corp.*, 1 DOE Par. 82,024 (January 13, 1978). That Decision and Order was issued in order to afford Young the opportunity to assess the competitive injury, if any, which was caused by the inadvertent release of a confidential transcript of a hearing which the DOE had conducted in connection with a prior Application for Temporary Stay. In considering whether the January 13 Stay should be extended, the DOE found that the likelihood of injury is sufficiently remote so as to warrant a review of the previous determination. The DOE found that the material which the firm had submitted indicated that although Young does not have sufficient resources to purchase its outstanding October and November entitlements immediately, the firm's cash flow projections indicate that it has the ability to purchase a portion of the stayed entitlements as the firm generates cash from its operations. The DOE therefore required Young to purchase entitlements valued at $45,000 during each of the remaining eleven months of 1978. The remainder of Young's October and November 1977 entitlement obligation was stayed pending the issuance of a final determination on an Application for Exception which Young filed.

Texas American Oil Corp., Washington, D.C., DEX-0034, crude oil

On December 16, 1976, the FEA issued a Decision and Order to United Refining Co. (United) and the Texas American Oil Corp. (TAO) which approved various types of administrative relief relating to the acquisition by TAO of a refinery which had been owned and operated by United in Osceola, Mich. (the Osceola refinery). *United Refining Co; Texas American Oil Corp.*, 4 FEA Par. 83,262 (December 16, 1976). In that Decision, the FEA found that TAO should be considered a "refiner" and be permitted to earn entitlements for its crude oil receipts at the Osceola refinery beginning with December 1, 1976. That determination was upheld in a Decision and Order which was issued to TAO on April 5, 1977. *Texas American Oil Corp.*, 5 FEA Par. 80,597 (April 5, 1977). Subsequent to the issuance of the April 5 Appeal Decision, it came to the attention of the FEA that TAO had sought a hearing during the course of the Appeal proceeding but that no such hearing was ever convened. Under these circumstances, the FEA decided that a hearing should be convened and the TAO Appeal reconsidered. *Texas American Oil Corp.*, 5 FEA Par. 85,050 (April 14, 1977). The DOE observed that the definition of the term "refiner" in Section 211.62 is somewhat ambiguous and its literal application could lead to anomalous results under certain circumstances. The DOE further observed that in future cases involving the transfer of a refinery between two firms, it will be necessary to determine which one of the firms should be properly be classified as the "refiner" for the purposes of the DOE Regulations. In making this determination, the DOE will not sanction any practices which may be designed to take unwarranted advantage of the small refiner bias provisions of the Entitlements Program. The DOE determined on the basis of the factual record which had been established that TAO should be considered the "refiner" with respect to the Osceola refinery beginning September 1, 1976. In view of this determination, the April 5, 1977 Appeal Decision was rescinded and the TAO Appeal from the December 16 Decision and Order was granted.

Newhall Refining Co., Inc., Dallas, Tex., DEX-0033, crude oil

On February 10, 1978, the DOE issued a Decision and Order to Newhall Refining Co., Inc. staying that firm's obligation to purchase entitlements to the extent specified in a Proposed Decision and Order which was issued to the firm on February 10, 1978. In granting the stay, the DOE stated that as a result of new exceptions procedures which had been adopted effective September 14, 1977, the Proposed Decision and Order would not be finalized for at least 10 days after service of the Order in proposed form. During the period between issuance of the Order in proposed form and issuance of the Order in final form, Entitlement Notices might be issued which would not take into consideration the relief proposed for Newhall. Therefore, the DOE determined that the entitlement purchase obligations of Newhall should be stayed to the extent specified in the Proposed Order until the conclusion of the pending exception proceeding.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Department of Energy has issued a Decision and Order granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processor listed below. The exception relief permits the firm involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Allied Chemical Corp.	DEE-0037	Perkins	Coke County, Tex	$0.00991

SUMMARY DECISIONS

The following firms filed Applications for Stay of Remedial Orders which had been issued to them by the DOE. In considering the stay requests, the DOE referred to a recent Decision in *Rickelson Oil and Gas Co.*, 6 FEA Par. 85,029 (August 24, 1977), in which it held that a Remedial Order will generally be stayed pending the determination of an Appeal unless it appeared that the public interest required immediate compliance with the Remedial Order. Since the record in these cases did not indicate that the public interest required immediate compliance with the Remedial Orders, the DOE granted the requests for stay pending consideration of the Appeals:

Dale Cannon, DRS-0128
Victory Oil Co., DRS-0065

The following decision modified a Decision and Order which was issued on November 15, 1977 by extending the period of time for the issuance of a revised Remedial Order:

Buck's Butane & Propane Service, Inc., DRX-0031

The following decision stayed the provisions of a revised Remedial Order issues to Bassett Oil & Equipment Co., Inc., pending a determination on an Appeal of the revised Remedial Order:

Bassett Oil & Equipment Co., Inc., DRS-0139

DISMISSAL

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Hillsboro Bottled Gas Co., DRA-0119, Tampa, Fla.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

MAY 8, 1978.

[FR Doc. 78-13029 Filed 5-12-78; 8:45 am]

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ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

Week of February 13 Through February 17, 1978

Notice is hereby given that during the week of February 13 through February 17, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

APPEALS

Industrial Fuel Oils, Inc., Fort Wayne, Ind., FRA-1358, Nos. 2, 5, and 6, fuel oils

Industrial Fuel Oils, Inc. (IFO) appealed from a Remedial Order which the Federal Energy Administration Region V issued to the firm on May 18, 1977. The Remedial Order found that during the period November 1, 1973 through December 7, 1974, IFO had sold Nos. 2, 5, and 6 fuel oils at prices which exceeded the maximum permissible price levels specified in 10 CFR 212.93 and 6 CFR 150.359. In considering IFO's Appeal, the DOE found considerable merit to the firm's contention that maximum permissible selling prices should be determined separately for each fuel oil with distinct sulfur content characteristics. The DOE noted that the petroleum industry has historically distinguished between high and low sulfur fuel oils. The DOE also noted that the costs of production and the market demand for fuel oils vary with their sulfur content. The DOE therefore held that a reseller may treat high and low sulfur fuel oils as separate products if it demonstrates that (i) it has historically maintained separate physical inventories of high and low sulfur fuel oils; (ii) it has historically accounted for high and low sulfur fuel oils separately; and (iii) the sulfur gradations which the firm wishes to recognize as separate products are based on discrete, technical product differences which are generally recognized by the petroleum industry. Since the May 18 Remedial Order did not contain sufficient findings for a determination as to whether the fuel oils which IFO sold should be treated as separate products, the DOE remanded it to the Region V Office for further consideration.

St. Petersburg Times, St. Petersburg, Fla., DFA-0110, Freedom of Information

The St. Petersburg Times appealed from a denial by the DOE Information Access Officer of a request for information which the firm submitted under the Freedom of Information Act (the FOIA). In its request for information, the Times sought material relating to certain transactions between Tauber Oil Co. and Florida Power Corp. The Information Access Officer denied the request on the grounds that the material sought was proprietary information which was exempt from mandatory disclosure under Section (b)(4) of the FOIA. In considering the Times' Appeal, the DOE determined that the information which had been withheld by the Information Access Officer was mostly confidential financial information, the release of which would likely result in substantial economic harm to Tauber. The DOE therefore concluded that those portions of the material were properly withheld under Section (b)(4) of the FOIA. However, the DOE also concluded that the Information Access Officer erred in withholding certain aggregate overcharge figures since release of that data would not be likely to injure Tauber's competitive position. In considering the Times' additional contention that the Information Access Officer had erred in not determining whether information which was being withheld had already been publicly disclosed by Florida Power, the DOE determined that neither the FOIA, the DOE Regulations, nor DOE precedents require the Information Access Officer to determine whether requested information has been released by other sources. The DOE noted that to require the Information Access Officer to make such a determination would decrease the likelihood that information would be released in a prompt manner as required by the FOIA and the DOE Regulations. The Times' Appeal was accordingly granted in part and denied in part.

REQUEST FOR EXCEPTION

Estates of Inez and Loyce Phillips, Austin, Tex., FXE-4773, natural gas liquids

The estates of Inez and Loyce Phillips requested that exception relief previously granted to it be extended for an additional period of time. In considering the request, the DOE found that Phillips had continued to incur increased non-product costs at its Nan-Su-Gail natural gas processing plant which materially exceeded the $.005 per gallon passthrough permitted under 10 CFR 212.165. Based upon the criteria set forth in *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), the DOE determined that Phillips should be granted exception relief from the provisions of Section 212.165 for the period October 1, 1977 through March 31, 1978. The DOE provided that the amount of exception relief granted to Phillips will be reduced if Phillips begins to produce natural gas liquid products rather than natural gas liquids at the Nan-Su-Gail plant or if the passthrough amounts set forth in Section 212.165 are increased during the exception period.

Robert W. O'Meara, New Orleans, La., DXE-0439, crude oil

Robert W. O'Meara filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of exception relief previously granted to O'Meara and would permit him to sell the crude oil produced from the Louisiana Fruit No. 2 well (the No. 2 well), located in the Tiger Pass Field of Plaquemines Parish, La., at upper tier ceiling prices. In considering the exception request, the DOE found that O'Meara had continued to incur a loss in the operation of the No. 2 well despite the exception relief previously granted. Consequently, the DOE concluded that O'Meara would have no economic incentive to produce crude oil at the No. 2 well unless additional exception relief were approved. In accordance with the precedent established in a number of previous Decisions, the DOE concluded that O'Meara should be permitted to sell at upper tier ceiling prices 100 percent of the crude oil produced from the No. 2 well for the benefit of the working interest for a period of eight months.

Stoltz, Wagner & Brown, Midland, Tex., DEE-0106, crude oil

Stoltz, Wagner & Brown filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit Stoltz to sell at upper tier ceiling prices the crude oil which it produces from two properties located in Lea County, N. Mex. In considering the exception request, the DOE found that the costs of producing crude oil from the two properties had increased significantly since May 15, 1973, and that they now exceed the revenues which Stoltz receives from the sale of the crude oil at lower tier prices. The DOE therefore determined that Stoltz no longer has an economic incentive to continue production at the two wells. The DOE further determined that if Stoltz were to terminate its operations at the properties, a substantial quantity of crude oil would not be recovered. The DOE therefore concluded that exception relief should be granted to the working interest owners of the two wells which would permit them to recover the increased operating costs.

Texaco, Inc., Atlanta, Ga., FEE-3995, motor gasoline

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would have permitted Texaco to terminate its supplier/purchaser relationship with F. E. "Jack" Glover, Inc. In its submission, Texaco alleged that Glover had defrauded it by means of a cross-billing scheme. Texaco further contended that the business relationship between the parties had deteriorated to the point where their supplier/purchaser relationship was no longer productive. In considering the Texaco request, the DOE noted that no court judgment with respect to Texaco's allegations of fraud had been reached and that Texaco therefore failed to satisfy the criteria for relief established in *Eagle Point School District No. 9*, 2 FEA Par. 80,622 (July 1, 1975). The DOE also found that although Glover may have engaged in cross-billing in the past, Texaco failed to establish that it was presently incurring damages as a result of the maintenance of its supplier/purchaser relationship with Glover or that the relationship imposed any extraordinary burden on Texaco. Consequently, the Texaco exception request was denied.

Texaco, Inc., Los Angeles, Calif., Fee-4457, crude oil

Texaco Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell all of the crude oil produced from an offshore drilling platform designated as Platform A in Cook Inlet, Alaska at exempt price levels. Inc considering the exception request, the DOE found that the cost of producing crude oil from Platform A had increased since 1973 to a level where those costs exceed the revenues which Texaco realizes from the sale of the crude oil at lower tier ceiling prices. The DOE therefore concluded that Texaco lacked an economic incentive to continue the production of crude oil from Platform A. Accordingly, on the basis of precedents involving similar factual matters, the DOE determined that the working interest

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owners should be permitted to see 67.61 percent of the crude oil produced for their benefit from Platform A during the period October 1, 1977 through March 31, 1978 at market prices and the remainder of the crude oil produced for their benefit at upper tier ceiling prices.However, the DOE denied Texaco' request for retroactive exception relief.

SUPPLEMENTAL ORDER

Lunday-Thagard Oil Co., South Gate, Calif., DEX-0035, crude oil

On January 13, 1978, the Department of Energy issued a Decision and Order to Lunday-Thagard Oil Co. in which it stayed the firm's obligation to purchase entitlements as specified in the October and November 1977 Entitlement Notices. *Young Refining Corp.; Lunday-Thagard Oil Co.*, 1 DOE Par. —— (January 13, 1978). That Stay was issued in order to afford Lunday-Thagard the opportunity to assess the competitive injury, if any, which was caused by the release of a confidential transcript of a hearing which the DOE had conducted in connection with an Application for Temporary Stay filed by Lunday-Thagard. In reconsidering the January 13 Stay, the DOE found that the likelihood of injury to Lunday-Thagard due to the release of the transcript was sufficiently remote so as to warrant a review of the stay relief on the merits of the firm's original Application for Stay. The DOE found that financial data which Lunday-Thagard had submitted indicated that the firm did not presently have adequate resources to purchase its outstanding October and November entitlements. The DOE also determined that the firm was unlikely to generate a sufficient amount of cash from its operations to enable it to discharge even a portion of the stayed entitlement obligation. Consequently, the DOE concluded that the January 13 Stay should remain in effect pending the submission of updated cash flow data.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Department of Energy has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Adobe Oil & Gas Corp	DXE-0183	Adobe Sale Ranch	Martin County, Tex	$0.01275
Arkansas Louisiana Gas Co	DXE-0173	Hamilton	Columbia County, Ark	.0222
Atlantic Richfield Co	DXE-0128	Adair	Gaines County, Tex	.0304
	DXE-0129	Camrick	Beaver County, Okla	.0123
	DXE-0130	Chesterville	Colorado County, Tex	.0343
	DXE-0131	Crossett	Crane and Upton Counties, Tex.	.0146
	DXE-0132	Elmwood	Beaver County, Okla	.0142
	DXE-0133	Elk Basin	Park County, Wyo	.0419
	DXE-0134	Empire Abo	Eddy County, N. Mex	.0099
	DXE-0135	Ollette	Campbell County, Wyo	.0187
	DXE-0136	Headlee	Ector County, Tex	.0132
	DXE-0137	Hull	Liberty County, Tex	.0619
	DXE-0138	Kermit	Winkler County, Tex	.0057
	DXE-0139	Knox-Bromide	Grady County, Okla	.0301
	DXE-0140	Lapeyrouse	Terrebonne County, La	.0306
	DXE-0141	Ojai Timber	Ventura County, Calif	.1361
	DXE-0142	Pledger	Brazoria County, Tex	(1)
	DXE-0143	Riverton Dome	Fremont County, Wyo	.2582
	DXE-0144	Selling	Dewey County, Okla	.0117
	DXE-0145	Silsbee	Hardin County, Tex	.1370
	DXE-0146	South Coles Levee	Kern County, Calif	.0186
	DXE-0147	Taft	San Patricio County, Tex	.0539
	DXE-0148	West Lake	Nolan County, Tex	.0456
	DXE-0149	West Seminole	Gaines County, Tex	.0178
	DXE-0150	Worland	Washakie County, Wyo	.0437
Austral Oil Co., Inc	DXE-0151	South Thornwell	Cameron Parish, La	.0050
	DXE-0152	TSMA	Vermilion Parish, La	.0199
Belridge Oil Co	DXE-0242	Kern County	Kern County, Calif	.1032
Breckenridge Gasoline Co	DXE-0194	Eliasville	Stephens County, Tex	.0786
	DXE-0195	Lodi	Cass County, Tex	.1467
Champlin Petroleum Co	DXE-0196	Gulf Plains	Nueces County, Tex	.0566
	DXE-0197	Mayfield	Kleberg County, Tex	.0480
	DXE-0198	Peoria	Arapahoe County, Colo	.0218
	DXE-0199	South Fullerton	Andrews County, Tex	.0382
Cities Service Co	DXE-0278	Adair	Terry County, Tex	.0363
	DXE-0279	Bluitt	Roosevelt County, N. Mex	.0913
	DXE-0281	Citronelle	Mobil County, Ala	.0352
	DXE-0282	Garrett	Kay County, Okla	.0449
	DXE-0283	Kimball	Kimball County, Nebr	.0316
	DXE-0284	May	Kleberg County, Tex	.0574
	DXE-0285	Midway	Kingman County, Kans	.0444
	DXE-0286	Moncrief	Franklin County, Tex	.0482
	DXE-0287	Myrtle Springs	Van Zandt County, Tex	.1086
	DXE-0288	Panola	Panola County, Tex	.0358
	DXE-0289	Red Fish Bay	San Patricio, Tex	.0091
	DXE-0290	Rio Grande	Starr County, Tex	.0514
	DXE-0291	Robstown	Nueces County, Tex	.0570
	DXE-0292	St. Amelia	St. James Parish, La	.0882
	DXE-0293	Selling	Dewey County, Okla	(1)
	DXE-0294	West World	Crockett County, Tex	.0434
Continental Oil Co	DXE-0227	Chittim	Bimmit County, Tex	(1)
	DXE-0228	Elk Basin	Park County, Okla	.0350
	DXE-0229	Kettleman Hills	Kings County, Calif	.0189
	DXE-0230	Medford	Grant County, Okla	.0684
	DXE-0231	O. W. Ward	Hidalgo County, Tex	.0491
	DXE-0232	Ramsey	Reeves County, Tex	.0635
	DXE-0233	Thomas	Dewey County, Okla	.0257

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Devon Corp	DXE-0225	Dubach	Lincoln Parish, La	.0067
Sanford P. Fagadau	DXE-0171	Bluegrove	Clay County, Tex	.11787
	DXE-0172	Maryetta	Jack County, Tex	.06682
Farmland Industries, Inc	DXE-0090	Gillette	Campbell County, Wyo	.0274
	DXE-0091	Lamont	Grant County, Okla	.0658
	DXE-0092	Mertzon	Irion County, Tex	.0232
	DXE-0093	Quitman	Wood County, Tex	.0127
Florida Gas Co	DXE-0193	Brooker	Bradford County, Fla	.0192
General Crude Oil Co	DEE-0050	Dayton	Liberty County, Tex	.0139
	DEE-0051	Grand Chenier	Cameron Parish, La	.0307
	DEE-0052	Hamlin	Fisher County, Tex	.0119
	DEE-0053	Salt Creek	Kent County, Tex	.0778
	DEE-0387	Silsbee	Hardin County, Tex	.1346
Getty Oil Co	DXE-0208	Bay Springs	Jasper County, Miss	.0228
	DXE-0209	Buena Vista Hills	Kern County, Calif	.0227
	DXE-0210	Cameron	Cameron Parish, La	.0555
	DXE-0211	Cymric	Kern County, Calif	.0275
	DXE-0212	Dollar-hide	Andrews County, Tex	(1)
	DXE-0213	Kermit	Winkler County, Tex	.0148
	DXE-0214	Kettleman Hills	King County, Calif	.0136
	DXE-0215	Marlow	Stevens County, Okla	.1234
	DXE-0216	New Hope	Franklin County, Tex	.0217
	DXE-0217	Normanna	Bee County, Tex	.0308
	DXE-0218	Old Ocean	Brazoria County, Tex	.0198
	DXE-0219	Palacios	Matagorda County, Tex	.0484
	DXE-0220	South Pecan Lake	Cameron Parish, La	.0210
	DXE-0221	Stevens-Calidon	Kern County, Calif	(1)
	DXE-0222	Ventura	Ventura County, Calif	.0250
	DXE-0223	West Bernard	Warton County, Tex	.0560
Gulf Oil Corp	DXE-0312	Azalea	Midland County, Tex	.0672
	DXE-0313	Milfay	Creek County, Okla	.0899
	DXE-0314	Sand Hills	Crane County, Tex	.0494
	DXE-0316	Irondale	Adams County, Colo	.0597
Hilliburton Co./Vessels Gas Processing Co	DXE-0070	Indian Wells	Crockett County, Tex	.07021
Indian Wells Oil Co	DXE-0127	Yenter	Sterling, Colo	.0347
Kansas-Nebraska Natural Gas Co, Inc	DXE-0153	Milfay	Lincoln County, Okla	.1382
Kerr-McGee Corp	DXE-0315	Locust Ridge	Tensas Parish, La	.06937
Locust Ridge Gas Processing Co	DXE-0175	Camrick	Beaver County, Okla	.0404
Marathon Oil Co	DXE-0176	Cotton Valley	Webster Parish, La	.0234
	DXE-0177	Heyser	Victoria County, Tex	.2568
	DXE-0178	Indian Basin	Eddy County, N. Mex	.0088
	DXE-0179	Markham	Matagorda County, Tex	.0271
	DXE-0180	Scipio	Billsdale County, Mich	.0240
	DXE-0181	South Coles Levee	Kern County, Calif	.0491
	DXE-0182	Stephens	Claiborne Parish, La	.0295
Matrix Land Co	DEE-0034	Piceance Creek	Rio Blanco County, Colo	(1)
	DEE-0035	Mobeetie	Wheeler County, Tex	.0415
	DEE-0036	Box-Elmdale/Tuscola	Taylor and Callahan Counties, Tex.	.1755
McCulloch Gas Processing Corp	DXE-0107	Fairview	Richland County, Mont	.0372
	DXE-0108	Hilight	Campbell County, Wyo	.0376
	DXE-0109	Jamison Prong	do	.1202
	DXE-0110	Tule Creek	Roosevelt County, Mont	.1792
	DXE-0111	Well Draw	Converse County, Wyo	.0549
Mobil Oil Corp	DXE-0264	Union-Adena	Morgan County, Colo	.0434
	DXE-0265	Bryans Mill	Cass County, Tex	.0341
	DXE-0266	Cotton Valley	Webster Parish, La	.0155
	DXE-0267	Cow Island	Vermillion Parish, La	.0052
	DXE-0268	Elwood	Santa Barbara County, Calif.	.0167
	DXE-0269	Greeley	Kern County, Calif	.0882
	DXE-0270	Hagist	Duval County, Tex	.0105
	DXE-0271	Heyser	Victoria County, Tex	.1534
	DXE-0272	Gulf-Knox	Grady County, Okla	.0154
	DXE-0273	Postle Hough	Texas County, Okla	.0131
	DXE-0274	Putnam Oewego	Dewey County, Okla	.0117
	DXE-0275	R. M. Stephens	Claiborne Parish, La	.0183
	DXE-0276	Vanderbilt	Jackson County, Tex	.0777
	DXE-0277	Wilcox	La Vaca County, Tex	.0132
Oklahoma Natural Gas Co	DXE-0073	Garvin County	Garvin County, Okla	.0234
Palo Pinto Oil & Gas Co	DXE-0228	Markley	Jack County, Tex	.03694
The Permian Corp	DXE-0378	Possum Kingdom	Stephens County, Tex	.0483
	DXE-0379	Todd Ranch	Crockett County, Tex	.0230
Phillips Petroleum Co	DXE-0254	Cimarron	Woodward County, Okla	.0911
	DXE-0255	Goldsmith	Ector County, Tex	.0060
	DXE-0256	Lusk	Lea County, N. Mex	.0183
	DXE-0257	Puckett	Pecos County, Tex	.0545
	DXE-0258	Sooner No. 1	Major County, Okla	.0515
Placid Oil Co	DXE-0326	Black Lake	Natchitoches Parish, La	.0074
	DXE-0327	Calumet	St. Mary Parish, La	.0055
	DXE-0328	Lapeyrouse	Terrebonne Parish, La	.0318

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Company	Case No.	Plant	Location	Amount of price increase (per gallon)
	DXE-0329	Lake Washington	Plaquemine Parish, La	.0239
	DXE-0330	Patterson	St. Mary Parish, La	.0217
	DXE-0331	Prentice	Terry County, Tex	.0152
	DXE-0332	Promix	St. Mary Parish, La	.0069
	DXE-0333	Womack Hill	Choctaw County, Ala	.0189
Shell Oil Co	DXE-0165	Elmwood	Beaver County, Okla	.0777
	DXE-0166	Clark County, Miss		.0916
	DXE-0167	Indian Basin	Eddy County, N. Mex	.0125
	DXE-0168	Molino	Santa Barbara County, Calif.	.1178
	DXE-0169	Seeligson	Jim Wells County, Tex	.0086
	DXE-0170	Tippett-Crossett	Crockett County, Tex	.0101
Sid Richardson Gasoline & Carbon Co	DXE-0325	Keystone	Winkler County, Tex	.0299
Southern Natural Resources, Inc	DXE-0356	Lapeyrouse	Terrebonne Parish, La	.0215
	DXE-0357	Patterson	....do.	.0204
	DXE-0358	Sea Robin	Erath Parish, La	.0172
Standard Oil Co. (Indiana)	DXE-0188	Empire Abo	Eddy County, N. Mex	.0061
	DXE-0189	Lake Boeuf	Lafourche Parish, La	.0131
	DXE-0190	Ropes	Harkley County, Tex	.0327
	DXE-0191	South Jennings	Jefferson Davis Parish, La	.0314
	DXE-0192	South Thornwell	Cameron Parish La	.0234
	DXE-0205	Prentice	Yoakum County, Tex	.0255
	DXE-0206	Third Creek	Watkins County, Colo	.0150
	DXE-0207	White Flat	Nolan County, Tex	.0237
Ruth Anne Ashby Storey	DXE-0201	R. M. Stephens	Claiborne Parish, La	.0253
Sun Co., Inc	DXE-0263	Steedman	Pontoc County, Okla	.0307
	DXE-0415	Markham	Matagorda County, Tex	.0247
	DXE-0416	Mayfield	Kleberg County, Tex	.0540
	DXE-0419	Carney	Lincoln County, Okla	.0761
	DXE-0420	Concho	Concho County, Tex	.0494
	DXE-0421	Jameson	Coke County, Tex	.0074
	DXE-0446	Maurice	Lafayette Parish, La	.0258
Upham Oil & Gas Co	DXE-0184	Chico	Wise County, Tex	.0448
Vickers Energy Corp	DXE-0183	Mayfield	Kleberg County, Tex	.0467
	DXE-0186	Patterson	St. Mary Parish, La	.0148
	DXE-0187	Putnam Oswego	Dewey County, Okla	.0059

[1]Denied.

DISMISSALS

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the DOE Procedural Regulations:

Derby & Co., Inc., New York, N.Y., DEE-0451

The following submission was dismissed on the grounds that it failed to satisfy the applicable criteria set forth in Section 205.135 of the DOE Procedural Regulations:

Wickland Oil Co., Washington, D.C., DMR-0015

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MAY 8, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

[FR Doc. 78-13030 Filed 5-12-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

Week of February 20 Through February 24, 1978

Notice is hereby given that during the week of February 20 through February 24, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

APPEAL

Cleary, Gottlieb, Steen & Hamilton, Washington, D.C., DFA-0121, Freedom of Information

The law firm of Cleary, Gottlieb, Steen & Hamilton appealed from a partial denial by the Information Access Officer of a Request for Information which the firm submitted under the Freedom of Information Act (the FOIA). In its initial request, Cleary, Gottlieb sought the release of documents which the FEA had furnished to a third party in response to requests for information which that person had previously filed. The Information Access Officer released certain documents to Cleary, Gottlieb, but withheld other documents and portions of documents pursuant to the provisions of 5 U.S.C. 552(b)(4), 552(b)(5) and 552(b)(7)(A). In its Appeal, Cleary, Gottlieb sought the release of only those documents which were withheld under the (b)(5) exemption. In considering the Appeal, the DOE rejected the firm's contention that the denial of information was not sufficiently specific, since the Order which the Information Access Officer issued explained that the documents were being withheld pursuant to Section 552(b)(5) and stated the basis for that finding. However, the DOE observed that the scope of review in cases involving the FOIA is broader than the scope of appellate review in other cases and concluded that it could conduct a de novo review as to the documents which were withheld. Upon making that review, the DOE determined that one of the documents which was withheld should have been released since it did not fall within the scope of the (b)(5) exemption. The Cleary, Gottlieb Appeal was accordingly granted in part.

REQUESTS FOR EXCEPTION

Dow Chemical U.S.A., Houston, Tex., FEE-4857, crude oil

Dow Chemical U.S.A. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit the firm to sell crude oil produced from the Rebekah Allnoch Well No. 1 in Jackson County, Tex., at upper tier ceiling prices. In considering the Application, the DOE determined that the cost of producing crude oil from the well had increased significantly since 1973 and that, as a result of these cost increases, Dow was currently operating the well at a loss. The DOE found that Dow did not have an economic incentive to continue to operate the Allnoch Well. The DOE also found that if the well were abandoned, a significant quantity of otherwise recoverable domestic crude oil would not be produced. The DOE concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to DOW. Therefore, the DOE granted exception relief which permits Dow to sell 87.93 percent of the crude oil produced from the Allnoch Well for the benefit of the working interest owners at upper tier ceiling prices.

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Intercoastal Operating Co., San Patricio, Tex., FEE-4013, crude oil

The Intercoastal Operating Co., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit the firm to sell the crude oil produced from the J. R. Rosson Lease in San Patricio County, Tex. at prices which exceed the lower tier ceiling price level. According to Intercoastal, as a result of that price rule, the firm had no economic incentive to make the investment necessary for the continued production of crude oil from the property. In considering the request, the DOE determined that if the firm were to sell the crude oil at the lower tier ceiling price level, it would realize a negative return on the capital investment necessary to produce substantial amounts of crude oil. Therefore, the DOE granted exception relief which permits Intercoastal to sell at market price levels all of the working interest share of the crude oil which it anticipates it will produce during the 5 year estimated life of the investment project. However, the exception relief was limited to market price levels that would permit Intercoastal to earn a 15 percent rate of return on its investment.

Pearland Oil Co., Pearland, Tex., DEE-0058, crude oil

Pearland Oil Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit the firm to sell the crude oil produced from the C. H. Alexander Lease located in Brazoria County, Tex. at upper tier ceiling prices. In considering the exception request, the DOE found that the cost of producing crude oil from the Alexander Lease had increased to a level where it now exceeds the revenues which the firm realizes from the sale of the crude oil. The DOE concluded that Pearland had no economic incentive to produce crude oil from the Alexander Lease. The DOE also found that it was highly unlikely that the crude oil from the reservoir underlying the lease would be recoverable by any other firm in the absence of exception relief. The DOE concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Pearland. Therefore, the DOE granted exception relief which permits the firm to sell 39.75 percent of the crude oil produced from the Alexander Lease for the benefit of the working interest owners at upper tier ceiling prices.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Department of Energy has issued a Decision and Order granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processor listed below. The exception relief permits the firm involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Texaco, Inc	DXE-0334	Apache	Caddo County, Okla	$0.0182
	DXE-0335	Blessing	Matagorda County, Tex	.0595
	DXE-0336	Delhi	Richland Parish, La	.0068
	DXE-0337	Elmwood	Beaver County, Okla	.0090
	DXE-0338	Houma	Terrebonne Parish, La	.0163
	DXE-0339	Humble	Harris County, Tex	.0211
	DXE-0340	Krotz Springs	St. Landry Parish, La	.0234
	DXE-0341	Old Ocean	Brazoria County, Tex	.0186
	DXE-0342	Paradis	St. Charles Parish, La	.0061
	DXE-0343	Pledger	Brazoria County, Tex	.0061
	DXE-0344	Wilcox	Lavaca County, Tex	.0129
	DXE-0366	Coalinga Nose	Fresno County, Calif	.0073
	DXE-0367	Headlee Cycling	Ector County, Tex	.0149
	DXE-0368	Headlee Gas	Ector County, Tex	.0109
	DXE-0369	Lamesa	Dawson County, Tex	.0501
	DXE-0370	Lockridge	Ward County, Tex	.0495
	DXE-0371	Mermentau	Acadia Parish, La	.0418
	DXE-0372	North Cowden	Ector County, Tex	.0121
	DXE-0373	Ozona	Crockett County, Tex	.0082
	DXE-0374	Pampa	Gray County, Tex	.0092
	DXE-0375	Toca	St. Bernard Parish, La	.0242

SUMMARY DECISION

The following firm filed an Application for Stay of a Remedial Order which had been issued to it by the DOE. In considering the stay request, the DOE referred to a recent Decision in *Rickelson Oil and Gas Co.*, 6 FEA Par. 85,029 (August 24, 1977), in which it held that a Remedial Order will generally be stayed pending the determination of an Appeal unless it appeared that the public interest required immediate compliance with the Remedial Order. Since the record in this case did not indicate that the public interest required immediate compliance with the Remedial Order, the DOE granted the request for stay pending consideration of the Appeal.

Bunting Oil Co., Washington, D.C., DRS-0067

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Mobil Oil Corp., AMF O'Hare, Ill., DEA-0115
Public Service Co. of New Hampshire, Concord, N.H., DFA-0120

The following submission was dismissed on the grounds that the request was premature:

Jay Oil Co., Inc., Tulsa, Okla., DRS-0029

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

MAY 8, 1978.

[FR Doc. 78-13031 Filed 5-12-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

Week of February 27 Through March 3, 1978

Notice is hereby given that during the week of February 27 through March 3, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

APPEALS

Cities Service Oil Co., Braintree, Mass., FRA-1404, FRA-1443, FRA-1444, FRA-1449, FRA-1482, motor gasoline

Cities Service Oil Co. filed Appeals from Remedial Orders for Immediate Compliance issued to it by the Director of Regulatory

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Programs of FEA Region I. In the Remedial Orders, the Regional Office had ordered Cities to restore supplier/purchaser relationships with certain of its base period purchasers and to resume deliveries of motor gasoline to the purchasers' retail outlets. In considering the Cities Appeals, the DOE noted that the provisions of 10 CFR 210.62(a) require suppliers of allocated products to maintain their normal business practices, including the delivery of petroleum products to a reseller's place of business. The DOE found that the facts presented in the Cities cases were clearly distinguishable from the circumstances surrounding the court's determination in a case relied upon by Cities, *Atlantic Richfield v. Zarb*, 532 F. 2d 1363 (TECA 1976). The DOE observed that in contrast to the facts in the case cited, the supplier/purchaser relationships between Cities and its customers existed on the enactment date of the Emergency Petroleum Allocation Act of 1973. Moreover, also in contrast to the circumstances in *Atlantic Richfield v. Zarb*, there had been a judicial determination of unlawful possession with respect to only one of the dealers involved in the Remedial Orders issued to Cities. In addition, the DOE noted that the judicial determination with respect to that one dealer had been stayed and that a second trial de novo was pending. Nevertheless, the DOE found that Cities would be in violation of a preliminary injunction issued against it by the Superior Court of Suffolk County, Mass. if it were required to deliver motor gasoline to certain of the dealers' retail outlets. Consequently, with respect to those dealers, the DOE rescinded for the duration of the preliminary injunction those portions of the Remedial Orders which directed Cities to deliver motor gasoline to the service station sites. However, the DOE required Cities to make motor gasoline available to the dealers at Cities' terminals or such other locations as mutually agreed upon by the parties. The other Remedial Orders were sustained in their entirety. Accordingly, the Cities Appeals were granted in part.

Davison Oil Co., Inc., Mobile, Ala., DFA-0087, DFA-0097, DFA-0098, Freedom of Information

Davison Oil Co., Inc. appealed from a partial denial by the DEO Information Access Officer of a Request for Information which the firm had submitted under the Freedom of Information Act (the Act). In his determination, the Information Access Officer denied Davison access to certain documents or portions of documents which it requested on the grounds that they were exempt from mandatory disclosure as inter-agency and intra-agency memoranda under the provisions of 5 U.S.C. 552(b)(5), or as confidential commercial or financial information under 5 U.S.C. 552(b)(4). In considering the Appeal, the DOE found that some of the withheld material consisted of drafts of final determinations or expressions of opinions or advice made by Federal Energy Administration employees concerning the disposition of cases which were acted upon in FEA Region IV. The DOE determined that this material was predecisional in nature, and exempt from mandatory disclosure under Exemption (b)(5) of the Act. However, one of the documents which the Information Access Officer withheld was found to contain purely factual information which was easily segregable from the remaining predecisional policy discussion in the document, and this portion was therefore released to Davison. The DOE found that the material withheld pursuant to Exemption (b)(4) concerned the markups and maximum lawful selling prices for diesel fuel oil charged by a number of Davison's competitors during November 1974, as well as information concerning the supply relationships and purchase volumes of a major reseller which had been supplied by Davison. The DOE determined that the release of this material could aid Davison in undercutting the selling positions of each firm which furnished the FEA with the information, and could alert competitors of the reseller to its strengths and weaknesses in its market area. The DOE therefore concluded that the release of this material would be likely to cause substantial competitive harm to the firms which supplied the information. Accordingly, the DOE denied the Davison Appeal with respect to the documents withheld under the (b)(4) exemption.

Demartin Truck Lines, Inc., San Francisco, Calif., FRA-1373, FEA-1388, propane

DeMartin Truck Lines, Inc. appealed from a Remedial Order issued to it by the Federal Energy Administration Region IX. In the Remedial Order, Region IX determined that during the period November 1, 1973 through June 30, 1976, DeMartin had sold propane at prices in excess of the levels permitted under 6 CFR 150.359 and 10 CFR 212.93, and Region IX therefore directed the firm to refund these overcharges. DeMartin also filed a second Appeal in which it requested review of Region IX's denial of the firm's request for exception relief. The approval of this Appeal would have the effect of relieving DeMartin of any obligation to refund a portion of the overcharges specified in the Remedial Order, as well as additional overcharges which DeMartin states that it realized on its sales of butane.

In considering the DeMartin Appeal of the order denying exception relief, the Department of Energy initially found that the firm's lack of storage facilities, arguable status as a common carrier and its particular method of calculating its prices are not controlling in determining its status under the Price Regulations and that DeMartin is properly considered to be a "reseller-retailer" whose sales of covered products are governed by the price rules set forth in Part 212, Subpart F. The DOE determined, however, that the financial data submitted by DeMartin indicated that if the firm had fully complied with the Price Regulations during the 1973-76 audit period, the firm's LPG business would have been required to operate at a loss. Accordingly, the DOE concluded that there was a substantial likelihood that prospective exception relief would have been approved if the firm had submitted its request in a timely fashion. The DOE also found that DeMartin's current earnings and liquid assets were insufficient to enable the firm to refund approximately $290,000 as required by the Remedial Order, and that DeMartin would therefore experience a severe and irreparable injury in the absence of retroactive exception relief. On the basis of these findings, exception relief was approved permitting the firm to retroactively increase its LPG prices to reflect all of the non-product cost increases which it actually incurred since May 15, 1973. In considering DeMartin's Appeal of the Remedial Order, the DOE found substantial merit in the firm's claim that the Remedial Order did not contain adequate findings of fact. It was determined that the Remedial Order should have set forth DeMartin's classes of purchaser, its May 15, 1973 weighted average cost of product in inventory and its May 15, 1973 weighted average selling prices by class of purchaser. The DeMartin Appeal of the Remedial Order was therefore granted and the Remedial Order was remanded for further consideration and the issuance of a revised Remedial Order.

Duquesne Light Co., Pittsburgh, Pa., DFA-0130, Freedom of Information

The Duquesne Light Co. appealed from a partial denial of a Request for Information which the firm had submitted under the Freedom of Information Act (the Act). In its Appeal, Duquesne requested that the DOE reverse the initial determination and direct the Information Access Officer to release the information which he had deleted from a Notice of Probable Violation (NOPV) issued to the Saber Petroleum Corp. The Information Access Officer denied the firm access to this information on the ground that it was exempt from mandatory disclosure as confidential commercial or financial information under the provisions of 5 U.S.C. 552(b)(4). In considering the Duquesne Appeal, the DOE found that the information requested contained data revealing the names of Saber's customers, as well as the prices Saber charged or allegedly should have charged those customers. The DOE determined that if this material were released, it would aid competitors in attracting purchasers away from Saber and therefore be likely to cause substantial harm to Saber's competitive position. The DOE also concluded that the fact that the information sought is several years old is irrelevant, because the release of information concerning past business relationships would be likely to reveal a great deal about present and future transactions. The DOE therefore denied the Appeal.

Northern Illinois Gas Co., Chicago, Ill., DEA-0026, Natural gas liquids

Northern Illinois Gas Co. (NI-Gas) appealed from a Decision and Order which the FEA Office of Regulatory Programs issued to the firm on September 27, 1977. The September 27 Order modified and extended for an additional six-month period previous FEA Orders under which NI-Gas was assigned a supplier and a base period volume of natural gas liquids and naphtha for use in its Aux Sable, Ill., synthetic natural gas facility. In considering the NI-Gas Appeal, the DOE noted that over the course of the past two years the FEA had issued a number of similar Decisions and Orders to NI-Gas and that, in its present Appeal, NI-Gas had largely reiterated arguments which were advanced in prior proceedings and which were fully considered and rejected by the FEA. The DOE determined that NI-Gas had presented no new evidence of legal authority which would demonstrate that these prior determinations were erroneous. The only new contention which NI-Gas advanced in its Appeal was that the FEA's determination to preclude NI-Gas from purchasing a larger quantity of naphtha was arbitrary because naphtha is allegedly in abundant supply and because national energy policies favor increased SNG production. In considering this argument, the DOE determined that strong policy reasons existed for the imposition of controls on the use of naphtha as SNG feedstock, regardless of

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the availability of that product. The DOE further determined that in addition to national energy policies favoring increases in SNG production, the FEA was required to evaluate the policy considerations set forth in 10 CFR 211.29. The DOE found that NI-Gas had failed to establish that the manner in which the FEA had balanced those policy considerations was in any way unreasonable. The DOE therefore concluded that NI-Gas had not shown that the September 27 Order was arbitrary or erroneous, and accordingly denied the firm's Appeal.

Prentice-Hall, Inc., Washington, D.C., DFA-0143, Freedom of Information

Prentice-Hall, Inc. appealed from a partial denial by the DOE Information Access Officer of a Request for Information which the firm had filed under the Freedom of Information Act (the Act). Prentice-Hall had sought access to a copy of the final contract awarded by the Federal Energy Administration to the Commerce Clearing House in connection with the publication of the Federal Energy Guidelines. The Information Access Officer released a copy of the contract but deleted specifications of the costs of labor and materials on the ground that that information was exempt from disclosure under Section 552(b)(4) of the Act. In considering Prentice-Hall's appeal of these deletions, the DOE determined that the information should be released because CCH, the only party who may be substantially harmed by the information's release, did not object to public disclosure. The DOE therefore granted the Prentice-Hall Appeal.

Shank, Irwin, Conant, Williamson & Grevelle, Dallas, Tex., DFA-0129, freedom of information

The law firm of Shank, Irwin, Conant, Williamson & Grevelle (Shank) appealed from a partial denial by the DOE information access officer of a request for information which the firm had submitted under the Freedom of Information Act (the Act). In its request for information, Shank had sought copies of documents which it believed would clarify agency regulations and rules relating to the importation of crude oil and refined petroleum products. The information access officer released several documents to Shank but withheld from disclosure four other documents on the ground that they were intra-agency memoranda which were exempt from disclosure under exemption 5 of the Act, 5 U.S.C. 552. In considering the Shank Appeal, the DOE found that three of the documents which were withheld were drafts of an interpretation which was subsequently issued and published by the General Counsel, and that the fourth document contained the opinions of an agency attorney regarding the sufficiency of one of the drafts. As a result of these findings, the DOE determined that the four documents were predecisional in nature and contained the type of information which exemption 5 was designed to protect from public disclosure. Accordingly, the Shank Appeal was denied.

REQUESTS FOR EXCEPTION

Caribou Four Corners, Inc., Afton, Wyo., DEE-0104, crude oil

Caribou Four Corners, Inc., filed an application for exception from the provisions of 10 CFR, part 212, which, if granted, would permit it to receive the difference between "new" and "old" oil prices for condensate which it sold to Plateau, Inc., during the months of January and February 1976. In considering the exception request, the DOE found that Caribou had failed to certify its sales of crude oil to Plateau on a timely basis in accordance with the provisions of 10 CFR 212.131. However, the DOE determined that there existed compelling reasons for approval of retroactive exception relief since Caribou's delay in making the certifications to Plateau was the result of reasonable uncertainty as to the legitimacy of price increases for crude oil which its own supplier had implemented. Caribou also acted promptly when this uncertainty was clarified by the FEA. The application for exception was accordingly granted.

Kewanee Oil Co., Tulsa, Okla., DXE-0407, crude oil

Kewanee Oil Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted to Kewanee and would permit the firm to sell a portion of the crude oil produced from the South Stanley field at upper tier ceiling prices. In considering the Kewanee exception application, the DOE found that the firm continued to incur increased operating expenses at the South Stanley field, and in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil from the property. In view of this determination and on the basis of the operating data which Kewanee had submitted for the most recently completed fiscal period, the DOE concluded that an extension of the exception relief should be granted permitting Kewanee to sell 46.72 percent of the crude oil produced from the South Stanley field for the benefit of the working interest owners at upper tier ceiling prices.

Independent Fuel Terminal Operators Association; Independent Terminal Operators Association; Mid-American Petroleum Marketers Association, Washington, D.C., FEE-4456, refined petroleum products

The Independent Fuel Terminal Operators Association, the Independent Terminal Operators Association, and the Mid-American Petroleum Marketers Association (the Associations) jointly filed an application for exception which, if granted, would have resulted in the certification of the Associations as representatives of a properly formed class for purposes of requesting retroactive exception relief from 10 CFR 212.92. The provisions of that regulation which were in effect prior to May 1, 1976, required resellers and retailers of refined petroleum products to calculate their cost of product in inventory on a firm-wide basis. In considering the Associations' application, the DOE observed that it had previously denied a similar request filed by the Associations since they had failed to show that the use of separate inventory practices was so pervasive among the class which they sought to represent that a class action was necessary. In analyzing the present application, the DOE found that the Associations had submitted virtually no new information or data regarding the proposed class and had again failed to provide any evidence that there are more than 17 firms within the class. The DOE therefore concluded that the class was not so large as to preclude the filing for exception relief on an individual basis and issued a proposed decision and order dismissing the Associations' application. Since no notice of objection to the proposed decision was filed within the prescribed time period, the DOE issued the decision and order in final form.

Larco Drilling Co., Inc., Jackson, Miss., FEE-4770, crude oil

Larco Drilling Co., Inc., filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which, if granted, would permit the firm to sell the crude oil produced from the Mooringsport formation unit, located in Jones County, Miss., at prices which exceed the lower tier ceiling price levels specified in 10 CFR 212.73. According to Larco, under the lower tier ceiling price rule which is currently applicable to the crude oil produced from the unit, the firm has no economic incentive to make repairs which are necessary to the continued production of crude oil from the property. In considering the Larco request, the DOE determined that a substantial amount of additional crude oil could be recovered from the Mooringsport formation unit if the investments necessary to continue crude oil extraction operations were made. The DOE also determined that if the firm were to sell the crude oil involved at lower tier ceiling price levels the firm would realize a negative return on its capital investment. In accordance with precedents involving similar factual circumstances, the DOE concluded that exception relief should be granted to the extent necessary to provide Larco with an economic incentive to make the proposed investment. Exception relief was therefore granted which permits Larco to sell at upper tier ceiling prices 69.41 percent of the working interest share of the crude oil which will be produced during the first 4 years of the estimated life of the investment project. In addition, Larco was permitted to sell at upper tier ceiling prices 100 percent of the working interest share of production from the unit during the fifth year of the life of the proposed investment project.

National Helium Corp., Liberal, Kans., FXE-4474, natural gas liquid products

National Helium Corp. filed an application in which it requested that the exception relief which had been previously granted to the firm be extended for an additional period of time. In considering the request, the DOE noted that the firm was continuing to incur nonproduct cost increases which on a per gallon basis exceeded the $0.005 per gallon passthrough permitted under the provisions of section 212.165. Therefore, based upon the criteria set forth in *Sun Oil Co.*, 3 FEA par. 83,129 (March 12, 1976), the DOE determined that continued exception relief was warranted in this case. Accordingly, National Helium was permitted to increase its maximum permissible selling prices for the natural gas liquids and liquid products produced at its Liberal, Kans., plant during the period October 1, 1977, through March 31, 1978, by an amount not to exceed $0.0155 per gallon. However, the DOE also determined that in the previous exception decisions issued to the firm, National Helium received exception relief which exceeded the level to which the firm was actually entitled by $0.0091 per gallon. Nevertheless, since it appeared that National Helium may not have implemented any portion of this excessive relief, the DOE ordered the firm to make calculations which would demonstrate whether the firm had actually received any excess revenues. Na-

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tional Helium was further required to reduce the exception relief granted in this decision by an appropriate amount if its calculations showed that it did in fact receive excess revenues as a result of the exception relief which was previously approved.

Southland Oil Co./VGS Corp., Memphis, Tenn., DXE-0105, crude oil

On November 3, 1977, Southland Oil Co./VGS Corp. filed an application for exception from the provisions of 10 CFR 211.67 (the old oil entitlements program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of December 1977. In support of its exception request, Southland submitted projected financial statements for its current fiscal year ending December 31, 1977, and projected monthly crude oil runs to stills and receipts of old, new, and imported crude oil for the fiscal year. In considering Southland's exception request, the DOE determined that as a result of Southland's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of December 1977. As a result of the projected entitlements cost which Southland would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA par. 83,209 (June 8, 1976), exception relief was therefore warranted. Accordingly, on December 20, 1977, the DOE issued a proposed decision and order to Southland which expressed the preliminary determination that Southland should be granted an exception relieving it of a portion of its obligation to purchase entitlements during the 6 month period December 1977 through May 1978. Since no objection to the proposed determination was filed within the time period specified in the DOE regulations, the decision was issued to Southland in final form on February 28, 1978. In the decision and order the DOE noted that the exception relief which was granted would be reevaluated if Southland requested an extension of relief beyond May 31, 1978, and, as is the case with all entitlements program exception decisions, as a matter of course at the conclusion of the firm's fiscal year. The decision further noted that an adjustment will be made and Southland will be required to purchase or sell additional entitlements if it received excessive or insufficient exception relief as a result of a discrepancy between the financial projections it submitted and the actual financial results which it achieves.

Texas Pacific Oil Co., Inc., Dallas, Tex., DXE-0235, crude oil

Texas Pacific Oil Co., Inc., filed an application for exception from the provisions of 10 CFR, part 212, subpart D. In that application, Texas Pacific requested that the DOE increase the amount of exception relief previously granted to the firm by permitting it to sell additional quantities of the crude oil produced from the Lagrange 4,300' reservoir of the O. L. Wilson lease, located in Adams County, Miss., at upper tier ceiling prices. *Texas Pacific Oil Co., Inc.*, 5 FEA par. 83,145 (April 29, 1977). In the prior decision the FEA had found that exception relief was necessary in order to provide Texas Pacific with an economic incentive to undertake an investment which it had proposed for the Wilson 4,300' property. Exception relief was therefore approved which permitted Texas Pacific to realize a 15 percent internal rate of return on its investment. In considering Texas Pacific's current application for exception, the DOE found that the actual investment costs incurred by the firm in restoring the production of crude oil from the Wilson 4,300' property were approximately 250 percent greater than the firm's estimated investment costs. The DOE therefore concluded that the exception relief initially provided to Texas Pacific should be adjusted to permit the firm to realize a 15 percent internal rate of return on the actual investment costs which it had incurred. In accordance with the precedent established in cases of a similar nature, the DOE permitted Texas Pacific to sell at upper tier ceiling prices 72.50 percent of the crude oil produced from the Wilson 4,300' property for the benefit of the working interest during the first 4 years after the completion of its investment.

PETITIONS FOR SPECIAL REDRESS

Standard Oil Co. (Indiana), Chicago, Ill. FSG-0055, motor gasoline

The Standard Oil Co. of Indiana (Amoco) filed a petition for special redress in which it requested that the DOE rescind five assignment orders which had been issued to the McDonald Oil Co. by FEA region IV on October 29, 1976. In the assignment orders, the DOE assigned McDonald as the base period supplier of gasoline to five retail sales outlets. Under the provisions of 10 CFR 211.13(c), McDonald is entitled to receive an increased volume of gasoline from Amoco, its base period supplier, in order to supply the five outlets. In its petition, Amoco contended that FEA region IV had failed to provide Amoco with the opportunity to comment with regard to the applications for assignment as was required by 10 CFR 205.33(a). In considering this contention, the DOE found that although Amoco had not been properly informed of its right to comment with regard to the five applications for assignment, Amoco was provided with an opportunity to remedy this defect by expressing its comments regarding the five applications during the course of the appeal proceeding conducted by FEA region IV. Accordingly, the DOE determined not to invalidate the five assignment orders. In addition, the DOE found that the order which the regional office issued in the Amoco appeal proceeding fully explained to Amoco the factual and legal basis upon which the assignment orders had been issued, and corrected the deficiencies which had existed in the statement of law and fact included in the assignment orders. Finally, the DOE determined that contrary to an argument advanced by Amoco, the regional office had properly applied the criteria set forth in 10 CFR 205.35(b) in reaching a decision on the applications for assignment. The Amoco petition for special redress was therefore denied.

James L. Sweeney, Menlo Park, Calif., DSG-0002, Privacy Act

James L. Sweeney filed an Appeal from an Order issued by the FEA Privacy Act Officer denying his request for access to an investigative file which the FEA had compiled concerning Sweeney. The FEA regulations do not provide for administrative review of an Order of this type. However, the DOE determined that Sweeney's submission raised important questions and should therefore be reviewed in the context of a Petition for Special Redress. The Privacy Act Officer had denied Sweeney's request for access to the investigative report on the ground that the information sought was within the provisions of the Privacy Act which exempts from mandatory disclosure records consisting of investigatory material compiled for law enforcement purposes (the (k)(2) exemption). In his Petition, Sweeney claimed that the (k)(2) exemption was improperly applied. He asserted that his right to privacy and right to a good reputation had been violated when the columnist Jack Anderson published allegations contained in the investigative report.

In considering the Sweeney Petition, the DOE determined that the material which he sought was "investigatory material compiled for law enforcement purposes," and was therefore within the (k)(2) exemption. The DOE further determined that Sweeney had not been denied "any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material," and that therefore the proviso contained in the (k)(2) exemption did not apply. However, the DOE concluded that the public interest nevertheless favored disclosure of certain portions of the investigative file to Sweeney. The DOE therefore remanded the matter to the Privacy Act Officer for release to Sweeney of those portions of the investigative file to which Jack Anderson in all likelihood had access, except to the extent that disclosure would constitute an invasion of other individuals' privacy or reveal confidential sources.

Finally, the DOE determined that the FEA was in error when it reviewed Sweeney's request for information exclusively under the Privacy Act. The DOE accordingly instructed the Information Access Officer to consider Sweeney's request under the Freedom of Information Act, as amended.

REQUESTS FOR STAY

Caldo Oil Co., Inc., San Jose, Calif., DES-0132
Major Oil Co., Stockton, Calif., DES-0133
Miles Oil Co., Inc., Colfax, Calif., DES-0134
Olympian Oil Co., South San Francisco, Calif., DES-0135
Ramco Oil Co., Inc., West Sacramento, Calif., DES-0136
Rinehart Oil, Inc., Ukiah, Calif., DES-0137
Red Triangle Oil Co., Inc., Fresno, Calif., DES-0138, Motor Gasoline

The Caldo Oil Co., Inc., Major Oil Co., Miles Oil Co., Inc., Olympian Oil Co., Ramco Oil Co., Inc., Rinehart Oil, Inc. and Red Triangle Oil Co., Inc. filed Requests for Stay of two Decisions and Orders which were issued to the Gulf Oil Corp. by the DOE Office of Fuels Regulation. Under the terms of those orders, Gulf would be permitted to complete its withdrawal from all marketing and distribution activities in the northerwestern portion of the United States. The seven applicants are all base period purchasers of motor gasoline from Gulf who requested stays pending a final determination by the DOE on the applicants' Appeals from the two orders. In considering the applications for stay, the DOE found that the two orders issued to Gulf were designed to place the seven applicants in a competitive position similar to that of other independent marketers in the area. Therefore, any injury which might occur as a result of such competition would not be caused by the application of DOE regulations to the firms. The DOE also determined that the seven applicants did not make a sufficiently strong showing that they were likely to succeed on the merits of their Appeals. The Applications for Stay were therefore denied.

John H. Cathey, Kimball, Nebr., DES-0030, crude oil

John H. Cathey filed an Application for Stay of a Remedial Order which FEA Region VII issued to him on March 14, 1977. On April 19, 1977, the FEA summarily denied Cathey's Appeal of the Remedial Order for failure to present any factual or legal arguments. John H. Cathey, 5 FEA Par. 80,608 (April 19, 1977). If the present stay request were granted, the refund provisions of the Remedial Order would be held in abeyance pending judicial review. In considering the Application, the DOE found that Cathey had presented no arguments which would form a proper basis for stay relief. The DOE concluded that approval of the stay in the absence of compelling circumstances would frustrate the public interest of securing timely compliance with the DOE regulations. Accordingly, the Application for Stay was denied.

Commonwealth Oil Refining Co., Inc., Washington, D.C., DES-0038, Naphtha crude oil

Commonwealth Oil Refining Co., Inc. (CORCO) requested a stay of the requirement set forth in 10 CFR, Part 213 that it pay license fees on its imports of crude oil and naphtha pending a final determination by DOE on an Application for Exception which the firm filed. If the stay which CORCO requested were granted, the Puerto Rican excise tax liability which the firm is required to pay in lieu of license fees would be reduced. In considering the CORCO request, the DOE noted that the firm had experienced substantial operating losses during the past several years, was currently operating at a substantial loss, and has filed for relief under Chapter XI of the Bankruptcy Act. In view of these factors, the DOE concluded that CORCO could well experience an irreparable injury in the absence of stay relief. It was also determined that stay relief would have the desirable effect of preserving the status quo ante pending a resolution of the exception request which CORCO filed. Accordingly, the CORCO stay request was approved.

Gulf Oil Corp., Tulsa, Okla., DES-0251 crude oil

The Gulf Oil Corp. requested that the provisions of 10 CFR, Part 212, Subpart D, be stayed in order to permit the firm to sell at upper tier ceiling prices the crude oil produced from the Northwest Graylin "D" Sand Unit as specified in a Proposed Decision and Order which the DOE issued to the firm on January 23, 1978. The stay, if granted, would remain in effect during the period of time in which the DOE is considering Gulf's Statement of Objections to the Proposed Decision. In considering the Application for Stay, the DOE found that Gulf had not presented any financial data or any other information which would demonstrate that the firm will experience an irreparable injury in the absence of a stay. Accordingly, the Gulf Application for Stay was denied.

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SUPPLEMENTAL ORDERS

Beacon Oil Co., Hanford, Calif., FEX-0189, crude oil

On June 10, 1977, the FEA issued a Decision and Order with respect to an Appeal filed by the Beacon Oil Co. from a previous Decision granting the firm exception relief from its entitlements purchase obligations during its 1975 fiscal year. *Beacon Oil Co.*, 5 FEA Par. 80,653 (June 10, 1977). In that Appeal, Beacon had contended that under Special Rule No. 6, the FEA was required to exclude Beacon's operating profits for October and November 1975 in establishing the appropriate level of entitlement exception relief for 1975. In the June 10 Decision, the FEA concluded that the operating profits for those two months should be included in its review. The DOE subsequently reconsidered this issue and concluded that the FEA erred by including the firm's operating results for October and November 1975. The DOE found that the appropriate level of Beacon's entitlement exception relief for 1975 should have been based upon a comparison of the firm's historical profitability with its actual operating results for the period January 1 through September 30, 1975. The DOE noted, however, that the operating results for that period should be based on an accrual rather than a cash method of accounting for entitlements costs in order to achieve a proper matching of entitlements costs with the other revenues and expenses which beacon incurred during the same period. On the basis of the revised analysis, the DOE determined that Beacon should be permitted to sell $1,658,166 in additional entitlements during March 1978.

Husky Oil Co., of Delaware, Washington, D.C., DEX-0041, crude oil

On February 27, 1978, the DOE issued a Decision and Order to Husky Oil Company of Delaware staying that firm's obligation to purchase entitlements to the extent specified in a Proposed Decision and Order which was issued to Husky on December 20, 1977. In granting the stay, the DOE observed that as a result of new administrative procedures which had been adopted effective September 14, 1977, the December 20, 1977 Proposed Decision and Order would not be finalized until the DOE has reached a determination with respect to a Statement of Objections to the Proposed Decision which Husky filed on January 20, 1978. During the time that Husky's objections are being considered, Entitlement Notices might be issued which would not take into consideration the relief proposed for Husky in the December 20, 1977 Order. Therefore, based upon the criteria used in determining prior cases of a similar nature, the DOE determined that Husky's entitlement purchase obligations should be stayed to the extent specified in the Proposed Order until the conclusion of the pending exception proceeding.

R. W. Tyson Producing Co., Inc., Jackson, Miss., DEX-0036, crude oil

On January 20, 1978, the DOE issued a Proposed Decision and Order on an Application for Exception filed by the R. W. Tyson Producing Co., Inc. In that Proposed Decision, the DOE determined that Tyson should be permitted to sell at exempt price levels the crude oil produced from the No. 4 and No. 5 wells, located on the Stevens No. 1 Lease in the Glazier Field in Perry County, Miss. The DOE also tentatively determined that that portion of the Tyson request which pertained to the remaining wells on the Stevens Leases should be dismissed and Tyson's request that the three Stevens Leases be treated as a single property should be denied. On February 1, 1978, Tyson filed a Notice of Objection to the Proposed Decision and Order. In that submission Tyson indicated that it did not intend to object to the exception relief proposed for the No. 4 and No. 5 wells and requested that the DOE finalize those provisions of the Proposed Decision pertaining to those two wells. Since no other potentially aggrieved party filed a Notice of Objection to the January 20 Proposed Decision, the DOE concluded that the Tyson request should be granted and accordingly finalized the proposed exception relief with regard to the No. 4 and No. 5 wells.

INTERLOCUTORY ORDER

C. H. Sprague & Son Co., Boston, Mass., DRD-0111, DRS-0111, residual fuel oil

In connection with an Appeal of a Remedial Order which it submitted, C. H. Sprague & Son Co. filed a Motion for Discovery in which it sought various FEA and DOE documents which it claimed were relevant to its arguments on appeal, and it also filed an Application for Stay of the appellate proceeding pending discovery. In considering the Sprague Motion, the DOE noted that the procedural regulations which govern consideration of this particular Appeal do not contain any provision for discovery. However, in accordance with the precedent established in several previous decisions, a discovery request of this type may be granted if it appeared that access to the information requested was necessary to enable the appellant to pursue an administrative appeal effectively and that discovery would not unduly delay the proceeding. With respect to the Sprague request, the DOE determined that the documents sought did not meet this standard. The DOE found that several of the documents sought by Sprague were either unrelated to the issues on appeal or were of such a general nature that they could in no way be deemed necessary to the formulation of an appeal. With respect to the remaining documents, the DOE found that although they did pertain to the compliance proceeding instituted against Sprague, those documents were merely internal FEA memoranda containing the opinions of individuals employed by the agency and were therefore not final statements of agency policy. Furthermore, the DOE observed that since these documents were never released to the public, Sprague could not possibly have relied on them as authoritative statements of agency policy. The DOE therefore found no basis for concluding that any of these documents was sufficiently material to the effective formulation of an appeal to justify a delay in the proceedings. The Motion for Discovery was therefore denied and the Sprague Application for Stay of the appellate proceeding was dismissed.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Department of Energy has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

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Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Continental	DEE-0065	Nueces River	Live Oak County, Tex	$0.0099
	DEE-0174	Hennessey	Kingfisher County, Okla	.0095
Dougherty Group	DEE-0061	Normanna	Bee County, Tex	.0328
Mobil Oil	DEE-0260	Dewey County Complex	Dewey County, Okla	.0071
	DEE-0261	Old Ocean	Brazoria County, Tex	.0065
Shell Oil Co	DEE-0157	Calumet	St. Mary Parish, La	.0253
	DEE-0158	Conley	Hardeman County, Tex	.0231
	DEE-0159	Cow Island	Caddo Parish, La	.0071
	DEE-0160	Grand Chenier	Cameron Parish, La	.0058
	DEE-0161	Houston Central	Colorado County, Tex	.0092
	DEE-0162	Lake Washington	Plaquemines Parish, La	.0127
	DEE-0163	North Terrebonne	Terrebonne Parish, La	.0088
Sun Co., Inc	DEE-0066	Fairway	Henderson County, Tex	.0054
	DEE-0067	Fullerton	Andrews County, Tex	.0114
	DEE-0068	Putnam-Oswego	Dewey County, Okla	.0066
	DEE-0380	Burnell	Bee County, Tex	.0258
	DEE-0381	Dragon Trail	Rio Blanco County, Colo	.0174
	DEE-0382	Okarche	Kingfisher County, Okla	.0167
	DEE-0383	Van	Van Zendt County, Tex	.0113
Union Oil Co. of California	DXE-0123	Adena	Morgan County, Colo	.0286
	DXE-0124	Dominquez	Los Angeles County, Calif	.0840
	DXE-0125	Rio Bravo	Kern County, Calif	.0050

SUMMARY DECISION

The following Application for Stay and Application for Temporary Stay were dismissed on the grounds that there is no adverse impact to the firm at the present time:

Buck's Butane and Propane Service, Inc., San Jose, Calif., DRS-0043 and DRT-0006

TEMPORARY STAY

The following Application for Temporary Stay was denied on the grounds that the applicant failed to make a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Inter-Americas Oil Co., Washington, D.C., DST-0007

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Getty Oil Co., Los Angeles, Calif., DXE-0222
Pacific Northern Oil Corp., Seattle, Wash., DEE-0094
Nell M. Weatherly, Ada, Okla., DEE-0492

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the DOE Procedural Regulations:

Commercial Bottled Gas Co., Oxford, N.C., DEE-0361

The following submissions were dismissed on the grounds that the requests are now moot:

United Petroleum, Inc., Tampa, Fla., DRA-0116, DRS-0116

The following submissions were dismissed on the grounds that there was no basis for the relief requested:

North Pole Refining, Inc., Washington, D.C., DES-0024, DES-0045

The following submission was dismissed on the grounds that there was no foundation upon which to base the analysis of the request:

Industrial Fuel Oils, Inc., Washington, D.C., FEE-4350

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

MAY 8, 1978.

[FR Doc. 78-13032 Filed 5-12-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

Week of March 6 through March 10, 1978

Notice is hereby given that during the week of March 6 through March 10, 1978, the Decisions and Order summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

APPEALS

Crane Co., New York, N.Y., FEA-1233

The Crane Co. filed an Appeal from an FEA Notice in which it determined that Crane was among the 50 most energy-consumptive firms in the primary metals manufacturing industry (SIC Code 33). As a result of the Notice, Crane is required to participate in a reporting program under the provisions of Section 375 of the Energy Policy and Conservation Act (EPCA). In its Appeal, Crane challenged the FEA's requirement that it assume the responsibility for reporting the energy consumption of all subsidiaries which it controls, and proposed that its wholly-owned subsidiary, CF&I Steel Corp., replace Crane as the corporation which is required to submit energy consumption data to the DOE. In considering the Appeal, the DOE found that the requirement that the ultimate parent corporation assume the responsibility for reporting the energy consumed by all of its subsidiaries is the most practical and efficient means of ensuring that the list of the 50 most energy-consumptive corporations in a particular SIC Code is complete and accurate, and has the benefit of maximizing the amount of energy consumption included in the reporting program. The DOE concluded therefore that Crane had failed to demonstrate that the Notice which identified the firm as one of the 50 most energy-consumptive firms in SIC Code 33 was erroneous in fact or law or that it was arbitrary or capricious and the firm's Appeal was denied.

Texas City Refining, Inc., Texas City, Tex., FRA-1273 Crude Oil

Texas City Refining, Inc. (TCR) appealed from a Remedial Order which was issued to it by the Deputy Regional Administrator of FEA Region VI. The Remedial Order found that during the period September 1974 through April 1975, TCR had violated the provisions of 10 CFR 212.83(c) by overstating the cost of domestic crude oil which it received in certain foreign-domestic crude oil sales and exchanges. In its Appeal, TCR stated that it had engaged in "ticket exchange" transactions in order to realize the value of the fee-exempt import licenses accorded the firm under the Oil Import Regulations. TCR maintained that the benefits which it received as a result of the exchanges do not have to be reflected in the calculations of its crude oil costs for purposes of the Mandatory Petroleum Price Regulations. In considering the Appeal, the DOE examined the historical background of the oil import regulations and the refiner cost passthrough regulations promulgated under the Emergency Petroleum Allocation Act (the EPAA). The DOE determined that the sale or exchange of fee-exempt imports tickets has been viewed under the oil import regulations as a means of ensuring that the holder would be able to obtain a portion of its crude oil supplies at a lowered cost. The DOE further found that the refiner cost passthrough regulations were intended to limit price increases in sales of covered products to a dollar-for-dollar passthrough of net increases in the cost of crude oil. In reading the objectives of the two regulatory programs together, the DOE determined that the net reduction in crude oil costs experienced by refiners receiving fee-exempt import licenses should also be treated as a reduction in crude oil purchase costs for purposes of the refiner price regulations. The TCR Appeal was accordingly denied.

REQUESTS FOR EXCEPTION

Kenner Oil Co., Tulsa, Okla., FEE-4513, crude oil

Kenner Oil Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Lizzie-Orwig No. 1 well in Seminole County, Okla., at upper tier ceiling prices. In considering the exception request, the DOE found that Kenner's operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Lizzie-Orwig well if the crude oil were subject to the lower tier ceiling price rule. The DOE also determined that if Kenner abandoned its operations at the well, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous decisions, the DOE determined that Kenner should be permitted to sell 29 percent of the crude oil produced from the Lizzie-Orwig well for the benefit of the working interest at upper tier ceiling prices.

O'Meara Bros., Lake Charles, La., New Orleans, La., FEE-4732, FEE-4750, crude oil

O'Meara Brothers filed two applications for exception from the provisions of 10 CFR, part 212, subpart D. The exception requests, if granted, would permit O'Meara to sell a portion of the crude oil which it produces from the Vinton lease and the Louisiana State lease 2192 T 165, R 17E at upper tier ceiling price levels. In considering the two exception requests in a single proceeding, the DOE found that the firm was incurring an operating loss at each lease and that, in the absence of exception relief, the firm would lack an economic incentive to continue its production activities at the leases. On the basis of precedents involving similar factual situations, the DOE concluded that O'Meara was experiencing a gross inequity as a result of the application of the lower tier ceiling price rule to the Vinton and Louisiana State leases and that exception relief should be approved. The DOE determined, however, that the application of the methodology used to calculate relief in prior exception proceedings would not provide the appropriate level of exception relief in this case because the operating results attained at each lease during the last two fiscal quarters did not reflect the normal operating posture of each lease. In view of these circumstances, the DOE determined that the level of exception relief to be granted to O'Meara should be based upon a comparison of the operating costs per barrel which O'Meara incurred at each lease during 1973 and the unrecovered costs per barrel which the firm projects that it will sustain at each lease during its 1977 fiscal year. In accordance with this procedure, the DOE approved exception relief which permits O'Meara to sell at upper tier ceiling prices 71.7 percent of the crude oil produced and sold for the benefit of the working interest owners from the Vinton lease and 47.8 percent of the crude oil produced and sold for the benefit of the working interest owners from the Louisiana State lease.

Tonkawa Refining Co., Washington, D.C., FEE-4604, refined petroleum products

Tonkawa Refining Co. filed an application for exception from the provisions of 10 CFR 212.83. The exception request, if granted, would permit Tonkawa to be classified as a new refiner subsequent to its release from bankruptcy on July 1, 1975, and therefore permit the firm to establish prices for the covered products which it has sold subsequent to that date pursuant to the "new item rule" set forth in 10 CFR 212.111(b)(1)(ii). In considering the Tonkawa request, the DOE determined that Tonkawa had made a threshold showing that it would have been granted prospective exception relief had it filed an application for exception at the time it was released from bankruptcy. In addition, the DOE found that compelling reasons existed for the approval of retroactive exception relief. In this connection, the DOE observed that the purposes of the Tonkawa bankruptcy proceeding, viz., the severing of all of Tonkawa's connections with prior operations and providing an opportunity for the firm to operate on a profitable basis, would have been frustrated if the firm had been required to maintain the margin which existed on May 15, 1973 between its crude oil costs and refined product prices. Finally, the DOE found that Tonkawa's ability to continue its operations as an independent refiner would clearly be jeopardized in the absence of the exception relief which the firm requested. On the basis of these findings, the Tonkawa application for exception was granted.

REQUEST FOR STAY

Southwestern Refining Co., Inc., La Barge, Wyo., DES-0044, crude oil

On January 25, 1978, Southwestern Refining Co., Inc. filed an application for stay of its obligation under the old oil entitlements program to purchase entitlements in January 1978. Southwestern also requested a stay of its entitlement purchase obligation in subsequent months pending a final determination by the DOE on an application for exception which the firm had filed. In considering the request, the DOE found that Southwestern's financial material indicated that its projected cash flow from operations during the remaining months of its current fiscal year would be significantly less than the value of the entitlements it would be required to purchase during that period. Under these circumstances, the DOE concluded that Southwestern had met the conditions set forth in 10 CFR 205.125(b) under which a stay will be granted. Accordingly, the DOE stayed Southwestern's obligation to purchase entitlements in January 1978 and subsequent months pending a determination on its exception request.

SUPPLEMENTAL ORDERS

Laketon Asphalt Refining, Inc., Evansville, Ind., DEX-0045, crude oil

On February 23, 1977, the FEA issued a decision and order to Laketon Asphalt Refining, Inc., with respect to an appeal which the firm had filed from its 1975 obligation to purchase entitlements under the provisions of 10 CFR 211.67 (the entitlements program). *Laketon Asphalt Ref., Inc.*, 5 FEA par. 80,558 (February 23, 1977). Upon further consideration of the matter, the DOE concluded that further analysis was warranted to determine whether the data used to reflect Laketon's historical profitability should be adjusted. Furthermore, the DOE found that another issue, viz., the manner in which Laketon should properly report its "Net Sales" on the financial statements which it submits in connection with applications for exception from its entitlement purchase obligations, was not fully addressed in the February 23, 1977 decision. Accordingly, a supplemental order was issued amending the February 23, 1977 decision to permit the DOE to undertake a further analysis of these issues in determining the level of relief which Laketon should be granted from its 1975 entitlements purchase obligations.

Total Petroleum, Inc.; Apco Oil Corp., Washington, D.C., DEX-0039, crude oil and refined products

Total Petroleum, Inc., and Apco Oil Corp., requested that the DOE finalize certain provisions of a decision and order which was issued to Total, Apco, and Oklahoma Refining Corp. (ORC) in proposed form on February 8, 1978. In that determination, the DOE proposed to grant Apco, Total, and ORC various types of administrative relief to facilitate the purchase by Total and ORC respectively, of two refineries owned by Apco in Arkansas City, Kans., and Cyril, Okla. However, in proposing the approval of exception relief with respect to the Cyril refinery, the DOE concluded that ORC should not be permitted to earn entitlements under the small refiner bias for crude oil receipts at the Cyril refinery in excess of the entitlements which would be earned by a firm with refining capacity equal to Apco's current refining capacity. Subsequent to the issuance of the proposed order, Apco and ORC submitted a joint notice of objection to that determination with respect to the Cyril refinery. In the present submission, Total and Apco indicated that they planned to immediately proceed with the transfer of the Arkansas City refinery without awaiting a res-

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olution of the issues which have been raised by Apco and ORC in their notice of objection. The firms therefore requested that the DOE finalize those aspects of the February 6 proposed order which relate to the transfer of the Arkansas City refinery. After considering this request, the DOE concluded that a number of provisions of the February 6 determination should be issued as an interim order. However, the DOE also held that Apco would remain subject to the conditions contained in the proposed decision and order which related to the firm's position under the entitlements program subsequent to its sale of one refinery, until the issuance of a final decision and order in this matter.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases.

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Coastal States Gas Corp	DXE-0243	Albany	Shackelford County, Tex	$0.0494
	DXE-0245	Bay City	Matagorda County, Tex	.0071
	DXE-0246	Corpus Christi	Nueces County, Tex	.0123
	DXE-0247	Freer	Webb County, Tex	.0269
	DXE-0249	Mission	Hidalgo County, Tex	.0115
	DXE-0250	San Antonio	Bexar County, Tex	.0051

SUMMARY DECISIONS

The DOE issued a Decision and Order dismissing the following exception requests on the ground that an alternative administrative remedy is available to the firm.

Hanson Oil Corp., Roswell, N. Mex., FEE-4365, FEE-4395

The following Decision and Order amended a Decision and Order which was issued to Texas American Oil Corp. on February 6, 1978 by making certain corrective adjustments in the entitlements obligations of United Refining Co.:

Texas American Oil Corp., Midland, Tex., DEX-0038

DISMISSALS

The following submissions were dismissed on the grounds that the relief requested was no longer necessary:

Consumer Federation of America, Washington, D.C., DSG-0004

Franconia Propane Gas Co., Inc., Harleysville, Pa., DRA-0066

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

MAY 8, 1978.

[FR Doc. 78-13033 Filed 5-12-89; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

Week of March 13 through March 17, 1978

Notice is hereby given that during the week of March 13 through March 17, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

APPEALS

Akin, Gump, Hauer and Feld, Washington, D.C., DFA-0149, freedom of information

Akin, Gump, Hauer and Feld (Akin) appealed from a partial denial of a Request for Information which the firm submitted under the Freedom of Information Act (the Act). In its initial request, Akin sought access to certain applications for certification of refining capacity, certain determinations with regard to such applications, and all documents which set forth rules, guidelines or criteria to be used in evaluating such applications. The Information Access Officer determined that the Akin Request for Information was too broad and therefore failed to reasonably describe the documents to which the firm sought access. Nevertheless, the Information Access Officer released to Akin seven documents which were within the scope of its request after deletion of material which he found was exempt from disclosure under Section 552(b)(4) of the Act. In considering Akin's Appeal, the DOE concluded that certain information contained in the portions of the documents which were withheld had already been made public and therefore should have been released. It was also determined that certain other material, consisting of contractual provisions of a routine nature, should have been released. However, the DOE concluded that the remainder of the information had been properly withheld under Exemption 4. On the basis of the foregoing considerations, the DOE concluded that Akin's Appeal should be granted in part.

Beacon Oil Co., Hanford, Calif., FXA-1446, crude oil

Beacon Oil Co. filed an Appeal from a Decision and Order which the FEA issued to it on July 22, 1977. *Beacon Oil Co.*, 6 FEA Par. 87,016 (July 22, 1977). In the July 22 determination the FEA concluded that Beacon had received $445,248 in excessive exception relief benefits from the provisions of the Entitlements Program during the nine-month period April 1 through December 31, 1976. The Appeal, if granted, would have resulted in the issuance of an Order reducing the amount of excessive 1976 entitlement benefits for which Beacon was required to make restitution. Beacon contended that the DOE should adjust the level of the firm's historical profitability so as to more accurately reflect the manner in which Beacon currently conducts its marketing and refining operations. Beacon also claimed that the FEA failed to comply with the provisions of Section 104 of the Energy Conservation and Production Act (EPCA) which requires the FEA to promulgate rules establishing procedures for administrative review of an appeal proceeding. In considering Beacon's Appeal, the DOE noted that the arguments based on the EPCA had been presented by the firm in a prior proceeding in which they had been fully discussed and rejected by the FEA. The DOE further determined that in analyzing Beacon's total costs and expenses for its 1976 fiscal year, the FEA had erroneously understated by $474,853 the firm's operating profitability for the period April 1 through December 31, 1976. As a result, the amount of excessive benefits which the FEA had determined that Beacon received during 1976 was also understated by a similar amount. The DOE therefore modified the July 22 Order to require Beacon to purchase additional entitlements having a value of $474,853 ($79,142 per month for the months of February through July 1978) in order to refund these excessive benefits. In all other respects the July 22 Order was affirmed.

Donald M. Bredfeldt, Dodge City, Kans., DRA-0074, propane

Donald M. Bredfeldt (Bredfeldt) filed an Appeal from an Remedial Order which the Acting Director for Enforcement of DOE Region VII issued to him on November 4, 1977. In the Remedial Order, Bredfeldt was directed to refund revenues which he had allegedly received as a result of charging prices which exceeded the maximum levels permitted by the Mandatory Petroleum Price Regulations. Although the DOE requested Bredfeldt to supply certain data which was necessary to enable the DOE to consider the Appeal, the requested information was never submitted. Consequently, the DOE summarily denied the Bredfeldt Appeal in accordance with the provisions of 10 CFR 205.106(b)(1)(ii).

Colonial Oil Co., Alexandria, Va., FXA-1409, motor gasoline

The Colonial Oil Co. (Colonial) filed an Appeal from a Decision and Order which the FEA issued in *Colonial Oil Co.*, 6 FEA Par. 83,027 (July 8, 1977). In that Decision, the FEA denied the latest in a series of requests by Colonial for an extension of the exception relief which had initially been granted in *Colonial Oil Co.*, 2 FEA Par. 83,201 (July 3, 1975). Colonial's Appeal, if granted, would result in the an extension of previous exception relief assigning Colonial new, lower-priced suppliers of motor gasoline to furnish volumes of gasoline which Colonial would otherwise be permitted to purchase from American Petrofina, Inc., (Fina) its base period supplier. In the Appeal, the DOE noted that the most recent extension of exception relief to Colonial had included a provision that in the event the firm filed a further request for exception, Colonial should consider requesting an exception which would require Fina to place it in a new class of purchaser. *Colonial Oil Co.*, 5 FEA Par. 83,138 (April 7, 1977). In the July 8, 1977 proceeding, Colonial had argued that the existence of a settlement agreement between it and Fina precluded Colonial from seeking this type of an exception, however, the FEA had concluded that no provision of the settlement agreement precluded the firm from seeking class of purchaser relief. In its Appeal, Colonial again contended that the terms of the settlement agreement prevented the firm from seeking a change in its class of purchaser status. In considering this contention, the DOE concluded that the existence of the settlement agreement did not justify continuation of a type of exception relief which entailed the assignment of third party suppliers, because the effect of sustaining Colonial's position would be to permit Colonial and Fina to bargain away the rights of third parties. Finally, the DOE observed that since Colonial and Fina themselves had recognized that the problem which Colonial was experiencing resulted from Colonial's class of purchaser status, and since the firms had apparently agreed to place Colonial in a new class of purchaser following the decontrol of motor gasoline, it would be inappropriate for the DOE to continue to approve a type of exception relief which involved third parties. Based on these considerations, the Colonial Appeal was denied.

Davison Oil Co., Mobile, Ala., DFA-0155, freedom of information

Davison Oil Co. (Davison) appealed from a partial denial by the DOE Information Access Officer of a Request for Information which the firm had filed under the Freedom of Information Act (the Act). In its Request for Information, Davison had sought copies of DOE records pertaining to the firm's cost and pricing of fuel oil which it sold since November 1973. The Information Access Officer released copies of several documents to Davison but withheld from disclosure one document in its entirety and portions of two others on the ground that the material was exempt from disclosure as confidential proprietary information under Section 552(b)(4) of the Act. In considering Davison's Appeal, the DOE found that the firm which had submitted this material to the DOE had no objection to its public disclosure. Consequently, the DOE determined that it would be in the public interest to release the material. The Appeal was accordingly granted.

Gulf Oil Corp., Tulsa, Okla., FXA-1430, crude oil

On August 11, 1977, the Gulf Oil Corp. (Gulf) filed an Appeal from a Decision and Order which the FEA issued on July 8, 1977. *Gulf Oil Corp.*, 6 FEA Par. 83,028 (July 8, 1977). In that Order, the FEA granted Gulf an exception from the provisions of 10 CFR, Part 212, Subpart D, which permitted the firm to charge upper tier ceiling prices for 42.66 percent of the crude oil produced and sold for the benefit of the working interests from the Northwest Graylin "D" Sand Unit (the Unit) during the period July through December 1977. The FEA noted that because of the particular manner in which Gulf had allocated its administrative overhead expenses, the per barrel expenses allocated to the Unit had increased significantly between the 1973 base quarter and the firm's two most recently completed fiscal quarters. However, the FEA found that this per barrel increase in administrative overhead was a direct result of a decline in the rate of crude oil production from the Unit and did not constitute an actual increase in expenses to Gulf and the other working interests. The FEA therefore adjusted Gulf's administrative overhead expenses in calculating the amount of crude oil which the firm may sell at upper tier ceiling prices. In its Appeal, Gulf contended that the adjustment which the FEA made represented a departure from the methodology previously used in similar cases. In considering the Appeal, the DOE noted that Gulf allocated its administrative overhead expenses on the basis of the number of wells located on the Unit rather than the number of barrels that the Unit produced. The FEA found that this method resulted in the allocation of a disproportionate amount of administrative costs to wells with declining production. The DOE therefore used an "input method" of calculating the allowable price increase by substituting the level of production during the April through June 1973 period for the level of production during the current period. The DOE found that this method provided a more accurate index of the administrative expenses which are attributable to the Unit. Gulf also argued on appeal that the FEA should have utilized Gulf's allocation method because it conformed to acceptable accounting procedures. The DOE found that a firm must not only follow generally accepted accounting procedures but also that these procedures must accurately and equitably reflect a proper attribution of the firm's expenses. The DOE therefore denied the Gulf Appeal.

Hagee-Lewis Petroleum Corp., Long Beach, Calif., FXA-1491, crude oil

Hagee-Lewis Petroleum Corp. (Hagee) appealed from a Decision and Order which the FEA issued to the firm on August 16, 1977. *Hagee-Lewis Petroleum Corp.*, 6 FEA Par. 83,056 (August 16, 1977). In that Decision, the FEA denied Hagee's request for an exception from the provisions of 10 CFR, Part 212, Subpart D, which if granted would permit the firm to sell the crude which it produces from the El Segundo No. 2 Well, located in Los Angeles County, Calif., at upper tier ceiling prices. In its Appeal, Hagee contended that the FEA erred in concluding that the application of the provisions of Subpart D to the No. 2 well did not constitute a gross inequity. Specifically, Hagee contended that the FEA had incorrectly excluded certain expenditures which should have been included in the firm's operating expenses. In considering the Appeal, the DOE determined that Hagee had failed to establish that the previous analysis of the firm's operating expenses was in any way erroneous. According to the information furnished by Hagee, the firm had never incurred certain expenditures which it claimed as operating expenses. Furthermore, the DOE determined that the low profit position of the firm was due in large part to the level of salaries paid to the owner-operators of the No. 2 well. Based on these considerations, the DOE denied the Hagee Appeal.

I. U. International Oil & Gas, Inc., Philadelphia, Pa., FRA-1468, crude oil

I. U. International Oil & Gas, Inc. (IUO&G) filed an Appeal of a Remedial Order which the Regional Compliance Director of FEA Region III issued to the firm on August 31, 1977. In the Remedial Order, the Regional Compliance Director found that IUO&G had improperly certified four of its crude oil producing properties as stripper well properties and also had incorrectly determined the May 15, 1973 posted price for the crude oil produced from its Pontotoc County, Okla. properties during the period August 1973 through January 1975. Based on these findings, the Regional Office held that IUO&G had charged unlawful prices for the crude oil which it sold. IUO&G was therefore ordered to refund over $845,573.15, plus interest, to the purchaser of the crude oil. In considering the Appeal, the DOE rejected IUO&G's claim that Ruling 1974-29 is contrary to Section 4(E)(2) of the Emergency Petroleum Allocation Act. The DOE also disagreed with IUO&G's argument that Ruling 1974-29 is a substantive rule subject to the notice and comment provisions of the Administrative Procedure Act (APA). Since IUO&G had included injection wells in the calculation of average daily production, the DOE held that IUO&G had improperly classified four of its properties as stripper well properties and as a result had overcharged the purchaser of the crude oil produced from these properties. The DOE also determined that the Regional Compliance Director correctly found that IUO&G had improperly included as part of its May 15, 1973 posted price a premium of $0.15 per barrel which the purchaser of the crude oil paid IUO&G in order to secure a long term supply contract. Finally, the DOE rejected IUO&G's argument that it was arbitrary and capricious to assess

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full liability for the overcharges against IUO&G instead of limiting its liability to the firm's share of the total revenues. Consequently, the IUO&G Appeal was denied.

Mobil Oil Corp., Valley Forge, Pa., FIA-1470, motor gasoline

The Mobil Oil Corp. (Mobil) filed an Appeal of an Interpretation which had been issued to the firm by the General Counsel of the FEA on August 5, 1977. In the Interpretation, the FEA General Counsel ruled that the FEA had the authority to terminate a supplier's base period supply obligation to retail motor gasoline outlets and to assign those purchasers a new base period supplier by approving a "three party agreement." The General Counsel further found that upon the FEA's approval of the "three party agreements" the retail outlets constituted "new wholesale purchasers" and therefore the new base period supplier could certify upward any increased supply volume which resulted from the FEA's order to supply these "new wholesale purchasers" under the provisions of 10 CFR 211.13(c). In considering the Appeal, the DOE rejected Mobil's argument that the provisions of Section 211.13(c) limit upward certification to increased supply obligations which result from supplying retailers who are new to the petroleum industry. The DOE found that it had the authority to terminate existing base period supply relationships and to create new ones and that Section 211.13(c) was intended to permit a supplier to certify upward any increased supply obligation which results from an order to supply a purchaser. Consequently, the DOE held that upon approval of a "three party agreement," the new base period supplier is permitted under Section 211.13(c) to certify the increased supply volume upward to its own prime supplier. The DOE also held that while the prime supplier should be notified of the request for approval of a "three party agreement" so that it may be provided an opportunity to submit comments as a potentially aggrieved party, the unwillingness of a prime supplier to accept the increased supply volume upon upward certification does not in and of itself prevent the DOE from approving a "three party agreement." Based on these considerations, the Mobil Appeal was denied.

Rock Island Refining Corp., Indianapolis, Ind., FXA-1465, crude oil

Rock Island Refining Corp. filed an Appeal from a Decision and Order which the FEA issued to it on August 12, 1977. *Rock Island Refining Corp.*, 6 FEA Par. 87,028 (August 12, 1977). In the August 12 Decision and Order, the FEA considered financial and operating data which Rock Island submitted for the April 1 through November 30, 1976, and determined that Rock Island had received $1,736,408 in excessive benefits as a result of exception relief which the firm had been granted for that eight month period in 1976. Rock Island was accordingly required to purchase entitlements valued at $1,736,408 during the period August 1977 through July 1978 in order to refund the excessive benefits which it had received. The Appeal, if granted, would result in the issuance of an Order setting aside Rock Island's entitlement purchase obligation as set forth in the August 12 Decision and Order. In considering Rock Island's Appeal, the DOE rejected the firm's contention that it be permitted to adjust the historical profitability which Rock Island had previously reported to the FEA for use in evaluating the impact of the Entitlements Program on the firm. The DOE also rejected the firm's contention that the return on invested capital (ROIC) criterion which the FEA adopted in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) is inappropriate to a determination of exception relief. Rock Island's claim that the FEA erroneously adjusted the ROIC which the firm realized during the period April 1 through November 30, 1976 was also rejected. The Rock Island Appeal was therefore denied in all respects.

Shell Oil Co., Houston, Tex., FXA-1398, natural gas liquids

The Shell Oil Co. filed an Appeal from a Decision and Order which the FEA issued to it on June 24, 1977. *Shell Oil Co.*, Case No. FXE-4229 (unpublished). In that Decision, the FEA denied an Application for Exception which Shell filed from the provisions of Section 212.165. The FEA determined that exception relief was not warranted because the non-product cost increases incurred in the operation of Shell's Fashing natural gas processing plant since May 1973 did not materially exceed the passthrough levels permitted under the provisions of Section 212.165. In its Appeal, Shell contended that the FEA erroneously calculated the Fashing plant's current non-product costs on the basis of data from the firm's two most recent fiscal quarters, rather than the most recent quarter. In considering the Shell Appeal, the DOE noted that current non-product costs for natural gas processors seeking exception relief from Section 212.165 are generally calculated on the basis of the two most recent quarters unless a firm is making an initial request for exception relief. Since the Shell Application for Exception was not an initial request for exception relief for the Fashing plant, the DOE concluded that Shell's non-product cost increases were properly calculated on the basis of data for the firm's two most recent fiscal quarters. The Appeal was accordingly denied.

REQUEST FOR EXCEPTION

Jim Ellis, Tyler, Tex., FEE-4071, crude oil

Jim Ellis filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit him to sell at upper tier ceiling prices the crude oil which he anticipates he will produce after making repairs to a well located on the Nay Perry Lease in Henderson County, Tex. In considering the Ellis application, the DOE found that a substantial investment will be necessary to rework the well on the Nay Perry Lease in order to resume producing operations at that lease. The DOE further determined that the crude oil production estimate provided by Ellis indicates that the required investment would be uneconomic if the crude oil which will be produced from the lease were subject to the lower tier ceiling price rule. In addition, the DOE determined that a substantial quantity of crude oil would not be recovered if the well involved was not repaired. On the basis of these findings, the DOE determined that exception relief should be granted to Ellis which would provide him with a sufficient economic incentive to undertake the capital investment project required to resume production from the Nay Perry Lease. The Application for Exception was granted and Ellis was permitted to sell 73.79 percent of the crude oil produced from the Nay Perry Lease for the benefit of the working interest owner during the first five years after production is resumed.

Hewit & Dougherty (Roche), Refugio, Tex., DXE-0055, natural gas liquids

On November 11, 1977, Hewit & Dougherty filed a Statement of Objections to an October 28, 1977 Proposed Decision and Order in which the DOE determined that the firm should be granted an exception from the provisions of 10 CFR 212.165 to permit it to increase the prices it charges for natural gas liquid products to reflect non-product cost increases at its Roche natural gas processing plant. Hewit & Dougherty contended that ordering paragraphs (2) and (3) of the Proposed Decision should be clarified. In considering the firm's submission, the DOE determined that the language in ordering paragraph (2) did not require clarification, since it was designed to permit Hewit & Dougherty to collect the amount of exception relief granted to the firm notwithstanding the possibility that the non-product cost increases which the firm experiences during the exception period may diminish. However, the DOE determined that ordering paragraph (3) should be modified to state more clearly its objective, which is to adjust the amount of exception relief in the event that the production of a particular processing plant is altered in favor of products for which a higher regulatory passthrough of non-product costs is available. Accordingly, the Decision and Order as modified was issued in final form with an effective date of October 28, 1977.

Koch Exploration Co., Duschesne County, Utah, DXE-0410, DXE-0411, crude oil

Koch Exploration Co. (Koch) filed two Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would result in extensions of the exception relief which the DOE previously granted to Koch and would permit the firm to sell certain quantities of the crude oil produced from the Sink Draw No. 1 Lease and the Cedar Rim No. 3 Lease at upper tier ceiling prices. With respect to the Sink Draw Lease, the DOE found that since Koch is currently realizing a substantial operating profit from the property, the continuation of its crude oil extraction activities would be economically feasible even in the absence of exception relief. Consequently, the DOE concluded that the exception relief previously approved for the Sink Draw Lease should not be extended. With respect to the Cedar Rim Lease, the DOE found that Koch was sustaining an operating loss at this lease and that unless the previous exception relief were extended for an additional period of time, Koch would have no incentive to continue to produce crude oil from the property. On the basis of precedents involving similar factual situations, the DOE concluded that the application of the lower tier price rule to the Cedar Rim Lease would continue to result in a gross inequity and that an extension of exception relief should be granted. Koch was accordingly permitted to sell 100 percent of the crude oil produced from the Cedar Rim Lease for the benefit of the working interest owner at upper tier ceiling prices.

Monsanto Co., Houston, Tex., DEE-0422, crude oil

The Monsanto Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Hendrick "A" property located in Winkler County, Tex., at upper tier ceiling prices. In considering the exception request, the DOE found that Monsanto's operation costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Hendrick "A" lease. The DOE also determined that if Monsanto abandoned its operations at the lease a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous decisions, the DOE determined that Monsanto should be permitted to sell 100 percent of the crude oil produced from the Hendrick "A" lease for the benefit of the working interest owners at upper tier ceiling prices.

Monsanto Co., Houston, Tex., DEE-0423, crude oil

The Monsanto Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Hendrick "C" property located in Winkler County, Tex., at upper tier ceiling prices. In considering the exception request, the DOE found that Monsanto's operation costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Hendrick "C" lease. The DOE also determined that if Monsanto abandoned its operations at the lease a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous decisions, the DOE determined that Monsanto should be permitted to sell 100 percent of the crude oil produced from the Hendrick "C" lease for the benefit of the working interest owners at upper tier ceiling prices.

Nick's Chevron, Ozona, Tex., DRC-0002, motor gasoline

Nick's Chevron (Nick's) filed an application for exception from the provisions of 10 CFR part 211.12 which, if granted, would have resulted in the issuance of an Order increasing the firm's annual base period use of motor gasoline for the retail service stations it operates from 259,019 gallons to 459,091 gallons per year. In considering Nick's initial exception application, the FEA Region VI Office determined that exception relief should not be granted on the basis of mere speculations as to future hardship. The regional office therefore issued a proposed decision and order denying the application for exception filed by Nick's Chevron. On October 17, 1977, Nick's submitted a statement of objections to the proposed decision and order. In its Statement, Nick's Chevron challenged none of the findings contained in the proposed order. Instead, the firm argued that its actual use of motor gasoline far exceeded its base period use and that its consequent need to seek surplus for so large a portion of its current use constituted a gross inequity. In considering the statement, the National Office of Administrative Review determined that Nick's had failed to demonstrate that it was experiencing an increased demand for motor gasoline as a result of a change in the circumstances under which that product was supplied or used, or that any of the objectives of the DOE statutes would be frustrated if exception relief were denied to the firm. The DOE therefore concluded that Nick's had failed to establish that exception relief was warranted on grounds of gross inequity. The application for exception was accordingly denied.

PETITION FOR SPECIAL REDRESS

Gas del Oro, Inc., Gas del Oro International, Inc. and the El Dorado Marketing Co. of Laredo, Houston, Tex., FSG-0049, natural gas liquid products

Gas del Oro, Inc., Gas del Oro International, Inc. and the El Dorado Marketing Co. of Laredo (Gas del Oro) filed a petition for special redress. The submission related to a dispute as to the maximum allowable prices for the natural gas liquid products that Suburban Propane Gas Corp. sells to Gas del Oro. If granted, the Gas del Oro petition would have resulted in the issuance of an order directing the DOE Office of Enforcement to take immediate action to conclude all pending compliance proceedings involving Gas del Oro and Suburban, or, in the alternative, declaring that Gas del Oro has exhausted its administrative remedies in the matter. In considering the Gas del Oro petition, the DOE noted that budgetary, policy and time constraints require the agency to assign priorities to the numerous compliance matters before it, and that such matters are not susceptible to the setting of arbitrary deadlines. The DOE found that although the Gas del Oro compliance proceedings had been under consideration by the DOE for a substantial period of time, the firm had failed to make a prima facie showing that a gross abuse of discretion had occurred. However, the DOE did conclude that unless the Gas del Oro compliance matters are promptly addressed there would no longer be any reasonable basis for adhering to the view that they can be resolved by the agency. Accordingly, the Gas del Oro petition was dismissed without prejudice to a refiling if the DOE does not conclude the pending compliance matters within ninety days.

SUPPLEMENTAL ORDER

Buck's Butane & Propane Service, Inc., San Jose, Calif., DRX-0051, propane

On November 15, 1977, the DOE issued a decision and order to Buck's Butane and Propane Service, Inc. (Buck's) which granted in part an appeal from a remedial order which was issued to the firm by the Director of Compliance of FEA region IX on April 21, 1977. *Buck's Butane and Propane Service, Inc.*, 1 DOE Par. 80,119 (November 15, 1977). In that determination, the remedial order was remanded to the Director of Enforcement of DOE region IX for further findings of fact concerning the level of refunds which Buck's should be required to make to its customers for propane pricing violations. The director of enforcement was directed to issue a revised remedial Order within 60 days. In considering this matter, the DOE observed that the present Buck's enforcement proceeding has been pending before the region IX office since March 1974. Moreover, more than 110 days had elapsed since the issuance of the November 15 appeal decision. Under these circumstances, the DOE concluded that further delay in the issuance of a revised remedial order to Buck's would be contrary to the public interest, contrary to the interest of the firm, and contrary to the interests of Buck's customers. Accordingly, an order was entered specifying that a revised remedial order should be issued to Buck's within five days. The DOE determined that if a revised remedial order is not issued at that time, those portions of the April 21 remedial order which were remanded to the region IX office should be rescinded.

SUMMARY DECISION

The following firm filed an application for stay of a remedial order which had been issued to it by the DOE. In considering the stay request, the DOE referred to a recent decision in *Rickelson Oil and Gas Co.*, 6 FEA Par. 85,029 (August 24, 1977), in which it held that a remedial order will generally be stayed pending the determination of an appeal unless it appeared that the public interest required immediate compliance with the remedial order. Since the record in this case did not indicate that the public interest required immediate compliance with the remedial order, the DOE granted the request for stay pending consideration of the Appeal.

Gala Gas Co., Eufaula, Ala., DRS-0027

Copies of the full text of these decisions and orders are available in the public docket room of the Office of Hearings and Appeals, room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

MAY 8, 1978.

[FR Doc. 78-13034 Filed 5-12-78; 8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

April 18 through April 28, 1978

Notice is hereby given that during the period April 18 through April 28, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by the aggrieved person of actual notice,

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whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

MAY 8, 1978.

Kenard D. Brown, Casper, Wyo., DEE-0658, crude oil

Kenard D. Brown filed an application for exception from the provisions of 10 CFR 212.73 which if granted, would permit the producers of crude oil from 20 unspecified properties to sell all of the crude oil which they produce while testing an economizer pump manufactured by Mr. Brown at prices which are in excess of the lower tier ceiling price. On April 24, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

Champlin Petroleum Co., Fort Worth, Tex., FEE-4730, crude oil

On August 24, 1977, the Champlin Petroleum Co. filed an application for exception from the provisions of 10 CFR 211.67 (the old oil entitlements program). The exception request, if granted, would permit Champlin to sell a sufficient number of entitlements to offset the costs which the firm incurred as a result of increasing the crude oil inventory which it maintains at its Corpus Christi refinery. On April 24, 1978, the Department of Energy issued a proposed decision and order which determined that Champlin's request be denied.

Edwin L. Cox, Lafayette, La., DEX-0037, crude oil

Edwin L. Cox filed an application for exception from the provisions of 10 CFR, part 212, subpart D. In that application Cox requested that the terms of a decision and order issued to it on May 23, 1977, be modified in order to permit the firm to sell at upper tier prices a greater quantity of the crude oil produced as a result of an investment at the Seward Lejeune lease in Jefferson Davis Parish, La. On April 24, 1978, the DOE issued a proposed decision and order which determined that the Cox exception request be granted.

Eason Oil Co., Oklahoma City, Okla., DEE-0522, crude oil

Eason Oil Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which if granted would permit Eason to increase its selling prices for crude oil which it produces from the Weiner property above maximum permissible levels specified in 10 CFR 212.73. On April 28, 1978, the DOE issued a proposed decision and order which determined that Eason's request be granted in part.

R. H. Engelke, San Antonio, Tex., DEE-0904, crude oil

R. H. Engelke (Engelke) filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which if granted, would permit Engelke to sell the crude oil which is produced from the Bertha Copsey lease located in Jackson County, Tex., at upper tier ceiling prices. On April 25, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Equipment, Inc., Lafayette, La., FEE-4849, crude oil

Equipment, Inc. (Equipment) filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which, if granted, would permit the firm to sell the crude oil produced from the Hayes No. 1 and Hayes A-1 wells, located in Acadia Parish, La., at market price levels. On April 24, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

Hanover Management Co., Dallas, Tex., DEE-0496, crude oil

On February 1, 1978, Hanover Management Co. (Hanover) filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which, if granted, would permit Hanover to sell the crude oil which it produces from the Dolly Cain No. 1 well at upper tier ceiling prices. On April 28, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Midroc Oil Co., Dallas, Tex., DEE-0098, crude oil

On November 22, 1977, Midroc Oil Co. (Midroc) filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which if granted, would permit Midroc to sell the crude oil which it produces from the J. W. Parker lease, located in the Alloway field, Adams County, Miss., at market price levels. On April 25, 1978, the Department of Energy issued a proposed decision and order denying the Midroc request.

Monsanto Co., Houston, Tex., DEE-0490, crude oil

Monsanto Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which if granted, would permit Monsanto to sell the crude oil which it produces from the North Black Slough unit at upper tier ceiling prices. On April 24, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Monsanto Co., Houston, Tex., DXE-0481, DXE-0482, crude oil

Monsanto Co. filed two applications for exception from the provisions of 10 CFR, part 212, subpart D, which if granted, would result in the extension of exception relief previously approved and permit the firm to continue to sell certain crude oil which it produces at upper tier ceiling prices. On April 28, 1978, the DOE issued a proposed decision and order which determined that the exception requests be denied.

Mull Drilling Co., Inc., Wichita, Kans., FEE-4791, crude oil

Mull Drilling Co., Inc., filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which if granted, would permit Mull to sell the crude oil which it produces from the Roth lease at upper tier ceiling prices. On April 24, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Texaco, Inc., Los Angeles, Calif., DEE-0947, crude oil

Texaco, Inc., filed an application for exception from the provisions of 10 CFR, part 212, subpart D, in which the firm requested that it be permitted to sell the crude oil produced from an offshore drilling platform located in Cook Inlet, Alaska, at exempt price levels. On April 24, 1978, the DOE issued a proposed decision and order which determined that the Texaco exception request be granted.

TOSCO Corp., Los Angeles, Calif., DXE-0494, crude oil

TOSCO Corp. filed an application for exception from the provisions of 10 CFR 211.67, which if granted, would relieve TOSCO of a portion of its monthly purchase obligations under the entitlements program commencing with the month of April 1978. On April 19, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Hearings and Appeals of the Department of Energy has issued Proposed Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The proposed exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

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Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Coastal States Gas Corp	DEE-0458	Lakin	Kearny, Mo	$0.0270
Doric Petroleum, Inc	DXE-0953	Hennessey	Kingfisher, Okla	.0173
	DXE-0954	Newcastle	Grady, Okla	.0191
Gas Engine & Compressor Service, Inc	DXE-0945	Freestone	Freestone, Tex	.04867
Hunt Petroleum Corp	DXE-0940	Kinder	Allen Parish, La	.0277
Indian Wells Oil Co	DXE-1018	Indian Wells	Crockett, Tex	.06648
Marathon Oil Co	DEE-0376	Elk Basin	Park, Wyo	.0486
	DEE-0377	Susan Peak	Tom Green, Tex	.0426
Matrix Land	DXE-0748	Box-Elmdale Tuscola	Taylor and Callahan, Tex	.31262
Texas Pacific Oil Co., Inc	DXE-0911	Adena	Morgan, Colo	.1810
	DXE-0912	Hamiln	Fisher, Tex	.0347
	DXE-0913	South Fullerton	Andrews, Tex	.0063

[FR Doc. 78-13035 Filed 5-12-78; 8:45 am]

[3128-01]

Energy Supply and Environmental Coordination Act

INTENTION TO RESCIND A CONSTRUCTION ORDER

The Department of Energy (DOE) hereby gives notice pursuant to section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), 15 U.S.C. 792(f), as amended, and 10 CFR 303.134(a) and 303.136(b), of its intention to rescind the Construction Order issued on June 30, 1977, to the major fuel burning installation (MFBI) named below:

Docket No.	Owner	Installation	Unit	Location
OCU-1300-1-1	Goodyear Tire & Rubber Co	Goodyear Gadsden Plant	1	Gadsden, Ala.

Such order would have required that this MFBI be designed and constructed so as to be capable of using coal as its primary energy source.

By letter dated November 17, 1977, addressed to the Federal Energy Administration, the Goodyear Tire and Rubber Co. notified DOE[1] that plans for construction of Unit 1 at the Goodyear Gadsden Plant have been terminated by the Goodyear Tire and Rubber Co. and that Unit 1 therefore will not be constructed. Further, the above cited letter from the Goodyear Tire and Rubber Co. transmitted as attachments thereto duly executed and certified revised Schedules A-1 and A-2 of Form FEA C-607-S-O ("Major Fuel Burning Installation Early Planning Process Report") amending previously submitted Schedules A-1 and A-2, which reported the planned construction of Unit 1 at the Goodyear Gadsden Plant.

Based on the November 17, 1977, letter and accompanying revised Schedules A-1 and A-2, DOE finds that significantly changed circumstances as defined in 10 CFR 303.136(b)(1), upon which the Construction Order was issued, have occurred and that rescission of the outstanding Construction Order issued to the MFBI named above is appropriate.

Comment on DOE's intention to rescind the Construction Order issued to the above named installation is invited. Interested persons may submit written data, views, or arguments, with respect to this proposed Rescission Order to Public Hearing Management, Box TL, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelop in which they are transmitted and on the document itself with the designation "Proposed Rescission Order for the Goodyear Gadsden Plant Installation."

All written comments received by 4:30 p.m., June 1, 1978, and all other relevant information submitted to or available to DOE will be considered by DOE prior to issuance of a Rescission Order.

Any information considered to be confidential by the person furnishing it must be so identified and submitted in writing in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information and to treat it in accordance with that determination.

Any questions regarding this Notice should be directed to DOE National Headquarters as follows: Mr. Walter A. Romanek, Director, Division of Coal Utilization, Department of Energy, Code OCU (Proposed Rescission Order: Goodyear Gadsden Plant, Gadsden Installation, Gadsden, Ala. Installation, Docket Number OCU-0647), Washington, D.C. 20461, telephone 202-254-3910.

[1]Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act, Pub. L. No. 95-91.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 95-70); Department of Energy Organization Act (Pub. L. 95-91) E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C., May 8, 1978.

BARTON R. HOUSE,
Assistant Administrator for Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-13126 Filed 5-12-78; 8:45 am]

[3128-01]

INERTIAL FUSION ADVISORY COMMITTEE

Notice of Renewal

This notice is published in accordance with the provisions of section 7 of the Office of Management and Budget Circular A-63, as amended. Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Management Secretariat, General Services Administration, notice is hereby given that the Inertial Fusion Advisory Committee has been renewed for a 24-month period ending on April 30, 1980.

The renewal of this Committee has been determined necessary and in the public interest. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the Department of Energy Organization Act (Pub. L. 95-91), OMB Circular No. A-63 (Revised), and other directives and instructions issued in implementation of those Acts.

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Further information regarding this Committee may be obtained from the Department of Energy Advisory Committee Management Office, 202-566-9996.

Issued at Washington, D.C. on May 10, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration,
Department of Energy.

[FR Doc. 78-13127 Filed 5-12-78; 8:45 am]

[3128-01]

[Case Number 630R00108]

TEXACO INC.

Consent Order

I. INTRODUCTION

Pursuant to 10 CFR 205.199J, the Office of Special Counsel of the Department of Energy (DOE) hereby gives Notice of a Consent Order which was executed between Texaco Inc. (Texaco) and the DOE on April 25, 1978. In accordance with that Section, DOE will receive comments with respect to this Consent Order. Although DOE has signed and tentatively accepted this Consent Order, DOE may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

Texaco Inc. is a refiner engaged in the production of crude oil, in refining, and in the marketing of petroleum products subject to DOE regulations.

Texaco, in its sales of motor gasoline and distillates to Gull Oil Company (Gull), Seattle, Wash., consistently treated Gull as a separate class of purchaser and calculated its May 15, 1973, price charged in transactions with that class by using prices quoted in the June 21, 1973 contracts, rather than employing prices charged in transactions with Gull on or before May 15, 1973. The Special Counsel has determined preliminarily that Texaco's use of prices charged by it to Gull insofar as they were calculated on the basis of the June 21, 1973 contracts and not on the basis of prices charged to Gull in transactions on or before May 15, 1973, resulted in Texaco's receiving revenues in excess of those permitted by applicable CLC, FEA, and DOE regulations.

In resolution of the issue raised, DOE and Texaco executed a Consent Order on April 25, 1978, the significant terms of which are as follows:

(1) Texaco shall immediately begin using prices actually charged Gull in transactions on or before May 15, 1973, to determine current maximum lawful selling prices.

(2) Texaco shall, within one year from the effective date of this Consent Order, refund by cash (in twelve equal monthly installments) to Gull $1,973,113, plus interest, for excess revenues received during the period August 19, 1973 through June 9, 1977. Interest will be computed at a rate of 6 percent from August 19, 1973 through June 30, 1975; 9 percent from July 1, 1975 through January 31, 1976; 7 percent from February 1, 1976 through January 31, 1978; and 6 percent from February 1, 1978 through the date of the refund by Texaco.

(3) Texaco shall refund by cash, within 90 days of the effective date of the Consent Order, to the firms (listed on Attachment A of the Consent Order) who purchased product from Gull at the time of the alleged overcharges but who are no longer purchasing product from Gull. The Office of Special Counsel has determined that an appropriate remedy for these firms would be a direct refund by Texaco to them. The total amount of such refunds is $1,409,851, plus interest.

(4) Each refund shall include a statement by Texaco that the refund is (i) required by DOE pursuant to a Consent Order, (ii) shall be treated by the firm receiving the refund as a reduction of its increased costs of product for the purposes of DOE regulations, and (iii) shall, in turn, be passed through to its customers to the extent required by DOE regulations.

(5) The provisions of 10 CFR 205.199J including the publication of this Notice, are applicable to the Consent Order.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment in writing to Mr. Bill Eaton, Branch Manager, Southwest District, Office of Special Counsel, Department of Energy, One Allen Center, Suite 660, 500 Dallas Avenue, Houston, Tex. 77002. Copies of this Consent Order may be received free of charge by written request to this same address or by calling, 713-226-5421.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Comments on Texaco Consent Order." All comments received by 4:30 p.m. CDT, on or before June 12, 1978, will be considered by DOE in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential, must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C.

Dated: May 11, 1978.

PAUL L. BLOOM,
Special Counsel for Compliance.

[FR Doc. 78-13209 Filed 5-12-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

ASPHALT & PETROLEUM INDUSTRIES

Action Taken on Consent Order

Pursuant to 10 CFR 205.199J, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) as successor to the Federal Energy Administration (FEA) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199J(b), the ERA may determine that Consent Order involving sums of $500,000 or less will not become effective until the ERA publishes notice of its execution and solicits and considers public comments with respect to its terms. The ERA determined that publication of notice of this Consent Order in the FEDERAL REGISTER was in the public interest. On February 27, 1978, the ERA published notice of the Consent Order which was executed between Asphalt & Petroleum Industries (Asphalt) and FEA (43 FR 8004 February 27, 1978). With that notice and in accordance with 10 CFR 205.199J(c) the ERA invited interested persons to comment on the Consent Order. A press release was issued simultaneously.

No comments were received with respect to the Consent Order. Therefore the ERA has concluded that the Consent Order as executed between FEA and Asphalt is an appropriate resolution of the compliance proceedings described in the Notice published on February 27, 1978, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, upon publication of this Notice in the FEDERAL REGISTER.

Issued in Washington, D.C., May 9, 1978.

E. W. DORCHEUS,
Acting Director, Audit and Enforcement, Economic Regulatory Administration.

[FR Doc. 78-13076 Filed 5-12-78; 8:45 am]

[3128-01]

EVALUATION OF PRIORITY DESIGNATION UNDER CANADIAN ALLOCATION PROGRAM AS TO KOCH REFINING CO.'S REFINERY AT PINE BEND, MINN. AND ASHLAND OIL, INC.'S REFINERY AT ST. PAUL PARK, MINN.

Notice of Conference

Notice is hereby given that the Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") will hold a public conference on May 31, 1978, beginning at 9 a.m., c.s.t., in Courtroom 2, Federal Building and United States Courthouse, 316 North Robert, St. Paul, Minn., with Koch Refining Co. (Koch), Ashland Oil, Inc. (Ashland), Williams Pipe Line Co. (Williams), Osage Pipeline Co. (Osage) and other interested or potentially aggrieved parties. The purpose of the conference is to assist ERA in its continuing evaluation pursuant to 10 CFR 214.34 (Mandatory Canadian Crude Oil Allocation Regulations) of the designation of Koch's refinery at Pine Bend, Minn., and Ashland's refinery at St. Paul Park, Minn., as first priority refineries under the Mandatory Canadian Crude Oil Allocation Regulations.

This conference will afford interested parties the opportunity to present their views on all of the issues relevant to ERA's evaluation of the priority designation of the Koch and Ashland refineries and will also permit an exchange of views on the issues among interested parties and ERA officials.

BACKGROUND

On December 2, 1977, the ERA held a public conference in Minneapolis, Minn. to evaluate the priority designations of the Koch and Ashland refineries in light of changes in these refineries' access to non-Canadian sources of crude oil. (42 FR 59998, November 23, 1977.) The central issue at this conference was the volume of non-Canadian source crude oil available to the Koch and Ashland refineries through the crude oil pipeline recently completed by Williams from Mason City, Iowa to St. Paul, Minn.

Following that conference, on December 27, 1977, the ERA issued a Decision and Order to Koch and Ashland which determined that the current facts did not warrant a change in the priority status of either refinery. However, the ERA reduced the refineries' respective base period volumes of Canadian crude oil to reflect each refinery's current capability of receiving 30,000 barrels per day (B/D) of non-Canadian crude oil through the Williams pipeline. The Decision and Order noted that, by April 1978, the Williams pipeline capacity will increase to approximately 120,000 B/D. However, the actual crude oil throughput will be limited to approximately 70,000 B/D until August 1978, when the expansion of the Osage pipeline, the only pipeline currently capable of transporting crude oil to the Williams pipeline for delivery to the Minneapolis area, is completed. The ERA stated that it would continue to monitor changes in the refineries' access to non-Canadian crude oil:

> This determination shall be reviewed as actual refinery and pipeline operation data become available. * * * ERA will also review this decision before the beginning of the April-June 1978 CAP allocation period, and may review it at any time, in order to determine whether the adjustments to base period runs to stills ordered herein should be continued or changed or whether a change in the priority status * * * is warranted.

On March 23, 1978, the ERA gave notice that it was considering action to change the priority designation of the Koch and Ashland refineries from first to second priority status under the CAP (43 FR 13388, March 30, 1978). In the March 23 Notice, the ERA tentatively concluded that, due to changes in their current access to non-Canadian crude oil, the Koch and Ashland refineries no longer qualified for first priority status under the CAP. This tentative conclusion was based on preliminary findings that, by May 1, 1978, the Koch and Ashland refineries would be able to receive more than 75 percent of their respective base period volumes from non-Canadian sources.[1] In arriving at this tentative conclusion, the ERA estimated the volumes of non-Canadian crude oil available to Koch and Ashland by barge up the Mississippi River (30,000 B/D and 15,000 B/D, respectively), the Portal and Minnesota pipelines (11,000 B/D and 6,500 B/D, respectively), and the Williams crude oil pipeline (35,000 B/D each). The March 23 Notice invited comments on these preliminary findings and the consequences of designating Koch and Ashland as second priority refineries.

Six written comments were received in response to the March 23 Notice. After consideration of these comments, as well as other information available at this time, we have decided to solicit additional information from the parties and public comment concerning the following items before taking final action with respect to the resolution of this matter:

a. The maximum volume of crude oil which the Koch and Ashland refineries currently (and projected through September 1979) are physically capable of receiving by barge up the Mississippi River, taking into account lock problems, inadequate dredging, inclement weather and tankage considerations.

b. The current and projected crude oil throughput capacities, by month from May 1 through December 31, 1978, of the Williams and Osage pipelines to the Koch and Ashland refineries.

c. The tariff restrictions applicable to the Williams pipeline and the policy and practice of Williams with respect to waivers of tariff restrictions.

d. The grade and quality of crude oils which the Koch and Ashland refineries are physically capable of processing, and the variations in product yield that would result from processing different grades of crude oil in the respective refineries.

e. The comparative cost of CAP refineries supplying petroleum products to the States of North Datota, South Dakota, Montana, Wisconsin, and Minnesota of alternative sources of non-Canadian crude oil. We are particularly interested in comments on the marketplace impacts of water-borne crude oil costs.

f. The extent to which priority refineries use exchanges among themselves to facilitate distribution of Canadian crude oil allocated under the CAP and the extent to which priority refineries use exchanges with Canadian refineries to replace the declining exports of Canadian crude oil.

g. The effectiveness of the current method of allocating Canadian crude oil and such other related matters as any interested party may wish to raise.

CONFERENCE PROCEDURES

ERA is convening this conference pursuant to 10 CFR 205.171 and paragraph 26 of DOE Delegation Order No. 0204-4. The Delegation Order authorizes the Administrator of the ERA to conduct conferences, hearings or public hearings with respect to the functions delegated thereby and to administer oaths and affirmations to any person appearing at such conference or hearing. Pursuant to this Delegation Order the ERA official designated to preside at the conference will be authorized to administer oaths or affirmations to any person presenting testimony at the conference, and the ERA hereby requests that all persons present their testimony under oath due to the complexities of the subject matter of the conference and the necessity for the ERA's final determination to be based on as reliable and complete a record as possible. The presiding ERA official will be authorized to conduct the conference in a fashion that will, in his or her judgment, facilitate the orderly presentation of interested parties' oral statements. All interested persons are requested to present views as to the issue or issues involved, and will be afforded the opportunity to make opening and closing statements, which may be subject to time limitations if so specified by the presiding ERA official.

Any interested person may submit questions to be asked of any person

[1] During the based period November 1, 1974, through October 31, 1975, Koch's Pine Bend refinery had total crude oil runs to stills of 89,713 B/D and total adjusted Canadian crude oil runs to stills of 74,383 B/D. The adjusted Canadian crude oil runs to stills consisted of 5,691 B/D of Canadian light crude oil and 68,692 B/D of Canadian heavy crude oil. Seventy-five percent of the refinery's total base period runs to stills is 67,285 B/D. During the base period, Ashland's St. Paul Park refinery had total crude oil runs to stills of 54,819 B/D and total adjusted Canadian crude oil runs to stills of 44,707 B/D. The adjusted Canadian crude oil runs to stills consisted of 39,904 B/D of Canadian light crude oil and 4,803 B/D of Canadian heavy crude oil. Seventy-five percent of the refinery's base period runs to stills is 41,114 B/D.

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making a statement at the conference to the address indicated below one day in advance of the conference. Any person who wishes to ask a question at the conference may submit the question, in writing, to the presiding officer, who will determine whether the question is relevant and whether time limitations permit it to be answered.

This conference will be open to the public. Any person who wishes to make an oral statement at the conference must give notice thereof to the Chief, Crude Oil Allocation Branch, Economic Regulatory Administration, P.O. Box 19028, 20th Street Postal Station NW., Washington, D.C. 20036, 202-254-9707, on or before May 24, 1978. This notice should indicate the issues which will be addressed, the amount of time desired, and a person (with address and telephone number) to accept notification of the grant of time for an oral statement and the allotted time for the oral statement. The ERA reserves the right to restrict the number of such persons to be heard and to establish procedures governing the presentation of such oral statements.

Any person who wishes to file written comments with the ERA will be permitted to do so, either before or after the conference. Pre-conference comments must be sent to the Chief, Crude Oil Allocation Branch, at the above address before May 26, 1978. Post-conference comments must be received by June 9, 1978. Any information or data considered confidential by the person furnishing it must be identified on a second copy thereof. All comments (with confidential material excluded) received by the ERA will be available for public inspection in the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

A transcript of the conference will be made, and it will be available for public review and copying at the Freedom of Information Office at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Any person may purchase a copy of the transcript from the reporter.

Further information concerning this conference may be obtained from Robert G. Bidwell, Jr., Chief, Crude Oil Allocation Branch, at the above address.

Issued at Washington, D.C., on May 8, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-13036 Filed 5-12-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. ER78-291]

NORTHERN STATES POWER CO. (MINNESOTA)

Order Accepting for Filing and Suspending Rate Increase, Providing for Hearing and Establishing Procedures

MAY 5, 1978.

On April 7, 1978, Northern States Power Co. (NSP) tendered for filing proposed revisions to its full requirement agreements[1] with 16 municipal customers and to its partial requirement agreements[2] with 9 municipal customers.[3] The proposed revisions provide for total increased charges to the customers of $1,897,000 (14.3 percent) for the test year ending April 30, 1979. NSP has requested an effective date 30 days after filing, i.e., May 8, 1978, and suspension of the proposed increase until July 1, 1978.

NSP's request for a May 8, 1978 effective date, and for suspension until July 1, 1978 is predicated upon a moratorium on rate increases agreed to by the company in settlement of Docket No. ER76-818 which settlement was approved by the FPC.[4] The moratorium precludes increases in rates until July 1, 1978. NSP however, asserts that it may file for a rate increase before that date if the company does not begin collecting under the rate increase until July 1, 1978. Thus, consistent with the settlement of Docket No. ER76-818, NSP has requested that the rate be suspended until July 1, 1978.

Notice of the filing was issued on April 13, 1978, with comments due on or before April 24, 1978. On April 21, 1978, the Cities of Anoka, Arlington, Brownton, Buffalo, Chaska, Granite Falls, Kosota, Kasson, Lake City, North Saint Paul, Saint Peter, Shakopee, Waseka, and Winthrop, Minn. (Cities) filed a Petition to Intervene.[5]

Our review of the Applicant's filing indicates that the proposed rate increase has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we will accept the proposed increase for filing, set the matter for hearing, and suspend its operation for five months until October 8, 1978 when it will go into effect, subject to refund.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed rate increase tendered for filing by Northern States Power Co. of Minnesota on April 7, 1978, establish procedures for that hearing, and that the proposed rate increase be accepted for filing, suspended, and the use thereof deferred, as as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205, 206, 301, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and pursuant to the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate increase proposed by Northern States Power Co. of Minnesota in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by Northern States Power Co. of Minnesota on April 7, 1978, are hereby accepted for filing, suspended and the use thereof deferred until October 8, 1978, when they shall become effective subject to refund.

(C) The Federal Energy Regulatory Commission Staff shall serve top sheets in this proceeding on or before August 2, 1978.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held on August 11, 1978, at 10 a.m. in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Judge is authorized to establish procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[1] The full requirements rate schedules are designated as Schedule A, Firm Power Service, Primary Distribution Voltage; and Schedule A-1, Firm Power Service, Transmission Voltage. Both rate schedules would be applicable to each full requirements customer. See, Attachment.

[2] The partial requirements rate schedules are designated as Schedule A, Load Pattern Service, Primary Distribution Voltage; Schedule A-1, Load Pattern Service, Transmission Voltage; and Schedule J, Load Pattern Service, Transmission Voltage. Pages 4 and 5 of the Attachment indicate which partial requirements customer will be served under which rate schedule.

[3] See, Attachment.

[4] See, Order Accepting Settlement Agreement and Setting Hearing, Docket No. ER76-818, issued on May 25, 1977.

[5] The Cities' Petition to Intervene will be acted upon by separate Commission order in this docket.

[Rate Schedule Designations, Docket No. ER78-291]

NORTHERN STATES POWER CO. (MINNESOTA)

FIRM POWER SERVICE

Filed: April 7, 1978; submittals undated.
Schedule A—Primary distribution voltage.
Schedule A-1—Transmission voltage (69 kV and above, for future service).

Designations	Descriptions	Other party
1. Supp. No. 8 to rate schedule FPC No. 338 (supersedes supp. No. 7)	8th revised schedule A	City of Anoka.
2. Supp. No. 9 to rate schedule FPC No. 338	Schedule A-1	Do.
3. Supp. No. 8 to rate schedule FPC No. 378 (supersedes supp. No. 7)	Schedule A	City of Arlington.
4. Supp. No. 9 to rate schedule FPC No. 378	Schedule A-1	Do.
5. Supp. No. 8 to rate schedule FPC No. 324 (supersedes supp. No. 7)	Schedule A	Village of Brownton.
6. Supp. No. 9 to rate schedule FPC No. 324	Schedule A-1	Do.
7. Supp. No. 8 to rate schedule FPC No. 369 (supersedes supp. No. 7)	Schedule A	Village of Buffalo.
8. Supp. No. 9 to rate schedule FPC No. 369	Schedule A-1	Do.
9. Supp. No. 9 to rate schedule FPC No. 323 (supersedes supp. No. 8)	Schedule A	City of Chaska.
10. Supp. No. 10 to rate schedule FPC No. 323	Schedule A-1	Do.
11. Supp. No. 10 to rate schedule FPC No. 355 (supersedes supp. No. 8)	8th revised schedule A	City of Granite Falls.
12. Supp. No. 11 to rate schedule FPC No. 355		
Schedule A-1		Do.
13. Supp. No. 8 to rate schedule FPC No. 335 (supersedes supp. No. 7)	Schedule A	Home Light & Power Co.
14. Supp. No. 9 to rate schedule FPC No. 335	Schedule A-1	Do.
15. Supp. No. 9 to rate schedule FPC No. 318 (supersedes supp. No. 8)	Schedule A	Village of Kasota.
16. Supp. No. 10 to rate schedule FPC No. 318	Schedule A-1	Do.
17. Supp. No. 8 to rate schedule FPC No. 379 (supersedes supp. No. 7)	Schedule A	Village of Kasson.
18. Supp. No. 9 to rate schedule FPC No. 379	Schedule A-1	Do.
19. Supp. No. 8 to rate schedule FPC No. 361 (supersedes supp. No. 7)	Schedule A	City of Lake City.
20. Supp. No. 9 to rate schedule FPC No. 361	Schedule A-1	Do.
21. Supp. No. 8 to rate schedule FPC No. 371 (supersedes supp. No. 7)	Schedule A	Village of North St. Paul.
22. Supp. No. 9 to rate schedule FPC No. 371	Schedule A-1	Do.
23. Supp. No. 8 to rate schedule FPC No. 325 (supersedes supp. No. 7)	8th revised schedule A	City of St. Peter.
24. Supp. No. 9 to rate schedule FPC No. 325	Schedule A-1	Do.
25. Supp. No. 8 to rate schedule FPC No. 368 (supersedes supp. No. 7)	Schedule A	City of Shakopee.
26. Supp. No. 9 to rate schedule FPC No. 368	Schedule A-1	Do.
27. Supp. No. 8 to rate schedule FPC No. 366 (supersedes supp. No. 7)	Schedule A	Town of Valley Springs.
28. Supp. No. 9 to rate schedule FPC No. 366	Schedule A-1	Do.
29. Supp. No. 8 to rate schedule FPC No. 380 (supersedes supp. No. 7)	Schedule A	City of Waseca.
30. Supp. No. 9 to rate schedule FPC No. 380	Schedule A-1	Do.
31. Supp. No. 8 to rate schedule FPC No. 364 (supersedes supp. No. 7)	Schedule A	City of Winthrop.
32. Supp. No. 9 to rate schedule FPC No. 364	Schedule A-1	Do.

NORTHERN STATES POWER CO. (MINNESOTA)

LOAD PATTERN PARTIAL REQUIREMENT WHOLESALE CUSTOMERS

First revised schedule A—Primary distribution voltage (receives Bureau of Reclamation Power, wheeled).
First revised schedule A-1—Transmission voltage (69 kV and above and also receives wheeled Bureau power).
First revised schedule J—Transmission voltage (69 kV and above with baseload municipal generation).

Designations	Descriptions	Other party
1. Supp. No. 5 to rate schedule FERC No. 390 (redesignation of rate schedule FERC No. 385—supp. No. 5 above supersedes supp. Nos. 1 and 2).	1st revised schedule A	City of Ada.
2. Supp. No. 6 to rate schedule FERC No. 312 (supersedes supp. Nos. 3 and 4)	do	City of St. James.
3. Supp. No. 5 to rate schedule FERC No. 389 (supersedes supp. Nos. 1 and 2)	do	City of Sauk Centre.
4. Supp. No. 4 to rate schedule FERC No. 387 (supersedes supp. No. 1)	1st revised schedule A-1	City of East Grand Forks.
5. Supp. No. 5 to rate schedule FERC No. 314 (supersedes supp. No. 3)	do	City of Hillsboro.
6. Supp. No. 4 to rate schedule FERC No. 388 (supersedes supp. No. 1)	do	City of Olivia.
7. Supp. No. 4 to rate schedule FERC No. 386 (supersedes supp. No. 1)	do	City of Sioux Falls.
8. Supp. No. 3 to rate schedule FERC No. 394 (supersedes supp. No. 2 as supplemented)	1st revised schedule J	City of Kenyon.
9. Supp. No. 3 to rate schedule FERC No. 392 (supersedes supp. No. 2 as supplemented)	do	City of Le Sueur.

[FR Doc. 78-12909 Filed 5-12-78; 8:45 am]

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[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 896-1]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from May 1, 1978 through May 5, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review comment on draft environmental impact statements is forty-five (45) days; the date of submission of comment is June 26, 1978. The thirty (30) day period for each final statement begins the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: May 10, 1978.

JOSEPH M. MCCABE,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Bear Lake Planning Unit, Caribou National Forest, Bear Lake, Franklin, and Caribou Counties, Idaho, May 2: The purpose of the proposed plan is to determine what the long range land management direction should be for the Bear River Planning Unit located in the Caribou National Forest, Bear Lake, Franklin, and Caribou Counties, Idaho. Many issues will be raised in this study to address possible conflicts including: (1) Recreation versus water quality and wildlife; (2) timber harvest versus roadless areas, local economy; (3) grazing versus local economy, wildlife, aquatic environment (fish); (4) transportation versus water quality; (5) private land development versus resource management. The Bear Lake Planning Unit contains 343,289 acres of national forest lands, State, and private lands. (ELR Order No. 80438.) (USDA-FS-R4-DES-(ADM)-78-4.)

Ochoco-Crooked River Planning Unit, Ochoco National Forest, Crook, Wheeler, and Grant Counties, Oreg., May 4: Proposed is a land management direction for 544,060 acres of the Ochoco National Forest located in Crook, Wheeler, and Grant Counties, Oreg. Ten land management alternatives are considered which include emphasis on: (1) Recreation and maintenance of large blocks of land in a natural condition; (2) use of land for commodity production and big game habitat needs; (3) management that does not favor any single use of the land; and, (4) use of land for commodity production. The preferred land management plan provides for a balance of all forms of current and projected uses within the planning unit. (USDA-FS-R6-DES-(ADM)-78-7.) (ELR Order No. 80459.)

Final

Prairie Dog Management, Nebraska National Forest, South Dakota and Nebraska, May 4: Proposed is implementation of a management plan for prairie dogs on the public lands in Nebraska National Forest in South Dakota and Nebraska. Prairie dog colonies reductions will be accomplished through the use of chemical toxicants. A key feature of the plan is to manage prairie dogs on a 92-square mile area of the Buffalo Gap National Grassland primarily to enhance habitat for the black-footed ferret. Anticipated effects will be reduction in habitat available for species associated with praire dogs other than black-footed ferrets, and a reduction in beef production by 319,000 lbs. per year (USDA-FS-R2-FES (Adm) FY-77-04). Comments made by: DOI AHP HEW, State and local agencies, and individuals. (ELR Order No. 80462.)

Canal Front Planning Unit, Olympic National Forest, Clallam, Jefferson, and Mason Counties, Wash., May 4: The proposed action involves the Canal Front Planning Unit, which includes both the Hoodsport and Quilcene Range District of the Olympic National Forest. It is located along the eastern portion of the Olympic Peninsula in northwestern Washington. The unit is in Congressional District 3 with approximately 49 percent of its land area in Jefferson County, 28 percent in Clallam County, and the remaining 23 percent located in Mason County. The primary objective in developing a land management plan is to provide for the needs and desires of people within the capability of the land to meet those needs. (USDA-FS-R6-DES (ADM) 78-9.) (ELR Order No. 80460.)

SOIL CONSERVATION SERVICE

Final

South Branch Little Nemaha Watershed, Johnson, Lancaster, and Otoe Counties, Nebr., May 3: Proposed is the South Branch Little Nemaha Watershed Project, designed to provide watershed protection and flood prevention. The planned works of improvement include land treatment measures (ongoing and accelerated), 14 floodwater retarding structures, 46 grade stabilization structures, and associated on-farm terrace systems. All structural measures and beneficiaries are located in Johnson, Lancaster, and Otoe Counties, Nebr. (USDA-SCS-WS (AMD) 77-1-F-NE.) Comments made by: USA, HEW, EPA, AHP, DOI, USDA, (ELR order No. 80446.)

DEPARTMENT OF DEFENSE

ARMY

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, 202-694-4269, Washington, D.C. 20310.

Final

McGregor range/land use withdrawal, Fort Bliss, El Paso County, Tex. May 5: The statement proposes the extension of the land withdrawal which allows the Fort Bliss Military Reservation to utilize the lands that comprise McGregor Range. The present arrangement is due to expire in August 1977. The Department of the Army developed this EIS in close cooperation and coordination with the Department of the Interior. The withdrawal will be extended for an initial 15-year period, followed by 2 10-year periods, subject to review by the USA, DOI, and USDA. The military use of tracked and wheeled vehicles on the range may cause soil erosion and disturb vegation and wildlife. Comments made by: USDA, EPA, DOT, AHP, USA, DOC, DOI, State and local agencies. (ELR Order No. 80461.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Navigation season extension demonstration, fiscal year 1979, May 5: The proposed fiscal year 1979 navigation season extension demonstration program is part of an ongoing investigation to demonstrate the practicability of certain enabling measures for extending the commercial navigation season on the Great Lakes-St. Lawrence Seaway System. This proposal covers only the demonstration of various methods needed to extend the navigation season and is not an environmental statement for the extension of the winter navigation season. (Detroit District) (ELR Order No. 80469.)

Aquatic plant control, Georgia, May 5: This project consists of aquatic plant control in the state of Georgia, currently, some aquatic plant control activity at corps projects such as Lake Seminole and Lake Walter F. George is being conducted as part of the operation and maintenance of these projects. There are basically four types of control currently being used in the aquatic plant control program: (1) Chemical (herbicides), (2) biological, (3) physical, and (4) mechanical. The proposed program will provide for the management of problem aquatic plants in the navigable waters of Georgia. Only the problem plants of water hyacinth and alligator weed have been approved under this program. (Savannah district.) (ELR Order No. 80447.)

Sand Island, shore protection, feasibility, Oahu: Honolulu County, Hawaii, May 1: The purpose of this statement is to study various different alternatives for protection from erosion of the Sand Island shoreline located at the mouth of the Honolulu Harbor, off the coast of Oahu Island, Hawaii. The two major alternatives under consideration are a cement-rubble-masonry seawall and a permeable stone revetment, both which would extend approximately 2,100 feet off the shore, other alternatives being considered include: (1) bulkheads; (2) offshore breakwaters; (3) shoreline management; (4) vegetative barriers; and (5) no-action. (Honolulu District.) (ELR Order No. 80433.)

Kailua Beach Park erosion control, Honolulu County, Hawaii, May 1: This statement is written in conjunction with a project report which considered several alternative plans for the long-term protection of recreational and natural resources from beach erosion at Kailua Beach on the Island of Oahu, Hawaii. Two of these plans have been presented for consideration in the EIS. The first plan concerns shore management which would involve establishment of a setback zone in which no damageable structures of park facilities would be constructed. The second plan consists of increasing the width of the beach by about 20 feet with maintenance required about every 5 years. (Honolulu District.) (ELR Order No. 80436.)

Detroit River shoreline flood protection study, Wayne County, Mich., May 1: This statement considers alternatives for flood protection along the Detroit River in Wayne County, Mich. The plans analyzed include floodproofing, house raising or the retention of flood insurance for all reaches of the river. Local officials are currently defining the mix of these three alternatives desired by the residents in each reach which encompass 3,604 acres of land and approximately 20,224 persons. Additional alternatives include a seawall/levee plan, combination seawall/floodproofing and seawall house raising plan, and relocation of some areas. (Detroit District.) (ELR Order No. 80435.)

Muskegon Lake, Westran Corp. permit application, Muskegon County, Mich., May 5: Proposed is the issuance of a permit to the Westran Corp. for a proposed project concerning the Muskegon Lake located in Muskegon County, Mich. The project includes diking, dredging and filling along the south side of the lake and would be completed in three stages. In the first stage a perimeter dike would be constructed between two existing dikes. The second stage would be removal of a portion of the western spit extending beyond the dike and the final stage includes filling of the area within the perimeter, landscaping, and development of a water-management program. (Detroit District.) (ELR Order No. 80472.)

Draft

Cadet Bayou, Construction, Anchorage Basin, O&M, Hancock County, Miss., May 4: This action involves two separate, but closely related Federal actions in Cadet Bayou, Hancock County, Miss.: (1) Construction and subsequent maintenance of a proposed anchorage basin which would become a part of the existing Federal project, and (2) operation and maintenance of the existing Federal project itself. The existing project provides for a channel 8 feet deep and 100 feet wide extending from the 8-foot contour in Mississippi Sound for a distance of about 1.48 miles to the mouth of the bayou. The proposed Anchorage Basin would be located 1,800 feet upstream from the mouth of the bayou and would connect with the existing Federal channel. (Mobile District.) (ELR Order No. 80448.)

Cayuga Station, permit, Somerset, Niagara County, N.Y., May 4: The proposed action is a permit application for construction and operation of a fossil fuel steam electric generating station at Somerset, New York by the New York Electric and Gas Corporation (NYSEG). The proposed generating station will utilize one low sulfur coal-fired unit to produce steam for the generation of 850 megawatts of electrical power. The exhaust steam from the turbine generator will be cooled and condensed by using lake Ontario water pumped to the plant via pipeline and circulated through a once through circulating water system. The elec-

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trical power produced under this proposal will be transmitted via high voltage electrical transmission lines to connect with existing ones. (ELR Order No. 80450.)

Weston Generating Unit 3, Wausau, Permits, Marathon County, Wis., May 3: The proposed action is the issuance of Federal permits relating to the construction and operation of a 300 mw coal-fired steam generating unit at the Weston generating station located on a 144-acre tract on the east bank of the Wisconsin River about 8 miles south of the city of Wausau in a combined agricultural, residential, and industrial area. The Weston 3 generating station is proposed to meet projected growth in electrical demand beginning in the early 1980's. The size and type of the proposed plant is determined by analysis which considers: (1) the level of system reliability desired, (2) the cost of constructing and operating various types of new plants, etc. (ELR Order No. 80441.)

Final

Milford Lake, Operation and Maintenance, Geary, Clay, and Dickenson Counties, Kans., May 3: Proposed is the continued operation and maintenance of Milford Lake, Kans. The project consists of provision for water supply, regulation for flood control, operation and maintenance of Recreation areas, and management of public lands and waters. The major adverse effect associated with the operation of the project is related to flood control operations. Fluctuating lake levels cause disruption of recreation and shoreline erosion. Sedimentation affects benthic life, fish populations and recreational use of the lake. (Kansas District.) Comments made by: DOI, CGD, DOT, USDA, HUD, AHP, EPA, and State and local agencies. (ELR Order No. 80442.)

Final

Kualoa Regional Park Beach Erosion Control; Honolulu County, Hawaii, May 3: The proposed project is a reduction in erosion of parklands in Kualoa Regional Park, Honolulu, Hawaii. The alternatives considered in the beach erosion program include shoreline management, beach restoration, and beach restoration with a breakwater. Shoreline management would result in regulating park improvements and development in erosion prone areas. Beach restoration would protect the shoreline by increasing the beach width by 50 feet using 45,000 cubic yards of sand. Beneficial impacts are expected. (Honolulu District.) Comments made by: AHP, USDA, USAF, HEW, HUD, DOI, COE, DOT, EPA, and State and local agencies. (ELR Order No. 80443.)

Fox R., Wisconsin Navigation Project—O. & M. Several Wisconsin counties: Proposed is the continued operation and maintenance of the Fox River, Wis. navigation project. Project activities include operation and maintenance of locks and guard locks, channel dredging, channel clearing and snagging, and dredge material disposal. Operation and maintenance of nine U.S. dams on the Lower Fox River, and control and operation of four private dams on the Lower Fox River. Periodic dredging and snagging will be required in future years to keep the channels free of debris. (Chicago District.) Comments made by: USDA, DOI, DOT, AHP, EPA, and State and local agencies. (ELR Order No. 80466.)

Final supplement

Taylorsville Lake Project, Anderson, Nelson, and Spencer Counties, Ky., May 5: Proposed is the Taylorsville Lake project in Spencer, Anderson, and Nelson Counties, Ky. The damsite is situated four river miles upstream from Taylorsville, Ky., about 60 river miles above the mouth of the Salt River. This Multipurpose lake project, located about 26 miles southeast of Louisville, will provide flood control, general recreation, fish wildlife recreation, and water quality control. Completion of the project as proposed will provide flood reduction to downstream lands along the Salt and Ohio Rivers, improve downstream water quality and provide water oriented recreational opportunities. (Louisville District.) Comments made by: HUD, HEW, USDA, DOI, EPA, FERC, State and local agencies, and Groups and individuals. (ELR Order No. 80468.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft supplement

Atlantic Groundfish Fishery (S-2), May 5: This statement is the second draft supplement to a final EIS filed with CEQ in June 1977, concerning changes to the Atlantic (New England) groundfish fishery management plan for haddock, cod, and yellowtail flounder fisheries. These recommended changes would substantially modify the present regulations (50 CFR 651) on groundfish harvest. Proposed changes include: (1) increasing the OY for haddock to 20,000 mt and 26,000 mt for cod; (2) recreational allocations; (3) establishing a minimum mesh site for gillnets; (4) mandatory retention of all regulated species taken; (5) revised fishery closure procedures. (ELR Order No. 80474.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Ron Mustard, Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2307.

Draft

Detroit Water Pollution Control Systems, Wayne, Oakland, and Macomb Counties, Mich., May 4: The proposed action involves Federal financial assistance for the upgrading and expansion of an existing regional wastewater treatment plant in the city of Detroit, Mich. The plant capacity would be expanded to treat an average daily flow of 600 mg with a 48-hour sustained peak flow of 1050 mgd. The plan also includes expansion of the associate collection system. Operation, maintenance, financial, and management improvement changes will be incorporated as well as modifications to existing contracts and ordinances (EPA Region 5). (ELR Order No. 80455.)

Mr. John Hagan, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-881-7458.

Draft

U.S. Steel Corp., No. 8 blast furnace permit, Jefferson County, Ala., May 4: The action proposed is the issuance of a NPDES permit to the United States Steel Corp. for the modernization of the steel plant facilities at Fairfield, Jefferson County, Ala. These changes will include the addition of a new blast furnace and auxiliaries, a third Q-BOP furnace, a 57-oven coke battery, 4 additional soaking pits, and the idling of 4 old coke batteries. These changes will replace existing blast furnace operations at the U.S. Ensley Steel Plant. The blast furnace complex area will occupy 13.15 acres of the total 5,000 acres involved in the fairfield operations (EPA/904-9-78-007). (ELR Order No. 80453.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, 202-566-0405.

Draft

Leasehold, 1900 Half Street NW., Buzzards Point, District of Columbia, May 4: GSA proposes that full occupancy be achieved for the 461,500 square feet of space in the 1900 Half Street Building, located in the Buzzard Point area of southwest Washington, D.C. in August 1973, GSA acquired a leasehold interest in this property which includes 271 parking spaces. Presently, the building is partially occupied by 1,085 Federal Government employees and GSA proposes to move agencies and employees in to fill the vacant space. At full occupancy, the building will house approximately 2,300 to 2,700 employees. (EDC 78004) (ELR Order No. 80463.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, 202-755-6308.

Draft

Cherry Lane Village, Meridian, Ada County, Idaho, May 1: The action involved is the approval by HUD of an application for mortgage insurance purposes concerning development of Cherry Lane Village, Meridian City, Ada County, Idaho, by the Leauitt Nupacific Company. The planned residential community will have a land area of 330 acres and will include 880 detached and attached single family homes, 180 units of multi-family homes, 6 acres of commercial area, and a golf course. The Development will provide housing for approximately 1,100 families. (HUD-RIO-EIS-78-3D) (ELR Order No. 80437.)

Strawberry Farms, No. 346, Columbus, Franklin County, Ohio, May 4: Proposed is the granting of FHA mortgage insurance to concept Communities for the development of Strawberry Farms in the city of Columbus, Franklin County, Ohio. Strawberry Farms involves the residential development of a 202+acre tract of land over approximately a 6-year period in the northeast quadrant of Columbus. Development will include the construction of approximately 635 housing units of which 613 will be single family while 22 are to be duplexes. Land within the development is being reserved for open space and school usage. (HUD-RO5-EIS-77-18-D) (ELR Order No. 80456.)

Shadowlake Village addition, Oklahoma City, Cleveland County, Okla., May 4: Proposed is the granting of FHA mortgage insurance to the Shadowlake Village Development Co. to develop a residential subdivision in southern Oklahoma City, Cleveland County, Okla. Shadowlake Village is proposed to include about 390 single family homes, 43 duplexes, 360 apartments on 18.3 acres, 50,000 square feet of space in a garden-type office park, and 15.7 acres of neighborhood commercial uses. A 9.4 acre lake will complete the project. A small portion of the project, 199 lots in phases I and II, is under construction by virtue of HUD's "early start" procedures. (HUD-R06-EIS-78-20-D) (ELR Order No. 80458.)

Draft

Briarwood Estates subdivision, Dallas County, Tex., May 5: The proposed action involves the granting by HUD of home mortgage insurance to Fox and Jacobs, Inc. for the proposed residential subdivision, Briarwood Estates, the project site is the city of Dallas, approximately 10 miles northeast of the downtown area near the Dallas-Garland city limits, Dallas County, Tex. The project is expected to encompass approximately 206 acres of land and includes an early start request for 199 of the total 867 single-family housing units to be developed. (HUD-R06-EIS-78-21-D) (ELR Order No. 80471.)

Woodbridge Subdivision, Bedford, Tarrant County, Tex., May 4: Proposed is the granting of FHA mortgage insurance to Centennial Homes, Inc. for development of the Woodbridge Subdivision located in the city of Bedford, Tarrant County, Tex. The proposed community consists of 132 acres whereupon 477 single-family units will be erected. The site includes 4 acres which will be developed into a park for recreation use. Proposed plans also entail 28 acres to be devoted to retail purposes. (HUD-R06-EIS-78-19-D) (ELR Order No. 80451.)

Final

Woodridge Center Development, Du Page County, Ill., May 5: Proposed is the granting of FHA mortgage insurance to the Rossmoor Illinois Development Co. for single and multifamily units in the Woodridge Center Development, Woodridge, Ill. Completed construction consists of the first stage (222 Units) of a total development that is zoned for 3,256 units on 394.8 acres. The sponsor's plans contemplate a total development of about 1,300 total units. Adverse effects include the depletion of ground water resources, and construction-related pollution. (HUD-R05-EIS-77-12-F) Comments made by: USDA, DOI, EPA, State and local agencies. (ELR Order No. 80467.)

North Spring Subdivision, Harris County, Tex., May 1: Proposed is the acceptance of North Spring Joint Venture's 1125-acre North Spring Subdivision in the northern part of Harris County, Tex. for mortgage insurance purposes. The proposed development plan calls for the construction of approximately 4,026 housing units with additional acreage reserved for commercial, open space and recreational uses. Adverse effects include increased automobile traffic, vehicle emissions, and noise levels. (HUD-R06-EIS-78-12F) Comments made by: AHP, DOT, EPA, COE, USDA, DOI, State and local agencies. (ELR Order No. 80452.)

Section 104 (H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104 (H) of the 1974 Housing and Community Development Act. Copies may be obtained from the Office of the appropriate local executive. Copies are not available from HUD.

Draft

Capitol Commons Project, redevelopment, Lansing, Ingham County, Mich., May 2: The city of Lansing has applied for community development block grant funding from HUD to redevelop a six-block area in the Lansing, Mich. central city area for residential purposes. The project proposes to raze the deteriorated housing currently on the site, with the exception of approximately 60 housing units on the western portion of the site, and redevelop the site with approximately 600 new housing units for a total of 660 housing units on a 32 acre site. The types of units involved are an elderly highrise, midrise apartments, Garden apartments, and townhouses. (ELR Order No. 80439.)

Final

Noise Exposure, Stapleton and Buckley Airports, Adams and Arapahoe Counties, Colo., May 2: The city of Aurora, Colo. proposes to approve the conduct of various federally funded housing programs in the "normally unacceptable" and "clearly unacceptable" noise exposure areas around Stapleton and Buckley Airports. The types of programs include rehabilitation of existing homes, rent subsidies, purchase of houses by the Aurora Housing authority for occupancy by qualifying persons to conduct other similar programs except that no new housing construction is considered in the noise areas. The location is in Adams and Arapahoe Counties within Aurora's city limits. Comments made by: DOT, AHP, EPA, USAF, HUD, State and local agencies, groups and individuals. (ELR Order No. 80440.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4258, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

Cerbat/Black Mountain Livestock Grazing Program, Mohave County, Ariz., May 5: The proposed action analyzes 26 allotment management plans which propose intensive grazing management for 1,445,652 acres of public land within the Cerbat and Black Mountain planning units within the Kingman Resource Area, Mohave County, Ariz. The proposed action includes: (1) Intensive management of grazing on 1,416,628 acres of public lands, including 635,196 acres of ephemral range and 70,793 acres of custodial range; (2) custodial management of grazing on 29,024 acres, and; (3) construction of range improvements. (DES-78-15) (ELR Order No. 80476.)

Tuledad-Home Camp Planning Unit, grazing, California and Nevada, May 5: The proposed action is the implementation of a grazing management program of the Tuledad-Home Camp Planning Unit located in the counties of Modoc and Lassen, Calif. and Washoe County, Nev. The management area comprises nearly 700,000 acres of public land. The plan proposes three levels of management: (1) Systematic grazing management on 670,000 acres; (2) custodial management on about 5,000 acres; and, (3) livestock grazing exclusions (no livestock grazing) on 19,000 acres. (DES-78-16) (ELR Order No. 80475.)

NATIONAL PARK SERVICE

Draft

Gulf Island National Seashore, Management/Concept Plan, Mississippi and Florida, May 5: Proposed is a general management plan to guide future management and development of Gulf Islands National Seashore, located in Mississippi and Florida, which proposes: (1) establishment of visitor center/administrative offices at Davis Bayou and Naval Live Oaks Reservation; (2) major day-use beach recreation facilities at Santa Rosa Island, Fort Pickens, Perdido Key, and West Ship Island; (3) increased emphasis on boating access in the Florida and Mississippi districts; (4) increased diversity of recreational and interpretive opportunities at most seashore units; and (5) enhanced protection of natural and cultural resources. (DES-78-14) (ELR Order No. 80465.)

DEPARTMENT OF LABOR

Contact: Mr. David R. Bell, Chief, Office of Environmental and Economic Impact Assessment, Room N-3673, Washington, D.C. 20210, 202-523-7076.

Final

Inorganic lead exposure, proposed standards, May 5: Proposed is the regulation of employee exposure to lead by limiting the exposure to an 8-hour time-weighted average concentration, based on a 40-hour work week, of 100 micrograms of lead per cubic meter of air (100 $\mu g/m^3$). The proposal also provides for the determination of employee exposure, methods of compliance, personal protective equipment and clothing, training, medical surveillance, and recordkeeping. Beneficial impact on the workplace environment is anticipated. Comments made by: EPA, DOI, HEW, DOD, ERDA, TREA, USDA, State and local agencies. (ELR Order No. 80470.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590. 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Final supplement

Harry S. Truman Airport, expansion (S-1), Virgin Islands, May 4: This statement supplements a final EIS filed with CEQ in September 1976. The project design has changed from dredgefill to fill only and new material is included regarding special use full area involving relocation of sanitary landfill. The proposed project involves construction of a new runway with parallel taxiway and attendant facilities, extended safety areas, installation of lighting and landing aids, a commercial terminal and cargo area, new general aviation facilities, construction of access road, fencing and the removal of obstructions to air navigation. (ELR Order No. 80454.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

I-691, Cheshire, Southington and Meriden, Hartford and New Haven Counties, May 5: The proposed action is the construction of a new section of interstate Route 691, passing through the towns of Southington and Cheshire, Connecticut. This section would be approximately 3.5 miles long and would link the existing I-691 in Meriden, Conn., with I-84 at the Southington-Cheshire town line, thus completing the I-691 fa-

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cility between I-91 and I-84. The route would be a four lane, limited access highway on a new right-of-way. (FHWA-CONN-EIS-78-02-D.) (ELR Order No. 80473.)

Latham-Mohawk River Interchange at Alternate Route 7, Albany County, N.Y., May 3: The proposed project, alternate Route 7, located in Albany County, N.Y., is a four lane divided freeway with an additional climbing lane in the westbound direction. Beginning in the vicinity of the present partially constructed exit 7 of Route I-67 in Latham, the project proceeds eastward to the existing interchange with Route I-787 in Maplewood. A major feature will be an interchange which will allow traffic flow between the project and Routes I-87 and U.S. 9. Construction of the proposed project will also relieve traffic congestion in Route 7 in Latham and Watervliet. (FHWA-NY-EIS-78-02 D.) (ELR Order No. 80444.)

Foothill Blvd., Rogue River and Redwood Highway, Josephine County, Oreg., May 3: The proposed action involves the selection of a corridor for a third crossing over the Rogue River located in the city of Grants Pass, Josephine County, Oreg. This crossing would serve as a bypass of the downtown area for through traffic desiring access to and from I-5 north of the river, to Highways 199 99 and 238 south of the river, and local traffic bound for the grants pass. The two locations under consideration are the mill street corridor which has three design alternatives, and the Agness Avenue corridor which has one design alternative. All alternatives will have four travel lanes, a median and shoulders. (FHWA-OR-EIS-78-5-D.) (ELR Order No. 80445.)

U.S. 72 Scottsboro to Tennessee State line, Jackson County, Tenn., May 5: The proposed action involves the improvement of U.S. 72 from Scottsboro to the Alabama-Tennessee State line in Jackson County, Alabama. The proposed typical section is a rural type, four-lane facility to be implemented by constructing two new lanes and retaining the present roadway where the location is parallel to the existing road, and constructing four new lanes where the route is on new location, the total length is 25.5 miles with an interchange with existing U.S. 72 northeast of Stevenson. (FHWA-ALA-EIS-78-03-D.) (ELR Order No. 80464.)

Northfield-Williamstown State Highway, Orange and Washington County, Vt., May 4: The proposed action is the reconstruction of approximately 2.6 miles of the existing Northfield-williamstown state highway in Washington and Orange Counties from a point on Vermont Route 12 in the hamlet of South Northfield, and extending easterly to the I-89 interchange. The proposed improvement is a two-lane highway and each of the proposed alternate routings utilize portions of existing right-of-way as well as requiring some new right-of-way. (FHWA-VT-EIS-78-02-D.) (ELR Order No. 80457.)

Final

Shakwak Highway improvement, Alaska, May 1: This EIS was produced in conjunction with the Canadian Department of public works. Proposed is the paving and upgrading of the Haines Road from the Alaska/British Columbia border to Haines junction, and the Alaskaa Highway from Haines junction to the Yukon/Alaska border, a distance of approximately 520 kilometers. The plan is known as the Shakwak project and four alternative routes are offered; the United States would pay for the project and Canada's Department of public works would direct construction and maintenance operations. (Region 10.) (FHWA-BC/YT-EIS-77-01-F.) Comments made by: DOT, DOI, EPA, State and local agencies, groups. (ELR Order No. 80434.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Draft

Rail Rapid Transit Extension, Chicago O'Hare Airport, Cook County, Ill., May 4: The proposed project involves the extension of the Kennedy Rail Rapid Transit Line from its present terminus at Jefferson Park to O'Hare International Airport located in Chicago, Cook County, Ill. The two track extension of the existing line would be constructed in the median of the Kennedy Expressway from Jefferson Park to the Northwest Tollway. At this junction, the median of the O'Hare Access Road. Upon approaching the terminal area, the extension would go into a subway to be constructed beneath the existing parking garage. The transit line would terminate in a stubend station which would service the major airport terminals and facilities adjacent to the airport. (UMTA-IL-03-0046.) (ELR Order No. 80449.)

[FR Doc. 78-13161 Filed 5-12-78; 8:45 am]

[6560-01]

[FRL 896-5; OPP-42050A]

STATE OF ILLINOIS

Approval of State Plan for Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for its certification program to the Environmental Protection Agency (EPA) for approval. Any State certification program implemented under this section shall be maintained in accordance with the State Plan approved under this section.

On October 3, 1977, notice was published in the FEDERAL REGISTER (42 FR 53657) of the intent of the Regional Administrator, EPA, Region V, to approve on a contingency basis the Illinois Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Illinois State Plan). Contingent approval was requested by the State of Illinois pending passage of amendments to the Illinois Structural Pest Control Law and promulgation of implementing regulations which were described in the State Plan. Complete copies of the Illinois State Plan and proposed regulations were made available for public inspection at the Illinois Department of Agriculture, Springfield, Ill.; the Pesticide Branch, Air and Hazardous Materials Divison, EPA, Region V, Chicago; and the Office of Pesticide Programs, EPA, Washington, D.C.

Written comments were received only from the National Canners Association. These comments were carefully reviewed and evaluated by EPA and the Illinois Department of Agriculture. The National Canners Association commented that, because pesticide applicator training is not required by FIFRA, the proposed training budget of the Illinois Cooperative Extension Service should not be considered by EPA in its assessment of the adequacy of funding to support the State Plan. Because the State of Illinois plans to utilize training programs as an integral part of the pesticide applicator certification program to be implemented under the State Plan, estimated funds for training were identified and included as an attachment to the State Plan. However, the Agency did not include consideration of these funds in its assessment of the adequacy of funding of the proposed certification program.

Under the Illinois State Plan, certification credentials issued to a commercial applicator will identify the category(ies) and the subcategory(ies), if any, in which the applicator is certified. The National Canners Association questioned the need for subcategorization of Category 7, Industrial, Institutional, Structural, and Health Related Pest Control, due to the fact that the Agency will not require that pesticide labels identify specific pest control categories. It should be pointed out that the question of category notations on restricted use pesticide labels is unrelated to the issue of subcategorization. The establishment of subcategories by individual States is provided for at 40 CFR 171.3(a), and is intended to allow States, within broad categories, to sharpen the focus of the certification program to meet the particular requirements of the State. The Agency has reviewed the proposed subcategorization scheme for Category 7 and has found it is appropriate.

During the formal comment period, amendments to the Illinois Structural Pest Control Law were enacted by the State Legislature and signed by the Governor. Implementing regulations under this law were promulgated by The Illinois Department of Public Health on October 19, 1977, and are now effective. The State lead agency submitted the Illinois Structural Pest Control Law and final regulations to the Agency on November 29, 1977, requesting full approval of the Plan. Final Agency review of the Structural Pest Control Regulations revealed that Rule 2.14, supervison of non-certified persons, was significantly different from the proposed rule which the state had submitted as part of the State Plan discussed in the October 3, 1977, FEDERAL REGISTER notice. Subsequently, on January 10, 1978, the Agency advised the Illinois Department of Public Health that Rule 2.14 was not in compliance with Federal regulations establishing State Plan requirements, specifically 40 CFR 171.7(b)(1)(iii) (A) and (D), and must be amended prior to granting full approval of the State Plan.

The Agency has determined that the Illinois State Plan will satisfy the requirements of section 4(a)(2) of the amended FIFRA and 40 CFR Part 171, if the final Structural Pest Control Regulations are amended to meet the requirements of 40 CFR 171.7(b)(1)(iii) (A) and (D). A suggested amendment to Rule 2.14, which would give the rule the same basic meaning it had when originally proposed, has been agreed to by the State and by EPA. The Illinois Department of Public Health expects to repromulgate these regulations on or before June 15, 1978. Notice is hereby given that contingent approval of the Illinois State Plan is granted through June 30, 1978. On or before expiration of the period of contingent approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Illinois State Plan as a result thereof.

EFFECTIVE DATE

Pursuant to section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds there is good cause for providing that the contingent approval granted herein to the Illinois State Plan shall become effective upon publication. Neither the Illinois State Plan itself nor this Agency's contingent approval of the plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of Illinois. Delays in starting the work necessary to implement the plan, such as may be occasioned by providing some later effective date for the contingent approval are inconsistent with the public interest. Accordingly, this contingent approval shall become effective immediately.

Dated: May 3, 1978.

GEORGE R. ALEXANDER, Jr.
Regional Administrator,
Region V.

[FR Doc. 78-13223 Filed 5-12-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

FIXED SATELLITE ADVISORY COMMITTEE 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Meeting

In further preparation for the 1979 World Administrative Radio Conference, a meeting of the Fixed Satellite Advisory Committee, chaired by Raymond B. Crowell, will be held on Wednesday, May 31, 1978, at 9:30 a.m., room 8210, located at 2025 M Street NW., Washington, D.C.

The meeting will be open to the public and any member of the public is invited to participate and present oral or written statements of relevance to the agenda upon recognition by the Chairman. Any such oral statements should be cleared with the Chairman at least one day prior to the meeting.

The meeting will be conducted in accordance with the following agenda:

(1) Chairman's opening remarks.
(2) Approval of Minutes of May 9 Meeting.
(3) Report of Informal Task Group.
(4) Discussion of Task Group Report.
(5) Adopt/Define further efforts required on Task Group Report.
(6) Suggestions for matters to be covered at next meeting.
(7) Date of next meeting.
(8) Any other business.
(9) Adjourn.

No part this meeting will be concerned with matters which are within the exemptions of the Public Information Act, 5 U.S.C. 552b(c).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-13197 Filed 5-12-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 25, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos.: T-1839-6 and T-1839-A-2.

Filing party: Frederick M. Lowther, Esquire, Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.

SUMMARY: Bayside Warehouse Co. (Bayside) and La Place Elevator Co., Inc., (La Place) have filed a single document amending Agreements Nos. T-1839 and T-1839-A. The agreement, identified as F.M.C. Agreement No. T-1839-6 and T-1839-A-2, is an assignment and assumption whereby Bayside transfers, conveys, assigns, quitclaims and delivers to La Place all of Bayside's right, title and interest in its grain elevator at Reserve, La. This agreement carries out the substitution of parties under Lease Agreement No. T-1839-A contemplated by the Asset Purchase Agreement between Bayside and Mitsui Co. (U.S.A.), Inc., (Mitsui) filed with the Commission and assigned Agreement No. T-3640. La Place is a subsidiary of Mitsui.

Agreement No.: T-3647.

Filing party: Frederick M. Lowther, Esquire, Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.

SUMMARY: Agreement No. T-3647, among the South Louisiana Port Commission (Port), Mitsui & Co. (U.S.A.), Inc., (Mitsui) and Bayside Warehouse Co. (Bayside), is a Tanks Agreement contemplated by the Asset Purchase Agreement No. T-3640, between Bayside and Mitsui, and now pending before the Commission. Agreement No. T-3647 provides for Mitsui, at its own expense, to enter into a contract for the repair, waterproofing, sandblasting and painting of the steel grain storage tanks at the facilities which are the subject of Lease Agreement No. T-1839-A at Reserve, La., which agreement is now pending before the Commission.

Agreement No.: T-1768-9.

Filing party: Stanley P. Hebert, Port Attorney, Port of Oakland, P.O. Box 2064, 66 Jack London Square, Oakland, Calif. 94604.

SUMMARY: Agreement No. T-1768-9, between the City of Oakland (City) and Sea-Land Service, Inc., (Sea-Land), modifies the parties' basic agreement which provides for the preferential assignment of certain marine terminal facilities to Sea-Land. The basic agreement was previously amended by an Eighth Supplemental Agreement, Agreement No. T-1768-8, which provided, among other things, for the modification and assignment by the City of certain container cranes located upon the assigned premises and the recovery by the City of the cost of said modifications. The purpose of Agreement No. T-1768-9 is to provide that the container crane modifications shall be performed by Sea-Land based on plans, specifications and an estimate of cost approved by the Port rather than performed by the Port as originally specified in Agreement No. T-1768-8 and to provide for reimbursement of

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Sea-Land by the City for the cost of these container crane modifications.

By Order of the Federal Maritime Commission.

Dated: May 10, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-13143 Filed 5-12-78; 8:45 am]

[6730-01]

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 5, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3649.

Filing party: Mr. Robert E. Tobin, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

SUMMARY: Agreement No. T-3649, between Port of Seattle (Port) and Pacific Alaska Line, Inc., (Pacific), provides for the Four-year and two and one-half month renewable lease to Pacific of 34,557 square feet of unimproved land located in King County, Wash. The premises are to be used by Pacific in connection with its maritime commerce activities. As compensation, Port will receive $863.93 per month as rent.

Agreement No. 5200-32.

Filing party: David C. Nolan, Esquire, Graham & James, One Maritime Plaza, San Francisco, Calif. 94111.

SUMMARY: Agreement No. 5200-32 modifies the basic agreement of the Pacific Coast European Conference by (1) deleting Conference jurisdiction over cargo transshipped to West, South, and East Africa; (2) providing of a Member Line to take independent tariff action on 60 days' notice in order to meet outside competition; and (3) limiting the members a joint service to a single vote.

Agreement No. 9902-9.

Filing party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 1150 Connecticut Avenue NW., Washington, D.C. 20036.

SUMMARY: Agreement No. 9902-9 modifies the basic agreement to provide that Euro-Pacific may serve ports within its scope by intermodal or other indirect routing in emergency situations which preclude all-water service.

By Order of the Federal Maritime Commission.

Dated: May 10, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-13144 Filed 5-12-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Child Support Enforcement

REDELEGATIONS OF CHILD SUPPORT ENFORCEMENT PROGRAM AUTHORITIES

By Reorganization Order for the Department of Health, Education, and Welfare (HEW) dated March 8, 1977, as published in the FEDERAL REGISTER on March 9, 1977 (42 FR 13262-63), the Secretary of Health, Education, and Welfare (the Secretary) directed that HEW's Office of Child Support Enforcement (OCSE) shall remain a separate organizational unit in HEW and that the Commissioner of Social Security shall serve as Director of OCSE. Previously, the Administrator of HEW's Social and Rehabilitation Service (SRS), which was abolished by the HEW Reorganization Order, served as Director of OCSE.

Notice is hereby given that, pursuant to the overall authority for child support enforcement program administration vested with the new Director of OCSE by the HEW Reorganization of 1977, the Acting Director has approved the following redelegations of authority:

I. Pursuant to section 452(a)(3) of the Social Security Act, as amended (the Act), authority to review and approve State plans, and amendments to State plans, regarding programs for locating absent parents, establishing paternity and obtaining child support, has been redelegated to the Deputy Director, Office of Child Support Enforcement and to Regional Representatives, Office of Child Support Enforcement.

CONDITION

Authority to disapprove State plans and State plan amendments is reserved to the Director or Acting Director, Office of Child Support Enforcement, after consultation with the Secretary.

II. Pursuant to section 452(a)(8) of the Act, authority to review applications from States for permission to utilize district courts of the United States to enforce court orders for child support obtained against absent parents and, upon a finding that other States have not undertaken to enforce court orders of originating States within a reasonable time and utilization of the Federal Courts is the only reasonable method of enforcing such court orders, authority to approve such applications, has been redelegated to the Deputy Director, Office of Child Support Enforement and to Regional Representatives, Office of Child Support Enforcement.

III. Pursuant to section 452(b) of the Act, upon request by States having in effect approved State plans for child support enforcement programs, authority to certify to the Secretary of the Treasury for collection, under the provisions of section 6305 of the Internal Revenue Code of 1954, the amounts of delinquent child support obligations assigned to such States, after finding that the amounts requested for collection are the amounts of delinquency under court orders for support; that diligent and reasonable efforts have been made by States to collect these amounts, utilizing their own collection mechanisms; and that States have agreed to reimburse the Federal Government for costs involved in making such collections on behalf of States, has been redelegated to the Deputy Director, Office of Child Support Enforcement and to Regional Representatives, Office of Child Support Enforcement.

IV. Pursuant to section 455(b)(1) of the Act, authority to estimate, prior to the beginning of each quarter of the year, the amounts to which States will be entitled for the upcoming quarter under subsection (a) of section 455 of the Act, has been redelegated to the Deputy Director, Office of Child Support Enforcement.

V. Pursuant to section 455(b)(2) of the Act, authority to determine the allowability of expenditures claimed by States, has been redelegated to the Deputy Director, Office of Child Support Enforcement.

VI. Pursuant to section 455 of the Act, authority to review and approve grant awards to States operating programs approved under the provisions of section 452 of the Act, has been redelegated to the Deputy Director, Office of Child Support Enforcement.

VII. Pursuant to section 452(a)(4) of the Act, authority to determine, for purposes of the penalty provision of section 403(h) of the Act, whether the actual operation of State programs for locating absent parents, establishing paternity and obtaining child support conforms to the requirements of Part D of title IV of the Act, based upon complete audits of such programs undertaken not less than annually, has been redelegated to the Deputy Director, Office of Child Support Enforcement.

CONDITION

Authority to make the final decision that the penalty provision of section 403(h) of the Act will be imposed upon a State is reserved to the Director of Acting Director, Office of Child Support Enforcement, after consultation with the Secretary.

VIII. Pursuant to section 453(e)(1) of the Act, authority to determine that requests for information as to the whereabouts of absent parents, to be used to locate such parents for the purpose of enforcing child support obligations against these parents, meet the criteria governing provision of such information set forth in subsections (a), (b) and (c) of section 453 of the Act, has been redelegated to the Deputy Director, Office of Child Support Enforcement.

IX. Pursuant to section 453(e)(2) of the Act, authority to determine amounts which may be paid to departments, agencies or instrumentalities of the United States, or of States, as reimbursement for costs incurred in providing information requested under the provisions of section 453 of the Act, and authority to cause such payments to be made, has been redelegated to the Deputy Director, Office of Child Support Enforcement.

X. Pursuant to section 453(e)(2) of the Act, authority to determine the amount of fees charged for services provided under section 453 of the Act to individuals specified in subsection (c)(3) of section 453 of the Act, and authority to cause collection of such fees, has been redelegated to the Deputy Director, Office of Child Support Enforcement.

XI. Pursuant to section 1110 of the Act, authority to approve or disapprove cooperative research and demonstration projects under section 1110 which involve programs for locating absent parents, establishing paternity and obtaining child support, has been redelegated to the Deputy Director, Office of Child Support Enforcement, and the Associate Commissioner for Program Policy and Planning, Social Security Administration (SSA).

CONDITION

All such projects require collateral approval by the Office of Child Support Enforcement and the Office of Program Policy and Planning, SSA. Where there is disagreement between the Office of Child Support Enforcement and the Office of Program Policy and Planning, SSA as to approval of a particular project, the matter will be referred to the Director or Acting Director, Office of Child Support Enforcement for decision.

XII. Pursuant to section 1110 of the Act, authority to sign and issue grant awards or contracts relative to cooperative research and demonstration projects under section 1110 which involve programs for locating absent parents, establishing paternity and obtaining child support, and authority to perform all related business management functions of the grants or contracts processes, has been redelegated to SSA's Associate Commissioner for Management and Administration; Deputy Associate Commissioner for Management and Administration; and Director and Deputy Director, Division of Contracting and Procurement, Office of Materiel Management, Office of Management and Administration.

CONDITIONS

A. Payment shall not be made with respect to any experimental, pilot, demonstration or other project funded through a grant award or contract, all or any part of which is wholly financed with Federal funds made available under section 1110 of the Act without any State, local, or other non-Federal financial participation, unless such project has been personally approved by the Secretary or Under Secretary.

B. Incumbents of positions redelegated this authority may not exercise such authority until the effective date specified in grants management officer warrants issued to them by the Director, Division of Contracting and Procurement, Office of Materiel Management, Office of Management and Administration, SSA. Their subsequent exercise of such authority shall be governed by the terms and conditions set forth in the warrants.

XIII. Further redelegations of the redelegations described in sections I-XII above may not be made, except as follows:

A. The redelegations contained in sections I, II, III, IV, V, VIII, and X above may be further redelegated by the Deputy Director, Office of Child Support Enforcement to Office of Child Support Enforcement headquarters positions at or above the Division Director level, without authority to make additional redelegations.

B. The redelegations contained in sections IV, V, VIII, and X above may also be further redelegated by the Deputy Director, Office of Child Support Enforcement to Regional Representatives, Office of Child Support Enforcement, without authority to make additional redelegations.

C. The redelegations contained in section XI above may be further redelegated by the Deputy Director, Office of Child Support Enforcement and SSA's Associate Commissioner for Program Policy and Planning to positions in their headquarters components at or above the Division Director level, without authority to make additional redelegations.

D. The redelegations contained in section XII above may be further redelegated by SSA's Associate Commissioner for Management and Administration to appropriate positions in SSA's Office of Materiel Management, Office of Management and Administration, without authority to make additional redelegations.

XIV. The redelegations specified in sections I-XII above are effective as of the date that this notice thereof is published in the FEDERAL REGISTER. To the extent that any actions taken by the incumbents of the positions redelegated the subject authorities, in effect, involve the exercise of these authorities prior to the date that this notice is published in the FEDERAL REGISTER, such actions are hereby affirmed and ratified.

Dated: May 8, 1978.

DON WORTMAN,
Acting Director, Office of Child Support Enforcement.

[FR Doc. 78-13073 Filed 5-15-78; 8:45 am]

[4110-07]

Office of the Secretary

SOCIAL SECURITY BENEFIT INCREASES

Notice of Cost-of-Living Increase in Benefits Under Titles II and XVI of the Social Security Act and in Income Limitations for Beneficiaries Under the Supplemental Security Income Program

I hereby determine and announce a cost-of-living increase of 6.5 percent in benefits under the Social Security Act, (the act) under title II effective with the month of June 1978 and under title XVI effective with the month of July 1978. This is pursuant to authority contained in section 215(i) of the Social Security Act (42 U.S.C. 415(i)), as amended by section 201 of Pub. L. 95-216, enacted December 20, 1977, and in section 1617 of the Social Security Act (42 U.S.C. 1382f).

The revised table of benefits following this notice is deemed to appear in section 215(a) of the act. For transitional insured persons aged 72 and over entitled under section 227 of the act (42 U.S.C. 427) and for uninsured persons aged 72 and over entitled under section 228 of the act (42 U.S.C. 428), the amounts of $83.70 and $41.90 per month are established and deemed to appear in sections 227 and 228. The additional amount of the supplemen-

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tal security income benefit payable to essential persons for a year under section 211 of Pub. L. 93-66 is increased to $1,137.60.

Annual income limitations under the Supplemental Security Income Program for the aged, blind, and disabled, are increased to $2,272.80 and $3,409.20. (The last cost-of-living increase in benefits under titles II and XVI of the Social Security Act and in income limitations for beneficiaries under the Supplemental Security Income Program herein referred to was published on May 12, 1977, at 42 FR 24209.)

Automatic Benefit Increase Determination

Section 215(i) of the Social Security Act requires that, when certain conditions are met in the first calendar quarter of a year, the Secretary shall determine that a cost-of-living increase in benefits and income limitations is due. That section further specifies a formula which automatically determines the amount of any cost-of-living increase in benefits and income limitations, based on the Consumer Price Index reported by the Department of Labor.

Section 215(i)(2)(A) of the act provides that the Secretary shall determine each year, whether there is a cost-of-living computation quarter in such year. If he so determines, he shall, effective with June of that year, increase benefits for individuals entitled under sections 227 and 228 of the act, and shall increase the primary insurance amounts of all other individuals entitled to benefits under title II of the act (excluding, from any automatic cost-of-living benefit increases before June 1979, primary insurance amounts determined under section 215(a)(3)).

The percentage of increase in benefits shall equal the percentage of increase by which the Consumer Price Index for the cost-of-living computation quarter exceeds the index for the most recent prior base quarter or cost-of-living computation quarter.

Section 215(i)(1) of the act defines a base quarter as a calendar quarter ending on March 31 in each year after 1974, or any other calendar quarter in which occurs the effective month of a general benefit increase. Section 215(i)(1) also defines a cost-of-living computation quarter as a base quarter in which the Consumer Price Index prepared by the Department of Labor exceeds by not less than 3 percent such index in the later of (1) the last prior cost-of-living computation quarter or, (2) the most recent calendar quarter in which a general benefit increase was effective. However, there shall be no cost-of-living computation quarter in any calendar year if, in the prior year, a general benefit increase was enacted or becomes effective. Section 215(i)(1) of the act further provides that the Consumer Price Index for a base quarter or a cost-of-living computation quarter shall be the arithmetical mean of such index for the 3 months in such quarter.

Beginning with the Consumer Price Index (CPI) for January 1978, the Department of Labor has been publishing three versions of the CPI; the unrevised CPI for urban wage earners and clerical workers, the revised CPI for urban wage earners and clerical workers, and the new CPI for all urban consumers. The revised CPI for urban wage earners and clerical workers is being used for the first quarter of 1978 in this determination because it is an improved, updated version of the CPI for urban wage earners and clerical workers.

The revised Consumer Price Index for urban wage earners and clerical workers prepared by the Department of Labor for each month in the quarter ending March 31, 1978, was: for January 1978, 187.1; for February 1978, 188.4, for March 1978, 189.7. The arithmetical mean for this calendar quarter is 188.4. This result is compared to the last cost-of-living computation quarter, which ended March 31, 1977. The Consumer Price Index for each month in that quarter was: for January 1977, 175.3; for February 1977, 177.1, for March 1977, 178.2. The arithmetical mean for that calendar quarter was 176.9. The increase for the calendar quarter ending March 31, 1978, is 6.5 percent. Thus, since the percentage of increase in the Consumer Price Index from the calendar quarter ending March 31, 1977, to the calendar quarter ending March 31, 1978, is not less than 3 percent, the quarter ending March 31, 1978, is a cost-of-living computation quarter. Consequently, a cost-of-living benefit increase of 6.5 percent is effective for benefits under title II of the Act beginning June 1978.

Title II Benefits

Title II benefits are payable under the Federal old-age, survivors, and disability insurance program. Individuals entitled under such programs include insured workers, wives, husbands, children, widows, widowers, mothers, and parents.

In accordance with section 215(i)(2)(D)(iv) of the act, the primary insurance amounts and the maximum family benefits shown in columns IV and V, respectively, of the revised benefit table set forth below were obtained by increasing by 6.5 percent the corresponding amounts established by: (1) The last cost-of-living increase; and, (2) the extension of the benefit table made under section 215(i)(2)(D)(v) and published on November 4, 1977, at 42 FR 57754.

Section 227 of the act provides limited benefits to a worker, who became age 72 before 1969 and was not insured under the usual requirements, and to his wife or widow. Section 228 of the act provides similar benefits at age 72 for certain uninsured persons. The current monthly benefit amounts of $78.50 and $39.30 established under sections 227 and 228 of the Act are increased by 6.5 percent to obtain the new amounts of $83.70 and $41.90.

Title XVI Benefits

Section 1617 of the Social Security Act provides that, whenever the benefits under title II are increased as a result of a determination made under section 215(i), the amounts in sections 1611(a)(1)(A), 1611(a)(2)(A), and 1611(b) of the Social Security Act and in section 211(a)(1)(A) of Pub. L. 93-66, shall be increased. The new amounts are effective with months after the month in which the title II increase is effective. The percentage of such increase shall be the same as the percentage of increase by which the title II benefits are increased (and rounded, when not a multiple of $1.20, to the next higher multiple of $1.20).

In accordance with section 1617, monthly Federal Supplemental Security Income (SSI) guarantees under the SSI program for the aged, blind, and disabled are increased effective with July 1978, by 6.5 percent. The current Federal SSI guarantees of $2,133.60 and $3,200.40 are increased by 6.5 percent to $2,272.80 and $3,409.20. The actual benefit received by the individual is the Federal SSI guarantee less any countable income. The amount of the current Federal SSI guarantee of $1,068.00 to essential persons under section 211(a)(1)(A) of Pub. L. 93-66 is increased by 6.5 percent to obtain a new amount of $1,137.60.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802-5, and 13.807 Social Security Programs.)

Dated: May 9, 1978.

Hale Champion,
Acting Secretary.

Table for determining primary insurance amount and maximum family benefits beginning June 1978

[This revised table was made pursuant to sec. 215(i)(2)(D) of the Social Security Act, as amended]

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount effective for June 1977)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
.....	$16.20	$114.30	.....	$76	$121.80	$182.70
$16.21	16.84	116.10	$77	78	123.70	185.60
16.85	17.60	118.80	79	80	126.60	189.90
17.61	18.40	121.00	81	81	128.90	193.50
18.41	19.24	123.00	82	83	131.20	196.80
19.25	20.00	125.80	84	85	134.00	201.00
20.01	20.64	128.10	86	87	136.50	204.80
20.65	21.28	130.10	88	89	138.60	207.90
21.29	21.88	132.70	90	90	141.40	212.10
21.89	22.28	135.00	91	92	143.80	215.70
22.29	22.68	137.20	93	94	146.20	219.30
22.69	23.08	139.40	95	96	148.50	222.80
23.09	23.44	142.00	97	97	151.30	227.00
23.45	23.76	144.30	98	99	153.70	230.60
23.77	24.20	147.10	100	101	156.70	235.10
24.21	24.60	149.20	102	102	158.90	238.50
24.61	25.00	151.70	103	104	161.80	242.40
25.01	25.48	154.50	105	106	164.60	246.90
25.49	25.92	157.00	107	107	167.30	251.00
25.93	26.40	159.40	108	109	169.80	254.80
26.41	26.94	161.90	110	113	172.50	258.80
26.95	27.46	164.20	114	118	174.90	262.40
27.47	28.00	166.70	119	122	177.60	266.50
28.01	28.68	169.30	123	127	180.40	270.60
28.69	29.25	171.80	128	132	183.00	274.60
29.26	29.68	174.10	133	136	185.50	278.30
29.69	30.36	176.50	137	141	188.00	282.10
30.37	30.92	179.10	142	146	190.80	286.20
30.93	31.36	181.70	147	150	193.60	290.40
31.37	32.00	183.90	151	155	195.90	293.90
32.01	32.60	186.50	156	160	198.70	298.10
32.61	33.20	189.00	161	164	201.30	302.00
33.21	33.88	191.40	165	169	203.90	305.90
33.89	34.50	194.00	170	174	206.70	310.10
34.51	35.00	196.30	175	178	209.10	313.70
35.01	35.80	198.90	179	183	211.90	318.00
35.81	36.40	201.30	184	188	214.40	321.70
36.41	37.08	203.90	189	193	217.20	326.00
37.09	37.60	206.40	194	197	219.90	329.90
37.61	38.20	208.80	198	202	222.40	333.60
38.21	39.12	211.50	203	207	225.30	338.00
39.13	39.68	214.00	208	211	228.00	342.00
39.69	40.33	216.00	212	218	230.10	345.20
40.34	41.12	218.70	217	221	233.00	349.50
41.13	41.76	221.20	222	225	235.60	353.40
41.77	42.44	223.90	226	230	238.50	357.80
42.45	43.20	226.30	231	235	241.10	361.70
43.21	43.76	229.10	236	239	244.00	366.10
43.77	44.44	231.20	240	244	246.30	371.10
44.45	44.88	233.50	245	249	248.70	376.80
44.89	45.60	236.40	250	253	251.80	384.90
		238.70	254	258	254.30	392.50
		240.80	259	263	256.50	400.00
		243.70	264	267	259.60	406.00
		246.10	268	272	262.10	413.70
		248.70	273	277	264.90	421.20
		251.00	278	281	267.40	427.20
		253.50	282	286	270.00	434.90
		256.20	287	291	272.90	442.60
		258.30	292	295	275.10	448.50
		261.10	296	300	278.10	456.10
		263.50	301	305	280.70	463.80
		265.80	306	309	283.10	469.80
		268.50	310	314	286.00	477.40
		270.70	315	319	288.30	485.10
		273.20	320	323	291.00	491.10
		275.80	324	328	293.80	498.70
		278.10	329	333	296.20	506.20
		281.00	334	337	299.30	512.50
		283.00	338	342	301.40	519.90
		285.60	343	347	304.20	527.50
		288.30	348	351	307.10	533.60
		290.50	352	356	309.40	541.20
		293.30	357	361	312.40	548.80
		295.60	362	365	314.90	554.90
		297.90	366	370	317.30	562.50
		300.60	371	375	320.20	569.90
		303.10	376	379	322.90	576.30
		305.70	380	384	325.60	583.90

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Table for determining primary insurance amount and maximum family benefits beginning June 1978—Continued

[This revised table was made pursuant to sec. 215(i)(2)(D) of the Social Security Act, as amended]

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount effective for June 1977)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		307.90	385	389	328.00	591.30
		310.30	390	393	330.50	597.40
		313.00	394	398	333.40	605.10
		315.40	399	403	336.00	612.70
		318.20	404	407	338.90	618.60
		320.20	408	412	341.10	626.30
		322.50	413	417	343.50	633.80
		324.80	418	421	346.00	639.90
		327.40	422	426	348.70	647.50
		329.60	427	431	351.10	655.10
		331.80	432	436	353.20	662.70
		334.40	437	440	356.20	665.70
		336.50	441	445	358.40	669.70
		338.70	446	450	360.80	673.40
		341.30	451	454	363.50	676.30
		343.50	455	459	365.90	680.10
		345.80	460	464	368.30	683.80
		347.90	465	468	370.60	687.10
		350.70	469	473	373.50	690.80
		352.60	474	478	375.60	694.60
		354.90	479	482	378.00	697.70
		357.40	483	487	380.70	701.60
		359.70	488	492	383.10	705.40
		361.90	493	496	385.50	708.40
		364.50	497	501	388.20	712.10
		366.60	502	506	390.50	715.80
		368.90	507	510	392.90	719.00
		371.10	511	515	395.30	722.80
		373.70	516	520	398.00	726.70
		375.80	521	524	400.30	729.50
		378.10	525	529	402.70	733.40
		380.80	530	534	405.60	737.10
		382.80	535	538	407.70	740.20
		385.10	539	543	410.20	744.10
		387.80	544	548	412.80	747.80
		389.90	549	553	415.30	751.60
		392.10	554	556	417.60	753.90
		393.90	557	560	419.60	756.90
		396.10	561	563	421.90	759.30
		398.20	564	567	424.10	762.30
		400.40	568	570	426.50	764.50
		402.30	571	574	428.50	767.50
		404.40	575	577	430.70	769.90
		406.20	578	581	432.70	772.80
		408.40	582	584	435.00	775.20
		410.20	585	588	436.90	778.20
		412.60	589	591	439.50	780.50
		414.60	592	595	441.60	783.50
		416.70	596	598	443.80	785.60
		418.70	599	602	446.00	788.90
		420.70	603	605	448.10	791.10
		422.80	606	609	450.30	794.00
		424.90	610	612	452.60	796.50
		426.90	613	616	454.70	799.50
		428.90	617	620	456.80	802.50
		431.00	621	623	459.10	804.80
		433.00	624	627	461.20	807.90
		435.10	628	630	463.40	810.70
		437.10	631	634	465.60	814.70
		439.20	635	637	467.80	818.50
		441.40	638	641	470.10	822.40
		443.20	642	644	472.10	826.10
		445.40	645	648	474.40	830.10
		447.40	649	652	476.50	833.70
		448.60	653	656	477.80	836.10
		449.90	657	660	479.20	838.40
		451.50	661	665	480.90	841.50
		453.10	666	670	482.60	844.50
		454.80	671	675	484.40	847.40
		456.40	676	680	486.10	850.50
		458.00	681	685	487.80	853.50
		459.80	686	690	489.70	856.40
		461.20	691	695	491.20	859.60
		462.80	696	700	492.90	862.60
		464.50	701	705	494.70	865.60
		466.10	706	710	496.40	868.60
		467.70	711	715	498.20	871.50
		469.40	716	720	500.00	874.60
		471.00	721	725	501.70	877.60
		472.60	726	730	503.40	880.70
		474.20	731	735	505.10	883.80
		475.90	736	740	506.90	886.70

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Table for determining primary insurance amount and maximum family benefits beginning June 1978—Continued

[This revised table was made pursuant to sec. 215(i)(2)(D) of the Social Security Act, as amended]

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount effective for June 1977)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		477.40	741	745	508.50	889.90
		478.90	746	750	510.10	892.70
		480.40	751	755	511.70	895.40
		481.80	756	760	513.20	897.80
		483.20	761	765	514.70	900.40
		484.50	766	770	516.00	903.00
		485.80	771	775	517.40	905.40
		487.20	776	780	518.90	907.90
		488.60	781	785	520.40	910.40
		489.80	786	790	521.70	912.90
		491.10	791	795	523.10	915.40
		492.50	796	800	524.60	918.00
		494.00	801	805	526.20	920.50
		495.30	806	810	527.50	923.00
		496.70	811	815	529.00	925.60
		498.00	816	820	530.40	928.00
		499.40	821	825	531.90	930.60
		500.70	826	830	533.30	933.10
		502.00	831	835	534.70	935.70
		503.30	836	840	536.10	938.10
		504.70	841	845	537.60	940.80
		506.00	846	850	538.90	943.00
		507.50	851	855	540.50	945.70
		508.80	856	860	541.90	948.10
		510.20	861	865	543.40	950.70
		511.50	866	870	544.80	953.20
		512.90	871	875	546.30	955.70
		514.10	876	880	547.60	958.20
		515.50	881	885	549.10	960.80
		516.80	886	890	550.40	963.20
		518.20	891	895	551.90	966.00
		519.60	896	900	553.40	968.30
		521.00	901	905	554.90	970.90
		522.30	906	910	556.30	973.50
		523.70	911	915	557.80	976.00
		525.10	916	920	559.30	978.30
		526.30	921	925	560.60	981.00
		527.60	926	930	561.90	983.40
		529.00	931	935	563.40	985.90
		530.40	936	940	564.90	988.50
		531.70	941	945	566.30	991.00
		533.00	946	950	567.70	993.50
		534.50	951	955	569.30	996.10
		535.90	956	960	570.80	998.60
		537.30	961	965	572.30	1,001.00
		538.40	966	970	573.40	1,003.80
		539.80	971	975	574.90	1,006.20
		541.20	976	980	576.40	1,008.50
		542.60	981	985	577.90	1,011.10
		543.80	986	990	579.20	1,013.60
		545.20	991	995	580.70	1,016.20
		546.60	996	1,000	582.20	1,018.60
		547.80	1,001	1,005	583.50	1,020.70
		548.90	1,006	1,010	584.60	1,023.20
		550.20	1,011	1,015	586.00	1,025.30
		551.50	1,016	1,020	587.40	1,027.80
		552.60	1,021	1,025	588.60	1,029.90
		553.80	1,026	1,030	589.80	1,032.20
		555.10	1,031	1,035	591.20	1,034.50
		556.20	1,036	1,040	592.40	1,036.70
		557.50	1,041	1,045	593.80	1,039.10
		558.80	1,046	1,050	595.20	1,041.30
		559.80	1,051	1,055	596.20	1,043.40
		561.10	1,056	1,060	597.60	1,045.90
		562.40	1,061	1,065	599.00	1,048.00
		563.80	1,066	1,070	600.30	1,050.50
		564.80	1,071	1,075	601.60	1,052.60
		566.00	1,076	1,080	602.80	1,054.90
		567.30	1,081	1,085	604.20	1,057.10
		568.40	1,086	1,090	605.40	1,059.40
		569.70	1,091	1,095	606.60	1,061.70
		571.00	1,096	1,100	608.20	1,064.00
		572.00	1,101	1,105	609.20	1,066.10
		573.30	1,106	1,110	610.60	1,068.50
		574.60	1,111	1,115	612.00	1,070.70
		575.70	1,116	1,120	613.20	1,073.10
		577.00	1,121	1,125	614.60	1,075.30
		578.20	1,126	1,130	615.80	1,077.60
		579.40	1,131	1,135	617.10	1,079.70
		580.60	1,136	1,140	618.40	1,082.20
		581.90	1,141	1,145	619.80	1,084.40
		583.10	1,146	1,150	621.10	1,086.70

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Table for determining primary insurance amount and maximum family benefits beginning June 1978—Continued

[This revised table was made pursuant to sec. 215(i)(2)(D) of the Social Security Act, as amended]

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount effective for June 1977)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		584.20	1,151	1,155	622.20	1,088.80
		585.50	1,156	1,160	623.60	1,091.10
		586.70	1,161	1,165	624.90	1,093.40
		587.90	1,166	1,170	626.20	1,095.80
		589.20	1,171	1,175	627.50	1,098.00
		590.30	1,176	1,180	628.70	1,100.20
		591.40	1,181	1,185	629.90	1,102.20
		592.60	1,186	1,190	631.20	1,104.30
		593.70	1,191	1,195	632.30	1,106.50
		594.80	1,196	1,200	633.50	1,108.60
		595.90	1,201	1,205	634.70	1,110.60
		597.10	1,206	1,210	636.00	1,112.90
		598.20	1,211	1,215	637.10	1,114.90
		599.30	1,216	1,220	638.30	1,117.00
		600.40	1,221	1,225	639.50	1,119.00
		601.80	1,226	1,230	640.80	1,121.20
		602.70	1,231	1,235	641.90	1,123.20
		603.80	1,236	1,240	643.10	1,125.40
		605.00	1,241	1,245	644.40	1,127.50
		606.10	1,246	1,250	645.50	1,129.60
		607.20	1,251	1,255	646.70	1,131.60
		608.30	1,256	1,260	647.90	1,133.80
		609.50	1,261	1,265	649.20	1,135.90
		610.60	1,266	1,270	650.30	1,138.00
		611.70	1,271	1,275	651.50	1,140.00
		612.80	1,276	1,280	652.70	1,142.20
		613.80	1,281	1,285	653.70	1,144.10
		614.90	1,286	1,290	654.90	1,146.10
		616.00	1,291	1,295	656.10	1,148.00
		617.00	1,296	1,300	657.20	1,150.00
		618.10	1,301	1,305	658.30	1,152.00
		619.10	1,306	1,310	659.40	1,154.00
		620.20	1,311	1,315	660.60	1,155.90
		621.30	1,316	1,320	661.70	1,157.90
		622.30	1,321	1,325	662.80	1,159.80
		623.40	1,326	1,330	664.00	1,161.90
		624.40	1,331	1,335	665.00	1,163.80
		625.50	1,336	1,340	666.20	1,165.80
		626.60	1,341	1,345	667.40	1,167.70
		627.60	1,346	1,350	668.40	1,169.70
		628.70	1,351	1,355	669.60	1,171.70
		629.70	1,356	1,360	670.70	1,173.70
		630.80	1,361	1,365	671.90	1,175.60
		631.80	1,366	1,370	672.90	1,177.70
		632.90	1,371	1,375	674.10	1,179.60
		633.90	1,376	1,380	675.20	1,181.60
		634.90	1,381	1,385	676.20	1,183.40
		635.90	1,386	1,390	677.30	1,185.30
		636.90	1,391	1,395	678.30	1,187.10
		637.90	1,396	1,400	679.40	1,189.00
		638.90	1,401	1,405	680.50	1,190.80
		639.90	1,406	1,410	681.50	1,192.70
		640.90	1,411	1,415	682.60	1,194.60
		641.90	1,416	1,420	683.70	1,196.50
		642.90	1,421	1,425	684.70	1,198.30
		643.90	1,426	1,430	685.80	1,200.20
		644.90	1,431	1,435	686.90	1,202.00
		645.90	1,436	1,440	687.90	1,203.90
		646.90	1,441	1,445	689.00	1,205.70
		647.90	1,446	1,450	690.10	1,207.70
		648.90	1,451	1,455	691.10	1,209.50
		649.90	1,456	1,460	692.20	1,211.40
		650.90	1,461	1,465	693.30	1,213.20
		651.90	1,466	1,470	694.30	1,215.10
		652.90	1,471	1,475	695.40	1,216.90

[FR Doc. 78-13075 Filed 5-12-78; 8:45 am]

[4110-35]

Health Care Financing Administration

CHLORDIAZEPOXIDE HCl

Effective Date for Final Maximum Allowable Cost Determinations

On February 24, 1978, notice of the Final Maximum Allowable Cost (MAC) Determination for Chlordiazepoxide HCl was published in the FEDERAL REGISTER (43 FR 7714), to have been effective on April 10, 1978. On April 7, 1978, the Department was preliminarily enjoined from implementing or enforcing the MAC determination on chlordiazepoxide HCl until a decision could be reached on the merits in *Hoffmann-LaRoche v. Califano*, Civil No. 78-0467, in the United States District Court for the District of Columbia. Notice of the preliminary injunction was published in the FEDERAL REGISTER on April 18, 1978 (43 FR 16425). On May 10, 1978, the District Court entered an order vacating the preliminary injunction and granting the Department's motion to dismiss. Consequently, the Final Maximum Allowable Cost Determination for Chlordiazepoxide HCl are effective May 18, 1978.

Dated: May 12, 1978.

PETER J. RODLER,
Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 78-13357 Filed 5-12-78; 10:57 am]

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[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 011902A]

NORTHWEST PIPELINE CORP.

Notice of R/W Application for Pipeline

MAY 5, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for a 4½ inch o.d. natural gas pipeline for the Piceance Creek Gathering System approximately 1.5 miles long, across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 2 S., R. 96 W., 6th PM
Sec. 8: Lot 2 & 7;
Sec. 18: Lot 5, 6, 7, 10.
T. 2 S., R. 97 W., 6th PM
Sec. 11: SE¼NW¼, NE¼.

The above-named gathering system will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicant's customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) to give all interested parties the opportunity to comment on the application. (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, JR.,
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-13118 Filed 5-12-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Doug Goode, Rt. 1, Box 176, Pike Road, Montgomery, Alabama 36064.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2464. Interested persons may comment on this application by submitting written data, views, or arguments to the director at the above address on or before June 14, 1978. Please refer to the file number when submitting comments.

Dated: May 10, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch
Federal Wildlife Permit Office.

[FR Doc. 78-13122 Filed 5-12-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Carden-Johnson Circus Corp., General Offices, Route 2, Willard, Mo. 65781.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of tigers (*Panthera tigris*) listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2421. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 14, 1978. Please refer to the file number when submitting comments.

Dated: May 10, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-13121 Filed 5-12-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[TA-201-30]

CERTAIN STAINLESS STEEL FLATWARE

Report to the President

MAY 8, 1978.

To the President:

In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the U.S. International Trade Commission herein reports the results of an investigation relating to stainless steel table flatware.

The investigation to which this report relates (No. TA-201-30) was undertaken to determine whether knives, forks, spoons, and ladels, with stainless steel handles, provided for in items 650.08, 650.09, 650.10, 650.12, 650.38, 650.39, 650.40, 650.42, 650.54, 650.55, and, if included in sets, 651.75, of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Commission instituted the investigation under the authority of section 201(b)(1) of the Trade Act on December 16, 1977, following receipt on December 8, 1977, of a petition filed by the Stainless Steel Flatware Manufacturers Association, Washington, D.C.

Notice of the investigation and hearing were duly given by publishing the original notice in the FEDERAL REGISTER of December 23, 1977 (42 FR 64446).

A public hearing in connection with the investigation was conducted on February 21 and 22, 1978, in the Commission's Hearing Room in Washington, D.C. All interested persons were afforded the opportunity to be present, to produce evidence, and to be heard. A transcript of the hearing and copies of briefs submitted by interest-

V 43 94

ed parties in connection with the investigation are attached.[1]

The information contained in this report was obtained from fieldwork, from questionnaires sent to domestic manufacturers and importers, and from the Commission's files, other Government agencies, and evidence presented at the hearing and in briefs filed by interested parties.

There were no significant imports of stainless steel table flatware from countries whose imports are presently subject to the rates of duty set forth in column 2 of the TSUS. The import relief recommended herein, therefore, is not addressed to imports from those countries. However, certain recommended relief measures would involve the imposition of rates of duty in column 1 which are higher than the rates set forth in column 2. Should such recommended, or any other, rates of duty higher than the column 2 rates be proclaimed by you it would be necessary for you to proclaim rates for column 2 that are the same as those proclaimed in column 1 in order to avoid being in violation of our international obligations.

[1]Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

Determination, Findings, and Recommendations of the Commission

Determination

On the basis of its investigation, the Commission[2] determines that knives, forks, spoons, and ladles, with stainless steel handles, provided for in items 650.08, 650.09, 650.10, 650.12, 650.38, 650.39, 650.40, 650.42, 650.54, 650.55, and, if included in sets, 651.75, of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

[2]Vice Chairman Parker and Commissioners Moore, Bedell, and Ablondi determine in the affirmative, and Chairman Minchew and Commissioner Alberger determine in the negative.

Findings and Recommendations

Chairman Minchew,[3] Vice Chairman Parker, and Commissioners Moore and Bedell find and recommend that, to prevent or remedy the serious injury to the domestic industry, it is necessary to impose rates of duty, in lieu of the present rates of duty, with respect to U.S. imports of knives, forks, spoons, and ladles, having stainless steel handles, valued under 60 cents each, as follows:

[3]Chairman Minchew, noting that the Commission has made an affirmative determination, has made a recommendation of remedy.

Item	Recommended rates of duty				
	1st year	2d year	3d year	4th year	5th year
Knives and forks:					
Valued under 25¢ each (TSUS items 650.08, 650.10, 650.38, and 650.40).	1¢ each +55 pct ad valorem.	1¢ each +50 pct ad valorem.	1¢ each +45 pct ad valorem.	1¢ each +40 pct ad valorem.	1¢ each +30 pct ad valorem.
Valued 25¢ or more but under 60¢ each (TSUS items 650.09, 650.12, 650.39, and 650.42).	0.5¢ each +55 pct ad valorem.	0.5¢ each +50 pct ad valorem.	0.5¢ each +45 pct ad valorem.	0.5¢ each +40 pct ad valorem.	0.5¢ each +30 pct ad valorem.
Spoons valued under 60¢ each (TSUS items 650.54 and 650.55).	55 pct ad valorem ..	50 pct ad valorem ..	45 pct ad valorem ..	40 pct ad valorem ..	30 pct ad valorem.

Under TSUS item 651.75, knives, forks, spoons, and ladles having stainless steel handles will continue to be dutiable at the rate of duty applicable to that article in the set subject to the highest rate of duty including, for such articles valued at under 60 cents each, the rates recommended above.

Commissioner Ablondi finds and recommends that, in order to prevent or remedy the serious injury to the domestic industry that he has found to exist, it is necessary to impose a tariff-rate-quota system on U.S. imports of knives, forks, spoons, and ladles, having stainless steel handles, valued under 50 cents each, that are provided for in items 650.08, 650.09, 650.10, 650.12, 650.38, 650.39, 650.40, 650.42, 650.54, 650.55, and, if included in sets, 651.75, of the Tariff Schedules of the United States (TSUS).

The tariff-rate-quota system that he finds to be necessary is of 3 years' duration, with the existing column 1 rate of duty applying to imports of such articles entered or withdrawn from warehouse for consumption within the quotas, and higher rates of duty applying to imports entered in excess of the quotas.

He recommends that the quotas be administered on a yearly basis and that the within-quota amount for each of the 3 yearly quota periods be established at 480 million single units (whether or not included in sets) and be allocated as follows:

Country	Yearly within quota allocation (single units)
Japan	216,812,844
Republic of Korea	121,084,872
Republic of China	124,709,032
European Economic Community	5,051,948
Other	12,341,304
Total	480,000,000

He further recommends that the following column 1 rates of duty apply to imports of stainless steel table flatware valued at less than 50 cents per piece, entered or withdrawn from warehouse for consumption in excess of quota:

Existing TSUS items	Rate of duty
650.08	9.8¢ each + 12.5 pct ad val.
650.09	21.2¢ each + 6 pct ad val.
650.10	9.1¢ each + 17.5 pct ad val.
650.12	28.6¢ each + 6.5 pct ad val.
650.38	5.2¢ each + 12.5 pct ad val.
650.39	14.1¢ each + 6 pct ad val.
650.40	11.8¢ each + 17.5 pct ad val.
650.42	11.3¢ each + 8.5 pct ad val.
650.54	3.6¢ each + 17 pct ad val.
650.55	19.6¢ each + 8.5 pct ad val.
651.75	The rate of duty applicable to that article in the set subject to the highest rate of duty.

The outside-quota rates of duty are to be applied subject to the following proposed headnote to the TSUS:

If the amount of the duty applicable to overquota imports of stainless steel table flatware valued at less than 50 cents per piece and provided for, or, in the case of item 651.75, dutiable at the rates provided for, in items 650.08, 650.09, 650.10, 650.12, 650.38, 650.39, 650.40, 650.42, 650.54, or 650.55 exceeds the amounts determined by the application of the following rates to the specified items—

TSUS item	Rate of duty
650.08	1¢ each + 62.5 pct ad val.
650.09	0.5¢ each + 56 pct ad val.
650.10	1¢ each + 67.5 pct ad val.
650.12	0.5¢ each + 58.5 pct ad val.
650.38	1¢ each + 62.5 pct ad val.
650.39	0.5¢ each + 56 pct ad val.
650.40	1¢ each + 67.5 pct ad val.
650.42	0.5¢ each + 58.5 pct ad val.
650.54	67 pct ad val.
650.55	58.5 pct ad val.

then the rate of duty provided for in this headnote shall apply in lieu of the column 1 rate.

Commissioner Alberger, having noted the Commission's affirmative determination in investigation No. TA-201-30, and having considered all factors with respect to remedyy, recommends no remedy.

Affirmative Views of Commissioners George M. Moore, Catherine Bedell, and Italo H. Ablondi

On December 8, 1977, the U.S. International Trade Commission received a petition filed by the Stainless Steel Flatware Manufacturers Association, Washington, D.C., requesting an investigation under section 201 of the Trade Act of 1974 with respect to imports of stainless steel table flatware. On December 16, 1977, the Commission instituted an investigation to determine whether knives, forks, spoons, and ladles, with stainless steel handles, of the types provided for in items 650.08, 650.09, 650.10, 650.12, 650.38, 650.39, 650.40, 650.42, 650.54, 650.55, and, if included in sets, item 651.75 of the Tariff Schedules of the United States (TSUS) (hereinafter stainless steel table flatware), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Trade Act of 1974 (Trade Act) requires that each of the following conditions be met before an affirmative determination can be made:

(1) There are increased imports (either actual or relative to domestic production) of an article into the United States;

(2) A domestic industry producing an article like or directly competitive with the imported article is seriously injured, or threatened with serious injury; and

(3) Such increased imports of an article are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Issued: May 8, 1978.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 78-13146 Filed 5-12-78; 8:45 am]

[7020-02]

[AA1921-Inq.-11 and AA1921-Inq.-12]

PHOTOGRAPHIC COLOR PAPER FROM JAPAN AND WEST GERMANY

Commission Determines "No Reasonable Indication of Injury"

May 8, 1978.

On April 7, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that, in accordance with section 201(c)(1) of the Antidumping Act of 1921, as amended, antidumping investigations were being initiatd with respect to photographic color paper[1] from Japan and West Germany, and that, pursuant to section 201(c)(2) of that act, information developed during Treasury's preliminary investigations led to the conclusion that there was substantial doubt that an industry in the United States was being or was likely to be injured by reason of the importation of such merchandise into the United States from Japan and West Germany. Accordingly, the Commission, on April 13, 1978, instituted inquiries Nos. AA1921-Inq.-11 (photographic color paper from Japan) and AA1921-Inq.-12 (photographic color paper from West Germany) under section 201(c)(2) of that act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

On the basis of information developed during the course of inquiry No. AA1921-Inq.-11 (photographic color paper from Japan), the Commission determines unanimously that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of photographic color paper from Japan that is allegedly being sold at less than fair value as indicated by the Department of the Treasury.

On the basis of information developed during the course of inquiry No. AA1921-Inq.-12 (photographic color paper from West Germany), the Commission determines unanimously that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of photographic color paper from West Germany that is allegedly being sold at less than fair value as indicated by the Department of the Treasury.

[1]The Treasury advice defined photographic color paper as silver halide color negative photographic papers, sensitized but not exposed, provided for in item 723.30, Tariff Schedules of the United States.

A public hearing was held on April 27, 1978, in Washington, D.C. Public notice of the institution of the inquiries and of the hearing was duly given by posting copies of the notice at the Secretary's Office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the Federal Register on April 19, 1978 (43 FR 16554).

The Treasury Department instituted its investigations after receiving a properly filed complaint on March 6, 1978, from Minnesota Mining & Manufacturing Co. (3M Co.) of St. Paul, Minn. The Treasury Department's notice of its antidumping proceedings was published in the Federal Register of April 12, 1978 (43 FR 15380).

Statement of Reasons of Chairman Daniel Minchew and Commissioners George M. Moore, Catherine Bedell, Italo H. Ablondi, and Bill Alberger

On April 13, 1978, The U.S. International Trade Commission instituted inquiries Nos. AA1921-Inq.-11 and AA1921-Inq.-12 under section 201(c)(2) of the Antidumping Act, 1921, as amended, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established,[1] by reason of the importation of photographic color paper from Japan and West Germany allegedly sold at less than fair value as indicated by the Department of the Treasury.

Determination

On the basis of information developed during the course of these inquiries, we determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of photographic color paper into the United States from Japan and West Germany allegedly sold at less than fair value as indicated by the Department of the Treasury.

Discussion

Statutory criteria of section 201(c)(2).—Section 201(c)(2) of the Antidumping Act, 1921, as amended, under which these inquiries are being conducted, states, in effect, that if the Secretary of the Treasury concludes, during a preliminary investigation under the Antidumping Act, that there is substantial doubt regarding possible injury to an industry in the United States, he shall forward to the U.S. International Trade Commission his reasons for such doubt. Within 30

[1]Prevention of the establishment of an industry is not a question in these inquiries and will not be discussed further.

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days of receipt of the Secretary's reasons, the Commission shall determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of merchandise allegedly sold in the United States at less than fair value.

The imported article and the domestic industry.—Photographic color paper is used to make color prints from color negative film. It is composed of light-sensitive chemical emulsions coated on a resin-covered paper base. The emulsions contain silver halide (the light-sensitive chemical) and dyes which are activated during processing. Two U.S. firms currently produce photographic color paper: Eastman Kodak Co. and the petitioner, 3M Co. Eastman Kodak, the largest U.S. producer of photographic color paper, did not support or oppose the petition as explained in an affidavit which it filed with the Commission. A third company, GAF Corp., ceased production of such paper in July 1977, claiming alleged unfair trade practices on the part of Kodak as the reason for its withdrawal from the industry. What remained was only a small segment of the U.S. industry in support of the petition.

Information received from the Department of the Treasury on LTFV sales.—The Department of the Treasury advised the Commission that the petitioner alleged margins of sales at less than fair value of as much as 121 and 44 percent, respectively, relative to imports of photographic color paper from Japan and West Germany.

NO REASONABLE INDICATION OF INJURY OR LIKELIHOOD THEREOF BY REASON OF THE IMPORTATION OF PHOTOGRAPHIC COLOR PAPER FROM JAPAN AND WEST GERMANY

Imports from Japan and West Germany.—The analysis which follows takes into consideration the cumulative impact of the subject imports from Japan and West Germany.[2] Even in this light, which is the one most favorable to the petitioner's position, we find no reasonable indication of injury, or the likelihood thereof, to the relevant domestic industry.

U.S. production.—U.S. production rose by more than 16 percent from 1973 to 1976. In 1977, production did not increase despite an increase in producers' shipments because producers apparently decided to make substantial shipments from inventories.

Utilization of productive capacity.—U.S. producers increased their annual production capacity each year during 1973–77 and utilization of such capacity exceeded 85 percent each year. Because additions to capacity were generally made in large increments, the ratio of production to capacity declined in 1975 and again in 1977. Such declines are believed to be temporary conditions caused by the initial overexpansion of facilities to accommodate future increases in demand.

U.S. producers' shipments.—U.S. producers' shipments of photographic color paper rose each year during the 1973–77 period at an average annual rate of about 5 percent (based on quantity). Export shipments, which account for a substantial portion of total shipments, also increased each year, and were substantially higher than imports each year during the 1973–77 period.

U.S. producers' inventories.—U.S. producers' inventories fell sharply (by more than 14 percent) from 1976 to 1977 to a level lower than that of 1972 or 1973. The same general trend in inventory levels is exhibited by U.S. producers and importers, indicating that both have been similarly affected by changes in demand.

Employment.—The number of production and related workers engaged in the manufacture of photographic color paper remained relatively constant during 1973–77. This is partly explained by yearly increases in productivity that allowed production to increase without a corresponding increase in the number of workers.

Financial experience of 3M Co. and GAF Corp.[3].—3M Co.'s operating profit on its photographic color paper operations rose to a record level in 1977. In addition, its ratio of net operating profit to net sales for operations on photographic color paper is higher than the comparable ratio for its other operations in the same establishment. GAF Corp. experienced losses on its photographic color paper operations, but attributed such losses to alleged unfair competitive practices by Kodak.

Market share.—The total U.S. industry's share of U.S. consumption declined during the 1973–77 period, but both 3M Co. and GAF Corp. increased their share. Despite the lower share of the U.S. market accounted for by U.S. producers, the U.S. producers increased their shipments annually in response to increasing demand.

Prices.—Data compiled by the Commission do not support the contention that U.S. producers have been forced to lower their prices because of price reductions by importers of photographic color paper from Japan or West Germany. To the contrary, such data indicate that U.S. producers are leaders both in terms of price changes and in terms of lowest prices.

Lost sales.—While information before the Commission suggests that there were some sales lost to imports, a number of lost sales can be attributed to superior quality of the imported paper and not to underselling.

CONCLUSION

On the basis of the information obtained in these inquiries, we determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of photographic color paper from Japan (inquiry No. AA1921-Inq.-11) and West Germany (inquiry No. AA1921-Inq.-12) allegedly sold at less than fair value as indicated by the Department of the Treasury.

STATEMENT OF REASONS OF VICE CHAIRMAN JOSEPH O. PARKER

These inquiries were instituted by the Commission after receiving advice from the Department of the Treasury that, during the course of the preliminary antidumping investigations with respect to silver halide color negative photographic paper, sensitized but not exposed, from Japan and West Germany, Treasury had concluded from the information available to it, "that there is substantial doubt that an industry in the United States is being, or is likely to be, injured by reason of the importation of this merchandise into the United States." Pursuant to the provisions of section 201(c)(2) of the Antidumping Act, 1921, as amended, the Commission, on April 13, 1978, instituted inquiries Nos. AA1921-Inq.-11 (photographic color paper from Japan) and AA1921-Inq.-12 (photographic color paper from West Germany) to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

DETERMINATION

On the basis of information developed during the course of these inquiries, I determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established,[4] by reason of the importation of photographic color paper into the United States from Japan and West Germany allegedly sold at less than fair value, as indicated by the Department of the Treasury.

NO REASONABLE INDICATION OF INJURY OR LIKELIHOOD OF INJURY

The petitioner in these inquiries has urged the Commission not to make a finding of no reasonable indication of injury, and its brief cited five criteria of injury in support of its position.[5] Petitioner alleges that Japanese and West German imports of the subject merchandise have increased; that there has been increased market penetration; that there are large LTFV margins; and that there has been underselling and price depression. As in each investigation conducted by the Commission, these factors, as well as others, have been considered in reaching a determination.

Imports of photographic color paper from the four Japanese firms and one West German firm listed in the letter from Treasury increased steadily between 1973 and 1977. The share of apparent domestic consumption accounted for by imports from these firms increased from less than 10 percent to more than 25 percent between 1973 and 1977. For purposes of this decision, it must be assumed that the LTFV margins are as alleged by petitioner and transmitted to the Commission by Treasury. While increased imports, market penetration of the apparent levels in this investigation, and the assumed LTFV margins, standing alone, might be indicative of injury within the meaning of section 201, other factors are present which outweigh such evidence and warrant the conclusion that there is no reasonable indication of injury or the threat thereof to a domestic industry.

Apparent domestic consumption of photographic color paper increased steadily from 1973 to 1977, rising overall by more than 50 percent by 1977. U.S. producers' domestic shipments also increased during the 5-year period, rising by more than 20 percent. Their export shipments rose steadily by more than a third, and the United States was a net exporter of photographic color paper during each year of the 1973–77 period.[6]

In the last 5 years, the domestic industry has substantially increased its capacity to produce color photographic paper. While the domestic industry's ratio of production to production capacity declined slightly in 1977, the decrease took place in the same year that the domestic industry made its largest addition to productive capacity in the last 5 years. The petitioner almost doubled its ratio of production to production capacity in the last 3 years. Even if the petitioner and the other firms in the domestic industry operated at 100 percent of their capacity in 1976 and 1977, they could not have supplied apparent domestic needs and still maintained the same level of exports.

Data on financial experience was supplied in response to Commission questionnaires by the smaller two of the three firms in the domestic industry, the 3M Co., the petitioner, and GAF Corp. The 3M Co., which has captured an increasing market share in each year since 2973, did not have an adverse financial experience in any of the last 5 years except 1975. During the last 2 years, as both 3M Co. and imports captured a larger market share, 3M's financial experience has improved considerably and does not establish any adverse impact from the increase in imports.

GAF Corp., which ceased production of color photographic paper in July 1977, supplied no information to the Commission indicating that its financial experience and decision to cease production were related to alleged LTFV imports. Eastman Kodak, the largest factor in the domestic market, made no contention and supplied no information to the Commission indicating an adverse financial experience by reason of alleged LTFV imports.

The petitioner's allegation of underselling and price depression by LTFV imports was not borne out by the Commission's investigation. Price information gathered during the investigation shows that throughout most of the 1975–77 period the net selling prices of Fuji, the largest Japanese importer, and Agfa-Gevaert, the only West German importer, were generally above those of petitioner 3M Co. Throughout the 1973–77 period, GAF Corp., a domestic producer, consistently had the lowest prices in the market.

With respect to price depression, the Commission's investigation established that domestic prices have been declining since 1974. Fuji's prices began to decline in 1976, but remained above those of 3M Co. Agfa-Gevaert, the German producer, did not reduce its prices between mid-1973 and the fourth quarter of 1977. Thus, while there have been reductions in prices, particualrly in 1977, it appears that the domestic producers, some of which offered lower prices than the major importers throughout much of the period, were a major factor in initiating these reductions. The lowering of prices by the domestic producer whose product was consistently priced substantially higher than that of other domestic producers, apparently had a greater competitive impact than imports.

The price reductions by the domestic industry may, in part, be attributable to the steady increase in the productivity of production and related workers in the domestic industry. In terms of square feet per man-hour, output increased in each year after 1973 and was almost 15 percent higher in 1977 than in 1973.

In my judgment, these inquiries have established that, even though imports at the assumed LTFV margins are increasing both in actual terms and as a share of apparent domestic consumption, when examined in the context of other information established by the Commission's investigation, the conclusion must be reached that there is no reasonable indication that an industry is being injured or threatened with injury by reason of the importation of the subject merchandise.

Issued: May 9, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-13147 Filed 5-12-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-14]

FINAL ENVIRONMENTAL IMPACT STATEMENT

Public Notice Regarding Availability

Notice is hereby given of the public availability of the final Environmental Impact Statement for the National Aeronautics and Space Administration (NASA) Space Shuttle Program. This document supersedes a previous final statement on the same subject published in 1972.

Comments on the draft Environmental Impact Statement were previously solicited from state and local agencies and members of the public through a notice in the FEDERAL REGISTER of August 12, 1977.

Copies of the draft and final statement have been furnished to the Environmental Protection Agency; the Departments of Agriculture, Air Force, Army, Commerce, Defense, Energy, Health, Education, and Welfare, Housing and Urban Development, Interior, Navy, State, Transportation, and Treasury; the Advisory Council on Historic Preservation; the Advisory Council on Intergovernmental Relations; Agency for International Development; Council on Environmental Quality; Federal Aviation Administration; Federal Communications Commission; Federal Maritime Commission; Federal Power Commission; General Services Administration; National Academy of Sciences; National Science Foundation; Office of Management and Budget; Smithsonian Institution;

[2] Commissioner Ablondi's analysis does not consider the subject imports on a cumulative basis.

[3] Kodak did not supply profit-and-loss data with respect to its color paper operations. The firm indicated insufficient time to respond to that aspect of the Commission's questionnaire.

[4] Prevention of the establishment of an industry is not a question in these inquiries and will not be discussed further.

[5] Brief on behalf of the Minnesota Mining & Manufacturing Co., May 2, 1978.

[6] Specific data have been omitted to avoid disclosure of confidential information.

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to appropriate state and local agencies; and to numerous private organizations.

Copies of the final statement may be obtained or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), 600 Independence Avenue SW., Washington, D.C. 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, Calif. 94035.

(c) Hugh L. Dryden Flight Research Center, NASA (Building 4800, Room 1017), P.O. Box 273, Edwards, Calif. 93523.

(d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, Md. 20771.

(e) Johnson Space Center, NASA (Building 1, Room 136), Houston, Tex. 77058.

(f) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, Fla. 32899.

(g) Langley Research Center, NASA (Building 1219, Room 304), Hampton, Va. 23365.

(h) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, Ohio 44135.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G-11), Huntsville, Ala. 35812.

(j) National Space Technology Laboratories, NASA (Building 1100, Room A-213), Bay Saint Louis, Miss. 39520.

(k) Jet Propulsion Laboratory, (Building 180, Room 600) 4800 Oak Grove Drive, Pasadena, Calif. 91103.

(l) Wallops Flight Center, NASA (Library Building, Room E-105), Wallops Island, Va. 23337.

Done at Washington, D.C., this 9th day of May 1978.

By the direction of the Administrator.

KENNETH R. CHAPMAN,
Associate Administrator for External Relations, National Aeronautics and Space Administration.

[FR Doc. 78-13123 Filed 5-12-78; 8:45 am]

[7520-01]

NATIONAL CAPITAL PLANNING COMMISSION

DELEGATIONS OF AUTHORITY

Notice of Amendments

The National Capital Planning Commission, at its December 14, 1977 meeting, amended its Delegations of Authority. The delegations, as amended, read as follows:

I. DEFINITIONS

The following terms, which are italic wherever they appear herein, shall have the following meanings, unless a different meaning clearly appears from the context:

"Agency" means the District of Columbia Redevelopment Land Agency established by the *Redevelopment Act.*

"Commission" means the National Capital Planning Commission created by the *Planning Act.*

"Comprehensive Plan" means the Comprehensive Plan for the National Capital prepared and adopted pursuant to the *Planning Act.*

"Council" means the Council of the District of Columbia as defined in Section 103 of the *Home Rule Act.*

"Environs" means the territory surrounding the District of Columbia within the National Capital Region as defined in Section 1(b) of the *Planning Act.*

"Executive Director" means the Director employed by the *Commission* pursuant to Section 2(c) of the *Planning Act.*

"Home Rule Act" means the District of Columbia Self-Government and Governmental Reorganization Act (December 24, 1973, 87 Stat. 774).

"Mayor" means the mayor of the District of Columbia as defined in Section 103 of the *Home Rule Act.*

"Planning Act" means the National Capital Planning Act of 1952, as amended (40 U.S.C. 71-711, 72, 73, 74, D.C. Code secs. 1-1001 to 1-1013).

"Redevelopment Act" means the District of Columbia Redevelopment Act of 1945, as amended (D.C. Code, secs. 5-701 to 5-719).

"Zoning Act" means the Act of June 20, 1938, 52 Stat. 797, as amended (D.C. Code, secs. 5-413 to 5-428).

"Zoning Commission" means the Zoning Commission created by Section 1 of the Act of March 1, 1920, 41 Stat. 500, as amended (D.C. Code, sec. 5-412).

"Zoning Regulations" means the regulations, including the maps, and amendments thereto, promulgated by the *Zoning Commission* pursuant to the Zoning Act.

II. DELEGATIONS TO CHAIRMAN

The *Commission* delegates to the Chairman of the *Commission* the functions of:

1. Requesting the *Council* to grant, pursuant to section 2.(a)(4)(E) of the *Planning Act*, an extension of any time limitation contained in Section 2. of the *Planning Act;*

2. Employing an *Executive Director* and a *Secretary* to the *Commission* pursuant to Section 2.(c) of the *Planning Act;*

3. Making a report to the *Zoning Commission*, pursuant to Section 8.(a) of the *Planning Act*, on any zoning regulation or map, or amendment thereto proposed to be adopted by the *Zoning Commission* and referred to the *Commission* pursuant to Section 5.(a) of the *Zoning Act* where such zoning regulation or map, or amendment thereto, conforms to an urban renewal plan, or modification thereof, adopted by the *Commission* and approved by the *Council* pursuant to Sections 6 and 12 of the *Redevelopment Act.*

4. Requesting the *Zoning Commission* to recess a public hearing on a proposed amendment to the *Zoning Regulations* to provide an opportunity for the *Commission* to present a further report to the *Zoning Commission*, pursuant to Section 8. (b) of the *Planning Act;*

5. Executing agreements with state officials as to the arrangements for acquisition by the *Commission* of lands in Maryland and Virginia for the National Capital park, parkway, and playground system pursuant to Section 11 of the *Planning Act;*

6. Executing agreements with state officials as to the control of lands acquired in Maryland and Virginia, pursuant to Section 12. of the *Planning Act;*

7. Reporting annually to Congress the lands acquired during the preceding fiscal year, pursuant to Section 13. of the *Planning Act;*

8. Submitting to the Office of Management and Budget on or before September 15 of each year an estimate of the appropriations for land acquisition for the succeeding fiscal year, pursuant to Section 13. of the *Planning Act;*

9. Making favorable recommendations to the *Council* on proposed closings of streets, roads, highways, and alleys, or parts thereof, pursuant to Section 1 of the Street Readjustment Act of the District of Columbia (December 15, 1932, 47 Stat. 747, as amended; D.C. code, sec. 7-401), where such proposed closings conform to master plans or site and building plans approved by the *Commission* pursuant to Section 5.(a) of the *Planning Act* or to urban renewal plans, and modifications thereof, adopted by the *Commission* and approved by the *Council* pursuant to Sections 6 and 12 of the *Redevelopment Act;*

10. Approving transfers of jurisdiction over properties within the District of Columbia owned by the United States or the District among or between Federal and District authorities, pursuant to Section 1 of the Act of May 20, 1932, 47 Stat. 161, as amended (40 U.S.C. 122; D.C Code sec. 8-115), where such transfers of jurisdiction conform to master plans or site and building plans approved by the *Commission* pursuant to Section 5.(a) of the *Planning Act* or to urban renewal plans, and modifications thereof, adopted by the *Commission* and approved by the *Council* pursuant to Sections 6 and 12 of the *Redevelopment Act;*

11. Approving leasing, for terms not exceeding five years, by the Administrator of General Services of land acquired for park, parkway, or playground purposes pending their need for public uses, pursuant to Section 2 of the Act of December 22, 1928, 45 Stat. 1070 (40 U.S.C. 72b; D.C. Code, sec. 8-105).

III. DELEGATIONS TO EXECUTIVE DIRECTOR

The *Commission* delegates to the *Executive Director* the functions of:

1. Establishing, jointly with the *Mayor*, procedures for appropriate meaningful continuing consultation throughtout the planning process for the National Capital pursuant to Section 2.(a)(4)(F) of the *Planning Act;*

2. Employing technical and administrative personnel, except a Secretary to the *Commission*, and, by contract or otherwise, the temporary or intermittent services of experts and fixing the rate of compensation therefor pursuant to Section 2.(c) of the *Planning Act;*

3. Establishing the representation of agencies of the Federal and District of Columbia Governments on, and invite representatives of the planning and developmental agencies of the environs to participate in the work of, Coordinating Committee established by resolution of the *Commission* adopted August 8, 1952, pursuant to Section 2.(d) of the *Planning Act;*

4. Determining appropriate Federal and District of Columbia authorities to whom Federal elements of the *Comprehensive Plan*, or amendments thereto, shall be presented for comment and recommendations prior to adoption thereof, pursuant to Section 4.(e) of the *Planning Act;*

5. With respect to plans and programs submitted to the *Commission* pursuant to Section 5.(a) of the *Planning Act* for projects in the *environs* on reservations or sites for which the *Commission* has submitted to the agency its report and recommendations on the master plan therefor, making environmental impact findings on and approving:

(1) Preliminary and final site and building plans for proposed temporary or permanent additions of less than 10,000 square feet of floor area to existing structures and for proposed new temporary or permanent structures of less than 10,000 square feet of floor area, if the *Executive Director* determines that (a) the proposed development (i) is consistent with the recommendations of the *Commission* on the land use and circulation plan elements of the master plan, (ii) will have no significant adverse impact on the environment, access and egress facilities, and utilities, and (iii) is compatible with existing and proposed developments in its immediate vicinity, and (b) the addition or relocation of employees to the proposed development would not cause a significant impact on low- and/or moderate-income housing needs in the vicinity of the development; and

(2) Final site and building plans where such plans conform to applicable recommendations made by the *Commission* in its review of the preliminary site and building plans for the project and of any environmental statement or description of the environmental impact submitted pursuant to the *Commission's* Policies and Procedures for the Protection and Enhancement of Environmental Quality in the National Capital Region.

6. Advising and consulting with appropriate planning agencies having jurisdiction over the affected part of the *environs* with respect to general plans for proposed Federal and District developments and projects within the *environs* and with respect to plans for proposed developments or projects submitted pursuant to Section 5.(a) of the *Planning Act* involving a major change in the character or intensity of an existing use in the *environs*, pursuant to Section 5.(d) of the *Planning Act;*

7. Requesting Federal and District governmental agencies to furnish plans, data, and records necessary to the *Commission* and furnish related plans, data, and records to Federal and District of Columbia governmental agencies upon request, pursuant to Section 5.(e) of the *Planning Act;*

8. Conferring with Federal and District authorities and the *Agency* in the preparation of the general plan under Section 6.(a) of the *Redevelopment Act* and with respect to urban renewal planning under Section 6.(b) of the *Redevelopment Act*, pursuant to Section 6.(c) of the *Redevelopment Act;* and

9. Aiding the *Mayor* in making a survey of the "Old Georgetown" area pursuant to Section 4 of the Act of September 22, 1950, 64 Stat. 904 (D.C. Code, sec. 5-804).

IV. DELEGATIONS TO SECRETARY

The *Commission* delegates to the Secretary to the *Commission* the functions of:

1. Publishing, jointly with the *Mayor*, from time to time as appropriate, the *Comprehensive Plan* pursuant to Section 2.(a)(4)(D) of the *Planning Act;* and

2. Certifying to the *Agency* urban renewal plans adopted by the *Commission* and approved by the *Council* under Section 6.(b)(2) of the *Redevelopment Act*, pursuant to Section 6.(d) of the *Redevelopment Act.*

V. REPORTS TO COMMISSION

The Chairman of the *Commission*, the *Executive Director*, or the *Secretary* to the *Commission* shall report the exercise of any delegation of authority pursuant to Parts II, III, or IV, respectively, to the *Commission* at its meeting next following the exercise of such delegation.

VI. RESERVATIONS OF FUNCTIONS

The *Commission*, by majority vote at any meeting of the *Commission* and prior to the exercise of any delegation of authority pursuant to Parts II, III, or IV, may reserve to the *Commission* the performance, in general or with respect to a particular matter, of the function as to which such delegation is granted.

DANIEL H. SHEAR,
Secretary.

MAY 5, 1978.

[FR Doc. 78-13119 Filed 5-12-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

NOTICE OF REGIONAL STATE LIAISON OFFICERS' MEETING

On June 14, 1978, the Nuclear Regulatory Commission will sponsor a meeting with State Liaison Officers in Missouri, Minnesota, Oklahoma, Illinois, Indiana, Iowa, Michigan, Ohio, and Wisconsin to discuss mutual regulatory interests. Forty-nine Governors have appointed Liaison Officers to NRC and this will be a meeting of those Liaison Officers from the States in NRC Region III (Chicago). The meeting, which will be open to the public, will be held from 9 a.m. to 9 p.m. at Argonne National Laboratory, 9700 Cass Avenue, Argonne, Ill. The evening session from 7 to 9 p.m. will invoive a workshop on radioactive waste disposal and decommissioning of nuclear facilities.

Questions regarding this meeting should be directed to Sue Weissberg, Office of State Programs at 301-492-7794.

Dated at Bethesda, Md., this 9th day of May 1978.

For the Nuclear Regulatory Commission.

ROBERT G. RYAN,
Director,
Office of State Programs.

[FR Doc. 78-13083 Filed 5-12-78; 8:45 am]

[7590-01]

PROPOSED GOALS FOR NUCLEAR WASTE MANAGEMENT

Task Force Report

Notice is hereby given that a report, "Proposed Goals for Nuclear Waste Management," NUREG-0300, is available for public comment. This document is a report to the NRC Staff from a contractor and staff study and

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is in response to a request by the Commission for a set of comprehensive goals to be met by the NRC nuclear waste management regulatory program. The views expressed in the report are those of the authors and do not represent the views of the Commission or the staff. The contributors to the report represent diverse disciplines and have submitted to the staff a report which reflects these diverse backgrounds and points of view as brought to bear on nuclear wastes. The authors extended the scope of their inquiry to cover "all technical and societal aspects necessary to an operating waste management system." The report is based on findings, interpretations and analyses by seven individuals who examined selected primary literature and interviewed others concerned with waste management. Most of the ideas expressed in this report are not new; many individuals inside and outside the nuclear agencies have been voicing them for many years. However, not all of the concerns have been systematically acknowledged before.

In brief, the report "identifies the range of considerations which must be accounted for in establishing the broad comprehensive policy foundation needed by society for control of the long-term potential hazards of radioactive wastes." The goals fall into three time periods and are summarized in a Table following this notice. They could form part of a basis from which to derive licensing criteria and regulations for nuclear waste management; they are principles by which one could judge whether a proposed system measures up to the overall goal of protecting things valued by those whom the system serves; and they could serve to focus public debate on important waste management factors. However, no decision has been made regarding these uses by the Commission.

All interested persons who desire to submit written comments on the report and its proposed goals should send them by June 29, 1978, to the Assistant Director for Waste Management, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Copies of the report may be examined at the Commission's Public Document Room at 1717 H Street, Washington, D.C. Copies of the comments received in response to this notice will be placed in the Public Document Room in Washington, as received. Single copies of the report may be obtained without charge, to the extent of supply, by writing to the Division of Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Thereafter copies may be obtained from the National Technical Information Service, Springfield, Va. 22161, at current rates.

Dated at Washington, D.C., this 25th day of April 1978.

For the Nuclear Regulatory Commission.

WILLIAM P. BISHOP,
Assistant Director for Waste Management, Division of Fuel Cycle and Material Safety.

[FR Doc. 78-13084 Filed 5-12-78; 8:45 am]

[7590-01]

[Docket No. 50-244]

ROCHESTER GAS AND ELECTRIC CORP.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Provisional Operating License No. DPR-18, issued to Rochester Gas and Electric Corp. (the licensee), which revised the Technical Specifications for operation of the R. E. Ginna Plant (facility) located in Wayne County, N.Y. The amendment is effective as of its date of issuance.

The amendment changes the Appendix A Technical Specifications to support operation in Cycle 8 with reload fuel by Exxon Nuclear Co. (ENC). This fuel has been designed by ENC to be compatible with the fuel supplied previously by Westinghouse. In addition, the amendment allows Technical Specification changes that are required for startup tests.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on February 21, 1978 (43 FR 7275). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the Commission's Order for Modification of License dated August 27, 1976, (2) the application for amendment dated January 6, 1978, and supplements thereto dated January 10, 1978, March 27, 1978, April 6, 1978, April 17, 1978, and April 25, 1978, (3) Amendment No. 19 to License No. DPR-18, (4) the Commission's related Safety Evaluation, and (5) the Exemption related to the requirements of 10 CFR 50.46(a)(1) and the Safety Evaluation dated April 18, 1978, attached thereto. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, N.Y. 14627.

A copy of items (1), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 1st day of May, 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief Operating Reactors, Branch #2, Division of Operating Reactors.

[FR Doc. 78-13085 Filed 5-12-78; 8:45 am]

[7590-01]

[Docket No. 50-244]

ROCHESTER GAS AND ELECTRIC CORP.

Exemption

I

The Rochester Gas and Electric Corp. (the licensee), is the holder of Provisional Operating License No. DPR-18 which authorizes the operation of the nuclear power reactor known as R. E. Ginna Nuclear Power Plant (the facility) at steady reactor power levels not in excess of 1,520 megawatts thermal (rated power). The facility consists of a Westinghouse Electric Co. designed pressurized ractor (PWR) located at the licensee's site in Wayne County, N.Y.

II

In accordance with the requirements of the Commission's ECCS Acceptance Criteria 10 CFR 50.46, the licensee submitted on April 7, 1977 and January 6, 1978 ECCS evaluations for proposed operation using 14×14 fuel manufactured by the Westinghouse Electric Co. and the Exxon Nuclear Co. (ENC). These evaluations established limits on the peaking factor based upon ECCS evaluation models developed by the Westinghouse Electric Co. (Westinghouse), the designer of the Nuclear Steam Supply System for this facility, and by Exxon, the supplier of the reload fuel. The Westinghouse and

ENC ECCS evaluation models had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50.46 and appendix K. The evaluations indicated that with the peaking factor limited as set forth in the evaluations and with other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

On March 23, 1978 Westinghouse informed the Nuclear Regulatory Commission (NRC) that an error had been discovered in the fuel rod heat balance equation which resulted from the incorrect use of only half of the volumetric heat generation due to metal-water reaction in calculating the cladding temperature. Thus, the LOCA analyses previously submitted to the Commission by licensees of Westinghouse reactors were in error.

The error identified would result in an increase in calculated peak clad temperature, which, for some plants, could result in calculated temperatures in excess of 2200° F unless the allowable peaking factor was reduced somewhat. Westinghouse identified a number of other areas in the approved model which Westinghouse indicated contained sufficient conservatism to offset the calculated increase in peak clad temperature resulting from the correction of the error noted above. Four of these areas were generic, applicable to all plants, and a number of others were plant specific. As outlined in the NRC Staff's Safety Evaluation Report (SER) of April 18, 1978, the staff determined that some of these modifications would be appropriate to offset to some extent the penalty resulting from correction of the error. The attached SER of April 18, 1978 sets forth the value for each modification applicable to each facility.

As part of the proposed change to the technical specifications the licensee has submitted information and analyses to permit Cycle 8 operation with reshuffled Westinghouse fuel and with 32 Westinghouse fuel assemblies replaced with fresh fuel assemblies manufactured by the Exxon Nuclear Co. (ENC) and loaded on the periphery of the core. Based on an analysis of the information presented by the licensee, the staff has concluded that the new fuel manufactured by Exxon Nuclear Co. (ENC) is both similar to and compatible with the fuel previously supplied by Westinghouse. The ENC calculations for the ENC fuel for the Ginna Core are not affected by the Westinghouse error. (Safety Evaluation for the reload application dated May 1, 1978.) The staff's evaluation determined that the impact of correcting the Westinghouse Zirconium-water reaction error on the peak cladding temperature for the RE Ginna plant is less than the presently existing margin (228° F) to the 2200° F acceptance criteria limit. The NRC Staff has confirmed that the impact of correcting the error in the Westinghouse ECCS evaluation model as it relates to the use of Westinghouse fuel is conservative, based on the April 18, 1978 Safety Evaluation Report.

Although revised computer calculations correcting the error, noted above, and incorporating the modifications described in the Staff's April 18, 1978 SER have not been run for each plant, the various parametric studies that have been made for various aspects of the approved Westinghouse model over the course of time provide a reasonable basis for concluding that when final revised calculations for the facility are submitted using the revised and corrected Westinghouse model, they will demonstrate that operation will conform to the criteria of 10 CFR 50.46(b), when operated at the peaking factors set forth in the SER of April 18, 1978. Such revised calculations fully conforming to 10 CFR 50.46 are to be provided for the facility as soon as possible.

Operation of the facility would nevertheless be technically in non-conformance with the requirements of § 50.46, in that specific computer runs for the particular facility employing revised models with the Westinghouse metal-water error corrected and with the proposed model changes considered, as a complete entity will not be complete for some time. However, operation as proposed in the licensee's application dated January 6, 1978, and at the peaking factor limit specified in this Exemption will assure that the ECCS system will conform to the performance criteria of § 50.46. Accordingly, while the actual computer runs for the specific facility are carried out to achieve full compliance with 10 CFR § 50.46, operation of the facility will not endanger life or property or the common defense and security.

In the absence of any safety problem associated with operation of the facility during the period until the computer computations are completed, there appears to be no public interest consideration favoring restriction of the operation of the captioned facility. Accordingly, the Commission has determined that an exemption in accordance with 10 CFR § 50.12 is appropriate. The specific exemption is limited to the period of time necessary to complete computer calculations.

IV

Copies of the Safety Evaluation Report dated April 18, 1978, and the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and at the Rochester Public Library, 115 South Avenue, Rochester, N.Y. 14627.

(1) Licensee submittals dated April 7, 1977, January 6, 1978, and April 25, 1978.

(2) Amendment No. 19 to License No. DPR-18 and the related Safety Evaluation for the reload application, and

(3) This Exemption in the matter of RE Ginna Nuclear Power Plant.

Wherefore, in accordance with the Commission's regulations as set forth in 10 CFR Part 50, the licensee is hereby granted an exemption from the requirements of 10 CFR § 50.46(a)(1) that ECCS performance be calculated in accordance with an acceptable calculational model which conforms to the provisions in appendix K, without errors discussed herein. This exemption is conditioned as follows:

(1) As soon as possible, the licensee shall submit a reevaluation of ECCS cooling performance calculated in accordance with the Westinghouse Evaluation Model, and approved by the NRC staff and corrected for the errors described herein.

(2) Until further authorization by the Commission, the Technical Specification limit for total nuclear peaking factor (F_q) for the facility shall be limited to 2.32.

Dated at Bethesda, Md., this 1st day of May, 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-13086 Filed 5-12-78; 8:45 am]

[7590-01]

[Docket No. 50-338]

VIRGINIA ELECTRIC AND POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to the Facility Operating License No. NPF-4, issued to Virginia Electric and Power Co., which deletes certain conditions contained in Facility Operating License NPF-4 Amendment No. 3. The amendment is effective as of its date of issuance.

The amendment deletes 2 conditions regarding tests and procedures to be followed prior to achieving full power.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in Title 10 CFR Chapter I, which

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are set forth in the license amendment. The Commission has determined that the amendment does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. Having made this determination, it has further been concluded that the amendment involves an action which is insignificant from the standpoint of environmental impact and, pursuant to 10 CFR 51.5(d)(4), that an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) Virginia Electric and Power Co. letters, dated April 12, 1978, and April 14, 1978, (2) Amendment No. 4 to License No. NPF-4, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Va. 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Va. 22901. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md. this 8th day of May 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-13087 Filed 5-12-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 8.20, "Applications of Bioassay for I-125 and I-131," provides criteria acceptable to the NRC staff for the development and implementation of a bioassay program for any licensee handling or processing I-125 or I-131.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 8.20 will, however, be particularly useful in evaluating the need for an early revision if received by July 14, 1978.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 8th day of May 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-13088 Filed 5-12-78; 8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

INTERGOVERNMENTAL SCIENCE, ENGINEERING AND TECHNOLOGY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel—Science and Technology Task Force.

Place: Room 3104, New Executive Office Building, 726 Jackson Place NW., Washington, D.C.

Date: Thursday June 1, 1978; 9 a.m.-11:45 a.m.; 1:00 p.m.-3:45 p.m.

Contact Person: Mr. Robert Goldman, Office of Science & Technology Policy, Executive Office of the President; telephone, 202-395-4596. Anyone who plans to attend should contact Mr. Goldman by May 29, 1978.

The purpose of the meeting is to discuss Task Force recommendations with officials from the National Science Foundation (NSF), and to consider general recommendations for strengthening Federal R&D dissemination and research utilization activities.

Minutes of the meeting: Summary minutes of the meeting will be available from Mr. Goldman.

TENTATIVE AGENDA

Thursday, June 1, 1978

Morning—Federal dissemination and research utilization activities.
Afternoon—Status of Task Force recommendations to NSF.

WILLIAM J. MONTGOMERY,
Executive Officer, Office of Science and Technology Policy.

MAY 9, 1978.

[FR Doc. 78-13120 Filed 5-12-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1469]

WISCONSIN

Declaration of Disaster Loan Area

Fond du Lac County and adjacent counties within the State of Wisconsin, constitute a disaster area as a result of damage caused by heavy rains and flooding which occurred on April 3, 1978 through April 4, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 7, 1978, and for economic injury until the close of business on February 8, 1979, at:

Small Business Administration, District Office, 122 West Washington Avenue, Room 700, Madison, Wis. 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.

Dated: May 8, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-13124 Filed 5-12-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR TRAFFIC CONTROL TOWER

Notice of Commissioning

Notice is hereby given that on June 16, 1978, through October 2, 1978, the Airport Traffic Control Tower at the Martha's Vineyard Airport, Martha's Vineyard, Mass., will be commissioned as a part-time facility. Hours of operation will be established in advance by a Notice to Airmen and, therefore, be published in the Airman's Information Manual. This information will be reflected in the FAA Organization Statement the next time it is issued. Communications to the tower should be as follows:

Federal Aviation Administration, Airport Traffic Control Tower, P.O. Box 71, Vineyard Haven, Mass. 02568.

(Sections 313(a), 72 Stat. 752; 49 U.S.C. 1354(a) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Mass., on May 11, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

[FR Doc. 78-13069 Filed 5-12-78; 8:45 am]

[4910-13]

AIR CARRIER DISTRICT OFFICE AT YPSILANTI, MICH.

Notice of Address Change

Notice is hereby given that on or about May 1, 1978, the Air Carrier District Office at Ypsilanti, Mich., will be moved from Flight Standards Building, Willow Run Airport, Ypsilanti, Mich. 48197, to Ypsilanti Savings Bank, 301 W. Michigan, Ypsilanti, Mich. 48197. Services to the air carrier public of Michigan and Ohio will not be affected. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Des Plaines, Ill., on May 4, 1978.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc. 78-13071 Filed 5-12-78; 8:45 am]

[4910-13]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 137—AIRBORNE NAVIGATION SYSTEMS (2D AND 3D)

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Special Committee 137 on Airborne Navigation Systems (2D and 3D) to be held June 7-8, 1978, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) review committee terms of reference; (3) establish guidelines and limits for committee activities; (4) review minimum operational performance standards (MOPS) format; (5) establish work program and time for accomplishment; and (6) assignment of tasks.

Attendance is open to the interested public but, limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on May 8, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-13070 Filed 5-12-78; 8:45 am]

[4910-60]

Materials Transportation Bureau

UNITED NATIONS RECOMMENDATIONS ON THE TRANSPORT OF DANGEROUS GOODS

Public Meeting

A public meeting will be held on June 19, 1978, at 9:30 a.m. in Room 3201 of the Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590. The purpose of this meeting will be to discuss the results of the March 1978 meeting of the Group of Rapporteurs of the United Nations Committee of Experts on the Transport of Dangerous Goods. In addition, the meeting will provide a forum by which interested parties may provide information to assist the MTB in the formulation of United States positions for the upcoming meeting of the Group of Rapporteurs, as well as for the next meeting of the United Nations Group of Experts on Explosives, both of which will be held during August 1978 in Geneva, Switzerland. Anticipated items of discussion at this meeting include:

1. The UN Hazard Information System.

2. Changes in the definition of Class 6 and in the toxicity criteria for the determination of packaging group.

3. Recent developments concerning the UN portable tank recommendations.

4. Minimum thicknesses for metal drums.

5. Consignment procedures for dangerous goods shipments (Revision of Chapter 13 of the UN recommendations.)

6. Water resistance of fiberboard packagings.

Interested persons are invited to attend and participate in this meeting.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc. 78-13145 Filed 5-12-78; 8:45 am]

[4910-62]

Office of the Secretary

MINORITY BUSINESS ENTERPRISE

Internal Order

The Department of Transportation herewith publishes for the information of the public its recent internal directive on Minority Business Enterprise (DOT Order 4000.7A), issued on March 6, 1978.

This action is taken because of the significant interest that has been expressed in the Department's minority business program. The Department will seek comments and suggestions on the implementation of this internal directive when detailed procedures are published in the near future. The Minority Business Program Order will enhance the Department's ability to comply with the President's direction that Federal agencies triple the participation of minority businesses in agency programs by the end of fiscal year 1979.

Issued in Washington, D.C. on April 24, 1978.

BROCK ADAMS,
Secretary of Transportation.

DEPARTMENT OF TRANSPORTATION, OFFICE OF THE SECRETARY, WASHINGTON, D.C.

SUBJECT: MINORITY BUSINESS ENTERPRISE PROGRAM

1. *Purpose.* This Order updates, reemphasizes and clarifies the key elements for effective implementation and enforcement of the Department's Minority Business Enterprise (MBE) program.

2. *Cancellation.* DOT 4000.7 MINORITY BUSINESS ENTERPRISE PROGRAM of 3-26-75.

3. *Policy.* a. It is the policy of the Department of Transportation to encourage and increase the participation of businesses owned and controlled by minorities, including women, (MBEs) in contract and projects funded by the Department. Economically and socially disadvantaged individuals, including minorities and women, have traditionally been underrepresented as owners and managers of businesses in this country. The executive and legislative branches of the federal government have long recognized the need to promote the development of businesses owned by the economically and socially disadvantaged to achieve the goal of equal opportunity. To overcome the traditional underrepresentation of these groups in the business community, the federal government has used its procurement authority and its financial assistance programs to state and local governments as vehicles to assist minority business enterprises. Executive Order 11625 directs the Department of Commerce to provide techni-

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cal and financial assistance to promote MBEs. Executive Order 11625 further requires that federal executive agencies develop comprehensive plans and programs to encourage minority business enterprise.

b. The Department of Transportation is firmly committed to fulfilling its responsibilities under this Executive Order and to meet the goal of greater MBE participation in contracts and projects funded by the Department, although this may result in some increased cost to DOT. To this end, DOT is requiring each of its operating elements and all aid recipients and their contractors to make strong affirmative action efforts designed to set and meet goals for increasing MBE involvement. These efforts will encompass all aspects of the procurement of supplies, equipment, construction and services, including professional service contracts, concession contracts and bank deposits.

c. The Department recognizes that meaningful gains in the level of MBE participation can be achieved only with energetic enforcement of this order and the commitment of all DOT employees, grantees and contractors to the goals of equal opportunity.

4. *Authority.* Executive Order 11625 of 10-13-71 provides arrangements for developing and coordinating a national program for minority business enterprise (MBE). Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d) and its regulations prohibit discrimination in all federally-funded programs and mandate DOT and other federal agencies to require that affirmative efforts be made to ensure effective participation by minorities in these programs. In addition, the following statutes and regulations enforced by operating elements of DOT are examples of those that prohibit discrimination and require affirmative action in connection with DOT programs: Section 905 of Pub. L. 94-210, the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) and the regulations implementing §905, 49 CFR Part 265 [FRA]; Commandant Instruction 4380.2 [Coast Guard]; 49 U.S.C. §1730 (§30 of the Airport and Airway Development Act of 1970, as amended) [FAA]; 49 U.S.C. §1608(f) [UMTA]; and 23 CFR Part 230, Subparts A, B and C [FHWA].

5. *Definitions.* a. *Minority business enterprise* is a business that is owned and controlled by one or more minority persons. For the purpose of this definition,

(1) *Minority Person* means an individual who is Black, Hispanic, Asian American, American Indian, Alaskan native, or a woman regardless of race or ethnicity.

(2) *Owned and controlled* means a business which is (1) a sole proprietorship legitimately owned by an individual who is a minority person, (2) a partnership or joint venture controlled by minority persons and in which at least 51 percent of the beneficial ownership interests legitimately are held by minority persons, or (3) a corporation or other entity controlled by minority persons, and in which at least 51 percent of the voting interests and 51 percent of the beneficial ownership interests legitimately are held by minority persons.

b. *Operating Element* includes the following parts of DOT: The Office of the Secretary; the Federal Aviation Administration; the United States Coast Guard; the Federal Highway Administration; the Federal Railroad Administration; the National Highway Traffic Safety Administration; the Urban Mass Transportation Administration; the St. Lawrence Seaway Development Corporation; and the Research and Special Programs Directorate.

6. *Responsibilities.* a. The Deputy Secretary is the Department of Transportation member of the Interagency Council for Minority Business Enterprise and has overall responsibility for the DOT MBE program, including the exercise of policy leadership regarding the involvement of MBEs in the Department's activities. The Assistant Secretary for Administration has responsibility for establishing and maintaining a program to promote the Department's MBE policy, developing reporting systems, and providing support to the Deputy Secretary in the activities of the Interagency Council for Minority Business Enterprise, including providing DOT representation on the several Task Forces or Committees of the Interagency Council for MBE. The Departmental Director of Civil Rights has authority to carry out periodic MBE program review functions and to recommend improvements in the MBE program to the Deputy Secretary.

b. Secretarial Officers and heads of operating elements have responsibility for effectively carrying out the policy within their office or administration. The head of each operating element (and the Assistant Secretary for Administration in the case of OST) shall designate an official to act as MBE Coordinator and to have overall responsibility, in cooperation with the Director of Civil Rights of the Operating element if the Director of Civil Rights is not designated as MBE Coordinator, for promotion of the minority business enterprise program in his or her element. The Director of each element's Office of Civil Rights shall include MBE subcontracting efforts as a factor in regular contract review activities. In those operating elements in which a minority business resource center is established, the Administrator may assign to that center such authority under this Order as is deemed appropriate.

c. Each operating element will also designate for each activity with contracting authority an official to be responsible for promotion of the program to award contracts to MBE firms. This official should be able to provide effective coordination between procurement personnel and the various requirements offices and will be responsible for ensuring that required reports are submitted. In addition, when deemed appropriate by the head of each operating element, this official shall establish effective lines of communication with regional and field offices of the Office of Minority Business Enterprise, Department of Commerce, and shall ensure that his or her procuring activity is represented on and actively participates in the activities of the Minority Business Opportunity Committees established in the area.

d. Upon good cause shown, the Deputy Secretary may grant waivers for an operating element from any organizational structure requirement of this Order. Any waiver must preserve the policy purposes of this Order.

7. *Procedures.* a. *Direct DOT Procurement Contracts.* Each DOT operating element shall take effective steps to apply the MBE policy to its direct procurement activities. Those steps shall include, but not be limited to, the following:

(1) Establish an annual goal, expressed as a percentage of the operating element's contracting dollars, for minority business utilization in its direct contracting, with special emphasis on types of contracts where minority business involvement has been more limited than others. The element's MBE Coordinator, with the approval of the head of the operating element and the concurrence of the Deputy Secretary, shall establish the goal and shall determine at least annually the way in which the percentage goal will be allocated among contracting activities, among the element's programs, and among types of contract work.

(2) Develop plans and procedures to comply with the requirements of paragraphs 7b(1)(c)(6) through (11) with respect to an operating element's direct contracting MBE program. The operating element's Office of Civil Rights shall be responsible for determining the legitimacy of MBEs.

(3) Maintain in each procurement office bidders mailing lists that clearly show identified minority business enterprises. The Assistant Secretary for Administration shall coordinate the maintenance of these lists and, if deemed desirable by the Deputy Secretary, maintain a centralized list which shall be the reference point for all lists maintained in the Department, and which shall be updated periodically from those lists. Included among the lists maintained by the operating element should be the small purchase source list for repetitive procurements. The small business and MBE status of firms on such lists will be indicated when the status is known. In order to ensure maximum identification of MBE firms for its source lists, the procurement office shall consult with its civil rights office, the SBA, local branches of the Office of Minority Business Enterprise, local Business Development Organizations (BDOs), and minority organizations or technical assistance groups. Invitations for bids and requests for proposals and quotations will be sent to identified minority firms for each requirement.

(4) Screen all procurements for possible award to MBE firms under the Small Business Administration's Section 8(a) program, or for possible award to MBE firms through the use of competitive set-aside contracts under which consideration will be given only to bids or proposals submitted by minority business enterprises. Competitive set-asides will be used where there is an adequate number of qualified MBEs in the relevant geographical area available to submit bids or proposals for the contracts and where the procedure is approved for use in the particular case by the head of the operating element or his/her designee. Procurements found to be suitable for award under Section 8(a) will be processed through the appropriate SBA office. The screening process required by this paragraph shall be carried out by the operating element's procurement office. A recommendation not to use a set-aside procedure shall be subject to review and approval by the operating element's Office of Civil Rights and by the MBE Coordinator or their designees, prior to issuance of the solicitation or, if justified in writing, after the issuance of the solicitation but before contract award. The MBE Coordinator and the Office of Civil Rights or their designees may waive review and approval authority with respect to classes of procurements for which they determine that set-asides cannot be used. Such waivers shall be reassessed at least annually. In those operating elements where a designee acts for the MBE Coordinator, the MBE Coordinator shall review the adequacy of the operating element's MBE program efforts with the designee during the preparation of each quarterly report required under paragraph 8 of this Order.

(5) Comply with, and ensure prime contractor compliance with, the provisions of FPR Subpart 1-1.13, *Minority Business Enterprise.* In appropriate circumstances, operating elements shall require percentage goals for prime contractors with respect to minority subcontracting. Reasonable techniques for achieving the purposes of the minority subcontracting program, including the use of minority set-asides in subcontracting where allowable under state law, may be approved by the operating element. Where appropriate, an operating element may require prime contractors to prepare programs complying with the requirements of paragraph 7b(1)(c). The Contracting Officer shall consult and coordinate with the MBE Coordinator or a designee to resolve issues or questions regarding MBE involvement arising during negotiations with prime contractors.

(6) Decide, prior to contract award, that overall MBE participation (whether by set-asides, prime or subcontract award) is adequate. The operating element's procurement office shall prepare a finding that the level of MBE participation in each contract is adequate, subject to approval by the operating element's Office of Civil Rights and by the MBE Coordinator or their designees.

b. *Financial Assistance Programs.* Each DOT operating element shall make immediate and concerted efforts to carry out the Department's MBE policy in the financial assistance programs administered by the element. Those efforts require the full cooperation of recipients, who must be told in clear terms what they must do to comply with the policy, and must be provided with guidance and technical assistance by operating element personnel. Operating elements shall adopt procedures to ensure that actions taken by employees of the operating element and by recipients are in furtherance of the MBE policy.

(1) *Requirements for Financial Assistance Programs.* The element's process for the award of financial assistance will require all applicants for grants, project acceptance, authorization to proceed or other necessary DOT clearance, to present for approval by the operating element as a part of their application an affirmative action program to promote minority business enterprise, and to implement such a program if the grant is awarded or the project accepted. Operating elements need not require that a new program be prepared for each application, but rather may approve a project on the basis of a previously approved program so long as the percentage goals or other requirements pertaining to the particular application are satisfactory. Program approval shall be reassessed periodically to assure compliance with applicable standards. The requirements of this paragraph include the following:

(a) The recipient shall agree to abide by the following statement of MBE obligation and, unless otherwise determined by the head of the operating element or his/her designee, to include the following statement in all agreements between the recipient and any subrecipient, and in all contracts which are financed in whole or in part with Federal funds provided under the agreement with the recipient except contracts which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions and Puerto Rico:

1 Policy. "It is the policy of the Department of Transportation that minority business enterprises shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement."

2 MBE Obligation. "The recipient or contractor agrees to provide for full and fair utilization of minority business enterprises and will use its best efforts to insure that minority business enterprises shall have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all recipients or contractors must take all necessary and reasonable steps to insure that minority business enterprises have an equitable opportunity to compete in all contracting activities."

3 Definitions.

a. "The term 'minority business enterprise' as used in this agreement means a business enterprise that is owned and controlled by one or more minority persons. The term 'minority person' means a person who is Black, Hispanic, Asian American, American Indian, Alaskan native, or a woman regardless of race or ethnicity."

b. "The phrase 'owned and controlled' as used in this definition means a business which is (1) a sole proprietorship legitimately owned by an individual who is a minority person; (2) a partnership or joint venture controlled by minority persons, and in which at least 51 percent of the beneficial ownership interests legitimately are held by minority persons, or (3) a corporation or other entity controlled by minority persons, and in which at least 51 percent of the voting interests and 51 percent of the beneficial ownership interests legitimately are held by minority persons."

(b) The applicant or recipient may seek assistance from the DOT operating element's MBE Coordinator or his/her designee in preparing a program and shall work with the MBE Coordinator or his/her designee to carry out an affirmative action program for the utilization of MBEs.

(c) The affirmative action program prepared by the recipient and the commitment to carry it out shall be incorporated into and become part of the grant agreement. The affirmative action program shall include at a minimum:

1 A policy statement expressing a commitment to utilize MBEs in all aspects of procurement to the maximum extents feasible;

2 The appointment of a liaison officer, as well as such support staff as may be necessary to administer the program, noting the authority, responsibility, and duties of the liaison officer and support staff;

3 Percentage goals for the dollar value of work to be awarded to MBEs and reasonable written justification for those goals;

4 Procedures by which recipients will seek affirmative action on MBE participation from major suppliers or contractors to the recipient;

5 Where allowable under local law and appropriate to meet MBE goals, procedures by which the recipient will carry out an MBE set-aside program, under which consideration of bids or proposals would be limited to those submitted by MBEs in cases where MBEs with capabilities consistent with contract requirements exist in sufficient numbers to permit competition;

6 Procedures to require that participating MBEs be identified by name when bids or proposals are submitted, and procedures to permit the legitimacy of MBEs and joint ventures involving MBEs to be ascertained.

7 Procedures to insure that known MBEs will have an equitable opportunity to compete for contracts and subcontracts by arranging solicitations, time for the presentation of bids, quantities, specifications and delivery schedules so as to facilitate the participation of MBEs;

8 Means by which MBEs may be assisted in overcoming barriers to program participation, such as through bonding, insurance and technical assistance activities;

9 Information and communication programs to make MBEs aware of their opportunities, with such programs being bilingual where appropriate;

10 Opportunities for the utilization of minority-owned banks;

11 A description of the methods by which the recipient will require subrecipients, contractors and subcontractors, as a precondition to subgrant or contract award, to comply with the provisions of as many of the previous ten paragraphs as are pertinent to the work covered by the subgrant or contract. The description shall contain the specific language to be included in agreements and contracts making the requirements applicable, as well as a summary of the ways recipient will provide help to its subrecipients, contractors and subcontractors in drafting and implementing their programs for using MBEs. For example, a contract offering substantial subcontracting possibilities would require that the contractor, at a minimum, disignate a liaison officer, consider the qualifications of minority firms, arrange for minority businesses to have a chance to compete, consider the use of set-asides, maintain records, submit reports, and cooperate with the Contacting Officer in studies of the contractor's MBE procedures.

(d) If after investigation and opportunity for the recipient to respond, the Secretary determines that a recipient has failed to prepare and carry out an adequate minority business enterprise affirmative action program, that failure shall be grounds for the Department's refusal to award financial assistance or give project approval, or shall constitute a breach of contract and may result in the termination of financial assistance, and may preclude the recipient from receiving further financial assistance from any operating administration of the Department of Transportation or such other remedy as the Department deems appropriate. The recipient shall advise each subrecipient, contractor or subcontractor that failure to carry out the requirements set forth above and to use good faith efforts to utilize qualified minority businesses as contractors and subcontractors shall constitute a breach of the contract and, with the concurrence of the Department, may result in termination of the agreement or contract by the recipient or such other remedy as the recipient deems appropriate.

(e) The operating element may impose reasonable reporting requirements, to the extent necessary to judge compliance with MBE obligations. Records shall be available upon the request of an authorized officer or employee of the Department. The recipient in turn shall require subrecipients, contractors and subcontractors to maintain records adequate to judge compliance with requirements applying to them. Recipients shall maintain records showing, at a minimum:

1 Procedures which have been adopted to comply with the policies and procedures set

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forth in this Order, including the establishment of a source list of MBEs.

2 Awards to MBEs, and;

3 Specific efforts to identify and award contracts to MBEs.

8. *Reports.* a. *Quarterly Reports.* The head of each operating element shall submit a quarterly report (by the last day in January, April, July and October) to the Assistant Secretary for Administration and to the Departmental Director of Civil Rights describing the activities undertaken toward and progress achieved in meeting the goal of greater MBE participation in its procurement and financial assistance programs during the preceding Federal quarter. These reports shall discuss at least the following:

(1) Data on the level of MBE participation in the contracting and subcontracting activities of the operating element and of recipients of financial assistance, both in terms of number of MBE contracts awarded, the identities of MBEs, and the dollar value of the work being so contracted;

(2) A statistical breakdown of the methods of award to MBEs (for example, 8(a), open competition, small business set-asides, competitive MBE set-asides, and subcontracts).

(3) Data reported by prime contractors on their subcontracting as required by Federal Procurement Regulations (FPR) 1-1.1310-2(b);

(4) Brief description of any participation or attendance in seminars, conferences, or workshops on MBE.

(5) Brief description of any problems encountered in the general area of MBE or on specific contracts or projects.

b. All Secretarial Officers within DOT should, as required, report on significant procurement developments related to MBE.

c. In order to meet the deadline established by Executive Order 11625 for the annual report to the President, the report submitted at the end of the year must be received in OST by the end of October. This report will include forecast data for the next fiscal year covering Sections 1, 2 and 3 of Department of Commerce, Office of Minority Business Enterprise, Form MBE-91 (Revs. 4-75).

9. *Effective date.* The provisions of this Order are effective immediately upon promulgation. Operating elements shall submit plans for full implementation of this Order to the Deputy Secretary within sixty days of the date of promulgation.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc. 78-13141 Filed 5-12-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[056230]

AMERICAN MANUFACTURER'S PETITION

Extension of Time for Comments Concerning an American Manufacturer's Petition to Reclassify Wide Angle Bicycle Reflectors

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time permitted for the submission of comments in response to a recent American manufacturer's petition to the Customs Service to reclassify imported wide angle bicycle reflectors. This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATE: Comments must be received on or before June 6, 1978.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8181.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 6, 1978, the Customs Service published in the FEDERAL REGISTER (43 FR 14562) a notice of receipt of an American manufacturer's petition, filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), requesting the reclassification of imported wide angle bicycle reflectors. The petitioner contends that the "chief use" of the wide angle bicycle reflector is as part of a bicycle, which qualifies it for classification under item 732.37, Tariff Schedules of the United States.

COMMENTS

Comments concerning the American manufacturer's petition were to have been received on or before May 8, 1978. However, the Customs Service has been requested to extend the period of time for submission of comments in order to allow additional time for the preparation of a response to the American manufacturer's petition. Therefore, the period of time for the submission of comments is extended to June 6, 1978.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc. 78-13079 Filed 5-12-78; 8:45 am]

[4810-22]

[T.D. 78-133]

TUNA FISH—TARIFF-RATE QUOTA

Tariff-Rate Quota for the Calendar Year 1978 on Tuna Classifiable Under Item 112.30, Tariff Schedules of the United States

MAY 5, 1978.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for tuna for calendar year 1978.

SUMMARY: Each year the tariff-rate quota for tuna fish described in item 112.30, Tariff Schedules of the United States (TSUS), is based on the U.S. pack of canned tuna during the preceding calendar year.

EFFECTIVE DATES: The 1978 tariff-rate quota is applicable to tuna fish described in item 112.30, TSUS, entered, or withdrawn from warehouse, for consumption during the period January 1 through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Helen C. Rohrbaugh, Head, Quota Section, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20229, 202-566-8592.

It has now been determined that 101,407,000 pounds of tuna may be entered for consumption or withdrawn from warehouse for consumption during the calendar year 1978 at the rate of 6 per centum ad valorem under item 112.30, TSUS. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 per centum ad valorem under item 112.34 of the tariff schedules.

Pursuant to the provisions of item 112.30, TSUS, the above quota is based on the United States pack of canned tuna during the calendar year 1977.

G. R. DICKERSON,
Acting Commissioner of Customs.

[FR Doc. 78-13080 Filed 5-12-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

VETERANS ADMINISTRATION NATIONAL CEMETERY, RIVERSIDE, CALIF.

Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement for the Veterans Administration National Cemetery, Riverside, California" dated March 1978, has been prepared as required by the National Environmental Policy Act of 1969.

The proposed National Cemetery is to be located on 750± acres near Riverside, California. This proposed development will provide burial space for approximately 437,000 gravesites and will have an administration building, a memorial center, and a maintenance complex to provide for all associated cemetery functions.

The Final Statement discusses the environmental impact of the proposed National Cemetery. The document is being placed for public examination in the Veterans Administration Office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Jack Westall, Assistant Chief Medical Director for Administration (13), Room 600, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420.

Single copies of the Final Statement may be obtained on request to the above office.

By direction of the Administrator.

Dated: May 5, 1978.

MAURY S. CRALLE, Jr.,
Assistant Deputy Administrator.

[FR Doc. 78-13110 Filed 5-12-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 63]

MOTOR CARRIERS TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-11954 appearing at page 18813 in the issue for Tuesday, May 2, 1978 on page 18815 a motor carrier application was inadvertently omitted. This application is published below for the convenience of the reader.

No. MC 100666 (Sub-No. 382TA), filed February 21, 1978, and published in the FEDERAL REGISTER issue of March 29, 1978, and republished as corrected this issue. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Expanded plastics products* (except in bulk), from the facilities of The Dow Chemical Co., at or near Magnolia, AR, and Pevely, MO, to points in the United States on and east of U.S. Hwy 85, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dow Chemical U.S.A., P.O. Box 36000, Strongsville, OH 44136. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113. The purpose of this republication is to correct the territory description.

[1505-01]

[Notice No. 66]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-11955 appearing at page 18819 in the issue for Tuesday, May 2, 1978, in the last paragraph of the third column on page 18821 the first lien should read, "No. MC 115654 (Sub-No. 86TA)."

[Notice No. 67]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-11953 appearing at page 18823 in the issue for Tuesday, May 2, 1978, the first line of the first full paragraph in the first column on page 18827 should read, "No. MC 144515 (Sub No. 1TA)."

[7035-01]

[Notice No. 659]

ASSIGNMENT OF HEARINGS

MAY 10, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. AB 43 (Sub-No. 43), Illinois Central Gulf Railroad Co., abandonment between Herscher and Varnes in Kankakee, Ford, Livingston, and McLean Counties, Ill., and No. 36643, *Bloomer Shippers Association v. Illinois Central Gulf Railroad Company*, now being assigned June 26, 1978 (1 week), at Bloomington, Ill., in a hearing room to be later designated.

No. MC 116915 (Sub-No. 34), Eck Miller Transportation Corp., now assigned June 6, 1978, at Louisville, Ky., will be held in Room 273, Federal Building, Sixth and Federal Place.

No. MC 143837, Good Will Tours, Inc., now assigned June 6, 1978, at Topeka, Kans., will be held in Room 366, Holiday Inn South, 3802 South Topeka Avenue.

No. MC 123048 (Sub-No. 368), Diamond Transportation System, Inc., now assigned June 6, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. MC 124170 (Sub-No. 71), Frostways, Inc., now assigned June 7, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. MC 136035 (Sub-No. 9), W. S. Dunning & Son, Inc., now assigned June 7, 1978, at Louisville, KY., will be held in Room 273, Federal Building, Sixth and Federal Place.

No. MC 119988 (Sub-No. 116), Great Western Trucking Co., Inc., now assigned June 8, 1978, at Louisville, KY., will be held in Room 273, Federal Building, Sixth and Federal Place.

No. MC 105566 (Sub-No. 144), Sam Tanksley Trucking, Inc., now assigned June 9, 1978, at Louisville, Ky., will be held in Room 273, Federal Building, Sixth and Federal Place.

No. AB 43 (Sub-No. 48), Illinois Central Gulf Railroad Co., abandonment near Reynolds, Ky., and Owensboro, in Ohio and Daviess Counties, Ky., now assigned June 12, 1978, at Owensboro, Ky., will be held in City Hall, Conference Room, Fourth and Allen Streets.

No. MC 82063 (Sub-No. 87), Klipsch Hauling Co., Inc. and MC 115331 (Sub-No. 432), Truck Transport Inc., now assigned June 26, 1978, at St. Louis, Mo., will be held in Courtroom 3, Fifth Floor, U.S. Court and Customs House, 1114 Market Street.

No. MC 140612 (Sub-No. 31), Robert F. Kazimour, now assigned June 27, 1978, at St. Louis, Mo., will be held in Courtroom 3, Fifth Floor, U.S. Court and Customs House, 1114 Market Street.

No. MC 142059 (Sub-No. 13), Cardinal Transport, Inc., now assigned June 28, 1978, at St. Louis, Mo., will be held in Courtroom 3, Fifth Floor, U.S. Court and Customs House, 1114 Market Street.

No. MC 98327 (Sub-No. 26), System 99, is now assigned for hearing June 6, 1978 (14 days), at the Adams Hotel, Central Avenue and Adams, Phoenix, Ariz.

No. MC 75281 (Sub-No. 9), Righter Trucking Co., Inc., now assigned June 5, 1978, at St. Louis, Mo., will be held in Courtroom 3, Fifth Floor, U.S. Court and Customs House, 1114 Market Street.

MC 87109 (Sub-No. 25), Tidewater Inland Express, Inc., d.b.a. T.I.E., Inc., now assigned July 24, 1978, at Washington, D.C., is cancelled and reassigned for July 24, 1978, (2 weeks), at Salisbury, Md., in a hearing room to be later designated.

No. MC 143236 (Sub-No. 11), White Tiger Transportation, Inc., is now assigned for hearing July 17, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. AB 43 (Sub-No. 49), Illinois Central Gulf Railroad Co. abandonment between Kosciusko and Fentress, in Attala and Choctaw Counties, Miss., now assigned May 22, 1978, at Kosciusko, Miss., is postponed to June 26, 1978 (1 week), at Kosciusko, Miss., at a location to be later designated.

H.G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13132 Filed 5-12-78; 8:45 am]

[7035-01]

[Notice No. 42]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applica-

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tions filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before June 14, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-35475, filed April 7, 1978. Transferee: APOLLO TRANSPORTS, INC., P.O. Box 912, Austin, TX 78767. Transferor: Gulf Coast Transportation, Inc., P.O. Box 316, Winnie, TX 77665. Applicant's representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. Authority sought for lease by lessee of the operating rights of lessor, as set forth in Certificate of Registration, No. MC 121587, issued November 30, 1966, as follows: Specified commodities between points in TX. Lessee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

REPUBLICATION

No. MC-FC-77-457, filed December 9, 1977. Transferee: DIGGINS & ROSE, INC., 3 Sagamore Park Road, Hudson, NH 03051. Transferor: McKee's Hingham Express, Inc., 14 Longwater Drive, Rockland, MA 02370. Applicants' representative: Francis E. Barrett, Jr., Attorney at Law, 10 Industrial Park Road, Hingham, MA 02043. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate MC 61242 (Sub-No. 1) and MC 61242 (Sub E-1), issued May 9, 1968, and January 10, 1975 respectively as follows: *Household goods* as defined by the Commission, between Taunton, MA, and points in MA within 20 miles of Taunton, on the one hand, and, on the other, points in ME, NH, VT, RI, CT, NY and NJ. Rochester and Niagara Falls, NY and points in a specified part of NY on the one hand, and, on the other, points in ME, and NH. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 63837 and subs thereafter. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77633, filed April 19, 1978. Transferee: FOX BUS LINES, INC., 92 Brattle Street, Worcester, MA 01606. Transferor: Worcester Bus Co., Inc., 287 Grove St., Worcester, MA 01605. Applicants' representative: David M. Marshall, Attorney At Law, 101 State Street (Suite 304) Springfield, MA 01103. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 102676, and (Sub-No. 6 and 13), issued December 3, 1959, February 28, 1962, and August 29, 1977, respectively as follows, regular routes: *Passengers and their baggage*, between Worcester, MA, and Burrillville, RI, serving all intermediate points, *passengers and their baggage*, in special operations, in round-trip seasonal service, beginning and ending at Worcester, MA, and extending to Hampton Beach, NH, irregular routes: *Passengers*, in round-trip special seasonal operations, between Worcester, MA, and Rockingham Park, Narragansett Park, and Lincoln Downs racetracks, situated at or near Salem, NH, Providence, RI, and Lincoln, RI, respectively, *passengers*, in special seasonal nonscheduled round-trip service with restrictions, between Worcester, MA, on the one hand, and, on the other, Narragansett Park racetrack at Salem, NH, irregular routes: *Passengers*, in special round-trip operations, with restrictions, beginning and ending at Worcester, MA, and extending to Derry Hudson, Nashua, and Salem, NH, and Pawtucket RI, irregular routes: *Passengers* in round-trip special operations, during the racing seasons, beginning and ending at Oxford, Webster, and Worcester, MA, and extending to the sites of Plainfield Greyhound Park, at Plainfield, CT, and Yankee Greyhound Racing, Inc., at Seabrook, NH. Transferee presently holds no authority from this commission. Application has been filed for temporary authority under section 210a(b).

No. MC-FC—77636, filed April 19, 1978. Transferee: DEE JAY TRANSPORTATION, INC., P.O. Box 651, Horace, ND 58407. Transferor: Art Freenberg, d.b.a. Glacier Transport, P.O. Box 428, Grand Forks, ND 58201. Applicant's representative: Charles E. Johnson, Attorney At Law, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate No. MC 139420 (Sub-No. 9), and (Sub-No. 10), issued September 24, 1975, and December 14, 1976, respectively as follows: (1) *Nonalcoholic beverages*, (a) from Minneapolis, MN, to Fargo and Grand Forks, ND, (b) from Grand Forks, ND, to Thief River Falls, MN, (c) from Fargo ND, to Thief River Falls MN (2) *containers*, from Thief River Falls, MN, to Grand Forks, ND, (3) *Nora-alcoholic beverages containers*, from Thief River Falls, MN to Fargo, ND. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC—77637, filed April 21, 1978. Transferee: R. CONLEY, INC., Elma, NY 14059, Transferor: Royce Cliff, Route 4, Albion, NY 14411. Applicants' representative: Robert V. Gianniny, Esq., Middleton, Wilson, Boylan & Gianniny, 900 Midtown Tower, Rochester, NY 14604. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 19608, issued October 12, 1965, as follows: *Vinegar*, in bulk, from points in Niagara and Wayne Counties, NY, to Akron, Cleveland, and Cuyahoga Falls, OH, and Springboro, PA; *Cider and vinegar*, in bulk, in tank trucks, from points in Niagara, Orleans, Monroe, Wayne, Wyoming, Yates, and Erie Counties, NY, to Cincinnati, OH, Pittsburgh and Philadelphia, PA, points in OH north of U.S. Hwy 50 and east of U.S. Hwy 127, those in PA north of U.S. Hwy 30, and those in NJ north of NJ Hwy 40, including points on the indicated portions of the highways specified. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 125040 (Subs. 2 and 4). Application has not been filed for temporary authority under section 210a(b).

No. MC FC-77643, filed April 27, 1978. Transferee: B & K TRANSPORTATION CO., INC., 14 Audubon Road, Wakefield, MA 01880. Transferor: James H. Foley, d.b.a. J. H. Foley Trans. Co., 20 Longmeadow Road, Arlington, MA 02174. Applicant's representative: Frederick T. O'Sullivan, Attorney at Law, P.O. Box 2184, Peabody, MA 01960. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit, No. MC-127743 (Sub-No. 2), issued October 28, 1977, as follows:

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Polyurethane foam and polyurethane foam mattresses, from Wakefield, MA, to points in CT, DE, IL, IN, KT, ME, MD, MI, MO, NH, NJ, NY, OH, PA, RI, and VT. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC FC-77645, filed April 26, 1978. Transferee: KEITH E. HARDING, d.b.a. Tri County Service Co., P.O. Box 185, Ten sleep, WY 82442. Transferor: Walter G. Dyer, d.b.a. Tensleep Service Co., P.O. Box 523, Worland, WY 82401. Applicant's representative: Keith E. Harding, P.O. Box 185, Tensleep, WY 82442. Authority sought to purchase the operating rights set forth in Certificate No. MC-109849 issued September 18, 1974: *General commodities* with the usual exceptions over specified regular routes between Worland and Ten Sleep, WY and between Ten Sleep and Buffalo, WY serving all intermediate points in both cases. Transferee holds no Commission authority and does not seek section 210a(b) authority.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13133 Filed 5-12-78; 8:45 am]

[7035-01]

[Notice No. 41]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 15, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR part 1132:

No. MC FC 77654. By application filed May 4, 1978, COUNTY LINE TRUCKING, INC., 224 North Defiance Street, Archbold, OH 43502, seeks temporary authority to transfer the operating rights of KDB Express, Inc., P.O. Box 217, Archbold, OH 43502, under section 210a(b). The transfer to County Line Trucking, Inc., of the operating rights of KDB Express, Inc., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13134 Filed 5-12-78; 8:45 am]

[7035-01]

[Rule 19; Ex Parte No. 241; Exemption No. 149]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

TO ALL RAILROADS

Because of congestion following severe winter storms, The Detroit Terminal Railroad Co. is unable to furnish shippers gondola cars of suitable ownership to maintain operations thereby threatening to close factories and create substantial economic loss.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

The Detroit Terminal Railroad Company is authorized to accept from shippers general service plain gondola cars less than 61-ft. in length and bearing mechanical designations "GA", "GB", "GD", "GH", "GS", and "GT" as listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 407, issued by W. J. Trezise, or successive issues thereof, regardless of the provisions of Car Service Rule 2.

It is further ordered, That:

This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective May 1, 1978.
Expires June 30, 1978.

Issued at Washington, D.C., April 28, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-13135 Filed 5-12-78; 8:45 am]

[7035-01]

[Rule 19; Ex Parte No. 241; Exemption No. 90]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

To all railroads:

It appearing, That certain of the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars; and

It further appearing, That there are substantial shortages of 50-ft. plain boxcars throughout the country; that the carriers identified in this exemption by the symbol ( ) have 150 percent or more of their ownership of these cars on their lines; and that such a disproportionate use of the total supply of such cars causes shippers served by other lines to be deprived of their proper share of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC-R.E.R. No. 407, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Apalachicola Northern Railroad Co.
Reporting Marks: AN.
The Baltimore and Ohio Railroad Co.
Reporting Marks: BO.
Bessemer and Lake Erie Railroad Co.
Reporting Marks: BLE.
Camino, Placerville & Lake Tahoe Railroad Co.
Reporting Marks: CPLT.
The Chesapeake and Ohio Railway Co.
Reporting Marks: CO-PM.
Chicago & Illinois Midland Railway Co.
Reporting Marks: CIM.
Chicago, Rock Island and Pacific Railroad Co.
Reporting Marks: RI-Rock.
City of Prineville.
Reporting Marks: COP.
The Clarendon and Pittsford Railroad Co.
Reporting Marks: CLP.
Consolidated Rail Corp.
Reporting Marks: CR-DLW-EL-ERIE-LV-NH-NYC-P&E-PAE-PC-PCA-PRR-RDG.
Delaware and Hudson Railway Co.
Reporting Marks: DH.
Duluth, Missabe and Iron Range Railway Co.
Reporting Marks: DMIR.
Florida East Coast Railway Co.
Reporting Marks: FEC.
Grand Trunk Western Railroad Co.
Reporting Marks: GTW.
Greenville and Northern Railway Co.
Reporting Marks: GRN.
Greenwich & Johnsonville Railway Co.
Reporting Marks: GJ.
Louisville and Wadley Railway Co.
Reporting Marks: LW.
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC.
• • • McCloud River Railroad Co. deleted.
Middletown and New Jersey Railway Co., Inc.
Reporting Marks: MNJ.
Muncipality of East Troy, Wis.
Reporting Marks: METW.
New Orleans Public Belt RR.
Reporting Marks: NOPB.
Norfolk and Western Railway Co.
Reporting Marks: ACY-N&W-NKP-WAB.
Pearl River Valley Railroad Co.
Reporting Marks: PRV
Raritan River Rail Road Co.
Reporting Marks: RR.
Sacramento Northern Ry.
Reporting Marks: SN.
St. Johnsbury & Lamoille County RR.
Reporting Marks: SJL.
St. Lawrence RR.
Reporting Marks: NSL.
Sierra Railroad Co.
Reporting Marks: SERA.
Terminal Railway, Alabama State Docks.
Reporting Marks: TASD.
Tidewater Southern Railway Co.
Reporting Marks: TS.
Toledo, Peoria & Western Railroad Co.
Reporting Marks: TPW.
WCTU Railway Co.
Reporting Marks: WCTR.

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Western Maryland Railway Co.
Reporting Marks: WM.
Western Railway of Alabama.
Reporting Marks: WA.
Youngstown & Southern Railway Co.
Reporting Marks: YS.
Yreka Western Railroad Co.
Reporting Marks: YW.

Effective May 1, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., April 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-13136 Filed 5-12-78; 8:45 am]

[1505-01]

[Notice No. 60]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-10848, appearing at page 17093 in the issue for Friday, April 21, 1978, and corrected at page 19747 in the issue Monday, May 8, 1978; in the last line of that correction, the number should read "(Sub-No. 264TA)".

MAY 15 1978 UMI

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine ACT" (Pub. L. 91-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

[M-128 amdt. 1; May 8, 1978]

CIVIL AERONAUTICS BOARD.

NOTICE OF ADDING AND CLOSING AN ITEM FOR THE MAY 12, 1978 MEETING AGENDA

TIME AND DATE: May 12, 1978, 10 a.m.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 22. Seattle/Portland-Japan Service Investigation Docket 28655.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Discussion of this item will involve consideration of the Board's position in ongoing consultations with the Japanese. Premature public disclosure of the options, plans and opinions of the Board could seriously undermine the current consultations with the Japanese.

Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552(b)(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting will be closed:

Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member, Lee R. West; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey.

A public target date of Friday, May 12, 1978 has been set for consideration of this item. In order for the Board to determine whether discussion of this item should be open or closed to public observation, it was not included in the original agenda. Accordingly, the following Members have voted that agency business requires the addition of this item and that no earlier announcement was possible:

Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member, Lee R. West; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey.

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member, Lee R. West; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.

Assistants to Board Members.—Mr. Mike Roach, Mr. James Casey, Mr. John Golden, Mr. Elias Rodriquez, and Mr. Ford Cole.

Office of the Managing Director.—Mr. Dennis Rapp and Mr. John Hancock.

Bureau of International Aviation.—Mr. Donald Farmer, Mr. Donald Litton, Mr. Joseph Chesen, Mr. Tony Largay, Ms. Mary Pett, and Mr. Ivy Mellops.

Bureau of Pricing and Domestic Aviation.—Mr. Michael Levine, Ms. Barbara Clark, Mr. Herbert Aswall, Mr. James Deegan, and Mr. James Greene.

Office of the General Counsel.—Mr. Philip Bakes, Mr. Gary Edles, Mr. Peter Schwarzkopf, Mr. Mitchell Black, Ms. Melissa Osborne, Ms. Katlyn Thomas, and Mr. Michael Schopf.

Office of Economic Analysis.—Mr. Darius Gaskins.

Office of the Secretary.—Mrs. Phyllis T. Kaylor, and Ms. Deborah A. Lee.

Reporter.—North American Reporting.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552(b)(c)(9)(B) and 14 CFR 310b.5(9)(B).

PHILIP J. BAKES, Jr.,
General Counsel.

[S-1009-78 Filed 5-11-78; 11:08 am]

[6355-01]

2

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3d Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: May 10, 1978, 10 a.m., 2:30 p.m., and 3:30 p.m.

STATUS: Partly open and partly closed.

MATTERS TO BE CONSIDERED:

Commission Meeting, Wednesday, May 10, 1978, 10 a.m., 2:30 p.m., and 3:30 p.m., Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

ORAL ARGUMENTS

Open to the public:

10 a.m.—National Mattress Co., et al. (CPSC 76-9). The Commission will hear oral arguments on this appeal by the respondent of the Administrative Law Judge's Initial Decision.

2:30 p.m.—Ups 'N Downs, Inc., et al. (CPSC 76-5). The Commission will hear oral arguments on this appeal by enforcement counsel of the Administrative Law Judge's Initial Decision.

MEETING

Closed to the public:

3:30 p.m.—*Aluminum Wire Strategies*—The Commission will continue its discussion of the implications of a recent court decision on this matter and strategies for Commission action as a result of this decision.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-1011-78 Filed 5-11-78; 3:15 pm]

[6714-01]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Federal Deposit Insurance Corporation met in closed session at 4 p.m. on Wednesday, May 10, 1978 to act on the following matters:

Amend Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," in order to establish two new categories of time deposits.

Transfer certain personnel from the Office of Corporate Planning to the Division of Research.

In scheduling the meeting, the Board determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), with Director William M. Isaac concurring, that Corporation business required action on the matters on less than

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seven days' notice to the public; that no earlier notice of the meeting was practicable; that the meeting was exempt from the open meeting requirements of the "Government in the Sunshine Act" by subsections (c)(6) and (c)(9)(A)(i) thereof (5 U.S.C. 552b(c)(6), (c)(9)(A)(i)); and that the public interest did not require consideration of the matters in a meeting open to public observation.

The meeting was held by telephone conference call originating from room 6008 of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

Dated: May 10, 1978

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1012-78 Filed 5-11-78; 3:15 pm]

[6715-01]

4

FEDERAL ELECTION COMMISSION.

"FEDERAL REGISTER" NO. S-1006-78.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 18, 1978 at 10 a.m.

CHANGE IN MEETING:

Please add the following item to the open portion of the meeting: "Notice of Rulemaking to Amend Regulations 11 C.F.R. Parts 130-146."

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1013-78 Filed 5-11-78; 3:30 pm]

[6740-02]

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published May 15, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 17, 1978, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

CI-2—AR61-2 and AR69-1, et al., Area Rate Proceeding, et. al., (Southern Louisiana Area).

CP-5(A)—CP75-372 and CP 75-373, Tennessee Gas Pipeline Co., A Division of Tenneco, Inc.

CP-5(B)—CP75-362, El Paso Natural Gas Co.

CP-6—CP78-171, Southern Natural Gas Co., Texas Gas Transmission Corp. and United Gas Pipe Line Co.

M-4—Inflated Rate Increase Filings.

M-5—Re-Examination of Special Relief and Related Cost Issues Involving Gas Producers.

M-6—Annual Applications of the Gas Research Institute.

ER-3—ER77-531, Illinois Power Co.

KENNETH F. PLUMB,
Secretary.

[S-1010-78 Filed 5-11-78; 3:15 pm]

[6740-02]

6

MAY 10, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., May 17, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

GAS AGENDA, 120TH MEETING, MAY 17, 1978, REGULAR MEETING

I. Producer Matters:
A. Producer Certificates:
CI-1.—Docket Nos. CI77-802, CI77-803, et al., Canadian Superior Oil (U.S.) Ltd., et al., Docket No. CI77-621, et al., Atlantic Richfield Co. et al.
II. Pipeline Certificate Matters:
A. Pipeline Certificate:
CP-1.—Docket No. CP77-396, Sea Robin Pipeline Co.
CP-2.—Docket No. CP77-140, Delhi Gas Pipeline Corp. Docket No. CP77-307, Northern Natural Gas Co., Docket No. CP77-328, Natural Gas Pipeline Co. of America.
CP-3.—Docket No. CP78-123, Alcan Pipeline Co. Docket No. CP78-124, Northern Border Pipeline Co., Docket No. CP78-125, Pacific Gas Transmission Co.
CP-4.—Mississippi Gas Corp., Gas Utility District No. 2.
CP-5.—Reserved.
CP-6.—Reserved.
B. Storage:
CP-7. Docket No. CP78-175, Natural Gas Pipeline Co. of America.
CP-8.—Reserved.
CP-9.—Reserved.
CP-10.—Docket No. RP72-99, Transcontinental Gas Pipeline Corp.
CP-11.—Docket No. RP71-29, et al., United Gas Pipeline Co. et al.

GAS AGENDA 120TH MEETING, MAY 17, 1978, REGULAR MEETING

CAG-1.—Docket No. RP77-102, *Public Service Co. of North Carolina, Inc., et al.* v. *Transcontinental Gas Pipeling Corp.* Docket No. RP78-26, Transcontinental Gas Pipeline Corp. (North Carolina Utilities Commission on Behalf of Farmers Chemical Association).
CAG-2.—Docket No. RP78-57, Oklahoma Natural Gas Gathering Corp.
CAG-3.—Docket Nos. RP76-10, (PGA78-2) and RP74-61 (PGA78-2), Arkansas Louisiana Gas Co.
CAG-4.—Docket Nos. RP71-18, et al., and RP73-86, Columbia Gas Transmission Corp.
CAG-5.—Docket No. CP77-636, Columbia Gas Transmission Corp.
CAG-6.—Docket No. RP63-1, United Gas Pipeline Co.
CAG-7.—Docket No. CP75-123, Arkansas Louisiana Gas Co. Docket No. CP75-141, Natural Gas Pipeline Co. of America.
CAG-8.—Docket No. CP78-182, Colorado Interstate Gas Co.
CAG-9.—Docket No. CP78-196, Northern Natural Gas Co.
CAG-10.—Docket No. CP78-157, Lone Star Co., a Division of Enserch Corp.
CAG-11.—Docket No. CP78-179, Texas Eastern Transmission Corp. Southern Natural Gas Co. Docket No. CP78-180, Texas Easdtern Transmission Corp. Southern Natural Gas Co.
CAG-12.—Docket No. CP78-17, Transcontinental Gas Pipeline Corp.
CAG-13.—Docket No. CP78-211, Natural Gas Pipeline Co. of America.
CAG-14.—Docket No. CP77-503, Kansas-Nebraska Natural Gas Co., Inc. Docket No. CP78-114, Panhandle Eastern Pipeline Co.
CAG-15.—Docket Nos. CP75-286 and CP76-106, Northwest Pipeline Corp.
CAG-16.—Docket No. CP73-95, Columbia Gas Transmission Corp.
CAG-17.—Docket No. CP78-145, Florida Gas Transmission Co.
CAG-18.—Docket No. CP78-235, Southern Natural Gas Co., United Gas Pipeline Co.
CAG-19.—Docket No. CP78-240, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG-20.—Docket No. CP78-27, Texas Gas Transmission Corp. Docket No. CP78-61, Transcontinental Gas Pipeline Corp.
CAG-21.—Docket No. CI77-606, Continental Oil Co. Docket No. CI77-620, Diamond Shamrock Corp. Docket No. CI78-310, Cities Service Co.
CAG-22.—Docket No. G-8341, et al., Phillips Petroleum Co. (operator), et al.
CAG-23.—Docket No. G-4809, et al., Chevron U.S.A., Inc. (operator) et al.
CAG-24.—Docket No. CI66-738, et al., Union Oil Co. of California, et al.
CAG-25.—Docket No. CI77-828, et al., Union Oil Co. of California, et al.

MISCELLANEOUS AGENDA, 120TH MEETING, MAY 17, 1978, REGULAR MEETING

M-1.—Docket No. RM77-14, Gas Research Institute.
M-2.—Docket No. R-472, Report of the Alternative Fuel Demand of Directed End Use Customers of Interstate Pipeline Co. Due to Natural Gas Curtailments FPC Form No. 69.
M-3.—Secretary of Energy's Proposed Rule Amending 10 CFR Section 430.22(e)(2) and Appendix E of Subpart B of Part 430.

POWER AGENDA 120TH MEETING, MAY 17, 1978, REGULAR MEETING

I. Electric Rate Matters:
ER-1.—Docket No. ER78-325, Florida Power and Light Co.
ER-2.—Docket No. E-9181, Nantahala Power and Light Co.

POWER AGENDA, 120TH MEETING, MAY 17, 1978, REGULAR MEETING

CAP-1.—Docket No. ER78-317, Indiana & Michigan Electric Co.
CAP-2.—Docket No. ER78-318, Otter Tail Power Co.
CAP-3.—Docket No. ER78-324, Montaup Electric Co.
CAP-4.—Docket Nos. ER78-327 and ER78-328, Central Hudson Gas and Electric Corp.
CAP-5.—Docket No. ER78-42, Iowa Power and Light Co.
CAP-6.—Docket No. ER78-50, Iowa Power and Light Co.
CAP-7.—Docket No. EL78-14, Kentucky Utilities Co.
CAP-8.—Docket No. ES78-26, Iowa-Illinois Gas and Electric Co.
CAP-9.—Project No. 2113, Wisconsin Valley Improvement Co.

KENNETH F. PLUMB,
Secretary.

[S-1007-78 Filed 5-11-78; 11:08 am]

[6820-35]

7

LEGAL SERVICES CORPORATION.

TIME AND DATE: 9 a.m., Thursday, May 18, 1978.

PLACE: 733 15th Street NW., 7th floor, Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Consideration of Proposed Part 1606 of the Regulations, Applications for and Denial of Refunding.
2. Consideration of Standards for Consolidations and Mergers of Legal Services Programs.
3. Consideration of proposed amendments to the following Regulations: (a) Part 1608, Prohibited political activities, (b) Part 1609, Fee-generating cases, (c) Part 1612, Restrictions on certain activities, (d) Part 1613, Restrictions on legal assistance in criminal proceedings, (e) Part 1614 (repeal), restrictions on representation of juveniles, and (f) Part 1620, Priorities in allocation of resources.
4. Revision of proposed amendment of Part 1602 (Freedom of Information Act Requests).

CONTACT PERSON FOR MORE INFORMATION:

Linda C. Horn, Office of the General Counsel, telephone 202-376-5113.

Issued: May 10, 1978.

THOMAS EHRLICH,
President.

[S-1008-78 Filed 5-11-78; 11:08 am]

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MONDAY, MAY 15, 1978
PART II



federal register

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

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BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

federal register

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[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 190]

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

AGENCY: Office of Education, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commissioner of Education proposes to issue technical amendments to the Basic Eucational Opportunity Grant regulations to define more clearly the administration of the program, and to implement the requirements mandated by the Education Amendments of 1976. The proposed rule revises and consolidates all existing program regulations other than those contained in the Family Contribution Schedules.

DATES: Comments must be received on or before June 14, 1978.

Public hearings will be held in three cities at the dates and times listed below:

May 31, 1978, Washington, D.C., 9 a.m. to 4 p.m.

June 2, 1978, Chicago, Ill., 9 a.m. to 4 p.m.

June 5, 1978, San Francisco, Calif., 9 a.m. to 4 p.m.

ADDRESS: Written comments should be sent to Mr. William Moran, Acting Chief, Basic Grants Policy Section, Division of Policy and Program Development, ROB-3, Room 4923, 400 Maryland Avenue SW., Washington, D.C. 20202. Comments will be available for public inspection at the above address, between 8:30 a.m. and 4 p.m., Monday through Friday (except Federal holidays).

The public hearings will be held at the following locations:

May 31, 1978, Regional Office Building—3, GSA Auditorium, 7th and D Streets SW., Washington, D.C., 9 a.m. to 4 p.m.

June 2, 1978, Illinois Institute of Technology, 3241 South Federal Street, Hermann Hall, Chicago, Ill., 9 a.m. to 4 p.m.

June 5, 1978, University of San Francisco, Student Center, 2130 Fulton Street, San Francisco, Calif., 9 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT:

William Moran, 202-245-1744.

SUPPLEMENTARY INFORMATION: These proposed amendments are being submitted for public comment. The final regulations resulting from this notice of proposed rulemaking are expected to be in effect for the 1978-79 award period.

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EXPLANATION OF NEED FOR REGULATIONS

The following proposed rules revise and consolidate the Basic Grant Program regulations with the exception of the Family Contribution Schedules which are revised and published annually. These regulations provide for the administration of the Program, ensuring a standardized process by which a student's Basic Grant award is calculated and disbursed. In establishing the Basic Grant Program as a formula program based on an entitlement concept, the Congress intended as one of its major characteristics a consistent treatment of all applicants regardless of the institution a student chooses to attend. While the amount and types of financial aid the student receives from other programs might vary depending upon the availability of funds at a particular institution and the financial aid officer's judgment concerning the student's need, the student can be assured that the determination of eligibility for a Basic Grant is made in precisely the same manner for every applicant.

In revising these regulations, a number of objectives have been established. The first objective is to make the regulations more easily understood. All of the existing regulations have been consolidated and many have been rewritten and reorganized, not because of a change in concept, but for logical coherence and clarification. Secondly, the applicable provisions of the Education Amendments of 1976 have been incorporated. The third objective has been to respond to problems in program operation which program experience has indicated are not sufficiently addressed in current regulations. Final regulations resulting from this proposed rule will supercede the administrative and technical regulations published in the FEDERAL REGISTER on November 6, 1974, December 2, 1974, and August 10, 1976.

Amendments have been made in the administration of payments to prevent program abuse both by institutions and student recipients. These provisions have been developed in an effort to achieve a balance between good program control and an administration of the program which would not be overly burdensome to the institution.

It is important to note that these regulations apply only to the Basic Grant Program. However, there are other regulations which affect all Federal student financial assistance programs, including Basic Grants which must also be complied with by administrators of the program. The Students Consumer Information Services regulations (45 CFR Part 178) were published on December 1, 1977 as final regulations. Other regulations currently being developed are: Procedures for Determining Institutional Eligibility and Recognizing National Accrediting Bodies and State Agencies (45 CFR Part 149) and General Provisions Relating to Student Assistance Programs (45 CFR Part 168).

A detailed description of the changes and amendments to the Basic Grant regulations is given below, organized by subpart.

SUBPART A

Subpart A sets forth the purpose of the program, the definitions of the terms used throughout the regulations, and the eligibility criteria for students and for institutions.

Most of the revisions and expansions of the definitions included in this subpart are of a minor technical nature intended for the sake of clarity and specificity, and, as such, do not necessitate discussion. Several, however, warrant comment.

In an effort to standardize the language used by programs in the Bureau fo Student Financial Assistance, the following terms are proposed to supplant current usage. In place of the Current term "academic year," the term "award period" is proposed to describe the period of time from July 1 of one year to June 30 of the subsequent year. "Award period" was selected because it is the term used for this twelve month interval in the three campus-based programs (Supplemental Educational Opportunity Grant, College Work-Study and National Direct Student Loan) and in the regulations concerning Student Consumer Information services.

It is also proposed to supplant the current term "school year" with the term "academic year." The proposed definition of "academic year" would establish the amounts of academic work for which a student must enroll within an award period in order to receive a full Basic Grant award. At institutions under a credit hour system, an academic year would mean an interval equal to the length of two semesters, two trimesters or three quarters.

At institutions using a clock hour system of measuring academic progress, an academic year is measured in terms of the number of clock hours designated by the institution to be completed within the period of an academic year, to be a minimum of 900 clock hours. A student is eligible to receive a portion of a full award based on the number of clock hours completed divided by the number of clock hours a full-time student would complete during an academic year.

In the course of the program's existence, instances of program abuse have surfaced which indicated a need to define "payment period." A payment period is the unit used to divide a student's Basic Grant for an award period into segments of an academic

year. Although a student's Basic Grant is applicable for an entire award period, the disbursement of these funds is divided into at least two equal disbursements (one each payment period) so as to minimize abuse of the program by students and institutions. The amount the students should receive for each payment period is based upon the amount of work expected to be accomplished by that student for that portion of the award period.

For institutions using clock hours to measure progress, the Office of Education is proposing two possible definitions of payment period and is soliciting public comments on both. The proposed definition of payment period attempts to ensure that a student, before being paid for additional course work, will have competed the work for which the student has already received Basic Grant assistance. As described below, these proposal are intended to eliminate a potential area of program abuse which exists under current regulations.

The difference between the two proposals can be summarized as follows: The first definition describes a payment period as a fixed number of clock hours to be completed within a flexible period of time. The length of the payment period would expand or contract to correspond with the actual length of time required by the student to complete those clock hours. The second definition describes a payment period as a fixed period of time. The student is paid at the beginning of the period for the clock hours expected to be finished during that period. If, at the end of the period of time, the student has not completed that amount of work, the student's award for the subsequent payment period will be adjusted.

The first definition (appearing in § 190.2a(d) of the proposed regulations) defines a payment period as being one-half of the student's course work within an award period. At the beginning of a student's enrollment for an award period, the institution would determine the number of clock hours the student can be expected to complete during the academic year within the award period, and then calculate and disburse the student's award for the first half of that academic year. The second payment period for the student would begin only after the student had completed the academic work required during the first payment period for which that student had been paid. The second payment period would be based upon the number of clock hours the student is expected to complete up to the end of the academic year or the award period. A payment period might extend into the subsequent award period, that is, up to the time the student actually completes the academic work for which the student has been paid. This method would reduce a potential for program abuse that exists under current regulations when a student enrolls for, and is paid on the basis of, a certain enrollment status but fails to complete the number of hours which should have been completed at that enrollment status.

Under current regulations, at the time the second half of that student's academic year begins, the student is paid once again on the basis of the number of hours for which the student enrolls, regardless of the amount of academic work actually completed during the first half of the academic year. The proposed definition, included in § 190.2a, stipulates that the student enrolled in a program in which progress is measured in terms of clock hours would not receive another payment until the student had completed the academic work for which the student had already been paid.

Under the alternate definition proposed here for public comment, but not set forth in § 190.2a, an award period would be divided into two equal payment periods of a fixed length of time. A student's second disbursement would be made on a given date, rather than when the student actually completes the work for which the student has been paid, as in the system proposed above. However, under this alternate proposal, at the time of the disbursement for the second payment period, the student would receive the full amount of the second disbursement *only* if the student had completed the clock hours for which the student had been paid in the first payment period.

If the student had not completed the appropriate number of clock hours, the second disbursement would be adjusted to reflect the actual amount of work which will be completed during the award period. Under the proposed alternate definition the student's award would be adjusted in the following manner to accommodate any overpayment which occurred in the first payment period:

1. Multiply the amount disbursed during the first payment period by the following fraction:

Hours for which paid, but not completed during payment period, divided by Hours scheduled to be completed for the payment period

and,

2. Subtract the amount arrived at in Step 1 from the amount of the second disbursement to adjust the year's award.

For example, on July 1, a student enrolls in a 900 clock hour program, registering for 25 hours of training per week, The institution disburses one-half of the student's Scheduled Award. Eighteen weeks later the second payment period begins and the student is eligible for an additional payment. If the student had maintained the original schedule and completed 450 hours, the student would receive the second half of the Scheduled Award. However, the student has not completed 50 of the 450 hours for which the student has been paid and the second half of the Scheduled Award must be adjusted to reflect the overpayment in the first payment period. The second disbursement is calculated by multiplying the amount of the first disbursement by 50/450 and subtracting that amount from the second half of the Scheduled Award.

Comment is solicited on both the proposed definition set forth in § 190.2a and the alternate proposal.

The proposed definition of "institution of higher education" (§ 190.3) has been amended to include the provision in Section 1201(a) of the Higher Education Act of 1965 which allows eligible public and other non-profit institutions to admit as regular students not only high school graduates but also other persons who are beyond the age of compulsory school attendance in the state in which the institution is located and who have the ability to benefit from the training offered by the institution. The wording of the definition is consistent with that for other Title IV programs.

Through the statutory definition of "institution of higher education," the Congress has provided, as a minimum, certain requirements that an institution must meet in order to participate in Federal student assistance programs. The proposed definition of "eligible program" (§ 190.2a) establishes a parallel with the statutory institutional eligibility requirements for each of the categories of postsecondary institutions: (1) proprietary, and (2) public or other non-profit institutions of higher education and vocational schools. Most noteworthy of these requirements is the minimum program length. An eligible program at a proprietary institution must include at least 16 semester or trimester hours or 24 quarter hours, or 600 clock hours of supervised training. On the other hand, an eligible program at a public or other non-profit institution of higher education or vocational school must include at least 24 semester or trimester hours or 36 quarter hours, or 900 clock hours of instruction.

Under § 190.7, "Institutional Eligibility," an institution may pay a student only in the payment period during which the institution becomes eligible, rather than retroactively for the entire year during which the institution becomes eligible as is permitted under the current policy. Similarly, if an institution becomes ineligible, the institution may pay the student only to the end of the payment period in which the institution loses its eligibility.

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The situation in which a student is enrolled in both regular and correspondence course work is addressed in § 190.9, "Determination of Enrollment Status under Special Circumstances." This proposed rule is intended to encompass "outreach programs," offered by many institutions of higher education, which may involve correspondence work or educational aids such as television, in a relatively unsupervised student learning process.

"Institutional Administrative Allowance" (§ 190.10) implements section 411(d) of the Higher Education Act of 1965, providing an administrative allowance of up to $10 per Basic Grant recipient each award period to institutions participating in the Basic Grant Program. This allowance is to be used first to comply with the Student Consumer Information regulations set forth in 45 CFR, Part 178, and then for other administrative costs of Title IV Programs. The amount of an institution's allowance is contingent upon the amount of funds appropriated for this purpose by Congress. The amount an institution will receive will be based upon the number of Basic Grant recipients enrolled at the institution during the previous award period.

SUBPART B

This subpart establishes and defines the application procedures for Basic Grants.

The proposed amendments regarding the application were rewritten for increased clarity. Section 190.11 includes an additional technical provision that the address provided on the application must be that of the applicant. An institutional address may be used only if the student resides at the institution.

Section 190.15 provides for an extension of the annual deadline for correcting financial information on an application if the Commissioner has requested documentation to verify that information. This provision is part of the Office of Education's efforts to curb program abuse by establishing procedures to verify an applicant's eligibility when there is documentation that financial information provided on the application form is not accurate.

Section 190.16 addresses requests for recomputation of the expected family contribution because of extraordinary circumstances. These extraordinary circumstances are the conditions under which an applicant is permitted to file a Supplemental Form. They are set forth in Sections 190.39 and 190.48 which are part of the annual Family Contribution Schedules.

SUBPART E

This subpart establishes the allowances for the costs of attendance for students eligible for Basic Grants. Subpart E was reorganized to simplify the identification of educational costs.

Section 190.52 was derived from 190.51(d) of the current regulations to deal specifically with costs of attendance for students engaged in correspondence courses. Tuition and fee charges to be included are the actual amounts charged for a full academic year. Room and board charges incurred specifically to fulfill a required period of residential training may be considered a part of the cost of attendance.

Section 190.53 was added for the purpose of defining costs of attendance for students whose program length exceeds the length of the academic year for institutions mesuring progress interms of the clock hour systems. The following paragraphs explain the method of determining the allowable costs in calculating the costs of attendance.

When determining allowable costs in this case, institutional charges, including tuition, fees, and, when appropriate, room and board, for the full program should be multiplied by the following fraction:

Clock hours in academic year divided by Clock hours in program

This procedure results in a cost of education which has been prorated for the length of the academic year. For example, if an institution charges $1,000 tuition and fees for a 1,200 hour program with a 900 hour academic year (900/1,200 × $1,000=$750) $750 would be added to the standard allowances for room and board and miscellaneous expenses in determining the student's cost of attendance.

When institutional charges include room and board, the same procedures are used. For example, in the case of an institution which charges $2,400 for tuition, fees, room and board for a 1,500 hour program with a 1,000 hour academic year (1,000/1,500 × $2,400=$1,600) $1,600 would be added to the $400 allowance for miscellaneous expenses in determining the student's cost of education.

Section 190.51(e) of the current regulations regarding costs of attendance for incarcerated students, has been rewritten and amended as § 190.54. The tuition and fees which are charged to a full-time student for a full academic year in the same program are the allowable costs to be used in determining the cost of education for incarcerated students. In addition to revising the former regulation for clarity, the amendments address the situation in which an incarcerated student is a resident of a halfway house, or a participant in restricted parole or some other type of rehabilitative program. In this instance, if less than one-half of room and board expenses are provided by the agency involved, the student will have the same cost of education allowances as a student who is not incarcerated. The determination of whether the incarceration facility provides more than one-half of the student's room and board expenses is made by the financial aid officer.

The cost of attendance for students enrolled in the U.S. Armed Forces Academies is defined in § 190.55. For purposes of this part, students enrolled in the U.S. Military Academy, the U.S. Naval Academy, the U.S. Air Force Academy or the U.S. Coast Guard Academy have no cost of attendance, and are therefore not eligible for Basic Grant assistance.

SUBPART F

In addition to several minor technical adjustments, the regulations concerning the determination of Basic Grant awards incorporate substantive changes. In the former category, § 190.61, "Submission of SER for Receipt of a Basic Grant—Cut Off Dates," has been expanded by incorporating § 190.78 from Subpart G of the current regulations. This change was made in an attempt to arrange the regulations in a more logical fashion so that the reader might more easily locate a particular item.

The regulations have been revised to reflect more accurately the enrollment status of part-time students and to pay them accordingly. The legislation governing the program requires that a student may be enrolled on at least a half-time basis to receive a Basic Grant. Currently program regulations define students as either full-time, three-quarter-time or half-time. A student enrolled for more credits than the amount needed to be considered half-time but less than the amount needed to be considered three-quarter-time is considered a half-time student and receives an award computed as one-half of the amount of full-time student would receive. Similarly, a student enrolled in a less than full-time but more than three-quarter time status is considered as three-quarter-time for Basic Grant purposes and receives an award computed as three-quarters of the amount of full-time student would receive.

Under the proposed rule eligible students who are enrolled on a less than full-time basis will no longer be divided into only two part-time categories. Rather, the Commissioner is proposing that a student's status as part-time will reflect the exact degree that the student's enrollment is related to full-time enrollment status.

The purpose of this change is to provide greater equity for part-time students. Under the proposed rule an award will bear a direct relationship to the student's academic course load. With this approach the institution will need only a full-time payment schedule for calculating awards under the Basic Grant Program. The half-time and three-quarter-time payment schedules will no longer be required.

At those institutions which use traditional academic intervals, a student's award for a payment period would be determined by dividing the Schedule Basic Grant award by the number of payment periods in a school year and multiplying that amount by the credit hours in the payment period divided by the credit hours a full-time student would take in a payment period. For example, a student taking 11 credit hours a term at an institution which considers 12 hours per term full-time, would receive 11/12 of the Scheduled Basic Grant award divided by the number of terms in the academic year. Clock hour system institutions would determine a student's award for a payment period by multiplying the Scheduled Basic Grant award by the clock hours in the payment period divided by the number of clock hours in the academic year. For example, in a 900 clock hour program in which 600 clock hours will be completed before the close of the award period, the first payment period would consist of one-half of the number of hours to be completed within the award period (300). The student should received 300/900 or one-third of the Schedule Basic Grant Award for that payment period.

"Attendance at more than one institution during an award period—transfer student," § 190.66, is the result of combining two points with the current § 190.83. When the institution is verifying the amounts of aid received under the National Direct Student Loan Program in order to insure that the aggregate amount the student receives under NDSLP does not exceed the statutory limitation of $2,500 for a two year degree or $5,000 for a bachelor's degree, and, ascertaining, under the Supplemental Education Opportunity Grant Program, whether a student is in the initial or continuing category for such aid, Basic Grant award information should be obtained at the same time from the student. It should be noted that the proposed regulations governing administrative standards (45 CFR Part 168) which will be published shortly specifically addresses institutional responsibility regarding the requesting and forwarding of financial aid transcripts for students. When the institution becomes aware of the amount of Basic Grant money that the student has received, the Basic Grant award at the new school must be adjusted if necessary to ensure that the student does not exceed the highest Scheduled Basic Grant Award for the award period for which the student is eligible. If the student does receive more than that amount, the student will be required to repay that amount which is in excess of the student's highest Scheduled Basic Grant Award.

Section 190.67, "Study by Correspondence," has been added to formalize the method of determining an award for students engaged in such study.

SUBPART G

This subpart concentrates on the administration of grant payments to students by institutions within the Regular Disbursement System. It has been extensively rewritten and expanded to accommodate several areas of special concern that, as the recent history of the program's operation indicates, have not been adequately addressed. Many of the current regulations merely required expansion and reorganization. Also, additional rules were developed for some aspects of the operation of the program in order to prevent potential or, in some cases, actual sources of program abuse by institutions and students.

Over the past several years some institutions have demonstrated that they were not capable or properly administering the disbursement of Basic Grant funds under the Regular Disbursement System. As a result, the Commissioner terminated each of those school's Agreement in order to protect both the interests of the government and the students attending those institutions. Therefore, § 190.73 is to formalize the process of termination. This section provides for that termination upon thirty days notice from the Commissioner, unless the Commissioner determines that a notice of shorter duration is necessary to prevent the likelihood of substantial loss of funds.

Students who are enrolled in an institution subject to termination would still be entitled to receive their Basic Grant payments; however, the institution would have to enter into an agreement with the Commissioner under the Alternate Disbursement System (ADS). The institution would then be responsible, under Subpart H of these regulations, to provide the Commissioner with that information necessary under ADS to facilitate the continued disbursement of funds to its students.

An institution can choose to terminate its RDS agreement with the Commissioner. However, that termination would take effect only on the last day of the award period in which a termination is requested.

Section 190.75, "Determination of Eligibility for Payment," includes two requirements applicable to all Title IV programs which result from the Education Amendments of 1976. These requirements, set forth in Section 497(e) of the Higher Education Act of 1965, as amended, stipulate that a student may receive assistance from Title IV programs only if that student:

(a) Is maintaining satisfactory progress in the student's course of study according to the standards and practices of the institution in which the student is enrolled, and

(b) Does not owe a repayment on a Basic Grant, Supplemental Grant, or State Student Grant received to meet costs of attendance at the institution in which the student is enrolled, and is not in default on a National Direct Student Loan received from that institution or on a Guaranteed Student Loan advanced to meet the student's costs of attendance at that institution.

Proposed regulations for the Basic Grant Program on these two statutory provisions were included in the notice of proposed rulemaking published in the FEDERAL REGISTER on April 8, 1977. In addition to setting forth the basic statutory requirement, the proposed rule also provided that if the institution determined at the beginning of a payment period that the student was not making satisfactory progress, but is able to reverse that determination before the end of the payment period, the student may be paid for the entire payment period. However, if the reversal of its original determination does not occur until after the end of the payment period, no retroactive payments may be made for that payment period. This proposal for dealing with the satisfactory progress requirement in the statute has been repeated in this notice of proposed rulemaking.

In responding to the April 8th notice of proposed rulemaking a number of commenters asked if any parameters would be set by the Office of Education for institutional standards of satisfactory progress. If the contents of an institution's standards of "satisfactory progress" establishes a reasonable code, this would be acceptable to the Office of Education. In setting its standards the institution is establishing a framework for evaluating a student's efforts to achieve an educational goal within a given period of time. In making this evaluation the institution needs to know the normal time frame for completion of the course of study in which the student is enrolled and it must have some means, such as grades or work projects completed, which can be measured against a norm.

Although the content of an institution's standards of "satisfactory progress" will not be subject to regulation at this time, the statute requires that the institution have some standards. An institution lacking any standards would be precluded from making any payments to students under Title IV programs since it would have no means of measurement for making the determination required by the statute. If an institution already has standards of "satisfactory progress" it may use those standards in determining eligi-

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bility for payments under the Basic Grant and other Title IV programs. If it does not already have any standards it must adopt standards which will be applicable at least for recipients of aid under Title IV programs. Whatever standards are used for determining eligibility for payment under Title IV programs must be applied uniformly for recipients of aid under each of those programs; it would not be permissible, for example, to have one standard for receiving a Basic Grant and another for receiving a National Direct Student Loan.

Paragraph (e) of § 190.75 reflects the statutory provision stipulating that the institution may not pay a Basic Grant to a student who owes a refund because of an overpayment received under any of the three Title IV grant programs. An overpayment may result from an error by the student in completing the application or an error by the institution in making payment. The regulation differentiates between these two kinds of errors. If the overpayment was the result of an institutional error, the institution may pay the Basic Grant if the student acknowledges in writing the amount of the overpayment and agrees to repay it within a reasonable period of time. The proposed regulation leaves the period of time for this repayment to the discretion of the institution in order that the financial aid officer may take the individual circumstances of the student into account. The institution may extend that period of time into future award periods. If the overpayment resulted from an error on the part of the student, the institution may pay the Basic Grant if the overpayment has been repaid by the student or can be eliminated within the award period in which it occurred by adjusting subsequent Basic Grant payments for that award period.

In addition to overpayments resulting from student errors in completing the application or institutional errors in computing the amount of a grant, overpayments may also result if the student leaves the institution before the completion of the period for which the funds were awarded. The notice of proposed rulemaking published on April 8, 1977 discussed the issue of attribution of repayments from cash disbursements made directly to the student when the student leaves the institution before the completion of the period for which the funds were awarded. In that notice a formula was proposed, to be inserted in § 190.77 of the Basic Grant regulations, for calculating the portion of a grant disbursement which should be considered an overpayment subject to repayment by the student. There was a general consensus among the commenters that the formula did not allow sufficient flexibility for the institution to take into consideration the circumstances of individual students in determining the amount of a cash disbursement which should be repaid. In response to the commenters' concern, the proposed formula has been discarded. In its place the Commissioner is proposing a procedure in which the institution would have discretion in determing the portion of a cash disbursement it considered "unused" as of the date the student withdraws. The portion of the "unused" amount which should then be considered an overpayment for each specific Title IV grant or loan program would then be determined by a simple proportional ratio. This proposal is included in proposed regulations for all Title IV programs entitled "General Provisions Relating to Student Assistance Programs (45 CFR Part 168)," to be published shortly in the FEDERAL REGISTER as a notice of proposed rulemaking.

Paragraph (e) of §190.75 is intended to clarify the institution's responsibility in fulfilling the statutory requirement stating that it may not pay a Basic Grant to a student who is in default on a Guaranteed Student Loan advanced to the student for attendance at that institution. This paragraph provides that in determining whether the student is in default the institution may rely on a written statement from the student. Thus, the institution would not be required to initiate inquiries with commercial lenders to determine the current repayment status of each of its potential aid recipients. Also, this paragraph of the proposed regulation provides that the institution may, if it chooses, pay a Basic Grant to a student who is in default on a Guranteed Student Loan if the guarantor (i.e., the Commissioner or the applicable guarantee agency) has determined that the student has made satisfactory arrangements to repay the defaulted loan. Similarly, the institution may, if it chooses, pay a Basic Grant to a student who is in default on a National Direct Student Loan at the institution, if the institution determines that the student has made satisfactory arrangements to repay it.

As a means of strengthening the effort to control abuse of the Basic Grant Program by students, Section 190.77, "Verification of Information on the SER—Withholding of payments," has been added. The procedures in this section pertain to verifying the information on the SER either before or after payment has been made. If the institution discovers that inaccuracies exist on the SER after payment has been made, the procedures outlined in § 190.80, "Recovery of overpayments," may also apply. Since the eligibility for Basic Grant assistance is based on need which is determined solely on the basis of information supplied by the applicant (and the parents of dependent applicants), it is imperative that the pertinent data be accurate. Therefore, the Commissioner has taken a number of steps to help ensure that all applicants report correct information on their applications for aid.

All applicants must, of course, sign the certification statement on the application in which they agree to provide, if requested, any documentation necessary for the verification of their reported information. This section then outlines those situations under which the commissioner will request documentation to verify that information. It further requires that institutions must request from the student substantiating information or corrections if there is reason to believe that the information on the SER is inaccurate. If a student makes a correction which results in a change in the expected family contribution, the institution must recalculate the award. Additionally, institutions are required to withhold payment if they have documented evidence showing that the relevant information on the SER is erroneous, whereas they may not withhold payment if they believe the information to be inaccurate, but lack documentation.

This section also provides procedures for institutions to report unresolved cases to the Commissioner and for cancellation of a student's award if the student does not provide a complete and acceptable response to the Commissioner's request for documentation within an established time period. Concurrent with this award cancellation, the student's identification number is placed in a "hold" status which will prohibit the processing of any future applications in that award period or in subsequent award periods until the student has complied with the Commissioner's request.

For example, if a student submits an SER and the financial aid officer has reason to believe that some of the data on the SER is incorrect, the financial aid officer must request that the student review the information for accuracy and correct any erroneous entries. If the student does not correct the suspected discrepancy or does not prove to the financial aid officer's satisfaction that the information is correct, the financial aid officer would submit the case to the Commissioner. As already indicated, the financial aid officer would continue to pay the Basic Grant pending the outcome of the Commissioner's investigation unless the financial aid officer had documented evidence supporting his or her belief that the SER is not valid or unless the Commissioner specifically instructed the aid officer to withhold payment.

Once the Commissioner has reviewed the case, a determination will

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be made as to whether additional documentation or corrections are necessary. If a student is asked to supply additional information, the student will have to comply within an established time period in order to avoid the cancellation of the grant. If the student forfeits the right to the grant by failing to supply requested documentation, that student will not be able to receive any additional consideration for future Basic Grant assistance until the requested documentation has been provided or until the Commissioner determines that the need for the documentation no longer exists.

If the student does submit the requested documentation and all necessary corrections have been made, then the amount of the Basic Grant to which the student will be entitled will be based on the valid SER which results from the verification process. However, if that SER is submitted after the close of the award period because of the verification process, the student will only be eligible for payment up to the amount that was previously withheld because of the verification process, even if the second SER has a lower eligibility index than the original. The reason for this rule is to avoid imposing upon institutions the administrative burden which would be incurred if they were required to recompute grants from previous award periods.

Section 190.78, "Method of Disbursement by Check or Credit to the Student's Account," has been expanded to include instructions to the institution concerning its responsibility to notify students about the availability of their check. To address the problem of students who do not pick up their checks promptly when they are notified that the checks are available, institutions are instructed to hold those checks fifteen days beyond the last day of the student's enrollment for that award period. A student forfeits the check if it is not picked up by that time. In cases of forfeits the institution may credit the student's account for any amount owed by the student for that award period. This section also limits the practice of early payments to students by the institution. A student may be paid at or after registration but no earlier than ten days before the first day of classes if the student is being paid directly, and no earlier than three weeks before the first day of classes if the institution is crediting the student's account. In addition, if an institution credits a student's account, the institution must obtain the student's signature on a written schedule of the dates and amounts of each disbursement, retain a signed copy for its records, and give a copy of the signed schedule to the student. This provision is intended to replace the requirements in § 190.75(e) of the current regulations stipulating that a signed receipt must be obtained for each disbursement by credit to the student's account. This change is proposed in response to institutional comments that the current procedure poses an undue administrative burden. However, if an institution prefers to continue obtaining a signed receipt for each transaction, the series of signed receipts may be considered a schedule for purposes of complying with this regulation. It should be noted, however, that if the student officially or unofficially withdraws from or is expelled by the institution before the first day of classes, after having received a Basic Grant payment through either method of disbursement, the entire amount of the payment must be restored to the Basic Grant account.

Since the inception of the program, a cooperative effort has existed between the Office of Education and various RDS institutions in order to recover overpayments to students, in addition to verifying information found on Student Eligibility Reports. Section 190.80, "Recovery of Overpayments," formalizes this effort by delineating institutional responsibilities and reporting procedures. This section does not mandate any additional duties or responsibilities beyond those which have existed under the cooperative effort. However, it sets forth those responsibilities in regulations for RDS institutions and is intended to aid in preventing further program abuse. Institutional responsibility for overpayments which are the result of institutional error is stipulated, as well as the responsibility of the institution to cooperate with the Commissioner in recovering overpayments if those overpayments are not the result of institutional error. In the former instance, the institution is liable to the government for the overpayment but may attempt to collect the overpayment from the student. In the latter instance, the institution is only responsible for making a reasonable effort to contact the student and recover the overpayment. It is required to notify the Commissioner if it is unsuccessful in recovering the overpayment.

Section 190.81, "Recalculation of a Basic Grant Award," has been expanded and amended to require that a student's Basic Grant must be, rather than may be, recalculated if there is a change in the student's expected family contribution. If the enrollment status of a student changed during a payment period, the institution retains the option of choosing whether or not it will recalculate. If the institution, as a matter of institutional policy, chooses to recalculate for changes in enrollment status, it must take into consideration the portions of the payment period at both the original enrollment status and the new enrollment status, and also any change in the student's cost of education.

"Fiscal Control and Fund Accounting Procedures," § 190.82, has also been amended. Under current regulations institutions may but are not required to maintain a separate account for Federal funds. Under the proposed regulation, a separate account must be maintained for Federal funds. This requirement is also proposed in the "General Provisions Relating to Student Assistance Programs (45 CFR Part 168)."

Section 190.83, "Maintenance and Retention of Records," has been amended. The requirement of institutions to retain records has been increased from three to five years following the submission of a final report of expenditure of funds. Furthermore, any records involved in a claim or expenditure which has been questioned by a Federal audit are to be retained until the resolution of that audit exception. This requirement is consistent with that provided for the three campus-based Title IV student financial assistance programs.

"Audit and Examination," § 190.85, brings the Basic Grant Program into conformity with the three campus-based Title IV programs by requiring, at a minimum, that the Basic Grant Program be audited at least once every two years. The audits shall be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial assistance programs.

SUBPART H

This new subpart had been added to Part 190 in an effort to define more precisely the responsibilities of institutions, which, for one reason or another, operate the administration of grant payments under the Alternate Disbursement System. These new regulations are considered necessary for the proper conduct of the Program.

Under § 190.92, an institution will now be required to enter into a written agreement with the Commissioner to participate in the Alternate Disbursement System.

§ 190.92, "Change in Ownership and Change to Regular Disbursement System," provides that, if an institution changes ownership, its agreement with the Commissioner is terminated. However, it may be reactivated if the institution is found in compliance with the eligibility criteria set forth in "Procedures for Determining Institutional Eligibility and Recognizing National Accrediting Bodies and State Agencies (45 CFR Part 149)," when these criteria become final regulations. (They are to be published shortly as a notice of proposed rulemaking.) Institutions may only shift from ADS to RDS at the beginning of an award period.

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Section 190.94 sets forth the regulations which reflect the continuing responsibility of institutions to provide information necessary for the Commissioner to compute and disburse grant payments, and to provide certification regarding each student's eligibility or continuing eligibility for payment. This section also embodies the requirements mandated by Section 497(e) of the Higher Education Act of 1965, as amended, concerning satisfactory progress, repayments owed on grants previously received, and default status on Guaranteed and National Direct Student Loans.

Section 190.96 specifies that institutions must maintain records to support the information they supply to the Commissioner, provide a routine verification of that information as required, and provide access to records and information for purposes of audit and examination. As in the past, institutions under the Alternate Disbursement System do not have responsibility for the actual computation and disbursement of award payments.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Pursuant to the authority contained in Title IV of the Higher Education Act of 1965, as amended (Pub. L. 89-329), the Commissioner proposes to amend the regulations in 45 CFR Part 190.

(Catalogue of Federal Domestic Assistance No. 13.539 Basic Educational Opportunity Grant Program).

Dated: March 7, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: May 1, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Accordingly, 45 CFR Part 190 is porposed to be amended as set forth below.

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Subpart A—Scope, Purpose and General Definitions

Sec.

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190.2 General definitions.
190.2a Special terms.
190.3 Institution of higher education.
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190.5 Duration of student eligibility.
190.6 Basic Grant payments from more than one institution.
190.7 Institutional eligibility.
190.8 Consortium agreements.
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Subpart B—Application Procedures for Determining Expected Family Contribution

Sec.

190.11 Application.
190.12 Certification of information.
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Subpart C—(Family Contribution Schedule)

Subpart D—(Family Contribution Schedule)

Subpart E—Costs of Attendance

190.51 General attendance costs.
190.52 Attendance costs for students in correspondence study programs.
190.53 Attendance costs for students whose program length exceeds the academic year at institutions using clock hours.
190.54 Attendance costs for incarcerated students.
190.55 Attendance cost for students at U.S. Armed Forces academies.

Subpart F—Determination of Basic Grant Awards

190.61 Submission process and deadline for Student Eligibility Report.
190.62 Calculation of a Scheduled Basic Grant at full funding.
190.63 Calculation of a Scheduled Basic Grant at less than full funding.
190.64 Calculation of Basic Grant for a payment period.
190.65 Calculation of Basic Grants for terms which span two award periods.
190.66 Transfer student: attendance at more than one institution during an award period.
190.67 Correspondence study.

Subpart G—Administration of Grant Payments—Regular Disbursement System

190.71 Scope.
190.72 Institutional agreement—Regular Disbursement System.
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190.75 Determination of eligibility for payment.
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190.79 Affidavit of educational purpose.
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190.81 Recalculation of a Basic Grant award.
190.82 Fiscal control and fund accounting procedures.
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Subpart H—Administration of Grant Payments—Alternate Disbursement System

190.91 Scope.
190.92 Institutional agreement—Alternate Disbursement System (ADS).
190.93 Change in ownership and change to the Regular Disbursement System (RDS).
190.94 Calculation and disbursement of awards by the Comissioner of Education.
190.95 Termination of enrollment and refund.
190.96 Maintenance and retention of records; access for purpose of audit.

AUTHORITY: Section 411 of the Higher Education Act of 1965 as added by Section 131(b) of Public Law 92-318, 86 STAT 247-251 as amended, (20 U.S.C. 1070a) unless otherwise noted.

Subpart A—Scope, Purpose and General Definitions

§ 190.1 Scope and purpose.

The Basic Educational Opportunity Grant (Basic Grant) Program is to help financially needy students meet the costs of post-secondary education.

(20 U.S.C. 1070a.)

§ 190.2 General definitions.

As used in this part:

(a) *Academic year:* (1) A period of time in which a full-time student is expected to complete the equivalent of 2 semesters, 2 trimesters or 3 quarters at institutions using credit hours; or

(2) At least 900 clock hours of training for each program at institutions using clock hours.

(20 U.S.C. 1088(c)(1).)

(b) *Act:* Title IV-A-1 of the Higher Education Act (HEA) of 1965, as amended.

(c) *Award period:* The period of time between July 1 of one year and June 30 of the following year.

(d) *Clock hour:* The equivalent of—

(1) A 50 to 60 minute class, lecture or recitation; or

(2) A 50 to 60 minute faculty supervised laboratory, shop training or internship.

(e) *Commissioner:* The U.S. commissioner of Education or his/her designee.

(f) *Enrolled:* Completion of registration requirements at the institution a student is attending or will be attending.

(g) *Enrollment status:* The following fraction: the student's credit or clock hours for a payment period/credit or clock hours of a full time student for a payment period (if this fraction exceeds one (1), then one (1) is used as the student's enrollment status).

(h) *Full-time student:* An enrolled student who is carrying a full-time academic work load (other than correspondence) which is determined by the institution and amounts to one of the following minimum requirements:

(1) 12 semester hours or 12 quarter hours per academic term in those institutions using standard semester, trimester or quarter hour systems;

(2) 24 semester hours or 36 quarter hours per academic year for institutions using credit hours to measure progress but not using semester, trimester or quarter systems;

(3) 24 clock hours per week for institutions using clock hours;

(4) In those institutions using both credit and clock hours, if the sum of the fractions is equal to or greater than one:

the number of credit hours/12 plus (+) the number of clock hours/24

(5) A series of courses or seminars which will equal 12 semester hours or 12 quarter hours in a maximum of 18 weeks; or

(6) The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic work-load of a full-time student.

(20 U.S.C. 1088(c)(2).)

(i) *Good standing:* The eligibility of a student to continue attending the institution in which he/she is enrolled in accordance with the standards of the institution.

(j) *Half-time student:* An enrolled student who is carrying a half-time academic work load which is determined by the institution and amounts to at least half the work load of a full-time student. (see full-time student)

A half-time student enrolled in correspondence study must meet the minimum requirement of at least 12 hours of preparation of work per week. However, regardless of the work load, no student enrolled in correspondence study will be considered more than a half-time student.

(k) *Nonprofit institution:* An institution owned and operated by one or more nonprofit corporations or associations in which no part of the net earnings benefit any private share holder or individual.

(20 U.S.C. 1141(c).)

(l) *Payment schedule:* A table showing a full-time student's Scheduled Basic Grant for a given award period. This table, published by the Commissioner, is based on—

(1) The Family Contribution Schedules described in Subparts C & D;

(2) Attendance costs as defined in Subpart E; and

(3) The amount of funds available for making Basic Grants.

(m) *Scheduled Basic Grant:* The amount of a Basic Grant which would be paid to a full-time student for a full academic year.

(n) *State:* The states of the Union, American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands.

(20 U.S.C. 1141(b); 20 U.S.C. 1088(a).)

(o) *Student Eligibility Report (SER):* A report provided to the applicant showing the amount of his/her expected family contribution.

(p) *Undergraduate student:* A student, enrolled in an undergraduate course of study, at an institution of higher education who:

(1) Has not been awarded a baccalaureate or first professional degree; and

(2) Is in an undergraduate course of study which usually does not exceed 4 years, or is enrolled in a 5-year program designed to lead to a first degree. (A student enrolled in any other length program is considered an undergraduate student for only the first 4 years).

(20 U.S.C. 1070a unless otherless noted.)

§ 190.2a Special terms.

(a) *Eligible program in a public or nonprofit private college, university, junior college, community college or vocational school:* An undergraduate program of education or training which—

(1) Admits as regular students only persons who—

(i) Have a certificate of graduation from a secondary school, (high school graduates),

(ii) Have the equivalent of a high school diploma, a General Education Development (GED) Certificate, and

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is located, and may benefit from the education or training offered.

(2)(i) Leads to a bachelor, associate or undergraduate professional degree,

(ii) Is acceptable for full credit toward a bachelor degree, or

(iii) Is at least a 1-year program leading to a certificate or degree, which prepares students for gainful employment in a recognized occupation. (A 1-year program is defined in § 190.3(c)).

(b) *Eligible program in a proprietary institution of higher education:* An undergraduate program of education or training which—

(1)Admits as regular students only high school graduates or GED recipients,

(2) Leads to a degree or certificate,

(3) Prepares students for gainful employment in a recognized occupation, and

(4) Is at least a 6-month program as defined in § 190.3(d).

(c) *Regular student:* A person who enrolls in an eligible program at an institution of higher education for the purpose of obtaining a degree or certificate.

(d) *Payment period—General.* Institutions not using semesters, trimesters, quarters or other academic terms, or which do not measure progress in credit hours, must have at least two payment periods between July 1 of one year and June 30 of the following year (an award period). The two payment periods are calculated in the following way:

(1) If the student's academic year is within one award period and the student's educational program is not less than a full academic year—

(i) The first payment period is the first half of the student's academic year, and

(ii) The second payment period is the second half of the student's academic year.

(2) If the student's academic year is NOT within one award period or the student's educational program is LESS than a full academic year—

(i) The first payment period is the first half of the hours the student is scheduled to complete within the award period, and

(ii) The second payment period begins when the first payment period ends and ends when the student completes all hours he/she was scheduled to complete between the beginning of the second payment period and June 30.

(3) A student with incompleted hours for the second payment period of any award period may complete them during the following award period. In this case, the first payment period of the new award period will not begin until the student has finished all carried over hours for which he/she was paid.

(e) *Payment period—Academic terms/credit hour institutions.* For those institutions which use academic terms and measure progress in credit hours, a payment period is a span of time which corresponds with each semester, trimester, quarter or other academic term.

(20 U.S.C. 1070a.)

§ 190.3 Institution of higher education.

An institution of higher education is a public, private nonprofit or proprietary institution.

(a) *A public or private nonprofit institution of higher Education* is an educational institution which—

(1) Is in a State;

(2) Admits as regular students only persons who—

(i) Have a high school diploma,

(ii) Have a GED Certificate, or

(iii) Are beyond the age of compulsory school attendance in the state in which the institution is locate, and have the ability to benefit from the training offered. (An institution must document a student's ability to benefit from the training offered on the basis of standardized test, other measurement instruments, practicum examinations or verifiable indicators such as written recommendations from professional educators, counselors, or employers not affiliated with the institution);

(3) Is legally authorized to provide an education program beyond secondary education in each State in which the institution is physically located;

(4) Provides—

(i) An educational program for which it awards an associate, baccalaureate, advanced or professional degree,

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(ii) At least a 2-year program which is acceptable for full credit towards a baccalaureate degree, or

(iii) At least a 1-year training program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation, and

(5) Is—

(i) Accredited by an accrediting agency,

(ii) Approved by a State agency recognized by the Commissioner as a reliable authority on the quality of public postsecondary vocational education in its State, if the instutution is a public postsecondary vocational educational institution,

(iii) An institution which has satisfactorily assured the Commissioner that it will meet the accreditation standards of an agency or association within a reasonable time, considering the resources available to the institution, the period of time it has operated and its efforts to meet accreditation standards, or

(iv) An institution whose credits are accepted on transfer by at least 3 accredited institutions on the same basis as transfer credits from fully accredited institutions.

(b) *A proprietary institution of higher education* is an educational institution which—

(1) Is not a public or other nonprofit institution;

(2) Is in a State;

(3) Admits as regular students only person who have a high school diploma or a GED certificate;

(4) Is legally authorized to provide postsecondary education in the state in which it is physically located;

(5) Provides at least a 6-month program of training to prepare students for gainful employment in a recognized occupation;

(6) Is accredited by an accrediting agency;

(7) Has been in existence for at least 2 years, i.e., is legally authorized to provide, and has provided, a training program on a continuous basis to prepare students for gainful employment in a recognized occupation during the 24 months (except for normal vacation period) preceding the date of application for eligibility; and

(8) Has entered into an agreement which the Commissioner has determined will insure that the availability of assistance to students under Title IV of HEA has not resulted in, and will not result in, increased tuition, fees or other charges to its students.

(c) *One year training program.* A program which is—

(1) At least 24 semester or trimester hours or units, or 36 quarter hours or units, at institutions using semesters, trimesters or quarter systems;

(2) At least 900 clock hours of supervised training at institutions not using semesters, trimesters or quarter systems; or

(3) At least 900 hours of preparation for a correspondence program.

(d) *Six month training program.* A Program which is—

(1) At least 16 semester or trimester hours or 24 quarter hours at institutions using semester, trimesters, or quarter systems;

(2) At least 600 clock hours of supervised training at institutions not using semesters, trimesters, or quarter hour systems, or

(3) At least 600 hours of preparation for a correspondence program.

(20 U.S.C. 1141(a), 20 U.S.C. 1088(b)(3).)

§ 190.4 Eligible student.

(a) A student is eligible to receive a Basic Grant if the student—

(1) Is accepted for enrollment or is enrolled in good standing as at least a half-time undergraduate student at an institution of higher education;

(2) Is enrolled in an eligible program as a regualar student, as defined in § 190.2a; and

(3) Is a U.S. Citizen or National, is or intends to become a permanent U.S. resident, or is a permanent resident of the Trust Territory of the Pacific Islands.

(b) A member of a religious order (community, society, agency or organization) who is pursuing a course of study in an institution of higher education will be considered as having a family contribution of not less than $1,601 if that religious order—

(1) Has as a primary objective the promotion of ideals and beliefs regarding a Supreme Being;

(2) Requires its members to forego monetary or other support substantially beyond the support it provides; and

(3)(i) Has directed the member to pursue the course of study, or

(ii) Provides subsistence support to its member.

(20 U.S.C. 1070a.)

§ 190.5 Duration of student eligibility.

(a) A student is eligible to receive a Basic Grant for the period of time required to complete an undergraduate course of study. That period is usually 4 academic years, but may be extended up to one additional year if—

(1) The student is pursuing a 5-year course of study designed to lead to a first degree; or

(2) The student is or will be required to enroll in a noncredit remedial course of study.

(b) For the purpose of paragraph (a) of this section, a noncredit remedial course of study is a course of study for which no credit is given toward an academic degree and which is designed to increase the ability of the student to pursue an undergraduate course of study leading to such a degree.

(c) The Commissioner will subtract from each student's period of eligibility, any period for which the student has received a Basic Grant. The eligibility used during an award period will be calculated by: The student's Basic Grant Award for that award period, divided by the student's Scheduled Basic Grant.

(d) If a student has received an overpayment in an award period, the overpayment will not be used in calculating the amount of eligibility used.

(20 U.S.C. 1070a.)

§ 190.6 Basic Grant payments from more than one institution.

A student will not be entitled to receive Basic Grant payments concurrently from more than one institution or from the Commissioner and an institution.

(20 U.S.C. 1070a.)

§ 190.7 Institutional eligibility.

(a)(1) An institution of higher education is eligible to participate in the Basic Grant Program if it meets the appropriate definition set forth in § 190.3, and is in compliance with the applicable provisions of part 168 of this title, "Standards of Administrative Capability and Financial Responsibility."

(2) If an institution becomes eligible during an award period, a student enrolled and attending that institution will be eligible to receive a Basic Grant for the payment period during which the institution became eligible and any subsequent payment period.

(b)(1) An institution of higher education becomes ineligible to participate in the Basic Grant Program if it no longer meets the applicable definition set forth in § 190.3, or if its eligibility is terminated under Subpart H of part 168 of this title.

(2) If an institution becomes ineligible during an award period, an eligible student, who is enrolled and attending that institution, will be paid a Basic Grant for the payment period prior to the time the institution became ineligible. In addition, an eligible student, who has received a Basic Grant or to whom a commitment has been made before the effective date of termination of the institution's eligibility, will be paid a Basic Grant for the payment period in which the institution became ineligible.

(3) For purposes of this section, a commitment of a Basic Grant to a student is made when a student, who is enrolled in and attending an institution, submits a valid Student Eligibility Report to the institution, or to the Commissioner if the institution participates in the program under the Alternate Disbursement System.

(c) An institution which becomes ineligible must provide the Commissioner with the names and enrollment status of each student eligible for Basic Grants attending the institution when its eligibility was terminated.

(d) An institution under the Regular Disbursement System which becomes ineligible must supply to the Commissioner—

(1) A list of students to whom a commitment of a Basic Grant has been made as of the date of termination;

(2) The amount of funds paid to each Basic Grant recipient for that award period;

(3) The amount due to each student eligible to receive a Basic Grant through the end of the payment period; and

(4) An accounting of the Basic Grant expenditures for that award period to the date of termination.

(20 U.S.C. 1070a.)

§ 190.8 Consortium agreements.

(a) A consortium agreement is a written agreement between at least two institutions which enables an enrolled student in an eligible program at the first institution to take courses at the second institution which apply towards his/her certificate or degree at the first institution.

(b) If two eligible institutions have entered into a consortium agreement, the institution at which the student is enrolled and expects to receive a degree or certificate calculates and pays the student's Basic Grant.

(c) Courses taken at both institutions under a consortium agreement will be considered in determining the student's enrollment status and cost of attendance in calculating the student's Basic Grant.

(20 U.S.C. 1070a.)

§ 190.9 Determination of enrollment status under special circumstances.

(a) *Non-credit remedial courses.* In determining a student's enrollment status, the institution will include any non-credit remedial course in which the student is enrolled. If a non-credit remedial course is not measured by clock or credit hours, the institution must determine the equivalent number of clock or credit hours which should be included for that work.

(b) *Combination of regular and correspondence study.* If an eligible student takes correspondence courses from either his/her own institution or another institution under a consortium agreement with the student's institution, the correspondence work must be included in determining the student's enrollment status if it—

(1) Applies toward the student's degree or certificate or is remedial work necessary for the student or to proceed in his/her course of study;

(2) Is completed within the period of time required for regular course work; and

(3) Does not exceed one-half of the student's total course load for that payment period.

(20 U.S.C. 1070a.)

§ 190.10 Adminstrative cost allowance to participating schools.

(a) Any participating educational institution is eligible to receive an administrative cost allowance when funds are appropriated by Congress for this purpose.

If funds are sufficient, each participating institution will be paid not more than $10 per year for each student who receives a Basic Grant. (No institution may count a Basic Grant recipient more than once in an award period).

All funds a school receives under this section must be used to provide consumer information in accordance with 45 CFR 178, and for additional costs of administrating student financial aid programs under Title IV of HEA.

(b) If appropriated funds for any fiscal year are insufficient to pay full allowances, payments will be proportionately reduced. If additional funds become available for any fiscal year in which payments were reduced, allowances will be increased proportionately to the reductions.

(20 U.S.C. 1070a(d).)

Supart B — Application Procedures for Determining Expected Family Contribution

§ 190.11 Application.

(a) To receive a Basic Grant, a student applies to the Commissioner on an approved form to have his/her expected family contribution determined.

(b) The student, and where relevant the student's parents or spouse, must submit accurate and complete information as of the date the application is signed.

(c) The address provided by the student must be his/her residence and not the address of the school, unless the student resides at the school.

(20 U.S.C. 1070a(b)(2).)

§ 190.12 Certification of information.

The applicant, and where relevant the applicant's parents or spouse, will provide (if requested) information or documents, including a copy of Federal Income Tax Returns, necessary to verify the accuracy of the information provided.

(20 U.S.C. 1070a(b)(2).)

§ 190.13 Deadline for filing applications.

For each award period the Commissioner will establish application filing cut-off dates for determining expected family contributions.

(20 U.S.C. 1070a(b)(1).)

§ 190.14 Notification of expected family contribution.

The Commissioner will send to each eligible applicant a "Student Eligibility Report" which states the amount of the applicant's expected family contribution and information used in that computation.

(20 U.S.C. 1070a.)

§ 190.15 Applicant's request for recomputation of expected family contribution because of clerical or arithmetic error.

An applicant may request a recomputation of the expected family contribution if he/she believes a clerical or arithmetic error has occurred, or if the information submitted was inaccurate when the application was signed.

A request for recomputation will be made on an approved form and must be received by the Commissioner no later than the annual cut-off date unless the recomputation is necessary because of a request made by the Commissioner to verify information.

(20 U.S.C. 1070a(b)(2).)

§ 190.16 Request for recomputation of expected family contribution because of extraordinary circumstances.

In filing an application to have an expected family contribution determined, an applicant may provide financial information relating to the tax year immediately following the base year if the conditions in §§ 190.39 or 190.48 apply.

(20 U.S.C. 1070a.)

Subpart C—(Family Contribution Schedule)

Subpart D—(Family Contribution Schedule)

Subpart E—Costs of Attendance

§ 190.51 General attendance costs.

(a) Except as provided in §§ 190.52 through 190.55, the following will be recognized as a student's costs of attendance:

(1) *Tuition and fees:* The amount charged to a full-time student by the institution for tuition and fees for an academic year.

Tuition and fees may include travel costs within the United States required for completion of the course of study, but not for travel between the student's residence and the institution, or for travel outside the United States.

(2) *Room and board:*

(i) The amount charged the student by the institution under a contract for room and board,

(ii) The amount charged the student by the institution under a contract for room but not board, plus an allowance of $625 for the award period,

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(iii) The amount charged the student by the institution under a contract for board but not room, plus an allowance of $475 for the award period,

(iv) If no contract is entered into for either room or board, an allowance of $1,100 for the award period whether or not the student lives with a parent, or

(v) If an institution enters into a contract with the student for room and/or board for less than 7 days a week, a daily rate will be computed and charged the student for those days not covered by the contract. This amount will be added to the costs established under clauses (i), (ii), or (iii) of subparagraph (a)(2), whichever is applicable.

(3) An allowance of $400 will be made for books, supplies and miscellaneous expenses for the award period.

(b) A student who receives a Basic Grant may not be charged more by an institution than a student enrolled in that same program who does not receive a Basic Grant.

(20 U.S.C. 1070(a)(2)(B)(iv).)

§ 190.52 Attendance costs for students in correspondence study programs.

If a student is enrolled in a correspondence study program, only the costs of tuition and fees charged the student for that program for an academic year will be recognized as a student's costs of attendance. However, room and board costs incurred for fulfilling a required period of residential training may be recognized as a cost of attendance.

These room and board costs will be—

(a) Based on institutional charges; or

(b) Determined according to the costs established in § 190.51(a)(2) and prorated in the same ratio as the course work completed in residential training bears to the course work for an academic year.

(20 U.S.C. 1070a.)

§ 190.53 Attendance costs for students whose program length exceeds the academic year at institutions using clock hours.

Costs for students whose program length exceeds the length of the academic year at institutions measuring progress in clock hours will be calculated by adding—

(a) Institutional charges × clock hours in academic year/clock hours in program;

(b) Room and/or board as described in 190.51(a)(2) if not determined in paragraph (a) of this section; and

(c) An allowance of $400 for books, supplies and miscellaneous expenses.

(20 U.S.C. 1070(a)(2)(B)(iv).)

§ 190.54 Attendance cost for incarcerated students.

(a) Costs of attendance for eligible students who are incarcerated and for whom at least one-half of room and board expenses are provided will include—

(1) Tuition and fees charged a full-time student for an academic year: and

(2) An allowance of $150 for books and supplies.

(b) Costs of attendance for eligible students who are incarcerated and for whom less than one-half of room and board expenses are provided will be the same as those allowed for students who are not incarcerated.

(20 U.S.C. 1070(a)(B)(iv).)

§ 190.55 Attendance costs for students at U.S. Armed Forces academies.

Students enrolled at the U.S. Military Academy at West Point, the U.S. Naval Academy, the U.S. Air Force Academy or the U.S. Coast Guard Academy will be considered to have no cost of attendance.

(20 U.S.C. 1070a(2)(B)(iv).)

Subpart F—Determination of Basic Grant Awards

§ 190.61 Submission process and deadline for student eligibility report.

(a) A student applies for a Basic Grant by submitting a valid "Student Eligibility Report" (SER) to his/her institution or to the Commissioner if that institution is on the Alternate Disbursement System.

The SER is considered valid only if all information used in the calculation of the expected family contribution is complete and accurate when the application was signed. Institutions are entitled to rely on SER information except under conditions set forth in § 190.77

(b) To receive a Basic Grant, a student who enrolls befor May 1 of an award period must submit the SER to his/her institution on or before May 31 of each award period.

A student who enrolls on or after May 1 of an award period may submit the SER to the institution on or before June 30 of that award period.

(c) A student attending an institution under the Alternate Disbursement System is permitted an additional ten days to submit the SER to the Comissioner; June 10 for those who enroll on or before May 1, and July 10 for those who enroll after May 1.

(d) A student who submits an SER to an institution at the time he/she is no longer enrolled and attending a program at that institution may not be paid a Basic Grant.

(20 U.S.C. 1070a(b)(2).)

§ 190.62 Calculation of a Scheduled Basic Grant at full funding.

(a) When funds are available to satisfy all payments, the Commissioner will pay each eligible full-time student for a complete academic year a Basic Grant which is the lowest of the following calculations:

(1) The difference between $1,800 and the expected family contribution stated on the applicant's SER;

(2) 50 percent of the applicant's cost of attendance; and

(3) The difference between the cost of attendance and expected family contribution.

(b) Notwithstanding paragraph (a) of this section, no payment will be made if the student's Scheduled Basic Grant is less than $200.

(20 U.S.C. 1070a(a)(2).)

§ 190.63 Calculation of a Scheduled Basic Grant at less than full funding.

(a) When funds are not available to satisfy all payments, the Commissioner will pay each eligible full-time student for a complete academic year a Basic Grant which is the lowest of the following calculations:

(1) The difference between $1,800 and the expected family contribution, reducing the remainder in accordance with section 411(b)(3) of the Act;

(2) 50 percent of the applicant's costs of attendance; and

(3) The difference between the costs of attendance and expected family contribution.

(b) Notwithstanding paragraph (a) of this section, no payment will be made if—

(1) The student's award is less than $50; or

(2) When calculated at full funding, the Scheduled Basic Grant is less than $200. (See § 190.62(a).)

(20 U.S.C. 107a(b)(3).)

§ 190.64 Calculation of a Basic Grant for a payment period.

(a) At those institutions using semesters, trimesters, quarters, or other academic terms and measuring progress by credit hours, a Basic Grant for each payment period is calculated as follows:

(1) If a student is enrolled in an eligible program which is at least a full academic year—

(i) Determine the student's Scheduled Basic Grant according to § 190.62 (full funding) or § 190.63 (less than full funding) whichever is appropriate,

(ii) Divide the Scheduled Basic Grant by the number of payment periods in the academic year, and

(iii) Multiply the result obtained in clause (ii) by the student's enrollment status. (See § 190.2 to determine enrollment status.)

(2) If a student is enrolled in an eligible program which is LESS than a full academic year—

(i) Determine the student's Scheduled Basic Grant,

(ii) Divide the Scheduled Basic Grant by the number of payment periods,

(iii) Multiply the result obtained in clause (ii) by the student's enrollment status, and

(iv) Multiply the result obtained in clause (iii) by: the credit hours in the program/the credit hours in the academic year.

(b) At those institutions which measure progress by clock hours or do not use semesters, trimesters, quarters or other academic terms, a Basic Grant for each payment period is calculated as follows:

(1) Determine the the student's Scheduled Basic Grant; and

(2) Multiply the Scheduled Basic Grant by: the credit or clock hours in the payment period/the credit or clock hours in an academic year.

(c) Notwithstanding paragraphs (a) and (b) of this section, a student may not receive a Basic Grant if the amount which the student would receive, projected on the basis of a full academic year, would be less than either $200 at full funding or $50 at less than full funding.

(20 U.S.C. 1070a.)

§ 190.65 Calculation of Basic Grants for terms which span two award periods.

At institutions which measure progress by credit hours and use semesters, trimesters, quarters or other academic terms, students will be paid for credit hours in terms which span two award periods by the following procedure:

(a) Payment for the credit hours will be made during the award period in which the term begins up to (but not to exceed) the student's Scheduled Basic Grant for that award period.

(b) Payment for any remaining credits due the student will be made the following award period.

(20 U.S.C. 1070a.)

§ 190.66 Transfer student: attendance at more than one institution during an award period.

(a) If a Basic Grant recipient withdraws from one institution and enrolls at a second in the same award period, the student must reapply for a Basic Grant to the second institution, or to the Commissioner for an ADS institution. (See § 190.72.)

(b) The second institution (or the Commissioner for ADS schools) calculates the student's award according to § 190.64.

(c) The second institution (or the Commissioner for ADS schools) pays a Basic Grant for only that portion of the award period in which the student is enrolled at that institution. The grant must be adjusted to ensure that the student does not exceed the Scheduled Basic Grant for that award period.

(d) A transfer student must repay any amount received in an award period which exceeds the Scheduled Basic Grant.

(20 U.S.C. 1070a.)

§ 190.67 Correspondence study.

A student, enrolled in a correspondence study program will be paid according to the following procedures:

(a) The institution prepares a written schedule for submission of lessons which must reflect a work load of at least 12 hours of preparation per week. This schedule is used to determine the length of the program.

(b) The student's Basic Grant for an award period is calculated as follows:

(1) Determine the Scheduled Basic Grant according to §§ 190.62 or 190.63, whichever is appropriate, and

(2) Multiply the Scheduled Basic Grant by the following fraction: hours of preparation in the award period/ hours of preparation in the academic year.

(c) The student will be paid as a half-time student. Therefore, the maximum award a student may receive is the lesser of (1) one-half of the student's Scheduled Basic Grant for that award period, or (2) the amount obtained in subparagraph (b)(2) of the section.

(d) A student will receive 2 equal payments for an award period. The first payment will be made after the student has submitted 25 percent of the lessons scheduled for the award period.

(e) The final payment will be made after the student has submitted 75 percent of the lessons scheduled for the award period.

(20 U.S.C. 1070a.)

Subpart G—Administration of Grant Payments—Regular Disbursement System

§ 190.71 Scope.

This subpart deals with program administration by an institution of higher education that has entered into an agreement with the Commissioner to calculated and pay Basic Grant awards.

(20 U.S.C. 1070a.)

§ 190.72 Institutional agreement—regular disbursement system (RDS).

(a) The Commissioner may enter into an agreement with an institution of higher education under which the institution will calculate and pay Basic Grants to its students. The agreement will be on a standard form provided by the Commissioner and will contain the necessary terms to carry out this part.

(b) The Commissioner will send a payment schedule for each award period to an institution that has entered into an agreement under paragraph (a) of this section.

(20 U.S.C. 1070a.)

§ 190.73 Termination of agreement—regular disbursement system.

(a) *Termination by Commissioner.* The Commissioner may terminate the agreement with an institution by giving—

(1) 30 days notice; or

(2) A shorter period of time if it is necesary to prevent the likelihood of a substantial loss of funds to the Federal government or to students.

(b) *Information provided.* The institution must provide the following information to the Commissioner if the Commissioner terminates the agreement:

(1) A list of students who had Basic Grant commitments as of the date of termination;

(2) The amount of funds paid to Basic Grant recipients for the award period in which the agreement is terminated;

(3) The amount due to each student eligible to receive a Basic Grant through the end of the award period; and

(4) An account of Basic Grant expenditures to the date of termination.

(c) *Termination by institution.* The institution may terminate the agreement by giving the commissioner written notice. The termination will become effective June 30 of that award period. The institution must carry out the agreement for the remainder of the award period.

(d) *Termination because of change in ownership which results in a change of control.* The agreement automatically terminates when an institution changes ownership which results in a change of control. The Commissioner will enter into an agreement with the new owner if the institution complies with requirements set forth in § 149.66 of the "Eligibility Regulations." (45 CFR 149.66.)

(e) If an agreement is terminated, the Commissioner will pay an institution's students ONLY if it enters into an ADS agreement. (See § 190.92.)

(20 U.S.C. 1070a.)

§ 190.74 Advancement of funds to institutions.

The Commissioner will advance funds for each award period, from time to time, to RDS institutions, based on his/her estimate of the institution's needs for funds to pay its Basic Grant students.

(20 U.S.C. 1070a(b)(3)(A).)

§ 190.75 Determination of eligibility for payment.

(a) An institution may pay a Basic Grant to a student only after it determines that the student—

(1) Meets the eligibility requirements set forth in section 190.4;

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(2) Is enrolled in good standing;
(3) Is maintaining satisfactory progress in his/her course of study;
(4) Is not in default on any National Direct Student Loan made by that institution or on any Guaranteed Student Loan received for attendance at that institution; and
(5) Does not owe a refund on a Basic Grant, a Supplemental Grant or a State Student Incentive Grant received for attendance at that institution.

(b) Before making any payment to the student for an award period, the institution must confirm that he/she continues to meet the criteria set forth in paragraph (a) of this section. However, if an eligible student submits an SER to the institution and becomes ineligible before receiving a payment, the institution must pay only the amount which it determines could have been used for educational purposes before the student became ineligible.

(c) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress, but reverses itself BEFORE the end of the payment period, the institution may pay a Basic Grant to the student for the entire payment period.

(d) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress, but reverses itself AFTER the end of the payment period, the institution may neither pay the student a Basic Grant for that payment period nor make adjustments in subsequent Basic Grant payments to compensate for the loss of aid for that period.

(e) Conditions under which students who are overpaid grants may continue to receive Basic Grants are as follows:

(1) *Overpayment of a Basic Grant.* If a student is overpaid a Basic Grant at an institution, that institution may pay a Basic Grant to that student if (i) the student is otherwise eligible, and (ii) the overpayment can be eliminated in the award period in which it occurred by adjusting the subsequent Basic Grant payments for that award period.

(2) *Overpayment of a Basic Grant due to institutional error.* In addition to the exception provided in subparagraph (1) of this paragraph, if the student is overpaid a Basic Grant at an institution as a result of institutional error, the institution may also pay the student a Basic Grant if:

(i) The student is otherwise eligible, and

(ii) The student acknowledges in writing the amount of overpayment and agrees to repay it in a reasonable period of time.

(3) *Overpayment on a Supplemental Grant.* An institution may continue to pay a Basic Grant to a student who receives an overpayment on a Supplemental Grant if:

(i) The student is otherwise eligible, and

(ii) An adjustment in subsequent financial aid payments (other than Basic Grants) eliminates the overpayment in the same award period in which it occurred.

(f) An institution, in determining whether a student is in default on a loan made under the Guaranteed Student Loan Program, may rely upon the student's written statement that he/she is not in default unless the institution has information to the contrary.

(g) Conditions under which students who are in default on loans may receive Basic Grants are as follows:

(1) *Guaranteed Student Loan.* A student, who is in default, may be paid a Basic Grant if the Commissioner (for federally insured loans) or a guarantee agency (for a loan insured by that guarantee agency) determines that the student has made satisfactory arrangements to repay the defaulted loan.

(2) *National Direct Student Loan.* An institution may pay a Basic Grant to a student in default on a National Direct Student Loan made at that institution, if the student has made arrangements, satisfactory to the institution, to repay the loan.

(h) For purposes of this part—

(1) Overpayment of a grant means that a student received payment of a grant greater than the amount he/she was entitled to receive;

(2) Supplemental Grant is a grant authorized under Title IV-A-2 of the HEA;

(3) State Student Incentive Grant is a grant authorized under Title IV-A-3 of the HEA;

(4) National Direct Student Loan is a loan made under Title IV-E of the HEA, and

(5) Guaranteed Student Loan is a loan made under Title IV-B of the HEA.

(20 U.S.C. 1070a, 20 U.S.C. 1070b et seq, 20 U.S.C. 1087aa et seq, 20 U.S.C. 1071 et seq, and 20 U.S.C. 1088b.)

§ 190.76 Frequency of payment.

(a) For each payment period, an institution may pay a student at such times and in such installments as it determines will best meet the student's needs.

(b) Only one payment is required if a portion of an academic year occurring within one award period is less than three months.

(c) Funds due a student for any completed period may be paid in one lump sum. The student's enrollment status will be determined according to work already completed.

(20 U.S.C. 1070a.)

§ 190.77 Verification of information on the SER—withholding of payments.

(a) The Commissioner may request that a student verify the information submitted on the application and included on the SER, and may request an institution to withhold payment of a student's grant.

(b) If an institution believes that any information on the SER used in calculating the student's expected family contribution is inaccurate, or if the application is chosen by the Commissioner for verification, the institution must request verification from the student.

(c) If an institution can document inaccuracies in the information used to calculate the student's expected family contribution on the SER, it may not pay a Basic Grant for any award period until the student corrects the error or verifies the data.

(d) If an institution cannot document that inaccuracies exist on the SER, it may not withhold payments unless authorized by the Commissioner.

(e) A student corrects an SER by—

(1) Providing accurate information on the SER;

(2) Getting the appropriate signatures on the SER; and

(3) Re-submitting the SER to the Commissioner.

(f) (1) If a student makes a correction which results in a change in his/her expected family contribution, the institution must recalculate the student's award based on the verified SER and any overpayment must be repaid by the student.

(2) If the documentation requested by the institution under this section does not verify the information of the SER, or if the student does not correct the SER, the institution must forward the student's name, social security number and other relevant information to the Commissioner.

(g) When notified by an institution under paragraph (f)(2) of this section, the Commissioner will determine whether to—

(1) Request additional information from the student; or

(2) Pay the student's Basic Grant on the basis of the SER.

(h) (1) If the Commissioner requests documentation, the student must comply within a time period set by the Commissioner.

(2) If the student provides the requested documentation on time, he/she will be eligible for Basic Grant payments based upon the verified SER. If the verified SER is submitted to the institution after the appropriate deadline (§ 190.61) the student may be paid only up to the amount withheld, because of the verification process.

(3) If the student does not provide the requested documentation within the established time period—

(i) The student will forfeit the Basic Grant for that award period,

(ii) Any grant payments received must be returned to the Commissioner, and

(iii) No further Basic Grant applications will be processed for that student until documentation has been provided or the Commissioner decides there is no longer need for documentation.

(4) If the student provides the documentation AFTER the established time period—

(i) The student will not be eligible for any further Basic Grant payments for that period,

(ii) Any overpayments must be repaid by the student to the institution, and

(iii) The student may keep any Basic Grant payments he/she is entitled to.

(20 U.S.C. 1070a.)

§ 190.78 Method of disbursement—by check or credit to student's account.

(a) A student may be paid either by check or be crediting his/her account with the institution. The institution must notify the student how he/she will be paid.

(b) (1) No payment may be made to a student for a payment period until the student is registered for that period.

(2) The earliest a direct payment may be made to a student is 10 days before the first day of classes of a payment period.

(3) The earliest a payment can be credited is 3 weeks before the first day of classes of a payment period.

(c) (1) If an institution credits a student's account, it must—

(i) Prepare a written schedule of the time and amount of each payment,

(ii) Get the student's signature on the schedule, and

(iii) Give a copy of the signed schedule to the student and keep a signed copy for its own records.

(2) Notwithstanding subparagraph (1) of this paragraph, if the institution prepares a schedule which a student refuses to sign, it still may pay the student if it retains the schedule with a notation that the student refused to sign.

(d) If a student has been paid and withdraws from the institution, officially or unofficially, or is expelled before the first day of classes, the institution must return to the Basic Grant account all funds paid.

(e) (1) If an institution pays directly, it must notify the student when the Basic Grant awards will be paid.

(2) If a student does not pick up the check on time, the institution must keep that check 15 days after the last date of the student's enrollment for that award period.

(3) If the student has not picked up the check at the end of the 15 day period, the institution may credit the student's account for any amount owed to it for the award period.

(4) A student forfeits the right to receive any remaining Basic Grant payment if he/she has not picked up the check within the specified period of time.

(5) Notwithstanding subparagraph (4) of this paragraph, the institution may, if it chooses, pay a student who did not pick up the check, through the next payment period.

(20 U.S.C. 1070a.)

§ 190.79 Affidavit of educational purpose.

No Basic Grant may be paid unless the student has filed a notarized affidavit with the institution he/she attends which—

(a) Is on a form approved by the Commissioner;

(b) States that the grant money will be used solely for educational expenses at the institution; and

(c) Is notarized by someone who does not recruit students for the institution.

(20 U.S.C. 1088g.)

§ 190.80 Recovery of overpayments.

(a) An institution is liable for an overpayment to a student if the regulations indicate that the payment should not have been made and the institution cannot collect the overpayment.

(b) If an institution makes an overpayment for which it is not liable, it must help the Commissioner recover the overpayment by—

(1) Making a reasonable effort to contact the student and recover the overpayment; and, if unsuccessful,

(2) Notifying the Commissioner of its attempt to recover the overpayment, and providing the Commissioner with the student's name, social security number, amount of overpayment and other relevant information.

(20 U.S.C. 1070a.)

§ 190.81 Recalculation of a Basic Grant award.

(a) *Change in expected family contribution.* (1) If the student's expected family contribution changes the institution must recalculate the Basic Grant Award.

(2) If the expected family contribution is recalculated because of—

(i) A clerical or arithmetic error under § 190.15, or

(ii) Extraordinary circumstances which affect the expected family contribution under §§ 190.39 and 190.48, the award is adjusted and the institution pays the student what he/she is entitled to for the award period.

(3) If a student's expected family contribution is recalcuated because of a correction of the information requested under §§ 190.12 or 190.77, the student's Basic Grant for the award period must be adjusted. Where possible, the adjustment must be made within the same award period. If the recalculation takes place in a subsequent award period, the student will be eligible to receive payment unless prohibited under the provisions of § 190.77(h) and will be required to return any overpayment at the time of recalculation.

(b) *Change in enrollment status.* If an institution decides that a student's enrollment status has changed during a payment period, it may (but is not required to) establish a policy under which the student's enrollment status may be recalculated. If such a policy is established, it must apply to all students. If a student's award is recalculated, the institution determines the total amount the student is entitled to for the entire payment period by taking into account—

(1) The portion of the payment period at the original enrollment status;

(2) The portion of the payment period at the new enrollment status; and

(3) Any change in the student's costs of attendance.

(20 U.S.C. 1070a.)

§ 190.82 Fiscal control and fund accounting procedures.

(a) An institution must deposit all Federal funds it receives under the Basic Grant, Supplemental Grant, College Work-Study and National Direct Student Loan programs in an account which includes only those funds. This account is subject to audit by the Commissioner.

(b) Funds received by an institution under this part are held in trust for the intended student beneficiaries and may not be used or hypothecated for any other purpose.

(20 U.S.C. 1070a.)

§ 190.83 Maintenance and retention of records.

(a) Each institution must maintain adequate records which include—

(1) The eligibility of all enrolled students who have applied for Basic Grants;

(2) The name, social security number and amount paid to each recipient;

(3) The amount and date of each payment;

(4) The amount and date of any overpayment that has been restored to the program account;

(5) The "Student Eligibility Report" for each student;

(6) The student's cost of attendance;

(7) How the student's full or part-time enrollment status was determined; and

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(8) The student's enrollment period.

(b) The records listed in paragraph (a) will be available for inspection by the Commissioner's authorized representative at any reasonable time in the institution's offices. Records will be kept for five years after the institution submits an accounting of each award period's funds to the Commissioner.

(c) The records involved in any claim or expenditure questioned by Federal audit will be retained until resolution of any audit questions.

(d) An institution may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(20 U.S.C. 1070a.)

§ 190.84 Submission of reports.

The institution will submit the reports and information the Commissioner requires in connection with the funds advanced to it in accordance with § 190.74. The institution will comply with the procedures the Commissioner may find necessary to ensure that the reports are correct.

(20 U.S.C. 1070a.)

§ 190.85 Audit and examination.

(a) *Federal audits.* The Secretary, the Comptroller General of the United States or their duly authorized representatives, will have access to the records specified in §§ 190.82 and 190.83 and to any other pertinent books, documents, papers and records.

(b) *Non-Federal audits.* All Basic Grant Program transactions will be audited by the institution or at the institution's direction to determine at a minimum—

(1) The fiscal integrity of financial transactions and reports; and

(2) If such transactions are in compliance with the applicable laws and regulations. Such audits will be performed in accordance with HEW's "Audit Guide" for student financial aid programs. The audit will be scheduled annually or, at least once every two years, depending on the size and complexity of the program.

(c) Audit reports will be submitted for review to the institution's local regional office of HEW's Audit Agency. The Audit Agency and the Commissioner will also be given access to records or other documents necessary to the audit's review.

(20 U.S.C. 1070a.)

Subpart H—Administration of Grant Payments—Alternate Disbursement System

§ 190.91 Scope.

This subpart deals with program administration by an institution of higher education under the Alternate Disbursement System (ADS). Under the ADS, the Commissioner calculates and pays the Basic Grant funds.

(20 U.S.C. 1070a.)

§ 190.92 Institutional agreement—Alternate Disbursement System (ADS).

Under ADS, the Commissioner will calculate and pay Basic Grant Awards to students enrolled in institutions which have entered into agreements to carry out this subpart, including—

(a) The completion of OE Form 304 for each eligible student, as specified in § 190.94; and

(b) The maintenance and retention of records as specified in § 190.96.

(20 U.S.C. 1070a.)

§ 190.93 Change in ownership and change to the Regular Disbursement System (RDS).

(a) *Change to RDS.* The Commissioner may enter into an agreement with an ADS institution which wishes to participate in the program under the Regular Disbursement System. However, the agreement will go into effect July 1 of the succeeding award period.

(b) *Termination because of change in ownership that results in a change in control.* The agreement terminates when an institution changes ownership that results in a change in control. The Commissioner may enter into an agreement with the new owner if the institution complies with the requirements set forth in § 149.66 of the "Eligibility Regulations," (45 CFR 149.66).

(20 U.S.C. 1070a.)

§ 190.94 Calculation and disbursement of awards by the Commissioner of Education.

(a) An eligible student enrolled in an institution participating in the Basic Grant Program under the ADS applies to the Commissioner for a Basic Grant according to the following procedures:

(1) The student submits an SER to his/her institution and obtains an OE Form 304 from the institution;

(2) The student completes the OE Form 304, including the affidavit of educational purposes as described under § 190.79, and submits it to the institution;

(3) On the OE Form 304 the institution certifies that the student—

(i) Meets eligibility requirements of § 190.4,

(ii) Is maintaining satisfactory progress in his/her course of study,

(iii) Does not owe a refund on grants received for attendance at that institution under the Basic Grant, the Supplemental Educational Opportunity Grant, or the State Student Incentive Grant Programs, and

(iv) Is not in default on any National Direct Student Loan made by the institution or on any Guaranteed Student Loan received for attendance at that institution. (In determining whether a student is in default on a GSL, the institution may rely on a written statement provided by the student unless the institution has information to the contrary), and

(4) The institution returns the SER and OE Form 304 to the student, who then submits these documents to the Commissioner.

(b) If an institution believes that the information on an SER may be in error, the institution must notify the student and request documentation or correction. Any case not resolved by the institution should be reported to the Commissioner.

(c) The Commissioner will calculate a student's award in accordance with Subpart F of this part and will pay the student once every payment period.

(20 U.S.C. 1070a.)

§ 190.95 Termination of enrollment and refund.

(a) The institution must inform the Commissioner of the date on which a student officially or unofficially withdraws or is expelled during a payment period for which that student was paid.

(b) A student who officially or unofficially withdraws or is expelled from an institution before completion of 50 percent of a payment period for which he/she has been paid, will refund a prorated portion of the payment as determined by the Commissioner.

(20 U.S.C. 1070a.)

§ 190.96 Maintenance and retention of records.

(a) An institution under the ADS must establish and maintain—

(1) Records relating to each Basic Grant recipient's enrollment status, and attendance costs at the institution; and

(2) Records showing when each recipient was enrolled. These records must be available at the geographic location where the student will receive his/her degree or certificate of course completion, and must be kept for five years following a recipient's last date of enrollment.

(b) The institution will make available to the Commissioner, the Secretary of the Department of Health, Education and Welfare, the Comptroller General of the United States, and their authorized representatives, pertinent books, documents, papers and records for audit and examination during the five year retention period.

(c) An institution may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(20 U.S.C. 1070a.)

[FR Doc. 78-12879 Filed 5-12-78; 8:45 am]

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Federal Register

MONDAY, MAY 15, 1978
PART III



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination of Critical Habitat for the Whooping Crane

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[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination of Critical Habitat for the Whooping Crane

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines Critical Habitat for the whooping crane (*Grus americana*), an Endangered species, in the States of Colorado, Idaho, Kansas, Nebraska, New Mexico, Oklahoma, and Texas. This rule provides Federal protection of these areas under Section 7 of the Endangered Species Act of 1973 and is taken to assure the conservation of the whooping crane.

DATE: This rule becomes effective June 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

Background

In the Federal Register of December 16, 1975 (40 FR 58308-58312), the Service proposed the determination of Critical Habitat for the whooping crane and five other endangered species. Determinations of Critical Habitat for those other five endangered species have been made (41 FR 13926-13928, April 1, 1976—Snail Darter; 41 FR 41914-41916; September 24, 1976—American Crocodile, California Condor, Indiana Bat, and Florida Manatee).

Summary of Comments

The Critical Habitat proposal for the whooping crane in Idaho was supported by the Governor and the Idaho Fish and Game Department, as well as the Idaho Wildlife Federation and the Ada County Fish and Game League. The latter also recommended that other habitat adjacent to Gray's Lake National Wildlife Refuge be considered in future Critical Habitat proposals. The Service would be prepared to make such a determination at any time it is warranted by appropriate biological data.

The Kansas Forestry, Fish and Game Commission opposed designation of the Cheyenne Bottoms Waterfowl Management Areas as Critical Habitat for the whooping crane in Kansas. That agency felt that sufficient protection was already afforded the whooping crane in Kansas.

The Critical Habitat proposal in Nebraska for the whooping crane was the largest single zone proposed. This part of the proposal received the most comment—28 letters. Concern with possible Federal intervention into the private and local government rights was expressed by several individuals and agencies. General support was given by five private citizens, the National Audubon Society (and local chapters), as well as the Nebraska Game and Parks Commission. The latter suggested that only the Platte River channel and immediately adjacent wetlands and all rainwater basins of Type III and IV wetlands and their associated watersheds be determined Critical Habitat within the originally proposed zone. They acknowledged that sufficient data was not available to determine precisely which rainwater basins would meet the requirements of the whooping crane during migration. The Service agrees and the determination of the proposed Nebraska Zone as Critical Habitat has been refined to include the main channel and immediately associated riparian habitat of the Platte River in the stretch between Lexington and eastern Buffalo County. Until such time as the Service receives additional data on the habitat requirements of the whooping crane in Nebraska, the remaining area within this zone is not presently determined as Critical Habitat. However, the Service would be prepared to again propose such a determination at any time it is warranted by appropriate data on the whooping crane.

General opposition or concern to the proposed Critical Habitat in Nebraska was received without substantial biological data on the whooping crane's requirements from the city of Grand Island, the Grand Island Industrial Foundation, the Nebraska Office of Planning and Programming, the Central Platte Natural Resources District, the Central Nebraska Public Power and Irrigation District, the Nebraska Department of Aeronautics, and the Tri-Basin Natural Resources District. Two members of Congress and the Governor also expressed concern over the proposed size of the Nebraska zone as well as the effect the designation might have on the citizens of Nebraska. Four private citizens also expressed concern and general opposition to the proposal.

Comments on proposed areas in New Mexico and Colorado were received from the New Mexico Department of Game and Fish, several biologists, and one private citizen. In general, all suggested that the proposed zones in those States not be designated at this time (early 1976), since sufficient data was not available on whooping crane habitat requirements in these areas. Determination by the Service of the zones in Colorado and New Mexico as Critical Habitat is now being made based upon more recent data (through April 1978).

The National Audubon Society and the Oklahoma Department of Wildlife Conservation supported the proposal of Salt Plains National Wildlife Refuge as being designated Critical Habitat for the whooping crane.

The Whooping Crane Recovery Team provided the Service with much data and insight into the habitat requirements of the crane. In particular, the Team suggested refining and further restricting the final Critical Habitat from that proposed for the Aransas National Wildlife Refuge, Tex., Critical Habitat zone. The Service has accepted this refinement of that zone in the area delineated below. No comments were received by the Service in opposition to designating Aransas National Wildlife Refuge, Tex., as Critical Habitat for the whooping crane. One ranch owner expressed serious opposition to designation of a portion of Isla San Jose, adjacent to Aransas National Wildlife Refuge, because he felt his private enterprise would be restricted. Section 7 of the Act neither addresses or directly affects private landowners and their use of such lands that are determined to be a part of the Critical Habitat of a species. The Service must also utilize clearly definable and reasonable permanent boundaries which, by necessity, might include small strips of land or water that is not habitat meeting the direct needs of the species.

Several letters were received requesting further information or commenting on the Critical Habitat proposed in the Federal Register of December 16, 1975. These letters were too general to be categorized as being favorable or non-favorable towards the proposal. The Federal Highway Administration recommended that existing highways and their associated rights-of-way be specifically excluded from the Critical Habitat so designated. Existing man-made structures not necessary to the species'survival are excluded from this determination.

Basis for Determination

The proposal of December 16, 1975, involved nine zones in six States. The zones delineated below in the final determination of Critical Habitat represent a considerable reduction, particularly with respect to the Platte River zone in Nebraska. The decision to make this reduction was based upon a more thorough assessment of available biological data, particulary that provided by the Nebraska Game and Parks Commission.

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The Critical Habitat zones include roosting areas used during migration, as well as rearing and wintering areas. As more precise information becomes available, regarding other sites not listed below, the Service may consider the proposal of additional Critical Habitat for the whooping crane.

Critical Habitat

Section 7 of the act, entitled "Interagency Cooperation," states:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "Critical Habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the Federal Register of January 4, 1978 (43 FR 870-876) to be codified at 50 CFR 402 and is reprinted below:

> "Critical habitat" means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the regulations for Interagency Cooperation as published in the January 4, 1978, Federal Register (43 FR 870), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

Each of the above five factors pertain to the whooping crane and are summarized below:

(1) Whooping cranes are territorial birds. Each pair requires several hundred acres of undisturbed wetlands in and around Aransas National Wildlife Refuge. Unmated subadults must also have some suitable habitat that is not regularly defended by the paired cranes. The population wintering in the vicinity of Aransas National Wildlife Refuge has been expanding. Although maximum density of the habitat has not yet been reached, some cranes are now moving up and down the coastal marshes from the refuge to establish wintering territories.

The four refuges in Idaho, Colorado, and New Mexico will offer further space for individual and population growth as this separate flock becomes established in the wild.

(2) All areas designated in this rule provide food, water, and other nutritional or physiological needs of the whooping crane. Cranes at Aransas feed primarily on various crustaceans and molluscs found in the tidal flats and marshes. Crayfish, frogs, small fish, and other small animals appear to be the major items taken in wetlands on spring migration. During fall migration whooping cranes seem to feed more extensively in recently harvested grain fields where insects and wasted grains seem to constitute the bulk of their diet.

(3) Generally, whooping cranes (as do most other cranes in the world) require an open expanse for nightly roosting. This habit of using sand or gravel bars in rivers and lakes for nightly roosting appears to be one of the major factors in crane habitat selection. Feeding cranes seen in migration are frequently found within short flight distances of reservoirs, lakes, and large rivers that offer bare islands for nightly roosting.

(4) In this rule only the Grays Lake area offers potential nesting habitat for the whooping crane. The rearing of young cranes extends for approximately ten months; that is, until the young cranes are driven out of the family unit by their parents on the spring migration. All the areas in this rule constitute habitats essential to the rearing of these young whooping cranes by providing the cranes with sites for training and protection as well as feeding and other normal behavior.

(5) Whooping cranes do not readily tolerate disturbances to themselves or their habitat. A human on foot can quickly put a whooping crane to flight at distances over one quarter of a mile. Loss of large expanses of wetlands and shooting were the major factors in causing the massive declines of whooping cranes in the late 1800's. The one common feature uniting the vast majority of confirmed sightings of this crane in migration is the proximity to wetlands that provide undisturbed roosting sites.

Based upon this review of the above five factors, the comments received, the scientific literature, and unpublished data in the files of the Service, it is our finding that the habitats determined to be Critical in this rule do constitute areas required by the whooping crane, the loss of which would appreciably decrease the likelihood of the survival and recovery of these cranes. The continued conservation and recovery of the whooping crane would be seriously threatened without these feeding or roosting areas being determined as Critical Habitat.

Critical Habitat for the whooping crane (*Grus americana*) is, therefore, determined to include the following areas (exclusive of those existing manmade structures or settlements which are not necessary to the normal needs or survival of the species):

(1) Monte Vista National Wildlife Refuge, Colorado;

(2) Alamosa National Wildlife Refuge, Colorado;

(3) Grays Lake National Wildlife Refuge and vicinity, Idaho;

(4) Cheyenne Bottoms State Waterfowl Management Area, Kansas;

(5) Quivira National Wildlife Refuge, Kansas;

(6) Platte River Bottoms between Lexington and Dehman, Nebraska;

(7) Bosque del Apache National Wildlife Refuge, New Mexico;

(8) Salt Plains National Wildlife Refuge, Oklahoma; and

(9) Aransas National Wildlife Refuge and vicinity, Texas.

These areas are described in greater detail in the Regulation promulgation at the end of this publication.

Effects of the Rulemaking

Most persons who commented on the proposal were apparently confused regarding the meaning and implications of Critical Habitat designations. For example, many expressed concern that the designation would automatically halt or greatly restrict all human activities and development within the entire designated areas. Many seemed to think that Section 7 provisions would apply to the actions of all parties, not just Federal agencies. Perhaps most unfortunately, many persons apparently thought that the Fish and Wildlife Service could arbitrarily determine or not determine, enlarge or reduce a Critical Habitat area based on non-biological factors for the species involved.

There has been widespread and erroneous belief that a Critical Habitat designation is something akin to estab-

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lishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under Section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat. Provisions for Interagency Cooperation were published as 50 CFR 402 in the FEDERAL REGISTER (43 FR 870-876) to assist Federal agencies in complying with their responsibilities under Section 7 of the Act.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Office of Endangered Species in Washington, D.C. The assessment is the basis for a decision that the determinations of this rulemaking are not major Federal actions that would affect significantly the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

FINAL RULEMAKING

The Director has considered all comments and data submitted in response to the proposed determination of Critical Habitat for the whooping crane. The Director also has considered other information received by the Service, both prior to and subsequent to the publication of the proposed Critical Habitat determination in the FEDERAL REGISTER of December 16, 1975. Based upon this review, the areas delineated below are determined to be Critical Habitat for the whooping crane.

The primary author of this rule is Mr. Jay M. Sheppard, Office of Endangered Species (202/343-7814).

REGULATION PROMULGATION

Accordingly, § 17.95(b), Subpart I, Part 17, Chapter I, Title 50 of the Code of Federal Regulations, is amended by adding the following Critical Habitat description before the Critical Habitat description for the Mississippi sandhill crane:

Subpart I—Interagency Cooperation

§ 17.95 Critical habitat—fish and wildlife.

• • • • •

(b) *Birds.*

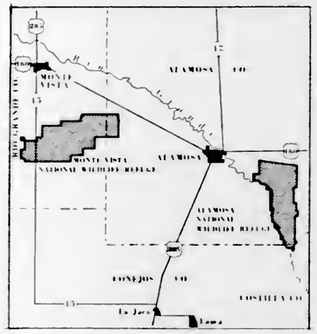
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WHOOPING CRANE (*Grus americana*)



Colorado. Areas of land, water, and airspace with the following components: (1) Monte Vista National Wildlife Refuge in Alamosa and Rio Grande Counties; and (2) Alamosa National Wildlife Refuge in Alamosa and Conejos Counties.

WHOOPING CRANE



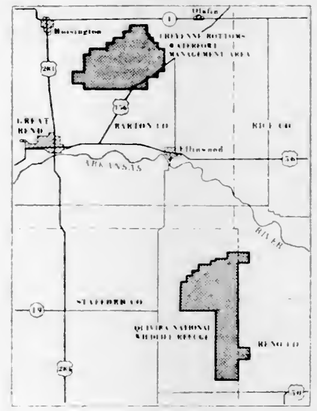
Idaho. An area of land, water, and airspace in Bonneville and Caribou Counties with the following components: Grays Lake National Wildlife Refuge, and all contiguous land and water within 1 mile of the boundaries of this refuge.

WHOOPING CRANE

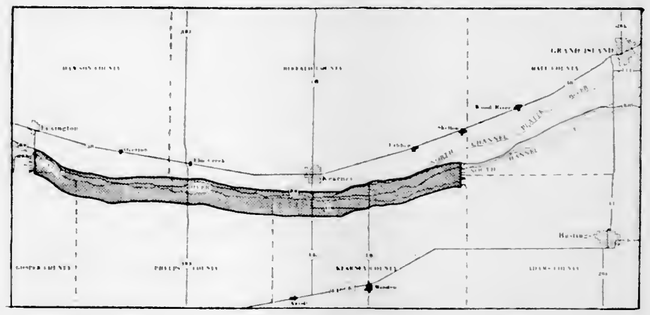


Kansas. Areas of land, water, and airspace with the following components: (1) Quivira National Wildlife Refuge in Stafford, Reno, and Rice Counties; and (2) Cheyenne Bottoms State Waterfowl Management Area in Barton County.

WHOOPING CRANE
KANSAS



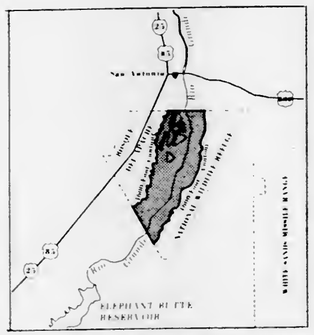
Nebraska. An area of land, water, and airspace in Dawson, Buffalo, Hall, Phelps, Kearny, and Adams Counties with the following boundaries: *Platte River bottoms*—a strip of river bottom with a north-south width 3 miles, a south boundary paralleling Interstate 80, beginning at the junction of U.S. Highway 283 and Interstate 80 near Lexington, and extending eastward along Interstate 80 to the interchange for Shelton and Dehman, Nebr. near the Buffalo-Hall County line.



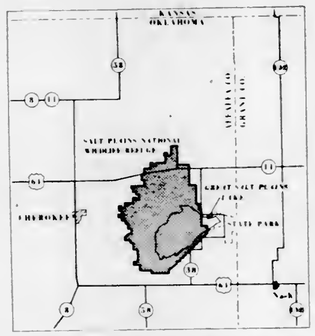
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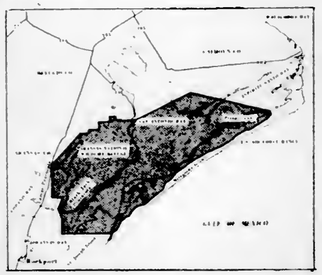
New Mexico. An area of land, water, and airspace in Socorro County with the following component: All areas at or below 4,600 feet in elevation within Bosque del Apache National Wildlife Refuge.



Oklahoma. An area of land, water, and airspace in Alfalfa County with the following component: Salt Plains National Wildlife Refuge.



Texas. An area of land, water, and airspace in Aransas, Calhoun, and Refugio Counties with the following boundaries: Beginning at the point where the north boundary of the Aransas National Wildlife Refuge intersects the shore of San Antonio Bay at Webb Point; thence, from this point along a straight line across San Antonio Bay through the westernmost tip of Mosquito Point and inland to a point of intersection with metal surfaced road; thence eastward along a straight line across Espiritu Santo Bay to the intersection of the bay shore and a road at the east end of Pringle Lake on Matagorda Island; thence south along this road to the intersection with the main Matagorda Island road; southwestward along this main road to Cedar Bayou at latitude 28°04'10" N.; thence due west across Cedar Bayou, Vinson Slough, and Isla San Jose to Gulf Intracoastal Waterway platform channel marker No. 25; thence north to the southwest corner of the proclamation boundary, just south of Blackjack Point; thence north along the proclamation boundary into St. Charles Bay to a line drawn as an eastward extension of Twelfth Street on Lamar Peninsula; thence westward along this line to intersection with Palmetto Avenue; thence northward along a straight line to the southwest corner of the Aransas National Wildlife Refuge at Texas State Highway 35 and the north shore of Cavasso Creek; thence northeast on a straight line to the corner of the Aransas National Wildlife Refuge north boundary adjacent to triangulation station "Twin"; thence along the north boundary of said refuge to the starting point at Webb Point.



NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 8, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-12925 Filed 5-12-78; 8:45 am]

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federal register

MONDAY, MAY 15, 1978
PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

NATIONAL CAPITAL PLANNING COMMISSION

IMPROVING GOVERNMENT REGULATIONS

Proposals for Implementing Executive Order 12044

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[7520-01]

NATIONAL CAPITAL PLANNING COMMISSION

IMPROVING GOVERNMENT REGULATIONS

Draft Report Pursuant to Section 5 of Executive Order 12044

Executive Order 12044 of March 23, 1978, directs Federal agencies to adopt procedures to improve existing and future regulations. Section 5 of the Executive Order directs each agency to prepare a draft report outlining "(1) a brief description of its process for developing regulations and the changes that have been made to comply with this Order; (2) its proposed criteria for defining significant agency regulations; (3) its proposed criteria for identifying which regulations require regulatory analysis; and (4) its proposed criteria for selecting existing regulations to be reviewed and a list of regulations that the agency will consider for its initial review". Section 5 also directs Federal agencies to (1) publish the draft report in the FEDERAL REGISTER for comment and (2) transmit the draft report to the Office of Management and Budget.

The following draft report is the first step in the Commission's process of adopting "procedures to improve existing and future regulations". These procedures will be published for comment in the near future. At its meeting on May 4, the Commission authorized the publication of the draft report in the FEDERAL REGISTER. Citizen comments on the draft report are encouraged and should be addressed to: Daniel H. Shear, Secretary, National Capital Planning Commission, Washington, D.C. 20576.

All comments should be received by July 14, 1978.

1. PROCESS FOR DEVELOPING REGULATIONS

a. *Regulation report.* The Office of the General Counsel will identify the need for preparing or revising regulations. If that office identifies the need for new or revised regulations, it will prepare a "regulation report". That report will discuss issues to be considered in developing the proposed regulations, alternative approaches to be explored, a tentative plan for obtaining public comment, and target dates for completion of steps in the development of the regulation. The Executive Director will review and approve the regulation report. If the proposed regulations appear to meet the criteria for "significant regulations", the Chairman will also review and approve the regulation report. The Office of the General Counsel will develop draft regulations in accordance with the approved regulation report. It will also assure that the development of proposed "significant regulations" is listed on the Commission's semi-annual agenda of "significant regulations" published in the FEDERAL REGISTER in accordance with Section 2(a) of the Executive Order.

b. *Draft regulations.* Draft regulations prepared by the Office of the General Counsel will be reviewed and approved by the Executive Director. Draft "significant regulations" shall also be reviewed and approved by the Chairman in accordance with Section 2(d) of the Executive Order. They will then be placed on a Commission meeting agenda and proceed through the Commission-approval process.

c. *Commission-approval process.* Proposed regulations come before the Commission twice: once for authorization to be published for comment in the FEDERAL REGISTER in draft form and, once more, as finally proposed for Commission approval.

Agendas indicating that the Commission will consider the proposed regulations are sent to those on the NCPC mailing list several weeks prior to a meeting. The agendas also inform the public when the text of proposed regulations may be obtained prior to the meeting. Citizen comments in writing before the meeting or orally at the meeting are encouraged.

These are only the major steps in the Commission's process for developing regulations; the entire process will be described in a subsequent publication. The process described above complies with section 2 of the Executive Order. The semi-annual agenda of "significant regulations" will be published in accordance with Section 2(a). The Chairman will become involved as directed by section 2(b). The Commission currently uses alternative forms of citizen participation as directed by section 2(c). The Chairman will approve draft "significant regulations" in accordance with section 2(d).

2. CRITERIA FOR DETERMINING "SIGNIFICANT REGULATIONS"

In determining whether regulations will be treated as "significant regulations", the Commission will apply the following criteria: (1) The type and number of individuals, businesses, organizations, State and local governments affected; (2) the compliance and reporting requirements likely to be involved; (3) direct and indirect effects of the regulations including the effect on competition; and (4) the relationship of the regulations to those of other programs and agencies.

3. CRITERIA FOR PREPARING REGULATORY ANALYSIS

A regulatory analysis will be performed for all "significant regulations" which will result in (a) an annual effect on the economy of $100 million or more; or (b) a major increase in costs or prices for individual industries, State and local governments, Federal agencies, or the National Capital Region.

A regulatory analysis may, in the discretion of the Chairman, be completed on any proposed regulation.

4. CRITERIA FOR SELECTING EXISTING REGULATIONS TO BE REVIEWED

In selecting existing regulations to be reviewed to determine whether they are achieving the policy goals of the Executive Order, the Commission shall apply the following criteria: (a) The continued need for the regulation; (b) the type and number of complaints or suggestions received; (c) the burdens imposed on those directly or indirectly affected by the regulations; (d) the need to simplify or clarify language; (e) the need to eliminate overlapping and duplicative regulations; and (f) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the National Capital Region.

5. REGULATIONS FOR INITIAL COMMISSION REVIEW

The following is a list of regulations the Commission will consider for its initial review to determine whether they are achieving the policy goals of the Executive Order:

a. Urban renewal requirements for proposals.

b. Site and building plans requirements.

c. Freedom of Information Act regulations.

d. Environmental policies and procedures.

e. Project review and notification system procedures.

f. Citizen participation and intergovernmental liaison.

DANIEL H. SHEAR,
Secretary.

MAY 5, 1978.

[FR Doc. 78-13125 Filed 5-12-78; 8:45 am]

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Advance Orders are now being Accepted for delivery in about 6 weeks

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		Total Order	$_____

[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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Vol. 43—No. 95
5-16-78
PAGES
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federal register

TUESDAY, MAY 16, 1978

highlights

DETROIT, MICHIGAN, WORKSHOPS

HOW TO USE THE FEDERAL REGISTER

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHAT: Free public workshop (approximately 3 hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHEN: June 13 and 14, 1978, at 9:30 a.m. (Each session identical)

WHERE: McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan, Room 1090.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in government actions. There will be no discussion of specific agency regulations.

RESERVATIONS: Call Linda Kato or Nicki White, New Detroit, Inc., 313–961–9160.

SUNSHINE ACT MEETINGS 21104

NUCLEAR NON-PROLIFERATION
Executive order relating to functions 20947

U.S. CIRCUIT JUDGE NOMINATING COMMISSION
Executive order establishing 20949

NITRATES AND NITRITES
USDA/FSQS issues proposal to further reduce permissible amounts as set forth in above regulation; comments by 11–16–78 21007

CONTINUED INSIDE

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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Code of Federal Regulations (CFR)	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
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Special Projects	523-4534

HIGHLIGHTS—Continued

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
EPA issues interim final rule establishing criteria for the granting and method of incorporating extensions of 1977 statutory deadline for compliance into the system; effective 5-16-78; comments by 7-17-78 (Part VI of this issue) 21266

FOOD STAMP PROGRAM
USDA/FNS issues regulations on maximum monthly allowable income standards and basis of coupon issuance; effective 7-1-78 (7 documents) (Part IX of this issue) 21298

PUBLIC HEALTH SERVICE ACT
HEW/PHS extends comment period to 6-30-78 on proposed changes in criteria which State health planning and development agencies and health systems agencies must use for certificate of need and other reviews of proposed new institutional health services (Part VII of this issue) 21274

COMMODITY OPTION TRANSACTIONS
CFTC receives petition to allow firm's meeting conditions for public protection to continue to offer and sell options on physical commodities after the 6-1-78 suspension date; hearing on 5-19-78; comments by 5-23-78; proposed effective date 6-1-78 21022

SCHOLARSHIPS
HEW designates students in health-related specialties as eligible to participate in the National Health Service Corps Scholarship Program for fiscal year 1978 21059

MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES
HEW/PHS establishes regulations governing grants to State agencies for special projects of regional or national significance; effective 6-15-78 (Part II of this issue) 21154

NONCONVERTIBLE CORPORATE DEBT SECURITIES
FRS Board of Governors proposes to permit a broker or dealer to extend and maintain credit on securities not listed on a national securities exchange; comments by 6-15-78 21008

NEW DRUGS
HEW/FDA requires precaution statement concerning the chronic administration of antipsychotic drugs 21051

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HEW/SSA issues interim regulation regarding the issuing of social security numbers; effective 5-16-78; comments by 7-17-78 20973

OVER-THE-COUNTER MARGIN STOCKS
FRS Board of Governors issues regulations regarding requirements for qualifying for Boards List of OTC Margin Stocks; effective 6-15-78 20965

AID TO FAMILIES AND DEPENDENT CHILDREN PROGRAM
HEW/SSA plans to propose regulations to implement provisions involving protective, vendor, and two-party payments 21015

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GSA issues report on environmental actions for real property disposal and facility planning 21035

TANNER CRAB FISHERY
Commerce/NOAA proposes regulations to govern domestic and foreign fishing off the coast of Alaska; comments by 6-30-78 (Part IV of this issue) 21170

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SUPPLEMENTAL SECURITY INCOME PROGRAM
HEW/SSA proposes amendments that will provide a more liberal definition of "permanently residing in the United States under color of law" for aliens who are long-term residents; comments by 6–30–78 21012

COMMUNITY FOOD AND NUTRITION PROGRAM
CSA proposes to revise policy statement regarding Program; comments by 6–12–78 21016

FOOD DONATION PROGRAM
USDA/FNS allows food to be made available to nonprofit summer camps for children in which the ratio of adults participating in camp activities to children in attendance is not unreasonable; effective 5–16–78 20954

FEDERAL PROCUREMENT REGULATIONS
GSA implements regulations changes by the Cost Accounting Standards Board with respect to national defense contracts of civilian executive agencies; retroactively effective 3–10–78 20988

COST ACCOUNTING STANDARDS
GSA issues bulletin on interim guidance on Cost Accounting Standards matters 21040

APPEAL PROCEDURES
USDA/FmHA proposes procedure for all FmHA applicants, borrowers and grantees directly and adversely affected by an administrative decision; comments by 7–17–78 21005

RIGHT-OF-WAY AND ENVIRONMENT
DOT/FHA amends environmental regulations to allow the processing as nonmajor Federal actions of projects having only a minimal effect upon protected properties; effective 5–19–78 20978

ASSISTANCE TO DROUGHT STRICKEN AREAS
USDA/FmHA amends regulations to provide adequate time for completion of projects that have delays and to establish reporting mechanism to determine construction status of projects; effective 5–16–78; comments by 6–15–78 20956

ENERGY CONSERVATION PROGRAM FOR APPLIANCES
DOE cancels hearing on proposed rules scheduled for 5–16–78 21009

DELEGATION OF AUTHORITY
EPA amends regulations by adding agency addresses to reflect new delegations of authority to certain pollution control agencies in Arizona, California, and Nevada; effective 5–16–78 20986

ANIMAL WELFARE
USDA/APHIS amends transportation standards governing certain warmblooded animals; effective 5–16–78 (Part III of this issue) 21160

BIOLOGICS
HEW/FDA prohibits use of Mumps Virus Vaccine, live for hyperimmunization of Source Plasma (Human) donors 21052

ANTIBIOTIC DRUGS
HEW/FDA withdraws proposal on tests regarding quaternary amines; effective 5–16–78 21014
HEW/FDA provides for certification of cefadroxil capsules; effective 5–16–78 20976

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OMB issues monthly cumulative report (Part VIII of this issue) .. 21284

CANNED CLINGSTONE PEACHES
USDA/FSQS revises grade standards; effective 6–1–78 20957

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USDA/FS issues guidelines pursuant to the Act (Part V of this issue) 21254

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FCC issues list of international and satellite radio applicants (2 documents) 21032

FUEL CYCLE FACILITIES
NRC gives notice of availability of report, "Licensed Fuel Facility Status Report" 21087

INFORMATION SYSTEMS
Labor proposes regulations that will lead to cooperation with State and local governments to coordinate and improve information systems; comments by 6–15–78 21014

RURAL TELEPHONE PROGRAM
USDA/REA proposes revisions to specifications for aerial and underground telephone cable, for cable shield bonding connectors, and for polyethylene raw material; comments by 6–15–78 (3 documents) 21004, 21005

PERSONNEL ADMINISTRATION
CSC proposes to issue revised Standards for a Merit System of Personnel Administration in the form of regulations; 7–17–78 20996

OCCUPATIONAL SAFETY AND HEALTH PLAN
Labor/OSHA issues various regulations regarding the completion of developmental steps for Tennessee State plan; effective 5–3–78 (4 documents) 20980–20985

SELF-EMPLOYMENT INCOME
HEW/SSA issues regulations that will provide for the exclusion from self-employment income of "investment" income of a limited partner; effective 5–16–78; comments by 6–30–78 20972

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Administrative Conference of the United States, Plenary Session, 6–8 and 6–9–78 21026
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[3195-01]

Title 3—The President

Executive Order 12058 • **May 11, 1978**

Functions Relating to Nuclear Non-Proliferation

By virtue of the authority vested in me by the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242, 92 Stat. 120, 22 U.S.C. 3201) and the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. *Department of Energy.* The following functions vested in the President by the Nuclear Non-Proliferation Act of 1978 (92 Stat. 120, 22 U.S.C. 3201), hereinafter referred to as the Act, and by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), hereinafter referred to as the 1954 Act, are delegated or assigned to the Secretary of Energy:

(a) That function vested by Section 402(b) of the Act (92 Stat. 145, 42 U.S.C. 2153a).

(b) Those functions vested by Sections 131a(2)(G), 131b(1), and 131f(2) of the 1954 Act (92 Stat. 127, 42 U.S.C. 2160).

(c) That function vested by Section 131f(1)(A)(ii) of the 1954 Act to the extent it relates to the preparation of a detailed generic plan.

SEC. 2. *Department of State.* The Secretary of State shall be responsible for performing the following functions vested in the President:

(a) Those functions vested by Sections 104(a), 104(d), 105, 403, 404, 407, and 501 of the Act (92 Stat. 122, 123, 123, 146, 147, 148, and 148, 22 U.S.C. 3223(a), 3223(d), 3224, and 42 U.S.C. 2153b, 2153c, 2153e, and 22 U.S.C. 3261).

(b) That function vested by Section 128a(2) of the 1954 Act (92 Stat. 137, 42 U.S.C. 2157(a)(2)).

(c) That function vested by Section 601 of the Act to the extent it relates to the preparation of an annual report.

(d) The preparation of timely information and recommendations related to the President's functions vested by Sections 126, 128b, and 129 of the 1954 Act (92 Stat. 131, 137, and 138, 42 U.S.C. 2155, 2157, and 2158).

(e) That function vested by Section 131c of the 1954 Act (92 Stat. 129, 42 U.S.C. 2160(c)); except that, the Secretary shall not waive the 60-day requirement for the preparation of a Nuclear Non-Proliferation Assessment Statement for more than 60 days without the approval of the President.

SEC. 3. *Department of Commerce.* The Secretary of Commerce shall be responsible for performing the function vested in the President by Section 309(c) of the Act (92 Stat. 141, 42 U.S.C. 2139a).

SEC. 4. *Coordination.* In performing the functions assigned to them by this Order, the Secretary of Energy and the Secretary of State shall consult and coordinate their actions with each other and with the heads of other concerned agencies.

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SEC. 5. *General Provisions.* (a) Executive Order No. 11902 of February 2, 1976, entitled "Procedures for an Export Licensing Policy as to Nuclear Materials and Equipment," is revoked.

(b) The performance of functions under either the Act or the 1954 Act shall not be delayed pending the development of procedures, even though as many as 120 days are allowed for establishing them. Except where it would be inconsistent to do so, such functions shall be carried out in accordance with procedures similar to those in effect immediately prior to the effective date of the Act.

Jimmy Carter

THE WHITE HOUSE,
May 11, 1978.

[FR Doc. 78-13478 Filed 5-15-78; 10:26 am]

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[3195-01]

The President

Executive Order 12059 • **May 11, 1978**

United States Circuit Judge Nominating Commission

By virtue of the authority vested in me as President by the Constitution and statutes of the United States of America, in order to clarify and amend the responsibilities of the various panels of the United States Circuit Judge Nominating Commission and to continue the Commission, it is hereby ordered as follows:

SECTION 1. *Establishment of the Commission.* There is hereby established the United States Circuit Judge Nominating Commission (hereinafter referred to as the "Commission"). The Commission shall be composed of thirteen panels, each of which shall, upon the request of the President, recommend for nomination as circuit judges persons whose character, experience, ability and commitment to equal justice under law, fully qualify them to serve in the Federal judiciary. Except as indicated below, each panel shall serve a geographic area set forth in 28 U.S.C. 41. The panels shall be as follows:

(1) Panel for the District of Columbia Circuit;

(2) Panel for the First Circuit;

(3) Panel for the Second Circuit;

(4) Panel for the Third Circuit;

(5) Panel for the Fourth Circuit;

(6) Panel for the Eastern Fifth Circuit, for the States of Alabama, Florida, Georgia and Mississippi;

(7) Panel for the Western Fifth Circuit, for the States of Louisiana and Texas, and the Canal Zone;

(8) Panel for the Sixth Circuit;

(9) Panel for the Seventh Circuit;

(10) Panel for the Eighth Circuit;

(11) Panel for the Southern Ninth Circuit, for the States of Arizona, California, and Nevada;

(12) Panel for the Northern Ninth Circuit, for the States of Alaska, Hawaii, Idaho, Montana, Oregon and Washington, and the Territory of Guam; and

(13) Panel for the Tenth Circuit.

A panel shall be designated as, *e.g.*, the "United States Circuit Judge Nominating Panel for the First Circuit."

SEC. 2. *Membership.* (a) The membership of the Commission shall consist of the combined memberships of the panels. The President may appoint a member of the Commission as its Chairman, with such duties as the President may assign.

(b) A panel shall be composed of a Chairman and such other members as the President may appoint;

(c) Each panel shall include members of both sexes and members of minority groups, and each panel shall include at least one lawyer from each State within a panel's area of responsibility.

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(d) All members of the panel for the District of Columbia Circuit shall be persons residing within the District of Columbia or within twenty miles of its boundaries.

SEC. 3. *Functions of Panels.* (a) A panel shall begin functioning when the President or his designee notifies its Chairman that the President desires the panel's assistance in aid of his constitutional responsibility and discretion to select a nominee to fill a vacancy or vacancies on a United States Court of Appeals. Upon such notification, the panel shall:

(1) Give public notice of the vacancy or vacancies within the relevant geographic area, inviting suggestions as to potential nominees;

(2) Conduct inquiries to identify potential nominees;

(3) Conduct inquiries to identify those persons among the potential nominees who are well qualified to serve as a United States Circuit Judge; and

(4) Report to the President, within the time specified in the notification of the vacancy or vacancies, the results of its activities, including its recommendations as to the persons whom the panel considers best qualified to fill the vacancy or vacancies.

(b) The Panel for the District of Columbia Circuit shall have the additional function of recommending nominees for the United States District Court for the District of Columbia, in accordance with the standards and procedures prescribed by this order for recommending nominees for circuit judges.

SEC. 4. *Standards for Selection of Proposed Nominees.* (a) Before transmitting to the President the names of the persons it deems best qualified to fill an existing vacancy or vacancies, a panel shall have determined:

(1) That those persons are members in good standing of at least one state bar, or the District of Columbia bar, and members in good standing of any other bars of which they may be members;

(2) That they possess, and have reputations for, integrity and good character;

(3) That they are of sound health;

(4) That they possess, and have demonstrated, outstanding legal ability and commitment to equal justice under law; and

(5) That their demeanor, character, and personality indicate that they would exhibit judicial temperament if appointed to the position of United States Circuit Judge.

(b) In selecting persons whose names will be transmitted to the President, a panel shall consider whether the training, experience, or expertise of certain of the well qualified individuals would help to meet a perceived need of the court of appeals on which the vacancy or vacancies exist.

(c) To implement the above standards, a panel may adopt such additional criteria or guidelines as it considers appropriate for the identification of potential nominees and the selection of those best qualified to serve as United States Circuit Judges.

(d) Each panel is encouraged to make special efforts to seek out and identify well qualified women and members of minority groups as potential nominees.

SEC. 5. *Ineligibility of Commission Members.* No person shall be considered by a panel as a potential nominee while serving as a Commission member or for a period of one year after termination of such service.

SEC. 6. *Travel Expenses and Financing.* (a) Members of the Commission shall receive no compensation from the Government of the United States for their service as members of the Commission, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703) for persons intermittently employed in the government service.

(b) All necessary expenses incurred in connection with the work of the Commission shall be paid from the appropriation for "Unanticipated Needs"

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in the Executive Office Appropriations Act or from such other funds as may be available.

(c) Expenditures authorized by this Section may be made only after the President has notified a panel's chairman that he desires the panel's assistance in accordance with Section 3 above, and before the termination of appointments to the panel in accordance with Section 7 below.

SEC. 7. *Term of Membership.* Unless extended by the President, each appointment to a panel shall terminate thirty days after submission of the panel's report to the President.

SEC. 8. *Termination of Commission.* The Commission shall terminate on December 31, 1978, unless sooner extended by the President.

SEC. 9. *Revocations.* Executive Order No. 11972 and Executive Order No. 11993 are hereby revoked.

Jimmy Carter

THE WHITE HOUSE,
May 11, 1978.

[FR Doc. 78-13489 Filed 5-15-78; 12:02 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Energy, Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a position in the Department of Energy because it is confidential in nature and (2) reestablishes a position in the Department of Housing and Urban Development because it is confidential in nature.

EFFECTIVE DATES: Department of Energy—April 28, 1978; Department of Housing and Urban Development—April 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(a)(10) and 213.3384(h) are added as set out below:

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* • • •

(10) One Confidential Assistant (Secretary) to the Deputy Under Secretary for Commercialization.

• • • • • •

§ 213.3384 Department of Housing and Urban Development.

• • • • • •

(h) *Office of the Administrator, Federal Disaster Assistance Administration.* (1) One Private Secretary (Steno) to the Administrator.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13152 Filed 5-15-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C the position of Administrator, Southwestern Power Administration because the position is confidential in nature.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION:

On Position Authority Contact: Hugh A. Strehle, Civil Service Commission, 202-632-4625.

On Position Content Contact: Eugene H. Beach, Department of Energy, 202-566-9505.

Accordingly, 5 CFR 213.3331(t) is added as set out below:

§ 213.3331 Department of Energy.

• • • • • •

(t) *Southwestern Power Administration.* (1) Administrator.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13153 Filed 5-15-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Justice, Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Part 213 is amended to: (1) Except a position at the Department of Justice from the competitive service because it is confidential in nature, and (2) reflect organization transfers involving title changes at the Department of Energy.

EFFECTIVE DATES: Department of Justice—May 6, 1978; Department of Energy—May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3310(a)(11) and 213.3331(c)(7), (m)(6) are amended as follows:

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* • •

•

(11) One Staff Assistant (Secretary) and one Special Assistant to the Director, Office of Public Information.

• • • • • •

§ 213.3331 Department of Energy.

• • • • • •

(c) *Federal Energy Regulatory Commission.* • • •

(7) Two Confidential Assistants to Members of the Commission.

• • • • • •

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* • • •

(6) Two Staff Assistants, Congressional Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13212 Filed 5-15-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of the Navy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Positions of Student Pharmacist for temporary, part-time, or intermittent employment in U.S. Navy facilities are excepted under Schedule A because it is not practicable to examine for them. Position incumbents will be students who are enrolled in an approved pharmacy program in a participating non-Federal in-

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stitution, and whose compensation is fixed under 5 U.S.C. 5351-54. Employment under this authority may not exceed one year.

EFFECTIVE DATE: May 6, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3108(a)(2) is added as set out below:

§ 213.3108 Department of the Navy.

(a) *General.* • • •

(2) Positions of Student Pharmacist for temporary, part-time or intermittent employment in U.S. Naval Regional Medical Centers, hospitals, clinics and departments when filled by students who are enrolled in an approved pharmacy program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351-54. Employment under this authority may not exceed one year.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13213 Filed 5-15-78; 8:45 am]

[6325-01]

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Noncompetitive Appointment of ACTION's Community Volunteers

AGENCY: Civil Service Commission.

ACTION: Final regulation.

SUMMARY: The Commission's regulations are amended to implement Executive Order 12034 of January 10, 1978, allowing noncompetitive entry into the competitive service to certain ACTION Community volunteers.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Raleigh M. Neville, 202-632-6817.

Accordingly, the headnote of 5 CFR 315.605 and paragraphs (a) and (b) are amended as set out below:

§ 315.605 Appointment of Former ACTION volunteers.

(a) *Agency authority.* Subject to the prior approval of the Commission, an agency in the executive branch may appoint noncompetitively, for other than temporary employment, a person whom the Director of ACTION certifies as having served satisfactorily as a volunteer or volunteer leader under the Peace Corps Act (22 U.S.C. 2051 et seq.), or as a VISTA volunteer under the Economic Opportunity Act of 1964 (42 U.S.C. 2991 et seq.) or the Domestic Volunteer Service Act of 1973 (Pub. L. 93-113), or as a full-time Community volunteer (including Criminal Justice volunteer, volunteer in Justice, and VETREACH volunteer) under Part C of title I of Pub. L. 93-113. To be qualifying under this section VISTA and Community volunteer service must total at least 1 year. In addition, a Community volunteer must have served prior to October 1, 1976.

(b) *Time limit.* An agency in the executive branch may make an appointment under this section only within 1 year after the person completes the qualifying service. (For Community volunteers who have completed their service before March 10, 1978, the 1-year period begins on March 10, 1978.) However, an agency may extend the period for 2 more years to a total of 3 years if the person, after the qualifying service, is:

(1) In the military service;

(2) Studying at a recognized institution of higher learning; or

(3) In another activity which, in the agency's view, warrants extension.

• • • • •

(E.O. 12034, 43 FR 1917, Jan. 13, 1978.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13154 Filed 5-15-78; 8:45 am]

[3410-30]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—FOOD DISTRIBUTION

[Amdt. 40]

PART 250—DONATION OF FOOD FOR USE IN UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

AGENCY: Food and Nutrition Service.

ACTION: Final rule, but with comments requested.

SUMMARY: The Food and Nutrition Service amends the regulations governing the food donation program to remove a prohibition of food donations to certain summer camps. This change results from a change made by section 4(b) of the Agriculture and Consumer Protection Act of 1973, as amended by the Food and Agriculture Act of 1977. Foods will now be made available to nonprofit summer camps for children in which the ratio of adults participating in camp activities to children in attendance is not unreasonable.

EFFECTIVE DATE: May 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Juan del Castillo, Director, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8371.

SUPPLEMENTARY INFORMATION: Nonprofit summer camps for children are eligible to receive food donations under a number of authorities. Section 4(b) of the Agriculture and Consumer Protection Act of 1973, as amended, prohibited the Secretary of Agriculture from donating foods to summer camps in which the number of adults participating in camp activities exceeded one adult for each five children under 18 years of age so participating.

The regulations were amended on March 6, 1974, to incorporate the prohibition of section 4(b). With the concurrence of staff members of the Committee on Agriculture and Forestry, U.S. Senate, however, the regulations excluded from consideration as "adults participating in camp activities" professional, supervisory, or custodial personnel whose services are necessary for the participation of handicapped children in a summer camp's activities. A further exception was made when the regulations were again amended on August 16, 1974, to provide that persons 18 years of age and older in a summer camp who perform basic support duties such as cooking, gardening, and property maintenance and who do not remain on the premises on a round-the-clock basis are not to be considered as participating adults. This change was made in conformance with congressional intent as expressed in Senate Report No. 93-978.

Despite the exceptions described above, there was widespread concern among officials of youth and camping organizations about potential inequities resulting from the prohibition in section 4(b). For example, it was felt that other exceptions in the permissible adult-to-children ratio should be made for certain types of summer camps, such as those serving inner-city youth or juvenile delinquents. This concern was made known to Congress and, as a result, section 4(b) was amended by Pub. L. 95-113, approved September 29, 1977, to authorize food donations to summer camps for children in which the number of adults participating in camp activities as compared with the number of children under 18 years of age so participating is not unreasonable in light of the nature of such camp and the characteristics of the children in attendance.

The regulations are amended to incorporate this change and to indicate that a determination as to whether the ratio of participating adults to children in attendance in a summer camp is "not unreasonable" is to be made by the State agency responsible for food distribution. The exclusion from consideration as participating adults of those professional, supervisory, or custodial personnel necessary for participation of handicapped children is retained. With respect to the status of cooks, gardeners, and others who perform similar support functions in summer camps, the Department has determined that such employees should not be considered as participating adults regardless of whether or not they remain on camp premises on a round-the-clock basis.

Two other changes are made by this amendment. The definition of "service institutions" is revised to conform with the definition of "sponsors", the term by which institutions participating in the Summer Food Service Program for Children are now referred to in the regulations for that program (7 CFR Part 225). In addition, the amendment deletes a requirement that distributing agencies submit to the Food and Nutrition Service Regional Office an annual inventory report. The latter change results from a survey of distributing agencies in which it was found that other requirements in the regulations make this report unnecessary.

This amendment is published as a final rule in view of the fact that it affects the eligibility of summer camps to receive donated foods during the 1978 camping season, which begins as early as May in some States. Since it is the policy of the Department to invite public comments on such amendments, however, interested persons may submit written suggestions regarding these changes to the above address. Comments received will be considered in making any further changes deemed desirable.

Accordingly, the food donations regulations are amended, as follows:

1. In § 250.3, paragraph (n-1) is revised to read as follows:

§ 250.3 Definitions.

• • • • •

(n-1) "Service institutions" means nonresidential public or private nonprofit institutions and public or private nonprofit camps that develop special summer or school vacation programs providing food service similar to that available to children during the school year under the National School Lunch and School Breakfast Programs.

• • • • •

§ 250.6 [Amended]

2. In § 250.6(r), the words "an annual inventory report in such form as the Department may prescribe," are deleted.

3. In § 250.8, paragraph (c)(1) is revised to read as follows:

§ 250.8 Eligible recipient agencies.

• • • • •

(c) *Summer camps.* (1) Nonprofit summer camps for children are eligible to receive commodities under section 416, section 32, section 709, and section 4(a) if the distributing agency determines that the number of adults participating in camp activities as compared with the number of children under 18 years of age so participating is not unreasonable in light of the nature of the camp and the characteristics of the children in attendance. Persons 18 years of age and over including program directors, counselors, and others who engage in recreational, educational, and direct administrative functions are considered as adults participating in the activities of a summer camp. Employees whose presence on camp premises is solely for the purpose of performing duties such as cooking, gardening, property maintenance, or similar support functions are not considered as adults participating in a summer camp's activities. In no event are persons such as nurses, therapists, and attendants who perform professional, supervisory, or custodial services to be considered as adults participating in the activities of a summer camp if they perform services essential to the participation of mentally, emotionally, or physically handicapped children.

• • • • •

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-197.

(Catalog of Federal Domestic Assistance Program No. 10.550.)

Dated: May 8, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-13061 Filed 5-15-78; 8:45 am]

[3410-15]

CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 1701—PUBLIC INFORMATION

Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: This includes revisions since November 25, 1977, to the listing and summary descriptions of REA bulletins and supplements thereto that provide the program policies and requirements of the Rural Electrification Administration. The revision reflects both new and revised REA bulletins issued after publication in the FEDERAL REGISTER under proposed rulemaking procedures to secure public comment and participation.

EFFECTIVE DATES: REA bulletins become effective on date of final issuance unless otherwise set forth therein (see Appendix A below for each REA bulletin and its issuance date.)

FOR FURTHER INFORMATION CONTACT:

Mr. Blaine D. Stockton, Jr., Acting Director, Management Services Division, Rural Electrification Administration, Room 4024-S, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4512.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.). No public comments were received on any of the REA policy and rulemaking bulletins issued during this period.

The following listings of new and revised bulletins and summary descriptions of bulletins add to or replace existing listings in Appendix A to Part 1701 (40 FR 16074).

APPENDIX A—REA BULLETINS

REA Bulletin No., date of last issuance and description of content

Joint Rural Electrification and Telephone Program Bulletins

20-9:320-12; October 1976 (Supplement). A supplement dated January 27, 1978, providing REA borrowers with updated procedures relating to the transmission of a funds transfer message to the U.S. Treasury.

44-2:345-1; November 1976 (Supplement). A supplement dated November 18, 1977, defining wood decay and providing REA borrowers with a basis for rejecting wood products showing decay.

103-9:403-4; October 1977 (Replacing June 1960). Procedure for the purchase and redemption by REA borrowers of 2 Percent Treasury Bonds—REA Series and 5 Per-

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cent Treasury Certificates of Indebtedness—REA Series.

RURAL ELECTRIFICATION PROGRAM BULLETINS

1-7; December 1977 (Replacing August 1969). The policy and recommendations of REA concerning appropriate levels of general funds for electric borrowers in relationship to REA approval of loans and loan fund advances.

43-5; July 1977 (Supplements). Supplements 1 and 2 issued October 1977 and January 1978, respectively. The supplements amend the basic list of materials acceptable for use on systems of REA electric borrowers.

108-1; October 1977 (Replacing October 1974). The requirements of REA on the preparation and submission of operating reports by electric distribution borrowers.

108-2; November 1977 (Replacing January 1971). The requirements of REA on the preparation and submission of operating reports by power supply borrowers and distribution borrowers with generating facilities.

181-1; March 1978 (Replacing January 1972). Uniform System of Accounts prescribed by REA for use by electric borrowers.

181-3; February 1972 (Supplement). A supplement dated October 20, 1977, to serve as a guideline to provide uniform accounting procedures for purchase rebates.

183-1; October 1977 (Replacing November 1969). The policy and procedure of REA pertaining to depreciation rates of electric plant.

RURAL TELEPHONE PROGRAM BULLETINS

320-23; December 1977 (New). The policy and requirements of REA relating to post-loan procedures for telephone borrowers with substantial and continuing construction programs.

344-2; January 1977 (Supplements). Supplements 2 and 3 issued September 1977 and January 1978, respectively. The supplements amend the basic list of materials acceptable for use on telephone systems of REA borrowers.

345-6; January 1978 (Replacing June 1973). Specifications of REA for splicing plastic-jacketed cables used on telephone systems of REA borrowers.

345-13; April 1974 (Supplement). A supplement dated February 10, 1978, permitting the use of continuous uniformity thickness monitoring equipment to take advantage of new technology for monitoring and controlling the uniformity of jacket thickness.

345-14; July 1971 (Supplement). A supplement dated February 10, 1978, permitting the use of continuous uniformity thickness monitoring equipment to take advantage of new technology for monitoring and controlling the uniformity of jacket thickness.

345-36; November 1966 (Supplement). A supplement dated February 10, 1978, permitting additional methods of packaging parallel drop wire.

345-59; March 1971 (Supplement). A supplement dated March 2, 1978, relating to improved long-term electrical stability for cables subjected to adverse temperature and humidity conditions.

345-61; March 1971 (Supplement). A supplement dated March 2, 1978, relating to improved long-term electrical stability for cables subjected to adverse weather and humidity conditions.

345-67; November 1976 (Supplement). A supplement dated February 10, 1978, permitting the use of continuous uniformity thickness monitoring equipment to take advantage of new technology for monitoring and controlling the uniformity of jacket thickness.

345-69; January 1978 (Replacing April 1973). Specifications of REA for two-wire voice frequency repeater equipment on borrowers' telephone systems.

345-70; August 1974 (Supplement). A supplement dated February 10, 1978, permitting the use of continuous uniformity thickness monitoring equipment to take advantage of new technology for monitoring and controlling the uniformity of jacket thickness.

345-77; January 1978 (New). A new REA specification for serving area interface housings.

345-78; February 1978 (New). A new REA specification for carbon arresters and protectors.

384-3; November 1977 (Replacing February 1976). The procedure of REA concerning central office equipment contracts and specifications for telephone borrowers.

402-1; December 1962 (Supplement). A supplement dated February 13, 1978, eliminating certain mortgage restrictions concerning dividend and other distributions by telephone borrowers.

402-2; November 1960 (Supplement). A supplement dated October 13, 1977, reducing to one the number of certified copies of pertinent excerpts of minutes of board or membership meetings required by REA from its borrowers.

403-3; October 1959 (Supplement). A supplement dated September 20, 1977, reducing to one the number of certified copies of pertinent excerpts of minutes of board or membership meetings required by REA from its borrowers.

415-1; August 1960 (Supplement). A supplement dated October 25, 1977, providing for the inclusion of the Rural Telephone Bank under the provisions of this bulletin.

Dated: May 10, 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-13282 Filed 5-15-78; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[FmHA Instruction 440.3]

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

Projects Under Construction and Experiencing Delays

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule with comments requested.

SUMMARY: The Farmers Home Administration issues amended regulations to provide for revised completion dates of projects with a special provision for those projects requiring specialized items, for the granting of completion date extensions by the FmHA Administrator for only hardship situations, and for the submitting of a detailed review of each drought project to the FmHA National Office by the 5th working day of each month. This action is brought about by construction delays resulting from uncontrollable circumstances and by the need to maintain monitoring on those projects in which construction has not been completed. The intended effect is to allow adequate time for completion of those projects which are experiencing delays and to establish a reporting mechanism to determine the status of those projects under construction.

EFFECTIVE DATE: May 16, 1978. However, comments must be received on or before June 15, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles B. Hart, 202-447-5717.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) amends sections 1888.13 and 1888.17 of Part 1888, Chapter XVIII, Title 7, in the Code of Federal Regulations (42 FR 19322; 42 FR 23158; 42 FR 43965) as follows:

(1) Sections 1888.13(c) and 1888.17(b) are amended to provide for the revised completion date of projects to no later than October 31, 1978. However, those projects requiring specialized items should be completed no later than June 30, 1979. An extension may be granted for hardship cases by the FmHA Administrator.

(2) Section 1888.17(c) is added to provide for a monthly detailed review to be submitted to the FmHA National Office for each project in which construction has not been completed. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since this assistance is currently needed to alleviate hardship situations and any delay would be contrary to the public interest.

Therefore, §§ 1888.13(c) and 1888.17 (b) and (c) are amended and read as follows:

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§ 1888.13 Loans and grants to rural communities for water supply assistance.

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(c) For those projects determined to meet the requirements of paragraph (b) of this section, assistance may be provided to the extent necessary for the construction, enlargement, extension, improvement, or any other appropriate community water facility purpose for ameliorating drought caused problems. Such assistance may include, but not be limited to, deepening an existing well, developing a new water source by digging a new well, or extending water supply lines to other water sources. Additionally, assistance may be provided for short-term measures necessary to augment community water supplies where there are severe problems resulting from water shortages due to the drought, including the use of loan funds for initial operation and maintenance expenses attributable to such measures. However, increased operation and maintenance expenses on existing facilities attributable to the drought are not items for which assistance may be provided. Eligibility is limited to those project measures which can be completed by the appropriate date shown in section 1888.17(b). Under special circumstances or hardship, an extension of completion time may be granted by the FmHA Administrator. Exhibit A to this Subpart provides a Memorandum of Understanding between the Farmers Home Administration and the Economic Development Administration (EDA) to enable either agency to be more responsive to the applicants needs.

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§ 1888.17 Termination provisions.

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(b) Community water supply projects should be completed not later than October 31, 1978; however, those projects requiring specialized items of equipment or materials such as treatment or water storage facilities or the drilling of water wells should be completed as early as possible but not later than June 30, 1979. An extension of these completion dates may be granted by the FmHA Administrator only under hardship situations.

(c) Each State Director will assign a member of the Community Programs staff for continuous monitoring and providing needed assistance for each community water supply project. A detailed review of each drought project in which construction has not been completed will be submitted not later than the 5th working day of each month to the National Office, Attention: Water and Waste Disposal Loan Division, reflecting the current status of each project. The format shown in Exhibit B, available in any FmHA office, will be used for this purpose.

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(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70).

Dated: May 9, 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-13188 Filed 5-15-78; 8:45 am]

[3410-37]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 2852—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Canned Clingstone Peaches [1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to change the grading standards for canned clingstone peaches. This action is being taken at the request of industry and the effect of this rule will be to improve the standards.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Howard W. Schutz, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4693.

SUPPLEMENTARY INFORMATION: For the past 10 years California has produced more than 60 percent of the nation's total peach crop and has packed more than 95 percent of the nation's commercial canned peach pack.

Peaches rank as the highest stone fruit produced in the United States, both in terms of quantity and economic value and ranks as the highest in quantity of all canned fruits produced in the nation. The latest available data indicates that the annual U.S. peach crop exceeds 1.3 million tons valued at $254.5 millon and of which over 62 percent is produced in California. The two main varietal types of peaches that are grown and processed are the yellow clingstone and the yellow freestone.

Almost 600,000 tons of yellow clingstone peaches are produced annually in California of which more than 590,000 tons are canned commerically. This constitutes approximately 98 percent of the U.S. total canned yellow clingstone peach pack.

The last major revision of the U.S. Standards for Grades of Canned Clingstone Peaches was in 1957 with subsequent amendments at various times since then. In 1967 the Canners League of California (CLC) Standards Committee requested the Department to provide a preliminary draft of an attribute type standard based on statistical principles for canned clingstone peaches. This being a totally new concept of grading for the canning industry, several years of preliminary study were conducted by the processors. Prior to the 1976 peach processing season, the CLC Standards Committee requested the Department to set up a formal study program during the 1976 canning season. In compliance with this request a formal study was drawn up and coordinated in 10 different cling peach canning plants in California. Department representatives met with CLC's Ad Hoc Attribute Standards Committee on September 23, 1976 and gave a preliminary report of the study. Later in 1976, a comprehensive summary of the analysis of the 1976 study was submitted to the CLC Standards Committee, along with a revised draft of the attributes standards containing modifications suggested by the results of the study.

Attribute food standards seminar dealing with the basic attributes approach for food standards with particular emphasis on the proposed draft of revisions to the U.S. Standards for Grades of Canned Clingstone Peaches were presented to the public on March 11, 1977 and March 24, 1977, at Stockton and San Jose, Calif., respectively. As a result of the 1976 study and the above mentioned meetings the CLC Standards Committee requested that this revised draft be published in the FEDERAL REGISTER as a proposed rulemaking. The Standards Committee further requested that the clingstone peach canners be given until March 1, 1978 to study the revisions and new concepts of the proposed rulemaking and its effect on production and qual-

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

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ity control operations during the 1977 canning season.

On April 28, 1977 a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (42 FR 21746), regarding the issuance of United States Standards for Grades of Canned Clingstone Peaches under Chapter I, Part 52 which has been changed to Chapter XXVIII, Part 2852 by a rule effective June 27, 1977, establishing a new Chapter for the Food Safety and Quality Service in the Code of Federal Regulations. Interested persons were given until March 1, 1978 to submit written data, views or arguments regarding the proposed standards.

Information concerning the proposal was released to the news media and was carried in trade publications. In all instances it was pointed out that use of U.S. grade standards and official grading services is voluntary.

Department representatives were invited to again meet with the CLC Standard Committee on July 8, 1977 and were requested to present seminars to the interested public dealing with the basic attributes approach for food standards with particular emphasis on the Proposed Rulemaking for Revision of the U.S. Standards for Grades of Canned Clingstone Peaches and the application of this Proposed Rulemaking during a 1977 study. Three seminars were presented by Department representatives between July 14, 1977 and July 25, 1977 at Stockton, Modesto and San Jose, Calif. with 78 persons in total attendance.

Ten different clingstone peach canning plants in California participated in a Department coordinated study during the 1977 canning season using the Proposed Rulemaking under normal canning plant operating conditions. During the time period from July 26, 1977 through September 15, 1977, 61 Departmental visits were made to these individual canning plants for the purpose of monitoring the study.

During the weeks of September 12, 1977 and September 19, 1977, Department representatives met with four processed food retail buying groups for the purpose of discussing and explaining the proposed standards.

On September 16, 1977, Department representatives met with the CLC Standards Committee at which time a preliminary report of the 1977 canning season study was given to the Committee who indicated its agreement with the proposed rulemaking.

This revision of the United States Standards for Grades of Canned Clingstone Peaches will:

(1) Convert the current score points variables standard to an attributes standard based on statistical principles;

(2) Eliminate the score points since the attributes approach is a go/no-go approach;

(3) Eliminate the separate grade criteria for solid-pack peaches, the U.S. Grades D classification, and the alternate grade nomenclature of Fancy, Choice and Standard from the various grade classifications, retaining only the letter grades U.S. Grade, A, B, C and Substandard;

(4) Function in combination with the two statistical sampling plans recently added to the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products, §§ 2852.38a, 2852.38b and 2852.38c (43 FR 10539);

(5) Provide for separate acceptance criteria for unofficially submitted samples. These are single sample units that do not represent a lot;

(6) Provide for various defect classifications according to severity or frequency of occurrence. These classifications are minor, major, severe and critical, with descending allowances starting with the most liberal allowances for minor defects to the most restrictive allowances for the critical defects.

Five letters were received in response to the proposal during the comment period. Of the four favorable responses, two were from individual consumers, one was from a food marketing company that deals in retail size canned and frozen foods, and one was from the Canners League of California, a non-profit trade association representing 33 California fruit and vegetable canners. The other comment received was not pertinent to the content of the proposal, but rather was a complaint as to the shortness of storage life of canned peaches after opening and storing them in a refrigerator.

Minor changes in the text from the published proposal are: (1) Deletion of references to "fleshy texture" under character as it was found to be adequately covered by "shelly units" (excessively thin-fleshed units) under classified defects; (2) deletion of "frayed units" as classified defects and reassigning them as character prerequisities. (These two changes give the standard much better balance.); (3) a clearer definition of overall appearance as "brightness". This cleared up a lot of misinterpretation of the original intent; (4) some AQL's were rounded off to be in line with the statistical sampling plans in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products, §§ 2852.38a-2852.38c (7 CFR 10539); (5) under the styles of halves and quarters, the classification of detached pieces was moved from severe to major, as it was found to be too restrictive from a practical standpoint. Due to the softness of the suture line (the naturally occurring indentation, running from the stem to the apex of a peach) in canned clingstone peaches, additional detached pieces may be caused by handling during labeling, casing and transit; (6) several editorial changes made for clarification purposes; (7) Brix cutoff between "light" and "heavy" syrup and between "heavy" and "extra-heavy" syrup changed to be in line with the applicable Food and Drug Standards of Identity (21 CFR 145.170(a)(3)).

After consideration of all relevant matters presented by interested persons, and since there were no unfavorable comments regarding the proposal, the proposed revision to the United States Standards for Grades of Canned Clingstone Peaches is adopted as set forth below.

Effective date: The revised U.S. Standards for Grades of Canned Clingstone Peaches shall become effective on June 1, 1978.

Sec.

2852.2561 Product description.
2852.2562 Styles.
2852.2563 Definitions of terms.
2852.2564 Recommended sample unit sizes.
2852.2565 Liquid media and Brix measurements.
2852.2566 Fill or container.
2852.2567 Recommended fill of container for canned "solid-pack" clingstone peaches.
2852.2568 Recommended drained weights.
2852.2569 Recommended fill weights.
2852.2570 Grades.
2852.2571 Factors of quality.
2852.2572 Classification of defects.
2852.2573 Tolerances for defects.
2852.2574 Sample size.
2852.2575 Compliance with quality requirements.

AUTHORITY: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended 1090, as amended; (7 U.S.C. 1622, 1624).

§ 2852.2561 Product description.

Canned clingstone peaches is the product represented as defined in the Standards of Identity for canned peaches (21 CFR 145.170 and 145.171) issued under the Federal Food, Drug and Cosmetic Act. For the purposes of the standards in this subpart, and unless the text indicates otherwise, the terms, "canned peaches" or "canned clingstone peaches" include "canned yellow clingstone peaches," "canned spiced yellow clingstone peaches," "canned 'solid-pack' yellow clingstone peaches" and "canned artificially sweetened yellow clingstone peaches" as defined in the Standards of Identity.

§ 2852.2562 Styles.

(a) *"Whole"* consists of peeled whole peaches with or without stems removed.

(b) *"Halved" or "Halves"* consists of peeled and pitted peaches cut approximately in half along the suture from stem to apex.

(c) *"Quartered" or "Quarters"* consists of halved peaches cut into two approximately equal parts.

(d) *"Sliced" or "Slices"* consists of peeled and pitted peaches cut into wedge-shaped sectors.

(e) *"Diced" or "Dice"* consists of peeled and pitted peaches cut into cube-like units.

(f) *"Halves and pieces"* consists of peeled and pitted peaches in which more than 50 percent, by weight, of the peaches are halves.

(g) *"Pieces" or "Irregular pieces," or "Mixed pieces of irregular sizes and shapes"* consists of peeled, pitted peaches of irregular sizes and shapes or peaches that do not conform to any of the foregoing styles.

§ 2852.2563 Definitions of terms.

(a) *Acceptance Quality Level (AQL).* The maximum percent of defective units or the maximum number of defects per hundred units, of product that, for purposes of acceptance sampling can be considered satifactory as a process average.

(b) *Blemished* means any unit which is affected by scab, hail injury, or discoloration to the extent that the appearance or eating quality is affected:

(1) Not more than slightly;

(2) Materially; or

(3) Seriously.

(c) *Brightness* means the extent that the overall appearance of the sample unit as a mass is dulled by oxidation, pigmentation or other causes.

(1) Grades A and B—not affected.

(2) Grade C—not more than materially affected.

(3) Substandard—fails grade C.

(d) *Character* refers to the texture and tenderness of the product as follows:

(1) *Good character.*—(i) *Whole.* The units have a texture typical of properly prepared and processed peaches; the units are at least reasonably tender or the tenderness may be variable within the unit; the units may be slightly hard or slightly soft.

(ii) *Halves; slices; quarters; halves and pieces; pieces or irregular pieces.* The units have at least a reasonably tender texture typical of properly prepared and processed peaches and may be no more than slightly frayed.

(iii) *Dice.* The product generally has at least a reasonably tender texture typical of properly prepared and processed peaches; the units are intact and may be no more than slightly frayed.

(2) *Fairly good character.*—(i) *Whole.* The units have a fairly tender texture typical of properly prepared and processed peaches; the units may be lacking in uniformity of tenderness and may be substantially firm or soft.

(ii) *Halves; slices; quarters; halves and pieces; pieces or irregular pieces.* The units have a texture typical of properly prepared and processed peaches; the units may be fairly tender and may lack uniformity of tenderness; the units may be soft and frayed or may be substantially firm.

(iii) *Dice.* The product generally has a fairly tender texture typical of properly prepared and processed peaches; the units are intact and may be frayed.

(3) *Poor character.—All styles.* The units are excessively soft or mushy or are excessively hard.

(e) *Color.*—(1) *General.* The color of canned yellow clingstone peaches other than "spiced" peaches refers to the predominant and characteristic color on the surface of whole units, and the outside surfaces of other units. The cut surfaces of such units are also considered when adversely affected by discoloration.

(2) *Individual unit color classifications.*—(i) *Good color* means peach units that are equal to or better than light orangish-yellow.

(ii) *Fairly good color* means peach units that may fail to meet minimum color requirements for "good color" but are equal to or better than greenish-yellow.

(iii) *Poor color* means peach units that may fail to meet minimum color requirements for "fairly good color."

(f) *Crushed or broken* in the styles of whole, halves, and quarters means:

(1) A unit is "crushed" if it has definitely lost its normal shape and is crushed not due to ripeness; and

(2) A unit is "broken" if severed into definite parts. Any unit in halves style that is split from the edge to the pit cavity is not considered broken.

(g) *Defect.* Any nonconformance of a unit(s) of product from a specified requirement of a single quality characteristic.

(h) *Extraneous vegetable material.*—(1) *Small pieces* means long stems, pieces of twigs not more than 51 mm (2.0 inch) in length, or leaf material or portions thereof.

(2) *Short stem* means the woody stem which attaches the peach to the twig of the tree and is 3 mm (0.12 inch) to 10 mm (0.39 inch) in length. Dark brown stems less than 3 mm (0.12 inch) in length are also considered as short stems.

(i) *Flavor and odor. "Normal flavor and odor"* means that the canned peaches are free from objectionable flavors and odors of any kind.

(j) *Mechanical damage.*—(1) *Partial slice,* in the style of slices, is a unit that has had a semblance of a slice with respect to thickness and shape but is less than three-fourths of an apparent full slice and that does not bear marks of crushing. Pieces are reassembled to equal an average full size slice and counted as one unit.

(2) *Detached piece,* in the style of halves and quarters, is a piece which has the appearance of a slice resulting from an off-suture cut or other improper cutting.

(3) *Gouges* means holes or gouges that do not destroy the normal configuration of the unit but adversely affect the appearance of the unit:

(i) Not more than slightly;

(ii) Materially; or

(iii) Seriously.

(4) *Off-suture cut,* in the styles of halves and quarters, is a unit which has been cut at a distance from the suture greater than 10 mm (0.39 inch) at the widest measurement and the appearance is affected:

(i) Not more than slightly;

(ii) Materially; or

(iii) Seriously.

(5) *Partially detached piece,* in the style of halves and quarters, is a piece which has the appearance of a slice resulting from an off-suture cut or other improper cutting. The defect is attached to the half or quarter from which cut, but must be detached more than one-third of the length of the half or quarter along the suture approximately parallel with the suture.

(6) *Other mechanical damage* means a unit in the styles of whole, halves and quarters which is damaged to the extent that the shape of the unit is affected:

(i) Not more than slightly;

(ii) Materially; or

(iii) Seriously.

(k) *Peel* means all of the outer layer of the peach that is normally removed during processing.

(l) *Sample unit size* means the amount of product specified to be used for inspection. It may be:

(1) The entire contents of a container; or

(2) A portion of the contents of a container; or

(3) A combination of the contents of 2 or more containers; or

(4) A portion of unpacked product.

(m) *Shelly,* in the styles of halves, quarters and slices, means a unit in which the pit cavity has been trimmed to such an extent as to leave the unit only fairly fleshy.

(n) *Slab,* in the style of slices, means an irregularly shaped unit resulting from the slicing operation that materially deviates from the normal shape of a wedge-shaped sector.

(o) *Sliver,* in the style of slices, means any unit that weighs 3 g (0.12 ounces) or less and has the symmetry of a full slice.

(p) *Unit* means one whole, half, quarter, slice, dice, or piece of peach as applicable for the style.

§ 2852.2564 Recommended sample unit sizes.

(a) *Factors of quality.* Compliance with requirements for factors of quality is based on the following recommended sample unit sizes for the respective style.

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(1) Halves, quarters—25 units.
(2) Whole—25 units.
(3) Slices—50 units or 100 units.
(4) Dice—200 g (7 ounces).
(5) Halves and pieces: Pieces or irregular pieces—1,000 g (35.3 ounces).

§ 2852.2565 Liquid media and Brix measurements.

"Cut-out" requirements for liquid media in canned clingstone peaches are not incorporated in the grades of the finished product since sirup or any other liquid medium, as such, is not a factor of quality for the purposes of these grades. The "cut-out" Brix measurements, as applicable, for the respective designations are as follows:

Designations	*Brix measurements*
Extra heavy sirup or extra heavily sweetened fruit juice(s) and water or extra heavily sweetened fruit juice(s).	22° or more but not more than 35°.
Heavy sirup or heavily sweetened fruit juice(s) and water or heavily sweetened fruit juice(s).	18° or more but less than 22°.
Light sirup or lightly sweetened fruit juice(s) and water or lightly sweetened fruit juice(s).	14° or more but less than 18°.
Slightly sweetened water or extra light sirup or slightly sweetened fruit juice(s) and water or slightly sweetened fruit juice(s).	10° or more but less than 14°.
In water	Not applicable.
In fruit juice(s) and water	Do.
In fruit juice(s)	Do.
Artificially sweetened	Do.

§ 2852.2566 Fill of container.

The standard of fill of container for canned clingstone peaches is the maximum quantity of the peach units which can be sealed in the container and processed by heat to prevent spoilage, without crushing or breaking such ingredient. Canned clingstone peaches that do not meet this requirement are "Below Standard in Fill."

§ 2852.2567 Recommended fill of container for canned "solid-pack" clingstone peaches.

The recommended fill of container for canned "solid-pack" clingstone peaches is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container of "solid-pack" clingstone peaches be as full of peaches as practicable without impairment of quality and that the product (including liquid, if any) occupy not less that 90 perceant of the volume of the container.

§ 2852.2568 Recommended drained weights.

(a) *General.*—(1) The minimum drained weight recommendations for the various applicable styles in table I of this subpart are not incorporated in the grades of the finished product since drained weight, as such, is not factor of quality for the purposes of these grades.

(2) The recommended minimum drained weights are based on equalization of the product 30 days or more after the product has been canned.

(b) *Method for determining drained weight.* The drained weight of canned clingstone peaches and canned "solid-pack" clingstone peaches is determined by emptying the contents of the container, turning the pit cavities down in halves, upon a U.S. Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937-in± 3 percent, square openings) so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage, and allowing to drain for 2 minutes. The drained weight is the weight of the sieve and peaches less the weight of the dry sieve. A sieve 8 inches in diameter is used for the equivalent of No. 3 size cans (404×414) and smaller, and a sieve 12 inches in diameter is used for containers larger than the equivalent of the No. 3 size can.

(c) *Definitions of symbols.* (1) X_d—The average drained weight of all the sample units in the sample.

(2) *LL*—Lower limit for drained weights of individual sample units.

(d) *Compliance with recommended drained weights.* A lot of canned clingstone peaches and canned unsweetened "solid-pack" clingstone peaches is considered as meeting the minimum drained weight recommendations if the following criteria are met:

(1) The average of the drained weights from all the sample units in the sample meets the recommended average drained weight (designated as X_d in table I);

(2) The number of sample units which fail to meet the recommended minimum drained weight for individuals (designated as *LL* in table I) does not exceed the applicable acceptance number specified in the single sampling plan of table II.

§ 2852.2569 Recommended fill weights.

(a) *General.* The minimum fill weight recommendations for the various styles in table III of this subpart are not incorporated in the grades of the finished product since fill weight, as such, is not a factor of quality for the purpose of these grades.

(b) *Method for determining fill weight.* The fill weight of canned clingstone peaches is determined in accordance with the U.S. Standards for Inspection by Variables and the U.S. Standards for Determination of Fill Weights.

(c) *Definitions of terms and symbols.* "Subgroup" means a group of sample units representing a portion of a sample.

X'_{min} means the minimum lot average fill weight.

LWL_x means the lower warning limit for subgroup averages.

LRL_x means the lower reject limit for group averages.

LWL means the lower warning limit for individual fill weight measurements.

TABLE I.—*Recommended minimum drained weights for canned clingstone peaches*

Container designation (metal, unless otherwise stated)	Container size (overall dimensions) Diameter (inches)	Container size (overall dimensions) Height (inches)	Overflow capacity (fluid ounces)	Sliced: In extra heavy sirup (ounces) X_d	Sliced: In extra heavy sirup (ounces) LL_4	Sliced: In heavy sirup (ounces) X_d	Sliced: In heavy sirup (ounces) *LL*	Sliced: In any other liquid medium (ounces) X_d	Sliced: In any other liquid medium (ounces) *LL*	Diced in any liquid medium X_d	Diced in any liquid medium *LL*
5Z	211	200		2.8	2.2	3.0	2.4	3.1	2.5	2.9	2.6
5Z	211	202		3.0	2.4	3.2	2.6	3.3	2.7	3.2	2.9
6Z	300	200		3.4	2.8	3.6	3.0	3.7	3.1	3.7	3.4
7Z	211	212		4.0	3.4	4.2	3.8	4.3	3.7	4.3	4.0
8Z tall	211	304		4.9	4.3	5.1	4.5	5.2	4.6	5.2	4.7
No. 300	300	407		8.9	8.2	9.1	8.4	9.3	8.6	9.5	8.9
No. 303	303	406		9.9	9.1	10.1	9.3	10.3	9.5	10.5	9.8
No. 303 glass			17.0	9.9	9.1	10.1	9.3	10.3	9.5	10.5	9.8
No. 2	307	409		12.0	11.1	12.3	11.4	12.6	11.7	12.7	11.9
No. 2½	401	411		17.4	16.3	17.8	16.7	18.2	17.1	18.5	17.5
No. 2½ glass			28.35	16.9	15.8	17.3	16.2	17.7	16.6	18.0	17.0
No. 10	603	700		64.5	62.5	66.5	64.5	68.5	66.5	70.0	68.2

TABLE I—(Continued)

Container designation (metal, unless otherwise stated)	Heavy pack—any style in any liquid medium (ounces) X_d	Heavy pack—any style in any liquid medium (ounces) *4LL*	Solid pack—all applicable styles (unsweetened only) (ounces) X_d	Solid pack—all applicable styles (unsweetened only) (ounces) *LL*
No. 2½	20.0	18.6	25.5	24.1
No. 10	76.0	73.5	92.0	89.5

TABLE I (Continued)

Container designations (metal, unless otherwise stated)	Halves: In extra heavy sirup (ounces) X_d	Halves: In extra heavy sirup (ounces) *LL*	Halves: In heavy sirup (ounces) X_d	Halves: In heavy sirup (ounces) *LL*	Halves: In any other liquid medium (ounces) X_d	Halves: In any other liquid medium (ounces) *LL*	Quarters; and mixed pieces of irregular sizes and shapes: In extra heavy sirup (ounces) X_d	Quarters; and mixed pieces of irregular sizes and shapes: In extra heavy sirup (ounces) *LL*	Quarters; and mixed pieces of irregular sizes and shapes: In heavy sirup (ounces) X_d	Quarters; and mixed pieces of irregular sizes and shapes: In heavy sirup (ounces) *LL*	Quarters; and mixed pieces of irregular sizes and shapes: In any other liquid medium (ounces) X_d	Quarters; and mixed pieces of irregular sizes and shapes: In any other liquid medium (ounces) *LL*
8Z tall	5.0	4.3	5.2	4.5	5.3	4.6	5.0	4.3	5.2	4.5	5.3	4.6
No. 300	9.0	8.2	9.2	8.4	9.4	8.6	9.0	8.2	9.2	8.4	9.4	8.6
No. 303	10.0	9.1	10.2	9.3	10.4	9.5	10.0	9.1	10.2	9.3	10.4	9.5
No. 303 glass	10.0	9.1	10.2	9.3	10.4	9.5	10.0	9.1	10.2	9.3	10.4	9.5
No. 2	12.1	11.0	12.4	11.3	12.7	11.6	12.1	11.0	12.4	11.3	12.7	11.6
No. 2½ glass	17.1	15.7	17.5	16.1	17.9	16.5	17.1	15.7	17.5	16.1	17.9	16.5
No. 2½							17.6	16.2	18.0	16.6	18.4	17.0
No. 2½, 7 count or more	17.6	16.2	18.0	16.6	18.4	17.0						
No. 2½, 6 count or less	17.0	15.6	17.4	16.0	17.8	16.4						
No. 10							64.5	62.0	66.5	64.0	68.5	66.0
No. 10, 24 count or more	64.5	62.0	66.5	64.0	68.5	66.0						
No. 10, 23 count or less	63.0	60.5	65.0	62.5	67.0	64.5						

TABLE II.—*Single sampling plan for drained weights*

Sample size (number of sample units)	3	6	13	21	29
Acceptance No	0	1	2	3	4

TABLE III.—*Recommended fill weight values for canned clingstone peaches*

Container designation (metal, unless otherwise designated)	X'_{min}	LWL_x	LRL_x	*LWL*	*LRL*	R'	R_{max}	Sampling allowance code
Halves								
8Z tall	5.4	4.9	4.7	4.4	3.9	1.2	2.5	I
No. 300	9.6	9.0	8.7	8.3	7.6	1.5	3.2	L
No. 303 glass	10.6	10.0	9.6	9.2	8.5	1.6	3.4	M
No. 303	10.6	10.0	9.6	9.2	8.5	1.6	3.4	M
No. 2	12.9	12.2	11.8	11.3	10.5	1.9	3.9	O
No. 2½ glass	18.2	17.3	16.9	16.2	15.2	2.3	4.9	S
No. 2½, 7 count or more	18.7	17.8	17.4	16.7	15.7	2.3	4.9	S
No. 2½, 6 count or less	18.0	17.1	16.7	16.0	15.0	2.3	4.9	S
No. 10, 24 count or more	70.5	69.0	68.2	67.1	65.4	4.0	8.4	Z
No. 10, 23 count or less	69.0	67.5	66.7	65.6	63.9	4.0	8.4	Z
Sliced—fill weight values (ounces)								
8Z	4.0	3.6	3.4	3.2	2.8	.9	1.9	G
8Z tall	5.4	5.0	4.8	4.4	4.0	1.0	2.1	H
No. 300	9.7	9.2	8.9	8.5	7.9	1.4	3.0	K
No. 303 glass	10.7	10.1	9.8	9.4	8.7	1.5	3.2	L
No. 303	10.7	10.1	9.8	9.4	8.7	1.5	3.2	L
No. 2	13.1	12.4	12.1	11.6	10.8	1.7	3.7	N
No. 2½	19.0	18.2	17.8	17.2	16.3	2.1	4.4	Q
No. 2½ glass	18.5	17.7	17.3	16.7	15.8	2.1	4.4	Q
No. 10	72.0	70.6	69.8	68.8	67.2	3.7	7.9	Y
Quarters—fill weight values (ounces)								
8Z tall	5.5	5.1	4.9	4.6	4.1	1.1	2.2	H
No. 300	9.9	9.4	9.1	8.7	8.1	1.4	3.0	K
No. 303 glass	11.0	10.4	10.1	9.7	9.0	1.5	3.2	L
No. 303	11.0	10.4	10.1	9.7	9.0	1.5	3.2	L
No. 2	13.3	12.6	12.3	11.8	11.0	1.7	3.7	N
No. 2½ glass	18.8	18.0	17.6	17.0	16.1	2.1	4.4	Q
No. 2½	19.3	18.5	18.1	17.5	16.6	2.1	4.4	Q
No. 10	74.0	72.6	71.8	70.8	69.2	3.7	7.9	Y

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TABLE III.—*Recommended fill weight values for canned clingstone peaches* (Continued)

Container designation (metal, unless otherwise designated)	X'_{min}	LWL_1	LRL_1	LWL	LRL	R'	R_{max}	Sampling allowance code
Diced—fill weight values (ounces)								
5 oz		3.4	3.2	3.0	2.9	2.6	.60	1.20	D
5 oz		3.7	3.5	3.3	3.2	2.9	.60	1.20	D
6 oz		4.3	4.1	3.9	3.8	3.5	.60	1.20	D
7 oz		5.0	4.8	4.6	4.5	4.2	.60	1.20	D
8Z tall		6.1	5.9	5.7	5.6	5.3	.60	1.20	D
No. 300		10.6	10.2	10.0	9.8	9.4	.90	2.0	G
No. 303		11.7	11.3	11.1	10.8	10.3	1.1	2.2	H
No. 303 glass		11.7	11.3	11.1	10.8	10.3	1.1	2.2	H
No. 2		14.3	13.8	13.6	13.3	12.8	1.2	2.5	I
No. 2½		20.7	20.2	20.0	19.6	19.0	1.3	2.7	J
No. 2½ glass		20.2	19.7	19.5	19.1	18.5	1.3	2.7	J
No. 10		77.0	75.9	75.4	74.6	73.4	2.8	5.9	U
Mixed pieces of irregular sizes and shapes—fill weight values (ounces)								
No. 2½		19.3	18.5	18.1	17.5	16.6	2.1	4.4	Q
No. 10		74.0	72.6	71.8	70.8	69.2	3.7	7.9	Y
Spiced, whole—fill weight values (ounces)								
No. 2½ 6 count or less		17.0	15.9	15.4	14.6	13.4	2.8	5.9	U
No. 2½ 7 count or more		17.5	16.4	15.9	15.1	13.9	2.8	5.9	U
No. 10		70.0	68.2	67.3	66.0	64.0	4.7	9.8	C1
Heavy pack halves, sliced, mixed pieces of irregular sizes and shapes—fill weight values (ounces)								
No. 10		86.0	84.8	84.2	83.4	82.1	3.0	6.4	V

LRL means the lower reject limit for individual fill weight measurements.

R' means a specified average range value.

R_{max} means a specified maximum range for a subgroup.

"Sampling allowance code" means a letter on the sampling allowance chart of the U.S. Standards for Inspection by Variables. This letter identifies the appropriate line which gives the amount of sampling allowance to be applied to the specification average for fill weights in order to determine compliance with requirements for fill weight averages for a sample.

(d) *Subgroup size.* The subgroup size for determination of fill weights shall be 5 sample units.

(e) *Compliance with recommended fill weights.* Compliance with the recommended fill weights for canned clingstone peaches shall be in accordance with the acceptance criteria specified in the U.S. Standards for Inspection by Variables and the U.S. Standards for Determination of Fill Weights.

§ 2852.2570 Grades.

(a) *"U.S. Grade A"* is the quality of canned clingstone peaches that:

(1) Meets the following prerequisites in which the peaches:

(i) Have similar varietal characteristics;

(ii) Have a normal flavor and odor;

(iii) Have overall brightness of the sample unit as a mass and are not affected by dullness;

(iv) Have units that are practically uniform in size and shape in sliced style;

(v) Are practically free from pit material, except for whole style;

(vi) Are practically free from crushed and broken units in the styles of whole, halves, and quarter;

(vii) Do not exceed the aggregate area of peel specified for the style as follows:

(*a*) Whole—5.5 cm^2 (0.85 in^2 or 1 × 0.85);

(*b*) Halves—4.5 cm^2 (0.7 in^2 or 1 × 0.7);

(*c*) Quarters—2.25 cm^2 (0.34 in^2 or 1 × 0.34);

(*d*) Slices—50 count, 1.8 cm^2 (0.28 in^2 or 1 × 0.28); 100 count, 3.5 cm^2 (0.54 in^2 or 1 × 0.54);

(*e*) Dice—0.5 cm^2 (0.08 in^2 or 1 × 0.08);

(*f*) Halves and pieces, pieces or irregular pieces—3.25 cm^2 (0.5 in^2 or 1 × 0.5);

(viii) Have a good character such that the number of units that have fairly good character does not exceed the following:

(*a*) Whole, halves, and quarters—1 unit;

(*b*) Slices—50 count, 3 units; 100 count, 5 units;

(*c*) Halves and pieces, and pieces or irregular pieces—50 g;

(*d*) Dice—10 g;

(2) Are within the limits for defects as classified in table IV and specified in tables V, VI, VII, VIII, or IX.

(b) *"U.S. Grade B"* is the quality of canned clingstone peaches that:

(1) Meets the following prerequisites in which the peaches:

(i) Have similar varietal characteristics;

(ii) Have normal flavor and odor;

(iii) Have overall brightness of the sample unit as a mass and are not affected by dullness;

(iv) Have units that are practically uniform in size and shape in sliced style;

(v) Are practically free from pit material, except for whole style;

(vi) Are practically free from crushed and broken units in the styles of whole, halves, and quarters:

(vii) Do not exceed the aggregate area of peel specified for the style as follows:

(*a*) Whole—22.5 cm^2 (3.5 in^2 or 1×3.5);

(*b*) Halves—19 cm^2 (3 in^2 or 1×3);

(*c*) Quarters—9.5 cm^2 (1.5 in^2 or 1×1.5);

(*d*) Slices—50 count, 7 cm^2 (1.1 in^2 or 1×1.1); 100 count, 14 cm^2 (2.2 in^2 or 1×2.2);

(*e*) Dice—1.5 cm^2 (0.23 in^2 or 1×0.23);

(*f*) Halves and pieces, pieces or irregular pieces—12.25 cm^2 (1.9 in^2 or 1×1.9);

(viii) Have a reasonably good character such that the number of units that

have fairly good character does not exceed the following:

(*a*) Whole, halves, and quarters—3 units;

(*b*) Slices—50 count, 5 units; 100 count, 10 units;

(*c*) Halves and pieces, pieces or irregular pieces—100 g;

(*d*) Dice—20 g;

(2) Are within the limits for defects as classified in table IV and specified in tables V, VI, VII, VIII, or IX.

(c) *"U.S. Grade C"* is the quality of canned clingstone peaches that:

(1) Meets the following prerequisites in which the peaches:

(i) Have similar varietal characteristics;

(ii) Have a normal flavor and odor;

(iii) Have overall brightness of the sample unit as a mass which is not more than materially affected by dullness;

(iv) Have units that may be variable in size and shape in sliced style;

(v) Are practically free from pit material, except for whole style;

(vi) Are practically free from crushed and broken units in the styles of whole, halves, and quarters;

(vii) Do not exceed the aggregate area of peel specified for the style as follows:

(*a*) Whole—45 cm^2 (7 in^2 or 1×7);

(*b*) Halves—38 cm^2 (5.9 in^2 or 1×5.9);

(*c*) Quarters—19 cm^2 (3 in^2 or 1×3);

(*d*) Slices—50 count, 15 cm^2 (2.3 in^2 or 1×2.3); 100 count, 30 cm^2 (4.6 in^2 or 1×4.6);

(*e*) Dice—3 cm^2 (0.5 in^2 or 1×0.5);

(*f*) Halves and pieces, pieces or irregular pieces—27 cm^2 (4.2 in^2 or 1×4.2);

(viii) Have a fairly good character such that the number of units that have poor character does not exceed the following:

(*a*) Whole, halves, and quarters—3 units;

(*b*) Slices—50 count, 5 units; 100 count, 10 units;

(*c*) Halves and pieces, pieces or irregular pieces—100 g;

(*d*) Dice—20 g;

(2) Are within the limits for defects as classified in table IV and specified in tables V, VI, VII, VIII, or IX.

(d) *"Substandard"* is the quality of canned clingstone peaches that fails to meet the requirements for U.S. Grade C.

TABLE IV.—*Classification of defects*

Quality factor	Defect	Classification			
		Minor	Major	Severe	Critical
WHOLE					
Individual	Fairly good (in grade A and B only)		X		
Unit color	Poor (in grade A, B, and C)			X	
Blemished	Not more than slightly	X			
	Materially		X		
	Seriously			X	
Uniformity of size	Excessive variation (each unit)	X			
Mechanical damage	Gouge:				
	Not more than slightly	X			
	Materially		X		
	Seriously			X	
	Other mechanical damage:				
	Not more than slightly	X			
	Materially		X		
	Seriously			X	
Extraneous vegetable material	Small piece (each piece)				X
HALVES AND QUARTERS					
Individual	Fairly good (in grade A and B only)		X		
Unit color	Poor (in grade A, B and C)			X	
Blemished	Not more than slightly	X			
	Materially		X		
	Seriously			X	
Uniformity of size	Excessive variation (each unit)	X			
Mechanical damage	Off-suture:				
	Not more than slightly	X			
	Materially		X		
	Seriously			X	
	Partially detached piece	X			
	Detached piece		X		
	Shelly unit (in grade A and B only)		X		
	Gouge:				
	Not more than slightly	X			
	Materially		X		
	Seriously			X	
	Other mechanical damage:				
	Not more than slightly	X			
	Materially		X		
	Seriously			X	
Extraneous vegetable material	Short stem (each stem)	X			
	Small piece (each piece)				X

§ 2852.2571 Factors of quality.

The grade of a lot of canned clingstone peaches is based on compliance with requirements for the following quality factors:

(a) Prerequisite quality factors:
(1) Similar varietal characteristics;
(2) Flavor and odor;
(3) Brightness;
(4) Uniformity of size of slices;
(5) Pit material;
(6) Crushed or broken units;
(7) Peel; and
(8) Character.
(b) Classified quality factors:
(1) Individual unit color;
(2) Workmanship;
(3) Blemished;
(4) Uniformity of size;
(5) Mechanical damage; and
(6) Extraneous vegetable material.

§ 2852.2572 Classification of defects.

Defects are classified as minor, major, severe, or critical. Each "X" mark in table IV represents "one (1) defect."

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TABLE IV.—*Classification of defects*—Continued

Quality factor	Defect	Classification			
		Minor	Major	Severe	Critical
	SLICES				
Individual	Fairly good (in grade A and B only)		X		
Unit color	Poor (in grade A, B, and C)			X	
Workmanship	Sliver		X		
	Slab			X	
Blemished	Not more than slightly	X			
	Materially		X		
	Seriously			X	
Mechanical damage	Shelly unit(in grade A and B only)		X		
	Gouge:				
	Not more than slightly	X			
	Materially		X		
	Seriously			X	
	Partial slice		X		
Extraneous vegetable material.	Short stem (each stem)	X			
	Small piece (each piece)				
	DICE				
Individual	Fairly good (in grade A and B only—each 8 g)		X		
Unit color	Poor (in grade A, B, and C—each 8 g)			X	
Workmanship	More than 20mm (0.79 in) and less than 8 mm (0.31) on 1 cut edge, each 8 g.	X			
Blemished	Materially (each 8 g)		X		
	Seriously (each 8 g)			X	
Extraneous vegetable material.	Short stem and small piece (each piece)				
	HALVES AND PIECES; PIECES OR IRREGULAR PIECES				
Individual	Fairly good (in grade A and B only) (each 40g)		X		
Unit color	Poor (in grade A, B, and C) (each 40 g)			X	
Blemished	Not more than slightly (each 40 g)	X			
	Materially (each 40 g)		X		
	Seriously (each 40 g)			X	
Extraneous vegetable material.	Short stem (each stem)	X			
	Small piece (each piece)				X

§ 2852.2573 Tolerances for defects.

TABLE V.—*Whole*

	Grade A				Grade B				Grade C			
	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical
AQL[1]	10.0	2.5	1.0	0.4	15.0	10.0	2.5	1.0	25.0	15.0	10.0	2.5

[1]AQL expressed as defects per 100 units.
[2]Total equals Minor plus Major plus Severe plus Critical.

TABLE VI.—*Halves; quarters*

	Grade A				Grade B				Grade C			
	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical
AQL[1]	12.5	8.5	2.5	0.4	20.0	12.5	5.0	1.0	33.0	20.0	12.5	2.5

[1]AQL expressed as defects per 100 units.
[2]Total equals Minor plus Major plus Severe plus Critical.

TABLE VII.—*Slices*

	Grade A				Grade B				Grade C			
	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical
AQL[1]	10.0	6.5	1.5	0.65	20.0	15.0	5.0	1.5	40.0	25.0	15.0	2.5

[1]AQL expressed as defects per 100 units.
[2]Total equals Minor plus Major plus Severe plus Critical.

TABLE VIII.—*Dice*

	Grade A				Grade B				Grade C			
	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical
AQL[1]	12.5	6.5	2.5	0.4	15.0	8.5	4.0	0.65	20.0	10.0	8.5	1.0

[1]AQL expressed as defects per 100 units.
[2]Total equals Minor plus Major plus Severe plus Critical.

TABLE IX.—*Halves and pieces; pieces or irregular pieces*

	Grade A				Grade B				Grade C			
	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical	Total[2]	Major	Severe	Critical
AQL[1]	10.0	2.5	1.0	0.4	12.5	6.5	2.5	1.0	20.0	12.5	6.5	2.5

[1]AQL expressed as defects per 100 units.
[2]Total equals Minor plus Major plus Severe plus Critical.

§ 2852.2574 Sample size.

The sample size to determine compliance with requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products" (7 CFR 2852.1-2852.83) for lot inspection and on-line inspection, as applicable.

§ 2852.2575 Compliance with quality requirements.

(a) *Lot inspection.* A lot of canned clingstone peaches is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 2852.2570 are met; and

(2) The Acceptable Quality Levels (AQL) in tables V, VI, VII, VIII, and IX, as applicable for the style, are not exceeded.

(b) *On-line inspection.* A portion of production is considered as meeting requirements for quality if:

(1) The prerequisite requirements specified in § 2852.2570 are met; and

(2) The Acceptable Quality Levels (AQL) in tables V, VI, VII, VIII, and IX, as applicable for the style, are not exceeded.

(c) *Single sample unit.* Each unofficial sample unit submitted for quality evaluation will be treated individually and is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 2852.2570 are met; and

(2) The Acceptable Quality Levels (AQL) in tables V, VI, VII, VIII, and IX, as applicable for the style, are not exceeded.

The U.S. Standards for Grades of Canned Clingstone Peaches as hereby amended shall become effective June 1, 1978, and thereupon will supersede U.S. Standards for Grades of Canned Clingstone Peaches which have been in effect since June 20, 1973.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on May 4, 1978.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service.

[FR Doc. 78-13099 Filed 5-15-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Regs. G, T and U; Docket No. R-0147]

OTC LIST REQUIREMENTS

Final Rule

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: These amendments to the Supplements to Regulations G, T and U will require that dealers must submit bona fide bids and offers for an OTC stock to an automated quotation system if they are to be counted as market-makers in that stock for the purpose of qualifying for the Board's List of OTC Margin Stocks. The minimum market-maker requirement for a stock to be included on the List under the present rule recognizes those dealers who make "regularly published bona fide bids and offers for such stock." When the List was first published by the Board in 1969, the "pink sheets" of the National Quotation Bureau were the only consistent source of the required price information. Since that time an automated quotation system of the National Association of Securities Dealers (NASDAQ), has been developed to a point where price information on all stocks on the Board's list can now be obtained from it. The Board is presently using data from both the "pink sheets" and NASDAQ for its surveys. The amendments will eliminate the necessity of reviewing data from the "pink sheets", most of which is considered duplicative, and reduce staff review and computer time.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Laura Homer, Chief Attorney, Securities Regulation, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781.

SUPPLEMENTARY INFORMATION: All but one of the comments received

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on the Board's proposal to eliminate the use of "pink sheets" data when surveying stocks for inclusion on the Board's List of OTC Margin Stocks (43 FR 11214) favored the amendment. The one exception was received from the National Association of OTC Companies (NAOTC) which stated its view that many non-NASDAQ stocks have better markets than NASDAQ listed stocks.

Certain language regarding securities listed on "exempt exchanges" is being removed from the regulations at this time as no longer necessary. The Securities and Exchange Commission has notified Board staff that the last of the "exempt exchanges", the Honolulu Stock Exchange, recently ceased operations. The present rule permits registration of stocks on "exempt exchanges" as an alternative to meeting the market-maker requirement. The Board finds that it would serve no useful purpose to follow the requirements for notice and public participation prior to eliminating the language regarding securities listed on "exempt exchanges".

Accordingly, pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78q and w) the Board amends 12 CFR Parts 207, 220 and 221 as follows:

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS

1. Section 207.5(d)(2) and 207.5(e)(2) of Part 207, Securities Credit by Persons other than Banks, Brokers or Dealers, would be amended as follows:

§ 207.5 Supplement.

* * * * *

(d) *Requirements for inclusion on List of OTC Margin Stocks.* * * *

(2) Four or more dealers stand willing to, and do in fact, make a market in such stock and regularly submit *bona fide* bids and offers to an automated quotations system for their own accounts.

* * * * *

(e) *Requirements for continued inclusion on List of OTC margin stock.* * * *

(2) Three or more dealers stand willing to, and do in fact, make a market in such stock and regularly submit *bona fide* bids and offers to an automated quotations system for their own accounts.

PART 220—CREDIT BY BROKERS AND DEALERS

2. Section 220.8(h)(2) and 220.8(i)(2) of Part 220, Credit by Brokers and Dealers, would be amended as set forth below:

§ 220.8 Supplement.

* * * * *

(h) *Requirements for inclusion on List of OTC Margin Stocks.* * * *

(2) Four or more dealers stand willing to, and do in fact, make a market in such stock and regularly submit *bona fide* bids and offers to an automated quotations system for their own accounts.

* * * * *

(i) *Requirements for continued inclusion on List of OTC Margin Stocks.* * * *

(2) Three or more dealers stand willing to, and do in fact, make a market in such stock and regularly submit *bona fide* bids and offers to an automated quotations system for their own accounts.

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

3. Section 221.4(d)(2) and 221.4(e)(2) of Part 221, Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks, would be amended as follows:

§ 221.4 Supplement.

* * * * *

(d) *Requirements for inclusion on List of OTC margin stock.* * * *

(2) Four or more dealers stand willing to, and do in fact, make a market in such stock and regularly submit *bona fide* bids and offers to an automated quotations system for their own accounts.

* * * * *

(e) *Requirements for continued inclusion on List of OTC margin stock.* * * *

(2) Three or more dealers stand willing to, and do in fact, make a market in such stock and regularly submit *bona fide* bids and offers to an automated quotations system for their own accounts.

By order of the Board of Governors, May 10, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13210 Filed 5-15-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1048, Amdt. 1]

PART 202—CERTIFICATES AUTHORIZING SCHEDULED ROUTE SERVICE: TERMS, CONDITIONS, AND LIMITATIONS

Notice of Approval by Comptroller General

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in Part 202 concerning the terms, conditions, and limitations of a certificate held by a route air carrier under section 401 of the Federal Aviation Act of 1958, as amended. This approval is required by the Federal Reports Act and was transmitted to the Civil Aeronautics Board by letter dated May 1, 1978.

DATES: Effective May 11, 1978; adopted May 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 202 of its Economic Regulations (14 CFR Part 202) by adding the following note at the end of Part 202:

NOTE: The application requirements contained in §§ 202.13(a), 202.13(b), 202.14(b) and 202.15 and the reporting requirements contained in §§ 202.13(c), 202.13(d) and 202.16(a)(b) have been approved by the U.S. General Accounting Office under number B-180226 (R0523).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; (U.S.C. 1324).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-13277 Filed 5-15-78; 8:45 am]

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[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 8855-o]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

The Coca-Cola Co., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order to cease and desist.

SUMMARY: This order, among other things, requires an Atlanta, Ga., soft drink manufacturer and three parent bottlers to cease imposing in any manner territorial limitations or class of customer restrictions on its licensed Coca-Cola or allied product bottlers, in connection with the sale or distribution of soft drink products sold in other than refillable containers. The firms are additionally required to provide protection for confidential commercial information submitted by its bottlers.

DATES: Complaint issued July 15, 1971; final order issued April 7, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Alfred F. Dougherty, Jr., Director, Bureau of Competition, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3601.

SUPPLEMENTARY INFORMATION: In the matter of the Coca-Cola Co., a corporation; Coca-Cola Bottling Co. (Thomas), Inc., a corporation; Coca-Cola Bottling Works (Thomas), Inc., a corporation; and Coca-Cola Bottling Works 3rd, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Coercing and intimidating: § 13.358 Distributors. Subpart—Combining or conspiring: § 13.388 To control allocations and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.450 To limit distribution or dealing to regular, established, or acceptable channels or classes; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Cutting off access to customers or market: § 13.560 Interfering with distributive outlets. Subpart—Cutting off supplies or service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

The final order to cease and desist, including further order requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter having been heard by the Commission upon the appeal of complaint counsel from the initial decision, and upon briefs and oral argument in support thereof and in opposition thereto, and the Commission, for reasons stated in the accompanying opinion, having granted the appeal:

It is ordered, That the initial decision and order of the administrative law judge be, and they hereby are, vacated, and the findings of fact and conclusions of law contained in the accompanying opinion of the Commission be, and they hereby are, adopted as the findings and conclusions of the Commission in this matter.

Accordingly, the following cease and desist order is hereby entered:

ORDER

I.

It is ordered, That the following definitions shall apply in this order:

A. *Allied products.* The soft drink products of the Coca-Cola Co., other than "Coca-Cola," including Sprite, Fresca, Fanta, Tab, and Mr. PiBB, among others;

B. *Bottler.* Any individual, partnership, corporation, association, or other business or legal entity which purchases respondents' syrups or concentrates for use in the manufacture and sale, primarily at wholesale, of finished soft drink beverages;

C. *Central warehousing.* A method of distribution in which soft drink products are received at a storage facility and either resold or delivered to retail outlets or wholesalers;

D. *Concentrate.* The basic soft drink ingredients, either dry or liquid, to which sugar is added to prepare a syrup;

E. *Confidential commercial information.* Facts, data, statistics, or other material which concern the business of licensed Coca-Cola or allied product bottlers including, but not limited to, trade secrets, customer lists, plant equipment or production capacities, or syrup and concentrate purchases obtained by or available to, respondents pursuant to, or as a result of, any agreement, understanding, or provision of a trademark license, and which could, if disclosed to a competitor, cause substantial harm to the competitive position of the bottler from whom the material was obtained;

F. *Nonrefillable.* A special container designed to be filled only once with finished Coca-Cola or allied soft drink beverages;

G. *Post-mix syrup.* A soft drink ingredient which is used in fountain-dispensing or vending equipment and which is usually sold by bottlers and other wholesalers in steel tanks. A typical post-mix system draws 1 ounce of syrup from a tank, usually having about a 5-gallon capacity, and mixes it at the point of sale with 5 ounces of carbonated water to produce finished soft drink beverages;

H. *Pre-mix system.* A system which draws from a tank, usually having about a 5-gallon capacity, a finished serving of a soft drink product containing both syrup and carbonated water, "pre-mixed," to produce finished soft drink beverages;

I. *Soft drink products.* Nonalcoholic beverages and colas, carbonated and uncarbonated, flavored and nonflavored, sold in bottles or cans, or through pre-mix or post-mix systems or the like;

J. *Syrup.* A mixture of ingredients in liquid form which, when mixed with carbonated water, becomes a finished soft drink product.

II.

It is further ordered, That the Coca-Cola Co.; Coca-Cola Bottling Co. (Thomas), Inc.; Coca-Cola Bottling Works (Thomas), Inc.; and Coca-Cola Bottling Works 3rd, Inc., and the officers, agents, representatives, employees, successors, and assigns of each respondent, directly or through any corporate or other device, in connection with the advertising, merchandising, offering for sale, and sale or distribution of soft drink products, including syrups and concentrates, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

A. Attempting to enter into, entering into, continuing, maintaining, enforcing, or renewing any contract provision, combination, understanding, or agreement to limit, allocate, or restrict the territory in which, or the persons or class of persons to whom, licensed Coca-Cola or allied product bottlers may sell or distribute post-mix syrup or finished soft drink beverages packaged in pre-mixed containers or in nonrefillable bottles or cans.

B. Imposing or attempting to impose any limitations or restrictions respecting the territories in which, or the persons or class of persons to whom, bottlers may sell or distribute post-mix syrup or finished soft drink beverages packaged in pre-mix containers or in nonrefillable bottles or cans.

C. Refusing to sell, threatening to refuse to sell, or impairing sales to any bottlers, operating pursuant to a li-

[1] Copies of the complaint, initial decision, opinion, dissenting statement of Commissioner Clanton, and final order filed with the original document.

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cense consented to, granted by, approved by, or ratified by the Coca-Cola Co.; Coca-Cola Bottling Co., Inc.; Coca-Cola Bottling Works, Inc.; or Coca-Cola Bottling Works 3rd, Inc., for the duration of the license, anything used in the manufacture and sale of soft drink products, including, but not limited to, syrups and concentrates or the container in which they are sold, or otherwise in anyway penalizing any such bottler because of the territory in which, or the persons or class of persons to whom, the bottler sells or distributes post-mix syrup or finished soft drink beverages packaged in premix containers or nonrefillable bottles or cans.

D. Refusing to deliver all of a licensed Coca-Cola or allied product bottler's order for syrups, flavoring, or concentrates because the bottler has made, or intends to make, sales of post-mix syrup or soft drinks packaged in pre-mix containers or nonrefillable bottles or cans to customers outside of the territory granted to the bottler, or because the bottler has made, or intends to make, such sales to customers within the territory granted to the bottler, with knowledge that the customer has transshipped or will transship such soft drinks outside of the territory.

E. Impeding, hindering, or preventing, either directly or indirectly, the methods, including, but not limited to, central warehouse delivery, by which licensed bottlers may distribute Coca-Cola or allied products, *Provided, however,* That respondents may: (1) establish quality standards, including standards for the rotation of Coca-Cola and allied products inventories in the central warehouse and at retail delivery locations, irrespective of whether the soft drinks are redelivered from a warehouse or delivered directly to the retail outlet by a bottler; (2) require the bottlers to use a uniform container dating system so that bottlers and retailers will recognize the date without reference to a code; (3) require the bottlers to be responsible, directly or indirectly, for the maintenance of such standards of quality; and (4) require each bottler to place an identification mark of origin on each bottle, bottle cap, or can for the purpose of monitoring compliance with such quality control standards.

F. Enforcing or aiding in the enforcement of any contract provision, agreement, or understanding providing for entry into or examination of the plant and facilities of any independent bottler by another independent bottler,

III.

It is further ordered, That respondents shall provide for the protection of confidential commercial information acquired from bottler licensees of Coca-Cola or allied product brands as follows:

A. Access to or use of confidential commercial information obtained by respondents, their officers, employees, or agents concerning the production, packaging, distribution, promotion, or sale of Coca-Cola or allied product brands by any licensed bottler shall be restricted to those of respondents' officers, employees, or agents who are neither involved in nor responsible for the product, marketing, promotion, or sale of finished soft drink products by respondents' bottling or canning operations, divisions, subsidiaries, or affiliates.

B. Such officers, employees, or agents who receive, process, or evaluate package-approval requests; process or fill syrup or concentrate purchase orders; conduct on-site inspections of independent bottling plants and facilities; or receive or review confidential commercial information obtained from any independent Coca-Cola or allied product bottler in the course of carrying out the provisions of any soft drink trademark licensing agreement, shall refrain from making any such confidential information available to, or communicating or discussing any such information with, any person involved in or responsible for the production, marketing, promotion, or sale of finished soft drinks by respondents' bottling or canning operations, divisions, subsidiaries, or affiliates.

C. Such officers, employees, or agents who receive, process, or have access to confidential information concerning the business of individual independent Coca-Cola or allied product bottler licensees, shall refrain from suggesting, influencing, or making recommendations to any person concerning the production, distribution, marketing, promotion, or sale of finished soft drinks by respondents' bottling or canning operations, divisions, subsidiaries, or affiliates, *Provided, however,* That this provision shall not apply to respondents' officers, employees, or agents who receive, review, or evaluate data, information, or statistics only in aggregate form or quality control inspection reports which include such information as bacteriological tests, water analyses, water carbonation and syrup content tests, sanitation inspection checks, or bottle washing solution analyses, so long as such reports do not also contain information concerning the bottler's plant equipment, production capacity, or similar types of confidential commercial information.

D. Respondents shall provide each officer, employee, or agent who receives, reviews, or has access to confidential information as set forth in subparagraphs A. through C. above with a copy of this order and an explanation, in writing, of the restrictions this order imposes on access to and the use of such information.

E. Subparagraphs A. through C. above shall not apply: (1) to data or information which is in the public domain or which has entered the public domain from a source other than respondents or their officers, employees, or agents; or (2) to transactions involving orders from licensed Coca-Cola or allied product bottlers for finished canned or bottled soft drink products prepared by any respondent for a bottler pursuant to an agency canning or bottling agreement.

IV.

It is further ordered, That within sixty (60) days from the date the Coca-Cola Co. receives service of this order, it shall service a copy of this order upon all bottlers of its soft drink products.

V.

It is further ordered, That respondents the Coca-Cola Co.; Coca-Cola Bottling Co. (Thomas), Inc.; Coca-Cola Bottling Works (Thomas), Inc.; and Coca-Cola Bottling Works 3rd, Inc., shall forthwith distribute a copy of this order to each of their subsidiaries and operating divisions.

VI.

It is further ordered, That respondents the Coca-Cola Co.; Coca-Cola Bottling Co. (Thomas), Inc.; Coca-Cola Bottling Works (Thomas), Inc.; and Coca-Cola Bottling Works 3rd, Inc., shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondents, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change which may affect compliance obligations arising out of the order.

It is further ordered, That each respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Chairman Pertschuk did not participate in the consideration of this matter.

Commissioner Clanton dissented and filed a Dissenting Statement.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-13289 Filed 5-15-78; 8:45 am]

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[6750-01]

[Docket 8856-o]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

PepsiCo, Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This order, among other things, requires a Purchase, N.Y. soft drink manufacturer to cease imposing in any manner territorial limitations or class of customer restrictions on its licensed Pepsi-Cola or allied product bottlers, in connection with the sale or distribution of soft drink products sold in other than refillable containers. The firm is additionally required to provide protection for confidential commercial information submitted by its bottler.

DATES: Complaint issued July 15, 1971; Final order issued April 7, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Alfred F. Dougherty, Jr., Director, Bureau of Competition, Federal Trade Commission, Sixth Street at Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3601.

SUPPLEMENTARY INFORMATION: In the matter of PepsiCo, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—coercing and intimidating: § 13.358 Distributors. Subpart—combining or conspiring: § 13.388 To control allocation and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.450 To limit distribution or dealing to regular, established or acceptable classes; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—cutting off access to customers or market: § 13.560 Interfering with distributive outlets. Subpart—cutting off supplies or service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

The final order to cease and desist, including further order requiring report of compliance therewith, is as follows:

[1] Copies of the complaint, initial decision, opinion of the commission by Commissioner Dole, final order, and dissenting statement of Commissioner Clanton filed with the original document.

FINAL ORDER

This matter having been heard by the Commission upon the appeal of complaint counsel from the initial decision, and upon briefs and oral argument in support thereof and in opposition thereto, and the Commission, for reasons stated in the accompanying opinion, having granted the appeal:

It is ordered, That the entire record in the matter of The Coca-Cola Co., et al., Docket No. 8855, be, and it hereby is, incorporated into, and made part of, the record in this proceeding.

It is further ordered, That the findings of fact set forth in the initial decision of the administrative law judge be, and they are, adopted by the Commission to the extent they are consistent with the findings of fact and conclusions of law contained in the accompanying opinion of the Commission in this matter.

It is further ordered, That the order dismissing the complaint entered by the administrative law judge be, and it hereby is, vacated.

Accordingly, the following cease and desist order is hereby entered:

ORDER

I

It is ordered, That the following definitions shall apply in this order:

A. Allied products—the soft drink products of PepsiCo, Inc., other than "Pepsi-Cola" including "Teem," "Mountain Dew," and "Patio," among others;

B. Bottler—any individual, partnership, corporation, association, or other business or legal entity which purchases respondents' syrups or concentrates for use in the manufacture and sale, primarily at wholesale, of finished soft drink beverages;

C. Central warehousing—a method of distribution in which soft drink products are received at a storage facility and either resold or delivered to retail outlets or wholesalers;

D. Concentrate—the basic soft drink ingredients, either dry or liquid, to which sugar is added to prepare a syrup;

E. Confidential commercial information—facts, data, statistics, or other material which concern the business of licensed Pepsi-Cola or allied product bottlers including, but not limited to, trade secrets, customer lists, plant equipment or production capacities, or syrup and concentrate purchases obtained by or available to, respondent pursuant to, or as a result of, any agreement, understanding, or provision of a trademark license, and which could, if disclosed to a competitor, cause substantial harm to the competitive position of the bottler from whom the material was obtained;

F. Nonrefillable—a special container designed to be filled only once with finished Pepsi-Cola or allied soft drink beverages;

G. Post-mix syrup—a soft drink ingredient which is used in fountain-dispensing or vending equipment and which is usually sold by bottlers and other wholesalers in steel tanks. A typical post-mix system draws one ounce of syrup from a tank, usually having about a five-gallon capacity, and mixes it at the point of sale with five ounces of carbonated water to produce finished soft drink beverages;

H. Pre-mix system--a system which draws from a tank, usually having about a five-gallon capacity, a finished serving of a soft drink product containing both syrup and carbonated water, "pre-mixed," to produce finished soft drink beverages;

I. Soft drink products—nonalcoholic beverages and colas, carbonated and uncarbonated, flavored and nonflavored, sold in bottles or cans, or through pre-mix or post-mix systems or the like;

J. Syrup—a mixture of ingredients in liquid form which, when mixed with carbonated water, becomes a finished soft drink product.

II

It is further ordered, That respondent PepsiCo, Inc., and the officers, agents, representatives, employees, successors, and assigns of respondent, directly or through any corporate or other device, in connection with the advertising, merchandising, offering for sale, and sale or distribution of soft drink products, including syrups and concentrates, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

A. Attempting to enter into, entering into, continuing, maintaining, enforcing, or renewing any contract provision, combination, understanding, or agreement to limit, allocate, or restrict the territory in which, or the persons or class of persons to whom, licensed Pepsi-Cola or allied products bottlers may sell or distribute post-mix syrup or finished soft drink beverages packaged in pre-mix containers or in nonrefillable bottles or cans.

B. Imposing or attempting to impose any limitations or restrictions respecting the territories in which, or the persons or class of persons to whom, bottlers may sell or distribute post-mix syrup or finished soft drink beverages packaged in pre-mix containers or in nonrefillable bottles or cans.

C. Refusing to sell, threatening to refuse to sell, or impairing sales to any bottlers, operating pursuant to a license to, granted by, approved by, or ratified by PepsiCo, Inc., for the duration of the license, anything used in the manufacture and sale of soft drink products, including, but not limited to,

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syrups and concentrates or the container in which they are sold, or otherwise in any way penalizing any such bottler because of the territory in which, or the persons or class of persons to whom, the bottler sells or distributes post-mix syrup or finished soft drink beverages packaged in premix containers or nonrefillable bottles or cans.

D. Refusing to deliver all of a licensed Pepsi-Cola or allied product bottler's order for syrups, flavoring, or concentrates because the bottler has made, or intends to make, sales of post-mix syrup or soft drinks packaged in pre-mix containers or nonrefillable bottles or cans to customers outside of the territory granted to the bottler, or because the bottler has made, or intends to make, such sales to customers within the territory granted to the bottler, with knowledge that the customer has transshipped or will transship such soft drinks outside of the territory.

E. Impeding, hindering, or preventing, either directly or indirectly, the methods, including, but not limited to central warehousing, by which licensed bottlers may distribute Pepsi-Cola or allied products, *Provided*, however, that respondent may (1) establish quality standards, including standards for the rotation of Pepsi-Cola and allied product inventories in the central warehouse and at retail delivery locations, irrespective of whether the soft drinks are redelivered from a warehouse or delivered directly to the retail outlet by a bottler; (2) require the bottlers to use a uniform container dating system so that bottlers and retailers will recognize the date without reference to a code; (3) require the bottlers to be responsible, directly or indirectly, for the maintenance of such standards of quality; and (4) require each bottler to place an identification mark of origin on each bottle, bottle cap, or can for the purpose of monitoring compliance with such quality control standards.

F. Enforcing or aiding in the enforcement of any contract provision, agreement, or understanding providing for entry into or examination of the plant and facilities of any independent bottler by another independent bottler.

III

It is further ordered, That respondent shall provide for the protection of confidential commercial information acquired from bottler licensees of Pepsi-Cola or allied product brands as follows:

A. Access to or use of confidential commercial information obtained by respondent, its officers, employees, or agents concerning the production, packaging, distribution, promotion, or sale of Pepsi-Cola or allied product brands by any licensed bottler shall be restricted to those of respondent's officers, employees, or agents who are neither involved in nor responsible for the production, marketing, promotion, or sale of finished soft drink products by respondent's bottling or canning operations, divisions, subsidiaries, or affiliates.

B. Such officers, employees, or agents who receive, process, or evaluate package-approval requests; process or fill syrup or concentrate purchase orders; conduct on-site inspections of independent bottling plants and facilities; or receive or review confidential commercial information obtained from any independent Pepsi-Cola or allied product bottler in the course of carrying out the provisions of any soft drink trademark licensing agreement, shall refrain from making any such confidential information available to, or communicating or discussing any such information with, any person involved in or responsible for the production, marketing, promotion, or sale of finished soft drinks by respondent's bottling or canning operations, division, subsidiaries, or affiliates.

C. Such officers, employees, or agents who receive, process, or have access to confidential information concerning the business of individual independent Pepsi-Cola or allied product bottler licensees, shall refrain from suggesting, influencing, or making recommendations to any person concerning the production, distribution, marketing, promotion, or sale of finished soft drinks by respondent's bottling or canning operations, divisions, subsidiaries, or affiliates, *Provided*, however, that this provision shall not apply to respondent's officers, employees, or agents who receive, review, or evaluate data, information, or statistics only in aggregate form or quality control inspection reports which include such information as bacteriological tests, water analyses, water carbonation and syrup content tests, sanitation inspection checks, or bottle washing solution analyses, so long as such reports do not also contain information concerning the bottler's plant equipment, production capacity, or similar types of confidential commercial information.

D. Respondent shall provide each officer, employee, or agent who receives, reviews, or has access to confidential information as set forth in subparagraphs A. through C. above with a copy of this order and an explanation, in writing, of the restrictions this order imposes on access to and the use of such information.

E. Subparagraphs A. through C. above shall not apply (1) to data or information which is in the public domain or which has entered the public domain from a source other than respondent or its officers, employees, or agents; or (2) to transactions involving orders from licensed Pepsi-Cola or allied product bottlers for finished canned or bottled soft drink products prepared by respondent for a bottler pursuant to an agency canning or bottling agreement.

IV

It is further ordered, That within sixty (60) days from the date respondent receives service of this Order, it shall service a copy of this Order upon all bottlers of its soft drink products.

V

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of its subsidiaries and operating divisions.

VI

It is further ordered, That respondent shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change which may affect compliance obligations arising out of the order.

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Chairman Pertschuk did not participate in the consideration of this matter.

Commissioner Clanton dissented for the reasons expressed in his dissenting statement in the companion case involving the Coca-Cola Co., Docket 8855.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-13290 Filed 5-15-78; 8:45 am]

[6351-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

Delegation of Authority to the Director of the Division of Enforcement

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission has codified its

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April 8, 1976, delegation to the Director of the Division of Enforcement, or to such person or persons under his direction as he may designate from time to time, to perform all functions reserved to the Commission under Subparts B and C of the Commission's Reparation rules, 17 CFR 12.21 through 12.34, prior to the docketing of the formal adjudicatory proceeding. Under the delegation, the Director or such person is empowered to review reparation complaints, to forward complaints and other documents to the parties and to the Commission's Office of Hearings and Appeals, to undertake appropriate investigations, to delay the institution of a formal adjudicatory proceeding if an investigation is undertaken and to institute a formal adjudicatory proceeding. This delegation of authority enables the Commission to accomplish, as promptly as possible, the review and processing of complaints and related procedural matters prior to the docketing of a formal reparation proceeding.

EFFECTIVE DATE: May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Clinton Burr, Chief, Reparations Section, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, 202-254-3814.

SUPPLEMENTAL INFORMATION: Section 14 of the Commodity Exchange Act, 7 U.S.C. 18, provides that any person who wishes to complain of a violation of any provision of the Act or any rule, regulation or order thereunder by any person registered with the Commission as a floor broker, futures commission merchant, associated person, commodity trading advisor or commodity pool operator may, within two years after the cause of action accrues, apply to the Commission for a reparation award. If, after hearing before an Administrative Law Judge, the Commission determines that the commodity professional has violated any provision of the Act or any rule, regulation, or order thereunder, the Commission may order that a reparation award be made to the complainant.

On January 22, 1976, the Commission adopted rules to implement the provisions of Section 14. 41 FR 3994, et. seq. (January 24, 1976). Those rules, as amended, are codified in 17 CFR Part 12 (1977). At its meeting of April 8, 1976, the Commission delegated to the Director of the Division of Enforcement, with the power to subdelegate to persons under his direction, the authority to review and process complaints and related documents in accordance with the Commission's Reparation rules prior to the docketing of the formal adjudicatory proceeding. The Commission has determined to adopt § 140.81 of its regulations in order to codify that delegation.

Subparts B and C of the Commission's Reparations rules, 17 CFR 12.21 through 12.34, basically govern Commission review and processing of reparation complaints and related documents prior to the docketing of the formal adjudicatory proceeding. Among other things, these provisions establish the procedures for filing reparation complaints (§ 12.21); provide that the Commission may forward a copy of the complaint to the person against whom the award is sought if the Commission determines that the facts in the complaint warrant this action (§ 12.22); prescribe how these persons may either answer or satisfy the complaint (§ 12.23); provide that the Commission may investigate any complaint and may delay institution of a formal proceeding if an investigation is undertaken (§ 12.25); permit the Commission to determine whether or not to institute a formal adjudicatory proceeding (§ 12.31); and establish a mechanism for the parties to settle the matters in dispute (§ 12.34).

The review and processing of complaints and related procedural matters prior to the docketing of the formal proceeding require a considerable amount of time. The delegation to the Director of the Division of Enforcement and his subdelegation to the Chief of the Reparations Section of the Division has enabled the Commission to accomplish these preliminary matters as promptly as possible and has facilitated contact between the parties in order to resolve disputes without the necessity of a formal hearing. Thus, of the approximately 800 reparation complaints that the Reparations Section of the Enforcement Division has reviewed and investigated since April 1976, approximately 240 have been disposed of without the institution of a formal proceeding. Of that number, approximately 60 involved disputes that were settled by the parties and approximately 180 were determined either not to allege violations of the Act or Commission regulations, not to show that the alleged violations had been committed by persons subject to the Act's registration requirements, or not to have resulted in any damages to the complaining party.

This delegation reserves to the Commission the right to revoke the delegated authority at any time and specifically empowers the Director of the Division of Enforcement to submit matters to the Commission for its consideration whenever he believes it to be appropriate.

Based on the foregoing, the Commission hereby amends Part 140 of Chapter 1 of Title 17 of the Code of Federal Regulations by adding a new § 140.81 to read as follows:

§ 140.81 Delegation of authority to the Director of the Division of Enforcement.

Pursuant to the authority granted under sections 2(a)(4) and 2(a)(11) of the Commodity Exchange Act, as amended, 7 U.S.C. 4a(c) and 4a(j), the Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, the following functions to the Director of the Division of Enforcement to be performed by him or by such person or persons under his direction as he may designate from time to time:

(a) With respect to reparation proceedings brought pursuant to section 14 of the Commodity Exchange Act, as amended, 7 U.S.C. 18 and subject to the Commission's Reparation rules as set forth in Part 12 of this chapter, to perform all functions reserved to the Commission in Subparts B and C of the Reparation rules, prior to the docketing of formal adjudicatory proceedings pursuant to § 12.41 of those rules.

(b) Notwithstanding the provisions of paragraph (a) of this section, in any case in which the Director believes it appropriate, he may submit the matter to the Commission for its consideration.

(Pub. L. 93-463 Sec. 101(a)(4) and 101(a)(11), 88 Stat. 1391, (7 U.S.C. 4a(c) and 4a(j) (Supp. V, 1975).)

The foregoing rules shall be effective immediately. The Commission finds that the rules relate solely to agency practice and procedure and that the public procedures and publication prior to the effective date of the rules, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, D.C. on May 5, 1978.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-13275 Filed 5-15-78; 8:45 am]

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[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 4]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Subpart K—Employment—Wages—Self-Employment—Self-Employment Income

INCOME FROM SELF EMPLOYMENT OF LIMITED PARTNER

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: These final regulations provide that the distributive share of partnership income or loss received by a limited partner is excluded from social security coverage. They define limited partner as one whose financial liability with respect to the obligations of the partnership is limited to the amount of his or her financial investment in the partnership. Generally, the limited partner will not have performed services in the operation of, or participated in the control of, the business carried on by the partnership for the taxable year involved. The Social Security Amendments of 1977 added to the Social Security Act the change affecting income received by a limited partner. The effect of these regulations is exclusion from self-employment income of "investment" income of a limited partner. The changes in the references to section 702(a) of the Internal Revenue Code conform these regulations to an amendment to that Code by the Tax Reform Act of 1976 (Pub. L. 94-455) which renumbered the provision without changing its text.

DATE: These regulations shall be effective May 16, 1978.

COMMENTS: Although published without Notice of Proposed Rule Making, consideration will be given to any comments about the regulations submitted in writing on or before June 30, 1978.

ADDRESSES: Comments should be sent to the Acting Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Ms. Dorothy E. Algea, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-5587.

SUPPLEMENTARY INFORMATION: For taxable years beginning before January 1, 1978, each partner's distributive share of partnership income or loss was includable in his or her net earnings from self-employment for social security purposes. The law did not distinguish between those who worked in the partnership and those who only invested money and limited their financial risk of loss. For that reason, some business organizations actively solicited investments by limited partners as a means for an investor to become insured for social security benefit purposes. In these situations the investor did no work and limited his or her financial loss to the amount invested. The advertisements were directed mainly at people engaged in work not covered by the Social Security Act. People who got social security coverage through this method qualified for social security benefits even though they performed no services and the coverage resulted, in fact, from income from investments. This was counter to the general requirement that social security benefits be work related. The change is effective for taxable years beginning after December 31, 1977.

Since these regulations revise the existing regulations for conformity with a change made in the law by the Social Security Amendments of 1977 (Pub. L. 95-216), the Secretary finds that publication of Notice of Proposed Rule Making would be unnecessary because they are primarily reflective of the statutory amendments (5 U.S.C. 553(b)(B)). Although the Notice of Proposed Rule Making is being dispensed with, consideration will be given to comments submitted in writing to the Acting Commissioner of Social Security.

(Secs. 205(a), 1102, and 211 of the Social Security Act; 53 Stat 1368, as amended; 49 Stat 647, as amended; 64 Stat 502, as amended; and 91 Stat 1535; 42 U.S.C. 405(a), 1302, and 411.)

(1977 Catalog of Federal Domestic Assistance Program No. 13.803, Social Security—Retirement Insurance.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 (November 27, 1974) as amended by Executive Order 11949 (December 31, 1976) and OMB Circular A-107.

Dated: March 10, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: May 9, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education and Welfare.

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. In § 404.1050, paragraphs (a) and (b) are amended to read as follows:

§ 404.1050 Definition of net earnings from self employment

(a) Subject to the special rules set out in §§ 404.1052 to 404.1065, inclusive, and to the exclusions set out in § 404.1070, the term "net earnings from self employment" means:

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(2) (i) For taxable years beginning after December 31, 1977. His or her distributive share (whether or not distributed) as determined under section 704 of the Internal Revenue Code of 1954, as amended, of the income or loss (described in section 702(a)(8) of that Code and as computed under section 703 of that Code) from any trade or business carried on by any partnership of which he or she is a member other than as a limited partner. The limited partner's distributive share is includable in net earnings from self employment if (A) it is a guaranteed payment described in section 707(c) of that Code, and (B) the amount is payment to the limited partner for services he or she actually rendered to or on behalf of the partnership. A guaranteed payment described in section 707(c) of that Code is not net earnings from self employment if and to the extent that the limited partner did not perform services to or on behalf of the partnership for the amount involved. For purposes of this Subpart K, "limited" partner means one whose financial liability with respect to the obligations of the partnership is limited to the amount of his or her financial investment in the partnership. Generally, the individual will not have performed services in the operation of, or participated in the control of, the business carried on by the partnership for the taxable year involved.

(ii) For taxable years beginning before January 1, 1978. His or her distributive share (whether or not distributed), as determined under section 704 of the Internal Revenue Code of 1954, of the income or loss, described in section 702(a)(8) (formerly section 702(a)(9)) of that Code and as computed under section 703 of that Code,

Taxes) of the Internal Revenue Code of 1954, as amended. Gross income does not include income derived by an individual from an activity which is not a trade or business within the meaning of section 211(c) of the Act and § 404.1070 of this Subpart. Also, for social security purposes the gross income determined in accordance with that Code does not include a limited partner's distributive share of income or loss (see paragraph (a)(2)(i) of this section) unless it is a guaranteed payment described in section 707(c) of that Code for services actually rendered to or on behalf of the partnership by the limited partner, as described in paragraph (a)(2)(i) of this section. Section 706(a) of that Code and the regulations interpreting that provision, relating to the taxable year of a partner receiving guaranteed payments described in section 707(c), apply in computing taxable income.

(2) For taxable years beginning before January 1, 1978. With respect to taxable years to which the provisions of the Internal Revenue Code of 1954 apply, gross income derived by an individual from a trade or business includes payments received from a partnership of which he or she was a member for services rendered to the partnership or for the use of capital by the partnership, to the extent the payments are determined without regard to the income of the partnership. Payments received from a partnership not engaged in a trade or business within the meaning of section 211(c) of the Act and § 404.1070 do not constitute gross income derived by an individual from a trade or business.

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2. In § 404.1051, the title and paragraphs (d) and (g) are revised to read as follows:

§ 404.1051 General Rules for Computation of Net Earnings from Self Employment.

• • • • • •

(d) *Partnerships.* When an individual has net earnings from self employment within the definition of § 404.1050(a)(2), those net earnings are combined with his or her other net earnings from self employment in determining total net earnings from self employment for the taxable year.

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(g) *Nature of partnership interest.* (1) For taxable years beginning after December 31, 1977, net earnings from self employment ordinarily include an individual's distributive share of the income or loss (described in section 702(a)(8) of the Internal Revenue Code of 1954, as amended) from a partnership of which he or she was a member during the taxable year. However, income or loss as a limited partner in a partnership is includable as net earnings from self employment only if:

(i) The amount involved is a guaranteed payment described in section 707(c) of that Code, and

(ii) The amount is payment to the limited partner for services he or she actually performed to or on behalf of the partnership.

Income or loss as a limited partner in a partnership is not net earnings from self employment if and to the extent that the limited partner did not perform services for the amount. If a partnership elected under section 1361 of that Code to be taxed as a domestic corporation, that election does not affect how net earnings from self employment are computed by a partner for social security purposes.

(2) For taxable years beginning before January 1, 1978, the exception involving a limited partner, described in paragraph (g)(1) of this section, does not apply.

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§§ 404.1051, 404.1052, 404.1057, 404.1058, and 404.1065 [Amended]

3. In §§ 404.1051, 404.1052, 404.1057, 404.1058, and 404.1065, the Internal Revenue Code reference is amended to show "section 702(a)(8)" each place that "section 702(a)(9)" appears.

[FR Doc. 78-13252 Filed 5-15-78; 8:45 am]

[4110-07]

[Reg. No. 22]

PART 422—ORGANIZATION AND PROCEDURES

Subpart B—General Procedures

AGENCY: Social Security Administration, HEW.

ACTION: Interim regulation.

SUMMARY: The Social Security Administration (SSA) is changing its regulations for issuing social security numbers (SSN's). These regulations will require all applicants for original SSN's to submit documentary evidence of identity, age, and citizenship, or alien status. All applicants for duplicate or corrected SSN cards will be required to submit sufficient evidence to establish their identity and validity of their SSN record. These regulations are necessary to protect the integrity of the SSN by exercising all means at SSA's disposal to stop or curtail the abuses and misuses of the SSN. These revisions apply to issuance of SSN's for any purposes.

EFFECTIVE DATE: To be effective when published in the FEDERAL REGISTER.

DUE DATE FOR COMMENT: Comments may be submitted on or before July 17, 1978.

ADDRESSES: Please submit any comments regarding these changes in writing to the Acting Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203. Copies of all comments received in response to these regulations will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

John L. Renner, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7519.

SUPPLEMENTARY INFORMATION: From the beginning of the social security program the issuance of the SSN has been based on the individual's allegations of identifying information without supporting evidence. The generally unverified issuance of the SSN was consistent with the need for a simple, rapid issuance procedure, and the initially minimal incentive for fraud.

Although the SSN was originally intended for the social security program only, Executive Order 9397, issued November 22, 1943, required that all Federal components use the SSN for any needed identification system for individuals.

There was little nonprogram use of the SSN within the Federal Government until 1961, when the Internal Revenue Service started to use the SSN for taxpayer identification. Thereafter the developing computer revolution and the usefulness in computer recordkeeping of a standard number induced widespread adoption of the SSN as a personal identifier by the Federal Government, State and local governments, and many private organizations.

The SSA became aware that as the role of the SSN as an identifier expanded, the SSN also became subject to greater abuse. An SSA task force study in 1971 included recommendations in its report for the tightening up of the SSN system. In November 1971, SSA began to require simple evidence of identity of all first time SSN applicants age 55 or over. In 1972, motivated mainly by concern over illegal aliens and welfare fraud, Congress amended the Social Security Act (Pub. L. 92-603). These amendments required, among other things, that SSA obtain from applicants such evidence

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as may be necessary to establish their age, citizenship or alien status, and true identity, and to determine which (if any) social security number has previously been assigned to the applicant. At that time SSA required additional evidence only from applicants for new numbers who were age 18 or older, foreign born, or to welfare recipients.

To carry out his responsibility to ensure the integrity of the SSN, the Secretary has approved additional SSA initiatives to improve the SSN issuance process. The procedures implementing this decision are included in these interim regulations which affect the issuance of all SSN's.

The regulations:

(a) Provide that all individuals who apply for an original SSN submit documentary evidence to establish their identity, age, and citizenship or alien status;

(b) Provide that all applicants for duplicate or corrected SSN cards submit sufficient evidence to establish their identity and to validate the accuracy of their SSN records;

(c) Provide that all applicants for original SSN's, who are age 18 or older, must be interviewed in person;

(d) Provide that a birth certificate alone is not sufficient to establish identity except where no other evidence of identity exists for a child under 7 years of age and there is no basis for doubting the validity of the birth certificate or the SSN application; and

(e) Provide that SSA may verify any documents, supplied as evidence in the course of SSN application, with the custodian of the original record.

The new regulations set out SSA's procedures and practices which are designed to protect the applicant's social security record by helping to assure that it is complete and accurate. These procedures will help prevent a person from misusing an SSN, either knowingly or unknowingly. Since these are procedural matters, and delay in their issuance would be contrary to the public interest, the Secretary finds that there is good cause for dispensing with prior notice. Therefore, as authorized by the Administrative Procedure Act, 5 U.S.C. 553(b) these regulation changes go into effect immediately.

Accordingly, the amendments are adopted as set forth below.

(Secs. 205 and 1102 of the Social Security Act, 53 Stat. 1368, as amended, and 49 Stat. 647, as amended (42 U.S.C. 405 and 1302).)

(Catalog of Federal Domestic Assistance Program Nos. 13.800-13.807, Social Security.)

Dated: May 9, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: May 10, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

In chapter III of the title 20 CFR, subpart B of part 422 is amended as follows:

1. Section 422.103 is revised to read as follows:

§ 422.103 Social security numbers.

(a) *General.* The Social Security Administration maintains a record of the earnings reported for each individual assigned a social securtiy number. The individual's name, together with the social security number identifies the record so that the wages or self-employment income reported for or by the individual can be properly posted to the individual's record. Additional procedures concerning social security numbers may be found in Internal Revenue Service, Department of the Treasury regualtion 26 CFR 31.6011(b)-2.

(b) *Applying for a number.* Every individual needing a social security number may apply for one by filing a signed Treasury Department form SS-5, "Application for Social Security Number," at any local social security office, or, if the individual is in the Philippines, at the Veterans' Administration regional office, Manila, Philippines. (See § 422.106 for special procedures for imigrants and certain nonimmigrants.) Form SS-5 may be obtained at:

(1) Any local social security office;

(2) The Social Security Administration, Baltimore, Md. 21235;

(3) Offices of District Directors of Internal Revenue;

(4) U.S. Postal Service offices (except the main office in cities having a social security office);

(5) U.S. Employment Service offices in cities which do not have a social security office; and

(6) The Veterans' Administration regional office, Manila, Philippines. Upon request, the social security office will distribute a quantity of application form SS-5 to labor unions, employers, or other representative organizations.

(c) *Assignment procedure.* Social security numbers are assigned by SSA's central office in Baltimore, Md. Upon receipt of a completed form SS-5, the local social security office, or the Veterans' Administration regional office, Manila, Philippines, will require the applicant to furnish evidence, as necessary, to assist SSA in establishing his or her age, citizenship, alien status, true identity, and previously assigned social security number(s), if any. A personal interview may be required of the applicant. (See § 422.107 for evidence requirements.) Upon satisfactory establishment of the pertinent items, the social security office or Veterans' Administration regional office forwards the application to the SSA's central office for checking against the SSA's files. If the applicant requests a social security number card immediately, a form SSA-5028, Receipt for Application for a Social Security Number, will be issued. If the investigation does not disclose a previously assigned number, the central office assigns a number and forwards to the applicant form OA-702, "Social Security Number Card." If the investigation discloses a previously assigned number, a duplicate social security number card is issued to the applicant. For issuance of social security numbers to aliens and other groups or categories, see § 422.104.

(d) *Replacement of lost or damaged social security number card.* In case of loss of or damage to the social security number card, a duplicate card bearing the same number will be issued. (See § 422.107 for evidence requirements.)

2. Section 422.104 is revised to read as follows:

§ 422.104 Assignment of social security numbers.

Social security numbers may be assigned to the following applicants who meet the evidence requirements in § 422.107:

(a) U.S. citizens;

(b) Aliens lawfully admitted to the United States for permanent residence or under other authority of law permitting them to engage in employment in the United States (see § 422.105 regarding presumption of authority of nonimmigrant alien to engage in employment); and

(c) Aliens who are legally in the United States but not under authority of law permitting them to engage in employment, but only for a nonwork purpose (see § 422.107(e) (1) and (2)).

3. Section 422.104a is redesignated as § 422.105 and is revised to read as follows:

§ 422.105 Presumption of authority of nonimmigrant alien to accept employment.

The nonimmigrant visa classifications assigned by the Immigration and Naturlization Service shall be used to determine whether a nonimmigrant alien is authorized to engage in employment. (See 22 CFR 41.12 for these classifications.) Permission to engage in employment shall not be presumed in the case of an alien who has not been issued a visa or whose visa shows any classification symbol designated and provided by the Immigration and Naturalization Service which does not reflect that the alien may engate in employment.

4. Section 422.105 is redesignated as § 422.106 and is revised to read as follows:

§ 422.106 Obtaining applications from immigrants and certain nonimmigrant classes.

All newly admitted immigrants and all aliens already in the United States whose status is changed to permanent resident will apply for SSN's through local SSA offices, with the following exception. The Immigration and Naturalization Service will obtain applications for social security numbers from aliens who have never had a social security number, who entered this country in a temporary admittance category and who, subsequent to entry, acquired status as lawful permanent residents of the United States. The Immigration and Naturalization Service obtains from each such alien an application for a social security number and, after verifying the alien's age and identity, forwards the application to SSA's central office for issuance of a social security number.

5. Section 422.107 is revised to read as follows:

§ 422.107 Evidence requirements.

(a) *General.* Applicants for social security numbers must submit evidence which the Secretary regards as convincing of their age, citizenship, or alien status, and true identity. Applicants for duplicate or corrected social security cards must submit evidence of identity and may also be required to submit evidence of age and citizenship or alien status. An applicant is also required to submit evidence to assist the SSA in determining the existence and identity of any previously assigned number(s). In the case of a noncitizen, evidence is also required to establish whether the applicant, because of his alien status, is prohibited from engaging in employment in the United States. A social security number will not be assigned, or a duplicate or corrected card issued, unless all of the evidence requirements are met. An in person interview will be required of all applicants age 18 or older who apply for an original social security number. All documents submitted as evidence are subject to verification with the custodians of the original records.

(b) *Evidence of age.* All applicants for a social security number are required to submit evidence of age to support the date of birth alleged. Applicants for a duplicate or corrected social security card may be required to submit evidence of age to support the date of birth alleged. Examples of the types of evidence which may be submitted are birth or baptismal certificates, school and church records, census records, insurance policies, marriage records, employment records, and passports.

(c) *Evidence of identity.* All applicants for a social security number or a duplicate or corrected social security card are required to submit corroborative evidence of their identity. Corroborative evidence of identity may consist of a driver's license, a voter registration card, a passport, or other similar document serving to identify the individual. It is preferable that the document contain the applicant's signature for comparison with his signature on the application for a social security number. A birth certificate alone is not sufficient evidence to establish identity except where no other evidence of identity exists for a child under 7 years of age and there is no basis for doubting the validity of the birth certificate or the social security number application.

(d) *Evidence of U.S. citizenship.* Generally, an allegation of U.S. citizenship by birth will be supported by the evidence of age and identity described in paragraphs (b) and (c) of this section. Additional evidence must be supplied when the evidence of age or identity does not show place of birth or where such evidence of age or identity does not agree with the applicant's allegation of birth in the United States. Where an applicant indicates that he is foreign born and that he is a U.S. citizen, he is required to present documentary evidence of U.S. citizenship. Any of the following is acceptable evidence of U.S. citizenship:

(1) Certificate of naturalization;

(2) Certificate of citizenship;

(3) U.S. passport;

(4) U.S. citizen identification card (INS form I-179 or I-197);

(5) Consular report of birth (State Department form FS-240); or

(6) Other verification from the Immigration and Naturalization Service, U.S. Department of State, or Federal or State court records confirming citizenship. If required evidence is not available, a social security number will not be assigned until satisfactory evidence of U.S. citizenship is furnished.

(e) *Evidence of alien status.*—(1) *Citizen of country other than Canada or Mexico.* Where the applicant is a foreign citizen (of a country other than Canada or Mexico), the applicant is required to have an Alien Registration Receipt Card (I-151 or I-551) or an Arrival-Departure Record (I-94) and will be asked to produce such document. If the applicant fails to do so, a social security number will not be issued. If the applicant produces an Alien Registration Receipt Card, or produces an Arrival-Departure Record which contains an authorization to work, a social security number card will be issued. However, if the Arrival-Departure Record does not contain authorization to work and the social security number is for a work purpose, it will not be issued. If the applicant requests the number for a nonwork purpose, e.g., an Internal Revenue Service purpose, the number will be issued and the record will be annotated. In the latter case, if earnings are later reported to the SSA, the Immigration and Naturalization Service will be notified of such report.

(2) *Mexican or Canadian citizen.* If a Canadian or Mexican citizen has an Alien Registration Receipt Card or an Arrival-Departure Record, the rules in paragraph (e)(1) of this section apply. If a Canadian or Mexican citizen is legally in the United States with a border crossing card, or a border visitor's permit (or, in the case of a Canadian citizen, without documentation), but does not have an Alien Registration Receipt Card or an Arrival-Departure Record, and wants a social security number for a nonwork purpose, e.g., an Internal Revenue Service purpose, the SSA will assign a number to the applicant and issue a number card. The record will be annotated and the Immigration and Naturalization Service will be notified if earnings are reported to the earnings record.

(3) *Failure to submit evidence.* If the applicant does not comply with a request for evidence or other information regarding alien status within a reasonable time, the SSA will again attempt to contact him. If there is still no response, a social security number will not be issued.

(4) *Invalid or expired documents.* The SSA will not issue a social security number when an applicant presents invalid or expired Immigration and Naturalization Service documents. Invalid documents are forged documents purportedly issued by the Immigration and Naturalization Service or properly issued documents which were altered subsequent to issue. An expired document is one whose term of validity has expired.

(5) *Notice to alien applicant.* An alien who applies for a social security number will be advised that information obtained by the SSA in connection with his application for, and issuance of, a social security number might be transmitted to the Immigration and Naturalization Service. If a number is to be issued for nonwork purposes, the applicant will be advised that the Immigration and Naturalization Service will be notified should earnings be reported to his earnings record.

6. Section 422.110 is revised to read as follows:

§ 422.110 Individual's request for change in record.

Form OAAN-7003, "Request for Change in Social Security Records," should be completed and signed by any person who wishes to change the name or other personal identifying information previously submitted. The person must establish his or her identity and may be required to validate their SSN record. (See § 422.107 for

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evidence requirements.) Form OAAN-7003 may be obtained from any local social security office or from one of the sources noted in § 422.103(b). The completed request for change in records may be submitted to any SSA office or, if the individual is in the Philippines, to the Veterans' Administration regional office, Manila, Philippines. If the request is for a change in name, a new social security number card will be issued to the person making the request bearing the same number previously assigned.

[FR Doc. 78-13167 Filed 5-15-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 78N-0094]

CEFADROXIL CAPSULES

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations to provide for the certification of cefadroxil capsules. Pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act, the manufacturer has supplied sufficient data and information to establish the safety and efficacy of cefadroxil capsules.

DATES: Effective May 16, 1978. Comments by June 15, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Department of Health, Education and Welfare, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: Having evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of cefadroxil capsules, the Commissioner of Food and Drugs concludes that the data supplied by the manufacturer concerning the subject antibiotic drug product are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in parts 430, 436, and 442 (21 CFR parts 430, 436, and 442) to provide for its certification.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), parts 430, 436, and 442 are amended as follows:

PART 430—ANTIBIOTIC DRUGS: GENERAL

1. Part 430 is amended in subpart A:

a. In § 430.5 by adding new paragraphs (a)(62) and (b)(62), to read as follows:

§ 430.5 Definitions of master and working standards.

(a) • • •

(62) *Cefadroxil.* The term "cefadroxil master standard" means a specific lot of cefadroxil that is designated by the Commissioner as the standard of comparison in determining the potency of the cefadroxil working standard.

(b) • • •

(62) *Cefadroxil.* The term "cefadroxil working standard" means a specific lot of a homogeneous preparation of cefadroxil.

b. In § 430.6 by adding new paragraph (b)(64), to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

• • • • • •

(b) • • •

(64) *Cefadroxil.* The term "microgram" applied to cefadroxil means the cefadroxil activity (potency) contained in 1.0537 micrograms of the cefadroxil master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended:

a. In § 436.33(b) by alphabetically inserting a new item in the table, as follows:

§ 436.33 Safety test.

• • • • • •

(b) • • •

Antibiotic	Test dose: Diluent (diluent number as listed in § 436.31)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Test dose: Route of administration as described in par. (c) of this section
•	•	•	•	•
Cefadroxil	10	40	0.5	Oral.
•	•	•	•	•

b. In § 436.105, paragraphs (a) and (b) are amended by alphabetically inserting a new item in the respective tables, as follows:

§ 436.105 Microbiological agar diffusion assay.

• • • • • • •

(a) • • •

Antibiotic	Media to be used (as listed by medium number in § 436.102(b)): Base layer	Media to be used (as listed by medium number in § 436.102(b)): Seed Layer	Milliliters of media to be used in the base and seed layers: Base layer	Milliliters of media to be used in the base and seed layers: Seed layer	Test organism	Suggested volume of standardized inoculum to be added to each 100 mls of seed agar: Milliliters	Incubation temperature for the plates: Degrees C.
•	•	•	•	•	•	•	•
Cefadroxil	2	1	21	4	A	0.05	37
•	•	•	•	•	•	•	•
•	•	•	•	•	•	•	•

Antibiotic	Drying conditions (method number as listed in § 436.200)	Working standard stock solutions: Initial solvent	Working standard stock solutions: Diluent (solution number as listed in § 436.101(a))	Working standard stock solutions: Final concentration units or million grams per milliliter	Working standard stock solutions: Storage time under refrigeration	Standard response line concentrations: Diluent	Standard response line concentrations: Final concentrations, units or micrograms of antibiotic activity per milliliter
•	•	•	•	•	•	•	•
Cefadroxil	Not dried		1	1 mg.	Use same day	1	12.8, 16.0, 20.0, 25.0, and 31.2 µg.
•	•	•	•	•	•	•	•
•	•	•	•	•	•	•	•

(b) • • •

PART 442—CEPHA ANTIBIOTIC DRUGS

4. Part 442 is amended:

a. In Subpart A by adding new § 442.6, to read as follows:

§ 442.6 Cefadroxil monohydrate.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Cefadroxil monohydrate is 7-[D-2-amino-2(*p*-hydroxyphenyl)acetamido] - 3 - methyl - 8 - oxo- 5-thia-1-azabicyclo[4.2.0] oct-2-ene-2-carboxylic acid monohydrate. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms and not more than 1,050 micrograms of cefadroxil per milligram on an anhydrous basis.

(ii) It passes the safety test.

(iii) Its moisture content is not less than 4.2 percent and not more than 6.0 percent.

(iv) Its pH in an aqueous solution containing 50 milligrams per milliliter is not less than 4.0 and not more than 6.0.

(v) When calculated on an anhydrous basis, its absorptivity at 264 nanometers is not less than 95 percent and not more than 104 percent of that of the cefadroxil standard similarly treated and corrected for potency.

(vi) It passes the identity test.

(vii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, absorptivity, identity, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay—(1) Potency.* Use either of the following methods; however, the results obtained from the hydroxylamine colorimetric assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 20 micrograms of cefadroxil per milliliter (estimated).

(ii) *Hydroxylamine colorimetric assay for cefadroxil.* Proceed as directed in § 442.40(b)(1)(ii) of this chapter, except prepare the working standard and sample solutions and calculate the potency of the sample as follows:

(*a*) *Preparation of working standard solutions.* Dissolve and dilute an accurately weighed portion of the cefadroxil working standard in sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of this solution with distilled water to a concentration of 1 milligram of cefadroxil per milliliter.

(*b*) *Preparation of sample solutions.* Dissolve an accurately weighed portion of the sample in sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of this solution with distilled water to a concentration of 1 milligram of cefadroxil per milliliter (estimated).

(c) Calculate the potency of the sample in micrograms per milligram as follows: Micrograms of cefadroxil per milligram of sample

$$= \frac{\frac{A_u}{} \times \frac{P_a}{} \times 100}{\frac{A_s}{} \times \frac{W_u}{} \times (100-\underline{m})}$$

where:

A_u = Absorbance of sample solution;

P_a = Potency of working standard solution in micrograms per milliliter;

A_s = Absorbance of working standard solution;

W_u = Milligrams of sample per milliliter of sampe solution;

m = Percent moisture in sample.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 50 milligrams per milliliter.

(5) *Absorptivity.* Determine the absorbance of the sample and standard solutions in the following manner: Dissolve accurately weighed portions of approximately 50 milligrams each of the sample and standard in 250 milliliters of distilled water. Transfer a 10-

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milliliter aliquot to a 100-milliliter volumetric flask and dilute to volume with distilled water. Using a suitable spectrophotometer and distilled water as the blank, determine the absorbance of each solution at 264 nanometers. Determine the percent absorptivity of the sample relative to the absorptivity of the standard using the following calculations: Percent relative absorptivity = Absorbance of sample X milligrams standard X potency of standard in micrograms per milligram X 10/Absorbance of standard X milligrams sample X (100 − *m*)

where:
m = Percent moisture in the samples.

(6) *Identity.* Using the sample and working standard solutions prepared as described in paragraph (b)(5) of this section and a suitable spectrophotometer, record the ultraviolet spectrum from 220 to 340 nanometers. The spectrum of the sample compares qualitatively with that of the cefadroxil working standard.

(7) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

b. By adding new § 442.106 to Subpart B, to read as follows:

§ 442.106 Cefadroxil capsules.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Cefadroxil capsules are composed of cefadroxil monohydrate and one or more suitable and harmless lubricants and diluents enclosed in a gelatin capsule. Each capsule contains 500 milligrams of cefadroxil. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of cefadroxil that it is represented to contain. Its moisture content is not more than 7 percent. The cefadroxil monohydrate used conforms to the standards prescribed by § 442.6(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The cefadroxil monohydrate used in making the batch for potency, safety, moisture, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The cefadroxil monohydrate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay—*(1) *Potency.* Use either of the following methods; however, the results obtained from the hydroxylamine colorimetric assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar containing sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 1 to the reference concentration of 20.0 micrograms of cefadroxil per milliliter (estimated).

(ii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 442.40(b)(1)(ii) of this chapter, preparing the sample as follows: Blend a representative number of capsules into a high-speed glass blender jar with sufficient distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of this solution with distilled water to a concentration of 1 milligram of cefadroxil per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

Since the conditions prerequisite to providing for certification of this drug have been complied with and as the matter is noncontroversial, the Commissioner finds for good cause that notice and public procedure are unnecessary and that the amendment may become effective upon the date of publication. Interested persons may, on or before June 15, 1978, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments, in four copies and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk, Food and Drug Administration (HFC-20), between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. June 15, 1978.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: May 8, 1978.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 78-13186 Filed 5-15-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 771—ENVIRONMENTAL IMPACT AND RELATED STATEMENTS

Miscellaneous Amendments

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rulemaking.

SUMMARY: This document amends FHWA environmental regulations to allow the processing as nonmajor Federal actions of projects having only a minimal effect upon properties protected by section 4(f) of the Department of Transportation Act[1] or section 106 of the National Historic Preservation Act; it will also allow for the delegation to Regional Administrators of the responsiblity for making certain 4(f) determinations and allow for the designation of Regional Counsels to review those 4(f) statements for legal sufficiency. These amendments are designed to clarify certain regulatory provisions and to modify internal delegations of authority.

EFFECTIVE DATE: May 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert G. Clour, Environmental Programs Division, 202-426-0106, or Marguerite L. Price, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday-Friday.

SUPPLEMENTARY INFORMATION: Existing regulations appear as Part 771, Chapter I, Title 23, Code of Federal Regulations, and codify material in volume 7, chapter 7, section 2 of the Federal-Aid Highway Program Manual.[2]

The existing regulations require that Federal Highway Administration projects which have involvement with section 4(f) or section 106 properties must be processed as major actions regardless of the magnitude or scope of the projects. This amendment will allow some projects of this type to be processed as nonmajor actions which do not require formal documentation under NEPA. The requirements for section 4(f) or section 106 will not be changed by this amendment.

The existing Federal Highway Administration regulations require that the Federal Highway Administrator make all 4(f) determinations. This amendment will allow the Administrator to delegate that responsibility to the Regional Administrators for section 4(f) determinations except where concurrence of the Office of the Secretary is required.

The existing regulations require the Federal Highway Administration Chief Counsel to review all section 4(f) statements for legal sufficiency. This amendment will allow the Chief Counsel to delegate this responsibility to the Regional Counsels where the Regional Administrators are responsible for making the 4(f) determinations.

NOTE.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

The matters affected herein relate to grants, benefits, or contracts within the purview of 5 U.S.C. 553(a)(2). The amendment itself is of a technical nature designed to clarify existing regulatory provisions and modify internal delegations of authority. Accordingly, general notice of proposed rulemaking is neither required nor appropriate.

Issued on May 5, 1978.

KARL S. BOWERS,
Acting Federal Highway Administrator.

In consideration of the foregoing, the Federal Highway Administration is amending Part 771 of Chapter I, Title 23, Code of Federal Regulations, as follows:

1. Section 771.9(d)(7) is revised to read:

§ 771.9 Major and nonmajor actions.

• • • • • •

(d) • • •

(7) A project that has more than minimal effect on properties protected under section 4(f) of the DOT Act or section 106 of the Historic Preservation Act.

• • • • • •

2. Section 771.14(c) is revised by deleting subparagraph (5) and amending subparagraph (4) to read as follows:

§ 771.14 Final environmental impact statement processing.

• • • • • •

(c) • • •

(4) Highway sections for which the Federal Highway Administrator requests the Regional Administrator to send the final EIS to the Washington headquarters office for review either by the Assistant Secretary for Policy and International Affairs or by the FHWA Headquarters office.

• • • • • •

3. Section 771.19 is revised by amending paragraphs (f), (g), (h), (i), (j), (l), and (n) to read as follows:

§ 771.19 Section 4(f) statements.

• • • • • •

(f) It is essential that the information necessary for the determination under section 4(f) be consolidated in a separate statement, or if a negative declaration or EIS is being prepared, as a separate section of that document. The section 4(f) statement should be self-contained to the extent practicable. It should list factors, reasons, and effects that are used to evaluate each alternative and the special measures planned to minimize harm to the section 4(f) lands. It may be necessary to repeat information contained in the EIS, negative declaration or nonmajor action determination to eliminate unnecessary reference.

(g) A section 4(f) evaluation (consisting of draft section 4(f) information and a section 4(f) statement as set forth in § 771.19) is to be prepared during the location study phase of the highway development except in the specific circumstances for separate circulation and processing as provided below.

(1) The section 4(f) involvement must be coordinated with the agency having jurisdiction over the section 4(f) lands. Comments received and the HA/FHWA evaluation of the comments should be included in the section 4(f) statement.

(2) For those highway sections that are being processed with a nonmajor action determination, draft section 4(f) information necessary to evaluate alternatives, the section 4(f) involvement, and the measures to minimize harm are to be made available to the Departments of the Interior and Housing and Urban Development and, if appropriate, to the Department of Agriculture for comments. Included should be a copy of the FHWA Division Administrator's letter to the HA advising it of FHWA's concurrence in the nonmajor action determination. The HA and FHWA shall evaluate the comments received and prepare the section 4(f) statement. The processing of the section 4(f) statement within FHWA shall follow procedures set forth in paragraph (n) of this section.

(3) For those highway sections that are being processed with a negative declaration, the negative declaration shall be prepared following the requirements of § 771.11. In addition, the information necessary to evaluate the alternatives, the section 4(f) involvement, and the measures to minimize harm shall be included in the draft negative declaration as a separate part of the document as draft section 4(f) information. The determination that alternatives which do not use section 4(f) lands are not feasible and prudent would not be made at the draft negative declaration stage. The draft negative declaration/section 4(f) information is to be made available to the Departments of the Interior and Housing and Urban Development and, if appropriate, to the Department of Agriculture for comment. The HA and FHWA shall evaluate the comments received and prepare the final negative declaration and section 4(f) statement. The final negative declaration/section 4(f) statement shall be processed as set forth in § 771.11 and § 771.19(n).

(4) The draft section 4(f) information prepared for highway sections that are being processed with a nonmajor action determination or negative declaration shall be furnished to the Regional Administrator for comment at the time it is made available to other agencies.

(5) For those projects that are being processed with an EIS, the EIS shall be prepared and coordinated following the applicable requirements of §§ 771.5, 771.8, 771.12, and 771.14. In addition, the information necessary to evaluate the alternatives, the section 4(f) involvement, and measures to minimize harm shall be included in the draft EIS as a separate part of the document as draft section 4(f) information. The determination that alternatives which do not use section 4(f) land are not feasible and prudent would not be made at the draft EIS stage. The draft EIS/section 4(f) information is to be circulated for comments in accordance with § 771.12. The Departments of the Interior and Housing and Urban Development and, if appropriate, the Department of Agriculture should be invited to comment on the section 4(f) information in addition to the EIS. The HA and FHWA shall evaluate comments received on the draft EIS/section 4(f) statement. Processing of the final EIS/section 4(f) statement shall be as set forth in §§ 771.14 and 771.19(n).

(6) The section 4(f) statement shall include a summary of the coordination, a copy of the comments received, and the HA/FHWA evaluation of the comments. It should also include a section on unresolved issues and an explanation of the efforts made to resolve the issues.

(7) Nothing in the processing procedures in this section is to be construed as superseding public hearing requirements or the requirement to make available nonmajor action determina-

[1] Codified at 49 U.S.C. 1653(f). An identical provision appears at 23 U.S.C. 138.

[2] The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

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tions, draft negative declaration/section 4(f) information or draft EIS/section 4(f) information at required public hearings.

(8) Separate circulation of the section 4(f) information will be required when: (i) the section 4(f) area is designated after the nonmajor action determination, final negative declaration, or final EIS is processed; (ii) a minor modification in the alignment or design that involves a section 4(f) area is made after the nonmajor action, final negative declaration, or final EIS is processed; or (iii) another agency is the lead agency for the environmental process. In such cases, the section 4(f) statement would not need to be accompanied by further NEPA documentation unless, after consultation with the FHWA offices which had review authority for the original NEPA document, a decision is made to supplement the original NEPA documentation.

(9) There may be other unusual instances when, after a review of the circumstances, the Regional Administrator believes there is a basis for separate processing of the section 4(f) after the processing of a nonmajor action, negative declaration or EIS is completed. Such instances shall be submitted to the Associate Administrator for Right-of-Way and Environment for approval. The request for approval shall be accompanied with detailed information relative to the reasons why separate preparation and circulation is required and information about the highway section and section 4(f) area that will permit the Associate Administrator to make a decision on the request.

(h) When circulating draft section 4(f) information to the agencies noted in paragraph (g) of this section, the HA may establish a time limit of not less than 45 days for comment.

(i) The following information, where pertinent and available, should be included in the draft section 4(f) information to initiate the necessary interagency review.

. . . . . .

(j) Accurate and detailed information is needed to support the determination that there is no feasible or prudent alternative. Supporting information should demonstrate that there are unique problems, truly unusual factors present, and evidence that the cost or community disruption resulting from alternative routes reaches extraordinary magnitudes. Section 4(f) statements shall be reviewed for legal sufficiency by the FHWA Chief Counsel or his designee.

(k) • • •

(l) The HA and FHWA Division Administrator should make a special effort to resolve any issues concerning section 4(f) lands prior to forwarding the section 4(f) statement to the Regional Federal Highway Administrator.

(m) • • •

(n)(1) The Division Administrator shall make a review of the section 4(f) statement and forward it and the nonmajor action determination concurrence, final negative declaration or final EIS, as appropriate, to the Regional Administrator for processing of the section 4(f) statement.

(2) For those section 4(f) statements being processed with a nonmajor action determination concurrence, the HA shall not proceed with those activities noted in § 771.5(e) until notified by FHWA that the section 4(f) determination has been made.

(e) The FHWA Regional Administrator shall review the section 4(f) statement, including comments and evaluations by the HA and FHWA Division Administrator for completeness and adequacy. Processing of the section 4(f) statement and the preparation and processing of the determination required by 49 U.S.C. 1653(f) shall be in accordance with the delegation of authority contained in FHWA Order 1-1.[3] The determination required by 49 U.S.C. 1653(f) shall be made by the Federal Highway Administrator or his designee.

§ 771.21 [Amended]

4. Section 771.21(e)(2) is revised to read as follows:

. . . . . .

(e) • • •

(2) Office of the Secretary of Transportation (Office of Environment and Safety, P-20)—one copy.

. . . . . .

[FR Doc. 78-13222 Filed 5-15-78; 8:45 am]

[3]This document is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

[4510-26]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Certification of Completion of Developmental Steps for Tennessee Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: This amendment officially recognizes that the State of Tennessee has completed all of the developmental steps specified in its occupational safety and health plan as approved on July 5, 1973 (38 FR 17838) and commencing with this completion, operations under the plan will be subject to extensive evaluation to determine whether Federal occupational safety and health standards development and enforcement authority will be relinquished within the State pursuant to section 18(e) of the Occupational Safety and Health Act of 1970.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Barbara Bryant, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-634-4922.

SUPPLEMENTARY INFORMATION:

Background

Subpart D of Part 1902 of Title 29, Code of Federal Regulations (40 FR 54780) sets out procedures under which the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) will make a determination under section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(e)) (hereinafter referred to as the Act) whether, on the basis of actual operations under a State plan, the criteria of section 18(c) of the Act are being met by the plan. Such a determination may not be made until at least three years after commencement of operations under the plan and, in the case of a developmental plan, until the State has satisfactorily completed all developmental steps and the Assistant Secretary has had at least one additional year to evaluate the plan on the basis of actual operations. Upon making a determination under 18(e) that the 18(c) requirements are being met, Federal enforcement of standards (except with regard to on-going cases) cease to apply in the State with respect to any occupational safety and health issue covered under the determination.

Section 1902.34 of Subpart D provides that the evaluation of a State's fully operational program, preparatory to an 18(e) determination, shall commence upon publication in the FEDERAL REGISTER of a certification that all developmental steps have been completed. Such certification must list the developmental steps, including approved amendments thereto, and the dates their approvals were published in the FEDERAL REGISTER; approved substantive changes in the State plan and dates published in the FEDERAL REGISTER; documentation that the State merit system has been approved and found acceptable; and a description of the occupational safety health issues covered by the certification. If the Assistant Secretary finds that the State has completed all the developmental steps specified in the plan, she shall give notice of same by publishing the certification in the FEDERAL REGISTER and amend the appropriate subpart of Part 1952 of this chapter to reflect this finding.

Certification that a State has completed its developmental steps does not mean that the Assistant Secretary had determined that the State has a fully effective occupational safety and health program in actual operation. Under regulations at 29 CFR 1902.33 through 1902.35, this certification is a preliminary action by the Assistant Secretary acknowledging that certain basic elements of the State plan have been adopted in accordance with assurances made by the State at the time its plan was initially approved under Section 18(c) of the Act. Certification that a State has completed these developmental steps initiates a thorough evaluation of the State plan under section 18(e) of the Act to determine, on the basis of actual operations, whether the plan adequately protects the safety and health of the State's workers. In making this evaluation under section 18(e) the Assistant Secretary must monitor the continuing development of the State program, applying criteria which assure that the State will have a fully effective program for achieving the goals of the Act. (See: *AFL-CIO* v. *Marshall*, et. al., C.A.D.C. No. 75-1506, January 20, 1978.)

On July 5, 1973, notice was published in the FEDERAL REGISTER (38 FR 17838) of the approval of the Tennessee plan as a developmental plan and the adoption of Subpart P of Part 1952 containing the decision and describing the plan. During the three year period ending July 1, 1976, (three years from the date of the State's first 23(g) grant award) James G. Neeley, Commissioner, Tennessee Department of Labor (and prior to his appointment, Ben O. Gibbs, Commissioner, Tennessee Department of Public Health) submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953. Following OSHA review, opportunity for public comment, and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual Tennessee developmental steps.

Notice of Completion of Developmental Steps Under the Tennessee Plan

In accordance with the provisions of 29 CFR 1902.34, notice is given that the Tennessee occupational safety and health plan is hereby certified, effective May 3, 1978, as having completed all the developmental steps specified in the plan as approved June 28, 1973, on or before July 1, 1976, (see Subpart P of 29 CFR Part 1952) as follows:

(a) All developmental steps specified in the plan and amendments thereto have been completed:

(1) Tennessee occupational safety and health standards identical to Federal standards have been promulgated, subsequently amended to reflect changes in and additions to Federal standards and approved by the Regional Administrator for Occupational Safety and Health (hereafter referred to as the Regional Administrator) on March 31, 1975, (40 FR 14383, March 31, 1975), on August 27, 1976, (41 FR 47613, October 29, 1976), and January 23, 1978, (43 FR 14164).

(2) Legislative amendments required to bring the Tennessee Occupational Safety and Health Act of 1972 into conformity with Federal requirements were enacted on March 29, 1974, effective July 1, 1974, by Chapter 585, Public Acts of 1974, and approved by the Secretary of Labor on August 15, 1975, (40 FR 36566, August 21, 1975). Further State-initiated amendments to the Act transferring all occupational safety and health responsibility (previously held jointly by the Commissioner of Labor and the Commissioner of Public Health) to the Commissioner of Labor were promulgated effective July 1, 1977, and approved by the Assistant Secretary on May 3, 1978.

(3) Tennessee regulations governing occupational safety and health recordkeeping and reporting (Chapter 0800-1-3) were promulgated by the Tennessee Department of Labor on June 10, 1974, and subsequently amended on April 15, 1976, July 14, 1977, August 15, 1977, and February 1, 1978. These regulations, which contain requirements essentially identical to the Federal 29 CFR Part 1904 were approved by the Assistant Secretary on May 3, 1978.

(4) Tennessee regulations governing inspections, citations, and proposed penalties were originally promulgated by the Commissioner of Labor on July 2, 1973, (effective July 13, 1973) and the Commissioner of Public Health on April 3, 1974, (effective May 3, 1974) and approved by the Secretary of Labor on August 15, 1975 (40 FR 36566, August 21, 1975). These regulations were subsequently consolidated and codified as Tennessee Department of Labor Chapter 0800-1-4 and reapproved by the Assistant Secretary, as amended, on May 3, 1978.

(5) Tennessee regulations governing temporary variances were promulgated by the Commissioner of Labor on July 2, 1973 (effective July 13, 1973) and the Commissioner of Public Health on April 3, 1974 (effective May 3, 1974) and approved by the Secretary of Labor on August 15, 1975 (40 FR 36566, August 21, 1975). These regulations, which were subsequently consolidated, codified as Tennessee Department of Labor Chapter 0800-1-2, expanded to include permanent variances, and amended in response to Federal comment, were reapproved by the Assistant Secretary on May, 1978. A further Tennessee plan amendment pledging to honor all multi-establishment variances granted by the Assistant Secretary to employers for places of employment within the State of Tennessee under procedures to which the State of Tennessee was given an opportunity to participate (29 CFR 1905.13 and 1905.14) was approved by the Assistant Secretary on November 7, 1977 (42 FR 5846, November 11, 1977).

(6) A manual Management Information System was implemented in July, 1973, and converted to an automated system in July, 1975. Documentation describing the completion of this developmental step was approved by the Assistant Secretary on November 7, 1977 (42 FR 58746, November 11, 1977).

(7) A Tennessee occupational safety and health poster for private employers and local government employers choosing to be treated as private employers was approved by the Secretary of Labor on August 15, 1975 (40 FR 36566, August 21, 1975). A separate poster for State government and all other local government employers was approved by the Assistant Secretary on May 3, 1978. These posters advise employees of their rights and obligations under the Tennessee plan and are required to be posted in all workplaces throughout the State.

(8) Tennessee regulations governing the operation of the Tennessee Occupational Safety and Health Review Commission (Chapters 1030-1 through 1030-7) were promulgated on May 5, 1974, subsequently amended in response to Federal comment on February 13, 1978, and approved by the Assistant Secretary on May 3, 1978.

(9) A revised Tennessee Compliance Operations Manual was initially developed in May, 1976, subsequently amended in response to Federal comment and to reflect changes in Federal procedures through December 20, 1976, and approved by the Assistant Secretary on May 3, 1978.

(10) A Tennessee Public Employee plan and implementing regulations (Tennessee Department of Labor Chapter 0800-1-5) have been adopted by the State, amended in response to Federal comment and approved by the Assistant Secretary on May 3, 1978.

(11) The Tennessee Department of Labor entered into agreement with the

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University of Tennessee Center for Government Training for development of a 30 hour course entitled "OSHA for Laymen" be presented at 17 local education facilities. The Secretary of Labor approved the goals of the contract on August 15, 1975 (40 FR 36566, August 21, 1975) and the Assistant Secrtary approved its successful completion on November 11, 1977).

(12) The Tennessee State plan narrative was amended in the following manner: (a) To reflect throughout the language of the 1974 enacted legislative amendments and current program operation; (b) to include a pledge to operate in accord with Federal direction for handling of serious violations and imminent danger situations discovered during on-site consultation activities; (c) to reflect promulgation of State occupational safety and health standards; (d) to document completion of training for Division of Occupational Safety and Health employees and to assure that all new compliance officers will attend the Chicago Institute. This change was approved by the Assistant Secretary on November 7, 1977 (42 FR 58746, November 11, 1977).

(13) The Tennessee Uniform Administrative Procedures Act as amended in 1975 which defines State-wide procedures for the adoption and filing of rules and regulations including those dealing with occupational safety and health, was approved by the Assistant Secretary as a plan amendment on November 7, 1977 (42 FR 58746, November 11, 1977).

(14) The Tennessee redesignation of its job title, "industrial hygienist" as "environmental engineer" was approved by the Secretary of Labor on August 15, 1975 (40 FR 36566, August 11, 1977).

(15) The Tennessee certification that all positions in the Division of Occupational Safety were placed under the State's merit system by Executive Order effective July 1, 1975, and that all positions in the occupational health program previously under the Department of Public Health are included in the classified service of the State's approved merit system was approved by the Assistant Secretary on November 7, 1977 (42 FR 58746, November 11, 1977).

(b) The personnel operations of the Tennessee Department of Labor, Occupational Safety and Health Division, and the servicing merit system agency have been found to be in substantial conformity with the "Standards for a Merit System of Personnel Administration" by the U.S. Civil Service Commission by letter dated January 22, 1976. (See section (a)(15) above.) In addition a Tennessee Department of Labor affirmative action plan to promote equal employment opportunity dated November 5, 1976, has been judged acceptable by the U.S. Civil Service Commission and the Regional Administrator.

(c) This certification covers all occupational safety and health issues covered under the Federal program except for the longshoring and maritime standards found in 29 CFR Parts 1915, 1916, and 1918 (longshoring, ship repairing, shipbuilding, shipbreaking), which are excluded from coverage under the plan, and the State program covering State and local government employees. In addition coverage of railroad employees is likewise excluded from this certification pursuant to a Supreme Court of Tennessee ruling on February 2, 1976, in *Fowinkle* v. *Southern Railway Co.* (553 SW. 2d 278, 1976) that the Tennessee Occupational Safety and Health Act of 1972 does not extend to this group of workers. Pending resolution of this jurisdictional question at the Federal level, coverage for this group of workers will be provided by Federal OSHA.

LOCATION OF THE PLAN AND ITS APPROVED SUPPLEMENTS FOR INSPECTION AND COPYING

A copy of these approved supplements, along with the approved plan may be inspected and copied during normal business hours at the following locations: 2100 M Street NW., Washington, D.C. 20210; Office of the Regional Administrator, Region IV, Occupational Safety and Health Administration, 1375 Peachtree Street NE., Suite 567, Atlanta, Ga. 30309; and Office of the Tennessee Commissioner of Labor, 501 Union Building, Nashville, Tenn. 37210.

EFFECT OF CERTIFICATION

The performance of the Tennessee occupational safety and health program in actual operation will be monitored and evaluated after publication of this certification, to determine, whether the State is providing an effective program under *AFL-CIO* v. *Marshall* cited above. The Assistant Secretary will then make a determination under section 18(e) of the Act whether Federal enforcement authority and standards should cease to apply to issues under the plan.

In accordance with 29 CFR 1902.35 Federal enforcement authority under sections 5(a) (2), 8, 9, 10, 13, and 17 of the Act (29 U.S.C. 654(a) (2), 657, 658, 659, 662, and 666) and Federal standards authority under section 6 (29 U.S.C. 655) of the Act will not be relinquished during this evaluation period. However, under the terms of an operational status agreement entered into with Tennessee on November 11, 1974 (39 FR 44200, December 23, 1974) and amended April 14, 1976, (41 FR 34252, August 13, 1976), the exercise of this authority by the U.S. Department of Labor will continue to be limited to, among other things: complaints filed with the U.S. Department of Labor about violations of the discrimination provisions of section 11(c) of the Act; enforcement of new Federal standards, such as emergency temporary standards, promulgated under section 6 of the Act where necessary to protect employees until such time as the State shall have promulgated equivalent standards; enforcement of Federal standards in the maritime and longshoring issues of 29 CFR parts 1915, 1916, 1917, and 1918 which issues have been specifically excluded from coverage under the Tennessee plan; working conditions in railroads, except working conditions as to which other Federal agencies exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health; and investigations and inspections for the purpose of the evaluation of the Tennessee plan under section 18(e) and (f) of the Act.

In accordance with this certification, 29 CFR 1952.224 is hereby amended to reflect successful completion of the developmental period by adding a paragraph (k) as follows:

§ 1952.224 Completion of developmental steps and certification.

* * * * *

(k) In accordance with § 1902.34 of this chapter, the Tennessee occupational safety and health plan received certification, effective May 3, 1978, as having completed all developmental steps specified in its plan as approved on June 28, 1973, on or before July 1, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C., this 3rd day of May 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-13282 Filed 5-15-78; 8:45 am]

[4510-26]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Supplement to Tennessee State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: The Tennessee Compliance Operations Manual (Manual) provides direction to the Tennessee occupational safety and health enforcement staff on compliance procedures under the Tennessee Occupational Safety and Health Act of 1972. Notice of a revised manual was published in the FEDERAL REGISTER (41 FR 1918, January 13, 1976). Additions and corrections to this supplement reflecting State-initiated changes and in response to Federal review and comment have been submitted by the State. This document provides notice that the Manual is approved as amended. This approval constitutes successful completion of a developmental aspect of the State's plan.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Barbara Bryant, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, 202-634-4922.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On July 5, 1973, notice was published in the FEDERAL REGISTER (38 FR 17838) of the approval of the Tennessee plan and the adoption of subpart P of part 1952 containing the decision and describing the plan. On January 13, 1976, notice of submission of a revised Tennessee Compliance Operations Manual was published in the FEDERAL REGISTER (41 FR 1918). Subsequently, on February 2, 1976, April 29, 1976, June 30, 1976, September 24, 1976, July 1, 1977, October 12, 1977, and March 2, 1978, Tennessee submitted additions and corrections to this supplement reflecting State-initiated changes and in response to Federal review and its amendments are described below:

DESCRIPTION OF THE SUPPLEMENT

The Tennessee Compliance Operations Manual provides direction to State compliance staff in carrying out the requirements of the Tennessee Occupational Safety and Health Act of 1972. The manual generally reflects procedures equivalent to those in the Federal OSHA Field Operations Manual as of December 1, 1976. (The State has responded to subsequent Federal Program Changes and is amending its manual to reflect the assignment of all occupational safety and health responsibility to the Commissioner of Labor as of July 1, 1977, but those supplements are not developmental steps and therefore are not reflected herein.) In response to Federal review and comment, the following changes were made to the State's original submission:

(a) Description of the responsibility of the Director of Occupational Safety and Health;

(b) Provision for legal action to be taken in event of forcible interference with an inspection;

(c) Requirement for State compliance officers to check employer compliance with State recordkeeping and reporting requirements;

(d) Clarification of actions subsequent to referral of health or safety hazards to appropriate specialists;

(e) Provision for issuance of expedited citations in specific situations;

(f) Revision of the definition of repeated violation as it applies to nonfixed establishments. (Repetition of a similar violation anywhere within the State is considered repeated.);

(g) Correction of imminent danger definition;

(h) Addition of procedures identical to the Federal for consideration of Petitions for Modification of Abatement;

(i) Addition of section describing pre-contest informal conferences and post-contest settlement conferences with employers;

(j) Revision of penalty calculation procedures for failure to abate, willful, repeated, and regulatory violations, to make them identical to Federal procedures;

(k) Clarification of penalty collection procedures;

(l) Addition of an informal complaint policy identical to the Federal.

LOCATION OF THE PLAN AND ITS SUPPLEMENTS FOR INSPECTION AND COPYING

A copy of this approved supplement, along with the approved plan, may be inspected and copies during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, 2100 M Street NW., Washington, D.C. 20210; Office of the Regional Administrator, Region IV, Occupational Safety and Health Administration, 1375 Peachtree Street NE., Suite 567, Atlanta, Ga. 30309; and Office of the Tennessee Commissioner of Labor, 501 Union Building, Nashville, Tenn. 37210.

DECISION

No public comments or requests for a hearing were received in response to the January 13, 1976, FEDERAL REGISTER notice. Subsequent plan change submissions described herein merely update and/or bring into closer conformity with Federal regulations an existing State plan document which was previously made available for public comment. Therefore, after consideration, the Tennessee Compliance Operations Manual, as amended and described above, is hereby approved under part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, 29 CFR 1952.224 is amended by adding a new paragraph (i) as follows:

§ 1952.224 Completed developmental steps.

* * * * *

(i) In accordance with plan commitments, Tennessee revised its original Compliance Operations Manual on May 19, 1975. The manual which was subsequently amended in response to Federal comment and to reflect all Federal procedures in effect as of December 1, 1976, was approved by the Assistant Secretary on May 3, 1978.

(Secs. 8(g), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g), 667).)

Signed at Washington, D.C., this 3rd day of May 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-13285 Filed 5-15-78; 8:45 am]

[4510-26]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Supplements to Tennessee State Plan

AGENCY: Occupational Safety and Health Administration, labor.

ACTION: Final rule.

SUMMARY: Approval of the following regulations constitutes successful completion of four developmental aspects of the Tennessee State occupational safety and health plan: (a) occupational safety and health inspections, citations, and proposed penalties, (b) variances from occupational safety and health standards, (c) rules of the Occupational Safety and Health Review Commission, and (d) occupational safety and health recordkeeping and reporting. In addition, amendments to the Tennessee Occupational Safety and Health Act of 1972, as enacted by the Tennessee General Assembly, effective July 1, 1977 transferring all occupational safety and health responsibility to the Tennessee Commissioner of Labor are approved.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION, CONTACT:

Barbara E. Bryant, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, telephone: 202-634-4923.

SUPPLEMENTARY INFORMATION:

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BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the FEDERAL REGISTER (38 FR 17838) of the approval of the Tennessee Plan and the adoption of Subpart P of Part 1952 containing the decision and describing the plan. On September 5, 1975, and January 13, 1976, notice of submission of a number of Tennessee supplements involving developmental and State-initiated changes was published in the FEDERAL REGISTER (40 FR 41148 and 41 FR 1918, respectively). Subsequently on April 19, April 28, July 1, and November 23, 1977, and on February 6, 1978, Tennessee submitted further additions and amendments to several of these supplements in response to Federal review and comment. The supplements covered by this notice are described below:

DESCRIPTION OF THE SUPPLEMENTS

(a) *Legislation.* During the 1977 session of the Tennessee General Assembly, the Tennessee Occupational Safety and Health Act of 1972 was amended to transfer all responsibility and authority under the Tennessee Act to the Commissioner of Labor and to provide that promulgation of all rules, regulations, and standards under the Tennessee Act and procedures for contested cases thereunder and judicial review thereof are in conformity with the Tennessee Uniform Administrative Procedures Act.

(b) *Tennessee regulations on Inspections, Citations and Proposed Penalties.* Tennessee regulations paralleling 29 CFR Part 1903, Inspections, Citations, and Proposed Penalties, were originally approved by the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) on August 15, 1975, (40 FR 36566). The Tennessee Department of Labor regulations have since been recodified as Tennessee Department of Labor Chapter 0800-1-4, and the State has amended several sections both independently and in response to Federal comment. The amendments described below were promulgated on August 15, 1977, and February 13, 1978.

1. *References to Tennessee Department of Public Health.* In response to the Tennessee General Assembly's recent amendment of the Tennessee Act, this regulation has been amended throughout to remove references to the Commissioner of Public Health.

2. *Objection to inspection.* Section 0800-1-4.05 has been amended to provide for compulsory process in the event entry for inspection is denied.

3. *Advance notice of inspection.* A new paragraph, section 0800-1-4.07(3), has been added to reflect the criminal penalty provided by the Tennessee Act for unauthorized advance notice. Section 0800-1-4.07(1) has been revised to eliminate an earlier provision that advance notice could be provided for fatality/catastrophe investigations.

4. *Trade secrets.* Section 0800-1-4.10 now references the Tennessee penalty for unauthorized disclosure of a trade secret.

5. *Citations, notice of DeMinimis Violations.* Section 0800-1-4.15(2) has been revised to remove the 60-day maximum abatement period. A new section 0800-1-15(6) describing procedures for considering a petition for modification of abatement has been added. The procedure is identical to the Federal procedure with the exception that in Tennessee employees have 20 calendar days in which to object to a petition prior to action by the Commissioner of Labor.

6. *Employer and employee contests.* Section 0800-1-4.18(2) has been amended to reflect an employee's right under Tennessee law to contest citations as well as abatement dates.

(c) *Tennessee regulations on occupational safety and health recordkeeping and reporting.* Tennessee regulations paralleling the Federal 29 CFR Part 1904, Recording and Reporting of Occupational Injuries and Illnesses, were originally promulgated on June 10, 1974, and subsequently revised on April 15, 1976, July 14, 1977, August 15, 1977, and February 13, 1978. The regulation is codified as Tennessee Department of Labor Chapter 0800-1-3 and contains provisions essentially identical to the Federal regulation. State and local government employers are excluded from coverage under this regulation as a separate regulation (Chapter 0800-1-5) covers public sector recordkeeping. Employers having fewer than 10 employees at any one time during the working year are likewise excluded from coverage except if selected for participation in the annual survey.

(d) *Tennessee regulations on variances from Occupational Safety and Health Standards.* Tennessee regulations paralleling the Federal 29 CFR Part 1905, Rules of Practice for Variances, have been codified as Tennessee Department of Labor Chapter 0800-1-2. The regulation includes procedures for granting temporary variances (which were previously approved on August 15, 1975, 40 FR 39566) and permanent variances. The State has also corrected several sections of the regulations in response to Federal comment. The corrections, which were promulgated on August 15, 1977, include:

1. A description of the contents of an application for a temporary variance (0800-1-2.06);

2. Provisions for renewal of a temporary variance (0800-1-2.07(3));

3. A description of the contents of the newspaper notice to be published on all adequate variance applications under consideration (0800-1-2.08(2));

4. Provision for affected employers and employees to request a hearing on any variance application within 30 days of publication of notice (0800-1-2.09(1));

5. Provision for specifying in the variance application the occupational safety and health standard from which a permanent variance is requested (0800-1-2.18(3)(c)).

(e) Tennessee Rules of the Occupational Safety and Health Review Commission. Regulations describing the operation of the independent Tennessee Occupational Safety and Health Review Commission were originally promulgated on May 5, 1974, and subsequently amended in response to Federal comment on February 13, 1978. The regulation, codified as Chapters 1030-1 through 1030-7, parallels the Federal 29 CFR Part 2200. The corrections and revisions include:

1. References to Hearing Examiner have been changed to that of Administrative Judge throughout;

2. Employee right to contest the terms and conditions of a citation, not merely the abatement date, as provided by the Tennessee Act (1030-2.01);

3. Provision for Review Commission action on petitions for modification of abatement applied for and contested as provided in Tennessee Department of Labor regulation 0800-1-4.15(6)(1030-3.05);

4. Removal of provision for administrative amendment of citations by the Tennessee Department of Labor after contest but prior to expiration of the contest period;

5. Removal of provisions allowing unilateral review of Review Commission rules. (The Tennessee Uniform Administrative Procedures Act requires public notice and opportunity for public hearing prior to such revision).

LOCATION OF THE PLAN AND ITS SUPPLEMENTS FOR INSPECTION AND COPYING

A copy of these approved supplements, along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, 2100 M Street NW., Washington, D.C. 20210; Office of the Regional Administrator, Region IV, Occupational Safety and Health Administration, 1375 Peachtree Street NE., Suite 567, Atlanta, Ga. 30309; and Office of the Tennessee Commissioner of Labor, 501 Union Building, Nashville, Tenn. 37210.

DECISION

No public comments or requests for a hearing were received in response to the September 5, 1975, and January 13, 1976, FEDERAL REGISTER notices. Subsequent plan change submissions described herein merely update and/or bring into closer conformity with Federal regulations existing State plan documents which were previously made available for public comment. Therefore, after consideration, the Tennessee plan supplements outlined above are hereby approved under Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In addition, 29 CFR 1952.224 is amended by deleting paragraphs (a), (b) and (c) thereof and replacing them with revised paragraphs (a), (b) and (c). New paragraphs (g) and (h) are also added. The revised and new paragraphs read as follows:

§ 1952.224 Completed developmental steps.

(a) In accordance with § 1952.223(b), the Tennessee Occupational Safety and Health Act of 1972 was amended by Chapter 585, Public Acts of 1974, on March 20, 1974, with an effective date of July 1, 1974 and approved by the Secretary of Labor in August 15, 1975 (40 FR 36556). Further State-initiated amendments to the Act transferring all occupational safety and health responsibility to the Commissioner of Labor were promulgated effective July 1, 1977, and approved by the Assistant Secretary on May 3, 1978.

(b) In accordance with § 19522.223(d), . regulations governing inspections, citations, and proposed penalties were originally promulgated by the Commissioner of Labor on July 2, 1973 (effective July 13, 1973) and approved by the Assistant Secretary on August 15, 1975 (40 FR 36556). These regulations were subsequently codified as Tennessee Department of Labor Chapter 0800-1-4 and reapproved by the Assistant Secretary, as amended, on May 3, 1978. The Tennessee Commissioner of Public Health promulgated parallel regulations on April 3, 1974 (effective May 3, 1974) which were also approved on August 15, 1975. These Department of Public Health regulations became inoperative on July 1, 1977.

(c) In accordance with § 1952.223(e), regulations governing temporary variances were promulgated by the Commissioner of Labor on July 2, 1973 (effective July 13, 1973) and approved by the Assistant Secretary on August 15, 1975, (40 FR 36566). These regulations, which were subsequently codified as Tennessee Department of Labor Chapter 0800-1-2, were expanded to include permanent variances, and amended in response to Federal comment, and reapproved by the Assistant Secretary on May 3, 1978. The Commissioner of Public Health promulgated regulations dealing with temporary variances on April 3, 1974, (effective May 3, 1974) which were also approved by the Secretary on August 15, 1975. These Department of Public Health regulations became inoperative on July 1, 1977.

* * * * * *

(g) In accordance with plan commitments, regulations governing Occupational Safety and Health Recordkeeping and Reporting (Chapter 0800-1-3) were promulgated by the Tennessee Department of Labor on June 10, 1974, and subsequently amended on April 15, 1976, July 14, 1977, August 15, 1977 and February 13, 1978. These regulations, which contain requirements essentially identical to the Federal 29 CFR Part 1904, were approved by the Assistant Secretary on May 3, 1978.

(h) In accordance with plan commitments, the Tennessee Occupational Safety and Health Review Commission promulgated regulations governing its operation on May 5, 1974 (Chapters 1030-1 through 1030-7). These regulations were subsequently amended in response to Federal comment on February 13, 1978, and approved by the Assistant Secretary on May 3, 1978.

(Secs. 8(g), 18 Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g), 667).)

Signed at Washington, D.C. this 3rd day of May, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-13286 Filed 5-15-78; 8:45 am]

[4510-26]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Supplements to Tennessee State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This document approves supplements to the Tennessee State Occupational Safety and Health Plan involving developmental and State-initiated changes. The supplements include descriptions of coverage of State and local government employees, Tennessee Department of Labor regulations codifying public sector program specifics and a public employee poster. This approval constitutes successful completion of a developmental aspect of the State's plan.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION, CONTACT:

Barbara E. Bryant, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, 202-634-4922.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the FEDERAL REGISTER (38 FR 17838) of the approval of the Tennessee plan and the adoption of Subpart P of Part 1952 containing the decision and describing the plan. On September 5, 1975, and January 13, 1976, notice of submission of a number of Tennessee supplements involving developmental and State-initiated changes was published in the FEDERAL REGISTER (40 FR 41148 and 41 FR 1918, respectively). Subsequently, in April, 1976, and on September 27, 1977, February 6, 1978, and March 9, 1978, Tennessee submitted further additions and corrections to those supplements concerning the State's Public Sector program in response to Federal review and comment. The supplements covered by this notice are described below:

DESCRIPTION OF THE SUPPLEMENTS

(a) *Public Sector Regulations.* On June 21, 1977, the Tennessee Department of Labor initiated promulgation procedures for a new regulation formalizing the State's responsibility for occupational safety and health enforcement activity in the public sector. TDOL Chapter 0800-1-5, entitled Safety and Health Provisions for the Public Sector, (effective September 13, 1977 with amendments effective February 13, 1978, and July 14, 1978) implements section 19 of the Tennessee Occupational Safety and Health Act of 1972 which requires State agencies and those local governments not choosing to be treated as private employers to develop a comprehensive self-compliance program. The Tennessee Department of Labor, in addition to monitoring these self-compliance programs, provides the following enforcement activity:

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1. The department will conduct monitoring inspections, including a walkthrough, of at least one worksite in at least two departments or establishments and review records of each public sector program at least biennially. These inspections will result in the issuance of citations with abatement dates for standards violations which may be contested by public employers and employees to the Tennessee Occupational Safety and Health Review Commission. Monetary penalties will not be proposed.

2. The department will respond to and inspect, in a manner identical to private sector coverage, all public sector employee complaints filed with the Tennessee Department of Labor;

3. The department will conduct an investigation, including an inspection, of all fatalities and accidents resulting in the hospitalization of 5 or more employees in the public sector;

4. The department will respond to discrimination complaints filed by public sector employees in a manner identical to private sector coverage;

5. The department will take action in the case of defective agency self-compliance programs, including notification, opportunity for contest to the Review Commission (in the case of State agencies), negotiation, and referral for gubernatorial action.

(b) *Public Sector Plan.* Part IV of the Tennessee plan has been amended to reflect that designee's enforcement activities required by TDOL Chapter 0800-1-5, entitled Safety and Health Provisions in the Public Sector, as well as general requirements for State agency and local government self-compliance programs.

State agencies are required to maintain an effective and comprehensive occupational safety and health program in compliance with the standards and regulations promulgated under the Tennessee Occupational Safety and Health Act, including a program of self-inspection and internal sanctions, subject to monitoring by the Commissioner of Labor. A Tennessee Occupational Safety and Health Council has been established to assist State agencies in achieving compliance. State agency programs found defective may be cited and may contest the citation before the Tennessee Review Commission which will in turn submit its findings of fact and recommendations to the Governor.

County, municipal and other local governments have the option of being treated as a private employer or developing their own program of self-compliance. Details on the components of an adequate self-compliance program are discussed in the plan supplement. Each political subdivision must submit a plan of action for approval by the Commissioner of Labor. Determination that a self-compliance program is ineffective can result in revocation, by the Governor, of the local government's right to maintain a self-compliance program in favor of being treated as a private employer.

(c) *Public Employee Poster.* A Tennessee occupational safety and health poster for public employees has been developed by the Tennessee Department of Labor. The poster contains provisions notifying public employees of their obligations and protections under the Tennessee Act, their right to request inspections and their right to remain anonymous as a result, their right to participate in inspections through walkaround and/or employee interviews, their protection against discharge or discrimination for exercising their rights under State law, and their right to file complaints about the administration of the State program with the Occupational Safety and Health Administration. This poster is intended for the information of employers and employees in the public sector, except for those local governments choosing to be treated as private employers as provided in section 19 of the Tennessee Act.

LOCATION OF THE PLAN AND ITS SUPPLEMENTS FOR INSPECTION AND COPYING

A copy of these approved supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, 2100 M Street, NW., Washington, D.C. 20210; Office of the Regional Administrator, Region IV, Occupational Safety and Health Administration, 1375 Peachtree Street, NE, Suite 567, Atlanta, Ga. 30309; and Office of the Tennessee Commissioner of Labor, 501 Union Building, Nashville, Tenn. 37210.

DECISION

No comments or requests for a hearing were received in response to the September 5, 1975, and January 13, 1976, FEDERAL REGISTER notices. Subsequent plan change submissions described herein merely update and/or bring into closer conformity with Federal regulations an existing State plan document which was previously made available for public comment. Therefore, after consideration, the Tennessee regulations on Safety and Health Provisions in the Public Sector (TDOL Chapter 0800-1-5), Part IV of the Tennessee plan dealing with public sector compliance, and the Tennessee public employee poster, as amended and described above, are hereby approved under Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State generally.

In addition, 29 CFR 1952.224 is amended by amending paragraph (d) as set forth below, and by adding a new paragraph (j):

§ 1952.224 Completed development steps.

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(d) In accordance with the requirements of 29 CFR 1952.10, the Tennessee occupational safety and health poster for private employers and local government employers choosing to be treated as private employers was approved by the Assistant Secretary on August 15, 1975. In addition, a Tennessee occupational safety and health poster for public employees was approved by the Assistant Secretary on May 3, 1978.

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(j) In accordance with State plan commitments, a Tennessee Public Employee plan and implementing regulations (Tennessee Department of Labor Chapter 0800-1-5) have been adopted and were approved by the Assistant Secretary on May 3, 1978.

(Secs. 8(g), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 29 U.S.C. 657(g), 667).)

Signed at Washington, D.C. this 3rd day of May, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-13287 Filed 5-15-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

[FRL 882-6]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

Subchapter C—Air Programs

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to State/Local Air Pollution Control Agencies in Arizona, California, and Nevada

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is amending 40 CFR 60.4 *Address* by adding addresses of agencies to reflect new delegations of authority from EPA to certain state/local air pollution control agencies in Arizona, California, and Nevada. EPA has delegated authority to these agencies, as described in a notice appearing elsewhere in today's FEDERAL REGISTER, in order to implement and enforce the standards of performance for new stationary sources.

EFFECTIVE DATE: May 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald Katz (E-4-3), Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, 415-556-8005.

SUPPLEMENTARY INFORMATION: Pursuant to delegation of authority for the standards of performance for new stationary sources (NSPS) to State/Local air pollution control agencies in Arizona, California, and Nevada from March 30, 1977 to January 30, 1978, EPA is today amending 40 CFR 60.4 *Address*, to reflect these actions. A Notice announcing this delegation is published elsewhere in today's FEDERAL REGISTER. The amended § 60.4 is set forth below. It adds the address of the air pollution control agencies, to which must be addressed all reports, requests, applications, submittals, and communications pursuant to this part by sources subject to the NSPS located within these agencies' jurisdictions.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation actions which are reflected in this administrative amendment were effective on the dates of delegation and it serves no purpose to delay the technical change on these additions of the air pollution control agencies' addresses to the Code of Federal Regulations.

(Sec. 111, Clean Air Act, as amended (42 U.S.C. 7411).)

Dated: April 5, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator, Environmental Protection Agency, Region IX.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4 paragraph (b) is amended by revising subparagraphs D, F, and DD to read as follows:

§ 60.4 Address.

• • • • • •

(b) • • •

(D) Arizona:

Maricopa County Department of Health Services, Bureau of Air Pollution Control, 1825 East Roosevelt Street, Phoenix, AZ 85006.

Pima County Health Department, Air Quality Control District, 151 West Congress, Tucson, AZ 85701.

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(F) California:

Bay Area Air Pollution Control District, 939 Ellis Street, San Francisco, CA 94109.

Del Norte County Air Pollution Control District, Courthouse, Crescent City, CA 95531.

Fresno County Air Pollution Control District, 515 S. Cedar Avenue, Fresno, CA 93702.

Humboldt County Air Pollution Control District, 5600 S. Broadway, Eureka, CA 95501.

Kern County Air Pollution Control District, 1700 Flower Street (P.O. Box 997), Bakersfield, CA 93302.

Madera County Air Pollution Control District, 135 W. Yosemite Avenue, Madera, CA 93637.

Mendocino County Air Pollution Control District, County Courthouse, Ukiah, CA 94582.

Monterey Bay Unified Air Pollution Control District, 420 Church Street (P.O. Box 487), Salinas, CA 93901.

Northern Sonoma County Air Pollution Control District, 3313 Chanate Road, Santa Rosa, CA 95404.

Sacramento County Air Pollution Control District, 3701 Branch Center Road, Sacramento, CA 95827.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123.

San Joaquin County Air Pollution Control District, 1601 E. Hazelton Street (P.O. Box 2009), Stockton, CA 95201.

Santa Barbara County Air Pollution Control District, 4440 Calle Real, Santa Barbara, CA 93110.

Shasta County Air Pollution Control District, 1855 Placer Street, Redding, CA 96001.

South Coast Air Quality Management District, 9420 Telstar Avenue, El Monte, CA 91731.

Stanislaus County Air Pollution Control District, 820 Scenic Drive, Modesto, CA 95350.

Trinity County Air Pollution Control District, Box AJ, Weaverville, CA 96093.

Ventura County Air Pollution Control District, 625 E. Santa Clara Street, Ventura, CA 93001.

• • • • • •

(DD) Nevada:

Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 201 South Fall Street, Carson City, NV 89710.

Clark County County District Health Department, Air Pollution Control Division, 625 Shadow Lane, Las Vegas, NV 89106.

Washoe County District Health Department, Division of Environmental Protection, 10 Kirman Avenue, Reno, NV 89502.

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[FR Doc. 78-13011 Filed 5-15-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 882-7]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to State/Local Air Pollution Control Agencies in Arizona, California, and Nevada

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is amending 40 CFR 61.04 *Address* by adding addresses of agencies to reflect new delegations of authority from EPA to certain state/local air pollution control agencies in Arizona, California, and Nevada. EPA has delegated authority to these agencies, as described in a notice appearing elsewhere in today's FEDERAL REGISTER, in order to implement and enforce the national emission standards for hazardous air pollutants.

EFFECTIVE DATE: May 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald Katz (E-4-3), Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, 415-556-8005.

Pursuant to delegation of authority for national standards for hazardous air pollutants (NESHAPS) to State/Local air pollution control agencies in Arizona, California, and Nevada from March 30, 1977, to January 30, 1978, EPA is today amending 40 CFR 61.04 *Address*, to reflect these actions. A notice announcing this delegation is published elsewhere in today's FEDERAL REGISTER. The amended § 61.04 is set forth below. It adds the address of the air pollution control agencies, to which must be addressed all reports, requests, applications, submittals, and communications pursuant to this part by sources subject to the NESHAPS located within these agencies' jurisdictions.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation actions which are reflected in this administrative amendment were effective on the dates of delegation and it serves no purpose to delay the technical change on these additions of the air pollution control agencies' addresses to the Code of Federal Regulations.

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(Sec. 112, Clean Air Act, as amended (42 U.S.C. 7411).)

Dated: April 5, 1978.

SHAILA M. PRINDIVILLE,
Acting Regional Administrator,
EPA, Region IX.

Part 61 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

1. In § 61.04 paragraph (b) is amended by revising subparagraphs D, F, and DD to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(D) Arizona.
Maricopa County Department of Health Services, Bureau of Air Pollution Control, 1825 East Roosevelt Street, Phoenix, Ariz. 85006.
Pima County Health Department, Air Quality Control District, 151 West Congress, Tucson, Ariz. 85701.

* * * * *

(F) California.
Bay Area Air Pollution Control District, 939 Ellis Street, San Francisco, Calif. 94109.
Del Norte County Air Pollution Control District, Courthouse, Crescent City, Calif. 95531.
Fresno County Air Pollution Control District, 515 South Cedar Avenue, Fresno, Calif. 93702
Humboldt County Air Pollution Control District, 5600 South Broadway, Eureka, Calif. 95501.
Kern County Air Pollution Control District, 1700 Flower Street (P.O. Box 997), Bakersfield, Calif. 93302.
Madera County Air Pollution Control District, 135 West Yosemite Avenue, Madera, Calif. 93637.
Mendocino County Air Pollution Control District, County Courthouse, Ukiah, Calif. 94582.
Monterey Bay Unified Air Pollution Control District, 420 Church Street (P.O. Box 487), Salinas, Calif. 93901.
Northern Sonoma County Air Pollution Control District, 3313 Chanate Road, Santa Rosa, Calif. 95404.
Sacramento County Air Pollution Control District, 3701 Branch Center Road, Sacramento, Calif. 95827.
San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, Calif. 92123.
San Joaquin County Air Pollution Control District, 1601 East Hazelton Street (P.O. Box 2009), Stockton, Calif. 95201.
Santa Barbara County Air Pollution Control District, 4440 Calle Real, Santa Barbara, Calif. 93110.
Shasta County Air Pollution Control District, 1855 Placer Street, Redding, Calif. 96001.
South Coast Air Quality Management District, 9420 Teistar Avenue, El Monte, Calif. 91731.
Stanislaus County Air Pollution Control District, 820 Scenic Drive, Modesto, Calif. 95350.
Trinity County Air Pollution Control District, Box AJ, Weaverville, Calif. 96093.
Ventura County Air Pollution Control District, 625 East Santa Clara Street, Ventura, Calif. 93001.

* * * * *

(DD) Nevada.
Clark County, County District Health Department, Air Pollution Control Division, 625 Shadow Lane, Las Vegas, Nev. 89106.
Washoe County District Health Department, Division of Environmental Protection, 10 Kirman Avenue, Reno, Nev. 89502.

* * * * *

[FR Doc. 78-13012 Filed 5-15-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Temp. Reg. 44, Supp. 1]

COST ACCOUNTING STANDARDS BOARD REQUIREMENTS

CROSS REFERENCE: For the text of a temporary regulation published by the General Services Administration on the implementation of Cost Accounting Standards Board requirements regarding national defense contracts of civilian executive agencies and negotiated non-defense contracts see FR Doc. 78-13276 appearing in the Notices section of this issue. Refer to the table of contents under "General Services Administration" for the page number.

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-21; RM-2932]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Ronan, Mont.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assignes a Class C FM channel to Ronan, Mont., as that community's first FM assignment. The channel provides for an FM station which could furnish first and second FM as well as first and second nighttime aural service to substantial areas and populations.

EFFECTIVE DATE: June 19, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: May 5, 1978.

Released: May 10, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Ronan, Mont.), BC Docket No. 78-21, RM-2932.

1. The Commission herein considers the Notice of Proposed Rule Making, 43 FR 3405, in the above-captioned proceeding, instituted in response to a petition filed by KBMR Radio, Inc. ("petitioner"), licensee of AM Station KERR, Polson, Mont. The petitioner proposed the assingment of Class C FM Channel 222 to Ronan, Mont. No oppositions were filed to the petition. Petitioner filed supporting comments in which it reaffirmed its intention to file for the channel, if assigned.

2. Ronan (pop. 1,347), situated in Lake County (pop. 14,445),[1] is located 216 kilometers (135 miles) west of Great Falls, Mont., and 248 kilometers (155 miles) east of Spokane, Wash. It is located in the Flathead Indian Reservation which extends through several counties.

3. Petitioner states that Lake County's population has increased 10 percent between 1960-1970. We are told the principal industry in the area surrounding the reservation is related to forestry. In support of its proposal, petitioner submitted sufficient information with respect to the need for a Class C FM assignment to Ronan to serve the large, sparsely populated area a Class A station could not reach.

4. Channel 222 could be assigned to Ronan, Mont., in conformity with the minimum distance separation requirements. Preclusion would be caused on noncommercial educational Channels 219A, 220A, and 220 in Kalispell (pop. 10,526), Columbia Falls (2,652), Missoula (29,497), Polson (2,464), and Whitefish (3,349). All of the above, plus nine additional communities over 1,000 population will sustain preclusion on one or more commercial channels. A total of nine of these communities[2] without commercial FM assignments would sustain commercial channel preclusion. In both categories, petitioner shows that other Class A and Class C channels (educational or commercial as the case may be) are available for the communities in the precluded areas.

5. Petitioner states that since Ronan is centrally located in a large, sparsely populated area, and because of its importance to the area and the Indian population in and around the Flathead Reservation, as well as the general population, a Class C channel is warranted. It notes that the proposed channel would bring a first FM broadcast service to Ronan and Lake County. Petitioner shows that a Class C station operating with effective radiated power of 75 kilowatts and antenna height of 152 meters (500 feet) would provide a first FM service to 3,046 persons in an 2,800 square kilometer (1,050 square mile) area and a second FM service to 5,104 persons in a 4,000 square kilometer (1,580 square mile) area. The same figures would apply to a first and second nighttime aural service.

6. We have given careful consideration to the proposal and believe that Channel 222 should be assigned to Ronan, Mont. Although a community of this size is not normally assigned a Class C channel, the proposed assignment would provide for an FM station which could render first and second FM as well as first and second nighttime aural service to substantial areas and populations. Since a Class A channel would not provide such service, and since other channels are available for assignment to the communities without FM assignments located within the precluded areas, we believe the public interest would be served by assigning Channel 222 to Ronan, Mont.

7. Canadian concurrence has been obtained for the proposed assignment.

8. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

9. In view of the foregoing: *It is ordered,* That effective June 19, 1978, § 73.202(b) of the Commission's rules and regulations, the FM Table of Assignments, as regards Ronan, Mont., is amended, to read as follows:

City and Channel No.
Ronan, Mont., 222.[3]

10. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-13211 Filed 5-15-78; 8:45 am]

[1] Population figures are taken from the 1970 U.S. Census.

[2] Montana: Thompson Falls (pop. 1,536), Plains (1,046), Choteau (1,586), Browning (1,700), Columbia Falls (2,652), Whitefish (3,349), Polson (2,464); Idaho: Mullan (1,279), Kellogg (3,811).

[3] Any application for this channel must specify at least an effective radiated power of 75 kilowatts and antenna height of 500 feet above average terrain, or equivalent.

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[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER 1—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Steel Shot Regulations on the Shiawassee National Wildlife Refuge, Saginaw, Michigan for the 1978 Hunting Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has required the use of steel shot on Shiawassee National Wildlife Refuge for the 1978 goose hunting season. When eaten by waterfowl, spent lead pellets have a toxic effect. Shotshells loaded with steel shot will reduce the number of deaths to waterfowl caused by eating spent lead pellets.

DATES: 1978 Goose Hunting Season as set by Federal and State of Michigan laws.

FOR FURTHER INFORMATION CONTACT:

Robert G. Johnson, Refuge Manager, Shiawassee National Wildlife Refuge, 6975 Mower Road, Saginaw, Mich. 48601, telephone 517-777-5930.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of geese on the Shiawassee National Wildlife Refuge, Michigan, is permitted during the 1978 waterfowl season. The hunting area comprising approximately 1,200 acres is delineated on maps located at the refuge headquarters, Saginaw, Mich., and at the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese subject to the following special conditions:

(1) Hunting shall be by Federal permit and only from assigned blinds and pits. Blind assignments will be determined by drawings.

(2) All hunters are required to use steel shot shells. These shells must be loaded with No. 4 shot or larger, except buckshot is not allowed.

(3) Lead shot shells shall not be in the possession of any reservation holders while hunting on the refuge.

(4) Each hunter may possess not more than 12 shotgun shells.

(5) A blind rental fee of two dollars per hunter is required.

(6) Not more than three hunters are permitted in each blind or pit.

(7) Permit application cards must be postmarked on or before September 15, 1978 and only successful applicants will be notified.

(8) After completion of the days hunt, all hunters must proceed to refuge headquarters for check-out and the submission of geese for examination.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 30, 1978. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Date: May 5, 1978.

CHARLES A. HUGHLETT,
Acting Regional Director.

[FR Doc. 78-13196 Filed 5-15-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Crab Orchard National Wildlife Refuge, Illinois, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to migratory game bird hunting of Crab Orchard National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: As set by Federal and State of Illinois laws for 1978 season.

FOR FURTHER INFORMATION CONTACT:

Wayne D. Adams, Project Manager, Post Office Box J, Carterville, Ill. 62918, telephone 618-997-3344.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the Crab Orchard National Wildlife Refuge, Ill., only on the areas designated by signs as being open to hunting. These areas comprising 23,000 acres as Areas I and III are de-

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lineated on maps available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, Department of the Interior, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Migratory game bird hunting shall be in accordance with all applicable State of Illinois regulations subject to the following conditions:

(1) Only portable or temporary blinds located in the immediate vicinity of the site may be used for hunting and these must be removed or dismantled at the end of the day's hunt. Blinds and pits beyond the shoreline of refuge waters may not be constructed, established, occupied or hunted from.

(2) Waterfowl hunters using 12 gage shotguns must use steel shot shells only, and may not possess ammunition containing lead or other toxic shot.

(3) Hunters may hunt only from the refuge provided blinds on Grassy, Orchard, Sawmill and Turkey Islands during the goose season.

(4) Hunting is prohibited in areas during goose season as posted with "No Hunting" signs.

(5) Only authorized waterfowl hunting is permitted on the controlled areas of Grassy Point, Carterville Public, and Greenbriar Road Areas from sunrise to 12:00 Noon daily during the goose season. Goose hunting on these areas is subject to the following conditions:

(a) Hunting is permitted only from existing refuge established blinds. This includes lake shorelines.

(b) Hunters must comply with all rules as posted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comment at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 OMB Circular A-107.

Dated: May 5, 1978.

CHARLES A. HUGHLETT,
Acting Regional Director.

[FR Doc. 78-13175 Filed 5-15-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Chautauqua National Wildlife Refuge, Illinois, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to migratory game bird hunting of Chautauqua National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: As set by Federal and State of Illinois laws for 1978 season.

FOR FURTHER INFORMATION CONTACT:

Howard A. Lipke, Refuge Manger, Mark Twain National Wildlife Refuge, 311 N. 5th St., Suite 100, Quincy, Ill. 62301, telephone 217-224-8580.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game bird hunting for individual wildlife refuge areas.

Public hunting of migratory game birds is permitted on the Chautauqua National Wildlife Refuge, Ill., only on the areas designated by signs. These areas comprising 745 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Blinds—no permanent structure, excluding wood or brush duck blinds, shall be permitted, no blinds shall be locked or otherwise sealed against public entry.

(2) Federal steel shot regulations will be in effect during the waterfowl season. The new regulations make it illegal to have 12 gauge shotgun shells in possession, except those containing non-toxic (steel) shot, while hunting waterfowl. Only 12 gauge shotguns will be required to use steel shot during the 1978 waterfowl season. All other sizes of shotgun, including 10 gauge, are exempt from the steel shot requirements during this year's season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 5, 1978.

CHARLES A. HUGHLETT
Acting Regional Director.

[FR Doc. 78-13176 Filed 5-15-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Ottawa National Wildlife Refuge, Ohio, to Goose Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to goose hunting of Ottawa National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Conform to 1978 season as set by Federal and State of Ohio regulations.

FOR FURTHER INFORMATION CONTACT:

Leland E. Herzberger, Refuge Manager, Ottawa National Wildlife Refuge, 14000 W. State Route 2, Oak Harbor, Ohio 43449, telephone 419-897-0211.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; hunting migratory game birds; for individual wildlife refuge areas.

Hunting of Canada, snow (including blue color phase) and white-fronted geese is permitted on the Ottawa National Wildlife Refuge, Ohio, only on the areas designated by signs as being open to hunting. These areas comprising 640 acres are delineated on maps available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting shall be by state permit and only from assigned blinds. Blind assignments will be determined by drawings.

(2) A fee of five dollars per hunter will be required for blind rental.

(3) No more than two persons per blind (permit holder and one guest) are permitted.

(4) Hunters must report to the check station at least one hour before legal shooting time.

(5) Each hunter may possess not more than 10 shells. Only nontoxic steel shot in shot sizes no larger than No. 1 will be permitted. Hunters may not have shotgun shells containing lead or other toxic shot in their possession.

(6) Hunters will be permitted to pursue and shoot downed geese only within 75 yards of their assigned blind.

(7) Hunting hours shall be from the legal opening time in the morning until 12 noon.

(8) All hunters must be out of their assigned blinds by 1:00 P.M.

(9) All hunters must report to the check station and submit their geese for examination by 2:00 P.M.

(10) The use of trained dogs to retrieve downed geese within the hunting area is permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 5, 1978.

CHARLES A. HUGHLETT,
Regional Director.

[FR Doc. 78-13179 Filed 5-15-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Sherburne National Wildlife Refuge, Minnesota to Public Hunting of Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Sherburne National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: In accordance with State of Minnesota migratory game bird seasons for 1978.

FOR FURTHER INFORMATION CONTACT:

R. B. Papike, Refuge Manager, Route 2, Zimmerman, Minn. 55398, phone 612-389-3323.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, coots, rails, Wilson snipe, and woodcock on the Sherburne National Wildlife Refuge is permitted only on the areas designated by signs as open to hunting. These open areas, comprising approximately 7,510 acres for ducks, coots, rails, Wilson snipe, and woodcock (designated area B on map); and approximately 10,850 acres for Wilson snipe and woodcock (designated area A on map), are delineated on a map available at refuge headquarters, Route 2, Zimmerman, Minn. 55398, and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of these species subject to the following special conditions:

1. Steel shot is required to hunt ducks and coot regardless of shotgun gage. Persons taking ducks and coots may not possess ammunition containing lead or other toxic shot.

2. Boats, without motors, may be used on the St. Francis River only from designated river access sites.

3. Boats and decoys must be removed from the refuge at completion of days hunt.

4. Field possession of ducks and coots in area of refuge closed to hunting of ducks and coots is prohibited.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32.

The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 5, 1978.

CHARLES A. HUGHLETT,
Regional Director.

[FR Doc. 78-13177 Filed 5-15-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Tamarac National Wildlife Refuge, Minnesota, to Migratory Game Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of the Tamarac National Wildlife Refuge to migratory game bird hunting is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide recreational opportunity to the public.

DATES: Will conform to dates established by the State of Minnesota for 1978.

FOR FURTHER INFORMATION CONTACT:

Omer N. Swenson, Refuge Manager, Tamarac National Wildlife Refuge, Rochert, Minn. 56578, telephone 218-847-4355.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, and coots on the Tamarac National Wildlife, Rochert, Minn., is permitted in the area designated by signs as public hunting area. This area comprising 12,500 acres is delineated on maps available at the Refuge Headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State regulations during the season specified above. The hunting of other migratory game bird species as may be authorized by Minnesota State regulations is prohibited.

The following special conditions apply:

1. No person shall, for the purpose of hunting, enter or leave the refuge except by designated roads or trails.

2. Use of steel shot is required for hunting waterfowl and coots. Possession of lead shot shells while hunting waterfowl and coots is prohibited.

3. Construction of permanent blinds, platforms, or scaffolds is prohibited. Temporary blinds may be constructed, but if left overnight, such blinds will be available on a first-come-first-served basis.

4. The use of dogs to retrieve downed waterfowl and coots is encouraged.

5. Boats are permitted for waterfowl hunting.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: March 23, 1978.

OMER N. SWENSON,
Refuge Manager.

Dated May 5, 1978.

CHARLES A. HUGLETT,
Acting Regional Director.

[FR Doc. 78-13178 Filed 5-15-78; 8:45 am]

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[3410-37]

Title 9—Animals and Animal Products

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE, MEAT AND POULTRY PRODUCTS INSPECTION, DEPARTMENT OF AGRICULTURE

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

Nitrates, Nitrites, and Ascorbates (or Isoascorbates) in Bacon

AGENCY: Food Safety and Quality Service, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat inspection regulations by prohibiting the use of sodium and potassium nitrate in bacon, by requiring that 120 parts per million ingoing sodium nitrite or an equivalent amount of potassium nitrite (148 ppm) be added to bacon, by requiring that specified levels of sodium ascorbate or sodium erythorbate (isoascorbate) be used in the preparation of bacon, and by providing nitrosamine sampling and analytical information for nitrosamines and retention criteria for certain bacon. This action is taken partly on the basis of industry and consumer requests and is necessary in order to prevent the presence of nitrosamines in bacon. Bacon containing confirmable levels of carcinogenic nitrosamines after preparation for eating is deemed to be adulterated. Information available to the Department indicates that the laboratories available for testing bacon on behalf of packers have the capability of confirming nitrosamines down to 10 parts per billion (PPB). This information also indicates that those laboratories have the capability to further develop and refine their testing procedures so that within 12 months they will be able to confirm the presence of nitrosamines down to 5 ppb. Packers must take the steps required to produce product without confirmable nitrosamine presence, probably by developing procedures for processing bacon with as little as 40 ppm of nitrite.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin Fried, Acting Director, Product Labels and Standards Division, Food Safety and Quality Service, U.S. Department of Agriculture, Room 202, Annex Building, Washington, D.C. 20250, 202-447-6042.

SUPPLEMENTARY INFORMATION: Limiting the use of nitrite in curing meat has been the focus of a widespread controversy. Nitrite is toxic at high levels and, when combined with secondary and tertiary amines, forms nitrosamines. Many of the nitrosamines, including those found in bacon, have been found carcinogenic to laboratory animals. Nitrite, when combined with meat components, also provides the characteristic color and flavor of cured meats. On the other hand, nitrite inhibits the outgrowth of *Clostridium botulinum* spores, thus preventing the formation of the toxin which causes botulism.

Historical Background

Nitrite has been used for thousands of years in curing meat. Until the late 1960's the U.S. Department of Agriculture (USDA) believed that toxicity of nitrite was the only concern. In 1971, USDA and Food and Drug Administration (FDA) analysts reported levels of nitrosamines in parts per billion (ppb) range in some meat products that had nitrite added, especially bacon. As a result, the formation and occurrence of nitrosamines and their relation to nitrite have been extensively studied.

N-nitrosopyrrolidine (N-pyrr) is the nitrosamine most commonly found in bacon after frying. The amount found depends on the temperature at cooking, degree of doneness, the amount of nitrite and ascorbate used, and other factors not clearly known at this time.

The N-nitroso compounds, often discussed as a group, are considered individually when assessing the biological effect of an exposure to a mixture of these compounds. Nitrosamines and nitrosamides differ in their rates and sites of absorption, chemical stability in physiologic fluids, distribution, metabolism, and excretion. Information is limited on the dose response characteristics of nitrosamines and carcinogenicity in rats.

Sufficient data are available, however, on the toxic effects of N-nitroso compounds to permit a qualitative judgment of the risk of human exposure. These compounds affect every animal species tested, and there is no toxicologic reason why they should not be considered carcinogenic to humans.

In 1972, USDA was petitioned by consumer groups to ban or greatly reduce the use of nitrite in meat products. USDA denied the petition indicating that additional information was needed on the chemistry associated with nitrosamine formation. A court decision, affirmed by the Court of Appeals, upheld the USDA position. In 1973, Canadian Department of Agriculture research workers found nitrosamines in spice and cure premixes. USDA confirmed these findings and banned such premixes. In 1975, the Department published proposed regulations in the Federal Register concerning the use of nitrates and nitrites in meat food products including bacon. In 1977, the Consumer Nutrition Institute (CNI) petitioned USDA to ban the use of nitrite totally in meat products, including bacon. Also, in 1977 the American Meat Institute petitioned the USDA to amend the regulations with respect to bacon to prohibit the use of nitrates, and to require the use of 120 ppm nitrites and 550 ppm sodium ascorbate.

Establishment of a USDA Expert Panel

Because of the complexity of the problem, an Expert Panel on Nitrites, Nitrates, and Nitrosamines was established in 1973 to review all aspects of curing meat products and various problems that had been identified with this processing procedure. The Panel was to make specific recommendations to the Secretary wherever and whenever appropriate and advise him on the public health hazard from use of nitrite.

In 1974, the Panel recommended that the use of nitrate salts in the curing process be discontinued in all meat and poultry products except for dry-cured products and fermented sausage products; the level of nitrite salt permitted to be added for curing meat be limited to 156 ppm in all processed products, with the exception of bacon and dry-cured products; and the 200 ppm residual nitrite salt limit be decreased in various product categories. It deferred recommendations for nitrite in bacon and dry-cured products pending availability of further research data.

In 1975, prior to the publication of the proposed regulations in the Federal Register, new information on the formation of nitrosamines in fried bacon came to light which prompted USDA and the Panel to agree that there was a need to address the specific problem of nitrosamine formation in bacon. Because of this information, the Panel recommended in 1975 lower levels of nitrite usage for processing bacon and further that maximum permitted levels of ascorbate or erythorbate be use because they had been shown capable of decreasing nitrosation in bacon. The recommended levels were 120 ppm of sodium nitrite and 550 ppm of ascorbate.

At its 10th meeting, March 29, 1977, the Panel recommended the adoption of the 120 ppm sodium nitrite level and simultaneous use of sodium ascorbate or sodium erythorbate at 550 ppm. At the last meeting, September 1977, the Panel agreed on the final recommendations on nitrite and nitrosamines to be developed for the Secretary of Agriculture. Following the dissolution of the Panel, FSQS called on the meat industry to respond and present data on the subject. In March 1978, the American Meat Institute

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(AMI), a national trade association of the meat packing industry, responded on behalf of the industry to a notice published in the Federal Register, October 18, 1977, calling for a submission of data "demonstrating whether the use of nitrates and/or nitrites in the production of bacon results in the formation of carcinogenic nitrosamines during its ordinary processing or preparation for eating • • •." The original deadline for submitting data—January 16, 1978—was extended 60 days to March 17, 1978, by notice published in the Federal Register December 13, 1977.

Proposal and Comments

On November 11, 1975, the Department published a document (40 FR 52614-16) which among other things, proposed to prohibit the use of nitrate in bacon, to limit the amount of nitrite to be added to bacon to 125 ppm, and to require ascorbate or erythorbate to be used at the maximum rate permitted by regulation (approximately 550 ppm).

The proposal as a whole resulted in 341 comments. Of these, the following comments seem relevant with respect to bacon:

A number of comments indicated agreement with the position expressed by the Department that nitrites inhibit the growth of *Clostridium botulinum* in certain meat food products including bacon.

Some comments stated that nitrites should not be banned, without proof that they are chief causes of human cancer. In this connection the concern with respect to cancer related to nitrosamines and as noted below restrictions are being placed on the use of nitrites in bacon in order to prevent the formation of nitrosamines.

A food scientist stated that in addition to preventing botulism, nitrites prevent oxidative rancidity and flavor deterioration in mildly heated meat. Although the authorities are not unanimous, the Administrator is aware of the respectable body of opinion that sees this further value in the use of nitrites.

A few other comments were mildly supportive of the proposal, stating that the proposed levels of nitrite and ascorbate were correct; that the manufacturer could live with the proposed levels, and that the general American consumer expects to see red color in a finished, cured product, especially a beef product.

A number of manufacturers requested that residual levels alone should be used to determine the amount of nitrite present, and that the Administrator should not attempt to prescribe the amount added at formulation. The amount of residual nitrite is not an acceptable indicator of the amount of nitrite introduced, and the Aministrator's objective is to limit the quantity used to the amount needed.

Some commenters stated that a lower, as well as an upper, limit for nitrite should be specified. In this final rule the Administrator, instead of specifying an upper limit, is specifying the exact amount of nitrite that the producer of bacon must target for to assure that the botulism hazard and the nitrosamine hazard are both avoided.

A few manufacturers pointed out that specifying a maximum for nitrite and a specified amount for ascorbate or erythrobate would cause them process control problems in that it was difficult to target for a maximum amount of one substance and a specified amount of another substance in the same pickle solution. Specifying the exact amount for both solves this problems.

Some commenters recommended use of vitamin C, some wanted use of a higher lever of ascorbate, some stated that ascorbate or erythrobate cause product discoloration, and some state that although ascorbate and erythrobate do prevent nitrosamine formation, they also interfere with the nitrite's antibotulinal activity. One manufacturer commented that requiring ascorbate or erythrobate was wasteful and would establish a strong demand for these products which would raise their prices. Vitamin C is not approved for use in bacon in this docket because all experimetal work was done with the sodium salt of vitamin C (sodium ascorbate) and its isomer (sodium erythrobate). The Administrator has determined that the proposed level of ascorbate and erythrobate is adequate to prevent nitrosamine formation; that it will not seriously inhibit the nitrite's antibotulinal activity; and that properly used, it will not discolor the product. Obviously, a concern about "wasting" cure accelerators or raising their prices is distinctly secondary to a concern for human health.

Several commenters stated that nitrite levels could probably be reduced further, but that the action proposed was appropriate at this time. The Administrator considers a level which approximates that in the proposal (120 vs 125 ppm) of nitrite to be appropriate.

A commenter stated that the prohibition of the use of nitrates and the limits with respect to nitrites should apply only to pumped bacon and not to dry cured bacon. Some comments also stated that nitrates should be banned as they only serve as reservoirs for nitrites; others that nitrates were used in curing since ancient times and are still useful today. The common or usual name "bacon" refers only to pumped bacon and the common or usual meaning of the term "dry cured bacon" refers only to that particular product which must be labeled as "dry cured bacon." The specified limits in the proposal were only intended to refer to bacon, i.e., pumped bacon. In this connection it should be noted that dry cured bacon cannot be produced under the conditions required for bacon by this rule. For pumped bacon nitrates are neither needed nor desirable since their conversion to nitrite cannot be controlled and the docket requires a direct control of nitrite addition. For products, such as those which are cured over an extended period of time, including dry cured bacon, the use of nitrate is desirable as a reservoir for nitrite which is dissipated and must be replenished until the cure is complete.

One commenter makes reference to the fact that the control limits proposed do not specify the variances permitted. As noted further in this docket, establishments, in order to continue to produce bacon, will have to establish controls that will maintain nitrite and ascorbate usage at stipulated levels.

Some commenters stated that bacon should bear special labeling indicating that it is hazardous to one's health, and one comment stated that it should be required to be labeled "Contains cancer causing chemicals when fried." The Administrator has determined that bacon produced under the conditions specified below should not contain confirmable levels of carcinogens when prepared for eating and should not otherwise be hazardous to health. Therefore, such a warning label would not be truthful and could not be used.

One commenter suggested that input levels of parts per million (ppm) should be translated into ounces per 100 gallons of cure or per 100 pounds of product. The conversion is, of course, determinable mathematically.

Many commenters opposed the use of any nitrites in meat food products including bacon without stating reasons. However, as indicated below it has been determined that nitrites should be used in bacon.

Some commenters stated that they are allergic to nitrite. Many people are allergic to a variety of other foods or food ingredients such as salt, beef, pork, milk, etc. Those affected must read ingredient statements and avoid all food containing ingredients to which they are allergic.

Another commenter commented that nitrite causes allergic epilepsis and hyperkinesis in children, and that they are so universal as to be well nigh unavoidable. The vast majority of children appear to tolerate well the amount of nitrite they now consume. Neither of the mentioned afflications is widespread. Parents and guardians of children sensitive to this compound must also read ingredient statements and avoid such foods, and educate affected children with respect to their dietary restrictions.

One commenter would require each manufacturer of cured product to produce some nitrite-free product for

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those who are allergic. However, there is no authority to impose such a requirement.

A group of commenters attacked the use of nitrite as unnecessary. They argued that cooking destroys botulinum toxin, so nitrite should not be added to food which has to be cooked. The Administrator has some duty to those consumers who purchase these products expecting that the product will behave as it has in the past. Botulinum toxin is rather easily destroyed by heat, but sometimes bacon is heated lightly and the toxin is deadly.

A commenter stated that the Administrator should permit equivalent products to be developed which are clearly marked not to contain nitrites. In this connection is should be noted that a proposal was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18193-18195) which would permit certain meat products including bacon to be prepared under specified circumstances without nitrites. The proposal also would require labeling indicating the absence of nitrites under specified conditions.

Finally a commenter stated that permitting the use of nitrate and nitrite in any meat food products is a violation of the Delaney amendment. Another said that USDA cannot legally authorize a new food additive use, such as using nitrite to combat botulism, which did not clear FDA under the FDC Act. The Department has determined that nitrates and nitrites are not food additives subject to the provisions of the Delaney amendment when used in meat products because they were permitted as preservatives and for other purposes in meat products in general prior to the enactment of the food additive provisions under the Food, Drug, and Cosmetic Act, and thus are specifically exempted from such food additive status.

PERTINENT INFORMATION

Prior to the receipt of the industry response and during that 5-month period while the notice was in effect, a number of events occurred which bear on that matter and are worth noting:

(1) *Completion of a final report by the Secretary's Expert Panel on Nitrites and Nitrosamines.* A Panel majority recommended that the Department issue regulations to establish use levels of 120 parts per million (ppm) for nitrite in bacon, and of 550 ppm for sodium ascorbate or isoascorbate. These were the levels the Panel had discussed as appropriate since late 1975, and the Administrator believes it is significant that after continued deliberations and evaluations the recommendations of the majority remained as they were earlier. It should be noted that the Panel viewed these levels as interim until more information is developed or other alternatives found. The Panel also recommended discontinuing the use of nitrates in the curing of bacon because it determined that the use of nitrates was unnecessary for such purpose.

(2) *The Department continued to receive comments from interested parties giving their views as to the use of nitrites in bacon.* Commentors included consumers, livestock producers, Cogressmen, and others from various professions. Those in favor of banning the use of nitrite pointed to the dangers of carcinogens in the food supply. Those recommending its continued use cited the lack of data proving that nitrosamines in the amounts found in bacon constituted a real health hazard.

(3) *Indications of increased public awareness, and consumers ability to identify "nitrite-free" products.* Associated with the Public discussion and participation in the nitrite issue, consumers have been made more aware of the nature of this matter, its significance in relation to any health hazard, and the labeling of products which are produced and marketed without nitrite. For example, consumers may purchase "Pork Breakfast Strips (or Slices)" to use in lieu of bacon, or "Uncured Cooked Sausage" to use in lieu of frankfurters. This indicates that processors may prepare nitrite-free products, and that consumers know how to identify them for purchase. To offer consumers an even wider choice of non-nitrited products, FSQS published a proposal in the FEDERAL REGISTER on April 28, 1978, to allow the production of bacon and other cured products with no nitrite under certain specified conditions.

(4) *Continued work investigating nitrite substitutes or adjuncts, and blocking agents.* A number of investigations of new systems for blocking nitrosamine formation are underway. Work is being done with alpha tocopherol, potassium sorbate and nitrite combinations, acetyls, parabens, and spray systems. Conclusive results are not yet available. One particularly promising method involves the use of 40 ppm nitrite with low levels (0.26 percent) of potassium sorbate. The data indicate that such bacon would be protected against toxin production by *Clostridium botulinum* and confirmable levels of nitrosamines are not present after preparation for eating when bacon is processed by this method.

(5) *Data submitted to the use of 120 ppm of nitrite and 550 ppm of ascorbate.* The industry submitted data and information indicating that when 120 ppm of nitrite and 550 ppm of ascorbate are used in processing bacon, preparation for eating should not result in the formation of nitrosamines at confirmable levels down to 10 ppb. These data are summarized in the minutes of the meeting of the Secretary's Expert Panel on Nitrites and Nitrosamines and in "Response For Bacon" prepared by the American Meat Institute (AMI) on behalf of industry in response to the October 18, 1977, FEDERAL REGISTER notice. The minutes of the Panel meetings and the AMI report is available for viewing at the Department of Agriculture's Office of the Hearing Clerk, or copies may be obtained from the FSQS Information Division, USDA, Washington, D.C. 20250.

THE INDUSTRY RESPONSE

In the March 17, 1978, response, AMI stated that: "Bacon as produced today, is not a health hazard. It is however, possible to reduce the formation of nitrosamines in fried bacon by lowering the amounts of sodium nitrite and including sodium ascorbate or isoascorbate. USDA should no longer delay in implementing this. It is also anticipated that industry research now underway will lead to even further reduction of nitrosamines in bacon."

REGULATORY ACTION

The Administrator, in determining a course of action, was faced with an extremely complex task. The subject of cancer and carcinogens is one that arouses fear in most people. However, researchers are far from unanimous in their opinion as to the dangers posed by the finding of nitrosamines in bacon. USDA, of course, is required to protect the public from substances that adulterate products and which may be harmful or deleterious. It is contemplated that the action being taken by USDA will result in the elimination of nitrosamines at confirmable levels, the reduction in the lowest level at which nitrosamines may be confirmed by laboratory testing, and to the reduction of nitrite to the lowest amount possible while still maintaining the bacon characteristics which are known to satisfy the consumer.

Based on all the information available to the Administrator, including that received as a result of the rulemaking proceeding, he has made the following determinations:

(1) Sodium or potassium nitrate should not be permitted to be used as an ingredient in bacon. As noted below the Administrator has determined that bacon shall contain a specified amount of nitrite. The amount of nitrite added directly can be closely controlled as required by the limits placed upon its use. The nitrates are only used as a source of nitrite. The conversion of nitrate to nitrite is not a controllable reaction, however, and therefore no reliable limits can be placed upon its use in bacon.

(2) Bacon preserved by the use of nitrites must contain at least 120 ppm ingoing sodium nitrite or 148 ppm ingoing potassium nitrite in order to assure the prevention of toxin formation by *Clostridium botulinum.* The proposal specified that a larger amount of nitrite, e.g., 125 ppm sodium nitrite should be used in bacon. However, since the lower amounts are all that is needed in bacon for this purpose, these amounts are adopted as requirements.

(3) Bacon shall also contain sodium ascorbate or sodium erythorbate (isoascorbate) at 550 ppm. This is necessary in order to prevent the formation of nitrosamines in bacon cured with nitrites. Hydrated forms of these substances shall be adjusted to attain the equivalent of 550 ppm in order to be equal in amount to the unhydrated forms of these substances.

(4) In order to assure that such bacon does not contain nitrosamines when prepared for eating the Department shall institute a sampling and analytical program consisting of analysis by a thermal energy analyzer. If it is indicated that any nitrosamine is present at a confirmable level, then confirmation will be attempted by gas chromatography and mass spectrometry. The bacon tested shall have been cooked at 340° F for 3 minutes on each side. A specified time and temperature of frying is necessary to assure a standardized sample preparation. The 340° F temperature and 3 minute per side procedure was selected because experiments have shown that nitrosamine formation, if it is to occur, will occur under these conditions and this approximates times and temperatures used by householders in the preparation of crisp bacon.

(5) It has been found that close adherence to the required levels of nitrites and sodium ascorbate or sodium erythorbate (isoascorbate) in bacon will effectively block the formation of nitrosamines. The presence of confirmable nitrosamines in bacon produced by an establishment would indicate a lack of control with respect to the adherence to such requirements. In order to protect the public against the possible dangers posed by the presence of nitrosamines, the Department will retain all product in an establishment immediately upon confirmation of any nitrosamines in any bacon produced by that establishment.

Each lot of bacon must be sampled and analyzed and found free of confirmable nitrosamines before the retention is removed and it may be marketed as bacon. All futher production will also be retained, sampled, and analyzed under the same conditions. Bacon from future production of that establishment will no longer be retained when the establishment provides information that the process is in compliance with requirements and confirmable nitrosamines are not being formed. The Administrator has determined that when five consecutive normal sized lots are found to contain no confirmable nitrosamines a valid conclusion may be reached that the process and the product is in compliance. Because nitrosamines are not formed in bacon until prepared for eating, a provision is made for removal of the retention from lots of bacon which are to be used only as ingredients in other meat food products processed for eating without further preparation at the establishment, provided such preparation would not result in the formation of confirmable nitrosamines.

This rule provides that testing must be performed by methodology and procedures that would detect the presence of nitrosamines at 10 ppb at this time. Within 12 months from the date of publication of this document it is anticipated that laboratories available for testing bacon on behalf of packers can develop the capability to analyze samples of bacon for nitrosamines and to confirm their presence at a level of 5 ppb or more. This capability, among other things, depends on proper equipment, analytical expertise, and experience. The Department will maintain close surveillance to assure that this capability is achieved in as short a period of time as possible.

The Department is willing to participate in a cooperative effort with industry to provide assistance where needed concerning the institution of proper production controls during the period prior to the effective date of the regulation. The Department will cooperate with industry in an effort to develop laboratory capabilities to confirm levels of nitrosamines in bacon at 5 ppb. Further, the Department is seeking advice on how to effectuate this effort.

AMENDMENT OF REGULATIONS

On the basis of all the foregoing, § 318.7 of the Federal meat inspection regulations is hereby amended as follows:

1. A new paragraph (b) is added to read as follows:

§ 318.7 Approval of substances for use in the preparation of products.

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(b) Requirements for the use of nitrite and sodium ascorbate or sodium erythorbate (isoascorbate) in bacon.

(1) With respect to bacon: Sodium nitrite shall be used at 120 parts per million (ppm) ingoing or an equivalent amount of potassium nitrite shall be used (148 ppm ingoing); and 550 ppm of sodium ascorbate or sodium erythorbate (isoascorbate) shall be used. Sodium ascorbate or sodium erythorbate have a molecular weight of approximately 198. Hydrated forms of these substances shall be adjusted to attain the equivalent of 550 ppm of sodium ascorbate or sodium erythorbate.

(2) The Department shall collect samples of bacon from producing plants and analyze for the level of nitrosamines by the thermal energy analyzer (TEA). In the event that a TEA analysis indicates that a confirmable level of nitrosamines might be present, additional samples will be collected and analyzed by gas chromotography. Presumptive positive results must be confirmed by mass spectrometry before being considered positive. If any one of the samples is found to contain confirmable levels of nitrosamines, all bacon in the producing plant and all future production will be retained. The Department shall sample and analyze such retained bacon for nitrosamines on a lot by lot basis. A lot shall be that bacon produced by the establishment in any single shift. Samples from any lot found to contain nitrosamines at a confirmable level shall cause the lot of bacon to be disposed of in a manner to assure it will not form nitrosamines when cooked. Such disposal may include incorporation of the uncooked bacon as an ingredient of another meat food product provided it is processed for eating without further preparation in a manner to preclude the formation of nitrosamines. The bacon shall no longer be retained if the operator of the establishment makes adjustments in the processing of the product and provides data based on laboratory analyses of samples from five consecutive normal sized lots that establishes that the product being produced contains no confirmable levels of nitrosamines. All tests of bacon for nitrosamines under this subparagraph shall be made on bacon cooked at 340° F for 3 minutes on each side. In order to determine that no confirmable levels of nitrosamines are present in the sample tested, the testing must be performed by methodology and procedures that would detect the presence of any nitrosamines at 10 ppb at this time and at 5 ppb within 1 year of the effective date of this paragraph.

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2. In the table in paragraph (c)(4), the "Products" column relating to "Sodium or potassium nitrate" as "Curing agents" is amended to read: "Cured products other than bacon."

3. In the table in paragraph (c)(4), the "Amount" column relating to "Sodium or potassium nitrate" as "Curing agents" is amended by adding the following at the end thereof: "Except that nitrites may be used in bacon only in accordance with paragraph (b) of this section."

(Sec. 21, 34 Stat. 1264, 21 U.S.C. 621; 42 FR 35625, 35631.)

An impact analysis statement is available from Food Safety and Quality Service.

Done at Washington, D.C., on May 12, 1978.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service

[FR Doc. 78-13470 Filed 5-15-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6325-01]

CIVIL SERVICE COMMISSION

[5 CFR Part 900]

INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS

Standards for a Merit System of Personnel Administration

AGENCY: U.S. Civil Service Commission.

ACTION: Proposed rulemaking.

SUMMARY: The U.S. Civil Service Commission (hereinafter the "Commission") is proposing to issue revised Standards for a Merit System of Personnel Administration (hereinafter the "Standards") in the form of regulations as part of Title 5, Part 900, Subpart F. These Standards now appear in 45 CFR Part 70. Section 208(a) of the Intergovernmental Personnel Act (IPA) transferred responsibility for administering the current Standards from the Department of Health, Education, and Welfare to the Commission. On November 30, 1976, the Commission published an "Advance Notice of Proposed Rulemaking" which announced its intent to review the Standards and invite comments from interested parties. There was almost unanimous agreement among the parties that responded that revision was needed in one form or another.

DATES: Comments are invited and should be received on or before July 17, 1978.

ADDRESS: Interested persons are invited to submit written comments regarding this proposal to Norman Beckman, Director, Bureau of Inter-governmental Personnel Programs, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., 20415. The envelope should be marked, "Revised Standards for a Merit System of Personnel Administration."

FOR FURTHER INFORMATION CONTACT:

Lawrence D. Greene, Director, Office of Personnel Assistance Policy Development, Bureau of Intergovernmental Personnel Programs, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., 20415, Phone 202-632-6044.

SUPPLEMENTARY INFORMATION: Section 208(a) of the Intergovernmental Personnel Act (IPA) transferred responsibility for administering the current Standards from HEW to the Commission. the transfer occurred simultaneously with issuance of a revised set of Standards in 1971 by the Secretaries of the Departments of Health, Education, and Welfare, Labor, and Defense. The Commission has administered these Standards in their current form since that time. The reasons for considering these changes now are the length of time since the last revision; the fact that the current Standards were promulgated by Federal agencies not now holding the responsibility the Commission has for administering the Standards; several legal and administrative developments have taken place since enactment of the IPA in fields such as civil rights, personnel selection, and labor management relations; and, changes in public personnel administration in general have impacted on various provisions of the Standards.

The November 30, 1976, FEDERAL REGISTER announcement (41 FR 52473) of the U.S. Civil Service Commission's intent to revise the Standards brought considerable comment. More than 300 letters of comment were received from across the country. These comments were analyzed and suggestions incorporated in the proposed revised Standards. State and local government officials, representatives of public interest and other groups, and Federal officials throughout the country were invited to meet and discuss issues involved in revising the Standards, in addition to the formal call for comments. Results of these discussions are also reflected in this proposed revision of the Standards. Finally, as the capstone of this phase of the consultation, a public meeting was held by the Commission at which the Commissioners personally heard testimony from a variety of individuals representing groups affected by the Standards.

Most of the discussion and comments dealt with four areas of the Standards: Equal employment opportunity, selection, appointment, and coverage of the Standards. Following are summaries of the comments in these areas.

1. *Equal employment opportunity.* The comments received reflect the issue of how to promote and foster progress in EEO through implementation of systems based on merit principles. Some of the commentators called for more clarity in the Standards, particularly regarding the Commission's affirmative action policy and requirements.

2. *Selection.* Most commentators expressed the need for improving this area of personnel management while recognizing that resources to do so are currently inadequate. Effective selection is crucial to the grant programs. Proper and efficient administration depends on hiring highly qualified people. Every effort needs to be made to incorporated successful EEO programs into the selection process.

3. *Appointment.* The most common expression in the comments on this area was support for maintaining efforts to foster merit employment. As part of this, means should be devised and permitted which carry forward progress in EEO on a merit basis. A number of commentators said there should be more room for flexibility in applying different approaches to achieving affirmative action goals short of selection or appointment based on race and sex. Some suggested increasing the number of the names to be certified to provide more flexibility.

4. *Coverage of the standards.* This was the most controversial area in which comments were received. The problem as expressed by those who commented is how to deal with the issue of increasing responsiveness of public agencies to elected officials through greater numbers of exempt positions, as opposed to additional opportunities for advancement of career employees with tenure and continuity in administration of programs during changes in administration.

With the merging of the IPA Merit Principles and the Standards, the Commission proposes to incorporate the Federal regulatory experience in Standards administration over the past 38 years with what the Congress has set forth as the most significant principles of personnel management on a merit basis. The proposed Standards are intended to provide greater flexibility, foster innovation, and recognize the necessary diversity contained in the variety of approaches taken to merit system administration in State and local governments.

In consideration of the foregoing, it is proposed to revise the Merit System Standards presently in 45 CFR Part 70; revise 5 CFR Part 900, Subpart F; place the revised Merit System Standards presently in 45 CFR Part 70 in 5 CFR Part 900, Subpart F. The proposed revision of 5 CFR Part 900, Subpart F is set out below.

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PART 900—INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS

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Subpart F—Standards for a Merit System of Personnel Administration

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Subpart F—Standards for a Merit System of Personnel Administration

§ 900.601 Statement of purpose and applicability.

(a) The regulations and guides in §§ 900.602 through 900.620 incorporating the merit principles in section 2 of the Intergovernmental Personnel Act of 1970, are promulgated by the Commission to prescribe intergovernmental personnel standards on a merit basis as a condition of eligibility in the administration of various grant-in-aid and other intergovernmental programs as provided in section 208(a) of the Intergovernmental Personnel Act. See the appendix for a list of the grant-in-aid and other programs to which these Standards are applicable.

(b) Proper and efficient administration of grant-in-aid and other intergovernmental programs is a mutual concern of the Federal, State and local agencies cooperating in the implementation of these programs. Proper and efficient administration requires clear definition of functions, employment of highly qualified personnel, and development of staff morale and individual efficiency. Adequate resources are needed to staff, develop, and implement effective personnel programs. Cooperative efforts by the central personnel organization and program agencies and their personnel offices are essential in providing comprehensive personnel services. Personnel programs which are planned and administered in a timely, expeditious manner will contribute to the effective accomplishment of program objectives and maintenance of merit principles.

(c) An integral part of the intergovernmental programs is the maintenance by the State and local governments of their own merit-based systems of personnel administration for their grant-aided agencies. Federal agencies are interested in the development and continued improvement of State and local personnel systems, but under the Intergovernmental Personnel Act, Social Security Act, and other grant statutes they may not exercise authority, direction, or control over selection, assignment, advancement, retention, compensation, or other personnel actions with respect to any individual State or local employee.

(d) There is a wide range of legal, administrative, and technical approaches available to State and local governments to implement these Standards. The choice among techniques or approaches which will accomplish the results called for in these Standards is a matter for State or local government determination.

(e) These Standards provide State and local governments the flexibility to pursue innovative and diverse approaches to strengthening personnel management. They are intended to be performance oriented to the maximum extent consistent with effective administration and to limit mandatory provisions to key areas.

(f) A key feature in the administration of these Standards is the cooperative involvement of elected Chief Executives in the maintenance of merit approaches to personnel administration and the improvement of their personnel management. This enables the Commission to use simplified approaches to the maintenance of adequate State provisions for merit-based personnel administration and for administration of the Standards in small local governments.

(g) Continuing application of these Standards will give reasonable assurance of a proper basis for personnel administration, promote a career service, and result in increased operating efficiency and program effectiveness. Personnel systems based on these Standards will promote equal employment opportunity, assure the fair treatment of applicants and employees in all aspects of personnel administration, and contribute to the achievement of a representative work force.

(h) These Standards emphasize the need for inclusion of all groups in our society in State and local government employment and for initiatives to overcome any serious underrepresentation in the grant programs. They provide a basis for firm compliance action when reasonable progress is not made.

(i) Within these Standards, means are provided for the implementation of national policies for structuring jobs, training and employing the handicapped and disadvantaged, and implementing Congressional and related State employment and rehabilitation programs.

(j) In conjunction with the Commission, the Federal grantor and other agencies are involved in the evaluation and maintenance of merit based personnel administration to the maximum extent feasible. In cases where elements of the personnel system or the administration of the system do not meet the Standards, the Commission provides consultation and technical assistance to State and local governments to obtain appropriate revisions. In matters involving serious deviations from the provisions of the Standards, the Commission submits recommendations to and coordinates necessary action by the Federal agencies. The Federal agencies attempt to avoid using the sanction of withdrawing Federal grant funds and place their emplasis on negotiation and technical assistance to achieve the required substantial conformity with these Standards. Where necessary, however, enforcement actions are taken in accordance with the regulations of the specific grant or other programs. (See § 900.609.)

(k) In order to assist State and local governments in maintaining their personnel systems under these Standards, technical consultation services will be provided to the extent resources are available.

(l) The requirements include the six merit priciples contained in section 2 of the Intergovernmental Personnel Act of 1970 (Pub. L. 91-648) and are consistent with these principles.

(m) The provisions under §§ 900.602 through 900.620 identified as requirements are the regulatory provisions of these Standards.

(n) There are two types of provisions in the "Guide" sections:

(1) Interpretations of the intent of the requirements. While these are not regulations, they explain policies, practices, or other actions needed to comply with the regulations.

(2) Recommendations for desirable methods of personnel administration. While State and local governments are encouraged to seriously consider them, they are optional in nature.

§ 900.602 Merit Principle I.

(a) *General requirement.* Recruiting, selecting, and advancing employees

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will be on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

§ 900.6021 Recruitment.

(a) *Requirement.* Recruiting efforts will be planned and carried out in a manner that assures open competition. Special emphasis will be placed on recruiting efforts to attract minorities, women, or other groups that are substantially underrepresented in the work force to help assure they will be among the candidates from whom appointments are made.

(b) *Guide.* The recruiting program needs to be based upon planning to meet current and projected work force needs. Recruitment needs to be tailored to the number and type of positions to be filled and to labor market conditions. The recruiting efforts of the central organization and the program agencies ought to be coordinated and carried out in a timely manner so as to permit successful competition with other employers.

§ 900.6022 Selection and appointment.

(a) *Requirement.* (1) Selection procedures will be job related and to the extent practical will be reliable, valid, and objective. They will provide for the appropriate ranking of candidates.

(2) Selection for entrance to the career service normally will be through open competition. Appointments to positions in the career service will be made on the basis of merit by selection from eligible lists established in accordance with the provisions of these standards on recruitment, selection, and equal employment opportunity.

(3) Procedures will be established by State and local governments to insure that appointing officials review and give equitable consideration to an appropriate number of candidates based on whatever ranking system is used on the list when making a selection for initial entry to the career service.

(4) To facilitate the career employment of the severely handicapped such as the blind, deaf, cerebral palsied, paraplegic, and quadriplegic; or of socially, educationally, or economically disadvantaged persons; or of participants in employment or rehabilitation programs authorized by Congress or related programs authorized by State legislatures, competition may be limited to such persons.

(5) In those occasional instances where there is evidence that open or limited competition is not practical, noncompetitive appointments may be made.

(6) Job-related minimum requirements will be established wherever they are needed for entrance to a class. They will be met by all successful candidates for examination, appointment, and promotion.

(7) Permanent appointment will be contingent upon satisfactory performance by the employee during a reasonable, fixed probationary period.

(8) Temporary, provisional, or other nonstatus appointments will not be used as a way of defeating the purpose of the career service and will have a reasonable time limit. If lists of eligibles are available, they normally will be used for filling temproary positions. Short-term emergency appointments may be made without regard to the other provisions of this section to provide for maintenance of essential services in an emergency situation where normal procedures are not practical.

(b) *Guide.* (1) Compliance with technical standards for test validation contained in selection guidelines issued by this Commission would meet the requirements of these standards for job relatedness and validity. Adequate job analysis needs to be conducted to insure job relatedness of selection procedures. Any ranking procedures utilized in career advancement or promotion programs need to be job related and achieve the degree of validity and objectivity which is practical to the same extent as selection procedures for initial appointment.

(2) State and local governments have wide latitude in determining a manageable number of eligible candidates to refer for consideration for entrance to the career service. The procedures need to provide for selection based on relative ability, knowledge, and skills of the eligibles; for fair treatment without regard to an eligible's race, color, religion, sex, national origin, political affiliation, age, handicap, or other nonmerit factors except where provided for by Federal law; for the protection of the eligibles privacy and constitutional rights; and for the equitable consideration of all eligibles.

(3) Provisions which would generally result in appointment from the whole list of eligibles or its equivalent would not meet the requirements of these standards. Any one of a variety of approaches providing for appointment from among the most qualified available eligibles from lists meets the requirements of this section. Where candidates are ranked in broad groups, appointments could, for example, be made first from a best qualified category, second, from a well qualified category, and third, from a qualified category or according to an equivalent system.

(4) State and local governments are encouraged to provide for entry through cooperative education, work study, internships, and similar programs.

(5) Minimum qualification and performance requirements and duties may be appropriately modified to permit the appointment and promotion of trainees to positions normally filled at full proficiency level.

§ 900.6023 Career advancement.

(a) *Requirement.* State and local government personnel systems can use a wide variety of approaches in promoting employees to higher level positions so long as they consider the eligible permanent employees in the agency or the career service and adequately assure that all persons promoted are qualified for the position.

(b) *Guide.* (1) The director of the personnel system needs to certify to the eligibility of persons selected for promotion or to delegate that authority to operating agencies, subject to an appropriate post-audit procedure.

(2) Systematic promotion methods are encouraged. They need to provide for competition among qualified career employees at appropriate points in the career advancement system. In addition, provisions need to be made to bring persons into the career service at higher levels where this will provide abilities not available among career employees, enrich the career service, or contribute to improved employment opportunities for underrepresented groups.

(3) Systems need to be established to provide opportunities for upward mobility through training, education, and career development.

§ 900.603 Merit principle II.

(a) *General requirement.* Equitable and adequate compensation will be provided.

§ 900.6031 Classification and compensation.

(a) *Requirement.* Classification and compensation plans will be maintained on a current basis. To maintain a high quality work force and to assure equitable compensation for comparable work, the compensation plan will take into account the responsibility and difficulty of the work, the compensation needed to compete in the labor market and to stay in proper alignment with other agencies of the government, and other pertinent factors.

(b) *Guide.* (1) Classification plans need to be based on job analysis and should be utilized for decisionmaking on compensation, selection, employee development, career advancement, upward mobility, and other personnel program activities.

(2) Collective negotiation or meeting and conferring with employee organizations to achieve equitable and adequate compensation can be consistent with these standards.

(3) In those programs in which States are responsible for supervision of local administration, States may determine whether local agency compensation will be governed by: A plan of the local government which covers other local agencies; a plan of the State which covers local grant-aided agencies; or a plan of the State which covers the agency responsible for State administration of Federal grants.

§ 900.604 Merit principle III.

(a) *General requirement.* Employees will be trained as needed to assure high-quality performance.

§ 900.6041 Training.

(a) *Guide.* State and local governments should also provide training as needed to prepare employees for career advancement. Training programs should include systematic methods for assessing training needs, providing training to meet priority needs, selecting personnel for training and evaluating the training provided.

§ 900.605 Merit principle IV.

(a) *General requirement.* Employees will be retained on the basis of the adequacy of their performance and provision will be made for correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.

§ 900.6051 Layoffs, separations, and employee evaluations.

(a) *Requirement.* Employees who have acquired permanent status will not be subject to separation except for cause or reason of curtailment of work or lack of funds. Procedures will be established to provide for the transfer, demotion, or separation of employees whose performance continues to be inadequate after reasonable efforts have been made to correct it. Retention of employees in classes affected by reduction in force will be based upon systematic consideration of type of appointment and other relevant factors.

(b) *Guide.* Employees need to be evaluated periodically on a systematic and job related basis to provide needed information: (1) for supervisors to assess the adequacy of individual employee performance in relation to performance requirements, (2) for employees to recognize their own performance improvement needs, and (3) as a basis for personnel actions including recognizing or rewarding superior performance and correcting inadequate performance or separating employees in cases where inadequate performance cannot be corrected. Quality of performance is a relevant factor to be taken into account in reduction in force systems.

§ 900.606 Merit principle V.

(a) *General requirement.* Fair treatment of applicants and employees in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, handicap, or other nonmerit factors and with proper regard for their privacy and constitutional rights as citizens will be assured.

§ 900.6061 Equal employment opportunity and affirmative action.

(a) *Requirement.* (1) Equal employment opportunity will be assured to all persons and measures will be initiated to include qualified minorities, women, and other appropriate groups among the persons considered for selection, especially when they are significantly underrepresented.

(2) Affirmative action programs consistent with merit principles will be developed and implemented for personnel services provided to and personnel administration within the grant-aided agencies and will include work force analysis and problem identification to determine whether percentages of minorities and women employed are substantially similar to percentages of those groups available in the work force in the relevant job market who possess the basic job related qualifications. The program will include development of a systematic action plan that is consistent with the merit principles and include the development of goals and timetables formulated to correct any substantial disparities or other problem identified in the analysis prescribed above.

(3) Affirmative action programs will include systems to collect and maintain data on applicants and employees by race, sex, or ethnic group to determine if the selection process results in adverse impact. The Commission, upon request by the Governor or his/her designee(s) on behalf of an individual State or local agency, may waive the requirement to collect data on applicants where the percentages of minorities and women employed at various levels in a State or local grant-aided agency are substantially similar to the percentages of these groups available in the relevant job market who possess the basic job-related qualifications.

(4) Requests for these waivers should be submitted in writing to the appropriate regional director of the Commission. Such waivers may be requested by a State to cover any one or more of the following categories:

(i) An employment level (or levels) within a State or local agency;

(ii) A job classification, classification series; or occupational grouping, as appropriate.

(5) A request for waiver must include relevant statistical data and analysis indicating that women and minorities are not substantially under represented in the categories for which the waiver is being requested in comparison with the percentages of these groups possessing the basic job related qualifications in the relevant job market. If specific occupational information is not available, then relevant statistical data and analysis indicating that women and minorities are not substantially underrepresented in the categories for which the waiver is being requested when compared to the general work force must accompany the request for waiver.

(6) The waivers will be granted without time limit but with the provision that if the race and sex composition of the category in the agency's work force changes substantially, the applicability of the waiver to that category may be withdrawn.

(7) Where a selection process has adverse impact, the requirements of the employee selection guidelines issued by this Commission will apply. A selection process includes tests and other employment procedures which are used as a basis for any employment decision as stipulated in the selection guidelines.

(8) Periodic evaluation of results to assess the effectiveness of the affirmative action programs in achieving both the long term and interim goals on a timely basis will be undertaken.

(9) Prohibitions against descrimination consistent with the Civil Rights Act of 1964 as amended (42 U.S.C. 2000e et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), the Equal Pay Act of 1963 (29 U.S.C. 206(d)(1)) and other relevant statutes will be established by the State and local governments and enforced by them.

(b) *Guide.* (1) To help assure equal employment opportunity, a personnel system needs to prohibit the following practices where based on race, color, religion, sex, national origin, political affiliation, age, handicap, or other nonmerit factors:

(i) Failing or refusing to hire, discharging, or otherwise discriminating against any individual with respect to compensation, terms, conditions, or privileges of employment;

(ii) Limiting, segregating, or classifying employees or applicants for employment with the intent of depriving them of employment opportunities or adversely affecting their employment status;

(iii) Failing or refusing to refer a candidate for employment;

(iv) Causing or attempting to cause an employer to discriminate against an individual;

(v) Discriminating against any individual in admission to, or employment in, any program established to provide training; and,

(vi) Discriminating against an individual in any other aspect of personnel administration.

(2) Federal law provides for an exception from the general rule prohibiting discrimination in cases in which religion, sex, national origin, or age is a bona fide occupational qualification for employment. However, court cases and other interpretations indicate that there are few, if any, jobs to which

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this exception can be applied in programs covered by these standards.

(3) Employment tests need to accurately reflect handicapped applicants' or employees' job-related knowledges, skills, and abilities rather than their impairments.

(4) Work force analysis and problem identification normally need to be based upon the percentage of qualified candidates by race, sex, or ethnic group available in the relevant job market where such data is available. Where this data is not available, total work force may be used for this purpose. The analysis of the State or local government organization's work force may be done by individual job classifications or by classification series or occupational groupings, as appropriate. Systems for collecting data on applicants or employees by self-identification will not require them to disclose their race, sex, or ethnic group.

(5) Goals and timetables need to be flexible and include both numerical targets and action steps.

(6) State and local governments are encouraged to involve employee organizations in the formulation of affirmative action plans.

§ 900.6062 Employee management relations.

(a) *Guide.* (1) The proper and efficient administration of Federal grant-in-aid programs by State and local governments and the well-being of the employees of such programs require effective communication and an orderly and constructive relationship between employees and management officials. Collective negotiations, meeting and conferring with employee organizations, or other methods can make positive contributions to the communications process by providing employees an opportunity to participate in the formulation of policies and practices affecting the conditions of their employment.

(2) State and local government policies need to delineate the rights of employees of programs covered by these standards to form, join, and assist an employee organization or to refrain from any such activity, freely and without fear of penalty or reprisal.

(3) To facilitate effective participation in formulation of personnel policies by employees, State and local governments which establish a formal framework need to address all aspects of the labor management relationship and ought to indicate the rights and obligations of both management officials and employees; subjects for negotiating or meeting and conferring; criteria for recognition of employee organizations, determination of units, and resolution of impasses; and unfair labor practices and standards of conduct.

(4) The objectives of these provisions may be achieved through legislative enactment, promulagation of an executive order by the Chief Executive, or through the rules and regulations of the agency directly responsible for administering a program covered by the standards. The maintenance of a system of personnel administration based on merit principles needs to be assured in any collective negotiation or meet and confer system established.

(5) In the interest of effective administration of the Standards, the Commission has established procedures to insure that affected employee organizations are as fully informed of their administration as is feasible. State and local governments also should adopt procedures for this purpose.

§ 900.6063 Appeals.

(a) *Requirement.* In the event of separation or demotion, State and local governments will provide permanent employees with the right to appeal through an impartial process that may be recommendatory or enforceable on the appointing authority. In addition, they will provide for appeals of alleged discrimination on the basis of race, color, religion, sex, national origin, political affiliation, age, handicap, or other nonmerit factors by any applicant or employee through an impartial process that will result in timely, enforceable decisions.

(b) *Guide.* An impartial grievance procedure may satisfactorily meet the above requirements but an adequate appeal capability needs to be maintained for applicants and any employees not covered by the grievance procedure. State and local government personnel systems need to include an impartial procedure to process other employee grievances.

§ 900.607 Merit principle VI.

(a) *General requirement.* State and local governments will inform their employees of their political rights and prohibited practices under the Hatch Act.

§ 900.6071 Political activity.

(a) *Guide.* (1) The Hatch Act, as amended, 5 U.S.C. 1501-1508, prohibits certain types of political activity on the part of State and local government employees whose principal employment is in a federally funded program, irrespective of whether their positions are covered by these standards.

(2) State and local governments ought to adopt and themselves enforce provisions on political activity which are consistent with the Federal Hatch Act and which will facilitate their effective control of prohibited political activity by employees.

(3) State and local government policies on political activity need to insure that all employees have the right to express their views as citizens, to pursue their legitimate involvement in the political system, and to vote; that employees not engage in or be subject to coercion for political purposes, and not seek candidacy for public office in a partisan election.

§ 900.608 Administration.

(a) *General.* This section consists of regulations and guides on the administration of State and local personnel systems (§§ 900.6082 through 900.6085 and 900.6087) and Federal administration of the standards (§§ 900.6081, 900.6086, and 900.6088).

§ 900.6081 Review of merit systems.

(a) *Requirement.* (1) Certification of agreement by the Chief Executive of the jurisdiction (hereinafter "certification") to maintain a system of personnel administration in conformance with these standards is an eligibility requirement in grant or other programs to which personnel standards on a merit basis are applicable. (See appendix.)

(2) New personnel legislation and regulations will be made available promptly to the Commission on an informational basis so that the jurisdiction may be advised regarding any problems which could affect the jurisdiction's ability to implement the certification.

(3) Laws, rules, regulations, policy statements, and negotiated agreements impacting on a personnel system subject to these standards must provide for a system of personnel administration based on merit. This policy basis and the administration of the personnel system will be subject to review for substantial conformity to the standards.

(4) Certifications are to be submitted by the Governor to the Commission within 6 months of the effective date of implementation of the revised standards. Subsequent certifications will be submitted within 90 days after they have been requested by the Commission for the following reasons:

(i) Upon change in incumbent chief executives;

(ii) Upon initial application for Federal grant-in-aid or eligibility for other intergovernmental programs;

(iii) Upon passage of significant new personnel legislation affecting a State's merit system;

(iv) Upon major reorganization or restructuring of the personnel system of the jurisdiction; or,

(v) Upon determination that there exist major problems or apparent significant departures from the principles.

(5) Certifications are to be submitted, upon request, to appropriate Commission regional offices.

(6) The Governor shall designate an agency or agencies which will be responsible for supervising local compliance with these Standards. This agency will obtain certifications from local chief executives. The States must maintain these certifications and make them available to the Commission on request.

(7) A Chief Executive may indicate that grant-aided or other programs not previously covered by these Standards are not currently in compliance with the Standards, but they will comply within a reasonable period of time. In such a situation, he or she must also submit for Commission approval an action plan outlining the features of a proposed merit system and provide a specific timetable for compliance.

(8) Before signing a certification, a Chief Executive may request advice and assistance from the Commission in order to determine whether the agencies under his/her jurisdiction are in compliance with the Standards. Such assistance and/or negotiations may continue beyond the specified time requirement for the Chief Executive's certification. In the absence of such a certification, temporary assurance as to compliance with the Standards may be effected by:

(i) Obtaining certification from the heads of those State and local agencies which are required to have merit personnel systems as a condition of Federal grant-in-aid or other intergovernmental programs; or

(ii) The Commission regional office may conduct an advance personnel management evaluation of those agencies subject to the Standards.

(9) Where grants-in-aid are not passed through a State agency to local governments, the latter can transmit all required certifications and applications for waiver directly to the appropriate regional office of the Commission.

§ 900.6082 Coverage of the standards.

(a) *Requirement.* (1) These Standards are applicable to all State and local personnel, except those exempted in this section, engaged in the administration of grant-in-aid programs under Federal laws and regulations requiring the establishment and maintenance of personnel standards on a merit basis. To help assure the recruitment, selection, and advancement of highly qualified personnel and continuity of program administration, career coverage will be provided by State and local personnel systems for all non-exemptible management, supervisory, technical, and other positions in grant-aided programs, irrespective of the source of funds for their salaries. To assure proper organizational responsiveness, appropriate numbers of top level positions may be exempted if they determine and publicly advocate substantive program policy, provide legal counsel, or are required to maintain a close confidential working relationship with a key exempt official. State and local governments have flexibility in determining whether top level policy positions will be filled on a career or exempt basis so long as the number of positions filled on an exempt basis does not exceed the number which may be exempt under the above provision. Unskilled laborers, bona fide part-time positions, temporary positions established for the purpose of conducting a special project, study, or investigation, and severely handicapped persons may be exempted if that would not have an undesirable impact on proper and efficient administration or on the achievement of equal employment opportunity.

(2) The Commission, at the request of the Governor or his/her designee(s) on behalf of the State or its local governments, may waive for a State or local government for a 2-year period with the possibility of extension any one or a combination of the provisions of these Merit System Standards for experimental or research projects designed to improve merit systems or their operations. Upon completion, the project will be evaluated to determine whether its objectives have been achieved.

(3) Requests for such waivers should be sent to the appropriate regional office of the Commission. Requests for waivers from local jurisdictions will be submitted by the local Chief Executive to the State agency designated by the Governor to supervise local compliance with the Standards. Any recommendation by the State for approval of a waiver from a local government shall be submitted to the appropriate Commission regional office for approval before implementation.

(b) *Guide.* (1) State and local governments may exempt from the application of these Standards members of boards or similar bodies who do not perform administrative duties as individuals; officials serving ex officio and performing incidental administrative duties; the executive heads of agencies and positions reporting directly to them which are primarily responsible for both substantive program policy determination and its public advocacy; confidential assistants to the above positions; and attorneys serving as legal counsel or conducting litigation.

(2) Normally, positions involving only policy development may not be exempted. Generally, positions involving policy determination and public advocacy that are engaged in the direction of line operations may be exempted from the Standards only when they report directly to the executive head of an agency. An exception to this reporting relationship may be made within the primary components of large multiprogram agencies where the heads of major units in these organizations and positions reporting directly to them may also be exempted.

(3) Upon exemption of a position from the career service, incumbents with permanent status retain their career service tenure or are appropriately compensated for its termination.

(4) State and local governments are encouraged to develop systems for assigning career management employees to exempt policy determining and advocacy, confidential and other key positions without tenure in such a position but with reinstatement rights to a career service position. These systems allow Chief Executives to place highly qualified career employees in key jobs without sacrificing responsiveness to new program direction or to the Chief Executive.

(5) Job related qualification requirements ought to be established for positions exempted from these Standards.

(6) The exclusion of management positions from collective bargaining is not a basis for exemption of such positions from the merit system.

§ 900.6083 Organization.

(a) *Requirement.* (1) A State or local government's merit system organization will provide for impartial administration.

(2) At the option of the State, a local government which does not have a jurisdiction-wide personnel system meeting these Standards may elect one of the following:

(i) To cover grant-aided programs under a personnel system serving other grant-aided agencies covered by the Standards, such as a system serving State agencies, another city or county, or a group of local jurisdictions;

(ii) To cover grant-aided programs using a single cooperative personnel system where this is warranted as the basis for future development of a comprehensive system.

(3) Chief Executives of local governments with less than 25 employees in all activities covered by these Standards may apply to the State agency designated by the Governor to supervise local compliance with the Standards for a waiver of their requirements on the basis that compliance is impractical. Normally, if any State or local merit system meeting these Standards has jurisdiction over the local programs, it will be considered practical to continue to apply the Standards in those local programs. Applications for waivers are subject to approval by appropriate State grant-aided agencies, and if endorsed by them must be forwarded to the appropriate Commission regional office for final approval.

(4) The Chief Executive of a jurisdiction which requests a waiver as pro-

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vided above must certify that personnel administration in the grant-aided programs will be consistent with the six merit principles in the Inter-governmental Personnel Act. Evaluation of local personnel administration in such agencies will be conducted by the State agency supervising local compliance with the Standards and will be initiated only when a complaint has been received alleging practices inconsistent with the merit principles.

(b) *Guide.* (1) Any one of a variety of personnel system organizations covering substantially all employees in State or local government or the State grant-aided agencies meets the requirements of this section. Personnel organizations need to be administered by a qualified executive responsible to the Chief Executive, a top official, or a board or commission. Staff ought to be appointed on the basis of merit and serve in accordance with the provisions of the personnel system.

(2) The central personnel organization needs to be provided with sufficient staff and other resources to enable it to give effecitve personnel administration services to the grant-aided agencies.

(3) In the interest of economy, efficiency, and effectiveness, a single personnel system is needed to cover all of the grant-aided agencies in a jurisdiction subject to these Standards.

§ 900.6084 Intergovernmental cooperation.

(a) *Guide.* To facilitate public service mobility and maximum utilization of personnel resources, provision should be made for: cooperative interjurisdictional recruiting, selection, examining, certifying, training, research and development, and other personnel functions; adding to registers of eligibles applicants with eligibility on comparable examinations in other jurisdictions; appointing employees on the basis of their permanent career status in another jurisdiction, with maximum protection of their retirement and other benefits.

§ 900.6085 Extension of personnel system.

(a) *Requirement.* Employees with permanent status under a personnel system meeting these Standards will retain comparable status if the employing agency is placed under the jurisdiction of another personnel system.

(b) *Guide.* As determined by the State, upon the initial extension of the personnel system to a program, incumbents may obtain permanent status through an open competitive or qualifying examination; or if they have a specified period of satisfactory service in the agency at the State's discretion, they may be granted permanent status. If they do not pass a required examination, employees may be retained in the positions in which they have incumbency preference without acquiring the rights of career status.

§ 900.6086 Establishing a merit requirement or policy.

(a) *Requirement.* (1) Federal agencies may adopt, only with prior approval of the Commission, regulations that require as a condition for receiving Federal financial or other assistance or otherwise participating in an intergovernmental program that State and local agencies establish and maintain, a personnel system that conforms with a Federal merit requirement or policy. To avoid inconsistent and conflicting approaches to State and local governments, normally such merit requirements or policies should consist of application of these Standards.

(2) The following regulation shall be adopted by Federal agencies that wish to require that State and local agencies establish and maintain a personnel system that conforms with these Standards:

"Methods of personnel administration will be established and maintained in public agencies administering the program in conformity with the Standards for a Merit System of Personnel Administration which incorporate the Intergovernmental Personnel Act Merit Principles (Pub. L. 91-648 § 2, 84 Stat. 1909) prescribed by the Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970."

(3) For grant or other programs that are State supervised and locally administered, insert the following after the word "administering" in the above: "or supervising the administration of."

. (4) No variation from the language contained in paragraphs 2 and 3 of this section may be used without approval by the Commission.

(5) The Commission shall provide, within available resources, consultation and technical advice and assistance to State and local jurisdictions to aid them in complying with the Standards. In the absence of available resources, the Commission may provide technical assistance on a reimbursable basis to Federal agencies administering grants and State and local agencies receiving grants for the purpose of aiding the State and local agencies to comply with the Standards.

§ 900.6087 Personnel records and reports.

(a) *Requirement.* (1) Appropriate personnel records will be maintained to assure the proper administration of the personnel system and grant-aided agency personnel programs. Periodic reports, such as statistical reports on personnel administration, will be prepared as required by the Commission to indicate compliance with applicable State and local requirements and these Standards.

(2) Each federally aided State or local agency and each State or local merit system agency shall permit the Commission during normal business hours to review its books, records, and other sources of information as may be required to ascertain compliance with these Standards.

(3) Each State or local agency affected shall furnish annually to the Commission completed report CSC Form 1129, Review of Personnel Operations—Grant-Aided Agency, and other reports as may be required to show compliance with these Standards.

(4) Each State and affected local merit system agency shall furnish annually to the Commission completed report CSC Form 1128, Review of Personnel Operations—Merit System Agency.

(b) *Guide.* State and local governments should provide employees with opportunities to review information in their employee files to assure a control on the accuracy of that information. They should limit access to employee records to persons who have a legitimate need to see them.

§ 900.6088 Review of personnel operations.

(a) *Requirement.* (1) The Commission, in cooperation with the appropriate Federal agency, shall make or arrange for onsite reviews of each State merit system agency and other affected State agencies to determine compliance with the Standards, except that reviews of the latter agencies by the State merit system agency at the discretion of the Commission may be accepted in lieu of Commission reviews.

(2) The agency designated by the Governor to supervise local compliance with the Standards, in consultation with the appropriate regional office of the Commission, shall make or arrange for onsite reviews of the operations of the merit system for each local agency to determine compliance with the Standards.

§ 900.609 Compliance and assistance.

(a) The Commission, when corrective action is required, will negotiate with the appropriate State merit system agency to achieve compliance and will coordinate its activities with the appropriate Federal agency.

(b) The Commission shall request the appropriate Federal agency to render assistance when required to achieve compliance.

(c) The Commission, when there is a question of substantial conformity with the Standards after negotiation or the rendering of necessary technical assistance, shall forward its findings to the Federal agency, recommending that grant termination procedures or other appropriate action be initiated.

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§ 900.610-620 [Reserved]

APPENDIX TO THE STANDARDS FOR A MERIT SYSTEM OF PERSONNEL ADMINISTRATION

PART I: The following programs have a statutory requirement for the establishment and maintenance of personnel standards on a merit basis

Program, Legislation, and Statutory Reference

Drug Abuse Prevention, Drug Abuse Office and Treatment Act of 1972, § 409, on March 21, 1972; 21 U.S.C. § 1176(e)(8).

National Health Planning and Resources Development, Public Health Service Act (Title XV), as amended by the National Health Planning and Resources Development Act of 1974, 42 U.S.C. § 300m-1(b)(4)(B).

Medical Facilities Assistance (Construction and Modernization), Public Health Service Act (Title XVI), as amended by the National Health Planning and Resources Development Act of 1974, § 1603, on January 2, 1975; 42 U.S.C. § 300o-2(b).

Old-Age Assistance*, Social Security Act (Title I), as amended by the Social Security Act Amendments of 1939, § 101, on August 10, 1939; 42 U.S.C. § 302(a)(5)(A).

Employment Security (Unemployment Insurance and Employment Service), Social Security Act (Title III), as amended by the Social Security Act Amendments of 1939, § 301, on August 10, 1939, and the Wagner-Peyser Act, as amended by Public Law 775, § 2, on September 8, 1950; 42 U.S.C. § 503(a)(1) and 29 U.S.C. § 49d(b).

Aid to Families with Dependent Children (AFDC), Social Security Act (Title IV A), as amended by the Social Security Act Amendments of 1939, § 401, on August 10, 1939; 42 U.S.C. § 602(a)(5).

Maternal and Child Health Services/Crippled Children Services, Social Security Act (Title V), as amended by the Social Security Act Amendments of 1939, § 503, on August 10, 1939; 42 U.S.C. § 705(a)(3)(A).

Aid to the Blind*, Social Security Act (Title X), as amended by the Social Security Act Amendments of 1939, § 701, on August 10, 1939; 42 U.S.C. § 1202(a)(5)(A).

Aid to the Permanently and Totally Disabled*, Social Security Act (Title XIV), as amended by the Social Security Act Amendments of 1950, § 1402, on August 28, 1950, 42 U.S.C. § 1352(a)(5)(A).

Aid to the Aged, Blind or Disabled*, Social Security Act (Title XVI), as amended by the Public Welfare Amendments of 1962, § 1602, on July 25, 1962; 42 U.S.C. § 1382(a)(5)(A).

Medical Assistance (Medicaid), Social Security Act (Title XIX), as amended by the Social Security Amendments of 1965, § 1902, on July 30, 1965; 42 U.S.C. § 1396a(a)(4)(A).

Grants to States for Social Services, Social Security Act (Title XX), as amended by the Social Services Amendments of 1974, § 2003, on January 4, 1975; 42 U.S.C. § 1397b(d)(1)(D).

Developmental Disabilities Services and Facilities Construction, Developmental Disabilities Services and Facilities Construction Act, as amended by the Developmentally Disabled Assistance and Bill of Rights Act, § 111, on October 4, 1975; 42 U.S.C. § 6063(b)(7).

Comprehensive Mental Health Services (Services and Facilities), Community Mental Health Centers Act (Title II), as amended by the Community Mental Health Centers Amendments of 1975, § 303, on July 29, 1975; 42 U.S.C. § 2689t(a)(1)(D).

State and Community Programs on Aging (Older Americans), Older Americans Act of 1965 (Title III), as amended by the Older Americans Comprehensive Services Amendments of 1973, § 305, on May 3, 1973; 42 U.S.C. § 3025(a)(2).

Nutrition Program for the Elderly, Older Americans Act of 1965 (Title VII), as amended by Public Law 92-258, § 705, on March 22, 1972; 42 U.S.C. § 3045d(a)(3).

Comprehensive Alcohol Abuse and Alcholism Prevention, Treatment, and Rehabilitation, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Title III), § 303, on December 31, 1970; 42 U.S.C. § 4573(a)(5).

Civil Defense Personnel and Administrative Expenss, Civil Defense Act of 1950 (Title II), as amended by Public Law 94-361, § 804, on July 14, 1976; 50 U.S.C. App. 2286(a)(4).

PART II: The following programs have a regulatory requirement for the establishment of personnel standards on a merit basis

Program, Legislation, and Regulatory Reference

Food Stamp, Food Stamp Act of 1964, as amended; 7 CFR § 271.1(g).

Occupational Safety and Health Standards, Williams-Steiger Occupational Safety and Health Act of 1970; 29 CFR § 1902.3(h).

Occupational Safety and Health Statistics Williams-Steiger Occupational Safety and Health Act of 1970; BLS Grant Application Kit, May 1, 1973, Supplemental Assurance No. 15A.

Child Welfare Services, Social Security Act (Title IV B), especially as amended by the Social Security Amendments of 1967, on January 2, 1968; 45 CFR § 220.49(c).

PART III: The following programs have a personnel requirement which may be met by a merit system which conforms to the Standards for a Merit System of Personnel Administration

Program, Legislation, and Reference

Comprehensive Employment and Training Act, Comprehensive Employment and Training Act of 1973; 29 CFR § 98.14(a).

Vocational Rehabilitation Services, Rehabilitation Act of 1973 (Title I), as amended; 45 CFR § 1361.15(b) [40 FR 54705, November 25, 1975].

Disability Determination Services, Social Security Act (Titles II and XVI), as amended; SSA Disability Insurance State Manual, Part IV, § 425.1

Health Insurance for the Aged (Medicare), Social Security Act (Title XVIII), especially as amended by the Health Insurance for the Aged Act, on July 30, 1965; SSA State Operations Manual, Part IV, § 4510(a).

[FR Doc. 78-13228 filed 5-15-78; 8:45 am]

*Legislative provisions which apply only to Puerto Rico, the Virgin Islands, and Guam.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 918]

FRESH PEACHES GROWN IN GEORGIA

Proposed Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This notice invites written comments on proposed expenses and a rate of assessment for the 1978-79 fiscal period, to be collected from handlers to support activities of the Industry Committee which locally administers the Federal marketing order covering Georgia peaches.

DATES: Comments must be received on or before June 5, 1978. Proposed effective dates: March 1, 1978, through February 28, 1979.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The proposals under consideration were submitted by the committee, established under Marketing Order No. 918, as amended (7 CFR Part 918; 42 FR 40883), regulating the handling of peaches grown in Georgia, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer its terms and provisions. The proposals are:

(a) Expenses that are reasonable and likely to be incurred by the Industry Committee during the period March 1, 1978, through February 28, 1979, will amount to $16,042.50.

(b) The rate of assessment for said period payable by each handler in accordance with § 918.41 is fixed at $0.0125 per bushel (48 pounds net weight) of peaches.

(c) Unexpended assessment funds in excess of expenses incurred prior to February 28, 1978, up to a maximum of $20,000, shall be carried over as a reserve in accordance with § 918.44.

Dated: May 10, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-13280 Filed 5-15-78; 8:45 am]

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[3410-02]

[7 CFR Part 1004]

[Docket No. AO-160-A54]

MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This notice extends the date for filing exceptions to a recommended decision concerning a proposed amended order regulating the handling of milk in the Middle Atlantic marketing area. A group of cooperatives that supply milk to the market requested additional time to complete an analysis of the decision.

DATE: Exceptions are now due on or before June 11, 1978.

ADDRESS: Exceptions should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued September 1, 1977, published September 8, 1977 (42 FR 45001). Recommended Decision issued April 21, 1978, published April 27, 1978 (43 FR 17950).

Notice is hereby given that the time for filing exceptions to the above listed recommended decision concerning proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area is hereby extended to June 11, 1978.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on May 11, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-13279 Filed 5-15-78; 8:45 am]

[3410-02]

[7 CFR Part 1036]

[Docket No. AO-179-A43]

MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Notice of Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This notice extends further the time for filing exceptions to the March 31, 1978, recommended decision concerning a proposed amended order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area. A group of handlers requested additional time to complete an analysis of the decision.

DATE: Exceptions now are due on or before May 31, 1978.

ADDRESS: Exceptions should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing, issued September 20, 1977, published September 26, 1977 (42 FR 48886). Notice of Extension of Time for filing briefs, issued November 25, 1977, published November 30, 1977 (42 FR 60927). Recommended Decision, issued March 31, 1978, published April 6, 1978 (43 FR 14478).

Notice of Extension of Time for filing exceptions to the recommended decision, issued April 24, 1978, published April 27, 1978 (43 FR 17963).

Notice is hereby given that the time for filing exceptions to the recommended decision issued March 31, 1978 (43 FR 14478) with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is hereby extended to May 31, 1978.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on May 11, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-13278 Filed 5-15-78; 8:45 am]

[3410-15]

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revision of REA Specification PE-22 for Aerial and Underground Telephone Cable

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 345-13 to announce the revision of REA Specification PE-22 for Aerial and Underground Telephone Cable. This specification was revised to upgrade the electrical requirements and to include a section on Qualification Testing. The effect of this action will be to take advantage of state-of-the-art improvements in cable manufacturing and help assure the long-term performance characteristics of the cable under certain environmental conditions. On issuance of REA Bulletin 345-13, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than June 15, 1978.

ADDRESS: Persons interested in the revised specification may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Warner T. Smith, Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1340, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone No. 202-447-3827.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 345-13. A copy of the proposed revision of REA Bulletin 345-13 and the proposed revision of REA Specification PE-22 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

Dated: May 9, 1978.

JOHN H. ARNESEN,
Acting Assistant
Administrator—Telephone.

[FR Doc. 70-13273 Filed 5-15-78; 8:45 am]

[3410-15]

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revision of REA Specification PE-33 for Cable Shield Bonding Connectors

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 345-65 to announce the revision of REA Specifiction PE-33 for Cable Shield Bonding Connectors. This specification was revised to reflect performance requirements that are consistent with present day state-of-the-art and performance needs. The effect of this action will be towards industry standardization and cost minimization. On issuance of REA Bulletin 345-65, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than: June 15, 1978.

ADDRESS: Persons interested in the revised specification may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Warner T. Smith, Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1340, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone No. 202-447-3827.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 345-65. A copy of the proposed revision of REA Bulletin 345-65 and the proposed revision of REA Specification PE-33 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

Dated: May 9, 1978.

JOHN H. ARNESEN,
Acting Assistant
Administrator—Telephone.

[FR Doc. 78-13274 Filed 5-15-78; 8:45 am]

[3410-15]

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revision of REA Specification PE-200 for Polyethylene Raw Material

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to issue a File With for REA Bulletin 345-21 to announce a revision of REA Specification PE-200 for Polyethylene Raw Material. This revision is needed to permit the use of modified jacketing compounds based on technical advances in the area of compound formulation technology. The effect of this action will be to permit modified jacketing compounds with improved cost/performance characteristics. On issuance of the File With for REA Bulletin 345-21, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than: June 15, 1978.

ADDRESS: Persons interested in the revision of REA Specification PE-200 may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Warner T. Smith, Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1340, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3827.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), REA proposes to issue a File With for REA Bulletin 345-21. The text of the proposed File With REA Bulletin 345-21 is as follows:

FILE WITH REA BULLETIN 345-21

The Melt Index requirement under Appendix C of REA Specification PE-200 has been revised to reflect technical advances in compound formulation technology which will permit the use of higher melt index jacketing compounds with improved cost/performance characteristics.

Please make a pen and ink change for Melt Index under Appendix E from 0.5 to 0.650 maximum which becomes effective immediately.

Dated: May 9. 1978.

JOHN H. ARNESEN,
Acting Assistant
Administrator—
Telephone.

[FR Doc. 78-13281 Filed 5-15-78; 8:45 am]

[3410-07]

Farmers Home Administration

[7 CFR Part 1900]

FARMERS HOME ADMINISTRATION APPEAL PROCEDURE

Addition of Subpart

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to add a new Subpart which will provide a new procedure for appeal, with hearing and review, for all FmHA applicants, borrowers and grantees who are directly and adversely affected by an administrative decision. The intended effect of this action is to assure a standardized and fair appeal from any such action. This proposal consolidates and refines existing FmHA appeals procedures and covers actions not presently subject to existing appeals procedures. This action is taken as a result of an administrative decision.

DATE: Comments must be received on or before July 17, 1978.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Arthur M. Collings, Jr., phone 202-447-2564.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration proposes to add a new Subpart B, "Farmers Home Administration Appeals Procedure," and a new Part 1900, "General," in Subchapter H, Chapter XVIII, Title 7 in the Code of Federal Regulations. This proposal provides for a hearing on appeal from a deci-

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sion by FmHA, an appeal on the record from the hearing, and a third review to determine whether the decision is "arbitrary and capricious." The appeal officials will vary depending on which FmHA official made the decision from which the appeal is taken. The procedure will apply to all FmHA loan and grant programs.

PART 1900—GENERAL

Therefore, as proposed, Part 1900, Subpart B reads as follows:

Subpart B—Farmers Home Administration Appeal Procedure

Sec.
1900.51 Purpose.
1900.52 Definitions.
1900.53 Appeal from an initial FmHA decision.
1900.54 Effect of appeal decision.
1900.55-1900.100 [Reserved]

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegations of authority by Director, OEO 29 FR 14764, 33 FR 9850.

Subpart B—Farmers Home Administration Appeal Procedure

§ 1900.51 Purpose.

This regulation is established to provide a uniform procedure whereby a person may appeal any Farmers Home Administration (FmHA) program administrative action directly affecting such person. The only appeal by a borrower not covered by this regulation is one involving foreclosure (see 7 CFR 1955.15). This procedure will be applicable to administrative decisions made after its effective date.

§ 1900.52 Definitions.

(a) *Appellant.* An appellant is an applicant, borrower, or grantee, either an individual or organization, that is directly and adversely affected by an administrative decision by FmHA.

(b) *Directly and adversely affected.* The term "directly and adversely affected" includes having a request for FmHA assistance denied, reduced, cancelled, or not renewed.

(c) *Hearing.* A hearing, as used in this regulation, is an informal proceeding at which an appeal from an adverse decision is heard.

(d) *Hearing officer.* The hearing officer will be:

(1) In the case of an appeal of an initial decision by a County Supervisor, the District Director having jurisdiction over that county office. If That Distric Director had a significant role in the initial determination, the District Director from a nearby geographical district office will be designated by the State Director;

(2) In the case of an appeal of an initial decision by a District Director, the State Director, who may designate a program chief to be the hearing officer;

(3) In the case of an appeal of an initial decision by a State Director, the appropriate program Assistant Administrator;

(4) In the case of an appeal of an initial decision by a Division Director, the appropriate Program Assistant Administrator; and

(5) In the case of an appeal of an initial decision by an Assistant Administrator, the appropriate Deputy Administrator.

(e) *Record.* The term record means the FmHA file, papers filed by an appellant, notes or transcript (if any) of a hearing, and decisions made by FmHA officials.

(f) *Review officer.* The review officer, when the hearing officer is:

(1) The District Director, will be the State Director;

(2) The State Director, will be the appropriate Program Assistant Administrator;

(3) The Program Assistant Administrator, will be the appropriate Deputy Administrator; and

(4) The Deputy Administrator will be the Administrator.

§ 1900.53 Appeal from an initial FmHA Decision.

(a) If a person or organization is directly and adversely affected by an FmHA decision or action, the official taking such action or making the decision will inform that person or organization by letter of the action taken. The letter will include the following:

(1) A statement of the action taken or decision made and the specific reason(s) for the conclusion reached.

(2) An invitation to call at the decision-making official's office to discuss the decision with that official. The person (or organization) may bring to the meeting any additional information or a representative.

(3) A statement that the person (or organization) may appeal the decision directly to the hearing officer. The statement should read as follows:

> You may appeal the above action by writing to (hearing officer) (address) within 30 calendar days of the date of this letter, giving the reasons why you believe this matter should be decided differently. A copy of your appeal should be sent to me so that I can expeditiously forward the file on this matter to the hearing officer.

(4) A statement that if the person (or organization) wants the status quo maintained the decision may be stayed pending appeal if requested by the person (or organization) at the discretion of the decision-making official.

(b) If a request is received to stay the decision, the decision-maker, based on the facts and circumstances, may stay the decision. An appropriate case for a stay would be if to not grant the stay would make an appeal useless.

(c) If the program or organization takes the opportunity for a meeting with the decision-making official, as set forth in § 1900.53(a)(2), and, as a result of that meeting, the request is not granted, the official will send a letter to the person (or organization) which will contain the statements set forth in § 1900.53(a) (1) and (3).

(d) When an appellant appeals a decision as provided in § 1900.53 (a)(3) or (b), the appeal will be handled as follows:

(1) Upon receipt of the copy of the appeal letter, the decision-making official will forward the entire file on the matter to the hearing officer.

(2) The hearing officer will arrange for a hearing to be held as soon as possible but within 30 calendar days of the receipt of the appeal. If the appellant or the decision-maker for good reason is unable to attend a hearing within the 30 calendar day period, the hearing officer, after considering the circumstances, will set a date for the hearing.

(3) *Failure to appear.* (i) If the appellant or appellant's representative, without reasonable cause fails to appear at the hearing, the appellant's appeal will be deemed to have been concluded.

(ii) If the failure to appear is with reasonable cause, the hearing officer will reschedule the hearing at a time convenient to all interested parties.

(4) *The hearing.* (i) The hearing will be an informal proceeding at which the appellant may provide any information or witnesses the appellant believes should be considered in reaching a proper decision. The appellant may present evidence, witnesses, and arguments in support of appellant's complaint, controvert evidence relied on by the FmHA, and question all witnesses. Hearings conducted by the hearing officer shall be informal, and any evidence may be received by the hearing officer without regard to whether that evidence could be employed in judicial proceedings.

(ii) The decision-making official (or successor) will be at the hearing and will present evidence if necessary. Any other witnesses or FmHA personnel the decision-making official thinks necessary to fully determine the matter will be at the hearing to present evidence.

(iii) Before the hearing, the appellant or appellant's representative, unless otherwise prohibited by law or regulation, may examine, and, at appellant's expense, copy all relevant documents, records and regulations of FmHA. The original decision-making official will present the reasons for the original adverse decision. The appellant may be represented by an attorney or any other person at the hearing. All witnesses may be questioned by the hearing officer and any interested party.

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(iv) An FmHA employee will take notes at the hearing. Within 5 working days after the hearing a copy of the notes will be provided to the appellant who may notify FmHA of any changes appellant thinks should be made to the notes within 4 working days of receipt of the copy. If the appellant requests in advance, appellant may arrange to have a transcript of the hearing made at appellant's own expense. At FmHA's request, a copy of the transcript will be provided to FmHA's for cost of reproduction.

(5) For good cause, the hearing officer on the request of any interested party may, in the hearing officer's complete discretion, continue the hearing to a future time.

(6) The decision of the hearing officer shall be based upon facts presented at the hearing, appropriate FmHA files, applicable statutes and regulations, and the hearing officer's general knowledge of FmHA program functions.

(7) Within 20 calendar days of the hearing the hearing officer will determine what action to take with regard to the appeal and:

(i) If the initial decision is reversed, will inform the appellant and original decision-making official by letter of the decision and what action will be taken.

If the initial decision is upheld or modified but not reversed, will inform the appellant by letter of the decision giving the specific reasons, with a copy to the decision-making official. The letter must contain the following statement:

> If you wish to have the above decision further reviewed, you may appeal in writing to (review officer/address) within 20 calendar days of the date of this letter explaining why you believe the decision is incorrect. Since this review will be based on the record, including papers filed, FmHA files, notes or transcripts of the appeal meeting, my decision, applicable statutes and regulations, and any additional written information you wish to submit, you should include any additional information you think is important and indicate whether you wish to present any information in person. A copy of your appeal should be sent to me so that I can expeditiously forward the record to the review officer.

(e) If the appellant does not request in writing an appeal of the hearing officer's decision within the 20 calendar day period provided in the letter, the appeal will be considered concluded.

(f) If the appellant appeals to the review officer:

(1) Upon receipt of the copy of the appeal the hearing officer will forward the record to the review officer.

(2) The review officer will obtain a copy of the transcript of the hearing if one was arranged for by the appellant.

(3) If no personal meeting was requested by the appellant, the review officer will review the record on the case and applicable law and regulation, any additional information furnished by the appellant and such additional information as the review officer deems necessary and render a decision within 30 calendar days of receipt of the appeal.

(4) If the appellant indicates a desire to present information in person, the review officer will arrange a meeting for the sole purpose of receiving such additional information. The meeting will be held within 15 calendar days of receipt of the appeal. A final decision will be rendered within 30 calendar days of receipt of appeal.

(5) If the decision of the hearing officer is reversed, the appellant will be informed by letter of the decision and what action will be taken. The original decision-making official and the hearing officer will also be notified.

(6) If the hearing officer's decision is upheld or modified but not reversed, the appellant will be informed of the decision by letter giving the specific reasons for the decision, with a copy each to the decision-making official and hearing officer. The letter must contain the following statement:

> If you believe the above decision is arbitrary and capricious, that is, lacking any rational, factual, or legal basis, you may write the Administrator, FmHA, 14th and Independence Avenue SW., Washington, D.C. 20250, explaining why. The Administrator's review will be based only on the existing written record. A copy of your letter to the Administrator should be sent to me so that I can expeditiously forward the record to the Administrator.

(g) Upon receipt of an appeal from a hearing review officer's decision, the Administrator or his delegate will review the record, which will have been forwarded by the review officer upon receipt of a copy of the letter and determine whether the decision was arbitrary and capricious. If not, the decision will be upheld and the appellant so notified. If the Administrator or his delegate finds the decision to have been arbitrary and capricious, he will determine what action should be taken and notify all affected parties. The Administrator may not delegate this authority except to the Associate Administrator, if the appeal is from an initial decision of an Assistant Administrator or higher official.

§ 1900.54 Effect of appeal decision.

(a) *Effective date.* When an appeal is concluded, the effective date of the action to be taken will be the originally proposed effective date of the initial decision from which the appeal was taken.

(b) *Legal effect.* A decision made when an appeal is concluded will be administratively conclusive. It will not, however, be determinative of the legality of the action to be taken.

§ 1900.55—1900.100 [Reserved]

Dated: May 9, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-13291 Filed 5-15-78; 8:45 am]

[3410-37]

Food Safety and Quality Service

[9 CFR Part 318]

FEDERAL MEAT INSPECTION REGULATIONS

Substances Used in Preparation of Bacon

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This document proposes to amend the Federal meat inspection regulations by requiring that 40 parts per million (ppm) of sodium nitrite or an equivalent amount of potassium nitrite (49 ppm) be added to bacon and by requiring that 0.26 percent potassium sorbate by weight of bacon be added to bacon. This would supersede the current provisions requiring that bacon contain 120 ppm sodium nitrite (or an equivalent amount of potassium nitrite—148 ppm) and 550 ppm sodium ascorbate or sodium erythorbate. This action is for the purpose of further reducing the amount of nitrite used in bacon.

DATE: Comments and data must be received on or before November 16, 1978.

ADDRESS: Written comments and data must be sent to the Hearing Clerk, Room 1977, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin Fried, Acting Director, Product Standards, Labels and Packaging Division, Food Safety and Quality Service, U.S. Department of Agriculture, Room 202, Annex Building, Washington, D.C. 20250, 202-447-6042.

BACKGROUND INFORMATION

In another document published in this issue of the FEDERAL REGISTER, the Department published a final rule which, among other things, prohibits the use of sodium and potassium nitrite in bacon, requires that 120 ppm ingoing sodium nitrite or an equivalent amount of potassium nitrite (148 ppm) be used in bacon, and requires that specified levels of sodium ascorbate or sodium erythorbate (isoascorbate) be used in bacon. However, the Administrator has determined to take action to require that nitrites be used

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in bacon at the lowest possible levels in order to further insure that those levels of nitrite do not contribute to the formation of nitrosamines in bacon at the time of cooking.

Based on a review and evaluation of all data available at this time, it appears that bacon made with 40 ppm sodium nitrite (or an equivalent amount of potassium nitrite—49 ppm) and 0.26 percent potassium sorbate by weight of bacon can be manufactured under properly controlled conditions so that it is free of botulinal hazard, and does not contain confirmable levels of nitrosamines. The data that support this conclusion were submitted by industry in response to the USDA notice for such data published in the FEDERAL REGISTER on October 18, 1977, and are available for viewing at the USDA Office of the Hearing Clerk.

The data submitted by industry on this new method of processing bacon were derived from experiments involving relatively small numbers of bacon samples in comparison to the total volume of bacon produced annually. Therefore, it appears advisable that additional studies be undertaken to substantiate the original findings submitted by the industry. The Administrator is of the view that 12 months is sufficient time for these studies to be conducted and for the process to be evaluated under actual processing plant operating conditions.

Under these circumstances, the Administrator has determined that if the data referred to above are confirmed by additional testing and interested parties do not provide substantive data demonstrating that bacon made with 40 ppm sodium nitrite (or an equivalent amount of potassium nitrite—49 ppm) and 0.26 percent potassium sorbate would not be free of botulinal hazard and would not be free from confirmable levels of nitrosamines, this proposal will become a final rule at a maximum of 1 year from the date of this publication.

AMENDMENT OF REGULATIONS

On the basis of the foregoing, it is proposed to amend the Federal meat inspection regulations (9 CFR Section 318.7(b)) as follows:

§ 318.7 Approval of substances for use in the preparation of products.

• • • • •

(b) Requirements for the use of nitrite and potassium sorbate in bacon.

(1) With respect to bacon: Sodium nitrite shall be used at 40 parts per million (ppm) ingoing or an equivalent amount of potassium nitrite shall be used (49 ppm ingoing); and 0.26 percent of potassium sorbate by weight of bacon shall be used.

• • • • •

A Draft Impact Analysis Statement is available from the Food Safety and Quality Service.

Done at Washington, D.C., on May 12, 1978.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc. 78-13469 Filed 5-15-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

OFFICE OF CONSERVATION AND SOLAR APPLICATIONS

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Rulemaking and Public Hearing Regarding Test Procedures for Water Heaters; Cancellation of Hearing

AGENCY: Department of Energy.

ACTION: Cancellation of hearing.

SUMMARY: On April 3, 1978 (43 FR 13888), the Department of Energy published proposed amendments to Test Procedures for Water Heaters. The public hearing on this proposal, as scheduled in the FEDERAL REGISTER, was to be held on May 16, 1978. However, since no request to speak for this hearing was received, the hearing is hereby canceled.

DATE: May 16, 1978.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, 202-566-4635.

Issued in Washington, D.C., May 12, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-13412 Filed 5-15-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR 220]

[Reg. T; Docket No. R-0080]

CREDIT BY BROKERS AND DEALERS ON NONCONVERTIBLE CORPORATE DEBT SECURITIES NOT LISTED ON A NATIONAL SECURITIES EXCHANGE; UNIFORM LOAN VALUE FOR ALL ELIGIBLE NONCONVERTIBLE CORPORATE DEBT SECURITIES

Proposed Rulemaking

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board proposes to amend Regulation T to permit a broker or dealer to extend and maintain credit on nonconvertible corporate debt securities not listed on a national securities exchange which satisfy certain criteria as to size of issue, availability of information and current payments of principal and interest. In addition, the proposal provides a uniform loan value for all nonconvertible corporate debt securities, whether listed or unlisted, that are eligible for loan value.

If adopted this regulation would promote competitive equality between brokers and banks and would improve the efficiency of capital markets. The Board is proposing to take this action under Section 7 of the Securities Exchange Act of 1934.

DATE: Comments must be received on or before June 15, 1978.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All materials submitted shall be in writing and should include the docket number R-0080.

FOR FURTHER INFORMATION CONTACT:

Robert S. Plotkin, Assistant Director, or Laura M. Homer, Chief Attorney, Securities Regulation, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2782.

SUPPLEMENTARY INFORMATION: In July 1968, Congress amended section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) ("the Act") to authorize the Board to control credit extended or maintained by banks, brokers, dealers and others with respect to securities that are not listed on a national securities exchange but rather are traded in the "over-the-counter" ("OTC") market. Prior to this amendment, the Board's authority was limited, with respect to brokers and dealers, to credit extended for the purpose of purchasing or carrying securities listed on a national securities exchange, and the Act contained an absolute prohibition against the extension of credit by a broker or dealer on all other securities. "Exempt securities" (generally Federal and municipal obligations) have always been excluded from the Board's authority to set margin requirements. Since 1968, the Board has exercised its new authority by adopting criteria and selecting those equity securities traded in the OTC market that are eligible for margin credit. The Board publishes a List of OTC Margin Stocks, which is revised periodically; some 1,100 issues are presently on the List. For purposes of Regulation T, a debt security convertible into an equity security is considered to be an equity security and there are presently five convertible debt securities on the Board's List of OTC Margin Stocks.

The National Association of Securities Dealers, Inc. ("NASD") has requested the Board to amend Regulation T to permit brokers and dealers to extend and maintain credit on any unlisted nonconvertible corporate debt securities which meet certain minimum standards with respect to size of issue and rating by at least one nationally recognized statistical rating service.

The Board believes that the NASD's request has considerable merit. Extending marginability to unlisted corporate bonds would promote competitive equality and improve the efficiency of capital markets. Such action may, moreover, aid companies in marketing new issues of debt securities and facilitate the trading of debt securities more easily in the national market system contemplated by the Securities Act Amendments of 1975. On the other hand, the Board has responsibility to prevent destabilizing credit from being extended, and it is generally agreed that certain criteria should be established, so that there is a reasonable likelihood that debt collateral can be liquidated in an orderly manner. To this end, the Board is seeking to adopt a self-executing rule with criteria readily ascertainable by the securities industry and the investing public—thereby eliminating the need for a published List. The Board proposes therefore that unlisted nonconvertible corporate debt securities be eligible for margin credit by brokers and dealers if:

(1) A principal amount of not less than $25 million of the issue is outstanding at the time of the extension of credit;

(2) All payments of principal or interest are current and not in default at the time of the extension of credit; and,

(3) The issue is registered under the Securities Act of 1933 and current reports are provided by the issuer in accordance with the Securities Exchange Act of 1934.

Comments are requested on the advisability of using this criteria, particularly the requirement of a principal amount of bonds outstanding of not less than $25,000,000.

The Board further considered the level of margin to be required, should the proposed regulation be adopted. It noted that whereas present Regulation T requirements could conceivably permit 100% loan value to be extended on listed corporate bonds, the major securities exchanges impose a 25% maintenance requirement and many brokerage houses require a somewhat higher margin (generally 30%). Although price and volume information is generally available for exchange-traded bonds, the Board noted that such information for corporate OTC bonds is minimal, and markets for some issues may, at times, be "thin". Accordingly, the Board believes that it is necessary to set a specific level of margin with respect to credit that will be extended on unlisted corporate bonds in order to prevent speculative excesses and possible erosion of equity cushions in margin accounts. In view of the economic similarity of both the listed and unlisted markets for bonds and in order to promote regulatory equality, the Board is of the opinion that the same level of margin that may be required for unlisted corporate bonds should also be required for listed corporate bonds. At the present time, the Board is considering setting the level of margin required for both listed and unlisted corporate bonds at 30%, and the public is invited to submit comments on the appropriateness of that amount.

The proposed requirements will affect only extensions of credit by brokers and dealers subject to Regulation T and will not affect banks subject to Regulation U since the Act specifically prohibits the Board from applying margin requirements to credit extended by banks on non-equity securities.

Pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and w), the Board proposes to amend Regulation T (12 CFR 220) as set forth below:

§ 220.4 Special Accounts.

• • • • •

(i) *Special bond account.* In a special bond account a creditor may extend and maintain credit on exempted securities and margin non-equity securities. The maximum loan value of an exempted security shall be determined by the creditor in good faith. The maximum loan value of a margin non-equity security shall be as prescribed from time to time in § 220.8 (the Supplement to Regulation T). Call options may be issued, endorsed or guaranteed in this account on any underlying equity security which is held in this account because it is an exempted security. For the purpose of this paragraph, the term "margin non-equity security" means a debt security which is listed on a national securities exchange or a debt security which meets all of the following requirements:

(1) At the time of the extension of credit, a principal amount of not less than $25,000,000 of the issue is outstanding.

(2) The issue was registered under section 5 of the Securities Act of 1933 and the issuer either files periodic reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 or is an insurance company which meets all of the conditions specified in section 12(g)(2)(G) of the Act.

(3) At the time of the extension of credit, the creditor has a reasonable basis for believing that the issuer is not in default on interest or principal payments.

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§ 220.8 Supplement.

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(b) *Maximum loan value for a special bond account.* The maximum loan value of a margin non-equity security shall be 70 percent of its current market value as determined by any reasonable method.

To aid in consideration of this matter by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. All material should include the docket number R-0080. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

By order of the Board of Governors, May 1, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13245 Filed 5-15-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 772 3051]

COOGA MOOGA, INC., ET AL.

Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Los Angeles, Calif. marketer and promoter of Acne-Statin, a product advertised for the treatment of acne, to cease disseminating advertisements which misrepresent, through endorsements or otherwise, the characteristics, performance, efficacy or superiority of its skin products. Additionally, the firm would be required to maintain ad substantiation records for a specified period of time; and to pay a pro rata share of any restitution which might be ordered by the Commission or a court.

DATE: Comments must be received on or before July 17, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Fed-

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eral Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Thomas Donegan, Jr., Assistant Director for Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580. 202-724-2464.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days., Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

COOGA MOOGA, INC., A CORPORATION, AND CHARLES E. BOONE, INDIVIDUALLY AND AS CORPORATE PRESIDENT

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Cooga Mooga, Inc., a corporation, and Charles E. Boone, individually and as a corporate officer, sometimes hereinafter referred to as respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of acts and practices being investigated;

It is hereby agreed by and between the said proposed respondents and their attorney, and counsel for the Federal Trade Commission that;

1. Proposed respondent Cooga Mooga, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 9255 Sunset Boulevard, Suite 519, Los Angeles, Calif. 90069.

2. Proposed respondent Charles E. Boone is an individual and corporate officer of Cooga Mooga, Inc. and maintains an office at 9255 Sunset Boulevard, Suite 519, Los Angeles, Calif. 90069.

3. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

6. No agreement, understanding, representation, or interpretation not contained in the order or the aforementioned agreement may be used to vary or contradict the terms of the order.

7. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated or that any of the facts are true as alleged in the draft of the complaint here attached.

8. This agreement is not intended to affect, nor shall it be construed as affecting, any rights and obligations as between the respondents, or either of them, and any other persons or entities involved in or connected with the discovery, invention, formulation, marketing, sale or advertising of Acne-Statin.

9. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34(b) of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to the proposed respondent's addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order.

10. Proposed respondents have read the proposed complaint and order contemplated hereby, and understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty as provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered that respondents Cooga Mooga, Inc., a corporation, and Charles E. Boone, individually and as a corporate officer, their successors and assigns, either jointly or individually, and the corporate respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of all products do forthwith cease and desist from:

A. Disseminating or causing the dissemination of any advertisement by means of the United States mails or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly:

1. Represents that use of Acne-Statin will cure acne or any skin condition associated with acne.

2. Represents that Acne-Statin will eliminate or reduce the bacteria responsible for pimples, blackheads, whiteheads, other acne blemishes or any skin condition associated with acne.

3. Represents that Acne-Statin will eliminate the fatty acids responsible for pimples, blackheads, whiteheads, other acne blemishes or any skin condition association with acne.

4. Represents that Acne-Statin is superior to prescription or over-the-counter antibacterial acne preparations in the treatment of acne.

5. Represents that Acne-Statin is superior to soap in the anti-bacterial treatment of acne.

6. Represents that either Charles E. Boone or any member of his family used and/or benefited from a product, unless such representation is true.

7. Misrepresents the extent to which any product has been tested or the results of any such test(s).

8. Misrepresents the efficacy, use or the mode of performance of any product where the use or misuse of the product may affect the health or safety of the user.

B. Disseminating or causing the dissemination of any advertisement by means of the U.S. mails or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly:

1. Represents that use of Acne-Statin or any other acne product by persons with acne will result in skin free of pimples, blackheads, whiteheads or any other blemishes associated with acne;

2. Represents that Acne-Statin or any other acne product can eliminate the cause of acne or any skin condition associated with acne;

3. Represents that Acne-Statin or any other acne product is superior to prescription or over-the-counter acne preparations in the treatment of acne or any skin condition associated with acne,

unless, at the time of each dissemination of such representation(s) respondents possess and rely upon competent and reliable scientific or medical evidence as a reasonable basis for such representation(s). Competent and reliable scientific or medical evidence shall be defined as evidence in the form of at least two double-blind clinical studies which conform to accepted designs and protocols and are conducted by different persons, independently of each other. Such persons shall be dermatologists who are recognized as specialists in acne and its treatment and who are experienced in conducting such studies.

C. Disseminating or causing the dissemination of any advertisement by means of the U.S. mails or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly makes representations referring or relating to the performance or efficacy of any product or refers or relates to any characteristic, property or result of the use of any product, unless, at the time of each dissemination of such representation(s) respondents possess and rely upon a reasonable basis for such representation(s).

D. Disseminating or causing the dissemination of any advertisement by means of the U.S. mails or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly:

1. Represents through an endorsement that use of Acne-Statin or any other acne product by persons with acne will result in skin free of pimples, blackheads, whiteheads or any other blemishes associated with acne;

2. Represents through an endorsement that Acne-Statin or any other acne product can eliminate the cause of acne or any skin condition associated with acne;

3. Represents through an endorsement that Acne-Statin or any other acne product is superior to prescription or over-the-counter acne preparations in the treatment of acne or any skin condition associated with acne; and

4. Makes representations through an endorsement, referring or relating to the performance or efficacy of any product or referring or relating to any characteristic, property, or result of the use of any product, unless, prior to the time of the first dissemination of such representation(s), respondents make a reasonable inquiry into the truthfulness of a proposed endorsement and possess and rely upon information from reliable sources independent of the advertiser or other parties with an interest in the product or service which is the subject of the endorsement. For purposes of this provision "information" may include tests or studies in the possession of the advertiser, however, such information must be independently evaluated by reliable sources in order to provide a basis for an endorsement. For products or services not related to health or safety, respondents may rely on the personal experience of the endorser where the evaluation of such products or services, for purposes of any endorsement, requires no professional expertise and such products or services can be reasonably evaluated through lay use. Additionally, if a material connection exists between the endorser and the advertiser or its advertising agency, such connection must be disclosed in the advertisement(s) which contain the endorsement. A "material connection" shall mean, for purposes of this section, any financial interest in the sale of the product or service which is the subject of the endorsement or any familial connection between the endorser and the advertiser or its advertising agency.

II

It is further ordered, That if any party involved in the marketing, sale and/or advertising of Acne-Statin is directed, by a final order of the Commission or a final court decree, to make restitution, then respondents Cooga Mooga, Inc. and/or Boone will contribute their pro rata share to such restitution. Such restitution shall not exceed the total amount of monies paid by the Acne-Statin Joint Venture and/or any party to that venture to Cooga Mooga, Inc. and/or Boone. Furthermore, such restitution shall be limited to no more than twenty-five cents (25¢) for each bottle for which a refund is returned. However, if a partial restitution is ordered, respondents' pro rata share of such restitution shall be the fraction, that is twenty-five cents (25¢) per bottle (the numerator) over the actual sales price of the bottle (the denominator), of the restitution ordered. Respondents' restitution shall be confined to all purchases made during the advertising campaign which contained Boone's endorsement and all reorders made by persons who first purchases Acne-Statin during such campaign or for a period of two (2) months after the last disseminated advertisment bearing "Boone's" endorsement; provided however, if a United States District Court, pursuant to Section 19 of the Federal Trade Commission Act, 15 U.S.C. 57b, imposes different restitution obligations on Cooga Mooga, Inc. and/or Boone, such obligations shall supersede this order provision. However, if the District Court does not address the respondents as parties, their obligation for restitution shall be defined by this provision.

III

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That each respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That each respondent shall, within sixty (60) days after this order becomes final, and annually thereafter for one (1) year, file with the Commission a report, in writing, signed by respondent, setting forth in detail the matter and form of its compliance with this order.

It is further ordered, That each respondent shall maintain files and records of all substantiation related to the requirements of Parts IB, IC and ID of this Order for a period of five (5) years after the first dissemination of any advertisement which relates to that portion of the Order. Additionally, such materials shall be made available to the Federal Trade Commission or its staff within fifteen (15) days of a demand for such materials.

ANALYSIS OF PROPOSED CONSENT TO AID PUBLIC COMMENT

The Federal Trade Commission has provisionally accepted an agreement to a proposed consent order from Cooga Mooga, Inc., and Charles E. Boone.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Com-

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ments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charged the respondents with disseminating and causing the dissemination of advertisements containing several false and misleading representations regarding Acne-Statin, an acne preparation. In particular, the complaint alleged that respondent Boone endorsed the product and indicated his family's satisfaction with the product. Boone's endorsement related directly to the product's efficacy and a medical evaluation of the product. The complaint also alleged that the advertisements claimed that Acne-Statin would cure and eliminate the cause of acne, resulting in skin free of pimples and blemishes, and that it was scientifically tested and superior to soap as well as all other acne preparations in the treatment of acne. Finally, the complaint alleged that photographs of bacterial colonies were used in the advertisement to represent the effectiveness of Acne-Statin for killing the bacteria which causes acne, when in fact the photographs were pictures of other types of bacteria, not bacteria which is casually related to acne.

The consent order contains the following provisions designed to remedy the advertising violations charged.

Parts IA(1)–(5) prohibit the dissemination of claims that Acne-Statin cures acne, eliminates the bacteria or fatty acids responsible for blemishes, and is superior to all other acne preparations.

IA(6) prohibits Charles E. Boone from representing that he or any member of his family benefited from the use of any product unless in fact they did benefit from the product.

IA (7) and (8) prohibit any misrepresentation of the extent to which any product has been tested or the results of such tests and any misrepresentations of the efficacy, use or mode of performance, of any health or safety-related products.

Part IB defines the scientific or medical evidence necessary as a reasonable basis for any claim that any acne product, including Acne-Statin, eliminates the cause of acne; will result in skin free of acne blemishes; and is superior to other acne preparations.

Part IC required respondents to have a reasonable basis at the time of dissemination for any representation relating to the efficacy, performance, any characteristic or property, or the result of use of any product.

Part ID requires respondents to make a reasonable inquiry into the truthfulness of any proposed endorsement relating to any characteristic, property, efficacy, performance, and the result of use of any product or any endorsement to the effect that Acne-Statin or any acne product can eliminate the cause of acne; is superior to other acne preparations; and that use of such a product will result in skin free from blemishes.

Part II requires respondent Boone to pay his pro rata share of any restitution which might be ordered by the Commission or by a court.

Part III of the Consent Order requires that respondents distribute a copy of the order to each operating division; notify the Commission at least thirty (30) days prior to any proposed structural change in the corporate respondent which affects compliance with the Consent Order; file an initial compliance report with sixty (60) days of the effective date of the Consent Order; and maintain records of all substantiation related to the requirements of Parts IB, IC and ID of the Consent Order for five (5) years after the first dissemination of any advertisement which relates to that portion of the Consent Order and make such records available to the staff of the Federal Trade Commission within fifteen (15) days of a demand for such material.

The purpose of this analysis is to facilitate public comment on the proposed order and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-13284 Filed 5-15-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

[Reg. No. 16]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Evidence of Permanent Residence in the United States Under Color of Law

AGENCY: Social Security Administration, HEW.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The proposed amendment to the regulations provides that aliens who have continuously resided in the United States since before January 1, 1970, will be presumed to be permanently residing in the United States under color of law. The proposed amendment to the regulations is based on a policy decision, and constitutes a more liberal definition of the phrase "permanently residing in the United States under color of law". This change is intended to provide aliens who are long-term residents of the United States, and who are unable to provide the documentation required by current regulations (§ 416.204), another way to establish that they are permanently residing in the United States under color of law for purposes of the Supplemental Security Income (SSI) program.

DATES: Comments must be received on or before June 30, 1978.

ADDRESSES: Prior to final adoption of the proposed amendment to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, MD. 21203.

Copies of all comments received in response to this notice will be available during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Mr. S. J. Weissman, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7341.

SUPPLEMENTARY INFORMATION: Under section 1614(a)(1)(B) of the Social Security Act the term "aged, blind, or disabled individual" means an individual who among other requirements is "a resident of the United States, and is either (i) a citizen or (ii) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act)." Section 416.204 of present Regulations No. 16 interprets the phrase "permanently residing in the United States under color of law" as individuals who can provide one of the following forms of documentation:

1. INS Form I-94 (Arrival-Departure Record) endorsed "REFUGEE—CONDITIONAL ENTRY".

2. INS Form I-94 endorsed to show bearer has been paroled for an indefinite period pursuant to section 212(d)(5) of the Immigration and Nationality Act.

3. Documentation in the form of correspondence from the Immigration and Naturalization Service stating the applicant has been granted indefinite voluntary departure or an indefinite stay of deportation.

4. If the evidence described above is not available, the applicant shall state the reason therefor and submit other evidence of probative value.

A number of aliens who were converted from State welfare rolls to SSI beneficiary status at the inception of the program were removed from the rolls when their cases were redetermined, because they were unable to establish that they were either lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. While most of these individuals were long-term residents of the United States, they could not provide appropriate Immigration and Naturalization Service (INS) documentation as described above. The action removing these beneficiaries from the SSI rolls and denying post 1973 applicants in similar circumstances has resulted in considerable hardship for these individuals. Because of this we propose to expand the definition of "permanently residing in the United States under color of law."

The expanded definition provides that aliens who have continuously resided in the United States since before January 1, 1970, will be presumed to be permanently residing in the United States under color of law. This proposed amendment to the regulations parallels President Carter's proposed legislation for granting permanent resident status to aliens who have been in the United States since before January 1, 1970.

The proposed amendment to the regulations will permit aliens who were converted from State welfare rolls to SSI beneficiary status at the inception of the program and later terminated, because of not meeting current policy requirements of permanently residing in the United States under color of law, to reestablish entitlement assuming all eligibility requirements, including the since before January 1, 1970, residency requirement, have been met. It would also provide similar treatment to post 1973 applicants who have resided in the United States since before January 1, 1970.

Where an alien establishes permanent residence in the United States as described above and meets all other eligibility requirements for SSI benefits, the claim will be allowed. In this situation, we will notify INS of the alien's presence in this country. Disclosure to INS is authorized by § 401.3(b)(2) of Regulation No. 1 (published as an interim regulation in the FEDERAL REGISTER of March 16, 1977 (42 FR 14703)). Such notification to INS is essential for our purposes because the color of law concept requires an open residence in the United States. Thus, it is necessary that the appropriate Federal authority is aware of the alien's residence in this country. This notification will permit INS to take whatever action it deems necessary with respect to adjusting the alien's status. An adjustment of status would serve to verify our determination that the alien is permanently residing in the United States under color of law.

However, we do not propose or intend to inquire into whether the alien has filed for adjustment of status, as the purpose of the proposed amendment is designed solely to qualify long-term residents of the United States for the SSI program. In the event an alien is deported after having been determined to be eligible, his or her benefits would be suspended pursuant to § 416.1329.

Since this policy represents a change of position, it would have a prospective effect, beginning with the date the amendment becomes effective. If this amendment is adopted, aliens who were denied in the past due solely to their inability to provide evidence of permanent residence in the United States under color of law, and who seek the benefit of this policy change will be required to file a new application for SSI benefits. Aliens converted from State welfare rolls at the inception of the SSI program and later terminated, upon redetermination, for the same reason expressed in the preceding sentence, and who seek the benefit of this policy change will also be required to file a new application for SSI benefits.

Reopening and revision of a prior unfavorable determination would not be appropriate, because at the time the determination of denial or termination was made it was correct and in accordance with existing policy and regulations. A change of legal interpretation would not constitute "good cause" for reopening and revising a prior decision (§ 416.1481). However, if an alien has been notified that his or her claim has been denied or his or her benefits terminated (in the case of an alien who was converted from the State welfare rolls to SSI beneficiary status) and during the appeals process eligibility is established or reestablished based on this change of policy, no new application is required to entitle or reentitle the alien to benefits beginning with the first month the alien is eligible. The first month of entitlement or reentitlement would be the month the proposed amendment becomes effective.

Accordingly § 416.204 is being amended by revising paragraph (a)(3) and adding paragraph (a)(4). As previously stated, the proposed change provides that aliens who have continuously resided in the United States since before January 1, 1970, will be presumed to be permanently residing here under color of law.

The proposed amendment is to be issued under the authority contained in sections 1102, 1614(a)(1)(B), 1631(d)(1), of the Social Security Act, 49 Stat. 647, as amended, 86 Stat. 1471, and 86 Stat. 1475; 42 U.S.C. 1302, 1382c(a)(1)(B), and 1383(d)(1).

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income for the Aged, Blind, and Disabled.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: March 20, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: May 9, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. Section 416.204 is amended by revising paragraph (a)(3) and by adding paragraph (a)(4) to read as follows:

§ 416.204 Evidence of permanent residence in the United States under color of law.

(a) *Type of evidence to be submitted.* Evidence that an applicant has been residing permanently under color of law in the United States, as defined in § 416.120 for the purposes of establishing eligibility for Supplemental Security Income payments, shall be of the following character:

* * * * * *

(3) Documentation in the form of correspondence from the Immigration and Naturalization Service stating the applicant has been granted indefinite voluntary departure or an indefinite stay of deportation, or

(4) Evidence which establishes that the applicant has continuously resided in the United States since before January 1, 1970. Where the applicant establishes permanent residence in the United States under color of law as provided for in this subparagraph (4), and where the applicant meets all other eligibility requirements, the Social Security Administration will notify the Immigration and Naturalization Service of the presence of the applicant in this country.

* * * * * *

[FR Doc. 78-13166 Filed 5-15-78; 8:45 am]

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[4110-03]

Food and Drug Administration

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[21 CFR Part 436]

[Docket No. 78N-0129]

ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Tests Regarding Residual Quaternary Amines; Withdrawal of Proposal and Termination of Rule Making Proceedings

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposal.

SUMMARY: The Commissioner of Food and Drugs is withdrawing a proposal to establish limits for residual quarternary amines as a requirement for certification of bulk antibiotics used in oral and parenteral products. Too much time has elapsed since the proposal was published, and the proposal is being withdrawn for reconsideration.

EFFECTIVE DATE: May 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 7, 1969 (34 FR 18045), the Commissioner issued a proposal to establish limits for quarternary amines as a requirement for certification of bulk antibiotics used in oral and parenteral products. Included in the proposal were tests and methods of analysis for detecting residues of quaternary ammonium compounds in procaine penicillin G and tetracycline antibiotics. The proposal would have added new §§ 141.120 and 141.585 to 21 CFR Part 141, which was subsequently recodified as 21 CFR Part 436 in the FEDERAL REGISTER of May 30, 1974 (39 FR 18922)).

Because of the excessive time that has elapsed since the proposal was published, the Commissioner has decided to withdraw the proposal pending his reconsideration of the matter. If he concludes that action is required on this matter, a new proposal will be issued.

Therefore, the proposal published in the FEDERAL REGISTER of November 7, 1969 (34 FR 18045) on this matter is hereby withdrawn.

This withdrawal is issued under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052-1053, as amended, 1055 (21 U.S.C. 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: May 9, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13187 Filed 5-15-78; 8:45 am]

[4510-23]

DEPARTMENT OF LABOR

Office of the Secretary

[41 CFR Part 29-50]

CENTRALIZED DATA PROCESSING FACILITIES

Cooperation With State and Local Governments To Coordinate and Improve Information Systems

AGENCY: Department of Labor.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Labor Procurement Regulations by establishing a new Part to provide regulations and procedures on the use of State owned or controlled centralized data processing facilities by State and local governments, when such facilities are financed in whole or in part with Federal funds. This amendment is necessary to provide procedures to implement OMB Circular No. A-90, and transmittal No. 1.

DATE: Written comments concerning the proposed regulations are invited and must be received on or before June 15, 1978.

ADDRESS: Written comments shall be submitted to the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, Attention: Walter C. Terry, Director, Office of Grants, Procurement and ADP Management Policy.

FOR FURTHER INFORMATION CONTACT:

Theodore Goldberg, Assistant Director, Division of Grants and Procurement Policy, Office of Grants, Procurement, and ADP Management Policy, Room S-1325, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-9175.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of the Secretary of Labor, contained in the Act of March 4, 1913 (37 Stat. 736, 29 U.S.C. 551) it is proposed that 41 CFR, Chapter 29, Department of Labor Procurement Regulations (DOLPR) be amended. The amendment is necessary to add a new part to provide procedures for implementing the Office of Management and Budget (OMB) Circular No. A-90, and Transmittal Memorandum No. 1. We believe the development of a coordinated information system will result in mutual savings for all involved.

This document was prepared under the direction and control of Walter C. Terry, Director, Office of Grants, Procurement, and ADP Management Policy, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor.

It is proposed to amend 41 CFR Chapter 29 as follows:

PART 29-50—COOPERATION WITH STATE AND LOCAL GOVERNMENTS TO COORDINATE AND IMPROVE INFORMATION SYSTEMS

Sec.
29-50.000 Scope of part.
29-50.100 General.
29-50.101 Definition.
29-50.200 Policy.

AUTHORITY: 63 Stat. 389, 80 Stat. 379; U.S.C. 301, 40 U.S.C. 486(c); Reorganization Plan No. 6 of 1950, 14 FPR 3174, 64 Stat. 1263, 5 U.S.C. Appendix; Office of Management and Budget Circular No. A-90 and Transmittal Memorandum No. 1.

§ 29-50.000 Scope of part.

This part describes policies and procedures for carrying out the requirements of the Office of Management and Budget (OMB) Circular No. A-90, of September 7, 1976, regarding the use of State centralized data processing facilities by State and local agencies which receive Federal assistance from the Department of Labor (DOL) (hereinafter referred to as applicable State agency). The provisions of this part shall be employed by all DOL Agencies with respect to programs involving Federal assistance.

§ 29-50.100 General.

In recent years, there has been an increasing trend toward establishing centralized data processing facilities by State governments. These facilities are necessary to provide for more coordinated and effective intergovernmental flow of information concerning separate but related government programs devoted to public needs, and to eliminate duplication. The Department of Labor, through its various Agencies, is committed to implementing comprehensive communications-based systems in support of various assistance programs (e.g., State Employment Security Agencies support by the DOL Employment and Training Administration). The Department of Labor is also committed to cooperating with State and local governments in their efforts to achieve more coordinated and effective intergovernmental (Federal, State, and local) flow of information and to eliminate unnecessary duplication. Because of a new emphasis on automation and increasing demands for greater cooperation between Federal, State and local elements of governments in the development and use of State centralized data-processing facilities, the following policies and guidelines are to be utilized in handling requests for approval of the use of State centralized facilities to process all or part of the applicable State agency's federally financed workloads.

§ 29-50.101 Definition.

The term "information system" refers to a body of organized procedures for identifying, collecting, processing, retrieving, and disseminating information. It refers both to a continuing system and to a system established for one-time reports.

§ 29-50.200 Policy.

(a) The Department of Labor will direct all applicable State agencies to cooperate and participate with State and local officials in determining the optimum means for meeting interrelated Federal, State, and local information requirements, and to assure that an applicable State agency's individual requirements are not imposed in a manner which unduly impedes State and local governments' ability to meet other information requirements. When Federal information requirements are to be imposed on State or local governments, the views of the chief executives of the units of government affected, or their authorized representatives, shall be sought, considered, and when possible, implemented; and shall be included in the official record of the agency documenting the coordination. A reasonable time (21 days) shall be allowed for responses.

(b) The Department of Labor will approve utilization of available Federal Resources to States to pay the applicable State agency's fair share of the cost of the proposed data-processing facility activities or for services received from a central facility. The costs for providing such services shall be reasonable and in accordance with the principles contained in Federal Management Circular (FMC) 74-4 and the Department of Labor's implementing procedures entitled "ADP Cost Determination Guide: An Application of Cost Principles Contained in FMC 74-4 to ADP facilities." In determining reasonableness, consideration will be given to the several options under which the services could have been provided. The proposed system or use of a centralized facility must lead to improvements or benefits for both the applicable State agency and other elements of the State government. The quality of the service must be assured and acceptable to the applicable State agency and the Department of Labor.

(c) The Department of Labor, through applicable State agencies, will pay for centralized ADP services only on the basis of a Federally-approved cost allocation and direct charge plan, and only after the completion and approval of a comparative cost analysis. Such analysis must consider book value and economic life span of applicable State agencies' owned equipment. An annual agreement between the applicable State agency and the centralized facility must establish ceiling costs and be approved by the Department of Labor; costs in excess of the agreement may not be transferred to other Federal grants or contracts. Annual efficiency and economy reviews shall be conducted to determine the most cost effective method to meet approved applicable State agencies' objectives. Based on these reviews, the Department of Labor, through its applicable State agencies, reserves the right to terminate any centralization agreement upon a 90-day written notice.

(d) The Department of Labor will direct applicable State agencies to specifically state in their request for proposals that the State central data-processing facility has the opportunity to submit a major procurement for providing service through its central data-processing facility.

(e) The Department of Labor encourages computer sharing by permitting other State facilities access to excess computer capacity from the applicable State agency facility on a reimburseable basis, provided that Department of Labor programs are not adversely affected. When the applicable State agency's equipment is used to service two or more cost objectives, the costs for providing such services shall be reasonable and in accordance with the cost principles contained in FMC 74-4 and the Department of Labor's implementing procedures as cited in paragraph (b) above.

(f) In all cases where an applicable State is served by a State centralized data-processing facility, the DOL-approved agreement between the applicable State agency and the central facility will provide for the right of Federal review and/or audit of facilities, including periodic cost determination reviews by the Federal personnel.

(g) The Department of Labor will, upon request, provide assistance to applicable State agencies in regard to developing ADP cost algorithms. The Department of Labor will review each applicable State agency for assistance in the context of other similar types of proposals being considered or previously approved, in order to assist the applicant in taking advantage of other experiences, promote appropriate compatability among systems and avoid the financing of unnecessary duplicate efforts.

(h) In instances the "lead agency" role (where developmenmt of proposals involves several grant-in-aid programs or possible several Federal agencies), such a role will be automatically assumed by the Federal agency having potentially the predominant financial interest. The "lead agency" will be responsible for convening all other agencies involved for the purpose of (1) Conducting a joint review of the merits of the proposal, (2) exchanging views on possible agency actions, and (3) framing a coordinated approach to the proposal.

(i) The Department of Labor will participate, through applicable State agencies, in all joint meetings during the course of the developmental projects, and will be represented on all steering committees, policy committees, advisory committees, data-processing authority, etc., that affect the operation of the central facility.

Signed of Washington, D.C., this 9th day of May 1978.

ALFRED M. ZUCK,
Assistant Secretary for Administration and Management.

[FR Doc. 78-13253 Filed 5-15-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[45 CFR Part 234]

AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; PROTECTIVE, VENDOR, AND TWO-PARTY PAYMENTS

Decision to Develop Regulations

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration is planning to publish proposed regulations to implement the new statutory provisions involving protective, vendor, and two-party payments in the Aid to Families with Dependent Children (AFDC) program.

Under the proposed regulations, the limitation on the number of individuals receiving AFDC protective and vendor payments who can be counted as recipients for Federal financial participation in any month, will be raised from 10 percent to 20 percent of the number of other AFDC recipients in the State for that month. Two-party checks drawn jointly to the order of the recipient and the person furnishing goods, services, or items, will be included within the 20 percent limitation, along with protective and vendor payments, in cases where a determination has been made that the relative of the child involved has demonstrated such inability to manage funds that the child's welfare is jeopardized. The regulations will also require a statement of the specific reasons for making protective, vendor, or two-party check payments to be placed in the file of the child involved.

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FOR FURTHER INFORMATION CONTACT:

Mr. C. B. Wooldridge, Room 4111, 330 C Street, SW., Washington, D.C. 20201, telephone 202-245-8817.

Dated: May 1, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-13168 Filed 5-15-78; 8:45 am]

[6315-01]

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1061]

[CSA Instruction 6132-2a]

CHARACTER AND SCOPE OF SPECIFIC PROGRAMS

Community Food and Nutrition Program (CFNP)

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: The Community Services Administration is filing a proposed rule revising its policy statement for the Community Food and Nutrition Program funded under section 222(a)(5) of the Economic Opportunity Act of 1964, as amended. This proposed rule is required since CSA has determined that there is a need for policy changes to the prior year's funding policy and a need to inform applicants regarding this FY's application and review process. This proposed rule details policies, application procedures, and allocations relevant to funding Community Food and Nutrition projects with FY 78 funds.

DATE: CSA welcomes comments on this proposed rule. All comments received prior to June 12, 1978, will be considered.

ADDRESS: Please address all comments to: Community Services Administration, Office of Program Development, Attn: Marshall Boarman, Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Marshall Boarman, 202-254-5140.

SUPPLEMENTARY INFORMATION: CSA is proposing to revise § 1061.50-1 through 1061.50-15 (CSA Instruction 6132-2). The proposed revision reflects changes in program emphasis and program categories and provides a more detailed picture of eligible activities than is found in the current subpart and instruction. These changes are the result of the recommendations of CFNP planning sessions whose participants included representatives of CSA Headquarters and Regional Offices, CAA's, SEOO's, anti-hunger groups, low-income people, Indian people and migrants.

The shift in program enphasis will be away from direct service delivery by grantees and toward the stimulation of the delivery of goods and services to the poor by other agencies and institutions. To bring about this shift, it is essential that all CFNP grantees—community action agencies and other organizations and groups—work together and not at cross purposes. Evidence of intent to cooperate will be a factor in rating applications.

The categories of projects eligible for funding in FY 78 are listed in the proposed rule in the order of their priority: (1) Access, (2) self-help, (3) food supply and (4) crisis relief. Unlike last year, FY 78 program priorities will not be defined in terms of percentages.

The deletion of advocacy as a separate program category does not imply any weakening of the advocacy thrust of the program. On the contrary, it reflects recognition of the fact that advocacy cuts across all program categories. The pervasiveness of advocacy is apparent in the examples of eligible activities shown under each of the four program categories.

Section 7 on "Priority Categories of Beneficiaries" in CSA Instruction 6132-2 has been deleted.

USDA has issued instructions to Food and Nutrition Service Regional Administrators and State Welfare Commissioners which should greatly expedite certification procedures for persons applying for food stamp benefits. It should no longer be necessary, therefore, for CFNP funds to be used on the same scale as in the past for direct financial assistance and feeding support.

Prospective applicants are encouraged to submit their notice of intent to apply for a CFNP grant to the appropriate area and statewide Clearinghouses as soon as possible. There is no need to wait for publication of the final rule in the FEDERAL REGISTER to submit notice of intent to apply.

WILLIAM W. ALLISON,
Deputy Director.

The regulations on the Community Food and Nutrition Program, 45 CFR 1061.50-1 through 1061.50-15, are proposed to be revised as follows:

Sec.

1061.50-1 Applications.
1061.50-2 Definitions.
1061.50-3 Purpose of the subpart.
1061.50-4 Introduction.
1061.50-5 Policy.
1061.50-6 Purposes of the program.
1061.50-7 Program categories.
1061.50-8 Eligible participants.
1061.50-9 Eligible applicants.
1061.50-10 Funding.
1061.50-11 Application procedures.
1061.50-12 Reporting requirements.
1061.50-13 Current FY application and review information.

AUTHORITY: Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

§ 1061.50-1 Applicability.

This subpart is applicable to all grants and contracts funded under section 222(a)(5) of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1061.50-2 Definitions.

(a) *Program.* The provision of federal funds and administrative direction to accomplish a prescribed set of objectives through the conduct of specific activities. Example: CSA's Community Food and Nutrition Program.

(b) *Project.* The implementation level of a program where resources are used to produce an end product that directly contributes to the objectives of the program. Example: The community garden project of the CAA in Philadelphia, Pa.

(c) *Catalyst.* A person or thing which stimulates, triggers, expedites or facilitates the production of something.

§ 1061.50-3 Purpose of the subpart.

This subpart sets forth CSA's policy for the Community Food and Nutrition Program (CFNP) authorized under section 222(a)(5) of the Economic Opportunity Act of 1964, as amended. It discusses the program purposes and categories of activities, participant and applicant eligibility criteria, application procedures and reporting requirements. The appendices provide additional information relating to funding for the current fiscal year and the process for reviewing, rating and ranking applications.

§ 1061.50-4 Introduction.

(a) Section 201(a) of the Economic Opportunity Act of 1964 as amended states that the basic purpose of all Title II programs, including the Community Food and Nutrition Program, is—"to *stimulate* a better focusing of all available local, state, private and Federal resources upon the goal of enabling low-income families and low-income individuals * * * *to become fully self-sufficient*" (emphasis added).

(b) This statement sums up CSA's historic mission which has been to serve as a stimulator or catalyst of activities conducted by other public and private institutions rather than as a provider of services in competition with these institutions. CSA's limited funds make it necessary, in any event, for CFNP projects to reduce their involvement in direct service delivery and to function primarily as advocates and catalytic agents.

(c) A second important point made in the statement quoted above is that the catalytic activity of Title II programs, including the CFNP, should be directed to helping the poor escape the cycle of poverty. The relevance of the CFNP to this objective is underscored by a report entitled "Dietary Goals for the United States" issued in December, 1977, by the U.S. Senate's Select Committee on Nutrition and Human Needs. According to the report, an inadequate diet is a principal cause of six of the ten leading killer diseases—the six being diabetes, strokes and hypertension, heart disease, some cancers, arteriosclerosis and cirrhosis of the liver. An inadequate diet leads to ill health which in turn leads to unemployability and chronic dependence on public assistance programs. Hence the importance of a concentrated attack on the problem of malnutrition among the poor.

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§ 1061.50-5 Policy.

(a) Section 222(a)(5) of the Economic Opportunity Act authorizes: "A program to be knowm as Community Food and Nutrition designed to provide, on an emergency basis, directly or by delegation of authority pursuant to the provisions of Title VI of this Act, financial assistance for the provision of such supplies and services, nutritional foodstuffs, and related services as may be necessary to counteract conditions of starvation or malnutrition among the poor. Such assistance may be provided by way of supplement to such other assistance as may be extended under the provisions of other Federal programs, and may be used to extend and broaden such programs to serve economically disadvantaged individuals and families where such services are not now provided."

(b) In its effort to "supplement" and "extend and broaden" other Federal food programs, the CFNP must not lose sight of the essentially catalytic nature of CSA's mission referred to in § 1061.50-4. Funds should be used primarily as seed money or in ways that have a multiplier effect and not for duplicative or long-term feeding programs. The emphasis on catalytic activity does not preclude the use of CFNP funds, in *emergency* situations, for the direct delivery of foodstuffs and related services to individuals and families within CSA poverty guidelines who are insufficiently served or not served at all by other programs.

(c) In addition, CFNP projects will be expected to conform to the five purposes of Title II programs listed in section 201(a) of the Economic Opportunity Act and reflected in CSA's General Standards of Effectiveness, and to the two specific purposes of the CFNP cited in section 222(a)(5) of the EOA and reflected in the *specific* Standards of Effectiveness. (All of these purposes/standards are outlined below. See also CSA Instruction 7850-1a for detailed procedures on how all projects are to address the Standards of Effectiveness.)

§ 1061.50-6 Purposes of the program.

(a) Every CFNP Project, while not expected to achieve each of the following Title II purposes (*General Standards*), must contribute to the achievement of *at least one* of them:

I. *Planning and Coordination.* Strengthened community capabilities for planning and coordination so as to insure that availible assistance related to the elimination of poverty can be more responsive to local needs and conditions.

II. *Improvement of Service Delivery.* Better organization of services related to the needs of the poor.

III. *Maximum Feasible Participation.* Maximum feasible participation of the poor in the development and implementation of all programs and projects designed to serve the poor.

IV. *Mobilization of Resources.* Broadened resource base of programs directed to the elimination of poverty so as to include all elements of the community able to influence the quality and quantity of services to the poor.

V. *Innovative approaches.* Greater use of new types of services and innovative approaches in attacking causes of poverty, so as to develop increasingly effective methods of employing available resources.

(b) In addition, each CFNP project must contribute to the achievement of at least one of the following legislatively-mandated purposes of the community food and nutrition program (specific standards of effectiveness):

I. Improvement in the nutritional status of the target population.

II. Reduction in hunger among the target population.

§ 1061.50-7 Program categories.

The categories of projects eligible for funding under the community food and nutrition program are as follows:

(a) *Access.* To improve the opportunities for low-income people to gain access to, and participate in, Federal and non-Federal food and nutrition programs. Activities eligible for funding under this category include but are not limited to:

(1) Expanding the participation of eligible individuals and families in the various Federal food programs, (e.g., food stamps, school breakfast and lunch, child care feeding, WIC, elderly feeding, etc.) through a range of activities focusing on program operators, such as:

(i) Monitoring programs conducted by other agencies to insure compliance with relevant Federal and State statutes and regulations.

(ii) Seeking changes in Federal and State statutes and regulations to insure a more equitable distribution of food and nutrition benefits to the poor;

(iii) Participating with the State in the development of State plans, certification manuals, etc., for food and nutrition programs;

(iv) Building coalitions to make possible community input into the improvement and implementation of programs;

(v) Initiating projects to fill gaps in existing feeding programs while at the same time negotiating the transfer of funding for such projects to other agencies;

(vi) Designing and carrying out strategies for obtaining matching funds for new and existing projects supported from CFNP funds, and for spinning off such projects to other agencies (e.g., projects funded under HEW and USDA such as title XX; food stamp outreach.

(2) Expanding participation of the poor in food programs through a range of activities focusing on participants, such as:

(i) Catalyzing an expanded and more effective outreach program on the part of other agencies;

(ii) Initiating, or stimulating the formation of, community education programs aimed at apprising low-income persons of their entitlements under Federal and non-Federal food programs;

(iii) Stimulating efforts to provide the poor with assistance in prescreening and application procedures and with adequate representation in administrative hearings, etc.;

(iv) Encouraging USDA and HEW to design new (and redesign existing) nutrition education and consumer education programs so they are more responsive to the needs of low-income consumers;

(v) Encouraging USDA and HEW to direct more research toward the food and nutrition problems of the poor.

(b) *Self-help.* To improve, through self-help projects, the ability of low-income people to produce and purchase foodstuffs. Activities eligible for funding under this category include but are not limited to:

(1) Activities centered around the production, preservation, conservation, distribution, and utilization of foodstuffs, such as:

(i) Organizing family and community gardens;

(ii) Organizing food co-ops and buying clubs;

(iii) Establishing greenhouses, canneries, food gleaning projects, etc.;

(iv) Organizing farmers markets, etc.;

(2) Activities which support self-help projects, such as:

(i) Mobilizing the resources of State agriculture departments, land grant colleges, co-op extension services, USDA (e.g., the Agricultural Stabilization and Conservation Service), VISTA, CETA, etc. for obtaining seeds, plants, land, water, and information;

(ii) Cooperating with land grant and other colleges to provide more assistance to small scale (even part-time) growers, etc.;

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(iii) Promoting the utilization of unused Federal, State, and local land for food production;

(iv) Seeking to change laws and regulations that impede the involvement of the poor in food production, processing, and distribution, etc.

(c) *Food supply.* To increase, through projects other than self-help projects, the availability of food to the poor. Activities eligible for funding under this category include but are not limited to:

(1) Organizing consumer action relating to public and private sector food policies, food sales, and sales taxes so as to lower food prices for the poor;

(2) Developing and seeking to get adopted innovative proposals to increase the amount of food available to the poor, e.g., tax incentives for food industry donations to the poor;

(3) Developing methods to utilize excess food products as well as methods to make use of salvageable foods; etc.

(d) *Crisis relief.* To improve community crisis-relief mechanisms. Activities eligible for funding under this category include but are not limited to:

(1) Organizing food banks;

(2) Negotiating for improvements in public welfare systems for issuing emergency food stamps;

(3) Assisting communities to improve their crisis relief programs so that those most in need will receive swift relief;

(4) Providing food stuffs directly and/or issuing food vouchers but only if at least one of the following conditions is satisfied: (i) There is a temporary emergency and timely help is not forthcoming from other agencies and (ii) the provision of relief is a catalytic effort which includes a plan to transfer to another agency, within a specified period of time, responsibility for a continuation of direct services.

§ 1061.50–8 Eligible participants.

(a) All activities supported from CFNP funds must be targeted on low-income individuals and families as defined in CSA income poverty guidelines (§ 1061.2 of CSA instruction 6004-1k and changes thereto). It is important to stress this since in the case of some programs, such as the food stamp program and the national school lunch program, the persons eligible for benefits form a larger group than those who fall within CSA poverty guidelines. In such cases, the rule of thumb should be that a majority of the individuals or families served are within CSA guidelines.

(b) Individuals are eligible to participate upon a self-declaration of need without the delay of a "means test" or income investigation. Self-declaration of need makes possible immediate assistance for those suffering from hunger and in danger of malnutrition.

§ 1061.50–9 Eligible applicants.

(a) *General community projects.* (1) Section 222(a) of the Economic Opportunity Act states that the Director shall provide financial assistance "* * * in a manner that will encourage, wherever, feasible, *the inclusion of assisted projects in community action programs* * * *" [emphasis added]. In addition, section 222(a)(5) of the act requires that the Director carry out the CFNP "* * * in a manner that will insure the availability of * * * supplies and services, nutritional foodstuffs and related services *through a community action agency where feasible,* or other agencies and organizations if no such (community action) agency exists or is able to administer (the program) * * *" [emphasis and parentheses added].

(2) Therefore, applicants eligible to apply for general community fund are CAA's and limited purpose agencies (LPA's) serving as CAAs. As an exception to this rule, an SEOO which has the capability for operating general community projects may apply directly to the appropriate CSA regional office for funds to be used in a geographical area not currently served (or proposed to be served) by a CAA or by an LPA acting in place of a CAA.

(3) Other public or private nonprofit organizations or agencies, including CAP associations, which meet CSA's general eligibility criteria may apply for general community funds but must do so through a CAA or LPA acting in place of a CAA, in which case the CAA or LPA will be the grantee and the project operator will be a delegate agency.

(4) CAA's are strongly encouraged to work with anti-hunger groups and organizations where possible. This can take the form of delegating part or all of the CFNP work program to such entities; closely and systematically coordinating with these organizations and groups in the development of applications; requesting participation by representatives of these groups in the grantee's self-evaluation of the project(s), etc. The formation of such alliances exemplifies at least two of the CFNP's general standards of effectiveness (mobilization of resources and coordination) and will be a factor in rating applications received from CAA's and eligible LPA's.

(b) *Migrant projects.* Farmworker-governed organizations are eligible to apply under this funding category. Other organizations wishing to operate migrant projects may do so as contract agencies of the farmworker-governed grantees.

(c) *Indian projects.* Indian groups whose governance is controlled by the populations to be served are eligible to apply for Indian project funds. This includes Indian nations, tribes, bands, pueblos, or other organized groups or communities, including Alaskan Native villages as defined in the Alaskan Native Claims Settlement Act, who are either indigenous to the United States or who otherwise have a special relationship to the United States, or a State through treaty, agreement, executive order, law, court order, or administrative action of the Department of Interior, except as otherwise provided by Federal law.

(d) *Regional training and technical assistance (T&TA) projects.* (1) Public and private nonprofit organizations and agencies which CSA's general eligibility criteria may apply for regional T&TA funds. Applicants not previously funded by CSA must submit a statement of their T&TA experience in the food and nutrition field and document specific instances of T&TA success and-or impact.

(2) Activities proposed by T&TA applicants must be designed to assist CFNP grantees in the development of the skills required to effectively conduct the fiscal year 1978 CFNP activities outlined earlier in this subpart. T&TA efforts should focus on implementing CSA's standards of effectiveness in activities falling within national CFNP priorities.

(3) In addition, proposed activities must address the, problems that may be preventing local CFNP project sponsors from dealing effectively with the nutritional needs of the poor. These problems must be clearly identified.

(e) *Headquarters training and technical assistance (T&TA) projects and research and demonstration (R&D) projects.* (1) Public and private nonprofit organizations or agencies which meet CSA's general eligibility criteria may apply for HQ T&TA and R&D funds.

(2) As distinct from regional T&TA projects, headquarters T&TA projects will focus on grantee needs that are common to a number of regions or require a national strategy. In addition headquarters T&TA projects may be required to address the needs of other projects administered directly from headquarters, e.g. Indian projects.

(3) The objective of R&D projects is to develop new knowledge or demonstrate new hypotheses relevant to the solution of the problems of hunger and malnutrition among the poor. Activities proposed in applications for R&D funds should relate to activities described under the four program categories defined earlier in this subpart but should emphasize new and untried approaches to solving problems in the food and nutrition area. R&D projects are not intended primarily to meet the operational needs of a particular organization or the community it serves, but rather to advance the state of knowledge about the problems of hunger and malnutrition and potential solutions so as to have maximum impact on these problems nationwide.

(f) *Special support projects.* (1) Public and private non-profit organizations or agencies which meet CSA's general eligibility criteria—other than CAA's LPA's acting in place of CAA's, SEOO's and CAP associations—may apply for special support funds.

(2) Special support projects must be designed to have a broad impact on the problem of hunger and malnutrition among the poor, i.e., an impact that extends beyond the boundaries of particular communities. The objective of special support projects is to assist in the development, coordination, and expansion of food and nutrition programs for the poor on a multicounty or statewide basis.

(3) Special Support projects must relate to the four program categories outlined in 1061.50-7. Special Support activities may include but are not limited to: monitoring and interpreting changes in relevant Federal and state laws, regulations and procedures; initiating and/or coordinating legal services activities, including representation of the poor at administrative hearings; developing or improving a statewide food and nutrition information center or clearinghouse; developing or strengthening multi-county or statewide hunger coalitions and task forces; providing assistance to poor people, or their representatives, to attend meetings and conferences on food and nutrition issues, etc.

(4) Applicants must show evidence of successful experience and competence in carrying out the kinds of activities described above. In addition, applicants must indicate on their applications how they intend to coordinate their proposed activities with CAA's, the SEOO and other CFNP grantees in the state to be served.

§ 1061.50–10 Funding.

(a) *Non-Federal Share.* The non-Federal share is waived for CFNP projects (see § 1068.20 or CSA Instruction 6802-3). However, grantees are expected to mobilize local and state resources throughout the life of the project.

(b) *Federal Share.* Federal Share as matching funds granted under Section 222(a)(5) may be used to match USDA funds to support food stamp outreach projects, as well as Title XX funds.

§ 1061.50–11 Application procedures.

(a) *Required Forms—(1) Basic Forms.*

(i) OEO Form 419—Summary of Work Program and Budget (see OEO Instruction 6710-1).

NOTE.—Goals and Activities must be consistent with the Standards of Effectiveness for Section 222(a)(5) projects and the General Standards for Title II Programs outlined in CSA Instruction 7850-1a and the Form 419 must reflect these standards.

(ii) OEO Form 25—Program Account Budget (see OEO Instruction 6710-1).

(iii) SF-424 (Complete Sections I and II)—Federal Assistance (see CSA Instruction 6710-3a).

(iv) OEO Form 25a—Program Account Budget Support Sheet (see OEO Instruction 6710-1).

(v) OEO Form 301—Summary of Grant Application (see OEO Instruction 6710-1 For new grantees only.

(vi) CAP Form 5—Application for CAP-Community Information (see OEO Instruction 6710-1).

(vii) CAP Form 84—Participant-Characteristics Plan (see OEO Instruction 6710-1).

(2) The following forms are also required.—*When delegating Programs.*

(i) CAP Form 11—Assurance of Compliance with Regulations under Civil Rights Act.

(ii) CAP Form 85—Administering Agency Funding Estimate.

(iii) CAP Form 87—Delegate Agency Basic Information.

(b) *Clearinghouse Review (A-95).* Applicants are reminded that applications for CFNP funds must be submitted to appropriate Clearinghouses in accordance with the provisions of OMB Circular A-95. (See 1067.10 or Instruction 6710-3a.) Applicants are encouraged to submit their notification of intent to apply as soon as such a determination is made.

(c) *Where to Apply.*

Category of project	Send applications to
(1) General community projects.	Appropriate CSA regional office.
(2) Migrant projects.	Farmworker-governed organizations should forward applications to CSA headquarters.
(3) Indian projects..	Indian tribal councils and eligible urban Indian groups should forward applications to CSA headquarters.
(4) Regional training and technical assistance.	Appropriate CSA regional office.
(5) Headquarters training and technical assistance projects and research and demonstration (R. & D.) projects.	CSA headquarters.
(6) Special support projects.	Appropriate CSA regional office.

§ 1061.50–12 Reporting requirements.

Grantees will follow the financial and project reporting requirements outlined in CSA Instructions 6800-8 and 6800-9 respectively.

§ 1061.50–13 Current FY application and review information.

The Appendices to this subpart provide additional information relevant to funding CFNP projects in the current Fiscal Year.

APPENDIX A.—FISCAL YEAR 1978 FUNDING PROCESS

1. TIMETABLE FOR ACCEPTING APPLICATIONS

Applications will be accepted from the effective date of the final rule through July 31, 1978.

2. FISCAL YEAR 1978 PROGRAM CATEGORY PRIORITIES

The program categories described in § 1061.50-7 are listed in priority order, (1) Access; (2) Self-help; (3) Food Supply and (4) Crisis Relief.

3. REVIEW PROCESS

The review process for General Community and Special Support projects is competitive, i.e., each application will be reviewed, rated and ranked according to the rating criteria listed in Appendix B. This process will be undertaken at the CSA office where applications are submitted as indicated in § 1061.50-11 of this subpart.

4. ALLOCATION OF FISCAL YEAR 1978 CFNP FUNDS BY PROGRAM CATEGORY

In fiscal year 1978, CSA will distribute CFNP funds in the following categories and amounts:

	millions
General community projects	$16.2
Migrant projects	4.0
Indian projects	3.0
Regional T&TA projects	3.8
Special support projects	2.0

The allocation of funds to the Regions for projects in the General Community and T&TA categories will be announced in the near future.

5. CSA FORM 419 AND ATTACHMENTS

All applicants for CFNP funds are required to submit a CSA Form 419 (Summary of Work Programs and Budget). This Form is particularly important in the case of applicants for General Community and Special Support projects. Since funds for these projects will be awarded on a competitive basis, it is absolutely essential that applicants provide, through the Form 419 and attachments, as complete and specific a picture as possible of what they propose to do and how they intend doing it. Where space on the Form 419 is insufficient, continuation sheets should be used.

6. RATING CRITERIA

In preparing the Form 419 and attachments, applicants for General Community and Special Support projects should keep in mind the six criteria (discussed below) which will be used by CSA reviewing teams in rating and ranking applications (See also Appendix B).

a. Needs/Analysis. The first criterion—the analysis of needs—refers to the initial step in the planning process which lies behind the project described in the Form 419. CSA Instruction 6710-1, Change 11, requires Title II grantees to develop and maintain planning documents which address: (1) The incidence of poverty in the area served by the grantee; (2) the problems and causes of such poverty; (3) the grantee's assignments of priorities to the solutions of these problems; (4) the goals of the grantee for the proposed funding period; (5) the approaches to be used in solving the problem; (6) the resources that can be mobilized and (7) how available public and private resources can be utilized. The planning document must also

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provide evidence of participation of the poor in the development and implementation of the plan. CSA Instruction 6710-1, Change 11, further authorizes CSA to request resubmission of the relevant planning documents to support new funding requests.

Applicants who are currently being funded by CSA and who are operating CFNP projects should attach to the Form 419 that portion of the planning document which addresses the problem of malnutrition and hunger. The information should be updated where necessary. New applicants and current CSA grantees whose planning documents do not deal with the problem of malnutrition and hunger should attach to the Form 419 a needs analysis to support the choice of project goals described in the Form.

The needs analysis should describe the nature and extent of the nutritional needs of the poor in the community the project will serve. The analysis should indicate what efforts are currently being undertaken to meet those needs, what gaps or shortfalls there are in these efforts and the extent to which the needs or problems remain unmet or unsolved. The applicant should clearly identify, among the range of needs listed, the precise need(s) the proposed project will attack. Appropriate statistics to document the need(s) should be supplied—for example, the number of persons participating in the Food Stamp Program as compared with the number of eligible persons not participating.

The needs analysis should include a description of the process by which the needs to be addressed by the proposed project were determined, how the project goals were established and who participated in the process, for example, whether and to what extent the poor participated. In determining local needs, applicants should take into account not only the views of the persons being served but national priorities and statewide needs as refined in the State Needs Estimate which should be available from the Regional Office on or about June 20, 1978.

b. *Adequacy of Work Program and Budget.* The second of the rating criteria listed in Appendix B—the adequacy of the work program and budget—refers primarily to the project's goals (Item 11 of Form 419), the activities that will be undertaken to achieve these goals (Item 13) and the budget (CSA Forms 25 and 25a). The applicant should first indicate to which of the four national program categories—Access, Self-Help, Food Supply and Crisis Relief—the project relates. If the applicant proposes to address more than one of the national program categories, the application should indicate the priority assigned to each (Item 12).

The project's goals should be stated concisely and in quantitative terms where possible. the statement of goals should reflect a comprehensive planned work program for the entire requested program year. All specific activities to be undertaken by the grantee in order to achieve the stated goals should not only be listed but adequately described. The description of activities should indicate the relationship of the activities to the stated goals, i.e. the strategy by which the activities will be directed to and actually accomplish the goals.

c. *Anticipated Impact on Needs.* The statement of goals should include a description of what the applicant intends to accomplish, i.e. what results or changes the applicant intends to bring about in relation to the problem to be solved. The anticipated impact of the project should be stated in specific and measurable terms and should include the number of persons to be served, the extent to which their nutritional needs will be met and the extent to which unmet needs will remain after the project is completed.

d. *Consistency with Legislative purposes (General Standards of Effectiveness).* The project's goals and the activities undertaken in pursuit of these goals must conform not only to the national program categories described in § 1061.50-7 but also to one or more of the Title II purposes embodied in the General Standards of Effectiveness described in § 1061.50-6. Each applicant must list in Item 11 of CSA Form 419, along with the project goals, the particular specific and General Standard(s) of Effectiveness which the project will address. In addition, the applicant should, in describing in Item 13, the activities for each project goal, clearly indicate exactly *how* these Standards of Effectiveness will be addressed. In other words the applicant must state how the project will (1) strengthen the community's planning and coordinating capabilities and/or (2) improve service delivery systems and/or (3) make use of innovative approaches and/or (4) involve maximum feasible participation by the poor in the planning and implementation of the Project and/or (5) mobilize a broad range of resources. As stated in § 1061.50-8, the formation of alliances with other anti-hunger groups exemplifies one or more of the Standards of Effectiveness and will be a factor in rating applications.

e. *Catalytic Nature of the Project.* The emphasis, in the expenditure of fiscal year 1978 CFNP funds, will be on catalytic activity rather than on direct service delivery (see § 1061.50-4). The applicant should, therefore, in the statement of project goals and activities, describe the extent to which, and the manner in which, the project will stimulate other institutions, organizations or groups to become involved in the effort to eliminate hunger and malnutrition among the poor. Delegation to another agency of responsibility for operating a CFNP project does not, by itself, qualify as a catalytic activity.

f. *Ability of Applicant to Perform.* CSA Instruction 6800-9 requires Title II grantees to submit a semi-annual and annual Project Progress Review Report (CSA Form 440). This Report provides an analysis of the accomplishments in relation to each goal in the grantee's currently approved work program, and includes an assessment of grantee status with respect to general and/or specific standards of effectiveness applicable to each goal.

Since the ability of applicants to successfully carry out their proposed work program is one of the important rating criteria, applicants who are currently operating (or have operated in the past) a CFNP project should attach to the Form 419 a copy of the CFNP portion of the most recent Form 440, updating it where necessary. CSA grantees who have never operated a CFNP project should attach to the Form 419 that portion of their most recent Form 440 which relates to a project they have operated that is similar to CFNP projects. Applicants not previously funded by CSA should attach to the Form 419 a self-evaluation or third party evaluation of a project they have been operating that is similar to CFNP projects, along with a brief statement summarizing their overall administrative ability and general track record.

7. TRAINING AND TECHNICAL ASSISTANCE

The applicant's need for training and technical assistance in carrying out the project should be carefully described in Item 15 of the Form 419. It is presumed that most, if not all, projects will need some form of technical assistance. The training and technical assistance plans developed by the Regions and Headquarters will depend to a large extent upon the statement of needs supplied by applicants on the Form 419.

8. PROGRAM ACCOUNTS

For the purposes of the fiscal year 1978 funding process, the following program account numbers for the national program categories should be entered in Item 16 of the Form 419:

Program account:	*National program category*
12	Access
13	Self-help
14	Food supply
15	Crisis relief

If the applicant proposes to address more than one national program category in the same project, only one Form 419 is needed for the project but the goals and activities falling in separate program categories should be clearly separated from each other on the Form 419 and a separate budget (Forms 25 and 25a) should be attached for each program account.

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APPENDIX B

RATING CRITERIA	POINTS
1. Analysis of Needs (10 points) • The nature and extent of the problem is adequately described and documented (10 points)	
2. Adequacy of Work Program and Budget (15 points) • Project has specific and measurable goals (5 points) • Activities are adequately described and appropriately related to goals (5 points) • Budget is appropriate and adequately documented (5 points)	
3. Anticipated Impact on Needs (15 points) • Impact is minimal (5 points) • Impact is moderate (10 points) • Impact is substantial (15 points)	
4. Consistency with Legislative Purposes (General Standards of Effectiveness) (30 points) • Strengthens community's planning and coordination capabilities (7 points) • Improves service delivery systems (5 points) • Is innovative (5 points) • Involves maximum feasible participation of poor (5 points) • Mobilizes a broad range of resources (8 points)	
5. Catalytic Nature of Project (10 points) • Project stimulates the delivery of services through institutions other than the grantee (10 points)	
6. Ability of Applicant to Perform (20 points) • Assessment of past CFN or other relevant projects (10 points) • Assessment of applicant's overall administrative ability and general track record (10 points)	
TOTAL POINTS: 100	

APPENDIX B

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APPENDIX C

Applicants for General Community, Special Support and Regional T&TA projects should address requests for Forms and should submit their applications to the appropriate Regional Office listed below:

Mr. Ivan Ashley, Regional Director, CSA Region I, E-400, John F. Kenney Federal Building, Boston, Mass. 02203, phone, 617-223-4080.
Boston—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Mr. William A. White, Regional Director, CSA Region II, 26 Federal Plaza, 32d floor, New York, N.Y. 10007, phone, 212-264-1900.
New York—New Jersey, New York, Puerto Rico, and Virgin Islands.

Dr. W. Astor Kirk, Regional Director, CSA Region III, 3535 Market St.—Gateway Bldg., Philadelphia, Pa. 19104, phone, 215-596-6001.
Philadelphia—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

Mr. William "Sonny" Walker, Regional Director, CSA Region IV, 101 Marietta St., NW., Atlanta, Ga. 30303, phone, 404-242-2717.
Atlanta—Alabama, Florida, Georgia, Kentucky, Missisippi, North Carolina, South Carolina, and Tennessee.

Mr. Glenwood Johnson, Regional Director, CSA Region V, 300 South Wacker Dr., 24th floor, Chicago, Ill. 60606, phone, 312-353-5562.
Chicago—Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Mr. Ben T. Haney, Regional Director, CSA Region VI, 1200 Main St., Dallas, Tex. 75202, phone, 214-749-1301.
Dallas—Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Mr. Wayne Thomas, Regional Director, CSA Region VII, 911 Walnut St., Kansas City, Mo. 64106, phone, 816-758-3761.
Kansas City—Iowa, Kansas, Missouri, and Nebraska.

Mr. David Vanderburgh, Regional Director, CSA Region VIII, 1961 Stout St., Federal Bldg., Denver, Colo. 80294, phone, 303-327-4767.
Denver—Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

Mr. Alphonse Rodriguez, Regional Director, CSA Region IX, 450 Golden Gate Ave., Box 36008, San Francisco, Calif. 94102, phone, 415-556-5400.
San Francisco—Arizona, California, Hawaii, Nevada, and Trust Territories.

Mr. John Finley, Regional Director, CSA Region X, 1321 2d Ave., Seattle, Wash. 98101, phone, 206-399-4910.
Seattle—Alaska, Idaho, Oregon, and Washington.

[FR Doc. 78-13221 Filed 5-11-78; 2:29 pm]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 32]

REGULATION OF COMMODITY OPTION TRANSACTIONS

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of petition for rulemaking.

SUMMARY: The Commodity Futures Trading Commission has suspended, effective June 1, 1978, the solicitation or acceptance of orders or payment for the purchase or sale of commodity options. The Commission has received a petition to allow firms meeting conditions for public protection to continue to offer and sell options on physical commodities after June 1, 1978. The Commission is considering this proposal and invites interested persons to comment on it.

DATES: Public Hearing: 9 a.m., May 19, 1978. Written comments to be received on or before May 23, 1978. Proposed effective date: June 1, 1978.

ADDRESS: Written comments on the petition should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat. The public hearing will be held at the above address.

FOR FURTHER INFORMATION CONTACT:

Teresa J. Hermosillo or Mark N. Rae, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone 202-254-5347 or 202-254-7295, respectively.

SUPPLEMENTARY INFORMATION: On April 12, 1978, the Commodity Futures Trading Commission adopted Rule 17 CFR 32.11 as an amendment to its interim commodity option regulations.[1] 43 FR 16153 et. seq. (April 17, 1978). Section 32.11, which becomes effective on June 1, 1978, will generally suspend, until further action of the Commission, the solicitation or acceptance of orders or payment for the purchase or sale of commodity options.[2]

On May 11, 1978, the Commission received a petition for interim rulemaking, filed pursuant to Commission rule 17 CFR 13.2 (1977), which, among other things, petitions the Commission to amend 32.11 to allow some firms, which can meet established conditions for the protection of the public, to continue to offer and sell options on physical commodities (so-called dealer options) after June 1, 1978. The Commission is presently considering this petition.

Because the option suspension will go in effect on June 1, 1978, and will require a complete cessation of all option sales to the general public, if the Commission should be willing to give favorable consideration to the petition and adopt a rule, whether in the form proposed or otherwise, which will permit some form or degree of existence for dealer options, the Commission must act on the petition expeditiously. Accordingly, the Commission has tentatively scheduled a Commission meeting for May 23, 1978 to consider the petition and to determine whether to amend § 32.11 to allow dealer options to continue to be sold and, if so, under what terms and conditions.

In advance of that meeting the Commission is holding a hearing both on written and oral submissions to permit members of the public to express their views on the merits of the petition. Interested persons are invited to participate in this proceeding by submitting comments on the petition in written form to the Commission at the address listed below. All comments received prior to May 23, 1978, will be considered. The Commission will also hold a public hearing on Friday, May 19, 1978, to receive oral presentations regarding the petition. Persons who wish to appear and present their views orally should contact Ms. Jane Stuckey, Office of the Secretariat, at the address listed below. Oral presentations will be limited to 15 minutes. The full text of the petition is set forth below.

[1] 17 CFR Part 32 (1977), as amended, 42 FR 61831 (December 6, 1977).

[2] Section 32.11 does not, however, restrict the offer and sale of commodity options to commercial interests for use in connection with their businesses under the provisions of the trade option exemption contained in § 32.4 of the interim regulations.

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AUTHORITY: Secs. 2(a)(1), 4c(b), 8a Commodity Exchange Act (7 U.S.C. 2, 6c(b) and 12a (1976).)

Issued in Washington, D.C. on May 12, 1978.

WILLIAM T. BAGLEY,
Chairman.

PETITION FOR INTERIM RULEMAKING BEFORE THE COMMODITY FUTURES TRADING COMMISSION

Mocatta Metals Corp. (Mocatta) and Metals Quality Corp. (Metals Quality) hereby petition the Commodity Futures Trading Commission (Commission) to amend its regulation § 32.11 on the basis of the factors, and in the manner, set forth below:

STATEMENT OF INTEREST

1. Mocatta and Metals Quality are New York corporations that are engaged as a substantial portion of their business in the purchase and sale of various commodities, including gold, silver, copper, platinum, Krugerrand coins, and bags of silver coins. As part of their physical commodities business, Mocatta and Metals Quality sell and repurchase option contracts in these commodities. Mocatta and Metals Quality repurchase options sold by them to make the option contracts more liquid and, thus, more attractive to investors, although they have no legal obligation to repurchase such options. The option contracts written by Mocatta and Metals Quality permit the holder to purchase from the writer or sell to the writer a fixed amount of the specified commodity at a fixed price before a fixed time and date.

2. Mocatta and Metals Quality sell their commodity options only to registered futures commission merchants who resell the options to their customers pursuant to the Commission's interim option regulations.

3. Funds equal to 90 percent of the amount received from customers in connection with an option purchase are required to be segregated for the customers' benefit by FCMs selling Mocatta or Metals Quality options.

4. Money, securities or property equal to the amount by which the value of each option exceeds the amount received or to be received by the grantor for that option is segregated for the purchaser's benefit by Mocatta and Metals Quality.

5. Mocatta and Metals Quality provide confirmation of all option orders executed, including execution price and an option identification number.

6. Futures commission merchants selling Mocatta and Metals Quality options to their customers record the options on their books in the name of their customers by the option identification numbers provided by the grantor.

7. Mocatta first began selling commodity options in 1971, but terminated sales in view of the Goldstein-Samuelson scandals.

8. Pursuant to the regulatory authority afforded by the Commodity Exchange Act, the CFTC, on October 22, 1975, requested comments on several alternative methods of regulating trading in commodity options. 40 FR 49360 (1975).

9. In July 1976, the Advisory Committee on Definition and Regulation of Market Instruments submitted to the Commission a report concerning commodity option trading. The report suggested that the Commission initiate a pilot program of exchange option trading and that the CFTC permit nonexchange traded options, including dealer options, to continue to be traded, if dealers provided customer safeguards equivalent to an exchange market clearing mechanism. *CCH Com. Fut. L. Rep.* (Special Supp. July 1976).

10. In 1976 Mocatta and Metals Quality resumed sales of options on physical commodities.

11. On September 13, 1976, the CFTC adopted a resolution to implement a pilot program for commodity option trading.

12. On November 22, 1976, the CFTC adopted interim rules regulating trading in commodity options until the pilot program could be implemented. The rules imposed certain registration, segregation, recordkeeping, and disclosure requirements on FCMs selling commodity options, including dealer options. 41 FR 51808 (1976).

13. On April 5, 1977, the CFTC proposed the implementation of a pilot program of option trading on exchanges. Under the proposal, all other option trading would have been banned. 42 FR 18246 (1977).

14. On October 17, 1977, the CFTC revised its proposal for a pilot program. Under the revised proposal, trading in dealer options would have been permitted "if it can be shown to the Commission's satisfaction that appropriate safeguards can be instituted to alleviate the need for a clearing mechanism." 42 FR 55538, 40 (1977).

15. Mocatta, among others, submitted comments on the October 17, 1977, proposal demonstrating that options written by dealers pursuant to a suggested regulatory plan would provide safeguards equivalent to those provided by a market clearing mechanism. Mocatta's comments, filed with the Commission regarding the Commission's various option proposals, are incorporated herein by reference.

16. On February 6, 1978, the CFTC proposed that all trading of commodity options in the United States be suspended. The notice of the proposed suspension stated that oral hearings would occur on February 27, 1978, and that written comments could be submitted on or before March 8, 1978. 43 FR 4869 (1978).

17. Mocatta and others presented oral testimony and written comments to the CFTC opposing the banning of its options on the grounds, among others, that its options performed legitimate economic functions, that the sale of its options were not—and had never been—associated with the fraudulent marketing practices frequently used in the sale of London options, and that banning the sale of its options at this time could injure numerous investors.

18. On April 5, 1978, the Commission promulgated regulations banning the sale in this country of both foreign options and U.S. dealer options, effective June 1, 1978. 43 FR 16153 (1978).

19. In the FEDERAL REGISTER notice adopting the ban the Commission states that "[t]he primary purpose of this rule is to prevent members of the public from incurring any further financial losses due to the unsound and illegal practices engaged in by individuals and firms selling commodity options." 43 FR 16153 (1978). The Commission recites a series of abuses which have occurred in the sale of commodity options.

20. The sale of Mocatta and Metals Quality options have not caused the problems which resulted in the Commission's ban. To our knowledge there have been no enforcement or injunctive actions with respect to the sale of Mocatta or Metals Quality options; of the 940 reparations complaints filed as of March 8, 1978, only two even mention a Mocatta option and none relate to Metals Quality options; Mocatta and Metals Quality have never been sued by a dissatisfied option puchaser; and Mocatta and Metals Quality have never defaulted on any option they have granted.

21. If the Commission ban takes effect, Mocatta and Metals Quality will be unable to grant commodity options and will be irreparably harmed.

CONGRESSIONAL ACTION WARRANTING AMENDMENT OF REGULATION § 32.11

1. On April 14, 1978, subsequent to the date the Commission adopted its ban on the sale of commodity options, the Senate Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry reported out a CFTC reauthorization bill, S. 2391. That bill contained a provision ban-

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ning the sale of all commodity options until the Commission could demonstrate to Congress its ability to regulate commodity options, with the proviso that trade options and a designated class of dealer options sold pursuant to specified criteria could be sold notwithstanding the Congressional or any administrative ban.

2. On April 19, 1978, S. 2391 was reported out of the full Senate Committee on Agriculture, Nutrition, and Forestry without any changes in the commodity option provision.

3. The salient portion of S. 2391 regarding the dealer option exemption provides that:

(d) Notwithstanding the provisions of subsections (b) and (c) of this section or section 8a(5) of this Act, a registered futures commission merchant may offer to enter into, or confirm the execution of, any transaction subject to the provisions of subsection (b) of this section if—

(1) The grantor in the transaction is a person who: (A) is in the business of buying, selling, producing, or otherwise utilizing the underlying commodity; (B) at all times has a net worth of at least $10,000,000 certified annually by an independent public accountant using generally accepted accounting principles; (C) agrees to notify such futures commission merchant if he has reason to believe his net worth has fallen below $10,000,000; (D) segregates daily, exclusively for the benefit of purchasers, money, "exempted securities" (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction; (E) provides an identification number for each transaction; and (F) provides confirmation of all orders for such transactions executed, including execution price and a transaction identification number;

(2) The futures commission merchant has evidence that the grantor meets the requirements set forth in clause (1) of this subsection; and

(3) The futures commission merchant treats and deals with an amount of money, "exempted securities" (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal in value to the value received from its customers as payment of the purchase price in connection with such transactions, as security for performance of the transactions until the expiration or liquidation of those transactions, records each transaction in its customer's name by a transaction identification number provided by the grantor, and provides a disclosure statement to its customers, pursuant to regulations of the Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction.

(e) The provisions of subsection (c) and (d) of this section shall expire on September 30, 1984.

4. On May 9, 1978, a CFTC reauthorization bill was reported out of the full House Committee on Agriculture, including a different dealer option provision.

5. The salient portion of that bill regarding the dealer options provides that:

(4) Notwithstanding the foregoing provisions of this subsection, the Commission, in its sole discretion and subject to such rules and regulations as it may prescribe without regard to the requirements of the Administrative Procedure Act or any other provision of this Act, may permit any person domiciled in the United States who on May 5, 1978, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing or otherwise utilizing that commodity to continue to grant or issue options on that commodity. Such rules and regulations, among other things, may restrict the distribution of such options to, and the offer and sale of such options by, such futures commission merchants as may be specified by the Commission. Permission granted pursuant to this subsection may be terminated only after a hearing including a finding that the continuation of such permission is contrary to the public interest * * *.

6. In view of the fact that the cognizant committees in both the House and Senate have reported out reauthorization bills containing dealer option provisions, there is every reason to believe that the CFTC reauthorization legislation enacted into law will contain either a statutory dealer option exemption or provision for the Commission to exempt persons from the commodity option ban if they were in business on a specified date.

PROPOSED AMENDMENT

In view of the substantial change of circumstances resulting from Congressional actions since the Commission adopted its ban on the sale of commodity options, including the dealer options sold by Mocatta and Metals Quality, it would be appropriate for the Commission to permit the sale of such options.

Such permission is imperative if the Commission is to avoid the irreparable and unnecessary injury to Mocatta, Metals Quality, FCM's dealing in their options and customers that will occur if the Commission's ban were to take effect on June 1 and to be lifted shortly thereafter as a result of Congressional action. We have previously indicated the kind of injury Mocatta and Metals Quality and FCMs dealing in their options would suffer as a result of a ban on the sale of their options (see Mocatta comment letters on Commission option proposals). A letter to the Commission from Thomas A. Russo datd March 31, 1978 (incorporated herein by reference) explains the injury that could occur to existing holders of Mocatta and Metals Quality options through the demise of the two-way market for their options as a result of the Commission's ban. These potential damages are all the more unnecessary in view of the pending Congressional action.

The interim rule that we are proposing would essentially parallel the dealer option exemption language of S. 2391. While the House bill contains no specific criteria for determining when an exemption should be granted by the Commission, Congressman Richmond stated, in connection with the House dealer option provision, that the conditions set forth in the dealer option provision he had originally proposed would be appropriate criteria under the provision finally reported out of Committee. Those criteria basically were the same as the Senate criteria with the U.S. person and on a physical commodity limitations and only a $2,000,000 net worth requirement. We are suggesting a $6,000,000 requirement, halfway between the two proposals, and we have added the House bill's May 5, 1978 grandfather provision.

With these matters in mind, we respectfully petition the Commission to amend its regulation § 32.11 by adding a new paragraph (d) as follows:

(d) The provisions of paragraph (a) of this section shall not apply to the solicitation or acceptance of orders for, or the acceptance of money, securities or property in connection with, the purchase or sale of any commodity option on a physical commodity if—

(1) The option was granted by a person domiciled in the United States who: (A) on May 5, 1978 was in the business of buying, selling, producing, or otherwise utilizing that underlying commodity; (B) at all times has a net worth of at least $6,000,000 certified annually by an independent public accountant using generally accepted accounting principles; (C) agrees to notify such futures commission merchants that are selling his options if he has reason to believe his net worth has fallen below $6,000,000; (D) segregates daily, exclusively for the benefit of purchasers, money, "exempted securities" (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction; (E) provides an identification number for each transaction; and (F) provides confirmation of all orders for such transactions executed, including execution price and a transaction identification number;

(2) The futures commission merchants selling such options have evidence that the grantor meets the requirements set forth in clause (1) of this paragraph (d); and

(3) The futures commission mechants selling such options treat and deal with an amount of money, "exempted securities" (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal in value to the value received from customers as payment of the purchase price in connection with such transactions, as security for performance of the transactions until the expi-

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ration or liquidation of those transactions, record each transaction in their cutomers' names by transaction identification numbers provided by the grantor, and provide a disclosure statement to customers, pursuant to regulations of the Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction.

COMMISSION AUTHORITY TO ADOPT AMENDMENT, EFFECTIVE PRIOR TO JUNE 1, 1978

The Commission's authority to adopt the proposed amendment to Regulation § 32.11 is contained in sections 2(a)(1), 4c(b) and 8a(5) of the Act, 7 U.S.C. 2, 6c(b) and 12a (1976).

In order to effectuate the amendment prior to the June 1, 1978 effective date of the option ban, we believe that the Commission can find, pursuant to its Regulation § 13.5 and 5 U.S.C. 553(b), that notice and public participation in this proposed rulemaking are "impractical, unnecessary or contrary to the public interest," and that, pursuant to Commission Regulation § 13.6 and 5 U.S.C. 553(d), publication thirty (30) days prior to effective date is not required, for the following reasons: (1) the Commission's ban will take effect on June 1, 1978; (2) the dealer option exemptions in bills pending in Congress would not take effect prior to June 1, 1978; (3) the proposed rule is patterned after the exemptive language of the bills pending in Congress; (4) firms which would qualify under the proposed rule and their customers will be unnecessarily and irreparably harmed if the proposed rule is not in effect prior to June 1, 1978; and (5) the proposed rule is exemptive in nature.

ALTERNATIVE

Should the Commission determine not to adopt such an interim rule, we petition, in the alternative and on the grounds set forth above, that the Commission, pursuant to its authority under Regulation § 32.4(b) or otherwise, exempt from its ban on the sale of commodity options, effectuated under Regulation § 32.11, the sale of options granted by Mocatta and Metals Quality under the following conditions:

(1) The grantor in the transaction (A) at all times has a net worth of at least $6,000,000 certified annually by an independent public accountant using generally accepted accounting principles; (B) notifies futures commission merchants selling his options if he has reason to believe his net worth has fallen below $6,000,000; (C) segregates daily, exclusively for the benefit of purchasers, money, "exempted securities" (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction; (D) provides an identification number for each transaction; and (E) provides confirmation of all orders for such transactions executed, including execution price and a transaction identification number;

(2) The futures commission merchants selling such options have evidence that the grantor meets the requirements set forth in clause (1) above; and

(3) The futures commission merchants selling such options treat and deal with an amount of money, 'exempted securities' (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal in value to the value received from their customers as payment of the purchase price in connection with such transactions, as security for performance of the transactions until the expiration or liquidation of those transactions, record each transaction in their customers' names by transaction identification numbers provided by the grantor, and provide a disclosure statement to customers, pursuant to regulations of the Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction.

[FR Doc. 78-13487 Filed 5-15-78; 11:24 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PLENARY SESSIONS

Public Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs, will meet in plenary session on Thursday, June 8, 1978, at 1:45 p.m., and on Friday, June 9, 1978, at 9:45 a.m., in hearing room B of the Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, D.C.

The conference will consider the following matters:

1. A proposed recommendation on time limits on agency actions.
2. A proposed recommendation on the procedures for determining social security disability claims.
3. A proposed recommendation on reduction of delay in ratemaking cases.
4. A proposed bylaw on avoidance of conflicts of interest.

Plenary sessions of the Conference are open to the public. Further information on the meeting, including copies of proposed recommendations and supporting reports, may be obtained from the Office of the Chairman, 2120 L Street NW., Suite 500, Washington, D.C. 20037, telephone 202-254-7020.

RICHARD K. BERG,
Executive Secretary.

MAY 10, 1978.

[FR Doc. 78-13215 Filed 5-15-78; 8:45 am]

[6110-01]

COMMITTEE ON AGENCY ORGANIZATION AND PERSONNEL

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Agency Organization and Personnel of the Administrative Conference of the United States, to be held at 10:30 a.m., June 8, 1978, in the offices of the Administrative Conference, 2120 L Street NW., Washington, D.C.

The Committee will meet to consider: (1) further action on the study of separation of rulemaking and adjudication under the Occupational Safety and Health Act, and (2) the status of other Committee projects.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 1 day in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during, or after the meeting.

For further information concerning this Committee meeting contact Richard K. Berg, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

MAY 10, 1978.

[FR Doc. 78-13216 Filed 5-15-78; 8:45 am]

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation Number A606]

ARIZONA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Cochise County, Ariz., as a result of high temperatures combined with low humidity June 1 through June 15, 1977; excessive rainfall (accompanied by hailstorms) July 11 and 12, 1977, August 12 and 21, 1977, December 27, 28, and 29, 1977, January 15, 16, 17, and 31, 1978, and February 6 throuh February 11, 1978; and plant diseases July 7, 1977, which reached the epidemic stage August 30 and continued through September 21, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Bruce Babbitt that such designation be made.

Aplications for emergency loans must be received by this Department no later than November 6, 1978, for physical losses and May 9, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C. this 9th day of May 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc.78-13268 Filed 5-15-78; 8:45 am]

[3410-07]

[Designation Number A607]

MONTANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Montana Counties as a result of snowstorms and blizzard conditions during February 1978:

Big Horn, Blaine, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Hill, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Sheridan, Valley, and Wibaux.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Thomas L. Judge that such designation be made.

Applications for emergency loans must be received by this Department no later than November 6, 1978, for physical losses and May 9, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 9th day of May 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-13269 Filed 5-15-78; 8:45 am]

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[3410-11]

PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL, SOUTHERN CALIFORNIA SUBGROUP

Notice of Meeting

A meeting of the Southern California Subgroup of the Pacific Crest National Scenic Trail Advisory Council will be held at 9:30 a.m., June 20, 1978, in the conference room, Forest Supervisor's Office, Angeles National Forest, 150 South Los Robles, Pasadena, Calif. 91101.

Agenda items include a review of action taken to date by agencies. Council recommendations on needed trailheads, feeder trails, shelters and signing will also be developed.

The meeting will be open to the public. Persons who wish to attend should notify Karl Tameler, c/o Regional Forester, 630 Sansome Street, San Francisco, Calif. 94111, 415-556-6983. Written statements may be filed with the Subgroup before or after the meeting.

Dated: May 10, 1978.

CHESTER A. SHIELDS,
Associate Deputy Chief.

[FR Doc. 78-13267 Filed 5-15-78; 8:45 am]

[3410-15]

Rural Electrification Adminsitration

DAIRYLAND POWER COOPERATIVE AND COOPERATIVE POWER ASSOCIATION

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has issued a Draft Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with financial assistance for Dairyland Power Cooperative, P.O. Box 817, LaCrosse, Wis. 54601 and for Cooperative Power Association, 3316 West 66th Street, Minneapolis, Minn. 55435.

The finanacial assistance will provide Dairyland Power Cooperative and Cooperative Power Association with the financing required to participate with Lake Superior District Power Co. and Northern States Power Co. of Wisconsin in the joint construction of Unit 1 of the Tyrone Energy Park, a 1150 MW (nominal) nuclear generating plant, to be located in Dunn County, Wis.

REA's Draft Environmental Impact Statement consists of the following: (i) The Final Environmental Statement dated April 1977 issued by the U.S. Nuclear Regulatory Commission; (ii) REA comments on the Final Environmental Statement; (iii) the Initial Decision (Construction Permit) issued by the Atomic Safety and Licensing Board.

Additional information may be secured on request, submited to Mr. Richard F. Richter, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality Guidleines. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th and Independence Avenue SW., Washington, D.C., or at the borrowers' addresses indicated above.

Comments concerning the environmental impact of the proposed construction should be addressed to Mr. Richter at the address given above. Comments must be received on or before July 17, 1978 to be considered in connection with the proposed action.

Any release of funds by REA will be contingent upon REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with environmental statement procedures by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 9th day of May 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-13271 Filed 5-15-78; 8:45 am]

[3410-22]

Science and Education Administration

COMMITTEE OF NINE

Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given of a meeting of the Committee of Nine from 8:30 a.m. to 5 p.m., June 14-15, 1978, in room 6451-South Building, U.S. Department of Agriculture, Washington, D.C.

The purpose of the meeting is to evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations. The meeting is open to the public, and written statements can be filed with the committee before or after the meeting.

The names of the members of the committee, the agenda, minutes, and other information pertaining to the meeting may be obtained from the Recording Secretary, U.S. Department of Agriculture, Science and Education Administration, Cooperative Research, Washington, D.C. 20250, telephone 202-447-4177.

Dated: May 5, 1978.

R. J. ALDRICH,
Acting Deputy Director.

[FR Doc. 78-13270 Filed 5-15-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 32579; Order 78-5-52]

EL AL ISRAEL AIRLINES LTD.

Proposed United States-Israel standby fares; Order of Suspension and Investigation .

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of May, 1978.

By tariff revisions filed March 29, 1978, for effectiveness May 13, 1978, EL AL Israel Airlies Ltd. (EL AL) proposes new United States-Israel standby fares at New York-Tel Aviv round-trip levels of $575 and $675, basic and peak season, respectively. Confirmation of space for travel at these fares, which permit no stopovers, would not be issued earlier than 9 a.m. of the day of departure nor later than three hours before flight time. Failure to use confirmed space would result in assessment of a $100 cancellation penalty, except in cases of death or illness. Sales would be limited to 550 seats per week in each direction. Trans World Airlines, Inc. (TWA) has filed tariff revisions to match EL AL's standby fare, and also proposes a United States-

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Israel advance purchase excursion (APEX) fare at New York-Tel Aviv levels of $545 basic season and $655 peak season, with the same conditions as existing APEX fares in other North Atlantic markets. The APEX has not been introduced in the United States-Israel market in the past due to Israeli Government disapproval.

The Board is encouraged by both filings, which would offer new low fare benefits to the public in a market where such opportunities especially for individual travel, have been severely limited.[1] The Government of Israel has disapproved TWA's proposed APEX fare, however, and in these circumstances we will not permit EL AL's standby fare to become effective. The Board believes strongly that all carriers should have an equal opportunity to compete with new low fare offerings, but in this case the Israeli Government has denied TWA this opportunity at the outset. Moreover, the public is losing much more in denial of TWA's APEX than it would gain in approval of EL AL's standby fare. The proposed APEX fare is significantly superior, from the passenger's point of view, to the standby fare in terms of both price and convenience. While a standby fare is very useful to the carrier because it fills, at the last minute, seats which would otherwise fly empty, it appeals only to that part of the traveling public which can take advantage of a chancy no-reservation service. The APEX fare provides firm reservations and would be attractive to considerably more passengers than the standby (as demonstrated this past winter in the New York-London market), especially in very long-haul markets such as New York-Tel Aviv with lengthy travel time where the importance of secure advance arrangements is crucial. The APEX fare would be particularly attractive in the United States-Israel market where low-fare opportunities for both charters and individual travel on scheduled service have been virtually non-existent.

The Board is always reluctant to suspend new low fares which would promote greater use of air transportation and provide a wider choice of price/quality options to the consumer. In this case, however, we have concluded that circumstances compel us to suspend EL AL's proposal in order to pursue effectively our long-term policy objectives. The public loses very little by our suspension of the standby fare which offers a much narrower range of low-fare travel opportunities, and stands to gain much more over the long term by our firm support of the right of competitive carriers to provide a variety of low fare options, such as TWA's APEX proposal, which make travel more widely available for consumers and expand the total market. In these circumstances, the Board finds that the Government and the aeronautical authorities of Israel have refused to permit the charging of fares contained in a properly filed and published tariff of Trans World Airlines (an air carrier) filed under the Federal Aviation Act for foreign air transportation to Israel. Accordingly, the Board has decided to invoke section 1002(j)(3) of the Act to suspend the standby fare tariffs for passenger foreign air transportation filed by EL AL Israel Airlines, Ltd., between the United States and Israel, as described below, for a period of 365 days from the date of this order.[2]

Accordingly, pursuant to sections 102, 204(a), 403 and 1002(j)(3) of the Federal Aviation Act of 1958,

It is ordered that:

1. The tariff provisions specified below hereof are suspended and their use deferred from May 13, 1978, to and including May 12, 1979, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

2. This order shall be submitted to the President[3] and shall become effective simultaneously with the effectiveness of the tariff provisions specified below; and

3. Copies of this order shall be filed with the tariff and be served upon El Al Israel Airlines, Ltd., Trans World Airlines, Inc., and the Ambassador of Israel in Washington, D.C.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary

PASSENGER FARES TARIFF No. PF-4, C.A.B. No. 44, ISSUED BY AIR TARIFFS CORP., AGENT

On Original Pages 54-A and 54-B, all provisions in Rule 172; and

On 6th Revised Page 222-G all fares and provisions in Table 157.

[1]The lowest peak season fare now available to Tel Aviv on scheduled service is an 8/21-day nonaffinity group fare at $817, and no charters are permitted from the United States to Israel, except from the U.S. west coast, due to Israel's strong government policy against charters.

[2]Section 1002(j)(3) allows the Board to take a variety of other actions in such circumstances: ordering the foreign air carrier to charge the rates filed by a U.S.-flag carrier during the suspension period and making the continuation of service by the foreign-flag carrier contingent on charging such rates. It is the Board's view that the circumstances of this case at this time warrant only the use of the suspension power, and not the other courses of action authorized in 1002(j)(3).

[3]This order was submitted to the President on May 1, 1978.

[4]All Members concurred except Chairman Kahn who did not participate.

MAY 9, 1978.

HON. ALFRED E. KAHN,
Chairman, Civil Aeronautics Board,
Washington, D.C.

DEAR MR. CHAIRMAN: I have reviewed your proposed order (Docket 32579) dated May 1, 1978, which suspends passenger fares filed by El Al Israel Airlines Ltd.

As I indicated to you previously in approving your suspension of Contract Cargo Rates for British Airways (letter dated October 3, 1977), I am generally opposed to suspending low fares. In this case, however, our international aviation policy is better served by withholding our approval of these fares until the government of Israel approves the competitive and economic low fares of Trans World Airlines that offer even greater price and service benefits to air travelers. I also expect this issue to be resolved before other bilateral aviation issues are negotiated. Thus, for foreign policy reasons, I have decided to take no action and allow the Board's order to become effective.

Sincerely,

JIMMY CARTER.

[FR Doc. 78-13266 Filed 5-15-78; 8:45 am]

[6320-01]

[Docket 32381]

SPOKANE-VANCOUVER ROUTE PROCEEDING

Notice of Prehearing Conference

A prehearing conference in this proceeding will be held on June 6, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

For information concerning the substance and other details in this proceeding, interested persons are referred to the Order of Administrative Law Judge issued simultaneously.

Dated at Washington, D.C., May 10, 1978.

RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc. 78-13265 Filed 5-15-78; 8:45 am]

[6320-01]

[Docket 32294]

U.S.-BAHAMAS SERVICE INVESTIGATION

Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-titled proceeding now assigned to be held on May 18, 1978 (43 FR 16207, April 17, 1978) is postponed and will be held on May 19, 1978 at 9:30 a.m. (local time) in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

The postponement is at the request of Delta Air Lines, Inc., concurred in by Eastern, National and Pan American and without objection from American and North Central.

MY 16 78 UMI

Dated at Washington, D.C., May 10, 1978.

WILLIAM A. KANE, JR.,
Administrative Law Judge.

[FR Doc. 78-13264 Filed 5-15-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, June 20, 1978, at 9:30 a.m. in room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975 and October 21, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Presentation and discussion on A-D and D-A converters.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and CoCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 21, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on October 28, 1977 (42 FR 56767).

Dated: May 11, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-13272 Filed 5-15-78; 8:45 am]

[3510-08]

National Oceanic and Atmospheric Administration

ENVIRONMENTAL IMPACT STATEMENT

Public Hearings on Draft

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement for the Coastal Management Program of the State of New Jersey.

The hearings will be held on June 13, 1978 at 7:30 p.m. in the Cumberland County Court House, Freeholders' Meeting Room, Second Floor, Rear, Broad Street, (Route 49), Bridgeton, N.J., on June 14, 1978 at 7:30 p.m. in the Ocean County Administration Bldg., Freeholders' Meeting Room, Hooper Avenue and Washington Street, Toms River, N.J., and on June 15, 1978 at 10:00 a.m. in the State Museum Auditorium, 205 W. State Street, Trenton, N.J.

The views of interested persons and organizations are solicited.These may be expressed orally or in written statements.

Presentations will be scheduled on a first-come, first-serve basis, but may be limited to a maximum of 10 minutes or as otherwise appropriate. Priority will be given to those with written statements. Time will be available at the end of the meeting for parsons without statements to present their views orally. The Office of Coastal Zone Management staff may question any speaker following presentation of his/her statement. No verbatim transcritpt of the hearing will be maintained; but staff present will record the general thrust of the remarks.

Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management as soon as possible so that an appearance schedule may be drawn up and definite times established for presentations. Please contact:

June Cradick, Office of Coastal Zone Management National Oceanic and Atmospheric Administration 3300 Whitehaven St., N.W., Washington, D.C. 20235, phone: 202-634-6791.

Written comments may also be submitted by mail to the office of Coastal Zone Management. Such comments should be received before June 19, 1978, to assure adequate consideration for inclusion in the Final Environmental Impact Statement.

Copies of the Draft Environmental Impact Statement may be obtained by contacting the Office of Coastal Zone Management or:

David Kinsey, Chief, Office of Coastal Zone Management, Department of Environmental Protection, P.O. Box 1889, Trenton, N.J. 08625, phone 609-292-8262.

Comments may address the adequacy of the impact statement and/or the nature of the New Jersey Coastal Management Program.

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Following consideration of the comments received at these hearings, as well as written comments submitted, the Office of Coastal Zone Management will prepare the final environmental impact statement pursuant to the National Environmental Policy Act of 1969 and implementing guidelines.

Dated: May 8, 1978.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

[FR Doc. 78-13202 Filed 5-15-78; 8:45 am]

[3125-01]

COUNCIL ON ENVIRONMENTAL QUALITY

TSCA INTERAGENCY TESTING COMMITTEE

Meeting

This notice is intended to advise all interested persons of a scheduled meeting of the Act for the purpose of making recommendations to the Administrator of the Environmental Protection Agency regarding priorities for issuance of requirements for testing chemical substances and mixtures.

The Committee has invited Dr. Warren R. Muir of the Environmental Protection Agency to update the Committee on the activities of the Office of Toxic Substances. The meeting will be held Thursday, May 25, at 9 a.m., room 9104, New Executive Office Building, 726 Jackson Place NW., Washington, D.C. The portion of the meeting open to the public is expected to end approximately 10:30 a.m., followed by a closed executive session. All interested persons are invited to attend.

Dated: May 11, 1978.

MARVIN E. STEPHENSON,
Chairperson, TSCA Interagency Testing Committee.

[FR Doc. 78-13263 Filed 5-15-78; 8:45 am]

[3810-71]

DEPARTMENT OF DEFENSE

Department of the Navy

FREEDOM OF INFORMATION ACT INDEX OF FINAL DISPOSITIONS OF COMPLAINTS OF WRONG SUBMITTED PURSUANT TO ARTICLE 138, UNIFORM CODE OF MILITARY JUSTICE (UCMJ)

Determination That Publication Would be Unnecessary and Impracticable

The Department of the Navy has determined, pursuant to and in accordance with 5 U.S.C. 552(a)(2) and 32 CFR 701.59(d)(3)(iii), that the publication of the "Index of final dispositions of Complaints of Wrong submitted pursuant to Article 138, UCMJ, and Reports of Wrong submitted pursuant to Article 1106, *United States Navy Regulations, 1973*" would be unnecessary and impracticable. This determination is supported by the fact that there is insufficient public interest in the Index to justify mass routine publication, and, that the materials indexed are so rapidly increasing that any publication with reasonable frequency would still be incomplete.

The Index contains final dispositions of "Complaints of Wrong," Article 138, UCMJ, and "Reports of Wrong," Article 1106, *U.S. Navy Regulations, 1973.* Briefly stated, Article 138 (10 U.S.C. § 938) established a grievance procedure for members of the Armed Forces who considered themselves wronged by their commanding officer acting under color of his military authority. Under the procedure, service members who are not satisfied with their commanding officer's response to their request for redress can complain to the officer exercising general courtmartial jurisdiction over their commanding officer. The officer exercising general court-martial jurisdiction is responsible for examining into the complaint, providing redress if warranted, and reporting the complaint and the proceedings had thereon to the Secretary of the Navy. Article 1106, U.S. Navy Regulations, 1973, established a similar grievance procedure for members of the naval service who consider themselves wronged by a superior other than their commanding officer.

Internally reproduced copies of the Index are available at $3.55 per copy, the direct cost of duplication, by writing: Judge Advocate General (Code 20), Department of the Navy, Washington, D.C. 20370.

For further information contact:

Lieutenant Commander James E. Pinnell, JAGC, U.S. Navy, Military Justice Division (Code 204), Office of the Judge Advocate General, Department of the Navy, Washington, D.C. 20370, telephone 202-694-5094.

Dated: May 16, 1978.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-13217 Filed 5-15-78; 8:45 am]

[3810-70]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON ICBMs/MX

Notice of Advisory Committee Meeting

The Defense Science Board Task Force on ICBMs/MX will meet in closed session at R&D Associates, Marina del Ray, Calif. on 8-9 June 1978.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will evaluate alternative basing modes for U.S. land-based ICBMs. Concepts will be examined against survivability, cost and SALT verification considerations.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAY 11, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives DoD/WHS

[FR Doc. 78-13226 Filed 5-15-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

KERR-MCGEE CORP.

[Case Number 660R00102]

Final Action on Consent

Pursuant to 10 CFR § 205.199J, The Office of Special Counsel for Compliance (OSC) of the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR § 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms. On February 24, 1978, ERA published Notice of a Consent Order which was executed between Kerr-McGee Corporation and DOE (43 FR 7686, February 24, 1978). With that notice, and in accordance with 10 CFR § 205.199J(c), ERA invited interested persons to comment on the Consent Order. A press release in conformity with 10 CFR § 205.199J(c) was issued simultaneously.

Some comments were received suggesting that certain language modifications be made to the Consent Order. These suggested modifications related to the definition of purchaser and to the effect of the Consent Order on the rights of third parties. 10 CFR § 205.199I(a) empowers the ERA to provide such remedies as it determines are necessary. Accordingly, after giving due consideration to these comments, the OSC of the ERA determined that the language as used in the Consent Order is the most appropriate under the circumstances of this case.

The OSC of the ERA has decided, however, that the Consent Order should be modified in one significant respect. The Consent Order previously published requires the payment of interest on the refunds as follows:

> Interest on all amounts refunded in accordance with (a) above shall be computed utilizing the following rates: 6 percent per annum on the amounts outstanding prior to July 1, 1975; 9 percent per annum on the amounts outstanding for the period July 1, 1975 through January 31, 1976; 7 percent per annum on the outstanding amounts for the period February 1, 1976 until the refunds are completed.

ERA has adopted the same interest rates as used by the Internal Revenue Service in establishing interest rates payable on refunds. Effective February 1, 1978, the interest required to be paid was reduced to 6 percent per annum. Therefore, the Consent Order has been modified as follows:

> Interest on all amounts refunded in accordance with (a) above shall be computed utilizing the following rates: 6 percent per annum on the amounts outstanding prior to July 1, 1975; 9 percent per annum on the amounts outstanding for the period July 1, 1975 through January 31, 1976; 7 percent per annum on the amounts outstanding for the period February 1, 1976 through January 31, 1978; 6 percent per annum on the outstanding amounts for the period February 1, 1978 until the refunds are completed.

OSC has concluded that the Consent Order as executed between DOE and Kerr-McGee is an appropriate resolution of the compliance proceedings described in the Notice published on February 24, 1978, and hereby gives notice that the Consent Order shall become effective on May 16, 1978, as modified.

Issued in Washington, D.C. on the 12th day of May, 1978.

PAUL L. BLOOM,
SPECIAL COUNSEL FOR COMPLIANCE.

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 882-5]

REGION IX; STANDARDS OF PERFORMANCE OF NEW STATIONARY SOURCES (NSPS) AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)

Delegation of Authority to States of Arizona, California and Nevada

AGENCY: Environmental Protecion Agency (EPA).

SUMMARY: This Notice is to advise the public of delegation of authority to implement and enforce the NSPS and NESHAPS from EPA to certain State/Local air pollution control agencies in Arizona, California and Nevada.

FOR FURTHER INFORMATION CONTACT:

Gerald Katz (E-4-3), Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, 415-556-8005.

SUPPLEMENTARY INFORMATION: Pursuant to section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations in 40 CFR Part 60 establishing standards of performance for 24 categories of new stationary sources (NSPS). In addition, pursuant to section 112 of the Clean Air Act, as amended, the Administrator promulgated in 40 CFR Part 61 national emission standards for four hazardous air pollutants (NESHAPS). These hazardous air pollutants are asbestos, mercury, beryllium and vinyl chloride. Sections 111(c) and 112(d) require the Administrator to delegate authority to implement and enforce the standards to any State which submits an adequate procedure. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to a State.

On August 19, 1973, the Regional Administrator, Region IX, forwarded to the States in his Region information setting forth the requirements for an adequate procedure for implementing and enforcing the NSPS and NESHAPS. Since that time numerous requests for delegation from State/Local agencies have been submitted to EPA, Region IX. In response to these requests and after thorough reviews, EPA, Region IX delegated authority to implement and enforce the NSPS and NESHAPS. The letters of delegation sent to these agencies contained certain conditions. These conditions generally include designations of the categories/pollutants delegated, reporting requirements (to EPA), a statement of EPA's concurrent enforcement authority, a no variance provision, test method requirements, revocation procedures, and a requirement that sources subject to NSPS and NESHAPS submit all reports to the delegated Agency and EPA, Region IX. In some instances the original requests for delegation were followed by new requests to include categories/pollutants promulgated by EPA after the original date of delegation. The Clean Air Act Amendments of 1977 require EPA to investigate new categories/pollutants and to revise existing regulations to reflect current information and technology.

Prior to March 30, 1977 EPA, Region IX notified the public of each delegation in a separate FEDERAL REGISTER notice. Updates, such as this Notice, will now be done on annual basis.

The following is a list of the air pollution control agencies with delegation of authority (after March 30, 1977) for NSPS and/or NESHAPS and the dates of delegation. The list does not indicate the actual categories/pollutants delegated. To obtain this information or copies of the letters of delegation contact EPA, Region IX or the agency listed.

Nevada State Department of Conservation and Natural Resources, Division of Environmental Protection (NSDCNR) Carson City, Nev.—NSPS, March 30, 1977.

NSDCNR on behalf of Clark County District Health Department Las Vegas, Nev.—NSPS, April 11, 1977; NESHAPS, January 30, 1978.

NSDCNR on behalf of Washoe County District Health Department Reno, Nev.—NSPS, April 11, 1977; NESHAPS, April 11, 1977.

California Air Resources Board (CARB) on behalf of the South Coast Air Quality Management District, El Monte, Calif.—NSPS, May 27, 1977 and November 23, 1977; NESHAPS, May 27, 1977 and November 23, 1977.

CARB on behalf of the Bay Area Air Pollution Control District, San Francisco, Calif.—NSPS, June 15, 1977; NESHAPS, June 15, 1977.

Maricopa County Health Department on behalf of the Maricopa County Bureau of Air Pollution Control, Phoenix, Ariz.—NSPS, August 24, 1977; NESHAPS, August 24, 1977.

CARB on behalf of the Shasta County Air Pollution Control District, Redding, Calif.—NSPS, September 12, 1977; NESHAPS, September 12, 1977.

CARB on behalf of the Kern County Air Pollution Control District, Bakersfield, Calif.—NSPS, October 5, 1977; NESHAPS, October 5, 1977.

CARB on behalf of the San Diego County Air Pollution Control District, San Diego, Calif.—NSPS, November 21, 1977; NESHAPS, November 21, 1977.

CARB on behalf of the Stanislaus County Air Pollution Control District, Modesto, Calif.—NSPS, November 23, 1977; NESHAPS, November 23,, 1977.

Effective immediately, all reports required prusuant to the NSPS and NESHAPS by sources located in the jurisdictions of the agencies listed above should be submitted to these agencies and to EPA, Region IX.

Dated: April 5, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator. EPA, Region, IX.

[FR Doc. 78-13010 Filed 5-15-78; 8:45 a.m.]

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[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-462]

INTERNATIONAL AND SATELLITE RADIO

Applications Accepted for Filing

MAY 1, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations, and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1). Effective March 6, 1978, all applications accepted for filing will be assigned Call Signs. However, these assignments are for administrative purposes only and do not in any way prejudice Commission actions.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

HI—633-DSE-P/L-78 Oceanic Cablevision, Inc., Kalihi, HI (KF 81). Amendment to operate this station on a cost-sharing basis with Pacific Network, Inc. on a nonprofit use.

FL—513-DSE-ML-78 (Correction) Florida Cablevision, Inc., Broward County, FL (WF46). Modification of license to permit the operation of this station on a cost-sharing nonprofit basis with: Teleprompter Southeast, Inc. and American Television & Communications Corporation.

OK—508-DSE-P/L-78 (Correction) Community Cables, Inc., Enid, OK (KH51). Correct name as shown and longitude coordinates as follows: Long. 97°52'50" W.

CA—555-DSE-R-78 California Microwave, Sunnyvale, CA (KE26). Renewal of this station's Developmental license from: May 9, 1978 to: May 9, 1979.

CA—557-DSE-ML-78 California Microwave, Inc., Sunnyvale, CA (KE26). Modification of license to increase the power to 65 dBw on frequency 6268.3 MHz, with a 150D9 emission.

AZ—552-DSE-TC-78 Mesa Community Television, Inc., Mesa, AZ (KF65). Application for Consent of Transfer of Control of this station from: Mesa Community Television, Inc. to: Storer Broadcasting Company.

CA—306-CSG-P/L-78 Comsat General Corporation, Palo Alto, CA. Authority to establish a communications satellite developmental earth station at Ocean Routes, Inc. in Palo Alto, CA. Lat. 37°24'27" N. Long. 122°08'42" W. This station would be operated at L-band frequencies with the MARISAT satellite positioned over the Pacific Ocean for the purpose of conducting demonstrations of the operational network. Frequencies: 1638.5 to 1624.5 MHz. Emissions of 6.4F9 or 30F9. With a 4 foot parabolic antenna.

000524-DSE-P/L-78 (KH63), Communications Services, Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Lockhart, Caldwell, Tex. 29°54'6" N. Lat., 97°40'37" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9—DBW. Antennas: 4.5 meters, Andrews Model ESA5-46.

000528-DSE-P/L-78 (KH64), oklahoma Cable Systems, Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Weatherford, Custer, Okla. 35°31'2" N. Lat., 98°42'46" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9—DBW. Antennas: 6.0 meters, U.S. Tower Model 2.

000529-DSE-P/L-78 (KH65), Community Telecommunications, Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Sidney, Cheyenne County, Nebr. 41°8'8" N. Lat., 102°58'38" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9—DBW. Antennas: 5.0 meters, Scientific Atlanta Model 8008.

000531-DSE-P/L-78 (KH66), Lafourche Communications, Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Thibodaux, Lafourche Parish, La. 29°44'12" N. Lat., 90°44'20" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9—DBW. Antennas: 6.1 meters, Harris Corp. Model 6MROTV.

000523-DSE-P/L-78 (WH43), Sammons Communications, Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: McComb, Pike County, Miss. 31°14'58" N. Lat., 90°26'8" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9—DBW. Antennas: 4.5 meters, Scientific Atlanta Model 8008B.

000530-DSE-P/L-78 (WH47),Ppublic Cable Co. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Portland, Portland, Maine. 43°37'51" N. Lat., 70°24'49" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9—DBW. Antennas: 10.0 meters, Scientific Atlanta Model 8003-1. With respect to the proposed merger between the applicants parent company, American Television & Communications Corp. and Time, Inc., it is contemplated that control of the applicant would be transferred to the merged entity if the commission grants the pending application (file No. 447-DSE-AL-(11)-78) of its parent company for assignment of licenses to the merged entity. This is a major application within the meaning of section 1.1305 of the rules on environmental processing.

000533-DSE-P/L-78 (WH48), American Cablevision of Carolina, Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Spring Lake, Spring Lake, N.C. 35°9'40" N. Lat., 78°58'8" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9—DBW. Antennas: 5.0 meters, Scientific Atlanta Model 8008B.

000521-DSE-P/L-78, KB87, American Cable Television, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Lake Havasu City, Mohave, Ariz., 34°29'42" N. Lat., 114°20'22" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters, RF Systems Model 806–6–6M.

000532-DSE-P/L-78, KF80, TV Cable Corp. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Van Buren, Fort Smith, Ark., 35°26'49" N. Lat., 94°21'54" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters, USTC Model SAT/FLEC 2.

000520-DSE-P/L-78, KH58, American Cable Television, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Bullhead City, Mohave, Ariz., 35°6'3" N. Lat., 114°36'56" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters, RF Systems Model 806–6–6M.

000522-DSE-P/L-78, KH59, American Cablevision Corp. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Cleveland, Liberty, Tex., 30°18'56" N. Lat., 95°5'32" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 5 meters, Scientific Atlanta Model 8008B.

000527-DSE-P/L-78, KH60, Teleprompter Corp. Application for authority to construct Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Sime, Ventura, Calif., 34°16'44" N. Lat., 118°47'36" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters, Andrew Model ESA5–4HP.

000526-DSE-P/L-78, KH61, Teleprompter Corp. Application for authority to construct Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Tucumcari, Logan, N. Mex., 35°9'41" N. Lat., 103°43'27" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters, Andrew Model ESA5-4HP.

000525-DSE-P/L-78, KH62, Community Cablevision of Odessa. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Odessa, Ecton County, Tex., 31°50'59" N. Lat., 102°22'25" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters, Andrew ESA5–4HP.

[FR Doc. 78-13198 Filed 5-15-78; 8:45 am]

[6712-01]

[Report No. I-465]

INTERNATIONAL AND SATELLITE RADIO

Applications Accepted for Filing

MAY 8, 1978.

The Applications listed herein have been found, upon initial review, to be Acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1). Effective March 6, 1978, all applications accepted for filing will be assigned Call Signs. However these assignments are for administrative purposes only and do not in any way prejudice Commission actions.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

SATELLITE COMMUNICATIONS SERVICES:

DS-RC-2-A,
RCA American Communications, Inc. To amend the service to substitute one digital 1.544 Mbps channel in the place of 24 voice grade channels which were previously authorized in the grant of application DS-RC-2. And to augment the service by operation of one duplex full-period digital channel for six month period beginning June 30, 1978.

548-DSE-P/L-78,
Greater Lafayette TV Cable Co., Inc. Lafayette, Ind. (WH50). Amendment to change coordinates to read: Lat. 40°25'24" N. and long. 86°51'33" W.

000490-DSE-P/L-78, KH46, Marfa TV Cable Co. Application for authority to construct and operate new Earth station. Service: Domestic fixed statellite. Class of station: Fixed Earth station. Location: Marfa, Presidio County Tex., 30°19'20" N. Lat.,104°40'50" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters, Scientific Atlanta Model no. SA8008B.

000538-DSE-P/L-78, KH69, Central Communications TV, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed statellite. Class of station: Fixed Earth station. Location: Seminole, Gaines, Tex. 32°43'29" N.Lat.,102°38'0" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters, USTC SAT/FLEC 2.

000544-DSE-P/L-78, KH70, Central Communications TV, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed statellite. Class of station: Fixed Earth station. Location: Seagrave, Gaines, Tex., 32°57'18" N. Lat.,102°33'0" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters USTC model SAT/FLEC 2.

000547-DSE-P/L-78, KH72, NW Translator TV, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed statellite. Class of station: Fixed Earth station. Location: Pondcreek, Enid, Okla. 36°40'48" N. Lat.,97°53'18" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters, Andrew model ESA5–4.

000551-DSE-P/L-78, KH74, Satellite, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed statellite. Class of station: Fixed Earth station. Location: Kahe Point, Honolulu, Hawaii, 21°21'4" N. Lat.,158°7'35" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 10 meters, Scientific Atlanta Model 8002.

000561-DSE-P/L-78, KH76, Southwest Cable Corp. Application for authority to construct and operate new Earth station. Service: Domestic fixed statellite. Class of station: Fixed Earth station. Location: Espanola, Rio Arribo, N. Mex., 35°59'59" N. Lat.,106°3'41" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters, Prodelin Model 137–750.

000560-DSE-P/L-78, KH77, Added Attractions, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed statellite. Class of station: Fixed Earth station. Location: Near Broken Bow, Custer, Nebr., 41°23'43" N. Lat.,99°38'30" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters, Andrew Corp. Model ESA4-5HP.

000559-DSE-P/L-78, KH78, Added Attractions, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Kearney, Buffalo, Nebr., 40°41'38" N. Lat., 99°5'9" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters, Andrew Corp. model

000558-DSE-P/L-78, KH79, Minden Systems, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Minden, Webster, La., 32°38'22" N. Lat., 93°14'41" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters, RF systems model 806–6–6M.

000565-DSE-P/L-78, KH80, RCA American Communications, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Sunnyvalle (AFS), Santa Clara, Calif., 37°23'43" N. Lat., 122°1'42" W.Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW; 5925.000–6425.000 MHz 4000F9Y .00 DBW. Antennas: 10 meters, RSI model 1032–10.

000563-DSE-P/L-78, KH81, M2PSC, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Eielson AFB, Eielson, Alaska, 64°39'37" N. Lat., 147°4'8" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 10 meters, Edwards model ESA10-46.

000566-DSE-P/L-78, KH82, Medelco, Inc. d.b.a. cable TV in Fairmont. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Fairmont, Martin, Minn. 43°38'14" N. Lat., 94°28'34" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters RE system model 806–6–6M.

000550-DSE-P/L-78, WH49, Arlington Telecommunications Corp. d.b.a. ARTEC. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Arlington, Arlington, Va., 38°53'22" N. Lat., 77°5'28" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters, Andrew ESA4-5HP.

000548-DSE-P/L-78, WH50, Greater Lafayette TV Cable Co., Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Lafayette, Tippecanoe, Ind. 40°25'22" N. Lat., 86°63'56" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters, Harris 6 meter 615003.

000549-DSE-P/L-78, WH52, Storer Cable TV of Florida, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Lake Wales, Polk, Fla., 27°52'36" N. Lat., 81°32'57" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters, USTC 6.1/4.

000546-DSE-P/L-78, WH53, Storer Cable TV of Florida, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Venice, Sarasota, Fla., 27°6'0" N. Lat., 82°22'15" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters, USTC 6.1/4.

000545-DSE-P/L-78, WH54, Gulf Coast Teleception, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Port Charlotte, Charlotte, Fla., 26°57'53" N. Lat., 82°4'24" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters, USTC 6.1/4.

000556-DSE-P/L-78, WH56, Booth American Co., d.b.a. Salem Cable TV Co. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Salem, Roanoke County, Va., 37°18'27" N. Lat., 80°2'55" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 5 meters, Scientific Atlanta Model 8008B.

000562-DSE-P/L-78, WH57, Indian River Cablevision, Inc. Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Sebastian, Indian River, Fla., 27°46'24" N. Lat., 80°26'53" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 6 meters, RMI Model 615–003.

000564-DSE-P/L-78, WH58, Comcast Corp., Application for authority to construct and operate new Earth station. Service: Domestic fixed satellite. Class of station: Fixed Earth station. Location: Aberdeen, Harford, Md., 39°31'33" N. Lat., 76°14'6" W. Long. Particulars of operation: 3700.000–4200.000 MHz, 36000F9, DBW. Antennas: 5 meters, Scientific Atlanta Model 8008B.

[FR Doc. 78-13200 Filed 5-15-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

CENTRAL BANCSHARES OF THE SOUTH, INC.

Acquisition of Bank

Central Bancshares of the South, Inc., Birmingham, Ala., has applied for the Board's approval under section

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3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of Central Bank of Dothan, Dothan, Ala., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 9, 1978.

Board of Governors of the Federal Reserve System, May 10, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-13256 Filed 5-15-78; 8:45 am]

[6210-01]

CENTRAL NATIONAL BANCSHARES, INC.

Acquisition of Bank

Central National Bancshares, Inc., Des Moines, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Union Trust & Savings Bank, Fort Dodge, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 9, 1978.

Board of Governors of the Federal Reserve System, May 10, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-13257 Filed 5-15-78; 8:45 am]

[6210-01]

Formation of Bank Holding Company

El Paso Bancshares, Inc., Monument, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 97.5 percent of the voting shares of the El Paso County Bank of Monument, Monument, Colo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 2, 1978.

Board of Governors of the Federal Reserve System, May 9, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-13260 Filed 5-15-78; 8:45 am]

[6210-01]

FIRST BANCORP OF N.H., INC.

Acquisition of Bank

First Bancorp of N.H., Inc., Manchester, N.H., has applied for the Board's approval under section 3(a)(3) of the Bank Holding company Act (12 U.S.C. 1842(a)(3)) to acquire at least 50.1 percent of the voting shares of Londonderry Bank & Trust Co., Londonderry, N.H. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 8, 1978.

Board of Governors of the Federal Reserve System, May 9, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-13254 Filed 5-15-78; 8:45 am]

[6210-01]

GALVESTON COUNTY BANCSHARES, INC.

Formation of Bank Holding Company

Galveston County Bancshares, Inc., Texas City, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of the Texas City National Bank, Texas City, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 5, 1978.

Board of Governors of the Federal Reserve System, May 9, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-13259 Filed 5-15-78; 8:45 am]

[6210-01]

ORBANCO, INC.

Proposed Acquisition of Union Investment Co.

Orbanco, Inc., Portland, Oreg., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Union Investment Co., Birmingham, Mich. Notice of the application was published on various dates in newspapers circulated in Alabama, Arizona, California, Colorado, Florida, Georgia, Indiana, Michigan, Nevada, North Carolina, Ohio, Oklahoma, South Carolina, Texas, Utah, and Wyoming.

Applicant states that the proposed subsidiary would engage in the activities of (i) the financing of personal property and equipment and the leasing and or purchasing of leases covering certain of such property where at the inception of the initial lease the effect of the transaction (and, with respect to government entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the terms of the lease, or the acting as an agent, broker or advisor in the leasing and or financing of such property, and the servicing of such financing and or leases; (ii) making, acquiring or servicing loans and other extensions of credit; (iii) the servicing of loans; (iv) acting as broker or agent for the sale of credit-related life insurance; (v) originating and servicing loans secured by real estate, including construction loans and (vi) providing insurance directly related to an extension of credit only as a reinsurer of credit life and credit accident and health insurance. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 8, 1978.

Board of Governors of the Federal Reserve System, May 9, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-13255 Filed 5-15-78; 8:45 am]

[6210-01]

REPUBLIC BANCORPORATION, INC.

Formation of Bank Holding Company

Republic Bancorporation, Inc., Englewood, Colo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of Republic National Bank of Englewood, Englewood, Colo. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 9, 1978.

Board of Governors of the Federal Reserve System, May 10, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-13258 Filed 5-15-78; 8:45 am]

[6820-22]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, May 31 and June 1, 1978, from 9 a.m. to 4 p.m., Room 3E1, 1776 Peachtree Street NW., Atlanta, Ga. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed restoration and conversion of the Nashville, Tenn. Historic Union Station. The meeting will be open to the public.

Dated: May 5, 1978.

L. D. STROM,
Regional Administrator.

[FR Doc. 78-13170 Filed 5-15-78; 8:45 am]

[6820-22]

REPORT ON ENVIRONMENTAL ACTIONS

Public Notice

Pursuant to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), and section 1500.6(e) of the Council on Environmental Quality guidelines for the preparation of environmental impact statements (38 FR 20550) the following is a list of administrative actions for which environmental impact statements were under preparation by the General Services Administration from December 1, 1977, through February 28, 1978, for real property disposal actions and for facility planning actions. Also listed are administrative actions for which environmental impact statements are planned in the future and actions for which environmental assessments were completed with negative declarations.

Dated: May 3, 1978.

JAMES B. SHEA, JR.,
Commissioner,
Public Buildings Service.

FACILITY PLANNING ACTIONS

ENVIRONMENTAL IMPACT STATEMENTS/ NEGATIVE DECLARATIONS

REGION 1

A. EIS'S IN PREPARATION

Fort Kent, Maine—Preliminary final EIS for construction of a new border station.

Springfield, Mass.—Draft EIS for construction of a new courthouse-Federal office building and parking facility.

Providence, R.I.—Preliminary draft EIS for a new constriction of a Federal office building.

Boston, Mass.—Draft EIS for instruction of a new Federal office building.

B. EIS'S PLANNED

Boston, Mass.—Preliminary draft EIS for ease construction of a new Veterans Administration clinic building.

Houlton, Maine—Preliminary draft EIS for construction of new border station.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATION

Lexington, Mass.—Construction of a hazardous materials storage building on existing leased Environmental Protection Agency's laboratory site.

REGION 2

A. EIS'S IN PREPARATION

New York, N.Y.—201 Varick Street—Draft EIS for repair and alteration project to include a detention facility for illegal aliens.

B. BIS'S PLANNED

Niagara Falls (Rainbow Bridge), N.Y.—Construction of a new border station to replace existing facility.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATION

New York, N.Y.—201 Varick Street—Repair and alteration of the Defense Contract Administration Service, region's protion of the building.

REGION 3

A. EIS'S IN PREPARATION

Suitland, Md.—Draft EIS for the Suitland Federal Center master plan—Southern portion including Smithsonian Institution Museum Support Center.

Washington, D.C.—Final EIS for the repair and alteration of the Old Post Office (12th and Pennsylvania Avenue NW.).

Washington, D.C.—Amendment to the draft EIS for the repair and alteration of the west heating plant (20th and K Streets NW.).

Wilkes-Barre, Pa.—Draft EIS for lease construction of a Federal office building.

B. EIS'S PLANNED

Washington, D.C.—Draft EIS for relocation and consolidation, and new construction for Nuclear Regulatory Commission.

Washington, D.C.—Draft EIS for new construction for the University of the District of Columbia.

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Washington, D.C.—Draft EIS for lease 1900 Half Street (Buzzard Point).

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATION

Washington, D.C.—Auditors complex, 14th and C Streets SW., repair and alteration.

REGION 4

A. EIS'S IN PREPARATION

Savannah, Ga.—Draft EIS for new construction of a Federal building and parking facility.

Knoxville, Tenn.—Draft EIS for new construction of a Federal building.

Birmingham, Ala.—Draft EIS for new construction of Federal building-courthouse and parking facility.

Nashville, Tenn.—Draft EIS for renovation of Union Station.

B. EIS'S PLANNED

None.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATION

Charlotte, N.C.—Charles R. Jones Federal Building (major repair and alteration project).

REGION 5

A. EIS'S IN PREPARATION

East St. Louis, Ill.—Final EIS for construction of a Federal building and courthouse.

Detroit, Mich.—Draft EIS for acquisition, repair, and alteration of a secondary truck inspection facility for the U.S. Customs Service.

Detroit, Mich.—Preliminary final EIS for U.S. Federal Courthouse Annex.

Milwaukee, Wis.—Draft EIS for lease construction of a Federal building and parking facility.

B. EIS'S PLANNED

None.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATION

None.

REGION 7

A. EIS'S IN PREPARATION

El Paso, Tex.—Draft EIS for construction of Federal building and parking facility and the repair and alteration of Courthouse Federal Building conversion.

Santa Fe, N. Mex.—Draft EIS for construction of the National Park Service Building (temporarily deferred).

Ysleta (El Paso), Tex.—Draft EIS for Federal construction of a border station (temporarily deferred).

Austin, Tex.—Draft EIS for lease for Internal Revenue Service (temporarily deferred).

Little Rock, Ark.—Draft EIS for construction of extension to post office-courthouse (temporarily deferred).

Roma, Tex.—Draft EIS for lease of a border station.

B. EIS'S PLANNED

None.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATION

None.

REGION 8

A. EIS'S IN PREPARATION

Denver Federal Center, Jefferson County, Colo.—Master plan/environmental impact statement.

B. EIS'S PLANNED

None.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATION

None.

REGION 9

A. EIS'S IN PREPARATION

Los Angeles, Calif.—Final EIS for construction of a parking facility.

West Los Angeles, Calif.—Draft EIS for construction of a Federal Bureau of Investigation parking facility.

San Jose, Calif.—Draft EIS for construction of Federal building and parking facility.

B. EIS'S PLANNED

San Francisco, Calif.—Draft EIS for construction of Federal Building.

Santa Barbara, Calif.—Draft EIS for lease construction of Veterans Administration Clinic.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATIONS

None.

REGION 10

A. EIS'S IN PREPARATION

Anchorage, Alaska—Federal Building—Supplement to the final EIS.

B. EIS'S PLANNED

None.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATION

None.

REAL PROPERTY DISPOSAL ACTIONS

ENVIRONMENTAL IMPACT STATEMENTS/ NEGATIVE DECLARATION

REGION 1

A. EIS'S IN PREPARATION

Charlestown, R.I.—Draft EIS regarding disposal of approximately 604 acres of the former Naval Auxiliary Landing Field.

Newport, North Kingstown, Middletown, and Portsmouth, R.I.—Draft EIS regarding disposal of approximately 3,200 acres of the former Quonset Point Naval Air Station, Construction Battalion Center, and U.S. Naval Base.

B. EIS'S PLANNED

None.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATIONS

Plymouth, Conn.—Public sale of 1.55 acres of land improved with a single family Cape Cod style home by auction/sealed bid combination.

New Castle, N.H.—Conveyance through the Heritage Conservation and Recreation Service for transfer to the New Hampshire Department of Natural Resources and Economic Development for park and recreational purposes.

REGION 2

A. EIS'S IN PREPARATION

Negative.

B. EIS'S PLANNED

Negative.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATION

Kinderhook, N.Y.—Negotiated sale of 0.327 of an acre, unimproved land to the Village of Kinderhook for municipal use.

REGION 3

A. EIS'S IN PREPARATION

None.

B. EIS'S PLANNED

None.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATIONS

Anne Arundel County, Md.—Negotiated sale of the GSA-Curtis Bay Storage Depot to Anne Arundel County for an industrial complex.

Cheltenham, Md.—Assignment of the Naval Communications Unit to the Historic Conservation and Recreation Service for Prince George's County for public park and recreational purposes.

Gainesville, Va.—Proposed assignment of Portion, Vint Hill Farms Station to Department of Transportation for Virginia Highway Commission.

REGION 4

A. EIS'S IN PREPARATION

Negative.

B. EIS'S PLANNED

Negative.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATIONS

Key West, Fla.—Assignment of a portion of the Naval Air Station, Key West, Fla., to the Department of Health, Education, and Welfare for subsequent conveyance to the City of Key West for health purposes.

Miami, Fla.—Public sale of improvements located on leased land at the FAA "H" Facility by competitive bid for offsite removal.

Albany, Ga.—Negotiated sale of two large tracts and one smaller tract, totaling approximately 1900 acres, at the Naval Air Station to the Albany-Dougherty Payroll Development Authority for industrial development; public sale of the transmitter site (3.0 acres) by competitive bid; Federal transfer of approximately 103 acres to the Department of Labor for use as a Job Corps Center; assignment of a 6-acre portion to the Department of Health, Education, and Welfare for subsequent conveyance to the City of Albany for use as a fire fighting training facility; and negotiated sale of the remaining easements to the subservient landowners.

Augusta, Ga.—Assignment of a 2-acre portion of the Fort Gordon-Oliver Area to the Department of Health, Education, and Welfare for subsequent conveyance to the Richmond County Board of Education and assignment of a 230-acre portion to the Department of Health, Education,and Welfare for subsequent conveyance to The Board of Regents, University System of Georgia, for educational purposes; and assignment of approximately 9 acres to the Heritage Conservation and Recreation Service for subsequent conveyance to the City of Augusta for park and recreational purposes.

Fort Knox, Ky.—Public sale of 376 acres of the Fort Knox Military Reservation by competitive bid and assignment of 114 acres to the Department of Health, Education, and Welfare for subsequent conveyance to Bullitt County Schools Systems for educational purposes.

Henderson County, Ky.—Negotiated sale of the Lock and Dam 48 to the American Electric Power Service Corp., Canton, Ohio, for construction of an electric generating plant.

Winston-Salem, N.C.—Negotiated sale of a portion of the Winston-Salem Housing Site to Forsyth County for possible use as a rental project.

Alleghany/Wilkes Counties, N.C.—Public sale of six houses on the Blue Ridge Parkway at Mahogany Rock by competitive bid and assignment of four houses to the Department of Health, Education, and Welfare for subsequent conveyance to Surry County Board of Education for educational purposes.

REGION 5

A. EIS'S IN PREPARATION

Negative.

B. EIS'S PLANNED

Negative.

C. ENVIRONMENTAL ASSESMENTS COMPLETED WITH NEGATIVE DECLARATIONS

Northbrook, Ill.—Former Coast Guard Radio Station, consisting of approximately 27 acres of unimproved land. Proposed disposal in three parts: The first section to Postal Service for building a small post office; the second section to Cook County, Forest Preserve natural prairie; the third section to Village of Northbrook for active recreation.

Hancock, Mich.—Former Naval Reserve Center, consisting of approximately 1 acre of fee-owned land on the Portage Lake waterfront in Hancock. Property is divided into two parcels. Proposed disposal of both parcels by assignment to Department of Health, Education, and Welfare for conveyance to Michigan Technical University.

Adrian, Mich.—Former Federal Building consisting of a 0.4 acre square tract improved with a one-story brick and stell-sash Federal Building. Proposed disposal by conveyance through Department of Health, Education and Welfare to the City Schools of Adrian.

Columbus,Ohio—Post Office and Courthouse, consisting of a four-story and basement building located on 0.842 acre of land. Proposed disposal by conveyance to the State of Ohio as an historic monument.

Anoka, Minn.—Former Main Post Office, consisting of 0.35 acre improved with a 2½ story brick building. Propsed disposal by sealed bid sale.

New Ulm, Minn.—Former U.S. Post Office, consisting of a single-story masonry building on approximately 0.35 acre of fee-owned land. Proposed disposal by negotiated sale to City of New Ulm for historic preservation purposes and use as a museum.

Cleveland, Ohio—Cleveland Army Tank-Automative Plant—Test Track, consisting of 40.71 acres of test track land in the northwestern part of the 216 acre Tank Plant property. Proposed disposal by conveyance to City of Cleveland for use as an interference-free zone for an airport instrument landing system.

Mishawaka, Ind.—Naval Industrial Reserve Ordnance Plant, consisting of a manufacturing plant; two major buildings and 25.83 acres of level land. Proposed disposal by competitive sealed bid sale including land, buildings, and personal property as one unit, to be used for general manufacturing.

Harrison County, Ind.—Lock and Dam no. 43, consisting of a 1.61 acre site improved with 4 structures. Proposed disposal of both parcels by sealed bid sale.

REGION 6

A. EIS'S IN PREPARATION

Negative.

B. EIS'S PLANNED

Negative.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATIIONS

Fort Des Moines, Iowa—Public sale of 2.42 acres of the former Fort Des Moines by competitive bid.

Adair, Iowa—Assignment of Adair Bin Site (1.0 acre) to the City of Adair for public health use.

Topeka, Kans.—Negotiated sale to the City of Topeka, Kans., or a public sale of two improved non-contiguous parcels of land, Forbes Air Force Base, Cullen Village Housing Area with 261.77 acres and Baker Drive Area with 23.07 acres.

REGION 7

A. EIS'S IN PREPARATION

Matagorda Island, Tex.—Draft EIS in process regarding disposal of 18,992.18 acres former Matagorda Island Air Force Range, Texas.

B. EIS'S PLANNED

None.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATIONS

Dona Ana County, N. Mex.—Public sale of 2.56 acres of land with improvement at Rio Grande Project at Mesillo Dam, by competitive bids.

REGION 8

A. EIS'S IN PREPARATION

Negative.

B. EIS'S PLANNED

Negative.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATIONS

Sturgis, S. Dak.—Public sale of the former Titan "I" Missile Site No. 3,

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near Sturgis, S. Dak. by competitive sale.

Ogden, Utah—Public sale of the former U.S. Post Office Building and underlying land by competitive sale.

Cheyenne, Wyo.—Public sale of the Federal Aviation Administration-owned real estate and buildings near Cheyenne, Wyoming by competitive sale.

Monte Vista, Colo.—Negotiated sale of the former Forest Service Warehouse and underlying land to Rio Grande County.

Grand Forks, N. Dak.—Public sale of the Grand Forks Air Force Base ILS Outer Market Annex by competitive sale.

REGION 9

A. EIS'S IN PREPARATION

Negative.

B. EIS'S PLANNED

Novato, Calif.—Draft EIS regarding disposal of approximately 1745 acres of the former Hamilton AFB.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATIONS

Tonopah, Nev.—Transfer to the Bureau of Land Management approximately 0.153 acre of land improved with a one-story duplex and carport that was a portion of the former AEC Housing Complex in Tonopah, Nev. This will provide additional housing for Bureau of Land Management employees assigned to the area.

Moffett Field, Calif.—Even exchange of 4.95 acres with Pacific Gas & Electric Co., a public utility company, to provide a site for Pacific Gas & Electric Co. owned electrical transmission towers and substation serving the Ames Research Center. The property is a portion of the National Aeronautics and Space Administration, Ames Research Center, Moffett Field, Calif.

San Francisco, Calif.—Negotiated sale to the University of California's Hastings College of the Law of the Federal Building, 100 McAllister Street for use as dormitories, apartments, gymnasium, auditorium, meeting rooms and office space.

Honolulu, Hawaii—Transfer to the Department of Agriculture approximately 1.46 acres of unimproved land which is a portion of Fort Ruger Military Reservation for use by the Forest Service for plant study, research and disease prevention programs.

Palo Alto, Calif.—Transfer 1.792 acres portion of the Veterans Administration Hospital to General Services Administration for a motor pool site.

Alameda, Calif.—Assign approximately 2.99 acres of the Maritime Alameda Reserve Shipyard to the Department of Transportation, Federal Highway Administration for conveyance to the City of Alameda for road projects.

Los Angeles County, Calif.—Negotiated sale with the City of Los Angeles for 106.16 acres fee land and easements and 28 buildings identified as a portion of the Los Angeles Defense Area, Nike 88.

REGION 10

A. EIS'S IN PREPARATION

None.

B. EIS'S PLANNED

None.

C. ENVIRONMENTAL ASSESSMENTS COMPLETED WITH NEGATIVE DECLARATIONS

Olympia, Wash.—Negotiated sale of approximately 3.32 acres of fee land, 0.30 acre of easement and 220 feet of saltwater frontage together with all improvements to the State of Washington, Department of Natural Resources.

Benton County, Wash.—Negotiated sale of 648 acres being a portion of the Department of Energy Hanford Reservation to the State of Washington, Department of Ecology.

[FR Doc. 78-13218 Filed 5-15-78; 8:45 am]

[6820-24]

[Federal Procurement Regs.; Temporary Reg. 44, Supplement 1]

REGULATIONS CHANGES BY THE COST ACCOUNTING STANDARDS BOARD (CASB)

1. *Purpose.* This regulation implements the regulations changes by the CASB (43 FR 9775, Mar. 10, 1978) which became effective March 10, 1978, with respect to national defense contracts of civilian executive agencies. The regulation also modifies provisions prescribed by FPR Temporary Regulaton 44, dated March 29, 1978 (43 FR 14108, Apr. 4, 1978), with respect to negotiated nondefense contracts.

2. *Effective date.* This regulation is effective retroactively to March 10, 1978.

3. *Expiration date.* This regulation expires on March 10, 1979.

4. *Background.* FPR Temporary Regulation 44 implements changes to CASB regulations promulgated on September 12, 1977, and October 5, 1977, which became effective March 10, 1978. The CASB promulgated on March 10, 1978, further changes that also became effective on March 10, 1978, which are the basis for this regulation. The primary purpose of the provisions are to provide definitions for "cost accounting practice" and "change to either a disclosed cost accounting practice or an established cost accounting practice."

5. *Explanation of changes.* a. Section 1-3.1202 is added to republish the definitions regarding cost accounting practices promulgated by the CASB (4 CFR 331.20(h) and (i)). The CASB illustrations are not republished.

b. Section 1-3.1204-1 is amended to change the Cost Accounting Standards clause, the Disclosure and Consistency of Cost Accounting Practices clause, and the Administration of Cost Accounting Standards clause, to reflect the CASB promulgation.

c. Section 1-3.1204-2 is amended to change the non-defense contract clauses to extend the application of the CASB promulgation to nondefense contracts.

d. Section 1-3.1204-3 is revised to reflect the CASB promulgation with regard to the applicability date of cost accounting standards to CAS covered subcontracts.

e. Section 1-3.1207 is amended to reflect the CASB promulgation with regard to the obligation of the contracting officer to make findings prior to utilization of the new equitable adjustment provisions of the CASB clauses for accounting changes.

f. Section 1-3.1214 is amended to reflect the CASB promulgation with regard to equitable adjustment for accounting changes.

6. *Effect on other issuances.* The following changes are made in the FPR.

a. Section 1-3.1202 is added, as follows:

§ 1-3.1202-2 Cost accounting practice.

The definitions of "cost accounting practice" and "change to either a disclosed cost accounting practice or an established cost accounting practice" appearing in 4 CFR 331.20 apply to both national defense and nondefense CAS covered contracts and are set forth below:

(a) A "cost accounting practice" is any accounting method or technique which is used for measurement of cost, assignment of cost to cost accounting periods, or allocation of cost to cost objectives.

(1) Measurement of cost encompasses accounting methods and techniques used in defining the components of cost, determining the basis for cost measurement, and establishing criteria for use of alternative cost measurement techniques. The determination of the amount paid or a change in the amount paid for a unit of goods and services is not a cost accounting practice. Examples of cost accounting practices which involve measurement of costs are:

(i) The use of either historical cost, market value, or present value;

(ii) The use of standard cost or actual cost; or

(iii) The designation of those items of cost which must be included or excluded from tangible capital assets or pension cost.

(2) Assignment of cost to cost accounting periods refers to a method or technique used in determining the amount of cost to be assigned to individual cost accounting periods. Examples of cost accounting practices which involve the assignment of cost to cost accounting periods are requirements for the use of specified accrual basis accounting or cash basis accounting for a cost element.

(3) Allocation of cost to cost objectives includes both direct and indirect allocation of cost. Examples of cost accounting practices involving allocation of cost to cost objectives are the accounting methods or techniques used to accumulate cost, to determine whether a cost is to be directly or indirectly allocated, to determine the composition of cost pools, and to determine the selection and composition of the appropriate allocation base.

(b) A "change to either a disclosed cost accounting practice or an established cost accounting practice" is any alteration in a cost accounting practice, as defined in paragraph (a) of this section, whether or not such practices are covered by a Disclosure Statement, except that:

(1) The initial adoption of a cost accounting practice for the first time a cost is incurred or a function is created is not a change in cost accounting practice. The partial or total elimination of a cost or the cost of a function is not a change in cost accounting practice. As used here, function is an activity or group of activities that is identifiable in scope and has a purpose or end to be accomplished.

(2) The revision of a cost accounting practice for a cost which previously had been immaterial is not a change in cost accounting practice.

b. Section 1-3.1204-1 is amended (1) by amending the full coverage clause in paragraph (a)(1) of the section to revise provisions (a)(4)(B) and (d) and to add provision (a)(4)(C); (2) by amending the modified coverage clause in paragraph (a)(2) of the section to add provision (a)(5); and (3) by amending the administration clause in paragraph (b) of the section to revise provisions (a)(2), (c), and (f), as follows:

§ 1-3.1204-1 National defense contract clauses.

(a)(1) • • •

COST ACCOUNTING STANDARDS

(a)(4) • • •

(B) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to either a disclosed cost accounting practice or an established cost accounting practice, other than a change made under other provisions of this subparagraph (4): *Provided,* That no agreement may be made under this provision that will increase costs paid by the United States.

(C) When the parties agree to a change to either a disclosed cost accounting practice or an established cost accounting practice, other than a change under (4)(A), above, negotiate an equitable adjustment as provided in the Changes clause of this contract.

• • • • • •

(d) The Contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b). The contractor shall require such inclusion in all subcontracts of any tier, including the obligation to comply with all Cost Accounting Standards in effect on the date of award of the subcontract or, if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data. This requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not based on:

• • • • • •

(a)(2) • • •

DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES

(a) • • •

(5) When the parties agree to a change to either a disclosed cost accounting practice or an established cost accounting practice, negotiate an equitable adjustment as provided in the changes clause of this contract.

• • • • • •

(b) • • •

ADMINISTRATION OF COST ACCOUNTING STANDARDS

• • • • • •

(a) • • •

(2) For any change to cost accounting practices proposed in accordance with paragraph (a)(4)(B) or (a)(4)(C) of the Cost Accounting Standards clause or with paragraph (a)(3) or (a)(5) of the Disclosure and Consistency of Cost Accounting Practices clause not less than 60 days (or such other date as may be mutually agreed to) prior to the effective date of the proposed change; or

• • • • • •

(c) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with paragraphs (a)(4) and (a)(5) of the Cost Accounting Standards clause or with paragraphs (a)(3), (a)(4), or (a)(5) of the Disclosure and Consistency of Cost Accounting Practices clause.

• • • • • •

(f) For negotiated subcontracts containing the Cost Accounting Standards clause, require the subcontractor to comply with all Standards in effect on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data or date of award, whichever is earlier.

• • • • • •

c. Section 1-3.1204-2 is amended (1) by amending the nondefense full coverage clause in paragraph (a) of the section to revise provision (a)(4) and to add provision (a)(6), and (2) by amending the nondefense modified coverage clause in paragraph (b) of the section to revise provision (a)(2) and to add provision (a)(4), as follows:

§ 1-3.1204-2 Nondefense contract clauses.

(a) • • •

COST ACCOUNTING STANDARDS—NONDEFENSE CONTRACT

(a) • • •

(4) Negotiate with the Contracting Officer to determine the terms and conditions under which a change to either a disclosed cost accounting practice or an established cost accounting practice, other than a change made under (a)(3) above or (a)(6) below, may be made. A change to a practice may be proposed by either the Government or the Contractor; *Provided, however,* That no agreement may be made under this provision that will increase costs paid by the United States.

• • • • • •

(6) Negotiate an equitable adjustment (as provided in the Changes clause of this contract, if any) when the parties agree to a change to either a disclosed cost accounting practice or an established cost accounting practice.

• • • • • •

(b) • • •

CONSISTENCY OF COST ACCOUNTING PRACTICES—NONDEFENSE CONTRACT

(a) • • •

(2) Follow consistently the cost accounting practices established or disclosed as required by regulations of the Cost Accounting Standards Board and administered under the Administration of Cost Accounting Standards clause. If any change is made in established practices or in disclosed practices for purposes of any contract or subcontract subject to those disclosure requirements, the change must be applied in a consistent manner to this contract. A change to these practices may be proposed, however, by either the Government or the Contractor, and the Contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract. No agreement may be made under this provision that will increase costs paid by the United States.

• • • • • •

(4) Negotiate an equitable adjustment (as provided in the Changes clause of this contract, if any) when the parties agree to a change to either a disclosed cost accounting practice or an established cost accounting practice.

• • • • • •

d. Section 1-3.1204-3 is revised, as follows:

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§ 1-3.1204-3 National defense subcontracts.

The Cost Accounting Standards clause in § 1-3.1204-1(a)(1) and the Administration of Cost Accounting Standards clause in § 1-3.1204-1(b) require contractors and subcontractors to flow-down the requirement to comply with cost accounting standards in effect on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data or date of award, whichever is earlier, unless the subcontractor is exempt from CAS requirements or the subcontractor qualifies for and elects to comply with the modified contract coverage clause.

e. Section 1-3.1207 is amended by revising paragraph (a), as follows:

§ 1-3.1207 Contract price adjustments.

(a) *Modifications to Disclosure Statements or established practices.* Paragraphs (a)(4) of the Cost Accounting Standards clause and (a)(3) and (a)(5) of the Disclosure and Consistency of Cost Accounting Practices clause provide for adjustment of contract price under certain circumstances. Paragraphs (a)(3), (a)(4), and (a)(6) of the Cost Accounting Standards—Nondefense Contract clause and (a)(2) and (a)(4) of the consistency of Cost Accounting Practices—Nondefense Contract clause similarly provide for adjustments. The cognizant contracting officer (ACO) is responsible for obtaining the contractor's cost impact proposal and for the conduct of all negotiations of such adjustments to all Government prime contracts. Prior to the use of the provisions of (a)(4)(C) of the Cost Accounting Standards clause, (a)(5) of the Disclosure and Consistency of Cost Accounting Practices clause or the Cost Accounting Standards—Nondefense Contract clause, or (a)(3) of the Consistency of Cost Accounting Practices—Nondefense Contract clause, the cognizant contracting officer (ACO) shall make a finding that the change is desirable and is not detrimental to the interests of the Government.

• • • • •

f. Section 1-3.1214 is amended by revising paragraph (c), as follows:

§ 1-3.1214 Administration of voluntary changes.

• • • • •

(c) *Receipt of cost impact proposal.* Upon receipt of an acceptable proposal from the contractor, the cognizant contracting officer shall promptly analyze the proposal with the assistance of the auditor to determine whether or not the proposed change will result in increased costs being paid by the United States. In considering the proposed adjustments to subcontracts containing a cost accounting standards clause to determine whether increased cost to the United States will result from the change, the cognizant contracting officer shall not consider the effect of the proposed adjustments upon the prime contracts and subcontracts under which the subcontracts were entered into. If the cognizant contracting officer determines that the proposed adjustments will not result in an increase in the aggregate cost to be paid under the contracts and subcontracts containing a cost accounting standards clause, he shall promptly negotiate the contract price adjustments pursuant to § 1-3.1207. If the cognizant contracting officer determines that the proposed adjustments will result in an increase in the aggregate cost to be paid under the contracts and subcontracts containing a cost accounting standards clause, he shall so notify the contractor and advise him that the proposed change will not be recognized unless and agreement can be reached which will prevent an increase in the aggregate cost to be paid under such contracts and subcontracts. Contracts and subcontracts which contain paragraph (a)(4)(C) of the Cost Accounting Standards clause, (a)(5) of the Disclosure and Consistency of Cost Accounting Practices clause or the Cost Accounting Standards—Nondefense Contract clause, or (a)(3) of the Consistency of Cost Accounting Practices—Nondefense Contract clause provide for equitable adjustment for changes if the contracting officer determines that the change is desirable and not detrimental to the interests of the Government (see § 1-3.1207(a)). Where the cognizant contracting officer (ACO) makes such a determination, he shall notify the contractor and the parties will negotiate an equitable adjustment.

• • • • •

7. *Comments.* The date within which comments may be submitted with respect to FPR Temporary Regulation 44, dated March 29, 1978, and this Supplement 1 to the temporary regulation is extended to 60 days after the date this regulation is published in the FEDERAL REGISTER. Comments may be submitted to the Director, Federal Procurement Regulations Staff (mailing address: General Services Administration (FV), Washington, DC 20406.

Dated: May 4, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-13276 Filed 5-15-78; 8:45 am]

[6820-24]

[GSA Bulletin FPR 25; Federal Procurement Supplement 3]

COST ACCOUNTING STANDARDS ADMINISTRATION

Interim Guidance

To: Heads of Federal agencies.
Subject: Cost Accounting Standards Administration—interim guidance.

1. *Purpose.* This supplement adds additional interim guidance concerning the administration of subpart 1-3.12, Cost Accounting Standards, of the Federal Procurement Regulations (FPR). In addition, an index to guidance items is added as attachment B to the bulletin.

2. *Expiration date.* This bulletin contains items of a continuing nature and will remain in effect until canceled.

3. *Filing instructions.* Remove pages 1, 2, 2.1 and 2.2, and 61 of attachment A, and insert new pages 1, 2, 2.1 and 2.2, and 61 through 72, which add new item numbers 27 through 29. Insert attachent B.

Dated: April 28, 1978.

ROBERT P. GRAHAM,
Commissioner, Federal Supply Service.

GSA Bulletin FPR 25, Supp. 3
Attachment A

INTERIM GUIDANCE ON
COST ACCOUNTING STANDARDS MATTERS

Item Number	Page Number	Title and Source
1	3	Guidance for the implementation of CAS 409, Depreciation of Tangible Capital Assets: DPC 75-4, October 3, 1975, Item XVI
2	6	CAS-covered contracts versus uncovered contracts: DPC 75-6, January 19, 1976, Item VIII (DPC 76-1, August 30, 1976)
3	7	Increased costs paid under CAS-covered contracts: DPC 75-6, January 19, 1976, Item VIII (DPC 76-1, August 30, 1976)
4	8	Individual contract adjustments: DPC 75-6, January 19, 1976, Item VIII (DPC 76-1, August 30, 1976)
5	9	Noncompliance cases involving contractor proposals: DPC 76-1, August 30, 1976, Item X (revised from DPC 75-6, January 19, 1976)
6	9	Interim guidance for implementing CAS 412: W.G. 76-1, February 24, 1976
7	11	Interim guidance for application of CAS to contract modifications and to orders placed under basic agreements: W.G. 76-2, February 24, 1976
8	13	Interim policy for application of CAS to subcontracts: W.G. 76-3, March 11, 1976
9	14	Interim guidance for determining increased costs to the Government for CAS-covered FFP contracts: W.G. 76-4, October 1, 1976
10	15	Interim guidance on treatment of implementation costs related to changes in cost accounting practices: W.G. 76-5, October 1, 1976
11	16	Interim guidance on application of CAS clause to changes in contractor's established practices when a disclosed statement has been submitted: W.G. 76-6, October 1, 1976
12	17	Interim guidance on the significance of "effective" and "applicability" dates included in cost accounting standards: W.G. 76-7, October 1, 1976
13	20	Application of CAS 405, Accounting for Unallowable Costs to Directly Associated Cost: DPC 76-6, January 31, 1977, Item XXXV (supersedes Item XV of DPC 74-3, November 29, 1974)
14	22	Interim guidance on use of the offset principle in contract price adjustments resulting from accounting changes: W.G. 76-8, December 17, 1976
15	24	Interim guidance for measurement of cost impact on firm-fixed-price contracts: W.G. 76-9, December 17, 1976
16	26	Retroactive implementation of cost accounting standards when timely compliance is not feasible: W.G. 77-10, February 2, 1977
17	28	Interim guidance for the implementation of CAS 410, Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives: W.G. 77-11, February 2, 1977
18	38	Interim guidance on deliberate noncompliance and inadvertent noncompliance: W.G. 77-12, March 29, 1977
19	41	Interim guidance on the applicability of CAS 405 to costs determined unallowable on the basis of allocability: W.G. 77-13, March 29, 1977

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Item Number	Page Number	Title and Source
20	42	Interim guidance on early implementation of new cost accounting standards issued by the CAS Board: W.G. 77-14, March 29, 1977
21	44	Interim guidance on the influence of CAS regulations on contract terminations: W.G. 77-15, March 29, 1977
22	46	Interim guidance on applicability of cost accounting standards to letter contracts: W.G. 77-16, June 14, 1977
23	47	Interim guidance--Identification of CAS contract universe at a contractor's plant: W.G. 77-17, June 14, 1977
24	48	Interim guidance for implementation of Cost Accounting Standard 414--Cost of Money as an Element of the Cost of Facilities Capital; and Defense Procurement Circular (DPC) 76-3: W.G. 77-18, June 14, 1977
25	56	Interim guidance--Policy for withdrawing determination of adequacy of disclosure statement: W.G. 77-20, June 14, 1977
26	58	Interim guidance--Administration of leased facilities under Cost Accounting Standard 414, Cost of Money as an Element of the Cost of Facilities Capital: W.G. 77-19, August 18, 1977
27	61	Interpretation No. 1 to CAS 402, Consistency in allocating costs incurred for the same purpose: DPC 76-9, August 30, 1977
28	61	Interim guidance--Implementation of CAS 410, Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives: W.G. 78-21, January 16, 1978
29	70	Interim guidance--CAS 409 and the development of asset service lives: W.G. 78-22, February 6, 1978

computed in a manner as if the contractor had purchased the asset. The cost of money will not be included in the net book value of leased assets as reflected on the CASB-CMF form.

5. The cost of money related to leased assets will be allocated to benefiting cost objectives as an integral part of the cost of money factors for all capital assets, as prescribed by Standard 414.

6. Consistent with Interim Guidance paper W.G. 77-18, land will be shown on the CASB-CMF form (at its fair value at the beginning of the term of the lease) for each accounting period it is used in regular business operations.

Item 27 Interpretation No. 1 to CAS 402, Consistency in allocating costs incurred for the same purpose: Defense Procurement Circular (DPC) 76-9, August 30, 1977

Interpretation No. 1 to CAS 402 (Consistency in allocating costs incurred for the same purpose) was issued by the Cost Accounting Standards Board (41 FR 24691, June 18, 1976). Since that time, questions have been raised regarding the application of the Interpretation to Bid and Proposal (B&P) costs.

With respect to B&P costs, the Interpretation provides that these costs shall be a direct charge to a contract only as a result of a specific contract requirement. B&P costs resulting from other than a specific contract requirement shall not be a direct charge to a contract.

As of September 1, 1976, direct charges of B&P costs must be authorized by specific terms of the contract. Existing contracts in which B&P costs were contemplated to be a direct charge shall be modified to provide for recognition of any of these costs incurred from September 1, 1976, forward. Bid and Proposal costs charged direct prior to September 1, 1976, which were not charged pursuant to specific contract terms shall be allowed on the basis of the criteria existing before Interpretation No. 1 was published.

Item 28 Interim guidance--Implementation of CAS 410, Allocation of Business Unit General and Administrative Expense to Final Cost Objectives: W.G. 78-21, January 16, 1978

References: W.G. 77-11 [Item 17 of this GSA Bulletin 25]
ASPR 15-201.4 [$1-15.201.4 of the FPR]

Background

W.G. 77-11 provides guidance on implementation matters identified at the time CAS 410 was promulgated. Additional questions have surfaced during the development of contractor implementation proposals. This paper addresses those questions.

Discussion

Since a variety of issues and related guidance are involved, the guidance will be presented in a question and answer format.

1. Question

Is it appropriate to include functional costs, such as program management and procurement, in the G&A pool if all costs of a particular function are included?

Answer

No, unless the costs are insignificant. As defined in CAS 410 and emphasized in W.G. 77-11, G&A expenses are incurred for the general management and administration of a business unit as a whole. They must be allocated to final cost objectives on a base that measures the total activity of the business unit. G&A expenses are intended to have no direct causal or beneficial relationship with any intermediate or final cost objective. Applying the G&A definition requires appropriate purification of the G&A expense pool. Expenses such as program management, procurement, subcontract administration, and G&A-type expenses incurred for another segment, should not be identified as G&A expenses. They should be the subject of a separate distribution in reasonable proportion to the benefits received.

2. Question

Prefatory remarks in the standard say, "Contractors who have included selling costs in a cost pool separate and apart from the G&A expense pool may continue that practice or may change and include selling costs in their G&A expense pool." May selling costs be included in the G&A expense pool if an inequitable distribution results?

Answer

No. Although the prefatory remarks are permissive in this regard, the standard's fundamental requirement paragraph 410.40(d)(1) requires a separate allocation of costs which can be allocated to business unit costs objectives on a beneficial or causal relationship which is best measured by a base other than a cost input base. Further requirements in paragraph 410.50(b)(1) indicate that the allocation base for combined pools must be appropriate for both. ASPR tests of allocability and reasonableness must also be satisfied. Therefore, if a significant disparity exists in marketing activity for elements of the business, selling expenses should be the subject of a separate distribution in reasonable proportion to the benefits received. For example, it may be appropriate to separately allocate selling costs of foreign and domestic markets.

3. Question

The standard says, "The cost input base selected to represent the total activity of a business unit during a cost accounting period may be: (1) Total cost input, (2) value-added cost input, or (3) single element cost input." Is the total cost input preferred?

Answer

Yes. The standard says, "A total cost input base is generally acceptable as an appropriate measure of the total activity of a business unit." The prefatory comments say, "...the term 'total activity' refers to the production of goods and services during the cost accounting period." Thus, unless circumstances exist where a significant difference is apparent between the activity involved in the production of goods and services during the cost accounting period and the costs of this activity, a total cost input base should be used. When circumstances exist where total cost input does not appear to be an appropriate measure of total activity of the business unit, other bases available in the standard should be considered. However, the conditions involved should be carefully considered before departing from a total cost input base. The value-added base shall be used where inclusion of material and subcontract costs would significantly distort the allocation and where costs other than labor are significant measures of total activity. What constitutes a significant distortion in

this context will be addressed as a separate question below. The criteria for use of a single-element cost input base are very specific. The standard says, "A single element base may not produce equitable results where other measures of activity are also significant in relation to total activity. A single element base is inappropriate when it is an insignificant part of the total cost of some of the final cost objectives." Considering the criteria for the use of the value-added and single-element bases, the thrust of the standard is toward implementing a total cost input base in most situations. Purification of the G&A expense pool is the most viable approach to minimizing any potential inequities which may surface in implementing the total cost input base.

4. Question

Should interdivisional transfers be included in a total cost input base?

Answer

Yes. The inclusion of interdivisional transfers in a total cost input base is supported by several provisions of the standard. CAS 410.40(b)(1) states that business unit G&A expenses shall be allocated "...by means of a cost input base representing the total activity of the business unit...." CAS 410.50(d) supplements that fundamental requirement by stipulating that the cost input base used to allocate G&A costs shall include "all significant elements of that cost input which represent the total activity of the business unit." Prefatory comment No. 1 also lends support by stating that "...when a total cost input base has been selected, all significant costs other than the costs included in the G&A expense pool should be included in the base."

Given this interpretation of CAS 410, there are only two ways in which interdivisional transfers may be excluded from the receiving division's G&A base. These are (1) the use of a base in appropriate circumstances whose constituent parts do not include material, such as value-added or single-element bases, or (2) when the interdivisional receipts are not significant.

Disputes as to the inclusion of costs such as interdivisional material or the selection of a base often obscure a more fundamental aspect of compliance with CAS 410. This is the requirement that the G&A pool represent only the centralized

management costs as discussed in question No. 1 of this guidance paper. Correct "purification" of many existing G&A pools will greatly minimize the impact of base selections.

5. Question

What type of circumstance would meet the value-added base criteria that inclusion of material and subcontract costs would significantly distort the allocation of the G&A expense pool in relation to the benefits received?

Answer

Responding to this question requires consideration of the context in which the criteria is presented in the standard and of related comments published by the CAS Board.

In describing the G&A base in 410.50(d), the CAS Board said, "The cost input base used to allocate the G&A expense pool shall include all significant elements of that cost input which represent the total activity of the business unit." In the prefatory comments the CAS Board said, "...the term 'total activity' refers to the production of goods and services during a cost accounting period." What is being pursued for the base is a flow of costs which bears a reasonable relationship with the production of goods and services. The criteria for a value-added base appears to be referring to a significant distortion in that relationship.

The production of goods and services requires material, labor, overhead, and other direct and indirect elements in varying amounts. The fact that a variance in amounts occurs usually reflects a variance in activity involved rather than a distortion in the relationship of costs and activity. However, when the activity involved in cost objectives is similar but the costs vary significantly, this usually indicates that a distortion exists for which use of a value-added base should be considered.

Two examples of circumstances in which significant distortions would likely lead to a decision to use a value-added base are described below:

a. Government-furnished components. The Government may furnish engines in its contract for aircraft. Similar aircraft are sold to commercial customers, but the contractor

issues subcontracts for the engines, including engine costs as part of the price. The same general management and administration of the business unit as a whole exists whether the customer furnishes the components or not. Consequently, including the component costs would significantly distort the results of using a total cost input base. Assuming no other circumstances of the contractor's activity would mitigate satisfaction of the standard's criteria for use of a value-added base, exclusion of material and subcontract costs would probably eliminate the distortion (the standard does not permit exclusion of engine costs only).

b. Precious metals. Products with similar configuration may have as the only difference the fabrication of one in gold and the other in sheet metal. The result would be that one product would have such a substantially greater material cost level that cost input would not be representative of the activity of the business unit. However, this type of circumstance should be reviewed with special care. Additional general management and administration costs may be necessary because of the greater cost level. For example, more financial accounting may be required to determine cash flow requirements and to support financing arrangements. Top-level management may be expected to monitor high-cost areas more than other elements of the business.

Once a distortion has been identified, the CAS Board's published materiality criteria may be helpful in determining whether the distortion is significant.

Equally important to assessing whether a significant distortion exists is considering whether use of a value-added base would minimize the distortion and result in an allocation best representing the total activity of the business unit during a cost accounting period. If not, its use would not comply with the basic requirement of the standard.

6. Question

The Standard states, "A value-added cost input base is total cost less material and subcontract costs." Should indirect material and subcontract costs be deducted from total costs to arrive at the value-added base? What is the definition of subcontract costs?

Answer

The costs deducted from total costs to determine the value-added base should be limited to direct material and subcontract costs. The DD Form 633 under the heading of direct material provides an authoritative definition of subcontract costs, which states, "Include parts, components, assemblies, and services to be produced by other than you [the contractor] in accordance with your designs, specifications, or directions and applicable only to the prime contract."

In applying this definition, care must be taken to avoid inappropriate inclusions or exclusions from the value-added base as a result of a broad application of terminology or individual contractor account classifications. For example, subcontract labor of the "body shop" type is often used to supplement the normal work force and is used interchangeably with the regular employees under the direction of the same supervision. Under these circumstances, the work performed does not fit the definition of services to be performed by other than the contractor. Thus it would be inappropriate to deduct these amounts from the total costs. On the other hand it would be appropriate to deduct the cost of subcontracts for items such as interior decoration of aircraft even though a contract accounts for them as part of other direct costs.

7. Question

When may the single-element cost input base be used to allocate the G&A expense pool?

Answer

A single-element cost input base may be used when a contractor can demonstrate that it best represents the total activity of a business unit and produces equitable results. Thus, a single-element base such as direct labor dollars may be used when the direct labor dollars are significant and the other measures of activity are less significant in relation to total activity. The contractor should periodically analyze the single-element base to ensure that it continues to best represent total activity and produces equitable results. When other measures of activity become significant, a single-element base may not produce equitable results. A

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single-element base is inappropriate when it is an insignificant part of the total cost of some of the final cost objectives.

8. Question

CAS 410.50(j) prescribes use of a special allocation of G&A expenses where a particular final cost objective in relation to other final cost objectives receives significantly more or less benefit from G&A expense than would be reflected by allocation on an otherwise acceptable cost input base. What guidelines should be followed in applying this provision?

Answer

The CAS 410.50(j) provision is applicable only to a particular final cost objective which is an exception to the contractor's normal operation. An illustration of a circumstance appropriate for using a special allocation is shown in CAS 410.60(g). A contractor who normally constructs base operating facilities receives a significantly unusual requirement in one contract to acquire operating equipment for the base being constructed. A particularly important comment there says agreement by the parties is necessary. Taking this in conjunction with the standard's prefatory comment that the special allocation provision calls for the exercise of judgment, it appears that the intent is to use the special allocation provision in exceptional cases to resolve situations where equitable allocation to a particular cost objective cannot be achieved by normal methods.

Prefatory comments to the Standard state:

> If the G&A expense pool meets the requirements of the Standard, the existence of a need for special allocation to a class of contracts or type of situation would indicate that the allocation base being used is not representative of the total activity of the business unit during a typical cost accounting period.

Thus, before approving a special allocation the G&A expense pool should be carefully reviewed to purify it of any expenses which may be allocated to cost objectives more directly than by a cost input base. If a significant distortion still exists, then the cost input base selected should be reconsidered.

Administrative Contracting Officers should exercise caution in agreeing to the use of a special allocation. The use of a special allocation to gain a competitive advantage is not appropriate. However, it is recognized that the same operation may be normal in one contractor's circumstance but represent a special allocation situation in another contractor's circumstance.

9. Question

When a special allocation under CAS 410.50(j) is used, must it be described in the contractor's Disclosure Statement?

Answer

Yes. The contractor must amend his Disclosure Statement. Otherwise the contractor would be in noncompliance for failure to follow disclosed practices. The description should identify not only the special allocation but also the circumstances which required its use.

10. Question

CAS 410.50(g)(2) provides that separate allocations of significant home office centralized service functions, staff management of specific activities of segments, and central payments or accruals shall be allocated to segment cost objectives in proportion to the beneficial or causal relationship between the cost objectives and the expenses where such a relationship is identifiable. When separate allocations are reflected in home office cost accounting, must the separate allocations be identified as such in the cost transfers to the segments?

Answer

Yes. The requirement for this is CAS 403. To support that home office expenses charged to a CAS-covered contract were allocated to the segment in compliance with CAS 403, the contractor should be required to identify the allocation base and components of the expense pool.

11. Question

Should a facilities contract as defined in ASPR 7-701 be included in the total cost input base?

Answer

Yes, unless the provisions of CAS 410.50(j) apply. See Question 8.

ASPR 7-701 states that facilities contracts can take the following forms:

a. Facilities Acquisition Contract, which provides for acquisition, construction, and installation of facilities.

b. Facilities Use Contract, which provides for maintenance, accountability, and disposition of facilities.

c. Consolidated Facilities Contract, which provides for both a and b above.

With respect to Consolidated Facilities Contracts, there may be cases where it would be appropriate to apply the provisions of CAS 410.50(j) to only one portion of the contract and not the other; e.g., only to the facilities acquisition portion of the contract and not to the facilities use portion.

Item 29 Interim Guidance--CAS 409 and the Development of Asset Service Lives: W.G. 78-22, February 6, 1978

BACKGROUND

1. CAS 409 applies only to assets acquired by a contractor after the beginning of its next fiscal year, after receipt of a CAS-covered contract, and after July 1, 1975. For most contractors, CAS 409 became applicable to their tangible capital assets acquired after January 1, 1976. CAS 409.50(e)(3) grants the contractor a 2-year period following the date when the standard must be followed for the development of adequate historical records to support the asset lives used in computing depreciation for those assets to which the standard is applicable.

2. In describing criteria for estimating service lives initially established for tangible capital assets (or groups of assets), CAS 409.50(e) says, in part: "The estimate of the expected actual periods of usefulness need not include the additional period tangible capital assets are retained for standby or incidental use where adequate records are

maintained which reflect the withdrawal from active use."

In addition, CAS 409.50(e)(2) provides in part: "Supporting records shall be maintained which are adequate to show the age at retirement or, if the contractor so chooses, at withdrawal from active use (and retention for standby or incidental use) for a sample of assets for each significant category."

DISCUSSION

1. Equitable adjustments of CAS-covered contracts for accounting changes required by CAS are generally applicable only to those contracts in existence on the effective date of the standard (see W.G. 76-7 [Item 12 of this GSA bulletin 25]). An exception to that general rule is seen in the provisions of CAS 409, which allow a grace period to develop records of asset service lives. During this period, many contractors have used some method other than their historical records to estimate asset service lives. Under these circumstances, asset service lives for those assets acquired during the grace period are not required to be adjusted to the historical lives. Therefore, the first applicability of the requirements to base asset service lives on historical records of experience takes place after the grace period. Consequently, all CAS-covered contracts and subcontracts awarded before the conclusion of the grace period are subject to equitable price adjustment for changes related to adopting the new method of arriving at asset service lives for assets acquired after the grace period.

2. There is another issue raising questions about asset service lives. The CAS 409 provision for adjusting service lives to reflect standby or incidental usage provides the contractor an opportunity to prevent having longer lives applied in the depreciation process merely because an asset is not disposed of when withdrawn from active use. To take advantage of this opportunity, the contractor must maintain a record supporting the status of assets.

"Standby" status exists when the asset is withdrawn from regular usage with no definite plans for continuing its use. The asset is retained merely for possible temporary replacement during repair of a productive asset, emergency, or other unusual usage. Diminishing the usage to a part-time basis does not constitute standby status.

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GUIDANCE

1. Equitable adjustment procedures are available to the initial compliance with the historical records requirement of CAS 409.50(e)(3) for all CAS-covered contracts existing prior to the end of the grace period.

2. Contractors should be required to provide sufficient detail in records of asset lives or other documentation to support that assets retained for standby or incidental use were withdrawn from service. As indicated in CAS 409.50(e)(2), the records may be for a sample of assets for each significant category. These records are required only when asset lives are adjusted for standby or incidental use.

AN INDEX TO UNCODIFIED COST ACCOUNTING STANDARDS GUIDANCE

Key: CAS Cost accounting standard
DPC Defense Procurement Circular
WG CAS Steering Committee Working Group paper
Bul Federal Procurement Regulations (FPR) bulletin
TR FPR temporary regulation
[...] Republication

Adjustments, individual contract	DPC76-1,X[Bul25,item4]
Adjustments to price, offset principle	WG76-8[Bul25,item14]
Applicability date, effective date	WG76-7[Bul25,item12]
Applicability to letter contracts	WG77-16[Bul25,item22]
Asset depreciation	DPC74-4,XVI[Bul25,item1]
Asset service lives	WG78-22[Bul25,item29]
Basic agreements, orders placed	WG76-2[Bul25,item7]
Bid & proposal costs, interpretation	DPC76-9,VI[Bul25,item27]
CAS 402, Interpretation 1	DPC76-9,VI[Bul25,item27]
CAS 405, directly associated costs	DPC76-6,XXXV[Bul25,item13]
CAS 405, unallowable on basis of allocability	WG77-13[Bul25,item19]
CAS 409, asset service lives	WG78-22[Bul25,item29]
CAS 410	WG77-11[Bul25,item17]; WG78-21[Bul25,item28]
CAS 412	WG76-1[Bul25,item6]
CAS 414	WG77-18[Bul25,item24]; DPC76-3;DPC76-7,III; DPC76-9,IV;DPC76-12,III

CAS 414, FPR interim policies	TR 40
CAS 414, leased facilities	WG77-19[Bul25,item26]
CAS 415, FPR interim policies	TR 43
CAS-covered vs uncovered contracts	DPC76-1,X[Bul25,item2]
Changes, implementation costs	WG76-5[Bul25,item10]
Changes in established practices	WG76-6[Bul25,item11]
Contract modifications	WG76-2[Bul25,item7]
Contract universe identification	WG77-17[Bul25,item23]
Cost input base	WG78-21[Bul25,item28]
DPC 76-3	WG77-18[Bul25,item24]
Depreciation, tangible capital assets	DPC75-4,XVI[Bul25,item1]
Directly associated costs	DPC76-6,XXXV[Bul25,item13]
Disclosure statement, withdrawal of adequacy	WG77-20[Bul25,item25]
Effective date, applicability date	WG76-7[Bul25,item12]
Established practice changes	WG76-6[Bul25,item11]
FFP contracts, increased costs	WG76-4[Bul25,item9]
FFP contracts, measurement of cost impact	WG76-9[Bul25,item15]
G&A pool, functional or selling costs in	WG78-21[Bul25,item28]
Identification of contract CAS universe	WG77-17[Bul25,item23]
Implementation, early, of new standards	WG77-14[Bul25,item20]

Implementation, retroactive	WG77-10[Bul25,item16]
Implementation of changes, costs of	WG76-5[Bul25,item10]
Increased costs, FFP contracts	WG76-4[Bul25,item9]
Increased costs paid	DPC76-1,X[Bul25,item3]
Individual contract adjustments	DPC76-1,X[Bul25,item4]
Leased facilities under CAS 414	WG77-19[Bul25,item26]
Letter contracts, applicability	WG77-16[Bul25,item22]
Measurement of cost impact	WG76-9[Bul25,item15]
Noncompliance, contract proposals	DPC76-1,X[Bul25,item5]
Noncompliance, deliberate and inadvertent	WG77-12[Bul25,item18]
Offset principle, price adjustments	WG76-8[Bul25,item18]
Proposal noncompliance	DPC76-1,X[Bul25,item5]
Retroactive implementation, when timely compliance not feasible	WG77-10[Bul25,item16]
Subcontract application	WG76-3[Bul25,item8]
Terminations, influence of CAS regulations	WG77-15,[Bul25,item21]
Unallowable costs, directly associated	DPC76-6,XXXV[Bul25,item13]
Unallowable costs, on basis of allocability	WG77-13[Bul25,item19]
Uncovered contracts vs CAS covered	DPC76-1,X[Bul25,item2]

[FR Doc. 78-13225 Filed 5-15-78; 8:45 am]

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[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

NEW YORK STATE OFFICE OF DRUG ABUSE SERVICES AND NARCOTIC AND DRUG RESEARCH, INC.

Research on Drug Abuse; Authorization of Confidentiality

Under the authority vested in the Secretary of Health, Education, and Welfare by section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)), all persons who—

1. Are employed by the New York State Office of Drug Abuse Services, New York, N.Y., or Narcotic and Drug Research, Inc., Albany, N.Y.; and

2. Have, in the course of that employment, access to information which would identify individuals who are the subjects of the research on drug abuse which is assisted by the Department of Health, Education, and Welfare grant numbered RO1 DA 01926, entitled "Economic Behavior of Street-Level Opiate Addicts";

are hereby authorized to protect the privacy of the individuals who are the subjects of that research by withholding their names and other identifying characteristics from all persons not connected with the conduct of that research.

As provided in section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)):

> Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

This authorization does not authorize employees of the New York State Office of Drug Abuse Services or Narcotic and Drug Research, Inc. to refuse to reveal to qualified personnel of the Department of Health, Education, and Welfare, for the purpose of management or financial audits or program evaluation, the names or other identifying characteristics of individuals who are the subjects of the research conducted pursuant to Department of Health, Education, and Welfare grant numbered RO1 DA 01926. Such personnel will hold any identifying information so obtained strictly confidential in accordance with 45 CFR 5.71.

This authorization is applicable to all information obtained pursuant to Department of Health, Education, and Welfare grant numbered RO1 DA 01926 which would identify the individuals who are the subjects of the research conducted under that grant.

Dated: March 15, 1978.

ROBERT L. DUPONT,
Director, National Institute on Drug Abuse.

Dated: May 2, 1978.

DAVID F. KEFAUVER,
Acting Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-13171 Filed 5-15-78; 8:45 am]

[4110-86]

Center for Disease Control

CENTER FOR DISEASE CONTROL PROGRAMS AND POLICIES ADVISORY COMMITTEE (AD HOC)

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following Committee meeting:

Name: Center for Disease Control (CDC) Programs and Policies Advisory Committee (Ad Hoc).
Dates: May 31, June 1, 2, 1978.
Place: Room 207, Building 1, Center for Disease Control, 1600 Clifton Road NE., Atlanta, Ga. 30333.
Time: 9 a.m.
Type of meeting: Open.
Contact person: Ms. Patsy Whitesell, Executive Secretary of Committee, Bureau of Training, Center for Disease Control, 1600 Clifton Road NE., Atlanta, Ga. 30333, phone AC—404-633-3311, extension 6502, FTS 236-7502.
Purpose: The CDC Programs and Policies Advisory Committee (Ad Hoc) will make recommendations to the Secretary, the Assistant Secretary for Health, and the Director, Center for Disease Control pertaining to future direction, programs, and policies for CDC.
Agenda: The Committee will conduct a final review of priority public health problems and strategies of intervention for reducing morbidity and mortality due to each problem. Recommendations on CDC's role in the specified interventions as well as general recommendations on CDC policy and methods will be developed.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 5, 1978.

WILLIAM H. FOEGE,
Director, Center for Disease Control.

[FR Doc. 78-13214 Filed 5-15-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COMMITTEE ON BLACK HIGHER EDUCATION AND BLACK COLLEGES AND UNIVERSITIES

Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the fifth meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. Notice of this meeting is required under section 10(a) (2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1). This document is intended to notify the general public of their opportunity to attend.

DATE: June 12 and 13, 1978, 9:00 a.m to 5:00 p.m.

ADDRESS: 2225 Georgia Avenue, N.W, The Harambee House Hotel, Kilimanjaro Hall, Washington, D.C. 20001.

FOR FURTHER INFORMATION CONTACT:

Ms. Carol J. Smith, Program Delegate, National Advisory Committee, on Black Higher Education and Black Colleges and Universities, Room 4913, ROB-3, 400 Maryland Avenue, S.W., Washington, D.C. 20202, 202-245-2825 or 245-2352.

The National Advisory Committee on Black Higher Education and Black Colleges and Universities is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90-247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of the advisory committees.

The Committee is directed to advise the Secretary of Health, Education and Welfare, the Assistant Secretary for Education, and the Commissioner of Education. The Committee shall examine all approaches to higher education of Black Americans as well as the needs of historically Black colleges and universities.

The meeting on June 12 and 13, 1978, will be open to the public beginning at 9:00 a.m. and ending 5:00 p.m. each day. The meeting will be held at 2225 Georgia Avenue, N.W., Washington, D.C. 20001.

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The proposed agenda includes: (1) Annual report, (2) recommendations, (3) final report.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Committee on Black Higher Education and Black Colleges and Universities located at 7th and D Streets, S.W., Room 4913, ROB-3, Washington, D.C.

Signed at Washington, D.C. on May 11, 1978.

CAROL J. SMITH,
Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities.

[FR Doc. 78-13230 Filed 5-15-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 77N-0437; DESI 9149, 11120, 11127, and 12486]

PHYSICIAN LABELING FOR ANTIPSYCHOTIC DRUGS

Precaution Statement

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice requires that physician labeling for antipsychotic drugs, except for lithium carbonate, include a precaution statement concerning the chronic administration of these drugs. Also, this notice announces that a meeting will be held on June 26, 1978, Conference Room E, 9:00 a.m. between FDA and all sponsors of NDA's and IND's of these drugs to discuss the design and initiation of epidemiological studies involving the chronic administration of the drugs.

DATES: Physician labeling to be revised on or before September 13, 1978. Supplements to approved NDA's and ANDA's due on or before July 17, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with Docket No. 77N-0437, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements to full new drug applications (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Room 10B-04, Bureau of Drugs.

Supplements to abbreviated new drug applications (identify with ANDA number): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Inquiries regarding the meeting of June 26, 1978: Ronald Kartzinel, M.D., Division of Neuropharmacological Drug Products (HFD-120).

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is charged with assuring that drugs are safe and effective for their intended use and that their labeling provides adequate information for such use and is not false or misleading. The full disclosure of information to physicians concerning precautions is an important element in the discharge of that responsibility. The statutory scheme anticipates that new information concerning the safety and effectiveness of marketed drugs may require that FDA prescribe changes in their labeling to reveal limitations on use or to warn of previously unanticipated hazards. In accordance with this statutory scheme, the Director of the Bureau of Drugs is now requiring a precaution statement in the labeling of antipsychotic drugs, except for lithium carbonate, to inform physicians of recent information concerning the chronic administration of these drugs.

Data were presented at the FDA Toxicology Advisory Committee meeting of February 23, 1977, from studies in rodents involving the chronic administration of four antipsychotic investigational drugs, three of which showed treatment-related increase in the incidence of mammary neoplasms. At the next meeting of the Toxicology Advisory Committee of May 12, 1977, a report was presented by a subcommittee that had reviewed the data. The Toxicology Advisory Committee's conclusions were presented to the Psychopharmacological Agents Advisory Committee at its meeting of June 16, 1977.

The conclusions of the Toxicology Advisory Committee are as follows:

> The • • • investigational drugs under consideration as well as other prolactin-inducing compounds are all considered to have carcinogenic potential for the mammary glands in rats and mice. There is clearly-demonstrated and well-accepted scientific evidence for this effect. Several variables, including ovarian function in rodents, determine whether or not this potential will be realized. This potential does not require further confirmation by additional animal carcinogenesis studies.
>
> There are major differences in hormonal and reproductive physiology between rodents and humans, including some related to the role of prolactin. At present, the Committee feels there is insufficient evidence to extrapolate from mice and rats to humans with respect to the role of prolactin in mammary carcinogenesis. It is, therefore, the opinion of the Advisory Committee that the rodent studies are not relevant to a determination of the magnitude of the potential for human risk from mammary cancer.
>
> The assessment of human risk, if any, will require appropriate epidemiologic studies of cohorts which have been exposed to antipsychotic, prolactin-increasing drugs for several years, or the demonstration, through comparative pharmacological and physiological studies, of the relevance to man of rodent or other models.

REFERENCES

1. Minutes of the Toxicology Advisory Committee Meeting, February 23-24, 1977.
2. Minutes of the Toxicology Advisory Committee Meeting, May 12-13, 1977.
3. Minutes of the psycho- pharmacological Agents Advisory Committee Meeting, June 16, 1977.
4. FDA Toxicology Advisory Committee report on Antipsychotic Drugs.

Reprints of the above references have been placed on file with the Hearing Clerk (HFC-20), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

In view of these findings and conclusions, the Director of the Bureau of Drugs concludes that physicians should be aware of this new information and that a precaution statement should be required in the physician labeling of all antipsychotic drugs, except for lithium carbonate which does not increase prolactin secretion. Additional information as to human risk will be available when epidemiological studies are completed. Accordingly, it is now required that the physician labeling for such products be revised to include under the Precautions section the following statement:

> There is sufficient experimental evidence to conclude that chronic administration of antipsychotic drugs which increase prolactin secretion has the potential to induce mammary neoplasms in rodents under the appropriate conditions. There are recognized differences in the physiological role of prolactin between rodents and humans. Since there are, at present, no adequate epidemiological studies, the relevance to human mammary cancer risk from prolonged exposure to (*name of drug*) and other antipsychotic drugs is not known.

The following drug entities, and their salts and esters, are examples of antipsychotic agents which are covered by this notice, although this is not intended to be an exhaustive listing: acetophenazine, butaperazine, carphenazine, chlorperazine, chlorpromazine, chlorprothixine, mesoridazine, fluphenazine, haloperidol, loxapine, molindone, perphenazine, piperacetazine, prochlorperazine, promazine, thiopropazate, thioxene, trifluopera-

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zine, triflupromazine, and thioridazine.

The notice applies not only to the particular antipsychotic drugs subject to the Drug Efficacy Study but to all antipsychotic drug products that are the subject of new drug applications approved either before or after the Drug Amendments of 1962 and also to any identical, related, or similar drug product (21 CFR 310.6), whether or not it is the subject of an approved new drug application. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes by writing to the Division of Drug Labeling Compliance (address given above). The following antipsychotic drugs were reviewed by the Drug Efficacy Study and conclusions on them were published in the following FEDERAL REGISTER notices:

November 28, 1970 (35 FR 18213; DESI 11020): Acetophenazine maleate; Fluphenazine hydrochloride; Thiopropazate hydrochloride.

April 3, 1971 (36 FR 6447; DESI 9149): Chlorpromazine hydrochloride; Perphenazine; Prochlorperazine edisylate; Prochlorperazine maleate; Promazine hydrochloride; Thioridazine hydrochloride; Trifluoperazine hydrochloride; Triflupromazine hydrochloride; Triflupromazine.

July 27, 1972 (37 FR 15038; DESI 11127): Chlorpromazine; Prochlorperazine.

August 8, 1972 (37 FR 15947; DESI 12486): Chlorprothixene.

The Director also concludes that there exists a need for evidence to determine whether the chronic administration of antipsychotic drugs which increase prolactin secretion has the potential to induce mammary neoplasms in humans. Therefore he is inviting all sponsors of NDA's and IND's of antipsychotic drugs to a meeting to discuss the design and initiation of appropriate epidemiological studies. The meeting will be held on June 26, 1978 at 9 a.m. in Conference Room E, —— Floor, Parklawn Building, 5600 Fishers Lane, Rockville, Md. All inquiries regarding this meeting should be directed to Dr. Ronald Kartzinel, Director of the Division of Neuro- pharmacological Drug Products, Food and Drug Administration.

Supplements to approved NDA's or ANDA's providing for appropriate revision of labeling to add the above precaution statement shall be submitted on or before July 17, 1978. The revised labeling shall be put into use by September 13, 1978 or at the next printing of the labeling, whichever occurs first. The revised labeling may be put into use without advance approval by the Food and Drug Administration.

This notices is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: May 3, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-13066 Filed 5-15-78; 8:45 am]

[4110-03]

[Docket No. 78N-0084]

MUMPS VACCINE AND MUMPS VIRUS VACCINE, LIVE IMMUNIZATION OF SOURCE PLASMA (HUMAN) DONORS

Manufacture Discontinued

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs announces that (1) the manufacture of licensed Mumps Vaccine (prepared from killed mumps virus) has been discontinued and the product is no longer available for hyperimmunization of Source Plasma (Human) donors, and (2) the use of Mumps Virus Vaccine, Live (prepared from live, attenuated mumps virus) in place of Mumps Vaccine for hyperimmunization of Source Plasma (Human) donors is prohibited because available data do not support such use.

EFFECTIVE DATE: May 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael L. Hooton, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: Mumps Vaccine, Mumps Immune Globulin (Human) and Mumps Virus Vaccine, Live, are licensed biological products that are indicated for protection against mumps.

Mumps Vaccine also has been approved for the hyperimmunization of Source Plasma (Human) donors. Plasma from such donors is used for the manufacture of Mumps Immune Globulin (Human).

The Commissioner of Food and Drugs announces that (1) the manufacture of licensed Mumps Vaccine has been discontinued and the product is no longer available for hyperimmunization of Source Plasma (Human) donors; and (2) the use of Mumps Virus Vaccine, Live, in place of Mumps Vaccine for hyperimmunization of Source Plasma (Human) donors is prohibited.

Under § 601.25 (21 CFR 601.25) of the biologic regulations, the Panel on Review of Viral and Rickettsial Vaccines is evaluating the safety, effectiveness, and labeling of all Viral and Rickettsial Vaccines licensed before July 1, 1972. To date, the panel has determined that Mumps Vaccine is poorly antigenic and offers no sustained protection against mumps. Accordingly, the panel has recommended that licenses be revoked for the manufacture of Mumps Vaccine. There are only two licensed manufacturers of Mumps Vaccine in the United States, and both have discontinued manufacture of the vaccine. At one manufacturer's request, its license has been revoked. The dating period for the last lots of manufactured Mumps Vaccine expired in 1977, and therefore Mumps Vaccine is no longer available.

The Commissioner is aware of some uncertainty as to whether approval of Source Plasma (Human) licenses for immunization of donors with mumps vaccine includes immunizing donors with Mumps Virus Vaccine, Live (a live viral product).

The Commissioner finds that the available data do not support use of Mumps Virus Vaccin, Live for the hyperimmunization of Source Plasma (Human) donors. A specific product, Mumps Vaccine (a killed viral product), is the only licensed product that has been consistently approved for mumps hyperimmunization of Source Plasma (Human) donors.

Accordingly, Mumps Virus Vaccine, Live is prohibited for use to hyperimmunize Source Plasma (Human) donors. The Commissioner advises that the Food and Drug Administration will institute regulatory action against any Source Plasma (Human) establishment which uses Mumps Virus Vaccine, Live to hyperimmunize Source Plasma (Human) donors.

Dated: May 10, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13185 Filed 5-15-78; 8:45 am]

[4110-03]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, place	Type of meeting and contact person
1. Technical Electronic Product Radiation Safety Standards Committee.	June 1 and 2, 9 a.m., room 416, 12720 Twinbrook Pkwy., Rockville, Md	Open public hearing June 1, 9 a.m. to 10 a.m.; open committee discussion June 1, 10 a.m. to 4:30 p.m., June 2, 8:30 a.m. to 11:30 a.m.; Marshall S. Little (HFX-440), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3426.

General function of the committee. Advises on technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation in accordance with 42 U.S.C. 263f(f)(1)(A).

Open committee discussion. Discussion of Bureau of Radiological Health standards procedures; amendments to the diagnostic X-ray standards; proposed amendments concerning X-ray therapy simulators; draft amendments concerning computerized tomographic equipment; proposed amendment to test procedures for microwave oven standard; review of information on ultrasound bioeffects; concepts for recommendations for diagnostic ultrasound equipment; phototherapy and bioeffects of light; laser light shows; status report on standards projects—amendments to laser standard, mercury vapor lamps, microwave diathermy, sunlamps, and consumer education; new developments in X-ray recommendation projects; and the Bureau's responsibility for medical devices.

Committee name	Date, time, place	Type of meeting and contact person
2. Panel on Review of Ophthalmic Drugs.	June 2 and 3, 9 a.m.; conference room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (June 2); Holiday Inn, Chevy Chase, Md. (June 3).	Open public hearing June 2, 9 a.m. to 10 a.m.; open committee discussion June 2, 10 a.m. to 4:30 p.m., June 3, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6057.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before May 29, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also § 330.10(a)(2) (21 CFR 330.10(a)(2))).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, place	Type of meeting and contact person
3. Ophthalmic Subcommittee of the Anti-Infective and Topical Drugs Advisory Committee.	June 5, 9 a.m., conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Mary K. Bruch (HFD-140), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4300.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in the treatment of infectious diseases, dermatological disorders, and ocular diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion and review of Timolol (NDA 18-086) for glaucoma; review of proposed iritis studies of Betamethasone and the difficulties in design; and review of human toxicity problems with 6-hydroxydopamine (NDA 18-079).

Committee name	Date, time, place	Type of meeting and contact person
4. Panel on Review of Oral Cavity Drug Products.	June 6 and 7, 9 a.m., conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 6, 9 a.m. to 10 a.m.; open committee discussion June 6, 10 a.m. to 4:30 p.m., June 7, 9 a.m. to 4:30 p.m., John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20657, 301-443-6057.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before June 1, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also § 330.10(a)(2) (21 CFR 330.10(a)(2))).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

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Committee name	Date, time, place	Type of meeting and contact person
5. Dermatology Subcommittee of the Anti-Infective and Topical Drugs Advisory Committee.	June 8, 9 a.m., conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Mary K. Bruch (HFD-140), 5600 Fishers Lane, Rockville, Md., 20857, 301-443-4300.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in the treatment of infectious disease, dermatological disorders, and ocular diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of Oxsoralen with ultraviolet light in the treatment of psoriasis and consideration of adrenal suppression studies as a part of the guidelines for testing topical steroids.

Committee name	Date, time, place	Type of meeting and contact person
6. Panel on Review of Contraceptives and Other Vaginal Drug Products.	June 8 and 9, 9 a.m., Shenandoah B room, Ramada Inn, Arlington, Va.....	Open public hearing June 8, 9 a.m. to 10 a.m.; open committee discussion June 8, 10 a.m. to 4:30 p.m., June 9, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before June 5, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also § 330.10(a)(2) (21 CFR 330.10(a)(2))).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, place	Type of meeting and contact person
7. Panel on Review of Antimicrobial Agents.	June 9 and 10, 9 a.m., Rosslyn B room, Ramada Inn, Arlington, Va.	Open public hearing, June 9, 9 a.m. to 5 p.m.; open committee discussion, June 10, 9 a.m. to 4:30 p.m.; Armond M. Welch, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda-Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before June 6, 1978, and submit a brief statement of the general nature of the dada, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

To date, the following presentations have been scheduled for this time period.

Committee name	Date, time, place	Type of meeting and contact person
8. Panel on Review of Miscellaneous External Drug Products.	June 11 and 12, 9 a.m.; Georgia Room, Holiday Inn, Bethesda, Md. (June 11); Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (June 12)..	Open committee discussion June 11, 9 a.m. to 4:30 p.m.; open public hearing June 12, 9 a.m. to 10 a.m.; open committee discussion June 12, 10 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6057.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda-Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before June 7, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to persent, the names and addresses of proposed participants, and an indication of the approximate time desires for their presentation.

Open committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also § 330.10(a)(2) (21 CFR 330.10(a)(2))).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

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Committee name	Date, time, place	Type of meeting and contact person
9. Peripheral and Central Nervous System Drugs Advisory Committee.	June 12 and 13, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 12, 9 a.m. to 10 a.m.; open committee discussion June 12, 10 a.m. to 4:30 p.m., June 13, 9 a.m. to 4:30 p.m.; Charles Prettyman (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3810.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in neurologic disease.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the geriatric guidelines (June 12); Inderal indication for migraine (morning of June 13); and Fenfluramine and neurotoxicity (afternoon of June 13).

Committee name	Date, time, place	Type of meeting and contact person
10. Ear, Nose, and Throat Device Classification Panel.	June 22 and 23, 9 a.m. Room 6821, FB-8, 200 C ST. SW., Washington DC....	Open public hearing June 22, 9 a.m. to 10:30 a.m.; open committee discussion June 22, 10:30 a.m. to 4:30 p.m., June 23, 9 a.m. to 4:30 p.m.; Harry R. Sauberman, P.E. (HFK-460), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7536.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the proposed classification of ear, nose, and throat devices to the executive secretary. Those desiring to make formal presentations should notify the executive secretary by June 8, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. At this meeting the Panel will review medical and scientific information on the safety and efficacy of: (a) tympanostomy tubes which contain a membrane; (b) endolymphatic shunt tubes which contain a valve; (c) porous polyethylene when used as an implant material; and (d) tinnitus maskers. This Panel will also review selected FEDERAL REGISTER writeups pertaining to the classification of several other specific ENT devices.

Committee Name	Date, time, place	Type of meeting and contact person
11. Science Advisory Board.....	June 22 and 23, 8:30 a.m.; West Plaza Room, Camelot Inn, Little Rock, Ark	Open public hearing June 22, 8:30 a.m. to 9:30 a.m.; open committee discussion June 22, 9:30 a.m. to 4 p.m., June 23, 8:30 a.m. to 4 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the committee. Advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested parties are invited to present information, data, or views, orally or in writing, on issues pending before the Board.

Open committee discussion. Discussion of the Director's report; chemistry program; teratology report; mutagenesis report and the aromatic amines report.

Committee name	Date, time, place	Type of meeting and contact person
12. Gastrointestinal Drugs Advisory Committee Subcommittee on Hepatotoxicity..	June 23, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md..	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4700.

General function of the Committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion and revision of the Fogarty Guidelines on Hepatotoxicity.

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Committee name	Date, time, place	Type of meeting and contact person
13. Panel on Review of Miscellaneous Internal Drug Products.	June 23, 24, and 25; Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (June 23); Holiday Inn, Chevy Chase, Md. (June 24 and 25).	Open public hearing June 23, 9 a.m. to 10 a.m.; open committee discussion June 23, 10 a.m. to 4:30 p.m., June 24 and 25, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before June 20, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also § 330.10(a)(2) (21 CFR 330.10(a)(2))).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, place	Type of meeting and contact peson
14. Immunology Device Classification Panel.	June 29, 9 a.m., Silver Room, Holiday Inn, 8777 Georgia Ave., Silver Spring, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; S. K. Vadlamudi, Ph.D., D.V.M. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

Topic and Presenter

Clinical Forms and Morpholoy—Dr. Samuel Frank; Etiologic Role of Hormones—Dr. John Strauss; Etiologic role of Bacteria—Dr. Sirje Puhvel; Host Immune Response—Dr. Sirje Puhvel; Sebum and Other Etiologic Factors—Dr. Peter Pochi; Topical and Systemic Antibiotics—Dr. Alan Shalita; Benzoyl Peroxide, Resorcinol, Sulfur—Dr. Richard Dobson; Consumer Needs in Acne—Dr. Zenona Mally; Salicylic Acid—Dr. Albert Kligman; Scrubs, Cleansers, and Topical Antibacterials—Dr. John Strauss; Clinical Methods of Evaluating Topical Treatment—Dr. Alan Shalita; and Microbiological Considerations—Dr. Charles Evans.

After all presentations have been given there will be a panel discussion.

Open committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also § 330.10(a)(2) (21 CFR 330.10(a)(2))).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of immunology devices to the executive secretary. Those desiring to make formal presentations should notify the executive secretary by June 20, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will review and comment on the reclassification petition submitted under section 513(b)(2) of the act (21 U.S.C. 360c(b)(2), by Abbott Laboratories, North Chicago, Ill. 60064, to reclassify its Alpha-Fetoprotein Diagnostic Kit (Fetascreen™).

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md., 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner approves the scheduling of meetings at locations outside of the Washington, D.C., area on the basis of the criteria of 21 CFR 14.22 of FDA's regulations relating to public advisory committees.

Dated: May 11, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13288 Filed 5-15-78; 8:45 am]

[4110-03]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, place	Type of meeting and contact person
1. Drug Abuse Advisory Committee.....	June 1, 9 a.m., Conference room. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md..	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 11:30 a.m.; closed presentation of data 11:30 a.m. to 12 m.; closed committee deliberations 12 m. to 12:30 p.m.; open committee discussion 12:30 p.m. to 4:30 p.m.; Robert C. Nelson, (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3800.

General function of the committee. Advises the Commissioner regarding the scientific and medical evaluation of all information gathered by the Department of Justice and the Department of Health, Education, and Welfare with regard to safety, efficacy, and abuse potential of drugs or other substances and recommends actions to be taken by the Deportment of Health, Education, and Welfare with regard to maketing, investigation, and control of such drugs or other substances.

Agenda—Open Public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of control items: agonist-antagonist analgesics; butorphanol, cyclazocine and nalbuphine. Discussion of research items: review of Schedule I research protocols; report on the status of the Schedule I brochure; review of the 1978 review of the marihuana research guidelines; and report on the Interagency Committee on New Therapies for Pain and Discomfort.

Closed presentation of data. Presentation by sponsor of IND 4080 (Nalbuphine (Endo Labs.)). This portion of the meeting will be closed to permit presentation of trade secret data (5 U.S.C. 552b)(c)(4)).

Closed committee deliberations. Discussion of IND 4080 (Nalbuphine (Endo Labs.)). This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, place	Type of meeting and contact person
2. Ophthalmic Device Classification Panel.	June 12 and 13, 1 p.m., room 303A, HHH Bldg., 200 Independence Ave. SW., Washington, D.C.	Closed committee delberations June 12, 9 a.m. to 12 m.; open public hearing June 12, 1 p.m. to 2 p.m.; open committee discussion June 12, 2 p.m. to 5 p.m.; open public hearing June 13, 9 a.m. to 10 a.m.; open committee discussion June 13, 10 a.m. to 5 p.m.; Max W. Talbott, Ph. D. (HFK-460), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7538.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present to the executive secretary information pertinent to hydrophilic contact lenses, intraocular lenses, and other ophthalmic devices. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by May 29, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss aspects of the clinical testing of soft contact lenses. Additionally, the committee will review the progress of the intraocular lens clinical investigation. The committee will also discuss other areas generally pertaining to ophthalmic devices.

Closed committee deliberations. The committee will review premarket approval applications for ophthalmic devices. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, place	Type of meeting and contact person
3. Cardiovascular Device Classification Panel.	June 30, 9 a.m., room 1409, FB-8, 200 C St. SW., Washington, D.C.....	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 11 a.m.; closed committee deliberations 11 a.m. to 4 p.m.; Glenn A. Rahmoeller (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7559.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present to the executive secretary information pertinent to the classification of cardiovascular devices. Those desiring to make formal presentations should notify the executive secretary by June 16, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Panel members will discuss the development of product development protocol guidelines for prosthetic heart

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valves, vascular graft prostheses, oxygenators, and pacemakers. Outlines for these guidelines, which will be applicable as guidelines to Premarket Notification Submissions as well as Premarket Approval Applications, will be presented to the panel. The Panel will also review clinical data (if available) for Teflon-coated guide wires.

Closed committee deliberations. The Panel members will review new drug applications and investigational drug applications for biological arterial grafts. They will also review a new premarket approval application. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing; (2) an open committee discussion; (3) a closed presentation of data; and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines of similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: May 11, 1978.

SHERWIN GARDNER,
Acting Commissioner,
Food and Drugs.

[FR Doc. 78-13353 Filed 5-15-78; 8:45 am]

[4110-08]

National Institutes of Health

CANCER CONTROL PREVENTION, DETECTION, DIAGNOSIS, AND PRETREATMENT EVALUATION REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Prevention, Detection Diagnosis, and Pretreatment Evaluation Review Committee, National Cancer Institute, June 1-2, 1978, building 31A, conference room 4, 9000 Rockville Pike, Bethesda, Md. 20014. Except as noted below, this meeting will be open to the public on June 1, 1978, from 8:30 a.m. to 5 p.m., and on June 2, 1978, from 8:30 a.m. to 12 noon to review an interagency agreement with the Occupational Safety and Health Administration, Washington, D.C., and the breast cancer detection demonstration projects from: Albert Einstein Medical Center, Philadelphia; University of Arizona; Cancer Research Center, Missouri; University of Pittsburgh; Rhode Island Hospital; Saint Joseph Hospital, Texas; Saint Vincent's Medical Center, Florida; Samuel Merrit Hospital, California; University of Southern California; Vanderbilt University Medical Center, Tennessee; Virginia Mason Research Center, Seattle; Wilmington Medical Center, Delaware; and, University City Science Center, Pennsylvania. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), title 5, United States Code and section 10(d) Pub. L. 92-463, the meeting will be closed to the public approximately 14 times during the 2 days for approximately 10 minutes each time to discuss personal information concerning individuals associated with each contract. In addition, and in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 2, 1978, from 12 noon to adjournment, for the review, discussion, and evaluation of approximately three contract proposals. These proposals and the discussions of the proposals could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, building 31, room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708, will provide a summary of the meeting and a roster of committee members, upon request.

Dr. Carlos E. Caban, Executive Secretary, National Cancer Institute, Blair Building, room 7A07, National Institutes of Health, Bethesda, Md. 20014, 301-427-7945, will furnish substantive program information.

(Catalog of Federal Domestic Assistance No. 13.399, National Institutes of Health.)

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13385 Filed 5-15-78; 8:45 am]

[4110-08]

MICROBIOLOGY AND INFECTIOUS DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases on May 31-June 1 and 2, 1978, at the Holiday Inn, Chevy Chase, Md.

This meeting will be open to the public from 8:30 a.m. until 9:30 a.m. on June 1 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 2 p.m. to recess on May 31, from 9:30 a.m. to recess on June 1, and from 8:30 a.m. to adjournment on June 2 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of Health, Building 31, Room 7A32, Bethesda, Md. 20014, 301-496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health, Westwood Building, Room 706, Bethesda, Md. 20014, 301-496-7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health.)

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13386 Filed 5-15-78; 8:45 am]

[4110-85]

Office of the Assistant Secretary for Health

NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

Designation of Health Specialties

Section 751 of the Public Health Service Act (42 CFR 62) directs the Secretary of Health, Education, and Welfare to establish the National Health Service Corps Scholarship Program to obtain physicians, dentists, nurses and other health-related specialists for the National Health Service Corps.

Notice is hereby given that for fiscal year 1978, in addition to students of medicine, osteopathy and dentistry, scholarship support is available under the National Health Service Corps Scholarship Program to (1) students enrolled in baccalaureate nursing programs and (2) students enrolled in master's degree programs in community health nursing, clinical nurse midwifery, nurse practitioner training, public health nutrition, medical social work, speech pathology and audiology.

Dated: May 8, 1978.

JOYCE C. LASHOF,
Acting Assistant Secretary
for Health.

[FR Doc.78-13208 Filed 5-15-78; 8:45 am]

[4310-03]

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before May 5, 1978. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by May 26, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALASKA

Aleutian Islands Division

Light Stations in Alaska, southern and southeastern Alaska (also in Angoon, Cordova-McCarthy, Juneau, Ketchikan, Outer Ketchikan, Skagway-Yakutat, and Wrangell-Petersburg Divisions).

FLORIDA

Lake County

Yalaha vicinity, *Phares, Andrew Jackson, House*, NE of Yalaha.

Leon County

Tallahassee, *Riley, John Gilmore, House*, 419 E. Jefferson St.

Madison County

Madison, *First Baptist Church*, Pickney and Orange Sts.

Okaloosa County

Valparaiso, *Valparaiso Inn*, 331 Bayshore Dr.

LOUISIANA

Natchitoches Parish

Robeline vicinity, *Los Adaes Historic Site*, NE of Robeline off LA 6.

Orleans Parish

New Orleans vicinity, *Fort Macomb*, E of New Orleans at Chef Menteur Pass on U.S. 90.

St. Bernard Parish

Shell Beach vicinity, *Fort Proctor*, N of Shell Beach on Lake Borgne.

St. Landry Parish

Washington vicinity, *Starvation Point*, N of Washington off LA 10/182.

Webster Parish

Minden vicinity, *Germantown*, 7 mi. (11.2 km) NE of Minden off U.S. 79.

MICHIGAN

Lenawee County

Adrian, *Dennis and State Streets Historic District*, Dennis and State Sts. from NYC RR. tracks to Church St. (boundary revision).

NEBRASKA

Hall County

Grand Island, *Harvis, Andrew M., House*, 1109 W. 2nd St.

NEVADA

Nye County

Tonopah, *Mizpah Hotel*, 100 Main St.

NEW JERSEY

Cumberland County

Carmel, *Beth Hillel Synagogue*, Irving Ave.

M Y 1 6 7 8 UMI

V 43 95

NEW YORK

Clinton County

Plattsburgh, *Fort Brown Site*, U.S. 9

Schenectady County

Schenectady, *Schenectady City Hall and Post Office*, Jay St.

OKLAHOMA

Harper County

Willard vicinity, *Harmon, Victor, Site*, NE of Willard.

SOUTH DAKOTA

Brookings County

Brookings, *Stock Judging Pavilion* 11th St. and Medary Ave.

TENNESSEE

Warren County

Irving College vicinity, *Irving College Mound*, E of Irving College
Union vicinity, *Cardwell Mountain*, E of Union.

White County

Key vicinty, *Cherry Creek Mound*, S of Key.
Onward vicinity, *Indian Cave*, S of Onward.

TEXAS

Tarrant County

Fort Worth, *Texas and Pacific Terminal Complex*, Lancaster and Throckmorton St.

VERMONT

Chittenden County

Jericho vicinity, *Galusha House*, S of Jericho.

WASHINGTON

King County

Seattle, *Fort Lawton*, Magnolia Bluff.

WISCONSIN

Grant County

Lancaster, *Grant County Courthouse*, 126 W. Maple St.

Iowa County

Dodgeville vicinity, *Mayland Cave*, N of Dodgeville off WI 23.

Jefferson County

Edgerton vicinity, *Crabapple Point Site*, NE of Edgerton.
Fort Atkinson vicinity, *Highsmith Site*, NE of Fort Atkins.

[FR Doc. 78-12721 Filed 5-15-78; 8:45 am]

[4310-84]

Office of the Secretary

[INT DES 78-18]

PROPOSED 500 MW COAL-FIRED GENERATING STATION, NORTH VALMY, NEV.

Availability of Draft and Hearings

In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental statement on a proposed 500 megawatt (MW) coal-fired, steam-electric generating station near Valmy, Nev.

The statement addresses itself to construction of two 250 MW generating units in Humboldt County, Nev., and construction of two transmission lines to deliver power to substations near Reno and Austin, Nev. The proposal by Sierra Pacific Power Co. also calls for construction of a microwave communications system to service the proposed plant.

Written comments on the environmental impacts of the proposed action will be accepted by the Nevada State Director (N-921), Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89509, on or before June 30, 1978.

Copies of this draft statement are available upon request at the above address. Copies may also be obtained by writing the Director (130), Bureau of Land Management, Department of the Interior, Washington, D.C. 20240.

Copies are available for inspection at the following locations:

Nevada State Office, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89509.
Carson City District Office, 1050 East Williams Street, Carson City, Nev. 89701.
Ely District Office, Star Route 5, Box 1, Ely, Nev. 89301.
Winnemucca District Office, 705 East Fourth Street, Winnemucca, Nev. 89445.
Battle Mountain District Office, P.O. Box 194, Battle Mountain, Nev. 89820.
Elko District Office, 2002 Idaho Street, Elko, Nev. 89801.
Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, Nev. 89102.

In addition to the above locations, reading copies are available at public and university libraries in Battle Mountain, Carson City, Fallon, Elko, Las Vegas, Lovelock, Reno, Wells, and Winnemucca, Nev.

Public hearings will be held at the following locations and times:

Pioneer Motor Inn, 221 South Virginia Street, Reno, Nev., Thursday, June 15, 1978, 1 p.m.
Humboldt County Library, 85 East Fifth Street, Winnemucca, Nev., Tuesday, June 13, 1978, 7 p.m.

The hearings will provide the Bureau of Land Management, under section 102(2)(C) of the National Environmental Policy Act of 1969, with the opportunity to receive additional comments and views of interested State and local agencies and the public.

Interested individuals, representatives of organizations, and public officials wishing to testify are requested to contact the North Valmy environmental statement team leader, Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89509, by 4:15 p.m., June 9, 1978, telephone 702-784-5602, FTS 470-5602. Requests should identify the organization represented and should be signed by the prospective witness. Because of time constraints, oral testimony will be limited to 10 minutes unless additional time is requested in advance.

Oral testiony can be supplemented with written statements at the time oral testimony is presented. Also, speakers with prepared speeches may file their text with the presiding officer whether or not they have been able to finish oral delivery in the allotted time. If time permits following oral testimony by those who have given advance notice, the hearings officer will give others an opportunity to be heard.

Written comments from those unable to attend the hearing should be addressed to the Bureau of Land Management State Director (N-921) at the above address. The Bureau of Land Management will accept written testimony and comments, as well as supplemental materials during the next 45 days from the date of this notice.

Dated: May 11, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary.

[FR Doc. 78-13189 Filed 5-15-78; 8:45 am]

[4310-09]

Office of the Secretary

[INT DES 78-19]

PARADOX VALLEY UNIT, COLORADO RIVER BASIN SALINITY CONTROL PROJECT, COLORADO

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on a proposed salinity control project that would reduce substantially the salt influx into the Dolores River in southwest Colorado at Paradox Valley. Although all Colorado River Basin water users would benefit from the project, the main beneficiaries would be users in the Lower Colorado River Basin. Written comments may be submitted to the Regional Director (address below) on or before June 30, 1978.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, D.C. 20240, telephone 202-343-9247.
Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone 202-343-4991.

Division of Engineering Support, Technical Services and Publications Branch, E. & R. Center, Denver Federal Center, Denver, Colo. 80225, telephone 303-234-3006.
Office of the Regional Director, Bureau of Reclamation, Federal Building, 125 South State Street, Salt Lake City, Utah 84147, telephone 801-524-5404.
Bureau of Reclamation, P.O. Box 640, Durango, Colo. 81301, telephone 303-247-0247.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: May 11, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-13229 Filed 5-15-78; 8:45 am]

[4710-01]

INTERNATIONAL JOINT COMMISSION

IN THE MATTER OF THE REQUEST BY THE GREAT LAKES POWER CORPORATION, LIMITED FOR PERMISSION TO PROCEED WITH THE REDEVELOPMENT OF THE HYDROELECTRIC GENERATING FACILITIES AT SAULT STE. MARIE, ONTARIO

Public Meeting

Notice is hereby given that the International Joint Commission will conduct a pre-hearing meeting in the matter of the request of Great Lakes Power Corporation, Limited, for permission to proceed with redevelopment of its hydroelectric generating facilities in the St. Marys River at Sault Ste. Marie, Ontario, in accordance with the Commission's 1914 Order of Approval.

Notice of receipt of this request was published by the Commission in the FEDERAL REGISTER, the Canada Gazette, and in newspapers in the area during the last week of April, 1978, and comments on the redevelopment proposal from Governments and all interested persons were invited.

The purpose of this pre-hearing meeting is to: (1) Determine the present status of the study of the redevelopment proposal being conducted by the International Lake Superior Board of Control at the direction of the Commission;

(2) Identify and arrange for any additional information required by the Board and the Commission for completion of its study;

(3) Define the issues for hearing and to hear and determine any other matter that may be appropriate for decision at that time; and,

(4) Set dates, as may be appropriate, for further proceedings as required.

Opportunity will be given to anyone, either on his own behalf or in a representative capacity, to offer pertinent information which may assist the Commission in its inquiry. Statements may be made orally or in writing. If written statements are submitted, it is required that if possible, thirty (30) copies be provided for the Commission's use. Additional copies may be deposited with the Secretaries at the pre-hearing meeting for the use of the news media and others present. Information regarding the request of Great Lakes Power may be obtained direct from H. L. Harris, President Great Lakes Power Company, Sault Ste. Marie, Ontario, telephone 705-949-1378.

TIME AND PLACE OF PRE-HEARING MEETING

Wednesday, May 31, 1978, 10:00 a.m., Holiday Inn, 208 St. Mary's River Road, Sault Ste. Maire, Ontario, P6A 5V4.

W. A. BULLARD,
Secretary, United States Section, International Joint Commission.

D. G. CHANCE,
Secretary, Canadian Section, International Joint Commission.

MAY 9, 1978.

[FR Doc. 78-13219 Filed 5-15-78; 8:45 am]

[7035-01]

INTERNATIONAL TRADE COMMISSION

[Investigation 337-TA-41]

CERTAIN CERAMIC TILE SETTERS

Commission Order and Memorandum Opinion

PROCEDURAL HISTORY

On March 15, 1978, Ceramica Regiomontana, S.A. (hereinafter "Regiomontana"), a party respondent to the instant investigation, filed a motion, pursuant to § 210.51 of the Commission's "Rules of Practice and Procedure"[1] (herejnafter "Rules"), that it be terminated as a party respondent to the investigation.[2] At the preliminary conference held in connection with the instant investigation on March 16, 1978, all parties to the investigation stipulated that Regiomontana would formally withdraw its motion to terminate. In place of that motion, all parties jointly moved to terminate respondent Regiomontana. The Presiding Officer, acting in conformity with §§ 210.51(a), (c) and 210.53 of the Rules,[3] concluded that no violation of Section 337 of the Tariff Act of 1930 (hereinafter "section 337")[4] exists with respect to respondent Regiomontana and recommended, by order of April 6, 1978,[5] that Regiomontana be terminated as a party respondent.

DETERMINATION AND ORDER

Having considered Regiomontana's motion to terminate (Motion Docket No. 41-2) and supporting documents, (2) the transcript of the Preliminary Conference of March 16, 1978, and (3) the Presiding Officer's recommended determination of April 6, 1978, the Commission determines that repondent Regiomontana is not currently in violation of section 337.

Accordingly, the Commission grants the joint motion to terminate and orders that Regiomontana be and hereby is terminated as a party respondent to the instant investigation.

OPINION

Regiomontana's motion to terminate of March 15, 1978, was accompanied by a sworn affidavit of Mr. Jose M. Garcia Barella, Treasurer of Regiomontana, which affirmed that Regiomontana has not in the past nor in the present manufactured, sold or exported the product (certain ceramic tile setters) that is the subject of the instant investigation.

The record of the preliminary conference held on March 16, 1978, in connection with this investigation shows that complainant, Ferro Corp., and the Commission investigative attorney joined in the motion to terminate Regiomontana. The record of that conference also shows that Regiomontana has agreed to cooperate in an expeditious fashion with complainant's discovery requests.

Inasmuch as Regiomontana has not in the past and is not in the present manufacturing, selling or exporting the product that is the subject of this investigation, and in view of the fact that both complainant and the Commission investigative attorney have joined in the motion to terminate Regiomontana as a party respondent, the Commission has determined that Regiomontana is not presently in violation of section 337 and has granted the joint motion that Regiomontana be terminated as a party respondent to the instant investigation.

Issued: May 11, 1978.

By order of the Commissioner.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-13261 Filed 5-15-78; 8:45 am]

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[1] 19 C.F.R. 210.51.
[2] Motion Docket No. 41-2.
[3] 19 C.F.R. 210.51 (a), (c), and 210.53.
[4] 19 U.S.C. 1337.
[5] *See* Order Recommending Termination, issued April 6, 1978.

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[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES VS. ARROW OVERALL SUPPLY COMPANY, ET AL.

Proposed Final Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed Final Judgment and a Competitive Impact Statement as set out below have been filed with the United States District Court for the Eastern District of Michigan, Southern Division, Civil No. 571167, *United States* v. *Arrow Overall Supply Company, et al.* The Complaint in this case alleges that four corporations, Arrow Overall Supply Company, Cadillac Overall Supply Company, Central-Quality Services Corporation, and Work Wear Corporation, conspired to divide, allocate, and apportion wholesale and retail accounts for industrial garments and to fix, stabilize, and maintain the prices at which industrial garments were furnished in the lower peninsula of Michigan.

Work Wear Corporation, one of the defendants, has sold its entire laundry operations. The business in the lower peninsula of Michigan is now owned and operated by Mechanics Laundry Company of Detroit, Inc. Mechanics Laundry Company of Detroit, Inc., has been substituted for Work Wear Corporation as a party defendant under the Final Judgment, and its parent, Aratex Services, Inc., has agreed to be bound by the Judgment to the extent it engages in the industrial laundry business in the lower peninsula of Michigan. The proposed Judgment enjoins the defendants from engaging in the alleged activity and prohibits defendants for a period of ten (10) years from using or enforcing certain types of provisions in their customer contracts that would have a tendency to perpetuate customer relationships indefinitely.

Public comment is invited on or before July 17, 1978. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216-522-4070).

Dated: May 5, 1978.

CHARLES F. B. MCALEER,
Special Assistant for Judgment Negotiations, Office of Operations.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

United States of America, Plaintiff, v. *Arrow Overall Supply Company; Cadillac Overall Supply Company; Central-Quality Services Corporation; and Work Wear Corporation*, Defendants.

Civil No. 571167.
Judge Damon J. Keith.
Filed: May 5, 1978.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to either party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

For the Plaintiff: United States of America, John H. Shenefield, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, John A. Weedon, *Attorneys, Department of Justice;* James K. Robinson, *United States Attorney;* Robert M. Dixon, Jerome C. Finefrock, Susan B. Cyphert, Deborah Lewis Hiller, *Attorneys, Department of Justice;* Antitrust Division, 995 Celebrezze Federal Bldg., Cleveland, Ohio 44199, Telephone 216-522-4077.

For the Defendants: Arrow Overall Supply Company, August, Thompson, Sherr & Miller, By Alan R. Miller, 555 South Woodward, Seventh Floor, Birmingham, Mich. 48011; Cadillac Overall Supply Company, Nederlander, Dodge & McCauley, By Patrick B. McCauley, 1930 Buhl Building, Detroit, Mich. 48226; Central-Quality Services Corporation, Dingell, Hylton & Zemmol, By Allen Zemmol, 100 Renaissance Center, Detroit, Mich. 48243; For Mechanics Laundry Company of Detroit, Inc., and Aratex Services, Inc., Wilmer, Cutler & Pickering, By Arnold Lerman, 1666 K Street NW., Washington, D.C. 20006.

Dated: May 5, 1978.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

United States of America, Plaintiff, v. *Arrow Overall Supply Company; Cadillac Overall Supply Company; Central-Quality Services Corporation; and Work Wear Corporation*, Defendants.

Civil No. 571167.
Honorable Damon J. Keith.
Filed: May 5, 1978.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on June 19, 1975, and the defendants having appeared and filed their answers to the complaint, and the plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or any admission by any party with respect to any issue of fact or law herein;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed:

I

This Court has jurisdiction over the subject matter herein and the parties hereto. The Complaint states claims upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Industrial garment" shall mean any item of work clothing, including but not limited to work pants, work shirts, coveralls, overalls, jackets, coats, uniforms and any other such products, including but not limited to shop towels and dust control materials;

(B) "Industrial laundry business" shall mean the business of renting and/or servicing industrial garments in the lower peninsula;

(C) "Person" shall mean any individual, corporation, partnership, firm, association, or business or legal entity;

(D) "Operator" shall mean any person engaged in the industrial laundry business;

(E) "Lower peninsula" shall mean the geographic area of the State of Michigan south of the Straits of Mackinac;

(F) A corporation "under common control" with a defendant shall mean any corporation (i) which is a subsidiary, directly or indirectly, of a parent corporation of a defendant or (ii) 50 percent or more of whose stock is owned or controlled by a person who also owns or controls 50 percent or more of the stock of a defendant.

III

The provisions of this Final Judgment are applicable to all defendants and to their subsidiaries, officers, directors, agents, employees, successors and assigns and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, plan, program, combination, or conspiracy with respect to the industrial laundry business with any operator to:

(A) Fix, raise, stabilize, establish or maintain any price, markup, discount or other term or condition or contract provision for the rental and/or servicing of any industrial garment.

(B) Divide, allocate or apportion any market territory, customer or potential customer for the rental and/or servicing of any industrial garment.

(C) Refrain from soliciting the business of any customer or potential customer for the rental and/or servicing of any industrial garment.

(D) Refrain from renting and/or servicing any industrial garment to and/or for any customer or potential customer.

(E) Eliminate or prevent any person from engaging in the industrial laundry business.

The provisions of subsections (C), (D), and (E) of this Section IV shall not apply to lawful covenants not to compete which are a part of (i) an employment contract, or (ii) a contract of sale of an industrial laundry or interest therein entered into in good faith and on a nonreciprocal basis between a defendant and another person.

V

Each defendant is enjoined and restrained from directly or indirectly furnishing to or requesting or accepting from any operator

(i) Prices or charges, or

(ii) Terms of bids or offers, or (iii) The identity of customers,

for the rental and/or servicing of any industrial garment in the lower peninsula.

VI

Each defendant is enjoined and restrained, in any contract or agreement for the rental and/or servicing of industrial garments in the lower peninsula, from directly or indirectly entering into, enforcing, furthering, adhering to, maintaining or claiming any right pursuant to any provision:

(A) For the automatic renewal of the contract or agreement;

(B) For liquidated or other formula damages in such unreasonable amount as to constitute a penalty;

(C) Of a contract or agreement which provides for a term longer than thirty months from the date of its execution or last renewal, whichever is later; except that contracts which are in existence on the effective date of this Section of the Final Judgment can continue for no longer than twenty-four months from that effective date; and provided that such a provision shall not be prohibited in a contract or agreement entered into after the sixth anniversary of the date of entry of this Final Judgment, if the defendant at the time of negotiation has furnished its customer clear and conspicuous written notice that the duration of the contract or agreement is subject to negotiation between the parties;

(D) Prohibiting a customer's right to terminate its contract because of a defendant's material breach by substantial failure of performance which the defendant refuses to cure upon proper notice. This subsection (D) shall not apply to a failure of performance or cure outside the control of the defendant.

This Section VI shall become effective sixty days after the date of entry of this Final Judgment and shall remain in effect for a period of ten years from that date. The provisions of this Section VI shall not apply to any written agreement or specification prepared or submitted by a customer.

VII

Each defendant shall require as a condition of the sale or other disposition of all or substantially all of its industrial laundry business in the lower peninsula that the acquiring party agree to be bound by the provisions of this Final Judgment. Any person acquiring all or substantially all of the industrial laundry business of a defendant shall file with the Court and serve upon the plaintiff its consent to be bound by this Final Judgment.

VIII

(A) For purposes of Sections IV, V, and VI of this Final Jugment a defendant and its direct or indirect parent, or a defendant and a corporation under common control with it, shall be deemed to be one person.

(B) This Final Judgment shall not be construed to prohibit a defendant: (i) acting upon the bona fide belief that one of its contracts is being interefered with by another person, from notifying that person of the existence of the contract; nor (ii) from pursuing in good faith its legal remedies or the resolution of legal claims with respect to tortious interference with a specific contractual relationship.

(C) The provisions of Section IV and V shall not apply to a bona fide transaction between a defendant and an operator (i) for the purchase or sale of an industry laundry or an interest therein; or (ii) for the purchase of goods and services by a defendant, or the sale of goods and services by a defendant; or (iii) for the exchange of information between a defendant and another operator solely for and necessary to such transactions.

(D) The provisions of this Final Judgment shall not be construed to prohibit a defendant from engaging with other operators in joint negotiations, agreements or activity the sole purpose or effect of which is to deal with labor unions or labor disputes except that there shall be no exchange hereunder of prices or other terms of pending bids or offers.

IX

Within sixty days of the entry of this Final Judgment, and annually thereafter for a period of ten years, each defendant shall take affirmative steps to advise each of its officers, directors and employees engaged in sales in the industrial laundry business, of its and their obligations under this Final Judgment and of the criminal penalties for violations of the Judgment and of the antitrust laws. In addition, each defendant shall, for so long as it remains in the industrial laundry business, cause a copy of this Final Judgment to be distributed annually to each of its officers.

X

For a period of ten years from the date of entry of this Final Judgment, each defendant shall file with plaintiff, on each anniversary date of this Final Judgment, a report setting forth the steps it has taken during the preceding year to discharge its obligations under Section IX above. Said report shall be accompanied by copies of all written directives issued by said defendant during the prior year with respect to compliance with the terms of this Final Judgment.

XI

Within sixty days of the entry of this Final Judgment each defendant shall mail or deliver to each of its industrial laundry customers who pay rentals of less than three hundred fifty dollars per week either a copy of the Final Judgment or a notice of its entry, which notice shall set forth, in a form acceptable to the Department of Justice, a summary of the prohibitions of Section VI and an offer to make a copy of the Judgment available upon written request. Where a defendant has contracts with individuals in the same establishment, the copy or notice may be mailed or delivered to the person responsible for administering the contracts.

XII

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted:

(1) Access during the office hours of the defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant, which may have counsel present, relating to any of the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, employees and agents of the defendant, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to any defendant's principal office, the defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information obtained by the means provided in this Final Judgment shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at the time information or documents are furnished by a defendant to the United States, the defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten days' notice shall be given by the United States to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

XIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modifica-

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tion of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XIV

Entry of this Final Judgment is in the public interest.

Dated: ————.

————————,

United States District Judge.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

United States of America, Plaintiff, v. *Arrow Overall Supply Co.; Cadillac Overall Supply Co.; Central-Quality Services Corp.;* and *Work Wear Corp.*, Defendants.

Civil No. 571167.

Filed May 5, 1978.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16(b)–(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

NATURE AND PURPOSE OF THE PROCEEDING

On June 19, 1975, the United States filed a civil antitrust Complaint alleging that four corporations conspired to fix prices and allocate customers in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

The Complaint alleged that beginning at least as early as 1970, and continuing thereafter at least until September of 1974, the defendants had engaged in a combination and conspiracy to (a) divide, allocate, and apportion wholesale and retail accounts for industrial garments, and (b) to fix, stabilize, and maintain the price at which industrial garments were furnished in the lower peninsula of the State of Michigan.

The Complaint sought a judgment by the Court declaring that defendants had engaged in a combination and conspiracy in unreasonable restraint of trade in violation of the Sherman Act and an Order by the Court to enjoin and restrain the defendants from such activities in the future.

The corporations named in the Complaint were: Arrow Overall Supply Co.; Cadillac Overall Supply Co.; Central-Quality Services Corp.; and Work Wear Corp.

All of these defendants to this action have previously pleaded nolo contendere to criminal misdemeanor charges with respect to this alleged conspiracy and a fine of $50,000 was levied against each defendant. The defendants later moved for a Summary Judgment in this civil action, alleging that the Government's case was moot and, therefore, no injunction should issue. On July 1, 1977, the Court denied that motion in a Memorandum Opinion.

On July 26, 1977, Work Wear Corp. sold its entire industrial laundry business. The business in the lower peninsula of Michigan is now owned and operated by Mechanics Laundry Co. of Detroit, Inc. Mechanics Laundry Co. of Detroit, Inc., has been substituted for Work Wear Corp. as a party defendant under the Final Judgment, and its parent, Aratex Services, Inc., has agreed to be bound by the Judgment to the extent that it engages in the industrial laundry business in the lower peninsula of Michigan.

II

DESCRIPTION OF THE PRACTICES GIVING RISE TO THE ALLEGED VIOLATIONS OF THE ANTITRUST LAWS

Employees of commercial and industrial businesses wear and use industrial garments that, for the purposes of this case, include primarily work pants, work shirts, and coveralls, as well as overalls, jackets, coats, uniforms, shop towels, and dust control materials. These industrial garments are usually supplied on a rental basis by industrial laundry companies such as defendants.

Some commercial establishments and factories use large quantities of industrial garments, which are generally delivered to one location. Industrial laundries, including the defendants, commonly refer to such large customers as wholesale accounts. These customers usually obtain industrial garments either by issuing purchase orders or by seeking bids. Customers using lesser amounts of industrial garments, such as gas stations, automobile dealers, and small commercial establishments and factories, are commonly referred to in the trade as retail accounts. These accounts are usually supplied industrial garments under contracts provided by the industrial laundry company.

Defendants are the largest industrial laundry companies that regularly rent industrial garments for use by employees of commercial and industrial businesses in the Metropolitan Detroit area and in the rest of the lower peninsula of Michigan. They are generally the only industrial laundries which have the facilities, resources, and capabilities to serve wholesale accounts.

The Complaint alleges that the defendants engaged in a combination and conspiracy beginning at least as early as 1970 that consisted of a continuing agreement, understanding, and concert of action among themselves, the substantial terms of which were:

(a) To divide, allocate, and apportion wholesale and retail accounts for industrial garments, and

(b) To fix, stabilize, and maintain the price at which industrial garments are furnished.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

(a) Prices for the furnishing of industrial garments in the lower peninsula and in the Metropolitan Detroit area have been fixed, maintained, and stabilized at artificial and noncompetitive levels;

(b) Competition in the industrial laundry industry in the lower peninsula and in the Metropolitan Detroit area has been restrained and eliminated; and

(c) Customs of industrial laundry companies in the lower peninsula and in the Metropolitan Detroit area have been deprived of the right to purchase industrial garment services in an open and competitive market.

III

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation between the parties provides that there is no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest.

The proposed Final Judgment enjoins any direct or indirect renewal of the type of conspiracy alleged in the Complaint. Specifically, Section IV provides that the defendants are enjoined and restrained from entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, plan, program, combination or conspiracy with anyone engaged in the industrial laundry business in the lower peninsula of Michigan to:

(A) Fix, raise, stabilize, establish or maintain any price, markup, discount or other term or condition or contract provision for the rental and/or servicing of any industrial garment.

(B) Divide, allocate or apportion any market territory, customer or potential customer for the rental and/or servicing of any industrial garment.

(C) Refrain from soliciting the business of any customer or potential customer for the rental and/or servicing of any industrial garment.

(D) Refrain from renting and/or servicing any industrial garment to and/or for any customer or potential customer.

(E) Eliminate or prevent any person from engaging in the industrial laundry business.

Section V further injoins each defendant from directly or indirectly furnishing to or requesting or accepting from anyone engaged in the industrial laundry business.

(i) Prices or charges, or

(ii) Terms of bids or offers, or

(iii) The identity of customers for the rental and/or servicing of any industrial garment in the lower peninsula of Michigan. The injunctions in Sections IV and V run perpetually.

For a period to ten (10) years, beginning on an effective date sixty (60) days after the entry of the Judgment, each defendant is enjoined and restrained in any contract or agreement for the rental and/or servicing of industrial garments in the lower peninsula of Michigan from directly or indirectly entering into, enforcing, furthering, adhering to, maintaining or claiming any right pursuant to a provision:

(A) For the automatic renewal of the contract or agreement;

(B) For liquidated or other formula damages in such unreasonable amount as to constitute a penalty;

(C) Prohibiting a customer's right to terminate its contract because of a defendant's material breach by substantial failure of performance which the defendant refuses to cure upon proper notice.

Beginning on an effective date sixty (60) days after the entry of the Judgment and lasting until six (6) years after the entry of the Judgment, each defendant is further enjoined from entering into any contract or agreement which provides for a term longer than thirty (30) months from the date of its execution or last renewal, whichever is later. Contracts which are in existence on an effective date sixty (60) days after the entry of the Judgment cannot continue longer than twenty-four (24) months from that effective date.

There are several limited exceptions to the prohibitions against exchange of information set forth in Sections IV, V, and VI of the Judgment. These exceptions relate to possible tortious interference with a customer contract, bona fide business transactions involving a defendant, and joint labor negotiations.

The proposed Final Judgment is applicable to each of the defendants and to the officers, directors, agents, and employees of each defendant, as well as to the successors to any defendant corporation.

IV

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

After entry of the proposed Final Judgment, any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which they may have had if the proposed Final Judgment had not been entered. This Judgment may not be used, however, as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

V

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Judgment should be modified may submit written comments to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, telephone 216-522-4070, within the 60-day period provided by the Act. These comments, and the Department's responses to them, will be filed with the Court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

VI

ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The alternative to the proposed Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief against the violations charged in the Complaint.

In reaching an agreement on the proposed Final Judgment, three matters were the subject of intense negotiation. The first was whether the scope of the Judgment should be local or national. The second matter was how to modify the standard form customer contracts utilized by defendants when doing business with smaller customers in order to give such customers greater freedom in selecting their supplier. The third matter was how to allow the defendants to continue joint labor negotiations while at the same time not allowing negotiations to be used to circumvent the purposes of this Judgment.

The first matter, concerning the local or national scope of the Judgment, arose because both Work Wear Corporation and Cadillac Overall Supply Company conduct industrial laundry businesses in a number of other places in the United States. The Government had proposed making the Judgment national for that reason but ultimately decided to make it local for the following reasons. (A) Both Work Wear and Cadillac are defendants in a similar lawsuit brought by the Government in Florida. The Government reached the conclusion that, because the Judgment in Florida needed to be tailored to that situation, the Judgment entered in Michigan would not be appropriate to cover Florida. (B) Work Wear has sold its laundry operations to Aratex Services, Inc., including those in Michigan and Ohio. To prevent the laundries of Aratex outside of the Michigan area from violating the Judgment as it relates to the lower peninsula of Michigan, Aratex has agreed to be bound by the terms of this Judgment insofar as other Aratex laundries compete there. Cadillac has also disposed of some its laundry operations outside of Michigan which substantially lessened the necessity of a national decree. (C) Finally, the Government concluded that the alleged violations which it was prepared to prove in this case had occurred only in the lower peninsula of Michigan.

The second matter related to the standard form customer contracts which the Government asserted had been utilized to prevent smaller customers from changing suppliers. The defendants agreed to a ten-year injunction against three types of contract provisions to which the Government objected, namely, provisions for automatic renewal, provisions for liquidated damages or other formula damages that amounted to penalties for termination, and provisions that prohibit a customer from terminating the contract because of defendant's breach by substantial failure of performance. The defendants were unwilling to agree to the Government's proposal concerning the maximum term for such customer contracts. The defendants had insisted that such contracts should be allowed to continue for thirty-six (36) months, whereas the Government urged that the maximum contract length should be twenty-four (24) months. Section VI of the proposed Final Judgment contains the settlement agreed upon by the Government and the defendants. That Section contains an effective date which is sixty (60) days after the entry of the Final Judgment. Any contracts existing on that effective date cannot continue longer than twenty-four (24) months from that effective date. Beginning on that effective date and lasting until six (6) years after the entry of the Final Judgment, the defendants will be forbidden from making any customer contract with a length in excess of thirty (30) months. This represents a compromise between the defendants' position and the Government's position. It insures that within the next six (6) years there will be at least two (2) supply contracts negotiated with any customer who continues to be supplied by any defendant. The Government believes that this will insure arm's length negotiation between customer and supplier. A related matter which was in dispute between the Government and defendants was what customers should be notified of this part of the Judgment. Standard form contracts are used by defendants for their smaller customers. The defendants had maintained that notification of the Judgment provision should be required to be given only to those customers that did $150 a week business or less. The Government had proposed that notice be given to all customers doing $450 a week business or less. A compromise was reached at $350 per week or less. The Government believes that this will reach a preponderance of the customers that are parties to standard form contracts. It is not necessary that such notice be sent to larger customers because, in most cases, such customers purchase their laundry requirements in conformity to their own purchase order agreements, rather than defendants' standard form contracts.

The third matter, concerning joint labor negotiations, arose because the defendants wanted to continue to conduct their union labor negotiations collectively. The defendants had conducted such joint negotiations for many years. During such negotiations, defendants, in the past, have found it necessary to exchange information. The Government does not wish such exchange of information to be used as part of a plan to fix prices or allocate customers. In resolving this matter, the proposed Final Judgment provides that the defendants may engage in joint negotiations so long as the sole purpose or effect is to deal with the labor unions or labor disputes. Defendants are prohibited, in such negotiations, from exchanging prices or other terms of pending bids or offers. The Government believes that these provisions will preclude the use of labor negotiations as a means of price fixing or allocation of customers.

VII

Determinative Materials and Documents

No other material or document of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) was considered in formulating this proposed Judgment. Consequently, none is submitted pursuant to that Section.

David F. Hils, *Attorney, Department of Justice;* Robert M. Dixon, Jerome C. Finefrock, Susan B. Cyphert, Deborah Lewis Hiller, *Attorneys, Department of Justice;* Antitrust Division, 995 Celebrezze Federal Bldg., Cleveland, Ohio 44199, telephone 216-522-4077.

MAY 5, 1978.

[FR Doc. 13172 Filed 5-15-78; 8:45 am]

[4410–18]

Law Enforcement Assistance Adminstration

LEAA ANTI-FENCING PROGRAM

Notice of Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive solicitation for an evaluation of the LEAA Anti-Fencing Program. The solicitation asks for submission of preliminary grant proposals for the evaluation of undercover business-front fencing operations of the Anti-Fencing Program. Twenty-four sites which have completed their undercover fencing operations will be studied.

Preliminary grant proposals will be reviewed by a peer review process and in accordance with criteria defined in

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the solicitation. Upon completion of the reviews of the preliminary grant proposals, formal proposals will be requested. In order to be considered all preliminary proposals must be postmarked no later than June 16, 1978.

The grant is planned for award in September, 1978, for fifteen months with support not to exceed $250,000, because this is a solicitation for an evaluation grant, profit making organizations are prohibited by LEAA policy from applying.

Further information and copies of the solicitation can be obtained by contacting Rosemary Murphy or Paul Lineberry, Office of Program Evaluation, NILECJ, 633 Indiana Avenue, NW., Washington, D.C. 20531 or by calling 202-376-3824.

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 78-13220 Filed 5-15-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

STATE OF CALIFORNIA

Availability of Extended Benefits

This notice announces the beginning of a new Extended Benefit Period in the State of California, effective on April 30, 1978.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (Title II of the Employment Security Amendments of 1970; Pub. L. 91-373; 84 Stat. 695, 708), as amended (26 U.S.C. 3304 note), established the Extended Benefit Program as part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the Nation, to furnish up to 13 weeks of additional benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. Part 615 of Chapter V, Title 20, Code of Federal Regulations, implements the statute (43 FR 13818; March 31, 1978).

In accordance with section 203(e) (1) of the Act the California unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State unemployment compensation law equalled or exceeded 5.0 percent 20 CFR 615.12(c) (2) (i). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period lasts for a minimum of 13 consecutive weeks.

DETERMINATION OF "ON" INDICATOR

The head of the employment security agency of the State of California has determined that, for the period consisting of the week ending on April 15, 1978, and the immediately preceding 12 weeks, the average rate of insured unemployment (not seasonally adjusted in the State equalled or exceeded 5 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 615.12(c)(2)(i), and as authorized by Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a State Extended Benefit "on" indicator in the State of California for the week ending on April 15, 1978, and that an Extended Benefit Period therefore commenced in that State with the week beginning April 30, 1978.

INFORMATION FOR CLAIMANTS

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will not expire prior to the beginning of the Extended Benefit Period, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the Extended Benefit Period. The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year.

Persons who believe they may be entitled to Extended Benefits in the State of California, or who wish to inquire about their rights under the Extended Benefits Program, should contact the nearest Unemployment Insurance Office of the California Development Department in their locality.

Signed at Washington, D.C., on May 9, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-13037 Filed 5-15-78; 8:45 am]

[4510-30]

STATE OF IDAHO

Availability of Extended Benefits

This notice announces the beginning of a new Extended Benefit Period in the State of Idaho, effective on April 30, 1978.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (Title II of the Employment Security Amendments of 1970; Pub. L. 91-373; 84 Stat. 695, 708), as amended (26 U.S.C. 3304 note), established the Extended Benefit Program as part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the Nation, to furnish up to 13 weeks of additional benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. Part 615 of Chapter V, Title 20, Code of Federal Regulations, implements the statute (43 FR 13818; March 31, 1978).

In accordance with section 203(e) (1) of the Act the Idaho unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State unemployment compensation law equalled or exceeded 5.0 percent 20 CFR 615.12(c) (2) (i). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period lasts for a minimum of 13 consecutive weeks.

DETERMINATION OF "ON" INDICATOR

The head of the employment security agency of the State of Idaho has determined that, for the period consisting of the week ending on April 15, 1978, and the immediately preceding 12 weeks, the average rate of insured unemployment (not seasonally adjusted) in the State equalled or exceeded 5 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 615.12(c)(2)(i), and as authorized by Secretary of Labor's Order 4—75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a State Extended Benefit "on" indicator in the State of Idaho for the week ending on April 15, 1978, and that an Extended Benefit Period therefore commenced in that State with the week beginning April 30, 1978.

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INFORMATION FOR CLAIMANTS

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will not expire prior to the beginning of the Extended Benefit Period, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the Extended Benefit Period. The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year.

Persons who believe they may be entitled to Extended Benefits in the State of Idaho, or who wish to inquire about their rights under the Extended Benefits Program, should contact the nearest State Employment Office of the Idaho Department of Employment in their locality.

Signed at Washington, D.C., on May 9, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-13038 Filed 5-15-78; 8:45 am]

[4510-30]

STATE OF ILLINOIS

Availability of Extended Benefits

This notice announces the beginning of a new Extended Benefit Period in the State of Illinois, effective on April 30, 1978.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (Title II of the Employment Security Amendments of 1970; Pub. L. 91-373; 84 Stat. 695, 708), as amended (26 U.S.C. 3304 note), established the Extended Benefit Program as part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the Nation, to furnish up to 13 weeks of additional benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. Part 615 of Chapter V, Title 20, Code of Federal Regulations, implements the statute (43 FR 13818; March 31, 1978).

In accordance with section 203(e) (1) of the Act the Illinois unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State unemployment compensation law equalled or exceeded 5 percent. 20 CFR 615.12(c)(2)(i). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period lasts for a minimum of 13 consecutive weeks.

DETERMINATION OF "ON" INDICATOR

The head of the employment security agency of the State of Illinois has determined that, for the period consisting of the week ending on April 15, 1978, and the immediately preceding 12 weeks, the average rate of insured unemployment (not seasonally adjusted) in the State equalled or exceeded 5 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 615.12(c)(2)(i), and as authorized by Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a State Extended Benefit "on" indicator in the State of Illinois for the week ending on April 15, 1978, and that an Extended Benefit Period therefore commenced in that State with the week beginning April 30, 1978.

INFORMATION FOR CLAIMANTS

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will not expire prior to the beginning of the Extended Benefit Period, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the Extended Benefit Period. The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year.

Persons who believe they may be entitled to Extended Benefits in the State of Illinois, or who wish to inquire about their rights under the Extended Benefits Program, should contact the nearest local office of the Illinois Department of Labor in their locality.

Signed at Washington, D.C., on May 9, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-13039 Filed 5-15-78; 8:45 am]

[4510-30]

STATE OF MASSACHUSETTS

Availability of Extended Benefits

This notice announces the beginning of a new Extended Benefit Period in the State of Massachusetts, effective on April 30, 1978.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (Title II of the Employment Security Amendments of 1970; Pub. L. 91-373; 84 Stat. 695, 708), as amended (26 U.S.C. 3304 note), established the Extended Benefit Program as part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the Nation, to furnish up to 13 weeks of additional benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. Part 615 of Chapter V, Title 20, Code of Federal Regulations, implements the statute (43 FR 13818; March 31, 1978).

In accordance with section 203(e) (1) of the Act the Massachusetts unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State unemployment compensation law equalled or exceeded 5 percent. 20 CFR 615.12(c)(2)(i). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period lasts for a minimum of 13 consecutive weeks.

DETERMINATION OF "ON" INDICATOR

The head of the employment security agency of the State of Massachusetts has determined that, for the period consisting of the week ending on April 15, 1978, and the immediately preceding 12 weeks, the average rate of insured unemployment (not seasonally adjusted) in the State equalled or exceeded 5 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 615.12(c) (2) (i), and as authorized by Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40

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FR 18515), that there was a State Extended Benefit "on" indicator in the State of Massachusetts for the week ending on April 15, 1978, and that an Extended Benefit Period therefore commenced in that State with the week beginning April 30, 1978.

INFORMATION FOR CLAIMANTS

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will not expire prior to the beginning of the Extended Benefit Period, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the Extended Benefit Period. The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year.

Persons who believe they may be entitled to Extended Benefits in the State of Massachusetts, or who wish to inquire about their rights under the Extended Benefits Program, should contact the nearest State Employment Office of the Massachusetts Division of Employment Security in their locality.

Signed at Washington, D.C., on May 9, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-13040 Filed 5-15-78; 8:45 am]

[4510-43]

Mine Safety and Health Administration

[Docket No. M-78-67-C]

ANGUS MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Angus Mining Co., P.O. Box 85, Coalwood, W. Va. 24824, has filed a petition to modify the application of 30 CFR 75.1710-1 (cabs and canopies), to its 1 Rt NE Mains Mine, located in McDowell County, W. Va., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Coal heights are too restrictive to operate Petitioner's shuttle cars and Gallis 300 Roof Drill with canopies in the 1 Rt NE Mains because of the danger of collision with roof, roof support devices and overhanging cables in low operating heights.

(2) Shuttle cars have no capacity for cutting their own roadway and require greater clearance and visibility for safe operation.

(3) The machine operator and coworkers could be injured if a collision or electrocution from a damaged cable should occur in the low points.

(4) For the reasons set forth above, Petitioner requests to continue operating shuttle cars and the Gallis 300 Roof Drill without canopies.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before June 12, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: May 4, 1978.

ECKEHARD MUESSIG,
Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-13041 Filed 5-15-78; 8:45 am]

[4510-28]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 26, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 26, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 3d day of May 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: (union/workers or former workers of)—	Location	Date received	Date of petition	Petition No.	Articles produced
Amax Specialty Metals Corp. (Oil, Chemical & Atomic Workers International Union).	Akron, N.Y	Apr. 20, 1978	Apr. 15, 1978	TA-W-3,563	Melt and fabricate zirconium sponge metals.
Amityville Broadway Production (workers).	West Babylon, N.Y	do	Apr. 10, 1978	TA-W-3,564	Ladies' coats.

APPENDIX

Petitioner: (union/workers or former workers of)—	Location	Date received	Date of petition	Petition No.	Articles produced
Brook Manufacturing Co., Inc., (ACTWU).	Old Forge, Pa	do	Apr. 17, 1978	TA-W-3,565	Men's slacks.
Brunswick Pulp & Paper Co. (Paper Workers Union).	Brunswick, GA	Apr. 19, 1978	Apr. 18, 1978	TA-W-3,566	Bleached pulp and paper board.
FMC Corp. (ACTWU)	Fredericksburg, Va	do	March 30, 1978	TA-W-3,567	Cellophane film used in packaging.
Lebanan Steel Foundry (U.S.W.A.L.U.).	Lebanan, Pa	Apr. 20, 1978	Apr. 15, 1978	TA-W-3,568	Rough steel castings (components).
Pen-Jay, Inc. (workers)	Fall River, Mass	do	Apr. 14, 1978	TA-W-3,569	Ladies' vests, slacks, and skirts.
Raymond International, Inc. metals products facility (USWA).	Baltimore, Md	Apr. 19, 1978	do	TA-W-3,570	Steel piling for construction purposes.
Simmons Co. (workers)	Medford, Mass	Apr. 20, 1978	Apr. 18, 1978	TA-W-3,571	Mattresses and boxsprings.

[FR Doc. 78-13042 Filed 5-15-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 26, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 26, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of April 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ace Knitting Mills (workers).	Long Island City, N.Y	Apr. 17, 1978	Apr. 10, 1978	TA-W-3,547	Knitted fabrics.
Airco Welding Products, Division of Airco, Inc. (IAM).	Union, N.J	do	Apr. 4, 1978	TA-W-3,548	Welding and cutting torches, regulators, valves, and electrical welding equipment.
Anaconda Co., Butte Operations, Montana Mining Division (USWA).	Butte, Mont	Mar. 31, 1978	Mar. 30, 1978	TA-W-3,549	Copper ore and copper concentrates.
Bags By Trudy (workers)	New York, N.Y	Apr. 11, 1978	Apr. 5, 1978	TA-W-3,550	Ladies' vinyl handbags.
Brier Manufacturing Co. (company).	Providence, R.I	Apr. 17, 1978	Apr. 11, 1978	TA-W-3,551	Costume jewelry and hair goods for retail chain stores.
Bo Mar Fashions, Inc. (workers).	Deer Park, N.Y	do	Apr. 12, 1978	TA-W-3,552	Ladies' rainwear.
Coats & Clark, Inc. (workers).	Jamesville, N.C	Apr. 14, 1978	Apr. 10, 1978	TA-W-3,553	Domestic zippers.
Do	Newport News, Va	do	Mar. 30, 1978	TA-W-3,554	Domestic and industrial zippers.
Dorel Steel Corp. (workers)	Quincy, Mass	do	do	TA-W-3,555	Construction work.
Eva Fisher Dress Co. (ILGWU).	Los Angeles, Calif	Apr. 18, 1978	Apr. 6, 1978	TA-W-3,556	Contractor of ladies' better dresses.
Garland Corp. (workers)	Brockton, Mass	Apr. 14, 1978	Apr. 10, 1978	TA-W-3,557	Ladies' knitted outerwear.
M & D Coat Co., Inc. (ILGWU).	Huntington Long Island, N.Y.	Apr. 18, 1978	do	TA-W-3,558	Ladies' coats, suits, and rainwear.
Milt Posner Fur Corp. (Furriers Joint Council).	New York, N.Y	Apr. 17, 1978	Apr. 11, 1978	TA-W-3,559	Ladies' split cowhide jackets and coats.
R & W Enterprises, Inc., Griffith-Custer Steel (workers).	Johnstown, Pa	Apr. 14, 1978	Mar. 30, 1978	TA-W-3,560	Fabricate structural steel, plate and angles.
St. Louis, San Franciso RR. Co., Birmingham Terminal Division (United Transportation Union).	Birmingham, Ala	do	Apr. 10, 1978	TA-W-3,561	Transporting all types of commodities.
Webster Sportswear Corp. (workers).	Franklin, N.H	do	Apr. 11, 1978	TA-W-3,562	Ladies' dresses, skirts, pants and tops.

[FR Doc. 78-13043 Filed 5-15-78; 8:45 am]

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[4510-28]

[TA-W-2504]

ANTHRACITE SHIRT CO., SHAMOKIN, PENNSYLVANIA

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2504: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 26, 1977 in response to a worker petition received on October 14, 1977, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing ladies' blouses and men's shirts at Anthracite Shirt Co., Shamokin, Pa.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59133). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Anthracite Shirt Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether the other criteria have been met, the following criterion has not been met, with respect to workers engaged in employment related to the production of ladies' blouses:

that increases of imports of articles like or directly competitive with those produced at the firm, or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales and/or production.

U.S. imports of women's, misses' and children's blouses and shirts increased from 26,113,000 dozen in 1975 to 30,273,000 dozen in 1976. For the first three quarters of 1977, imports increased to 24,036,000 dozen, compared to 24,016,000 dozen in the first three quarters of 1976. The ratio of imports to domestic production increased from 70.4 percent in 1975 to 74.8 percent in 1976.

All of the manufacturers of ladies' blouses surveyed, except for one, increased contracts to the subject firm in 1976 compared to 1975 and in the first nine months of 1977 compared to the first nine months of 1976. The one manufacturer that decreased contracts with the subject firm slightly in 1976 did not import ladies' blouses nor use foreign contractors.

With respect to workers engaged in employment related to the production of men's and boys' shirts, it is concluded that all of the criteria have been met.

U.S. imports of men's and boys' woven dress and business shirts were recorded at 64,283,000 units in 1976, representing an increase of 108.7 percent compared to 30,800,000 units in 1975. During the first three quarters of 1977, imports were recorded at 48,918,000 units, which represent an increase of 5.8 percent compared to 46,238,000 units in the first three quarters of 1976. The ratio of imports to domestic production increased from 36.2 percent in 1975 to 67.1 percent during 1976.

U.S. imports of men's and boys' woven sport shirts increased from 61,008,000 units in 1975 to 79,820,000 units in 1976, representing an increase of 30.8 percent. During the first three quarters of 1977, imports were recorded at 56,784,000 units and represented a decline of 3.8 percent compared to 59,001,000 units in the first three quarters of 1976. The ratio of imports to domestic production increased from 38.7 percent in 1975 to 48.6 percent in 1976.

A survey of the major manufacturer that contracts with Anthracite Shirt Co. for the production of men's shirts showed that contract work had decreased with the subject firm in 1976 and 1977. Customers of this manufacturer surveyed had increased their purchases of imported men's shirts in 1976, while decreasing purchases from this manufacturer.

Workers at this manufacturer have been certified eligible to apply for adjustment assistance.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's and boys' shirts produced by Anthracite Shirt Co. Shamokin, Pa. contributed importantly to the decline in production and to the total or partial separations of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of men's and boys' shirts at Anthracite Shirt Co. Shamokin, Pa. who became totally or partially separated from employment on or after October 6, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers engaged in employment related to the production of ladies' blouses be denied eligibility.

Signed at Washington, D.C. this 4th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13044 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2600]

BEL SPORTSWEAR, INC., HAMMONTON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2600: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 14, 1977 in response to a worker petition received on November 4, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' blazers, skirts and slacks at Bel Sportswear, Inc., Hammonton, N.J. During the course of the investigation it was revealed that only skirts and slacks were produced.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63484). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bel Sportswear, Inc., its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with those produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of the major manufacturers that contract with Bel Sportswear indicated that they did not use foreign contractors. The survey revealed that the manufacturers either decreased purchases of imported ladies' sportswear or did not purchase imports in 1976 compared to 1975 and in 1977 compared to 1976. Sales of the manufacturers increased in 1976 compared to 1975 and in 1977 compared to 1976.

CONCLUSION

After careful review I conclude that all workers at Bel Sportswear, Hammonton, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13045 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2664]

CAMBRIDGE CO., INC., FALL RIVER, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2664: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 29, 1977 in response to a worker petition received on November 21, 1977 which was filed on behalf of workers and former workers producing women's and children's sportswear, at Cambridge Co., Inc., Fall River, Mass.

The Department's investigation revealed that Cambridge Co. produces women's and children's skirts, slacks and jumpers.

The Notice of Investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none held.

The information upon which the determination was made was obtained principally from officials of Cambridge Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's, misses, and children's skirts increased from 517,000 dozens in 1975 to 791,000 dozens in 1976, then declined to 654,000 dozens in 1975 to 11,040,000 dozens in 1976, and to 11,622,000 dozens in 1977. The ratio of imports to domestic production for women's, misses', and children's skirts increased from 10.8 percent in 1975 to 11.2 percent in 1976.

Imports of women's, misses', and children's slacks increased from 10,067,000 dozens in 1977. The ratio of imports to domestic production for women's, misses', and children's slacks increased from 35.2 percent in 1975 to 36.4 percent in 1976.

Imports of women's, misses', and children's dresses, which includes jumpers, increased from 645,000 dozens in 1975 to 659,000 dozens in 1976, then declined to 587,000 dozens in 1977. The ratio of imports to domestic production decreased from 8.0 percent in 1975 to 7.9 percent in 1976.

A survey of Cambridge Co.'s customers revealed that customers who decreased purchases from Cambridge Co. in 1976 and 1977 increased their purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases in imports of articles like or directly competitive with women's and children's skirts, slacks and jumpers produced by Cambridge Co., Inc., Fall River, Mass. contributed importantly to the decrease in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Cambridge Co., Inc., who became totally or partially separated from employment on or after November 18, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13046 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2774]

CRESCENT GLASS CO., INC., WELLSBURG, W. Va.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2774: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 14, 1977 in response to a worker petition received on December 7, 1977, which was filed by the American Flint Glass Workers' Union of North America on behalf of workers and former workers producing glass candle holders and glass lamp parts at Crescent Glass Co., Inc. of Wellsburg, W. Va.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Crescent Glass Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that imports of handmade table, kitchen, art and novelty glassware increased in value from $56,477,000 in 1975 to $70,334,000 in 1976, an increase of 24.5 percent, and increased to $77,183,000 in 1977, for an increase of 9.7 percent compared to 1976. The ratio of imports to domestic production in value increased from 88.4 percent in 1975 to 89.5 percent in 1976.

Imports of exterior and interior lighting glassware increased from $12,175,000 in 1975 to $17,777,000 in 1976, a 46.0 percent increase, and in-

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creased to $19,314,000 in 1977, for an 8.6 percent increase compared to 1976. The ratio of imports to domestic production in value increased from 19.0 percent in 1975 to 23.0 percent in 1976.

Customers representing a substantial proportion of sales of Crescent Glass Co., Inc. indicated that they increased imports of glass candle holders and glass lamp parts while decreasing purchases from Crescent in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with glass candle holders and glass lamp parts produced by Crescent Glass Co., Inc., Wellsburg, W. Va. contributed importantly to the decline in sales and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Crescent Glass Co., Inc. of Wellsburg, W. Va. who became totally or partially separated from employment on or after January 21, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13047 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2843]

EGGIE MOTOR CO., INC., OAKLYN, N.J.

Negative Determination Regarding Application for Reconsideration

On April 10, 1978, the petitioner, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Eggie Motor Co., Inc., of Oaklyn, N.J. The determination was published in the FEDERAL REGISTER on April 4, 1978 (43 FR 14168).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

In its application, the petitioner raises one issue of substance contesting the denial. The issue presented is whether the company performs a service as the Department maintained in its denial or whether it produces an article within the meaning of the Trade Act of 1974. The petitioner appears to claim that the employees produced a product. Eggie Motors was an independently owned automobile dealership engaged in the sale and service of American Motor Corporation's passenger cars, trucks and parts for those vehicles. Some AMC workers have been certified eligible to apply for adjustment assistance (41 FR 48801, 52558, and 56413). Eggie was independent of AMC. Neither firm owns, controls, or has any financial interest in the business of the other.

The Department has earlier determined that services, such as the sale and servicing of automobiles, are not "articles" within the meaning of section 222(3) of the Act (see Notice of Negative Determination, Pan American World Airways, Inc., TA-W-153, 40 FR 54639). Further, the Department has determined that a firm for which such services are provided and which is independent of the petitioners' firm cannot be considered to be the "workers' firm" within the meaning of section 222 (see Notice of Negative Determination, Nu-Car Driveaway, Inc., TA-W-393, 41 FR 12749).

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 3rd day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13048 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2654]

FLORSHEIM SHOE CO., HERMANN, MO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2654: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 23, 1977, in response to a worker petition received on November 14, 1977, which was filed by the United Shoe Workers of America on behalf of workers and former workers producing men's leather boots and low-cut shoes at the Hermann, Mo. plant of the Florsheim Shoe Co.

The Notice of Investigation was published in the FEDERAL REGISTER on December 6, 1977 (42 FR 61695). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Florsheim Shoe Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's dress and casual footwear increased, in absolute terms, 23.6 percent from 1975 to 1976, and declined 1.6 percent in the first 9 months of 1977, compared to the same period of 1976. The ratios of imports to domestic production and consumption increased from 58.7 percent and 37 percent, respectively, in 1975, to 70.4 percent and 41.3 percent, respectively, in 1976. The same ratios increased from 69.1 percent and 40.9 percent, respectively, in the first 9 months of 1976, to 75 percent and 42.8 percent, respectively, in the same period of 1977.

The U.S. International Trade Commission recently found that certain footwear articles, including men's dress and casual shoes, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing such articles. In the case of men's dress and casual footwear, the ratio of imports to domestic production has been greater than 50 percent in each of the past 5 years, reaching a peak level of 75 percent in the first 9 months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's boots and low-cut shoes produced at the Hermann, Mo. plant of the Florsheim Shoe Co. contributed importantly to the decline in production and to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Hermann, Mo. plant of the Florsheim Shoe Co. who became totally or partially separated from employment on or after November 8, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13049 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2498]

GREENFIELD COMPONENTS CORP., GREENFIELD, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2498: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 25, 1977, in response to a worker petition received on October 17, 1977, which was filed on behalf of workers and former workers producing glass-to-metal seals for electronic components at Greenfield Components Corp., Greenfield, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on November 8, 1977 (42 FR 58209). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Greenfield Components Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation has revealed that all of the requirements have been met.

The glass-to-metal seals produced by Greenfield Components are included in a basket category of miscellaneous semiconductor parts. Imports of semiconductor parts declined from $40.7 million in 1974, to $31 million in 1975, then increased to $52.4 million in 1976. Imports increased from $42.8 million in the first ten months of 1976, to $49.5 million in the first ten months of 1977.

A survey of customers revealed that customers decreased purchases from Greenfield Components and increased purchases of imported semiconductor parts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the glass-to-metal seals for electronic components produced at Greenfield Components Corporation contributed importantly to the decline in sales and production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Greenfield Components Corp., Greenfield, Mass., who became totally or partially separated from employment on or after October 7, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13050 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2500]

IRWIN TOYS, INC., MULTIPLE TOYMAKERS, BAYSHORE INDUSTRIES, INC., NASHUA, N.H.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2500: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 25, 1977, in response to a worker petition received on October 17, 1977, which was filed by the International Retail and Department Store Workers on behalf of workers and former workers producing children's toys at Irwin Toys, Inc., Nashua, N.H. The investigation was expanded to include Multiple Toymakers and Bayshore Industries, Inc. also of Nashua, N.H. Irwin Toys and Bayshore Industries were subsidiaries, and Multiple Toymakers a division, of Miner Industries, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on November 8, 1977 (42 FR 582209). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Miner Industries Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that imports of molded plastic toys for children up to the age of 8 years have increased annually from 1973 through 1977. The ratio of imports to domestic production increased form 19.5 percent in 1976 to 33.9 percent in 1977.

Customers of Miner Industries (of products made by Irwin, Multiple, and Bayshore) who were surveyed increased purchases of imports while reducing purchases from Miner Industries. Customers increased purchases of imports either directly or indirectly through domestic suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with children's plastic toys produced by Irwin Toys, Inc., Multiple Toymakers, and Bayshore Industries, Inc., Nashua, N.H. contributed importantly to declines in sales and production and to the separation of workers at those firms. In accordance with the provisions of the Act, I make the following certification:

All workers at Irwin Toys, Inc., Bayshore Industries, Inc. and Multiple Toymakers, Nashua, N.H. who became totally or partially separated from employment or after October 11, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13051 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2672]

JACOB FINKELSTEIN AND SONS, INC., SAMOSET PROCESSING CO., INC., SPORTS APPAREL, INC., WOONSOCKETT, R.I.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2672: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 29, 1977, in response to a worker petition received on November 17, 1977, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's and boys' outer coats and jackets at Jacob Finkelstein and Sons and at the Samoset Processing Co., Woonsockett, R.I. The investigation was expanded to include Sports Apparel, Inc., Woonsockett, R.I., a division of Jacob Finkelstein and Sons.

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The Notice of Investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jacob Finkelstein and Sons, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of men's and boys' outer coats and jackets increased in 1976 to 22,060 thousand units from 20,034 thousand units in 1975 and increased to 20,344 thousand units in the first nine months of 1977 compared to 16,055 thousand units for the same period in 1976.

The ratio of imports to domestic production for men's and boys' outer coats and jackets increased from 28.1 percent in 1975 to 31.3 percent in 1976.

Samoset Processing Co. and Sports Apparel are manufacturing divisions of Jacob Finkelstein and Sons. Purchases of imported outer coats and jackets by Jacob Finkelstein increased in 1977 compared to 1976. The ratio of import purchases to total sales increased from 5 percent in 1976 to 12 percent in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's and boys' outer coats and jackets produced at Samoset Processing Co. and Sports Apparel contributed importantly to the declines in sales at Jacobs Finkelstein and Sons and to the total or partial separation of the workers of those firms. In accordance with the provisions of the Act, I make the following certification:

All workers at Jacob Finkelstein and Sons, Inc., Samoset Processing Co., Inc., and Sports Apparel, Inc., all in Woonsocket, R.I. who became totally or partially separated from employment on or after November 14, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13052 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2728]

LACLEDE STEEL CO., MADISON, ILL.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2728: investigation regarding certification of eligibility to apply for worker adjusment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 6, 1977 in response to a worker petition received on November 23, 1977, which was filed by the United Steelworkers of America on behalf of workers formerly producing concrete reinforcing bar at the Madison, Ill. plant of the Laclede Steel Co.

The notice of investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65307). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Laclede Steel Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of concrete reinforcing bar increased from 1975 to 1976, from 142 thousand tons to 192 thousand tons. For the first three quarters of 1977 imports decreased to 69 thousand tons from 143 thousand tons for the same period in 1976, a decrease of 51.7 percent. The imports to domestic shipments ratio increased from 3.9 percent in 1975 to 5 percent in 1976. For the first three quarters of 1977, the imports to domestic shipments ratio declined to 2.2 percent compared to 4.8 percent for the same period in 1976.

None of the customers of the Madison, Ill. plant of the Laclede Steel Co. that were surveyed during the course of the investigation purchased imported concrete reinforcing bar.

CONCLUSION

After careful review I conclude that all workers at the Madison, Ill. plant of the Laclede Steel Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 3d day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13053 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2801]

LUKENS STEEL CO., COATESVILLE, PA.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2801: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 21, 1977 in response to a worker petition received on December 9, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing speciality steel plate products at the Lukens Steel Co., Coatesville, Pa. During the course of the investigation it was established that carbon and low alloy steel plate and steel plate shapes are the products produced at Lukens and that Lukens also performs conversion services for domestic stainless steel producers.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lukens Steel Co., its customers, the American Iron and Steel Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that although imports of carbon steel plate are a factor in the domestic carbon plate steel market, Luken's overall sales and production of carbon steel plate increased in 1977 compared to 1976. Industry statistics show the same trend as both U.S. production of carbon steel plate and imports of carbon steel plate increased in 1977 compared to 1976.

A survey of Luken's customers revealed that customers who increased their purchases of imported carbon steel plate in 1977 compared to 1976 also increased their purchases of carbon steel plate from Lukens in 1977 compared to 1976.

Additional evidence developed during the course of the investigation further revealed that the impact of imports in the domestic market for steel plate shapes has been insignificant over the past 5 years. From 1972 through the first 9 months of 1977, annual imports of fabricated platework, a category which includes steel plate shapes, have been consistently under 1 percent of annual domestic shipments.

A survey of Luken's customers for steel plate shapes reflect the relatively insignificant influence of imported fabricated platework in the market served by Lukens. Customers responding to the survey indicated that they purchased no imported steel plate shapes in 1975, 1976 or 1977.

Further evidence developed during the course of the investigation revealed that imports of articles like or directly competitive with the stainless steel plates produced by Lukens did not increase, either absolutely or relative to domestic production. Imports of stainless steel plate decreased from 18.6 thousand short tons in 1976 to 7.6 thousand short tons in 1977, a decline of 59.1 percent. The ratio of imports to domestic shipments declined from 23.8 percent in 1976 to 8.9 percent in 1977. On June 14, 1976 the President imposed a quota on imports of stainless steel plate. This quota was a major factor in the decline of imports of stainless steel plate in 1977 compared to 1976.

CONCLUSION

After careful review I conclude that all workers at Lukens Steel Co., Coatesville, Pa. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 3rd day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13054 Filed 5-15-78; 8:45 am]

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[4510-28]

[TA-W-2847]

OLIN CORP., ECUSTA PAPER AND FILM GROUP, ENDLESS BELT DEPARTMENT, PISGAH FOREST, N.C.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2847: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 4, 1978, in response to a worker petition received on December 15, 1977, which was filed on behalf of workers and former workers producing woven textile conveyer belts used in the tobacco industry at Olin Corp., Fine (Ecusta) Paper and Film Group, Endless Belt Department, Pisgah Forest, N.C.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3777). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Olin Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of endless belts increased 14 percent from 1975 to 1976 and 33 percent from 1976 to 1977. The ratio of imports to domestic production increased from 1975 to 1976 and from 1976 to 1977.

Customers who purchased endless belts from Olin were surveyed. Customers indicated that their purchases of endless belts from Olin decreased while their purchases of imports either increased or remained stable from 1976 to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with endless belts produced at Olin Corp., Ecusta Paper and Film Group contributed importantly to the decline in sales and production and to the total or partial separations of the workers at the Endless Belt Department, Pisgah Forest, N.C. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of endless belts in the Endless Belt Department, Ecusta Paper and Film Group, Olin Corp., Pisgah Forest, N.C. who became totally or partially separated from employment on or after December 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 3rd day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13055 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-3390, 3391, 3396, 3397]

PARAGON WIRE & CABLE CORP., BUFFALO, N.Y., AND LONGWOOD, FLA. AND COMPOSITE ELECTRICAL ASSEMBLIES, INC., BUFFALO, N.Y., AND LONGWOOD, FLA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3390, 3391, 3396, and 3397: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigations were initiated on March 29, 1978, in response to worker petitions received on March 16, 1978, which were filed by the company on behalf of workers and former workers producing wire and wire assemblies at the Buffalo and Longwood plants of Paragon Wire & Cable Corp. and Composite Electrical Assemblies, Inc.

The Notices of Investigations were published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15207). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from an official of Paragon and Composite, their customers, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of insulated electronic wire increased from $11.5 million in 1975 to $25.4 million in 1976. They further increased to $26.7 million in 1977.

A significant share of Paragon's output of wire and cable was used by Composite in producing assemblies. The major customer of Composite switched purchases of assemblies to a manufacturing affiliate abroad and ceased its purchases from Composite.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

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that increases of imports of articles like or directly competitive with wire and cable assemblies produced by the Buffalo and Longwood plants or Paragon Wire & Cable Corp. and Composite Electrical Assemblies, Inc., contributed importantly to the decline in sales and production and to the separation of workers at these facilities. In accordance with the provisions of the Act, I make the following certifcation:

All workers at the Buffals, N.Y., and Longwood, Fla., plants of Paragon Wire & Cable Corp. and at the Buffalo, N.Y., and Longwood, Fla., plants of Composite Electrical Assemblies, Inc., who became totally or partially separated from employment on or after March 10, 1977, are eligible to apply for adjustment assistance under Title, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13056 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-3284]

PUBLIX MERIDIAN, INC., MERIDIAN, MISS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3284: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 1, 1978, in response to a worker petition received on February 21, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress shirts at Publix Meridian, Inc., Meridian, Miss.

The Notice of Investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10649). No public hearing was requested and none held.

The information upon which the determination was made was obtained principally from Publix Meridian, Inc., Publix Shirt Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's and boys' dress shirts increased from 30,800 thousand in 1975, to 64,283 thousand in 1976. Imports increased from 46,283 thousand in the first nine months of 1976, to 48,918 thousand in the first nine months of 1977. The ratio of imports to domestic production increased from 36.2 percent in 1975 to 67.1 percent in 1976.

All of Publix Meridian's shirt production was for its owner, Publix Shirt Corp. Customers representing a substantial proportion of Publix Shirt Corp.'s production increased purchases of imported dress shirts directly and from domestic sources supplying imported shirts while reducing purchases from Publix Shirt in the first nine months of 1977 compared to the same period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's dress shirts produced at Publix Meridian, Inc., Meridian, Miss., contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Publix Meridian, Inc., Meridian, Miss., who became totally or partially separated from employment on or after July 15, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13057 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2804]

QUANEX CORP., MICHIGAN SEAMLESS TUBE DIVISION, SOUTH LYON, MICH.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2804: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 21, 1977 in response to a worker petition received on December 9, 1977, which was filed by the United Steelworkers of America on behalf of workers former workers producing seamless tube for use in automobiles at Quanex Corp., Michigan Seamless Tube Division, South Lyon, Mich. During the course of the investigation it was revealed that the subject plant produces seamless steel tube for the exhaust pipe and tail pipe components of new automobile exhaust systems and for new auto gas tank necks.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Michigan Seamless Tube Division of Quanex Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number of proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated or are threatened to become totally or partially separated.

The Department's investigation revealed that there have been no involuntary separations of workers and no reduction in hours worked at the South Lyon, Mich. facility of Quanex Corp. during the year prior to the date of the petition.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that all workers at the Michigan Seamless Tube Division of Quanex Corp., South Lyon, Mich. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13058 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2615]

ST. JOSEPH STRUCTURAL STEEL CO., ST. JOSEPH, MO.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2615: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 15, 1977, in response to a worker petition received on November 7, 1977, which was filed by the International Association of Bridge, Structural and Ornamental Iron Workers on behalf of workers and former workers producing fabricated structural steel at the St. Joseph, Mo. plant of the Saint Joseph Structural Steel Co.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1557). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of St. Joseph Structural Steel Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation has revealed that all of the criteria have been met.

Imports of fabricated structural steel declined from 99,300 tons in 1975 to 94,400 tons in 1976 before increasing 52.1 percent from 77,500 tons in the first three quarters of 1976 to 117,900 tons in the first three quarters of 1977. The ratio of imports to domestic shipments of fabricated structural steel increased from 2.3 percent in 1975 to 2.5 percent in 1976 and then almost doubled from 2.7 percent in the first three quarters of 1976 to 4.5 percent in the first three quarters of 1977.

Company sales and production of fabricated structural steel increased in 1976 compared to 1975 and continued to increase in the first quarter of 1977 compared to the like 1976 period before declining in the April through November period of 1977 compared to the like 1976 period.

All of the company's business is procured through a competitive bid. The company, which was the lowest domestic bidder, lost a major contract to a foreign fabricator in 1977. This contract would have provided a substantial amount of work for the company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases in imports of articles like or directly competitive with the fabricated structural steel produced at the St. Joseph, Mo. plant of the St. Joseph Structural Steel Co. contributed importantly to the sales and production declines and to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the St. Joseph, Mo. plant of the St. Joseph Structural Steel Co., who became totally or partially separated from employment on or after September 25, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13059 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2972]

Y & S CANDIES, INC., BROOKLYN, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2972: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 19, 1978 in response to a worker petition received on December 20, 1977, which was filed on behalf of workers and former workers producing a variety of candies at the Brooklyn, N.Y. plant of Y & S Candies, Inc. During the investigation it was determined that licorice and licorice type candies were produced.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7070). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Y & S Candies, Inc., industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the Department's investigation revealed that the management of Y & S Candies was faced with the alternatives of modernizing the Brooklyn, N.Y. facility which was built in 1902 or of constructing a new facility. Management decided it was more cost effective to build a new facility in Lancaster, Pa. than to renovate the Brooklyn facility. The Lancaster facility began operations in May 1977. As soon as the Lancaster plant came on stream, the Brooklyn plant was phased out and finally closed down in October 1977.

Total sales of all the domestic plants of Y & S Candies increased in 1977 compared to 1976 and in the first 2 months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review I conclude that all workers at the Brooklyn, N.Y. plant of the Y & S Candies are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 3rd day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13060 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2172]

ADVENT CORP., CAMBRIDGE, MASS.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2172: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 27, 1977 in response to a worker petition received on June 23, 1977 which was filled on behalf of workers and former workers producing televisions and stereos at the Advent Corp., Cambridge, Mass. During the course of the investigation, it was determined that the following products are produced at the plant:

1. Video Projection Televisions.
2. Loudspeakers.
3. Cassette Tape Decks.
4. FM Monaural Radios.
5. Stereo Receivers.

The notice of investigation was published in the FEDERAL REGISTER on July 12, 1977 (42 FR 35904). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Advent Corp., it's customers, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. With respect to workers

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producing loudspeakers, without regard to whether any of the other criteria have been met, the following criterion has not been met:

> that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Imports of enclosed loudspeakers increased from 14,067 thousand units in 1975 to 29,363 thousand units in 1976 and increased from 12,599 thousand units in the first six months of 1976 to 13,689 thousand units in the first six months of 1977. The ratio of imports to domestic production increased from 539.6 percent in 1975 to 651.1 percent in 1976 and then decreased from 614.6 percent in the first six months of 1976 to 580.5 percent in the first six months of 1977.

The evidence developed during the Department's investigation revealed the most of Advent's customers do not purchase imported high fidelity loudspeakers. These customers indicated that Advent's line of loudspeakers are superior in quality to imported loudspeakers. They further stated that the stringent quality requirements of high fidelity sound systems and the high freight costs incurred in the shipping of large, wood-encased loudspeakers have discouraged foreign firms from entering the U.S. loudspeaker market. These results are consistent with industry trends which show that imports dominate the small, inexpensive plastic-encased, loudspeaker market, but have had little effect in the large, wood-encased, high fidelity loudspeaker market. The average value of imported loudspeakers in 1976 was 2.61 dollars; in comparison, the average value of loudspeakers produced domestically in 1976 was 49.41 dollars, reflecting the predominance of the larger, more expensive, wood-encased loudspeakers made in the United States.

With respect to workers engaged in employment related to the production of chassis for video projection televisions all of the group eligibility requirements of section 222 of the Act have been met.

U.S. imports of chassis for video projection televisions are represented by Advent Corp.'s imports of these chassis in that Advent is virtually the only importer of this product. Advent's imports of chassis increased in the first six months of 1977 compared to the same period in 1976.

Advent began importing in July 1976 the chassis for use in a new video projection television model, the 750A, which is priced substantially below the model 1000A produced domestically by Advent. Models 750A as a proportion of total Advent video screen production increased from 46.6 percent in the last six months of 1976 to 90.1 percent in the first six months of 1977.

With respect to workers engaged in employment related to the production of cassette tape decks all of the group eligibility requirements of section 222 of the Act have been met.

Imports of audio tape recorders/players increased from 5,704.4 thousand units in 1975 to 9,149.5 thousand units in 1976 and increased from 3,559.1 thousand units in the first six months of 1976 to 4,240.5 thousand units in the same period of 1977. The ratio of imports to domestic production increased from 3,349.6 percent in 1975 to 6,828.0 percent in 1976.

A Departmental survey of Advent's major customers revealed that a significant number of these customers decreased their purchases of tape decks from Advent in 1976 and 1977 compared to previous years while increasing their purchases of imported products. Additionally, Advent began importing printed circuit boards for use in the production of its tape decks in October 1976. These printed circuit boards were previously assembled at Advent's Cambridge, Mass. plant.

With respect to workers engaged in employment related to the production of FM monaural radios all of the group eligibility requirements of section 222 of the Act have been met.

Imports of household radios increased from 26,823.3 thousand units in 1975 to 33,618.7 thousand units in 1976 and increased from 13,582.1 thousand units in the first six months of 1976 to 15,443.8 thousand units in the same period of 1977. The ratio of imports to domestic production increased from 3,122.3 percent in 1975 to 4,025.2 percent in 1976 and increased from 3,578.0 percent in the first six months of 1976 to 4,185.3 percent in the same period of 1977

Printed circuit boards are used in the production of radios. Imports of printed circuit boards were discussed in the above section on cassette tape decks.

In November 1976 Advent began importing printed circuit boards for use in its monaural radio production. These printed circuit boards were previously assembled at Advent's Cambridge, Mass. plant. The impact of these imports on production is evidenced by the decline in the value of production of FM radios at the Cambridge, Mass. plant in 1976 compared to 1975 and in the first six months of 1977 compared to the same period of 1976.

With respect to workers engaged in employment related to the production of stereo receivers all of the group eligibility requirements of section 222 of the Act have been met.

Imports of stereo receivers increased from 1,121.6 thousand units in 1975 to 1,527.0 thousand units in 1976 and increased from 368.3 thousand units in the first four months of 1976 to 622.2 thousand units in the same period of 1977. The ratio of imports to domestic production increased from 399.1 percent in 1975 to 436.3 percent in 1976 and increased from 315.6 percent in the first four months of 1976 to 499.8 percent in the same period of 1977.

Advent stopped all stereo receiver production at its Cambridge, Mass. plant in February 1977 and transferred assembly operations to Mexico.

Conclusions

After careful review of the facts obtained in the investigation, I make the following conclusions.

Increased imports of articles like or directly competitive with the products as listed below have contributed importantly to the decline in sales and production and to the total or partial separations of workers producing those products at the Cambridge, Mass,. plant of the Advent Corp. on or after the corresponding impact date listed below:

Product and impact date

Chassis for video projection televisions—October 1, 1976.
Cassette tape decks—June 9, 1976.
FM monaural radios—June 9, 1976.
Stereo receivers—February 1, 1977.

In accordance with the provisions of the Act, I make the following certifications:

All workers engaged in employment related to the production of chassis for video projection televisions at the Cambridge, Mass., plant of the Advent Corp. who became totally or partially separated from employment on or after October 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to the production of cassette tape decks at the Cambridge, Mass., plant of the Advent Corp. who became totally or partially separated from employment on or after June 9, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to the production of FM monaural radios at the Cambridge, Mass., plant of the Advent Corp. who became totally or partially separated from employment on or after June 9, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to the production of stereo receivers at the Cambridge, Mass., plant of the Advent Corp. who became totally or partially separated from employment on or after February 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers engaged in employment related to the production of loudspeakers are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 8th day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13231 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2688]

AMERICAN BILTRITE, INC., CHELSEA, MASS., AND LEOMINSTER, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2688: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1977, in response to a worker petition received on November 22, 1977, which was filed on behalf of workers and former workers producing slabs of soling material from rubber and other compositions at American Biltrite, Inc., Chelsea, Mass. The investigation was expanded to include workers producing similar products at American Biltrite, Inc., Leominster, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63485). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from American Biltrite, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the Rubber Manufacturers Association, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of non-leather bottom stock materials for footwear (rubber soling) in absolute terms, declined 16 percent from 1975 to 1976 and then increased 123 percent in the first nine months of 1977 compared to the same period in 1976. The ratios of imports to domestic production and consumption increased from 3.8 percent and 3.7 percent, respectively, in the first nine months of 1976 to 11.1 percent and 10 percent, respectively, in the first nine months of 1977.

Industry analysts note that the recent reversal in the import trend, as evidenced by the large rise in bottom stock imports in 1977, can be partially attributed to the purchase of a major bottom stock importer by a domestic footwear manufacturer. American Biltrite's customers are footwear manufacturers.

A survey of customers who purchased rubber soling from American Biltrite indicated that customers increased purchases of imported rubber soling in 1977 and reduced purchases from American Biltrite.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with rubber soling produced at American Biltrite, Inc. contributed importantly to the decline in sales and to the total or partial separations of the workers at the Chelsea and Leominster, Mass. plants of the firm. In accordance with the provisions of the Act, I make the following certification:

All workes of the Chelsea and Leominster, Mass. plants of American Biltrite who became totally or partially separated from employment on or after May 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13232 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2726]

BETHLEHEM STEEL CORP., STEELTON, PA.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2726: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 6, 1977 in response to a worker petition received on November 23, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at the Steelton, Pa. plant of Bethlehem Steel Corp. The investigation revealed the plant produced rails and accessories, welded pipes, water pipes, carbon bars, alloy bars and reinforcing bars. Workers producing welded pipes and rebars were previously denied eligibility to apply for adjustment assistance under TA-W-1497.

The Notice of Investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65307). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bethlehem Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. With respect to workers engaged in the production of one of the following products: welded pipes, water pipes, carbon bars, alloy bars or reinforcing bars, without regard to whether any of the other criteria have been met, the following criterion has not been met:

> that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Department conducted separate surveys of some of the customers buying one of the above products from the Steelton plant. In each survey, except for carbon bars, customers indicated they did not purchase any imported products in 1976 or 1977. In addition, an analysis of the pipe and tubing industry revealed that the recent slump in the construction industry has had an adverse effect on U.S. shipments and consumption of pipe and tubing. From 1974 to 1976, U.S. shipments and consumption declined steadily.

In reference to the survey on carbon bars, several of the customers indicated they purchased some imports in 1976 and 1977. These same customers, however, also increased their purchases from Bethlehem Steel during the same periods.

Sales and production of carbon bars, alloy bars, and rebars increased in 1977 compared to 1976.

With respect to the workers producing rails and accessories, all of the group eligibility requirements of section 222 of the Act have been met.

Imports of steel rails increased from 42,300 tons in 1972 to 96,200 tons in 1975. Imports decreased to 71,800 tons in 1976 compared to 1975. In the first three quarters of 1977, imports increased to 53,000 tons compared to 48,500 tons for the same 1976 period. This represented an increase of 9.3 percent.

The ratio of imports of steel rails relative to domestic shipments increased in each year from 4.4 percent in 1972 to 7.7 percent in 1975. The ratio declined to 5.4 percent in 1976 compared to 1975. In the first three quarters of 1977 the ratio increased to 6.2 percent compared to 4.8 percent for the same 1976 period.

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Imports of tie plates and joint bars declined in each year from 7,100 tons in 1972 to 3,200 tons in 1975 before increasing to 9,700 tons in 1976. In the first three quarters of 1977, imports increased to 48,100 tons compared to 8,400 tons in the same 1976 period.

The ratio of imports of tie plates and joint bars relative to domestic shipments decreased in each year from 3.3 percent in 1972 to 1.3 percent in 1975 and increased to 3.6 percent in 1976. The ratio increased to 20.5 percent in the first three quarters of 1977 compared to 4.5 percent for the same 1976 period.

The Department conducted a survey of some of the customers buying rails and accessories from the Steelton plant. Several of the customers indicated they reduced purchases from Bethlehem Steel and increased purchases from foreign sources in 1976 and 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the rails and accessories produced at the Steelton, Pa. plant of the Bethlehem Steel Corp. contributed importantly to the decline in sales or production and to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification.

All workers at the Steelton, Pa. plant of the Bethlehem Steel Corp. engaged in employment related to the production of rails and accessories, who became totally or partially separated from employment on or after April 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

In further conclude that all workers engaged in employment related to the production of one of the following products: welded pipes, water pipes, carbon bars, alloy bars or reinforcing bars are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 9th day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13233 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2824]

THE CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO, MILWAUKEE, WIS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2824: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 28, 1977, in response to a worker petition received on December 9, 1977 which was filed on behalf of workers and former workers, engaged in transporting freight at Milwaukee Road, Milwaukee, Wis. During the course of the investigation it was determined the name of the firm is the Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1554). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation revealed that the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., subsidiary of the Chicago Millwaukee Corp., is a rail transport firm. The railroad is headquartered in Chicago and operates in sixteen States, serving the northern tier of States west of Chicago and reaching Omaha, Nebr., and Kansas City, Mo.

The Chicago, Milwaukee, St. Paul & Pacific Railroad Co., including all divisions and subdivisions thereof, is licensed and regulated by the Interstate Commerce Commission as a rail common carrier. Workers at the firm are engaged in transport operations and perform no production operations.

The Chicago, Milwaukee, St. Paul & Pacific Railroad Co. is not corporately, financially, or otherwise involved in the business of any of its customers. The workers on whose behalf this petition was filed were hired by and are paid by and subject to the control of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. personnel only. All employment benefits enjoyed by the workers are provided and maintained by the Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

Thus, the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. must be considered the workers' firm.

CONCLUSION

After careful review, I conclude that all workers at the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Milwaukee, Wis., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13234 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-3448]

HY-GAIN DE PUERTO RICO, HUMACAO, P.R.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 30, 1978, in response to a worker petition received on that date which was filed on behalf of workers and former workers producing citizen band radios, base stations, mobile sets, hand-held sets, and mobile antennas.

Notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of Hy-Gain de Puerto Rico, Inc., Humacao, P.R., were previously certified eligible to apply for adjustment assistance on April 13, 1978.

Since workers newly separated, totally or partially, are covered by the existing certification, provided such separations occurred on or after the impact date (January 11, 1977) and on or before the certification expiration date (April 13, 1980), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 1st day of May 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-13235 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2701]

IDARADO MINING CO., INC., OURAY, COLO.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2701: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 5, 1977 in response to a worker petition received on November 21, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing zinc, lead, copper, gold, and silver at Idarado Mining Co., Inc., Ouray, Colo.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63487). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Idarado Mining Co., Inc., its customers, the U.S. Department of the Interior, the American Bureau of Metal Statistics, *Metals Week, Metal Bulletin*, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criteria has not been met, with respect to workers engaged in employment related to the production of lead concentrate, gold and silver:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the aboslute decline in sales or production.

U.S. imports of lead concentrate increased from 45,206 short tons in 1975 to 88,988 short tons in 1976 and to 97,862 short tons in 1977. The ratio of imported lead concentrate to domestic production increased from 3.5 percent in 1975 to 6.7 percent in 1976 and to 7.4 percent in 1977.

Idarado exports all of its lead concentrate. Company production of gold and silver is negligible.

With respect to workers engaged in employment related to the production of zinc concentrate and copper concentrate, it is concluded that all of the criteria have been met.

U.S. imports of slab zinc, a further stage of processing for zinc concentrate, increased from 380,437 short tons in 1975 to 714,489 short tons in 1976 and then declined to 555,147 short tons in 1977. The ratio of imports to domestic production increased from 76.7 percent in 1975 to 127.0 percent in 1976 and incresed to 127.9 percent in 1977.

U.S. imports of refined copper, a further stage of processing for copper concentrate, increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976 and further increased to 391 thousand short tons in 1977. The ratio of imports to domestic production increased from 8.6 percent in 1975 to 21.0 percent in 1976 and increased to 22.2 percent in 1977.

Imports of both zinc and copper are affected by the differential between the domestic producers price for those commodities and their respective prices on the London Metals Exchange (LME). Domestic suppliers of zinc can remain competitive with foreign suppliers as long as the domestic producers price is within 5 cents of the LME price.

In the fourth quarter of 1976 the LME price for zinc was 8.6 cents lower than the domestic producers price. The average LME price for zinc in 1977 was 7.6 cents lower than the average domestic producers price for zinc in 1977. During several months of 1977 the price differential was closer to 10 cents.

With respect to copper, when the LME price drops more than the estimated transportation costs of 5-8 cents per pound below the domestic producers price the demand for imported copper increases. The yearly average LME price for copper in 1977 was 10 cents below the yearly average domestic producers price in 1977. In July and August 1977, the LME price was almost 12 cents below the domestic producers price.

Another factor affecting the price for both zinc and copper are high inventory levels. An oversupply of zinc in 1975 and 1976 coupled with the slack demand for zinc based products in those years contributed to record inventory levels. Inventories of domestic and imported zinc on consignment at smelters increased from 42,897 short tons in December 1974 to 67,449 short tons in 1975 and to 88,807 short tons in 1976.

While imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels.

Abundant supplies of both zinc and copper in the foreseeable future provide no reason for domestic consumers of zinc and/or copper to maintain ties with domestic producers for purposes of a guarantee against zinc and/or copper shortages.

Idarado and other producers of both zinc and copper lost sales in 1977 because of the excessive inventories of domestic and imported zinc and copper.

Price pressure from imported zinc and copper has reduced the ability to profitably mine domestic ore and convert it to zinc concentrate and copper concentrate. Comments made by customers purchasing zinc concentrate from Idarado substantiate the influence of imported zinc on the price which Idarado can obtain for its concentrate. One customer has lowered its price for slab zinc four times since October 1976, resulting in reductions in the price paid to Idarado for its concentrate. Another customer stopped purchasing zinc concentrate from Idarado in 1977 and substantially increased its purchases of imported zinc concentrate in the same year.

With respect to copper, industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound, while the weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a current market price of 60 cents per pound domestic producers lose, on the average, 3 to 45 cents on each pound of copper they chose to sell.

Idarado's decision to layoff workers in October 1977 and further reduce production was based on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for zinc and copper.

CONCLUSION

After careful review I conclude that increased imports of articles like or directly competitive with zinc concentrate and copper concentrate produced at Idarado Mining Co., Ouray, Colo. contributed importantly to the decline in sales and to the total or partial separations of workers at that facility. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of zinc concentrate and copper concentrate at Idarado Mining Co., Ouray, Colo. who became totally or partially separated from employment on or after September 17, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers engaged in employment related to the production of lead concentrate, gold and silver are denied eligibility.

Signed at Washington, D.C., this 8th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 13236 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-3286]

RAIN DUCKER INC., DULUTH, MINN.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 1, 1978 in response to a worker petition received on February 23, 1978 which was filed on February 17, 1978 on behalf of workers and former workers producing outerwear at Rain Ducker Inc., Duluth, Minn.

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Notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10649). No public hearing was requested and none was held.

Evidence developed during the investigation indicates that Rain Ducker, Inc., ceased to function as a corporate entity on September 1, 1976 more than one year from the signature date February 17, 1978 of this petition.

Section 223(b)(1) of the Trade Act of 1974 states that a certification may not apply to any worker whose last total or partial separation occurred more than one year from the filing date of this petition. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 27th day of April, 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-13237 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2585]

S. D. SALES CORP., GARNERVILLE, N.Y.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2585: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 9, 1977 in response to a worker petition received on November 2, 1977 which was filed on behalf of workers formerly engaged in textile printing on cloth for the apparel industry at S. D. Sales Corp., Garnerville, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59565). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of S. D. Sales Corp., its customers, the American Textile Manufacturers Institute, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that imports of finished fabric (bleached, dyed, and printed) increased 14 percent absolutely in quantity in 1976 compared to 1975, then decreased 2 percent in 1977 compared to 1976. The ratios of imports to domestic production and consumption of finished fabric were below 2 percent each year from 1974 through 1976.

Customers (fabric converters) of S. D. Sales Corp., who were surveyed, did not purchase imported fabric in the 1975-77 period.

Customers (apparel manufacturers) of these converters in a second-tier survey, revealed that manufacturers which increased purchases of imported fabric also increased purchases from domestic sources.

CONCLUSION

After careful review I conclude that all workers at S. D. Sales Corp., Garnerville, N.Y., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13238 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2535]

SELMER CO., ELKHART, IND.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2535: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 31, 1977, in response to a worker petition received on October 26, 1977, which was filed by Local No. 612 of the United Automobile Workers of America on behalf of workers and former workers producing flutes, clarinets, and saxophones at the Selmer Division, Elkhart, Ind. of the Magnavox Corp. During the course of the investigation, it was established that the Selmer Co. is an independent subsidiary of North American Philips Corp., New York, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Selmer Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of woodwind instruments, including clarinets, saxophones, flutes, piccolos, oboes, and bassoons, declined from 56,117 units in January-September 1976 to 54,383 units in January-September 1977. The ratio of imports to domestic production increased from 22.6 percent in January-September 1976 to 23.3 percent in January-September 1977.

A survey of Selmer's customers revealed that from 1976 to 1977 some customers had reduced their purchases of Selmer's woodwind instruments and had increased their purchases of imported woodwind instruments.

Unit production of Selmer's flutes, student model clarinets, and professional model clarinets and saxophones decreased from 1975 to 1976 and declined in January-October 1977 compared to the like period in 1976. Employment of production workers at Selmer's Main Street Plant, Case Plant, and Plant No. 2 decreased from 1975 to 1976 and declined in January-October 1977 compared to the like period in 1976. Since the carrying cases produced at the Case Plant are sold along with the woodwind instruments produced at Elkhart, workers at the Case Plant are engaged in employment related to the production and sale of Selmer's woodwind instruments.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with woodwind instruments produced at the Main Street Plant, Case Plant, and Plant No. 2 of the Selmer Co., Elkhart, Indiana contributed importantly to the decline in sales and production and to the total or partial separations of workers at those plants. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Main Street Plant, Case Plant, and Plant No. 2 of the Selmer Co., Elkart, Ind., who became totally or partially separated from employment on or after October 17, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 8th day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research

[FR Doc. 78-13239 Filed 5-15-78; 8:45 am]

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[4510-28]

[TA-W-2677]

ST. CROIX CORP., PARK FALLS, WIS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2677: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 29, 1977, in response to a worker petition received on November 17, 1977 which was filed by the United Paper Workers' International Union, Local No. 883 on behalf of workers and former workers producing fiberglass fishing rods, tubular fiberglass blanks, solid fiberglass blanks and other fiberglass products at the Park Falls, Wis. plant of the St. Croix Corp., a part of the Schaper-St. Croix Corp. group of manufacturers in Minneapolis, Minn. During the investigation, company data revealed that the only major products were tubular and solid fiberglass fishing rods.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from officials of the St. Croix Corp., its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of fishing rods and poles increased from 3.8 million units in 1975 to 4.5 million units in 1976, and rose to 6.7 million units in 1977, an increase of 49 percent over 1976. The ratio of imported fishing rods and poles to domestic production increased from 44.7 percent in 1975 to 47.9 percent in 1976 and to 59.8 percent in 1977.

A survey of customers of the St. Croix Corp. revealed that several had increased purchases of imported fishing rods, directly or from other domestic sources, while reducing purchases from St. Croix in 1976 and the first nine months of 1977.

As a result of competitive pressure from lower-priced imports, Schaper-St. Croix Corp. began to market a Fishing Machine in the last quarter of 1976. The Fishing Machine combines an imported telescoping fiberglass rod and an imported reel with a St. Croix Rangefinder/Depthfinder. The Fishing Machine is assembled at the Schaper-St. Croix Corp. plant in Minneapolis and is sold in the United States. Sales of the Fishing Machine increased 93.6 percent in the fourth quarter of 1977 compared to the fourth quarter of 1976. The success of the Fishing Machine, which incorporates an imported rod, prompted Schaper-St. Croix to abandon its traditional fishing rod business and close the Park Falls facility.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with fiberglass fishing rods produced by the Park Falls, Wis. plant of the St. Croix Corp. contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Park Falls, Wis. plant of the St. Croix Corp. who became totally or partially separated from employment on or after February 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13240 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2740]

STUTZ PRODUCTS CORP., HARTFORD CITY, IND.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2740: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 7, 1977 in response to a worker petition received on November 28, 1977, which was filed by Directly Affiliated Local 24694 (AFL-CIO) on behalf of workers and former workers producing meat slicing and meat chopping knives at Stutz Products Corp., Hartford City, Ind.

The Notice of Investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65308). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Stutz Products Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustments assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

There were no imports of meat slicing and meat chopping knives for commercial food machines from 1973 to 1977. In 1978, a major domestic user of chopping and slicing knives, a customer of Stutz who accounted for a large proportion of Stutz sales, began purchasing imported knives and reducing orders from Stutz Products.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with meat slicing and meat chopping knives produced at Stutz Products Corp., Hartford City, Ind., contributed importantly to the decline in sales and separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Stutz Products Corp., Hartford City, Ind. who became totally or partially separated from employment on or after October 16, 1977 are eligible to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-13241 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2784]

U.S. STEEL CORP., VANDERGRIFT PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2784: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 14, 1977, in response to a worker petition received on December 9, 1977, which was filed by the United Steelworkers of America on behalf of workers producing carbon steel products at the Vandergrift, Pa. plant of the U.S. Steel Corporation. The investigation revealed the electrical sheet is produce at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public

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hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have beeen met, the following criterion has not been met:

that a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated

Average plant employment increased in each quarter of 1977 compared to the respective like 1976 quarters. The average hours worked per worker per week increased in 1977 compared to 1976. There are no threatened reductions in employment.

CONCLUSION

After careful review I conclude that all workers at the Vandergrift, Pa. plant of the U.S. Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-13242 Filed 5-15-78; 8:45 am]

[TA-W-3143]

VALLEY MANUFACTURING CORP., SALTVILLE, VA.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 15, 1978, in response to a worker petition received on February 2, 1978, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing nurses' and waitresses' uniforms at the Saltville, Va. plant of Valley Manufacturing Corp.

Notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8862). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers were separated from employment at the Saltville, Va. plant of Valley Manufacturing Corp. in July, 1976. Section 223 (b) (1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than twelve months before the date of filing under Title II, Chapter 2 of the Trade Act of 1974.

The filing date of the petition in this case is February 2, 1978. Since workers separated from employment at the Saltville, Va. plant of Valley Manufacturing Corp. prior to February 2, 1977, are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974, continuation of this investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 1st day of May 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-13243 Filed 5-15-78; 8:45 am]

[4510-28]

[TA-W-2304]

WESTERN ELECTRIC CO., KEARNEY, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2304: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 29, 1977 in response to a worker petition received on August 25, 1977 which was filed by the International Brotherhood of Electrical Workers on behalf of workers and former workers producing telephone and telegraph (wire) apparatus, components and equipment at the Kearney, N.J. plant of Western Electric Co.

The Notice of Investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Western Electric Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, Industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that imports of telephone and telegraph (wire) apparatus, equipment and components did not exceed two percent of domestic production in 1975, 1976 or in the first nine months of 1977. Imports of telephone and telegraph (wire) apparatus increased annually from 42.5 million dollars in 1975 to 57.5 million dollars in 1976. Imports increased from 43.2 million dollars in the first nine months of 1976 to 48.3 million dollars in the first nine months of 1977.

The Kearney plant sold over 90 percent of its output in 1976 and 1977 to the Bell System, which did not purchase imported cables.

The Kearney, N.J. plant is one of the oldest Western Electric manufacturing facilities. Declines in production and employment at Kearney in 1976 and 1977 were due to a transfer of cable production operations to other U.S. Western Electric plants.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that workers at the Kearney, N.J. plant of Western Electric Co. are denied eligibility to apply for trade adjustment assistance.

Signed at Washington, D.C. this 8th day of May 1978.

HARRY J. GILMAN,
Acting Director, Office of T3Foreign Economic Research.

[FR Doc. 78-13244 Filed 5-15-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

SUBCOMMITTEE ON NEUROBIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Neurobiology of the Advisory Committee for Behavioral and Neural Sciences.

DATE AND TIME: May 31, June 1, and 2, 1978: 9 a.m. to 5 p.m. each day.

PLACE: Room 321, May 31; room 338, June 1 and 2; National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON:
Dr. Janett Trubatch, Program Director, Neurobiology Program, room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-634-4036.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in Neurobiology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 10, 1978.

[FR Doc. 78-13191 Filed 5-15-78; 8:45 am]

[7555-01]

ADVISORY COUNCIL; TASK GROUP NO. 2

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, the National Science Foundation announces the following meeting:
NAME: Task Group No. 2 of the NSF Advisory Council.

PLACE: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

DATE: Wednesday, May 31, 1978.

TIME: 9 a.m. until 5 p.m.

TYPE OF MEETING: Open.

CONTACT PERSON:
Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street NW., Washington, D.C. 20550, telephone: 202-632-4368.

PURPOSE OF TASK GROUP: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

SUMMARY MINUTES: May be obtained from the Committee Management Coordinator, Division of Financial and Adminstrative Management, National Science Foundation, room 248, 1800 G Street NW, Washington, D.C. 20550.

AGENDA: To identify and review the ways non-scientists now participate in the formation of the nation's science policy, the present arrangements for involving the public in the development of Foundation policies, and suggest possible new approaches or improvements in NSF practices.

Dated: May 10, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-13192 Filed 5-15-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR MINORITY PROGRAMS IN SCIENCE EDUCATION

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Advisory Committee for Minority Programs In Science Education.

DATE AND TIME: June 1 and 2, 1978—9 a.m. each day.

PLACE: Room 651, National Science Foundation, 5225 Wisconsin Avenue NW., Washington, D.C. 20550.

TYPE OF MEETING: Open.

CONTACT PERSON:
Mrs. Fran Watts, Staff Assistant, Science Education Directorate, National Science Foundation, room W-600, Washington, D.C. 20550, telephone: 202-282-7930.

SUMMARY MINUTES: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, room 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF COMMITTEE: To assist in the evaluation and assessment of activities in the ethnic minority-focused Foundation programs.

AGENDA:

Thursday, June 1. Update on FY 1979 Budget; Committee Working Session; Program Review of Minority Programs; Progress Report on Program Development.

Friday, June 2. Junior High School Thrust; Information on MISIP Curriculum Conference; Committee Working Session.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 10, 1978.

[FR Doc. 78-13193 Filed 5-15-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON MOLECULAR BIOLOGY

Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Molecular Biology, Group B, of the Advisory Committee for Physiology, Cellular and Molecular Biology.

DATE AND TIME: June 1 and 2, 1978; 9 a.m. to 5 p.m. each day.

PLACE: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON:
Dr. Frederick I. Tsuji, Program Director, Biochemistry Program, room 330, National Science Foundation, Washington, D.C., 20550, telephone: 202-632-4260.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in Molecular Biology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552 b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 10, 1978.

[FR Doc. 78-13194 Filed 5-15-78; 8:45 am]

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[7555-01]

SUBCOMMITTEE ON DEVELOPMENTAL BIOLOGY

Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Developmental Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

DATE AND TIME: May 31, June 1 and 2, 1978; 9 a.m.

PLACE: Room 543, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Dr. Mary E. Clutter, Program Director, Developmental Biology Program, Room 326. National Science Foundation, Washington, D.C. 20550, telephone: 202-632-4314.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in developmental biology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 5, 1978.

[FR Doc. 78-13195 Filed 5-15-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

Notice of Meeting

The ACRS Subcommittee on Reactor Safety Research will hold an open meeting on May 31, 1978, in room 1046, 1717 H Street NW., Washington, D.C. 20555.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that apropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, May 31, 1978—2 p.m. until the conclusion of business.

The subcommittee will meet in executive session to discuss review efforts for the ACRS 1978 report to Congress on NRC reactor safety research.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Thomas G. McCreless, telephone 202-634-1374, between 8:15 a.m. and 5 p.m., e.d.t.

Dated: May 11, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-13359 Filed 5-15-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REGULATORY ACTIVITIES

Notice of Meeting

The ACRS Subcommittee on Regulatory Activities will hold an open meeting on May 31, 1978 in Room 1046, 1717 H Street NW., Washington, D.C. 20555.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, May 31, 1978.—The meeting will commence at 8:45 a.m.

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

(1) Proposed Regulatory Guide 1.XX, "Auditing of Quality Assurance Programs for Nuclear Power Plants"

(2) Regulatory Guide 1.133, Revision 1, "Loose-Part Detection Program for the Primary System of Light-Water-Cooled Reactors"

(3) Regulatory Guide 1.136, Revision 1, "Material for Concrete Containments"

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Persons wishing to submit written statements regarding Regulatory Guides 1.133, Revision 1 and 1.136, Revision 1, may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. However, to insure that adequate time is available for full consideration of these comments at the meeting, it is desirable to send a readily reproducible copy of the comments as far in advance of the meeting as practical to Mr. Gary R. Quittschreiber (ACRS), the Designated Federal Employee for the meeting, in care of ACRS, Nuclear Regulatory Commission, Washington, D.C. 20555 or telecopy them to the Designated Federal Employee, 202-634-1925, as far in advance of the meeting as practical. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee, Mr. Gary R. Quittschreiber, telephone 202-634-1374, between 8:15 a.m. and 5 p.m., e.d.t.

Dated May 11, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer

[FR Doc. 78-13358 Filed 5-15-78; 8:45 am]

[7590-01]

[NUREG-0430 Vol. 1, No. 1]

FUEL CYCLE FACILITIES

Issuance and Availability

The U.S. Nuclear Regulatory Commission has issued the first semi-annual report, "Licensed Fuel Facility Status Report" NUREG-0430, dated May 1978. The report contains (a) general facility data such as plant location, type of operation and Special Nuclear Material (SNM) authorization limits; (b) plant operating status; (c) a summary of NRC inspection results; and (d) licensee reports involving plant effluent data, inventory difference data, and reportable events.

In one respect this status report constitutes the second report on inventory accounting differences at NRC-licensed facilities possessing significant quantities of highly enriched uranium, plutonium and uranium-233. The first NRC report of inventory difference data, which was issued in August 1977 (NUREG-0350), covered the period from January 1, 1968 through September 30, 1976. The status report covers inventory difference data from October 1, 1976 through September 30, 1977, and includes inventory difference data for low enriched uranium as well as highly enriched uranium, plutonium and uranium-233.

This new report, which is planned to be issued on a semi-annual basis in the future, also contains information on licensed uranium mills, and conversion facilities as well as fuel fabrication plants.

NUREG-0430 is available for inspection at the Commission's Public Document Room at 1717 H Street NW, Washington, D.C. Copies may be purchased for $5.25 per copy from the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md., this 10th day of May 1978.

For the Nuclear Regulatory Commission.

JOHN G. DAVIS,
Deputy Director, Office of Inspection and Enforcement.

[FR Doc.78-13360 Filed 5-15-78; 8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

REVIEW PANEL ON DAM SAFETY PROGRAMS

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

NAME: Review Panel on Dam Safety Programs.

DATE: June 1, 1978.

TIME: 9:30 a.m. to 4 p.m.

PLACE: Room 3025, New Executive Office Building, Washington, D.C. 20500.

TYPE OF MEETING: Open.

CONTACT PERSON:

Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-4692.

SUMMARY MINUTES: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

PURPOSE OF REVIEW PANEL: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends in science and technology and relate these to their impact on the achievement of national goals and objectives, is reviewing the activities and plans appropriate to the Federal, State, local governmental units, and the private sector to insure the safety of dams which are in any way affected by a Federal role.

AGENDA: 9:30 a.m. to 4 p.m.—a discussion of draft materials prepared as part of the policy review process for the President.

WILLIAM J. MONTGOMERY,
Executive Officer.

[FR Doc. 78-13201 Filed 5-15-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 04/05-0011]

VICKSBURG SMALL BUSINESS INVESTMENT CO.

Filing of Application for Approval of Conflict of Interest Transaction

Notice is herby given that Vicksburg Small Business Investment Company (Vicksburg), 302 First National Bank Building, Vicksburg, Miss. 39180, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. 661 et seq.) has filed an application with the Small Business Administration (SBA), pursuant to section 107.1004 of the SBA's rules and regulations governing Small Business Investment Companies (13 CFR 107.1004 (1977)), for approval of a conflict of interest transaction falling within the scope of the above section of the Act and Regulations.

Subject to such approval, Vicksburg proposes to provide financing to T & J Utility, Inc. (T & J).

The principal owner of T & J are Messrs. Ernest Thomas and George Jabour, Jr. Each owns 50 percent of the issued stock of T & J.

The proposed financing is brought within the purview of section 107.1004 of the regulations since Mr. Thomas will own one-half of T & J's stock and is a director of Vicksburg. Mr. Thomas owns less than one percent of Vicksburg stock. The financing is no more favorable in regard to its terms and conditions than other financings provided by Vicksburg to other small concerns.

Notice is hereby given that interested persons may, on or before may 31, 1978, submit to SBA, in writing, relevant comments on the proposed transaction. Any such communication should be addressed to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416. After expiration of the fifteen days, SBA may dispose of this application on the basis of the information contained in the application, the comments (if any) which are receivd, and other relevant data.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 9, 1978.

PETER F. MCNEISH,
Deputy Associate Aministrator for Investment.

[FR Doc. 78-13190 Filed 5-15-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

OLEORESINS FROM INDIA

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been started to determine if benefits are paid by the Government of India to

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manufacturers or exporters of oleoresins which constitute the payment of a bounty or grant within the meaning of the U.S. Countervailing Duty Law. A preliminary determination will be made not later than September 21, 1978, and a final determination not later than March 21, 1979.

EFFECTIVE DATE: May 16, 1978.

FOR FURTHER INFORMATION CONTACT:

William Trujillo, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue NW, Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on March 21, 1978, alleging that benefits conferred by the Government of India upon the manufacture, production or exportation of oleoresins from India constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice, "oleoresins" means flavoring extracts, and fruit flavors, essences, esters, and oils, not containing alcohol, and not in ampoules, capsules, tablets, or similar forms, classifiable under item number 450.20 of the Tariff Schedules of the United States (TSUS). An oleoresin is a thick liquid extract of the flavor of a spice used primarily as a seasoning in the food industry.

The alleged bounties or grants as provided in the petition include (1) cash grants provided by the Government of India which are calculated as a fixed percentage of the value of exports and (2) import permits.

The oleoresins from India specified in the petition are eligible for duty-free treatment under the Generalized System of Preferences. In the event that it becomes necessary to refer this matter to the United States International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), there is evidence on record concerning injury or likelihood of injury to, or prevention of the establishment of, an industry in the United States. Information contained in the petition indicates increased imports of oleoresins from India both absolutely and as a share of the U.S. market, declining sales by domestic producers and reduced profit margins.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than September 21, 1978, as to whether or not the alleged payments or bestowals conferred by the Government of India upon the manufacture, production or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than March 21, 1979.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 15, March 16, 1978, provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and §159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

MAY 9, 1978.

[FR Doc.78-13182 Filed 5-15-78; 8:45]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 660]

ASSIGNMENT OF HEARINGS

MAY 11, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 59856 (Sub-76), Salt Creek Freightways, now assigned June 12, 1978, at Missoula, MT, will be held in the Clark Room, Red Lion-Edgewater, 100 Madison.

No. MC 134922 (Sub-No. 181), B. J. McAdams, Inc. Extension Kosciusko, MS and No. MC-C-9847, B. J. McAdams, Inc., Freeman Truck Lines, Inc., Transcon Lines, Eugene D. Anderson John Paul Jones, and Wentworth E. Griffin—Investigation—Shipper Support Misrepresentation and Coercion, now assigned May 15, 1978, at Washington, DC are postponed to June 27, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 110393 (Sub-36), GEM, Transport, Inc., now being assigned July 24, 1978, at the Offices of the Interstate Commerce Commission in Washington, DC.

No. MC 121683 (Sub-No. 2), Jackson Express, Inc., now being assigned May 30, 1978 (4 days), at Jackson, TN, at the Ramada Inn, U.S. Hwy 45 Bypass.

MC 720 (Sub-41), Bird Trucking Co., Inc., is now assigned for hearing July 11, 1978 (1 day) at Chicago, IL, at a location to be later designated.

MC 27089 (Sub-4), Chi-Waukee Truck Lines, Inc., is now assigned for hearing July 12, 1978 (1 day) at Chicago, IL, at a location to be later designated.

MC 115730 (Sub-43), The Mickow Corp., is now assigned for hearing July 13, 1978 (1 day) at Chicago, IL, at a location to be later designated.

MC 82492 (Sub-176), Michigan & Nebraska Transit Co., Inc., is now assigned for hearing July 14, 1978 (1 day) at Chicago, IL, at a location to be later designated.

AB 7 (Sub-49), Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Abandonment near Monroe and Mineral Point, in Greene, Lafayette and Iowa Counties, WI, is now assigned for hearing July 17, 1978 (1 week) at Darlington, WI, at a location to be later designated.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-13246 Filed 5-15-78; 8:45 am]

[7035-01]

[Docket No. AB-3 (Sub-No. 16F)]

MISSOURI PACIFIC RAILROAD CO.

Abandonment Near Mount Vernon in Jefferson County, Ill.; Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by Certificate and Decision, dated May 1, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Missouri Pacific Railroad Co. of a line of railroad known as segment of the Pinckneyville Subdivision, extending from at or about milepost 121.6, near Mount Vernon, IL, to a point at or about milepost 125.2, in Mount Vernon, IL, a total distance of approximately 3.6 miles, all in Jefferson County, IL. A certificate of public convenience and necessity permitting abandonment was instituted to the Missouri Pacific Railroad Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than June 7, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13250 Filed 5-15-78; 8:45 am]

[7035-01]

[Docket No. AB-15 (Sub-No. 1)]

PETALUMA AND SANTA ROSA RAILROAD CO.

Abandonment Between Sebastopol and Turner in Sonoma County, Calif.; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on January 19, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977) and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Petaluma & Santa Rosa Railroad Co. (P&SR, a wholly-owned subsidiary of Northwestern Pacific Railway Co. which, in turn, is a wholly-owned subsidiary of the Southern Pacific Transportation Co. (SP)) of a line of railroad extending from railroad milepost 16.660 near Sebastopol in a southerly direction to the end of the line at railroad milepost 11.138 near Turner, a distance of 5.522 miles in Sonoma County, CA. A certificate of abandonment will be issued to the appliant based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If The Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail sevices over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13251 Filed 5-15-78; 8:45 am]

[7035-01]

[Notice No. 75]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 10, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 25798 (Sub-No. 314TA), filed April 4, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, 502 E. Bridgers Avenue, Auburndale, FL 33823. Applicant's representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor oil*, in containers, from the facilities of Quaker Supreme Corp., at Montgomery, AL, to those points in FL on, east, and south of a line beginning at the junction of Interstate Hwy 75 and the GA-FL Line and extending in a southerly direction along Interstate Hwy 75 to its junction with FL Hwy 24, at or near Gainesville, FL, and thence extending in a westerly direction along FL Hwy 24 to Cedar Key, FL, for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): Quaker Supreme Chemical Corp., Suite 7, Building A, Executive Park, Montgomery, AL 36101. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW., 53rd Terrace, Miami, FL 33166.

No. MC 26396 (Sub-No. 174TA), filed April 11, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and plastic pipe fittings*, from McPherson, KS, to points in IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert L. Thompson, General Traffic Manager, Certain Teed Corp., P.O. Box 860, Valley Forge, PA 19482. Send protests

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to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 30837 (Sub-No. 479TA), filed April 11, 1978. Applicant: KENOSHA AUTO TRANSPORT CORP., 4200 39th Avenue, Kenosha, WI 53140. Applicant's representative: Albert P. Barber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks, truck tractors and truck chassis*, in initial movements, in driveaway service, from Oshkosh, WI, to points in the United States (including AK, but excluding HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oshkosh Truck Corp., 2307 Oregon Street, Oshkosh, WI (Wm. J. Dougherty). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 41404 (Sub-No. 144TA), filed April 11, 1978. Applicant: ARGO-COLLIER TRUCK LINES CORP., P.O. Drawer 440, Fulton Highway, Martin, TN 38237. Applicant's representative: Mark L. Horne, P.O. Drawer 440, Fulton Highway, Martin, TN 38237. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), from the facilities of Rich Products Corp. at or near Murfreesboro, TN, to points in AL, FL, GA, IL, IN, KY, LA, MN, MS, MO, NC, OH, and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

No. MC 55896 (Sub-No. 73TA), filed April 3, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI. 48180. Applicant's representative: George E. Batty, 20225 Goddard Road, Taylor, MI 48180. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum castings and automotive parts*, from Bedford, IN, to points in MI and OH; and (2) *scrap metals and materials and supplies* used in the production and transportation of aluminum castings and automotive parts, from points in MI and OH; to Bedford, Needmore and Wabash, IN, restricted in (1) and (2) above, to traffic originating at or destined to the plantsite and storage facilities of General Motors Corp. at the named origins and the named destinations, for 180 days. Supporting Shipper(s): Central Foundry Division, GMC 77 West Center Street, Saginaw, MI 48605. (D. B. Pietrzak Divisional Traffic Manager.) Send protests to: Timothy S. Quinn District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 93840 (Sub-No. 38TA), filed April 11, 1978. Applicant: GLESS BROS., INC., P.O. Box 216, 34 Genesco Street, Blue Grass, IA. 52726. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA. 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and limestone*, in bulk), from the facilities of American Pelletizing Corp. in Marion County, IA, to points in IL, MN, NE, MO, SD, KS, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): American Pelletizing Corp., P.O. Box 3628, Des Moines, IA 50322. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 99610 (Sub-No. 31TA), filed April 20, 1978. Applicant: ROSS NEELY EXPRESS, INC., 1500 Second Street, Pratt City, Birmingham, AL 35214. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Washington, D.C. 20004. Robert S. Richard, P.O. Box 2069, Montgomery, AL 36103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and commodities in bulk, in tank vehicles, over regular routes:

1. Between Centre, AL, and Rome, GA: From Centre, AL over AL Hwy 9 to the AL-GA State line, then over GA Hwy 20 to Rome, GA, and return over the same route, serving all intermediate points. 2. Between Centre, AL, and Atlanta, GA, serving all points within 15 miles of Atlanta, GA, as off-route points. From Centre, AL over U.S. Hwy 411 to the junction of U.S. Hwy 411 and U.S. Hwy 41, then over U.S. Hwy 41 to Marietta, GA, then over Interstate Hwy 75 to Atlanta, GA, and return over the same route, serving all intermediate points between Centre, AL, and Rome, GA, and serving all points within 15 miles of Atlanta, GA as off-route points. Applicant proposes to join the authority in paragraphs 1 an 2 above with its existing authority in AL. 3. Between Gadsden, AL and Atlanta, GA, serving all points within 15 miles of Atlanta, GA, as off-route points: From Gadsden, AL, over U.S. Hwy 411 to the junction of U.S. Hwy 411 and U.S. Hwy 41, then over U.S. Hwy 41 to Marietta, GA, and then over Interstate Hwy 75 to Atlanta, GA, and return over the same route, serving all intermediate points between Gadsden, AL, and Atlanta, GA, and serving all points within 15 miles of Atlanta, GA, as off-route points. 4. Between Gadsden, AL, and Atlanta, GA: From Gadsden, AL, over U.S. Hwy 278 to Atlanta, GA, and return over the same route, serving all intermediate points in AL. 5. Between intersection of U.S. Hwy 78 and U.S. Hwy 431 in AL, and Atlanta, Ga: From the intersection of U.S. Hwy 78 and U.S. Hwy 431, in AL, over U.S. Hwy 78 to Atlanta, GA, and return over the same route, serving all intermediate points in AL. 6. Between intersection of Interstate Hwy 20 and U.S. Hwy 431, in AL, and Atlanta, GA: From the intersection of Interstate Hwy 20 and U.S. Hwy 431, in AL, over Interstate Hwy 20 to Atlanta, GA, and return over the same route, serving all intermediate points in AL. 7. Between intersection of U.S. Hwy 29, and Interstate Hwy 85, in AL, and Atlanta, GA: From the intersection of U.S. Hwy 29 and Interstate Hwy 85, in AL, over Interstate Hwy 85 to Atlanta, GA, and return over the same route, serving all intermediate points in AL. In conjunction with Paragraphs 3 through 7, applicant proposes to serve all points in AL not on applicant's existing regular routes north of the southern boundaries of Russell, Bullock, Pike, Crenshaw, Butler, Wilcox, Clarke, and Choctaw Counties; also, Dothan, Andalusia and Mobile County, AL, and points in that part of Baldwin County, AL, described as beginning at Stockton, AL, then south along AL Hwy 59 to junction Baldwin County Hwy 64, then in a westerly direction along Baldwin County Hwy 64 to junction Baldwin County Hwy 27, then in a southerly direction along Baldwin County Hwy 27 to junction U.S. Hwy 98, then west and north along U.S. Hwy 98 to junction Baldwin-Mobile County line to the closest point in Chastang, AL, then over the imaginary line from Chastang to Stockton, AL on the one hand, and, on the other, all points in AL north of the southern boundaries of Russell, Bullock, Pike, Crenshaw, Butler, Wilcox and Clarke and Choctaw Counties, AL, as off-route points for 180 days.

NOTE.—Applicant intends to tack the authority here applied for to other authority held by it and intends to interline with other carriers at points where applicant concurs with other carriers.

Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (350) statements of support attached to the application which may be examined at the field office named below. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 106674 (Sub-No. 316TA), filed April 11, 1978. Applicant: SCHILLI MOTOR LINES INC., U.S. Hwy 24 West, P.O. Box 123, Remington, IN 47977. Applicant's representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the warehouse facilities of the Pillsbury Co. in Fort Wayne, IN, to Detroit, MI and suburbs including East Detroit, Plymouth and Livonia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Pillsbury Co., 608 Second Avenue South, Minneapolis, MN. 55402. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 109397 (Sub-No. 406TA), filed April 11, 1978. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, East on Interstate Business Route 44, Joplin, MO 64801. Applicant's representative: Max G. Morgan, 223 Ciudad Building, 3000 United Founders Blvd., Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radioactive materials*, from Felder Uranium operation near George West, Live Oak County, TX, to Sequoyah facilities of Kerr McGee near Gore, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Exxon Minerals Co., U.S.A., Division of Exxon Co., U.S.A., Division of Exxon Corp., Houston, TX. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 112801 (Sub-No. 201TA), filed April 11, 1978. Applicant: TRANSPORT SERVICE CO., 2 Salt Creek Lane, Hinddale, IL 60521. Applicant's representative: Gene Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beef digest*, (in bulk, in tank vehicles), from Kankakee, IL, to Topeka, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gold Pak Bone Co., Bruce R. Boyer, Plant Manager, 1655 W. Court, Kankakee, IL 60901. Send protests to: Patricia A. Roscoe Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 113908 (Sub-No. 433TA), filed April 11, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180 G.S.S., 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol, alcoholic liquors, neutral spirits, distilled spirits, wine and wine products* (in bulk) (except whiskey, from KY), from points in KY and FL, to Chicago, IL, and the commercial zone thereof (except whiskey, from points in KY), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mar-Salle Chicago Co., Chicago, IL 60610. Send protests to: John V. Barry, District Supervisor, Interstate Commerce commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 114273 (Sub-No. 361TA), filed April 6, 1978. Applicant: CRST, INC., P.O. Box 68, 3930-16th Avenue, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container accessories, materials and supplies* used in the manufacture and distribution of glass containers, (except commodities in bulk, in tank vehicles), from the facilities of Brockway Glass Co., Inc., located in Washington County, PA; Muskingum County, OH; and Madison County, IN; to points in Johnson, Linn, Clinton, Scott, and Muscatine Counties, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Brockway Glass Co., Inc., McCullough Avenue, Brockway, PA 15824. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309

No. MC 114969 (Sub-No. 74TA), filed April 11, 1978. Applicant: PROPANE TRANSPORT, INC., State Route 131, P.O. Box 232, Milford, OH 45150. Applicant's representative: James H. Roudebush (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solution*, (in bulk, in tank vehicles), from Burns Harbor, IN., to MI, IN, IL and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Agrico Chemical Co., J. J. Stefanec, Director, Tansportation Legislation and Research, P.O. Box 3166, Tulsa, OK 74101. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 115311 (Sub-No. 277TA), filed April 6, 1978. Applicant: J & M Transportation Co., Inc., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, Atlanta Gas Light Tower, Suite 1200, 235 Peachtree Street NE., Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co., at or near Warner Robins, GA, to points in Rockingham, Guilford, Randolph, Chatham, Alamance, Caswell, Person and Orange Counties, NC, and Franson, Carroll, Patrick, Henry, Pittsylvania, Halifax, Floyd, Franklin, Campbell, Bedford and Montgomery Counties, VA, and Martinsville, VA, (an independent city), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 115331 (Sub-No. 456TA), filed April 11, 1978. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, MO 63131. Applicant's representative: J. R. Chell, IN, to points in MI and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kaiser Agricultural Chemicals, Division of kaiser Aluminum & Chemical Corp., David C. Cowart, Manager of Transportation, P.O. Box 246, Savannah, GA 31402. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main St., Cincinnati, OH 45202.

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Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors, wine, brandy, sherry and fruit juice concentrates*, in bulk, from points in CA, to Cleveland, OH and Conesus, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cribari Vineyards, Inc., P.O. Box 8125, Fresno, CA 93727. Send protests to: P. E. Binder, Acting District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 115730 (Sub-No. 50TA), filed April 11, 1978. Applicant: THE MICKOW CORP., 531 SW., Sixth Street, P.O. Box 1774, Des Moines, IA 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building., Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Inland Steel Co., East Chicago, IN, to points in IA and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s) Inland Steel, 30 West Monroe, Chicago, IL 60603. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 120866 (Sub-No. 4TA), filed April 11, 1978. Applicant: THE TIMLAPH CORP., OF VIRGINIA, P.O. Box 3596, 217 Maury Street, Richmond, VA 23213. Applicant's representative: Stanley E. McCormick, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, (in bulk, in tank vehicles), from the facilities of Exxon Company, U.S.A., located at or near Wilmington, NC, to Buena Vista, Hopewell, Elkton, Dublin, Orange, Bedford, Brookneal, and Richmond, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Exxon Company, U.S.A., Thomas A. Ellaby, Traffic Advisor, P.O. Box 2180, Houston, TX 77001. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 10502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

No. MC 123744 (Sub-No. 36TA), filed April 11, 1978. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, PA 16881. Applicant's representative: E. Steward Butler, P.O. Box 88, Woodland, PA 16881. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points on the International Boundary at Buffalo, NY, to points in PA, OH, DE, WV, MD, VA, NC and SC, for Empire Wholesale Lumber, Arkon, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Empire Wholesale Lumber Co., Miami & Gault Street, Akron, OH 44311. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 124160 (Sub-No. 17TA), filed March 20, 1978, and published in the FEDERAL REGISTER issue of April 21, 1978, and republished as corrected this issue. Applicant: SAVAGE BROTHERS, INC., 585 South 500 East, American Fork, UT 84003. Applicant's representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, (in bulk), from points in WY, to points in UT and ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pozzolan Products Co., P.O. Box 7006, Salt Lake City, UT 84107. (L. K. Bradley, President). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138. The purpose of this republication is to correct the territorial description.

No. MC 126358 (Sub-No. 20TA), filed April 3, 1978. Applicant: BENNETT TRUCKING CO., P.O. Box 526, Hawkinsville, GA 31036. Applicant's representative: Paul M. Daniell, Suite 1200 Atlanta Gas Light Tower, 235 Peachtree Street, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over iregular routes, transporting: *Lumber*, (except plywood and veneer), (A) from Union Spring, Dothan and Glenwood, AL, to all points in the States of GA, FL, SC and TN, (B) from Albany, Bainbridge, Preston, Thomaston, Mitchell, Damascus, Buena Vista, La Grange, and points in Peach and Crawford Counties, GA, to all points in the States of AL, FL, NC and TN, and (C) from Blountstown, FL, to all points in the States of AL, GA, MS, NC and TN, for 180 days. Supporting shipper(s): Jack B. Thigpen Lumber Co., Inc., Box 185, Chattahoochee, FL 32324. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 135410 (Sub-No. 20TA), filed April 10, 1978. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, 700 South Main, Monmouth, IL 61462. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, container accessories and materials, equipment and supplies* used in the manufacture and distribution of glass containers and container accessories (except commodities in bulk), between the facilities of Brockway Glass Co., Inc., located in Washington County, PA, Muskingum County, OH; and Madison County, IN, on the one hand, and, on the other, points in Clinton, Johnson, Linn, Muscatine and Scott Counties, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. W. Pennington Corp., Transportation Manager, Brockway Glass Co., Inc., McCullough Avenue, Brockway, PA 15824. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 138420 (Sub-No. 27TA), filed April 10, 1978. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, WI 53063. Applicant's representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials and supplies and malt beverage dispensing equipment*, when moving therewith, from Detroit, MI, to St. Louis, MO, and (2) *rejected shipments and empty, used malt beverage containers*, from St. Louis, MO, to Detroit, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mid-America Beer Distributor, Inc., 4400 Gustine Avenue, St. Louis, MO 63116. (Gerald R. Woodward.) Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 139420 (Sub-No. 32TA), filed April 10, 1978. Applicant: ART GREENBERG, d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, ND 58201. Applicant's representative: James B. Hovland, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ground, mixed and blended spices, and mustard and mustard products*,(except in bulk), from Grand Forks, ND, to points in the United States, (except Alaska and Hawaii); and (2) *materials and supplies* used in the manufacture of ground, mixed and blended spices and mustard and mustard products, from Baltimore, MD, St. Clair, MI, Hammond, IN, and Chicago, IL, to Grand Forks, ND. Restriction: Restricted to the transportation of traffic originating at or destined to the facilities of the Baltimore Spice Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Baltimore Spice Co., P.O. Box 5858, Baltimore, MD 21208. Send protests to: Ronald R. Maud, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268, Federal Building and U.S. Post Office, 657 Second Avenue North, Fargo, ND 58102.

No. MC 139534 (Sub-No. 3TA), filed April 11, 1978. Applicant: BLALOCK WAREHOUSE, INC., 7412 Northwest, 43d Street, Bethany, OK 73008. Applicant's representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, (except in bulk, in tank vehicles), (restricted against the transportation of petroleum based fertilizer), from the facilities of Olin, Inc., at Houston, TX, to points in OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Smith-Souglass Division of Borden Chemical, 180 East Broad Street, Columbus, OH 43215. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 139999 (Sub-No. 27TA), filed April 11, 1978. Applicant: REDFEATHER FAST FREIGHT, INC., 2606 North 11th Street, Omaha, NE 68110. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Kenosha, WI, and North Chicago, IL, to Kansas City, MO; Wichita, Topeka, Elwood and Liberal, KS; Tulsa and Oklahoma City, OK; Dallas, Fort Worth, Houston, San Antonio, El Paso, Lubbock and Amarillo, TX, and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Florence Quick, Traffic Manager, Kenosha Facility, Ocean Spray Cranberries, Inc., 7800 South 60th Avenue, Kenosha, WI 53142. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 143083 (Sub-No. 4TA), filed April 11, 1978. Applicant: C.T.S. LINES, INC., 602 Airport Road, Greenville, SC 29615. Applicant's representative: Robert E. Born or Jeffrey Kohlman, Suite 508, 1447 Peachtree Street NE., Atlanta, GA 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Rome, GA, to points in MO, KS, OK and TX, under a continuing contract, or contracts, with Fox Manufacturing Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fox Manufacturing Co., Inc., P.O. Drawer A, Rome, GA, 30151. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC.

No. MC 143163 (Sub-No. 8TA), filed April 5, 1978. Applicant: RICHARDSON TRUCKING, INC., 330 East 8th Street, P.O. Box 967, Greeley, CO 80631. Applicant's representative: Wm. Fred Cantonwine (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat by-products and materials distributed by packinghouses*, from the facilities of Peppertree Beef Co., in Denver, CO, and its commercial zone, to city of Industry, Los Angeles, Sacramento, San Francisco and Vernon, CA, Clackamas and Portland, OR; and Seattle, WA, and their respective commercial zones, under a continuing contract, or contracts, with Peppertree Beef Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Peppertree Beef Co., 5300 Franklin Street, Denver, CO 80216. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 144563 (Sub-No. 1TA), filed April 5, 1978. Applicant: D/K TRUCKING, 412 Oak Street, St. Charles, IL 60174. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabric, patterns and such merchandise* as dealt in by fabric stores, between Florence, KY, and points in the Chicago, IL, commercial zone as described in MC-C-37 Sub 26, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 144584 (Sub-No. 1TA), filed April 5, 1978. Applicant: WASHINGTON-CALIFORNIA EXPRESS, INC., 919 McGarry Street, Los Angeles, CA 90021. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from Westfield, NY, and North East, PA, to Kennewick, WA, from the facilities of Welch Foods, Inc., located in Benton and Yakima Counties, WA, to OR, CA, NV and AZ, under a continuing contract, or contracts, with Welch Foods, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Welch Foods, Inc., Portage Street, Westfield, NY 17487. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 144601TA, filed April 3, 1978. Applicant: CHEVALLEY MOVING & STORAGE OR ALTUS, INC., 615 South Grady, Altus, OK 73521. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Beckham, Greer, Harmon, Jackson, Custer, Dewey, Ellis, Roger Mills, Washita, and Beaver Counties, OK, and Childress, Collingsworth, Donley, Hall, Gray, Wheeler, Roberts, Hemphill, Ochiltree and Lipscomb Counties, TX, restricted to operations authorized to transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic, for 180 days. Supporting shipper(s): Altus Air Force Base, OK, 443 Maw/LGP, Altus AFB, OK 73521. Send protests to: Haskell E. Ballard, District Supervisor, Interstate

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Commerce Commission, Box H-4395 Herring Plaza, Amarillo, TX 79101.

PASSENGER CARRIERS

No. MC 109736 (Sub-No. 40TA), filed April 4, 1978. Applicant: CAPITOL BUS CO., 1061 South Cameron Street, Harrisburg, PA 17104. Applicant's representative: S. Berne Smith, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle, in round-trip charter service, from the Borough of Chambersburg and Quincy Township (Franklin County), Silver Spring Township (Cumberland County), Susquehanna and Upper Paxton Townships, (Dauphin County), Muhlenburg Township (Berks County), York Township (York County), and the city of Lancaster (Lancaster County), PA, to the Mormon Temple, Bethesda, MD, and return. Restriction: Service is limited to persons originating at and destined to the above named points and who are members of the Church of Jesus Christ of Latter Day Saints, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Church of Jesus Christ of Latter-Day Saints, Gettysburg, PA, Stake, York, PA 17404. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

No. MC 143578 (Sub-No. 3TA), filed April 10, 1978. Applicant: WILSON BUS CO., INC., 314 Alexander Street, Fayetteville, NC 28301. Applicant's representative: Wilmer B. Hill, Suite 805, 666 11th Street, NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, and in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Bladen, Cumberland, Edgecombe, Greene, Harnett, Johnston, Nash, Pitt, Sampson, Wayne, and Wilson Counties, NC, and extending to points in the United States, (except AK and HI), for 180 days. Supporting shipper(s): There are approximately (136) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary

[FR Doc. 78-13247 Filed 5-15-78; 8:45 am]

[7035-01]

[Notice No. 73]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 9, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifiying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as othewise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 13267 (Sub-No. 2TA), filed March 22, 1978. Applicant: MOUNTAINSIDE TRANSPORT, INC., 130 Davidson Avenue, Somerset, NJ 08873. Applicant's representative: Michael R. Werner & A. David Millner, P.O. Box 1409, Fairfield, NJ 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by wholesale, retail, and chain grocery foodbusiness houses, and (2) *Equipment, materials, and supplies* used in the conduct of the business described in (1), restricted in (2) above against the transportation of commodities in bulk, for the account of the Great Atlantic & Pacific Tea Co., Inc., between Baltimore, MD, on the one hand, and, on the other, points in New Castle County, DE, Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Salem, Somerset, and Warren Counties, NY; and points in Berks, Bucks, Carbon, Chester, Delaware, Lancaster, Lehigh, Monroe, Montgomery, Northampton, Philadelphia, and Schuylkill Counties, PA, under a continuing contract, or contracts, with Carl L. Haderer, Assistant to Vice President, of National Distrubution, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): Carl L. Haderer, Assistant to Vice President of National Distribution, 2 Paragon Drive, Montvale, NJ 07645. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 35227 (Sub-No. 7TA), filed March 23, 1978. Applicant: EDSON EXPRESS, INC., P.O. Box 925, Longmont, CO 80501. Applicant's representative: Richard P. Kissinger, 50 South Steele Street, Suite 330, Denver, CO 80209. Authority sought to operate as a *common carrier*, by motor vehicle, over *regular routes*, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between Denver, CO (including its commercial zone), and Ft. Collins, CO (including its commercial zone), over regular routes as follows: From Denver over U.S. Hwy 87 (I-25), to junction U.S. Hwy 36 (Denver-Boulder Turnpike) then over U.S. Hwy 36 to junction U.S. Hwy 287, then over U.S. Hwy 287 to Ft. Collins and return serving no intermediate points; from Denver over U.S. Hwy 87, (I-25), to junction CO Hwy 14, then over CO Hwy 14 to Ft. Collins and return, serving no intermediate points; from Denver over U.S. Hwy 87 (I-25), to junction CO Hwy 68, then over CO Hwy 68 to junction U.S. Hwy 287, then over U.S. Hwy 287 to Ft. Collins and return serving no intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (42) statements of support attached to the application which may be examined at the field office named below. Send protests to: District Supervisor, Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S Customs House, Denver, CO 80202.

No. MC 56637 (Sub-No. 15TA), filed March 22, 1978. Applicant: R. C. A. TRUCK LINES, INC., P.O. Box 1027, Cartersville, GA 30120. Applicant's representative: Paul M. Daniell, 235 Peachtree Street, Suite 1200, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, (1) Between Chattanooga, TN and Huntsville, AL. From Chattanooga, TN over U.S. Hwy 72 to Huntsville, AL and return over the same route, serving no intermediate points. (2) Between Huntsville, AL and Corinth, MS. From Huntsville, AL over U.S. Hwy 72 to Corinth, MS and return over the same route, serving all intermediate points, and serving the Tennessee Valley Authority Yelow Creek Nuclear Plant in Tishomingo County, MS as an off-route point. (3) Between Huntsville, AL and Florence, AL. From Huntsville, AL over Alt U.S. Hwy 72 to its intersection with U.S. Hwy 43, then over U.S. Hwy 43 to Florence, AL and return over the same route, serving all intermediate points on the described route and all points in Colbert County, AL not on the described route as off-route points. (4) Between Decatur, AL and Rome, GA. From Decatur, AL over U.S. 31 to Cullman, AL, then over U.S. Hwy 278 to Gadsden, AL, then over U.S. Hwy 411 to Rome, GA (also from Gadsden, AL over U.S. Hwy 411 to Centre, AL, then over AL Hwy 9 to the AL-GA State line, then over GA Hwy 20 to Rome, GA) and return over the same route, serving all intermediate points. (5) Between Chattanooga, TN and Birmingham, Al. From Chattanooga, TN over U.S. Hwy 11 (also over Interstate Hwy 59) to Birmingham, AL and return over the same route, serving all intermediate points between Gadsden, AL and Birmingham, AL, including Gadsden, AL. For 180 days. Supporting shipper(s): There are approximately (76) statements of support attached to the application which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 87717 (Sub-No. 9TA), filed March 21, 1978. Applicant: FANELLI BROTHERS TRUCKING CO., Centre and Nichols Streets, Pottsville, PA 17901. Applicant's representative: S. Berne Smith, P.O. Box 1166, Harrisburgh, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverage container caps*, from the facilities of Zapata Industries, Inc., at Butner, NC to points in the United States (except AK and HI). *Perforated steel sheets*, From the facilities of Zapata Industries, Inc., at Butner, NC to Miami and Tampa, FL; New Albany, IN; Sparks, NV; Crooksville and Millersport, OH; Dallas TX; and Richmond, VA. *Steel sheets*, From Gary and Portage, IN; Sparrows Point, MD; Aliquippa, Fairless, and Irvin, PA; and Weirton, WV to the facilities of Zapata Industries, Inc., at Butner, NC. *Machinery, materials, and supplies* used in the manufacture, production, and shipping of beverage container caps, between the facilities of Zapata Industries, Inc., at Butner, NC, Muskogee, OK, and West Mahanoy Township, Schuylkill County, PA. *Protective shipping materials*, From Timonium, MD and Cincinnati, OH to the facilities of Zapata Industries, Inc., at Butner, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to days of operating authority. Supporting shipper(s): Zapata Industries, Inc., P.O. Box 2, Frackville, PA 17931. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, PA 18503.

No. MC 107403 (Sub-No. 1069TA), filed March 21, 1978, and published in the FEDERAL REGISTER issue of April 21, 1978, and republished as corrected this issue. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Landdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rum*, (in bulk, in tank vehicles) from South Boston, MA, to Allen Park, MI; Durhan and Greensboro, NC; Hartford, CT; Owensboro, KY; and Menlo Park, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Felton & Son, Inc., 156 E. 2nd Street, S. Boston, MA 02127. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106. The purpose of this republication is to correct the territorial description.

No. MC 121437 (Sub-No. 5TA), filed March 22, 1978. Applicant: CARROLL E. FLYNN, d.b.a. A-1 MOBILE HOME MOVERS, an individual, 2923 W. Montebello, Phoenix, AZ 85017. Applicant's representative: Lewis P. Ames/Phil B. Hammond, Shimmel, Hill, Bishop & Gruender, P.C., 10th Floor, 111 W. Monroe, Phoenix, AZ 85003 602-257-5500. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: A. Mobile homes and trailers designed to be drawn by passenger automobiles (except travel trailers and camping trailers) and buildings in sections mounted on wheeled undercarriage equipped with hitchball connectors, in secondary movements between points in AZ, NV, NM and TX. B. Mobile homes and trailers designed to be drawn by passenger automobiles (except travel trailers and camping trailers) and buildings in sections mounted on wheeled undercarriages equipped with hitchball connectors, in initial movements: (1) from points in AZ to points in NV and NM; (2) between the facilities of Charter Industries at Henrietta, TX, on the one hand, and, on the other, points in AZ, NM and NV; (3) from the facilities of Cliff Industries at or near Burrowson and Cleveland, TX, to points in AZ, NM, and NV; and (4) from Murray, UT, to points in AZ, NV, and NM, for 180 days. Supporting shipper(s): There are approximately (6) statements of support attched to the application which may be examined at the field office named below. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room. 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

No. MC 124947 (Sub-No. 103TA), filed March 15, 1978. Applicant: MACHINERY TRANSPORTS, INC., an Oklahoma corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister. 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic battery boxes*, (2) *Plastic battery covers*, (3) *Plastic battery vents*, and (4) *Parts for items (1), (2), and (3) above*, except in bulk, between Milwaukee, WI; Vicksburg, MS; Swainsboro, GA; and Wichita, KS; on the one hand, and, on the other, City of Industry, CA; Farmers Branch, TX; Dunsmore, PA; Leavenworth, KS; Lynchburg, VA; Memphis, TN; Salem, OR; Orlando, FL; Shreveport, LA; Zanesville, OH; Milwaukee, WI; and Vicksburg, MS. Restricted to shipments originating at or destined to the facilities of Gould, Inc. located at or near the above-named cities, for 180 days. Supporting shipper: Gould, Inc, P.O. Box 43140, St. Paul, MN 55164, (T.A. Bentley, Manager of Physical Distribution). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 125113 (Sub-No. 5TA), filed March 17, 1978. Applicant: CHRISTMAN TRUCKING CORP., P.O. Box 776, Washington, PA 15301. Applicant's representative: Robert E. McFarland, McFarland & Bullard, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Authority sought to

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operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, limited to individual articles not exceeding 100 pounds in weight, moving as shipments not exceeding 500 pounds in weight, from one consignor to one consignee in a single day, on bills of lading of surface, interstate freight forwarders, between points in Green, Washington, Allegheny, Beaver, Lawrence, Fayette, Somerset, Westmoreland, Butler, Armstrong and Indiana Counties, PA; WV; Monroe, Washington, Jefferson, Belmont, and Columbiana Counties, OH; Garret, Allegany, and Washington Counties, MD; and Frederick County VA, for 180 days. As required by the supporting freight forwarder, applicant expects to receive shipments originating outside this territory at Hagerstown, MD; Washington, PA; Steubenville, OH; and Charleston, WV, for delivery in the subject territory, as well as picking up shipments destined beyond the subject territory, for interlining at these or other points in the subject territory with other agents of the forwarder. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Delivery Systems, Inc., 300 East Seven Mile Road, Detroit, MI. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, WV 26003.

No. MC 125996 (Sub-No. 60TA), filed March 22, 1978. Applicant: ROAD RUNNER TRUCKING, INC., P.O Box 37491, 13080 Renfro Circle, Omaha, NE 68137. Applicant's representative: Bruce A. Bullock, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses as described in sections A and C of appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from Carroll, Iowa Falls, Des Moines, Fort Dodge, Cherokee, Sioux City, and Denison, IA and Omaha, NE to points in AZ, CA, CO, ID, MT NV, NM, OR, TX, UT,WA, WY, for 180 days, Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dean D. Wilson, Traffic Manager, Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, NE 68102.

No. MC 133928 (Sub-No. 16TA), filed March 17, 1978. Applicant: OSTERKAMP TRUCKING, INC., 1049 North Glassell Street, Orange, CA 92667. Applicant's representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, plywood particleboard, and wood products*, from the plantsites and facilities of Willamette Industries, Inc., and its wholly owned subsidiary, Bend-Willamette Corp., located at or near Albany, Bend, Dallas, Foster, Griggs, Lebanon, Millersburg, Springfield, Sweet Home, Waterloo, and Wilsonville, OR to points in CA. Restriction: Restricted to a transportation service to be performed under a continuing contract, or contracts, with Wilamette Industries, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Willamette Industries, Inc., P.O. Box 907, Albany, OR 97321. Send protests to: Edward P. Henry, District Supervisor, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 134300 (Sub-No. 20TA), filed March 17, 1978, and published in the FEDERAL REGISTER issue of April 12, 1978, and republished as corrected this issue. Applicant: TRIPLE R EXPRESS, P.O. Box 12866, 498 First Street SW., New Brighton, MN 55112. Applicant's representative: Samuel Rubenstein, 310 North Third Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, dairy products, and articles* distributed by meat packing-houses, as described in sections A, B and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the plantsite and storage facilities of Armour Food Co. at or near Mason City, IA, and its commercial zone, to points in WV, VA, PA, (except Erie), CT, MA, VT, NH and NY, (except Buffalo), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Armour Food Co., Phoenix, AZ. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to correct the territorial description.

No. MC 139083 (Sub-No. 2TA), filed March 27, 1978. Applicant: BUILDING SYSTEMS TRANSPORTATION, INC., Box 142, Washington Court House, OH 43160. Applicant's representative: Paul F. Beery, Esq., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel buildings, knocked down, and fabricated metal products*, from the plantsite of Armco Steel, located within 3 miles of Washington Court House, OH, to points in NC, TN, MD, VA, NY, MI, IL, WI, that part of WV south of U.S. Hwy 60, that part of IN north of a line beginning at the OH-IN State line and extending along IN Hwy 37 to Indianapolis, IN, and then along U.S. Hwy 40 to the IL-IN State line, and that part of PA east of U.S. Hwy 15. (2) *Iron and steel, and iron and steel articles*, from Greenfield, IN, and Ashland and Junction City, KY, to the plantsite of Armco Steel Corp. located within 3 miles of Washington Court House, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Armco Steel Corp., Middletown, OH 45043. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 139482 (Sub-No. 52TA), filed March 22, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, County Road No. 29 West, New Ulm, MN 56073. Applicant's representative: James F. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Redwood furniture, redwood furniture components, and parts and accessories* intended for use therewith, between North Sioux City, SD, Fremont, OH, and Eureka, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI); (2) *materials, equipment and supplies* used in the manufacture and asembly of redwood furniture and redwood furniture components, from: (a) Eureka, CA (redwood furniture framing components) to North Sioux City, SD and Fremont, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Humboldt County Seats, Inc., 221 West 78th Street, Minneapolis, MN 55420. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 139577 (Sub-No. 19TA), filed March 24, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, 204 East Winnebago Street, Friesland, WI 53935. Applicant's representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: A. *Foodstuffs* (except commodities in bulk) originating at the facilities utilized by the Green Giant Co. located in the counties of Dodge, Fond du lac, Jefferson, Waushara, Milwaukee, and Columbia, WI, destined to all points in the States of IL, IN, OH, MI, KY, TN, and MO. B. *Foodstuffs* (except commodities in bulk) originating at the facilities of the Green Giant Co. located at or near Belvidere, IL, destined to all points in the States of OH, IN, MI, KY, WV, WI, MO, TN, MS, Sharon, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Green Giant Co., Le Sueur, MN 56058. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 141776 (Sub-No. 23TA), filed March 23, 1978, and published in the FEDERAL REGISTER issue of May 2, 1978, and republished as corrected this issue. Applicant: FOODTRAIN, INC., Spring & South Center Streets, Ringtown, PA 17967. Applicant's representative: Pauline E. Myers, Suite 407, Walker Building, 734 15th Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in mechanically refrigerated equipment, (except in bulk), from the facilities of Ore-Ida Foods, Inc., at Greenville, MI, to points in the States of CT, DE, MA, MD, NH, NJ, NY, PA, VA, VT, WV and DC for 180 days. Applicant has also filed an underlying ETA seeking up to 25 days of operating authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503. The purpose of this republication is to correct the territorial description.

No. MC 142059 (Sub-No. 20TA), filed March 8, 1978, and published in the FEDERAL REGISTER issue of April 12, 1978, and republished as corrected this issue. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, IL 60436. Applicant's representative: Jack Riley, 1830 Mound Road, Joliet, IL 60436. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins, and pelts and pieces therefrom*, (except commodities in bulk), from the hide plant of Iowa Beef Processors, Inc., at or near Dakota City, NE, to points in the states of AL, AR, CA, DE, GA, IL, IN, KY, MD, MA, MI, MO, NJ, NY, OH, PA, TN, VA, WV, WI, and the ports of entry on the International Boundary Line between the United States and Canada located in MI and NY, for 180 days. Supporting shipper(s): Iowa Beef Processors, Inc., Robert E. Gillespie, Manager, Rates and Regulatory Affairs, Dakota City, NE 68731. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604. The purpose of this republication is to correct the territorial description.

No. MC 143268 (Sub-No. 4TA), filed March 17, 1978. Applicant: TROCHU TRUCKING SERVICES, LTD., 915 48th Avenue SE., Calgary, AB, Canada T2G2A7. Applicant's representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash* from Green River, WY to ports of entry on the International Boundary line between the U.S. and Canada located in MT. Restriction: Restricted to a transportation service to be performed under a continuing contract, or contracts, with Johns-Manville, Ltd., and Fiberglas Canada, Ltd., and destined to Clover Bar and Innisfail, AB, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): E. R. McPherson, Traffic Manager, Johns-Manville, Ltd., 9146 125th Avenue, Edmonton, AB, Canada T5J2L1. N. J. Klingspon, Plant Purchasing Manager, Fiberglas Canada, Ltd., Box 595, Edmonton, AB, Canada T5J2L1. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 143610 (Sub-No. 8TA), filed March 17, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Applicant's representative: Edward N. Button, 1329 Pennsylvania, Hagerstown, MD 21740, 301-797-6060. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hair care toiletries, and hair care accessories and equipment, materials, supplies, and ingredients* used in packaging, manufacturing, and distribution of toiletry equipment (except in bulk) in temperature controlled vehicles. From: Stamford, CT and its comercial zone to: Dallas, TX, Portland, OR, La Mirada, and Camarillo CA, under a continuing contract, or contracts, with Clairol Inc., for 180 days. Applicant has also filed an underlying ETA seeding up to 90 days of operating authority. Supporting shipper(s): Clairol Inc., One Blachley Road, Stamford, CT 06902. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

No MC 143910 (Sub-No. 2TA), filed March 22, 1978. Applicant: NEW HAMPSHIRE CONTINENTAL EXPRESS, INC., P.O. Box 4956, Manchester, NH 03108. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foods, foodstuffs, food treating compounds, chemicals, and additives*, (except in bulk), and *advertising paraphernalia, and materials, equipment and supplies* used in the manufacture, preparation, sale and distribution of spices, extracts, convenience foods, products, salad dressing, and foodstuffs (except in bulk), and (2) *commodities*, the transportation of which is exempt from regulation under the provisions of section 203(b)(6) of the Interstate Commerce Act, in mixed loads with the commodities described in (1) above, for the account of McCormick & Co., Inc., between Hunt Valley and Cockeysville, MD, and their respective commercial zones, on the one hand, and, on the other, points in ME. Subject intends to apply for corresponding regular temporary and permanent authorities, under a continuing contracts, or contract, with McCormick & Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): McCormick & Company, Inc., 11350 McCormick Road, Hunt Valley, MD 21031, Attention: John W. Highfield, Manager, Distribution. Send protests to: District Supervisor, Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, Room 3, Six Louden Road, Concord, NH 03301.

No. MC 144378 (Sub-No. 1TA), filed March 27, 1978, and published in the FEDERAL REGISTER issue of April 28, 1978, and republished as corrected this issue. Applicant: SKY CORP., P.O. Box 838, Bismarck, ND 58501. Applicant's representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, (except in bulk) and lumber, lumber products and wood products, from MT, ID, WA and OR, to ND, SD and MN, under a continuing contract, or contracts, with Lavelle Lumber Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): Lavelle Lumber Co., 115 South 31st, Fargo, ND 58102. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Com-

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merce Commission, Room 268, Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102. The purpose of this republication is to reflect only the bulk commodities were excepted

No. MC 144480TA, filed March 21, 1978. Applicant: UNTIED SUPPLIERS, INC., P.O. Box 538, Eldora, IA 50627. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Livestock confinement systems and buildings, and materials, equipment and supplies* used in the manufacture, construction, operation and distribution of livestock confinement systems and buildings, (except commodities in bulk); (1) between Eldora, IA, on the one hand, and, on the other, points in CO, IL, IN, KS, KY, MI, MN, MT, MO, NE, ND, PA, SD, WI and WY: and (2) between points in IA, CO, IL, IN, KS, KY, MI, MN, MT, MO, NE, ND, OH, PA, SD, WI and WY. Restriction: Restricted in Part (2) above to shipments moving in mixed loads with shipments originating at or destined to Eldora, IA., and further restricted in Parts (1) and (2) above to transportation performed under continuing contract or contracts with Confinement Livestock Systems, Inc., of Eldora, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Confinement Livestock Systems, Inc., P.O. Box 497, Eldora, IA 50627. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 144500TA, filed March 23, 1978. Applicant: WALSH TRUCKING CO., INC., 311 17th Street, Jersey City, NJ 07307. Applicant's representative: Piken & Piken, One Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used in the operation of retail department stores. Between the facilities of Abraham & Strauss of Brooklyn, NY, Rego Park, Hempstead, Manhasset, Huntington, Babylon, Smithtown, White Plains and Carle Place, NY; Paramus, Woodbridge, and Eatontown, NJ. Condition: Authority is limited to service rendered under contract or continuing cotracts with Abraham & Strauss of Brooklyn, NY, For 180 days. Supporting shipper(s): Abraham & Strausse, 470 Fulton Street, Brooklyn, NY. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Room 618, Newark, NJ, 07102.

No. MC 144524 (Sub-No. 1TA), filed March 23, 1978. Applicant: GK TRUCKING CORP., 500 West Putnam Avenue, Greenwich, CT 06830. Applicant's representative: Morton E. Kiel, Suite 6193, World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer of wire and cable, and consumer and industrial products, and material supplies and equipment used in the conduct of such business (except in bulk) between the facilities of General Cable Corp. located at or near: Blackinton, MA; Bonham, TX; Brandon, MS; Carrollton, TX; Des Plaines, IL; Erie, PA; Frederick, MD; Garwood, NJ; Huntsville, AL; Indianapolis, IN; Kingman, AZ; Lawrenceburg, KY; Lincoln, NB; Lindsay, CA; Memphis, TN; Monticello, IL; Muncie, IN; New Brunswick, NJ; North Adams, MA; Perth Amboy, NJ; Pomona, CA; Pownal, VT; San Carlos, CA; Sanger, CA; St. Louis, MO; Tampa, FL; Tukwila, WA; Warrenton, MO; Westminster, CO; Williamstown, MA; on the one hand, and, on the other, all points in the United States except AK and HI. And *such commodities* as are dealt in by a manufacturer of wire and cable, and material supplies and equipment used in the conduct of such business (except in bulk) between facilities of Pirelli Cable Corp. located at or near: Abbeville, SC; Bayonne, NJ; Camden, NJ; Colusa, CA; Elkton, MD; Hopkins, MN; Hot Springs, AR; Leetsdale, PA; Morrow, GA; Oakland, CA; Salt Lake City, UT; Tulsa, OK; on the one hand, and, on the other, all points in the United States except AK and HI under a continuing contract, or contracts, with Pirelli Cable Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pirelli Cable Corp., 245 Park Avenue, New York, NY 10017. General Cable Corp., 800 Rahway Ave., Union, NY 07083. Send protests to: J. D. Perry, Jr., Interstate Commerce Commission, 135 High Street, Room 324, Hartford, CT 06101.

No. MC 144586 (Sub-No. 1TA, filed March 27, 1978. Applicant: FRANK HAMILTON WAREHOUSES, INC., 605 North Wayne Avenue, Cincinnati, OH 45215. Applicant's representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers and distributors of hospital and medical supplies, from Lockland, OH, to points in IN, KY, and OH, under a continuing contract, or contracts, with Baxter-Travenol Laboratories, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Baxter-Travenol Laboratories, Thomas A. Jordan, Manager, Corporate Traffic Operations, 6301 Lincoln Avenue, Morton Grove, IL 60053. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, 5514-B, Federal Building, 550 Main Street, Cincinnati, OH 45202.

PASSENGER CARRIER

No. MC 45626 (Sub-No. 70TA), filed March 17, 1978. Applicant: VERMONT TRANSIT CO., INC., 135 St. Paul Street, Burlington, VT 05401. Applicant's representative: John J. Dwyer, 135 St. Paul Street, Burlington, VT 05401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, in special operations.* (1) In round-trip sightseeing and pleasure tours, beginning and ending at points in Clinton County, NY and points in Franklin County, NY which are on or north of U.S. Hwy 11, and extending to points in the United States (including AK but excluding HI). (2) In one-way sightseeing and pleasure tours, from points in Clinton County, NY and points in Franklin County, NY, which are on or north of U.S. Hwy 11 to points in the United States (including AK but excluding HI). Restriction: The operations authorized in (2) above are restricted to the transportation of passengers and their baggage having a subsequent movement wholly by air, or partially by air and partially by motor vehicle to points in Clinton County NY, and points in Franklin County, NY, which are on or north of U.S. Hwy 11. (3) In one-way sightseeing and pleasure tours, from points in the United States (including AK but excluding HI) to points in Clinton County, NY and points in Franklin County, NY, which are on or north of U.S. Hwy 11. Restriction: The operations authorized in (3) above are restricted to the transportation of passengers and their baggage having a prior movement wholly by air, or partially by air and partially by motor vehicle to points in Clinton County NY, and points in Franklin County, NY, which are on or north of U.S. Hwy 11, for 180 days. Supporting shipper(s): There are approximately (7) statements of support attached to the application which may be examined at the field office named below. Send protests to: District Supervisor, David A. Demers, Interstate Commerce Commission, P.O. Box 548, Montpelier, VT 05602.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13248 Filed 5-15-78; 8:45 am]

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[Notice No. 74]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 9, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2253 (Sub-No. 81TA), filed April 5, 1978. Applicant: CAROLINA FREIGHT CARRIERS CORP., P.O. Box 697, Highway 150 East, Cherryville, NC 28021. Applicant's representative: J. S. McCallie, P.O. Box 697, Cherryville, NC 28021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between Broward and Dade Counties, FL, on the one hand, and, on the other, Monroe County, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (11) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

No. MC 3252 (Sub-No. 101TA), filed April 10, 1978. Applicant: MERRILL TANSPORT CO., 1037 Forest Avenue, Portland, ME 04103. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed glass*, in bulk in dump vehicles, from Saco, ME, to Salem, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Saco Steel Co., Water Street, Saco, ME 04072. Send protests to: Donald G. Weller, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 76 Pearl Street, Room 305, Portland, ME 04111.

No. MC 55896 (Sub-No. 71TA), filed April 5, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Applicant's representative: George E. Batty, 20225 Goddard Road, Taylor, MI 48180. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, empty bottles, barrels and cans, can ends, and returned shipping materials*, between St. Louis, MO, and Columbus, OH, for 180 days. Supporting shipper(s): Anheuser-Busch, Inc., 721 Pestalozzi Street, St. Louis, MO, 63118. (Raymond J. Hellwig, Assistant General Traffic Manager.) Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 69322 (Sub-No. 7TA), filed April 6, 1978. Applicant: DOBSON CARTAGE AND STORAGE CO., 1006 East Indiana Street, Bay City, MI 48706. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products*, (except in bulk), from the facilities of The Dow Chemical Co., at or near Midland, MI; Magnolia, AR, and Pevely, MO, to points in the United States on and east of U.S. Hwy 85, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dow Chemical U.S.A., 14955 Sprague Road, P.O. Box 36000, Strongsville, OH 44135. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

No. MC 79687 (Sub-No. 14TA), filed April 4, 1978. Applicant: WARREN C. SAUERS CO., INC., 200 Rochester Road, Zelienople, PA 16063. Applicant's representative: Henry W. Wick, Jr., Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container accessories, and materials, equipment and supplies* used in the manufacture and distribution of glass containers and container accessories, from the facilities of Brockway Glass Co., Inc., located in Muskingum County, OH, to points in IN, KY, and MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Brockway Glass Co., Inc., McCullough Avenue, Brockway, PA 15824. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 79687 (Sub-No. 15TA), filed April 4, 1978. Applicant: WARREN C. SAUERS CO., INC., 200 Rochester Road, Zelienople, PA 16063. Applicant's representative: Henry M. Wick, Jr., Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, materials, equipment and supplies* used in the manufacture, sale or distribution of containers, from the facilities of Foster-Forbes Glass Co., at Cornplanter Township, Venango County, PA, to points in IL, IN, KY, MI, OH, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Foster-Forbes Glass Co., cornplanter Township, Venango County, Oil City, PA 16301. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 82079 (Sub-No. 61TA), filed April 4, 1978. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue SW., Grand Rapids, MI 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapid, MI 49503. Authority sought to operate as a *common carrier*, By motor vehicle, over irregular routes, transporting: *Foodstuffs* in mechanically refrigerated vehicles, (except in bulk), from facilities of Continental Freezers, Inc., in Chicago, IL,

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to points in MI and IN, restricted to traffic originating at the named origin points and destined to the named destination points, for 180 days. Supporting shipper(s): Continental Freezers, Inc., 4220 South Kildare Boulevard, Chicago, IL 60632. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, MI 48933.

No. MC 103051 (Sub-No. 433TA), filed April 3, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue, P.O. Box 90408, Nashville, TN 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Black liquor skimmings* (in bulk, in tank vehicles), from New Johnsonville, TN, to Durham, IA, and points in KY and VA for 180 days. Supporting shipper(s): American Pelletizing Corp., P.O. Box 3628, Des Moines, IA 50322. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37209.

No. MC 112989 (Sub-No. 63TA), filed April 5, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Applicant's representative: John A. Anderson, Suite 1440, 200 Market Building, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquettes and hickory chips*, from the plantsite of the Kingsford Co. at Springfield, OR, to points in the State of WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Kingsford Co., 3315 Marcola Road, Springfield, OR 97477. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 SW., Yamhill Street, Portland, OR 97204.

No. MC 114045 (Sub-No. 497TA), filed April 4, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, TX 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except commodities in bulk), from the facilities of Welch Foods, Inc., at or near Lawton, MI, to points in AR, KS, LA, MS, MO, NM, OK, TN and TX, for 180 days. Supporting shipper(s): Welch Foods, Inc., 2 South Portage Street, Westfield, NY 14787. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

No. MC 115904 (Sub-No. 98TA), filed April 10, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, between the facilities of Nucor Steel, a division of Nucor Corp., at or near Norfolk, NE, on the one hand, and, on the other, points in CA, OR, WA, ID, UT, MT, WY, CO, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nucor Steel, Division of Nucor Corp., P.O. Box 59, Norfolk, NE 68701. Send protests to: B. L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

No, MC 116300 (Sub-No. 38TA), filed April 10, 1978. Applicant: NANCE & COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Applicant's representative: Harold D. Miller Jr., 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry fertilizer and fertilizer ingredients* (in bulk, in dump vehicles, and in packages), from Hattiesburg, Pascagoula, and Yazoo City, MS, and Donaldsonville, LA, to points in AL, FL, and MS; and (2) *Dry fertilizer and fertilizer ingredients* (in bulk, in tank vehicles), from Hattiesburg and Pascagoula, MS, to points in LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mississippi Chemical Corp. P.O. Box 388, Yazoo City, MS 39194. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson MS 39201.

No, MC 117344 (Sub-No. 272TA), filed April 10, 1978. Applicant: THE MAXWELL CO., 10380 Evendale Drive, P.O. Box 15010, Cincinnati, OH 45215. Applicant's representative: John C. Spencer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup, sugar and blends thereof* (in bulk), from Cincinnati, OH, to points in IL, MI, MS, NC, TN, VA, WV, and St. Louis, MO, for 180 days. Supporting shipper(s): Mid America Sweeteners, William Gordon, Manager and Operations, 1400 Gest Street, Cincinnati, OH 45203. Send protests to: Paul J Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 125708 (Sub-No. 148TA), filed April 10, 1978. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 West 152d Street, East Chicago, IN 46312. Applicant's representative: Anothy C. Vance, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate as a *common carrier*,, by motor vehicle, over irregular routes, transporting: *Pipe, cable, conduit and attachments therefor*, from Glendale, WV, to points in TX, restricted to traffic originating at the facilities of Triangle PWC, Inc., at Glendale, WV, and destined to points in TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Triangle PWC, Inc., P.O. Box 711, New Brunswick, NJ 08903. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building, and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 126930 (Sub-No. 18TA), filed April 10, 1978. Applicant: BRAZOS TRANSPORT CO., P.O. Box 2746, Lubbock, TX 79408. Applicant's representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products*, from Medicine Lodge, KS, to National City, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gold Bond Building Products Division of National Gypsum Co., 325 Delaware Avenue, Buffalo, NY, 14202. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, TX 79101.

No. MC 127303 (Sub-No. 38TA), filed April 10, 1978. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*,, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, WI, to Norfolk, NE, and empty containers on return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jim Pile's Falstaff, Jim Pile President, P.O. Box 1243, Norfolk, NE 68701. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

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No. MC 127705 (Sub-No. 55TA), filed April 10, 1978. Applicant: KREVDA BROS. EXPRESS, INC., 501 South Broadway, Gas City, IN 46933. Applicant's representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Kerr Glass Manufacturing Co., at Dunkirk, IN, to Dearborn, Flint, Grand Rapids and Holland, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kerr Glass Manufacturing Co., P.O. Box 97, Sand Springs, OK 74063. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 134419, filed April 13, 1978. Applicant: T.L.T. CO., INC., 173 Forest, NE., Warren, OH 44483. Applicant's representative: Beery & Spurlock Co., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber tires*, from the plantsite of Denman Rubber Manufacturing Co., at Warren, OH, to points in MS and TN, under a continuing contract, or contracts, with Denman Rubber Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Denman Rubber Manufacturing Co., P.O. Box 951, Warren, OH 44482. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 135326 (Sub-No. 10TA), filed April 6, 1978. Applicant: BILLY R. ALMAND, d.b.a. ALMAND TRUCKING CO., P.O. Box 7959, Shreveport, LA 71107. Applicant's representative: J. D. Haynes, P.O. Box 7959, 4277 North Market Street, Shreveport, LA 71107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bags, from Shreveport, LA, to points in TX (except points in Chambers, Montgomery, Harris, Fort Bend, Galveston, Liberty and Brazoria Counties, and from Shreveport, LA, to all points in OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift Agricultural Chemicals Corp., P.O. Box 338, East St. Louis, IL 62202. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 135410 (Sub-No. 21TA), filed April 10, 1978. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, 700 South Main, Monmouth, IL 61462. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Continental Freezers of Illinois at Chicago, IL, to points in IN, KY, the Lower Peninsula of MI, OH, and St. Louis, Scotts City, and Sikeston, MO, and points in their commercial zones, restricted to the transportation of shipments originating at the named origins and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Roger H. Shay, Traffic Manager, Continental Freezers of Illinois, 4220 S. Kildare Blvd., Chicago, IL 60632. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 135744 (Sub-No. 6TA), filed April 10, 1978. Applicant: FRONTIER TRANSPORT, INC., 4100 South 5th West, P.O. Box 15751, Salt Lake City UT 84115. Applicant's representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Decorative stone*, (in bulk), from Filmore, UT; Wheatland, WY; Phoenix, AZ; Los Angeles, San Francisco, and Sacramento, CA, to points in CA, AZ, NM, UT, OR, WA, ID, CO, WY, NE and MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Filmore Products, Inc., P.O. Box 253, Filmore, UT 84631. (Evan B. Anderson, President.) Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 136640 (Sub-No. 12TA), filed April 10, 1978. Applicant: ROBERT L. ALLEN, d.b.a. R. ALLEN TRANSPORT, P.O. Box 456, Pocomoke City, MD 21851. Applicant's representatives: S. Michael Richards, Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Canned vegetables*, from Parksley, VA, to all points in Chicago, IL, and the commercial zone of Chicago, IL, under a continuing contract, or contracts, with Byrd Foods, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Byrd Foods, Inc., P.O. Box 318, Parksley, VA 23421. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Room 1413, Washington, DC 20423.

No. MC 138375 (Sub-No. 22TA), filed April 6, 1978. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street, P.O. Box 398, Fulton, MO 65251. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles* distributed by meat packing houses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides, skins, and commodities in bulk), from Peppertree Beef Co. at Denver, CO, to NJ, NY, PA, MD, IL and MI, for 180 days. Supporting shipper(s): Peppertree Beef Co., 5300 Franklin Street, Denver, CO 80216. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

No. MC 138469 (Sub-No. 69TA), filed April 10, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, 2025 S. Nickolas, Oklahoma City, OK 73107. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Toughy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper articles, and polyethylene articles*, (except commodities in bulk), from the facilities of Jemco Packaging Products Co. at or near Jackson, TN, to points in OK, KS, CO and TX, restricted to the transportation of shipments originating at the named origins and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jemco Packaging Products Co., Bonwood Industrial Park, Jackson, TN 38301. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Bldg., 215 NW., 3rd, Oklahoma City, OK 73102.

No. MC 138627 (Sub-No. 30TA), filed April 10, 1978. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Route 4, Fort Dodge, IA 50501. Applicant's representative: Russell Hilken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Portage,

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IN, to points in IA, NE, MO and points in IL on and south of U.S. Hwy 36, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midwest Steel Division of National Steel Corp., P.O. Box No. 1, Portage, IN 46368. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 138652 (Sub-No. 2TA), filed April 4, 1978. Applicant: BAKER TRUCK SERVICE, INC., 2906-29 Street North, P.O. Box 535, Lewiston, ID 83501. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from plantsite of Collins Pine Co., Chester, CA, to plantsite of Browning Cut Stock, Juliaetta, ID, for 180 days. Applicant does not intend to tack or interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Browning Cut Stock, P.O. Box 419, Juliaetta, ID 83535. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

No. MC 141402 (Sub-No. 11TA), filed April 10, 1978. Applicant: LINCOLN FREIGHT LINES, INC., Box 332, Indiana State Highway 32, Lapel, IN 46051. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated paper cartons*, between Zanesville, OH, on the one hand, and, on the other, Lapel, IN, under a continuing contract, or contracts with Brockway Glass Co. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Brockway Glass Co. Lapel, IN 46051. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 141448 (Sub-No. 2TA), filed April 7, 1978. Applicant: DUNCAN SALES & LEASING CO. INC., 714 East Baseline, Buckeye, AZ 85326. Applicant's representative: Donald W. Powell, Carmichael, McClue, Stephens & Toles, 1833 North Third Street, Phoenix, AZ 85004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic bottles*, in 4,000 cubic foot, or larger jumbo van trailers, from Phoenix, AZ, to all points and places in NM and El Paso County, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stewart-Walker Co. 2426 South Seventh Street, Phoenix, AZ 85034. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 142059 (Sub-No. 31TA), filed April 5, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, IL 60436. Applicant's representative: Jack Riley, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shortening, margarine and salad dressing* in vehicles equipped with mechanical refrigeration (except commodities in bulk), from the facilities of Anderson-Clayton Foods, Inc., at or near Jacksonville, IL, to points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, WV, VA, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Anderson-Clayton Foods, Inc., D. Glassmeyer, Traffic Manager, 7839 Churchill Way, P.O. Box 6165, Dallas, TX. 75222. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 142059 (Sub-No. 32TA), filed April 5, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet IL Applicant's representative: Jack Riley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Honeycomb*, from Michigan City, IN, to Batesville, MS.; Amana and Newton, IA; and Buffalo, NY, and Syracuse and Rochester, NY, for 180 days. Supporting shipper(s): Hexcel Corp., John A. Ray, Sales Manager, 2125 E. U.S., 12, Michigan City, IN. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 142059 (Sub-No. 33TA), filed April 5, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet IL 60436 Applicant's representative: Jack Riley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, steel furniture frames, knocked down and chair frames*, set up in packages, from Edwardsburg, MI, to Asheville, NC; Blue Springs, MO; Newton, MN and Junction City, KS; Denver, CO; Los Angeles, CA; and Forest City IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Voyager Products, Inc., James P. Haher, President, 51 Krause, Road, Edwardsburg, MI 49112. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 144201 (Sub-No. 3TA), filed April 4, 1978. Applicant: V.M.P. ENTERPRISES, INC., 3006 South 40th Street, Milwaukee, WI 53215. Applicant's representative: Wm. C. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buses*, in initial movements, in driveaway service, from San Benito, TX, to points in the United States, including AK and HI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Eagle International, Inc., 2045 Les Mauldin, Brownsville, TX (Lee R. Vandaveer). Send protests to: Gail A. Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg. and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 144381 (Sub-No. 1TA), filed April 7, 1978. Applicant: JOHN BITTNER, d.b.a. BITTNER TRUCKING, No. 5 Hermitage, Imperial, MO. 63052. Applicant's representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile mufflers, exhaust pipe, parts and accessories* used in the installation of automobile mufflers and exhaust pipes, from the warehouse facility of Midas International Corp., located at Chicago, IL, on the one hand, to points in St. Louis, MO, St. Louis County, MO, the warehouse facility of Midas International Corp., located at Chicago, IL, on the one hand, to points in St. Louis, MO, St. Louis County, MO, and St. Charles County, MO, on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midas International Corp., 15 various shops in St. Louis, MO, area. Send protests to: P. E. Binder, District Supervisor, 210 N. 12th Street, Room 1465, St. Louis, MO 63101.

No. MC 144436 (Sub-No. 1TA), filed April 4, 1978. Applicant: JOHN PRINCE TRANSPORTATION, INC., P.O. Box 440, Forsyth, MT 59327. Applicant's representative: Jerome Anderson, Anderson, Symmes, Brown, Gerbase, Cebull & Jones, 100 Transwestern Building, Billings, MT 59101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, building block, sewer tile and allied clay products*, from Billings, MT, to Phoenix, AZ, under a continuing contract, or contracts, with the Lovell Clay Products Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ralph Stewart, President and General Manager, the Lovell Clay Products Co., 1312 Lockwood Road, Billings, MT 59101. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 144511 (Sub-No. 1TA), filed April 5, 1978. Applicant: ED O'GRADY, R.R. 2, Falls City, NE 68355. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solution*, from the facilities of Quad-State Terminals, at or near Mound City, MO, to points in the States of IA, KS and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Darrel Yocum, Manager, Quad-State Terminals, Box 128, Mound City, MO 64470. Send protests to: Max H. Johnson, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 144560 (Sub-No. 1TA), filed April 10, 1978. Applicant: RAY'S AUTO REPAIR, 6321 West Roosevelt Road, Berwyn, IL 60402. Applicant's representative: Ray Huie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled U-Haul vehicles*, from Berwyn, IL, to Milwaukee, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U-Haul Co., of Chicago, Jerome Moore, 6058 South Honore, Chicago, IL. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 144594TA, filed April 10, 1978. Applicant: WILLIAM MASSARO & EDWARD COHEN, 194 Atlantic Street, Central Islip, NY 11722. Applicant's representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, 425 13th Street, NW., Washington, DC 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold by drug stores, between Nassau and Suffolk Counties, NY, on the one hand, and, on the other, points in CT, NY and NJ, under a continuing contract, or contracts, with Genovese Drugs, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Genovese Drugs, 80 Marcus Drive, Melville, NY 11746. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-13245 Filed 5-15-78; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6712-01]

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FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, May 17, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No. and Subject

Broadcast—1—Minority Ownership Task Force Report.

Broadcast—2—Petition for rulemaking, permitting licensees under certain circumstances to sell their stations at "distress sale" prices to minority groups, filed by Congressional Black Caucus (RM-2811).

Broadcast—3—Petition filed by National Association of Broadcasters for declaratory ruling on use of tax certificates to promote broadcast ownership by minorities.

Broadcast—4—Notice of inquiry regarding public notice of intent to sell broadcast station (Docket No. 21352).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: May 10, 1978.

[S-1021-78 Filed 5-12-78; 2:34 pm]

[6714-01]

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FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:30 a.m. Friday, May 19, 1978, to consider the following matters:

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Valley Bank of Helena, a proposed new bank to be located at 3030 North Montana Avenue, Helena, Mont., for Federal deposit insurance.

Morgan County State Bank, Inc., a proposed new bank to be located at 102 South Washington Street, Berkeley Springs, W. Va., for Federal deposit insurance.

Request for a report on the competitive factors involved in a proposed merger:

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of the First National Bank of Monroe, Monroe, Mich., with Monroe County Bank of Dundee, Dundee, Mich.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Schall, Boudreau & Gore, Inc., San Diego, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the liquidation of First State Bank of Northern California, San Leandro, Calif.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

J. Randolph Pelzer, P.A., North Charleston, S.C., in connection with the liquidation of American Bank & Trust, Orangeburg, S.C.

Fulbright & Jaworski, Houston, Tex., in connection with the liquidation of Northeast Bank of Houston, Houston, Tex.

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier denial of a request for records.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of security transactions authorized by the Chairman.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation at 202-389-4446.

Dated: May 12, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1016-78 Filed 5-12-78; 11:46 am]

[6714-01]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10 a.m. on Friday, May 19, 1978, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c) (2), (4), (6), (8), (9)(A)(ii), (9)(B), and (10) of title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

First Guaranty Savings Bank, a proposed new bank to be located on South Broadway, opposite the entrance to Rockingham Race Track, Salem, N.H., for Federal deposit insurance.

State Bank of Towner, an operating noninsured bank located at 202 Main South, Towner, N.D. for Federal deposit insurance.

Applications for consent to establish branches:

Westlands Bank, Santa Ana, Calif., for consent to establish a branch at 3215 West Warner Avenue, Santa Ana, Calif.

Village Bank of New Jersey, South Orange, N.J., for consent to establish a branch in the Ivy Plaza Shopping Center, Newark, N.J.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Application for consent to merge and to establish branches:

Lincoln Bank, Lincoln City, Oreg., an insured State nonmember bank, for consent to merge under its charter and title with Yamhill County Bank, McMinnville, Oreg., also an insured State nonmember bank, and for consent to establish the sole office of Yamhill County Bank as a branch of the resulting bank.

Application for consent to merge, to establish branches, and to issue and retire capital notes:

Franklin Bank & Trust Co., Franklin, Ind., an insured State nonmember bank, for consent to merge under its charter and title with the Edinburg State Bank, Edinburg, Ind., also an insured State nonmember bank; for consent to establish three branches; and for consent to issue and retire capital.

Application for consent to consolidate, to redesignate the main office, and to establish branches:

Southwest Mississippi Bank, Magnolia, Miss., an insured State nonmember bank, for consent to consolidate under its charter, and with the title of "First Bank of Southwest Mississippi," with Bank of McComb, McComb, Miss., also an insured State nonmember bank; for consent to redesignate the main office of the resultant bank to the present main office site of Bank of McComb; and for consent to establish four branches.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,496-SR—Farmers State Bank of Carlock, Carlock, Ill.

Case No. 43,497-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,499-L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 43,500-L—Franklin National Bank, New York, N.Y.

Case No. 43,501-L—Franklin National Bank, New York, N.Y.

Case No. 43,502-SR—Sharpstown State Bank, Houston, Tex.

Case No. 43,503-L—Banco Credito y Ahorro Ponceno, Ponce, P.R.

Case No. 43,504-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Case No. 43,506-L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 43,507-L—American City Bank & Trust Co., National Association, Milwaukee, Wis.

Case No. 43,508-SR—Sharpstown State Bank, Houston, Tex.

Case No. 43,509-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,510-NR—San Francisco National Bank, San Francisco, Calif.

Case No. 43,511-L—The Hamilton Bank & Trust Co., Atlanta, Ga.

Case No. 43,512-NR—United States National Bank, San Diego, Calif.

Case No. 43,514-L—The Hamilton Bank & Trust Co., Atlanta, Ga..

Memorandum re Birmingham Bloomfield Bank, Birmingham, Mich.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(8)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

The meeting will be held in Room 6135 of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

Dated: May 12, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1017-78 Filed 5-12-78; 11:47 am]

[6701-02]

4

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10:30 a.m., May 18, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Limited facility application—First Federal Savings & Loan Association of Fort Myers, Fort Myers, FLA.

Branch office application—Eureka Federal Savings & Loan Association of San Francisco, San Francisco, Calif.

Application for insurance of accounts—Amigo Savings & Loan Association, Brownsville, Tex.

Consideration of association request for extension of time to establish a branch office—First Federal Savings & Loan Association, Sanford, N.C.

Branch office application—La Jolla Federal Savings & Loan Association, La Jolla, Calif.

Consideration of amendments to the nondiscrimination in lending regulations.

No. 151, May 11, 1978.

[S-1022-78 Filed 5-20-78; 3:15 pm]

[6720-01]

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 90, page 19986, May 9, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., May 12, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Frank O. Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following item has been added to the agenda for the open portion of the meeting:

Appointment of President—Federal Home Loan Bank of San Francisco.

No. 153, May 12, 1978.

[S-1023-78 Filed 5-20-78; 3:15 pm]

[6702-02]

6

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: May 12, 1978, at the conclusion of the open meeting to be held at 2:30 p.m.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-624-7107.

MATTERS TO BE CONSIDERED: Consideration of appointment of Corporate Officer.

No. 152, May 12, 1978.

Announcement is being made at the earliest practicable time.

RONALD A. SNIDER,
Assistant Secretary.

[S-1024-78 Filed 5-20-78; 3:41 pm]

[6210-01]

7

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., Friday, May 19, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of their

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routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Request by the Federal Trade Commission for the Board to consider 16 proposals relating to the Equal Credit Opportunity Act, including amendments to Regulation E, changes in the procedure for issuing official interpretations, and rescission of a board interpretation.

2. Proposed simplification of annual percentage rate computation for graduated payment mortgages, as required by Regulation Z (Truth in Lending).

3. Proposed amendment to Regulation Y (Bank Holding Companies) to permit bank holding companies to act as general insurance agents in towns of less than 5,000 population.

4. Proposed expansion of the System's computer hardware monitoring program.

Discussion Agenda:

1. Proposed guidelines for enforcement of Regulation B (Equal Credit Opportunity).
2. Petition by Consumers Union requesting the Board to amend § 226.6(i) of Regulation Z (Truth in Lending) affecting record retention by creditors potentially subject to the uniform enforcement guidelines.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

Dated: May 10, 1978.

[S-1019-78 Filed 5-12-78; 2:43 pm]

[7020-02]

8

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m. (e.d.t.), Thursday, May 25, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): (a) Wood, spring clothespins (Docket No. 511).
5. Zinc (Inv. TA-201-31)—Staff briefing.
6. Conversion of specific and compound rates (Inv. 332-99)—Approval of report.
7. Molded golf balls (Inv. 337-TA-35)—Consideration of procedural matters.
8. Rescinding of action of August 16, 1978—See action jacket [03-78-4].
9. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1014-78 Filed 5-12-78; 11:04 am]

[7590-01]

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of May 8, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Wednesday, May 10, 1:30 p.m.—Discussion of testimony on proposed licensing legisation is rescheduled to May 18, 9:30 a.m.

NOTE.—The two meetings scheduled this week on this subject were both held in public session.

Thursday, May 11, 9:30 a.m.—Discussion of OIA/OGC Inquiry (CLOSED—Exemption 1). Rescheduled from May 10.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

MAY 10, 1978.

[S-1015-78 Filed 5-12-78; 11:04 am]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of May 15, 1978.

PLACE: Comissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, MAY 17, 9:30 A.M.

1. Discussion of amendments to 10 CFR Part 73 to upgrade security personnel qualifications, training and equipment requirements (approximately 1 hour—public meeting).
2. Briefing on Anticipated Transients Without Scram (ATWS) (approximately 1 hour—public meeting).

WEDNESDY, MAY 17, 1:30 P.M.

1. Briefing on assessment of relative differences in class 9 accident risks in evaluations of alternatives to sites with high population densities (approximately 1 hour—public meeting).
2. Discussion of Procedural questions in Clearance Rule Public Hearing (approximately 1 hour—public meeting).
3. Affirmation Items (approximately 10 minute—public meeting). (a) FEDERAL REGISTER notice cancelling the dollar per manrem rulemaking.

THURSDAY, MAY 18, 9:30 A.M.

1. Discussion of proposed licensing legislation (Tentative). Rescheduled from May 10 (approximately 1 hour—public meeting).
2. Discussion of personnel matter (Tentative) (approximately 1½ hours—Closed—Exemption 6).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

MAY 10, 1978.

[S-1018-78 Filed 5-12-78; 11:47 am]

[8010-01]

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 19331, May 4, 1978.

STATUS: Open meeting and closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10 a.m., Thursday, May 11, 1978.

CHANGES IN THE MEETING: Additional items to be considered:

The following additional item will be considered by the Commission at the open meeting scheduled for Thursday, May 11, 1978, at 10 a.m.:

Proposed transmittal of comments to the Office of Management and Budget concerning H.R. 7365, a bill to authorize national banks to underwrite and deal in certain municipal revenue bonds.

The following additional items will be considerd by the Commission at the closed meeting scheduled immediately following the open meeting:

Freedom of Information Act appeals.
Regulatory matters bearing enforcement implications.
Consideration of requests for stay of order.
Other litigation matters.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of these items and that no earlier notice thereof was possible.

MAY 10, 1978.

[S-1020-78 Filed 5-12-78; 2:34 pm]

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TUESDAY, MAY 16, 1978
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

Special Projects of Regional or National Significance

V 4 3 | 9 5

[4110-84]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 51a—GRANTS TO STATE AGENCIES FOR MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

Special Projects of Regional or National Significance

AGENCY: Public Health Service, HEW.

ACTION: Final rule.

SUMMARY: This rule establishes regulations governing grants to State agencies for special projects of regional or national significance which may contribute to the advancement of maternal and child health or crippled children's services.

EFFECTIVE DATE: This amendment takes effect on June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Vince L. Hutchins, Associate Bureau Director, Office for Maternal and Child Health, Bureau of Community Health Services, Health Services Administration, Room 7-39, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2170.

SUPPLEMENTARY INFORMATION: On November 29, 1977, a notice proposing the addition of subpart B to part 51a was published in the FEDERAL REGISTER (42 FR 60761). The notice of proposed rulemaking sets forth the policies governing grants to State agencies for special projects of regional or national significance which would contribute to the advancement of maternal and child health and crippled children's services under sections 503(2) and 504(2) of the Social Security Act (42 U.S.C. 703(2) and 704(2)). (These sections also authorize such project grants to institutions of higher learning. Regulations covering these grants have been promulgated as Subpart D of Part 51a of Title 42, Code of Federal Regulations.) The policies proposed are essentially those which were developed jointly with the States and which have been in operation over the years.

The regulations set forth five criteria for judging whether a project is of regional or national significance. One commenter inquired whether a project must meet all five criteria to be determined to be a project of regional or national significance. A project meeting any one of the criteria will be considered as having regional or national significance. A change has been made in § 51a.203(b) to clarify this point. The commenter also requested that the regulation clearly provide that a special project may serve a single State if it would have regional or national significance. An appropriate modification to § 51a.203(b) has been made to provide such clarification.

This commenter also requested a more definitive statement with respect to required cost sharing on the part of State agencies. The commenter stated that because of the financial problems of the States, it might be difficult for a State initially to support a project of regional or national significance. This could discourage applications for innovative projects that could have great impact.

Traditionally, States have been required to participate in the costs of such projects. The amounts or percentages involved have varied depending on such factors as the ability of the grantee to share in the costs, the type of project, the services provided, and the length of the project period. Also, there have been cost sharing variations within the project period, with the Federal Government generally assuming a lesser share of the costs after the initial year or years of a project.

The regulation does not preclude full funding of such special projects by the Federal Government under appropriate circumstances. The regulation does, however, set forth criteria for determining the amount of cost of sharing, if any, to be required. The criteria relate to the financial ability of the applicant and the need for the project. Therefore, cost sharing should not discourage applications for innovative projects. No change in the regulations has been made.

The second commenter requested information about the length of time for which a project may be initially approved, and the number of extensions permitted. The regulations have been reworded to state this policy clearly: An approved initial project may not exceed 5 years, and a project may then compete for additional extensions not to exceed 5 years each. There is no limit to the number of extensions for which a project may compete.

The third commenter supported the regulation and made no recommendations for change.

In addition to the revisions mentioned above, minor technical and clarifying changes have been made in the regulations. In § 51a.212, a line inadvertently omitted in the November 29, 1977, FEDERAL REGISTER issuance has been inserted. The section now reads: "(b) In addition to the unallowable costs included under Subpart Q, 45 CFR Part 74, Appendix C, funds may not be used for academic or vocational education for children, • • •".

Accordingly, part 51a of title 42 is amended by adding a new Subpart B, as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: March 31, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: May 5, 1978.

HALE CHAMPION,
Acting Secretary.

Subpart B—Project Grants to State Agencies

Sec.
51a.201 Applicability.
51a.202 Definitions.
51a.203 Eligibility.
51a.204 Application for a grant.
51a.205 Project elements.
51a.206 Grant evaluation and award.
51a.207 Use of project funds.
51a.208 Grant payments.
51a.209 Confidentiality of information.
51a.210 Grantee accountability.
51a.211 Performance report.
51a.212 Applicability of 45 CFR Part 74.
51a.213 Additional conditions.

AUTHORITY: Sections 503(2) and 504(2) of the Social Security Act; 81 Stat. 922 (42 U.S.C. 703(2) and 704(2)); section 1102 of the Social Security Act, 49 Stat. 647 as amended (42 U.S.C. 1302).

Subpart B—Project Grants to State Agencies

§ 51a.201 Applicability.

The regulations of this subpart are applicable to grants authorized by sections 503(2) and 504(2) of the Social Security Act [42 U.S.C. 703(2) and 704(2)] to State agencies for projects of regional or national significance which may contribute to the advancement of maternal and child health or crippled children's services.

§ 51a.202 Definitions.

As used in this subpart: (a) "Act" means the Social Security Act, as amended (42 U.S.C. Chapter 7).

(b) "Crippled children's services" means (1) the early location of crippled children; (2) the provision for such children of preventive, diagnostic and treatment services, including medical care, hospitalization and other institutional care and aftercare, appliances and facilitating services directed toward the diagnosis of the condition of such children or toward the restoration of such children to maximum physical and mental health; (3) the development, strengthening, and improvement of standards and techniques relating to the provisions of such care and services; (4) the training of personnel engaged in the provision, development, strengthening, or improvement of such care and services; and (5) necessary administrative services in connection with the foregoing.

(c) "Facilitating services" means transportation, subsistence away from home, drugs, biologicals, communications, supplies and equipment as may be necessary for the provision of maternal and child health or crippled children's services.

(d) "Maternal and child health services" means (1) the provision of educational, preventive, diagnostic and treatment services, including medical care, hospitalization and other institutional care and aftercare, appliances and facilitating services directed toward reducing infant mortality and improving the health of mothers and children; (2) the development, strengthening and improvement of standards and techniques relating to such services and care; (3) the training of personnel engaged in the provision, development, strengthening, or improvement of such services and care; and (4) necessary administrative services in connection with the foregoing.

(e) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(f) "State" means the several States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(g) "State agency" means the official agency of a State administering or supervising the administration of a State plan for maternal and child health or crippled children's services under Subpart A of this Part.

§ 51a.203 Eligibility.

(a) Any State agency is eligible to apply for grants under this subpart for special projects of regional or national significance which may contribute to the advancement of maternal and child health or crippled children's services including mental retardation services.

(b) a project (including a project which serves only one State or part of a State) may be of regional or national significance if it meets any one of the following objectives:

(1) Increases the availability of services for improving the health of mothers and children, including crippled children, on a regional or national level or both;

(2) Develops and demonstrates a broad range of preventive, diagnostic, and treatment services which will improve the health of mothers and children, including crippled children on a regional or national level or both;

(3) Develops and demonstrates innovative methods which will improve and increase the provision of maternal and child health and crippled children's services on a regional or national level or both;

(4) Promotes more effective utilization of personnel providing health services to mothers and children; or

(5) Increases the scope and availability of information for use (or potential use) in the provision of maternal and child health and crippled children's services on a regional or national level or both.

§ 51a.204 Application for a grant.

An application, to be approvable under this subpart, shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe, and shall contain the following:

(a) A full description of the intended project, including the activities which the applicant intends to carry out, and the manner in which the applicant intends to conduct the project and carry out the requirements of this subpart;

(b) A description of the objectives to be accomplished within specified time periods, and a description of the methodology to be used to measure achievement of such objectives;

(c) An assessment of need for the proposed activities, including, as appropiate.

(1) A description of existing resources to meet these needs on a regional level; or

(2) A description of existing resources to meet these needs on a national level.

(d) An assessment of the regional or national significance of the project's objections as specified in § 51a.203(b).

(e) A plan for the utilization and dissemination of information gained by the project which may contribute to the advancement of maternal and child health and/or crippled children's services;

(f) A budget and a fiscal plan for assuring effective utilization of grant funds and a justification of the amount of funds requested;

(g) A description of the proposed staffing pattern which will be employed to carry out the project, and a time-phased plan for hiring staff to meet the requirements of this part;

(h) A statement indicating how and the extent to which the project plans to meet each of the applicable requirements of § 51a.205;

(i) Evidence that the applicable requirements of Office of Management and Budget Circular No. A-95 have been satisfied;

(j) For projects which propose to provide or arrange for the provision of direct health, services, evidence that such applications have been forwarded to the affected health systems agency(s) designated under Title XV of the Public Health Service Act with a request for review and comment; and

(k) The signature of the individual authorized to act for the State agency and to assume on behalf of the State agency the obligations imposed by the Act, the provisions of this subpart, and any additional conditions of the grant award.

§ 512.205 Project elements.

(a) Each project supported under this subpart shall: (1) Provide or arrange for the provision of those maternal and child health and/or crippled children's services which are necessary to achieve project objectives and which are specified in the grant award;

(2) Evaluate its progress toward the achievement of project objectives within time periods as specified in the grant award;

(3) Recruit personnel necessary to meet the requirements of this part in accordance with the plan submitted pursuant to § 51a.204(g);

(4) Assure that staff professionals and other staff meet all applicable licensure, certification or other legal requirements for the practice of their professions; and are in substantial accordance with national standards as accepted by the Secretary or standards prescribed by the Secretary;

(5) Provide in-service and/or short-term training programs, as appropriate, for project personnel;

(6) Make reasonable efforts to obtain local participation (e.g., health professionals, service providers, consumers, representatives from public or nonprofit private agencies) in the development and operation of the project;

(7) Coordinate project activities with other health, education, and welfare programs to ensure that currently available resources are not duplicated;

(8) Utilize other Federal, State, local, and private resources available for support of the project prior to the use of grant funds under this subpart;

(9) Establish basic statistical data cost accounting, management information, and reporting systems which shall enable the project to provide statistics and other information as the Secretary may reasonably require, and to make such reports to the Secretary in a timely manner with such frequency as the Secretary may reasonably require; and

(10) Operate the project in a manner which preserves human dignity;

(b) Each project which provides or arranges for the direct provision of health services shall:

(1) Make services available without the imposition of any durational residency or specific referral requirement (except as may be described in a project application and approved by the Secretary);

(2) Have prepared a schedule of fees and payments for the provision of its

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services in accordance with the schedule of the Title V State plan of the State in which the project is located. *Provided*, That charges are not a barrier to the delivery of services and that preventive and diagnostic services are made available without charge to the patient or family; and

(3) Review the quality of health care provided by the project;

(4) Assure that facilities meet all applicable safety or other legal requirements;

(5) Provide or arrange for facilitating services as may be necessary to achieve the objectives of the project;

(6) Provide services (such as health education, outreach, and interpreters) which promote and facilitate optimal use of the services of the project.

§ 51a.206 Grant evaluation and award.

(a) Within the limit of funds determined by the Secretary to be available for such purposes, the Secretary will award grants under this subpart to applicants whose projects will, in his judgment, best promote the purposes of sections 503(2) and 504(2) of the Act, taking into account:

(1) The extent of regional and/or national significance of the activities to be carried on by the project as reflected by the objectives set for the project pursuant to § 51a.203;

(2) The need for services to be provided by the project in the region in which the project is located, and/or in the Nation;

(3) The reasonableness of the budget and the soundness of the fiscal plan for assuring effective utilization of grant funds;

(4) The capability of the applicant to perform the activities proposed in the application, the qualifications of the staff or proposed staff in relation to the activities to be carried out, and the adequacy of the facilities available for the project; and

(5) The extent to which the application provides for implementing each of the requirements of § 51a.205.

(b) The amount of any award under this subpart will be determined by the Secretary on the basis of his estimate of the sum necessary for a designated portion of project costs; except that no grant shall be made for an amount in excess of the total cost as found necessary by the Secretary for the carrying out of the project.

(1) In determining the share of project costs to be borne by the grantee, the Secretary will consider the following factors:

(i) The ability of the grantee to finance its share of project costs from non-Federal sources; and

(ii) The need of the area served by the project for the services to be provided.

(2) At any time after approval of an application under this subpart, the Secretary may retroactively agree to a lower share of project costs to be borne by the grantee than that determined pursuant to paragraph (b) of this section where he finds that changed circumstances justify a smaller contribution.

(3) In determining the grantee's share of project costs, if any, costs borne by Federal grant funds, or costs used to match other Federal grants, may not be included except as otherwise provided by law.

(c) All grant awards shall be in writing, and shall set forth the amount of funds granted, the project period, and the period for which support is recommended. The initial project period or each competitive extension thereof for which support is recommended shall not exceed 5 years.

(d) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application.

§ 51a.207 Use of project funds.

(a) Any funds granted pursuant to this part, as well as other funds to be used in performance of the approved project, may be expended solely for carrying out the approved project in accordance with Sections 503(2) and 504(2) of the Act, the regulations of this part, the terms and conditions of the award, and the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

(b) Project funds awarded under this part to operate a special project of regional or national significance may be used for, but need not be limited to, the following:

(1) The costs of obtaining technical assistance to develop the project, to improve its management capability, to establish an adequate data collection system, and to develop methodology for evaluation; and

(2) The cost of providing diagnostic and/or preventive health services to individuals in accordance with the regulations of this subpart.

(c) Prior approval by the Secretary of revisions of the budget and project plan is required whenever there is to be a significant change in the scope or nature of project activities.

§ 51a.208 Grant payments.

The Secretary shall, from time to time, make payments to a grantee or all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred in the performance of the project, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.[1]

§ 51a.209 Confidentiality of information.

All information as to personal facts and circumstances obtained by the project staff in connection with the provision of services or other activities under the project shall be treated as privileged communication, shall be held confidential, and shall not be divulged without the individual's consent, except as may be otherwise required by applicable law (including this subpart) or necessary to provide services to the individual. Such information may be disclosed in summary, statistical, or other form which does not identify particular individuals.

§ 51a.210 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence, satisfactory to the Secretary, for expenditures for direct and indirect costs meeting the requirements of this part. However, when the amount awarded for indirect costs was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct cost control.

[1]Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d *et seq.*) and in particular section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing Title VI, which applies to grants under this part, has been issued by the Secretary of Health, Education, and Welfare, with the approval of the President (45 CFR Part 80). In addition, no person shall, on the grounds of age, sex, creed, or marital status (unless otherwise medically indicated), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity so receiving Federal financial assistance.

Attention is called to the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

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(b) *Copyright royalties.* Copyright royalties shall be accounted for as provided in 45 CFR 74.44.

(c) *Grant closeout.*—(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section; and

(ii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 51a.211 Performance report.

A grantee shall submit a performance report meeting the requirement of 45 CFR 74.82(c), and a financial status report at the end of each budget period and the assigned project period.

§ 51a.212 Applicability of 45 CFR Part 74.

(a) The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part.

(b) In addition to the unallowable costs included under Subpart Q, 45 CFR Part 74, Appendix C, funds may not be used for academic or vocational education for children, food (except that provided in connection with institutional care, and that provided for demonstration purposes or for special dietary products used for the treatment of inborn errors of metabolism), sanitation (except in demonstrations which have had prior approval), or clothing (such as gowns and aprons used by physicians, nurses, and other staff at clinics), or individual membership dues in any society or organization.

§ 51a.213 Additional conditions.

The Secretary may, with respect to any grant award, impose additional conditions, prior to or at the time of the award, when, in his judgment, such conditions are necessary to assure or protect advancement of the approved project, the interest of the public health, or the conservation of grant funds.

[FR Doc. 78-13090 Filed 5-15-78; 8:45 am]

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federal register

TUESDAY, MAY 16, 1978
PART III



DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

CERTAIN LIVE WARMBLOODED ANIMALS UNDER THE ANIMAL WELFARE ACT

Revision of Transportation Standards

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Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—ANIMAL WELFARE

PART 3—STANDARDS

Revision of Standards for Transportation, and the Handling, Care, and Treatment in Connection Therewith, of Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Certain Other Warmblooded Animals.

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the transportation standards governing certain live warmblooded animals under the Animal Welfare Act, published in the FEDERAL REGISTER on June 21, 1977 (42 FR 31556-31571). The amendments concern compliance with standards for primary enclosures used to transport certain animals in commerce by carriers and intermediate handlers, the optional use of certificates of animal acclimation to temperature extremes, the use of primary enclosures with ventilation openings on three walls for transporting dogs and cats, and the standards for the animal holding area of terminal facilities. The revisions contained herein are the result of various petitions for reconsideration received by the Department after publication of the transportation standards in the FEDERAL REGISTER on June 21, 1977, which made new facts and evidence available to the Department which appeared to warrant this action.

DATE: Effective date May 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8271.

SUPPLEMENTARY INFORMATION: On October 14, 1977, APHIS published a notice of proposed rulemaking containing changes and additions to Part 3 of Subchapter A, Chapter I, Title 9 of the Code of Federal Regulations (42 FR 55221-55226) which would (1) revise the requirements for accepting for transportation and transporting in commerce by carriers and intermediate handlers of certain warmblooded animals, by allowing them to accept and to rely on certification by consignors of such animals of (a) animal acclimation to temperature extremes and (b) compliance with the standards for the primary enclosure or shipping container, when such certification is presented by U.S. Department of Agriculture (USDA) licensees and registrants or any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals; (2) provide for the use of primary enclosures with ventilation openings located on three walls to transport dogs and cats; and (3) revise the requirements for the animal holding area in transportation terminal facilities concerning the commingling of general cargo with animal shipments and clarify terminology associated with temperatures.

A total of 10 comments were received within the comment period in response to the proposed changes. Although the number of comments received was relatively small, they represented many interest groups; i.e., carriers, the biomedical community, zoological parks and aquariums, an animal shipping container manufacturer, pet animal dealers, humane groups, and a Member of Congress. Many of the comments raised questions or made suggestions which, because of their validity, warranted some changes of the proposed standards. Certain other editorial changes were also made for clarification.

DISCUSSION OF MAJOR PROPOSED ITEMS AND COMMENTS

CERTIFICATES OF COMPLIANCE FOR PRIMARY ENCLOSURES

The present transportation standards (9 CFR 3.11 et seq.) require that no carrier or intermediate handler accept for transportation or transport, in commerce, any animal in a primary enclosure that does not conform to the requirements set forth in the standards. As a result of petitions for reconsideration received by the Department, APHIS proposed to review the standards to give the option to carriers and intermediate handlers to accept for transportation and transport, in commerce, any dog, cat, rabbit, guinea pig, hamster, nonhuman primate, and certain other warmblooded animals in a primary enclosure when consigned by any licensed or registered dealer, research facility, exhibitor, operator of an auction sale, or by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals, if such consignor certifies that the primary enclosure meets the requirements of the standards for such animals. Such certification would make the consignor responsible for assuring that the primary enclosure complies with the standards, unless the enclosure is so obviously defective or damaged that it cannot reasonably be expected to safely contain an animal.

One comment, while acknowledging the benefits of a certificate of compliance for primary enclosures, questioned the anticipated confusion, delay, and compromise of the purpose of its use if a standard form for certification is not provided by the Department of Agriculture. APHIS believes that a certificate of compliance which is consistent in format and includes an appropriate certifying statement relative to the required standards for a shipping container for live warmblooded animals can be provided by the regulated carriers or intermediate handlers for use by USDA licensees and registrants and Federal departments, agencies, and instrumentalities having laboratory animals or exhibiting animals; therefore, APHIS does not intend to provide such a form at this time. However, the information required to complete an acceptable certificate is explained in this amendment.

Another comment expressed concern that a consignor could falsely certify that a primary enclosure is in compliance with the standards and, in such cases, questioned the Department's legal authority for followup regulatory action. Since certification of primary enclosures will be limited to consignors who are subject to the Animal Welfare Act, any violation which might be perpetrated by such consignors of live animal shipments is subject to penalties as provided by the Act.

CERTIFICATES OF ANIMAL TEMPERATURE ACCLIMATION

The present transportation standards provide for a range of ambient temperatures which would be allowed within primary enclosures and other areas involved in the transportation of live animals. APHIS recognizes, however, that certain warmblooded animals can withstand temperatures above the prescribed limits of the ambient temperature ranges for short periods of time. APHIS also recognizes the fact that certain animals can withstand temperatures below the prescribed limits for a longer period of time. The air carriers criticized APHIS for not indicating a specific acceptable procedure whereby the carriers or intermediate handlers could accept certain species of warmblooded animals which had spent their lives in an outdoor environment and were acclimated to temperatures less than 45° F for transportation in commerce when the carrier's or intermediate handler's facilities fail to provide the minimum allowed temperature in the animal holding areas.

APHIS is, therefore, amending §§ 3.11(b), 3.35(b), 3.60(b), and 3.85(b) relative to consignments to carriers and intermediate handlers of live dogs or cats, hamsters, rabbits, nonhuman primates, and certain other warmblooded animals, with the exception of guinea pigs, which allows carriers and intermediate handlers whose facilities fail to provide the minimum allowed temperature in the animal holding areas, the option of accepting for transportation and transporting such animals consigned by any licensed or registered dealer, research facility, exhibitor, operator of an auction sale or by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals, if such consignor furnishes a certificate executed by a licensed veterinarian on a specified date, which shall not be more than 10 days prior to delivery for transportation, stating that such live animal is acclimated to air temperatures lower than 7.2° C (45° F). Guinea pigs are excepted because they are not tolerant of low temperatures. Information required to complete an acceptable certificate of animal temperature acclimation for dogs, cats, hamsters, rabbits, nonhuman primates, and certain other warmblooded animals is indicated in these amendments. Such certification of temperature acclimation is limited to consignors who are subject to the Animal Welfare Act, and any violation which may be committed by such consignors of live animal shipments is subject to penalties provided by the Act. Other persons, such as private pet owners, are not subject to the Act or the regulations and standards.

LIVE ANIMAL SHIPPING CONTAINERS WITH VENTILATION OPENINGS ON THREE SIDES

Comments received supported the proposed amendments to the standards concerning ventilation of live animal shipping containers for dogs and cats having ventilation openings on three sides. Therefore, in addition to the present standards for shipping containers having ventilation openings located either on each of two opposite walls or on each of four walls, APHIS is providing herein that primary enclosures having ventilation openings located on three sides shall have such ventilation openings of at least 8 percent of the total surface area of two opposite walls and at least 50 percent of the total surface area of the third wall.

ANIMAL HOLDING AREAS OF TERMINAL FACILITIES

In its proposed amendments of the present standards APHIS provided that carriers and intermediate handlers shall maintain all animal shipments in one holding area of a terminal facility at any one time and that animal shipments shall not be commingled with inanimate cargo at any terminal facility. This proposal was an amendment to the present standards which require carriers to designate an indoor animal holding area within terminal facilities which shall not be used for general cargo, but may be located within the general cargo area. Carriers commented that the proposal for a single animal holding area would establish an unduly cumbersome procedure for processing animal shipments through terminal facilities in that both "inbound" and "outbound" live animal shipments would be maintained in the same area. The resulting confusion in the terminal area would impair expeditious processing of animal shipments, especially since carriers also have to segregate "outbound" shipments from "inbound" shipments to make accurate calculations relative to aircraft weight and balance requirements. Other comments indicated possible problems of the proxmity of incompatible species of animals to each other if all live animal shipments are kept in one single area. Therefore, this amendment does not require that all live animal shipments be maintained in the one animal holding area of a terminal facility of any carrier or intermediate handler. However, the standards do indicate that an animal holding area is where live animal shipments are maintained and that an effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for such animal holding area.

The proposed amendments to the standards for terminals contained requirements for auxiliary ventilation when the atomospheric temperature within the animal holding area is 29.5° C. (85° F.), or higher, and also contained requirements relative to the ambient temperature around the live animal in the holding area. Several comments were critical of the usage of different modifying terms, i.e., "atmospheric" and "ambient," relative to the term "temperature" in the proposed amendments to the standards for the animal holding area in the terminal and labeled such usage as "confusing." APHIS is, therefore, in §§ 3.16, 3.40, 3.65, 3.90, and 3.116, substituting the term "air" for the words "atmospheric" and "ambient" used to describe the temperature requirements for the animal holding area in the terminal. Also, for the sake of simplicity, APHIS is changing the term "atmospheric temperature" to "outdoor air temperature" in §§ 3.17(a)(3), 3.41(a)(3), 3.66(a)(3), 3.91(a)(3), and 3.117(a)(3).

The proposed amendments to the standards indicated that the animal holding area shall be provided with fresh air by means of windows, doors, vents, or air conditioning. Further, in order to minimize drafts, odors, and moisture condensation in the animal holding area, the proposed amendments indicated that ventilation or air circulation be accomplished by fans, blowers, or an air conditioning system. APHIS did not intend, however, that minimizing drafts, odors, and moisture condensation be accomplished only by fans, blowers, or an air conditioning system, but intended that these mechanical methods could be used for this purpose at the option of the carriers and intermediate handlers. Therefore, this amendment reflects the optional use of such equipment by the term "may be" rather than "shall be."

One comment indicated that the proposed amendments to the standards would require carriers and intermediate handlers to provide auxiliary ventilation equipment in the animal holding areas even if the temperature within such animal holding areas never reached 85° F. APHIS acknowledges that the proposal as written could be interpreted to require auxiliary ventilation equipment for transportation terminal animal holding areas when the air temperature reaches 85° F. or higher, even though there could be terminals located in climates where such auxiliary ventilation would never be needed. APHIS has therefore clarified this part of the standards for terminal facilities by indicating that auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live animals when the air temperature within such animal holding area is 29.5° C. (85° F.), or higher.

Accordingly, the standards (9 CFR 3.1 et seq.) are amended in the following respects:

§ 3.11 Consignments to carriers and intermediate handlers. [Amended]

1. Section 3.11(b) of the standards (9 CFR 3.11(b)) is amended to read as follows:

* * * * *

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live dog or cat in a primary enclosure which conforms to the requirements set forth in § 3.12 of the standards: *Provided, however,* That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live dog or cat consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals, or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale, if such consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with

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§ 3.12 of the standards, unless such primary enclosure is obviously defective or damaged and it is apparent that it cannot reasonably be expected to contain the live dog or cat without causing suffering or injury to such live dog or cat. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) Tag number or tattoo assigned to each dog or cat pursuant to §§ 2.50 and 2.54 of the regulations;

(3) A certifying statement (e.g., "I hereby certify that the —— (number) primary enclosure(s) which are used to transport the animal(s) in this shipment complies (comply) with USDA standards for primary enclosures (9 CFR Part 3)."); and

(4) The signature of the consignor, and date.

• • • • • •

2. Section 3.11(c) of the standards (9 CFR 3.11(c)) is amended to read as follows:

• • • • • •

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards, may accept for transportation or transport, in commerce, any live dog or cat consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate executed by a licensed veterinarian on a specified date which shall not be more than 10 days prior to delivery of such dog or cat for transportation in commerce, stating that such live dog or cat is acclimated to lower air temperatures than prescribed in §§ 3.16 and 3.18. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) Tag number or tattoo assigned to each dog or cat pursuant to §§ 2.50 and 2.54 of the regulations;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45° F.)."); and

(4) The signature of the licensed veterinarian, and date.

• • • • • •

3. A new § 3.11(d) (9 CFR 3.11(d)) is added to the standards as follows:

• • • • • •

(d) Carriers and intermediate handlers shall attempt to notify the consignee at least once in every 6 hour period following the arrival of any live dog or cat at the animal holding area of the terminal cargo facility. The time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee shall be recorded on the copy of the shipping document retained by the carrier of intermediate handler and on a copy of the shipping document accompanying the animal shipment.

4. Section 3.12(a)(4) of the standards (9 CFR 3.12(a)(4)) is amended to read as follows:

§ 3.12 Primary enclosures used to transport live dogs and cats.

• • • • • •

(a) "• • • (4) except as provided in paragraph (h) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings on three walls of the primary enclosure and the ventilation openings on two opposite walls of the primary enclosure shall be at least 8 percent of the total surface area of each such wall and the ventilation openings on the third wall of the primary enclosure shall be at least 50 percent of the total surface area of such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however,* That at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; • • •."

• • • • • •

5. Section 3.16 of the standards (9 CFR 3.16) is amended to read as follows:

§ 3.16 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.7 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation, and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live dogs or cats shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live dogs and cats when the air temperature within such animal holding area is 29.5° C. (85° F.) or higher. The air temperature around any live dog or cat in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 35° C. (95° F.) at any time: *Provided, however,* That no live dog or cat shall be subjected to air temperatures in excess of 29.5° C. (85° F.) for more than 4 hours at any time.

6. Section 3.17 of the standards (9 CFR 3.17) is amended to read as follows:

§ 3.17 Handling.

(a) Carriers and intermediate handlers shall move live dogs and cats from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live dog or cat in an animal holding area of a terminal facility or in transporting any live dog or cat from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live dogs and cats from the direct rays of the sun.

(2) *Shelter from rain or snow.* Live dogs and cats shall be provided protection to allow them to remain dry during rain or snow.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provided protection for live dogs and cats when the outdoor air temperature falls below 10° C. (50° F.).

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live dog or cat contained therein.

(c) Primary enclosures used to transport any live dog or cat shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

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§ 3.35 Consignments to carriers and intermediate handlers. [Amended]

7. Section 3.35(b) of the standards (9 CFR 3.35(b)) is amended to read as follows:

• • • • • •

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live guinea pig or hamster in a primary enclosure which conforms to the requirements set forth in § 3.36 of the standards: *Provided, however,* That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live guinea pig or hamster consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals, or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale, if such consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.36 of the standards, unless such primary enclosure is obviously defective or damaged and it is apparent that it cannot reasonably be expected to contain the live guinea pig or hamster without causing suffering or injury to such live guinea pig or hamster. A copy of such certificate shall accompany the shipment to destination. The certificate of compliance shall include at least the following information:

(1) Name and address of the consignor;

(2) The number of guinea pigs or hamsters in the primary enclosure(s);

(3) A certifying statement (e.g., "I hereby certify that the —— (number) primary enclosure(s) which are used to transport the animal(s) in this shipment complies (comply) with USDA standards for primary enclosures (9 CFR Part 3)."); and

(4) The signature of the consignor, and date.

• • • • • •

8. Section 3.35(c) of the standards (9 CFR 3.35(c)) is amended to read as follows:

• • • • • •

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards may accept for transportation or transport, in commerce, any live hamster consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate executed by a licensed veterinarian on a specified date which shall not be more than 10 days prior to delivery of such hamster for transportation in commerce, stating that such live hamster is acclimated to lower air temperatures than prescribed in §§ 3.40 and 3.42. A copy of such certificate shall accompany the shipment to destination. The certificate shall include the following information:

(1) Name and address of the consignor;

(2) The number of hamsters in the shipment;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45° F.)."); and

(4) The signature of the licensed veterinarian, and date.

• • • • • •

9. A new § 3.35(d) (9 CFR 3.35(d)) is added to the standards as follows:

• • • • • •

(d) Carriers and intermediate handlers shall attempt to notify the consignee at least once in every 6 hour period following the arrival of any live guinea pig or hamster at the animal holding area of the terminal cargo facility. The time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee shall be recorded on the copy of the shipping document retained by the carrier or intermediate handler and on a copy of the shipping document accompanying the animal shipment.

10. Section 3.36(a)(5) of the standards (9 CFR 3.35(a)(5)) is amended to read as follows:

§ 3.36 Primary enclosures used to transport live guinea pigs and hamsters.

• • • • • •

(a) "• • • (5) except as provided in paragraph (i) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however,* That at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; • • •."

• • • • • •

11. Section 3.40 of the standards (9 CFR 3.40) is amended to read as follows:

§ 3.40 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.31 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation, and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live guinea pigs or hamsters shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. The air temperature around any live guinea pig or hamster in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time.

12. Section 3.41 of the standards (9 CFR 3.41) is amended to read as follows:

§ 3.41 Handling.

(a) Carriers and intermediate handlers shall move live guinea pigs and hamsters from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live guinea pig or hamster in an animal holding area of a terminal facility or in transporting any live guinea pig or hamster from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of

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the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live guinea pigs and hamsters from the direct rays of the sun.

(2) *Shelter from rain or snow.* Live guinea pigs and hamsters shall be provided protection to allow them to remain dry during rain or snow.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live guinea pigs and hamsters when the outdoor air temperature falls below 10° C. (50° F.).

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live guinea pig or hamster contained therein.

(c) Primary enclosures used to transport any live guinea pig or hamster shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

§ 3.60 Consignments to carriers and intermediate handlers. [Amended]

13. Section 3.60(b) of the standards (9 CFR 3.60(b)) is amended to read as follows:

• • • • •

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live rabbit in a primary enclosure which conforms to the requirements set fourth in § 3.61 of the standards: *Provided, however,* That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live rabbit consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale, if such consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.61 of the standards, unless such primary enclosure is obviously defective or damaged and it is apparent that it cannot reasonably be expected to contain the live rabbit without causing suffering or injury to such live rabbit. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) The number of rabbits in the primary enclosure(s);

(3) A certifying statement (e.g., "I hereby certify that the —— (number) primary enclosure(s) which are used to transport the animal(s) in this shipment complies (comply) with USDA standards for primary enclosures (9 CFR Part 3)."); and

(4) The signature of the consignor, and date.

• • • • •

14. Section 3.60(c) of the standards (9 CFR 3.60(c)) is amended to read as follows:

• • • • •

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards may accept for transportation or transport, in commerce, any live rabbit consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate executed by a licensed veterinarian on a specified date which shall not be more than 10 days prior to delivery of such rabbit for transportation in commerce, stating that such live rabbit is acclimated to lower air temperatures than prescribed in §§ 3.65 and 3.67. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) The number of rabbits in the shipment;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45° F.)."); and

(4) The signature of the licensed veterinarian, and date.

• • • • •

15. A new § 3.60(d) (9 CFR 3.60(d)) is added to the standards as follows:

• • • • •

(d) Carriers and intermediate handlers shall attempt to notify the consignee at least once in every 6 hour period following the arrival of any live rabbit at the animal holding area of the terminal cargo facility. The time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee shall be recorded on the copy of the shipping document retained by the carrier or intermediate handler and on a copy of the shipping document accompanying the animal shipment.

16. Section 3.61(a)(4) of the standards (9 CFR 3.61(a)(4)) is amended to read as follows:

§ 3.61 Primary enclosures used to transport live rabbits.

• • • • •

(a) "• • • (4) except as provided in paragraph (h) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however,* That at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; • • •."

• • • • •

17. Section 3.65 of the standards (9 CFR 3.65) is amended to read as follows:

§ 3.65 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.56 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation, and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live rabbits shall be provided with fresh air by means of windows, doors, vents, or air-conditioning and may be ventilated or air circulated by means of fans, blowers, or an air-conditioning system so as to minimize drafts, odors, and moisture condensation. The air temperature around any live rabbit in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time.

18. Section 3.66 of the standards (9 CFR 3.66) is amended to read as follows:

§ 3.66 Handling.

(a) Carriers and intermediate handlers shall move live rabbits from the

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animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live rabbit in an animal holding area of a terminal facility or in transporting any live rabbit from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live rabbits from the direct rays of the sun.

(2) *Shelter from rain or snow.* Live rabbits shall be provided protection to allow them to remain dry during rain or snow.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live rabbits when the outdoor air temperature falls below 10° C. (50° F.).

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live rabbit contained therein.

(c) Primary enclosures used to transport any live rabbit shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

§ 3.85 Consignments to carriers and intermediate handlers. [Amended]

19. Section 3.85(b) of the standards (9 CFR 3.85(b)) is amended to read as follows:

• • • • •

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live nonhuman primate in a primary enclosure which conforms to the requirements set forth in § 3.86 of the standards: *Provided, however,* That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live nonhuman primate consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.86 of the standards, unless such primary enclosure is obviously defective or damaged and it is apparent that it cannot reasonably be expected to contain the live nonhuman primate without causing suffering of injury to such live nonhuman primate. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) The number of nonhuman primates in the primary enclosure(s);

(3) A certifying statement (e.g., "I hereby certify that the —— (number) primary enclosure(s) which are used to transport the animal(s) in this shipment complies (comply) with USDA standards for primary enclosures (9 CFR Part 3)."); and

(4) The signature of the consignor, and date.

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards may accept for transportation or transport, in commerce, any live nonhuman primate consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate executed by a licensed veterinarian on a specified date which shall not be more than 10 days prior to delivery of such nonhuman primate for transportation in commerce, stating that such live nonhuman primate is acclimated to lower air temperatures than prescribed in §§ 3.90 and 3.92. A copy of such certificate shall accompany the shipment to destination. The certificate shall include the following information:

(1) Name and address of the consignor;

(2) The number of nonhuman primates in the shipment;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45° F.)."); and

(4) The signature of the licensed veterinarian, and date.

• • • • •

21. A new § 3.85(d) (9 CFR 3.85(d)) is added to the statements as follows:

• • • • •

(d) Carriers and intermediate handlers shall attempt to notify the consignee at least once in every 6 hour period following the arrival of any live nonhuman primate at the animal holding area of the terminal cargo facility. The time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee shall be recorded on the copy of the shipping document retained by the carrier or intermediate handler and on a copy of the shipping document accompanying the animal shipment.

22. Section 3.86(a)(6) of the standards (9 CFR 3.86(a)(6)) is amended to read as follows:

§ 3.86 Primary enclosures used to transport live nonhuman primates.

• • • • •

(a) "• • • (4) except as provided in paragraph (4) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however,* That at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; • • •."

23. Section 3.90 of the standards (9 CFR 3.90) is amended to read as follows:

§ 3.90 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.81 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation, and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing nonhuman primates shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or blowers or air conditioning shall be used for any animal holding area containing live nonhuman primates when the air temperature within such animal holding area is 29.5° C. (85° F.) or higher.

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The air temperature around any live nonhuman primate in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 35° C. (95° F.) at any time: *Provided, however,* That no live nonhuman primate shall be subjected to air temperatures in excess of 29.5° C. (85° F.) for more than 4 hours at any time.

24. Section 3.91 of the standards (9 CFR 3.91) is amended to read as follows:

§ 3.91 Handling.

(a) Carriers and intermediate handlers shall move live nonhuman primates from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live nonhuman primate in an animal holding area of a terminal facility or in transporting any live nonhuman primate from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live nonhuman primates from the direct rays of the sun.

(2) *Shelter from rain or snow.* Live nonhuman primates shall be provided protection to allow them to remain dry during rain or snow.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live nonhuman primates when the outdoor air temperature falls below 10° C. (50° F.).

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live nonhuman primate contained therein.

(c) Primary enclosures used to transport any live nonhuman primate shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

§ 3.111 Consignments to carriers and intermediate handlers. [Amended]

25. Section 3.111(b) of the standards (9 CFR 3.111(b)) is amended to read as follows:

• • • • •

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live animal in a primary enclosure which conforms to the requirements set forth in § 3.112 of the standards: *Provided, however,* That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live animal consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.112 of the standards, unless such primary enclosure is obviously defective or damaged and it is apparent that it cannot reasonably be expected to contain the live animal without causing suffering or injury to such live animal. A copy of such certificate shall accompany the shipment to destination. The certificate shall include at least the following information:

(1) Name and address of the consignor;

(2) The number of animals in the primary enclosure(s);

(3) A certifying statement (e.g., "I hereby certify that the ——— (number) primary enclosure(s) which are used to transport the animal(s) in this shipment complies (comply) with USDA standards for primary enclosures (9 CFR Part 3)."); and

(4) The signature of the consignor, and date.

(c) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by the standards may accept for transportation or transport, in commerce, any live animal consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate executed by a licensed veterinarian on a specified date which shall not be more than 10 days prior to delivery of such animal for transportation in commerce, stating that such live animal is acclimated to lower air temperatures than prescribed in §§ 3.116 and 3.118. A copy of such certificate shall accompany the shipment to destination. The certificate to include at least the following information:

(1) Name and address of the consignor;

(2) The number of animals in the shipment;

(3) A certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C. (45° F.)"); and

(4) The signature of the licensed veterinarian, and date.

• • • • •

27. A new § 3.111(d) (9 CFR 3.111(d)) is added to the standards as follows:

• • • • • •

(d) Carriers and intermediate handlers shall attempt to notify the consignee at least once in every 6 hour period following the arrival of any live animals at the animal holding area of the terminal cargo facility. The time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee shall be recorded on the copy of the shipping document retained by the carrier or intermediate handler and on a copy of the shipping document accompanying the animal shipment.

28. § 3.112(a)(4) of the standards (9 CFR 3.112(a)(4)) is amended to read as follows:

§ 3.112 Primary enclosures used to transport live animals.

• • • • •

(a) "• • • (4) except as provided in paragraph (g) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however,* That at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; • • •."

• • • • •

29. Section 3.116 of the standards (9 CFR 3.116) is amended to read as follows:

§ 3.116 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.106 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation, and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live animals shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live animals when the air temperature within such animal holding area is 29.5° C (85° F) or higher. The air temperature around any live animal in any animal holding area shall not be allowed to fall below 7.2° C (45° F) nor be allowed to exceed 35° C (95° F) at any time: *Provided, however,* That no live animal shall be subjected to air temperatures in excess of 29.5° C (85° F) for more than 4 hours at any time.

30. Section 3.117 of the standards (9 CFR 3.117) is amended to read as follows:

§ 3.117 Handling.

(a) Carriers and intermediate handlers shall move live animals from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live animal in an animal holding area of a terminal facility or in transporting any live animal from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live animals from the direct rays of the sun.

(2) *Shelter from rain or snow.* Live animals shall be provided protection to allow them to remain dry during rain or snow.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live animals when the outdoor air temperature falls below 10° C (50° F).

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live animal contained therein.

(c) Primary enclosures used to transport any live animal shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

(Secs. 3, 5, 6, 10, 11, 12, 13, 14, 16, 17, 21, 80 Stat. 351, 352, 353, 84 Stat. 1561, 1562, 1563, 1564, 90 Stat. 418, 419, 420, 423 (7 U.S.C. 2133, 2135, 2136, 2140, 2141, 2142, 2143, 2144, 2146, 2147, 2151); 37 FR 28464, 28477, 38 FR 19141.)

It is to the benefit of the public and the regulated industries that these amendments to the regulations be made effective at the earliest practicable date. The changes effected by these regulations will not require extensive preparation by those affected in that the amendments relax certain of the requirements contained in the current, regulations. In view of the foregoing, it is hereby found and determined that good cause exists for making these regulations effective on the date of publication in the FEDERAL REGISTER, and that it would be contrary to the public interest to delay the effective date of these amendments for 30 days after their publication. (Section 553(d), Administrative Procedures Act, 5 U.S.C. 551-559.)

Done at Washington, D.C., this 9th day of May 1978.

NOTE.—The Animal and Plant Health Inspection has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-13111 Filed 3-15-78; 8:45 am]

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Federal Register

TUESDAY, MAY 16, 1978
PART IV



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

COMMERCIAL TANNER CRAB FISHERY OFF COAST OF ALASKA

Fishery Management Plan and Proposed Regulations

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[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 611, 671]

COMMERCIAL TANNER CRAB FISHERY OFF THE COAST OF ALASKA

Fishery Management Plan and Proposed Regulations

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Fishery management plan and proposed regulations.

SUMMARY: This document proposes regulations to govern domestic and foreign fishing for Tanner crab off the coast of Alaska. These regulations are proposed to implement the Fishery Management Plan for Tanner Crab Off Alaska which was adopted by the North Pacific Fishery Management Council, and approved by the Secretary on April 18, 1978, under the Fishery Conservation and Management Act of 1976. This document also contains the "Fishery Management Plan for Tanner Crab off the Coast of Alaska". Comments are solicited on the plan as well as the proposed regulations.

DATE: Comments will be received until June 30, 1978.

ADDRESS: Comments should be addressed to: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Reitze, Director, Alaska Region, National Marine Fisheries Service, Box 1668, Juneau, Alaska, 99802, 907-586-7221.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Fishery Conservation and Management Act of 1976 as amended, 16 U.S.C. 1801-1882 (the "Act"), authorizes the Secretary of Commerce (the "Secretary") to promulgate regulations implementing fishery management plans prepared by the Regional Fishery Management Councils for their areas of jurisdiction within the 3-200 mile Fishery Conservation Zone (FCZ) established by the Act.

Pursuant the Title III of the Act, the North Pacific Fishery Management Council adopted and submitted to the Secretary a Fishery Management Plan (FMP) for Tanner crab off the coast of Alaska. A Draft Environmental Impact Statement (DEIS) for the plan was published on July 11, 1977 by the National Marine Fisheries Service. For notice of availability of the DEIS, see 43 FR 37026. The FMP and implementing regulations in combination, are published herein.

This FMP supersedes that portion of the Preliminary Management Plan (PMP) for king and Tanner crab of the eastern Bering Sea applicable to Tanner crab (42 FR 9520, February 16, 1977). It covers all Tanner crab throughout the Fishery Conservation Zone (FCZ) adjacent to Alaska.

PURPOSE OF THE PLAN

Three major objectives control the philosophy of management of the Tanner crab fishery off Alaska:

1. Minimize fluctuations in stock abundance due to harvest by maintaining the full reproductive potential of the Tanner crab stocks;

2. Insofar as possible, prevent industry overcapitalization and minimize economic distress due to extreme fluctuations in harvest based on naturally fluctuating stock abundance; and

3. Integrate management of Tanner crab stocks with those of other fisheries to maximize economic returns and minimize adverse impact on other stocks.

REGULATIONS TO IMPLEMENT THE PLAN

Accordingly, the regulations (50 CFR Part 671) set forth immediately below, applicable to all domestic fishers, are proposed to implement the fishery management plan developed by the North Pacific Fishery Management Council published herein. Final regulations for foreign fishers of Tanner crab have already been published (March 14, 1978, 43 FR 10566-10567) to implement the preliminary fishery management plan, and these regulations continue in effect. The Service proposes to implement the present FMP for Tanner crabs with these identical regulations (Part 611, Subpart G) which are reprinted herein and upon which public comment is solicited.

An important element of the FMP is the flexibility built into the management system. This flexibility is in the form of in-season adjustments of those areas which may be fished and the times in which fishing may occur. These proposed regulations seek to provide for such flexibility by proposing that the Alaska Regional Director of the National Marine Fisheries Service, in close coordination with the Alaska Department of Fish and Game, adjust season opening and closing dates, based upon catch statistics and biological and other data, for conservation purposes. In-season adjustments will be accomplished by issuance of a field order by the Regional Director.

PUBLIC COMMENT

Interested parties, Councils and government agencies are encouraged to submit written comments, views or data concerning the plan and these proposed regulations, including the foreign fishing regulations appearing on March 14, 1978, (See 50 CFR 611, 34 FR 10566—10567) to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235. Written comments may be submitted to the Assistant Administrator until June 19, 1978.

NOTE.—The appropriate amended environmental impact statement has been filed with the Environmental Protection Agency. The National Marine Fisheries Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

Signed at Washington, D.C., this 3d day of May 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

50 CFR Part 611 is amended as follows:

§ 611.20 [Amended]

1. In § 611.20 Table I, the second and third entries from the bottom are deleted and the following entries are inserted: 017 and 018 • • • Tanner crab • • • Bering Sea • • • 15,000 • • • DO 099 • • • Other species • • • Aleutians and Bering Sea • • • 93,600 • • • DO.

2. Section 611.91 is added to read as follows:

§ 611.91 Tanner crab fishery.

(a) *Purpose.* This section regulates foreign fishing for snow (Tanner) crabs (*Chionoecetes bairdi* and *Chionoecetes opilio*) in the Bering Sea.

(b) *Authorized fishery.* (1) *TALFF.* The 1978 TALFF for snow (Tanner) crab is 15,000 metric tons. (2) *National allocations.* Foreign vessels may engage in the fishery for snow (Tanner) crab in accordance with TALFF set forth in paragraph (b)(1) of this section and the following national allocations:

(i) Japan: 15,000 metric tons.

(c) *General restrictions.* No foreign fishing vessel may retain any female or soft shell snow (Tanner) crab. All female or soft shell crabs shall be immediately returned to the sea in a manner which minimizes handling mortality, and in accordance with § 611.13.

(d) *Gear restrictions.* It shall be unlawful for a foreign fishing vessel fishing for snow (Tanner) crab to use gear other than pots. A pot is defined as a portable structure designed and constructed to capture and retain crabs alive in the water.

(e) *Open area.* Foreign fishing vessels may fish for snow (Tanner) crab in the Bering Sea, except as restricted in § 611.91(f).

(f) *Closed area.* No foreign fishing vessel may fish for snow (Tanner) crab:

(1) Within 12 nautical miles of the baseline used to measure the U.S. territorial sea; or (2) south of a straight line drawn along 58° N. latitude, and east of a straight line drawn along 164° W. longitude.

(g) *processing.* No foreign fishing vessel operating with a factory ship may process crabs. (The permits for such vessels will specifically exclude from the authorized activities the processing of crabs.) All crabs taken by such vessels must be processed solely by a factory ship permitted in the crab fishery.

(h) *Loading and off-loading.* Crabs must be taken aboard factory ships in a manner in which an observer can verify the total weight of crabs taken aboard. Crabs off-loaded within the fishery conservation zone from fishing vessels not operating with a factory ship must be transferred in a manner in which an observer can verify the total weight of crabs off-loaded.

(i) *Pre-departure inspection.* No foreign crab catching vessels, other than those operating with a factory ship, may depart from the fishing area until its catch of crabs onboard is checked by an observer, or an authorized officer.

(j) *Additional reports.* (1) *Daily reports:* Foreign crab catching vessels, other than those operating with a factory ship, shall report daily to the Regional Director:

(i) Its 12 noon (G.m.t.) position,

(ii) The preceding day's catch by species (*C. bairdi, C. opilio,* and hybrids), and

(iii) Its cumulative catch.

(2) *Weekly catch report.* (i) The weekly catch report (required by Section 611.9(e) shall be submitted to the Regional Director within 6 days following each 7-day fishing period, and contain additional information concerning:

(A) Effort in total pot lifts during the 7-day period, and

(B) Catch in metric tons and the number of crabs of the type *C. opilio* and *C. bairdi* caught during the 7-day period. Hybrids shall be reported as *C. opilio.*

(ii) The requirement of § 611.9(e)(1) that the weekly catch report be on a vessel-by-vessel basis is waived for vessels operating with a factory ship. The required data for such vessels may be consolidated and reported by factory ship.

(3) *Annual report.* Each nation whose vessels engage in this fishery shall report by May 30, of the following year annual catch and effort statistics as follows: Effort in pots hauled and hours pots soaked; catch in metric tons, and the number of snow (Tanner) crabs of the species *C. opilio, C. bairdi,* and hybrid. Each of these requirements is to be supplied by vessel class, by month by ½° (lat.) by 1° (long.) statistical area by the following species grouping: *C. bairdi, C. opilio.*

50 CFR Part 671 is added as follows:

PART 671—TANNER CRAB OFF ALASKA

Sec.
671.1 Purpose.
671.2 Definitions.
671.3 Registration areas.
671.4 Optimum yield table.
671.5 Prohibitions.
671.6 Size and sex restrictions.
671.7 Vessel registration.
671.8 Vessel inspection.
671.9 Landing requirements.
671.10 Season and gear restrictions.
671.11 Reporting requirements.
671.12 In-season adjustment of seasons and areas.
671.13 Notice requirements.

AUTHORITY: Sec. 305, Fishery Conservation and Management Act of 1976; 16 U.S.C. 1855.

§ 671.1 Purpose.

This part regulates fishing for Tanner crab (*C. bairdi* and *C. opilio*) by vessels of the United States within that portion of the Bering Sea and Gulf of Alaska over which the United States exercises exclusive fishery management authority.

§ 671.2 Definitions.

As used in this Part:

(a) *"Act"* means the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801-1882.

(b) *ADF & G* means the Alaska Department of Fish and Game.

(c) *Authorized Officer* means:

(1) Any commissioned, warrant, or petty officer of the Coast Guard;

(2) Any certified enforcement or special agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary or the Commandant of the Coast Guard to enforce the provisions of the Act; or

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in subparagraph (1) of this paragraph.

(d) *Vessel* means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for fishing for Tanner crab for the purpose of sale or barter.

(e) *Fishery conservation zone (FCZ)* means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

(f) *Fishing* means any activity, other than scientific research, which:

(1) Does, is intended to, or can reasonably be expected to result in the removal from the sea of Tanner crab.

(2) Results in the processing including freezing of Tanner crab or Tanner crab products at sea; or

(3) Results in the transfering or transporting at sea of Tanner crab or Tanner crab products.

(g) *Person* means any individual, corporation, partnership, association, or other entity.

(h) *Regional Director* means the Director of the Alaska Region of the National Marine Fisheries Service, or his designee.

(i) *Ring Net* means a bag-shaped net suspended from a circular or rectangular frame.

(j) *Tanner Crab* means all species of the genus *Chionoecetes* including *C. bairdi* and *C. opilio.*

(k) *Tanner Crab Pot* means a portable structure designed and constructed to capture and retain fish and shellfish alive in the water. The Tanner crab pot has rigid tunnel eye openings which individually are a maximum of five (5) inches (13 cm) in one dimension, and tunnel eye opening perimeters which individually are larger than thirty (30) inches (76 cm); or the pot tapers inward from its base to a top consisting of one horizontal opening of undescribed size.

§ 671.3 Registration areas.

(a) For purposes of this part the FCZ off the coast of Alaska is divided into four Federal registration areas identified and described as follows:

(1) *Registration Area A* (Southeastern Alaska-Yakutat) is that portion of the FCZ north of 54°30' N. latitude and east of 143°53.6' W. longitude;

(2) *Registration Area E* (Prince William Sound) is that portion of the FCZ which has as its western boundary a line extending south from Cape Fairfield (150° W. longitude), and as its eastern boundary a line extending south from Cape Suckling (143°53.6' W. longitude);

(3) *Registration Area H* (Cook Inlet) is that portion of the FCZ which has as its eastern boundary a line extending south from Cape Fairfield (150° W. longitude), and as its southern boundary a line extending east from Cape Douglas at 58°51' N. latitude;

(4) *Registration Area J* (Westward) is that portion of the FCZ which has as its northern boundary a line at 58° N. latitude, as its eastern boundary a line extending south from Cape Fairfield 150° W. longitude, and as its western boundary a line 172° E. longitude.

(5) The inner boundary of each Federal registration area is a line coterminous with the seaward boundary of

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the State, and the outer boundary, except for Registration Area H (Cook Inlet), is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured. The outer boundary for Registration Area H (Cook Inlet), is a line extending east from Cape Douglas at 58°51' N. latitude.

(b) *Exclusive and Non-Exclusive Areas.* Federal Registration Areas E and H, as defined in subsection (a) are exclusive Registration Areas. Federal Registration Areas A and J, as defined in subsection (a) are non-exclusive registration areas.

(c) *State Registration Areas.* For purposes of this part there shall be four State registration areas which shall be designated A, E, H, and J to correspond to the Federal registration areas. The State areas adjoin the corresponding Federal areas at the common boundary which separates territorial waters from the FCZ.

§ 671.4 Optimum yield table.

(a) The optimum yield for Tanner crab in each Federal registration area is as follows:

Registration area	Optimum yield (in metric tons)	Species
Registration Area A (Southeast-Yakutat).	2,495	*C. bairdi*
Registration Area E (Prince William Sound).	1,361–3,175	*C. bairdi*
Registration Area H (Cook Inlet).	2,404	*C. bairdi*
Registration Area J, Kodiak district only (Kodiak).	6,804–11,340	*C. bairdi*
Subdistricts of Area J:		
(1) Area between 157°27' W. longitude (Cape Kumlik) and 172° E. longitude, south of the South Peninsula and Aleutian Islands:		
(South Peninsula)	9,072–13,608	*C. bairdi*
(Aleutian)	907	*C. bairdi*
(2) Bering Sea waters north of 54°36' N. latitude.	40,381	*C. bairdi*
(3) Bering Sea waters south of 58° N. latitude.	10,000	*C. opilio*
(4) Bering Sea waters north of 58° N. latitude and west of 164° W. longitude.	1,360–2,269	*C. opilio*

§ 671.5 Prohibitions.

(a) *Vessel registration certificate.* No vessel shall fish for Tanner crab in any Federal registration area unless authorized by a registration certificate issued pursuant to § 671.6.

(b) *Vessel inspection.* No vessel shall fish for Tanner crab unless it is inspected as required by § 671.8.

(c) *Landings.* No Tanner crab shall be landed except pursuant to § 671.9.

(d) *Retention of Tanner crab.* No Tanner crab shall be retained except pursuant to § 671.6.

(e) *Gear.* Tanner crab may be taken only by Tanner crab pot or ring nets, except as otherwise provided in § 671.10 of these regulations.

(f) *Seasons.* Tanner crab may be taking only during the seasons provided in § 671.10.

(g) No person shall possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land, any Tanner crab taken in violation of the Act and these regulations.

(h) No person shall fish for Tanner crab in violation of the Act and these regulations.

(i) No person shall fish for Tanner crab or possess unprocessed Tanner crab aboard a vessel within any registration area unless the vessel is validly registered for the area and the season is open, or unless the person is acting pursuant to the authorization of § 671.9(b) of these regulations.

§ 671.6 Size and sex restrictions.

(a) No female Tanner crab may be retained.

(b) No male Tanner crab measuring less than 5½ inches (140 mm) across the greatest width of the carapace may be retained, except that male Tanner crabs in Federal Registration Area E (Prince William Sound) may be retained if they measure 5.3 inches (135 mm) across the greatest width of the carapace. The width measurement of Tanner crab shall be determined by measuring the greatest straight line distance across the carapace, including the spines, perpendicular to an imaginary line drawn between a point midway between the eyes and the midpoint of the posterior portion of the carapace.

(c) All female and undersized male Tanner crabs must be returned to the sea immediately with a minimum of injury, regardless of their condition.

§ 671.7 Vessel registration.

(a) *Vessels not registered by the State.* This subsection provides procedures for the registration of vessels which are not registered by the State to fish for Tanner crab as provided in subsection (b).

(1) *Application.* The owner, or the owner's authorized agent, of any vessel may apply to the Regional Director for a registration certificate to fish for Tanner crab in a Federal registration area. All applications shall be submitted on a form obtained from the Regional Director.

(2) *Time.* Application forms must be completed by the applicant and received by the Regional Director within 30 calendar days prior to the scheduled date for the opening of fishing as provided for in § 671.10.

(3) *Approval.* The Regional Director shall issue the registration certificate to the vessel if he determines that the requirements of paragraphs (1) and (2) of this section are met.

(4) *Waiver.* If an application is received after the date specified in paragraph (2) of this section the Regional Director may, for good cause shown, waive the 30 day time requirement.

(5) *Certificates.* The registration certificate issued to the vessel shall be signed by the registrant, kept on board the vessel at all times during fishing operations, and presented to any authorized officer upon request.

(6) *Inspection.* A registration certificate shall not become valid until the vessel has complied with the inspection requirements contained in section 671.8 of these regulations.

(7) *Fees.* There shall be no fee for the issuance of a registration certificate.

(8) *Expiration.* A registration certificate shall expire 72 hours after the closure of the season in the Federal registration area for which it was issued.

(b) *Vessel registered by the State of Alaska.* (1) Vessels registered by the State to fish for Tanner crab in a State registration area may only register for the corresponding adjacent Federal registration area of the same letter. Such registration can be accomplished by obtaining at the time the vessel is registered by the State a stamp issued by a local representative of the ADF&G designated by the Regional Director for such purpose. The stamp shall indicate registration for the corresponding adjacent Federal registration area of the same letter.

(2) Vessels registered by the State to fish for Tanner crab in an exclusive State registration area may only register in the corresponding Federal exclusive registration area of the same letter.

(c) *Exclusive and nonexclusive areas.* (1) No vessel registered to fish for Tanner crab in an exclusive Federal registration area may be registered to fish for Tanner crab in any other Federal registration area (exclusive or nonexclusive). A vessel may be registered to fish for Tanner crab in either or both of the non-exclusive Federal registration areas.

(2) No operator of a vessel registered for an exclusive Federal registration area may operate any other vessel registered for any other exclusive Federal registration area.

§ 671.8 Vessel inspection.

(a) *Inspection requirement.*—(1) *Time.* Within 72 hours prior to a season opening or at any time during the open season prior to fishing, each registered vessel must have its holds or live tanks inspected by an authorized officer, at inspection points specified in subsection (b) of this section.

(2) *Requirement.* No Tanner crab shall be onboard the vessel at the time of inspection. This requirement must be met to validate the registration certificate for the Federal registration area concerned under section 671.7.

(3) *Certificate.* No vessel shall be given an inspection certificate unless a current registration certificate for the Federal registration area is displayed to the authorized officer conducting the inspection. The inspection certificate shall be signed by the current vessel operator and shall be presented to any authorized officer upon request at any time.

(4) *Landings.* A vessel landing Tanner crab pursuant to § 671.9(b) of these regulations, in a State registration area other than the area adjacent to the Federal registration area for which the vessel is registered, shall attach the inspection certificate to the back of the ADF&G copy (yellow copy) of the State fish ticket at the time the Tanner crab are landed.

(b) *Inspection Points.* Inspection points shall be those established by ADF&G for State purposes. Additional inspection points for inspection required by this section may be authorized by the Regional Director if he finds that:

(1) Existing inspection points are imposing an unusual and material hardship which affected fishermen cannot themselves mitigate; or

(2) The ADF&G has no practical means of making special administrative accommodations regarding existing inspection points; and

(3) Authorization of additional inspection points would not result in a significant likelihood of unauthorized fishing or other management or enforcement problems.

§ 671.9 Landing requirements.

(a) Except as provided in subsection (b) of this section, all Tanner crab landed in the State must be landed in the corresponding State registration area adjacent to the Federal registration area of the same letter for which the vessel is registered.

(b) A vessel operator who desires to land Tanner crab outside the State, or in a State registration area other than the adjacent corresponding State registration area of the same letter, shall contact by radio or other means an authorized officer prior to leaving the Federal registration area for which the vessel is registered, and shall state to the authorized officer the amount of Tanner crab on board at the time. A vessel acting pursuant to this authorization shall submit to inspection at such location as the authorized officer may require and land no greater amount of Tanner crab than were present at the time of any inspection.

(c) When a vessel lands Tanner crab pursuant to the authorization in subsection (b) of this section, the registration under which the vessel is operating becomes invalid. In order to again become registered for a Federal registration area, the vessel must comply with § 671.8.

§ 671.10 Season and gear restrictions.

(a) *Season dates.* All season dates are inclusive. Time periods begin at 12:01 a.m. and end at 11:30 p.m. of the dates specified, based on local zone time, unless otherwise specified in these regulations.

(b) *General requirements.* (1) At least one buoy on each Tanner crab pot or ring net shall be legibly marked with the permanent registration number of the vessel fishing gear. The buoy shall bear a single registration number and this number shall be that of the vessel used in operating the gear. Registration numbers shall be painted on the top one-third of the buoy in numerals at least 4 inches in height and ¼ inch in width in contrasting color to that of the buoy. The buoy markings shall be legibly inscribed and visible on the buoy above the water surface when attached to the Tanner crab pot, and maintained in a legible condition.

(2) During the closed season for Tanner crab in any given area, Tanner crab pots shall either be removed from the water or stored in 25 fathoms (46 m) of water or less, with all doors secured fully open and all bait and bait containers removed, with the following exceptions:

(i) In the Kamishak Bay and Southern districts of the Cook Inlet area, the maximum pot storage depth is 15 fathoms (27 m);

(ii) Tanner crab pots with all doors secured fully open and with all bait containers removed may be stored in water depth greater than the maximum permissible storage depth for 72 hours prior to the opening of the Tanner crab season, and for 72 hours after the season closure where the pots are fished;

(iii) Tanner crab pots may be stored in waters deeper than 25 fathoms (46 m) if so provided in section 671.11 of these regulations.

(c) *Registration Area A.*—(1) *Seasons.* Tanner crab may be taken from September 1 through May 15, subject to adjustment by the Regional Director pursuant to sections 671.12 and 671.13 of these regulations.

(2) *Gear.* (i) South of the latitude of Cape Fairweather Tanner crab pots shall have a seam in the mesh of one vertical wall from top frame to bottom frame laced in with untreated cotton twine, or have one wall of synthetic fiber attached to the frame with untreated cotton twine.

(d) *Registration Area E.*—(1) *Districts.* The following districts within Federal Registration Area E are established:

(i) *Northern District:* All waters west and north of a line from the southern entrance of Port Nellie Juan at 60°36' N. latitude to Point Eleanor to the eastern tip of Smith Island to Johnstone Point, and north of a line from Point Bentinck to Point Whitshed.

(ii) *Western District:* All waters east of the longitude of Cape Fairfield (148°53' W. longitude) south of a line from the southern entrance of Port Nellie Juan at 60°35' N. latitude to Point Eleanor to the eastern tip of Smith Island to Montague Point, west of a line from Zaikof Point to Seal Rocks (60°10' N., 145°50' W. longitude) and west of longitude of Seal Rocks (60°10' N. latitude, 145°50' W. longitude).

(iii) *Eastern district:* All waters east of longitude of Seal Rocks (60°10' N. latitude, 146°50' W. longitude), east of a line from Seal Rocks (60°10' N. latitude, 146°50' W. longitude), to Cape Hinchinbrook, south of a line from Point Bentinck to Point Whitshed, and west of the longitude of Cape Suckling (59°59' N. latitude, 143°53' W. longitude).

(iv) *Hinchinbrook district:* All waters east of a line from Montague Point to the eastern tip of Smith Island, south of a line from the eastern tip of Smith Island to Johnstone Point, north and east of a line from Cape Hinchinbrook to Seal Rocks (60°10' N. latitude, 146°50' W. longitude), and east of a line from Seal Rocks (60°10' N. latitude, 146°50' W. longitude) to Zaikof Point.

(2) *Seasons.* Tanner crab may be taken in Registration Area E from November 15 through May 31, subject to change by the Regional Director pursuant to section 671.12 and 671.13 of these regulations.

(3) *Gear.* Only Tanner crab pots may be used to fish for Tanner crab. Tanner crab taken by any other means must be immediately returned to the sea, with a minimum of injury, regardless of their condition.

(e) *Registration Area H.—(1) Districts:* The following districts within Registration Area H are established:

(i) *Central District;* Between a line extending from Boulder point at 60°46'23" N. latitude, to Shell Platform C, then to a point on the west shore at 60°46'23" N. latitude, and the latitude of Anchor Point light.

(ii) *Northern District:* All waters north of a line extending from Boulder Point at 60°46'23" N. latitude, to Shell Platform C, then to a point on the west shore at 60°46'23" N. latitude.

(iii) *Southern District:* All waters within a line from Anchor Point west to 59°46'15" N. latitude, 152°20' W. longitude, then south to 59°04'15" N. latitude, 152°20' W. longitude, then in a northeasterly direction to Cape Elizabeth, then from Cape Elizabeth to Point Adam, including Kachemak Bay.

(iv) *Kamishak Bay District:* All waters within a line from 59°46'15" N. latitude, 153°00'30" W. longitude, then east to 59°46'15" N. latitude, 152°20' W. longitude, then south 59°04'15" N. latitude,152°10' W. longitude, then southwesterly to Cape Douglas, including Kamishak Bay.

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(v) *Barren Islands District:* All waters within a line from Cape Douglas to Cape Elizabeth, then south to 58°52' N. latitude, 151°53' W. longitude, then west to Cape Douglas.

(vi) *Outer District:* All waters within a line from Point Adam to Cape Elizabeth, then south to 58°52' N. latitude, 151°53' W. longitude, then east to the longitude of Aligo Point (149°44'33" w. longitude), then north to the mainland of Alaska.

(vii) *Eastern District:* All waters east of the longitude of Aligo Point (149°44'33" W. longitude), west of the longitude of Cape Fairfield (148°40' W. longitude), and north of 58°52' N. latitude

(2) *Seasons:* Tanner crab may be taken in Registration Area H from December 1 through April 30, except that the Kamishak Bay district will remain open through May 31, subject to adjustment by the Regional Director pursuant to sections 671.12 and 671.13 of these regulations.

(3) *Gear:* During any king crab season established by the State an aggregate of not more than 75 king and Tanner crab pots (including Tanner crab pots used in State waters) may be fished from any registered Tanner crab vessel.

(f) *Registration Area J.*—(1) *Districts.* The following districts within Registration Area J are established:

(i) *Kodiak district:* South of 53° N. latitude, west of 150° longitude and east of the longitude of Cape Kumlik (157°17.0' W. longitude).

(ii) *South Peninsula District:* Between the longitude of Cape Kumlik and the longitude of Scotch Cap light (154°44.6' W. longitude).

(iii) *Aleutian district:* Between the longitude of Scotch Cap light (164°44.6' W. longitude and 172° E. longitude, and south of 54°36' N. latitude.

(iv) *Bering Sea District:* Bering Sea waters north of 54°36' N. latitude.

(A) The following subdistricts within the Bering Sea District are established:

(*1*) *Southeastern district:* East of 168° W. longitude, and south of the latitude of Cape Newenham (58°39' N. latitude), including Bristol Bay waters.

(*2*) *Pribilof subdistrict:* West of 168° W. longitude and south of the latitude of Cape Newenham (58°39' N. latitude).

(*3*) *Northern subdistrict:* North of the latitude of Cape Newenham (58°39' N. latitude).

(*i*) *Nome section:* All waters of Norton Sound between the longitude of Penny River and the longitude of Topkok Head.

(*ii*) *General section:* All other waters of the Northern subdistrict.

(*2*) *Seasons.* Subject to adjustment by the Regional Director pursuant to sections 671.12 and 671.13 of these regulations, Tanner crab may be taken:

(i) In the Kodiak district from January 1 through April 30;

(ii) In the South Peninsula district from November 1 to 12 noon, May 15;

(iii) In the Aleutian district from November 1 to 12 noon, June 15;

(iv) In the Bering Sea district from November 1 to 12 noon, June 15.

(3) *Gear.*—(i) During any king crab season established by the State of Alaska in the Kodiak and South Peninsula districts an aggregate of not more than 75 king and Tanner crab pots (including Tanner crab pots used in State waters) may be fished from any registered Tanner crab vessel.

(ii) During the closed season for Tanner crab, Tanner crab pots may be stored west of 172° W. longitude in 30 fathoms (55 m) of water or less, or by removal from the water.

§ 671.11 Reporting requirements.

(a) The operator of any vessel subject to these regulations shall, for each sale or delivery of any Tanner crab caught within any Federal registration area, submit an accurately completed State fish ticket. The fish ticket shall be submitted to the Regional Director within 72 hours after such Tanner crab were sold or delivered.

(b) Each such fish ticket shall contain the following information:

(1) Type and quantity of fishing gear used;

(2) Catch by species in numbers of crab or weight thereof;

(3) Areas in which fishing was engaged in;

(4) Time of fishing; and

(5) Number of hauls.

§ 671.12 In-season adjustment of seasons and areas.

(a) The Regional Director may, following consultation with the A.D.F. & G., amend the season opening and closing dates specified in section 671.10 if he determines that an emergency exists. Such determination shall be based upon data which relates to the following factors:

(1) The effect of overall fishing effort within the registration area;

(2) Catch per unit of effort and rate of harvest;

(3) Relative abundance of Tanner crab within the area in comparison with pre-season predictions;

(4) The proportion of immature or soft shell Tanner crab being handled;

(5) General information on the condition of Tanner crab within the area;

(6) Information pertaining to the optimum yield within the Registration area; or

(7) Any other factors relevant to the conservation and management of the Tanner crab resource.

(b) If the Regional Director decides to close any area, or to open any area previously closed pursuant to the provisions of this section he shall issue a fielw order which includes the following information:

(1) The reason for the opening or closure;

(2) A description of the area to be opened or closed: and

(3) The effective date of such opening or closing.

§ 671.13 Notice requirements.

(a) No field order issued by the Regional Director pursuant to § 671.12 of these regulations shall be effective until:

(1) It has been posted for 48 hours, and otherwise made available to the public in accordance with procedures customarily used by the A.D.F. & G. for posting and publicizing similar notices of closure;

(2) It has been broadcast for 48 hours at those time intervals, channels and frequencies customarily used by the A.D.F. & G. to broadcast similar notices of closure; and

(3) A notice of such closure has been published in the FEDERAL REGISTER.

TANNER CRAB FISHERY OFF THE COAST OF ALASKA

FISHERY MANAGEMENT PLAN

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Fishery Management Plan and Proposed Regulations.

EFFECTIVE DATE: May 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, telephone 907-586-7221.

SUMMARY: A fishery management plan for the Tanner crab fishery off the coast of Alaska has been reviewed and approved in accordance with Section 304 of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended (the Act). The plan was prepared and submitted by the North Pacific Fishery Management Council. This action has been taken under a delegation of authority from the Secretary of Commerce to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration. The plan has been found to be consistent with the national standards in Section 301 of the Act, the other provisions of the Act and other applicable law.

SUPPLEMENTARY INFORMATION: Proposed regulations to implement the plan are being published, concurrently with the publication of this plan, in the FEDERAL REGISTER. These proposed regulations will be open for public comment for a period of 45 days from the date of publication.

The commercial fishery for Tanner crab has only recently developed and is expanding rapidly, partly as a result of declining stocks of king crab and a subsequent shift in catch efforts to Tanner crab stock. There is much concern that without proper conservation and management measures, Tanner crab stocks will be overfished. The North Pacific Fishery Management Council, recognizing the need for management of the Tanner crab fishery off Alaska, has developed a fishery management plan with three major objectives:

1. Minimize fluctuations in stock abundance due to harvest by maintaining the full reproductive potential of the Tanner crab stocks;
2. Insofar as possible, prevent industry overcapitalization and minimize economic distress due to extreme fluctuations in harvest based on naturally fluctuating stock abundance; and
3. Integrate management of Tanner crab stocks with those of other fisheries to maximize economic returns and minimize adverse impact on other stocks.

To achieve these objectives, the North Pacific Fishery Management Council has proposed that the Secretary of Commerce implement the fishery management plan through regulations providing for season, area, gear, sex, size, and harvest level restrictions for domestic fisheries, and through regulations governing foreign fishing which are identical to those published implementing the preliminary management plan for Tanner crab (see 50 CFR Part 611, 43 FR 10566-10567, March 14, 1978).

Signed at Washington, D.C., this 3d day of May, 1978.

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FISHERY MANAGEMENT PLAN FOR TANNER CRAB OFF THE COAST OF ALASKA

PREPARED BY: NORTH PACIFIC FISHERY MANAGEMENT COUNCIL, P.O. BOX 3136DT, ANCHORAGE, ALASKA 99510, AND NATIONAL MARINE FISHERIES SERVICE, P.O. BOX 1669, JUNEAU, ALASKA 99802

MAY 1978.

EXECUTIVE SUMMARY OF THE FISHERY MANAGEMENT PLAN FOR TANNER CRAB OFF ALASKA

This plan represents the initial step in the development of a comprehensive management program for Tanner crab off Alaska in response to the requirements of the Fisheries Conservation and Management Act of 1976 (U.S. Pub. L. 94-265). The necessity for having a management plan in force by March 1978 that permits continuation of the fishery without disruption to the fishery industry mandates that the existing tested and familiar management measures and mechanisms be adopted.

The plan proposes that the Secretary adopt the relevant Alaska statutes and regulations currently in force. These statutes and regulations require registration, designate zones where fishing is permitted, establish limitation on sex and size of Tanner crab which may be retained, limit the type and amount of gear which may be employed, and employ other mechanisms to facilitate the administration and enforcement of the necessary and appropriate measures to manage Tanner crab.

This plan sets forth the measures necessary to conserve and manage Tanner crab resources as a unit throughout their range. It provides for a consideration of social and economic influences affecting the allocation of the resource confined only by conservation limits. The plan identifies mechanisms designed to minimize costs and unnecessary duplication and proposes enforcement aids. Together, these interrelated considerations constitute a system of Tanner crab management, consistent with the National Standards set forth in the Fisheries Conservation and Management Act of 1976.

I.A. CONSERVATION AND MANAGEMENT MEASURES

The measures necessary to achieve the optimal yield from this fishery, while perpetuating sufficient brood stock to maintain the resource at a level capable of sustaining the optimal yield, include a system of fishing seasons, area closures, gear regulations, restrictions on sex of crab harvested, harvest levels, and minimum size limits.

(1) *Fishing seasons* expressed as periods of time when fishing is permitted can be manipulated to:

(a) permit economically efficient harvesting while assuring that necessary brood stock will be preserved.

(b) selectively protect weak stocks.

(c) protect sensitive periods of crab life cycles, e.g., egg hatching, soft shell and mating periods.

(d) effect greater dispersion of excessive fishing efforts.

(2) *Area closures* delineate the area where fishing may not be conducted and often complement seasonal regulation. Subareas such as bays may be closed to protect female, immature, or soft-shell Tanner crab from excessive handling. In-season closures are necessary when the appropriate harvest level has been taken.

(3) *Fishing gear regulation* involves defining permissible gear types and amounts.

(a) *Legal gear* is restricted to Tanner crab pots and where appropriate, to ring nets and scuba diving.

(b) *Limitations on numbers of pots* is required in some areas to provide compatibility with pot limits in the king crab fishery for enforcement purposes.

(4) *Sex limitation regulation* protects the reproductive potentials of Tanner crab stocks by restricting the harvest to males only.

(5) *Size limits and harvest levels* are used in concert to optimize the annual harvest and to avoid industry dependence on maturing male crab in the fishery. These measures operate to establish a sufficiently broad spectrum of legal size crab in sufficient quantities and are determined by or concerned with:

(a) Size at maturity and growth per molt after maturity;

(b) Age dependent mating behavior;

(c) Avoiding dependence on a "recruits only fishery";

(d) Maintaining productivity of all segments of brood stocks.

Inseason adjustments to anticipated harvest levels are made as the fishery provides a real-time measure of the status of stocks.

The current statewide size limit is 5.5 inches (140 mm), except for Prince William Sound where it is 5.3 inches (135 mm).

I.B. MECHANISMS TO IMPLEMENT MANAGEMENT MEASURES AND FACILITATE ENFORCEMENT

The expanse of Alaska's coast precludes the capability of directly patrolling all of the potential Tanner crab fishing grounds for enforcement of the conservation and management measures. Clearly, indirect measures are necessary so that the regulations implementing the necessary management measures are enforceable. This section outlines a system that minimizes the need and cost of direct enforcement. This system consists of a landing law approach, area landing/loading laws, area registration and inspection, and description and marking of Tanner crab gear.

(1) *The Landing Law Approach:* The landing law system prohibits the *landing*, including the possessing, vending, trading, transporting, or purchasing of all Tanner crab taken contrary to regulations, and it applies to the possession of Tanner crab gear in operable condition in areas or at times contrary to regulation. The immediate alternative to this form of conservation program is direct enforcement—a costly, inefficient program.

(2) *Area Registration and Inspection: Area registration* is designed to implement the landing law concept for individual registration areas and thereby facilitates management of individual Tanner crab fisheries according to local conditions. Area registration provides an important information base for instituting conservation measures and for dispersing the fleet. The regulation areas generally conform to the biological boundaries of the stocks within each area. The function of registration is to limit the number of areas in which a vessel may operate and to determine the size and capacity of the fleet that will be operating in a given area. The registration areas are composed of two kinds—exclusive and nonexclusive. *Exclusive registration areas* are generally areas of developing Tanner crab fisheries, or relatively unexplored areas or areas where fishing effort is encouraged in order to gain further information concerning the resource in that area.

Inspection is used to validate the registration of vessels immediately prior to fishing. A vessel may only be validly registered for *one area* at a time in order to insure accurate reporting of catch location. The combined purpose of registration, inspection, and landing restrictions, through practical limitations on operations, is to allow only those landings of Tanner crab where it is highly probable that such crab were not taken from unauthorized areas. In order to minimize the impact of limiting markets for fishermen in that area, provisions are made for landing in other areas by radio contact.

(3) *Catch Reporting:* Catch reporting by the fishermen and the buyers is necessary for proper management, revenue collection, value determination and fishery enforcement. When a Tanner crab fisherman lands his catch, a report in the form of a "fish ticket" must be made. The information requested provides a statistical data base of the fishery.

(4) *Description and Marking of Crab Pot Gear:* Tanner crab buoys must be marked in a manner to identify the vessel fishing the gear. Tanner crab pots should also be described, by regulation, in a manner which will separate them from pot gear being fished for other species of shellfish or bottomfish and the use of pots described as Tanner crab pots should be prohibited in waters closed to Tanner crab fishing. Storage of pots in non-fishing condition in shallow water can be permitted. The purpose of these requirements is to preclude fishing of Tanner crab in closed waters.

I.C. MANAGEMENT MEASURES AND RATIONALE FOR FOREIGN FISHING

This section of the plan governing foreign fishery conditions, including details of necessary regulations and statistical reporting requirements, is closely patterned after the stipulations in the 1977 Preliminary Fishery Management Plan for the eastern Bering Sea king and Tanner Crab. It identifies a portion of the Bering Sea where foreign fisheries will be confined largely to the Tanner crab species *Chionoecetes opilio*.

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Crab fishing is prohibited south of 58° N. latitude and east of 164° W. longitude. The allocation to foreign pot fisheries directed at Tanner crab in 1978 will be set 20 percent higher than the 1977 catch level of 27,550,000 pounds (12,500 metric tons). The 1978 FAC has been set at 15,000 mt (33,060,000 lbs.).

II. DESCRIPTION, CONDITION AND CAPACITY OF THE FISHERY

Major Alaskan Tanner crab fisheries are located in the area extending around the Gulf of Alaska rim, from southeastern Alaska westward to the Bering Sea. The target specie in all major areas is the *Chionoecetes bairdi*. Alaska's Tanner crab resources are generally judged to be in healthy condition and will support an acceptable biological catch (ABC) of 139.8-163.8 million pounds (63,430-74,319 mt) of *C. bairdi* and 333 million pounds (151,050 mt) of *C. opilio*. Harvest capacity (DAC), processing capacity, maximum sustainable yield (MSY), ABC, optimal yield (OY), expected domestic harvest (DAH) and foreign allowable catch (FAC) for each management area are summarized in Table A.

TABLE A.—*Alaska Tanner crab domestic annual capacity of fleet (DAC), processing capacity, maximum sustainable yield (MSY), acceptable biological catch (ABC), optimum yield (OY), expected domestic annual harvest (DAH), and foreign allowable catch (FAC) by management area for the 1977-78 season.*

	DAC		Processing capacity		MSY		ABC		OY		DAH		FAC	
	10^6 lbs	MT	10^6 lbs	MT	10^6 lbs	MT	10^6 lbs	MT	10^6 lbs	MT	10^6 lbs	MT	10^6 lbs	MT
Southeastern														
Southeast	8	3,739	30	13,608	2.5	1,134	2.5	1,134	2.5	1,134	2.5	1,134	0	0
Yakutat	5	2,029	30	13,608	3	1,361	3	1,361	3	1,361	3	1,361	0	0
Prince William Sound	11	4,808	20	9,072	7.2	3,266	3-7	1,361-3,175	3-7	1,361-3,175	3-7	1,361-3,175	0	0
Cook Inlet	38	17,237	30	13,608	5.3	2,404	5.3	2,404	5.3	2,404	5.3	2,404	0	0
Kodiak	38	17,237	162	73,440	21.5	9,752	15-25	6,804-11,340	15-25	6,804-11,340	15-25	6,804-11,340	0	0
South Peninsula/Aleutian:														
South Peninsula	44	20,049	24	11,057	20	9,072	20-30	9,072-13,608	20-30	9,072-13,608	20-30	9,072-13,608	0	0
Aleutian	28	12,474	135	61,236	2	907	2	907	2	907	2	907	0	0
Bering Sea:														
C. bairdi	135	61,055	160	81,648	89	40,381	89	40,381	89	40,381	89	40,381	0	0
C. opilio:														
S. of 58° N. Lat.					225.0	102,000	225.0	102,000	22.04	10,000	22.04	10,000	0	0
N. of 58° N. Lat. and W. of 164° W. Long.					225.0	102,000	225.0	102,000	36.06-38.06	16,360-17,268		1,360-2,268	33.06	15.0

*A minor portion of this allocation of Tanner crab may be comprised of *C. bairdi* and hybrids.
**Foreign fishing for Tanner crab is prohibited south of 58° North Latitude to protect the stocks of *C. bairdi* which will be fully utilized by the U.S. fishery.

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2.0 INTRODUCTION

This document is a comprehensive management plan for Tanner crab off Alaska in response to the requirements of the Fisheries Conservation and Management Act of 1976 (U.S. Pub. L. 94-265). This plan incorporates, consistent with the national standards, the other provisions of the Act, and the Federal regulations governing foreign fishing in the conservation zone, the management measures and regulations of the State of Alaska.

2.1 GOALS AND OBJECTIVES FOR MANAGEMENT PLAN

This management plan is designed to meet the requirements of the Fisheries Conservation and Management Act and the National Standards by achieving the following objectives:

1. Promote conservation while providing for the optimal yield from the Tanner crab resource in terms of: Providing the greatest overall benefit to the Nation with particular reference to food production and recreational opportunities; avoiding irreversible or long-term adverse effects on fishery resources and the marine environment; and insuring availability of a multiplicity of options with respect to the future uses of these resources.

2. Promote, where possible, efficient utilization of the Tanner crab resource except that no conservation or management measures shall have economic allocation as their sole purpose.

3. Promote fair and equitable allocation of identified available resources in a manner such that no particular group acquires an excessive share of the privileges.

4. Base the plan on the best scientific information available.

In accomplishing these broad objectives a number of secondary objectives are considered:

a. Conservation and management measures should take into account the unpredictable characteristics of future resource availability and socio-economic factors influencing the viability of the industry.

b. Where possible, individual stocks of fish should be managed as a unit throughout their range, but such management should be in due consideration of other potentially impacted resources.

c. In such instances when stocks have declined to levels below that capable of producing MSY, management measures should promote rebuilding the stocks. In considering the rate of rebuilding, factors other than biological considerations should be taken into account.

d. Management measures, while promoting efficiency where practicable, should seek to avoid disruption of existing social and economic structures where fisheries appear to be operated in reasonable conformance with the Act and have evolved over a period of years as reflected in community characteristics, processing capability, fleet size and distribution. These systems and the resource upon which they are based are not static, but change in the existing regulatory regime should be the result of considered action based on data and public input.

e. Management measures should contain a margin of safety in recommending allowable biological catches when the quality of information concerning the resource and the ecosystem is highly limited. The management plan should provide for assessing biological and socio-economic data in such instances where the information base is inadequate to effectively establish the biological parameters of the resource or to reasonably establish optimum yield. The plan should identify information and research required for further plan refinement.

f. Fishing strategy should be designed in such a manner as to have minimal impact on other fisheries and the environment in which they operate.

2.2 OPERATIONAL DEFINITIONS OF TERMS USED

The North Pacific Fisheries Management Council has adopted the following working definitions of terms used in the development of management plans.

A. DETERMINANTS OF CATCH LEVELS

1. *Maximum Sustainable Yield* (MSY) is an average over a reasonable length of time of the largest catch which can be taken continuously from a stock under current environmental conditions. It should normally be presented with a range of values around its point estimate.

Where sufficient scientific data as to the biological characteristics of the stock do not exist or the period of exploitation or investigation has not been long enough for adequate understanding of stock dynamics, the MSY will be estimated from the best information available

2. *Equilibrium Yield* (*EY*). The annual or seasonal harvest which maintains the resource at approximately the same level of abundance (apart from the effects of environmental variation) in succeeding seasons or years.

3. *Acceptable Biological Catch* (ABC) is a seasonally determined catch that may differ from MSY for biological reasons. It may be lower or higher than MSY in some years for species with fluctuating recruitment. It may be set lower than MSY in order to rebuild overfished stocks.

4. *Optimum Yield* (OY) may be obtained by a plus or minus deviation from ABC for purposes of promoting economic, social or ecological objectives as established by law and public participation processes. Ecological objectives, where they primarily relate to biological purposes and factors, are included in the determination of ABC. Where ecological objectives relate to resolving conflicts and accommodating competing uses and values, they are included as appropriate with economic and/or social objectives.

OY may be set higher than ABC in order to produce higher yields from other more desirable species in a multi-species fishery. It might be set lower than ABC in order to provide larger sized individuals or a higher average catch per unit effort.

B. DETERMINATION OF DOMESTIC ANNUAL CAPACITY AND EXPECTED HARVEST

1. *Domestic Annual Fishing Capacity* (DAC) is the total potential physical capacity of the fleets, modified by logistic factors. The components of the concept are:

a. An inventory of total potential physical capacity, defined in terms of appropriate vessel and gear characteristics (e.g., size, horsepower, hold capacity, gear design, etc.)

b. Logistic factors determining total annual fishing capacity, (e.g., variation in vessel and gear performance, trip length between fishing locations and landing points, weather constraints, etc.).

2. *Expected Domestic Annual Fisheries Harvest* (DAH) is the domestic annual fishing capacity modified by other factors which will determine estimates of what the fleets will harvest (e.g., how fishermen will respond to price changes in the subject species and other species, etc.).

These concepts should be placed in a dynamic context of past trends and future projections. For example, physical fleet capacity should not simply be last season's inventory of vessels and hold measurements (although this is appropriate for present interim planning), but also next year's projected movement into and out of the fishery. Vessels under construction should be included and an estimate of attrition made.

The determination of domestic annual fishing capacity and expected harvest should be made on the best available information.

C. *Determination of Foreign Allowable Catch* (FAC). The foreign allowable catch is determined by deducting the domestic annual expected harvest from the optimum yield (OY-DAH=FAC).

3.0. DESCRIPTION OF FISHERY

3.1. AREAS AND STOCKS

The Tanner crab fishery in Alaskan waters is located from Southeastern Alaska to the Bering Sea. Two species of the genus *Chionoecetes*, *C. bairdi* and *C. opilio*, are the target species of this fishery. *C. bairdi* is the principal target and has comprised 90-95 pecent of the commercial catch.

Alaska Tanner crab stocks are managed in specific administrative fishery units called management areas (Fig. 1). Each management area is described in this plan and the reader will be referred to these sections for specific area information. The present regulations governing conduct of these fisheries are organized into "statistical areas" in the 1977 regulations of the Alaska Board of Fisheries for commercial shellfish fishing in Alaska (Appendix 11.2). The correlation between management areas and statistical areas is show below.

Management area	Statistical area
Southeastern	A
Prince William Sound	E
Cook Inlet	H
Kodiak	J
South Peninsula/Aleutian	(westward) Do.
Bering Sea	Do.

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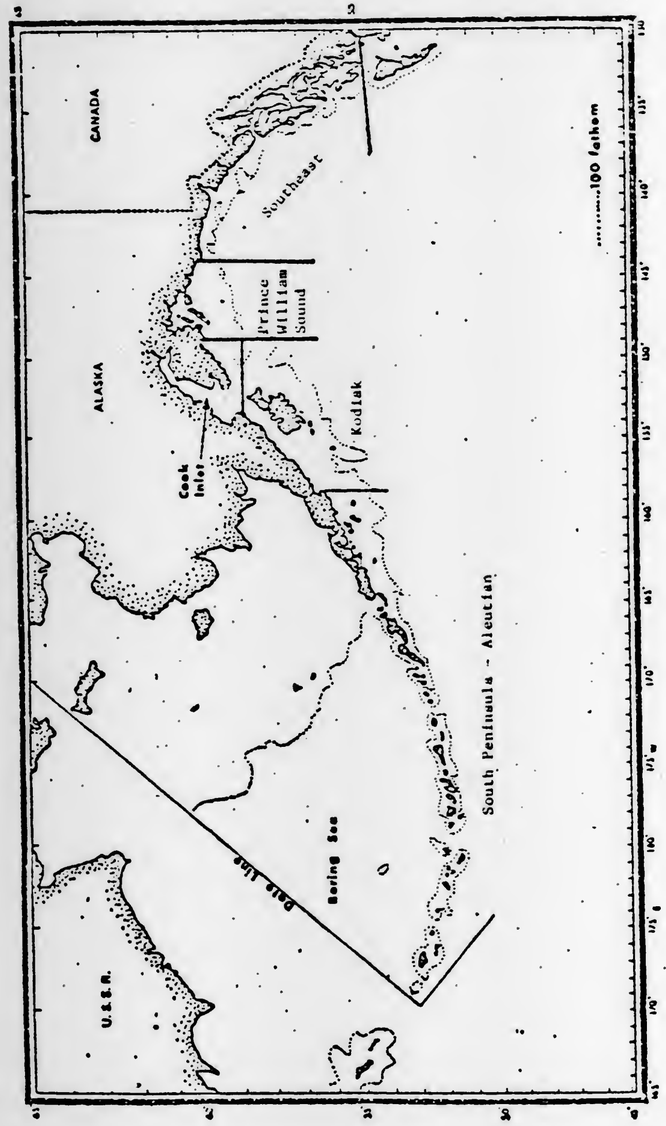


Fig 1. THE SIX TANNER CRAB MANAGEMENT AREAS IN ALASKAN WATERS.

3.2 HISTORY OF EXPLOITATION

3.2.1 Domestic Fishery

The Tanner crab resource in Alaska was first utilized by the fishing fleet in 1961 with a harvest of 6,800 pounds (3.18 mt) valued at $680. The harvest increased to 61,344,454 pounds (27,826 mt) in 1973 with a value of $11,072,449 (Table 1). The 1977 harvest of over 94 million pounds (42,800 mt) was the largest catch recorded for the State.

Several factors contributed to the rapid development of this fishery. The king crab (*Paralithodes camtschatica*) harvest suffered a steady 4-year decline from its peak of nearly 160 million pounds (72,560 mt) in 1966 to about 50 million pounds (22,675) in 1970. In this same period, the Tanner crab harvest increased by over 100 fold. This increase is attributed to a change in fishing effort from king crab and salmon toward Tanner crab and an apparent increase in abundance of Tanner crab related to the declining abundance of king crab, except in the eastern Bering Sea (Gulland 1972). Tanner crab fishing provides additional income to fishermen during the winter months when king crab and salmon are not being harvested in most areas of the State.

The 1976 domestic Tanner crab fishery centered around Kodiak Island and the Bering Sea with harvests of 23.4 and 22.3 million pounds (10,614 and 10,115 mt), respectively. The Alaska Peninsula/Aleutian area produced 17.8 million pounds (8,081 mt), Cook Inlet produced 5.9 million pounds (2,692 mt) and Southeastern produced 3.5 million pounds (1,593 mt). Total Alaskan harvest of Tanner crab was 79 million pounds (35,850 mt) in 1976. Preliminary data for the Bering Sea indicates a 1977 harvest of 51.5 million pounds (23,360 mt), ranking this area as the most productive in the State.

3.2.1.1 *Description of User Groups*

Tanner crab in Alaska are harvested primarily for commerical purposes by domestic fishermen (resident and non-resident) and Japanese nationals fishing in the eastern Bering Sea.

There is no licensed recreational fishery for Tanner crab. Local residents, however, catch Tanner crab for their own use in a subsistence fishery.

3.2.1.2 *Fishing Effort*

Data are not available which will allow a quantitative summary of directed effort in this fishery in terms of pot lifts or standardized vessel days of fishing on a statewide basis. Within the various portions of this plan dealing with the specific management areas, estimates of these parameters have been made when data were available. Statewide, during 1976, over 350 vessels participated in the commercial harvest making 3,743 individual landings for which fish tickets were issued. Table 1 provides catch, value, number of vessels, and number of landings for 1969 to 1976.

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TABLE 1. ALASKA TANNER CRAB CATCH, VALUE, AND PARTICIPATION BY AREA AND YEAR (not by season).

COMPILED BY COMMERCIAL FISHERIES ENTRY COMMISSION. (Domestic fishery only)

YEAR	MANAGEMENT AREA	NO. of VESSELS	NO. OF LANDINGS	TOTAL POUNDS	METRIC TONS	TOTAL EX-VESSEL VALUE
1969	Southeastern	40	359	267,500.00	121	26,750.00
	Prince William Sound	19	245	944,881.97	429	103,937.03
	Cook Inlet	29	405	1,432,869.12	650	157,615.58
	Kodiak	116	973	6,861,700.44	3,112	686,170.16
	S.Peninsula/Aleutian	43	190	670,285.98	304	67,027.64
	Bering Sea	42	131	1,014,835.92	460	101,483.76
	TOTAL		2303	11,192,073.43	5,077	$ 1,142,984.17
1970	Southeastern	27	203	583,153.02	265	64,133.37
	Prince William Sound	13	270	1,292,423.99	586	129,242.36
	Cook Inlet	27	319	1,328,694.03	603	132,869.43
	Kodiak	82	668	7,710,455.08	3,497	771,045.18
	S.Peninsula/Aleutian	33	311	2,093,648.04	950	188,428.35
	Bering Sea	28	82	1,464,394.12	664	131,795.44
	TOTAL		1853	14,472,768.28	6,565	$ 1,417,514.13
1971	Southeastern	17	319	251,082.01	114	25,108.15
	Prince William Sound	20	130	642,340.00	291	70,657.40
	Cook Inlet	44	615	2,116,848.80	960	211,684.98
	Kodiak	56	443	7,536,060.96	3,418	831,936.56
	S.Peninsula/Aleutian	18	265	2,140,754.94	971	214,075.44
	Bering Sea	9	23	166,037.04	75	14,943.33
	TOTAL		1795	12,853,123.75	5,830	$ 1,368,405.76
1972	Southeastern	30	336	790,146.90	358	108,556.20
	Prince William Sound	47	858	8,550,709.06	3,878	1,026,085.20
	Cook Inlet	54	1096	4,779,234.90	2,168	716,885.10
	Kodiak	64	662	11,933,107.20	5,413	1,431,973.12
	S. Peninsula/Aleutian	32	281	3,941,933.94	1,788	433,612.76
	Bering Sea	13	37	111,664.02	51	11,166.35
	TOTAL		3270	30,106,796.02	13,656	$ 3,728,278.73
1973	Southeastern	50	411	1,893,086.00	859	323,894.00
	Prince William Sound	51	1036	12,696,850.86	5,759	2,158,464.84
	Cook Inlet	92	1525	8,134,274.76	3,690	1,382,827.16
	Kodiak	135	1648	32,437,983.60	14,714	5,838,836.40
	S. Peninsula/Aleutian	53	435	5,880,391.01	2,667	943,138.65
	Bering Sea	22	50	301,867.94	137	51,317.64
	TOTAL		5105	61,344,454.17	27,826	$ 11,072,448.85
1974	Southeastern	54	451	3,087,512.10	1,401	584,708.22
	Prince William Sound	54	648	9,597,758.04	4,354	1,919,551.50
	Cook Inlet	90	1169	7,660,895.40	3,775	1,532,178.90
	Kodiak	136	1542	29,562,133.68	13,409	6,208,047.76
	S.Peninsula/Aleutian	65	504	9,057,068.97	4,108	1,818,142.46
	Bering Sea	26	100	5,044,197.08	2,288	1,059,291.34
	TOTAL		4414	64,009,565.27	29,034	$ 14,207,919.30
1975	Southeastern	41	296	3,032,249.00	1,375	439,676.00
	Prince William Sound	34	395	5,016,655.00	2,276	702,332.00
	Cook Inlet	54	520	4,952,428.00	2,646	693,340.00
	Kodiak	102	825	17,540,580.00	7,956	3,095,546.00
	S.Peninsula/Aleutian	52	359	8,628,427.00	3,914	1,206,545.00
	Bering Sea	27	101	7,028,378.00	3,188	913,689.00
	TOTAL		2497	46,188,712.00	20,951	$ 7,051,128.00
1976	Southeastern	28	234	3,511,528.00	1,593	772,536.00
	Prince William Sound	39	491	6,000,444.00	2,722	1,200,089.00
	Cook Inlet	72	872	5,935,299.00	2,692	1,246,413.00
	Kodiak	105	1119	23,446,245.00	10,635	4,924,284.00
	S. Peninsula/Aleutian	84	630	17,816,045.00	8,081	3,560,162.00
	Bering Sea	66	397	22,324,490.00	10,126	4,353,276.00
	TOTAL		3743	79,034,051.00	35,850	$ 16,056,760.00

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During 1977 effort in the Bering Sea doubled, remained constant in Kodiak, Cook Inlet, and Southeastern and declined slightly in the South Peninsula/Aleutian and Prince William Sound Management areas.

3.2.1.3 Catch Trends

The Alaska catch of Tanner crab has shown a steady yearly increase from a 1961 harvest of 6,800 pounds (3.1 mt) to a 1977 preliminary harvest of 94 million pounds (42,800 mt).

3.2.1.4 Description of Vessels and Gear

Vessels. The size and configuration of the vessels engaged in Alaska's Tanner crab fishery vary between regions and are described in the management area sections. Most vessels participating in the Tanner crab fishery in the Bering Sea, Kodiak and South Peninsula/Aleutian area are large, efficient, combination vessels capable of fishing open waters under adverse weather conditions. As such, these vessels have the potential of moving to and fishing in any management area in the State.

Types of Gear. Pots are the only type of commercial fishing gear in the Tanner crab fishery. Three pot designs are currently in use: (1) modified variation of the conventional king crab pots; (2) specially designed "pyramid" shaped pots; and (3) Japanese conical pots. Ring nets and scuba are also legal gear, but are used in the subsistence fishery.

3.2.2 History of Foreign Exploitation

3.2.2.1 Description of User Groups

Fishermen from two major foreign nations, Japan and the Soviet Union, have harvested Tanner crab in areas of the Bering Sea which now fall within the boundaries of the U.S. Conservation Zone.

3.2.2.2 and 3.2.2.3 Catch Trends and Description of Fishing Effort

Tanner crab harvested in the eastern Bering Sea prior to 1964 were caught incidentally in the king crab fisheries. Bilateral agreements with Japan and the U.S.S.R., in 1964, when the combined Soviet and Japanese king crab fisheries were at their peak, resulted in immediate reductions in the foreign production of king crab. Foreign emphasis then shifted to Tanner crab and the combined Japanese-Soviet Tanner crab catch increased rapidly to about 24 million crab in 1969 and 1970 (Table F1, p. 235). Since 1970, quotas for Tanner crab have sharply reduced foreign landings. The Japanese quotas for Tanner crab in 1977 is 27,550,000 pounds (12,500 mt). As was the case for king crab, the Soviet Tanner crab fishery ended after 1971.

Japanese trawlers incidentally catch substantial numbers of Tanner crab annually in the eastern Bering Sea. According to U.S. observer data, 155 million Tanner crab were caught incidentally in 1974 (French et al., 1976). Preliminary data indicate a decreased catch in 1975 of 58 million crab, owing primarily to a lower observed incidental catch rate. Although these crab must be returned to the ocean, mortality is estimated to be 60–70 percent. Taking into consideration the best available data on the time span between size at incidental capture and at recruitment and the rate of natural mortality, it is estimated that the total loss of Tanner crab to the fishable population generated by the 1974 incidental catch is 31 million pounds (14,100 mt); by the 1975 catch, 15 million pounds (6,800 mt). These losses, estimated to be approximately 85 percent *C. opilio*, approach the annual magnitude of the directed catch.

3.2.2.4 Vessels and Gear Types Employed

No Soviet crab fishery has occurred in the eastern Bering Sea since 1971. Two factoryships have been utilized by Japan to process crab in recent years, supplied by six catcher boats each. A Japanese landbased fleet has operated generally north and west of the factoryship fleet for Tanner crab since the early 1970's. In 1976, 31 vessels operated while for the 1977 season only 11 were licensed. These vessels are 2—5 times the size of the factoryship catcher boats and utilize identical gear. Further detail on vessels and gear will be found in the Bering Sea section of this plan.

3.3 History of Management

3.3.1. Domestic Management Institutions, Policies, Jurisdictions

Institutions. The state organizational act of 1959 provided for Alaska Statutes, Title 16, which deals with Alaska Fish and Game Resources. Article 1 provides for a Department of Fish and Game whose principal executive officer is the Commissioner of Fish and Game. The Commissioner is appointed by the Governor for 5 years. Functions of the Commissioner are:

1. Supervise and control the department, and he may appoint and employ division heads, enforcement agents, and the technical, clerical, and of the assistants necessary for the general administration of the department;

2. Manage, protect, maintain, improve, and extend the fish, game and aquatic plant resources of the state in the interest of the economy and general well-being of the state;

3. Have necessary power to accomplish the foregoing including, but not limited to, the power to delegate authority to subordinate officers and employees of the department.

The Commercial Fisheries Division was established to manage all commercially harvested fish species in Alaska. The division is headed by a director who supervises four regional supervisors. The regions are further separated into management areas. Area management biologists are responsible for collecting catch data and monitoring fisheries in their areas.

Research biologists within the division work on projects which have direct application to management procedures. Research studies are currently conducted on Tanner crab life history, migration patterns and population abundance.

The enforcement of fish and game laws and regulations is provided by the Department of Fish and Game and Public Safety. The Fish and Wildlife Protection Officers of the Department of Public Safety operate independently of the Department of Fish and Game. Communication between the two departments is maintained and activities are coordinated.

The Fisheries Regulatory Process. The Alaskan system has a seven-member Board of Fisheries, composed of fishermen and other businessmen appointed by the Governor, which considers both public and staff regulatory proposals in deciding on regulatory changes.

The Alaska Board of Fisheries is required by Law to meet or hold a hearing at least once a year in each of the following areas of the state: (1) Upper Yukon-Kuskokwim-Arctic, (2) Western Alaska (including Kobiak), (3) South Central, (4) Prince William Sound (including Yakutat), and (5) Southeast, in order to assure all people of the state ready access to the Board.

Since the late 1960's the Alaska Board of Fisheries and, before it, the Alaska Board of Fish and Game have held a minimum of two meetings annually to adopt changes in the fisheries regulations. The fall Board meeting, traditionally held in early December, considers proposals for changes in sport fishing regulations and in commercial and subsistence finfish regulations. A spring Board meeting, usually held in late March or early April, considers commercial and subsistence shellfish regulatory proposals.

Regulations which may be adopted by the Board of Fisheries cover seasons and areas, methods and means of harvesting, quotas, and times and dates for issuing or transferring licenses and registrations.

Advisory committees, composed of people informed on the fish and game resources of their locality, serve as local clearinghouses and sources of proposals for Board consideration.

Following submission of public proposals, department staff members review the proposals and redraft the wording, when necessary, to conform to the style required. The Department of Fish and Game also submits proposals for the Board's consideration.

In adopting new regulations, the Board of Fisheries follows Alaska's Administrative Procedure Act. This act has several requirements: At least 30 days prior to the adoption of new regulations, a notice giving the time and place of the adoption proceedings, reference to the authority under which the regulations are proposed, and a summary of

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the proposed action must be published in a newspaper of general circulation and sent to all interested people who have asked to be informed of the proposals. During the proceedings, the public must be given an opportunity to testify on the proposed changes. If a new regulation is adopted, it must be submitted to the lieutenant governor through the attorney general's office. Thirty days after being filed with the lieutenant governor, the new regulation becomes effective. Because of these requirements, new regulations usually do not become effective until about two months after being adopted by the Board of Fisheries.

Regulatory flexibility is given to the Commissioner of Fish and Game and to his authorized designees to adjust seasons, areas, and weekly fishing periods by emergency order.

The requirements of the preceeding paragraph do not apply in the case of emergency regulations, which may be adopted if needed for the immediate preservation of public peace, health, safety, or general welfare. An emergency regulation remains in effect 120 days unless it is permanently adopted according to the procedures outlined in the preceding paragraph.

This authority has the same force and effect as regulations promulgated by the Board of Fisheries.

Policies. Policies governing fisheries management in Alaska are issued by the Board of Fisheries and the Commissioner.

Jurisdiction. The Alaska Department of Fish and Game has sole management authority over all migratory fish and shellfish species which enter and leave territorial waters of the state during any given year including the migratory fish and shellfish taken from state waters which are indistinguishable, in most instances, from those taken from adjacent high seas areas. Regulations governing migratory fish and migratory shellfish apply in both areas and are enforced by the landing law explained in section 3.4 of this plan.

3.3.2 Domestic

3.3.2.1 & 3.3.2.2 Regulatory Measures and Purpose of Measures

The Tanner crab resource in Alaska is managed by a complex of regulatory measures that have been developed as the commercial fishery has increased its capacity to harvest the resource. The fishery is managed by fishing season, specification of type and quantity of gear, sex limitation, size limits, fishing area restrictions, and harvest levels.

The common pattern of fisheries development world-wide is one of increasing resource exploitation followed by research and increasingly restrictive regulations to prevent or arrest declines in stock abundance. All too often, adequate funding is not made available for biological research until the resource shows some signs of distress. The result in many cases is intensive exploitation with accompanying industry overcapitalization based on harvest of virgin stocks followed by a decline in resource abundance of varying degrees and economic distress to the industry.

Significant harvests of Tanner crab in most areas date back only to the late 1960's, followed by a rapid increase to the present. There is no history of the effects of harvest of varying sizes on the stocks. Research in most areas is not adequate to define with precision natural variations in stock abundance, stock recruit relationships, age, growth, mortality parameters and discrete stock units.

In the absence of these data, the Alaska Board of Fisheries and the Alaska Department of Fish and Game have adopted a conservative approach to the development of this fishery. This approach is reflected in the regulatory regime that has been imposed. These regulations are designed to allow expansion of harvest in this developing fishery while, insofar as possible, preventing decline in abundance due to overfishing and minimizing economic dislocation. For reference, a copy of the current State of Alaska Tanner Crab Regulations have been appended (Appendix 11.2).

Research programs are being expanded within the constraints of available funding and as new information becomes available, regulatory measures may be modified. The lack of precision in defining stock parameters requires that a degree of flexibility be maintained so that the manager can expand or restrict harvests by area during a fishing season.

The current State of Alaska regulatory regime emphasizes three primary objectives and procedures to accomplish them:

1. Maximize yield from harvestable surpluses: This is accomplished by seasons and gear restrictions to increase meat yield per individual crab and reduce mortality on sublegal crab.

2. Maximize reproductive potential of the Tanner crab stocks by: (a) imposing seasons, gear restriction, size and sex limits and harvest levels to protect crab during reproduction; (b) minimizing mortality on female crab due to handling or harvest: and (c) assuring full female fertilization by providing adequate numbers of males of all sizes for breeding.

3. Seek economic stability in the Tanner crab industry. Avoiding over-capitalization based on levels of population abundance which may not be sustained over time by; (a) regulating annual harvest to discourage too rapid expansion of harvesting and processing capability until resource potential can be better evaluated and; (b) by stabilizing harvest levels within the range of natural recruitment fluctuation if not precluded by excessive natural mortality beyond the first year at maturity.

Fishing Seasons. To sustain optimum levels of Tanner crab production, seasonal closures are required during certain periods of their life cycle. Closed seasons encompass molting, peak breeding of oldshell females (assuming they remate) and egg hatching periods. Seasonal closures assumedly allow time preceding peak breeding periods so that male breeders are not over harvested as schooling occurs immediately prior to breeding. Seasonal openings are delayed following molting periods until shell condition has hardened enough to allow handling with minimum mortality and damage to nonlegal crabs that must be returned to the waters, and to legal crabs so that they are delivered in a marketable condition. Seasons' opening dates should be set after molting and after adequate growth to take advantage of weight gain, thereby increasing the amount of meat recovered from each animal.

Type of gear. Legal gear for Tanner crab is defined as pots, ring nets, or scuba. These gear types are all selective in that non-legal crab may be released unharmed. Non-legal crab are females and undersized male crab. If non-selective gear were employed (trawls, tangle nets) many non-marketable crab would be harvested with high mortalities occurring during the catching procedure. Pots provide the fishermen with an efficient selective gear type which does the least amount of damage to the non-harvestable portion of the stocks.

Quantity of gear. Limitations on the units of gear per vessel are applied in four management areas to avoid conflicts with established pot limits for king crab during overlapping portions of fishing seasons for king and Tanner crab. In one management area (Southeastern) a pot limit has been established for small inside populations isolated geographically from major stocks.

Sex limitations. Protection of the female Tanner crab population from harvest, if accompanied by the maintenance of a mature male population adequate to insure total fertilization of mature females, should guarantee that there will be no adverse effects due to harvest on the reproductivity of the Tanner crab stock. The harvest has therefore been restricted to only males above a certain size limit.

Females do not grow beyond the molt to maturity and are not currently demanded by processors due to their relatively smaller size. Thus, the male-only fishery restriction does not impose an adverse economic impact on the fishery.

Size limits. The major species of Tanner crab (*C. bairdi*) in the Alaskan fisheries can probably be harvested profitably at the size of maturity for males (see section 4.0). However, a fishery operating on male crab just reaching maturity could reduce the reproductive potential of the stocks, since a portion of the males would be harvested before having an opportunity to mate. This could result in less than total fertilization of the available mature female population. It is possible that full female fertilization might be achieved utilizing less than 100 percent of the male population being allowed to breed for one season before being exposed to harvest. This determination would require data on the number of mature males and females (and male breeding efficiency) by stock unit. In the absence of such information, the conservative policy of obtaining full female fertilization is best served by the imposition of the minimum legal size that will allow male crab at least one opportunity to breed before being recruited into the fishery. Nearly all Tanner crab males has been found to be mature at 5.3 inches (136 mm) carapace width in populations studied. To allow for annual area fluctuations, a 5.5 inch (140 mm) minimum shell width limit has been imposed statewide with the exception of Prince William Sound where the limit is 5.3 inches.

Harvest levels. The rapid expansion of Tanner crab harvests in advance of adequate biological assessment programs coupled with a lack of good definition of stock units could lead to over exploitation of some stocks and under exploitation of others. A lack of knowledge of variations in annual recruitment could also lead to industry overcapitalization and dependence on stocks currently at a high level of abundance which in fact may not sustain a given level of harvest.

The Board of Fisheries has further indicated a conservative approach to the development of this fishery by adopting guideline harvest levels for most areas. These harvest levels serve to inform the industry that unrestricted harvest expansion (even of crab above a certain size limit) may not be desirable. These harvest levels are normally expressed as ranges to give the manager the flexibility to adjust the harvest during the season based on catch per unit effort by geographical area, indexes of abundance research results, or variation in shell condition by date.

Fishing area restrictions. Fishing areas are generally designed for manageable stocks or aggregates of stock units. Areas may be further subdivided into districts for statistical and regulatory purposes.

Exclusive registration areas have also been designated. These areas help to reduce the rate of harvest and serve to prevent economic dislocation of a certain segment of the industry dependent on a stock(s), particularly if the character of the fishing fleet and the industry that depends on it would not allow movement to another area.

3.3.3. Foreign

3.3.3.1. & 3.3.3.2. Regulatory Measures and Purpose of Measures

Prior to 1964, there were no U.S. regulations for the foreign crab fisheries of the eastern Bearing Sea. In 1964, the United States ratified the 1958 Continental Shelf Convention and declared king and Tanner crab (among other species) as "Creatures of the Continental Shelf". In that same year, bilateral arrangements were concluded with both Japan and U.S.S.R. in which quotas and a minimum size limit were applied to their king crab catches. In addition, only hard-shell male crabs could be retained. Catch quotas were first applied to foreign Tanner crab fisheries in 1969 and use of tangle net gear was restricted in later bilaterals. These bilateral agreements were modified at 2 year intervals, resulting in progressively lower foreign quotas for both king and Tanner crabs.

Initially, regulation of the foreign fishery emphasized conservation of an apparent declining king crab resource. Later regulations limited foreign fishing to permit expansion of developing U.S. fishery on these resources.

Since 1973, separate Tanner crab quotas have applied to each of two quota areas in the Bering Sea. The quota areas were further defined in the 1975-76 bilateral to eliminate the foreign fishery east of 164° W. longitude and south of 55°30' N. latitude—the principal area fished by the United States to that time.

The Preliminary Management Plan (PMP 1977) of the Secretary of Commerce, in effect for the 1977 season, further restricted foreign fishing on hardshell male Tanner crab by moving the southern boundary of the open fishing area from 55¼°30' N. to 56° N. latitude. Details of regulation may be found in the FEDERAL REGISTER of February 11, 1977 and the Bering Sea section of this plan.

3.3.4. Effectiveness of Management Measures

Fishing Seasons. The restricting of the commercial harvest of Tanner crab to that interval of time after the crab have mated, molted and filled their new shells in the beginning of the new cycle has effectively protected breeding stocks, reduced handling mortality, and has resulted in a high quality product being harvested and marketed.

Type of Gear. Restricting commercial harvest of Tanner crab to the use of pots has resulted in low handling mortality of crab on the fishing grounds. It provides for fishing with an efficient selective gear type that allows the escapement of many sub-legal and female crabs.

Quantity of Gear. Limiting the number of Tanner crab pots to the equivalent number of pots which may be fished in the king crab fishery has been required for enforcement purposes during the period of time that the seasons for these two species overlap.

Sex Limitations. The harvesting of only mature males only has not shown any adverse effects on the reproductive potential of the stocks and is therefore an effective means of protecting the reproductivity of the resource.

Size limits. The 5.5 inch (140 mm) size limit is in effect for all management areas of the State except for Prince William Sound where a 5.3 inch (135 mm) size limit applies. The results of the size limit will not be known for some time in terms of the reproductive potential of the stock. However, female Tanner crab ovigerity can be monitored and related to the abundance of mature male Tanner crab.

Harvest Levels. Harvest levels for other shellfish have had a definite effect in stabilizing the catch. Applicability to maintaining stability in the Tanner crab industry will only be substantiated by measuring the results in terms of harvest ranges which can be sustained over a broad range of natural fluctuations in stock abundance. The effect on maintaining full female fertilization can only be assessed by comparing female ovigerity over time with stock levels of newly mature and older male crab. Quotas on foreign catch have effectively provided for expansion of the U.S. effort for Tanner crab in the eastern Bering Sea.

Fishing areas. Regulating by geographical areas has allowed selective application of conservation measures based on stock differences such as variations in time of molting, breeding and softshell condition. Area restrictions on the foreign fishery in the eastern Bering Sea have minimized conflicts between domestic and foreign harvesting in terms of gear interference and competition for concentrations of crab. Rapid expansion of U.S. effort on *C. bairdi* in the Bering Sea will require further restrictions in the future.

3.4. HISTORY OF RESEARCH

Research on Tanner crab in Alaskan waters has been conducted by several agencies and groups: The National Marine Fisheries Service, State of Alaska Department of Fish and Game, universities, domestic industries, and foreign nations.

National Marine Fisheries Service (NMFS). The first NMFS biological research program on Tanner crab in Alaskan waters occurred as an adjunct to two king crab cruises in the southeastern Bering Sea in 1968, followed by three similar research cruises in 1969. Data from these cruises yielded a first approximation of the distribution and abundance of Tanner crab in the southeastern Bering Sea (Karinen, 1969) as well as information on molting seasons, reproduction, size frequency distribution, larval release and abundance, associated fauna and physical environment (Hoopes 1969). Since 1969, annual crab stock assessment cruises have been conducted to monitor the populations in the southeastern Bering Sea. In 1975 and 1976, NMFS conducted OCS related surveys as far north as the southeastern Chuckchi Sea.

Experiments in Tanner crab processing were done at the Service's Technological Laboratory at Ketchikan in 1961 and 1962. In 1969, the Technological Laboratory (by that time located in Kodiak) began a research program on holding Tanner crab alive in tanks to determine methods of reducing mortality while crab are held on vessels and in processing plants.

State of Alaska. The Alaska Department of Fish and Game began studies on Tanner crab as an adjunct to its king crab research early in 1969. The state agency's shellfish research program was established to more comprehensively study the Tanner and Dungeness Crab resources being harvested in the Kodiak Island area. In July, 1973, monies obtained from the Commercial Fisheries Research and Development Act and the State of Alaska were used to create a project oriented solely towards the commercially exploited Tanner crab, *Chionoecetes bairdi.* The objective of this research project was the development of parameters which would aid in ascertaining the optimum annual yield for the fishery. Specific areas investigated were: (1) growth and age at size; (2) frequency of molt; (3) reproductive biology; (4) distribution and relative abundance of Tanner crab with respect to size and sex; (5) assessment of the effects of the commercial fishery upon the population; and (6) documentation of inter-relationships between Tanner Crab and other marine organisms (Donaldson 1977a).

Universities. Graduate student studies from the University of Alaska and the University of Washington have focused on developing life history models for both *C. bairdi* and *C. opilio.* Cooperation between university studies and the State of Alaska's research program have resulted in improved management capabilities.

Industry. Industry has done much to develop techniques of processing, storing, and marketing Tanner crab. Commercial fishermen have aided studies on the distribution and movement of Tanner crab by returning tagged crab with catch information.

Foreign Nations. Much of the current knowledge of the life history of *C. opilio* is the result of investigations by foreign nations. Research by the Japanese and Soviets has provided a great deal of information on life history aspects of the crab (Fukataki 1965). Through the auspices of the International North Pacific Fisheries Commission the Japanese initiated studies on Tanner crab in the Bering Sea in 1968 (Ito 1968; Kon 1974; Sinoda 1968).

3.5. SOCIO-ECONOMIC CHARACTERISTICS

3.5.1. *Output of Subject Domestic Tanner Crab Fishery*

3.5.1.1 Value of Catch (Ex-vessel)

Total ex-vessel value of the Tanner crab fishery in 1976 was $16,056,760. Totals by management area and statewide for the years 1969 through 1976 may be found in Table 1 on page 17.

3.5.1.2 Description and Value of Product (Wholesale)

Nineteen Seventy-Five is the latest year for which Tanner crab production and wholesale data available. (ADF&G 1975 Catch & Production Leaflet). In that year, the product forms and values were: canned Tanner crab $2,282,354; frozen whole $14,795,354; frozen section $1,672,972; and meats $621,897, totaling $19,372,577 at the first wholesale level. The wholesale value of Tanner crab products for years prior to 1976, peaked in 1973 when $33,687,678 was realized at first wholesale.

Table 2 contains the 1975 shellfish production and wholesale values.

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TABLE 2 - 1975 Shellfish Production with Wholesale Values

PRODUCTS	SOUTHEASTERN 1/ POUNDS	SOUTHEASTERN 1/ VALUE ($)	WESTERN 3/ POUNDS	WESTERN 3/ VALUE ($)	CENTRAL 2/ POUNDS	CENTRAL 2/ VALUE ($)	TOTAL POUNDS	TOTAL VALUE ($)
King crab								
Frozen								
Whole/dressed	501,152	574,922	15,376,870	33,917,998	14,618,834	26,281,738	30,487,856	60,774,658
Sections/tails	---	---	2,689,707	5,323,343	1,511,535	1,979,478	4,201,242	7,302,821
Meat	---	---	2,921,655	10,279,648	1,665,320	1,213,008	4,586,975	11,492,656
Canned	---	---	---	---	1,074,397	4,266,922	1,074,397	4,266,922
Total	501,152	574,922	20,979,232	49,520,989	18,870,086	33,742,146	40,350,470	83,837,057
Dungeness crab								
Frozen								
Whole/dressed	788,178	682,002	1,641	2,051	1,400,301	1,297,901	2,190,120	1,981,954
Sections/tails	389	447	---	---	247,863	214,808	248,252	215,255
Total	788,567	682,449	1,641	2,051	1,648,164	1,512,709	2,438,372	2,197,209
Tanner crab								
Frozen								
Whole/dressed	844,020	751,786	4,025,600	4,524,719	12,230,326	9,518,849	17,099,946	14,795,354
Sections/tails	---	---	---	---	1,047,416	1,672,972	1,047,416	1,672,972
Meat	---	---	---	---	242,526	621,897	242,526	621,897
Canned	---	---	---	---	705,071	2,282,354	705,071	2,282,354
Total	844,020	751,786	4,025,600	4,524,719	14,225,339	14,096,072	19,094,959	19,372,577
Shrimp								
Frozen								
Whole/dressed	349,094	591,546	1,274,995	1,681,460	10,084,660	13,039,460	11,708,749	15,312,466
Sections/tails	8,501	17,288	603,060	1,453,765	405	347	611,966	1,471,398
Meat	---	---	510,420	1,722,667	---	---	510,420	1,722,667
Canned	---	---	---	---	3,652,986	6,903,208	3,652,986	6,903,208
Total	357,595	608,832	2,388,475	4,857,892	13,738,051	19,943,015	17,484,121	25,409,749
Clams								
Frozen								
Shucked	---	---	---	---	11,596	34,408	11,596	34,408
Bait	---	---	---	---	11,811	2,898	11,811	2,898
Total	---	---	---	---	23,407	37,306	23,407	37,306
Scallops								
Frozen								
Whole/dressed	---	---	---	---	409,688	635,016	409,688	635,016

1/ Southeastern management area
2/ Prince William Sound, Cook Inlet, and Kodiak management areas
3/ S. Peninsula/Aleutians, and Bering Sea management areas

Source - ADF&G Catch and Production Leaflet

3.5.1.3. Markets, Domestic and Foreign

In 1975 approximately 19 million pounds of Tanner crab products were available for distribution in frozen and canned forms from Alaska, with a wholesale value of $19.4 million. This comprises about 15 percent of the total wholesale value of shellfish in Alaska.

Tanner crab catches in 1975 and 1976 were 46 and 79 million pounds with ex-vessel values of $7 and $16 million respectively (Table 1). The composition of total Tanner crab wholesale value in Alaska by product form shows that 76.4 percent is in whole/dressed (frozen) form, 11.8 percent in canned, 8.6 percent in section/tail (frozen), and 3.2 percent in meat (frozen) form.

Adequate information dealing with domestic market channels and consumption patterns is not available. According to the Bearing Sea Tanner crab study conducted by the University of Alaska (Orth, Frank et al., 1977) 27 percent of Alaska's Tanner crab production was distributed in California. The resturant trade purchased 36 percent of the Tanner crab meats marketed in California in 1976 and only 2 percent of the legs, claws and sections. Retail supermarkets and grocery stores purchased 67 percent of the in-shell products and only 8 percent of the meats. Table 3 shows the distribution of frozen Tanner crab by type of market and product form in Southern California.

Alaska production of canned and fresh/frozen Tanner crab meat has a firm domestic market primarily in coastal areas and most of Alaska sections are exported to Japan. Tables 3a and 3b show an estimated U.S. and Japan Tanner crab consumption by year, respectively.

Table 3. Percent of Distribution of Frozen Tanner Crab Categorized by Type of Market and Product Form 1975 and 1976

(Southern California)

		1975	1976
In Shell	Restaurants	0.3	2.0
	Retail outlets	88.4	67.6
	Intermediate distributors	11.3	30.4
	Total	100.0	100.0
Frozen Meat	Restaurants	11.6	36.2
	Retail outlets	9.5	8.1
	Intermediate distributors	78.9	55.7
	Total	100.0	100.0

Source: Orth, Frank et al., The Bering Sea Tanner Crab Resource: U.S. Production Capacity and Marketing, University of Alaska, 1977.

Table 3a Estimated U.S. Tanner Crab Consumpton

	Catch	Ex-vessel Price	Imports	Exports to Japan	Change in Frozen Holdings	Consumption
68	3,248	.10			NA	
69	11,207	.10			"	
1970	14,473	.10	16,269		"	30,742
71	12,880	.11	25,089	253	"	37,716
72	30,135	.12	18,467	175	"	48,427
73	61,719	.17	15,658	51,230	"	26,147
74	63,906	.20	13,492	28,779	"	48,619
75	46,857	.15	14,286	15,525	"	45,618
76	80,712	.20	10,555	36,799	-3,000	57,468

All quantities in thousand lbs. live weight.
Tanner crab conversion factors: section/live = .55; meat/live = .15

Source: Orth, Frank et al., The Bering Sea Tanner Crab Resource: U.S. Production Capacity and Marketing, University of Alaska, 1977.

Table 3b. Estimated Japanese Tanner Crab Consumption

	Catch	Ex-vessel Price	Imports from U.S.	Canned Exports	Inventory Change	Consumption	Catch of "Other" Crabs
68	135,978	48			NA		56,676
69	115,325	79			"		40,642
1970	117,428	89		11,613	"	105,815	41,998
71	93,369	117	253	21,373	"	72,249	67,672
72	91,998	115	175	10,700	"	81,473	59,705
73	73,592	179	51,230	933	"	123,889	84,762
74	66,284	184	28,779	3,367	"	91,696	121,392
75			15,525	2,947	"		
76			36,799		"		

All quantities in thousand lbs. live weight.
Tanner crab conversion factors: section/live = .55; meat/live = .15

Source: Orth, Frank et al., The Bering Sea Tanner Crab Resource: U.S. Production Capacity and Marketing, University of Alaska, 1977.

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transportation of finished products. For the Westward plants, the most important limiting factor is the problem of transportation. Most plants in Westward are floaters rather than shore-based plants and have limited cold storage facilities.

An average annual ex-vessel price for Tanner crab by management area can be seen in Tables A4 and B3. Consumption patterns and market channels for foreign countries can not be established because of lacking reliable data.

3.5.2. Domestic Commercial Harvesting Characteristics

See Table 4 and section 3.2.1.4. of each management area plan for a description of the vessels and gear participating within each management area's Tanner crab fishery.

TABLE 4 VESSEL CHARACTERISTICS OF ALASKAN TANNER CRAB COMMERCIAL FLEET

1976/77 SEASON (VALUES ESTIMATED BY AREA SHELLFISH BIOLOGISTS)

Management area	Number Vessels	Hold Capacity Per Vessel		Mean Keel Length		Range		Mean Net Tonnage		Range	
		Pounds	MT	Feet	M	Feet	M	Tons	MT	Tons	MT
SOUTHEASTERN:											
Southeast	30	94,200	42.7	80	24.4	32-103	9.8-31.4	107	97	23-197	21-179
Yakutat	6	24,000	10.9	49	14.9	32-85	9.8-25.9	30	27	5-67	5-61
PRINCE WILLIAM SOUND	23	23,000	10.4	52	15.8	26-82	7.9-25.0	34	31	4-147	4-133
COOK INLET	66	38,000	17.2	50	15.2	27-92	8.2-28.0	37	34	5-146	5-132
KODIAK	98	39,000	17.7	56	17.1	30-134	9.1-40.8	50	45	4-198	4-180
S. PENINSULA/ ALEUTIAN:											
S. Peninsula	42	50,000	22.7	65	19.8	34-112	10.4-34.1	68	62	11-198	10-180
Aleutian	9	170,000	77.1	86	26.2	78-108	23.8-32.9	139	126	111-199	101-181
BERING SEA	66	170,000	77.1	93.6	28.5	58-158	17.7-48.2	140	127	40-281	36-255

U.S. Tanner crab consumption has been increasing and one problem for the developing Tanner crab market is a shortage of domestic supply. The above study (Orth, Frank et al., 1977) further shows that most firms originally got into Tanner crab marketing to fill the Japanese demand for high quality products (frozen and sections). The domestic market started with the selling of the remaining sections and meat to the U.S. customers.

Ex-vessel price of Tanner crab is determined by negotiation at the beginning of the season. In Kodiak this price negotiation is carried out between the Fishermen's Association, the United Fishermen's Marketing Association, and the large processors.

The significant limiting factors for Tanner crab processing are the availability of raw crab, labor and housing for labor, frozen storage capacity, and the problem of

3.5.2.1. Total Gross Income of the Tanner Crab Fleet from Subject Fishery and All Other Fisheries, and Average Per Fleet Unit.

Statewide, the total gross income for Tanner crab fisherman from all fisheries that they participated in (King crab, salmon, Tanner crab, etc.) was $74,800,000 in 1976. The average income per vessel was $190,000.

Tanner crab ex-vessel value, total gross income of the fleet, and gross income per vessel for each management area in 1976 is shown in Table 5.

TABLE 5. VALUE OF TANNER CRAB CATCH AND TOTAL GROSS INCOME (all fisheries) FOR FLEETS BY MANAGEMENT AREA, 1976 1/

MANAGEMENT AREA	TANNER CRAB VALUE ($)	TOTAL GROSS INCOME ($)	AVERAGE GROSS INCOME PER VESSEL ($)
Southeastern	772,536	3,408,467	121,731
Pr. Wm. Sound	1,200,089	2,186,800	56,072
Cook Inlet	1,246,413	7,314,994	101,597
Kodiak	4,924,284	15,448,798	175,703
S. Pen./Aleutian	3,560,762	13,078,715	155,699
Bering Sea	4,353,276	30,362,900	460,044
Total	16,054,760	74,800,674	189,849

1/ Annual (not seasonal) values.
Vessel assigned to area with largest Tanner crab landing.

Source: Commercial Fisheries Entry Commission

3.5.2.2. Investment in Vessels and Gear

During the 1976-77 Tanner crab season 339 vessels, fishing approximately 40,000 pots, participated in the fishery. There are no data currently available to estimate the total investment in capital equipment. Some vessels involved in this fishery have a current market value as small as a few thousand dollars, while others are worth well over one million dollars. However, given a current approximate value of a Tanner crab pot with buoy and line of $400, it can be estimated that with 40,000 pots in the 1976-77 fishery, fishermen have an investment of $16,000,000 in pots alone.

A major research effort is being conducted by the Alaska Commercial Fisheries Entry Commission, under NMFS funding, to develop an economic profile of the shellfish fisheries. A component of this research will be an estimate of the total investment in capital equipment. Upon completion of this study, data will be available to provide an estimate of investment directed towards each Tanner crab fishery.

3.5.2.3. Annual Participation in the Tanner Crab Fishery

During 1976, 394 vessels made 3,743 landings for which individual fish tickets were issued. There is currently no data available to develop summary statistics in terms of standardized vessel days or pot lifts. However, where possible (see sections 3.5.2.3. within the various management area sections of this plan), estimates of participation have been made by the area shellfish biologist based upon his familiarity with the activities of the fleet.

3.5.2.4. Total Employment in the Tanner Crab Fishery Harvesting Sector

Statewide summary statistics for employment in the Tanner crab harvesting sector are not available. There is currently no state of Alaska or Federal agency collecting employment data on an annual basis which is discrete enough to break out employment by species. The Alaska Department of Labor does publish employment statistics quarterly by major industrial classification. However, the source of this information is the employer's contribution report for unemployment insurance, and therefore does not reflect total employment nor can the employment be related to species. Area shellfish biologists have provided an estimated total fishing employment of 1,183 during the 1976-77 season (see Table 6).

TABLE 6. POTENTIAL HARVESTING AND PROCESSING CAPABILITIES IN THE ALASKAN COMMERCIAL TANNER CRAB FISHERIES, 1976/77 SEASON

(Values Estimated By Area Shellfish Biologists)

MANAGEMENT AREA	HARVESTING SECTOR							PROCESSING SECTOR					
	NUMBER VESSELS	CREW	NUMBER POTS	FLEET LIVE TANK CAPACITY 10^6 lbs	FLEET LIVE TANK CAPACITY MT	SEASONAL TANK CAPACITY 10^6 lbs	SEASONAL TANK CAPACITY MT	NUMBER PLANTS	NUMBER EMPLOYED	DAILY PROCESS CAPACITY 10^6 lbs	DAILY PROCESS CAPACITY MT	SEASONAL PROCESS CAPACITY 10^6 lbs	SEASONAL PROCESS CAPACITY MT
Southeastern	30	90	3000	0.72	327	8	3739						
Southeast Yakutat	6	24	900	0.57	256	5	2029	9	450	0.20	90.7	30	13608
Prince William Sound	23	72	1840	0.52	237	11	4808	3	175	0.11	47.7	20	9072
Cook Inlet	66	231	5000	2.50	1134	38	17,237	4	250	0.20	90.7	30	13608
Kodiak	98	340	9000	3.78	1716	38	17,237	17	1500	1.35	612	162	73440
S. Peninsula/ Aleutian													
S. Peninsula	42	126	5200	2.11	955	44	20,049	3	225	0.13	56.7	24	11057
Aleutians	9	36	1800	1.53	694	28	12,474	14	1120	0.90	408.	135	61236
Bering Sea	66	264	14000	11.22	5089	135	61,055	17	1595	1.20	544.	180	81648
TOTAL	340	1183	40740	22.95	10408	307	139,628	67	5225	4.09	1845.8	581	263669

3.5.2.5. Economic Viability

To specify the economic condition of this fishery as an average net return over the whole fleet, or by appropriate subcategories of vessels, within the fleet, several kinds of data are required. In addition to the gross income from this fishery and all other fisheries in which these vessels participate (most are multi-product firms), cost of production information is required as well as the development of an analysis of the production function. Further, in order to determine how efficient the firms are, estimates of least cost production and maximum potential net returns must be derived and compared with current earnings. This requires estimating maximum sustainable economic yield (MSEY). To estimate MSEY requires a biological yield function, product demand curves, production function analysis and input costs. Currently most of this information is not available. Again, there are research efforts in progress which should provide quantitative data for several of the parameters in the system. These studies include those being conducted by the Commercial Fisheries Entry Commission, University of Alaska and Sea Grant.

3.5.3. Domestic Commercial Processing Characteristics

3.5.3.1. Total Gross Income of Area Processors

In 1975, Tanner crab processors realized a gross income (at first wholesale level) of $19,372,377 from Tanner crab (ADF&G 1975 Catch and Production Leaflet). At this time there are no summary statistics providing the total gross or average income received by processors combining all species.

3.5.3.2. Investment in Plant and Equipment

There are no summary statistics available on processor's investment in capital.

3.5.3.3. Total Employment and Labor Income

Employment statistics related to the processing of Tanner crab are not available nor is total annual employment by these firms. However, area shellfish biologists have estimated employment in the processing of Tanner crab during 1976-77 to be 5,225 (see Table 6).

No statistics on total labor income related to processing of Tanner crab are available.

3.5.3.4. Economic Viability (Net Income and Efficiency)

There is currently no information available related to the profitability of processing Tanner crab. Data required to address this question are similar to that needed for the harvesting sector. However, with respect to the economic activities of the processing

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firms there are no known studies underway which will provide data for this sector of the industry.

3.5.4. and 3.5.5. Recreation and Subsistence Fishing Characteristics

There is no Tanner crab fishery in Alaska which is defined or regulated as a recreational fishery. There is, however, a "subsistence" fishery which for many subsistence fishermen represents a recreational activity. Currently, there are no data relative to the number of man days of participation in the subsistence Tanner crab fishery, the quantity of gear used or the catch.

3.5.6. Indian Treaty Fishing Characteristics

There are no Indian treaty rights associated with the Alaskan Tanner crab fishery.

3.5.8. Area Community Characteristics

3.5.8.1. Total Population

Alaska's 1976 population statistics show the state as having a population of 413,289. (Department of Labor 1977). Table 7 provides population by management area.

TABLE 7. TOTAL RESIDENT POPULATION (CIVILIAN & MILITARY) BY AREA AND YEAR

	1960	1970	1971	1972	1973	1974	1975	1976
Statewide	226,167	302,361	311,070	322,115	330,365	351,159	404,634	413,289
S.E.	35,403	42,565	43,088	44,475	46,417	50,232	50,438	51,172
P.W.S.	7,559	7,291	7,440	7,696	7,996	8,476	14,791	18,748
C.I.*	6,079	14,250	14,204	13,830	13,800	13,962	15,621	16,753
Kod.	7,174	9,409	9,665	8,645	8,868	9,232	8,801	9,366
S. Pen.	6,011	8,057	7,849	7,197	6,914	7,714	7,086	8,282
Ber.Sea	4,024	4,632	4,202	4,663	4,858	5,114	5,761	4,752

* Exclusive of Anchorage

Source: Alaska Dept. of Labor, Employment Security Division

3.5.8.2. Total Employment

Third quarter 1976 statistics (Department of Labor section 3.5.2.4) show that total employment in seafood processing and in fishing were 7,772 and 1,734 respectively. Employment data are not available for fishery related secondary employment statewide. Where possible, estimates of employment have been made within the management area sections of this plan. Employment statistics, including rates of unemployment from first quarter 1974 to third quarter 1976 are given in Table 8.

TABLE 8. STATEWIDE EMPLOYMENT STATISTICS.*

		ALL INDUSTRIES				SEAFOOD PROCESSING				FISHING			
Year & Quarter	State Pop.	Number Employed	% Un-Employed	Average Monthly Wage	Total Payroll	Number Employed	% Un-Employed	Average Monthly Wage	Total Payroll	Number Employed	% Un-Employed	Average Monthly Wage	Total Payroll
76-3	413,289	189,519	5.9	$ 2166	$ 1,118,496,072	7772	6.5	$ 1100	$ 25,675,008	1736		$ 1944	$ 10,113,228
76-2		175,010	8.1	1899	1,002,990,363	6760	12.2	941	13,459,874	630		1536	3,021,580
76-1		155,699	11.6	1673	781,367,088	2956	15.6	832	7,384,616	672		1747	2,517,966
75-4		167,878	8.1	1782	898,010,796	3725	12.2	863	9,644,799	612		1577	4,816,387
75-3	400,634	179,028	5.5	1730	926,998,223	6413	8.5	886	17,061,661	1589		1154	5,407,068
75-2		161,814	8.4	1538	770,301,730	3633	13.4	698	7,621,211	738		1699	2,799,245
75-1		136,424	11.4	1458	607,370,468	1674	19.3	824	4,633,361	299		1164	941,051
74-4		137,738		1381	570,497,431	2978		988	7,039,975	796		1773	3,806,848
74-3	351,199	142,889		1252	536,553,520	6074		844	15,395,048	1605		1695	8,161,656
74-2		126,136		1115	421,026,322	4088		750	9,145,777	620		1536	2,850,670
74-1		105,951		1029	327,187,457	2744		672	5,125,678	508		1168	1,784,728

* Significant excluded segments: self-employed persons, unpaid family help, domestic, and most persons employed in agriculture.

Source: "Statistical Quarterly" Alaska Dept. of Labor, Employment Security Division

3.5.8.3. Total Work Force

Third quarter 1976 employment stood at 189,519 with an unemployment rate of 5.9 percent for all industries within the State of Alaska. Total payroll for that same period was $1,118,496,072, with an average of $2,166 per/mo. Seafood processing employed 7,772 persons receiving an average wage of $1,100 per/mo. for a total payroll of $25,675,008. Unemployment in seafood processing was slightly higher than for all industries, at 6.5 percent. In the fishing sector 1,734 persons received an average monthly wage of $1,944, resulting in total payroll of $10,113,228. Unemployment rates for fishing are not available. Table 8 provides employment and payrolls for all industries, seafood processing, and fishing from the first quarter 1974 through the third quarter 1976.

3.6. INTERACTIONS AMONG USER GROUPS

There are three distinct users of the Tanner crab resource in Alaska; domestic commercial fishermen (both Alaska residents and non-residents), subsistence fishermen, and commercial fishermen who are Japanese nationals. There is essentially no conflict between domestic commercial and subsistence Tanner crab fishermen and there has been no attempt to develop regulatory methods to allocate the resource between the two users. There are conflicts however, between foreign commercial and domestic commercial users of the resource

in terms of competing for the crab on the same fishing grounds. As a result, regulations have been developed to allocate the resource between the two users and to reduce gear conflicts. (Refer to sections 3.3.3. and 8.2.3. and see the 1977 Tanner crab PMP).

3.7. FEDERAL AND STATE REVENUES DERIVED FROM FISHERY

Table 9 provides information on revenues derived by the State of Alaska from fish taxes and the sale of permits and licenses from 1969 to 1976. However, only the processors taxes and the Commercial Fisheries Entry Commission's permits can be directly linked to Tanner crab. These two sources accounted for $101,752 in 1975. Revenues derived from other taxes, such as personal Federal and State income taxes associated with net earnings in the Tanner crab fishery, are not available.

TABLE 9. STATE REVENUES RELATED TO TANNER CRAB

	1969	1970	1971	1972	1973	1974	1975	1976
1/ Processor Taxes	$ 11,689	20,362	17,162	36,985	113,399	132,145	73,357	N.A.
2/ C.F.E.C. Permits	$ --	--	--	--	--	108,360	28,395	14,710
3/ Processor licenses	$ 500	500	400	875	1,225	1,100	825	1,675
4/ Com. Fish licenses	$315,630	375,240	334,400	346,520	358,130	325,020	334,510	391,550
5/ Vessel licenses	$146,898	161,863	156,490	156,524	164,194	152,486	158,704	163,180
6/ Gear Pot licenses	$ 17,430	18,225	14,415	17,685	29,025	35,445	28,875	31,410

Source: Alaska Dept. of Revenue; except C.F.E.C. permits are from Commercial Fisheries Entry Commission

1/ Taxes are for Tanner crab industry.
crab canneries - - 2% of raw crab value
shore-based fish processors - - 1% of raw fish value
floating fish processors - - 4% of raw fish value

2/ Commercial Fisheries Entry Commission - table values are specific to Tanner crab fishery.
pot gear for vessel length 50 ft. or less - -$50.
" " " more - -$100.
except for poverty income levels - -$5.

3/ General licenses not specific to just Tanner crab - -$25. per facility

4/ & 5/ Table values apply to all fisheries - -i.e. not specific to Tanner crab
$10 resident, $30 nonresident

6/ Table values apply to all types of shellfish pots - -i.e. not specific to Tanner pots.
100 pots or less - $15 resident, $45 nonresident
each additional 100 pots - $15 resident, $45 nonresident

Federal revenues from the foreign industry and fishing fleet are based on a system of permits and taxes: 3.5 percent tax based on ex-vessel value of the harvest ($441 per metric ton for Tanner crab); $1 per gross ton of fishing vessels; $0.50 per gross ton of processing vessels up to $2,500; $200 per support vessel (transport, water, fuel, etc.). Total revenue statistics for the 1977 Japanese Tanner crab fishery are:

Ex-vessel value tax	$193,000
Fishing vessels	10,776
Processing vessels	6,377
Support vessels	N/A
Total	$210,153

Source: NMFS—Juneau, Alaska.

4.0. BIOLOGICAL DESCRIPTIONS

4.1. AND 4.2. GENERAL LIFE HISTORY AND STOCK UNITS

Taxonomy. The Tanner crab is a member of the brachyuran crabs or true crab. Garth (1958) has described the taxonomy as:

Class: Crustacea;
Sub-class: Malacostraca;
Order: Decapoda;
Sub-order: Brachyura;
Super-family: Oxyrhyncha;
Family: Majidae;
Sub-family: Oregoniinae;
Genus: *Chionoecetes.*

The genus of *Chionoecetes* actually consists of two polytypic species, *C. opilio* and *C. angulatus. C. opilio* may have given rise to *C. opilio elongatus* and *C. bairdi;* while *C. angulatus* may have given rise to *C. tanneri* and *C. japonicus* (Garth 1958).

Common names associated with species of this genus include "Tanner crab", "snow crab" and "queen crab". The name "Tanner" is most commonly used in Alaska. Its origin is related to Lt. Commander A. L. Tanner, commander of the Bureau of Fisheries' steamer Albatross, whose exploration produced the early records of this genus. Snow crab is the official trade name for these species.

Distribution. The genus has a circumarctic distribution, extending into the temperate waters on the east and west coast of North America and Eurasia. Garth (1958) has described the geographic and depth distribution (Table 10).

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TABLE 10. CHIONOECETES spp. AND THEIR DISTRIBUTION

SPECIES	(METERS)	(FATHOMS)	GEOGRAPHIC DISTRIBUTION
C. opilio (O. Fabricius)	13-454	7-248	Bering Sea, Arctic Ocean, North Atlantic Ocean from west coast Greenland to Casco Bay, Maine
	to 2222	to 1215	Sea of Japan, Okhotsk Sea
C. elongatus Rathbun	shoalwater to 474	shoalwater to 259	Bering Sea to California (Hosie and Gaumer 1974)
C. bairdi Rathbun	53-1942	29-1062	Washington to lower California
C. tanneri Rathbun	90-2972	49-1625	Bering Sea to Oregon
C. angulatus Rathbun	411-2103	225-1150	Sea of Japan (Watson 1969; Fukataki 1965)
C. japonicus Rathbun			

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C. japonicus is the only species not found in the eastern Pacific. *C. opilio* has the widest geographic distribution, it occurs in the Sea of Japan and the Okhotsk Sea where it is classed as the subspecies *C. opilio elongatus*, north through the Bering Sea and into the Chukchi Sea and south into Central Alaska. *C. opilio* also occurs in the North Atlantic as far south as Casco Bay, Maine.

Three species of this genus have been reported from Alaskan waters. *C. bairdi* and *C. opilio* are encountered on the continental shelf to a depth of 473 meters (259 f) and 454 meters (248 f) respectively. *C. angulatus* occurs most frequently at greater depths and has been recorded at depths to 2972 meters (1625 f). Of the three species occurring in Alaskan waters, two, *C. bairdi* and *C. opilio*, are commercially harvested, with *C. bairdi* comprising 90-95 percent of the catch. Off the coasts of Washington and Oregon, *C. tanneri* is the dominant species with *C. bairdi* and *C. angulatus* present. *C. tanneri* would probably be the target species if a fishery began. *C. opilio elongatus* is harvested in the Sea of Japan. *C. opilio* has been harvested by Japanese and Russian fishermen in the Bering Sea and by Canadians in the northwest Atlantic.

Adult Tanner crab are intolerant to and restricted in their distribution by low salinities and high temperatures. Laboratory experiments in Canada have demonstrated that *C. opilio* will die within 24 hours if kept in salinities less than 22.5 0/00. At salinity of approximately 31 to 32 0/00 McKeese (1968) determined that *C. opilio* reaches the 50 percent mortality point after 18.8 days when held at 16 degrees C. Thus it is reasonable to expect that the southern range of Tanner crab distribution may be limited if water temperatures exceed 16° C. (61° F).

Size at Sexual Maturity. The attainment of sexual maturity for Tanner crab is accompanied by characteristic changes in external morphology which are acquired at the molt to maturity. The molt to maturity for males includes a disproportionate increase in the growth of the chelae in relation to the carapace. This change is not always visually evident. Individual males with mature gonads do not always display large chelae and crab which have completed the puberty molt are not always physiologically mature (vasa deferntia does not contain large numbers of spermatozoa enclosed in spermatophores. Brown and Powell 1972; Watson 1970). The method of allometry (the growth of an organ in relation to the rest of the body) has been used to predict the average size at maturity for males and seems to approximate the state of physiological maturity as well.

Research studies conducted in the Kodiak management area by Donaldson, in the Bering Sea by Somerton, and in Prince William Sound by Hilsinger have concluded little difference between the areas of average size at sexual maturity for male (110-115 mm) and female (83 mm) Tanner crab. Commercial catch sampling from all management areas shows size variation between the catch in different areas to be negligible in male Tanner crab.

The molt to maturity for females is much more evident. It is accompanied by characteristic change in the shape and size of the abdominal flap (sternum) and pleopods. Hartnoll (1969) states that it is very exceptional for females to copulate prior to the molt to puberty and this molt can therefore be regarded as reliably indicating the onset of maturity. Female Tanner crab display a large size range at which the puberty molt occurs suggesting that maturity is not associated with a specific age or molt class but is variable.

Growth and Age. Crustaceans grow by shedding the exoskeleton (ecdysis). The term molting has been used to include all the processes of preparation for withdrawal from the old integument, ecdysis and postecdysis, increase in linear size, as well as subsequent tissue growth (Passano 1960). The intervals between molts increase with age and growth and often vary between populations of crab. All hard parts are cast off during ecdysis leaving no visible aging technique such as annual growth rings as aids to age determination. Estimation of age therefore is very difficult.

Male and female *C. bairdi* have similar growth rates until they approach sexual maturity. The females undergo a terminal molt at the molt to maturity. No further growth occurs (Hartnoll 1969; Holsinger 1975). The male continues to grow; however, the inter-molt period may increase "skip-molt" (Donaldson 1975a). Males may reach a point where growth ceases. This has been found for *C. opilio* in the northeast Atlantic (Miller and Watson 1976).

Knowledge of the age-size relationship is necessary for identifying prerecruit crab by year classes in the fishery, length of time in the fishery and growth rate. Figure 2 gives the results from studies in the Kodiak area.

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M Y 1 6 7 8
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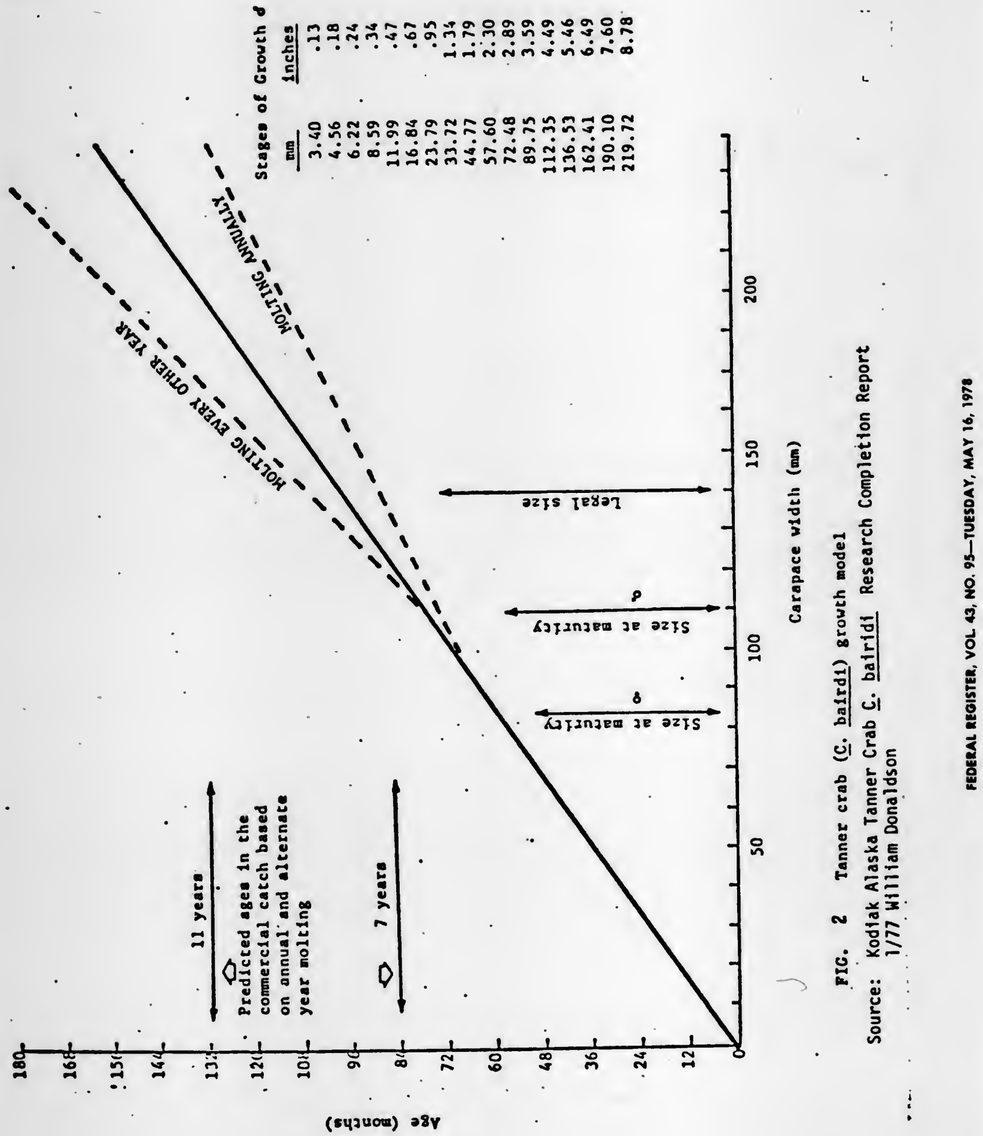


FIG. 2 Tanner crab (C. bairdi) growth model

Source: Kodiak Alaska Tanner Crab C. bairdi Research Completion Report 1/77 William Donaldson

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Reproduction. Female Tanner crab mate for the first time at the molt to maturity. Females are attended by a male during the molting process and are mated in the soft shell condition. The attraction of the male to the female is accomplished by a pheromone (chemical attractant) released by the female. Female brachyuran crabs have the ability to store sperm in the spermathecae which is used to fertilize successive egg clutches in the absence of a male. It is presently not known how many egg clutches can be fertilized by one mating. If a female is unattended by a male at the molt to maturity, she will not ovulate (Donaldson 1975).

Courtship and mating behavior has been documented for *C. opilio* (Watson 1970) and *C. bairdi* (Donaldson 1975) and is similar for both species.

Primiparous females of *C. bairdi* mate and deposit egg clutches from mid-winter to early spring while multiparous females hatch clutches and deposit new eggs in the spring. Egg development is slowed in the primiparous females and coincides with that of the multiparous females. Spring egg hatch is then sychronized to spring food availability. This is also the situation with *C. opilio* (Watson 1970) and *C. opilio elongatus* in the Sea of Japan (Ito 1967).

There has been much discussion concerning mating beyond the initial copulation at the molt to maturity (last molt for females) in the Majidae. There are records of species in the family Majidae mating while the female is soft in some instances and hard in other (*Hayas coarctatos* Leach and *Maja squinoda* Herbst) while other species have been observed mating only while hard (Hartnoll 1969). Literature dealing with the Majidae (Carlisle 1957, Knudsen 1964, Yoshida 1941 and Hilsinger 1975) supports the hypothesis that the molt to maturity is a terminal molt for females. "Those females seen mating when soft must have been doing so for the first time, immediately following the molt of puberty. Any further copulations must of necessity occur when the females are hard" (Hartnoll 1969). It has been observed that hardshell females of *C. opilio* and *C. bairdi* are capable of producing fertile egg clutches with sperm stored in the spermathecae, in the absence of males. Watson states that mating in the hardshell condition for *C. opilio* is rare or nonexistent. Research biologists have documented a mating involving an oldshell adult female. (Donaldson 1977)

The number of eggs a female can carry has been described as a linear function of her carapace width (Kon 1974, Hilsinger, 1975). Fecundity estimates are listed below (after Somerton, unpublished data).

Fecundity estimates for *Chionoecetes* spp.

Species	Egg Number × 1000	Carapace Width (mm)	Reference
C. opilio.....	20-140	50-90	Watson 1969, Gulf of St. Lawrence
C. opilio elongatus.	34-138	57-90	Kon 1974, Sea of Japan
C. bairdi.....	85-231	78-110	Hilsinger 1975, Gulf of Alaska
	89-424	75-124	Haynes et al. 1976, Bering Sea

Male Tanner crab are capable of participating in mating at the size at which they reach maturity (Donaldson 1975). Watson (1972) reported that a male *C. opilio* fertilized six females.

Seasonal distribution by depth for mating purposes has been described for *C. tanneri* (Pereyra 1966, 1968) and *C. opilio elongatus* (Kon 1969). With both species there seems to be a demonstrated segregation by size and sex (large males with old adult females, small males with new adult females) for breeding purposes.

The mating season is composed of three significant events: (1) molt to maturity and mating of primiparous females, (2) peak of egg hatch, (3) deposition of new egg clutch by multiparous females. Management strategy must incorporate these factors to ensure the reproductive vigor of the populations. Monitoring the percent of egg-bearing (ovigerous) females is an important management tool in a male-only fishery to ensure an adequate male-female ration by size for reproductive purposes. Hatching of the eggs (larval release) appears to coincide with the plankton blooms. The free-swimming larvae molt and grow through several distinct stages before settling to the bottom as juveniles where they cover themselves with debris and begin feeding on detritus. The growth rate from larval to juvenile stage is dependent upon water temperature, with warmer temperatures producing faster growth. At water temperatures of 11 to 13° C (52 to 55° F) the free-swimming developmental period between the larval and juvenile stages may last approximately 63 days for *C. opilio* (Kon 1970).

Plankton studies in the Sea of Japan indicate that the free-swimming larvae of Tanner crab undergo diurnal vertical migrations. The migration is a feeding response to the diurnal movements of plankton blooms.

Predation. Adult Tanner crab appear to have few predators, although it is likely that during molting they may be vulnerable to large fish and perhaps larger crustaceans such as king crab.

Migrations. Pereyra (1966) reported that the population structure of *C. tanneri*, male and female, changes quite dramatically with depth. From Washington to California "Females are fairly stationary, with the apparent abundance of the population centered between 640 and 686 meters (350 and 375 f). In contrast, the males are quite migratory and exhibit a seasonal movement pattern that repeats itself for all years studied. In the spring and summer the population of males in centered at 503 to 549 meters (275 to 300 f), but as winter approaches the entire male group shifts downward and occupies the same depth interval as the females. Following a short period of aggregation with the female group, the males return to the shallower environment, separating the sexes again". The timing of intermingling of the sexes and egg release and ovulation coincide so as to strongly suggest that the movement of adult males is a prerequisite to breeding and can therefore be referred to as a breeding migration. Kon (1970) describes a migration pattern for *C. opilio elongatus* similar to that described for *C. tanneri* with segregation by size group and migrations for reproduction. Somerton (unpublished) has described segregation by size groups for *C. bairdi* in the Bering Sea while vertical migrations were not as obvious.

4.3. CATCH AND EFFORT DATA

The catch and effort data is presented in each management area section of this plan and Table 1, p. .

4.4. SURVEY AND SAMPLING DATA

Annual quantitative crab indexing surveys were initiated by the Alaska Department of Fish and Game in 1972 around Kodiak Island. The survey area has expanded to include the Adak, Dutch Harbor, Sand Point, Kodiak, Cook Inlet and Prince William Sound areas. Data gathered allow fishery managers to assess: (1) the relative abundance of the various size/maturity group; (2) percent ovigerity; (3) the effects of the commercial fishery upon the population; and (4) optimum harvest levels in advance of the commercial fisheries. The surveys are conducted utilizing State of Alaska research vessels and chartered crab fishing vesseis.

National Marine Fisheries trawl surveys in the eastern Bering Sea allow assessment of those parameters for *C. bairdi* and *C. opilio.*

4.5. HABITAT

There is very little published material covering the habitat and distribution of juvenile Tanner crab. Exploratory work in the Sea of Japan indicated that juveniles settle out along the sea bottom at depths between 298 and 349 meters (163 to 349 f) (Ito 1968). Alaska Department of Fish and Game biologists in Kodiak, using scuba gear, have collected juvenile *C. bairdi* as small as 6.5 mm in 18 meters (10 f). The National Marine Fisheries Service has records of juvenile Tanner crab as small as 12 mm caught in shrimp trawls off Kodiak in 55 to 146 meters (30 to 80 f). This information suggests that distribution of juvenile Tanner crab is widespread. The actual diet of the juveniles is uncertain, but they are believed to feed primarily on dead and decaying mollusks and crustaceans which accumulate in the detritus along the sea floor. Fish remains and small planktonic organisms are also utilized.

4.6. QUALITY OF DATA

The management of the domestic Tanner crab fishery is primarily based on commercial catch monitoring which includes fishermen interviews, catch sampling, and catch per unit effort data obtained from fish tickets. The quality of this data is considered adequate for all management areas with exception of Southeastern where catch per pot lift needs to be determined.

The life history features of Tanner crab have been studied primarily in the Prince William Sound, Kodiak, and Bering Sea areas. Data from these areas has been assumed applicable to other populations in the State.

Estimates of size at sexual maturity for both sexes and female ovigerity are documented in the literature. Research concerning the reproductive scheme and periods of molting by size class are recent and require additional work. The duration and timing of fishing seasons is therefore based on available knowledge. Size at sexual maturity for males has been documented by Somerton (1977) and Donaldson (1977) at 4.3-4.5 inches (110-115 mm).

The Board of Fisheries set a statewide size limit of 5.5 inches (140 mm) (except Prince William Sound where it is 5.3 inches (135 mm) which would protect nearly all newly mature male crab, believing that manipulation of annual harvest of newly matured males was not adequate to protect the stock from overfishing.

The Board's size limit of 5.5 inches (140 mm) is a conservative approach. Somerton examined the possibility of alternate size

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limits and theorizes what harvest could be expected from lower size limits. Observation over time of the effect of harvesting males of various sizes on the reproductive potential of the stocks will be required to adequately evaluate the degree of protection required.

The degree of female ovigerity is used in all areas as an indicator of reproductive potential and is closely monitored. The observation of non-ovigerity in the population could mean an over harvest of newly matured or older age classes of males.

Inadequate life history features for which more information is needed to manage the fishery are distribution, age class identification based on shell characteristics, natural mortality, and mating characteristics of old shell females.

The identification of stock units within management areas is not defined and studies are needed in all areas of the State.

Population abundance surveys are presently being conducted in the Bering Sea by NMFS. Relative population abundance surveys are being conducted by ADF&G in all other management areas, except Southeastern. The data collected in the Bering Sea is presently being used to manage the population while in other areas, the data base is too limited to quantitatively forecast recruit abundance. More information on population abundance is required for all management areas.

4.7. CURRENT STATUS OF STOCKS

4.7.1. *Maximum Sustainable Yield*

Data on stock abundance and resultant harvest levels are not available for this developing fishery with which to estimate maximum sustainable yield by stock with any degree of precision. The estimates presented in Table 11 are derived from recent average harvests and trends and serves only as a first approximation against which to judge acceptable biological catch and optimum yield.

Exception to this situation occurs in the Bering Sea where National Marine Fisheries Service Trawl survey data have allowed an estimate of maximum sustained yield for *C. bairdi* and OCS surveys permit an MSY estimate for *C. opilio*. Again, these estimates of stock abundance, while better than for other areas, are over a relatively short period of time and may not truly reflect the potential long-term maximum average sustainable yield from this fishery.

4.7.2. *Equilibrium Yield*

Data are not available at this time for any of the management areas to derive estimates of equilibrium yield. Potential variation in natural stock abundance is unknown.

4.7.3. *Acceptable Biological Catch (ABC)*

In the absence of forecasts of annual recruitment for most areas acceptable biological catch has been based on recent harvest trends of male crab over 5.5 inches (140 mm) carapace width (Prince William Sound 5.3 inches (135 mm). Due to the lack of definitive information on stock abundance, in-season flexibility of management is desirable, and these catch levels serve simply as a guideline to industry and fishermen of the general harvest level to be expected. In terms of the Act, they also serve as the basis for optimum yield and the further determination of whether there should be any foreign allowable catch. One exception to this is for the Bearing Sea where MSY and ABC estimates in a more refined fashion are available based on trawl survey results. Table 11 gives the ABC compared to MSY for each of the management areas discussed in this plan.

4.8. ESTIMATE OF FUTURE STOCK CONDITION

The outlook for Tanner crab is summarized by management areas as follows:

Bering Sea: Healthy stock condition capable of supporting current production is indicated by the available survey and harvesting data.

South Peninsula/Aleutian: Healthy stock condition is indicated by available survey and harvesting data.

Kodiak: Healthy stock condition capable of supporting current production levels is indicated by the available data.

Prince William Sound: Healthy reproductive stock condition. Harvestable stocks should recover from present low levels and be capable of supporting MSY in the future.

Cook Inlet: Healthy stock condition is indicated by the available data. A relatively weak recruit year class appears to be entering the Kachemak Bay fishery.

Southeastern: Healthy stock condition is indicated by available harvest data.

5.0. CATCH AND CAPACITY DESCRIPTORS

See Table 6 and area management sections for detailed analysis.

6.0. OPTIMUM YIELD

In the absence of any socio-economic objectives which would require a specification of OY to deviate from ABC, optimum yield is set equal to ABC, with the exception of the Bering Sea (see section F.6.0.). It should be noted that the ABC does, to some degree, reflect social and economic considerations since it has been based partially on achieving stability in the fishing industry. Additionally, the Prince William Sound management area's 5.3 inch (135 mm) size limit instead of the 5.5 inch (140 mm) size limit common to the rest of the state was adopted to reduce the economic dislocation of the fleet in this area which was already operating on smaller sized crab than in other areas. Optimum yields by management area are given in Table 11.

TABLE 11.—*Alaska Tanner crab domestic annual capacity of fleet (DAC), processing capacity, maximum sustainable yield (MSY), acceptable biological catch (ABC), optimum yield (OY), expected domestic annual harvest (DAH), and foreign allowable catch (FAC) by management area for the 1977-78 season.*

	DAC		Processing capacity		MSY		ABC		OY		DAH		FAC	
	10⁶ lbs	MT	10⁶ lbs	MT	10⁶ lbs	MT	10⁶ lbs	MT	10⁶ lbs	MT	10⁶ lbs	MT	10⁶ lbs	MT
Southeastern:														
Southeast	8	3,739	30	13,608	2.5	1,134	2.5	1,134	2.5	1,134	2.5	1,134	0	0
Yakutat	5	2,029	30	13,608	3	1,361	3	1,361	3	1,361	3	1,361	0	0
Prince William Sound	11	4,808	20	9,072	7.3	3,268	3-7	1,361-3,175	3-7	1,361-3,175	3-7	1,361-3,175	0	0
Cook Inlet	38	17,237	30	13,608	5.3	2,404	5.3	2,404	5.3	2,404	5.3	2,404	0	0
Kodiak	38	17,237	162	73,440	21.5	9,752	15-25	6,804-11,340	15-25	6,804-11,340	15-25	6,804-11,340	0	0
South Peninsula/Aleutian:														
South Peninsula	44	20,049	24	11,057	20	9,072	20-30	9,072-13,608	20-30	9,072-13,608	20-30	9,072-13,608	0	0
Aleutian	28	12,474	135	61,236	2	907	2	907	2	907	2	907	0	0
Bering Sea:														
C. bairdi	135	61,055	180	81,648	89	40,381	89	40,381	89	40,381	89	40,381	0	0
C. opilio:														
S. of 58° N. Lat.					225.0	102,000	225.0	102,000	22.04	10,000	22.04	10,000	0	0
N. of 58° N. Lat. and W. of 164° W. Long.					225.0	102,000	225.0	102,000	36.06-38.06	16,360-17,268		1,360-3,268	33.06	15.0

*A minor portion of this allocation of Tanner crab may be comprised of *C. bairdi* and hybrids.
**Foreign fishing for Tanner crab is prohibited south of 58° North Latitude to protect the stocks of *C. bairdi* which will be fully utilized by the U.S. fishery.

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7.0. TOTAL ALLOWABLE LEVEL OF FOREIGN FISHERY (FAC) FOR 1978

Portion of optimum yield available for foreign harvest. In a rapidly developing fishery, such as for Tanner crab in Alaska, there may be areas where the total harvestable surplus is not taken in a given year due to price negotiations, market conditions, or annual variations in the availability of processing and harvesting facilities. In fisheries where this is only an occasional occurrence, and where MSY and ABC are imprecisely defined, this may not be a predictable circumstance and will not justify any preseasons allocation to foreign fishermen. Such allocation would simply preclude further development of the U.S. industry. Similarly, where natural fluctuations in stock abundance are extreme and not completely defined, occasional surpluses beyond the U.S.'s ability to harvest should not be the basis for foreign allocation. Based on these considerations, no portion of the *C. bairdi* optimum yield for the 1978 fishing season is available for foreign harvest. The U.S. industry expects to harvest the optimum yield of this species and foreign fishing would compete directly with the U.S. industry's desire to expand its harvest of *C. bairdi* in the U.S. Fishery Conservation Zone.

8.0. MANAGEMENT REGIME

8.1. MANAGEMENT OBJECTIVES

Within the guidelines provided in the Act and the goals and objectives stated in section 2, this plan provides for the optimal use of the Alaskan Tanner crab resources by:

1. Minimizing fluctuations in stock abundance due to harvest by maintaining the full reproductive potential of the Tanner crab stocks.

2. Insofar as possible preventing industry overcapitalization and minimizing economic distress due to extreme fluctuations in harvest based on naturally fluctuating stock abundance.

3. Integrating management of Tanner crab stocks with those of other fisheries to maximize economic returns and minimize adverse impact on other stocks.

Considering the status of the data available on the Tanner crab stocks, and the social and economic institutions which depend on them, these objectives may be best met by avoiding substantive changes in the current and historical system of regulation and management until the consequences of such changes are quantified in terms of the potential costs and benefits.

8.2. AREAS, FISHERIES AND STOCKS INVOLVED

Refer to section 3.1 of this plan.

8.3. MANAGEMENT MEASURES AND RATIONALE

8.3.1 *Domestic*

With respect to the domestic fishery, it is the objective of the management plan to: (1) adopt a management regime which results in the implementation of conservation and management measures for Tanner crab which will result in achieving the optimum yield; (2) avoid disruption in the Tanner crab fishery during the implementation phase; and (3) select management measures which are consistent with the National Standards and applicable law.

The existing State regulatory system for Tanner crab was developed by the Alaska Board of Fisheries over years of analysis and deliberation, and through the use of public proposals, written and oral testimony, and input from advisory committees. It has been augmented and refined by recommendations of ADF&G biologists responsible for management of Tanner crab, and has proven itself to be effective and workable.

Therefore, in order to establish a management regime for the domestic Tanner crab fishery, this management plan adopts the management system presently employed by the State of Alaska, consistent with the FCMA (including the National Standards) and other applicable laws. The current State management measures are described in Section 3.3.2 of this Plan, and are set forth in detail in the State statutes and regulations, which are contained in Appendix 11.2.

This approach is dictated by several very important factors:

1. Elsewhere in this Plan, the biological, economic, and social requirements for successful management of the Tanner crab resource are discussed in detail. There is unquestionably a lack of information respecting many facets of this resource which demands further research and evaluation in the future. However, on the basis of existing knowledge and data, the Alaska management system is well suited to meet these requirements. Particularly important is the recognition in this system that the inevitable discovery of new information relating to Tanner crabs, which may be wholly unanticipated at the present time, will require adjustments in management measures and philosophies. By permitting a controlled increase in harvesting while closely monitoring resource conditions and trends, a margin of error is built in to protect against unsuspected miscalculations which could damage sustained production.

2. Any modern regulatory system is necessarily complex. However, the Alaskan management system has been developed gradually over the years with the full participation of the users who are subject to the regulations. Consequently, the Alaska regulations and the policies behind them are both understood and supported by fishermen.

3. The familiarity of user groups with the present Alaska regulations is complemented by the background and expertise of the management staff of the Alaska Department of Fish and Game. Field biologists have been working with this program for a number of years; their research and recommendations have assisted in its formulation. To the maximum extent possible, the management system adopted should avoid duplicating, at the Federal level, the structure currently existing at the State level.

4. Enforcement in Alaska is extremely difficult due to substantial variations in local conditions (which is reflected in the regulations), the size of the area which must be covered, and the mobility and efficiency of fishing vessels. The existing Alaska regulations were developed to accommodate considerations of enforceability as well as optimum conservation and management measures. Moreover, enforcement would be vastly complicated if State regulations (applicable in waters of the State) and Federal regulations (applicable offshore) are not identical, or substantially similar, since most Tanner crab vessels will move through both areas of jurisdiction and all Tanner crabs look alike.

8.3.1.4. In-season Adjustment of Time and Area

Management of shellfish fisheries by the State of Alaska in recent years compares very favorably with management of most other fisheries in the United States and elsewhere. The shellfish resources are in a good biological condition and the dependent user groups are in an economically viable condition. The success of this management program may be largely attributed to the deliberate flexibility built into the governing system by State law and the resultant ability of the Board of Fisheries and the Department of Fish and Game to undertake timely changes in the regulations to meet changing needs and conditions. This flexibility, which is realized through annual revision of the regulations by the Board together with emergency orders and regulations issued in-season by the Department, results in many benefits:

(a) New information and data relating to resource management can be immediately incorporated into the management program, even when the fishery is in progress.
(b) The management approach adopted by the Board before the season can be adjusted and refined during the season on the basis of assessments of actual resource conditions.
(c) Unanticipated resource conditions can be reacted to immediately to prevent both underfishing and wasteful underutilization.
(d) The dangers posed by high effort levels and efficient harvesting units (such as where fleet tank capacity equals or exceeds an OY) can be closely controlled.
(e) Unexpected development with respect to economic and social factors (natural disaster, changes in marketing conditions, cannery fires, etc.) can be accommodated so the shellfish resources are distributed and allocated in a manner which maximizes overall public benefits.
(f) Management philosophies and policies formulated through legislative and administrative processes may be carried out in

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the field by biologists familiar with local conditions.

(g) Management approaches which are proving unworkable or which are imposing undue hardships on users may be changed at once.

(h) Necessary in-season refinements in management programs can be accomplished primarily in the field with the advice and assistance of the users most directly affected.

Similar management flexibility should be an integral part of the Federal Regulatory System which will be applicable to the Tanner crab fishery pursuant to this plan.

NPFMC FINDING ON THE SPECIFICATION OF THE OPTIMUM YIELD AND THE ISSUANCE OF FIELD ORDERS

The Council finds that the Optimum Yields in this plan, which are based upon projections of the status of the stocks, economic and other conditions several months in advance of the actual conduct of the fishery, may be found to be mis-specified in light of unpredicted and unanticipated adverse or favorable stock conditions which are revealed in-season. Under such circumstances, the Council further finds it appropriate, for conservation purposes only, that the Regional Director of the National Marine Fisheries Service, Alaska Region, in close coordination with the Commissioner of the Alaska Department of Fish and Game, take immediate action by issuing field orders adjusting time and/or area restrictions; therefore, this plan provides that seasons and areas shall be subject to in-season adjustment by the Regional Director of the National Marine Fisheries Service. The Regional Director or his designee may adjust season opening and closing dates based upon the following considerations:

1. The effect of overall fishing effort within the registration area;
2. Catch per unit effort and rate of harvest;
3. Relative abundance of Tanner crab within the area in comparison with preseason expectation;
4. The proportion of immature or soft shell Tanner crab being handled;
5. General information on the condition of Tanner crab within the area;
6. Information pertaining to the optimum yield for Tanner crab within the registration area; or
7. Any other factors necessary for the conservation and management of the Tanner crab resource.

In order to assume effective management of the Tanner crab resource as a unit throughout its range, in-season adjustments made by the Regional Director must be coordinated with similar actions taken by the State regarding waters under state jurisdiction. It is necessary that the Regional Director, to the extent possible, act in conjunction with the Alaska Department of Fish and Game in order to effect uniformity of management in State waters and the Fishery Conservation Zone. As a result, any changes proposed by the Regional Director will be accompanied by advance notice to the State to allow for opportunity to maintain such uniformity. In most cases, the Regional Director will exercise his authority on the basis of recommendations received from the Department, and will rely on the Department for season data, reports, and assessments necessary to make a determination as to the advisability of any action contemplated. In all cases, continuous consultation between ADF&G and the Regional Director will be maintained.

It is expected that the actual opening and/or closing dates for the seasons prescribed in this plan will be adjusted by the Regional Director pursuant to the Authority described in this section. Such action is not considered emergency action that would require amendment of the plan, or regulations implementing the plan; adjusting the season opening and closing dates is meant to be an inherent part of the seasons themselves. For this reason, any adjustments made by the Regional Director or his designee will be effected by the issuance of a field order and announcement in the manner currently utilized by the State of Alaska.

Any in-season amendment of the Plan's season or area or other implementing regulations beyond the scope of the above described authority will be accomplished by emergency regulation, as provided by section 305(e) of the Act, in accordance with the recommendation of the Regional Director following consultation with the Commissioner of the Department of Fish and Game. It is understood that time will often be of the essence in making effective the aforementioned adjustments and changes.

8.3.2. Foreign

That portion of the *Preliminary Management Plan for King and Tanner Crab of the Eastern Bering Sea* which deals with the Tanner crab fishery will remain in force except that: (1) the area of legal fishing shall be north of 58° N. latitude and west of 164° W. longitude in the Bering Sea; and (2) for the Bering Sea management area, see section F.8.3.2. of this Plan. (The referenced Preliminary Management Plan appeared in the Federal Register on February 11, 1977. See appendix 11.6.

Further details may be found under the Bering Sea management area. Purpose and rationale for these measures may be found in Sections 3.3.2., 3.3.3., 6.0. and 7.0. and under equivalent sections in the Bering Sea management area.

8.3.3. Relationship of the Recommended Measures to Existing Applicable Laws and Policies

8.3.3.1. Fishery Management Plans Prepared by the Secretary of Commerce

The fishery management plan now in effect was prepared by the National Marine fisheries Service and deals solely with the foreign fishery for Tanner and king crab. This plan was prepared in January of 1977 and adopted by the Secretary in lieu of a council management plan (PMP 1977).

8.3.3.2. Federal Laws and Policies

The Fishery Conservation and management Act of 1976 (the Act, P.L. 94-265) requires that fishery management plans be consistent with the provisions of the Act, including the seven National Standards for fishery conservation and management. The National Standards are:

1. Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.
2. Conservation and management measures shall be based upon the best scientific information available.
3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.
4. Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.
5. Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocations as its sole purpose.
6. Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.
7. Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

This plan proposes to adopt the regulatory measures of the State of Alaska to the extent that they are consistent with these National Standards and other provisions of the Act.

8.3.3.3. State Laws and Policies

Adoption of the proposed regulatory regime in this plan will be compatible with the State of Alaska's management program for its citizens outside the Territorial Sea fishing for Tanner crab and all U.S. citizens within the Territorial Sea fishing for the same resource.

8.4 ENFORCEMENT REQUIREMENTS

Domestic. Because of the large areas involved, direct patrol of all potential Tanner crab grounds off Alaska is difficult and expensive. Indirect measures have been, and will be, required to implement the necessary management measures for this resource. The State of Alaska has developed a system described in this section, to minimize the need for and cost of direct enforcement using: 1) landing laws, both general and by management area; 2) area registrations and inspection; 3) descriptions and marking of Tanner crab gear.

1. *Landing laws.* The basic system of regulations used to enforce many of Alaska's conservation laws have prohibited the landing or possession of Tanner crab and Tanner crab gear in order to protect closed areas.

Increasing demand for Tanner crab and the potential ability of the fishing fleet to overharvest the resource require positive controls to prevent overfishing. Landing laws prohibit the landing, including possession, sale, trading, transporting or purchasing of all unprocessed Tanner crab as long as the closure is effective. The prohibition also applies to the possession of Tanner crab gear (in operable condition) in areas or at times contrary to regulation.

2. *Area Landing Laws.* Provisions are necessary to manage individual Tanner crab fisheries with flexibility to accomodate local conditions. Therefore a landing law must be effective within each management area to prevent illegal fishing in closed areas, yet permit landings of crab to processors in closed areas, that were taken in open areas. This is accomplished by:

3. *Area Registration and Inspection.* The Tanner crab fishery is divided into management areas ('Statistical areas' in State of Alaska regulations). Fishermen intending to fish Tanner crab are required to specify in advance of Tanner crab seasons that registration area(s) in which they expect to operate.

There are two types of registration areas—exclusive and non-exclusive. Currently there are two exclusive areas (E: Prince William Sound and H. Cook Inlet) and two non-exclusive areas (A: Southeastern-Yakutat and J: Westward). The exclusive areas are small and fished by local fleets while the non-exclusive areas are quite large with developing fisheries and some sections that are not fully explored. The expansion of the fishery is directed, through the non-exclusive provision, to areas that can generally sustain further production.

Registrations must be accomplished prior to the earliest season opening date in any exclusive registration area. Provision is made for late registration for cause.

Fishermen and boats registered for an exclusive area may fish only in that area. Those registered for non-exclusive areas may shift to other non-exclusive areas by re-validating for the new area.

Provision is also made for allowing boats fishing in one area to transport catches caught there into a different registration area for processing. Lack of processing facilities in some areas at times and price differentials between areas requires this provision.

Area registration, pre-fishing validation requirements and provision for flexibility in marketing combine to insure accurate reporting of the areas where catches were made and decrease the likelihood of covert fishing in closed areas, while at the same time allowing the transport of unprocessed crab through other registration areas if the need arise.

4. *Description and Marketing of Crab Pot Gear.* When king crab seasons (regulated by the State of Alaska) and Tanner crab seasons overlap the pot limit in those areas, Tanner crab should be the same as those for king crab to avoid enforcement problems. Gear should be marked to identify the boat fishing it to ensure compliance with pot limits. Pots used for Tanner crab should be described in a manner that separates them from pots used for other types of shellfish or bottomfish to reduce the likelihood of illegal fisheries on other species under the guise of Tanner crab fishing or conversely, fishing for Tanner crab under the guise of fishing for other species. Provisions should also be made for storing pots in shallow water in non-fishing condition.

This plan proposes to implement these enforcement requirements and management measures through regulations modeled, as closely as possible, on those now administered by the State of Alaska for the Tanner crab fishery. Current State enforcement (and management) measures are set forth in detail in the State statutes and regulations, contained in Appendix 11.2 of this plan.

8.5 REPORTING REQUIREMENTS

Domestic

Catch Reporting. Catch reporting by the fishermen and the buyers is necessary for proper management. When a Tanner crab fisherman lands his catch, a report in the form of a "fish ticket" must be made. The information required provides a statistical data base on the fishery and shall include information on: type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and such other information as required by the Secretary of Commerce.

Foreign

Fleet Disposition Reports. The appropriate fleet commander or individual vessel master will report to the Director, Alaska Region, National Marine Fisheries Service, Juneau, by radio prior to the commencement of fishing and the arrival in the Region of each fishing and processing vessel, giving the vessel's name and other identifying marks (such as U.S. permit number, size, intended target species, and intended fishing area). A similar report will be made at the time of departure of each vessel from the area or Region. These reports, augmented with U.S. surveillance observations, observer reports, and monthly catch and effort reports, will be used to monitor adherence to catch limitations.

Observers. Each nation operating in the Region will have available at no cost to the United States, accommodation for 2 U.S. observers on factoryships and one U.S. observer on fishing vessels. Observers will be assigned to individual vessels and for periods at the discretion of the U.S. to monitor catches: estimate species, size and age composition; and collect other biological data as appropriate.

The observer will be accorded the rank of a ship's officer and will be assisted in transmitting messages to the United States Government whenever requested.

All observer programs pertaining to foreign crab fisheries will be administered by the Northwest Fisheries Center, National Marine Fisheries Service. Observer coverage and activity will be scheduled in consultation with the North Pacific Management Council, at the NMFS Alaska Regional Office, and the Commander, U.S. Coast Guard Pacific Area.

Each nation whose fishermen operate in the Region shall report to the Director, Alaska Region. National Marine Fisheries Service, Juneau, by May 30 of the following year annual catch and effort statistics, as follows: *Effort* in pots hauled; *Catch* in metric tons and number of crab. Each to be supplied by vessel class, by 10-day period, by ½° (Lat.)×1° (Long.) statistical area, by the following species: *C. bairdi, C. opilio* and any other crab species.

In addition to the annual statistical report above, each nation will report within 3 days following each 10-day fishing period, provisional 10-day fishery information as follows: *Effort* in total pot lifts; and *Catch* in metric tons and number of crab of *C. opilio* and *C. bairdi.*

Vessel Reporting. The operator of each foreign vessel issued a permit shall notify the director of the appropriate National Marine Fisheries Service region and the commander of the appropriate Coast Guard command of the time and position at which the vessel will begin activities to be conducted under the permit at least 24 hours before beginning any such activity. Similar notice shall be given at least 24 hours prior to completion of the activity or departure from the area.

Vessel Identification. Each foreign fishing vessel for which a permit has been issued shall display its hull number or international radio call sign amidships on the deck house or hull, and on the uppermost weather deck.

Facilitation of Enforcement. The operator of any vessel subject to the provisions of the Act shall immediately comply with instructions issued by authorized officers to facilitate boarding and inspection of the vessel for purposes of enforcing the Act and these regulations.

8.6 COOPERATIVE RESEARCH REQUIREMENTS

Bona fide fishery or fishery-related research (but no exploratory fishing where commercial quantities of fish are retained) by foreign governments will be encouraged. Valid results of such research will be considered in determining total allowable catches and other management measures. Cooperative U.S.-foreign research ventures will be planned and executed when they are found to be in the best interest of the United States.

8.7 PERMIT REQUIREMENTS

Foreign

No foreign vessel shall engage in fishing for fish over which the United States exercises exclusive fishery management authority unless it has on board a permit issued pursuant to the *Preliminary Fishery Management Plan for King and Tanner Crabs of the Eastern Bering Sea* (see Appendix 11.6).

Domestic

Licenses will be required of all domestic vessels in order to engage in the Tanner crab fishery.

Registration will be required of domestic fishermen primarily for the purpose of monitoring the resource and obtaining catch information. The number of permits available will not be limited.

8.8 FINANCING REQUIREMENTS

8.8.1 Management and Enforcement Costs

Currently unavailable, but should be generally of the same level as in 1977 since much of the same management regime is proposed.

8.8.2. Expected State and Federal Revenues, Taxes, Fees

Refer to Section 3.7 of this plan. Revenues will depend to a large degree on the magnitude of the 1978 harvest which is undefined except in the case of foreign quotas.

SOUTHEASTERN MANAGEMENT AREA

A.3.0. DESCRIPTION OF FISHERY

A.3.1. AREAS AND STOCKS INVOLVED

In this plan, the Southeastern management area will be discussed in terms of two districts: Southeast and Yakutat.

The target species is *Chionoecetes bairdi.* Data to determine stock delineations and boundaries are not available. Additionally, commercial quantities of other Tanner crab species, *C. opilio* or *C. tanneri,* have not been recorded.

The Southeast district encompasses all waters of Southeastern Alaska from the International border at Dixon Entrance to the latitude of Cape Spencer.

Most nearshore areas in the northern portion of the Southeast district contain Tanner crab in sufficient quantities to support commercial harvests. The southern portions of the district contain crab in small numbers and are commercially harvested to a lesser degree.

The Yakutat district encompasses all waters from the latitude of Cape Spencer to the longitude of Cape Suckling.

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Most nearshore locations within this district also contain crab in sufficient quantities to support commercial harvests. Major catches are reported from Icy Bay, Yakutat Bay, the Point Manby shore and in the vicinity of Point Riou.

A.3.2. HISTORY OF EXPLOITATION

A.3.2.1. Domestic Fishery

A.3.2.1.1. *Description of User Groups*

Tanner crab are utilized predominately by commercial fishermen. A relatively small amount are utilized by subsistence fishermen although the Alaska Department of Fish and Game does not maintain subsistence harvest statistics.

A.3.2.1.2. *General Description of Fishing Effort*

The Tanner crab and red king crab seasons open currently. During the red king crab season, September 1 through January 31, most Tanner crab effort is secondary to the red king crab fishery. From January 31 through the seasons's end (May 15) effort is concentrated toward the harvest of Tanner crab. In the Icy Strait area, major fishing effort occurs during November, December, and January.

A.3.2.1.3. *Catch Trends*

Southeast District. In 1968, the market demand for Tanner crab products encouraged an exploratory fishery resulting in a small seasonal harvest of 223,000 pounds (101 mt). In the 1969/70 season the fishery expanded, resulting in a harvest of 660,300 pounds (300 mt). An apparent low market demand and resulting price disputes held the 1970/71 seasonal harvest to 167,400 pounds (76 mt). Since the 1971/72 season harvest of 657,700 pounds (298 mt), the harvest generally increased to a peak during the 1975/76 season at 2,158,800 pounds (979 mt). Historic catch is documented in Table A1.

TABLE A1. SOUTHEASTERN MANAGEMENT AREA TANNER CRAB CATCH, NUMBER OF VESSELS, NUMBER OF LANDINGS, AND UNWEIGHTED MEAN CATCH PER LANDING FOR SOUTHEAST AND YAKUTAT DISTRICTS.

SOUTHEAST DISTRICT

SEASON[1]	CATCH POUNDS	CATCH MT	NUMBER VESSELS	NUMBER LANDINGS	UNWEIGHTED MEAN CATCH PER LANDING POUNDS	UNWEIGHTED MEAN CATCH PER LANDING MT
1968/69[2]	223,045	101	27	160	1394	0.63
1969/70[3]	660,337	300	31	360	1834	0.83
1970/71	167,378	76	12	72	2325	1.05
1971/72	656,661	298	23	274	2397	1.09
1972/73	1,339,953	608	30	340	3941	1.79
1973/74	1,309,673	594	46	419	3126	1.42
1974/75	839,304	381	29	241	3483	1.60
1975/76[4]	2,157,752	979	26	369	5448	2.47
1976/77[5]	1,850,380	839	30	290	6392	2.90
TOTAL	7,453,103	3381	224	2235		
MEAN	919,263	417	28	279	3335	1.51

YAKUTAT DISTRICT

1972/73	540,580	245	6	36	15016	6.81
1973/74	1,872,357	849	11	110	17021	7.72
1974/75	1,997,199	906	13	63	31702	14.4
1975/76	1,724,649	782	3	34	50725	23.0
1976/77	827,864	376	6	12	71988	32.7
TOTAL	6,134,785	2783	33	243		
MEAN	1,533,696	696	8	61	25246	11.5

1/ Season: September 1 through May 15 beginning with 1974/75 season
2/ 1968/69 data from ticket log of ADF&G fish tickets (1968) and ADF&G automated annual fish ticket reports hand compiled to seasons (1969).
3/ 1969/70 through 1974/75 data from ADF&G automated annual fish ticket data reports hand compiled to seasons.
4/ 1975/76 data from ADF&G automated annual fish ticket reports (1975) and ADF&G ticket log (1976) hand compiled to seasons.
5/ 1976/77 data from ADF&G ticket log, season in progress

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Yakutat District. Historic catch information (Table A1) indicates the initial harvest in this fishery of 540,580 pounds (245 mt) occurred during the 1972/73 season. From 1973/74 through 1975/76, catches have ranged from 1,724,650 pounds (782 mt) during the 1975/76 season to 1,997,200 pounds (906 mt) during the 1974/75 season. The average harvest since the inception of this fishery is 1,533,700 pounds (696 mt).

A.3.2.1.4. Description of Vessels and Gears Employed

Southeast District. During the early development of the fishery in 1968, seine type vessels averaging 51 feet (15.5 m) in keel length and ranging from 32 to 82 feet (9.8 to 25.0 m) participated in the fishery. These vessels had an average net tonnage of 35 tons (32 mt) and a range from 5 to 125 net tons (4.5 to 113 mt). Vessel characteristics have remained fairly consistent since the 1969/70 season. (Table A2).

TABLE A2. SOUTHEASTERN MANAGEMENT AREA TANNER CRAB FLEET CHARACTERISTICS BY SEASON FOR SOUTHEAST AND YAKUTAT DISTRICTS 1/

SOUTHEAST DISTRICT SEASON	NUMBER VESSELS	MEAN KEEL LENGTH FEET	MEAN KEEL LENGTH M	RANGE OF KEEL LENGTH FEET	RANGE OF KEEL LENGTH M	MEAN NET TONNAGE TONS	MEAN NET TONNAGE MT	RANGE NET TONNAGE TONS	RANGE NET TONNAGE MT	MEAN HOLD CAPACITY 2/ LBS	MEAN HOLD CAPACITY 2/ MT
1968/69	27	51	15.5	32-82	9.8-25.0	35	32	5-125	5-113		
1969/70	31	52	15.8	36-74	11.0-22.6	30	27	6-77	5-70		
1970/71	12	49	14.9	36-68	11.0-20.7	26	24	4-50	4-45		
1971/72	23	49	14.9	31-72	9.4-21.9	27	24	4-77	4-70		
1972/73	30	48	14.6	30-86	9.1-26.2	31	28	5-134	5-122		
1973/74	46	44	13.4	27-85	8.2-26.0	22	20	1-64	1-58		
1974/75	29	46	14.0	30-85	9.1-26.0	27	24	5-64	5-58		
1975/76	26	48	14.6	33-85	10.1-26.0	29	26	5-67	5-61		
1976/77	30	49	14.9	32-85	9.8-26.0	30	27	5-67	5-61	24,000	11
YAKUTAT DISTRICT											
1972/73	6	66	20.1	40-80	12.2-24.4	81	73	27-138	24-125		
1973/74	11	55	16.8	30-86	9.1-26.2	41	37	18-89	16-81		
1974/75	13	73	22.3	38-103	8.2-31.4	92	83	32-171	29-155		
1975/76	3	112	34.1	78-167	23.7-50.9	188	171	89-338	81-307		
1976/77	6	80	24.4	32-103	9.8-31.4	107	96	23-197	21-179	94,200	43

1/ Source: ADF&G vessel register and fish tickets
2/ Estimated by area shellfish biologist

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During the 1968-69 season a variety of pots, including rectangular king crab pots and round Dungeness crab pots, were utilized. The round Dungeness crab pots are no longer used. In addition to the modified king crab pots, pots of pyramid and conical design have been developed specifically for the Tanner crab fishery and are widely utilized.

Yakutat District. During the first 2 seasons vessel types varied greatly but beginning with the 1974-75 season, participating vessels were designed specifically as king and Tanner crab boats. This trend continued in 1975-76, but by 1976-77 two smaller vessels had entered the fishery. During the 1976-77 season the mean length was 80 feet (24.4 m) with a range from 32 to 103 feet (9.8 to 31.4 m, see Table A2). Mean net tonnage was 107 tons (97 mt) with a range from 23 to 197 net tons (21 to 179 mt) and each vessel had an average hold capacity of 94,200 pounds (43 mt). Vessels producing the majority of the harvest are Westward king and Tanner vessels.

Gear utilized in this fishery is almost exclusively rectangular 6×6 foot (1.8 m) or 7×7 foot (2.1 m) standard king crab pots.

A.3.2.2. History of Foreign Exploitation

There is no record of foreign exploitation of Tanner crab within waters of the Southeastern management area.

A.3.3. HISTORY OF MANAGEMENT

A.3.3.1. Management Institutions, Policies, Jursidiction

The Southeastern management area is defined in A.3.1. The Division of Commercial Fisheries within the Alaska Department of Fish and Game exercises management control over the fishery. Inseason management responsibility, preliminary management plan development, and management related research is conducted by the regional office in Juneau and the area office in Petersburg. See Section 3.3.1.

A.3.3.2. Domestic

A.3.3.2.1. and A.3.3.2.2. Regulatory Measures and Purpose of Measures

During the first few regulatory years (through 1972) regulations permitted the harvest of only male Tanner crab by pots, ring nets, or shrimp beam trawls (Table A3).

TABLE A3. REGULATORY HISTORY, SOUTHEASTERN MANAGEMENT AREA TANNER CRAB FISHERY -- SOUTHEAST (S.E.) AND YAKUTAT(YAK) DISTRICTS

REGULATION YEAR	FISHING SEASON	MIN. SIZE LIMIT	GUIDELINE HARVEST LEVEL 10^6 lbs	GEAR	AREA REGISTRATION
1969	None	None. males only	None	No pot limit; pots, ring nets, beam trawls,	None
1970	"	"	"	"	"
1971	"	"	"	"	"
1972	"	"	"	"	"
1973	"	"	"	"	"
1974	Sept. 1 - May 15	"	"	S.E.: 60 pots, king & Tanner combined; ring nets, beam trawls.	"
				SE: same as 1973 except cotton escape seam on pots. YAK: 60 pots in Lituya Bay, bouy marking repealed.	Non-exclusive
1975	"	"	"	S.E.: same as 1974 except 60 pots combined during king crab season (Sept. 1-Jan 31) 100 pots during remainder of Tanner season. YAK: 100 pots each in Lituya Bay and Yakutat bays.	"
1976	"	5.5 inches (140 mm)	S.E. 1.75 (794 MT) YAK: 3.0 (1361 MT)	S.E.: same as 1975 YAK: " " "	"
1977	"	"	"	S.E.: same as 1975 YAK: " " " (except exclude beam trawls)	"

Sources: ADF&G regulation booklet; 1972 through 1976, Alaska Board of Fisheries action 1977.

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Since then, additional restrictions have been initiated; these restrictions and their rationale are described below:

1. *Fishing season:* in the fall of 1973 a fishing season from September 1 through May 15 was established to allow for acceptable meat recovery rates by the processing industry. In the vicinity of Icy Strait, industry representatives indicate that recovery rates are highest during the fall and early winter months.

The season was also applied to the Yakutat district since differing data was not available. Additionally, this fishery still appears to be developmental in nature and restrictions other than protection from fishing during critical life history stages was not deemed appropriate. The season has been maintained to allow for incidental catches and retention of Tanner crab during the king crab season.

The May 15 closure was established to prevent deadloss of softshell crab and to curtail fishing during the breeding and egg hatch season.

2. *Size limit:* A 5.5 inch (140 mm) minimum carapace width size limit was established for the 1976-77 fishing season. The size limit was based on Alaska Department of Fish and Game research conducted in Kodiak which indicates that this size allows male Tanner crab to contribute to stock reproduction before entering the fishery.

3. *Guideline Harvest Level:* A guideline harvest level based on historic catches plus an allowance for continued expansion of the fishery was implemented during the 1976-77 season. The strategy is to prevent overexploitation and allow for orderly development of the fishery.

4. *Gear:*

Southeast District: From 1969 through 1972 crab pots, ring nets, and beam trawls were established as legal commercial fishing gear. During the 1973-74 season the number of crab pots per vessel was established at 60. This coincides with gear regulations for the red king crab fishery to alleviate enforcement problems associates with concurrent fisheries. During the 1974-75 season a requirement for a cotton seam escape panel in each pot was established to reduce the fishability of lost pots. During the 1975-76 season the pot limit was modified to provide for 60 crab pots during the red king crab season (September 1 through January 31) and 100 pots thereafter to the close of the Tanner crab season.

Yakutat District. Prior to regulation year 1974, no pot limits had been established. Also during the 1974-75 season, no limit on units of gear was in effect for the majority of the management area. In Lituya Bay, however, a vessel could only fish a maximum of 60 pots. During the 1975-76 season, no limit on units of gear was in effect for any waters of the district except Lituya Bay and Yakutat Bay where the limit was a maximum of 100 pots per vessel. These pot limits apply only when the red king crab season is closed (February 1 through May 15), during the red king crab season (September 1 through January 31) a maximum of 60 pots only per vessel may be fished.

The pot limits established in the Lituya Bay and Yakutat Bay areas were to reduce the intensity of the fishery for these relatively restricted geographical areas.

5. *Area Registration:* During the 1974-75 fishing season, the Southeastern management area was designated a non-exclusive registration area as a portion of statistical area A.

A.3.3.3. Foreign.

There is no foreign Tanner crab fishery in Southeastern Alaska.

A.3.3.4. Effectiveness of Management Measures

The relatively short history of this fishery makes the evaluation of management measures difficult. The 1976-77 season will be the first season that harvest in the Southeast district is dependent on progeny of previously exploited stocks. It appears that the May 15 season closure date may allow fishing during molting periods in some years. Recent observations indicate that a closure date between April 15 and 30 may be more appropriate. Other management measures appear appropriate to maintain stock conditions considering current information.

A.3.4. HISTORY OF RESEARCH

A.3.4.1. Domestic

The Alaska Department of Fish and Game does not currently conduct a Tanner crab research program in the Southeastern management area. Other than dockside sampling of carapace width which is accomplished on a time-available basis, a limited amount of sampling aboard commercial vessels is accomplished. An analysis of data to estimate size at maturity of male Tanner crab from Auke Bay, Alaska, has been accomplished ADF&G personnel (Donaldson 1977).

A.3.4.2. Foreign

No foreign research is presently being conducted in the Southeastern management area.

A.3.5. SOCIO-ECONOMIC CHARACTERISTICS

A.3.5.1. Output of Subject Domestic Commercial Fishery

A.3.5.1.1. Value of Catch (ex-vessel)

Southeast District. The average ex-vessel price has ranged from 10 cents per pound in 1969 to 32 cents per pound in 1976 (Table A4). The total ex-vessel value has averaged $151,000 per season and ranged from $17,000 during the 1970-71 season to $475,000 during the 1975-76 season (Table A5). Ex-vessel value for the 1976-77 harvest through March 1977 totals $592,122 based on the ex-vessel price of 32 cents per pound.

Yakutat District. The average ex-vessel price has ranged from 14 cents per pound in 1972, to 32 cents per pound at present (Table A4). Total ex-vessel value has averaged $277,000 per season and ranged from $92,000 during the initial season in 1972-73 to $380,000 during the 1975-76 season (Table A5). The 1976-77 season ex-vessel value through March 1977 is $294.916.

TABLE A4.—*Unweighted mean ex-vessel price in dollars per pound, southeastern management area Tanner crab*[1]

Year	ex-Vessel price per pound
1969	$0.10
1970	.11
1971	.10
1972	.14
1973	.17
1974	.19
1975	.14
1976	.22
1977	.32

[1]Computed by dividing total ex-vessel price by annual harvest in pounds. Ex-vessel value and annual harvest provided by Alaska Commercial Fisheries Entry Commission.

TABLE A4.—*Total Ex-vessel value in dollars by season and district for southeastern management area*[1]

Fishing season	Total ex-vessel value Southeast	Yakutat
1968-69	$22,304.50	
191969-70	72,637.07	
191970-71	16,737.80	
191971-72	91,932.54	
191972-73	227,792.01	$91,898.60
1973-74	183,354.22	355,747.83
191974-75	117,502.56	279,607.86
1975-76	474,705.44	379,422.78
1976-77[2]	592,121.60	264,916.48
19Total[3]	1,206,986.14	1,106,677.07
19Mean[3]	150,870.77	276,669.27

[1]Computed by multiplying seasons harvest in pounds by annual ex-vessel price per pound from Table A4. Assume year 1969=season 68-69. Season harvest from Table A1.

[2]Season in progress.

[3]Total and Mean without 1976-77 season data.

A.3.5.1.2. Description and Value of Products (Wholesale)

The Tanner crab harvest is processed into two major products: A frozen meat pack and a frozen section-in-shell pack. The frozen meat pack is further divided into salad packs, and/or leg packs. A portion of the frozen section-in-shell is comprised of "gourmet claws" which are the chelae with a portion of the posterior shell removed.

Southeast District. The wholesale value of the Southeast district Tanner crab products is approximately $1 million from the 1973-74 season harvest, $0.6 million from the 1974-75 season harvest and $1.6 million from the 1975-76 season harvest (Table A6). Wholesale value information from the 1976-77 season harvest is not presently available, but can be approximated at $1.4 million.

TABLE A6.—*First wholesale value of Tanner crab harvests by season for southeastern management area*

Season	Wholesale value (in dollars) Southeast	Yakutat
1973-74	969,158.02	1,385,544.18
1974-75	621,084.96	1,477,927.26
=1975-76	1,596,736.48	1,278,240.26
1976-77[1]	1,369,281.20	612,619.36

[1]Incomplete.

Source: ADF&G Catch and Production. Juneau.

Yakutat District. The wholesale value of the Yakutat district Tanner crab products was approximately $1.4 million from the 1973-74 season harvest, $1.5 million from the 1974-75 season harvest, $1.3 million from the 1975-76 season (Table A6). Wholesale value information is not available from the 1976-77 season. However, an approximation of wholesale value calculated on the catch through March 1977 is $0.6 million.

A.3.5.1.3. Markets, Domestic and Foreign

The bulk of the meat pack is marketed and consumed in the United States and Canada. The major portion of the section pack is marketed in Japan with lesser amounts marketed in England and other European countries. As of December 1976, United States market demands for Tanner meat products exceeded that for section (U.S.D.C. 1976). Tanner crab market demands are at least partially influenced by the supply of other crab products in the United States. See Section 3.5.1.3.

A.3.5.2. Domestic Commercial Harvesting Characteristics

A.3.5.2.1. Total Gross Income of Fleet (from subject fishery and all other fisheries)

The gross income of the Southeastern Tanner crab fleet from all fisheries (King crab, halibut, salmon, etc.) was $3.4 million in 1976. This compares to a Tanner crab harvest valued at $772,500. The average total gross income per vessel was $121,730. Table 5 shows the value of Tanner crab catch and total gross income for all fisheries by management area.

A.3.5.2.2. Investment in Vessels and Gear

Quantitative information concerning investment in vessels and gear is not available. See Section 3.5.2.2.

A.3.5.2.3. Annual Participation in the Fishery

Southeast District. An estimated 2,583 vessel days were utilized in the harvest of Tanner crab during the 1975-76 season. This figure assumes each vessel made 14 landings and each landing required 6 days fishing and 1 day running time.

Yakutat District. An estimated 408 vessel days were utilized in the harvest of Tanner crab during the 1975-76 season, based on each landing requiring 10 days fishing and 2 days running time.

A.3.5.2.4. Total Manpower Employed

Southeast District. An estimated 90 individuals were employed in the harvest of Tanner crab during the 1976-77 season. This includes skippers and crewmen, and was derived by multiplying the number of participating vessels by three (the average vessel crew).

Yakutat District. An estimated 24 individuals were employed during the 1976-77 season (through March). This estimate includes skipper and crewmen, and was derived by multiplying the number of participating vessels by four (the average vessel crew).

A.3.5.2.5. Economic Viability

Data are not available for the Southeastern management area. See Section 3.5.2.5.

A.3.5.3. Domestic Commercial Processing Characteristics

A.3.5.3.1. Total Gross Income of Area Processors

These data are not available for the Southeastern management area processors. However, first wholesale value has been estimated as previously mentioned (A.3.5.1.2.) and itemized in Table A6.

A.3.5.3.2. Investment in Plant, Equipment, Etc.

Data are not available. See Section 3.5.3.2.

A.3.5.3.3. Total Employment and Labor Income

Total employment is not available. An estimated processor employment is 450 employees. Income of this labor force is not known. See Section 3.5.3.3.

A. 3.5.3.4. Economic Viability

Data are not available. See Section 3.5.3.4.

A.3.5.4. Recreational Fishing Characteristics

There are no regulated sport or recreational fisheries for Tanner crab within the Southeastern management area.

A.3.5.5. Subsistence Fishing Characteristics

A subsistence fishery, which is at least partially recreational in nature, is open throughout the year with no sex, size, or gear restrictions except that pot buoys must be marked with the name and address of the fisherman, and the pot must be attended at least once each 14-day period. The possession limit is 30 crab per person per day and crab may not be sold, traded, or bartered.

A.3.5.6. Indian Treaty Fishing Characteristics

There are no Indian treaty fishing rights for Tanner crab within the Southeastern management area.

A.3.5.8. Community Characteristics

A.3.5.8.1. Total Population

Southeast District. The Southeast district contains four boroughs and 24 cities within its geographic boundaries with a reported population totaling 45,029 individuals (Department of Labor 1977). Tanner crab are landed and processed in five communities with a total population of 26,388. The Tanner crab fishery has a direct effect on these five municipalities (Junea, Sitka, Hoonah, Pelican, and Petersburg) and indirectly affects the remaining boroughs and cities.

Yakutat District. The Yakutat district has a single community located within it (the City of Yakutat) with a reported population of 190 (Department of Labor 1977). Three other communities are affected by the Yakutat fishery since all processing of Yakutat Tanner crab is accomplished in Sitka, Pelican, or Cordova. The City and Borough of Sitka has a population of 6,109 and Pelican has a population of 133. Cordova has a population of 2,406.

A.3.5.8.2. Total Employment

See Section 3.5.8.2.

A.3.5.8.3. Total Work Force

See Section 3.5.8.3.

A.3.6. INTERACTION AMONG USER GROUPS

There are no known interactions among user groups. However, a substantial number of king crab fishermen participate in the Tanner and king crab fisheries concurrently.

A.3.7. FEDERAL AND STATE REVENUES DERIVED FROM FISHERY

These values are not available by management area but are reported on a statewide basis in Section 3.7.

A.4.0. BIOLOGICAL DESCRIPTORS

A.4.1. LIFE HISTORY FEATURES

The general life history of *C. bairdi* is described in the biological history portion of this plan (Section 4.0) from research done in the Kodiak area. Inconsistencies with this information have not been documented in stocks within the Southeastern management area.

A.4.2. STOCK LIMITS

Southeast District. Distinct stock delineations are not possible with present information. However, ADF&G personnel manage Tanner crab as discrete stocks in Lynn Canal, Icy Strait, Frederick Sound, Peril Strait, Seymore Canal, waters adjacent to Juneau, and all waters including and south of Sumner Strait.

Yakutat District. Definitive information concerning distinct stock units is not available. However, information indicates that the Icy Bay crab, the Yakutat Bay crab, and the crab inhabiting the shelf outside the bays all have distinct characteristics indicating the possibility of distinct stocks.

A.4.3. CATCH-EFFORT DATA

Refined catch per unit effort data are presently not collected in the Southeastern Tanner crab fishery. A gross estimate of C.P.U.E. expressed as catch per pounds per vessel landing has been listed by fishing season (Table A1).

A.4.4. SURVEY AND SAMPLING DATA

Relative abundance indices of Tanner crab stocks in the Southeastern management area are not conducted by the Alaska Department of Fish and Game. Dockside sampling of the commercial catch for carapace width frequency distribution has been accomplished since the 1973/74 season and has been summarized by appropriate size classes (Table A7). The dockside sampling data have not been expanded to include shell age and average weight per crab.

Some surveying of the shelf area running north and east of Point Manby has been accomplished by the National Marine Fisheries Service utilizing International Pacific Halibut Commission data (Hughes 1974). However, this report does not attempt to estimate population abundances, and the survey did not include Yakutat Bay which is a major fishing area.

A.4.6. QUALITY OF DATA

Refer to statewide section 4.6.

A.4.&. CURRENT STATUS OF STOCKS

A.4.7.1. Maximum Sustainable Yield (MSY)

Southeast District. Based on the relatively short history of the fishery, the continued increase in gross C.P.U.E. (see Table A1), and the non-availability of population abundance information it appears that historic harvest levels have not approached a MSY level. Therefore, any estimate of MSY should exceed the largest harvest to date of 2,158,000 pounds (979 mt). As such, a tentative weak estimate of 2.5 million pounds (1134 mt) is specified for this district.

All harvests prior to the 1976/77 season were accomplished without a legally imposed minimum size limit. However, preference for crab larger than 5.5 inches (140 mm) is displayed in the dockside sampling summary (Table A7) by season beginning the 1973/74 season.

TABLE A7.—*Tanner crab dockside sampling of carapace width by size class, season, and district for southeastern management area.*

Width frequencies by size class	Season 1973-74 (percent)	1974-75 (percent)	1975-76 (percent)	1976-77 (percent)
	Southeast District			
0139 mm	15.9	12.2	8.1	5.2
140-166 mm	68.8	67.5	81.0	80.2

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TABLE A7.—*Tanner crab dockside sampling of carapace width by size class, season, and district for southeastern management area.*—Continued

Width frequencies by size class	Season 1973-74 (percent)	1974-75 (percent)	1975-76 (percent)	1976-77 (percent)
Southeast District				
0167 mm	15.3	20.3	10.9	14.5
Mean width (mm)	152.9	155.4	153.9	154.1
Sample size	1633.0	798.0	1472.0	2276.0
Yakutat District				
0139 mm	43.0	39.5	29.5	23.4
140-166 mm	56.7	59.8	68.7	75.0
0167 mm	0.3	0.7	1.8	1.6
Mean width (mm)	142.5	142.2	145.7	144.7
Sample size	1472.0	732.0	437.0	320.0

[1]Source: ADF&G unpublished catch statistics. Juneau.

Yakutat District. Based on the short history of the fishery, the continued increase in C.P.U.E. (see Table A1), and the availability of survey data (Hughes 1974), it appears as if historic harvest levels have not approached a MSY level. Therefore, a tentative weak estimate of a MSY of 3 million pounds (1,360 mt) is specified for this district.

A.4.7.2. Equilibrium Yield (EY)

Existing data are insufficient to determine EY.

A.4.7.3. Acceptable Biological Catch (ABC)

Southeast District. Biological data necessary to modify MSY to determine ABC are not available. Therefore, ABC is estimated to be 2,500,000 pounds (1,134 mt) to provide for a continued, orderly development of the fishery in this district.

Yakutat District. Biological data required to modify MSY to determine ABC are not available. Therefore ABC is estimated to be 3 million pounds (1,361 mt) to provide for a continued, orderly development of the fishery in this district.

A.4.8. ESTIMATE OF FUTURE STOCK CONDITIONS

Given a limited data base, only subjective statements are possible: C.U.P.E. indicators of stock abundance are currently high in relation to earlier years, although the 1976-77 catch for the Yakutat district is below average. Therefore, stock conditions are expected to remain healthy, assuming no changes in mating success or other critical life history stages.

A.5.0. CATCH AND CAPABILITY DESCRIPTORS

A.5.1. DATA AND ANALYTICAL APPROACHES

A.5.1.1. Domestic

Southeast District. Table 6, p. 50 lists the potential commercial harvesting capabilities in the Southeast district Tanner crab fishery. The number of vessels is documented through fish ticket returns which indicate landings from the district during the 1976-77 season. Hold capacities were estimated for each vessel by the ADF&G shellfish management biologist and seasonal harvesting capacities were determined by multiplying hold capacity by the average number of trips per vessel. This provides a seasonal capacity of 8,244,000 pounds (3,739 mt).

Yakutat District. Table 6 lists the potential commercial harvesting capabilities of the Yakutat district Tanner crab fishery. Calculated on the same basis as the Southeast district, the seasonal capacity is estimated at 4,473,000 pounds (2,030 mt).

A.5.1.2. Foreign

There is no foreign fishery in the Southeastern management area.

A.5.2. DOMESTIC ANNUAL CAPACITY (DAC)

The DACs for the Yakutat and Southeast districts are 4,472,916 and 8,244,000 pounds (2,029 and 3,739 mt), respectively. These values are discussed in Section A.5.1.1.

A.5.3. EXPECTED DOMESTIC ANNUAL HARVEST (DAH)

Southeast District. The DAC estimate has not been approached during previous seasons due to many influences including (but not limited to) market conditions, fleet availability, vessel type, and the unknown abundance of Tanner crab as the fishery continues to develop.

The market demand for Tanner crab products appear to be relatively firm (U.S.D.C. 1976) and this should have a positive of influence on DAH.

Fillet availability, vessel type, and abundance of Tanner crab are somewhat linked. Most vessels participating in the fishery are limit seine-type vessels or smaller. Hold capacity limits the ability of smaller vessels to expand into location distant from population centers. The available Tanner crab may not provide the economic basis for capitalization to larger vessels. Some of the larger vessels of 60 to 70 foot keel lengths (18.3 to 21.3 m) maintain high catches throughout the season in areas removed from population centers.

Assuming good market conditions, present fleet characteristics, and current harvest characteristics, DAH should reach 2,500,000 pounds (1,134 mt) during the 1977-78 season.

Yakutat District. The DAC has not been achieved in the past due to the same influences encountered in the Southeast district.

Fleet availability and the unknown availability of Tanner crab have negative influences on the expected DAH. More profitable fisheries with known availabilities of Tanner crab divert vessels from the Yakutat fishery, particularly from September through December.

In the past, all of Tanner crab in Yakutat have been processed in Southeastern Alaska cities or in Cordova. Running time from the fishing grounds to the various processors reduces fishing time and has had a negative influence on the DAH. One Yakutat processor has indicated a desire to process Tanner crab next season (1977-78). This could have a positive influence on expected DAH, depending on processing rates and levels.

Assuming good market conditions, the addition of a Yakutat plant to the processing sector, and sufficient vessels, the expected DAH should approach 3,000,000 pounds (1,361 mt) during the 1977-78 season.

A.6.0. OPTIMUM YIELD (OY)

A.6.1. DEPARTURE FROM MSY TO ABC FOR BIOLOGICAL REASONS

MSY and ABC are set equivalent in the absence of any biological data which would require an alternative specification.

A.6.2. DEPARTURE FROM ABC FOR SOCIO-ECONOMIC REASONS

In the absence of any explicit socio-economic objectives which would require that OY differ from the specified ABC, they are set equivalent.

A.6.3. OPTIMUM YIELD (OY)

The OY for the Southeast and Yakutat districts is 2.5 and 3 million pounds (1,134 and 1,361 mt) respectively. Total optimum yield for the Southeastern management area is therefore set at 5.5 million pounds (2,495 mt).

A.7.0. FOREIGN ALLOWABLE CATCH (FAC)

No surplus stocks are available to foreign nations from this management area.

A.8.0. MANAGEMENT REGIME

See Section 8.0 through 8.8.2.

PRINCE WILLIAM SOUND MANAGEMENT AREA

B.3.0. DESCRIPTION OF FISHERY

B.3.1. AREAS AND STOCKS INVOLVED

The Prince William Sound management area encompasses all the waters of Prince William Sound proper, and all the waters of the Northcentral Gulf of Alaska between the longitudes of Cape Suckling and Cape Fairfied (Fig. 1).

Major Tanner crab fishing areas within the Prince William Sound management area are: the eastern portion of Prince William Sound, Hinchinbrook Entrance, the area immediately east of Montague Island, the area between Cape Cleare and Cape Fairfield, the area immediately south of Hinchinbrook Island and the area west of Kayak Island.

Data are not available to determine the existence of different stocks in the management area. Thus, for management purposes, Tanner crab in the area are considered to be one stock.

B.3.2. HISTORY OF EXPLOITATION

B.3.2.1. Domestic Fishery

B.3.2.1.1. Description of User Groups

Commercial fishermen are the only user group of the Tanner crab resource in the Prince William Sound management area.

B.3.2.1.2. General Description of Fishing Effort

For the first few months of the season most of the fishing occurs inside Prince William Sound and Hinchinbrook Entrance by seine type vessels. As the season progresses and the weather conditions improve, larger vessels enter the fishery and the majority of effort shifts to the waters outside Prince William Sound.

B.3.2.1.3. Catch Trends

The fishery began in 1968 and was in an exploratory phase for the first two years with an annual catch of approximately 1.25 million pounds (567 mt). In 1970/71 a price dispute held the catch beneath 5,000 pounds (2.3 mt). The fishery reached its peak harvest in the 1972/73 season with a catch of 14 million pounds (6,350 mt). The 1974/75 season catch (4 million pounds, 1,814 mt) was suppressed by a price dispute which delayed fishing. The 1975/76 catch of 7 million pounds (3,175 mt) showed a decrease from the high seasons; however, because of the short history of the fishery it is difficult to determine whether or not this was the beginning of a downward trend. Historical catch is shown in Table B1.

TABLE B1.—*Prince William Sound Tanner crab catch*

[Fishing season]

Seasons	Pounds	Metric tons
1968-69	1,235,613	560
1969-70	1,284,597	582
1970-71	4,159	2
1971-72	7,788,498	3,532
1972-73	13,927,868	6,316
1973-74	10,158,000	4,606
1974-75	3,854,000	1,747
1975-76	7,132,744	3,234
1976-77	2,236,000	1,014
Total	45,385,479	20,586.53
Average	5,673,185	2,573.32

Source: ADF&G catch and production.

The 1976-77 totaled only 2,236,000 pounds (1,014 mt). The recently imposed minimum size, a price dispute which delayed fishing and the exclusive registration area for Prince William Sound may have contributed to this relatively small catch.

B.3.2.1.4. Description of Vessels and Gears Employed

During the exploratory phase of the fishery (1968-70) both seine type, 40 foot (12.2 m) keel lengths, and larger crab vessels, 80 foot (24.2 m) keel lengths, fished large round, 7 foot diameter (2.13 m), Dungeness pots and rectangular king crab pots.

In 1969 7 x 7 feet (2.13 m) pyramid shaped Tanner crab pot was developed and is now used almost exclusively for this fishery.

There were 33 vessels which took part in the 1975/76 Tanner crab fishery. The average keel length was 53 feet (16.2 m), with the majority of the vessels in the 41 to 50 foot (12.5 to 15.2 m) keel length class (14 vessels) and the 61 to 70 foot class (18.6 to 21.3 m) (7 vessels). The smallest vessel had a keel length of 31.7 feet (9.7 m), and the largest keel length was 85 feet (26.2 m).

So far in the 1976/77 fishery, there are 23 vessels which have taken part in the fishery. The average keel length is 52 feet (15.8 m) with 12 of the vessels between 31 and 50 feet (9.4 and 15.2 m) and 5 vessels in the 61 to 70 foot (18.6 to 21.3 m) class.

B.3.2.2. History of Foreign Exploitation

There is no foreign fishery for Tanner crab in the Prince William Sound management area.

B.3.3. HISTORY OF MANAGEMENT

B.3.3.1. Management Institution, Policies, Jurisdictions

The State of Alaska, through the Alaska Board of Fisheries and the Cordova office, Division of Commercial Fisheries, Alaska Department of Fish and Game, is the management institution for the Prince William Sound management area.

B.3.3.2. Domestic

B.3.3.2.1. and B.3.3.2.2. Regulatory Measures and Purpose of Measures

A summary of regulatory measures is presented in Table B2. The first regulated fishing season was in 1971 when the fishery was closed for an area inside Prince William Sound between June 1 and August 31. In 1973/74 the open season was from October 15 to a closure date set by an emergency order. The opening date was based on meat recovery, while the closure was set when soft shelled crab appeared in the deliveries. For 1974/75 the season opening was moved up to November 15. In 1977 a specified closure date of May 31 based on historical appearance of soft shelled crab was set; however, an earlier closure may be enacted by an emergency order if there is unusually early occurrence of soft shelled crab.

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Major regulations by season specific to the Prince William Sound Management Area

Table B2

Season	Opening and Closure	Size Limit	Guideline Harvest Level	Area Registration	Gear	Districts
1971/72	Closure of specified area within PWS from 6/1 - 8/31	None	None	None	None	None
1972/73	Oct. 15 to June 22*	None	Inside PWS 3.5 million lb. (1588 mt) Outside PWS 12.0 million lb. (5443 mt)	None	None	None
1973/74	Oct. 15 to May 31*	None	"	Exclusive	None	None
1974/75	Nov 15 to May 31*	None	"	"	None	None
1975/76	" "	None	"	"	None	None
1976/77	Nov 15 to May 10*	5.3 in (135 mm)	3 to 7 million lb. (1,360 to 3,175) metric tons	"	2 escape rings	Establish: Northern, Western, Eastern, Hinchenbrook

*Closure by emergency order when dead loss and softshells approached to 10 percent of deliveries.

Source: ADF&G Shellfish Regulations, Juneau.

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Harvest of Tanner crab is limited to males only (see section 3.3.2.1. and 3.3.2.2.), and a minimum size of 5.3 inches (135 mm) was set in 1976. Based on departmental research in the Prince William Sound management area (unpublished Pr. Wm. Sound ADF&G shellfish research data) it was felt that this critical size should be set in order to protect the mature male brood stock which had been severely overharvested prior to 1976 (Pr. Wm. Sound March 1977 Report to the Board of Fisheries).

Guideline harvest levels were originally set for the 1972/73 season. The total figure of 15.5 million pounds (7,031 mt) was based on a weak estimate of what the resource might be expected to sustain.

In 1977 it was determined that the guideline harvest level of 15.5 million pounds was unrealistically high. A range of 3 to 7 million pounds (1,360 to 3,175 mt) was set to anticipate the current season's catch. This range will be adjusted each season if departmental research and early season catches warrant a change.

The Prince William Sound management area was established as an exclusive registration area starting with the 1973/74 fishing season. Vessels that register for the exclusive area may only fish that area. A vessel must declare its intent to fish the area 30 days prior to the season opening.

Exclusive registration areas are established primarily on economic considerations. The fishing fleet was composed largely of relatively small, 50 feet (15.24 m), vessels unsuitable for fishing unprotected waters. These boats were not able to compete successfully with a large mobile crab fleet such as the one based in Kodiak. A fleet of this type is capable of harvesting the available crabs in the Prince William Sound are a very rapidly if unrestricted fishing were allowed. This would leave a relatively small catch and short season for the local Prince William Sound fleet and processors.

For the 1976/77 season four districts were established within the management area. Guidelines for establishing these districts were based on the possibility of soft shell appearance not being uniform, with respect to time, over the entire area.

The only gear regulation peculiar to the Prince William Sound management area is the requirement, established prior to the 1976/77 fishery, of two escape rings of 4¾ inches (121 mm) located on the vertical plane of the pot so as to allow escapement of undersized crab from the pot. This regulation was established to reduce handling mortality and limb loss of sub-legal and female crab while they were being sorted on the decks of crab vessels. The actual size of the ring was set by determining that crab which are 5.3 inches (135 mm, the minimum legal size) in carapace width, have an average total carapace length of 4¾ inches (121 mm). Therefore, crab less than 5.3 inches (135 mm) width that move in a side to side manner could pass through these rings. Prince William Sound fishermen have found these rings to be useful in cutting down handling except for two instances: on soak times of 1 day or less, and when the gear in fished in an area where there is a very large percentage of small crab.

B.3.3.3. Foreign

No foreign fisheries.

B.3.3.4. Effectiveness of Management Measures

See section 3.3.4.

B.3.4. History of Research

B.3.4.1. Domestic

The Department of Fish and Game Tanner crab research program did not begin until 1976. Studies completed or in progress are:

1. Size of maturity of male Tanner crab. The minimum size was determined by collecting Tanner crab in Prince William Sound and using the resulting data in determining the average size of maturity as done by Brown and Powell in 1971. One molt, the size of which was determined by Donaldson in Kodiak (Donaldson, 1977), was added to the average size at maturity which resulted in a minimum size of 5.3 inches (135 mm) (unpublished ADF&G Pr. Wm. Sound Shellfish Research).

2. Tagging to describe seasonal movement or migratory patterns.

3. Female breeding success to determine adequacy of minimum size. Preliminary analysis of the May 1977 female Tanner crab cruise conducted by ADF&G Prince William Sound shellfish research indicates that 99.8 percent of all mature females captured were bearing new egg clutches, with 91.1 percent having full clutches (unpublished Alaska Department of Fish and Game Prince William Sound Shellfish Research).

4. Index of abundance to determine recruit and pre-recruit strengths (to be initiated in August 1977).

The University of Alaska sea grant and graduate programs have:

1. Described size at maturity of female Tanner crab.

2. Described breeding success of mature females for 1973 and 1976.

B.3.4.2. Foreign

There has been no foreign research.

B.3.5. Socioeconomic Characteristics

B.3.5.1. Output of Subject Domestic Commercial Fishery

B.3.5.1.1. Value of Catch (Ex-vessel)

The total value to the fishermen of the Prince William Sound Tanner crab fishery has ranged from a season low of $500 in 1970-71 to a high of $2,326,000 for the 1975-76 season. Total value on a yearly basis is shown in table 1. Price per pound is shown in table B3.

Table B3.—*Ex-vessel price of Tanner crab in the Prince William Sound management area by season*

Season	Price per pound
1966-69	$0.10
1969-70	.11
1970-71	.11
1971-72	.12
1972-73	.17
1973-74	.20
1974-75	.17
1975-76	.20
1976-77	.32

Source: Alaska Department of Fish and Game annual management reports.

B.3.5.1.2. Description and Value of Product (Wholesale)

See Table 2. The historic wholesale value of the catch is shown on Table B4.

Table B4.—*Wholesale value of Tanner crab in the Prince William Sound management area by year*[1]

Year	Wholesale value
1968	$10,281
1969	202,867
1970	260,110
1971	142,208
1972	1,819,317
1973	(2)
1974	3,594,927
1975	1,784,695
1976	(3)

[1]Not in season.
[2]No data available.
[3]Incomplete.

Source: Alaska Department of Fish and Game annual management reports.

B.3.5.1.3. Markets, Domestic and Foreign

Very little data is available concerning markets. In 1976 Tanner crab sections and canned meats were sold on both the United States and Japanese markets. See section 3.5.1.3.

B.3.5.2. Domestic Commercial Harvesting Characteristics

B.3.5.2.1. Total Gross Income of Fleet (From Subject Fishery and All Other Fisheries)

The gross income of the Prince William Sound Tanner crab fleet for all fisheries (King crab, salmon, halibut, etc.) was $2.2 million in 1976. This compares to a Tanner crab harvest valued at $1.2 million. The average total gross income per vessel was $56,000. Table 5 compares all management areas for 1976. Table B5 gives a historic sketch since 1968.

Table B5.—*Wholesale value of all fisheries in the Prince William Sound management area, by year*[1]

Year	Wholesale value
1968	$9,244,435
1969	12,953,145
1970	12,508,372
1971	15,487,929
1972	12,698,910
1973	(2)
1974	16,948,220
1975	17,958,290

[1]Not by season.
[2]No data available.

Source: Alaska Department of Fish and Game annual management report.

B.3.5.2.2. Investment in Vessels and Gear

For the 1975-76 season the total value of the 33 participating vessels is estimated at $4.5 million with an average value per vessel of $135,000.

The total value of the gear used in the 1975-76 season is estimated to be $1.3 million for 4,300 pots complete with lines and buoys. The average value of gear per vessel is $40,000. Therefore, the average value of each vessel complete with gear for 1975-76 was $175,000.

For the 1976-77 season the total value of the 23 vessels participating is estimated to be $1.7 million with the average value per vessel being $72,000.

The total value of the gear used in 1976-77 is estimated to be $550,000, an average of

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$24,000 per vessel. Therefore, the average value of each vessel complete with gear is estimated to be $96,000.

B.3.5.2.3. Annual Participation in Subject Fishery

In the 1975-76 season 33 vessels fished 2,600 days (approximately 80 days per vessel).

B.3.5.2.4. Total Manpower Employed

There was an estimated 107 fishermen in the fleet in 1975-76, this dropped to 72 in 1976-77. See section 3.5.2.4.

B.3.5.2.5. Economic Viability

See section 3.5.2.5.

B.3.5.3. Domestic Commercial Processing Characteristics

B.3.5.3.1. Total Gross Income of Area Processors (From Subject and All Other Fisheries)

Wholesale value by year for all commercial species is shown on table B5. Also see section 3.5.3.

B.3.5.3.2. Investment in Plant, Equipment, Etc.

Data is not available. See section 3.5.3.2.

B.3.5.3.3. Total Employment and Labor Income

Estimated peak season employment in the processing sector was 175 for both the 1975-76 and 1976-77 seasons. See section 3.5.3.3.

B.3.5.3.4. Economic Viability

See section 3.5.3.4.

B.3.5.4. Recreational Fishing Characteristics

There is no recreational fishery for Tanner crab.

B.3.5.5. Subsistency Fishing Characteristics

There is no subsistency fishery for Tanner crab.

B.3.5.6. Indian Treaty Fishing Characteristics

No Indian treaty rights exist.

B.3.5.8. Area Community Characteristics

B.3.5.8.1. Total Population

The population of the Prince William Sound management area is shown in table 7. Cordova is the only community in the area directly involved in Tanner crab fishing and processing. A 1975 census by the city of Cordova shows a population of 2,406.

B.3.5.8.2. Total Employment (From Subject and All Other Area Fisheries)

Employment statistics are not currently available. See section 3.5.8.2.

B.3.5.8.3. Total Work Force (All Industries)

Statistics are not available. See section 3.5.8.3.

B.3.6. Interaction Among User Groups

There is no foreign fishery for Tanner crab in this area. There is a potential gear conflict between trawl fishing and Tanner crab pots.

B.3.7. Federal and State Revenues Derived From Fishery

See section 3.7. and table 9.

B.4.0. Biological Descriptors

See section 4.0.

B.4.1. Life History Features

The following life history features are known for the Prince William Sound management area:

1. Peak egg hatch period: late April and early May.
2. Average size of male and female sexual maturity: 4.3 in. (110 mm) and 3.1 in. (80 mm) carapace width respectively.
3. Period of soft shell condition: May and June (majority of adults).
4. Likelihood of spatial segregation of sexually mature male and female Tanner crab.
5. Preferred habitat: mud bottom.

B.4.2. Stock Units

Discrete stock units have not been identified.

B.4.3. Catch Effort Data

See table 1 for catch and vessel data.

B.4.4. Survey and Sampling Data

A dockside sampling program began in the 1971-72 season, but because of personnel shortages, it was not given full attention until the 1975-76 season. Prior to 1975, the only data collected was length and width frequencies and fishing area. Beginning in 1975 the sampling program was expanded to collect shell age and average weight per crab. In 1976 the program was further expanded to include data on catch per pot, days fished, and soak time.

Sampling data has shown: a decrease in the size of delivered crab from 5.7 in. (144 mm) in 1971-72 to 5.4 in. (137 mm) in 1975-76; a shift in effort from inside to outside Prince William Sound as the season progresses and weather conditions improve, and varying shell age composition of the catch depending on the area fished.

B.4.6. Quality of Data

See section 4.6.

B.4.7. Current Status of Stocks

B.4.7.1. Maximum Sustainable Yield (MSY)

Due to insufficient biological data, MSY has been estimated using historical catch data and must be considered a weak estimate due to the short history of the fishery and the methodology used.

Including the 1975-76 season, there are 8 years of catch data since the inception of the fishery in 1968. Because of minimal effort during the exploratory phases of the fishery, 1968 through 1971, and a prolonged strike which minimized effort in the 1974-75 season, these seasons are omitted from the MSY estimation. For the remaining four seasons, total seasonal catches have been adjusted by subtracting all crab landed below the new 5.3 inch (135 mm) minimum size. These adjusted totals were averaged to yield MSY (see table B6).

TABLE B6. PRINCE WILLIAM SOUND TANNER CRAB CATCH ADJUSTED FOR SIZE LIMIT.

SEASON	CATCH LBS	CATCH MT	% LESS THAN 5.3 in.	ADJUSTED CATCH LBS	ADJUSTED CATCH MT
1971/72	7,788,498	3,532	18.29	6,363,982	2,886
1972/73	13,927,868	6,316	23.57	10,645,070	4,828
1973/74	10,158,000	4,607	29.13	7,198,974	3,265
1975/76	7,132,744	3,235	36.31	4,542,845	2,060

Source: ADF&G Catch & Production

"% less than 5.3 inches" from dockside sampling.

The maximum sustained yield for male *C. bairdi* greater than 5.3 inches (135 mm), based on an average of historical catch data, is 7 million pounds (3,175 mt).

B.4.7.2. Equilibrium Yield (EY)

Statistical data necessary to estimate EY is not available.

B.4.7.3. Acceptable Biological Catch (ABC)

The declining catch trend indicates an ABC of 3-7 million pounds (1,361-3,175 mt).

B.4.8. Estimate of Future Stock Conditions

Although no data is available to predict future stock conditions, the newly imposed minimum size for male Tanner crab should provide an adequate number of males in the breeding population allow for maximum attendance of females, and full reproduction potential.

B.5.0. Catch and Capacity Descriptors

B.5.1. Data and Analytical Approaches

B.5.1.1. Domestic

The 1975-76 season was chosen as an average year for vessel participation. Thirty-three vessels fished with an estimated total hold capacity of 486 tons (441 mt) and an average hold capacity of 15 tons (14 mt) per vessel.

With the season running from November 15 to May 31, there were approximately 195 fishing days available. If the average vessel filled its hold, delivered, and returned to the fishing grounds every 2.5 days, the total seasonal fleet capacity would be an estimated 38,000 tons (35,000 mt).

B.5.1.2. Foreign

There is no foreign fishery for Tanner crab.

B.5.2. Domestic Annual Capacity (DAC)

The domestic annual capacity for the Prince William Sound management area is 38,000 tons (35,000 mt).

B.5.3. Expected Domestic Annual Harvest (DAH)

Assuming no adverse market conditions or major redistribution of fishing effort, the DAH is expected to be 3-7 million pounds (1,360-3,175 mt).

B.6.0. Optimum Yield

B.6.1. Departure From MSY to ABC for Biological Reasons

The estimated ABC of 3-7 million pounds (1,360-3,175 mt) includes the estimated MSY, but only at the extreme of the range. Catch trends indicate that the stock may be at a level slightly lower than that capable of sustaining the long-run maximum average yield.

B.6.2. Departure From ABC for Socio-economic Reasons

In the absence of any explicit socio-economic objectives which would require optimum yield to deviate from the ABC, they are set equivalent.

B.6.3. Optimum Yield (OY)

Optimum yield is estimated to be from 3-7 million pounds (1,361 to 3,175 mt) for the 1977-78 Tanner crab fishery in the Prince William Sound management area.

B.7.0. Total Allowabel Level of Foreign Fishery (FAC)

Given the estimated MSY and DAH, the FAC for 1977-78 is zero.

B.8.0. Management Regime

See statewide section 8.0.

Cook Inlet Management Area

C.3.0. Description of Fishery

C.3.1. Areas and Stocks Involved

The target species found in this management area is *Chionoecetes bairdi*. The Cook Inlet management area has as its eastern boundary a line extending south from Cape Fairfield and as its southern boundary, a line extending east from Cape Douglas at 58° 52' N. Latitude (Figure C1).

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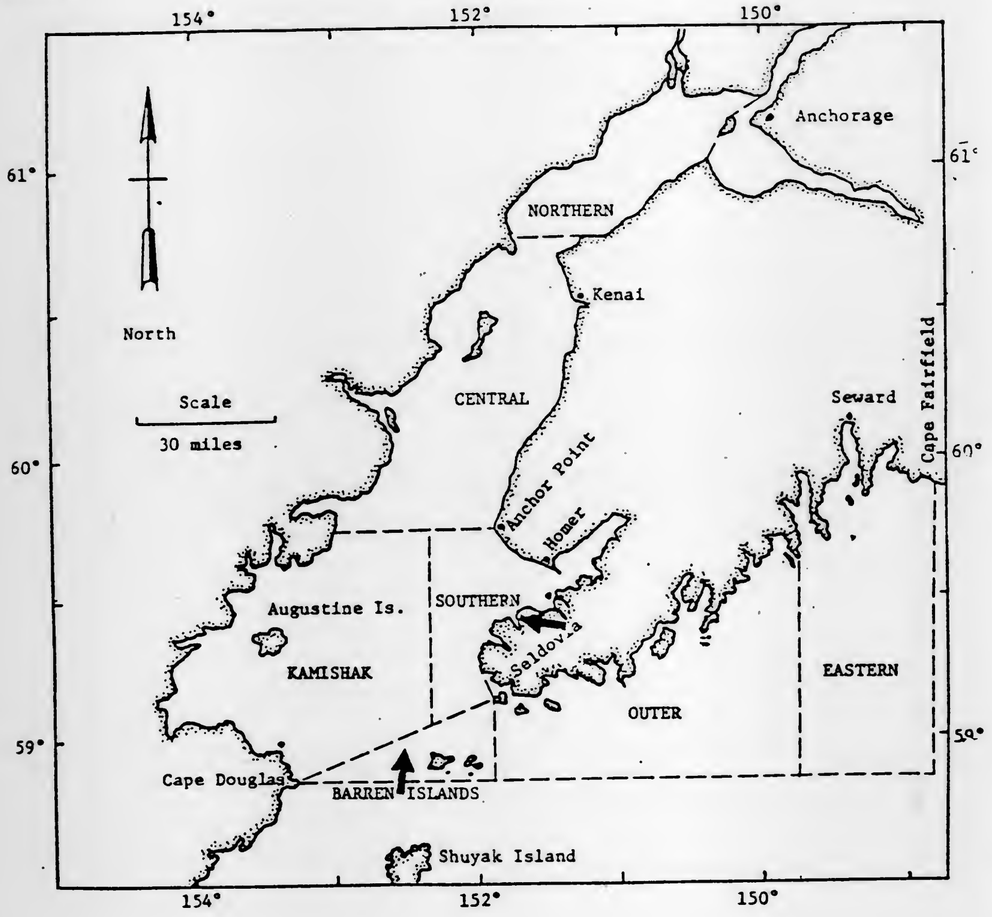


Figure C1 • Cook Inlet area district location chart.

There are three geographically distinct Tanner crab fisheries in lower Cook Inlet and along the eastern shore of the Kenai Peninsula. These areas are: (1) the Southern district fishery (Kachemak Bay), (2) the Kamishak Bay-Barren Islands fishery, and (3) the Outer-Eastern districts fishery.

C.3.2. HISTORY OF EXPLOITATION

During the initial years of the fishery, Tanner crab were taken incidentally to king crab during the open king crab season. As price and demand for Tanner crab increased in the early 1970's fishermen began directing their efforts specifically toward this species.

The first substantial effort for Tanner crab in Cook Inlet began in the late 1960's in the Southern district with harvests in the 1.0–1.5 million pound (454-680 mt) range. During the early 1970's, the Tanner crab fleet expanded into the Kamishak-Barren Islands and Outer-Eastern districts. Recent years' catches in these districts have averaged 1.5 million pounds (680 mt) in the Southern, 3.2 million pounds (1,452 mt) in Kamishak-Barren Islands and 0.75 million pounds (340 mt) in the Outer and Eastern districts.

C.3.2.1. Domestic Fishery

C.3.2.1.1. Description of User Groups

Cook Inlet Tanner crab have been exploited almost entirely by the commercial fishery. There has been an unregulated subsistence fishery which harvests less than 1,000 pounds (0.45 mt) annually.

C.3.2.1.2. General Description of Fishing Effort

Tanner crab fishing began in the late 1960's. During 1969, a total of 29 boats made 536 landings. The number of boats and landings increased until 1973 when 92 boats made a total of 1,556 landings, then dropped to 50 boats making 520 landings in 1975.

Table C1 lists Tanner crab boats, landings, and catches by year for the districts in lower Cook Inlet.

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TABLE C1. TANNER CRAB BOATS, LANDINGS & CATCHES IN COOK INLET 1969-1976

Year	Boats[1]	SOUTHERN No. Land	SOUTHERN Catch 10^6lbs	SOUTHERN Catch MT	BARREN IS./ KAMISHAK No. Land	BARREN IS./ KAMISHAK Catch 10^6lbs	BARREN IS./ KAMISHAK Catch MT	EASTERN/ OUTER No. Land	EASTERN/ OUTER Catch 10^6lbs	EASTERN/ OUTER Catch MT	TOTAL No. Land	TOTAL Catch 10^6lbs	TOTAL Catch MT
1969	29	523	1.437	652	12	0.018	8	1	0.001	0.45	536	1.456	660
1970	27	298	1.153	523	13	0.070	32	8	0.106	48	310	1.329	603
1971	44	567	1.186	538	41	0.810	367	7	0.121	55	615	2.117	960
1972	56	992	2.942	1134	25	1.159	526	27	0.707	321	1044	4.808	2181
1973	92	1352	3.763	1707	146	3.488	1582	58	1.263	573	1556	8.514	3862
1974	90	897	1.129	512	182	4.641	2105	83	1.891	858	1162	7.661	3475
1975	50	374	1.130	513	105	3.151	1430	41	0.671	304	520	4.952	2246
1976[2]	72	706	1.808	827	133	3.280	1488	33	0.847	384	872	5.935	2692

Source: ADF&G Catch & Production Leaflets

1/ Total boats, some boats fish more than one district

2/ Preliminary data.

TABLE C2. COOK INLET TANNER CRAB CATCHES BY DISTRICT AND FISHING SEASON

Season	SOUTHERN 10^6lbs	SOUTHERN MT	KAMISHAK/BARREN IS. 10^6lbs	KAMISHAK/BARREN IS. MT	OUTER/EASTERN 10^6lbs	OUTER/EASTERN MT	TOTAL CATCH 10^6lbs	TOTAL CATCH MT
1968/69	1.388	630	0.012	5.4	0.001	0.45	1.401	635
1969/70	1.147	520	0.071	32	0.104	47	1.323	600
1970/71	1.047	475	0.541	245	0.003	1.4	1.591	722
1971/72	2.463	1117	0.975	442	0.805	365	4.243	1925
1972/73	2.936	1332	3.361	1525	1.267	575	7.564	3431
1973/74	1.388	630	4.689	2127	1.891	858	7.968	3614
1974/75	0.968	439	3.150	1429	0.657	298	4.118	1868
1975/76	1.339	607	3.281	1488	0.851	386	5.471	2482

Source: ADF&G Area Statistics Homer, Ak

C.3.2.1.3. Catch Trends

The first significant catches of Tanner crab were taken from the Southern District during the 1968-69 fishing season (July-June) and totaled 1.4 million pounds (635 mt, Table C2). Fishing effort spread to other stocks of Cook Inlet Tanner crab (Kamishak-Barren Islands and Outer-Eastern Districts) and peaked at 8.0 million pounds (3,629 mt) during the 1973-74 fishing season.

The Cook Inlet catch during the 1975-76 season was 5.6 million pounds (2,540 mt) with 1.4 million pounds (635 mt) from the Southern district, 3.3 million pounds (1,497 mt) from the Kamishak-Barren Islands district and 0.8 million pounds (363 mt) from the Outer-Eastern District.

These catches were all made during seasons with no size limit. The 5.5 inch (140 mm) carapace width limit was enacted starting with the 1976-77 season. In the Kamishak-Barren Islands and Outer-Eastern districts the new size limit will reduce the number of crab which can be retained from any given catch. This will not affect the Southern district since its size distribution is shifted toward large crab. (Fig. C2).

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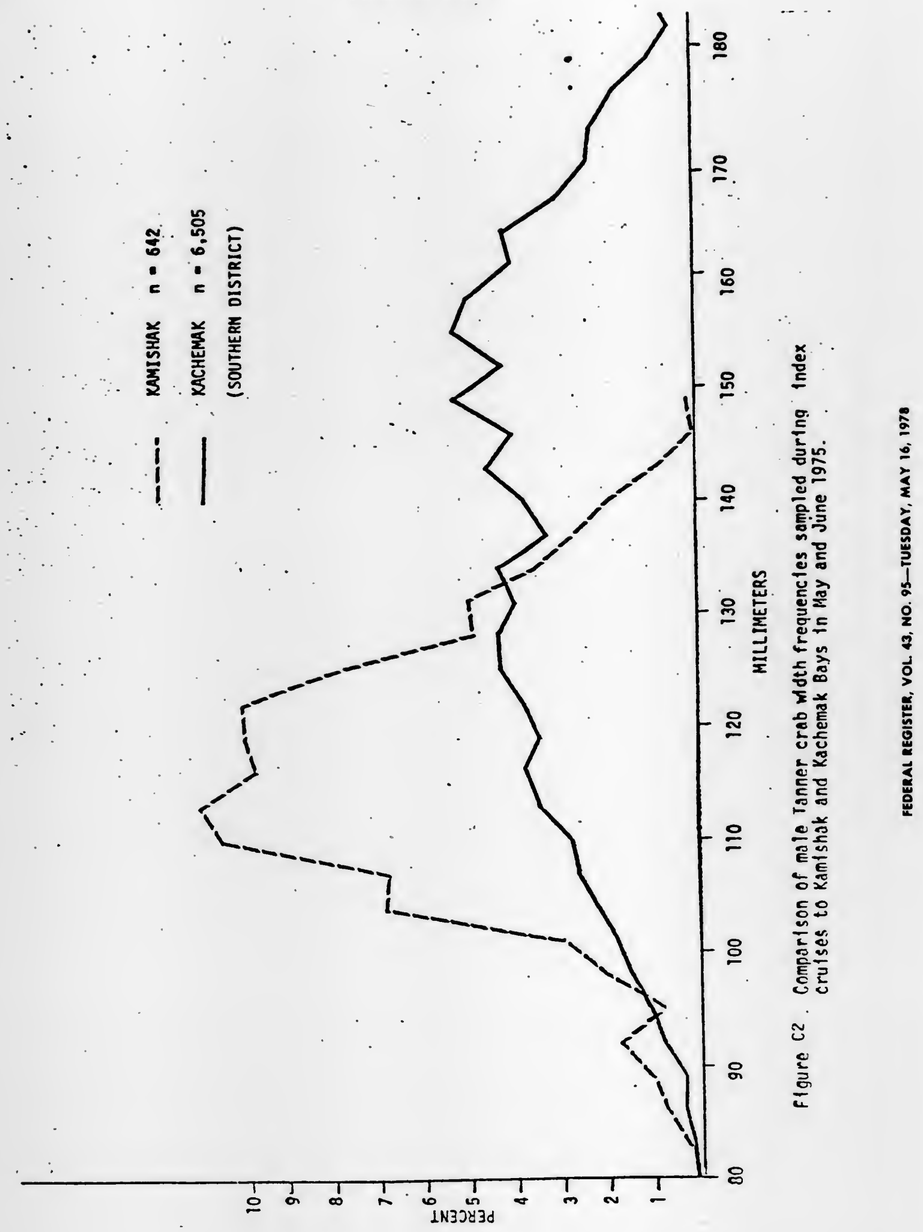


Figure C2. Comparison of male Tanner crab width frequencies sampled during index cruises to Kamishak and Kachemak Bays in May and June 1975.

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C.3.2.1.4. Description of Vessels and Gear Employed

Of the 51 boats that landed Tanner crab in the Cook Inlet area in 1975, 21 were over 50 feet (15 m) in length, live-tanked, and designed for crab pot fishing. The remaining 30 boats were converted salmon fishing boats, 30 to 50 feet in length (9 to 15m), generally without live tanks. Because of size and the lack of live tanks, smaller boats are not capable of fishing more than 1 day's travel from the processing plants. Smaller boats participate primarily in the Southern district and larger vessels fish the Kamishak-Barren Islands and Outer-Eastern districts.

The majority of the Tanner crab boats use 7x7 feet (2.1 m) king crab pots with boards installed in the tunnels to reduce the opening height to 5 inches (127 mm). Conical shaped pots have been used occasionally with limited success.

C.3.2.2. History of Foreign Exploitation

There has been no foreign exploitation of Tanner crab in waters of Cook Inlet.

C.3.3. History of Management

C.3.3.1. Management Institutions, Policies, Jurisdictions

Cook Inlet Tanner crab are managed by the Alaska Department of Fish and Game. The management area is described in Section C.3.1. (also see Section 3.3.1.).

C.3.3.2. Domestic

C.3.3.2.1. and C.3.3.2.2. Regulatory Measures and Purpose of Measures

Initially the only regulatory measures employed were a males-only restriction and a measure describing crab pots and ring nets as legal methods of commercially harvesting the species. Regulatory measures are summarized in Table C3.

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Table C3 . Major Regulations in Cook Inlet Tanner Crab Fisheries, 1970/71 Season to Present

Season	District	Fishing Season	Size Limit	G. H. L. Million lbs.	M.T.	Area Registration
1970/71	All	Aug 1-Jul 15	None	None		None
1971/72	All	Oct 1-Jun 30	None	None		None
1972/73	All	Nov 1-Jun 30	None	None		None
1973/74	Southern	Nov 1-May 29	None	None		None
	Kamishak/ Barren Is.	Nov 1-May 3	None	None		None
	Outer/ Eastern	Nov 1-Jun 7	None	None		None
1974/75	Southern	Dec 1-Jun 15	None	3.0	1361	Exclusive
	Kamishak/ Barren Is.	Dec 1-Jun 15	None	4.5	2041	"
	Outer/ Eastern	Dec 1-Jun 15	None	3.5	1588	"
1975/76	Southern	Dec 1-May 15	None	3.0	1361	Exclusive
	Kamishak/ Barren Is.	Dec 1-May 31	None	4.5	2041	"
	Outer/ Eastern	Dec 1-May 31	None	3.5	1588	"
1976/77	Southern	Dec 1-Apr 30	5.5 in.	3.0	1361	Exclusive
	Kamishak/ Barren Is.	Dec 1-May 31	5.5 in.	4.5	2041	"
	Outer/ Eastern	Dec 1-May 31	5.5 in.	3.5	1588	"

Note: There is a 75 pot limit during the open king crab season.

Source: ADF&G Shellfish Regulations

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The first fishing seasons were enacted during the 1970/71 fishing year when opening/closing dates of August 1/July 15 were established. The following year (1971/72), the season was further restricted to October 1 thrugh June 30 and now opens December 1. The later date tends to increase meat yields.

Closing dates for districts have varied since 1973 from May 3 to June 30. The dates were established each year by inseason sampling in each district to determine the presence of newly molted male crab. An index program for king and Tanner crab abundances (Davis 1977) was started in the Southern district in 1974 and in the Kamishak district in 1975. Data from these programs have shown that by early June 80 perent of the male Tanner crab in the Southern district and 20 percent in the Kamishak district has recently molted. Based on these data, closing dates were established in 1977 with a May 31 closure for the Kamishak district and an April 30 closure for the rest of the districts.

The Cook Inlet management areas was established as an exclusive registration area starting with the 1974/75 fishing season. Vessels that register for an exclusive area may fish only that area. Intent to fish the exclusive area must be made 30 days prior to the season opening.

The exclusive registration area was established primarily for economic reasons. The fleet was primarily composed of small (under 50 feet, 15.24m) vessels that were not able to compete successfully with a large mobile crab fleet such as the type based in Kodiak. This type of fleet is capable of harvesting the Guideline Harvest Levels in the Cook Inlet area rapidly if allowed unrestricted fishing, leaving relatively small catch and short seasons to the local Cook Inlet fleet.

Guideline Harvest Levels were established in the Cook Inlet area beginning with the 1974-75 season. The levels are as follows:

District	Million pounds	Metric tons
Southern	3.0	1,361
Kamishak/Barren Islands	4.5	2,041
Outer/Estern	3.5	1,588

A size restriction on male Tanner crab was enacted for the 1976/77 fishing season. The regulation stipulates that no male crab with a shell width less than 5.5 inches (140 mm) may be taken commerically. This regulation is based on Kodiak research which indicates that the size limit asssures at least 1 year of sexual maturity before the crab become legal size.

A closed area in the Southern district has been in effect since 1973. Described as the area encompassed by a line south from Anchor Point to the intersection with a line west from the tip of Homer Spit, the closures protest molting-mating king crab from the Tanner crab fishery.

C.3.3.3. Foreign

There has been no foreign fishery.

C.3.3.4. Effectiveness of Management Measures

The exploitation of Tanner crab has a relatively short history. The 1976/77 season will be one of the first years that will see a harvest of progeny of previously exploited stocks

One indicator suggesting that management measures are assuring a sufficient number of breeding males is the percentage of barren mature females. In the Southern district 1.9 and 0.8 percent were observed barren in June during 1975 and 1976 respectively (Davis 1977). Barren mature females in Kamishak amounted to 1.0 percent of the observed samples during July of 1976. These percentages indicate that sufficient males are available for breeding.

C.3.4. History of Research

C.3.4.1. United States

Prior to 1974, the only Tanner crab data gathered in the Cook Inlet area were commercial harvest statistics and monitoring of the catch length frequencies, average weights, catch per pot and the incidence of recently molted crab.

A pot index program for king and Tanner crab aboundances was initiated in 1974 in the Southern district and 1975 in the Kamishak district. Methodology and results are described in Davis (1977). The program involves fishing standardized pots in a systematic sampling design during similar tie periods each year and comparing relative catch results.

Beginning in 1977 monthly bottom trawl surveys for Tanner and king crab were started in the Southern district to sample depth distribution and condition of the stocks.

C.3.4.2. Foreign

There has been no known foreign research on Tanner crab stocks in Cook Inlet.

C.3.5. Socio-Economic Characteristics

C.3.5.1. Output of Subject Domestic Commercial Fishery

C.3.5.1.1. Value of Catch (Ex-vessel)

The annual ex-vessel value of Tanner crab harvested in Cook Inlet has ranged from $158,000 in 1969 to $1.5 million in 1974, in 1976 it was approximately $1.3 million (Table 1). The price per pound to the fishermen has ranged from 10 cents in 1969 to 34 cents in January 1977.

C.3.5.1.2. Description and Value of Produce (Wholesale)

Tanner crab are processed into either frozen meat or sections.

The wholesale value of the Cook Inlet pack was $7.0 million in 1973. During 1974 and 1975 the value was approximately $2.8 million. Value for 1976 is not available. Tables 2 and 3 show 1975 product values.

C.3.5.1.3. Markets, Domestic and Foreign

The pack is marketed in both the domestic and export markets. See section 3.5.1.3.

C.3.5.2. Domestic Commercial Harvesting Characteristics

C.3.5.2.1. Total Gross Income of Fleet (From Subject Fishery and All Other Fisheries)

During 1975 51 boats caught $800,000 worth of Tanner crab in Cook Inlet. The average gross income per boat was $15,800 and ranged from $10 to $87,000. Seventeen of the 51 vessels landed more than $10,000 of Tanner crab in 1975.

The majority of vessels in the 1975 Tanner crab fishery also fished in other commercial fisheries; 44 fished king crab, 16 Dungeness crab, 21 salmon, 5 shrimp (either pot or trawl gear) and 3 herring.

Boats fishing king crab averaged $33,000, those in the Dungeness fishery averaged $7,000.

The gross income for all fisheries (king crab, salmon, halibut, etc.) was $7.3 million in 1976, compared to a Tanner crab harvest of $1.2 million. The average total gross income per vessel was $101,600. Table 5 compares all management areas for 1976.

C.3.5.2.2. Investment in Vessels and Gear

No information available. See section 3.5.2.2.

C.3.5.2.3. Annual Participation in Subject Fishery

An estimated 1,715 vessel days were utilized in the Tanner crab harvest during 1976. This estimate is based on 1 day fishing per landing in the southern district, 7 days in the Kamishak-Barren Islands, and 4 days fishing per landing in the Outer-Eastern districts.

C.3.5.2.4. Total Manpower Employed

An estimated 165 fishermen participated in the Tanner crab fishery during 1975. Labor payments are not available. See section 3.5.2.4.

C.3.5.2.5. Economic viability

No information available. See section 3.5.2.5.

C.3.5.3. Domestic Commercial Processing Characteristics

There are four major Tanner crab processing facilities in the Cook Inlet area. the two plants in Homer and one cannery in Seward process section crab while the plant in Seldovia usually packs a straight meat product.

The processing capacity of the four plants operating in Seldovia, Seward, and Homer is 170,000 pounds (77.1-mt) per day (10-hour shift). There are also several hand pack facilities in the Homer area which produce whole or sectioned crab to the southcentral Alaska fresh seafood markets, primarily in the Anchorage area.

C.3.5.3.1. Total Gross Income of Area Processors

In 1976, the estimated wholesale value of the Tanner crab pack totaled $4.3 million for the four major and two minor processors.

During the same year the wholesale value of shrimp, king crab, and Dungeness crab totaled $1.642, $6.348, and $0.091 million respectively. Some of the processors also operate on finfish. See section 3.5.3.1.

C.3.5.3.2. Investment in Plant, Equipment, Etc.

No information is available. See section 3.5.3.2.

C.3.5.3.3. Total Employment and Labor Income

The four major plants have employed an average of 250 workers processing Tanner crab since 1970 in Cook Inlet. These plants also process king crab. See section 3.5.3.3.

No estimates are available concerning labor income.

C.3.5.3.4. Economic Viability

No information is available. See section 3.5.3.4.

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C.3.5.4. Recreational Fishing Characteristics

There are no regulated recreational or sport fisheries for Tanner crab in Cook Inlet.

C.3.5.5. Subsistence Fishing Characteristics

Subsistence fishing for Tanner crab in Cook Inlet is open year-round with no sex, size, or gear restrictions except that explosives or chemicals may not be used. Subsistence caught crab may not be sold or bartered. subsistence fishermen must inscribe their name and address on their buoys.

At times, as many as 100 pleasure boats engage in the southern district fishery. Information concerning actual total harvest is not available; it is estimated that the catch is minimal.

C.3.5.6. Indian Treaty Fishing Characteristics

There are no Indian treaty fishing rights.

C.3.5.8. Area Community Characteristics

C.3.5.8.1. Total Population

The populations of communities directly involved in Tanner crab harvesting and processing are as follows: Homer trade area—4,500; Seward—2,200; and Seldovia—600. (Data source: City Clerks April 1977). Management area comparisons for 1976 are shown in Table 7.

C.3.5.8.2. Total Employment (From Subject and Other Area Fisheries)

It is estimated that 300 workers participate in Tanner crab processing at peak periods. No estimates are available of workers involved in related activities.

C.3.5.8.3. Total Work Force (All Industries Including Fisheries)

See Section 3.5.8.3.

C.3.8. Interaction Among User Groups

A conflict exists between Tanner crab gear and shipping in the Southern district. Voluntary shipping lanes have been established in the district. However, in some instances ships have not complied with the lanes and cut off, dragged, or entangled Tanner crab pot lines and buoys. Some fishermen are reported to have lost as many as 25 pots during one year.

Another minor conflict occurs between shrimp trawl and Tanner crab pot fishermen. In most cases the fishermen are able to maneuver around pots but on occasion pots are dragged away from their original fishing location.

C.3.7. Federal State Revenues Derived From Fishery

These values were estimated for the total state harvest and reported in Section 3.7.

C.4.0. Biological Descriptors

C.4.1. Life History Features

The general life history of Tanner crab is described in the statewide portion of this report, Section 4.1.

C.4.2. Stock Units

There are three Tanner crab stock units within the Cook Inlet area that are separated geographically. These units are the Southern or Kachemak Bay stock, the Kamishak-Barren Island stock and the Outer-Eastern stock. The Outer-Eastern stock is harvested primarily from Harris Bay, Outer Resurrection Bay, and Day Harbor.

C.4.3. Catch Effort Data

Catch sampling is conducted at delivery points in Homer, Seldovia, and Seward. Interviews with fishermen determine areas fished, number of pots pulled, average weight of crab landed, and other pertinent information. A sample of the landing is measured for width frequency.

The unstandardized (e.g. soak times are not consistent) catch per pot and average weight by month for the Southern and Kamishak districts are listed in Tables C4 and C5. There are no data for the Outer-Eastern district.

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TABLE C4. CATCH, AVERAGE CATCH PER POT (unstandardized) AND AVERAGE WEIGHT OF TANNER CRAB CAPTURED IN THE COMMERCIAL FISHERY OF COOK INLET'S SOUTHERN DISTRICT. 1974/75 SEASON TO PRESENT.

	1974/75				1975/76				1976/77 1/			
Month	Catch 10^3lbs	Catch MT	No. Per Pot	Avg. Wt. Lbs.	Catch 10^3lbs	Catch MT	No. Per Pot	Avg. Wt. KG	Catch 10^3lbs	Catch MT	No. Per Pot	Avg. Wt. KG
December	29	13	3.42	3.26 1.48	191	87			660	299	16.23	2.85 1.29
January	76	34	3.56	3.08 1.40	236	107	2.53	2.94 1.33	689	313	15.97	2.83 1.28
February	54	25		3.00 1.36	360	163	9.24	2.75 1.25	408	185	9.57	2.91 1.32
March	209	95	14.63	2.85 1.29	172	78	14.7	2.55 1.16	178	81	11.27	2.65 1.20
April	313	142	25.14	2.88 1.31	399	181	21.74	2.42 1.10				
May	260	118	21.8	2.68 1.22	96	44	29.28	2.18 0.99				
June	25	11										
Weighted Ave.			18.94	2.85 1.29			12.68	2.65 1.20			14.27	2.84 1.29

1/ Incomplete season

Source: ADF&G dockside samples

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TABLE C5. CATCH, AVERAGE CATCH PER POT (unstandardized) AND AVERAGE WEIGHT OF TANNER CRAB CAPTURED IN THE COMMERCIAL FISHERY OF COOK INLET'S KAMISHAK/BARREN ISLANDS DISTRICTS. 1974/75 SEASON TO PRESENT.

	1974/75				1975/76				1976/77 1/			
Month	Catch 10^3lbs	MT	No. Per Pot	Avg. Wt. Lbs.	KG	Catch 10^3lbs	MT	No. Per Pot	Avg. Wt. Lbs.	KG	Catch 10^3lbs	MT	No. Per Pot	Avg. Wt. Lbs	KG
December											1	0.45			
January											5	2.3			
February											16	7.3			
March											199	90	25.75	2.35	1.07
April	1032	468	116.19	2.04	0.93	1291	586	21.8	2.51	1.14	210				
May	1596	724	115.73	1.98	0.90	1765	801	86.09	2.20	1.00					
June	523	237	85.25	1.68	0.76			86.68	2.06	0.94					
Weighted Avg.			110.82	1.95	0.89			82.07	2.14	0.97					

1/ Incomplete season

Source: ADF&G dockside samples

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Catch per pot information from the Southern district has remained relatively consistent for 3 years. It is anticipated that the 1976-77 catch per pot of legal sized crab in the Kamishak district will be less than the previous two seasons due to the new size limit restrictions.

C.4.4. Survey and Sampling Data

Relative abundance indices of Tanner crab in the Southern district are made concurrent with the king crab indexing program for the years 1974-1976 (Davis, 1977). The standardized index catch per pot of legal male Tanner crab was 16.2, 19.6, and 9.6 respectively. These data indicate a reduction during the 1976 cruise which may be the result of a weak recruit class.

One thousand carapace dart tagged legal Tanner crab were released in the Southern district just prior to the 1976-77 commercial season. By April 1977, 48 percent of the tags had been returned by commercial fishermen. The harvest at that time totaled 1,950,000 pounds (885 mt). Based on a Peterson mark-recapture estimate (Ricker 1975) a total of 1.426 million legal crab (±65,000 at 67 percent confidence) weighing 4 million pounds (1,814 mt) were available for harvest beginning in December 1976 in the district.

Another indicator of stock status is the percentage of mature barren females in the population. Observations in both the Southern and Kamishak districts have shown that less than 2 percent are barren.

C.4.6. Quality of Data

Fishery monitoring information from the Kamishak and Southern districts is relatively complete. Abundance surveys have been conducted in the Southern district since 1974. Information from other districts is limited. See Section 4.6.

C.4.7. Current Status of Stocks

C.4.7.1. Maximum Sustainable Yields (MSY)

The average catch of Tanner crab in Cook Inlet for the past four seasons has been 6.3 million pounds (2,858 mt). Catches have ranged from 4.1 million pounds (1,860 mt) to 8 million pounds (3,629 mt), no size limit. The average catch of crab larger than 140 mm carapace width would have been 5.3 million pounds (2,404 mt). Lacking other data, a weak estimate of MSY is 5.3 million pounds (2,404 mt).

C.4.7.2. Equilibrium Yield (EY)

There is no data base to develop an EY estimate.

C.4.7.3. Acceptable Biological Catch (ABC)

Based upon historic catch levels the ABC is set at 5.3 million pounds (2,404 mt).

C.4.8. Estimate of Future Stock Conditions

Future stock abundance cannot be predicted with any degree of accuracy. Gross indicators suggest the reproductive potential of the stock is good.

C.5.0. Catch and Capacity Descriptors

C.5.1. Data and Analytical Approaches

C.5.1.1. Domestic

Table C2 contains the historic catch for Cook Inlet. Tables 4 and 11 give a description of the Cook Inlet fleet and its capacity.

C.5.2. Domestic Annual Capacity (DAC)

The Cook Inlet DAC (seasonal live tank capacity) is estimated at 38 million pounds (17,237 mt).

C.5.3. Expected Domestic Annual Harvest (DAH)

Assuming no adverse market conditions or major redistribution of fishing effort, the 1977-78 DAH is expected to be 5.3 million pounds.

C.6.0. Optimum Yield (OY)

C.6.1. Departure From MSY to ABC for Biological Reasons

The ABC for the Cook Inlet management area, in the absence of any biological information that would dictate otherwise, is set equivalent to MSY.

C.6.2. Departure From ABC for Socio-economic Reasons

In the absence of any explicit socio-economic objectives which would require the optimum yield to deviate from the ABC, they are set equivalent.

C.6.3. Optimum Yield (OY)

The optimum yield is set at 5.3 million pounds (2,404 mt) for the 1977-78 season in Cook Inlet.

C.7.0. Total Allowable Level of Foreign Fishery (FAC)

Given the estimated MSY and DAH, the FAC for 1977-78 is zero.

C.8.0. Management Regime

See statewide section 8.0.

Kodiak Management Area

D.3.0. Description of Fishery

D.3.1. Area and Stocks Involved

The target species is *C. bairdi* in the Kodiak management area. This area consists of the Pacific Ocean waters south of the latitude of Cape Douglas, west of 150° W. longitude and east of the longitude of Cape Kumlik (157°27′ W. longitude). See Figure 1.

D.3.2. History of Exploitation

From the initial harvest in 1967, the Tanner crab fishery slowly expanded through 1972 with harvest levels increasing to 9.5 million pounds (4,309 mt) in the 1971-72 season (Table D1). Areas fished initially were the inshore bays and nearshore waters of the east and west side of Kodiak Island with the harvest before 1970 usually incidental to the king crab fishery or as a supplemental income source during the winter and spring months. Increasing restriction on king crab seasons due to reduced population levels speeded development and processing interest in Tanner crab. Late winter and spring months (February-May) were the most productive periods, though the fishery was legally open the entire year with the exception of a 2-week closure prior to the opening of king crab season, August 15.

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Table D1 Historic commercial catch and effort of Tanner crab in the Kodiak Management Area, 1967-1977[1]/

Calendar Year	Fishing Year	No Vessels	Catch Pounds	Catch MT	No. Landings	Unweighted mean Catch/Landings Pounds	Unweighted mean Catch/Landings MT	No. Pot Lifts	Ave. No. Crab/Pot
1967			110,961	50.33	83	1,337	.61		
1968			2,560,687	1,161.51	817	3,134	1.42		
1969		85	6,827,312	3,096.82	955	7,149	3.24	72,748	43
	1969-72[2]	67	8,416,782	3,817.79	833	10,104	4.58	78,266	42
	1970-71	82	6,744,163	3,059.10	453	14,888	6.75	60,967	44
	1971-72	46	9,475,902	4,298.20	505	18,764	8.51	65,907	59
	1972-73	105	30,699,777	13,925.20	1,466	20,941	9.50	188,158	67
	1973-74[3]	123	29,820,899	13,526.55	1,741	17,129	7.77	217,523	59
	1974-75[3]	74	13,649,969	6,191.53	471	28,981	13.15	73,826	83
	1975-76[4]	104	27,336,911	12,399.83	1,168	23,405	10.67	199,304	64
	1977[5]	98	21,000,000	9,525.54	950	22,105	10.03	150,539	48
TOTAL (FISHING YEARS)		699	147,144,403	66,743.74	7,587	-	-	1,034,490	-
AVERAGE (FISHING YEARS)		87	18,393,050	8,342.97	948	19,540[6]	8.86[6]	129,311	(weighted avg) 59.4

[1] Data Source: Alaska Department of Fish and Game Annual Board of Fish and Game Reports and Annual Kodiak Area Mgmt. Report.
[2] Fishing year July 1 - June 30.
[3] Legal season November 1 - June 30. Season terminated May 15 due to onset of mating period.
[4] Legal season November 1 - April 30.
[5] Legal season January 1 - April 30 (catch and effort projected)
[6] Weighted averages.

In 1973, a major expansion of the fishery took place due to an extremely short king crab season and favorable Tanner crab marketing conditions. The catch reached 30.7 million pounds (13,926 mt) for the 1972-73 fishing season. This harvest and the discovery of large untapped offshore stocks established Tanner crab as a principal winter-spring fishery providing fishermen with an earning potential similar to the king crab fishery. By 1975, the offshore area of Cape Ikolik to Chirikof Island, Portlock Banks, Shelikof Strait, Chiniak Gully and Albatross Bank were mostly explored. Many of these areas yielded large quantities of Tanner, with numerous loads averaging 3.0 pounds (1.36 kg) per crab.

Commercial harvests totaled 29.8 million pounds (13,526 mt) during the 1973-74 season, 13.6 million pounds (6,169 mt) in the 1974-75 season, and 27.3 million pounds (12,383 mt) in the 1975-76 season.

The 1977 season (January-April) in the Kodiak area had a guideline harvest range of 15 to 25 million pounds (6,804 to 11,340 mt) and a harvest of 20.7 million pounds (9,399 mt).

D.3.2.1. Domestic Fishery

D.3.2.1.1. Description of User Groups

The user group in the Kodiak area Tanner fishery is made up primarily of commercial fishermen. This group is composed of 90 Alaskan residents and 8 nonresident vessel captains. An insignificant subsistence fishery for Tanner crab exists with the catch being less than 10,000 pounds (4.5 mt) annually.

D.3.2.1.2. General Description of Fishery Effort

Fishing effort was incidental to the established king crab fishery prior to the early 1970's. Tanner crab were harvested on a part-time basis during this period with markets slow to develop. Effort data (number of vessels, pots lifted and landings) are available starting with the 1969-70 fishing season (Table D1). For the 1969-70 through 1971-72 seasons an average of 65 vessels fished. Catches ranged from 6.7 to 9.5 million pounds (3,039 to 4,309 mt). Landings averaged about 600 per season with an average of 68,400 pot lifts made yearly. Beginning with the 1972-73 season, a major expansion took place with a total harvest of 30.7 million pounds (13,926 mt) caught by 105 vessels making 1,466 landings and 188,000 pot lifts. The fishery has continued to maintain a similar effort level through the 1977 season with the exception of the 1974-75 season when prolonged price negotiations limited the fishing effort to approximately one-half the normal seasonal effort.

Since 1972, market development and resulting improvements in ex-vessel price has contributed substantially to increasing both vessel effort and size as a character of the fleet.

D.3.2.1.3. Catch Trends

The first year of harvest occurred in 1967 with a catch of 111,006 pounds (50.33 mt). commerical harvest peaked during the 1972-73 fishing season when 30.7 million pounds (13,925 mt) were taken. Though catches have fluctuated since the peak year, the annual harvest for all fishing seasons since the 1969-70 season has averaged 18.4 million pounds (8,356 mt). Since the 1972-73 season when effort, markets, and exploration developed a more fully exploited fishery, the average annual harvest has been 24.5 million pounds (11,114 mt). Starting with the 1972-73 season, a guideline harvest range of 25-30 million pounds 11,340 to 13,608 mt) was established. For the 1977 season, a statewide (with the exception of Prince William Sound) minimum size of 5.5 inches (140 mm) was set. After adjusting the harvest levels in light of this minimum size, a harvest range of 15-25 million pounds (6,804 to 11,340 mt) was set for the 1977 season. Existing stock conditions and catch per unit of effort data indicate that seasonal harvest levels can be sustained in the upper end of the range during the 1978 season (January-April). The catch history is documented in Table D1.

D.3.2.1.4. Description of Vessels and Gear Employed

Historically, the Kodiak Tanner crab fisery has been conducted by salmon limit seiners, small steel hulled vessels and large wood hulled vessels. However, during the past 4-5 years, many newly constructed vessels have entered the fleet. In many cases, these are large steel hulled "combination" vessels capable of trawl and pot fishing. They are also capable of ranging to offshore grounds and harvesting stocks not available to smaller local vessels. Generally, these larger vessels are 60-120 feet (18 to 37 m). The 1977 season fleet (active vessels) averaged 56 feet (17 m) with vessels ranging from 30 to 134 feet (9 to 41 m). Average net tonnage for the fleet is 68 tons (62 mt) with vessels ranging from 3.5 to 197.5 net tons (3.2 to 179.2 mt). Average hold capacity of the 1977 season fleet (per vessel) is 39,000 pounds (17.7 mt).

Gear used in the Tanner fishery consists mainly of conventional rectangular king crab pots with modified tunnel entrances (92 percent) ranging in size from 5x5 feet (1.5 m) to 8x8 feet (2.4 m) pots. Fifty percent of this gear is composed of 7x7 feet (2.1 m) gear. Pyramid style pots composed only 7.2 percent of the total gear used and Japanese longline conical pots constitute the remaining 1 percent. Total gear fished is 9,000 pots as indicated from a fleet survey during the 1977 season.

D.3.2.2. History of Foreign Exploitation

No foreign fishery for Tanner crab exists in the Kodiak management area.

D.3.3. HISTORY OF MANAGEMENT

D.3.3.1. Management Institutions, Policies, Jurisdictions

The Kodiak management area is defined in Section D.3.1. The Division of Commercial Fisheries within the Alaska Department of Fish and Game exercises management control of the fishery and maintains historical catch and production records at the headquarters in Juneau. Inseason management responsibility, preliminary development of management planning and management related research is conducted out of the regional ADF&G office in Kodiak.

D.3.3.2. Domestic

D.3.3.2.1 and D.3.3.2.2. Regulatory Measures and Purpose of Measures

When the Tanner crab fishery began in 1967, there were no restrictions except for the definition of gear that could be used, i.e. pots, ring nets and diving gear. As the fishery developed and effort increased, seasons, size limits, and harvest guidelines were established (Table D2).

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TABLE D2. Historical Development Of Regulatory Measures For Kodiak Management Area
Tanner Crab.

YEAR	SEASON 1/	GUIDELINE HARVEST LEVEL	AREA REGISTRATION	SIZE	GEAR
1967	None	None	None	None	Pots, ring nets and diving gear
1968	None	None	None	None	Same plus tunnel height to 4"
1969	1/1-7/31 & 8/15-12/31	None	None	None	"
1970	"	None	None	None	"
1970/71	8/15-7/31	None	None	None	"
1971/72	"	None	None	None	"
1972/73	"	None	None	None	"
1973/74	2/	30 10^6lbs 3/ (13 608 MT)	None	None	"
1974/75	2/	"	None	None	"
1975/76	11/1 - 6/30	24-30 10^6lbs (11340-13608 MT)	None	None	Same except tunnel to 5".
1976/77	1/ - 4/30	15-25 10^6lbs (6804-11340 MT)	None	5.5 in. (140mm)	"

1/ Seasons may have closed early by emergency order.

2/ North of the latitude of Cape Barnabas and east of the longitude of the northern tip of Shuyak Island: from November 1 through June 30:

North of a line from Cape Ikolik to Kilokak Rocks and west of the longitude of the northern tip of Shuyak Island: from November 1 through June 30;

South of the latitude of Cape Barnabas and south of line from Cape Ikolik to Kilokak Rocks: from January 1 through June 30.

3/ Levels for 1973/74 through 1975/76 are "departmental guidelines" not in the regulation booklets.

Source: ADF&G Shellfish Regulations, Juneau.

Fishing season. Starting in 1969, the season was set from January 1 through July 31, and August 15 through December 31. The two week closure was to provide for an orderly transition into the king crab season that began August 15. By 1973/74, effort levels, rates of harvest, and accumulating biological information combined to shorten the season to November 1 through June 30. However, it became apparent that mating crab and newly molted males were being taken with increasing frequency. Therefore, the 1973/74 season was terminated May 15. The 1974/75 season ran approximately the same time, November 1 through May 31. In the 1975/76 season fishing was allowed from November 1 through April 30 since research information indicated May as one of the peak months of reproductive activities. The current season (1977), was further adjusted to January 1 due to processors' requests to harvest crab during periods of greatest meat recovery.

Guideline harvest levels. During the 1973/74 season the first guideline harvest level was established: not to exceed the 1972/73 harvest of 30.7 million pounds (13,925 mt). The 1974/75 season harvest was reduced by market conditions. The 1975/76 guideline harvest range was 25 to 30 million pounds (11,340 to 13,608 mt). Data gathered from Tanner crab research indexing efforts plus a new size limit was used to establish an area guideline harvest level of 15 to 25 million pounds (6,804 to 11,340 mt).

Size limits. Results of growth per molt studies and size at maturity provided the basis for the 5.5 inch (140 mm) minimum size limit on male Tanners established the 1977 season. Prior to this time no size limit had been imposed on the fishery. See section 3.3.2.2 for purpose and rationale of the 5.5 inch (140 mm) size limit.

Gear. Pots, ring nets and diving gear have constituted legal gear for commerical harvesting of Tanner crab since the fishery's beginning in 1967. In 1968 a tunnel entrance not more than 4 inches (102 mm) was set. In 1974 this was changed to not exceed 5 inches (127 mm). These tunnel restrictions allow Tanner crab free access to a pot while keeping out most larger king crab, thus reducing sorting and handling mortality.

Sex limitation. Only male Tanner crab may be legally harvested. See section 3.3.2.2. for the purpose and rationale of this regulation.

D.3.3.3. Foreign

There is no foreign fishery in the management area.

D.3.3.4. Effectiveness of Management Measures

The recent implementaton of management measures has not allowed sufficient time for them to be evaluated as to their long-term effectiveness. It appears that Tanner crab in the Kodiak management area have not been over exploited by past fishing and that current regulations will adequately protect breeding stock and maintain the general stock health.

D.3.4. History of Research

See Section 3.4.

D.3.5. Social-Economic Characteristics

D.3.5.1. Output of Subject Domestic Commercial Fishery

D.3.5.1.1. Value of Catch (Ex-Vessel)

From 1967 through 1975, ex-vessel value of the Kodiak Tanner catch fluctuated from 7 to 20 cents per pound. Increased demand for Tanner crab sections and meat in U.S. and foreign markets raised the 1977 seasonal price to 34 cents. The 1977 harvest of 20.7 million pounds (9,399) was valued at $7,038,000 and is the greatest value in the history of the Kodiak fishery.

D.3.5.1.2. Description and Value of Product (Wholesale)

See section 3.5.1.2.

D.3.5.1.3. Markets, Domestic and Foreign

See section 3.5.1.3.

D.3.5.2. Domestic Commerical Harvesting Characteristics

See section 3.2.1.4.

D.3.5.2.1. Total Gross Income of Fleet

The gross income of the Kodiak Tanner crab fleet for all fisheries was $18.5 million in 1976. This compares to a Tanner crab harvest valued at $5 million. The average total gross income per vessel was $175,700. Table 5 compares all management areas for 1976.

D.3.5.2.2. Investment in Vessels and Gear

This information is not available for the Kodiak management area. See section 3.5.2.2.

D.3.5.2.3. Annual Participation in Subject Fishery

Data for the 1975/76 fishing season indicates 1,168 landings were made. The 1977 season produced 998 landings. Based on an estimated 5 vessel days per trip, 5,840 and 4,990 vessel days were expended respectively. The number of vessels and effort exerted in the fishery appears in Table D1.

D.3.5.2.4. Total Manpower employed

Employment: harvest and processing sectors. During the 1975/76 season, the estimated employment in the harvesting and processing sectors in the Kodiak management district was 400 to 1,500 persons respectively during the peak of the season.

D.3.5.2.4. Total Manpower Employed

Employment: harvest and processing sectors. During the 1975/76 season, the estimated employment in the harvesting and processing sectors in the Kodiak management district was 400 to 1,500 persons respectively during the peak of the season.

D.3.5.2.5. Economic Viability

Data not available. See section 3.5.2.5.

D.3.5.3. Domestic Commercial Processing Characteristics

D.3.5.3.1. Total Gross Income of Area Processors

Data not available. See section 3.5.3.1.

D.3.5.3.2. Investment in Plant, Equipment, Etc.

Data not available. See section 3.5.3.2.

D.3.5.3.3. Total Employment and Labor Income

Average seasonal employment by Kodiak area processors is estimated to be 1,500. Labor income is not available. See section 3.5.3.3.

D.3.5.3.4. Economic Viability

Data not available. See section 3.5.3.5.

D.3.5.4. Recreational Fishing Characteristics

No regulated sport fishery exists in the Kodiak management area for Tanner crab.

D.3.5.5. Subsistence Fishing Characteristics

A Tanner crab subsistence fishery of minor significance exists with total annual catch not exceeding 10,000 pounds (4.5 mt). Principal gear is ring nets. Crab are also taken for subsistence incidentally while fishing for other commercial species.

D.3.5.6. Indian Treaty Fishing Characteristics

No Indian treaty rights exist.

D.3.5.8 Area Community Characteristics

D.3.5.8.1. Total Population

Kodiak	[1]7758
Port Lions	[2]227
Quzinkie	[2]160
Port Williams	[2]44
Karluk	[2]98
Larsen Bay	[2]109
Akhiok	[2]115
Old Harbor	[2]290
Total population Kodiak Island	8801

[1]Estimated 1977—including military.
[2]1970.

Table 6 shows the yearly total population since 1970.

D.3.5.8.2. Total Employment

Data not available. See section 3.5.8.2.

D.3.6. Interaction Among User Groups

With the exception of the very minor subsistence fishery, the only users of the Tanner crab resource in this management area are U.S. commercial fishermen.

D.3.7. Federal and State Revenues Derived from Fishery

See section 3.7 and Table 9.

D.4.0. Biological Descriptors

D.4.1. Life History Features

See General Life History, section 4.1 for description of biological characteristics of Tanner crab.

D.4.2. Stock Units

Stock units in the Kodiak area are not well defined at this time. However, established fishing grounds, tag release and recovery data, and preliminary analysis from the king crab population assessment studies (captured Tanners were recorded and analyzed) indicate stock differentiation.

D.4.3. Catch Effort Data

Table D1 contains historical catch and effort data for the Kodiak area.

D.4.4. Survey and Sampling Data

ADF&G management sampling data consists of vessel interviews, dockside width frequency samples, crab tag recovery and logbook information (no logbooks in 1977). Research data on Tanner crab, (including sex, age, and size composition, tagging studies,

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fecundity and distribution, was conducted during the 1971-76 Kodiak area king crab population studies. Life history studies on growth, size at maturity, mating and seasonal timing of mating have been conducted by research biologists within the management area from 1973 to present.

D.4.6. Quality of Data.

See section 4.6.

D.4.7. Current Status of Stocks

D.4.7.1. Maximum Sustainable Yield (MSY)

Because of insufficient research data, no estimate of MSY can be developed using generally accepted population dynamics models. However, a weak estimate of a MSY of 21.5 million pounds (9,752 mt) has been derived by using the average catch of 25.1 million pounds (11,385 mt) for the seasons 1972/73 through 1975/76 reduced by the portion of the catch (14 percent) which was under 5.5 inches (140 mm).

Analysis of commercial catch and assessment data obtained during 4 years of intensive fishing prior to the 1977 season when the average catch was 25.1 million pounds (11,385 mt) indicates that the current exploitation level has not significantly affected brood stock capacity or caused an overall sharp decline in crab abundance.

D.4.7.2. Equilibrium Yield (EY)

Data sufficient to estimate the equilibrium yield are not available.

D.4.7.3. Acceptable Biological Catch (ABC)

Based upon the average catch since the 1972/73 season and current biological information, an acceptable biological catch of 15 to 25 million pounds (6,804 to 11,340 mt) has been established.

D.4.8. Estimates of Future Stock Conditions

Future Tanner crab stock conditions cannot accurately be determined until a more detailed stock assessment study is completed covering all major area stocks. Available data suggest general healthy stock conditions capable of supporting current production levels.

D.5.0. Catch and Capacity Descriptors

D.5.1. Data and Analytical Approaches

D.5.1.1. Domestic

Harvesting and processing capacities are listed in Tables 6 and 11 for the 1977 season. The number of vessels is calculated from fish ticket information. Information on capacities was collected through vessel interviews. Processing information was gathered from ADF&G annual reports and interviews with plant managers.

D.5.1.2. Foreign

There is no foreign fishery in the Kodiak area.

D.5.2. Domestic Annual Capacity (DAC)

The DAC is estimated at 38,000,000 pounds (17,237 mt).

D.5.3. Expected Domestic Annual Harvest (DAH)

The DAC is approximately 1.8 times the 1977 harvest of 20.7 million pounds (9,399 mt). The price received per pound and increased handling and sorting costs limited participation in the 1977 fishery. The DAH for the 1978 season could suffer similar limitations unless the price (ex-vessel) is increased.

With an increase in the ex-vessel price to approximately 40 cents per pound, projections for the 1978 season indicate an effort level of 110 to 120 vessels with the capability of harvesting the maximum end of the ABC harvest range of 25 million pounds (11,340 mt). The large Tanner resources in the Bering Sea will probably draw most newly made vessels to that area. However, the fishing period differences make it likely that many of these vessels will participate in the Kodiak fishery in 1978.

D.6.0. Optimum Yield

D.6.1. Departure From MSY to ABC for Biological Reasons

ABC has been set as a range with its midpoint approximately equivalent to the estimated MSY.

Specifying ABC as a range reflects the inadequacy of the biological data and allows inseason management decisions to be made based upon the current status of the stock.

D.6.2. Departure From ABC for Socio-Economic Reasons

In the absence of any explicit socio-economic objectives which would require optimum yield to deviate from the acceptable biological catch, OY is set equivalent to ABC.

D.6.3. Optimum Yield (OY)

Optimum yield for the Kodiak management area is set at 15 to 25 million pounds (6,804 to 11,340 mt).

D.7.0. Total Allowable Level of Foreign Fishery (FAC)

Given the estimated MSY and DAH, the FAC for 1977/78 is zero.

D.8.0. Management Regime

See statewide section 8.0.

South Peninsula/Aleutian Management Area

E.3.0. Description of Fishery

E.3.1. Area and Stocks Involved

The target species is *C. bairdi*. The area consists of three districts. (1) the South Peninsula district is defined as all Pacific Ocean waters of statistical area J[1] between the longitude of Cape Kumlik and the longitude of Scotch Cap light; (2) the Eastern Aleutian district encompasses all waters of statistical area J between the longitude of Scotch Cap light an 172° W. longitude, and south of 54° 36' N. latitude; and (3) the Western Aleutian district includes all waters of statistical area J west of 172° W. longitude and south of 54°36' N. laitude.

E.3.2. History of Exploitation

The Tanner crab fishery in the South Peninsula district began in 1967 with a catch of 5,000 pounds (2.3 mt). As in other areas of the Westward region, the early catch was incidental to the king crab harvest. The directed fishery for Tanner crab developed during closed king crab periods. During the 1973/74 season a major increase in fishing effort took place and 13.7 million pounds (6,214 mt) were landed (Table E1). Favorable market conditions, increased processing capacity, and extensive stock exploration helped establish Tanner crab fishing in the South Peninsula district.

[1]Statistical area J has as its northern boundary a line extending east from Cape Douglas, as its eastern boundary 150° W. longitude, as its western boundary 172° E. Longitude, and includes all waters of the Bering Sea east of 172° E. longitude.

Table E1 Historic commercial harvest and effort for the Tanner crab fishery in the South Peninsula district of the South Peninsula/Aleutian Management Area.

Calendar Year	Seasons	No. Vessels	Catch Pounds	Catch MT	No. Landings	No. Pot Lifts	Catch per lift Pounds	Catch per lift MT
1967	-	-	5,000	2.68	11	-	-	-
1968	-	-	131,700	59.74	184	-	-	-
1969	-	-	644,400	292.30	-	-	-	-
1970	-	32	2,096,400	950.91	308	26,975	78	0.035
1971	-	-	2,293,100	1,040.13	238	26,390	87	0.039
1972	-	-	3,645,400	1,653.53	-	-	-	-
1973	-	51	6,363,351	2,886.37	446	61,653	103	0.047
	1973/74 1/	66	13,728,670	6,227.23	631	102,107	134	0.061
	1974/75 1/	45	8,845,244	4,012.14	233	60,828	145	0.065
	1975/76 2/	69	18,128,102	8,222.95	506	111,758	162	0.073
	1976/77 3/	42	12,446,807	5,645.83	293	82,261	151	0.07
TOTAL (Seasons)		222	53,148,823	24,108.15	1,663	365,954	592	0.27
MEAN (Seasons)		56	13,287,206	6,027.04	416	89,239	148	0.07

1/ Fishing Year July 1 - June 30.
2/ Legal Season November 1 - June 1.
3/ Catch and effort preliminary: Season November 1 - May 15.

Data Source: Alaska Department of Fish and Game Annual Reports

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The fishery had developed separately in the Chignik and Sand Point-Unimak Bight portions of the district. In the Chignik section prior to 1974 the catch was less tahn 0.8 million pounds (363 mt). Catches had increased to 4.3 million pounds (1,950 mt) in the 1974/75 season. The 1975/76 catch increased to 11.2 million pounds (5,080 mt) with Kodiak based vessels taking the majority of the catch. The 1976/77 season harvest from Chignik was 5.7 million pounds (2,586 mt).

Important fishing grounds in the Chignik section are Mitrofania Island, Seal Cape, Kujulik Bay and Semidi Islands.

Catches in the remaining portion of the South Peninsula district, Kupreanof Point to Scotch Cap, were highest in the 1973/74 season when 9.5 million pounds (4,309 mt) were landed. Landings for the 1974/75 season and the 1975/76 seasons were 5.2 and 6.9 million pounds (2,539 and 3,130 mt) respectively. The highly mobile Dutch Harbor based fleet takes 25-35 percent of the annual catch in the Unimak Bight portion of the district. The 1976/77 season harvest for this portion of the South Peninsula district was 6.8 million pounds (3,084 mt).

Although the harvest of Tanner crab in the South Peninsula District was expected to approach 20 million pounds (9,072 mt) during the 1976/77 season, much of the expected effort did not materialize.

Tanner crab fishing in the Eastern Aleutian district since 1968 has been minimal and sporadic, with 563,500 pounds (256 mt) in 1974 being the largest recorded catch (Table E2). This fishery could gain increased importance in the future as the king crab harvest is divided between more vessels and alternative sources of income are sought.

Table E2 Catch and landings by year of Tanner crab in the Eastern Aleutian district of the South Peninsula/Aleutian Management Area.

Calendar Year	No. Vessels	Catch Pounds	Catch MT	No. Landings
1968	-	3,000	1.36	22
1969	-	21,000	9.53	16
1970	-	0	0	0
1971	-	0	0	0
1972	-	4,000	1.81	0
1973	-	62,128	28.18	3
1974	14	563,500	255.60	15
1975	2	77,164	35.00	3
1976	8	534,295 1/	242.35	11
TOTAL (All Years)		1,264,687	573.83	
AVERAGE (All Years)		180,670	31.95	

Source: Alaska Department of Fish and Game Annual Reports (1968-1975)

1/ Projected harvest.

In the Western Aleutian district, Tanner crab have never been an important commercial species and most landings are incidential to the king crab fishery. Annual catches for the years 1973 through 1976 have not exceeded 168,000 pounds (76 mt) (Table E3).

Table E3 Commercial harvest by year of Tanner crab in the Western Aleutian district of the South Peninsula/Aleutian Management Area.

Calendar Year	No. Vessels	Catch Pounds	Catch MT
1973	-	168,000	76.20
1974	-	70,000	31.75
1975	1	3,320	1.51
1976	0	0	0
TOTAL (All Years)		241,320	109.47
AVERAGE (All Years)		80,440	36.49

Data Source: Alaska Department of Fish and Game Annual Reports.

E.3.2.1. Domestic Fishery

E.3.2.1.1. Description of User Groups

The U.S. commercial fisherman is the only user of the Tanner crab resource in the South Peninsula/Aleutian management area.

E.3.2.1.2. General Description of Fishing Effort

Historically, an average of 56 vessels have fished in the South Peninsula district Tanner crab fishery (1973-74 through 1975-76), while 42 vessels fished in the season (Table E1). Vessel effort in the Aleutian districts is minor with only eight vessels fishing in 1976 (Tables E2 and E3). Peak effort occurred in 1974 when 14 vessels fished in the Eastern Aleutian district.

E.3.2.1.3. Catch Trends

Catches in the South Peninsula district are increasing as new fishing grounds are being exploited (Table E1). Prior to 1974 the commercial harvest did not exceed 6.4 million pounds (2,903 mt). However, since the 1973-74 season, the catch has averaged 13.3 million pounds (6,033 mt). Commercial harvests in the Aleutian districts are sporadic with historical harvests never exceeding 600,000 pounds (272 mt). The average combined harvest (Tables E2 and E3) for the Aleutian districts is only 118,000 pounds (53 mt) annually.

E.3.2.1.4. Description of Vessels and Gear Employed

The South Peninsula fleet consists mainly of modern steel hulled crab vessels of varying size. With the exception of small local vessels at Chignik and Sand Point, most of the larger vessels come from Kodiak and Dutch Harbor. Average hold capacity is 50,000 pounds (22.7 mt). Average keel length (1976-77 season statistics) is 65 feet (19.8 m) with a range of 34 to 112 feet (10.4 to 34.1 m). Vessels weigh an average 68 tons (61.7 mt) with a range of 11 to 198 net tons (10.0-179.6 mt).

Average vessel size fishing the Aleutian districts is 86 feet (26.2 m) and 138.6 net tons (125.7 mt). Ranges appear in Table 4.

E.3.2.2. History of Foreign Exploitation

There has been no foreign exploitation of Tanner crab stocks in waters of the South Peninsula/Aleutian management area.

E.3.3. HISTORY OF MANAGEMENT

E.3.3.1. Management Institutions, Policies, Jurisdictions

The South Peninsula/Aleutian management area is defined in Section E.3.1.

The Division of Commercial Fisheries within the Alaska Department of Fish and Game exercises management control of the fishery and maintains historical catch and production records at the headquarters in Juneau. In season management responsibility, preliminary development of management planning, and management related research is conducted by the regional ADF&G office in Kodiak and area offices in Sand Point and Dutch Harbor.

E.3.3.2. Domestic

E.3.3.2.1. and E.3.3.2.2. Regulatory Measures and Purpose of Measures

The regulatory structure developed in the South Peninsula/Aleutian management area is similar to that in the Kodiak area. The system has evolved as a result of a mixture of socio-economic considerations within the coastal communities in combination with biological information. Management measures, seasons, harvest levels, size limits and gear are described below and in Table E4.

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TABLE E4. Historical Development Of Regulatory Measures For South Peninsula/Aleutian Management Area Tanner Crab.

YEAR	SEASON 1/	GUIDELINE HARVEST LEVEL	AREA REGISTRATION	SIZE	GEAR
1967	None	None	None	None	Pots, ring nets, diving gear.
1968	None	None	None	None	Same, plus a 4" tunnel height
1969	1/1 - 7/31 & 10/1 - 12/31	None	None	None	"
1970	1/1 - 7/31 & 2/ 10/1 - 12/31	None	None	None	"
1970/71	Aleutians - 3/ Chignik-8/15-7/31 S. Pen. - 2/	None	None	None	"
1971/72	Aleutians - 3/ Chignik-8/15-7/31 S. Pen. 2/	None	None	None	"
1972/73	"	None	None	None	"
1973/74	Aleutian 11/1-10/15 Chignik 8/15-7/31 S. Pen 2/	None	None	None	"
1974/75	Aleutian 11/1-10/15 S. Pen. 8/15-7/31 (Chignik)	None	Non-exclusive	None	Same, except tunnel height to 5".
1975/76	"	None	Non-exclusive	None	"
1976/77	"	S.Pen=20-30 million pounds (9072-13608 MT)	Non-exclusive	5.5 inches (140 mm)	"

1/ Seasons may have been closed prematurely by emergency order.

2/ East of longitude of Cape Pankof: 8/15-7/31;
West of longitude of Cape Pankof: 9/15-7/31

3/ East of 172° West longitude: 9/15-7/31;
West of 172° West longitude: 11/1-7/31

Source: ADF&G Shellfish Regulations, Juneau.

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Fishing seasons. Prior to 1969 fishing was open year-round. As increased biological information began to better define periods of high handling mortality (soft-shelled condition), mating and breeding periods, periods of egg deposition and peak molting time of males; closures were established to protect the resource during these critical periods of the life cycle. The South Peninsula district now has a November 1 to May 15 season and the Aleutian districts have a November 1 to June 15 season reflecting these biological parameters (table E4).

Guideline harvest levels. No guideline harvest levels were established prior to the 1976-77 season in the South Peninsula district and Aleutian districts. The Tanner crab fishery was slow to develop (see section 3.2) and the catches were well below the potential of either district. During the 1976-77 season, the Alaska Board of Fisheries adopted a 20-30 million pound (9,072-13,606 mt) harvest range for the South Peninsula district. Exploitation rates have not necessitated harvest guidelines in the Aleutian districts. See section 3.3.2.2. for the purpose and rationale of guideline harvest levels.

Size limits. Research results of growth per molt studies and size at maturity provided the basis for the 5.5 inch (140 mm) minimum size limit for male Tanner crab, imposed for the first time during the 1976-77 season. See section 3.3.2.2. for the purpose of this size limit.

Gear. Pots, ring nets, and diving gear have constituted legal gear for commercial harvesting of Tanner crab since the fishery's beginning in 1967. In 1968 a tunnel entrance of not more than 4 inches (102 mm) was set. In 1974 this was changed to not exceed 5 inches (127 mm). These tunnel restrictions allow Tanner crab free access to a pot while keeping out most larger king crab, thus reducing sorting and handling mortality.

Sex limitation. See section 3.3.2.2. for purpose and rational of a male only tanner crab fishery.

E.3.3.3. Foreign

There is no foreign fishery in this management area.

E.3.3.4. Effectiveness of Management Measures

The recent implementation of management measures has not allowed sufficient time for them to be evaluated as to their long term effectiveness. It appears that Tanner crab stocks in the management area have not been over exploited and current regulations will adequately protect breeding stock and maintain the general stock health.

E.3.4. History of Research

Refer to section 3.4. of statewide plan.

E.3.5. Social Economic Characteristics

E.3.5.1. Output of Subject Domestic Commercial Fishery

E.3.5.1.1. Value of Catch (ex-Vessel)

Ex-vessel revenue generated in the 1976-77 Tanner crab fishery for the South Peninsula/Aleutian management area based on an anticipated harvest of 12.4 million pounds (5,646 mt) and average price per pound of 32 cents is $3.97 million. See table 1 for catch and ex-vessel value since 1969.

E.3.5.1.2 Description and Value of Product (Wholesale)

See section 3.5.1.2 and tables 2 and 3.

E.3.5.1.3. Market, Domestic and Foreign

See section 3.5.1.3.

E.3.5.2. Domestic Commerical Harvesting Charactristics

See section E.3.2.1.4. and table 4 for the description of fleet.

E.3.5.2.1. Total Gross Income of Fleet

The gross income of the South Peninsula/Aleutian Tanner crab fleet for all fisheries was $13.1 million in 1976. This compares to a Tanner crab harvest of $3.6 million. The average total gross income per vessel was $156,000. Table 5 compares all management areas for 1976.

E.3.5.2.2. Investment in Vessels and Gear

This information is not available. See section 3.5.2.2.

E.3.5.2.3. Annual Participation in Subject Fishery

In the South Peninsula district 505 landings were made during the 1975-76 season and 525 in the 1976-77 season. Based on an estimated 5 days per trip, 2,523 and 2,625 vessel-days were expended respectively. Only 11 landings were made in 1976 in the Aleutian districts, 55 vessel-days at 5 days per trip.

E.3.5.2.4. Total Manpower Employed

During the 1976-77 season 150 fishermen were employed in the harvesting sector in the South Peninsula district based on 3.5 men per vessel. In the Aleutian districts the larger vessels, averaging 4 men per vessel, employed 36 fishermen.

E.3.5.2.5. Economic Viability

See statewide section 3.5.2.5. For vessels participating within this management area, no data are available relative to the economic returns.

E.3.5.3. Domestic Commercial Processing Characteristics

E.3.5.3.1. Total Gross Income of Area Processors

See statewide section 3.5.3.1.

E.3.5.3.2. Investment in Plants, Etc.

There are no data available on the capitalization of the processing sector in this management area. See statewide section 3.5.3.2.

E.3.5.3.3. Total Employment and Labor Income

Total employment at peak production (all plants) is estimated at 225 for the South Peninsula district and 1,120 in the Aleutian districts. See statewide sections 3.5.3.3.

E.3.5.3.4. Economic Viability

See statewide section 3.5.3.4.

E.3.5.4. Recreation Fishery Characteristic

No recreational fishery exists for Tanner crab in the South Peninsula and Aleutian districts.

E.3.5.5. Subsistence Fishing Characteristics

A subsistence fishery exists for personal use and the level of catch is insignificant compared to commerical harvest. The fishery is open year round with no sex, size, or gear restrictions. Subsistence crab may not be sold or bartered. Subsistence fishermen must inscribe their name and address on their buoys.

E.3.5.6. Indian Treaty Fishing Characteristics

No Indian treaty rights exists.

E.3.5.8. Area Community Characteristics

E.3.5.8.1. Total Population

A 1976 population estimate for the communities within this management area was 8,300. Population trends from 1960 are in table 7.

E.3.5.8.2. Total Employment

See statewide section 3.5.8.2. and table 8.

E.3.6 Interaction Among User Groups

Since there are only U.S. fishermen using the Tanner crab resource in this management area, there are no allocation conflicts.

E.3.7. Federal and State Revenue Derived From Fishery

State revenue derived from the Tanner crab fishery is documented in the general statewide summary of this report, section 3.7 and table 9.

E.4.0. Biological Descriptor

E.4.1. Life History Features

See statewide section 4.1 for description of biological history.

E.4.2. Stock Units

Stock units are not defined for the South Peninsula/Aleutian management area.

E.4.3. Catch Effort Data

Catch and effort data are shown in table E1 for the South Peninsula district and in tables E2 and E3 for the Aleutian districts (Unalaska and Adak-Western Aleutians portions).

E.4.4. Survey and Sampling Data

Tanner crab survey information is collected during the annual king crab population indexing and tagging study cruises in the South Peninsula (Sand Point-Unimak Bight portion only) and Aleutian districts (Unalaska portion). Biological sampling and effort data is collected via dockside sampling.

E.4.6. Quality of Data

See section 4.6.

E.4.7. Current Status of Stocks.

E.4.7.1. Maximum Sustainable Yield (MSY)

Sufficient data to estimate MSY using accepted population models are not available for the South Peninsula Tanner crab stock. During the last four seasons, catch has ranged from 8.8 million pounds (4,012 mt) to 18.1 million pounds (8,210 mt) with a mean of 13.05 million pounds (5,919 mt). This fishery is new and not yet fully developed. To encourage exploration, but at the same time provide industry with some guidance as to the sustainable level of harvest they may be able to expect from this area, the Board of Fisheries has set a guideline harvest range of 20 to 30 million pounds (9,072 to 13,608 mt) for the 1977-78 season. Therefore, a weak estimate of an MSY of 20 million pounds (9,072 mt) is made for the South Peninsula district. This estimate is 2 million pounds (907 mt) greater than the historic peak harvest and at the lower boundary of the guideline harvest range.

For the Aleutian districts there are little data, either biological or in terms of catch,

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to make even a weak estimate of the potential long run maximum average yield.

Prior to the 1976-77 season the peak harvest in the Eastern district occurred in 1974 when 563,500 pounds (256 mt) were landed and in the Western district in 1973 when 168,000 pounds (76 mt) were taken, a total of 731,500 pounds (332 mt). the 1976-77 preliminary catch data shows that 1.5 million pounds (680 mt) has been landed and it is projected that at least 2 million pounds (907 mt) will be caught by the close of the season. There are no data which indicate that this rate of harvest cannot be sustained and, therefore, a weak estimate of an MSY of 2 million pounds (907 mt) is made for the Aleutian districts (the Alaska Board of Fisheries has not set a guideline harvest level for the Aleutians).

E.4.7.2. Equilibrium Yield (EY)

Data relative to stock dynamics and total population are unavailable to estimate what potential harvest could be sustained and still maintain the stock at its current level of abundance.

E.4.7.3. Acceptable Biological Catch (ABC)

The ABC for the South Peninsula district is set at 20 to 30 million pounds (9,072 to 13,608 mt). This range encompasses the weak estimate of MSY and allows for expansion of the fishery since it is not yet considered to be fully developed. For the Aleutian districts ABC is set equivalent to the MSY of 2 million pounds (907 mt).

E.4.8 Estimated of Future Stock Condition

Recent catch trends and the abundance estimates from both the commercial fishery and research information indicate a healthy fishery.

E.5.0. Catch and Capacity Descriptors

E.5.1. Data and Capacity Descriptors

E.5.1.1. Domestic

Harvesting and processing capacities are listed in tables 6 and 11. The number of vessels is calculated from fish ticket information. Descriptors relating to crew, vessel, and gear capacities were collected through vessel interviews for ADF&G records. Processing information was gathered from ADF&G annual reports and interviews with plant managers.

E.5.1.2. Foreign

There is no foreign fishery in the South Peninsula/Aleutian management area.

E.5.2. Domestic Annual Capacity (DAC)

With 42 vessels in the 1976-77 fishery having a total tank capacity per trip of 2,106,000 pounds (955 mt), and making 3.5 trips per month for the 6-month season, the South Peninsula district DAC is 44,226,000 pounds (20,061 mt). In the Aleutian districts, (1976-77 season) nine vessels, with a total tank capacity of 1,530,000 pounds (694 mt) making three trips per month (heavy weather factors) during a 6-month season would have a DAC of 27,540,000 pounds (12,492 mt).

E.5.3. Expected Domestic Annual Harvest (DAH)

The 1976-77 seasonal guideline harvest range for the South Peninsula district was approximately three times the catch of 6.7 million pounds (3,040 mt). Ex-vessel price, weather, handling, and sorting due to minimum size limit and successful salmon and king crab seasons may have blunted interest in the fishery. An increase in the ex-vessel price should increase interest for the 1977-78 season with expected effort approximating the 1975-76 level of 69 vessels. Therefore, the DAH for the South Peninsula District is 20-30 million pounds (9,072 to 13,608 mt). The DAH for the 1977-78 season in the Aleutian districts is estimated at 2 million pounds (907 mt).

E.6.0. Optimum Yield (OY)

E.6.1. Departure From MSY to ABC for Biological Reason

The ABC of 22 to 32 million pounds (9,979 to 14,515 mt) encompasses the MSY estimate for the South Peninsula/Aleutian management area. See section 3.4.7.3.

E.6.2. Departure From ABC for Socioeconomic Reasons

Since socioeconomic objectives have not been specified which would require formulization of the OY to deviate from the acceptable biological catch, the OY is set equivalent to the ABC.

E.6.3. Optimum Yield (OY)

In the absence of other data, the OY is set equivalent the ABC of 22 to 32 million pounds (9,980 to 14,515 mt).

E.7.0. Total Allowable Level of Foreign Fishery (FAC)

Given the estimated MSY and DAH, the FAC for 1977-78 is zero.

E.8.0. Management Regime

See statewide section 8.0.

Bering Sea Management Area

F.3.0. Description of Fishery

F.3.1. Species and Location

The Bering Sea management area is defined as all Bering Sea waters north of 54° 36' N. latitude.

The target species is *C. bairdi*. *C. opilio* is subordinate and currently comprises about 25 percent of the total catch (approximately 3 percent and 60 percent of the domestic and foreign harvests respectively).

F.3.2. History of Exploitation

F.3.2.1. Domestic Fishery

U.S.fishermen entered the Bering Sea in 1947 to harvest red king crab (*Paralithodes camtschatica*). The first reported catches of Tanner crab were made in 1968 and were incidental to the king crab harvest. In 1974, a directed Tanner crab fishery was started with the target species being *C. bairdi*. The period of full scale fishing covers just 3 years in the Bering Sea, but over 34.5 million pounds (15,028 mt) had been landed prior to 1977. The geographic areas fished by the U.S. fishermen during 1976 were predominately International North Pacific Fisheries Commission (INPFC) areas[1] 5564 and 5569 located north and northwest of Unimak Island and INPFC areas 5669 and 5670 near St. George Island.

F.3.2.1.1. Description of User Groups

Seattle-based fishermen, non-resident to the State of Alaska, are the primary user groups of the Tanner crab resource in the Bering Sea. Some Alaskan residents who own larger vessels fish the Bering Sea after first fishing their local area.

F.3.2.1.2. General Description of Fishing Effort

The fishing effort in the Bering Sea is continuing to increase annually in number of vessels and vessel size. In 1973, Tanner crab catches were incidental to king crab. In 1977, a large scale effort is presently underway by both fishermen and processors to harvest the allowable biological catch. During the summer of 1977 there were over 60 large vessels and 15 processors in the Dutch Harbor area capable of processing 750,000 pounds (327 mt) of Tanner crab per day.

F.3.2.1.3. Catch Trends

U.S. fishermen caught 18,000 pounds (8.2 mt) of Tanner crab in 1968 and 22.3 million pounds (10,115 mt) in 1976. Preliminary 1977 figures indicate a catch of $51.5 million pounds (23,400 mt). Annual harvests are shown in Table 1.

F.3.2.1.4. Description of Vessels and Gear

Boats fishing Tanner crab in 1976 were generally steel king crab vessels that averaged 140 net tons (127 mt) and 93.4 feet (28.47 m) in keel length (Table 4 and Table 6).

Gear fished during the 1976/77 season was an estimated 200-300 modified king crab pots per vessel.

F.3.2.2. Foreign Fishery

A foreign fishery in the Bering Sea for king crab started in 1930. Tanner crab harvested prior to 1964 were caught incidentally in this fishery. However, in 1964, when the foreign king crab fishery was at its peak, U.S. bilateral agreements resulted in immediate reductions in foreign production of king crab, emphasis then shifted to Tanner crab. Since 1970, quotas for Tanner crab have sharply reduced foreign landings

F.3.2.2.1. User Groups

The Japanese initiated the Bering Sea king crab fishery in 1930 with the U.S.S.R. entering in 1959. Both nations shifted to Tanner crab in the middle to late 1960's. There has been no Soviet crab fishing since 1971.

F.3.2.2.2. and F.3.2.2.3. General Description of Fishing Effort and Harvest

Foreign catches of Tanner crab are shown in Table F1. The combined Japanese-Soviet catch increased rapidly from 1.7 million crab in 1965 to 24 million crab in 1969 and 1970. Since 1970, quotas have reduced the foreign landings. (Table F2.) Japanese quota allocations are divided between a factory-ship fleet and a landbased fleet by Japanese domestic regulation.

[1]INPFC areas are 1° longitude by 1° latitude rectangles coded by the latitude, longitude coordinate of the southeast corner of each area. For example, area 5564 is that region between 55° and 56° N. latitude and 164° and 165° W. longitude.

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Table F1. Catches of Tanner crab, *C. bairdi* and *C. opilio*, in the eastern Bering Sea, 1965/76 (millions of crabs).

YEAR	JAPAN (Tangle nets)	JAPAN (Pots)	U.S.S.R. (Tangle nets)	UNITED STATES (Pots)	TOTAL
1965	1.030	-	0.665[a]	-	1.695
1966	1.490	-	0.665[a]	-	2.155
1967	8.320	0.290	3.390[a]	-	12.000
1968	10.100	1.880	3.490[a]	0.006	15.476
1696	9.736	7.855	6.243	0.353	24.187
1970	7.679	10.511	5.724	0.482	24.396
1971	0.851	14.888	4.204	0.061	20.004
1972	0.386	15.207	-	0.043	15.635
1973[b]	-	13.943	-	0.133	14.076
1974[c]	-	13.986	-	2.531	16.518
1975[d]	-	9.228	-	2.760	11.988
1976	-	9.228	-	8.931	18.159

[a] Estimated by applying number of crabs per case in 1969 to case pack figures in indicated year.
[b] Japanese catch in 1973 was 5.992 million crabs in Area A and 7.951 million crabs in Area B.
[c] Japanese catch in 1974 was 5.999 million crabs in Area A and 7.987 million crabs in Area B.
[d] Japanese catch in 1975 and 1976 was about 2.401 million crabs in Area A' and 6.827 million crabs in Area B'.

SOURCES: Statistics for the Japanese and United States fisheries are from INPFC Documents.
Statistics for the U.S.S.R. fishery provided to the United States by the U.S.S.R.

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TABLE F2. TANNER CRAB QUOTAS ESTABLISHED UNDER BILATERAL AGREEMENTS WITH JAPAN AND THE U.S.S.R.

YEARS	JAPAN	U.S.S.R.
	(NUMBER)	(CASES)[1]
1965-66		
1967-68		
1969-70	16,000,000[2]	40,000
1971-72	15,000,000[3]	35,000
	(NUMBER)	(NUMBER)
1973-74 (Area A)	6,000,000	1,800,000
1973-74 (Area B)	8,000,000	2,400,000
	(METRIC TONS)	(METRIC TONS)
1975-76 (Area A)	2,500	750
1975-76 (Area B)	7,700	2,310

1/ One case is equal to 48 ½-pound cans. In producing frozen meat Japan considers 29.3 pounds of crab meat equivalent to one case.

2/ Plus an allowance of 15 percent

3/ Plus an allowance of 10 percent

Available historical information on Tanner crab catches by the Japanese land-based fleet in the central Bering Sea is scanty. The fishery existed in the early 1970's when annual catches were reported to be 4,630,000 pounds (2,100 mt). In 1975 and 1976, the Japanese agreed to submit daily positions and catches to U.S. officials for all vessels fishing west of 175° W. longitude, north of 58° N. latitude and east of the U.S.-U.S.S.R. Convention Line of 1867. Highlights of these 2 years of data are presented below.

Statistic	1975	1976
Vessels licensed by Japan Fishery Agency.	28	31
Vessels fishing	28	31
First day of fishing	May 5	May 5
Last day of fishing	Oct. 21	Oct. 18
Total vessel days	1,155	1,477
Total catch (number of crab).	2,918,882	2,826,707
Average catch per vessel day.	2,527	1,982

Harvests by the Japanese in 1977 are restricted to a quota of 27,550,000 pounds (12,500 mt). Based on the catch composition in 1975 and 1976, 11,200,000 pounds (5,110 mt) would be expected to be *C. bairdi* and 16,300,000 pounds (7,400 mt) *C. opilio*. The *C. bairdi* catch will be primarily from the factoryship fleet while it is assumed that all crab taken by the land-based fleet will be *C. opilio*. Under conditions of the preliminary fishery management plan for eastern Bering Sea crab, the Japanese are permitted to harvest 9,700,000 pounds (4,400 mt) of their total quota of Tanner crab from the area west of 173° W. longitude and north of 58° N. latitude. Under Japanese domestic regulations the land-based vessels were allotted 4,900,000 pounds (2,222 mt) west of 175° W. longitude and the factoryships were allotted 3,688,300 pounds (1,673 mt) east of 175° W. longitude and west of 175° W. longitude and north of 58° N. latitude.

F.3.2.2.4. Vessels and Gear

There has been no Soviet crab fishery in the eastern Bering Sea since 1971. The two factoryships utilized by Japan to process crab in recent years are the *Keiko Maru* (6,821 mt) and the *Koyo Maru* (6,804 mt). Since 1975, each factoryship has been supplied by six catcher boats each about 100 gross ton (91 mt). Japanese crab fishermen now deploy conical, "top-loading" pots which are fished on a groundline. About 130 pots are fished per line, generally with a 3-4 day soak. Each vessel has about 2,000 pots distributed among 15-18 strings of this gear. The gear is hauled using a longline puller, and crabs are removed, stored dry in sacks in the fish hold, and delivered daily to the factoryship where processing takes place.

The gear used by the land-based vessels is identical to that of the catcher boats delivering to Japanese factoryships, i.e., about 125 individual conical pots fished on a longline. Vessels vary in size from 230 to 250 gross tons (209 to 454 mt) with a crew of 25. The catch is processed on each land-based vessel, usually by butchering, cooking and freezing in sections. The finished product is returned to Japan either by the land-based vessel or by a transport ship. The number of vessels licensed by the Japanese to participate in this fishery has been reduced from 31 in 1976 to 11 in 1977.

F.3.3. HISTORY OF MANAGEMENT

F.3.3.1. Management Institutions

The Bering Sea Tanner crab stocks have been managed by two agencies. The Alaska Department of Fish and Game manages the domestic fishery with the Alaska Board of Fisheries determining the regulations. The National Marine Fisheries Service has managed the foreign fishing and provided the majority of the research data applicable to both domestic and foreign fleets.

F.3.3.2. Domestic Management

F.3.3.2.1. Regulatory Measures

Regulations governing the Bering Sea Tanner crab fishery in order of implementation were: (1) males-only, (2) gear, (3) season, (4) size limit, and (5) harvest levels by area. The last three measures were promulgated during 1976 by the Alaska Board of Fisheries. Table F3 shows the historical development of the domestic regulations.

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TABLE F3. Historical Development Of Domestic Regulatory Measures For Bering Sea Management Area
Tanner Crab

YEAR	SEASON[1]	GUIDELINE HARVEST LEVEL	AREA REGISTRATION	SIZE	GEAR
1973/74	None	None	None	None	Pots, ring nets, diving gear and tunnel to 4 inches.
1974/75	7/1 - 6/15[2]	None	Non-exclusive	None	Same except tunnel to 5 inches.
1975/76	7/1 - 6/15	None	Non-exclusive	None	"
1976/77	7/1 - 6/15	None	Non-exclusive	5.5 in. (140 mm)	"

1/ Seasons may have been closed prematurely by emergency order.

2/ Season opened by emergency order sometime after 7/1.

Source: ADF&G Shellfish Regulations, Juneau.

F.3.3.2.2. Purpose of Measures

The males-only season concepts discussed in section 3.3.2.2. of the statewide regulations apply to the Bering Sea. Harvest levels and size limits were promulgated by the Board of Fisheries believing that these restrictions would prevent over-exploitation until more scientific knowledge was gathered. It has been the Board's policy that a conservative approach is necessary when the data base to manage a fishery is inadequate (see Sections 3.3.2. and 4.0.).

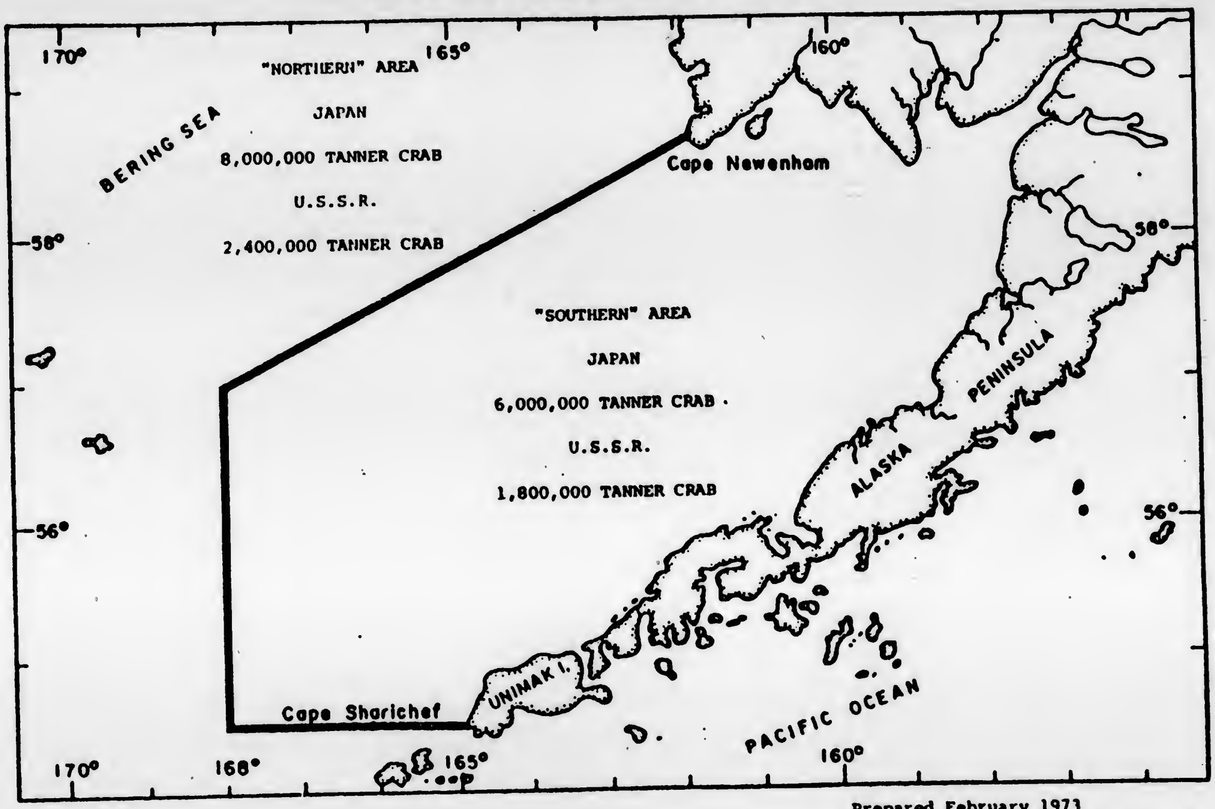
F.3.3.3. Foreign Management

F.3.3.3.1. Regulatory Measures

Prior to 1964 there were no U.S. regulations for the foreign crab fisheries of the eastern Bering Sea. In 1964, the United States ratified the 1958 Continental Shelf Convention and declared king and Tanner crab (among other species) as "Creatures of the Continental Shelf".

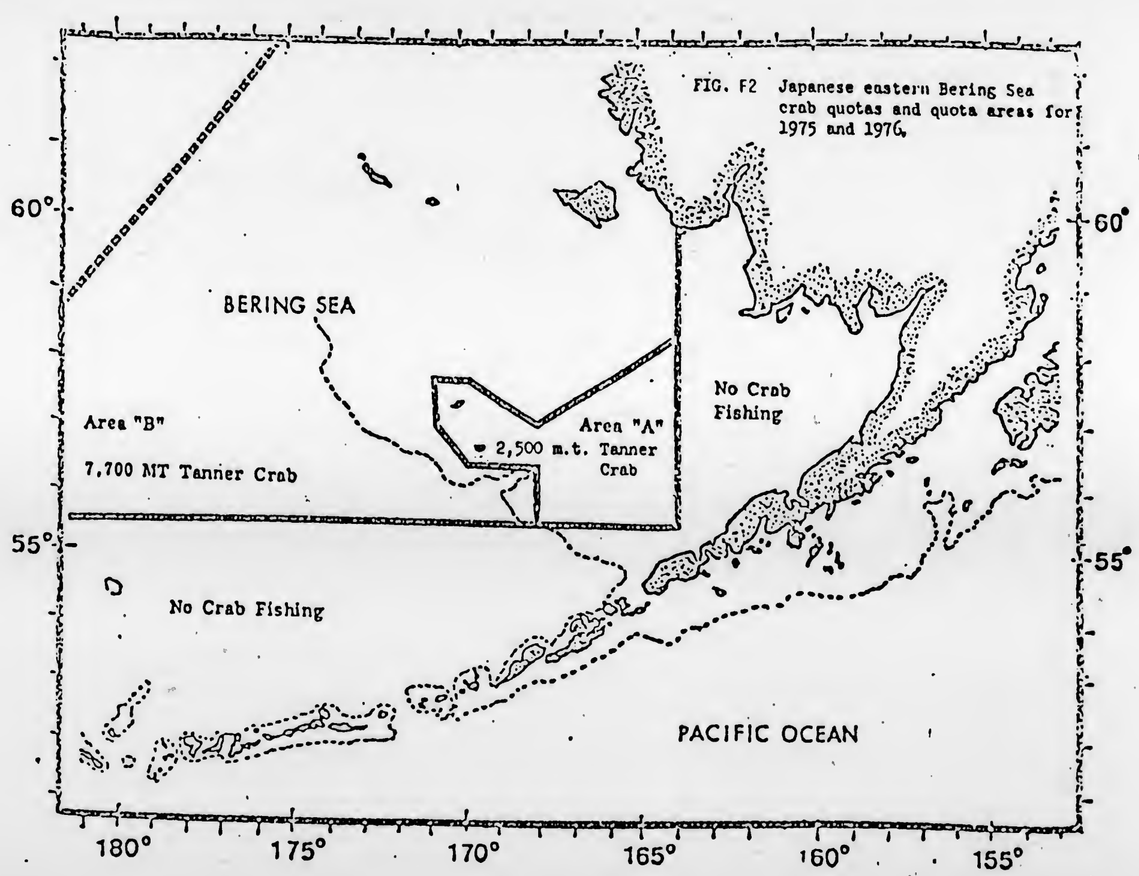
Catch quotas were first applied to the foreign Tanner crab fisheries in 1969 (only male crab could be retained), and use of tangle net gear was restricted in later bilaterals. These bilateral agreements have been modified every 2 years, resulting in progressively lower foreign quotas (Table F2.). Since 1973, separate Tanner crab quotas have applied to each of two subareas of the Bering Sea. (Figures F1 and F2). The sub-areas were further defined in the 1975-76 bilateral to eliminate the foreign fishery east of 164° W. longitude and south of 55° 30' N. latitude—the principal area fished by the United States at that time. For the 1977 season the regulations are given in the Tanner crab PMP, January 1977. The foreign quota was increased to 27,550,000 pounds (12,500 mt) with the increase to come primarily from areas of *C. opilio* concentration. Foreign fishing was restricted to the area north of 56° N. latitude and west of 164° 00' W. longitude to further separate the U.S. and Japanese fleets.

Figure F1. EASTERN BERING SEA CRAB QUOTAS FOR 1973 AND 1974
ESTABLISHED BY U.S.-JAPAN CRAB AGREEMENT DECEMBER 1972
AND U.S.-U.S.S.R. CRAB AGREEMENT FEBRUARY 1973



Prepared February 1973
National Marine Fisheries Service
Juneau, Alaska

FIG. F2 Japanese eastern Bering Sea crab quotas and quota areas for 1975 and 1976.



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The United States initiated an observer program in 1971 aboard the two Japanese crab factoryships to make biological observations and to ascertain Japanese compliance to quota restrictions established in the bilateral agreement. Although observers spent a total of 191 vessel-days at sea during the 1971-73 period, it was not possible to determine Japanese adherence to catch quotas because of a lack of authority to control the unloading operations of the catcher boats and the processing operation.

The observer program was strengthened during bilateral negotiations, and in 1975 and 1976 the U.S. observers positively verified Japanese crab catch statistics.

A pair of U.S. observers are monitoring catches of both Japanese factoryships, the *Keiko Maru* and *Koyo Maru*, throughout the entire 1977 fishery. It is expected they will harvest their allotment of 21,500,000 pounds (9,752 mt). A team of six U.S. observers will also be associated with the land-based fleet during the fishing season which is scheduled to begin in late May. The other observers will travel on a Japanese enforcement vessel patrolling the land-based fleet; they will board vessels at random to document fishing operations and catches.

F.3.3.3.2. Purpose of Measures

Restrictions on legal gear to pots only was established to eliminate non-selective gear that contributed to mortality of females and sublegal size crab. The male only requirement protects the female breeding stock. The quotas reduce the foreign exploitation on *C. bairdi*, the species of Tanner crab preferred by the U.S. industry. The closed areas eliminate foreign fishing in the principal areas fished by the United States.

F.3.3.4. Effectiveness of Management Measures

The general effect of the sex, season and gear limitations are described in Section 3.3.4. of the statewide plan. It is premature to determine the effect that the domestic size limit and harvest levels will have on Bering Sea Tanner stocks. The quotas applied to the foreign fishery have been successful in aiding the development of a larger domestic fishery. Area fishing restrictions have minimized gear conflicts and competition for concentrations of large crab.

F.3.4. History of Research

See statewide Section 3.4.

F.3.5. Socio-economic Characteristics

F.3.5.1. Output of Domestic Commercial Fishing

F.3.5.1.1. Value of Catch (Ex-vessel)

The estimated revenue for Tanner crab caught in the Bering Sea in 1976 was $4.4 million.

F.3.5.1.2. and F.3.5.1.3. Value of Product and Markets

Refer to corresponding sections in statewide section.

F.3.5.2. Domestic Commercial Harvesting Characteristics

Data for the Bering Sea area is not available. Refer to corresponding section in statewide section.

F.3.5.2.1. Total Gross Income of Fleet (from subject fishing and all other fisheries)

The gross income of the Bering Sea domestic Tanner crab fleet for all fisheries (salmon, halibut, king crab, etc.) was $30.4 million in 1976. This compares to a Tanner crab harvest valued at only $4.4 million. The averge total gross income per vessel was $460,044. Table 5 compares all management areas for 1976.

F.3.5.3. Domestic Commercial Processing Characteristics

The majority of Tanner crab caught in the Bering Sea are processed at Dutch Harbor by shore-based plants and floating processing vessels. Some crab is processed on the grounds by catcher-processor vessels and some is transported to processing plants located on the Alaska Peninsula at Sand Point and Chignik. Still other loads are transported to Kodiak and processed. In 1977, 15 processors are handling Tanner crab with a peak daily production of approximately 750,000 pounds (340 mt).

F.3.5.4. Recreational Fishing Characteristics

No recreational fishery exists.

F.3.5.5. Subsistence Fishing Characteristics

No data on subsistence fishing is available for the Bering Sea, but effort is minimal.

F.3.5.6. Indian Treaty Fishing Characteristics

No Indian treaty fishing exists in the Bering Sea.

F.3.5.7. Area Community Characteristics

Refer to statewide Section 3.5.7.

F.3.6. Interaction Among User Groups

This section discussed in statewide Section 3.6.

F.4.0. Biological Descriptors

F.4.1. Life History Features

This section is discussed in statewide Section 4.1.

F.4.2. Stock Units

In the Bering Sea, two species of Tanner crab are harvested with *C. bairdi* being the target species because of its larger size. *C. opilio* is presently undesirable to U.S. processors due to its smaller size, but is harvested by the Japanese and according to NMFS trawl surveys is the most numerous of the two species. The distribution of *C. bairdi* extends from Bristol Bay northward to the Pribilof Islands. Stocks of *C. opilio* have a wider distribution than *C. bairdi* with their center of abundance more to the northwest than that of *C. bairdi*. Discrete stocks of *C. bairdi* have not been documented. However, there appears to be a density separation of *C. bairdi* populations at 168° W. longitude, with concentrations occurring around the Pribilof Islands and east of 168° W. longitude along the Alaska Peninsula.

F.4.3. Catch and Effort Data

The commercial catch is sampled at dockside in Dutch Harbor and skippers are interviewed to determine area fished, number of pots pulled, average weight of crab landed and other relative data. A sample of crab is measured to determine width frequency. Table F1 lists catch data (foreign and domestic) for the Bering Sea.

F.4.4. Survey and Sampling Data

The Bering Sea is surveyed on a yearly basis by the National Marine Fisheries Service. A description of the operating procedures and sampling techniques can be found in "Northwest Fisheries Center Report to Industry 1976". These trawl surveys are used to determine abundance by size, distribution, and other population characteristics.

F.4.5. Other

See statewide section.

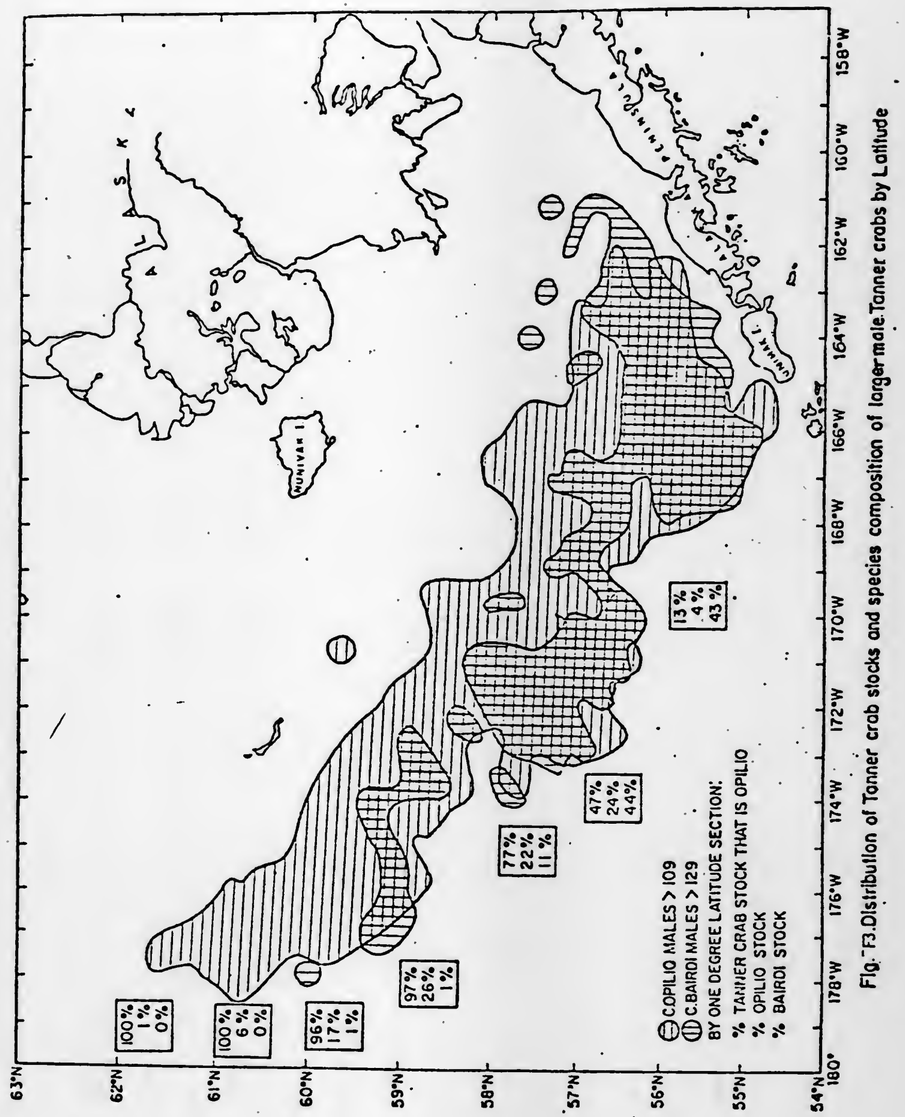


Fig. F3. Distribution of Tanner crab stocks and species composition of large male Tanner crabs by Latitude

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TABLE F4. Annual Abundance Estimates (millions of crabs) for Tanner crabs from NOAA R/V OREGON Surveys in the Eastern Bering Sea.

SEX	Size Group*	1973	1974	1975	1976	1977
C. bairdi						
Males	<85	62.8	200.7	116.3	136.8	192.7
	85-129	140.5	255.0	207.5	131.7	159.6
	>129	66.9	130.5	209.6	157.8	111.1
Total males		270.2	586.2	533.4	426.3	463.4
Females	<85	47.9	210.5	120.8	174.7	328.4
	>84	90.3	175.7	102.2	220.4	215.8
Total females		138.2	386.2	223.0	395.1	544.2
Total population		408.4	972.4	756.4	821.4	1007.6
C. opilio	<110	115.2	1,480.3	1,916.7	2,221.1	**
Males	>109	84.7	246.7	274.8	181.6	
Total males		199.9	1,727.0	2,191.5	2,402.7	
Females	<65	26.4	1,415.3	3,213.1	4,867.1	
	>64	26.8	195.9	194.3	697.3	
Total females		53.2	1,611.4	3,407.4	5,564.4	
Total population		253.1	3,338.4	5,598.9	7,967.1	
C. hybrid						
Males	<110			47.4	27.8	
	>109			33.8	16.5	
Total males				81.3	44.3	
Females	<65			190.8	1.1	
	>64			28.9	13.9	
Total females				219.7	15.0	
Total population				301.0	59.3	

* mm, carapace width. ** 1977 survey results for C. opilio were not available at time of publication.

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F.4.6. Quality of Data

Refer to statewide discussion in Section 4.6.

F.4.7. Current Status of Stocks

Table F3 presents estimates of abundance for Tanner crab based on NMFS Surveys which extended to approximately 58° N. latitude in recent years. (OCS-related survey results of the eastern Bering Sea north to 62° N. latitude in 1975 (figure F3) indicate that these NMFS surveys provide adequate coverage for the *C. bairdi* population.) The 1977 survey results are in line with previous stock estimates, corroborating the estimate of a long range downward trend in recruitment postulated by Somerton & Low (1977). Current stock conditions are relatively high but much reduced levels of harvestable males are forecast by 1980 and continuing for several years thereafter.

TABLE F5.—*Estimates of maximum sustainable yield of male snow (Tanner) crab in the Eastern Bering Sea*

Species	Size group	Millions of crabs	Average weight (pounds)	Million of pounds	Exploitation rate	MSY (millions of pounds)
C. bairdi	*≥135	92	2.41	222	0.40	89
C. opilio	>115	431	1.79	772	.58	**440

*The biological data are based on inside the spine measurements. The legal definition includes the spines in carapace measurements. Therefore, the legal interpretation of the size limit will allow the harvest of crab which are according to the biological measurements up to 5mm smaller. Therefore, when calculating an MSY based on 140mm minimum legal size, all crab ≥135mm must be considered.

**225 million pounds available north of 58° N. latitude.

Source: NMFS-Juneau, Alaska.

Survey coverage for *C. opilio* has expanded during the 1973-75 period accounting for at least some of the increase in apparent abundance. However, it is obvious from the OCS survey results that the NMFS standard survey still does not encompass the entire range of the species. The problem of incomplete survey coverage also applies to estimates of abundance for *C. bairdi* × *C. opilio* hybrids, given in Table F4.

F.4.7.1. Maximum Sustainable Yield (MSY)

MSY Values for *C. bairdi* Tanner crabs have been estimated by multiplying stock abundances by conservative exploitation rates derived from the yield per recruit analyses of Somerton & Low (1977).

Estimates of abundance of Tanner crab are available for both species, *C. bairdi* and *C. opilio*, in the eastern Bering Sea. However, the distribution of abundance is different between species (Figure F3). Almost all stock of *C. bairdi* occurs south of 58° N. latitude. *C. opilio* extends farther north, with half of the total stock surveyed during the 1975 OCS-related work north of 58° N. latitude.

Estimates of MSY for *C. bairdi* and *C. opilio* are given in Table F5. For *C. bairdi*, the 1977 NMFS survey abundance estimates are used, since coverage of this species is adequate.

The estimated abundance of legal sized (greater than 140 mm) male crab is 222 million pounds (100,725 mt). An average annual exploitation rate of 0.40 applied to the estimated abundance of legal-sized *C. bairdi* males gives an MSY of 89 million pounds (40,381 mt).

The estimated MSY for *C. opilio* is calculated from the estimated abundance of males greater than 115 mm (772 million pounds—350,000 mt), determined from the 1975 OCS survey. This component of the population is used since no size limit exists for this species and 115 mm is the smallest size significantly present in the current fishery for *C. opilio*.

The calculated exploitation race applied is 0.58 (Sumerton and Low, 1977) and results in an MSY of 448 million pounds (203,000 mt) for *C. opilio*. Half of this estimate, 225 million pounds (102,000 mt), is available from the area north of 58° N. latitude, where large *C. bairdi* occur only rarely (Figure F3).

F.4.7.2. Equilibrium Yield (EY)

A lack of data on the effects of harvest on the populations of *C. bairdi* and *C. opilio* in the Bering Sea precludes any estimate of EY at the present.

F.4.7.3. Acceptable Biological Catch (ABC)

In the absence of modifying data ABC is taken to be equal to MSY for *C. bairdi* (89,000,000 pounds—40,381 mt) and *C. opilio* (448,000,000 pounds—203,000 mt) in the eastern Bering Sea.

F.4.8. Estimate of Future Stock Condition

Available data indicates that the Tanner crab stock in the Bering Sea should be capable of sustaining current levels of harvest through the 1978 season.

F.5.0 Catch and Capacity Descriptors

F.5.1. Data and Analytical Approaches

F.5.1.1. Domestic

Data on domestic harvest capcity is found in Table 6 and Table 11.

F.5.1.2. Foreign

Foreign capacity is presently limited by quota allocations and vessel permit limitations.

F.5.2. Domestic Annual Capacity (DAC)

See Table 6.

F.5.3. Expected Domestic Annual Harvest (DAH)

The DAH for *C. bairdi* in the eastern Bering Sea is expected to reach the OY of 89 million pounds (40,381 mt). U.S. harvests have increased approximately eight fold—from 1975-77.

Expected annual domestic harvest of *C. opilio* north of 58° N. latitude will be minimal, though it is expected market demand may increase the catch south of that line to near the estimate of 22 million pounds (10,000 mt) (Table 11, p. 78).

F.6.0 Optimum Yield

F.6.1. Departure from MSY to ABC for Biological Reasons

In the absence of modifying data, ABC is taken to be equal to MSY for *C. bairdi* and *C. opilio* in the Bering Sea.

F.6.2. Optimum Yield

Optimum yields for *C. bairdi* and *C. opilio* have been determined taking into consideration the following socio-economic factors:

a. United States policy, through a series of bilateral agreements over the past several years, has been directed at improving the conditions for developing the U.S. Tanner crab industry. As a result of these agreements, foreign nations have been prevented from Tanner crab fishing in the Gulf of Alaska and have either reduced their take of Tanner crab in the eastern Bering Sea or withdrawn from the fishery altogether. The policy has accommodated a favorable investment climate for a growing U.S. catching, processing, and marketing capacity.

b. The U.S. markets for Tanner crab are in an early stage of development with exports accounting for a substantial portion of U.S. production. Industry representatives have repeatedly drawn attention to the volatility of markets for shellfish and repeatedly stated that increases in foreign allocations of tanner crab will weaken U.S. domestic and export markets. Not enough is currently known about the elasticities of the markets for crabs of various species, the degree of overlap between species, frozen products as opposed to canned, and the affect of fluctuating supplies on world markets to accurately define the precise level at which foreign allocations will adversely impact the U.S. fishing industry. Testimony and evidence on these questions that was considered in arriving at OY and TALFF figures is summarized in Appendix 11.6.

c. The domestic market for Tanner crab has discouraged the delivery of crab less than 5 inches in carapace width. In 1976, a minimum carapace size limit of 5.5 inches was imposed on the domestic Tanner crab fishery in the eastern Bering Sea for *C. bairdi* only. Since only a small portion of the *C. opilio* population exceeds domestic industry size requirements, the U.S. fishery for Tanner crab is therefore primarily for *C. bairdi*.

d. The tanner crab fishery is conducted by heavily capitalized vessels originally constructed for the offshore king crab fishery. Public testimony has revealed that the catch per unit effort (CPUE) must be held fairly high, dependent on price structure, to enable U.S. fishermen to engage in the fishery. The U.S. CPUE in the eastern Bering Sea in 1976 was 63 crab per pot. This criterion would suggest that populations must be maintained at near present abundance to produce an economically acceptable catch per unit effort for U.S. fishermen. Since *C. bairdi* Tanner crab are dispersed over a broad geographic area in the eastern Bering Sea, density levels throughout much of this area are (probably) below that which can be

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profitably harvested. Therefore, setting OY at ABC may be optimistic from the standpoint of actually being able to recover that full amount from the stock under the economic parameters within which all commercial fishermen work.

Given the restrictions on the foreign fleet, the availability of the resource south of 58° N latitude, and the intent, desire and capacity of the domestic fleet to develop a fishery on *C. opilio* crab, the harvest which may be realized by the domestic fleet during the 1977/78 season, south of 58° N latitude in the Bering Sea, is expected to be as high as 10,000 Mt (22,000,000 lbs), well within the limits of the acceptable biological catch. Although there is a surplus of *C. opilio* south of 58° N latitude over DAH, allocation to a foreign nation would unavoidably damage the stocks of *C. bairdi*, all of which are expected to be taken by U.S. fishermen.

e. Rational management concerns other than MSY must be taken into consideration in specifying optimum yield. Stability of the fishery should be ensured by maintaining a stock base of various age classes of marketable crab, rather than creating an industry of dependency on a single year class resource. By maintaining a fishery on a broad age group, the variations associated with strong and weak year classes would be reduced.

f. The ecological importance of Tanner crab stocks is not well understood. The rich eastern Bering Sea is inhabited by the largest concentration of sea birds and marine mammals in the world. Millions of seals, important populations of whales, sea otters and other marine mammals, as well as hundred of million of sea birds and other forms of marine life are currently being impacted by the annual removal of more than 5 billion pounds (2,268,600 mt) from the eastern Bering Sea biomass. Optimum yield considerations indicate a cautious approach to additional removals.

Optimum yield for Tanner crab for 1978 are prescribed as follows:

C. bairdi, 89 million pounds (40,381 mt).
C. opilio:
North of 58°, 36.06–38.06 million pounds (16,360–17,268 mt).
South of 58°, 22 million pounds (10,000 mt).

F.7.0 Total Allowable Level of Foreign Fishery

The North Pacific Fisheries Council has determined that the U.S. domestic Tanner crab fishing fleet has the intent, desire, and capacity to fully harvest the OY of *C. bairdi* crab in the eastern Bering Sea. NMFS and OCS surveys show that the vast majority, all but about two percent (2 percent), of the *C. bairdi* stocks are found below 58° N latitude (Fig. F3, page 250). For this reason, and in order to prevent gear conflicts and a foreign by-catch of *C. bairdi* crab, any foreign harvest of Tanner crab has been restricted to the area north of 58° N latitude and west of 164° W longitude.

Approximately half of the *C. opilio* crab stocks found in the eastern Bering Sea are located south of 58° N latitude and have a similar and overlapping distribution with *C. bairdi* (Fig. F3, Page 250). The U.S. Tanner crab fleet has expressed a relatively strong interest in the development of a directed *C. opilio* crab fishery, however, the rate at which this fishery might develop can not be projected at this time with any degree of accuracy. Development of a directed domestic *C. opilio* fishery is considered to be both desirable and beneficial should market conditions and technological advancements make it feasible for domestic fishermen to economically harvest this resource.

About half of the *C. opilio* population would be available north of 58° N latitude for an ABC of approximately 225,000,000 pounds (102,000 mt). Testimony received during the development of this plan and the available evidence[1] indicates that TALFF exceeding 33,000,000 lbs (15,000 mt) will have an adverse effect on the developing U.S. Tanner crab fishery. Though 2,500 mt more than the TALFF set by the PMP for 1977 it is felt the increase is permissible in light of world market conditions and the fact that it will contain a smaller amount of the more desirable *C. bairdi* species than has been taken by foreign nations in the past. Therefore, the TALFF is equal to the OY minus the expected domestic annual catch. (TALFF=33,000,000 pounds, 15,000 mt)

F.8.0 Management Regime

F.8.1. Management Objectives

See statewide section 8.1. The management plan for the Bering Sea seeks to encourage the development of the U.S. fishery in this area by:

1. Ensuring concentrations of crab capable of supporting CPUE levels necessary to support U.S. fishery development are reserved for U.S. fishermen.
2. Preventing gear conflicts between U.S. and foreign fishermen.
3. Reserving crab for the U.S. fishery above the minimum size required by the U.S. industry for market development.

F.8.2. Areas, Fisheries and Stocks Involved

Refer to section 3.1.

F.8.3. Management Measures and Rationale

F.8.3.1. Domestic

See statewide section 8.3.1.

F.8.3.2. Foreign

See statewide section 8.3.2. Regulations governing foreign fishing in the FEDERAL REGISTER of February 11, 1977 part IV, relative to Tanner crab are retained unchanged except:

1. Subpart G, 611.90, crabs, section (b) Area quotas is changed to read: "No more than 15,000 mt of snow (Tanner) crab may be taken by foreign fishing vessels from that portion of the Bering Sea area over which the United States exercises fishing jurisdiction."
2. Eliminate categories I and II from the above Section.
3. Section (d)(2) is changed to read: "It shall be unlawful for any foreign fishing vessel to fish for crab at any time east of 164° W. longitude and south of 58°00' N. latitude in the Bering Sea, throughout the Northeastern Pacific Ocean and within 12 miles of the baselines used to measure the U.S. Territorial Sea.
4. Section (F)(2) is changed by eliminating the reference to reporting by area.

F.8.3.3. Relationship of the Recommended Measures to Existing Applicable Laws and Policies

See statewide section 8.3.3.

[1]A summary of testimony and evidence considered to arrive at an FAC of 15,000 MT is contained in Appendix 11.6.

F.8.4. Enforcement Requirements

See statewide section 8.4.

F.8.5. Reporting Requirements

See statewide section 8.5.

F.8.6. Cooperative Research Requirements

See statewide section 8.6.

F.8.7. Permit Requirements

See statewide section 8.7. for domestic licensing and foreign permits required.

F.8.8. Financing Requirements

See statewide section 8.8.

9.0 Statement of Council Intentions to Review this Plan After Approval by the Secretary

The North Pacific Fishery Management Council will, after approval and implementation of this plan by the Secretary, maintain a continuing review of the fisheries managed under this plan by the following methods:

1. Maintain close liaison with the management agencies involved, usually the Alaska Department of Fish and Game and the National Marine Fisheries Service, to monitor the development of the fisheries and the activity in the fisheries.
2. Promote research to increase their knowledge of the fishery and the resource, either through Council funding or by recommending research projects to other agencies.
3. Conduct public hearings at appropriate times and in appropriate locations, usually at the close of a fishing season and in those areas where the fishery is concentrated, to hear testimony on the effectiveness of the management plans and requests for changes.
4. Consideration of all of the information gained from the first three activities and development, if necessary, of amendments to the management plan. Hold public hearings on the amendments prior to sending them to the Secretary for adoption.

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federal register

TUESDAY, MAY 16, 1978
PART V



DEPARTMENT OF AGRICULTURE

Forest Service

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NATIONAL ENVIRONMENTAL POLICY ACT/PROCESS

Final Guidelines

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DEPARTMENT OF AGRICULTURE

Forest Service

FOREST SERVICE NEPA PROCESS

Pursuant to the guidelines of the Council on Environmental Quality (CEQ), as published in the FEDERAL REGISTER on August 1, 1973 (38 FR 20549), the guidelines of the Department of Agriculture, appearing in the FEDERAL REGISTER on May 29, 1974, and the proposed guidelines of the Forest Service, appearing in the FEDERAL REGISTER November 29, 1977, the Forest Service herewith publishes as final the following guidelines for compliance with the National Environmental Policy Act of 1969 (Pub. L. 91-190, 183 Stat. 853, U.S.C. (2)(C)).

Comments received on the proposed Forest Service guidelines, published in the FEDERAL REGISTER, November 29, 1977, were given full consideration in developing these final guidelines. Forest Service also consulted with CEQ, the Department of Agriculture, and other agencies in finalizing the guidelines. The full test of all comments received are on file and available for public inspection in Room 3210 South Building, U.S. Department of Agriculture, Washington, D.C. 20013.

Most suggestions made for clarification were accepted. Following are the more substantive comments received and the consideration given them.

Respondents who addressed items outside the scope of FSM 1950 will receive individual responses to their concerns.

Contact. For further information, contact: Roy W. Feuchter, Environmental Coordinator, USDA, Forest Service, P.O. Box 2417, Washington, D.C. 20013, phone 202-447-4708.

JOHN R. MCGUIRE,
Chief, Forest Service.

GENERAL COMMENTS

Comment. the proposed manual suffers from an excess of words and is difficult to understand.

Response. Other ccmments received indicated that the manual was not specific enough and more material should be added. The majority, however, felt, as we, that the revised manual is of appropriate length and clarity. We have made some small revisions to try to address this comment.

Comment. Certain provisions tend to limit the dissemination of information to interested parties.

Response. Agree. The guidelines have been revised to include more dissemination opportunities. See notice of intent, FSM1952.23; finding of no significant effect, FSM 1952.24, 1952.52; record of decision, FSM 1953.3; and distribution, FSM 1952.54b.

Comment. The proposed guidelines will further complicate the system and lead to more inefficiency in the application of NEPA. Also the guidelines should be coordinated with NFMA and the Committee of Scientists.

Response. Although it is true that some additional documentation has been specified, the process itself has actually been streamlined, and is in line with CEQ present thinking in the developent of their new regulations. This should lead to more uniformity and efficiency in agency planning and decisionmaking. Coordination with NFMA and the Committee of Scientists in development of regulations has occurred throughout the development of these guidelines.

Comment. The process is to cumbersome in the event of emergency situations such as damaged timber, flood damage, fire, etc.

Response. Agree. The text has been changed (FSM 1952.1, item 5) to cover specific situations requiring immediate action to prevent or reduce risks or serious resource losses.

Comment. Environmental analysis of oil and gas wells should be reflected in the guidelines.

Response. Disagree. This manual material deals with the overall process and does not cover the specifics of proposals to use national forest lands. It would be impossible in manual guidance to cite specific emphasis covering every use. With proper application of this manual, oil and gas wells will be included as appropriate.

Comment. The environmental review process as outlined in Forest Service guidelines makes no provision for integration with responsibilities under section 106 of the National Historic Preservation Act.

Response. We have added language in the introduction to FSM 1950, last paragraph, "* * * and recognizes that the objectives of NEPA correspond to a great extent with the objectives of the Forest Service under other basic laws * * *." However, there are so many laws under with the Forest Service operates that it would be counterproductive to list them all and the requirements for each in this chapter of the Forest Service Manual. Requirements for compliance with various laws are covered in appropriate functional chapters of the Forest Service Manual and those laws and executive orders that require special coordination with NEPA are referenced in chapter 500 of FSH 1909.15, the NEPA Process Handbook.

Requirements for compliance with section 106 of the National Historic Preservation Act are provided in FSM 2300 (see 2361.31).

Comment. Every effort should be made to minimize the paperwork burden on all parties involved.

Response. Agree. The manual has been structured to eliminate duplication of effort while at the same time require documentation in keeping with the magnitude of issues and decisions being addressed. Direction toward reducting paperwork is specifically covered in FSM 1950.2, 1950.3, paragraphs 6 and 8 and 1952.4.

Comment. Early notification of State and local agencies should be given prior to the preparation of an environmental analysis.

Response. Agree. This direction is stated in FSM 1950.3—Policies and provided for in FSM 1951.

Comment. The outline for the environmental analysis has been oversimplified.

Response. Disagree. The new outline is based on 5 years of experience in working under the requirements of NEPA. We feel the change is an improvement over previous guidelines in that it allows for the documentation to be prepared in the same sequential steps as the environmental assessment which itself is designed to insure that required information is considered in a logical manner. The logical steps lead to identification of a preferred alternative and thereby makes the decision process clearly visible.

SPECIFIC COMMENTS

1950.1—AUTHORITIES

Comment. Reimbursement regulations under the Public Land Administration Act do not allow the Bureau of Land Management to require holders of rights-of-way across government land to reimburse the Bureau for expenses incurred in preparation of environmental statements or analyses of right-of-way applications.

Response. Agree. This has been deleted from the text.

1950.2—OBJECTIVES

Comment. Deemphasis on the environmental statement and emphasis on the process will result in dilution of the National Environmental Policy Act.

Response. Disagree. The emphasis on the process strengthens the application of the NEPA. Emphasis is not only on those actions which may require environmental statements but rather on the broad spectrum of Forest Service activities. It places emphasis on the "means." This does not discount the importance of the statement, the "end." It assures that NEPA concepts are appled to almost all Forest Service actions, not only those requiring environmental statements. (See FSM 1950.2 No. 7.)

1950.3—POLICIES

Comment. (1) State field offices should be contacted directly rather than through the A-95 procedures.

Response. Dealing directly with state departments and local officials is not precluded in FSM 1952.54b, Contacts with State departments and bureaus would be in accordance with arrangements between individual States and the Forest Service.

Comment. (2) Appropriate agencies involved in or having expertise or responsibility for development of compensation measures for affected resources should be consulted when preparing environmental assessments.

Response. Agree. Covered in FSM 1951.5

Comment. (3) Environmental analyses serve as a basis for decision. All economic, social effects, and other statutory factors may be equally important and should be considered in the decision.

Response. Agree. The definition of environmental assessment includes physical, biological, economic, and social factors which means that environmental assessment is comprehensive in nature. It includes factors other than just natural and biological considerations.

Comment. (4) Strongly urge that a preferred alternative be a requirement in every draft environmental statement.

Response. We expect most draft statements will indicate a preferred alternative. However, in some cases such as RPA or some land management plans, the preferred alternative is not clearly apparent and it would be misleading to artificially select an alternative as "preferred."

1950.4—RESPONSIBILITIES

Comment. (1) The Forest Service should take the lead role or at least a role equal to the extent that national forest lands are involved.

Response. Agree. This has been included in FSM 1950.4

Comment. (2) The preparation of an ES should precede any irreversible action that would limit the choice of reasonable alternatives.

Response. Agree. So provided.

Comment. (3) The environmentally preferred alternative should also be identified.

Response. The environmentally preferred alternatve would be the same as the Forest Service preferred alternative since the Forest Service includes social and economic as well as physical and biological in carrying out the mandates of NEPA. (See FSM 1950.1.)

1951.1—PUBLIC PARTICIPATION

Comment. Public participation *may* be involved in each step of the environmental analysis process. [Emphasis added.]

Response. Agree. The may refers to a decision on the part of the public to become involved. The chart in section 1951 provides for such participation in the process. (See also FSM 1950.2(3).) The public, along with other agencies, will be notified that an ES will be prepared by the "Notice of Intent." (See section 1952.23.)

1951.2—IDENTIFY ISSUES, CONCERNS, AND NEED FOR A DECISION

Comment. (1) Need a "grandfather clause" for projects underway.

Response. The new guidelines approximate that of the previous guidelines. Generally, a new start will not be required but rather an adjustment to comply. Provision is made for special approval in the few cases where it may be necessary.

Comment. (2) The material on alternative development is sparse.

Response. This section has been rewritten (See FSM 1951.5 through 1951.8.)

1951.3—GATHER RELATED INFORMATION

Comment. The Forest Service should include cultural with the other components of the environment.

Response. Cultural components are considered as part of the physical and social factors.

1951.4—DEVELOP EVALUATION CRITERIA

Comment. (1) Some flexibility can be injected by adding two more criteria to evaluation criteria (was 1951.4; now 1951.31).

Response. Agree. We have added the recommendations. Other Federal agency recommendations have been added as well as test of legal feasibility and judicial direction. Ecological has also been included by incorporating physical and biological factors.

Comment. (2) Pre-ES liaison with other Federal agencies needs more emphasis.

Response. Agree. FSM 1950 now emphasizes early involvement, and sections 1950.2, 1951.4, 1951.5, and 1952.4, paragraph 12, all emphasize early involvement.

1951.5—FORMULATE ALTERNATIVES

Comment. (1) The preferred alternative should clearly distinguish between those mitigation measures available and those that will be undertaken.

Response. The intent of section 1951.5 is to insure that any "mitigation measures needed to avoid adverse environmental effects" will be included in alternatives so that the effects of those measures will also be analyzed. Including a list of other possible measures that were not planned to be used would simply add length and confusion.

Comment. (2) Objectives from national programs and policies should be "accomplished" rather than merely "responding to."

Response. Disagree. National policies may conflict with one another, such as objectives in rural area development and energy conservation policy. Objectives are addressed or "responded to" as stated in FSM 1951.3 and 1951.5.

1951.6—ANALYZE IMPLEMENTATION EFFECTS

Comment. (1) Adverse environmental effects should call for estimated duration of the adverse effect.

Response. Agree. Section 1951.6 states "changes are usually described in terms of their magnitude, duration, and significance."

Comment. (2) Costs should include environmental losses which are difficult to quantify financially.

Response. Agree. Section 1951.6 states "effects are expressed in terms of future outputs, expenditure costs, and changes in the physicial, biological, economic, and social components of the environment for each alternative."

Comment. (3) Effects upon wetlands and flood plains should be added to No. 5 under section 1951.6.

Response. Agree. Item 5, 1951.6 now states "if the plan, program, or project is located in, or may affect flood plains or wetlands, special consideration of effects is necessary to comply with E.O. 11988 and E.O. 11990."

Comments. (4) Historic properties must be given consideration in environmental assessment.

Response. Agree. We consider historic properties as a vital segment of both the physical and social segment of the environment.

1952.12—ENVIRONMENTAL STATEMENT(S)

Comment. There is a limited list of actions requiring environmental statements.

Response. Agree. Decisions concerning the need for a statement should be made with the benefit of a systematic assessment process at that level of the organization that is best able to recognize and deal with the situation. We believe this approach is superior to an arbitrary listing.

1952.12a—CHANGES IN INVENTORIED ROADLESS AREA WILDERNESS CHARACTER

Comment. Delays are excessively long between submission of a draft environmental statement and implementation of a decision, particularly if a roadless area is involved.

Response. The 90-day period between submission of draft statements and implementation of decisions is required by current CEQ guidelines. (See 40 CFR 1500.11(b).)

The 90-day delay for implementation of decisions involving roadless areas after the FES is filed is consistent with the Chief's agreement with the Senate and House Subcommittees to provide for a 90-day congressional review period in such cases. (FSM 8260, Interim Directive No. 1, dated March 1, 1977.)

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1952.12b—ALL OTHER SITUATIONS

Comment. The "controversial" provision should not have been dropped as a criteria for the need for an ES.

Response. Disagree. Current CEQ guidelines state in 40 CFR, 1500.6(a), proposed major actions, the environmental impact of which is likely to be highly controversial, should be covered in all cases. The controversy provision has been misinterpreted by many to mean that any action involving any degree of "controversy" would require an ES.

We do not view "controversy," per se, as a criteria for judging whether or not an ES is required. The need for an ES should be determined on the basis of whether it is a major Federal action significantly affecting the quality of the human environment as required by NEPA.

The degree of controversy is an important factor to consider in determining the public involvement necessary on sensitive issues. The requirement for early participation by affected Federal, State, and local agencies and other interested persons to determine scope of issues, etc., to be addressed will help responsible officials in arriving at what is necessary and appropriate. (See FSM 1951.2 which includes issues to be addressed through public involvement.)

1952.3—CONCEPTS

Comment. Should include references in the FES as to consideration given to review comments and all public comments should be included in the appendix.

Response. Agree. Change made in text. All substantive comments will be included in the appendix unless the response is exceptionally voluminous. (See FSM 1952.4, Item 12.)

1952.61—FINAL ENVIRONMENTAL STATEMENTS

Comment. The 30-day waiting period before decisions are implemented should not begin until the FES is made public and also received by appropriate clearinghouses.

Response. This will generally be the case. The 30-day waiting period is in conformance with CEQ guidelines. EPA computes the 30-day timeframe for final environmental statements from the date the FES is made available to EPA and the public.

TITLE 1900—PLANNING

CHAPTER 1950—THE FOREST SERVICE NEPA PROCESS

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The Forest Service "NEPA process" includes all measures necessary for compliance with Title I of the National Environmental Policy Act of 1969 (Pub. L. 91-190) (NEPA). It recognizes that environmental assessment is an integral part of the Forest Service planning/decisionmaking/NEPA process and that it is used to insure that decisions conform to other applicable laws under which the Forest Service operates. This chapter describes the assessment/decision process and the environmental documents resulting from this process.

This chapter constitutes Forest Service direction for implementing the National Environmental Policy Act and subsequent regulations.

It is based upon: Legislation, Executive orders, Council on Environmental Quality guidelines, and Secretary of Agriculture memoranda and guidelines and recognizes that the objectives of NEPA correspond to a great extent with the objectives of the Forest Service under other basic laws.

1950.1—Authorities. The Forest Service is authorized and directed by the NEPA to carry out its programs in ways that will create and maintain conditions under which man and nature can exist in productive harmony, and fulfill social and economic needs of present and future generations of Americans.

Several laws require a systematic, interdisciplinary approach to planning and decisionmaking. These include the National Environmental Policy Act, Forest and Rangeland Renewable Resources Planning Act, and the National Forest Management Act. The NEPA requires detailed statements on proposed major Federal actions significantly affecting the quality of the human environment (section 102(2)(C)).

1950.2—Objectives. The purposes of the Forest Service NEPA Process are to:

1. Merge the NEPA requirements and the decisionmaking process.
2. Provide careful and appropriate consideration of environmental concerns in planning and decisionmaking.
3. Provide for early and continuing participation of other agencies, organizations, and individuals having environmental responsibilities, expertise, or interest.
4. Determine if there is a need for an Environmental Statement.
5. Assure that the planning/decisionmaking/NEPA/Process is open and available for public review. Make the sequence of planning and decision steps visible.
6. Emphasize the decisionmaking process rather than the environmental documents.
7. Identify a preferred alternative from a reasonable range of alternative policies, plans, programs, or projects.
8. Document the rationale of the decisionmaker.
9. Provide a basis for determining management requirements, mitigation measures, contract provisions, or stipulations and documentation as appropriate.

1950.3—Policies. An environmental (assessment) will be made for decisions about actions affecting resources, other land uses, or the quality of the physical, biological, economic and social environment. (New regulations and policy changes are included.) Assessments for emergency situations do not need to be documented. The responsible official may also determine that documentation is not needed in certain other specific situations (See FSM 1952.1.).

Assessments will impartially consider a reasonable range of alternatives and the anticipated environmental effects associated with each alternative.

A systematic interdisciplinary approach shall be used to integrate the natural and social sciences, and the environmental design arts in planning and decisionmaking.

The assessment is the decisionmaking process used to determine the significance of environmental effects. This determines which environmental documents are appropriate.

Assessments are documented in either (1) An Environmental Assessement Report (EAR) including a Finding of No Significant Effect or (2) An Environmental Statement (ES), (See FSM 1952). The length and detail of documented assessments varies according to the type of decisions being made and to the judgment of the responsible official. Documents must present a clear, concise, and logical explanation of: (a) The need for the action; (b) the criteria for evaluation of alternatives; (c) the alternatives; (d) the anticipated effects of implementing the alternatives; and, (e) in some cases, the Forest Service preferred alternative.

Environmental documents such as EAR's, ES's, Notices of Intent, and Findings of No

Significant Effect should replace, and not duplicate, other reports that previously were used to serve similar purposes.

Assessments will be conducted as early as possible and will be used for decisions and recommendations. EAR's or ES's will document the assessment, and identify the line officer responsible for the decision.

Environmental Statements should not be prepared for activities whose effects, although of a permanent nature, would not be of serious consequence to the human environment. These activities are more properly addressed in an EAR. (See FSM 1951.31).

Other agencies, organizations, and individuals having environmental responsibilities, expertise, or expressed interest will be consulted as appropriate at the beginning of the assessment activity. The A-95 project notification process shall be used, when appropriate, to notify state and local agencies (FSM 1565). Consultations will be documented.

Costs of environmental assessments and documents for in-service originated programs projects are a part of the regular budgetary process for the program or project. Costs will be borne by the benefiting activity(ies) unless special provision is made at the Washington Office level.

1950.4—Responsibilities. When more than one agency shares the responsibility for the decision, a "lead agency" is identified. The lead agency is the Federal agency having primary authority for committing the Federal Government to an action. The lead agency is responsible for documenting the assessment when more than one agency is involved. (See CEQ Guidelines 1500.7(B)). If the question of lead agency cannot be resolved at field levels, the Chief will work with the Department and the Council on Environmental Quality to resolve the question. When agencies have separate responsibilities but related decisions, a single interagency environmental assessment may be conducted and documented. When this is done, the document will name the responsible official for each agency and will identify their separate responsibilities. Where National Forest System lands are involved, the Forest Service should exert a strong role in the environmental assessment. If the Forest Service is not the lead agency in these cases, it should request to be a "cooperating agency."

Project proponents may be requested to provide data and documentation.

The Chief is responsible for environmental assessment documentation relating to legislation and selected national policies and programs.

The Regional Forester, or Area Director, or Station Director, or Forest Supervisor, or District Ranger, or Research Project Leader is the responsible official for determining the need for environmental assessment, preparation of environmental documents, and making this decision within their areas of responsibility.

Delegations of authority are specified in FSM 1230. Officials delegated responsibility for proposed actions are responsible for environmental assessments. (Also see FSM 1952.54a).

1950.5—Definitions. In addition to the definitions in this section, also see the Council on Environmental Quality Guidelines.

Activity: Work processes that are conducated to produce, enhance, or maintain outputs or achieve administrative and environmental quality objectives.

Categorical Exclusion: A category of actions which do not individually or cumulatively have a significant effect upon the human environment, and which do not require documentation.

Cooperating Agency: Any Federal agency other than the lead agency which has jurisdiction by law or special expertise with respect to any environmental effect involved in a proposal.

Effects: Changes in environmental conditions, directly or indirectly associated with implementation of alternatives (synonyms "consequences" or "impacts").

Environment: The aggregate interaction of physical, biological, economic, and social factors affecting all organisms in an area. (See also human environment).

Environmental Assessment: All activities related to assessing or analyzing alternatives and their environmental effects. When the term "assessment" is used in FSM 1950, it refers to the environmental assessment. It should not be confused with the "national assessment" required by the RPA (Pub. L. 93-378).

Environmental Assessment Report (EAR): A document prepared by a Federal agency which serves to (1) provide concise but sufficient evidence and analysis for the determination whether to prepare an Environmental Statement or Finding of No Significant Effect; (2) aid in compliance with the NEPA when no Environmental Statement is necessary; and, (3) facilitate preparation of a statement when one is necessary.

Environmental Design Arts: Those disciplines such as architecture, civil and environmental engineering, and landscape architecture which directly influence the physical environment as a result of the design of projects of all kinds.

Environmental Documents: Includes (a) Environmental Assessment Reports, (b) Environmental Statements, (c) Notices of Intent, and, (d) Finding of No Significant Effect.

Environmental Statement (ES): A detailed written statement as required by Section 102(2)(C) of the NEPA.

Evaluation Criteria: Predetermined rules for appraising alternatives.

Finding of No Significant Effect: A statement by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (categorical exclusions) will not have a significant effect on the human environment and for which an Environmental Statement will not be prepared.

Flood Plains: Lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including as a minimum, that area subject to a one percent or greater chance of flooding in any given year. Floodprone wetlands and sinkholes, and sheet flow or shallow flooding areas such as debris cones or alluvial fans built up by material carried by mountain streams, are special flood plain areas.

Goal: A broad but concise statement of the desired state or condition that land and resource management policy and programs are designed to achieve. It is not always quantifiable and is timeless in that it may not have a specific date by which it is to be completed. Goals are the principle statements from which objectives are developed.

Human Environment: The natural and physical environment and the interaction of people with that environment. (See also environment).

Implementation: Those activities necessary to respond to the decision.

Interdisciplinary Approach: The utilization of individuals representing two or more areas of knowledge and skills focusing on the same subject. The participants develop solutions through frequent interaction so that each discipline may provide insights to any stage of the problems and disciplines may combine to provide new solutions. This is different from a multidisciplinary team where each specialist is assigned a portion of the problem and their partial solutions are linked together at the end to provide the final solution.

Issue: A point, matter, or question to be resolved.

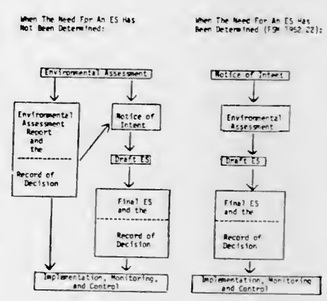
Notice of Intent: A notice that an Environmental Statement will be prepared and considered.

Objective: A clear and specific statement of planned results to be achieved within a stated time period. Objectives are subordinate to goals, are narrower and shorter in range and have an increased probability of attainment, specify time periods for completion and resources and achievements that are measurable and quantifiable.

Record of Decision: A concise public Record of Decision stating how the EAR or ES was considered and used by the agency in its decisionmaking.

Wetlands: Areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction.

The relationships between the environmental assessment, the environmental documents and implementation defined above are shown in diagrams below.



*The Record of Decision is attached to the FES and filed with EPA.

1951—Environmental Assessment (See FSM 1950.3). An assessment must be completed systematically to help insure that required information is considered in a logical manner leading to identification of a preferred alternative. The assessment may be thought of as being carried out in separate, but interrelated steps. The process is iterative with information feeding back through the completed steps. Steps may be combined or expanded depending on the situation.

A systematic, interdisciplinary approach is used because no single scientific discipline is sufficient to adequately identify and address issues, problems, and opportunities. Team member interaction provides the necessary insights in all steps of the process. In each assessment step, use should be made of

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earlier document assessment information to avoid duplication of previous effort and to maximize use of available information.

The major steps of assessment and the decision process and usual roles of participants in the NEPA process are shown in the following chart:

USUAL ROLE OF PARTICIPANTS

The NEPA process	The responsible official (See FSM 1950.4)	Interdisciplinary team	Agencies, organizations, and individuals
1. Environmental assessment and decision process:			
A. Identify issues, concerns, and the need for a decision.	Responsible	Recommend	Recommend.
B. Select criteria	do	do	Do.
C. Gather related information	Review	Responsible	Provide information.
D. Formulate alternatives	do	do	Recommend.
E. Analyze effects	do	do	Provide information.
F. Evaluate alternatives	Responsible	Assist	Provide information.
G. Identify the FS preferred alternative.	do	Recommend	Recommend.
2. Documentation*	Review	Responsible	Review.
3. Establish decision date**	Responsible	Recommend	Do.
4. Implementation, monitoring and control.	do	Assist	Assist.

*Documentation refers to preparing the required environmental documents. (See FSH 1909.15, sec. 310, for sample Record of Decision).

**Refers to the action of completing the Record of Decision and not that of identifying the preferred alternative. (See FSM 1953). The Record of Decision establishes the legal date of decision.

1951.1—Public Involvement. Public involvement is an integral part of the planning/decision-making/NEPA Process. Public participation may be involved in each step of the assessment. See FSM 1626 and Inform and Involve Handbook. See Section 111, of FSH 1909. 15, the NEPA Process Handbook for a list of agencies with legal jurisdiction or expertise.

Where flood plains or wetlands are involved, there must be sufficient public participation to satisfy the requirements for early public review as shown in Section 2(A)(4) of E.O. 11988, and Section 2(B) of E.O. 11990. (See FSM 2530).

1951.2—Identify issues, concerns, opportunities, and the need for a decision. The environmental assessment begins by identifying the major issues, concerns, or opportunities and the need for a decision.

Interested or affected agencies, organizations, and individuals often assist in identifying issues, according to their importance, and scope. Public issues and management concerns may originate at national, regional or local levels, or in the implementation of higher-order plans. Forest Service policies, plans, programs, or projects are responses to major issues, concerns, and opportunities.

Early involvement by interested or affected agencies, organizations and individuals may be important in this step to assure that significant issues, concerns, and opportunities are described. Initial descriptions may be changed, modified, or dropped as the assessment proceeds.

See section 141 of FSH 1909.15, the NEPA Process Handbook, for a list of environmental factors that might be involved.

When the action is such that an Environmental Statement is required (FSM 1952.22a), or is highly probable, there shall be an early and open process to facilitate free and open communication with the public.

Through public involvement the responsible official shall:

1. Invite the participation of affected Federal, state, and local agencies, the proponent of the action, and other interested persons (including those might not be in accord with the action).

2. Determine the scope and the signficant issues to be analyzed in depth during the assessment.

3. Identify and eliminate from detailed study issues concerns, and opportunites which are not significant or which have been covered by prior environmental review.

4. Narrow the scope of the assessment to appropriate limits and discuss the information to be included in the statement.

5. Allocate responsibilities for the assessment and statement among the lead and cooperating agencies.

6. Indicate any Environmental Assessment Reports and other Environmental Statements which are being or will be prepared that are related, but are not part of the scope of the statement which is the subject of the public involvement.

7. Indicate the relationship between the timing of the preparation of environmental assessments and the agency's tentative Planning and decisionmaking schedule.

During the public involvement the responsible official may set page and time limits on Environmental Statements.

1951.3—Select criteria. Criteria are standards on which a judgment or decision may be based. These standards must be agreed upon early in the assessment process, as they guide the subsequent steps of the process. As used here, standards and criteria do not refer to the policy type of standards, criteria, and guidelines discussed in section 11 of NFMA. Criteria are frequently needed in regard to the following items:

1. Information collection standards such as: The kind, amount, intensity, and accuracy desired.

2. Alternative fromulation standards such as the kinds of alternatives the responsible official considers to be included in the "reasonable range of alternatives" and monitoring requirements.

3. Analysis standards such as: Time periods to be covered by the analysis, techniques to be used. Discount rates to be applied.

4. Evaluation standards such as: Goals of management, program objectives, and tests of feasibility that will be used to compare alternatives.

5. Documentation standards such as those that will be used in the writing and processing of the EAR or ES.

1951.31-Evaluation criteria. Whereas most of the kinds of criteria lised above are used by the interdisciplinary team in the conduct of their responsibilities, evaluation criteria are used by the responsible official and the team in evaluting the alternatives and identifying preferred alternatives. Evaluation criteria should be developed from sources external to the assessment process. Otherwise, decisions may appear to be made on evaluation criteria which were selected to justify the selection of the preferred alternative.

Develop evaluation criteria on the basis of:

1. Laws, Executive Orders, regulations, and judicial direction.

2. Goals and objectives from higher-order Forest Service plans and policy statements.

3. Program objectives.

4. Test of legal, technical, financial, economic, and political feasibility.

5. Public and other agency recommendations.

Sources of evaluation criteria should be documented.

Evaluation criteria established early in the assessment are subject to revision as the analysis proceeds. Early identification of evaluation criteria assists in formulation of alternatives and analysis of implementation effects. It also provides and opportunity for others to comment, suggest modifications, and recommend criteria that might have been omitted.

Evaluation criteria should not restrict alternative fromulation by prematurely ruling out realistic alternatives. However, they should help elminate development of infeasible alternatives.

When the need for an ES has not already been established (FSM 1952.22a) the following criteria should be considered in terms of magnitude, duration, and significance of effects in evaluating the need for an ES:

1. Degree of ecosystem disturbance, both onsite and offsite should be recognized.

2. Irreversible or irretrievable commitments of physical and biological resources which preclude future options.

3. Cumulative effects of many small actions.

4. Chain reactions or seconday effects of interrelated activities.

5. Context in terms of global, national, regional or local importance.

6. Uniqueness or rareness of resource.

1951.4—Gather related information. After the issues, concerns, and opportunities are identified, appropriate data must be gathered to provide information relating to them. The type and amount of information depends on the situation, the issues, concerns, opportunities and the scope of anticipated effects. Data collection should focus on the present and expected future conditions of those physical, biological, economic and social factors affecting and affected by the decision. Future environmental conditions will frequently be different than present conditions. Estimates of future conditions should be made without regard to changes in Forest Service direction. The steps that follow will consider Forest Service changes. Sources of information should be documented.

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1951.5—Formulate alternatives. A reasonable range of alternatives is developed to provide different ways to address major issues, concerns, and opportunities. These are developed consistent with goals, and objectives from legislation or higher-order FS plans, programs, and policies.

The range of alternatives must be broad enough to respond to major issues, concerns, and opportunities. Alternatives should be fully and impartially developed. Care should be taken to insure that the range of alternatives does not prematurely foreclose options which might enhance environmental quality or have fewer detrimental effects. The alternative of taking no action (continuing present course of action or no change) must always be considered.

Public involvement is important in formulating alternatives. The extent of involvement depends on the issues, concerns, opportunities involved, and the kind and magnitude of the decision.

Alternatives are often modified and new alternatives developed as the assessment proceeds.

Alternatives should be formulated to include management requirements and mitigation measures needed to avoid adverse environmental effects and conform to all other applicable laws relating to Forest Service activities. In the development of mitigation measures, it may be desirable to contact other Federal, state, or local agencies responsible for, and with special expertise regarding specific environmental values.

If the plan, program, or project is located in, or may affect, flood plains or wetlands, alternatives must be responsive to E.O. 11988 and E.O. 11990. See FSM 2530.

1951.6—Analyze effects. In this step, the effects of implementing each alternative are estimated. Direct, indirect, and cumulative effects should all be considered. Effects are expressed in terms of future outputs, expenditures, costs, and changes in the physical, biological, economic, and social components of the environment for each alternative. The changes should be those associated with implementation of the alternative, and expressed, when possible, in terms of differences from the expected future condition associated with the "no change" or "no action" alternative. Changes are usually described in terms of their magnitude, duration, and significance.

It is not always necessary to deal with all factors and components of the environment. The effects considered in analysis should be only those of significance to the issues, concerns opportunities and the evaluation criteria.

The following effects should be analyzed for alternatives; although not necessarily under separate headings:

1. The relationship between local, short-term uses of the human environment and maintenance or enhancement of long-term productivity (Section 102 NEPA).

2.Environmental Effects. Adverse effects which cannot be avoided will be identified in evaluation (Section 102 NEPA).

3. Resource commitments that are irreversible and irretrievable (Section 102 NEPA).

The term "irreversible" applies primarily to the use of nonrenewable resources, such as minerals or to those factors which are renewable only over long time spans, such as soil productivity. "Irreversible" also includes loss of future options.

The term "irretrievable" applies to losses of production, harvest or use of renewable natural resources. For example, some or all of the timber production from an area is irretrievably lost while an area is used as a winter sports site. If the use is changed, timber production can be resumed. The production lost is "irretrievable," but the action is not irreversible.

4. Effects upon minority groups and civil rights. (Secretary's memorandum 1662, Supplement 8 and OMB Circular A-19) (See also FSM 1730).

5. Effects upon prime farmland, range, and forest lands.

If the plan, program, or project is located in, or may affect flood plains or wetlands, special considerations of effects are necessary to comply with E.O. 11988 and E.O. 11990. (See FSM 2530).

1951.7—Evaluate alternatives. This step compares current and future outputs, costs and physical, biological, economic, and social changes for each alternative with goals, objectives, and other evaluation criteria. Adverse effects which cannot be avoided will be identified. The rationale for the judgment that an effect is adverse is usually based on generally accepted standards such as those for air, water, endangered species, visual, noise, etc.

This evaluation becomes a basis for identification of the Forest Service preferred alternative. If the need for an ES has not been determined, this step also includes determining if an ES should be prepared (FSM 1952.22b). Because evaluation involves judgment, the line officer is usually responsible for this step. A clear and concise record of the evaluation is necessary.

1951.8—Identification of Forest Service preferred alternative. Based on a comparison of the alternatives, the responsible official identifies a selected alternative in an EAR or FES. A preferred alternative is identified in a DES whenever a clear preference has actually been identified as a result of the assessment process. Chief's approval is required for other situations. The rationale used in identification of preferred alternative must be documented.

1952—Environmental assessment documentation. This section discusses environmental assessment reports, environmental statements, notices of intent, and findings of no significant effect. These documents describe the results of the environmental assessment, and are most often prepared from interim records developed during the various steps of the assessment process.

Environmental assessment reports are prepared in final form to document the rationale of the decisionmaker. They may be supplemented or revised as necessary.

Environmental statements are prepared first in draft form, the draft environmental statement (DES), and are filed with the EPA and distributed for public review and comment. Following the review period, a final environmental statement (FES) is prepared to document the rationale of the decisionmaker. Both draft and final environmental statements may be supplemented or revised.

Both environmental assessment reports and environmental statements should clearly, concisely, and logically describe: (1) Alternative policies, plans, programs, projects, or proposals being considered, (2) their anticipated environmental effects, (3) consultation with others, and (4) the rationale used in the identification of the Forest Service preferred alternative.

When an EA deals with the establishment of standards, criteria, and guidelines as discussed in section 11 of NFMA, the documentation step will record the determinations made and accompanying rationale, regarding the degree of public participation.

1952.1—When not required (categorical exclusions). The following categories of actions normally do not require environmental assessment documents.

1. Organizational changes, personnel actions, and other similar or related types of administrative decisions.

2. Annual budget proposals.

3. Individual actions for which the environmental effect is adequately covered by a timely assessment by a Federal agency on programs or plans which include the individual action.

4. Forest Service data collection or field surveys, not significantly affecting the quality of the human environment.

5. Situations requiring immediate action to prevent or reduce risks to public health, safety, and welfare, or serious resource losses including, but not limited to, wildland fire suppression, search and rescue, reduction of flood loss.

6. Routine operation and maintenance of existing transportation, administrative, fire management, and resource improvements which were constructed prior to the requirement that an environmental assessment be made under the NEPA. If such improvements have been constructed after the NEPA, operation and maintenance will normally be considered in the project EAR or ES.

The responsible official should recognize that there may be extraordinary circumstances when the actions listed above may have a significant environmental effect. When this situation occurs, an environmental assessment should be made to determine if the environmental effect is significant.

1952.2—When required. Whenever an assessment is conducted, it will be documented in either an EAR, or ES, except as provided in FSM 1952.1 (categorical exclusions).

1952.21—Environmental assessment report (EAR). When the assessment determines that an ES is not necessary, the assessment will be documented in an EAR.

1952.22—Environmental statements (ES). Environmental statements shall be prepared on proposals for legislation significantly affecting the quality of the human environment, and for other major Federal actions significantly affecting the quality of the human environment. When emergency circumstances make is necessary to take actions with significant environmental effect before an ES can be prepared, and processed, the Chief will request a waiver from the CEQ.

"Major" actions and "significant" effects are difficult to define precisely and uniformly because of the great variation in social, economic, physical, and biological conditions. The official responsible for taking action must use good judgment in determining when environmental statements are appropriate. (See FSM 1951.31.)

1952.22a—Actions requiring environmental statements. Environmental statements shall be prepared for the following actions:

1. Legislation recommended by Forest Service that would significantly affect the quality of the human environment.

2. Any action that is discretionary on the part of the Forest Service that will permanently change the existing character of inventoried roadless areas—except for those

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areas which have been removed from the inventory by an action covered by an environmental statement. (Roadless area review and evaluation environmental statement—1973, and Forest Service stipulation in *Sierra Club v. Butz*, Ninth District Court).

3. The national program required by the forest and Rangeland Renewable Resource Planning Act (Pub. L. 93-378).

4. National Forest land and resource management plans as required by regulations issued pursuant to section 6 of the National Forest Management Act of 1976, (Pub. L. 94-588). (See FSM 1920.)

1952.22b—Actions for which the need for an ES is determined by the environmental assessment. The need for an ES for other situations will be determined through an assessment. The assessment should determine if it is a major Federal action having a significant effect upon the quality of the human environment, that has not been adequately addressed in another environmental statement. (Also see FSM 1951.31.)

1952.23—Notice of intent. When it is determined that an ES is needed, the responsible official will publish a notice of intent in a newspaper of general circulation in the area affected by the decision and in the FEDERAL REGISTER. The appropriate State clearinghouse should be notified. A copy of the notice of intent shall be sent to the Washington office when the notice is sent to the FEDERAL REGISTER for publication.

The notice shall briefly: 1. Describe the proposed action.

2. Summarize the determinations made through the public involvement to identify issues and concerns. (FSM 1951.2.)

3. State the name and address of the official responsible for preparing the environmental statement.

Notices of intent will be used to develop lists of environmental statements under preparation by administrative units. A composite list will be maintained by the Washington office. It will be updated to coincide with the management attainment reporting system schedule. See section 231, the NEPA Process Handbook.

1952.24—Finding of no significant effect. If the responsible official determines (based on the environmental assessment) not to prepare a statement, a finding of no significant effect will be prepared.

The finding of no significant effect shall briefly describe the plan, program, or project, its location, and the factors that were considered in making the determination that an ES was not required.

When: (1) the proposed action is, or is closely similar to, one which normally requires preparation of an ES (FSM 1942.22a), (2) the nature of the proposed action is without precedent, or (3) flood plains or wetland are involved, the finding of no significant effect shall be made available for a 30-day public review before the determination not to prepare an ES is effective. In all other situations, the finding of no significant effect will be included as an integral part of the EAR. See section 220, FSH 1909.15, the NEPA Process Handbook, for additional information.

1952.3—Outline. Environmental assessment reports and environmental statements generally will conform to the following outline. The outline follows the sequence of steps in the assessment (FSM 1951).

Sections of the outline may be combined or rearranged in the interest of clarity and conciseness.

EAR OR ES OUTLINE

TITLE PAGE

1. Cover sheet.
2. Summary (optional for EAR).
3. Table of contents.
4. Introduction.
5. Affected environment.
6. Evaluation criteria.
7. Alternatives considered.
8. Effects of implementation.
9. Evaluation of alternatives.
10. Identification of the Forest Service preferred alternative.
11. Management requirements, constraints, and mitigation measures (optional for ES).
12. Consultation with others.
13. Finding of no significant effect (EAR only).
14. Index (optional for EAR).
15. Appendix.

1952.4—Contents. Writers of environmental assessment reports or environmental statements should use section 1.11 of FSH 1109.12 Directives Preparation Handbook as a guide. Writers should be concerned with content, clarity, and brevity. Inclusion by reference should be freely used to reduce size and length of documents. In final environmental statements, the material listed in items 4 through 11 in FSM 1952.3 shall normally not exceed 150 pages (and preferably shorter) or 300 pages for proposals of unusual scope or complexity.

1. Cover sheet (optional for EAR). See section 232.1, FSH 1909.15, the NEPA Process Handbook for a sample cover sheet.

The cover sheet shall not exceed one page. It shall state:

a. The name of the responsible agencies including the lead agency, and cooperating agencies, and responsible official.

b. The name of the proposed action that is the subject of the statement, together with the State(s) or county(ies) where the action is located.

c. The name, address, and telephone number of the person at the agency who can supply further information.

d. A designation of the statement as a draft, final, or draft or final supplement.

e. A one paragraph abstract of the statement.

f. The date by which comments must be received.

2. Summary. A summary is desirable for lengthy and detailed environmental assessment reports. It is required for environmental statements. The responsible official will determine the need for an EAR summary. See section 232.2, FSH 1909.15, the NEPA Process Handbook, for a sample summary. An environmental statement summary will normally be 5 to 15 pages in length.

3. Table of contents. Self-explanatory.

4. Introduction. The introduction briefly describes the nature of the decision to be made. A map showing the general location of the plan or project should be included. Major issues, concerns, and essential background information are presented only if important to understanding the decision.

5. Affected environment. This section describes the current and expected future condition of physical, biological, economic, and social factors in the area affected by the decision.

The description should be limited to information directly related to major issues, concerns, and opportunities. When other published material adequately describes the factors, refer to the publication and summarize, but do not repeat the description in the EAR or ES. The section should clarify, not obscure, understanding. (Also see FSM 1951.2.)

6. Evaluation criteria. This section describes the goals, objectives, and tests of feasibility used to evaluate alternatives. The sources of these criteria should be shown. (Also see FSM 1951.3.)

7. Alternatives considered. This section is usually in two parts: The first briefly describes the process used in formulating the alternatives; and the second describes each alternative. (Also see FSM 1951.5.)

The detail of description should be similar for all alternatives.

8. Effects of Implementation. This section describes consequences of implementing each alternative in terms of outputs, expenditures, costs, and environmental changes. Objectivity is important. Significant differences of opinion should be discussed. (Also see FSM 1951.6.)

The description should:

a. Identify the assumptions used in estimating the effects of implementation.

b. Make use of appropriate analyses, data, and information. Cite sources used instead of including lengthy analyses in EAR's or ES's.

c. Express expected environmental changes in quantitative or qualitative terms as applicable, and as necessary to indicate relative differences between the alternatives in terms of significance, duration, and magnitude of the changes.

d. Indicate the expected outputs, in terms of goods and services, that will result from implementing each alternative. Express the outputs in service-wide standard terminology. See FSH 1309.11 Management Information Handbook. Use RPA program planning time periods.

e. Indicate estimated Forest Service expenditures for implementing each alternative by one or more RPA program planning periods. Other public and private expenditures may be shown, as appropriate.

f. Discuss significant changes in physical, biological, economic, and social components of the environment (effects) associated with implementation of each alternative. This includes direct, indirect, cumulative, and unavoidable effects, long- and short-term relationships, and irreversible and irretrievable resource commitments. It is not mandatory to use separate headings for these items.

9. Evaluation of alternatives. This section discusses how the alternatives compare with each other in terms of the evaluation criteria. This provides the basis for identification of a preferred alternative. (Also see FSM 1951.7.)

10. Identification of the Forest Service preferred alternative. This section identifies the preferred alternative is not identified in the DES, explain why. (Also see FSM 1951.8.)

11. Management requirements and constraints (optional for ES). This section summarizes management requirements and mitigation measures of the preferred alternative for use in project design and permit or contract requirements.

12. Consultation with others. Indicate the methods used to obtain public involvement and list the agencies and groups consulted during the assessment. Individuals may be listed when appropriate. This discussion should relate to substantive information received and used and not be directed solely to responses and rebuttals.

Copies of all substantive comments received on a DES should be included in the

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appendix of the FES. If response has been exceptionally voluminous, it may be summarized. Copies, or summaries of all substantive comments should be included in the appendix, regardless of whether or not the comment is thought to merit individual attention in the text of the ES. Copies of all review comments should be available for public review and in-service use, in the office of the responsible official of the administrative unit affected by the policy, plan, program, or project.

Final statements should identify changes in the DES content as a result of substantive review comments. Possible changes are to: (1) modify the proposed action; (2) formulate, analyze, and evaluate alternatives not previously considered; (3) supplement, improve, or modify analyses, or (4) make factual corrections. In addition, it may be desirable to explain why some comments did not warrant changes in the DSES content.

13. Finding of no significant effect (EAR only). When an environmental assessment report documents the determination that an environmental statement is not necessary, the rationale for this finding will be described. See section 220, FSH 1909.15, the NEPA process Handbook, for a sample finding of no significant effect.

14. Index (optional in EAR). Environmental statements should include an index. See section 245, FSH 1909.15, the NEPA Process Handbook.

15. Appendix material should be brief and include only items pertinent to understanding the report or statement. Locations of reference materials or lenghty or detailed analyses referred to in the EAR or ES text but not included in the appendix should be shown in appropriate locations in the text. The appendix of an ES must include a list of people who contributed substantially to the assessment or to the ES, along with a brief description of their disciplines and qualifications. This list will normally not exceed two pages. See item 12 above regarding copies of summaries of comments on the DES.

1952.5—Processing.

1952.51—Environmental Assessment Reports. Regional Foresters, Area and Station Directors shall develop procedures as necessary for processing Envrionmental Assessment Reports. These procedures may include public distribution.

1952.52—Finding of no Significant Effect. See FSM 1952.24 and Section 220, FSH 1909.15, the NEPA Process Handbook, for instructions reguading processing of the Finding Of No Significant Effect.

1952.53—Notice of Intent. See FSM 1952.23 and Section 231 of FSH 1909.15, the NEPA Process Handbook.

1952.54—Environmental Statements. The following steps are taken after a DES has been prepared:

1. File the DES with EPA. Distribute it to agencies and the public.

2. Schedule public participation sessions if necessary.

3. Review, analyze, evaluate, and respond to substantive comments on the DES.

4. Prepare a FES and Record of Decision (FSM 1953.3) and attach to FES. See Section 310, FSH 1909.15, the NEPA Process Handbook for a sample Record of Decision.

5. File the FES with EPA. Distribute it to other agencies and the public.

6. Impement the plan, program, or project. Monitor the effects of implementation.

1952.54a—Filing. Regional Foresters, Station Directors, and Area Directors are authorized to file statements directly with the EPA for actions within their authority.

In cases where the Forest Supervisor or Research Project Leader is the responsible official and has demonstrated competency in the preparation of statements, Regional Foresters and Station Directors may delegate the authority to file statements directly with the EPA.

Statements involving legislation, regulations, multi-agency actions at the national level, and service-wide policy will be filed with the EPA by the Chief's office.

If the Chief is the responsible official, copies of both draft and final statements will be submitted to the Chief for approval before printing.

If the FES deals with plans, programs, or projects which involve inventoried roadless areas, the Chief will file the FES with the EPA. Public distribution will be delayed until the Chief has notified the responsible official that the FES has been filed. Final statements on plans, programs, or projects affecting areas involved in pending legislation for wilderness designation or study are to be approved by the Chief before filing with the EPA or public distribution. See Section 233 of FSH 1909.15, the NEPA Process Handbook for instructions regarding filing procedures.

1952.54b—Distribution. When the DES is filed with the EPA, the responsible official will make a reasonable number of copies of the statement available free of charge. They are sent to appropriate Federal, state, and local agencies, organizations and individuals. State and local agencies should be contacted as described in OMB Circular A-95 (FSM 1565).

Copies of statements will be available for public review at the Washington Office, the office of the responsible official, selected forest, region, area, station offices, and other appropriate locations.

When the FES is sent to the EPA, copies should be sent to other agencies, organizations, and individuals who submitted substantive comments on the DES.

Responsible officials should maintain lists of individuals, groups, organizations, and governmental agencies which may be interested in reviewing Forest Service Environmental Statements. Regions are encouraged to develop specific distribution lists. The Washington Office maintains a list of individuals, groups, organizations, and governmental agencies which may be interested in reviewing Environmental Statements on issues of national importance.

The A-95 Clearinghouses should be used, by mutual agreement, for securing reviews for the DES. The responsible official may also deal directly with appropriate state or local officials or agencies if clearinghouses are unwilling or unable to handle this phase of the process. However, clearinghouses should always receive copies of Environmental Statements.

Section 234 of FSH 1909.15, the NEPA Process Handbook, shows addresses of Federal agencies and the number of ES copies requested by that agency. Statements should be distributed as shown in that Section.

1952.6—Corrections. Either Environmental Assessment Reports or Environmental Statements may be corrected through use of errata sheets, supplements, or revisions. Supplements or revisions are prepared, circulated, filed and reviewed the same as the document being corrected.

1952.61—Environmental Assessment Reports. Additional information may emerge after an EAR has been prepared. If the new information involves minor changes, such as typographical corrections, that would not affect public response or the decision, the corrections should be noted in the file copy of the EAR.

If the new information may change the public response or the decision, the EAR should be supplemented or revised.

1952.62—Draft Environmental Statements. Errata sheets should be used when minor corrections are necessary that will not materially change the public response or the decision. Typical items include terminology and typographical corrections.

Supplements to the DES are used when new or more accurate information may significantly change the public response or the decision. Supplements add substantive information to the original DES.

If it is determined that a DES is so inadequate as to preclude meaningful analysis, a revised DES, or portion thereof, should be prepared, filed, and circulated.

When a supplement or revision is circulated the transmittal letter should establish a review period of at least 60 days from the date of filing the supplement or revision.

1952.63—Final Environmental Statements. Additional information may emerge after a FES has been prepared and circulated. If the new information involves minor changes such as typographical corrections, that would not affect public reaction or the decision, the corrections should be noted in the file copy of the FES.

If the new information might change the decision, a revised DES, a supplement, or revision to the FES should be prepared and circulated.

When the revised DES, supplement, or revision is circulated, the transmittal letter should:

1. Rescind the Record of Decision attached to the original FES.

2. Establish a review period of at least 60 days from the date of filing a revised DES, and notify reviewers that:

a. After review, a revised FES or a final supplement to the FES will be prepared and circulated, and

b. A new Record of Decision will be prepared and circulated.

1952.7—Review.

1952.71—Forest Service Environmental Statements.

1952.71a—Draft Environmental Statements. When the DES has been filed with the EPA, the responsible official should distribute copies of the statement to individuals, organizations, and other Federal, state, and local agencies with expertise and regulatory authority in environmental matters. A time period of not less than 60 days from the date of transmittal to the EPA will be allowed for comment. Extensions of time may be granted by the responsible official.

1952.71b—Final Environmental Statements. A period of not less than 30 days from the date the FES is made available to the EPA and the public will be allowed before decisions are implemented.

In rare cases, emergencies may require that a decision be implemented in a shorter time period. Before taking such action, the Washington Office will consult the CEQ.

Comments received after the FES is filed should be answered on an individual basis.

1952.72—Review of Other Agency Environmental Statements. When requested to do so or prime timber lands are involved, the Forest Service will review and comment on Environmental Statements prepared by

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other agencies, as appropriate, because of special expertise. When another agency proposal involves or affects National Forest System lands, the Forest Service will review the Environmental Statement.

Unless otherwise assigned by the Chief, review and comment on legislative or other major policies, regulations, or national program proposals, will be made by the Washington Office. The Regional Forester or Area Director in whose region or area a proposal is located will review other Environmental Statements and submit comments. Where appropriate, statements should be sent to Station Directors or other Forest Service officials for comment.

Comments should be specific, substantive, and factual. It may be appropriate for reviewers to indicate the need for additional information about the proposed action. When unfavorable views or a recommendation against a proposed action is indicated, these will first be discussed with the agency proposing the action before a formal reply is prepared. If an unfavorable recommendation is still indicated, the CEQ referral procedures will be followed.

In some instances, review time may be insufficient because of the absence of key personnel or other unforeseen circumstances. In such cases, additional time for Forest Service review should be requested. The Washington Office Environmental Coordinator should request the extension of time for statements involving more than one region.

A review of other agency Final Environmental Statements should determine whether they are responsive to Forest Service comments on the Draft Environmental Statement. If they are not, the agency should be notified.

Copies of Forest Service comments on other agency Environmental Statements should be sent to the Washington Office Environmental Coordinator and to the EPA.

If the Forest Service review of another agency's ES indicates that the proposed Federal actions will be environmentally unsatisfactory, the Chief will refer the matter to the CEQ.

1953—Recording the Decision.

1953.1—Environmental Assessment Reports. The decision of the responsible official is recorded in the Record of Decision which will be attached to the EAR. This legally establishes the date of the decision. (See FSM 1953.3.)

The responsible official should notify the public of the decision, as appropriate.

When (1) the proposed action is, or is closely similar to one which normally requires preparation of an ES (FSM 1952.22a), (2) the nature of the proposed action is without precedent, or (3) flood plains or wetlands are involved, the Record of Decision shall be made available to the public prior to implementation.

1953.2—Environmental Statements. The decision of the responsible official is recorded in the Record of Decision which will be attached to the FES. This legally establishes the date of the decision. (See FSM 1952.3.)

The decision will not be made or implemented until the conditions in the following chart are met.

EXHIBIT 1

If an ES is required then these conditions must be met— Prior to record of decision		Prior to implementation
Plans, programs, or projects other than land management plans or decisions affecting the wilderness character of inventoried roadless areas.	1. A 60-day period has elapsed since the DES was transmitted to EPA, distributed to the public, and timely comments have been considered.	1. A decision has been announced to approve the plan, program, or project. 2. 30 days have elapsed since the FES was made available to the EPA and the public. 3. A 90-day period has elapsed since the DES was transmitted to EPA and distributed to the public.
Land management or other plans, programs, or projects affecting the wilderness character of inventoried roadless areas.	1. Same as above. 2. If the action is a land management plan, the alternative plans under consideration have been available to the public for a period of at least 3 months before adoption.	1. Same as above. 2. Same as above. 3. Same as above. 4. 90 days while Congress is in session have elapsed since the FES was transmitted to the EPA. 5. An extension of time has not been requested by the appropriate congressional committee chairman. 6. The Washington office has notified the responsible official that conditions 4 and 5 above have been met.
Land management or other plans, programs, or projects affecting areas involved in pending legislation for wilderness designation or study.	1. Same as above. 2. Approval has been received from the Chief.	1. Same as above. 2. Same as above. 3. Same as above. 4. Same as above. 5. Same as above.
Land management plans	1. Same as above. 2. The alternative land management plans under consideration have been available to the public for a period of at least 3 months.	1. Same as above. 2. Same as above. 3. Same as above.

1953.3—Record of Decision.

A Record of Decision should be attached to Environmental Assessment Reports and Final Environmental Statements. The Record of Decision should include what the decision was and how the EAR or ES was used in decisionmaking and the rationale for the decision.

The signed and dated Record of Decision should clearly identify the action or proposal and the decision of the responsible official.

The Record of Decision should also state whether all practicable means to avoid or minimize environmental harm have been adoped. When mitigation measures are decided upon, a monitoring or enforcement program shall be adopted and specified.

The Record of Decision for actions requiring an Environmental Statement should state that implementation will not take place until at least 30 days from the date the FES is made available to EPA and the public.

The Record of Decision should be sent to:

1. Individuals, organizations, or agencies affected by the decision.

2. Others who have requested in writing, such notice, if they have not otherwise been sent a copy of the FES.

In addition, the public may be notified by publishing the Record of Decision in a newspaper of general circulation in the area affected by the decision (36 CFR 211.19d).

See Section 310 of FSH 1909.15. The NEPA Process Handbook, for a sample Record of Decision.

1954—Implementation, Monitoring, and Control.

1954.1—Implementation. See FSM 1953.2 for conditions that must be met prior to implementation of the plan, program, or project when an ES has been prepared.

If flood plains or wetlands are involved, and an EAR has been prepared instead of an ES, the EAR should be available for public review for at least 20 days before the plan, program, or projects is implemented.

Implementation specifically includes any commitments for mitigation or monitoring included in the EAR, FES, or Record of Decision.

1954.2—Monitoring. Actions will be monitored to insure that (1) environmental safeguards are executed according to plan, (2) necessary adjustments are made to achieve desired environmental effects, and (3) anticipated results and projections are reviewed. The monitoring costs are a part of project costs.

Monitoring includes making progress reporst to cooperating or commenting agencies on mitigation measures adoped by the Forest Service. The results of monitoring should be made available to the public.

1954.3—Control. Management reviewers (FSM 1410) will discuss the results and environmental effects of plans, projects, and programs as part of activity, program, and general management reviews at all organizational levels. Such a review should compare the actual on-the-ground results with anticipated effects described in the EAR or FES.

[FR Doc. 78-13203 Filed 5-15-78; 8:45 am]

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federal register

TUESDAY, MAY 16, 1978
PART VI



ENVIRONMENTAL PROTECTION AGENCY

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NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Interim Final Rule

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[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[888-3]

PART 124—STATE PROGRAM ELEMENTS NECESSARY FOR PARTICIPATION IN THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

PART 125—NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Interim Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule.

SUMMARY: Under sections 301(i) (1) and (2) of the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act), extensions of the 1977 statutory deadline for compliance with certain treatment requirements may be granted by EPA or, if appropriate, the States through permit issuance or modification. These regulations establish criteria for granting these extensions and the method for incorporating these extensions into national pollutant discharge elimination system permits.

DATES: These regulations will become effective May 16, 1978. Comments received on or before July 17, 1978, will be considered before promulgation of these regulations in final form. Because of their importance for permits being issued in the near future, EPA finds good cause exists to make these regulations effective without the 30 day waiting period prescribed under 5 U.S.C. 553(d)(3).

ADDRESS: Interested persons may participate in this rulemaking by submitting written comments or suggestions to Edward Kramer, Permits Division (EN-336), Office of Water Enforcement, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Please cite this FEDERAL REGISTER notice when making comments. A copy of all public comments will be available for inspection and copying at EPA Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

Edward Kramer (EN-336), Office of Water Enforcement, Environmental Protection Agency, Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION:

(1) BACKGROUND: THE CLEAN WATER ACT

Under section 301(i) of the Clean Water Act, 33 U.S.C. §1251 et seq., Pub. L. 92-500, 95-217 (also known as the Federal Water Pollution Control Act), the Administrator or the Director of an approved NPDES State may extend the 1977 deadline for the achievement of required treatment under section 301(b)(1) up to July 1, 1983. These time extensions are potentially available only to publicly owned treatment works (POTWs) that require construction to meet 1977 treatment levels and to certain dischargers which have planned to discharge into a presently unavailable POTW ("tie-in"). Section 301(i) extensions are not available if a discharger will not achieve compliance with the statutory treatment requirements by July 1, 1983.

The decision to grant a discharger's request for a time extension under section 301(i) is in the discretion of the permit issuing authority, provided that the discharger satisfies certain threshold criteria. For a POTW to be granted a time extension under this section it must require construction to achieve secondary or more stringent treatment limitations and: (1) Construction could not be completed by the 1977 deadline, or (2) Federal financial assistance in the form of a construction grant was not available in sufficient time to allow compliance by the 1977 deadline.

Similarly, a discharger other than a POTW may be granted a time extension only where it demonstrates that it intended prior to July 1, 1977, to "tie-in" to a POTW in one of four specified ways and where: (1) The POTW cannot accept the discharge without construction; (2) if the discharge is to an existing POTW, the POTW has an extension under 301(i)(1); (3) the discharger has acted in good faith; (4) the POTW will be in operation and available by July 1, 1983, and will meet any applicable treatment requirements after receiving the discharge; and (5) the POTW and the discharger have entered into an enforceable contract which meets certain criteria.

Time extensions under this section are implemented through permit issuance or modification. As with any permit issuance or modification, all the NPDES procedures (e.g., public notice and opportunity to comment, right to request an adjudicatory hearing) are in effect. However, in response to questions and comments raised in the prepublication comment period, these regulations revise existing NPDES procedural regulations to provide that there will be no delay in the effectiveness of a denial of a section 301(i) extension when that denial is contested in an adjudicatory hearing. The processes of State certification for EPA issued permits and EPA opportunity to object to State issued permits are also applicable to permits issued or modified under this section. It is suggested that whenever possible, a new 5-year permit be issued in lieu of modification to the existing permit.

Permits issued or modified under this section must contain certain terms and conditions. In the case of a POTW, the issued or modified permit must contain: (1) A schedule of compliance based on the earliest date by which Federal financial assistance will be available and construction can be completed (no later than July 1, 1983); (2) terms and conditions necessary to carry out sections 201 (b) through (g) of the act (e.g., best practicable waste treatment technology); (3) those terms and conditions necessary to carry out section 307 of the act (toxic effluent standards and prohibitions, pretreatment standards); and (4) interim effluent limitations determined to be necessary by the Regional Administrator or the Director of the State NPDES permitting agency, hereinafter "the Director."

For a discharger other than a publicly owned treatment works the issued or modified permit must contain a schedule of compliance, pretreatment standards, interim effluent limitations, water conservation requirements, and other specified terms and conditions.

(2) WHY ARE THESE REGULATIONS IN INTERIM FINAL FORM?

These regulations are being published in interim final form and take effect immediately upon publication. The usual Agency rulemaking practice is to propose regulations. In this situation EPA believes that there are two reasons it is in the public interest to issue these regulations in interim final form and have them take effect immediately.

Section 301(i)(1) of the amended Clean Water Act requires a request for an extension to be filed within 180 days after enactment of the Clean Water Act Amendments of 1977 (by June 26, 1978). Requests for 301(i)(2) extensions must be filed within 180 days after enactment of the act or the date of filing a 301(i)(1) request, whichever is later. It is in the public interest for these regulations to become effective as soon as possible so that interested persons will have adequate notice as to what constitutes a timely and sufficient request and so that delays associated with incomplete and untimely filed requests may be avoided or minimized. Moreover, because pending or ongoing enforcement actions against dischargers which may qualify for this new time extension may be affected, early publication of these regulations will clarify the status of these dischargers.

Publishing these regulations in proposed form and allowing a comment period followed by final promulgation would delay the effective date of these regulations. Accordingly, EPA finds, pursuant to 5 U.S.C. section 553(b), that notice and comment on proposed regulations would be impracticable and contrary to the public interest and that there exists cause for promulgation of these regulations in interim final form. However, even though these regulations take effect immediately, all comments received on or before July 17, 1978, will be considered before issuance of final regulations.

Because these regulations are being promulgated in interim final form, significant input from interested parties was solicited by EPA prior to this publication. Draft copies of the regulations were circulated for comment to State, regional, and local officials, as well as to the public and other interested organizations. In response, over 30 written comments were received. Additionally, EPA held numerous meetings in which section 301(i) was presented, issues were raised and comments were received. These included open public meetings in Washington, D.C., several briefings for State officials held at EPA regional offices and a meeting with representatives of the National Governors Association. The regulations were also discussed in depth with representatives from municipal associations and environmental groups in meetings held on March 9 and 14, 1978. All comments received and questions raised were considered before the publication of these interim final regulations.

(3) EFFECT ON EPA POLICY TO THE CLEAR WATER ACT

Because the majority of municipal dischargers could not be expected to meet the 1977 statutory deadline as a result of delays in the Federal construction grant process, EPA established the enforcement compliance schedule letter (ECSL) policy for municipal dischargers in a June 3, 1976, memorandum of the Assistant Administrator for Enforcement. This policy authorized the issuance of an ECSL to certain "good faith" dischargers in lieu of enforcement action. In the ECSL itself, EPA agreed not to prosecute violations of the 1977 deadline as long as the discharger adhered to a specified compliance schedule extending beyond July 1, 1977. The ECSL was an exercise of prosecutorial discretion and could not be issued except in conjunction with a permit requiring compliance by July 1, 1977. The use of ECSLs was closely circumscribed to ensure equitable treatment of noncomplying dischargers, i.e., relief from enforcement action for the deserving, and none for the recalcitrant. Many NPDES States also adopted the substance of the ECSL policy, utilizing either ECSLs or other available procedural mechanisms (all of which are referred to here as ECSLs). Over 2,000 municipal ECSLs have been issued by EPA or issued by NPDES States and approved by EPA in the past. In the future no new municipal ECSLs will be issued or approved by EPA because section 301(i) in general was intended by Congress to replace EPA's ECSL policy. Further, all existing ECSLs expire when the underlying permit expires.

In enacting the amendments to the Federal Water Pollution Control Act, Congress dealt with the legitimate needs of municipalities for extensions of the 1977 treatment deadline. Although these amendments largely replace EPA's ECSL policy they do not automatically revoke existing ECSLs. Existing ECSLs continue in effect until a final section 301(i) determination is made, at which time the ECSL is terminated. Thus, if a discharger decides to seek a section 301(i) extension, it must ultimately give up the protection of its ECSL. Since section 301(i) and the ECSL are different solutions to the same noncompliance problem, the discharger currently holding an ECSL must select one as its remedy and abide by its terms. This opportunity to select a remedy for noncompliance has been provided by Congress; a discharger cannot have "two chances" to have its compliance extended, i.e., it cannot request a section 301(i) extension, have it denied, and then retain the alternative protection of an ECSL. In this manner, existing ECSLs ultimately will be replaced whenever a section 301(i) extension is requested.

EPA wants to assist dischargers in requesting section 301(i) extensions and avoid situations where the discharger unintentionally fails to file a request in time. Therefore, if a discharger has an existing ECSL, or has a request for an ECSL outstanding, the permit issuing authority is encouraged to send the discharger a letter informing it that it may request an extension by checking a box marked "request" and returning the letter. The permit issuing authority is also encouraged to inform other dischargers of this section by a similar letter.

A discharger that does not want to be considered for a section 301(i) extension may retain its ECSL. However, it should be noted that such a decision means that the municipal discharger cannot request a section 301(i)(1) extension after June 26, 1978, and if the discharger violates the terms of its ECSL or the ECSL expires before compliance is achieved, the discharger may be subject to enforcement action.

(4) WHO IS ELIGIBLE FOR A TIME EXTENSION?

A. WHAT IS A POTW FOR PURPOSES OF THIS SECTION?

For purposes of section 301(i) a publicly owned treatment works (POTW) is a treatment works as defined in section 212 of the act, owned or operated by a State or municipality. However, since construction must be required to achieve statutory treatment limitations, the term POTW in effect, does not include collector sewers, admiknistration buildings, or equipment for operation and maintenance, but only the essential parts of the treatment system itself. This ensures that the construction required by the POTW is construction that will lead directly to achievement of the statutory treatment requirements.

B. SECTION 301(i)(1)

As indicated in the background discussion of the Clean Water Act, a POTW may be eligible for a section 301(i)(1) extension if it requires construction to achieve statutory treatment limitations and it meets one of two other threshold criteria. The legislative history indicates that section 301(i)(1) was not to be a broad exemption but rather, it was to be limited to those POTWs which were not in compliance through no fault of their own. This interpretation of section 301(i)(1) is consistent with the Agency's past enforcement policies regarding noncomplying municipalities, e.g., the ECSL policy.

The first statutory criteria necessary for a section 301(i)(1) extension is that construction must be required to comply with the treatment limitations. If optimum operation and maintenance of the treatment processes of the POTW would result in achievement of the limitations in the POTW's permit, the POTW fails to meet the threshold requirement and is not eligible for an extension.

The other statutory criterion is in the alternative. There are two criteria listed in the act and the POTW must satisfy only one of them. EPA interprets these two criteria consistently with the legislative history to allow eligibility for an extension only in the following circumstances. First, a POTW would be eligible if construction was underway prior to July 1, 1977, and the POTW had made all efforts to start and complete construction as expeditiously as possible, but construction could not physically be completed by July 1, 1977.

Second, a POTW would be eligible if the POTW did not receive Federal financial assistance or did not receive it in time (e.g., step 3 funding) to complete construction necessary to achieve the statutory limitations by July 1, 1977, and the POTW did not

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significantly contribute to this unavailability or delay. Insignificant errors may have resulted in some minor delay; however, if in the absence of such errors compliance could still not have been achieved by July 1, 1977, the POTW should not be considered to have significantly contributed to the delay. If a POTW received Federal funding in time and completed planned construction, but is not meeting its permit limitations because of poor operation and maintenance or because it needs to further upgrade its facilities to treat unplanned "tie-ins," it would not be eligible for an extension under this criterion. However, availability of a section 301(i)(1) extension should not be determined by the unilateral actions of the municipality, such as when the municipality was unwilling to take the necessary steps to receive funding. In some cases it will be a close question to decide whether a municipality significantly caused or contributed to the delay in funding. A decision in such a case would be a factual determination to be made by the Director or Regional Administrator.

Municipalities that have requested a modification of the secondary treatment requirement under section 301(h) of the act are encouraged to request section 301(i)(1) extensions if they meet these criteria. However, determinations on these section 301(i)(1) requests will not be made until a final determination on the section 301(h) request has been made.

Because dischargers under section 301(i)(2) must request time extensions within 180 days of the date that its POTW requests an extension, the POTW, as part of its 301(i)(1) request must notify all expected users of the fact and the date of its request. In order to provide flexibility to accommodate both single industry towns and major metropolitan areas, this may be done by placing notice in a local newspaper of general circulation or direct notification by certified mail.

C. SECTION 301(i)(2)

Dischargers which have already "tied-in" to a POTW and thus are not discharging directly into the waters of the United States are not eligible for, and do not need a section 301(i)(2) extension. Dischargers which divert none or only part of their discharge into a POTW, and are therefore still subject to the terms and conditions of an effective NPDES permit, would be eligible for this extension if the criteria discussed below are met.

As indicated in the background discussion on the Clean Water Act, a discharger must demonstrate a preexisting intent to "tie-in" to a POTW to be eligible for a 301(i)(2) extension. The statutory language states that this intent may be indicated in one of the following ways: (1) The discharger was issued a permit before July 1, 1977, based upon a discharge into a POTW; (2) the discharger had a contract before July 1, 1977 (enforceable against the discharger) to discharge into a POTW; (3) a construction grant application made by the POTW before July 1, 1977, clearly demonstrated the discharger was to discharge into the POTW; or (4) engineering or architectural plans or working drawings prepared for the POTW before July 1, 1977, clearly demonstrated that the discharger was to discharge into the POTW.

A demonstration in one of these four ways must be sufficient to show an actual and binding decision to "tie-in" to the POTW; mere intent without further steps toward "tie-in" on the part of the discharger is insufficient. Otherwise, any discharger could formulate an "expression of intent to 'tie-in'" once it became apparent that it might not achieve best practicable control technology currently available by the statutory deadline. The discharger could, in effect, "hedge its bets" by providing itself a way to avoid enforcement for failure to achieve the statutory requirements while at the same time not binding itself to any future action should it somehow manage to achieve these requirements. This is inconsistent with the intent of the act, the legislative history, and Agency policy.

Some further clarification of the necessary intent is warranted. First, if the discharger was issued a permit before July 1, 1977, based upon a discharge into a POTW, or if a construction grant application made by the POTW before July 1, 1977, clearly demonstrated that the discharger was to discharge into the POTW, this is sufficient to demonstrate an actual and binding decision to "tie-in" to a POTW.

Second, "contract" as used in section 301(i)(2)(A)(ii) does not include documents labeled "contract" that impose only nominal or insignificant obligations on the discharger or contracts terminable at the will of either party. The document should accurately represent an actual and binding decision to discharge into the POTW; any contract that the discharger could breach with few or no consequences would not indicate such a decision.

Third, EPA has interpreted "engineering plans, architectural plans or working drawings," to cover plans and drawings, such as those accompanying a bona fide application for Federal construction grants, only to the extent that they were truly representative of the intent of the discharger and the POTW. Such plans may also include approved facility plans which are being implemented or submitted proposed user charge systems or industrial cost recovery systems that clearly demonstrate that the discharger was to "tie-in". Both the documents and the intent to "tie-in" must have been in existence before July 1, 1977, and could not have been created after that date.

(5) Additional Requirements for a Section 301(i)(2) Extension

The act specifically requires that several other criteria be met before a discharger can be considered for a section 301(i)(2) extension. These criteria are discussed below.

A. GOOD FAITH

As indicted in the legislative history, the section 301(i)(2) extension is available only to those dischargers which have made all possible good faith efforts to meet the statutory deadline; business as usual may not be enough. Prompt, vigorous, and in many cases, expensive pollution control measures must have been initiated and completed as soon as possible. The permit issuing authority must find good faith on the part of the discharger before an extension may be granted. Such a finding shall include the following: (1) Failure to meet the July 1, 1977, deadline was for reasons beyond the discharger's control; (2) a history of a high degree of commitment to meet the statutory mandate as manifested by cooperation with EPA or the State by the discharger in attempting to resolve disputed issues; (3) no history of unjustified delay (the discharger should have attempted, and continued to attempt to minimize delays, for example, by working to encourage the POTW to complete construction, soliciting support from a board of directors, or taking extraordinary measures to comply with pollution control laws); (4) no past serious or intentional violations of the act; and (5) all reasonable measures are or have been taken to expedite compliance despite pursuit of administrative or judicial appeals.

Clearly, good faith may be lacking if the discharger has made no attempt to minimize pollution prior to 'tie-in" or has not tried to expedite actual "tie-in". Therefore, a finding of good faith may also include consideration of: Whether the discharger has met the requirements of its existing permit; whether the discharger has operated its limited facilities competently and responsibly; and the extent to which the discharger has completed the necessary prerequisites to having its waste treated by the POTW.

B. REQUIREMENTS RELATING TO THE POTW WHICH IS THE INTENDED RECIPIENT OF THE DISCHARGER'S WASTE

The requirements discussed above are contained in paragraph (A) of section 301(i)(2). Paragraphs (A) and (B)

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of section 301(i)(2) state that no time modification may be granted unless certain other specific requirements relating to the intended recipient POTW are met. They are: (1) If the discharge is to an existing POTW, such POTW must have an extension pursuant to section 301(i)(1) of the Act; (2) the POTW must be in operation and available to the discharger by July 1, 1983; (3) the POTW must be able to meet statutory treatment requirements after receiving the waste from the discharger; and (4) the POTW and the discharger must have entered into an enforceable contract that requires the discharger to discharge into the POTW, the POTW to accept that discharge and the dixcharger to pay user charges and industrial cost recovery changes required by the Act.

(6) Permit Terms and Conditions

As indicated in the background discussion of the Clean Water Act, permits incorporating time extensions must contain specified terms and conditions. There are similar requirements for both sections 301(i)(1) and 301(i)(2), such as schedules of compliance, operation and maintenance requirements, and pretreatment requirements. Nevertheless, these requirements differ as to how they are specified in permits. Therefore, permit terms and conditions for each section are discussed separately.

A. SECTION 301(i)(1)

1. *Schedule of Compliance.* For an extension under section 301(i)(1), the permitting agency must specify in the permit that final compliance with the requirements of secondary treatment or more stringent treatment requirements will be achieved at the earliest date by which Federal financial assistance under Title II of the Act will be available and construction can be completed; it may also be based on additional information available to the State or submitted by the POTW.

When Federal financial assistance has been made available, the schedule of compliance should contain specific milestones with dates certain for achieving those milestones. When the dates for Federal funding are not known, the schedule must contain definite dates to the extent that they can be determined from the construction grant process. A trigger-date elapsed-time schedule or "ratchet" schedule may be used if neccessary. A "ratchet" schedule is one which contains an initial action date or series of dates insofar as they are known at the time the schedule is developed. Other dates are contingent. The balance of the schedule contains specified periods of time for the discharger to complete certain actions which are started or triggered by a specified event or change in the discharger's circumstances. When such a schedule is used, the following is required: (a) certification by the State that funding will be available in time to assure compliance by July 1, 1983; and (b) reporting once a year by the POTW as to its progress in obtaining Federal funding. Once a construction grant is awarded, the permit should be modified to eliminate the "ratchet" schedule and incorporate a date-certain schedule. On the other hand, if it later becomes apparent that Federal funding will not be available in time, the extension granted under this section should be terminated.

2. *Requirements under Section 201 (b) through (g) of the Act.* Sections 201 (b) through (g) of the Act are requirements imposed on all permittees receiving construction grants. Any permit issued under section 301(i)(1) should be consistent with and assure compliance with sections 201 (b) through (g) of the Act.

3. *Interim Effluent Limitations.* The permit must contain any other requirements necessary to carry out the Act. These include interim effluent limitations to be achieved by the application of optimum operations and maintenance practices and other noncapital intensive measures (e.g., minor facility modifications which will result in increased pollution control.) These requirements are designed to provide maximum pollution abatement pending completion of the necessary treatment facilities. Operation and maintenance related effluent limitations may be derived from in-depth on-site evaluations performed by the municipality's consulting engineers, which clearly demonstrate the treatment capability of the particular facility if determined to be necessary by the Regional Administrator or Director. However, in most cases sufficient information should already be available to determine these effluent limitations (e.g., operation and maintenance inspections or other available guidance). In some circumstances chemical treatment may be a cost-effective method of improving the quality of the discharge. When the Regional Administrator or the Director determines that this is the case, she or he is encouraged to include in the issued or modified permit the interim effluent limitations that result from chemical treatment. In general, the facility should be required to treat its waste efficiently, leading to the achievement of effluent limitations as close as possible to those required to be met by July 1, 1977.

4. *Pretreatment program for POTWs having industrial users.* When a POTW has industrial contributors, any permit issued or modified under section 301(i)(1) must contain pretreatment requirements. The pretreatment requirements imposed will vary depending on whether new pretreatment regulations have been promulgated in 40 CFR Part 403. It is anticipated that pretreatment regulations will be promulgated in 40 CFR Part 403 before the majority of permits extending the 1977 treatment deadline are issued or modified. Once promulgated, the pretreatment regulations will specify the pretreatment requirements applicable to permits issued or modified under section 301(i)(1) of the Act. There will be a small category of permits issued or modified before the pretreatment regulations are promulgated in 40 CFR Part 403. Permits falling into this category should ensure compliance with existing pretreatment regulations contained in 40 CFR Part 128.

B. SECTION 301(i)(2)

1. *Schedule of Compliance.* The permit must contain a schedule of compliance pending "tie-in". This schedule must contain interim dates for completion of necessary construction, and a final date by which the contributor will cease discharge to waters of the United States and discharge to the POTW. This final date must be as soon as possible but not later than July 1, 1983. In most cases this date should not extend beyond any extension granted to a POTW under section 301(i)(1). The permit must also require the achievement of Best Practicable Control Technology Currently Available (BPT) by the same final date in the schedule of compliance pending "tie-in" in the event that the "tie-in" is not acceptable by that date. Thus, the permit must specify effluent limitations based on BPT as well as a schedule of compliance leading toward "tie-in." These two requirements will ensure that no discharger will be authorized to discharge without complying with the statutory deadline requirements.

2. *Interim Effluent Limitations.* Some conditions are necessary to protect the public interest pending "tie-in". While dischargers should not be forced to build duplicative treatment facilities due to a short delay in the completion of a sewage treatment plant, it is only reasonable that those dischargers which can utilize noncapital intensive measures to improve the quality of their waste should be required to do so as an interim step (e.g., optimum operation and maintenance).

3. *Toxic Effluent Standards and Prohibitions.* Permits presently contain a clause requiring modification to conform to toxic effluent standards and prohibitions after they are promulgated under section 307(a). Permits issued with extended compliance dates must also have a similar clause.

4. *Pretreatment.* There are three pretreatment related requirements that must be included in permits granting section 301(i)(2) extensions: (1) Com-

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pliance with any promulgated pretreatment standards under section 307(b); (2) compliance with any requirements imposed by the POTW under the pretreatment program that a POTW must have pursuant to section 124.104(b) of these regulations; and (3) compliance with any other State or local pretreatment requirements.

5. *Water Conservation Requirements.* Water conservation requirements allow the permit issuing authority to encourage the use of technologies or unit operations which use less water, recycle water or replace water with other solvents which can be recycled. This includes any water conservation requirements contained in a contract between the discharger and the POTW executed pursuant to the granting of a request for a section 301(i)(2) extension (see earlier discussion of Requirements relating to the POTW which is the intended recipient of the discharger's waste). Specific examples of water conservation practices includes: (1) Recycle of non-contact cooling water in acid manufacturing plants, (2) partial recycle (multiple use) of water in quenching for metallurgical operations or countercurrent rinsing in electroplating, and (3) in the food industry, replacement of "wet-caustic" processes for peeling vegetables with the "infrared dry-caustic" process.

Generally, dischargers should be required to undertake all in-process adjustments which reduce the volume of water to the POTW, consistent with the maximum concentration of pollutants acceptable by the POTW. It must be emphasized that water conservation measures which are found to disturb the efficient operation of the POTW should not be imposed.

NOTE.—The Environmental Protection Agency has determined that this document does not constitute a major regulation requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and under OMB Circular A-107.

Dated: May 10, 1978.

DOUGLAS M. COSTLE,
Administrator.

1. Part 124 is amended by adding a new Subpart L as follows:

Subpart L—Criteria for Extending Compliance Under Section 301(i) of the Act

Sec.
124.100 Purpose and scope.
124.101 Definitions.
124.102 Requests for permit modification and issuance under Section 301(i)(1) of the Act.
124.103 Criteria for permit modification and issuance under Section 301(i)(1) of the Act.
124.104 Permit terms and conditions under Section 301(i)(1) of the Act.
124.105 Requests for permit modification and issuance under Section 301(i)(2) of the Act.
124.106 Criteria for permit modification and issuance under Section 301(i)(2) of the Act.
124.107 Permit terms and conditions under Section 301(i)(2) of the Act.
124.108 Effect of noncompliance with this Subpart.

AUTHORITY: Sec. 301: (1) and (2) of the Clean Water Act (Dec. 1977), 33 USC 1251 et seq.

Subpart L—Criteria for Extending Compliance Under Section 301(i) of the Act

§ 124.100 Purpose and scope.

Under sections 301(i) (1) and (2) of the Clean Water Act, extensions of the 1977 statutory deadline for compliance with certain treatment requirements may be granted by EPA or, if appropriate the State, through permit issuance or modification. This Subpart establishes criteria for granting these extensions and the method for incorporating these extensions into State issued NPDES permits.

§ 124.101 Definitions.

For purposes of this Subpart:

(a) "Construction" means actual construction or activities so closely related to actual construction that completion of the facility no later than July 1, 1983, is a reasonable expectation. This shall include any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises. This shall not include actions which have been abandoned or are so insignificant that they do not lead to the completion of the facility.

(b) "ECSL" means any extension of the July 1, 1977 treatment deadline issued by EPA or an NPDES State, in conjunction with an NPDES permit which requires compliance by July 1, 1977. This term shall include any procedural mechanisms used by the State which are consistent with EPA's Enforcement Compliance Schedule Letter policy.

§ 124.102 Requests for permit modification and issuance under section 301(i)(1) of the act.

(a) Any owner or operator of a publicly owned treatment works (POTW) that requires construction to achieve limitations under sections 301(b)(1)(B) or 301(b)(1)(C) of the Act may request modification or issuance of a permit extending the date for compliance with these limitations:

(1) This request must be made to the Director on or before June 26, 1978;

(2) A request will be deemed made before June 26, 1978 if:

(i) The owner or operator of a POTW holds a ECSL or has an outstanding request for a ECSL, and has informed the Director by letter before June 26, 1978, that it wishes to request a section 301(i)(1) extension; or

(ii) The owner or operator of a POTW has informed the Director by letter before June 26, 1978, that it wishes to request a section 301(i)(1) extension and briefly states which criteria in § 124.103 it believes it meets.

(3) For a request under this paragraph to be considered, a POTW shall notify all point sources committed to discharge into the POTW by July 1, 1983, of the date of the request and that they have 180 days from that date in which to file requests for section 301(i)(2) extensions. Such notifications shall be made within 30 days from the date of the POTWs request.

(b) The burden is on the POTW to demonstrate that an extension should be granted—

(1) If the POTW does not submit arguments or factual grounds supporting the request within thirty days of such request, a section 301(i)(1) determination shall be based on existing information in EPA and/or State files.

(2) The POTW may submit arguments or factual grounds supporting the request which are relevant to the criteria listed in § 124.103. Any such arguments or factual grounds, including all supporting documentation, must be submitted within thirty days (non-extendable) from the date of the request.

§ 124.103 Criteria for permit modification and issuance under section 301(i)(1) of the act.

No request for a permit modification or issuance under section 301(i)(1) of the Act shall be granted unless the Director finds that the POTW requires construction to achieve limitations under sections 301(b)(1)(B) or 301(b)(1)(C) of the Act and did not complete construction for either of the following reasons:

(a) Actual construction was underway before July 1, 1977, but construction could not physically be completed by July 1, 1977, despite all expeditious efforts of the POTW; or

(b) Federal financial assistance was not available, or was not available in time for construction required to achieve these limitations, and the POTW did not in any significant way contribute to this unavailability or delay.

§ 124.104 Permit terms and conditions under section 301(i)(1) of the act.

(a) All permits modified or issued by the Director under section 301(i)(1) of the Act shall contain at a minimum the following permit terms and conditions:

(1) The shortest reasonable schedule of compliance for achievement of limitations under sections 301(b)(1) (B) and (C) but in no event later than July 1, 1983. This schedule shall be based upon the earliest date that Federal financial assistance will be available and construction can be completed and any additional information submitted by the POTW or otherwise available to the State.

(i) When the availability of Federal financial assistance is certain, this schedule shall contain dates certain for the completion of actions leading toward the attainment of statutory treatment limitations.

(ii) When the availability of Federal funding is uncertain, this schedule may require the completion of actions leading toward the attainment of statutory treatment limitations within stated periods of time after the occurrence of events related to the unavailability of Federal financial assistance, e.g., notification that Federal financial assistance is available and that a grant application should be filed, the offering of a grant of Federal financial assistance, etc. The following are requirements for the use of such a schedule:

(A) Certification by the State that funding will be available in time to ensure compliance by July 1, 1983;

(B) Reporting once a year by the POTW as to its progress in obtaining Federal funding and modification of the permit to incorporate a date certain schedule once Federal funding is available; and

(C) A condition in the permit requiring termination of any extension granted if it subsequently is determined that Federal funding will not be available in time to ensure compliance by July 1, 1983.

(2) A statement ensuring compliance with requirements under sections 201 (b) through (g) of the Act consistent with the terms of the POTW's construction grant.

(3) Abatement practices and interim effluent limitations reflecting optimum operation and maintenance of the existing facilities. These shall include:

(i) Adequate operator staffing and training;

(ii) Adequate laboratory and process controls; and

(iii) Effluent limitations derived from reports of operation and maintenance inspections conducted by EPA or the State, reports of in-depth plant evaluations conducted to determine the treatment capabilities of the particular plant being permitted or other available guidance.

(*Comment:* Only in exceptional circumstances should in-depth plant evaluations be conducted, e.g., when existing information does not represent the true capabilities of the plant.)

(4) Interim effluent limitations reflecting other non-capital intensive measures for increased pollution control. This shall include any possible minor facility modifications such as piping changes, additional metering and instrumentation or the use of skimming and vacuuming equipment. When an existing POTW is currently violating limitations imposed under section 301(b)(1)(C) of the Act, interim effluent limitations shall be established to minimize adverse water quality impact; these limitations shall not be made less stringent or allow more pollutants to be discharged than are currently being discharged during the term of an extension granted under section 301(i)(1) of the Act.

(b) If a POTW has industrial users, any permit issued or modified by the Director under section 301(i)(1) of the Act shall contain terms and conditions necessary to ensure compliance with pretreatment regulations promulgated under section 307(b) of the Act.

(1) Permits issued or modified after pretreatment regulations are promulgated at 40 CFR Part 403 shall be consistent with those pretreatment regulations.

(2) Permits issued or modified before pretreatment regulations are promulgated at 40 CFR Part 403 shall be consistent with pretreatment regulations promulgated in 40 CFR Part 128.

§ 124.105 Requests for permit modification or issuance under Section 301(i)(2).

(a) Any owner or operator of a point source other than a POTW that will not achieve the requirements of sections 301(b)(1)(A) and 301(b)(1)(C) of the Act because it was committed to discharge into a POTW that is presently unable to accept the discharge without construction, may request modification or issuance of a permit extending the date of compliance with these limitations. This request must be made to the Director on or before June 26, 1978 or not later than 180 days after the filing of a request under section 301(i)(1) of the Act by the POTW into which the point source is committed to discharge.

(b) The burden is on the discharger to demonstrate that an extension should be granted—

(1) If the discharger does not submit arguments or factual grounds supporting the request within thirty days of such request, a section 301(i)(2) determination shall be based upon information in EPA and/or State files.

(2) The discharger may submit arguments or factual grounds supporting the request which are relevant to the criteria listed in section 124.106. Any such arguments or factual grounds, including all supporting documentation, must be submitted within thirty days (non-extendable) from the date of the request.

§ 124.106 Criteria for permit modification and issuance under Section 301(i)(2).

No request for a permit modification or issuance under section 301(i)(2) of the Act shall be granted unless the Director finds that the discharger has failed to achieve the requirements of sections 301(b)(1)(A) and 301(b)(1)(C) of the Act because it was scheduled to discharge into a POTW that is presently unable to accept the discharge without construction, and:

(a) The discharger has indicated an intent to discharge into the POTW before July 1, 1977 in one of the following ways:

(1) The discharger was issued a permit before July 1, 1977 based upon a discharge into a POTW;

(2) The discharger had a contract before July 1, 1977 (enforceable against the discharger) to discharge into a POTW.

This does not include a document labelled as a "contract" that imposes only nominal or insignificant obligations on the discharger;

(3) A construction grant application made by the POTW before July 1, 1977 clearly demonstrated that the discharger was to discharge into the POTW; or

(4) Engineering plans, architectural plans or working drawings prepared for the POTW before July 1, 1977 clearly demonstrated the discharger was to discharge into the POTW. Plans and drawings, such as those accompanying a bona fide application for a Federal construction grant, are sufficient only to the extent that they were truly representative of the intent of the discharger and the POTW;

(b) The Director finds that the discharger has acted in good faith in both its efforts to effectuate discharge into the POTW and its efforts to minimize or abate pollution prior to discharge into the POTW. This shall include the following findings:

(1) Failure to meet the July 1, 1977 deadline was for reasons beyond the discharger's control;

(2) A history of a high degree of commitment to meet the requirements of the Act as manifested by cooperation with the State or EPA in attempting to resolve disputed issues;

(3) No history of unjustified delay;

(4) No past serious or intentional violations of the Act; and

(5) All reasonable measures are being taken to expedite compliance.

(*Comment:* The Director may also consider whether the discharger has operated its facilities competently and responsibly and the extent to which the discharger has completed the necessary prerequisites to having its waste treated by the POTW.)

(c) The POTW will be in operation and available to the discharger by July 1, 1983;

(d) The POTW will be able to meet secondary treatment and water quality standard effluent limitations by July 1, 1983 after receiving the waste from the discharger;

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(e) The discharger and the POTW have entered into an enforceable contract providing that:
(1) The discharger agrees to discharge its waste to the POTW;
(2) The POTW agrees to accept and treat that waste by a date certain; and
(3) The discharger agrees to pay all user charges and industrial cost recovery charges required under section 204 of the Act; and
(f) In the case of a discharge into an existing POTW, such POTW has been granted an extension under section 301(i)(1) of the Act.

§ 124.107 Permit terms and conditions under section 301(i)(2) of the Act.

All permits modified or issued by the Director under section 301(i)(2) of the Act shall contain at a minimum the following permit terms and conditions:
(a) The shortest reasonable schedule of compliance leading to discharge into the POTW, not to extend beyond the earliest date practicable for compliance, or beyond the final compliance date of any extension granted to the appropriate POTW under section 301(i)(1) of the Act, but in no event later than July 1, 1983. This schedule shall be based upon the earliest date by which the appropriate POTW can receive the waste from the discharger and the discharger can complete the necessary prerequisites to having its waste treated by that POTW;
(b) Achievement of effluent limitations and standards under sections 301(b)(1)(A) and 301(b)(1)(C) of the Act by the same final date in the schedule established in subparagraph (a) in the event that the permittee does not discharge its wastes to the POTW by the date established under subparagraph (a);
(c) Abatement practices and interim effluent limitations reflecting optimum operation and maintenance of the discharger's existing facilities. These shall include:
(1) Effective performance of facility design removals;
(2) Adequate operator staffing and training; and
(3) Adequate laboratory and process control;
(d) Interim effluent limitations reflecting other non-capital intensive measures for increased pollution control;
(e) Requirements to meet applicable toxic effluent standards and prohibitions after they are promulgated under section 307(a) of the Act;
(f) Requirements to ensure compliance with:
(1) Pretreatment requirements imposed by the POTW pursuant to any extension granted to the POTW under section 301(i)(1) of the Act;
(2) Any State or local pretreatment requirements; and
(3) Pretreatment standards as promulgated under section 307(b) of the Act;

(*Comment:* The legislative history cites the following example: "[I]f an industry is planning on participating in a municipal system which will not be available until January 1983, that industry would still have to install and operate pretreatment facilities within the time specified for compliance at the time the applicable pretreatment standard was promulgated and in no event later than three years from the date of said promulgation. Thus, if the pretreatment regulations are promulgated March 1, 1979 and require compliance within two years, that industry would be required to comply by March 1, 1981," H.R. Rep. No. 95-830, 95th Cong., 1st Sess., 12712 (daily ed. Dec. 6, 1977).)

(g) Any water conservation requirements necessary to carry out the provisions of the Act or imposed by the POTW pursuant to the contract executed between the discharger and the POTW.

(*Comment:* The existence of such a contract is a prerequisite to granting an extension under section 301(i)(2)(B) of the act and § 124.106(e) of this Subpart.)

§ 124.108 Effect of noncompliance with this subpart.

Failure of the State to comply with any of the requirements of this subpart shall be grounds for EPA objection to a proposed State permit under section 402(d)(2) of the Act.

Part 125 National Pollutant Discharge Elimination System, is amended as follows:

2. Section 125.5(a) is amended by adding new paragraph (5) as follows:

§ 125.5 Delegation of authority.

* * * * *

(a)(5) The authority to issue or modify permits pursuant to section 301(i) of the Act.

3. Section 125.26 is amended by adding new paragraph (c) as follows:

§ 125.26 Special categories of permits.

* * * * *

(c) *Time extensions under section 301(i) of the Act.* The Regional Administrator may issue or modify permits containing time extensions under section 301(i) of the Act. Such permits shall be issued or modified in accordance with the regulations in Subpart L of part 124 of this chapter, except that references to "State" or "Director" shall be interpreted to mean "EPA" or "Regional Administrator."

4. Section 125.35 is amended by adding a new sentence to the end of Subparagraph (d)(2) to read as follows:

§ 125.35 Issuance and effective date of permit.

* * * * *

(d)(2) * * * This subparagraph shall not apply to an adjudicatory hearing granted on a permit determination to contest the denial of a permit modification or issuance made pursuant to section 301(i) of the Act.

[FR Doc. 78-13283 Filed 5-15-78; 8:45 am]

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federal register

TUESDAY, MAY 16, 1978
PART VII



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

HEALTH SYSTEMS AGENCY AND STATE AGENCY REVIEWS OF THE APPROPRIATENESS OF EXISTING INSTITUTIONAL HEALTH SERVICES AND OF PROPOSED NEW INSTITUTIONAL HEALTH SERVICES

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[4110-83]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Parts 122, 123]

HEALTH SYSTEMS AGENCY AND STATE AGENCY REVIEWS OF THE APPROPRIATENESS OF EXISTING INSTITUTIONAL HEALTH SERVICES AND OF PROPOSED NEW INSTITUTIONAL HEALTH SERVICES

AGENCY: Public Health Service, HEW.

ACTION: Notice of proposed rulemaking. Extension of comment period and corrections for a previously published proposed rule.

SUMMARY: This Notice sets forth proposed regulations governing health systems agency and State health planning and development agency reviews of the appropriateness of existing institutional health services. These reviews are required by sections 1513(g) and 1523(a)(6) of the Public Health Service Act and are intended to result in careful reviews by these agencies of all existing institutional health services, public findings as to the appropriateness of each service, and recommendations for remedial action when a service is found inapprpriate.

In addition, the period of public comment is extended and certain corrections are made for previously published Notice of Proposed Rulemaking, regarding HSA and State Agency reviews of proposed new institutional health services (43 FR 11229-41, March 17, 1978).

DATES: Comments regarding reviews of existing institutional health services for appropriateness must be recieved on or before June 30, 1978. In addition, the period of public comment on the Notice of Proposed Rulemaking regarding HSA and State Agency reviews of proposed new institutional health services (43 FR 11229-41, March 17, 1978) is hereby extended to May 31, 1978.

ADDRESS: Written comments and recommendations should be submitted to: Director, Office of Policy Coordination, Bureau of Health Planning and Resources Development, Center Building, Room 6-22, 3700 East-West Highway, Hyattsville, Md. 20782. All materials received in response to this Notice will be available for public inspection and copying at the above location on weekdays (Federal holidays excepted) between the hours of 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Harry P. Cain II, Ph. D., Director, Bureau of Health Planning and Resources Development, Center Building, Room 6-22, 3700 East-West Highway, Hyattsville, Md. 20782, 301-436-6850.

SUPPLEMENTARY INFORMATION: The National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641, January 4, 1975) added to the Public Health Service Act (hereinafter referred to as "the Act") a new Title XV, "National Health Planning and Development", and a new Title XVI, "Health Resources Development". Among other things, the new Title XV authorizes the Secretary to designate and provide grant assistance to a State health planning and development agency (State Agency) for each State and to a health systems agency (HSA) for each health service area established pursuant to section 1511 of the Act. Among the duties required of State Agencies and HSA's is the periodic review of the appropriateness of all existing institutional health services.

Section 1513(g) of the Act requires that on a periodic basis (but at least every five years) each HSA must review all existing institutional health services in its health service area, and make recommendations regarding the appropriateness of those services to the State Agency. This section also requires that an HSA complete the first review of all the existing institutional health services within three years after the date of its full designation under section 1515(c) of the Act. Section 1523(a)(6) of the Act requires each State Agency to review, on a periodic basis (but not less often than every five years), all existing institutional health services in the State and, after considering the recommendations submitted to it by the HSA's in the State, to make public findings as to the appropriateness of the services. Section 1523(b)(3) of the Act further requires State Agencies to complete their findings with respect to the appropriateness at an existing institutional health service within one year of the receipt of the HSA recommendations. The purposes of the proposed 42 CFR Part 122, Subpart F and Part 123, Subpart G, are to set forth minimum procedures and criteria for HSA and State Agency reviews of the appropriateness of existing institutional health services (hereinafter referred to as "appropriateness reviews"); to describe the manner in which these procedures and criteria must be developed and published; to identify the types of health services subject to appropriateness review; and to establish requirements for coordination between HSA's and State Agencies in the conduct of appropriateness reviews.

The Secretary wishes to note that the development of regulations for appropriateness reviews posed unusually difficult problems due to a number of factors. Notable among these are: (1) The wide divergence of views regarding the nature of the function, (2) the lack of specificity regarding many important aspects of this function in the Act and the legislative history, (3) the absence of pertinent experience upon which to base the proposed rules, (4) the potentially enromous agency workload associated with the function, and (5) the possible impact of the reviews on providers of services, and on the relationships between health planning agencies and providers. While each review function mandated by the Act is affected by some of these factors, in no other case do so many apply. Therefore, in development of these rules, the Secretary has allowed considerable flexibility in the way HSA's and State Agencies conduct appropriateness reviews and relate these reviews to their other health planning responsibilities. Because of the difficulties encountered in developing these regulations, the Secretary wishes to initiate broad public dialogue on the issues associated with this function.

In soliciting public comment, the Secretary wishes to draw attention to certain aspects of the appropriateness review function and the proposed regulations. While all the reviews mandated by the Act are means for implementating State and local health plans, appropriateness review differs in two major respects from other such reviews (e.g., certificate of need reviews). First, the Act does not require the application of sanctions in cases where a finding of inappropriateness has been made by the State Agency. Although publicity surrounding findings of inappropriateness could have an adverse effect on providers, this is at most an indirect sanction. Second, appropriateness review begins at the planning agency's initiative rather than with an applicant's petition for permission to proceed with some activity; thus, the usual role of the planning agency relative to providers of health services is reversed.

These fundamental differences are reflected in the legislative history. The record reveals an evolution of "appropriateness review" from an original concept of periodic recertification of facilities, to periodic determination as to the continuing need for a service (with sanctions not required), to the present requirement for periodic review of services as to their "appropriateness." The reasons for omission of recertification authority included concerns about the possible adverse effect of appropriateness review findings on the outstanding debts of health care facilities and on the future capital market for health facilities. Unfortunately, the substitution of "appropriateness review" for reviews of "continued need" occurred so late in the legislative process that the record indicates what appropriateness review is meant not to be, but provides virtually no guidance regarding what it is meant to be.

What is clear is that appropriateness review bridges the gap between planning and regulation, embracing elements of both. For this reason it is a tool with unusual potential. It can be used as one step in developing State and local health plans and providing opportunities for specific and productive cooperative planning between providers and planning agencies. It can also be, even without official sanctions, an effective regulatory function. In both cases, appropriateness reviews should be viewed as a positive tool for improving the local or State health care system, either by highlighting areas of excess and duplication or by identifying areas needing additional or improved services.

These proposed regulations place on the function only those restrictions which the Secretary considers necessary to fulfill the statutory requirements and to ensure an adequate level of coordination between HSAs and State Agencies in the performance of the function. The proposed regulations do not require an agency to treat appropriateness review primarily as either a regulatory or a planning function; that determination is left to the agency's discretion. They do, however, require the agency to conduct the function in a manner consistent with its general planning and resource development activities, and outline some specific requirements for inclusion in the appropriateness review portion of the agency work program. The work programs will be used by the Secretary to determine both the agency's readiness to perform appropriateness reviews in an acceptable manner, and how it will carry out the function from year to year.

Of particular concern to the Secretary is the potentially enormous work load involved in this function. While there is very little relevant experience, there is little question that the appropriateness review function could severely tax the resources of a given agency and, therefore, weaken its entire program. Therefore, these regulations permit the gradual assumption of this function in accordance with agency capabilities.

The Secretary also wishes to call attention to the proposed definition of "appropriateness" which has been included in the regulations to give specific definition to the function and to reduce confusion in the performance of the function. The definition requires that the finding of appropriateness be made in accordance with the criteria developed under § 123.607. Further, these criteria focus on six characteristics of services (availability, accessibility, cost, continuity, quality, and acceptability) which have been drawn from sections 1513(a) and (b)(2)(A) and 1535(c) and (d) of the Act where they are cited as primary concerns of the health planning agencies and important aspects of the Secretary's reviews of the performance of the planning agencies. Therefore, since the finding of appropriateness is tied to these characteristics of services which are also contained in the guidelines for health systems plans and State health plans, this definition is consistent with the analytical framework contained in these guidelines. Consequently, this definition should facilitate utilization of these plans in conducting appropriateness reviews and using the results of appropriateness reviews in the development of future plans.

Particular attention is also invited to proposed § 122.503(a), and § 123.603(a) which concern appropriateness review work programs. Appropriateness reviews can result in findings or recommendations as to the appropriateness of a specific service in the aggregate, as it is provided by all institutions in the area or State, or can result in findings or recommendations regarding the appropriateness of that service in a particular institution. The Secretary recognizes that these two levels of reviews have different implications. Reviews which result in institution-specific findings are likely to require substantially more agency manpower, more time (both for analysis of data and for consultation with providers) and, perhaps, more sophisticated and specific data.

Therefore, at this time, the Secretary has chosen to require only that HSAs and State Agencies perform areawide appropriateness reviews (those resulting in findings and recommendations regarding the appropriateness of a service in the aggregate). The conduct of institution-specific reviews, therefore, is left to the option of the agencies. Nevertheless, the Secretary anticipates that the agencies will phase in institution-specific reviews as they become more proficient in appropriateness reviews and as their resources permit. Areawide reviews of all existing institutional health services must be completed within 3 years of full designation for the HSAs and within 5 years of full designation for the State Agencies, as required by the statute. The State Agency also must comply with the statutory requirement to take action within 1 year of its receipt of an appropriateness review recommendation from an HSA. This approach will still allow for successively more detailed reviews, beginning with a screening effort to identify services which may be inappropriate and followed by intensive areawide reviews and, in some cases, institution-specific reviews.

Another important feature is the degree of coordination between the HSA and State Agency required in the conduct of appropriateness reviews. Appropriateness review follows the basic approach of certificate of need review—the HSA makes recommendations and the State Agency is responsible for the final findings. However, stronger provisions for coordination seem necessary for appropriateness reviews than were required for certificate of need reviews, since there is neither a common understanding of the nature of appropriateness review, nor an application around which State Agency and HSA review activities naturally coalesce. It is also clear that the appropriateness review function should be performed in an integrated, coordinated and consistent manner so that the work of the HSAs and State Agencies is complementary. Therefore, the proposed regulations require that the State Agency, after consultation with the HSAs in the State and with the Statewide Health Coordinating Council, establish definitions of services to be reviewed, priorities among those services to be reviewed, and schedules for reviews. The Secretary has not required that the review procedures and criteria used by the HSAs and State Agencies be identical, although consultation on these matters between the HSAs, State Agencies, and SHCCs is required. The Secretary is requiring statewide coordination in order to insure cooperative action by the agencies, and to allow for the development of statewide profiles of health services and comparisons among health service areas within a State. Further, by requiring a leadership role for the State Agency in establishing the review schedules and service priorities a greater measure of accountability for achieving coordination is possible.

The Secretary has selected the State Agency to provide the necessary leadership for several reasons. It is the State Agency which is ultimately responsible for making the findings regarding the appropriateness of services, and it is important that these findings be based on comparable recommendations from the HSAs in the State. In addition, the State Agency has the responsibility to recommend remedial action whenever a service is determined to be inappropriate. Finally, it is the State Agency which is required under the Act to obtain the provider data needed for performance of its health planning responsibilities, including the appropriateness review, and these proposed regulations would require that the State Agency in turn make that data available to the HSA. The Secretary recognizes that the Statewide Health Coordinating Council is an alternative location for all or part of this coordination responsibility

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and invites comment on the desirability of using the Statewide Health Coordinating Council as a mediator when the State Agency and HSAs cannot agree.

Although the Secretary has placed the responsibility for establishing the schedule of and priority for reviews with the State Agency, he has required that there be advance consultation with the HSAs and the Statewide Health Coordinating Council. He recognizes that this approach may result in some concern over the pre-emption of local prerogatives or the possibility that a leadership role for one agency could allow a relatively less advanced agency to impede the progress of others. In that light, he is concerned that the consultation process not be a pro forma process: the needs and concerns of the HSAs must be addressed in the determination of the State's priorities and schedule. He, therefore, expects that the work programs submitted by both the HSAs and the State Agencies will reflect an adequate consultation process and he will be monitoring that process to insure that this expectation is met. The statutory emphasis on the independence of the three organizational entities established under this Act is important and the sensitive balance between State and local area prerogatives must be maintained.

The Secretary also wishes to note that to provide the agencies with considerable flexibility in conducting these reviews, the procedural and criteria-related provisions of the proposed regulations generally repeat the language in section 1532 of the Act. In two areas in which the proposed regulations elaborate on the statutory language, adoption of review procedures (§ 122.504 and 123.604) and exceptions to the required procedures (§ 122.506 and 123.606), the agencies are to conform with the requirements of the pertinent sections of the regulations for reviews of new institutional health services (including certificate of need reviews). With respect to the procedures themselves, (§§ 122.505 and 123.605), three statutory provisions not applicable to appropriateness reviews (sections 1532(b)(4), (b)(5), and (b)(11), which concern the submission of applications for Federal financial assistance, provider reports on the development of proposals subject to review and letters of intent for construction projects), have been omitted. In addition, while the Act requires time limits for all reviews which, to the extent practicable, do not exceed 90 days, these time periods seem insufficient for appropriateness review; in their place, the Secretary is requiring that, to the extent practicable, areawide reviews take no longer than 180 days.

With respect to criteria, one statutory provision not applicable to appropriateness review (section 1532(c)(9), dealing with construction projects) has been omitted, and the criterion referring to the relationship of the health service being reviewed to the applicable health systems plans and annual implementation plans now would include reference to the State health plan and State medical facilities plan. In addition, the proposed regulations require that two additional considerations be included in the development of criteria: (1) the special needs and circumstances of national biomedical and behavioral research efforts, and (2) the contribution of the existing institutional health service in meeting the health related needs of minorities, women, and handicapped individuals residing in the health service area in which the service is provided.

With regard to the second of these considerations, the Secretary calls attention to the Notice of Proposed Rulemaking regarding HSA and State Agency reviews of proposed new institutional health services (43 FR 11229-41, March 17, 1978). In addition to the amendments proposed in that document, the Secretary also proposes to amend these regulations by requiring that HSA and State Agency criteria for review of proposed new institutional health services must also include consideration of the contribution of the proposed services in meeting the health related needs of minorities, women, and handicapped individuals residing in the health services area in which the service will be provided. Moreover, the Secretary proposes to expand another review consideration (§ 122.308(a)(3) and 123.409(a)(3)) to require HSAs and State Agencies to consider not only whether services to be added or expanded are needed, but also whether a project would, through relocation of a health care facility or reduction or termination of existing services, result in the removal of services from a population which is in need of them. Because of these changes, the public comment period for that Notice of Proposed Rulemaking is hereby extended to May 31, 1978. A longer extension is not needed in this case because these same provisions are included in the Notice of Proposed Rulemaking for health systems agency reviews of certain proposed uses of Federal health funds (published in the FEDERAL REGISTER on May 9), and the public will have opportunity to comment on them in that context as well. Comments received on these provisions will be considered in preparing both final regulations.

In addition, an error was made in this March 17 Notice of Proposed Rulemaking at § 122.304, § 122.309, § 123.404, and § 123.410. These sections, which deal with the coverage of certificate of need programs and required findings for new inpatient facilities, had been amended on April 8, 1977, subsequent to the issuance of the certificate of need regulations on January 21, 1977. These April 8, 1977, amendments inadvertently were not incorporated into the March 17 Notice of Proposed Rulemaking. Thus, that Notice of Proposed Rulemaking reads as if the Secretary were proposing to revert to the original January 21, 1977, provisions in these sections. This was not intended; rather, the April 8, 1977, amendments to these regulations were intended to be included in the Notice of Proposed Rulemaking. Accordingly, the April 8, 1977, amendments are reprinted below as a correction to the March 17 Notice of Proposed Rulemaking.

To insure that the agencies obtain the data needed to conduct appropriateness reviews, HSAs and State Agencies are required to notify providers of the types of data the agencies need, as is the case in the regulations for certificate of need. In addition, these proposed regulations mandate that State Agencies require that providers submit the data necessary to perform the reviews to the State Agency and to the appropriate HSAs. This latter requirement will be phased in, to allow sufficient time for the identification (and later collection) of the data, starting with hospitals and nursing homes in the first and second years, respectively, of the agency's reviews of appropriateness. As always, the agencies must fully utilize existing data sources before collecting new data, and their data collection efforts should be coordinated with Cooperative Health Statistic System efforts. In addition, to avoid any duplicative data collection requirements, the Department will coordinate the implementation of these data provisions with that of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142) data requirements.

The Secretary also calls attention to the issue of appropriateness reviews of services provided by health maintenance organizations (HMOs). The Secretary wants to insure that appropriateness reviews of such services do not impair the development of these organizations. While Title XV of the Act requires that existing HMO services be subject to appropriateness reviews, the Secretary wants to insure that HMOs receive the encouragement and special consideration Congress intended in enacting Title XIII of the Act ("Health Maintenance Organizations"), and when it made the development of group practices and HMOs a national priority in section 1502 of the Act, and when it included at section 1532(c)(8) of the Act the requirement that their special needs and circumstances be considered in the criteria developed for any type of review. However, he also respects the State and local planning process which calls upon health planning agencies to assess the total health needs and resources of their area or State.

The Secretary does not anticipate that appropriateness reviews of a service on an areawide basis will have an impact on HMOs, since findings and recommendations in those reviews will only address the appropriateness of a service as it is delivered in the aggregate by all the health institutions providing the service in the health service area or State. However, when they conduct institution-specific reviews, planning agencies will be making findings and recommendations regarding the appropriateness of a service in individual institutions. It is only in these reviews, resulting in institution-specific findings regarding appropriateness, that HMOs could be affected adversely by HSA and State Agency actions.

Accordingly, §§ 122.507 and 123.607(a)(8) of these proposed regulations elaborate on the language of section 1532(c)(8) of the Act regarding the "special needs and circumstances of health maintenance organizations for which assistance may be provided under Title XIII." These sections include a limited set of specific criteria which HSAs and State Agencies must employ in any institution-specific appropriateness reviews of HMO services and a description of the process to be followed by agencies wishing to obtain the Secretary's approval to use additional criteria.

Sections 122.508(c) and 123.608(c) of these proposed regulations provide that, in an institution-specific review of a service provided by or through an HMO, an HSA may not recommend that a State Agency find an institutional health service to be inappropriate, and a State Agency may not find that an institutional health service is inappropriate, solely because there is an HMO of the same type in the health service area, or solely because the services being reviewed are not discussed in the applicable health systems plan, annual implementation plan, State health plan, or State medical facilities plan.

Moreover, §§ 122.508(d) and 123.608(d) of these proposed regulations provide that an HSA or State Agency in conducting an institution-specific review, may not find a service of an HMO which is eligible for Title XIII assistance inappropriate unless it determines (1) that the service is not needed by the enrolled or reasonably anticipated new members of the HMO, or (2) that the service is available from non-HMO providers in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO, or (3) that the service is inappropriate under criteria based on factors approved by the Secretary.

Furthermore, in the case of an institution-specific review of an existing institutional health service which is provided by or through an HMO and which consists of (or includes) an inpatient health care facility, these proposed regulations provide that, if in addition to making one of the determinations listed in §§ 122.508(d) and 123.608(d) and discussed above, the agency also determines that utilization of the facility by members of the HMO does not account for at least 75 percent of the facility's annual inpatient days, a recommendation or finding of inappropriateness may be made.

It should also be noted that proposed amendments to regulations governing reviews of new institutional health services (42 CFR part 122, Subpart D, and Part 123, Subpart E), recently published in the FEDERAL REGISTER, include, in addition to special provisions regarding criteria and review findings, special procedural requirements for reviews of HMOs. These provisions have not been included in these proposed regulations because reviews of existing services are fundamentally different from reviews of proposed services and these procedural requirements are either not applicable or not necessary for appropriateness reviews of existing institutional health services.

The Secretary wishes to note that the importance of this appropriateness review function is underscored by the fact that the Congress, in its deliberations of the major health care cost containment bills, is considering a much more significant role for appropriateness reviews as a tool for containing costs. Appropriateness reviews might, for example, be used to determine the hospital revenue base or to determine what exceptions to that base might be allowed. In addition, two versions of the legislation have proposed that appropriateness review be utilized as one factor in determining each State's overall capital expenditure limit for certificate of need reviews (and/or under section 1122 of the Social Security Act). Accordingly, the issuance of these regulations, which will allow planning agencies to gain experience with reviews of existing health services, is timely.

However, the pending cost containment bills reflect the variance in the interpretation of the concept of appropriateness review. Some proposals for cost containment legislation would greatly increase the impact of appropriateness reviews; one, for example, would require that the sanctions utilized in certificate of need programs be applied to existing institutional health services which have undergone appropriateness review and been found inappropriate. This same bill would also establish a moratorium on certain capital expenditures from which some exemptions (e.g., for meeting life/safety standards) would be permitted if the expenditures and the facilities which are proposing them have successfully undergone certificate of need and appropriateness reviews. Other bills would provide incentives for the closure of facilities found to be inappropriate; one would give the Secretary authority to make grants for retirement of the outstanding debt of institutions which had discontinued health services after a determination of inappropriateness, and another would provide for a reduction by 5 percent of the Federal reimbursement under Titles V, XVIII, and XIX of the Social Security Act to hospitals designated as having excess services. Since the future role of appropriateness reviews is indeterminate at this time, the Secretary has attempted in these regulations to provide for the establishment of a comprehensive review which will be feasible for the health planning agencies to undertake in the near future and will develop their capacity to perform progressively more sophisticated reviews.

It is therefore proposed to amend Title 42, Code of Federal Regulations, as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 9, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: May 8, 1978.

HALE CHAMPION,
Acting Secretary.

PART 122—HEALTH SYSTEMS AGENCIES

1. Section 122.304 of Part 122 of Title 42, proposed at 43 FR 11232, March 17, 1978, is amended by revising paragraph (a)(3) to read as follows:

§ 122.304 New institutional health services subject to review.

(a) • • •

(3) A change in the bed capacity of a health care facility or health maintenance organization which increased the total number of beds (or distributes beds among various categories, or relocates such beds from one physical facility or site to another) by more than 10 beds or more than 10 percent of total bed capacity as defined by the State, whichever is less, over a 2-year period.

• • • • • •

2. Section 122.308 of Part 122 of Title 42, proposed at 43 FR 11231, March 17, 1978, is amended by revising paragraph (a)(3) and by adding paragraph (a)(13) to read as follows:

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§ 122.308 Criteria for health systems agency review.

(a) • • •

(3) The need that the population served or to be served by such services has for the services to be offered, expanded, reduced, relocated, or eliminated.

• • • • • •

(13) The contribution of the proposed new institutional health service in meeting the health related needs of minorities, women, and handicapped individuals residing in the health service area in which the service will be provided.

3. Section 122.309 of Part 122 of Title 42, proposed at 43 FR 11235, March 17, 1978, is revised to read as follows:

§ 122.309 Inpatient facilities; required findings.

In the case of any proposed new institutional health service for the provision of health services to inpatients, a health systems agency shall not recommend that a State grant a certificate of need under its certificate of need program, or otherwise make a finding that such proposed new institutional health service is needed, unless:

(a) The health systems agency makes written findings as to:

(1) The efficiency and appropriateness of the use of existing inpatient facilities providing inpatient services similar to those proposed; and

(2) The capital and operating costs (and their potential impact on patient charges), efficiency, and appropriateness of the proposed new institutional health service; and

(b) The health systems agency makes each of the following findings in writing:

(1) That superior alternatives to such inpatient services in terms of cost, efficiency, and appropriateness do not exist and that the development of such alternatives is not practicable;

(2) That in the case of new construction, alternatives to new construction (e.g., modernization or sharing arrangements) have been considered and have been implemented to the maximum extent practicable;

(3) That patients will experience serious problems in terms of cost, availability, or accessibility, or such other problems as may be identified by the reviewing agency, in obtaining inpatient care of the type proposed in the absence of the proposed new service; and

(4) That in the case of a proposal for the addition of beds for the provision of skilled nursing or intermediate care, the relationship of the addition of the plans of agencies of the State responsible for providing and financing long-term care (including home health services) has been considered.

(Sec. 215, 58 Stat. 690 (42 U.S.C. 216); sec. 1532 of the Public Health Service Act, 88 Stat. 2251-53 (42 U.S.C. 300n-1).)

4. Part 122 of Title 42, is proposed to be amended by adding thereto a new Subpart F, to read as follows:

Subpart F—Health Systems Agency Reviews of Existing Institutional Health Services for Appropriateness

Sec.
122.501 Definitions.
122.502 Purpose and applicability.
122.503 Appropriateness review work program.
122.504 Adoption and public notice of review procedures and criteria.
122.505 Procedures for health systems agency review.
122.506 Exceptions to use of procedures.
122.507 Criteria for health systems agency review.
122.508 Required recommendations.

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); sec. 1513 of the Public Health Service Act, 88 Stat. 2235 (42 U.S.C. 300l-2); sec. 1532 of the Public Health Service Act, 88 Stat. 2251-53 (42 U.S.C. 300n-1).

Subpart F—Health Systems Agency Reviews of Existing Institutional Health Services for Appropriateness

§ 122.501 Definitions.

Terms used in this subpart shall have the meaning given them in Subparts A (Definitions) and D (Procedures and Criteria for Review of New Institutional Health Services) of this Part. In addition, as used in this subpart:

(a) The term "existing institutional health services" or "services" means institutional health services:

(1) Being offered in the health service area at the time of review for appropriateness, or

(2) Offered at any time in the 12 months prior to the review and also planned to be offered at any time in the 12 months following the review.

(b) A finding of "appropriateness" means a finding that a service meets the needs of a population, in accordance with the criteria developed and published under § 122.507.

(c) The term "areawide review" means the review of a specific institutional health service as delivered by all the institutions providing the service in the health service area, which culminates in recommendations regarding the appropriateness of that service over the entire health service area.

(d) The term "institution-specific review" means the review of a specific institutional health service as provided by each institution in the area providing the service which culminates in recommendations regarding the appropriateness of that service in each such institution in the area.

§ 122.502 Purpose and applicability.

Section 1513(g) of the Act requires each health systems agency to review on a periodic basis, but at least every 5 years, all institutional health services offered in its health service area and to make recommendations to the State Agency for each State in which any part of the health systems agency's health service area is located respecting the appropriateness in the area of such services (hereinafter referred to as an appropriateness review). Section 1532(a) of the Act requires that in performing its review functions under section 1513(g) of the Act or in conducting any other reviews of existing health services, each health systems agency shall follow procedures and apply criteria developed and published by the health systems agency in accordance with regulations of the Secretary. This subpart sets forth minimum procedures and criteria to be utilized by health systems agencies in conducting such reviews and the requirements respecting the assumption, conduct, and timing of the appropriateness review function by health systems agencies; requirements respecting the coordination with the State Agency and the Statewide Health Coordinating Council; and such administrative steps as are necessary for the effective performance of the appropriateness reviews.

NOTE.—Under 42 CFR 122.106(c), a health systems agency may not perform the appropriateness review function during its first year of conditional designation, and may not in any event perform such function during its period of conditional designation until such agency has established a health systems plan and annual implementation plan in accordance with sections 1513(b) (2) and (3) of the Act, and the Secretary has in writing authorized the agency to perform such function.

§ 122.503 Appropriateness review work program.

The work program submitted by each health systems agency in accordance with 42 CFR 122.104(a)(3) or (b)(9), whichever is applicable, shall with respect to the assumption and continuing performance of the appropriateness review function:

(a) Provide for the development of procedures and criteria to be applied in performance of appropriateness reviews, in consultation with the Statewide Health Coordinating Council and State Agency of each State in which any part of the health systems agency's health service area is located;

(b) Include an assurance that the health systems agency will abide by the decision of the State Agency with respect to the definitions of services, priorities among services, and the schedule for reviews of such services;

(c) Provide for the establishment of administrative procedures governing the transmittal of appropriateness review recommendations to the State Agency in accordance with procedural requirements established by the State Agency; and

(d) Provide for the development of plans for completing areawide appropriateness reviews of all existing institutional health services within 3 years of the date of the health systems agency's initial full designation and during each succeeding 5-year period. Review schedule priorities may be established, but such review priority setting shall not result in the exclusion from review of any existing institutional health service during any applicable time period.

§ 122.504 Adoption and public notice of review procedures and criteria.

The provisions of 42 CFR 122.305 apply to the adoption and public notice of review procedures and criteria under this subpart.

§ 122.505 Procedures for health systems agency review.

(a) The procedures adopted and utilized by a health systems agency conducting the reviews covered by this subpart shall include at least the following:

(1) Written notification to affected persons of the beginning of a review.

(2) Schedules for review which provide that no review shall, to the extent practicable, take longer than 180 days from the date of notification to affected persons made in accordance with paragraph (a)(1) of this section to the date of submission of the health systems agency's recommendations to the State Agency.

(3) Provision for persons subject to a review to submit to the health systems agency such information as the health systems agency may require concerning the subject of such review, in such form and manner and containing such information as the health systems agency shall prescribe and publish.

(4) Provision for written findings which state the basis for any findings made by the health systems agency.

(5) Notification of providers of health services and other persons subject to the health systems agency review of the status of the health systems agency's review of the institutional health services, findings made in the course of such review, and other appropriate information respecting such review.

(6) Provision for public hearings in the course of the health systems agency review if requested by persons directly affected by the review.

(7) Preparation and publication of regular reports by the health systems agency of the reviews being conducted (including a statement concerning the status of each such review), and of the reviews completed by the health systems agency (including a general statement of the findings made in the course of such reviews and the recommendations made to the State agency) since the publication of the last such report.

(8) Access by the general public to all written materials pertinent to any health systems agency review.

(b) Procedures adopted for reviews in accordance with paragraph (a) of this section may vary according to the type of health service being reviewed.

(c) The procedures adopted for reviews may provide that the requirements of subparagraphs (1), (3), and (6) of paragraph (a) of this section shall be deemed satisfied for any health service area within the State if the State Agency has provided for a corresponding procedure.

§ 1122.506 Exceptions to use of procedures.

A health systems agency may, with respect to any type or group of reviews, request from the Secretary an exception to the requirement that it utilize review procedures which meet the requirements of § 122.505. The requirements of 42 CFR 122.307 apply to such a request for an exception.

§ 122.507 Criteria for health systems agency review.

The provisions of 42 CFR 123.607 apply to the adoption and utilization of review criteria under this subpart.

§ 122.508 Required recommendations.

(a) After completing its review of an existing institutional health service a health systems agency shall make recommendations respecting the appropriateness of the service in its health service area to the State agency of each State in which all or any part of the health systems agency's health service area is located.

(b) A health systems agency may not recommend that a State agency find an existing institutional health service to be inappropriate unless the health systems agency has stated in writing that the service has not met one or more of the established criteria of the health systems agency and the ways in which the service failed to meet the criteria, including any that are beyond the control of the person(s) providing that service.

(c) A health systems agency, in an institution-specific review, may not recommend that an existing institutional health service provided by or through a health maintenance organization be found inappropriate solely because there is a health maintenance organization of the same type, as specified in section 1310(b) of the act, in the same health service area, or solely because the services being reviewed are not discussed in the applicable health systems plan, annual implementation plan, State health plan, or State medical facilities plan.

(d) In the case of an existing institutional health service provided by or through a health maintenance organization for which assistance is or may be provided under title XIII of the act, a health systems agency is an institution-specific review, shall not recommend that the service be found inappropriate.

(1) Unless the health systems agency determines that the service is:

(i) Not needed by the enrolled or reasonably anticipated new members of the health maintenance organization, or

(ii) Available from nonhealth maintenance organization providers in a reasonable and cost-effective manner which is consistent with the basic method of operation of the health maintenance organization, in accordance with § 123.607(a)(8)(ii), or

(2) Unless the health systems agency determines that the service is inappropriate under criteria based on factors which the Secretary has approved in accordance with § 123.607(c).

(e) In the case of an existing institutional health service which is provided by or through a health maintenance organization for which assistance is or may be provided under title XIII of the act and which consists of (or includes) an inpatient health care facility, the health systems agency in an institution-specific review, may recommend that such service be found inappropriate if, in addition to making one of the determinations set forth in paragraph (d) of this section, it determines that utilization of the facility by members of the health maintenance organization does not account for at least 75 percent of the annual inpatient days of the facility.

(f) When a health systems agency recommends to a State agency that a service be found inappropriate, the health systems agency shall, to the extent practicable, suggest to the State agency a plan for remedial action.

PART 123—STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

1. Section 123.404 of part 123 of title 42, proposed at 43 FR 11237, March 17, 1978, is amended by revising paragraph (a)(3) to read as follows:

§ 123.404 New institutional health services subject to review.

(a) • • •

(3) A change in bed capacity of a health care facility or health maintenance organization which increases the total number of beds (or distributes beds among various categories, or relocates such beds from one physical facility or site to another) by more than 10 beds or more than 10 percent of total bed capacity as defined by the

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State, whichever is less, over a 2-year period.

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2. Section 122.409 of part 123 of title 42, proposed at 43 FR 11240, March 17, 1978, is amended by revising paragraph (a)(3) and adding paragraph (a)(13) to read as follows:

§ 123.409 Criteria for State agency review.

(a) • • •

(3) The need that the population served or to be served by such services has for the services to be offered, expanded, reduced, relocated, or eliminated.

• • • • •

(13) the contribution of the proposed new institutional health service in meeting the health related needs of minorities, women, and handicapped individuals residing in the health service area in which the service will be provided.

3. Section 123.410 of part 123 of title 42, proposed at 43 FR 11240, March 17, 1978, is revised to read as follows:

§ 123.410 Inpatient facilities, required findings.

In the case of any proposed new institutional health service for the provision of health services to inpatients, a State agency shall not grant a certificate of need under its certificate of need program, or otherwise make a finding that such proposed new institutional health service is needed, unless:

(a) The State agency makes written findings as to:

(1) The efficiency and appropriateness of the use of existing inpatient facilities providing inpatient services similar to those proposed; and

(2) The capital and operating costs (and their potential impact on patient charges), efficiency, and appropriateness of the proposed new institutional health service; and

(b) The State agency makes each of the following findings in writing:

(1) That superior alternatives to such inpatient services in terms of cost, efficiency, and appropriateness do not exist and that the development of such alternatives is not practicable;

(2) That in the case of new construction, alternatives to new construction (e.g., modernization or sharing arrangements) have been considered and have been implemented to the maximum extent practicable;

(3) That patients will experience serious problems in terms of costs, availability, or accessibility, or such other problems as may be identified by the reviewing agency, in obtaining inpatient care of the type proposed in the absence of the proposed new service; and

(4) That in the case of a proposal for the addition of beds for the provision of skilled nursing or intermediate care the relationship of the addition to the plans of other agencies of the State responsible for providing and financing long-term care (including home health services) has been considered.

(Sec. 215, 58 Stat. 690 (42 U.S.C. 216); secs. 1523, 1532 of the Public Health Service Act, 88 Stat. 2246, 2251.)

4. Part 123 of Title 42, is proposed to be amended by adding thereto a new Subpart G, to read as follows:

Subpart G—State Agency Reviews of Existing Institutional Health Services for Appropriateness

Sec.
123.601 Definitions.
123.602 Purpose and applicability.
123.603 Appropriateness review work program.
123.604 Adoption and public notice of review procedures and criteria.
123.605 Procedures for State agency review.
123.606 Exceptions to use of procedures.
123.607 Criteria for State agency review.
123.608 Required findings.

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); sec. 1523 of the Public Health Service Act, 88 Stat. 2246 (42 U.S.C. 300m-2); sec. 1532 of the Public Health Service Act, 88 Stat. 2251-53 (42 U.S.C. 300n-1).

Subpart G—State Agency Reviews of Existing Institutional Health Services for Appropriateness

§ 123.601 Definitions.

Terms used in this subpart shall have the meaning given them in subparts A (definitions) and E (certificate of need and review of new institutional health services) of this part. In addition, as used in this subpart:

(a) The term "existing institutional health services" or "services" means institutional health services:

(1) Being offered in the State at the time of review for appropriateness, or

(2) Offered at any time in the 12 months prior to the review and also planned to be offered at any time in the 12 months following the review.

(b) A finding of "appropriateness" means a finding that the service meets the needs of a population in accordance with the criteria developed and published under § 123.607.

(c) The term "areawide review" means the review of a specific institutional health service as delivered by all the institutions providing the service in a health service area or State which culminates in findings regarding the appropriateness of that service over the entire health service area or State.

(d) The term "institution-specific review" means the review of a specific insititutional health service as provided by each institution in a health service area or State which culminates in findings and recommendations regarding the appropriateness of that service in each such institution.

§ 123.602 Purpose and applicability.

Section 1523(a)(6) of the act requires each State health planning and development agency to review on a periodic basis (but not less often than every 5 years) all institutional health services being offered in the State (hereinafter referred to as an appropriateness review) and, after consideration of the recommendations submitted by health systems agencies under section 1513(g) of the act and 42 CFR Part 122, Subpart F, to make public its findings as to the appropriateness of such services. Section 1523(b)(3) of the act requires the State agency to complete its findings as to the appropriateness of any existing insitutional health service within one year after the date a health systems agency has made its recommendation with respect to the appropriateness of the service under section 1513(g) of the act and 42 CFR Part 122, Subpart F. Section 1532(a) of the act requires that in performing its review functions under section 1523 of the act (which includes reviews conducted under section 1523(a)(6)), each State agency shall (except to the extent approved by the Secretary) follow procedures and apply criteria developed and published by the State agency in accordance with regulations of the Secretary. This subpart sets forth minimum procedures and criteria to be utilized by State agencies in conducting such reviews; requirements respecting the assumption, conduct, and timing of the appropriateness review function; requirements respecting the coordination with health systems agencies and statewide health coordinating councils and such administrative steps as are necessary for the effective performance of appropriateness reviews.

§ 123.603 Appropriateness review work program.

Each State agency must develop and submit to the Secretary a work program for the orderly assumption and/or continued performance of appropriateness reviews. This work program will be used in the Secretary's determination of the State agency's capability of assuming and performing the appropriateness review function in a satisfactory manner as required by sections 1521(b)(1) (B), (B)(2)(A), and (B)(4) of the act, and shall provide for:

(a) The development of the review procedures and criteria to be applied in the performance of appropriateness reviews, in consultation with the statewide health coordinating council and all the health systems agencies in the State, and the State agency(s) and statewide health coordinating council(s) of any contiguous State(s) where a health service area is shared by both States.

(b) The establishment of the definitions of services to be reviewed, priorities among services, and the schedule for reviews of such services, after consultation with the statewide health coordinating council and all the health systems agencies in the State, and the State agency(s) and statewide health coordinating council(s) of any contiguous States where a health service area is shared by both States. In establishment of these definitions, priorities, and schedules, the State agency must take into account the statutory time limits applicable to appropriateness reviews by health systems agencies.

(c) The establishment of requirements for submission by providers of data to be used in performance of appropriateness reviews to the State agency and to the health systems agencies, after consultation with the statewide health coordinating council and all the health systems agencies in the State, and the State agency(s) and statewide health coordinating council(s) of any contiguous States where a health service area is shared by both States. At a minimum, the State agency shall establish such data requirements for hospitals and nursing homes during the first and second years, respectively, of its reviews of appropriateness.

(d) Plans for initiating appropriateness reviews:

(1) No later than 6 months after the effective date of these regulations if: (i) The State agency is fully designated prior to the date of publication of these regulations, or (ii) the State agency is conditionally designated and the Secretary has determined that the State agency is capable of performing appropriateness reviews (see 42 CFR 123.105) prior to the effective date of these regulations; or

(2) In the case of a State agency not covered by subparagraph (1) of this paragraph, no later than 6 months after: (i) The date of full designation, or (ii) the date the Secretary determines that the State agency, although conditionally designated, is capable of performing appropriateness reviews, whichever is earlier.

(e) Plans for completing areawide reviews of all existing institutional health services within 5 years of the date of the State agency's initial full designation and during each succeeding 5-year period, but in any event within 1 year of receipt of an appropriate health system agency recommendation. Review schedule priorities may be established, but such review priority setting shall not result in the exclusion from review of any existing institutional health service during any applicable time period.

§ 123.604 Adoption and public notice of review procedures and criteria.

The provisions of 42 CFR 123.406 apply to the adoption and public notice of review procedures and criteria under this subpart.

§ 123.605 Procedures for State agency review.

(a) The procedures adopted and utilized by a State agency for conducting the reviews covered by this subpart shall include at least the following:

(1) Written notification to affected persons of the beginning of a review.

(2) Schedules for review which provide that no review shall, to the extent practicable, take longer than 180 days from the date of notification to affected persons made in accordance with paragraph (a)(1) of this section to the date of the written findings made in accordance with paragraph (a)(4) of this section.

(3) Provision for persons subject to a review to submit to the State agency such information as the State agency may require in accordance with their work program under § 123.603(c) concerning the subject of such review, in such form and manner and containing such information as the State agency shall prescribe and publish.

(4) Provisions for written findings which state the basis for any findings made by the State agency.

(5) Notification of providers of health services and other persons subject to the State agency review of the status of the State agency's review of the institutional health services, findings made in the course of such review, and other appropriate information respecting such review.

(6) Provision for (i) public hearings in the course of the State agency review if requested by persons directly affected by the review; and for (ii) public hearings, for good cause shown, respecting the State agency finding.

(7) Preparation and publication of regular reports by the State agency of the reviews being conducted (including a statement concerning the status of each such review), and of the reviews completed by the State agency (including a general statement of the findings made in the course of such reviews) since the publication of the last such report.

(8) Access by the general public to all written materials pertinent to any State agency review.

(9) Provision that if the State agency makes a finding regarding the appropriateness of an existing insitutional health service which is inconsistent with a recommendation made with respect thereto by the health systems agency making such recommendation pursuant to 42 CFR 122.508: (1) such finding (and the record upon which it was made) shall, upon request of the health systems agency, be reviewed, under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies, by an agency of the State (other than the State health planning and development agency) designated by the Governor, and (ii) the finding of the reviewing agency shall be considered the final finding of the State agency.

(10) If a State agency (or a reviewing agency, under paragraph (a)(9) of this section) makes a finding regarding an existing institutional health service which the State agency determines is not consistent with the goals of the applicable health systems plan (established under section 1513(b)(2) of the act) or the priorities of the applicable annual implementation plan (established under section 1513(b)(3) of the act, the State agency (or the reviewing agency, as appropriate) shall submit to the appropriate health systems agency a detailed statement of the reasons for the inconsistency.

(b) Procedures adopted for reviews in accordance with paragraph (a) of this section may vary according to the type of health service being reviewed.

(c) The procedures adopted for reviews may provide that the requirements of subparagraphs (1), (3), and (6)(i) of paragraph (a) of this section shall be deemed satisfied for any health service area within the State if the health systems agency has provided for a corresponding procedure.

§ 123.606 Exceptions to use of procedures.

A State agency may, with respect to any type or group of reviews, request from the Secretary an exception to the requirement that it utilize review procedures which meet the requirements of § 123.605. The requirements of 42 CFR 123.408 apply to such a request for an exception.

§ 123.607 Criteria for State agency review.

(a) The State agency shall adopt, and utilize as appropriate, specific criteria for conducting the reviews covered by this subpart. These criteria shall relate to availability, accessibility, acceptability, continuity, cost, and quality and shall include at least the general considerations listed below, but in the case of institution-specific reviews of health maintenance organizations for which assistance may be provided under title XIII, the considerations shall be limited to those set forth in subparagraph (8) of this paragraph.

(1) The relationship of the health services being reviewed to the applicable health systems plans and annual implementation plans, State health plan (or preliminary State health plan prior to adoption of the State health plan) and State medical facilities plan adopted pursuant to sections 1513(b)(2), 1513(b)(3), 1524(c)(2), and 1602(a), respectively, of the act.

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(2) The relationship of the services reviewed to the long-range development plan (if any) of the person providing such services.

(3) The need that the population served by such services has for such services.

(4) The availability of less costly or more effective alternative methods of providing such services.

(5) The relationship of the services reviewed to the existing health care system of the area in which such services are provided.

(6) The availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provi ion of the services reviewed and the availability of alternative uses of such resources for the provision of other health services.

(7) The special needs and circumstances of those entities which provide a substantial portion of their services or resources or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools, multidisciplinary clinics, and specialty centers.

(8) The special needs and circumstances of health maintenance organizations for which assistance is provided under title XIII of the act. In the case of an institution-specific review of a health maintenance organization, such needs and circumstances shall be limited to:

(i) The needs of enrolled members and reasonably anticipated new members of the health maintenance organization for the existing institutional health services provided by the organization.

(ii) The availability of the health services from nonhealth maintenance organization providers in a reasonable and cost-effective manner which is consistent with the basic method of operation of the health maintenance organization. In assessing the availability of these health services from nonhealth maintenance organization providers, the State agency shall consider only whether the services from these providers:

(A) Are available under a contract of at least 5 years duration with a nonhealth maintenance organization provider;

(B) Are available and conveniently accessible through physicians and other health professionals associated with the health maintenance organization. (For example—Whether physicians associated with the health maintenance organization have full staff privileges at a nonhealth maintenance organization hospital);

(C) Cost no more than when the services are provided by the health maintenance organization; and

(D) Are available in a manner which is administratively feasible to the health maintenance organization.

(iii) Any other factors which the State agency may propose and the Secretary may, in accordance with paragraph (c) of this section, find to be consistent with the purpose of title XIII of the act.

(9) The specials needs and circumstances of biomedical and behavorial research projects which are designed to meet a national need and for which local conditions offer special advantages.

(10) The contribution of the institutional health service in meeting the health related needs of minorities, women, and handicapped individuals residing in the health service area in which the service is provided.

(b) Criteria adopted for reviews in accordance with paragraph (a) of this section may vary according to the type of health service being reviewed and the purpose of the review. Furthermore, the criteria used in the review of a particular service need not address all six of the characteristics of appropriateness (availability, accessibility, acceptability, continuity, cost, and quality).

(c) Where a State agency proposes under paragraph (a)(8)(iii) of this section that it be permitted to base institution-specific reviews of health maintenance organizations on criteria which consider factors not set forth in paragraph (a)(8) of this section, it shall do so in a written request to the Secretary, specifying the reasons for the proposal. The Secretary will approve the request if he finds the additional factors to be consistent with the purpose of title XIII of the act. Unless the Secretary has approved the additional factors, the State agency shall base its review solely on the factors set forth in paragraph (a)(8) of this section.

§ 123.608 Required findings.

(a) A State agency shall, in accordance with the requirements of this subpart, make findings with respect to the appropriateness of existing institutional health services.

(b) A State agency may not make a finding that an existing institutional health service is inappropriate unless it has stated in writing that the service has not met one or more of the established criteria of the State agency and the ways in which the service failed to meet the criteria, including any that are beyond the control of the person(s) providing that service.

(c) A State agency, is an institution-specific review, may not make a finding that an existing institutional health service provided by or through a health maintenance organization is inappropriate soley because there is a health maintenance organization of the same type, as specified in section 1310(b) of the act, in the same health service area, or solely because the services being reviewed are not discussed in the applicable health systems plan, annual implementation plan, State health plan, or State medical facilities plan.

(d) In the case of an existing institutional health service provided by or through a health maintenance organization for which assistance is or may be provided under title XIII of the act, a State agency in an institution-specific review shall not make a finding that the service is inappropriate.

(1) Unless the State agency determines that the service is:

(i) Not needed by the enrolled or reasonably anticipated new members of the health maintenance organization; or

(ii) Available from nonhealth maintenance organization providers in a reasonable and cost-effective manner which is consistent with the basic method of operation of the health maintenance organization, in accordance with § 123.607(a)(8)(ii), or

(2) Unless the State agency determines that the service is inappropriate under criteria based on factors which the Secretary has approved in accordance with § 123.607(c).

(e) In the case of an institution-specific review of an existing institutional health service which is provided by or through a health maintenance organization for which assistance is or may be provided under title XIII of the act and which consists of (or includes) an inpatient health care facility, the State agency may make a finding that such service is inappropriate if, in addition to making one of the determinations set forth in paragraph (d) of this section, it determines that utilization of the facility by members of the health maintenance organization does not account for at least 75 percent of the annual inpatient days of the facility.

(f) Where a State agency has made a finding that a service is inappropriate, the State agency shall, at the same time, make recommendations for remedial action.

[FR Doc. 78-13326 Filed 5-15-78; 8:45 am]

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federal register

TUESDAY, MAY 16, 1978
PART VIII

OFFICE OF MANAGEMENT AND BUDGET

Rescissions and Deferrals

CUMULATIVE REPORT MAY 1978

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[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS, MAY 1978

This report is in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of May 1, 1978, of four rescissions contained in the fourteenth, fifteenth, and seventeenth special messages of fiscal year 1977 and four rescissions and 59 deferrals contained in the first seven special messages for fiscal year 1978. These messages were transmitted to the Congress on July 19 (both the fourteenth and fifteenth messages), July 26, September 23, October 3, November 10, December 15, 1977, January 27, February 23, and March 10, 1978.

RESCISSIONS (TABLE A AND ATTACHMENT A)

As of May 1, there were no rescissions pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of May 1, 1978, while Attachment A shows the history and status of each rescission proposed for fiscal year 1978. Also included are four rescission proposals totalling $643.4 million made in fiscal year 1977 but carried into fiscal year 1978 and a single fiscal year 1978 rescission for $2.7 million which has been reclassified as a deferral.

DEFERRALS (TABLE B AND ATTACHMENT B)

As of May 1, 1978, $3,678.5 million in 1978 budget authority was being deferred from obligation and another $2.3 million in 1978 obligations was being deferred from expenditure. Table B summarizes that status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during fiscal year 1978.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Friday, July 22, 1977 (Vol. 42, No. 141, Part V (both the fourteenth and fifteenth 1977 special messages)
Friday, July 29, 1977 (Vol. 42, No. 146, Part VIII) (seventeenth 1977 special message)
Thursday, September 29, 1977 (Vol. 42, No. 189, Part IX)
Friday, October 7, 1977 (Vol. 42, No. 195, Part IV)
Thursday, November 15, 1977 (Vol. 42, No. 220, Part IV)
Wednesday, December 21, 1977 (Vol. 42, No. 245, Part IV)
Wednesday, February 1, 1978 (Vol. 43, No. 22, Part VII)
Wednesday, March 1, 1978 (Vol. 43, No. 41, Part VII)
Thursday, March 16, 1978 (Vol. 43, No. 52, Part VII)

JAMES T. MCINTYRE, JR.,
Director.

TABLE A—STATUS OF 1978 RESCISSION PROPOSALS

	Amount (in millions of dollars) *
Rescissions proposed by the President	(a) $701.3
Reclassified (from R78-1 to D78-54) (b)	−2.7
Rescinded by the Congress (R77-17, R77-18, R77-19, R78-2, R78-3, and R78-4)	(c) −593.7
Rejected by the Congress (R77-20)	−105.0
Pending before the Congress	0

(a) This amount includes $643.4 million in rescission proposals for fiscal year 1977 which were still pending in fiscal year 1978.

(b) This rescission proposal, originally transmitted in conjunction with a request for transfer for the Department of Justice, was superseded by a deferral (D78-54) submitted to report the extension of this withholding pending final action on the transfer. The transfer was approved in the Supplemental Appropriations Act, 1978, and the deferred funds were made available.

(c) Of this amount, $463.4 million, for B-1 Bomber and SRAM missile procurement, was originally proposed for rescission on July 19, 1977. These funds were made available for obligation on October 5, 1977, following the 45-day Congressional consideration period. Subsequently, the funds were rescinded by the Supplemental Appropriations Act, 1978, (Pub. L. 95-240).

* Detail does not add to total due to rounding.

TABLE B—STATUS OF 1978 DEFERRALS

	Amount (in millions of dollars)
Deferrals proposed by the President	$4,902.6
Routine Executive releases (−$1,144.6 M) and adjustments (−$38.4 M) through May 1, 1977	−1,183.0
Overturned by the Congress	−38.8
Currently before the Congress	*$3,680.8

*This amount includes $2.3 million in outlays for a Department of the Treasury deferral, (D78-283).

PAGE 1 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1978 AS OF 05/03/78 03:45

AS OF MAY 1, 1978
AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT RESCINDED	AMOUNT CURRENTLY BEFORE THE CONGRESS	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT MADE AVAILABLE	DATE OF MESSAGE MO DA YR	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT							
International Security Assistance							
Military assistance							
BA	R78- 2	40,200a			40,200b	1 27 78	
DEPARTMENT OF DEFENSE-MILITARY							
Procurement							
Aircraft procurement, Air Force							
BA	R77-18	462,000			462,000c	7 19 77	c
Missile procurement, Air Force							
BA	R77-19	1,400			1,400c	7 19 77	c
BA	R77-20	105,000			105,000	7 26 77	10 14 77
DEPARTMENT OF JUSTICE							
Law Enforcement Assistance Administration							
Salaries and expenses							
BA	R78- 1e	2,663			2,663	9 23 77	d
DEPARTMENT OF STATE							
International Organizations and Conferences							
Contributions for int l peacekeeping activities							
BA	R78- 3	5,000			5,000b	1 27 78	
GENERAL SERVICES ADMINISTRATION							
Real Property Activities							
Federal buildings fund							
BA	R77-17	75,000			75,000f	7 19 77	

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AS OF MAY 1, 1978 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
OTHER INDEPENDENT AGENCIES							
Federal Home Loan Bank Board							
Federal Home Loan Bank Board revolving fund BA	R78- 4	10,055		1 27 78	10,055b		
TOTAL BA		701,323g			593,655	105,000	

FOOTNOTES

a. This amount was initially deferred (D78-47) in a special message transmitted to the Congress on December 15, 1977.

b. P.L. 95-254

c. These funds, originally proposed for rescission on July 19, 1977, were made available for obligation on October 5, 1977, following the 45-day Congressional consideration period. Subsequently, the funds were rescinded by the Supplemental Appropriations Act, 1978, (P.L. 95-240).

d. This rescission proposal was transmitted in conjunction with a request for transfer of the same funds within the Department of Justice (contained in the Supplemental Appropriations Act, 1978, P.L. 95-240). The proposal was superseded by a deferral (D78-54) submitted to report the extension of this withholding pending final action on the transfer. The President signed the Act on March 7, approving the transfer.

e. An opinion issued by the Comptroller General on October 28, 1977, holds that this proposal should have been classified as a deferral.

f. Public Law 95-186.

g. Of this amount $643,400,000 was proposed for rescission in FY 1977.

END OF REPORT

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-78
FUNDS APPROPRIATED TO THE PRESIDENT								
International Security Assistance								
Military assistance BA	D78-47	131,200		12 15 77			-40.200a	91,000
International military education and training BA	D78-48	2,000		12 15 77				2.000
Foreign military credit sales BA	D78-49	673,250		12 15 77	-575,370			97.880
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA		806,450			-575,370		-40.200	190.880
DEPARTMENT OF AGRICULTURE								
Foreign Agricultural Service								
Salaries & expenses (special foreign currency) SA	D78- 1	988		10 3 77				
SA	D78- 1A		52	1 27 78				1,040
Agricultural Stabilization & Conservation Service								
Commodity credit corporation BA	D78- 2	2,871		10 3 77	-2,871			
Forest Service								
Timber salvage sales BA	D78-59	4,500		3 10 78				4.500
Permanent appropriations, Expenses, brush disposal BA	D78- 3	31,312		10 3 77				
BA	D78- 3A		4,839	3 10 78				36.151
Permanent appropriations, Licenses programs BA	D78- 4	141		10 3 77				141

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-78
DEPARTMENT OF AGRICULTURE TOTAL BA		39,812	4,891		-2,871			41,832
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Local public works program BA	D78- 5	4,000		10 3 77	-4,000			
Financial and technical assistance BA	D78- 6	3,900		10 3 77				3,900
Economic development revolving fund BA	D78-51	123,647		1 27 78				123,647
National Oceanic and Atmospheric Administration								
Operations, research, and facilities BA	D78- 7	3,750		10 3 77	-3,750			
Promote and develop fishery products and research BA	D78- 8	5,429		10 3 77				
BA	D78- 8A		639	1 27 78				6,068
Fisheries loan fund BA	D78- 9	6,177		10 3 77	-723			5,454
Fishermen's guaranty fund BA	D78-10	716		10 3 77	-38			678
Maritime Administration								
Ship construction BA	D78-57	122,000		2 23 78				122,000
DEPARTMENT OF COMMERCE TOTAL BA		269,619	639		-8,511			261,747
DEPARTMENT OF DEFENSE-MILITARY								
Procurement								

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-78
Shipbuilding and conversion, Navy BA	D78-44	871,125		11 10 77				871,125
Military Construction								
Military construction, all services BA	D78-11	438,439		10 3 77	-110,285		1,383	329,537
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA		1,309,564			-110,285		1,383	1,200,662
DEPARTMENT OF DEFENSE-CIVIL								
The Panama Canal								
Canal Zone Government: Capital outlay BA	D78-52	309		1 27 78				309
Miscellaneous Accounts								
Wildlife conservation, etc., military reservations BA	D78-12	458		10 3 77	-12			446
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA		767			-12			755
DEPARTMENT OF ENERGY /b								
Departmental Operations								
Energy (Plenum fill experiment) BA	D79-31	1,500		10 3 77				
BA	D78-31A		800c	11 10 77				2,300
Energy (Clean boiler fuel from coal project) BA	D78-32	46,660		10 3 77				
BA	D78-32A		c	11 10 77				46,660
Energy (Molten salt breeder reactor project) BA	D78-36	1,500		10 3 77				
BA	D78-36A		c	11 10 77				1,500
Energy (10 MW solar thermal power plant) BA	D78-45	31,000		11 10 77	-31,000			

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-78
DEPARTMENT OF ENERGY /b								
TOTAL BA		80,660	800		-31,000			50,460
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Office of the Assistant Secretary for Health								
Scientific act. overseas (spec. foreign currency)								
BA	D78-53	3,497		1 27 78				3,497
Office of Education								
Higher and continuing education								
BA	D78-13	3,740		10 3 77				3,740
Social Security Administration								
Limitation on salaries and expenses								
BA	D78-14	13,865		10 3 77				
BA	D78-14A			d 1 27 78				13,865
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
TOTAL BA		21,102						21,102
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands								
BA	D78-15	31,200		10 3 77				
BA	D78-15A		1,980	2 23 78				33,180
Bureau of Outdoor Recreation								
Land and water conservation fund								
BA	D78-16	30,000		10 3 77				30,000
Geological Survey								
Payments from proceeds, sale of water								

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-78
BA	D78-17	34		10 3 77				34
Bureau of Mines								
Drainage of anthracite mines								
BA	D78-18	3,500		10 3 77				3,500
Office of Territorial Affairs								
Trust territory of the Pacific Islands								
BA	D78-19	12,000		10 3 77				12,000
DEPARTMENT OF THE INTERIOR								
TOTAL BA		76,734	1,980					78,714
DEPARTMENT OF JUSTICE								
Federal Prison System								
Buildings and facilities								
BA	D78-20	42,245		10 3 77				42,245
Law Enforcement Assistance Administration								
Salaries and expenses								
BA	D78-54	2,668		1 27 78	-2,668			
DEPARTMENT OF JUSTICE								
TOTAL BA		44,913			-2,668			42,245
DEPARTMENT OF LABOR								
Employment and Training Administration								
Advances to unemployment trust fund & other funds								
BA	D78-55	1,380,114		1 27 78	-300,000			1,080,114
DEPARTMENT OF LABOR								
TOTAL BA		1,360,114			-300,000			1,080,114

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE CHG /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-78
DEPARTMENT OF STATE								
Other								
Emergency refugee and migration assistance fund /e								
BA	D78-43	2,000		11 10 77				
BA	D78-43A		5,800	12 15 77	-6,800			1,000
DEPARTMENT OF STATE TOTAL BA		2,000	5,800		-6,800			1,000
DEPARTMENT OF TRANSPORTATION								
Coast Guard								
Acquisition, construction, and improvements								
BA	D78-21	13,031		10 3 77	-13,031	f		
Federal Aviation Administration								
Construction, Metropolitan Washington Airports								
BA	D78-22	1,010		10 3 77				1,010
Civil supersonic aircraft development termination								
BA	D78-23	134		10 3 77				
BA	D78-23A		14	1 27 78				148
Facilities & equip. (Airport & airway trust fund)								
BA	D78-24	220,650		10 3 77	-68,487			252,163
Federal Highway Administration								
Trust fund share of other highway programs								
BA	D78-25	74,080		10 3 77	-3,130			71,750
DEPARTMENT OF TRANSPORTATION TOTAL BA		409,705	14		-84,648			325,071

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE CHG /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-78
DEPARTMENT OF THE TREASURY								
Office of the Secretary								
Antirecession financial assistance fund								
BA	D78-26	8,184		10 3 77				
BA	D78-26A		2,425	11 10 77				
BA	D78-26B		100	12 15 77				
BA	D78-26C		439	1 27 78	-8,927			2,221
O	D78-50	3,406		12 15 77	-3,406			
O	D78-53	388		2 23 78	-388			
State and local government fiscal assistance fund								
BA	D78-27	45,996		10 3 77				
BA	D78-27A		23,905	11 10 77				
BA	D78-27B		11,831	12 15 77				
BA	D78-27C		729	1 27 78	-1,237			81,224
O	D78-28	391		10 3 77				
O	D78-28A		1,320g	12 15 77				
O	D78-28B		4,058	2 23 78	-3,961		435	2,253
Bureau of the Mint								
Construction of mint facilities								
BA	D78-29	5,730		10 3 77				5,730
DEPARTMENT OF THE TREASURY TOTAL BA		59,910	39,429		-10,164			89,175
TOTAL O		4,185	5,388		-7,755		435	2,253
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION /h								
Operating Expenses								
Gas cooled reactors								
BA	D78-30	15,000		10 3 77		-15,000j		
Plant and Capital Equipment								
Fusion material test facility								

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-78
	BA	D78-33	7,500		10 3 77		-7,500k		
Intense neutron source facility	BA	D78-34	11,300		10 3 77		-11,300m		
Intersecting storage ring accelerator	BA	D78-35	5,000		10 3 77		-5,000p		
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION /h TOTAL BA			38,800				-38,800		
GENERAL SERVICES ADMINISTRATION									
Property Management and Disposal Activities									
Rare silver dollar program	BA	D78-37	1,710		10 3 77				1,710
Federal Preparedness Agency									
State and local preparedness	BA	D78-38	80		10 3 77				80
GENERAL SERVICES ADMINISTRATION TOTAL BA			1,790						1,790
OTHER INDEPENDENT AGENCIES									
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims	BA	D78-39	10,738		10 3 77				10,738
Interstate Commerce Commission									
Payment of directed rail service	BA	D78-40	13,700		10 3 77				13,700
National Science Foundation									
Research and related activities	BA	D78-46	4,500		11 10 77	-4,500			

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-78
	BA	D78-56	6,900		1 27 78				6,900
United States Information Agency /q									
Salaries & expenses (special foreign currency)	BA	D78-41	1,153		10 3 77				
	BA	D78-41A		500	1 27 78				1,653
United States Railway Association									
Payment for purchase of Conrail securities	BA	D78-42	260,000		10 3 77				260,000
OTHER INDEPENDENT AGENCIES TOTAL BA			296,991	500		-4,500			292,991
TOTAL BA			4,838,931	54,053		-1,136,829	-38,800	-38,817	3,678,538
TOTAL O			4,185	5,388		-7,755		435	2,253

FOOTNOTES

a. This amount is included in a rescission proposal (R78-2) transmitted to the Congress on January 27, 1978.

b. See also Energy Research and Development Administration.

c. The supplementary report changed the deferral from the Energy Research and Development Administration to the Department of Energy.

d. The supplementary report changed the budget account title under which this deferral had been previously reported from the Limitation on construction to the Limitation on salaries and expenses.

e. This account, previously displayed in the Funds Appropriated to the President section of this report, was moved to the Department of State section to reflect a corresponding change in its location in the President's budget.

f. Impoundment resolution S. Res. 282 passed the Senate on November 1, 1977, rejecting this deferral. The funds, however,

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were made available for obligation on October 31, 1977.

g. This amount is net of a release of $40,000 that was made prior to the transmittal of this supplementary report.

h. See also Department of Energy.

j. Impoundment resolution H. Res. 851 passed the House on November 2, 1977, rejecting this deferral.

k. Impoundment resolution H. Res. 852 passed the House on November 2, 1977, rejecting this deferral.

m. Impoundment resolution H. Res. 853 passed the House on November 2, 1977, rejecting this deferral.

p. Impoundment resolution H. Res. 854 passed the House on November 2, 1977, rejecting this deferral.

q. On April 1, 1978, the functions and budgetary resources of the United States Information Agency were transferred to the International Communication Agency, pursuant to Reorganization Plan No. 2 of 1977 and Executive Order No. 12048 of March 27, 1978. A supplementary report reflecting this change will be transmitted to the Congress shortly.

END OF REPORT

[FR Doc. 78-13424 Filed 5-15-78; 8:45 am]

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federal register

TUESDAY, MAY 16, 1978
PART IX



DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

■

FOOD STAMP PROGRAM

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[3410-30]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This delineates procedures for making the July 1, 1978 adjustments in the Food Stamp Program maximum allowable income standards and basis of coupon issuance. Adjustments will be made for the 48 States and D.C., Alaska, Hawaii, Puerto Rico, the Virgin Islands, and Guam, appearing in Appendices A through F to Part 271.

Semi-annual adjustments in coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Acting Deputy Administrator, Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION: This rule lists (1) the Consumer Price Index (CPI) used to make the adjustments in the coupon allotments and the poverty lines, (2) the base month for which the coupon allotment adjustments will be computed, and (3) the appropriate income poverty guidelines.

Consumer Price Index. The Bureau of Labor Statistics (BLS) recently changed its method of computing the Consumer Price Index (CPI). Beginning in January 1978 and ending in June 1978, there will be three CPI's—(1) A new CPI for All Urban Consumers, covering about 80 percent of the noninstitutionalized, civilian U.S. population, (2) a revised CPI for Urban Wage Earners and Clerical Workers, covering about 40 percent of the population, and (3) the unrevised CPI for Urban Wage Earners and Clerical Workers, covering about 40 percent of the population. Beginning in July 1978, only the first two CPI's will be computed.

There are several technical differences between the three CPI's as shown in the BLS fact sheet which appears as Appendix G to this rule. As noted in that comparision, "[t]he CPI revision (1) updates the weights to be assigned to the expenditure groups; (2) updates the sample of items priced; (3) updates the sample of places where the pricing takes place; (4) modernizes the statistical methods employed in calculation of the CPI; and (5) provides for the first time an index which represents the experience of nearly all consumers in contrast to having only one index represent urban wage and clerical workers." [1]

USDA chose the revised CPI for Urban Wage Earners and Clerical Workers for use in the July 1, 1978 adjustments for the 48 States and D.C.[2] The Thrifty Food Plan computations based on the revised CPI are not currently available concerning the outlying areas so the unrevised CPI will continue to be used for Alaska, Hawaii, Puerto Rico, the Virgin Islands, and Guam. The revised CPI for Urban Wage Earners and Clerical Workers is basically a routine updating of the unrevised CPI for Urban Wage Earners and Clerical Workers.[3]

Base month for adjustment. Section 7(a) of the Food Stamp Act of 1964, as amended, requires that the value of the coupon allotment be adjusted to reflect changes in the prices of food published by the Bureau of Labor Statistics. The 1973 amendments to the Act provided for semi-annual adjustments beginning with the allotments of January 1974, which incorporated the changes in the prices of food through August 1973.

Subsequently, the Department made a decision to similarly adjust future coupon allotments. Thereafter, July adjustments were based upon the cost of the Thrifty Food Plan in February, and January adjustments on the cost of the Thrifty Food Plan in August. Generally, February Thrifty Food Plan data are available during late March, and August Thrifty Food Plan data are available in late September.

In preparing for the July 1978 allotment adjustments, the necessity of adjusting the data base to the revised CPI caused a delay in the computation of February 1978 Thrifty Food Plan costs. Those costs were available approximately a month later than usual, at about the same time that March Thrifty Food Plan data were made available. The Department will use the more recent data from March rather than the older February data for this update.[4]

Poverty line. Under the 1970-71 food stamp amendments (P.L. 91-671), income eligibility limits are set at dollar levels where the cost of a nutritionally adequate diet, as defined by the Thrifty Food Plan, equals 30 percent (0.3) of a household's net available income or at the poverty level for that size household, if that poverty level is higher than the dollar level.

In accord with current policy the USDA Poverty Guideline rather than the OMB Poverty Guideline will be used as the net income eligibility cut off for some of the smaller household sizes because the numbers obtained by dividing their coupon allotments by 0.3 are less than the poverty guideline for those household sizes. However, the USDA Poverty Guideline will be modified to avoid publication of two sets of regulations, the first set using the 1977 USDA Poverty Guideline ($262 for the one-person household and $344 for the two-person household in the 48 States and D.C.), and the second set using the 1978 USDA Poverty Guideline which will be higher but not available until early June. To provide State agencies with adequate lead time USDA could not delay publication of the new basis of issuance tables until June. At the same time USDA did not want to make the State agencies reprogram their computers in June to make the adjustment in the eligibility standards and purchase requirements for the one- and two-person households which would have been necessitated by the revision of the USDA Poverty Guideline. To avoid needlessly burdening State agencies, FNS has developed a variant of the USDA Poverty Guideline called the 1978 USDA Adjusted Poverty Guideline, which is updated through March 1978. The 1978 Adjusted Guideline is based on the April unrevised CPI for all items in 1977 and adjusted by the March revised CPI for all items in 1978. The 1978 USDA Adjusted Poverty Guideline for Hawaii and Guam is based on the March unrevised CPI for all items in 1977 and adjusted by the February revised CPI for all items in 1978. Data are not reported for March for Hawaii and Guam. The new maximum allowable monthly income standards for the 48 States and D.C. are $277 for the one-person household and $363 for the two-person household; for other areas see Appendices B through F.

The 1978 USDA Adjusted Poverty Guideline will likely be a few dollars lower for the one- and two-person households than the 1978 USDA Poverty Guideline which will be published in June or July for use in the Child Nutrition Programs. The 1978 Adjusted Poverty Guideline will only be employed until the Food Stamp Act of 1977 is implemented and represents a practical and efficient interim methodology. The Food Stamp Act of 1977 also requires that the Department adjust the income poverty guideline each year based on March data. Use of the Adjusted Guideline will not lower coupon allotment levels for participating food stamp households.

In view of the need for placing this notice into effect on July 1, 1978, and the lead time needed by State agencies for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to the notice.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps.)

Dated: May 12, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

APPENDIX G—FACTS ABOUT THE REVISED CONSUMER PRICE INDEX

[FR Doc. 78-13461 Filed 5-15-78; 8:45 am]

[1] BLS has routinely updated their CPI's over the years. The old index is based on the Consumer Expenditure Survey of 1960-61 and the new indices are based on the 1972-73 Consumer Expenditure Survey.

[2] For the 48 States and D.C. there was no difference in the cost of the Thrifty Food Plan for March 1978 between the unrevised CPI and the revised CPI.

[3] OMB, in a letter dated February 23, 1978, to the Speaker of the House and the President of the Senate proposing legislation to require all Federal agencies to use the All Urban Consumer CPI after July 1, when the unrevised CPI is no longer available, stated: "In the absence of legislation, the revised version of the current CPI for wage earners and clerical workers would apply."

[4] The decision to use the most up-to-date data is consistent with the intent of Congress. One purpose of the 1973 amendments was to base the food stamp allotments on more recent data than had been used in the past; and given the time frame for preparation of the changes, the interpretation that the July allotments should be based upon February data was reasonable. During this transitional phase from the Food Stamp Act of 1964 to implementation of the Food Stamp Act of 1977, which requires the use of March data for adjusting the cost of the Thrifty Food Plan for the July allotments, it is appropriate to use March data.

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The Consumer Price Index Revision-1978

U.S. Department of Labor
Bureau of Labor Statistics
1978

Facts About the Revised Consumer Price Index

The Consumer Price Index (CPI) is a statistical measure of change, over time, in the prices of goods and services in major expenditure groups—such as food, housing, apparel, transportation, and health and recreation—typically purchased by urban consumers. Essentially it measures the purchasing power of consumers' dollars by comparing what a sample "market" basket of goods and services costs today with what the same sample market basket cost at an earlier date.

The CPI revision (1) updates the weights assigned to the expenditure groups; (2) updates the sample of items priced; (3) updates the sample of places where the pricing takes place; (4) modernizes the statistical methods employed in calculation of the CPI; and (5) provides for the first time an index which represents the experience of nearly all consumers in contrast to having only one index representing urban wage and clerical workers. The results of the most recent revision are scheduled for publication in early 1978. The preceding comprehensive revision took place in 1963. The following fact sheet compares aspects of the revised and unrevised CPI.

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Comparison of old and new Consumer Price Index series

Item	Old index	New indexes
Title	Consumer Price Index for Urban Wage Earners and Clerical Workers (old series).	1. Consumer Price Index for All Urban Consumers (CPI-U). 2. Consumer Price Index for Urban Wage Earners and Clerical Workers (Revised series) (CPI-W).
Population covered	Urban wage and clerical worker families and single individuals living alone. At least one family member must have been employed for 37 weeks or more during the survey year in wage or clerical worker occupations. More than half of the total family income had to be earned from wage earner or clerical worker occupations. Excludes farm families, military personnel and persons in institutions.	CPI-U—All urban residents, including salaried workers, self-employed workers, retirees, and unemployed persons, as well as urban wage earners and clerical workers. No length of employment required and no criteria as to family income. CPI-W—Same as old index. Same for CPI-U and CPI-W.
Formula (modified Laspeyres)	$I_t = I_{t-1}\left[\frac{\Sigma(p_{i,t}q_s)(p_{i,t}/p_{i,t-1})}{\Sigma(p_{i,t}q_s)}\right]$	Same.
Standard reference base	1967=100. Selected series are also published on the 1957-59=100 base.	1967=100, for both the CPI-U and CPI-W.
Duration	Introduced January 1964, replaced with revised CPI series after December 1977. Available for 6-month overlap period.	CPI-U and CPI-W introduced as official indexes with the publication of the January 1978 index. Available indefinitely until next revision.
Expenditure weights reference period	Average annual expenditures of urban wage earner and clerical worker families and single persons, derived from the *1960-61* Consumer Expenditure Survey in 66 areas, adjusted for price change between the survey dates and *December 1963*, except for six cities added in 1966.	CPI-U—Average annual expenditures for all urban residents derived from the *1972-73* Consumer Expenditure Survey in 216 areas, adjusted for price change between the survey date and *December 1977*. CPI-W—Average annual expenditures for urban wage earners and clerical worker families and single persons from 1972-73 Consumer Expenditure Survey in 216 areas, adjusted for price change between the survey date and December 1977. (See BLS Report 448-1, 2, 3,; 455-1, 3.)
City coverage		
Geographic coverage	*56* urban areas; 50 metropolitan areas and cities selected to represent all urban places in the United States, with 2,500 inhabitants or more in 1960, Alaska, and Hawaii; six additional areas were added in 1966.	*85* urban areas selected to represent all urban places in the United States, with 2,500 inhabitants or more in 1970, including Alaska and Hawaii. (See table on page 51.
Pricing cycle	Prices of food, fuels, and a few other items collected every month in all cities. Prices of most other commodities and services collected monthly in the five largest cities and every *3 months* in the remaining cities. Pricing of foods done early in each month on 3 consecutive days.	Prices of food, fuels, and a few other items collected monthly in all cities. Prices of most other commodities and services collected monthly in the five largest cities and *bimonthly* in the remaining cities. Pricing of foods done throughout the month.
Published indexes	U.S. index and 5 largest metropolitan areas published monthly; 18 other large metropolitan areas published *quarterly*. Regional and city-size class indexes also published *quarterly* since 1967.	U.S. index and 5 largest metropolitan areas published monthly; 23 other large metropolitan areas published *bimonthly*. Regional and city-size class indexes published *bimonthly*. Regional indexes cross-classified by population size will be published *bimonthly*.

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Comparison of old and new Consumer Price Index series—Continued

Item	Old index	New indexes
Item sample		
Item coverage	All goods and services purchased for consumption, including both necessities and luxuries. Excludes personal life insurance, income and personal property taxes, but includes real estate taxes and sales and excise taxes.	Same.
Sample of items priced	Consumer Expenditure Survey (1960-61) data classified into 52 expenditure classes. About 400 items represented in U.S. index and in published city indexes. Certainty items priced in all published cities, other items in one or two sub-samples of other unpublished cities.	Consumer Expenditure Survey (1972-73) data classified into 68 expenditure classes. Expenditure classes contain approximately 265 classes or sets of items, called item strata, represented in the U.S. index and in published city indexes. Item strata further divided into a total of 382 lower level categories called entry-level items. Two samples of item strata priced in each published area except New York which has six samples; each unpublished area has one sample of item strata priced.
Basis of item selection	Probability proportionate to importance in family spending of group covered.	Same.
Reporter samples		
Outlet selection	Selected proportionate to type of ownership, type of outlet, geographic location within area, and in a few instances, sales volume.	A full probability sample of retail stores and other outlets was selected from the results of the Point-of-Purchase Survey. About 23,000 families across the country provided information on the specific retail stores in which they shopped. Data provided from the point-of-purchase survey were used to develop, for the first time, a consistent, objective, and probability-based sample of retail stores and service establishments for the CPI. A number of auxiliary sources used to construct an outlet sampling frame for categories not included in the Point-of-Purchase survey.
Location	In central cities and urbanized places of 56 metropolitan areas (50 areas in 1964 and 1965).	In 85 primary sampling units which include central cities, suburbs, and urbanized places within 25 miles of a selected county or selected group of contiguous counties. Prices also collected outside of the primary sampling units to represent out-of-town purchases.
Number of reporters	About 1,775 food stores. About 40,000 rental units. About 16,000 other reporters of all kinds. About 13,000 housing units for property taxes.	About 2,300 food store outlets. About 18,000 rental units. About 18,500 other reporters as determined from the Point of Purchase Survey. About 18,000 housing units for property taxes. About 3,000 reporters selected from a number of auxiliary sources.
Number of price quotations obtained	Over 1 million food prices per year. About 80,000 rent charges per year. About 362,000 quotations per year for items other than food and rent. About 13,000 property taxes per year.	About 650,000 food prices per year. Over 70,000 rent charges per year. About 350,000 quotations per year for items other than food, rent, and property taxes. About 28,000 property tax quotations per year.
Pricing technique	Personal visit or telephone call by BLS data collector, except for some items collected by mail or from some secondary source.	Same.

Comparison of old and new Consumer Price Index series—Continued

Item	Old Index	New indexes
Reporter Samples—Continued		
	Specification pricing, but agent is permitted to price deviations from specification under prescribed conditions.	Store-specific pricing. The data collector enters a store with exhaustive definition of a fairly broad category of goods and services called an entry level item and then proceeds systematically through successive stages to select items for pricing on the basis of sales information provided by the respondent at each stage. A specific-in-detail item is thus selected for pricing over time in the retail outlet. Data collector continues to collect price quotations for specific item or similar substitute item until it is no longer available.
Uses	Formulation and evaluation of economic policy measures.	Same.
	Escalator of income payments.	Same.
	Deflator of earnings to provide measures of real earnings.	Same.
	Measure of purchasing power of consumer dollar.	Same.

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PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: 48 States and District of Columbia

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for the 48 States and the District of Columbia appearing in appendix A to part 271 which were effective January 1, 1978. Semiannual adjustments in the coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1978

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION:

APPENDIX A—48 STATES AND DISTRICT OF COLUMBIA

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semiannually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in March 1978 has been made in the coupon allotments for all households.

Prior to the amendment to the act requiring semiannual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the food plan in the preceding December. With the enactment of the semiannual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semiannual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August. It is now possible to base this semiannual adjustment on more current data—the cost of the food plan for March. Therefore, the income standards and coupon allotments to become effective on July 1, 1978, are based on the cost of the Thrifty Food Plan in March 1978.

Households in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance, general assistance, or supplemental security income benefit, in any State (other than Alaska, Hawaii, Puerto Rico, Guam, or the Virgin Islands) or in the District of Columbia shall be as follows:

Household size:	Maximum allowable monthly income standards
1	[1]$277
2	[1]363
3	480
4	607
5	720
6	867
7	953
8	1,093
Each additional member	+140

[1] 48 States and District of Columbia.
[2] 1978 USDA adjusted poverty guideline.

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in the 48 States and the District of Columbia shall be:

MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—48 STATES AND DISTRICT OF COLUMBIA

	For a household of—							
	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—							
Monthly net income	$54	$100	$144	$182	$216	$260	$286	$328
	and the monthly purchase requirement is—							
$0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	15
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $159.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	42	50	52	53	54	55	56	57
$210 to $229.99	44	56	58	59	60	61	62	63
$230 to $249.99	44	62	64	65	66	67	68	69
$250 to $269.99	44	68	70	71	72	73	74	75
$270 to $289.99	44	74	76	77	78	79	80	81
$290 to $309.99		80	82	83	84	85	86	87
$310 to $329.99		80	88	89	90	91	92	93
$330 to $359.99		80	94	95	96	97	98	99
$360 to $389.99		80	103	104	105	106	107	108
$390 to $419.99			112	113	114	115	116	117
$420 to $449.99			121	122	123	124	125	126
$450 to $479.99			126	131	132	133	134	135
$480 to $509.99			126	140	141	142	143	144
$510 to $539.99				149	150	151	152	153
$540 to $569.99				158	159	160	161	162
$570 to $599.99				158	168	169	170	171
$600 to $629.99				158	177	178	179	180
$630 to $659.99					186	187	188	189
$660 to $689.99					188	196	197	198
$690 to $719.99					188	205	206	207
$720 to $749.99					188	214	215	216
$750 to $779.99						223	224	225
$780 to $809.99						228	233	234
$810 to $839.99						228	242	243
$840 to $869.99						228	250	252
$870 to $899.99							250	261
$900 to $929.99							250	270
$930 to $959.99							250	279
$960 to $989.99								288
$990 to $1,019.99								288
$1,020 to $1,049.99								288
$1,050 to $1,079.99								288
$1,080 to $1,109.99								288

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FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. *Value of the Total Allotment.* For each person in excess of eight, add $42 to the monthly coupon allotment for an eight-person household.

B. *Purchase Requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $989.99 or less per month.

2. For households with monthly incomes of $990 or more, use the following formula:

For each $30 worth of monthly income (or portion thereof) over $989.99 add $9 to the monthly purchase requirement for an eight-person household with an income of $989.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $38 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Economic Impact Statement has been prepared.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107

In view of the need for placing this notice into effect July 1, 1978, and the lead-time needed by the State agency for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps.)

Dated: May 12, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-13462 Filed 5-15-78; 8:45 am]

[3410-30]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: Alaska

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for Alaska appearing in Appendix B to Part 271 which were effective January 1, 1978. Semi-annual adjustments in coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION:

APPENDIX B—ALASKA

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in March 1978 has been made in the coupon allotment for all households.

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the food plan in the preceding December. With the enactment of the semi-annual adjustments, the law specified that the first adjustment be made in January 1974 to reflect changes in the food prices through August 1973. Similar procedures have been used for subsequent semi-annual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August. It is now possible to base this semi-annual adjustment on more current data—the cost of the food plan for March. Therefore, the income standards and coupon allotments set forth below are based on the allotment table adopted for the continental United States, adjusted for the cost of food in Alaska in March 1978.

Households in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance, general assistance, or supplemental security income benefit, in Alaska, shall be as follows:

Household size	Maximum allowable monthly income standards—Alaska
1	[1]$343
2	460
3	660
4	840
5	1,000
6	1,200
7	1,320
8	1,513
Each additional member	+193

[1] 1978 USDA adjusted poverty guideline.

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to sections 7(a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in Alaska shall be as follows:

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MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—ALASKA

Monthly net income	For a household of— 1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—							
	$76	$138	$198	$252	$300	$360	$396	$454
	And the monthly purchase requirement is—							
$0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	45	50	52	53	54	55	56	57
$210 to $229.99	51	56	58	59	60	61	62	63
$230 to $249.99	57	62	64	65	66	67	68	69
$250 to $269.99	62	68	70	71	72	73	74	75
$270 to $289.99	62	74	76	77	78	79	80	81
$290 to $309.99	62	80	82	83	84	85	86	87
$310 to $329.99	62	86	88	89	90	91	92	93
$330 to $359.99	62	92	94	95	96	97	98	99
$360 to $389.99		101	103	104	105	106	107	108
$390 to $419.99		110	112	113	114	115	116	117
$420 to $449.99		112	121	122	123	124	125	126
$450 to $479.99		112	130	131	132	133	134	135
$480 to $509.99			139	140	141	142	143	144
$510 to $539.99			148	149	150	151	152	153
$540 to $569.99			157	158	159	160	161	162
$570 to $599.99			166	167	168	169	170	171
$600 to $629.99			175	176	177	178	179	180
$630 to $659.99			176	185	186	187	188	189
$660 to $689.99			176	194	195	196	197	198
$690 to $719.99				203	204	205	206	207
$720 to $749.99				212	213	214	215	216
$750 to $779.99				221	222	223	224	225
$780 to $809.99				224	231	232	233	234
$810 to $839.99				224	240	241	242	243
$840 to $869.99				224	249	250	251	252
$870 to $899.99					258	259	260	261
$900 to $929.99					267	268	269	270
$930 to $959.99					268	277	278	279
$960 to $989.99					268	286	287	288
$990 to $1,019.99					268	295	296	297
$1,020 to $1,049.99						304	305	306
$1,050 to $1,079.99						313	314	315
$1,080 to $1,109.99						322	323	324
$1,110 to $1,139.99						324	332	333
$1,140 to $1,169.99						324	341	342
$1,170 to $1,199.99						324	350	351
$1,200 to $1,229.99						324	356	360
$1,230 to $1,259.99							356	369
$1,260 to $1,289.99							356	378
$1,290 to $1,319.99							356	387
$1,320 to $1,349.99								396
$1,350 to $1,379.99								405
$1,380 to $1,409.99								410
$1,410 to $1,439.99								410
$1,440 to $1,469.99								410
$1,470 to $1,499.99								410
$1,500 to $1,529.99								410

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. VALUE OF THE TOTAL ALLOTMENT

For each person in excess of eight, add $58 to the monthly coupon allotment for an eight-person household.

B. PURCHASE REQUIREMENT

1. Use the purchase requirement shown for the eight-person household for households with incomes of $1,379.99 or less per month.

2. For households with monthly incomes of $1,380 or more, use the following formula: For each $30 worth of monthly income (or portion thereof) over $1,379.99, add $9 to the monthly purchase requirement shown for the eight-person household with an income of $1,379.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $54 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

In view of the need for placing this notice into effect on July 1, 1978, and the lead-time needed by the State agency for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps.)

Dated: May 12, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-13463 Filed 5-15-78; 8:45 am]

[3410-30]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: Hawaii

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for Hawaii appearing in Appendix C to Part 271 which were effective January 1, 1978. Semi-annual adjustments in coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8289.

SUPPLEMENTARY INFORMATION:

APPENDIX C—HAWAII

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in March 1978 has been made in the coupon allotment for all households.

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the food plan in the preceding December. With the enactment of the semi-annual adjustments, the law specified that the first adjustment be made in January 1974 to reflect changes in the food prices through August 1973. Similar procedures have been used for subsequent semi-annual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August. It is now possible to base this semi-annual adjustment on more current data—the cost of the food plan for March. Therefore, the income standards and coupon allotments set forth below are based on the allotment table adopted for the continental United States, adjusted for the cost of food in Hawaii in March 1978.

Households in which all members are included in the federally-aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally-aided public assistance, general assistance, or supplemental security income benefit, in Hawaii, shall be as follows:

Household size	Maximum allowable monthly income standards—Hawaii
1	[1]$301
2	440
3	633
4	800
5	953
6	1,140
7	1,260
8	1,440
Each additional member	+180

[1] 1978 USDA Adjusted Poverty Guideline.

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in Hawaii shall be as follows:

MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—HAWAII

Monthly net income	For a household of— 1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—							
	$72	$132	$190	$240	$286	$342	$378	$432
	And the monthly purchase requirement is—							
$0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $59.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	45	50	52	53	54	55	56	57
$210 to $229.99	51	56	58	59	60	61	62	63
$230 to $249.99	57	62	64	65	66	67	68	69
$250 to $269.99	58	68	70	71	72	73	74	75
$270 to $289.99	58	74	76	77	78	79	80	81
$290 to $309.99	58	80	82	83	84	85	86	87
$310 to $329.99		86	88	89	90	91	92	93
$330 to $359.99		92	94	95	96	97	98	99
$360 to $389.99		101	103	104	105	106	107	108
$390 to $419.99		104	112	113	114	115	116	117
$420 to $449.99		104	121	122	123	124	125	126
$450 to $479.99			130	131	132	133	134	135
$480 to $509.99			139	140	141	142	143	144
$510 to $539.99			148	149	150	151	152	153
$540 to $569.99			157	158	159	160	161	162
$570 to $599.99			166	167	168	169	170	171
$600 to $629.99			168	176	177	178	179	180
$630 to $659.99			168	185	186	187	188	189
$660 to $689.99				194	195	196	197	198
$690 to $719.99				203	204	205	206	207
$720 to $749.99				212	213	214	215	216
$750 to $779.99				212	222	223	224	225
$780 to $809.99				212	231	232	233	234
$810 to $839.99					240	241	242	243
$840 to $869.99					249	250	251	252
$870 to $899.99					254	259	60	261
$900 to $929.99					254	268	269	270
$930 to $959.99					254	277	278	279
$960 to $989.99						286	287	288
$990 to $1,019.99						295	296	297
$1,020 to $1,049.99						304	305	306
$1,050 to $1,079.99						306	314	315
$1,080 to $1,109.99						306	323	324

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MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—HAWAII—Continued

Monthly net income	For a household of— 1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is— $72	$132	$190	$240	$286	$342	$378	$432
	And the monthly purchase requirement is—							
$1,110 to $1,139.99						306	332	333
$1,140 to $1,169.99						306	338	342
$1,170 to $1,199.99						338	338	351
$1,200 to $1,229.99						338	338	360
$1,230 to $1,259.99						338	338	369
$1,260 to $1,289.99						338	338	378
$1,290 to $1,319.99						338	338	387
$1,320 to $1,349.99						338	338	388
$1,350 to $1,379.99						338	338	388
$1,380 to $1,409.99						338	338	388
$1,410 to $1,439.99						338	338	388
$1,440 to $1,469.99						338	338	388

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. VALUE OF THE TOTAL ALLOTMENT

For each person in excess of eight, add $54 to the monthly coupon allotment for an eight-person household.

B. PURCHASE REQUIREMENT

1. Use the purchase requirement shown for the eight-person household for households with incomes of $1,319.99 or less per month.

2. For households with monthly incomes of $1,320 or more, use the following formula:

For each $30 worth of monthly income (or portion thereof) over $1,319.99 add $9 to the monthly purchase requirement shown for the eight-person household with an income of $1,319.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $50 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

In view of the need for placing this notice into effect on July 1, 1978, and the lead-time needed by the State agency for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps.)

Dated: May 12, 1978.

CAROL TUCKER FOREMEN,
Assistant Secretary.

[FR Doc. 78-13464 Filed 5-15-78; 8:45 am]

[3410-30]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: Puerto Rico

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for Puerto Rico appearing in Appendix D to Part 271 which were effective January 1, 1978. Semiannual adjustments in coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adquate diets.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION:

APPENDIX D—PUERTO RICO

Section 5(b) of the Food Stamp Act requires the establishment of special standards of eligibility and coupon allotment schedules, not to exceed those in the 50 States, which reflect the average per capita income and cost of obtaining a nutritionally adequate diet in Puerto Rico.

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semiannually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the thrifty food plan in March 1978 has been made in the coupon allotment for all except the one-person households. The cost of food did not increase enough for a change in the coupon allotment for the one-person household. Section 7(a) specifies that no such adjustment shall be made unless the increase in the coupon allotment is a minimum of $2.

Prior to the amendment to the Act requiring semiannual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the food plan in the preceding December. With the enactment of the semiannual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in the food prices through August 1973. Similar procedures have been used for subsequent semiannual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August. It is now possible to base this semiannual adjustment on more current data—the cost of the food plan for March. Therefore, the income standards and coupon allotments set forth below are based on the allotment table adopted for the continental United States, adjusted for the cost of food in Puerto Rico in March 1978.

Households in which all members are included in the federally aided public assistance or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance or general assistance, in Puerto Rico, shall be as follows:

Household size:	*Maximum allowable monthly income standards—Puerto Rico*
1	[1]$277
2	[1]363
3	480
4	607
5	730
6	867
7	953
8	1,093
Each additional member	+140

[1]1978 USDA adjusted poverty guideline.

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"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the food stamp program regulations.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which the State agency is authorizes to issue to any household certified as eligible to participate in the program and the amounts charged for the monthly coupon allotment in Puerto Rico shall be as follows:

MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—PUERTO RICO

Monthly net income	For a household of— 1 person	2 persons	3 perons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is— $54	$100	$144	$182	$216	$260	$288	$328
	And the monthly purchase requirement is—							
$0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	44	50	52	53	54	55	56	57
$210 to $229.99	44	56	58	59	60	61	62	63
$230 to $249.99	44	62	64	65	66	67	68	69
$250 to $269.99	44	68	70	71	72	73	74	75
$270 to $289.99		74	76	77	78	79	80	81
$290 to $309.99		80	82	83	84	85	86	87
$310 to $329.99		80	88	89	90	91	92	93
$330 to $359.99		80	94	95	96	97	98	99
$360 to $389.99		80	103	104	105	106	107	108
$390 to $419.99			112	113	114	115	116	117
$420 to $449.99			121	122	123	124	125	126
$450 to $479.99			126	131	132	133	134	135
$480 to $509.99			126	140	141	142	143	144
$510 to $539.99				149	150	151	152	153
$540 to $569.99				158	159	160	161	162
$570 to $599.99				158	168	169	170	171
$600 to $629.99				158	177	178	179	180
$630 to $659.99					186	187	188	189
$660 to $689.99					188	196	197	198
$690 to $719.99					188	205	206	207
$720 to $749.99					188	214	215	216
$750 to $779.99						223	224	225
$780 to $809.99						228	233	234
$810 to $839.99						228	242	243
$840 to $869.99						228	250	252
$870 to $899.99							250	261
$900 to $929.99							250	270
$930 to $959.99							250	279
$960 to $989.99								288
$990 to $1,019.99								2888
$1,020 to $1,049.99								288
$1,050 to $1,079.99								288
$1,080 to $1,109.99								288

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. VALUE OF THE TOTAL ALLOTMENT

For each person in excess of eight, add $42 to the monthly coupon allotment for an eight-person household.

B. PURCHASE REQUIREMENT

1. Use the purchase requirement shown for the eight-person household for households with incomes of $989.99 or less per month.

2. For households with monthly incomes of $990 or more, use the following formula: For each $30 worth of monthly income (or portion thereof) over $989.99, add $9 to the monthly purchase requirement for an eight-person household with an income of $989.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $38 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisible by 4. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has combined the economic impact statement for Puerto Rico with the economic impact statement for the 48 States and the District of Columbia, and certifies that an economic impact statement has been prepared. An economic impact statement is authorized under Executive Order 11821 and OMB Circular A-107.

In view of the need for placing this notice into effect on July 1, 1978, and the leadtime needed by the State agency for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps.)

Dated: May 12, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-13465 Filed 5-15-78; 8:45 am]

[3410-30]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: Virgin Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for the Virgin Islands appearing in Appendix E to Part 271 which were effective January 1, 1978. Semi-annual adjustments in coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8289.

SUPPLEMENTARY INFORMATION:

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APPENDIX E—VIRGIN ISLANDS

Section 5(b) of the Food Stamp Act requires the establishment of special standards of eligibility and coupon allotment schedules, not to exceed those in the fifty States, which reflect the average per capita income and cost of obtaining a nutritionally adequate diet in the Virgin Islands.

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in March 1978 has been made in the coupon allotment for all households.

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the food plan in the preceding December. With the enactment of the semi-annual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semi-annual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January allotment based on the cost of the food plan in the preceding August. It is now possible to base this semi-annual adjustment on more current data—the cost of the food plan for March. Therefore, the income standards and coupon allotments set forth below are based on the allotment table adopted for the continental United States adjusted for the cost of food in the Virgin Islands in March 1978.

Households in which all members are included in the federally-aided public assistance grant or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally-aided public assistance or general assistance, in the Virgin Islands, shall be as follows:

Household size	Maximum allowable monthly income standards—Virgin Islands
1	[1]$277
2	427
3	613
4	780
5	927
6	1,113
7	1,227
8	1,407
Each additional member	+180

[1]1978 USDA Adjusted Poverty Guideline.
"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act, as amended, (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in the Virgin Islands shall be as follows:

MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—VIRGIN ISLANDS

Monthly net income	For a household of— 1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—							
	$70	$128	$184	$2341	$278	$334	$368	$422
	And the monthly purchase requirement is—							
$0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.49	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	45	50	52	53	54	55	56	57
$210 to $229.99	51	56	58	59	60	61	62	63
$230 to $249.99	56	62	64	65	66	67	68	69
$250 to $269.99	56	68	70	71	72	73	74	75
$270 to $289.99	56	74	76	77	78	79	80	81
$290 to $309.99		80	82	83	84	85	86	87
$310 to $329.99		86	88	89	90	91	92	93
$330 to $359.99		92	94	95	96	97	98	99
$360 to $389.99		101	103	104	105	106	107	108
$390 to $419.99		102	112	113	114	115	116	117
$420 to $449.99		102	121	122	123	124	125	126
$450 to $479.99			130	131	132	133	134	135
$480 to $509.99			139	140	141	142	143	144
$510 to $539.99			148	149	150	151	152	153
$540 to $569.99			157	158	159	160	161	162
$570 to $599.99			162	167	168	169	170	171
$600 to $629.99			162	176	177	178	179	180
$630 to $659.99				185	186	187	188	189
$660 to $689.99				194	195	196	197	198
$690 to $719.99				203	204	205	206	207
$720 to $749.99				206	213	214	215	216
$750 to $779.99				206	222	223	224	225
$780 to $809.99				206	231	232	233	234
$810 to $839.99					240	241	242	243
$840 to $869.99					246	250	251	252
$870 to $899.99					246	259	260	261
$900 to $929.99					246	268	269	270
$930 to $959.99						277	278	279
$960 to $989.99						286	287	288

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MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—VIRGIN ISLANDS—Continued

Monthly net income	For a household of— 1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—							
	$70	$128	$184	$2341	$278	$334	$368	$422
	And the monthly purchase requirement is—							
$990 to $1,019.99						295	296	297
$1,020 to $1,049.99						298	305	306
$1,050 to $1,079.99						298	314	315
$1,080 to $1,109.99						298	323	324
$1,110 to $1,139.99						298	328	333
$1,140 to $1,169.99							328	342
$1,170 to $1,199.99							328	351
$1,200 to $1,229.99							328	360
$1,230 to $1,259.99								369
$1,260 to $1,289.99								378
$1,290 to $1,319.99								378
$1,320 to $1,349.99								378
$1,350 to $1,379.99								378
$1,380 to $1,409.99								378

For issuance to households of more than eight persons use the following formula:

A. VALUE OF THE TOTAL ALLOTMENT

For each person in excess of eight, add $54 to the monthly coupon allotment for an eight-person household.

B. PURCHASE REQUIREMENT

1. Use the purchase requirement shown for the eight-person household for households with incomes of $1,289.99 or less per month.

2. For households with monthly incomes of $1,290 or more, use the following formula:

For each $30 worth of monthly income (or portion thereof) over $1,289.99, add $9 to the monthly purchase requirement shown for the eight-person household with an income of $1,289.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $50 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

In view of the need for placing this notice into effect July 1, 1978, and the lead-time needed by the State agency for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps.)

Dated: May 12, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-13468 Filed 5-15-78; 8:45 am]

[3410-30]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: Guam

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for Guam appearing in Appendix F to Part 271 which were effective January 1, 1978. Semi-annual adjustments in coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION:

APPENDIX F—GUAM

Section 5(b) of the Food Stamp Act requires the establishment of special standards of eligibility and coupon allotment schedules, not to exceed those in the fifty States, which reflect the average per capita income and cost of obtaining a nutritionally adequate diet in Guam.

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in February 1978 has been made in the coupon allotment for all households. (Food price data for March is not available for Guam.)

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the food plan in the preceding December. With the enactment of the semi-annual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semi-annual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the prededing August. Based on prices provided for Guam, the Science and Education Administration estimated that the allotment table adopted for the continental United States, adjusted for the cost of food in Guam would be higher than in the fifty States. Thus, the income standards (except for the one-person household which is the same as Hawaii) and the coupon allotments set forth for Guam are the same as those which will become effective in Alaska on July 1, 1978.

Households in which all members are included in the federally-aided public assistance grant or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally-aided public assistance, general assistance, or supplemental security income benefit, in Guam shall be as follows:

Household size	Maximum allowable monthly income standards—Guam
1	[1]$301
2	460
3	660
4	840
5	1,000
6	1,200
7	1,320
8	1,513
Each additional member	+193

[1]1978 USDA adjusted poverty guideline.
"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in Guam shall be as follows:

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MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—GUAM

Monthly net income	For a household of—							
	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—							
	$76	$138	$198	$252	$300	$360	$396	$454
	And the monthly purchase requirement is—							
$0 to $19.90	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	45	50	52	53	54	55	56	57
$210 to $229.99	51	56	58	59	60	61	62	63
$230 to $249.99	57	62	64	65	66	67	68	69
$250 to $269.99	62	68	70	71	72	73	74	75
$270 to $289.99	62	74	76	77	78	79	80	81
$290 to $309.99	62	80	82	83	84	85	86	87
$310 to $329.99	.....	86	88	89	90	91	92	93
$330 to $359.99	.....	92	94	95	96	97	98	99
$360 to $389.99	.....	101	103	104	105	106	107	108
$390 to $419.99	.....	110	112	113	114	115	116	117
$420 to $449.99	.....	112	121	122	123	124	125	126
$450 to $479.99	.....	112	130	131	132	133	134	135
$480 to $509.99	.....	.....	139	140	141	142	143	144
$510 to $539.99	.....	.....	148	149	150	151	152	153
$540 to $569.99	.....	.....	157	158	159	160	161	162
$570 to $599.99	.....	.....	166	167	168	169	170	171
$600 to $629.99	.....	.....	175	176	177	178	179	180
$630 to $659.99	.....	.....	176	185	186	187	188	189
$660 to $889.99	.....	.....	176	194	195	196	197	198
$690 to $719.99	.....	.....	.....	203	204	205	206	207
$720 to $749.99	.....	.....	.....	212	213	214	215	216
$750 to $779.99	.....	.....	.....	221	222	223	224	225
$780 to $809.99	.....	.....	.....	224	231	232	233	234
$810 to $839.99	.....	.....	.....	224	240	241	242	243
$840 to $869.99	.....	.....	.....	224	249	250	251	252
$870 to $899.99	.....	.....	.....	.....	258	259	260	261
$900 to $929.99	.....	.....	.....	.....	267	268	269	270
$930 to $959.99	.....	.....	.....	.....	268	277	278	279
$960 to $989.99	.....	.....	.....	.....	268	286	287	288
$990 to $1,019.99	.....	.....	.....	.....	268	295	296	297
$1,020 to $1,049.99	.....	.....	.....	.....	.....	304	305	306
$1,050 to $1,079.99	.....	.....	.....	.....	.....	313	314	315
$1,080 to $1,109.99	.....	.....	.....	.....	.....	322	323	324
$1,110 to $1,139.99	.....	.....	.....	.....	.....	324	332	333
$1,140 to $1,169.99	.....	.....	.....	.....	.....	324	341	342
$1,170 to $1,199.99	.....	.....	.....	.....	.....	324	350	351
$1,200 to $1,229.99	.....	.....	.....	.....	.....	.....	356	360
$1,230 to $1,259.99	.....	.....	.....	.....	.....	.....	356	369
$1,260 to $1,289.99	.....	.....	.....	.....	.....	.....	356	378
$1,290 to $1,319.99	.....	.....	.....	.....	.....	.....	356	387
$1,320 to $1,349.99	.....	.....	.....	.....	.....	.....	356	396
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FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. VALUE OF THE TOTAL ALLOTMENT

For each person in excess of eight, add $58 to the monthly coupon allotment for an eight-person household.

B. PURCHASE REQUIREMENT

1. Use the purchase requirement shown for the eight-person household for households with incomes of $1,379.99 or less per month.

2. For households with monthly incomes of $1,380 or more, use the following formula:

For each $30 worth of monthly income (or portion thereof) over $1,379.99, add $9 to the monthly purchase requirement shown for the eight-person household with an income of $1,379.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $54 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

In view of the need for placing this notice into effect on July 1, 1978, and the lead-time needed by the State agency for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance, Programs, No. 10.551, Food Stamps.)

Dated: May 12, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-13467 Filed 5-15-78; 8:45 am]

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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
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	HEW/HSA			HEW/HSA
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This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last listing: May 15, 1978]

S. 2220 ..... Pub. L. 95–277
To authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board. (May 12, 1978; 92 Stat. 236) Price: $.50.

S. 917 ..... Pub. L. 95–278
To provide for conveyance of certain lands adjacent to the Grand Ranch, Grass Valley, Nevada to the University of Nevada. (May 12, 1978; 92 Stat. 237) Price: $.50.

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[3195-01]

Title 3—The President

PROCLAMATION 4571

Armed Forces Day, 1978

By the President of the United States of America

A Proclamation

The men and women of the Army, Navy, Air Force, Marine Corps and Coast Guard serve their country with pride and dignity. Each day we enjoy peace is a reminder of their important role.

It is with equal pride that we Americans set aside one day each year to pay tribute to these patriotic volunteers, stationed throughout the world.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States and Commander-in-Chief of the Armed Forces of the United States, continuing the precedent of my six immediate predecessors in this Office. do hereby proclaim the third Saturday of each May as Armed Forces Day.

I direct the Secretary of Defense on behalf of the Army, the Navy, the Air Force, and the Marine Corps, and the Secretary of Transportation on behalf of the Coast Guard, to plan for appropriate observances each year, with the Secretary of Defense responsible for soliciting the participation and cooperation of civil authorities and private citizens.

I invite the Governors of the States, the Commonwealth of Puerto Rico, and other areas subject to the jurisdiction of the United States, to provide for the observance of Armed Forces Day within their jurisdiction each year in an appropriate manner designed to increase public understanding and appreciation of the Armed Forces of the United States.

I also invite national and local veterans, civic and other organizations to join in the observance of Armed Forces Day each year.

I call upon my fellow Americans not only to display the flag of the United States at their homes on Armed Forces Day, but also to learn about our system of defense, and about the men and women who sustain it, by attending and participating in the local observances of the day.

Proclamation 4492 of March 22, 1977, is hereby superseded.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of May, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc. 78-13545 Filed 5-15-78; 4:15 pm]

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[3195-01]

Executive Order 12060 • **May 15, 1978**

Relating to Certain Positions in Levels IV and V of the Executive Schedule

By virtue of the authority vested in me by Section 5317 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Section 1 of Executive Order No. 11861, as amended, placing certain positions in level IV of the Executive Schedule, is further amended by inserting in numerical sequence "(6) Assistant Attorney General, United States Attorneys and Trial Advocacy, Department of Justice." and by deleting "Counselor to the Secretary for Congressional Affairs" in subsection (10) and inserting in lieu thereof, "Deputy Under Secretary for Regional Affairs".

SEC. 2. Section 2 of Executive Order No. 11861, as amended, placing certain positions in level V of the Executive Schedule, is further amended by deleting "(13) Executive Director, Federal Personnel Management Systems Study, United States Civil Service Commission.".

SEC. 3. Executive Order No. 11189 of November 23, 1964, Executive Order No. 11195 of January 30, 1965, and Executive Order No. 11995 of June 8, 1977 are revoked.

Jimmy Carter

THE WHITE HOUSE,
May 15, 1978.

[FR Doc. 78-13574 Filed 5-16-78; 10:14 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-05]

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 1]

PART 1435—SUGAR

Subpart—Price Support Loan Program for 1977 Crop Sugarbeets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The price support loan regulations are hereby amended to (1) change the designated 1977 crop harvesting period for the Puerto Rico sugar producing area; (2) clarify provisions on the storage space that may be used for eligible collateral to be placed and maintained under loan; (3) increase the 1977 loan rate for refined beet sugar; and (4) specify a retention period for records used by processors to support loan collateral eligibility, quantity, and quality. The definition of "1977 crop" is amended to designate the sugarcane harvested in Puerto Rico during the calendar year 1977 as the 1977 crop. An entire storage facility need not be solely for a single processor's use if it is safe and has sufficient space committed for his loan quantity. The loan rate for refined beet sugar is increased from 14.24 cents per pound to 15.57 cents per pound. Records required by this subpart must be retained by processors for not less than 3 years.

The intended effect of this action is to increase the loan rate for refined beet sugar.

EFFECTIVE DATE: May 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert R. Stansberry, Jr., ASCS, 202-447-7561 or 202-447-3517, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On November 11, 1977, a final rule was published in the FEDERAL REGISTER (42 FR 58734) implementing a program, effective as of November 8, 1977, to support prices in the marketplace for producers of 1977 crop sugarbeets and sugarcane through loans made to sugar processors. The loan program was designed to support sugar prices to producers under section 201 of the Agricultural Act of 1949, as amended by section 902 of the Food and Agriculture Act of 1977. On December 28, 1977 (42 FR 64677) the regulations for the conduct of the price support payment program were amended to define the "1977 crop" of sugarcane for Puerto Rico as that harvested during calendar year 1977. Since the combined objective of the price support payment program and the price support loan program is to support the price of sugarbeets and sugarcane in the marketplace for the 1977 crop, it is necessary that definition of the 1977 crop be the same under both programs for all producing areas.

According to information supplied to the Department, some domestic processors of sugar crops, who are otherwise eligible,will be severely limited as to the quantities they can place under loan unless they can rent only such portions of available storage as they need and unless their production can be therein commingled with that of other processors. It is the intent of the Department to permit such commingled production, if it is otherwise eligible, to be placed under loan since the economical utilization of available storage space increases the availability of price support benefits to producers.

Section 1435.19 of this part requires beet sugar processors, as a condition of loan eligibility, to pay eligible producers not less than $22.84 per ton of average quality sugarbeets. Most purchase contracts between beet processors and producers establish a scale of prices per ton of beets based upon the relationship between the level of sucrose in the beets and the net selling price received for the sugar. This relationship indicates that processors need, on average, to net 14.24 cents per pound of refined beet sugar to be able to pay producers $22.84 per ton. The net selling price is determined by deducting from the gross selling price all expenses properly chargeable to the marketing of sugar. Included in the properly chargeable expenses are insurance, taxes, advertising, sales promotion and salaries, storage warehousing, handling, and other related costs which are incurred by a processor regardless of the disposition of a loan. These costs averaged 0.57 cent per pound in 1975, 0.64 cent in 1976 and are estimated to be 0.72 cent for the 1977 crop. Only by increasing the 1977 crop loan rate for refined beet sugar by 0.72 cent per pound can a net selling price of 14.24 cents per pound, which is necessary for payment to sugarbeet producers of the minimum 52.5 percent of parity required by law ($22.84 per ton of average quality sugarbeets), be ensured.

While increasing the refined beet sugar loan rate by more than 0.72 cent per pound could result in price support for some beet producers at more than 52.5 percent of parity while cane producers remain at 52.5 percent on average, experience with the 14.24-cent per pound rate makes it likely that failure to do so will contribute toward low refined cane sugar prices and, consequently, low raw sugar prices. Major buyers of beet sugar have been able to buy at ceiling prices which generally reflect the loan rate plus 2.00 to 2.25 cents per pound total marketing expense. Such arrangements tend to force cane refiners to sell at the same price in order to remain competitive; and at such prices for refined cane sugar, raw sugar processors and cane producers will not realize the minimum 13.5-cent support price.

It is essential, therefore, to establish a representative relationship between refined beet sugar net selling prices (NSP) and raw sugar prices, and to further adjust the refined beet sugar loan rate accordingly. It is believed that a proper long-term ratio can be established by using the actual average relationship which existed during the 15-year period 1962 through 1976. This indicates that the net selling price for refined beet sugar should be 110 percent of the price for raw cane sugar.

Use of the indicated relationship between the raw sugar support price of 13.50 cents and the net selling price for beet processors gives a beet sugar loan rate of 14.85 cents (13.50 × 1.10) which, when increased by the 0.72 cent necessary to achieve the proper support level to producers, results in the herein established beet sugar loan rate of 15.57 cents per pound for the 1977 crop.

No specific record maintenance period had previously been established

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for processor records. A 3-year period is felt to be reasonable to processors and adequate to protect the interests of CCC.

A regulatory analysis which describes the impact of this amendment has been prepared in accordance with Executive Order 12044, dated March 23, 1978. Copies are available by contacting the Office of the Director of Economics, Policy Analysis and Budget, Room 102, Administration Building, USDA, Washington, D.C. 20250.

Accordingly, 7 CFR Part 1435 is amended as follows:

1. Section 1435.17 is amended by changing the harvesting period designation for Puerto Rico in paragraph (a) to read as follows:

§ 1435.17 Definitions.

(a) "1977 crop" • • •

Sugar-Producing Area	Harvesting Period
• • • • •	
Puerto Rico	Calendar Year 1977
• • • • •	

2. Section 1435.18 is amended by revising that portion of the third sentence immediately preceding the proviso to read as follows:

§ 1435.18 Level and method of support, and loan rate.

• • • Loan rates for the 1977 crop shall be 15.57 cents per pound for refined beet sugar, and 13.50 cents per pound for cane sugar, raw value, including the cane sugar, raw value, equivalent contained in cane syrup and edible molasses: • • •

3. Section 1435.19 is amended by revising paragraph (d) to read as follows:

§ 1435.19 Eligibility requirements.

• • • • • •

(d) Eligible storage shall consist of a storage structure or space which is determined by the State committee to be committed to the storage of such quantity of the processor's eligible sugar as is offered for loan or maintained under loan and which is safe for storage of the product.

4. Section 1435.24 is amended by adding the following sentence to the end of the text in paragraph (f) to read as follows:

§ 1435.24 Miscellaneous provisions.

• • • • • •

(f) *Records and inspection thereof.* • • •

Such books, records, accounts and other written data shall be retained by the processor for not less than 3 years.

• • • • • •

NOTE.—It is hereby certified that a regulatory analysis of this action has been prepared in accordance with Executive Order 12044.

Signed at Washington, D.C. on May 5, 1978.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-13352 Filed 5-16-78; 8:45 am]

[6210-01]

Title 12—Banks & Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. B and Z; Docket No. R-0154]

PART 202—EQUAL CREDIT OPPORTUNITY

Amendment to Procedures for Issuing Official Staff Interpretations; Correction

MAY 12, 1978.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction.

SUMMARY: The correction document appearing in FR Doc. 78-12402 on page 19644 of the issue for May 8, 1978, is being corrected due to an error in the Part number and heading. "PART 226—TRUTH IN LENDING", should have read, "PART 202—EQUAL CREDIT OPPORTUNITY", and "§ 226.1(d)(2)(1)" should have read, "§ 202.1(d)(2)(i)."

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2761.

In FR Doc. 78-11758 appearing at page 18540 of the issue for Monday, May 1, 1978, § 202.1(d)(2)(i) should have read,

"(2)(i) Official staff interpretations will be issued at the discretion of designated officials. No such interpretation will be issued approving creditors' forms or statements. Any request for an official staff interpretation of this Part must be in writing and addressed to the Director of the Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request must contain a complete statement of all relevant facts concerning the credit transaction or arrangement and must include copies of all pertinent documents."

Board of Governors of the Federal Reserve System, May 11, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13419 Filed 5-16-78; 8:45 am]

[6210-01]

[Reg. Z; Docket No. R-0159]

PART 226—TRUTH IN LENDING

Supplement VI

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This supplement to Regulation Z prescribes the criteria and procedures under which a State may apply for an exemption from the requirements of Chapter 5 (Consumer Leases) of the Truth in Lending Act (the Act) or for a determination that a State law is not inconsistent with or preempted by the consumer leasing provisions of Truth in Lending and Regulation Z. The Board has issued this supplement to provide procedures and criteria under which it will grant exemptions under the Act.

EFFECTIVE DATE: May 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2761.

SUPPLEMENTARY INFORMATION: (1) Section 186(b) of Chapter 5 of the Truth in Lending Act authorizes the Board to grant exemptions from Chapter 5 to States, if the Board determines that the State law imposes requirements substantially similar to those of Chapter 5 or that the State law provides greater protection and benefit to consumers than is provided therein. In addition, the Board must determine that there is adequate provision for enforcement of the State law. Section I of the Supplement sets forth the criteria and procedures under which a State may secure such an exemption.

Section 186(a) authorizes the Board to make determinations whether a State law is inconsistent with or preempted by Chapter 5 of the Federal law in any respect. The Board is prohibited from determining that a State law is inconsistent with any provision of Chapter 5 when the State law provides greater protection and benefit to consumers than does Chapter 5. Section II of the Supplement prescribes the criteria and procedures under which a State may secure such a determination.

(2) The provisions of 5 U.S.C. § 553, relating to notice, public participation and deferred effective dates have not been followed in connection with the adoption of this rule because it relates to agency procedures.

(3) Pursuant to the authority granted in 15 U.S.C. § 1604 (1968), the Board hereby files the following Supplement VI as part of the original document, and it will not be carried in 12 CFR Part 226, effective May 17, 1978.

SUPPLEMENT VI TO REGULATION Z

TRUTH IN LENDING

(SECTIONS 226.12 & 226.6(a)(3)—SUPPLEMENT)

SECTION I—EXEMPTIONS

Procedures and criteria under which any State may apply for exemption from the provisions of Chapter 5 of the Truth in Lending Act pursuant to paragraph (a) of § 226.12.

(a) *Application.* Any State may make application to the Board, pursuant to the terms of Section I of this supplement and the Board's Rules of Procedure (12 CFR 262), for a determination that under the laws of that State,[1] consumer lease transactions, as provided in section 181(1) of the Act and § 226.2(mm) of this Part, within that State are subject to requirements which are substantially similar to those imposed under Chapter 5 of the Act[2] or which provide greater protection and benefit to lessees than those provided under Chapter 5, and that there is adequate provision for enforcement of such requirements. Such application shall be made by letter addressed to the Board signed by the Governor, the Attorney General, or any official of the State having responsibilities under the State laws which are applicable to the relevant class of transactions.

(b) *Supporting documents.* The application shall be accompanied by

(1) A copy of the full text of the laws of the State which are claimed by the applicant to impose requirements substantially similar to those imposed under Chapter 5 or to provide greater protection and benefit to lessees than does Chapter 5 with respect to consumer lease transactions as defined in § 226.2(mm) of this Part.

(2) A comparison of each requirement of State law with the corresponding requirement of Chapter 5, together with reasons to support the claim that the requirements of State law are substantially similar to or provide greater protection and benefit to lessees than requirements of Chapter 5 with respect to the class of consumer lease transactions. It shall also demonstrate that any differences are not inconsistent with and do not result in a diminution in the protection and benefit afforded lessees under Chapter 5 and state that there are no other State laws which, due to their relation to the State law under consideration, should be considered by the Board in making its determination.

[1]Any reference to State law in Supplement VI includes a reference to any regulations which implement State law and formal interpretations thereof by a court of competent jurisdiction or a duly authorized agency of that State.

[2]Any reference in Supplement VI to Chapter 5 of the Act or any section thereof includes a reference to the implementing provisions of this Part and the Board's formal interpretations thereof.

(3) A copy of the full text of the laws of the State which provide for enforcement of the State laws referred to in subparagraph (1) of this paragraph.

(4) A comparison of the provisions of State law with the provisions of Sections 108, 112, 130, 131, 183(a), 183(b), 185(a) and 185(c) of the Act, together with reasons to support the claim that such State laws provide for

(i) Administrative enforcement of the State laws referred to in subparagraph (1) of this paragraph which is equivalent to the enforcement provided under Section 108 of the Act;

(ii) Criminal liability for willful and knowing violation of the State law with penalties substantially similar to those prescribed under Section 112 of the Act, except that more severe penalties may be provided;

(iii) Civil liability for failure to comply with the requirements of the State law, including class action liability, which is substantially similar to that provided under Sections 130, 131 185(b) except that more severe penalties may be provided;

(iv) In leases where the lessee's liability at the end of the lease term is based on the estimated value of the leased property, a limitation on the lessee's liability at the end of the least term substantially similar to that provided by paragraph (a) of Section 183 of the Act, except that a stricter limitation may be provided;

(v) A provision prescribing that all penalties and other charges for delinquency, default or early termination specified in the lease must be reasonable substantially similar to that provided in paragraph (b) of Section 183 of the Act, except that a stricter provision may be provided.

(vi) A statute of limitations that prescribes a period in which to institute civil actions of substantially similar duration as that provided under paragraph (c) of Section 185 of the Act, except that a longer period may be provided.

(5) A statement identifying the office designated or to be designated to administer the State laws referred to in subparagraph (1) of this paragraph, together with complete information regarding the fiscal arrangements for administrative enforcement (including the amount of funds available or to be provided), the number and qualifications of personnel engaged therein, and a description of the procedures under which such State laws are to be administratively enforced, including administrative enforcement with respect to Federally-chartered lessors.[3] The foregoing statement should include reasons to support the claim that there is adequate provision for enforcement of such State laws.

(c) *Criteria for Determination.* The Board will consider the following criteria along with any other relevant information in making a determination whether the laws of a State impose requirements substantially similar to or provide greater protection and benefit to lessees than under Chapter 5, and whether there is adequate provision for enforcement of such laws:

(1) In order for provisions of State law to be substantially similar to or provide greater protection and benefit to lessees than the provision of Chapter 5, the provisions of State law[4] shall require that:

(i) Definitions and rules of construction import the same meaning and have the same application as those prescribed under § 226.2 of this Part;

(ii) Lessors make all of the applicable disclosures required by this Part and within the same (or more stringent) time periods as are prescribed by this Part;

(iii) Lessors abide by obligations substantially similar to those prescribed by Chapter 5, under conditions substantially similar to (or more stringent than those prescribed in Chapter 5;

(iv) Lessors abide by the same (or more stringent) prohibitions as are provided by Chapter 5;

(v) Lessees need comply with no obligations or responsibilities which are more costly or burdensome as a condition of exercising any of the rights or gaining the benefits and protections in the State law which correspond to those afforded by Chapter 5, than those obligations or responsibilities imposed upon lessees in Chapter 5;

(vi) Substantially similar or more favorable rights and protections are provided to lessees under conditions substantially similar to or more favorable (to lessees) than those afforded by Chapter 5.

(2) In determining whether the provisions for enforcement of the State law referred to in paragraph (b)(1) are adequate, consideration will be given to the extent to which, under the laws of the State, provision is made for

(i) Administrative enforcement, including necessary facilities, personnel and funding;

(ii) Criminal liability for willful and knowing violation with penalties substantially similar to those prescribed under Section 112, except that more severe criminal penalties may be prescribed.

(iii) Civil liability for failure to comply with the provisions of the State law substantially similar to that provided under sections 130, 131 and 185(b), except that more severe civil liability penalties may be prescribed;

(iv) In leases where the lessee's liability at the end of the lease term is based on the estimated value of the leased property, a limitation on the lessee's liability at the end of the lease term substantially similar to that provided in section 183(a), and a provision requiring that penalties be reasonable substantially similar to that provided in section 183(b), except that stricter standards on end-term liability and penalty provisions may be prescribed;

(v) A statute of limitations with respect to civil liability of substantially similar duration to that provided under section 185(c), except that a longer duration may be provided.

(d) *Public notice of filing and proposed rule making.* Following initial review of an application filed in accordance with the re-

[3]Transactions within a State in which a Federally-chartered institution is a lessor shall not be subject to the exemption, and such Federally-chartered lessors shall remain subject to the requirements of the Act and administrative enforcement by the appropriate Federal authority under section 108, unless it is established to the satisfaction of the Board that appropriate arrangements have been made with such Federal authorities to assure effective enforcement of the requirements of State laws with respect to such lessors.

[4]This paragraph is not to be construed as indicating that the Board would consider adversely any additionaly requirements of State law which are not inconsistent with the purpose of the Act or the requirements imposed under Chapter 5.

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quirements of paragraphs (a) and (b) of section I, notice of such filing and proposed rule making will be published by the Board in the FEDERAL REGISTER, and a copy of such application will be made available for examination by interested persons during business hours at the Board and at the Federal Reserve Bank of each Federal Reserve District in which any part of the State of the applicant is situated. A reasonable period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons with respect to that application.

(e) *Exemption from requirements of Chapter 5.* If the Board determines that under the law of a State consumer lease transactions are subject to requirements which are substantially similar to or which provide greater protection and benefit to lessees than those imposed under Chapter 5 and that there is adequate provision for enforcement, the Board will exempt such class of transactions in that State from the requirements of Chapter 5 in the following manner and subject to the following conditions:

(1) Notice of the exemption will be published in the FEDERAL REGISTER, and the Board will furnish a copy of such notice to the official who made application for such exemption and to each Federal authority responsible for administrative enforcement of the requirements of Chapter 5.

(2) The appropriate official of any State which receives an exemption shall inform the Board within 30 days of the occurrence of any change in its related law (including regulations). The report of any such change shall contain the full text of that change together with statements setting forth the information and opinions with respect to that change as specified in subparagraphs (2) and (4) of paragraph (b). The official who has received an exemption shall file with the Board from time to time such reports as the Board may require.

(3) The Board will inform the official of any subsequent amendments to Chapter 5 (including the implementing provisions of this Part and the Board's formal interpretations) which might call for amendment of State law, regulations or formal interpretations thereof.

(f) *Adverse Determination.* (1) If the Board denies the application for exemption, it will notify the appropriate State official of the facts upon which its decision is based and shall afford that State a reasonable opportunity to demonstrate or achieve compliance.

(2) If, after giving the State an opportunity to demonstrate or achieve compliance, the Board finds that it still cannot grant the exemption, the Board will publish in the FEDERAL REGISTER a notice of its decision and will furnish a copy of such notice to the official who made application for such exemption.

(g) *Revocation of exemption.* (1) The Board reserves the right to revoke any exemption if at any time it determines that the State law does not, in fact, impose requirements which are substantially similar to or provide greater protection and benefit to lessees than those imposed under Chapter 5, or that there is not, in fact, adequate provision for enforcement.

(2) Before revoking any State exemption, the Board will notify the appropriate State official of the facts or conduct which in the opinion of the Board warrants such revocation and shall afford that State such opportunity as the Board deems appropriate to demonstrate or achieve compliance.

(3) If, after having been afforded the opportunity to demonstrate or achieve compliance, the Board determines that the State has not done so, notice of the Board's intention to revoke such exemption shall be published as a notice of proposed rulemaking in the FEDERAL REGISTER. A period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons.

(4) In the event of revocation of such exemption, notice of such revocation shall be published by the Board in the FEDERAL REGISTER, and a copy of such notice shall also be furnished to the appropriate State official and to the Federal authorities responsible for enforcement of requirements of Chapter 5, and the class of transactions affected within that State shall then be subject to the requirements of Chapter 5, to administrative enforcement as provided under section 108, to criminal liability as provided under section 112, and to civil liability as provided under sections 130, 131 and 185(b).

SECTION II—PREEMPTION

Procedures and criteria under which any State may apply for a determination that a State law is not inconsistent with and not preempted by a provision of Chapter 5 of the Act pursuant to § 226.6(b)(3) of this Part.

(a) *Application.* Any State may make application to the Board pursuant to the terms of section II of this supplement and the Board's Rules of Procedure (12 CFR 262), for a determination that a law of such State is consistent[5] with a provision of Chapter 5 of the Act, because such State law provides greater protection and benefit to lessees than does the provision of Chapter 5, that such law is consistent with a provision of Chapter 5 for any other reason, or for a determination of any issues not clearly covered by § 226.6(b) with regard to the relationship of the Federal law to the State law. Such application shall be made by letter addressed to the Board signed by the Governor, Attorney General or any official of the State having responsibilities under the State law put forward for consideration.

(b) *Supporting Documents.* The application shall be accompanied by:

(1) A copy of the full text of the laws of the State which are claimed by the applicant to be consistent with a provision of Chapter 5 or whose relationship (with regard to consistency or inconsistency) to a provision of Chapter 5 is claimed by the applicant to be not clearly covered by the standards and criteria for comparison set forth in § 226.6(b) of this Part.

(2) A comparison of each requirement of the State law with the corresponding requirement of Chapter 5, with reasons to support the claim that the State law is consistent with a provision of Chapter 5 or that the relationship (with regard to consistency or inconsistency) between the State law and Chapter 5 is not clearly covered by the standards and criteria set forth in § 226.6(b) of this Part.

(3) A copy of the full text of any provisions of State law corresponding to sections 112, 130, 131, 183(a), 183(b), 185(b), and 185(c) (if applicable), together with reasons for the applicant's claim that such State provisions are not inconsistent (because they provide greater protection and benefit to lessees or for other reasons) with the Act.

(4) A statement that there are no State laws (including administrative or judicial interpretations) other than those submitted to the Board which have any bearing on whether or not the State law is consistent with a provision of Chapter 5.

(5) A statement identifying the office designated or to be designated to administer the State laws referred to in subparagraph (1) of this paragraph. If no such administrative office exists, then a statement identifying the office to which the Board can address any correspondence regarding the request for such determination shall accompany the application.

(c) *Criteria for Determination.* The Board will consider the following criteria along with any other relevant information, in addition to the criteria set forth in § 226.6(b) of this Part, in making a determination of whether or not State law is inconsistent with a provision of Chapter 5. In order for provisions of State law to be determined to be consistent with a provision of Chapter 5, the provisions of State law[6] shall, to the extent relevant to the determination, require that:

(1) Definitions and rules of construction import the same meaning and have the same application as those prescribed by this Part;

(2) Lessors make all of the applicable disclosures required by the corresponding provision of Chapter 5 and this Part, and within the same (or more stringent) time periods as those prescribed by this Part;

(3) Lessors abide by obligations substantially similar to those prescribed by a provision of Chapter 5 under conditions substantially similar (or more stringent) to those in Chapter 5;

(4) Lessors abide by the same (or more stringent) prohibitions as are provided by Chapter 5;

(5) Lessees need comply with no obligations or responsibilities which are more costly or burdensome as a condition of exercising any of the rights or gaining the benefits and protections provided in the State law, which correspond to those afforded by Chapter 5, than those obligations or responsibilities imposed on lessees in Chapter 5;

(6) Lessees are to have rights and protections substantially similar to or more favorable than those provided by the corresponding provisions of Chapter 5 under conditions and within time periods which are substantially similar to or more favorable (to lessees) than those prescribed by Chapter 5.[7]

(d) *Public notice of filing and proposed rulemaking.* In connection with any application which has been filed in accordance with the requirements of paragraphs (a) and (b) of section II of this supplement, notice of such filing and proposed rulemaking will be published by the Board in the FEDERAL REGISTER, and a copy of such application will be made available for examination by interested persons during business hours at the Board and at the Federal Reserve Bank of each Federal Reserve District in which any part of the State of the applicant is situated. A period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons with respect to that application.

(e) *Determination that a State Law is consistent with chapter 5.* If the Board determines on the basis of the information before it that the law of a State is consistent with a provision of chapter 5, notice of such determination shall be published in the following manner and shall be subject to the following conditions:

(1) Notice of the determination will be published in the FEDERAL REGISTER, and the Board will furnish a copy of such notice to the official who made application for such exemption and to each Federal authority responsible for administrative enforcement of the requirements of Chapter 5.

(2) The appropriate official of any State which receives such a determination shall inform the Board within 30 days of the occurrence of any change in its related law (or regulations). The report of any such change shall contain copies of the full text of the law, as changed, together with statements setting forth the information and opinions with respect to that change as specified in subparagraphs (2) and (4) of paragraph (b) of section II. The appropriate official of any State which has received such a determination shall file with the Board from time to time such reports as the Board may require.

(3) The Board will inform the appropriate official of any State which receives such a determination of any subsequent amendments to chapter 5 (including the implementing provisions of this part and the Board's formal interpretations) which might call for amendment of State law, regulations, or formal interpretations.

(f) *Adverse determination.* (1) If, after publication of notice in the FEDERAL REGISTER as provided under paragraph (d), the Board finds that such State law is inconsistent with a provision of chapter 5, it will notify the appropriate State official of the facts upon which such finding is based and shall afford that State official a reasonable opportunity to demonstrate further that such State law is not inconsistent with the corresponding provisions of chapter 5, if such State official desires to do so.

(2) If, after having afforded the State official such further opportunity to demonstrate that the State law is consistent with a provision of chapter 5, the Board finds that the State law is inconsistent, it will publish in the FEDERAL REGISTER a notice of its decision with respect to such application and will furnish a copy of such notice to the official who made application for the determination.

(g) *Reversal of determination.* (1) The Board reserves the right to reverse any determination made under section II of this supplement to the effect that a State law is consistent with a provision of chapter 5 because of subsequently discovered facts, a change in the State or Federal law (by amendment or administrative or judicial interpretation or otherwise) or for any other reason bearing on the coverage or impact of the State or Federal law.

(2) Before reversing any such determination, the Board will notify the appropriate State official of the facts or conduct which, in the opinion of the Board, warrants such reversal and shall afford that State such opportunity as the Board deems appropriate under the circumstances to demonstrate that the determination should not be reversed.

(3) If, after having been afforded the opportunity to demonstrate that its law is consistent with a provision of chapter 5, the Board determines that the State has not done so, notice of the Board's intention to reverse such determination shall be published as a notice of proposed rulemaking in the FEDERAL REGISTER. A reasonable period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons.

(4) In the event of reversal of such determination, notice shall be published by the Board in the FEDERAL REGISTER, and a copy of such notice shall also be furnished to the appropriate State official and to the Federal authorities responsible for enforcement of the requirements of chapter 5, and the State law affected shall then be considered inconsistent with and preempted by chapter 5 within the meaning of section 186(a).

By order of the Board of Governors, May 1, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-12930 Filed 5-16-78; 8:45 am]

[5] For purposes of this supplement, the terms "consistent" and "not inconsistent" shall convey the same meaning and shall involve the same evidentiary showing.

[6] This paragraph is not to be construed as indicating that the Board would consider adversely any additional requirements of State law which are not inconsistent with the purposes of the Act or the requirements imposed under Chapter 5.

[7] A State may make a showing that in certain limited readily identifiable circumstances a law which may otherwise be inconsistent with a provision of Chapter 5 is not inconsistent under the criteria set forth in paragraph (c) of Section II of this supplement. The Board may determine such State law to be consistent only under those circumstances but will make no such determination if doing so would mislead or confuse lessees.

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[Reg. Z; FC-0148]

PART 226—TRUTH IN LENDING

Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation.

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: June 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2761.

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copyiny a current index providing identifying information for the public subject to certain limitations stated in 12 CFR part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR part 226.1(d)(2)(ii). As provided by 12 CFR part 226.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be postmarked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) 15 U.S.C. 1640(f).

Therefore, T12 CFR Part 226 is amended by adding the following staff interpretation to the appendix:

[FC-0148]

Sec. 226.7(k) Debiting date should be substituted for date required to be disclosed (usually, date of transaction) only when primarily required date is unavailable, not when other required information is unavailable.

APRIL 27, 1978.

This is in response to your letter of • • •, in which you request an official staff interpretation with regard to § 226.7(k)(4) of Regulation Z. You request clarification of the circumstances under which a debiting date is to be substituted for a transaction date. You express concern that, read literally, the language of subsection (k)(4) could lead a creditor to use the debiting date in place of the transaction date any time an item of required information (such as the State in which the transaction occurred) is unavailable.

As noted in the FEDERAL REGISTER explanatory material that accompanied publication of § 226.7(k)(4), 41 FR 36662 (August 31, 1976), creditors that use descriptive billing systems are required to substitute the debiting date (that is, the date on which the amount of a transaction is debited to the customer's account) for the primarily required date (usually the date on which the transaction took place) "whenever the primarily required date is not available." The provision does not mean that the creditor should substitute the debiting date whenever any information required by § 226.7(k)(1), (2), or (3) is unavailable.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) and limited in its application to the facts and issues set forth above. I trust this is responsive to your inquiry.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, May 5, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13416 Filed 5-16-78; 8:45 am]

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[6210-01]

[Docket No. R-0160]

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Delegation of Authority to Grant Exemptions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This rule delegates to the Director of the Division of Consumer Affairs the authority to grant (but not deny or revoke) exemptions to States from the requirements of Chapter 5 (Consumer Leases) of the Truth in Lending Act (the Act), when State law imposes substantially similar requirements or provides greater protection and benefit to the consumer, and there is adequate provision for enforcement. In addition, a technical amendment to the existing delegation of authority has been made. The delegation will add the authority to grant exemptions to States from the requirements of the consumer leasing provisions of the Act to the existing delegation of authority.

EFFECTIVE DATE: May 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781.

SUPPLEMENTARY INFORMATION: (1) The Board has delegated authority to the Director of the Division of Consumer Affairs to grant (but not deny or revoke) exemptions to States from the requirements of Chapter 5 (Consumer Leases) of the Truth in Lending Act, 15 U.S.C. § 1667(e) (1976), and its implementing regulation. The procedures and criteria by which such exemptions may be granted are contained in Supplement VI to Regulation Z. Such delegations have been made to the Director of the Division of Consumer Affairs for the other chapters of Truth in Lending.

In addition, a minor technical amendment has been made to the existing delegation to insure its conformity with the statute.

(2) The provisions of 5 U.S.C. 553, relating to notice, public participation and deferred effective dates have not been followed in connection with the adoption of this rule because it relates to agency procedures.

(3) Pursuant to the provisions of the Section 11(k) Federal Reserve Act (12 U.S.C. 248(k)), the Board hereby revises 12 CFR Part 265.2(h)(2) to read as follows, effective May 17, 1978.

§ 265.2 Specific functions delegated to Board employees and to the Federal Reserve Bank.

• • • • • •

(h) • • •

(2) Pursuant to Sections 123, 171(b) and 186(b) of the Truth in Lending Act (15 U.S.C. 1633, 1666(j) and 1667(e)) and the Board's Regulation Z, 12 CFR Part 226.12, to grant, but not deny or revoke, exemptions to States from the requirements of

(i) Chapter 2 (15 U.S.C. 1631-1644), where State law imposes substantially similar requirements and there is adequate provision for enforcement,

(ii) Chapter 4 (15 U.S.C. 1666), where State law imposes substantially similar requirements or gives greater protection to the consumer and there is adequate provision for enforcement, and

(iii) Chapter 5 (15 U.S.C. 1667), where State law imposes substantially similar requirements or gives greater protection and benefit to the consumer, and there is adequate provision for enforcement.

By order of the Board of Governors, May 1, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13446 Filed 5-16-78; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Amdt. 6]

PART 112—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF SMALL BUSINESS ADMINISTRATION—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Addition of a Federal Financial Assistance Program Which Is Covered by This Part to Appendix A

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule adds a new financial assistance program, the disaster loan program based on economic dislocation, to the listing of programs which are subject to the nondiscrimination regulations of the Small Business Administration.

EFFECTIVE DATE: May 17, 1978.

FOR FURTHER INFORMATION CONTACT:

J. Arnold Feldman, Chief, Compliance Division, Small Business Administration, 1441 L Street NW, 12th Floor, Vermont Building, Washington, D.C. 20416, 202-653-6054.

SUPPLEMENTARY INFORMATION: 1In accordance with the requirements of 28 CFR § 42.403(d), published December 1, 1976, there was published in the FEDERAL REGISTER (43 FR 9488) on March 8, 1978, a notice that the Small Business Administration proposed the amendment of Appendix A by adding a new financial assistance program of the Agency thereto, which is subject to the nondiscrimination provisions of this part. Interested parties were given until April 7, 1978, to submit comments, suggestions or objections regarding this proposed amendment. No comments were received.

Therefore, Part 112 of Chapter 1 of Title 13 CFR is hereby amended by: Adding the following financial assistance program to Appendix A.

Disaster Loans: Small Business Act Section 7(b)(9): Economic Dislocation.

Dated: May 9, 1978.

A. VERNON WEAVER
Administrator.

[FR Doc. 78-13227 Filed 5-16-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-1049; Amdt. No. 42]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Editorial Amendment

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment conforms the heading to Subpart P of Part 221 of our regulations with the current statutory notice requirements for tariff filings before the Board.

DATES: Effective: June 16, 1978. Adopted: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Associate General Counsel, Rates and Agreements, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5436.

SUPPLEMENTARY INFORMATION: Pub. L. 95-163 changed the former 30-day notice period for tariff filings to 45 or 60 days, depending upon the category of tariff involved. ER-1038 (December 30, 1977), amended Part 221 of the Board's Economic Regulations to conform with these new statutory notice requirements. The reference to the former 30-day notice period was inadvertently left in the title to Subpart P, which deals with special tariff permission. This editorial amendment merely changes the wording to reflect the notice periods presently in effect.

Accordingly, Part 221 of the Board's Economic Regulations (14 CFR Part 221) is amended as follows:

1. The title to Subpart P is amended to read as follows:

Subpart P—Special Tariff Permission to File on Less Than Statutory Notice

• • • • • •

2. The title to Subpart P as it appears in the index to Part 221 is amended to read as follows:

• • • • • •

Subpart P—Special Tariff Permission to File on Less Than Statutory Notice

• • • • • •

(Secs. 204 and 403, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, as amended (49 U.S.C. 1324, 1373).)

By the Civil Aeronautics Board.

PHILIP J. BAKES, Jr.,
General Counsel.

[FR Doc. 78-13468 Filed 5-16-78; 8:45 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

Revision of Information Required on License Applications for Numerical Control Systems

AGENCY: Office of Export Administration, Bureau of Trade Regulation, Commerce.

ACTION: Final rule.

SUMMARY: This rule revises § 376.11(b) of the Export Administration regulations which requires certain technical information to be provided with applications to export or reexport numerical control systems to certain destinations. The specifications in that section have become outdated by rapidly advancing technology, and are revised to require more meaningful information in light of the current state of technology.

EFFECTIVE DATE: May 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4196.

Accordingly, part 376 of the Export Administration regulations (15 CFR Part 376) is revised as follows:

§ 376.11(b) is revised to read as follows:

§ 376.11 Machine tools and/or numerical controls.

• • • • • •

(b) *Control systems*—(1) Name and model number;

(2) Type (hardwired, firmware, software);

(3) Word size;

(4) Size of internal memory;

(5) Number of simultaneously controlled contouring axes and type of interpolation (linear, circular, other);

(6) Number of simultaneously controlled contouring axes and type of interpolation (linear, circular, other) which may be optionally procured;

(7) The minimum programmable increment for each axis;

(8) Interface for direct computer input;

(9) Describe features being provided as part of transaction, (e.g., cutter compensation, program edit, variable pitch threading, etc.);

(10) Describe optional accessories included in transaction;

(11) Describe software being supplied with unit; and

(12) Describe documentation being supplied with unit.

• • • • • •

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: May 12, 1978.

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-13415 Filed 5-16-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8909]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Xerox Corp.

AGENCY: Federal Trade Commission.

ACTION: Order modifying final order.

SUMMARY: This order modifies an order to cease and desist issued July 29, 1975, by deleting the words "in camera" from paragraph IV C.(9). This modification makes generally available to interested persons patent license agreements submitted to date and such agreements submitted in the future for which Xerox does not show a justification for confidential treatment.

DATES: Final order issued July 29, 1975, order modifying final order issued April 20, 1978. [1]

FOR FURTHER INFORMATION CONTACT:

Alfred F. Dougherty, Jr., Director, Bureau of Competition, Federal Trade Commission, 6th Street at Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3601.

SUPPLEMENTARY INFORMATION: In the matter of Xerox Corp., a corporation. They prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, remain unchanged and appear in the FEDERAL REGISTER of September 11, 1975 (40 FR 42203), 86 F.T.C. 364.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

The order modifying final order is as follows:

ORDER MODIFYING ORDER TO CEASE AND DESIST

On July 29, 1975, the Federal Trade Commission issued a consent order in the above-referenced matter. 86 FTC 364 (1975).

Section 5(b) of the Federal Trade Commission Act provides that the Commission may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by it, whenever in the opinion of the Commission conditions of fact or law have so changed as to require such action or if the public interest shall so require.

[1] Copies of the modifying order filed with the original document.

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On January 19, 1978, the Commission issued its order to respondent to show cause why the Commission should not alter or modify the July 29, 1975 Order so as to delete the words "*in camera*" from paragraph IV C.(9) thereof.

On March 6, 1978, respondent filed an answer that did not oppose the proposed modification. Section 3.72(b)(3) of the Commission's rules provides that if an order to show cause is not opposed the Commission may, in its discretion, decide the matter on the basis of that order and the answer thereto.

Accordingly, *it is ordered*, That the matter be reopened, and that paragraph IV C.(9) of the order of July 29, 1975, be modified to read as follows:

If Xerox grants a license under order patents either pursuant to the terms of paragraph II of this order or otherwise, the license agreement shall contain the irrevocable covenant of the licensee to license such of its patents as are licensed to Xerox on reasonable terms and conditions (including the license to itself of its licensees' patents or improvement patents) to any other person who is entitled to a license from Xerox pursuant to paragraph II of this order, *Provided*, That such license need not be effective prior to the effective date of the licensee's license to Xerox. Within 60 days following execution of a license agreement subject to this paragraph IV C.(9), Xerox shall submit to the Commission a copy thereof.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-13421 Filed 5-16-78; 8:45 am]

[1505-01]

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

Technical Requirements for Determining a Sharp Metal or Glass Edge in Toys and Other Acticles Intended for Use by Children Under 8 Years of Age

Correction

In FR Doc. 78-7689, appearing at page 12636 in the issue of Friday, March 24, 1978, make the following changes in § 1500.49:

1. On page 12645, third column, the third line of paragraph (c)(1) should read, "either before or after the test of" and the seventh line of paragraph (c)(3)(ii) should read, "[diam-]eter of Probe B, but less than 9.00 inches".

2. On page 12646, first column, the fifth line of paragraph (c)(3)(iii) should read, "[di-]mension of 9.00 inches (228.6 millimeters)", the third from last line of that paragraph should read, "[dimen-]sion that is 7.36 inches (186.9 millime-[ters]", and the sixteenth line of paragraph (d)(1) should read, "force of 1.35 pounds (6.00 Newtons) such".

3. On page 12646 second column, the last line of paragraph (d)(1) should read, "up to 1.35 pounds (6.00 Newtons).", the fifth line of paragraph (d)(2) should read, "force of 1.35 pounds (6.00 Newtons)", and the thirteenth line of paragraph (d)(2)(iii) should read, "(6.00 Newtons) measured in a direction at".

4. On page 12646, third column, the third and fourth lines of paragraph (e)(1) should read, "[ve-]locity of 1.00±0.08 inch per second (25.4±2.0 millimeters per second) during"; the text of footnote one, with the exception of the first sentence, should appear as regular text following the footnote reference in paragraph (e)(2); and the tenth line of paragraph (e)(3) should read, "The thickness of the polytetrafluor-[oethylene]".

[4410-01]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of 1-Phenylcyclohexylamine and 1-Piperidinocyclohexane-Carbonitrile, Immediate Precursors of Phencyclidine, in Schedule II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This rule is issued as a result of receipt by the Administrator of DEA of a letter from the Assistant Secretary for Health, Department of Health, Education, and Welfare, which requested DEA to consider the control of analogs and precursors of phencyclidine, and subsequent publication in the FEDERAL REGISTER (43 FR 11588, March 20, 1978) of a Notice of Proposed Rulemaking to place 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile, which are immediate precursors of phencyclidine, into Schedule II. No comments or objections were received in response to the Notice. This rule places these two immediate precursors of phencyclidine under Schedule II requirements of the Controlled Substances Act.

EFFECTIVE DATE: The effective date of Schedule II control is June 16, 1978 except as otherwise provided in the Supplementary Information Section of this Order.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, telephone 202-633-1366.

SUPPLEMENTARY INFORMATION: A Notice was published in the FEDERAL REGISTER on March 20, 1978 (43 FR 11588) proposing that 1-phenylcyclophexylamine and 1-piperidinocyclohexanecarbonitrile be placed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801-966) as immediate precursors of phencyclidine, and that Title 21 of the Code of Federal Regulations, § 1308.12 (Schedule II) be amended accordingly. All interested persons were given until April 19, 1978 to submit their comments or objections in writing regarding this proposal.

No comments nor objections were received, nor were there any requests for a hearing, and in view thereof, and based upon the investigations and review of the Drug Enforcement Administration and upon the request of the Assistant Secretary for Health in behalf of the Secretary of Health, Education, and Welfare, the Administrator of the Drug Enforcement Administration finds, pursuant to the authority delegated to him by regulations of the Department of Justice, that:

1. 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile are the principle compounds used, or produced primarily for use, in the manufacture of a controlled substance;

2. 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile are immediate chemical intermediaries used or likely to be used in the manufacture of a controlled substance; and

3. The control of 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile is necessary to prevent, curtail, or limit the manufacture of a controlled substance.

Therefore, under the authority vested in him by the Act and by regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that § 1308.12(e) of Title 21 of the Code of Federal Regulations be amended as follows:

§ 1308.12 Schedule II.

• • • • • •

(e) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital	2125
(2) Methaqualone	2565
(3) Pentobarbital	2270
(4) Phencyclidine	7471
(5) Phencyclidine immediate precursors:	
(a) 1-phenylcyclohexylamine	7460
(b) 1-piperidinocyclohexanecarbonitrile(PCC)	8603
(6) Secobarbital	2315

• • • • • •

EFFECTIVE DATES

As to 1-phenylcyclohexylamine and 1-piperidinohexanecarbonitrile:

1. *Registration.* Any person who manufactures, distributes, dispenses, imports or exports such substances or who proposes to engage in such activities, shall submit an application for registration to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations on or before (60 days after publication);

2. *Security.* Such substances must be manufactured, distributed, and stored in accordance with §§ 1301.71, 1301.72 (a), (c), and (d), 1301.73, 1301.74 (a)-(f), 1301.75(b)(c) and 1301.76 of Title 21 of the Code of Federal Regulations on or before (90 days after publication). From now until the effective date of this provision, it is expected that manufacturers and distributors of such substances will initiate whatever preparation as may be necessary in order to provide adequate security in accordance with DEA regulations so that substantial compliance with this provision can be met by (90 days after publication). In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. *Labeling and packaging.* All labels on commercial containers of, and all labeling of such substances packaged after (60 days after publication) shall comply with the requirements of §§ 1302.03-1302.05, 1302.07 and 1302.08 of Title 21 of the Code of Federal Regulations. In the event this effective date imposes special hardships on any manufacturer, as defined in section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)), the Drug Enforcement Administration will entertain any justified requests for an extension of time;

4. *Quotas.* All persons required to obtain quotas with respect to either of such substances shall submit applications pursuant to §§ 1303.12 and 1303.22 of Title 21 of the Code of Federal Regulations on or before August 15, 1978;

5. *Inventory.* Every registrant required to keep records who possesses any quantity of such substances shall take an inventory pursuant to §§ 1304.11-1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of such substances on hand on July 17, 1978;

6. *Records.* All registrants required to keep records pursuant to §§ 1304.21-1304.27 of Title 21 of the Code of Federal Regulations shall do so regarding such substances commencing on the date on which the inventory of such substances is taken;

7. *Order Forms.* The order form requirements of §§ 1305.01-1305.16 of Title 21 of the Code of Federal Regulations shall be in effect on the date which the initial inventory of these Schedule II controlled substances is taken;

8. *Importation and exportation.* All importation and exportation of such substances shall, on or after July 17, 1978, be required to be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations;

9. *Criminal liability.* The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to 1-phenylcyclo- hexylamine and 1-piperidinocyclohexanecarbonitrile, not authorized by or in violation of the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after (30 days after publication) shall be unlawful, except that any person who is entitled to registration under such Acts may continue to conduct normal business or professional practice with such substances between the date on which this order is published and the date on which he obtains or is denied registration, provided that application for such registration is submitted on or before June 17, 1978;

10. *Other.* In all other respects, this order is effective June 16, 1978.

Dated: May 11, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-13361 Filed 5-16-78; 8:45 am]

[3810-70]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE, DEPARTMENT OF DEFENSE

SUBCHAPTER M—MISCELLANEOUS

(DoD Directive 3210.2]

PART 273—RESEARCH GRANTS AND TITLE TO EQUIPMENT PURCHASED UNDER GRANTS

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense has amended its regulation on research grants and title to equipment purchased under grants. This revised rule incorporates the provisions of OMB Circular A-110; outlines criteria and requirements regarding the support of scientific research; delegates authorities; and implements administrative requirements.

EFFECTIVE DATE: April 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. George Gamota, Acting Assistant for Research to the Deputy Under Secretary of Defense for Research and Engineering (Research and Advance Technology), room 3D1067, The Pentagon, Washington, D.C. 20301, Telephone: 202-697-4198.

SUPPLEMENTAL INFORMATION: In FR Doc. 61-11677 appearing in the FEDERAL REGISTER (26 FR 11831) on December 9, 1961, the Office of the Secretary of Defense published as a final rule DoD Directive 3210.2 establishing uniform DoD policy for granting funds to nonprofit institutions to conduct basic research. This Directive was reissued on April 26, 1966 and published in the FEDERAL REGISTER on June 7, 1966 (31 FR 8007) as a revision to part 273. An amendment to this revision was published on July 30, 1970 (35 FR 12205). The following constitutes a further revision to DoD Directive 3210.2 which (a) incorporates and implements the provisions of OMB Circular A-110; (b) limits grants to those that support research projects of excellence authorized by Pub. L. 85-934; (c) considers environmental factors; and (d) prescribes current criteria and policies.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MAY 12, 1978.

Accordingly, 32 CFR Chapter I is amended by a revision of part 273, reading as follows:

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Sec.
273.1 Reissuance and Purpose
273.2 Applicability
273.3 Definitions
273.4 Policy
273.5 Responsibilities and Authorities

AUTHORITY: Rev. Stat 161, 5 U.S.C. 301; and Pub. L. 85-934.

§ 273.1 Reissuance and purpose.

This Part reissues § 273 to:

(a) Incorporate the provisions of OMB Circular A-110,

(b) Outline criteria and requirements necessary to make grants for the support of scientific research and vest title to equipment purchased or acquired under grants.

(c) Delegate authority to carry out the responsibilities of the Secretary of Defense under Pub. L. 85-934.

(d) Implement the uniform administrative requirements contained in OMB Circular A-110.

§ 273.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Defense Agencies, and the Unified and Specified Commands (hereafter referred to as "DoD Components").

§ 273.3 Definitions.

(a) *Grant.* An award of funds or equipment pursuant to a written agreement executed by a sponsoring agency of the Department of Defense under the authority of Pub. L. 85-934. The definition of a grant as stated herein falls within the definition of "other agreements" as set forth in OMB Circular A-110.

(b) *Sponsoring agency.* A DOD Component or official research activity authorized under § 273.5 basic Directive, to make grants in support of research.

(c) *Research.* Scientific study and experimentation directed toward:

(1) Increasing knowledge and understanding in those fields of the physical, engineering, environmental and life sciences related to long-term national security needs.

(2) Providing fundamental knowledge required for the solution of military problems.

(3) Forming a part of the base for (i) subsequent exploratory and advanced developments in defense-related technologies; and (ii) new or improved military functional capabilities in such areas as communications, detection, tracking, surveillance, propulsion, mobility, guidance and control, navigation, energy conversion, materials and structures, and personnel support.

(d) *Grantee organization or recipient.* Any corporation, foundation, trust, or institution (1) operated for purposes of higher education or whose primary purpose is the conduct of scientific research; (2) not organized for profit; and (3) no part of whose net earnings inure to the profit of any private shareholder or individual. Grantee organizations located outside the U.S. and Canada are referred to as "foreign grantee organizations."

§ 273.4 Policy.

(a) *General.* (1) *Use of Grants.* A grant will be limited to the support of those research projects of excellence authorized by Pub. L. 85-934 which are performed by the type of recipients covered under OMB Circular A-110 and which meet relevant research requirements related to the mission of the DOD.

(2) *Prior to awarding a grant.* (i) The grantee organization (defined in § 273.3) must furnish a letter of assurance that it is complying with the provisions of 32 CFR 300.

(ii) Environmental factors involved involved in research programs or projects will be considered, pursuant to the guidelines of 32 CFR 214.

(iii) A determination must be made that the grantee organization is not in violation of the statutory limitations contained in section 606, Pub. L. 92-436[1] or any similar enactment of a later date.

(iv) If the proposed grant to a foreign grantee organization is more than $10,000, the Secretary of the Military Department concerned, or his designee, must determine in advance that the research cannot be performed by a U.S. or Canadian organization, and that it is not feasible to forego performance.

(3) *Special instructions.* (i) *Cost Sharing.* Sponsoring agencies shall encourage grantee organizations to contribute to the cost of performing research, unless the grantee organization has little or no non-Federal sources of funds from which to make a cost contribution. Guidelines applicable to cost contribution by grantee organizations are contained in FMC 73-3 and supplemented by OMB Circular A-110.

(ii) *Vesting of equipment.* Title to equipment purchased or acquired under a grant shall be vested in the grantee organization in accordance with OMB Circular A-110 and Public Law 94-519.

(b) *Grant agreements.* These shall be brief and contain only those provisions which accurately reflect the nature of the grant relationship and which are required by statute or are necessary for the protection of the fundamental interests of the Department of Defense. Provision shall be made for:

(1) The maintenance of records adequate to (i) document the actual amount of any participation and (ii) determine whether or not grant funds have been properly expended.

(2) Appropriate patent, property, and data rights.

(3) The suspension or revocation of grants.

(4) The receipt by the sponsoring agency of technical reports and the results of all research performed by the grantee organization.

(c) *Administration of grants.* (1) Grants shall be administered by the cognizant contract administration office using the ASPR provisions as a guide and in accordance with the provisions of OMB Circular A-110 except for grants to recipients excluded by paragraph 6.b. of the Circular. To the extent practical, the substance of the policies in the Circular will be applied to recipients not covered by it, except that where any statute expressly prescribes policies or specific requirements that differ from the standards in the Circular, the provisions of the statute will govern.

(2) Applicable cost principles of parts 2 or 3 of section XV of ASPR will be used in establishing the grant amount. Costs which are not allowable under those parts may not be included in the grantee organization's cost contribution, if any.

(3) A grantee organization contribution will be subject to audit (see §273.5(d)).

§ 273.5 Responsibilities and authorities.

(a) The Director, Defense Research and Engineering, shall administer the provisions of this Directive.

(b) The Secretary of Defense or Deputy Secretary of Defense shall approve grants in excess of $1 million.

(c) The Director, Defense Research and Engineering, and the Secretaries of the Military Departments shall exercise the authority vested in the Secretary of Defense by sections 1 and 2 of Pub .L. 85-934 for grants of $1 million or less. This authority may be redelegated to the DOD Component or official research activity responsible for supporting research at educational institutions and other nonprofit organizations (as defined in § 273.3) for grants of $500,000 or less.

(d) The sponsoring agency will perform reviews of grant programs and, when necessary, request an audit of grant costs.

[FR Doc. 78-13460 Filed 5-16-78; 8:45 am]

[1] Section 606 requires that no funds be expended at any institution of higher learning whose policies bar military recruiting personnel from their premises, unless the Secretary of Defense, or his designee, specifically determines that a renewal or continuation of previous grants to such institutions is likely to contribute significantly to the Defense effort.

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[7710-12]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Format of Business Reply Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule amends postal regulations to set out a specific, measured format for business reply mail (BRM). Mailers will be permitted to use existing BRM stocks which do not conform to the revised format until May 1, 1979. At the present time there may be as many BRM formats as there are BRM permit holders, despite the fact that postal regulations require adherence to distinctive, alternative formats pictured in the regulations. This regulation change is intended to eliminate deviations from the prescribed BRM format so that BRM mail may be recognized readily (as it was designed to be) by postal employees who must separate it from the mailstream to collect postage and fees. In addition, the new format leaves two clear areas on the address side of BRM pieces for markings which could activate mail processing facing, cancelling and sorting machinery.

EFFECTIVE DATE: June 17, 1978.

FOR FURTHER INFORMATION CONTACT:
Eugene R. McGill, 202-245-4749.

SUPPLEMENTARY INFORMATION: On August 9, 1977, the Postal Service published for comment in the FEDERAL REGISTER proposed changes in Part 131 of the Postal Service Manual as described above (42 FR 40219).

The Postal Service received written comments in response to the proposal from thirty-eight businesses and associations. Virtually all of the commenters agreed in principle with the proposed rule; several commenters, however, raised questions or made suggestions that convinced the Postal Service that a number of changes to the proposed rule were warranted.

Several commenters requested that the proposed July 1, 1978, deadline for permit holders to conform to the new format requirements be extended to May 1, 1979, the date of the deadline set for airmail BRM in the proposed rule, so that the effective date of the new requirements would be the same for both airmail and non-airmail BRM users. The commenters pointed out the need to allow BRM users more time to use up their current inventories, especially since many have a one to two year supply of BRM stock on hand. The commenters pointed out that those BRM users with large amounts of BRM stock on hand would be subject to a substantial financial loss if they were forced to discard their stock after July 1, 1978. We have revised the regulation to make the date for compliance with the new format requirements May 1, 1979, for all BRM users.

We are also revising that part of the proposed rule which deals with Facing Identification Marks (FIM). Presently, unstamped mail, including BRM, must be manually faced before it can be processed. FIM equipment will allow unstamped mail to be mechanically faced and thereby speed the processing of this type of mail. Our proposal reserved space for FIM marks on BRM but did not require that FIM marks be printed in the reserved space because the Postal Service's FIM equipment would not be operational until May 1979, long after the proposed July 1, 1978, effective date. Since the date for compliance with the new format requirements is now May 1, 1979, the Postal Service is including the requirment that FIM marks be printed in the reserved space as a BRM format requirement.

Several commenters questioned how the Postal Service will handle the occasional BRM pieces which are held by customers for several years before being returned to the permit holder. Provided the addressee's business reply permit is in a current status, BRM pieces which conform to former BRM format requirements will be delivered in return for the postage and fees in effect upon the date of delivery. The regulations in § 131.235d prohibit "distribution" of non-conforming BRM after the deadline; they do not prohibit a BRM permit holder from receiving a customer's BRM.

Several commenters objected to proposed § 131.236, which would require postal inspection and approval of sample BRM pieces at least two weeks prior to the initial distribution of a BRM piece. The commenters pointed out that (1) permit holders' production schedules would not permit the time for advance submission of sample BRM, and (2) requiring prior inspection would be viewed as the imposition of a penalty on the majority of BRM users who conform to Postal Service format requirements. The commenters suggested that, instead of requiring prior inspection in order to ensure compliance, the Postal Service impose a surcharge on improperly prepared BRM, or withhold delivery of such pieces, or revoke a holder's permit. We believe that the need exists for a constructive advance review of BRM pieces in order to keep non-complying BRM pieces from entering the mails. However, in order to reduce the burden on BRM users, the Postal Service is adopting in § 131.235c(1) a voluntary, rather than a mandatory, advance inspection program. Under the program, permit holders would be encouraged to submit sample business reply pieces to their local postmaster for approval prior to printing and distribution. We are also adopting the suggestion that the Postal Service revoke the permits of those BRM users who refuse to comply with our regulations. We expect to promulgate appropriate revocation procedures prior to May 1, 1979. In view of this resolution of the matter, there is no need to consider further the other suggested methods to ensure compliance with the BRM format requirements.

In response to comments asking for greater flexibility in the BRM format, the Postal Service has identified and indicated in the final regulation which elements of the format are required and which are optional. The Postal Service believes that this division will give a reasonable degree of flexibility to the BRM user. Another commenter was concerned that electronic BRM mailgrams would not be able to conform to the proposed format requirements and would, therefore, have to be eliminated. The Postal Service believes that its separation of required and optional BRM format elements will give enough flexibility to enable the continued use of electronic BRM mailgrams.

Several commenters asked if it was permissible for the horizontal parallel bars which must appear on the right hand side of the BRM piece to extend below the ZIP Code line. Previously it was necessary that the horizontal bars end at or above the ZIP Code line because placing them below the line caused interference during processing with the optical scanning equipment. However, the Postal Service has now determined that with the advent of more advanced machinery the horizontal bars will not interfere with processing by our equipment including the optical scanner. Therefore, it is permissible for the bars to extend below the ZIP Code line as long as they do not intrude into the ⅝ inch clear space reserved at the bottom of the piece.

The Postal Service also received a request that the proposed 1 inch length requirement for the horizontal parallel bars be changed to allow a ½ inch minimum to a 1 inch maximum length for the bars. The commenter stated that (1) because bars shorter than 1 inch were permitted under earlier format requirements, the greatest number of the printing plates for BRM envelopes now exist with the shorter bars, and (2) changing the bar length on the printing plates would require that new plates be made, at great expense to mailers. The Postal Service considered the request but re-

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jected it because the other new format requirements will require such changes that new plates will have to be made regardless of the bar length requirement.

A commenter requested that the Postal Service explain the purpose of the clear space which must be left between the bottom horizontal bar and the bottom edge of the mail piece on business reply letters and cards. It was pointed out that some institutions using preprinted Postal Service bar codes felt that the requirement for a clear space would prevent further use of this sorting mechanism. In response to the comment, the Postal Service amended its proposal by adding a new section 131.235c(2) which provides that the clear space is only to be used for Postal Service bar codes.

Another commenter asked whether return address lines and "strad" marks (optical scanning marks used by some mailers for internal sorting) could appear in the upper left hand corner of the BRM piece. The Postal Service agrees and has specifically included in the final rule return address lines and "strad" marks in the list of items appearing in section 131.235c(5) which may appear in the upper left corner of the piece.

Another commenter argued that the requirement in proposed § 131.234b(3) to place a box around the "Business Reply" legend could be eliminated without detracting greatly from the purpose of the BRM format, which is to catch the eye of mail processing employees. While we continue to believe that enclosing matter within a box tends to make it stand out, we think the format is sufficiently distinctive without this requirement. Accordingly, we have made this an optional provision in § 131.235c(3) of the final rule.

A commenter also suggested that there should be a ½ inch rather than a 1 inch margin on the left hand side of business reply envelopes. We cannot adopt the suggestion. The 1 inch margin is required because our mail processing equipment can only begin to read the envelopes 1 inch from the left.

Another commenter requested clarification of the dimensions for both the permit indicium and the FIM mark spaces. We shifted the location of the permit indicium from the upper right corner on the piece to a straight line immediately below the Business Reply Mail legend. Note the illustration in 131.236. As to the FIM dimensions, we revised the length of the FIM space from the proposed 1 inch to 1¼ inch while keeping the height at ⅝ inch. These dimensions will allow the FIM marks to remain within the clear zone and be free of other printed matter.

A commenter asked whether green diamond first class borders may be used on business reply mail, especially on larger size envelopes. The Postal Service added a provision in 131.235a that green diamond and other printed borders may be used on business reply labels and cartons and envelops larger than 6 inches by 11 inches, but are not authorized on business reply letters and cards.

One commenter asked whether the various endorsements must be printed in all capital letters. the "Business Reply" legend and the other preprinted endorsements described in 131.235b(1) (b) and (c) must be in capital letters. There is no requirement that the other endorsements be in a particular typeface; however, upper case letters should be used for maximum legibility.

Section 131.234b(6) of the proposed rule stated that the upper left hand corner of the BRM piece was available for use by the permit holder and could contain, among other things, a company logo. Proposed section 131.234(b)(7) also provided that company logos, if part of the company name, could appear in the address. The Postal Service received two comments asking whether the lower left hand corner of the piece would also be available for use by the permit holder. One commenter wanted to use the space for a union logo and the other wanted to know if the space was available for copy or artwork. In our opinion, the options provided in the proposed rule give ample flexibility for the placement of logos and copy or artwork. Accordingly, we have carried only those options over into the final regulations in 131.235c(4) and (5).

Another commenter suggested that the Postal Service publish a brochure explaining the new BRM format. The Postal Service expects to mail to BRM permit holders a form letter announcing the format changes, together with a copy of a Postal Bulletin article setting forth the new format requirements on the day that the Postal Bulletin containing the BRM format article is published.

In view of the considerations discussed above, the Postal Service hereby adopts, as amended, the following revisions of the Postal Service Manual:

PART 131—FIRST CLASS

In 131.23 of the Postal Service Manual, redesignate .236 and .237 as .237 and .238 respectively; revise the heading of redesignated .237 and the heading and first sentence of redesignated .238 and add new .235 and .236 reading as follows:

131.23 Business Reply Mail.

• • • • • •

.235 Format.

a. *General:* Any photographic, mechanical or electrical process or combination of such processes, other than handwriting, typewriting or handstamping, may be used to prepare the address side of business reply mail. The background of business reply mail pieces may be any light color that allows the address, postmark and other required endorsements to be readily discerned. Brilliant colors may not be used. Green diamond and other printed borders are not authorized on business reply letters and cards; however, they may be included on business reply labels and cartons and envelops larger than 6 x 11 inches.

b. *Required format elements.*

(1) *Preprinted endorsements.*

(a) The endorsement "No Postage Necessary if Mailed in the United States" must be printed in the upper right corner of the face of the piece. The arrangement of the endorsement may vary, but it may extend no further than 1¾ inches from the right edge of the mail piece.

(b) The appropriate "Business Reply" legend must appear above the address and must be in capital letters at least ⅛ inch in height. Authorized legends are:

Legend	For use on
BUSINESS REPLY MAIL	Letters, cartons, and cards at letter rate.
BUSINESS REPLY CARD	Cards qualifying for post card rate. (The legend "Business Reply Card" must be used to be eligible for the lower card rate. See 131.222 for the maximum dimensions for post cards.)
BUSINESS REPLY LABEL	Labels. (Business Reply envelopes and cards may not be used as labels to return matter to the permit holder. However, the permit holders of a business reply label guarantees payment of first-class postage upon the return of any mailable matter having his business reply label affixed.)

(c) Immediately below the "Business Reply" legend the words "FIRST-CLASS, PERMIT NO. • • •" followed by the permit number, and the name of the issuing post office (city and state) must be shown in capitol letters.

(d) The legend "POSTAGE WILL BE PAID BY ADDRESSEE" must appear above the address.

(e) The complete address, including ZIP Code, must appear in accordance with sections 122.1 and 122.2. A margin of at least one inch is required between the left edge and the address.

(2) *Required markings.*

(a) *Horizontal bars.*—To facilitate rapid recognition of business reply mail, a series of horizontal bars parallel to the length of the mail piece must be printed immediately below the endorsement "NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES". The bars must be uniform in length, at least 1 inch long and ⅛ to ⅜ inches thick. The spacing between the bars must be nearly equal to the thickness of the bars. A ⅝ inch space must be left between the bottom horizontal bar and the bottom edge of the mail piece on business reply letters and cards. The series of horizontal bars on business reply labels must be at least 1¼ inches high.

(b) *Facing identification mark (FIM).*—An area measuring ⅝ of an inch in height and 1¼ inches in length, located along the top edge of the piece and to the left of the endorsement "No Postage Necessary if Mailed in the United States", is reserved for the use of Facing Identification Mark (FIM). FIM is a bar code pattern in the top right portion of the address side which functions as an orientation mark for automatic facing and canceling equipment. The Facing Identification Mark area begins 3 inches from the right edge of the piece and extends 1¼ inches to the right (See 131.236).

In all cases, U.S. Postal Services specifications and negatives must be used. The specifications and negatives for Facing Identification Mark can be obtained from local post office customer services representatives.

FIM must be used on all letter size business reply mail and on business reply post cards. (Letter size mail is defined as being from 4¼ inches to 11½ inches long, 3 inches to 6⅛ inches high, and .006 inches to .25 inches thick.)

(c) *Optional format elements.*

(1) *Voluntary review:* Normally, postal inspection of sample business reply pieces or artwork is not required prior to distribution by permit holders. However, permit holders are encouraged to submit such materials to their local postmaster for review and approval prior to printing and distribution. Doing so would avoid the possible inconvenience and cost of reprinting if the Postal Service were to determine that business reply format requirements are not being met and that existing unapproved pieces are not mailable. When postal review is desired, two pieces should be submitted to the postmaster either where the permit is held or where the mail will be returned. One piece will be returned after being marked to indicate either postal approval or suggested changes.

(2) *Bar code:* The bottom ⅝ inch of business reply cards and letter size envelopes is reserved for USPS bar codes. The USPS bar code is the only information that may appear in this area.

(3) *BRM legend box:* It is recommended that the "Business Reply" legend and other preprinted endorsements described in 131.235b(1)(b) and (c) be placed in a box for greater visual impact.

(4) *Company logo:* A company logo used as part of the company name may appear in the address provided it is located no lower than the top of the street address line or the post office box line and does not interfere with any of the required business reply endorsements.

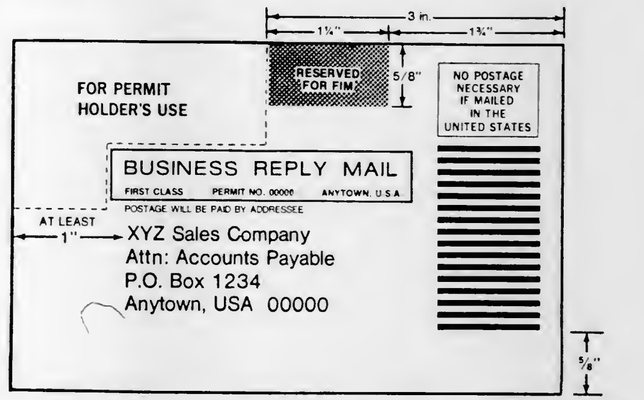
(5) *Space for permit holders use:* The upper left corner of the address side is available for use by the permit holder. This area is bordered on the right by the FIM area (see 131.235b(2)(b)) and the legend "BUSINESS REPLY MAIL" and is above the address. It may contain the return address, logos, distributor codes, "strad" marks, etc. (See 131.236).

(6) *Attention lines:* Attention lines or key lines may be included as the first or second line of the distributor's address.

(7) *Window envelopes:* Window envelopes, if used, must comply with Part 141, Postal Service Manual.

(d) *Implementation deadline.*—BRM material distributed after May 1, 1979 must comply with the format requirements contained in this section. Material complying with previous BRM format requirements may continue to be distributed until May 1, 1979. Postmasters may authorize distribution, on a case by case basis, until May 1, 1979, of material already printed which does not comply with the former format requirements, but which is not expected to cause mail processing problems. Distribution after May 1, 1979 of BRM material which does not comply with the format requirements contained in this section will be grounds for revocation of BRM permits.

.236 ILLUSTRATION OF BUSINESS REPLY MAIL



.237 Distribution.

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.238 Permit holder.

The permit holder guarantees payment on delivery of postage on returned business reply mail. • • •

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401(2).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-13427 Filed 5-16-78; 8:45 am]

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 199a—STATE POSTSECONDARY EDUCATION COMMISSIONS PROGRAM—INTRASTATE PLANNING—FISCAL YEAR 1978

Allocation Formula and Program Guidelines

AGENCY: Office of Education, HEW.

ACTION: Final rules for fiscal year 1978.

SUMMARY: A notice of allocation formula and program guidelines is issued to implement the State Postsecondary Education Commissions Program—Intrastate Planning under Section 1203(a) of the Higher Education Act of 1965, as amended, for fiscal year 1978. This program is operated as a formula grant program, and it is necessary to publish both the formula used to allocate the available funds and the program guidelines each year. The program is designed to provide assistance to State Postsecondary Education Commissions to conduct statewide comprehensive planning activities for postsecondary education.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. (Regulations are transmitted to Congress 3-4 days before they are published in the FEDERAL REGISTER.) However, this date is changed by statute if Congress disapproves the regulations or takes certain types of adjournments. If you want to know

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the exact effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT:

Charles I. Griffith, Director, State Planning Commissions Program, Bureau of Higher and Continuing Education, room 4052, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202, telephone 202-245-2671.

SUPPLEMENTARY INFORMATION: Publication as final notice of rulemaking.

The Commissioner finds that proposed rules are unnecessary in this case, within the meaning of 5 U.S.C. 553(b). The allocation formula and program guidelines have not been changed since publication, after a comment period, in fiscal year 1976. The inclusion of the statement concerning the general provisions regulations merely reflects what has been existing program policy since the inception of the program.

The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order No. 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.550; State Planning Commissions Program—Intrastate Planning)

Dated: March 14, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: May 3, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

The Office of Education is codifying the allocation formula and guidelines by adding a new Part 199a to the Code of Federal Regulations.

A new Part 199a is added to title 45 of the Code of Federal Regulations, to read as follows:

Sec.
199a.1 Allocation formula.
199a.2 Program guidelines.
199a.3 General Provision Regulations.

AUTHORITY: 20 U.S.C. 1142b(a)

§ 199a.1 Allocation formula.

Such funds as may become available for grant awards during Fiscal Year 1978 for intrastate planning under the State Postsecondary Education Commissions Program will be allocated in the following manner among those State Postsecondary Education Commissions which have filed the required information concerning establishment with the Office of Education and which have applied for funds:

(a) A base amount of $30,000 will be distributed to each State Commission.

(b) The balance of the available funds will be distributed on the basis of the ratio of the population of a postsecondary age, namely 17 and above (as indicated in the latest data available from the U.S. Bureau of the Census), in a given State to the total population of a postsecondary age in all States with such Commissions.

(20 U.S.C. 1142b(a))

§ 199a.2 Program guidelines.

Grants made under these provisions must be used by a State Commission to conduct comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desire, and who can benefit from, postsecondary education may have an opportunity to do so. Such comprehensive studies and inventories should be developed in coordination with all segments of postsecondary education in the State and should be of such a nature as will assist the State Commission in planning for:

(a) Maximizing the development of human resources within the State through encouragement of student entrance to postsecondary education and the provision to the students of needed guidance, counseling and financial assistance;

(b) Providing comprehensive postsecondary education programs and services;

(c) Achieving efficient operation and orderly growth;

(d) Providing the fullest possible financial support together with efficient use of resources;

(e) Attracting and retaining qualified faculty and professional personnel; and

(f) Providing adequate and appropriate facilities and instructional equipment and securing efficiency in their use.

(20 U.S.C. 1142b(a))

§ 199a.3 General provision regulations.

Assistance provided under this program is subject to applicable provisions contained in Subchapter A of Chapter I of 45 CFR (relating to fiscal, administrative, and other matters).

(20 U.S.C. 1142b(a))

[FR Doc. 78-13454 Filed 5-16-78; 8:45 am]

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[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21230; FCC 78-301]

PART 31—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS A AND CLASS B TELEPHONE COMPANIES

Accounting and Reporting Changes To Implement Certain Findings in Docket 19129 (Phase II) Rate Case

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This report and order amends the Uniform System of Accounts for Class A and Class B Telephone Companies, to provide therein the rate base and expense treatment of certain items prescribed in the Phase II Final Decision and Order (Decision) in Docket No. 19129, 64 FCC 2d 1 (1977). The Commission in that Decision stated that certain ratemaking principles adopted by the Commission would be reflected as general rules of applicability in the uniform system of accounts.

EFFECTIVE DATE: January 1, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Virginia Brockington, Accounting Branch, Common Carrier Bureau, 202-632-3863.

In the matter of amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies; Report and order (Proceeding Terminated) (42 FR 24291).

Adopted: May 4, 1978.

Released: May 11, 1978.

By the Commission: Commissioner Fogarty absent.

1. On April 28, 1977, the Commission adopted a Notice of Proposed Rule Making in the above entitled matter. The Notice was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24291).

2. The Notice proposed amendments to the uniform system of accounts for telephone companies to codify the accounting conclusions reached regarding the American Telephone & Telegraph Co. (AT&T) in the Phase II Final Decision and Order (Decision) in Docket No. 19129, 64 FCC 2d 1, (1977).[1] The amendments were to subdivide the telephone plant under construction account into (1) the cost of plant under construction for one year or less with no provision to accrue interest during construction (subdivision (1)) and (2) the cost of plant under construction for over one year with provision to accrue interest during construction at the prime rate (subdivision (2)). Further, we proposed to institute a two-year limitation on the period during which property may be held in Account 100.3, "Property held for future telephone use," with provision to transfer such property from that account to Account 103, "Miscellaneous physical property," after the two-year period. The Commission also proposed to require telephone companies to maintain their operating expense accounts so that all payments to academic institutions and individuals for academic services could be identified by recipient and service performed and readily available to report to the Commission.

3. Comments were received from Arthur Andersen & Co. (Arthur Andersen), United System Service, Inc. (United) on behalf of member companies of the United Telephone System, Florida Public Service Commission (Florida), RCA American Communications, Inc. (RCA Americom), GTE Service Corp. and its affiliated domestic telephone operating companies (GTE), AT&T, State of Wisconsin Public Service Commission (Wisconsin), Defense Communications Agency and General Services Administration (Federal Executive Agencies), Rural Electrification Agency (REA), Communications Satellite Corp. (Comsat), the United States Independent Telephone Association (USITA) and the late Senator Lee Metcalf.[2] Reply comments were received from Comsat General Corp. (Comsat General), GTE and the Federal Executive Agencies.

4. Most of the comments opposed the adoption of the amendments as proposed, either in whole or in part, and either offered alternatives or proposed that no amendments to the present accounting rules be made. In many instances, these comments seek reconsideration of the Docket 19129 Decision findings and, to that extent, were thus, not relevant to this proceeding.[3] However, we will address these comments to the extent necessary to show that by incorporating into our accounting rules the rate base changes arrived at in our Decision we will not hinder the rate making procedures of the several state commissions.

5. Several other items not germane to reaching a decision in this proceeding were raised in the comments. Therefore, they will not be specifically addressed. These items included applicability of Part 31 to domestic satellite carriers;[4] increasing the dollar amount of revenues used for classifying companies as Class A or Class B companies; establishing new accounts and changing interest during construction terminology to record interest during construction separately for amounts related to debt and equity; and interperiod income tax allocation of timing differences resulting from different book and tax treatment of interest during construction. If the parties which raised these items wish to pursue them other than by petitioning for an appropriate rulemaking(s), we believe our upcoming proceeding which is to deal with broad changes to the Uniform System of Accounts would be the appropriate proceeding in which to do so.

6. Comsat and Comsat General voiced their opposition through comments and reply comments to the plant under construction and interest during construction portions of our decision in Docket No. 19129.[5] The Commission has permitted Comsat to follow the accounting prescribed in Part 31 of our Rules. However, the Commission in Docket No. 16070 prescribed the ratemaking treatment to be followed by Comsat for certain items addressed in Docket No. 19129. See Decision, 56 FCC 2d, 1101 (1976), *remanded in part sub. nom. Communications Satellite Corp.* v. *FCC*, Case No. 75-2193, D.C. Cir., October 14, 1977. Comsat General's concerns are addressed in paragraph 5 of this Order.

7. In our Notice we proposed amendment of Account 100.2, "Telephone plant under construction," by subdividing the account into construction projects designed to be completed in one year or less (subdivision (1)) and construction projects designed to be completed in over one year (subdivision (2)). Further, we specified in our Decision the circumstances under which property includible in subdivision (1) would be allowed in the rate base and the circumstances under which property included in subdivision (2) would accrue interest during construction.

8. The Federal Executive Agencies support the proposal that Account 100.2 be differentiated between short and long-term construction projects. Florida also concurs in the one year cutoff point for projects on which no interest during construction would be accrued. GTE, however, opposes the adoption of the proposed rulemaking and offers new criteria for charges to Accounts 100.1 and 100.2. It suggests that the Commission amend the Note to Section 31.100:2 of Part 31 to provide for all projects designed to be completed in less than one year from the date of the first major expenditure on the project to be charged directly to Account 100.1, "Telephone plant in service." The Note presently permits charging directly to the plant accounts the cost of any construction project which is estimated to be completed ready for service within two months or for which the gross additions to plant are estimated to amount to less than $10,000. The Commission believes that Account 100.2 should continue to be the clearing account for the bulk of construction projects so as to isolate construction from other plant. Consequently, the Commission is not changing the present two-month period. However, we are in agreement with the suggestion of AT&T, GTE, and Florida that an increase in the $10,000 level for charging construction costs directly to plant in service should be made to reflect the substantial inflation and other cost increases experienced since the $10,000 level was adopted in 1957. Therefore, we are increasing this amount to $25,000, a level supported in the comments of AT&T and GTE showing increases experienced since 1956 in the Consumer Price Index, GNP Implicit Price Deflator, Wholesale Price Index for machinery and equipment, and the Bell System Telephone Plant Index.[6]

9. GTE also questions whether subaccounts are being proposed within the plant under construction account to capture the subdivision (1) and subdivision (2) property. It recommends that the information called for in this section be maintained through a work order numbering scheme. Such amounts would be noted on reports to the Commission and available for the Commission's review and audit. The

[1] See also Reconsideration, FCC-78-103, released Feb. 24, 1978.

[2] Although comments from USITA were dated June 15, 1977, and comments from the late Senator Lee Metcalf were dated October 11, 1977, they are being considered. Comments contained in letters filed by Missouri Public Service Commission, State of New York Public Service Commission and Central Telephone & Utilities Corp. have been addressed in our response to comments filed in accordance with § 1.419(b) of Part 1 of our Rules and Regulations, 47 CFR § 1.419(b).

[3] Petition for reconsideration of our Phase II decision should have been filed on or before March 31, 1977, under the Docket 19129 caption; thus to the extent that any party raises in this proceeding matters bearing on reconsideration of our Docket 19129 ruling, this proceeding is the inappropriate procedure vehicle.

[4] The Commission's January 7, 1975, letter ordered new carriers in both the specialized and domestic satellite communications fields to follow on an interim basis, effective January 1, 1975, the basic accounting regulations (Part 31) that apply to telephone companies.

[5] See 64 FCC 2d, at para. 153.

[6] In view of comments received and our own analysis, we feel that while not explicitly noticed in this proceeding, this change can be made without further Notice of Proposed Rulemaking.

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Commission's primary concern is to separate large, costly, longer-term projects from the smaller, less costly, shorter-term projects. It was not the Commission's intent in the Decision to establish new subaccounts nor were any proposed in our Notice in this proceeding. However, if any carriers wish to establish subaccounts to maintain the required segregation they may do so and inform the Commission thereof, as provided for in § 31.01-2(d) of Part 31. Otherwise, the use of a work order numbering scheme or similar record keeping practice may be employed.

10. AT&T, United and GTE raised questions on the clarity of proposed § 31.100:2. AT&T notes that provision has been made for inclusion of interest during construction on property included in subdivision (2), but the proposal does not specifically prohibit interest during construction on subdivision (1) property as intended by paragraph 150 of the Decision. The Commission agrees and has revised § 31.100:2(c) to include a specific instruction prohibiting interest during construction on subdivision (1) property.

11. United and USITA note that the proposal does not mention what treatment is to be afforded plant designated to be completed in a period greater than one year, but actually completed in less than one year. The Commission intended that no retroactive exclusion of interest during construction should be made in those circumstances and is clarifying § 31.100:2 accordingly. GTE questions when interest during construction commences after the transfer from subdivision (1) to subdivision (2), indicating that the Commission implies that suspended projects would automatically become subdivision (2) property and the suspension period would be waived. The Commission stated in proposed § 31.100:2(c) that if a project is suspended for six months or more, the cost of plant in subdivision (1) should be transferred to subdivision (2). However, § 31.2-22 (b) (10) indicates that no interest during construction should be charged for a longer period than 6 months from the date of suspension unless specifically authorized by the Commission. The Commission sees no particular conflict between the two sections since its intention was to allow no interest during construction on projects suspended 6 months or more. They will merely be recorded in subdivision (2) until reactivated. GTE's suggestion of inclusion in subdivision (1) of the duration of the suspension is rejected.

12. GTE further questions how to consider the suspension period when determining the life of a construction project. The life of a project should become a factor only with regard to projects originally included, or still included (less than 6 month suspension) in subdivision (1). In those cases the suspension period should be considered a part of the life.

13. Questions were also raised regarding the use of the prime rate in computing interest during construction. In our Docket 19129 Decision, we stated that the Bell System is presently charged the prime rate by financial institutions for its short-term debt and promissory notes.[7] Further, AT&T short-term funding presently constitutes a very minor portion of its total capital obligations but a significant portion of its construction budget. Accordingly, the Commission indicated in that Decision its confidence that AT&T could, if it so desired, fund an even greater share of its construction program with short-term debt (at prime rate) with no adverse consequences to its overall financial stability or cost of capital. On the other hand, United, GTE and USITA indicate in their comments that all of the construction funds of independent telephone companies are not provided entirely by short-term financing. United states that approximately 75 percent to 80 percent of the construction requirements of the United Telephone System companies are internally generated from retained earnings, depreciation etc., with short-term borrowings amounting to only about 25 percent. GTE states that construction is financed by its system telephone companies by funds obtained at rates other than the prime interest rate. USITA states that although the rate of interest at which an independent telephone company can obtain bank loans may provide a clue to its overall cost of capital, it is only one element of that cost. Wisconsin; Florida and others express concerns similar to USITA. Their contentions are that all companies may not be able to borrow at the prime rate and the use of the prime rate may result in using a rate for interest during construction which differs significantly from the actual cost of funds used for construction. The Commission believes that in light of these comments revising the accounting rules to require the use of the prime rate as the rate for capitalizing interest during construction for all carriers subject to Part 31 may not be appropriate at this time. Accordingly, we are not amending § 31.2-22 of Part 31 in this regard. However, it should be noted that our decision with regard to the use of the prime rate in this proceeding does not alter our interstate ratemaking decision in Docket 19129. Further, in order for the Commission to be apprised of the rates used by subject carriers in capitalizing interest during construction, we shall require the carriers to report in their Annual Report Form M as Note 3 to Schedule 11, Income and Retained Earnings Statement, the rate(s) used during the year under report and the basis upon which the rate(s) was determined.

14. United and Arthur Andersen are concerned with the impact that the amendment to exclude interest during construction on short-term projects would have on a company's earnings during the period between implementation of our accounting rules and appropriate rate requests before state commissions. They request the Commission to allow a phase-in period or postpone the effective date until the effect of such rules could be considered in local rate proceedings. The Commission in Docket No. 19129 expressed its concern with the effect its decision would have on the regulatory systems of the several states.[8] Accordingly, we have made the effective date for amending § 31.100:2 of Part 31 January 1, 1979, which should allow time for carriers to address this issue with their local Commissions. It should also be pointed out that we are not in any way attempting to influence the intrastate ratemaking decisions the several state commissions may make in this area.

Of course, they are free to adopt the same ratemaking treatment for plant under construction and interest during construction as we adopted in Docket 19129, or they may prefer to follow a different treatment. We are familiar with at least one state, that by statute, must follow a different treatment. We do not believe, nor is it intended, that the accounting changes adopted in this proceeding impinge upon the ratemaking prerogatives of any state commission. Further, as everyone is aware, different treatment is already given to a number of items for intrastate vs. interstate ratemaking as well as among the several state commissions for intrastate ratemaking. As noted in paragraph 8, Florida is in favor of our accounting change for plant under construction. Wisconsin did not comment on it. Further, the revisions to the uniform system of accounts adopted in this proceeding will not make the information needed by the states in their proceedings unavailable. In fact, these revisions will provide the plant under construction and, as discussed in paragraph 15, the property held for future use items in a more detailed manner.

15. We proposed to amend Account 100.3, "Property held for future telephone use," to require property remaining therein to be useful (and cleared to 100.1) within two years. All other property was to be placed in Account 103, "Miscellaneous physical property," until placed in service. Provision was also proposed, however, to permit a carrier to request additional time for retaining the property in Account 100.3. The Federal Executive Agencies support the proposed revision to Account 100.3, but believe that the rules should specify the information the carrier should submit in support of any waiver request. In the Decision, the Commission did state that a request for a waiver for specific property items shall show that such a waiver is in the public interest and the specific additional time required for the property to be held in Account 100.3.[9] Accordingly, § 31.100:3 of Part 31 will be modified to include the information a carrier must submit in support of its request.

16. AT&T has questioned whether property having a definite plan for use in excess of two years should be recorded in Account 100.3 the first two years and then be transferred to Account 103, or recorded in Account 103 until two years before use and then be transferred to Account 100.3. Actually, the Commission did not intend either option. As set forth in the Decision, for interstate ratemaking purposes property included in Account 100.3, prior to 1977, which has been recorded therein in excess of two years, should be transferred to Account 103; property in Account 100.3 which has not been recorded in this account for over two years, but having no more than a total of two years until planned use, shall remain in Account 100.3. For all property recorded in Account 100.3 in 1977 and thereafter, its planned use must be within two years to remain recorded therein. Any property which will not be used within two years should be placed in Account 103 and remain therein until used. Any item recorded in Account 100.3 for which circumstances change so that its planned use is in excess of two years should be transferred to Account 103.

17. Florida believes that the proposed amendment to Account 100.3 is an unduly restrictive definition of the account and recommends that no change be made to that account. GTE strongly suggests that if a time limitation is imposed by the Commission, a minimum of 10 years is realistic. As discussed in paragraph 14, adoption of the proposed amendment to § 31.100:3 of Part 31 should not impinge on the ratemaking prerogatives for this item by the state commissions. Consequently, the Commission is not persuaded that it should not make the two-year time limitation a general rule of applicability for accounting purposes, and shall do so for the reasons cited in the Docket 19129 Decision.[10]

18. We proposed to amend § 31.6-60 of Part 31 of our rules by adding a note requiring carriers to maintain their records so that all academic payments identifiable by recipient and by service performed shall be readily available to be reported to this Commission.

19. The Federal Executive Agencies strongly support a policy of full and complete disclosure to the public of all such payments by regulated communications common carriers. Florida concurs in this proposal but suggests that these payments be reported only when they exceed $1,000. Other carriers responding indicate that the language proposed is too broad and could be interpreted to include other payments which they feel do not come within the scope of the Commission's intended meaning. In Docket No. 19129, the Decision gave reference to the definition of "academia payments" used in the proceeding and cited examples of such payments.[11] Two examples cited were a fee for a financial consultant and a seminar for the education of employees. Further, the Commission stated in the Decision that once these payments are identified, it can review the reasonableness of such expenditures. Accordingly, those carriers who are concerned with what falls within the purview of academia payments should refer to the Decision or to other evidence presented in Docket No. 19129. The language is revised, however, to make the intent of the Commission clearer.

20. Question was raised by the late U.S. Senator Lee Metcalf as Chairman, Subcommittee on Reports, Accounting, and Management as to the fact that present reports to the Commission do not clearly identify recipients of academia payments and that the language in Docket No. 19129 is not expressed as to their identification. The Commission indicated in Docket No. 19129 that the problem of academia payments is one of identification and further indicated that it shall require isolation and reporting, within each existing account, of the amounts paid for academia expenses. In order that such recipients are clearly identified, the Commission believes that the names as well as addresses and college affiliation, where appropriate, of such recipients should be maintained in the records of the carriers for reports to the Commission. It is further believed that such information is presently at the disposal of all subject carriers and will create no additional burden.

21. Accordingly, *it is ordered*, That, under authority contained in sections 4(i), 4(j) and 220 of the Communication Act of 1934, 47 U.S.C. §§ 154(i), 154(j) and 220, as amended, Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, of the Commission Rules, is amended as set forth below effective January 1, 1979.

22. *It is further ordered*, That this proceeding is hereby terminated.

(Secs. 4, 220, 48 Stat., as amended, 1066, 1078; 47 U.S.C. 154, 220.)

FEDERAL COMMUNICATIONS COMMISSION.
WILLIAM J. TRICARICO,
Secretary.

Attachment: Appendix.

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, is amended to read as follows:

1. In § 31.100:2, paragraph (a) and the Note are amended, paragraph (b) as amended is redesignated paragraph (e), and new paragraphs (b), (c) and (d) are added to read as follows:

§ 31.100:2 Telephone plant under construction.

(a) This account shall include the original cost of construction of telephone plant, other than station apparatus and station connections, that is not completed ready for service. It shall include interest during construction, as provided for in paragraph (d) of this section, taxes during construction, and all other elements of cost of such construction work. (Note also §§ 31.2-20 to 31.2-22 and account 231.)

(b) This account shall be subdivided so as to show separately the cost of construction projects (1) designed to be completed in one year or less and (2) designed to be completed in over one year.

(c) When plant includible in subdivision (1) is not ready for service at the end of one year, the cost of construction of the plant shall be transferred to subdivision (2) of this account without further direction or approval by this Commission. If a construction project has been suspended for six months or more, the cost of the plant includible in subdivision (1) shall be transferred to subdivision (2) of this account without further direction or approval by this Commission. No interest during construction shall be accrued on plant included in subdivision (1) of this account. No amount of interest during construction shall be accrued retroactively in this account for any telephone plant which was once included in subdivision (1) of this account.

(d) When the cost of telephone plant has been included in subdivision (2) of this account, interest during construction shall be accrued, as provided for in § 31.2-22(b)(10).

(e) When any telephone plant, the cost of which has been included in this account, is completed ready for service, the cost thereof, shall be credited to this account and charged to the ap-

[7] 64 FCC 2d, at para. 150.

[8] 64 FCC 2d, at para. 154.

[9] 64 FCC 2d, at para. 159.

[10] 64 FCC 2d, at para. 155 thru 159.

[11] 64 FCC 2d, at para. 232.

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propriate telephone plant or other accounts. No reversal of interest during construction on property estimated to be completed in over one year but completed earlier is necessary.

NOTE.—There may be charged directly to the appropriate plant accounts the cost of any construction project which is estimated to be completed and ready for service within two months. There may also be charged directly to the plant accounts the cost of any construction project for which the gross additions to plant are estimated to amount to less than $25,000.

In § 31.100:3 paragraph (a) is revised to read as follows:

§ 31.100:3 Property held for future telephone use.

(a) This account shall include the original cost of property other than station apparatus, owned and held for no longer than two years under a definite plan for use in telephone service. If at the end of two years, the property is not in service, the original cost of the property shall be transferred to account 103, "Miscellaneous physical property." Should a carrier desire to retain the property in this account for a period longer than two years, it shall request direction or approval of this Commission according to the circumstances surrounding that property. The request should include the property item in question, demonstrate that the waiver is in the public interest, and indicate the precise additional time required for the property to be held in account 100.3.

* * * * *

3. § 31.6-60 is amended by adding a note to read as follows:

§ 31.6-60 Purpose of operating expense accounts.

* * * * *

NOTE.—The company's records shall be maintained so that payments to institutions or individuals for academic programs including company-run seminars, identifiable by recipient indicating address and college affiliation, where appropriate, and by service performed shall be readily available for reports to this Commission.

[FR Doc. 78-13428 Filed 5-16-78; 8:45 am]

[4910-06]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Emergency Order No. 7; Notice No. 3]

REMOVAL OF HIGH CARBON CAST STEEL WHEELS FROM SERVICE; INTERIM RESTRICTIONS ON THEIR USE

Amendment of Emergency Order

AGENCY: Federal Railroad Administration, DOT.

ACTION: Emergency order.

SUMMARY: FRA is amending paragraphs 4 and 9 of Emergency Order No. 7 published March 27, 1978 (43 FR 12691) to exclude freight cars equipped with 28-inch wheels from the prescribed inspection and stenciling requirements and to require that monthly reports be filed by the last day rather than the 10th day of the following month. These amendments are based upon experience in administration of Emergency Order No. 7; their purpose is to clarify the order and lessen the reporting burden.

EFFECTIVE DATE: This amendment to Emergency Order No. 7 becomes effective on May 17, 1978.

ADDRESSES: (1) Submission of written comments: All correspondence concerning this amendment should identify the Emergency Order Number and Notice Number and be submitted in triplicate to the Docket Clerk (RCC-1), Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

(2) Examination of written comments: All correspondence concerning this emergency order will be available for examination during regular business hours in Room 5101 Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Rolf Mowatt-Larssen, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202-426-0924. *Principal Attorney:* Edward F. Conway, Jr., Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590, 202-426-8836.

SUPPLEMENTARY INFORMATION:

BACKGROUND INFORMATION

On March 27, 1978, FRA published Emergency Order No. 7 (43 FR 12691) under section 203 of the Federal Railroad Safety Act of 1970 (45 USC 432). This emergency order restricts the use of freight cars with 70-ton 1 percent carbon cast steel wheels (commonly referred to as "70T U-1 wheels"), prescribes a mandatory program for locating these wheels and removing them from cars, and requires these wheels to be found and removed from service before January 1, 1979.

On April 25, 1978, FRA published an amendment of Emergency Order No. 7 (43 FR 17472) to allow more flexibility in the timing and method of destroying "70T U-1 wheels" after they have been removed from cars.

The Association of American Railroads (AAR) has petitioned the FRA to amend paragraphs 4, 8 and 9 of Emergency Order No. 7.

Paragraph 4 of Emergency Order No. 7 now requires that each 70 ton or less capacity car that is on a shop or repair track and that has not been inspected and stenciled to indicate the presence or absence of "70T U-1 wheels" must be inspected and appropriately stenciled before the car is removed from that shop or repair track. In its petition, AAR requests that paragraph 4 be amended to: (1) limit these requirements to cars with 33-inch wheels and a nominal capacity of 55-tons, and (2) exclude cars of Canadian ownership from these requirements.

In support of the first modification, AAR states that the railroad industry will continue to inspect 50-ton cars when they are on repair tracks and will remove all "70T U-1 wheels" found, although AAR does not expect many of these wheels will be found under 50-ton cars. AAR also contends that the safety record of 1 percent carbon wheels under 50-ton cars does not justify the cost of applying a stencil to about 550,000 of these cars and that the railroad industry has other and more urgent needs for this money.

FRA does not agree that the requirement that 50-ton cars be stenciled is unjustified. This requirement was devised to forestall the necessity for *repeated* inspections of the same car each time it is on a shop or repair track and again each time it is loaded with a placarded hazardous material. Moreover, the prescribed stenciling of cars provides the information needed by railroad personnel to assure that cars with "70T U-1 wheels" are not inadvertently placed in trains containing placarded hazardous materials.

In view of the overall high failure rate of "70T U-1 wheels" and the fact that these wheels can readily be substituted for 50-ton wheels that are in short supply because they are no longer in production, FRA believes that it is imperative from the standpoint of safety that all cars of less than 70-ton capacity be inspected, stenciled and otherwise handled as prescribed in Emergency Order No. 7. Accordingly, FRA is denying the AAR request that the inspection and stenciling requirements of paragraph 4 of the order be limited to cars with 33-inch wheels and a nominal capacity of 55 tons. However, FRA is amending the order to exclude cars with 28-inch wheels from these requirements because these wheels can be easily distinguished from 33-inch wheels (such as "70T U-1 wheels"). Moreover 28-inch wheels are generally confined to autorack and other specialized cars that are not part of the general purpose car fleet.

In support of its second requested modification to exclude cars of Canadian ownership from Emergency Order No. 7, AAR states that railroads in Canada did not not purchase any "70T U-1 wheels"; however, AAR admits that some of these wheels may have been applied to Canadian cars during routine maintenance performed in the United States. AAR states that Canadian cars average four trips per year to a repair track and that any "70T U-1 wheels" found will be removed at that time in accordance with the AAR interchange rules. It argues that Canadian railroads should not be required to spend more than a million dollars to stencil the majority of the cars in the Canadian fleet of almost 200,000 cars.

At the outset, FRA wishes to emphasize that Emergency Order No. 7 applies to Canadian cars only while they are in the United States; Canadian cars of 70-ton or less capacity operated exclusively outside the United States *are not* subject to this order. FRA welcomes and appreciates the cooperation of Canadian railroads in agreeing to stencil U.S.-railroad-owned cars in accordance with Emergency Order No. 7.

Nevertheless FRA is constrained in the interest of safety to require that Canadian cars comply with Emergency Order No. 7 while they are in the United States. Many U.S. railroads did not purchase any "70T U-1 wheels" yet their cars must be inspected to determine whether they have any of these wheels. FRA estimates that as many as 45,900 "70T U-1 wheels" were installed as maintenance replacements on interchange cars. Since Canadian cars are freely interchanged with U.S. railroads and operate throughout the United States, many Canadian cars may have had "70T U-1 wheels" installed as maintenance replacements by U.S. railroads. Any Canadian car with these wheels is just as much a safety hazard as a U.S.-railroad-owned car. Finally, the reasons for requiring U.S. cars to be stenciled apply equally to Canadian cars operated in the United States.

AAR also requests that the provision in paragraph 8 of Emergency Order No. 7 that required "70T U-1 wheels" to be destroyed by burning a hole through the plate of each wheel be changed to require instead that they be stenciled. FRA has already amended this requirement to provide that when these wheels are removed from a car they must be stenciled "Scrap FRA EO 7"; and when the wheel is demounted from the axle, the wheel must be made permanently unusable by cutting a hole through the plate, notching the hub or some other destructive and disfiguring measure (Emergency Order No. 7, Notice No. 2 published in the April 25, 1978 issue of the FEDERAL REGISTER, 43 FR 17472).

Finally, AAR requests that paragraph 9 of Emergency Order No. 7 be amended to provide that monthly reports be filed by the last day of the following month instead of by the 10th day of the following month. This would allow railroads to utilize their car repair billing system to prepare these reports rather than establish an unnecessary and costly accounting procedure that AAR contends cannot be justified in the name of safety. FRA agrees and is amending paragraph 9 accordingly.

Therefore, pursuant to the authority of section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 432), delegated to the Federal Railroad Administrator by the Secretary of Transportation (49 CFR § 1.49(n)), it is hereby ordered that Emergency Order No. 7 (43 FR 12691 and 43 FR 17472) be revised to read as follows:

1. After March 31, 1978, a 70-ton or less capacity freight car containing any hazardous material required to be placarded by the Department of Transportation Hazardous Materials Regulations ("placarded hazardous material") may not be accepted for transportation unless the car has been inspected to ascertain whether it is equipped with any Southern Wheel Co. (ABEX) 33", 70-ton, one-wear 1 percent carbon cast steel wheels manufactured during the years 1958-1969 ("70T U-1 wheels"). In the event it is ascertained that the car is equipped with any "70T U-1 wheel," and the hazardous material is not off-loaded at the point of origin, the car may be moved only to the nearest point where the "70T U-1 wheels" can be removed.

2. After June 30, 1978, no car listed under the provisions of paragraph 6 of this order as having been originally equipped with "70T U-1 wheels" may be hauled in any train unless it has been inspected and marked as prescribed in paragraph 7 of this order.

3. No car stenciled as prescribed in paragraph 7b of this order to indicate that it is equipped with "70T U-1 wheels" may be hauled in a train containing any placarded hazardous material.

4. After March 31, 1978, each 70-ton or less capacity car that is not equipped with 28-inch wheels and is on a shop or repair track but has not been stenciled to indicate whether it is or is not equipped with any "70T U-1 wheels", shall be inspected and stenciled as prescribed in paragraph 7 of this order before the car is removed from that shop or repair track.

5. After December 31, 1978, a car with one or more "70T U-1 wheels" may not be hauled in any train.

6. By April 1, 1978, each railroad that purchsed any "70T U-1 wheels" shall compile a list of the cars on which these wheels were installed as original equipment and distribute that list to its mechanical forces, all other railroads, and the Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590.

7. Each railroad that finds on its line a car listed pursuant to paragraph 6 of this order as being originally equipped with "70T U-1 wheels" shall inspect that car to determine whether it still has any of these wheels. This inspection shall be made at the nearest car inspection facility or, if proper protection is provided to the personnel making the inspection, at the point the car is found.

a. If the car inspected does not have any "70T U-1 wheels" or they are replaced with other wheels the car shall be stenciled with a "yellow dot" before the car is moved from the point of inspection. The "yellow dot" shall be at least 6 inches in diameter and centered in a black square that is at least 12 inches square and is located immediately to the right of the consolidated stencil on each side of the car.

b. If the car inspected has any "70T U-1 wheels" and they are not all replaced with other wheels, the car shall be stenciled with a "white dot" before the car is moved from the point of inspection. The "white dot" shall be at least 6 inches in diameter and centered in a black square that is at least 12 inches square and is located immediately to the right of the consolidated stencil on each side of the car.

8. Each railroad shall immediately destroy its supply of "70T U-1 wheels" in addition to those it removes from cars. This shall be accomplished in the following manner: (a) the back plate of each wheel that is not immediately demounted from the axle shall be stenciled in white letters at least two inches high ("Scrap FRA EO 7"); and (b) immediately after each wheel is demounted from the axle, the wheel shall also be made permanently unusable by cutting a hole through the plate, notching the hub or by some other destructive and disfiguring measure.

9. Each railroad shall report in writing to the FRA by the last day of each calendar month through the month of January 1979, the following information:

a. The total number of cars inspected during the preceding month under this emergency order.

b. The total number of cars on which "70T U-1 wheels" were found and the number of wheels removed and destroyed.

c. The total number of cars on which "70T U-1 wheels" were found but were not removed and the number of wheels not removed.

The report shall be a addressed to the Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590.

A civil penalty of $240 to $2,500 will be assessed for any violation of this order (45 U.S.C. 438).

Opportunity for formal review of this emergency order will be provided in accordance with section 203 of the Federal Railroad Safety Act of 1970 by written petition.

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Issued in Washington, D.C. on May 11, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-13308 Filed 5-16-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Revised Service Order No. 1305]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Revised Service Order No. 1305.

SUMMARY: There is a severe shortage of boxcars on the Union Pacific Railroad Co. That line owns a group of mechanical refrigerator cars which have inoperative refrigeration devices. In all other respects these cars are serviceable. Because of their limited cubical capacity many shipments that could be transported in these cars cannot be loaded with the minimum quantities specified by the applicable tariffs. Revised Service Order No. 1305 authorizes the Union Pacific to substitute two of these refrigerator cars for each boxcar ordered. The minimum weight to be applied to each set of two such cars is the minimum weight applicable to the boxcar ordered. The consent of the shippers is required.

DATES: Effective 12:01 a.m., May 12, 1978; Expires 11:59 p.m., October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: This Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C. on the 10th day of May, 1978.

There is an acute shortage of plain boxcars for loading shipments of various commodities on the lines of the Union Pacific Railroad Co. (UP). The UP has a surplus of mechanical refrigerator cars with inoperative refrigerating devices which are suitable for transporting these products if the use of two such cars for each boxcar ordered is permitted.

The economic loss suffered by shippers dependent on the UP for their car supplies can be alleviated by the substitution of sufficient smaller cars for the larger cars ordered to transport the shipments offered.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of boxcars are ineffective to overcome these shortages of boxcars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1305 Distribution of freight cars.

(a) Subject to the concurrence of the shipper the Union Pacific Railroad Co. (UP) may substitute two mechanical refrigerator cars bearing reporting marks UPRX for each boxcar ordered.

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(c) *Rates and minimum weights applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by section (a) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(d) *Billing to be endorsed.* The carrier substituting smaller cars for larger cars as authorized by section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Boxcar Ordered, UPRX ( ) and UPRX ( ) furnished authority ICC Revised Service Order No. 1305.

(e) *Concurrence of shipper required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(f) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and regulations suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order

(h) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(i) *Effective date.* This order shall become effective at 12:01 a.m., May 12, 1978.

(j) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13450 Filed 5-16-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket Nos. 9068, 9069, 9070]

MACLEOD MOBILE HOMES, INC., ET AL., MOBILE HOMES—MULTIPLEX CORP., INC., ET AL., AND HARPER SALES, INC., ET AL.

Extension of Time

AGENCY: Federal Trade Commission.

ACTION: Comment period extended for sixty days.

SUMMARY: The period of time for filing comments on the consent agreements has been extended for sixty days to July 5, 1978.

DATES: Comments must be received on or before July 5, 1978.

ADDRESSES: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St., and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

John F. Dugan, Acting Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1207.

SUPPLEMENTARY INFORMATION: Provisionally accepted consent agreements and analyses to aid public comment were published in the FEDERAL REGISTER on March 8, 1978, 43 FR 9493, 9495, and 9497. The Commission has received a number of requests for an extension of time within which to file comments.

The consent orders in these matters will affect numerous mobile home parks and various others who apparently have not had an opportunity to study the proposed consent orders. Accordingly, notice is hereby given that the Commission has extended the comment period for an additional sixty days to and including July 5, 1978.

By direction of the Commission dated May 4, 1978.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-13431 Filed 5-16-78; 8:45 am]

[1505-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 35]

[FRL 875-5]

GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Proposed Regulations Implementing Clean Water Act of 1977

Correction

In FR Doc. 78-11022, appearing at page 17690 in the issue for Tuesday, April 25, 1978, under the "ADDRESS" section of the preamble, change the date of the meeting to be held at the Hyatt Regency O'Hare in Chicago from "June 4, 1978", to "June 5, 1978".

[6730-01]

FEDERAL MARITIME COMMISSION

[Docket No. 78-9]

[46 CFR 542]

FINANCIAL RESPONSIBILITY FOR WATER POLLUTION

Notice of Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of time to file comments.

SUMMARY: Upon request of interested persons, and good cause appearing, time within which comments may be filed in response to the notice of proposed rulemaking in this proceeding (43 FR 16772; April 20, 1978) is enlarged to and including May 22, 1978.

DATES: Comments on or before May 22, 1978.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: None.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-13429 Filed 5-16-78; 8:45 am]

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[49 CFR Part 393]

[BMCS Docket No. 58-1; Notice No. 78-10]

PARTS AND ACCESSORIES NECESSARY FOR SAFETY OPERATION

Step, Handhold, and Deck Requirements on Commercial Motor Vehicles

AGENCY: Federal Highway Administration, DOT.

ACTION: Extension of time to file comments.

SUMMARY: The date for submitting comments to the Notice of Proposed Rulemaking on Step, Handhold, and Deck Requirements on Commercial Motor Vehicles published on February 15, 1978 (43 FR 6637), is being extended from May 16, 1978, to June 30, 1978. This action is being taken as a result of requests from the Motor Vehicle Manufacturer's Association (MVMA) and the Department of Labor (DOL) in order to allow for the preparation of a more meaningful response.

DATE: Comments must be received on or before June 30, 1978.

ADDRESS: Submit comments (original and 2 copies) to: BMCS Docket No. MC-58-1; Notice No. 78-3, Room 3402, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Gerald J. Davis, Chief, Driver Requirements Branch, Bureau of Motor Carrier Safety, 202-426-9767; Principal Lawyer, Attorney, Gerald M. Tierney, Motor Carrier and Highway Safety Law Division, Office of Chief Counsel, 202-426-0834; Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. EST, Monday through Friday.

SUPPLEMENTARY INFORMATION: The MVMA has requested that the comment period to the docket on Step, Handhold and Deck Requirements on Commerical Motor Vehicles be extended due to complex questions that are involved in the consideration of

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the proposals contained in the Notice. They report that "member companies of MVMA are gathering, examining and assessing anthropometric data and other information germane to the questions raised in the Notice." They believe that a 45-day extension will allow them sufficient time to submit comments which would be of genuine assistance to the Federal Highway Administration's Bureau of Motor Carrier Safety and other segments of the public.

The DOL has also requested an extension of comment time based on the complexity of this Notice.

Consequently, the comment time is being extended by 45 days, from May 16, 1978, to June 30, 1978.

Issued on: May 15, 1978.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

[FR Doc. 78-13531 Filed 5-16-78; 8:45 am]

[4910-22]

[49 CFR Part 399]

[BMCS Docket No. MC-64; Notice No. 78-9]

EMPLOYEE HEALTH AND SAFETY STANDARDS

Extended Comment Period

AGENCY: Federal Highway Administration, DOT.

ACTION: Extension of Time to File Comments.

SUMMARY: The date for submitting comments to the Notice of Proposed Rulemaking on employee Health, and Safety Standards, published on March 2, 1978, is being extended 30 days to June 30, 1978. This action was initiated as a result of a request from the Department of Labor (DOL). They state additional time is needed to prepare their response due to the complexity of the proposed rule.

DATE: Comments must be received on or before June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald J. Davis, Chief, Driver Requirements Branch, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590, 202-426-9767; Principal Lawyer, Attorney, Gerald M. Tierney, Motor Carrier and Highway Safety Law Division, Office of Chief counsel, Federal Highway Administration, Department of Transportation Washington, D.C. 20590, 202-426-0346. Office hours are from 7:45 a.m. to 4:15 p.m., EST, Monday through Friday.

SUPPLEMENTARY INFORMATION: On March 2, 1978 (43 FR 8566), a Notice of Proposed Rulemaking was published proposing safety and health standards for employees engaged in the operation of motor vehicles for the purpose of improving safety and health for these employees.

The DOL has requested an extension of time to prepare their comments to this docket based on the complexity of the proposal. Since the DOL has significant interest in this particular proposal, the request is a reasonable one.

Consequently, the comment period is extended from May 31, 1978, to June 30, 1978.

Issued on: May 15, 1978.

ROBERT A. KAYE,
Director
Bureau of Motor Carrier Safety.

[FR Doc. 78-13530 Filed 5-16-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Threatened Status for West African Manatee (*Trichechus senegalensis*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that the West African manatee (*Trichechus senegalensis*) be listed as a Threatened species. A petition from the Marine Mammal Commission to list this species contains the data upon which the proposal is based. If the West African Manatee is listed as Threatened, certain measures will go into effect that could benefit the species and result in its restoration.

DATES: Comments from the public must be received by July 17, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 18, 1977, the Service was petitioned by the Marine Mammal Commission to list the West African manatee as a Threatened species pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531-1543). It is the Service's opinion that the Marine Mammal Commission provided sufficient data to propose this species for Threatened status.

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF THE FACTORS AFFECTING THE SPECIES

With the West African manatee, factors (1), (2), (4) and (5) are operational. The appropriate portion of the petition from the Marine Mammal Commission detailing these factors is herewith reproduced:

The West African manatee is known from the coastal waters and adjacent rivers along the west coast of Africa from the mouth of the Senegal River (16° N), southward to the mouth of the Cuanza River (9° S) in Angola. Its range includes parts of the following countries: Senegal, Gambia, Guinea-Bissau, Upper Volta, Guinea, Sierra Leone, Liberia, Ivory Coast, Ghana, Togo, Benin, Mali, Nigeria, Cameroon, Chad, Equatorial Guinea, Gabon, Congo Brazzaville, Cabinda, Zaire, and Angola. Its present range is though to be comparable to its historic range.

"Husar (Mammalian Species, in press) has summarized what is known of the status of this species. No estimates of past or present population size are available. In at least one area, the Niger and Mekrou Rivers along the northern boundary of Benin (formerly Dahomey), it has been exterminated by local hunting (Poche, *Oryx* 12(2): 216-222, 1973). Manatees are taken by guns and harpoons in Liberia and Sierra Leone, where existing protective regulations are routinely ignored (Robinson, *Oryx* 11(2-3): 117-121, 1971). Ritual hunting for manatees still takes place in Ghana (Cansdale, *Oryx* 7(4): 168-171, 1964). In Nigeria, the species has traditionally been hunted by use of grass-baited traps (Dollman, *Nigeria Nat. Hist. Mag.* 4: 1170125, 1933; Allen, *Am. Comm. for Intern. Wildl. Protect.*, Spec. Publ. No. 11, 620 pp., 1942), a practice which continues there "unrestrained" despite legal prohibitions (Sikes, *Oryx* 12(4): 465-470, 1974). Native hunting in Zaire and Angola, on the lower Congo, was said to be reducing the Manatee population (Derscheid, Rev. Zool. *Africaine Bull. Cercle Congolaise* 14 (2): 23031, 1926; Allen *Loc. cit.*) and hunting continued as recently as 1952 (Bouveignes, *Zooleo* 14(4): 237-244, 1952). For most areas, it seems fair to assume that subsistence hunting is, or has been, intense, and that many local stocks are depressed. Fortunately, a large-scale commercial exploitation has never been directed at *T. senegalensis* (Husar, *loc. cit.*).

In addition to direct hunting by natives, other factors may be having a negative impact on the species. Wood (*Nigerian Field* 6(1): 23-28, 1937) described the way Nigerian fishermen, in 1932, trapped 48 manatees in the Anambra creek system, apparently exterminating them from the sea. The men did it because they regarded the animals as a nuisance to canoe traffic. Manatees are susceptible to accidental drowning in fish nets, particularly those set for sharks; this phenomenon has been documented in Senegal by Cadenat (*Bull. Inst. F. Afr. Noire* 19 A(4): 1358-1383, 1957). The extent of shark netting in West African waters is not known, so its impact on manatees there cannot be assessed (Husar, *loc. cit.*). Likewise, the degree to which manatees are injured by accidental collisions with motorboats in West Africa is unknown (Husar, *loc. cit.*); experience in Florida with *T. manatus* (Hartman, PhD Thesis, Cornell University, 1971) suggests that it could contribute substantially to mortality in heavily trafficked areas.

The West African manatee is currently protected under Class A of the African Convention for the Conservation of Nature and Natural Resources, 1969. However, enforcement of this convention is reported to be ineffective (Husar, *loc. cit.*). Some forms of additional legal protection exists in most countries where the West African manatee occurs, but the problems of enforcement and education are seemingly universal. The presence of the species in reserves gives some guarantee of protection (See Howell, *Nigerian Field* 33(4): 32-35, 1968; Dupuy and Verschuren, *Oryx* 14(1): 36-46, 1977). The West African manatee is listed as vulnerable by the IUCN, whose Red Data Book notes that the high value of the meat has been an irresistible incentive for killing. *T. Senegalensis* is also included in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

If hunting and habitat modification continue uncontrolled, this species will become more seriously depleted. Damming of rivers and increased boat and ship traffic in many areas may contribute to its decline. Assuming that it is not one already, *T. senegalensis* is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Therefore, the Commission recomends that it be classified as 'threatened' under the Endangered Species Act of 1973, until more is known about it status.

EFFECTS OF THE RULEMAKING

The West African manatee is already protected by the Marine Mammal Protection Act. (16 U.S.C. 1362 (5)-(6); 50 CFR 18.3). Among other things, that Act imposes significant restrictions on importation of the species into the United States. (16 U.S.C. 1371(a), 1372(b)-(c); 50 CFR 18.12). Listing the manatee as a Threatened species under the Endangered Species Act would not only provide an additional prohibition against importation, but would also restrict transportation or sale in interstate or foreign commerce. (16 U.S.C. 1533(d), 1538(a)(1)(G); 50 CFR 17.31(a)). Under each Act, permits are available in certain instances for scientific and zoological display purposes. (16 U.S.C. 1371(a)(1), 1372(b), 1374(c); 50 CFR 17.32, 18.31).

Listing of the West African manatee as Threatened would allow the United States to try to: (1) make the countries in which it is resident aware of the importance of manatee protection; (2) make available to scientists of other countries the results of manatee research undertaken under U.S. sponsorship in such form as to be helpful to them in developing their own research plans; (3) encourage other countries to undertake comprehensive surveys of the status and distribution of this species; (4) encourage other countries to establish reserves; (5) encourage reintroductions to areas once they are well established as protected habitat; and (6) encourage the acquisition of study specimens, that might not otherwise be available, for purposes of scientific research of animals taken incidental to net fisheries.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning this proposed rulemaking are welcome. Comments particularly are sought concerning:

(1) Abundance and distribution of the species; and

(2) population trends.

Final promulgation of the regulations on the West African manatee will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations which differ from this proposal. An environmental assessment is being prepared in conjunction with this proposal. When completed it will be on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours or can be obtained by mail. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this proposed rulemaking is John L. Paradiso, Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, it is proposed to amend Part 17, Subpart B, Chapter I of Title 50 of the U.S. Code of Federal Regulations as follows:

Amend § 17.11 by adding in alphabetical order under "Mammals" the following to the List of Endangered and Threatened Wildlife and Plants:

§ 17.11 Endangered and threatened wildlife.

Species		Population	Range		Status	When listed	Special rules
Common name	Scientific name		Known distribution	Portion threatened			
West African manatee.	*Trichechus senegalensis*	N/A	West Coast of Africa	Entire	T		None

NOTE: The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 9, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-13422 Filed 5-16-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 651]

COD AND HADDOCK BY VESSEL CLASSES

Proposed Regulations Establishing Annual Allocations; Plan Amendment Approval

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations would amend existing regulations for Atlantic groundfish fisheries for cod and haddock by assigning specific annual allocations for each size class of vessel, or gear type of vessel, engaging in those fisheries. Those allocations would be based on historical landing data, and are intended to ensure that each vessel has an adequate opportunity to compete for the

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quantity of cod and haddock assigned to the class in which that vessel falls.

DATES: Interested parties may submit in writing data, views, or comments on the plan amendment or the proposed regulations until July 1, 1978.

ADDRESS: Comments should be submitted to Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930. Please mark on the envelope and contents "vessel allocation comments."

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, address above, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council, under authority of section 302(h) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended (Act), proposed an amendment to the fishery management plan for Atlantic groundfish. That amendment would provide proportionate annual allocations of cod and haddock to each of three trawl vessel size categories, and to fixed gear vessels regardless of size. The Assistant Administrator for Fisheries, acting under an appropriate delegation of authority from the Secretary of Commerce, approved that amendment on May 12, 1978. That amendment amends the Plan which was approved on March 28, 1978 (43 FR 13601). The amendment, which follows immediately, is published with the proposed regulation so that the public may have the greatest possible opportunity to offer comments, suggestions, or other ideas, either in writing or at public hearings which have been announced (43 FR 20531), on the amendment and the proposed regulations.

Revisions to the fishery management plan are as follows:

1. A new section II.C.4.(F) is added as follows:

(F). *Vessel class allocation system.*—(1). *General.* The commercial quotas of cod and haddock representing amounts of those species allocated to vessels of the United States shall be further allocated by four vessel classes: Mobile gear vessels in three classes—60 Gross Registered Tons (GRT) and under, 61-125 GRT, and 126 GRT and over; and all sizes of fixed gear vessels in one class.

The allocation to each class of vessels is determined by applying the appropriate percentage to the domestic commercial quota for each area.

(2) *Cod.* The allocation of cod to domestic licensed commercial fisheries shall be determined by apportioning the domestic commercial cod quotas among the four vessel classes on the basis of the following percentages:

Vessel class	Gulf of Maine	Georges Bank and Southern New England
0–60 GRT	42.55	9.45
61–125 GRT	18.91	31.41
126 GRT and over	7.37	44.66
Fixed gear vessels	31.17	14.48
Total	100.00	100.00

(3) *Haddock.* The allocation of haddock to domestic licensed commercial fisheries shall be determined by apportioning the domestic commercial haddock quota among the four vessel classes on the basis of the following percentages:

Vessel class	Percentage	
	Gulf of Maine	Georges Bank[1]
0 to 60 GRT	31.59	3.68
61 to 125 GRT	25.97	34.98
126 GRT and over	17.56	56.88
Fixed gear vessels	24.88	4.46
Total	100.00	100.00

[1]And southern New England.

The necessity for this amendment comes from the fact that available stocks of the three species of fish regulated under the Fishery Management Plan for Atlantic Groundfish (cod, haddock, and yellowtail flounder) cannot support the amount of fishing effort which is engaged in those fisheries. Yellowtail flounder catches have declined to the extent that many boats which formerly engaged in the yellowtail flounder fishery have shifted into the cod and haddock fisheries. This increase in effort has resulted in further pressure on the cod and haddock stocks to the point where the optimum yield of those stocks could be caught during the early part of the year, or the early part of each succeeding quarter when the largest boats can safely fish consistently in spite of most adverse weather conditions. Such adverse weather conditions, however, could prevent owners and fishermen operating smaller boats from setting out, thereby depriving them of a fair opportunity to catch their share of those species.

The proposed regulations would permit in-season adjustment of weekly trip limitations by vessel class. They would also provide, when necessary, for cessation of fishing for cod and haddock by one vessel class when the catch exceeds the allocation for that class.

The allocations which are proposed in these regulations are based on historical catch data for the years 1970, 1972, 1974, and 1976.

The Assistant Administrator for Fisheries has determined that this amendment:

(1) Is consistent with the National Standards and other provisions of the Act and other applicable laws;

(2) Does not constitute a major Federal action requiring the preparation of an environmental impact statement; and

(3) Requires an economic impact analysis under Executive Orders 11821 and 11949 which is being prepared.

Signed at Washington, D.C., this 15th day of May 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

(1) 50 CFR 651.3 is revised in its entirety.

(2) 50 CFR 651.7(f) is amended.

(3) 50 CFR 651.8(a) and (b) is amended.

§ 651.3 Catch quotas.

(a) Catch quotas for 1978 for vessels of the United States for haddock, cod, and yellowtail flounder are as follows:

(1) *Haddock.* The total commercial and recreational catch for haddock is 8,000 metric tons. The catch quota for the last three quarters is divided as follows:

Quarter	Catch quota (metric tons)
April 1 to June 30	2,591
July 1 to September 30	1,092
October 1 to December 31	1,362

The annual commercial catch of 7,800 mt is allocated as follows:

Vessel class[1]	Gulf of Maine		Georges Bank[2]	
	Percent	Metric tons	Percent	Metric tons
0 to 60	31.59	517.4	3.68	226.8
61 to 125	25.97	425.4	34.98	2155.5
126 plus	17.56	287.6	56.88	3504.9
Fixed gear	24.88	407.6	4.46	274.8
Total	100.00	1638.0	100.00	6162.0

[1]Gross registered tons.
[2]And southern New England.

(2) *Cod.* (i) The total commercial catch for cod is 6,000 metric tons for the Gulf of Maine and 22,000 metric tons for Georges Bank and southern New England. The quota for the last three quarters is divided as follows:

CATCH QUOTAS (METRIC TONS)

Quarter	Gulf of Maine	Georges Bank[1]
April 1 to June 30	1,629	5,596
July 1 to September 30	1,289	5,096
October 1 to December 31	1,290	5,106

[1]And southern New England.

The annual commercial catch is allocated as follows:

Vessel class[1]	Gulf of Maine		Georges Bank[2]	
	Percent	Metric tons	Percent	Metric tons
0 to 60	42.55	2,553	9.45	2,079
61 to 125	18.91	1,135	31.41	6,910
126 plus	7.37	442	44.66	9,825
Fixed gear	31.17	1,870	14.48	3,186
Total	100.00	6,000	100.00	22,000

[1]Gross registered tons.
[2]And southern New England.

(ii) The annual catch for the charter and headboat fishery is 2,500 metric tons for the Gulf of Maine. This quota is not divided into quarterly increments.

(3) *Yellowtail flounder.* The annual commercial and recreational catch for yellowtail flounder is 4,400 metric tons east of 69° W. long. and 3,700 metric tons west of 69° W. long. The quotas for the last three quarters are as follows:

CATCH QUOTAS (METRIC TONS)

Quarter	East of 69° W.	West of 69° W.
April 1 to June 30	950	800
July 1 to September 30	1,150	730
October 1 to December 31	800	928

(b) The Assistant Administrator may establish quarterly quotas for each vessel class for cod and haddock by publication of a notice in the FEDERAL REGISTER.

(c) The Assistant Administrator may adjust quarterly quotas upon publication of a notice in the FEDERAL REGISTER, in the following circumstances.

(1) When a quarterly quota is not reached, to add the surplus onto quotas in subsequent quarters;

(2) When a quarterly quota is exceeded, to deduct the overage from quotas in subsequent quarters.

§ 651.7 [Amended]

(2) Amend § 651.7(f) as follows:

Insert the words "as established under § 651.3(b)," between the words "quota" and "the Assistant Administrator" so that the second sentence of that paragraph reads: "If the statistics indicate that one or more vessel classes in paragraph (a) of this section have taken more than their proportionate share of the current or a previous quarterly quota, as established under § 651.3(b), the Assistant • • •."

At the end of the paragraph, strike the words "historic percentage of the catch." Insert "annual allocation, as established under § 651.3(a)."

§ 651.8 [Amended]

(3) Amend § 651.8(a) and (b) as follows:

In paragraph (a), Line nine, strike the words "the total", substitute the word "any". At the end of line 12, insert the words "by all vessels or by the applicable vessel class," after the word "species" and before the word "shall" at the beginning of line 13. In line 17, insert the words "to which the closure applies" between the word "vessel" and the word "must".

In paragraph (b) Line one, insert the words "for a vessel to which the closure applies "between the word "unlawful" and the word "to".

[FR Doc. 78-13486 Filed 5-16-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01]

CIVIL AERONAUTICS BOARD

[Order No.78-5-75; Docket No. 32186]

BRITISH CALEDONIAN AIRWAYS, LTD.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of May 1978.

British Caledonian Airways, Ltd. (B.CAL), is the holder of a permit which authorizes it, subject to conditions, to engage in foreign air transportation of persons, property, and mail, as follows: Between the coterminal points London and Manchester, England, and Prestwick, Scotland, and the coterminal points Houston, Tex., and Atlanta, Ga.[1]

By application filed March 1, 1978, B.CAL requests amendment of its foreign air carrier permit to add to its existing segment the following authorization: "the optional intermediate point Bangor, Maine, for property only".

B.CAL operates twice-weekly freighter services between Houston, Tex., and London, one via Prestwick and one via Manchester, which regularly make technical fueling stops at Bangor, Maine. In addition, B.CAL offers daily combination service between Houston and London which does not make technical stops. Both all-cargo and combination services use Boeing 707 aircraft.

British Caledonian also requests a waiver from the airport notice requirement, to the extent otherwise applicable, of § 213.4 of the Board's economic regulations, as it is already regularly using Bangor International Airport, which is the only international facility serving that city.[2]

The authority requested would provide Bangor with its first regular and reliable air cargo service to the United Kingdom. The applicant states that, "not only would grant of this application help to satisfy Bangor's pressing and long unmet requirements, but it would ensure that B.CAL's freighter capacity is more effectively utilized and would provide B.CAL with an additional source of revenue at little incremental cost." B.CAL states that it is a limited company incorporated under the Companies Acts, 1908 to 1917, of the United Kingdom and registered in England on October 11, 1928; that it is a citizen of the United Kingdom and a wholly owned subsidiary of Caledonian Airways, Ltd., the holding company for the British Caledonian Group of Companies; and that it is substantially owned and effectively controlled by citizens of the United Kingdom. Order 77-9-64 found that ownership and control of B.CAL to be within the United Kingdom and that the applicant was financially and operationally fit. We are aware of no changes in B.CAL's structure or operations which would require us to modify these findings. Finally, B.CAL has been issued air transport license No. 1B/24045/3 by the Civil Aviation Authority, effective February 8, 1978, which enables B.CAL to perform the foreign air transportation for which the amendment to its foreign air carrier permit is requested.

On June 19, 1973, the Board issued press release CAB-73-106 which invited U.S. and foreign-flag carriers to apply for the right to enplane and deplane cargo at Bangor International Airport in Maine on a "flag-stop" or permissive basis. The release stated that Bangor International Airport is uncongested; offers carriers excellent facilities; and is on or close to the great circle route between much of the United States and Europe; its use could alleviate the burden on existing cargo facilities such as at New York and Chicago, and could help to attract light manufacturing industries to Maine and promote the export of goods such as seafoods. Finally, the Board's release stated that it contemplated that the privileges would be granted on a temporary, experimental basis for a period of 3 years.

The city of Bangor, Maine, and the Greater Bangor Area Chamber of Commerce (Bangor) filed an answer on March 10, 1978, in support of B.CAL's application. Bangor asserts that it is ready and willing to work jointly with carriers, including B.CAL, to further the vigorous development of air cargo service at Bangor. It sponsors a bonded warehouse and international air freight terminal as well as a 12-acre, duty-free, quota-free foreign trade zone. In addition, Bangor states there is a substantial unmet demand at Bangor for regular and reliable air cargo service. Finally, it infers that since B.CAL has a technical stop there anyway, denying B.CAL fill-up authority to transport Bangor Transatlantic cargo on its all-cargo flights would fail to use an available air transport resource which is clearly in the public interest.

Both Seaboard World Airlines, Inc., and Pan American World Airways, Inc., have outstanding authority to serve Bangor, limited to the carriage of property, on a permissive basis until January 21, 1980.[3] However, as Bangor is not a point in the bilateral agreement, neither carrier has operating authority for Bangor from the British Government, nor has either applied to the British Government for such authority. Thus, the authority from the Board has remained dormant, in Pan American's case, and dormant with respect to the United Kingdom in Seaboard's case.[4]

No answers in opposition to B.CAL's application have been received.

We tentatively find that the grant of the application will serve the public interest. Since this authority is outside of the bilateral agreement, we propose to make it temporary, matching the expiration of the U.S. carriers' permissive Bangor authority. In the event U.S. carriers wish to institute the same type of cargo service at Bangor, we expect that in accordance with comity and reciprocity, the Government of the United Kingdom would give reciprocal authority to them.

In view of the foregoing and all the facts of record, the Board tentatively finds and concludes that:

1. British Caledonian Airways, Ltd., is substantially owned and effectively controlled by citizens of the United Kingdom;

2. It is in the public interest to amend the foreign air carrier permit held by British Caledonian Airways, Ltd., authorizing the carrier, subject to conditions, to add Bangor, Maine, as an optional intermediate point for property only, on its authorized segment. This authority will expire on January 21, 1980;

3. The public interest requires that the exercise of the privileges granted by such amended permit shall be subject to the terms, conditions, and limitations contained in the specimen form of permit attached to this order and to such other reasonable terms, conditions, and limitations required by the public interest as from time to time may be prescribed by the Board;

4. British Caledonian Airways, Ltd., is fit, willing, and able properly to perform the above-described foreign air transportation, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board;

5. The request of B.CAL for a waiver of the airport notice requirements of section 213.4 of the Board's economic regulations should be denied.

6. The public interest does not require an oral hearing;

7. The amendment of British Caledonian Airways, Ltd.'s foreign air carrier permit would not constitute "a major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 (EPCA), as defined in subsection of the Board's regulations;[5] and

8. Except to the extent granted, the application of British Caledonian Airways, Ltd., in Docket 32186 should be denied.

It is therefore ordered, That: 1. All interested persons are directed to show cause why the Board should not, subject to the approval of the President under section 801 of the act, make final its tentative findings and conclusions, and issue an amended foreign air carrier permit in the form of the attached specimen permit to British Caledonian Airways, Ltd.;

2. Any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached permit shall, within 15 days after the service of this order, file with the Board and serve upon the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data, and such evidence expected to be relied upon in support of the statement of objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be given the matters and issues raised therein by the objector before further action is taken by the Board. The Board may, nevertheless, proceed to enter an order in accordance with its findings and conclusions set forth in this order if it determines that there are no factual issues present that warrant the holding of an oral hearing;[6]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which: (1) shall make final the Board's tentative findings and conclusions set forth in this order, and (2) subject to the approval of the President, shall issue a foreign air carrier permit to the applicant in the specimen form attached; and

5. This order shall be served upon British Caledonian Airways, Ltd., the Ambassador of the Government of the United Kingdom of Great Britain and Northern Ireland, the Department of State, the Department of Transportation, Pan American World Airways, Seaboard World Airlines, Trans World Airlines, National, Braniff, and Delta.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

PHYLLIS T. KAYLOR,
Secretary.

Specimen Permit

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

BRITISH CALEDONIAN AIRWAYS, LTD.,

is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows:

1. Between the conterminal points London and Manchester, England, and Prestwick, Scotland; the optional intermediate point Bangor, Maine, for property only; and the coterminal points Houston, Tex., and Atlanta, Ga.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's economic regulations.

The authority to add Bangor, Maine, as an optional intermediate point for property only shall expire on January 21, 1980.

The holder shall not operate nonstop service to Atlanta, Ga., prior to July 23, 1980.

The holder shall not grant stopover privileges at Atlanta or Houston on flights over its segment.

The exercise of the privileges here granted shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on ————————. Unless otherwise terminated at an earlier date under the terms of any (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the routes authorized from the routes which may be operated by airlines designated by the Government of the United Kingdom of Great Britain and Northern Ireland (or in the event of the elimination of any part of a route or routes authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the United Kingdom of Great Britain and Northern Ireland in lieu of the holder, or (3) upon the termination or expiration of the air services agreement between the Government of the United States and the Government of the United Kingdom of Great Britain and Northern Ireland effective July 23, 1977: However, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation here authorized becomes the subject of any treaty, convention, or agreement to which the United States and the United Kingdom of Great Brtain and Northern Ireland are or shall become parties.

The Civil Aeronautics Board, through its

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[1] Issued by order 77-10-81, approved October 7, 1977. The permit as initially issued included additional authority between the United Kingdom and New York and Chicago and Los Angeles. However, that authority terminated under the terms of the permit, since B.CAL was not designated by the Government of the United Kingdom under the Air Service Agreement to serve those routes by November 1, 1977.

[2] An airport-notice procedure requires only a simple notification, and can be granted on short notice to the extent time restraints require. Therefore, we are not persuaded that a waiver of the normal procedures is warranted and will deny the waiver request.

[3] Seaboard World Airlines was originally granted this authority by order 74-1-99 which expired November 16, 1976. Its authority was renewed by order 77-3-87. Pan American World Airways was originally granted this authority by order 74-6-11 which expired January 21, 1977. Its authority was renewed by order 77-3-118.

[4] Upon application for renewal, Pan American stated that it had thus far been unable to use the authority. Nevertheless, the carrier hopes that the potential for service to Bangor will develop during the renewal period sought. According to order 76-11-108, "Seaboard has utilized its permissive Bangor authority to provide a needed public service, as indicated by the fact that during fiscal year 1976 the carrier operated 56 departures which enplaned 648.57 tons of cargo."

[5] Our tentative findings are based on the proposed amendment of B.CAL permit not resulting in any significant increase in aircraft operations at U.S. points, as B.CAL presently stops at Bangor, Maine, for refueling. Moreover, the implementation of the proposed authority will not result in the near-term consumption of 10 million gallons of fuel.

[6] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[7] All Members concurred.

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Secretary, has executed this permit and affixed its seal, on the ————————.

PHYLLIS T. KAYLOR,
Secretary.

Issuance of this permit to the holder approved by the President of the United States on ————————, in ————————.

[FR Doc. 78-13432 Filed 5-16-78; 8:45 am]

[6320-01]

[Dockets 21866, 31290, 30891]

DOMESTIC PASSENGER-FARE INVESTIGATION, DOMESTIC PASSENGER-FARE LEVEL POLICIES, DOMESTIC PASSENGER-FARE STRUCTURE POLICIES, DISCOUNT FARE POLICY

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on June 15, 1978, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before May 30, 1978, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., May 11, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-13433 Filed 5-16-78; 8:45 am]

[6320-01]

[Docket No. 32271]

INOMOTIVATOR, INC.

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on June 1, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before May 25, 1978.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., May 11, 1978.

RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc. 78-13434 Filed 5-16-78; 8:45 am]

[3510-04]

COMMERCE DEPARTMENT

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161, for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 4,036,581: Igniter; filed September 3, 1976; patented July 19, 1977; not available NTIS.

Patent 4,042,814: Electro-Optic Binary Adder; filed June 28, 1976; patented August 16, 1977; not available NTIS.

Patent 4,044,271: Monolithic NTDS Driver and Receiver; filed September 9, 1974; patented August 23, 1977; not available NTIS.

Patent 4,046,993: Target for Torpedo Launch System; filed June 28, 1976; patented September 6, 1977; not available NTIS.

Patent 4,047,148: Piston Type Underwater Sound Generator; filed February 29, 1956; patented September 6, 1977; not available NTIS.

Patent 4,047,380: Combustion System using Dilute Hydrogen Peroxide; filed April 9, 1976; patented September 13, 1977; not available NTIS.

Patent 4,048,942: Helicopter Towline Recovery Buoy System; filed February 22, 1977; patented September 20, 1977; not available NTIS.

Patent 4,049,402: Gas Mixing Device; filed November 6, 1975; patented September 20, 1977; not available NTIS.

Patent 4,050,243: Combination Solid Fuel Ramjet Injector/Port Cover; filed May 17, 1976; patented September 27, 1977; not available NTIS.

Patent 4,051,364: Photoparamp Array Multiplexer; filed August 6, 1976; patented September 27, 1977; not available NTIS.

Patent 4,051,439: Short Pulse Magnetron Transmitter; filed November 2, 1972; patented September 27, 1977; not available NTIS.

Patent 4,051,799: Radial Depressor; filed June 28, 1976; patented October 4, 1977; not available NTIS.

Patent 4,056,386: Method for Decomposing Iron Pentacarbonyl; filed April 19, 1977; patented November 1, 1977; not available NTIS.

Patent 4,056,560: N,N'μ-Bis(3,4-Dicyanophenyl) Alkanediamides; filed July 23, 1976; patented November 1, 1977; not available NTIS.

Patent 4,056,802: Sonar Alarm System; filed March 10, 1976; patented November 1, 1977; not available NTIS.

Patent 4,057,000: Mechanism for Deep Ocean Instrumentation Remote Release; filed September 20, 1976; patented November 8, 1977; not available NTIS.

Patent 4,057,569: Bisorthodinitriles; filed April 28, 1976; patented November 8, 1977; not available NTIS.

Patent 4,057,719: Fiber Optics Electro-Mechanical Light Switch; filed August 27, 1976; patented November 8, 1977; not available NTIS.

Patent 4,058,722: Electro-Optic Analog/Digital Converter; filed September 29, 1976; patented November 15, 1977; not available NTIS.

Patent 4,060,798: Method for Increasing the Critical Velocity of Magnetic Bubble Propagation in Magnetic Materials; filed May 12, 1976; patented November 29, 1977; not available NTIS.

Patent 4,062,883: Polymer-Bound Metallocarborane Catalyst Product and Process; filed August 6, 1976; patented December 13, 1977; not available NTIS.

Patent 4,063,006: High Power Battery with Liquid Depolarizer; filed February 28, 1977; patented December 13, 1977; not available NTIS.

Patent 4,064,783: Pressure-Balanced Underwater Structural Release System; filed January 27, 1977; patented December 27, 1977; not available NTIS.

Patent 4,065,509: Synthesis of Beta-Methyl Derivatives of 2,4-Dicarba-Closo-Heptaborane-7; filed May 25, 1976; patented December 27, 1977; not available NTIS.

Patent 4,066,965: RF GTWT Saturating Circuit; filed September 28, 1976; patented January 3, 1978; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent 4,062,245: Motion Restraining Device; filed April 30, 1975; patented December 13, 1977; not available NTIS.

Patent 4,062,347: Solar Heating System; filed August 24, 1976; patented August 24, 1976; not available NTIS.

Patent 4,063,282: TV Fatigue Crack Monitoring System; filed July 20, 1976; patented December 13, 1977; not available NTIS.

[FR Doc. 78-13417 Filed 5-16-78; 8:45 am]

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[3510-16]

Patent and Trademark Office

PROCEDURES FOR ENFORCING REGULATIONS RELATING TO THE USE OF PATENT AND TRADEMARK OFFICE RECORDS FACILITIES

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The Patent and Trademark Office is adopting procedures for enforcing existing regulations governing the use of the public search room for patents and the patent examining group search facilities by members of the public. Enforcement of the existing regulations is necessary, and is intended by these procedures, to carry out the commitment of the Office to the public to promote an atmosphere conducive to research and maintain the integrity of files in the public search room for patents and in the examining group search facilities.

EFFECTIVE DATE: June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Bradford R. Huther, Deputy Assistant Commissioner for Administration, Patent and Trademark Office, Washington, D.C. 20231, 703-557-2290.

SUPPLEMENTARY INFORMATION: The procedures will apply in enforcing the regulations for the public use of records of the public search room for patents and the patent examining group search facilities. The regulations of the Public Search Room for Patents were published in the FEDERAL REGISTER for July 14, 1976, 41 FR 29009, and incorporated in a search room user agreement entered into by each person who is issued a user pass. Regulations for users of the patent examining group search facilities were established under rule 2 of the regulations of the public search room for patents and were published in the Official Gazette of March 22, 1977, 956 O.G. 1118.

The procedures appear below.

PROCEDURES FOR ENFORCEMENT OF THE REGULATIONS

FOR THE PUBLIC USE OF RECORDS IN THE PUBLIC SEARCH ROOM FOR PATENTS AND THE PATENT EXAMINING GROUP SEARCH FACILITIES

Under applicable statutes and regulations, including 40 U.S.C. 486(c); 41 CFR 101-20.3; and appropriate sections of Department Organization Orders 30-3A and 30-3B of the Department of Commerce, the procedures appearing below are established.

VIOLATIONS INVOLVING THE SECURITY SYSTEM

1. Unauthorized removal of government property. (a) The public search room for patents is equipped with a security system designed to sound an alarm when an attempt to remove government property from the public search room is detected. Each alarm signal triggered by a person passing through an exit to the public search room will be investigated by security guards stationed at the public search room exits. The person involved will be required to stop and allow the security guards to determine the cause of the alarm. If non-government property is the cause for the alarm, the person will be allowed to proceed without further delay. If unauthorized possession of government property is found to be the cause of the alarm, the person in whose possession the property is found will be advised that a violation has occurred and will be required to surrender the property to the manager of the public search room. An oral explanation for the possession of such property will be requested by the manager.

(b) The manager of the public search room will immediately report each incident involving unauthorized possession of government property to the Deputy Assistant Commissioner for Administration by telephone, and if requested submit a written report, together with the government property and user pass involved to the Deputy Assistant Commissioner for Administration.

(c) If it shall appear to the Deputy Assistant Commissioner for Administration that unauthorized possession of government property, detected by the security system, was inadvertent or otherwise unintentional, no further action will be taken. Otherwise, the Deputy Assistant Commissioner for Administration will request the person involved to show cause in writing why his or her user pass should not be suspended or revoked pursuant to the terms of the search room user agreement. A written decision will be rendered by the Deputy Assistant Commissioner for Administration after consideration of any timely submitted response.

OTHER VIOLATIONS OF THE PUBLIC SEARCH ROOM REGULATIONS

2. All other violations of the public search room regulations. (a) Each observed or reported violation will be investigated by the manager of the public search room. If a violation has occurred and is not denied, the person involved will be verbally requested by the manager to comply with the regulations. If the person involved denies that a violation has occurred, or refuses to comply with a verbal request of the Manager to comply with the regulations, or violates the regulations after having agreed to comply with them, the person will be required to surrender his or her User Pass to the manager of the public search room.

(b) The manager of the public search room will submit a written report of each violation, and the user pass, if surrendered, to the Deputy Assistant Commissioner for Administration.

(c) If the Deputy Assistant Commissioner for Administration is satisfied that a reported violation was inadvertent or otherwise unintentional, the User Pass, if surrendered, will be returned and no further action will be taken. In all other cases, the Deputy Assistant Commissioner for Administration will request the person involved to show cause in writing why his or her User Pass should not be suspended or revoked pursuant to the terms of the search room user agreement. A written decision will be rendered by the Deputy Assistant Commissioner for Administration after consideration of any timely submitted response.

VIOLATIONS OF THE PATENT EXAMINING GROUP SEARCH FACILITIES REGULATIONS

3. Violations of the regulations for users of the patent examining group search facilities. (a) Each observed or reported violation will be investigated by an authorized official. If a violation has occurred, and is not denied, the person involved will be verbally requested to comply with the regulations. If the person involved denies that a violation has occurred, or refuses to comply with a verbal request to comply with regulations, or violates the regulations after having agreed to comply with them, the person involved will be required to surrender his or her user pass to the authorized official.

(b) The authorized official will submit a written report of each violation, and the user pass, if surrendered, to the Deputy Assistant Commissioner for Patents.

(c) If the Deputy Assistant Commissioner for Patents is satisfied that violation was inadvertent or otherwise unintentional, the user pass, if surrendered, will be returned and no further action will be taken. In all other cases, the Deputy Assistant Commissioner for Patents will request the person involved to show cause in writing why his or her user pass should not be suspended or revoked. A written decision will be rendered by the Deputy Assistant Commissioner for Patents after consideration of any timely submitted response.

PENALTIES

4. Factors to be considered in assessing penalties.

(a) Penalties will be determined on a case-by-case basis. A record of penalties imposed for given violations will be kept and made available to the public upon request.

(b) Due weight may be given to prior violations of the regulations in assess-

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ing whether any given violation is willful, deliberate or intentional.

(c) Prior violations of the regulations will be considered in determining any specific penalty to be imposed. Depending upon the circumstances, the penalty for a first offense may range from an oral or written warning to a 60-day suspension of the user pass. For a second offense, the penalty may be a suspension of from 5 days to 1 year. For a third offense, the penalty may range from a 30-day suspension to revocation of the user pass.

GENERAL PROVISIONS

5. Use of search facilities during suspension or after revocation of user pass.

No individual will be permitted to use the public search room for patents or the patent examining group search facilities while his or her user pass is suspended or revoked.

6. Temporary user pass.

Any person whose user pass was surrendered, but not suspended or revoked, may be issued a temporary user pass which shall be valid until the user pass is returned or a decision is rendered pursuant to paragraph 1(c), 2(c), or 3(c).

7. Absence of the deputy assistant commissioner for administration.

In the absence of the Deputy Assistant Commissioner for Administration, the Director of the Office of Patent and Trademark Services will carry out the functions and responsibilities assigned to the Deputy Assistant commissioner for administration in paragraphs 1(b) and (c) and 2(b) and (c).

8. Absence of the manager of the public search room.

In the absence of the manager of the public search room, the acting manager will carry out the duties and responsibilities assigned to the manager in paragraphs 1(a), 1(b), 2(a) and 2(b).

9. Assistance.

The manager of the public search room and the authorized official may, when necessary request the security officer of the Patent and Trademark Office or the GSA to provide assistance in carrying out their functions in paragraphs 1(a), 2(a), and 3(a).

10. Petitions.

A decision rendered by the Deputy Assistant Commissioner for Administration, the Director of the Office of Patent and Trademark Services, or the Deputy Assistant Commissioner for Patents may be reviewed on petition to the Commissioner.

LUTRELLE F. PARKER,
Acting Commissioner of Patents and Trademarks.

MAY 5, 1978.

[FR Doc. 78-13471 Filed 5-16-78; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

ANNOUNCING AN ADDITIONAL EXEMPT TEXTILE PRODUCT FROM PAKISTAN12, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Exempting Peshawari waist coats from the levels of restraint established under the terms of the bilateral cotton textile agreement between the Governments of the United States and Pakistan.

SUMMARY: The Governments of the United States and Pakistan have agreed to exempt Peshawari waist coats from the levels of restraint established under the terms of the Bilateral Cotton Textile Agreement of January 4 and January 9, 1978, in addition to other previously designated handloomed and traditional textile products (See 38 FR 14184 and 39 FR 2293). Accordingly, there is published below a letter of May 12, 1978 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, directing that Peshawari waist coats be added to the list of traditional Pakistan items which are currently exempt from the agreement.

EFFECTIVE DATE: May 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Judith L. McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, 202-377-5423.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

UNITED STATES DEPARTMENT OF COMMERCE
*May*12, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on January 19, 1978 by the Chairman of the Committee for the Implementation of Textile Agreements which designated levels of restraint for certain cotton textiles and cotton textile products, produced or manufactured in Pakistan, which may be entered or withdrawn from warehouse for consumption in the United States during the twelve-month period which began on January 1, 1978. It also amends, but does not cancel, the directives of June 28, 1972, May 16, 1973, and January 15, 1974 which established an export visa requirement for entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products, produced or manufactured in Pakistan, and administrative mechanisms to exempt certain traditional Pakistan items and handloomed products of the cottage industry of Pakistan from the levels of restraint of the bilateral agreement.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4 and January 9, 1978 between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, the aforementioned directives are amended, effective on May 17, 1978, to exempt Peshawari waist coats, in addition to previously designated items, when they are properly certified. A Peshawari waist coat is defined as a "vest-type jacket worn in the Northwest Frontier Province of Pakistan. The garment is made from velvet and lined with heavy cotton fabric. It is heavily embroidered with lame braid."

The actions taken with repect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-13420 Filed 5-16-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 78-2]

G. L. ELECTRIC FLASHEAT CO. AND GERVIS GALLOWAY

Notice of Postponement of Hearing

In the matter of G. L. Electric Flasheat Company, a corporation and Gervis J. Galloway, individually and as an officer thereof, section 15, Consumer Product Safety Act Enforcement Proceeding.

The hearing in the above entitled proceeding now scheduled to commence at 10 a.m. (EDST), Tuesday, May 23, 1978, in room 1194 of the McNamara Federal Building, 477 Michigan Ave., Detroit, Mich. 48226, is hereby postponed until the same time, Wednesday, May 24, 1978 in the same room.

Dated: May 11, 1978.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc. 78-13355 Filed 5-16-78; 8:45 am]

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[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 8, 1978.

The USAF Scientific Advisory Board Close Air Support Subgroup of the Joint Air Force/Army Summer Study on Battlefield Systems Integration will hold a meeting on June 6, 1978, at the Pentagon, from 8:30 a.m. to 5 p.m.

The Subgroup will receive classified briefings and hold classified discussions on various foreign systems as well as projected U.S. command and control systems. The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register, Liaison Officer, Directorate of Administration.

[FR Doc. 78-13292 Filed 5-16-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 8, 1978.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group, AFSC, will hold meetings on June 1, 1978, from 8:30 a.m. to 5 p.m., and June 2, 1978, from 8:30 a.m. to 12 p.m., at Hanscom Air Force Base, Mass., in the Command Management Center Building 1606.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control and Communications Programs. The meetings will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register, Liaison Officer, Directorate of Administration.

[FR Doc. 78-13293 Filed 5-16-78; 8:45 am]

[3710-08]

Department of the Army

ARMED FORCES INSTITUTE OF PATHOLOGY SCIENTIFIC ADVISORY BOARD

Open Meeting

In order to comply with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the meeting of the Armed Forces Institute of Pathology's Scientific Advisory Board, June 22-23, 1978, 0830 hours in the Director's Conference Room, Armed Forces Institute of Pathology, Washington, D.C. 20306. This meeting will be open to the public.

The proposed agenda will include professional discussion of the mission of the Armed Forces Institute of Pathology relating to consultation, education, and research. The Executive Secretary from whom substantive program information may be obtained is Colonel William H. Godfrey, Executive Officer, Armed Forces Institute of Pathology, Washington, D.C. 20306, telephone 576-2900.

Dated: May 11, 1978.

HAROLD W. DRAYTON,
CPT, MSC, USA, Adjutant.

[FR Doc. 78-13418 Filed 5-16-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

FUEL OIL MARKETING ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Fuel Oil Marketing Advisory Committee will meet on Thursday and Friday, June 1 and 2, 1978, at 9 a.m., in Room 2105, 2000 M Street NW., Washington, D.C.

The Committee was established to provide the Secretary of Energy with expert and technical advice concerning the marketing of fuel oil as it relates to the development and implementation of policies and programs by the Department of Energy.

The agenda for the meeting is as follows:

Monitoring Methodologies
Issues for August Evidentiary Hearing
Other Issues as Appropriate
Remarks From Floor (10 minute rule)

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management, 202-566-9969, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C. on May 12, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-13411 Filed 5-16-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. RI78-52]

A. E. PERKINS (OPERATOR)

Notice of Petition for Special Relief

MAY 11, 1978.

Take notice that on April 18, 1978, A. E. Perkins (Operator), 472 West 3d, Hoisington, Kans. 67544, filed a petition for special relief in the above-captioned docket pursuant to § 2.76 of the Commission's Rules.

Currently selling gas at 29.45¢ per M ft³ from the Bertha J. Gray Well, Sedan-Peru Field, Chautauqua, Kans., Petitioner seeks authorization to increase this rate to $1 per M ft³. Petitioner states that the life of the well will be increased by 3 years once proposed reworking is done. However, without additional revenue, rework cannot begin.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file

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a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13393 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RP 72-110, (PGA78-7)]

ALGONQUIN GAS TRANSMISSION CO.

Notice of PGA Rate Increase

MAY 8, 1978.

Take notice that Algonquin Gas Transmission Co. ("Algonquin Gas") on April 26, 1978, tendered for filing 39th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that such tariff sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. Algonquin Gas also states that such rate change, proposed to be effective May 1, 1978, is being filed to reflect a change in purchased gas costs filed by its supplier, Texas Eastern Transmission Corp. ("Texas Eastern"). Algonquin Gas requests that the Commission waive the usual notice requirement and permit such 39th Revised Sheet No. 10 to become effective on May 1, 1978, so that Algonquin Gas' rates will be synchronized with those of Texas Eastern.

It may be noted that the instant adjustment is superimposed upon rates which became effective as of April 1, 1978, through Commission approval of the Alongquin Gas Settlement in Docket Nos. RP73-112, et al. (see Algonquin Gas' filing dated April 21, 1978, of tariff sheets to comply with the Commission's order approving settlement).

The proposed effective date of the revised tariff sheet is May 1, 1978.

Algonquin Gas states that a copy of its filing is being served upon all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13311 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-249]

APPALACHIAN POWER CO. ET AL

Order Granting Late Intervention

MAY 9, 1978.

On March 17, 1978, notice was issued of a filing by American Electric Power Service Corp. on behalf of its affiliates, Appalachian Power Co., Ohio Power Co., and Wheeling Electric Co. of an amendment to an existing interconnection agreement among these companies and Monongahela Power Co. and West Penn Power Co., in Docket No. ER78-249. All petitions to intervene or protest were due on or before April 3, 1978.[1]

On April 7, 1978 the Public Service Commission of West Virginia filed an untimely notice of intervention. The petition states that the Public Service Commission of West Virginia is the department of government of said State which has jurisdiction to regulate the rates, charges, and service for the sale and distribution of electricity within said State. The Public Service Commission of West Virginia requests that it be permitted to intervene at this time, since it will not in any way delay the proceeding.

The Commission finds: The participation by the Public Service Commission of West Virginia in this proceeding may be in the public interest.

The Commission orders: (A) The Public Service Commission of West Virginia is hereby permitted to intervene in these proceedings subject to the Rules and Regulations of the Commission; *Provided, however,* that participation by the Public Service Commission of West Virginia shall be limited to matters affecting the interconnection agreements which are involved in the above-captioned proceeding; and *Provided, further,* that the admission of the Public Service Commission of West Virginia shall not be construed as recognition by the Commission that the intervenor might be aggrieved because of any order or orders entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

[1] By order issued on April 13, 1978, the Commission conditionally accepted for filing and suspended the filed rate increase subject to filing of cost support data. Upon submission of the data the Commission will further evaluate the increased rate filing.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13312 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-358]

ARIZONA PUBLIC SERVICE CO.

Notice of Proposed Increase in Rate

MAY 10, 1978.

Take notice that on May 4, 1978, Arizona Public Service Co. (APS) tendered for filing the implementation of the material and supply component of the rate in the Agreement with the Navajo Tribe of Indians (NTUA), FPC Rate Schedule No. 6. APS states that the implementation of this component would have resulted in increased revenue for the year 1977 in the sum of $27,626.00.

APS requests an effective date of June 1, 1978, and therefore requests waiver of the Commission's notice requirements.

According to APS a copy of this filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13315 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-356]

ARKANSAS POWER AND LIGHT CO.

Notice of Proposed Cancellation

MAY 10, 1978.

Take notice that on May 3, 1978, Arkansas Power & Light Co. (Company) tendered for filing the cancellation of two of the Company's Rate Schedules:

1. Arkansas Power & Light Co., Rate Schedule FPC No. 53.
2. Arkansas Power & Light Co., Rate Schedule FPC No. 65.

The Company indicates that both of these schedules are contracts between

the Company and the Mississippi County Electric Cooperative Corp. The Company further indicates that the Mississippi County Electric Cooperative Corporation has requested cancellation of the contracts under the terms of the contracts with an effective date of June 1, 1978, and therefore requests waiver of the Commission's notice requirements. The Company indicates that after June 1, 1978, service to the points of delivery formerly served by the Company under the two Rate Schedules will be served by the Arkansas Electric Cooperative Corp.

A copy of the filing has been mailed to the Mississippi County Electric Cooperative Corp. according to the Company.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13313 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-357]

ARKANSAS POWER AND LIGHT CO.

Notice of Proposed Cancellation

MAY 10, 1978.

Take notice that on May 3, 1978, Arkansas Power & Light Co. (Company) tendered for filing the cancellation of two of the Company's Rate Schedules:

1. Arkansas Power & Light Co., Rate Schedule FPC No. 53.
2. Arkansas Power & Light Co., Rate Schedule FPC No. 65.

The Company states that both of these schedules are contracts between the Company and the Mississippi County Electric Cooperative Corp. The Company further states that the Mississippi County Electric Cooperative Corp. has requested cancellation of the contracts under the terms of the contracts with an effective date of June 1, 1978, and therefore requests waiver of the Commission's notice requirements. The Company indicates that after June 1, 1978, service to the points of delivery formerly served by the Company under the two Rate Schedules will be served by the Arkansas Electric Cooperative Corp.

According to the Company a copy of the filing has been mailed to the Mississippi County Electric Cooperative Corp.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13314 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RI78-21]

BRADEN-DEEM, INC.

Notice of Amended Petition for Special Relief

MAY 11, 1978.

Take notice that on March 28, 1978, Braden-Deem, Inc. (BD), Suite 520, 200 East First Street, Wichita, Kans. 67202, filed an amendment to its original petition for special relief (noticed March 7, 1978).

In its amended petition BD requests a rate of $1.10/M ft³ for the sales of the 269,209 M ft³ for the sales of the 269,209 M ft ³ of gas reserves to Panhandle Eastern Pipe Line Co. (Panhandle). In its original December 7, 1977 petition, BD requested a rate of 83 cents/M ft³ plus an annual escalation of 14 cents/M ft³ for its sales to Panhandle. In the present amendment BD request a flat rate with no annual escalations. BD's original petition was pursuant to 18 CFR § 2.76 stating that it would need to invest an additional $34,000 to maintain the operations on the scale proposed.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13394 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. EL78-20]

CENTRAL KANSAS POWER CO.

Notice of Petition for Declaratory Order Disclaiming Jurisdiction and Application for Approval of Sale of Stock

MAY 11, 1978.

Take notice that Central Kansas Power Co. (CKP) on April 26, 1978, tendered for filing, pursuant to section 1.7 (c) of the Commission's Rules of Practice and Procedure a Petition requesting that the Commission issue a Declaratory Order Disclaiming Jurisdiction over the proposed purchase of CKP's stock by Central Kansas Electric Cooperative (CKEC) on the basis that the transaction is not within the purview of section 203 of the Federal Power Act.

CKP indicates that by contract dated October 19, 1977, United Telecommunications, Inc. (UTI) agreed to sell all the stock of its subsidiary, CKP, to CKEC. CKP states that the sale price for the stock will $17,537,900, adjusted for accumulated earnings, less dividends paid, from July 31, 1977 to the closing date. CKP further states that while CKEC is a borrower from the Rural Electrification Administration (REA) in many matters, CKEC will not borrow money from REA to finance this stock purchase. CKP states that instead, the necessary funds will be borrowed from the National Rural Utilities Cooperative Finance Corp. (CFC). CKP indicates that upon completion of the transaction, CKP will continue its operations as a separate corporation, even though its stock will be wholly owned by CKEC.

CKP is organized under the laws of the State of Kansas. It is engaged in the sale of electric energy and power, water and natural gas to retail customers within its service area in western Kansas. CKP sells electric power at wholesale to one customer pursuant to its FERC Rate Schedule No. 1 as amended. It also selis a small amount of natural gas for resale for which it has obtained an exception under section 1(c) of the Natural Gas Act from Federal jurisdiction. CKP is a Class A public utility under the Federal Power Act, and is a member of and interconnected with the Mokan Pool.

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CKEC is an REA-financed, electric distribution cooperative serving approximately 6,700 member customers in west central Kansas. It is organized under the laws of the State of Kansas. Beause it is an REA-financed cooperative, CKEC is not subject to the jurisdiction of the Commission under the Federal Power Act. As of January 1, 1977, CKEC owned 312.95 miles of transmission lines with operating voltages of 44 kV or higher, of which 59.34 miles are operating at 115 kV and an additional 69.04 miles are designed for 115 kV operation. CKEC presently purchases over 93 percent of its electric energy from the Western Power Division of Central Telephone and Utilities Corp. (CTU), with the remaining power being supplied primarily by six internal combustion engines with a combined capacity of 10,250 kW it owns and operates for peaking purchases.

CKP indicates that CKP and CKEC are not directly interconnected through a 115 kV line owned by CTU interconnects with a 115 kV line owned by CKP running in a southeasterly direction from Hays, Kans. CKP indicates that neither CKP nor CKEC presently supply power to the other and neither has the present capability to do so except on an emergency basis. CKP states that there is no present contract or agreement between CKP and CKEC providing for present, for future sale or exchanges of power between the two, even on an emergency basis, nor are there any plans to do so when CKEP's acquisition of CKP's stock is effectuated. CKP states that instead, CKP will be operated for the indefinite future as a separate and independent subsidiary of CKEC without any additional coordination of its operations with those of CKEC.

CKP also tendered for filing an Application for authorization under section 203 of the Federal Power Act and Part 33 of the Commission's Rules and Regulations to consummate the aforementioned agreement for the sale of stock, to the extent that the Commission determines that such authorization is required.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20428, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13395 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-360]

CONNECTICUT YANKEE ATOMIC POWER CO.

Notice of Filing of Supplementary Power Contract

MAY 11, 1978.

Take notice that on May 5, 1978, Connecticut Yankee Atomic Power Co. (the Company) tendered for filing a Supplementary Power Contract, dated as of March 1, 1978, between the Company and its eleven sponsor-purchaser electric utilities: The Connecticut Light and Power Co., New England Power Co., Boston Edison Co., Central Maine Power Co., The Hartford Electric Light Co., The United Illuminating Co., Cambridge Electric Light Co., Western Massachusetts Electric Co., Public Service Co. of New Hampshire, Montaup Electric Co., and Central Vermont Public Service Corp.

The Company states that the Supplementary Power Contract supplements the Power Contracts dated July 1, 1964 (Connecticut Yankee Atomic Power Co. FERC Rate Schedule No.) and provides for additional undertakings by the Company and payments by the eleven sponsor-purchaser utilities to raise the overall rate of return from 6 percent to 10 percent. This proposed change is estimated by the Company to result in a revenue increase of $11,283,000 based on the twelve month period ending December 31, 1978. The Company states that the Supplementary Power Contract also clarifies the term "net unit investment" to include the aggregate amounts chargeable to nuclear fuel accounts in accordance with the Commission's Uniform System of Accounts. In addition to the changes set forth in the Supplementary Power Contract, the Company states that the following changes have been made in the computation of depreciation expenses to be recovered under the Power Contracts: (1) adoption of a 30-year life in place of the earlier 25-year life, (2) use of an annual 0.5 percent interim retirement rate, and (3) inclusion of nuclear plant decommissioning costs based on the method known as partial dismantlement or entombment. The Company states that these changes by the Company result in a depreciation expense increase of $543,000 during the 12 month period ending December 31, 1978.

Connecticut Yankee Power Co. requests that the Commission waive its notice requirements and permit the Supplementary Power Contract to be effective as of May 1, 1978.

Connecticut Yankee Atomic Power Co. states that copies of the filing have been served upon each of the eleven sponsor-purchaser utilities and upon the electric utility regulatory authorities in the States of Connecticut, Maine, New England, Vermont, Massachusetts and Rhode Island.

Any person desiring to be heard or to make any protest with reference to the Interconnection Agreement should on or before May 22, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file peitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13396 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RP78-52]

CONSOLIDATED GAS SUPPLY CORP.

Erratum Notice

MAY 8, 1978.

Order conditionally accepting for filing and suspending proposed rate increase, waiving notice requirements, initiating hearing, establishing procedures, requiring additional data and the submission of a revised tariff sheet, and granting interventions.

Page 1, last line change: "Statements L[2]," to "Statements L through P and R through T[2],"

Dated: April 28, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13317 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket Nos. RP75-91, RP77-7 and RP77-140]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Informal Conference

MAY 9, 1978.

Take notice that on May 23, 1978, at 9 a.m., an informal conference will be convened of all interested persons for

the purpose of scheduling further proceedings in the above dockets, and of delineating issues to be addressed. The conference will be held in a hearing or conference room at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13316 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RP78-18]

EL PASO NATURAL GAS CO.

Notice of Tariff Filing

MAY 9, 1978.

Take notice that on May 1, 1978, El Paso Natural Gas Co. ("El Paso") filed, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, certain revised and alternate tariff sheets to its FPC Gas Tariff,[1] providing proposed adjustments to its rates contained on the tariff sheets submitted in the notice of change in rates filed at Docket No. RP78-18 on November 29, 1977, and currently under suspension until June 1, 1978.[2]

El Paso states that the rates set forth on the tendered revised tariff sheets differ from the rates which were suspended in Docket No. RP78-18 in that the suspended rates have been modified to:

(i) Reflect the effectiveness of increased rates permitted in El Paso's notice of change in rates filed March 1, 1978, pursuant to El Paso's Purchased Gas Cost Adjustment Provision ("PGAC") and made effective April 2, 1978, by Commission order issued March 31, 1978, at Docket Nos. RP72-155 and RP77-18 (PGA78-1 and AP78-1);[3]

(ii) Reflect, where applicable, the Gas Research Institute ("GRI") Research, Development and Demonstration Funding Unit ("RD&D Funding Unit) of 0.12 cents per Mcf approved by the Commission's Opinion No. 11 and accompanying order issued March 22, 1978, at Docket No. RM77-14,[4]

El Paso states that ordering paragraph (D) of the Commission order issued December 30, 1977, at Docket No. RP77-18 contained the following provisions:

"• • • El Paso shall file revised rates before June 1, 1978, reflecting the elimination of all costs associated with facilities not placed in service on or before June 1, 1978: El Paso shall file supporting cost of service data which shows the elimination of such facilities from the cost of service."

El Paso states that the facilities related to said construction costs have been placed in service and that such costs have been transferred from Account No. 107, Construction Work in Progress, to Account No. 101, Gas Plant in Service, as of February 28, 1978.

El Paso states that it is concurrently filing its motion to place increased rates into effect on June 1, 1978, the end of the suspension period in Docket No. RP78-18. A copy of said motion is attached to the tariff filing. As fully set forth in the Motion, El Paso has requested the Commission to include as part of its order placing the suspended rates, as adjusted, into effect on June 1, 1978, temporary tracking authority, by a mechanism described therein, which will permit El Paso to adjust its rates to reflect changes in gas well royalty and production tax expense resulting from changes in the price of natural gas and from variations in the volume of produced gas. For the reasons set forth in the concurrent Motion, El Paso states that it is requesting:

(i) In the event that the proposed natural gas pricing legislation is not enacted into law on or before June 1, 1978, that the Commission place into effect on June 1, 1978, the tendered "revised tariff sheets," subject to the express condition that El Paso shall be permitted to file rate revisions from time to time during the effectiveness of Docket No. RP78-18 rates, in accordance with the temporary tracking procedures set forth in Appendix A to the motion; and

(ii) In the event that the proposed natural gas pricing legislation is enacted into law on or before June 1, 1978, that the Commission place into effect on June 1, 1978, the increased rates[5] contained in the "alternative tariff sheets," attached under the Tab denominated "alternative tariff sheets,"[6] in lieu of the tendered "revised tariff sheets," subject to the express condition that El Paso shall be permitted to file revisions from time to time during the effectiveness of Docket No. RP78-18 rates, in accordance with the temporary tracking procedures set forth in Appendix A to the motion.

In order to effectuate the purposes of the instant filing, El Paso has requested that the Commission grant such waiver of its Regulations Under the Natural Gas Act as may be deemed necessary in order to permit effectiveness of the tendered tariff sheets, and the rates set forth therein, on June 1, 1978, in the manner described in the accompanying motion.

El Paso states that copies of the filing and attachments thereto, have been served upon all parties of record in Docket No. RP78-18 and, otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before May 19, 1978, file with the Federal Energy Regulatory Commision, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13318 Filed 5-16-78; 8:45 am]

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[1]The tendered tariff sheets are identified on the index attached hereto.

[2]By order issued December 30, 1977, at Docket No. RP78-18 the Commission accepted for filing the alternate tariff sheets and suspended the use thereof until June 1, 1978, or until such time as they are made effective in the manner prescribed by the Natural Gas Act.

[3]Included as a part of said March 1, 1978, filing was a unit rate reduction of 0.04 cents per Mcf in jurisdictional rates attributable to the reduced advance payments balance on El Paso's books as of December 31, 1977, which reduction was made in conformity with the Advance Payment Adjustment Provision contained in El Paso's Stipulation and Agreement dated May 26, 1977, approved and accepted at Docket No. RP77-18. The effect of such Advance Payment Adjustment is included in the Base Tariff Rates suspended at Docket No. RP78-18, as Adjustment 7, Sheet 1; therefore, the 0.04 cents per Mcf reduction included in the March 1, 1978, filing is not included as an adjustment in the tariff sheets submitted herewith.

[4]In connection with the GRI adjustment described in (ii) above, on April 6, 1978, El Paso tendered for filing and acceptance its proposed GRI RD&D Funding Unit Adjustment Provision as permitted by ordering paragraph (G) of said Opinion No. 11. The April 6, 1978, tender, which is currently pending effectiveness, included a request by El Paso that El Paso's initial GRI RD&D Funding Unit of 0.12 cents per Mcf be permitted to become effective on June 1, 1978, concurrent with the end of the suspension period for the rates filed at Docket No. RP78-18. In the event that El Paso's GRI tariff tender is not made effective on June 1, 1978, as requested, El Paso states that it will be required to file with the Commission in this proceeding substitute tariff sheets replacing those sheets tendered herewith and containing the appropriate rates to be placed into effect on June 1, 1978, at Docket No. RP78-18.

[5]Also enclosed under the alternative tariff sheet tab are supporting schedules respecting the derivation of the increased rate reflected on the tendered alternative tariff sheets.

[6]Such alternate revised tariff sheets are described in the index describing the tariff sheets submitted herewith.

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[6740-02]

[Docket No. RP78-60]

EL PASO NATURAL GAS CO.

Notice of Change in Rates

MAY 9, 1978.

Take notice that on April 28, 1978, El Paso Natural Gas Co. ("El Paso") tendered for filing: (i) a notice of change in rate under special Rate Schedule X-31 contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2; and (ii) proposed modifications to certain provisions applicable under said special rate schedule. Special Rate Schedule X-31 is comprised of the San Juan Gathering Agreement ("Gathering Agreement") dated January 31, 1974, as amended, between El Paso and Northwest Pipeline Corp. ("Northwest") and provides for the gathering of natural gas in the San Juan Basin area of northwestern New Mexico and southwestern Colorado.[1]

El Paso states that on January 27, 1978, it filed with the Federal Energy Regulatory Commission ("Commission") a notice of change in rate under special Rate Schedule X-31 contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2. Such filing also proposed modifications to certain currently effective provisions applicable under said special rate schedule.

By letter order issued February 24, 1978, at Docket No. RP78-34, the Commission rejected El Paso's above-mentioned notice of change in rate for failure to comply with the provisions of section 154.63(e)(2) of the Commission's Regulations Under the Natural Gas Act. Specifically, the Commission noted that the proposed increase in the gathering charge was based upon costs for the twelve (12) months ended August 31, 1976, as adjusted, per settlement in Docket No. RP77-18. Such base period does not reflect the twelve (12) consecutive months of most recently available actual experience. Said letter order stated such rejection is made without prejudice to any subsequent filing by El Paso which meets the conditions imposed by Section 154. El Paso submitted the instant tariff proposal based upon El Paso's twelve (12) consecutive months of most recently available actual experience, as required by section 154.63(e)(2) of the Commission's Regulations.

El Paso further states by Letter Agreement dated April 25, 1978, El Paso and Northwest have agreed to, *inter alia*, change the gathering charge applicable to special Rate Schedule X-31, from the currently effective 6.61¢ per Mcf to 13.39¢ per Mcf. Such proposed gathering charge is based upon a weighted average cost of service determined for El Paso's and Northwest's respective portions of the San Juan Basin gathering system. El Paso's costs in the instant filing are based on the twelve (12) months ended December 31, 1977, actual data. Upon effectiveness the gathering charge will be applied monthly to the balancing gas volumes received by each of the parties in accordance with Articles VIII and IX of the Gathering Agreement.

El Paso states that said Letter Agreement of April 25, 1978, also: (i) deletes Section 4 of Article IX and Exhibit F of the Gathering Agreement, inasmuch as such provisions have been satisfied and are no longer applicable under special Rate Schedule X-31; and (ii) modifies the wording of sections 5 and 6 of Article XIX. To implement the instant change in the gathering charge rate and the modifications necessary to special Rate Schedule X-31, as provided by the Letter Agreement dated April 25, 1978, El Paso is tendering herewith for filing and acceptance the following revised tariff sheets to its Third Revised Volume No. 2 tariff:

First Revised Sheet No. 466
First Revised Sheet No. 467
First Revised Sheet No. 476
First Revised Sheet No. 502

El Paso further states that such gathering charge is not designed to provide a general revenue increase, but is only designed to enable the parties to equitably recover the appropriate currrent costs of the gathering system operating arrangements which benefit both parties. Accordingly, El Paso states the change in the gathering charge proposed by the subject filing was filed in accordance with the minor rate increase requirements set forth in § 154.63(b)(4) of the Commission's Regulations Under the Natural Gas Act.

El Paso has requested that the instant notice of change in rate and the related tariff sheets by made effective thirty (30) days from the date that the Commission accepts the instant tender for filing. However, in the event the Commission suspends the proposed change in rate El Paso requests that such supension by limited to only one (1) day so the parties can collect the cost based charge as soon as possible. In this connection, El Paso is advised that Northwest filed concurrently its notice of change in rate and tariff tender providing for the identical modifications, as are reflected in the instant filing, to Northwest's special Rate Schedule X-24, and is requesting therein an effective date coincident with the effective date of El Paso's instant filing. El Paso has requested that the Commission permit the effectiveness of the instant filing and the related filing made by Northwest, described above, on the same date.

El Paso states that copies of the notice of change, together with the enclosures and modified tariff sheets, were mailed to Northwest Pipeline Corp., El Paso's interstate system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before May 19, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13319 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-342]

FLORIDA POWER & LIGHT CO.

Notice of Proposed Cancellation

MAY 8, 1978.

Take notice that on April 28, 1978, Florida Power & Light Co. (FP&L) tendered for filing pursuant to section 35.15 of the Commission's Regulations a notice of cancellation of service by FP&L under its FERC Electric Tariff to the Fort Pierce Utilities Authority (Fort Pierce), to take effect on June 1, 1978.

FP&L states that this cancellation of service is in accordance with the terms of the service agreement initiating service to Fort Pierce, which was filed on March 29, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or

[1]The Gathering Agreement was necessitated by the divestiture of El Paso's former Northwest Division System to Northwest effective as of January 31, 1974. Authorization for such gathering arrangement was granted by Federal Power Commission order issued September 21, 1973, at Docket Nos. CP73-331, *et al.* The Gathering Agreement is also on file as part of Northwest's FERC Gas Tariff as special Rate Schedule X-24.

before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13320 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. CP78-311]

GAS TRANSPORT, INC.

Notice of Application

MAY 9, 1978.

Take notice that on April 27, 1978, Gas Transport, Inc. (Applicant), 109 North Broad Street, Lancaster, Ohio 43130, filed in Docket No. CP78-311 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of certain natural gas pipeline facilities presently owned and operated by Columbia Gas Transmission Corp. (Columbia), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that this application is a companion to Columbia's application in Docket No. CP78-247 for permission and approval to abandon certain natural gas facilities by sale to Applicant. Applicant seeks authorization herein to acquire and operate 1,666 feet of 10-inch transmission pipeline in Gravel Bank, Washington County, Ohio, which segment of pipeline is said to be used exclusively by Columbia to transport gas to Applicant. Applicant states that the facilities would continue to be used for the same purpose and that such facilities would also be available, by reason of their being owned and operated by Applicant, for the receipt of new gas supplies which Applicant may develop in an area near Gravel Bank in order to offset the effects, to the extent possible, of curtailments of deliveries from Columbia.

The facilities would be acquired at the net book value of approximately $7,507, to be financed with internally generated funds and-or interim short term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13399 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RP73-17; PGA78-3]

GRANITE STATE GAS TRANSMISSION, INC.

Notice of Proposed PGA Rate Increase

MAY 19, 1978.

Take notice that on May 2, 1978, Granite State Gas Transmission, Inc. (Granite State), 66 Market Street (P.O. Box 508), Portsmouth, N.H. 03801, tendered for filing Substitute Twenty-third Revised Sheet 3A in its FERC Gas Tariff, Original Volume No. 1, containing a proposed change in rates for effectiveness on June 1, 1978.

Granite State states that the purpose of its filing is to reflect in its rates the effect of the surcharge contained in the Gas Research Institute Rate Adjustment filed by Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Tennessee) which Tennessee proposes to make applicable to deliveries of gas under its Rate Schedule G-6 to Granite State, effective June 1, 1978. Tennessee is Granite State's sole supplier of natural gas.

Granite State also withdraws the filing it tendered on April 10, 1978 in Docket No. RM78-14 to establish a Gas Research Institute Rate Adjustment Provision in its FERC Gas Tariff, Original Volume No. 1. The instant filing, made pursuant to its purchased gas cost adjustment provision, is in substitution for its earlier filing, Granite State avers.

Granite State further states that its purchased gas cost adjustment is applicable to its sales to Northern Utilities, Inc. (Northern) which is Granite State's only jurisdictional customer. According to Granite State, the annual effect of the proposed rate increase contained on Substitute Twenty-third Revised Sheet No. 3A is $4,442, based on sales for the twelve months ended February 28, 1978.

According to Granite State, copies of the filing were served upon Northern and the regulatory commissions of the States of Maine and New Hampshire.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13321 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-348]

GREEN MOUNTAIN POWER CORP.

Notice of Filing of Tariff Agreement Between Green Mountain Power Corp. and the Washington Electric Cooperative, Inc.

MAY 9, 1978.

Take notice that on May 2, 1978, Green Mountain Power Corp. (GMPC) tendered for filing a rate schedule pertaining to the sale of generation from GMPC's No. 5 gas turbine plant, located in Berlin, Vt., to the Washington Electric Cooperative, Inc. (WEC). GMPC states that the generation contract provides that WEC will purchase 700 Kw of capacity and related energy from the aforementioned plant from May 1, 1978, through October 31, 1978. By separate contract, GMPC proposes to provide transmission service to

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WEC for the power provided under the generation contract and for power furnished by others. GMPC indicates that the generation contract is similar in form to a contract, between GMPC and the Central Vermont Public Service Corp., filed with the FERC on March 31, 1978. The March 31, 1978 filing involved selling the Berlin unit at the identical rate now offered WEC.

The parties request that the Commission waive its notice requirements and permit the generation contract to become effective as of May 1, 1978.

Copies of this filing have been sent to the Vermont Public Service Board and the aforementioned electric system, according to GMPC.

Any person desiring to be heard or to protest said appliction should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13322 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-351]

GREEN MOUNTAIN POWER CORP.

Notice of Filing of Tariff Agreement Between Green Mountain Power Corp. and Central Vermont Public Service Corp.

MAY 9, 1978.

Take notice that on May 2, 1978, Green Mountain Power Corp. (GMPC) tendered for filing proposed changes in its FERC Electric Service Tariff as filed with the Federal Energy Regulatory Commission on March 31, 1978. GMPC indicates that the March 31, 1978 filing pertained to a transmission and generation contract between Green Mountain Power Corp. (GMPC) and Central Vermont Public Service Corp. (CVPS). GMPC states that these contracts terminate April 30, 1978. GMPC further states that the proposed tariff changes were brought about when both parties (Green Mountain Power Corp. and Central Vermont Public Service Corp.) agreed to extend the terms of the agreements from May 1, 1978 through October 31, 1978, subject to the following changes.

According to GMPC the generation and transmission contracts were amended to provide that GMPC would sell and transmit to CVPS 10,000 Kw of capacity and associated energy from its No. 5 gas turbine plant, located in Berlin, Vt.

GMPC requests that the Commission waive its notice requirements and permit the amended contracts to become effective as of May 1, 1978. Copies of this filing have been sent to the Vermont Public Board and to central Vermont Public Service Corp., according to GMPC.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13323 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-353]

INDIANA & MICHIGAN ELECTRIC CO.

Notice of Filing

MAY 10, 1978.

Take notice that Indiana & Michigan Electric Co. (I&M) on May 2, 1978, filed its demand charge for the period June 1 through September 30, 1978, pursuant to the demand rate formula contained in I&M's Rate Schedule FERC No. 20, Supplement No. 15 (Service Schedule G—Supplemental Power to Commonwealth Edison Co.) which I&M claims became effective on April 25, 1974.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13324 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-359]

INTERSTATE POWER CO.

Notice of Filing of Rate Schedule Amendments

MAY 11, 1978.

Take notice that Interstate Power Co. on May 5, 1978, tendered for filing proposed amendments to six of its FERC Electric Service Rate Schedules—Nos. 38, 67, 101, 103, 105, and 108. The Company indicates that the six rate schedules are separate electric service agreements between Interstate and the Minnesota communities of Jackson, Lakefield, Luverne, Adrian, Westbrook, and Worthington, respectively. Interstate proposes that the amendments expand the scope of the aforementioned rate schedules to provide for the transmission of "firm" electric power and energy, through Interstate's facilities, from the Missouri Basin Municipal Power Agency to each of the communities involved.

The Company requests waiver of the Commission's notice requirements to allow for an effective date of November 1, 1977 for all six rate schedules.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Streeet NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a perty must file a petition to intervene. Copies of this filing are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13397 Filed 5-16-78; 8:45 am]

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[6740-02]

[Docket No. ER78-367]

INVESTIGATION INTO WHOLESALE POWER TRANSACTIONS DURING TIME OF FUEL INADEQUACIES

Order Instituting Investigation Under the Federal Power Act

MAY 10, 1978.

As a result of a preliminary staff audit of a limited number of utilities that engaged in the sale, purchase or transmission of wholesale electric power during the course of the recent power shortages resulting from the coal strike, the Commission has determined that some utilities may have collected revenues in excess of a just and reasonable rate for the involved transactions. The results of the preliminary staff audit, that was undertaken at the direction of the Commission Chairman, are attached as Appendix A. The Commission has concluded that the questions raised by the staff audit warrant further investigation.

The investigation, undertaken pursuant to the Commission's authority under the Federal Power Act, will encompass, but not be limited to: (1) Whether extraordinary operating and billing practices that occurred during the strike were proper and in the public interest; (2) whether the selling, purchasing and transmitting utilities utilized appropriate filed rate schedules in rendering such service; or (3) whether the companies properly utilized their filed and effective fuel adjustment clauses to bill costs related to the transactions.

The investigation will be conducted by staff personnel appointed by the Commission to act as designated officer of the Commission. Such designated officer is hereby directed to invite state public utility commissions to cooperate in the investigation. Upon conclusion of his inquiry, the designated officer shall prepare a report to the Commission as to his findings and recommendations.

The Commission finds: It is necessary and appropriate for purposes of the Commission's administration of the Federal Power Act to institute an investigation for the purposes set forth in this order.

The Commission orders: (A) Pursuant to the Federal Power Act and the Commission's Rules and Regulations thereunder, an investigation is hereby instituted.

(B) It is ordered that for the purposes of this investigation Daniel C. Lamke is hereby designated officer of this Commission and is empowered to administer oaths, and affirmation, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant and material to the inquiry and to perform all other duties in connection therewith as prescribed by law.

(C) The designated officer shall report his findings and recommendations to the Commission.

By the Commission.

KENNETH F. PLUMB,
Secretary.

MAY 4, 1978.

Memorandum to: The Commission.
From: William W. Lindsay, Director, Office of Electric Power Regulation.
Subject: Investigation Into the Wholesale Transactions During the Coal Shortage.

On April 3, 1978, the Commission issued a press release announcing that the staff was commencing field audits to verify intercompany billings of utilities operating in and selling electricity into the area affected by the coal strike. The field audit took place at American Electric Power Co. (AEP) from March 30 through April 6, 1978, at Allegheny Power System (APS) from April 3 through April 6 and April 12 and 13 and at Pennsylvania-New Jersey-Maryland Interconnection (PJM) Dispatch Center and at some of the member companies of PJM from March 30 through April 6, 1978. In addition, billing information was received from eight other companies for the purpose of determining whether other companies should be audited in addition to AEP, APS and PJM.

The investigation concentrated on the incremental cost rates contained in the wholesale rate schedules and the effects of such costs on the wholesale fuel adjustment clause. The initial investigation focused primarily on transactions during the months of January and February.

Substantial transactions took place during January and February. Attachment A contains a summary of the major transactions of AEP, APS and PJM. For example, PJM sold over 1,200,000 MWH of energy during January and 1,700,000 MWH during February to APS, Virginia Electric and Power Co. and Cleveland Electric Illuminating Co. (CEI).[1] APS purchased significant amounts of power for use on its system. For example, it purchased 750,000 MWH of short-term power during February. APS also purchased large amounts of power for the purpose of reselling it to AEP, Ohio Edison Co. (OE), and Duquesne Light Co. These sales amounted to approximately 310,000 MWH during February.

APS resales were one of the largest outside sources of power to AEP during January and February. During February AEP also began purchasing substantial amounts of power from systems to the west, such as Commonwealth Edison Co. and Illinois Power Co. Most of the power purchased by AEP was resold to other systems with AEP retaining only small amounts for use on its system. The largest buyers from the AEP system during January and February included OE, Columbus and Southern Ohio Electric Co. and Cincinnati Gas & Electric Co.

The information received from the eight additional companies from which preliminary data were requested indicates that Union Electric Co. and Kentucky Utilities Co. also purchased and resold significant amounts of power to parties other than the three covered by the field audit. Attachment B is a summary of transactions for one randomly selected hour during the month of February. This single hour may not be entirely representative of the period but it does give some idea of the magnitude, types and direction of the transactions.

The audits of the three power pools indicate that the abnormal conditions imposed by the coal strike caused extraordinary operating practices by the pools and, in turn, prompted some deviations from normal billing practices. For example, APS was off economic dispatch from the first day of the coal strike to conserve fuel. AEP was similarly off economic dispatch beginning January 23, 1978. PJM remained on economic dispatch throughout the strike but did restrict the use of some plants to operate at less than full capacity in order to conserve fuel. Conservation of coal on the PJM system which has substantial oil-fired capacity was not nearly as significant as on the AEP and APS systems. AEP and APS dispatched their systems so as to run the plants with the largest coal supplies relative to the size of the unit without regard to the incremental cost, which is the usual criterion for economic dispatch. Such deviation from economic dispatch raises questions as to the proper billing under the fuel adjustment clause in that the inclusion of certain costs are dependent on the purchases being made on an economic dispatch basis. Being off economic dispatch also creates a potential definitional problem as to the meaning of incremental cost in the filed rate schedule when the system is operating in the non-economic dispatch mode.

AEP ceased utilizing a "first come—lowest cost" priority in making sales to other systems (which is their usual practice) and began pricing at a uniform incremental cost for all sales of the same category.

Replacement fuel costs used in the determination of the incremental cost rate are normally based on the estimated cost of deliveries of fuel to each plant in the case of APS and PJM[2] and the highest cost of actual deliveries to each plant during the month to meet the quantity of fuel consumed for the transactions in the case of AEP. AEP, however, departed from this and utilized a single replacement cost for the entire system during January and February. AEP's normal practice is to price each plant source separately based on fuel deliveries of each plant.

During January and February, APS used estimated replacement costs even though no actual replacement deliveries were contemplated in some cases. Since neither AEP nor APS made substantial sales from their own systems, however, the changes in the normal practice of calculating replacement costs would not have a substantial rate effect. A possible exception is intra-pool billing where such costs are also utilized by APS. This area requires further investiga-

[1] This compares to a total of 819,000 MWH sales to PJM, the New York Power Pool (NYPP) and New England Power Pool during the 5-month period of January through May of 1974 associated with the fuel oil shortage during the Arab Oil Embargo as reported in the Federal Power Commission Order issued in the "Coal-by-Wire" proceeding in Docket No. E-8550 et al.

[2] Actual practice varies for some companies within PJM.

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tion.[3] Further inquiry should also be made comparing PJM's actual replacement costs with its estimates since substantial sales were made by PJM.

There appears to be non-compliance with the Commission's fuel adjustment clause regulations with respect to the members of all three pools in treatment of emergency energy purchases.[4] In all instances, the entire cost of emergency energy purchases was included in the fuel adjustment clause calculation as opposed to inclusion of only the fuel portion of such costs. This does not appear to be appropriate in that such purchases were not made on an economic dispatch basis to replace higher fuel costs on the purchasing system. This is the requirement of the Commission's Order No. 517 which established the current fuel adjustment clause regulation permitting the inclusion of the total energy cost where the purchase is on an economic dispatch basis to replace fuel cost on the purchaser's system.

In the "Coal-by-Wire" proceeding during the Arab oil embargo, fuel conservation energy rate schedules were found to be appropriate schedules for the purpose of moving power over multiple systems to replace fuel in short supply. These rate schedules provide for a fixed "transmission rate" usually stated in mills/kwh. Generally the fuel conservation energy rate schedules were limited to off-peak usage. These rates continue as filed rate schedules even though many have expired as contractual agreement. None of the transactions in January and February took place under these rate schedules. Additionally, PJM filed a revised conservation energy rate schedule with APS and NYPP on December 13, 1977, specifically in anticipation of the needs of the coal strike. These filings were suspended and made subject to refund by Commission Order issued on Feburary 13, 1978 in Docket No. ER78-107 et al. Additionally, conservation energy rate schedules were subsequently filed by PJM with Cleveland Electric Illuminating (CEI) and suspended by order issued February 24, 1978 in Docket No. ER78-219. AEP tendered filings with Illinois Power Co. in Docket No. ER78-229 and with APS and OE in Docket Nos. ER78-249 and 252. These were suspended by order issued on March 1, 1978 and April 13, 1978, respectively.

The recently filed conservation energy schedules which were suspended were not utilized for any of the transactions in January and February. The transactions during these months were instead billed primarily as short term and emergency transactions. Since many of the transactions involved the resale of power through multiple systems, the percentage adder contained in these rates produced substantially more revenues than would have been the case had the fixed "transmission" charge contained in the fuel conservation energy rate schedules been utilized. The appropriateness of billing these transactions as short term power or emergency energy is questionable since adequate capacity existed on the various systems but was not being utilized primarily because of conserving fuel stocks, i.e., the stated purpose of conservation energy rate schedules.

The revenues produced by the percentage adders appear to far exceed the actual incremental cost of such transactions on the "transmitting" system. The percentage adders in the short term and emergency rates generally are not intended as compensation for losses, such costs being separately recovered as part of the incremental costs.[5] The costs other then losses would not support the revenues produced by such adders.

Summary and Recommendations

The audit of the three pools discloses the following facts: (1) Substantial transactions billed as short term, emergency and non-displacement power took place during the coal strike. The percentage adders contained in these rates produced substantial revenues for sellers and for "transmitters"; (2) Extraordinary operating and billing practices were utilized; (3) Some noncompliance with the filed rate schedules occurred. (4) The rate schedules which appear to be the most appropriate for the service (the conservation energy rate schedules) were not utilized for billing the transactions; and (5) The use of emergency and short term power rate schedules for this service during the coal strike was questionable whether or not fuel conservation energy rate schedules were on file. To the extent they were on file, the use of emergency and short term power schedules was especially questionable.

In light of the above, it is recommended that the Commission set for formal investigation the transactions which occurred during the coal strike under the jurisdictional rate schedules involving the members of the three pools and any other public utilities supplying or transmitting power during the coal strike for the purpose of conserving coal supplies. Such utilities include, among others, the members of the NYPP, CAPCO, ILL-MO and KIP pools and Commonwealth Edison Co.

[3] Additionally, APS's use of past demands (three highest monthly demands in the prior 24 month period) under the pooling agreement to allocate all purchases among the pool members should also be investigated further to determine its reasonableness as applied to energy purchases for the purpose of conserving energy.

[4] This problem does not appear to be limited to the time of the coal strike.

[5] The exception to this general statement is the 20 percent adder contained in AEP's non-displacement power service with OE. In the case, losses are included in the adder. However, the audit disclosed that AEP was improperly billing for the losses. This amounted to an estimated overcharge of $100,000 in February.

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Major Intersystem Transactions by AEP

Attachment A page 1 of 3

January 1978

Supplier	Type	MWH	Total $	Energy $/mWh
Allegheny Pwr. Sys.	Emergency	260,906	13,603,613.56	52.140
Illinois Pwr. Co.	Emergency	56,988	2,145,174.75	37.643
Indianapolis P&L	Short-Term	38,385	1,187,366.95	26.076

Receiver	Type	MWH	Total $	Energy $/mWh
Ohio Edison	Short-Term	120,175	3,500,056.70	25.214
Columbus & Southern Ohio	Emergency	100,402	5,298,040.50	52.768
Cinn. Gas & Elect.	Emergency	78,572	4,398,715.20	55.983
Columbus & Southern Ohio	Short-Term	60,325	1,734,577.84	25.142

February 1978

Supplier	Type	MWH	Total $	Energy $/mWh
Commonwealth Edison	Emergency	228,018	11,283,860.05	49.487
Allegheny Pwr. Sys.	Emergency	145,320	6,829,971.61	47.000
Illinois Pwr. Co.	Short-Term	124,550	4,668,770.38	33.947
Illinois Pwr. Co.	Emergency	106,483	4,254,469.68	39.954

Receiver	Type	MWH	Total $	Energy $/mWh
Ohio Edison	Non-Dis-placement	193,881	10,621.549.20	54.784
Cinn. Gas & Elect.	Emergency	131,651	6,054,967.60	45.993
Columbus & Southern Ohio	Emergency	118,550	5,203,459.44	39.472
Indianapolis P&L	Emergency	85,100	4,368,461.90	51.333
Columbus & Southern Ohio	Emergency	76,600	3,334,622.50	43.533

Major Intersystem Transactions by PJM Attachment A page 2 of 3

JANUARY

OUT						IN					
Other Party	$/mWh	Amount (mWh)	Type	Bill (millions)		Other Party	$/mWh	Amount (mWh)	Type	Bill (millions)	
APS	$45.69	699,653	EMER.	$31.9		NYPP	$29.79	491,358	ECON.	$14.6	
APS	$38.84	147,876	S.T.	5.7		NYPP	$44.66	83,200	EMER.	3.7	
APS	$31.64	10,050	N.R.	.3		CEI	$19.39	5,738	ECON.	.1	
APS	$21.92	1,175	ECON.	.1						$18.4	
				$38.0							
				$ 3.7							
VEPCO	$48.75	71,052	EMER.	3.5							
VEPCO	$27.48	9,400	ECON.	.2							
				$ 3.7							
CEI	$43.81	144,453	EMER.	6.3							
CEI	$36.54	145,005	S.T.	5.3							
CEI	$31.33	22,895	ECON.	.7							
				$12.3							
				$54.0		Total January				$18.4	

FEBRUARY

APS	$38.35	751,094	S.T.	$28.8		NYPP	$27.63	517,020	ECON.	$14.3	
APS	$44.25	381,092	EMER.	16.8		NYPP	$39.86	89,985	EMER.	3.5	
				45.6						$17.8	
VEPCO	$54.17	33,998	EMER.	$ 1.8							
CEI	$38.28	517,120	S.T.	19.8							
CEI	$30.56	17,027	ECON.	.5							
CEI	$30.42	19,560	EMER.	.6							
				$20.9		Total February				$17.8	
				$68.3							

Attachment A page 3 of 3

January 1978 (ad adjusted)

Purchased From	Type of Service	MWh	Total $ Charge
PJM	Emergency	292,496	13,338,247
PJM	Emerg. Transfer	407,157	18,630,996
PJM	Short Term	147,876	5,743,163
PJM	Economy	1,175	25,761
PJM	Non-Replacement	10,050	317,939
DL	Emergency	558	23,402
VEPCO	Diversity	117,813	1,321,845 1/
OVEC	Surplus	8,068	50,932
DL	Maintenance	8,150	70,518
Sold to			
AEP	Emergency	260,906	13,603,613
OE	Emergency	123,090	5,793,853
DL	Emergency	26,577	1,342,708
UGI	Unit	34,150	707,003

February 1978

Purchased From	Type of Service	MWh	Total $ Charge
PJM	Emergency	101,547	4,620,686
PJM	Emerg. Transfer	279,545	12,243,581
PJM	Short Term	751,094	28,808,488
VEPCO	Diversity	175,303	
OVEC	Surplus	57,476	1,027,282
Sold to			
AEP	Emergency	145,320	6,874,920
OE	Emergency	47,344	2,320,416
DL	Emergency	87,056	4,333,590
DL	Short Term	12,565	660,749
OE	Short Term	22,000	1,097,970
UGI	Unit	32,010	706,733

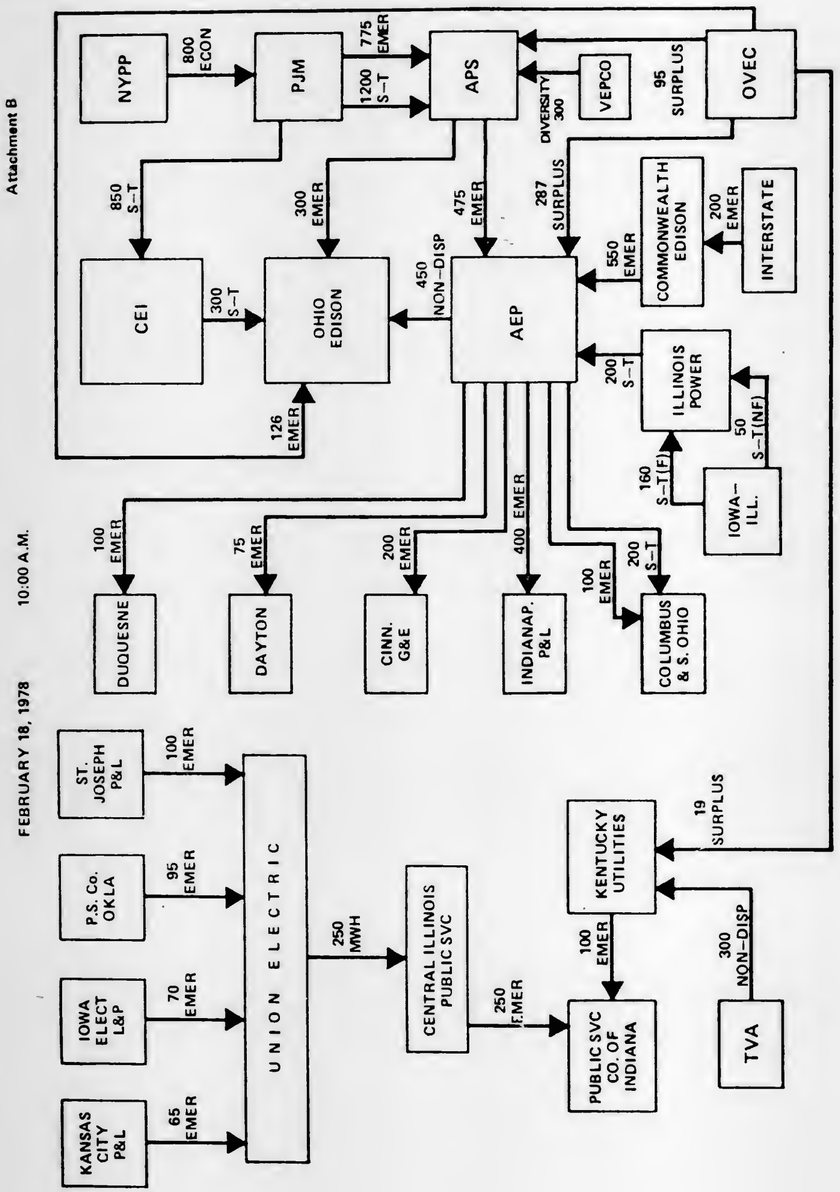
1/ No actual dollars were paid to VEPCO but APS's average delivered cost during its summer period was utilized for the computation of the APS fuel clauses.

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Attachment B

FEBRUARY 18, 1978 10:00 A.M.



[FR Doc. 78-13398 Filed 5-16-78; 8:45 am]

FEDERAL REGISTER, VOL. 43, NO. 96—WEDNESDAY, MAY 17, 1978

[6740-02]

[Docket No. RM77-14]

KENTUCKY WEST VIRGINIA GAS CO.

Notice of Filing Revised Tariff Sheets

MAY 9, 1978.

Take notice that Kentucky West Virginia Gas Co. (Kentucky West), on April 20, 1978, tendered for filing revised sheets of its FERC Gas Tariff, Original Volume No. 1:

First Revision of Original Sheet No. 8
First Revision of Original Sheet No. 10
First Revision of Original Sheet No. 28
First Revision of Original Sheet No. 29-37
First Revision of Original Sheet No. 38

The purpose of this filing is to provide for the establishment of a funding charge for RD&D by GRI and to provide for the collection thereof through a rate adjustment clause for each rate schedule imposing a charge of 0.12¢ per dekatherm.

Copies of the filing were served upon Kentucky West's jurisdictional customers and the Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13325 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-355]

LOCKHART POWER CO.

Notice of Proposed Tariff Change

MAY 10, 1978.

Take notice that Lockhart Power Co. (Lockhart) on May 3, 1978, tendered for filing proposed changes in its FERC Electric Tariff, Rate Schedule Resale and Rate Schedule O. Lockhart states that the proposed changes would increase annual revenues from jurisdictional sales and service by $42,747 based on the 12 months ended December 31, 1977.

Lockhart further states that it is seeking the proposed increase in jurisdictional revenues primarily because of increased costs associated with capital expenditures to upgrade its transmission power supply system. According to Lockhart, these capital expenditures have been necessary to meet customer load requirements, insure system capability, improve reliability and create better flexibility of operations. Lockhart proposes an effective date of June 2, 1978.

Copies of this filing have been served on the City of Union, S.C., and the Public Service Commission of the State of South Carolina, according to Lockhart.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13327 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. CP68-75]

NORTHERN NATURAL GAS CO.

Notice of Petition to Amend

MAY 10, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activiated on October 1, 1977. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

Take notice that on April 28, 1978, Northern Natural Gas Co. (Petitioner), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP68-75 a petition to amend the order of May 20, 1968 (39 FPC 821) as amended, issued by the FPC in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to provide for the continued delivery of exchange gas to Phillips Petroleum Co. (Phillips) at two additional delivery points pursuant to Petitioner's currently effective Rate Schedule X-18 of its FERC Gas Tariff, Original Volume No. 2, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of May 20, 1968, Petitioner was granted in the instant docket permission and approval to abandon its 20-inch Gray County line (12 miles) by sale to Phillips and was authorized to construct and operate certain measuring station facilities and to exchange with and transport natural gas for Phillips.

Petitioner states that owing to an inadvertance two gas wells have been attached to the existing gathering system of Phillips as additional points in the exchange, absent FERC authorization. Petitioner states that it and Phillips are parties to the following amendments to the Gray County gas exchange agreement providing for inclusion of these wells:

Amendment dated May 1, 1972

Name of well: Cox "F" No. 1.
Location: Sec. 37, Block 11, W. Ahrenbeck & Bros. Survey, Ochiltree County, Tex.
Initial delivery date: June 1, 1972.

Amendment dated December 1, 1977

Name of well: Etling No. 1.
Location: Sec. 7, T. 1 N. R. 13 E., Texas County, Okla.
Initial delivery date: February 6, 1978.

Petitioner states that originally, the Etling No. 1 well was connected to Petitioner's gathering system; and as delivery pressure of the well decreased resulting in the well's not being able to produce against the existing gathering line pressures, the decision was made to attach the well to Phillips' low-pressure gathering system.

Pursuant to the above-described amendments, Petitioned proposes to continue the delivery to Phillips of gas volumes owing to Petitioner's share in the production of the wells. To effect the delivery, Petitioner is presently operating facilities which connect the wells to the low-pressure gathering system of Phillips, which facilities consist of a measuring station at the wellhead of the Cox F No. 1 and approximately 0.26 mile of 4-inch gathering line and a measuring station which connects the Etling No. 1 Well, it is stated. Petitioner indicates that redelivery of gas exchange volumes by Phillips to Petitioner would be made at the existing delivery points in Ellis

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County, Okla., and Gray County, Tex., pursuant to the Gray County gas exchange agreement, as amended.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Com-will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13400 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RP73-8]

NORTH PENN GAS CO.

Notice of Proposed Changes in FERC Gas Tariff

MAY 8, 1978.

Take notice that North Penn Gas Co. (North Penn) on May 2, 1978, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective June 1, 1978.

North Penn states that Fifty-Fourth Revised Sheet No. PGA-1 reflects a decrease of 22.173 cents per Mcf to the rates as submitted for Commission approval on April 26, 1978 in Fifty-Third Revised Sheet No. PGA-1.

The revised tariff sheet reflects increases filed by North Penn's pipeline suppliers, Consolidated Gas Supply Corp., Tennessee Gas Pipeline Co., and Transcontinental Gas Pipe Line Corp., all for effectiveness June 1, 1978, and a surcharge credit to be effective for the six-month period June 1, 1978, through November 30, 1978.

North Penn requests waiver of any of the Commission's Rules and Regulations in order to permit the proposed rates to go into effect on June 1, 1978.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13328 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RP73-8]

NORTH PENN GAS CO.

Notice of Proposed Changes in FERC Gas Tariff

MAY 5, 1978.

Take notice that North Penn Gas Co. (North Penn) on April 26, 1978, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective May 1, 1978.

North Penn states that the change in rates reflected in Fifty-Third Revised Sheet No. PGA-1 reflects an increase of 1.668 cents per Mcf to the rates as submitted for Commmission approval on March 6, 1978, in Fifty-Second Revised Sheet No. PGA-1.

The increase in rates contained in Fifty-Third Revised Sheet No. PGA-1 reflects an increase in rates from North Penn's pipeline supplier, Consolidated Gas Supply Corp. for effectiveness May 1, 1978.

North Penn requests waiver of any of the Commission's Rules and Regulations in order to permit the proposed rates to go into effect on May 1, 1978.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13338 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. OR78-5 (formerly ICC Docket Nos. NOR 35794 and NOR 35852)]

NORTHVILLE DOCK PIPE LINE CORP. AND CONSOLIDATED PETROLEUM TERMINAL, INC., ET AL.

Notice of Further Extension of Time

MAY 2, 1978.

On April 21, 1978, Northville Dock Pipe Line Corp., Consolidated Petroleum Terminal, Inc., and Total Resources, Inc. (Petitioners), filed a motion for a further extension of time to and including May 30, 1978, within which to file replies to the administrative appeals from two orders issued by the Interstate Commerce Commission, filed in the captioned proceeding. Upon motion by the Commission Staff Counsel, a previous extension of time for filing replies was granted by Notice issued April 25, 1978. Petitioners' motion states that Staff Counsel has no objection to the further extension of time.

Upon consideration, notice is hereby given that a further extension of time is granted to and including May 30, 1978, within which to file replies to the administrative appeals filed in the above referenced proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13329 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RP78-59]

NORTHWEST PIPELINE CORP.

Notice of Change in Rate

MAY 9, 1978.

Take notice that on April 28, 1978, Northwest Pipeline Corp. ("Northwest") tendered for filing proposed changes in special Rate Schedule X-24 of its FERC Gas Tariff, Original Volume No. 2. The following revised tariff sheets reflect the proposed changes of the instant filing:

First Revised Sheet No. 60
First Revised Sheet No. 68
First Revised Sheet No. 69
First Revised Sheet No. 70
First Revised Sheet No. 79
First Revised Sheet No. 104

Special Rate Schedule X-24 constitutes the San Juan Gathering Agreement ("Gathering Agreement") dated January 31, 1974 between Northwest and El Paso Natural Gas Co. ("El Paso") and provides for the gathering

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of natural gas in the San Juan Basin area of northwestern New Mexico and southwestern Colorado. As more fully explained in the instant filing, Northwest and El Paso, pursuant to a Letter Agreement between the parties dated April 25, 1978, have agreed to increase the gathering charge of the subject rate schedule (and of El Paso's related special Rate Schedule X-31) from the currently effective 6.61 cents to 13.39 cents per Mcf. In addition, said Letter Agreement: (i) deletes section 4 of Article IX and Exhibit F of the Gathering Agreement and (ii) modifies the wording of sections 5 and 6 of Article XIX.

Northwest requests that the instant filing be accepted and made effective by the Commission thirty (30) days from the date of such filing. However, in the event the proposed change in rate is suspended by the Commission, Northwest requests that such suspension be limited to only one (1) day inasmuch as the proposed rate is cost based and Northwest desires to recover its costs at the earliest possible date. Northwest understands El Paso is concurrently filing its notice of rate change providing for the identical modifications and is asking for an effective date coincident with the effective date of Northwest's filing. Northwest requests that the respective filing of each company be given the same effective date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13330 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No.CP78-308]

NORTHWEST PIPELINE CORP.

Notice of Application

MAY 5, 1978.

Take notice that on April 27, 1978, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-308 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 7,000 Mcf of natural gas per day for Cordillera Corp. and Wyoming Gas Fuel Corp. (Producer), all as more fully set forth in the application of file with the Commission and open to public inspection.

The application states that Producer has participated in the development of or has otherwise acquired a supply of natural gas in Lincoln County, Wyo., which it desires to have transported and delivered for its account at various points where Applicant is currently authorized to sell and deliver gas to Wyoming Industrial Gas Co. (Wyoming Industrial) and to Utah Gas Service Co. (Utah Gas).[1] Consequently, Producer and Applicant have entered into a gas purchase and transportation agreement dated February 27, 1978, which agreement provides that Producer would cause to be delivered to Applicant up to 7,000 Mcf of natural gas per day (excluding any volumes sold by Producer to Applicant), presently or hereafter owned or controlled by Producer in the Lincoln County areas. Applicant states that initially, the proposed volumes of gas would be delivered to it for Producer's account, by FMC Corp. (FMC) at a proposed point of interconnection between the facilities of Applicant and FMC in Lincoln County, Wyo., where Applicant would construct a tap and metering facilities to receive such gas.

It is stated that Producer would sell and Applicant would purchase for its own use any gas in excess of Producer's requirements at the points of redelivery hereunder; provided, however, that Applicant would in any event have the right to purchase a minimum of 25 percent of the volumes delivered to Applicant for Producer's account. The balance of the volumes delivered to Applicant for Producer's account would then be transported by Applicant, either directly or by displacement to one or more of Applicant's existing points of sale and delivery to Wyoming Industrial and/or Utah Gas, where thermally equivalent volumes, less compressor fuel, would be redelivered for Producer's account.

Applicant indicates that it would pay Producer for each Mcf of gas purchased hereunder an intial price of $1.48 cents plus tax, Btu and other adjustments, as provided by Federal Power Commission Opinion No. 770-A[2].

Applicant states that for those volumes transported directly and redelivered to Wyoming Industrial for Producer's account, it would charge Producer a rate equal to 16.03 cents per Mcf, which price is Applicant's current average, rolled-in transmission system cost-of-service. Applicant further states that for those volumes transported by displacement and redelivered to Utah Gas for Producer's account, it would charge Producer a rate equal to 8.0 cents per MCf, approximately 50 percent of Applicant's average, rolled-in transmission cost-of-service. Also, Applicant, as compensation for compressor fuel usage, would retain 2 percent of all volumes transported directly for Producer's account.

Applicant states that it would construct the aforementioned tap and metering facilities necessary to receive deliveries of gas from FMC for Producer's account pursuant to its budget-type certificate authorization.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13339 Filed 5-16-78; 8:45 a.m.]

[1] Producer, Wyoming Industrial, and Utah Gas are affiliates. Wyoming Industrial and Utah Gas are customers of Applicant.

[2] This price in only applicable to gas sold by Producer to Northwest.

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[6740-02]

[Docket No. ER78-354]

OTTER TAIL POWER CO.

Notice of Initial Rate Filing

MAY 10, 1978.

Take notice that Otter Tail Power Co. (Otter Tail), of Fergus Falls, Minn., on May 3, 1978, tendered for filing a rate covering a new service to be provided to East River Electric Power Cooperative, Inc. (East River), for a pipeline pumping load of Dome Pipeline Corp. (Dome), of Calgary, Alberta, Canada.

Otto Tail states that the new rate is embodied in an agreement between East River and Otter Tail in the form of Supplement No. 1 to the Interconnection and Transmission Service Agreement between East River Electric Power Cooperative, Inc., Madison, S.D., and Otter Tail Power Co., Fergus Falls, Minn., on file with the Commission as Rate Schedule FERC No. 168. Otter Tail further states in its filing that the new rate is to provide service to a new load not contemplated by the original agreement (FERC No. 168) and is designed to provide service at Otter Tail's fully allocated cost.

Otter Tail requests that the new rate (Supplement No. 1 to FERC No. 168) be permitted to become effective on June 1, 1978, or as soon as service can be initiated at the new point of interconnection, if that is earlier, and requests waiver of the Commission's rules, if necessary, to permit the rate to become effective at that time.

Copies of the filing were served upon East River Electric Power Cooperative, Inc., Traverse Electric Cooperative, and the Public Service Commission, Department of Public Service, State of Minnesota, according to Otter Tail.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13401 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket Nos. CP75-140, etc.]

PACIFIC ALASKA LNG CO. ET AL.

Order Granting Timely and Late Petitions to Intervene Consolidating Proceedings, and Prescribing Further Procedures

MAY 11, 1978.

In the matter of Pacific Alaska LNG Co., et al., Docket Nos. CP75-140, etc.; Pacific Indonesia LNG Co., et al., Docket Nos. CP74-160, etc.; Pacific Lighting Gas Development Co., Docket Nos. CI78-453; Pacific Simpco Partnership, Docket Nos. CI78-452.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provide that proceeedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)-(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —— provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Three primarily procedural motions are currently ripe for Commission decision and none have been deemed denied by operation of law. Specifically: (1) Three petitions to intervene pursuant to section 1.8 of the Commission's Rules of Practice and Procedure filed in Docket Nos. CP75-140, et al. (*Pac Alaska*), (2) Requests pursuant to section 1.12 to consolidate producer applications with Docket Nos. CP75-140, et al., and (3) A joint motion, pursuant to section 1.12, for a procedural order to consolidate Docket Nos. CP74-160, et al. (*Pac Indonesia*) with Docket Nos. CP75-140, et al. (*Pac Alaska*) for certain limited purposes; and responses thereto. We will address these matters seriatim.

In response to a "Notice of Petition for a Declaratory Order" issued December 5, 1977, (FR ——), timely interventions were filed by Northern Natural Gas Co. on December 27, 1977, and Energy Terminal Services Corp. on December 23, 1977. Each alleges a unique interest in the outcome of these jurisdictional petitions and their participation may be in the public interest and will not delay consideration of this proceeding.

Ogden Marine Indonesia filed a petition on March 24, 1978, stating that as a transporter for Pac Indonesia they have a substantial interest and that they were not aware of their need to participate until receipt of certain communication concerning a prehearing conference noticed March 21, 1978. Without commenting on the arguments advanced and having reviewed this petition, we are convinced that good cause is shown to grant said intervention, and said late petitioner will be expected to take the record as it finds it and neither delay nor complicate said proceeding.

II

On February 27, 1978, Pacific Alaska LNG Associates and Western LNG Terminal Associates (Movants) moved that the producer applications represented by Docket Nos. CI78-452 and CI78-453 be consolidated with the *Pac Alaska* proceeding. Movants argue that by Order issue January 10, 1978, the applications of certain companies concerned with proposed sales of natural gas at Cook Inlet, Alaska, were consolidated with the *Pac Alaska* case. And, as the two subject applications concern similar proposals concerning the sale of natural gas at Cook Inlet, they should also be consolidated with the Movants' applications for purposes of hearing and decision. No responses have been filed to this motion.

Therefore, we find that the applications in Docket Nos. CI78-452 and CI78-453 present common questions of law and fact within the meaning of section 1.20(b) of the Rules of Practice and Procedure and should be consolidated for hearing and decision.

III

On March 21, 1978, Movants also moved the Commission and the Economic Regulatory Administration (ERA) for an order consolidating the hearing in *Pac Alaska* with the amendment filed by the Pacific Indonesia LNG Co. in Docket No. ERA77-001-LNG to such extent that each requests a joint situs for an LNG facility on the south-central California coast. Answers to the motion were filed by Bixby Ranch Co. as well as Hollister Ranch Owners' Association and the Santa Barbara Citizens for Environmental Defense on April 5, 1978, and the Sierra Club (Respondents) on April 6, 1978.

Respondents object to this motion only to the extent that it would waive initial decision by the Presiding Administrative Law Judge at the Commission and as it would provide for a two-phased proceeding, a decision in the *Pac Indonesia* proceeding prior to a decision in the *Pac Alaska* proceeding. No other answers were filed.

The joint regulation[1] issued by the Commission and the Secretary of the Department of Energy (Secretary) on October 1, 1977 (42 FR 55534), provided that the *Pac Indonesia* proceeding would continue before the Commission for initial decision and subsequent briefing but that final approval authority would rest in ERA. The Commission and the Secretary by an amendment to the joint regulation[2] have agreed that the same procedure should be followed for the instant amendment in the *Pac Indonesia* proceeding.

Therefore, as both matters are properly before the Commission for hearing and the proceedings present common questions of law and fact within the meaning of Section 1.20(b), they should be consolidated for hearing. Also, it would defeat the purpose of said consolidation, as stated by Respondents, to authorize a phased proceeding, and therefore such request is denied.

The joint action of the Commission and the Secretary, however, does not address the question of whether the initial decision of the Presiding Administrative Law Judge should be waived. Ordinarily, such waiver is not favored in order to utilize the familiarity and expertise of the presiding judge. Good cause has not been shown for such waiver. Additionally, the Secretary has not yet taken a position on the matter and since the companion amendment provides for such initial decision, we would be inclined to give the Secretary's position great weight.[3] Accordingly, the request for waiver of the initial decision is hereby dismissed as premature.

The Commission orders: (A) The above-named petitioners are permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The applications of Pacific Lighting Gas Development Co., Docket No. CI78-453, and Pacific-Simpco Partnership, Docket No. CI78-452, are consolidated with the *Pacific Alaska* proceeding for purpose of hearing and decision.

(C) The application of *Pacific Alaska LNG Associates, et al.,* in Docket Nos. CP75-140, et al. are consolidated with the amendment filed by *Pacific Indonesia LNG Co.* in Docket No. ERA77-001-LNG for purposes of hearing and briefing and good cause has not been shown to order phasing of said limited consolidated proceeding.

(D) The request for waiver of the initial decision by the Presiding Administrative Law Judge is dismissed as premature.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13402 Filed 5-16-78; 8:45 am]

[1] 10 CFR 1000.1(c)(2)(vi).

[2] 10 CFR 1000.1(c)(3).

[3] Under DOE Act section 301(a) the Secretary is the successor in interest to the Federal Energy Administration which had intervened in the Pacific Indonesia proceeding. Subject to the provisions of DOE Act section 405 the Secretary may appear and participate in the proceedings ordered herein. In addition while the Environmental Impact Statement will be prepared in accordance with 18 CFR 2.80-2.82 the Secretary may, if he chooses, submit a comment on the DEIS.

[6740-02]

[Docket No. ER78-347]

PACIFIC POWER & LIGHT CO.

Notice of Filing

MAY 10, 1978.

Take notice that Pacific Power & Light & Co. (Pacific) on May 1, 1978, tendered for filing, in accordance with section 35.13 of the Commission's Regulations, an amendment to Pacific's Rate Schedule FPC No. 123 providing for a new Point of Delivery to Tri-State Generation and Transmission Association, Inc. (Tri-State).

Copies of the filing were supplied to Tri-State, according to Pacific.

Pacific indicates that service under this agreement is proposed to commence on or about July 1, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13331 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-352]

PACIFIC POWER & LIGHT CO.

Notice of Rate Filing

MAY 10, 1978.

Take notice that Pacific Power & Light Co. (Pacific) on May 2, 1978, tendered for filing, in accordance with section 35.12 of the Commission's Regulations, a rate schedule for use of its substation facilities by Portland General Electric Co. (Portland General).

Pacific proposes that service under this agreement commence on or about July 1, 1978.

Copies of the filing were supplied to Portland General, according to Pacific.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13332 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. CP77-253]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Petition To Amend

MAY 10, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977) and Executive Order No. 12009,

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42 FR 46267 (Sept. 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of these proceedings were specificaly transferred to the FERC by section 402(a) (1) or (2) of the DOE Act.

Take notice that on May 1, 1978, Panhandle Eastern Pipe Line Co. (Petitioner), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP77-253 a petition to amend further the order of December 9, 1977, as amended, issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in the instant docket so as to authorize the delivery of additional natural gas by Petitioner to Michigan Consolidated Gas Co.—Interstate Storage Division (Consolidated) for storage by Consolidated, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of December 9, 1977, as amended January 4, 1978, Petitioner is authorized to transport and deliver to consolidated for storage and redelivery to Petitioner up to 12,400,000 Mcf of gas for a period of either seven or fourteen years, with six or thirteen years, respectively, now remaining, in accordance with two separate gas storage agreements dated October 31, 1976, as amended June 10, 1977, and November 1, 1976, as amended June 10, 1977. The October 31, 1976 agreement, as amended, provides for the storage of up to 6,000,000 Mcf of gas for firm service; and the November 1, 1978 agreement, as amended, provides for the storage of up to 6,400,000 Mcf of gas for offpeak service, it is said.

Petitioner states that in order to provide additional service required by its customers, Consolidated and Petitioner have entered into an amendment to the October 31, 1976, gas storage agreement, as amended, so as to provide for the maximum volumes of gas to be stored for firm service to be increased to 12,250,000 Mcf; and furthermore, should Petitioner's customers elect to defer redelivery from one winter period to the next winter period of any part of the volumes stored, then to the extent that such deferred volumes exceed 2,450,000 Mcf (rather than 1,200,000 Mcf as originally provided in said agreement of October 31, 1976, Petitioner's customers would furnish an additional 1 percent of such excess as compressor fuel in order to permit the cycling of such excess gas to maintain storage capacity.

Petitioner states that in order to render the additional gas storage service beginning with the 1978-79 storage season, Consolidated would use the Taggart Storage Field and associated pipeline and compression facilities for which Consolidated has been issued temporary certificates in Docket No. CP76-254. The application states that Consolidated would have sufficient storage capacity available at the Taggart Storage Field beginning with the 1978-79 storage season because of the determination by Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin) that it would not require the storage of gas by Consolidated during the last year of a temporary storage service authorized in Docket Nos. CP75-182 and CP75-200, respectively. It is indicated that the additional storage volumes that are proposed herein to be made available would be used by seven of Petitioner's customers pursuant to six amendments to existing storage agreements and one new storage agreement, as follows:

ADDITIONAL FIRM REQUIREMENTS (MCF)

Customer	
Indiana Gas Co	2,000,000
Citizens Gas & Coke Utility	1,000,000
Northern Indiana Public Service Co	2,000,000
Central Illinois Public Service Co. (new service)	1,000,000
Citizens Gas Fuel Co	100,000
Richmond Gas Co	100,000
Ohio Gas Co	50,000
Total	6,250,000

It is stated that Michigan Wisconsin would transport the gas to and from the Taggart Field through its existing pipeline facilities and would charge 4.52 cents per Mcf of gas transported, which charge would be passed on to Petitioner's customers.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13403 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RP78-62]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Proposed Changes

MAY 9, 1978.

Take notice that Panhandle Eastern Pipe Line Co. (Panhandle) on May 1, 1978, tendered for filing proposed changes in the following revised tariff sheets:

FERC Gas Tariff, Original Volume No. 1

Twenty-Fourth Revised Sheet No. 3-A
First Revised Sheet No. 3-B
Second Revised Sheet No. 43-1
Fourth Revised Sheet No. 43-2
Fifth Revised Sheet No. 43-3
Sixth Revised Sheet No. 43-4

FERC Gas Tariff, Original Volume No. 2

Second Revised Sheet No. 93
Second Revised Sheet No. 135
Second Revised Sheet No. 211
Third Revised Sheet No. 375
First Revised Sheet No. 439
First Revised Sheet No. 462
First Revised Sheet No. 463
First Revised Sheet No. 484
First Revised Sheet No. 556
First Revised Sheet No. 611
First Revised Sheet No. 640
First Revised Sheet No. 641
Second Revised Sheet No. 694
Second Revised Sheet No. 695
First Revised Sheet No. 724
First Revised Sheet No. 725
Second Revised Sheet No. 784
Second Revised Sheet No. 801
First Revised Sheet No. 811
First Revised Sheet No. 812
First Revised Sheet No. 848
First Revised Sheet No. 849
Second Revised Sheet No. 875
Second Revised Sheet No. 876
First Revised Sheet No. 963
First Revised Sheet No. 964

Panhandle states that these revised tariff sheets implement a general rate increase to its jurisdictional sales of $73,565,192 annually based on a test year ending January 31, 1978, adjusted for charges known and measurable to October 31, 1978.

Panhandle states that the increased rates are necessitated by increased costs at all levels including operating costs, increased capital costs, a 10.52 percent rate of return, increased gas supply facilities and increased costs associated with Transmission and Compression of Costs By Others. The proposed effective date of the tendered sheets is June 1, 1978.

Panhandle further states copies of this filing were served on Panhandle's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13333 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ID-1831]

PETER J. DEMARIA

Notice of Application

MAY 10, 1978.

Take notice that on April 25, 1978, Peter J. DeMaria, filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Treasurer, Appalachian Power Co	Electric utility.
Treasurer, Beech Bottom Power Co	Do.
Treasurer, Cardinal Operating Co	Do.
Treasurer, Indiana & Michigan Electric.	Do.
Treasurer, Indiana & Michigan Power.	Do.
Treasurer, Kanawha Valley Power Co.	Do.
Treasurer, Kentucky Power Co	Do.
Treasurer, Kingsport Power Co	Do.
Treasurer, Michigan Power Co	Do.
Treasurer and director, Ohio Electric Co.	Do.
Treasurer and director, Ohio Power Co.	Do.
Treasurer, wheeling Electric Co	Do.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before May 26, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13404 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-340]

PUBLIC SERVICE CO. OF INDIANA, INC.

Notice of Proposed Tariff Change

MAY 5, 1978.

Take notice that Public Service Co. of Indiana, Inc. on April 28, 1978, tendered for filing a Service Agreement between Public Service Co. of Indiana, Inc. and the city of Frankfort, Ind., proposed to become effective June 1, 1978.

The Company inidicates that said Service Agreement provides for Public Service Co. of Indiana, Inc. to supply the city of Frankfort, Ind., with their entire requirements of electric capacity and associated energy. The company states that said Service Agreement also cancels and replaces the Interconnection Agreement dated October 20, 1971, which has been designated as Rate Schedule FERC No. 224.

Copies of the filing were served upon the city of Frankfort, Ind., and the Public Service Commission of Indiana, according to the Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13344 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-339]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE

Notice of Proposed Tariff Change

MAY 5, 1978.

Take notice that Public Service Co. of New Hampshire (PSNH) on April 28, 1978, tendered for filing increased rates to all of its firm wholesale for resale customers. PSNH states that the affected customers and the FERC rate schedule designations of their contracts are as follows:

Concord Electric Co	FERC No. 24
Town of Ashland, N.H	FERC No. 28
The New Hampton (N.H.) Village Precinct.	FERC No. 29
Exeter & Hampton Electric Co	FERC No. 35
New Hampshire Electric Cooperative, Inc.	FERC Nos. 50 and 71
Town of Wolfeboro, N.H	FERC No. 72

PSNH indicates that the proposed changes would increase revenues from the affected jurisdictional sales and service by $2,377,636 or 7.7 percent based on test year 1978. PSNH requests that the increase be allowed to become effective on May 29, 1978.

PSNH further indicates that the filing would increase the demand charge from $4.10 to $4.40 per kva and the energy charge from 1.964 cents to 2.139 cents per kwh. PSNH states that the filing would also increase the monthly customer charge from $50 to $65. PSNH further states the fuel clause and low voltage delivery charge as presently effective would not be changed.

According to PSNH copies of this filing have been sent to the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13340 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-331]

PUBLIC SERVICE CO. OF NEW MEXICO

Notice of Filing

MAY 5, 1978.

Take notice that Public Service Co. of New Mexico (PNM) on April 25, 1978, tendered for filing an Agreement for Electric Service and Amendments 1 and 2 thereto between PNM and Plains Electric Generation and Transmission Cooperative, Inc. (Plains).

PNM states that the service to be provided is a change in Delivery Point for service to Plains from the West Mesa Switching Station near Albuquerque, N. Mex., to the Hildalgo Switching Station in southwestern New Mexico.

PNM requests an effective date of August 1, 1977, and therefore requests

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waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13341 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-338]

PUBLIC SERVICE CO. OF NEW MEXICO

Notice of Proposed Changes in Rates

MAY 5, 1978.

Take notice that Public Service Co. of New Mexico on April 28, 1978 tendered for filing a proposed change in rates for its customer, the City of Gallup, N. Mex. The Company proposes that all CWIP be included in rate base, stating that such is required because of the Company's extraordinary growth and concomitant capital demands.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13343 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-337]

PUBLIC SERVICE CO. OF NEW MEXICO

Notice of Proposed Change in Rates

MAY 5, 1978.

Take notice that Public Service Co. of New Mexico (PNM), on April 28, 1978, tendered for filing proposed changes in its FERC PNM Rate Schedules Nos. 31, 32, 34 and 35, which provide rates to four wholesale customers, namely, Plains Electric Generation and Transmission Cooperative, Inc., Community Public Service Co., Department of Energy (DOE)—Los Alamos, and City of Farmington, N. Mex.

The Company estimates its rate of return under presently effective rates during Period II would be 6.884 percent. The Company states that this rate of return is not adequate to enable the Company to generate funds sufficient to meet its current construction program that is required to provide for substantial growth.

According to the Company copies of the filing were served upon the public utility's jurisdictional customers being served under these rate schedules and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13342 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. CP78-298]

SEA ROBIN PIPELINE CO.

Notice of Pipeline Application

MAY 11, 1978.

Take notice that on April 20, 1978, Sea Robin Pipeline Co. (Sea Robin), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-298, an application for a temporary and permanent certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, as amended, requesting authorization to transport gas for Consolidated Gas Supply Corp. (Consolidated), all as more fully set forth in the application which is on file with the Federal Energy Regulatory Commission (Commission).

Sea Robin states that pursuant to a transportation agreement dated February 21, 1978, between Sea Robin and Consolidated, Consolidated will deliver or cause to be delivered to Sea Robin for transportation up to 18,000 Mcf per day in South Marsh Island Area, Block 127, offshore Louisiana. Sea Robin will redeliver equivalent volumes to Columbia Gulf Transmission (Columbia Gulf) for the account of Consolidated at an existing delivery point located at the terminus of Sea Robin's system near Erath, Vermilion Parish, La. Columbia Gulf will transport such volumes and redeliver same to Consolidated at an existing point near Egan, Acadia Parish, La.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 2, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13045 Filed 5-16-78; 8:45 am]

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[6740-02]

[Docket No. RP76-60]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Notice of Purchased Gas Cost Adjustment Rate Change

MAY 11, 1978.

Take notice that South Texas Natural Gas Gathering Co. ("South Texas"), on April 28, 1978, tendered for filing with the Federal Energy Regulatory Commission its Exhibit "A" (Fourth Revised PGA-1) superseding the First Revised Exhibit "A" (Substitute Third Revised PGA-1) to its Purchased Gas Cost Adjustment Clause. The proposed change reflects an increase in South Texas' rate to Natural Gas Pipeline Co. of America of 23.06 cents per Mcf.

Copies of the filing were served by South Texas upon its only affected customer, Natural Gas Pipeline Co. of America.

Any person desiring to be heard or to protest said filing should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13406 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RP78-58]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Notice of Proposed Change in Rates

MAY 9, 1978.

Take notice that on April 28, 1978, South Texas Natural Gas Gathering Co. (South Texas) tendered for filing a notice of change in rates for the sale of gas to (1) Natural Gas Pipeline Co. of America (Natural) under South Texas' FERC Gas Rate Schedule No. 1, Supplement No. 21, and (2) Transcontinental Gas Pipeline Corp. (Transco) under South Texas' FERC Gas Rate Schedule No. 2, Supplement No. 84. South Texas proposes that the revised rates take effect on June 1, 1978.

In addition to the above sales services, South Texas performs transportation services for Natural and for three producers in the McAllen and Schmidth Fields. South Texas states that in the proceeding pending in Docket No. RP77-59 the Commission Staff has for the first time proposed the allocation of a portion of its cost of service to those transportation services, and that South Texas has, as a result, moved the Commission to initiate an investigation into its transportation rate. Because its motion in RP77-59 is still pending, South Texas similarly requests that the Commission initiate a proceeding under section 5 in this docket in order to determine the just and reasonable transportation rates if the filed sales rates are found not to be just and reasonable or are found to be discriminatory.

South Texas states that copies of its filing were served on Natural, Transco, Shell Oil Co., Tenneco Oil Co., and Continental Oil Co.

Any person desiring to be heard or to protest South Texas' filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13334 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RP77-11]

SOUTHWEST GAS CORP.

Notice of Request for Resolution of Billing Dispute

MAY 10, 1978.

Take notice that on May 2, 1978, California-Pacific Utilities Co. (Cal-Pac) requested that the Commission resolve a billing dispute between Cal-Pac and Southwest Gas Corp. (Southwest) concerning the proration for rate charges during a billing month.

Cal-Pac states that Southwest placed its filed rate increase in the above-capitioned docket into effect on May 9, 1977. Subsequently a settlement was approved with revised rates, calling for refund of the charges in excess of the filed rate. The filed rate and the prior rate are blocked rates.

Cal-Pac asserts that Southwest's computations are irrational to the extent they fail to properly prorate the service charge and in their treatment of the blocking. Southwest's computations result in a negative refund of $3,145.67 while Cal-Pac's computations result in a positive refund of $2,287.07.

Cal-Pac requests a ruling, therefore, that Southwest's charges under the old rate for gas delivered in the first 8 days of May be computed on the basis of a proration of the first monthly block to the 8 days and that its refund in this proceeding be determined accordingly. Cal-Pac believes that there are no facts in dispute and that the expense of a hearing is not warranted. Therefore it does not request a hearing and requests the matter be decided on the basis of its request and such response thereto as Southwest may make, with an opportunity for Cal-Pac to reply to Southwest if deemed necessary.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appopriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13407 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. CP76-16]

TENNECO LNG, INC.

Notice of Conference

MAY 8, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provide that

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proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)-(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —— provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that after consideration of the status of the application in this docket the Commission directed the convening of a conference of all parties to this case to discuss the status of the application and the applicant's plans for pursuing it. The conference will be held on May 25, 1978, at 10 a.m., at the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426. The room number will be posted on the hearing board on the second floor on the day of the conference. Members of the Commission's technical staff will participate in the conference.

This application is for a certificate of public convenience and necessity authorizing the construction and operation of an LNG terminal on the Delaware River at West Deptford, Glouster County, N.J., to receive, store, and vaporize imported LNG. The details of the proposal are described in a previous notice issued July 29, 1975.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13345 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. TC78-4]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Notice of Petition for Order Directing Implementation of Storage Sprinkling

MAY 9, 1978.

Take notice that on April 27, 1978, Columbia Gas Transmission Corp. (Columbia) filed a petition pursuant to section 1.7 of the Commission's Rules of Practice and Procedure requesting the Commission to issue an order directing Tennessee Gas Pipeline Co. (Tennessee) to file appropriate tariff sheets incorporating storage sprinkling[1] in its currently effective curtailment plan.

In the alternative, Columbia requests the Commission to issue an order directing Tennessee to show cause why storage sprinkling procedures should not be implemented on its system in accordance with Commission determinations in certain other proceedings. Columbia further requests the Commission to prescribe a shortened notice period in regard to this matter.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than fifteen days for the filing of protests and petitions to intervene. Therefore, persons desiring to be heard or to make protests with reference to said filing should, on or before May 19, 1978, file protests or petitions to intervene with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make such persons parties to the proceeding. Any person wishing to become a party to this proceeding or to participate as a party in any hearing in this proceeding must file a petition to intervene in accordance with the Commission's Rules. The petition is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13408 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. CP78-307]

TENNESSEE NATURAL GAS LINES, INC.

Notice of Application

MAY 10, 1978.

Take notice that on April 26, 1978, Tennessee Natural Gas Lines, Inc. (Applicant), 2008 Parkway Towers, Nashville, Tenn. 37219, filed in Docket No. CP78-307 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for its resale customer, Nashville Gas Co. (Nashville), pursuant to proposed Rate Schedule T-1 and authorizing the transportation of gas pursuant to proposed Rate Schedule T-2 for any person, served directly or indirectly from the system of Applicant, which gas the buyer has purchased from a source other than Applicant, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that in an effort to help maintain service to its high priority requirement customer in light of the severe curtailments resulting from Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (TGP), Nashville, Applicant's sole jurisdictional customer, has made arrangements for Kentucky Gas Storage Co. (Kentucky Gas) to perform a storage service for Nashville. The maximum quantity stored for Nashville would be 1,200,000 Mcf, and the maximum daily volume to be injected into storage by Nashville would not exceed 5,920,000 Mcf with the maximum daily volume which Nashville may withdraw from storage not to exceed 10,909 Mcf.

It is stated that to effectuate the above-described arrangements, TGP would deliver the storage injection volumes to Texas Gas Transmission Corp. for the account of Applicant and Nashville for transportation to Kentucky Gas. Gas withdrawn from storage would be received by Midwestern Gas Transmission Co. for delivery to TGP at the existing interconnection of their facilities. TGP would deliver such gas to Applicant at the existing points of interconnection of their facilities.

Applicant proposes to complete the transportation to Nashville, pursuant to proposed Rate Schedule T-1 of the gas withdrawn from storage. It is indicated that under such rate schedule, Nashville would pay Applicant no separate charge for transportation other than reimbursement for any payments made by Applicant for Nashville's account.

Applicant also proposes under proposed Rate Schedule T-2 to transport for any person served directly or indirectly from Applicant's system gas purchased from sources other than Applicant. Under such rate schedule, Applicant would charge a transportation rate equal to the unit cost of service (excluding purchased gas, storage, and LNG costs) as reflected in its then effective base tariff rate. The transportation rate is stated to be 3.5 cents per Mcf as of April 30, 1978. Service under proposed Rate Schedule T-2 would be subordinate to that under proposed Rate Schedule T-1.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13409 Filed 5-16-78; 8:45 am]

[1]The term "storage sprinkling" refers to the classification of storage injection volumes on the basis of the proportionate end use of winter storage withdrawals.

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[6740-02]

[Docket No. CP66-43]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Conference

MAY 8, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977) and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)-(1) or 402(a) (2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —— provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that after consideration of the status of this proceeding in its regularly scheduled meeting of May 3, 1978, the Commission directed to the convening of a conference of all parties to this case to discuss the status of the application and the applicant's compliance with deficiency letters previously submitted. The conference will be held on May 17, 1978, at 10 a.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426. The room number will be posted on hearing board on the second floor on the day of the conference. Members of the Commission's technical staff will participate in the conference.

This application is for a certificate of public convenience and necessity authorizing the construction and operation of an LNG storage project on Staten Island, N.Y. The details of the proposal are described in a previous notice published in the FEDERAL REGISTER on May 13, 1975 (40 FR 20859).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13346 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. EL78-18]

TOWNS OF HIGHLANDS, N.C. v. ALUMINUM CO. OF AMERICA, NANTAHALA POWER & LIGHT CO., AND TAPOCO, INC.

Notice of Complaint

MAY 10, 1978.

Take notice that on April 24, 1978, the Town of Highlands, N.C. (Highlands) filed a complaint, pursuant to section 306 of the Federal Power Act and § 1.6 of the Commission's Rules of Practice and Procedure against the Aluminum Co. of America ("Alcoa"), Nantahala Power & Light Company (Nantahala) and Tapoco (Respondents).

Highlands alleges that the respondents have violated the Federal Power Act by diverting for the benefit and private use of Alcoa hydro-electric power and hydro-electric facilities dedicated to public service. Highlands complains that this diversion has caused Nantahala ratepayers to pay unlawful, unjust and unreasonable rates.

Respondents have thirty days from the date of filing to satisfy the complaint or to answer the same in writing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13410 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. OR78-1]

TRANS ALASKA PIPELINE SYSTEM: INVESTIGATION AND SUSPENSION

Order on Request To Hold Hearing in Alaska

MAY 9, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.[1]

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this pro-

[1]The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

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ceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——. provided that this proceeding would be continued before the FERC. The FERC takes action in this proceedlng in accordance with the above mentioned authorities.

By letter dated February 22, 1978, the Alaska Pipeline Commission (APC) requested that the FERC consider holding in Anchorage, Alaska the hearing scheduled to begin on May 23, 1978, in the Trans Alaska Pipeline System (TAPS) proceeding. The APC stated that it believes that it would be in the broad public interest and in the interest of the Alaskan public to hold in Alaska at least one of the hearings currently scheduled in Phase I of the FERC proceedings. The APC added that it believes it would be valuable to the Administrative Law Judge in making his determinations to view the pipeline and Alaska.

Public notice of the APC's request was issued on March 13, 1978, with comments due on or before March 31, 1978.

On March 24, 1978, Sohio Pipe Line Co. (Sohio) filed a motion requesting the FERC to authorize a view of the Trans Alaskan Pipeline by Presiding Administrative Law Judge Kane. Sohio stated that a "primary issue in OR78-1 is the risk of construction and operation of TAPS in the hostile environment of Alaska • • •" and that a "short 'view' of representative portions of TAPS by Judge Kane by helicopter and site visits should be helpful in evaluating the nature and extent of these risks and the testimony covering them." Sohio added that three or four days should be allowed for the view.

On March 31, 1978, joint comments were submitted by BP Pipelines Inc., Exxon Pipeline Co., Mobil Alaska Pipeline Co., and Union Alaska Pipeline Co. (respondents) to the published notice of the APC request. Respondents took the position that it would be beneficial for the Administrative Law Judge to view the Trans Alaska Pipeline at an appropriate time. However, they added, they believe that the costs involved in holding any extended portion of the evidentiary hearings in this proceeding in Alaska outweigh any possible benefits which might result. The respondents opposed the APC's request that members of the Alaskan public be permitted to express their views at a public hearing in Anchorage, because they stated, "• • • any such hearing would be inappropriate for this, or any other rate proceeding." The respondents argued that general statements of members of the Alaskan public concerning their views on the impact of TAPS on Alaska are irrelevant to the issues now before the Commission and would be improper for inclusion in the record of the proceeding.

In comments filed March 31, 1978, Amerada Hess Pipeline Corp. (AHPC) opposed the request of the APC inasmuch as it would be "inconvenient, burdensome and inordinately expensive to hold hearings in Alaska." AHPC added that it is not a party to the APC proceeding and that it would be unreasonable to require it to suffer the inconvenience and expense inherent in the APC's request.

ARCO Pipe Line Co. (ARCO) filed comments on March 31, 1978. ARCO recommended that the FERC take no present action on the APC request because the parties are attempting to accommodate various interests, and Commission action on a modified proposal maybe requested in the future. ARCO described the extraordinary expense and inconvenience to the parties if the cross-examination of rebuttal witnesses were required to be held in Alaska as requested by the APC.

In its March 31, 1978 comments, FERC staff stated it had no objection to scheduling a portion of the hearings in Alaska. However, the staff suggested that any Alaskan hearings be scheduled to coincide with the testimony of witnesses which might have special interest to Alaskan citizens, namely, that of the Alaska Public Interest Research Group and/or the Arctic Slope Regional Corp. Further, the staff concurred in the suggestion that the Presiding Judge be given the opportunity to view TAPS and added that the FERC staff would also benefit from viewing TAPS.

The Department of Justice, in comments filed April 4, 1978, opposed holdings a full round of hearings in Alaska on the basis of the substantial cost and inconvenience it would cause the parties. The Department, however, does not oppose holding a portion of the hearing, for example, one week, in Alaska. It suggested the final week of cross-examination of protestants' witnesses as an appropriate time to remove the hearing to Alaska. Following the close of hearing, the Department suggested, the view of the pipeline supported by Sohio could be scheduled.

The Honorable Mike Gravel, United States Senator, by letter filed March 7, 1978, supported the request of the APC to hold a portion of the TAPS hearings in Alaska. Senator Gravel stated that "(h)earings in the State would give FERC officials and staff members the opportunity of viewing first-hand the State and the pipeline itself, providing all those involved in the decision-making process a better understanding of the problems and impacts of the pipeline and the decision of the Commission will have on the State and its residents." In addition, Senator Gravel asserted that Alaskan residents should be given the opportunity to present information to the Commission concerning its decision. By letter dated April 20, 1978, Senator Gravel further suggested that any hearings held in Alaska should include at least a day of hearings in Fairbanks, as well as Anchorage, due to the overall impact of the pipeline on Fairbanks and because it is the site of the North Pole Refinery.[2]

On April 20, 1978, Earth Resources Co. of Alaska (ECA) filed comments stating it had no objection to a portion of the hearing being scheduled in Alaska. ECA added, however, that at least one-half day of any Alaskan hearing should be held in Fairbanks to permit witnesses and citizens residing in that area to participate. ECA noted that Fairbanks' residents are directly affected by the tariff rates to be charged for crude oil moving from Pump Station 1 to the ECA refinery, located just outside of Fairbanks, through the price they pay for refined oil products. ECA further observed that if public hearings were held in Fairbanks, several citizens would appear to testify who, if hearings were held in Anchorage, would not be able to appear due to the distance between the two cities.

On April 24,1978, Sohio filed a response to ECA's comments. Sohio objected to ECA's request to schedule a period of time for a hearing in Fairbanks. According to Sohio, it would be disruptive of a planned program to view the pipeline, including the ECA refinery at Fairbanks, which has been scheduled to coincide with hearings in Anchorage.

As a general rule, the Commission supports local hearings as a means of gaining area citizens' reactions to a proposal before the Commission for decision which would uniquely affect local residents. Further, local witnesses should they choose to intervene could contribute their knowledge to the development of the formal, evidentiary hearing record. However, the Commission recognizes a countervailing concern in this instance: to move the hearing to Anchorage would cause certain parties substantial inconvenience and expense. Moreover, the public would bear a significant expense to reimburse the staffs of the various government participants in the proceeding if they were required to remain in Alaska for an extended period of time.

Because the Presiding Judge is more familiar with the nature of the hearing record thus far and can better predict whether there would be a significant advantage to holding a portion of the hearing in Alaska, rather than continuing with the entire proceeding in Washington, D.C., we will defer to his judgment in this matter. To the extent Judge Kane determines that the hearing record would be enhanced by moving the site of the hearing to Alaska and that such a move would be the most expeditious way to assure a fully developed record, he is authorized to so order. The Commission encourages Judge Kane to use the most expeditious means of providing a fair and adequate evidentiary record while at the same time not burdening the public and the parties with extraordinary expenses.

Moreover, we believe the Presiding Judge can at this time better determine than the Commission whether he would benefit by a trip to Alaska to view the pipeline, regardless of whether a portion of the formal evidentiary hearing is held in Alaska. Accordingly, we are leaving to Judge Kane's discretion the decision to view the pipeline and authorize him to travel to Alaska if it would assist him in his duties. However, in the event Judge Kane does travel to Alaska, whether for a formal hearing or to inspect the pipeline, he should devote some time to hear comments of Alaskan citizens with respect to the issues in the FERC proceeding. We leave it to Judge Kane to apportion his time and to establish neccessary procedures to accommodate public hearings, if in fact he is going to be present in Alaska. Any statement Judge Kane receives from a private citizen who is not an intervenor in the captioned proceeding will not be part of the record upon which the Commission's decision is made, but may be considered for such further exploration by the FERC staff and the other parties of the substantive matters raised therein as may be appropriate.

The Commission further finds: Good cause exists to refer the requests of the APC and of certain parties discussed, supra, to Presiding Judge Kane for his disposition.

The Commission further orders: The requests of the APC received by letter dated February 22, 1978, other related requests discussed, supra, are hereby referred to Judge Kane for disposition.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13335 Filed 5-16-78; 8:45 a.m.]

[2]The Honorable Ted Stevens, United States Senator, filed a telegram on May 3, 1978, urging that concurrent hearings with the APC be held in Fairbanks, as well as in Anchorage and that the citizens of Fairbanks be permitted to comment. In addition, Senator Gravel in a letter dated May 3, 1978, emphasized his belief that some testimony in the proceeding should be taken in Fairbanks.

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[6740-02]

[Docket No. ER78-346]

TUCSON GAS & ELECTRIC CO.

Notice of Proposed Cancellation

MAY 8, 1978.

Take notice that Tucson Gas & Electric Co. (TG&E) on April 28, 1978 tendered for filing a proposed Notice of Cancellation of TG&E Rate Schedule FPC No. 11 between TG&E and Southern California Edison Co. (Edison). TG&E indicates that a notice of the proposed cancellation has been served upon Edison. TG&E proposes an effective date of April 30, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13336 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-343]

UNION ELECTRIC CO.

Notice of Filing

MAY 9, 1978.

Take notice that on May 1, 1978, Union Electric Co. (Union) tendered for filing a Letter Agreement revising the reservation charge for Maintenance Energy Transactions under the Interconnection Agreement dated November 1, 1969 between the Tennessee Valley Authority and Central Illinois Public Service Co., Illinois Power Co., and Union.

Union indicates that the Letter Agreement provides for an increase in the reservation charge for Maintenance Energy Transactions and the proposed reservation charge was arrived at through negotiations and is the same as rates the Companies have on file with the Commission.

Union proposes an effective date of June 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection at the Federal Energy Regulatory Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13337 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. CP77-374]

UNITED GAS PIPE LINE CO.

Notice of Petition to Amend

MAY 5, 1978.

Take notice that on April 25, 1978, United Gas Pipe Line Co (Petitioner), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP77-374 a petition to amend the Commission's order of October 19, 1977, issued in the instant docket, pursuant to section 7(c) of the Natural Gas Act so as to provide for an increase of up to 1,055 Mcf of natural gas per day over the presently authorized maximum daily quantity (MDQ) which Petitioner may transport for Mississippi River Transmission Corporation (Mississippi River) and to provide for the receipt of such increased volumes of gas to be received by Petitioner at an additional delivery point on Petitioner's existing 18-inch Sterlington-Sarepta Line in Lincoln Parish, La., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order of October 19, 1977, Petitioner was authorized to transport up to 5,000 Mcf of gas per day for Mississippi River, which gas is being received by Petitioner at a delivery point in Desota Parish, La. Petitioner states that it transports and redelivers equivalent volumnes, less an allowance for fuel and company-used gas, to Mississippi River at Petitioner's measuring and regulating station located at Mississippi River's Perryville compressor site in Monroe Field, Ouachita Parish, La., pursuant to a transportation agreement between the two parties dated April 6, 1977. For gas so transported, Petitioner charges Mississippi River an amount per Mcf equal to Petitioner's current average jurisdictional transmission cost of service

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in effect from time to time on Petitioner's Northern Rate Zone, exclusive of the cost of gas consumed in Petitioner's operation, which current rate is 24.46 cents per Mcf, it is said.

The petition states that Mississippi River has requested Petitioner to transport volumes of gas which it has purchased from production in the Middlefork Field, Lincoln Parish, La., and that pursuant to an amendatory agreement dated March 31, 1978, Petitioner has agreed to transport an additional volume of up to 1,055 Mcf of natural gas per day for Mississippi River, which gas Mississippi River would deliver, or cause to be delivered for its account, to Petitioner at a point on Petitioner's 18-inch pipeline in Lincoln Parish, La. Petitioner states that it would transport and redeliver equivalent volumes, less an allowance retained for fuel and company-used gas, to Mississippi River at an existing point of interconnection between the systems of Petitioner and Mississippi River in Ouachita Parish, La., where Petitioner redelivers transportation volumes to Mississippi River under Petitioner's existing Rate Schedule X-91. It is stated that authorization of this proposal would result in the addition of a new delivery point on Petitioner's system in Lincoln Parish, La., and would raise the total MDQ applicable to Mississipi River under the contract, as amended, to 6,055 Mcf per day. The rate charged Mississippi would be the same as charged for transportation service rendered under Petitioner's Rate Schedule X-91, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13347 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. CP78-309]

UNITED GAS PIPE LINE CO.

Notice of Application

MAY 5, 1978

Take notice that on April 27, 1978, United Gas Pipe Line Co. (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP 78-309 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 1,100 Mcf of natural gas per day for Transcontinental Gas Pipe Line Corp. (Transco), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Transco has acquired the right to purchase said volumes of gas from Superior Oil Co. which would make such sale under certificate authority issued in Docket No. CI61-714. It is indicated that Applicant and Transco have entered into an agreement dated March 10, 1978, whereby Transco would deliver or cause to be delivered up to 1,100 Mcf of gas per day for its account to Applicant at a tap to be installed by Applicant, at Transco's expense, on Applicant's existing pipeline in Lafayette Parish, La. Applicant states that it would redeliver equivalent volumes of gas to Transco, less 2.3 percent for fuel and unaccounted-for gas, at the outlet side of Applicant's existing authorized measuring and regulating station located at Gibson, Terrebonne Parish, La., or other mutually agreeable existing authorized points of interconnection between the pipeline systems of Applicant and Transco.

It is stated that Transco would pay Applicant for gas transported hereunder an amount per Mcf equal to Applicant's average jurisdictional transmission cost of service in effect from time to time in Applicant's Southern or Northern Rate Zones, less any amount included in such average jurisdictional transmission cost of service which is attributable to gas consumed in the operation of Applicant's pipeline system and unaccounted-for gas. The current average jurisdictional transmission cost of service, exclusive of the cost of gas consumed in Applicant's operation, is said to be 18.84 cents per Mcf in Applicant's Southern Rate Zone and 24.46 cents per Mcf in Applicant's Northern Rate Zone.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing wil be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13348 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. CP78-310]

UNITED GAS PIPE LINE CO.

Notice of Application

MAY 5, 1978.

Take notice that on April 27, 1978, United Gas Pipe Line Co. (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-310 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by sale approximately 8,000 feet of 2-inch pipeline located in Jefferson Davis Parish, La., to Extex, Inc. (Extex), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that presently it provided natural gas service to the community of Mermentau, La., through sales of gas at the Mermentau Town Border Station to Entex, the distributor in the area, and that it delivers gas to Entex at the Mermentau Town Border Station through a 2-inch pipeline which is connected to Applicant's 6-inch South Jennings Field Line. It is indicated that pursuant to an agreement between Applicant and Entex dated March 2, 1978, Applicant has agreed to abandon and sell to Entex, the 2-inch pipeline for $511.68.

Applicant states that this 2-inch pipeline presently functions as a distribution system line and, accordingly, should more properly be owned and operated by entex. Applicant further states that after the proposed abandonment and sale, the line would continue its present service, but would become a part of Entex's distribution system in Mermentau and environs. The proposed sale to Entex would not affect service to Entex or its customers in the area, now would it affect service to the customers of United, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13349 Filed 5-16-78; 8:45 am]

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[6740-02]

[Docket No. ER78-336]

ALABAMA POWER CO.

Filing of Rate Schedule

MAY 5, 1978.

Take notice that Alabama Power Co. on April 27, 1978, tendered for filing an Agreement with the City of Hartford, intended as a rate schedule. The Company indicates that this Agreement was necessitated by the sale of the company's Hartford Central Substation to the City of Hartford resulting in a change in delivery voltage from 4.16 kV to 44 kV. The Company states that this Agreement provides for a capacity of 5,000 kVA at 44 kV under Rate MUN-1 and the applicable revisions thereto.

Copies of the filing were served upon the City of Hartford, according to the Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13295 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-350]

ARKANSAS POWER AND LIGHT CO.

Proposed Changes in FERC Rate Schedules

MAY 9, 1978.

Take notice that on May 2, 1978, Arkansas Power & Light Co. (Company) tendered for filing proposed changes in Arkansas Power & Light Co. Rate Schedules FPC No. 49.

The Company indicates that this Rate Schedule is a contract between the Company and the City of North Little Rock and that the only change is an increase in the maximum capacity made available at one point of delivery. The Company states that it does not believe that the increase in capacity will have any material effects upon the billing and that no billing data was filed. The Company states that there will be no change in rates or provisions in the contract other than those noted above. The Company proposes an effective date of June 1, 1978.

According to the Company a copy of the filing has been mailed to the City of North Little Rock.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13286 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. EL78-19]

BLACK HILLS POWER AND LIGHT CO.

Petition for a Declaratory Order

MAY 5, 1978.

Take notice that on April 24, 1978, Black Hills Power and Light Co. (Petitioner), a corporation organized under the laws of the State of South Dakota and qualified to transact business in the states of Wyoming, Montana and Nebraska, with its principal business office at Rapid City, South Dakota, filed a Petition for a Declaratory Order pursuant to the Federal Power Act and 18 CFR 1.7(c), seeking a declaratory order to remove an uncertainty alleged by petitioner to be necessary for it to lease a 20% interest in the Wyodak Project under a proposed leveraged lease and to specifically provide that Petitioner's cost of payment of its Financing Lease Obligation (as defined in Section 4.04 of the Petitioner's Seventeenth Supplemental Indenture) resulting from the participation by Petitioner as a lessee of 20% of the Wyodak Project and the execution of all of the Basic Agreements and Agreement between Utilities as described in Exhibit A attached to the Petition will be reflected and included in those rates charged by the Petitioner to its customers where the Commission has jurisdiction of those rates.

Petitioner indicates that the Commission now has jurisdiction over sales

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of electric power and energy by Petitioner to the cities of Gillette and Upton, Wyo. for resale by said cities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before May 19, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application as amended is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13297 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-341]

CENTRAL POWER & LIGHT CO.

Filing of Contract

MAY 5, 1978.

Take notice that Central Power & Light Co. on April 28, 1978, tendered for filing an Emergency Electric Service Contract between the Company and the City of Robstown, Tex. The Company indicates that the reason for the emergency service is that Robstown has notified the Company that Robstown cannot meet its requirements for the remainder of this year.

The Company proposes an effective date of February 9, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13298 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. CP77-406]

COLORADO INTERSTATE GAS CO.

Petition to Amend

MAY 5, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on April 24, 1978, Colorado Interstate Gas Co. (Petitioner), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP77-406 a petition to amend the order of August 5, 1977 (57 FPC —) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the abandonment in place of the two 1,320-horsepower compressor units at its Fourway Compressor Station, all as more fully set forth in the petition on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of August 5, 1977, Petitioner was granted permission and approval to abandon two 1,320 horsepower compressors at its Fourway compressor station and was granted certificate authorization to install and operate the two units for air injection service at Petitioner's Watkins Station. These facilities would have allowed Petitioner to increase the capability of its Watkins Station air injection facilities by 8,000 Mcf per day, it is said.

Petitioner states that further study indicated, however, that in order to maintain thermal stabilization of gas for delivery to the Denver market area and to comply with existing tariff and service agreement requirements, substantially more air injection was required. Consequently, Petitioner filed for authorization in Docket No. CP78-133 to construct and operate five 2,700-horsepower air injection compressors, it is indicated. Pursuant to the order of April 12, 1978, Petitioner was granted the requested authorization. Therefore, the relocation of these units to Watkins Station is no longer required, it is stated.

Petitioner states that it initially believed the Fourway compressor units to be the most economical and expedient method for obtaining additional air service during the 1977-1978 heating season; however, removal, reinstallation, and conversion of these units for natural gas service to air injection service was not possible in time for the 1977-1978 heating season. Therefore, Petitioner entered into a short-term service contract to provide air for thermal control during that period, it is said.

Consequently, Petitioner requests that the Commission delete the authorization for the installation and operation of the two 1,320-horsepower Fourway Station compressors for service at its Watkin's Station, and permit the abandonment in place of the two units at the Fourway Station.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary

[FR Doc. 78-13299 Filed 5-16-78; 8:45 am]

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[6740-02]

[Docket No. ER78-333]

FLORIDA POWER CORP.

Filing

MAY 5, 1978.

Take notice that Florida Power Corp. (Florida Power), on April 26, 1978, filed two Letters of Commitment which concern service to the cities of Kissimmee and St. Cloud, Fla. (Cities). Florida Power states that the Letters of Commitment provided for the continuation, from June 1, 1975 through November 30, 1979, of firm electric service under Schedule D of the Contract for Interconnection and Electric Service between the Company and the Cities. Florida Power further states that the Letters provided for changes in the energy and demand charges for such service, as well as increasing the amount of service to the Cities, and amending certain terms and conditions under which service is provided.

Florida Power proposes an effective date of June 1, 1975, for the Letter of Commitment dated May 23, 1975, and April 1, 1978 for the Letter of Commitment dated March 30, 1978, and therefore requests waiver of the Commission's notice requirements.

According to Florida Power copies of this filing were served upon the Cities and upon the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13300 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-334]

FLORIDA POWER CORP.

Notice of Filing

MAY 5, 1978.

Take notice that Florida Power Corp. (Florida Power), on April 26, 1978, filed a Letter of Commitment which concerns service to the Sebring Utilities Commission (Sebring). Florida Power states that the Letter of Commitment provides for firm electric service under Schedule D of the Contract for Interconnection and Electric Service between the Company and Sebring from April 1, 1978. Florida Power further states that the Letter provided for changes in the energy and demand charges for such service, as well as providing for an increase in the amount of service available to Sebring.

Florida Power proposes an effective date of April 1, 1978, and therefore requests waiver of the Commission's notice requirements.

According to Florida Power copies of this filing were served upon Sebring and upon the Florida Public Service Commission.

Any person desiring to be heard or to protet said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13301 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-332]

ILLINOIS POWER CO.

Notice of Filing

MAY 5, 1978.

Take notice that on April 25, 1978, Illinois Power Co. (Illinois Power) tendered for filing proposed Modification 2, dated January 26, 1978, to the Interconnection Agreement, dated July 25, 1975, between Western Illinois Power Cooperative, Inc. and Illinois Power.

Illinois Power indicates that this filing is made for an increase for Short-Term firm capacity, Maintenance Power and Short-Term Non-Firm Power reservation charges.

Illinois Power respectfully requests that this Modification No. 2 be permitted to become effective on June 1, 1978.

Illinois Power states that a copy of the filing was served upon Western Illinois Power Cooperative, Inc. and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13302 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-344]

KANSAS CITY POWER AND LIGHT CO.

Filing of Proposed Change in Rate Schedules

MAY 9, 1978.

Take notice that on May 1, 1978, Kansas City Power & Light Co. ("KCPL") tendered for filing a Municipal Participation Agreement dated February 2, 1978, between KCPL and the City of Carrollton, Mo. KCPL requests an effective date of November 1, 1977 and therefore requests waiver of the Commission's notice requirements. KCPL states that the Agreement terminates the Municipal Interconnection Contract, dated February 20, 1962, KCPL's Rate Schedule FPC No. 38, and provides for rates and charges for certain wholesale service by KCPL to the City of Carrollton.

KCPL states that the proposed rates are KCPL's rates and charges for similar service under schedules previously filed by KCPL with the Federal Energy Regulatory Commission.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13303 Filed 5-16-78; 8:45 am]

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[6740-02]

[Docket No. CP76-25]

MICHIGAN WISCONSIN PIPE LINE CO.

Petition to Amend

MAY 5, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of energy and the Federal energy Regulator Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on April 25, 1978, Michigan Wisconsin Pipe Line Co. (Petitioner), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP76-25 a petition to amend the order of December 18, 1975 (54 FPC ——) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize a new delivery point for the exchange of natural gas with Arkansas Louisiana Gas Co. (Arkla), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of December 18, 1975, Petitioner was authorized to construct and operate facilities and deliver up to 25,000 Mcf of natural gas daily to Arkla at a point in Caddo County, Okla., in exchange for an equivalent volume from Arkla at a redelivery point in Custer County, Okla., pursuant to an exchange agreement dated May 8, 1975, between the two parties.

Petitioner states that it has obtained a commitment of gas reserves from the McClure No. 1 Well in Grady County, Okla. Petitioner proposes, pursuant to an amendment dated March 9, 1978, to the subject gas exchange agreement, to deliver such gas up to 10,000 Mcf per day to Arkla at a new delivery point in Grady County, Okla., in exchange for delivery of an equivalent volume of gas by Arkla to Applicant at the presently authorized existing point of redelivery in Custer County, Okla.

Petitioner indicates that it would construct and operate approximately 2 miles of pipeline and related facilities necessary to deliver the natural gas to Arkla at the proposed new point of delivery.

Any person desiring to be heard or to make an protest with reference to said petition to amend should on or before May 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13304 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. RP78-61]

MOUNTAIN FUEL RESOURCES, INC.

Proposed Changes in FERC Gas Tariff

MAY 5, 1978.

Take notice that on April 28, 1978, Mountain Fuel Resources, Inc. (Resources) tendered for filing a proposed change to its FERC Gas Tariff, Original Volume No. 1. The proposed rates would increase revenues from jurisdictional sales by approximately $931,145 based on the twelve-month period ending December 31, 1977, as adjusted, compared with the present rates.

Resources states that the increased costs are attributable to (1) increases in operating expenses; (2) an increase in rate base and related costs; and (3) the necessity for an increase in the rate of return.

Resources requests an effective date of June 1, 1978, for the proposed Revised Sheet. In the event that the Commission orders a suspension of Resources' filing, Resources requests that such suspension be for no more than one (1) day, until June 2, 1978. Resources further states that it served copies of this filing upon the Company's only jurisdictional customer and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13305 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. CP74-162]

NATURAL GAS PIPELINE CO. OF AMERICA

Petition to Amend

MAY 5, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on April 25, 1978, Natural Gas Pipeline Co. of America (Petitioner), 122 South Michigan Avenue, Chicago, Ill., 60603, filed in Docket No. CP74-162 a petition to amend the order of April 2, 1975 (53 FPC ——), as amended, issued by the Federal Power Commission (FPC) in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional exchange point for the exchange of natural gas between Petitioner and El Paso Natural Gas Co. (El Paso) in Washita County, Okla., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of April 2, 1975, Petitioner and El Paso were authorized to exchange natural gas and construct and operate certain facilities to implement such exchange. It is stated that by a long-term exchange agreement dated September 24, 1973, as amended, Petitioner and El Paso agreed to exchange quantities of gas available and tendered from time to time by one to the other subject to quantity limits set forth therein.

It is indicated that on April 28, 1976, Petitioner was granted temporary certificate authorization to construct and operate additional exchange points in Washita County, Okla., and Lea and Eddy Counties, N. Mex., pursuant to an amendment dated June 6, 1975, to the subject exchange agreement.

Petitioner indicates that the April 2, 1975, order was amended as follows:

On April 27,1977, the FPC issued an order herein permitting construction and operation of an additional exchange point in Eddy County, N. Mex., pursuant to an amendment dated November 3, 1975, to the subject Gas Exchange Agreement. The FPC had issued a temporary certificate herein on June 28, 1976.

On February 14, 1977, the FPC issued an order authorizing the operation of additional exchange points in Beckham County, Okla., and Ward County, Tex., and to increase the maximum daily volumes of exchange to 65,000 Mcf per day pursuant to an amendment dated July 14, 1976, to the subject Gas Exchange Agreement.

On August 30, 1977, the FPC issued an order authorizing the operation of an additional exchange point in Lea County, N. Mex., pursuant to an amendment dated April 28, 1977, to the subject Gas Exchange Agreement.

On April 4, 1978, the FPC issued an order authorizing the operation of additional exchange points in Eddy and Lea Counties, N. Mex., pursuant to amendments dated October 12, 1977 and December 1, 1977.

Petitioner states that it and El Paso have agreed by an amendatory agreement dated March 21, 1978, to provide for an additional exchange point in Washita County, Okla. (Washita No. 2 Exchange Point), whereby Petitioner proposes to deliver gas it has available for purchase under a gas purchase contract with Inexco Oil Co. (Inexco), as small producer, from the Stout No. 1 Well and Floyd Neice Nos. 1 and 2 wells located in Washita County, Okla. It is stated that El Paso is already connected to said wells; therefore, Petitioner would not be required to construct any facilities. El Paso would redeliver equivalent volumes of gas to Petitioner at existing exchange points, it is said.

Petitioner also proposes to redesignate the existing Washita Exchange Point as Washita No. 1 Exchange Point.

The petition states that the additional exchange arrangement proposed herein would have no effect on any of the other sales or services now rendered by Petitioner nor would there by any change in Petitioner's operation occasioned thereby.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13306 Filed 5-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-335]

NEW ENGLAND POWER POOL

Filing of Emergency Conservation Energy Supplement to Interconnection Agreement Between the New England Power Pool and the New York Power Pool

MAY 5, 1978.

Take notice that on April 27, 1978, the New England Power Pool (NEPOOL) tendered for filing a Conservation Energy Agreement supplement to the Interconnection Agreement between NEPOOL and the New York Power Pool. Certificates of concurrence have been filed on behalf of Central Hudson Gas & Electric Corp., Consolidated Edison Co. of New York, Inc., Long Island Lighting Co., New York State Electric & Gas Corp., Niagara Mohawk Power Corp., Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corp.

NEPOOL indicates that the Conservation Energy Agreement provides for emergency energy interchanges between the systems participating in the NEPOOL and the systems participating in the New York Power Pool (NYPP) for periods of one week or more. NEPOOL indicates that the Conservation Energy Agreement also provides for each of the pools to facilitate similar emergency transactions which one pool may have with remote systems and with which the other pool is interconnected.

In view of conditions resulting from the recent coal strike and the potential occurence of emergency contributions, the parties have requested that the Commission waive its notice requirements and permit the Conservation Energy Agreement to become effective as of may 1, 1978.

Any person desiring to be heard or to make any protest with reference to the Interconnection Agreement should on or before May 15, 1978 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13307 Filed 5-16-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

CONSUMER ADVISORY COUNCIL

Notice of Meeting of Consumer Advisory Council

Notice is hereby given that the Consumer Advisory Council will meet on Wednesday, May 31, and Thursday, June 1. The meeting, which will be

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open to public observation, will take place in Terrace Room E of the Martin Building. The May 31 session will begin at 1 p.m. until 5 p.m., and will resume that evening from 7:30 p.m. until 9:30 p.m. The June 1 session will begin at 8:30 a.m. and conclude at 3:30 p.m., with a one-hour break for lunch. The Martin Building is located on C Street NW., between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. It is anticipated that the May 31-June 1 meeting of the Council will include consideration of the following topics:

1. *Enforcement of Consumer Credit Laws.* Review of efforts of the Federal Reserve System in examining and achieving compliance by State member banks and unresolved issues in connection with the proposed promulgation of uniform Truth in Lending enforcement guidelines by the Board and other Federal financial institution regulatory agencies.

2. *Discrimination Based on Geographical Factors in Extension or Availability of Credit.* Nature and extent of "redlining" and policies Board should adopt in dealing with it, particularly with respect to the regulation the Board is required to issue by November 6, 1978, for member banks under the Community Reinvestment Act. Also, operations under Regulation C, Home Mortgage Disclosure Act, applying to all depository institutions which make federally related mortgage loans.

3. *Unfair Bank Practices.* Implementing the Board's powers under the Federal Trade Commission Improvement Act to prohibit unfair, deceptive, or abusive practices of banks.

Brief reports will be made on the status of matters previously discussed by the Council.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System, May 11, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13443 Filed 5-16-78; 8:45 am]

[6210-01]

MOUNTAIN FINANCIAL SERVICES, INC.

Acquisition of Bank

Mountain Financial Services, Denver, Colo., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of South Aurora State Bank, Aurora, Colo., a proposed new bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 12, 1978.

Board of Governors of the Federal Reserve System, May 11, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13442 Filed 5-16-78; 8:45 am]

[6210-01]

MOUNTAIN FINANCIAL SERVICES, INC.

Proposal to Engage in Sale of Credit Related Insurance

Mountain Financial Services, Inc., Denver, Colo., has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to engage in the sale of credit life and credit accident and health insurance at the offices of South Aurora State Bank, Aurora, Colo. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). Notice of the application was published on April 25, 1978, in the Denver Post, a newspaper circulated in Aurora, Colo.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 12, 1978.

Board of Governors of the Federal Reserve System, May 11, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13455 Filed 5-16-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 10, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 5, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

The CAB requests clearance of a new, single-time request for lease financing information from 22 air carriers for use in the Board's Insitutional Control of Air Carriers Investigation, Docket 26348. The information requested is required to complete documents and other data received in response to a previous inquiry approved by the General Accounting Office on April 29, 1977 (approval number B-180226 (S77015)). Responses to the previous request did not include sufficient information to evaluate the extent of participation by various financial institutions in aircraft leases. The CAB estimates that respondents will be the 22 certificated air carriers who responded to the previous inquiry and that reporting time will average 25 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-13425 Filed 5-16-78; 8:45 am]

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[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-78-8721]

TASK FORCE ON HOUSING COSTS

Cancellation of Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice is given cancelling the fourth meeting of the entire Task Force on Housing Costs, whose functions were published at 42 FR 42383.

SUMMARY: This notice cancels the fourth meeting of the entire Task Force on Housing Costs scheduled to be held on May 24, 1978, in a notice published on April 18, 1978, at 43 FR 16425, at the time and place indicated in the notice. The third meeting of the full Task Force was held as announced in the notice on May 3, 1978, and became the final Task Force meeting with the completion of Task Force deliberations.

FOR FURTHER INFORMATION CONTACT:

Edward J. Cachine, 202-755-7362 (substantive inquiries), Thomas Bacon, 202-755-5277 (press inquiries), or Donald K. McLain, 202-755-5333.

Issued at Washington, D.C., May 12, 1978.

EDWARD J. CACHINE,
Staff Chairman, Task Force on Housing Costs.

[FR Doc. 78-13532 Filed 5-16-78; 8:45 am]

[4310-09]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

PROPOSED PARADOX VALLEY UNIT, COLORADO RIVER BASIN SALINITY CONTROL PROJECT

Notice of Public Hearing on Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed Paradox Valley Unit. This statement (INT DES 78-19) was made available to the public on May 11, 1978.

The draft environmental statement deals with the proposed construction in southwestern Colorado of a brine well field, hydrogen sulfide stripping plant, brine pipeline, and solar evaporation pond. These structures would decrease salinity in the Colorado River system.

To receive comments from interested organizations or individuals on the environmental statement, the Bureau of Reclamation will hold a public hearing on June 17, 1978, at Nucla High School in Nucla, Colo. The hearing will begin at 10 a.m., and continue until all comments are received.

Oral statements at the hearing will be limited to a period of 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker additional opportunity to comment after all other persons wishing to comment have been heard. Requests for scheduled presentation will be accepted up to 4:30 p.m., June 14, 1978. Any subsequent requests will be handled at the hearing on a first-come-first-served basis following the scheduled presentations. Whenever possible, speakers will be scheduled according to the time preference mentioned in their letter or telephone request. Any scheduled speaker not present when called will lose his turn in the scheduled order but will be given an opportunity to speak at the end of the scheduled presentations.

Organizations or individuals desiring to present statements at the hearing should contact Regional Director, Harl M. Noble, Bureau of Reclamation, Room 7201, 125 South State Street, Salt Lake City, Utah 84147, telephone, 801-524-5536, and announce their intention to participate. Oral and written statements presented at the hearing will be summarized and responded to in the final environmental statement. Any person wishing his or her comments printed in full in the final environmental statement should respond by addressing the draft environmental statement in a separate written document. These written comments should be addressed to the Regional Director and postmarked no later than June 26, 1978.

Dated: May 12, 1978.

CLIFFORD I. BARRETT,
Acting Commissioner of Reclamation.

[FR Doc. 78-13430 Filed 5-16-78; 8:45 am]

[4310-70]

National Park Service

FORT SUMTER TOURS, INC.

Notice of Intention to Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on June 16, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Fort Sumter Tours, Inc., authorizing it to continue to provide concession facilities and services for the public at Fort Sumter National Monument for a period of ten (10) years from date of execution through December 31, 1987.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Regional Office, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on September 30, 1978, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Fort Sumter Tours, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the negotiation of the contract, if the offer of Fort Sumter Tours, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Fort Sumter Tours, Inc., (as determined by the Secretary) is submitted, Fort Sumter Tours, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal, the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Fort Sumter Tours, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be submitted within thirty (30) days after the publication date of this notice to be considered and evaluated.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

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Dated: May 5, 1978.

DANIEL J. TOBIN, Jr.
Associate Director,
National Park Service.

[FR Doc. 78-13356 Filed 5-16-78; 8:45 am]

[4310-84]

Office of the Secretary

[INT FES 78-9]

GRAZING MANAGEMENT PROGRAM, RIO PUERCO RESOURCE AREA, N. MEX.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on grazing management in the Rio Puerco Resource Area, New Mexico.

The proposal involves the implementation of Allotment Management Plans on 393,083 acres of public lands for the purpose of establishing a range and vegetation improvement program.

Copies are available for inspection at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-5171.

New Mexico State Office, Bureau of Land Management, U.S. Post Office Building, North Federal Place, Santa Fe, N. Mex. 87501, telephone 505-988-6214.

Albuquerque District Office, Bureau of Land Management, 3550 Pan American Freeway NE., Albuquerque, N. Mex. 87107, telephone 505-766-2455.

ALBUQUERQUE CITY LIBRARIES

Main Library, 501 Cooper Avenue N.W., Albuquerque, N. Mex. 87102.

Prospect Park Branch, 8205 Apache NE., Albuquerque, N. Mex. 87110.

Grant City Library, 525 West High, Grants, N. Mex. 87020.

Santa Fe Public Library, 121 Washington Avenue, Santa Fe, N. Mex. 97501.

A limited number of single copies may be obtained from the BLM District Manager, Albuquerque or the BLM State Director in Santa Fe.

Dated: May 12, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant,
Secretary of the Interior.

[FR Doc. 78-13351 Filed 5-16-78; 8:45 am]

[4310-84]

[INT FES 78-8]

PROPOSED GRAZING MANAGEMENT ON PUBLIC LANDS IN THE SAN LUIS VALLEY, COLO.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior's Bureau of Land Management has prepared a final environmental statement (FES) on the proposed grazing management in the San Luis Resource Area, Colo.

The statement analyzes environmental impacts that would result from implementation of intensive grazing management plans, including necessary range improvements, on 92 percent of the public lands in the San Luis Valley. Other allotments would be managed less intensively (16,625 acres), or would be entirely eliminated from grazing use (5,930 acres). The remaining 19,900 acres are not currently grazed by livestock and that status would remain the same.

Several alternatives were considered, including No Action, Elimination of Grazing, Custodial Management, Reduced Management on Specific Allotments, Wildlife Effective, Watershed Effective, and Balanced Multiple Use.

In preparing the final statement, BLM requested and received assistance and comments from many agencies of Federal, State, and local government. Notice of availability of draft environmental statement appeared in FEDERAL REGISTER Vol. 42, No. 9, January 13, 1977. Written comments were invited for a 45-day period ending March 1, 1977. Additional opportunity to comment was provided at public hearings held on February 23, 1977, in Alamosa, Colo. The final environmental statement contains specific responses to both written comments and oral testimony that dealt with the adequacy of the draft environmental statement. Revisions in the text were also made in response to comments or new information provided by the public during the comment period.

Copies of the final statement and review copies are available at the following Bureau of Land Management offices:

Canon City District Office, 3080 East Main Street, Canon City, Colo. 81212, telephone 303-275-7494.

Colorado State Public Affairs Office, room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, telephone 303-837-4481.

San Luis Resource Area Office, Bureau of Land Management, 1921 State Street, Alamosa, Colo. 81101, telephone 303-589-4975.

Review copies only are available at the following locations:

Washington Office of Public Affairs, Bureau of Land Management, room 5625, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-4151.

Carnegie Public Library, 120 Jefferson, Monte Vista, Colo. 81144.

Saguache County Public Library, 702 Pitkin, Saguache, Colo. 81149.

Southern Peaks Library, 424-4th, Alamosa, Colo. 81101.

Convervation Library, Denver Public Library, 1357 Broadway, Denver, Colo. 80206.

Canon City Library, 516 Macon Avenue, Canon City, Colo. 81212.

Dated: May 12, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant
Secretary of the Interior.

[FR Doc. 78-13350 Filed 5-16-78; 8:45 am]

[7536-01]

National Endowment for the Arts and the Humanities

National Endowment for the Humanities

HUMANITIES PANEL

Meeting

MAY 11, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 Fifteenth Street NW., Washington, D.C. 20506, in room 807, from 9 a.m. to 5:30 p.m. on June 12 and 13, 1978.

The purpose of the meeting is to review Higher Education Projects applications submitted to the National Endowment for the Humanities for projects beginning after October 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 Fifteenth Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee
Management Officer.

[FR Doc. 78-13377 Filed 5-16-78; 8:45 am]

[7536-01]

HUMANITIES PANEL

Meeting

MAY 2, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 807, from 9 a.m. to 5:30 p.m. on June 8-9, 1978.

The purpose of the meeting is to review Elementary and Secondary Education Program applications submitted to the National Endowment for the Humanities for projects beginning after October 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee
Management Officer.

[FR Doc. 78-13378 Filed 5-16-78; 8:45 am]

[7536-01]

HUMANITIES PANEL

Meeting

MAY 10, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on June 15 and 16, 1978.

The purpose of the meeting is to review Youthgrants in the Humanities applications submitted to the National Endowment for the Humanities for projects beginning after October 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee
Management Officer.

[FR Doc. 78-13379 Filed 5-16-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on June 1-3, 1978, in Room 1046, 1717 H Street NW., Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, JUNE 1, 1978

8:30 a.m.-9 a.m.: Executive session (open). The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities including the appointment of new Committee members.

This session will be open to the public except for those portions which must be closed to protect information the release of which would represent an unwarranted invasion of personal privacy.

The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present regarding the request for operation at increased power of the Maine Yankee Atomic Power Station.

Portions of this session will be closed if necessary to discuss proprietary information applicable to this matter and provisions for physical protection of this unit.

9 a.m.-11 a.m.: Maine Yankee Atomic Power Station (open). The Committee will hear and discuss presentations by representatives of the NRC staff and the applicant related to the request to operate this unit at increased power. Portions of this session will be closed if necessary to discuss proprietary information applicable to this matter and provisions for physical protection of this unit.

11 a.m.-12:15 p.m.: Executive session (open). The Committee will hear and discuss reports of Subcommittees and Working Groups on a number of generic matters related to reactor safety including anticipated transients without scram and proposed revisions to NRC regulatory guides. The Subcommittee on the Vermont Yankee Nuclear Power Station will also report on operating experience at this facility.

1:15 p.m.-2:15 p.m.: Report on Intergovernmental Review of Nuclear Waste Management (open). The Committee will hear and discuss a report by representatives of the NRC regarding NRC participation in the program for reviews of nuclear waste management and disposal.

2:15 p.m.-2:30 p.m.: Executive session (open). The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present regarding the request for operation of the Indian Point Nuclear Generating Station, Unit 3, at full power. Portions of this session will be closed if necessary to discuss proprietary information applicable to this matter and provisions for physical protection of this unit.

2:30 p.m.-4:30 p.m.: Indian Point Nuclear Generation Station, Unit 3 (open). The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the applicant regarding the request for operation of this unit at full power. Portions of this session will be closed if necessary to discuss proprietary information applicable to this matter and provisions for physical protection of this unit.

4:30 p.m.-6:30 p.m.: Executive session (open). The Committee will discuss proposed ACRS positions and comments regarding generic matters related to nuclear powerplant safety including the use of Class 9 accidents for evaluation of alternate reactor sites and the source term used in reactor safety analysis.

The Committee will also discuss its proposed reports to the NRC on the Maine Yankee Nuclear Plant and the Indian Point Nuclear Generating Station, Unit 3.

FRIDAY, JUNE 2, 1978

8:30 a.m.-1:30 p.m.: Meeting with NRC staff (open). The Committee will hear presentations from and hold discussions with members of the NRC

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staff regarding recent licensing actions and operating experience including the seismic reevaluation of several nuclear powerplants and review of a proposed safe shutdown system for the Oconee Nuclear Plant.

Representatives of the NRC staff and its contractors will also report to the ACRS on generic matters related to nuclear powerplant safety including the bases for combination of seismic and other dynamic loads, the proposed use of Class 9 accidents for evaluation of alternate powerplant sites, and comparison of risks from nuclear powerplants with other societal risks.

The future schedule for ACRS activities and topics proposed for consideration by the Committee will also be discussed.

2:30 p.m.–6 p.m.: Executive session (open). The Committee will discuss proposed ACRS comments regarding the establishment of a quasi-judicial, statutory board to investigate reactor accidents. The Committee will also discuss proposed comments regarding generic matters discussed during this meeting and miscellaneous Committee activities including reorganization of ACRS Subcommittees and Working Groups and a proposed periodic report of ACRS activities.

The Committee will also discuss proposed reports to the NRC on the Maine Yankee Nuclear Plant and the Indian Point Nuclear Generating Station, Unit 3.

SATURDAY, JUNE 3, 1978

8:30 a.m.–12 noon: Executive session (open). The Committee will discuss its proposed reports to NRC regarding the Indian Point Nuclear Generating Station, Unit 3, and the Maine Yankee Atomic Power Station.

The Committee will complete discussion of generic matters and miscellaneous ACRS activities considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were outlines in the FEDERAL REGISTER on October 31, 1977, page 56972. In accordance with these procedures, oral or written statement may be presented by members of the public, recordings well be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

I have determined in accordance with section 10(d) of Pub. L. 92-463 that is is necessary to close portions of the meeting as noted above to protect proprietary information (5 U.S.C. 552b(c)(4)), to preserve the confidentiality of information related to safeguarding of special nuclear material and the physical protection of nuclear facilities (5 U.S.C. 553b(c) (1) and (4)), and to protect information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). Separation of factual information from information considered exempt from disclosure during closed portions of the meeting is not considered practical.

Background information concerning items to be considered during this meeting can be found in documents on file and available for public inspection in the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and in the following public document rooms:

INDIAN POINT NUCLEAR GENERATING STATION, UNIT 3

White Plains Public Library, 100 Martine Avenue, White Plains, N.Y. 10601.

MAINE YANKEE ATOMIC GENERATING STATION

Wiscasset Public Library, High Street, Wiscasset, Maine 04578.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, telephone 202-634-1371, between 8:15 a.m. and 5 p.m. e.d.t.

Dated: May 15, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-13560 Filed 5-16-78; 9:48 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups and of the full Committee, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or canceled since the last list of proposed meetings published in the REDERAL REGISTER on April 28, 1978. Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published approximately 15 days prior to each meeting. Information as to whether a meeting has been firmly scheduled, canceled, or rescheduled, or whether changes have been made in the agenda for the June 1-3, 1978, ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee, telephone 202-634/1374, Attn.: Mary E. Vanderholt, between 8:15 a.m. and 5 p.m., e.d.t.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

**Davis Besse Nuclear Power Station,* Units 2 and 3, May 18, 1978, Washington, D.C. Rescheduled to June 30, 1978. Notices of this meeting were published in the FEDERAL REGISTER on May 3 and 11, 1978.

**Vermont Yankee Nuclear Power Station,* May 19, 1978, Vernon, Vt. The Subcommittee will review the operating history and fuel performance for this station. Notice of this meeting was published in the FEDERAL REGISTER on May 4, 1978.

**Fluid/Hydraulic Dynamic Effects,* May 23, 1978, Des Plaines, Ill. The Subcommittee will discuss items related to the Mark I, II, and III containment systems. Notice of this meeting was published in the FEDERAL REGISTER on May 8, 1978.

**Diablo Canyon Nuclear Power Station,* May 24-25, 1978 (rescheduled from May 17, 1978), Washington, D.C. Rescheduled to June 14-15, 1978.

**Maine Yankee Nuclear Plant,* May 25, 1978 (rescheduled from May 2, 1978), Washington, D.C. The Subcommittee will review the request of the Maine Yankee Atomic Power Corp., to operate this plant beyond the FSAR designated power of 2,560 MW(t) up to a power level of 2,630 MW(t). Notices of this meeting were published in the FEDERAL REGISTER on April 17, May 2, and May 11, 1978.

**Anticipated Transients Without Scram (ATWS),* May 26, 1978, Washington, D.C. The Working Group will discuss various issues pertaining to anticipated transients during reactor operations that might take place without the occurrence of reactor scram. Notice of this meeting was published in the FEDERAL REGISTER on May 11, 1978.

**Regulatory Activities,* May 31, 1978, Washington, D.C. The Subcommittee will review working papers, future regulatory guides and changes to existing regulatory guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations. Notice of this meeting was published in the FEDERAL REGISTER on May 16, 1978.

**Reactor Safety Research,* May 31, 1978, Washington, D.C. The Subcommittee will meet in open executive session to discuss review efforts for the ACRS 1978 report to Congress on NRC reactor safety research. Notice of this meeting was published in the FEDERAL REGISTER on May 16, 1978.

**Diablo Canyon Nuclear Power Station,* June 14-15, 1978 (rescheduled from May 24-25, 1978), Washington, D.C. The Subcommittee will continue its review of the Pacific Gas & Electric Co.'s applications for operating licenses for units 1 and 2 of this station.

**Siting Evaluation,* June 16, 1978, Washington, D.C. The Subcommittee will discuss the NRC report entitled, "Early Site Reviews for Nuclear Power Facilities—Procedures and Possible Technical Review Options," NUREG-0180, draft revision dated February 1978.

**Allens Creek Nuclear Generating Station, Unit 1,* June 22, 1978, Houston Tex. Postponed indefinitely.

Naval Reactors/Naval Operations, June 28, 1978, Schenectady, N.Y. The Subcommittee will review the request of the Division of Naval Reactors, Department of Energy, to operate the S8G reactor prototype located at Knolls Atomic Power Laboratory.

**New England Power Nuclear Project, Units 1 and 2,* June 28-29, 1978, Providence, R.I. The Subcommittee will review the application of the New England Power Co. for a permit to construct units 1 and 2 of this project.

**Electrical Systems, Control, and Instrumentation,* June 29, 1978, Washington, D.C. The Subcommittee will meet with representatives of numerous vendors and utilities to review the capability of loose parts monitoring systems in nuclear powerplants.

**Davis Besse Nuclear Power Station, Units 2 and 3,* June 30, 1978 (rescheduled from May 18, 1978), Washington, D.C. The Subcommittee will review the application of the Toledo Edison Co. for a permit to construct units 2 and 3 of this station.

**Regulatory Activities,* July 5, 1978, Washington, D.C. The Subcommittee will review working papers, future regulatory guides and changes to existing regulatory guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

**Fast Flux Test Facility,* July 12, 1978, Washington, D.C. The Subcommittee will meet with the NRC staff and officials from the Department of Energy to discuss the status of construction and the NRC safety review of the fast flux test facility.

**Erie Nuclear Power Plant, Units 1 and 2,* July 18, 1978, Sandusky, Ohio. The Subcommittee will review the application of the Ohio Edison Co. for a permit to construct units 1 and 2 of this plant.

**Electrical System, Control, and Instrumentation,* July 20, 1978, Los Angeles, Calif. The Subcommittee will meet with representatives of numerous vendors and utilities to review the capability of loose parts monitoring systems in nuclear powerplants.

**Waste Management,* July 25, 1978, Washington, D.C. The Subcommittee will review the progress on the NRC staff study of waste disposal classification; discuss recent USGS reports on high level waste management; and discuss NRC response to actions suggested in DOE/ER-0004/D, February 1978, "Report of Task Force for Review of Nuclear Waste Management."

**Environmental,* July 26, 1978, Washington, D.C. The Subcommittee will review Regulatory Guide 1.88, Rev. 1, "Methods for Determining the Technical Specification Limit on Activity Release at the Main Condenser Vacuum System on Boiling Water Reactors."

**Decommissioning of Nuclear Facilities,* July 26, 1978, Washington, D.C. The Subcommittee will review NUREG-0436, "Plan for Reevaluation of NRC Policy on Decommissioning of Nuclear Facilities."

**Hypothetical Core Disruptive Accident for Fast Reactors (HCDA),* July 27-28, 1978, Los Alamos, N. Mex. The Working Group will discuss the goals and accomplishments of the SIMMER program and the capability of the SIMMER code to model a hypothetical core disruptive accident.

**Regulatory Activities,* August 2, 1978, Washington, D.C. The Subcommittee will review working papers, future regulatory guides and changes to existing regulatory guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

ACRS FULL COMMITTEE MEETINGS

JUNE 1-3, 1978

A.*Maine Yankee Atomic Power Station—Review request for power level increase.

B.*Indian Point Nuclear Generating Station, Unit 3—Review request to operate at full power.

JULY 6-8, 1978

Agenda to be announced.

AUGUST 3-5, 1978

Agenda to be announced.

Dated: May 15, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-13559 Filed 5-16-78; 9:48 am]

[7590-01]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-QA8, "Quality Assurance for Manufacture of Items for Nuclear Power Plants," has been developed. The Working Group, consisting of Mr. C. Carrier, France; Mr. G. S. Horne, United Kingdom; Mr. H. Whilhelm, Federal Republic of Germany; and Mr. J. P. Jackson (Management Analysis Company), United States of America, developed the initial draft of this Safety Guide from an IAEA collation during a meeting on March 7-11, 1977. The Working Group draft of this Safety Guide was modified by the Technical Review Committee on Quality Assurance which met on December

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5-9, 1977, and we are soliciting public comments on this modified draft. Comments on this draft received by June 23, 1978 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a).)

Dated at Rockville, Maryland this 4th day of May 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc. 78-13362 Filed 5-16-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 8.19, "Occupational Radiation Dose Assessment in Light-Water Reactor Power Plants—Design Stage Man-Rem Estimates," describes a method acceptable to the NRC staff for performing an assessment of collective occupational radiation dose as part of the process of designing a light-water-cooled power reactor.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 8.19 will, however, be particularly useful in evaluating the need for an early revision if received by July 17, 1978.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md. this 9th day of May 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc. 78-13375 Filed 5-16-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Notice of Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to section No. 2.4.11 (Low Water Considerations) of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear powerplants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, VA. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to section No. 2.4.11 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555.

(5 U.S.C. 552(a).)

Dated at Bethesda, Md., this 4th day of May, 1978.

For the U.S. Nuclear Regulatory Commission.

DANIEL R. MULLER,
Deputy Director, Division of Site Safety and Environmental Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 78-13371 Filed 5-16-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Notice of Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to section Nos. 2.4.10 (Flooding Protection Requirements) and 2.4.14 (Technical Specifications and Emergency Operation Requirements) of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to section Nos. 2.4.10 and 2.4.14 is $4 per section. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md., this 4th day of May, 1978.

For the U.S. Nuclear Regulatory Commission.

DANIEL R. MULLER,
Deputy Director, Division of Site Safety and Environmental Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 78-13372 Filed 5-16-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Notice of Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to section No. 2.3.3 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. the purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to section No. 2.3.3 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md., this 9th day of May, 1978.

For the U.S. Nuclear Regulatory Commission.

DANIEL R. MULLER,
Deputy Director, Division of Site Safety and environmental analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 78-13373 Filed 5-16-78; 8:45 am]

[7590-01]

[NUREG—75/087]

REVISION TO THE STANDARD REVIEW PLAN

Notice of Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to section No. 2.3.5 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to section No. 2.3.5 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md., this 9 day of May, 1978.

For the U.S. Nuclear Regulatory Commission.

DANIEL R. MULLER,
Deputy Director, Division of Site Safety and Environmental Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 78-13374 Filed 5-16-78; 8:45 am]

[7590-01]

[Docket Nos. 50-516 & 50-517]

LONG ISLAND LIGHTING CO., JAMESPORT NUCLEAR POWER STATION, UNITS 1 AND 2

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this construction permit proceeding to consist of the following members: Jerome E. Sharfman, Chairman, Richard S. Salzman, Dr. W. Reed Johnson.

Dated: May 11, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-13363 Filed 5-16-78; 8:45 am]

[7590-01]

[Dockets Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC CO., ET AL., PEACH BOTTOM UNITS NOS. 2 AND 3

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 41 and 40 to Facility Operating License Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Co., Public Service Electric and Gas Co., Delmarva Power and Light Co., and Atlantic City Electric Co., which revised the Technical Specifications for operation of the Peach Bottom Atomic Power Station Units Nos. 2 and 3, located in York County, Pa. The amendments are effective as of the date of issuance.

The amendments revised the Technical Specifications to incorporate requirements for establishing and maintaining suppression chamber water level, to maintain the margins of safety established in the NRC staff's "Mark I Containment Short Term Program Safety Evaluation", NUREG-0408. Operation in accordance with the conditions specified in NUREG-0408 has been previously authorized in the FEDERAL REGISTER on March 29, 1978 (43 FR 13111). The Commission's Safety Evaluation supporting these amendments provides the basis for rescinding the requirements to establish and maintain drywell to suppression chamber differential pressure control.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and

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the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) application for amendment dated November 4, 1976, as supplemented by letters dated February 28, April 14, June 16, and August 30, 1977, (2) Amendments Nos. 41 and 40 to License Nos. DPR-44 and DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 11th day of May 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-13364 Filed 5-16-78; 8:45 am]

[7590-01]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. NPF-1 issued to Portland General Electric Co., the City of Eugene, Oreg., and Pacific Power & Light Co. which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oreg. The amendment is effective as of its date of issuance.

This amendment (1) changes the allowable heatup rate for the pressurizer from 200° F per hour to 100° F per hour, (2) corrects an error with respect to operability requirements for the spent fuel pool exhaust ventilation system, and (3) adds a clarifying phrase to Technical Specification 4.03 regarding surveillance requirements.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 30, 1977, (2) Amendment No. 27 to license No. NPF-1 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oreg. 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 18th day of April 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-13365 Filed 5-16-78; 8:45 am]

[7590-01]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. NPF-1 issued to Portland General Electric Co., the City of Eugene, Oreg., and Pacific Power and Light Co. which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oreg. The amendment is effective as of its date of issuance.

The amendment corrects Table 3.7-4 of Appendix A Technical Specifications to reflect the proper designation of fire hose stations that are required to be operable.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 13, 1978, (2) Amendment No. 26 to License No. NPF-1 and (3) the Commission's related letter. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oreg. 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 13th day of April 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-13366 Filed 5-16-78; 8:45 am]

[7590-01]

[Docket No. 50-272]

PUBLIC SERVICE ELECTRIC & GAS CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. DPR-70, issued to Public Service Electric & Gas Co., et al (the licensee), which revised the Environmental Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1 located in Salem County, N.J. The amendment is effective as of its date of issuance.

This amendment deletes the requirement to weigh sample populations of anadromous fishes caught in gill-nets.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 21, 1977, (2) Amendment No. 12 to License No. DPR-70 and (3) the Commission's letter dated April 14, 1978. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, N.J. 08079. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 14th day of April 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-13367 Filed 5-16-78; 8:45 am]

[7590-01]

[Construction Permits No. CPPR-139; CPPR-140]

UNION ELECTRIC CO. (CALLAWAY PLANT, UNITS 1 AND 2)

Hearing

The Union Electric Co., St. Louis, Mo. (Licensee), is the holder of construction permits number CPPR-139 and CPPR-140 (the license) issued by the Nuclear Regulatory Commission. The license authorizes the construction of Callaway Plant, Units 1 and 2 and was issued on April 16, 1976.

On April 3, 1978 the Director, Office of Inspection and Enforcement, pursuant to 10 CFR 2.202 of the Commission's regulations, served on the Licensee an Order to Show Cause Why Construction Permits Should Not Be Suspended. The basis of the show cause Order was that on March 30, 1978 duly authorized investigators of the Commission's Office of Inspection and Enforcement were denied access to records and personnel necessary to conduct an investigation to determine

(1) Whether a construction worker engaged in activity under the license was discharged because the worker made allegations to the Commission concerning alleged construction problems which, if uncorrected, could lead to unsafe conditions at the Callaway facility jeopardizing the public health and safety;

(2) Whether the Commission's regulations should be amended to provide expressly that all workers involved in license activities under a construction permit are encouraged to communicate with the Commission concerning matters which could jeopardize the public health and safety and to expressly prohibit any retaliation by employers against workers who do so, and

(3) Whether there may now exist at the Callaway facility potentially unsafe conditions, the existence of which has not been communicated to the Commission because of the chilling effect on workers at the site of any perception on such workers' part that a worker was discharged because he alleged potentially unsafe conditions to the Commission.

An answer dated April 21, 1978 to the Order to Show Cause Why Construction Permits Should Not Be Suspended was received from the Licensee. The answer demanded a hearing on the Order pursuant to 10 CFR 2.202(c).

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and 10 CFR Part 2 of the Commission's regulations, notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board composed of John F. Wolf, Esq., Chairman, Hugh K. Clark, Esq., and Joseph F. Tubridy, Esq. The Commission believes that extraordinary circumstances sufficient to warrant it to hear this matter in the first instance do not exist, and accordingly declines the licensee's suggestion to that effect.

The issues before the Atomic Safety and Licensing Board to be considered and be decided shall be:

(1) Whether the Commission in its investigation was denied access to records and personnel relating to the termination of a worker who had alleged construction problems which if uncorrected could lead to unsafe conditions in an activity licensed by the Commission; and

(2) Whether Construction Permits No. CPPR-139 and No. CPPR-140 should be suspended until such time as the Licensee, including its employees, agents and contractors engaged in activities under the license, submits to investigations and inspections as the Commission deems necessary and as authorized by the Atomic Energy Act of 1954, as amended, in the Commission's regulations.

In addition, the Board is authorized to resolve the Licensee's contention that NRC should defer its investigation to the ongoing grievance proceeding between the worker and contractor here involved.

A prehearing conference shall be held by the Atomic Safety and Licensing Board at a date and place to be set by the Board to consider pertinent matters in accordance with the Commission's Rules of Practice. The date and place of the hearing will be set at or after the prehearing conference and will be noticed in the FEDERAL REGISTER.

Pursuant to 10 CXFR 2.705, an answer to this Notice may be filed by the Licensee not later than June 6, 1978.

The Commission authorizes an Atomic Safety and Licensing Appeal board pursuant to 10 CFR 2.785 to exercise the authority to perform the review functions which would otherwise be exercised and performed by the Commission, subject to Commission review, as appropriate, under 10 CFR 2.786. The Appeal Board will be designated pursuant to 10 CFR 2.787 and notice as to membership will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 11th day of May, 1978.

For the Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-13368 Filed 5-16-78; 8:45 am]

[7509-01]

[Docket Nos. 50-266 and 50-301]

WISCONSIN ELECTRIC POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 34 and 39 to Facility Operating License Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Co., which revised Technical Specifications for operation of the Point Beach Nuclear Plant Units 1 and 2, located about 15 miles north of

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Manitowoc, Wis. The amendments are effective as of the date of issuance.

The amendments remove spent fuel storage restrictions related to spent fuel cooling capability since recent design changes have rendered these restrictions unnecessary.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated September 8, 1976, as supplemented January 31, 1977 and March 16, 1978, (2) Amendment No. 34 to License No. DPR-24, (3) Amendment No. 39 to License No. DPR-27, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the University of Wisconsin—Stevens Point Library, Stevens Point, Wis. 54481. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 18th day of April 1978.

For the Nuclear Regulatory Commission,

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-13369 Filed 5-16-78; 8:45 am]

[7590-01]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP. ET AL.

Establishment of Atomic Safety and Licensing Board to Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

WISCONSIN PUBLIC SERVICE CORP., ET AL.

(Kewaunee Nuclear Power Plant)

PROPOSED ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

This action is in reference to a notice published by the Commission on December 30, 1977, in the FEDERAL REGISTER (42 FR 65335) entitled "Proposed Issuance of Amendment to Facility Operating License".

The Chairman of this Board and his address is as follows: Robert M. Lazo, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their address are as follows: Mr. Glenn O. Bright, Dr. Oscar H. Paris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Md. this 10th day of May 1978.

James R. Yore,
Chairman.

[FR Doc. 78-13370 Filed 5-16-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 78-137]

EXCESS COST OF PRECLEARANCE OPERATIONS

Reimbursable Services

MAY 11, 1978.

Notice is hereby given that pursuant to section 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning June 4, 1978.

Installation	Biweekly excess cost
Montreal, Canada	$13,860
Toronto, Canada	27,694
Kindley Field, Bermuda	4,870
Freeport, Bahama Islands	10,033
Nassau, Bahama Islands	20,067
Vancouver, Canada	10,198
Calgary, Canada	7,712
Winnipeg, Canada	1,840

JOHN A. HURLEY,
Assistant Commissioner Administration.

[FR Doc. 78-13423 Filed 5-16-78; 8:45 am]

[4810-35]

Fiscal Service

[Dept. Circ. 570, 1977 Rev., Supp. No. 19]

METROPOLITAN FIRE ASSURANCE CO.

Reinsuring Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Metropolitan Fire Assurance Company, Hartford, Connecticut, under Sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable reinsuring company on Federal bonds, is hereby terminated, effective this date.

The company was last listed as an acceptable reinsuring company on Federal bonds at 42 FR 34081, July 1, 1977.

With respect to any bonds currently reinsured by Metropolitan Fire Assurance Company, bond-approving officers of the Government should secure new reinsurance with acceptable reinsuring companies in those instances where a significant amount of liability remains outstanding.

Dated: May 9, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 78-13414 Filed 5-16-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

WHEELCHAIR LIFT SYSTEMS

VA Standard Design and Test Criteria for Safety and Quality of Automatic Wheelchair Lift Systems for Passenger Motor Vehicles

Notice is hereby given of the proposed publication of the VA Standard Design and Test Criteria for Safety and Quality of Automatic Lift Systems for Passenger Motor Vehicles, to provide an evaluation base and to ensure automatic wheelchair lifts which are safe, easy to operate and durable.

These standards provide detailed information as to the Scope, Classification, Limitations, Design Requirements, Desirable Design Goals and Test Procedures pertaining to automatic wheelchair lift systems for passenger motor vehicles.

Interested persons are invited to submit written comments regarding these standards to the following office: Director 790-121, VA Prosthetics Center, 252 Seventh Avenue, New York, N.Y. 10001.

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All relevant comments received before June 16, 1978, will be considered with a view toward revision of the wheelchair lift standards prior to publication.

Effective date: It is proposed that all wheelchair lifts, as described in the VA Standard Design and Test Criteria for Safety and Quality of Automatic Wheelchair Lift Systems for Passenger Motor Vehicles, meet the described final VA standards by July 1, 1978.

Approved: May 10, 1978.

MAX CLELAND,
Administrator.

VA STANDARD DESIGN AND TEST CRITERIA FOR SAFETY AND QUALITY OF AUTOMATIC WHEELCHAIR LIFT SYSTEMS FOR PASSENGER MOTOR VEHICLES.

JUNE 28, 1977.

FOREWORD

This document is one in a series of standards developed by the Veterans Administration (VA) to present desired qualities and features of various items of prosthetic and orthotic hardware, sensory aids, and items of adaptive equipment used by disabled veterans, and to specify those attributes necessary to control the quality, safety, and performance of the items. These standards are designed to assist manufacturers and fitters to achieve uniformly high standards, assuring all patients of function, comfort, safety and durability.

Testing for compliance using these standards will be at the direction of the Veterans Administration Prosthetics Center, New York, N.Y. Compliance with this standard is determined by first obtaining from the various manufacturers lifts typical of those which manufacturers desire to sell to disabled veterans. The lifts are then tested in the manner stated herein, and those lifts complying with these requirements will be certified as approved by the VA. Reasons for non-compliance will be transmitted to the manufacturer.

To be continually effective these standards will be continually reviewed for currency as well as applicability to new concepts in lift design. Interested persons are invited to submit suggestions for additions, deletions, or changes regarding this standard to the Director, Veterans Administration Prosthetics Center, 252 Seventh Avenue, New York, N.Y. 10001.

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1.0. *Scope, Classification, Limitations, and Definitions.*

1.1. *Scope. This standard relates to a special class of automotive assistive equipment used by wheelchair-bound persons utilizing wheelchairs which do not exceed 26" overall width to enter and exit commercially available motor vehicles. Maximum safety to handicapped drivers, passengers, and the general public is of primary concern.*

1.2. *Classification.* Automotive wheelchair lifts include a variety of electric powered mechanical and hydraulic systems used to raise or lower a person in a wheelchair from one level to another. They are classified by van door application (side or rear) and by power transfer method (e.g., hydraulic, electro-mechanical, or others).

1.3. *Limitations.* These standards are limited to powered lift systems manufactured for use by the handicapped and either retrofitted or furnished as original equipment in motor vehicles (e.g., vans).

1.4. *Definitions.*

1.4.1. *Controls.* A term denoting manually operated devices which in some way regulate the lift operation. Examples: switches, handles, thumbscrews.

1.4.2. *Electrical Components.* A term encompassing all electrical hardward used on a wheelchair lift. These components include, but are not limited to, batteries, fuses, circuit breakers, motors, switches, wiring, and terminals.

1.4.3. *Fasteners.* Devices used to secure by physical means other devices or parts in place. These include, but are not limited to, bolts, nuts, screws, washers, pins, rivets, and clamps.

1.4.4. *Floor.* The floor of the vehicle in which the wheelchair lift is installed.

1.4.5. *Ground.* The surface (nominally horizontal) on which the vehicle is parked.

1.4.6. *Lift Platform.* A term denoting that portion of a wheelchair lift device on which the wheelchair rests while being raised or lowered.

1.4.7. *May.* The term "may" where used shall be construed as permissive.

1.4.8. *Nip or Pinch Point.* A term for a hazardous location which exists when two closely spaced parallel shafts rotate in opposite directions, or at the point of contact between belt and pulley, chain and sprocket, or similar moving parts of machinery.

1.4.9. *Roll Stop.* A term for a device on a wheelchair lift to prevent a wheelchair from inadvertently rolling off the lift platform.

1.4.10. *Shall.* The term "shall" where used shall be construed as mandatory.

1.4.11. *Shear Point.* A term for a hazardous location where a moving (e.g., reciprocating or sliding) part approaches or crosses a fixed part.

1.4.12. *Should.* The term "should" where used shall be construed as advisory.

1.4.13. *Weatherproof.* The term applied to equipment so constructed or protected that exposure to the weather will not interfere with successful operation.

1.4.14. *Wheelchair Ground Plane.* An imaginary plane, nominally horizontal, upon which the wheelchair wheels rest.

1.4.15. *Wire Rope Components.* A term encompassing, but not limited to, wire rope, sheaves (pulleys), clips, thimbles, end fittings, and winch hardware.

2.0. *Applicable Documents.* Standards, Specifications, or Recommended Practices promulgated by the following agencies and specified herein are applicable to the design, manufacture, and/or use of wheelchair lifts.

2.1. American National Standards Institute, 1430 Broadway, New York, N.Y. 10018.

2.1.1. ANSI A17.1—1971, Elevators, Dumbwaiters, Escalators, and Moving Walks.

2.1.2. ANSI A117.1—1961 (R1971), Specifications of Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped.

2.1.3. ANSI A120.1—1970, Safety Requirements for Powered Platforms for Exterior Building Maintenance.

2.1.4. ANSI B1.5—1973, Acme Screw Threads.

2.1.5. ANSI B1.8—1973, Stub Acme Threads.

2.1.6. ANSI B15.1—1972, Safety Standard for Mechanical Power Transmission Apparatus.

2.1.7. ANSI B29.1—1963 (R1972), Transmission roller Chains and Sprocket Teeth.

2.1.8. ANSI B30.2—1967, Overhead and Gantry Cranes.

2.1.9. ANSI B30.9—1971, Safety Standards for Cranes, Derricks, Hoists, Hooks, Jacks, and Slings.

2.1.10. ANSI B153.1—1973, Safety Requirements for the Construction, Care, and Use of Automotive Lifts.

2.2. American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

2.2.1. ASTM D 1005-51 (R1972), Measurement of Dry Film Thickness of Organic Coatings.

2.2.2. ASTM D 2200-67 (1972), Pictorial Surface Preparation Standards for Painting Steel Surfaces.

2.3. American Welding Society, 2501 Northwest 7th Street, Miami, Fla. 33125.

2.3.1. AWS D1.1-72, Structural Welding Code.

2.3.2. AWS D10.7-60, Recommended Practices for Gas Shielded Arc Welding of Aluminum and Aluminum Alloy Pipe.

2.4. National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590.

2.4.1. Federal Motor Vehicle Safety Standard No. 302, Flammability of Interior Materials.

2.5. Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096.

2.5.1. SAE Handbook, 1976, Part 1.

2.5.2. SAE Handbook, 1976, Part 2.

3.0. *Standards and Tests.* Powered automotive wheelchair lifts shall be qualified by tests conducted by or for the VA. The standards and tests set forth in the following subsections shall be applied, and failure of a lift to meet specification shall disqualify the lift from purchase by the VA for veteran beneficiaries.

3.1. *Design Requirements.*

3.1.1. Safety to persons using wheelchair lifts shall be a prime design consideration. Any single point failure of the lift shall not compromise user safety.

Rationale. Paraplegic and quadriplegic persons do not have all normal capabilities of strength, reach, and grip necessary to operate mechanical equipment. Further, they may have visual, equilibrium, or tactile limitations which affect their ability to use lifts. Therefore, every effort should be made to ensure a lift system with minimum potential for injury.

3.1.2. Wheelchair lifts shall be capable of lifting at least 400 pounds (1780 N).*

Rationale. The Human Engineering Guide to Equipment Design gives the following

*Discussion on Metrication is in Appendix 1.

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data on weight, in pounds, of U.S. and Canadian civilian men and women (nude):(*1*)

	50th percentile	95th percentile
Men	166	217
Women	137	199

It is recognized that some spinal cord injured and other physcially handicapped persons lose some of the body weight attained prior to injury. Thus, the 95th percentile weight for men (217 lb., corrected for clothing to 225 lb.) would be a conservative estimate of the maximum body weight to be lifted. Standard electric wheelchairs (e.g., Everest and Jennings Model 34) weigh approximately 150 lb.(*2*) The sum of these two weights is 375 lb.

The smallest specified weight capacity of any lift tested was 400 lb. Therefore a figure of 400 lb. is well within the current planned capacity of lift manufacturers and is conservative when compared to expected loads.

3.1.3. The design factor based on ultimate strength shall be six (6).

Rationale. The factors of safety in equipment design commonly vary from 4 to 10 or higher. ANSI A17.1—1971, Elevators, Dumbwaiters, Escalators, and Moving Walks, specified various factors of safety for different components of a system. For example, factors from 7 to 12 are given for suspension ropes, depending on elevator speed. At 20 fpm, corresponding to the maximum allowable wheelchair lift speed, the value from ANSI A17.1 is 7.4. The factors for elevator driving machines and sheaves "shall be not less than:

"a. Eight (8) for steel, bronze, or for other metals having an elongation of at least fourteen (14) percent in a length of two (2) inches.

"b. Ten (10) for cast iron, or for other metals having an elongation of less than fourteen (14) percent in a length of two (2) inches."(*3*)

Also, factors of safety of 5 and 6 are given for hoisting equipment covered by other ANSI standards.(*4,5*) Consequently, the structural design factor of 6 is chosen as a conservative value for equipment designed to lift persons for short distances at low speeds.

It should be noted that lifts are not required to move 2400 lb. (i.e., 400 x 6), but must be capable of suspending that weight.

3.1.4. Wheelchair lifts should be powered by a dual battery system with batteries characteristic of that supplied by the manufacturer of the vehicle on which the lift is used. The batteries shall be charged by the vehicle battery charging system and regulated by a commercially available dual battery charging device. If a battery is placed inside the passenger compartment, the battery shall be located inside a restrained, protective, corrosion resistant enclosure.

Rationale. One of the dual batteries can be the vehicle battery. Battery compatibility allows charging by the existing vehicle system. A separate lift battery helps ensure that the wheelchair occupant will not be trapped inside the vehicle.

3.1.5. Battery powered wheelchair lifts shall operate at an electrical current of less than 100 amperes while lifting the rated load of 400 lb. at an ambient temperature between 50° F (10° C) and 90° F (32° C).

Rationale. The electrical current measured in most lifts was fairly low. The maximum measured current of 120 A and approximate lift time of 12 sec are well within the cold start test capacity of heavy duty batteries: approximately 400 A at 0° F for 30 sec.(*6*)

3.1.6. Installation of a wheelchair lift shall not require motor vehicle alterations that significantly diminish the structural integrity of the vehicle or in any way impair or reduce safety features provided by the motor vehicle manufacturer. The degree of alteration will be determined by analysis of the method of installation and of resulting structural changes.

Rationale. Self-evident.

3.1.7. The total weight of the lift should not exceed 275 pounds (1220 N).

Rationale. A minimum total weight of the lift, commensurate with adequate strength, should be a significant design goal. The weights of eight of the nine lifts evaluated were 146, 180, 188, 232, 255, 266, and 310 lb, respectively. (*7*) The ninth lift utilized the van doors as a platform and, therefore, was not of a similar design as the others. The average weight of these eight lifts was 225 lb. with a standard deviation of 53 lb. The average plus one standard deviation is 225 + 53 = 278 lb., rounded off to 275 lb.

3.1.8. Hand holds, if used, should be of round cross-section and approximately 1½ inches (3.81 cm) outside diameter.

Rationale. The Human Engineering Guide to Equipment Design gives maximum grip strength versus grip diameter and showed that a 2½ in. diameter was optimal for male pilots used in the experiment. (*8*) The Occupational Safety and Health Standards gives the diameter of stair railings as 1½ in. nominal diameter. (*9*) In consideration of the smaller female hand, (*10*) the 1½ in. diameter was chosen. Several lifts have a platform framework of rectangular and square cross-section (1½ in. side) and another lift has a similar 2 in. diameter tube, all of which serve as lateral hand hold bars. There were favorable comments from disabled users about being able to hold on, but the square tube was less comfortable to grip.

3.1.9. The lift shall have no dirty or greasy surfaces which will contact the wheelchair occupant during normal lift operation as specified by the manufacturer.

Rationale. This item relates to the aesthetic characteristics of a lift and convenience to the user. Some of the lifts evaluated had dirty or greasy parts within the reach envelope of the user. The possible soiling of clothes, hands, arms, and legs is apparent.

3.1.10. Lift framework dimensional requirements to ensure accommodation of wheelchair occupant in the following four subparagraphs and as shown in Figures 1 and 2.

3.1.10.1. The width provided for the wheelchair ground plane, measured laterally, shall be at least 29 inches (73.7 cm).

Rationale. The nominal wheelchair width of 25 in. is given in ANSI A117.1—1961 (R1971), Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped. (*3*) A platform width of 29 in. will allow 2 in. on each side as maneuvering space. Further, the evaluated lifts had a range of platform widths form 28⅜ in. to 48 in. with the mean being 31¾ in.

3.1.10.2. The width between any verticle members twelve (12) inches (30.48 cm) or more above the wheelchair ground plane, measured laterally, shall be at least 29 inches (73.7 cm).

Rationale. The basic consideration here is hand clearance for the occupant in a manual wheelchair during manipulation of the chair onto and off of the platform. Observation shows that the hand, while gripping the hand rim, extends outside the rim some 1¼ in. to 2 in. Therefore any verticle framework through which the wheelchair must pass should be as wide as the wheelchair hand rims plus at least 4 in. Using the ANSI A117.1—1961 (R1971) dimension this value becomes 25 + 4 = 29 in.

The range of frame width dimensions of the evaluated lifts was 26 in. to 40 in. with the mean at 32 in.

3.1.10.3. For those lifts in which the occupant faces the van side (or rear in the case of rear door installation), the distance, measured horizontally along the wheelchair ground plane from the occupant's rear to front between the inside edge of the roll stop in its active position and the nearest point on the vehicle or a lift member at all "occupant carrying" positions shall be at least 45 inches (1.143 m).

Rationale. This section applies only to the folding platform lifts. A significant problem in the design of such lifts is adequate foot clearance. For example, one lift evaluted had a platform length dimension of 43 in. A tall person (6 ft 1 in.) with an electric wheelchair (20 in. wheels) can, when facing the van, move onto the platform, rest the rear wheels against the roll stop and have no foot interference. This same person could not use a lift with a 39 in. long platform in a similar manner because of foot interference, but he can face away from the van and successfully use the lift.

The 45 in. dimension has no real significance for lifts which have a swing-in platform, since there is no foot interference problem in those cases.

3.1.10.4. The interior height from the wheelchair ground plane, measured vertically, to any lateral lift member shall be at least 32 inches (81.3 cm).

Rationale. The arm-rest height of wheelchairs as given in ANSI A117.1—1961 is 29 in.(*3*) Measurements on a number of wheelchairs confirmed this, but the electric wheelchair joysticks protrude such that their tops are about 32 in. above floor level, depending, of course, on the user's choice of joystick. The 32 in. dimension was chosen based on observation of a number of wheelchair joysticks and upon the three lifts evaluated which have lateral frame member heights of 31 in., 32 in., and 32¼ in., respectively.

3.1.11. The use of the lift shall not require an on-platform turning movement for proper alignment and location of the wheelchair.

Rationale. A turning maneuver of a wheelchair on a lift platform is difficult unless the wheelchair occupant can look down to see the wheel location. And, if not made properly, the maneuver may leave one or more wheels improperly located or interfering with the roll-stop. One lift of those evaluated does require a left turn of approximately 30°, then a return to the straight-ahead direction in order to align the wheelchair properly.

3.1.12. *Tests.*

3.1.12.1. *Receiving Inspection Test.* A receiving inspection shall be conducted and shall include:

a. Weighing the wheelchair lift.

b. Assessment of installation method and required vehicle alterations.

c. Assessment of battery power supply, connections, and charging method.

3.1.12.2. *Dimensional Test.* Upon installation of the lift on a test fixture according to manufacturer's instructions, measurements will be taken to determine compliance with dimensional requirements of section 3.1.10.

3.2. *Desirable Design Goals.*

3.2.1. Ease of operation by a broad range of handicapped persons should be a prime consideration of the designer/manufacturer.

Rationale. Experience in using handicapped persons to assist in evauations and discussions with users indicated a wide variety of capabilities among quadriplegics and paraplegics. Also, it is known from personal contact with one manufacturer(*11*) that he, and perhaps other manufacturers, make modifications of their standard lifts for purchasers who cannot use the standard model. It is to the manufacturers' advantage to produce lifts that are satisfactory to most users and, therefore, to avoid the necessity of customizing.

3.2.2. The lift should be designed with an integral system allowing manual operation in the event of failure of the primary operation method. An alternative to such a manual system should be written instructions for actions to be taken in event of such failure.

Rationale. Failure of the primary operation method (e.g. dead battery, burned-out motor, etc.) can result in great inconvenience to a lift user. A back-up mode of lift operation is highly desirable.

3.2.3. Required user actions such as pulling, pushing, holding, and similar physical actions should be kept to a minimum.

Rationale. The lift operation should be as free of required user action as possible. This minimizes the possibility of human error. For example, limit switches can be used to turn off the lift drive motor, but depending on the user to release a manual switch at the proper time may result in injury to the user or damage to the equipment.

3.2.4. A wheelchair lift should be designed for minimum interference to normal vehicle usage.

Rationale. The convenience of able-bodied family members and guests to use the lift-equipped van is important and should be considered by the designer.

3.2.5. Commercially available components should be used in the design wherever possible.

Rationale. Commercially available components have advantages of cost, availability, and standardization.

3.3. *Materials and Components.*

3.3.1. *General Performance.*

3.3.1.1. *Standard.* Wheelchair lifts shall be constructed to prevent permanent deformation under the stress of normal usage as specified by the manufacturer and to operate reliably over an extended period of time.

3.3.1.2. *Specification.* A fully assembled and installed wheelchair lift shall withstand without fracture the stresses resulting from a static load of 2400 pounds (10676 N) to ensure a minimum factor of safety of six (6) for the rated load of 400 pounds (1780 N).

Rationale. The rationale statements given for sections 3.1.2. and 3.1.3. apply here. In summary, the rated load specification of 400 lb. was chosen by combining anthropometric data and wheelchair weights, and the safety factor was based on ANSI standards for similar-use equipment.

The lifts are not required to lift 2400 lb. but must be able to suspend that load.

In addition to a static load test of 2400 lb. an accelerated life cycle test of 4400 cycles will be conducted. The value of 4400 cycles (approximately two year's use) was developed from a telephone survey of individuals who have lifts installed in their personal-use vans.

3.3.1.3. *Tests.*

3.3.1.3.1. *Accelerated Life Cycle Test.* An accelerated life cycle test will be performed by repeating the wheelchair lift use cycle 4400 times. The time between each cycle shall be not less than six minutes. Ambient temperature shall be between 50° F and 90° F (10° C and 32° C). Alternating cycles of loaded and unloaded platform configuration will be simulated by applying a 400 pound (1780 N) load for 100 cycles, then removing the load for 100 cycles. Periodic visual inspection without disassembly of the lift will be made in intervals of 500 cycles and changes in alignment, component wear, loosening of fasteners, and the like will be recorded. Failure mode analyses will be performed and a decision will be made based on those analyses. Preventive maintenance will be performed in accordance with the manufacturer's instructions.

3.3.1.3.2. *Static Load Test.* A static load of 2400 pounds (10676 N) shall be applied through the centroid of a test pallet placed at the centroid of the platform when the platform is positioned at van floor level. The length and width dimensions of the test pallet shall be 23" length x 24" width to correspond to the approximate outer dimensions of a wheelchair "footprint". The load shall remain on the platform not less than two (2) minutes. After the load is removed an inspection shall be made to determine if fractures have occurred. An equivalent test shall be performed on lifts which do not have a platform. The Static Load Test shall be performed after the Accelerated Life Cycle Test.

3.3.2. *Electrical Components and Wiring.*

3.3.2.1. *Standard.* Electrical components and wiring shall conform to the Society of Automotive Engineers Standards or Recommended Practices as applicable.(*6*) Those listed below are applicable to all lifts.

SAE J258, SAE J553c: Circuit Breakers

SAE J537h: Storage Batteries

SAE J538a: Grounding of Storage Batteries

SAE J554a: Electric Fuses

SAE J556: Automobile Wiring

SAE J561b, SAE J858a, SAE J928a: Electrical Terminals

Rationale. Electrical components of wheelchair lifts should be of the same quality as those of the vehicle on which the lift is installed. SAE standards are developed, accepted, and utilized in the automotive industry.

3.3.2.2. *Standard.* All electrical systems shall be designed and packaged to protect the driver or passengers against injury resulting from short circuits, electrical fires, and similar incidents.

Rationale. The protection of the lift user and passengers from injury and protection of the vehicle from damage is of obvious concern.

3.3.2.3. *Standard.* Electrical components which are exposed to the environment outside the vehicle shall be protected by a suitable weatherproof enclosure.

Rationale. By their very nature electrical components must be protected from moisture to eliminate one cause of short circuits and corrosion. Such protection increases the overall system reliability. An example of non-protection of components was seen on one lift which had parts of the mechanism and electrical components under the vehicle. While this concept is acceptable, the components must be protected from such under-vehicle hazards as dirt, rock impacts, salt, and water.

3.3.2.4. *Standard.* Externally mounted wheelchair lift controls shall be installed so that they are weatherproofed by the use of inset compartments or protective coatings. Controls will be protected from misuse or vandalism by the use of key locks or key switches. Controls shall be located so that the operator of the controls will be well clear of the moving doors and lift mechanisms and in a position which will allow observation of lift movement.

Rationale. Since a function of a lift is entry into a van from the outside, there must be a means of actuating the lift from the van exterior to enable independent usage by a disabled person. This is typically done by installing toggle switches through the van side panel near the right front or right rear wheels and clear of the descending lift. Weatherproofing can be done by rubber or plastic-coated toggles or by inserting the switches in a commercially available recessed compartment. Weatherproofing will contribute to reliability, and the use of an electrical lock, key lock, or locked compartment door will help prevent unauthorized entry into the van. Installing the switches near the front or the rear of the van (for side door lift) will keep the wheelchair occupant clear of the moving doors and lift.

3.3.2.5. *Standard.* A solenoid or other device shall be designed into the power circuit to ensure that no electrical component on the lift has voltage applied to it until a lift operating control is actuated.

Rationale. Inadvertent operation of the lift must be avoided, thereby giving a measure of accident/injury protection. In the electrical system of some lifts, there is such a solenoid, and it operates very effectively to prevent lift operation except by conscious intent. With this solenoid loose wiring or accidental shorting across electrical contacts during maintenance cannot, for example, cause inadvertent lift operation.

3.3.2.6. *Electrical Tests.*

3.3.2.6.1. *General.* Electrical components and wiring shall be considered integral parts of the lift system and shall be tested for failures during the performance of Accelerated Life Cycle Testing, Section 3.3.1.3. Any failure or any hazardous condition caused by an electrical component during testing shall disqualify the entire system from acceptance.

3.3.2.6.2. *Water Spray Test.* The exposed portions of electrical components intended for installation external to the vehicle will be subjected to a five minute, fine droplet water spray test in which the droplets contact the components both vertically and horizontally. The wetted components will be allowed to air dry for approximately three (3) minutes and then the circuits will be electrically checked for successful operation.

3.3.2.6.3. *Electrical Current Test.* Electrical current flow will be measured for each lift movement. The ammeter used will be of laboratory quality with appropriate shunts. Only steady-state current, ignoring momentary surges, will be recorded.

3.3.3. *Chain Drive Components.*

3.3.3.1. *Standard.* Chain drive components shall conform to either: ANSI B29.1—1963 (R1972), Transmission Roller Chains and Sprocket Teeth(*3*) (for standard base series

MAY 17 78 UMI

V 43 M 96 Y 17 7 8 UMI

chain), or other ANSI standards applicable to specialized use chains.

Rationale. Conformance to applicable industry standards is required.

3.3.3.2. *Chain Drive Test.* Chain drive components shall be considered integral parts of the lift, and shall be tested for failures during the performance of the Accelerated Life Cycle Test, Section 3.3.1.3., and inspected for conformance to the above standards. Discrepancies in conformance or failures during the test shall disqualify the lift from acceptance.

3.3.4. *Hydraulic Components.*

3.3.4.1. *Standard.* Hydraulic components shall fonform to the following Society of Automotive Engineers Standards or Recommended Practices as applicable.(6)

SAE J514h: Hydraulic Tube Fittings.

SAE J516a: Hydraulic Hose Fittings.

SAE J517c: Hydraulic Hose.

SAE J518c: Hydraulic Flanged Tube, Pipe and Hose Connections, 4-Bolt Split Flange Type.

Rationale. Conformance to applicable industry standards is required.

3.3.4.2. *Standard.* Hydraulic hoses shall be protected from bearing or rubbing on structural components.

Rationale. This self-evident requirement is inserted primarily as a reminder to manufacturers. While the high pressure hoses used on lifts have thick walls and wear-through is unlikely, the potential exists if the hose bears or rubs on a sharp edge, and therefore must be avoided.

3.3.4.3. *Hydraulic Components Test.* Hydraulic components shall be considered integral parts of the wheelchair lift and shall be tested for failures during the performance of the Accelerated Life Cycle Test, Section 3.3.1.3. Any failures, including significant leaks, shall disqualify the lift from acceptance. A significant leak is defined as seepage or leakage which produces one or more droplets (e.g., a teardrop, approximately 0.1 cc) in ten (10) complete cycles of the wheelchair lift.

3.3.5. *Wire Rope Components.*

Comment. The rationale statements for the various subsections are combined and placed at the end of the section.

3.3.5.1. *Standard.* Wire rope systems shall be designed and fabricated using rope and support components of proper dimensions and arrangement.

3.3.5.2. *Specifications.* Industry standards and specifications relating to wire rope components are generally for larger, higher capacity systems other than wheelchair lifts. However, the design principles of wire rope systems in general are applicable to wheelchair lifts; therefore, the principles given in the following documents should be employed in lift design and so certified in writing by the manufacturer upon submission of the lift for testing:

3.3.5.2.1. ANSI A120.1—1970—Safety Requirements for Powered Platforms for Exterior Building Maintenance, Section 14.8, "Drums and Sheaves," and Section 15, "Hoisting Ropes and Rope Connections".(3)

3.3.5.2.2. ANSI B30.2.0—1967—Overhead and Gantry Cranes, Section 2-1.10, "Hoisting Equipment."(3)

3.3.5.2.3. McElroy, Frank E. (ed): Accident Prevention Manual for Industrial Operations. 6th Edition, National Safety Council, Chicago, Ill., 1969, pp. 641-657.(12)

3.3.5.2.4. Rossnagel, W. E.: Handbook of Rigging, 3rd Edition. McGraw-Hill Book Co., New York, N.Y., 1964 pp. 41-83.(13)

3.3.5.2.5. Wire rope manufacturer's recommendations.

3.3.5.3. *Specifications.* If the manufacturer/designer chooses not to use the documents specified in Section 3.3.5.2. for design guidance, then these specifications shall be used:

Material. Wire rope material shall be galvanized carbon steel (aircraft cable quality), Type 302 stainless steel, or equivalent in strength and corrosion resistance and so certified.

Construction. Wire rope shall be of 7 x 19 construction.

Sheaves. Sheaves shall be grooved with a minimum groove diameter of 25 times the nominal wire rope diameter. Grooves shall be shaped so as to saddle the rope with a 150 degree arc of support. The radius of curvature of the groove shall be one-half the nominal rope diameter plus 1/32 inch (0.8 mm). The sides of the groove shall be tangent to the groove arc. The total depth of the groove shall be between 1.5 and 2.0 times the nominal rope diameter. Material shall be aluminum alloy 2024-T6, or equivalent.

Attachments. When a wire rope is formed into an eye as a removable method of attaching the rope to equipment, a thimble shall be used inside the eye, and at least two U-bolt clips shall be attached to the doubled rope. The U-bolt portion of the clips shall bear upon the dead end of the rope, with clips spaced not less than six (6) rope diameters apart. One clip shall be as near to the thimble as possible.

Fittings. The lift manufacturer shall provide, upon request, a rope manufacturer's certification that permanent rope fittings have not less than 90 percent of the rope manufacturer's stated rope strength.

Drums. Drum diameter shall not be less that 25 times the nominal rope diameter. It is desirable that there be only one layer of rope on the drum, but the maximum number of layers shall be three. Helically grooved drums should be used to minimize crushing and excessive wear of the rope. The dimensions of such grooving shall be that of the sheave grooving, with the exception that the total depth should be approximately 0.2 times the nominal rope diameter. There shall be at least one turn of rope on the drum when the wheelchair ground plane is at ground level.

Alignment. The drum and lead sheave shall be aligned to control lateral movement of a wire rope when winding on a drum. The fleet angle shall not exceed 1½ degrees. The same maximum angular relationship shall exist between centerlines of adjacent sheaves.

Orientation. The design of the wire rope system should avoid reverse bending of the rope. The wire rope shall not bear on any portion of the lift framework.

Rationale. As noted in the opening specification statement (Section 3.3.5.2.), related industry standards are primarily for larger systems. The wire rope components used on lifts are comparable in size to those of aircraft systems. This leads to the application of military standards and manufacturer's recommendations. Consequently, in keeping with the general theme of the standard, the designer/manufacturer is given an option of adhering to the principles of industry standards as given in Section 3.3.5.2. or to those detailed specifications in Section 3.3.5.3. The detailed specifications were written from information taken from two wire rope manufacturers' recommendations (American Chain and Cable Company (14) and Carolina Steel and Wire Corporation), (15) Military Standards (MS 20220: Pulley, Groove, Flight Control, Aircraft, (16) and other similar standards for pulleys), and from the references in Section 3.3.5.2.

3.3.5.4. *Wire Rope System Test.* An inspection of the wire rope system shall be made and shall include measurement of the nominal diameters of rope, sheaves, and drum. The fleet angle between the lead sheave and drum and between sheaves at all platform positions shall be measured. Attachments and fittings shall be inspected for conformance to Section 3.3.5.3. The travel of the rope during all lift movements shall be followed to observe possible rope contact with structural members.

3.3.6. *Power Screw Components.*

3.3.6.1. *Standard.* The power screw system even when disconnected from the driving source should not allow the platform to exceed the acceleration specification by more than 50 percent.

Rationale. The self-locking feature of a vertical power screw requires that torque be applied (to the nut or the screw, depending on the design) to raise and to lower the load and is dependent only upon the screw lead angle and the coefficient of friction. The drive motor and connection components (gears, belts) may contribute toward a condition which would prevent the platform from a high rate of overhauling, but from the safe operation standpoint, the design of the power screw system should positively control such inadvertent action.

3.3.6.2. *Standard.* The power screw system shall transmit power in both directions.

3.3.6.3. *Specification.* Power screws shall be of the Acme screw thread type in conformance with ANSI B1.5—1973, Acme Screw Threads, (3) ANSI B1.8—1973, Stub Acme Threads, (3) or equivalent. The 60-degree (V-type) thread shall not be used as a power screw.

Rationale. The Acme thread has been standardized and is in wide use for power screw applications. It is less expensive to manufacture than the square thread. (6, 17, 18) The 60° (V-type) thread normally used in fastener applications is not to be used.

3.3.6.4. *Standard.* The lift designer should ensure that the power screw is checked for long-column conditions and that an appropriate column design formula is used.

Rationale. The variety of design approaches precludes specification of a particular long or short column condition and the appropriate design formulas. Further, the slenderness ratio used in such formulas may actually be different from that directly calculated from the column length and radius of gyration because of the overall design approach used.

3.3.6.5. *Power Screw Tests.* The threads on the power screw shall be inspected to ensure that Acme screw threads (or equivalent) are used and that the system transmits power in both directions.

3.4. *Fabrication.*

3.4.1. *Weldments.* The design and fabrication of any weldments used in a wheelchair lift shall conform to sections 1,2,3, and 4 of the American Welding Society Structural Welding Code, D1.1-72(19) (for steel construction) or to the AWS Recommended Practices for Gas Shielded Arc Welding of Aluminum and Aluminum Alloy Pipe, D10.7-60,(19) as applicable.

Rationale. It should be noted that the AWS code D1.1-72 is for steel construction and D10.7-60 is for aluminum alloy pipe. It is expected that aluminum lifts will have portions of the weldment which are not

pipe; however, code D10.7-60 is general enough relative to welding techniques, bead dimensions, filler materials, and other factors to be applicable here.

3.4.1.1. *Weldment Test.* A close visual inspection shall be made of all welds to detect (1) structural flaws such as undercutting, cracking, poor penetration, and surface defects, and (2) dimensional flaws such as warpage, incorrect weld size or profile, and incorrect joint separation. Other nondestructive testing using radiographic, ultrasonic, dye penetrant, or other methods may be conducted if deemed necessary by the testing agency. Significant defects shall disqualify the lift from acceptance.

3.4.2. *Fasteners.*

3.4.2.1. *Standard.* All fasteners used shall conform to the Society of Automotive Engineers Standards or Recommended Practices as applicable.(6)

Rationale. Conformance to applicable industry standards is required.

3.4.2.2. *Standard.* All fasteners used shall be designed or treated for resistance to vibration.

Rationale. It was noted during the accelerated life cycle testing that one non-locking cap screw in a critical location frequently became loosened, as did two other less critical bolts. Although the in-van lift installation is such that it is not in a high vibration environment, the repetitive operation could cause non-locking fasteners to fail and possibly result in injury or damage.

3.4.2.3. *Fastener Tests and Inspection.* Fasteners shall be considered as integral parts of the lift system and shall be tested for wear, integrity, and resistance to loosening or loss through vibration or use conditions. Such testing and inspection will be done during the Accelerated Life Cycle Test, Section 3.3.1.3.1.

3.4.3. *Level of Lift Platform.*

3.4.3.1. *Standard.* With the lift installed on a rigid structure the platform at floor level shall not slope more than 0.75 inches (1.9 cm) rise to twelve (12) inches (30.48 cm) of run (3.6 degrees) in any direction, both with no load on the platform and with the rated load of 400 pounds (1780 N) applied in the same manner as in the Static Load Test, Section 3.3.1.3.2.

Rationale. The slope requirement is primarily to avoid the steep-ramp effect of folding platform lifts. Evaluations on these lifts showed a variation at van floor level ranging from a positive to a negative slope into the van. Such a slope is, in effect, a ramp which the wheelchair occupant must negotiate, and excessive slope could be difficult or dangerous. The platform slope of a lift installed in a van will change from the static value depending on van suspension characteristics and the total wheelchair and occupant weight, the worst case being if the static platform slope is an up-slope into the van. The slope given in this section is approximately 1° less than the maximum ramp angle given in ANSI A117.1—1961 (R1971), Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped.(3)

3.4.3.2. *Platform Angle Test.* The lift shall be installed on a rigid structure. Measurements shall be taken to determine the lift platform angle at the van floor position.

3.4.4. *Coating and Finishing.*

3.4.4.1. *Standard.* Corrosion of ferrous metal wheelchair lift components can be expected as a result of contact with atomospheric moisture, road deicing salt solutions, mud, and possibly other corrosive agents. Ferrous metals shall be protected from such corrosion by the application of protective coatings.

3.4.4.2. *Specifications.*

3.4.4.2.1. Ferrous metal surfaces shall be prepared for the chosen coatings and the coatings applied in accordance with the following minimum requirements:

Surface preparation. Residues such as oil, grease, dirt, weld slag, mill scale, and rust shall be removed from the surface. Solvent or solvent vapor cleaning shall be used to remove residues prior to removal of rust and scale. The degree of rust and scale shall be determined by the methods of ASTM D2200-67 (1972), Pictorial Surface Preparation Standards for Painting Steel Surfaces.(20) The surface shall be cleaned to condition "St 2" (Scraping and wire brushing, thorough) or "Sa 2" (Blast cleaning, thorough) as given in ASTM D2200-67 (1972). Surfaces thus cleaned shall be prime coated not more than twenty-four (24) hours later.(20)

Primer coat. At least one primer coat containing rust inhibitive pigments shall be applied to the cleaned surface. A coating thickness of 1 mil (0.03 mm) to 1½ mils (0.04 mm) is adequate.(21)

Color coat. Two or more coats of corrosion and abrasive resistant flat finish shall be applied.(22)

Rationale. A high quality surface coating is necessary for long-term durability and pleasing appearance. While lift manufacturers have a wide choice of coatings for ferrous metals, the minimum requirements are specified to ensure proper preparation and choice of coatings. The lifts evaluated showed much variation in coatings, especially in the surface preparation. For example, paint sprayed over greasy areas and weld slag areas chipped off very rapidly after the lift was put into use.

3.4.4.2.2. Specular glare from the lift framework surfaces shall be minimized by using a flat or matte surface finish.

3.4.4.2.3. Finish coating colors which have a coefficient of absorption equal to or less than 0.55 should be chosen to minimize solar radiation absorptivity of the lift framework: e.g. white (0.25), light cream (0.35), light yellow (0.45), light gray (est. 0.4), light green (0.50), aluminum (0.55).

Rationale. The objective of these two sections is to minimize specular glare into the driver's eyes and to minimize solar absorptive heating of the lift framework which might burn the skin of the lift user. The driver could be subject to reflectance through the rear view mirror or while looking to the right rear. Recommendations were taken from the Human Engineering Guide to Equipment Design(23) and from the Handbook of Chemistry and Physics.(24)

3.4.4.3. *Finish Coating Test.* An inspection of the coating shall be made to include, but not be limited to, overall appearance and existence of a dull, matte surface finish. Measurements of film thickness shall be made in at least three locations using a dial comparator or dial indicator as described in ASTM D1005-51 (R1972), Measurement of Dry Film Thickness of Organic Coatings.(20) A subjective evaluation of coating adherence will be obtained in at least three locations as follows: use a machinist's scribe to scribe a single line approximately one inch long with sufficient force to penetrate to the base metal. Lay on a strip of transparent mending tape and burnish the scribed area for approximately 15 seconds with a smooth-ended metal tool. Pull the tape off with a quick, perpendicular motion. A very thin line of coating particles is indication of good adhesion. Upon completion of the Accelerated Life Cycle Test, Section 3.3.1.3.1. and the Operational Safety Test, Section 3.6.9.4., another inspection will be made to determine long-term wear and use characteristics of the coating.

3.5. *Operation.*

3.5.1. *Human Factors Standards and Specifications.*

3.5.1.1. *Controls Standard.* Control selection and application shall be done in accordance with good human factors practice of location, direction of control movement, force, range, and identification.

3.5.1.2. *Controls Specification.* Selections and application shall be made in accordance with the principles and recommendations presented in Chapter 8, Design of Controls, Human Engineering Guide to Equipment Design, Harold P. Van Cott, Editor (U.S. Government Printing Office),(25) or an equivalent publication as applicable. See Appendix 2.

Rationale. There is a wealth of data available concerning selection and application of human-actuated controls. The lifts evaluated showed a wide variety of application and misapplication of such human factors principles. Examples include the use (wisely) of 2 in. long toggle switches which the disabled users found very convenient, the orientation of toggle switch motion exactly backward from the corresponding equipment motion, and good to bad selections of switch locations.

3.5.1.3. *Acceleration Standard.* The motion of the platform shall not subject the wheelchair occupant to lateral or vertical accelerations which are frightening, uncomfortable, or potentially dangerous.

3.5.1.4. *Acceleration Specification.* Lateral and vertical accelerations shall not exceed 0.3g during any operational motion of the lift in which a weight of 400 pounds (1780 N) is being raised, lowered, or moved horizontally.

Rationale. Accelerations imposed on the wheelchair occupant by the lifts evaluated were at a low level comparable to those experienced by high performance aircraft pilots or even automobile passengers involved in a minor collision. All lifts had vertical lift accelerations below 0.5g, and most were in the 0.1g to 0.3g range. The vertical lift acceleration problem is primarily one of comfort rather than danger, but a horizontal acceleration can possibly throw the wheelchair and occupant off the platform. It was seen in the evaluation of an early model of a lift that horizontal accelerations of the order of 0.5g to 0.6g were "very rough . . ." and that 1.0g was sufficient to cause the wheelchair, with an instrumented, 170 lb anthropometric dummy, to be thrown off the platform. The specification value of 0.3g was chosen as an upper limit of the comfort range for vertical accelerations and as a conservative upper limit for the protection of the wheelchair occupant.

3.5.1.5. *Platform Access Standard.* Ramps or steps over which the wheelchair must roll onto the platform shall not preclude ease of access.

3.5.1.6. *Platform Access Specification.* A ramp, if used, shall have a slope of not more than one (1) inch (2.54 cm) rise to six (6) inches (15.24 cm) of run and provided that the slope between front and rear wheels shall not exceed 1 inch in 12 inches. A step over which a wheelchair must roll to enter

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the platform shall have a vertical dimension of not more than ⅝ inch (15.9 mm) above the surface on which the platform rests.

Rationale. This specification is based on the ramp angle of 1 in 12 as specified in ANSI A117.1-1961 (R1971), Specification for making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped.(3) It was noted during the evaluations that the platforms on three of the lifts did have ramps and that two of these were of a greater angle than that specified. Also, the ramps were short, on the order of 3 in., which made the ramp more of a step to be rolled over. The ramps were not difficult to climb in an electric wheelchair, but did give the occupant a jolt when the wheels contacted the ramp. Access was much more difficult for those persons using manual wheelchairs.

The maximum step height of ⅝ in. was not found documented in the literature but was determined by a series of subjective tests of attempting to roll a manual wheelchair, with 8 in. hard rubber front wheels, over steps of ⅜ in., ½ in., ⅝ in., and ¾ in. height.

3.5.1.7. *Tests.*

3.5.1.7.1. *Control Inspection Test.* Inspection of controls in accordance with the principles and recommendations in the referenced volume (section 3.5.1.2.).

3.5.1.7.2. *Acceleration Test.* Accelerations will be measured by means of accelerometers in the head or chest cavity of an anthropometric dummy which is seated in a wheelchair on the platform. The wheelchair and dummy weight will be supplemented to a total weight of 400 pounds (1780 N). Accelerometer readings will be taken for all lift motions on which an occupant is carried.

3.5.1.7.3. *Slope Dimension Test.* The empty platform will be lowered to the ground position with the ramp, if any, at its entry/exit position. Linear measurements of rise and run will be made. Likewise, any step over which the wheelchair must roll will be measured.

3.5.2. *Constraints.*

3.5.2.1. The manufacturer shall specify in writing to prospective purchaser prior to purchase any type of wheelchair or specific physical handicap which hinders effective use of his lift.

3.5.2.2. The manufacturer shall specify in writing to prospective purchaser prior to purchase any factors such as ambient air temperature, rain, low battery voltage, and street slope which would hinder the designed operation of the lift.

Rationale. As might be expected, very little of current advertising of lifts relates to the constraints in using the lift. The positive rather than the negative aspects are usually emphasized. The intent of this section of the standard is to encourage the manufacturer to fully inform potential purchasers concerning lift operation so a more intelligent purchasing decision can be made.

3.5.3. *Operating Instruction Manual.* The manufacturer shall provide to the purchaser a manual of instructions concerning the proper use and operation of the lift. The instructions shall address at least the following areas: general operation, preferred entry/exist technique, operation of all controls and resulting platform movements, required user actions, actions (if any) which the user should not/must not take, warning of unusual noise, movements, or other fright-producing factors, and potential hazards. The instructions should be supplemented by photos and illustrations as necessary.

Rationale. The need for operating instructions is almost self-evident, even recognizing that many people do not read operating instructions provided with any piece of equipment. This section will prompt the manufacturer to give proper consideration to informing and warning the user about the operation of the lift.

3.5.3.1. *Visual Inspection.* A visual inspection shall be made as to the inclusion of the required Operating Instructions and the suitability of the contents.

3.6. *Standards for Product Safety.*

3.6.1. The requirements of ANSI B15.1-1972, Safety Standard for Mechanical Power Transmission Apparatus,(3) with respect to the safeguarding of (1) sources of mechanical power, (2) the associated and intermediate equipment, and (3) the driven components shall be applied in the design and manufacture of wheelchair lifts.

Rationale. Protection of wheelchair lift users and van occupants from the hazards of moving machinery is extremely important. The lifts evaluated had a variety of hazards (exposures); some were safeguarded and others were not. Some lifts may have to be redesigned in order to remove or to protect against machanical hazards.

3.6.2. The wheelchair lift operation shall be such that no movement of the whellchair is required during the raising or lowering of the platform.

Rationale. One lift evaluated and another one known to be on the market are designed such that the wheelchair must roll during the raising or lower of the platform. This motion requires a degree of attention, manual dexterity, and equilibrium that may not exist in paraplegics, and rarely exists in quadriplegics. The maximum physical action that shoud be expected of a lift user is the actuation of the lift control—typically a toggle switch.

3.6.3. The lift shall have an automatically operating device at the ground-to-platform entry/exist area, the purpose of which is to prevent the wheelchair and occupant from falling off the lift. The device shall conform to the following:

It shall be electrically or mechanically interlocked with the lift such that any time the platform is nominally horizontal and more than two (2) inches (5.08 cm) above the ground, the device will be effective.

It shall have the same effect on a rearward moving wheelchair as a lateral, fixed step which is three (3) inches (7.62 cm) high and perpendicular to the wheelchair ground plane and which can resist a distributed force of 1600 lb (7100 N) applied parallel to and three (3) inches (7.62 cm) above the wheelchair ground plane.

Rationale. Experience in industry and in consumer product usage has shown that safety devices must be designed into the equipment to ensure that they will be used. It is poor practice to expect the operator to use optional safety devices with regularity. An automatically operating roll preventing device is in this category; the lift user should not be given the option of using or not using it. As with safety devices on other equipment, the roll preventing device can be designed so that it does not interfere with normal use of the lift. In those lifts evaluated, there were five that had such devices and which functioned reasonably well. Two lifts had no roll preventing mechanism whatsoever, and two had manually operated devices.

The step height value of 3 in. was determined from a series of experiments in which an electric wheelchair (20 in. balloon tires) with a 170 lb occupant was operated rearward down a 5° ramp into a firmly attached vertical wood barrier of various heights. The wheelchair traveled 1 ft prior to striking the stop, at a velocity of approximately 3 fps as determined by other distance-time measurements. The chair rolled over 1½ in. and 2 in. stops but would not roll over a 3 in. or higher stop. The force value of 1600 lb was determined by analytical methods: writing and solving the equations of motion for the wheelchair and occupant moving down a 5° ramp and striking the stop at a velocity of 3.6 fps. The impulse ($F\Delta t$) of the wheelchair wheels on the stop of 3 in. height was calculated to be 13.55 lb-sec. Assuming a contact velocity of 3.6 fps and a zero velocity at a combined tire and stop deflection of 1 in., we get the average impact time as:

$$\Delta t = \frac{1/12 \text{ ft}}{\frac{3.6 - 0 \text{ ft/sec}}{2}} = 0.046 \text{ sec, say } 0.05 \text{ sec.}$$

The impulse $F\Delta t = 13.35$ lb-sec can be solved to yield

$$F = \frac{13.35 \text{ lb-sec}}{0.05 \text{ sec}} = 267 \text{ lb.}$$

Applying the factor of safety of 6 gives F=1602, which is rounded to 1600 lb.

3.6.4. Limit devices or methods shall be employed to ensure that the platform ceased movement at the desired position as required by the design. As a minimum, the floor level position of the platform shall be positively controlled such that the wheelchair does not have to roll over a step greater than ⅝ inch (15.9 mm) in height. Ground and stowage positions of the platform should be controlled as necessary to prevent equipment damage.

Rationale. The need for limit devices is closely related to the need for a roll-preventer, previously discussed. On the folding-platform lifts, it is very important from the safety standpoint to ensure that the platform, when being raised from ground level, automatically stops at the floor level, thereby allowing the wheelchair to be rolled into the van. If the platform does not stop, it may begin its folding action, which could cause the wheelchair occupant to fall forward into the van. Other limit devices are highly desirable, but their employment depends upon the lift design. For example, there is no need for a limit switch to open the DOWN circuit of a gravity-type hydraulic lift.

3.6.5. During those portions of the raise/lower cycle in which the platform is nominally horizontal, any openings in the platform shall reject a ¾ inch (19.1 mm) diameter metal ball.

Rationale. The hard rubber caster wheels of wheelchairs vary in tread width from ⅞ in. to approximately 1¼ in. In the evaluations it was noted that some lift platforms had openings of such dimensions that the smaller tread tires could fall through, or at least become wedged. The Speedy Wagon and Para lifts have a slot of approximately 1 in. wide running the full width of the platform and located at the roll-stop area. The Ricon platform has a very coarse expanded metal grating which prevents proper wheel castering action. The implications of a wheel falling through a slot is obvious, and the inconvenience of difficult wheelchair movements makes Section 3.6.5. a firm requirement.

3.6.6. The wheelchair lift system shall be free of sharp edged and jagged projections, thereby minimizing minor injuries and damage to clothing of lift users and vehicle passengers.

Rationale. This requirement is necessary to ensure that manufacturers remove sharp edges and projections. There were some very obvious examples of inattention to this type exposure on some lifts.

3.6.7. The wheelchair lift platform surface shall be of a slip resistant type material to provide adequate tire-platform traction.

Rationale. Slip resistant surfaces are considered mandatory because of the slight ramp angle allowed by section 3.4.3. It is reasonable to expect that lifts will be used in wet weather which could cause the platform to become slippery. A slip resistant surface will negate problems resulting from such conditions.

3.6.8. Federal Motor Vehicle Safety Standard No. 302, Flammability of Interior Materials, (27) shall apply to nonmetallic components such as protective coverings, housings, and paddings.

Rationale. This requirement refers to those non-metallic materials used on some lifts which were evaluated. There were very few such materials, but with the requirement for safeguards, for electrical component packaging, and suggestions concerning dirty surfaces, this requirement will become more significant.

3.6.9. *Tests.*

3.6.9.1. *Occupant Hazards Test.* The fully assembled and installed wheelchair lift shall be carefully inspected with regard to safeguards, sharp edges, projections, and dirty or greasy surfaces with which the occupant might come in contact during normal operation of the lift.

3.6.9.2. *Slip Resistance Test.* The wheelchair platform shall be inspected for utilization of slip-resistant surfaces on which the wheelchair rolls. Slip-resistant characteristics will be observed in these cases when the platform is at ground and at floor level: occupant in manual wheelchair onto/off of dry and wet platform; occupant in electric wheelchair onto/off of dry and wet platform.

3.6.9.3. *Platform Opening Test.* The platform will be positioned at ground level and at van floor level, and all openings therein will be tested with a metal ball of ¾ inch (19.1 mm) diameter for oversize dimensions.

3.6.9.4. *Operational Safety Test.* The fully assembled and installed wheelchair lift shall be operated by both able-bodied and disabled persons, in the manner specified in the Operating Instructions, and observations made as to whether the lift can be operated safely, with minimum potential to injury. Observation shall be made as to a requirement for an on-platform turning movement of the wheelchair. Observations shall be made of the floor level stop position as to safe entry/exit of the wheelchair into/out of the van.

3.6.9.5. *Wheelchair Retaining Test.* Test equipment will be constructed to fit each wheelchair retaining device. The equipment will apply a static load of 1600 pounds at a height of three (3) inches above and parallel to the wheelchair ground plane, evenly distributed over the full width of the roll stop device. The load will be applied for at least five (5) seconds with the lift platform at the van floor level and also will be applied as the wheelchair ground plane moves down (or up). A load of 400 pounds will be on the lift during the test if the wheelchair retaining operation is dependent on such a load for its proper operation.

4.0. *Installation and Maintenance of Wheelchair Lift Systems.*

4.1. *Installation.*

4.1.1. *Installing Agency.* The manufacturer shall specify, when advertising or otherwise promoting his wheelchair lift, whether the lift must be factory or distributor installed or whether it can be installed by an individual or agency of the purchaser's choice.

Rationale. It is known from the experience gained in purchasing and receiving the lifts for evaluation that some manufacturers sell and install lifts only through distributors, others install at the factory, and yet others may have no preference who or what agency installs their lift. The manufacturer, for his own protection, should be allowed to specify the conditions under which he will sell and install the lift. In either case, the consumer should be informed, and this section is included for that reason.

4.1.2. *Method of Installation.*

4.1.2.1. *Standard.* Manufacturers shall specify the appropriate method of installation for the complete wheelchair lift system.

4.1.2.2. *Installation Manual Specification.* Wheelchair lifts which are identified as suitable for installation by an individual or agency of the purchaser's choice shall be accompanied by an Installation Manual which shall contain written and graphic instructions for installing the lift and shall contain specific installation information relative to the make, year, and type of van for which the lift is suited. The manual should be written at a technical level comparable to an automotive service manual.

4.1.2.3. *Installation Hardware Specification.* Wheelchair lifts distributed for installation shall be accompanied by all necessary installation hardware for the vehicle on which the lift is to be installed.

Rationale. Regardless of the agency selected for installation of lifts, the manufacturer must provide the instructions and hardware to ensure that the task can be performed properly. This effort protects the manufacturer from potential product failures, adverse reputation, and perhaps litigation. It also provides the purchaser with sufficient information to determine if a quality installation has been performed.

4.1.2.4. *Visual Inspection.* A visual inspection will be made as to the inclusion of required Installation Manual and the suitability of its contents and of the existence of the necessary installation hardware.

4.1.3. *Certified Installation.* The VA strongly urges that installation be accomplished by experienced technicians who have familiarized themselves with lift systems. The individual or agency who does the installation should certify in writing to the user/owner that the lift installation is complete and done according to the manufacturer's instructions.

4.2. *Maintenance.*

4.2.1. *Standard.* The manufacturer shall specify user/owner maintenance to be performed and make adequate provision in the design for the performing of such maintenance.

4.2.2. *Repair Parts.* The manufacturer shall develop and maintain an appropriate stock level of repair or replacement parts. Appropriate records related to purchased parts shall be maintained. Repair parts shall be available for purchase.

4.2.3. *Maintenance Manual Specification.* The manufacturer shall provide to the purchaser a manual of instructions concerning required maintenance to be performed by the user/owner. The maintenance instructions shall address at least the following areas: theory of operation, lubrication (types, location, and frequency), fluids (types, levels, and frequency of checking), adjustments (function, location, and method), calibration and alignment procedures, trouble-shooting (possible failures and required corrective action), parts lists, components requiring special attention, definitions and measurements to determine excessive wear, and name, address, and telephone number of the manufacturer or his representative.

Rationale. Owner/operator performed maintenance is likely to be the only maintenance that many lifts will receive until the manufacturers further develop their distributor-owner relationships. In order for this maintenance to be accomplished, the manufacturer must prescribe it in terms of those items listed. In the lift evaluations, as in other aspects, there was a wide variety of maintenance instructions ranging from none to adequate.

4.2.4. *Documentation Specification.* The manufacturer shall provide to the purchaser all electrical and hydraulic schematic diagrams necessary to properly maintain and repair the lift. These diagrams shall include wiring diagrams, component layout, parts lists, and applicable test and calibration points. A list of authorized distributors or service agencies shall be provided.

4.2.5. *Tool Specification.* The manufacturer shall design and fabricate a lift such that the tools needed for the required user/owner maintenance are of the standard, readily available type, e.g., adjustable, end, or socket wrenches for bolt heads equal to or less than ¾ inch (20 mm, nominal), slot-type screwdriver, phillips-type screwdriver.

Rationale. During the performance of maintenance on the lifts undergoing accelerated life cycle tests, it was very evident that some manufacturers were not concerned about the availablity of proper maintenance tools. If tools other than standard, readily available types are required, it can be expected that maintenance will not be done—to the detriment of the equipment, and perhaps to the bodily harm of the lift user.

4.2.6. *Accessibility Specification.* The manufacturer shall design and fabricate his lift such that parts requiring owner/operator maintenance are readily accessible without major disassembly or use of special tools.

Rationale. This requirement is necessary because of the examples of inaccessible maintenance components seen on the evaluated lifts. For example, one lift had a grease fitting "looking" directly at a structural member approximately ½ in. away. Another lift had a housing around the gear drive unit, which was good protection from moving parts, but a special screwdriver was needed to remove the housing in order to check the grease level. One hydraulic lift had a horizontal fluid filler fitting, requiring a long flexible funnel to avoid spills. A thorough maintainability analysis by the manufacturers would help to eliminate such situations.

4.2.7. *Tests.*

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4.2.7.1. *Visual Inspection.* A visual inspection shall be made to determine the inclusion of a Maintenance Manual and its compliance with Section 4.2.3. and of the inclusion of documentation as required by Section 4.2.4.

4.2.7.2. *Maintainability Test.* The maintenance procedure prescribed by the manufacturer shall be performed to ascertain compliance with Sections 4.2.5. and 4.2.6.

5.0. *Identification and Inspection by the Manufacturer.*

5.1 *Identification.* Each lift manufactured for sale shall bear a model number, a serial number, and the name and address of the manufacturer. This identification may be engraved or placed on a permanently affixed tag which will remain visible after lift installation in the vehicle.

Rationale. Identification of consumer products and industrial equipment is a common practice and should be applied to wheelchair lifts. Such an identification system will not only aid the lift owner in contacting the manufacturer in the event of product failure, but will also aid the manufacturer in many ways: retrofitting (if necessary), design change identification, component traceability, and others.

5.2. *Manufacturing Inspection.* In view of the implied seriousness of in-service failures, quality control inspections made by the manufacturer shall be 100 percent on every lift which is commercially sold. Evidence of quality assurance shall be included with every lift sold and can be in the form of a seal, inspection stamp, tag, or any other legible identification. Uninspected lifts shall be returned to the manufacturer.

Rationale. It is imperative that manufacturers carefully conduct quality control inspections on their lifts. The procedure and timing for conducting the inspections must be developed by the manufacturers and while there is no effective way to test compliance with this section, the requirement of the inspector's tag will help to force recognition of this essential program.

5.3. *Warranty.* A statement of warranty shall be provided with each lift device assuring the quality of materials and workmanship of the product for at least one (1) year from the date of delivery to final consumer. The warranty shall state that if defects are found during the warranty period, the device will be repaired, replaced, or a refund made by the seller or his authorized agent.

Rationale. The one-year warranty is comparable to that of many other consumer products. Having such a warranty will encourage manufacturers to improve their designs, require high quality from component manufacturers, and improve the overall quality of their product.

5.4. *Claims Made.* Advertising literature shall reveal the adaptive equipment manufacturer's name and address. All claims of approval by private groups, local, state or federal government shall be specific as to the approving agency and the acceptance test protocol. Such claims shall be documentable on request. Furthermore, all claims of scientific merit shall be clearly stated and documentable on request.

Rationale. It is well known that advertising claims are sometimes more self-laudatory than true. This requirement concerning claims is intended to protect the VA and the public from claims of approvals or performance which cannot be substantiated.

5.5. *Liability Claims.* Although lifts may be certified by the VA as having conformed to the requirement of this standard, the VA assumes no liability for any claim arising from the use of the lift.

Rationale. This disclaimer statement is inserted as a protective measure against claims primarily from non-veteran users.

5.6. *Annual Inspection.* In the interest of long-term safety, the VA recommends an annual inspection of all wheelchair access systems. The inspection should include checks for wear, deterioration, proper adjustment, loose fasteners, etc. as well as a performance test. The manufacturer is urged to include annual inspections in the maintenance procedure and to encourage such inspections by proper support to distributors and/or installing agencies.

Rationale. This statement is not intended as a requirement but is included to urge the manufacturer to prescribe such inspections in his maintenance prodecure and to assist distributors/installers as necessary to conduct the inspections.

5.7. *Visual Inspection.* Each lift shall be inspected for the inclusion of the required identification tag, evidence of manufacturer's quality control inspection, and for inclusion of the required Warranty Statement.

6.0. *Test Procedures.* This section brings together under one heading all tests specified in the standard and in the approximate sequence of testing.

3.1.12.1. *Receiving Inspection Test.* A receiving inspection shall be conducted and shall include:

a. Weighing the wheelchair lift.

b. Assessment of installation method and required vehicle alterations.

c. Assessment of battery power supply, connections, and charging method.

3.1.12.2. *Dimensional Test.* Upon installation of the lift on a test fixture according to manufacturer's instructions, measurements will be taken to determine compliance with dimensional requirements of Section 3.1.10.

3.3.2.6.2. *Water Spray Test.* The exposed portions of electrical components intended for installation external to the vehicle will be subjected to a five minute, fine droplet water spray test in which the droplets contact the components both vertically and horizontally. The wetted components will be allowed to air dry for approximately three (3) minutes and then the circuits will be electrically checked for successful operation.

3.3.2.6.3. *Electrical Current Test.* Electrical current flow will be measured for each lift movement. The ammeter used will be of laboratory quality with appropriate shunts. Only steady-state current, ignoring momentary surges, will be recorded.

3.4.1.1. *Weldment Test.* A close visual inspection shall be made of all welds to detect (1) structural flaws such as undercutting, cracking, poor penetration, and surface defects, and (2) dimensional flaws such as warpage, incorrect weld size or profile, and incorrect joint separation. Other nondestructive testing using radiographic, ultrasonic, dye penetrant, or other methods may be conducted if deemed necessary by the testing agency. Significant defects shall disqualify the lift from acceptance.

3.4.3.2. *Platform Angle Test.* The lift shall be installed on a rigid structure. Measurements shall be taken to determine the lift platform angle at the van floor position.

3.4.4.3. *Finish Coating Test.* An inspection of the coating shall be made to include, but not be limited to, overall appearance and existence of a dull, matte surface finish. Measurements of film thickness shall be made in at least three locations using a dial comparator or dial indicator as described in ASTM D 1005-51 (R1972), Measurement of Dry Film Thickness of Organic coatings.(*20*) A subjective evaluation of coating adherence will be obtained in at least three locations as follows: use a machinist's scribe to scribe a single line approximately one inch long with sufficient force to penetrate to the base metal. Lay on a strip of transparent mending tape and burnish the scribed area for approximately 15 seconds with a smooth-ended metal tool. Pull the tape off with a quick, perpendicular motion. A very thin line of coating particles is indication of good adhesion. Upon completion of the Accelerated Life Cycle Test, Section 3.3.1.3.1. and the Operational Safety Test, Section 3.6.9.4., another inspection will be made to determine long-term wear and use characteristics of the coating.

3.5.1.7.1. *Control Inspection Test.* Inspection of controls in accordance with principles and recommendations in the referenced volume (Section 3.5.1.2.).

3.5.1.7.2. *Acceleration Test.* Accelerations will be measured by means of accelerometers in the head or chest cavity of an anthropometric dummy which is seated in a wheelchair on the platform. The wheelchair and dummy weight will be supplemented to a total weight of 400 pounds (1760 N). Accelerometer readings will be taken for all lift motions on which an occupant is carried.

3.5.1.7.3. *Slope Dimension Test.* The empty platform will be lowered to the ground position with the ramp, if any, at its entry/exit position. Linear measurements of rise and run will be made. Likewise, any step over which the wheelchair must roll will be measured.

3.5.3.1. *Visual Inspection.* A visual inspection shall be made as to the inclusion of the required Operating Instructions and the suitability of the contents.

3.6.9.1. *Occupant Hazards Test.* The fully assembled and installed wheelchair lift shall be carefully inspected with regard to safeguards, sharp edges, projections, and dirty or greasy surfaces with which the occupant might come in contact during normal operation of the lift.

3.6.9.2. *Slip Resistance Test.* The wheelchair platform shall be inspected for utilization of slip-resistant surfaces on which the wheelchair rolls. Slip-resistant characteristics will be observed in these cases when the platform is at ground and at floor level: occupant in manual wheelchair onto/off of dry and wet platform; occupant in electric wheelchair onto/off of dry and wet platform.

3.6.9.3. *Platform Opening Test.* The platform will be positioned at ground level and at van floor level, and all openings therein will be tested with a metal ball of ¾ inch (19.1 mm) diameter for oversize dimensions.

3.6.9.4. *Operational Safety Test.* The fully assembled and installed wheelchair lift shall be operated by both ablebodied and disabled persons, in the manner specified in the Operating Instructions, and observations made as to whether the lift can be operated safely, with minimum potential to injury. Observation shall be made as to a requirement for an on-platform turning movement of the wheelchair. Observations shall be made of the floor level stop position as to safe entry/exit of the wheelchair into/out of the van.

3.6.9.5. *Wheelchair Retaining Test.* Test equipment will be constructed to fit each wheelchair retaining device. The equipment will apply a static load of 1600 pounds at a height of three (3) inches above and parallel to the wheelchair ground plane, evenly distributed over the full width of the roll stop device. The load will be applied for at least five (5) seconds with the lift platform at the van floor level and also will be applied as the wheelchair ground plane moves down (or up). A load of 400 pounds will be on the lift during the test if the wheelchair retaining operation is dependent on such a load for its proper operation.

4.1.2.4. *Visual Inspection.* A visual inspection will be made as to the inclusion of required Installation Manual and the suitability of its contents and of the existence of the necessary installation hardware.

4.2.7.1. *Visual Inspection.* A visual inspection shall be made to determine the inclusion of a Maintenance Manual and its compliance with Section 4.2.3. and of the inclusion of documentation as required by Section 4.2.4.

4.2.7.2. *Maintainability Test.* The maintenance procedure prescribed by the manufacturer shall be performed to ascertain compliance with Sections 4.2.5. and 4.2.6.

5.7. *Visual Inspection.* Each lift shall be inspected for the inclusion of the required identification tag, evidence of manufacturer's quality control inspection, and for inclusion of the required Warranty Statement.

3.3.1.3.1. *Accelerated Life Cycle Test.* An accelerated life cycle test will be performed by repeating the wheelchair lift use cycle 4400 times. The time between each cycle shall be not less than six minutes. Ambient temperature shall be between 50° F and 90° F (10° C and 32° C). Alternating cycles of loaded and unloaded platform configuration will be simulated by applying a 400 pound (1780 N) load for 100 cycles, then removing the load for 100 cycles. Periodic visual inspection without disassembly of the lift will be made in intervals of 500 cycles and changes in alignment, component wear, loosening of fasteners, and the like will be recorded. Failure mode analyses will be performed and a decision will be made based on those analyses. Preventive maintenance will be performed in accordance with the manufacturer's instructions.

3.3.2.6.1. *General Electrical Test.* Electrical components and wiring shall be considered integral parts of the lift system and shall be tested for failures during the performance of Accelerated Life Cycle Testing, Section 3.3.1.3. Any failure or any hazardous condition caused by an electrical component during testing shall disqualify the entire system from acceptance.

3.3.3.2. *Chain Drive Test.* Chain drive components shall be considered integral parts of the lift, and shall be tested for failures during the performance of the Accelerated Life Cycle Test, Section 3.3.1.3., and inspected for conformance to the above standards. Discrepancies in conformance or failures during the test shall disqualify the lift from acceptance.

3.3.4.3. *Hydraulic Components Test.* Hydraulic components shall be considered integral parts of the wheelchair lift and shall be tested for failures during the performance of the Accelerated Life Cycle Test, Section 3.3.1.3. Any failures, including significant leaks, shall disqualify the lift from acceptance. A significant leak is defined as seepage or leakage which produces one or more droplets (e.g., a teardrop, approximately 0.1 cc) in ten (10) complete cycles of the wheelchair lift.

3.3.5.4. *Wire Rope System Test.* An inspection of the wire rope system shall be made and shall include measurement of the nominal diameters of rope, sheaves, and drum. The fleet angle between the lead sheave and drum and between sheaves at all platform positions shall be measured. Attachments and fittings shall be inspected for conformance to Section 3.3.5.3. The travel of the rope during all lift movements shall be followed to observe possible rope contact with structural members.

3.4.2.3. *Fastener Tests and Inspection.* Fasteners shall be considered as integral parts of the lift system and shall be tested for wear, integrity, and resistance to loosening or loss through vibration or use conditions. Such testing and inspection will be done during the Accelerated Life Cycle Test, Section 3.3.1.3.1.

3.3.6.5. *Power Screw Tests.* The threads on the power screw shall be inspected to ensure that Acme screw threads (or equivalent) are used and that the system transmits power in both directions.

3.3.1.3.2. *Static Load Test.* A static load of 2400 pounds (10676 N) shall be applied through the centroid of a test pallet placed at the centroid of the platform when the platform is positioned at van floor level. The length and width dimensions of the test pallet shall be 23" length ×24" width to correspond to the approximate outer dimensions of a wheelchair "footprint". The load shall remain on the platform not less than two (2) minutes. After the load is removed, an inspection shall be made to determine if fractures have occurred. An equivalent test shall be performed on lifts which do not have a platform. The Static Load Test shall be performed after the Accelerated Life Cycle Test.

APPENDIX 1

METRICATION

The use of SI (metric) units is in conformance with SAE J916a, Rules for SAE Use of SI (Metric) Units. Examples of conversion to SI units are given below.

1. From Section 3.1.3., related to lift speed of four (4) inches per second. Convert to centimetres per second (cm/s).

a. Estimate the implied precision of the value to be ±0.1 inch per second. Then Total Implied Precision (TIP)=0.2 inch per second.

b. Convert values to metric units

$$\frac{4 \text{ inches}}{\text{sec}} \times \frac{2.54 \text{ cm}}{\text{inch}} = 10.16 \text{ cm/s}$$

$$\frac{0.2 \text{ inch}}{\text{sec}} \times \frac{2.54 \text{ cm}}{\text{inch}} = 0.508 \text{ cm/s}$$

c. Choose the smallest number of decimals to retain, such that the last digit retained is in units equal to or smaller than the converted TIP. In this example use 0.1 cm/s since it is the next unit smaller than 0.508 cm/s.

d. The converted, rounded value is then given as 10.2 cm/s.

2. From Section 3.1.7., related to a weight of 275 lb. Convert to newtons (N).

a. Estimate implied precision as ±5 lb. Then TIP=10 lb.

Convert values to metric

$$275 \text{ lb} \times \frac{4.448222 \text{ Newtons}}{\text{lb}} = 1223.26105 \text{ N}$$

$$10 \text{ lb} \times \frac{4.448222 \text{ N}}{\text{lb}} = 44.48222 \text{ N}$$

c. Use 10 N for rounding.

d. Then 275 lb=1220 N.

APPENDIX 2

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Fig. 1 – Size requirements, typical folding platform lift.

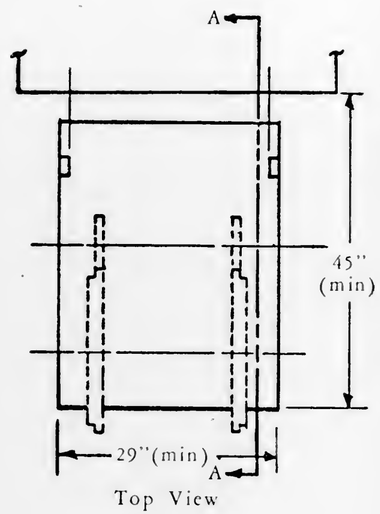


Fig. 1

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Fig. 2 – Size requirements, typical swing-in platform lift.

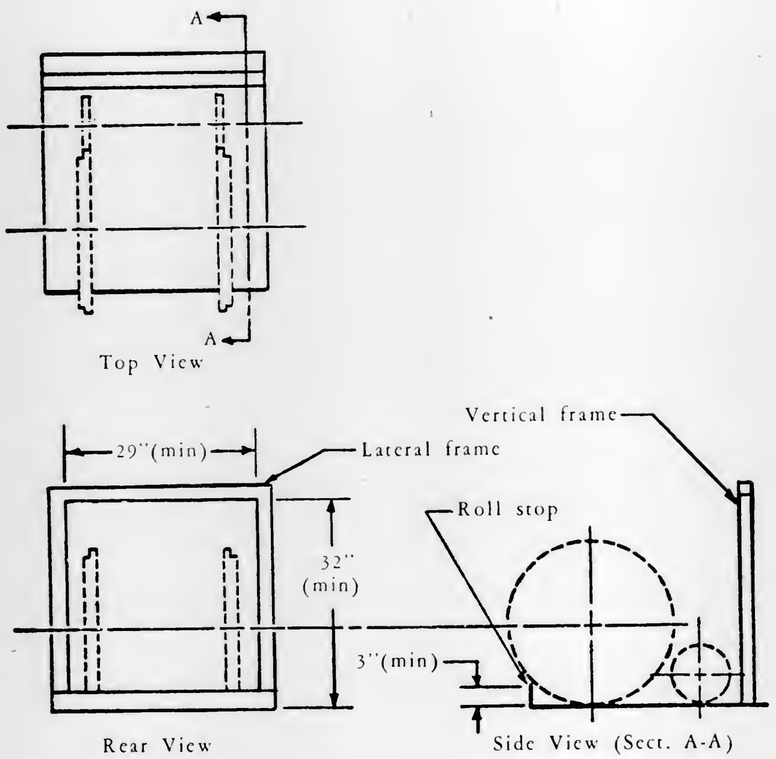


Fig. 2

[FR Doc. 78-13413 Filed 5-16-78; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

[Notice No. 661]

ASSIGNMENT OF HEARINGS

MAY 12, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 120981 (Sub-No. 24), Bestway Express, Inc., now assigned June 5, 1978, at Frankfort, Ky., is canceled; application dismissed.

I & S M 29772, General Increase S.M.C.R.C., April, 1978, now being assigned June 26, 1978, at Washington, D.C., at the office of the Interstate Commerce Commission.

No. MC 125433 (Sub-No. 139), F-B Truck Line Co., is now assigned for prehearing conference June 26, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 144188, P. L. Lawton, Inc., is now assigned for hearing June 28, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 142760 (Sub-No. 1), Data Processing Maintenance, Inc., d.b.a. Luxury Coaches, is now assigned for hearing July 19, 1978 (3 days), at Houston, Tex., at a location to be later designated.

No. MC 53965 (Sub-No. 133), Graves Truck Line, Inc., is now assigned for hearing July 24, 1978 (1 week), at Oklahoma City, Okla. at a location to be later designated.

No. MC 114211 (Sub-No. 344F), Warren Transport, Inc., is now assigned for hearing June 8, 1978 (2 days), in Room 235, Federal Building, 85 Marconi Boulevard, Columbus, Ohio.

AB 10 (Sub-No. 6), Wabash Railroad Co. and Norfolk & Western Railway Co., abandonment between Fairbury and Clay in Livingston County, Ill., now assigned June 26, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. MC 120436 (Sub-No. 2), Nussbaum Trucking, Inc., now assigned June 13, 1978, and continued to June 28, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street, on both hearing dates.

No. MC 51146 (Sub-No. 534), Schneider Transport, Inc., and MC 136786 (Sub-No. 132F), Robco Transportation, Inc., now being assigned August 15, 1978, at the Offices of the Interstate Commerce Commission in Washington, D.C.

No. MC 143568 (Sub-No. 2), Simmons Trucking, Inc., now assigned June 1, 1978, at Jefferson City, Mo., will be held in Room 201, Governor's Hotel.

AB 7 (Sub-No. 37), Chicago, Milwaukee, St. Paul & Pacific Railroad Co., abandonment near Sparta and Viroqua, in Monroe and Vernon Counties, Wis., now assigned June 5, 1978, at Viroqua, Wis., will be held in the Circuit Court, Courtroom.

No. MC 138882 (Sub-No. 14), Wiley Sanders, Inc., now assigned June 6, 1978, at Nashville, Tenn., will be held in Room A-440, U.S. Courthouse, 801 Broadway.

No. MC 143621, Tennessee Steel Haulers, Inc., now assigned for continued hearing June 7, 1978, at Nashville, Tenn., will be held in Room A-440, U.S. Courthouse, 801 Broadway.

No. MC 143691, Pony Express Courier Corp., now assigned June 12, 1978, at Nashville, Tenn., will be held in Room A-440, U.S. Courthouse, 801 Broadway.

No. MC 118159 (Sub-No. 223), National Refrigerated Transport, Inc., now assigned June 26, 1978, at Louisville, Ky., will be held in Room 635, Post Office Building, Sixth and Broadway.

No. MC 116915 (Sub-No. 36), Eck Miller Transportation Corp., now assigned June 27, 1978, at Louisville, Ky., will be held in Room 635, Post Office Building, Sixth and Broadway.

No. MC 118610 (Sub-No. 28), George Parr Trucking Service, Inc., now assigned June 28, 1978, at Louisville, Ky., will be held in Room 635, Post Office Building, Sixth and Broadway.

No. MC 60014 (Sub-No. 51), Aero Trucking, Inc., now assigned June 29, 1978, at Louisville, Ky., will be held in Room 635, Post Office Building, Sixth and Broadway.

No. MC 116254 (Sub-No. 188), Chem-Haulers, Inc., now assigned June 30, 1978, at Louisville, Ky., will be held in Room 635, Post Office Building, Sixth and Broadway.

No. MC 720 (Sub-No. 36), Bird Trucking Co., Inc., is assigned for hearing June 6, 1978, at Madison, Wis., and will be held at Room 125, CI Conference Room, U.S. Forest Products Laboratory.

No. MC 110683 (Sub-No. 122), Smith's Transfer Corp., is assigned for hearing June 27, 1978, at Indianapolis, Ind., and will be held at Room 402, Old Federal Building, 46 East Ohio Street.

No. MC 123061 (Sub-No. 92), Leatham Brothers, Inc., is assigned for hearing June 5, 1978, at Portland, Oreg., and will be held at Room 103, Pioneer Courthouse, 555 West Yamhill Street.

No. MC 52680 (Sub-No. 3), T. W. Express of Indiana, Inc., is assigned for hearing June 5, 1978, at Indianapolis, Ind., and will be held at Room 402, Federal Building, 575 North Pennsylvania.

No. MC 32779 (Sub-No. 13), Silver Eagle Co., now being assigned June 20, 1978 (6 days), for continued hearing at Olympia, Wash., and will be held at the Greenwood Inn, 2300 Upper Green Park Drive.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13437 Filed 5-16-78; 8:45 am]

[7035-01]

[Exception No. 6 to Corrected Service Order No. 1304]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

MAY 12, 1978.

The Chicago, Rock Island and Pacific Railroad Co. (RI) is acquiring an additional 500 jumbo covered hopper cars all of which will be delivered prior to May 31, 1978. When the delivery is completed the RI will own 5,210 such cars. The RI has requested authority to place seventy-five (75) of these new cars in unit-grain-train service. The remaining 425 new cars will be used to augment its supply of jumbo covered hoppers available to other shippers. The addition of these 500 cars to the RI's ownership of such cars and the use of seventy-five (75) of them for unit-grain-train service will reduce that carrier's ratio of jumbo covered hoppers in unit-grain-train service from 18.2 percent of ownership to 17.9 percent of ownership.

It is ordered, That, pursuant to the authority vested in the Railroad Service Board by Section (a)(6) of Corrected Service Order No. 1304, the Chicago, Rock Island and Pacific Railroad Co. is authorized to place seventy-five (75) newly acquired jumbo covered hopper cars in unit-grain-train service regardless of the provisions of Section (a)(5) of the order.

By the Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

Effective May 5, 1978.

Issued at Washington, D.C., May 5, 1978.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-13440 Filed 5-16-78; 8:45 am]

[7035-01]

[Notice No. 76]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 12, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized repre-

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sentative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 32050 (Sub-No. 4TA), filed April 14, 1978. Applicant: J. MITCHELL TRUCKING CO., INC., 115 Claremont Avenue, Colonia, NJ 07067. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine and Table Sauces* in controlled temperature vehicles, from Baltimore City, MD, to CT, DE, IL, IN, KY, ME, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. H. Filbert, Inc., 3701 Southwestern Boulevard, Baltimore, MD 21229. Send protests to: Robert E. Johnston, District Supervisor, 9 Clinton Street, Newark, NJ 07102. For 180 days.

No. MC 63417 (Sub-No. 149TA), filed April 12, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, iron or steel*, from Canton, MS, to points in IL, IN, KY, MI, NC, OH, PA, SC, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Inland Steel Container Co., Chicago, IL 60658. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

No. MC 63417 (Sub-No. 150TA), filed April 12, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials, mineral wool*, from the facilities of Rock Wool Manufacturing Co., Leeds, AL, to points in FL west of the Appalachicola River, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rock Wool Manufacturing Co., Birmingham, AL 35205. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

No. MC 63417 (Sub-No. 151TA), filed April 12, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbers goods, vanities and vanity cabinets*, (1) from the facilities of Universal-Rundle, Inc., Union Point, GA, to points in DE, LA, MD, MS, and WV, and (2) from the facilities of Universal-Rundle, Inc., Monroe, GA, to points in AL, DE, FL, KY, LA, MD, MS, NC, SC, TN, VA and WV, for 180 days. Supportings shipper(s): Universal-Rundle Corp., New Castle, PA. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

No. MC 90870 (Sub-No. 6TA), filed April 12, 1978. Applicant: GLEN R. RIECHMANN, d.b.a. RIECHMANN TRUCK SERVICE, Route 2, Box 137, Alhambra, IL 62001. Applicant's representative: Cecil L. Goettsch, Attorney, 1100 Des Moines Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Inland Steel Company, East Chicago, IN to points in MO on and east of U.S. Hwy 65, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): W. A. Jerndt, Asst. Gen. Traffic Mgr., Inland Steel Co., 30 West Monroe, Chicago, IL 60603. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701

No. MC 96992 (Sub-No. 7TA), filed April 12, 1978. Applicant: HIGHWAY PIPELINE TRUCKING CO., P.O. Box 1517, Edinburg, TX 78539. Applicant's representative: Kenneth R. Hoffman, 1100 Milam Bldg., Suite 3300, Houston, TX 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen orange concentrate*, (except in bulk), from Weslaco, TX to Verona, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Valley Citrus Products, Inc., 1533 N. Texas Blvd., Weslaco, TX 78596. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400 Federal Building, 727 E. Durango Blvd., San Antonio, TX 78206.

Docket MC-103051 (Sub-No. 439TA), filed April 13, 1978. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North P.O. Box 90408, Nashville, TN 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Temporary authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes for 180 days, transporting: *Liginin sulfonate*, in bulk, in tank vehicles, from New Johnsonville, TN to Walnut Ridge, AR. Supporting shipper is: Frit Industries, Inc., 405 Joseph Dr, Ozark, AL 36360. Send protests to: Glanda Kuss, Transportation Assistant, Bureau of Operations, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

No. MC 108676 (Sub-No. 122TA), filed April 12, 1978. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Applicant's representative: William T. McManus (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated Flat Glass*, from the facilities of PPG Industries, Inc. at or near Fresno, CA to points in AZ, ID, OR, UT, and WA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: Glenda Kuss, Interstate Commerce Commission, Suite A422, Federal Building, U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 113678 (Sub-No. 751TA), filed April 12, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner, 4810 Pontiac Street, Commerce City, CO 80022, 303-287-3211. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk) from Espanola, NM, to points in the U.S. (except AL, HI, and NM), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Golden Temple Products, Inc., P.O. Box 3766, Fairview Station, Espanola, NM. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

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No. MC 113678 (Sub-No. 752TA), filed April 12, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same address as applicant), 303-287-3211. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat byproducts* (except commodities in bulk) from the facilities of Daack's Portion Products, from Ponca City, OK to Denver, CO, and Seneca, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Daak's Portion Products, Airport Road, Box 907, Ponca City, OK. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 114274 (Sub-No. 46TA), filed April 12, 1978. Applicant: VITALIS TRUCK LINES, INC., 137 Northeast 48th St. Place, Des Moines, IA 50306. Applicant's representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuff* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co. at or near Bettendorf, IA, to points in IL, IN, MI, OH, KY, MN, MO, NE, KS, and WI. Restricted to traffic originating at the named origin and destined to the named destination states, for 180 days. Supporting shipper(s): General Foods Corp., 250 North Street, White Plains, NY 10625. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Des Moines, IA 50309.

No. MC 114632 (Sub-No. 162TA), filed April 12, 1978. Applicant: APPLE LINES, INC., 212 Southwest Second St., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael L. Carter, 212 Southwest Second St., Madison, SD 57042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and exempt commodities* when moving in the same vehicle with frozen foods from the facilities of Empire Freezers of Syracuse, Inc. at or near Syracuse, NY to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Empire Freezers of Syracuse, Inc., Farrell Road, Syracuse, NY 13221, Charles A. Cleveland, Director of Sales and Customer Service. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 115654 (Sub-No. 92TA), filed April 17, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Ave. NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plantsite or facilities or Rich Products Corp. at or near Murfreesboro, TN to points in AL, GA, IL, IN, KY, LA, MS, MO, and OH. Supporting shipper: Rich Products Corp., Buffalo, NY. Send protests to: District Supervisor Joe J. Tate, Room A422, Federal Building, 801 Broadway, Nashville, TN. 37203. For 90 days.

No. MC 116175 (Sub-No. 9TA), filed April 12, 1978. Applicant: WILLIAM E. (BILLY) ONEY, d.b.a. WILLIAM E. ONEY, Route 7 Box 37, Kingsport, TN 37660. Applicant's representative: Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Livestock Feed* in bags and containers, from Louisville, KY, to Wise, Dickenson and Lee Counties, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (4) statements of support attached to the application which may be examined at the field office named below. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

No. MC 116497 (Sub-No. 5TA), filed April 12, 1978. Applicant: CLANCY BROS. TRANSPORTATION CO., INC., 84 Bengal Terrace, Rochester, NY 14610. Applicant's representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, 44 North Avenue, Webster, NY 14580, phone, 716-872-3535. Authority sought to operate as a *contract carrier*, by motor vehicle, over *irregular routes*, transporting: *Fresh hanging meats and boxed meats*, in vehicles equipped with mechanical refrigeration, from Rochester, NY to Miami, FL, under a continuing contract, or contracts with Rochester Independent Packer, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rochester Independent Packer, Inc., 11 Independence St., Rochester, NY 14611. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton St., Room 1259, Syracuse, NY 13260.

No. MC 119700 (Sub-No. 33TA), filed April 12, 1978. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Iron and steel articles* (1) from Gerald, MO, to points in AR, IL, IN, IA, KS, OH, OK, and MI; and (2) from MI to Gerald, MO, restricted to shipments originating at or destined to Bullmoose Tube Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bullmoose Tube Co., Highway 50, P.O. Box 214, Gerald, MO. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 126346 (Sub-No. 20TA), filed February 13, 1978, and published in the FEDERAL REGISTER issue of April 3, 1978, and republished as corrected this issue. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Applicant's representative: Daniel C. Sullivan, Singer & Sullivan, P.C. 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled material handling and construction equipment* (except self-propelled vehicles designed for transporting property or passengers on highways), *cranes*, and *hoisting equipment;* (2) *attachments, assemblies, sub-assemblies*, components and weldments for the commodities named in (1); (3) *parts* for the commodities named in (1) and (2), from the ports of entry at New York, NY; Baltimore, MD; Boston, MA; Charleston, SC; Cleveland, OH; Duluth, MN; Houston, TX; Milwaukee, WI; and New Orleans, LA; to points in the United States (except AK and HI), under a continuing contract or contracts with Drott Manufacturing, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Drott Manufacturing, Division of J. I. Case Co., P.O. Box 1087, Wausau, WI54401. Send protests to: District Supervisor, Ronald A. Morken, Interstate Commerce Commission, 139 West Wilson Street, room

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202, Madison, WI 53703. The purpose of this republication is to correct the territorial description.

No. MC 135797 (Sub-No. 113TA), filed April 12, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Hwy 71, Lowell, AR 72745. Applicant's representative: Paul A. Maestri, P.O. Box 200, Lowell, AR 72745. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, rubber, and wire housewares products and display racks* from Wooster, OH to points in AZ, CA, CO, ID, IA, KS, MN, MO, MT, NE, NV, ND, OR, SD, UT, WA, and WY, for 180 days. Supporting shipper(s): Rubbermaid Inc., Home Products Division, 1147 Akron Road, Wooster, OH 44691. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 139495 (Sub-No. 330TA), filed March 20, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, Sullivan, Dubin & Kingsley, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canoes* from Wichita, KS to USA, for 180 days. Supporting shipper: The Coleman Company, Inc., 250 North Street Francis, Wichita, KS 67201. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101A Litwin Building, 110 North Market, Wichita, KS 67202.

No. MC 139615 (Sub-No. 13TA), filed April 12, 1978. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 29, Oskaloosa, IA 52577. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery, implements, and equipment;* (2) *industrial and construction machinery and equipment;* (3) *irrigation equipment;* (4) *drainage systems;* (5) *stump cutters, log splitters, and log chippers;* (6) *tree spades;* and (7) *parts, attachments and accessories* for (1) through (6) above, from Pella, IA to points in WA, ID, UT, NV, AZ, NM, MI, AL, GA, FL, SC, NC, VT, NH, ME, MA, CT, RI, DE, DC, TN, and KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vermeer Manufacturing Co., P.O. Box 200, Pella, IA 50219. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 139615 (Sub-No. 14TA), filed April 12, 1978. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 29, Oskaloosa, IA 52577. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, hydrants, and materials and supplies* used in the installation thereof (except in bulk) from the plantsite of Clow Corp. located at or near Buckhannon, WV to Des Moines, IA and Carol Stream, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clow Corp., 1211 West 22nd Street, Oak Brook, IL 60521. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 142516 (Sub-No. 10TA), filed April 13, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, Kearny, NJ 07032. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier* over irregular routes, transporting: *Window glass*, from the port of Newark, NJ and the Port of New York, NY and its commercial zone, to Chicago, IL., under a continuing contract or contracts with Amworth, Industries Corp. and Jazel Corp. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Amworth Industries Corp., Jazel Corp., 42 Chasner Street, Hempstead, NY 11550. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 144246 (Sub-No. 3TA), filed April 12, 1978. Applicant: LARSEN TRUCKING, CO., 7703 Sunset Drive, Ralston, NE 68102. Applicant's representative: Kenneth P. Weiner, 608 Executive Building, Omaha, NE 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Fresh meats*, except commodities in bulk and hides. From Armour and Co. at Omaha, NE to St. Louis, MO and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Delbert W. Long, transportation manager, Armour & Co., 5025 South 33d Street, Omaha, NE 68107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 Number 14th Street, Omaha, NE 68102.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-13438 Filed 5-16-78; 8:45 am]

[7035-01]

[*Exception No. 5*—Corrected Service Order No. 1304]

VIRGINIA & MARYLAND RAILROAD

Waiver of Certain Provisions of Service Order

MAY 12, 1978.

Railroad Service Board, Members Joel E. Burns, Robert S. Turkington and John R. Michael.

The Virginia & Maryland Railroad (VAMD) has acquired 200 new jumbo covered hopper cars for use in unit-grain-trains originating on other railroads. That line originates little or no grain at stations on its line and, therefore, has no other immediate need for these cars.

It is ordered, That, pursuant to the authority vested in me by Section (a)(6) of Corrected Service Order No. 1304, the Virginia & Maryland Railroad is authorized to place two hundred (200) newly acquired jumbo covered hopper cars in unit-grain-train services regardless of the provisions of Section (a)(5) of the order.

Effective May 4, 1978.

Issued at Washington, D.C., May 4, 1978.

By the Board, member Joel E. Burns not participating.

Robert S. Turkington,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-13439 Filed 5-16-78; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 91-409), 5 U.S.C. 552b(e)(3).

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[6570-06]

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 11a.m. (eastern time), Friday, May 19, 1978.

PLACE: Chairman's Conference Room, No, 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Parts of the meeting will be open to the public and part will be closed.

MATTERS TO BE CONSIDERED: Parts open to the public.

1. Proposed report on "Improving Government Regulations," in compliance with Executive Order 12044.
2. Report by Executive Director on Commission Operations. Part Closed to the public.

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under Sec. 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977).

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued May 12, 1978
[S-1030 Filed 5-15-78; 3:35 pm]

[6712-01]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 18, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Portions open to the public:

Agenda, Item No., Subject

General—1—Amendment of Part 2 of the Commission's Rules to add a footnote to the table of frequency allocations (Docket No. 20154).
General—2—State of Washington Traffic Safety Commission's Request for experimental license to test anti-radar detector devices.
General—3—Ex parte communications in informal rule making proceedings.
Safety and Special Radio Services—1—Amendment of Parts 81 and 83 of the Commission's Rules assigning 156.875 MHz for use by pilots.
Safety and Special Radio Services—2—Federal policy on the use of Citizens Band Radio by motor vehicle operators.
Safety and Special Radio Services—3—Mutually exclusive applications for a Public Coast III-B frequency.
Common Carrier—1—Revisions to AT&T's Multi-schedule Private Line Tariff FCC No. 260, Transmittal No. 12927 and petition for reconsideration of the Commission's Order in Docket No. 20814, filed by MCI Telecommunications Corp.
Common Carrier—2—Order to show why the license of DPLMRS Station KV3501 should not be revoked or be subject to a forfeiture.
Common Carrier—3—Complaint of Department of Defense against AT&T (File No. TS 25-75).
Common Carrier—4—Applications to expand AT&T's Dataphone Digital Service (DDS) to serve a total of 96 cities, W-P-C 1420.
Cable Television—1—Application CAC-8852, filed by Cable Television Co. of Puerto Rico, to add WTCG-TV, Atlanta, Ga. to cable operations in San Juan, Puerto Rico.
Cable Television—2—Petitions for stay of effective date of order in Docket No. 19995 (Cable Television network nonduplication for significantly viewed signals).
Assignment of License and Transfer of Control—1—Assignment of licenses of stations WWJ-TV, Detroit, Mich. (BALCT-678) and WTOP-TV, Washington, D.C. (BALCT-677).
Renewal—1—Petition to deny renewal of WGRM, Greenwood, Miss.
Renewal—2—By Direction letters requiring certain California broadcast stations to submit periodic EEO progress reports.
Renewal—3—Renewal of Station WAIL, Baton Rouge, La.
Aural—1—Reconsideration of Commission action granting the application of Carroll E. Brock (Nevada County Broadcasters) for a new station in Grass Valley, Calif. (BP-20,079).
Television—1—Application (BPCT-5055) for a construction permit in Norfolk, Va. (Channel 33) filed by Television Corporation of Virginia.
Broadcast—1—Petition to require VHF-TV licensees to allow UHF-TV antennas on VHF-TV towers.
Broadcast—2—Petition for rule making to amend the TV table of assignments by reserving a VHF assignment in Los Angeles (RM-2806)
Complaints and Compliance—1—Violations by Southern Communications Corp. WCIR and WCIR-FM) of various Commission Rules.
Complaints and Compliance—2—Results of investigation into the affairs of WDAI-FM, Chicago, Ill.

Portions closed to the public:

Agenda, Item No., Subject

Complaints and Compliance—1—Results of investigation into the affairs of WACB, Kittanning, Pa.
Complaints and Compliance—2—Results of investigation into the affairs of WMOA and WMOA-FM, Marietta, Ohio.
Hearing—1—Appeal and exceptions to initial decision and related interlocutory matters in the Belo Broadcasting Corp./Maxwell Broadcasting Corp. comparative renewal hearing for WFAA(AM) and KZEW(FM) Dallas, Tex. (Docket Nos. 20945-8).
Hearing—2—Review of grant of Country-Politan Broadcasting's FM application (Docket Nos. 20343 and 20344).
Hearing—3—Reconsideration of Court of Appeals decision denying renewal of WLBB, Carrollton, Ga., Docket Nos. 19636-7.
Hearing—4—Motion to delete issue in the Burbank and Pasadena, Calif. KROQ and KROQ-FM comparative renewal proceeding (Docket Nos. 20629-31).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC, Public Information Office, telephone number 202-632-7260.

Issued: May 11, 1978.
[S-1031-78 Filed 5-15-78; 3:35 pm]

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[6712-01]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, May 19, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTER TO BE CONSIDERED: UHF TV receiver noise figures (Docket No. 21010).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone number 202-632-7260.

Issued: May 12, 1978.

[S-1032-78 Filed 5-15-78; 3:35 pm]

[6750-01]

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, May 18, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of proposed amendments to Rule 4.1(b) of the Commission's rules of practice concerning clearance of former employees to practice before the agency.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information: 202-523-3830; Recorded Message: 202-523-3806.

[S-1028-78 Filed 5-15-78; 10:28 am]

[7035-01]

5

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, May 16, 1978.

PLACE: Hearing Room "C".

STATUS: Open Regular Conference. Vice Chairman Christian will preside.

MATTERS TO BE CONSIDERED:

1. Briefing on Freight Subsidy Program (RSPO);
2. First Periodic Briefing on Betterment v. Depreciation Accounting (Accounts);
3. Quarterly abandonment briefing (Proceedings).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone, 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

MAY 12, 1978.

[S-1025 Filed 5-15-78; 10:28 am]

[4110-39]

6

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (S-958-78 Filed May 4, 1978; 10:12 a.m.) FR Vol. 43 No. 89, May 8, 1978.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

CHANCE IN TIME: 9 a.m.-2 p.m.

STATUS: Open to the Public. (May 19, 1978).

CHANGES IN MATTERS TO BE CONSIDERED:

1. Approve Minutes of March 17, 1978 (9 a.m.-9:05 a.m.).
2. Director's Report (9:05 a.m.-9:45 a.m.).
3. Report of NCER Committee on Review and Reports (9:45 a.m.-10 a.m.).
4. Discussion of Proposals for Department of Education (10 a.m.-11 a.m.).
5. Planning for fiscal year 1980 (11 a.m.-12 Noon).
6. Consideration of Council Roles and Priorities (1 p.m.-Adjournment).

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Ella L. Jones, Administrative Coordinator/NCER, telephone, 202-254-7900.

PETER H. GERBER,
Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S-1029-78 Filed 5-15-78; 2:31 p.m.]

[8120-01]

7

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Wednesday, May 17, 1978.

PLACE: Conference Room 8-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A—Personnel Actions—None.

B—Consulting and Personal Service Contracts:

1. Renewal of consulting contract with the S. M. Stoller Corp., New York, N.Y.—Office of Power.
2. Renewal of consulting contract with John T. Boyd Co. Pittsburgh, Pa.– Office of Power.

C—Purchase Awards:

*1. Req. No. 821174—Direct-current distribution panels for Hartsville and Phipps Bend Nuclear Plants.
2. Req. No. 823065—24-kv, 3-phase, main generator bus system for proposed Yellow Creek Nuclear Plant.
*3. Req. No. 821625—Electrostatic fly ash collectors and auxiliary equipment, including installation for Paradise Steam Plant.
4. Rejection of bids received in response to Invitation No. 822877 for main steam condensing equipment for proposed Yellow Creek Nuclear Plant.
5. Rejection of bids received in response to Invitation No. 149223 for replacement fuel channels for Browns Ferry Units 1 and 3.
6. Rejection of bids received in response to Invitation No. 149682 for labor and material to shop fabricate Cyclone Tubes.

D—Project Authorizations:

1. No. 3341—Modify spillway gate hoists at the Wilson Hydro Plant.
2. No. 3338—Convert the Gundown, Miss., 46-kv Substation to 161-kv.

E—Fertilizer Items—None.

F—Power Items:

1. Resolution relating to short-term borrowings from the Federal Financing Bank.

H—Unclassified:

1. Settlement agreement with Allis-Chalmers Corp.—claims resulting from Allis-Chalmers' delivery of defective stay rings under contract for pump turbines for the Raccoon Mountain Pumped-Storage Project.

The Board will also complete its quarterly review of current and anticipated conditions and costs affecting TVA's power operation, and the adequacy of revenues to meet the requirements of the TVA Act and the tests and provisions of its bond resolutions. The Board will determene whether an adjustment of the rates and charges for the sale of electric power will be necessary during the quarter beginning July 1, 1978.

CONTACT PERSON FOR MORE INFORMATION:

John Van Kel, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call, 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

DATE: May 12, 1978.

SUPPLEMENTARY INFORMATION:

TVA BOARD ACTION

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires that this meeting be called at the time set out above and that no earlier announcement of the meeting was possible.

The members of the TVA Board have voted to approve the above findings and their approvals are recorded below:

Approved:S/AJW _____
Aubrey J. Wagner.

S/SDF _____
S. David Freeman.

Disapproved: _____

[S-1026-78 Filed 5-15-78; 10:28 a.m.]

[8240-01]

8

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: May 24, 1978, 9 a.m.

PLACE: Board Room, Room 2200, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20595.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions closed to the public (9 a.m.).

1. Consideration of internal personnel matters.
2. Review of Conrail proprietary and financial information for monitoring and investment purposes.
3. Review of Delaware & Hudson Railway Co. proprietary and financial information for monitoring and investment purposes.
4. Review of Missouri-Kansas-Texas Railroad Co. proprietary and financial information for monitoring and investment purposes.

Portions open to the public (11 a.m.).

5. Approval of minutes of the April 20, 1978, Board of Directors meeting.
6. Consideration of modifications to the D. & H. loan agreement and advances.
7. Report on Conrail Monitoring.
8. Consideration of Conrail Drawdown request for June 1978.
9. Consideration of request by Missouri-Kansas-Texas Railroad Co. for consent and modification of loan agreement.
10. Contract Actions (extensions and approvals).

CONTACT PERSON FOR MORE INFORMATION:

Alex Bianow, 202-426-4250.

[S-1027-78 Filed 5-15-78; 10:28 am]

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*Items informally approved in interval since May 11, 1978 Board meeting.

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federal register

WEDNESDAY, MAY 17, 1978
PART II



ENVIRONMENTAL PROTECTION AGENCY

FUEL ECONOMY OF MOTOR VEHICLES

Fuel Economy Labeling Procedures for 1979 and Later Model Year Automobiles

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[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL-895-7]

PART 600—FUEL ECONOMY OF MOTOR VEHICLES

Fuel Economy Labeling Procedures for 1979 and Later Model Year Automobiles

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This notice changes the requirement for the format and contents of fuel economy labels which are required to be attached to new automobiles (cars and light trucks). These changes will go into effect beginning with the 1979 model year.

The modifications to the labeling requirements established by this rule are expected to improve the mileage information program by providing only the value previously labeled the "city" estimate, which more accurately reflects in-use mileage than either the highway or combined estimates, and by communicating the relative nature of the information more effectively than the current system, so that the potential for consumer misunderstanding of the data is reduced.

EFFECTIVE DATE: July 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Paula Machlin, U.S. Environmental Protection Agency, Office of Mobile Source Air Pollution Control (AW-455), 401 M Street SW., Washington, D.C. 20460, 202-755-0596.

SUPPLEMENTARY INFORMATION: This notice changes the requirements in 40 CFR Part 600 for the format and contents of fuel economy labels which are required to be attached to new model automobiles by § 506 of the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2006), hereinafter "the Act." This rule will go into effect in the 1979 model year.

The modifications to the labeling requirements established by this rule are expected to improve the mileage information program by providing only the value previously labeled the "city" estimate, which more accurately reflects in-use mileage than either the highway or combined estimates, and by communicating the relative nature of the information more effectively than the current system, so that the potential for consumer misunderstanding of the data is reduced.

Although it is EPA's judgment that this action is necessary to alleviate the problems caused by the deficiencies of the current program and that these changes can reasonably be expected to reduce these problems, this proceeding has not resulted in the development of information sufficient to satisfy EPA that, for the long term, this rule provides the best information in the best manner possible. In particular, EPA believes that it should be possible and may be useful to provide the public with a range of fuel economy values that most of the individual automobiles in a model will actually get in use, but data adequate to derive such ranges are not yet available.

Consequently, EPA and the other Federal agencies involved in the program [the Federal Trade Commission (FTC), the Department of Transportation (DOT) and the Department of Energy (DOE)] view this action as an interim measure and intend to cooperate in the coming year in the taking of the steps necessary to evaluate the effectiveness of the modified program and in developing such data and additional modifications as may be needed.

Background

EPA proposed changes to the manner in which mileage information was presented to the public on February 16, 1978 in the Federal Register (43 FR 6817) in response to what appears to be growing public dissatisfaction with the mileage estimates. The estimates are generally believed to be unrealistically high in comparison to fuel economy performance actually achieved on the road. EPA is concerned that this may result in reduced reliance on the EPA estimates in making new car purchasing decisions in the future. In addition, to the extent that the proper use, meaning, and limitations of the mileage information are not communicated effectively to new car buyers, the information may be used to make incorrect purchase decisions.

The Notice of Proposed Rulemaking (NPRM) recognized that the problem has two separate components: (1) Technical issues related to fuel economy testing which suggest that, in some cases, the fuel economy measured by the test may not be fully representative of the fuel economy experienced on that model in actual use; and (2) issues related to the difficulty of communicating technical information in a simple, readily usable form without being misinterpreted. The NPRM proposed and this notice promulgates means for addressing the latter issue. Actions that EPA is undertaking to address technical issues are discussed in the section entitled "Future Actions," below.

The NPRM proposed three basic alternatives to the present city, highway and combined [1] estimates for communicating fuel economy information generated from EPA testing:

1. *Publish only a single miles per gallon fuel economy rating.* The NPRM noted that a single value would emphasize the comparative value of the EPA estimates and suggested that it might be the city fuel economy estimate which agrees quite closely with average in-use fuel economy, although the combined number, or some derivation of either of these values could be used as the single rating.

2. *Publish three miles per gallon estimates, as at present, but adjust the values to account for driving conditions more adverse to fuel economy than those included in the EPA tests, and represent the estimates as low, mid-range and high fuel economy.* The NPRM pointed out that this option's low estimate would not represent the lowest fuel economy that could be experienced but would represent a number lower than would be typically achieved by the vast majority of drivers. Similarly the high value would not be the absolute maximum but would be typical of a mix of predominantly highway driving with some urban driving. The mid-range value would be one representative of the mean fuel economy for all in-use driving.

3. *Publish only a relative fuel economy performance index, which compares the measured results for each model to a common base, without providing miles per gallon values as such.* The advantage of this approach is that it completely gets away from miles per gallon and the expectations created by such data, and focuses attention exclusively on comparing the relative fuel economy performance of new model cars which is the intent of the mileage information program.

Discussion of Comments and Other Relevant Materials

The comments received on the NPRM reflected a wide variety of interests and opinions, but there was general agreement that there are deficiencies in the mileage labeling program that contribute to public misunderstanding of the mileage estimates and that, therefore, some action is needed to alleviate the consumer deception and dissatisfaction that may result from such misunderstandings.

Several Federal agencies and manufacturers expressed concern, however, that due to the short time remaining before production of most 1979 models begins (in August, 1978) and the desirability of gathering additional information, it may be best to make no changes until model year 1980.

While EPA recognizes that it would be desirable to gather additional information regarding which manner of presenting mileage ratings most effectively conveys useful information to new car-buyers, and agree with those who commented that frequent changes in format of the labels could lead to confusion and should be avoided, EPA disagrees that no changes should be made for model year 1979. EPA believes that the record is sufficient to support immediate implementation of some changes. It is EPA's judgment that the basic concerns expressed in comments received on the proposed rule and other information gathered in the course of this rulemaking provide a basis on which to establish a rule that at least partially addresses the problems noted above. Although this is clearly not the final action that EPA will be taking to improve the program, it is in the public's interest to implement these changes as soon as possible.

Industry comments indicated that at least two months lead time would be required to accommodate changes in label format. EPA believes this action to be timely for 1979 implementation even though some labels may be in use that do not comply with these modifications. Although some confusion may result from some limited use of the old formats and the combined and highway numbers on some labels, this action is being taken early enough so that this should be quite limited.

Summary of Industry Comments

With one exception, industry tended to favor an approach that would at least partially retain current numerical test values. The rationale for this preference was the need to maintain consistency between model years to permit comparison of different model year vehicles. In commenting on which value to use should a single number option be adopted, industry as a whole preferred the combined over the city estimate. The basis for that preference is that consistency among label values and the values used in enforcing average fuel economy standards would further serve to minimize potential public confusion. In addition, the combined value includes some credit for transmission improvements, such as overdrive, that are measured mainly in highway testing. Other recommendations by individual manufacturers included retention of the current ratings with changes only to the format of the labels, adoption of a single value, use of an index, use of a range based on correlation with in-use data, and simply dropping the highway number.

Summary of Consumer Group Comments

Consumer groups expressed a strong concern over the use of the EPA estimates in advertising and the impact of that on consumer expectations and subsequent dissatisfaction. From their viewpoint, changes in advertising policy were required in conjunction with this rulemaking in order for this action to have a significant effect on consumer perception of the use of the mileage information. There was also a definite consensus that the use of ratings in terms other than mpg is not desirable due to the low probability that most people would understand and use such an index. In commenting on which value should be used in the event that a single estimate is published, the groups that commented preferred the city test value since it corresponds most closely to average in-use mileage, thereby providing car-buyers with an absolute mpg value that will be achieved in-use by many drivers. The groups which favored the single estimate did so on the basis of its simplicity and emphasis on the comparative nature of the data. One group suggested that units of gallons-per-mile be used rather than miles-per-gallon to further emphasize consumption, but this presents the same problems as an index. The groups that favored a range did so on the basis of its greater accuracy in predicting in-use performance and its conveyance of the concept of in-use variability. On the other hand, the range approach was criticized for failing to relate to a specific type of driving which results in lack of meaning to an individual car-buyer.

Summary of Comments From Individuals

Of the letters received from individuals, very few favored either no change or the use of an index. More than half of the letters received expressed no clear preference for any of the alternatives proposed in the notice, but instead expressed the views that the use of the estimates in advertising by manufacturers and dealers is misleading and that the estimates are higher than in-use mileage and should be made more accurate. About 25 percent of the letters indicated preference for the single number, including one dealer who responded, and about an equal number favored the range option.

Summary of Results of Public Meetings

Public meetings were held on this rulemaking in Chicago, Boston, and Atlanta on March 2, 9, and 10, respectively to solicit public input and to publicize EPA's concerns. Similar to the letters received from individuals, the views expressed by individuals of the public meetings were diverse. Only one manufacturer made a public statement. Attendance at the meetings was limited, however, although press coverage was quite good and served to encourage written responses.

Summary of Results of Consumer Use (Focus Group) Study

A limited study of consumer perception was conducted in which marketing analysis techniques were used to explore car-buyers' views on how mileage information is best presented. The study consisted of a series of group discussions, referred to as "focus groups" for which a few individuals who had recently purchased new cars were randomly selected.

Six focus group sessions were held, two each in the cities of Philadelphia, New Orleans, and Los Angeles.

The participants in the study indicated that although mileage was an important factor in the purchase decision for a new car, other factors were frequently of more importance. The findings of that study indicated that consumers relate best to mpg figures; an index would not be likely to be perceived as useful. In addition, the groups indicated an interest in mileage information that would predict the mileage that they would achieve in driving. Group participants supported the use of a range of mpg performance as a means to communicate the variability of fuel economy in cars in use. Both the annual fuel cost information and the range of mileages for comparable cars were considered to be confusing and relatively useless. (Both pieces of information are being retained since they are required to be on the labels by § 506 of the Act.)

Summary of Comments From Other Federal Agencies

EPA consulted with DOT, FTC, and DOE in the preparation of this final rule as required by § 506 of the Act. A letter from the FTC dated April 17, 1978, noted the limited data with which EPA must make a decision and urged that action taken for the 1979 model year be a limited, interim action. The FTC specifically recommended that EPA drop the use of the highway and combined estimates and the label "city" for the remaining estimate for the 1979 model year. The FTC cautioned, however, that in view of the need for further study as discussed previously, care must be taken to portray whatever action is adopted as an interim measure. Otherwise, the action will be perceived by the public as a better solution than it was intended to be, and should the public be disappointed, it would be difficult to ever regain credibility. In order to avoid confusion regarding the meaning of the term "interim" as it might appear

[1] The combined estimate is defined as the harmonic average of the city and highway fuel economy tests weighted 0.55 and 0.45 respectively. The combined estimate is prescribed by the Act as the number to be used by the Secretary of Transportation in determining compliance with the passenger automobile fleet average fuel economy standards established under section 502(a) of the Act.

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on the labels (consumers might think that a more accurate estimate would be forthcoming in 1979 which will not be the case), the interim nature of the system in use in 1979 will be explained in the "1979 Gas Mileage Guide", the booklet listing mileage estimates which is required to be available free of charge to every prospective new automobile purchaser in the showrooms.

In informal discussions, DOE staff expressed the view that major action should be deferred due to the inadequacy of the data now available and that only changes to the caveat that appears on the labels be made at this time to more clearly communicate the limitations of the estimates. However, DOE staff recognized that EPA might nevertheless find it in the public interest to take more substantive action for the 1979 model year and recommended that any interim action entail the fewest changes from the current program to minimize public confusion should future changes be made. Specifically, DOE recommended the retention of the city, combined and highway estimates but with a correction factor applied to lower the values that would appear on the labels.

DOT's National Highway Traffic Safety Administration (NHTSA) staff expressed concerns similar to those expressed by DOE's staff. However, NHTSA staff had additional concerns due to their responsibilities in connection with the administration of average fuel economy standards established under § 502 of the Act. Although inclined toward the use of an adjustment factor, NHTSA urged that the program's nomenclature be changed so that there would not be confusion due to the use of one set of "city," "highway," and "combined" numbers on labels and different numbers with the same names in the fuel economy standards program. [Section 503(d) of the Act does not permit the use of other than the old values as the basis for the standards program.] DOT also expressed a concern that the simple use of and adjustment factor might make it appear that the 1979 cars will have poorer fuel economy than the 1978 cars, which will not be the case.

Clearly, the suggestions of each of the agencies could not simultaneously be adopted. However, EPA believes that the action adopted for 1979, essentially the FTC's suggestion, best addresses the concerns of all of the interested agencies: It is an interim, limited action involving the continued use of one of the estimates now in use. The estimate that will be used is the lowest and should reduce consumer dissatisfaction resulting from reliance on the combined and highway values. It does not conflict or appear inconsistent with the fuel economy standards program. The use of a single value simplifies comparisons. It does not appear to be more of an improvement than it is (as might be the case with a program that changed both nomenclature and mpg values) and can be readily communicated to the public. Without overstating the anticipated benefits of the adopted approach, it does appear to be the best action EPA can take at this time and for the short term.

Conclusions

There is no consensus of opinion on which option or variation thereof should be adopted, even among commenters expected to have similar interests and perspectives. Nevertheless, several problem areas in the current program were consistently identified, albeit with varying emphasis, throughout the comments.

In general, the common points raised were that the mileage information on new car labels does not effectively communicate either the comparative nature of the estimates or the concept of a wide range of in-use mileage for individual cars of the same model type. Rather, the program tends to imply that the estimates are predictions of in-use mileage for the individual driver, and relies on the individual car-buyer to recognize and consider the relationship between the type of driving defined as city and highway by the EPA test and his own. Current advertising practice and the fact that EPA estimates are higher than the average achieved in use were considered to exacerbate the problem and contribute to consumer misconceptions, particularly since advertising often plays a major role in forming a car-buyers' expectations and is the primary source of public exposure to EPA's fuel economy ratings.

The written comments and those provided by other Federal agencies in consultation with EPA tended to support the following more specific conclusions regarding the mileage information program.

1. To be perceived by most car buyers as useful, mpg values must be provided rather than an index in terms other than mpg;

2. Most car buyers who commented believe that the mpg values published by EPA should be "realistic" but currently are not (this generally translates into the belief that the values are too high);

3. The reminder on the label, the caveats required in advertising, and the information in the "Mileage Guide" have failed to communicate to most car buyers the appropriate information on what their expectations of in-use performance should be, how EPA's fuel economy ratings should be used and what variability may be expected in fuel economy actually experienced in use for nominally identical cars (cars of the same model with the same optional equipment);

4. The labels and advertising do not focus on the comparative nature of the estimates;

5. Use of the estimates in advertising often contributes to car buyers' unrealistic expectations and disappointment; and

6. The current program relies too heavily on the car buyer to collect and evaluate information on what the estimates mean.

It appears that the current mileage information program would be significantly improved by designing the labels to more clearly and simply convey to the user the concepts of comparison and in-use variability. Simplicity is particularly important for broadcast advertising purposes, since the message must be conveyed in a short time with minimum reliance on qualifiers. In addition, to consider the estimates useful, car-buyers apparently must be confident that they are reasonably accurate in reflecting achievable on-the-road mileage, i.e., it is not enough for the ranking provided by the ratings to be correct.

Thus, the action taken for 1979 is not likely to satisfy many of those who commented on the NPRM; indeed, it does not satisfy EPA in the sense that a better solution may be found for future model years. However, in EPA's judgment, the requirements described in the following section appear to be the best means available to EPA for addressing the concerns expressed and problems identified given the time and data available for the 1979 model year.

Discussion of Requirements Established by This Rulemaking

This regulation requires that the label contain a prominently displayed single estimate called the "Estimated mpg" which will be the value now called the "city" number. Information on the meaning of this estimate would be provided in a brief paragraph highlighted on the labels and in substantially more detail in the "Gas Mileage Guide." (The label verbiage would also refer readers to the "Guide" and inform them of its availability in dealer showrooms.) The FTC staff and EPA are also consulting on the revision of the FTC advertising guidelines as appropriate.

In addition to deleting two of the mpg values, these rules have deleted the terminology "city," "highway," and "combined" from the labels. Use of these terms has been found to be undesirable because they tend to imply a degree of accuracy in predicting a driver's in-use mileage under specific conditions (what he perceives as "city" and "highway" driving) which simply cannot be provided by any

standard test. Factors such as trip length, weather, a car's condition or individual options, and driver habits have a significant effect on mileage, and clearly the conditions under which a car is driven in use in many cases will not match those reflected in testing due to the tremendous variety of in-use conditions. But even where conditions are very similar, factors such as production and test-to-test variability would cause in-use mileage to range around a point estimate that is measured on a standard test. To put it another way, the current means for publishing mileage information do not effectively convey the idea of a range of in-use fuel economy, particularly as used in advertising, nor does it adequately warn the prospective new car purchaser that he cannot use the rating from any standard test to determine whether he will be getting better fuel economy with the car he is planning to buy than with his present car.

Equally important, the current labels do not focus on the comparative nature of the data, a problem that is also exacerbated in advertising. That is, EPA has not been successful in communicating that although a driver should not expect the mileage EPA measured, he can benefit by using the ratings to rank cars.

EPA is mindful of the manufacturers' concerns regarding the inability of the city test to demonstrate the advantages of vehicles with options whose main fuel economy benefits are seen on the highway (e.g., overdrive transmissions), or to provide an ideal ranking for highway driving. (This concern is relevant only to the labeling program; the combined number, which is based in part on the highway test, will still be the basis for standards compliance determinations.) However, the rankings are usually the same on the city and highway tests (particularly within classes of comparable vehicles), and even in those cases in which the rankings are not the same on the two tests, the difference in ranking would be relevant only to drivers who do predominantly highway driving. On the other hand, the absolute value of the city estimate is more likely to be actually achieved by, and less likely to deceive, car-buyers in general than the combined or highway values. Thus, use of the city estimate reduces the potential for consumer deception and this must outweigh minor inadequacies in the data for a fraction of a minority (those who do predominantly highway driving and who are choosing among model types with different highway and city rankings). In any case, labels are not the only means available to the industry to communicate with its customers; advertisements and promotional materials in the showrooms can be used to communicate the degree of benefit that can be expected in highway driving from options, or to otherwise compare qualitatively the highway performance of different models. Nevertheless, EPA will include information in the "1979 Gas Mileage Guides" pointing out such city/highway discrepancies as the effects of overdrive and the advantage of Diesels.

Thus EPA is renaming the "city" estimate simply "Estimated mpg" and deleting the "highway" and "combined" estimates. A number of studies (available on the public record of this rulemaking) have shown that, of the currently published values, the city number is closest to average in-use mileage. Thus, the city number is considered to provide the consumer the best single estimate of average overall performance. This should improve the system by simplifying the use of the estimated mileage for comparisons while eliminating the use of the mileage estimates least likely to be achieved in-use.

Retaining the current test value maintains some continuity with the 1975 through 1978 programs which is an advantage in light of the expectation that this will only be an interim action. In addition, it should be noted that some labels will be on model year 1979 cars under the old system since those cars will have been introduced early, precluding compliance with these amendments. By retaining one of the old values, comparisons will still be possible among cars labeled under the old and new rules.

EPA considered and still is favorably disposed to providing a more realistic range of in-use mileage than that conveyed by the current system, in view of the apparent desire for such information indicated by many consumers in their comments, and by the fact that no one value fully characterizes a car's fuel economy. However, the publication of such range is very likely to be interpreted by many consumers as a guarantee or promise that their cars will necessarily fall within that range (although § 506 of the Act specifically notes that the values on the label cannot be a guarantee). Such a range would be inteneded to show typical results, but there are many reasons why an individual might fall outside that range; EPA has no authority to investigate individual complaints or to take action on behalf of an individual for redress of such complaints. Thus, any range used by EPA must be carefully arrived at to minimize these problems. The data now available for developing such ranges are just not adequate to permit this attractive approach to be adopted for the 1979 model year.

These regulations also provide that the fuel cost information will now be based on the "estimated mpg" rather than the combined mileage and that this information will receive a somewhat less prominent position on the label than in previous years. This is in response to the focus group studies which indicated relatively little interest in these data, and the need to direct the public's attention to critical information while providing additional data to those who choose to read on. These data could not, however, be removed from the labels because § 506 requires that information to be displayed.

A detailed discussion of the choice of this action from among the options is on the public record.

Actions Planned for the Future

The EPA intends to review and improve the mileage information program established under the Act on a continuing basis. As noted previously, EPA views this rule as an interim action intended to alleviate problems with the program pending development of the information needed to design the best possible program. In conjunction with FTC and DOE, EPA is initiating an effort to evaluate the effectiveness with which the format adopted in this rule conveys appropriate mileage information so that refinements may be made if needed.

The Agency is also exploring, in coordination with DOE, means for collecting additional data on the relationship between EPA and test values and in-use fuel economy. It is expected that such data will be used in the future to establish ranges of in-use mileage for model types. Such data will also be of use in determining how well fuel economy improvements measured in testing correlate with improvements in use. Furthermore, as noted in the section entitled "Background," this rulemaking is one part of a broader effort to continuously improve the mileage information program. There are some technical issues related to fuel economy testing not addressed in this rulemaking which suggest that, in some cases, the fuel economy measured by the test may not be fully representative of the mileage experienced on the model type in actual use, and which may affect the accuracy of the ranking for that model type as well.

As noted in the NPRM, for small mpg differences among cars, technical considerations limit the degree to which the rankings established by the "Guide" can be interpreted as providing reasonable assurance that in-use performance will rank the same. For example, the relative ranking established in the "Guide" for a 20 mpg car as compared to a 21 mpg car is not highly significant because of the confounding effect that both production variability and test-to-test variability tend to have on the accuracy of the measured value. Neither of these factors can be readily controlled by any

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testing organization and, as such, represent technical limitations to the reliability of the data. However, for larger differences in estimated mpg, there is proportionally increasing confidence that the higher ranked car will provide the potential car buyer with better mileage than would the lower ranked car.

Some improvements to the test procedure have been made for model year 1979. For example, past testing procedures provided for testing of vehicles with manual transmissions at the speeds recommended by the manufacturers. There were some cases in which the recommended shift points were not those that would be likely to be used by the typical driver, but were those which would maximize fuel economy. EPA eliminated this practice for 1979 and later model years. Similarly, some manufacturers may have been able to have a limited number of their vehicles tested under conditions which gave them credit for better aerodynamic characteristics than the production vehicles actually have. EPA limited this practice as well.

Beginning in model year 1980, regulations become effective that require vehicles to be tested on the dynamometer with a setting that more accurately reflects their weight than the current procedure.

Other potentially significant problem areas in testing that cannot yet be addressed include the effect of tires on in-use mileage and the representativeness of tires used in testing of on-the-road mileage effects. The EPA currently has a program underway to evaluate the effects of tires so that solutions may be developed in the long term. The EPA is also investigating the potential differences between test and production cars and means for controlling such differences should they exist.

In addition, the EPA is currently considering (in consultation with DOE) means by which the "Gas Mileage Guide," which contains important fuel economy information, may receive earlier distribution.

AVAILABILITY OF MATERIAL

A copy of all public comments is available for inspection and copying at the U.S. EPA, Public Information Reference Unit, room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

NOTE.—The Environmental Protection Agency has determined that this regulation does not require preparation of an Economic Impact Analysis under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: May 8, 1978.

DOUGLAS N. COSTLE,
Administrator.

Part 600 of Chapter I, Title 40 of the Code of Federal Regulations is hereby amended as follows:

§ 600.206-79 [Amended]

1. In § 600.206-79 paragraphs (b) and (c) are deleted.

2. In § 600.206-80 paragraph (b) and (c) are deleted. As amended the section reads as follows:

§ 600.206-80 Calculation of fuel economy values for a vehicle configuration.

(a) Fuel economy values determined for each vehicle and as approved in § 600.008 (b) or (f) are used to determine city, highway, and combined fuel economy values for each vehicle configuration (as determined by the Administrator) for which data are available.

(1) If only one city fuel economy and one highway fuel economy value exist for a vehicle configuration, those values, rounded to the nearest tenth of a mile per gallon, comprise the city fuel economy value and highway fuel economy value for that configuration.

(2) If more than one city and one highway fuel economy value exist for a vehicle configuration:

(i) All data shall be grouped according to each unique road load horsepower setting/test weight combination at which the data was generated.

(ii) Within each group of data, all values are harmonically averaged and rounded to the nearest 0.0001 of a mile per gallon for the city fuel economy values, and harmonically averaged and rounded to the nearest 0.0001 mile per gallon for the highway values, in order to determine a city and a highway fuel economy value for each road load horsepower setting/test weight at which the vehicle configuration was tested.

(iii) All city fuel economy values and all highway fuel economy values calculated in (ii) are (separately for city and highway) harmonically averaged in proportion to the relative sales within the vehicle configuration (as provided to the Administrator by the manufacturer) of vehicles of each tested road load horsepower setting/test weight combination. The resultant values, rounded to the nearest 0.0001 mile per gallon, are the city and highway fuel economy values for the vehicle configuration.

(3) The combined fuel economy value for a vehicle configuration is calculated by harmonically averaging the city and highway fuel economy values, as determined in § 600.206(a) (1) and (2), weighted 0.55 and 0.45, respectively, and rounding to 0.0001 of a mile per gallon. A sample of this calculation appears in Appendix II to this Part.

3. In § 600.207-79 paragraph (a)(2), (a)(2)(iii), and (a)(3)(iii) are amended; (c) and (d) are deleted. As amended the section reads as follows:

§ 600.207-79 Calculation of fuel economy values for a model type.

(a) Fuel economy values for a base level are calculated from vehicle configuration fuel economy values, as determined in § 600.206(a) for low altitude tests.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will calculate fuel economy values for each base level for vehicles intended for sale in California and for each base level for vehicles intended for sale in the rest of the states.

(2) The manufacturer shall supply model year sales projections for each road load/car line/vehicle configuration combination.

(i) Sales projections must be supplied separately for each vehicle configuration intended for sale in California and each configuration intended for sale in the rest of the states if required by the Administrator under paragraph (a)(1) of this section.

(ii) The sales projections must be updated as of the date a manufacturer requests that fuel economy calculations for a model type be made by the Administrator.

(iii) The requirements of this section may be satisfied by providing an amended application for certification, as described in § 86.079-21 of this chapter.

(3) Vehicle configuration fuel economy values, as determined in § 600.206(a), are grouped according to base level.

(i) If only one vehicle configuration within a base level has been tested, the fuel economy value from that vehicle configuration consitutes the fuel economy for that base level.

(ii) If more than one vehicle configuration within a base level have been tested, the vehicle configuration fuel economy values are harmonically averaged in proportion to the respective projected sales fraction (rounded to the nearest 0.0001) of each vehicle configuration and the resultant fuel economy value rounded to the nearest 0.0001 of a mile per gallon.

(iii) If the Administrator has not accepted fuel economy data derived from the testing of a certification vehicle (or a vehicle tested for running changes approved under §§ 86.079-32, 86.079-33, and 86.079-34) for at least one vehicle configuration within each base level, the manufacturer shall submit (on or before the date that the manufacturer requests the Administrator to calculate the respective general label values) data as specified in § 600.006. The fuel economy data submitted shall be for the vehicle configuration with the largest projected sales within the respective base level. The vehicle tested will be tested at the road load horsepower with the highest projected sales within the vehicle configuration.

(4) The procedure specified in § 600.207(a) will be repeated for each base level, thus establishing city, highway, and combined fuel economy values for each base level.

(5) For the purposes of calculating a base level fuel economy value, if the only vehicle configuration(s) within the base level are vehicle configuration(s) which are intended for sale at high altitude, the Administrator may use fuel economy data from test conducted on these vehicle configuration(s) at high altitude to calculate the fuel economy for the base level.

(b) For each model type, as determined by the Administrator, a city, highway, and combined fuel economy value will be calculated by using the projected sales and fuel economy values for each base level within the model type.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states; he will calculate fuel economy values for each model type separately for vehicles intended for sale in California and for those intended for sale in the rest of the states.

(2) The sales fraction for each base level is calculated by dividing the projected sales of the base level within the model type by the projected sales of the model type and rounding the quotient to the nearest 0.0001 mpg.

(3) The city fuel economy values of the model type (calculated to the nearest 0.0001 mpg) are determined by dividing one by a sum of terms, each of which corresponds to a base level and which is a fraction determined by dividing

(i) The sales fraction of the base level, by

(ii) The city fuel economy value for the respective base level.

(4) The procedure specified in paragraph (b)(3) of this section is repeated in an analogous manner to determine the highway and combined fuel economy values for the model type.

4. In § 600.207-80 paragraph (a)(2), (a)(2)(iii), and (a)(3)(iii) are amended; (c) and (d) are deleted. As amended the section reads as follows:

§ 600.207-80 Calculation of fuel economy values for a model type.

(a) Fuel economy values for a base level are calculated from vehicle configuration fuel economy values as determined in § 600.206(a) for low altitude tests.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will calculate fuel economy values for each base level for vehicles intended for sale in California and for each base level for vehicles intended for sale in the rest of the states.

(2) The manufacturer shall supply model year sales projections for each test weight/road load/car line/vehicle configuration combination.

(i) Sales projections must be supplied separately for each vehicle configuration intended for sale in California and each configuration intended for sale in the rest of the states if required by the Administrator under paragraph (a)(1) of this section.

(ii) The sales projections must be updated as of the date a manufacturer requests that fuel economy calculations for a model type be made by the Administrator.

(iii) The requirements of this section may be satisfied by providing an amended application for certification, as described in § 86.079-21 of this chapter.

(3) Vehicle configuration fuel economy values, as determined in § 600.206(a), are grouped according to base level.

(i) If only one vehicle configuration within a base level has been tested, the fuel economy value from that vehicle configuration constitutes the fuel economy for that base level.

(ii) If more than one vehicle configuration within a base level have been tested, the vehicle configuration fuel economy values are harmonically averaged in proportion to the respective projected sales fraction (rounded to the nearest 0.0001) of each vehicle configuration and the resultant fuel economy value rounded to the nearest 0.0001 of a mile per gallon.

(iii) If the Administrator has not accepted fuel economy data derived from the testing of a certification vehicle (or a vehicle tested for running changes approved under §§ 86.079-32, or 86.079-33, 86.079-34) for at least one vehicle configuration within each base level, the manufacturer shall submit (on or before the date that the manufacturer requests the Administrator to calculate the respective general label values) data as specified in § 600.000. The fuel economy data submitted shall be for the vehicle configuration with the largest projected sales within the respective base level. The vehicle will be tested at the road load horsepower/test weight combination which has the largest projected sales within the vehicle configuration.

(4) The procedure specified in § 600.207(a) will be repeated for each base level, thus establishing city, highway, and combined fuel economy values for each base level.

(5) For the purposes of calculating a base level fuel economy value, if the only vehicle configuration(s) within the base level are vehicle configuration(s) which are intended for sale at high altitude, the Administrator may use fuel economy data from tests conducted on these vehicle configuration(s) at high altitude to calculate the fuel economy for the base level.

(b) For each model type, as determined by the Administrator, a city, highway, and combined fuel economy value will be calculated by using the projected sales and fuel economy values for each base level within the model type.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will calculate fuel economy values for each model type separately for vehicles intended for sale in California and for those intended for sale in the rest of the states.

(2) The sales fraction for each base level is calculated by dividing the projected sales, of the base level within the model type by the projected sales of the model type and rounding the quotient to the nearest 0.0001.

(3) The city fuel economy values of the model type (calculated to the nearest 0.0001 mpg) are determined by dividing one by a sum of terms, each of which corresponds to a base level and which is a fraction determined by dividing:

(i) The sales fraction of the base level, by

(ii) The city fuel economy value for the respective base level.

(4) The procedure specified in paragraph (b)(3) of this section is repeated in an analogous manner to determine the highway and combined fuel economy values for the model type.

5. By amending § 600.306-79 (a) (1) and (2) to read as follows:

§ 600.306-79 Labeling requirements.

(a) Prior to being offered for sale, each manufacturer shall affix or cause to be affixed and each dealer shall maintain or cause to be maintained on each automobile:

(1) A general fuel economy label as described in §§ 600.307 and 600.308, or

(2) A specific label, as described in §§ 600.307 and 600.309, for those low altitude automobiles manufactured or imported before the date that occurs 15 days after general labels are approved for the manufacturer.

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6. By adding a new § 600.307-79 to read as follows:

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§ 600.307-79 Format and contents of labels.

(a) Fuel economy labels must be rectangular in shape, contain the EPA and DOE logos and the title "Fuel Economy Rating," be printed in a color which contrasts with the paper color and in a type size that is easily readable and be large enough to allow inclusion of all required information.

(b) Fuel economy labels must contain the following information in the applicable format illustrated in Appendix VI or such other format as may be approved by the Administrator:

(1) The word "Model" or "Vehicle," as appropriate, for general and specific fuel economy labels, respectively, followed by the description of the labeled vehicle as described in the manner and degree of detail specified in § 600.308(a) or § 600.309(a), as applicable,

(2) The phrase "Estimated MPG: For Comparisons" followed by the fuel economy estimate specified in § 600.308(b) for general labels or § 600.309(b) for specific labels, as applicable, and a paragraph, circumscribed by a rectangular box, reading as follows: "The Estimated mileage for this model ('design' for specific labels),——, is to be used to compare cars (trucksor vehicles) of this model (design) with other cars (trucks or vehicles). Your own mileage may be poorer depending upon options, driving conditions, your driving habits and your car's (truck's or vehicle's) operating condition.

(3) The phrase "other (vehicle class as determined by the Administrator pursuant to § 600.315) models ('special vehicles' for Special purpose vehicles):" followed by a paragraph circumscribed by a rectangular box reading as follows: "The estimated mpg numbers for other similar sized cars (trucks or vehicles) ranges from—— to——mpg (as of (date)). By comparison, the estimated mpg of this model (design) is ——. Use these numbers to compare different models. Consult the 'Gas Mileage Guide' for further information."

(i) The fuel economy range required by this paragraph is calculated and supplied to the manufacturer by the Administrator in accordance with § 600.311.

(ii) If no fuel economy range for other models has been supplied to the manufacturer by the Administrator at the time a vehicle is to be labeled or within the time constraints permitted by § 600.306(b), the paragraph (a)(3) of this section shall be replaced by the statement: "A range of mpg numbers for other car (truck or vehicle) models of similar size was not available when this car was labeled (date)."

(4) The phrase "annual fuel cost:" followed by the annual fuel cost and the phrase "based on——mpg,——miles per year,——¢/gallon."

(i) The annual fuel cost, average miles driven per year, and cost of fuel will be calculated and supplied by the Administrator in accordance with § 600.308(c) for general labels or § 600.309(c) for specific labels, as applicable.

(ii) The mpg used in determining annual fuel cost is that given in subparagraph (2) of this paragraph.

(5) The paragraph "Ask the dealer for the free "1979 Gas Mileage Guide" to compare the Estimated MPG of other cars (trucks or vehicles). It will tell you how to use these numbers."

(c) The fuel economy estimate required by paragraph (b)(2) of this section shall be highlighted by being in type no less than four times the size of the next largest print on the label (excluding the title and logos) or by such other means as may be approved by the Administrator.

7. By adding a new § 600.308-79 to read as follows:

§ 600.308-79 General label contents.

(a) The vehicle description to be used on general labels shall include the following:

(1) Model year;

(2) Vehicle car line;

(3) Engine displacement, in cubic inches, cubic centimeters, or liters whichever is consistent with the customary description of that engine;

(4) Number of engine cylinders;

(5) Transmission class;

(6) Catalyst usage, if necessary to distinguish otherwise identical model type;

(7) Fuel metering system, including number of carburetor barrels, if applicable; and

(8) California emission control system usage, if applicable and if the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states.

(b) The "Estimated MPG" to be used on general labels shall be the city fuel economy value calculated in § 600.207(b)(3) and rounded to the nearest whole mile per gallon.

(c) The annual fuel cost estimate for operating an automobile included in a model type will be computed by the Administrator by using values for the fuel cost per gallon and average annual mileage, predetermined by the Administrator, and the fuel economy determined in paragraph (b).

(1) The annual fuel cost estimate for a model type is computed by multiplying:

(i) Fuel cost per gallon expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage, expressed in miles per year to the nearest 1,000 miles per year, by

(iii) The inverse, rounded to the nearest 0.0001 gallons per mile, of the fuel economy value determined in paragraph (b) for a model type (expressed in miles per gallon rounded to the nearest whole mile per gallon).

(2) The product computed in (c)(1) and rounded to the nearest dollar per year will comprise the annual fuel cost estimate that appears on general labels for that model type.

8. By revising § 600.309-79 to read as follows:

§ 600.309-79 Specific label contents.

(a) The vehicle description to be used on specific labels shall include the following:

(1) Model year;

(2) Vehicle car line;

(3) Engine displacement, in cubic centimeters, or liters, whichever is consistent with the customary description of that engine;

(4) Number of engine cylinders;

(5) Transmission class;

(6) Catalyst usage, if so equipped;

(7) Fuel metering system, including number of carburetor barrels, if applicable;

(8) Inertia weight class;

(9) Axle ratio;

(10) Other engine or vehicle parameters; and

(11) California emission control system usage, where applicable, and if the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states.

(b) The "Estimated MPG" to be used on specific labels shall be the city fuel economy value calculated in § 600.206(a) (1) or (2) and rounded to the nearest whole mile per gallon.

(c) The annual fuel cost estimate for operating an automobile included in a vehicle configuration will be computed by the Administrator by using values for the fuel cost per gallon and average annual mileage and the fuel economy determined in paragraph (b).

(1) The annual fuel cost estimate for a vehicle configuration is computed by multiplying:

(i) The annual fuel cost per gallon (as obtained by the Administrator from the FEA Administrator), expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage (as obtained by the Administrator from the Secretary), expressed in miles per year to the nearest 1,000 miles per year, by

(iii) The inverse, rounded to the nearest 0.0001 gallons per mile, of the fuel economy value determined in paragraph (b) for a vehicle configuration (expressed in miles per gallon rounded to the nearest whole mile per gallon).

(2) The product computed in (c)(1) and rounded to the nearest dollar per year will comprise the annual fuel cost estimate that appears on specific labels for that vehicle configuration.

9. By adding a new § 600.311-79 to read as follows:

§ 600.311-79 Range of fuel economy for comparable automobiles.

(a) The Administrator will determine the range of fuel economy values for each class of comparable automobiles.

(1) The range of fuel economy values within a class is the maximum "Estimated MPG" and the minimum "Estimated MPG" value for all general labels as determined in § 600.308(b) regardless of manufacturer.

(2) If the Administrator determines that automobiles intended for sale in California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will compute separate ranges of fuel economy values for each class of automobiles for California and for the other states.

(3) For high altitude vehicles determined under § 600.310, both general and specific labels will contain the range of comparable fuel economy computed in this paragraph.

(4) The range of comparable fuel economy values for a class of automobiles is derived from the latest available data approved by the Administrator for that class of automobiles.

(b) The manufacturer shall include the range of fuel economy determined by the Administrator in (a) on each label affixed to an automobile within that class except as provided in § 600.306.

10. By adding Appendix VI to read as follows:

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APPENDIX VI—1979 MODEL YEAR FUEL ECONOMY LABEL FORMAT

A. GENERAL LABEL FOR PASSENGER CARS

EPA FUEL ECONOMY RATING

MODEL:

ESTIMATED MPG: FOR COMPARISONS

THE ESTIMATED MILEAGE FOR THIS MODEL, , IS TO BE USED TO COMPARE CARS OF THIS MODEL WITH OTHER CARS. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR CAR'S OPERATING CONDITION.

OTHER MODELS:

ANNUAL FUEL COST $, BASED ON MPG, 15,000 MILES PER YEAR, $0.70/GALLON.

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER CARS. IT WILL TELL YOU HOW TO USE THESE NUMBERS

APPENDIX VI—1979 MODEL YEAR FUEL ECONOMY LABEL FORMAT

B. GENERAL LABEL FOR TRUCKS

EPA FUEL ECONOMY RATING

MODEL:

ESTIMATED MPG: FOR COMPARISONS

THE ESTIMATED MILEAGE FOR THIS MODEL, , IS TO BE USED TO COMPARE TRUCKS OF THIS MODEL WITH OTHER TRUCKS. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR CAR'S OPERATING CONDITION.

OTHER MODELS:

ANNUAL FUEL COST $, BASED ON MPG, 15,000 MILES PER YEAR, $0.70/GALLON.

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER TRUCKS. IT WILL TELL YOU HOW TO USE THESE NUMBERS

APPENDIX VI—1979 MODEL YEAR FUEL ECONOMY LABEL FORMAT

C. GENERAL LABEL FOR SPECIAL PURPOSE VEHICLES

EPA FUEL ECONOMY RATING

MODEL:

ESTIMATED MPG: FOR COMPARISONS

THE ESTIMATED MILEAGE FOR THIS MODEL, , IS TO BE USED TO COMPARE VEHICLES OF THIS MODEL WITH OTHER VEHICLES. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR VEHICLE'S OPERATING CONDITION.

OTHER SPECIAL VEHICLES:

ANNUAL FUEL COST $, BASED ON MPG, 15,000 MILES PER YEAR, $0.70/GALLON.

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER VEHICLES. IT WILL TELL YOU HOW TO USE THESE NUMBERS

APPENDIX VI—1979 MODEL YEAR FUEL ECONOMY LABEL FORMAT

D. SPECIFIC LABEL FOR PASSENGER CARS

EPA FUEL ECONOMY RATING

MODEL:

ESTIMATED MPG: FOR COMPARISONS

THE ESTIMATED MILEAGE FOR THIS DESIGN, , IS TO BE USED TO COMPARE CARS OF THIS DESIGN WITH OTHER CARS. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR CAR'S OPERATING CONDITION.

OTHER MODELS:

ANNUAL FUEL COST $, BASED ON MPG, 15,000 MILES PER YEAR, $0.70/GALLON.

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER CARS. IT WILL TELL YOU HOW TO USE THESE NUMBERS

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APPENDIX VI—1979 MODEL YEAR FUEL ECONOMY LABEL FORMAT

F. SPECIFIC LABEL FOR SPECIAL PURPOSE VEHICLES

EPA FUEL ECONOMY RATING

MODEL:

ESTIMATED MPG: FOR COMPARISONS

THE ESTIMATED MILEAGE FOR THIS DESIGN, ____, IS TO BE USED TO COMPARE VEHICLES OF THIS DESIGN WITH OTHER VEHICLES. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR VEHICLE'S OPERATING CONDITION.

OTHER SPECIAL VEHICLES:

ANNUAL FUEL COST $ ____ BASED ON ____ MPG, 15,000 MILES PER YEAR, $0.70/GALLON

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER VEHICLES. IT WILL TELL YOU HOW TO USE THESE NUMBERS

APPENDIX VI—1979 MODEL YEAR FUEL ECONOMY LABEL FORMAT

E. SPECIFIC LABEL FOR TRUCKS

EPA FUEL ECONOMY RATING

MODEL:

ESTIMATED MPG: FOR COMPARISONS

THE ESTIMATED MILEAGE FOR THIS DESIGN, ____, IS TO BE USED TO COMPARE TRUCKS OF THIS DESIGN WITH OTHER TRUCKS. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR TRUCK'S OPERATING CONDITION.

OTHER MODELS:

ANNUAL FUEL COST $ ____ BASED ON ____ MPG, 15,000 MILES PER YEAR, $0.70/GALLON

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER TRUCKS. IT WILL TELL YOU HOW TO USE THESE NUMBERS

APPENDIX VI—1979 MODEL YEAR FUEL ECONOMY LABEL FORMAT

G. SAMPLE OF LABEL WITH DATA INSERTED

EPA FUEL ECONOMY RATING

1979 AJAX

MODEL: 200 CUBIC INCH ENGINE, 6 CYLINDERS, 3-SPEED MANUAL TRANSMISSION, 2 BARREL CARB.

ESTIMATED MPG: FOR COMPARISONS

19

THE ESTIMATED MILEAGE FOR THIS MODEL, 19, IS TO BE USED TO COMPARE CARS OF THIS MODEL WITH OTHER CARS. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR CAR'S OPERATING CONDITION.

OTHER MID-SIZE MODELS:

THE ESTIMATED MPG NUMBERS FOR OTHER SIMILAR-SIZED CARS RANGE FROM 10 TO 23 MPG (AS OF SEPT. 15, 1978.) BY COMPARISON, THE ESTIMATED MPG OF THIS MODEL IS 19. USE THESE NUMBERS TO COMPARE DIFFERENT MODELS. CONSULT THE GAS MILEAGE GUIDE FOR FURTHER INFORMATION.

ANNUAL FUEL COST $553, BASED ON 19 MPG, 15,000 MILES PER YEAR, $0.70/GALLON

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER CARS. IT WILL TELL YOU HOW TO USE THESE NUMBERS

(Sec. 506, Motor Vehicle Information and Cost Savings Act, as amended by sec. 301, Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871 (15 U.S.C. 2006))

[FR Doc. 78-13224 Filed 5-16-78; 8:45 am]

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Also included is a listing in Appendix A of the Federal agencies and functions affected by President Carter's reorganization of the Executive Office of the President and the establishment of the Department of Energy.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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To provide emergency assistance to producers of wheat, feed grains, and upland cotton, and for other purposes. (May 15, 1978; 92 Stat. 240) Price: $.50.

S. 482 ..... Pub. L. 95-280
To direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico, and to confer jurisdiction on the Court of Claims with respect to land claims of such tribe. (May 15, 1978; 92 Stat. 244) Price: $.50.

S. 661 ..... Pub. L. 95-281
To reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized Indian tribes. (May 15, 1978; 92 Stat. 246) Price: $.50.

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rules and regulations

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

[1978 Crop Peanut Warehouse Storage Loan Supplement]

PART 1446—PEANUTS

Subpart—1978 Crop Peanut Warehouse Storage Loans

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is, for the 1978 crop of peanuts, to announce (1) the national level of support for quota peanuts, (2) the national level of support for additional peanuts, (3) the use of services of approved area marketing associations in making warehouse storage loans and performing other activities relating to the program, (4) the definition of "eligible for domestic edible use" as it pertains to peanuts marketed or considered marketed from a farm, and (5) sales policy for peanuts received under loan or acquired by the Commodity Credit Corporation (hereinafter referred to as "CCC") under the 1978 program. The need for this rule is to satisfy the statutory requirements as provided for in Section 108 of the Agricultural Act of 1949 (hereinafter referred to as the "Act"), as added by the Food and Agriculture Act of 1977.

EFFECTIVE DATE: May 17, 1978.

ADDRESS: Price Support and Loan Division, ASCS, USDA, 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Thomas A. VonGarlem (ASCS), 202-447-7954.

SUPPLEMENTARY INFORMATION: A notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on January 17, 1978 (43 FR 2404), in accordance with 5 U.S.C. 533. The written comment period ended January 31, 1978, but all comments received through February 7, 1978, were considered. There were 67 responses—one each from a sheller, and an association of manufacturers of peanut products; 10 from members of the Congress; 7 from peanut producer organizations; 3 from farm organizations; 3 from sheller organizations; and 51 from individual farmers. Following is a summary of comments received:

Quota price support level, 52 commentators. Twelve organizations and 4 individuals recommended $420 per ton, the legal minimum. Two organizations and 2 individuals recommended the legal minimum increased by cost of production (up to $450 per ton). Thirty-six individuals and no organizations recommended levels ranging from 75 percent of parity, to 100 percent of parity (currently estimated at $456 to $608 per ton).

Additional price support level, 44 commentators. Four organizations and 4 individuals recommended $300 per ton or less; 7 organizations and 14 individuals recommended $420 per ton; 19 individuals and no organizations recommended levels between $420 and 100 percent of parity.

Area marketing associations. Thirteen organizations and 23 individual commentators approved and none opposed continued use of the services of area marketing associations in carrying out price support and marketing activities. Of these commentators, 9 organizations recommended that the Secretary designate only the three area marketing associations which have participated in these activities under 1977 and prior peanut price support programs and which are organized primarily for the purpose of conducting such activities.

Definition of "peanuts eligible for domestic edible use", 46 commentators. Twelve organizations and 28 individuals recommended that both Segregation 2 and Segregation 3 peanuts be defined for program purposes as eligible for domestic edible use. Two organizations and 3 individuals recommended that Segregation 3 peanuts be eligible. One organization recommended that neither Segregation 2 nor Segregation 3 peanuts be eligible.

Sales policy. There were 12 organizations and 7 individual commentators on one or more aspects of sales policy. In general, commentators endorsed sales policies as set forth in the January 17 notice of this ruling, with the following major exceptions: Ten organizations recommended a minimum sales price of 100 percent of the quota loan rate plus costs for sales for edible export use; and 8 organizations and 2 individuals recommended that sales for crushing be made by competitive bid with no restrictions on exports.

After considering the comments received and the applicable provisions of the Act, the following determinations are being made with respect to the 1978 crop of peanuts.

1. *The national level of support for quota peanuts.* Subsection 108(a) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts of the 1978 crop at such level as he finds appropriate, but not less than $420 per ton. In determining price support levels, subsection 108(a) of the Act directs the Secretary to take into consideration (a) any change in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period January 1 through December 31, 1977, inclusive, and (b) the eight factors specified in section 401(b) of the Act, namely: The supply of the commodity in relation to the demand therefor, the levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand. Pursuant to the language of subsection 108(a) of the Act, the following data were considered:

(a) *Index of prices paid for production items, interest, taxes and wage rates.* The current estimate of the calendar year 1977 index (1910-1914) is 740 compared with 709 in calendar year 1976—an increase of 4.37 percent in 1977. A comparable increase in the minimum price support level of $420 per ton would result in a loan rate of about $440 per ton.

(b) The eight factors to be considered, as specified in section 401(b) of the Act, are as follows:

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1. *Supply of the commodity in relation to demand.* In a ruling effective November 30 and published December 6, 1977 (42 FR 61585), the Department established the 1978-crop national poundage quota for peanuts at the statutory minimum of 1,680,000 tons. The determination that this minimum level was sufficient to meet total estimated requirements for domestic edible use and a reasonable carryover was based on the following data:

Projected requirements 1978 M Y	1,000 tons
Domestic edible	975
Seed	100
Crushing residual from edible millings	130
Subtotal 1978 requirements	1,205
Reasonable carryover (2 months supply)	200
Total requirements	1,405
Minimum national poundage quota	1,680
Percentage of requirements	119

2. *Price levels at which other commodities are being supported (1978 crop).*

Commodity	Price support	Target price
Upland cotton (lb)	$0.44	$0.52
ELS cotton (lb)	.83	
Corn (bu)	2.00	2.10
Sorghum (cwt)	3.39	4.07
Barley (bu)	1.63	2.25
Oats (bu)	1.03	
Rye (bu)	1.70	
Wheat (bu)	2.25	3.00

3. *Availability of funds.* Current estimates of fund availability for fiscal year 1979 indicate that funds will be insufficient to finance all corporation programs and activities. The Department has proposed legislation to increase the corporation's borrowing authority limitation from the authorized $14.5 billion to $20 billion, which was transmitted with the President's 1979 budget.

4. *The perishability of the commodity.* Shelled peanuts can be kept in cold storage for two years or more with little loss of weight or quality. It is hazardous, however, to hold peanuts in dry storage through the hot summer months because of danger of loss due to deterioration, insect infestation, or rodent damage.

5. *Importance of commodity to agriculture and the national economy.* Peanuts are grown on about 59,000 farms in 16 States. The value of picked and threshed production from the 1977 crop is estimated at $771 million, about $21 million higher than the value of the 1976 crop.

6. *The ability to dispose of stocks acquired through price support operations.* There is an immediate dollar market for peanuts for crushing at competitive prices.

7. *The need for offsetting temporary losses of export markets.* Because of a world shortage, U.S. exports of peanuts in the 1976-77 marketing year reached an all-time high of 392,000 tons. The shortage is expected to continue through the 1977-78 marketing year, and U.S. exports for that period are projected at a minimum of 440,000 tons. These totals include CCC sales for export (at prices equal to or above the loan rate) which were 150,000 tons in 1976-77 and are expected to be about the same, or higher in 1977-78. Whether this export volume can be sustained through the 1978-79 marketing year will depend largely on export availabilities from India and other producers of peanuts for edible use. The latest projection for 1977-78 U.S. exports is 365,000 tons, consisting of 42,000 tons of commercial quota peanuts and peanut products, 225,000 tons of additional peanuts grown under commercial contracts and 98,000 tons sold from loan stocks of quota and additional peanuts. If 1978-79 export demand is higher, or the supply of additional peanuts is lower than projected, an estimated 378,000 tons of surplus quota loan stocks will be available, at or above the quota loan rate plus costs, to make up the shortfall.

8. *The ability and willingness of producers to keep supplies in line with demand.* In a referendum held December 12 through 15, 1977, 93.6 percent of the growers voting approved marketing quotas and acreage allotments for the 1978 through 1980 crops of peanuts. The referendum was held subsequent to a determination by the Department on December 6, 1977 (42 FR 61588) that the national acreage allotment for 1978 crop peanuts will be 1,614,000 tons, the statutory minimum; and that the national poundage quota of 1978 crop peanuts which will be eligible for price support at the quota loan rate will be 1,680,000 tons, the statutory minimum. In so voting, the growers indicated acceptance of a ruling which will reduce the quantity of peanuts eligible for price support at the quota loan rate from 2,068,850 tons in 1977 to 1,680,000 tons in 1978—a reduction of 388,850 tons.

After consideration of the comments received and the above data, it has been determined by the Secretary that the national level of support for 1978-crop quota peanuts will be $420 per ton, the statutory minimum.

2. *The national level of support for additional peanuts.* Subsection 108(b) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on 1978-crop "additional peanuts", which are defined in the 1977 amendments to the Act as

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any peanuts which are marketed from a farm and which are in excess of the marketings of quota peanuts from such farm for the marketing year but not in excess of the actual production from the farm acreage allotment. This subsection requires that the loan rate for 1978 crop additional peanuts shall be announced not later than February 15, 1978, and that in determining this rate the Secretary shall take into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

Historically, there is an immediate dollar market for peanuts for crushing and production of peanut oil and meal. Peanut oil prices usually have averaged about 4 cents to 5 cents per pound above soybean oil prices, with peanut meal prices averaging about $5 per ton below soybean meal prices. In recent months peanut oil prices have averaged almost double soybean oil prices due primarily to a short U.S. crop and heavy export volume, which has reduced domestic crushing availabilities. Current projections indicate a decline in peanut exports in the 1978-79 marketing year, a corresponding increase in domestic crushing availabilities, and a peanut domestic crushing value of $220 per ton, based on oil at 24 cents per pound (6 cents above estimated soybean oil price) and meal at $135 per ton.

The demand for U.S. peanuts in foreign markets is estimated at 365,000 tons in the 1978 marketing year compared with an estimated 440,000 tons in 1977. The projected reduction in exports is based on the expectation that peanut export availabilities from India and other world suppliers will recover from the abnormally low levels of 1976 and 1977. It is estimated that world demand, combined with the minimum sales policies established by this notice, will sustain an average export price of at least $400 per ton for U.S. peanuts and an additional loan rate, taking into consideration the estimated $220 per ton domestic crushing value, of $250 per ton.

Taking into consideration these factors and the comments received, it has been determined by the Secretary that the national level of support for 1978 crop additional peanuts will be $250 per ton.

3. *Area marketing associations.* Subsection 108(c) of the Act authorizes the Secretary to make loans available in each of the three producing areas (described in 7 CFR 1446.4 (1977 ed.)) to a designated area marketing association of peanut producers which is selected and approved by the Secretary and which is operated primarily for the purpose of conducting such loan activities. Such associations may be used in administrative and supervisory activities relating to price support and marketing activities under section 108 and under the Agricultural Adjustment Act of 1938, as amended. Such loans shall include, in addition to the price support value of the peanuts, such costs as the associations may reasonably incur in carrying out such responsibilities.

It is hereby determined that the area marketing associations designated in § 1446.30 of this ruling will be used in making warehouse storage loans and performing other program activities.

Since 1937, such associations have participated in administering and supervising the peanut program in a manner generally similar to that described herein.

4. *Peanuts eligible for domestic edible use.* The 1977 amendment to Title I of the Act defines "domestic edible use" as use for milling to produce domestic food peanuts and seed and use on a farm. Only peanuts which are eligible for domestic edible use as determined by the Secretary may be marketed from a farm as quota peanuts in the 1978 marketing year.

Regulations currently in effect, contained in 7 CFR 1446.3 (1974 ed.) and the 1977 quality regulations issued pursuant to the Peanut Marketing Agreement classify farmers stock peanuts as follows:

Segregation 1 peanuts means farmers stock peanuts which (i) have at least 99 percent peanuts of one type, (ii) have not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold or decay, and (iii) are free from *A. flavus mold.*

Segregation 2 peanuts means farmers stock peanuts which (i) have less than 99 percent peanuts of one type, or (ii) have more than 2 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and (iii) are free from visible *A. flavus mold.* Segregation 3 peanuts means farmers stock peanuts which have visible *A. flavus mold.*

Under these regulations, only Segregation 1 peanuts may be milled and sold for the manufacture of peanut butter, roasted peanuts, salted peanuts and other edible products using the peanuts as peanuts. In common usage, the term "eligible for domestic edible use" has been applied only to these Segregation 1 peanuts, although other classes of peanuts may be crushed to obtain edible oil.

In defining the term "eligible for domestic use" as it applies to the definition of quota peanuts, the Department has considered whether to restrict eligibility to Segregation 1 peanuts or to broaden the term, for program purposes only, to include Segregation 2 and 3 peanuts under specified condi-

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tions. The broader definition was under consideration primarily as a means of alleviating loss of farm income to growers whose crops were severely impaired by freeze damage, drought, *A. flavus* contamination, or similar disastrous crop conditions.

Accordingly, it is hereby determined, however, that for 1978-crop peanuts, only Segregation 1 peanuts will be defined as peanuts eligible for domestic edible use, and only Segregation 1 peanuts may be marketed from a farm as quota peanuts during the harvest season.

5. *Sales policy.* Section 407 of the Act provides that CCC may not sell peanuts at less than 105 percent of the support price plus reasonable carrying charges, except sales for new or by-product uses, extraction of oil, export, and prevention of deterioration or spoilage.

Section 359(j) of the Agricultural Adjustment Act of 1938, as added by the Food and Agriculture Act of 1977, provides that additional peanuts received under loan may be sold for domestic edible use at prices not less than those required to cover all costs incurred with respect to the peanuts sold, plus: (1) 100 percent of the quota loan value if the additional peanuts are sold and paid for during the harvest season upon delivery by the producer, or (2) 105 percent of the quota loan value if the additional peanuts are sold after delivery by the producer but on or before December 31 of the marketing year, or (3) 107 percent of the quota loan value if the additional peanuts are sold later than December 31 of the marketing year.

Sales of both quota and additional peanuts for domestic edible use will be made on the terms specified in items (2) and (3) of the preceding paragraph. Also, additional peanuts will be sold for domestic edible use on the terms specified in item (1) of the preceding paragraph. Under the discretionary authority provided by the Act, it has been determined that sales of quota peanuts for export will be made by CCC at not less than all costs incurred plus 100 percent of the quota loan value. Sales of additional peanuts from which edible grades are to be exported will be made by CCC at not less than $400 per ton. Sales of additional peanuts for export for crushing only will be made by CCC at not less than all costs incurred with respect to the peanuts sold, plus 100 percent of the additional loan value. Additional peanuts sold by CCC for export crushing will be required to be fragmented prior to export. Sales of quota and additional peanuts for domestic crushing only will be made by CCC at competitive prices with the use of oil being restricted to domestic markets if the price of the peanuts from which the oil is produced is less than the applicable loan rate, plus costs.

Under the 1977 and prior peanut programs, §§ 1446.1 through 1446.7 of this Subchapter B contained the general regulations governing peanut warehouse storage loans and §§ 1446.8 through 1446.13 contained the annual crop supplements to the general regulations. The general regulations are currently being revised and will require additional subsection numbers. Accordingly, part 1446 is renumbered, effective for the 1978 and subsequent crops, as follows: §§ 1446.1 through 1446.29 are designated for the general regulations and §§ 1446.30 through 1446.50 are designated for the annual crop supplements. Sections 1446.8 through 1446.13 are deleted effective as to the 1978 and subsequent crops. The material previously appearing in §§ 1446.8 through 1446.13 as subpart "1977 Crop Peanut Warehouse Storage Loan Supplement" remains in full force and effect as to the 1977 crop.

Effective, for the 1978 crop of peanuts, §§ 1446.30 through 1446.50 are added and the title of the subpart is amended to read as follows:

Subpart—1978-Crop Peanut Warehouse Storage Loans

Sec.

1446.30 Associations through which producers may obtain price support.
1446.31 Applicability.
1446.32 National average support value, quota peanuts.
1446.33 National average support value, additional peanuts.
1446.34 Sales for domestic edible use.
1446.35 Sales for export.
1446.36 Sales for domestic crushing.
1446.37 Definition of domestic edible use.
1446.38 through 1446.50 [Reserved]

Subpart—1978 Crop Peanuts Warehouse Storage Loan Supplement

§ 1446.30 Association through which producer may obtain price support.

Eligible producers may obtain price support by means of warehouse storage loans on eligible 1978 crop farmers stock peanuts through, in the Southeastern area, GFA Peanut Association, Camilla, Ga.; Southwestern area, Southwestern Peanut Growers' Association, Gorman, Tex.; and Virginia-Carolina area, Peanut Growers Cooperative Marketing Association, Franklin, Va.

§ 1446.31 Applicability.

The support prices specified in this subpart apply to 1978 crop farmers stock peanuts in bulk or in bags, net weight basis, eligible for price support advances under the General Regulations.

§ 1446.32 National average support value, quota peanuts.

The national average support value for 1978 crop quota peanuts is $420 per ton.

§ 1446.33 National average support value, additional peanuts.

The national average support value for 1978 crop additional peanuts is $250 per ton.

§ 1446.34 Sales for domestic edible use.

Sales of quota and additional peanuts for domestic edible use, including use as seed, will be made by CCC at not less than all costs incurred with respect to the peanuts sold plus: (a) 105 percent of the quota loan value if sold on or before December 31, 1978, or (b) 107 percent of the quota loan value if sold later than December 31, 1978, except that (c) sales of additional peanuts for domestic edible use, if sold and paid for during the harvest season and upon delivery buy the producer, will be made by CCC at not less than all costs incurred plus 100 percent of the quota loan value.

§ 1446.35 Sales for export.

Sales of quota peanuts for export will be made by CCC at not less than all costs incurred with respect to the peanuts sold plus 100 percent of the quota loan value. Sales of additional peanuts from which edible grades are to be exported will be made by CCC at not less than $400 per ton. Sales of additional peanuts for export crushing only will be made at not less than all costs incurred with respect to the peanuts sold plus 100 percent of the additional loan value, and such peanuts shall be fragmented prior to export in accordance with the General Regulations.

§ 1446.36 Sales for domestic crushing.

Sales of quota and additional peanuts for domestic crushing only will be made by CCC at competitive prices, and if such prices are less than all costs incurred plus the applicable loan rate for quota or additional peanuts, the use of the oil produced from such peanuts will be restricted to domestic markets.

§ 1446.37 Domestic edible use.

"Peanuts eligible for domestic edible use" means Segregation 1 peanuts, which are farmers stock peanuts having: (a) at least 99 percent peanuts of one type, (b) not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold or decay, and (c) are free from the A. flavus mold. Since peanuts must be eligible for domestic edible use to be quota peanuts, only Segregation 1 peanuts may be placed under loan at the quota loan rate.

NOTE.—The Commodity Credit Corporation has determined that this document contains a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107 and certifies that an economic impact statement has been prepared.

Signed at Washington, D.C., on May 9, 1978.

CAROL TUCKER FOREMAN,
Acting Secretary of Agriculture.

[FR Doc. 78-13521 Filed 5-17-78; 8:45 am]

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Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendments To Include Synthetic Fuels Under the Entitlements Program

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts amendments to the domestic crude oil "entitlements" program to permit refiners to earn entitlements for those volumes of a synthetic fuel obtained from oil shale that they utilize within their refineries as a feedstock, blending stock or fuel. In addition, the amendments set forth that the ERA may, on a case-by-case basis, grant entitlements treatment on the same basis as that adopted for shale oil to synthetic liquid fuels made from biomass, coal, solid waste materials or tar sands and used in refineries, as well as all such synthetic fuels, plus shale oil derivatives, which are used as boiler or engine fuels outside a refinery. The purpose of these amendments is to remove the inconsistency which currently exists regarding the treatment under the entitlements program of synthetic liquid fuels as compared to the treatment of imported crude oil.

DATES: Effective for refiners' crude oil runs to stills for July 1978. Further comments due on or before July 31, 1978.

ADDRESS: Send comments to: Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, Box TJ, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (DOE Reading Room), Department of Energy, 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

Frank Kelly (Office of Public Affairs), Economic Regulatory Administration, 2000 M Street NW., Room 6308E, Washington, D.C. 20461, 202-254-8690.

Daniel J. Thomas (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 2310B, Washington, D.C. 20461, 202-254-7477.

Douglas W. McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street NW., Room 6128I, Washington, D.C. 20461, 202-254-8660.

Nancy E. Williams, Department of Energy (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461, 202-566-2454.

SUPPLEMENTARY INFORMATION:

I. General Discussion.
II. Background.
III. Discussion of Comments.
IV. Amendments Adopted:
A. Shale Oil.
B. Other Petroleum Substitutes.
C. Miscellaneous Provisions.
V. Oil Shale Plants.
VI. Additional Comments Requested.

I. General Discussion

We believe it is in the national interest to encourage further production of domestically-produced synthetic fuels, for these fuels offer a means of reducing the volume of crude oil presently imported by U.S. refiners. However, the means available to us to offer such encouragement are limited. One method clearly open to us, though, is to eliminate discriminations in current regulations in favor of foreign crude oil and against domestically-produced synthetic fuels. For this reason, we are adopting the amendments to the entitlements program which are set forth below. These amendments will permit synthetic fuels to receive the same treatment under the program that imported crude oil receives.

We recognize that these amendments, by themselves, will not result in the synthetic fuels covered by the rule being widely marketable. However, we believe the amendments will offer some encouragement to the production of substitutes for crude oil and refined products, since they should result in a producer of a synthetic fuel receiving approximately $2 per barrel (the current per barrel benefit received on imported oil from the entitlements program) more for the synthetic than he otherwise would.

II. Background

On July 26, 1977, the Federal Energy Administration (FEA), a predecessor agency of the DOE, issued a Notice of Proposed Rulemaking and Public Hearing which proposed amendments to the entitlements program to permit refiners to earn entitlements for those volumes of synthetic fuel processed from oil shale found within the United States that they utilize as a refinery feedstock (42 FR 38599, July 29, 1977). The notice also requested comments on whether synthetic fuels other than shale oil should be included within the scope of the rule.

Effective October 1, 1977, all functions previously performed by the FEA were transferred to the DOE under the Department of Energy Organization Act, Pub. L. 95-91 ("DOE Act") and Executive Order No. 12009 (42 FR 46267, September 15, 1977). Section 705(b)(1) of the DOE Act provides in part:

> The provisions of this Act shall not affect any proceedings • • • pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings • • • to the extent that they relate to functions so transferred, shall be continued. • • •

Pursuant to the above provision, this rulemaking proceeding, begun by the FEA prior to the activation of the DOE, was continued and transferred to the DOE.

In addition, by DOE Delegation Order No. 0204-4 (42 FR 60725, November 29, 1977), the Secretary of Energy delegated to the Administrator of the ERA the authority to take such action, including the adoption of rules, as is necessary and appropriate to administer several functions, among which are the allocation and pricing of crude oil and refined petroleum products, pursuant to the provisions of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), as amended. Under the authority of this Delegation Order, we adopt the amendments to the entitlements program set forth below.

III. Discussion of Comments

The FEA received fourteen written comments on the amendments proposed in July 1977 from members of the petroleum industry, including several corporations actively engaged in programs for the development of a synthetic liquid fuel from domestic oil shale. (An opportunity for a hearing was also provided, but there were no requests to make oral presentations.) All comments supported amending the

[1] EDITORIAL NOTE: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Department of Energy.

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entitlements program so as to grant entitlement benefits to refiners for the use of a synthetic liquid fuel obtained from domestic oil shale.

Some of the comments submitted in response to the July 1977 notice suggested that, in addition to the proposed rule, all volumes and prices of synthetic liquid fuel produced from oil shale should be exempted from computation of the composite price applicable to first sales of domestic crude oil under the Energy Policy and Conservation Act, Pub. L. 94-163, as amended ("EPCA"), in order that there be the least possible disincentive to the attainment of market-level prices by oil from oil shale. We are not adopting such an amendment because it is not necessary. For the reasons set forth in FEA Ruling 1976-4 (41 FR 25886, June 23, 1976), we believe Congress did not intend to treat a synthetic liquid fuel obtained from oil shale as domestic crude oil, and therefore it does not enter into the composite price calculations under the EPCA.

Several other comments raised points which we discuss below.

IV. Amendments Adopted

The amendments which were proposed in July 1977 only encompassed a synthetic fuel produced from oil shale, as that was the only crude oil substitute believed to be available in commercial quantities. The proposal also only applied to shale oil used as an input to a refinery distillation unit. The July 1977 notice requested comments, however, as to whether any other domestically-produced synthetic liquid fuels should be made eligible to receive entitlements benefits on a basis analogous to shale oil. Of those commenters addressing this question, all supported treating other synthetic liquid fules similarly to shale oil.

On the basis of information received in this rulemaking, we have reason to believe that in fact other synthetic fuels are currently being produced, or soon will be produced through processes currently being designed. We at present lack detailed information about such fuels and their production methods and whether all such fuels need the benefits of the entitlements program in order to be competitive with imported oil. We believe it is necessary, however, in order to provide appropriate incentives for the production of other forms of synthetic liquid fuels, that we adopt at this time a rule containing a mechanism by which such fuels can, if qualified, participate equally with imported oil and the more conventional synthetic, shale oil, in the entitlements program.

For these reasons, we are adopting a rule which has two aspects. One part of the rule will permit all shale oil which is used in a refinery to earn entitlements benefits automatically, without further review by ERA. The second part of the rule sets forth that synthetic liquid fuels other than shale oil (as well as shale oil in non-refining uses) may also earn entitlements benefits, following a brief review procedure whereby ERA determines eligibility on a case-by-case basis.

This case-by-case application procedure is being established on a trial basis, at least until more information and experience regarding synthetic fuel production and use is gained. We believe this application procedure will provide appropriate incentives for new technology while insuring that crude oil substitutes not needing entitlements benefits or not materially contributing to a reduction in imported oil do not participate in the program. As experience accumulates under the case-by-case aspect of the rule, we may place certain additional categories of synthetic liquid fuels under the first aspect of the rule.

The term adopted to describe all the synthetic fuels covered by these amendments is "petroleum substitute." For purposes of these amendments this term encompasses any domestically-produced synthetic liquid fuel which can be used as a substitute for petroleum in a refinery, as a fuel blendstock, or as a boiler fuel and which is eligible under the criteria set forth in this rule to earn the same benefits that imported crude oil used as a refinery feedstock now receives under the entitlements program.

A. SHALE OIL

Under the first aspect of the rule described above, the term "petroleum substitute" will include the liquid synthetic fuel derived from oil shale deposits located in the United States. All such shale oil will automatically be eligible for inclusion in the entitlements program if it is used in a refinery. Under the rule adopted, refiners will report domestically-produced shale oil as a separate item among their crude oil runs to stills.

There are two significant differences between the rule adopted today as it applies to shale oil and the rule as proposed in the July 1977 notice. The first is that the July 1977 notice proposed entitlements benefits for shale oil only if such oil were refined. We have decided to include also shale oil used in a refinery for blending purposes or as a refinery fuel, since in either case it has the same favorable impact on reducing import dependence as refining of the shale oil would have.

Second, the July 1977 proposal contained a technical definition of oil shale which is not adopted in today's amendments. We believe the term "oil shale" is self-explanatory and need not be further defined in the rule adopted. The proposed definition of oil shale did not encompass processes other than destructive distillation which may be utilized to extract a liquid from oil shale. Since other processes do exist or are being developed, liquid synthetic fuel obtained from domestic oil shale through any method will qualify for entitlements benefits; these methods will include, but not be limited to, destructive distillation, pyrolysis, and in situ pyrolysis.

B. OTHER PETROLEUM SUBSTITIUTES

The term "petroleum substitute" will additionally include certain liquid synthetic fuels other than those derived from oil shale and used in a refinery that are subsequently so designated by ERA. It will also include such liquid fuels, plus shale oil derivatives, that are used directly as boiler or engine fuels without undergoing refining, if so designated by ERA. This designation will be made pursuant to applications submitted to ERA's Office of Fuels Regulation, which applications will be reviewed on the basis of certain standards or criteria set forth in the regulation. The criteria are designed to maintain a consistent approach and policy in the implementation of this amendment. Each application for a synthetic fuel to be disignated as a petroleum substitute will be granted or denied through issuance of an order, after an expeditious review of the application.

In order to qualify for designation by the ERA as a petroleum substitute, the synthetic in question must be a liquid derived from domestic supplies of oil shale (if not otherwise automatically included in the entitlements program as described above), tar sands, coal, solid waste or biomass. Foreign sources of such liquids will not qualify.[2] In addition, the substitute must be used in the U.S. as a refinery feedstock, a blending feedstock or directly as a fuel in a refinery or elsewhere. The ERA has information that some fuels now being produced from oil shale and other potential petroleum substitutes are such that they are efficient fuel substitutes for petroleum products without having to undergo

[2] In this context, reference should be made to an amendment to the entitlements program which was adopted in August 1975 (40 FR 39847, August 29, 1975) that granted entitlements benefits to synthetic crude oil processed from Canadian tar sands. That amendment was adopted so that the effective cost of that crude oil would not be higher than imported crude oil. The primary reason for the amendment was to encourage continued imports and utilization of this crude oil in the face of severe curtailments in other Canadian crude oil imports and a potentially serious supply shortage in the Northern Tier States. The policy behind the Canadian synthetic crude oil entitlement amendments is thus distinguishable from that which supports restriction of the amendments adopted here to synthetic fuels from domestic source materials.

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the refining process. Since direct consumption of such synthetics would reduce petroleum imports as much as the refining of synthetics, we have determined that they should also receive the benefits of the entitlements program if they otherwise qualify.

After determining whether a petroleum substitute meets these threshold requirements, the ERA will take into consideration whether production of the substitute results in a net gain of energy or a higher-valued fuel than those used in the production process. Those substitutes that can be produced with little expenditure of energy, particularly petroleum energy, relative to the energy produced will be considered more favorably than those that do not. Whether the consumption of energy in a particular case is too high to warrant inclusion of the liquid in the entitlements program will be dependent upon the circumstances of the case and cannot at this time be specified with precision in a general rule.

In approving an application, the ERA will structure its order so that only one party to a production, marketing, and consumption chain involving a petroleum substitute will receive entitlements benefits. This requirement prevents entitlements from being earned twice by, for example, both the producer and the refiner of a petroleum substitute. In those cases where a petroleum substitute is being used directly as a fuel, the ERA will determine on a case-by-case basis whether the party that participates in the entitlements program is the producer, the end-user, or some intervening reseller. Where one party in a distribution chain involving a petroleum substitute is a refiner or other firm that already is a participant in the entitlements program, for reasons of administrative simplicity it will in most cases be selected by the ERA as the one to participate in the entitlements program for purposes of the petroleum substitute transaction involved.

The regulation also addresses the amount of the entitlements benefits that will be given to a particular petroleum substitute. With the exception of petroleum substitutes derived from oil shale, which will receive entitlements benefits on the same per barrel basis as crude oil, entitlements will be granted on the basis of the gross heating value of the substitute as compared to the gross heating value of 40 degrees API crude oil. "Gross heating value" is a determination of heat content arrived at under the American Society for Testing and Materials test method D-240. The gross heating value for 40 degrees API crude oil (a very light, high quality crude oil) is 5.7 million Btu's per barrel. A barrel of petroleum substitute which contains 5.7 million Btu or more will receive the same entitlement benefit as a barrel of imported crude oil. A petroleum substitute containing less than 5.7 million Btu/bbl will receive a fractional entitlement benefit equal to its gross heating value divided by 5.7 million Btu/bbl.

We intend to administer the case-by-case application process described above in a way that will carry out the spirit of the regulation, which is to encourage the development and use of domestically-derived petroleum substitutes that have the potential of reducing our dependence on imported crude oil. Thus, the review process will be as expeditious as possible, and the definition of "petroleum substitute" will be read expansively. It is expected as a minimum that ERA will, assuming all other criteria are met, approve the inclusion in the entitlements program of such substitutes as ethanol used as a blending stock or shale oil derivations, such as kerogen, used directly as a powerplant boiler fuel.

Firms producing or contemplating production of a petroleum substitute are invited to file an application with the ERA requesting that it be granted entitlements program treatment. Applications should be submitted to the ERA Office of Fuels Regulation, 2000 M Street NW., Room 6128, Washington, D.C., 20461. We will consider applications even though construction of production facilities has not begun, since it is our belief that if investors know in advance that a particular petroleum substitute would receive imported oil entitlements treatment, they may be more likely to invest in the production process. Applications should address each of the elements set forth in the regulation and provide any other information which might be pertinent to the application. Orders granting applications will specify the terms under which the petroleum substitute in question will participate in the entitlements program, including the fraction of an entitlement to be received for each barrel of petroleum substitute and the firm that shall be eligible to participate in the entitlements program. An appeal of any decision on an application may be filed with the Office of Hearings and Appeals of the DOE.

C. MISCELLIANEOUS PROVISIONS

The amendment to § 211.67 is adopted in a form different from that which was proposed, for the following reasons. First, a subparagraph (5) is adopted for addition to paragraph (a) to set forth the method by which petroleum substitutes identified in the application procedure described above will earn entitlements. To act in conjunction with this provision, the definition of "national domestic crude oil supply ratio" in § 211.62 is also amended.

Second, the subparagraph (8) proposed for addition to paragraph (d) has been amended from that which was proposed. This subparagraph sets forth the method by which refiners will earn entitlements for the petroleum substitute obtained from oil shale which is used as a feedstock or as a fuel in a domestic refinery. The reference term "petroleum substitute" is substituted in this subparagraph for that which was proposed and reference to the Bureau of Mines Form 6-1300-M is omitted, since that form is no longer used. Also, the subparagraph is altered to reflect that the amendment adopted is applicable to nonrefining as well as refinery uses of shale oil.

The amendments will impose no entitlement obligation on a refiner or other firm under § 211.67(b) with respect to the inclusion of a petroleum substitute in its crude oil receipts. Thus, the treatment of petroleum substitutes under the entitlements program will be analagous to the treatment of imported crude oil under the program.

The amendments as they apply to shale oil are effective from crude oil runs to stills in July 1978 for which entitlements transactions will take place in September 1978.

V. Oil Shale Plants

Two of the written comments submitted in response to the July 1977 notice urged that the proposed amendments be revised to be applicable to oil shale facilities which are designed to both produce shale oil and upgrade that shale oil into refined petroleum products. One such facility has been designed and partially constructed. However, construction on the facility has been suspended, and apparently the facility has not yet proved to be commercially viable.

It is our intention under the rule adopted today that this type of facility would not automatically qualify its shale oil production as being subject to the entitlements program, without any prior review by the ERA. However, such a plant would appear to meet all of the criteria under the second aspect of the definition of petroleum substitute. Therefore, if a decision is made to proceed with construction of the plant described above or other similar plants we would encourage the parties involved to apply to us through the procedures described above to request entitlement benefits with respect to the products produced in the facility.

VI. Additional Comments Requested

Although within the scope of the July 1977 Notice of Proposed Rulemaking, we recognize that the amendments adopted today represent a significantly different solution to a regulatory inconsistency than other currently existing ERA regulations and

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that they may require further fine-tuning to carry out their intended purpose as efficiently as possible. Thus, even though the amendments adopted today are effective beginning July 1, 1978, we are soliciting further comments on these amendments through July 31, 1978. Comments should address in particular the following points:

(1) Whether there will be significant administrative problems in implementing these amendments;

(2) Whether the application process adopted herein will be an adequate and satisfactory means of including new synthetic fuels within the entitlements program;

(3) Whether the criteria on which applications will be reviewed are appropriate, or whether different or additional criteria would be more appropriate;

(4) Whether the incentives granted by these amendments for the production of synthetic fuels are significant enough to result in increased production of such fuels; and

(5) Whether the ERA should adopt any other amendments to its regulatory programs which would provide additional encouragement to synthetic fuel production.

Written comments will be accepted and considered if received by July 31, 1978. Comments should be submitted to the address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope with the designation "Synthetic Fuels." Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

The proposal of July 26, 1977, was submitted to the Federal Energy Regulatory Commission on November 14, 1977, for review in accord with the provisions of Section 404(a) of the DOE Act. The Commission informed the ERA in a letter of December 20, 1977, that it had determined the proposed rule would not significantly affect any function within its jurisdiction pursuant to Section 402 (a)(1), (b), and (c)(1) of the Act.

Pursuant to interim guidelines adopted by the ERA for implementation of Executive Order 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978), it has been determined that a regulatory analysis need not be performed on the amendment hereby adopted.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-322, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23785; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective July 1, 1978.

Issued in Washington, D.C., May 12, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

1. Section 211.62 is amended to revise the definition of "national domestic crude oil supply ratio" and to add a new definition of "petroleum substitute" in appropriate alphabetical order to read as follows:

§ 211.62 Definitions.

• • • • •

"National domestic crude oil supply ratio" means, for a particular month, the volume of deemed old oil (as defined in § 211.67(b)) included in the aggregate adjusted crude oil receipts of all refiners, decreased by a number of barrels of old oil equal to the number of entitlements issuable to small refiners under § 211.67(e) and the number of entitlements issuable under § 211.67(a)(5), divided by the sum of the total volume of the crude oil runs to stills for all refiners for that month and thirty (30 percent) percent of the total volume of imports of eligible products by eligible firms for that month. The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the correction of reporting errors pursuant to paragraph (j) of § 211.67.

• • • • •

"Petroleum substitute" means (a) a liquid produced from oil shale found in the United States and used as a feedstock or fuel in a domestic refinery, and (b) such other liquid synthetic fuels as are designated pursuant to orders issued by the ERA. Applications for such orders may be submitted to ERA under Subpart G of Part 205 of this Chapter. In order to be designated a petroleum substitute, a liquid synthetic fuel must be found by the ERA to be derived from domestic biomass, coal, oil shale, solid waste materials or tar sands, and used in the United States as a feedstock to a refinery, a blending feedstock or as a boiler fuel in a refinery or elsewhere. The ERA may, in its discretion, deny such designation if it determines that the liquid synthetic fuel in question does not result in a net gain of energy, considering the fuel consumption involved in its production, or requires the consumption of substantial quantities of a relatively scarce fuel for its production.

• • • • •

2. Section 211.67 is amended in paragraph (a) to add a new subparagraph (5) to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) *Issuance of entitlements.* • • •

(5) For each month, commencing with the month of July 1978, each firm that has been designated by the ERA as eligible to participate in the entitlements program by reason of its producing, selling or using a petroleum substitute, shall be issued a number of entitlements determined as follows:

(i) In the case of a petroleum substitute derived from oil shale, that number of entitlements that would be received by a refiner if each barrel of the petroleum substitute were a barrel of crude oil;

(ii) In the case of a petroleum substitute other than one derived from shale oil having a gross heating value of 5.7 million Btu's per barrel or more, that number of entitlements that would be received by a refiner if each barrel of the petroleum substitute were a barrel of crude oil; and

(iii) In the case of a petroleum substitute other than one derived from shale oil having a gross heating value of less than 5.7 million Btu's per barrel, that number of entitlements that would be received by a refiner if each barrel of the petroleum substitute were equal to a fraction of a barrel of crude oil, the numerator of which would be the gross heating value per barrel, in Btu's, of the petroleum substitute, and the denominator of which would be 5.7 million Btu's. Where a petroleum substitute is being used for purposes other than in a refinery, ERA will designate the firm to which entitlements will be issued and the manner in which the use of the petroleum substitute by that firm shall result in entitlement issuances.

• • • • •

3. Section 211.67 is amended in paragraph (d) to add a new subparagraph (8) to read as follows:

§ 211.67 Allocation of domestic crude oil.

• • • • •

(d) *Adjustments to volume of crude oil runs to stills.* • • •

(8) Commencing with the month of July 1978, the volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in subparagraph (1) of paragraph (a) of this section and the calculations for the national domestic crude oil supply ratio shall include the total number of barrels of the liquid produced from oil shale that is found in the United States and used as a refining feedstock, blending feedstock or fuel in a domestic refinery in that month by a refiner.

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[FR Doc. 78-13527 Filed 5-17-78; 8:45 am]

[6749-02]

CHAPTER X—DEPARTMENT OF ENERGY (GENERAL PROVISIONS)

PART 1000—TRANSFER OF PROCEEDINGS TO THE SECRETARY OF ENERGY AND THE FEDERAL ENERGY REGULATORY COMMISSION

Amendment to Transfer Application Amendment

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) final rule of October 1, 1977, is amended to clarify the jurisdictional status of the November 11, 1977 Amendment to Application of Western LNG Terminal Associates, in "Pacific Indonesia LNG Co., et al.," FPC Docket No. CP74-160, et al., ERA Docket No. 77-001-LNG. The Amendment to Application will be transferred to the jurisdiction of the Federal Energy Regulatory Commission until the timely filing of all briefs, at which time the Commission shall forward a copy of the record of that proceeding to the Secretary of Energy for decision on those matters within his jurisdiction.

EFFECTIVE DATE: February 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Barry M. Smoler, Department of Energy, Office of General Counsel, Washington, D.C. 20461, 202-566-9380.

Brian J. Heisler, Office of General Counsel, Federal Energy Regulatory Commission, Washington, D.C. 20426, 202-275-4341.

SUPPLEMENTARY INFORMATION: The Department of Energy was established by the Department of Energy Organization Act (Pub. L. 95-91) (the DOE Act), which was made effective October 1, 1977 (42 FR 46267, September 15, 1977). In a final rule issued by DOE on October 1, 1977 (42 FR 55534, October 17, 1977), a regulation was promulgated in Title 10, Code of Federal Regulations, pursuant to Section 705(b)(2) of the Act, which provides:

(2) The Secretary and the Commission are authorized to promulgate regulations providing for the orderly transfer of (pending) proceedings to the Department or the Commission.

Subsection (b)(16) of this regulation (10 CFR 1000.1(b)(16)) transferred to the jurisdiction of the Secretary of Energy certain proceedings which were pending with the Federal Power Commission (FPC). Subsection (c)(2) of the regulation provided that certain proceedings would remain with the Federal Energy Regulatory Commission through the issuance of an Administrative Law Judge's initial decision and the filing of briefs thereon, with transfer thereafter to the Secretary of Energy for decision.

The Amendment to Application of Western LNG Terminal Associates was filed on November 11, 1977, in the Economic Regulatory Administration's Docket No. 77-001-LNG, as an amendment to applications originally filed with the Federal Power Commission in their Dockets No. CP75-83 and No. CP75-83-3. Those dockets had been consolidated into Pacific Indonesia LNG Co., et al., Docket No. CP74-160, et al. Pursuant to the final rule of October 1, 1977, the record in that consolidated proceeding had been transferred to the Secretary of Energy subsequent to the filing of all briefs on and opposing exceptions to the Initial Decision of Presiding Administrative Law Judge Samuel Gordon; this occurred prior to the filing of the Amendment to Application on November 11, 1977.

The Amendment to Application is integrally related to the various matters pending and decided in Docket No. CP74-160, et al. Accordingly, decisions with respect to the Amendment to Application should be based on a record compiled in the same manner as the record compiled by the Federal Power Commission with respect to the applications originally filed in that consolidated docket.

The Amendment to Application pertains to the siting of an LNG terminal facility at Point Conception, Calif., for the receipt and processing of LNG from Indonesia. The Commission currently has pending an application pertaining to the siting of additional LNG terminal facilities at Point Conception for the receipt and processing of LNG from Alaska. Thus, the amendment herein to the final rule of October 1, 1977, will also be conducive to efficient evaluation of all related terminal facilities at Point Conception. The Environmental Impact Statement that the Commission is presently preparing on LNG facilities at Point Conception will be prepared for all purposes within the Department of Energy.

Accordingly, pursuant to section 705(b)(2) of the DOE Act, the final rule of October 1, 1977, is hereby amended so as to provide that the Amendment to Application of Western LNG Terminal Associates will be transferred to the jurisdiction of the Federal Energy Regulatory Commission until the timely filing of all briefs on and opposing exceptions to the Initial Decision of the presiding Administrative Law Judge on that Amendment, at which time the Commission shall forward a copy of the record of that proceeding to the Secretary of Energy for decision on those matters within his jurisdiction. (If the Commission waives the preparation of an initial decision, the Commission will forward a copy of the record after completion of the hearing, or after the timely filing of any briefs submitted to the Commission, whichever occurs later.)

To the extent that section 501 of the Act is applicable to these regulations, it has been determined that no substantial issue of fact or law exists and that these regulations are unlikely to have a substantial impact on the nation's economy or large numbers of individuals or businesses. Therefore, this amendment to the regulations is being promulgated in accordance with section 553 of Title 5, United States Code. The amendment relates to Department of Energy management and personnel and is therefore being made final without notice and comment (5 U.S.C. 553(a)(2)).

(Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 1000, Chapter II, Title 10, Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., on May 10, 1978.

By order of the Commission.

JAMES R. SCHLESINGER,
Secretary of Energy.

KENNETH F. PLUMB,
Secretary, Federal Energy Regulatory Commission.

Section 1000.1 is amended by revising paragraph (c)(2)(vi) and by adding a new paragraph (c)(3):

§ 1000.1 Transfer of Proceedings.

• • • • •

(c) *Proceedings transferred to the Commission.* • • •

(2) *To remain with the Commission until forwarding to the Secretary;*

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(vi) *Pacific Indonesia LNG Co., et al.,* Docket No. CP74-160, *et al.,* (except as provided in paragraph (c)(3) of this section).

• • • • •

(3) The Amendment to Application of Western LNG Terminal Associates, filed on November 11, 1977, in *Pacific Indonesia LNG Co., et al.,* FPC Docket No. CP74-160, et al., ERA Docket No. 77-001-LNG, is transferred to the jurisdiction of the Commission until timely filing of all briefs on and opposing exceptions to the Initial Decision of the presiding Administrative Law Judge on that Amendment, at which time the Commission shall forward a copy of the record of that proceeding to the Secretary of Energy for decision on those matters within his jurisdiction. (If the Commission waives the preparation of an initial decision, the Commission will forward a copy of the record after completion of the hearing, or after the timely filing of any briefs submitted to the Commission, whichever occurs later.)

[FR Doc. 78-13529 Filed 5-17-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. A Docket No. R-0135]

INTERPRETATION OF REGULATION A

Eligible Bankers' Acceptances

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: This Interpretation provides that a bankers' acceptance secured by a field warehouse receipt covering readily marketable staples is eligible for discount by a Federal Reserve Bank even though the warehouse manager is an employee of the owner of the goods. This supersedes an Interpretation adopted by the Board in 1933. (¶1445 Published Interpretations). This review of the Interpretation was desirable in light of the changes in commercial practice and law since the publication of the old Interpretation.

DATE: Effective immediately.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT:

Allen L. Raiken, Associate General Counsel, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3625.

SUPPLEMENTARY INFORMATION: (1) The Board was recently asked to review its 1933 Interpretation concerning the eligibility for discount of bankers' acceptances secured by field warehouse receipts. Under that Interpretation, such acceptances were determined to be not eligible for discount because the actual custodian of the goods was so closely identified with the owner of the goods that, in the Board's view, the lending bank's security might be impaired. The Board concluded that a review of the Interpretation was desirable in light of the changes in commercial practice and commercial law in the 45 years since the publication of the old Interpretation. Furthermore, this matter is of significance to member banks because, under the Board's Regulation D, the sale of such acceptances by member banks could result in additional reserve liability for the member bank if the acceptance sold were not eligible for discount.

(2) A proposed Interpretation was issued for public comment in December, 1977 (42 FR 63897-8). Comments were received from all 12 Federal Reserve Banks, 7 commercial banks, 2 law firms, a bankers association, and a field warehousing company. All of the comments except two were favorable to adoption of the proposed Interpretation.

As a result of the comments received, certain technical changes have been made to the proposed Interpretation. The Interpretation stated that if a bankers' acceptance were offered for discount or as collateral for an advance, a Reserve Bank could require proof of adequate insurance and proof of the existence of a written security agreement and a filed financing statement. This language has been deleted from the final Interpretation for two reasons: (1) A Reserve Bank has broad discretion in accepting collateral that may be presented at its discount window and the deleted provisions could have been misinterpreted as somehow limiting the types of inquiry that a Reserve Bank could make regarding acceptances; and (2) the deleted language, which pertained only to the acceptability of the acceptance as collateral, might have been misinterpreted as also having an impact on the eligibility of the acceptance for discount. In other words, a bankers' acceptance that meets the requirements of the Interpretation is eligible for discount even though it may be subject to further scrutiny before a Reserve Bank would find it acceptable as collateral for an advance.

The proposed Interpretation indicated that a warehouse receipt issued pursuant to a properly conducted field warehousing operation provides the lending bank with a perfected security interest in the goods and that a perfected security interest satisfies the "securing title" requirement of the Federal Reserve Act, Section 13, ¶7. These statements may have led some readers to the erroneous conclusion that if the lender has a perfected security interest (regardless of how the interest was created and perfected), the acceptance is properly secured. The Act, however, clearly requires that an acceptance be secured "by a warehouse receipt or other such document," and contemplates that at the time of acceptance the goods will be held in the custody of a third party. Consequently, the Board has determined that receipts issued by an independent custodian of the goods may be treated as warehouse receipts (¶1470 Published Interpretations), but has reached the opposite conclusion in regard to documents such as a chattel mortgages that leave the borrower in possession of the goods (¶1475 Published Interpretations). Therefore, while it may be desirable for a lending bank to seek the added protection of a security interest created by a written security agreement and perfected by the filing of a financing statement, this perfected security interest alone, without a field warehouse receipt, does not satisfy the requirements of the Act.

Finally it should be noted that not all field warehousing operations will necessarily satisfy the requirements of the Interpretation and it is incumbent upon each lender to insure that the policies and procedures adopted and followed by a field warehousing company provide the lender with satisfactory security.

(3) This action is taken pursuant to the Board's authority under section 13 of the Federal Reserve Act (12 U.S.C. 342 et seq.).

INTERPRETATION OF REGULATION A

¶1445—*Goods held by persons employed by owner* (12 CFR 201.110)

(a) The Board has been asked to review an Interpretation it issued in 1933 concerning the eligibility for rediscount by a Federal Reserve Bank of bankers' acceptances issued against field warehouse receipts where the custodian of the goods is a present or former employee of the borrower. [¶ 1445 Published Interpretations, 1933 BULLETIN 188] The Board determined at that time that the acceptances were not eligible because:

such receipts do not comply with the requirement of section 13 of the Federal Reserve Act that a banker's acceptance be "secured at the time of acceptance by a warehouse receipt or other such document *conveying or securing title* covering readily marketable staples," nor with the requirement of section XI of the Board's Regulation A that it be "secured at the time of acceptance by a warehouse, terminal, or other similar receipt, conveying security title to such staples, *issued by a party independent of the customer.*"

The requirement that the receipt be "issued by a party independent of the customer" was deleted from Regulation A in 1973, and thus the primary issue for the Board's consideration is whether a field warehouse receipt is a document "securing title" to readily marketable staples.

(b) While bankers' acceptances secured by field warehouse receipts are rarely offered for rediscount or as collateral for an advance, the issue of "eligibility" is still significant. If an ineligible acceptance is discounted and then sold by a member bank, the proceeds are deemed to be "deposits" under section 204.1(f) of Regulation D and are subject to reserve requirements.

(c) In reviewing this matter, the Board has taken into consideration the changes that have occurred in commercial law and practice since 1933. Modern commercial law, embodied in the Uniform Commercial Code, refers to "perfecting security interests" rather than "securing title" to goods. The Board believes that if, under State law, the issuance of a field warehouse receipt provides the lender with a perfected security interest in the goods, the receipt should be regarded as a document "securing title" to goods for the purposes of § 13 of the Federal Reserve Act. It should be noted, however, that the mere existence of a perfected security interest alone is not sufficient; the Act requires that the acceptance be secured by a warehouse receipt or its equivalent.

(d) Under the U.C.C., evidence of an agreement between the secured party and the debtor must exist before a security interest can attach. [U.C.C. § 9-202.] This agreement may be evidenced by: (1) a written security agreement signed by the debtor, or (2) the collateral being placed in the possession of the secured party or his agent [U.C.C. § 9-203]. Generally, a security interest is perfected by the filing of a financing statement. [U.C.C. § 9-302.] However, if the collateral is in the possession of a bailee, then perfection can be achieved by: (1) Having warehouse receipts issued in the name of the secured party; (2) notifying the bailee of the secured party's interest; or (3) having a financing statement filed. [U.C.C. § 9-304(3).]

(e) If the field warehousing operation is properly conducted, a security interest in the goods is perfected when a warehouse receipt is issued in the name of the secured party (the lending bank). Therefore, warehouse receipts issued pursuant to a bona fide field warehousing operation satisfy the legal requirements of section 13 of the Federal Reserve Act. Moreover, in a properly conducted field warehousing operation, the warehouse manager will be trained, bonded, supervised and audited by the field warehousing company. This procedure tends to insure that he will not be impermissibly controlled by his former (or sometimes present) employer, the borrower, even though he may look to the borrower for reemployment at some future time. A prudent lender will, of course, carefully review the field warehousing operation to ensure that stated procedures are satisfactory and that they are actually being followed. The lender may also wish to review the field warehousing company's fidelity bonds and legal liability insurance policies to ensure that they provide satisfactory protection to the lender.

(f) If the warehousing operation is not conducted properly, however, and the manager remains under the control of the borrower, the security interest may be lost. Consequently, the lender may wish to require a written security agreement and the filing of a financing statement to insure that the lender will have a perfected security interest even if it is later determined that the field warehousing opeation was not properly conducted. It should be noted, however, that the Federal Reserve Act clearly requires that the bankers' acceptance be secured by a warehouse receipt in order to satisfy the requirements of eligibility, and a written security agreement and a filed financing statement, while desirable, cannot serve as a substitute for a warehouse receipt.

(g) This Interpretation is based on facts that have been presented in regard to field warehousing operations conducted by established, professional field warehouse companies, and it does not necessarily apply to all field warehousing operations. Thus ¶ 1430 and ¶ 1440 of the Published Interpretations [1918 BULLETIN 31 and 1918 BULLETIN 862] maintain their validity with regard to corporations formed for the purpose of conducting limited field warehousing operations. Furthermore, the prohibition contained in ¶ 1435 Published Interpretations [1918 BULLETIN 634] that "the borrower shall not have access to the premises and shall exercise no control over the goods stored" retains its validity, except that access for inspection purposes is still permitted under ¶ 1450 [1928 BULLETIN 666]. The purpose for the acceptance transaction must be proper and cannot be for speculation [¶ 1400, 1919 BULLETIN 858] or for the purpose of furnishing working capital [¶ 1405, 1922 BULLETIN 52].

(h) This interpretation supersedes only the previous ¶ 1445 of the Published Interpretations [1933 BULLETIN 188], and is not intended to affect any other Board Interpretation regarding field warehousing.

By order of the Board of Governors, May 10, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13554 Filed 5-17-78; 8:45 am]

[6210-01]

[Regulation Q; Docket No. R-0161]

PART 217—INTEREST ON DEPOSITS

Maximum Rates of Interest Payable

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has amended its regulations to authorize member banks to offer to depositors two new categories of time deposits. The first new category permits member banks to pay interest at a maximum ceiling rate up to 7¾ percent on time deposits of $1,000 or more with maturities of eight years or more. The second new category established by the Board authorizes member banks to pay interest on nonnegotiable time deposits of $10,000 or more with maturities of six months (26 weeks) at a maximum rate equal to the discount yield on the most recently issued six-month United States Treasury bills (auction average). The Board's actions increase returns for savers by providing deposit categories that are competitive with interest rates available in the market on instruments possessing similar characteristics.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION, CONTACT:

Allen L. Raiken, Associate General Counsel, 202-452-3625 or Gilbert T. Schwartz, Senior Attorney, 202-452-3623 Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Effective June 1, 1978, the Board has amended Regulation Q to establish two new categories of time deposits. Under the provisions of the first new deposit category, member banks will be permitted to pay interest to depositors at a maximum rate of 7¾ percent on deposits of $1,000 or more maturing in eight or more years. This new deposit category should enable savers to obtain higher rates on their funds.

The second new deposit category established by the Board authorizes member banks to pay interest on nonnegotiable time deposits of $10,000 or more with maturities of six months (26 weeks) at a maximum rate equal to the discount yield on the most recently issued six-month United States Treasury bills (auction average). United States Treasury bills maturing in six months (26 weeks) are auctioned weekly by the Treasury Department, normally on Monday, and are issued three business days later, normally on Thursday. Beginning on the date the six-month United States Treasury bills are issued (normally on Thursday), member banks may pay interest on deposits of $10,000 or more maturing in six months at a rate not more than the auction average rate (discount basis) established for such bills and may continue to pay that rate for new deposits until new six-month United States Treasury bills are issued, at which time the rate paid on such bills becomes the ceiling rate for new deposits. The six-month United States Treasury bill rate is published widely in many newspapers throughout the country.

The deposits must be issued in nonnegotiable form and must possess a maturity of six months (26 weeks). Maturities of more than six months are not permitted. During the six months the deposit remains outstanding, the rate paid by member banks may not exceed the ceiling rate in effect on the date of deposit. If such deposits are renewed, automatically or otherwise, the maximum rate that may be paid may not exceed the six-month Treasury bill rate (discount

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basis) in effect at the time of renewal of the deposits.

Member banks will be permitted to pay up to the average auction rate paid (discount basis). Should a member bank desire to round off the ceiling rate, such rate may only be rounded down. For example, if the auction average rate for six month Treasury bills is 6.4638 percent on a discount basis, a member bank may round the rate to 6.463 percent, 6.46 percent or 6.4 percent. The rate may not be rounded up. However, in accordance with § 217.3 of Regulation Q, in ascertaining the rate of interest that may be paid, the effects of compounding of interest may be disregarded and interest may be computed in accordance with any of the methods authorized by § 217.3(e) of Regulation Q.

In accordance with § 217.4(d) of Regulation Q (12 CFR 217.4(d)), if the deposit, or any portion, is paid before maturity, the member bank may pay interest on the amount withdrawn at a rate not to exceed that prescribed for savings deposits (currently 5 percent) and, in addition, a forfeiture of three months interest at such rate is required. If the amount withdrawn has been on deposit for three months or less, all interest shall be forfeited. All member banks, however, are permitted to lend on the collateral of their time deposits so long as the rate charged for the loan is at least one percent higher than the rate being paid on the deposit pledged.

Existing provisions of Regulation Q provide that member banks may pay interest on governmental unit time deposits under $100,000 with maturities of 30 days or more (12 CFR 217.7(d)) and Individual Retirement Account and Keogh (H.R. 10) Plan deposits of less than $100,000 with maturities of three years or more (12 CFR 217.7(e)) at a rate not in excess of the highest of any of the permissible rates that can be paid on time deposits under $100,000 by any Federally insured commercial bank, mutual savings bank, or savings and loan association. Since the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation are taking action to establish a new category of time deposit for Federally insured savings and loan associations and mutual savings banks at a ceiling rate of 8 percent, member banks may pay 8 percent on governmental unit time deposits and IRA/Keogh time deposits with three year maturities. The higher 8 percent rate may be paid only on new time deposits or additional funds deposited to existing accounts. Rates paid by member banks on funds currently on deposit in governmental unit and IRA/Keogh time deposits may not be increased prior to the maturity of such funds. The maximum rates that may be paid on governmental unit and IRA/Keogh time deposits will not be determined by the ceiling rates established for the new six-month $10,000 deposit category whose ceiling rate is associated with the six month Treasury bill rate.

The Board's actions were taken at this time, after consultation with the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the United States Department of the Treasury, in order to increase returns for savers by providing deposit categories that are competitive with interest rates available in the market on instruments possessing similar characteristics. Creation of the new deposit categories at this time should increase the flow of mortgage credit and assist the housing market. In order to facilitate the achievement of these objectives as rapidly as possible, the Board finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to these actions would be contrary to the public interest and that good cause exists for making the amendments effective in less than 30 days.

Pursuant to its authority under § 19(j) of the Federal Reserve Act (12 U.S.C. § 371b), effective June 1, 1978, the Board amends § 217.7 of Regulation Q (12 CFR 217.7) as follows:

§ 217.7 Maximum rates of interest payable by member banks on time and savings deposits.

* * * * *

(b) *Time deposits of less than $100,000.*

* * * * *

(4) Member banks may pay interest on any time deposit of $1,000 or more, with a maturity of eight years or more, at a rate not to exceed 7¾ percent.[2]

* * * * *

(d) *Governmental unit time deposits of less than $100,000.* Except as provided in paragraphs (a) and (f), no member bank shall pay interest on any time deposit which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, the United States, any State of the United States, or any county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof, at a rate in excess of the highest of any of the permissible rates that can be paid on time deposits under $100,000 with maturities in excess of six months (26 weeks) by any Federally insured commercial bank, mutual savings bank, or savings and loan association.[3]

(e) *Individual Retirement Account and Keogh (H.R. 10) Plan deposits of less than $100,000.* Except as provided in paragraph (a), a member bank may pay interest on any time deposit with a maturity of three years or more that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401, at a rate not in excess of the highest of any of the permissible rates that can be paid on time deposits under $100,000 with maturities in excess of six months (26 weeks) by any Federally insured commercial bank, mutual savings bank, or savings and loan association.[3]

(f) *Variable rate time deposits of less than $100,000.* Member banks may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of six months (26 weeks), at a rate not to exceed the rate established (auction average on a discount basis) for United States Treasury bills with maturities of six months issued on or immediately prior to the date of deposit. Rounding such rate to the next higher rate is not permitted.

By order of the Board of Governors, May 11, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13555 Filed 5-17-78; 8:45 am]

[2] * * *

[3] The highest permissible rate is currently 8.00 percent per annum (12 CFR 329.7 and 12 CFR 526.5).

[6714-01]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 329—INTEREST ON DEPOSITS

Maximum Rates of Interest Payable on Time Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) has amended its regulations to authorize insured nonmember banks (including mutual savings banks) to offer to depositors two new categories of time deposits. The first new category permits nonmember banks to pay interest at a maximum rate of 7¾ percent (8 percent for mutual savings banks) on time deposits of $1,000 or more with maturities of eight years or more. The second new category authorizes nonmember banks to pay interest on nonnegotiable time deposits of $10,000 or more with maturities of six months at a maximum rate equal to the discount yield on the most recently issued six-month United States Treasury bills (auction average). (Mutual savings banks will be allowed to pay ¼ of 1 percent more than the discount yield.) This action is designed to increase returns for savers by authorizing deposit rate ceilings that are competitive with interest rates available in the market on instruments possessing similar characteristics.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

F. Douglas Birdzell, Senior Attorney, Bank Regulation Section, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, 202-389-4324.

SUPPLEMENTARY INFORMATION: Effective June 1, the FDIC has amended Part 329 of its regulations to establish two new categories of time deposits. This action is concurrent with corresponding action taken by the Board of Governors of the Federal Reserve System for Federal Reserve member banks and the Federal Home Loan Bank Board with respect to Federally insured savings and loan associations. Under the provisions of the first new deposit category, nonmember banks will be permitted to pay interest to depositors at a maximum rate of 7¾ percent (8 percent in the case of mutual savings banks) on deposits of $1,000 or more maturing in eight years or more. This new deposit category should enable savers to obtain higher rates on their funds than those presently authorized (7½ percent and 7¾ percent for commercial banks and mutual savings banks, respectively, on time deposits of six years or more).

The second new deposit category established by the FDIC authorizes nonmember banks to pay interest on nonnegotiable time deposits of $10,000 or more with maturities of six months (26 weeks) at a maximum rate equal to the discount yield on the most recently issued six-month United States Treasury bills (auction average). (Mutual savings banks may pay ¼ of 1 percent more than the discount yield.) United States Treasury bills maturing in six months (26 weeks) are auctioned weekly by the Treasury Department, normally on Monday, and are issued three business days later, normally on Thursday. Beginning on the date the six-month United States Treasury bills are issued (normally on Thursday), nonmember banks may pay interest on deposits of $10,000 or more maturing in six months at a rate not to exceed the auction average rate (discount basis) established for such bills and may continue to pay that rate for new deposits until new six-month United States Treasury bills are issued, at which time the rate paid on such bills becomes the ceiling rate for this category of deposits. The six-month United States Treasury bill rate is published widely in many newspapers throughout the country.

Once established, the maximum rate nonmember banks have contracted to pay to depositors may not be increased during the six months the deposits remain outstanding. If such deposits are renewed, automatically or otherwise, the maximum rate that may be paid may not exceed the six-month Treasury bill rate (discount basis) in effect at the time of renewal. The deposits must be issued in nonnegotiable form and must mature in six months (26 weeks). Maturities of more than six months are not permitted. In accordance with § 329.4(d) of FDIC's regulations (12 CFR 329.4(d)), if the deposit, or any portion, is withdrawn before maturity, the nonmember bank may pay interest on the amount withdrawn at a rate not to exceed that prescribed for savings deposits and, in addition, require that the depositor forfeit three months interest at the savings deposit rate. If the amount withdrawn has been on deposit for three months or less, all interest must be forfeited.

Nonmember banks will be permitted to pay up to the average auction rate paid (discount basis). Should a nonmember bank desire to round off the ceiling rate, such rate may only be rounded down. For example, if the auction average rate for six-month Treasury bills is 7.4638 percent on a discount basis, a nonmember bank may round the rate to 7.463 percent, to 7.46 percent, or 7.4 percent. The rate may not be rounded up. However, in accordance with §§ 329.3(e) and 329.7(c) of FDIC's regulations (12 CFR 329.3(e) and 329.7(c)), in ascertaining the rate of interest that may be paid, the effects of compounding of interest may be disregarded and interest may be computed in accordance with any of the methods authorized by § 329.3(e).

FDIC's actions were taken at this time, after consultation with the Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board, in order to increase returns for savers by authorizing deposit rate ceilings that are competitive with interest rates available in the market on instruments possessing similar characteristics. Creation of the new deposit categories at this time should increase the flow of mortgage credit and assist the housing market. In order to facilitate the achievement of these objectives as rapidly as possible, particularly in view of the rapid rise in money market rates relative to deposit rate ceilings, which could result in substantial disintermediation by placing financial institutions at a competitive disadvantage, FDIC's Board of Directors finds that application of the notice and public participation provisions of 5. U.S.C. § 553 to these actions would be contrary to the public interest and that good cause exists for making the amendments effective on June 1.

Pursuant to its authority under §§ 9 and 18 of the Federal Deposit Insurance Act (12 U.S.C. §§ 1819 and 1828), effective on June 1 §§ 329.6 and 329.7 of FDIC's regulations are amended by adding a new last line to subsections 329.6(b)(2) and 329.7(b)(4), by amending subsections 329.6(b) (3) and (4) and 329.7(b) (5) and (6), and by adding new subsections 329.6(b)(5) and 329.7(b)(7), as follows:

§ 329.6 Maximum rates of interest payable by insured nonmember banks other than insured nonmember mutual savings banks.[13]

* * * * *

(b) Deposits of less than $100,000. (1) * * *

* * * * *

(2) *Deposits of $1,000 or more with maturities of four years or more.*[13a]

* * * * *

eight years or more—7¾ percent.

(3) *Time deposits of public units.* Except as provided in paragraph (a), no insured nonmember bank shall pay interest on any time deposit of a public unit as defined in section 3(m) of the Federal Deposit Insurance Act at a rate in excess of the maximum rate that can be paid on any time deposit of less than $100,000 with a maturity in excess of six months by any insured nonmember mutual savings bank subject to the provisions of this Part.

(4) *Individual Retirement Account and Keogh (H.R. 10) plan deposits.* Except as provided in paragraph (a), a nonmember bank may not pay interest on any time deposit with a maturity of three years or more that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. § 408 or § 401, at a rate in excess of the highest of any of the permissible rates that may be paid on time deposits of under $100,000 with maturities in excess of

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[13a] * * *

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six months by any insured nonmember mutual savings bank subject to the provisions of this Part.

(5) *Variable rate time deposits of less than $100,000.* Nonmember banks may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of six months (26 weeks), at a rate not to exceed the rate (auction average on a discount basis) established for the most recently issued six-month Treasury bills. Rounding such rate to the next higher rate is not permissible.

• • • • •

§ 329.7 Maximum rates of interest on dividends payable on deposits of insured nonmember mutual savings banks.[14]

• • • • •

(b) Maximum rates payable.

• • • • •

(4) *Time deposits of $1,000 or more with maturities of four years of more.*[14b]

• • • • •

eight years or more—8 percent.

(5) *Time deposits of public units.* Except as provided in paragraph (b)(2), no insured nonmember mutual savings bank shall pay interest or dividends on any time deposit of a public unit as defined in section 3(m) of the Federal Deposit Insurance Act at a rate in excess of the highest of any of the permissible rates that may be paid on time deposits of less than $100,000 with maturities in excess of six months by any insured nonmember mutual savings bank subject to the provisions of this Part.

(6) *Individual Retirement Account and Keogh (H.R. 10) plan deposits.* Except as provided in paragraph (b)(2), no insured nonmember mutual savings bank may pay interest on any time deposit with a maturity of three years or more that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. § 408 or § 401, at a rate in excess of the highest of any of the permissible rates that may be paid on time deposits of under $100,000 with maturities in excess of six months by any insured nonmember mutual savings bank subject to the provisions of this Part.

(7) *Variable rate time deposits of less than $100,000.* Nonmember mutual savings banks may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of six months (26 weeks), at a rate not to exceed the rate (auction average on a discount basis) plus one quarter of one percent established for the most recently issued six-month Treasury bills. Rounding such rate to the next higher rate is not permissible.

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By Order of the Board of Directors.

Dated: May 10, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-13544 Filed 5-17-78; 8:45 am]

[14] • • •

[14b] [Reserved]

[6720-01]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 78-286]

PART 526—LIMITATIONS ON RATE OF RETURN

New Certificate Accounts

MAY 10, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Bank Board has amended its regulations to authorize member institutions to offer two new categories of certificate accounts. The first permits members to pay a rate of return up to eight percent on accounts with minimum deposits of $1,000 and minimum maturities of eight years. The other new category allows nonnegotiable certificates with minimum deposits of $10,000 and maturities of six months (26 weeks) at a rate of return equal to one-quarter of one percent above the discount yield on the most recently issued six-month United States Treasury bills (auction average). These new categories should increase the flow of mortgage credit and assist the housing market while enabling savers to obtain higher rates on their funds.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION, CONTACT:

Nancy L. Feldman, Assistant General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, 202-377-6443.

SUPPLEMENTARY INFORMATION: Effective June 1, 1978, the Bank Board has amended §§ 526.2 and 526.5 of its regulations for the Federal Home Loan Bank System (12 CFR 526.2 and 526.5) to establish two new categories of certificate accounts. Under the provisions of the first category, member institutions are permitted to pay interest to savers at a maximum rate of eight percent on accounts of $1,000 or more maturing in eight or more years.

The second new category authorizes members to pay interest on nonnegotiable deposits of $10,000 or more with required maturities of six months (26 weeks), at a rate of return equal to one-quarter of one percent more than the discount yield on the most recently issued six-month United States Treasury bills (auction average). United States Treasury bills maturing in six months (26 weeks) are auctioned weekly by the Treasury Department, normally on Monday, and are issued three business days later, normally on Thursday. Beginning on such issuance date, member institutions may pay the above-described interest on such certificates and may continue to pay that rate for new certificates until new six-month United States Treasury bills are issued, at which time the rate paid on such bills (plus one-quarter of one percent) becomes the ceiling rate for this category of account. The six-month United States Treasury bill rate is published widely in many newspapers throughout the country.

Once established, the maximum rate of return member institutions have contracted to pay to savers may not be increased during the six months the accounts remain outstanding. If such accounts are renewed, automatically or otherwise, the maximum rate that may be paid may not exceed one-quarter of one percent above the six-month Treasury bill rate (discount basis) in effect at the time of renewal. The certificate accounts must be issued in nonnegotiable form with maturity of six months (26 weeks); maturities in excess of, or less than, six months are not permitted. The usual early-withdrawal penalties and compounding rules apply to these accounts.

Member institutions will be permitted to base payment calculations on the average auction rate paid (discount basis). Rounding off may only be done by rounding down. For example, if the auction average rate is 6.4638 percent on a discount basis, it may be rounded down to 6.463 percent, 6.46 percent, or 6.4 percent. The one-quarter of one percent additional amount will be added to such figure. The higher rates may be paid only on new deposits or additional funds deposited to existing accounts; rates on existing certificate accounts, including governmental unit and IRA/Keogh accounts, may not be increased prior to the maturity of such accounts. Public unit accounts may be invested in the new six-month certificate account, provided that the $10,000 minimum amount and six-month maturity requirements are met.

The Bank Board's actions were taken at this time after consultation with the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the United States Department of the Treasury in order to increase returns for savers by providing deposit categories competitive with interest rates available in the market on instruments possessing similar characteristics. Creation of the new deposit categories at this time should increase the flow of mortgage credit and assist the housing market. In order to facilitate achievement of these objectives as rapidly as possible, and because these amendments relieve restriction and it is in the public interest that they become effective without delay, the Bank Board hereby finds that notice and public procedure with respect to such amendments is contrary to the public interest and unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of such amendments for the period of time specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of such amendments would, in the opinion of the Bank Board, likewise be unnecessary for the same reasons, the Bank Board hereby provides that such amendments shall become effective as stated below.

Accordingly, the Bank Board hereby revises § 526.2(b)(2), and amends § 526.5 by adding new paragraphs (a)(6) and (a)(7) thereto and revising paragraph (c) thereof, to read as set forth below:

1. Section 526.2 is amended by revising subparagraph (b)(2) to read as follows:

§ 526.2 Maximum rate of return.

• • • • •

(b) • • •

(2) Notwithstanding any reduction in the prescribed maximum rate, a member institution may continue to pay the announced rate of return on any certificate account outstanding on the date such reduction became effective as to the institution for such period, including any renewal period (except that certificate accounts under § 526.5(a)(7) may not be renewed at rates in excess of one-quarter of one percent above the Treasury bill rate in effect at time of renewal), as the certificate account may remain outstanding.

• • • • •

2. Section 526.5 is amended by adding new paragraphs (a) (6) and (7) and revising paragraph (c), to read as follows:

§ 526.5 Maximum rates of return on certificate accounts of less than $100,000.

(a) *Maximum rates.* Except as otherwise provided in this section or in § 526.5-1:

• • • • •

(6) *Maximum rate of 8 percent.* A member institution may pay a return at a rate not in excess of 8 percent per annum on any certificate account of $1,000 or more having a fixed or minimum term or qualifying period of not less than 8 years.

(7) *Maximum rate on six-month certificate.* A member institution may pay a return, at a per annum rate not in excess of one-quarter of one percent above the rate established (auction average on a discount basis) for six-month United States Treasury bills issued on or immediately prior to the date of deposit, on any certificate account of $10,000 or more having a fixed or minimum term or qualifying period of six months (26 weeks). Rounding off such rate may be done only by rounding down.

• • • • •

(c) *Exception as to fixed or minimum term or qualifying period.* A member institution may pay a return at a rate not in excess of the highest rate permitted under paragraph (a) of this section on any certificate account which is a public unit account of $1,000 or more having a fixed or minimum term or qualifying period of not less than 30 days, except that certificate accounts under paragraph (a)(7) of this section must meet the minimum amount and maturity requirements set forth therein.

(Sec. 4, Stat. 823 (12 U.S.C. 1425b); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-13522 Filed 5-17-78; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Statement of Policy Concerning a Pilot Program To Permit Licensees To Specialize in the Financing of Movie Production and Distribution

AGENCY: Small Business Administration.

ACTION: Revised statement of general policy.

SUMMARY: This statement revises a statement of general policy published on November 29, 1977 (42 FR 60729), concerning a pilot program to permit licensees (SBICs) to specialize in the financing of movie production and distribution. SBA has received a number of inquiries and license applications relating to proposed SBICs which would be organized to specialize in the financing of production and distribution of motion pictures, classified respectively under the Standard Industrial Classification Manual (prepared by the Office of Management and Budget) as Industry Nos. 7813, 7814, 7823, and 7824. SBA has adopted a general policy to undertake a pilot program to test the feasibility of licensing SBICs to specialize in such financing. The pilot program will provide appropriate safeguards to assure full compliance with SBA-approved investment standards and practices and special conditions applicable to such specialized licensees.

DATE: This revised statement of general policy will become effective on May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, telephone 202-653-6584.

SUPPLEMENTARY INFORMATION: Several comments were received following publication of the statement of general policy on November 29, 1977. Major subjects covered were: (1) The 3.1 maximum leverage restriction on pilot SBICs, including 301(d) pilot licensees; (2) restrictions on aggregate levels of leverage funds; (3) the restriction that not more than 50 percent of the financing of any single film may be undertaken by one or more pilot SBICs without prior SBA approval; (4) the requirement that pilot SBICs organized as limited partnerships furnish an IRS ruling of partnership classification before obtaining SBA leverage; (5) the requirement that tax credits generated by partnership SBIC investments must be applied first to taxable income of the portfolio company before being passed through to the SBIC; (6) the requirement that partnership SBICs must include individual general partners subject to personal liability; (7) the prohibitions against investments in the production or distribution of X-rated films or films of a political or religious nature.

(1) *The 3:1 maximum leverage restriction on pilot licensees, including 301(d) pilot licensees.* Some of the comments asserted that the 3:1 leverage limitation should not apply to

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301(d) pilot licensees, but rather that they should have access to the same 4:1 leverage available to all other 301(d) licensees. After due consideration of the high risk attributes of this pilot program, SBA has concluded that the 3:1 leverage ratio should be retained for all pilot SBICs, including any pilot 301(d) licensees.

(2) *Restrictions on aggregate levels of leverage funds.* Several comments asserted that any uncertainty as to the availability of the full amount of leverage would result in the nonavailability of private capital investment in pilot SBICs. In view of the SBA's inherent exposure, the potential budget impact and the other implicit uncertainties associated with the pilot program which must be recognized by private investors, SBA has determined it is appropriate to restrict the aggregate and individual levels of leveraged funds available to pilot SBICs in any one Federal fiscal year. Therefore, in addition to the 3:1 leverage ratio (discussed in (1) above), SBA has determined that the following leverage restrictions shall apply to regular pilot SBICs. Aggregate leverage for regular pilot SBICs shall not exceed $25 million in any one Federal fiscal year. In addition, individual leverage for any single regular pilot SBIC shall not exceed $5 million in any one Federal fiscal year unless a special exception is granted by SBA. Special exceptions shall be determined on the basis of the aggregate demand for leverage (actual and projected) from all regular pilot SBICs during that fiscal year. These additional leverage restrictions shall not apply to 301(d) pilot licensees.

(3) *Restriction that not more than 50 percent of the financing of any single film may be undertaken by one or more pilot SBICs without SBA's prior approval.* The comments asserted that this restriction would cause a severe hardship to section 301(d) pilot licensees in terms of their ability to negotiate profit participation for the portfolio company and such licensees. After due consideration SBA has determined that the single financing restriction for section 301(d) pilot licensees should be not more than 75 percent without SBA's prior approval.

(4) *IRS ruling of partnership classification before a limited partnership pilot SBIC can obtain SBA leverage.* The comments asserted that compliance with this requirement would be difficult, time consuming and would implicitly impose certain requirements that are more stringent than the statutory requirements for qualification as a partnership for tax purposes. SBA's reason for the requirement was to assure that the partnership would not at a later time, after obtaining leverage, be disqualified for partnership taxation, resulting in a tax liability of the partnership adverse to SBA's creditor position. SBA has determined to retain this requirement. However, in order to provide relief from any hardship which may occur due to delays in obtaining an IRS ruling, SBA will entertain interim financial arrangements with a partnership pilot SBIC which will protect SBA's credit position until such time as an IRS ruling can be obtained.

(5) *Requirement that tax credits must be applied first to taxable income of the portfolio company.* The comments asserted that the tax credit is an economic benefit which (a) should be subject to free negotiation between the SBIC and the portfolio concern; (b) may be beneficial to either party depending on the circumstances; (c) could be lost to both parties under SBA's requirement and (d) should be treated similarly as to a partnership SBIC as well as a corporate SBIC. After due consideration, SBA has determined to modify its requirement relating to tax credits to the extent of relieving these problems while protecting the small concerns access to such tax credits.

(6) *Requirement that limited partnership pilot SBICs have individual general partners who are subject to personal liability.* In light of a recent decision of the U.S. Comptroller General to the effect that SBA has authority to make nonrecourse loans to limited partnership pilot SBICs, SBA has determined to eliminate this requirement.

(7) *Restriction prohibiting the financing of X-rated, religious, or political films.* The comments asserted that a blanket prohibition against X-rated films would eliminate a category of films which were serious, creative, and thoughtful, yet not pornographic, and that the determination of "religious or political" films would be difficult to ascertain. SBA has determined to retain a prohibition of pornographic films, and to limit the descriptive language related to political or religious films.

Certain miscellaneous technical corrections are made in the statement of general policy.

This notice is published in accordance with section 3 of the Administrative Procedure Act (5 U.S.C. 552 (a)(1)(D)) requiring Federal agencies to publish in the FEDERAL REGISTER for the guidance of the public "* * * statements of general policy * * * formulated and adopted by the agency."

STATEMENT OF GENERAL POLICY: PILOT PROGRAM TO TEST THE FEASIBILITY OF LICENSEES SPECIALIZING IN THE FINANCING OF MOVIE PRODUCTION AND DISTRIBUTION

SBA has received numerous inquiries and several license applications for proposed SBICs which would specialize in the financing of movie production and distribution. Although the Small Business Investment Act does not prohibit the licensing of SBICs for such purposes, it has become apparent to SBA that the licensing of SBICs to specialize in such financing raises several major issues of public policy for the Agency. These policy issues include such matters as: the actual impact the financing would have on the development of independent small business participation in the field of movie production and distribution; the validity of employing Government leverage funds in a specialized field of endeavor generally considered to have high risk attributes; the effective risk reduction techniques that might be applied to such special-purpose SBICs; the SBIC program budgetary impact which might result from such specialization; and the assurance of independence of operation on the part of the portfolio small firms.

In order to resolve these policy issues, SBA has determined to undertake a pilot program for a minimum period of three (3) years, to test the feasibility of SBICs specializing in the field of movie production and distribution.

The pilot program will apply to "movie-specialist" SBICs, defined as those SBICs having more than one-third of their portfolio (as of the close of any full fiscal year) invested in the financing of movie production and distribution. A limited number of such specialized SBICs, not to exceed six, will be licensed under the pilot program. Six qualified applicants filed on or before December 29, 1977, on the basis of experience, management capability, financial soundness, economic feasibility, probability of success, and similar factors, pursuant to section 301 of the Small Business Investment Act (15 U.S.C. 681). These selected applicants are:

Crescent Film Capital Corp., Los Angeles, Calif.

Entertainment Capital Corp., Los Angeles, Calif.

Filmworks Capital Corp., New York, N.Y.

Independent Film Ventures, Inc. (MESBIC), Los Angeles, Calif.

International Film Investors, New York, N.Y.

Jermyn Venture Capital Corp., Beverly Hills, Calif.

Should any of the selected applicants fail to qualify for a license, no alternative or substitute selections will be made by the SBA. Moreover, in order to eliminate any possibility of trafficking in this limited group of specialized licenses, SBA will not grant approval to any changes in ownership or control of such licensees (as required by § 107.701) during the period of this pilot program.

Maximum leverage available to pilot SBICs (including 301(d) licensees) will be limited to 3:1 under section 303 of the Act. Aggregate leverage for regular pilot SBICs shall not exceed $25 million in any one Federal fiscal year. In addition, individual leverage for any single regular pilot SBIC shall not exceed $5 million in any one Federal fiscal year unless a special exception is granted by SBA. Special exceptions shall be determined on the basis of the aggregate demand for leverage (actual and projected) from all regular pilot SBICs during that fiscal year. These additional leverage restrictions shall not apply to 301(d) pilot licensees.

In addition, participating pilot SBICs will be subject to special conditions related to the following: SBA-approved investment practices and risk reduction standards; preservation of the independence of the portfolio concern; and special provisions for SBICs organized as limited partnerships.

Pilot SBICs will be required to enter into an agreement with SBA pursuant to § 107.1008 of the SBIC regulations incorporating the special conditions which will be relied on to achieve the foregoing objectives. These special conditions will include: (1) not more than 50 percent of the aggregate financing of any single film production may be undertaken by one or more pilot SBICs without prior SBA approval, *Provided, however,* That not more than 75 percent of the aggregate financing of any single film production may be undertaken exclusively by one or more pilot section 301(d) SBICs without prior SBA approval; (2) not more than 10 percent of the investment in any one film may be in preproduction financings; (3) funds committed to film production financings must be protected by insurance coverage standard in the film industry (for example, catastrophic loss); (4) where the SBIC's capital impairment reaches 25 percent of private capital, additional investments will be subject to prior SBA approval, and restrictions will be placed on salaries, fees, and other expenditures; (5) borrowings from outside sources senior to SBA's creditor-position will require prior SBA approval; (6) pilot SBICs organized as limited partnerships must furnish an IRS ruling of partnership classification before obtaining SBA leverage, *Provided, however,* That where a delay in obtaining an IRS ruling would cause a hardship to the pilot SBIC, SBA may, pending receipt of such a ruling, make leverage funds available to the pilot SBIC under interim financial arrangements which, in SBA's judgment, are satisfactory to protect SBA's creditor position from an adverse IRS determination; (7) tax credits available to portfolio concerns as a result of pilot SBIC investments must be brought to the attention of the portfolio concerns and, unless otherwise negotiated by the parties to the financing, must be applied to taxable income of the portfolio company before being passed through to the SBIC; and (8) pilot SBICs will be prohibited from making any investments relating to the production or distribution of X-rated or unrated films regardless of the method of their exhibition (other than educational or industrial films) or of films having a predominant theme of a political or religious nature.

The agreement incorporating special conditions for pilot SBIC operations will also include specific conditions for fair investment and profitsharing practices as well as assurance that the portfolio enterprise will have freedom of action as in independent small concern, without tying, reciprocal, or other restrictive arrangements (for example, with major film production or distribution companies). Prior to licensing, each pilot SBIC will be required to submit to SBA prototype financing documents to be utilized, showing flow of funds to all parties, including associates of the SBIC. Prior SBA approval will be required for any material deviation from the approved prototype financing, and from the foregoing criteria.

The agreement will also incorporate a condition that, should SBA decide, in its discretion, to terminate the pilot program as a whole, or the participation of any single pilot SBIC, each affected SBIC would acknowledge SBA's nonliability for alleged damages due to termination and agree that such termination will be accomplished by: (a) A settlement agreement under which the SBIC would cease to make new investments, and would place existing assets in liquidation, as a condition precedent to repayment of SBA leverage and license surrender; or (b) an agreement under which the pilot SBIC would continue to operate as a nonspecialist SBIC, and would transfer its film assets to a wholly owned liquidating subsidiary.

Progress of the pilot program will be monitored closely by SBA with the assistance of a working group of experts in film production and distribution. These experts will conduct periodic reviews and make recommendations concerning the achievement of program objectives.

Dated: May 11, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-13548 Filed 5-17-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINSTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-EA-18; Amdt. 39-3212]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) cancels AD 77-09-09 applicable to Piper J-3, J-4, J-5, PA-11, PA-12, PA-14, PA-16, PA-18, PA-20, and PA-22 type airplanes, but reissues with minor changes its alteration and inspection requirements for the fuel caps to preclude venting problems. The amendment will give clarification to the former AD.

EFFECTIVE DATE: May 23, 1978.

ADDRESS: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 17745.

FOR FURTHER INFORMATION CONTACT:

F. Covelli, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: AD 77-09-09 concerned problems of inadequate fuel flow due to defective venting of the fuel tank. It required a drilling of two vent holes in the cap and inspection of the gaskets. This amendment and revision will require all of the foregoing and an additional two vent holes. Further, the AD is being rewritten for clarification. Since fuel exhaustion affects air safety, the same need exists as originally for expeditious publishing of the rule. Thus, notice and public procedure hereon are impractical and cause exists for making the rule effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are F. Covelli, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, as follows:

§ 39.13 [Amended]

1. Delete the reference to AD 77-09-09.

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2. Amend and revise former AD 77-09-09 to read as follows:

PIPER.—Applies to all J-3, J-4, J-5, PA-11, PA-12, PA-14, PA-16, PA-18, PA-20 and PA-22 type aircraft.

Compliance required within the next 10 hours in service after effective date of this AD unless already accomplished.

In order to prevent inadequate fuel venting, accomplish the following:

(a) Modify fuel caps and inspect fuel tank inlet rubber seal in accordance with Piper Service Bulletin No. 522 dated September 28, 1976 (former AD 77-09-09 Sketch 1) or approved equivalent.

(b) Drill 2 additional vent holes .098 inch diameter through locking cam of fuel cap (Sketch 2) in accordance with instructions of Piper Service Bulletin No. 573 dated February 8, 1978, or approved equivalent.

(c) Upon compliance with (b), vibro-etch Part No. 60707-04 as shown in Sketch 2.

(d) Equivalent alterations must be approved by Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(Piper Service Bulletins Nos. 522 and 573 pertain to this subject.)

Effective Date: This amendment is effective May 23, 1978.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421 and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on May 9, 1978.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 78-13445 Filed 5-17-78; 8:45 am]

[4910-13]

[Docket No. 78-NE-11; Amdt. 39-3214]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft Models JT8D -15, -17, and -17R Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection of high pressure compressor disks, Stages 9 through 12, for tierod hole cracking on Models JT8D -15, -17, and -17R turbofan engines. The AD is needed to detect cracks in disk tierod holes which have resulted in rupture of a disk and engine failure.

DATES: Effective June 2, 1978. Compliance schedule as prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Pratt & Whitney Aircraft, Division of United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108. A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Jay J. Pardee, Propulsion Section (ANE-214), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7347.

SUPPLEMENTARY INFORMATION: The FAA has determined that cracks have occurred in the tierod holes in high pressure compressor disks, Stages 9 through 12, of JT8D engines which, in one instance on a Model JT8D-17, progressed and caused a disk rupture and engine failure. Since this condition is likely to exist or develop on other engines of the same type design, an airworthiness directive is being issued which requires inspection of high pressure compressor disks, Stages 9 through 12, for tierod hole cracking on Models JT8D -15, -17, and -17R turbofan engines.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Jay J. Pardee, Propulsion Section, Engineering and Manufacturing Branch, and George L. Thompson, Office of the Regional Counsel, New England Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

PRATT & WHITNEY AIRCRAFT: Applies to Pratt & Whitney Aircraft Models JT8D -15, -17, and -17R turbofan engines.

Compliance required as indicated, unless already accomplished.

To prevent crack propagation and possible disk failure, inspect Stages 9 through 12 high pressure compressor disks at the tierod holes in accordance with Pratt & Whitney Aircraft Alert Service Bulletin No. 4723, Revision 3, dated May 3, 1978, or later FAA approved revision, or equivalent means approved by the Chief, Engineering and Manufacturing Branch, New England Region.

Accomplish first inspection prior to the first inspection limits given by stage and engine model in Tables I through III of Alert Service Bulletin 4723, Revision 3, dated May 3, 1978, or later FAA approved revision, or within the next 1,000 cycles after the effective date of this AD, whichever is later. Reinspect disks at the intervals specified in Tables I through III of Alert Service Bulletin 4723, Revision 3, dated May 3, 1978, or later FAA approved revision. Disks inspected prior to the first inspection limit must be reinspected before reaching the specified reinspection interval, or the first inspection limit, whichever is later. In no case shall the established life limit of the disk be exceeded.

Remove cracked disks from service. They may be returned to service if repaired in accordance with Paragraph 6 of Alert Service Bulletin 4723, Revision 3, Dated May 3, 1978, or later FAA approved revision.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

The manufacturer's service bulletins, maintenance manuals, and overhaul manuals identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at New England Region.

This amendment becomes effective June 2, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85).)

Issued in Burlington, Mass., on May 10, 1978.

ROBERT E. WHITTINGTON,
Director,
New England Region.

NOTE.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-13451 Filed 5-17-78; 8:45 am]

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[4910-13]

[Docket No. 77-GL-20; Amdt. 39-3211]

PART 39—AIRWORTHINESS DIRECTIVES

General Electric Co. CF6-6D, CF6-6D1 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to General Electric Co. CF6-6D and CF6-6D1 engines, requiring periodic inspection and modification of certain stage compressor spools. This amendment is needed to correct serial errors and add additional serials that were omitted from the existing AD.

DATES: Effective—May 22, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from: General Electric Co., Cincinnati, Ohio 45215. Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Ill. 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FUTHER INFORMATION CONTACT:

M. Mixell, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018; telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: This notice amends Amendment 39-3164, 43 FR 13867, AD 78-07-03 which currently requires periodic inspection and modification of 11-13 Stage Compressor Spool, Part Number (P/N) 9021M66 (all assembly part numbers). After issuing Amendment 39-3164, the FAA has determined that there were errors and omissions in the serial numbers specified. Therefore, the FAA is amending Amendment 39-3164 by correcting the errors and adding the serial numbers that were inadvertently omitted.

Since this amendment provides a clarification only and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making amendment effective in less than 30 days.

In accordance with Departmental Regulatory Reform, dated March 23, 1976 an evaluation of the anticipated impacts has been made and it is expected that within a usual range of pertinent considerations the proposal will be neither costly nor controversial.

DRAFTING INFORMATION

The principal authors of this document are M. Mixell, Flight Standards Division, Great Lakes Region, and J. Brennan, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3164, 43 FR 13867, AD 78-07-03 as follows:

Delete serial numbers:

MP00268, MP024832, MP024833, MP025436, MP034484, MP035323, MP035345, MP035346, MP035829, MP037109, MP0A0141, MP0A0459.

Add serial numbers:

MP0A0273, MP0A0379, MP0A0383, MP0A0400, MP0A0402, MP0A0404, MP0A0430, MP0A0579, MP0A0591, MP0A0811, MPA00830, MP024432, MP024433, MP025463, MP034332, RP024401, MP035351, MP035353.

This amendment becomes effective: May 22, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on May 3, 1978.

JOHN M. CYROCKI,
Great Lakes Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-13492 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-RM-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redesignation of Control Zone, Aberdeen, S. Dak.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the effective time for the Aberdeen, S. Dak. control zone from continuous to part-time to establish effectiveness for this control zone which coincides with the availability of weather reporting service at this location. The National Weather Service is reducing their hours of operation at Aberdeen, S. Dak., making this amendment necessary.

EFFECTIVE DATE: July 13, 1978, 0501 G.m.t.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010, telephone 303-837-3937.

HISTORY

The National Weather Service at Aberdeen, S. Dak., currently provides full time weather reporting service supporting the full time control zone at Aberdeen, S. Dak. Beginning July 13, 1978, operational hours for the National Weather Service at Aberdeen, S. Dak., will be changed from full time to periods from 0600 to 2200 hours local time daily and weather reporting service will not be available for an 8-hour period. Therefore, the present continuous effective period of the Aberdeen, S. Dak., control zone must be revised to establish effective times for this control zone coincidental with the availability of weather reporting service by the National Weather Service.

Since effective periods for the Aberdeen, S. Dak., control zone are contingent on the availability of weather reporting service at this location, it was further determined that issuance of a notice of proposed rulemaking for this amendment would be impractical and not within the public interest.

RULE

This amendment to Part 71 of the Federal Aviation regulations (14 CFR Part 71) revises the control zone at Aberdeen, S. Dak. The reduced hours of weather reporting service by the National Weather Service at Aberdeen, S. Dak., necessitates the changing of the effective hours of operation for the Aberdeen, S. Dak., control zone.

DRAFTING INFORMATION

The principal authors of this document are Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, and Mr. Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation

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regulations (14 CFR Part 71) is amended effective July 13, 1978 as follows:

§ 71.171 [Amended]

By amending Subpart F, § 71.171 by adding the following:

ABERDEEN, S. DAK.

This control zone is effective during specific dates and times as established in advance by a Notice to Airmen. The effective date and time, thereafter, will be continuously published in the Airport Facility Directory.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo., on May 8, 1978.

ISAAC H. HOOVER,
Acting Director,
Rocky Mountain Region.

[FR Doc. 78-13447 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone; Enid, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment divides the Enid, Okla., control zone into two separate portions to provide controlled airspace to the surface at the Enid Woodring Municipal Airport whenever the Woodring Airport Traffic Control Tower is in operation and Vance Air Force Base (the airport on which the control zone is designated) is closed.

EFFECTIVE DATE: July 13, 1976.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart F, 71.171 (43 FR 355) of FAR Part 71, Enid, Okla., control zone is designated around the primary airport, Vance Air Force Base (AFB). The control zone also encompasses Woodring Municipal Airport. Hourly and special weather observations, requirements for control zone operation, are taken from Vance AFB and coincide with the base's hours of operation. When this weather service is not available, control zone designation also terminates at Woodring Municipal Airpoort, even if the .Woodring Airport Traffic Control Tower is operating.

Specialists at the Woodring Airport Traffic Control Tower will be certified to take weather observations and this amendment will allow that portion of the control zone accommodating Woodring Airport operations, to be designated coincident with the control tower hours of operation.

The alteration will also allow for control zone designation to exist when Vance AFB is operational and Woodring Control Tower is closed. The affected airspace configuration remains unchanged and continues as a part-time designation. Consequently, we have determined to omit circularization of the change for comment.

THE RULE

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Enid, Okla., control zone by redescribing it into two separate portions. The action allows controlled airspace to exist down to the runway surface at Woodring Municipal Airport coincident with the airport traffic control tower hours of operation.

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 355) is amended, effective 0901 G.m.t., July 13, 1978, as follows:

§ 71.171 [Amended]

In Subpart F, 71.171 (43 FR 355), the Enid, Okla., control zone is amended as follows:

ENID, OKLA. (VANCE AFB)

That airspace within a 5-mile radius of Vance AFB (latitude 36°20'20" N., longitude 97°55'00" W.) and within 3 miles west and 3 miles east of the Vance VORTAC (latitude 36°20'43" N., longitude 97°55'04" W.) 178.5° radial extending from the 5-mile radius zone to the 7 DME fix; and within 4 miles west and 5 miles east of the Vance VORTAC 358.5° radial extending from the 5-mile radius zone to the 6 DME fix; and within a 5-mile radius of Enid Woodring Municipal Airport (latitude 36°22'46" N., longitude 97°47'28" W.) and within 2 miles each side of the Woodring VOR (latitude 36°22'26" N., longitude 97°47'17" W.) 354.5° radial, extending from the 5-mile radius zone to 8 miles north of the VOR; and within 2 miles east and 4 miles west of the Woodring VOR 184.5° radial, extending from the 5-mile zone to 8 miles south of the VOR; excluding that portion of airspace east of longitude 97°51'00" W. when the Woodring Municipal Airport control zone is in effect. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continously published in the Airport/Facility Directory.

In Subpart F, 71.171 (43 FR 355) the following control zone is added:

ENID, OKLA. (WOODRING MUNICIPAL AIRPORT)

That airspace within a 5-mile radius of Enid Woodring Municipal Airport (latitude 36°22'46" N., longitude 97°47'28" W.) and within 2 miles each side of the Woodring VOR (latitude 36°22'26" N., longitude 97°47'17" W.) 354.5° radial, extending from the 5-mile radius zone to 8 miles north of the VOR; and within 2 miles east and 4 miles west of the Woodring VOR 184.5° radial, extending from the 5-mile zone to 8 miles south of the VOR; excluding that portion of airspace west of longitude 97°51'00" W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on May 8, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-13459 Filed 5-17-78; 8:45 a.m.]

[4910-13]

[Airspace Docket No. 77-PC-3]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters a VOR Federal airway identified as V-17 in the State of Hawaii. This action provides for the safe and efficient use of the navigable airspace by reducing the amount of chart clutter south of the Island of Maui and deleting a segment of V-17 that is no longer needed.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On February 21, 1978, the FAA proposed to amend Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter Hawaiian VOR Federal Airway V-17 in the State of Hawaii. (43 FR 7244). The purpose of the alteration is to facilitate the reading and publication of charts by reducing the amount of chart clutter. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. We received one response to the NPRM in which the commenter posed no objection to the proposal. Section 71.127 was republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 343).

THE RULE

This amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) adopts the airspace action proposed in the NPRM (43 FR 7244).

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 343) is amended, effective 0901 G.m.t., July 13, 1978, as follows:

§ 71.127 [Amended].

In § 71.127 under V-17 "118° and Maui, Hawaii, 201°" is deleted and "106° and Maui, Hawaii, 197°" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 11, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-13458 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-WE-26]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a control zone at San Nicolas Island, Calif. This action provides protected airspace for aircraft making instrument approaches to San Nicolas Island Outlying Field (OLF).

EFFECTIVE DATE: July 13, 1978.

FOR FUTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On March 23, 1976, the FAA published for comment a proposal to establish a control zone at San Nicolas Island, Calif. (43 FR 12026). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. Section 71.171 of Part 71 was published in the FEDERAL REGISTER on January 3, 1978 (43 FR 355). Since this action involved, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provision of Executive Order 10854.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations designates a control zone (CZ) at San Nicolas Island, Calif. This action provides controlled airspace for the protection of aircraft executing TACAN Runway 30 and the NDB Runway 30 instrument approaches to the San Nicolas Island (OLF).

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 of Part 71 of the Feredal Aviation Regulations (14 CFR Part 71) as republished (43 FR 355) is amended, effective 0901 GMT, July 13, 1978, by adding the following:

§ 71.171 [Amended].

SAN NICOLAS ISLAND, CALIF. (SAN NICOLAS ISLAND OLF)

Within a 5-mile radius of the San Nicolas Island Outlying Field (Lat. 33°13'30" N., Long. 119°27'50" W.) and within one mile each side of the 135° and 315° bearings from the Navy San Nicolas Island NDB (Lat. 33°14'10" N., Long. 119°26'56" W.) extending from seven miles southeast to seven miles northwest of the NDB. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport Facility Directory.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 10, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-13456 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-WE-3]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Airway Floor

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment lowers a portion of the airway floor of Victor Airway No. 165 between Reno, Nev., and Lakeview, Oreg. This action pro-

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vides controlled airspace for aircraft departing Alturas Municipal Airport, Calif., and proceeding via V-165 airway.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On March 20, 1978 (43 FR 11586) the FAA proposed to amend Part 71 of the Federal Aviation Regulations (FARs) (14 CFR Part 71) to alter a portion of the airway floor of V-165 between Reno, Nev., and Lakeview, Oreg. Interested persons were invited to participate in the rule making proceeding by submitting comments on the proposal to the FAA. No comments were received. This amendment is the same as that proposed in the notice. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) lowers a portion of the airway floor of V-165 between Reno, Nev., and Lakeview, Oreg. The Alturas, Calif., Municipal Airport is located 15 miles west of V-165. Transition areas around the airport provide sufficient controlled airspace for Alturas departures until reaching the edge of V-165 where the floor of controlled airspace is 13,500 feet MSL. Alturas departures cannot reach 13,500 feet MSL before entering the airway and exiting the controlled airspace unless a circling climb is executed. This amendment establishes an airway floor of 1,200 feet AGL in this vicinity so that Alturas departures can climb to cruising altitude without leaving controlled airspace.

DRAFTING INFORMATION

The principal authors of this document are Mr. Lewis Still, Air Traffic Service, and Mr. Richard Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR part 71) as republished (43 FR 307) is amended, effective 0901 GMT, July 13, 1978, as follows:

§ 71.123 [Amended]

Under V-165 "Reno, Nev.; 40 miles, 7 miles, 115 MSL, 87 miles, 135 MSL, Lakeview, Oreg.;" is deleted and "Reno, Nev.; 40 miles 12 AGL, 7 miles 115 MSL, 54 miles 135 MSL, 81 miles 12 AGL, Lakeview, Oreg.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 10, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-13453 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-SW-3]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters V-17, V-17E, V-68S, V-161, and V-163W airway segments in the vicinity of San Antonio, Tex. The airway alterations are associated with a new navigation aid (VORTAC) located at Center Point, Tex. Air traffic flow will be improved and congestion will be reduced by this action.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On April 24, 1978, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter V-17, V-17E, V-68S, V-161 and V-163W in the vicinity of San Antonio, Tex. (43 FR 17367). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection. This amendment is the same as proposed in the notice. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) realigns the following airway segments:

1. V-17 between Cotulla, Tex. and San Antonio, Tex., via the INT of the Cotulla 046°T (037°M) and the San Antonio 198°T (189°M) radials.
2. V-17E between Cotulla and San Antonio via the INT of Cotulla 046°T (037°M) and the San Antonio 183°T (174°M) radials.
3. V-68S between Junction, Tex. and San Antonio via Center Point.
4. V-161 to begin at Three Rivers, Tex., via Center Point to Llano, Tex., thence as presently designated.
5. V-163W between Three Rivers and San Antonio via the INT of Three Rivers 327°T (318°M) and San Antonio 183°T (174°M) radials.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) and amended (42 FR 63167 and 43 FR 3549) is further amended, effective 0901 G.m.t., July 13, 1978, as follows:

1. Under V-17 "INT Cotulla 047° and San Antonio, Tex., 198° radials; San Antonio, including an east alternate via the INT Cotulla 047° and San Antonio 183° radials;" is deleted and "INT Cotulla 046° and San Antonio, Tex., 198° radials; San Antonio, including an east alternate via the INT Cotulla 046° and San Antonio 183° radials;" is substituted therefor.
2. Under V-68 "INT Junction 144° and San Antonio 290° radials;" is deleted and "Center Point, Tex.;" is substituted therefor.
3. Under V-161 "From Llano, Tex., via" is deleted and "From Three Rivers, Tex., via Center Point, Tex.; Llano, Tex.;" is substituted therefor.
4. Under V-163 "INT Three Rivers 326° and San Antonio 183° radials;" is deleted and "INT Three Rivers 327° and San Antonio 183° radials;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

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Issued in Washington, D.C., on May 11, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-13513 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-RM-7]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Extension of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates an extension of V-421 airway to overlie a route that is extensively used from Gunnison, Colo. to Kremling, Colo., via an intersection near Aspen, Colo. This action permits the use of additional services that can be provided by FAA to promote safety and convenience for users of the route.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On April 10, 1978, the FAA published for comment a proposal to designate an extension of V-421 airway from Gunnison, Colo., to Kremling, Colo., via the INT of Gunnison 010°T (356°M) and Kremling 203°T (189°M) radials (43 FR 14971). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. Section 71.123 of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 307).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations designates an extensively used direct route as an airway. This route is presently used without the benefit of charted radials and minimum flight altitudes. Its designation as an airway will provide valuable charted information, as well as reduce the coordination and communication time required for the use of this route.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) is amended, effective 0901 GMT, July 13, 1978, as follows:

Under V-421 "Gunnison, Colo." is deleted and "Gunnison, Colo.; INT Gunnison 010° and Kremling, Colo., 203° radials; to Kremling." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 11, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-13514 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-EA-1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Victor Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment increases exclusions currently made to several airways near Tidioute, Pa. The portions of these airways which are within the Youngstown, Ohio, Military Operations Area (MOA) are currently excluded when the MOA is activated so that Air Force jets may operate off airways within the MOA. This amendment increases the airway exclusions to coincide with the increase in the size of the MOA.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On March 20, 1978, (43 FR 11585) the FAA proposed to amend Part 71 of the Federal Aviation Regulations (FAR's) (14 CFR Part 71) to increase exclusions currently made to several airways near Tidioute, Pa. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. Two public comments were received and due consideration has been given to all matters presented. This amendment is the same as that proposed in the notice. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 307).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FAR's) increases exclusions currently made to several airways near Tidioute, Pa., which penetrate the Youngstown MOA. The Youngstown MOA extends within a 15 mile radius of the Tidioute VORTAC and extends from 10,000 feet MSL to and including 15,000 feet MSL. The vertical extent of the MOA is being increased through nonrulemaking procedures to include the airspace from 10,000 feet MSL to and including 17,000 feet MSL. Simultaneously with that action, the name of the MOA will be changed from Youngstown MOA to Tidioute MOA. Those portions of Victor Airways Nos. V-72, V-115, V-116, V-126, V-170, V-184 and V-188 which penetrate Youngstown MOA are currently excluded from 10,000 feet MSL to 15,000 feet MSL during the time the Youngstown MOA is activated by NOTAM. The action taken herein increases this exclusion of these airways to 17,000 feet MSL concurrently with the vertical increase of the MOA.

DISCUSSION OF COMMENTS

One commenter objected to the proposal stating that the increased airways exclusions would impose undue operating restrictions on air carrier aircraft traversing the area. However, the MOA is normally used 2 days per week in VFR conditions only, and a review of airline schedules between Philadelphia and Erie, Pa., and between Buffalo, N.Y., and Erie, Pa., reveals that only five flights are scheduled during the times the MOA is normally used. The altitudes generally filed by air carriers in the Tidioute area are FL 200 and FL 210 which is well above the highest altitude authorized for the MOA. The FAA believes the MOA exclusions will have minimal effect on airline operations. The only other comment expressed no objections.

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DRAFTING INFORMATION

The principal authors of this document are Mr. Lewis W. Still, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) and amended (43 FR 3545 and 4421) is further amended, effective July 13, 1978, as follows:

In § 71.123 in the text of V-72, V-115, V-116, V-126, V-170, V-184 and V-188, "The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 15,000 feet MSL is excluded during the times that the Youngstown Military Operations Area (MOA) is activated by NOTAM." is deleted and "The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 11, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-13515 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-7]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Follett, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Follett, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Follett/Lipscomb County Airport, utilizing the Gage, Okla., navigation facility (VORTAC). The circumstance which created the need for the action was a requirement to provide capability for flight under instrument flight rules (IFR) procedures to the airport.

DATE: Effective date: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On April 6, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 14518) stating that the Federal Aviation Administration proposed to designate the Follett, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments received contained no objections. Except for editorial changes this amendment is that proposed in the notice.

THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) designates the Follett, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Follett/Lipscomb County Airport. Coincident with this action, the airport is changed from VFR to IFR status.

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 GMT, July 13, 1978 as follows.

In Subpart G, § 71.181 (43 FR 440), the following transistion area is added:

FOLLETT, TEX.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Follett/Lipscomb County Airport, Follett, Tex. (latitude 36°26'25" N., longitude 100°07'20" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on May 10, 1978.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc. 78-13516 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-GL-9]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Chicago O'Hare Terminal Control Area (TCA) in order to insure that all operations of large turbine powered aircraft are fully contained within the TCA airspace on all instrument approach and departures at O'Hare International Airport, to raise the floor in the outer portion of the present TCA Area, and to clarify the TCA boundary. The action was based on a study of actual operations. This rule will return to general aviation use a significant amount of presently restricted navigable airspace and make slight adjustments in the present TCA configuration to insure that all high performance aircraft are fully contained within the TCA limits.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making was published in the FEDERAL REGISTER on June 13, 1977 (42 FR 30213) proposing to alter the terminal control area at Chicago, Ill.

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

All comments submitted with respect to the proposed amendment were given due consideration. Substantial aeronautical objections were received to the proposal from the Department of Navy and from the Department of Army. The Department of Navy and Army objections were based upon the fact that the alteration of the TCA would involve lowering the floor in the vicinity of NAS Glenview, having a substantial adverse affect to the mission requirements of the Naval Training Station and affecting the Army Reserve and USMC Reserve helicopter operations from that base. On the basis of a review and study of these objections, it was determined that the TCA could be revised from that proposed to accommodate the airspace requirements of NAS Glenview and that a special Letter of Agreement could be initiated between NAS Glenview and the O'Hare ATCT wherein the requirements of the Military and the Operations at O'Hare would be more compatible. The alteration to the TCA involves an adjustment of the boundary of Area A. Area A as defined in the Notice of Proposed Rule Making was described as that airspace extending upward from the surface to and including 7,000' AMSL within 5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC from the 347° radial clockwise to the 052° radial then within a 6.5 DME (NM) radius to the 242° radial, etc. The alteration will now redescribe Area A as follows:

(1) Area A. That airspace extending upward from the surface to and including 7,000' AMSL within 5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC from the 347° radial clockwise to the 070° radial then within the 6.5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC from the 070° radius clockwise to the 242° radial. The remainder of Area A is as described in the Notice of Proposed Rule Making.

A comment was received from Chicagoland Airport, Inc. expressing concern that the lowering of the TCA floor to the north of the Chicagoland Airport from 4,000' to 3,600' would require student pilots to fly a greater distance from the airport in order to conduct pilot training. Aeronautical study by the FAA reveals that only a very small portion of the basic and advanced flight training by pilots at Chicagoland Airport would be affected, (basic and advanced training involving steep turns, stalls and inadvertent spins) by the adjustment in the TCA floor. In addition, the boundary of existing federal low altitude airways is such that this type of pilot training is normally conducted outside the area of the TCA. Therefore, the alteration is not considered to have a significant adverse affect.

This alteration has the effect of a further reduction of the TCA with the result of additional airspace being returned to general aviation use. Accordingly, notice and public procedure with regard to this change is not considered necessary.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective July 13, 1978, as follows:

In § 71.401 (43 FR 647), the following Terminal Control Area is amended to read:

CHICAGO, ILL., TERMINAL CONTROL AREA

a. *Primary airport:* (1) Chicago O'Hare International Airport (latitude 41°58'57" N., longitude 87°54'25" W.).

(2) Chicago O'Hare VORTAC (latitude 41°59'16" W., longitude 87°54'17" W.).

b. *Boundaries:* (1) Area A. That airspace extending upward from the surface to and including 7,000' MSL within 5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC from the 347° radial clockwise to the 070° radial then within the 6.5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC from the 070° radial clockwise to the 052° radial then within the 6.5 DME (NM) radius to the 347° radial, thence via the 347° radial to the point of origin.

Area B. That airspace extending upward from 1,900' MSL to and including 7,000' MSL within 10.5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, excluding Area A previously described and that area bounded on the southeast by a line 2 nautical miles northwest and parallel to the extended centerline of Runway 22R, on the south by the Chicago O'Hare (ORD) VORTAC 5 DME (NM) radius, and southwest by the southwest boundary of Glenview, Ill. control zone, on the north by a 10.5 DME (NM) radius of the Chicago O'Hare (ORD) VORTAC, and excluding Area E described hereinafter.

Area C. That airspace extending upward from 3,000' MSL to and including 7,000' MSL within 15 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, excluding Areas A and B, previously described, Area E, described hereinafter.

Area D. That airspace extended upward from 3,600' MSL to and including 7,000' MSL within 25 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, excluding Areas A, B, and C, previously described, Area E described hereinafter, and excluding the area between the 20 and 25 DME (NM) radii of Chicago O'Hare (ORD) VORTAC from a line 7 nautical miles southwest of and parallel to the extended centerline of Rwy 32L, clockwise to a line 7 nautical miles southeast of and parallel to the extended centerline of Rwy 4R, and excluding the area between the 20 and 25 DME (NM) radii of Chicago O'Hare (ORD) VORTAC from a line 7 nautical miles northwest of and parallel to the extended centerline of Rwy 4L clockwise to a line extending from a point on the 20 DME (NM) radius of Chicago O'Hare (ORD) VORTAC 7 nautical miles southwest of the extended centerline of Rwy 14R and a point on the 25 DME (NM) radius of Chicago O'Hare (ORD) VORTAC 6 nautical miles southwest of the extended centerline of Rwy 14R.

Area E. That airspace northeast of Chicago extending upward from 2,500' MSL to and including 7,000' MSL bounded on the northeast by the 10.5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, on the south by the extended centerline of Rwy 9/27 at NAS Glenview and on the northwest of and parallel to the extended centerline of Rwy 22R at Chicago O'Hare International Airport.

This amendment is made under the authority of section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); section 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on May 1, 1978.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc. 78-13517 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-WA-5]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the name of the designated facility under the controlling agency (FAA) of two restricted areas identified as R-3101A PMRFAC Four, Hawaii and R-3120 PMRFAC Five, Hawaii. This action reflects the correct identity of the designated facility under the FAA.

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to change the name of the designated facility under the controlling agency (FAA). This action assures that the appropriate facility under the controlling agency is identified. Since this amendment is an administrative matter in which the public would have no particular interest, notice and public procedure thereon are unnecessary.

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Further, since it is essential that the designated facility under the controlling agency be correctly identified, good cause exists for making this amendment effective immediately.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federaal Aviation Regulations (14 CFR Part 73) as republished (43 FR 680) is amended, effective May 18, 1978, as follows:

§ 73.31 [Amended]

In § 73.31 under R-3101 PMRFAC Four, Hawaii and R-3129 PMRFAC Five, Hawaii, "Lihue Combined Station/Tower" is deleted and "Honolulu ARTC Center" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354 (a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 10, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-13457 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-EA-59]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment increases the designated time of use of Indiantown Gap, Pa., Restricted Area R-5802 by extending the hours of use on Saturdays to 2400 hours local time during the summer months. This action eliminates the necessity for the U.S. Army to issue NOTAMs each time training requirements cannot be completed within the currently designated time of use.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On January 30, 1978, (43 FR 3919) the FAA proposed to amend Part 73 of the Federal Aviation Regulations (FARs) (14 CFR Part 73) to alter the time designation of Fort Indiantown Gap, Pa., Restricted Area R-5802. Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. No objectionable comments were received. This amendment is the same as that proposed in the notice. Section 73.58 was republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 703).

THE RULE

This amendment to Part 73 of the Federal Aviation Regulations alters the designated time of use for Fort Indiantown Gap, Pa., Restricted Area R-5802. Time of designation for this restricted area is staggered throughout the year and currently includes 0800 to 2000 local time every day from May 11 to August 31. This amendment increases this time of designation on Saturdays, between May 11 and August 31 from 0800 to 2400 local time.

DRAFTING INFORMATION

The principal authors of this document are Mr. Lewis W. Still, Air Traffic Service, and Mr. Richard Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, the time of designation for R-5802 under § 73.58 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73), as republished (43 FR 703), is amended, effective 0901 GMT July 13, 1978, to read as follows:

§ 73.58 Pennsylvania.

R-5802 Fort Indiantown Gap, Pa.

Time of designation. February 15 through May 10 and September 1 through December 15, 0800-2300 local time on Saturdays and 0800-1200 local time on Sundays; May 11 through August 31, 0800-2400 local time on Saturdays and 0800-2000 local time on all other days; other times by Notice to Airmen (NOTAM) issued at least 48 hours in advance.

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 11, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-13511 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-SO-21]

PART 73—SPECIAL USE AIRSPACE

Change in Using Agencies

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment updates the name of the using agency for several restricted areas in the Jacksonville, Fla., and the Virginia Beach, Va., areas. The U.S. Navy requested this name change and the FAA concurs. These changes will cause aeronautical charts and publications to accurately reflect the using agencies of the affected restricted areas.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

THE RULE

The purpose of this amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to amend the name of the using agency of Restricted Areas R-2906, R-2907A & B and R-2910, in the Jacksonville, Fla., area and the name of the using agency for Restricted Areas R-5301A, B, C and R-5313 in the Virginia Beach, Va., area. The U.S. Navy has requested these amendments and the FAA concurs and such action is taken herein. Subpart B of Part 73 of the Federal Aviation Regulations was republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 672 and 697). Since this amendment is a minor matter in which the public would have no particular interest, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. Lewis W. Still, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 672 and 697) is amended, effective 0901 GMT, July 13, 1978, as follows:

§ 73.29 Florida.

R-2906, Rodman, Fla.
R-2907, Lake George, Fla. (Subarea A.)
R-2907, Lake George, Fla. (Subarea B.)
R-2910, Pinecastle, Fla.

Using agency. Fleet Area Control and Surveillance Facility (FACSFAC JAX), NAS Jacksonville, Fla.

§ 73.53 North Carolina.

R-5301 A/B/C, Albemarle Sound, N.C.
R-5313, Long Shoal Point, N.C.

Using agency. Fleet Area Control and Surveillance Facility (FACSFAC VACAPES), NAS Oceana, Virginia Beach, Va.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 11, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-13512 Filed 5-17-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-SW-14]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route No. J-138

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Jet Route No. J-138 between Fort Stockton, Tex., and San Antonio, Tex., via the Center Point, Tex., VORTAC (an air navaid) which is located slightly north of the centerline of the present route. Use of the Center Point VORTAC will improve the radio navigation signal by reducing the distance between VORTACs and will assist in reducing the congestion and improving the traffic flow in the San Antonio area.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Adminstration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 75 is to realign J-138 from Fort Stockton to San Antonio via Center Point. The new Center Point navaid at Lat. 29°55'20" N., Long. 99°12'50" W., is approximately 2.5 miles north of the present direct route between Fort Stockton and San Antonio. The use of the new navaid will improve both the en route and terminal traffic flow in the area of San Antonio. Because this action merely realigns J-138 a very small amount (almost 4°), this is a minor amendment which will enhance the public use of the navigable airspace if it is charted during the current charting cycle. However, its benefits would be delayed if it were not adopted immediately. Thus, notice and public procedure on this action is impractical and is not necessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Adminstrator, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (43 FR 714) is amended, effective 0901 GMT, July 13, 1978, as follows:

§ 75.100 [Amended]

In Jet Route No. 138, "From Fort Stockton, Tex.;" is deleted and "From Fort Stockton, Tex., via Center Point, Tex.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 11, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-13452 Filed 5-17-78; 8:45 am]

[4910-13]

[Docket No. 17908; Amdt. No. 1111]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from: 1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division,

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Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantage of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flights Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

• • • Effective July 13, 1978:

Indianapolis, IN—Indianapolis Brookside Airpark, VOR Rwy 36, Amdt. 3.
Llano, TX—Llano Municipal, VOR-A, Amdt. 1.
Charleston, WV—Kanawha, VOR-A, Amdt. 10.
Parkersburg, WV— Wood County Gill Robb Wilson Field, VOR Rwy 21, Amdt. 11.
Sheboygan, WI—Sheboygan County Memorial, VOR Rwy 3, Amdt. 2.
Sheboygan, WI—Sheboygan County Memorial, VOR Rwy 21, Amdt. 2.

• • • Effective June 29, 1978:

Torrance, CA– Torrance Municipal, VOR Rwy 11L, Amdt. 11.
Kissimmee, FL—Kissimmee Municipal, VOR/DME-A, Amdt. 3.
Rochelle, IL—Rochelle Municipal, VOR-A, Amdt. 4.
Ames, IA—Ames Muni., VOR Rwy 31, Amdt. 3.
Wichita, KS—Beech Factory, VOR-B, Amdt. 9.
Baltimore, MD—Baltimore-Washington Int'l, VOR Rwy 28, Amdt. 17.
Salem, MI—Salem, VOR-A, Amdt. 1.
St. Lous, MO—Lambert-St. Louis Int'l, VOR Rwy 12R, Amdt. 17.
Ashland, OH—Ashland County, VOR-A, Original.
DuBois, PA—DuBois-Jefferson County, VOR/DME Rwy 7, Amdt. 1.
Port Angeles, WA—Port Angeles CGAS, VOR-B, Amdt. 1.
Port Angeles, WA—Port Angeles CGAS, VOR-D, Original.
Richland, WA—Richland, VOR/DME-A, Original.

• • • Effective June 1, 1978:

Tuscaloosa, AL—Tuscaloosa Muni., VOR Rwy 4, Amdt. 7.

The FAA Published an amendment in Docket No. 17830, Amdt. No. 1109, to Part 97 of the Federal Aviation Regulations (Vol. 43, FR No. 77, page 16711, dated April 20, 1978) § 97.23 effective June 1, 1978, which is hereby amended as follows:

Austin, TX—Robert Mueller Municipal VOR/DME or TACAN Rwy 12R, Amdt. 4, effective date changed to July 13, 1978.
Austin, TX—Robert Mueller Minicipal VOR/DME or TACAN Rwy 16R, Amdt. 3, effective date changed to July 13, 1978.

The FAA published an amendment in Docket No. 17695, Amdt. No. 1107, to Part 97 of the Federal Aviation Regulations (43 FR No. 57, page 11973; dated March 23, 1978) under § 97.23 effective May 18, 1978, which is hereby amended as follows:

Grundy, VA—Grundy Muni., VOR Rwy 4, Original, effective date changed to June 29, 1978.

The FAA published an amendment in Docket No. 17830, Amdt. No. 1109, to Part 97 of the Federal Aviation Regulations (Vol. 43, FR No. 77, page 16711; dated April 20, 1978) under § 97.23, effective June 15, 1978, which is hereby amended as follows:

LaCrosse, WI—LaCrosse Municipal, VOR Rwy 13, Amdt. 17, and VOR Rwy 36, Amdt. 19, effective date changed to July 13, 1978.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

• • • Effective July 13, 1978:

Anderson, IN—Anderson Municipal, LOC (BC) Rwy 12, Amdt. 1.

The FAA published an amendment in Docket No. 17830, Amdt. No. 1109, to Part 97 of the Federal Aviation Regulations (Vol. 43, FR No. 77, page 16712; dated April 20, 1978) under § 97.25 effective June 15, 1978, which is hereby amended as follows:

LaCrosse, WI—LaCrosse Municipal LOC (BC) Rwy 36, Amdt. 5, effective date changed to July 13, 1978.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

• • • Effective July 13, 1978:

Spirit Lake, IA—Spirit Lake Muni., NDB Rwy 16, Amdt. 2.
Wahoo, NE—Wahoo Muni., NDB Rwy 20, Original.
Columbus, OH—Port Columbus International, NDB Rwy 28L, Amdt. 10.
Parkersburg, WV—Wood County Gill Robb Wilson Field, NDB Rwy 3, Amdt. 3.
Milwaukee, WI—General Mitchell Field, NDB Rwy 1L, Amdt. 2.
Sheboygan, WI—Sheboygan Co. Memorial, NDB Rwy 21, Amdt. 3.

• • • Effective June 29, 1978:

Kissimmee, FL—Kissimmee Municipal, NDB Rwy 15, Amdt. 5.
Ames, IA—Ames Muni., NDB Rwy 31, Amdt. 5.
St. Louis, MO—Lambert-St. Louis Int'l, NDB Rwy 12R, Amdt. 8.
St. Louis, MO—Lambert-St. Louis Int'l, NDB Rwy 24, Amdt. 31.
Sikeston, MO—Sikeston Memorial Muni., NDB Rwy 20, Amdt. 5.
Wilkesboro, NC—Wilkes County, NDB Rwy 24, Amdt. 2.
Port Angeles, WA—Port Angeles CGAS, NDB-C, Amdt. 1.

• • • Effective May 7, 1978:

Greenville, AL–Greenville Muni., NDB Rwy 33, Amdt. 1.

The FAA published an Amendment in Docket No. 17830, Amdt. No. 1109, to Part 97 of the Federal Aviation Regulations (Vol 43 FR No. 77, page 16712; dated April 20, 1978) under § 97.27, effective June 1, 1978, which is hereby amended as follows:

Austin, TX—Robert Mueller Municipal NDB Rwy 30L, Amdt 28, effective date changed to July 13, 1978.

The FAA published an amendment in Docket No. 17830, Amdt. No. 1109, to Part 97 of the Federal Aviation Regulations (Vol 43 FR No. 77, page 16712; dated April 20, 1978) under § 97.27, effective June 15, 1978, which is hereby amended as follows:

LaCrosse, WI—LaCrosse Municipal, NDB Rwy 18, Amdt 6, effective date changes to July 13, 1978.

4. By amending § 97.29 ILS-MLS SIAPS identified as follows:

Effective July 13, 1978:

Titusville, FL—Titusville-Cocoa, ILS Rwy 36, Amdt. 5.
Columbus, OH—Port Columbus International, ILS Rwy 28L, Amdt. 23.
Charleston, WV—Kanawha, ILS Rwy 23, Amdt. 24.
Parkersburg, WV—Wood County Gill Robb Wilson Field, ILS Rwy 3, Amdt. 6.
Milwaukee, WI—General Mitchell Field, ILS Rwy 1L, Amdt. 2.
Milwaukee, WI—General Mitchell Field, ILS Rwy 19R, Amdt. 4.

Effective June 29, 1978:

Detroit, MI—Detroit Metropolitan Wayne County, ILS Rwy 3L, Amdt. 2.
Detroit, MI—Detroit Metropolitan Wayne County, ILS Rwy 21R, Amdt. 12.
St. Louis, MO—Lambert-St. Louis Int'l, ILS Rwy 12R, Amdt. 13.
St. Louis, MO—Lambert-St. Louis Int'l, ILS Rwy 24, Amdt. 35.

The FAA published an amendment in Docket No. 17830, Amdt. No. 1109, to Part 97 of the Federal Aviation Regulations (Vol 43 FR No. 77, page 16712; dated April 20, 1978) under § 97.29, effective June 15, 1978, which is hereby amended as follows:

Austin, TX—Robert Mueller Municipal ILS Rwy 12R, Amdt 2, effective date changed to July 13, 1978.
Austin, TX—Robert Mueller Municipal ILS Rwy 30L, Amdt 27, effective date changed to July 13, 1978.

The FAA published an amendment in Docket No. 17830, Amdt. No. 1109, to Part 97 of the Federal Aviation Regulations (Vol 43 FR No. 77, page 16712; dated April 20, 1978) under § 97.29 effective June 15, 1978, which is hereby amended as follows:

LaCross, WI—LaCrosse Municipal, ILS Rwy 18, Amdt 6, effective date changed to July 13, 1978.

5. By amending § 97.31 RADAR SIAPs identified as follows:

Effective July 13, 1978:

Greenville, SC—Greenville-Downtown, RADAR-1, Amdt. 10.
Charleston, WV—Kanawha, RADAR-1, Amdt. 10.

Effective June 29, 1978:

St. Louis, MO—Lambert-St. Louis Int'l, RADAR-1, Amdt. 20.

6. By amending § 97.33 RNAV SIAPs identified as follows:

Effective July 13, 1978:

Oxford, MS—University-Oxford, RNAV Rwy 9, Original.
Oxford, MS—University-Oxford, RNAV Rwy 27, Original.
Charleston, WV—Kanawha, RNAV Rwy 14, Amdt. 4.

Effective June 29, 1978:

Kissimmee, FL—Kissimmee Muni., RNAV Rwy 15, Amdt. 1.
Ames, IA—Ames Muni., RNAV Rwy 13, Original.
Ames, IA—Ames Muni., RNAV Rwy 31, Original.
Morganton, NC—Morganton-Lenoir, RNAV Rwy 3, Original.
Jacksboro, TN—Campbell County, RNAV-A, Amdt. 1.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); delegation: 25 FR 6489 and paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring prepartion of an economic impact statment under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 12, 1978

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 78-13519 Filed 5-17-78; 8:45 am]

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. ER-1048, Amdt. 1]

PART 202—CERTIFICATES AUTHORIZING SCHEDULED ROUTE SERVICE: TERMS, CONDITIONS, AND LIMITATIONS

Notice of Approval by Comptroller General

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in Part 202 concerning the terms, conditions, and limitations of a certificate held by a route air carrier under section 401 of the Federal Aviation Act of 1958, as amended. This approval is required by the Federal Reports Act and was transmitted to the Civil Aeronautics Board by letter dated May 1, 1978.

DATES: Effective: May 11, 1978. Adopted: May 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 202 of its Economic Regulations (14 CFR 202) by adding the following note at the end of Part 202:

NOTE.—The application requirements contained in §§ 202.13(a), 202.13(b), 202.14(b) and 202.15 and the reporting requirements contained in §§ 202.13(c), 202.13(d) and 202.16(a)(b) have been approved by the U.S. General Accounting Office under No. B-180226 (R0523).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; (U.S.C. 1324).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-13525 Filed 5-17-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. (549)]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Bad debt reserves of thrift institutions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to additions to reserves for losses on loans of mutual savings banks, domestic building and loan associations, and cooperative banks. Changes in the applicable tax law were made by the Tax Reform Act of 1969. These regulations provide neccessary guidance to certain finan-

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cial institutions for compliance with the Act.

DATE: The regulations are effective for taxable years beginning after July 11, 1969.

FOR FURTHER INFORMATION CONTACT:

Lawrence M. Axelrod of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3295, not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 12, 1971, a notice of proposed rulemaking to conform the Income Tax Regulations (26 CFR Part 1) under section 593 of the Internal Revenue Code of 1954 to a portion of the amendment made by section 432 (a) and (b) of the Tax Reform Act of 1969 (83 Stat. 620, 622) was published in the FEDERAL REGISTER (36 FR 15050). Amendments to conform the Income Tax Regulations to the balance of the amendment made by section 432(a) of the Tax Reform Act of 1969 will be published in the FEDERAL REGISTER at a later date with a notice of proposed rulemaking. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is adopted by this document, subject to the changes set forth below.

A taxpayer that is a mutual savings bank, domestic building and loan association, or cooperative bank (hereinafter referred to as a "thrift institution") is allowed to determine its reasonable addition to a reserve for bad debts for the taxable year under section 593(b). For taxable years beginning after July 11, 1969, section 593 (b) provides for an experience method of determining the amount of the reasonable addition to a reserve for losses on non-qualifying loans and three optional methods (the percentage of taxable income method, the percentage method, and the experience method) of determining the amount of the reasonable addition to a reserve for losses on qualifying real property loans.

Regulations relating to the experience method and the percentage method are reserved and will be published in the FEDERAL REGISTER at a later date with a notice of proposed rulemaking.

Under the percentage of taxable income method, a thrift institution determines its reasonable addition to a reserve for qualifying real property loans by multiplying the amount of taxable income computed under section 593(b)(2)(E) and § 1.593-6A(b) (5) by the "applicable percentage" for the taxable year as provided in section 593(b)(2) (A) and (B) and § 1.593-6A(b)(1) and (2). The amount of the reasonable addition to a reserve is subject to the overall limitation of section 593(b)(2)(D) and § 1.593-6A(b)(4).

Section 1.593-6A(a)(2) as proposed has been clarified to indicate that the amount finally determined to be a reasonable addition to a reserve for qualifying real property loans is controlling as to whether the taxpayer is deemed to have computed its reasonable addition under the percentage of taxable income method for purposes of section 596 and § 1.596-1 (relating to limitation on dividends received deduction).

Section 1.593-6A(b)(2) as proposed provided that the applicable percentage for a taxable year was reduced by 1½ percentage points in the case of a mutual savings bank or three-fourths of 1 percentage point for other thrift institutions for each percentage point "or fraction thereof" by which the thrift institution's percentage of assets described in section 7701(a)(19)(C) fell below a specified percentage of total assets. Section 1.593-6A(b)(2) has been changed to provide that the applicable percentage is reduced only for each full percentage point by which the percentage of assets described in section 7701(a)(19)(C) falls below the specified percentage of total assets.

Section 1.593-6A(b)(5)(i) has been modified to change the reference to "section 593(f)" to "section 593(e)" to reflect a redesignation made by the Tax Reform Act of 1976 (Pub. L. 94-455, section 1901(a)(84)(C)).

Section 1.593-6A(b)(5)(iii) as proposed has been clarified to indicate that for purposes of computing taxable income under the percentage of taxable income method all losses and gains from the sale or exchange of corporate stock and tax-exempt obligations are offset against each other and that the computation is made without regard to the long- or short-term character of the stocks and obligations. An example is added to illustrate the rule.

Section 1.593-6A(b)(5) has been changed to implement the decision to compute taxable income, for purposes of section 593(b)(2), by taking into account deductions such as the charitable contribution deduction and any net operating loss carryback deduction only for taxable years beginning after December 31, 1977.

Section 1.593-11 has been modified to include as a qualifying real property loan a loan secured by an interest in a mobile unit if such mobile unit is permanently fixed to real property.

DRAFTING INFORMATION

The principal author of this regulation was Lawrence M. Axelrod of the legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the amendments to 26 CFR Part 1 are adopted as proposed subject to the following changes:

Paragraph 1. Section 1.593 is deleted.

Par. 2. Section 1.593-6A, as set forth in paragraph 5 of the appendix to the notice of proposed rulemaking, is changed as follows:

1. Paragraph (a)(1)(i) is revised.
2. The last sentence of paragraph (a)(1) is deleted.
3. Paragraph (a)(2) is revised.
4. Paragraph (b)(2) is revised.
5. Paragraph (b)(3) is amended by deleting the reference to "§ 301.7701-13A" in each of the four places where it appears and inserting in each place "§ 402.1-2".
6. Paragraphs (b)(5)(i) and (b)(5)(iii) are revised.
7. Paragraph (b)(5) is amended by deleting the flush material at the end and by adding new paragraphs (b)(5)(vi) and (b)(5)(vii).

Par. 3. The amendment to § 1.593-11, as set forth in paragraph 9 of the appendix to the notice of proposed rulemaking, is withdrawn and § 1.593-11 is changed as follows:

1. Three new sentences are added at the end of paragraph (b)(1).
2. Paragraph (b)(3) is revised.
3. Paragraph (b)(4) is revised.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: March 3, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

§ 1.593 [Deleted]

PARAGRAPH 1. Section 1.593 is deleted.

* * * * *

PAR. 2. Section 1.593-4 is revised to read as follows:

§ 1.593-4 Organizations to which section 593 applies.

The provisions of section 593 and §§ 1.593-5 through 1.593-11 (except subsection (f) of section 593 and § 1.593-10) apply to any mutual savings bank not having capital stock represented by shares, any domestic building and loan association, and any cooperative bank without capital stock organized and operated for mutual purposes and without profit. The term "thrift institution", as used in this section and §§ 1.593-5 through 1.593-11, refers to any such financial institution. For definition of the terms "domestic building and loan association" and "cooperative bank", see paragraphs (19) and (32), respectively, of section 7701(a).

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PAR. 3. Section 1.593-5 is amended by revising paragraph (a) to read as follows:

§ 1.593-5 Addition to reserves for bad debts.

(a) *Amount of addition.* As an alternative to a deduction from gross income under section 166(a) for specific debts which become worthless in whole or in part, a thrift institution is allowed a deduction under section 166(c) for a reasonable addition to a reserve for bad debts. In the case of a thrift institution, the amount of the reasonable addition to such reserve for a taxable year may not exceed:

(1) For taxable years beginning after July 11, 1969, the sum of (i) the amount determined to be the reasonable addition to the reserve for losses on nonqualifying loans, determined in the same manner as is provided with respect to additions to the reserve for losses on qualifying real property loans under paragraph (d) of § 1.593-6A (relating to the experience method), and (ii) the amount determined under § 1.593-6A to be the reasonable addition to the reserve for losses on qualifying real property loans, or

(2) For taxable years beginning before July 12, 1969, the sum of (i) the amount determined under § 1.166-4 to be the reasonable addition to the reserve for losses on nonqualifying loans, and (ii) the amount determined under § 1.593-6 to be the reasonable addition to the reserve for losses on qualifying real property loans.

* * * * *

PAR. 4. Section 1.593-6 is amended by revising so much thereof as precedes subparagraph (1) of paragraph (a) to read as follows:

§ 1.593-6 Pre-1970 addition to reserve for losses on qualifying real property loans.

(a) *In general.* For purposes of paragraph (a)(2)(ii) of § 1.593-5, the amount of the addition to the reserve for losses on qualifying real property loans for any taxable year beginning before July 12, 1969, is the amount which the taxpayer determines to constitute a reasonable addition to such reserve for such year. However, the amount so determined for such year—

* * * * *

PAR. 5. Immediately after § 1.593-6, the following new section is added:

§ 1.593-6A Post-1969 addition to reserve for losses on qualifying real property loans.

(a) *In general*—(1) *Amount of addition determined for the taxable year.* For purposes of paragraph (a)(1)(ii) of § 1.593-5, the amount of the addition to the reserve for losses on qualifying real property loans for any taxable year beginning after July 11, 1969, is the amount which the taxpayer determines to constitute a reasonable addition to such reserve for such year. However, the amount so determined for such year—

(i) Cannot exceed the largest of the amount determined under section 593 (b) (2), (3), or (4) (relating, respectively, to the percentage of taxable income method, the percentage method, and the experience method), and

(ii) Shall be determined without regard to any amount charged for any taxable year against the reserve for losses on qualifying real property loans pursuant to § 1.593-10 (relating to certain distributions to shareholders by a domestic building and loan association).

For each taxable year the taxpayer must include in its income tax return for such year a computation of the amount of the addition determined under this section. The use of a particular method in the return for a taxable year is not a binding election by the taxpayer to apply such method either for such taxable year or for subsequent taxable years. Thus, in the case of a subsequent adjustment described in paragraph (b)(2) of § 1.593-5 which has the effect of permitting an increase, or requiring a reduction, in the amount claimed in the return for a taxable year as an addition to the reserve for losses on qualifying real property loans, the amount of such addition may be recomputed under whichever method the taxpayer selects for the purpose of such recomputation, irrespective of the method initially applied for such taxable year.

(2) *Method of determination.* For purposes of this section and §1.596-1 (relating to limitation on dividends received deduction), a thrift institution is deemed to have determined the addition to its reserve for losses on qualifying real property loans for the taxable year under the percentage of taxable income method provided by section 593(b)(2) and paragraph (b) of this section if the amount finally determined to be a reasonable addition for such year to such reserve exceeds the amount determined for such year under section 593(b)(3) (relating to the percentage method) and exceeds the amount determined for such year under section 593(b)(4) (relating to the experience method).

(b) *Percentage of taxable income method*—(1) *In general.* Subject to the limitations described in subparagraph (4) of this paragraph and in paragraph (e) of this section, the amount determined under section 593(b)(2) and this paragraph for the taxable year, if such section and paragraph are applicable, is an amount equal to the applicable percentage of the taxable income for such year, reduced by the amount determined under subparagraph (3) of this paragraph. For this purpose, taxable income is computed as provided in subparagraph (5) of this paragraph, and the applicable percentage (except as reduced under subparagraph (2) of this paragraph) is determined under the following table:

For a table year beginning in—	*The applicable percentage under this subparagraph is—*
1969	60 percent.
1970	57 percent.
1971	54 percent.
1972	51 percent.
1973	48 percent.
1974	47 percent.
1975	45 percent.
1976	43 percent.
1977	42 percent.
1978	41 percent.
1979 or thereafter	40 percent.

(2) *Reduction of applicable percentage in certain cases*—(i) *General rule.* If for the taxable year the percentage of the assets of a thrift institution, which are assets described in section 7701(a) (19)(C) (relating to assets of a domestic building and loan association) is less than—

(*a*) 82 percent of the total assets in the case of a thrift institution other than a mutual savings bank, the applicable percentage for such year provided by subparagraph (1) of this paragraph is reduced by three-fourths of 1 percentage point for each 1 percentage point of such difference; or

(*b*) 72 percent of the total assets in the case of a thrift institution which is a mutual savings bank, the applicable percentage for such year provided by subparagraph (1) of this paragraph is reduced by 1½ percentage points for each 1 percentage point of such difference.

If such percentage is less than 60 percent of the total assets in the case of any thrift institution (less than 50 percent of the total assets for a taxable year beginning before 1973 in the case of a thrift institution which is a mutual savings bank), section 593(b)(2) and this paragraph are not applicable. The percentage of total assets specified in this subparagraph is computed as of the close of the taxable year or, at the option of the taxpayer, may be computed on the basis of the average assets outstanding during the taxable year. Such average is determined by computing such percentage either as of the close of each month, as of the close of each quarter,

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or as of the close of each semiannual period during the taxable year and by using the yearly average of the monthly, quarterly, or semiannual percentages. A thrift institution which is a mutual savings bank and which determines the amount of the reasonable addition for the taxable year to the reserve for losses on qualifying real property loans under this paragraph shall file for such taxable year a statement which shall show the amount of assets defined in paragraph (e) of § 402.1-2 (Temporary Regulations On Procedure and Administration under Tax Reform Act of 1969) as of the close of the taxable year and a brief description and the amount of all other assets, together with a description of the method used in determining such amounts. If the percentage specified in this subparagraph is computed by such thrift institution on the basis of the average assets outstanding during the taxable year, the statement shall also show such information as of the end of each month, each quarter, or each semiannual period and the manner of calculating the average.

(ii) *Example.* The provisions of this subparagraph may be illustrated by the following example:

Example. M is a cooperative bank to which section 593 applies. For its taxable year beginning in 1970, 80.4 percent of M's assets (computed as of the close of such year) constitute assets described in section 7701(a)(19)(C). M's assets which are assets described in section 7701(a)(19)(C), when computed on semiannual, quarterly, and monthly bases, constitute 79.8, 79.6, and 79.5 percent, respectively, of its total assets computed on the corresponding bases. M's applicable percentage for 1970 is 56.25 percent, determined as follows:

	Percent
Percentage of total assets specified in (*a*) of subdivision (i) of this subparagraph	82.0
Percentage of total assets constituting assets described in section 7701(a)(19)(C)	80.4
Difference	1.6
Applicable percentage determined under table in subparagraph (1) of this paragraph	57.0
Reduction of applicable percentage required by (*a*) of subdivision (i) of this subparagraph (¾ of 1 percentage point for each full percentage point of difference)	.75
Applicable percentage	56.25

(3) *Reduction for addition to reserve for nonqualifying loans*—(i) *General rule.* Subparagraph (1) of this paragraph provides that, subject to certain limitations, the amount determined under the percentage of taxable income method provided by section 593(b)(2) and this paragraph for the taxable year is an amount equal to the applicable percentage of the taxable income for such year, reduced by the amount determined under this subparagraph. In the case of a thrift institution other than a mutual savings bank, the amount determined under this subparagraph is an amount equal to the amount determined under paragraph (a)(1)(i) of § 1.593-5 to be a reasonable addition for the taxable year to the reserve for losses on nonqualifying loans multiplied by a fraction—

(*a*) The numerator of which is 18 percent, and

(*b*) The denominator of which is the percentage (in no case less than 18 percent) of the assets of the taxpayer for such year which are not assets defined in paragraph (e) of § 402.1-2 of this chapter.

In the case of a thrift institution which is a mutual savings bank, the amount determined under this subparagraph is an amount determined in the manner described in the preceding sentence, except that the numerator of the fraction described therein is 28 percent, and the denominator of such fraction shall not be less than 28 percent. For purposes of this subparagraph, the percentage of assets for a taxable year which are not assets defined in paragraph (e) of § 402.1-2 of this chapter is determined upon the same annual or average basis as is used in determining the percentage specified in subparagraph (2) of this paragraph.

(ii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). K is a domestic building and loan association to which section 593 applies. The amount determined under subparagraph (1) of this paragraph (before reduction by the amount determined under this subparagraph) to be the reasonable addition for the taxable year to K's reserve for losses on qualifying real property loans is $100,000. The amount determined under paragraph (a)(1)(i) of § 1.593-5 as the reasonable addition for the taxable year to the association's reserve for losses on nonqualifying loans is $10,000. The percentage of K's assets which are not assets defined in paragraph (e) of § 402.1-2 is 24 percent. The amount determined under subparagraph (1) of this paragraph ($100,000) must be reduced by $7,500.

$10,000×18 percent/24 percent.

Therefore, subject to the limitations described in subparagraph (4) of this paragraph and in paragraph (e) of this section, the amount determined under this paragraph to be the reasonable addition for the taxable year to K's reserve for losses on qualifying real property loans is $92,500 ($100,000 less $7,500).

Example (2). The facts are the same as in example (1), except that the percentage of K's assets which are not assets defined in paragraph (e) of § 402.1-2 is 12 percent. The amount determined under subparagraph (1) of this paragraph (before reduction by the amount determined under this subparagraph) to be the reasonable addition for the taxable year to K's reserve for losses on qualifying real property loans must be reduced by $10,000.

$10,000×18 percent/18 percent.

Because the denominator of the fraction may not be less than 18 percent, the fraction used in determining the amount of such reduction is equal to 1.

(4) *Overall limitation.* The amount determined under this paragraph shall not exceed the amount necessary to increase the balance (as of the close of the taxable year) of the reserve for losses on qualifying real property loans to 6 percent of such loans outstanding at such time.

(5) *Computation of taxable income.* For purposes of this paragraph, taxable income is computed—

(i) By excluding from gross income any amount included therein by reason of the application of section 593(e) and § 1.593-10 (relating to certain distributions to shareholders by a domestic building and loan association).

(ii) Without regard to any deduction allowable under section 166(c) (whether or not determined under section 593) and the regulations thereunder for an addition to a reserve for bad debts.

(iii) (*a*) By excluding from gross income an amount equal to the excess (if any) or (*I*) the total gains of the taxable year arising from sales and exchanges at a gain of (*i*) obligations the interest on which is excludable from gross income under section 103, and (*ii*) corporate stock, over (*2*) the total losses of such year arising from sales and exchanges at a loss of such obligations and stock.

(*b*) The provisions of this subdivision (iii) may be illustrated by the following example:

Example. For its taxable year beginning in 1971, the gains and losses of a domestic building and loan association from sales of stock and securities (all of which were made on December 31, 1971) were as follows:

	Gain	Loss
Municipal bonds acquired July 1, 1969, the interest on which is excludable from income under sec. 103	$25,000	
Stock of Corporation A, acquired July 14, 1971		$6,000
Stock of Corporation B, acquired Dec. 22, 1970	$3,000	

For purposes of this paragraph, the association's taxable income for 1971 is computed by excluding $22,000 ($25,000+$3,000−$6,000) from its gross income.

(vi) By excluding from gross income an amount equal to the lesser of (*a*) three-eighths of the net long-term capital gain for the taxable year or (*b*) three-eighths of the net long-term capital gain for the taxable year from the sale or exchange of property other than property described in subdivision (iii) of this subparagraph.

(v)(*a*) By excluding from gross income so much of the amount of dividends with respect to which a deduction is allowable under part VIII, subchapter B, chapter 1, subtitle A of the Code (section 241 and following) as is in excess of the applicable percentage (determined under subparagraphs (1) and (2) of this paragraph) of the dividends received deduction (determined under part VIII, subchapter B, chapter 1, subtitle A of the Code, without regard to section 596) for the taxable year.

(*b*) The provisions of this subdivision (v) may be illustrated by the following example:

Example. For its taxable year beginning in 1977, a domestic building and loan association receives dividends of $100 with respect to which a dividends received deduction of $85 is allowable under section 243(a)(1). The association receives no other dividends for the taxable year. The association's applicable percentage for the taxable year, as determined under subparagraphs (1) and (2) of this paragraph, is 42 percent. For purposes of this paragraph, the association's taxable income is computed by excluding from gross income the excess of the amount of dividends received ($100) over the applicable percentage of the allowable dividends received deduction (42 percent of $85, or $35.70), computed without regard to section 596. Thus, for purposes of this paragraph, $64.30 ($100 less $35.70) is excluded from gross income. See section 596 and § 1.596-1 with respect to the computation of the dividends received deduction for purposes of determining taxable income under section 63(a).

(vi) For taxable years beginning before January 1, 1978, without regard to any deduction the amount of which is computed upon, or may be subject to a limitation computed upon, the amount of taxable income, and without regard to any net operating loss carryback to such year under section 172. (For purposes of this subparagraph, a net operating loss deduction under section 172 is not a deduction the amount of which may be subject to a limitation computed upon the amount of taxable income.)

(vii) For taxable years beginning after December 31, 1977, by taking into account any deduction the amount of which is computed upon or may be subject to a limitation computed upon the amount of taxable income, and any other deduction or loss allowed under subtitle A of the Code, such as any deduction allowable under section 172 or any loss allowable under section 1212 (a), unless otherwise provided in this subparagraph.

(c) *Percentage method.* [Reserved]

(d) *Experience method.* [Reserved]

(e) *Percentage of deposits limitation where percentage of taxable income method or percentage method is applied.* If the amount determined by the taxpayer to constitute a reasonable addition for the taxable year to the reserve for losses on qualifying real property loans is greater than the amount determined under paragraph (d) of this section (relating to the experience method), the amount so determined cannot exceed an amount which, when added to the amount determined under paragraph (a)(1)(i) of § 1.593-5 to be a reasonable addition for such year to the reserve for losses on nonqualifying loans, equals the amount by which 12 percent of the total deposits or withdrawable accounts of depositors of the taxpayer at the close of such year exceeds the sum of the taxpayer's surplus, undivided profits, and reserves at the begining of such year (taking into account any portion thereof which is attributable to the period before the first taxable year beginning after December 31, 1951. The terms "surplus, undivided profit, and reserves" and "total deposits or withdrawable accounts" have the same meanings as are assigned to them in paragraph (f) of § 1.593.6.

PAR. 6. Section 1.593-7 is amended by revising paragraph (a)(2)(ii) to read as follows:

§ 1.593-7 Establishment and treatment of reserves for bad debts.

(a) *Establishment of reserves.* • • •

(2) *Accounting for reserves.* • • •

(ii) Any credit or charge to a reserve established pursuant to subparagraph (1) of this paragraph must be made to such reserve irrespective of whether the amount thereof is also credited or charged to any surplus, reserve, or other account which the taxpayer may be required or permitted to maintain pursuant to any Federal or State statute, regulation, or supervisory order. Minimum amounts credited in compliance with such Federal or State statutes, regulations, or supervisory orders to reserve or similar accounts, or additional amounts credited to such reserve or similar accounts and permissible under such statutes, regulations, or orders, against which charges may be made for the purpose of absorbing losses sustained by the taxpayer, may also be credited to the reserve for losses on nonqualifying loans or the reserve for losses on qualifying real property loans, provided that the total of the amounts so credited to the reserve for losses on nonqualifying loans, or to the reserve for losses on qualifying real property loans, for any taxable years does not exceed the amount described in subparagraph (1) or (2) of § 1.593-5(a) (whichever applies) as the addition to such reserve for such year.

• • • • •

PAR. 7. Section 1.593-8 is amended by revising paragraph (d) to read as follows:

§ 1.593-8 Allocation of pre-1952 surplus to opening balance of reserve for losses on qualifying real property loans.

• • • • •

(d) *Treatment of pre-1952 surplus.* Any portion of the taxpayer's pre-1952 surplus which, pursuant to paragraph (a) of this section, is deemed to be included in the opening balance of the reserve for losses on qualifying real property loans shall not be treated as a reserve for bad debts for any purpose other than computing for any taxable year the amount determined under the method described in paragraph (b), (c), or (d) of § 1.593-6 (relating, respectively, to the percentage of taxable income method, the percentage of real property loans method, and the experience method) or paragraph (b), (c), or (d) of § 1.593-6A (relating, respectively, to the percentage of taxable income method, the percentage method, and the experience method). For such limited purpose, such portion shall be deemed to remain in, and constitute a part of, the reserve for losses on qualifying real property loans. For all other purposes, such portion will retain its character as part of the taxpayer's pre-1952 surplus.

• • • • •

PAR. 8. Section 1.593-10 is amended by revising paragraphs (a) and (b)(3) to read as follows:

§ 1.593-10 Certain distributions to shareholders by a domestic building and loan association.

(a) *In general.* Section 593(f) provides that if a domestic building and loan association (as defined in section 7701(a)(19) and the regulations thereunder) distributes property after December 31, 1962, to a shareholder with respect to its stock and if the amount of such distribution is not allowable to the association as a deduction under section 591 (relating to deduction for dividends paid on deposits), then, notwithstanding any other provision of the Code, the distribution shall be treated as provided in paragraphs (b) and (c) of this section. For purposes of the preceding sentence, the term "distribution" includes any distribution in redemption of stock to which section 302(a) or 303 applies, or in partial or complete liquidation of the association, as well as any other distribution which the association may make to a shareholder with respect to its stock. For definition of the term "property", see section 317(a). For determination of the amount of a distribution, see section 301(b). For taxable years beginning after July 11, 1969, this paragraph is not applicable to any transaction to which section 381 (relating to carryovers in certain corporate acquisitions) and the regulations thereunder apply.

(b) *Distributions out of certain reserves.* • • •

(3) *Special rule.* • • •

(i) The balance if such reserve determined as of the close of the taxable year after all adjustments for such

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year have been made (including the addition for such year determined under § 1.593-6 or § 1.593-6A (whichever is applicable)), minus.

(ii) • • •

(*b*) The total amount of the annual additions which would have been made to such reserve under section 166(c) for taxable years ending after December 31, 1962, if each such addition had been determined under the experience method described in paragraph (d) of § 1.593-6 or paragraph (d) of § 1.593-6A, whichever is applicable for the taxable year of such addition.

For purposes of subdivision (i) of this subparagraph, the balance of the reserve for losses on qualifying real property loans shall include the total amount of any pre-1963 reserves allocated thereto under paragraph (b)(2) of § 1.593-7, but shall not include any pre-1952 surplus which is deemed to be included therein under paragraph (a) of § 1.593-8 (relating to allocation of pre-1952 surplus to the opening balance of the reserve for losses on qualifying real property loans).

• • • • •

Par. 9. Section 1.593-11 is amended by adding three new sentences at the end of paragraph (b)(1) and by revising paragraphs (b)(3) and (b)(4) to read as follows:

§ 1.593-11 Qualifying real property loan and nonqualifying loan defined.

• • • • •

(b) *Qualifying real property loan defined*—(1) *General rule.* • • • The term "real property" also includes a mobile unit which is permanently fixed to real property. The determination of whether a mobile unit is permanently fixed to real property shall be made on the basis of facts and circumstances in each particular case. For example, a mobile unit is permanently fixed to real property during a taxable year if, except for a brief period during which the unit is transported to a site, such unit was placed upon a foundation at a site with wheels and axles removed, affixed to the ground by means of straps, and connected to water, sewer, gas, and electric facilities.

• • • • •

(3) *Meaning of "interest".* The word "interest" means an interest in real property which, under the law of the jurisdiction in which such property is situated, constitutes either (i) an interest in fee in such property (or in the case of a mobile unit, an ownership interest), (ii) a leasehold interest in such property extending or renewable automatically for a period of at least 30 years, or at least 10 years beyond the date scheduled for the final payment on the loan secured by such interest, (iii) a leasehold interest in improved residential real property consisting of a structure or structures containing, in the aggregate, no more than four family units extending for a period of at least 2 years beyond the date scheduled for the final payment on the loan secured by such interest, or (iv) a leasehold interest in such property held subject to a redeemable ground rent defined in section 1055(c).

(4) *Meaning of "qualifying real property".* The term "qualifying real property" means any real property which is improved real property, or which from the proceeds of the loan will become improved real property. As used in the preceding sentence, the term "improved real property" means—

(i) Land on which is located any building of a permanent nature (such as a house, mobile unit, apartment house, office building, hospital, shopping center, warehouse, garage, or other similar permanent structure), provided that the value of such building is substantial in relation to the value of such land,

(ii) Any building lot or site which, by reason of installations and improvements that have been completed in keeping with applicable governmental requirements and with general practice in the community, is a building lot or site ready for the construction of any building of a permanent nature within the meaning of paragraph (b)(4)(i) of this section,

(iii) Real property which, because of its state of improvement, produces sufficient income to maintain such real property and retire the loan in accordance with the terms thereof, or

(iv) A mobile unit which is permanently fixed to real property.

[FR Doc. 78-13490 Filed 5-17-78; 8:45 am]

[4310-05]

Title 30—Mineral Resources

CHAPTER VII—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

PART 715—GENERAL PERFORMANCE STANDARDS

PART 717—UNDERGROUND MINING GENERAL PERFORMANCE STANDARDS

Surface Mining Reclamation Enforcement Provisions Rescission of Rule Relating to Regulation of Manganese in Alkaline Waters

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Rescission of rule relating to regulation of manganese in alkaline waters.

SUMMARY: The Office of Surface Mining is withdrawing the manganese effluent limitations for alkaline waters for surface and underground coal mining and reclamation operations. This action is taken under section 201(c) of the Surface Mining Control and Reclamation Act of 1977. The Secretary has concluded that there are insufficient data to justify effluent liminations for manganese in alkaline waters during the interim regulatory program.

DATES: This rescission is effective May 18, 1978.

ADDRESS: Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240, 202-343-4237.

FOR FURTHER INFORMATION CONTACT:

Walter N. Heine, 202-343-4237.

SUPPLEMENTARY INFORMATION: Pursuant to section 201(c) of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, the Secretary has reconsidered the regulation of manganese in alkaline waters. Based upon a review of the administrative record supporting this rule, the Secretary has conluded that there are insufficient data to justify effluent limitations for manganese in alkaline waters during the interim regulatory program. Therefore, the Secretary hereby rescinds that portion of §§ 715.17(a) and 717.17(a) which requires the removal of manganese in alkaline water. The effluent limitations regulating manganese in acidic water remain unchanged.

DRAFTING INFORMATION: Principal authors of this regulation are Walter N. Heine, Director, Office of Surface Mining and Gerald P. Dodson, Attorney, Office of the Solicitor.

Dated: May 10, 1978.

WALTER N. HEINE,
Director, Office of Surface Mining Reclamation and Enforcement.

In 30 CFR § 715.17, paragraph (a) is amended by adding a new subparagraph (3) to read as follows:

§ 715.17 Protection of the hydrologic system.

(a) • • •

(3) The effluent limitations for manganese shall be applicable only to acid drainage.

• • • • •

In 30 CFR § 717.17, paragraph (a) is amended by adding a new subparagraph (3) to read as follows:

§ 717.17 Protection of the hydrologic system.

(a) • • •

(3) The effluent limitations for manganese shall be applicable only to acid drainage.

• • • • •

[FR Doc. 78-13528 Filed 5-17-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-144]

PART 110—ANCHORAGE REGULATIONS

Anchorage Grounds, Prince William Sound, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes an anchorage ground in Prince William Sound, Alaska. This anchorage is needed because of increased vessel traffic transiting these waters to and from the oil terminal at Port Valdez. This anchorage is intended to provide a safe haven for these vessels when there are adverse weather conditions, they have navigation problems, or they must wait because of delays at Port Valdez.

EFFECTIVE DATE: This amendment is effective on June 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: On September 12, 1977, the Coast Guard published a proposed rule (42 FR 45693). Interested persons were given until October 27, 1977, to submit comments. One comment was received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of Chief Counsel.

DISCUSSION OF MAJOR COMMENTS

The Department of Environmental Conservation, State of Alaska, recommended that the proposed anchorage be relocated approximately one mile south of the proposed site. A survey of vessel use to date indicates that vessels presently anchor from one and one-half to two and one-half miles offshore. The average use of this anchorage, at present, is only one to two vessels per week. The Vessel Traffic Center, Valdez, has been advised to prescribe a minimum distance offshore during the dates May 1 through September 15 so as to minimize disturbance to the sea lion rookeries and bird colonies.

The Department of Environmental Conservation further recommended that the anchorage location be charted on appropriate charts and published in a Notice to Mariners. When this proposal is published in the FEDERAL REGISTER, the area will be marked on the next issuance of the appropriate charts and published in the U.S. Coast Pilot.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations is amended by adding § 110.233 to read as follows:

§ 110.233 Prince William Sound, Alaska.

(a) *The anchorage grounds.* In Prince William Sound, Alaska, beginning at a point at latitude 60°40'00" N., longitude 146°40'00" W.; thence south to latitude 60°38'00" N., longitude 146°40'00" W.; thence east to latitude 60°38'00" N., longitude 146°30'00" W.; thence north to latitude 60°39'00" N., longitude 146°30'00" W.; thence northwesterly to the beginning point.

(b) *The regulations.* (1) This anchorage area is for the temporary use of vessels during:

(i) Adverse weather or tidal conditions;

(ii) Vessel equipment failure; or

(iii) Delays at Port Valdez;

(2) No vessel may anchor in this anchorage without notifying the vessel traffic center in Valdez; and

(3) Each vessel anchored shall notify the vessel traffic center in Valdez when it weighs anchor.

(Sec. 7, 38 Stat. 1053, as amended (33 U.S.C. 471); sec. 6(g)(1), 80 Stat. 940 (49 U.S.C. 1655(g)(1)); 49 CFR 1.46(c)(1).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: May 9, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 78-13165 Filed 5-17-78; 8:45 am]

[4910-14]

[CGD 77-214]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Pocomoke River, Md.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amended regulation will provide that from 10 p.m. to 6 a.m., the draw of the bridge across the Pocomoke River, Pocomoke City, Md., need not open for the passage of vessels. This change is being made because of limited vessel traffic. This action will relieve the bridge owner of maintaining constant attendance at this bridge.

EFFECTIVE DATE: This amendment is effective on June 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On January 9, 1978, the Coast Guard published a proposed rule (43 FR 1363) concerning this amendment. The Commander, Fifth Coast Guard District, also published these proposals as a Public Notice dated January 10, 1978. Interested persons were given until February 8, 1978 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Two comments were received which had no objection to the proposal.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.245(f)(18) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

• • • • •

(f) • • •

(18) Pocomoke River, Md.; Maryland Department of Transportation draw-

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bridge at Pocomoke, Md. The draw need not open from 10 p.m. to 6 a.m. At all other times the draw shall open on signal.

• • • • •

Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: May 9, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 78-13543 Filed 5-17-78; 8:45 am]

[4310-70]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Yellowstone National Park, Wyo.; Traffic

AGENCY: National Park Service.

ACTION: Final rule.

SUMMARY: This regulation is intended to change the speed limit on U.S. Highway 191 in the park from 60 mph to 55 mph. This would bring that speed limit into compliance with Federal and State law.

EFFECTIVE DATE: Effective May 18, 1978.

FOR FURTHER INFORMATION, CONTACT:

John A. Townsley, Superintendent, Yellowstone National Park, Wyo. 82190.

SUPPLEMENTARY INFORMATION: This change in Yellowstone National Park Special Regulation 36 CFR 7.13(b)(2) is for the purpose of conforming the speed limit on U.S. Highway No. 191 within the boundaries of Yellowstone National Park with the speed limit in Pub. L. 93-239, the Emergency Highway Energy Conservation Act of January 2, 1974 (87 Stat. 1046) and applicable Montana and Wyoming Statutes. For this reason good cause exists to make this change effective immediately.

In consideration of the foregoing, paragraph (b), subparagraph (2) of 36 CFR 7.13 is amended to read as follows:

§ 7.13 Yellowstone National Park.

• • • • •

(b) • • •

(2) The Speed Limit on U.S. Highway 191 in the park is 55 miles per hour.

Dated: April 5, 1978.

LYNN H. THOMPSON,
Regional Director,
Rocky Mountain Region.

[FR Doc. 78-13524 Filed 5-17-78; 8:45 am]

[1505-01]

Title 40—Protection of the Environment

CHAPTER II—ENVIRONMENTAL PROTECTION AGENCY

[FRL-875-6 and 875-7]

PART 35—STATE AND LOCAL ASSISTANCE

Subpart E—Grants for Construction of Treatment Works

Subpart F—State Management Assistance Grants

Correction

The following corrections are being made to Part III of the FEDERAL REGISTER of Tuesday, April 25, 1978.

In FR Doc. 78-11024, make the following changes:

1. In the 3rd column of page 17700, in the 15th and 16th lines of the first full paragraph, replace "(insert 90 days after the effective date)" with "July 24, 1978".

2. On page 17704, the introductory text of paragraph (b), and paragraph (b)(1) was omitted from § 35.909; that material should read as set forth below:

§ 35.909 Step 2+3 grants.

• • • • •

(b) *Limitations.* A step 2+3 grant may be awarded only if the Regional Administrator determines that:

(1) The population is twenty-five thousand or less for the applicant municipality (according to most recent United States Census information or disaggregations thereof); and

• • • • •

3. On page 17708, in § 35.928, in paragraph (b), replace "(insert effective date of this publication)" with "April 25, 1978".

4. On page 17711, in § 35.935-13, make the following changes:

(A). In paragraph (a)(2), replace "(90 days after the effective date of this interim regulation)" with "July 24, 1978".

(B). In the italicized language of paragraph (b), replace "(insert effective date of this regulation)" with "April 25, 1978".

5. In the 3rd column of page 17712, in Appendix A, in paragraph 3— *Applicability,* replace "(insert 60 days after publication)" with "June 26, 1978" in the first and second sentences.

In FR Doc. 78-11022, make the following changes:

1. On page 17718, in paragraph (a)(2) of § 35.1016, replace "(insert the effective date of this regulation)" with "April 25, 1978".

2. On page 17718 in the second column, the title and paragraph (a) for § 35.1020 were inadvertently omitted. The paragraph in this column designated as "(b)" which appears to be paragraph (b) of § 35.1016 is actually paragraph (b) of § 35.1020 for which the title and paragraph (a) are missing. In addition, the correct paragraph (b) for § 35.1016 should be added. As corrected, the full text of § 35.1016 and § 35.1020 reads as set forth below:

§ 35.1016 Limitations on Award.

(a) *Maintenance of effort.* (1) No construction management assistance grant will be awarded in any fiscal year unless the Regional Administrator is satisfied that the expenditure of non-Federal funds for recurrent expenses of its water pollution control programs in that year will be at least equal to the non-Federal expenditures for recurrent expenses for water pollution control programs during fiscal year 1977, unless the Regional Administrator determines that a reduction in State expenditures is attributable to a general nonselective reduction in the programs of all executive branch agencies of the State.

(2) The limitation in paragraph (a)(1) of this section does not apply to a construction management assistance grant awarded in any fiscal year for which, as of (insert the effective date of this regulation), a State budget for environmental protection which contains lower recurrent expenditures than those of fiscal year 1977, was (i) already adopted by the State legislature, or (ii) already formally submitted to the State legislature by the Governor, provided that the State makes no further reduction in that budget.

(b) Upon award of the construction management assistance grant, unexpended section 106 funds (State and Federal) committed to activities which will be covered under the construction management assistance grant will be reprogramed. The reprograming of these funds in the 106 grant agreement shall be discussed in the delegation agreement. The Regional Administrator will review the reprograming for approval in accordance with priorities established by the Agency. Such funds shall be used for section 402 activities such as pretreatment program development assistance and approval, support of enforcement litigation, permitting and compliance monitoring; section 404 regulatory programs to control discharge of dredge or fill material; and activities under section 208(b)(4).

§ 35.1020 Grant amount and award.

(a) As provided in § 35.915-1(a), the Administrator may reserve up to two percent of each State's fiscal year allotment for construction grants or $400,000, whichever is greater, for State management assistance grants. Within these limits, the Regional Administrator may award a construction management assistance grant for 100 percent of the estimated allowable cost of (1) managing, or preparing to manage, under § 35.103-5, sections 201, 203, 204, and 212 of the Act, (2) obtaining and reviewing information on behalf of the Regional Administrator, and (3) performing other essential functions associated with managing the construction grants program as noted in § 35.1030-1.

(b) State programs funded under § 35.913 prior to the effective date of these regulations may continue to be funded under that provision for a period of one year after that effective date, or until a construction management assistance grant is awarded under these regulations, whichever occurs first. In addition, States charging fees under § 35.913 may, with the approval of the Administrator, be reimbursed for efforts carried out under those agreements for the period between October 1, 1977, and the date of execution of an initial construction management assistance grant if the State demonstrates that insufficient funds were available under § 35.913 to support its delegated activities during that period.

(c) Funds for State management assistance grants may be obligated by a grant award at any time during the two year period in which the construction grant allotment is available for obligation.

(d) Funds from initial and subsequent construction management assistance grants which have been awarded will remain available for expenditure for a period not to exceed five years from the date of award of each grant.

(e) Unobligated balances in paragraph (c) of this section and unliquidated balances in paragraph (d) of this section remaining at the end of the period for which they are available will be added to the amount last allotted to a State under section 205(c) of the Act, and will be immediately available for funding the construction of treatment works in the same manner and to the same extent as the last allotment.

[1505-01]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[M-30912; Public Land Order 5635]

MONTANA

Prior Amendment of Executive Order No. 7509; Prior Revocation of Public Land Order No. 5498; Change of Name to Charles M. Russell National Wildlife Refuge; Clarification of Administration and Management Under National Wildlife Refuge System Administration Act

Correction

In FR Doc. 78-12034 appearing at page 19046 in the issue of Wednesday, May 3, 1978, make the following correction:

In column two, in the paragraph labeled "3.," line three, "M-39021" should appear as "M-30912."

[6315-01]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Notice 6143-7]

PART 1061—EMERGENCY ENERGY CONSERVATION PROGRAM

Subpart—Funding Requirements for Emergency Energy Assistance Program

EXTENSION

AGENCY: Community Services Administration.

ACTION: Final Rule.

SUMMARY: The Community Services Administration is amending its rule on the Emergency Energy Assistance Program published at 43 FR 9476 (CSA Notice 6143-7) March 8, 1978. This change extends the time during which funds may be obligated under the supplemental appropriation and extends the termination date for obligation to specific eligible households from May 1, 1978 to May 20, 1978. This change is in consonance with a request from the Director of the Community Services Administration to the Senate Appropriations Committee asking that they approve an extension of the Emergency Energy Assistance Program so that additional unobligated funds as appropriate, of the $200 Million Appropriation could be used to assist eligible households who were still in crisis from declared Energy Related Emergencies. The Committee reacted favorably to this request and agreed to the extension from May 1, to May 20, 1978.

DATE: As this rule was intended to relieve a restriction, it is effective May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard M. Saul, Community Services Administration, Office of Program Development, Energy Programs, 1200 19th Street, NW., Washington, D.C. 20506, Tel: 202-632-6503.

(Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).)

GRACIELA (GRACE) OLIVAREZ,
Director.

In Subpart 1061.51-8, all references to "May 1, 1978" are hereby changed to "May 20, 1978".

[FR Doc. 78-13472 Filed 5-17-78; 8:45 am]

[4910-60]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket HM-99; Amdt. 173-115]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Transportation of Methane in Specification DOT 3AX, 3AAX, and 3T Cylinders Extension of Time to File Comments

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Extension of time to file comments.

SUMMARY: Several commenters have requested an extension of time to file comments on this Docket (43 FR 13382, March 30, 1978) indicating that extra time is needed to complete studies and prepare detailed comments concerning the quantitative definition of methane set forth in the Amendment. We believe that additional time should be allowed for this purpose; therefore, the time for filing comments is extended as indicated.

DATE: The time for filing comments in Docket HM-99, Amendment 173-115, is extended from May 3, 1978, to July 7, 1978.

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ADDRESS: Comments should be sent to: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 Second Street SW., Washington, D.C. 20590, Phone 202-426-0656.

(49 U.S.C. 1803 and 1804; 49 CFR 1.53(e).)

Issued in Washington, D.C. on May 5, 1978.

ALAN I. ROBERTS,
Director Office of Hazardous Materials Operations.

[FR Doc. 78-13180 Filed 5-17-78; 8:45 am]

[4910-60]

[Docket HM-139; Amdt. No. 173-116]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Conversion of Individual Exemptions to Regulations of General Applicability; Correction

AGENCY: Materials Transportation Bureau, Department of Transportation.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule in Docket HM-139; Amdt. 173-116 (43 FR 17942, April 27, 1978) by adding the following sentence in § 173.302(a)(3) which was erroneously omitted: "As used in this paragraph methane is a nonliquefied gas which has a minimum purity of 98.0 percent methane and which is commercially free of corroding components."

EFFECTIVE DATE: April 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 Second Street SW., Washington, D.C. 20590, 202-426-0656.

SUPPLEMENTAL INFORMATION: In FR Docket 78-11462 beginning on page 17942 in the FEDERAL REGISTER of April 27, 1978, Item 11 is corrected to include the above sentence in § 173.302(a)(3) which was added in Docket HM-99; Amdt. 173-115 (43 FR 13382, March 30, 1978). The paragraph now reads:

§ 173.302 Charging of cylinders with nonliquefied compressed gases.

(a) • • •

(3) Specification 3AX, 3AAX, or 3T (§§ 178.36, 178.37, 178,45 of this subchapter) cylinders are authorized only for the following nonliquefied gases: Air, argon, boron trifluoride, carbon monoxide, ethane, ethylene, helium, hydrogen, methane, neon, nitrogen, or oxygen, except that specification 3T is not authorized for hydrogen. As used in this paragraph methane is a nonliquefied gas which has a minimum purity of 98.0 percent methane and which is commerically free of corroding components.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

Issued at Washington, D.C., on May 9, 1978.

L. D. SANTMAN,
Acting Director,
Materials Transportation Bureau.

[FR Doc. 78-13164 Filed 5-17-78; 8:45 am]

[4910-60]

SUBCHAPTER D—PIPELINE SAFETY

[Amdt. 192-31A; Docket No. OPSO-42]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Design of Plastic Pipe

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Postponement of effective date.

SUMMARY: This action defers the effective date of the marking requirement of § 192.63(b) for thermoplastic pipe manufactured after May 17, 1978, from May 18, 1978, until August 16, 1978. The new effective date will allow additional time needed by some plastic pipe manufacturers to obtain equipment needed to mark pipe in accordance with section 9.2 of ASTM D2513 (1975b edition).

EFFECTIVE DATE: This action is effective immediately.

FOR FURTHER INFORMATION CONTACT:

Paul J. Cory, 202-426-2082.

SUPPLEMENTARY INFORMATION: As a result of Amendment 192-31 (43 FR 13880, April 3, 1978), which established § 192.63(b), thermoplastic pipe manufactured after May 17, 1978, and installed in gas pipelines must be marked in acccordance with the coded system contained in section 9.2 of ASTM D2513 (1975b ed.). Under this system, pipe is marked by letters to show its hydrostatic strength and related temperature basis.

When Amendment 192-31 was adopted, MTB did not anticipate any delay by manufacturers in obtaining marking equipment needed to implement the new marking procedures. Since then, however, a large manufacturer of plastic pipe has contacted MTB and advised that despite having placed orders as soon as Amendment 192-31 was published, it will not receive equipment for marking certain sizes of thermoplastic pipe in time to enable its customers to meet the present May 18, deadline. Checking with a sample group of other plastic pipe manufacturers, MTB determined that while some manufacturers anticipated no problems, others are facing an 8 to 10 week delay in delivery of needed equipment. Therefore, to allow sufficient time for manufacturers to obtain the necessary equipment and put it into operation, the effective date of § 192.63(b) with respect to thermoplastic pipe manufacturered after May 17, 1978, is hereby extended until August 16, 1978.

In addition to the new marking requirements in § 192.63(b), Amendment 192-31 established in §§ 192.121 and 192.123 more appropriate limitations on the temperature for operating and testing thermoplastic pipe. Those limitations are not altered by this amendment and still take effect as scheduled on May 18, 1978. Although the temperature and marking requirements are deliberately related to provide assurance in the field that correct material is being installed, MTB believes that operators should nevertheless be allowed to take advantage of the safety and economic benefits of the new temperature limitations in the interim until August 16, 1978. Also, to postpone the effective date of the new temperature limitations would be unfair to those few manufacturers and operators who are now able to meet § 192.63(b). Operators who install thermoplastic pipe before August 16, 1978, for use at temperatures above 38° C (100° F) which is not marked in accordance with section 9.2 of ASTM D2513 (1975b ed.) are reminded that the pipe can be used only within the actual temperature and stress limits for which it has been tested and qualified.

(49 U.S.C. 1672; 49 U.S.C. 1804; App. A of Part 1 and App. A of Part 102 of 49 CFR.)

Issued in Washington, D.C., on May 16, 1978.

CESAR DELEON,
Acting Director, Office of Pipeline Safety Operations.

[FR Doc. 78-13644 Filed 5-17-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 987]

DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIF.

Extension of Time for Filing of Written Data, Views, or Arguments

AGENCY: Agricultural Marketing Service (USDA).

ACTION: Extension of time.

SUMMARY: Extending the time for receiving written data, views, or arguments is necessary in order to allow interested persons time to review the proposed administrative rules and make appropriate comments. The additional time was requested by the California Date Administrative Committee.

DATES: Comments on the proposed rules will be extended to May 24, 1978.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), a notice of proposed rulemaking was published in the April 28, 1978, issue of the FEDERAL REGISTER (43 FR 18188) regarding proposed changes in the administrative rules and regulations under the Federal marketing order for California dates (7 CFR 987).

The notice afforded interested persons an opportunity to submit written data, views, or arguments until May 15, 1978. The California Date Administrative Committee which administers the marketing order requested additional time to file its comments on the proposed rule changes. In order to consider these comments, the time for receipt of written data, views, or arguments on the proposal is extended to May 24, 1978.

Dated: May 12, 1978.

CHARLES R. BRADER,
Acting Director,
Fruit and Vegetable Division.

[FR Doc. 78-13526 Filed 5-17-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 78-NE-09]

AIRWORTHINESS DIRECTIVES

Pratt & Whitney JT8D-9, -9A, -11, -15, -17, and -17R Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice (NPRM) proposes to adopt an Airworthiness Directive (AD) that would require eddy current inspection for cracks of certain front compressor front hub blade slots. The proposed AD is needed to detect cracks, originating in the blade slot, which could result in complete fracture of blade retention lugs and liberation of first stage fan blades, posssibly causing massive aircraft engine damage.

DATE: Comments must be received on or before July 24, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attn: Rules Docket No. 78-NE-09, 12 New England Executive Park, Burlington, Mass. 01803. The applicable service bulletin may be obtained from: Pratt and Whitney Aircraft, Division of United Technologies Corp., 400 Main Street, East Harford, Conn. 06108.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20519, or Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Jay J. Pardee, Propulsion Section (ANE-214), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803; telephone, 617-273-7347.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that cracks have occurred in the blade slots of certain part numbered front compressor front hubs. These cracks have progressed from multiple origins near the center of the blade slot pressure face at the edge of a galled area caused by blade root contact. In one instance a complete fracture of a blade retention lug occurred liberating two adjacent first stage fan blades which caused massive engine damage. Two additional front compressor front hubs were found cracked at retirement. Other front compressor front hubs, inspected as part of a sampling program, were uncracked but had galled areas in the center of the blade slot pressure face. Since this condition is likely to exist or develop in other engines of the same type design, the proposed AD would require a repetitive eddy current inspection of front compressor front hubs, in accordance with Pratt and Whitney Aircraft Alert Service Bulletin No. 4841, Revision 1, for cracks in the blade slot pressure face area. The repetitive eddy current inspection requirements of this AD will apply to front compressor front hubs, P/Ns 594301, 791801, 640601, 743301, 750101, and 749801. The proposed intitial inspection at 13,000 cycles is based on known failure statistics. The repetitive inspection interval of 6,000 cycles is based on crack propagation analysis.

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DRAFTING INFORMATION

The principal authors of this document are Jay J. Pardee, Propulsion Section, Engineering and Manufacturing Branch, and George L. Thompson, Office of the Regional Counsel, New England Region.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Pratt and Whitney Aircraft: Applies to Pratt and Whitney Aircraft JT8D-9, -9A, -11, -15, -17, and -17R turbofan engine models.

Compliance required as indicated, unless already accomplished.

To detect cracks in front compressor front hubs, P/Ns 594301, 791801, 640601, 743301, 750101, and serial numbered P/N 749801 except those listed in Pratt and Whitney Aircraft Alert Service Bulletin No. 4841, Revision 1, dated March 15, 1978, or later FAA approved revision, which could result in fracture of the retention lugs and release of first stage fan blades, accomplish the following:

Inspect front compressor front hubs for cracks in the blade slots in accordance with Pratt and Whitney Aircraft Alert Service Bulletin No. 4841, Revision 1, dated March 15, 1978, or later FAA approved revision, or equivalent means approved by the Chief, Engineering and Manufacturing Branch, New England Region, prior to the accumulation of 13,000 cycles, since new, or within 2,000 cycles time in service after the effective date of this AD, whichever is later. Disks inspected prior to 13,000 cycles must be reinspected prior to accumulating an additional 6,000 cycles, or upon reaching 13,000 cycles, whichever is later.

Inspect thereafter at intervals not to exceed 6,000 cycles in service since last inspection. Remove cracked front compressor front hubs before further flight.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

The manufacturer's alert service bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Pratt and Whitney Aircraft, Division of United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, and at FAA Headquarters, 800 Independence Aveue SW., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at New England Region.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

Issued in Burlington, Mass., on May 9, 1978.

NOTE.—The incorporation by reference provisions of this document was approved by the Director of the FEDERAL REGISTER on June 19, 1967.

ROBERT E. WHITTINGTON,
Director,
New England Region.

[FR Doc. 78-13479 Filed 5-17-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-GL-8]

TRANSITION AREA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal action is to designate controlled airspace near Kenton, Ohio to accommodate a new (VOR-A) instrument approach procedure into the Hardin County Airport, Kenton, Ohio, established on the basis of a request from the Hardin County Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

DATES: Comments must be received on or before July 13, 1978.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 78-GL-8, 2300 East Devon Avenue, Des Plaines, Ill. 60018. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200 feet above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 78-GL-8, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018. All communications received on or before July 13, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700-foot controlled airspace transition area near Kenton, Ohio. Subpart C of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (43 FR 440), the following transition area is added:

KENTON, OHIO

That airspace extending upward from 700 feet above the surface within a 7.5 mile radius of the center, latitude 40°36'48" N, longitude 83°38'39" N of Hardin County Airport, Kenton, Ohio.

This amendment is proposed under the authority of section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on May 8, 1978.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc. 78-13518 Filed 5-17-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 215, 244, 249, 296, 385, 389]

[EDR-350A, ODR-15A; Docket No. 32318; dated May 11, 1978]

LIBERALIZED REGULATION OF INDIRECT CARGO CARRIERS

Supplemental Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice extends until June 23, 1978, the date for filing comments and until July 24, 1978, the date for filing replies in a rulemaking proceeding proposing a revised Part 296 which substantially liberalizes the Board's procedures in authorizing the indirect air carrier operations of air freight forwarders, international air freight forwarders, and cooperative shippers associations; and removes some of the requirements and restrictions currently imposed on the operations of these carriers.

DATES: Comments by June 23, 1978. Reply comments by July 24, 1978.

FOR FURTHER INFORMATION CONTACT:

John V. Coleman, Special Authorities Division, Bureau of Pricing and Domestic Aviation, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5088.

SUPPLEMENTAL INFORMATION: By Notice of Proposed Rulemaking EDR-350/ODR-15, dated March 30, 1978, (43 FR 15720, April 14, 1978), the Civil Aeronautics Board gave notice of its proposed revision of Part 296 of the Board's Economic Regulations (14 CFR Part 296) to significantly reduce the requirements and restrictions imposed upon various types of indirect air carriers of property. The proposal was made on the Board's own initiative in recognition of the passage of Pub. L. 95-163 enacting deregulation of the air freight industry, and in consideration of changes in the air freight forwarder industry that have occurred in the last 20 years. Comments were requested to be filed by May 23, 1978, and reply comments to be filed by June 12, 1978.

The Board has now received a letter from the shippers National Freight Claim Council, Inc., stating that because of the short period of time between the date of publication and the dates that responses are due, they would be unable to contact the membership of the association and prepare a reply. They believe that adoption of the revised procedural dates would allow sufficient time for notice, comments, and replies.

Upon consideration of the above, the undersigned finds good cause to grant the request for an extension of the time for filing comments and replies. Accordingly, acting under authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing comments in this proceeding is extended to June 23, 1978, and reply comments to July 24, 1978.

In light of this early notice of the extension of the time to submit comments and replies, we will grant further extensions only upon showing of significant and unusual circumstances which necessitate such a request.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324).)

SIMON J. EILENBERG,
Associate General Counsel,
Rules Division.

[FR Doc. 78-13508 Filed 5-17-78; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

[Reg. No. 16]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Evaluating Resources on Basis of Equity Value

Correction

In FR Doc. 78-11595, appearing at page 18698 in the issue for Tuesday, May 2, 1978, make the following corrections on page 18698:

1. In the summary statement in column 2, in the third line, "marked" should appear as "market."

2. In the summary statement in the fourth line "values" should appear as "value."

3. Also in the twelfth line of the summary statement "euitable" should appear as "equitable."

4. In the third column, line one, "(ADFDC)" should appear as "(AFDC)."

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR-181-74]

[26 CFR Parts 1, 20, and 25]

CERTAIN ARMED FORCES SURVIVOR ANNUITIES

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to certain armed forces survivor annuities. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974 ("ERISA"). The regulations would conform existing regulations with ERISA and would affect all personnel contributing to armed forces survivor annuities.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 17, 1978. The amendments are proposed to be effective for taxable years ending, and to apply to individuals dying, after September 20, 1972.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T-181-74), 202-566-3478 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 122 of the Internal Revenue Code of 1954, to the Estate Tax Regulations

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(26 CFR Part 20) under section 2039 of the Code, and to the Gift Tax Regulations (26 CFR Part 25) under section 2517. These proposals would conform the regulations to section 2008 of the Employee Retirement Income Security Act of 1974 (88 Stat. 994) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

PRE-ERISA DEVELOPMENTS

Prior to ERISA, section 122 of the Code applied to a reduction in retired or retainer pay of armed forces personnel attributable to a survivor annuity benefit under the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431). Complementary provisions existed under other sections of the Code.

On September 21, 1972, Pub. L. 92-425 established similar benefits under the Survivor Benefit Plan (10 U.S.C. 1447). This Act continued the Retired Serviceman's Family Protection Plan merely to provide for the continuation of rights of persons already retired and their survivors.

EFFECT OF ERISA

Section 2008 of ERISA amends section 122 of the Code and other complementary Code provisions to apply prior tax treatment to armed forces survivor annuities under the Survivor Benefit Plan. The proposed amendments to the regulations under sections 122, 2039, and 2517 of the Code similarly apply prior tax treatment under the regulations to these annuities. Therefore, these proposals are merely conforming in nature.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Thomas Rogan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 122, the Estate Tax regulations (26 CFR Part 20) under section 2039, and the Gift Tax Regulations (26 CFR Part 25) under section 2517 are as follows:

PART 1—INCOME TAX REGULATIONS

§ 1.122 [Deleted]

Paragraph 1. Section 1.122 is deleted.

§ 1.122-1 [Amended]

Par. 2. Paragraph (a) of § 1.122-1 is amended by inserting "subchapter I of" immediately preceding "chapter 73 of title 10 of the United States Code".

Par. 3. Paragraph (b)(1) of § 1.122-1 is amended to read as follows:

§ 1.122-1 Applicable rules relating to certain reduced uniformed services retirement pay.

* * * * *

(b) *Rule applicable after December 31, 1965.*—(1) In a case of a member or former member of the uniformed services of the United States (as defined in 37 U.S.C. 101 (3)), gross income shall not include the amount of any reduction made in his or her retired or retainer pay after December 31, 1965, by reason of—

(i) An election made under the Retired Serviceman's family Protection Plan (10 U.S.C. 1431), or

(ii) The provisions of subchapter II of chapter 73 of title 10 of the United States Code (also referred to in this section as the Survivor Benefit Plan (10 U.S.C. 1447)).

* * * * *

Par. 4. Paragraph (b)(2)(iii) of § 1.122-1 is amended by inserting in subdivision (*a*) "subchapter I of" immediately preceding "chapter 73 of title 10 of the United States Code"; and by substituting in subdivision (*b*) "sections 1438 or 1452 (d)" for "section 1438".

Par. 5. Paragraph (c) of § 1.122-1 is amended by inserting in subparagraphs (1), (3), and (4) "or the Survivor Benefit Plan (10 U.S.C. 1447)" immediately after "Retired Servicemen's Family Protection Plan (10 U.S.C. 1431)" and by inserting in subparagraph (4) "or Survivor Benefit Plan" after "whether or not reduced under the Retired Serviceman's Family Protection Plan".

Par. 6. Paragraph (d) of § 1.122-1 is amended by deleting "(as defined in § 1.79-2(b)(3))" in Example (5) and by revising the material immediately preceding "Example (1)" to read as follows:

§ 1.122-1 Applicable rules relating to certain reduced uniformed services retirement pay.

* * * * *

(d) *Examples with respect to the Retired Serviceman's Family Protection Plan.* The rules discussed in this section relating to the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431) may be illustrated by the following examples:

* * * * *

Par. 7. Section 1.122-1 is amended by adding at the end thereof a new paragraph (e) to read as follows:

§ 1.122-1 Applicable rules relating to certain reduced uniformed services retirement pay.

* * * * *

(e) *Principles Applicable to the Survivor Benefit Plan.* The principles illustrated by the examples set forth in paragraph (d) of this section apply to an annuity under the Survivor Benefit Plan (10 U.S.C. 1447).

PART 20—ESTATE TAX REGULATIONS

§ 20.2039 [Deleted]

Par. 8. Section 20.2039 is deleted.

§ 20.2039-2 [Amended]

Par. 9. Paragraph (b)(4) of § 20.2039-2 is amended by deleting ", also referred to as the Retired Serviceman's Family Protection Plan".

PART 25—GIFT TAX REGULATIONS

§ 25.2517 [Deleted]

Par. 10. Section 25.2517 is deleted.

§ 25.2517-1 [Amended]

Par. 11. Paragraph (b)(1)(iv) of § 25.2517-1 is amended by deleting ", also referred to as the Retired Serviceman's Family Protection Plan".

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-13582 Filed 5-18-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 879-5]

[40 CFR Part 51]

INTERGOVERNMENTAL CONSULTATION

Requirements for Preparation, Adoption, and Submittal of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

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SUMMARY: This rule proposes to consolidate existing regulations requiring intergovernmental cooperation in the development of State plans to achieve national ambient air quality standards and to combine the consolidated regulations with new regulations required by the Clean Air Act Amendments of 1977. The resultant regulations require more comprehensive coverage of air quality programs and additional involvement of affected individuals and groups on a consultation process. The regulations also define the process for designation of a lead planning organization in carbon monoxide and photochemical oxidant nonattainment areas. The new regulations are necessary to meet the requirements of sections 121 and 174 of the revised Clean Air Act. Section 121 requires that the States provide a satisfactory process of consultation with local governments, designated organizations of local elected officials, and Federal land managers. Section 174 requires the designation of a lead organization for coordinating plan revisions in areas with oxidant and carbon monoxide problems and joint State-local determination of responsibilities for plan development, implementation, and enforcement.

DATES: Comments by: June 23, 1978; public hearing: June 19, 1978; proposed publication for final regulations: July 21, 1978; proposed effective date for final regulations: January 1, 1979.

ADDRESSES: Send comments to: Office of Transportation and Land Use Policy (AW-445), Room 931 West Tower, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Jerry Kurtzweg, Office of Transportation and Land Use Policy (AW-445), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0570.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 require increased coordination and consultation among State and local officials in the achievement of national ambient air quality standards. The amended Act (section 121) requires States to include in their State implementation plans (SIP's) procedures for consulting with local governments and Federal land managers. A "satisfactory process of consultation" must be included for transportation controls, air quality maintenance, preconstruction review of direct sources of air pollution, nonattainment areas, prevention of significant deterioration, and certain compliance orders. EPA is required by the amended Act to promulgate regulations to assure adequate consultation.

Such coordination is essential given the complex nature of many control measures, especially transportation control measures, which require the involvement of both State and local governments in their design, implementation, and enforcement. Those organizations and individuals that would be affected by the SIP, (1) because of implementation or enforcement responsibilities, (2) because of the effect of the SIP on other planning responsibilities, or (3) because of the impact of poor air quality and the imposition of sanctions in the absence of an acceptable SIP, should be involved in SIP development. Only with such involvement can a successful program be developed.

In nonattainment areas for carbon monoxide and photochemical oxidants, States have additional consultation requirements under section 174 of the amended Act. States are required to determine jointly with local governments the division of responsibility for development, implementation, and enforcement of the SIP's for these areas. Local governments were provided an opportunity to designate by agreement an organization to prepare the plan for these nonattainment areas, if they did so by February 7, 1978. EPA and the Department of Transportation issued in December 1977 joint guidelines on the process and criteria to be used for such designations. The Governor is required to either certify a locally designated organization or to designate an organization or State agency. The Governor's designation must be made after consultation with local officials and in accordance with the joint determination of responsibilities.

Existing EPA regulations pertaining to intergovernmental cooperation in developing, implementing, and enforcing SIPs are now found primarily in §§ 51.21 and 51.58 of Title 40, Code of Federal Regulations. These sections deal with transference of information from one agency to another (51.21 (a) and (c)), identification of responsibilities (51.21(b)), and coordination of air quality maintenance planning with other planning programs (51.58). The Clean Air Act Amendments of 1977 require a more comprehensive approach in terms of involvement of affected programs and individuals than is required under the existing regulations.

The regulations proposed below reflect a new structure designed to make Part 51 of the Code of Federal Regulations more readable and understandable. All of Part 51 will eventually be rewritten. This new structure incorporates the use of more subparts in which regulatory material currently contained in sections will be placed. The new format also allows the use of more headings than the current format. The additional headings will enable the reader to more readily find pertinent requirements.

These proposed regulations have combined the existing regulations with the new requirements of the Clean Air Act Amendments under a new Subpart M entitled "Intergovernmental Cooperation" within Part 51. Within Subpart M, §§ 51.243 through 51.246 deal primarily with the new requirements for continuing consultation. Section 51.241 includes the process required by Section 174 of the amended Act for designation of an organization for coordinating plan revisions for carbon monoxide and photochemical oxidant nonattainment areas.

Detailed guidelines for implementing Section 174 were issued jointly by EPA and the Department of Transportation (DOT) on December 14, 1977, and were distributed to state and local governments. Because the Amendments require local designation of a planning organization by February 7, 1978, there was insufficient time to issue the information in these guidelines as regulations.

Under the 174 guidelines and the regulations contained in the proposed § 51.241, States are required to submit to the Administrator through EPA regional offices a list of all designated organizations, including a description of their boundaries and responsibilities, and brief discussion of the reasons for the designation. The guidelines request that States identify for EPA by April 1, 1978, the organization responsible for each carbon monoxide and/or photochemical oxidant nonattainment area. A list of the organizations and other related information requested by the regulations must be included in the implementation plan revision submitted by January 1, 1979.

Through the 174 guidelines and these regulations, EPA is also encouraging further coordination and consolidation of Federally sponsored planning programs. Under the guidelines, the State must consider, before designating a lead planning organization, whether the organization has other areawide planning responsibilities. Coordination or integration of common plan elements is required by Section 51.247. This encouragement is consistent with President Carter's Environmental Message of May 1977 and with subsequent actions taken by the President to eliminate, consolidate, or simplify Federal planning requirements. The Environmental Message in part stressed the need for improved implementation of environmental laws through more efficient delivery of Federally funded programs. The need to consolidate Federal planning requirements was reiterated by President Carter in his March 27, 1978, announcement of a national urban policy.

Certain requirements in these regulations related to the transportation

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air quality planning processes are being proposed by both EPA and DOT. These requirements will be reflected in revisions to DOT's joint regulations for the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA) on the transportation planning process. The revisions to the FHWA-UMTA regulations will be proposed and adopted in a separate rulemaking action.

A process of consultation is not more specifically defined in these regulations because a satisfactory process may vary depending upon the program or action affected and upon established channels of communication within each State and local area. The regulations do describe the objectives of a satisfactory process of consultation. These objectives include providing for information dissemination and education, the opportunity for collaboration on development of the SIP, and joint determination of key issues in SIP development. As used in these regulations education means more than just dissemination of written information materials and may include workshops, question and answer sessions, personal visits or other techniques. Key issues include the selection of control strategies, especially those that require local enforcement, implementation or commitment of resources.

The regulations are not designed to require the replacement of existing consultation procedures. However, such procedures should be augmented or improved where necessary to ensure that affected organizations or individuals have substantial opportunity to express their opinion and concern during development of the SIP. A satisfactory process of consultation is a necessary component of an approvable SIP.

More specific guidance describing consultation procedures pertaining to the Clean Air Act requirements for a transportation planning process and prevention of significant deterioration (PSD) will be issued in the future. The transportation planning process guidelines will be published shortly. PSD regulations were proposed November 3, 1977 (42 FR 57480).

These regulations are procedural in nature and affect mainly governmental personnel. Because the required level of effort will not necessitate an appreciable increase in resources, these regulations do not meet the minimum criteria for significant regulations requiring a regulatory analysis as described in Executive Order 12044.

The relationship of Indian governing bodies to the States in implementation of EPA programs, including the air pollution control programs affected by these regulations, is currently under consideration by an EPA working group. Thus, this issue was not explicitly addressed in these regulations.

Comments and Opportunity for Public Hearing

Interested parties are encouraged to participate in this proposed rulemaking action by submitting written comments, to Jerry Kurtzweg at the address given above. All relevant comments received no later than June 23, 1978, will be considered. Comments will be available for public inspection during normal business hours at the Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

EPA will also hold a public hearing on today's actions. The hearing will be of the informal, legislative type. Persons desiring to appear at such a hearing should, no later than June 9, 1978, file a written statement with Jerry Kurtzweg at the address given in the introduction of this preamble. Each statement should indicate the person's name and address, the nature of the person's interest in the rulemaking proceedings, and the group or business entity (if any) such person represents. The hearing will be held on June 19, 1978, in Room 3906, 401 M Street SW., Washington, D.C. 20460. Comments filed in writing will be given equal weight to statements made at public hearings. The EPA official responsible for drafting these regulations is John Hidinger, Director, Office of Transportation and Land Use Policy.

Dated: May 10, 1978.

Douglas M. Costle,
Administrator.

EPA proposes to amend Title 40 of the Code of Federal Regulations, Chapter I, Part 51, as follows:

§ 51.21 [Reserved].

§ 51.58 [Amended].

1. Sections 51.21 and 51.58(b)-(h) are revoked and reserved.

2. Section 51.61, paragraph (d) is revised to read as follows:

§ 51.61 AQMA plan: Submittal format.

• • • • •

(d) AQMA plan. Applicable information required under §§ 51.52(b), 51.53, 51.54, 51.55, 51.56, 51.58, 51.59, 51.60 and Subpart M.

• • • • •

§ 51.63 [Amended].

3. In § 51.63 paragraph (a) the reference to "51.58(h)" is deleted from the first sentence.

Subparts E-L—[Reserved]

4. New Subparts E to L are added and reserved.

5. A new Subpart M is added as follows:

Subpart M—Intergovernmental Cooperation

Agency Designation

Sec.
51.240 General plan requirements.
51.241 Nonattainment areas for carbon monoxide and photochemical oxidants.
51.242 [Reserved]

Continuing Consultation Process

51.243 Consultation process objectives.
51.244 Plan elements affected.
51.245 Organizations and officials to be consulted.
51.246 Timing.

Relationship of Plan to Other Planning and Management Programs.

51.247 Coordination with other programs.
51.248 [Reserved]
51.249 Transmittal of information.
51.250 A-95 clearinghouse review.
51.251 Summary of plan development participation.

Authority: Secs. 110, 121, 174(a), 301(a) Clean Air Act as amended (42 U.S.C. 7410, 7421, 7504, and 7601(a)).

SUBPART M—INTERGOVERNMENTAL COOPERATION

Agency Designation

§ 51.240 General plan requirements.

Each State implementation plan must identify organizations, by official title, that will participate in developing, implementing, and enforcing the plan and the responsibilities of such organizations. The plan shall include any related agreements or memoranda of understanding between the organizations.

§ 51.241 Nonattainment areas for carbon monoxide and photochemical oxidants.

(a) For each region or portion of a region in which the national primary standard for carbon monoxide or photochemical oxidants will not be attained by July 1, 1979, the Governor (or Governors for interstate areas) shall certify the organization of elected officials of local governments designated by agreement of affected local governments, or he or she shall designate, after consultation with local officials, the organization responsible for developing the revised implementation plan or portions thereof for such region. The procedures described in the "Section 174 Guidelines" issued jointly in 1977 by EPA and the Department of Transportation should be consulted in this process.

(b) The Governor shall certify the locally designated organization unless no agreement was reached by affected local governments by February 7, 1978, or the locally designated organization does not meet the criteria for a lead planning organization contained in the "Section 174 Guidelines." In making a designation, the governor shall take into consideration any on-going process of local designation in existence on February 7, 1978. The designation shall be in accordance with the joint determination of responsibilities for plan development, implementation, and enforcement required by section 174(a) of the Clean Air Act, as amended.

(c) The Governor shall certify or designate, where feasible, the metropolitan planning organization responsible for the continuing, cooperative, and comprehensive transportation planning process required under section 134 of Title 23, United States Code; the organization responsible for air quality maintenance planning; or the organization responsible for both. In determining the feasibility of certifying or designating such an organization, the Governor shall also consider whether the organization gives adequate representation to local elected officials of general purpose governments and has areawide planning responsibilities in other Federal environmental or community development planning programs which could contribute to integration and consolidation of planning functions. Where possible, preference should be given to organizations with several programs responsibilities such as comprehensive planning or water quality management. Attention is directed to Part IV of the Office of Management and Budget Circular A-95 (41 FR 2052) which encourages the designation of established, substate comprehensive planning agencies as the agencies to carry out Federally assisted or required areawide planning.

(d) The Governor shall submit the following information to the Administrator of the EPA through the appropriate EPA regional office. The information shall be submitted as part of the State implementation plan revision required on January 1, 1979.

(1) A list of all air quality planning organizations certified or designated within the State.

(2) A description of the geographic jurisdictions of these organizations.

(3) A general description of the responsibilities of the designated or certified organizations.

(4) A brief discussion of the alternatives investigated for consolidation of environmental and other planning functions, and the basis for the selection of the designated organization.

(5) A brief description of the consultative process leading to the selection of a certified or designated organization, including the disposition of significant concerns raised by participants.

§ 51.242 [Reserved]

Continuing Consultation Process

§ 51.243 Consultation process objectives.

Any governmental organization that has the lead responsibility for development of one of the State implementation plan elements listed in § 51.244 shall provide for a continuing intergovernmental consultation process in carrying out those responsibilities. Already established consultation processes, such as those established under § 51.241, may be used, and supplemented if necessary, to meet the requirements of this subpart. A satisfactory consultation process must include provisions to meet the following objectives:

(a) Provide for information dissemination to and education of relevant organizations and individuals.

(b) Provide an opportunity for involvement of affected governmental organizations and elected officials in development of the revised implementation plan.

(c) Provide an opportunity for joint resolution by affected governmental organizations and individuals of key issues in the development of the revised implementation plan. Key issues include the selection of control strategies, especially those that require local enforcement, implementation or commitment of resources.

§ 51.244 Plan elements affected.

The consultation process must ensure consultation during preparation of the following measures:

(a) Procedures for preconstruction review of direct sources of air pollution.

(b) Transportation-related control measures.

(c) Control measures, other than transportation-related measures, applicable to nonattainment areas.

(d) Measures for prevention of significant deterioration of air quality, and protection of visibility in Federal Class I areas.

(e) Air quality maintenance measures.

(f) Delayed compliance orders described in Section 113(d) of the Clean Air Act Amendments of 1977.

§ 51.245 Organizations and officials to be consulted.

A continuing intergovernmental consultation process established in accordance with § 51.243 shall ensure the involvement, where appropriate, of the following organizations or individuals:

(a) State agencies responsible for air pollution control, transportation planning, energy planning, community development and housing planning, solid waste management, and water quality management.

(b) Elected officials of local governments.

(c) Federal land managers having authority over lands affected by State implementation plans.

(d) Affected local and areawide agencies, responsible for air pollution control, comprehensive, community development, transportation or energy planning, and water quality, solid waste or coastal zone management.

(e) Public interest organizations having a major interest in the program.

§ 51.246 Timing

The continuing intergovernmental consultation process shall apply to any measure related to the plan elements in § 51.244 adopted after August 7, 1978. The State implementation plan shall be revised to include such a consultation process no later than January 1, 1979.

Relationship of Plan to Other Planning and Management Programs

§ 51.247 Coordination with other programs.

(a) A governmental organization that has a major responsibility for developing any of the State implementation plan elements listed in § 51.244 shall coordinate with other planning and management programs substantially affecting or affected by such elements through the development of procedures to ensure the following:

(1) Use of common data.

(2) Coordination, and where possible, integration of work programs.

(3) Use, where possible, of common policy advisory bodies.

(4) Coordinated, and where possible, common public participation and information programs.

(5) Incorporation of appropriate air quality criteria as a factor in other planning programs.

(6) Consideration of other planning objectives in development of control strategies.

(b) The coordination procedures shall include a process for determining consistency between the State implementation plan and other plans and programs, such as those pertaining to transportation, land use, solid waste, water quality, or community development substantially affecting or affected by the implementation plan. It shall include a list of any memoranda of understanding developed, as part of that process, between the agencies responsible for development, implementation, or enforcement of air quality plans. The provisions of items 3a through d, Part IV of the Office of Management and Budget Circular A-95 shall be considered in the preparation of memoranda of understanding.

§ 51.248 [Reserved]

§ 51.249 Transmittal of information.

Each plan shall provide assurances that the governmental organization having primary responsibility for implementing national air quality standards in any region, or portion thereof, will promptly transmit to other orga-

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nizations having similar or related responsibility in the same or other States, information on factors (e.g., construction of new industrial plants) which may signficantly affect air quality in any portion of such region or in any adjoining region.

§ 51.250 A-95 clearinghouse review.

A draft of any major implementation plan revision including any of the six elements listed in § 51.244 shall be submitted to the cognizant State and areawide clearinghouse as established under the Office of Management and Budget Circular A-95, for review and comment for a period of 45 days. Comments received from the clearinghouses within that 45-day period shall be considered. Copies of these comments shall be retained by the organization initiating the plan revision for inspection by the Administrator and the public.

§ 51.251 Summary of plan development participation.

An organization with responsibility for the development of all or a portion of the implementation plan elements listed in § 51.244 shall include in the plan:

(a) A summary of the procedure used to involve the public, local and areawide governmental organizations, State agencies and the State legislature, and Federal land managers in the development of the plan revision.

(b) A discussion of any significant comments raised during the consultation process, including those received in the A-95 clearinghouse review or in any public hearing held on the plan. The discussion shall include a description of the final disposition of such points.

[FR Doc. 78-13552 Filed 5-17-78; 8:45 am]

[4910-59]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 74-9; Notice 04]

CHILD RESTRAINT SYSTEMS; SEAT BELT ASSEMBLIES AND ANCHORAGES

Proposed Rulemaking and Invitation for Applications for Financial Assistance

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Notice of proposed rulemaking and invitation for applications for financial assistance in commenting on the notice.

SUMMARY: This notice is being issued in response to public requests. It would amend the existing child restraint standard by extending its applicability to all types of child restraints designed for use in motor vehicles. It would also upgrade existing child restraint performance requirements by improving the performance criteria and by replacing static tests with dynamic tests using anthropomorphic child dummies. The amendments are intended to reduce the number of children under 5 years of age that are killed or injured in motor vehicle accidents.

DATES: Comments must be received on or before December 1, 1978. Applications for financial assistance in commenting on this notice must be received on or before June 19, 1978. Proposed effective dates: The date of publication of the final rule in the FEDERAL REGISTER for optional compliance with Standard No. 213-80 instead of existing Standard 213, and May 1, 1980, for Standard No. 213-80 and for the deletions from Standard No. 209.

ADDRESSES: Comments should refer to the docket number and must be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. Applications for financial assistance should be submitted in writing to: Ms. Jeanette Feldman, Public and Consumer Affairs, National Highway Traffic Safety Administration, Room 5232, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0670.

FOR FURTHER INFORMATION CONTACT:

Mr. Jere Medlin, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2244.

SUPPLEMENTARY INFORMATION:

APPLICATIONS FOR FINANCIAL ASSISTANCE

The National Highway Traffic Safety Administration (NHTSA) invites all qualified individuals, organizations and other parties financially unable to participate in this proceeding to apply for financial assistance. The agency is particularly interested in applications that will innovatively address the problems of improving child restraint usage rates and the prevention of misuse.

Each applicant should specify in its application which issued it proposes to address if it receives assistance and describe the nature of its proposed work product. The agency urges applicants to indicate whether and how they will address the following issues in their comments:

(1) The impact, if any, on the cost of child restraints that would be caused by the amendments proposed in this notice and by any additional amendments advocated by the applicant;

(2) The highest practicable level of safety that child restraints can be required to achieve without causing the cost of those restraints to increase to the point that a significant number of consumers are inhibited from voluntarily purchasing child restraints; and

(3) Whether the proposed amendments alone would adequately address the problem of misuse of child restraints or whether those amendments should be replaced or supplemented by alternative nonregulatory (educational) measures. Descriptions of ideas for specific alternative measures are invited. Examples of such measures include sample labels for restraints, pamphlets to be distributed in places such as obstetricians' and pediatricians' offices, scripts for films to be shown in childbirth classes of maternity wards or on television, spot media announcements, and educational materials for groups such as medical students. Applicants who indicate that they will address the alternative measures should outline their plans for explaining why they think those measures will be effective.

All applications submitted before the deadline specified at the beginning of this notice will be examined by an evaluation board of NHTSA and Department of Transportation officials to determine whether each applicant is eligible to receive funding. Consideration of late applications is at the discretion of the evaluation board.

In general, an applicant is deemed eligible if it demonstrates in its application that: (1) It represents an interest whose representation can be reasonably expected to contribute to a full and fair determination of the issues in the proceeding; (2) its participation is reasonably necessary to represent that interest; (3) it can competently represent that interest; and (4) it lacks financial resources to participate in the absence of such assistance. If more than one applicant representing the same or similar interest is deemed eligible, the board will either select more than one applicant if the eligible applicants seek to present significantly different points of view regarding this notice or select the applicant which demonstrates that it can make the strongest presentation.

Payment may be made as soon as possible after the selected applicant has completed its work and submitted its claim. Each applicant must submit as part of its application all information required by section 5 of the financial assistance regulation which governs the operation of the Department's public participation program (42 FR 2864, January 13, 1977). Failure to submit the required information may result in delays in evaluation and possible disqualification of an application. A copy of the regulation may be obtained from Ms. Jeanette Feldman at the address and telephone number indicated at the beginning of this notice.

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BACKGROUND

NHTSA data indicate that approximately 1,000 children up to age 5 are killed and approximately 100,000 children in this age group are injured yearly as occupants of motor vehicles. Many of these deaths and injuries could be prevented or reduced in severity by restraining the child so that he or she is not thrown against the vehicle interior during a crash. Safety belts, air bags, and other devices are or will be available in motor vehicles. However, these safety devices are generally not designed for use by infants and small children and, as a consequence, offer them limited protection. The size and fragility of infants and small children makes their use of safety belts alone impractical in many cases.

Car beds, infant carriers, child seats, and child harnesses are the commonly available means of providing restraint in motor vehicles for children under 5 years of age. These child restraint systems are not mandatory safety equipment in passenger cars, but are purchased by parents voluntarily for use in motor vehicles. In addition to providing the benefit of restraint in collisions, use of these systems prevents children from falling and being injured during vehicle turns and stops. Use also prevents the children from distracting or interfering with the driver by moving around inside the vehicle while it is in motion.

Before the issuance of existing Standard No. 213, there were numerous inexpensive child seats that offered very limited protection. Standard No. 213 required the elimination or improvement of those seats.

There is substantial room for improvement in Standard No. 213 and in the provisions of Standard No. 209 regulating child harnesses. Neither standard regulates car beds or infant carriers. Both standards rely upon static instead of dynamic tests for measuring the performance of child restraints.

Further, a concerted effort needs to be made to reduce the problem of misuse of child restraints. Misuse substantially reduces the safety value of these restraints. The misuse typically takes the form of incorrect attachment of the restraint to the vehicle or incorrect securing of the child in the restraint.

Any move to upgrade Federal standards regulating child restraints is complicated by the possible price sensitivity of such restraints. The NHTSA has learned from data supplied by child seat manufacturers that approximately 20 percent of child seat sales are in the lowest price brackets. This suggests that any amendment that would significantly raise the price of the cheapest seats could potentially have a substantial adverse effect on the sales of these voluntarily purchased items of safety equipment. The net effect on safety could be negative if the effect of sales losses exceeds the benefit of the improved performance of the restraints which are purchased. Thus, to maximize the total safety benefits of its efforts to extend and upgrade its restraint requirements, the agency must balance those improvements against impacts on the price of restraints.

The agency must also consider the effects of improved performance on the ease of using child restraints. If either the attaching of restraints to vehicles or securing of children in the restraints becomes overly complex, the already substantial problem of misuse could be greatly exacerbated.

In response to the need for an improved Federal child restraint safety standard, the NHTSA published a proposal to expand the scope of the standard to cover all forms of infant and child restraints, require dynamic crash simulation tests of the restraints with anthropomorphic test dummies, and specify the dummies to be used for those tests (39 FR 7959; March 1, 1974). Further action on that proposal was delayed pending additional work on dummy specifications and calibration. Based on recent child restraint misuse studies and a desire to improve usage of child restraints while improving safety, and on evaluation of the comments concerning the 1974 proposal, the NHTSA has decided to issue a modified proposal for a revised child restraint system standard and seek further public comment.

In a separate notice appearing elsewhere in this issue of the FEDERAL REGISTER, the agency is proposing specifications and performance criteria for test dummies that simulate a 3-year old child and a 6-month old infant to Part 572, Anthropomorphic Test Dummies. The comment closing date for this notice has been set for December 1, 1978, to allow child restraint manufacturers to procure, test, and evaluate their restraints using the proposed dummies. The agency would, however, appreciate receiving any preliminary comments on the proposed child restraint standard by manufacturers before testing and by other concerned individuals or organizations who will not be conducting any testing.

SUMMARY OF PROPOSED AMENDMENTS

The most significant amendments proposed by this notice are set forth below:

(1) Dynamic tests would be used to evaluate the performance of the child seating system in a manner which simulates an actual vehicle crash. The simulated crash would be straight forward (0 degree frontal) at 30 mph. The seating systems would be anchored in accordance with the manufacturers' instructions. For restraints equipped with supplementary anchorage belts or tether straps, an additional frontal test at 20 mph would be conducted with the child restraint secured by the lap belt only, and without the tether strap attached. This test is intended to ensure a minimum level of safety performance when the tether strap is not used as data indicate happens about 50 percent of the time.

(2) A standard seat assembly, specified by drawings in docket 74-9, would be used to represent the typical vehicle bench seat and thereby avoid the cost of testing child restraints on numerous production vehicle bench seats.

(3) Injury criteria would be specified for both the head and chest of the dummy for child restraints recommended by their manufacturers for children over 20 pounds. Padding requirements would have to be met by restraints to be used by children weighing not more than 20 pounds.

(4) Frontal head and knee excursion limits would be specified for front-facing child restraints and for harnesses.

(5) During and after dynamic testing, each child restraint would have to retain the dummy within the system; exhibit no complete separation of any load-bearing structural element; if adjustable, remain in its pre-test adjusted position; and limit the collapse of the restraint seat back.

(6) To prevent child restraint surfaces from injuring children or other vehicle occupants during crashes, size, shape and energy absorption requirements would be specified for those surfaces.

(7) Requirements would be set forth for the construction of belt restraints and for the provision of belts in certain child restraint systems.

(8) The amount of force necessary to open belt buckles and release a child from a child restraint system would be specified.

(9) Child seating systems would have to be attachable to the vehicle by means of the vehicle seat belts.

(10) Specified information, such as installation instructions, and the height and weight limits for children which should use the child restraint, would have to be both on the restraint and in an accompanying information booklet or sheet.

MAJOR DIFFERENCES BETWEEN CURRENT AND 1974 PROPOSALS

(1) The current proposal proposes dynamic frontal test only while the 1974 proposal proposed dynamic frontal, lateral and rear tests.

(2) The current proposal would require child seats with tethers to be

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tested at 30 mph with the tether attached and at 20 mph without it attached, while the 1974 proposal would have required only the former test.

(3) The current proposal specifies less stringent limits than the 1974 proposal specified for the distance which the child dummy head can move forward during restraint tests. However, knee excursion limits to prevent "submarining" of occupants are included in this proposal.

(4) The current proposal specifies tha use of a standard vehicle bench seat assembly for testing instead of the provision in the 1974 proposal for testing on production vehicles bench seats.

(5) The current proposal sets forth three alternative ranges of permissible force levels necessary to release buckles on child restraint harnesses while the 1974 proposal used the level in existing FMVSS No. 213.

(6) The current proposal does not itself propose specifications regarding the dummies to be used for dynamic testing but is premised upon the issuance of a separate notice which will contain those specifications.

Proposal for Standard No. 213-80

Applicability

Standard No. 213-80 would impose requirements on all types of child restraints used in motor vehicles. Currently, the Federal safety standards cover only child seats, i.e., restraints for children weighing up to 50 pounds who are capable of remaining erect when seated (Standard No. 213), and type 3 belt assemblies, known as child harnesses, which are combination pelvic and upper torso restraints for children who weigh not more than 50 pounds and are capable of sitting upright by themselves (Standard No. 209). In addition to these restraints, the proposed standard would also regulate restraints, such as car beds and infant seats, used by children unable to sit erectly.

Standard No. 213 would be amended to permit, at the manufacturer's option, compliance with the current requirements of that standard or with the new requirements beginning on the date that the final rule is published in the Federal Register. Beginning on May 1, 1980, compliance with the new requirements (i.e., Standard 213-80) would become mandatory.

In 1974, the Juvenile Products Manufacturers Association (JPMA) recommended postponement of the requirements for infant carriers because the JPMA believes that there is a lack of sufficient data regarding the biomedical characteristics, such as cranial impact tolerance, of very small children to determine the proper criteria to be used for infant restraints. The NHTSA estimates indicate that approximately 225 deaths and 22,100 injuries occurred to children under 1 year of age during 1975 in crashes where restraints could have prevented death or serious injury. Therefore, the NHTSA considers such requirements essential and cannot justify further delay in their issuance. This proposal does not establish the criteria discussed by JPMA, but instead adopts the approach of specifying padding requirements for restraints used by children 20 pounds or under.

Volvo of America argued that "vehicle specific" child restraints (systems uniquely designed for installation in a particular make and model automobile but which do not utilize vehicle seat belts for anchorage) should be exempt from the new regulation. The agency has considered the currently available vehicle specific systems and concluded that when used properly they would provide an adequate level of dynamic and other performance characteristics. Despite this advantage, the agency is concerned that allowing a device which is uniquely designed for specific vehicles would result in misuse; i.e., use in other than those specific vehicles. It is traditional in the United States for families with children to "hand down" the paraphenalia, such as child restraints, needed for infants and small children to other families with infants. Thus, it can be expected that a vehicle specific child restraint would be handed down to someone with a different make and model of car who would then attempt to use it dispite its inappropriateness for that vehicle. The safety value of a restraint used improperly is greatly diminished. Also the installation of these devices even in Volvos varies from model to model and requires complex instructions. All of these factors make the possibility of improper use very high.

Standardization of the means of anchoring a child restraint to a vehicle is vital to prevent misuse. By requiring all restraints to be attachable to vehicle seats by the vehicle seat belt, consumers will be assured of a uniform method of attaching the restraint and there will be less confusion regarding that aspect of use. For similar reasons, the agency requires that all vehicle seat belts have push button releases.

A simple, effective way of testing vehicle specific seats has not been devised. Therefore the agency is concerned that if an exemption were allowed for vehicle specific seats, the absence of control over their manufacture could result in the design and production of relatively unsafe seats which do not securely attach to the vehicle, and do not provide an adequate level of child protection.

For these reasons, the agency proposes that vehicle specific child restraints must comply with the new standard.

Dynamic Tests

One of the most significant prerequisites for a safe, useful child restraint system is that is use means that do not injure the child for providing restraint and preventing occupant impact with the vehicle interior. Other significant prerequisites are that restraints not concentrate excessive loads on the soft portions of a child's body, or collapse, separate, or fold to compress or otherwise injure a child during a crash.

The static force test currently in Standard 213 can only partially ensure that these prerequisites are met. In these tests, forces that are in the range of those encountered in a crash are gradually applied to the restraint system by means of a laboratory tensioning device. While this method of testing measures the strength of the device, it does not evaluate the performance of the system under conditions similar to those found in an actual vehicle crash.

A superior way of evaluating the performance of a child restraint is to do so in a dynamic simulation of a vehicle impact. This way provides greater assurance that the restraint will withstand and actual crash without injuring the child. The dynamic simulation involves securing a test dummy in the child restraint which in turn is attached to a representative three position vehicle bench seat. The assembly is then subjected to acceleration to simulate a vehicle crash.

Dynamic testing such as this is routinely used to evaluate the performance of both experimental and mass-produced vehicles and equipment. For example, the agency's Standards Nos. 204, 208, 212, and 301-75 employ dynamic testing to evaluate vehicle systems.

The NHTSA has drawn upon substantial work on dynamic testing in developing this proposal. Several organizations and the NHTSA have undertaken research and testing to develop a suitable dynamic test requirement for child restraint systems. An existing Canadian standard specifies dynamic test requirements. The Economic Commission of Europe and some member countries have developed drafts of dynamic test standards. As noted above, the NHTSA issued and received comment on a proposed dynamic test standard. Further, Consumers Union has conducted comparative dynamic tests of child restraint systems available in this country.

A standard vehicle seat assembly with three seating positions would be used in the dynamic testing. It was developed by the Highway Safety Research Institute at the University of Michigan. The standard seat, which has replaceable foam cushions, would save the restraint system manufacturers the expense which they would have borne under the 1974 proposal of

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testing their restraints on a variety of production vehicle bench seats. Use of the standard seat will also greatly simplify the testing program. The seat is representative of production bench seats. For example, the standard seat back deflects a programmed amount in frontal crash simulations to reflect the performance of production seats. This standard seat has already been used in three child restraint system testing programs. Copies of the Drawing Package SAD-100-1000 for the standard seat assembly may be purchased from the NHTSA's Technical Reference Division at the same address given above for the Docket Room or by calling Mr. Robert Hornickle at 202-426-2768. The original report regarding the seat's development is available under Contract No. DOT-HS-4-00865, "Fabrication of a Standard Vehicle Bench Seat."

The child restraints would be tested in the center seating position of the standard seat. Available data indicate that the center position is generally the safest position in which to install a child restraint system and is consequently the position recommended by this agency for use by motorists.

In response to Hamill's request to know the number of tests necessary as a basis for certification, the agency notes that the Act requires that each vehicle and item of equipment comply with applicable standards, and that the manufacturer must certify compliance with those standards "in the exercise of due care" (15 U.S.C. 1397 (b)(2)). The NHTSA's longstanding position is that a manufacturer is free, within the limits of due care, to choose any means to determine that a vehicle or item of equipment would comply if tested by the agency in the manner specified in the standard. Thus, the chosen means must be reasonably calculated to establish compliance. What constitutes due care varies with the circumstances of each manufacturer. All manufacturers must make the initial determination of what is sufficient as part of their duty to certify. The final determination is made by the agency.

Questor Corporation asked for a tolerance for the impact velocity at which a child restraint system must comply. As the agency has stated in its interpretations on similar issues, the safety standards do not set forth instructions, but performance levels that vehicles and equipment are required by law to be capable of meeting. The use of any tolerance for this purpose would be meaningless and confusing. For example, stating that a product must meet a performance requirement while traveling at 30 mph, plus or minus 1 mph, is the legal equivalent of specifying 29 mph with no tolerance. Manufacturers can accommodate any problems they may have in this regard by testing at a speed sufficiently higher than the speed specified in the standard. Questor's suggestion has, therefore, not been adopted.

Test Dummies

A six-month old dummy and a three-year old dummy have been tentatively selected for testing child restraint systems under the proposed standard. The six-month old dummy was specified in the 1974 proposal as being of "sailcloth construction filled with plastic pellets and lead shot for correct weight distribution." The dummy has since been dynamically tested, modified, and retested in infant carriers of three different maufacturers. The new dummy represents and advance in the state-of-the-art and is vastly superior to the former dummy. Very precise definitions of the new dummy are contained in a set of five blueprints and an engineering description which are available in docket 74-9 to all interested persons.

The tentatively selected three-year old dummy is the NHTSA test dummy SA103C, a slightly modified version of the Alderson Model VIP-3C dummy. The NHTSA test dumy SA103C is available for purchase from at least one dummy manufacturer and blueprints are available in docket 74-9 for use by any manufacturer wishing to produce these dummies. An operation and maintenance manual for the dummy is also available in the docket. Detailed instructions for clothing the three-year old dummy are specified in the proposal to ensure that the test conditions are carefully controlled.

Drawing Packages for both the six-month old dummy and the three-year old dummy may be obtained from: Cooper-Trent Operation, Keuffel-Esser Co., 15251 N. Danville St., Arlington, Va. 22201, Attention: V. Cascio 703-524-9000.

As noted above, a proposal to incorporate the specifications and performance criteria for the tentatively selected six-month and three-year-old dummies in Part 572, Anthropomorphic Test Dummy, of Title 49 of the Code of Federal Regulations appears in today's issue of the Federal Register. The December 1, 1978, comment closing date will permit child restraint manufacturers to procure the proposed dummies and test and evaluate their restraints during the comment period.

Dynamic Performance

In the simulated crash tests, the child restraint would be required to maintain system integrity (i.e., not fracture or separate) and limit excursion of the torso, head, and knees. These requirements would reduce the likelihood that a child using a child restraint system would be injured by the collapse or disintegration of the system or by contact with the interior of the passenger compartment. A head injury criterion (HIC) and maximum acceleration level for the chest would be specified to limit forces on the child to tolerable levels.

One objective of the system integrity requirements is to prevent ejection from the restraint system. Another is to ensure that the system does not fracture or separate in such a way as to harm the child. To this end, this notice proposes that when a restraint system is dynamically tested with the appropriate dummy (some systems, such as ones convertible from infant carriers to child seats, would be tested with both dummies) seated in it, there would not be any complete separation of any load bearing structural element of the system or any partial separation exposing surfaces with sharp edges that may contact an occupant. This proposal is a modification of the 1974 one which would have prohibited any separation. This change was made in response to the comment by most child restraint manufacturers that some separation might be purposely designed into a restraint system to improve its energy absorption performance.

This proposal specifies that an adjustable-position restraint would have to be able to meet the system integrity requirements at any designated adjustment position recommended by the restraint's manufacturer for use in motor vehicles and that it remain in its adjusted position during the test. USI West Company suggested that "controlled change of adjustment" or limited movement from one adjustment position to another be permitted. Dynamic tests have shown that the movement of adjustable or reclinable restraints can trap a child's finger between the moving parts and sever it. Therefore, USI West's suggestion has not been adopted.

Some front-facing restraint systems have seat backs that could collapse during a crash and injure children by compressing them. Accordingly, this proposal would require that front-facing restraints be construed so that the angle between the child restraint seat back and the restraint seating surface is not less than 45° after the test.

Injury criteria (expressed in terms of limits on resultant acceleration) are proposed for both the head and chest of the three-year-old test dummy to allow a quantitative evaluation of the dynamic performance of the child restraints to be made. This approach permits the measurement of padding effectiveness during the dynamic test, thus eliminating any need for a separate test for that purpose and the costs associated with such a test. Since the construction of the six-month-old

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dummy prevents installing accelerometers so that they will stay in place within the dummy during a test and give accurate measurements, the injury criteria would apply only to restraints recommended by their manufacturers for use by children weighing over 20 pounds.

This notice proposes forward head and knee excursion limits (i.e., limits on how far these portions of the body may move forward) for front-facing child restraints and harnesses. The head excursion limits reflect the maximum available distance for safe forward movement available in cars today.These limits are greater than those proposed in 1974. The increase is proposed to encourage child restraint designs that are easy for motorists to use properly. The knee excursion limits would prevent restraint manufacturers from controlling head excursion by designing their restraints so that their occupants submarine excessively during a crash, i.e., so that their bodies slide down and foward, legs first.

Further, front-facing child restraints and child harnesses would be required to retain the torso of the dummy within their confines during the dynamic testing. In the case of child harnesses and front-facing child restraints with harnesses, the retention requirement would be met if after the dynamic testing the belts of the harness were still located across the appropriate areas of the torso. In the case of front-facing systems without harnesses, the agency is considering defining retention as not permitting the center of each head target point on either side of the dummy head to touch or pass through a horizontal plane 4 inches vertically above the center of the head target points when the dummy is places in accordance with the proposal in the system before the dynamic testing.

When dynamically tested, rear-facing restraints (i.e., infant carriers) would be required to retain the dummy's head within the confines of the restraint and the back support surface would not be allowed to tip forward far enough for the angle between it and the vertical to exceed 60 degrees. If the support surface were allowed to tip more, the infant in the restraint could slide headfirst out of the shoulder straps because of the rounded shape of an infant's shoulders. Retention here would have the same meaning suggested above for child harnesses. Child beds would be required to retain the dummy's head and torso within its confines during the dynamic testing. The typical car bed is rectangular and has an open top and sides of uniform height. Retention in the case of these car beds would mean not permitting any portion of the dummy head or torso to pass through a plane tangent to the tops of the car bed sides.

Unlike the 1974 proposal, this proposal does not contain requirements for lateral dynamic tests and for limits on lateral excursion. During 1977, the NHTSA tested a number of child restraints and found that in outside seating positions only one of those restraints, one which required a tether, could meet the lateral head excursion limits necessary to prevent head contact with the door and other interior vehicle side surfaces in a 20 mph test at a horizontal angle of 60 degrees from the direction of the test platform travel. Some restraints with impact shields, which performed well in frontal crashes and which are rarely misused, could not pass the lateral test even when placed in the center seating position. Because of the cost of the design changes necessary to meet the lateral test, the problems with misuse of tethers, and the possible price sensitivity of child restraint sales, the agency decided not to repropose lateral requirements now.

Rear dynamic tests too have not been reproposed. One reason for not doing so is that child restraint systems having head restraints meeting the requirements proposed in this notice present virtually no problem related to protecting a child in a rear crash. To require the balance of the restraint systems to have such head restraints would raise the same price concerns posed by lateral test requirements without commensurate benefits.

All restraints would be required to meet the applicable proposed performance requirements at 30 mph, the same speed used in Standard No. 208 for testing occupant restraints for children over the age of 5 and adults. Adjustable restraints would be in any position intended for use in a motor vehicle. The restraints would be secured by a vehicle lap belt and, if provided with the restraint, a supplementary tether strap.

The agency is also proposing an additional dynamic test at 20 mph for child restraint systems equipped with tether straps as a supplemental means of attaching the system to a car. The test would be conducted with the system secured by a vehicle lap belt, but the tether would be left unattached. When the tethers on these restraints are properly attached and the lap belt properly tightened, these restraints generally provide superior protection against striking the side of the vehicle interior. They are also among the most effective in preventing children from striking interior surfaces in front of the child restraint. However, surveys show that the tether straps are unused by motorists about 50 percent of the time. The agency is concerned that a single 30 mph test of these systems with the tether attached would therefore be inadequate. The additional test would assure that at least a minimum level of protection is provided when the tether is not used to attach these systems to the vehicle. The NHTSA has tested existing child restraints and determined that the proposed 20 mph test requirement can be met without the use of a tether.

Comment is requested on whether all restraints, including those equipped with tethers, should be required to meet the performance requirements when tested at 30 mph while secured by means of a vehicle lap belt only. Such a requirement would provide increased assurance of safe performance even when child restraints with tethers are installed without the use of the tethers.

Energy Absorption and Distribution

Child restraint systems can be designed so that they do not present hostile or hard surfaces capable of injuring a child during a crash. The primary means for accomplishing this goal is to ensure that restraint surfaces absorb and distribute crash forces.

There are two categories of force distribution requirements proposed by this notice. The first relates to the support surfaces that would have to be provided in most restraints other than car beds to control the rearward movement of a child's head during a crash. Unless the child restraint enabled a child to sit low enough so that the vehicle seat back would provide rearward head restraint, child restraints other than car beds would have to have a seat back of a minimum height and width.

The second category of force distribution requirements specifies minimum surface area requirements for forward and side restraint surfaces and contour requirements for forward, side, and rear surfaces which are provided in restraints other than car beds. It should be emphasized that these provisions would not require the provision of such surfaces. They would simply regulate those that the manufacturers decide to provide.

Back supports would have to have at least 85 square inches of surface area. This figure represents the minimum torso contact area, based on calculations utilizing the three-year old dummy, that should be provided to keep force levels within an acceptable range. The torso dimensions of that dummy are also the basis of the proposed minimum areas and contours of the side and forward support surfaces.

To eliminate one way in which motorists misuse forward facing child restraints, this proposal would prohibit restraints from having any surface or component that is or can be adjusted or moved so that it is directly in front of the child, except for surfaces and components designed to restrain the child in a forward crash. This provision would eliminate arm rests that flip down in front of a child and that are not designed to provide restraint. Typically, these arm rests are present on child restraint systems that are equipped with harnesses and that are designed for use by children who sit erect. These arm rests are often mistaken by motorists as means by themselves of adequately restraining the child and are partially responsible for the low usage rate (46 percent) of harnesses in child seats.

Child restraints recommended for children who weigh 20 pounds or less cannot be tested with the three-year old dummy. Thus, no quantifiable performance evaluation can be made of those restraints. Therefore, the agency proposes for these restraints that surfaces that are contacted by the dummy head during dynamic testing must meet a padding requirement and static compression test.

Injury from contacting protrusions, such as the pointed ends of screws mounted in flexible materials, would be prevented by this proposal. The height of such protrusions would be limited to not more than three-eighths of an inch above any immediately adjacent surface. Further, an exposed edge with a radius of less than one-fourth of an inch would be prohibited. Also, restraints would not be permitted to separate and create jagged edges that could injure a child during a crash.

Child Restraint Belt Systems

To ensure the safe performance of the belts and associated hardware used to attach the child restraint to the vehicle, or to hold the child in the restraint, the agency is proposing requirements for the construction of belts, where provided, and for the provision of belts in certain restraints. A minimum width of 1½ inches would be required if the belt is contactable by the dummy during test procedures. Standard No. 209's belt and buckle requirements, such as those relating to abrasion, resistance to light, resistance to microorganisms, color fastness, corrosion resistance and temperature resistance, would also be required to be met. Belt elongation and strength would not be specifically regulated in new Standard No. 213-80. However, these factors would have to be considered by manufacturers of child restraints equipped with belts to ensure that the webbing abrasion and the proposed acceleration and excursion limits are met.

In addition to these construction requirements, the agency is proposing requirements for the provision of a minimum number and configuration of belts. Any restraint system belt that contacts the dummy during the test procedure would be prohibited from also being used for attachment of the restraint to the vehicle if it allows inertial forces from the child seat or vehicle seat back to impose a load on the child. Over-the-shoulder belts and a pelvic-crotch belt combination would be required for child harnesses. The harness would also prevent a child from standing while harnessed so that he or she would not be subjected to whiplash. Other child restraints would be required to provide upper and lower torso restraint that could be satisfied by over-the-shoulder belts and a pelvic-crotch belt if the restraint is recommended for use only by children weighing over 20 pounds.

In the interest of preserving system integrity, this notice proposes also that buckles used in restraint systems be operable following the prescribed dynamic tests. JPMA, Volvo, and USI West suggested that a 30-pound maximum be established as the force necessary to release a buckle so that a buckle could be designed to discourage release by the child while the vehicle is in motion. USI West also suggested a minimum lower release force of 15 pounds. Other commenters indicated that the buckle release force on child restraints should be sufficiently low to assure that children could escape from the restraints in emergencies without the help of an adult. The Economic Commission of Europe (ECE) Group or Rapporteurs on Protective Devices proposed in March 1977 that the release force for buckles on child restraints be between 2.25 pounds and 13.5 pounds. This range, the Group said, allows the restraint manufacturer flexibility in designing his restraint system buckles to meet whichever of the two goals described above he believes is perferred by consumers. The National Swedish Road and Traffic Institute conducted a 1975 study entitled, "Handling Performance of Buckles on Child Seats with Regard to Opening Force Requirements." This study suggests the desirability of 12 pound minimum and 20 pound maximum requirements.

To maintain rulemaking flexibility, three alternatives for buckle release force are proposed. The first adopts the 12 pound minimum and 20 pound maximum force requirements indicated by the Swedish Road and Traffic Institute study. The second adopts force requirements in the CEC proposal. The third option is that the maximum force necessary to operate the buckle cannot be greater than 20 pounds. This is the existing Standard No. 213 requirement.

Orientation and Method of Installation

Experience with early child seating systems demonstrated that the means for attaching the systems to a vehicle is crucial to the safety of their performance in a crash. For example, a seating system which hooks over the back of a vehicle seat could come loose in a crash. One reason for that problem is that the vehicle seat back is not strong enough to anchor a restraint unless the seat back is anchored by auxiliary means. Standard No. 213 currently prohibits attaching child restraints to vehicle seat backs by such over-the-seat means. This prohibition has not proven sufficient to ensure that child restraints are properly attached to vehicles. Recent surveys show that only about half of the child restraints are anchored in the vehicle properly, i.e., with a vehicle lap belt. A factor which contributes to this problem is the designing of child restraints so that they have a component which is inserted between the vehicle seat and seat back. As these components are often used as the only means of attaching the restraints to the vehicle, motorists appear to believe that the components are adequate by themselves for that purpose. Such is not the case. To prevent this improper installation, this proposal would prohibit child restraints from having any components that are designed to be used to attach the restraints to a vehicle seat or seat back or any components (other than belts) that can be inserted between a vehicle seat and seat back.

All child restraints, with the exception of child harnesses, must be capable of being secured to a vehicle with a Type I (lap) seat belt as specified in Standard No. 209. The restraint must be capable of being anchored tightly to the vehicle with the lap belts specified in Standard No. 208 for passenger seats. One auxiliary anchorage strap (tether) would be permitted to be supplied with the child restraint.

This proposal would also require that car beds be designed to be installed so that their longitudinal axis is perpendicular to the longitudinal axis of the vehicle in which it is installed. This requirement would ensure that an infant lies crosswise in the vehicle so that the crash loads in frontal crashes would not be imposed along the direction of the infant's spinal cord and would be distributed over the maximum body area.

Labeling and Instructions for Users

Commenters on the 1974 proposal generally agreed that one of the most significant problems in improving child safety through child restraints is the incorrect use of the restraints by motorists. This notice proposes new labeling requirements to encourage proper use of child restraints. So that the information would serve as a constant reminder, information on the correct use of the child restraint would be required to be visible on the system as it is installed in a vehicle.

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Such information is currently often placed on the bottom or backs of child restraint systems. The agency recognizes that some child restraint systems may have limited space for displaying the instructions and warnings in the manner proposed in this notice. Comment is requested on the relative importance of displaying each of the instructions and warnings so that it is visible when the system is installed. A diagram showing the restraint correctly installed in a vehicle would be included in the labeling information. The labeling information would also contain items such as the height and weight limits of the children for which the restraint is designed, and warnings to use and snugly adjust all belts, to secure the restraint according to its manufacturer's instructions, to use any supplemental anchorage strap (tether) for attaching the restraint to a vehicle, and not to use any restraint adjustment position specified as being inappropriate for use in a motor vehicle. The proposal would also require that the manufacturer indicate the manufacturer and model of the child restraint, and the month, year, and place of manufacture, and state that the restraint complies with all applicable Federal motor vehicle safety standards.

Another means for encouraging proper use of child restraints is the instruction sheet or booklet that accompanies restraints. Consequently, the agency is proposing that all restraints be accompanied by instructions, including diagrams, for installing the restraints in any passenger seat in motor vehicles. The instructions would not necessarily have to address each type of motor vehicle expressly or separately. However, they must provide sufficient information to enable a user of a restraint in any type of vehicle to install the restraint in any passenger seat in that vehicle. For example, general information on installation of tether anchorages in vehicle floors may be sufficient to inform users of station wagons, vans, and hatchbacks how to install such anchorages. The instructions would also be required to state that the center rear seating position in passenger cars is the safest seating position and that child restraints should therefore be installed in that position. Comments are invited on what additional instructions manufacturers should be required to give to ensure proper use of child restraints. Questions include what advice should be given consumers using cars without a center rear seating position and to consumers having 2 or more children using child restraints. Comments are also requested on whether a brief explanation should be given of the primary consequences of not following the warnings and instructions provided by the manufacturer on the restraint. An example of such an explanation is that failure to attach the tether on systems having top tethers may result in the top part of the system bending forward during a crash and striking the dashboard or back of the front seat, depending on where the restaint is installed. Another example would be explain that failure to adjust belts snugly may result in the child coming entirely out of the restraint during a crash or in crash forces being placed on the wrong portions of the child's body.

Vehicle Seat Belts and Child Restraint Belt Anchorages

This rulemaking action raises a number of tangential issues regarding motor vehicle seat belts and anchorages for child restraint belts or tethers. Comment is invited on these issues. One issue concerns the compatibility of inertial reels for seat belts with child restraints. The agency has conducted tests of properly positioned child restraints anchored with inertial reel belts and has found no significant problem in crash environments. However, information is desired on the extent to which inertial reels may permit child restraints to move out of position during turns, slow stops and the initial phases of a quick stop.

The Physicians for Automotive Safety has raised another issue. That organization has petitioned to amend Standard 208, relating to occupant restraints, to require that lap belts be provided with passive belts in order that child restraints may be installed in any passenger seat equipped with passive belts. Volkswagen has submitted information to the public docket indicating that their passive belt restraint system performs better in a frontal crash without a lap belt than with one. Therefore, they do not want that seating positions equipped with a passive belt to be required to have a lap belt also. At the same time, the NHTSA is concerned that the absence of a lap belt in the front seat of passenger cars might further discourage the use of child restraints. It is clear that child restraints are more effective when properly used in the center rear seating position than in the front seat. However, the agency anticipates that some motorists will nevertheless install child restraints in the front seat. Comments are requested on this issue.

There are two issues regarding anchorages for tethers supplied with some child restraints. One additional way of prompting proper use of the tethers would be to require vehicle manufacturers to install anchorages as standard equipment. Another way would be to require vehicle manufacturers to inform new vehicle purchasers of the best places for installing tether anchorages for each passenger seat. Comments on these issues should include a discussion of the benefits and other impacts of rulemaking to address the underlying problems. The agency also requests comments on the cost and desirability of requiring child restraints to meet the flammability requirements of Federal Motor Vehicle Safety Standard No. 302.

Costs and Benefits

The NHTSA has conducted a preliminary evaluation of the economic and other consequences of this proposal on the public and private sectors. An environmental impact assessment and an economic evaluation have been placed in the docket for this rulemaking.

The benefits from the existing child restraint standard are severely limited by the low rate of child restraint use and by the even lower rate of proper use of the restraint. Surveys indicate that adults properly restrain at best 20 percent of infants in motor vehicles and a mere 5 percent of children aged 1-4 years.

The projected benefits for this proposal are similarly affected by use rates. The agency estimates that the extensive requirements for label warnings and installation instructions will result in slightly higher use rates and projects that the proposal would result in 5 newer fatalities and 980 fewer injuries annually. Should those restraints being improved to meet the new standard undergo some loss in sales due to their expected higher prices, the NHTSA still estimates benefits of 4 fewer fatalities and 725 fewer injuries per year. Because of the large difference in effectiveness between restraints that can pass the proposed dynamic test and those which have passed only a static test, there would have to be five lost sales for every restraint being upgraded to completely offset the safety gains. The agency finds no indication that there will be any sales loss even approaching this magnitude.

Because of this proposal, restraints which have already been designed to pass dynamic tests are expected to increase in price by about $1. Those now failing the dynamic test would be expected to increase in price by approximately $14. The average price increase would be about $3.70.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

The agency has reviewed the impacts of this regulation and determined that it is not a significant regulation within the meaning of Executive Order 12044.

The principal authors of this notice are Mr. Jere Medlin, Office of Vehicle Safety Standards, and Ms. Kathleen DeMeter, Office of the Chief Counsel.

In consideration of the foregoing, it is proposed that the following amendments be made in Part 571, Chapter V of Title 49, Code of Federal Regulations:

1. Standard No. 209, Seat Belt Assemblies (49 CFR 571.209), would be revised as follows:

§ 571.209 Standard No. 209; Seat belt assemblies.

S1. *Purpose and Scope.* This standard specifies requirements for seat belt assemblies.

S2. *Application.* This standard applies to seat belt assemblies for use in passenger cars, multipurpose passenger vehicles, trucks, and buses.

S3. *Definitions.* "Seat belt assembly" means any strap, webbing, or similar device designed to secure a person in a motor vehicle in order to mitigate the results of any accident, including all necessary buckles and other fasteners, and all hardware designed for installing such seat belt assembly in a motor vehicle.

"Pelvic restraint" means a seat belt assembly or portion thereof intended to restrain movement of the pelvis.

"Upper torso restraint" means a portion of a seat belt assembly intended to restrain movement of the chest and shoulder regions.

"Hardware" means any metal or rigid plastic part of a seat belt assembly.

"Buckle" means a quick release connector which fastens a person in a seat belt assembly.

"Attachment hardware" means any or all hardware designed for securing the webbing of a seat belt assembly to a motor vehicle.

"Adjustment hardware" means any or all hardware designed for adjusting the size of a seat belt assembly to fit the user, including such hardware that may be integral with a buckle, attachment hardware, or retractor.

"Retractor" means a device for storing part or all of the webbing in a seat belt assembly.

"Nonlocking retractor" means a retractor from which the webbing is extended to essentially its full length by a small external force, which provides no adjustment for assembly length, and which may or may not be capable of sustaining restraint forces at maximum webbing extension.

"Automatic-locking retractor" means a retractor incorporating adjustment hardware by means of a positive self-locking mechanism which is capable when locked of withstanding restraint forces.

"Emergency-locking retractor" means a retractor incorporating adjustment hardware by means of a locking mechanism that is activated by vehicle acceleration, webbing movement relative to the vehicle, or other automatic action during an emergency and is capable when locked of withstanding restraint forces.

"Seat back retainer" means the portion of some seat belt assemblies designed to restrict forward movement of a seat back.

"Webbing" means a narrow fabric woven with continuous filling yarns and finished selvages.

"Strap" means a narrow nonwoven material used in a seat belt assembly in place of webbing.

"Type 1 seat belt assembly" is a lap belt for pelvic restraint.

"Type 2 seat belt assembly" is a combination of pelvic and upper torso restraints.

"Type 2a shoulder belt" is an upper torso restraint for use only in conjunction with a lap belt as a Type 2 seat belt assembly.

S4 *Requirements.*

S4.1 (a) *Single occupancy.* A seat belt assembly shall be designed for use by one, and only one, person at any one time.

(b) *Pelvic restraint.* A seat belt assembly shall provide pelvic restraint whether or not upper torso restraint is provided, and the pelvic restraint shall be designed to remain on the pelvis under all conditions, including collision or roll-over of the motor vehicle. Pelvic restraint of a Type 2 seat belt assembly that can be used without upper torso restraint shall comply with requirement for Type 1 seat belt assembly in S4.1 to S4.4.

(c) *Upper torso restraint.* A Type 2 or Type 3 seat belt assembly shall provide upper torso restraint without shifting the pelvic restraint into the abdominal region. An upper torso restraint shall be designed to minimize vertical forces on the shoulders and spine. Hardware for upper torso restraint shall be so designed and located in the seat belt assembly that the possibility of injury to the occupant is minimized.

A Type 2a shoulder belt shall comply with applicable requirements for a Type 2 seat belt assembly in S4.1 to S4.4, inclusive.

(d) *Hardware.* All hardware parts which contact under normal usage a person, clothing, or webbing shall be free from burrs and sharp edges.

(e) *Release.* A Type 1 or Type 2 seat belt assembly shall be provided with a buckle or buckles readily accessible to the occupant to permit his easy and rapid removal from the assembly. Buckle release mechanism shall be designed to minimize the possibility of accidental release. A buckle with release mechanism in the latched position shall have only one opening in which the tongue can be inserted on the end of the buckle designed to receive and latch the tongue.

(f) *Attachment hardware.* A seat belt assembly shall include all hardware necessary for installation in a motor vehicle in accordance with SAE Recommended Practice J800B, Motor Vehicle Seat Belt Installations, September 1965. However, seat belt assemblies designed for installation in motor vehicles equipped with seat belt assembly anchorages that do not require anchorage nuts, plates, or washers, need not have such hardware, but shall have 7/16-20 UNF-2A or 1/2-13UNC-2A attachment bolts or equivalent hardware. The hardware shall be designed to prevent attachment bolts and other parts from becoming disengaged from the vehicle while in service. Reinforcing plates or washers furnished for universal floor installations shall be of steel, free from burrs and sharp edges on the peripheral edges adjacent to the vehicle, at least 0.06 inch in thickness and at least 4 square inches in projected area. The distance between any edge of the plate and the edge of the bolt hole shall be at least 0.6 inch. Any corner shall be rounded to a radius of not less than 0.25 inch or cut so that no corner angle is less than 135° and no side is less than 0.25 inch in length.

(g) *Adjustment.* (1) A Type 1 or Type 2 seat belt assembly shall be capable of adjustment to fit occupants whose dimensions and weight range from those of a 5th-percentile adult female to those of a 95th-percentile adult male. The seat belt assembly shall have either an automatic-locking retractor, an emergency-locking retractor, or an adjusting device that is within the reach of the occupant.

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(2) A Type 1 or Type 2 seat belt assembly for use in a vehicle having seats that are adjustable shall conform to the requirements of S4.1(g)(1) regardless of seat position. However, if a seat has a back that is separately adjustable, the requirements of S4.1(g)(1) need be met only with the seat back in the manufacturer's nominal design riding position.

(3) The adult occupants referred to in S4.1(g)(1) shall have the following measurements:

	5th-percentile adult female	95th-percentile adult male
Weight	102 lbs	215 lbs.
Erect sitting height	30.9 in	38 in.
Hip breadth (sitting)	12.8 in	16.4 in.
Hip circumference (sitting).	36.4 in	47.2 in.
Waist circumference (sitting).	23.6 in	42.5 in.
Chest depth	7.5 in	10.5 in.
Chest circumference:		
Nipple	30.5 in	44.5 in.
Upper	29.8 in	44.5 in.
Lower	26.8 in	44.5 in.

(h) *Webbing.* The ends of webbing in a seat belt assembly shall be protected or treated to prevent raveling. The end of webbing in a seat belt assembly having a metal-to-metal buckle that is used by the occupant to adjust the size of the assembly shall not pull out of the adjustment hardware at maximum size adjustment. Provision shall be made for essentially unimpeded movement of webbing routed between a seat back and seat cushion and attached to a retractor located behind the seat.

(i) *Strap.* A strap used in a seat belt assembly to sustain restraint forces shall comply with the requirements for webbing in S4.2, and if the strap is made from a rigid material, it shall comply with applicable requirements in S4.2, S4.3, and S4.4.

(j) *Marking.* Each seat belt assembly shall be permanently and legibly marked or labeled with year of manufacture, model, and name or trademark of manufacturer or distributor, or of importer if manufactured outside the United States. A model shall consist of a single combination of webbing having a specific type of fiber weave and construction, and hardware having a specific design. Webbings of various colors may be included under the same model, but webbing of each color shall comply with the requirements for webbing in S4.2

(k) *Installation instructions.* A seat belt assembly or retractor shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle except for a seat belt assembly installed in a motor vehicled by an automobile manufacturer. The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles, and shall include at least those items in SAE Recommended Practice, Motor Vehicle Seat Belt Installations—SAE J800b, published by the Society of Automotive Engineers.

(l) *Usage and maintenance instructions.* A seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fasted. Instructions for a nonlocking retractor shall include a caution that the webbing must be fully extended from the retractor during use of the seat belt assembly unless the retractor is attached to the free end of webbing which is not subjected to any tension during restraint of an occupant by the assembly. Instructions for Type 2a shoulder belt shall include a warning that the shoulder belt is not to be used without a lap belt.

(m) *Workmanship.* Seat belt assemblies shall have good workmanship in accordance with good commercial practice.

S4.2 *Requirements for webbing.*

(a) *Width.* The width of the webbing in a seat belt assembly shall be not less than 1.8 inches, except for portions that do not touch a 95th percentile adult male with the seat in any adjustment position and the seat back in the manufacturer's nominal design riding position when measured under the conditions prescribed in S5.1(a).

(b) *Breaking strength.* The webbing in a seat belt assembly shall have not less than the following breaking strength when tested by the procedures specified in S5.1(b): Type 1 seat belt assembly—6,000 pounds or 2,720 kilograms; Type 2 seat belt assembly—5,000 pounds or 2,270 kilograms for webbing pelvic restraint and 4,000 poinds or 1,810 kilograms for webbing in upper torso restraint.

(c) *Elongation.* The webbing in a seat belt assembly shall not extend to more than the following elongation when subjected to the specified forces in accordance with the procedure specified in S5.1(c): Type 1 seat belt assembly—20 percent at 2,500 pounds or 1,130 kilograms; Type 2 seat belt assembly—30 percent at 2,500 pounds or 1,130 kilograms for webbing in pelvic restraint and 40 percent at 2,500 pounds or 1,130 kilograms for webbing in upper torso restraint.

(d) *Resistance to abrasion.* The webbing of a seat belt assembly, after being subjected to abrasion as specified in either S5.1(d) or S5.3(c), shall have a breaking strength of not less than 75 percent of the breaking strength listed in S4.2(b) for that type of belt assembly.

(e) *Resistance to light.* The webbing in a seat belt assembly after exposure to the light of a carbon arc and tested by the procedure specified in S5.1(e) shall have a breaking strength not less than 60 percent of the strength before exposure to the carbon arc and shall have a color retention not less than No. 2 on the Geometric Gray Scale published by the American Association of Textile Chemists and Colorists, Post Office Box 886, Durham, N.C.

(f) *Resistance to micro-organisms.* The webbing in a seat belt assembly after being subjected to micro-organisms and tested by the procedures specified in S5.1(f) shall have a breaking strength not less than 85 percent of the strength before subjection to micro-organisms.

(g) *Colorfastness to crocking.* The webbing is a seat belt assembly shall not transfer color to a crock cloth either wet or dry to a greater degree than Class 3 on the AATCC Chart for Measuring Transference of Color published by the American Association of Textile Chemists and Colorists, when tested by the procedure specified in S5.1(g).

(h) *Colorfastness to staining.* The webbing in a seat belt assembly shall not stain to a greater degree than Class 3 on the AATCC Chart for Measuring Transference of Color published by the American Association of Textile Chemists and Colorists, when tested by the procedure specified in S5.1(h).

S4.3 *Requirements for hardware.*

(a) *Corrosion resistance.* (1) Attachment hardware of a seat belt assembly after being subjected to the conditions specified in S5.2(a) shall be free of ferrous corrosion on significant surfaces except for permissible ferrous corrosion at peripheral edges or edges of holes on underfloor reinforcing plates and washers. Alternatively, such hardware at or near the floor shall be protected against corrosion by at least a Type KS electrodeposited coating of nickel, or copper and nickel, and other attachment hardware shall be protected by a Type QS electrodeposited coating of nickel or copper and nickel, in accordance with Tenative Specifications for Electrodeposited Coatings of Nickel and Chromium on Steel, ASTM Designation: A166-61T, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103, but such hardware shall not be racked for electroplating in locations subjected to maximum stresses.

(2) Surfaces of buckles, retractors and metallic parts, other than attachment hardware, of a seat belt assembly after subjection to the conditions specified in S5.2(a) shall be free of ferrous or nonferrous corrosion which may be transferred, either directly or by means of the webbing, to the occupant or his clothing when the assembly is worn. After test, buckles shall conform to applicable requirements in paragraphs (d) to (g) of this section.

(b) *Temperature resistance.* Plastic or other nonmetallic hardware parts of a seat belt assembly when subjected to the conditions specified in S5.2(b) shall not warp or otherwise deteriorate to cause the assembly to operate improperly or fail to comply with applicable requirements in this section and S4.4.

(c) *Attachment hardware.* (1) Eye bolts, shoulder bolts, or other bolts used to secure the pelvic restraint of a seat belt assembly to a motor vehicle shall withstand a force of 9,000 pounds or 4,080 kilograms when tested by the procedure specified in S5.2(c)(1), except that attachment bolts of a seat belt assembly designed for installation in specific models of motor vehicles in which the ends of two or more seat belt assemblies can not be attached to the vehicle by a single bolt shall have a breaking strength of not less than 5,000 pounds or 2,270 kilograms.

(2) Other attachment hardware designed to receive the ends of two seat belt assemblies shall withstand a tensile force of at least 6,000 pounds or 2,720 kilograms without fracture of any section when tested by the procedure specified in S5.2(c)(2).

(3) A seat belt assembly having single attachment hooks of the quick-disconnect type for connecting webbing to an eye bolt shall be provided with a retaining latch or keeper which shall not move more than 0.08 inch or 2 millimeters in either the vertical or horizontal direction when tested by the procedure specified in S5.2(c)(3).

(d) *Buckle release.* (1) The buckle of a Type 1 or Type 2 seat belt assembly shall release when a force of not more than 30 pounds or 14 kilograms is applied and the buckle of a Type 3 seat belt assembly shall release when a force of not more than 20 pounds or 9 kilograms is applied as prescribed in S5.2.

(2) A buckle designed for pushbutton application of buckle release force shall have a minimum area of 0.7 square inch or 4.5 square centimeters with a minimum linear dimension of 0.4 inch or 10 millimeters for applying the release force, or a buckle designed for lever application of buckle release force shall permit the insertion of a cylinder 0.4 inch or 10 millimeters in diameter and 1.5 inches or 38 millimeters in length to at least the midpoint of the cylinder along the cylinder's entire length in the actuation portion of the buckle release. A buckle having other design for release shall have adequate access for two or more fingers to actuate release.

(3) The buckle of a Type 1 or Type 2 seat belt assembly shall not release under a compressive force of 400 pounds applied as prescribed in paragraph S5.2(d)(3). The buckle shall be operable and shall meet the applicable requirement of paragraph S4.4 after the compressive force has been removed.

(e) *Adjustment force.* The force required to decrease the size of a seat belt assembly shall not exceed 11 pounds or 5 kilograms when measured by the procedure specified in S5.2(e).

(f) *Tilt-lock adjustment.* The buckle of a seat belt assembly having tilt-lock adjustment shall lock the webbing when tested by the procedure specified in S5.2(f) at an angle of not less than 30 degrees between the base of the buckle and the anchor webbing.

(g) *Buckle latch.* The buckle latch of a seat belt assembly when tested by the procedure specified in S5.2(g) shall not fail, nor gall or wear to an extent that normal latching and unlatching is impaired, and a metal-to-metal buckle shall separate when in any position of partial engagement by a force of not more than 5 pounds or 2.3 kilograms.

(h) *Nonlocking retractor.* The webbing of a seat belt assembly shall extend from a nonlocking retractor within 0.25 inch or 6 millimeters of maximum length when a tension is applied as prescribed in S5.2(h). A nonlocking retractor on upper torso restraint shall be attached to the nonadjustable end of the assembly, the reel of the retractor shall be easily visible to an occupant while wearing the assembly, and the maximum retraction force shall not exceed 1.1 pounds or 0.5 kilogram in any strap or webbing that contacts the shoulder when measured by the procedure specified in S5.2(h), unless the retractor is attached to the free end of webbing which is not subjected to any tension during restraint of an occupant by the assembly.

(i) *Automatic-locking retractor.* The webbing of a seat belt assembly equipped with an automatic locking retractor, when tested by the procedure specified in S5.2(i), shall not move more than 1 inch or 25 millimeters between locking positions of the retractor, and shall be retracted with a force under zero acceleration of not less than 0.6 pound or 0.27 kilogram when attached to pelvic restraint, and not less than 0.45 pound or 0.2 kilogram nor more than 1.1 pounds or 0.5 kilogram in any strap or webbing that contacts the shoulders of an occupant when the retractor is attached to upper torso restraint. An automatic locking retractor attached to upper torso restraint shall not increase the restraint on the occupant of the seat belt assembly during use in a vehicle traveling over rough roads as prescribed in S5.2(i).

(j) *Emergency-locking retractor.* An emergency-locking retractor of a Type 1 or Type 2 seat belt assembly, when tested in accordance with the procedures specified in paragraph S5.2(j)—

(1) Shall lock before the webbing extends 1 inch when the retractor is subjected to an acceleration of 0.7g;

(2) Shall not lock, if the retractor is sensitive to webbing withdrawal, before the webbing extends 2 inches when the retractor is subjected to an acceleration of 0.3g or less;

(3) Shall not lock, if the retractor is sensitive to vehicle acceleration, when the retractor is rotated in any direction to any angle of 15° or less from its orientation in the vehicle;

(4) Shall exert a retractive force of at least 0.6 pound under zero acceleration when attached only to the pelvic restraint.

(5) Shall exert a retractive force of not less than 0.2 pound and not more than 1.1 pounds under zero acceleration when attached only to an upper torso restraint;

(6) Shall exert a retractive force of not less than 0.2 pound and not more than 1.5 pounds under zero acceleration when attached to a strap or webbing that restrains both the upper torso and the pelvis.

(k) *Performance of retractor.* A retractor used on a seat belt assembly after subjection to the tests specified in S5.2(k) shall comply with applicable requirements in paragraphs (h) to (j) of this section and S4.4, except that the retraction force shall be not less than 50 percent of its original retraction force.

S4.4 Requirements for assembly performance.

(a) *Type 1 seat belt assembly.* The complete seat belt assembly including webbing, straps, buckles, adjustment and attachment hardware, and retractors shall comply with the following requirements when tested by the procedures specified in C5.3(a):

(1) The assembly loop shall withstand a force of not less than 5,000 pounds or 2,270 kilograms; that is, each structural component of the assembly shall withstand a force or not less than 2,500 pounds or 1,130 kilograms.

(2) The assembly loop shall extend not more than 7 inches or 18 centimeters when subjected to a force of 5,000 pounds or 2,270 kilograms; that is, the length of the assembly between achorages shall not increase more than 14 inches or 36 centimeters.

(3) Any webbing cut by the hardware during test shall have a breaking strength at the cut of not less than 4,200 pounds of 1,910 kilograms.

(4) Complete fracture through any solid section of metal attachment hardware shall not occur during test.

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(b) *Type 2 seat belt assembly.* The components of a Type 2 seat belt assembly including webbing, straps, buckles, adjustment and attachment hardware, and retractors shall comply with the following requirements when tested by the procedure specified in S5.3(b):

(1) The structural components in the pelvic restraint shall withstand a force of not less than 2,500 pounds or 1,139 kilograms.

(2) The structural components in the upper torso restraint shall withstand a force of not less than 1,500 pounds or 680 kilograms.

(3) The structural components in the assembly that are common to pelvic and upper torso restraints shall withstand a force of not less than 3,000 pounds or 1,360 kilograms.

(4) The length of the pelvic restraint between anchorages shall not increase more than 20 inches or 50 centimeters when subjected to a force of 2,500 pounds or 1,130 kilograms.

(5) The length of the upper torso restraint between anchorages shall not increase more than 20 inches or 50 centimeters when subjected to a force of 1,500 pounds or 680 kilograms.

(6) Any webbing cut by the hardware during test shall have a breaking strength of not less than 3,500 pounds or 1,590 kilograms at a cut in webbing of the pelvic restraint, or not less than 2,800 pounds or 1,270 kilograms at a cut in webbing of the upper torso restraint.

(7) Complete fracture through any solid section of metal attachment hardware shall not occur during test.

S5 *Demonstration Procedures.*

S5.1 *Webbing.* (a) *Width.* The width of webbing from three seat belt assemblies shall be measured after conditioning for at least 24 hours in an atmosphere having relative humidity between 48 and 67 percent and a temperature of 23°±2° C. or 73.4±3.6° F. The tension during measurement of width shall be not more than 5 pounds or 2 kilograms on webbing from a Type 1 seat belt assembly, and 2,200±100 pounds or 1,000±50 kilograms on webbing from a Type 2 seat belt assembly. The width of webbing from a Type 2 seat belt assembly may be measured during the breaking strength test described in paragraph (b) of this section.

(b) *Breaking strength.* Webbing from three seat belt assemblies shall be conditioned in accordance with paragraph (a) of this section and tested for breaking strength in a testing machine of suitable capacity verified to have an error or not more than 1 percent in the range of the breaking strength of the webbing by the Tentative Methods of Verification of Testing Machines, ASTM Designation: E4-64, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

The machine shall be equipped with split drum grips illustrated in Figure 1, having a diameter between 2 and 4 inches or 5 and 10 centimeters. The rate of grip separation shall be between 2 and 4 inches per minute or 5 and 10 centimeters per minute. The distance between the centers of the grips at the start of the test shall be between 4 and 10 inches or 10 and 25 centimeters. After placing the specimen in the grips, the webbing shall be stretched continuously at a uniform rate to failure. Each value shall be not less than the applicable breaking strength requirement in S4.2(b), but the median value shall be used for determining the retention of breaking strength in paragraphs (d), (e), and (f) of this section.

(c) *Elongation.* Elongation shall be measured during the breaking strength test described in paragraph (b) of this section by the following procedure: A preload between 44 and 55 pounds or 20 and 25 kilograms shall be placed on the webbing mounted in the grips of the testing machine and the needle points of an extensometer, in which the points remain parallel during test, are inserted in the center of the specimen. Initially the points shall be set at a known distance apart between 4 and 8 inches or 10 and 20 centimeters. When the force on the webbing reaches the value specified in S4.2(c), the increase in separation of the points of the extensometer shall be measured and the percent elongation shall be calculated to the nearest 0.5 percent. Each value shall be not more than the appropriate elongation requirement in S4.2(c).

(d) *Resistance to abrasion.* The webbing from three seat belt assemblies shall be tested for resistance to abrasion by rubbing over the hexagon bar prescribed in Figure 2 in the following manner: The webbing shall be mounted in the apparatus shown schematically in Figure 2. One end of the webbing (A) shall be attached to a weight (B) which has a mass of 5.2±0.1 pounds or 2.35±0.05 kilograms. The webbing shall be passed over the two new abrading edges of the hexagon bar (C) and the other end attached to an oscillating drum (D) which has a stroke of 13 inches or 33 centimeters. Suitable guides shall be used to prevent movement of the webbing along the axis of hexagonal bar C. Drum D shall be oscillated for 5,000 strokes or 2,500 cycles at a rate of 60±2 strokes per minute or 30±1 cycles per minute. The abraded webbing shall be conditioned as prescribed in paragraph (a) of this section and tested for breaking strength by the procedure described in paragraph (b) of this section. The median values for the breaking strengths determined on abraded and unabraded specimens shall be used to calculate the percentage of breaking strength retained.

(e) *Resistance to light.* Webbing at least 20 inches or 50 centimeters in length from three seat belt assemblies shall be suspended vertically on the inside of the specimen rack in a Type E carbon-arc light-exposure apparatus described in recommended Practice for Operation of Light- and Water-Exposure Apparatus (Carbon-Arc Type) for Artificial Weathering Test, ASTM Designation: E42-64, published by the American Society for Testing and Materials. The apparatus shall be operated without water spray at an air temperature of 60°±2° C. or 140°±3.6° F. measured at a point 1±0.2 inch or 25±5 millimeters outside the specimen rack and midway in height. The temperature sensing element shall be shielded from radiation. The specimens shall be exposed to the light from the carbon arc for 100 hours and then conditioned as prescribed in paragraph (a) of this section. The colorfastness of the exposed and conditioned specimens shall be determined on the Geometric Gray Scale issued by the American Association of Textile Chemists and Colorists. The breaking strength of the specimens shall be determined by the procedure prescribed in paragraph (b) of this section. The median values for the breaking strengths determined on exposed and unexposed specimens shall be used to calculate the percentage of breaking strength retained.

(f) *Resistance to micro-organisms.* Webbing at least 20 inches or 50 centimeters in length from three seat belt assemblies shall be subjected successively to the procedures prescribed in Section 1C1—Water Leaching, Section 1C2—Volatilization, and Section 1B3—Soil Burial Test of AATCC Tentative Test Method 30—1957T, Fungicides, Evaluation of Textiles; Mildew and Rot Resistance of Textiles, published by American Association of Textile Chemists and Colorists. After soil-burial for a period of 2 weeks, the specimen shall be washed in water, dried and conditioned as prescribed in paragraph (a) of this section. The breaking strengths of the specimens shall be determined by the procedure prescribed in paragraph (b) of this section. The median values for the breaking strengths determined on exposed and unexposed specimens shall be used to calculate the percentage of breaking strength retained.

NOTE.—This test shall not be required on webbing made from material which is inherently resistant to micro-organisms.

(g) *Colorfastness to crocking.* Webbing from three seat belt assemblies shall be tested by the procedure specified in Standard Test Method 8—1961, Colorfastness to Crocking (Rubbing) published by the American Association of Textile Chemists and Colorists.

(h) *Colorfastness to staining.* Webbing from three seat belt assemblies shall be tested by the procedure specified in Standard Test Method 107—1962, Colorfastness to Water, published by the American Association of Textile Chemists and Colorists, with the following modifications: Distilled water shall be used, perspiration tester shall be used, the drying time in paragraph 4 of procedures shall be 4 hours, and section entitled "Evaluation Method for Staining (3)" shall be used to determine colorfastness to staining on the AATCC Chart for Measuring Transference of Colors.

S5.2 *Hardware*—(a) *Corrosion resistance.* Three seat belt assemblies shall be tested by Standard Method of Salt Spray (Fog) Testing, ASTM Designation: B 117-64, published by the American Society for Testing and Materials. The period of test shall be 50 hours for all attachment hardware at or near the floor, consisting of two periods of 24 hours exposure to salt spray followed by 1 hour drying and 25 hours for all other hardware, consisting of one period of 24 hours exposure to salt spray followed by 1 hour drying. In the salt spray test chamber, the parts from the three assemblies shall be oriented differently, selecting those orientations most likely to develop corrosion on the larger areas. At the end of test, the seat belt assembly shall be washed thoroughly with water to remove the salt. After drying for at least 24 hours under standard laboratory conditions specified in S5.1(a) attachment hardware shall be examined for ferrous corrosion on significant surfaces, that is, all surfaces that can be contacted by a sphere 0.75 inch or 2 centimeters in diameter, and other hardware shall be examined for ferrous and nonferrous corrosion which may be transferred, either directly or by means of the webbing, to a person or his clothing during use of a seat belt assembly incorporating the hardware.

NOTE.—When attachment and other hardware are permanently fastened, by sewing or other means, to the same piece of webbing, separate assemblies shall be used to test the two types of hardware. The test for corrosion resistance shall not be required for attachment hardware made from corrosion-resistant steel containing at least 11.5 percent chromium or for attachment hardware protected with an electrodeposited coating of nickel, or copper and nickel, as prescribed in S4.3(a). The assembly that has been used to test the corrosion resistance of the buckle shall be used to measure adjustment force, tilt-lock adjustment, and buckle latch in paragraphs (e), (f), and (g), respectively, of this section, assembly performance in S5.3 and buckle release force in paragraph (d) of this section.

(b) *Temperature resistance.* Three seat belt assemblies having plastic or nonmetallic hardware or having retractors shall be subjected to the conditions prescribed in Procedure IV of Standard Methods of Test for Resistance of Plastics to Accelerated Service Conditions published by the American Society for Testing and Materials, under designation D 756-56. The dimension and weight measurement shall be omitted. Buckles shall be unlatched and retractors shall be fully retracted during conditioning. The hardware parts after conditioning shall be used for all applicable tests in S4.3 and S4.4.

(c) *Attachment hardware.* (1) Attachment bolts used to secure the pelvic restraint of a seat belt assembly to a motor vehicle shall be tested in a manner similar to that shown in Figure 3. The load shall be applied at an angle of 45° to the axis of the bolt through attachment hardware from the seat belt assembly, or through a special fixture which simulates the loading applied by the attachment hardware. The attachment hardware or simulated fixture shall be fastened by the bolt to the anchorage shown in Figure 3, which has a standard 7/16-20 UNF-2B or ½-13 UNC-2B threaded hole in a hardened steel plate at least 0.4 inch or 1 centimeter in thickness. The bolt shall be installed with two full threads exposed from the fully seated position. The appropriate force required by S4.3(c) shall be applied. A bolt from each of three seat belt assemblies shall be tested.

(2) Attachment hardware, other than bolts, designed to receive the ends of two seat belt assemblies shall be subjected to a tensile force of 6,000 pounds or 2,720 kilograms in a manner simulating use. The hardware shall be examined for fracture after the force is released. Attachment hardware from three seat belt assemblies shall be tested.

(3) Single attachment hook for connecting webbing to any eye bolt shall be tested in the following manner: The hook shall be held rigidly so that the retainer latch or keeper, with cotter pin or other locking device in place, is in a horizontal position as shown in Figure 4. A force of 150±2 pounds or 68±1 kilograms shall be applied vertically as near as possible to the free end of the retainer latch, and the movement of the latch by this force at the point of application shall be measured. The vertical force shall be released, and a force of 150±2 pounds or 68±1 kilograms shall be applied horizontally as near as possible to the free end of the retainer latch. The movement of the latch by this force at the point of load application shall be measured. Alternatively, the hook may be held in other positions, provided the forces are applied and the movements of the latch are measured at the points indicated in Figure 4. A single attachment hook from each of three seat belt assemblies shall be tested.

(d) *Buckle release.* (1) Three seatbelt assemblies shall be tested to determine compliance with the maximum buckle release force requirements, following the assembly test in S5.3. After subjection to the force applicable for the assembly being tested, the force shall be reduced and maintained at 150 pounds on the assembly loop of a Type 1 seatbelt assembly, 75 pounds on the components of a Type 2 seatbelt assembly. The buckle release force shall be measured by applying a force on the buckle in a manner and direction typical of those which would be employed by a seatbelt occupant. For pushbutton-release buckles, the force shall be applied at least 0.125 inch from the edge of the pushbutton access opening of the buckle in a direction that produces maximum releasing effect. For lever-release buckles, the force shall be applied on the centerline of the buckle level or finger tab in a direction that produces maximum releasing effect.

(2) The area for application of release force on pushbutton actuated buckle shall be measured to the nearest 0.05 square inch or 0.3 square centimeter. The cyliner specified in S4.3(d) shall be inserted in the actuation portion of a lever released buckle for determination of compliance with the requirement. A buckle with other release actuation shall be examined for access of release by fingers.

(3) The buckle of a Type 1 or Type 2 seatbelt assembly shall be subjected to a compressive force of 400 pounds applied anywhere on a test line that is coincident with the centerline of the belt extended through the buckle or on any line that extends over the center of the release mechanism and intersects the extended centerline of the belt at an angle of 60°. The load shall be applied by using a curved cylindrical bar having a cross section diameter of 0.75 inch and a radius of curvature of 6 inches, placed with its longitudinal centerline along the test line and its center directly above the point on the buckle to which the load will be applied. The buckle shall be latched, and a tensile force of 75 pounds shall be applied to the connected webbing during the application of the compressive force. Buckles from three seatbelt assemblies shall be tested to determine compliance with paragraph S4.3(d) (3).

(e) *Adjustment force.* Three seat belt assemblies shall be tested for adjustment force on the webbing at the buckle, or other manual adjusting device normally used to adjust the size of the assembly. With no load on the anchor end, the webbing shall be drawn through the adjusting device at a rate of 20±2 inches per minute or 50±5 centimeters per minute and the maximum force shall be measured to

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the nearest 0.25 pound or 0.1 kilogram after the first 1 inch or 25 millimeters of webbing movement. The webbing shall be precycled 10 times prior to measurement.

(f) *Tilt-lock adjustment.* This test shall be made on buckles or other manual adjusting devices having tilt-lock adjustment normally used to adjust the size of the assembly. Three buckles or devices shall be tested. The base of the adjustment mechanism and the anchor end of the webbing shall be oriented in planes normal to each other. The webbing shall be drawn through the adjustment mechanism in a direction to increase belt length at a rate of 20±2 inches per minute or 50±5 centimeters per minute while the plane of the base is slowly rotated in a direction to lock the webbing. Rotation shall be stopped when the webbing locks, but the pull on the webbing shall be continued until there is a resistance of at least 20 pounds or 9 kilograms. The locking angle between the anchor end of the webbing and the base of the adjustment mechanism shall be measured to the nearest degree. The webbing shall be precycled 10 times prior to measurement.

(g) *Buckle latch.* The buckles from three seat belt assemblies shall be opened fully and closed at least 10 times. Then the buckles shall be clamped or firmly held against a flat surface so to permit normal movement of buckle part, but with the metal mating plate (metal-to-metal buckles) or webbing and (metal-to-webbing buckles) withdrawn from the buckle. The release mechanism shall be moved 200 times through the maximum possible travel against its stop with a force of 30±3 pounds or 14±1 kilograms at a rate not to exceed 30 cycles per minute. The buckle shall be examined to determine compliance with the performance requirements of S4.3(g). A metal-to-metal buckle shall be examined to determine whether partial engagement is possible by means of any technique representative of actual use. If partial engagement is possible, the maximum force of separation when in such partial engagement shall be determined.

(h) *Nonlocking retractor.* After the retractor is cycled 10 times by full extension and retraction of the webbing, the retractor and webbing shall be suspended vertically and a force of 4 pounds or 1.8 kilograms shall be applied to extend the webbing from the retractor. The force shall be reduced to 3 pounds or 1.4 kilograms when attached to a pelvic restraint, or to 1.1 pounds or 0.5 kilogram per strap or webbing that contacts the shoulder of an occupant when retractor is attached to an upper torso restraint. The residual extension of the webbing shall be measured by manual rotation of the retractor drum or by disengaging the retraction mechanism. Measurements shall be make on three retractors. The location of the retractor attached to upper torso restraint shall be examined for visibility of reel during use of seat belt assembly in a vehicle.

NOTE: This test shall not be required on a nonlocking retractor attached to the free-end of webbing which is not subjected to any tension during restraint of an occupant by the assembly.

(i) *Automatic-locking retractor.* Three retractors shall be tested in a manner to permit the retraction force to be determined exclusive of the gravitational forces on hardware or webbing being retracted. The webbing shall be fully extended from the retractor. While the webbing is being retracted, the average force or retraction within plus or minus 2 inches or 5 centimeters of 75 percent extension (25 percent retraction) shall be determined and the webbing movement between adjacent locking segments shall be measured in the same region of extension. A seat belt assembly with automatic locking retractor in upper torso restraint shall be tested in a vehicle in a manner prescribed by the installation and usage instructions. The retraction force on the occupant of the seat belt assembly shall be determined before and after traveling for 10 minutes at a speed of 15 miles per hour or 24 kilometers per hour or more over a rough road (e.g., Belgian block road) where the occupant is subjected to displacement with respect to the vehicle in both horizontal and vertical directions. Measurements shall be made with the vehicle stopped and the occupant in the normal seated position.

(j) *Emergency-locking retractor.* A retractor shall be tested in a manner that permits the retraction force to be determined exclusive of the gravitational forces on hardware or webbing being retracted. The webbing shall be fully extended from the retractor, passing over or through any hardware or other material specified in the installation instructions. While the webbing is being retracted, the lowest force of retraction within plus or minus 2 inches of 75 percent extension shall be determined. A retractor that is sensitive to webbing withdrawal shall be subjected to an acceleration of 0.3g within a period of 50 ms. while the webbing is at 75 percent extension, to determine compliance with S4.3(j)(2). The retractor shall be subjected to an acceleration of 0.7g within a period of 50 milliseconds, while the webbing is at 75 percent extension, and the webbing movement before locking shall be measured under the following conditions: For a retractor sensitive to webbing withdrawal, the retractor shall be accelerated in the direction of webbing retraction while the retractor drum's central axis is oriented horizontally and at angles of 45°, 90°, 135°, and 180° to the horizontal plane. For a retractor sensitive to vehicle acceleration, the retractor shall be—

(1) Accelerated in the horizontal plane in two directions normal to each other, while the retractor drum's central axis is oriented at the angle at which it is installed in the vehicle; and,

(2) Accelerated in three directions normal to each other while the retractor drum's central axis is oriented at angles of 45°, 90°, 135°, and 180° from the angle at which it is installed in the vehicle, unless the retractor locks by gravitational force when tilted in any direction to any angle greater than 45° from the angle at which it is installed in the vehicle.

(k) *Performance of retractor.* After completion of the corrosion-resistance test described in paragraph (a) of this section, the webbing shall be fully extended and allowed to dry for at least 24 hours under standard laboratory conditions specified in S5.1(a). The retractor shall be examined for ferrous and non-ferrous corrosion which may be transferred, either directly or by means of the wedding, to a person or his clothing during use of a seat belt assembly incorporating the retractor, and for ferrous corrosion on significant surfaces if the retractor is part of the attachment hardware. The webbing shall be withdrawn manually and allowed to retract for 25 cycles. The retractor shall be mounted in an apparatus capable of extending the webbing fully, applying a force of 20 pounds or 9 kilograms at full extension, and allowing the webbing to retract freely and completely. The webbing shall be withdrawn from the retractor and allowed to retract repeatedly in this apparatus until 2,500 cycles are completed. The retractor and webbing shall then be subjected to the temperature resistance test prescribed in paragraph (b) of this section. The retractor shall be subjected to 2,500 additional cycles of webbing withdrawal and retraction. Then, the retractor and webbing shall be subjected to dust in a chamber similar to one illustrated in Figure 8 containing about 2 pounds or 0.9 kilogram of coarse grade dust conforming to the specification given in SAE Recommended Practice, Air Cleaner Test Code—SAE J726a, published by the Society of Automotive Engineers. The dust shall be agitated every 20 minutes for 5 seconds by compressed air, free of oil and moisture, at a gage pressure of 80±8 pounds per square inch or 5.6±0.6 kilograms per square centimeter entering through an orifice 0.060±0.004 inch or 1.5±0.1 millimeters in diameter. The webbing shall be

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extended to the top of the chamber and kept extended at all times except that the webbing shall be subjected to 10 cycles of complete retraction and extension within 1 to 2 minutes after each agitation of the dust. At the end of 5 hours, the assembly shall be removed from the chamber. The webbing shall be fully withdrawn from the retractor manually and allowed to retract completely for 25 cycles. An automatic-locking retractor or a nonlocking retractor attached to pelvic restraint shall be subjected to 5,000 additional cycles of webbing withdrawal and retraction. An emergency-locking retractor or a nonlocking retractor attached to upper torso restraint shall be subjected to 45,000 additional cycles of webbing withdrawal and retraction between 50 and 100 percent extension. The locking mechanism of an emergency locking retractor shall be actuated at least 10,000 times within 50 to 100 percent extension of webbing during the 50,000 cycles. At the end of test, compliance of the retractors with applicable requirements in S4.3 (h), (i), and (j) shall be determined. Three retractors shall be tested for performance.

S5.3 *Assembly Performance*—(a) *Type 1 seat belt assembly.* Three complete seat belt assemblies, including webbing, straps, buckles, adjustment and attachment hardware, and retractors, arranged in the form of a loop as shown in Figure 5, shall be tested in the following manner:

(1) The testing machine shall conform to the requirements specified in S5.1(b). A double-roller block shall be attached to one head of the testing machine. This block shall consist of two rollers 4 inches or 10 centimeters in diameter and sufficiently long so that no part of the seat belt assembly touches parts of the block other than the rollers during test. The rollers shall be mounted on antifriction bearings and spaced 12 inches or 30 centimeters between centers, and shall have sufficient capacity so that there is no brinelling, bending or other distortion of parts which may affect the results. An anchorage bar shall be fastened to the other head of the testing machine.

(2) The attachment hardware furnished with the seat belt assembly shall be attached to the anchorage bar. The anchor points shall be spaced so that the webbing is parallel in the two sides of the loop. The attaching bolts shall be parallel to, or at an angle of 45° or 90° to the webbing, whichever results in an angle nearest to 90° between webbing and attachment hardware except that eye bolts shall be vertical, and attaching bolts or nonthreaded anchorages of a seat belt assembly designed for use in specific models of motor vehicles shall be installed to produce the maximum angle in use indicated by the installation instructions, utilizing special fixtures if necessary to simulate installation in the motor vehicle. Rigid adapters between anchorage bar and attachment hardware shall be used if necessary to locate and orient the adjustment hardware. The adapters shall have a flat support face perpendicular to the threaded hole for the attaching bolt and adequate in area to provide full support for the base of the attachment hardware connected to the webbing. If necessary, a washer shall be used under a swivel plate or other attachment hardware to prevent the webbing from being damaged as the attaching bolt is tightened.

(3) The length of the assembly loop from attaching bolt to attaching bolt shall be adjusted to about 51 inches or 130 centimeters, or as near thereto as possible. A force of 55 pounds or 25 kilograms shall be applied to the loop to remove any slack in webbing at hardware. The force shall be removed and the heads of the testing machine shall be adjusted for an assembly loop between 48 and 50 inches or 122 and 127 centimeters in length. The length of the assembly loop shall then be adjusted by applying a force between 20 and 22 pounds or 9 and 10 kilograms to the free end of the webbing at the buckle, or by the retraction force of an automatic-locking or emergency-locking retractor. A seat belt assembly that cannot be adjusted to this length shall be adjusted as closely as possible. An automatic-locking or emergency-locking retractor when included in a seat belt assembly shall be locked at the start of the test with a tension on the webbing slightly in exccess of the retractive force in order to keep the retractor locked. The buckle shall be in a location so that it does not touch the rollers during test, but to facilitate making the buckle release test in S5.2(d) the buckle should be between the rollers or near a roller in one leg.

(4) The heads of the testing machine shall be separated at a rate between 2 and 4 inches per minute or 5 and 10 centimeters per minute until a force of 5,000±50 pounds or 2,270±20 kilograms is applied to the assembly loop. The extension of the loop shall be determined from measurements of head separation before and after the force is applied. The force shall be decreased to 150±10 pounds or 68±4 kilograms and the buckle release force measured as prescribed in S5.2(d).

(5) After the buckle is released, the webbing shall be examined for cutting by the hardware. If the yarns are partially or completely severed in a line for a distance of 10 percent or more of the webbing width, the cut webbing shall be tested for breaking strength as specified in S5.1(b) locating the cut in the free length between grips. If there is insufficient webbing on either side of the cut to make such a test for breaking strength, another seat belt assembly shall be used with the webbing repositioned in the hardware. A tensil force of 2,500±25 pounds or 1,135±10 kilograms shall be applied to the components or a force of 5,000±50 pounds or 2,270±20 kilograms shall be applied to an assembly loop. After the force is removed, the breaking strength of the cut webbing shall be determined as prescribed above.

(6) If a Type 1 seat belt assembly includes an automatic-locking retractor or an emergency-locking retractor, the webbing and retractor shall be subjected to a tensile force of 2,500±25 pounds or 1,135±10 kilograms with the webbing fully extended from the retractor.

(7) If a seat belt assembly has a buckle in which the tongue is capable of inverted insertion, one of the three assemblies shall be tested with the tongue inverted.

(b) *Type 2 seat belt assembly.* Components of three seat belt assemblies shall be tested in the following manner:

(1) The pelvic restraint between anchorages shall be adjusted to a length between 48 and 50 inches or 122 and 127 centimeters, or as near this length as possible if the design of the pelvic restraint does not permit its adjustment to this length. An automatic-locking or emergency-locking retractor when included in a seat belt assembly shall be locked at the start of the test with a tension on the webbing slightly in excess of the retractive force in order to keep the retractor locked. The attachment hardware shall be oriented to the webbing as specified in paragraph (a)(2) of this section and illustrated in Figure 5. A tensile force of 2,500±25 pounds or 1,135±10 kilograms shall be applied on the components in any convenient manner and the extension between anchorages under this force shall be measured. The force shall be reduced to 75±5 pounds or 34±2 kilograms and the buckle release force measured as prescribed in S5.2(d).

(2) The components of the upper torso restraint shall be subjected to a tensile force of 1,500±15 pounds or 680±5 kilograms following the procedure prescribed above for testing pelvic restraint and the extension between anchorages under this force shall be measured. If the testing apparatus permits, the pelvic and upper torso restraints may be tested simultaneously. The force shall be reduced to 75±5 pounds or 34±2 kilograms and

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the buckle release force measured as prescribed in S5.2(d).

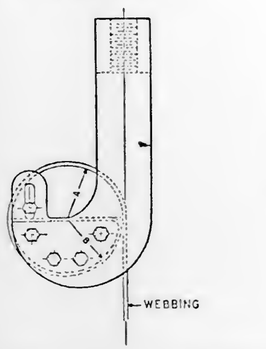
(3) Any component of the seat belt assembly common to both pelvic and upper torso restraint shall be subjected to a tensile force of 3,000±30 pounds or 1,360±15 kilograms.

(4) After the buckle is released in tests of pelvic and upper torso restraints, the webbing shall be examined for cutting by the hardware. If the yarns are partially or completely severed in a line for a distance of 10 percent or more of the webbing width, the cut webbing shall be tested for breaking strength as specified in S5.1(b) locating the cut in the free length between grips. If there is insufficient webbing on either side of the cut to make such a test for breaking strength, another seat belt assembly shall be used with the webbing repositioned in the hardware. The force applied shall be 2,500±25 pounds or 1,135±10 kilograms for components of pelvic restraint, and 1,500±15 pounds or 680±5 kilograms for components of upper torso restraint. After the force is removed, the breaking strength of the cut webbing shall be determined as prescribed above.

(5) If a Type 2 seat belt assembly includes an automatic-locking retractor or an emergency-locking retractor, the webbing and retractor shall be subjected to a tensile force of 2,500±25 pounds or 1,135±10 kilograms with the webbing fully extended from the retractor, or to a tensile force of 1,500±15 pounds or 680±5 kilograms with the webbing fully extended from the retractor if the design of the assembly permits only upper torso restraint forces on the retractor.

(6) If a seat belt assembly has a buckle in which the tongue is capable of inverted insertion, one of the three assemblies shall be tested with the tongue inverted.

(d) *Resistance to buckle abrasion.* Seatbelt assemblies shall be tested for resistance to abrasion by each buckle or manual adjusting device normally used to adjust the size of the assembly. The webbing of the assembly to be used in this test shall be exposed for 4 hours to an atmosphere having relative humidity of 65 percent and temperature of 70° F. The webbing shall be pulled back and forth through the buckle or manual adjusting device as shown schematically in Figure 9. The anchor end of the webbing (A) shall be attached to a weight (B) of 3 pounds. The webbing shall pass through the buckle (C), and the other end (D) shall be attached to a reciprocating device so that the webbing forms an angle of 8° with the hinge stop (E). The reciprocating device shall be operated for 2,500 cycles at a rate of 18 cycles per minute with a stroke length of 8 inches. The abraded webbing shall be tested for breaking strength by the procedure described in paragraph S5.1(b).



A 1 TO 2 INCHES OR 2.5 TO 5 CENTIMETERS
B A MINUS 0.06 INCH OR 0.15 CENTIMETER

FIGURE 1

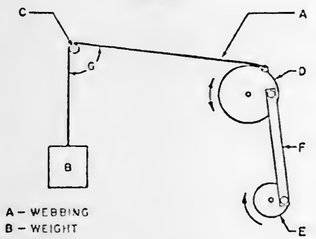


FIGURE 2

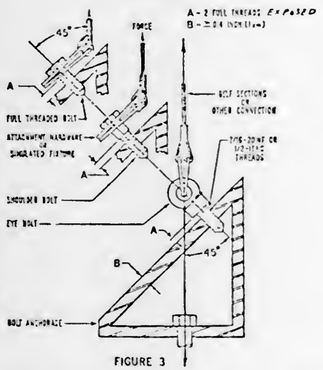


FIGURE 3

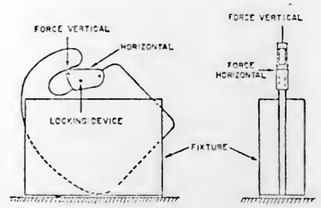


FIGURE 4

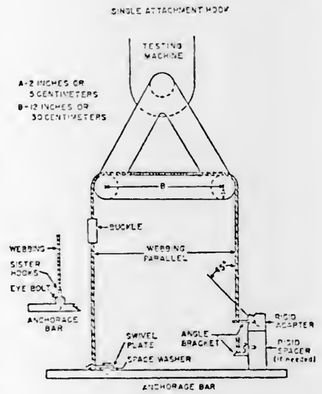


FIGURE 5

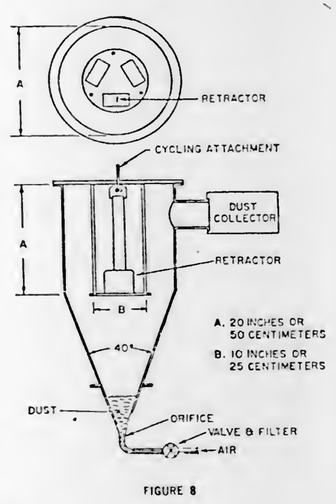
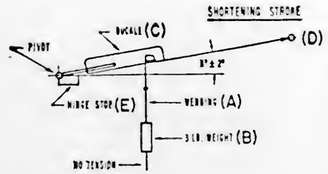


FIGURE 8



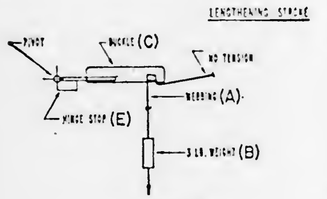


FIGURE 9

§ 571.213 [Amended]

2. Section S4 of Standard No 213, Child Seating Systems (49 CFR 571.213), would be amended to read as follows:

S4. *Requirements.* Each child seating system manufacturer before May 1, 1980, shall meet, at the option of the manufacturer, either the requirements of S4.1 through S4.11 of this standard, or the requirements of § 571.213-80 of this part (Standard No. 213-80).

3. A new Federal Motor Vehicle Safety Standard No. 213-80, Child Restraint Systems, would be added to read as set forth below.

§ 571.213-80 Standard No. 213-80; child restraint systems.

S1. *Scope.* This standard specifies requirements for child restraint systems used in motor vehicles.

S2. *Purpose.* The purpose of this standard is to reduce the number of children killed or injured in motor vehicle crashes.

S3. *Application.* This standard applies to child restraint systems for use in motor vehicles.

S4. *Definitions.*

"Car bed" means a child restraint system designed to restrain or position a child in the supine or prone position on a continuous flat surface.

"Child restraint system" means any device, except Type I or Type II seat belts, designed for use in a motor vehicle to restrain, seat, or position children who weigh not more than 50 pounds.

"Contactable surface" means any child restraint system surface (other than that of a belt, belt buckle, or belt adjustment hardware) that may contact any part of the head or torso of the appropriate test dummy, specified in S7, when a child restraint system is tested in accordance with S6.1.

"Seat orientation reference line" or "SORL" means the horizontal line through Point Z as illustrated in Figure 1A.

S5. *Requirements.* Each child restraint system shall meet the requirements in this section when, as specified, tested in accordance with S6.1.

S5.1 *Dynamic performance.*

S5.1.1 *Child restraint system integrity.* When tested in accordance with S6.1, each child restraint system shall:

(a) Exhibit no complete separation of any load bearing structural element and no partial separation exposing either surfaces with a radius of less than ¼ inch or surfaces with protrusions greater than ⅜ inch above the immediate adjacent surrounding contactable surface of any structral element of the system;

(b) If adjustable to different positions, remain in the same adjustment position during the testing as it was immediately before the testing; and

(c) If a front facing child restraint system, not allow the angle between the system's back support surfaces for the child and the system's seating surface to be less than 45 degrees at the completion of the test.

S5.1.2 *Injury criteria.* When tested in accordance with S6.1, each child restraint system that, in accordance with S5.5.2(f), is recommended for use by children weighing more than 20 pounds, shall—

(a) Limit the resultant acceleration at the location of the accelerometer mounted in the test dummy head as specified in Part 572 such that the expression:

$$\left[\frac{1}{t_2-t_1}\int_{t_1}^{t_2} a\,dt\right]^{2.5}(t_2-t_1)$$

shall not exceed 1,000, where a is the resultant acceleration expressed as a multiple of g (the acceleration of gravity), and t_1 and t_2 are any two moments during the impacts.

(b) Limit the resultant acceleration at the location of the accelerometer mounted in the test dummy upper thorax as specified in Part 572 to not more than 60 g's, except for intervals whose cumulative duration is not more than 3 milliseconds.

S5.1.3 *Occupant excursion.* When tested in accordance with S6.1 and adjusted in any position which the manufacturer has not, in accordance with S5.5.2(i), specifically warned against using in motor vehicles, each child restraint system shall meet the applicable excursion limit requirements specified in S5.1.3.1–S5.1.3.3.

S5.1.3.1 *Child restraint systems other than rear-facing ones and car beds.* In the case of each child restraint system other than a rear-facing child restraint system or a car bed, the test dummy's torso shall be retained within the system and no portion of the test dummy's head nor of either knee pivot point shall pass through the vertical transverse plane that is 30 inches forward of point z on the standard seat assembly, measured along the center SORL (as illustrated in Figure 1B).

S5.1.3.2 *Rear-facing child restraint systems.* In the case of rear-facing child restraint system, all portions of the test dummy's torso shall be retained within the system and no portion of the target point on either side of the dummy's head shall pass through the vertical transverse or horizontal planes which contain, respectively, the forward-most and top-most points on the child restraint system surfaces (illustrated in Figure 1C).

S5.1.3.3 *Car beds.* In the case of car beds, all portions of the test dummy's head and torso shall be retained within the confines of the car bed.

S5.1.4 *Back support angle.* When a rear-facing child restraint system is tested in accordance with S6.1, the angle between the system's back support surface for the child and the vertical shall not exceed 60 degrees.

S5.2 *Force distribution.*

S5.2.1 *Minimum head support surface—child restraints other than car beds.*

S5.2.1.1 Except as provided in S5.2.1.2, each child restraint system other than a car bed shall provide restraint against rearward movement of the head of the child (rearward in relation to the child) by means of a continuous seat back which is an integral part of the system and which—

(a) Has a height, measured along the system seat back surface for the child in the vertical longitudinal plane passing through the longitudinal centerline of the child restraint systems from the lowest point on the system

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seating surface that is contacted by the buttocks of the seated dummy, as follows:

Weight [1] (in pounds)	Height [2] (in inches)
Less than 20 lb	18
20 lb or more, but not more than 40 lb	20
More than 40 lb	22

[1] When a child restraint system is recommended under S5.5(f) for use by children of the above weights.

[2] The height of the portion of the system seat back providing head restraint shall not be less than the above.

(b) Has a width of not less than 8 inches, measured in the horizontal plane at the height specified in paragraph (a) of this section.

(c) Limits the rearward rotation of the test dummy head so that the angle between the head and torso of the dummy specified in S7 when tested in accordance with S6.1 is not more than 45 degrees greater than the angle between the head and torso after the dummy has been placed in the system in accordance with S6.1.2.3 and before the system is tested in accordance with S6.1.

S5.2.1.2 A front-facing child restraint system is not required to comply with S5.2.1.1 if the target point on either side of the dummy's head is below a horizontal plane tangent to the top of the standard seat assembly when the dummy is positioned in the system and the system is installed on the assembly in accordance with S6.1.2.

S5.2.2 *Torso impact protection.* Each child restraint system other than a car bed shall comply with the applicable requirements of S5.2.2.1 and S5.2.2.2.

S5.2.2.1(a) The system surface provided for the support of the child's back shall be flat or concave and have a continuous surface area of not less than 85 square inches.

(b) Each system surface provided for support of the side of the child's torso shall be flat or concave and have a continuous surface of not less than 24 square inches for systems recommended for children weighing 20 pounds or more, or 48 square inches for systems recommended for children weighing less than 20 pounds.

(c) Each horizontal cross section of each system surface designed to restrain forward movement of the child's torso shall be flat or concave and each vertical longitudinal cross section shall be flat or convex with a radius of curvature of not less than 3 inches.

S5.2.2.2 Each forward facing child restraint system shall have no fixed or movable surface directly forward of the dummy and intersected by a horizontal line parallel to the SORL and passing through any portion of the dummy, except for surfaces designed to restrain the dummy when the system is tested in accordance with S6.1.

S5.2.3 *Head impact protection.*

S5.2.3.1 Each child restraint system, other than a child harness, which is recommended under S5.5.2(f) for children weighing less than 20 pounds shall comply with S5.2.3.2.

S5.2.3.2 Each system surface which is contactable by the dummy head when the system is tested in accordance with S6.1 shall be covered with slow recovery, energy absorbing material with the following characteristics:

(a) A thickness of not less than ¾ inch; and

(b) A 25 percent compression-deflection resistance of not less than 5 and not more than 9 pounds per square inch when tested in accordance with S6.3.

S5.2.4 *Protrusion limitation.* Any portion of a rigid structural component within or underlying a contactable surface, or any portion of a child restraint system surface that is subject to the requirements of S5.2.3 shall, with any padding or other flexible overlay material removed, have a height above any immediately adjacent restraint system surface of not more than ⅜ inch and no exposed edge with a radius of less than ¼ inch.

S5.3 *Installation.*

S5.3.1 Each child restraint system shall have no means designed for attaching the system to a vehicle seat cushion or vehicle seat back and no component (except belts) that is designed to be inserted between the vehicle seat cushion and vehicle seat back.

S5.3.2 When installed on a vehicle seat, each child restraint system, other than child harnesses, shall be capable of being restrained against forward movement solely by means of a Type I seat belt assembly (defined in S571.209) that meets Standard No. 208 (S571.208), or by means of a Type I seat belt assembly plus one additional anchorage strap that is supplied with the system and conforms to S5.4.

S5.3.3 *Car beds.* Each car bed shall be designed to be installed on a vehicle seat so that the car bed's longitudinal axis is perpendicuir to a vertical longitudinal plane through the longitudinal axis of the vehicle.

S5.4 *Belts, belt buckles, and belt webbing.*

S5.4.1 *Performance requirements.* The webbing of belts provided with a child restrain system and used to attach the system to the vehicle or to restrain the child within the system shall—

(a) After being subjected to abrasion as specified in S5.1(d) or S5.3(c) of FMVSS No. 209 (S571.209), have a breaking strength of not less than 75 percent of the strength of the unabraided webbing when tested in accordance with S5.1(b) of FMVSS No. 209.

(b) Meet the requirements of S4.2 (e) through (h) of MFVSS No. 209 (S571.209); and

(c) If contactable by the test dummy torso when the system is tested in accordance with S6.1, have a width of not less than 1½ inches when measured in accordance with S5.4.1.1.

S5.4.1.1 *Width test procedure.* Condition the webbing for 24 hours in an atmosphere of any relative humidity between 48 and 67 percent, and any ambient temperature between 70° and 77° F. Measure belt webbing width under a tension of 5 pounds applied lengthwise.

S5.4.2 *Belt buckles and belt adjustment hardware.* Each belt buckle and item of belt adjustment hardware used in a child restraint system shall conform to the requirements of S4.3(a) and S4.3(b) of Standard No. 209 (S571.209).

S5.4.3 *Belt Restraint.*

S5.4.3.1 *General.* Each belt that is part of a child restraint system and that is designed to restrain a child using the system shall be adjustable to snugly fit any child whose height and weight are within the ranges recommended in accordance with S5.5.2(f) and who is positioned in the system in accordance with the instructions required by S5.6.

S5.4.3.2 *Direct restraint.* Each belt that is part of a child restraint system and that is designed to restrain a child using the system and to attach the system to the vehicle shall, when tested in accordance with S6.1, impose no loads on the child that result from the mass of the system or the mass of the seat back of the standard seat assembly specified in S7.3.

S5.4.3.3 *Seating systems.* Except for child restraint systems subject to S5.4.3.4, each child restraint system that is designed for use by a child in a seated position and that has belts designed to restrain the child shall, with the test dummy specified in S7 positioned in the system in 'accordance with S6.1.2.3, provide:

(a) Upper torso restraint, including belts passing over each shoulder of the child;

(b) Lower torso restraint in the form of a lap belt assembly making an angle between 45° and 90° with the child restraint seating surface at the lap belt attachment points;

(c) In the case of each seating system recommended for children over 20 pounds, a crotch strap connectable to the lap belt.

S5.4.3.4 *Harnesses.* Each child harness shall:

(a) Provide upper torso restraint, including belts passing over each shoulder of the child;

(b) Provide lower torso restraint by means of lap and crotch belt; and

(c) Prevent a child of any height for which the restraint is recommended for use pursuant to S5.5.2(f) from standing upright on the vehicle seat when the child is placed in the device in accordance with the instructions required by S5.6.

S5.4.3.5 *Buckle Release.* Any buckle in a child restraint system belt assembly designed to restrain a child using the system shall, when tested in accordance with S6.2—

ALTERNATIVE PROPOSALS

Proposal A. (a) Not release when a force of not more than 12 pounds is applied before the test specified in S6.1, and (b) Release when a force of not more than 20 pounds is applied after the test specified in S6.1.

Proposal B. (a) Not release when a force of not more than 2.25 pounds is applied before the test specified in S6.1, and (b) Release when a force of not more than 13.5 pounds is applied after the test specified in S6.1.

Proposal C. Release when a force of not more than 20 pounds is applied before and after the test specified in S6.1.

S5.5 *Labeling.*

S5.5.1 Each child restraint system shall be permanently labeled with the information specified in S5.5.2 (a) through (k).

S5.5.2 The information specified in paragraphs (a)-(k) of this section shall be stated in the English language and lettered in block letters and numbers that are not less than 3/32 inch high and are on a contrasting background.

(a) The model name or number of the system.

(b) The manufacturer's name. A distributor's name may be used instead if the distributor assumes responsibility for all duties and liabilities imposed on the manufacturer with respect to the system by the National Traffic and Motor Vehicle Safety Act, as amended.

(c) The statement: "Manufactured in ——," inserting the month and year of manufacture.

(d) The place of manufacture (city and State, or foreign country). However, if the manufacturer uses the name of the distributor, then it shall state the location (city and State, or foreign country) of the principal offices of the distributor.

(e) The statement: "This child restraint system conforms to all applicable Federal motor vehicle safety standards."

(f) The following statement, inserting the manufacturer's recommendations for the maximum weight and height of children who can safely occupy the system:

THIS CHILD RESTRAINT IS DESIGNED FOR USE ONLY BY CHILDREN WHO WEIGH BETWEEN — AND — POUNDS AND ARE BETWEEN — AND — INCHES IN HEIGHT.

(g) The statement:

TO PROTECT YOUR CHILD IN A CRASH, THIS RESTRAINT MUST BE SECURED TO THE VEHICLE WITH A VEHICLE BELT AS SPECIFIED IN THE MANUFACTURER'S INSTRUCTIONS.

(h) In the case of each child restraint system that has belts designed to restrain children using them:

WARNING: TO PROTECT YOUR CHILD, USE AND SNUGLY ADJUST THE BELTS PROVIDED WITH THIS RESTRAINT TO RESTRAIN YOUR CHILD.

(i) In the case of each child restraint system which is not intended for use in motor vehicles at certain attitude or adjustment positions, the following statement, inserting the manufacturer's attitude or adjustment restrictions:

WARNING: TO PROTECT YOUR CHILD IN A CRASH, DO NOT USE THE —— ADJUSTMENT POSITION(S) OF THIS CHILD RESTRAINT IN A MOTOR VEHICLE.

(j) In the case of each child restraint system equipped with an anchorage strap, the statement:

WARNING: TO SAFELY RESTRAIN YOUR CHILD, THE ANCHORAGE BELT PROVIDED WITH THIS CHILD RESTRAINT *MUST* BE SECURED AS SPECIFIED IN THE MANUFACTURER'S INSTRUCTIONS.

(k) An installation diagram showing the child restraint system installed in a vehicle as specified in the manufacturer's instructions.

S5.5.3 The information specified in S5.5.2 (f)-(j) shall be located on the child restraint system so that it is visible when the system is installed as specified in S5.6.

S5.6 *Installation instructions.* Each child restraint system shall be accompanied by printed instructions in the English language that provide a step-by-step procedure, including diagrams, for installing the system in motor vehicles, securing the system in the vehicles, positioning a child in the system, and adjusting the system to fit the child.

S5.6.1 The instructions shall state that the rear center seating position is the safest seating position in most vehicles for installing a child restraint system.

S5.6.2 The instructions shall specify in general terms the types of vehicles, seating positions, and vehicle lap belts with which the system can or cannot be used.

S6 *Test Conditions and Procedures.*

S6.1 *Dynamic Systems Test.*

S6.1.1 *Test Conditions.*

S6.1.1.1 The test device is the standard seat assembly specified in S7.3. It is mounted on a dynamic test platform so that the center SORL of the seat is parallel to the direction of the test platform travel and so that movement between the base of the assembly and the platform is prevented. The platform is instrumented with an accelerometer and data processing system having a frequency response of 60Hz channel class as specified in Society of Automotive Engineers Recommended Practice J211a, "Instrumentation for Impact Tests." The accelerometer sensitive axis is parallel to the direction of the test platform travel.

S6.1.1.2 The tests are frontal barrier impact simulations and for—

(a) Test configuration I specified in S6.1.2.1.1, are at a velocity change of 30 mph with the acceleration of the test platform wholly within the shaded area in figure 2.

(b) Test configuration II specified in S6.1.2.1.2, are at a velocity change of 20 mph with the acceleration of the test platform wholly within the shaded area in figure 3.

S6.1.1.3 Type I seat belt assemblies meeting the requirements of Standard No. 209 (S571.209) and having webbing with a width of not more than 2 inches are attached, without the use of retractors or reels of any kind, to the seat belt anchorage points (illustrated in Figure 1B) provided on the standard seat assembly.

S6.1.1.4 Performance tests under S6.1 are conducted at any ambient temperature from 66° to 78° F and at any relative humidity from 10 percent to 70 percent.

S6.1.2 *Dynamic Test Procedure.*

S6.1.2.1 *Test Configuration.*

S6.1.2.1.1 *Test Configuration I.* In the case of each child restraint system, install a new child restraint system at the center seat position of the standard seat assembly in accordance with the manufacturer's instructions provided in accordance with S5.6 with the system.

S6.1.2.1.2 *Test Configuration II.* In the case of each child restraint system, other than a child harness, which is equipped with an anchorage belt, install a new child restraint system at the center seat position of the standard seat assembly in accordance with S6.1.2.1, using only the standard seat lap belt to secure the system to the standard seat.

S6.1.2.2 Tighten all belts used to attach the child restraint system to the standard seat assembly to a tension of not less than 12 pounds and not more than 15 pounds, as measured by a load cell used as specified in S7.3 on the webbing portion of the belt.

S6.1.2.3 Place in the child restraint any dummy specified in S7 for testing systems for use by children of the heights and weights for which the system is recommended in accordance with S5.6.

S6.1.2.3.1 When placing the 3-year-old test dummy in child restraint systems other than car beds, position the test dummy according to the instructions for child positioning provided by the manufacturer with the system in

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accordance with S5.6 while conforming to the following:

(a) Place the test dummy in the seated position within the system with the midsagittal plane of the test dummy head coincident with the center SORL of the standard seating assembly, holding the torso upright until it contacts the system's design seating surface.

(b) Extend the arms of the test dummy as far as possible in the upward vertical direction. Extend the legs of the dummy as far as possible in the forward horizontal direction, with the dummy feet perpendicular to the centerline of the lower legs.

(c) Using a flat square surface with an area of 4 square inches, apply a force of 40 pounds, perpendicular to the plane of the back of the standard seat assembly, first against the dummy crotch and then at the dummy thorax in the midsagittal plane of the dummy.

(d) After the steps specified in paragraph (c) of this section, rotate each dummy limb downwards in the plane parallel to its midsagittal plane until the limb contacts a surface of the child restraint system or the standard seat. Position the limbs, if necessary, so that limb placement does not inhibit torso or head movement in tests conducted under S6.

S6.1.2.3.2 When placing the 6-month-old dummy in child restraint systems other than car beds, position the test dummy according to the instructions for child positioning provided with the system by the manufacturer in accordance with S5.6 while conforming to the following:

(a) With the dummy in the supine position on a horizontal surface, and while preventing movement of the dummy torso by placing a hand on the center of the torso, rotate the dummy legs upward by lifting the feet until the legs contact the upper torso and the feet touch the head, and then slowly release the legs but do not return them to the flat surface.

(b) Place the dummy in the child restraint system s that the back of the dummy torso contacts the back support surface of the system, and tape the dummy head against the front of the seat back surface of the system by means of a single thickness of ¼-inch-wide paper masking tape placed across the center of the dummy face.

(c) Position the dummy arms veticaly upwards and then rotate each arm downward toward the dummy's lower body until it contacts a surface of the child restraint system or the standard seat assembly, ensuring that no arm is restrained from movement in other than the downward direction, by any part of the system or the belts used to anchor the system to the standard seat assembly.

S6.1.2.3.3 When placing the 6-month-old dummy or 3-year-old dummy in a car bed, place the dummy in the car bed in the supine position with its midsagittal plane perpendicular to the center SORL of the standard seat assembly and position the dummy within the car bed in accordance with instructions for child positioning provided with the car bed by its manufactuer in accordance with S5.6.

S6.1.2.4 If provided, shoulder and pelvic belts that directly restrain the dummy shall be adjusted as follows:

Tighten the belts until a 2-pound force applied (as illustrated in figure 5) to the webbing at the top of each dummy shoulder and to the pelvic webbing two inches on either side of the torso vertical certerline pulls the webbing ¼ inch from the dummy.

S6.1.2.5 Accerlerate the test platform to simulate frontal impact in accordance with S6.1.1.2(a) or S6.1.1.2(b), as appropriate.

S6.1.2.6 Measure dummy excursion and determine conformance to the requirements specified in S5.1 as appropriate.

S6.2 *Buckle release test procedure.* The buckles on the belts of each child restraint system equipped with buckled belts shall be tested in accordance with S6.2.1 through S6.2.5.

S6.2.1 Install the child restraint system on a standard seat assembly and place the appropriate test dummy in the system in accordance with S6.1.2.1 through S6.1.2.4.

S6.2.2 Tie a self-adjusting sling to each ankle and wrist of the dummy in the manner illustrated in figure 4.

S6.2.3 Pull the sling horizontally in the manner illustrated in figure 4 and parallel to the center SORL of the seat assembly and apply a force of 20 pounds in the case of a system tested with a 6 month-old dummy and 45 pounds in the case of a system tested with a 3 year-old dummy.

S6.2.4 While applying the force specified in S6.2.3, operate the buckle release mechanism in the manner specified in S5.2(d) of Standard No. 209 (S571.209).

S6.2.5 Measure the force required to release the buckle.

S6.3 *Head impact protection—energy absorbing material test procedure.*

S6.3.1 Prepare test specimens of the energy absorbing material used to comply with S5.2.3 in accordance with section 14 of the American Society for Testing and Materials (ASTM) Standard D1056-73, "Standard Specification for Flexible Cellular Materials—Sponge or Expanded Rubber."

S6.3.2 Subject the prepared test specimens to the 25 percent compression-deflection test described in sections 17, 19, and 20 of that ASTM standard.

S7 *Test dummies.*

S7.1 *Six-month-old dummy.* An unclothed "Six-month-old Size Manikin" conforming to Subpart D of Part 572 of this chapter is used for testing a child restraint system that is recommended by its manufacturer in accordance with S5.6 for use by children in a weight range that includes children weighing not more than 20 pounds.

S7.2 *Three-year-old dummy.* A three-year-old dummy conforming to Subpart C of Part 572 of this chapter is used for testing a child restraint that is recommended by its manufacturer in accordance with S5.6 for use by children in a weight range that includes children weighing more than 20 pounds.

S7.2.1 Before being used in testing under this standard, the dummy is conditioned at any ambient temperature from 66° F to 78° F and at any relative humidity from 10 percent to 70 percent for at least 4 hours.

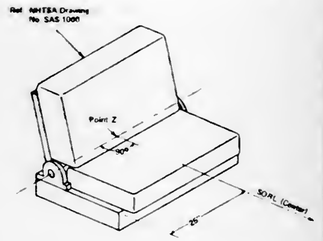
S7.2.2 When used in testing under this standard, the dummy is clothed in thermal knit waffle-weave polyester and cotton underwear, a size 4 long-sleeved shirt weighing 0.2 pounds, a size 4 pair of long pants weighing 0.2 pounds and cut off just far enough above the knee to allow the knee target to be visible, and size 7M sneakers with rubber toe caps, uppers of dacron and cotton or nylong and a total weight of 1 pound. Clothing other than the shoes is machine-washed in 160° F to 180° F water and machine-dried at 120° F to 140° F for 30 minutes.

S7.3 *Standard seat assembly.* The standard seat assembly used in testing under this standard is a simulated vehicle bench seat, with three seating positions, which is described in Drawing Package SAD-100-1000 and consists of drawings and a bill of materials.

(Secs. 103, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on May 10, 1978.

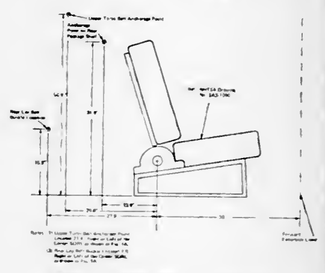
MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

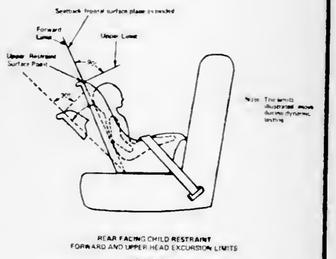


SORL-SEAT ORIENTATION REFERENCE (FACE-HORIZONTAL)

SORL LOCATION ON THE STANDARD SEAT

FIGURE 1A





REAR FACING CHILD RESTRAINT FORWARD AND UPPER HEAD EXCURSION LIMITS

FIGURE 1C

PERMISSIBLE RANGE OF ACCELERATION FUNCTION FOR ΔV = 20 MPH

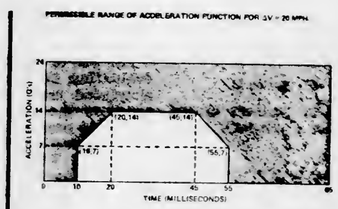
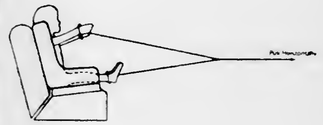
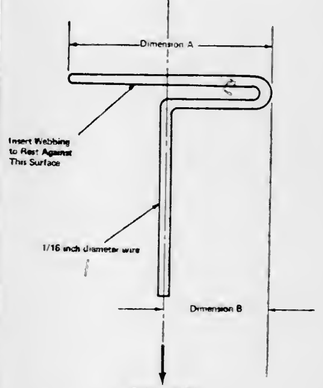


FIGURE 3



BUCKLE RELEASE TEST

FIGURE 4



WEBBING TENSION PULL DEVICE

FIGURE 5

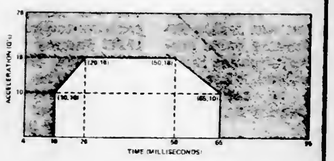


FIGURE 2

[FR Doc. 78-13157 Filed 5-10-78; 4:55 pm]

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[49 CFR Part 572]

[Docket No. 78-09; Notice 1]

ANTHROPOMORPHIC TEST DUMMIES REPRESENTING SIX MONTH OLD AND THREE YEAR OLD CHILDREN

Proposed Specifications and Performance Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice is being issued in conjunction with a proposal to require that child restraint systems be dynamically tested using anthropomorphic test dummies representing 6-month-old and 3-year-old children. Specifications and performance requirements for those dummies are proposed in this notice.

DATES: Comments must be received on or before December 1, 1978. Proposed effective date: Date of publication of the final rule on test dummies in the FEDERAL REGISTER.

ADDRESS: Comments should refer to the docket number and be submitted to Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Vladislav Radovich, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street NW., Washington, D.C. 20590, 202-426-2264.

SUPPLEMENTARY INFORMATION: This proposal supplements a separate proposal being published today elsewhere in this issue of the FEDERAL REGISTER that would amend Federal Motor Vehicle Safety Standard No. 213, relating to child restraint systems, to expand the applicability of that standard and to require that child restraints be tested in simulated crashes. The measurements to be made in dynamically testing the child restraints would be made by placing child test dummies in the child restraints and subjecting the dummies and restraints to specified acceleration sled tests. Two sorts of dummies would be used in those tests. One would represent a 6 month old infant (infant dummy) and the other, a 3-year-old child (3-year-old child dummy). That proposal would require that, during the dynamic tests, the dummies be retained within the child restraints and that child restraints designed for children weighing more than 2 pounds (those restraints would typically be tested using the 3-year-old child dummy) limit the acceleration levels at specified locations in the dummy's head and chest.

The use of similar test dummies for evaluating child restraint systems in simulated crashes was initially proposed in the agency's March 1, 1974, notice of proposed rulemaking on the dynamic testing of child restraints (39 FR 7959). Three classes of dummies were proposed in that notice. For testing restraints recommended for children weighing 17 pounds or less, the notice proposed using a dummy representing a 6 month old child and made of sail cloth, filled with plastic pellets and lead shot. For the 17 to 43 pound range, the agency proposed use of either the Sierra 3 year old P/N 492-03 or the Alderson Model No. VIP-3C. For the over 43 pound range, the candidate dummies were the Alderson Model No. VIP-6C and the Sierra 6 year old P/N 492-106.

In the several months following the March 1, 1974, proposal, the 6 month old dummy was dynamically tested, modified, and retested by the Federal Aviation Administration in infant carriers of three manufacturers. The modified dummy represented an advance in the state-of-the-art and was vastly superior to the former version of the dummy. Notice of availability of detailed specifications for the modified 6-month-old dummy was published by NHTSA on May 22, 1974 (39 FR 18287).

Further action on the March 1, 1974, notice was delayed pending completion of additional work in specifications and performance criteria for the dummies. Since that notice, the NHTSA has initiated and completed a number of programs to select and define the design and specifications for the most suitable dummies to be used for testing child restraints.

The infant dummy proposed in this notice would be specified by descriptive design specifications alone, while the 3-year-old child dummy would be specified not only by such specifications, but also in performance terms. Those specifications and performance requirements are similar in type, although generally not in magnitude, to those set forth in Part 572, Subpart B, for 50th percentile male dummies. Mechanical drawings would provide uniformity of construction and design details in dummies or dummy parts produced by suppliers. Performance criteria would also be provided, where appropriate, to serve as calibration checks and help to assure repeatability of performance.

The use of specifications and performance criteria is consistent with the statements by the U.S. Court of Appeals for the Sixth Circuit regarding the 50th percentile male dummy in its December 5, 1972, decision on petitions for review of Safety Standard No. 208, Occupant Crash Protection (*Chrysler v. Volpe*, 472 F. 2d 659 (6th Cir. 1972)). The Court upheld the validity of the standard in most respects, but remanded the proceeding to NHTSA on the ground that the test dummy specifications were inadequate and did not meet the statutory requirement that the standard be phrased in objective terms. The Court noted three specific respects in which it considered the specifications to be inadequate. The Court also noted with approval the statement made by the NHTSA in a previous rulemaking notice relating to Standard No. 208: "(S)ince the dummy is merely a test instrument and not an item of regulated equipment, it is not necessary to describe it in performance terms; its design could be legally 'frozen' by detailed, blue-print-type drawings and complete equipment specifications" (36 FR 19255; October 1, 1971).

The agency has tentatively selected the infant dummy whose specifications were announced in the agency's May 22, 1974, notice to be the infant dummy used for testing under the new child restraint proposal. The dummy is based on a very simple design which represents a 6 month old infant in dimensional and mass distribution characteristics. It will provide a reliable record of the dynamics of a child restraint occupant during simulated impact tests. When it was used by NHTSA in assessing the ability of infant carriers to retain their occupants and maintain structural integrity during such tests, it was found to provide a consistent and repeatable measure for this purpose. However, the dummy is not suitable because of its construction to be instrumented for measuring inertial forces.

Detailed design drawings and a construction manual for the infant dummy are available for examination in the NHTSA Docket Section at the address given above for comments. Copies of these materials may be obtained from the Keuffel and Esser Co., 1512 North Danville Street, Arlington, Va. 22201.

The tentatively selected 3-year-old child dummy is the NHTSA test dummy SA 103C. It is a slightly modified version of the Alderson Model VIP-3C. After comprehensive comparative testing by the agency, the SA 103C dummy was selected instead of the Sierra 492-03 for the following reasons: The SA 103C dummy has more complete design details; is more adequate for withstanding the test loads during impact testing and for installing instrumentation; has a more accurate anthropometry and mass distribution and has more childlike kinematic responses during impacts; and has more consistent head and chest acceleration measurements during impacts.

The specifications for the 3-year-old child dummy would consist of the following three elements: a drawing package containing all of the technical details of the dummy parts and dummy assembly; a set of master patterns for all molded and cast parts of the dummy which enable rapid reproduction of them; and a maintenance manual containing instructions for assembly, disassembly, use, adjustments, and maintenance of dummies. These elements would ensure that the dummies would vary little in their construction. Performance criteria would also be specified to serve as calibration checks and further assure the uniformity of dummy construction and the repeatability of performance in dynamic testing.

The dummies would be equipped with photographic targets attached to the head and knees. They would also be instrumented with accelerometers for measurement of accelerations in the head and chest during impacts. The rule would specify the manner and location of installation of accelerometers so that there would be no variability in their measurements resulting from different locations and mountings of the accelerometers. As a further safeguard, the calibration tests would ensure the absence of damage from previous use.

Data obtained from impact testing of several child restraints with 3-year-old child dummies in them revealed that the dummies' performance has adequate levels of repeatability. This establishes their reliability as a tool for measuring child restraint performance. The use of these dummies, therefore, would provide an objective measure of the effectiveness of child restraints in car crashes.

The agency emphasizes that the calibration for the 3-year-old dummy is still tentative and anticipates that the final rule may reduce the response ranges further. Testing regarding the appropriate calibrations for that dummy will continue after issuance of this notice. The results of those tests will be placed in the public docket as soon as possible after completion of the tests.

Drawings and specifications for the 3-year-old child dummy are available for examination in the NHTSA Docket Section. Copies of those materials and an operation and maintenance manual can be obtained from the Keuffel and Esser Co. In addition, patterns for all cast and molded parts are available on a loan basis from the NHTSA Office of Vehicle Safety Standards.

The cost of the infant dummy is estimated to be less than $500 and of the 3-year-old child dummy, about $3,600. The materials used in the dummies are commercially obtainable, and are similar to those used in the 50th percentile male dummy described in Subpart B of Part 572.

From the agency's point of view anyone is free to produce the dummies used for testing and in fact the availability of relevant mechanical drawings through the NHTSA designated supply sources is intended to make that possible. The negotiation or adjudication of any patent or other private claims that may arise should be dealt with by the commercial and legal processes of the private sector.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commentor or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The agency has reviewed the impacts of this regulation and determined that it is not a significant regulation within the meaning of Executive Order 12044.

The principal authors of this notice are Mr. Vladislav Radovich, Office of Vehicle Safety Standards, and Mr. Stephen Wood, Office of the Chief Counsel.

In consideration of the foregoing, it is proposed that 49 CFR Part 572, Anthropomorphic Test Dummies, be amended by adding a new Subpart C—Three Year Old Child and new Subpart D—Six Month Old Infant immediately after Subpart B as follows:

Subpart C—Three Year Old Child

Sec.

572.15 General description.
572.16 Head.
572.17 Neck.
572.18 Thorax.
572.19 Lumbar, spine, abdomen and pelvis.
572.20 Limbs.
572.21 Test conditions and instrumentation.

Subpart C—Three Year Old Child

§ 572.15 General description.

(a)(1) The dummy consists of the component assemblies specified in drawing SA 103C 001, which are described in their entirety by means of approximately 114 drawings and specifications grouped by component assemblies under the following headings:

SA 103C 010	Head Assembly
SA 103C 020	Neck Assembly
SA 103C 030	Torso Assembly
SA 103C 041	Upper Arm Assembly Left
SA 103C 042	Upper Arm Assembly Right
SA 103C 051	Forearm Hand Assembly Left
SA 103C 052	Forearm Hand Assembly Right
SA 103C 061	Upper Leg Assembly Left
SA 103C 062	Upper Leg Assembly Right
SA 103C 071	Lower Leg Assembly Left
SA 103C 072	Lower Leg Assembly Right
SA 103C 081	Foot Assembly Left
SA 103C 082	Foot Assembly Right

The drawings and specifications are incorporated in this part by reference to the thirteen headings and are available for examination in Docket 78-09, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. Copies may be obtained from Keuffel & Esser Co., 1521 North Danville Street, Arlington, Va. 22201.

(2) The patterns of all cast and molded parts for reproduction of the molds needed in manufacturing of the dummies are incorporated in this part by reference. A set of the patterns can be obtained on a loan basis by manufacturers of the test dummies, or others if need is shown, from the Office of Vehicle Safety Standards, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590.

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(3) An Operation and Maintenance Manual with instructions for the use and maintenance of the test dummies dated May 28, 1976, Contract No. DOT-HS-6-01294 is incorporated in the part by reference. Copies of the manual can be obtained from the Keuffel & Esser Co. All provisions of this manual are valid unless modified by this regulations. This document is available for examination in Docket 78-09.

(4) The drawings, specifications and the manual are subject to changes, but any change will be accomplished by appropriate administrative procedures and announced by publication in the FEDERAL REGISTER and be available for examination and copying as indicated in this paragraph.

(5) The drawings, specifications, patterns, and manual are on file in the reference library of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C.

(b) Adjacent segments are joined in a manner such that throughout the range of motion and also under simulated crash-impact conditions, there is no contract between metallic elements except for contacts that exist under static conditions.

(c) The structural properties of the dummy are such that the dummy conforms to this part in every respect both before and after being used in tests specified by Standard No. 213 (§ 571.213).

§ 572.16 Head.

(a) The head consists of the assembly shown in drawing SA 103C 001 by number SA 103C 010, and conforms to each of the drawings listed under this number on drawing SA 103C 002, sheet 8.

(b) When the head is impacted in accordance with paragraph (c) of this section by a test probe conforming to § 572.21(a) at 7 fps., the peak resultant accelerations measured at the location of the accelerometers mounted in the headform in accordance with § 571.21(b) shall be not less than 95g, and not more than 122g. The recorded acceleration-time curve for this test shall be unimodal and shall lie at, or above the 50g level for an interval not less than 2.0 and not more than 3.0 milliseconds. The lateral acceleration vector shall not exceed 5g.

(c) *Test Procedure:*

(1) Seat the dummy on a seating surface having a back support as specified in § 572.21(h) and orient the dummy in accordance with § 572.21(h) and adjust the joints of the limbs at any setting between 1g and 2g, which just supports the limbs' weight when the limbs are extended horizontally forward.

(2) Adjust the test probe so that its longitudinal centerline is at the forehead midsagittal plan 2.9±0.1 inches below the top of the head and coincides within 2 degrees with the line made by the intersection of horizontal and midsagittal planes passing through this point.

(3) Adjust the dummy so that the surface area on the forehead immediately adjacent to the projected longitudinal centerline of the test probe is vertical.

(4) Impact the head with the test probe so that at the moment of impact the probe's longitudinal centerline falls within 2 degrees of a horizontal line in the dummy's midsagittal plane.

(5) Guide the probe during impact so that it moves with no significant lateral, vertical, or rotational movement.

(6) Allow a time period of at least 20 minutes between successive tests of the head.

§ 572.17 Neck.

(a) The neck consists of the assembly shown in drawing SA 103C 001 as number SA 103C 020, and conforms to each of the drawings listed under this number on drawing SA 103C 002, sheet 9.

(b) When the head-neck assembly is tested in accordance with paragraph (c) of this section, the head shall rotate in reference to the pendulum's longitudinal centerline a total of 84 degrees ± 8 degrees about its center of gravity, rotating to the extent specified in the following table at each indicated point in time, measured from impact, with the chordal displacement measured at its center of gravity. The chordal displacement at time T is defined as the straight line distance between (1) the position relative to the pendulum arm of the head center of gravity at time zero, and (2) the position relative to the pendulum arm of the head center of gravity at time T as illustrated by figure 3. The peak resultant acceleration recorded at the location of the accelerometers mounted in the headform in accordance with § 572.21(b) shall not exceed 30g. The pendulum shall not reverse direction until the head's center of gravity returns to the original zero time position relative to the pendulum arm.

Rotation (degrees)	Plus or minus	Time	Chordal (inches ± 0.8)
0	0	2±.08t	0
30	21	2±.08t	2.2
60	36	2±.08t	4.3
Maximum	62	2±.08t	5.8
60	91	2±.08t	4.3
30	108	2±.08t	2.2
0	123	2±.08t	0

(c) *Test Procedure:*

(1) Mount the head and neck on a rigid pendulum as specified in Figure 4, so that the head's midsagittal plane is vertical and coincides with the plane of motion of the pendulum's longitudinal centerline. Mount the neck directly to the pendulum as shown in Figure 15.

(2) Release the pendulum and allow it to fall freely from a height such that the velocity at impact is 17.00 ± 1.0 feet per second (fps), measured at the center of the accelerometer specified in figure 4.

(3) Decelerate the pendulum to a stop with an acceleration-time pulse described as follows:

(i) Establish 5g and 20g levels on the a-t curve.

(ii) Establish t_1 at the point where the a-t curve first crosses the 5g level, t_2 at the point where the rising a-t curve first crosses the 20g level, t_3 at the point where the decaying a-t curve last crosses the 20g level, and t_4 at the point where the decaying a-t curve first crosses the 5g level.

(iii) t_3-t_1, shall be not more than 3 milliseconds.

(iv) t_3-t_2, shall be not less than 18 and not more than 21 milliseconds.

(v) t_4-t_3, shall be not more than 5 milliseconds.

(vi) The average deceleration between t_2 and t_3 shall be not less than 20g and not more than 36g.

(4) Allow the neck to flex without contact of the head or neck with any object other than the pendulum arm.

(5) Allow a time period of at least 1 hour between successive tests of the head and neck.

§ 572.18 Thorax.

(a) The thorax consists of the part of the torso shown in assembly drawing SA 103C 001 by number SA 103C 030 and conforms to each of the applicable drawings listed under this number on drawing Sa 103C 002, sheets 10 and 11.

(b) The thorax rib cage is constructed so as to permit the midpoint of the sternum to be depressed 1.5 inches without contact between the rib cage and other parts of the dummy.

(c) When impacted by a test probe conforming to § 572.21(a) at 10 fps. in accordance with paragraph (d) of this section, the peak resultant accelerations at the location of the accelerometers mounted in the chest cavity in accordance with § 572.21(c) shall be not less than 46g and not more than 78g. The acceleration-time curve for the test shall be unimodal and shall lie at or above the 30g level for an interval not less than 2.0 milliseconds and not more than 4.0 milliseconds. The lateral acceleration vector shall not exceed 5g.

(d) *Test Procedure:*

(1) With the dummy seated without back support on a surface as specified in § 572.21C(h) and oriented as specified in § 572.21(h), adjust the dummy arms and legs until they are extended horizontally forward parallel to the midsagittal plane. the joints of the limbs are adjusted at any setting between 1g and 2g, which just supports the limbs' weight when the limbs are extended horizontally forward.

(2) Place the longitudinal centerline of the test probe at the chest midsagittal plane so that it is 11.25 ± 0.1 inches below the tope of the head at impact.

(3) Align the test probe so that at impact its longitudinal centerline coincides within 2 degrees with the line formed by intersection of the horizontal and midsagittal planes passing through the designated impact point.

(4) Adjust the dummy so that the surface area on the thorax immediately adjacent to the projected longitudinal centerline of the test probe is vertical.

(5) Impact the thorax with the test probe so that at the moment of impact the probe's longitudinal centerline falls with 2 degrees of a horizontal line in the dummy midsagittal plane.

(6) Guide the probe during impact so that it moves with no significant lateral, vertical or rotational movement.

(7) Allow a time period of at least 20 minutes between successive tests of the chest.

§ 572.19 Lumbar spine, abdomen and pelvis.

(a) The lumbar spine, abdomen, and pelvis consist of the part of the torso assembly shown by number SA 103C 030 on drawing SA 103C 001 and conform to each of the applicable drawings listed under this number on drawing SA 103C 002, sheets 10 and 11.

(b) When subjected to continuously applied force in accordance with paragraph (c) of this section, the lumbar spine assembly shall flex by an amount that permits the rigid thoracic spine to rotate from its initial position in accordance with Figure 18 of this subpart by 40 degrees at a force level of not less than 43 pounds and not more than 83 pounds, and straighten upon removal of the force to within 5 degrees of its initial position.

(c) *Test Procedure:* (1) The dummy with lower legs removed is positioned in an upright seated position on a seat as indicated in Figure 18, ensuring that all dummy component surfaces are clean, dry and untreated unless otherwise specified.

(2) Attach the pelvis to the seating surface by a bolt C/328, modified as shown in Figure 18, and the upper legs at the knee axial rotation joints by the attachments shown in Figure 18. Tighten the mountings so that the pelvis-lumbar joining surface is horizontal and adjust the femur friction plungers at each hip socket joint to 50 inch pounds torque.

(3) Flex the thorax forward 50 degrees and then rearward as necessary to return to its initial position in accordance with Figure 18 unsupported by external means.

(4) Apply a forward force perpendicular to the thorax instrument cavity rear face in the midsagittal plane 11.2 inches vertically above the dummy's seating surface. Apply the force at any torso deflection rate between 0.5 and 1.5 degrees per second up to 40 degrees of flexion but no further; continue to apply for 10 seconds the force necessary to maintain 40 degrees of flexion, and record the highest applied force at that time. Release all force as rapidly as possible and measure the return angle 3 minutes after the release.

§ 572.20 Limbs.

The limbs consist of the assemblies shown on drawing SA 103C 001 as Nos. SA 103C 041, SA 103C 042, SA 103C 051, SA 103C 052, SA 103C 061, SA 103C 062, SA 103C 071, SA 103C 072, SA 103C 081, SA 103C 082, and conform to each of the applicable drawings listed under their respective numbers of the drawing SA 103C 002, sheets 12 through 21.

§ 572.21 Test conditions and instrumentation.

(a) The test probe used for head and thoracic impact tests is a cylinder 3 inches in diameter, 13.8 inches long and weights 10 lbs., 6 ozs. Its impacting end has a flat right face that is rigid and that has an edge radius of 0.5 inches.

(b) Accelerometers are mouted in the head on the mounting block (A/310) located on the horizontal transverse bulkhead shown in the drawings subreferenced under assembly SA 103C 010 so that their sensitive axes intersect orthogonally, except in the case of tri-axial accelerometers, at the axial intersection point located at the intersection of a line connecting the longitudinal centerlines of the transfer pins in the sides of the dummy head with the midsagittal plane of the dummy head. In the case of a tri-axial accelerometer, the intersection of two of the sensitive axes of the accelerometer can be located up to 1 inch from the axial intersection point and the third sensitive axis can be located up to 0.3 inches from the axial intersection point. One accelerometer is aligned with its sensitive axis parallel to the vertical bulkhead and midsagittal plane, and with its seismic mass center at the intersection of the midsagittal and horizontal planes passing through the axial intersection point at any distance up to 0.3 inches dorsal to the axial intersection point. another accelerometer is aligned with its sensitive axis in the horizontal plane and perpendicular to the midsagittal plane, and with its seismic mass center at any distance up to 0.2 inches seismic mass center at any distance up to 0.2 inches inferior to, 0.4 inches to the right of, and 1 inch dorsal to the axial intersection point (right side of dummy is the same as that of child). A third accelerometer is aligned with its sensitive axisparallel to the midsagittal and horizontal planes, and with its seismic mass center at any distance up to 0.2 inches inferior to, 0.5 inches dorsal to, and 0.4 inches to the right of the axial intersection point. In the case of a tri-axial accelerometer, its axes are aligned in the same way that the axes of three separate accelerometers are aligned.

(c) Accelerometers are mounted in the thorax on the mounting plate attached to the vertical transverse bulkhead shown in the drawings subreferenced under assembly No. SA 103C 030 in drawing SA 103C 001 so that their sensitive axes intersect orthogonally at the axial intersection point located in the midsagittal plane 3 inches above the top surface of the lumber spine and 0.3 inches dorsal to the accelerometer mounting plate surface. In the case of a tri-axial accelerometer, one sensitive axis of the accelerometer can be at any distance up to 0.9 inches from the axial intersection point. One accelerometer is aligned with its sensitive axis parallel to the vertical bulkhead and mid-sagittal planes, and with its seismic mass center at the intersection of transverse vertical and horizontal planes passing through the axial intersection point and at any distance up to 0.4 inches to the left of the axial intersection point. Another accelerometer is aligned with its sensitive axis in the vertical transverse plane and perpendicular to the midsagittal plane and with its seismic mass center at the intersection of the midsagittal and vertical transverse planes passing through the axial intersection point and at any distance up to 0.5 inches superior to the axial intersection point. A third accelerometer is aligned with its sensitive axis parallel to the midsagittal and horizontal planes and with its seismic mass center at any distance up to 0.5 inches superior, dorsal and to the right of the axial intersection point. In the case of a tri-axial accelerometer, its axes are aligned in the same way that the axes of three separate accelerometers are aligned.

(d) The outputs of accelerometers installed in the dummy, and of test apparatus specified by this part, are recorded in individual data channels that conform to the requirements of SAE Recommended Practice J211a, December 1971, with channel classes as follows:

(1) Head acceleration—Class 1000.

(2) Pendulum acceleration—Class 60.

(3) Thorax acceleration—Class 180.

(e) The mountings for accelerometers have no resonance frequency within a range of 3 times the frequency range of the applicable channel class.

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(f) Limb joints are set at the force between 1-2g, which just supports the limbs' weight when the limbs are extended horizontally forward. The force required to move a limb segment does not exceeed 2g throughout the range of limb motion.

(g) Performance tests are conducted at any temperature from 66° F to 78° F and at any relative humidity from 10 percent to 70 percent after exposure of the dummy to these conditions for a period of not less than 4 hours.

(h) For the performance tests specified in §§ 572.16, 572.18, and 572.19, the dummy is positioned in accordance with Figures 16, 17, and 18 as follows:

(1) The dummy is placed on a flat, rigid, clean, dry, horizontal surface of teflon sheeting with a smoothness of 10 microinches and whose length and width dimensions are not less than 16 inches, so that the dummy's midsagittal plane is vertical and centered on the test surface. For head tests, the seat has a vertical back support whose top is 12.4±0.2 inches above the seating surface. The rear surfaces of the dummy's shoulders and buttocks are touching the back support as shown in Figure 16. For thorax and lumbar spine tests, the seating surface is without the back support as shown in Figures 17 and 18, respectively.

(2) The shoulder yokes are adjusted so that they are at the midpoint of their anterior-posterior travel with their upper surfaces horizontal.

(3) The dummy is adjusted for head impact and lumbar flexion tests so that the rear surfaces of the shoulders and buttocks are tangent to a transverse vertical plane.

(4) The arms and legs are positioned so that their centerlines are in planes parallel to the midsagittal plane.

(i) The dummy's dimensions are specified in drawings No. SA 103C 002, sheets 22 through 26.

(j) Performance tests of the same component, segment, assembly or fully assembled dummy are separated in time by a period of not less than 20 minutes unless otherwise specified.

(k) Surfaces of the dummy components are not painted except as specified in this part or in drawings subtended by this part.

Subpart D—Six Month Old Infant

Sec.
572.25 General description.

Subpart D—Six Month Old Infant

§ 572.25 General Description.

(a) The infant dummy is specified in its entirety by means of 5 drawings (No. SA 100I 001) and a construction manual which describes in detail the materials and the procedures involved in the manufacturing of this dummy. The drawings and the manual are incorporated in this part by reference and are available for examination in Docket 78-09, Room 5108, 400 Seventh Street SW., Washington, D.C. Copies may be obtained from Keuffel & Esser Co., 1512 North Danville Street, Arlington, Va. 22201. The drawings and the manual are subject to changes, but any change will be accomplished by appropriate administrative procedures and announced by publication in the FEDERAL REGISTER and be available for examination and copying as indicated in this paragraph. The drawings and manual are on file in the reference library of the FEDERAL REGISTER, National Archives and Records Services, General Services Administration, Washington, D.C.

(b) The structural properties and dimensions of the dummy are such that the dummy conforms to this part in every respect, both before and after being used in tests specified by Standard No. 213 (571.213).

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on May 10, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

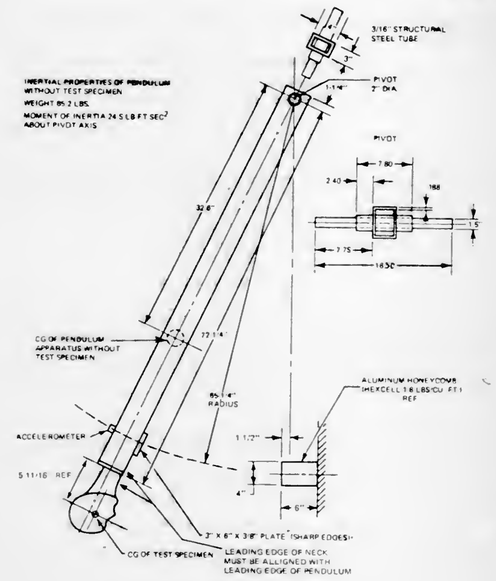


FIGURE NO. 15
NECK COMPONENT TEST

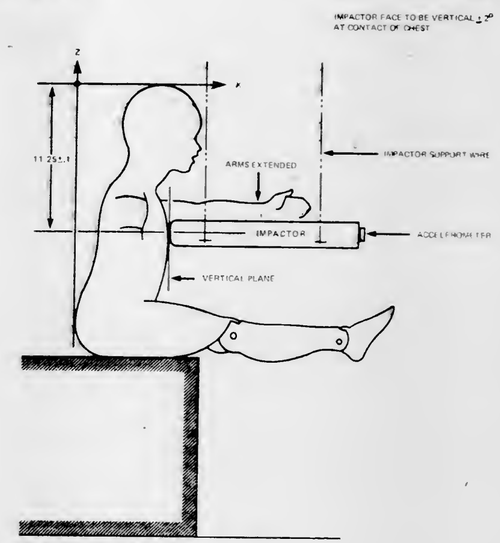


FIGURE NO. 17
CHEST IMPACT TEST

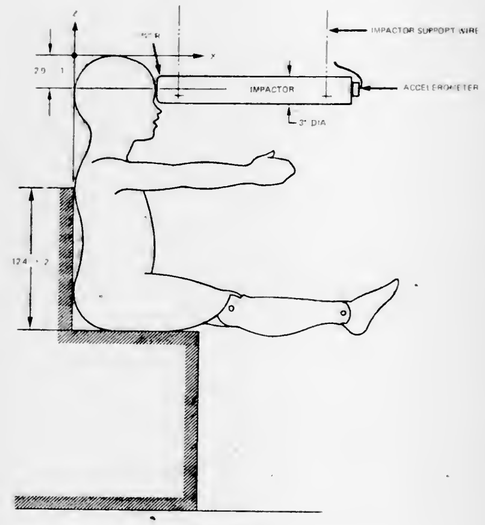


FIGURE NO. 16
HEAD IMPACT TEST

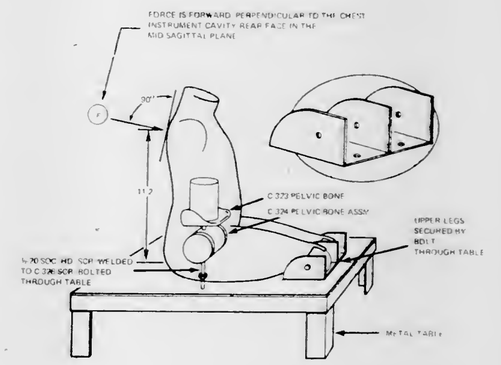


FIGURE NO. 18
LUMBAR SPINE FLEXION TEST

[FR Doc. 78-13158 Filed 5-10-78; 4:55 pm]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 31821; Order 78-5-57]

DELTA AIR LINES, INC.

Order Setting Application for Hearing in Accordance With Subpart N Expedited Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of May, 1978.

On December 13, 1977, Delta Air Lines filed an application, pursuant to Subpart N of Part 302 of the Board's Procedural Regulations, for amendment of its certificates of public convenience and necessity for Routes 24 and 27 to authorize it to provide nonstop service between Atlanta and Hartford/Springfield.[1]

By order 78-2-80, February 15, 1978, the Board denied Eastern Air Lines' request that Delta's application be dismissed, and set the application for further proceedings under Rules 1406-1410 of Subpart N.

Answers in support of Delta's application were filed by the Atlanta parties[2] and the Hartford parties.[3] The Springfield parties[4] filed a "statement of position" in favor of Delta's request. No competing applications for the authority have been filed.

Eastern filed an answer again urging that Delta's application be dismissed. Eastern asserts, among other things, that the Atlanta-Hartford market is currently well-served by its five daily nonstop roundtrips. Accordingly, Eastern submits that there is no reason to give Delta's application for improved competitive authority hearing priority over more worthy applications, moreover, Eastern argues that it would suffer gross revenue diversion of over $3 million should Delta's proposal be implemented.

Delta filed a reply arguing that it has made a sufficient showing in support of its application to justify removal of its Atlanta-Hartford/Springfield operating restriction without the necessity of a hearing.

We have decided to set Delta's application for hearing in accordance with Subpart N expedited procedures.

We believe that there is merit to Delta's suggestion that its application be processed by non-oral hearing procedures. In view of our capacity at this moment, however, we believe that its request can be processed and resolved efficiently and rapidly under usual Subpart N procedures, and we will so proceed.

Accordingly, it is ordered that:

1. The application of Delta Air Lines, Inc., in Docket 31821, be set for hearing, under the procedures of Subpart N of Part 302 of the Board's Procedural Regulations, before an administrative law judge of the Board at a time and place to be designated later; and

2. This order shall be served upon all persons listed in the service list attached to the application of Delta Air Lines, Inc., in Docket 31821.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

[FR Doc. 78-13546 Filed 5-17-78; 8:45 am]

[1] Delta is currently able to provide one-stop, single-plane service in the Atlanta-Hartford/Springfield market through combination of Routes 24 and 27, via the common junctions points of Philadelphia, Baltimore, Washington or New York.

[2] The City of Atlanta and the Atlanta Chamber of Commerce.

[3] The City of Hartford, the Hartford Chamber of Commerce and the Connecticut Department of Transportation.

[4] The City of Springfield and the Greater Springfield Chamber of Commerce.

[5] All Members concurred.

[6335-01]

COMMISSION ON CIVIL RIGHTS

WISCONSIN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Wisconsin Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 5 p.m. on June 1, 1978. State Capitol, Capitol Square Room 321 NE, Madison, Wis. 53702.

Persons wishing to attend this factfinding meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32d Floor, Chicago, Ill. 60604.

The purpose of this meeting will be to discuss Redlining Issues; members of the insurance industry, community organizations, and State officials will be invited to make presentation.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C. May 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-13688 Filed 5-17-78; 9:07 am]

[3510-13]

DEPARTMENT OF COMMERCE

National Bureau of Standards

TFE—FLUOROCARBON RESIN FLEXIBLE HOSE

Intent To Withdraw Commercial Standard

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Commercial Standard CS 247-62, "TFE-Fluorocarbon (Potytetra- fluoroethylene) Resin Flexible Hose (Wire Braid Reinforced)." It has been tentatively determined that this standard is technically inadequate, no longer used by the industry, and no longer in the public interest to maintain.

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to Standards Development Services, National Bureau of Standards, Washington, D.C. 20234, on or before June 19, 1978. The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: May 12, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-13484 Filed 5-17-78; 8:45 am]

[3510-13]

TFE-FLUOROCARBON RESIN SHEET

Action on Proposed Withdrawal of Commercial Standard

In accordance with section 10.12 of the Department's "Procedures for the Development of voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the withdrawal of Commercial Standard CS 239-63, "TFE-Fluorocarbon (Polytetra- fluoroethylene) Resin Sheet."

This withdrawal action is being taken for the reason that CS 239-63 is adequately covered by the American Society for Testing and Materials' standard ASTM D3293-74, "Standard Specification for TFE-Fluorocarbon Resin Sheet," and duplication is inappropriate and not in the public interest. This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the *Federal Register* of March 7, 1978 (43 FR 9330), to withdraw this standard.

The effective date for the withdrawal of this standard will be on July 17, 1978. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: May 12, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-13485 Filed 5-17-78; 8:45 am]

[3510-13]

THERMAL CONDUCTANCE FACTORS FOR PREFORMED ABOVE-DECK ROOF INSULATION

Intent To Withdraw Simplified Practice Recommendation

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Simplified Practice Recommendation R 257-55, "Thermal Conductance Factors for Preformed Above-Deck Roof Insulation."

It has been tentatively determined that this standard is technically inadequate and that revision would serve no useful purpose because the subject matter of R 257-55 is adequately covered by the American Society for Testing and Materials' standard ASTM C 855-77, "Thermal Resistance Factors for Preformed Above-Deck Roof Insulation."

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to Standards Development Services, National Bureau of Standards, Washington, D.C. 20234, on or before June 19, 1978. The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: May 12, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-13483 Filed 5-17-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

MARINE MAMMAL

Notice of Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protecion Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name: V. J. A. Manton; The Zoological Society of London (P-169A).
   b. Address: Whipsnade Park, Dunstable Beds LU6 2LF, Whipsnade 872171.
2. Type of Permit:
   Public Display.
3. Name and Number of Animals:
   bottlenosed dolphin (*Tursiops truncatus*)—1.
4. Type of Activities;
   To capture and maintain in a permanent facility.
5. Location of Activities:
   Gulf of Mexico.
6. Period of Activities:
   2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammal involved.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application bas been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11614, March 12, 1975). In this regard, the application:

(a) Was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the Department of the Environment of the United Kingdom, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity;

(b) Includes:

i. A verification from the Ministry of Agriculture Fisheries and Food of the United Kingdom, of the information set forth in the application;

ii. A certification from the Department of the Environment that the Government of the United Kingdom is prepared to monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

iii. A statement that the Department of the Environment will have no objection to a NMFS decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Department of the Environment and the Ministry of Agriculture, Fisheries and Food of the United Kingdom have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and—

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and The Committee of Scientific Advisors.

Written data and views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 19, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: April 20,1978.

ROLAND FINCH,
Acting Deputy Assistant, Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc. 78-13491 Filed 5-17-78; 8:45 am]

[3510-17]

Office of the Secretary

[Dept. Org. Order 25-5A, Amdt. 3]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Statement of Organization, Functions and Delegation of Authority

This order effective May 5, 1978 further amends the material appearing at 42 FR 35672 of July 11, 1977, 43 FR

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6127 of February 13, 1978 and 43 FR 6218 of February 13, 1978.

Department Organization Order 25-5A of June 3, 1977 is hereby further amended as shown below. The purpose of this amendment is to delete the requirement for the Administrator, NOAA to advise the Secretary before any final action is taken on the establishment of schedules of fees under paragraph 204(b)(10) of the Fishery Conservation and Management Act of 1976, yet retain the limitation upon subsequent redelegation of such final actions beyond an Assistant Administrator.

Section 3. *Delegation of authority.* a. In pen and ink at the end of subparagraph 3.01dd.2.(c) add the word "and" after the semicolon, delete subparagraph 3.01dd.2.(d), reletter subparagraph 3.01dd.2.(e) as 3.10dd.2.(d), and replace the semicolor at the end of the new 3.01dd.2.(d) with a period.

b. Subparagraph 3.01dd.3. is revised to read as follows:

3. The Administrator shall not redelegate beyond an Assistant Administrator any of the final actions to be taken under those provisions of the Act set forth in subparagraphs 3.01dd.2. (a) through (d) of this order, or the establishment of schedules of fees under paragraph 204(b)(10) of the Act."

Effective date: May 5, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-13482 Filed 5-17-78; 8:45 am]

[3510-17]

OFFICE OF EMERGENCY READINESS

Revocation Order

This order effective April 19, 1978 supersedes the material appearing at 41 FR 37829 of September 8, 1976.

Revocation. Department Organization Order 20-4, dated August 10, 1976 is hereby revoked.

Explanation. The functions, personnel, funds, property, and records of the Office of Emergency Readiness have been transferred to the Office of Organization and Management Systems (DOO 20-7).

Effective date: April 19, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-13480 Filed 5-17-78; 8:45 am]

[3510-17]

[Dept. Org. Order 20-7, Amdt. 3]

OFFICE OF ORGANIZATION AND MANAGEMENT SYSTEMS

Statement of Organization, Functions, and Delegation of Authority

This order effective April 19, 1978 further amends the material appearing at 41 FR 50321 of November 15, 1976, 42 FR 11863 of March 1, 1977 and 43 FR 6132 of February 13, 1978.

Department Organization Order 20-7, dated November 1, 1976, is hereby further amended. The purpose of this amendment is to reflect the transfer of the functions and organization of the Office of Emergency Readiness to the Office of Organization and Management Systems and the establishment of the Emergency Planning and Coordination Division.

1. In Section 3. *Functions.* In pen and ink, change the designation of the existing subparagraph 3.01b. to 3.01c., and add the following new subparagraph 3.01b.:

"b. Serve as the principal staff component within the Department for coordinating and assisting in the development, implementation, and continuation of a Departmentwide emergency preparedness program, particularly as applicable to the requirements of Executive Order 11490."

2. In Section 4. *Organization.* Add a new paragraph 4.03, to read as follows:

".03 The *Emergency Planning and Coordination Division* shall coordinate and assist Departmentwide in complying with the requirements of Executive Order 11490; direct the development, coordination, testing, evaluation, and implementation of all emergency plans and programs in the fields of continuity of government, natural disaster recovery assistance, civil preparedness, and domestic crises; assist operating units in the development of their emergency plans and review these plans for adequacy in terms of assigned functions; administer the Department's National Defense Executive Reserve Program; prepare, maintain, and control emergency assignments for the Secretary, Secretarial Officers and others, as required, and brief these officials on the current status of the Department's emergency functions; establish and maintain an emergency alerting procedure for headquarters and field personnel, and plan, coordinate, and evaluate emergency tests and exercises conducted by the Department; coordinate the plans, procedures, and activities of the Department and its operating units in disaster assistance and crises management programs, including Departmental reports to the Federal Preparedness Agency (FPA/GSA) and other Federal agencies; develop and coordinate Department Administrative Orders pertaining to emergency preparedness plans, procedures, operations, and related programs; control approval of the obligation of funds for emergency activities charged against the Working Capital Fund, and evaluate budget requests of other units of the Department concerned with emergency actitivies; develop and administer, both at national and field levels, the Department's policies on continuity of essential functions, and the acquisition, maintenance, staffing, and operations of all emergency operating facilities. The head of the Division shall also perform the functions of Emergency Coordinator for the Department, as prescribed in Federal Preparedness Circular No. 10 of August 20, 1976, and issue instructions and guidance to the Department's Regional Emergency Coordinators, as provided for in Appendix A to this order."

All outstanding Department orders, delegations, memoranda, agreements, proceedings, investigations, or other such actions affecting the former Departmental Office of Emergency Readiness shall continue and remain in force until they expire, are amended, or are revoked by appropriate authority.

Effective date: April 19, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

APPENDIX A

REGIONAL EMERGENCY COORDINATORS

Emergency programs at the field level shall be coordinated by the Bureau of Field Operations District Office Directors selected to represent the Secretary in each of the ten Federal Regional Council cities (e.g., Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kanas City, Denver, San Francisco, and Seattle.)

The Bureau of Field Operations District Office Directors in the ten cities are hereby designated Regional Emergency Coordinators and as such they shall be the principal advisers and contact points for the Department in their respective regions, and shall provide staff liaison concerning activities of interest to the Department. Also, they shall maintain a list of specialists from other Commerce field elements whom they can call on for expertise related to a particular plan or program.

Acting in accordance with instructions and guidance issued by the Chief, Emergency Planning and Coordination Division, OOMS, through the Bureau of Field Operations, ITA, the Regional Emergency Coordinators shall:

1. Represent the Department on regional, State and local government committees, boards and working groups involved in emergency preparedness plans and programs, including continuity of essential functions, emergency management of resources, civil preparedness disaster assistance, and related activities;

2. Provide guidance and assistance to those elements of State governments charged with preparedness planning for the emergency management of resources for which the Department has been assigned responsibilities;

3. Serve as the Department's principal advisers to the Directors of the respective FPA/GSA Defense Civil Preparedness Agency (DCPA) regions on matters relating to the functions of the operating units of the Department;

4. Serve as liaison between the field installations of the Department and the FPA/GSA/DCPA Regional Directors in emergency preparedness matters;

5. Establish and maintain an emergency essential records file at the FPA/GSA/DCPA Federal Regional Centers, and provide guidance and advice to field installations on provisions for emergency essential records;

6. Establish and maintain a Regional Alerting Procedure for Commerce regional emergency cadres;

7. Participate, as directed by national headquarters, in planning and evaluating periodic regional, State and local government emergency preparedness tests and exercises;

8. Prepare, as necessary or required by the Emergency Planning and Coordination Division, OOMS, reports on the status of emergency preparedness plans, programs and operations; and

9. Inform the Emergency Planning and Coordination Division, OOMS of their activities and emergency programs to enable that Division to fulfill its Departmentwide liaison and coordinating role.

[FR Doc. 78-13481 Filed 5-17-78; 8:45 am]

[6740-02]

[Docket Nos. G-12149, et al.]

APPLICATIONS FOR CERTIFICATES, ABANDONMENT OF SERVICE AND PETITIONS TO AMEND CERTIFICATES[1]

MAY 8, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-12149, D, June 27, 1977	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Colorado Interstate Gas Co., (Mocane Field, Beaver County, Okla.).	Acreage assigned.	
CI63-538, C/D, July 8, 1977	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Cities Service Gas Co., (NW. Lovedale Field, Harper County, Okla.).	Certain wells plugged and abandoned in 1977. New leases purchased and completed new well, the Freda Yauk unit, well No. 2 in sec. 22-28N-21W.	
CI76-342, C, June 30, 1977	Pan Eastern Exploration Co., P.O. Box 1642, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Woodward County, Okla.	(1)	14.65
CI77-37, C, August 2, 1977	Phillips Petroleum Co., 5 C4 Phillips Building, Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Hugoton-Anadarko Area, Wheeler County, Tex.	(1)	14.73
CI77-281, C, April 7, 1977	do	Michigan Wisconsin Pipe Line Co., Hugoton-Anadarko Area (deep gas) Sherman County, Tex.	(1)	14.65

[1]This notice does not provide for consolidation for hearing of the several matters covered herein.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total succession. F—Partial succession.

[FR Doc. 78-13309 Filed 5-17-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER78-349]

ARIZONA PUBLIC SERVICE CO.

Filing of Supplemental Agreement

MAY 11, 1978.

Take notice that on May 2, 1978, Arizona Public Service Co. (APS) tendered for filing a Supplemental Agreement dated March 28, 1978 to the Wholesale Power Supply Agreement between Arizona Power Authority (APA) and APS respecively, previously designated APS-FPC Rate Schedule No. 59. APS indicates that this Supplement revises the maxium and minimum contract demands and also provides for the right to file a unilateral rate change.

APS requests waiver of the Commission's notice requirements to allow for an effective date of April 1, 1978.

[1]This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

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intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13493 Filed 5-17-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. ER77-331]

CENTRAL POWER & LIGHT CO.

Order Accepting Service Agreements for Filing, Granting Intervention, Denying Motion for Consolidation and Waiving Notice Requirements

MAY 9, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

The Central Power & Light Co. (CPL) on April 25, 1977, tendered for filing with the Commission[1] executed service agreements for electric service to ten (10) wholesale customers,[2] pursuant to section 35.12 of the Commission's Regulation.[3] CPL was informed by Commission letter dated May 24, 1977, that such filing was deficient. On July 11, 1977, CPL satisfied the Commission's Regulations with the submittal of additional cost data. CPL requests an effective date of May 4, 1976, and thus, seeks waiver of the Commission's notice requirements, section 35.11 of the regulations.

In the instant proceeding, CPL filed contracts for full requirements firm power service to its electric cooperative customers, with rates consisting of flat demand and energy charges subject to fuel adjustment.

CPL also tendered for filing interconnection and interchange agreements which pertained to the Lower Colorado River Authority, City of Brownsville, and South Texas Electric and Medina Electric Cooperatives, including fuel adjustment clauses.

Notice of the filing was issued on July 28, 1977, with comments, protests or petitions to intervene due on or before August 12, 1977. On August 9, 1977, the Magic Valley Electric Cooperative, Kimble Electric Cooperative and Rio Grande Electric Cooperative (hereinafter referred to as *Petitioners*) filed a petition to intervene in this proceeding. Petitioners urge this Commission to condition acceptance of CPL's initial rate schedules upon the requirement that the rate be made subject to refund. Petitioners contend that CPL's tardy filing of the rate schedule and dilatory response to the Commission's filing requirements cannot help but raise doubts as to the justness and reasonableness of those rates. Further, Petitioners request that the instant docket be consolidated with the proceeding in Docket No. ER77-514.

CPL, On August 19, 1977, answered Petitioners' pleading indicating that the rate schedules were filed in compliance with the Commission's order in Docket No. E-9558. CPL contends that due to the initial nature of the filing, the rates cannot be made subject to refund. CPL further asserts that the instant rate and service provisions were mutually agreed to between it and the wholesale customers.

DISCUSSION

In their petition to intervene, Petitioners merely alluded to the possibility of the unreasonableness of the filed rates based solely on CPL's "dilatory response" to the Commission's filing requirements. Petitioners did not indicate any specifics of the filing that could be used to test their contention of unreasonableness. Nevertheless, our review of the proposed filing indicate that the revenues collected from the ten wholesale customers pursuant to the instant rates are reasonable.

We further conclude that the fuel clauses contained in the electric cooperative agreements do not conform to section 35.14 of the Regulations. However, CPL on July 12, 1977, submitted a revised fuel adjustment clause which complied with section 35.14 of the Regulations and is applicable to the electric cooperative customers as part of its rate increase request filed in Docket No. ER 77-514.[4] Our review also indicates that the fuel clauses contained in the tendered interconnection rate schedules applicable to the city of Brownsville, and South Texas Electric and Medina Electric Cooperatives are not in agreement with the requirements of section 35.14 of the Regulations. CPL is hereby directed to file a fuel clause applicable to the aforementioned customers which conforms to section 35.14 of the Regulations within thirty days from the issuance of this order.

Moreover, in light of the fact that we have determined the rates contained herein to be reasonable and hearing procedures unwarranted, we conclude that consolidation of the proceedings in this docket with those in Docket No. ER77-514 is not in the public interest.

Petitioners are wholesale customers of CPL and their interests as well as the public interest may be served by permitting intervention in the instant case.

The Commission finds: (1) Good cause exists to deny Petitioners' Motion for Consolidation.

(2) CPL's fuel adjustment clauses applicable to the City of Brownsville and South Texas Electric and Medina Electric Cooperatives in the interconnection agreements do not conform to section 35.14 of the Regulations.

(3) Participation of Petitioners in this proceeding may be in the public interest.

(4) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the service agreements tendered in this docket be accepted for filing to become effective May 4, 1976.

(5) Good cause exists to waive the requirements of section 35.11 of the Commission's Regulations.

The Commission orders: (A) The service agreements are hereby accepted for filing to become effective May 4, 1976.

(B) Petitioners are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of the intervenors shall be limited to matters effecting the rights and interests specifically set forth in the petition to intervene, and *provided, further,* that the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) This acceptance of filing does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rates or services provided for in the designations as shown on the attachment; nor shall such acceptance be deemed as recognition of any claimed contractual right or obligation affecting or relating to such services or rates; and such acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against the parties.

(D) CPL shall within thirty (30) days from the date of issuance of this order file with the Commission fuel clauses applicable to the city of Brownsville and South Texas Electric and Medina Electric Cooperatives which conform to section 35.14 of the Regulations.

(E) The requirements of section 35.11 of the Regulations are hereby waived.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission. Chairman Curtis voted present.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A.—*Central Power & Light Co., Docket No. ER77-331*

Dated: (1) June 8, 1967, (2) Dec. 14, 1971, (3) June 1, 1973, (4) June 20, 1962, (5) Feb. 7, 1968, (6) Dec. 11, 1968, (7) Jan. 2, 1970, (8) Apr. 21, 1975, (9) May 20, 1973, (10) Sept. 20, 1974, (11) Nov. 3, 1971, (12) July 2, 1951, (13) May 20, 1952, and (14) Feb. 22, 1954.
Filed: July 11, 1977.

Designation	Other party	Description
Rate schedule FPC No. 50	South Texas Electric Cooperative and Medina Electric Cooperative.	Purchase and exchange and pooling agreement.
Rate schedule FPC No. 51	City of Brownsville	Power purchase agreement.
Rate schedule FPC No. 52	Lower Colorado River Authority.	Interchange agreement.
Rate schedule FPC No. 53	Magic Vally Electric Cooperative.	Electric service contract.
Supplement No. 1 to rate schedule FPC No. 53.	do	Amendment and extension agreement.
Supplement No. 2 to rate schedule FPC No. 53.	do	Amendatory agreement.
Supplement No. 3 to rate schedule FPC No. 53.	do	Do.
Rate schedule FPC No. 54	Nueces Electric Cooperative	Electric service contract.
Rate schedule FPC No. 55	Rio Grande Electric Cooperative.	Do.
Rate schedule FPC No. 56	Kimble Electric Cooperative	Do.
Rate schedule FPC No. 57	Medina Electric Cooperative	Do.
Rate schedule FPC No. 58	Victoria County Electric Cooperative.	Electric service contract—Refugio, Tex.
Supplement No. 1 to rate schedule FPC No. 58.	Victoria County Electric Cooperative.	Amendment and modification of electric service contract.
Rate schedule FPC No. 59	do	Electric service contract, Goliad, Tex.

[FR Doc. 78-13310 Filed 5-17-78; 8:45 am]

[1] The "Commission" when used in the context of an action taken prior to October 1, 1977 refers to the FPC: when used otherwise, the reference is to the FERC.

[2] The ten (10) wholesale customers are: Magic Valley Electric Cooperative, Inc., Nueces Electric Cooperative, Inc., Rio Grande Electric Cooperative, Inc., Kimble Electric Cooperative, Inc., Medina Electric Cooperative, Inc., Victoria County Electric Cooperative Co. (Refugio, Tex. and Goliad, Tex.), South Texas Electric and Medina Electric Cooperatives, city of Brownsville and Lower Colorado River Authority. See Attachment A for list of designations.

[3] By orders issued July 21, 1976 and September 17, 1976, in Docket No. E-9558, the FPC determined that Central Power & Light Co. is a "public utility" pursuant to section 201 of the Federal Power Act (16 U.S.C. § 824) and, therefore, subject to the jurisdiction of the Commission for having commenced the transmission of electric energy in interstate commerce and the sale of electric energy at wholesale in interstate commerce.

[4] On July 12, 1977, CPL tendered for filing with the Commission in Docket No. ER77-514, superseding rates applicable to the electric cooperative customers. The proposed increase in rates was supported by the same data that was submitted by CPL on July 11, 1977 to cure the deficiency in Docket No. ER77-331. Thereafter by orders dated August 3 and September 8, 1977, the Commission suspended the rates for the statutory maximum period until January 8, 1978, subject to refund.

[6740-02]

[Project No. 2791]

CLARK-COWLITZ JOINT OPERATING AGENCY

Application for New Major License for Constructed Project

MAY 11, 1978.

Public notice is hereby given that application for a new major license was filed on February 18, 1977, and supplemented on December 13, 1977, under the Federal Power Act (16 U.S.C. 791a-825r) by Clark-Cowlitz Joint Operating Agency, (correspondence to: Harry G. Kelsey, President, Clark-Cowlitz Joint Operating Agency, P.O. Box 1279, Longview, Wash. 98632; with copies to: Robert W. Peery, Secretary, Clark-Cowlitz Joint Operating Agency, P.O. Box 1626, Vancouver, Wash. 98633; C. T. Mertsching, Walstead, Mertsching, Husemoen, Donaldson, and Barlow, P.O. Box 1174, Longview, Wash. 98632; John F. Wynne, Blair, Schaefer, Hutchinson, Wynne, Potter & Horton, P.O. Box 1148, Vancouver, Wash. 98660; Robert L. McCarty, McCarty & Noone, 1225 Connecticut Avenue NW., Wash. D.C. 20036), for the constructed Merwin Project, FERC Project No. 2791, located in Cowlitz and Clark Counties, Wash., near the town of Woodland, on the North Fork of the Lewis River. The project affects 138.18 acres of United States lands and navigable waters of the United States. The original project license (FERC No. 935), issued to Pacific Power & Light Co. will expire of December 11, 1979.

The constucted Merwin Project consists of: (1) A concrete arch dam 313 feet high, with an arch length of 728 feet; (2) a reservoir, 14.5 miles long, with a surface area of 4,040 acres at maximum operating pool elevation; (3) Three penstocks 15½ feet in diameter and 150 feet long; (4) a powerhouse containing 4 generating units, 3 rated at 45,000 kW and a 1,000 kW station service generating unit; (5) 9 single-phase 13.8/115-kV transformers located on the upper powerhouse deck and an adjacent switchyard; (6) two transmission lines, one which extends to the Cardwell substation and the other, to the dead-end tower on the north bank of the Columbia River near Portland; and (7) appurtenant facilities.

Power produced by this project would be used by the Applicant to meet its system load requirements and any excess would be sold on a "when and if available" basis.

The principal recreational features of the project are: Merwin Park, which can accommodate 3,000 people for picnics and swimming; Speelyai Bay Park, located 10 miles upstream from the dam, which provides swimming, boating and picnic facilities; and Woodland Park, consisting of private

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residential homesites. Potential recreational areas exist at Crescent Bay and Buncombe Hollow Creek.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13494 Filed 5-17-78; 8:45 am]

[6740-04]

[Docket No. CP66-237]

NATURAL GAS PIPELINE CO. OF AMERICA

Further Exension of Time

MAY 11, 1978.

On May 8, 1978, Natural Gas Pipeline Co. of America filed a motion to suspend or to further extend the procedural dates established by Commission Order issued December 19, 1977, in the captioned proceeding. The procedural dates have been previously extended by Notices issued January 5, and March 23, 1978.

The instant motion states that the Commission has not yet acted upon the merits of the pending applications for rehearing of the December 19, 1977 Order. A tolling order granting rehearing for purposes of further consideration was issued on February 17, 1978.

Upon consideration, notice is hereby given that the procedural dates in this proceeding are further extended as follows:

Filing and service on all parties, the Presiding Administrative Law Judge, and Commission Staff of the direct case of Natural, including testimony on the issue raised by the December 19, 1977 Order—July 14, 1978.

Filing of testimony and exhibits comprising the case-in-chief of supporting intervenors—July 21, 1978.

Filing of testimony of opposing intervenors and Staff Counsel—August 7, 1978.

Rebuttal testimony of Natural and supporting intervenors—August 18, 1978.

Prehearing Conference—August 28, 1978.

Any further procedural dates will be established by the Presiding Administrative Law Judge.

KENNETH F. PLUMB.
Secretary.

[FR Doc. 78-13495 Filed 5-17-78; 8:45 am]

[6740-02]

[Docket No. CP78-302]

NATURAL GAS PIPELINE CO. OF AMERICA AND COLUMBIA GULF TRANSMISSION CO.

Pipeline Application

MAY 11, 1978.

Take notice that on April 24, 1978, Natural Gas Pipeline Co., of America, 122 South Michigan Avenue, Chicago, Ill. 6060 (Natural), and Columbia Gulf Transmission Co., 3805 West Alabama, Houston, Tex., 77027 (Columbia) (Collectively applicants), filed in docket No CP78-302 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 39,900 Mcf per day of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural has contracted to purchase or has preferential rights to purchase volumes of gas from East Cameron block 34, offshore Louisiana. A joint application by Natural and others has been made at docket No. CP78-71 to construct facilities to get gas from block 34 onshore to a new point of connection to Tennessee Gas Pipeline Co. in Cameron Parish, La. Tennessee has filed at docket No. CP78-197 to transport up to 39,900 Mcf per day for Natural and to deliver such volumes to Columbia for Natural's account at an existing interconnection near Chalkley, La.

Columbia Gas Transmission Corp., an affiliate of Columbia, own or control certain reserves in High Island area, offshore Texas, which will be transported to shore first through facilities of High Island Offshore System then through facilities owned by U-T Offshore System (UTOS).

Applicants propose to exchange up to 39,900 Mcf of natural gas with Columbia receiving gas for Natural's account from Tennessee near Chalkley, Cameron Parish, La. Natural will receive thermally equivalent volumes for Columbia's account at the existing interconnection between Natural and UTOS, Cameron Parish, La, or at existing interconnections of Natural and Columbia at the Mobile Oil Corp.'s Cameron Meadows plant, Cameron Parish, La, or Texaco, Inc.'s Henry plant located in Vermilion Parish, La.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 2, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13496 Filed 5-17-78; 8:45 am]

[6740-02]

[Project No. 77]

PACIFIC GAS & ELECTRIC CO. (POTTER VALLEY PROJECT)

Extension of Time

MAY 12, 1978.

On May 2, 1978, the Humboldt County Board of Supervisors and Cal-

Trout (intervenors) filed a request for a 240-day extension of time to review and comment on Commission staff's draft environmental impact statement (DEIS) on the referenced project, the availability of which was announced by notice issued March 22, 1978. Intervenors state that, of the 240-day requested extension, 180-days are required to complete indepth feasibility studies and acquire more data on the effects on spawning and nursery habitats of various operation practices at Potter Valley project. It the DEIS is deficient, the intervenors should so state in their comments, but good cause has not been shown to delay this proceeding substantially by granting the full 8-month extension requested for commenting on the DEIS.

Upon consideration, notice is herby given that an extension of time is granted to and including June 30, 1978, within which to file comments on staff's DEIS in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13497 Filed 5-17-78; 8:45 am]

[6740-02]

[Docket No. CP76-362]

TEXAS EASTERN TRANSMISSION CORP.

Petition To Amend

MAY 11, 1978.

Take notice that on April 24, 1978, Texas Eastern Transmission Corp. (Texas Eastern), P.O. Box 2521, Houston, Tex. 77001 (petitioner), filed in docket No. CP76-362 a petition to amend Commission order, issued August 31, 1976, to authorize the inclusion of an additional point of receipt for the transportation of natural gas.

Petitioner, pursuant to the terms of the March 23, 1976, agreement and the authorization issued at docket No. CP76-362, initiated a transportation arrangement involving volumes produced and sold to Transco in West Cameron block 480 and delivered to East Cameron block 245, offshore Louisiana, for transportation onshore by Texas Eastern with a total obligation to transport up to 54,000 Mcf of gas per day.

Transco has secured the rights to purchase gas volumes produced from block 436, West Cameron area, offshore Louisiana, and has filed with the Commission jointly with Texas Eastern and Natural Gas Pipeline Co. of America (Natural) an application at docket No. CP78-236 for authorization to construct the necessary pipeline facilities required to connect West Cameron 436 production to Texas Eastern's existing subsea tap on its offshore pipeline system located in block 286, West Cameron area. Petitioner seeks authorization to add the new point to the March 23, 1976, agreement. The total 54,000 Mcf/d obligation will not be increased.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 2, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13498 Filed 5-17-78; 8:45 am]

[6740-02]

[Docket No. CP77-568]

TEXAS EASTERN TRANSMISSION CORP. AND NATURAL GAS PIPELINE CO. OF AMERICA

Petition to Amend

MAY 11, 1978.

Take notice that on April 21, 1978, Texas Eastern Transmission Corp. (Texas Eastern), P.O. Box 2521, and Natural Gas Pipeline Co. of America (Natural), 122 South Michigan Avenue, Chicago, Ill. 60603 (petitioners), filed in docket No. CP77-568 a petition to amend Commission order issued November 29, 1977, to authorize an increase in the exchange volumes previously authorized for and between the petitioners.

Petitioners seek authorization to increase the quantity of natural gas to be transported and exchanged by said parties for each other from 15,000 Mcf per day up to a maximum of 25,000 Mcf per day, and for the inclusion of an additional point of receipt for the transportation and exchange of natural gas.

Volumes of gas available to Texas Eastern from West Cameron block 593 have increased to a volume in excess of 15,000 Mcf per day. Natural has also secured the right to purchase gas volumes produced from block 437 West Cameron area, and has filed jointly with Texas Eastern and Transcontinental Gas Pipe Line Corp. (Transco) to the Commission for a certificate of public convenience and necessity at docket No. CP78-236 seeking authorization to construct the necessary pipeline facilities required to connect West Cameron 437 production to Texas Eastern's offshore Louisiana system at a point in block 286 West Cameron, offshore Louisiana. Petitioners herein seek authorization to increase the firm quantity of natural gas to be exchanged, as provided by the amendment of April 4, 1978, from 15,000 Mcf per day to 25,000 Mcf per day and establish the West Cameron block 286 point as a new exchange point under the November 29, 1977, agreement.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 2, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal

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hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13499 Filed 5-17-78; 8:45 am]

[6740-02]

[Docket No. CP76-35]

WESTERN TRANSMISSION CORP.

Petition To Amend

MAY 10, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a) (1) or (2) of the DOE Act.

Take notice that on May 2, 1978, Western Transmission Corp. (petitioner), 2700 Fidelity Union Tower, Dallas, Tex. 75201, filed in docket No. CP75-35 a petition to amend the order of October 7, 1975 (54 FPC ——) issued by the Federal Power Commission (FPC) in the instant docket so as to provide for the transportation of natural gas for Colorado Interstate Gas Co. (CIG) from additional acreage within the Blue Gap II area of Carbon County, Wyo., which acreage is at present largely undeveloped, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of October 7, 1975, petitioner was authorized to transport natural gas for CIG from said Blue Gap II area to a point of delivery on CIG's existing system in Sweetwater County, Wyo., pursuant to a gas transportation agreement dated July 15, 1975, between the two companies.

By an amendment dated March 27, 1978, petitioner and CIG have amended the July 15, 1978, agreement to provide for the additional acreage.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13500 Filed 5-17-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 897-6; OPP-00072A]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA) SCIENTIFIC ADVISORY PANEL

Open Meeting—Change in Agenda

On Friday, May 5, 1978, notice of the May 25-26, 1978 open meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel was published in the FEDERAL REGISTER (43 FR 19449). Agenda item number 2 under SUPPLEMENTARY INFORMATION is changed to read as follows:

2. A briefing will be given to the Scientific Advisory Panel on the principal decision options which are being considered by the Agency to conclude the chlorobenzilate RPAR (rebutable presumption against registration).

AUTHORITY: Sec. 25(d) of FIFRA, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.) and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 94-463; 86 Stat. 770).

Dated: May 15, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-13551 Filed 5-17-78; 8:45 am]

[6560-01]

[FRL 898-1]

GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Program Requirements Memorandum

This notice is published to advise that a Program Requirements Memorandum from the Administrator has been distrubuted to the Environmental Protection Agency Regional Offices and became effective May 11, 1978. This Program Requirements Memorandum provides a warning on the use of certain chemical grouts used for sewer rehabilitation. As indicated in the memorandum additional information on this matter will be issued as soon as it becomes available.

FOR FURTHER INFORMATION CONTACT:

Alan B. Hais, Chief, Municipal Technology Branch, Municipal Construction Division (WH-547), Environmental Protection Agency, Washington, D.C. 20460, 202-426-8976.

Dated: May 15, 1978.

THOMAS C. JORLING,
Assistant Administrator, Water and Hazardous Materials.

[PRM No. 78-11]

Subject: Toxicity of Chemical Grouts for Sewer Rehabilitation
From: John T. Rhett, Deputy Assistant Administrator for Water Program Operations (WH-546)
To: Regional Administrators, Regions I thru X

PURPOSE

This Program Requirements Memorandum provides an alert on the potential health hazards associated with the field application of a major chemical grout used in correcting sewer infiltration. The grouting material is AM-9 manufactured by American Cyanamid. Your immediate action is requested in distributing this memorandum and the attached materials to all Construction Grant Program grantees.

DISCUSSION

In applying the AM-9 grout, a catalyst containing dimethyl amino propionitrile (DMAPN) is used. On April 7, 1978, OSHA issued a health hazard alert concerning DMAPN. It stated, "There is no current permissible exposure limit. It is unknown at the present time if there is any safe limit for human exposure to ESN (a trademark name for DMAPN). The use of the material has been discontinued in plants in both Maryland and Massachusetts. Accordingly, based on serious and immediate adverse human health effects already evident *it is imperative that worker exposure to ESN and its components be completely avoided.*" (Emphasis added)

The OSHA alert was based on operations involved in the manufacture of polyurethane foam. However, on the basis of this alert, the Washington Metropolitan Transit Authority recently requested that all future use of this product (DMAPN) be stopped immediately and the product be removed from all of its subway construction sites. DMAPN had previously been used in grouting operations in subway tunnels.

ACTION

1. Distribute this memorandum and the attached OSHA alert to the State Agencies in your region and to all grantees who are or may potentially be using the above chemical grouts in sewer rehabilitation projects.

2. There are already underway to continue grouting with AM-9 using a different catalyst agent. However, we understand that the production of AM-9 will be discontinued as

of July 31, 1978. In view of this and the health related concerns discussed above, please assess the impact of these events on the infiltration/inflow program as it relates to the overall management of the Construction Grant Program. You will be notified as soon as additional information becomes available. Please keep me advised of your findings and conclusions.

ATTACHMENT TO PROGRAM REQUIREMENTS MEMORANDUM

OSHA HEALTH HAZARD ALERT: NIAX CATALYST ESN

It has come to OSHA's attention that your firm has used and may still be using NIAX catalyst ESN (registered TM, Union Carbide). ESN is composed of two chemicals: (1) Dimethyl amino propionitrile, and (2) BIS-2, dimethyl amino ethyl ether. The material is chiefly used as a catalyst in certain polyurethane foam production operations.

There have been documented reports on serious adverse health effects among male and female employees exposed to ESN in plants in both Maryland and Massachusetts. The most striking symptoms uniformly reported by afflicted workers are those of urinary dysfunction. In one Maryland plant 69 of 101 workers questioned complained of difficulty starting urination, pain and burning on voiding, incomplete emptying of the bladder, slowness in expelling urine, and other urinary problems. There have also been employee reports of impotence and sexual difficulties. A few individuals have received urological surgery. There is evidence that for a smaller number of employees toxic effects of ESN include damage to the nervous system (peripheral neuropathy) with symptoms of muscule weakness, loss of balance and coordination, numbness, tingling, and loss of feelings. ESN exposure may also cause liver dysfunction.

Employees have reported symptoms of toxic effects after as few as three of ESM exposure. In addition to these immediate urinary and neurological effects, exposure to ESN can lead to serious and permanent health damage to the afflicted worker.

The material has moderate to severe toxicity by the skin, inhaltion, and oral routes of administration in acute animal studies. OSHA has not found any animal toxicology data on long-term or chronic effects of ESN exposure.

There is no current permissible exposure limit. It is unknown at the present time if there is any safe limit for human exposure to ESN. The use of the material has been discontinued in plants in both Maryland and Massachusetts. Accordingly, based on the serious and immediate adverse human health effects already evident, it is imperative that worker exposure to ESN and its components be completely avoided. It is also essential that employers take the following actions regarding ESN:

(1) Inform all employees of the possible adverse health effects of exposure.

(2) Provide all employees with a copy of this telegram.

(3) Advise all employees with symptoms described in this notice to see a physician and show him/her this message. The physician should be made aware that the urological complaints have been mistaken for non-occupationally caused prostatic or bladder disease.

(4) Urge all employees with symptoms to report them to OSHA, to their bargaining agent if there is one, and to the corporate medical department if any.

(5) Advise the corporate medical department or other designated physician to inform OSHA promptly of all employee reports of symptoms described above.

Those involved contact the OSHA regional administrator to convey all employee reports of symptoms. A complete list of OSHA regional administrators is attached as an appendix to this document. Physicians and others seeking more technical or medical information on health effects of ESN should call the OSHA regional administrator for referral. Further, since serious physicial harm to employees has taken place after short periods of exposure to ESN, OSHA compliance officers have been directed to institute imminent danger proceedings where appropriate measures have not been taken to eliminate this exposure.

Workers exposed to the individual components of ESN, alone or in combination with other chemical compounds, should be investigated for similar adverse health effects, with particular reference to urinary tract symptoms.

EULA BINGHAM,
Assistant Secretary for Occupational Safety and Health.

APRIL 7, 1978.

OSHA REGIONAL ADMINISTRATORS

1. Region I—Gilbert Saulter, 617-223-5535 (Connecticut, Maine, Massachusetts, Rhode Island, Vermont).
2. Region II—Alfred Barden, 212-399-5941 (New Jersey, New York, Puerto Rico, Virgin Islands).
3. Region III—David Rhone, 215-596-1206 (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia).
4. Region IV—Allan McMillan, 404-881-2305 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee).
5. Region V—Berry White, 312-353-4716 (Illinois, Indiana, Michigan, Minnesota,, Ohio, Wisconsin).
6. Region VI—Robert Wendell, 214-749-3473 (Arkansas, Louisiana, New Mexico, Oklahoma, Texas).
7. Region VII—Vernon Strahm, 816-374-5048 (Iowa, Kansas, Missouri, Nebraska).
8. Region VIII—Curtis Foster, 303-837-3416 (Connecticut, Montana, North Dakota, South Dakota, Utah, Wyoming).
9. Region IX—Gabrel Gillotti, 415-556-0586 (Arizona, California, Guam, Hawaii, Nevada, American Samoa, Trust Territory, Northern Mariannas).
10. Region X—James Lake, 206-442-5930 (Alaska, Idaho, Oregon, Washington).

[FR Doc. 78-13549 Filed 5-17-78; 8:45 am]

[6560-01]

[FRL 897-8; OPP-30148]

REGISTRY OF PESTICIDE PRODUCTS CONTAINING NEW ACTIVE INGREDIENTS

Receipt of Applications

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing active ingredients which have not been included in any previously registered pesticide products. Applications were made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of these applications does not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on any applications referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St. SW, Washington, DC 20460. The comments must be received on or before June 19, 1978 and should bear a notation indicating the EPA File Symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning these applications and the data submitted should be directed to the Product Managers (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address or appropriate telephone number cited. The labels furnished by each applicant as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of the applications to register pesticide products listed will be announced in the FEDERAL REGISTER. Except for such material protected by section 10 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available for approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: May 10, 1978.

MARTIN H. ROGOFF,
Acting Director, Registration Division.

APPLICATIONS RECEIVED

EPA File Symbol 707-RUE. Rohm and Haas, Independence Mall West, Philadelphia, PA 19105. GOAL-2E. Active Ingredient: *2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl) benzene* 23.5%. Application proposes that this product be classified for general use for pre-emergence control of

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certain annual grass and broadleaf weeds in soybeans. PM25 (202-428-2632)

EPA File Symbol 35977-R. Hoffman-La Roche Inc., 340 Kingsland St., Nutley, NJ 07110. ATRINAL TM PLANT REGULATOR. Active Ingredient: *Sodium salt of 2,3:4,6-Bis-O-(1-Methylethylidene)-a-L-Xylo-2-Hexulofuranosonic acid* 18.5%. Application proposes that this product be classified for general use as a plant regulator in azaleas and other ornamental plants. PM25

[FR Doc. 78-13550 Filed 5-17-78; 8:45 am]

[6560-01]

[FRL 896-7]

WATER QUALITY CRITERIA

Request for Comments

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA is soliciting public comments on technical guidelines which set forth a methodology for deriving water quality criteria. Under the Clean Water Act, water quality criteria may form the basis for enforceable water quality standards. EPA is considering using the guidelines, as refined in response to comments, to develop proposed water quality criteria for 65 toxic pollutants in compliance with a Court order.

DATES: Written public comments should be submitted to the person listed immediately below by July 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202-755-0100.

SUPPLEMENTARY INFORMATION: Section 304(a) of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., requires EPA to publish and periodically update national water quality "criteria" for use by the States in the development of water quality standards under section 303. These criteria are to reflect the latest scientific knowledge on the identifiable effects of various pollutants on public health and welfare, aquatic life, and recreation.

Under Paragraph 11 of the Settlement Agreement in *Natural Resources Defense Council et al.* v. *Train* 8 ERC 2120 (D.D.C. 1976), the Agency must publish criteria for 65 specified toxic pollutants. For each of the 65 pollutants, the criteria are to state maximum recommended concentrations consistent with the protection of aquatic life and human health. The Agency is now in the process of developing criteria documents for these 65 pollutants for proposal in the FEDERAL REGISTER in the latter half of this year.

During the process of developing information under § 304 and the Settlement Agreement, EPA has revised and refined the methodology for deriving aquatic-based criteria which it has used in the past. In this notice, EPA is publishing guidelines which set forth this refined methodology. (Criteria for the protection of human health are being developed separately from an essentially different data base.) Members of the interested public are invited to submit comments on the validity and accuracy of the guidelines to assist the agency in determining whether further refinements are needed.

In its previous publications under § 304(a)[1] the Agency used the following general procedures for interpreting available data and deriving criteria. Data on the acute, long term, and bioaccumulative effects of individual pollutants were surveyed. For many constituents, a criterion was derived by reducing the lowest concentration known to have acute lethal effects on half of an aquatic species (the LC50 value) by a factor intended to protect against chronic effects. Where data showed a substance to be bioaccumulative or to have other significant long-term effects, a factor was used to reduce the indicated concentrations to a criterion presumed to be protective.

The guidelines appearing below provide a more formalized, systematic approach to deriving criteria from scientific data. It is not expected that the numbers derived using the guidelines will be very different from those which would be derived from the less formalized method EPA has used in the past. It is expected, however, that the systematic treatment of all appropriate aquatic data will make the rationale for the criteria more obvious.

The guidelines are also intended to provide a basis for deriving criteria specific to different water characteristics for pollutants whose toxicity varies significantly under different water conditions. A heavy metal such as cadmium, for instance, may be considerably less toxic in hard water than in soft because of precipitation, complexation, and antagonism. Differentiation between fresh and marine species may also be appropriate. Should such factors prove to be fundamental and provide a rational basis for differentiation, separate criteria will be developed for specific variables. This approach could assist States in adopting numbers more appropriate to their individual waters and help avoid overly restrictive national numbers.

Public comment is invited on all aspects of the methodology presented in the guidelines. Comments should be sent (preferably in triplicate) to the address noted in the introduction to this Notice no later than [45 days after FEDERAL REGISTER publication].

EPA is particularly interested in comments on the following issues relating to the guidelines appearing below:

1. Is the degree of conservatism or species coverage too protective, adequate or not protective enough?

2. Should maximum and average concentrations be established as criteria?

3. Are toxicological principles correctly used?

4. Is the statistical treatment of the data scientifically sound? For instance, are correction factors appropriately defined (as geometric means) and derived (as ratios)? Has data variability been adequately addressed?

EPA expects to propose criteria for the 65 toxic pollutants in the latter half of 1978. All comments received during the public comment period on today's notice will be considered before that proposal. The proposal will be accompanied by a full explanation of the methodology adopted, and a response to major substantive comments received on today's notice.

Dated: May 9, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

GUIDELINES FOR DERIVING WATER QUALITY CRITERIA FOR THE PROTECTION OF AQUATIC LIFE

PREFACE

The guidelines are intended to provide a systematic means of interpreting a variety of data in an objective, consistent and scientifically valid manner and should be modified only if sound scientific evidence for an individual pollutant indicates the need to do so. They provide uniform rules for deriving criteria from data bases of varying degrees of adequacy and supply rules for estimating some effects for which data are unavailable. The guidelines are not intended to be used where certain minimum data are unavailable, for instance, where no final fish or invertebrate chronic value can be obtained. In these cases another approach may be employed to develop criteria.

The guidelines provide a means of estimating the limiting concentrations which produce no observable effects on a specified percent of aquatic species. (For some pollutants, these limiting values may be based on bioconcentration or tainting). For example the guidelines might show that, to protect 95 percent of the species in an aquatic ecosystem, the concentration of nickel should be no more than x mg/l, while to protect 90 percent, the concentration should not exceed 2x mg/l, and so on. The guidelines therefore serve as a mechanism for building any desired degree of safety into all criteria and the policy decision as to how protective the criteria should be can be reached separately and applied consistently.[1]

The guidelines are based on aquatic toxicity data from laboratory tests on individual species. A broad range of aquatic toxicity data was used to provide a representative data base for developing the guidelines. (Tables 1-10).

The guidelines are designed to be applied to all available aquatic toxicity data for individual pollutants, after screening for reliability, to calculate concentration levels for each pollutant which can be expected to protect a desired percentage of the species of an aquatic ecosystem. For this purpose data showing the following effects are addressed separately: (1) acute toxicity to fish; (2) acute toxicity to invertebrates; (3) chronic toxicity to fish; (4) chronic toxicity to invertebrates; (5) toxicity to plant life; and (6) bioconcentration. Provision is also made to consider any data that do not fit in the above categories but which indicate a need to provide greater protection.[2]

The application of the guidelines to data for an individual substance involves the following three steps: (1) standardization of data where appropriate; (2) derivation of values within categories; and (3) derivation of criteria.

STANDARDIZATION OF ACUTE TOXICITY DATA

Most tests of acute toxicity to aquatic life involve observing what concentration of a pollutant will kill half of a test species in a given amount of time. For instance, a test may show that exposure to x mg/1 of a substance for 96 hours is fatal to 50 percent of the guppies in the test population, while the corresponding number for trout is y mg/1, and for fathead minnows z mg/1. These figures are commonly expressed as median lethal concentrations of LC50's.

LC50 values are not always comparable, however, since aquatic toxicologists employ a variety of techniques. The three major variables in lethal concentration testing are the following:

(1) *Exposure.* The length of exposure varies. Typical exposures are 24, 48, 72, and 96 hours, although some LC50 data reflect much longer exposure periods.

(2) *Static/flow-through.* Some experiments employ flows of water containing specified concentrations of the test substance, while in other tests the water is not renewed. The flow-through test is regarded as more accurate since the concentration of the pollutant can be maintained and metabolites removed.

(3) *Calculated/Measured.* Some data reflect how much of a substance was presumed to be added to the water (calculated concentration), while other data reflect a measurement of how much was actually added (measured concentration).

The guidelines apply "correction factors" to standardize acute toxicity data for fish and invertebrates. These factors are calculated from the data in published references for each of the variables noted above.

Fish. "Correction factors" for estimating 96-hour LC50 values from toxicity tests of shorter duration were reached by comparing 308 24-hour LC50 tests with corresponding 96-hour data. This comparison showed that the geometric mean of the ratio of the 96-hour LC50 to the 24-hour LC50 is 0.66. The corresponding number for 48-hour tests is 0.81, and for 72-hour tests, 0.92.

The relationship of static to flow-through results from fish tests was calculated in a similar fashion. A comparison of 24 pairs of tests on twelve toxicants showed that the geometric mean of the static test LC50's was on the average 71 percent that of the flow-through tests. The guidelines adjust for the test discrepancy by multiplying static data by .71. This adjustment also reflects more closely the toxicity of the chemicals being tested.

Calculated concentration data are similarly standardized to measured concentration. For fish, this correction factor was developed from a comparison of 89 tests on 39 pollutants which reveals that the geometric mean of the measured concentration is 77 percent of the calculated value. This correction factor is applied to all test data based on unmeasured values so that the toxicity expressed more nearly reflects the true exposure concentration.

Invertebrates. Acute toxicity data for invertebrates are standardized in the same manner as those for fish. The correction factors for invertebrates are different from those used for fish because invertebrate data exhibit relationships somewhat different from those observed among fish. in addition, 48-hour LC50 data for certain species (daphnia, cladocera, midges, copepods and mollusc bivalve and barnacle larvae) are not corrected to the 96-hour level because the standard tests on these species are 48-hour tests.

STANDARDIZATION OF FISH CHRONIC VALUES

The only chronic data that must be adjusted to compensate for differences in test methods are those derived from embryo-larval tests.

A comparison of 75 sets of chronic data shows that in only five instances were the results of a life cycle test more than a factor of two lower than the results of a comparable embryo-larval test. The guidelines therefore reduce embryo-larval toxicity figures by a factor of two to allow for the possibility that the embryo-larval chronic estimate is too high.

DERIVATION OF VALUES WITHIN CATEGORIES

Specific procedures have been developed to obtain concentration values for each of the six categories. These procedures are described below.

Fish Acute Values. After LC50 data on acute toxicity to fish are standardized, concentration limits necessary to protect against acute toxicity are calculated. A geometric mean LC50 is calculated from all LC50 data on a given pollutant. A factor based on the varying sensitivities of different species to different pollutants is then applied to adjust that figure to the desired degree of protectiveness. A preliminary estaimate of the sensitivity factor for freshwater fish is 1 divided by 3.9. The product of the geometric mean LC50 and the sensitivity factor is the "final fish acute value."

Invertebrate Acute Values. A final invertebrate acute value is derived from standardized acute data for invertebrates in the same manner as for fish.

Fish Chronic Values. Chronic toxicity data are usually measured as the maximum acceptable toxicant concentration or MATC. The MATC is the highest concentration of a pollutant that would have no measurable adverse effect on survival, growth, or reproduction of a species. A life cycle or partial life cycle test establishes limits within which the MATC must lie. The guidelines employ life cycle or partial life cycle data wherever available.

Since such data do not always exist, short term tests have been developed to estimate the results of these tests. The guidelines employ one of these substitutes, the embryolarval test, adjusted as described above (see Standardization of Fish Chronic Values), which has been demonstrated to give a good estimate of MATC values where long term data are lacking.

The geometric mean of all the chronic values for fish for a given pollutant is then calculated and multiplied by a sensitivity factor to reach an estimate of the concentration that will provide protection against chronic effects for a given percentage of the species. A preliminary estimate of the sensitivity factor for fish is 1 divided by 6.7. The geometric mean MATC times the sensitivity factor provides a first estimate of the fish chronic value.

To estimate chronic toxicity for untested species, existing LC50 data are used to determine "calculated" chronic values. Application factors are calculated for all matching pairs of MATC limits and 96-hour LC50's. The mean application factor is then calculated and employed to determine the MATC for species where such data are lacking. As set out in II.C.3.c., the mean application factor times the square root of the geometric mean of the LC50 values multiplied by the final fish acute value from I.G., gives the estimated MATC. This formula is based on analysis of data for ten toxicants for which application factors were estimated for more than one species of fish.

In order to provide consistent and reasonable estimates, these two MATC calculations are performed to the extent that data allow, and the lowest value is selected as the "final fish chronic value." If any individual chronic value is lower it is used instead.

Invertebrate Chronic Values. The calculation of invertebrate chronic toxicity is similar to that for fish. The geometric mean of all MATC values is reduced by a sensitivity factor calculated to produce the desired degree of protection. Analysis of nine sets of invertebrate MATC data shows that division by 5.1 will give the concentration level expected to protect 95% of the species.

Substitutes for life cycle or partial life cycle tests are not used in these calculations. Since the biochemistry and physiology of invertebrates is highly diverse, the guidelines do not employ application factors to estimate invertebrate MATC values. Nor have short term tests for invertebrates proven adequate substitutes for long term tests.

Plant Values. Relatively few tests exist for aquatic vascular plants. For algae, growth inhibition has been used to estimate effects, but no commonly accepted way of determining lethal concentrations has been developed. Since testing of toxicity to plants has not been standardized as for fish and invertebrates, the lowest available plant toxicity values are used as an indication of toxicity to plants.

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[1] The most recent of these publications is the "Quality Criteria for Water" issued in July, 1976. Notice of this document's availability appeared in 41 FR 32947, August 1978.

[1] In reviewing the guidelines, therefore, the reader should distinguish between the validity of the data treatment and application, and the policy decisions regarding coverage and safety.

[2] Examples of such data might include increased incidence of tumors of other adverse effects which may occur at lower concentrations than would be indicated by bioconcentration of other chronic toxicity tests.

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BIOCONCENTRATION VALUES OR RESIDUE LIMITED TOXICITY

Concentrations (RLTC). Bioconcentration data reflect the capacity of a toxicant to accumulate in organisms. The capacity of a substance to bioconcentrate can be determined in whole animal tests, or from the measured or estimated octanol/water partition coefficient. Bioconcentration may produce unacceptable residue levels in organisms, even though the concentration in the water is not directly toxic.

The water concentration which would not result in an unacceptable residue can be calculated by dividing the bioconcentration potential of a given substance into the permissible residue concentration determined from FDA action levels or from animal feeding studies. This water concentration is called the residue limited toxicant concentration (RLTC). Where no acceptable residue levels are known, no RLTC is calculated.

DERIVATION OF CRITERIA

After values are obtained in each of the categories for which adequate data exist (see *Derivation of Values within Categories*, above), the lower of the two actue values is taken to represent the "final acute value." Likewise the lowest value obtained from calculations based on chronic effects is selected as the "final chronic value."

A two-fold criterion is then recommended consisting of an instantaneous maximum based on the final acute value and a 24-hour average based on the final chronic value.

The use of a 24-hour average departs from the previous custom of setting a criterion that is irrespective of time. It is suggested here because experimental evidence indicates that chronic effect limits can safely be exceeded for brief periods so long as the 24-hour average is maintained.

For certain pollutants, the acutely toxic concentration may be very close to the "no effect" chronic concentration. In these cases the 24-hour average concentration indicated by the final chronic value may not afford adequate protection.

The guidelines therefore provide that where 0.44[3] of the final acute value is lower than the indicated chronic value, the former figure should be used as the permissible average concentration limit to protect against acute toxicity to more sensitive species or during more sensitive periods in the life cycle.

[3]The figure of 0.44 is an "adjustment factor" applied to LC50 data to determine the concentration likely to be lethal to be between 0 percent and 10 percent. It is based on 219 acute toxicity tests which showed that the mean concentration lethal to 0-10 percent of the test population was 0.44 times the LC50.

GUIDELINES

I. FINAL FISH ACUTE VALUE (DO SEPARATELY FOR FRESHWATER AND SALT WATER)

A. EC50 values based on immobilization are used as LC50 values. If no acceptable 24-, 48-, 72-, or 96-hr LC50 values are available for fish, no final fish acute value is derived. If LC50 values are available from one test for more than one of these time periods, use only the one for the longest duration. For use of LC50 values for other time periods and for durations longer than 96 hours, see Section VII.

B. Multiply all values based on unmeasured concentrations by a correction factor of 0.77 to simulate results based on measured concentrations (a).[4]

C. Multiply all 24-, 48-, and 72-hr LC50 values by correction factors of 0.66, 0.81, and 0.92, respectively, to simulate 96-hr values (b).

D. Multiply all values from static and renewal tests by a correction factor of 0.71 to simulate values from flow-through tests (c).

E. For each species calculate the geometric mean of all of the (corrected when necessary) LC50 values.

F. Calculate the geometric mean of the geometric means of all the species.

G. Obtain the final fish acute value by selecting the lower of 1 and 2:

1. Divide the geometric mean LC50 by 3.9 for freshwater fish and by 3.7 for saltwater fish (d).

2. Select the lowest (corrected when necessary) LC50 value based on *measured* concentrations and obtained using *flow-through* procedures comparable to those in Methods for Acute Toxicity Tests with Fish, Macroinvertebrates and Amphibians (12975, EPA-660/3-75-009).

II. FINAL FISH CHRONIC VALUE (DO SEPARATELY FOR FRESHWATER AND SALTWATER)

A. Chronic values are calculated as the geometric mean of the MATC limits obtained from a life-cycle test or a partial life-cycle test, or one-half the geometric mean of the limits obtained from an embryo-larval test (e).

NOTE.—Some authors report "MATC limits" that are not MATC limits as defined herein.

B. If no acceptable chronic values are available for fish, no final fish chronic value is derived.

C. Obtain the final fish chronic value by selecting the lowest value obtained from 1, 2, and 3:

1. Select the lowest chronic value.

2. a. For each species calculate the geometric mean of all the chronic values.

b. Calculate the geometric mean of the geometric means of all the species.

c. Divide the geometric mean chronic value by 6.7 (f).

3. a. For each matched pair of MATC limits and 96-hr LC50 values from flow-through tests with measured concentrations, calculate an application factor by dividing the geometric mean of the MATC limits by the 96-hr LC50.

b. Calculate the geometric mean of all of the AF values.

c. Obtain a calculated chronic value from:

$$X\sqrt{YZ}, \text{ where (g)}$$

X=geometric mean AF

[4]Small letters in parentheses refer to the footnotes.

Y=geometric mean of the LC50 values used in calculation of X

Z=final fish acute value from I. G

III. FINAL INVERTEBRATE ACUTE VALUE (DO SEPARATELY FOR FRESHWATER AND SALTWATER)

A. 48-hr LC50 and EC50 values for mollusc bivalve and barnacle larvae, daphnia and other cladocera, midges, and copepods are used as 96-hr values. For use of LC50 and EC50 values for time periods other than 48 hours for these species, see Section VII.

B. EC50 values based on shell deposition for oysters or based on immobilization for other invertebrates are used as LC50 values. If no acceptable 24-, 48-, 72-, or 96-hr LC50 values are available for invertebrates, no final invertebrate acute value is derived. If LC50 values are available from one test for more than one of these time periods, use only the one for the longest duration. For use of LC50 values for other time periods and for durations longer than 96 hours, see Section VII.

C. Multiply all values based on unmeasured concentrations by a correction factor of 0.77 to simulate results based on measured concentrations (a).

E. Multiply all values from static and renewal tests by a correction factor of 1.1 to simulate values from flow-through tests (i).

F. For each species calculate the geometric mean of all the (corrected when necessary) LC50 values.

G. Calculate the geometric mean of the geometric means of all the species.

H. Obtain the final invertebrate acute value by selecting the lower value obtained from 1 and 2:

1. Divide the geometric mean LC50 by 21 for freshwater invertebrates and by 49 for saltwater invertebrates (j).

2. Select the lowest (corrected when necessary) LC50 value based on *measured* concentrations and obtained using *flow-through* procedures comparable to those in Methods for Acute Toxicity Tests with Fish, Macroinvertebrates, and Amphibians (1975, EPA-660/3-75-009).

IV. FINAL INVERTEBRATE CHRONIC VALUE (DO SEPARATELY FOR FRESHWATER AND SLATWATER)

A. Chronic values are calculated as the geometric mean of the MATC limits obtained from a life-cycle test or a partial life-cycle test.

B. If no acceptable chronic values are available for invertebrates, no final invertebrate chronic value is derived.

C. Obtain the final invertebrate chronic value by selecting the lower value obtained from 1 and 2:

1. Select the lowest chronic value.

2. a. For each species calculate the geometric mean of all the chronic values.

b. Calculate the geometric mean of the geometric means of all the species.

c. Divide the geometric mean chronic value by 5.1 (k).

V. FINAL PLANT VALUE (DO SEPARATELY FOR FRESHWATER AND SALTWATER)

A. A plant value can be obtained from a toxicity test on algae, duckweed or other aquatic plant.

B. If no values are available for plants, no final plant value is derived.

Select the lowest plant value as the final plant value.

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VI. RESIDUE LIMITED TOXICANT CONCENTRATION (RLTC) (DO SEPARATELY FOR FRESHWATER AND SALTWATER)

A. A MAXIMUM PERMISSIBLE TISSUE CONCENTRATION CAN BE (1) OBTAINED FROM AN FDA ACTION LEVEL OR FROM ANIMAL FEEDING STUDIES, OR (2) CALCULATED FROM ORAL DOSE DATA IN THE REGISTRY OF TOXIC EFFECTS OF CHEMICAL SUBSTANCES PUBLISHED BY THE NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.

B. IF NO MAXIMUM PERMISSIBLE TISSUE CONCENTRATION IS AVAILABLE, NO RLTC CAN BE DERIVED.

C. AN ARITHMETIC AVERAGE BIOCONCENTRATION FACTOR (BCF) SHOULD BE CALCULATED FROM MEASURED EQUILIBRIUM OR GREATER-THAN-27-DAY BCF VALUES AVAILABLE FOR FISH, OR FROM COMPARABLE VALUES FOR OTHER AQUATIC ORGANISMS IF THEY ARE HIGHER THAN THE AVERAGE FOR FISH OR IF NO VALUES ARE AVAILABLE FOR FISH. BCF VALUES SHOULD BE CALCULATED USING WET WEIGHT OF EITHER EDIBLE PORTION, MUSCLE TISSUE, OR WHOLE BODY. TO CONVERT VALUES EXPRESSED ON A DRY WEIGHT BASIS TO WET WEIGHT, MULTIPLY THE DRY WEIGHT VALUE BY 0.1 FOR PLANKTON AND BY 0.2 FOR FISH AND OTHER INVERTEBRATES (L). USE BCF VALUES FROM FIELD SITUATIONS ONLY WHEN CERTAIN OF THE EXPOSURE CONDITIONS.

D. For organic chemicals, if no BCF values is available for aquatic organisms, a BCF can be obtained (m) from Log (BCF) = 0.542 Log P + 0.124, where P is the octanol/water partition coefficient and can either be measured directly or obtained from the retention time on a calibrated reverse phase liquid chromatography system (n). As a last resort, an empirically derived partition coefficient can be used (o).

E. Calculate the RLTC by dividing the lowest maximum permissible tissue concentration by the measured or calculated bioconcentration factor

VII. OTHER DATA (DO SEPARATELY FOR FRESHWATER AND SALTWATER)

A. For some substances acceptable pertinent information that cannot be used in Sections I-VI will be available concerning adverse effects on aquatic organisms and their uses.

B. Especially for organic compounds, data on closely related materials may be useful in the absence of similar data on the substance of concern.

C. For some substances data on other obviously important adverse effects, such as flavor impairment, fish avoidance, reduction in swimming speed, fish coughing, reproductive impairment, or loss in weight may be used.

D. Sometimes LC50 values for durations of longer than 96 hours, such as 7 or 30 days, on a sensitive species may be lower than the final chronic value, if chronic values are only available for insensitive species.

E. Data from behavioral, microcosm, field, and physiological studies may be available.

VIII. FINAL VALUES (DO SEPARATELY FOR FRESHWATER AND SALTWATER)

A. The "final acute value" is obtained from the final fish acute value and the final invertebrate acute value by selecting the lower available value.

B. The "final chronic value" is obtained from the final fish chronic value, the final invertebrate chronic value, the final plant value, and the RLTC by selecting the lowest available value, unless other data (see Section VII) exist to show that a lower value should be used.

IX. CRITERION (DO SEPARATELY FOR FRESHWATER AND SALTWATER)

A. No criterion is developed by this guideline unless either a final fish chronic value is available from Section II, or a final invertebrate chronic value is available from Section IV, or a good substitute is available from Section VII for either the final fish or final invertebrate chronic value.[3]

B. The maximum concentration should never exceed the final acute value (p). The 24-hr average concentration should never exceed (select the lower of 1 and 2):

1. 0.44 times the final acute value (q) from Section VIII A.

2. The final chronic value from Section VIII B.

FOOTNOTES

(a) The value of 0.77 is the geometric mean of values from 89 tests on 39 toxicants (see Table 1).

(b) The values of 0.66, 0.81, and 0.92 are geometric means of 308, 197, and 104 comparisons of 24-, 48-, and 72-hr LC50 values, respectively, with 96-hr LC50 values for fish (see Table 2).

(c) The value of 0.71 is the geometric mean of values for 24 pairs of tests on 12 toxicants (see Table 3).

(d) The value of 3.9 is the antilog of the product of 1.645 times the square root of the average of logarithmic variances calculated from 62 sets of fish LC50 values (see Table 4). The value of 1.645 is the t-value for p=0.05 for a one-tailed test so that 95% of the distribution will be above the lower limit. The value of 3.7 is derived similarly for saltwater fish.

(e) The value of one-half is used since in only 5 of 75 comparisons were the results of a life cycle test more than a factor of two lower than the results of a comparable embryo-larval test. See:

Macek, K. J. and B. H. Sleight, III, 1977. In *Aquatic Toxicology and Hazard Evaluation*, ASTM STP 634, F. L. Mayer and J. L. Hamelink, eds. American Society for Testing and Materials, Philadelphia, PA. pp. 137-146.

McKim, J. M., 1977. Jour. Fish. Res. Bd. Canada, 34:1148-1154.

Hansen, D., Personal Communication, Environmental Research Laboratory, Sabine Island, Gulf Breeze, Florida.

(f) The value of 6.7 is the antilog of the product of 1.645 times the square root of the average of logarithmic variances calculated from 14 sets of freshwater fish chronic values (see Table 5). No comparable data are available for saltwater fish, but 6.7 is probably reasonable since the available chronic values for saltwater fish are in the same range as those for freshwater fish.

(g) See: Andrew, R. W. *et al.*, Evaluation of an Application Factor Hypothesis, manuscript.

(h) The values of 0.26, 0.43, and 0.61 are geometric means of 400, 238, and 29 comparisons of 24-, 48-, and 72-hr LC50 values, respectively, with 96-hr LC50 values for invertebrates (see Table 6).

(i) The value of 1.1 is the geometric mean of values for 12 pairs of tests on 8 toxicants (see Table 7).

(j) The values of 21 and 49 are the antilogs of the products of 1.645 times the square roots of the averages of the logarithmic variances calculated from 25 and 34 sets of acute values for freshwater and saltwater invertebrates, respectively (see Table 8).

(k) The value of 5.1 is the antilog of the product of 1.645 times the square root of the average of logarithmic variances calculated from 9 sets of freshwater invertebrate chronic values (see Table 9). No comparable data are available for saltwater invertebrates, but 5.1 is probably reasonable since the available chronic values for saltwater invertebrates are in the same range as those for freshwater invertebrates.

(l) The values of 0.2 and 0.1 were derived from data published in:

McDiffett, W. F., 1970. Ecology 51:975-988.

Brocksen, R. W. *et al.*, 1968. J. Wildlife Management 32:51-75.

Cummins, K. W. *et al.*, 1973. Ecology 54:336-345.

Pesticide Analytical Manual, Volume I, Food and Drug Administration, 1969.

Love, R. M., 1957. In The Physiology of Fishes, Vol. I, M. E. Brown, ed. Academic Press, New York. p. 411.

Ruttner, F., 1963. Fundamentals of Limnology. 3rd ed. Trans. by D. G. Frey and F. E. J. Fry. Univ. of Toronto Press, Toronto.

Some additional values can be found in:

Sculthorpe, C. D., 1967. The Biology of Aquatic Vascular Plants. Arnold Publishing Ltd., London.

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(n) Veith, G. D., and R. T. Morris. A Rapid Method for Estimating Log P for Organic Chemicals, manuscript.

(o) Leo, A. J., 1975. In *Symposium on Structure-Activity Correlations in Studies of Toxicity and Bioconcentration with Aquatic Organisms*. G. D. Veith and D. E. Konasewich, eds. International Joint Commission, Windsor, Ontario, pp. 151-176.

(p) Tests with copper, zinc, diazinon, simazine, TFM and 2,4-D have shown that exposures to some concentrations above the MATC for short periods of time do not adversely effect survival, growth or reproduction.

(q) The value of 0.44 is the geometric mean of the quotients of the highest concentration that killed 0-10% of the organisms divided by the LC50 in 219 acute toxicity tests (see Table 10).

GLOSSARY

1. LC50: the concentration of a toxicant in water which is lethal to 50 percent of the organisms of a particular species under a given set of conditions in a specified length of time (i.e., 24-, 48-, 96-hours).

2. EC50: the concentration of a toxicant in water required to produce a defined effect in 50 percent of the organisms of a particular species in a specified length of time.

3. Maximum Acceptable Toxicant Concentration (MATC): the highest concentration of toxicant that has no adverse effect on survival, growth or reproduction of a species based on the results of a life-cycle or partial life-cycle toxicity test. A life-cycle or partial life-cycle test cannot produce a value for the

[3]As mentioned in the preface above, the Agency may employ other methods for deriving criteria where minimum data are not available for criterion derivation using the guidelines.

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MATC; a test can only produce limits within which the MATC must fall.

4. Life-Cycle Toxicity Test: consists of exposing several groups of individuals of one species to different concentrations of a toxic agent throughout a life cycle in order to study the effect of the toxic agent on the survival, growth and reproduction of the species. To insure that all life stages and life processes are exposed, the test begins with embryos or newly hatched larvae less than 48 hours old, continues through maturation and reproduction, and with fish ends not less than 30 days (90 days for salmonids) after the hatching of the next generation.

5. Partial Life-Cycle Toxicity Test: consits of exposing several groups of individuals of one species to different concentrations of a toxic agent through part of a life-cycle in order to study the effect of the toxic agent on survival, growth and reproduction. Partial life-cycle tests are conducted with fish species that require more than a year to reach sexual maturity, so that the test can be completed in less than 15 months, but still expose all major life stages to the toxicant. With fish, exposure to the toxic agent begins with immature juveniles at least 2 months prior to active gonad development, continues through maturation and reproduction, and ends not less than 30 days (90 days for salmonids) after the hatching of the next generation.

6. Application Factor (AF): for fish, the quotient of the maximum acceptable toxicant concentration (MATC) divided by the 96-hour LC50 (AF=MATC/96-hr LC50).

7. Embryo-Larval Toxicity Test: a 28-day (60-90 days for salmonids) toxicity test involving exposure during the early life stages of a fish from fertilization through embryonic, larval, and early juvenile development. The biological effects measured are hatchability, survival, growth and deformities.

8. Bioconcentration Factor (BCF): quotient of the concentration of a chemical in the tissue of an aquatic organism divided by the concentration in the water in which the organism resides.

9. Equilibrium Bioconcentration Factor: a BCF that is constant over a period of time such as one week.

10. Partition Coefficient: the quotient of the solubility of a compound in octanol divided by its solubility in water.

11. Empirically Derived Partition Coefficient: partition coefficient that is calculated from measured partition coefficients for structures which contain the important 'interactive' fragments of the chemicals for which partition coefficients must be calculated.

12. Maximum Permissible Tissue Concentration: the maximum concentration of a substance in aquatic organism tissue that causes no toxic effects when consumed by man or other animals.

13. FDA Action Level: the concentration of a substance in edible materials considered by FDA to be unacceptable for human or animal consumption.

14. Residue Limited Toxicant Concentration (RLTC): the highest toxicant concentration in water that will not produce a tissue residue in aquatic organisms that is above a maximum permissible tissue concentration.

15. In the *static* technique test solution and test organisms are placed in test chambers and kept there for the duration of the test.

16. The *renewal* technique is like the static technique except that the test organisms are periodically exposed to fresh test solution of the same composition, usually once every 24 hours, either by transferring the test organisms from one test chamber to another or by replacing the test solution.

17. In the *flow-through* technique test solutions flow into and out of the test chambers on a once through basis for the duration of the test. Two procedures can be used. In the first large volumes of the test solutions are prepared before the beginning of the test and these flow through the test chambers. In the second and more common procedure fresh test solutions are prepared continuously or every few minutes in a toxicant delivery system.

18. The geometric mean of N numbers is obtained by taking the Nth root of the product of the N numbers. Alternatively, the geometric mean can be calculated by adding the logarithms of the N numbers, dividing the sum by N, and taking the antilog of the quotient. The geometric mean of two numbers can also be calculated as the square root of the product of the two numbers. The geometric mean of one number is that number.

The logarithmic variance of a set of numbers is the variance of the logarithms of the numbers. Either natural (base e) or common (base 10) logarithms can be used to calculate geometric means and logarithmic variances as long as they are used consistently within each set of data, i.e. the antilog used must match the logarithm used.

TABLE 1.—*Quotients of measured and nominal toxicant concentrations obtained from acute and chronic flow-through toxicity tests with both marine and freshwater fish and invertebrates*

Toxicant	Measured/ nominal[a]	Number of tests	Reference[b]
Acrolein	0.76	2	1
BHC	*.68	1	2
Cadmium	*1.06	1	3
Do	.90	5	4
Do	.90	2	5
Do	.90	1	6
Do	.78	3	7
Carbaryl	.99	1	8
Carbofuran	*.20	1	9
Chlordane	*.56	1	10
2-Chlorophenol	.73	1	11
Chromium	.97	3	12
Copper	.79	2	13
Do	1.03	3	14
Diazinon	*.72	1	15
Do	.89	3	16
DDT	*.80	1	17
2,4-Dichlorophenol	.98	1	11
Dieldrin	*.65	1	18
2,4-Dimethylphenol	.88	1	11
2,6-Dimethylphenol	.83	1	11
4,6-Dinitro-o-cresol	.80	1	11
2,4,-Dinitrophenol	.94	1	11
Endosulfan	.70	2	1
Endrin	*.63	1	19
Do	.74	1	20
Do	.99	3	21
Fluoride	.90	1	22
Hexachlorobenzene (HCB)	*.61	1	23
Heptachlor	.43	1	1
Kepone	*.83	1	24
Lead	.89	4	25
Do	.74	1	26
Leptophos	*.80	1	27
Lindane	.82	3	28
Malathion	.79	1	29
Do	.94	1	20
Do	*.80	1	17
Mercuric chloride	.99	1	30
Methoxychlor	*.51	1	9
3-Methoxyphenol	.94	1	11
Methyl mercuric chloride	.87	2	31
PCB's:			
1016	.98	1	32
1242	.94	2	33
1248	.56	2	34
1254	.32	1	33
1254	*.43	1	35
Pentachlorophenol	*.90	1	36
Do	1.02	1	11
Phenol	.98	1	11
Toxophene	*.64	1	37
2,4,6-Tribromophenol	1.02	1	11
2,4,6-Trichlorophenol	1.07	1	11
Trifluralin	*.33	1	36
Do	.73	1	1
Zinc	.90	1	14
Do	.92	6	38
Do	1.03	1	6

[a] The average measured concentrations divided by the average nominal concentrations in each toxicity test.

[b] Complete sets of nominal and measured values are not available in all referenced papers. In such cases the necessary information was obtained from the cited author.

* Denotes values from tests conducted in saltwater.

NOTE.—Geometric mean=0.77; N=58.

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TABLE 2.—*Quotients of LC50 and EC50 values for 24, 48, 72, and 96 hours for fish*

96/24	96/48	96/72	Reference
Inorganic salts (static and flow-through)			
.61	.82	.88	40
.92	.96	.97	
1	1		14
.81	1		
.71	1		
.44	.65		
.85	1		14
.74	.74		14
.38	.65		14
.12	.33		
.29	.48		
.24	.47		
.68	.93		14
.92	.97		
.69	1		
.84	.84		
.51	.72		14
.94	.97		14
.01	.19		
.37	.76		
.81	.88		
.44	.80		14
.42	.68		
.31	.63		
.27	.49		
.42	.75		14
.48	.63	.87	40
.88	.94	.97	
.79	.95	.99	
.89	.94	.97	
.29	.43	.87	
.44	.65	.89	
.22	.64	.98	
.36	.53	.88	
.84	.94	.99	
.86	.99	1	
.71			10
.63	.71		14
.77	.89		
.38	.84		
.28	.49		
.44	.74		2
.61	.95		9
.04			11
.96	.96		14
.43	.70		
.68	.89		
.38	.55		
.36	.77		
Others (flow-through)			
0.68	0.77	0.77	16
.44	.97	1	
.90	.90	.93	
.61	.98	1	
.93	.99	1	
.88	.87	1	
.84	1	1	
.86	.95	.98	
.80	.96		17
.96	.92		
	.83	.96	15
.72	.90	1	
	.92		1
	1		
	.86	.94	15
	.81	.85	
.44	.58	.93	
.62	.75		12
	.87		13
.59	1		
.78	1		
.88			19
.80			
.53			
1			
.83			
.97			
.77			
1			
1			
.50	.64		1
	.85		
		0.72	32
		.70	
	.81	.85	33
0.46	.52	.90	33
.30		.87	17
.39	.60		
.41			
.51	.79		
.48	.93		17
.75	.86	.92	
	.55		
.50	.82	.90	
	.80		37
		.96	
.50	.85	.86	38
.55	.78	.96	
.34	.55	.66	
.33	.62	.94	
.58	86		39
Others (flow-through)			
1			
.99			
.72			
.70	.93		4
.73	.90	1	35
.74	.97	.96	
		.88	30
	.46		
	.49	.76	
.94			19
.80			
.53			
Others (static)			
0.90			8
.92			
.93			8
.87			
.95			
.97			
.85			
.96			
.72	0.95		2
	.65		5
	.54		
.84	.86		6
.53	.77		6
.84	.95		7
.40	.69		
.80	.91		6
.93			18
.73			
.81			
.83			
.97			
1			
1			
.67			8
1			
.87			
.69			
.95			
.88			
.92			8
.73			
.91			
.95			
.88			
.92			8
.73			
.91			
.88			
.98			
.98			
.72	.90	.94	36
.76	.87	.96	
.74	.78	.91	
.73	.78	.91	
.72	.78	.94	
.68	.85	.96	
.68	.73	.87	
.71	.77	.87	
.73	.90	.99	
.58	.81	.93	
.60	.68	.83	
.55	.62	.87	
		.88	

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Others (static)			
		.86	
		.66	
		.71	
.75	.95	1	
.70	.95	1	
.84	.96	1	34
.63			20
.72			
.66			
.66	.82		28
.72	.79		
.68	.96		
.95	.96		
.86	.93		
.83	.94		
.66	.82		
.47	.60		
.56	.16		
.96	.96		29
1	1		
.82	.82		
.97	1		
1	1		
.92	.96		
.96	.99		
.96	1		
.85	.92		
.79	.79		29
.98	.98		
1	1		
.63	.87		
.99	.96		
.83	.83		
.56	.58		
.67	.67		
.56	.84		
.99	1		
.81	.73		
.72	.96	1	27
.56	.86	1	
1	1	1	
.72	.81	1	
	1	1	
.90	.90	.96	
.96	.96	.96	
1	1	1	
	1	1	
1	1	1	
1	1	1	
1	1	1	
1	1	1	
1	1	1	
.97	1	1	
1	1	1	
	.95	.98	
.96	.98	1	
.67	.86	1	
.92	.98	1	
.96	.97	1	
.73	.90	.90	
1	1	1	
1	1	1	
		.97	
	.93	1	
.39			25
.44			
.71			
.36			
.54			
.54			
.47			
.61			
.51			
.52			26
.67			
.75			
.67			
.61			
.94			
1			
.73			
.60			
.36			
.85			
.96			
.66			
.41			
.96			
.96			
.85			
.71			

Others (static)		
.76		
.31		22
.23		
.19		
.25		
.38		
.77		23
.67		
.57		
.67		
.69		
.73		
.82		
.26		
.29		
.13		
.87	1	24
.96	1	
.62	.97	
.59	.81	
.79	.95	
.64	.98	
.56	1	
.8	1	
.89	.82	
.68	.81	
.79	.90	
.68		20
.98		
.76		
.72		
.83		
1		
.98		
.82		
1		
.70		
.78		
1		
.77		
.96		
1		
.93		
1		
.88		
.97		
.58		
.73		
1		
1		
.75		
.75		21
.81		
.67		
.65		
.46		

GEOMETRIC MEANS (WITH NUMBER OF VALUES IN PARENTHESES)

	96/24	96/48	96/72
Inorganic salts	0.46(62)	0.73(63)	0.87(24)
Others:			
Flow-through	0.77(34)	0.85(26)	0.94(17)
Static	0.72(212)	0.86(197)	0.94(83)
Grand mean	0.66(308)	0.81(197)	0.92(104)

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TABLE 3.—*Quotients of 96-hr LC50 values from flow-through and static tests with fish*

Toxicant	LC50 (flow-through)	LC50 (static)	Flow-through/static	Reference
Pyrethrum extract	23	39	0.59	1
Do	22.5	24.6	.91	1
Do	132	114	1.16	1
Do	104	49	2.12	1
Dimethrin	165	1,140	.14	1
Do	22.3	37.5	.59	1
D-transallethrin	9.40	22.2	.42	1
Do	9.70	17.5	.55	1
RU-11679	.151	.635	.24	1
Do	.10	.11	.91	1
Do	.70	.63	1.11	1
S-bioallethrin	80	52	1.51	1
SBP-1382	.275	.450	.61	1
Do	.750	2.62	.29	1
Do	.513	2.36	.22	1
Tergitol 15-S-9	4.8	4.6	1.04	2
Neodol 25-9	2.1	2.1	1.00	2
TFM	3.28	2.85	1.19	3
Do	3.42	2.75	1.24	3
Do	2.15	1.80	1.19	3
Nickel	28	32	.88	4
Do	25	27	.93	4
Malathion	10.45	9	1.16	5
Endrin	.39	.77	.51	6

NOTE.—Geometric mean = 0.71; N = 24.

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TABLE 4.—*Comparable LC50 values for various species of fish*

Toxicant	Reference	Results
Copper	36, 38, 30	0.075, 0.1, 0.23, 0.46, 0.10, 0.15, 1.3, 0.29, 0.31, 0.32, 0.32, 0.54, 0.85, 1.9, 9.0
Diazinon	36, 42	7.8, 1.6, 1.3
Captan	4	65, 72, 34
Quinaldine sulfate	32	72, 33, 24, 32, 6.8, 15, 33, 42, 32, 28, 22, 20, 15.5, 72
Guthion	24	1.90, 2.37
Endosulfan	42, 29	0.30, 0.09, 0.38, 0.86
DMSO	48	32.2, 36.5, 37.3, 41.7, 36.5, 32.5, 43.0, 33.5, 37.0
Bayer 73	49	0.05, 0.061, 0.23, 0.14, 0.15, 0.22, 0.10, 0.08, 0.086, 0.056, 0.082, 0.043, 0.1, 0.094, 0.068, 0.088, 0.06
Furnace	47	1.41, 1.00, 0.82, 1.07, 2.48, 3.00
HTH	45	0.29, 0.17, 0.20, 1.18, 0.8, 1.0, 0.38, 1.4, 0.16, 1.3, 0.56, 0.56
33NCX	34	203, 240, 167, 200, 830, 123, 245, 255, 280, 68, 490, 320, 428, 155
Malachite Green	46	0.22, 0.38, 0.28, 0.24, 0.25, 0.22, 0.11, 0.073, 0.045, 0.031
Formalin	44	118, 173, 100, 62, 66, 173, 100, 136, 143

Toxicant	Reference	Results
Rotenone	12	36, 62, 37, 46, 22, 44, 27, 33, 70, 142, 497, 50, 142, 57, 68, 389, 164, 141, 79
TFM	33	2.7, 2.2, 2.0, 2.6, 1.4, 0.9, 1.3, 1.0, 8.2, 8.3, 2.1, 1.9
Lead	36	2.75, 4.1
Phenol	38	11.6, 29.0, 36.3
Picloram	38	28.0, 35.5, 26.1
DSS	38	4.6, 8.0, 8.1
NaCl	24	7650, 7341
Thiodan	13	0.3, 2.5
LAS	35	3.3, 4.0, 4.2, 4.9, 6.4
Malathion	31	9.0, 12.9, 10.7, 8.6, 6.6, 0.17, 0.10, 0.28, 0.17, 0.20, 0.10, 0.26
Malathion	36, 3, 42	0.11, 0.35, 10.5, 0.051
Guthion	31	3.3, 3.5, 4.3, 0.24, 0.70, 0.05, 0.02, 0.005, 0.014, 0.004, 0.017, 0.013
Carbaryl	31	16, 20, 13, 15, 5.3, 11, 6.8, 6.4, 4.3, 1.9, 0.8, 0.7
Zectran	31	11, 17, 19, 17, 13, 17, 11, 15, 10, 8, 1.7, 2.5
DDT	31	16, 5, 21, 19, 10, 5, 8, 2, 7, 2, 4, 9
Lindane	31	44, 64, 131, 87, 90, 83, 68, 32, 27, 2, 41, 68
Toxaphene	31	13, 5, 14, 14, 4, 13, 18, 2, 11, 3, 8, 12
Methyl Parathion	31	5.7, 8.6, 9.0, 8.9, 5.2, 7.1, 5.2, 5.7, 2.8, 4.7, 5.3, 3.1
Baytex	31	1.7, 1.8, 3.4, 2.4, 1.2, 1.9, 1.4, 1.5, 0.93, 1.3, 1.3, 1.6
Methylmercury	36	0.065, 0.075, 0.24
Zinc	36	0.6, 1.5, 2.0, 9.2
Chlordane	19, 42	59, 47, 37, 24.5, 6.4
Methoxychlor	27, 42	8.63, 22.2, 49
Atrazine	35, 25	4.9, 6.7, 15
Cadmium	36	2.5, 7.2, 21.1
Chromium 6	36, 24	36, 59, 120
Lindane	23, 26, 42	0.026, 0.030, 0.069, 0.104, 0.031
Selenium	26	7.3, 14.3, 19.1, 36.6, 45.0
Arsenite	26	25.5, 27.0, 31.2, 44.9, 48.5, 72.0
Beryllium	26	37.9, 55.9
Endrin	3, 42	0.00085, 0.00038, 0.00063
Heptachlor	29, 42	0.007, 0.010
Trifluralin	29, 42	0.115, 0.190
PCP	42, 26, 24, 38	0.442, 0.138, 0.285, 0.26, 0.27, 1.13, 1.74, 0.23
NaCN	26, 17	0.13, 0.125, 0.156, 0.318, 0.095
ABS	35	7.4, 8.2, 11.3, 17.0, 22.0
H_2S	20	0.027, 0.018, 0.048, 0.012, 0.033, 0.12, 0.028
Toxaphene	21, 22, 42	18.5, 10.8, 7.2, 1.1, 0.53
TX100	40	5.4, 6.7, 16.1
DMF	40	10,410, 8,366, 6,300
TEG	40	92,500, 73,500, 61,000
Acetone	40	9,100, 6,070, 7,300
Chlorine	28	135, 102, 86, 138, 150, 205, 295
Aldrin	43	33, 13, 26, 33
Dieldrin	43	15, 7.5, 37, 22
Endrin	42	1.0, 0.6, 1.9, 1.5
Chlordane	43	52, 22, 62, 190
Heptachlor	43	94, 19, 230, 107
Toxaphene	43	7.5, 3.5, 5.6, 20
DDT	43	32, 16, 27, 43
Methoxychlor	43	64, 62, 56, 120
Lindane	43	62, 77, 152, 138
BHC	43	2,300, 790, 2,300, 2,170

All values from Reference 39

Results	
100.0, 115.0	90, 78
0.57, 0.50	1.460, 1,250
300, 195	
220, 66	45, 40
650, 180	
10, 15	
100, 185	6,700, 1,400
32, 24	1.2, 0.56
125, 150	11, 15
3.5, 1.3	11, 12
0.24, 0.47	550, 270
1,100, 720	350, 400
420, 420	1,700, 650
27, 7.3	130, 100
550, 480	65, 160
320, 240	0.87, 0.95
	84, 13.5
1,300, 2,000	170, 31
7.5, 15	7,000, 6,700
35, 18	290, 95
	220, 250

All values from Reference 42

Results	
0.003, 0.002	3.2, 1.8
1.2, 1.6	0.19, 0.23, 0.23
0.032, 0.032	0.15, 0.32, 0.33
0.003, 0.0018, 0.0004, 0.0055	0.023, 0.032
0.002, 0.0004, 0.0028	0.32, 0.19
0.24, 0.32	0.036, 0.018
0.0032, 0.0006	0.00036, 0.0032
0.0032, 0.007	0.042, 0.020
0.00032, 0.00032, 0.002, 0.0023	1.6, 2.4
3.2, 1.4, 1.4	0.007, 0.0032
0.15, 0.028	5.6, 12.0
0.07, 0.07	0.002, 0.00032
0.028, 0.0032	0.00032, 0.00032
0.015, 0.0033	0.0032, 0.0032
0.032, 0.032	0.32, 0.32
0.068, 0.13, 0.032	70.0, 6.6
0.002, 0.010	

All values from Reference 37

Results	
1.70, 2.23	0.17, 1.89
15.9, 9.45	520, 72.2
5.59, 7.50	155, 314
5.02, 5.95	3.98, 560
4.28, 7.40	29.3, 6.18
3.36, 14.61	198, 250
6.42, 3.67	224, 253
1.55, 0.84	42.6, 48.6
0.25, 0.83	8.28, 27.1
71.5, 53.0	0.62, 29.4
7.24, 69.1	167, 134
0.98, 2.40	98.2, 24.0
3.83, 5.35	49.5, 48.8
0.45, 1.7	0.064, 91.1 ($AgNO_3$)

Species	N	Average ln var.	ln S.D.	Y = 1.645 (ln S.D.)	e^Y
Freshwater	62	0.6964	0.8345	1.3728	3.9462
Saltwater	38	.6206	.7878	1.2959	3.6543
All	164	.8504	.9222	1.5170	4.5584
All ex. $AgNO_3$	163	.6939	.8330	1.3703	3.9386

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TABLE 5.—*Comparable MATC values for various species of fish*

Toxicant	Reference	Results
Copper	36	0.014, 0.013, 0.0088, 0.048, 0.029
Cyanide	18, 15, 14	15.9, 17.4, 8.0
Diazinon	36	0.009, 0.0066
Lead	36	0.044, 0.084
Chlordane	19, 42	0.00081, 0.00063
Toxaphene	22	37, 196
TX100	40	0.71, 0.36
DMP	40	7.42, 64.9
Methylmercury	36	0.000095, 0.00052, 0.00024
Zinc	36	0.11, 0.12, 0.85, 0.073
Endrin	3, 42	0.00026, 0.00019
Trifluralin	29, 42	0.0031, 0.0025
Atrazine	36	0.088, 0.22, 0.33
Cadmium	36	0.0058, 0.046, 0.050
Chromium 6	36	0.028, 0.0034
Lindane	36	0.012, 0.011, 0.015
Malathion	36, 42	0.0051, 0.0097, 0.34, 0.006

NOTE.—Reference numbers refer to list of references for table 4.

Species	N	Average in var.	In S.D.	Y=1.645 (in S.D.)	e^Y
Freshwater	14	1.3424	1.1586	1.9059	6.7257
Saltwater					
All	17	1.0432	1.0214	1.6802	5.3664

TABLE 6.—*Quotients of LC50 and EC50 values for 24, 48, 72, and 96 hours for invertebrates*

96/24	96/48	96/72	Reference
Inorganic salts			
0.04			1
.76			
.51			
.45			
.05			
.48			
.60			
.87			1
.79			
.93			
.82			
.85			
.72			
.83			
.87			1
.88			
.62			
.80			
.84			
.44			
.67			
.37			1
.50			
.67			
.74			
.24			
.75			
.83			
	0.014	0.37	2
	.31	.20	2
.21	.44	.80	
.97	.13	.38	
.40	.15	.39	
.76	.13	.33	2
.37	.52	.70	3
	.33	.84	
		.83	
.53			1
.11			
.21			

96/24	96/48	96/72	Reference
.38			
.33			
.33			
.07			
.77			1
.50			
.86			
.67			
.82			
.82			
Others			
	0.73	0.73	4
	.15	1.0	
		.22	4
	.45	.79	
		.70	4
	.57	1.0	
	.30	.65	4
		.43	
	.43	1.0	
	.47	.97	
	.28	.69	4
	.58	.44	
	.39	.61	4
	.77	.77	
	.32	.83	4
	.57	1.0	
		.51	4
	.17	.36	
	.86	1.0	4
	.61	.75	
0.06	.26		5
.08	.38		
.13	.19		
.38	.56		
.12	.33		
.10	.41		
.04	.16		
.05	.18		
.01	.07		
.17	.37		
.09	.27		
.13	.35		
.27	.33		5
.52	.59		
.18	.37		
.31	.63		
.23	.38		5
.10	.18		
.13	.35		
.01	.02		5
.12	.20		
.06	.19		
.01	.01		
.29	.50		
.19	.50		
.13	.24		
.29	.50		
.13	.28		
.20	.56		
.09	.56		
.08	.10		
.03	.12		
.16	.42		
.11	.19		
.08	.31		
.04	.23		
.11	.33		
.17	.23		
.08	.27		5
.39	.57		
.15	.49		
.09	.22		
.33	.43		
.55	.75		
.65	.45		
.19	.89		
.20	.46		
.23	.71		
.58	.77		
.36	.53		
.17	.83		
.27	.34		
.36	.57		
.40	.53		
.27	.32		
.35	.86		
.25	.69		
.06	.26		5

Others			
.08	.38		
.14	.20		
.13	.33		5
.19	.49		
.16	.37		
.29	.50		
.17	.37		
.20	.56		
.11	.19		
.19	.32		
.17	.33		
.15	.23		
.33	.54		
.53	.75		
.34	.47		
.11	.18		
.16	.21		
.09	.21		
.22	.50		
.24	.90		
.13	.22		
.31	.44		
.22	.41		
.17	.43		
.47	.82		
.22	.47		
.22	.55		
.07	.32		
.20	.31		
.28	.62		6
.21	.48		
.11	.36		
.47	.64		
.40	.55		6
.19	.29		
.16	.33		
.14	.37		
.17	.60		
.30	.79		6
.44	.58		
.33	.46		
.22	.82		
.31	.41		6
.40	.73		
.52	.68		
.53	.61		
.43	.67		6
.29	.56		
.43	.74		
.23	.53		6
.27	.60		
.14	.28		
.25	.50		
.26	.56		6
.32	.56		
.33	.74		
.63	.91		
.29	.58		6
.56	.76		
.38	.64		
.36	.75		
.12	.19		6
.31	.52		
.22	.34		
.53	.75		
.43	.67		6
.15	.42		
.47	.74		
.46	.69		
.43	.28		
.20	.42		
.25	.27		
.25	.40		
.33	.39		
.22	.50		
.85	.13		
.25	.68		
.28	.43		6
.23	.42		
.31	.58		
.25	.50		
.76	.89		6
.36	.62		
.23	.58		
.34	.48		
.35	.52		6
.12	.23		
.21	.36		
.25	.39		
.48	.59		6
.39	.87		
.38	.56		
.43	.64		
.03			

Others			
.23			
.31			
.42			
.05			
.08			
.04			
.50			
.69	.73		6
.21	.62		
.50	.63		
.55	.67		
.43	.62		6
.29	.61		
.54	.56		
.13			7
.34			
.21			
.24			
.31			
.43			
.40			
.31			
.36			
.77			
.52			7
.74			
.50			
.35			7
.20			
.27			7
.22			
.19			
.41			
.20			
.14			
.40			
.57			
.60			
.52			
.18			
.36			
.44			
.15			
.22			
.19			
.25			
.50			7
.84			
.05			
.16			
.09			
.48			
.46			
.65			
.52			7
.28			
.27			
.43			
.12			
.81			
.32			
.13			
.21			
.39			
.56			
.18			
.13			
.35			
.21			
.29			
.34			
.44			
.38			
.20			
.60			
.66			
.11			
.28			
.28	.45		7
.43	.58		
.35	.53		
.13	.23		
.42	1.0		7
.73	.80		
.52	.88		
.55	.79		
.17			7
.34			
.15			
.06			
.04			
.23			
.67			
.06			

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Others		
.06		
.19		
.06		
.28		
.25	.40	7
.34	.49	
.15	.30	
.23	.40	
.13	.27	
.08	1.0	
.06	.18	
.28	.90	
.48	.67	7
.37	.45	
.50	.63	
.04	.10	
.69	.84	
.04	.13	
.03	.11	
.08	.48	
.17		7
.20		
.80		
.24		
.09		
.34		
.43		
.64		
.07		
.50		
.21		7
.18		
.17		
.24		
.28		
.62		
.60		
.36		7
.24		
.19		
.56		
.16		
.25		
.62		
.14		
.46		7
.09		
.56		
.23		
.16		
.03		
.09		
.14		
.75		
.21		
.04		
.06		
.56		
.12		
.50		
.33	.42	8
.75	1.0	
.50	.77	
.20	.32	
.34	.96	
.46	.84	
.28	.38	
1.0	1.0	
.64	.72	
.48	.78	
.15	.23	
.21	.56	
.61	.96	
.91	1.0	
.18	.42	
.13	.28	
.50	.91	
.50	.56	
.54	.72	
.40	.77	8
.50	.50	
.53	.66	
.30	.47	
.35	.86	
.86	.40	9
	.44	
	.51	
.56	.62	9
.45	.68	
.54	.68	
.46	.56	
.51	.86	
.91		10

Others		
.42		
.16		
.13		
.19		
.59		11
.21		
.51		
.03		
.26		
.14		12
.85		
.46		13
.29		
.45		
.71		
.58		
.21		
.70		

GEOMETRIC MEAN

[With number of values in parentheses]

	96/24	96/48	96/72
Inorganic salts	0.049(46)	0.23(8)	0.48(9)
Others	.24(354)	.44(230)	.68(20)
Grand mean	.26(400)	.43(238)	.61(29)

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TABLE 7.—*Quotients of 96-hr LC50 values from flow-through and static tests with invertebrates*

Toxicant	LC50 (flow-through)	LC50 (static)	Flow-through/static
Malathion	0.50	0.9	0.56
DDT	.80	1.8	.44
Parathion	4.5	2.1	2.14
Endrin	5.5	1.3	4.23
Azinphosmethyl	1.2	.2	6.00
DDT	3.5	2.3	1.52
Parathion	5.0	1.5	3.33
Endrin	.5	3.2	.16
Zectran	83	12	6.92
Chlordane	4	10	.40
Penthion	5.8	10	.58
Malathion	12	90	.13

NOTE.—Geometric Mean = 1.1; N = 12.
All data from Sanders, H. O., 1972. Technical Papers of the Bureau of Sport Fisheries and Wildlife, No. 66. 19 pp.

TABLE 8.—*Comparable acute values for various species of invertebrates*

Toxicant	Reference	Results
Copper	1	0.09, 0.91, 6.2, 4.6, 0.03, 4.5
Zinc	1	18.4, 8.1, 58.1, 26.2, 18.2, 20.2
Nickel	1	14.1, 13.0, 30.2, 21.2, 8.6, 11.4
Cadmium	1	1.7, 0.07, 3.4, 8.1, 1.2, 3.8, 8.4
Mercury	1	1.0, 0.1, 1.2, 0.02, 2.1
Chromium III	1	9.3, 3.2, 50.0, 43.1, 11.0, 12.4
Thiodan	13	62, 175
Formalin	44	1.05, 465, 126, 93, 835
Malachite Green	46	0.72, 122, 3.45, 190, 0.51, 0.079, 1.03, 0.173, 0.068
Bayer 73	10	0.2, 2.4, 10.0, 25.0, 1.5
Cadmium	7, 6, 5, 8	4.6, 0.76, 0.0155, 0.065
Atrazine	25	0.72, 6.9, 5.7
DDT	2	1800, 1000, 4.0, 25, 100, 10, 5.7, 3.2, 2.3
Endrin	2	2.4, 1.5, 64, 320, 4.7, 0.61, 4.3, 1.8, 3.2
Aldrin	2	180, 8.0, 42, 10.0, 8.7, 18, 4300, 50
Parathion	2	32, 5, 600, 2.6, 15, 0.64, 9.0, 1.3, 1.5
Malathion	2	50, 3000, 320, 100,000, 100, 3.9, 5, 0.76, 90
Dieldrin	2	39, 7.8, 740, 12, 7.0, 640, 20, 5.0
TFM	41	11.6, 2.5, 29.0, 37.0, 125.0, 21.3, 22.4, 555, 80.0, 89.0
Copper	9,8	1.7, 0.04, 0.02
Lindane	23, 42	207, 485, 39, 4400, 170, 6300
H_2S	20	1.46, 1.14, 0.081, 0.028, 0.429, 0211, 0.12, 0.16
Toxaphene	42, 22	10, 24, 180, 4.4, 1.4, 3.2, 16.0
Methoxychlor	27	1.96, 1.6, 3.25, 1.14, 2.15
HCN	16	2295, 169
LAS	11	27, 9, 7

All values from Reference 42

Results	
4.8, 0.4, 6.2	0.00028, 0.032, 0.24, 0.24
8.6, 0.7, 31	0.68, 0.64, 0.28
0.83, 0.037, 14.2	1.0, 0.37, 0.24
120, 10	0.000028, 0.00068, 0.32
0.29, 3.2	0.0015, 0.0024, 0.22, 0.00020, 0.0032
0.01, 0.005, 0.22	0.40, 0.015, 0.00016, 0.0008, 0.0002
0.0003, 0.023, 0.031	0.32, 2.8, 0.032
0.024, 0.062	0.0024, 0.32
0.000032, 0.000024, 0.0023	0.00018, 0.068, 0.021
0.0024, 0.26 0.01	0.02, 0.0036, 0.32, 0.0068, 0.09
0.32, 0.026	0.0028, 0.00024, 0.001
0.001, 0.01, 0.009	0.028, 0.032, 0.0015, 0.32
0.15, 0.0086	0.00024, 0.019
0.028, 0.028	0.032, 0.0032, 0.22, 0.064, 0.59
0.0008, 0.0006, 0.0007	0.0052, 0.0042, 0.0027, 0.18, 0.032
0.00032, 0.14	

All values from Reference 37

Results	
41.2, 0.97	487, 8.59
2.44, 1.80	75, 100
28.1, 2.18	32.5, 0.04
11.0, 1.99	46.5, 8.44
50.2, 0.31	224, 193
9.71, 0.34	21.9, 7.17
5.3, 0.16	4.1, 4.85
62.9, 3.03	52.1, 6.16
8.07, 0.94	33.0, 61.7
1.60, 0.31	0.43, 0.98
4.06, 29.7	17.7, 6.27
0.57, 21.9	2.18, 2.63
	31.3, 65.0

NOTE.—Reference numbers refer to list of references for table 4.

Species	N	Average in var.	In S.D.	Y = 1.654 (in S.D.)	e^y
Freshwater	25	3.4584	1.8597	3.0592	21.3098
Saltwater	34	5.5753	2.3612	3.8842	48.6273
All	82	4.4067	2.0992	3.4532	31.6016

TABLE 9.—*Comparable MATC values for various species of invertebrates*

Toxicant	Reference	Results
Atrazine	25	0.16, 0.187, 0.092
Lindane	23	3.32, 14.4, 6.1
H_2S	20	0.0018, 0.031, 0.0082
Toxaphene	22, 42	92, 180, 1790, 97
Chlordane	19	16.2, 1.1, 7.8
Cyanide	16	34, 18
Chlorine	28	12, 3
Copper	8, 9	28, 11, 11, 11
LAS	11	0.28, 0.63
Cadmium	8, 5	0.34, 5.5

NOTE.—Reference numbers refer to list of references for table 4.

Species	N	Average in var.	In S.D.	Y = 1.645 (in S.D.)	e^y
Freshwater	9	0.9753	0.9876	1.6246	5.0762
Saltwater					
All	10	1.2181	1.1037	1.8155	6.1444

TABLE 10.—*Quotients of highest concentration (HC) effecting or killing 0-10 percent divided by LC50 or EC50 for freshwater and marine fish and invertebrates*

Toxicant	LC50	HC	HC/LC50	Reference
Tetrachloroethylene	12.9	10.0	.78	1
Nitrobenzene	42.6	10.0	.23	1
Silver	0.064	0.036	.56	1
Thallium	121	46	.38	1
Toluene	12.7	10.0	.79	1
Chlorobenzene	15.9	7.8	.49	1
1,2-dichlorobenzene	5.59	3.2	.57	1
1,3-dichlorobenzene	5.02	1.7	.34	1
1,1,1-trichloroethane	71.5	46.0	.64	1
4-chlorophenol	3.83	1.0	.26	1
Ethylbenzene	155.2	36.0	.23	1
4-nitrophenol	8.28	2.2	.27	1
Thallium	0.86	0.45	.52	1
Chlorine (average)			.5	2
1,3-dichloropropene	6.06	3.60	.59	1
2,3-dinitrotoluene	0.33	0.13	.39	1
Bromoform	29.3	13.0	.44	1
2,4-dinitrophenol	0.62	0.28	.45	1
LAS	4.8	3.2	.67	3

TABLE 10.—*Quotients of highest concentration (HC) effecting or killing 0-10 percent divided by LC50 or EC50 for freshwater and marine fish and invertebrates*—Continued

Toxicant	LC50	HC	HC/LC50	Reference
2,4-dinitrophenol	16.6	6.63	.40	4
Do	16.8	8.40	.50	4
Do	8.28	5.58	.67	4
Do	8.17	5.3	.65	4
4,6-dinitro-o-cresol	2.17	1.5	.69	4
4-nitrophenol	59.4	17.0	.29	4
Do	61.8	40.9	.66	4
2,4,6-dibromophenol	6.48	1.84	.28	4
Do	6.81	1.74	.26	4
2,4-dimethyphenol	16.95	12.33	.73	4
Do	16.54	7.34	.44	4
phenol	28.1	15.8	.56	4
Do	29.4	17.8	.61	4
3-methoxyphenol	77.1	33.6	.44	4
Do	75.4	34.3	.45	4
2,4,6-trichlorophenol	9.70	2.48	.26	4
Do	8.64	2.49	.29	4
2-chlorophenol	11.3	7.92	.70	4
Do	13.5	7.70	.57	4
Pentachlorophenol	.21	0.17	.81	4
Do	.225	0.18	.80	4
Lead	4.4	3.5	.80	4
Do	5.0	2.5	.50	4
Copper	1.1	0.65	.59	4
Chromium	69.0	25.0	.36	4
Do	49.0	12.5	.26	4
Zinc	1.58	.54	.34	4
Do	7.48	2.47	.33	4
Do	2.62	0.54	.21	4
Do	3.03	1.6	.53	4
Do	6.37	3.8	.60	4
Do	2.51	1.27	.51	4
Do	5.86	1.60	.27	4
Do	0.60	0.24	.40	4
Effluent	24.0	18.0	.75	5
Do	24.0	18.0	.75	5
Do	43.0	32.0	.74	5
Do	43.0	32.0	.74	5
Do	36.0	18.0	.50	5
Do	24.0	18.0	.75	5
Do	0.3	0.1	.33	5
Do	3.2	1.0	.31	5
Do	17.5	10.0	.57	5
Do	14.5	11.0	.76	5
Do	12.2	10.0	.82	5
Do	34.5	25.0	.73	5
Do	26.0	18.0	.69	5
Do	54.0	32.0	.59	5
Do	73.6	56.0	.76	5
Do	73.6	56.0	.76	5
Do	15.6	10.0	.64	5
Do	5.9	3.7	.63	5
Do	5.9	3.7	.63	5
Do	7.4	2.0	.27	5
Do	39.5	32.0	.81	5
Do	9.1	5.6	.62	5
Do	2.0	1.0	.50	5
Do	14.5	10.0	.69	5
Do	24.7	18.0	.73	5
Do	15.0	6.0	.40	5
Copper	19.0	14.5	.76	6
Do	.55	.21	.38	6
Do	.17	.09	.53	6
Do	.16	.08	.50	6
Do	6.8	4.3	.63	6
Do	5.1	2.9	.57	6
Do	8.4	6.6	.78	6
Do	.49	.18	.37	6
Do	1.6	11.2	.70	6
Do	10.0	7.8	.78	6
Do	15.0	9.4	.63	6
Effluent	45.6	21.0	.46	7
Do	74.5	35.4	.48	7
Do	19.8	13.0	.66	7
Do	74.0	36.2	.49	7
Do	67.0	36.0	.54	7
Do	56.0	25.0	.45	7
Do	71.0	50.0	.70	7
Do	28.0	10.0	.36	7
Do	71.0	50.0	.70	7
Do	45.0	36.0	.80	7
Do	77.5	59.3	.76	7
Do	78.0	60.0	.77	7
Do	4.7	2.8	.60	7

TABLE 10.—*Quotients of highest concentration (HC) effecting or killing 0-10 percent divided by LC50 or EC50 for freshwater and marine fish and invertebrates*—Continued

Toxicant	LC50	HC	HC/LC50	Reference
Do	15.6	10.3	.66	7
Do	12.5	6.5	.52	7
Do	1.79	.8	.45	7
Do	54.5	40.0	.73	7
Do	11.8	6.0	.51	7
Do	46.5	36.0	.77	7
Do	47.0	36.4	.77	7
Do	45.5	36.4	.80	7
Heptachlor	2.1	1.3	.62	8
Endrin	.049	.01	.20	8
Heptachlor	.21	.1	.48	8
Aroclor 1016	10.2	1.0	.098	8
Endrin	.73	.1	.14	8
Leptophos	4.1	1.0	.24	8
Chlordane	8.4	2.4	.28	8
Leptophos	2.5	.56	.22	8
EPN	25.6	5.4	.21	8
Toxaphene	61	45	.74	8
Kepone	10.5	4.4	.42	8
Lindane	.13	.045	.35	8
BHC	.34	.22	.65	8
Chlordane	.55	.25	.45	8
Heptachlor	2.14	1.7	.79	8
Chlorobenzene	86.0	10.0	.12	1
Pentachloroethane	62.0	46.0	.73	1
Tetrachloroethylene	17.7	10.0	.56	1
Isophorone	117	15.0	.13	1
Silver (as $AgNO_3$)	.0023	0.0017	.74	1
Toluene	31.3	28	.89	1
1,2-dichlorobenzene	2.44	0.36	.15	1
Ethylbenzene	75.0	6.8	.09	1
1,3-dichlorobenzene	28.1	10	.36	1
Thallium	2.18	1.7	.78	1
Hexachloroethane	8.07	0.28	.03	1
1,4-dichlorobenzene	11.0	0.68	.06	1
4,chloro-6-methylphenol	0.29	0.028	.10	1
1,1,2-trichloroethane	18.0	1.0	.06	1
Nitrobenzene	27.0	0.46	.02	1
2,4,5-trichlorophenol	2.66	0.78	.29	1
Selenium	0.43	0.22	.51	1
Diethylphthalate	52.1	10	.19	1
Acenapthene	41.2	0.60	.02	1
Methylene chloride	224	68	.30	1
2,3,5,6-tetrachlorobenzene	0.57	0.01	.02	1
1,1,2,2-tetrochloroethane	14.1	4.6	.33	1
4-chlorophenol	4.06	1.1	.27	1
4-nitrophenol	21.9	13	.59	1
1,3-dichloropropane	487	68	.14	1
Do	6.15	0.41	.07	1
Effluent	67.	32.	.48	5
Do	3.0	1.0	.33	5
Do	76.5	56.	.73	5
Do	21.3	5.3	.25	5
Do	9.6	5.3	.55	5
Do	15.6	10.	.64	5
Do	43.6	32.	.73	5
Do	6.0	1.	.17	5
Do	300	32	.11	9
Do	650	560	.86	9
Do	10	5	.5	9
Do	36	25	.69	9
Do	100	79	.79	9
Do	32	10	.31	9
Do	125	75	.60	9
Do	3.5	1.8	.51	9
Do	.24	.10	.42	9
Do	1,100	790	.72	9
Do	420	320	.76	9
Do	550	420	.76	9
Do	320	180	.56	9
Do	90	50	.56	9
Do	1,490	790	.53	9
Do	45	10	.22	9
Do	6,700	1,000	.15	9
Do	11	10	.91	9
Do	11	1.4	.13	9
Do	550	300	.55	9
Do	65	56	.86	9
Do	.87	.50	.57	9
Do	84	50	.60	9
Do	170	32	.19	9
Do	7,000	3,200	.46	9
Do	290	125	.43	9

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TABLE 10.—*Quotients of highest concentration (HC) effecting or killing 0–10 percent divided by LC50 or EC50 for freshwater and marine fish and invertebrates*—Continued

Toxicant	LC50	HC	HC/LC50	Reference
Do	220	132	.60	9
Do	.50	.25	.50	9
Do	86	56	.85	9
Do	185	100	.54	9
Do	24	10	.42	9
Do	.55	.50	.91	9
Do	.47	.32	.68	9
Do	720	500	.69	9
Do	420	320	.76	9
Do	480	180	.38	9
Do	240	100	.42	9
Do	2,000	1,000	.5	9
Do	15	10	.67	9
Do	40	25	.63	9
Do	10,000	7,900	.79	9
Do	6,600	5,000	.76	9
Do	15	10	.67	9
Do	270	150	.56	9
Do	400	320	.80	9
Do	650	560	.86	9
Do	160	100	.63	9
Do	.95	.50	.53	9
Do	31	18	.58	9
Do	8,700	3,200	.37	9
Do	95	75	.79	9
Do	28.1	18.	.64	5
Do	21.8	10.	.48	5
Do	75.	56.	.75	5
Do	4.	3.	.75	5
Do	46.7	32.	.68	5
Do	54.	10.	.18	5
Do	.49	.3	.65	5
Do	8.7	5.	.57	5
Do	42.3	32.	.76	5

NOTE.—Geometric mean = 0.44; N = 219.

REFERENCES

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2. Brungs, Wm. A. 1977. Review of Toxicity Data Concerning Intermittent Chlorination at Power Plants and Recommendations for Criteria. Environmental Research Laboratory. Duluth, Minn.
3. Pickering, Q. H., and T. O. Thatcher. 1970. J. Water. Poll. Control Fed. 42:243–254.
4. Phipps, G. L., and G. W. Holcombe. Personal Communication. Environmental Research Laboratory, Duluth, Minn.
5. Peltier, Wm. Personal communication. Environmental Research Laboratory, Athens Ga.
6. Pickering, Q. M. Personal communication. Newtown Fish Toxicology Station, Cincinnati, Ohio.
7. Preston, R. Personal communication. Wheeling Field Office, Wheeling, W. Va.
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[FR Doc. 78-13294 Filed 5-17-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

WARC ADVISORY COMMITTEE FOR AMATEUR RADIO

Meeting Announcement

Date: June 5, 1978.
Time: 9:30 a.m.
Location: Room 8210, Federal Communications Commission, 2025 M Street NW., Washington, D.C. 20554.

Agenda: Introductions; Status of WARC-79 preparations; Overview of International preparations related to the Amateur Radio Service; Critique of ACAR comments, 5th NOI, Docket 20271; Discussion of 7th and 8th NOI, Docket 20271; Future tasks for ACAR; Other discussion to be determined; Closing remarks.

PUBLIC PARTICIPATION

Public representatives who desire to make a presentation at this meeting should coordinate their request with the Executive Secretary, WARC Advisory Committee for Amateur Radio: Peter M. Hurd, 6425 Cygnet Drive, Alexandria, Va. 22307, telephone 202-695-7181 or 703-768-9535. Required information includes: Name, mailing address, and telephone number of person making the presentation; outline of material to be presented; duration of presentation; and audio/visual aids required. Written statements should be addressed to John B. Johnston, Chairman, WARC Advisory Committee for Amateur Radio, Room 5114, Federal Communications Commission, Washington, D.C. 20554.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-13533 Filed 5-17-78; 8:45 am]

[1505-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

Correction

In FR Doc. 78-12606 appearing at page 19921 of the issue of Tuesday, May 9, 1978, an agreement was left out. Please insert the following after the summary text for Agreement No. T-3645:

Agreement No. 2846-36.
Filing party: Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006
Summary: Agreement No. 2846-36 has been entered into by the member lines of the West Coast of Italy, Sicilian, and Adriatic Ports/North Atlantic Range Conference (WINAC) to amend Article 9a) of the basic agreement to provide that each member present at an ordinary principals' meeting does not carry more than one proxy.

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Application for Pipeline Right-of-Way AA-16453

MAY 11, 1978.

Notice is hereby given that pursuant to sec. 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by Pub. L. 93-153, approved November 16, 1973 (87 Stat. 575), the Alaska Pipeline Co., P.O. Box 6288, Anchorage, Alaska 99502, has applied for a ten (10) foot wide permanent pipeline right-of-way across the following public lands:

T. 8 N., R. 4 W., Seward Meridian,
Secs. 4, 5, 8, 17, 18, and 19.
T. 9 N., R. 4 W., Seward Meridian,
Secs. 1, 2, 11, 15, 21, 22, 27, 28, and 33.
T. 10 N., R. 4 W., Seward Meridian,
Secs. 24, 25, 35, and 36.
T. 10 N., R. 3 W., Seward Meridian,
Secs. 19 and 30.

The proposed pipeline is located within an existing natural gas pipeline right-of-way to Alaska Pipeline Co. (A-051647), and is located southwest of Anchorage, Alaska.

The 16-inch buried pipeline will convey natural gas across approximately 15 miles of public lands traversing the Kenai Moose Range and the Chugach National Forest in part.

The purpose of this notice is to inform the public that the U.S. Department of the Interior, Bureau of Land Management, will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send them to the State Director, Alaska State Office, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

CURTIS V. MCVEE,
State Director.

[FR Doc. 78-13501 Filed 5-17-78; 8:45 am]

[4310-84]

[NM 33337, 33388, and 33339]

NEW MEXICO

Applications

MAY 11, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso natural Gas Co. has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 25 E.,
Sec. 5, S½SE¼.
T. 23 S., R. 25 E.,
Sec. 15, lots 9, 10, and 16.

These pipelines will convey natural gas across 0.728 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-13502 Filed 5-17-78; 8:45 am]

[4310-84]

[NM 33184 and 33342]

NEW MEXICO

Applications

MAY 11, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 8 W.,
Sec. 35, NE¼SW¼.
T. 31 N., R. 13 W.,
Sec. 1, NE¼SE¼.

These pipelines will convey natural gas across 0.174 miles of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-13503 Filed 5-17-78; 8:45 am]

[4310-84]

[NM 33327]

NEW MEXICO

Application

MAY 11, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 33 E.,
Sec. 20, N½SE¼ and SE¼SE¼.

This pipeline will convey natural gas across 0.452 miles of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-13504 Filed 5-17-78; 8:45 am]

[4310-70]

National Park Service

[Order No. 7]

ADMINISTRATIVE OFFICER, ET AL., EVERGLADES NATIONAL PARK, FLA.

Delegation of Authority

SECTION 1. *Administrative Officer and Supervisory Contract Specialist.* The Administrative Officer and Supervisory Contract Specialist, Everglades National Park, may execute, approve, and administer contracts and issue purchase orders not in excess of $500,000 for equipment, supplies, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Administrative Officer and Supervisory Contract Specialist in behalf of any coordinated area.

SEC. 2. *Purchasing Agent.* The Purchasing Agent, Everglades National Park, may issue purchase orders not in excess of $10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Purchasing Agent in behalf of any coordinated area.

SEC. 3. *District Park Ranger, Everglades City.* The District Park Ranger, Everglades City, Everglades National Park, may issue field purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 4. *Chief of Maintenance, Maintenance Facility Manager, and Maintenance Foreman Park General.* The Chief of Maintenance, Maintenance Facility Manager, and Maintenance Foreman Park General, Everglades National Park, may issue field purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 5. *Park Manager, Park Ranger, and Captain-Engineer, Fort Jefferson National Monument.* The Park Manager, Park Ranger, and Captain-Engineer, Fort Jefferson National Monument, may issue field purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 6. *Park Manager, Big Cypress National Preserve.* The Park Manager, Big Cypress National Preserve, may: (a) Execute, approve, and administer contracts and issue purchase orders not in excess of $2,000 for equipment, supplies, and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds; (b) issue revocable special use permits having a term of 5 years or less.

SEC. 7. *Revocation.* This order supersedes Everglades National Park Order No. 6 dated May 3, 1972, and published in 37 FR July 25, 1972, in its entirety.

(National Park Service Order No. 77 (38 FR 7478) as amended; Southeast Region Order No. 6 (42 FR 59428).)

Dated: March 2, 1978.

JOHN GOOD,
Superintendent, Everglades National Park.

[FR Doc. 78-13477 Filed 5-17-78; 8:45 am]

[4310-70]

[Order No. 1]

ADMINISTRATIVE SERVICES ASSISTANT, FORT PULASKI NATIONAL MONUMENT, GA.

Delegation of Authority

SECTION 1. *Administrative Services Assistant.* The Administrative Services Assistant may issue purchase orders not in excess of $5,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

(National Park Service Order No. 77 (38 FR 7478) as amended; Southeast Region Order No. 6 (42 FR 59428).)

Dated: March 3, 1978.

GRADY C. WEBB,
Superintendent, Fort Pulaski National Monument.

[FR Doc. 78-13476 Filed 5-17-78; 8:45 am]

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[7532-01]

NATIONAL COMMISSION ON NEIGHBORHOODS

MEETING; CORRECTION

ACTION: Correction of notice of meeting.

SUMMARY: This notice, required under the Federal Advisory Committee Act (5 U.S.C. Appendix I), corrects a notice of meeting announced in the FEDERAL REGISTER on May 8, 1978, at page 19726. Prior notice indicated time, place, and agenda of meeting would be announced as soon as known.

TIME AND DATE: 2:00 p.m. (Pacific standard time) on Friday, May 19, 1978; 1:30 p.m. and 4:00 p.m. (Pacific standard time) on Saturday, May 20, 1978.

PLACE: (Meetings of May 19 and May 20 at 1:30 p.m.): Hotel Biltmore, 515 South Olive Street, Los Angeles, CA. (Meeting of May 20 at 4:00 p.m.): 1000 Grattan Street (corner of Tenth and Grattan), Los Angeles, CA.

AGENDA: (meetings of May 19 and May 20 at 1:30 p.m.): Business sessions to consider interim report. (Meeting of May 20 at 4:00 p.m.): Public hearing to analyze different approaches to economic development.

JONATHAN STEIN,
Administrative Officer.

[FR Doc. 78-13595 Filed 5-17-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-20]

STATISTICAL CHART; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Chart of 1977 Transporation Fatalities.—The transportation death toll in the United States rose by nearly 4 percent in 1977—the first significant upturn in 5 years, according to preliminary statistics released May 13 by the National Transportation Safety Board.

Spurred by an increase of 1,357 in highway deaths and a record toll in air travel, total fatalities in all modes of transporatation rose from 50,208 in 1976 to 52,154 in 1977. This total had risen only 1 percent in 1976 after 3 years of decline.

Highway fatalities, which historically account for more than 90 percent of all U.S. transportation deaths, last year increased from 45,523 to 46,880. It was the second successive year of increased highway fatalities after 2 years of decline. The highway toll had dropped nearly 20 percent in 1974 and 2 percent in 1975 before turning upward by 2 percent in 1976 and 3 percent in 1977.

Four of the Board's seven other statistical categories also registered fatality increase in 1977. Airline deaths, swollen by the 327 United States and 248 foreign carrier fatalities in the ground collision of two wide-body jetliners in the Canary Islands, rose from 45 in 1976 to 654 last year. Railroad fatalities increased from 590 to 653, an increase of 11 percent. Recreational boating and general aviation each showed a 4 percent increase.

Other categories registered decreases, with pipelines down from 82 to 43 (48 percent); commercial marine from 269 to 216 (20 percent); and railhighway grade crossings from 1,174 to 1,001 (15 percent).

The Safety Board's statistics were issued in the form of its annual pie chart of transportation fatalities, attached to press release SB 78-34.

SAFETY RECOMMENDATIONS

Aviation.—The crash last December 11 of an Air Indiana DC-3 shortly after takeoff from Dress Regional Airport, Evansville, Ind., has been investigated by the Safety Board. The airplane was on an IFR charter flight to transport the Evansville University basketball team to Nashville, Tenn. The 27 passengers and 2 flight crewmembers were killed.

Investigation disclosed that Evansville Tower personnel who were working the combined local/ground position and the flight data position were not aware of the new weather observation being displayed on the Electrowriter in the tower cab. As a result, incorrect weather information was transmitted to aircraft under tower jurisdiction. Although neither this misinformation nor other air traffic control services contributed to the accident, the Safety Board believes that it illustrates a potentially serious shortcoming in the system for dissminating current weather information to flightcrews and warrants corrective action.

Accordingly, the Safety Board on May 11 recommended that the Federal Aviation Administration—

Install an alerting feature on all existing and new equipment used for disseminating essential weather information in all air traffic control facilities, at positions that require timely information and at positions that are required to issue current weather information as a part of their air traffic control functions. (Class II Priority Action) (A-78-34)

Highway.—Six recommendations were issued May 9 by the Safety Board following investigation of a truck-automobile collision on July 6, 1977, near Vincentown, N.J. The truck, with a gross weight of 52,000 pounds, struck the automobile at the intersection of U.S. Route 206 and County Road Route 616. The truckdriver and six of the seven occupants of the automobile were killed.

Board investigation revealed that the truckdriver was exceeding the speed limit. The truck's brakes were in good condition, but there was no evidence of preimpact braking.

The Board noted that the truckdriver had been issued a New Jersey "basic driver license" which allows operation of all vehicles except motorcycles, omnibuses, schoolbuses, and certain other vehicles that weigh more than 18,000 pounds. He had been driving for his employer, a private intrastate carrier, intermittently for more than 5 years. During that time he was convicted of driving while under the influence of an intoxicating liquor, had his operator license suspended, and was involved in two accidents. During the 3 years before his employment, he had been convicted of careless driving, speeding, and driving while impaired. His employer was not required to and had not checked his driving record either before hiring him or during his employment.

As a result of its investigation of this accident, the Safety Board has issued the following recommendations:

To the State of New Jersey—

Develop and implement a classified driver licensing system, which conforms to the National Highway Traffic Safety Administration Highway Safety Program Standard No. 5, "Driver Licensing." (H-78-27)

Develop and implement regulations that require employers to make preemployment investigations and inquiries into the driving record of each truckdriver it employs. The requirements should be similar to those found in 49 CFR 391.23 and 391.25 of the Federal Motor Carrier Safety Regulations. (H-78-28)

To the National Highway Traffic Safety Administration—

Actively encourage the State of New Jersey to develop and implement a classified driver licensing system which conforms to Highway Safety Program Standard No. 5, "Driver Licensing." (H-78-29)

In cooperation with the Bureau of Motor Carrier Safety, actively encourage the State of New Jersey to develop and implement regulations that require employers to make preemployment investigations of the driving record of each truckdriver applicant. The requirements should be similar to those found in 49 CFR 391.23 and 391.25 of the Federal Motor Carrier Safety Regulations. (H-78-30)

To the State of New Jersey Department of Transportation—

Maintain surveillance of the intersection of U.S. Route 206 and County Road Route 616 through careful monitoring of traffic volumes and accidents. Use this information to determine the need for further corrective action to improve the safety of the intersection. (H-78-31)

Install a Junction Assembly and Directional Marker Assembly on the approaches of County Road Route 616 that directs drivers to U.S. Route 206. (H-78-32)

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Each of the above recommendations is designated "Class II, Priority Action."

RESPONSES TO SAFETY RECOMMENDATIONS

AVIATION

A-72-23.—The Federal Aviation Administration's letter of March 31 advises of completed action with respect to this recommendation which called for review of the design and certification criteria of FAR Part 23 applicable to fire protection of powerplant installations for adequacy and effect of appropriate regulatory changes if deemed necessary. FAA advises that Amendment 23-18 added two new rules directly relating to the recommendation. Part 23, paragraph 23.1193(f), adds a rule for nacelles on multiengine airplanes. Paragraph 23.123 adds a requirement for fire detectors. A copy of Amendment 23-18 is attached to FAA's letter.

HIGHWAY

H-76-15.—The Federal Highway Administration on February 28 provided a followup to its July 8, 1977, letter regarding this recommendation which asked FHWA, in cooperation with the States, to perform a sufficient quantity of skid tests on timber roadway surfaces to establish if such surfaces can normally meet the recommended skid numbers values contained under Highway Safety Program Standards 12—Highway Design Construction and Maintenance.

FHWA reports that three bridges were tested in Jamestown National Historical Site, the results indicating that exposed timber surfaces have marginal skid resistance qualities at best and can be very hazardous when wet. FHWA field offices have been advised of the recommendation and the tests. Field offices have also been advised that any new bridges on paved roads which incorporate a timber deck should also include some type of skid-resistant surface. A copy of the memorandum sent to FHWA Regional Administrators is attached to FHWA's letter.

H-77-6.—The National Highway Traffic Safety Administration's letter of March 9 responds to the Safety Board's inquiry of February 8 concerning the penetration of bus wheel well covers into the total production of buses. NHTSA reports that letters of inquiry have been sent to the three largest manufacturers of intercity buses (General Motors, American Motors Corp., and Fixible). The Safety Board will be notified further after the responses are received and analyzed.

H-77-10.—The State of Nebraska's Department of Roads on March 2 responded to the Safety Board's inquiry of February 14 regarding this recommendation, resulting from investigation into the accident which occurred August 8, 1976, at the Beaver Avenue crossing of the Burlington Northern Railroad in Stratton, Nebr.

The Department reports that a letter has been received from the Chairman of the Village Board of Trustees of Stratton making application for the use of Federal Off-System railroad crossing funds. The Department states that the crossing is so located that it appears the 10 percent local funding must be a joint venture between the Village of Stratton and Hitchcock County. Both of these local entities will be contacted and advised of the necessity for their commitment to the 10 percent funding. The Department will prepare the necessary program documents to be submitted to the Federal Highway Administration and the required agreements for the railroad. The Safety Board on March 14 acknowledged receipt of the Department's letter and asked to be kept informed of the progress relating to implementation of the recommendation.

H-77-16.—The California Department of Transportation (Caltrans) on March 8 answered the Safety Board's report of January 25 to the initial response letter dated November 28, 1977. This recommendation resulted from investigation of the May 21, 1976, accident involving a charter bus which vaulted over the Marina Vista off-ramp of Interstate 680 near Martinez, Calif. The recommendation asked Caltrans to erect at the approach to the Marina Vista off-ramp an exit sign that incorporates a diagram of the curvature of the ramp to illustrate its severity and relocate or supplement the advisory exit speed sign to improve its warning to approaching drivers.

The Board's reply to Caltrans' initial response reiterated the conclusion that the curve radius of the ramp in question was under the minimum specified radius defined in the roadway geometric design handbook published by the American Association of State Highway and Transportation officials, which manual is accepted as a standard for design by the Federal Highway Administration. The Board said that this fact places the ramp in the category of "substandard" as defined by the "Exit Speed Sign Review—State of California," page 4, conclusion B. The Board further stated that its continued opinion is that this "substandard" ramp (Item IV-B, California Study) requires an overhead diagramatic exit sign and an additional speed reduction warning sign to make it operationally safe for future users.

Caltrans' March 8 response states that the Board based its recommendation for the addition of a curved arrow sign on the inference that the subject ramp is "substandard" because its radius is less than 230 feet. Caltrans further states, "Your definition of substandard would include virtually every loop ramp in the State of California. The document you referred to is talking about California standards. Almost all loop ramps in the State have less than 200' radius. It would be wasteful and destroy the effectiveness of this special sign if it were erected in advance of every loop off-ramp in California. That's why it's use is limited to special cases, such as ramps containing hidden curvature or ramps with a history of accidents. The gore and curvature of the subject ramp are clearly visible."

With reference to FHWA's most recent policy on ramp signing (Official Rulings on Requests for Interpretations, Changes, and Experimentations; Volume VIII—December 1977), Caltrans said that no mention is made of the supplemental speed advisory sign suggested by the Board. According to Caltrans, the December policy states, "When geometrics of the exist ramp are such to cause a significant speed reduction, the exit speed sign should be posted along the deceleration lane or along the ramp such that it is visible to the driver in time to make a safe slowing and exiting maneuver." It further notes, "Use and placement of these signs (W13-2) should be based on an engineering study."

Caltrans also stated that California policy specifies that a W13-2 (CA No. W72/W72A) shall be used on freeway off-ramps. "As we have repeatedly informed the Board, this sign, optional under Federal signing policies, is further supplemented with a W4, symbolized curve alignment sign where standard curve warning signs have not proven adequate," Caltrans stated.

Caltrans finds no historical accident data to support installation of the supplemental W4 sign.

H-77-17 through 19.—Also with reference to the Martinez bus accident is a letter dated March 6, 1978, from the Department of California Highway Patrol, addressee of these recommendations. Attached to the response letter are copies of documents providing the status of the Department's actions on these recommendations and draft changes to the Department's regulations representing requirements to be adopted following their review by the affected industry and the necessary formal public hearings on or about June 30, 1978.

The proposals for Title 13 CAC, to assure public awareness of safety regulations, include adoption of section 1212(e) concerning Motor Carrier Ratings—Buses, and a regulation to ensure driver proficiency.

MARINE

M-72-16.—Letter dated February 28, 1978, from Radio Technical Commis-

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sion for Marine Services (RTCM) provides in response to this recommendation three documents in addition to those forwarded to the Safety Board with letters of February 25 and September 27, 1977. The recommendation issued in connection with the 1972 Board study, "Collisions within Navigable Waters of the United States," asked that RTCM's Special Committee 65 (SC-65) continue its work on developing general standards or specifications for shipboard collision avoidance systems so that the standards may be used by the marine industry for evaluting the effectiveness of the various systems available or currently under development.

The documents recently developed by SC-65 are:

1. Equipment Reliability Specification for Design and Production of Radar, Collision Avoidance, and Marine Radar Interrogator-Transponder Equipment (RTCM Paper 265-77/EC-240/SC 65-259).

2. Performance Specification for a General Purpose Navigational Radar Set for Ocean-going Ships of 1,600 Tons Gross Tonnage and Upwards, For New Radar Installations (RTCM Paper 14-78/EC-245/SC 65-264). (This specification is an updating and replacement of RTCM Paper 104-74/EC-140.)

3. Resources Necessary for On-Board Preventive and Corrective Maintenance of Radar, Collision Avoidance and Marine Radar Interrogator-Transponder Equipment (RTCM Paper 266-77/EC-241/SC 65-260). (This paper is an extension (and replacement) of RTCM Paper 139-77/EC-229/SC 65-246.)

M-74-29.—United States Coast Guard's letter of March 21 is in response to the Safety Board's inquiry of February 3. Coast guard has reevaluated this recommendation which was issued as a result of investigation into the death of three ship's officers aboard the SS *William T. Steele* on November 18, 1972. The recommendation asked Coast Guard to require that a written cargo loading plan be made and posted each time cargo is to be transferred aboard chemical tankers, and further, that a check procedure be developed to assure the desired rating is achieved.

Coast Guard reports development of an advance notice of proposed rulemaking addressing tank entry procedures that is now undergoing in-house clearance. Additionally, Coast Guard has published a notice of proposed rulemaking concerning tankermen qualifications. Coast Guard considers that these tow efforts coupled with the existing regulations are adequate for assuring the safety of the vessel and the crew. A step-by-step check-off list for cargo handling operations is not considered necessary.

M-74-36.—In response to the Safety Board's request of December 7, 1977, for a copy of Coast Guard's "policy change" relative to Citizen's Band radio service, Coast Guard on January 10 forwarded a copy of its August 31, 1977, ALDIST. The recommendation, issued as a result of loss on August 16, 1972, of numerous vessels during heavy weather in the vicinity of Chetco River, Oreg., asked Coast Guard to use all available means of communications, including Citizen's Band radio in situations where a more rapid rescue could be provided.

M-77-15 through 30.—Coast Guard's letter of February 17 is in response to recommendations issued by the Board in connection with the sinking of the *Pearl C* near Astoria, Oreg., on September 13, 1976.

In answer to M-77-15, which asked Coast Guard to conduct field investigations to determine the causes of vessel equipment failures which require assistance from Coast Guard Station Cape Disappointment and implement a program of corrective actions which includes publishing maintenance and repair guidelines for the operators of charter boats to reduce the number of assistance cases. Coast Guard states that the need for some type of mechanical information pamphlet to be distributed to operators of charter fishing boats in the Thirteenth Coast Guard District is not disputed. Coast Guard needs further study to develop specific areas of information to reduce search and rescue (SAR) work generated by these vessels.

Regarding M-77-16, Coast Guard will draft proposed regulations requiring operators of inspected charter boats to keep a log of service and repairs made to their vessels as recommended.

Recommendation M-77-17 asked Coast Guard, in cooperation with the States of Oregon and Washington, to establish a program of safety education for the operators of charter boats to include training in preventive maintenance and in at-sea repair of machinery and equipment necessary for safe operation. Coast Guard's response states that establishment of qualification standards for licensed operators of inspected vessels is a statutory responsibility of the Coast Guard not jointly shared with the individual States; further, the need to establish a training program addressing preventive maintenance and machinery repairs has not been demonstrated. Coast Guard considers that a licensed applicant's demonstration of knowledge through examination is adequate, particularly when one considers that most operators of small passenger vessels are the vessels' owners. However, the Coast Guard will review existing examination materials to insure that the prospective operator's knowledge of the propelling machinery is adequately tested.

With reference to M-77-18, which recommended the Coast Guard evaluate the effectiveness of its motor lifeboats in search operations offshore in comparison with its aircraft and establish criteria for selecting specific boats and aircraft according to existing SAR conditions. Coast Guard states that information concerning the capability of surface craft and aircraft and the criteria for selecting specific types to respond to SAR cases is contained in paragraphs 310 to 314 of the National SAR manual and this information is considered adequate.

In answer to M-77-19, which asked Coast Guard to institute at Cape Disappointment an equipment failure reporting and maintenance program to provide for early detection and repair of SAR equipment problems and insure higher management provides support for corrective action required which is beyond the station's capability, Coast Guard states that such a reporting system is currently in effect at Cape Disappointment and published in Annex E, the Operational Readiness section of the Thirteenth Coast Guard District Operational Plan (Op Plan). This annex requires Cape Disappointment to inform Group Astoria and, as an information addressee, the District Commander, by priority message of all material shortages, and casualties that have reduced, or are expected to reduce, a unit's operational readiness. This District Op Plan also provides a maintenance program for early detection and repair of SAR equipment problems.

Recommendation M-77-20 asked Coast Guard, in conjunction with the Federal Communications Commission, to expedite the dedication (allocation) of Channel 15 VHF for the sole purpose of emergency location. Coast Guard states that the FCC has concurred with the dedication of Channel 15 VHF for the sole purpose of emergency location and that initial implementing Federal regulations are being drafted on an expedited basis.

The Coast Guard is presently developing a checklist of procedures necessary for safe towing operations to be mounted near the operator steering station of Coast Guard boats used in such operations, this in response to M-77-21.

Recommendation M-77-22 asked Coast Guard to determine the feasibility of increasing the assignment periods for military personnel or, in lieu thereof, using civilian employee rescue personnel as an alternative to give the station more continuity and higher capability.

Coast Guard states that it can assign regular service personnel to provide the necessary experience, expertise,

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and continuity required at Thirteenth District coastal SAR stations. The following assignment policies have been established for these stations: (a) Career enlisted personnel will be assigned for a 3-year tour of duty barring unforeseen circumstances (e.g., humanitarian reassignments, hardship discharges, incompetence) career enlisted personnel are in the rating E-6 or above or one who has 6 or more years of active service (subsequent enlistment); (b) first enlistment petty officers will be assigned with the intention that they will complete their enlistments at the one duty station; (c) nonrated personnel who advance to petty officer status while at a coastal search and rescue station will complete 3 or more years at that unit (combined nonrated and rated status) prior to transfer; and (d) boatswain's mate billets (E-7 and above) will be filled with personnel with previous Thirteenth District coastal SAR station experience.

Coast Guard adds that the use of civilian employees to perform rescue functions at a Coast Guard station has not been explored sufficiently to determine the feasibility of such action. This will be explored further in conjunction with ongoing efforts aimed at improving efficiency and effectiveness of the station.

In answer to recommendation M-77-23, for establishment of a comprehensive checklist to insure that personnel evaluate important SAR circumstances and carry out established safety procedures, Coast Guard states that the National SAR Manual describes SAR mission checklists to insure that a step-by-step course of action is followed in prosecuting SAR missions. The types of checklists and the extent of their use is discretionary with the SAR coordinator. Coast Guard is examining the overall application of these checklists and will attempt to resolve any specific problems.

Recommendation M-77-24 asked Coast Guard to require the operators of inspected charter boats to instruct their passengers in the location and use of personal flotation devices before getting underway, and to both notify the Coast Guard of the situation and distribute these devices to their passengers before crossing a bar or waterway when conditions are determined by the Coast Guard to be hazardous. In response, Coast Guard states that it will initiate a regulatory change to 46 CFR 185.25-5 by changing the title from "Recommended Emergency Check-off Lists" to "Emergency Check-off Lists" and to 46 CFR 185.25-1 by requiring operators of inspected charter boats to instruct their passengers in the use and location of personal flotation devices prior to getting underway. As to the second part of this recommendation, the response letter states that having the Coast Guard determine whether conditions are hazardous removes the burden of safe navigation and operating from the master/operator of the vessel who knows best the operating characteristics of his vessel and the operating conditions he is in at that moment in time.

Recommendation M-77-25 asked Coast Guard to require inspected passenger vessels to have a means to alert the operator at his control station, by both visual and audible signals, of unsafe water levels in each decked-over compartment which, if flooded, would have a significant effect on stability. Coast Guard reports that analysis of foundering, capsizing, and swamping casualties for inspected vessels less than 65 feet in length and less than 100 gross tons has indicated that a significant number of casualties occur where early warning of bilge flooding may have reduced the severity of the casualty. Coast Guard will initiate proposed changes to 46 CFR 182, Subchapter T, to require bilge alarms.

M-77-26 recommended that Coast Guard determine whether electric bilge pumps which are activated automatically by water in the bilges and which have an independent energy source should be required to be installed in each compartment of inspected small passenger vessels. Coast Guard states that the *Pearl C* was more than adequately equipped for flooding situations other than those of a catastrophic nature. Installation of dewatering equipment of a capacity that would theoretically handle a catastrophic flooding situation on this class of vessel is not considered feasible from an engineering design point of view.

In response to M-77-28, asking Coast Guard to advise operators of the possible adverse effects of cross-connections between fuel and other liquid tanks on a vessel's stability when wind or other forces heel the vessel and identify corrective measures, Coast Guard will initiate a regulatory change to 46 CFR 185.25-5 to include the requirement for closing cross-connections between fuel tanks.

Coast Guard will amend the Marine Safety Manual, advising Coast Guard inspectors to strictly enforce regulations regarding watertightness of weather decks, including the requirements for securing devices and means of attachment as requested by recommendation M-77-28.

Recommendation M-77-29 asked Coast Guard to designate the Columbia River Bar as a specially hazardous area per 46 CFR 178.05-15(a) and require vessels which operate across it to have the maximum degree of seaworthiness afforded by the Small Passenger Vessel Regulations. Coast Guard states that it will fully evaluate the economic impact of this recommendation to the affected charter boat industry prior to making a full response.

Coast Guard does not contemplate establishing a comprehensive regulation requiring deckhands on all inspected charter boats, as requested by recommendation M-77-30. Coast Guard states that evaluation of this recommendation has reaffirmed our present policy that it is a proper function of Coast Guard district and local field offices to determine the manning requirements for vessels of this class certificated and operating in their areas due to the many diverse elements involved (i.e., vessel construction characteristics, route, nature of operating area, number of passengers, etc.)

Pipelines

P-77-24 and 25.—The Connecticut National Gas Corp. (CNG) on February 1 responded to the Safety Board's request of January 24 for revised written procedures to implement the Board's recommendations issued following the natural gas explosion at Greenwich, Connecticut, May 25, 1977.

The CNG letter states that after the accident, all hot tap insulator work was stopped until adoption on July 11, 1977, of new guidelines for installation of hot tap insulator fittings. A copy of these guidelines, together with a checklist and a sample procedure, are attached to CNG's letter. CNG states that copies of those records used to review the project must be attached to the checklist.

P-77-38 through 40.—The Pennsylvania Gas & Water Co. (Penn Gas) on January 16 supplemented its December 15 response to recommendations issued as a result of investigation into the January 25, 1977, pipeline explosion near Williamsport, Pa. The recommendations asked Penn Gas to initiate an effective general public and gas customer information program about the nature, characteristics, and hazards of natural gas and what to do when it is encountered; to test the effectiveness of the emergency procedure training of all operating personnel; and to verify the location of all high-pressure shutoff valves shown on gas main atlases and change maps where necessary.

Penn Gas reports that it is now investigating ideas for more general "public" distribution of information. the company believes that the best test of its emergency procedure training is in evaluating its normal daily response to emergency calls. Penn Gas continually checks its response times and methods on emergency classifications complaint calls, and agrees to provide additional instruction when problem areas are discovered.

Penn Gas cannot agree to the Board's proposal to "verify the loca-

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tion of all high pressure shut off valves shown on gas main atlases"; most of the valves in its system were installed primarily to facilitate construction and not as emergency system control valves. As a result, most of the valves are buried and not in roadway covers. To verify the location would require digging up municipal streets all over the system for no apparent cost-benefit advantage. Penn Gas does not feel that this specific request is consistent with the intent of the Pipeline Safety Act.

NOTE.—The above notice summarizes Safety Board documents recently released and recommendation response letters received. The safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4 for service and 10 cents per page for reproduction.

Single copies of the Chart of 1977 Transportation Fatalities are also available without charge.

All requests to the Board for copies must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

MAY 15, 1978.

[FR Doc. 78-13547 Filed 5-17-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 4, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

NATIONAL SCIENCE FOUNDATION

Exploratory Study of Scientific Activities of Science and Engineering Faculty at a Large, Public Nondoctoral College, single time, 230 science faculty at a college, Warren Topelius and Laverne V. Collins, 395-6132.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Certification of State/Territorial Delegates/Alternates to the White House Conference on Library and Information Service, single time, 1,061 delegates/alternates to White House Conference, Lowry, R. L., 395-3772.

DEPARTMENT OF AGRICULTURE

Forest Service, Camping Market Trends—National Survey, single time, active-potential and inactive camper, Clearance Office, 395-4529.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Beach Characteristics Questionnaire, single time, Conservation Commissioners, Cape Cod, Martha's Vineyard, Nantucket, Louis Kincannon, 395-3211.

CIVIL SERVICE COMMISSION

Personnel Research Questionnaire 78-5, CSC 1334, single time, applicants for employment in the District of Columbia Police Department, Clearance Office, 395-4529.

U.S. INTERNATIONAL TRADE COMMISSION

Importers Questionnaire on Certain Fishing Tackle, single time, importers of fishing tackle, Louis Kincannon, 395-3211.

Questionnaire for Producers of Certain Fishing Tackle, single time, producers of certain fishing tackle, Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Multipurpose Consumer Food Information Study, single time, 38 large primary sampling units, 25 large metro areas included, Office of Federal Statistical Policy and Standard, 673-7959.

National Institute of Education, Cities in Schools Demonstration/Pilot Test, NIE 194, single time, students/caseworkers, Laverne Collins, 395-3214.

REVISIONS

U.S. CIVIL SERVICE COMMISSION

Qualification Inquiry For Testing Personnel, CSC 1164, on occasion, Former employers, 10,000 responses, 2,500 hours, Clearance Office, 395-3772.

VETERANS ADMINISTRATION

Monthly Report on Number of Inspection, Approval, and Supervisory Visits to Schools and Training Establishments Furnishing Courses, 22-7398, monthly, State approving agencies, 900 responses, 225 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Food and Drug Administration, Drug Product, Medical Device, and Laboratory Product Problem Reporting Program, FD-2519, FD-2519A, FD-2519F, FD-2822, on occasion, practicing physician, pharmacist, etc., 2,000 responses, 666 hours, Clearance Office, 395-3772.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service-Statistics, Potato Stocks Inquiry (Growers), other (see SF-83), potato storage operators, 10,750 responses, 1,340 hours, Clearance Office, 395-3772.

Economics, Statistics, and Cooperatives Service-Statistics, Onion Stocks and Dispositions, semiannually, onion growers, 350 responses, 90 hours, Clearance Office, 395-3772.

DEPARTMENT OF COMMERCE

Industry and Trade Administration, Agent/Distribution Application Service, ITA424P, on occasion, exporters, 5,000 responses, 2,083 hours, Clearance Office, 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, a Followup Study of Persons Exposed to 131/Iodine for Diagnosis of Thyroid Disease, FDABRH0319, single time, exposed and unexposed groups, 90 responses, 45 hours, Richard Eisinger, 395-3214.

National Institute of Education, Research Grants Application and Project Data Form, NIE-10, on occasion, educational researchers, 5,000 responses, 1,250 hours, Laverne V. Collins, 395-3214.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Survey of Union Wage Rates and Hours in Grocery Stores, BLS 1150.86, other (see SF-83), union officials, 340 responses, 170 hours, Office of Federal Statistical Policy and Standard, 673-7959.

DAVID R. LEUTHOLD,
Budget and Management, Officer.

[FR Doc. 78-13542 Filed 5-17-78; 8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

NUCLEAR WASTE MANAGEMENT TECHNICAL ADVISORY GROUP

Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the Nuclear Waste Management Technical Advisory Group is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, Office of Science and Technology Policy (OSTP) by the National Science and Technology Policy, Organization and Priorities Act of 1976. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to Section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular A-63, Revised.

1. Name of group. Nuclear Waste Management Technical Advisory Group.

2. Purpose and function. On March 13, 1978, the President created the Interagency Nuclear Waste Management Task Force, under the chairmanship of the Secretary of Energy, for the purpose of formulating recommendations for establishment of an Administration policy with respect to long-term management of nuclear wastes and supporting programs to implement this policy. As a component of the work of this Task Force, OSTP is chairman of a subgroup responsible for the description and analysis of alternative technology strategies. The objectives of this subgroup are:

To identify and delineate viable alternative technology strategies or planning approaches to the problem of disposal and isolation of all nuclear waste other than that categorized as low level;

For each strategy, to analyze benefits and risks and scheduling implications and formulate in general terms an adequate program of knowledge acquisition; and

To produce a document for interagency and public discussion of the preferred technology strategy.

An important requirement for meeting these objectives is an accurate assessment of the current state of knowledge relevant to nuclear waste disposal and isolation.

In order to provide a source of advice and expertise on the issues involved in this subtask, the Advisory Group will be established to draw together experts from industry, academia, and public interest groups. The Advisory Group will serve as a critical review group and, to some extent, participate in the drafting of the written products of the subgroup's work and will advise the Director of OSTP and the Director of the Office of Energy Research on the technical matters pertinent to the effort.

3. Effective date of establishment and duration. The Advisory Group is established to provide advice to the Director of the Office of Science and Technology Policy and to the Special Assistant to the President for Budget and Organization, and is established for 6 months from the date the charter is filed with the standing committees of Congress having legislative jurisdiction for the Office of Science and Technology Policy. Due to the urgency of the Presidentially imposed schedule of the Interagency Nuclear Waste Management Task Force, the Committee Management Secretariat, GSA, has waived the requirement for a 15 day waiting period between publication of the notice of establishment and the filing of the charter.

4. Membership. The Advisory Group will be comprised of approximately ten individuals from industry, academia and public interest groups having qualifications for providing expert knowledge in the fields of geology, hydrology, risk assessment, geochemistry, and other scientific and technical fields pertinent to nuclear waste disposal and isolation.

5. Advisory group operation. The Advisory Group will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463), OSTP policy and procedures, OMB Circular No. A-63, Revised, and other directives and instructions issued in implementation of the Act.

FRANK PRESS,
Director.

[FR Doc. 78-13553 Filed 5-17-78; 8:45 am]

[7710-12]

POSTAL SERVICE

NATIONAL ZIP CODE DIRECTORY

Licensing of Publishers

The U.S. Postal Service in 1974 copyrighted the "National ZIP Code Directory, Publication 65" in order to protect the accuracy and integrity of the ZIP Code information being distributed to the public. In addition, the term "ZIP Code" has been registered as a trademark and service mark.

The U.S. Postal Service licenses publishers on a nonexclusive basis to publish the complete National ZIP Code Directory or portions thereof so long as the portions cover a complete state or a combination of states and all multi-ZIP Coded cities within each state are included.

Licenses may be renewed annually. Some of the more significant terms of the license agreements are as follows:

1. Licensee must publish only the most current ZIP Code information furnished by the U.S. Postal Service. Licensee must print from reproducibles furnished by the U.S. Postal Service.

2. Licensee must submit all manuscripts and proposed promotional materials to the U.S. Postal Service for review prior to publishing.

3. All directories must clearly bear an expiration date consistent with the expiration date of the material reproduced (normally the end of the calendar year).

4. Licensee will pay the licensor a royalty on retail sales negotiated at the time the license is granted.

5. The licensee must submit quarterly reports relating to sales and volume and make available records and accounts for inspection or audit at any time.

The U.S. Postal Service continues to make the National ZIP Code Directory available through the Government Printing Office for $7.50 a copy and is currently testing a procedure for selling it in local post offices.

Application for obtaining a license can be obtained by contacting:

Chairman, Intellectual Property Rights Board, U.S. Postal Service Headquarters, Room 1312, Washington, D.C. 20260.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-13473 Filed 5-17-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 06/06-0199]

ALLIANCE CAPITAL CORP.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1977)), under the name of Alliance Capital Corp., 602 South East First Street, Mineral Wells, Tex. 76067, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders, and their percentages of ownership are as follows:

Melva R. Heath, 620 North Hampton Road, Dallas, Tex. 75208, Chairman of the Board, 9 percent.

Harold A. Jones, 4342 Woodhollow Drive, Dallas, Tex. 75237, President, Director.

Dr. Jack A. Richey, 1011 Greenwood Place, Duncanville, Tex. 75137, Vice President, Director, 9 percent.

Sue D. Gravett, 3500 Mt. Barker Drive, Austin, Tex. 78731, Secretary, Director, 9 percent.

Richard A. Martin, 5201 Bryce, Fort Worth, Tex. 76107, Director, 9 percent.

There is to be only one class of stock with 100,000 shares of common stock authorized. Initially, only 50,000 shares will be issued to twelve shareholders, none of whom will own 10 percent or more of the shares.

The Applicant Licensee proposes to commence operations with private capital of $500,000. Applicant proposes to conduct its operations principally within the States of Texas, Louisiana, Oklahoma and New Mexico.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and manage-

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ment, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than June 2, 1978, submit to SBA, in writing, comments on the proposed licensing of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice will be published by the applicant in a newspaper of general circulation in Mineral Wells, Tex.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 11, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-13488 Filed 5-17-78; 8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[Docket No. Pet 75-9W, Notice 1]

TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Petition for Waiver

The Panhandle Eastern Pipe Line Co. has petitioned the Materials Transportation Bureau (MTB) for a waiver from compliance with section 192.611(c) of the Federal gas pipeline safety standards (49 CFR part 192) for 11 transmission line segments installed in 1962 in the following localities: Liberal, Greensburg, Haven, Olpe, and Louisburg, Kans.; Houstonia and Centralia, Mo.; Pleasant Hill and Tuscola, Ill.; and Montezuma and Zionsville, Ind.

The segments form part of a pipeline known as "Line 400." Almost all the segments are in a class 1 location (see § 192.5) with 1.4 miles in a class 2 location and 2 miles in a class 3 location. The segments total approximately 370 miles in length and consist of grade X-60, 30-inch outside diameter, 0.312 inch wall thickness steel pipe with grade X-46, 30.375-inch outside diameter, 0.500 inch wall thickness steel pipe at road crossings. The maximum allowable operating pressure (MAOP) (see § 192.619) for the 0.312 inch wall thickness pipe in a class 1 location is 898 psig and for the 0.500 inch wall thickness pipe in a class 2 location is 920 psig.

Since Line 400 was constructed, the population along the route has increased. Some sections of the 11 segments are now in higher class locations, and additional changes in class location are anticipated. Under these circumstances, section 192.611(e) requires that the established MAOP be confirmed or revised within 18 months of the change in class location. Under section 192.611(a), if a pipeline has been previously tested to at least 90 percent of its specified minimum yield strength (SMYS) for at least 8 hours, it may be operated at a pressure which produces a corresponding hoop stress no higher than 72 percent of SMYS in class 2, 60 percent of SMYS in class 3, and 50 percent of SMYS in class 4. This MAOP is not otherwise permissible unless the pipeline is retested as required by section 192.611(c).

Approximately 390 miles of Line 400, including the 11 segments for which a waiver is sought, were originally tested using a specially developed cyclic procedure rather than by holding a minimum test pressure for 8 hours. This procedure consisted of 4 cycles of hydrostatically pressuring a test section to at least 95 percent of SMYS and then reducing the pressure to a stress level of 60 percent of SMYS. The total time at 90 percent of SMYS was approximately 2½ hours. As a result, in accordance with section 192.611(c), this portion of the line would have to be retested in order to maintain its established MAOP in areas of changed class locations.

In 1974, about 20 miles of the pipeline were retested as required by section 192.611(c). The fact that no failures occurred is offered as evidence of the integrity of the remaining 11 cyclically tested segments. The petitioner estimates that the cost of retesting the 11 segments would be over $444,000 and that the amount of natural gas lost would be 486,000 MCF.

The petitioner requests that it be allowed to operate the 11 segments of Line 400 as if they were tested as set forth in section 192.611(a). The petitioner argues that retesting is unnecessary because the pipeline's design, construction, testing, and operating history (no operational failures) qualify it for safe operation at the stress levels permitted by section 192.611(a).

In support of this contention, the petitioner particularly relies on the severity of the cyclic testing procedure. It states that the cyclic testing was more likely to produce test failures than if a single test pressure had been held for 8 hours. This conclusion is based on research performed by the Battelle Memorial Institute in Columbus, Ohio, which shows that cyclically induced strains cause more material defects to reach their failure stress level sooner than strains induced by static loading. Also, the petitioner states that because of the higher stress level attained during testing (95 versus 90 percent), any defects remaining in the pipeline are smaller than would have been the case if the pipeline had been tested to only 90 percent of SMYS.

MTB has reviewed the history of this pipeline and the petitioner's arguments and is considering granting the requested waiver on the basis that retesting as required by section 192.611(c) is, in this instance, not necessary for public safety.

Interested persons are invited to comment on the proposed waiver by submitting in quadruplicate such data, views, or arguments as they may desire. Communications should identify the regulatory docket and notice numbers and be submitted to:

Chief, Docket Section, Materials Transportation Bureau, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

All comments received before June 19, 1978, will be considered before final action is taken. Late filed comments will be considered so far as practicable. All comments will be available for examination and copying at Docket Room 6500, Trans Point Building, before and after the closing date for comments. No hearing is contemplated, but one may be held at a time and place set in a later notice in the FEDERAL REGISTER if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

(49 U.S.C. 1672; 49 CFR 1.53(a), app. A. of pt. 1, and app. A. of pt. 102.)

Issued in Washington, D.C., on May 12, 1978.

CEASAR DELEON,
Acting Director, Office of Pipeline Safety Operations.

[FR Doc. 78-13645 Filed 5-17-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 662]

ASSIGNMENT OF HEARINGS

MAY 15, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

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MC 56679 (Sub-No. 102), Brown Transport Corp., is now assigned for prehearing conference July 11, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC 105813 (Sub-No. 229), Belford Trucking Co., Inc., is now assigned for hearing July 19, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC 133689 (Sub-No. 167), Overland Express, Inc., is now assigned for hearing July 13, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC 143769, Kannapolis Transit Co., Inc., is assigned for hearing June 26, 1978, at Concord, NC, and will be held at Courtroom No. 3, Cabarrus County Courthouse South Union Street.

MC 63417 (Sub-No. 122), Blue Ridge Transfer Co., Inc., is now assigned for hearing June 28, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC 143059 (Sub-No. 7), Mercer Transportation Co., is now assigned for hearing July 6, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC 144128, Elliott, Inc., of Clarksville, is now assigned for hearing July 6, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC 140484 (Sub-No. 27), Lester Coggins Trucking, Inc., is now assigned for hearing July 6, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC 27817 (Sub-No. 139), H. C. Gabler, Inc., is now assigned for hearing July 12, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13535 Filed 5-17-78; 8:45 am]

[7035-01]

EXPANSION IN USE OF THE "FEDERAL REGISTER" REGARDING PERMANENT AUTHORITY MATTERS AND RULEMAKINGS

MAY 18, 1978.

The Commission has traditionally published notices of permanent authority matters and rulemakings in the FEDERAL REGISTER on the fourth working day each week. It now intends to expand the use of the FEDERAL REGISTER for these notices, proposals, and final rules to include the second working day each week.

All persons relying on the FEDERAL REGISTER for notice of Commission permanent authority and rulemaking proceedings should refer to FEDERAL REGISTER volumes on both the second and fourth working day each week effective May 18, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13441 Filed 5-17-78; 8:45 am]

[7035-01]

[Forty-Third Revised Exemption No. 90]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To all railroads: It appearing, That certain of the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars; and

It further appearing, That there are substantial shortages of 50-ft. plain boxcars throughout the country; that the carriers identified in this exemption by the symbol ( ) have 150 percent or more of their ownership of these cars on their lines; and that such a disproportionate use of the total supply of such cars causes shippers served by other lines to be deprived of their proper share of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC-RER No. 407, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Apalachicola Northern Railway Co. deleted.
The Baltimore and Ohio Railroad Co.
Reporting Marks: BO.
Bessemer and Lake Erie Railroad Co.
Reporting Marks: BLE.
Camino, Placerville & Lake Tahoe Railroad Co.
Reporting Marks: CPLT.
The Chesapeake and Ohio Railway Co.
Reporting Marks: CO-PM.
Chicago & Illinois Midland Railway Co.
Reporting Marks: CIM.
Chicago, Rock Island and Pacific Railroad Co.
Reporting Marks: RI-Rock.
City of Prineville.
Reporting Marks: COP.
The Clarendon and Pittsford Railroad Co.
Reporting Marks: CLP.
Consolidated Rail Corp.
Reporting Marks: CR-DLW-EL-ERIE-LV-NH-NYC-P&E-PAE-PC-PCA-PRR-RDG.
Delaware and Hudson Railway Co.
Reporting Marks: DH.
Duluth, Missabe and Iron Range Railway Co.
Reporting Marks: DMIR
Florida East Coast Railway Co.
Reporting Marks: FEC.
Grand Trunk Western Railroad Co.
Reporting Marks: GTW.
Greenville and Northern Railway Co.
Reporting Marks: GRN.
Greenwich & Johnsonville Railway Co.
Reporting Marks: GJ.
Louisville and Wadley Railway Co.
Reporting Marks: LW.
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC.
Middletown and New Jersey Railway Co., Inc.
Reporting Marks: MNJ.
Municipality of East Troy, Wis.
Reporting Marks: METW.
New Orleans Public Belt Railroad.
Reporting Marks: NOPB.
Norfolk and Western Railway Co.
Reporting Marks: ACY-N&W-NKP-WAB.
Pearl River Valley Railroad Co.
Reporting Marks: PRV.
Raritan River Rail Road Co.
Reporting Marks: RR.
Sacramento Northern Railway.
Reporting Marks: SN.
St. Johnsbury & Lamoille County Railroad.
Reporting Marks: SJL.
St. Lawrence Railroad.
Reporting Marks: NSL.
Sierra Railroad Co.
Reporting Marks: SERA.
Terminal Railway, Alabama State Docks.
Reporting Marks: TASD.
Tidewater Southern Railway Co.
Reporting Marks: TS.
Toledo, Peoria & Western Railroad Co.
Reporting Marks: TPW.
WCTU Railway Co.
Reporting Marks: WCTR.
Western Maryland Railway Co.
Reporting Marks: WM.
Western Railway of Alabama.
Reporting Marks: WA.
Youngstown & Southern Railway Co.
Reporting Marks: YS.
Yreka Western Railroad Co.
Reporting Marks: YW.

Effective May 15, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., May 11, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-13539 Filed 5-17-78; 8:45 am]

[7035-01]

[Nineteenth Revised Exemption No. 129

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by

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the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 407, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Co.
Reporting Marks: ASAB.
Bessemer & Lake Erie Railroad Co. deleted.
Chicago, West Pullman & Southern Railroad Co.
Reporting Marks: CWP.
Detroit & Mackinac Railway Co.
Reporting Marks: D&M -DM.
Illinois Terminal Railroad Co.
Reporting Marks: ITC.
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC.
New Hope & Ivyland Railroad Co.
Reporting Marks: NHIR.
Richmond, Fredericksburg & Potomac Railroad Co.
Reporting Marks: RFP.

Effective 12:01 a.m., May 15, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., May 11, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-13540 Filed 5-17-78; 8:45 am]

[7035-01]

[Volume No. 90]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

MAY 10, 1978.

The following applications are governed by Special Rule 247 of the Commission's general rule of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the gounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 5470 (Sub-No. 142F), filed March 28, 1978. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Applicant's representative: Brian L. Troiano, 918 16th Street, NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and pig iron*, in dump vehicles, from Chicago, IL to points in IN, KY, MD, MI, NY, OH, and PA. (Hearing site: Washington, DC or New York, NY.)

No. MC 26396 (Sub-No. 170F), filed March 27, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livington, MT 59047. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials, equipment, and supplies* utilized in the manufacture, sales, and distribution of office furniture and equipment, from Bend, OR and points in MO, IL, and IN to Muscatine, IA; and (2) *returned and rejected shipments* of commodities named in (1) above, from Muscatine, IA to points in MO, IL, and IN. Restriction: Restricted against the transportation of commodities in bulk, and further restricted to traffic originating at the named origins and destined to the named destinations. (Hearing site: Chicago, IL or Omaha, NE.)

No. MC 28956 (Sub-No. 20F), filed March 27, 1978. Applicant: McKAY'S TRUCK LINE, INC., 908 N. Pacific Highway, P.O. Box 634, Albany, OR 97321. Applicant's representative: Lawrence V. Smart, Jr., 419 NW. 23rd Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *magnesium flux*, in bags and barrels, from the facilities of S.R.C. Corp. at Millersburg, OR, to points in WA, NV, UT, and CA. (Hearing site: Portland, OR.)

No. MC 29079 (Sub-No. 93F), filed March 28, 1978. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 S. Union Street, Kokomo, IN 46901. Applicant's representative: Chandler L. van Orman, 1729 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts and related items*, between Danville and Kankakee, IL, and points in IN, OH, and those in MI on and south of a line beginning at Ludington, MI and extending along U.S. Hwy 10 to junction Business Route 10 to Midland, MI, then along MI Hwy 20 to Saginaw River to Saginaw, and then along the Saginaw River to Saginaw Bay on the one hand, and, on the other, the facility of American Motors Corp. at or near Kenosha, WI, and points in Racine County, WI. (Hearing site: Chicago, IL.)

No. MC 29886 (Sub-No. 338), filed December 22, 1977. Applicant: DALLAS & MAVIS FORWARDING CO., a corporation, 4200 39th Ave., Kenosha, WI 53142. Applicant's representative: Paul Sullivan, 711 Washington Bldg. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air compressors, and earth drilling machinery and equipment*, between Claremont, NH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 41406 (Sub-No. 67F), filed March 27, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority

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sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint*, in drums, from Delaware, OH, to Portage, IN. (Hearing site: Chicago, IL.)

No. MC 42261 (Sub-No. 135F), filed March 27, 1978. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ 07303. Applicant's representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid wax*, in bulk, in tank vehicles, from points in the New York, NY and Philadelphia, PA commercial zones to points in ME, NH, and VT. (Hearing site: New York, NY or Newark, NJ.)

No. MC 42261 (Sub-No. 136F), filed March 28, 1978. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ, 07303. Applicant's representative: W. C. Mitchell, 370 Lexington Avenue, New York, NY, 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from Eden, NC, to points in NJ, NY and PA; and (2) *Materials, supplies* and *equipment* used in the manufacture, sale, and distribution of malt bererages, and returned empty malt beverage containers, (except commodities in bulk), from points in NJ, NY and PA to Eden, NC. (Hearing site: New York, NY or Washington, DC.)

No. MC 59725 (Sub-No. 2F), filed March 13, 1978. Applicant: MACK AVENUE MOVING & STORAGE, INC., 7740 Gratiot, Detroit, MI 48213. Applicant's representative: Robert B. Simon, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and baggage*, between points in Wayne, Oakland and Macomb Counties, MI, in non-radial movement. (Hearing site: Detroit, MI, or Washington, DC.)

No. MC 60014 (Sub-No. 84F), filed April 3, 1978. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Applicant seeks authority as a *common carrier*, over irregular routes, transporting: *Pipe, fittings, fire hydrants, values* and *accessories* used in the installation thereof (except commodities in bulk) from the facilities of Clow Corp. located at or near Birmingham and Pell City, AL, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC. (Hearing site: Chicago, IL.)

No. MC 63417 (Sub-No. 146F), filed March 28, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain, P.O. Box 13447 Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *metal containers*, from Salisbury, NC, to points in the United States (except AK and HI) and refused or rejected shipments of metal containers on return. (Hearing site: Roanoke or Richmond VA.)

No. MC 73688 (Sub-No. 79F), filed March 27, 1978. Applicant: SOUTHERN TRUCKING CORP., 1500 Orenda Avenue, Memphis, TN 38107. Applicant's representative: James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Memphis, TN, to points in KS and MO. (Hearing site: Memphis, TN.)

No. MC 82842 (Sub-No. 223F), filed March 2, 1978. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, conduit, fittings, valves, accessories and supplies* used in the installation thereof, from points in Geneva County, AL to points in AZ, CA, CO, IA, ID, KS, MO, NE, NM, OK, TX, UT, and WY; and (2) *Materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points in the above named States to Geneva County, AL, restricted against the transportation of commodities in bulk. (Hearing site: Atlanta, GA.)

No. MC 95540 (Sub-No. 1009F), filed March 27, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Applicant's representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles* distributed by meat packinghouses, as described in section A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Chicago, IL, to Jackson, MS. (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 95876 (Sub-No. 233F), filed March 27, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring, hardwood flooring systems and accessories therefore*, from Dollar Bay, MI, to points in CT, DE, IL, IA, KS, KY, ME, MD, MA, MI, MO, NH, NJ, IN, NY, OH, OK, PA, RI, TX, VT, VA, WV, and WI. (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 99749 (Sub-No. 5F), filed March 27, 1978. Applicant: BOURNE'S TRANS., INC., 1254 Belmont Street, Brockton, MA 02401. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to operate in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Boots and shoes and boot and shoe factory supplies, materials, and equipment*, used in the manufacture of footwear (except commodities in bulk and those requiring special equipment), (a) from Windsor, VT, and points in ME and NH, to facilities used by Consolidator's Warehouse, Inc., in Brockton, MA; and (b) from Brockton, MA to points in ME and NH. (Hearing site: None specified.)

No. MC 100666 (Sub-No. 388F), filed March 27, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Copper articles*, from Pulaski, TN to points in the United States in and east of CO, NE, ND, OK, SD, and TX; and (2) *scrap copper*, from points in and east of CO, NE, ND, OK, SD, and TX to Pulaski, TN. (Hearing site: Nashville, TN.)

No. MC 100666 (Sub-No. 389F), filed March 27, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles*, between points in AR, KS, LA, OK, TN, and TX in a nonradial movement. (Hearing site: Dallas, TX.)

No. MC 103051 (Sub-No. 437F), filed April 3, 1978. Applicant: FLEET TRANSPORT CO., INC., 934—44th Avenue, North, Nashville, TN 37209.

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Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Vegetable oils and vegetable oil products*, in bulk, in tank vehicles, between points in NC, SC and VA, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Nashville, TN or Atlanta, GA.)

No. MC 103066 (Sub-No. 67F), filed March 28, 1978. Applicant: STONE TRUCKING CO., a corporation, P.O. Box 2014, Tulsa, OK 74101. Applicant's representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods, articles of unusual value, and classes A and B explosives), from Brockton, MA, to Los Angeles and San Francisco, CA. (Hearing site: Boston, MA or Washington, DC.)

No. MC 103066 (Sub-No. 68F), filed March 28, 1978. Applicant: STONE TRUCKING CO., a corporation, P.O. Box 2014, Tulsa, OK 74101. Applicant's representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic items, film, and sheeting*, from Tulsa, OK, to points in the United States (except AK and HI). (Hearing site: Tulsa, OK or Washington, DC.)

No. MC 104421 (Sub-No. 26F), filed March 27, 1978. Applicant: ECONO-LINES, INC., P.O. Box 623, D.T.S., Omaha, NE 68101. Applicant's representative: Roger W. Norris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, and those requiring special equipment), between Red Cloud, NE, and Lyons, NE, serving all intermediate points as follows: (a) from Red Cloud over U.S. Hwy 136 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Lyons, and return over the same route; and (b) From Red Cloud over U.S. Hwy 281 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 275, then over U.S. Hwy 275 to junction NE Hwy 51, then over NE Hwy 51 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Lyons, and return over the same route. (Hearing site: Lincoln, NE.)

NOTE.—Common control may be involved.

No. MC 106644 (Sub-No. 254F), filed March 29, 1978. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 916, Atlanta, GA 30301. Applicant's representative: Frank Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Lumber, plywood, veneer, bark products, particleboard, laminated lumber products, and shakes*, from the facilities of Bohemia, Inc., at or near Coburg, Culp Creek, Dexter, Eugene, Junction City, Reedsport, and Saginaw, OR; and Lakeside, Auburn, Grass Valley, and Toyon (near Valley Springs), CA, to points in the United States in and east of ND, SD, WY, CO, AND NM. (Hearing site: Portland, OR or Washington, DC.)

No. MC 106644 (Sub-No. 256F), filed March 29, 1978. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 916, Atlanta, GA 30301. Applicant's representative: Frank Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Lumber and forest products*, from the facilities of American Forest Products Co., located at or near Martell, Toyon (near Valley Springs), Foresthill, Oakhurst, Fresno, Stockton, Johnsondale, and North Fork, CA, to points in the United States east of SD, ND, WY, CO, and NM. Restricted to the transportation of shipments originating at the named facilities of American Forest Products Co. (Hearing site: San Francisco, CA or Washington, DC.)

No. MC 107403 (Sub-No. 1071F), filed March 20, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Lime, in bulk and bags*, from (1) Shelby County, AL to AR; LA & VA; and (2) from Amelia, LA to AR. (Hearing site: Washington, DC.)

No. MC 108460 (Sub-No. 63F), filed March 23, 1978. Applicant: PETROLEUM CARRIERS CO., a corporation, P.O. Box 762, Sioux Falls, SD 57101. Applicant's representative: Gary Mundhenke (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, in tank vehicles, from the facilities of Pure Plant Food Int., Ltd., located at or near Sioux Falls, SD, to points in CO, OH, IL, IN, and WI. (Hearing site: Minneapolis, MN or Sioux Falls, SD.)

NOTE.—Common control may be involved.

No. MC 111812 (Sub-No. 564F), filed April 10, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Applicant's representative: Ralph H. Jinks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged petroleum products* (except commodities in bulk, in tank vehicles), from the facilities of Witco Chemical Corp., located at or near New Kensington and Bradford, PA, to points in FL and GA. Restricted to traffic originating at the named origins. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 111812 (Sub-No. 567F), filed April 10, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Applicant's representative: Ralph H. Jinks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles* distributed by meat packinghouses (except hides and commodities in bulk), as defined in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the facilities of Wilson Foods Corp., at Monmouth, IL to points in ID, MT, OR, UT, WA, and WY; restricted to the transportation of traffic originating at the above named origins and destined to the named destinations. (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 112304 (Sub-No. 139F), filed March 27, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except in bulk), from: (a) the plantsite of Tube Turns, Division of Chemetron Corp., at Louisville, KY, to points in the United States (except AL, AR, FL, GA, HI, IL, IA, LA, MN, MS, MO, NC, OK, SC, TN, TX, VA, and WI), (b) the plantsite of Tube Turns, Division of chemetron Corp., at Houston, TX, to points in the United States (except HI), and (c) the plantsite of Tube Turns, Division of Chemetron Corp., at Philadelphia, PA, to the plantsite of Tube Turns, Division of Chemetron Corp., at Louisville, KY and Houston, TX. (Hearing site: Louisville, KY.)

NOTE.—Common control may be involved.

No. MC 112617 (Sub-No. 385F), filed March 27, 1978. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, from Owensboro, KY, to points in AR. (Hearing site: Louisville, KY or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 112713 (Sub-No. 211F), filed March 3, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, KS 66207. Applicant's representative: David B. Schneider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and packinghouse products* in temperature controlled vehicles from East St. Louis, IL, to Manchester, MD. (Hearing site: St. Louis, MO.)

NOTE.—Common control may be involved.

No. MC 113459 (Sub-No. 121F), filed March 23, 1978. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and particleboard* from Columbia Falls, MT, to points in IL, IA, and WI. (Hearing site: Missoula, MT or Dallas, TX.)

No. MC 113678 (Sub-No. 731F), filed March 22, 1978. Applicant: CURTIS, INC., P.O. Box 16004, Stockyard Station, Denver, CO 80216. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Citrus products* (except commodities in bulk, in tank vehicles), from points in Cameron, Willacy, Starr, Hidalgo, and Nueces Counties, TX, to points in AZ, CA, CO, IN, IA, KS, MI, MN, NE, and WI. (Hearing site: Houston or Dallas, TX.)

No. MC 113751 (Sub-No. 21F), filed March 28, 1978. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Streets, Waupaca, WI 54981. Applicant's representative: Edward Solie, Executive Building—Suite 100, 4513 Vernon Blvd., Madison, WI 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beverage preparations*, and (2) *commodities* otherwise exempt from economic regulation pursuant to the Interstate Commerce Act, when moving in mixed loads with the commodities in (1) above (except commodities in bulk), from Manawa, WI, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, and DC. (Hearing site: Madison, WI.)

No. MC 113751 (Sub-No. 22F), filed March 27, 1978. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Streets, Waupaca, WI 54981. Applicant's representative: Edward Solie, Executive Building—Suite 100, 4513 Vernon Blvd., Madison, WI 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from the facilities of Ore-Ida Foods, Inc. or Terminal Ice & Cold Storage Co. at or near Plover, WI, to points in FL, AR, AL, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NC, OK, SC, TN, and TX, restricted to traffic originating at and destined to the points named herein. (Hearing site: Madison, WI.)

No. MC 113855 (Sub-No. 417F), filed March 27, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: (1) *Mining machinery* and *equipment*; (2) *material handling equipment*, and (3) *parts* and *attachments* for the commodities named in (1) and (2) above, from Chicago, IL, and points in Rutherford County, TN, to points in the United States (including AK but excepting HI). (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 114211 (Sub-No. 353F), filed March 28, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Applicant's representative: Adelor J. Warren, P.O. Box 420, Waterloo, IA 50704. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Self-propelled vehicles, backhoes, cranes, and lift trucks;* (2) *attachments and accessories* for (1) above; and (3) *parts* for (1) and (2) above, from points in Tift County, GA, to points in the United States (except AK and HI) and all ports of entry on the International Boundary Line between the United States and Canada for furtherance into all Provinces of Canada. (Hearing site: Atlanta, GA.)

No. MC 114552 (Sub-No. 158F), filed March 27, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Commodities of the type dealt in by retail home improvement and home furnishing and lumber stores* (except in bulk), between points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MS, NJ, NC, OH, PA, SC, TN, VA, WV, and DC in non-radial movement. Restriction: Restricted to shipments destined to the retail facilities of the Wickes Corp. in the above-named territories. (Hearing site: Washington, DC)

No. MC 115162 (Sub-No. 413F), filed March 27, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, composition shingles, rolled roofing and accessories thereto, roofing compound, roofing asphalt* (except liquid in bulk, in tank vehicles), from facilities of Elk Corp. of Alabama located at or near Tuscaloosa, AL, to points in AR, TN, MS, GA, KY, NC, SC, FL, and IN. (Hearing site: Birmingham, AL or Atlanta, GA.)

No. MC 115162 (Sub-No. 414F), filed April 10, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in cases and drums, from the plantsite of Texaco, Inc. located at or near Port Arthur, TX, to the plant site of Texaco, Inc. located at or near Bayonne, NJ. (Hearing site: Houston, TX or Washington, DC.)

No. MC 115233 (Sub-No. 4F), filed March 29, 1978. Applicant: MARSHALL STORAGE CO., a corporation, Highway 19 East, P.O. Box 145, Marshall, MN 56258. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from the facilities of Big Stone, Inc., located at or near Arlington and Ortonville, MN, and Bloomer, WI, to points in OK and TX. (Hearing site: Fargo, ND or Minneapolis, MN.)

No. MC 115496 (Sub-No. 88F), filed March 27, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Prestressed concrete and*

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prestressed concrete building members, from the facilities of HDW Houdaille, Division of Houdaille Industries, Inc. at or near Jonesboro, GA, to points in AL, NC, SC, and TN. (Hearing site: Atlanta, GA.)

No MC 115654 (Sub-No. 83F), filed March 27, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington, DC 20004. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Printed matter,* from Nashville, TN, to points in AL, AR, GA, IL, IN, KY, LA, MS, MO, and OH, restricted to traffic originating at the facilities of Baird-Ward Printing Co. (Hearing site: Nashville, TN or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 115654 (Sub-No. 84F), filed March 27, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvannia Avenue NW., Washington, DC 20004. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Oleo margarine, yeast, vegetable oil, shortening, and gravy mixes,* in vehicles equipped with mechanical refrigeration, from the facilities of Standard Brands, Inc., located at or near Indianapolis, IN to points in AL, KY, TN (except Memphis and its commercial zone), WV, that part in VA on and west of U.S. Hwy 21, and points in Hamilton County, OH. (Hearing site: New York, NY or Nashville, TN.)

NOTE.—Common control may be involved.

No. MC 115841 (Sub No. 621F), filed March 27, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, chain grocery and food business houses (except in bulk), from the facilities of Kraft, Inc., at Garland, TX, to points in LA, MS, TN, AR, OK, KS, and MO. (Hearing site: Dallas, TX.)

NOTE.—Common control may be involved.

No. MC 116915 (Sub-No. 49F), filed March 27, 1978. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, Kokomo, IN 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Industrial heat treating furnaces and parts and incinerators and parts,* between the facilities of Sunbeam Corp., Meadville, PA, on the one hand, and, on the other, points east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada. (Hearing site: Pittsburgh, PA or Washington, DC.)

No. MC 116915 (Sub-No. 50F), filed March 28, 1978. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, Kokomo, IN 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber and lumber products,* (1) from the facilities of the Gilman Paper Co. at Dudley (Laurens County), GA, and at or near Blackshear (Pierce County), GA, to points in CT, DE, DC, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI; and (2) from the facilities of Gilman Paper Co. (Building Products Division), located at or near Middlebury (Clay County), FL, to points in CT, DE, DC, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and WI. (Hearing site: Savannah, GA or Jacksonville, FL.)

No. MC 116915 (Sub-No. 51F), filed March 27, 1978. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, Kokomo, IN 46801. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Zinc, zinc alloy and zinc products,* from Montgomery County, TN, to points in and east of ND, SD, NE, KS, OK, and TX; and (2) *equipment, machinery, materials and supplies* (except commodities in bulk), used in the manufacture, process, or distribution of commodities in (1) above, from points in and east of ND, SD, NE, KS, OK, and TX, to points in Montgomery County, TN. Restriction: Restricted to the transportation of traffic originating at or destined to the named origins and named destinations in (1) and (2) above, except traffic moving in foreign commerce. (Hearing site: Nashville, TN.)

No. MC 117574 (Sub-No. 304F), filed March 28, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Applicant's representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Anti-pollution systems,* (2) *sewage, water and refuse treatment systems,* (3) *environmental control and protective systems,* (4) *air, liquid, and gas cleaning, heating, cooling, condensing, conditioning, humidifying, equalizing and moving equipment,* and (5) *components, parts, materials, and accessories,* used in connection with the erection, construction and manufacture of the above items, between Knoxville, TN, on the one hand, and, on the other, points in the United States, including AK but excluding HI. (Hearing site: Knoxville, TN or Atlanta, GA.)

NOTE.—Common control may be involved.

No. MC 117574 (Sub-No. 305F), filed March 28, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Steel piling, and pile-driving equipment and machinery,* from Jacksonville, FL, to points in NC, and SC. (Hearing site: Jacksonville, FL or Atlanta GA.)

NOTE.—Common control may be involved.

No. MC 117574 (Sub-No. 306F), filed March 24, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Applicant's representative: James W. Hagan, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Warehouse storage systems and accessories, parts, and materials* used in the installation of warehouse storage systems, from Perkasie, PA to points in the United States (except AK and HI). (Hearing site: Philadelphia, PA or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 117369 (Sub-No. 14F), filed April 3, 1978. Applicant: PICK'S PACK HAULER, d.b.a. PICK'S PACK HAULER, INC., 1214 East South Street, Hastings, NE 68901. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Brick and clay products,* from the facilities of Summit Pressed Brick and Title Co., located at or near Pueblo and Trinidad, CO, to points in NE, under continuing contract or contracts with Yankee Hill Brick Manufacturing; Lumbermen's Brick and Supply Co.; and Summit Pressed Brick and Tile Co. (Hearing site: Lincoln, NE or Denver, CO.)

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No. MC 117786 (Sub-No. 18F), filed March 28, 1978. Applicant RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85009. Applicant's representative: Thoms F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Charcoal; charcoal briquettes, fireplace logs* (compressed sawdust wax impregnated); *charcoal lighter fluid,* in cans, in cartons; *hickory chips* (not charred) for flavoring purposes; and *vermiculite* (other than crude) from Elk Grove, CA to points in AZ, NV, and UT. (Hearing site: Louisville, KY.)

No. MC 117815 (Sub-No. 282F), filed March 9, 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, IA 50317. Applicant's representative: Dewey Marselle, 405 SE. 20th Street, Des Moines, IA 50317. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except commodities in bulk), from the facilities of or utilized by Jeno's, Inc., at Duluth, MN, to points in IL, IN, MI, and OH; and (2) *foodstuffs* (except commodities in bulk), from the facilities of or utilized by Jeno's, Inc., at or near Sodus, MI to points in IA, KS, MO, NE, and WI. Restricted in parts (1) and (2) above to the transportation of traffic originating at the above named origins and destined to the named destinations. (Hearing site: Chicago, IL, or Minneapolis, MN.)

No. MC 117815 (Sub-No. 284F), filed March 28, 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, IA 50317. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Frozen foods* (except commodities in bulk), from the facilities of or utilized by Ore-Ida Foods, Inc. and Terminal Ice & Cold Storage Co. located at or near Plover, WI, to points in IL, IN, IA. KS, KY, MI, MN, MO, NE, OH, and TN; and (2) *returned, refused, or rejected merchandise* described in part (1), from IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and TN, to the facilities of or utilized by Ore-Ida Foods, Inc. and Terminal Ice & Cold Storage Co. at or near Plover, WI, restricted in parts (1) and (2) to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing sites: Chicago, IL or Milwaukee, WI.)

No. MC 117940 (Sub-No. 273), filed April 10, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Applicant's representative: Allan Timmerman (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) (a) *Frozen foods* (except commodities in bulk), from the facilities of Terminal Ice and Cold Storage located at or near Plover, WI; and (b) from the facilities utilized by Ore-Ida Foods, Inc. located at or near Plover, WI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC; and (2) *returned, refused, and rejected frozen foods,* in the reverse direction, restricted to traffic originating at the named facilities at named origins, and destined to named destinations. (Hearing site: Portland, OR.)

No. MC 119226 (Sub-No. 103F), filed March 28, 1978. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, IN 46227. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier,* by motor vehicles, over irregular routes, transporting: *Vegetable oils and products thereof,* in bulk, in tank vehicles, (1) between points in Hamilton County, TN on the one hand and, on the other, points in the United States in and east of the States of ND, SD, NE, KS, OK, and TX; (2) between Decatur, IN on the one hand and, on the other, points in the United States in and east of the States of ND, SD, NE, KS, OK, and TX; and (3) between Gibson City, IL on the one hand and, on the other, points in the United States in and east of the States of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC.)

NOTE.—Common contol may be involved.

No. MC 119422 (Sub-No. 60F), filed March 24, 1978. Applicant: EE-JAY MOTOR TRANSPORTS, INC., P.O. Box 1037, 15th and Lincoln, E. St. Louis, IL 62204. Applicant's representative: Ernest E. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material,* in bulk, from Bussen Spur, MO to points in IL. (Hearing site: Chicago or Springfield, IL.)

No. MC 119493 (Sub-No. 190F), filed March 27, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Applicant's representative: Lawrence F. Kloeppel (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Flour* (escept in bulk in tank vehicles), from St. Louis, MO and Chester, IL, to points in AR, AL, IN, IA, IL, KS, KY, LA, MS, MO, NE, OH, OK, TN, TX, and FL; (2) *animal and poultry feed and ingredients,* from East St. Louis, IL, to points in AR, CO, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NE, OK, OH, SD, TN, TX, WI, and FL; and (3) *materials, supplies and advertising materials,* used in the manufacture, processing, sale, and distribution of the commodities in (1) and (2) above, from the named destinations to St. Louis, MO, East St. Louis, IL, and Chester, IL. (Hearing site: Kansas City, MO or Omaha, NE.)

No. MC 119741 (Sub-No. 92F), filed March 28, 1978. Applicant: GREEN FIELD TRANSPORT CO., INC., 3225 Fifth Avenue South, Fort Dodge, IA 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, IA 50501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses, as described in sections A and C of appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk, in tank vehicles), from St. Joseph, MO to points in CT, DE, IL, IN, IA, KY, MD, MA, MI, MN, NE, NJ, NY, OH, PA, RI, SD, VA, WV, WI, and DC. (Hearing site: Kansas City, MO.)

No. MC 121496 (Sub-No. 9F), filed March 28, 1978. Applicant: CANGO CORP., Suite 2900, 1100 Milam Building, Houston, TX 77002. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, from the plantsites of Jefferson Chemical Co., Inc., located at or near Port Neches, Youens (Montgomery County), and Austin, TX, to points in the United States (except AK and HI), restricted to the transportation of shipments originating at the named origins. (Hearing site: Houston, TX, or New Orleans, LA.)

No. MC 123048 (Sub-No. 398F), filed March 27, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (A)(1) *Air-*

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conditioners, air coolers, air-conditioning equipment, heaters, furnaces, and heating equipment; (2) *related parts, accessories, materials, and supplies* named in (1) above, from Baldwin County, GA, to points in the United States in and east of MN, IA, MO, AR, and LA; and (B) *materials, parts, and supplies*, used in the manufacture, production, and distribution of commodities named in (A) above, from points in the United States in and east of MN, IA, MO, AR, and LA, to Baldwin County, GA. (Hearing site: Atlanta, GA.)

No. Mc 123255 (Sub-No. 151F), filed March 23, 1978. Applicant: B. & L. MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, OH 43055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and plastic products* (except expanded), and *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture of chemicals and plastic products, between the facilities of Dow Chemical Co. at or near Midland, MI, on the one hand, and, on the other, points in CT, DE, IL, IN, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, and WV. (Hearing site: Columbus, OH.)

No. MC 124306 (Sub-No. 43F), filed March 28, 1978. Applicant: KENAN TRANSPORT CO., INC., P.O. Box 2729, Chapel Hill, NC 27514. Applicant's representative: Richard A. Mehley, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastics* (other than expanded) and *dry polyester resin*, in bulk, in tank or hopper-type trailers, from points in Spartanburg County, SC, to points in DE, PA, NY, NJ, CT, RI, MA, and GA. (Hearing site: Washington, DC, or Spartanburg, SC.)

NOTE.—Common control may be involved.

No. MC 124692 (Sub-No. 208F), filed April 3, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: J. David Douglas, P.O. Box 4347, Missoula, MT 59806. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bituminous fibre pipe and conduit, plastic products, and fibre vaults*, from the facilities of Bermico Co., at or near West Bend, WI, to points in CA. (Hearing site: Milwaukee, WI.)

No. MC 124896 (Sub-No. 54F), filed April 10, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., Thorne and Ralston Streets, P.O. Box 3485, Wilson, NC 27893. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Swift & Co., located at or near Chicago, Rochelle, and St. Charles, IL, to points in GA and NC, restricted to the transportation of traffic originating at the named origins and destined to the named destination States. (Hearing site: Chicago, IL.)

No. MC 124947 (Sub-No. 106F), filed March 28, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unit heaters, propeller fans, and blowers* (except in bulk), between points in the United States (excluding AK and HI), in nonradial movement. (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 125951 (Sub-No. 27F), filed March 27, 1978. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Applicant's representative: Robert M. Cimino, 7000 West Center Road, Suite 325, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Sioux City, IA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC. (Hearing site: Omaha, NE.)

NOTE.—Applicant holds motor contract carrier authority in MC 135033 and subs, therefore, dual operations may be involved.

No. MC 127042 (Sub-No. 211F), filed March 28, 1978. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Robert G. Tessar, P.O. Box 98, Leeds Station, Sioux City, IA 51108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods, materials, equipment, and supplies* used in the manufacture thereof, between points in Grant, Madison, and Tipton Counties, IN, on the one hand, and, on the other, points in AZ, CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI. (Hearing site: Indianapolis, IN, or Chicago, IL.)

No. MC 127705 (Sub-No. 52F), filed March 22, 1978. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite of Campbell Soup Co. at Napoleon, OH, to points in PA, OH, NY, NJ, KY, IN, IL, MI, VA, WV, NC, and TN; and (2) *foodstuffs* from Philadelphia, PA, Camden, NJ, and Chicago, IL to the plantsite of Campbell Soup Co. at Napoleon, OH. Restriction: Restricted to traffic originating at and destined to the named origins and named destinations. (Hearing site: Indianapolis, IN, or Washington, DC.)

NO. MC 129032 (Sub-No. 45F), filed March 27, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Applicant's representative: David R. Worthington (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the facilities of Kraft, Inc., at New Ulm, MN, to points in CT, PA, VA, DE, DC, ME, MD, MA, NH, NY, NJ, RI, VT, OH, IN, MI, WV, KY, IL, ND, SD, NE, IA, MO, and WI. Restricted to traffic originating at the above-named origin and destined to points in the named destination States. (Hearing site: Chicago, IL, or St. Louis, MO.)

NOTE.—Common control may be involved.

No. MC 133689 (Sub-No. 178F), filed March 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Rochester, MN, to points in MO, KS, IL, IN, MI, OH, KY, TN, AL, GA, SC, and NC, restricted to traffic originating at the above-named origin and destined to the above indicated destinations. (Hearing site: St. Paul, MN.)

No MC 134235 (Sub-No. 8F), filed March 27, 1978. Applicant: KUHNLE BROTHERS, INC., P.O. Box 128, Chagrin Falls, OH 44022. Applicant's representative: Kenneth T. Johnson, Bankers Trust Building, Jamestown, NY 14701. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Solar salt in pneumatic vehicles*, from Jersey City, NJ to points in NJ, PA, NY, CT and MA. (Hearing site: Buffalo, NY.)

NOTE.—Applicant holds contract carrier authority in MC 138194, therefore dual operations may be involved.

No. MC 134477 (Sub-No. 225F), filed March 27, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 'West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts* and *articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of King Foods at Minneapolis/St. Paul, MN, to points in AR, CT, DE, GA, IL, IN, IA, KY, ME, MD, MA, MI, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC. Restricted to the traffic originating at the above named origins and destined to the above named destinations. (Hearing site: Minneapolis, MN.)

No. MC 135078 (Sub-No. 22F), filed March 28, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Authority is sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Commodities* as are dealt in or sold by retail department of discount stores including *precious jewels* and *jewelry featuring precious gems*, (except commodities in bulk), from Boston, MA, Jersey City, NJ, New York, NY, and Philadelphia, PA, to the facilities of Mid-West Pool Car Shipping Association, Inc., located at or near Denver, CO. (Hearing site: Denver, CO.)

No. MC 135399 (Sub-No. 5F), filed March 27, 1978. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Applicant's representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water heaters, house heating boilers, glass lined tanks and garbage disposals*, from Kankakee, IL, to points in AR, LA, OK and TX. (Hearing site: Dallas, TX or Washington, DC.)

No. MC 135684 (Sub-No. 71F), filed March 23, 1978. Applicant: BASS TRANSPORTATION CO. INC., P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering, and materials, supplies and equipment* (except in bulk) useful in the installation of floor coverings, from Los Angeles, CA to points in AZ, CO, ID, KS, MT, NE, NM, NV,, ND, OK, SD, TX, UT and WY. (Hearing sites: Washington, DC or Newark, NJ.)

No. MC 135797 (Sub-No. 111F), filed March 27, 1978. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 200, Lowell, AR 72745. Applicant's representative: Paul A. Maestri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials* (except in bulk), and *supplies and equipment* used in the manufacture of plastic articles, between the facilities of Mobil Chemical Co., Plastics Division at Jacksonville and Springfield, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 136553 (Sub-No. 57F), filed March 23, 1978. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, IA 52001. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from Dubuque and Davenport, IA, to points in IL on and north of U.S. Hwy 136 and points in WI on and south of U.S. Hwy 10. (Hearing sites: Milwaukee, WI or Chicago, IL.)

No. MC 138313 (Sub-No. 33F), filed March 22, 1978. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street, SW., Great Falls, MT 59404. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, millwork and wood products*, from ports of entry on the United States-Canada boundary line located at points in WA, ID, & MT, to points in ID, MT, ND, SD, WY & UT, restricted to traffic originating in foreign commerce from the Province of British Columbia, Canada. (Hearing site: Seattle, WA, or Washington, DC.)

NOTE.—The purpose of the application is to substitute a single-line service for applicant's existing joint-line operations.

No. MC 138313 (Sub-No. 37F), filed March 27, 1978. Applicant: BUILDERS TRANSPORT, INC., 409-14th Street SW., Great Falls, MT 59404. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite*, from points in Big Horn County, WY, to points in CA, ID, MT, OR, and WA. (Hearing site: Houston, TX or Salt Lake City, UT.)

No. MC 138469 (Sub-No. 64F), filed March 23, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Applicant's representative: Jack Blanshan, 205 West Touhy Avenue, Suite 200, Park, Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies*, used or useful in the production of kitchen cabinets, except commodities in bulk, from points in AL, AR, GA, IL, IN, KY, NH, NC, PA, SC, TN, TX, VA, WV, and WI, to the facilities of Triangle Pacific Corp., located at or near Auburn, NE, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Dallas, TX or Oklahoma City, OK.)

NOTE.—Applicant holds contract carrier authority in MC 136375 and therefore, dual operations may be involved.

No. MC 138841 (Sub-No. 10F), filed March 3, 1978. Applicant: BLACK HILLS TRUCKING CO., a corporation, P.O. Box 2130, Rapid City, SD 57709. Applicant's representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, between Rapid City, SD, on the one hand, and on the other points in AZ, AR, CT, DE, ID, IN, KS, ME, MD, MO, MT, NE, NV, NJ, NM, ND, OH, OK, PA, TN, TX, UT, VA, and WY, restricted to the transportation of either traffic originating at Rapid City, SD and destined to points in the specified states or traffic originating at points in the specified states and destined to Rapid City, SD. (Hearing site: Rapid City, SD or Denver, CO.)

No. MC 138875 (Sub-No. 81F), filed February 28, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Applicant's representative: F. L. Sigloh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Ore-Ida, and Terminal Ice and Cold Storage, located at or near Plover, WI, to points in AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IN, KS, KY, LA, MD, MA, MI, MN, MS, MT, MO, NE, NV, NJ, NM, NY, NC, ND, OH, OK,

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OR, PA, RI, SC, TN, TX, UT, VA, WA, WV, WI, and WY. Restricted to traffic originating at and destined to the above named destinations. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 138875 (Sub-No. 85F), filed February 27, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Applicant's representative: F. L. Sigloh, 11900 Franklin Road, Boise, ID 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wheels, brakes, axles, axle assemblies and component parts* from Elkhart, IN, Minerva, OH, and Seminole, OK, to the facilities utilized by Kelsey Hayes Co. located at or near Chino, CA and McMinnville, OR. Restricted to the transportation of traffic originating at the named origin points and destined to the named destination points. (Hearing site: Portland, OR.)

No. MC 138890 (Sub-No. 9F), filed March 28, 1978. Applicant: MOODIE, INC., 301 Acorn Street, Stevens Point, WI 54481. Applicant's representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods* (except in bulk) from the facilities of Terminal Ice & Cold Storage Co. at or near Plover, WI to points in and east of ND, SD, NE, KS, OK and TX and returned, refused and rejected shipments from points in and east of ND, SD, NE, KS, OK and TX to the facilities of Terminal Ice & Cold Storage Co. at or near Plover, WI. Restriction: the operations authorized herein are restricted to the transportation of shipments originating at the named origins and destined to the named destinations. (2) *Frozen foods* (except in bulk) from the facilities of Ore-Ida Foods, Inc. at or near Plover, WI to points in and east of ND, SD, NE, KS, OK, and TX. Restriction: Restricted to traffic originating at the named origin and destined to the named states. (Hearing site: Boise, ID.)

No. MC 139482 (Sub-No. 44F), filed March 27, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses as described in section A and C of appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 203, 766 (except hides and commodities in bulk), from the facilities of Hygrade Food Products Corp. located at or near Storm Lake and Cherokee, IA, to points in MS, restricted to traffic originating at the named origin points and restricted to points in the named destination state. (Hearing site: Minneapolis or St. Paul, MN.)

No. MC 139495 (Sub-No. 336F), filed March 28, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water heaters, boilers, glasslined tanks, and garbage disposals* from Kankakee, IL to points in AL, FL, GA, KS, LA, MS, NC, OK, SC, TX, and VA. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 337F), filed March 28, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives, sealants, glues, weather stripping, caulking compounds, cements, and sound deadeners* (except in bulk in tank vehicles) from Kankakee, IL to points in GA, KS, NJ, and TX. (Hearing site: Washington, DC.)

No. MC 139577 (Sub-No. 17F), filed March 27, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Applicant's representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods* (except in bulk), from the facilities of Terminal Ice & Cold Storage Co. at or near Plover, WI, to points in the United States in and east of MN, IA, MO, AR and LA, and returned, refused and rejected shipments, from points in the United States in and east of MN, IA, MO, AR and LA, to the facilities of Terminal Ice & Cold Storage Co. at or near Plover, WI. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at the named origins and destined to the named destinations. (2) *Frozen foods* (except in bulk), from the facilities of Ore-Ida Foods, Inc. at or near Plover, WI, to points in the United States in and east of MN, IA, MO, AR and LA. Restriction: Restricted to traffic originating at the named origins and destined to the named states. (Hearing site: Boise, ID or Stevens Point, WI.)

No. MC 140011 (Sub-No. 3F), filed March 27, 1978. Applicant: A. C. DENNLER CO., a corporation, P.O. Box 10037, Los Angeles, CA 91209. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stereo consoles and component systems*, from Los Angeles, CA to Norwich, CT, under a continuing contract or contracts with Capehart Corp. (Hearing site: Washington, DC.)

No. MC 140024 (Sub-No. 95F), filed March 28, 1978. Applicant: J. B. MONTGOMERY, INC., (a Delaware corporation), 5565 East 52nd Avenue, Commerce City, CO 80022. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of DAK Foods, Inc. at or near East Brunswick, NJ, to points in AR, IL, IA, MI, NE, OH, and TX, restricted to traffic originating at named origin and destined to named destinations. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 140101 (Sub-No. 3F), filed March 27, 1978. Applicant: I.T.A. TRUCKING, INC., P.O. Box 219, Amherst, WI 54406. Applicant's representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods* (except in bulk), from the facilities of Terminal Ice & Cold Storage Co. at or near Plover, WI, to points in and east of ND, SD, NE, KS, OK, and TX and returned, refused and rejected shipments, from points in and east of ND, SD, NE, KS, OK, and TX, to the facilities of Terminal Ice & Cold Storage Co. at or near Plover, WI. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at the named origins and destined to the named destinations. (2) *Frozen foods* (except in bulk), from the facilities of Ore-Ida Foods, Inc., at or near Plover, WI, to points in and east of ND, SD, NE, KS, OK, and TX. Restriction: Restricted to traffic originating at the named origin and destined to the named states. (Hearing site: Boise, ID.)

No. MC 140563 (Sub-No. 10F), filed March 27, 1978. Applicant: W. T. MYLES TRANSPORTATION CO., a corporation, Box 321 Conley, GA 30027. Applicant's representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)

Insulating and packaging materials, molded expanded polystyrene, from the facilities of Intergrated Insulation Systems, Inc., at points in DeKalb County, GA, to points in the United States in and east of ND, SD, NE, KS, OK and TX; and (2) *Materials, equipment and supplies* used in the manufacture or distribution of insulating and packaging materials, and *molded expanded polystyrene* (except commodities in bulk), from points in the United States in and east of ND, SD, NE, KS, OK and TX, to the facilities of Integrated Insulation Systems, Inc., at points in DeKalb County, GA. (Hearing site: Atlanta, GA.)

NOTE.—Applicant holds contract carrier authority in MC 138869, therefore dual operations may be involved.

No. MC 140596 (Sub-No. 4F), filed February 15, 1978. Applicant: NEWPORT AIR FREIGHT, INC., Airport Road, Newport, VT 05855. Applicant's representative: S. Arnold Smith, Craftsbury, VT 05826. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts for pulp and paper mill equipment*, between Newport, VT, on the one hand, and, on the other, Logan International Airport at or near East Boston, MA, with prior or subsequent movement by air, under a continuing contract with S. W. Hooper & Co., Ltd. of Sherbrooke, PQ, Canada. (Hearing site: Montpelier, VT. or Boston, MA.)

No. MC 140665 (Sub-No. 29F), filed March 27, 1978. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and fiberglass materials; metal, plastic or glass coatings; chemicals; paints; color additives; clay or clay products; borax; derivatives of clay or borax; and materials and supplies* used in the marketing, production, or distribution of the above commodities (except commodities in bulk), from points in CA, to points in the United States in and East of MN, IA, MO, AR, and TX. (Hearing site: Cleveland, OH or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 141570 (Sub-No. 12F), filed March 27, 1978. Applicant: ELECTRONICS TRANSPORT, INC., 3213 Eighth Avenue, North, P.O. Box 31103, Birmingham, AL 35222. Applicant's representative: M. Craig Massey, 202 East Walnut Street, P.O. Drawer J, Lakeland, FL 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines, and parts, materials, and supplies, used in the manufacture, installation or sale of such commodities*, between Norfolk, VA, and its commercial zone, on the one hand, and, on the other, points in NC, under a continuing contract or contracts with Xerox Corp. of Arlington, VA. (Hearing site: Washington, D.C.)

NOTE.—Applicant holds motor common carrier authority in MC 136269 (Sub-No. 2), therefore, dual operations may be involved.

No. MC 141575 (Sub-No. 10F), filed March 29, 1978. Applicant: TFS, INC., Box 126, Rural Route 2, Grand Island, NE 68801. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Calcium chloride*, from Ludington and Midland, MI, to points in IA, NE, and CO; and (2) *magnesium*, from the facilities of Martin Marietta Chemical Co., at or near Manistee, MI, to points in IA and NE, under continuing contract, or contracts, with Ag Service, Inc., Grand Island, NE. (Hearing site: Lincoln, NE, or Grand Island, NE.)

No. MC 142668 (Sub-No. 6F), filed March 29, 1978. Applicant: AERO DISTRUBUTING CO., INC., 4814 Fulton Industrial Boulevard, Atlanta, GA 30336. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors from Chattanooga, Knoxville, and Kingsport, TN, to points in TN in and east of Clay, Jackson, Putnam, DeKalb, Warren, Grundy, and Marion Counties, TN, under a continuing contract or contracts with Avon Products, Inc. (Hearing site: Atlanta, GA.)

No. MC 142668 (Sub-No. 7F), filed March 29, 1978. Applicant: AERO DISTRIBUTING CO., INC., 4814 Fulton Industrial Boulevard, Atlanta, GA 30336. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors, from Memphis, TN, to points in AL, under a continuing contract or contracts with the Fuller Brush Co. (Hearing site: Atlanta, GA, or Memphis, TN.)

No. MC 143328 (Sub-No. 7F), filed March 28, 1978. Applicant: EUGENE TRIPP TRUCKING, a corporation, P.O. Box 2730, Missoula, MT 59806. Applicant's representative: David A. Sutherlund, 1150 Connecticut Avenue NW., Suite 400, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products* for reuse or recycling: (1) between points in MT; and (2) from points in MT to points in CA, OR, and WA. (Hearing site: Missoula, MT.)

NOTE.—Common control may be involved.

No. MC 143462 (Sub-No. 3F), filed April 1, 1978. Applicant: ERWIN TRUCKING, INC., 7176 North 50th Street, Omaha, NE 68152. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hydraulic cylinders, hydraulic pumps, hydraulic motors, hydrostatic transmissions, valves, and parts therefore* from Omaha, NE; Joplin and Columbia, MO; Searcy, AR; and Madison Heights, MI to points in the United States (except AK and HI); and (2) *Parts, accessories, materials, equipment and supplies* used in the manufacture of the commodities listed in (1) above from points in the United States (except AK and HI) to Omaha, NE; Joplin, Columbia, and St. Louis, MO; Searcy, AR; and Madison Heights, MI. All service limited to that performed under a continuing contract with Sperry Vickers Division of Sperry Corp. (Hearing site: Omaha, NE.)

No. MC 144057 (Sub-No. 2F), filed March 27, 1978. Applicant: WHITEHALL TRANSPORT, INC., P.O. Box 387, Whitehall, WI 54773. Applicant's representative: Ronald V. Dreckman, P.O. Box 387, Whitehall, WI 54773. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Canned goods*, from Oconomowoc, WI, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, OK, PA, RI, TX, VA, VT, and WV. (Hearing site: Milwaukee, WI, or Washington, DC.)

NOTE.—Applicant presently holds contract carrier authority under MC 129071, therefore, dual operations may be involved.

No. MC 144075 (Sub-No. 2F), filed March 27, 1978. Applicant: INDUSTRIAL TRANSPORT, INC., 2301 East 65th Street, Cleveland, OH 44104. Applicant's representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 327, Arlington, VA 22201. Authority is sought to operate in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Transit expressway vehicles;* and (2) *equipment, materials, and supplies* (except commodities in bulk), used in the manufacture, distribution, and installation of transit expressway vehicles, (a) between Jackson Center, OH and Pittsburgh, PA; and (b) between points named in (a) above on the one hand and, on the other, points in the United States (including AK, but excluding HI), under a continuing contract or contracts with Westinghouse Electric Co. (Hearing site: Cleveland, OH or DC.)

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No. MC 144082 (Sub-No. 3F), filed April 3, 1978. Applicant: DIST/TRANS MULTI-SERVICES, INC. d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Boulevard, P.O. Box 7191, Charlotte, NC 28217. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, distributed, or used by retail department stores and mail order merchandisers, from Charlotte, NC to Wauwatosa, WI. Restriction: Restricted to service performed under a continuing contract or contracts with J. C. Penney Co., Inc. at New York, NY. (Hearing site: Washington, DC. or New York, NY.)

No. MC 144140 (Sub-No. 10F), filed March 28, 1978. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Applicant's representative: John L. Dickerson, P.O. Box 374, Eustis, FL 32726. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Pabst, GA to points in IL, IN, MI, and OH. (Hearing site: Atlanta, GA or Washington, DC.)

NOTE.—Applicant holds contract carrier authority in MC 104589 and subs thereto, therefore, dual operations may be involved.

No. MC 144227 (Sub-No. 1F), filed March 27, 1978. Applicant: CARMIL, INC., Hershey, NE 69143. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients* (except liquid commodities in bulk), from Sergeant Bluff, IA, to points in CO, restricted to the transportation of shipments originating at the facilities of Farmland Industries, Inc., at or near Sergeant Bluff, IA, and destined to points in CO. (Hearing site: Denver, CO or Lincoln, NE.)

No. MC 144280 (Sub-No. 2F), filed March 14, 1978. Applicant: RAJEAN, INC., Highway 64 East, Russellville, AR 72801. Applicant's representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Tires, tubes, and rubber articles*, from the facilities of, or utilized by Area Tire Distributors, Inc., in Austin, TX, Russellville, AR, Toledo, OH, Jackson, MS, Little Rock, AR, Des Moines, IA, and Duran, WI, to points in TX, OK, AR, MI, LA, SD, ND, and SC, under a continuing contract or contracts with Area Tire Distributors Inc., of Austin, TX. (Hearing site: Little Rock, AR.)

NOTE.—Applicant has motor common carrier authority pending in MC 144233, therefore, dual operations may be involved.

No. MC 144430 (Sub-No. 2F), filed March 27, 1978. Applicant: CHARLES MOLITOR, Ashton, IA 51232. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Liquid fertilizer solutions*, in bulk, in tank vehicles, from Ashton, IA to points in NE, SD, and MN; and (2) *materials, equipment, and supplies* utilized in the manufacture and distribution of liquid fertilizer solutions, from points in NE, SD, and MN to Ashton, IA. (Hearing site: Sioux Falls, SD or Omaha, NE.)

No. MC 14438 (Sub-No. 2F), filed March 27, 1978. Applicant: COUNTY LINE TRUCKING, INC., 224 N. Defiance St., Archbold, OH 43502. Applicant's representative: Michael M. Briley, 300 Madison Ave., 12th Floor, Toledo, OH 43603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and commodities* distributed by meat packinghouses (except in cans or bottles and except commodities in bulk in tank vehicles), from the facilities of Dinner Bell Foods, Inc. located at Archbold, Defiance, and Troy, OH, to points in CT, KY, ME, MD, MA, NH, NJ, NY, PA, RI, VA, WV, and DC. (Hearing site: Toledo, OH or DC.)

No. MC 144474 (Sub-No. 1F), filed March 28, 1978. Applicant: MORGAN MOVING AND STORAGE, INC., 301 North Street, Booneville, MS 38829. Applicant's representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *New furniture* from points in MS on and north of U.S. Hwy 82 to all points in the United States (except AK and HI). (Hearing site: Memphis, TN or Tupelo, MS.)

No. MC 144478 (Sub-No. 2F), filed March 28, 1978. Applicant: DENNIS WEBER, Box 72, Glen Elder, KS 67446. Applicant's representative: Clyde N. Christey, Kansas Credit Union Building, Suite 110L, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, feed supplements and animal health and sanitation products*, from the facilities of Ralston Purina Co. at or near Kansas City, MO, to points in Mitchell and Jewell Counties, KS. (Hearing site: Kansas City, MO.)

No. MC 144483 (Sub-No. 1F), filed March 29, 1978. Applicant: MAHER, INC., R.R. No. 14, Box 330, West Terre Haute, IN 47885. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, from Tuscola, IL to Bloomington, Clermont, Columbus, Ellettsville, Greenfield, Greenwood, and Terre Haute, IN. Restricted to a contract or continuing contracts with Pyrofax Gas Corp., Houston TX. (Hearing site: Indianapolis, IN or Chicago, IL.)

No. MC 144485 (Sub-No. 1F), filed April 3, 1978. Applicant: WEST COAST DISTRIBUTING CO., INC., 539 N. 170th Place, Seattle, WA 98133. Applicant's representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Wine*, from Sonoma, Rutherford, St. Helena, San Jose, Union City, Menlo Park, Modesto, Lodi, and Madera, CA, to Everett, WA; and (b) *malt beverages*, from Fairfield, Los Angels, and San Pedro, CA, to Everett, WA; under a continuing contract or contracts with Friendly Distributors, Inc., of Everett, WA; and (2) *malt beverages*, from Los Angeles, CA to Everett, WA, under a continuing contract or contracts with Bay Distributing Co., Inc., of Everett, WA; and (3) *malt beverages*, from Fairfield and Los Angeles, CA to Everett, WA, under a continuing contract or contracts with Crown Distributing Co., Inc., of Everett, WA. (Hearing site: Everett or Seattle, WA.)

No. MC 144487 (Sub-No. 1F), filed March 27, 1978. Applicant: JACKSON RAPID DELIVERY SERVICE, INC., 910 Larson Street, P.O. Box 482, Jackson, MS 39205. Applicant's representative: John A. Crawford, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical wiring harnesses, components and equipment, materials and supplies* used in the manufacture, processing, and distribution of electrical wiring harnesses (except commodities in bulk), between Clinton and Jackson, MS, under a continuing contract or contracts, with General Motors Corp. (Packard Electric Division). (Hearing site: Jackson, MS.)

NOTE.—Applicant holds common carrier authority in MC 144487, therefore dual operations may be involved.

No. MC 144508F, filed March 27, 1978. Applicant: OMNI CARRIERS, INC., P.O. Box 1255, Rogers, AR 72756. Applicant's representative: Robert J. Beaver, P.O. Box 1255, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed supplement*, from the facilities utilized by Dawe's Laboratory at or near Chicago Heights, IL, to points in AR. (Hearing site: Chicago, IL.)

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No. MC 144513F, filed March 28, 1978. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier, by motor vehicle, over irregular routes, transporting: Electrical and electronic equipment enclosures and parts and accessories therefor*, (1) between the facilities of Bud Industries, Inc. at or near Willoughby, OH and Phoenix, AZ; and (2) from the facilities utilized by Bud Industries, Inc. at or near Willoughby, OH and Phoenix, AZ to points in CA, AZ, NV, and UT. Restrictions: Restricted against the transportation of commodities which by reason of size or weight require the use of special equipment, restricted against the transportation of commodities in bulk, and restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Cleveland, OH.)

NOTE.—Dual operations may be involved.

No. MC 144518 (Sub-No. 2F), filed March 28, 1978. Applicant: LEE'S READY MIX & TRUCKING, INC., 130 North State, North Vernon, IN 47265. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulation, modular units, prefabricated buildings, materials, supplies and fixtures*, used in the manufacture of modular units and prefabricated buildings, (exept commodities in bulk) between North Vernon, IN, on the one hand, and, on the other, points in AL, GA, IL, KY, MI, MS, NC, OH, PA, SC, TN, VA and WV. Restricted to a contract or continuing contract with Insta-Housing, Inc. (Hearing site: Indianapolis, IN or Chicago, IL.)

No. MC 144524F, filed March 23, 1978. Applicant: GK TRUCKING CORP., 500 West Putnam Avenue, Greenwich, CT 06830. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by a manufacturer of wire and cable, and consumer and industrial products, and *materials, supplies and equipment* used in the conduct of such business (exept in bulk), between the facilities of General Cable Corp. located at or near Blackinton, MA, Bonham, TX, Brandon, MS, Carrollton, TX, Des Plaines, IL, Eries, PA, Frederick, MD, Garwood, NJ, Huntsville, AL, Indianapolis, IN, Kingman, AZ, Lawrenceburg, KY, Lincoln, NB, Lindsay, CA, Memphis, TN, Monticello, IL, Muncie, IN, New Brunswick, NJ, North Adams, MA, Perth Amboy, NJ, Pomona, CA, Pownal, VT, San Carlos, CA, Sanger, CA, St. Louis, MO, Tampa, FL, Tukwila, WA, Warrenton, MO, Westminster, CO, Williamstown, MA, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with General Cable Corp. located at Greenwich, CT; and (2) *such commodities* as are dealt in by a manufacturer of wire and cable, and materials, supplies and equipment used in the conduct of such business (exept in bulk), between facilities of Pirelli Cable Corp. located at or near Abbeville, SC, Bayonne, NJ, Camden, NJ, Colusa, CA, Elkton, MD, Hopkins, MN, Hot Springs, AR, Leetsdale, PA, Morrow, GA, Oakland, CA, Salt Lake City, UT, Tulsa, OK, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Pirelli Cable Corp. located at New York, N.Y. (Hearing site: New York, NY.)

No. MC 144533F, filed March 23, 1978. Applicant: FRANK PAGLIUGHI, an individual, d.b.a. GENERAL TRANSFER CO., East Landis Avenue, Route 5, Vineland, NJ 08360. Applicant's representative: William J. Hirsch, 43 Court Street, Suite 1125, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from Trappe, MD; Barker, NY; and points in NJ, to points in DE, MD, NJ, NY, and PA, and returned shipments and containers in the reverse direction. (Hearing sites: Vineland, NJ or Philadelphia, PA.)

No. MC 144544F, filed March 29 1978. Applicant: CARL M. ILIFF, d.b.a. Glencoe Produce, P.O. Box 146, Glencoe, MN 55336. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Arlington and Ortonville, MN, to points in AL, CA, FL, GA, NV, NC, SC, TN, TX and UT. Restricted to the transportation of traffic moving under a continuing contract or contracts with Big Stone, Inc. (Hearing site: Minneapolis or St. Paul, MN.)

No. MC 144627F, filed April 3, 1978. Applicant: HAROLD D. KETELSEN, Pleasant Valley Store, Rural Route, Hartington, NE 68739. Applicant's representative: Paul N. Croslet, Center, NE 68724. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock feed*, in bulk and bags, from Sioux City, IA, to points in NE on and east of NE Hwy 14, and on and north of U.S. Hwy 275 and NE Hwy 51. (Hearing site: Omaha or Lincoln, NE.)

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-13436 Filed 5-17-78; 8:45 am]

[1505-01]

[Volume No. 75]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-8261 appearing at page 13459 in the issue for Thursday, March 30, 1978, under MC 6078 (Sub-No. 88F), in the seventh and eighth lines from the top of the first column of page 13460, *"incremental steel coils"* should have read *"zincromental steel coils"*.

[1505-01]

[Volume No. 79]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-9762 appearing at page 15513 in the issue for Thursday, April 13, 1978, the following corrections should be made:

1. In the first full paragraph of the middle column on page 15518, "MC 117685 (Sub-No. 206F)" should read, "MC 117686 (Sub-No. 206F)".

2. In the first full paragraph of the first column on page 15521, "No. MC 139428 (Sub-No. 37F)" should read. "No. MC 139482 (Sub-No. 37F)".

[7035-01]

[Notice No. 43]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment re-

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sulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before June 19, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77625, filed April 10, 1978. Transferee: ZIRKEL TRUCKING, INC., 118 West 19th Street, P.O. Box 1090, Fort Scott, KS 66701. Transferor: J. H. Ware Trucking Inc., 909 Brown Street, P.O. Box 398, Fulton, MO 65251. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 139973 (Sub-No. 11), issued April 28, 1978, as follows: *Iron and steel articles* (except commodities the transportation of which because of their size or weight require the use of special equipment), from the facilities of Keystone Steel & Wire Division, Keystone Consolidated Industries, Inc., at or near Peoria, IL, to points in NE, UT, ID, CA, AZ, OR and WA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77629, filed April 14, 1978. Transferee: PITTSBURGH-FAYETTE EXPRESS, INC., 1101 Dormont Avenue, Pittsburgh, PA 15216. Transferor: Pittsburgh-Brownsville Express, Inc. (Debtor-in-Possession), P.O. Box 716, Connellsville, PA 15425. Applicant's representative: Stanley E. Levine, Attorney at Law, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 4242 and MC 4242 (Sub-No. 6) and Certificate of Registration No. MC 4242 (Sub-No. 5), issued July 27, 1965, September 8, 1965, and July 27, 1965, respectively as follows: *General commodities* between specified points in PA. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC-FC-77639, filed April 21, 1978. Transferee: SOUTHWEST DELIVERY SERVICE, INC., 4423 South Hawthorne Avenue, Los Angeles, CA 90058. Transferor: Astor Truck-Rite, Inc., 4423 South Hawthorne Avenue, Los Angeles, CA 90058. Applicant's representative: Barry Kiek, P.O. Box 58303, Los Angeles, CA 90058. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 120961 (Sub-No. 1), issued February 11, 1964, as follows: *General commodities* with exceptions between points in the specified Los Angeles, CA basin region. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77642, filed April 26, 1978. Transferee: EQUIPMENT EXPRESS LTD., 8105 Don Mills Road, Markham, Ontario, Canada L3R 2P1. Transferor: Barney Kosofsky, d.b.a. Barney's Cartage Co., 23300 Providence Drive, Southfield, MI 48076. Applicants' representatives: Thomas E. Acey, Jr., Attorney for Equipment Express Ltd., Suite 1000, 1660 L Street NW., Washington, DC 20036; Ronald J. Mastej, Attorney for Possessor, 900 Guardian Building, Detroit, MI 48226; Wallace M. Handler, Attorney for Trustee in Bankruptcy, 1800 Travelers Tower, 26555 Evergreen Road, Southfield, MI 48076; Stanley Weingarden, Attorney for Barney's Cartage Co., 1100 Fisher Building, Detroit, MI 48202. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate No. MC 82951, issued by the Commission August 7, 1944, as follows: *Heavy machinery and boilers*, and the following dismantled, commodities: *Machinery, electrical equipment, contractors equipment, and store, office, factory, hospital, art gallery and museum fixtures, and equipment*, over irregular routes, between points and places in the Lower Peninsula of MI. Transferee holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC-FC-77647, filed May 1, 1978. Transferee: B.G.M. TRUCKING, INC., 12634 East Freeway, Houston, TX 77015. Transferor: Mims Meat Co., Inc., 12634 East Freeway, Houston, TX 77015. Applicant's representative: Timothy Mashburn, Attorney at Law, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 143066, issued March 3, 1978, as follows: (1) *Bananas*, and (2) *agricultural commodities* otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas, from Galveston, TX, Gulfport, MS, and Mobile, AL, to points in ID, OR, and WA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13537 Filed 5-17-78; 8:45 am]

[7035-01]

[Notice No. 44]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 18, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 77659. By application filed May 8, 1978, SUPERIOR TRANSFER, INC., 2669 Merchant Drive, Baltimore, MD 21230, seeks temporary authority to transfer a portion of the operating rights of Chesapeake Motor Lines, Inc., 6748 Dorsey Road, Baltimore, MD 21227, under section 210a(b). The transfer to Superior Transfer, Inc., of a portion of the operating rights is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13536 Filed 5-17-78; 8:45 am]

[7035-01]

[Notice No. 77]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 12, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 16903 (Sub-No. 56TA), filed April 17, 1978. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, 120 W. Grimes Lane, Bloomington, IN 47401. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roof insulation*, from the facilities of The Celotex Corp. at Elizabethtown, KY, to points in CT, ME, MA, RI, NH, and VT, for 120 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Celotex Corp., 1500 North Dale Mabry, Tampa, FL 33607. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 28088 (Sub-No. 35TA), filed April 17, 1978. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main Street, P.O. Box 49, Harrisonburg, VA 22801. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between the facilities of Pet, Inc., at Frankfort, MI on the one hand and, on the other, its facilities of Allentown and Chambersburg, PA, for 180 days. Supporting shipper(s): Pet, Inc., St. Louis, MO 63166. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

No. MC 52460 (Sub-No. 215TA), filed April 17, 1978. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Rich Products Corp. at or near Murfreesboro, TN, to points in AL, AR, FL, GA, KS, LA, MS, NC, OK, SC, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Courthouse Bldg., 215 N.W., 3rd, Oklahoma City, OK 73102.

No. MC 64808 (Sub-No. 36TA), filed April 6, 1978. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Avenue, P.O. Box 507, Fairmont, WV 26554. Applicant's representatives: Henry M. Wick, Jr., Stanley E. Levine, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Friday Canning Corp. at or near New Richmond, Gillett, Coleman, Eden, and Oakfield, WI, to points in DE, MD, NJ, NC, PA, SC, VA, WV, and points in TN on and east of Interstate Hwy 65, for 180 days. Supporting shipper(s): Friday Canning Corp., New Richmond, WI. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, WV 26003.

No. MC 65660 (Sub-No. 9TA), filed April 7, 1978. Applicant: WARNER & SMITH MOTOR FREIGHT, INC., 66 Third Street, P.O. Box 96, Masury, OH 44438. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products*, in packages, from Bradford, PA to points in OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Witco Chemical Corp., 77 N. Kendall Avenue, Bradford, PA 16701. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 69397 (Sub-No. 39TA), filed April 7, 1978. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, U.S. Route 13, Pocomoke City, MD 21851. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and composition board*, from the facilities of Day Companies, Inc., at Cuthbert, GA to points in NC, VA, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, ME and DC, for 180 days. Supporting shipper(s): Day Companies, Inc., P.O. Drawer 429, Cuthbert, GA 31740. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, DC 21423.

No. MC 104654 (Sub-No. 160TA), filed April 17, 1978. Applicant: COMMERCIAL TRANSPORT, INC., P.O. Box 469, Belleville, IL 62222. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th St. NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (in bulk), from Light, AR, to points in AR and MO, for 180 days. Supporting shipper(s): (1) Gilbert Brewer, Brewer L. P., Main Street, Cardwell, MO 63820. (2) William Field, Owner, Field Oil & L. P., Gas, P.O. Box 16, Leachville, AR 72438. (3) Jack Doublin, Owner, Lynn Gas Co., P.O. Box H, Puxico, MO 63960. (4) James Larsen, District Sales Manager, Atlantic Richfield Co., P.O. Box 1345, Shawnee Mission, KS 66222. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 108119 (Sub-No. 86TA), filed April 17, 1978. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, 3303 Sibley Memorial Highway, St. Paul, MN 55164. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, hydrants, castings, and materials and supplies* used in the installation thereof, from Birmingham and Bessemer, AL, to all points in the States of TX, OK, IA and AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Pipe and Foundry Co., 3300 First Avenue North, Birmingham, AL 35202. Send protests to: Delores A. Poe Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

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No. MC 108393 (Sub-No. 136TA), filed April 5, 1978. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Hinsdale, IL 60521. Applicant's representative: Thomas B. Hill (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical and gas appliances, parts of electrical and gas applicances, and equipment, materials and supplies* used in the manufacture, distribution and repair of electrical and gas appliances, (except in bulk, in tank vehicles), between Findlay, Clyde, and Marion, OH, and St. Joseph, MI, on the one hand, and, on the other, points in IL, IN, KY, MI, NJ, NY, OH, PA, TN and WI, under a continuing contract, or contracts, with Whirlpool Corp., for 180 days. Supporting shipper(s): Whirlpool Corp., Carl R. Anderson Director Corporate Transportation, Administrative Center, Bent n Harbor, MI 49022. Send protests to: Patricia A. Roscoe Transportation Assistant, Interstate Commerce Commission, Everett Mc-Kinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 109154 (Sub-No. 12TA), filed April 17, 1978. Applicant: BAYLOR TRUCKING, INC., R. R. 1, Milan, IN 47031. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cellulose film, in cartons or containers*, from the plantsite of Olin Corp. located at Olin, Warren County, IN, to NY, NJ and PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Olin Corp., P.O. Box 200, Pisgah Forrest, NC 28768. Send protests to: Beverly J. Williams Transportation Assistant, Interstate Commerce Commission, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 112617 (Sub-No. 388TA), filed April 17, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Liquid calcium chloride*, (in bulk, in tank vehicles), from Rockport, IN, to Owensboro, and Panther, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. W. T. Gray Transportation Foreman, Green Coal Co., P.O. Box 541, Owensboro, KY 42301. Send protests to: Linda H. Sypher District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 113828 (Sub-No. 256TA), filed April 6, 1978. Applicant: O'BOYLE TANK LINES, INCORPORATED, P.O. Box 30006, Washington, DC 20014. Applicant's representative: Michael A. Grimm, P.O. Box 30006, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Soda ash*, from Solvay, NY, to Portsmouth, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Virginia Chemicals, Inc., 3340 West Norfolk Road, Portsmouth, VA 23703. Send protests to: W. C. Hersman District Supervisor, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Room 1413, Washington, DC 20423.

No. MC 115093 (Sub-No. 15TA), filed April 17, 1978. Applicant: MERCURY MOTOR EXPRESS, INC., 2511 No. Grady Avenue, P.O. Box 23406, Tampa, FL 33607. Applicant's representative: Larry N. Kennedy, 2511 No. Grady Avenue, P.O. Box 23406, Tampa, FL 33607. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between Miami, FL, and its commercial zone and Key West, FL, over U.S. Hwy 1, serving all intermediate points, for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): (1) Terminal Transport Co., Inc., 7227 N.W., 29 Avenue, Miami, FL 33147. (2) Air Sea Shipping, 1955 N.W., 72 Avenue, Miami, FL 33126. (3) Imperial Freight Brokers, Inc., 7005 N.W., 41 Street, Miami, FL 33166. Send protests to: Donna M. Jones Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 N.W., 53rd Terrace, Miami, FL 33166.

No. MC 116710 (Sub-No. 33TA), filed April 6, 1978. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., P.O. Box 6176, Bossier City, LA 71010. Applicant's representative: Joe T. Lanham, 1102 Perry-Brooks Building, Austin, TX 78701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Virgin sulphuric acid and spent sulphuric acid* (in bulk), between the plantsite of Stauffer Chemical Co., at or near Baton Rouge, LA, and the plantsite of Macmillan Ring-Free Oil Co., Inc., at or near Norphet, AR, under a continuing contract, or contracts, with Stauffer Chemical Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stauffer Chemical Co., Westport, CT 06880. Send protests to: Ray C. Armstrong Jr., District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 118560 (Sub-No. 4TA), filed April 6, 1978. Applicant: GENERAL TRUCKING CO., INC., 1100 School Street, P.O. Box 269, Columbia, TN 38401. Applicant's representative: Edward C. Blank II, Middle Tennessee Bank Building, P.O. Box 1004, Columbia, TN 38401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal materials for processing*, from the plantsite of Denbo Scrap Materials, Inc., in Giles County, TN, to all points within the State of AL, under a continuing contract, or contracts, with Denbo Scrap Materials, Inc., for 180 days. Supporting shipper(s): Denbo Scrap Materials, Inc., P.O. Box 387, Pulaski, TN 38478. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 118959 (Sub-No. 165TA), filed April 6, 1978. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO. 63701. Applicant's representative: Donald B. Levine, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawnmower parts and accessories*, from Beaufort, SC, to Brookhaven, MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jacobsen Manufacturing, Inc., P.O. Box 568, Brookhaven, MS 39601. Send protests to: A. E. Binder, Acting District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 118989 (Sub-No. 189TA), filed April 6, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, WI 53221. Applicant's representative: Rolland K. Draves (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal can ends*, from the facilities of National Can Corp. at or near Milwaukee, WI, to Evansville, IN; Sioux City, IA; Madisonville, KY; St. Paul, MN; Omaha, NE; Cincinnati, OH; and Oklahoma City and Tulsa, OK, for 180 days. Supporting shipper(s): National Can Corp., 8101 West Higgins Road, Chicago, IL 60631, June E. McCracken. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

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No. MC 119654 (Sub-No. 39TA), filed April 7, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, caps, and covers*, from Mundelein, IL, to IN, KY, MI (except the Upper Peninsula), St. Louis, MO, OH, and WI, for 180 days. Supporting shipper(s): Ball Corp., 345 South High Street, Muncie, IN 47302. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 119726 (Sub-No. 123TA), filed April 7, 1978. Applicant: N.A.B., TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Applicant's representative: James L. Beatty, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Caps, covers, and closures* (except commodities in bulk), from the facilities of Owens-Illinois, Inc., located at or near Constantine, Sturgis, and Three Rivers, MI, to Fort Smith, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 119726 (Sub-No. 125TA), filed April 17, 1978. Applicant: N.A.B., TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum wax*, (except in bulk), from the facilities of Petrolite Corp., Bareco Division, at or near Barnsdall, OK, to Atlanta, GA, and Jackson, TN, for 180 days. Supporting shipper(s): Petrolite Corp., Bareco Division, Drawer K, 6910 East 14th Street, Tulsa, OK 74112. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 124025 (Sub-No. 9TA), filed April 17, 1978. Applicant: GLASS TRUCKING CO., INC., Box 276, 200 North Chestnut, Newkirk, OK 74647. Applicant's representative: C. L. Phillips, Room 248, Classen Terrace Building, 1411 North Classen, Oklahoma City, OK 73106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wheat flour*, in sacks, from Newton and Wichita, KS, to Albuquerque, NM, under a continuing contract, or contracts, with Ross Industries, Department of Cargill, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ross Industries, Department of Cargill, Inc., P.O. Box 2696, Wichita, KS 67201. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 NW. 3rd, Oklahoma City, OK 73102.

No. MC 124692 (Sub-No. 205TA), filed April 7, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barium sulphate*, from Dunphy, NV, to the facilities of Baroid Division of NL Industries, at Rio Vista, Isleton and Bakersfield, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): George Strother, Jr., District Manager, Baroid Division, NL Industries, P.O. Box 206, Bakersfield, CA 93302. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 125368 (Sub-No. 30TA), filed April 17, 1978. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Applicant's representative: C. W. Fletcher, P.O. Box 26, Holly Ridge, NC 28445. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Folding cartons*, from the facilities of International Paper Co., Cincinnati, OH, to the facilities of Quaker Oats Co., Jackson, TN, for 180 days. Supportings shipper(s): International Paper Co., 100 Progress Place, Cincinnati, OH 45246. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 125951 (Sub-No. 32TA), filed April 17, 1978. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Applicant's representative: Robert M. Cimino (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Frozen fish, frozen onion rings, and frozen bakery products*, (except in bulk), from the facilities utilized by Boston Bonnie, Inc., and Boston Bonnie Bakers, Inc., at or near Boston, MA, to points in NE, KS, MO, MN, OH, IL, PA, KY, IN, CO, IA, AR, MI, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): John Brown, Traffic Manager, Boston Bonnie Bakers, Inc., Boston Bonnie, Inc., 293-305 Northern Avenue, Boston, MA 02210. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102

No. MC 127897 (Sub-No. 4TA), filed April 6, 1978. Applicant: TAG, INC., 1816 Grand Street, Sioux City, IA 51107. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *Fertilizer solutions*, (in bulk, in tank vehicles), from LaCrosse, WI, to points in IL, IA, MN and ND, and (2) *Anhydrous ammonia and fertilizer solutions*, (in bulk, in tank vehicles), (a) between points in IA, MN, NE and SD, on the one hand, and, on the other, points in CO, IL, IA, KS, MN, MO, NE, ND, and SD, and (b) from points in IA and MN, to points in WI, under a continuing contract, or contracts, with Nutra-Flo Chemical Co. of Sioux City, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rodney W. Johnson, Traffic Manager, Nutra-Flo Chemical Co., 1919 Grand Avenue, Sioux City, IA. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 134262 (Sub-No. 16TA), filed April 6, 1978. Applicant: FARMERS FEED & SUPPLY TRANSPORTATION, INC., Boyden, IA 51234. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer ingredients, and feed ingredients*, from Manistee and Cedar Springs, MI, to points in OK, KS, NE, IA, MN, WI, ND and SD, restricted against the transportation of

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commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed, under a continuing contract, or contracts, with Martin Marietta Chemicals, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stewart G. Weldon, Jr., Traffic Manager, Martin Marietta Chemicals, Executive Plaza Two, Hunt Valley, MD 21030. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 134300 (Sub-No. 26TA), filed April 5, 1978. Applicant: TRIPLE R EXPRESS, INC., P.O. Box 12866, 498 First Street NW., New Brighton, MN 55112. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, from Minneapolis, MN, to points in AL, AR, CT, DE, DC, FL, GA, KY, LA, ME, MD, MA, NH, MS, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA and WV, for 180 days. Supporting shipper(s): Northern Star Co., 3171 Fifth Street SE., Minneapolis, MN 55414. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 136446 (Sub-No. 11TA), filed April 7, 1978. Applicant: PRINCETON MESSENGER SERVICE, INC., U.S. Route 1, and Farber Road, Princeton, NJ 08540. Applicant's representative: Mel P. Booker, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale drug supply houses and retail drug stores (except commodities in bulk), between Philadelphia, PA, and points in its commercial zone, on the one hand, and, on the other, points in NJ on or south of Interstate 78, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Drug House, Inc., 1011 West Butler Street, Philadelphia, PA 19140. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 138188 (Sub-No. 5TA), filed April 17, 1978. Applicant: CAUDILL MOBILE MILL, INC., Box 85, Butlerville, IN 47223. Applicant's representative: Robert W. Minor, 52 East Gay Street, Columbus, OH 43125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic synthetic liquid and adhesive glue and plastic articles*, from Columbus, OH, to destinations in the States of TX, and CA, for 180 days. Supporting shipper(s): Franklin Glue Co., Franklin Plastics, Franklin Chemical Co., 2020 Bruck Street, Columbus, OH 43207. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 140024 (Sub-No. 102TA), filed April 17, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, CO 80022. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), from Totowa, NJ, to Bedford Heights, OH, Chicago, IL, Detroit and Grand Rapids, MI, for 180 days. No tack or interline. Supporting shipper(s): Caravan Products Co., Inc., 100 Adams Drive, P.O. Box 147, Totowa, NJ 07511. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 140024 (Sub-No. 103TA), filed April 17, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, CO 80022. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), from the facilities of Atlanta Corp., at Jersey City, NJ, New York, NY, and Philadelphia, PA, to Burlington, IA, Chicago, IL, Lawrence, KS, Los Angeles, CA, and points in OH, MI, MN, and IN, including points in the commercial zones of points named, for 180 days. No tack or interline. Supporting shipper(s): Atlanta Corp., 17 Varick Street, New York, NY 10013. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 140033 (Sub-No. 47TA), filed April 6, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Applicant's representative: E. Larry Wells, Winkle and Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Mansfield, TX, to points in AZ, CA, FL, ID, IL, NV, NJ, OR, PA, UT, VA, and WA and Kansas City, MO for 180 days. Supporting shipper(s): Portion-Trol Foods, Inc., 812 South Fifth Avenue, Mansfield, TX 76063. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

No. MC 140581 (Sub-No. 27TA), filed April 7, 1978. Applicant: TOMMY HAGWOOD, d.b.a. HAGWOOD ENTERPRISES, Route 1, Box 222-A, Trafford, AL 35172. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles*, in truckaway service, between Los Angeles, CA, and points within its commercial zone, on the one hand, and, on the other, points in OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southwest Motor Car Co., 8850 Wilshire Boulevard, Beverly Hills, CA 90210. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 141938 (Sub-No. 3TA), filed April 1, 1978. Applicant: S & S TRUCKING & WAREHOUSING, INC., 7100 Northwest 12th Street, Miami, FL 33126. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, classes A and B explosives, household goods, as defined by the Commission, commodities requiring special handling and cement), between points in Dade County, FL, all shipments having a prior or subsequent movement by water, under a continuing contract, or contracts, with Foreign Forwarding, Inc., for 180 days. There is no evenironmental impact involved in this application. Supporting shipper(s): Foreign Forwarding, Inc., 6501 Northwest 36th Street, Suite 440, Miami, FL 33166. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest 53rd Terrace, Miami, FL 33166.

No. MC 142848 (Sub-No. 6TA), filed April 6, 1978. Applicant: JAMES R. POSHARD & SON, INC., P.O. Box 69, Mt Vernon, IN 47620. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Bldg., Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* (in bulk, in dump vehicles), (1) from the Southwind Maritime Centre, located at or near Mt. Vernon, Posey County, IN, to points in IL, IN, and KY, and (2) from Vincennes, IN, to points in IL and KY, restricted to traffic which has either: (1) an immediate prior movement by water or rail, or (2) which originates at and is destined to the above points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Triple T, Inc., R.R. 1, Vincennes, IN 47591. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 143552 (Sub-No. 1TA), filed April 17, 1978. Applicant: CELEWEND ASSOCIATES, INC., 1 Whitfield Street, Caldwell, NJ 07006. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: (1) *Steel strapping and strapping machinery and parts thereof*, from Woodside, NY; New Britain, CT; Pittsburgh, CA, to points in the United States (except AK and HI; (2) *materials, equipment, and supplies* used in the manufacture and sale of the commodities in (1) (except commodities in bulk), from points in the United States (except AK and HI), to Woodside, NY; New Britain, CT; Pittsburgh, CA, under a continuing contract, or contracts, with Delta Strapping Industries, for 180 days. Supporting shipper(s): Delta Strapping Industries, 58-50 52nd Street, Woodside, NY 11377. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, NJ 07102.

No. MC 144261 (Sub-No. 1TA), filed April 17, 1978. Applicant: JULIUS KOLESAR, INC., 135 Brownway, Benton Harbor, MI 49022. Applicant's representative: Barry Kolesar, 135 Brownway, Benton Harbor, MI 49022. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frozen meats, frozen vegetables, pasta products, and pallets*, between Napoleon, OH, and Camden, NJ; from Clayton, DE, and Philadelphia, PA, to Napoleon, OH, under a continuing contract, or contracts with Campbell Soup Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Campbell Soup Co., Campbell Place, Camden, NJ 08101. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, 225 Federal Building, Lansing, MI 48933.

No. MC 144347 (Sub-No. 2TA), filed March 27, 1978. Applicant: B & L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Applicant's representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings, and materials* used in the installation of plastic pipe, from the plantsite of Johns-Manville Sales Corp., at or near Wilton, IA, to AR, LA, MS, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Johns-Manville Sales Corp., 2222 Kensington Court, Oak Brook, IL 60521. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395, Herring Plaza, Amarillo, TX 79101.

No. MC 144522 (Sub-No. 1TA), filed April 6, 1978. Applicant: PETERSEN & FOGO, INC., Route 1, Box 22, Byron, NE 68325. Applicant's representative: Gailyn L. Larsen, Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Metal buildings*, knocked down and in sections, *building sections and building panels, metal prefabricated components, and parts, materials, supplies* used in the construction of metal buildings, from the facilities of Superior Manufacturing Co., at or near Mattoon, IL, and the facilities of Soukup Manufacturing Co., at or near Sheffield, IA, to points in KS and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Don's Agri Service, Don Gunn, President, P.O. Box 38, Superior, NE 68978. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 144532 (Sub-No. 1TA), filed April 6, 1978. Applicant: ANDERSON POTATO CO., INC., 2179 Route 112, Medford, NY 11763. Applicant's representative: John L. Alfano, Alfano & Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Bakery products and such ingredients* used in the production of bakery products, between Bay Shore, NY, on the one hand, and, on the other, Miami, FL, and points in MI, restricted to commodities transported in vehicles equipped with mechanical refrigeration, under a continuing contract, or contracts, with Entenmann's Bakery, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Entenmann's Bakery, Inc., 1724 Fifth Avenue, Bay Shore, NY 11706. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 144569TA, filed April 5, 1978. Applicant: RANDALL A. WARD, d.b.a. SWEETFINGERS FRUIT & PRODUCE, P.O. Box 9134, Yakima, WA 98909. Applicant's representative: Randall A. Ward or Mary M. Ward, Rt. 3, Box 657A, No. 35, Yakima, WA 98901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Office furniture, i.e., desks, tables, study carrels, (library desk), chairs, stools, table tops, table legs, flat benches, sewing tables, sewing desks, and related items*, from the facilities of Northwest Sales Corp., Missoula, MT, to all points in States of MT, ID, WA, OR, CA, NV, UT, CO, and WY, under a continuing contract, or contracts, with Northwest Sales & Manufacturing Corp., for 180 days. Supporting Shipper(s): Northwest Sales & Mfg., Corp., P.O. Box 7427, Missoula, MT 59807. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

No. MC 144597TA, filed April 7, 1978. Applicant: BMW INTERSTATE, INC., 6028 Ellison Road, Fort Wayne, IN 46804. Applicant's representative: James M. Prickett, Third Floor, Lincoln Bank Tower, Fort Wayne, IN 46802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Detroit, MI, and Columbus, OH, to Peru, IN, and (2) *Hydraulic hose assemblies*, from Fort Wayne, IN, to Battle Creek, MI, and Springfield, OH, under a continuing contract, or contracts, with Miami Beverage Co., Inc., and Stratoflex, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Miami Beverage Co., Inc., 138 East 8th Street, Peru, IN 46970; (2) Stratoflex, Inc., 2nd and Piper Street, Baer Field, Fort Wayne, IN 46809. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 144598TA, filed April 6, 1978. Applicant: C & J TRANSPORT, INC., P.O. Box 42, North Vassalboro,

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ME 04962. Applicant's representative: CHESTER A. ZYBLUT, 366 Executive Building, 1030–15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats*, from Winterport, ME, to points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, DE, DC, MD, VA, WV, KY, and TN, restricted to traffic having a prior movement water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Winterport Docks, Inc., Box 136, Winterport, ME 04496. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

No. MC 144599TA, filed April 7, 1978. Applicant: TRANSFER, INC., 90 South Ko-We-Ba Lane, Indianapolis, IN 46241. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastics* (in bulk, in hopper-type vehicles), from Indianapolis, IN, to points in IL, IA, MA, MI, NJ, MN, WI, IN, OH, KY, PA, WV, and NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Industrial Chemicals Co., P.O. Box 218, Tuscola, IL 61953. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 61016 (Sub-No. 49TA), filed April 17, 1978. Applicant: PETER PAN BUS LINES, INC., 1776 Main Street, Springfield, MA 01103. Applicant's representative: Charles A. Webb, 1250 Connecticut Avenue NW., Suite 600, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle, in charter and special operations, in executive coach service, (1) between points in ME, NH, VT, MA, RI, CT, and NY, and (2) beginning and ending at the points named in (1) and extending to points in the United States, for 180 days. Supporting shipper(s): There are approximately 46 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: David M. Miller, District Supervisor, 436 Dwight Street, Room 338, Springfield, MA 01103.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-13538 Filed 5-17-78; 8:45 am]

[7035-01]

[Notice No. 45]

MOTOR CARRIER TRANSFER PROCEEDINGS

May 18, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77662. By application filed May 9, 1978, LORD'S CONVOY SERVICE, INC., 513 Urquhart Drive, Beech Island, SC 29841, seeks temporary authority to transfer the operating rights of ROBERT F. ANDERSON, as trustee for STEPHENS CAR TRANSPORT, INC., 830 Laurel Street, Columbia, SC 29201, under section 210a(b). The transfer to Lord's Convoy Service, Inc., of the operating rights of Robert F. Anderson, as trustee for Stephens Car Transport, Inc., is presently pending.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-13534 Filed 5-17-78; 8:45 am]

[7035-01]

[Volume No. 91]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

May 12, 1978.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 108460 (Sub-Nos. 20 and 42) (M1F) (Notice of filing of a petition to renew certificated authority), filed April 17, 1978. Petitioner: PETROLEUM CARRIERS CO., a corporation, P.O. Box 762, 5104 W. 14th Street, Sioux Falls, SD 57101. Petitioner's representative: Gary Mundhenke, (Same address as petitioner). Petitioner seeks to renew motor *common carrier* certificates in No. MC 108460 (Sub-Nos. 20 and 42), issued November 22, 1972 and April 27, 1970, respectively. In No. MC 108460 (Sub-No. 20), which expired March 31, 1977, service was authorized to transport, *Liquefied petroleum gas*, over irregular routes, (1) from the terminal facilities of the Mid-American Pipeline Co. at or near Mankato, MN, to points in IA, ND, SD; and (2) from Aberdeen, SD, (except the terminal facilities of the Kaneb Pipe Line Co.), to points in ND and MN; and in No. MC 108460 (Sub-No. 42) which expired April 27, 1975, service was authorized to transport *Liquefied petroleum gas*, in bulk, in tank vehicles, over irregular routes, from the storage facilities of Farmers Union Central Exchange, Inc., at Glenwood, MN, to points in ND and SD. By the instant petition, petitioner seeks to reinstate the above certificates.

No. MC 113678 (Sub-No. 331) (M1F) (Notice of filing of a petition to modify a certificate by adding a facility), filed March 20, 1978. Petitioner: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Petitioner's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Petitioner holds a motor *common carrier* certificate in No. MC 113678 (Sub-No. 331), issued July 9, 1973, authorizing transportation, over irregular routes, of: *Meats, meat products*, and *meat by-products*, and *articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61MCC 209 and 766 (except hides and skins and commodities in bulk), from Wichita, KS, to points in NY, NJ, PA, MD, MA, RI, CT, DE, VA, OH, KY, TN (except Memphis, TN, and points within its commercial zone, as defined by the Commission), CO, UT, and NV. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the facilities of Dubuque Packing Co., Inc., located at or near Wichita, KS. By the instant petition, petitioner seeks to modify the restriction to read: The operations authorized herein are restricted to the transportation of traffic originating at the facilities of Dubuque Packing Co., Inc., and Sunflower Beef, Inc., located at or near Wichita, KS.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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No. MC 114552 (Sub-Nos. 75 and E-2) (M1F) (Notice of filing of a petition to modify commodity description), filed March 9, 1978. Petitioner: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Petitioner's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Petitioner holds a motor *common carrier* certificate in No. MC 114552 (Sub-No. 75), issued March 22, 1974; and a letter notice in No. MC 114552 (Sub-No. E-2), published August 15, 1974. No. MC 114552 (Sub-No. 75) authorizes transportation, over irregular routes, of *Plywood and composition board*, from Camden, NJ, to points in VA, NC, SC, and GA. No. MC 114552 (Sub-No. E-2) authorizes transportation, over irregular routes, as pertinent, of (1) *Composition board*, from Camden, NJ, to points in TN, and points in KY on, west, and south of a line beginning at the IN-KY State line and extending along U.S. Hwy 150 to its intersection with U.S. Hwy 25, then along U.S. Hwy 25 to its intersection with U.S. Hwy 25E, and then along U.S. Hwy 25E to the KY-TN State line, restricted against the transportation of commodities in bulk; and (2) *Composition board and plywood*, from Camden, NJ to points in FL, AL, MS, AR, LA, and TX. By the instant petition, petitioner seeks to add insulation and insulation materials, and materials, equipment and supplies used in the installation or distribution of insulation and insulation materials (except in bulk), to each of the above commodity descriptions.

No. MC 119789 (Sub-No. 252) (M2F) (Notice of filing of a petition to modify certificate by adding origin point), filed March 24, 1978. Petitioner: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Petitioner's representative: James K. Newbold, Jr. (same address as applicant). Petitioner holds a motor *common carrier* certificate in No. MC 119789 (Sub-No. 252), issued March 21, 1978, authorizing transportation, over irregular routes, of *Electrical equipment and parts* (except new household appliances), from West Union and Pickens, SC, to Kansas City, KS, and points in AZ, AR, CA, CO, ID, IN, MN, MS, MO, MT, NM, OK, OR, TX, UT, WA, WI, and WY. By the instant petition, petitioner seeks to add the origin point of Westminster, SC.

No. MC 138438 (Sub-No. 4) (M1F) (Notice of filing of a petition to modify a certificate by deleting restrictions), filed March 3, 1978. Petitioner: D. M. BOWMAN, INC., 15 East Oak Ridge Drive, Route 9, Box 26, Hagerstown, MD 21740. Petitioner's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Petitioner holds a motor *common carrier* certificate in No. MC 138438 (Sub-No. 4), issued February 2, 1976, authorizing transportation, over irregular routes, of: (1) *Plastic pipe, conduit, couplings, fittings, and accessories* necessary for the installation of the foregoing commodities, in vehicles equipped with mechanical unloading devices (except commodities in bulk), from the facilities of Certain-Teed Products Corp., Williamsport, MD, to points in CT, DE, IL, IN, KY, ME, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, WV, and DC; and (2) *Vinyl siding and accessories* necessary for the installation of vinyl siding, in vehicles equipped with mechanical unloading devices, from the facilities of Certain-Teed Products Corp. at Williamsport, MD, to points in CT, DE, IN, KY, ME, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC. By the instant petition, petitioner seeks to eliminate the restriction in (1) and (2) above which reads: in vehicles equipped with mechanical unloading devices.

No. MC 142906 (Sub-No. 1) (M1F) (Notice of filing of a petition to modify a permit by adding two contracting shippers), filed February 6, 1978. Petitioner: SUNWARD TRUCKING, INC., 808 South 14th, Worland, WY 82401. Petitioner's representative: Calvin A. Calton, Suite 201 Hedden Empire Building, 208 North 29th Street, Billings, MT 59101. Petitioner holds a motor *contract carrier* permit in No. MC 142906 (Sub-No. 1), issued March 17, 1978, authorizing transportation over irregular routes, of: (1) *Unassembled steel buildings* and *component parts of steel buildings*, from Jamestown, ND, to points in the United States (except AK, HI); and (2) *Materials* and *supplies* used in the manufacture of steel buildings, from points in the United States (except AK, HI), to Jamestown, ND. Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract or contracts with Marvel Brute Steel Buildings, Inc., at Jamestown, ND. By the instant petition, petitioner seeks to add (a) Sunward Corp. of Jamestown, ND; and (b) Sunward International Marketing Corp. of Denver, CO as additional shippers.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Such pleading shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 114457 (Sub-No. 297), (Republication), filed March 18, 1977, published in the FEDERAL REGISTER issue of May 12, 1977, and republished this issue. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, (Same address as applicant). An Order of the Commission, by the initial decision, served December 23, 1977, effective February 24, 1978, finds that the present and future public convenience and necessity require operation, by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, (except dairy products, frozen foodstuffs and commodities in bulk), from the facilities of Geo. A. Hormel & Co., at Austin, MN, and the facilities of Midwest Foods Corp., at Owatonna, MN, to points in AR and OK, restricted to traffic originating at the named facilities at Austin and Owatonna, MN, and destined to points in AR and OK; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to indicate the broadening of the commodity description, and the addition of a restriction.

No. MC 135231 (Sub-No. 25) (Republication), filed May 26, 1977, published in the FEDERAL REGISTER issue of July 21, 1977, and republished this issue. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Hwys. 1 and 59 West, Thief River Falls, MN 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. An Order of the Commission, by the initial decision, served November 29, 1977, effective January 24, 1978, finds that the present and future public convenience and necessity require operation, by applicant, in interstate or foreign commerce, as a

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common carrier, by motor vehicle, over irregular routes, transporting: *Snowmobiles, parts and accessories thereof*, from Lancaster County, NE, to points in the United States (except AL and HI), including ports of entry between the United States and Canada, located in WA, ID, MT, ND, MN, MI, and NY, restricted to traffic originating at facilities utilized by Kawasaki Motors Corp., U.S.A., at the named origins; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to modify the commodity and territorial description.

No. MC 140786 (Sub-No. 2) (2nd Republication), filed January 21, 1977, published in the FEDERAL REGISTER issue of March 10, 1977; republished as corrected June 30, 1977, and republished this issue. Applicant: THE UNITED STATES CARGO & COURIER SERVICE INC., P.O. Box 1169, Columbus, OH 43216. Applicant's representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. An Order of the Commission, by the initial decision, served February 9, 1978, effective March 28, 1978, finds that the present and future public convenience and necessity require operation, by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mining machinery parts, and equipment and supplies* used in the manufacture or repair of mining machinery, between Columbus, OH, and points in AL, AR, CO, GA, IL, IN, KY, MI, NJ, NC, ND, PA, SC, TN, UT, VA, WV, and WY, in non-radial movement, under a continuing contract, or contracts, with Jeffrey Mining Machinery Co., a division of Dresser Industries, Inc., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate that an appropriate permit will be issued, subject to the condition or prior or coincidental cancellation, at applicant's request, if its contract carrier authority held under No. MC 140786 (Sub-No. 1).

No. MC 142977 (Republication) (Correction), filed February 22, 1977, published in the FEDERAL REGISTER issues of April 21, 1977, and April 13, 1978, and republished this issue. Applicant: HOOSIER FREIGHT LINES, INC., 4906 Imperial Court, Louisville, KY 40216. Applicant's representative: James K. Stayton, 216 Atkinson Square, Louisville, KY 40218. An Order of the Commission, Review Board No. 1, decided February 13, 1978, and served February 17, 1978, finds that the present and future public convenience and necessity require operations by applicant in interestate or foreign commerce as a *common carrier*, over regular routes, in the transportation of *general commodities*, (except household goods, commodities in tank vehicles, commodities requiring special handling because of size and weight, building and excavating contractors and mining machinery and equipment, and road building equipment and machinery): Between Pekin, IN, and Louisville, KY, with service to and from the intermediate point to Borden, IN, (1) from Pekin over IN Hwy 60 to junction of Interstate Hwy 65, then over Interstate Hwy 65 to Louisville, and return over the same route; (2) from Pekin over IN Hwy 60 to junction U.S. Hwy 31E (also portion of Interstate Hwy 65), then over U.S. Hwy 31E (also portion of Interstate Hwy 65), to Louisville, and return over the same route, as an alternate route for operating convenience only; and (3) from Pekin over Interestate Hwy 60 to the junction of Interstate Hwy 65, then over Interstate Hwy 65 to junction Interstate Hwy 264, then over Interstate Hwy 264 to junction Interstate Hwy 64, then over Interstate Hwy 64 to Louisville, and return over the same route, as an alternate route for operating convenience only, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the rephrasal of the commodity description; the redescribed proposed routes (1) an (2); and the elimination of proposed route (3).

NOTE.—The purpose of this correction is to indicate the addition of "the rephrasal of the commodity description," which was inadvertently omitted.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include this certification required therin.

Section 247(f) further provides, in part, that an applicant who does not intent timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing. Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC1936 (Sub-No. 45F), filed March 29, 1978. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, PA 15224. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment):

(1) Between Mansfield, OH, and East Liverpool, OH: From Mansfield, over OH Hwy 39 to East Liverpool, and return over the same route.

(2) Between Mansfield, OH, and Conneaut, OH: From Mansfield, over U.S. Hwy 42 to Cleveland, OH, then over U.S. Hwy 20 to Conneaut, OH, and return over the same route.

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(3) Between Mansfield, OH, and Port Clinton, OH: From Mansfield, over OH Hwy 39 to Shelby, OH, then over OH Hwy 61 to Norwalk, OH, then over U.S. Hwy 250 to Sandusky, OH, then over OH Hwy 2 to Port Clinton, OH, and return over the same route.

(4) Between Mansfield, OH, and Toledo, OH: From Mansfield, OH, over U.S. Hwy 30 to Upper Sandusky, OH, then over U.S. Hwy 23 to Toledo, OH, and return over the same route.

(5) Between Mansfield, OH, and the OH-IN State line: From Mansfield, OH, over U.S. Hwy 30 to the OH-IN State line, and return over the same route.

(6) Between Mansfield, OH, and the OH-MI State line: From Mansfield, OH, over U.S. Hwy 30 to its junction with OH Hwy 65, then over OH Hwy 65 to Ottawa, OH, then over OH Hwy 15 to its junction with OH Hwy 108, and then over OH Hwy 108 to the OH-MI State line, and return over the same route.

(7) Between Mansfield, OH, and the OH-MI State line: From Mansfield, OH, over U.S. Hwy 30 to Delphos, OH, then over OH Hwy 66 to Defiance, OH, then over OH Hwy 15 to its junction with U.S. Hwy 127, and then over U.S. Hwy 127 to the OH-MI State line, and return over the same route.

(8) Between Mansfield, OH, and Bridgeport, OH: From Mansfield, OH, over OH Hwy 39 to New Philadelphia, OH, and then over U.S. Hwy 250 to Bridgeport, OH, and return over the same route.

(9) Between Mansfield, OH, and Ironton, OH: From Mansfield, OH, over OH Hwy 13 to New Lexington, OH, and then over OH Hwy 93 to Ironton, OH, and return over the same route.

(10) Between Mansfield, OH, and the OH-IN State line: From Mansfield, OH, over OH Hwy 309 to Lima, OH, and then over OH Hwy 81 to the OH-IN State line, and return over the same route.

(11) Between Mansfield, OH, and Portsmouth, OH: From Mansfield, OH, over U.S. Hwy 42 to Delaware, OH, and then over U.S. Hwy 23 to Portsmouth, OH, and return over the same route.

(12) Between Cincinnati, OH, and the OH-MI State line: From Cincinnati, OH, over U.S. Hwy 127 to the OH-MI State line, and return over the same route.

(13) Between Cincinnati, OH, and Toledo, OH: From Cincinnati, OH, over Interstate Hwy 75 to Toledo, OH, and return over the same route.

(14) Between Cincinnati, OH, and Toledo, OH: From Cincinnati, OH, over U.S. Hwy 42 to Xenia, OH, then over U.S. Hwy 68 to Findlay, OH, and then over Interstate Hwy 75 to Toledo, OH, and return over the same route.

(15) Between Cincinnati, OH, and Sandusky, OH: From Cincinnati, OH, over OH Hwy 4 to Sandusky, OH, and return over the same route.

(16) Between Cincinnati, OH, and the OH-PA State line: From Cincinnati, OH, over Interstate Hwy 71 to its junction with U.S. Hwy 62, and then over U.S. Hwy 62 to the OH-PA State line, and return over the same route.

(17) Between Cincinnati, OH, and Steubenville, OH: From Cincinnati, OH, over U.S. Hwy 22 to Steubenville, OH, and return over the same route.

(18) Between Cincinnati, OH, and Bridgeport, OH: From Cincinnati, OH, over Interstate Hwy 71 to its junction with U.S. Hwy 40, and then over U.S. Hwy 40 to Bridgeport, OH, and return over the same route.

(19) Between Cincinnati, OH, and Belpre, OH: From Cincinnati, OH, over U.S. Hwy 50 to Belpre, OH, and return over the same route.

(20) Between Cincinnati, OH, and the OH-WV State line: From Cincinnati, OH, over U.S. Hwy 52 to the OH-WV State line, and return over the same route.

(21) Between Dayton, OH, and Columbus, OH: From Dayton, OH, over OH Hwy 4 to its junction with U.S. Hwy 40, and then over U.S. Hwy 40 to Columbus, OH, and return over the same route.

(22) Between Mansfield, OH, and Pomeroy, OH: From Mansfield, OH, over OH Hwy 13 to Mt. Vernon, OH, then over OH Hwy 661 to Granville, OH, then over OH, then over OH Hwy 37 to Lancaster, OH, and then over U.S. Hwy 33 to Pomeroy, OH, and return over the same route.

(23) Between Mansfield, OH, and Cincinnati, OH: From Mansfield, OH, over U.S. Hwy 42 to Cincinnati, OH, and return over the same route.

(24) Between Mansfield, OH, and the OH-IN State line: From Mansfield, OH, over U.S. Hwy 42 to Delaware, OH, then over U.S. Hwy 36 to Marysville, OH, then over OH Hwy 4 to Dayton, OH, and then over U.S. Hwy 35 to the OH-IN State line, and return over the same route.

(25) Between Mansfield, OH, and the OH-KY State line: From Mansfield, OH, over U.S. Hwy 42 to Delaware, OH, then over U.S. Hwy 23 to Columbus, OH, and then over U.S. Hwy 62 to the OH-KY State line, and return over the same route.

(26) Between Mansfield, OH, and the OH-IN State line: From Mansfield, OH, over OH Hwy 309 to Marion, OH, then over OH Hwy 4 to its junction with OH Hwy 47 and then over OH Hwy 47 to the OH-IN State line, and return over the same route.

(27) Between Mansfield, OH, and Marietta, OH: From Mansfield, OH, over OH Hwy 13 to Mt. Vernon, OH, then over U.S. Hwy 36 to Warsaw, OH, and then over U.S. Hwy 60 to Marietta, OH, and return over the same route.

(28) Between Dayton, OH, and Gallipolis, OH: From Dayton, OH, over U.S. Hwy 35 to Gallipolis, OH, and return over the same route.

(29) Between Kenton, OH, and McConnelsville, OH: From Kenton, OH, over OH Hwy 31 to Marysville, OH, then over U.S. Hwy 33 to its junction with OH Hwy 37, and then over OH Kwy 37 to McConnelsville, OH, and return over the same route.

(30) Between Springfield, OH, and the OH-IN State line: From Springfield, OH, over U.S. Hwy 40 to the OH-IN State line, and return over the same route.

(31) Between Toledo, OH, and Columbus, OH: From Toledo, OH, over U.S. Hwy 23 to Columbus, OH, and return over the same route.

(32) Between Cleveland, OH, and Columbus, OH: From Cleveland, OH, over Interstate Hwy 71 to Columbus, OH, and return over the same route. From Cleveland, OH, over OH Hwy 3 to Columbus, OH, and return over the same route.

(33) Between Cleveland, OH, and the junction of Interstate Hwy 77 and U.S. Hwy 36: From Cleveland, OH, over Interstate Hwy 77 to its junction with U.S. Hwy 36, and return over the same route.

(34) Between Conneaut, OH, and Proctorville, OH: From Conneaut, OH, over OH Hwy 7 to Proctorville, OH, and return over the same route.

(35) Between Ashtabula, OH, and Cadiz, OH: From Ashtabula, OH, over OH Hwy 46 to its junction with OH Hwy 82, then over OH Hwy 82 to its junction with OH Hwy 45, then over OH Hwy 45 to its junction with OH Hwy 9, and then over OH Hwy 9 to Cadiz, OH, and return over the same route.

(36) Between Steubenville, OH, and Canton, OH: From Steubenville, OH, over U.S. Hwy 22 to its junction with OH Hwy 43, and then over OH Hwy 43 to Canton, OH, and return over the same route.

(37) Between Dennison, OH, and Columbus, OH: From Dennison, OH, over U.S. Hwy 36 to its junction with OH Hwy 83, then over OH Hwy 83 to its junction with OH Hwy 16, and then over OH Hwy 16 to Columbus, OH, and return over the same route.

(38) Between Mansfield, OH, and Marietta, OH: From Mansfield, OH, over OH Hwy 13 to Mt. Vernon, then over U.S. Hwy 36 to its junction with Interstate Hwy 77, and then over Interstate Hwy 77 to Marietta, OH, and return over the same route.

(39) Between Mansfield, OH, and the OH-MI State line: From Mansfield, OH, over OH Hwy 13 to its junction with U.S. Hwy 224, then over U.S. Hwy 224 to Findlay, OH, and then over OH Hwy 15 to the OH-MI State line, and return over the same route.

(40) Between Mansfield, OH, and the OH-IN State line: From Mans-

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field, OH, over OH Hwy 309 to Marion, OH, then over OH Hwy 4 to Hamilton, OH, and then over OH Hwy 129 to the OH-IN State line, and return over the same route.

(41) Between Mansfield, OH, and the OH-IN State line: From Mansfield, OH, over OH Hwy 309 to Kenton, OH, then over OH Hwy 67 to Wapakoneta, OH, then over U.S. Hwy 33 to its junction with OH Hwy 29, and then over OH Hwy 29 to the OH-IN State line, and return over the same route.

(42) Between Mansfield, OH, and the OH-KY State line: From Mansfield, OH, over OH Hwy 13 to its junction with Interstate Hwy 71, then over Interstate Hwy 71 to its junction with U.S. Hwy 68, and then over U.S. Hwy 68 to the OH-KY State line, and return over the same route.

(43) Between Mansfield, OH, and the OH-PA State line: From Mansfield, OH, over U.S. Hwy 30 to Wooster, OH, then over OH Hwy 3 to its junction with U.S. Hwy 224, and then over U.S. Hwy 224 to the OH-PA State line, and return over the same route.

(44) Between Mansfield, OH, and the OH-WV State line: From Mansfield, OH, over U.S. Hwy 30 to Canton, OH, and then over OH Hwy 800 to the OH-WV State line, and return over the same route.

(45) Between Mansfield, OH, and the OH-PA State line: From Mansfield, OH, over U.S. Hwy 30 to its junction with OH Hwy 44, then over OH Hwy 44 to its junction with OH Hwy 5, and then over OH Hwy 5 to the OH-PA State line, and return over the same route.

(46) Between Mansfield, OH, and East Liverpool, OH: From Mansfield, OH, over U.S. Hwy 30 to East Liverpool, OH, and return over the same route.

(47) Serving all points in OH as intermediate or off-route points in connection with carrier's regular-route operations authorized above. (Hearing site: Pittsburgh, PA, or Washington, DC.)

NOTE.—Common control may be involved. Applicant holds irregular route authority at Docket No. MC 1936 (Sub-No. 44) to serve all points in OH. The purpose of this application is to convert the irregular route authority to regular route authority.

No. MC 2229 (Sub-No. 202F), filed March 29, 1978. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Dallas, TX 74247. Applicant's representative: Jackie Hill (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and particle board*, from the plantsite of McKnight Plywood, Inc., at West Helena, AR, to points in TX, LA, MS, AL, TN, OK, KS, MO, and GA. (Hearing site: Memphis, TN, or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 4405 (Sub-No. 577F), filed March 29, 1978. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, OK 74103. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles;* (2) *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture, fabrication, and processing of iron and steel articles, between Muskogee, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tulsa or Oklahoma City, OK.)

NOTE.—Common control may be involved.

No. MC 25869 (Sub-No. 139F), filed April 14, 1978. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, P.O. Box 7184, Omaha, NE 68107. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a motor *common carrier*, by motor vehicle, over irregular routes transporting: *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packing houses* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk in tank vehicles), from:

(a) Omaha, NE, to points in AL, AR, CT, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MO, MS, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and WI;

(b) Norfolk, NE, to points in DE, GA, IL, IN, IA, KS, KY, MD, MI, MN, MO, NJ, NC, OH, PA, SC, TN, WI, VA, and WV;

(c) St. Joseph, MO, to points in DE, GA, IL, IN, KY, MD, MI, NJ, NY, NC, OH, PA, SC, TN, WI, VA, and WV; and

(d) Oakland, IA, to points in AL, FL, GA, KY, MS, NC, SC, TN, and VA. (Hearing site: Omaha, NE.)

No. MC 26396 (Sub-No. 172F), filed March 27, 1978. Applicant: POPELKA TRUCKING CO., INC., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Acoustical materials and accessories*, from Plainfield, IL, to points in AL, AZ, CA, CO, FL, ID, IA, KS, OR, NV, WY, OK, MI, MO, MN, MT, NE, NM, ND, SD, TX, UT, and WA; and (2) *materials, accessories, and supplies* used in the manufacture of acoustical materials and accessories, from points in destinations named in (1) above, to the origin point named in (1) above. (Hearing site: Chicago, IL.)

No. MC 60014 (Sub-No. 83F), filed April 3, 1978. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. Applicant seeks authority as a *common carrier*, over irregular routes, transporting: *Cooling towers, cooling tower parts and accessories* for such towers, *materials and supplies* used in the installation of cooling towers and heat exchangers, from the facilities of E. D. Goodfellow, Inc., located at Tulsa, OK, to points in the United States (except AK and HI). (Hearing site: Oklahoma City, OK, or Washington, D.C.)

No. MC 65802 (Sub-No. 64F), filed April 2, 1978. Applicant: LYNDEN TRANSPORT, INC., P.O. Box 433, Lynden, WA 98264. Applicant's representative: Charles H. Ruby, 5615 West Marginal Way SW., Seattle, WA 98106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten sulphur*, in bulk, in tank vehicles, between points in Whatcom County, WA, on the one hand, and, on the other, ports of entry on the United States-Canada international boundary at or near Blaine, Lynden, and Sumas, WA. (Hearing site: Seattle, WA.)

No. MC 95876 (Sub-No. 234F), filed April 3, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrought iron pipe*, from points in Beaver County and Lawrence County, PA, Mahoning County, OH, and Chippewa County, MI, to Seattle, WA. (Hearing site: Minneaplis, MN or Dallas, TX.)

NOTE.—Common control may be involved.

No. MC 100666 (Sub-No. 390F), filed March 31, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and plastic products and materials and supplies* used in the manufacture thereof (except commodities in bulk and those which because of size and weight require the use of special equipment), between points in Geneva County, AL, on the one hand, and, on the other, points in the United States including AK (except HI); and, (2) *materials, equipment, and supplies* used in the manufacture, distribution or installation of commodities named in (1) above (except in bulk), from points in the United States including AK (but excluding HI), to points in Geneva County, AL. (Hearing site: Birmingham, AL.)

No. MC 100666 (Sub-No. 396F), filed April 3, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of Tubular Steel Inc., at or near Hazelwood, MO and Staunton, IL, to points in AR, CO, KS, LA, MS, NM, OK, and TX. (Hearing site: Kansas City, MO.)

No. MC 108341 (Sub-No. 96F), filed April 3, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut log buildings, knocked down or in sections, and materials, equipment, or supplies* used in the construction and distribution of such commodities (except commodities in bulk), from the facilities of Beaver Log Homes of Florida, Inc., at or near Blountstown, FL, to points in the United States in and east of MN, IA, IL, KY, TN, and MS. (Hearing site: Panama City, FL or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 109397 (Sub-No. 404F), filed March 27, 1978. Applicant: TRI-STATE MOTOR TRANSIT CO., A corporation, P.O. Box 113, Joplin, MO 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and wood products*, from points in AL, FL, GA, SC, NC, AR, LA, MS, OK, TN, and TX, to points in and east of MN, IA, NE, KS, OK, and TX. (Hearing site: June 12, 1978 (1 week), at 9:30 a.m. local time at Atlanta, GA, in a hearing room to be later designated.)

NOTE.—Common control may be involved.

No. MC 111310 (Sub-No. 30F), filed April 1, 1978. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Applicant's representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials and malt beverage dispensing equipment* from Peoria, IL, to points in WI and MN; (2) *rejected shipments and empty malt beverage containers* from points in MN and WI to Peoria, IL. (Hearing site: Madision or Milwaukee, WI.)

No. MC 114457 (Sub-No. 379F), filed April 2, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, glassware, packaging products, container components and scrap materials, and material, equipment, and supplies* used in the manufacture, sale, and distribution of the foregoing commodities (except commodities in bulk, in tank vehicles, and those which because of size and weight require the use of special equipment), between points in the United States (except AK, HI, WA, OR, ID, CA, NE, and UT), in non-radial movement. Restriction: The above authority is restricted to movements from, to or between the facilities utilized by Owens-Illinois, Inc. (Hearing site: Minneapolis, MN or Chicago, IL.)

No. MC 114608 (Sub-No. 33F), filed March 20, 1978. Applicant: CAPITAL EXPRESS, INC., 5535 Clay SW., Grand Rapids, MI 49508. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, 1001 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial and household appliances and home equipment and materials, equipment and supplies* used in the manufacture, sale, or distribution thereof (except commodities in bulk), between points in OH, IL, IN, MI, MN, TN, PA, NY, WV, KY, WI, MD, VA, MO, IA, NJ, and KS, under continuing contract or contracts with Kelvinator, Inc. and Gibson Products Corp. (Hearing site: Chicago, IL or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 115311 (Sub-No. 273F), filed March 29, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Armco Steel Corp. at Ashland, KY, to points in AL, AR, GA, FL, LA, MS, NC, SC, TN, TX, and VA, restricted to traffic originating at Ashland, KY. (Hearing site: Columbus, OH or Atlanta, GA.)

No. MC 115841 (Sub-No. 623F), filed March 29, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., 805 McLachlen Bank Building, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Welch Foods, Inc., at or near Lawton, MI, to points in AK, KS, NE, MO, NM, OK, and TX. (Hearing site: Buffalo, NY.)

NOTE.—Common control may be involved.

No. MC 115904 (Sub-No. 89) (Amendment), filed November 28, 1977, published in the FEDERAL REGISTER issue of January 26, 1978, and republished as amended, this issue. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sourght to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Masonry articles and supplies*, between Idaho Falls, ID, on the one hand, and, on the other, points in the United States located on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN; then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada. Restriction: Restricted against the transportation of commodities which by reason of their size and weight require the use of special equipment, commodities in bulk, and those commodities falling within the category described in Mercer Extension—Oil Field Commodities, 74 MCC 459. (Hearing site: Boise, ID or Salt Lake City, UT.)

NOTE.—Common control may be involved. The purpose of this republication is to amend the territorial description and eliminate the restriction "to the account of Rocky Mountain Supply."

No. MC 115931 (Sub-No. 61F), filed March 29, 1978, Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts, and materials, accessories, and supplies* used in

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the installation, erection, and construction of buildings, building panels, and building parts, from the facilities of Butler Manufacturing Co., located at or near Galesburg, IL, to points in ID, OR and WA. (Hearing site: Minneapolis or St. Paul, MN.)

No. MC 116763 (Sub-No. 412F), filed April 3, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Applicant's representative: H. M. Richters, North West Street, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen, and commodities in bulk), from the facilities of Curtice-Burns, Inc., located at or near Alton, Leicester, LeRoy, Oakfield, Phelps, Shortsville, South Dayton, NY to points in AL, FL, GA, LA, MS, NC, SC, and TN. Restricted to the transportation of traffic originating at and destined to the named points. (Hearing site: Rochester, NY.)

No. MC 117574 (Sub-No. 298F), filed March 20, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Applicant's representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by agricultural equipment and industrial equipment dealers and manufacturers* (except commodities in bulk), between points in the United States (included AK, but excluding HI), restricted to movements from, to, or between the facilities of AVCO New Idea Farm Equipment Division, AVCO Corp., and its dealers. (Hearing site: June 8, 1978, at Columbus, OH, on a consolidated basis with MC 95084 (Sub-No. 118); MC 119641 (Sub-No. 141); and MC 114211 (Sub-No. 344F.)

NOTE.—Common control may be involved.

No. MC 117574 (Sub-No. 302F), filed March 29, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, paneling, and composition board*, from Camden, NJ, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Philadelphia, PA or Washington, DC.)

No. MC 117589 (Sub-No. 49F), filed: February 15, 1978. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Ave. So., Seattle, WA 98108. Applicant's representative: Michael D. Duppenthaler, 607 3rd Ave., 515 Lyon Bldg., Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen human blood, blood plasma*, in vehicles equipped with mechanical refrigeration; and *materials, equipment and supplies* related thereto, between points in WA and OR on the one hand and, on the other, points in CA, (2) *frozen foods*, in vehicles equipped with mechanical refrigeration, from Albuquerque, NM, to points in WA, OR, ID, and MT; and (3) *meats, meat products and meat byproducts and articles* distributed by meat packinghouses, in vehicles equipped with mechanical refrigeration from points in WA (except Seattle), to point in NM. (Hearing site: Seattle, WA.)

No. MC 117786 (Sub-No. 13F), filed March 28, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85009. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal; charcoal briquettes, fireplace logs* (compressed sawdust wax impregnated); *charcoal lighter fluid*, in cans in cartons; *hickory chips* (not charred) for flavoring purposes; and *vermiculite* (other than crude) from Belle, MO, to points in WA, OR, CA, NV, UT, AZ, NM, and CO. (Hearing site: Louisville, KY.)

No. MC 119789 (Sub-No. 441F), filed March 29, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, from Cincinnati and Lima, OH, to points in AZ, CA, CO, LA, OR, TX, and WA. (Hearing site: Cincinnati, OH.)

No. MC 123069, filed March 30, 1977. Petitioner: ALLER & SHARP, INC., 817 West Fifth Avenue, Columbus, OH 43212. Petitioner's representative: Charles W. Singer, 327 South LaSalle Street, Chicago, IL 60604. Petitioner seeks to modify its irregular route authority for transporting: *Army subsistence, clothing, equipage, and supplies*, between points in OH, KY, IN, and WV. This authority had been granted based on the same authority previously held as a contract carrier in permit No. MC 18124. Petitioner intends to demonstrate that the commodity description supported by the evidence in the "grandfather" proceeding should have been *general commodities* instead of *Army subsistence, clothing, equipage, and supplies.* (Hearing site: Columbus, OH.)

No. MC 123255 (Sub-No. 160F), filed March 30, 1978. Applicant: B. & L. MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, OH 43055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food*, from Muscatine, IA to points in CT, DE, IL, IN, KY, MD, MA, NJ, NY, OH, PA, RI, VA. WV, and DC. (Hearing site: Columbus, OH.)

NOTE.—Common control may be involved.

No. MC 123872 (Sub-No. 84F), filed March 29, 1978. Applicant: W. & L. MOTOR LINES, INC., P.O. Box 2607, Hickory, NC 28601. Applicant's representative: Allen E. Bowman, P.O. Box 2607, Hickory, NC 28601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from Plover, WI to points in AL, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA, and WV. Restricted to traffic originating at the facilities of, or used by Ore-Ida Foods, Inc. and Terminal Ice and Cold Storage Co., at or near Plover, WI, and further restricted to traffic destined to named States. (Hearing site: Washington, DC or Boise, ID.)

NOTE.—Applicant holds contract carrier authority under MC 142483 therefore, dual operations may be involved.

No. MC 123872 (Sub-No. 85F), filed March 28, 1978. Applicant: W. & L. MOTOR LINES, INC., P.O. Box 2607, Hickory, NC 28601. Applicants representative: Allen E. Bowman, P.O. Box 2607, Hickory, NC 28601. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Meats, meat products, meat byproducts* and *articles* distributed by meat packing houses, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk): from: Kenosha, WI to points in GA, NC, SC, KY, VA, and TN. Restricted to traffic originating at named origin and destined to named destinations. (Hearing site; Milwaukee, WI or Washington, DC.)

No. MC 124078 (Sub-No. 795F), filed April 4, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean oil*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., at or near Sidney, OH to points in GA, IL, IN, KY, MD, MA, MI, NJ, NY, NC, OH, PA, TN, and VA. (Hearing site: Minneapolis, MN.)

NOTE.—Authority is sought to serve points in Ontario and Quebec, CD via international border ports of entry in MI and NY. Dual operations may be involved.

No. MC 124887 (Sub-No. 52F), filed March 29, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Applicant's representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Heads cut, tall oil, fatty acids, and rosin* (except commodities in bulk), from Port St. Joe, FL to points in AL, FL, GA, MS, LA, NC, SC and TN. (Hearing site: Jacksonville or Tallahassee, FL, or Atlanta, GA.)

No. MC 124896 (Sub-No. 51F), filed March 29, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485. Wilson, NC 27893. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by lawn and garden care centers (except commodities in bulk), from the facilities of O. M. Scott & Sons Co., at or near Marysville, Columbus, and Vermilion, OH, to points in AL, DC, DE, FL, GA, LA, MD, MS, NC, SC, TN, and VA, restricted to the transportation of shipments originating at the named origins and destined to the named States. (Hearing sites: Columbus, OH, Chicago, IL.)

No. MC 124896 (Sub-No. 52F), filed March 23, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, NC 27893. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulation when moving in mixed shipments with bananas, from Charleston, SC, to points in IA, KS, MN, MO, NE, NC, ND, SD, VA, and WI. (Hearing site: New Orleans, LA, or Washington, DC.)

No. MC 125010 (Sub-No. 17F), filed March 20, 1978. Applicant: GIBCO MOTOR EXPRESS, INC., 3405 North 33rd Street, Terre Haute, IN 47805. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coal and coke*, in bulk, from points in Clay, Greene, Sullivan, and Vigo Counties, IN, to points in IL; (2) *Ferroalloys*, in dump vehicles and in containers, from Calvert City, KY, to Danville, IL; (3) *coke, scrap and iron, and steel*, from Danville, IL, to Calvert City, KY; (4) *fly ash*, in bulk, in tank or hopper-type vehicles, from points in Vigo County, IN, to points in IL, IA, KY, MI, MO, OH, and WI; (5) *ferroalloys*, from Calvert City, KY, to Saginaw, MI; (6) *scrap metal*, between Kokomo, IN, on the one hand, and, on the other, points in Vermilion County, IL; (7) *coke*, in bulk, from points in Vigo County, IN, to points in MI, OH, KY, MO, and IA; and (8) *ferroalloys*, from Calvert City, KY, to Flat Rock, MI, and Defiance, OH. (Hearing site: Indianapolis, IN, or Chicago, IL.)

NOTE.—Applicant presently holds authority to perform and the proposed service under its permit No. MC 125010 and subnumbers thereunder. The purpose of this application is to convert that authority into a certificate of public convenience and necessity.

No. MC 125551 (Sub-No. 15F), filed March 29, 1978. Applicant: K & W TRUCKING CO., INC., 101 Cooper Avenue North, P.O. Box 1415, St. Cloud, MN 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and millwork*, from Tacoma, WA, to points in IA, IL, IN, MI, MN, ND, SD, and WI. (Hearing site: Seattle, Wa.)

NOTE.—Common control may be involved.

No. MC 127042 (Sub-No. 214F), filed April 2, 1978. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux city, IA 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal*, in bags, from Howell County, MO, to points in the United States in and west of WI, IL, MO, AR, and LA (except AK and HI). (Hearing site: Chicago, IL.)

No. MC 127042 (Sub-No. 215F), filed April 2, 1978. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from the facilities of Sanna Division of Beatrice Foods Co. at Menomonie, Cameron, Vesper, Wisconsin Rapids, and Eau Claire, WI, to points in AR, KS, LA, MO, OK, and TX. Restricted to traffic originating at the named origins and destined to the named destinations. (Hearing site: Madison, WI.)

No. MC 129032 (Sub-No. 44F), filed March 29, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Applicant's representative: David R. Worthington (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise dealt in by wholesale, retail, chain grocery, and food business houses* (except in bulk, in tank vehicles), in mechanically refrigerated equipment, from the facilities of Kraft, Inc., at Garland, TX, to points in LA, MS, TN, AR, OK, KS, and MO. (Hearing site: Chicago, IL, or St. Louis, MO.)

NOTE.—Common control may be involved.

No. MC 129032 (Sub-No. 48F), filed April 1, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Applicant's representative: David R. Worthington (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass flat*, from the facility of Ford Motor Co., Dearborn Glass Plant, located at Dearborn, MI, to points in and east of TX, OK, KS, NE, SD, and ND. (Hearing site: Detroit, MI, or Chicago, IL.)

No. MC 133095 (Sub-No. 185F), filed March 29, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Applicant's representative: Rocky Moore, P.O. Box 434, Euless, TX 76039. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Welch Foods, Inc., at or near Lawton, MI, to points in AR, KS, LA, MS, MO, NM, OK, TN, and TX. (Hearing site: Dallas, TX.)

No. MC 133494 (Sub-No. 15F), filed February 1, 1978. Applicant: E. W. BELCHER TRUCKING, INC., 201 Dallas Drive, Denton, TX 76201. Applicant's representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and bone meal*, in bulk, from points in Tom Green, Dallas, Harris, Bastrop, and Anderson Counties, TX, to points in MS; Franklin County, AL; and Shelby County, TN; (2) *fish meal*, in bulk, from points in Plaquemine Parish, LA; and Jackson and Harrison Counties, MS; to points in TX; (3) *soybean meal and cottonseed meal*, in bulk, from points in AR, MS, and Lake and Shelby Counties, TN, to points in Caddo and Sabine Parishes, LA. (Hearing site: Dallas, TX, or Little Rock, AR.)

No. MC 134235 (Sub-No. 9F), filed March 28, 1978. Applicant: KUHNLE BROTHERS, INC., P.O. Box 128, Cha-

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grin Falls, OH 44022. Applicant's representative: Kenneth T. Johnson, Bankers Trust Building, Jamestown, NY 14701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Solar salt*, in pneumatic vehicles, from Perth Amboy, NJ, to points in NJ, PA, NY, CT, and MA. (Hearing site: Buffalo, NY.)

NOTE.—Dual operations may be involved.

No. MC 134300 (Sub-No. 18) (Amendment), filed January 31, 1978, published in the FEDERAL REGISTER issue of March 9, 1978, and republished as amended, this issue. Applicant: TRIPLE R EXPRESS, INC., 498 First Street NW., New Brighton, MN 55112. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in tank vehicles), from the facilities of Kraft, Inc., at New Ulm, MN, to points in CT, PA, VA, DE, DC, ME, MD, MA, NH, NY, NJ, RI, VT, OH, IN, MI, WV, KY, IL, ND, SD, NE, IA, MO, and WI. Restricted to traffic originating at the above named origin and destined to points in the named destination States. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—Common control may be involved. The purpose of this republication is to amend the commodity description of reflect the transportation of "Foodstuffs, in vehicles equipped with mechanical refrigeration (except commodities in tank vehicles)" in lieu of frozen foods.

No. MC 134755 (Sub-No. 138F), filed March 27, 1978. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires, tubes, flaps, rubber products, and materials* (except in bulk), from Conshohocken, Frazer, Montgomeryville, Norristown and Royersford, PA, to points in AZ, AR, CA, CO, ID, IA, MI, MO, NE, NM, OK, OR, TX, and WA. (Hearing site: Kansas City, MO or Philadelphia, PA.)

NOTE.—Applicant hold motor contract carrier authority in MC 138398 and sub numbers thereunder, therefore, dual operations may be involved. Common control may also be involved.

No. MC 134922 (Sub-No. 254F), filed March 29, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, articles of unusual value, Classes A and B explosives, foodstuffs, alcoholic beverages, and those which because of size or weight requires the use of special equipment), between the facilities of Owens Illinois, Inc., at points in AL, CA, CT, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MO, NJ, NY, NC, OH, OK, OR, PA, SC, TN, TX, VA, WV, and WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 135874 (Sub-No. 116F), filed March 29, 1978. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Petrick, 550 East Fifth Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts* and articles distributed by meat packinghouses, as described in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC, 209 and 766 (except in bulk), from the facilities of Sioux-Preme Packing Co., at or near Sioux Center, IA, to points in CT, DE, DC, IL, IN, KY, ME, MD, MA, MI, MN, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and WI. (Hearing site: Omaha, NE.)

NOTE.—Common control may be involved.

No. MC 138941 (Sub-No. 29F), filed March 29, 1978. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir Street, Pomona, CA 91766. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials, supplies and equipment*, used in the manufacture and distribution of plastic articles, between the facilities of Mobil Chemical Co., Plastics Division, at points in Kerns and Yolo Counties, CA, on the one hand, and, on the other, points in AZ, CO, CT, ID, KS, MT, NV, NM, ND, OK, OR, SD, UT, WA, and WY. Restricted to transportation under a continuing contract or contracts with Mobil Chemical Co., Plastics Division, and further restricted against the transportation of commodities in bulk. (Hearing site: Buffalo, NY or Los Angeles, CA.)

No. MC 139482 (Sub-No. 35F) (Amendment), filed February 13, 1978, published in the FEDERAL REGISTER issue of March 30, 1978, and republished as amended, this issue. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, New Ulm, MN 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA, to points in IL, IN, KY, MI, OH, MO, PA, MN, and WI. (Hearing site: Chicago, IL.)

NOTE.—The purpose of this republication is to broaden the territorial description by adding the rest of PA and the States of MI and WI.

No. MC 139584 (Sub-No. 14F), filed April 3, 1978. Applicant: JOHN BUSCH, P.O. Box 211, Conyngham, PA 18219. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic sheeting, ground plastic and plastic pellets and gra* (except commodities in bulk, in tank or hopper type vehicles), between Hazleton, PA, on the one hand, and, on the other hand, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

No. MC 141252 (Sub-No. 2F), filed March 29, 1978. Applicant: PAN WESTERN CORP., 4755 West University Avenue, Las Vegas, NV. Applicant's representative: Richard Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos cement and plastic conduit and pipe and related fittings*, from the facilities of Johns-Mansville Sales Corp., located at or near Carson, CA to points in AZ and NV. (Hearing site: Las Vegas, NV or Los Angeles, CA.)

No. MC 142633 (Sub-No. 3F), filed March 29, 1978. Applicant: HATHORN TRANSFER & STORAGE CO., INC., 620 Elliott Street, Alexandria, LA 71301. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to opertate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* between Rapides Parish, LA, on the one hand, and, on the other, points in the LA Parishes of Acadia, Caldwell, West Feliciana, East Feliciana, Franklin, Pointe Coupee, St. Landry, Tensas, and Winn, restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. (Hearing site: New Orleans, LA.)

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No. MC 142715 (Sub-No. 12F), filed March 29, 1978. Applicant: LENERTZ, INC., 411 Northwestern National Bank Building, South St. Paul, MN 55075, Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *meat, meat products, meat by-products, articles distributed by meat packing plants, and foodstuffs* (except hides and commodities in bulk), from the facilities utilized by Geo. A. Hormel & Co., at Austin, MN; Fort Dodge, IA; and Fremont and Scottsbluff, NE; to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, OH, PA, RI, and VT. Restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

No. MC 142897 (Sub-No. 9F), filed March 29, 1978. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburgh, OH 43551. Applicant's representative: Paul F. Berry, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *paper and paper articles* (except commodities in bulk), from the facilities of Scott Paper Co. at Chester and Philadelphia, PA on the one hand and, on other, points in and east of MN, IA, MO, AR, and LA, under a continuing contract or contracts with Scott Paper Co. (Hearing site: Columbus, OH.)

No. MC 143328 (Sub-No. 8F), filed March 28, 1978. Applicant: EUGENE TRIPP TRUCKING, a corporation, P.O. Box 2730, Missoula, MT 59806. Applicant's representative: David A. Sutherlund, 1150 Connecticut Avenue, NW., Suite 400, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *malt beverages*, from Seattle, WA, to points in OR; and (2) *empty containers*, from points in OR to Seattle, WA. (Hearing site: Seattle, WA.)

NOTE.—Applicant presently holds contract carrier authority under MC 124505; therefore, dual operations may be involved. Common control may also be involved.

No. MC 143938 (Sub-No. 2F), filed April 21, 1978. Applicant: P & H TRUCKING CO., INC., 184 West 33rd South Street, Salt Lake City, UT 84111. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *carpeting and padding*, from City of Commerce, CA, to the facilities of Midwest Floor Coverings, Inc., at South Salt Lake, UT. (Hearing site: Salt Lake City, UT.)

NOTE.—Dual Operations may be involved.

No. MC 143980 (Sub-No. 2F), filed March 24, 1978. Applicant: GERALD E. SALTSMAN, P.O. Box 242, Republic, WA 99166. Applicant's representative: (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Sawdust, shavings and waste*, from Republic, WA, to the port of entry on the International Boundary Line between the United States and Canada located at or near Danville, WA, for furtherance to Grand Forks, BC, Canada, under a continuing contract or contracts with Parta Industries Ltd., of Grand Forks, BC, Canada. (Hearing site: Spokane or Seattle, WA.)

No. MC 144140 (Sub-No. 11F), filed March 28, 1978. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Applicant's representative: Gene Baugh, Southern Freightways, Inc., P.O. Box 374, Eustis, FL 32726. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (A) *Adhesives, carpet, carpet padding, rug cushions, cushioning or lining, felt, sponge rubber or plastic* (Polyurethane); from the facilities of General Felt Industries located in Philadelphia, PA, Camden and Trenton, NJ and General Felt Industries subcontractor, Scott Foam Division, Eddystone, PA, to AL, FL, GA, LA, NC, MS, SC, and TN. (B) *Carpet or rug cushions, cushioning or lining, sponge rubber or plastic* (Urethane-Polyurethane) from the facilities of General Felt Industries Subcontractor, Olympic Products, Tupelo, MS, to AR, AL, DE, FL, GA, IL, IN, KY, LA, MD, MI, NY, NC, OH, PA, SC, and DC. (hearing site: Philadelphia, PA or Washington, DC.)

NOTE.—Applicant holds contract carrier authority in MC 104589, therefore dual operations may be involved.

No. MC 144208 (Sub-No. 2F), filed March 24, 1978. Applicant: ART NORDANG TRUCKING, INC., P.O. Box 507, Methow, WA 98834. Applicant's respresentative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Fertilizer* in bags, from Vancouver, WA, to the Port of Entry on the International boundary line between the United States and Canada located at or near Oroville, WA for furtherance into BC, Canada (2) *Orchard and fruit warehouse supplies, and fruit packing supplies, waste paper and machinery and equipment* used in fruit packing warehouses, between points in Chelan, Douglas, and Okanogan Counties, WA on the one hand and, on the other points in ID and OR; and (3) *Orchard and fruit warehouse supplies, and fruit packing supplies, waste paper and machinery and equipment* used in fruit packing warehouses between points in Chelan, Douglas and Okanogan counties, WA on the one hand and, on the other the port of entry on the International boundary line between the United States and Canada located at or near Oroville, WA, for possible movement into BC and AB, Canada. (Hearing site: Wenatchee or Seattle, WA.)

No. MC 144329 (Sub-No. 1F), filed April 3, 1978. Applicant: JOE RIDDLE AND CHARLES RIDDLE, d.b.a. RIDDLE TRUCKING CO., Route 6, Tazewell, TN 37879. Applicant's representative: Joe Riddle, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone and gravel*, in dump trucks, from points in Buncombe County, NC, to points in Anderson, Campbell, Claiborne, Cocke, Greene, Knox, Hamblen, Sevier, Sullivan, and Blount Counties, TN; Bell, Harlan, Knox, Jessamine, Laurel, Pulaski, and Whitley Counties, KY; and Lee and Wise Counties, VA. (Hearing site: Knoxville, TN.)

No. MC 144420 (Sub-No. 1F), filed March 28, 1978. Applicant: MALIBU BEACH BOAT SALES & SERVICE CO., INC., Route 1, Box 261, Osage Beach MO 65065. Applicant's representative: Harry F. Horak, Room 109, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *boats*, not to exceed 45 feet in length or 13 feet 6 inches wide, in vehicles equipped with boat support equipment, between points in MO on the one hand and, on the other, points in AR, FL, IL, IA, KS, KY, MI, MS, OK, TN, and TX. (Hearing site: Jefferson City or St. Louis, MO.)

No. MC 89578 (Sub-No. 4F), filed March 27, 1978. Applicant: ARTHUR BRUNDAGE, INC., d.b.a. ONEONTA BUS LINES, 46 Orchard Street, Oneontan, NY 13820. Applicant's representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round trip charter and special operations, beginning and ending at points in Chenango, DE, and Otsego Counties, NY, and extending to points in the United States (including AK but excluding HI). (Hearing site: Albany, NY.)

NOTE.—Common control may be involved.

No. MC 144504F, filed March 28, 1978. Applicant: DELTA CHARTER SERVICE, INC., 4900 East Mariposa, Stockton, CA 95206. Applicant's repre-

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sentative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations; beginning and ending at points in San Joaquin County, CA, and extending to points in the United States (except AK and HI). (Hearing site: Stockton or San Francisco, CA.)

BROKER APPLICATION

No. MC 130497F, filed April 13, 1978. Applicant: EVA SAIN BROWN, d.b.a. BROWN TRAVEL SERVICE, 902 East Main Street, Cherryville, NC 28021. Applicant's representative: W. C. Mauldin, 417 Old Post Road, Cherryville, NC 28021. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Cherryville, NC, to sell or offer to sell the transportation of *passengers and their baggage*, in round-trip and special charter operations, beginning and ending at points in Gaston County, NC, and extending to points in the United States, including AK and HI. (Hearing site: Charlotte or Raleigh, NC.)

WATER CARRIER APPLICATION

No. MC 1323F, filed March 6, 1978. Applicant: SOUSE BROS. OCEAN TOWING CO., INC., 2927 East Burnside Street, Portland, OR 97214. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to engage in operation, in interstate or foreign commerce, as a *common carrier*, by water, in the performance of *general towage*, (except the towage of logs, lumber, rough and finished lumber products, piling, grape stakes, fence posts and shingles), (1) between all ports and points on the Pacific Coast; (2) between all points named in (1) above, on the one hand, and, on the other, (A) all ports and points on the Gulf Coast, and (B) all ports and points on the Atlantic Coast, by way of the Panama Canal; (3) between all points named in (2)(A) above; (4) between all points named in (2)(B) above; and (5) between all points named in (2)(A), on the one hand, and, on the other, all points named in (2)(B) above. (Hearing site: Portland, OR.)

NOTE.—Applicant holds water contract carrier authority in No. W 435, and subs thereunder, therefore dual operations may be involved. Common control may also be involved.

FINANCE APPLICATIONS

The following applicatons seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An Original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-11380 (Cancellation) (OVERNITE TRANSPORTATION COMPANY — Purchase — TIDEWATER EXPRESS LINES INC.) This notice is being published pursuant to a decision of the Commission, served May 2, 1978 in No. MC-F-12715, which reopened the proceeding in No. MC-F-11380 for the limited purpose of cancelling the conditions imposed in regular route authority held by Kent Freight Lines, Inc., in Certificate No. MC-49117, by report and order served February 28, 1974, (1) restricting service between Denton, MD, and Baltimore, MD, and between Washington, DC, and Stevensville (Kent Island), MD, to transportation of traffic moving by the carrier to or from points in MD east of Chesapeake Bay and south of the Chesapeake-Delaware Canal, (2) restricting service at off-route points in Anne Arundel and Prince Georges Counties, MD, to transportation of traffic moving by the carrier to or from points in MD east of Chesapeake Bay and south of the Chesapeake-Delaware Canal, and (3) restricting the regular routes between Denton and Baltimore, and between Washington and Stevensville against joinder with each other except at Stevensville. Any person having an interest in who would be prejudiced by cancellation of the restrictions as determined in the report may file an original and six copies of a petition or other pleading within 30 days from the date of publication of this notice. Such petitions shall set forth the precise manner in which the party has been prejudiced by the cancellations of the restriction. Applicants shall file their replies to the petitions within 50 days from the date of publication of this notice.

No. MC-F-13345. (Supplemental) (CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE—Pooling—CREITES TRANSFER, ET AL.), published in the October 14, 1977, issue of the FEDERAL REGISTER, erroneously as MC-F-13245. This supplemental notice reflects the decision of Review Board Number 5, as specified in its decision of May 8, 1978, to permit applicant to amend its application. Under the amended application, the agreement between Consolidated Freightways Corporation of Delaware and Nelson's Express, Inc., will include the following points in MD: Berkley, Cardiff, Dublin, Greenmount, Hereford, Jarrettsville, Lineboro, Long Green, Manchester, Maryland Line, Melrose, Millers, Parkton, Poole, Prospect, Pylesville, Rocks, Shawsville, Silver Run, Street, Union Mills, Whiteford, White Hall.

No. MC-F-13507 (Correction) (SPECIALIZED PARTS DISTRIBUTION, INC., (non-carrier)—Control—SENTINAL STAR EXPRESS CO.), published in the February 24, 1978 issued of the FEDERAL REGISTER. Prior notice inadvertently did not described all of the active authority of Sentinal Star Express Co. Notice should have also included the following authority: (A) *Express and newspapers*, as a *common carrier* over regular routes; (1) Beginning and ending at Orlando, FL, in circuitous routes, serving all intermediate points; from Orlando, FL, over combined U.S. Hwys 17 and 92 to Kissimmee, FL, then over combined U.S. Hwys 192 and 441 to St. Cloud, FL, then returning over combined U.S. Hwys 192 and 441 to Kissimmee, FL, then over combined U.S. Hwys 17 and 92 via Intercession City and Davenport, FL, to Haines City, FL, then over U.S. Hwys 92 via Lake Alfred and Auburndale, FL, to Lakeland, FL, then returning over U.S. Hwys 92 to Auburndale, FL, then over FL Hwy 544 to junction FL Hwy 557, then over FL Hwy 557 to Winter Haven, FL, then over FL Hwy 540 to junction U.S. Hwy 27, then over FL Hwy 27 to Lake Wales, FL, then over Alternates U.S. Hwy 27 via Waverly, Dundee and Lake Hamilton, FL, to Haines City, FL, and then over combined U.S. Hwys 17 and 92 to Orlando. From Orlando over U.S. Hwy 441 to Apopka, FL, then over FL Hwy 437 via Ocoee, FL, to Winter Garden, FL, then over country road and FL Hwy 50 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Mineola, FL, then over FL Hwy 561 to Clermont, FL, then over FL Hwy 50 to Groveland, FL, and then returning over FL Hwy 50 via Clermont, FL, to Orlando. From Orlando over combined U.S. Hwys 17 and 92 to Sanford, FL, then over FL Hwy 415 via Osteen, FL, to junction FL Hwy 44, then over FL Hwy 44 to New Smyrna, FL, then over U.S. Hwy 1 to Daytona, FL, then over U.S. Hwy 92 to DeLand, FL, and then over combined U.S. Hwys 17 and 92 via Orange City, FL, to Orlando. From Orlando over U.S. Hwy 441 via Plymouth, Zellwood, and Mount Dora, FL, to junction FL Hwy 19, then over FL Hwy 19 to Eustis, FL, then returning over FL Hwy 19 to junction U.S. Hwy 441, then over U.S. Hwy 441 via Tavares, FL, to Leesburg, FL, then over FL Hwy 44 to Wildwood FL, then returning over FL Hwy 44 to Leesburg, FL, and then over U.S. Hwy 441 to Orlando. From Orlando over FL Hwy 50 to Indian River City, FL, then over U.S. Hwy 1 via Titusville, FL, to Mims, FL, then over FL Hwy 46 to junction FL Hwy 426, then over FL Hwy 426 via Oviedo, FL to Winter Park, FL, then over combined U.S. Hwys 17 and 92 to junction FL Hwy 50, and then over FL Hwy 50 to Orlando. From Orlando over FL Hwy 50 to junction FL Hwy 406, then over FL Hwy 406 to Titusville, FL, then over U.S. Hwy 1 via New Smyrna, FL, to Dayton, FL, then returning over U.S. Hwy 1 to New Smyrna, FL, then over FL Hwy 44 to Samsula, FL, then over FL Hwy 415 to Sanford, FL, and then over combined U.S. Hwys 17 and 92 to Orlando. From Orlando over FL Hwy 50 to junction FL Hwy 520, then over FL Hwy 520 via Cocoa and Merritt Island, FL, to junction FL Hwy A1A, then over FL Hwy A1A to junction FL Hwy 401, then over FL Hwy 401 via Port Canaveral, FL, to Cape Kennedy, FL, then returning over FL Hwy 401 to junction FL Hwy A1A, then over FL Hwy A1A via Cocoa Beach, Patrick Air Force Base, Canova Beach and Indialantic, FL, to Melbourne Beach, FL, then returning over FL Hwy A1A to junction FL Hwy 520, then over FL Hwy 520 to Junction FL Hwy 50, and then over FL Hwy 50 to Orlando. From Orlando over FL Hwy 50 to junction U.S. Hwy 27, then over U.S. Hwy 27 via Minneola, FL, to Leesburg, FL, then over FL Hwy 44 to Wildwood, FL, then over U.S. Hwy 301 to Belleview, FL, then over U.S. Hwy 27 to Ocala, FL, then returning over U.S. Hwy 27 to Belleview, FL, then over combined U.S. Hwys 27 and 441 to Leesburg, FL, and then over U.S. Hwy 441 to Orlando.

(2) Between Orlando, FL, and Melbourne, FL, serving all intermediate points; from Orlando over FL Hwy 50 to junction of FL Hwy 520, then over FL Hwy 520 to Cocoa, FL, then over U.S. Hwy 1 via Eau Gallie FL, to Melbourne, and return over the same route. (3) Between Orlando, FL, and DeLand, FL, serving all intermediate points: from Orlando over combined U.S. Hwys 17 and 92 via Sanford and Orange City, FL, to DeLand, and return over the same route. (4) Between junction U.S. Hwy 441 and FL Hwy 44, and Eustis, FL, for operating convenience only serving no intermediate points; from junction U.S. Hwy 441 and FL Hwy 44 over FL Hwy 44 to Eustis, and return over the same route. (B) *Parcels and packages*, as a *common carrier*, over irregular routes, between points in the Orlando, FL, commerical zone. Restriction: The service authorized herein is subject to the following conditions: (1) No service over irregular routes shall be rendered in the transportation of any shipment weighing in excess of 100 pounds; (2) No service over regular routes shall be rendered in the transportation of any shipment weighing in excess of 500 pounds; subject to the further restriction that no package in any one shipment shall exceed 125 pounds; and (3) For the purpose of the foregoing restrictions a package or group of packages from a single consignor to a single consignee at a single destination shall be considered as a shipment. (C) *General commodities*, with usual exceptions, as a *common carrier*, over irregular routes, between Herndon Airport and McCoy Air Force Base, Orlando, FL, on the one hand, and, on the other, Daytona Beach and Melbourne, FL. Restriction: The operations authorized herein are restricted to traffic having an immediate prior or immediate subsequent movement by air. (D) *General commodities*, with usual exceptions, as a *common carrier*, over irregular routes, between the Tampa International Airport, near Tampa, FL, Daytona Beach Municipal Airport, near Daytona Beach, FL, the Titusville-Cocoa (TICO) Airport located approximately 6 miles south of Titusville, FL, the McCoy Jetport, near Orlando, FL, the Herndon Municipal Airport, Orlando, FL, the Melbourne Municipal Airport, near Melbourne, FL, the Vero Beach Municipal Airport, Vero Beach FL, the Ocala Municipal Airport, near Ocala, FL, and the Gainesville Municipal Airport near Gainesville, FL, on the one hand, and on the other, points in that part of FL bounded on the east by the Atlantic Ocean, on the west by the Gulf of Mexico, on the south by a line beinning at the Atlantic Ocean at Fort Pierce, FL, the along FL State 70 westward to Arcadia, FL, then along U.S. Hwy 17 to junction of U.S. Hwy 41, then along U.S. Hwy 41 to the Gulf of Mexico at Venice, FL, and on the north by a line beginning at Suwance, FL, on the Gulf of Mexico, then along FL State Road 349 to Oldtown, FL, then along alternate U.S. Hwy 129 to Branford, FL, then along FL State Road 247 to Lake City, FL, then along U.S. Hwy 441 to the FL-GA State line, then along the FL-GA State line to the Atlantic Ocean, including points on the specified Hwys. Restriction: The operations authorized herein are subject to the following conditions:

(1) Said operations are restricted to the transportation of shipments having an immediately prior or an immediately subsequent movement by air; and (2) said operations do not encompass and may not be used to provide any transportation service between the McCoy Jetport, Orlando, FL, and the Tampa International Airport, Tampa, FL, on the one hand, and, on the other, points in Sarasota, Manatee, Hardee, Polk, Pasco, Osceola, Hernando, Highlands, DeSota, Charlotte, Lee, Pinellas, and Hillsborough Counties FL. (E) *General commodities*, with the usual exception as a *common carrier*, over irregular routes, (1) between Vero Beach, FL, and Miami, FL, serving all intermediate points and serving points in Dade, Broward, Palm Beach, Martin and St. Lucie Counties, FL, as off-route points: From Vero Beach over U.S. Hwy 1 to Miami, and return over the same route. (2) Between Belle Glade, FL, and Miami, FL, serving all intermediate points, and serving points in Dade, Broward, Palm Beach, Martin and St. Lucie Counties, FL, as off-route points: From Belle Glade over FL Hwy 80 to South Bay, FL, then along U.S. Hwy 27 to Miami, and return over the same route. (3) Between Yeehaw Junction, FL, and Miami, FL, as an alternate route for operating convenience only, in connection with carrier's authorized regular routes, serving no intermediate points: From Yeehaw Junction over the Florida Sunshine State Parkway to Miami, and return over the same routes. (4) Between Vero Beach, FL, and Miami, FL, as an alternate route for operating convenience only, in connection with carrier's authorized regular routes, serving no intermediate points: From Vero Beach over FL Hwy 60 to junction I-95, then over I-95 to Miami, and return over the same route. Restriction: The authority granted herein is restricted to shipments not exceeding 500 pounds from one consignor to one consignee on any one day, consisting of items not exceeding 125 pounds per item.

No. MC-F-13574. Authority sought for control by TRANSPORTATION CONSULTANTS, INC., P.O. Box 487, 5950 Fisher Road, East Syracuse, NY 13057 of operating of Cumberland Transportation Corp., P.O. Box 487, 5950 Fisher Road, East Syracuse, NY, 13057 through acquisition of the stock of Cumberland Transportation Corp. and control of such rights by Frederic J. Durkin and John C. Durkin, Jr., through the transaction. Applicants' representives: Martin Werner, Esq. and Michael R. Werner, EsQ., P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Motor *contract carrier* operating rights sought to be controlled: Under MC-144029 (Pending). Irregular routes, *Pulpboard and pulpboard products, and materials, supplies and equipment* used in the manufacture and distribution of pulpboard and pulpboard products, (except commodities in bulk, magazines, magazine parts, magazine inserts and magazine molds, plates, shelves vinylites used in connection with printing magazines): between Scotia, NY on the one hand, and, on the other, NY, NJ, PA, VT,

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NH, MA and CT, under continuing contract or contracts with St. Regis Paper Co., Inc. Transportation Consultants, Inc., holds no authority from this Commission. However, it is in control of the following contract carriers: Food Haul, Inc. is authorized to operate as a contract carrier in AK, FL, GA, IL, IN, KY, MD, MI, MO, NC, OH, PA, SC, TN, TX, VA, and WV; J.C.D. Transportation Corp. is authorized to operate as a contract carrier in CT, MA, NY, and PA; Fleetwood Transportation Corp. is authorized to operate as a contract carrier in PA, NY, NJ, MD, DE, DC, VA, WV, CT, MA, RI, MI, OH, KY, and IN; Fairfield Transportation Corp. is authorized to operate as a contract carrier in NY, CT, MA, NJ, and PA; Barr Transportation Corp. is authorized to operate as a contract carrier in MA, CT, NH, MD, PA, NY, RI, VT, NJ, DE, OH, WV, and DC. Application has not been filed for temporary authority under section 210a(b).

NOTE.—This application is directly related to the pending, unopposed proceeding in Docket No. MC 144029, FEDERAL REGISTER date January 19, 1978.

No. MC-F-13578. Authority sought for purchase by WESTERN CONTAINER TRANSPORT, INC., 8101 Northeast 14th Place, Portland, OR 97211, of a portion of the operating rights of Lingview Motor Transport, Inc., 763 7th Avenue, Longview, WA 98632, and for acquisition by L. T. Moore, of control of such rights through the purchase. Applicants' attorney: Russell M. Allen, White, Sutherland, Parks & Allen, 1200 Jackson Tower, Portland, OR 97205. Operating rights sought to be purchased: *General commodities*, in containers and empty containers, except those of unusual value, and except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminaing to other lading, as a *common carrier* over regular routes between Portland, OR and Rainier, OR, serving all intermediate points, from Portland over U.S. Hwy 99 via Carrolls, WA, to Kelso, WA, then over city streets to Lingview, WA (also from Carrolls over U.S. Hwy 830 to Longview), and then across the Columbia River to Rainier, and return over the same route. Vendee is authorized to operate as a *common carrier* in OR and WA. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13593. Authority sought for control by NEBRASKA TRANSPORT CO., INC., P.O. Box 621, Scottsbluff, NE 69361, of G & H Truck Line, Inc., 3930 Blake Street, Denver, CO 80205, through purchase of stock and for acquisition by Richard B. Holliday, Sr., (same address as applicant), of control of such carrier through the transaction. Applicant's attorney: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. Operating rights to be controlled: *General commodities*, except those of unusual value, high explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over regular routes, between Pine Bluffs, WY, and Denver, CO, serving the intermediate and offroute points of Greeley, CO, and points within 20 miles of Pine Bluffs: From Pine Bluffs over U.S. Hwy 30 to Cheyenne, WY, then over U.S. Hwy 85 to Denver, and return over the same route; *General commodities*, except those of unusual value, high explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over irregular routes, between Pine Bluffs, WY, and points within 20 miles thereof on the one hand and, on the other, Sidney and Scottsbluff, NE; and *Meats, meat products, meat byproducts* and *dairy products*, as described in sections A and B of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, as a *common carrier*, over irregular routes, from Denver, CO, to Broomfield, Brighton, Eaton, Fort Collins, Fort Lupton, La Salle, Longmont, and Loveland, CO.

NOTE.—Vendee is authorized to conduct operations in NE. No dual operations involved. Application has been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days of this notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Protests shall comply with special rule 247(e) of the Commission's general rules of practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 82808 (Sub-No. 16F), filed April 10, 1978. Applicant: C. L. HUNT, d.b.a. HUNT & SONS, P.O. Box 433, Warrensburg, MO 64093. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Suite 600, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, (a) between Blairstown, MO, and points within 30 miles thereof, on the one hand, and, on the other, points in MO; (b) between Quick City, MO, and points within 20 miles thereof, on the one hand, and, on the other, points in MO: and (c) between Hillsdale, KS, on the one hand, and, on the other, points in KS. (Hearing site: Kansas City, MO.)

NOTE.—The purpose of this application is to eliminate the gateways of (a) and (b) Hillsdale, KS; and (c) Quick City and Blairstown, MO, and is a directly related application to MC-FC 76021.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the deviation rules—motor carrier of property (49 CFR 1042.4 (c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 30504 (Deviation No. 31), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, IN 46619, filed April 24, 1978. Carrier proposed to operate as a *common carrier*, by motor vehicle, of: *General commodities*, with certain exceptions, over a deviation route as follows: From Nashville, TN, over I-40 to junction Muskogee Turnpike, then over Muskogee Turnpike to Tulsa, OK, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Nashville, TN, over Interstate Hwy 40 to junction TN Hwy 109, then over TN Hwy 109, to junction U.S. Hwy 70, then over U.S Hwy 70 to Lebanon, TN, then over U.S Hwy 231 to junction TN Hwy 25, then over TN Hwy 25, to junction TN Hwy 10, then over TN Hwy 10 to junction TN Hwy 52, then over TN Hwy 52 to junction U.S. Hwy 31-E, then over U.S Hwy 31-E to junction KY Hwy 61, then over KY Hwy 61 to junction U.S. Hwy 31-W, then over U.S Hwy 31-W to junction U.S. Hwy 31, then over U.S Hwy 31 to junction U.S. Hwy 40,then over U.S Hwy 40 to junction U.S. Hwy 66, then over U.S Hwy 66 to Tulsa, OK, and return over the same route.

No. MC 42487 (Deviation No. 118), CONSOLIDATED FREIGHWAYS CORP. OF DELAWARE, P.O. Box 3062, Portland, OR 97208, filed April 19, 1978. Carrier proposed to operate as a *common carrier*, by motor vehicle, of: *General commodities*, with certain exceptions, over a deviation route as follows: From Binghamton, NY, over NY Hwy 12 to junction U.S. Hwy 20 near Waterville, NY, then over U.S Hwy 20 to junction NY Hwy 8 near Bridgewater, NY, then over NY Hwy 8 to Utica, NY, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Binghamton, NY, over Interstate Hwy 81 to Syracuse, NY then over NY Hwy 5 to Utica, NY, and return over the same route.

No. MC 42487 (Deviation No. 119), CONSOLIDATED FREIGHWAYS CORP. OF DELAWARE, P.O. Box 3062, Portland, OR 97208, filed April 24, 1978. Carrier proposed to operate as a *common carrier*, by motor vehicle, of: *General commodities*, with certain exceptions, over a deviation route as follows: From Ellensburg, WA, over Interstate Hwy 90 to junction WA Hwy 243 (east of Ellensburg, WA), then over WA Hwy 243 to junction WA Hwy 240, then over WA Hwy 240 to junction U.S. Hwy 12 near Kennewick, WA, then over WA Hwy 14 to junction U.S. Hwy 730, then over U.S Hwy 730 to junction U.S. Hwy 395, then over U.S Hwy 395 to junction Interstate Hwy 80N, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Ellensburg, WA, over Interstate Hwy 82 and U.S. Hwy 97 to Yakima, WA, then over WA Hwy 22 to Prosser, WA, then over WA Hwy 221 to Paterson, WA, then over Ferry across the Columbia River to junction U.S. Hwy 730 near Irrigon, OR, then over U.S Hwy 730 to Umatilla, OR, then over unnumbered highways via Hermiston, Stanfield, and Echo, OR, to junction Interstate Hwy 80N, and return over the same route.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the deviation rules—motor carrier of passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 736), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed January 25, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of: *Passengers and their baggage, and express and newpapers*, when moving in the same vehicle with passengers, over a deviation route as follows: From junction Interstate Hwy 80 and Interstate Hwy 80N over Interstate Hwy 80 to junction U.S. Hwy 40, then over U.S. Hwy 40 to junction U.S. Hwy 189, then over U.S. Hwy 189 to junction Interstate Hwy 15 in Provo, UT, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From junction Interstate Hwy 80N and Interstate Hwy 80, over Interstate Hwy 80N to junction U.S. Hwy 30S, then over U.S. Hwy 30S to Ogden, then over UT Hwy 79 to junction UT Hwy 38, then over UT Hwy 38 to junction UT Hwy 84, then over UT Hwy 84 to junction U.S. Hwy 91 (Roy), then over U.S. Hwy 91 to junction Interstate Hwy 15 (North Bountiful), then over Interstate Hwy 15 to Salt Lake City, UT, then over U.S. Hwy 91 to junction Interstate Hwy 15, then over Interstate Hwy 15 to junction U.S. Hwy 189, and return over the same route.

No. MC 29957 (Deviation No. 18), CONTINENTAL SOUTHERN LINES, INC., P.O. Box 8435, Jackson, MS 39204, filed April 24, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of: *Passengers and their baggage, and express and newspapers*, when moving in the same vehicle with passengers, over a deviation route as follows: From Memphis, TN, over Interstate Hwy 55 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction IL Hwy 3, then over IL Hwy 3 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Cairo, IL, with the following access route: From Cairo, IL, over combined U.S. Hwys 60 and 62 to junction Interstate Hwy 57, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Memphis, TN, over U.S. Hwy 64 to junction TN Hwy 100, then over TN Hwy 100 to junction TN Hwy 18, then over TN Hwy 18 to junction U.S. Hwy 45, then over U.S. Hwy 45 to Fairview, then over U.S. Hwy 45E to Fulton, KY, and then over U.S. Hwy 51 to Cairo, IL, and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by special rule 245 of the Commission's general rules of practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

OK Docket No. MC 23790 (Sub-No. 4), filed April 17, 1978. Applicant: C&P TRANSPORTATION, INC., 47 North Rockford Avenue, Tulsa, OK 74120. Applicant's representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. Certificate of public convenience and necessity sought to operate a freight service over regular routes, as follows: Transportation of: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), serving points over the routes as follows: 1. Between Ponca City, OK, and the OK-KS State line serving all intermediate points and the off-route points of Kildare and Chilocco. From Ponca City via U.S. Hwy 77 to the OK-KS State line, and return via the same route. 2. Between Ponca City, OK, and

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Tonkawa, OK, serving all intermediate points and the off-route points of Autwine and Marland. From Ponca City via U.S. Hwys 60 and 177 to Tonkawa, and return via the same route. 3. Between Ponca City, OK, and Red Rock, OK, serving all intermediate points and the off-route point of the Red Rock Power Station. From Ponca City via U.S. Hwy 177 to its junction with State Hwy 15, then via State Hwy 15 to Red Rock, and return via the same route. 4. Between Ponca City, OK, and the OK-KS State line serving all intermediate points and the off-route points of Apperson, Kaw City, Webb City, Lyman, and Foraker. From Ponca City via U.S. Hwy 60 to its junction with State Hwy 18, then via State Hwy 18 to the OK-KS State line and return via the same route. 5. Between Ponca City, OK, and the OK-KS State line serving all intermediate points and the off-route points of Apperson, Webb City, Lyman, and Foraker. From Ponca City via U.S. Hwy 77 to its junction with State Hwy 119, then via State Hwy 119 to its junction with State Hwy 18, then via State Hwy 18 to the OK-KS State line and return via the same route. 6. Those points located near or adjacent to the towns and communities described above, when such points are within a reasonable delivery distance and when such points may be served in a normal direct manner without going through a town or community for which the carrier holds no authority. Applicant seeks to tack its present authority with the authority sought as described hereinabove, said tack point to be at Ponca City, OK. Intrastate, interstate, and foreign commerce authority sought. Hearing: June 29, 1978, at 9 a.m., OK Corporation Commission, Jim Thorpe Building, Oklahoma City, OK 73105. Requests for procedural information should be addressed to OK Corporation Commission, Jim Thorpe Building, Oklahoma City, OK 73105, and should not be directed the Interstate Commerce Commission.

Oklahoma Docket No. MC 37832 (Sub-No. 4), filed March 27, 1978. Applicant: EDMOND MOTOR FREIGHT, INC., P.O. Box 922, Edmond, OK 73034. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23rd St., Oklahoma City, OK 73107. Certificate of public convenience and necessity sought to operate a freight service, over regular routes, as follows: Transportation of: *General commodities* (except classes A and B explosives, commodities in bulk, articles of unusual value, household goods as defined by the Commission, and commodities requiring special equipment): Between Oklahoma City and Gate, OK, serving the intermediate points of Rosston and Dunlap, and the off-route points of Mutual, Fargo, Sharon, and the facilities of Houston Chemical Co., located 8 miles north and 3 miles east of Woodward, OK; from Oklahoma City, OK, via State Hwy 3 to its intersection with U.S. Hwy 283, then via U.S. Hwy 283 to its intersection with U.S. Hwy 64, then via U.S. Hwy 64 to Gate, OK, and return over the same route. Intrastate, interstate, and foreign commerce authority sought. Hearing: June 21, 1978, at 9 a.m., 2nd Floor, Jim Thorpe Bldg., Oklahoma City, OK 73105. Requests for procedural information should be addressed to Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, OK 73105, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-13435 Filed 5-17-78; 8:45 am]

[1505-01]

[Volume No. 85]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 78-11310 appearing at page 18094 in the issue for Thursday, April 27, 1978, the following corrections should be made:

1. In the first column on page 18104, the first motor carrier application number now reading "No. MC 11035 (Sub-No. 81-F)" should read, "No. MC 110325 (Sub-No. 81F)".

2. In the fourth paragraph at the first column on page 18105 "No. MC 115826 (Sub-No. 330-F)" should have read "No. MC 115826 (Sub-No. 300F)".

[1505-01]

[Volume No. 61]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 78-4174 appearing at page 6879 in the issue for Thursday, February 16, 1978, on page 6891 No. MC 123407 (Sub-No. 428) should read as follows:

No. MC 123407 (Sub-No. 428), filed December 22, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative H. E. Miller Jr. (same address for applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building, wall and insulating boards, and materials and supplies used in the installation thereof* (except commodities in bulk), from Beaver Falls, Pa.; Marietta, Pa.; Macon, Ga.; and Pensacola, Fla., to points in Texas, Oklahoma, Arkansas, Colorado, and New Mexico; (2) *floor coverings and materials and supplies used in the installation thereof* (except commodities in bulk) from Jackson, Miss., to points in Texas; and (3) *return and refused shipments*, from the destination points in parts 1 and 2 above to the points of origin in parts 1 and 2 above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa., or Washington, D.C.

[7035-01]

[Notice No. 17]

SPECIAL PROPERTY BROKERS

MAY 15, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including AK and HI. Any interested person shall file an original and (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to:

Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, DC 20423.

Opposing parties shall serve (1) copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant in not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-78-24, filed March 10 1978. Applicant: NORTH AMERICAN DISTRIBUTION SYSTEMS, INC., 5001 Kroemer Road, P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: Gary M. Crist (same address as applicant).

B-78-35, filed March 30, 1978. Applicant: JOSEPH S. FARRUGGIO AND SAMUEL J. FARRUGGIO, Jr., a partnership, d.b.a. J & S BROKERAGE SERVICE, 1419 Radcliffe Street, Bristol, PA 19007. Applicant's representative: Alan Kahn, Suite 1920, 2 Penn Center Plaza, Philadelphia, PA 19102.

B-78-42, filed April 12, 1978. Applicant: INTERNATIONAL CUSTOMS SERVICE, INC., 10400 Aviation Boulevard, Los Angeles, CA 90045. Applicant's representative: James B. Heacock (same address as applicant).

B-78-43, filed February 15, 1978. Applicant: DISTRIBUTION SERVICES, INC., 300 Ivywood Avenue, Haddonfield, NJ 08033. Applicant's representative: Robert B. Einhorn, 3220 Philadelphia Saving Fund Building, 12 South Twelfth Street, Philadelphia, PA 19107.

B-78-44, filed April 4, 1978. Applicant: ARTHUR J. FRITZ & CO., a corporation, 142 Sansome Street, Suite 600, San Francisco, CA 94104. Applicant's representative: Ronald A. Marcillac, 244 Jackson Street, San Francisco, CA 94111.

B-78-45, filed January 27, 1978. Applicant: HARPER, ROBINSON & CO., a corporation, 545 Sansome Street, San Francisco, CA 94111. Applicant's representative: John H. Robinson (same address as applicant).

B-78-46, filed April 19, 1978. Applicant: REMY MOVING & STORAGE CORP., Old Post Road, Walpole, MA 02081. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036.

B-78-48, filed April 20, 1978. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl Street, Denver, CO 80210. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

B-78-49, filed April 24, 1978. Applicant: ANDREW M. KICHINKO. d.b.a. ANDY KICHINKO'S TRUCK BROKERAGE, 2244 6th Avenue South, Seattle, WA 98134.

B-78-50, filed April 27, 1978. Applicant: PARAMOUNT MOVERS, INC., 3164 Springfield, Lancaster, TX 75146. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 2036.

B-78-51, filed April 3, 1978. Applicant: JULIUS J. SCHAEFER, an individual, d.b.a. JULIUS J. SCHAEFER ASSOCIATES, 16 West Palisade Avenue, P.O. Box 693, Englewood, NJ 07631.

B-78-52 filed April 28, 1978. Applicant: PARAMOUNT FORWARDERS, INC., 3164 Springfield, Lancaster, TX 75146. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036.

B-78-53 filed March 24, 1978. Applicant: WILLIAM H. MASSON, INC., 207 East Redwood Street, Baltimore, MD 21202. Applicant's representative: William H. Masson (same address as applicant).

B-78-54, filed May 1, 1978. Applicant: DOOR TO DOOR INTERNATIONAL, INC., 7109 Woodlawn Avenue NE., Seattle, WA 98115. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006.

B-78-56, filed May 3, 1978. Applicant: SAN FRANCISCO INTERNATIONAL CUSTOMS SERVICE, INC., 500 South Airport Boulevard, South San Francisco, CA 94128. Applicant's representative: James B. Heacock, 10400 Aviation Boulevard, Los Angeles, CA 90045.

B-78-58 filed May 3, 1978. Applicant: CHICAGO INTERNATIONAL CUSTOMS SERVICE, INC., 4001 Fleetwood Avenue, Franklin Park, IL 60131. Applicant's representative: James B. Heacock, 10400 Aviation Boulevard, Los Angeles, CA 90045.

B-78-59 filed May 3, 1978. Applicant: NEW YORK INTERNATIONAL CUSTOMS SERVICE, INC., 175-11 148th Avenue, Jamaica, NY 11434. Applicant's representative: James B. Heacock, 10400 Aviation Boulevard, Los Angeles, CA 90045.

B-78-65 filed April 26, 1978. Applicant: HUDSON SHIPPING CO., INC., 90 West Street, New York, NY 10006. Applicant's representative: Saul Federman (same address as applicant).

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-13541 Filed 5-17-78; 8:45 am]

[7035-01]

VOLUNTARY OPPORTUNITY FOR APPLICANTS SEEKING OPERATING RIGHTS TEMPORARY AUTHORITY TO DRAFT CAPTION SUMMARIES

MAY 18, 1978.

Under the rules approved in Revision of Application Forms, Ex Parte No. 55 (Sub-No. 14), 125 MCC 790 (1976), an applicant seeking operating rights permanent authority is required to draft a caption summary for publication in the FEDERAL REGISTER. Since April 11, 1977, when that requirement took effect, numerous applicants have developed the ability to draft accurate caption summaries with ease.

Applications for operating rights temporary authority could be speeded up, if applicants and their representatives would draft the caption summaries for publication in the FEDERAL REGISTER.

Effective as of this notice an applicant seeking temporary authority may tender an original and one copy of a caption summary but must answer all questions on Application for Temporary Authority for Motor Common and Contract Carriers Under Section 210a(a) of the Interstate Commerce Act. Form OP-MCB-95.

Caption summaries must be double spaced and follow the format used for permanent authority notices, as described in Ex Parte No. 55 (Sub-No. 14). They should incorporate the style changes noticed in the FEDERAL REGISTER issue of January 18, 1978 (43 FR 2632), including the use of two-letter state abbreviations, "Hwy", in place of "Highway", "then", in place of "thence", and "facilities" where a plantsite, warehouse, or storage facility is requested; and provide information regarding duration of the temporary authority, supporting shippers, and the person to whom protests are to be sent. You may see samples of temporary authority application notices in most daily issues of the FEDERAL REGISTER.

By using the applicant's draft the Commission would save substantial time in publishing the caption summary in the FEDERAL REGISTER. However, whether or not an applicant drafts its own caption summary, the Commission's field and headquarters staff will continue to provide assistance.

By the Commission, Robert J. Brooks, Director, Office of Proceedings.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-13131 Filed 5-17-78; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contoins notices of meetings published under the "Government in the Sunshine Act" (Pub. L 94-409), 5 U.S.C. 552b(e)(3).

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[6355-01]

1

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: May 25, 1978, 2 p.m.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Open to the public:

AGENDA

1. *Election of vice-chairman.* The Commission will vote to elect a vice-chairman to serve for the next year.

2. *Chain saw voluntary standards agreement.* On March 30, the Commission directed the staff to negotiate an agreement with the Chain Saw Manufacturers Association for development of voluntary safety standards for chain saws. At this meeting, the Commission will consider that agreement.

3. *CPSC Priorities.* Based on Commission direction during the recent Mid-Year Review, the staff has prepared a Federal Register document listing revised priorities for CPSC action for the remainder of the fiscal year. The Commission will consider that document. (This matter may be considered as a ballot vote item, rather than at a meeting.)

Agenda approved May 12, 1978.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-1037-78 Filed 5-16-78; 3:32 pm]

[6355-01]

2

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: May 24, 1978; 9:30 a.m., 11 a.m., and 2 p.m.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

9:30 A.M.—COMMISSION BRIEFING

Briefing on Report of the Comparative Safety Task Force. The staff and Commission will discuss options for possible CPSC action on comparative safety programs, in response to a staff-prepared report on the matter. Section 2(b)(2) of the Consumer Product Safety Act provides a statutory mandate to "assist consumers in evaluating the comparative safety of consumer products."

11 A.M.—ORAL ARGUMENTS

Ups 'N Downs Inc., et al. The Commission will hear oral arguments on this appeal by enforcement counsel of the Administrative Law Judge's Initial Decision. The oral arguments were originally scheduled for May 10.

2 P.M.

Meeting with Chamber of Commerce of the United States. At the Chamber's request, the Commission is meeting with representatives of the National Chamber's Advisory Group on Product Safety to discuss mutual concerns.

Agenda approved May 12, 1978.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-1038-78 Filed 5-16-78; 3:32 pm]

[6740-02]

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 20892, published May 15, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 17, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

ER-4.—ES76-42, Pacific Power & Light Co.

KENNETH F. PLUMB,
Secretary.

[S-1035-78 Filed 5-16-78; 1:29 pm]

[6730-01]

4

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., May 25, 1978.

PLACE: Room 12126, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Report on notation items disposed of during April, 1978.

2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during April, 1978.

3. Report of the Secretary on applications for admission to practice approved during April, 1978, pursuant to delegated authority.

4. Assignment of informal dockets by the Secretary during April, 1978, pursuant to delegated authority.

5. Agreement No. 93-16: Modification of the North Europe U.S. Pacific Freight Conference Agreement to provide that joint services may have only one vote and that members may take independent action upon certain conditions.

6. Agreement No. 8190-12: Modification of the Japan-Puerto Rico and Virgin Islands Freight Conference Agreement to provide for establishment of joint rates and to delete Okinawa from its scope.

7. Agreement No. 10039-4: Modification of a cargo revenue pooling, sailing and equal access to government-controlled cargo agreement between ELMA and Delta Steamship Lines to provide for space chartering on each other's vessels.

8. Agreement No. 10186-2: Modification of a space chartering agreement between the Korea Shipping Corp. and the Orient Overseas Container Lines, Inc., to provide for a new space chartering formula between the parties.

9. Agreement No. 10290: A "48-Hour" Rate Agreement between Mamenic Line and Coordinated Caribbean Transport, Inc., in the trades between Florida and Nicaragua.

10. Agreements Nos. 10293 and 10295: Space chartering agreements between Flota Mercante Grancolombiana, S.A. and Andino Chemical Shipping Inc. (No. 10293) and Maritima Transligra, S.A. (No. 10295) in the trades between the U.S. Gulf and Atlantic Coast of Colombia.

11. Special Docket No. 556: *Pan American Industries, Inc.* v. *Sea-Land Service, Inc.*—Review of initial decision.

12. Docket No. 77-1: Pacific Far East Line, Inc. Certificate (Performance) No. P-88—Review of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-1039-78 Filed 5-16-78; 3:32 pm]

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[6750-01]

5

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, May 24, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of proposed trade regulation rule concerning ophthalmic goods and services.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-1036-78 Filed 5-16-78; 1:29 pm]

[7030-01]

6

INDIAN CLAIMS COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 20086, May 10, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:15 a.m., May 17, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

CHANGE IN THE MEETING: The following item has been added:

Portion of the meeting closed to the public: Personnel.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6184.

[S-1033-78 Filed 5-16-78; 1:29 pm]

[7030-01]

7

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., May 24, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Docket 332-C, *Yankton Sioux.*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-1034-78 Filed 5-16-78; 1:29 pm]

[4910-58]

8

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 20368, May 11, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, May 18, 1978 [NM-78-22].

CHANGE IN THE MEETING: A majority of the Board has determined by recorded vote that the fourth item on the agenda be withdrawn from consideration and that no earlier announcement was possible. The withdrawn item was:

Request to cancel special study P-SS-75-7, aircraft accidents and incidents involving safety role of dispatcher.

[S-1040-78 Filed 5-16-78; 3:32 pm]

[4910-58]

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, May 25, 1978 [NM-78-23].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft accident report.*—L. & J. Co., Convair 240, N55VM, Gillsburg, Miss., October 20, 1977.

2. *Marine accident report.*—Capsizing and sinking of the self-elevating mobile offshore drilling unit *Ocean Express* on April 15, 1976.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-1041-78 Filed 5-16-78; 3:32 pm]

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federal register

THURSDAY, MAY 18, 1978
PART II



ENVIRONMENTAL PROTECTION AGENCY

PETROLEUM LIQUID STORAGE VESSELS

Proposed Standards and Notice of Hearing

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[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 870-5]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Storage Vessels for Petroleum Liquids

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The proposed standards would limit emissions of hydrocarbons from new, modified, and reconstructed petroleum liquid storage vessels with a capacity greater than 151,416 liters (40,000 gallons). The standards implement the Clean Air Act and are based on a review of the current standards of performance which indicated that the technology for storage vessels has imporved and it is appropriate to revise the standards. The current standards for storage vessels require a single seal to close the space between the roof edge and tank wall on external and internal floating roof tanks. The intended effect of the proposed standard is to require double seals on external floating roof tanks for which construction is commenced after (date of proposal of the standards).

DATES: Comments must be received on or before June 19, 1978. A public hearing will be held on June 7, 1978; a notice is published elsewhere in this FEDERAL REGISTER regarding the time and place the hearing will be held.

ADDRESSES: Comments should be submitted to the Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, Attention: Mr. Jack R. Farmer. Public comments received and other documents used in the development of the proposed standards comprise the docket required by section 307(d) of the Clean Air Act. Included in the docket is the economic impact assessment of the proposed standards entitled "Financial and Economic Impacts of Proposed Standards of Performance for New Sources—Storage Vessels for Petroleum Liquids." The docket, numbered OAQPS-78-2, is available for public inspection and copying at the Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone number 919-541-5271.

SUPPLEMENTARY INFORMATION:

SUMMARY OF PROPOSED STANDARDS AND IMPACTS

The proposed standards of performance would apply to storage vessels which have a capacity greater than 151,416 liters (40,000 gallons) and which are constructed after (proposal date of these standards). The proposed standards differ from the current standards in that they contain more stringent requirements for storage vessels which have external floating roofs or internal-floating-type covers. The current standards require that storage vessels containing a petroleum liquid with a true vapor pressure equal to or greater than 78 mm Hg (1.5 psia) but not greater than 570 mm Hg (11.1 psia) be equipped with a floating roof, a vapor recovery system, or equivalent. Storage vessels containing petroleum liquids with a true vapor pressure greater than 570 mm Hg (11.1 psia) are to be equipped with a vapor recovey system or its equivalent. The current standards remain in effect for those affected facilities which began construction, modification, or reconstruction after the applicable date of the current standards (March 8, 1974, for vessels with capacities between 40,000 and 65,000 gallons and June 11, 1973, for vessels with greater than 65,000 gallon capacity) and before (date of proposal of these standards). Retrofit of such facilities would not be required by the proposed standards.

The proposed standards would require the use of double seals on external floating roof storage vessels. The primary seal would have to be a metallic shoe seal or equivalent with a seal fabric having no holes, tears, or other openings. Gaps between the tank wall and the primary seal could not exceed 0.32 cm (⅛ in.) in width for a cumulative length of 60 percent of the circumference of the tank, 1.3 cm (½ in.) in width for a cumulative length of 30 percent of the circumference of the tank, and 3.8 cm (1½ in.) in width for a cumulative length of 10 percent of the circumference of the tank. The secondary seal would be required to completely cover the space between the roof edge and the tank wall. Gaps between the tank wall and the secondary seal could not exceed 0.32 cm (⅛ in.) in width for a cumulative length of 95 percent of the circumference of the tank, and 1.3 cm (½ in.) in width for a cumulative length of 5 percent of the circumference of the tank.

The proposal also specifies that the Administrator approves as equivalent technology the use of a nonmetallic resilient seal as the primary seal provided that the gaps between the tank wall and the primary seal do not exceed 0.32 cm (⅛ in.) in width for a cumulative length of 95 percent of the circumference of the tank and do not exceed 1.3 cm (½ in.) in width for a cumulative length of the remaining 5 percent of the circumference of the tank, and the gaps between the tank wall and the secondary seal used above the nonmetallic resilient seal do not exceed 0.32 cm (⅛ in.) in width over the entire circumference of the tank.

Since the current standards already require at least single seals on floating roof tanks, the maximum cost of the proposed standards would be the incremental cost of using a shoe seal instead of a nonmetallic resilient seal as the primary seal and of installing a second seal. These two costs are estimated to increase the cost of a new 61-meter (200-foot) diameter storage vessel by about 0.9 to 1.9 percent.

The proposed standards would have a positive impact on environmental quality. The estimated emission reduction attributed to the current standards is 80 percent. The proposed standards would further reduce emissions from a new storage vessel containing a petroleum liquid by about 75 percent. The total emission reduction, therefore, would be about 95 percent. The proposed standards would have no adverse environmental or energy impacts.

BACKGROUND

On March 8, 1974, under the authority of section 111 of the Clean Air Act, EPA promulgated standards of performance in Subpart K of 40 CFR Part 60 for hydrocarbon emissions from petroleum liquid storage vessels with a capacity greater than 151,416 liters (40,000 gallons). These standards require that new storage vessels containing petroleum liquids with a true vapor pressure greater than 570 mm Hg (11.1 psia) be equipped with a vapor recovery system or its equivalent. For petroleum liquids with a true vapor pressure equal to or greater than 78 mm Hg (1.5 psia) but not greater than 570 mm Hg (11.1 psia), new storage vessels are required to be equipped with a floating roof (internal or external), a vapor recovery system, or equivalent. The primary intent of Subpart K was to prohibit the use of fixed roofs on new storage vessels. A floating roof or vapor recovery system has the potential for reducing emissions by 70 to 90 percent more than the reduction achieved with a fixed roof only.

An external floating roof tank consists of a welded or riveted cylindrical vessel equipped with a deck or roof which floats on the liquid surface and rises and falls with the liquid level in the tank. The liquid surface is completely covered by the roof except for the space between the roof and the wall. The current standards require that a sliding seal be attached to the roof to close the space between the roof edge and the tank wall. The seals

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in current use are metallic shoe seals or nonmetallic resilient seals (see Figures 1 and 2). For a storage vessel equipped to meet the current standards, emissions are primarily due to wind-induced hydrocarbon losses through the seal system. Seal losses increase if there is an improper fit between the seal and the tank wall or leakage through the fabric cover that is used to bridge the space between a shoe seal and the floating roof.

Although good maintenance and inspection programs may be effective in reducing emissions through a single seal, recent industry tests have indicated that reductions can be achieved by installing a second seal over the primary seal (see Figure 3). As improved technology is developed, section 111(b)(1)(B) of the Clean Air Act provides for revision of standards of performance. Since the promulgation of the current standards, the use of double seals on external floating roof tanks has been demonstrated and has been shown to significantly reduce emissions. The intent of the proposed standards is to require the use of double seals instead of single seals on external floating roof petroleum liquid storage vessels for which construction is commenced on or after (date of proposal of these standards).

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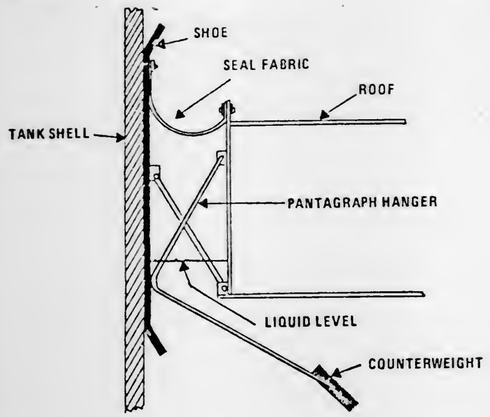


Figure 1. Primary metallic shoe seal

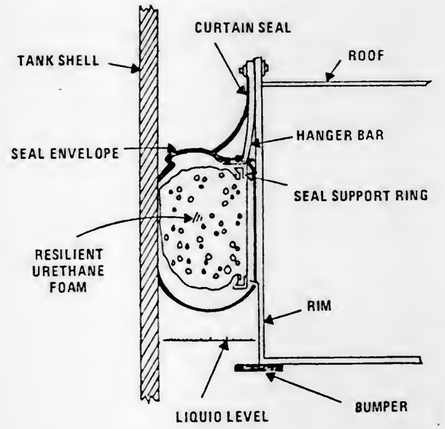


Figure 2. Primary nonmetallic resilient seal

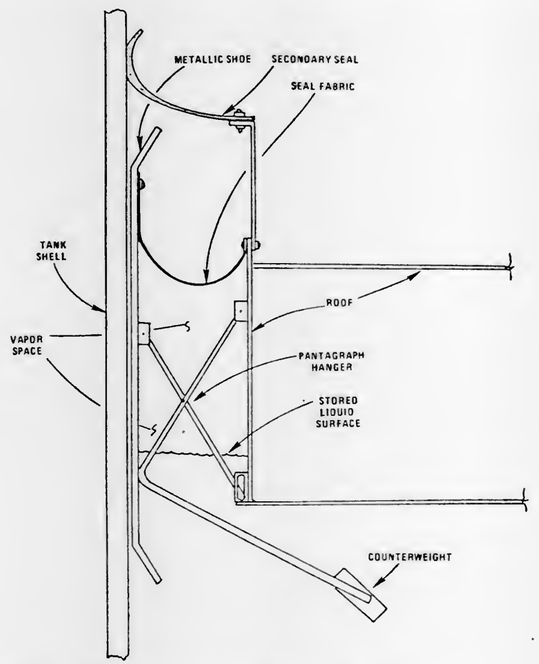


Figure 3. Metallic-shoe-type seal with secondary seal

The proposed standards are in terms of equipment specifications and maintenance requirements rather than mass emission rates. It is extremely difficult to quantify mass emission rates for petroleum liquid storage vessels because of the varying loss mechanisms and the number of variables affecting loss rate. Section 111(h)(1) of the Act provides that equipment standards may be established for a source category if it is not feasible to prescribe or enforce a standard which specifies an emission limitation. It also requires that an equipment standard include requirements to insure the proper operation and maintenance of the equipment. Therefore, the proposed standards contain certain monitoring requirements.

Rationale for Proposed Standards

Selection of the Source Category and Affected Facility

Section 111 of the Act directs the Administrator to establish standards of performance for new and modified stationary sources that may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare. EPA considers petroleum liquid storage vessels to be significant contributors to air pollution. Based on emission factors (*1, 2*) derived from equations in American Petroleum Institute Bulletins, current nationwide hydrocarbon emissions from petroleum liquid storage tanks are estimated to be about 750 Gg (or about 850,000 tons) per year. This represents about 4.5 percent of the estimated 1975 national hydrocarbon emissions from stationary sources. (*3*)

In a 1976 study of the petroleum refining industry,(*4*) EPA estimated that the growth rate of domestic petroleum demand would be about 2½ percent annually for the period 1974 to 1985. It is assumed that the growth rate of petroleum liquid storage tanks would be the same. Although this estimated growth rate is subject to change depending on the world energy situation and the nation's energy policy, growth in the construction of new petroleum liquid storage tanks is likely to continue at about this rate at least into the near future. All new petroleum storage tanks will be required by EPA's current standards of performance to have floating roofs, vapor recovery systems, or equivalent. Because petroleum liquid storage vessels are significant contributors to air pollution and it has been demonstrated that emissions from these vessels which are equipped with external floating roofs in compliance with the current standards can be reduced further by installation of double seals, petroleum liquid storage vessels have been selected for additional regulation. Petroleum liquid storage vessels for which construction was commenced before (date of proposal of these standards) are still subject to the existing standards of performance and those storage vessels equipped with external floating roofs are required to have single seals only.

Selection of Best Technology Considering Costs

Measurement of emissions to the atmosphere from commercial size petroleum liquid storage vessels with external floating roofs using conventional measurement techniques is virtually impossible because the emissions are not confined. The proposed standards, therefore, are based primarily on studies conducted recently by Chicago Bridge and Iron (CBI) for Standard Oil of Ohio and Western Oil and Gas Association (*5*), (*6*), (*7*), (*10*), (*11*) on a 6-meter (20-foot) diameter test tank which was enclosed for the purpose of emission measurement. During the CBI studies, pressure drop measurements were made around the circumference of the tank on the windward and leeward sides. Emissions were measured under a variety of conditions to determine the impact of such factors as wind speed, the use of double seals, gap size between the seals and tank wall, shoe seal tightness, rim temperatures, and product vapor pressure on emission levels.

It was found that most hydrocarbon emission from storage vessels are due to wind-induced pressure losses. Relative to reference atmospheric pressure, pressure variations occur around the edges of the roof of a tank as a function of wind velocity and position of the roof. With respect to wind direction, the pressure is higher on the leeward side than on the windward side of the tank. The pressure differences on a tank roof are such that fresh air flows downward through the space between the tank wall and the seal on the leeward side, across the liquid surface along the circumference of the tank, and out the other side. The spaces are saturated with hydrocarbon vapors, which are carried out in the flow of air. The true vapor pressure of the liquid being stored, which determines the hydrocarbon concentration in the spaces between the seal and tank wall and the roof and liquid surface, and the type and condition of seals are other factors which were found to significantly influence emissions.

Figure 4 shows the effect of various types of seals and seal conditions on emission levels. The other two factors which were found to have the most impact on emissions—wind velocity and vapor pressure of the stored liquid—are held constant. Emission levels would deviate from those shown in the figure if one of these conditions were changed. As indicated in Figure 4, for both nonmetallic resilient seals and shoe seals, using a secondary seal above the primary seal and reducing the gaps between both the primary and the secondary seals and the tank wall significantly reduce the emissions resulting from wind-induced pressure losses. Using double seals reduces the impact of the size of the gap between the primary seal and the tank wall on emission levels, but reducing these gaps still has a positive effect.

The CBI test data in Figure 4 also indicate that when a nometallic resilkient seal is used as the primary seal and the secondary seal has a 1.3 cm (½ in.) gap for 5 percent of the circumference of the vessel, emissions are 5 times higher than when a shoe seal is used as the primary seal and the secondary seal has the same gaps. Based on these data, it is concluded that the use of a shoe seal achieves a greater reduction in emissions than the use of a nonmetallic resilient seal.

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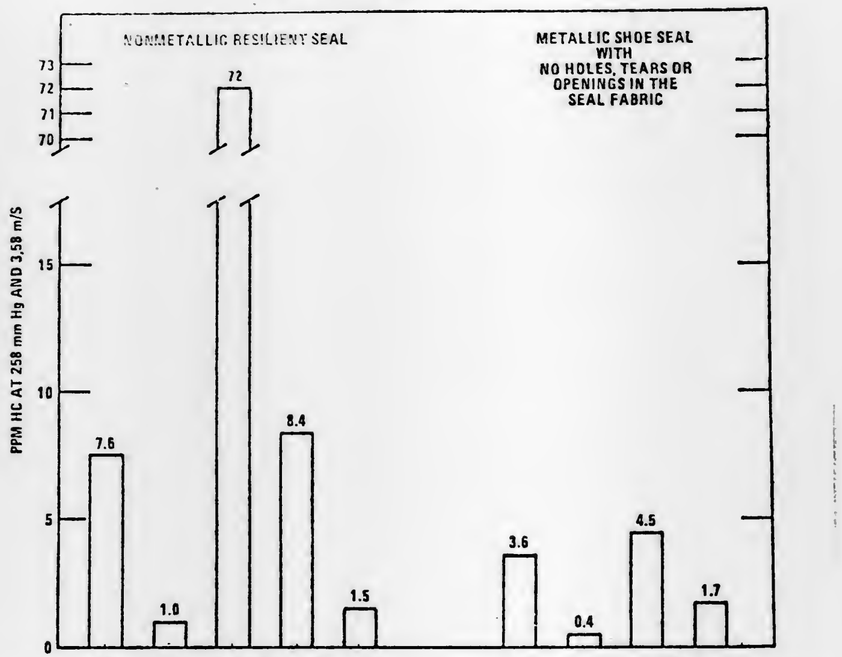


Figure 4. Emissions from CBI test tank with various seals.

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It can also be seen in Figure 4 that a primary metallic shoe seal with no gap used in conjunction with a secondary seal with no gap achieves the lowest emission level. However, it is difficult to comply with a no gap requirement becuase in most cases the storage vessels are not perfectly round. A more viable regulatory approach would be to allow some small gaps between the seals and tank wall. From Figure 4 it can be seen that even with small gaps, the hydrocarbon emission level remains low. Consequently, the proposed standards contain certain gap requirements for both the primary and secondary seals.

For a shoe seal used as the primary seal, the permeability of the seal fabric used to bridge the space between the shoe seal and the floating roof can be an important factor affecting emission levels. The use of fabric with holes, tears, or openings increases leakage due to gas penetration through the fabric. Therefore, it is concluded that requiring the use of a metallic shoe seal with no holes, tears, or openings would result in reduced hydrocarbon emissions.

Costs must be considered in setting standards of performance under section 111. Since the current standards already require single seals on floating roof storage vessels the costs associated with the proposed standards are only the incremental costs of using a metallic shoe seal instead of a nonmetallic resilient seal as the primary seal and the costs of adding a secondary seal. For a new 61-meter (200-foot) diameter storage vessel, the total installed cost of a nonmetallic resilient seal is estimated to be approximately $20,000 to $33,000, and the total installed cost of a shoe seal is estimated to range from $28,000 to $41,000, or approximately $8,000 more than a nonmetallic resilient seal. The total annualized cost for a shoe seal is estimated to be about $2,400 more than that for a nonmetallic resilient seal. EPA is not aware of any situations where technological or economic considerations would preclude the installation of shoe seals in lieu of nonmetallic resilient seals during the construction of new petroleum storage vessels.

Adding a secondary seal is estimated to cost $12,600 to $19,000, and to increase total annualized costs by $4,000 to $5,800 if it is assumed that there are no savings due to retention of petroleum product. Total annualized costs would be reduced to between $1,700 and $5,400, however, if a savings in petroleum product is assumed. A range is estimated because the amount of petroleum product saved would depend on the true vapor pressure of the petroleum liquid and wind velocity.

The cost of a new 61-meter diameter storage vessel is estimated to be about $1,400,000 to $2,200,000. This cost includes the tank foundation, firewalls, connections to refinery pumps, lines, etc. Thus, using a shoe seal instead of a nonmetallic resilient seal as the primary seal and installing a secondary seal would increase the cost of a new storage vessel by only about 0.9 to 1.9 percent. By comparison, the increased cost for a new storage vessel to comply with the current standards is 12 to 25 percent. Therefore, the increased cost of complying with the proposed standards is considered to be reasonable and would not adversely affect the demand for new vessels. Since the additional cost would not reduce the demand for new vessels, the economic impact of the proposed standard on the manufacturers of storage vessels is small.

EPA also attempted to determine the impact of the proposed standards on nonmetallic resilient seal manufacturers; however, it was discovered that the materials for the seals are purchased by the storage vessel manufacturers who then fabricate and install the seals. Nearly all the storage vessel manufacturers have the expertise to install either metallic shoe seals or nonmetallic resilient seals with most manufacturers being indifferent to customer preference toward a certain type of seal. One manufacturer does stress its expertise with nonmetallic resilient seals; however, this emphasis has not caused disproportional sales of nonmetallic resilient seals over metallic shoe seals. Also, since the seals are fabricated on site, little or no extra capital would be needed to convert plant and equipment to produce a greater quantity of metallic shoe seals. In addition, storage vessel manufacturers generally do not maintain an inventory of nonmetallic resilient seal materials that would need to be liquidated.(12) Consequently, any shift towards more installation of metallic shoe seals caused by the proposed standards would have little impact on the storage vessel manufacturers.

Three companies in the United States currently supply the rubber casings and urethane foam necessary for the fabrication of the nonmetallic resilient seals. All three of these companies are highly diversified and the sale of nonmetallic resilient seal materials makes up only a small portion of their total sales. The average losses in sales of the three companies due to the proposed standard would range from about 0.5 to 1.4 percent of total sales.(12) Consequently, the economic impact on the nonmetallic resilient seal materials suppliers would be small.

Any difference in maintenance requirements for metallic shoe seals as compared with maintenance requirements for nonmetallic resilient seals could also impact the storage vessel purchasers. Generally, however, metallic shoe seals last longer and require less maintenance than nonmetallic resilient seals. (12) Therefore, this aspect of the proposed standards would have no adverse impact on the storage vessel purchasers.

The longer life of the average metallic shoe seal would also impact the vessel service companies. However, since replacing seals is only a small part of a vessel service company's business, the economic impact of the proposed standard would be small.

There is expected to be little, if any, economic impact on existing storage vessels as a result of modifications of existing vessels. The only change EPA is presently aware of which could potentially be considered a modification is a change in the petroleum liquid being stored. However, 40 CFR 60.14(e)(4) states that a change in fuel or raw material is not considered to be a modification if the existing facility was designed to accommodate that alternative use prior to the promulgation of standards of performance for that source type. There are likely to be few, if any, changes in the product being stored which a storage vessel was not originally designed to accommodate.

Using the emission control technology described in the preceding paragraphs—double seals; shoe seals as the primary seals; seal fabric with no holes, tears, or openings and narrow gap widths—would have a beneficial impact on environmental quality. Compared with the current standards, this technology would reduce hydrocarbon emissions from petroleum liquid storage vessels equipped with external floating roofs by 60 percent assuming a metallic shoe seal was used to meet the current standard, and up to 98 percent assuming a nonmetallic resilient seal was used to meet the current standard. These figures are based on Figure 4 and the assumption that the storage vessel is exposed to a wind velocity of 3.58 m/s (8 mph) and contains a petroleum liquid with a true vapor pressure of 258 mm Hg (5 psia). The percentage reduction would be expected to vary for different storage vessels depending on the wind speed and the true vapor pressure of the petroleum liquid being stored. There would be no adverse impacts on other environmental media. National energy requirements would actually be decreased very slightly since this technology would result in retention of petroleum products that would otherwise be lost as hydrocarbon emissions.

Consequently, the use of double seals employing a shoe seal with a seal fabric with no holes, tears, or openings as the primary seal, and having narrow gaps between both the primary and secondary seals and the storage vessel wall, has been selected as the best demonstrated technology, consid-

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ering costs, for reducing emissions from petroleum liquid storage vessels. Thus, the proposed standards require either the use of this technology or technology demonstrated to be equivalent.

As can be observed in Figure 4, if a nonmetallic resilient seal is used as the primary seal and there are no gaps (i.e., gap widths of 0.32 cm or less) between the secondary seal and the storage vessel wall, emissions are approximately the same as when a shoe seal is used as the primary seal and the gaps on the secondary seal are as much as 1.3 cm (½ in.) for 5 percent of the circumference of the tank. The proposed regulation, therefore, states that the Administrator approves the use of a nonmetallic resilient seal as equivalent to a shoe seal for the primary seal if the secondary seal above the nonmetallic resilient seal has gaps no greater than 0.32 cm.

Instead of approving as equivalent technology the use of nonmetallic resilient seals in conjunction with secondary seals with no gaps greater than 0.32 cm, the standards of performance could require either the use of shoe seals or the use of nonmetallic resilient seals with the more stringent gap requirement for nonmetallic resilient seals. If the standard were written in this way, nonmetallic resilient seals would always be required to meet the more stringent gap requirement. It is possible, however, that improvements can be made to nonmetallic resilient seals to make them equivalent to metallic shoe seals without meeting a more stringent gap requirement. It is also possible that other seals can be developed that would be equivalent to metallic shoe seals. The proposed standards, therefore, provide maximum flexibility for manufacturers to make improvements in nonmetallic resilient seals or other types of seals and demonstrate their equivalency to metallic shoe seals.

SELECTION OF MISCELLANEOUS REQUIREMENTS

The current standards of performance do not apply to storage vessels for petroleum or condensate stored, processed, and/or treated at a drilling and production facility prior to custody transfer. These vessels were exempted because many of them are normally bolted for purposes of mobility. The proposed standards of performance, however, would apply to storage vessels at drilling and production facilities if the vessels are larger than 151,416 liters (40,000 gallons). Bolted vessels larger than the cut-off size would not be exempt because they are no different from other large storage vessels being covered with regard to emissions, control technology, or costs.

The definition of "petroleum refinery" has been expanded in both Subparts K and Ka to include extracting. This change is being made to ensure that the definition covers all activities at a petroleum refinery. "Extracting" was not purposely excluded in Subpart K and its addition should not change the impact of the standard.

SELECTION OF TESTING, MONITORING, AND RECORDKEEPING REQUIREMENTS

The proposed standards include a section on testing (section 60.114a) for determining compliance with the gap requirements. The current standards of performance do not have a comparable testing section because they do not contain gap requirements. Performance tests for most sources subject to Part 60 are required within 60 days after achieving the maximum production rate. The maximum production rate for a storage vessel would be the filling of the vessel with petroleum liquid. The proposed standards for storage vessels provide the option of doing the performance test before a tank is filled with petroleum liquid. This is based on the reasoning that the gaps between a primary seal and the tank wall have to be measured when the secondary seal is not in place when doing a performance test. This means that the tank could not contain petroleum liquid, since the secondary seal is required by the standard to cover the primary seal when the tank is in operation. The gaps for the primary seal would be most easily measured during the construction of the tank before the secondary seal is installed. If the owner or operator chose to do the measurements on the primary seal after the tank has been filled with petroleum liquid, it would be necessary to empty the tank and remove the secondary seal. The secondary seal gaps, on the other hand, could be measured when the tank is filled with petroleum liquid. The proposed standards would require that this performance test be repeated every five years.

The proposed standards would require that the distance between the seals and the tank wall be measured while the floating roof is placed at different levels. This could be done by putting different quantities of water into the tank before the tank is filled with petroleum liquid. Measuring the gaps at different levels is required because the floating roof would be located at different levels while the tank is in normal operation. The proposed standards would also require that the gaps be measured around the circumference of the tank. For each gap size, the distances around the tank which have that gap size would need to be accumulated. Gaps would be measured with a probe having a diameter equivalent to one of the gap widths specified in the standard. In the process of measuring gaps, those gap widths which are between two sizes specified in the standards would be considered equivalent to the larger of the two sizes. For example, a gap between 0.32 cm (⅛ in.) and 1.3 cm (½ in.) in width would be considered as 1.3 cm (½ in.).

Most of the monitoring and recordkeeping requirements in the proposed standards (sections 60.115a (a), (b), (c), and (d)) are the same as the ones in the current standards. An additional requirement is proposed to allow for routine inspection of the primary seal between performance tests. Under this requirement the secondary seal would allow easy insertion of probes in at least four locations for measuring gaps in the primary seal. This would allow for inspection of the primary seal without removing the secondary seal which would make emptying the tank unnecessary. The tank, therefore, would have to be emptied only during performance tests and routine maintenance of the secondary seal.

MISCELLANEOUS

In accordance with section 117 of the Act, publication of these proposed standards was preceded by consultation with independent experts and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues and record keeping requirements.

It should be noted that standards of performance for new sources established under section 111 of the Clean Air Act reflect the degree of emission limitation achievable through application of the best adequately demonstrated technological system of continuous emission reduction (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements). State implementation plans (SIPs) approved or promulgated under section 110 of the Act, on the other hand, must provide for the attainment and maintenance of national ambient air quality standards (NAAQS) designed to protect public health and welfare. For that purpose, SIPs must in some cases require greater emission reductions than those required by standards of performance for new sources. Section 173 of the Act requires, among other things, that a new or modified source constructed in an area which exceeds the NAAQS must reduce emissions to the level which reflects the "lowest achievable emission rate" for such category of source, as defined in section 171(3). In no event can the emission rate exceed any applicable standard of performance.

A similar situation may arise when a major emitting facility is to be constructed in a geographic area which falls under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require, among other things, that major emitting facilities to be constructed in such areas are to be subject to best available control technology for all pollutants regulated under the Act. The term "best available control technology" (BACT), as defined in section 169(3), means "an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of 'best available control technology' result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 or 112 of this Act."

Standards of performance should not be viewed as the ultimate in achievable emission control and should not preclude the imposition of a more stringent emission standard, where appropriate. For example, while cost of achievement may be an important factor in determining standards of performance applicable to all areas of the country (clean as well as dirty), costs must be accorded far less weight in determining the "lowest achievable emission rate" for new or modified sources locating in areas violating statutorily-mandated health and welfare standards. Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. This in no way should preclude its use in situations where cost is a lesser consideration, such as determination of the "lowest achievable emission rate."

In addition, States are free under section 116 of the Act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Thus, new sources may in some cases be subject to limitations more stringent than standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

Economic impact assessment: An economic impact assessment has been prepared as required under section 317 of the Act and is included in the docket.

Dated: May 2, 1978.

DOUGLAS M. COSTLE,
Administrator.

REFERENCES

(1) "Evaporation Loss from Floating Roof Tanks," American Petroleum Institute Bulletin 2517, February 1962.

(2) "Control of Hydrocarbon Emissions from Petroleum Liquids," EPA-600/2-75-042, September 1975.

(3) "Control of Volatile Organic Emissions from Existing Stationary Sources—Volume I: Control Methods for Surface—Coating Operations," EPA-450/2-76-028, November 1976.

(4) "Economic Impact of EPA's Regulations on the Petroleum Refining Industry," EPA-230/13-76-004, Part II, Section E, p. II-4.

(5) "SOHIO/CBI Floating Roof Emission Test Programs," Final Report, Chicago Bridge & Iron Co., November 18, 1976.

(6) "SOHIO/CBI floating roof Emission Test Program," Supplemental Report, Chicago Bridge & Iron Co., February 15, 1977.

(7) "Western Oil and Gas Association Metallic Sealing Ring Emission Test Program," Interim Report, Chicago Bridge & Iron, January 18, 1977.

(8) Ball, D. A., Putman, A. A., and Luce, R. G., "Evaluation of Methods for Measuring and Controlling Hydrocarbon Emissions from Petroleum Storage Tanks," U.S. EPA-450/13-76-036, November 1976.

(9) "Hydrocarbon Emissions From Floating Roof Storage Tanks," Prepared for the Western Oil & Gas Association by Engineering-Science, Inc., January 1977.

(10) Western Oil and Gas Association Metallic Sealing Ring Emission Test Program, Supplemental Report, Chicago Bridge & Iron, June 30, 1977.

(11) Letter, from Royce J. Laverman to Mr. R. K. Burr, October 11, 1977.

(12) "Financial and Economic Impacts of Proposed Standards of Performance for New Sources—Storage Vessels for Petroleum Agency," Draft Report, Energy and Environmental Analysis, Inc., August 1977.

It is proposed that 40 CFR Part 60 be amended by revising § 60.11(a) of Subpart A, by revising the heading and amending §§ 60.110 and 60.111 of Subpart K, and by adding a new Subpart Ka as follows:

1. § 60.11(a) is revised to read as follows:

§ 60.11 Compliance with standards and maintenance requirements.

(a) Compliance with standards in this part, other than opacity standards, shall be determined only by performance tests established by § 60.8, unless otherwise specified in the applicable standard.

2. The heading for Subpart K is revised to read as follows:

Subpart K—Standards of Performance for Storage Vessels for Petroleum Liquids Constructed Prior to (Date of Proposal of These Standards)

3. Paragraphs (c)(1) and (c)(2) of § 60.110 are revised to read as follows:

§ 60.110 Applicability and designation of affected facility.

. . . . . .

(c) . . .

(1) Has a capacity greater than 151,416 liters (40,000 gallons), but not exceeding 246,052 liters (65,000 gallons), and commences construction or modification after March 8, 1974, and prior to (date of proposal of these standards).

(2) Has a capacity greater than 246,052 liters (65,000 gallons) and commences construction or modification after June 11, 1973, and prior to (date of proposal of these standards).

. . . . . .

4. Paragraph (c) of § 60.111 is revised to read as follows:

§ 60.111 Definitions.

. . . . . .

(c) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricant, or other products through distillation of petroleum or through redistillation, cracking, extracting, or reforming of unfinished petroleum derivatives.

5. A new Subpart Ka is added to read as follows:

Subpart Ka—Standards of Performance for Storage Vessels for Petroleum Liquids Constructed on or After (Date of Proposal of These Standards)

Sec.

60.110a Applicability and designation of affected facility.
60.111a Definitions.
60.112a Standard for hydrocarbons.
60.113a Equivalent equipment.
60.114a Testing and procedures.
60.115a Monitoring of operations.

AUTHORITY: Sec. 111, 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

§ 60.110a Applicability and designation of affected facility.

(a) The affected facility to which this subpart applies is each storage vessel for petroleum liquids which has a storage capacity greater than 151,416 liters (40,000 gallons) and for which construction is commenced after (date of proposal of these standards).

§ 60.111a Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in Subpart A of this part.

(a) "Storage vessel" means any tank, reservoir, or container used for the storage of petroleum liquids, but does not include:

(1) Pressure vessels which are designed to operate in excess of

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0.0044kg/m³ (15 lb/in.² gauge) without emissions to the atmosphere except under emergency conditions,

(2) Subsurface caverns or porous rock reservoirs, or

(3) Underground tanks if the total volume of petroleum liquids added to and taken from a tank annually does not exceed twice the volume of the tank.

(b) "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Nos. 2 through 6 fuel oils as specified in A.S.T.M. D396-69, gas turbine fuel oils Nos. 2-GT through 4-GT as specified in A.S.T.M. D2880-71, or diesel fuel oils Nos. 2-D and 4-D as specified in A.S.T.M. D975-68.

(c) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, extracting, or reforming of unfinished petroleum derivatives.

(d) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.

(e) "Hydrocarbon" means any organic compound consisting predominantly of carbon and hydrogen.

(f) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at standard conditions.

(g) "True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, Evaporation Loss from Floating Roof Tanks, 1962.

(h) "Reid vapor pressure" is the absolute vapor pressure of volatile crude oil and volatile non-viscous petroleum liquids, except liquified petroleum gases, as determined by ASTM-D-323-58 (reapproved 1968).

§ 60.112a Standard for hydrocarbons.

(a) The owner or operator of any storage vessel which contains a petroleum liquid which, as stored, has a true vapor pressure equal to or greater than 78 mm Hg (1.5 psia) but not greater than 570 mm Hg (11.1 psia), shall equip the storage vessel with one of the following:

(1) An external floating roof, consisting of a pontoon-type or double-deck-type cover that rests on the surface of the liquid contents and is equipped with a closure device between the tank wall and roof edge. Except during initial tank fill, performance tests, or when the tank is completely emptied, the roof is to be floating on the liquid, i.e. off the roof leg supports, at all times. The closure device is to consist of two seals, one above the other. The lower seal is referred to as the primary seal and the upper seal is referred to as the secondary seal.

(i) The primary seal is to be a metallic shoe seal or equivalent as provided in § 60.113a(b), and is to meet the following requirements:

(A) Gaps between the tank wall and the primary seal are not to exceed 0.32 cm (⅛ in.) in width for a cumulative length of 60 percent of the circumference of the tank, are not to exceed 1.3 cm (½ in.) in width for a cumulative length of the next 30 percent of the circumference of the tank, and are not to exceed 3.8 cm (1½ in.) in width for a cumulative length of the remaining 10 percent of the circumference of the tank. No gap between the tank wall and the primary seal shall exceed 3.8 cm (1½ in.). No continuous gap greater than 0.32 cm (⅛ in.) shall exceed 10 percent of the circumference of the tank.

(B) One end of the shoe seal is to extend into the stored liquid and the other end is to extend a minimum vertical distance of 61 cm (24 in.) above the stored liquid surface.

(C) There are to be no holes, tears, or other openings in the shoe or seal fabric.

(ii) The secondary seal is to meet the following requirements:

(A) Gaps between the tank wall and the secondary seal are not to exceed 0.32 cm (⅛ in.) in width for a cumulative length of 95 percent of the circumference of the tank, and are not to exceed 1.3 cm (½ in.) in width for a cumulative length of the remaining 5 percent of the circumference of the tank. No gap between the tank wall and the secondary seal shall exceed 1.3 cm (½ in.).

(B) The secondary seal is to be installed above the primary seal so that the space between the roof edge and tank wall is completely covered, except as provided in paragraph (a)(1)(ii)(A) of this section.

(C) There are to be no holes, tears, or other openings in the seal or in any seal fabric.

(iii) All openings in the roof except for automatic bleeder vents and rim space vents are to provide a projection below the liquid surface and are to be equipped with a cover, seal, or lid. The cover, seal, or lid is to be in a closed (i.e. no visible gap) position at all times except when the device is in actual use. Automatic bleeder vents are to be closed at all times except whe the roof is floated off or landed on the roof leg supports and rim vents are to be set to open only when the roof is being floated off the roof leg supports.

(iv) Any emergency roof drain is to be provided with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening, or equivalent as provided in § 61.113a.

(2) A fixed roof container with an internal-floating-type cover which is equipped with a closure seal between the tank wall and roof edge. All openings, except stub drains, are to be equipped with a cover, seal, or lid. The cover, seal, or lid is to be in a closed position at all times except when the device is in actual use. Automatic bleeder vents are to be closed at all times except when the roof is floated off or landed on the roof leg supports. Rim vents, if provided, are to be set to open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting.

(3) A vapor recovery system, capable of collecting all hydrocarbon vapors and gases discharged from the storage vessel, and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere.

(4) A system equivalent to those described in paragraphs (a)(1), (a)(2), or (a)(3), as provided in § 61.113a.

(b) The owner or operator of any storage vessel which contains a petroleum liquid which, as stored, has a true vapor pressure greater than 570 mm Hg (11.1 psia), shall equip the storage vessel with:

(1) A vapor recovery system, capable of collecting all organic vapors and gases discharged, and a vapor return or disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere; or

(2) Equivalent as provided in § 60.113a.

§ 61.113a Equivalent equipment.

(a) Upon written application from an owner or operator, the Administrator may approve use of equipment which has been demonstrated to his satisfaction to be equivalent in terms of reducing hydrocarbon emissions to the atmosphere to that prescribed for compliance with a specific paragraph of this subpart.

(b) A nonmetallic resilient seal is approved as equivalent to the shoe seal required by § 61.112a(a)(1)(i) if the gaps between the tank wall and the primary seal do not exceed 0.32 cm (⅛ in.) in width for a cumulative length of 95 percent of the circumference of the tank and do not exceed 1.3 cm (½ in.) in width for a cumulative length of the remaining 5 percent of the circumference of the tank and the gaps between the tank wall and the secondary seal used above the nonmetallic resilient seal do not exceed 0.32 cm (⅛ in.) over the entire circumference of the tank.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414).)

§ 60.114a Testing and procedures.

(a) Except as provided in § 60.8(b), compliance with the standard prescribed in § 60.112(a) shall be determined as follows:

(1) The owner or operator of any storage vessel subject to this Subpart which has an external floating roof shall meet the following requirements:

(i) Determine the gap widths between the primary seal and the tank wall and the secondary seal and the tank wall, and furnish the Administrator with a written report of the results. This shall de done either before, or within 60 days after, the storage vessel is initially filled with petroleum liquid, at least once every five years thereafter, and at other times as may be required by the Administrator under section 114 of the Act. The gap widths shall be determined according to the following procedures:

(A) Measure the gaps at various roof levels, including the lowest level of the roof legs, the maximum roof height, and six approximately equidistant points between these two levels.

(B) Measure the gaps continuously around the circumference of the tank and determine the accumulated distance for each gap width.

(C) Measure the gaps with probes of diameter equal to each gap width specified in §§ 60.112a(a)(1) (i)(A) and (ii)(A). A gap is deemed to exist under the following conditions:

(*1*) For a primary seal, the probe is to touch the liquid surface without forcing, and

(*2*) For a secondary seal, the probe is to touch the primary seal without forcing.

(D) Tabulate the gap widths: gaps less than or equal to 0.32 cm (⅛ in.) are to be considered equivalent to 0.32 cm (⅛ in.), gaps greater than 0.32 cm (⅛ in.) but less than or equal to 1.3 cm. (½ in.) are to be considered to be equivalent to 1.3 cm (½ in.), and gaps greater than 1.3 cm (½ in.) but less than or equal to 3.8 cm (1½ in.) are to be considered equivalent to 3.8 cm (1½ in.).

(ii) Provide the Administrator 30 days prior notice of the gap measurement to afford the Administrator the opportunity to have an observer present.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414)).

§ 60.115a. Monitoring of operations.

(a) The owner or operator of any storage vessel to which this subpart applies shall for each storage vessel maintain a file of each type of petroleum liquid stored, of the typical Reid vapor pressure of each type of petroleum liquid stored, and of the dates of storage. Dates on which the storage vessel is empty shall be shown.

(b) The owner or operator of any storage vessel to which this subpart applies shall for each storage vessel determine and record the average monthly storage temperature and true vapor pressure of the petroleum liquid stored at such temperature if:

(1) The petroleum liquid has a true vapor pressure, as stored, greater than 26 mm Hg (0.5 psia) but less than 78 mm Hg (1.5 psia) and is stored in a storage vessel other than one equipped with an external floating roof, an interval-floating-type cover, a vapor recovery system or their equivalents; or

(2) The petroleum liquid has a true vapor pressure, as stored, greater than 470 mm Hg (9.1 psia) and is stored in a storage vessel other than one equipped with a vapor recovery system or its equivalent.

(c) The average monthly storage temperature is an arithmetic average calculated for each calendar month, or portion thereof if storage is for less than a month, from bulk liquid storage temperatures determined at least once every 7 days.

(d) The true vapor pressure is to be determined by the procedure in API Bulletin 2517. This procedure is dependent upon determination of the storage temperature and the Reid vapor pressure, which requires sampling of the petroleum liquids in the storage vessels. Unless the Administrator requires in specific cases that the stored petroleum liquid be sampled, the true vapor pressure may be determined by using the average monthly storage temperature and the typical Reid vapor pressure. For those liquids for which certified specifications limiting the Reid vapor pressure exist, that Reid vapor pressure may be used. For other liquids, supporting analytical data must be made available on request to the Administrator when typical Reid vapor pressure is used.

(e) In order that the primary seal may be routinely inspected, the secondary seal is to allow easy insertion of probes up to 3.8 cm (1½ in.) in diameter in at least four locations to measure gaps in the primary seal on storage vessels equipped with external floating roofs.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414)).

[FR Doc. 78-13380 Filed 5-17-78; 8:45 am]

[6560-01]

[40 CFR Part 60]

[FRL 895-4]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Public Hearing on Proposed Standards for Petroleum Liquid Storage Vessels

AGENCY: Environmental Protection Agency.

ACTION: Hearing on proposed rule.

SUMMARY: This document announces a public hearing on the standards of performance for petroleum liquid storage vessels which are proposed in this issue of the FEDERAL REGISTER.

DATES: Hearing Date: Wednesday, June 7, 1978. See *Supplementary Information* for additional information.

ADDRESSES: Hearing held: Room 3906, Waterside Mall, 401 M Street SW., Washington, D.C. See *Supplementary Information* for additional information.

FOR FURTHER INFORMATION CONTACT:

Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: In accordance with section 307(d)(5) of the Clean Air Act, a public hearing on the standards of performance for petroleum liquid storage vessels which are proposed in this issue of the FEDERAL REGISTER will be held as follows:

DATE: Wednesday, June 7, 1978.

PLACE: Room 3906, Waterside Mall, 401 M Street SW., Washington, D.C.

TIME: 9:00 a.m.

PURPOSE: Interested persons will be provided the opportunity for oral presentation of data, views, or arguments concerning the proposed standards of performance for petroleum liquid storage vessels. The hearing is open to the public.

Persons wishing to make oral presentations, which will be limited to 15 minutes each, or to attend the hearing should notify EPA by May 31 by contacting Ms. Mary Jane Clark, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to Mr. Jack R. Farmer at the address above.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at the U.S. Environmental Protection Agency's Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C. 20460 (Docket Number OAQPS-78-2).

Dated: May 9, 1978.

EDWARD F. TUERK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc. 78-13014 Filed 5-17-78; 8:45 am]

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federal register

THURSDAY, MAY 18, 1978
PART III



OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSIONS AND DEFERRALS

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[3111-01]

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RECISSIONS AND DEFERRALS

to the congress of the united states:

In accordance with the Impoundment Control Act of 1974, I herewith report one proposal to rescind $30.0 million in budget authority previously provided by the Congress. In addition, I am reporting four new diferrals of budget authority totalling $55.1 million and two revisions to previously transmitted deferrals increasing the amount deferred by $0.7 million in budget authority.

The rescission proposal affects the Department of Agriculture's drought and flood assistance program. The new deferrals and revisions to existing deferrals involve programs in the Departments of Commerce, Energy, and the Interior, the Corps of Engineers, and the International Communication Agency.

The details of the rescission proposal and the deferrals are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE,
May 12, 1978.

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1978
(in thousands of dollars)

	Rescissions	Deferrals
Eighth special message:		
New items	30,000	55,147 1/
Changes to amounts previously transmitted	———	700
Effect of eighth special message	30,000	55,847
Previous special messages	57,923	4,902,557
Total amount proposed in special messages	87,923 (in 5 rescissions)	4,958,404 2/ (in 63 deferrals)

1/ This amount is net of $3.8 million included in a new Department of Energy deferral (D78-62) being transmitted in this message. These funds have already been reported as deferred in two DOE deferrals (D78-31A and D78-36A) that are being incorporated into D78-62.

2/ This amount represents budget authority except for $9,573,000 consisting of three Department of the Treasury deferrals of outlays only (D78-50, D78-58, D78-28B).

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	Item	Budget Authority
	Department of Agriculture:	
	Agricultural Stabilization and Conservation Service	
R78-5	Agricultural conservation program (Drought and flood assistance)	30,000
	Deferral No.	
	Department of Commerce:	
	Economic Development Administration	
D78-6A	Financial and technical assistance	4,600
	Department of Defense - Civil:	
	Corps of Engineers	
D78-60	Alaska hydroelectric power development fund	5,450
	Department of Energy:	
	Atomic energy defense activities	
D78-61	(Full Fuzing Option Bomb Production Facilities)	23,497
D78-62	Energy	12,300
	Department of the Interior:	
	Bureau of Reclamation	
D78-63	Construction and rehabilitation	17,700
	Other Independent Agencies:	
	International Communication Agency	
D78-41B	Salaries and expenses (special foreign currency program)	1,653
	Subtotal, deferrals	65,200
	Total, rescission proposals and deferrals	95,200

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Rescission Proposal No: R78-5

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 95-24 ___): $36,600,000
Bureau: Agricultural Stabilization and Conservation Service	Other budgetary resources: ---
Appropriation title & symbol: Agricultural Conservation Program (Drought and Flood Assistance) 1283315	Total budgetary resources: 36,600,000
	Amount proposed for rescission: $30,000,000
OMB identification code: 12-3315-0-1-302	Legal authority (in addition to sec. 1012): [X] Antideficiency Act; [ ] Other
Grant program: [X] Yes [ ] No	
Type of account or fund: [X] Annual; [ ] Multiple-year ____ (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification:

The Supplemental Appropriations Act, 1978 (P.L. 95-240) contained $36.6 million for drought and flood assistance in the Agriculture Department's Agricultural conservation program. These funds were to be utilized for payments to farmers for two purposes: drought assistance and water conservation practices. Since September 30, 1977, the effects on farmland of the 1977 drought have been mitigated by abundant rainfall in most of the areas that suffered from this drought. Therefore, $30 million of this appropriation are not needed for the purpose for which they were provided, and a rescission is proposed.

The remaining $6.6 million will be used for payments to farmers for costs of water conserving practices carried out during the period of January 20 through September 30, 1977. This is in accordance with the intent of the Congress that help be given to those farmers who carried out such practices after the January 1977 Presidential disaster declaration, but before the Congress initially made funds available for drought and flood assistance.

Estimated Effects:

There is no programmatic effect of this rescission proposal. Drought conditions do not exist where the funds were anticipated to be needed, and the FY 1978 program authorized by law can be accomplished without these funds.

Outlay Effect:

There is no outlay effect of this rescission because the funds could not be used if made available.

R78-5

DEPARTMENT OF AGRICULTURE

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Agricultural Conservation Program

Of the funds appropriated under this head in the Supplemental Appropriations Act, 1978, $30,000,000 are rescinded.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D78-6, transmitted to the Congress on October 3, 1977, and printed as House Document No. 95-235.

This deferral for the Financial and technical assistance fund in the Economic Development Administration of the Department of Commerce increases the previously reported deferral from $3,900,000 to $4,599,543. This increase of $699,543 results from a decrease of $1,000,000 in planned obligations for FY 1978, partially offset by a decrease of $300,457 in unobligated balances carried forward from FY 1977.

Deferral No: D78-6A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. ____): $ ____
Bureau: Economic Development Administration	Other budgetary resources: 5,599,543*
Appropriation title & symbol: Financial and Technical Assistance 13x1210	Total budgetary resources: 5,599,543*
	Amount to be deferred: Part of year: $ ____; Entire year: 4,599,543*
OMB identification code: 13-1210-0-1-403	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: *

These funds were appropriated under the Trade Expansion Act of 1962 which has been superseded by the Trade Act of 1974. The remaining balance in this account is being used only for the care and preservation of collateral and the honoring of guarantees made in prior years.

The amount of $4,599,543 proposed for deferral will provide for continued care and protection of collateral in future years and provide a contingency for protection of the government's investment through the purchase of senior liens. These amounts could not be used effectively if made available for obligation.

Estimated Effects: *

The effect of deferring $4,599,543 until the end of FY 1978 will be to insure that adequate funds are available in the future to cover costs of protecting collateral and to honor guarantees made under the Trade Expansion Act of 1962.

Outlay Effect:

There is no outlay effect of this deferral.

* Revised from previous report.

Deferral No: D78-6C

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Civil	New budget authority (P.L. 95-240): $5,450,000
Bureau: Corps of Engineers	Other budgetary resources: ---
Appropriation title & symbol: Alaska Hydroelectric Power Development Fund 96X4203	Total budgetary resources: 5,450,000
	Amount to be deferred: Part of year: $ ____; Entire year: 5,450,000
OMB identification code: 96-4203-0-3-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification:

These funds were appropriated to remain available until expended in the Supplemental Appropriations Act, 1978, (P.L. 95-240) for use by the Alaska Hydroelectric Power Development fund. This fund was established by the Alaska Hydroelectric Power Development Act (Section 203 of P.L. 95-587) to further the expeditious development of hydroelectric power generating facilities in Alaska.

The Act permits the use of funds for the Phase I stage of engineering and design of projects that meet the environmental, production, and financial requirements set forth in Section 203(a)(2) and (e) of the Act. The Corps of Engineers is currently studying a project for the Susitna River, Alaska, to determine if it meets these requirements. This review is expected to be completed in FY 1979. The funds are, therefore, deferred for the entire year.

This deferral action is being taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

This deferral will have no programmatic or budgetary effect since the funds could not be used if made available.

Outlay Effects:

There is no outlay effect resulting from this deferral action since the funds could not be used if made available.

Deferral No: D78-61

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 95-96): $2,512,396,000
Bureau:	Other budgetary resources: 554,871,000
Appropriation title & symbol: Atomic energy defense activities 89X0201 (Full Fusing Option Bomb Production Facilities, various locations, Project No.78-16-b)	Total budgetary resources: 3,067,267,000
	Amount to be deferred: Part of year: $; Entire year: 23,497,322
OMB identification code: 89-0201-0-1-053	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

It has been determined that a modernized B-43 bomb, together with other weapons in the stockpile, may be able to fulfill requirements previously identified for the B-77 bomb, but at significantly lower costs. As a result, it may not be necessary to modify current weapon production facilities for the B-77 bomb. Therefore, the funds associated with B-77 bomb production facilities modification are being deferred. In addition, it has been requested that in FY 1979 funding be redirected to B-43 bomb production and to other purposes. The amount deferred, totalling $23.5 million, will be applied to reduce the appropriation request for these activities in FY 1979.

Estimated Effects:

The facility requirements for the modernization of the B-43 will primarily be provided for in the FY 1979 Budget. The funds related to this deferral will be applied to reduce the appropriation request for the Atomic energy defense activities requirements in FY 1979.

Outlay Effect: (estimated in millions of dollars)

Comparison with President's FY 1979 Budget:

1. Budget outlay estimate for FY 1978	$2,307.8
2. Outlay savings, if any, included in the budget outlay estimate	0

Current Outlay Estimatea for FY 1978:

3. Without deferral	2,306.5
4. With deferral	2,301.8
5. Current outlay savings (line 3 - line 4)	4.7
Outlay savings for FY 1979	-4.7

Deferral No: D78-62

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 95-96;93-74): $4,223,328,000
Bureau:	Other budgetary resources: 1,907,309,030
Appropriation title & symbol: Energy 89X0203	Total budgetary resources: 6,130,637,030
	Amount to be deferred: Part of year: $; Entire year: 12,300,000 1/
OMB identification code: 89-0203-0-1-270	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The Department of Energy's energy appropriation is used for a wide variety of energy research and development activities. The amount deferred is made up of unobligated balances brought forward into FY 1978. These balances are not needed for obligation in FY 1978 and are, therefore, deferred for the entire year. These funds will be used in FY 1979 to offset funding requirements for the Department's nuclear research and development programs.

This deferral action is being taken in accordance with the Antideficiency Act (31 USC 665).

Estimated Effects:

There are no programmatic or budgetary effects of the deferral because the funds represent obligational authority in excess of that needed to conduct the FY 1978 programs.

Outlay Effects:

There is no outlay effect from this deferral.

1/ This amount includes funds previously reported as deferred under two Department of Energy deferrals--$2.3 million for the Plenum fill experiment deferral, D78-31A, and $1.5 million for the Molten salt breeder reactor deferral, D78-36A.

Deferral No: D78-63

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 95-96): $353,950,000
Bureau: Bureau of Reclamation	Other budgetary resources: 223,255,533
Appropriation title & symbol: Construction & Rehabilitation 14X5061	Total budgetary resources: 577,205,533
	Amount to be deferred: Part of year: $; Entire year: 17,700,000
OMB identification code: 14-5061-0-2-301	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☒ Other Civil Action No.76-0943
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The amount deferred was provided in an appropriation of $18.8 million, to remain available until expended, in the Department of the Interior and Related Agencies Appropriations Act, 1978. These funds are intended for continued construction of facilities at the Garrison Diversion Unit project in North Dakota. Funds are being deferred pending the completion and evaluation of project studies which have been necessitated for the reasons outlined below.

The Department of State has repeatedly and formally assured the Canadian Government that construction of the project features which may be in violation of the Boundary Waters Treaty of 1909 would not begin until after a report on the project by the International Joint Commission (IJC) was received by the two Governments and subsequent consultations were held. The IJC report was completed in September 1977 and consultations are being arranged, but have not taken place.

In May 1977, the U.S. District Court, Washington, D.C. in Civil Action No.76-0943 ordered activity at the project to cease pending the completion of a supplementary environmental impact statement and reconsideration of the project by the Congress. The Bureau of Reclamation is in the process of complying with these legal requirements. This deferral, totalling $17.7 million, is being reported to notify the Congress that pending the evaluation of the EIS, the IJC report, and potential modification studies of the project pursuant to the Court stipulation and order, project activity has been curtailed. The deferral will remain in effect until these legal and environmental problems associated with the Garrison Diversion Unit are resolved.

Estimated Effect:

This action will delay construction on various portions of the Garrison Diversion Unit, including the Lonetree Dam, the Oakes Pumping Plant, and the West Side Irrigation Facilities, pending resolution of the legal and environmental problems discussed above. Project activity is presently anticipated to resume during FY 1979.

Outlay Effect (estimated in millions of dollars)

Comparison with President's FY 1979 Budget:

1. Budget outlay estimate for FY 1978	384.1
2. Outlay savings, if any, included in the budget outlay estimate	0

Current Outlay Estimates for FY 1978:

3. Without deferral	357.7
4. With deferral	340.0
5. Current outlay savings (line 3 - line 4)	17.7
Outlay savings estimated for FY 1979	-17.7

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D78-41A transmitted to the Congress on January 27, 1978, and printed as House Document No.95-285.

This supplementary report contains the revisions necessary to change this deferral for the Salaries and expenses (special foreign currency program) from the United States Information Agency to the International Communication Agency. These revisions include changes to the appropriation symbol and the identification code for the account.

Deferral No: D78-41B

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency International Communication Agency *	New budget authority (P.L. 95-86) $ 7,057,000
Bureau	Other budgetary resources 3,842,000
Appropriation title & symbol	Total budgetary resources 10,899,000
Salaries and Expenses (Special Foreign Currency Program) 1/ 67X0205 *	Amount to be deferred: Part of year $ ____
	Entire year 1,653,000
OMB identification code: 67-0205-0-1-154 *	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: *

Reorganization Plan No.2 of 1977, implemented by Executive Order No.12048 of March 27, 1978, transferred the functions of the United States Information Agency to the International Communication Agency (ICA). These functions, authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), Reorganization Plan No.8 of 1953, the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), and Executive Order No.11034 of June 25, 1962, as amended, involve the dissemination of information abroad about the United States, its people, and its policies.

The Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105, approved August 17, 1977) authorized to be appropriated for fiscal year 1978, $269,286,000 for "Salaries and expenses" and "Salaries and expenses (special foreign currency program)" accounts. The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, (Public Law 95-86, approved August 2, 1977) appropriated $7,057,000, to remain available until expended, for the "Salaries and expenses (special foreign currency program)" account. The account is used for payment of ICA local program expenses in U.S.-owned foreign currencies in those countries where the

1/ This account was the subject of a similar deferral during FY 1977.
* Revised from previous report.

Department of the Treasury determines that the supply of local currency is in excess of the normal requirements of the U.S. Government. In fiscal year 1978, the "excess currency" countries are: Burma, Guinea, India, Pakistan, and Egypt. It was estimated in the 1978 Budget that additional budgetary resources of $2,698,000 would be available for 1978 from prior year unobligated balances brought forward, recovery of prior year obligations, and anticipated reimbursements from other agencies. Thus, total obligations of $9,755,000 were planned for 1978 in the 1978 Budget.

It is now estimated that the 1978 beginning-of-year unobligated balance for this account plus anticipated recoveries and reimbursements from other agencies, will amount to $3,842,000, or $1,144,000 more than the sum estimated in the 1978 Budget. The additional unobligated balances were realized primarily from program reductions in India and added recovery of prior year obligations. Other resource adjustments will further reduce requirements in 1978 by $509,000 resulting in a total program of $9,246,000. Since total availabilities of $10,899,000 in this account for 1978 exceed program requirements by $1,653,000, that amount has been deferred for the entire year. These funds will be available for use in 1979, reducing the need for new appropriations in 1979 accordingly.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

None. The amount deferred could not be obligated before fiscal year 1979.

Outlay Effect:

There is no outlay effect of this deferral, because the funds would not be obligated if made available.

[FR Doc. 78-13556 filed 5-17-78; 8:45 am]

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Vol. 43—No. 98
5-19-78
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federal register

FRIDAY, MAY 19, 1978

highlights

FRANKFORT, KENTUCKY WORKSHOP

HOW TO USE THE FEDERAL REGISTER

WHO: Presented by the Office of the Federal Register with the cooperation of the Office for Policy and Management, Commonwealth of Kentucky.

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHAT: Free public workshop (approximately 3 hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHEN: June 16, 1978 at 1 p.m.

WHERE: Capitol Plaza Tower Auditorium.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in government actions. There will be no discussion of specific agency regulations.

RESERVATIONS: Office for Policy and Management, Commonwealth of Kentucky, Area Code 502-564-7300.

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for June are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202-523-3517.

CONTINUED INSIDE

federal register

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
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	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Agency for International Development, National Foundation on the Arts and the Humanities, National Mediation Board

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Agency for International Devlopment, National Foundation on the Arts and the Humanities, and the National Mediation Board because they are confidential in nature.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3368(f), 213.3382(u), and 213.3389 are added as set out below:

§ 213.3368 Agency for International Development.

• • • • • •

(f) *Office of the Assistant Administrator of the Development and Support Bureau.*

(1) One Special Assistant to the Assistant Administrator.

• • • • • •

§ 213.3382 National Foundation on the Arts and the Humanities.

• • • • • •

(u) One Public Affairs Officer, National Endowment for the Humanities.

• • • • • •

§ 213.3389 National Mediation Board.

(a) *Office of the Chairman.*

(1) One Special Assistant to the Chairman.

(2) One Special Assistant to each of the two Members of the Board.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13510 Filed 5-18-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Executive Office of the President

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amends Part 213 to show that the Office of Management and Budget has transferred one position of Secretary from the Office of the Director to the Office of the Assistant Director for Planning and Policy Coordination to support the President's Reorganization project.

EFFECTIVE DATE: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3303(a)(1) is amended and (a)(20) is added as set out below:

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.*

(1) Four Secretaries to the Director.

• • •

(20) One Secretary to the Assistant to the Director for Planning and Policy Coordination.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13509 Filed 5-18-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

ACTION

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Three positions of Program Specialist at grades GS-7 through GS-14 in ACTION's Office of Voluntary Citizen Participation are excepted under Schedule B because it is not practicable to examine competitively for them.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3259(b) is added as set out below:

§ 213.3259 Action.

• • • • • •

(b) *Office of Voluntary Citizen Participation.*

(1) Three positions of Program Specialist at grades GS-7 through GS-14.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR, 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13615 Filed 5-18-78; 8:45 am]

[6325-1]

PART 213—EXCEPTED SERVICE

Executive Office of the President

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This document shows that: (1) Schedule A authority for professional positions in grades GS-13 through GS-15 on the staff of the Office of Telecommunications Policy; and (2) Schedule A authority for all positions on the staff of the Office of Drug Abuse Policy, are revoked because the Office of Telecommunications Policy and the Office of Drug Abuse Policy were abolished under provisions of Executive Orders 12046 and 12045, respectively.

EFFECTIVE DATE: May 19, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3103(e) and (f) are revoked as set out below:

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§ 213.3103 Executive Office of the President.

* * * * *

(e) [Revoked]

(f) [Revoked]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR, 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13613 Filed 5-18-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment modifies the exception under schedule B for positions of Librarian, GS-7, in the National Library of Medicine, by increasing the number of positions covered from 6 to 10. These positions are excepted under schedule B because it is not practicable to examine competitively for them.

EFFECTIVE DATE: May 9, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3216(d)(1) is amended as set out below:

§ 213.3216 Department of Health, Education, and Welfare.

* * * * *

(d) *National Library of Medicine.*

(1) Ten positions of Librarian, GS-7, the incumbents of which will be trainees in the Library Associate Training Program in Medical Librarianship and Biomedical Communications. Employment under this authority is not to exceed 1 year.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR, 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13614 Filed 5-18-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regs. 588 and 589; Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 19-25, 1978, and increases the quantity of such oranges that may be so shipped during the period May 12-18, 1978. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective May 19, 1978, and the amendment is effective for the period May 12-18, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of Valencia oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on May 16, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges continued to show overall strength, particularly on size 113's and larger.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 908.889 Valencia Orange Regulation 589.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 19, 1978, through May 25, 1978, are established as follows:

(1) District 1: 396,000 cartons;
(2) District 2: 528,000 cartons;
(3) District 3: 176,000 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

Paragraphs (a) (1) and (3) in § 908.888 Valencia Orange Regulation 588 (43 FR 20218), is hereby amended to read:

(1) District 1: 444,000 cartons;
(3) District 3: 223,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 17, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-14048 Filed 5-17-78; 3:47 pm]

[3410-02]

[Plum Regulation 14]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipments of California plums during the period May 22, 1978, through July 14, 1978. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: May 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Plum Commodity Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of plums, as hereafter provided, will tend to effectuate the declared policy of the act.

This regulation is based upon an appraisal of the current and prospective market conditions for California plums. The committee estimates that 10.1 million packages of plums will be available for fresh shipment during the 1978 season compared to actual shipment of 11.1 million packages last season. The 1978 California plum crop is reported to be of good quality at this time with uniform sizing. Industry reports indicate that 1978 shipments of fresh California peaches and nectarines will be larger than last season. These fruits will provide strong market competition for fresh California plums. The grade and size requirements are necessary to prevent the shipment of California plums of a lower grade and smaller size than specified and are designed to provide ample supplies of good quality plums in the interest of producers and consumers pursuant to the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 917.447 Plum Regulation 14.

Order. (a) During the period May 22, 1978, through July 14, 1978, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1.

(b) During the period May 22, 1978, through July 14, 1978, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade; or

(2) Any lot of packages or containers of Angeleno, Andys Pride, Autumn Queen, Bee Gee, Casselman, Empress, Fresno Rosa, Grand Rosa, Improved Late Santa Rosa, King David, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, SW-1, and Swall Rosa plums unless such plums grade U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade; or

(3) Any lot of packages or other containers of Late Tragedy plums unless such plums grade U.S. No. 1, except that gum spots which do not cause serious damage shall not be considered as a grade defect with respect to such grade.

(c) During the period May 22, 1978, through July 14, 1978, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

TABLE I

Column A variety	Column B plums-per-sample
Ace	55
Amazon	64
Andys Pride	69
Angeleno	67
Autumns Rosa	72
Beauty	91
Bee Gee	65
Burmosa	60
Casselman	63
Duarte	62
Durado	91
El Dorado	68
Elephant Heart	53
Empress	57
Fresno Rosa	62
Friar	56
Frontier	61
Gar-Rosa	71
Grand Rosa	54
July Santa Rosa	69
Kelsey	47
Laroda	58
Late Duarte	60
Late Santa Rosa (including improved late Santa Rosa and Swall Rosa	64
Linda Rosa	63
Mariposa	61
Midsummer	63
Nubiana	56

TABLE I—Continued

Column A variety	Column B plums-per-sample
President	57
Queen Ann	50
Queen Rosa	53
Red Beaut	91
Red Rosa	64
Redroy	58
Rosa Ann	69
Rosa Grande	63
Roysum	80
Santa Rosa	69
Simka, Arrosa, New Yorker	48
Standard	83
Tragedy	114
Wickson	51

(d) Plum Regulation 13 (42 FR 26646, 36231) is hereby terminated as of the effective date hereof.

(e) When used herein, "U.S. No. 1" and "serious damage" shall have the same meaning as set forth in the United States Standards for Fresh Plums and Prunes (7 CFR 51.1520-1538); and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated, May 15, 1978, to become effective May 22, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-13578 Filed 5-18-78; 8:45 am]

[3410-02]

[Amdt. 1]

PART 948—IRISH POTATOES GROWN IN COLORADO—AREA NO. 3

PART 980—VEGETABLES: IMPORT REGULATIONS

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment suspends the maturity (skinning) requirements on fresh market shipments of potatoes grown in Colorado Area No. 3. At this late stage of the season immaturity is no longer a factor in the orderly marketing of these potatoes.

EFFECTIVE DATE: May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

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SUPPLEMENTARY INFORMATION: Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of Potatoes grown in designated counties of Colorado Area No. 3. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment is based upon recommendations made on May 11, 1978, by the Colorado Area No. 3 Potato Committee, which was established under the order and is responsible for its local administration. It is hereby found that the amendment which follows will tend to effectuate the declared policy of the act.

It is further found that it is impractical and contrary to the public interest to give preliminary notice, or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) this amendment must become effective immediately if producers are to derive maximum benefits from it, (2) compliance with this amendment will not require any special preparation on the part of handlers, and (3) this amendment relieves restrictions on the handling of potatoes grown in the production area.

The amendment is as follows:

§ 948.377 [Amended]

In § 948.377 (42 FR 38382) the requirements of paragraph (b) *Maturity (skinning)* are suspended from the effective date hereof through June 30, 1978, the termination date of this section.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Effective date. Dated May 5, 1978, to become effective May 15, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-13580 Filed 5-18-78; 8:45 am]

[3410-02]

PART 953—POTATOES GROWN IN SOUTHEASTERN STATES

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $11,125 and establishes a rate of assesssment of one-fourth cent per hundredweight of potatoes for the fuctioning of the Southeastern Potato Committee for the 12 month fiscal period ending May 31, 1979. The regulation enables the committee to collect assessments from first handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 104 and Order No. 953, both as amended, regulate the handling of potatoes grown in designated counties of Virginia and North Carolina. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Southeastern Potato Committee, established under the order, is responsible for its local administration.

Notice was published in the April 27, 1978, FEDERAL REGISTER (43 FR 17949) regarding the regulation. It afforded interested persons an opportunity to submit written comments not later than May 12, 1978. None was received.

After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular period shall apply to all assessable potatoes from the beginning of such period.

The regulation is as follows:

§ 953.215 Expenses and rate of assessment.

(a) The expenses the Secretary finds may be necessary to be incurred during the fiscal period June 1, 1978, through May 31, 1979, by the Southeastern Potato Committee for its maintenance and functioning amount to $11,125.

(b) The rate of assessment to be paid during this period by each handler under this part shall be one-fourth cent ($0.0025) per hundredweight of potatoes of which he is the first handler. However, potatoes for canning, freezing, and other processing shall be exempt. Also, the minimum quantity exemption of up to five hundredweight of potatoes that may be shipped per day by each handler shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section have the same meanings as when used in the said amended marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: May 15, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-13579 Filed 5-18-78; 8:45 am]

[3410-02]

PART 953—IRISH POTATOES GROWN IN THE SOUTHEASTERN STATES

PART 980—VEGETABLES: IMPORT REGULATIONS

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in designated counties of Virginia and North Carolina to be inspected and meet minimum grade and size requirements. The regulation should promote orderly marketing of such potatoes by keeping less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: June 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953), regulate the handling of potatoes grown in designated counties of Virginia and North Carolina. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Southeastern Potato Committee, established under the order, is responsible for its local administration.

Notice of rulemaking was published in the April 28, 1978, FEDERAL REGISTER (43 FR 18187). The notice afforded interested persons through May 12, 1978, to file written comments on the proposal. None was filed.

This regulation is based upon recommendations made by the committee at its public meeting in Norfolk, Va., on April 13, 1978.

These grade and size requirements are the same as those issued for the production area during past seasons. They are necessary to prevent potatoes of poor grade or undesirable size from being distributed to fresh market outlets. The requirements will benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area.

Exceptions are provided when certain of these requirements would be inappropriate or unreasonable.

Shipments to certain special purpose outlets need not meet the grade, size, and inspection requirements, provided safeguards are met to prevent such potatoes from reaching unauthorized outlets. Livestock feed shipments are exempt because quality requirements for livestock differ from those for fresh market. Since no purpose would be served by regulating potatoes used for charity, such shipments also are exempt. Also, potatoes for most processing uses are exempt under the legislative authority for this part.

After consideration of all relevant matters, including the proposal in the notice, it is found that the following handling regulation will tend to effectuate the declared policy of the act by setting the minimum grade, size and inspection requirements which the Secretary has found should be maintained for orderly marketing.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date of June 5, 1978, (2) to maximize benefits to producers, the regulation should apply to as many shipments as possible during the marketing season, and (3) handlers under this part should be able to complete all preparations to comply with the regulation, which is similar to those of previous marketing seasons, by June 5, 1978.

The regulation is as follows:

§ 953.318 Handling regulation.

During the period June 5 through July 31, 1978, no person shall ship any potatoes produced in the production area unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with paragraphs (c) and (d), or (e) of this section.

(a) *Minimum grade and size requirements.* All varieties U.S. No. 2, or better grade, 1½ inches (38.1 millimeters) minimum diameter.

(b) *Inspection.* Except as provided in paragraphs (c) and (e), no handler shall ship any potatoes unless the Federal-State Inspection Service has issued an appropriate inspection certificate covering them and the certificate is valid at the time of shipment.

(c) *Special purpose shipments.* The grade, size, and inspection requirements set forth in paragraphs (a) and (b) of this section shall not apply to potatoes shipped for canning, freezing, "other processing" as defined under paragraph (f) of this section, livestock feed, or charity, except that the handler of the potatoes shall comply with the safeguard requirements of paragraph (d) of this section.

(d) *Safeguards.* Each handler shipping potatoes for canning, freezing, "other processing," livestock feed, or charity in accordance with paragraph (c) of this section shall:

(1) Notify the committee of his intent to ship potatoes for such a special purpose by applying on a committee form for a Certificate of Privilege;

(2) Obtain an approved Certificate of Privilege;

(3) Prepare on a committee form a special purpose shipment report for each such shipment; and

(4) Forward copies of each special purpose shipment report to the committee office and to the receiver with instructions to the receiver that he sign and return a copy to the committeee office. Failure of the handler or receiver to report all such shipments by promptly signing and returning each special purpose shipment report to the committee office shall be cause for suspension of the Certificate of Privilege allowing such special purpose shipments.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed five hundredweight of potatoes any day without regard to the inspection requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds five hundredweight of potatoes.

(f) *Definitions.* The term "U.S. No. 2" means the same as when used in the U.S. Standards for Grades of Potatoes (7 CFR 2851.1540-2851.1566), including the tolerances set forth in it. The term "other processing" means the same as when used in the act as amended February 15, 1972 (Pub. L. 92-233), in which it is specified as the preparation of potatoes for market involving the application of heat or cold to such an extent that the natural form or stability of the potatoes is substantially changed. Certain uses this includes are potatoes for dehydration, chips, shoestrings, starch, and flour. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section have the same meanings as when used in Marketing Agreement No. 104 and this part, both as amended.

(g) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the round white type imported during the effective period of this section shall meet the grade, size, quality, and maturity requirements specified in paragraph (a) of this section.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).)

Dated: May 15, 1978, to become effective June 5, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-13581 Filed 5-18-78; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—ACCOUNT SERVICING

[FmHA Instruction 451.1]

PART 1861—ROUTINE

Subpart A—Account Servicing Policies

MISCELLANEOUS AMENDMENTS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations for reamortizing sections 502 and 504 Rural Housing loan accounts. The amendments result from the administrative need to provide separate regulations for different types of loan accounts. The intended effect of this action is to remove reamortization regulations for farm ownership (FO), recreation (RL), individual soil and water conservation (SW), and rural housing (RH) (other than sections 502 and 504) loan accounts from § 1861.9(e) and to provide for the use of a new form.

EFFECTIVE DATE: May 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Colon, phone 202-447-4808.

SUPPLEMENTARY INFORMATION: Sections 1861.9(e) and 1861.10(e)(2) of Subpart A of Part 1861, Chapter XVIII, Subchapter E, Title 7, Code of Federal Regulations are amended.

Section 1861.9(e) is amended to:

(1) Delete regulations for reamortization of FO, RL, and individual SW loan accounts.

(2) Delete regulations for reamortization of RH (other than sections 502 and 504 RH) loan accounts which are now in 7 CFR 1861.46.

(3) Revise the procedure for reamortizing sections 502 and 504 RH loan accounts by replacing Form FmHA 451-21, "Request for Reamortization of Real Estate Loans," with form FmHA 452-2, "Reamortization Agreement and/or Deferral Agreement."

Section 1861.10(e)(2) is amended to:

(1) Replace Form FmHA 451-21 with form FmHA 452-2 for reamortizing

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the loan account at the expiration of the final moratorium period.

(2) Delete § 1861.10(e)(2)(i) of this section.

(3) Incorporate § 1861.10(e)(2)(ii) as a last sentence in this section.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the are internal administrative changes not requiring publication for proposed rulemaking. Accordingly, §§ 1861.9(e) and 1861.10(e)(2) read as follows:

§ 1861.9 Definitions and other information on FO, SW, ORE, RH, LH, and SCH accounts.

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(e) *Reamortizing direct and insured sections 502 and 504 RH accounts.* Reamortizing is to extend loan payments to the maximum repayment period, or to rearrange the payments within the remaining years of the original repayment period.

(1) Sections 502 and 504 RH loan accounts may be reamortized:

(i) When the borrower has made extra payments or refunds both totaling 10 percent or more of the loan being reamortized and the County Supervisor determines that the borrower cannot reasonably be expected to meet the obligation unless the account is reamortized to substantially reduce the annual or monthly installments, or

(ii) At the expiration of the final moratorium period in accordance with § 1861.10(e), or

(iii) When a section 502 or 504 RH loan or an FO, individual SW, RL, or EM loan for real estate purposes is being made to a presently indebted section 502 or 504 RH borrower and the loan approval official determines that the borrower cannot reasonably be expected to meet installments due unless the account is reamortized.

(2) To reamortize the account, the following actions will be taken:

(i) Form FmHA 452-2, "Reamortization Agreement and/or Deferral Agreement," will be completed in accordance with the Forms Manual Insert.

(ii) If the note or assumption agreement (new terms) being reamortized is not held in the County Office, the County Supervisor will obtain the promissory note and any assumption agreement from the Finance Office before processing the reamortization.

(iii) On the back of the original of the note or assumption agreement (new terms) being reamortized, below all signatures and endorsements, the County Supervisor, will insert the following:

"A reamortization agreement and/or deferral agreement dated ———— 19——, in the principal sum of $————, has been given to modify payment schedule of this note."

(iv) The end of the amortization period will be the final due date of the note being reamortized unless the due date is extended in accordance with § 1861.10(e).

(v) Interest rate for the account will be unchanged.

§ 1861.10 Moratorium on principal and interest payments on section 502 and 504 loans.

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(e) *Action at the expiration of the final moratorium period.* • • •

(2) The County Supervisor, after a determination concerning the cancellation of interest has been made, will complete Form FmHA 452-2 if the account is to be reamortized or Form FmHA 451-37 if reamortization is not planned. If Form FmHA 451-37 is submitted to the Finance Office, the County Supervisor will appropriately change County Office records to reflect the amount of the new installments.

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.270.)

NOTE.—The FmHA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 5, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-13594 Filed 5-18-78; 8:45 am]

[3410-02]

[Lemon Reg. 145; Amdt. 1; Lemon Reg. 146]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period May 21-27, 1978, and increases the quanity of such lemons that may be so shipped during the period May 14-20, 1978. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situations confronting the lemon industry.

DATES: The regulation becomes effective May 21, 1978 and the amendment is effective for the period May 14-20, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on May 16, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deems advisable to be handled during the specified weeks. The committee reports the demand for lemons continues good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.446 Lemon Regulation 146.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period May 21, 1978, through May 27, 1978, is established at 300,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

Paragrah (a) of § 910.445 Lemon Regulation 145 (43 FR 20475) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period May 14, 1978, through May 20, 1978, is established at 315,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: May 17, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-14121 Filed 5-18-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Change in Disease Status of Malta Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document designates Malta as a country in which African swine fever, a contagious and infectious disease of swine, exists. Notice has been received that an outbreak of African swine fever has occurred in Malta. The intended effect of this amendment is to restrict the entry of pork and pork products from Malta in order to protect the livestock of the United States.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. James D. Roswurm, USDA, APHIS, VS, Room 819, Federal Building, Hyattsville, Md. 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION: African swine fever is potentially the most dangerous and destructive of all communicable swine diseases. The causative virus of African swine fever is highly virulent and may be present in pork and pork products originating in countries where the disease exists. The only known practical method of destroying the contagion of the disease in pork and pork products is by heat treatment.

The Department has been informed that Malta has announced that African swine fever exists in that country. Therefore, this document amends the regulations (9 CFR 94.8) to designate Malta as a country in which African swine fever exists. This designation restricts the entry of pork and pork products from Malta to those pork and pork products which have been commercially sterilized by heat in hermetically sealed containers or which are allowed controlled entry into the United States for further processing by heat.

Accordingly, Part 94, Title 9, Code of Federal Regulations is hereby amended in the following respect:

§ 94.8 Pork and pork products from countries where African swine fever exists.

In 94.8, in the introductory paragraph, the name of Malta is added after the reference to "Italy."

(Sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); 37 FR 28464, 28477; 38 FR 19141.)

This amendment is of an emergency nature and must be made effective immediately to protect the livestock of the United States against the introduction of African swine fever from Malta, except with respect to intransit shipments of pork and pork products that are on board a carrier moving to the United States at the time of issuance hereof. Such intransit shipments shall, upon arrival in the United States, be allowed entry only under such specific requirements or be disposed of in such manner as the Administrator may determine in each specific case to be necessary and adequate to safeguard against the introduction or dissemination of African swine fever into the United States. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of May 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-13520 Filed 5-18-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: Pursuant to the Nuclear Non-Proliferation Act of 1978 (NNPA), the Nuclear Regulatory Commission (NRC) has amended its export/import regulations (10 CFR Part 110). The amended regulations incorporate the new export criteria mandated by the NNPA to govern exports of nuclear facilities, source material and special nuclear material for peaceful nuclear uses. Consistent with the NNPA, the amended regulations would also provide for NRC export control authority over nuclear facility components and other nuclear items and substances having possible significance for nuclear explosive uses. Because the NNPA requires the Commission to promulgate regulations within a short time frame, the amendments are being made effective immediately. However, the Commission is soliciting public comments with a view to further amending Part 110 to incorporate public views if warranted.

DATES: Effective date: May 19, 1978. Comments should be submitted by July 8, 1978.

ADDRESSES: Send comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Joanna M. Becker, Esq., Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 492-7630, or Marvin R. Peterson, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 492-8155.

SUPPLEMENTARY INFORMATION: On February 17, 1978, NRC published at 43 FR 6915 a new Part 110 to Chapter 1, Title 10 of the Code of Federal Regulations, entitled "Export and Import of Nuclear Facilities and Materials." This part, which became effective on May 3, 1978, codified in one place NRC's export and import regula-

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tions and contained special provisions for public participation in NRC's export and import licensing review process. Part 110 did not contain any major substantive revisions to the standards and procedures for granting or denying export license applications, since these areas were still undergoing consideration by the Congress, the Executive Branch, and NRC.

On March 10, 1978, the President signed the Nuclear Non-Proliferation Act of 1978 (NNPA), which specifically addresses export licensing procedures and criteria. The NNPA directs NRC to promulgate revised export control regulations incorporating the major portion of the Act's requirements by July 7, 1978, and new regulations covering physical security standards by May 9, 1978. NRC has chosen to promulgate both portions of its amended regulations simultaneously.

Although many sections of Part 110 are unchanged by the new amendments, both substantive and format changes are made in various parts of Part 110. It is therefore being republished in its entirety for the convenience of the public.

SUMMARY OF REGULATIONS

The major changes to Part 110 are summarized below in the order in which they appear:

1. § 110.1. The scope of Part 110 has been expanded to cover the additional material and equipment transferred to NRC's export control authority from the Department of Commerce pursuant to section 109 of the Atomic Energy Act and also to give NRC authority to license exports of the Department of Energy upon application by that Department. A new Appendix A has been added to provide the public with a detailed list of all equipment and material under NRC's export and import control authority. The statutory criterion for selecting "components," "items" and "substances" referenced in amended section 109 of the Atomic Energy Act for Commission licensing is that of "especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes." The components, items and substances chosen are essentially those on the Nuclear Suppliers' Group and IAEA Zangger Committee trigger lists, thus reflecting an international consensus on items considered to be significant for nuclear explosive uses. To avoid problems associated with dual licensing authorities, agreement has also been reached with the Commerce Department that all specially designed components for nuclear reactors will be transferred to NRC's export control authority. This will enable exporters to apply to one agency for all proposed exports of nuclear reactor components.

2. § 110.2. New definitions have been added for deuterium, high and low-enriched uranium, nuclear equipment, nuclear-grade graphite, nuclear material, physical security and production facility. The "utilization facility" definition has been changed so that "utilization facility" now means either a complete nuclear reactor, a reactor pressure vessel, a primary coolant pump, a control rod or a nuclear fuel charging or discharging machine. These definition changes are primarily related to NRC's expanded export licensing authority. The new definition of "utilization facility" has the effect of bringing within that definition certain components "especially designed" for a utilization facility as permitted by section 11 cc of the Atomic Energy Act. The components chosen are deemed to be especially critical for the functioning of a utilization facility.

3. § 110.6. This section has been retitled "Retransfers" to conform with the language in the NNPA.

4. § 110.11. The exemption in § 110.11 for Department of Energy prime contractors has been deleted, as further review indicated no need for its inclusion. It has been replaced by a new exemption for imports of nuclear equipment, source material and byproduct material by licensees authorized to possess such equipment or material under another exemption or a specific or general license issued by the Commission or an Agreement State. Except for nuclear equipment, the import license exemptions were previously covered by the general license in § 110.25.

5. § 110.25 and § 110.26. These sections provide new general licenses for exports of small quantities of deuterium (including heavy water) and nuclear grade graphite.

6. Subpart E. This Subpart has been extensively revised and expanded to incorporate the new export criteria mandated by the NNPA and the related procedures pertaining to the review of export license applications. The new export criteria are listed in § 110.42.

Section 110.43 sets out the physical security standards, amplifying the new physical security criterion in § 110.42(a)(3). The physical security standard which will be used in acting upon applications for licenses to export facilities, special nuclear material and source material is specified as, at a minimum, protection comparable to that set forth in International Atomic Energy Agency publication INFCIRC/225, Rev. 1. The measures recommended in that publication are international guidelines to which the United States subscribes, whose use is permitted by section 304(d) of the Nuclear Non-Proliferation Act of 1978. In the Commission's judgment such levels of physical security will provide adequate protection for the facilities and materials to which they must be applied as provided by section 127(3) of the Atomic Energy Act.

The Commission notes that, in evaluating whether the physical security program established by the recipient country meets the physical security standards of § 110.43, the staff will consider for Category I materials (see Appendix C to Part 110) the following essential elements, or their equivalent:

(i) Storage of materials in areas which provide penetration resistance and delay;

(ii) Protection of processing and storage areas with intrusion alarm system;

(iii) 24-hour armed security force (or an unarmed security force if a national or regional emergency plan has been established that will ensure immediate wide scale alert and response by armed policy or other government agencies);

(iv) Armed offsite forces capable of response;

(v) Independent duplicated transmission system for two-way voice communication;

(vi) Procedures to control access to and to provide continuing surveillance in material storage and processing areas;

(vii) Protection of transport by escorts or guards to be armed if armed emergency teams are not available for timely response to prevent attempted theft and facilitate recovery;

(viii) Transport in vehicles equipped with communications capable of calling for assistance from the local police or emergency team;

(ix) A program for determining trustworthiness of guards and individuals who have access to nuclear materials.

The Commission also notes that the staff will consider any potential threats to nuclear activities within the recipient country.

Section 110.44 sets out the basic statutory findings NRC must make before issuing an export or import license and provides for referral of export license applications to the President if NRC is unable to make the requisite findings.

7. § 110.51. This section has been revised to indicate that changes in the value of nuclear equipment authorized for export do not require a license amendment.

8. § 110.80. This section provides that the procedures in Part 110 will constitute the sole basis for hearings on export license applications. Those procedures have not been substantially changed except for the addition of criteria to be used in determining whether to grant leave to intervene or hold a hearing in export licensing proceedings mandated by section 304(b) of the NNPA as follows:

(1) Whether intervention or a hearing would be in the public interest and

(2) Whether intervention or a hearing would assist the Commission in

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making the statutory determinations required by the Atomic Energy Act.

The Commission intends to develop a new general license for the export of nuclear equipment to approved nuclear facilities abroad. Section 110.21 has been reserved for such a general license, which would be the subject of a notice of proposed rule making to be published at a later date.

Other revisions of an editorial nature have been made to Part 110. Although revised Part 110 is effective immediately, the Commission and the Commerce Department have agreed that the transfer of export licensing responsibility for items currently licensed by the Commerce Department will take place July 8, which will permit a more orderly transfer of responsibilities and result in less disruption to licensee export activities. The items involved are those listed in Appendix A, paragraphs (a)(1) through (a)(9); paragraphs (b)(1) through (b)(7); paragraphs (c)(1) through (c)(6); and paragraphs (d), (e), (i), and (j). Applications for the export of the items covered by these paragraphs will be accepted by the Department of Commerce through July 7, 1978, after which license applications shall be submitted to NRC. Prospective applicants may obtain NRC export license application forms from the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Because the NNPA mandates that the amendments required by that Act be promulgated within a time period that does not permit publication of a notice of proposed rule making and public procedure thereon, the Commission has found that such notice and public procedure are impracticable and that good cause exists for making revised Part 110 effective without the customary 30-day notice. The Commission invites all interested persons who desire to submit written comments or suggestions for consideration in connection with revised Part 110 to send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments should be submitted by July 8, 1978. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974 as amended, the Nuclear Non-Proliferation Act of 1978 and Sections 552 and 553 of Title 5 of the United States Code, the revised Part 110 of Title 10, Chapter 1, Code of Federal Regulations is published as a document subject to codification.

Part 110 is revised to read as follows:

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APPENDIX B—List of foreign facilities to which nuclear equipment may be exported pursuant to the general license in § 110.21 [Reserved].
APPENDIX C—Categorization of nuclear material.

AUTHORITY—Secs. 51, 53, 54, 62, 63, 64, 65, 81, 82, 103, 104, 109, 126, 127, 128, 129, 161, 181, 182, 183, 189, Pub. L. 83-703, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 954, 956; Pub. L. 88-489, 78 Stat. 603, 604; Pub. L. 91-560, 84 Stat. 1472; 70 Stat. 1070; Pub. L. 85-256, 71 Stat. 579; Pub. L. 87-615, 76 Stat. 409; Pub. L. 93-377, 88 Stat. 473, 475, Pub. L. 95-242, 92 Stat. 125, 126, 131-139, 141 (42 U.S.C. 2071, 2073, 2074, 2077, 2092-2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2154-2158, 2201, 2231-2233, 2239); Secs. 201, 206, Pub. L. 93-438, 88 Stat. 1242, 1246; Pub. L.

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94-79, 89 Stat. 413-414 (42 U.S.C. 5841, 5842, 5846).

§ 110.51 also issued under Sec. 184, Pub. L. 83-703, 68 Stat. 954; Pub. L. 88-489, 78 Stat. 607 (42 U.S.C. 2234).

§ 110.52 also issued under Sec. 186, Pub. L. 83-703, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of Sec. 223, Pub. L. 83-703, 68 Stat. 958, Pub. L. 90-190, 81 Stat. 578; Pub. L. 91-161, 83 Stat. 445 (42 U.S.C. 2273); §§ 110.50 and 119.120-110.126 also issued under Sec. 161i., Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201(i).

§ 110.53 also issued under Sec. 161o., Pub. L. 83-703, 68 Stat. 950, Pub. L. 85-507, 72 Stat. 337 (42 U.S.C. 2201(o)).

§§ 110-80-110.113 also issued under 5 U.S.C. 552, 554.

§§110.130-110.135 also issued under 5 U.S.C. 553.

Subpart A—General Provisions

§ 110.1 Purpose and scope.

(a) These regulations prescribe procedures and standards, pursuant to the Atomic Energy Act of 1954, as amended, and Title II of the Energy Reorganization Act of 1974, as amended, for the export and import of nuclear equipment and nuclear material as set out in Appendix A.

(b) Except as provided in paragraph (c), the regulations in this part apply to all persons in the United States, including persons in Agreement States.

(c) These regulations do not apply to the export or import of nuclear equipment, material or technology by the Departments of Energy or Defense under the authority of sections 54, 57b., 64, 82, 91, and 144b. and 144c. of the Atomic Energy Act, as amended, except when the Department of Energy seeks an export license pursuant to section 111 of the Atomic Energy Act.

§ 110.2 Definitions.

As used in this part,

(a) "Agreement for cooperation" means any agreement with another nation or group of nations concluded under section 123 of the Atomic Energy Act, as amended.

(b) "Agreement State" means any State of the United States with which the Nuclear Regulatory Commission, or its predecessor, the Atomic Energy Commission, has entered into an agreement under section 274b. of the Atomic Energy Act, as amended.

(c) "Atomic Energy Act" means the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011).

(d) "Byproduct material" means radioactive material (except special nuclear material) produced by exposure to the radiation incident to the process of producing or using special nuclear material.

(e) "Classified information" means National Security Information classified pursuant to Executive Order No. 11652 or any superseding order.

(f) "Commission" means the United States Nuclear Regulatory Commission or its duly authorized representatives.

(g) "Common defense and security" means the common defense and security of the United States.

(h) "Depleted uranium" means uranium in which the isotope uranium-235 is less than 0.711 percent by weight of the total uranium present.

(i) "Deuterium" means deuterium and any deuterium compound, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

(j) "Effective kilograms of special nuclear material" means:

(1) For plutonium and uranium-233, their weight in kilograms;

(2) For uranium enriched 1 percent or greater in the isotope U-235, its element weight in kilograms multiplied by the square of its enrichment expressed as a decimal weight fraction; and

(3) For uranium enriched below 1 percent in the isotope U-235, its element weight in kilograms multiplied by 0.0001.

(k) "Energy Reorganization Act" means the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801).

(l) "Executive Branch" means the Departments of State, Energy, Defense and Commerce and the Arms Control and Disarmament Agency.

(m) "Export" means export from the United States.

(n) "general license" means an export or import license effective without the filing of a specific application with the Commission or the issuance of licensing documents to a particular person.

(o) "Government agency" means any Federal department, commission, independent establishment, or corporation, wholly or partly owned by the United States and which is an instrumentality of the United States.

(p) "High-enriched uranium" means uranium enriched to 20 percent or greater in the isotope uranium-235.

(q) "Import" means import into the United States.

(r) The phrase "introduced into a hearing" means the introduction or incorporation of testimony or documentary matter into the record of a hearing.

(s) "License" means a general or specific export or import license issued pursuant to this part.

(t) "Licensee" means a person authorized by a specific or a general license to export or import nuclear equipment or material pursuant to this part.

(u) "Low-enriched uranium" means uranium enriched below 20 percent in the isotope uranium-235.

(v) "Non-nuclear weapon State" means any State not a nuclear weapon State as defined in the Treaty on the Non-Proliferation of Nuclear Weapons. "Nuclear weapon State" means any State which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967.

(w) "Non-Proliferation Act" means the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95-242).

(x) "NRC records" means any documentary material made by, in the possession of, or under the control of the Commission under Federal law or in connection with the transaction of public business as evidence of any of the Commission's activities.

(y) "Nuclear equipment" means production facilities, utilization facilities, deuterium production plants, nuclear reactor fuel fabrication plants and specially designed or prepared equipment, parts and components for such facilities or plants as specified in paragraphs a. through e. of Appendix A.

(z) "Nuclear grade graphite" means graphite with a boron content of less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

(aa) "Nuclear material" means special nuclear material, source material, byproduct material, deuterium and nuclear grade graphite.

(bb) "Nuclear reactor" means an apparatus, other than an atomic weapon or nuclear explosive device, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(cc) "Packaging" means one or more receptacles and wrappers and their contents, excluding any special nuclear material, source material or byproduct material, but including absorbent material, spacing structures, thermal insulation, radiation shielding, devices for cooling and for absorbing mechanical shock, external fittings, neutron moderators, nonfissile neutron absorbers and other supplementary equipment.

(dd) "Participant" means a person, identified in a hearing notice or other Commission order, who takes part in a hearing conducted by the Commission under this part, including any person to whom the Commission grants a hearing or leave to intervene in an export or import licensing hearing, either as a matter of right or as a matter of discretion.

(ee) "Person" means any individual, corporation, partnership, firm, association, trust, estate, institution, group, Government agency other than the Commission; any State or political entity within a State; any foreign government or political entity of such government; and any authorized representative of the foregoing.

(ff) "Physical security" means measures to reasonably ensure that source or special nuclear material will only be used for authorized purposes and to prevent theft or sabotage.

(gg) "Production facility" means any nuclear reactor or plant specially designed or used to produce special nuclear material through the irradiation of source material or special nuclear material, the separation of isotopes or the chemical reprocessing of irradiated source or special nuclear material.

(hh) "Public Document Room" means the place at 1717 H Street NW., Washington, D.C., where public records of the Commission are ordinarily available for inspection.

(ii) "Public health and safety" means the public health and safety of the United States.

(jj) "Retransfer" means the transport from one foreign country to another of nuclear equipment or nuclear material previously exported from the United States, or of special nuclear material produced through the use of source material or special nuclear material previously exported from the United States.

(kk) "Sealed source" means any special nuclear material or byproduct material encased in a capsule designed to prevent leakage or escape of that nuclear material.

(ll) "Secretary" means the Secretary of the Commission.

(mm) "Source material" means:

(1) Uranium or thorium, other than special nuclear material; or

(2) Ores which contain by weight 0.05 percent or more of uranium or thorium, or any combination of these.

(nn) "Special nuclear material" means plutonium, uranium-233 or uranium enriched above 0.711 percent by weight in the isotope uranium-235.

(oo) "Specific license" means an export or import license issued to a named person upon an application filed pursuant to this part.

(pp) "Transfer" means the transfer of possession from one person to another person.

(qq) "Transport" means the physical movement of material from one location to another.

(rr) "United States", when used in a geographical sense, includes all territories and possessions of the United States, the Canal Zone, and Puerto Rico.

(ss) "Utilization facility" means any nuclear reactor, other than one that is a production facility, and the following major components of a nuclear reactor:

(1) Pressure vessels designed to contain the core of a nuclear reactor;

(2) Primary coolant pumps;

(3) Fuel charging or discharging machines; and

(4) Control rods.

A utilization facility does not include the steam turbine generator portion of a nuclear power plant.

§ 110.3 Interpretations.

Except as authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part other than a written interpretation by the Commission's General Counsel is binding upon the Commission.

§ 110.4 Communications.

Unless otherwise specified in this part, all communications concerning this part should be addressed to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or delivered in person to the Commission's offices at 1717 H Street NW., Washington, D.C., or 7735 Old Georgetown Road, Bethesda, Md.

§ 110.5 License requirements.

Except as provided in Subpart B, no person may export or import any nuclear equipment or nuclear material other than as authorized by a specific or general license issued pursuant to this part.

§ 110.6 Retransfers.

(a) No person may retransfer any nuclear equipment or nuclear material unless:

(1) At the time of the original export, the equipment or material could have been exported to the new country of ultimate destination under an exemption from licensing requirements pursuant to Subpart B or a general license pursuant to Subpart C; or

(2) The retransfer has been specifically authorized by the Department of Energy in response to a request submitted by the original license applicant or by the foreign consignee or government.

(b) Requests for authority to retransfer shall be sent to the Department of Energy, Office of Nuclear Affairs, International Programs, Washington, D.C. 20545.

Subpart B—Exemptions

§ 110.10 General provisions.

(a) *Specific exemptions.* Upon application by any person or upon its own initiative, the Commission may grant an exemption from the regulations in this part, if it determines that the exemption is authorized by law, is not inimical to the common defense and security and does not constitute an unreasonable risk to the public health and safety.

(b) *Exemptions from licensing requirements.*[1] Exemptions from licensing requirements pursuant to sections 57d, 62 and 81 of the Atomic Energy Act will be granted only after coordination with the Executive Branch and after completion of rulemaking proceedings pursuant to Subpart L of this part.

[1]The granting of an exemption does not relieve any person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

§ 110.11 Import of nuclear equipment, source material and byproduct material.

Any person is exempt from the requirements for an import license to the extent that he imports any nuclear equipment, source material or byproduct material which he is authorized to possess under an exemption from licensing requirements or a specific or general license issued by the Commission or an Agreement State.

§ 110.12 Intergovernmental cooperative activities.

Government agencies are exempt from the requirements of section 53 of the Atomic Energy Act and from the regulations in this part to the extent that they export, at any one time, up to 3 grams of any type of special nuclear material for use in activities authorized by an intergovernmental cooperative agreement between the United States and a foreign nation, group of nations or international organization. The exporting government agency shall notify the Commission of the destination and purpose of such exempted exports.

§ 110.13 Export of byproduct material.

Any person is exempt from the requirements of section 81 of the Atomic Energy Act and from the regulations in this part to the extent that such person exports the following:

(a) Timepieces or hands or dials containing not more than the following specified quantities of byproduct material and not exceeding the following specified levels of radiation:

(1) 25 millicuries of tritium per timepiece;

(2) 5 millicuries of tritium per hand;

(3) 15 millicuries of tritium per dial (bezels will be considered as part of dial);

(4) 100 microcuries of promethium-147 per watch or 200 microcuries of promethium-147 per any other timepiece;

(5) 20 microcuries of promethium-147 per watch hand or 40 microcuries of promethium-147 per other timepiece hand;

(6) 60 microcuries of promethium-147 per watch dial or 120 microcuries of promethium-147 per other timepiece dial (bezels will be considered as part of the dial);

(7) The levels of radiation from hands and dials containing promethium-147, when measured through 50 milligrams per square centimeter of absorber, will not exceed 0.1 millirad per hour at 10 centimeters from any surface for wrist watches; 0.1 millirad per hour at 1 centimeter from any sur-

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face for pocket watches; and 0.2 millirad per hour at 10 centimeters from any surface for any other timepiece;

(b) Lock illuminators containing not more than 15 millicuries of tritium or not more than 2 millicuries of promethium-147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium-147 will not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber;

(c) Precision balances containing not more than 1 millicurie of tritium per balance or not more than 0.5 millicurie of tritium per balance part;

(d) Automobile shift quadrants containing not more than 25 millicuries of tritium;

(e) Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas;

(f) Thermostat dials and pointers containing not more than 25 millicuries of tritium per thermostat;

(g) Electron tubes,[2] provided that no tube has a level of radiation exceeding 1 millirad per hour at 1 centimeter from any surface, when measured through 7 milligrams per square centimeter of absorber, and that no tube contains more than one of the following specified quantities of byproduct material:

(1) 150 millicuries of tritium per microwave receiver protector tube or 10 millicuries of tritium per any other electron tube;

(2) 1 microcurie of cobalt-60;

(3) 5 microcuries of nickel-63;

(4) 30 microcuries of krypton-85;

(5) 5 microcuries of cesium-137; or

(6) 30 microcuries of promethium-147; and

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, byproduct material not exceeding the applicable quantity set forth in § 30.71, Schedule B, of this chapter;

(i) Synthetic plastic resins containing scandium-46 which are designed for sand-consolidation in oil wells and which have been manufactured or initially transferred in accordance with a specific license issued pursuant to § 32.17 of this chapter or equivalent regulations of an Agreement State;

(j) Tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced or initially transferred in accordance with a specific license issued pursuant to § 32.22 of this chapter, provided that the tritium, krypton-85 or promethium-147 is not used in products primarily for frivolous purposes or in toys or adornments;

(k) Byproduct material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards and manufactured, processed, produced or initially transferred in accordance with a specific license issued pursuant to § 32.26 of this chapter; or

(l) Spark gap irradiators containing not more than 1 microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least 3 gallons per hour (11.4 liters per hour).

[2]For purposes of this paragraph, "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pickup tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

Subpart C—General Licenses

§ 110.20 General.

(a) In response to a petition or upon its own initiative, the Commission may issue a general license for the export or import of any nuclear equipment or material provided it determines that any exports or imports made pursuant to the general license will not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety.

(b) General licenses will be issued only after coordination with the Executive Branch and after completion of rule making proceedings pursuant to Subpart L of this part.

(c) General licenses do not relieve any person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

§ 110.21 Export of nuclear equipment. [Reserved]

§ 110.22 Export of special nuclear material. [Reserved]

§ 110.23 Export of source material.

The following general licenses are hereby issued authorized any person to export:

(a) At any one time, up to 1 kilogram of source material to any country, except Southern Rhodesia or countries listed in § 110.27, provided that no more than 100 kilograms per year may be exported by any one person to any one country.

(b) Thorium in incandescent gas mantles to any country, except Southern Rhodesia or countries listed in § 110.27.

(c) Depleted uranium in the form of counterweights installed in aircraft, rockets, projectiles or missiles to any country, except Southern Rhodesia or countries listed in § 110.27, provided that such counterweights have been manufactured under a specific license issued by the Commission or the Atomic Energy Commission and have been impressed with the following statement, clearly legible after plating: "Depleted Uranium".

(d) Thorium contained in finished aircraft engine parts containing nickel-thoria alloy to any country, except Southern Rhodesia or countries listed in § 110.27, provided that:

(1) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(2) The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

(e) Depleted uranium when fabricated as shielding and contained in radiographic exposure or teletherapy devices, X-ray units, radioactive thermoelectric generators or packaging for the transportation of radioactive materials, in quantities up to 1,000 kilograms per shipment to any country, except Southern Rhodesia or countries listed in § 110.27.

(f) Depleted uranium when fabricated as shielding and contained in radiographic exposure or teletherapy devices, in quantities not to exceed 500 pounds per device, to Southern Rhodesia, to the extent that such devices are for use in medical diagnosis or therapy.

(g) Uranium or thorium in any chemical mixture, compound, solution or alloy in which the uranium or thorium is by weight less than 0.05 percent, to any country, except Cambodia, Cuba, North Korea, Southern Rhodesia or Vietnam.

§ 110.24 Export of byproduct material.

The following general licenses are hereby issued authorizing any person to export:

(a) The following to any country, except Southern Rhodesia or countries listed in § 110.27:

(1) Byproduct material having an atomic number from 3 to 83, inclusive; or

(2) Tritium contained in luminous safety devices installed in aircraft as generally licensed items pursuant to § 31.7 of this chapter.

(b) Byproduct material having an atomic number from 3 to 83, inclusive, to Southern Rhodesia, to the extent that the byproduct material is contained in medicinals or pharmaceutical preparations or in devices, applicators, or appliances designed for use in medical diagnosis or therapy.

(c) 5,000 curies of tritium and 5,000 curies of polonium-210 in a calendar quarter to any country, except Southern Rhodesia, Poland, or Rumania or countries listed in § 110.27, provided that no more than 1,000 curies of tritium may be exported by any person to any one country in a calendar quarter; that no more than 100 curies of tritium may be exported by any person in a single shipment under this general license; and that the material is in one or more of the following forms or products:

(1) Tritium activitated luminous paint;

(2) Tritium labeled organic compounds;

(3) Tritiated accelerator targets;

(4) Polonium-210 static eliminators;

(5) Polonium-210 neutron sources;

(6) Tritium or Polonium-210 calibration standards;

(7) Luminescent light sources;

(8) Tritium sources for chromatography instruments;

(9) Electron tubes; or

(10) Tritium as a contaminant of helium-3 in a concentration not to exceed 2.5 millicuries of tritium per liter of helium-3.

(d) Byproduct material as specified in paragraph (c) to Southern Rhodesia, to the extent that the byproduct material is contained in medicinals or pharmaceutical preparations or in devices, applicators, or appliances designed for use in medical diagnosis or therapy.

(e) Americium-241 to any country, except Southern Rhodesia, Poland, Rumania or countries listed in § 110.27.

(f) Byproduct material having an atomic number from 3 to 83, inclusive, in labeled organic or inorganic compounds, in quantities up to 1 curie per shipment, to any country listed in § 110.27, except North Korea, Vietnam, Cambodia, Cuba, and Southern Rhodesia.

(g) Tritium in labeled organic compounds in quantities up to 100 curies per shipment, to Rumania, Poland, and any country listed in § 110.27, except North Korea, Vietnam, Cambodia, Cuba, and Southern Rhodesia.

§110.25 Export of deuterium.

A general license is hereby issued authorizing any person to export at any one time up to 100 liters of deuterium at standard temperature and pressure (90 grams of heavy water) to any country, except Southern Rhodesia or countries listed in § 110.27.

§ 110.26 Export of nuclear grade graphite.

A general license is hereby issued authorizing any person to export at any one time up to 100 kilograms of nuclear grade graphite to any country, except Southern Rhodesia or countries listed in §110.27, provided that no more than 2,000 kilograms per year may be exported by any one person to any one country.

§ 110.27 Restricted destinations.

(a) Albania, (b) Bulgaria, (c) Cambodia, (d) Cuba, (e) Czechoslovakia, (f) Estonia, (g) German Democratic Republic (including East Berlin), (h) Hungary, (i) Laos, (j) Latvia, (k) Lithuania, (l) North Korea, (m) Outer Mongolia, (n) Peoples Republic of China, (o) Union of Soviet Socialist Republics, and (p) Vietnam.

Subpart D—Applications for Specific Licenses

§ 110.30 Filing a license application.

(a) A license application shall be filed with the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or delivered in person to the Commission's offices at 1717 H Street NW., Washington, D.C. or 7735 Old Georgetown Road, Bethesda, Md.

(b) Except for production or utilization facilities, export license applications should be filed on form NRC-7.

(c) An application for a license to export a production or utilization facility or to import nuclear equipment or nuclear material should be filed by letter.

(d) An applicant may file a consolidated license application involving two or more proposed exports of similar equipment or material destined for the same country, provided all the exports will be made within 2 years, or other time period as approved by the Commission, and under reasonably similar circumstances.

(e) If an import license application involves equipment or material which is intended for subsequent export, the applicant may simultaneously apply for the appropriate export license. The issuance of an import license does not imply approval of a subsequent export.

(f) Information contained in a previous application may be incorporated by reference.

§ 110.31 General requirements for an export license application.

Each application for an export license shall state:

(a) Name and U.S. address of applicant;

(b) Name and address of supplier of equipment or material, if different from the applicant;

(c) Name and address of ultimate consignee(s);

(d) Name and address of intermediate consignee(s);

(e) Date of proposed first shipment;

(f) Date of proposed completion of final shipment;

(g) Contractual delivery dates, if established;

(h) Proposed expiration date of export license; and

(i) End-use of material or equipment by all consignees, intermediate and ultimate, with sufficient detail to permit accurate evaluation of the justification for the proposed export.

§ 110.32 Additional requirements for a nuclear equipment export license application.

An application for a license to export nuclear equipment shall state the following, in addition to the general information specified in § 110.31:

(a) General description of the equipment;

(b) For nuclear reactors, the design power level in thermal or electrical watts.

(c) Name of installation, if known, in which the equipment is to be used;

(d) Location where the equipment is to be used;

(e) Date when equipment is needed abroad;

(f) Total dollar value of all items to be exported under the requested license; and

(g) A list of the items proposed to be exported. Such list need only identify the items by the categories listed in paragraphs a. through e. of appendix A.

§ 110.33 Additional requirements for a nuclear material export license application.

Each application for a license to export nuclear material shall state the following, in addition to the general requirements in § 110.31:

(a) The applicable contract number, if known, of any material supplied under a Department of Energy enrichment, lease, or sale contract;

(b) Where materials are intended for use in production or utilization facility, estimated date of first use, by ultimate or intermediate consignee;

(c) Chemical and physical form, including, for enriched uranium, the weight percentage of isotopic enrichment, and, for plutonium, the sum of the percentages of Pu-239 content and Pu-241 content;

(d) Quantity in grams or kilograms (curies for byproduct material) of: (1) the material in the form exported, (2) any contained uranium or plutonium, and (3) the contained U-235 in enriched uranium; and

(e) If know, the country of origin of source and special nuclear material including the country where any special nuclear material was produced.

§ 110.34 Requirements for an import license application.

Each application for an import license shall state:

(a) Name and U.S. address of applicant;

(b) Country and installation from which the nuclear equipment or material is being imported;

(c) Name and address of supplier of the nuclear equipment or material;

(d) Destination and ultimate use of the nuclear equipment or material;

(e) Date of proposed first shipment;

(f) Date of proposed completion of final shipment;

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(g) Chemical and physical form of nuclear material, including, for enriched uranium, the weight percentage of enrichment and, for plutonium, the sum of the percentages of Pu-239 content and Pu-241 content;

(h) Quantity in grams or kilograms of: (1) the nuclear material in the form imported, (2) any contained uranium or plutonium, and (3) the contained U-235 in enriched uranium;

(i) Mode of transport of nuclear material and package identification (including IAEA Certificate of Competent Authority number); and

(j) If known, the country of origin of nuclear material including the country where any special nuclear material was produced.

110.35 Further information from a license applicant.

(a) The Commission may require further information from the license applicant if necessary to complete review of the application.

(b) Each applicant shall file an amendment to his license application whenever there is any substantive change in the information described in his application.

§ 110.36 Withdrawal of a license application.

(a) An applicant may withdraw his application at any time.

(b) An applicant shall withdraw an application when it is superseded by a new application or when he no longer intends to use his license if issued.

(c) The withdrawal of a license application does not authorize the removal of any NRC record from Commission files.

Subpart E—Review of License Applications

§ 110.40 Commission review.

(a) Immediately after receipt of a license application, the Commission will initiate its licensing review and, to the maximum extent feasible, will expeditiously process the application concurrently with review by the Executive Branch.

(b) License applications for export of the following will be reviewed by the Commissioners:

(1) Production and utilization facilities;

(2) One effective kilogram or more of special nuclear material, except for routine export license applications for reloads of low-enriched uranium fuel for use in power reactors with respect to which a previous export license to receive fuel has been issued;

(3) 10,000 kilograms or more of source material;

(4) 1,000 kilograms or more of heavy water or nuclear grade graphite;

(5) Any other license application determined by the staff or any Commissioner to warrant review by the Commission.

(c) If the Commission has not completed action on a license application within 60 days after receipt of the Executive Branch judgment, as provided for in § 110.41, or the license application when an Executive Branch judgment is not required, it will inform the applicant in writing of the reason for delay and, as appropriate, provide followup reports.

§ 110.41 Executive Branch review.

(a) Except as provided in paragraph (d), the Commission will promptly forward a properly completed export license application to the Executive Branch.

(b) The Executive Branch will be requested to:

(1) Provide its judgment as to whether the proposed export would be inimical to the common defense and security, along with supporting rationale and information.

(2) Where applicable, confirm that the proposed export would be under the terms of an agreement for cooperation; and

(3) Address the extent to which the export criteria in section 110.42 are met, if applicable, and the extent to which the recipient country or group of countries has adhered to the provisions of any applicable agreement for cooperation.

(c) The Commission may request the Executive Branch to address specific concerns and provide additional data and recommendations as necessary.

(d) The Executive Branch has informed the Commission that exports of nuclear equipment and nuclear material in the following categories would not be inimical to the common defense and security because they lack significance for nuclear explosive purposes and will not normally be reviewed by the Executive Branch:

(1) Byproduct material: all types and quantities, except tritium in quantities exceeding 100 curies;

(2) Source material: all exports for non-nuclear end-uses, and exports of less than 250 kilograms for nuclear end uses.

(3) Low-enriched uranium: all exports of 1 kilogram or less of contained U-235;

(4) High-enriched uranium: 0.040 effective kilograms or less;

(5) Plutonium and U-233: 10 grams or less;

(6) Deuterium: 1,000 liters or less (900 grams or less of heavy water);

(7) Nuclear grade graphite: 100 kilograms or less.

(8) Nuclear equipment: all exports with a value under $10,000.

This paragraph does not apply to exports with end-uses related to isotope separation, chemical reprocessing, heavy water production, plutonium handling, advanced reactors and initial export of nuclear equipment to foreign nuclear reactors, and is subject to other limitations which the Executive Branch or the Commission may, from time to time, deem necessary.

§ 110.42 Export licensing criteria.

(a) The review of specific license applications for the export for peaceful nuclear uses of production or utilization facilities, special nuclear material and source material will be governed by the following criteria:

(1) IAEA safeguards as required by Article III(2) of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) will be applied with respect to any such facilities or material proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof;

(2) No such facilities or material proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such facilities or material, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device;

(3) Adequate physical security measures will be maintained with respect to such facilities or material proposed to be exported and to any special nuclear material used in or produced through the use thereof. Physical security measures will be deemed adequate if such measures provide a level of protection equivalent to that set forth in § 110.423;

(4) No such facilities or material proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other country or group of countries unless the prior approval of the United States is obtained for such retransfer;

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor will be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration; and

(6) With respect to exports of such facilities or material to non-nuclear weapon states, for which the export license application is filed after September 10, 1979, or which will occur after March 10, 1980, IAEA safeguards will be maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the time of the export. This criterion will not be applied if the Commission has been notified by the President in writing that failure to approve an export because this criterion has not been met would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security, in which case the provisions of section 128 of the Atomic Energy Act regarding Congressional review will apply.

(b) The review of license applications for the export of nuclear equipment, other than a production or utilization facility, and for the export of deuterium and nuclear grade graphite will be governed by the following criteria:

(1) IAEA safeguards as required by Article III(2) of the NPT will be applied with respect to such equipment or material;

(2) No such equipment or material will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and

(3) No such equipment or material will be retransferred without the prior approval of the United States.

§ 110.43 Physical security standards.

(a) Commission determinations on the adequacy of physical security programs in recipient countries for Category I quantities of nuclear material (see Appendix C) will be based upon:

(1) Review of the physical security program established by the recipient country and of the implementation of the national requirements as considered through country visits and other information exchanges to ensure that the physical security measures provide as a minimum protection comparable to that set forth in International Atomic Energy Agency publication INFCIRC/225/Rev. 1 entitled "The Physical Protection of Nuclear Material" (INFCIRC/225), which is incorporated by reference in this part.[3]

(2) Written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

(3) The Commission's determinations may be based upon a country-wide finding rather than upon case-by-case analysis. The Commission will reexamine a determination whenever there are changed circumstances within a country that might reduce the effectiveness of its physical security program.

(b) Commission determinations on the adequacy of physical security programs in recipient countries for Category II and III quantities of material will be based on available relevant information and written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

(c) Commission determinations on the adequacy of physical security programs in recipient countries for exported facilities will be made in accordance with the categories of material in use or in storage at the exported facilities and will be based on available relevant information and written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

§ 110.44 Issuance or denial of licenses.

(a) The Commission will issue an export license if it has been notified by the State Department that it is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security, and:

(1) Finds, based upon a reasonable judgment of the assurances provided and other information available to the Federal Government, that:

(i) The applicable criteria in § 110.42, or their equivalent, are met, provided that failure to meet the provisions of § 110.42(a)(4) and (5) shall not prevent continued cooperation under an agreement for cooperation concluded pursuant to section 124 of the Atomic Energy Act if the Secretary of State notifies the Commission that the affected country or group of countries has agreed to negotiations as called for in section 404(a) of the Non-Proliferation Act and, if after March 10, 1980, that the President has provided an additional exemption pursuant to section 126a of the Atomic Energy Act;

(ii) The proposed export would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety; and

(iii) Any proposed export of a production or utilization facility or special nuclear material would be under the terms of an agreement for cooperation; or,

(2) Finds that there are no material changed circumstances associated with an export license application from those existing at the time of issuance of a prior license to the same country, if the prior license was issued pursuant to the other procedures in this part.

(b) If, after receiving the Executive Branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under the Atomic Energy Act, the Commission will publicly issue a decision to that effect, and will submit the license application to the President. The Commission's decision will include an explanation of the basis for the decision and any dissenting or separate views.

(c) After receipt of an Executive Branch judgment which does not recommend approval, the Commission may deny or return without action the applicable license application. The applicant will be notified in writing of the reason for denial or proposed denial, or the reason the application is being returned without action.

(d) The Commission will issue an import license if it determines that the proposed import would not be inimical to the common defense and security or constitute and unreasonable risk to the public health and safety.

§ 110.45 Conduct resulting in termination of nuclear exports.

(a) Except as provided in paragraph (c), no license will be issued to export nuclear equipment or material to any non-nuclear weapon state that is found by the President to have, after March 10, 1978:

(1) Detonated a nuclear explosive device;

(2) Terminated or abrogated IAEA safeguards;

(3) Materially violated an IAEA safeguards agreement; or

(4) Engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and failed to take steps which represent sufficient progress toward terminating such activities.

(b) Except as provided in paragraph (c), no license will be issued to export nuclear equipment or material to any country or group of countries that is found by the President to have, after March 10, 1978:

(1) Materially violated an agreement for cooperation with the United States or the terms of any other agreement under which nuclear equipment or material has been exported;

(2) Assisted, encouraged or induced any non-nuclear weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquistion of nuclear explosive devices, and failed to take steps which represent sufficient progress toward

[3] This incorporation by reference was approved by the Director of the Federal Register on May 3, 1978. Copies of INFCIRC/225 may be obtained from the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and are available for inspection in the Commission Public Document Room. A copy is on file in the library of the Federal Register.

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terminating such assistance, encouragement or inducement; or

(3) Entered into an agreement for the transfer of reprocessing equipment, materials or technology to the sovereign control of a non-nuclear weapon state, except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to an international agreement or understanding to which the United States subscribes.

(c) If, pursuant to section 129 of the Atomic Energy Act, the President waives the requirement for the termination of exports to a country described in paragraph (a) or (b) after determining in writing that the cessation of exports would seriously prejudice the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the Commission may issue licenses if other applicable statutory provisions are met.

Subpart F—License Terms and Related Provisions

§ 110.50 Terms.

(a) General and specific licenses.

(1) Each license is subject to all applicable provisions of the Atomic Energy Act and to all applicable rules, regulations, decisions and orders of the Commission.

(2) Each license is subject to amendment, suspension, revocation or incorporation of separate conditions when required by amendments of the Atomic Energy Act or other applicable law, or by other rules, regulations, decisions or orders issued in accordance with the terms of the Atomic Energy Act or other applicable law.

(3) Each license authorizes export or import only and does not authorize any person to receive title to, acquire, receive, possess, deliver, use or transfer nuclear equipment or material.

(4) Each nuclear material license authorizes the export or import of only the nuclear material and accompanying packaging and fuel element hardware.

(5) No nuclear equipment license confers authority to export or import nuclear material.

(6) Each nuclear equipment export license authorizes the export of only those items required for use in the foreign nuclear installation for which the items are intended.

(7) A licensee shall not proceed to export or import and shall notify the Commission promptly if he knows or has reason to believe that the packaging requirements of Part 71 of this chapter have not been met.

(b) Specific licenses. (1) Each specific license will have an expiration date.

(2) A licensee may export or import only for the purpose stated in his license application, except when any nuclear equipment exported pursuant to his license is scrapped or otherwise rendered unsuitable for any nuclear related end use.

(3) A licensee shall promptly return any license which is completed, expired, revoked or unused (or partially used and not intended to be used further) to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5) A licensee authorized to export or import special nuclear material is responsible for compliance with the physical protection requirements of Part 73 of this chapter, unless a domestic licensee of the Commission has assumed that responsibility and the Commission has been so notified.

(6) A license may be transferred, assigned or disposed of to another person only with the approval of the Commission by license amendment.

§ 119.51 Amendment and renewal of licenses.

(a) A licensee may submit a request to renew his license or to amend any part of his license, except that changes in the value of nuclear equipment already authorized for export do not require a license amendment.

(b) If a licensee submits a renewal request at least 30 days prior to the license's scheduled expiration date, the license will remain valid until the Commission has acted on his request.

(c) The Commission will review requests for amendments using, as appropriate, the same procedures and standards as for original license applications.

§ 110.52 Revocation, suspension, and modification.

(a) A license may be revoked, suspended, or modified for a condition which would warrant denial of the original license application.

(b) The Commission may require further information from a licensee to determine whether a license should be revoked, suspended, or modified.

(c) Except when the common defense and security or public health and safety requires otherwise, no license will be revoked, suspended, or modified before the licensee is informed in writing of the grounds for such action and afforded the opportunity to reply and be heard under procedures patterned on those in subpart J.

§ 110.53 United States address, records, and inspections.

(a) Each licensee shall have an office in the United States where papers may be served and where records required by the Commission will be maintained.

(b) Each licensee shall maintain records concerning his exports or imports for 5 years after each export or import, except that by product material records shall be maintained for 2 years.

(c) Each licensee shall permit the Commission to inspect his records, premises, and activities pertaining to his exports and imports when necessary to fulfill the requirements of the Atomic Energy Act.

Subpart G—Violations and Enforcement

§ 110.60 Violations.

(a) A licensee who violates a provision of the Atomic Energy act or title II of the Energy Reorganization Act or of any rule, regulation, license, or order promulgated under these Acts may be guilty of a crime, and, upon conviction, may be punished by fine and imprisonment as provided by law;

(b) An injuction or other court order may be obtained to prohibit any such violation.

(c) A court order may be obtained for payment of a civil penalty imposed pursuant to section 234 of the Atomic Energy Act.

(d) A violation may result in the revocation, suspension, or modification of a license.

§ 110.61 Notice of violation.

(a) Before instituting any enforcement action the Commission will serve on the licensee written notice of violation, except as provided in paragraph (d).

(b) The notice will state the alleged violation; require the licensee to respond in writing, within 20 days or other specified time; and may also require the licensee to state the corrective steps taken or to be taken and the date when full compliance will be achieved.

(c) The notice may provide that, if an adequate and timely reply is not received, an order to show cause may be issued pursuant to § 110.62 or a proceeding instituted to impose a civil penalty pursuant to § 110.64.

(d) The notice may be omitted and an order to show cause issued when the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

§ 110.62 Order to show cause.

(a) In response to an alleged violation, described in § 110.60, the Commission may institute a proceeding to revoke, suspend, or modify a license by issuing an order to show cause:

(1) Stating the alleged violation and proposed enforcement action; and

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing.

(b) An answer consenting to the proposed enforcement action shall constitute a waiver by the licensee of a hearing and of all rights to seek further Commission or judicial review.

(c) The order to show cause may be omitted and an order issued to revoke, suspend, or modify the license in cases where the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

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§ 110.63 Order for revocation, suspension, or modification.

(a) In response to an alleged violation described in § 110.60, the Commission may revoke, suspend, or modify a license by issuing an order:

(1) Stating the violation and the effective date of the proposed enforcement action; and

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing.

(b) If an answer is not filed within the time specified, the enforcement action will become effective and permanent as proposed.

(c) If a timely answer is filed, the Commission, after considering the answer, will issue an order dismissing the proceeding, staying the effectiveness of the order or taking other appropriate action.

(d) The order may be made effective immediately, with reasons stated, pending further hearing and order, when the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

§ 110.64 Civil penalty.

(a) In response to a violation, the Commission may institute a proceeding to impose a civil penalty under section 234 of the Atomic Energy Act by issuing a notice to the licensee:

(1) Stating the alleged violation and the amount of the proposed penalty;

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer; and

(3) Advising that a delinquent payment for a subsequently imposed penalty may be referred to the Attorney General for collection pursuant to section 234c. of the Atomic Energy Act.

(b) If an answer is not filed within the time specified, the Commission will issue an order imposing the proposed penalty.

(c) If a timely answer is filed, the Commission, after considering the answer, will issue an order dismissing the proceeding or imposing a penalty subject to any required hearing.

(d) If an order imposing a civil penalty is issued, the licensee may request a hearing within 20 days or other specified time.

(e) Except when the matter has been referred to the Attorney General for collection, payment of penalties shall be made by check, draft, or money order payable to the Treasurer of the United States, and mailed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(f) An enforcement action to impose a civil penalty will not itself revoke, modify, or suspend any license under this part.

§ 110.65 Settlement and compromise.

At any time after issuance of an order for any enforcement action under this subpart, an agreement may be entered into for settlement of the proceeding or compromise of a penalty. Upon approval by the Commission, or presiding officer if a hearing has been requested, the terms of the settlement or compromise will be embodied in the order disposing of the enforcement action.

§ 110.66 Enforcement hearing.

(a) If the licensee demands a hearing, the Commission will issue an order specifying the time and place.

(b) A hearing pursuant to this subpart will be conducted under the procedures in subpart G of Part 2.

Subpart H—Public Notification and Availability of Documents and Records

§ 110.70 Public notice of receipt of an application.

(a) The Commission will notice the receipt of each export or import license application by placing a copy in the Public Document Room.

(b) The Commission will also notice in the FEDERAL REGISTER, receipt of applications for:

(1) Production and utilization facilities;

(2) One effective kilogram or more of special nuclear material; and

(3) 10,000 kilograms or more of source material, heavy water, or nuclear grade graphite.

(c) Periodic lists of applications received may be obtained upon request addressed to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

§ 110.71 Notice of withdrawal of an application.

The Commission will notice the withdrawal of an application by placing a copy of the withdrawal request in the Public Document Room.

§ 110.72 Availability of documents in the Public Document Room.

Unless exempt from disclosure under part 9 of this chapter, the following documents pertaining to each license application and license will be made available in the Public Document Room:

(a) The license application and any requests for amendments;

(b) Commission correspondence with the applicant or licensee;

(c) FEDERAL REGISTER notices;

(d) The Commission letter requesting Executive Branch views;

(e) Correspondence from the State Department with Executive Branch views;

(f) Correspondence from foreign governments and international organizations;

(g) Filings pursuant to subpart I and Commission and Executive Branch responses, if any;

(h) If a hearing is held, the hearing record and decision;

(i) A statement of staff conclusions; and

(j) The license, requests for license amendments and amendments.

§ 110.73 Availability of NRC records.

(a) Commission records under this part will be made available to the public only in accordance with part 9 of this chapter.

(b) Proprietary information provided under this part may be protected under part 9 and § 2.790 (b), (c), and (d) of this chapter.

Subpart I—Public Participation Procedures Concerning License Applications

§ 110.80 Basis for hearings.

The procedures in this Part will constitute the exclusive basis for hearings on export license applications.

§ 110.81 Written comments.

(a) The Commission encourages written comments from the public regarding export and import license applications. The Commission will consider and, if appropriate, respond to these comments.

(b) If possible, these comments should be submitted within 30 days after public notice of receipt of the application and addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(c) The Commission will provide the applicant with a copy of the comments and, if appropriate, a reasonable opportunity for response.

§ 110.82 Hearing request or intervention petition.

(a) A person may request a hearing or petition for leave to intervene on a license application.

(b) Hearing requests and intervention petitions shall:

(1) State the name, address and telephone number of the requestor or petitioner;

(2) Set forth the issues sought to be raised;

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(3) Explain why a hearing or an intervention would be in the public interest and how a hearing or intervention would assist the Commission in making the determinations required by sections 53, 57c, 63, 64, 69, 81, 82, 103, 104, 109, 126, 127, or 128 of the Atomic Energy Act, as appropriate;

(4) Specify, when a person asserts that his interest may be affected, both the facts pertaining to his interest and how it may be affected, with particular reference to the factors in § 110.84.

(c) Hearing requests and intervention petitions will be considered timely only if filed not later than:

(1) 30 days after notice of receipt in the FEDERAL REGISTER, for those applications published in the FEDERAL REGISTER;

(2) 15 days after notice of receipt in the Public Document Room, for all other applications; or

(3) Such other time as may be provided by the Commission.

§ 110.83 Answers and replies.

(a) Unless otherwise specified by the Commission, an answer to a hearing request or intervention petition may be filed within 30 days after the request or petition has been filed, for those applications noticed in the FEDERAL REGISTER, or within 10 days for all other applications.

(b) Unless otherwise specified by the Commission, a reply to an answer may be filed within 10 days after all timely answers have been filed.

(c) Answers and replies should address the factors in § 110.84.

§ 110.84 Commission action on a hearing request or intervention petition.

(a) In an export licensing proceeding, or in an import licensing proceeding in which a hearing request or intervention petition does not assert or establish an interest which may be affected, the Commission will consider:

(1) Whether a hearing would be in the public interest; and

(2) Whether a hearing would assist the Commission in making the statutory determinations required by the Atomic Energy Act.

(b) If a hearing request or intervention petition asserts an interest which may be affected, the Commission will consider:

(1) The nature of the alleged interest;

(2) How that interest relates to issuance or denial; and

(3) The possible effect of any order on that interest, including whether the relief requested is within the Commission's authority, and, if so, whether granting relief would redress the alleged injury.

(c) Untimely hearing requests or intervention petitions may be denied unless good cause for failure to file on time is established. In reviewing untimely requests or petitions, the Commission will also consider:

(1) The availability of other means by which the requestor's or petitioner's interest, if any, will be protected or represented by other participants in a hearing; and

(2) The extent to which the issues will be broadened or action on the application delayed.

(d) Prior to granting or denying a hearing request or intervention petition, the Commission may request further information from the petitioner, requestor, the Commission staff, the Executive Branch or others, and will not grant a hearing request prior to receipt and evaluation of Executive Branch views on the license application.

(e) The Commission will deny a request or petition that pertains solely to matters outside its jurisdiction.

(f) If an issue has been adequately explored in a previous licensing hearing conducted pursuant to this part, a request for a new hearing in connection with that issue will be denied unless:

(1) A hearing request or intervention petition establishes that an interest may be affected; or

(2) The Commission determines that changed circumstances or new information warrant a new hearing.

(g) After consideration of the factors covered by paragraphs (a) through (f), the Commission will issue a notice or order granting or denying a hearing request or intervention petition. Upon the affirmative vote of two Commissioners a hearing will be ordered. A notice granting a hearing will be published in the FEDERAL REGISTER and will specify whether the hearing will be oral or consist of written comments. A denial notice will set forth the reasons for denial.

§ 110.85 Notice of hearing consisting of written comments.

(a) A notice of hearing consisting of written comments will:

(1) State the issues to be considered;

(2) Provide the names and addresses of participants;

(3) Specify the time limits for participants and others to submit written views and respond to any written comments; and

(4) State any other instructions the Commission deems appropriate.

(b) The Secretary will give notice of any hearing under this section and § 110.86 to any person who so requests.

§ 110.86 Notice of oral hearing.

(a) A notice of oral hearing will:

(1) State the time, place and issues to be considered;

(2) Provide names and addresses of participants;

(3) Designate the presiding officer;

(4) Specify the time limit for participants and others to indicate whether they wish to present views; and

(5) State any other instructions the Commission deems appropriate.

(b) If the Commission is not the presiding officer, the notice of oral hearing will also state:

(1) When the jurisdiction of the presiding officer commences and terminates;

(2) The powers of the presiding officer; and

(3) Instructions to the presiding officer to certify promptly the completed hearing record to the Commission without preliminary decision or findings, unless the Commission directs otherwise.

§ 110.87 Conditions in a notice or order.

(a) A notice or order granting a hearing or permitting intervention may restrict irrelevant or duplicative testimony, or require common interests to be represented by a single spokesman.

(b) If a participant's interests do not extend to all the issues in the hearing, the notice or order may limit his participation accordingly.

(c) Unless authorized by the Commission, the granting of participation will not broaden the hearing issues.

§ 110.88 Authority of the Secretary.

The Secretary is authorized to prescribe time schedules and other procedural arrangements, when not covered by this part, and rule on related procedural requests.

§ 110.89 Filing and service.

(a) Hearing requests, intervention petitions, answers, replies, and accompanying documents shall be filed with the Commission by delivery or by mail or telegram to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(b) All filings and Commission notices and orders shall be served, as appropriate, upon the applicant; the Executive Legal Director, Nuclear Regulatory Commission, Washington, D.C. 20555; the Executive Secretary, Department of State, Washington, D.C. 20520; and participants, if any.

(c) Service is completed by:

(1) Delivering the paper to the person; or leaving it in his office with someone in charge; or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if he has no office or it is closed, leaving it at his usual place of residence with some occupant of suitable age and discretion;

(2) Depositing it with a telegraph company, properly addressed and with charges prepaid;

(3) Depositing it in the United States mail, properly stamped and addressed; or

(4) Any other manner authorized by law, when service cannot be made as provided in subparagraphs (1) through (3).

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(d) Proof of service, stating the name and address of the person served and the manner and date of service, shall be shown, and may be made by:

(1) Writen acknowledgement of the person served or his authorized representative; or

(2) The certificate or affidavit of the person making the service.

(e) The Commission may make special provisions for service when circumstances warrant.

§ 110.90 Computation of time.

(a) In computing time, the first day of a designated time period is not included and the last day is included. If the last day is a Saturday, Sunday or legal holiday at the place where the required action is to be accomplished, the time period will end on the next day which is not a Saturday, Sunday or legal holiday.

(b) In time periods of 7 days or less, Saturdays, Sundays and holidays are not counted.

(c) Whenever an action is required within a prescribed period by a paper served pursuant to § 110.89, 3 days shall be added to the prescribed period if service is by mail.

(d) An interpretation of this section is contained in § 8.3 of this chapter.

§ 110.91 Commission consultations.

(a) The Commission may consult at any time on a license application with the staff, Executive Branch or other persons.

(b) Where the Commission seeks public comment on procedural questions involving grant or denial of intervention petitions, the views of the Commission staff and the Executive Branch on standing and a hearing as a matter of right will be expressed through their public responses, except to the extent that classified information is involved.

(c) The views of the Commission staff and Executive Branch on whether a hearing should be held as a matter of discretion will be placed in the Public Document Room upon receipt by the Commissioners, except to the extent that these views are classified. The petitioners and the applicant will be notified at the time views on discretionary hearings are placed in the Public Document Room and provided a copy upon request.

Subpart J—Hearings

§ 110.100 Public hearings.

Hearings under this part will be public unless the Commission directs otherwise.

§ 110.101 Filing and service.

Filing and service of hearing documents shall be pursuant to § 110.89.

§ 110.102 Hearing docket.

For each hearing, the Secretary will maintain a docket which will include the hearing transcript, exhibits and all papers filed or issued pursuant to the hearing.

§ 110.103 Acceptance of hearing documents.

(a) Each document filed or issued shall be bound on the left side, clearly legible, and shall bear the docket number, license application number and hearing title.

(b) Each document shall be filed in one original and signed by the participant or his authorized representative, with his address and date of signature indicated. The signature is a representation that the document is submitted with full authority, the signator knows its contents and that, to the best of his knowledge, the statements made in it are true.

(c) A document not meeting the requirements of this section may be returned with an explanation for nonacceptance and, if so, will not be docketed.

§ 110.104 Presiding officer.

(a) The full Commission will ordinarily be the presiding officer at a hearing under this part. However, the Commission may provide in a hearing notice that one or more Commissioners, or any other person as provided by law, will preside.

(b) A participant may submit a written motion for the disqualification of any person presiding. The motion shall be supported by affidavit setting forth the alleged grounds for disqualification. If the presiding officer does not grant the motion or the person does not disqualify himself, the Commission will decide the matter.

(c) If any presiding officer designated by the Commission deems himself disqualified, he shall withdraw by notice on the record after notifying the Commission.

(d) If a presiding officer becomes unavailable, the Commission will designate a replacement.

(e) Any motion concerning the designation of a replacement presiding officer shall be made within 5 days after the designation.

(f) Unless otherwise ordered by the Commission, the jurisdiction of a presiding officer other than the Commission commences as designated in the hearing notice and terminates upon certification of the hearing record to the Commission, or when the presiding officer is disqualified.

§ 110.105 Responsibility and power of the presiding officer in an oral hearing.

(a) The presiding officer in any oral hearing shall conduct a fair hearing, develop a record that will contribute to informed decisionmaking, and, within the framework of the Commission's orders, have the power necessary to achieve these ends, including the power to:

(1) Take action to avoid unnecessary delay and maintain order;

(2) Dispose of procedural requests;

(3) Question participants and witnesses, and entertain suggestions as to questions which may be asked of participants and witnessess;

(4) Order consolidation of participants;

(5) Establish the order of presentation;

(6) Hold conferences before or during the hearing;

(7) Establish reasonable time limits;

(8) Limit the number of witnesses; and

(9) Strike or reject duplicative or irrelevant presentations.

(b) Where the Commission itself does not preside:

(1) The presiding officer may certify questions or refer rulings to the Commission for decision;

(2) Any hearing order may be modified by the Commission; and

(3) The presiding officer will certify the completed hearing record to the Commission, which may then issue its opinion on the hearing or provide that additional testimony be presented.

§ 110.106 Participation in a hearing.

(a) Unless otherwise limited by this part or by the Commission, participants in a hearing may submit:

(1) Initial and concluding written statements of position on the issues;

(2) Written questions to the presiding officer; and

(3) Written responses and rebuttal testimony to the statements of other participants.

(b) Participants in an oral hearing may also submit oral statements, questions, responses and rebuttal testimony.

(c) A participant in an import licensing hearing establishing that his interest may be affected, may be accorded additional procedural rights under Subpart G of Part 2 with respect to resolution of domestic factual issues regarding the public health, safety and environment of the United States, and the protection of the United States public against domestic theft, diversion or sabotage, to the extent that such issues are separable from the nondomestic issues associated with the license application.

§ 110.107 Presentation of testimony in an oral hearing.

(a) All direct testimony in an oral hearing shall be filed no later than 7 days before the hearing or as otherwise ordered or allowed.

(b) Written testimony will be received into evidence in exhibit form.

(c) Unless proscribed under § 110.87, members of groups which are designated as participants may testify in their individual capacities.

(d) Participants may present their own witnesses.

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(e) Testimony by the Commission and the Executive Branch will be presented only by persons officially designated for that purpose.

(f) Participants and witnesses will be questioned orally or in writing and only by the presiding officer. Questions may be addressed to individuals or to panels of participants or witnesses.

(g) The presiding officer may accept written testimony from a person unable to appear at the hearing, and may request him to respond to questions.

(h) No subpoenas will be granted at the request of participants for attendance and testimony of participants or witnesses or the production of evidence.

§ 110.108 Appearance in an oral hearing.

(a) A participant may appear in a hearing on his own behalf or be represented by an authorized representative.

(b) A person appearing shall file a written notice stating his name, address and telephone number, and if an authorized representative, the basis of his eligibility and the name and address of the participant on whose behalf he appears.

(c) A person may be excluded from a hearing for disorderly, dilatory or contemptuous conduct, provided he is informed of the grounds and given an opportunity to respond.

§ 110.109 Motions and requests.

(a) Motions and requests shall be addressed to the presiding officer, and, if written, also filed with the Secretary and served on other participants.

(b) Other participants may respond to the motion or request. Responses to written motions or requests shall be filed within 5 days after service.

(c) When the Commission does not preside, in response to a motion or request, the presiding officer may refer a ruling or certify a question to the Commission for decision and notify the participants.

(d) Unless otherwise ordered by the Commission, a motion or request, or the certification of a question or referral of a ruling, shall not stay or extend any aspect of the hearing.

§ 110.110 Default.

When a participant fails to act within a specified time, the presiding officer may consider him in default, issue an appropriate ruling and proceed without further notice to the defaulting participant.

§ 110.111 Waiver of a rule or regulation.

(a) A participant may petition that a Commission rule or regulation be waived with respect to the license application under consideration.

(b) The sole ground for a waiver shall be that, because of special circumstances concerning the subject of the hearing, application of a rule or regulation would not serve the purposes for which it was adopted.

(c) Waiver petition shall specify why application of the rule or regulation would not serve the purposes for which it was adopted.

(d) Other participants may, within 10 days, file a response to a waiver petition.

(e) When the Commission does not preside, the presiding officer will certify the waiver petition to the Commission, which, in response, will grant or deny the waiver or direct any further proceedings.

(f) Regardless of whether a waiver is granted or denied, a separate petition for rulemaking may be filed pursuant to Subpart L of this part.

§ 110.112 Reporter and transcript for an oral hearing.

(a) A reporter designated by the Commission will record an oral hearing and prepare the official hearing transcript.

(b) Except for any classified portions, transcripts will be placed in the Public Document Room, and copies may be purchased from the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(c) Corrections of the official transcript may be made only as specified by the Secretary.

§ 110.113 Commission action.

(a) Upon completion of a hearing, the Commission will issue a written opinion including its decision on the license application, the reasons for the decision and any dissenting views.

(b) While the Commission will consider fully the hearing record, the licensing decision will be based on all relevant information, including information which might go beyond that in the hearing record.

(c) If the Commission considers information not in the hearing record in reaching its licensing decision, the hearing participants will be informed and, if not classified or otherwise privileged, the information will be placed in the Public Document Room and furnished to the participants.

(d) The Commission may issue a license before completion of a hearing if it finds that:

(1) Prompt issuance is required in the public interest, particularly the common defense and security; and

(2) A participant establishing that his interest may be affected has been provided a fair opportunity to present his views.

(e) The Commission may:

(1) Defer any hearing;

(2) Consolidate applications for hearing;

(3) Narrow or broaden the hearing issues; and

(4) Take other action, as appropriate.

Subpart K—Special Procedures for Classified Information in Hearings

§ 110.120 Purpose and scope.

(a) This subpart contains special procedures concerning access to, and introduction of, classified information into hearings under this part.

(b) These procedures do not in any way apply to classified information exchanged between the Executive Branch and the Commission not introduced into a hearing. Such information will be declassified to the maximum extent feasible. The public statements of the Commission staff and Executive Branch will, to the extent consistent with classification requirements, reflect consideration of any such classified information.

§ 110.121 Security clearances and access to classified information.

(a) No person without a security clearance will have access to classified information.

(b) Only the Commission will act upon an application for access to classified information.

(c) To the extent practicable, applications for access to classified information shall describe the information to which access is desired and its level of classification (confidential, secret or other); the reasons for requesting access; the names of individuals for whom access is requested; and the reasons why access is requested for those individuals.

(d) The Commission will consider requests for appropriate security clearances in reasonable numbers; conduct its review and grant or deny these in accordance with Part 10 of this chapter; and make a reasonable charge to cover costs.

(e) The Commission will not grant security clearances for access to classified information, unless it determines that the available unclassified information is inadequate on the subject matter involved.

(f) When an application demonstrates that access to classified information not introduced into a hearing may be needed to prepare a participant's position on the hearing issues, the Commission may issue an order granting access to this information to the participant, his authorized representative or other persons. Access will be subject to the conditions in paragraphs (e) and (j) and will not be granted unless required security clearances have been obtained.

(g) Once classified information has been introduced into a hearing, the Commission will grant access to a participant, his authorized representative or such other persons as the Commission determines may be needed by the participant to prepare his position on the hearing issues. Access will be subject to the conditions in paragraph (e) and (j) and will not be granted unless required security clearances have been obtained.

(h) For good cause, the Commission may postpone action upon an application for access to classified information.

(i) The Commission will grant access to classified information only up to the level for which the persons described in paragraphs (f) and (g) of this section are cleared and only upon an adequate commitment by them not to disclose such information subject to penalties as provided by law.

(j) The Commission will not in any circumstances grant access to classified information:

(1) Unless it determines that the grant is not inimical to the common defense and security; and

(2) Which it has received from another Government agency, without the prior consent of the originating agency.

(k) Upon completion of a hearing, the Commission will terminate all security clearances granted pursuant to the hearing and may require the disposal of classified information to which access has been granted or the observance of other procedures to safeguard this information.

§ 110.122 Classification assistance.

On the request of any hearing participant or the presiding officer (if other than the Commission), the Commission will designate a representative to advise and assist the presiding officer or the participants with respect to security classification of information and the protective requirements to be observed.

§ 110.123 Notice of intent to introduce classified information.

(a) A participant shall seek the required security clearances, where necessary, and file with the Secretary a notice of intent to introduce classified information into a hearing at the earliest possible time after the notice of hearing.

(b) If a participant has not filed a notice of intent in accordance with this section, he may introduce classified information only if he gives to the other participants and the Commission prompt written notice of intent and only as permitted by the Commission when it determines that the public interest will not be prejudiced.

(c) The notice of intent shall be unclassified and, to the extent consistent with classification requirements, state:

(1) The subject matter of the classified information, which it is anticipated will be involved;

(2) The highest level of classification of the information (confidential, secret or other);

(3) When it is anticipated that the information would be introduced; and

(4) The relevance and materiality of the information to the hearing issues.

§ 110.124 Rearrangement or suspension of a hearing.

When a participant gives notice of intent to introduce classified information and other participants do not have the required security clearances, subject to § 110.121, the Commission may:

(a) Suspend or rearrange the normal order of the hearing to give other participants an opportunity to obtain the required security clearances with minimum delay in the conduct of the hearing; or

(b) Take such other action as it determines to be in the public interest.

§ 110.125 Unclassified statements required.

(a) It is the obligation of hearing participants to introduce information in unclassified form wherever possible, and to declassify, to the maximum extent feasible, any classified information introduced into the hearing. This obligation rests on each participant whether or not any other participant has the required security clearances.

(b) When classified information is offered for introduction into a hearing:

(1) The participant offering it shall, to the extent consistent with classification requirements, submit to the presiding officer and other participants an unclassified statement describing the substance of the classified information as accurately and completely as possible;

(2) In accordance with procedures agreed upon by the participants or prescribed by the presiding officer, and after notice to all participants and opportunity to be heard on the notice, the presiding officer will determine whether an unclassified statement may be substituted for the classified information in the hearing record without prejudice to the interest of any participant or the public;

(3) If the Commission determines that the unclassified statement (together with such unclassified modifications as it finds are necessary or appropriate to protect the interest of other participants and the public) adequately sets forth information in the classified matter which is relevant and material to the issues in the hearing, it will direct that the classified matter be excluded from the record of the hearing; and

(4) The Commission may postpone any of the procedures in this section until all other evidence has been received. However, a participant shall not postpone service of any unclassified statement required in this section.

§ 110.126 Protection of classified information.

Nothing in this subpart shall relieve any person from safeguarding classified information as required by law and rules, regulations or orders of any Government agency.

Subpart L—Rulemaking

§ 110.130 Initiation of rulemaking.

The Commission may initiate action to amend the regulations in this part on its own initiative or in response to a petition.

§ 110.131 Petition for rulemaking.

(a) A petition for rulemaking should be addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(b) The petition shall state the basis for the requested amendment.

(c) The petition may request the Commission to suspend all or part of any licensing proceeding under this part pending disposition of the petition.

(d) The Secretary will assign a docket number to the petition, place a copy in the Public Document Room and notice its receipt in the FEDERAL REGISTER.

(e) Publication may be limited by order of the Commission to the extent required by section 181 of the Atomic Energy Act.

§ 110.132 Commission action on a petition.

(a) The Commission may grant or deny the petition in whole or in part.

(b) If the petition is granted, a notice of proposed rulemaking or a notice of rulemaking will be published in the FEDERAL REGISTER.

(c) If the petition is denied, the petitioner will be informed of the grounds.

(d) Commission action on a petition will normally follow, whenever appropriate, receipt and evaluation of Executive Branch views.

(e) The Commission, in exercising the discretion authorized by section 4(a)(1) of the Administrative Procedure Act (5 U.S.C. 553(a)(1)), will decide what, if any, public rulemaking procedures will be followed.

§ 110.133 Notice of proposed rulemaking.

(a) When the Commission proposes to amend the regulations in this part, it will normally publish a notice of proposed rulemaking in the FEDERAL REGISTER.

(b) A notice of proposed rulemaking will include:

(1) The authority for the proposed rule;

(2) The substance and purpose of the proposed rule;

(3) Directions for public participation;

(4) The time and place of any public hearing; and

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(5) If a hearing is to be held by other than the Commission, designating of a presiding officer and instructions for the conduct of the hearing.

(c) A notice of proposed rulemaking will be published not less than 15 days before any hearing, unless the Commission for good cause provides otherwise in the notice.

§ 110.134 Public participation.

(a) The Commission may hold an oral hearing on a proposed rule or permit any person to participate in a rulemaking proceeding through the submission of written comments.

(b) When it is in the public interest and is authorized by law, public rulemaking procedures may be omitted and a notice of rulemaking published pursuant to § 110.135.

§ 110.135 Notice of rulemaking.

(a) Upon approval of an amendment, the Commission will publish in the FEDERAL REGISTER a notice of rulemaking which includes a statement of its basis and purpose, effective date and, where appropriate, any significant variations from the amendment as proposed in any notice of proposed rulemaking.

(b) The effective date of an amendment will normally be no earlier than 30 days after publication of the notice of rulemaking, unless the Commission for good cause provides otherwise in the notice.

APPENDIX A—LIST OF NUCLEAR EQUIPMENT AND MATERIAL UNDER NRC EXPORT/IMPORT LICENSING AUTHORITY [1]

[1] Except for production and utilization facilities and the nuclear material listed in paragraphs (f), (g), and (h), applications for licenses to export the nuclear equipment and materials in this Appendix will be processed by the Department of Commerce until July 8, 1978.

(a) Nuclear reactors and specially designed or prepared parts and components therefor as follows:

(1) Reactor pressure vessels, i.e., metal vessels as complete units or as major shop-fabricated parts therefor, which are specially designed to contain the core of a nuclear reactor and are capable of withstanding the operating pressure of the primary coolant.

(2) Reactor fuel charging and discharging machines, i.e., manipulative equipment specially designed or prepared for inserting or removing fuel in a nuclear reactor.

(3) Reactor control rods, i.e., rods specially designed or prepared for the control of the reaction rate in a nuclear reactor.

(4) Reactor pressure tubes, i.e., tubes specially designed or prepared to contain fuel elements and the primary coolant in a nuclear reactor at an operating pressure in excess of 50 atmospheres.

(5) Reactor primary coolant pumps, i.e., pumps specially designed or prepared for circulating the primary coolant in nuclear reactors.

(6) Zirconium tubes, i.e., zirconium metal and alloys in the form of tubes or assemblies of tubes specially designed or prepared for use in a nuclear reactor.

(7) Reactor internals, e.g., core support structures, control rod guide tubes, thermal shields, baffles, core grid plates and diffuser plates specially designed or prepared for use in a nuclear reactor.

(8) Reactor control rod drive mechanisms, including detection and measuring equipment to determine flux levels.

(9) Any other component specially designed or prepared for use in a nuclear reactor.

(10) Specially designed or prepared parts and components for any of the above.

(b) Plants for the separation of the isotopes of source material, special nuclear material or lithium, and specially designed or prepared equipment and components therefor as follows:

(1) Uranium hexafluoride (UF_6) corrosion resistant valves.

(2) Units capable of separating isotopes of source material, special nuclear material or lithium, such as (i) gas centrifuges, (ii) jet nozzle separation units, (iii) vortex separation units, and (iv) laser isotope separation units.

(3) Uranium hexafluoride (UF_6) corrosion resistant axial or centrifugal compressors, and specially designed or prepared seals for such compressors.

(4) Gaseous diffusion barriers specially designed or prepared for use in separating isotopes of source material, special nuclear material or lithium.

(5) Gaseous diffuser housings specially designed or prepared for use in plants for separating isotopes of source material, special nuclear material or lithium.

(6) Heat exchangers specially designed or prepared for use in gaseous diffusion plants.

(7) Any other equipment or component specially designed or prepared for use in an isotope spearation plant.

(8) Specially designed or prepared parts and components for any of the above.

(c) Plants for the reprocessing of irradiated nuclear reactor fuel elements or irradiated lithium and specially designed or prepared equipment and components therefor as follows:

(1) Fuel element chopping machines, i.e., remotely operated equipment specially designed or prepared to cut, chop or shear irradiated nuclear reactor fuel assemblies, bundles or rods.

(2) Criticality safe tanks, i.e., small diameter, annular or slab tanks specially designed or prepared for the dissolution of irradiated nuclear reactor fuel.

(3) Countercurrent solvent extractors specially designed or prepared for use in a reprocessing plant.

(4) Process control instrumentation specially designed or prepared for monitoring or controlling the processing of material in a reprocessing plant.

(5) Any other equipment or components specially designed or prepared for use in a reprocessing plant.

(6) Specially designed or prepared parts and components for any of the above.

(d) Plants for the fabrication of nuclear reactor fuel elements and specially designed or prepared parts and components therefor (export only).

(e) Plants for the production of heavy water, deuterium and deuterium compounds, and specially designed or prepared parts and components therefor (export only).

(f) Special nuclear material.

(g) Source material.

(h) Byproduct material.

(i) Deuterium (export only).

(j) Nuclear grade graphite (export only).

NOTE.—See section 110.2 for definitions of the major terms used above.

APPENDIX B—LIST OF FOREIGN FACILITIES TO WHICH NUCLEAR EQUIPMENT MAY BE EXPORTED PURSUANT TO THE GENERAL LICENSE IN § 110.21 [RESERVED]

APPENDIX C.—*Categorization of nuclear material* [4]

(From IAEA INFCIRC/225, Rev. 1)

Material	Form	Category I	Category II	Category III [5]
1. Plutonium [1]	Unirradiated [2]	2 kg or more	Less than 2 kg but more than 500 g.	500 g or less.
2. Uranium-235 [3]	Unirradiated: [2]			
	Uranium enriched to 20 pct U^{235} or more	5 kg or more	Less than 5 kg but more than 1 kg.	1 kg or less.
	Uranium enriched to 10 pct U^{235} but less than 20 pct.		10 kg or more	Less than 10 kg.
	Uranium enriched above natural, but less than 10 pct U^{235}.			10 kg or more.
3. Uranium-233	Unirradiated [2]	2 kg or more	Less than 2 kg but more than 500 g.	500 g or less.

[1] All plutonium except that with isotopic concentration exceeding 80 pct in plutonium-238.

[2] Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rd/h at 1 m unshielded.

[3] Natural uranium, depleted uranium, and thorium should be protected in accordance with prudent management practice. As a minimum, for quantities exceeding 500 kg, these materials should be kept under constant control and secured from unauthorized removal. Transport protection should include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

[4] Irradiated fuel should be protected as category I, II, or III nuclear material depending on the category of the fresh fuel. However, fuel which by virtue of its original fissile material content is included as category I or II before irradiation should only be reduced one category level, while the radiation level from the fuel exceeds 100 rd/h at 1 m unshielded.

[5] Physical security determinations will not be required for 15 g or less of plutonium, uranium-233 or high-enriched uranium, or for 1 kg or less of uranium with an enrichment between 10 and 20 pct in uranium-235.

(Sec. 161, as amended, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Washington, D.C., this 16th day of May 1978.

For the Nuclear Regulatory Commission.

JOHN C. HOYLE,
Assistant Secretary of the Commission.

[FR Doc. 78-12620 Filed 5-16-78; 2:54 pm]

[3128-01]

Title 10—Energy

CHAPTER X—DEPARTMENT OF ENERGY (GENERAL PROVISIONS)

PART 1000—TRANSFER OF PROCEEDINGS TO THE SECRETARY OF ENERGY AND THE FEDERAL ENERGY REGULATORY COMMISSION

Procedures for Electric Energy Import and Export Proceedings

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of procedures for electric energy import and export cases.

SUMMARY: The purpose of this notice is to inform the public of the procedures which will be followed by the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) in electric energy import and export proceedings. Until the ERA has sufficient time to promulgate its own rules and regulations, the procedures to be followed will be those of the former Federal Power Commission contained in Title 18, Code of Federal Regulations, Part 1 et seq.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., Division of Power Supply and Reliability, Economic Regulatory Administration, Department of Energy, Room 4070—Vanguard Building, 1111 20th Street NW., Washington, D.C. 20545, 202-634-5620; or

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Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5116—Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9995 or 202-566-9380.

SUPPLEMENTARY INFORMATION: This notice applies to electric energy import and export proceedings: (1) for which application was first made on or after October 1, 1977; or (2) that were transferred to the Secretary of Energy pursuant to paragraph 1000.1(b)(16)(ii) of the October 1, 1977, Final Rule entitled "Transfer of Proceedings to the Secretary of Energy and the Federal Energy Regulatory Commission" (42 FR 55534, October 17, 1977).

Until further notice, the procedures applicable to these proceedings are the procedures contained in the Rules and Regulations of the Federal Power Commission (FPC), Title 18, Code of Federal Regulations, Part 1 et seq. Applications should contain the information required by 18 CFR 32.30-.38 and 32.50-.52.

Those electric energy proceedings of the FPC that were transferred to the Secretary of Energy by paragraph 1000.1(b)(16)(ii) of the Final Rule, and with respect to which all filings should now be submitted to the ERA, are:

(A) Maine Public Service Co., Docket No. E-6751. (ERA Docket No. IE-78-1).

(B) Northern States Power Co., Docket No. E-9589. (ERA Docket No. IE-78-2).

(C) Arizona Public Service Co., Docket No. IT-5331. (ERA Docket No. IE-78-3).

(D) Niagara Mohawk Power Corp., Docket No. E-7022. (ERA Docket No. IE-77-6).

(E) Maine Public Service Co., Docket No. IT-6027. (ERA Docket No. PP-12).

(F) Boise Cascade, Docket No. E-7765. (ERA Docket No. PP-52).

(G) Bonneville Power Administration, Docket No. IT-5959. (ERA Docket No. PP-10).

All fillings (including applications) in these proceedings, and in new proceedings before ERA, should be submitted to: Director, Division of Power Supply and Reliability, Economic Regulatory Administration, Room 4070—Vanguard Building, 1111 20th Street NW., Washington, D.C. 20545.

Filings will reference the FPC docket number, if any, and, the new ERA docket number which has been assigned with the ERA number as the lead docket designation.

The files of electric energy import and export proceedings which were transferred to ERA on October 1, 1977, pursuant to paragraph 1000.1(b)(16)(ii) of the Final Rule and the files of those electric energy import and export proceedings first submitted to ERA on or after October 1, 1977, will, upon request, be made available for public inspection and copying at ERA, Public Docket Room, Room B-210, 2000 M Street NW., Washington, D.C., and at the Division of Power Supply and Reliability, ERA, Room 4070—Vanguard Building, 1111 20th Street NW., Washington, D.C. Copies of all ERA notices, orders, and other official actions will be posted in Room B-210 (with copies available to the public). Business hours for the ERA Public Docket Room, are 1 p.m. to 5 p.m., and for all other ERA offices, 8 a.m. to 4:30 p.m., Monday through Friday, except for official holidays.

Issued in Washington, D.C., May 5, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-13575 filed 5-18-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Change in discount rates.

SUMMARY: The Board of Governors has amended its regulation A, "Extensions of Credit By Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT:

Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3257.

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of—	Rate	Effective
Boston	7	May 12, 1978.
New York	7	May 11, 1978.
Philadelphia	7	Do.
Cleveland	7	Do.
Richmond	7	Do.
Atlanta	7	Do.
Chicago	7	Do.
St. Louis	7	Do.
Minneapolis	7	Do.
Kansas City	7	Do.
Dallas	7	May 12, 1978.
San Francisco	7	May 11, 1978.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of—	Rate	Effective
Boston	7½	May 12, 1978.
New York	7½	May 11, 1978.
Philadelphia	7½	Do.
Cleveland	7½	Do.
Richmond	7½	Do.
Atlanta	7½	Do.
Chicago	7½	Do.
St. Louis	7½	Do.
Minneapolis	7½	Do.
Kansas City	7½	Do.
Dallas	7½	May 12, 1978.
San Francisco	7½	May 11, 1978.

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and section 201.2(e)(2) of regulation A are:

Federal Reserve Bank of—	Rate	Effective
Boston	8	May 12, 1978.
New York	8	May 11, 1978.
Philadelphia	8	Do.
Cleveland	8	Do.
Richmond	8	Do.
Atlanta	8	Do.
Chicago	8	Do.
St. Louis	8	Do.
Minneapolis	8	Do.
Kansas City	8	Do.
Dallas	8	May 12, 1978.
San Francisco	8	May 11, 1978.

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of—	Rate	Effective
Boston	10	May 12, 1978.
New York	10	May 11, 1978.
Philadelphia	10	Do.
Cleveland	10	Do.
Richmond	10	Do.
Atlanta	10	Do.
Chicago	10	Do.
St. Louis	10	Do.
Minneapolis	10	Do.
Kansas City	10	Do.
Dallas	10	May 12, 1978.
San Francisco	10	May 11, 1978.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, May 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13674 Filed 5-18-78; 8:45 am]

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[6351-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

PART 145—COMMISSION RECORDS AND INFORMATION

Geographic Realignment of Central and Western Regions; Creation of Southwestern Region; Change of Address of Western Regional Office.

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission recently has realigned the geographical boundaries of the Commission's Central and Western Regions and simultaneously has created a new region—the Southwestern Region. In addition, the Western Regional office which is located in San Francisco, Calif., has moved to a different suite of offices in the same building. These amendments incorporate those changes into the Commission's regulations.

EFFECTIVE DATES: May 1, 1977, address of Southwestern Regional office; May 4, 1977, realignment of geographical boundaries; October 1, 1977, change of address of Western Regional office.

FOR FURTHER INFORMATION CONTACT:

Donald L. Tendick, Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-7556.

SUPPLEMENTARY INFORMATION: Under § 140.2 of the Commission's regulations, each of the Regional Directors is delegated the authority and responsibility for the enforcement of the Commodity Exchange Act, 7 U.S.C. 1 et seq. (1976), and administration of the programs of the Commission in his respective region. On May 4, 1977, the Commission realigned the geographical boundaries of the Commission's Central and Western Regions and created a new region—the Southwestern Region.[1]

DISCUSSION:

Since spring wheat is traded on the Minneapolis Grain Exchange which is located in the Central Region, the Commission has added to that region the states of North Dakota and South Dakota, both of which were formerly included within the Western Region and are large producers of spring wheat. In addition, the Commission has redefined the Western Region to exclude the States of Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas, all of which are included in the new Southwestern Region. By the latter action the Commission has, in effect, divided the Western Region into two regions—Southwestern and Western—to ease the administrative burden, caused by an increased workload, in enforcing the act and administering the programs of the Commission in the States comprising the two regions.

On May 1, 1977, 3 days prior to the effective date of the division, the Southwestern Regional office was established at 4901 Main Street, Room 208, Kansas City, Mo. 64112. The telephone number for general information is 816-374-2994. At the time of the division the Western Regional office which was located in Kansas City, Mo., was moved to San Francisco, Calif., at the location of the former Western sub-office, since due to the division, Kansas City, Mo., became a part of the new Southwestern Region. Subsequently on October 1, 1977, the Western Regional office was moved from suite 975 to suite 1660 at 2 Embarcadero Center, San Francisco, Calif., 94111, its current address. The telephone number for general information is 415-556-7503.

Based on the foregoing, pursuant to its authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j) (1976), the Commission hereby amends parts 140 and 145 of chapter I of title 17 of the Code of Federal Regulations as follows:

[1] See CFTC notice 6.

1. Section 140.2 is amended to read as follows:

§ 140.2 Regional offices—Regional directors.

Each of the Regional offices described herein functions as set forth below under the direction of a Regional Director, who is delegated authority and responsibility for the enforcement of the Act and administration of the programs of the Commission in the particular Region.

(a) The Eastern Regional office is located at 1 World Trade Center, Suite 4747, New York, N.Y. 10048, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.

(b) The Central Regional office is located at Sears Tower, 46th Floor, 233 South Wacker Drive, Chicago, Ill. 60606, with a sub-office at Room 510, Grain Exchange Building, Fourth Street and Fourth Avenue South, Minneapolis, Minn. 55415, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Illinois, Indiana, Michigan, Minnesota, North Dakota, Ohio, South Dakota, and Wisconsin.

(c) The Western Regional office is located at Two Embarcadero Center, Suite 1660, San Francisco, Calif. 94111, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

(d) The Southwestern Regional office is located at 4901 Main Street, Room 208, Kansas City, Mo. 64112, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

2. Section 145.6 is amended to read as follows:

§ 145.6 Public reference facilities.

The Commission shall have public reference facilities at its principal offices at 2033 K Street NW., Washington, D.C. 20581, telephone 202-254-8630 and at its regional offices and sub-offices: 1 World Trade Center, Suite 4747, New York, N.Y. 10048, telephone: 212-791-0790.

Sears Tower, 46th Floor, 233 South Wacker Drive, Chicago, Ill. 60606, telephone: 312-353-5990.

510 Grain Exchange Building, Minneapolis, Minn. 55415, telephone: 612-725-2025.

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4901 Main Street, Room 208, Kansas City, Mo. 64112. telephone: 816-374-2994.
Two Embarcadero Center, Suite 1660, San Francisco, Calif. 94111, telephone 415-556-7503.

The foregoing rules shall be effective immediately. The Office of the Chairman finds that the amendments relate solely to agency practice and procedure and that the public procedures and publication prior to the effective date of the rules, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, D.C., on May 15, 1978.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-13608 Filed 5-18-78; 8:45 am]

[8010-01]

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5932]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Status of Underwriters in Business Combination Transactions

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission has adopted a rule amendment which eliminates the indefinite uderwriter status attached to certain persons who receive securities in registered business combination transactions. The amendment provides that if certain conditions are met such persons shall not be deemed underwriters after they have held the securities for a period of two years. The purpose of the amendment is to relieve such persons of the necessity for complying with the restrictions on reselling securities applicable to underwriters where it appears such restrictions would be unduly burdensome and unnecessary for the protection of investors.

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1240.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of an amendment to Rule 145 (17 CFR 230.145) under the Securities Act of 1933 ("1933 Act") (15 U.S.C. 77a et seq.). Rule 145 provides that certain transactions involving business combinations, such as mergers, consolidations and acquisitions of assets, are subject to the registration requirements of the Act. In addition, it states in paragraph (c) thereof that persons who are affiliates[1] of entities which are acquired in Rule 145 transactions shall be deemed to be underwriters[2] of the securities received by them in such transactions. Until now, the underwriter status attached to such persons has been indefinite. The result has been that whenever such persons sought to resell their Rule 145 securities publicly they were required either to register them or to comply with certain requirements of Rule 144 (17 CFR 230.144) under the Act.[3]

The Commission has received various requests in the past several years that it review the indefinite underwriter status imposed by Rule 145 on persons who are affiliates of entities acquired in Rule 145 transactions. These requests have focused on the fact that in many instances the persons who are deemed underwriters by the rule do not become affiliated with the acquiring entity and have no relationship to that entity other than that of a security holder. In such circumstances, particularly where these persons hold an amount of securities which is not large in relation to the total number of outstanding securities of the class, it has been urged that they are unlikely to engage in transactions that are tantamount to public distributions. Moreover, it has been asserted that Rule 145 is unduly harsh in its treatment of former affiliates of acquired entities, since it forever deems such person to have acquired their Rule 145 securities with a view to distribution, when in fact they may clearly have demonstrated by having held their securities for several years that such securities were acquired for investment reasons and not for distribution purposes. Accordingly, the requestors have urged that the indefinite underwriter status of former affiliates be discontinued under the rule.

The Commission has given consideration to the views outlined above and determined that they have merit. While it continues to believe that persons who were affiliates of entities acquired in Rule 145 transactions should be deemed underwriters because they usually are in a position to influence such transactions, it recognizes that designating such persons as underwriters for an indefinite period may be unduly burdensome and unnecessary for the protection of investors.

In arriving at the above view, the Commission has taken note of the fact that Rule 145 is somewhat more restrictive than the other rules in the "140 series"[4] insofar as the resale of securities acquired under it is concerned. Because it is an exclusive rule (unlike, for example, Rules 144 and 148), it does not permit reliance on an exemption, such as that provided by section 4(1) of the Act, for the resale of securities. Thus, it places a greater burden on persons deemed underwriters than do the other rules in the "140 series" in the sense that it provides no alternative to its resale provisions other than registration.

The Commission further has noted that the prior experiences of its staff in administering former Rule 133 under the Act[5] provide support for the view that the indefinite underwriter provision in Rule 145 may be unnecessary for the protection of investors. Rule 133 was the immediate predecessor of Rule 145 and contained a provision concerning resales that was similar in many respects to paragraph (d) of Rule 145. As does Rule 145, it limited the amount of securities that could be sold during specified periods by former affiliates. However, the staff construed that provision not to be applicable after the securities acquired in the 133 transaction had been held for two years on the ground that a person had adequately demonstrated at that point an investment intent that belied the notion that he was an underwriter. Because it does not appear that the staff's position under Rule 133 created any significant problems for the investing public, it would seem that a somewhat similar position under Rule 145 would not be harmful to the interests of investors.

In light of all of the foregoing, the Commission is amending paragraph (d) of Rule 145 to provide that an underwriter of Rule 145 securities may resell such securities without any limitations after that person has held them for 2 years, provided that the person is not affiliated with the issuer of the securities and provided that certain other conditions relating to the issuer are met. No change, however, has been made to that portion of paragraph (d) which permits underwriters to resell their Rule 145 securities at any time in accordance with certain provisions of Rule 144 under the 1933 Act.[6]

The conditions referred to above relating to the issuer of the Rule 145 securities are: (1) the issuer must at the time of the sale under Rule 145(d) be subject to the periodic reporting requirements of sections 13 or 15(d) of the Securities Exchange Act of 1934 ("1934 Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)); (2) the issuer must have been subject to those requirements for at least the preceding 12 months; and (3) the issuer must have filed all of the reports required to have been filed under sections 13 or 15(d) during the preceding 12 months. With respect to the latter condition, it will not be necessary for the issuer to have timely filed all of the reports mentioned therein. Instead, it will be sufficient for the issuer simply to have filed all such reports at the time a sale is made under the rule. In this connection, the rule further states that a person seeking to sell securities under the newly adopted provision of Rule 145(d) may rely upon a statement in the most recent periodic report filed by the issuer that such issuer has filed all of its required periodic reports during the preceding 12 months, unless such person has reason to believe that the issuer has not complied with such requirements.

The Commission believes the amendment to Rule 145 announced today is consistent with the underlying policy of the 1933 Act to protect investors because of the various safeguards inherent in it. For instance, the provision that there must be a waiting period of 2 years before unlimited resales may be effected will provide a substantial indication that a person who acquired securities under Rule 145 did so for investment purposes rather than with a view to distribution. In addition, by restricting the availability of the provision to the securities of issuers which satisfy the conditions concerning periodic reports outlined above, there will be some assurance that the investing public will have adequate information upon which to base a decision to purchase securities offered pursuant to the amended paragraph. Finally, the requirement that sellers under the paragraph must not be affiliated with the issuer at the time of the sale will prevent misuse of the provision by persons who are in a control position insofar as the issuer is concerned.

TEXT OF THE AMENDMENT

Part 230 of Chapter II of Title 17 of the Code of Federal Regulations is amended by revising paragraph (d) of § 230.145 to read as follows:

§ 230.145 Reclassification of securities, mergers, consolidations and acquisitions of assets.

* * * * *

(d) *Resale provisions for persons and parties deemed underwriters.* Notwithstanding the provisions of paragraph (c), a person or party specified therein shall not be deemed to be engaged in a distribution and therefore not to be an underwriter of registered securities acquired in a transaction specified in paragraph (a) of this section if: (1) such securities are sold by such person or party in accordance with the provisions of paragraphs (c), (e), (f) and (g) of § 230.144; or (2) such person or party is not affiliated with the issuer and has held the securities for at least two years, and the issuer is subject to the periodic reporting requirements of sections 13 or 15(d) of the Securities Exchange Act of 1934, has been so subject for at least the preceding 12 months, and has filed all of the reports required to be filed under those sections during the preceding 12 months. The person or party selling securities under this paragraph (d)(2) shall be entitled to rely upon a statement in whichever is the most recent report filed by the issuer that such issuer has filed all of the reports required to be filed under sections 13 or 15(d) of the Exchange Act during the preceding 12 months, unless such person or party has reason to believe that the issuer has not complied with such requirements.

* * * * *

(Secs. 2(11), 4(1), 19(a), 48 Stat. 74, 77, 85; sec. 209, 48 Stat. 908; secs. 1-4, 68 Stat. 683; sec. 12, 78 Stat. 580; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77b(11), 77d(1), 77s(a).)

STATUTORY BASIS AND EFFECTIVE DATE

The amendment to Rule 145 has been adopted by the Commission pursuant to the Securities Act of 1933, particularly sections 2(11), 4(1) and 19(a) thereof. The amendment will become effective immediately upon publication in the FEDERAL REGISTER.

Because the amendment to Rule 145 announced herein represents a relaxation of an existing requirement, the Commission finds that prior notice and public comment under the Administrative Procedure Act (5 U.S.C. 552) are unnecessary.

By the Commission.

GEORGE A. FITZSIMMONS
Secretary.

MAY 15, 1978.

[FR Doc. 78-13684 Filed 5-18-78; 8:45 am]

[8010-01]

[Release Nos. 33-5931; 34-14756]

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Instructions for Use of Certain Forms

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: This release amends the instructions for the use of Forms S-7, S-8, S-14 and S-16 under the Securities Act of 1933 and Forms 8-A, 16, 10-K, 11-K and 16-K under the Securities Exchange Act of 1934 to update and conform the instructions to previous form amendments.

EFFECTIVE DATE: May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1240.

SUPPLEMENTARY INFORMATION: Since these amendments are editorial in nature and do not change any instructions to the forms that have not previously been announced, notice of proposed rulemaking is unnecessary under the Administrative Procedure Act [5 U.S.C. 552]. Accordingly, Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. Section 239.16b is revised to read as follows:

§ 239.16b Form S-8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

Any issuer which at the time of filing a registration statement on this form has been subject to the requirement to file reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934 for the prior 90 days, and has filed all reports and other materials required to be filed by such requirements during the preceding 12 months (or for such shorter period that the registrant was required to file such reports and materials), and in the case of a company subject to Section 15(d), has furnished or prior to the effective date of the registration statement will furnish an annual report to security holders for

[1] An "affiliate" of an entity is defined in Rule 405 (17 CFR 230.405) under the 1933 Act as "a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the [entity]."

[2] The term "underwriter" is broadly defined in Section 2(11) of the 1933 Act and includes persons who acquire securities "with a view to . . . distribution."

[3] Paragraph (d) of Rule 145 permits underwriters of Rule 145 securities to resell them in accordance with paragraphs (c), (e), (f) and (g) of Rule 144. Those paragraphs require that there be current public information available about the issuer of the securities, that the amount of securities sold during any six-month period not exceed one percent of the total number of outstanding securities of the class, and that the securities be sold in brokers' transactions.

[4] See Rules 144-148 under the 1933 Act (17 CFR 230.144-148).

[5] Rule 133 was rescinded at the time Rule 145 was adopted. See Release No. 33-5316 (October 6, 1972) (37 FR 23631).

[6] See footnote 3, infra.

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its last fiscal year containing substantially the information required by Rule 14a-3 (17 CFR 240.14a-3) under the Securities Exchange Act of 1934, may use this form for registration under the Securities Act of 1933 ("the Act") of the following securities:

(a) Securities of such issuer to be offered to its employees, or to employees of its subsidiaries or parents, pursuant to any employee benefit plan. (See General Instruction B defining "plan".)

(b) Interests in the above plans, if such interests constitute securities and are required to be registered under the Act. (See Securities Act Release No. 4790 (July 13, 1965) [30 FR 9059] and Section 3(a)(2) of the Act.)

NOTE.—Form S-8 amended at 38 FR 2447, January 26, 1973; 39 FR 17935, May 22, 1974; 41 FR 52665, December 1, 1976; 41 FR 56194, December 27, 1976.

2. Section 239.23 is revised to read as follows:

§ 239.23 Form S-14, for simplified registration of securities issued in certain transactions under Rules 133 and 145 [17 CFR 230.133, 230.145].

This form and Form S-1 [17 CFR 239.11] may be used for registration under the Securities Act of 1933 of securities to be issued in a transaction specified in paragraph (a) of § 230.145: *Provided, however,* That Form S-14 shall not be so used unless the prospectus is delivered to security holders whose vote or consent is solicited at least 20 days prior to the date on which the meeting of such security holders is held or the date on which the transation is effectuated if no such meeting is held: *Provided further,* That if applicable law of the jurisdiction permits the furnishing of a notice of the meeting or other actions within less than the 20-day period specified herein, then compliance with such provisions of such law shall be deemed to satisfy this requirement. Form S-14 may also be used by persons and parties who may be deemed underwriters, for the registration of a public reoffering of securities issued in a transaction specified in paragraph (a) of § 230.145 of this chapter or in a transaction specified in paragraph (a) of § 230.133 of this chapter exempted by the latter section prior to its rescission effective on and after January 1, 1973.

NOTE.—Form S-14 amended 37 FR 23637, November 7, 1972.

3. Section 239.26 is revised to read as follows:

§ 239.26 Form S-7, for registration under the Securities Act of 1933 of securities of certain issuers.

Any registrant which meets the following conditions may use this form for registration of securities under the Securities Act of 1933:

(a) The registrant (1) has a class of securities registered pursuant of section 12(b) of the Securities Exchange Act of 1934; or (2) is organized under the laws of the United States or any State or Territory or the District of Columbia, has its principal business operations in the United States or its Territories and has a class of equity securities registered pursuant to section 12(g) of the above Act or is required to file reports pursuant to section 15(d) of the above Act. A foreign issuer comes within the purview of this instruction but only if it is required to file the same reports with the Commission under sections 13(a) or 15(d) of the above Act as a domestic issuer.

(b) The registrant (1) has been subject to the requirements of sections 12 or 15(d) of the Securities Exchange Act of 1934 and has filed all the material required to be filed pursuant to sections 13, 14 or 15(d), as applicable, for a period of at least 36 calendar months immediately preceding the filing of the registration statement on this form; (2) has filed in a timely manner all reports required to be filed during the 12 calendar months preceding the filing of the registration statement; and (3) if subject only to the requirements of section 15(d) of the Securities Exchange Act of 1934, has sent to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by Rule 14a-3(b) and Part II of Form 10-K under the Securities Exchange Act of 1934 within the 12 calendar months preceding the filing of the registration statement, except that the information required by Part II of Form 10-K need only be provided to common stockholders and holders of securities convertible into common stock.

(c) The registrant and its subsidiaries have not during the past 36 calendar months defaulted in the payment of any dividend or sinking fund installment or preferred stock, or installment on any indebtedness for borrowed money, or in the payment of rentals under long-term leases.

(d) The registrant and its consolidated subsidiaries had a net income, after taxes but before extraordinary items and cumulative effect of a change in accounting principle net of tax effect, of at least $250,000 for 3 of the last 4 fiscal years, including the most recent fiscal years.

(e) A registrant shall be deemed to have met conditions (b), (c) and (d) above if (1) its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the State of incorporation of the predecessor or forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor; or (2) if all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

(f) This form may be used for the registration of securities of a majority-owned subsidiary which are fully guaranteed as to principal and interest by its parent if the parent meets the above conditions, notwithstanding the failure of the subsidiary issuer to meet such conditions.

NOTE.—Form S-7 amended at 39 FR 17934, May 22, 1974; 41 FR 21635, May 27, 1976; 41 FR 21766, May 28, 1976; 41 FR 53474, December 7, 1976; 41 FR 56301, December 28, 1976; 42 FR 22139, May 2, 1977.

4. Section 239.27 is revised to read as follows:

§ 239.27 Form S-16, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

Form S-16 may be used for registration under the Securities Act of 1933 of securities offered in the transactions specified below, if the issuer meets the requirements for the use of Form S-7 (17 CFR 236.26) at the time of filing the registration statement:

1. *Transactions Involving Certain Primary Offerings.* Debt or equity securities offered for cash by or on behalf of the issuer provided the following conditions are met:

(a) The issuer meets one of the conditions listed in (i) or (ii) below relating to the aggregate market value of one or more of its or its parent's classes of outstanding voting stock. The aggregate market value of the issuer's outstanding stock shall be computed by reference to the price at which the stock was sold, or the average of the bid and asked prices of such stock, as of a specified date within 60 days prior to the date of filing. (See the definition of affiliate in Rule 405.)

(i) The aggregate market value of the voting stock held by non-affiliates of the issuer is $50 million or more; or

(ii) The aggregate market value of the voting stock of the issuer's parent held by non-affiliates is $50 million or more, the issuer is a majority owned subsidiary and its parent has fully guaranteed the securities as to principal and interest.

(b) The offering is or will be pursuant to a firm commitment underwriting in which the underwriters are committed to take and to pay for all or not less than 90 percent of the securities being offered.

(c) If debt securities are to be registered, they shall be issued pursuant to a trust indenture subject to and qualified under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.).

2. *Conversions or Warrants.* Securities to be offered upon the conversion of outstanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of such issuer, provided:

(a) No commission or other remuneration is paid for soliciting the conversion of the convertible securities or the exercise of the warrants; or

(b) The issuer (or the parent, if the issuer is a majority owned subsidiary and the parent fully guarantees the securities) has one or more classes of outstanding voting stock and the aggregate market value of the voting stock held by its nonaffiliates is $50 million or more determined in accordance with General Instruction A(1)(a) above.

3. *Rights Offering.* Securities to be offered upon the exercise of outstanding rights granted by the issuer of the securities to be offered, provided such rights are granted on a pro rata basis to all existing security holders of the class of securities to which the rights attach.

4. *Transactions Involving Dividend or Interest Reinvestment Plans.* Securities of the issuer offered solely to its existing security holders pursuant to a plan established to allow such persons to reinvest dividends or interest paid them on securities issued by the issuer, plus additional cash amounts contributed by the participants of the plan, provided the securities to be registered are newly issued, or are purchased for the account of plan participants, at prices not in excess of current market prices at the time of the purchase, or at prices not in excess of an amount determined in accordance with a pricing formula specified in the plan and based upon average or current market prices at the time of the purchase.

5. *Transactions Involving Secondary Offerings.* Outstanding securities to be offered for the account of any person other than the issuer, including securities acquired by standby underwriters in connection with the call or redemption by the issuer of warrants or a class of convertible securities, if securities of the same class are listed and registered on a national securities exchange or are quoted on the automated quotation system of a national securities association. In addition, Form S-16 may be used by affiliates to register securities for resale pursuant to the conditions specified in General Instruction E to Form S-8 (17 CFR 239.16b).

6. *Secondary Offerings by Certain Closed End Management Investment Companies.* Form S-16 may be used by closed end management investment companies for the registration of securities under the Securities Act of 1933 only for the purpose specified in paragraphs (4) and (5) above and subject to the applicable requirements of section 18(d) of the Investment Company Act of 1940 provided that such company: (1) is registered as a closed end management investment company under the Investment Company Act of 1940; (2) has been subject to and has filed all material required to be filed pursuant to sections 20(a) and 30(a) and (b) of such act for a period of at least 36 calendar months immediately preceding the filing of the registration statement on this form; (3) has filed in a timely manner all reports required to be filed during the 12 calendar months preceding the filing of the registration statement; and (4) meets the requirements of paragraphs (c) through (f) of the rule as to the Use of Form S-7.

NOTE.—Form S-16 amended at 41 FR 53474, December 7, 1976; 41 FR 56306, December 28, 1976; 43 FR 16672, April 19, 1978.

5. Section 249.208a is revised to read as follows:

§ 249.208a Form 8-A, for registration of certain classes of securities pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

(a) Subject to paragraph (b) below, this form may be used for registration pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934 of any class of securities of any issuer which is required to file reports pursuant to sections 13 and 15(d) of that Act or pursuant to an order exempting the exchange on which the issuer has securities listed from registration as a national securities exchange.

(b) If the registrant would be required to file an annual report pursuant to section 15(d) of the Act for its last fiscal year, except for the fact that the registration statement on this form will become effective before such report is required to be filed, an annual report for such fiscal year shall nevertheless be filed within the period specified in the appropriate annual report form.

NOTE: Form 8-A was amended incorporating former Form 8-C and Rule 12b-35, 34 FR 14209, September 10, 1969.

6. Section 249.216 is conformed to read as follows:

§ 249.216 Form 16, registration of voting trust certificates.

This form shall be used for registration of voting trust certificates pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934. Whenever this form is used for the registration of voting trust certificates, the securites deposited or to be deposited under the voting trust agreement are also required to be registered unless they are already registered or are exempt from registration.

(30 FR 12772, 12773, October 7, 1965.)

7. Section 249.310 is conformed to read as follows:

§ 249.310 Form 10-K, annual report pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.

This form shall be used for annual reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934 for which no other form is prescribed. Reports on this form shall be filed within 90 days after the end of the fiscal year covered by the report. However, all schedules required by Regulation S-X may, at the option of the registrant, be filed as an amendment to the report not later than 120 days after the end of the fiscal year covered by the report. Such amendment shall be filed under cover of Form 8.

NOTE: Form 10-K revised at 35 FR 16919, November 3, 1970, and amended at 36 FR 19363, October 5, 1971; 37 FR 600, 601, January 14, 1972; 37 FR 4331, March 2, 1972; 37 FR 20559, September 30, 1972; 37 FR 22979, October 27, 1972; 38 FR 2447, January 26, 1973; 38 FR 12102, May 9, 1973; 38 FR 17208, June 29, 1973; 39 FR 6070, February 19, 1974; 39 FR 10123, March 18, 1974; 39 FR 17941, May 22, 1974; 39 FR 23257, June 27, 1974; 39 FR 43711, December 18, 1974; 40 FR 55837, December 2, 1975; 41 FR 21636, May 27, 1976; 41 FR 21766, May 28, 1976; 41 FR 24702, June 18, 1976; 41 FR 53474, December 7, 1976; 42 FR 4433, January 25, 1977; 42 FR 12353, March 3, 1977; 42 FR 12422, March 4, 1977.

8. Section 249.311 is conformed to read as follows:

§ 249.311 Form 11-K, for annual reports of employee stock purchase, savings and similar plans pursuant to section 15(d) of the Securities Exchange Act of 1934.

This form shall be used for annual reports pursuant to section 15(d) of the Securities Exchange Act of 1934 with respect to employee stock purchase, savings and similar plans, interests in which constitute securities which have been registered under the Securities Act of 1933. Such a report is required to be filed even though the issuer of the securities offered to employees pursuant to the plan also files annual reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934. However, attention is directed to Rule 15d-21 (§ 240.15d-21 of this chapter) which provides that in certain cases the information required by this form may be furnished with respect to the plan as a part of the annual report of such issuer. Reports on this form shall be filed within 90 days after the end of the fiscal year of the plan.

NOTE: Instructions to Form 11-K amended at 36 FR 1891, February 3, 1971; 39 FR 17943, May 22, 1974.

9. Section 249.316 is conformed to read as follows:

§ 249.316 Form 16-K, annual report relating to voting trust certificates.

This form shall be used for annual reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934 relating to voting trust certificates. Reports on this form shall be filed within 120 days after the close of the fiscal year of the issuer of the securities deposited under the voting trust agreement.

NOTE: Form 16-K, amended at 30 FR 12775, October 7, 1965.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 15, 1978.

[FR Doc. 78-13682 Filed 5-18-78; 8:45 am]

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[8010-01]

[Release No. IC-10237; File No. S7-710]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

Deregistration of Certain Investment Companies and Quarterly Reports of Management Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final form and rules.

SUMMARY: The Securities and Exchange Commission has adopted Form N-8F, an amendment to Form N-1Q, and rules relating to the implementation of those measures which will (1) create a form to be used by certain registered investment companies requesting orders of the commission declaring that such companies have ceased to be investment companies, and (2) require the quarterly reports of management investment companies to contain specified information relating to mergers or consolidations with other registered investment companies so as to provide, among other things, a basis for determining that such latter companies have ceased to be investment companies. The Commission believes that such rules and forms will facilitate the deregistration under the Investment Company Act of 1940 ("Act") of companies which have ceased to be investment companies as defined in the Act.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Anne C. Flannery, 202-755-0248, or Brenda D. Sneed, 202-755-0233, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On July 21, 1977, the Securities and Exchange Commission published notice in Investment Company Act Release No. 9861 (42 FR 38187, July 27, 1977), that it had under consideration:

(1) Proposed Form N-8F (17 CFR 274.218), a form to be used as an application for an order of the Commission pursuant to section 8(f) (15 U.S.C. 80a-8(f)) of the Act (15 U.S.C. 80a-1 et seq.) declaring that a registered company has ceased to be an investment company as defined in the Act, in cases where the applicant company: (a) has distributed substantially all of its assets to its shareholders, and has effected, or is in the process of effecting, a winding-up of its affairs; (b) had never made a public offering of its securities, has not more than one hundred securityholders for the purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind; or (c) has (i) sold substantially all of its assets to another registered investment company, or (ii) merged into or consolidated with another registered investment company.

(2) Proposed Revision of Form N-1Q (17 CFR 274.106), the form for quarterly reports of registered management investment companies, to include in such form a requirement that such registered investment company provide certain information where, during the preceding quarter, it became the surviving company after merger or consolidation with another registered investment company. Such information is designed to provide, among other things, a basis upon which the Commmission could determine that such other company had ceased to be an investment company.

(3) Proposed Rule 8f-1 (17 CFR 270.8f-1), to prescribe Form N-8F as described above.

The purpose of these proposals is to provide the Commission with reasonably current information respecting certain mergers and consolidations involving registered investment companies and to facilitate the procedures involved in determining that companies have ceased to be investment companies as defined by the Act.

Section 8(f) of the Act provides, in part, that where the Commission, upon its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and that, upon the taking effect of such order, the registration under the Act of such company shall cease to be in effect. The Commission believes that, through the use of Form N-8F, certain applicants requesting orders pursuant to section 8(f) of the Act may better be able to provide the specific information needed to process applications for deregistration. Although the use of Form N-8F as an application is limited to the situations described above, the Form may also be of assistance to other applicants as an indication of the nature of the information the Commission would consider to be significant with respect to its consideration of applications pursuant to section 8(f) of the Act.

The Commission encourages the use of Form N-8F on behalf of registered investment companies which have merged into or consolidated with another registered investment company. However, where a registered investment company has ceased to exist because of merger or consolidation with another company, and the surviving company is itself a registered management investment company, the revision of Form N-1Q is designed to provide the Commission with information concerning the merger or consolidation which would, should an application pursuant to section 8(f) not be filed on behalf of the non-surviving company, provide a basis for a Commission determination, on its own motion, that such company has ceased to be an investment company.

Together, these measures should enable the Commission to process the more routine applications pursuant to section 8(f) of the Act in a more expeditious manner and should assist applicants in the preparation of such applications.

The notice of the above proposals invited all persons who were interested in this matter to submit their views and comments on the proposed form, amendment to the existing form and rule. No comments were received by the Commission.

Form N-8F, as determined to be adopted by the Commission, provides for the inclusing of the following information in addition to that required by the Form as published for comment: (1) The applicant's file number ("811-" number) as registered under the Act, and (2) in the case where applicant is a management company, whether there exists any unit investment trust registered under the Act which serves or has served as a vehicle for investment, through periodic payment plans or otherwise, in the applicant and, if so, the name(s) and business address(es) of all such trusts. A few immaterial changes have also been made for purposes of clarification.

Notice is hereby given that the Commission has determined to adopt or amend the following sections of Chapter II, Title 17 of the Code of Federal Regulations, under the Investment Company Act of 1940, in the form set forth below.

1. Section 270.8f-1 is added as follows:

§ 270.8f-1 Form for application by certain registered investment companies for orders declaring that such companies have ceased to be investment companies as defined by the Act.

Form N-8F is hereby prescribed as the form for application for an order pursuant to section 8(f) of the Act where a registered investment company (a) has distributed substantially all of its assets to its shareholders and has effected, or is in the process of effecting, a winding-up of its affairs, or (b) has never made a public offering of its securities, has not more than 100 securityholders for the purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind, or (c) has (1) sold substantially all of its assets to another registered investment company, or (2) merged into or consolidated with another registered investment company.

2. Section 274.106 is amended as follows:

[This form is amended by: (1) renumbering current Item 12 as Item 13 to Form N-1Q; (2) adding new Item 12 to Form N-1Q; and (3) adding new Instruction 7 to Item 13 of Form N-1Q.]

The text of the revision is as follows:

§ 274.106 Form N-1Q, for quarterly report of registered management investment company.

* * * * *

Item 12. Mergers.

If, during the calendar quarter, registrant became the surviving corporation of a merger or consolidation with one or more other registered investment companies, furnish the following information:

(a) Give the name of each such other registered company.

(b) State the circumstances and details of such merger or consolidation, including the date and terms thereof, any action taken by the board of directors or shareholders approving or ratifying the merger or consolidation, and other actions taken pursuant to state law. State any other facts relevant to a Commission consideration of whether such other registered investment company has ceased to be an investment company as defined in the Act.

* * * * *

Item 13. Exhibits.

* * * * *

7. Copies of any merger or consolidation agreement, and other documents relevant to the information sought in Item 12, above.

3. Section 274.218 is added as follows:

§ 274.218 Form N-8F, for application by certain registered investment companies applying for orders pursuant to Section 8(f) of the Investment Company Act of 1940 declaring that such a company has ceased to be an investment company.

This form shall be used as the application for an order of the Commission pursuant to section 8(f) of the Act in cases where the applicant (a) has distributed substantially all of its assets to its shareholders, and has effected, or is in the process of effecting, a winding-up of its affairs; or (b) has never made a public offering of its securities, has not more than one hundred securityholders for the purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind; or (c) has (1) sold substantially all of its assets to another registered investment company, or (2) merged into or consolidated with another registered investment company.

The text of Form N-8F will be set forth in its entirety as an appendix to this release when published in the SEC Docket.[1] Copies of Form N-8F will also be available from: Publications Section, Securities and Exchange Commission, Washington, D.C. 20549.

[1] A copy of Form N-8F accompanied this release as originally filed in the Office of the Federal Register.

STATUTORY BASIS

Form N-8F (17 CFR 274.218) and Rule 8f-1 (17 CFR 270.8f-1) are promulgated pursuant to the provisions of section 38(a) of the Act (15 U.S.C. 80a-37(a)). The revisions of Form N-1Q (17 CFR 274.106) are promulgated pursuant to sections 14(b), 30(b), and 38(a) of the Act. (15 U.S.C. 80a-14(b), 80a-29(b), 80a-37(a)).

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 11, 1978.

SECURITIES AND EXCHANGE COMMISSION,
WASHINGTON, D.C. 20549

FORM N-8F

Application pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act") and Rule 8f-1 thereunder for order declaring that company has ceased to be an investment company.

Name of Applicant: ———————————
File No.: 811- ———————————
Address of Principal Executive Office: (No. & Street, City, State, Zip Code)

———————————

Classification of Applicant (face-amount certificate company, unit investment trust, or management company):

———————————

Investment Adviser(s):
Name: ———————————
Address(es): ———————————

Principal Underwriter(s):
Name: ———————————
Address(es): ———————————

If Applicant is a management company: (1) Check appropriate box:

Open-end:
☐ Diversified
☐ Non-diversified

Closed-end:
☐ Diversified
☐ Non-diversified

(2) Is there any unit investment company registered under the Act which serves or has served as a vehicle for investment, through periodic payment plans or otherwise, in Applicant? If so, state the name(s), file no(s). (811-) and business address(es) of all such unit investment trusts.

If Applicant is a unit investment trust:

Depositor:
Name: ———————————
Address: ———————————

Trustee:
Name: ———————————
Address: ———————————

Designate the basis upon which the application is being made:

☐ A. Applicant has never made a public offering of its securities, has not more than 100 securityholders for purposes of Section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind ("Abandonment" or "Type A").

☐ B. Applicant (1) has distributed substantially all of its assets to its securityholders and has effected, or is in the process of effecting, a winding-up of its affairs ("Liquidation" or "Type B"), and (2) is not a "Type C" company as defined below.

☐ C. Applicant has (1) sold substantially all of its assets to another registered investment company; or (2) merged into or consolidated with another registered investment company ("Merger" or "Type C").

This form shall serve as an application only for such companies as defined in Rule 8f-1 adopted under the Act (17 CFR 270.8f-1). It shall be filed in the manner described in Rule 0-2 (a) and (b) promulgated under the Act (17 CFR 270.0-2(a), (b)). The filing of this application shall be accompanied by the authorizations described in Rule 0-2(c) (17 CFR 270.0-2(c)), and by any applicable fees, in the manner and amount prescribed by Rule 0-5 (17 CFR 270.0-5).

Every amendment to this application shall be filed in accordance with the procedures described in Rule 0-2 (a), (b), (c) and (d) (17 CFR 270.0-2 (a), (b), (c), (d)).

Any other registered investment company may use this form as a guide in the preparation of an application for an order pursuant to Section 8(f) of the Act. However, in such case, Rule 0-2 in its entirety shall apply.

I. *All Applicants.* The following items shall be completed by all Applicants:

1. State the date Applicant registered under the Act, and the date any registration statement was filed by Applicant (excluding amendments thereto) pursuant to Section 8(b) of the Act (15 U.S.C. 80a-8(b)).

2. Describe briefly any registration statements filed, with respect to securities issued by Applicant, pursuant to the Securities Act of 1933 (excluding post-effective amendments thereto), including the date(s) of filing, the amounts, titles and classes of securities covered by such registration statements, and the date(s) on which (i) such statements became effective, and (ii) any initial public offering(s) commenced.

3. State the present status of Applicant's legal existence under the state law pursuant to which it was created.

4. State whether, within the last 18 months, Applicant has, for any reason, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant. If such an entity has been created, describe fully the circumstances of its creation and attach a copy of all instruments relating to its creation, including a description of any assets placed therein.

5. Describe fully the method and amount of all distributions (if any) to securityholders of Applicant made in connection with the winding-up of Applicant's affairs pursuant to such company's dissolution, liquidation, or merger, including the date such event took place.

6. Describe the value of and nature of any assets retained by Applicant at the time of filing this form and the purposes for which such assets have been retained. State whether such assets have or will be invested in any securities.

7. Describe briefly the nature of any debts, other than face-amount certificates if Applicant is a face-amount certificate company, or other liabilities of Applicant which remain outstanding.

8. State whether Applicant is party to any litigation or administrative proceeding and, if so, describe the nature of such litigation or proceeding and the position taken by the Applicant therein.

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9. State the number of securityholders (if any) of Applicant at the time of filing of this application.

10. State whether Applicant is now engaged, or proposes to engage, in any business activities other than those necessary for the winding-up of its affairs. If any activities other than winding-up are taking or will take place, describe the nature and extent of such activities.

11. State any other facts relevant to a consideration that Applicant has ceased to be an investment company.

II. *Abandonments.* The following item shall be completed by Applicants designated as Type A:

12. State whether any sales were made by Applicant of securities of which it is the issuer. Indicate the date(s) and amount(s) of such sales, and the consideration received therefor.

III. *Liquidations or mergers.* The following items shall be completed by Applicants designated as Type B or Type C:

13. State titles, classes and number of securities outstanding and net asset value attributable to each such class (in aggregate and per share) as of the nearest date practicable preceding liquidation or merger.

14. Describe the expenses incurred in connection with the liquidation or merger and how such expenses were allocated and to whom.

15. State the existence of any securityholders of Applicant to whom distributions in complete liquidation of their interests have not been made and describe briefly the plans (if any) for the distribution to, or the preservation of the interests of, such securityholders.

16. Describe briefly the disposition of portfolio securities and any other assets of the Applicant in connection with the liquidation or merger (other than distributions made to Applicant's securityholders), the basis of the price received, and the means of sale and any brokerage commissions paid thereon. Attach a balance sheet for Applicant, prepared in accordance with generally accepted accounting principles, which statement need not be audited, as of a date within 90 days immediately preceding the liquidation or merger.

17. Describe briefly any legal action taken to effect the liquidation or merger, including:

(a) any action taken by the Board of Directors or similar body authorizing or recommending such events, including the date any such action took place;

(b) any securityholder authorization which was obtained in connection with such event, including any vote required by law and the results of any such vote;

(c) the distribution of any proxy material to securityholders regarding such event; state whether such material was filed with the Commission;

(d) the filing of any application for an order of the Commission respecting such liquidation or merger, and the disposition thereof by the Commission; and

(e) any action required by state law; state whether Applicant has filed, or intends to file, any article of merger, certificate of dissolution, or similar document pursuant to state law.

IV. *Mergers.* The following items shall be completed by Applicants designated as Type C:

18. State the name and file No. (811-) of the company which Applicant has merged into, sold substantially all its assets or securities to, or which resulted from the consolidation of Applicant and any other company.

19. Briefly state the circumstances and details of such merger or consolidation, including the date and terms thereof.

Attach copies of any and all documents described in paragraphs 17(c) and (d) above, and, in the case of merger, a copy of the merger or reorganization agreement; any such documents which have previously been filed with the Commission may be incorporated herein by reference.

_____
(Name of Company)

BY _____
(Name)

_____
(Title)

VERIFICATION

State of _____
County of _____
ss: _____

The undersigned being duly sworn deposes and says that he has duly executed this application, dated ———, 19—, for an order pursuant to Section 8(f) of the Investment Company Act of 1940 declaring that ——— (Name of Company) has ceased to be an investment company, for and on behalf of such company; that he is the ——— (Title of Officer) of ——— (Name of Company); and that all action by stockholders, directors, and other bodies necessary to authorize deponent to execute and file such instrument has been taken. Deponent further says that he is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of his knowledge, information and belief.

_____
(Signature)

_____
(Type or print name beneath)

Subscribed and sworn to before me, a ——— (Title of Officer) this —— day of ——, 19—.

[OFFICIAL SEAL]
My commission expires _____

[FR Doc. 78-13683 Filed 5-18-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Advisory Committees; Establishment and Terminations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and the public advisory committee procedures (21 CFR Part 14), this document announces the establishment of one advisory committee and the termination of three others. This document adds to and deletes from the agency's list of standing advisory committees.

EFFECTIVE DATE: May 19, 1978; authority for the committee will remain in effect until amended or terminated by the Commissioner of Food and Drugs.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)) the Food and Drug Administration (FDA) announces the establishment of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel by the Commissioner of Food and Drugs.

The Committee will review and evaluate data concerning the safety and effectiveness of ophthalmic; ear, nose, and throat; and dental devices currently in use and advise the Commissioner regarding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risks to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; advise on the necessity to ban a device; and respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Concurrently with the establishment, the Commissioner approved the termination of the Ophthalmic Device Classification Panel, the Ear, Nose, and Throat Device Classification Panel, and the Dental Device Classification Panel. Under § 14.55(b) (21 CFR 14.55(b)), FDA announces the termination of these committees.

Therefore, under the Federal Food, Drug, and Cosemtic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 by revising paragraph (d)(1)(xv) and deleting paragraphs (d)(1) (v) and (vi) and marking them "reserved," as follows:

§ 14.100 List of standing advisory committees.

• • • • •

(d) • • •
(1) • • •

• • • • •

(v) [Reserved]
(vi) [Reserved]

• • • • •

(xv) *Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel.* Established April 28, 1978.

• • • • •

Effective date. Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, May 19, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: May 12, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Comissioner for Regulatory Affairs.

[FR Doc. 78-13584 Filed 5-18-78; 8:45 am]

[4110-03]

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Advisory Committees; Establishment and Terminations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and the public advisory committee procedures (21 CFR Part 14), this document announces the establishment of one advisory committee and the termination of two others. This document adds to and deletes from the agency's list of standing advisory committees.

EFFECTIVE DATE: May 19, 1978; authority for the committee will remain in effect until amended or terminated by the Commissioner of Food and Drugs.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)), the Food and Drug Administration (FDA) announces the establishment of the Surgical and Rehabilitation Devices Panel by the Commissioner of Food and Drugs.

The Committee will do the following: (1) Review and evaluate data concerning the safety and effectiveness of surgical and rehabilitation devices currently in use and advise the Commissioner regarding recommended classification of these devices into one of three regulatory categories; (2) recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards of premarket approval category; (3) advise on any possible risks to health associated with the use of devices; (4) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; (5) review classification of devices to recommend changes in classification as appropriate; (6) recommend exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (7) advise on the necessity to ban a device; and (8) respond to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Concurrently with the establishment, the Commissioner approved the termination of the General and Plastic Surgery Device Classification Panel, the Orthopedic Device Classification Panel, and the Physical Medicine Device Classification Panel. Under § 14.55(b) (21 CFR 14.55(b)), FDA announces the termination of these committees.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 by revising paragraph (d)(1)(viii) and deleting paragraphs (d)(1) (xvi) and (xviii) and marking them "reserved," as follows:

§ 14.100 List of standing advisory committees.

• • • • •

(d) • • •
(1) • • •

(viii) *Surgical and Rehabilitation Devices Panel.* Established April 28, 1978.

• • • • •

(xvi) [Reserved]

• • • • •

(xviii) [Reserved]

• • • • •

Effective date. Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, May 19, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: May 12, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13585 Filed 5-18-78; 8:45 am]

[4110-03]

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Advisory Committees; Establishment and Terminations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and the public advisory committee procedures (21 CFR Part 14), this document announces the establishment of one advisory committee and the termination of two others. This document adds to and deletes from the agency's list of standing advisory committees.

EFFECTIVE DATE: May 19, 1978; authority for the committee will remain in effect until amended or terminated by the Commissioner of Food and Drugs.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)), the Food and Drug Administration (FDA) announces the establishment of the Respiratory and Nervous System Devices Panel by the Commissioner of Food and Drugs.

The Committee will review and evaluate data concerning the safety and effectiveness of respiratory and nervous system devices currently in use and advise the Commissioner re-

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garding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risks to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; advise on the necessity to ban a device; and respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Concurrently with the establishment, the Commissioner approved the termination of the Anesthesiology Device Classification Panel and the Neurological Device Classification Panel. Under § 14.55(b) (21 CFR 14.55(b)), FDA announces the termination of these committees.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 by revising paragraph (d)(1)(i) and deleting paragraph (xiii) and marking it "reserved." as follows:

§ 14.100 List of standing advisory committees.

. . . . . .

(d) • • •
(1) • • •
(i) *Respiratory and Nervous System Devices Panel.* Established April 28, 1978.

. . . . . .

(xiii) [Reserved]

. . . . . .

Effective date. Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, May 19, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: May 12, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13586 Filed 5-18-78; 8:45 am]

[4110-03]

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Advisory Committees; Establishment and Terminations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and the public advisory committee procedures (21 CFR Part 14), this document announces the establishment of one advisory committee and the termination of three others. This document adds to and deletes from the agency's list of standing advisory committees.

EFFECTIVE DATE: May 19, 1978; authority for the committee will remain in effect until amended or terminated by the Commissioner of Food and Drugs.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)), the Food and Drug Administration (FDA) announces the establishment of the Clinical Chemistry and Hematology Devices Panel by the Commissioner of Food and Drugs.

The Committee will do the following: (1) Review and evaluate data concerning the safety and effectiveness of clinical chemistry, clinical toxicology, and hematology devices currently in use and advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories; (2) recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; (3) advise on any possible risks to health associated with the use of devices; (4) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; (5) review classification of devices to recommend changes in classification as appropriate; (6) recommend exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (7) advise on the necessity to ban a device; and (8) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Concurrently with the establishment, the Commissioner aproved the termination of the Clinical Chemistry Device Classification Panel, the Clinical Toxicology Device Classification Panel, and the Hematology Device Classification Panel. Under § 14.55(b) (21 CFR 14.55(b)), FDA announces the termination of these committees.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 by revising paragraph (d)(1)(iii) and deleting paragraphs (d)(1) (iv) and (x) and marking them "reserved," as follows:

§ 14.100 List of standing advisory committees.

. . . . . .

(d) • • •
(1) • • •
(iii) *Clinical Chemistry and Hematology Devices Panel.* Established April 28, 1978.
(iv) [Reserved]

. . . . . .

(x) [Reserved]

. . . . . .

Effective date. Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, May 19, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: May 12, 1978

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13587 Filed 5-18-78; 8:45 am]

[4110-03]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0118]

PART 131—MILK AND CREAM

Evaporated Milk, Sweetened Condensed Milk, Evaporated Skimmed Milk, and Sweetened Condensed Skimmed Milk; Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes standards of identity for evaporated skimmed milk and sweetened condensed skimmed milk and revises the standards of identity for evaporated milk and sweetened condensed milk, based on consideration of the international standards developed by the Codex Alimentarius Commission for these foods. This action will promote honesty and fair dealing in the interest of consumers and will facilitate international trade by conforming U.S. standards more closely to international standards.

DATES: Effective July 1, 1979 for all products initially introduced into interstate commerce on or after this date.

Voluntary compliance: July 18, 1978. Objections by June 19, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md., 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a proposal in the FEDERAL REGISTER of July 19, 1977 (42 FR 37013) to amend the standards of identity for evaporated milk and sweetened condensed milk in §§ 131.130 and 131.120 (21 CFR 131.130, 131.120), respectively, and to establish new standards of identity for evaporated skimmed milk and sweetened condensed skimmed milk in §§ 131.132 and 131.122 (21 CFR 131.132, 131.122), respectively. The proposed standards were based on the recommended international standards for evaporated milk and evaporated skimmed milk (Codex Standard No. A-3 (1971))[1] and sweetened condensed milk, and sweetened condensed skimmed milk (Codex Standard No. A-4 (1971))[1] which were submitted to the United States for consideration of acceptance by the Joint Food and Agriculture Organization/World Health Organization's Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, an auxiliary body of the Codex Alimentarius Commission.

The standards of identity set out below are being adopted as part of a program in which the United States is participating along with approximately 100 other countries to establish regional and/or worldwide food standards. The new standards of identity include (1) requirements for mandatory ingredients, (2) provisions for optional ingredients, such as safe and suitable stabilizers, emulsifiers, carriers for vitamins A and D, and characterizing flavoring ingredients, with or without coloring, and (3) requirements for label declaration of all optional ingredients except carriers for vitamins which are exempted by § 101.100(a)(3)(i) (21 CFR 101.100(a)(3)(i)). In addition, the standards of identity for evaporated milk and sweetened condensed milk are amended to provide for the use of nutritive carbohydrate sweeteners in the provision for optional characterizing flavoring. Further, for consistency with the international standards, where to do so is in accordance with FDA's policy of reasonableness and in the interest of consumers, the compositional requirements of these foods are amended to reduce the total solids requirement for evaporated milk from 25.5 percent to 25 percent by weight, and the milkfat requirement for sweetened condensed milk from 8.5 percent to 8 percent by weight.

Three comments were received in response to the proposal. One comment from the Evaporated Milk Association endorsed the proposed standard of identity for evaporated skimmed milk and the proposed revision of the standard of identity for evaporated milk. One comment from a major domestic manufacturer of sweetened condensed milk supported the proposed revision of the standard of identity for sweetened condensed milk. The third comment, from a State department of agriculture, generally supported the proposal and made several suggestions. The suggestions from the State department of agriculture and the Commissioner's responses are as follows:

1. The comment suggested that, to facilitate uniformity among standards, the composition of reduced-moisture milks should be consistent with that of fluid whole milk. Further, it explained, given the milkfat to milk solids not fat (mf/msnf) ratio for fluid milks, evaporated/condensed equivalents should maintain similar ratios, allowing for moisture reduction.

The Commissioner does not agree that there is a need to require the same mf/msnf ratio for fluid milk and evaporated and condensed milk products since the bases for the minimum requirements in the standards differ. He acknowledges that there are slight differences in the mf/msnf ratios for fluid whole milk and evaporated milk and sweetened condensed milk. In the case of whole milk, the minimum milkfat requirement of 3.25 percent and the minimum milk solids not fat requirement of 8.25 percent are based on the average minima determined for the composition of cow's milk and result in a mf/msnf ratio of 1:2.54. In the case of evaporated milk and sweetened condensed milk, the minimum milkfat and minimum milk solids requirements are based on the Codex requirements for these foods. The resulting mf/msnf ratios are 1:2.33 for evaporated milk and 1:2.50 for sweetened condensed milk. Traditionally, evaporated and sweetened condensed milks are obtained by the partial removal of water from fluid milk. Prior to removal of the water, the fat is adjusted in the fluid milk to an average rather than a minimum value. The current revisions of the standards of identity for evaporated milk and sweetened condensed milk, which are minimal, are made to effect consistency with the Codex standards for these foods. As he stated in the proposal, the Commissioner maintains that the proposed requirements are reasonable, will benefit international trade, and do not conflict with the need to promote honesty and fair dealing in the interest of consumers. The Commissioner concludes that the minimum milkfat and minimum milk solids not fat requirements for these foods should not be changed from those in the proposal.

2. The comment suggested that fluid and reduced-moisture milks should be uniformly vitamin fortified. It maintained that because the addition of vitamin D is optional in fluid milks and the addition of vitamin A is required in reduced-fat milks, addition of vitamin D to evaporated milk should be optional and the addition of vitamin A should be required for evaporated skimmed milk. The comment further stated that if regulations do not establish uniform standards for adding these vitamins to fluid and evaporated milks, the name of the standardized product should reflect the vitamin fortification (e.g., "nonfat dry milk fortified with vitamins A and D"). Thus, the comment stated, evaporated milk should be standardized as "evaporated milk fortified with vitamin D" and evaporated skimmed milk as "evaporated skimmed milk fortified with vitamins A and D".

The Commissioner does not agree that the vitamin fortification requirements for evaporated milk products should be amended simply for consistency with the requirements for fluid milk products. He notes that although vitamin D addition to fluid milks is optional, practically all such products contain added vitamin D. Further, because evaporated milk products are use in infant feeding programs, and because the practice of fortifying evaporated milk products with vitamin D is well accepted by nutritionists, he concludes that the standards of identity for evaporated milk and evaporated skimmed milk should not be changed from those in the proposal.

[1] Code of Principles Concerning Milk and Milk Products, International Standards and Standard Methods of Sampling and Analysis for Milk Products, 7th Ed. FAO/WHO Document No. CAC/M 1-1973.

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The Commissioner does not agree with the suggested requirement for names such as "evaporated milk fortified with vitamin D" and "evaporated skimmed milk fortified with vitamins A and D". He maintains that the required terms which follow the name of the food in its labeling, i.e., "vitamin D" or "vitamin D added", or "vitamins A and D" or "vitamins A and D added", as appropriate, are sufficient to inform the consumer of the presence of added vitamins. He notes that the term "fortified with" is also used in the name of fluid milk products when milk solids are added, as well as in the name of nonfat dry milk fortified with vitamins A and D. The term "fortified with" in each case distinguishes the fortified product from its "unfortified" counterpart. Moreover, in the standards of identity for evaporated milk, as codified, and evaporated skimmed milk, as proposed, where fortification with vitamin(s) is mandatory and there would be no unfortified counterpart, he believes there would be no ambiguity by not requiring the name of the food to include terms such as "fortified with". The labels of evaporated milk and evaporated skimmed milk in the marketplace presently bear the names consistent with those set out in the standards of identity, and because consumers are familiar with these names, the Commissioner concludes that such a name change is unwarranted.

In consideration of the comments received, the Commissioner concludes that to establish standards of identity for evaporated skimmed milk and sweetened condensed skimmed milk based on the recommended international standards and to amend the standards of identity for evaporated milk and sweetened condensed milk, as set forth in this document, will promote honesty and fair dealing in the interest of consumers.

For the sake of clarity, several minor editorial changes have been adopted in this final rule.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner amends Part 131 as follows:

1. By revising § 131.120 to read as follows:

§ 131.120 Sweetened condensed milk.

(a) *Description.* Sweetened condensed milk is the food obtained by partial removal of water only from a mixture of milk and safe and suitable nutritive carbohydrate sweeteners. The finished food contains not less than 8 percent by weight of milkfat, and not less than 28 percent by weight of total milk solids. The quantity of nutritive carbohydrate sweetener used is sufficient to prevent spoilage. The food is pasteurized and may be homogenized.

(b) *Optional ingredients.* The following safe and suitable characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, may be used:

(1) Fruit and fruit juice, including concentrated fruit and fruit juice.

(2) Natural and artificial food flavoring.

(c) *Method of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, section 16.167, under "Fat—Official Final Action."[2]

(d) *Nomenclature.* The name of the food is "Sweetened condensed milk." The word "homogenized" may appear on the label if the food has been homogenized. The name of the food shall include a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(e) *Label declaration.* The nutritive carbohydrate sweetener(s) required in paragraph (a) of this section and each of the optional ingredients specified in paragraph (b) of this section, when used in the food, shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

2. By adding § 131.122 to read as follows:

§ 131.122 Sweetened condensed skimmed milk.

(a) *Description.* Sweetened condensed skimmed milk is the food obtained by the partial removal of water only from a mixture of skim milk and safe and suitable nutritive carbohydrate sweeteners. The finished food contains not more than 0.5 percent by weight of milkfat unless otherwise indicated and not less than 24 percent by weight of total milk solids. The quantity of nutritive carbohydrate sweeteners used is sufficient to prevent spoilage. The food is pasteurized and may be homogenized.

(b) *Optional ingredients.* The following safe and suitable characterizing flavoring ingredients, with or without coloring, and nutritive carbohydrate sweeteners may be used:

(1) Fruit and fruit juice, including concentrated fruit and fruit juice.

(2) Natural and artificial food flavoring.

(c) *Method of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, section 16.167 under "Fat—Official Final Action."[2]

(d) *Nomenclature.* The name of the food is "Sweetened condensed skimmed milk." The word "homogenized" may appear on the label if the food has been homogenized. If the milkfat content is over 0.5 percent by weight, the name of the food shall be accompanied by the statement "Contains ———— percent milkfat", the blank to be filled in with the fraction "½", or multiple thereof, closest to the actual milkfat content of the product. The name of the food shall be accompanied by a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of ths chapter.

(e) *Label declaration.* The nutritive carbohydrate sweetener required in paragraph (a) of this section and each of the optional ingredients specified in paragraph (b) of this section when used in the food, shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

3. By revision § 131.130 to read as follows:

§ 131.130 Evaporated milk.

(a) *Description.* Evaporated milk is the liquid food obtained by partial removal of water only from milk. It contains not less than 7.5 percent by weight of milkfat and not less than 25 percent by weight of total milk solids. Evaporated milk contains added vitamin D as prescribed by paragraph (b) of this section. It is homogenized. It is sealed in a container and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) *Vitamin addition.* (1) Vitamin D shall be present in such quantity that each fluid ounce of the food contains 25 International Units thereof within limits of good maufacturing practice.

(2) Addition of vitamin A is optional, If added, vitamin A shall be present in such quantity that each fluid ounce of the food contains not less than 125 International Units thereof within limits of good maufacturing practice.

(c) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Carriers for vitamins A and D.

(2) Emulsifiers.

(3) Stabilizers, with or without dioctyl sodium sulfosuccinate (when permitted by and complying with the provisions of § 172.810 of this chapter) as a solubilizing agent.

(4) Characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

[2]Copies may be obtained from: The Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat-content—"Fat—Official Final Action," section 16.154.[2]

(2) Total milk solids—"Total Solids—Official Final Action," section 16.151.[2]

(3) Vitamin D content—"Vitamin D in Milk—Official Final Action," sections 43.166-43.179.[2]

(e) *Nomenclature.* The name of the food is "Evaporated milk." The phrase "vitamin D" or "vitamin D added", or "vitamins A and D" or "vitamins A and D added", as is appropriate, shall immediately precede or follow the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name. The name of the food shall include a declaration of a the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

4. By adding § 131.132 to read as follows:

§ 131.132 Evaporated skimmed milk.

(a) *Description.* Evaporated skimmed milk is the liquid food obtained by the partial removal of water only from skim milk. It contains not less than 20 percent by weight of total milk solids, and not more than 0.5 percent by weight of milkfat unless otherwise indicated. Evaporated skimmed milk contains added vitamins A and D as prescribed by paragraph (b) of this section. It may be homogenized. It is sealed in a container and so processed by heat, either before or after sealing, as to prevent spoilage,

(b) *Vitamin addition.* (1) Vitamin D shall be present in such quantity that each fluid ounce of the food contains 25 International Units thereof within limits of good manufacturing practice.

(2) Vitamin A shall be present in such quantity that each fluid ounce of the food contains not less than 125 International Units thereof within limits of good manufacturing practice.

(c) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Carriers for vitamin A and D.

(2) Emulsifiers.

(3) Stabilizers, with or without dioctyl sodium sulfosuccinate (when permitted by, and complying with provisions of § 172.810 of this chapter) as a solubilizing agent.

(4) Characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(d) *Methods of analyses.* The following referenced methods of analyses are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat content—"Fat—Official Final Action," section 16.154.[2]

(2) Total milk solids—"Total Solids—Official Final Action," section 16.151.[2]

(3) Vitamin D content—"Vitamin D in Milk—Official Final Action," sections 43.166-43.179.[2]

(e) *Nomenclature.* The name of the food is "Evaporated skimmed milk." The phrase "vitamins A and D" or "vitamins A and D added", shall immediately precede or follow the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name. If the milkfat content is over 0.5 percent by weight, the name of the food shall be accompanied by the statement, "Contains ———— percent milkfat", the blank to be filled in with the fraction "½", or multiple thereof, closest to the actual milkfat content of the product. The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before June 19, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin July 18, 1978, and all products initially introduced into interstate commerce on or after July 1, 1979 shall fully comply. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on March 11, 1976 and is on file in the Federal Register Library.

Dated: May 11, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13588 Filed 5-18-78; 8:45 am]

[4810-25]

Title 31—Money and Finance: Treasury

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

Recordkeeping Required

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This amendment requires any bank or other financial institution that sells or redeems a certificate of deposit on or after June 1, 1978, to maintain a record of the transaction which shall include the date, name, address and the taxpayer identification number of the purchaser or owner thereof. The information is needed for law enforcement purposes.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert J. Stankey, Assistant to the Director, Office of Law Enforcement, U.S. Department of the Treasury, Room 1462, Washington, D.C. 20220, 202-566-5630.

SUPPLEMENTARY INFORMATION: The Treasury Department published a

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notice of proposed rulemaking in the FEDERAL REGISTER on March 16, 1978 [43 FR 10940]. This notice proposed that banks and other financial institutions be required to maintain a record of the date of redemption of each certificate of deposit sold or redeemed after May 15, 1978, including the above-described information, in order to impede the efforts of persons engaged in illegal activities to conceal their financial transactions relating to those activities. The notice provided that comments received on or before April 17, 1978, would be considered before action is taken on the proposed rule.

DISCUSSION OF COMMENTS

A total of 19 letters have been received. They include 10 from banks and savings and loan associations, 3 from industry associations, 1 from a member of the general public, and 5 from State and Federal financial regulatory agencies. While a majority of the responses are in substantial agreement with the proposal, some expressed general opposition and many contain technical suggestions for improving the language.

Four of the letters from financial institutions opposed the principal provisions of the proposal. The following summary lists the reasons given as a basis for that opposition together with the Treasury Department's responses:

1. In the opinion of this group of respondents, the amendment would be ineffective in impeding the concealment of financial transactions relating to illegal activities. Although the proposal would require a record of the identities of the purchaser and the person presenting a certificate for redemption, there is no provision for recording the identity of any other person who may purchase it.

Response: While the Department recognizes the fact that the proposal would not provide a complete record of the ownership of a negotiable certificate of deposit, the proposed amendment would assure the retention of records that would be highly useful in tracing the ownership of such a certificate.

2. The additional recordkeeping which would be required under the proposal would increase the operating costs of financial institutions that issue certificates of deposit.

Response: It is our understanding that most financial institutions currently create records which would satisfy the requirements of the proposal. It is recognized, however, that some institutions may not be retaining those records as long as the amendment would require. Nevertheless, in our opinion, the added cost to some institutions, of longer record retention is counter-balanced by the value of the requirement to law enforcement activities.

3. Adequate information is presently maintained for capital notes and registered certificates of deposit.

Response: It is the Department's belief that, in most instances, financial institutions are maintaining adequate records. The proposal would merely ensure that the relatively small number which have not been keeping these records will do so in the future.

4. Certificates of deposit are often bought and sold through agents. Therefore, it would disrupt the investment and collection procedures of the financial community to require the issuing institution to identify the principal in each transaction.

Response: The Department recognizes the practical difficulties that this requirement would entail in certain instances and has modified the proposal to shift the responsibility for keeping records identifying the principal, when an agent acts as intermediary, to the agent.

While two of the industry associations expressed their approval of the proposed amendment, a third opposed the inclusion of capital notes or debentures. The opposition was based on the belief that (1) the Bank Secrecy Act does not authorize the Treasury Department to require records of capital instruments of banks, and (2) the issuance of capital notes or debentures currently is regulated by Federal bank supervisory agencies and adequate records are maintained.

Although the Department believes that it has the necessary authority to require recordkeeping of capital instruments, there does not appear to be sufficient justification for including capital instruments in the proposal. Consequently, the amendment has been modified accordingly.

TEXT OF AMENDMENT

Section 103.34 of Part 103, Title 31, Code of Federal Regulations, is amended by revising paragraphs (a)(1) and (3) and by adding paragraphs (b)(11) and (12) to read as follows:

§ 103.34 Additional records to be made and retained by banks.

(a)(1) With respect to each certificate of deposit sold or redeemed after May 31, 1978, or each deposit or share account opened with a bank after June 30, 1972, a bank shall, within 45 days from the date such a transaction occurs or an account is opened, secure and maintain a record of the taxpayer identification number of the customer involved; or where the account or certificate is in the names of two or more persons, the bank shall secure the taxpayer identification number of a person having a financial interest in the certificate or account. In the event that a bank has been unable to secure, within the 45-day period specified, the required identification, it shall nevertheless not be deemed to be in violation of this section if (i) it has made a reasonable effort to secure such identification, and (ii) it maintains a list containing the names, addresses, and account numbers of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary as directed by him. A bank acting as an agent for another person in the purchase or redemption of a certificate of deposit issued by another bank is responsible for obtaining and recording the required taxpayer identification, as well as for maintaining the records referred to in paragraphs (b)(11) and (12) of this section. The issuing bank can satisfy the recordkeeping requirement by recording the name and address of the agent together with a description of the instrument and the date of the transaction.

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(3) A taxpayer identification number required under paragraph (a)(1) of this section need not be secured for accounts or transactions with the following: (i) Agencies and instrumentalities of Federal, State, local or foreign governments; (ii) judges, public officials, or clerks of courts of record as custodians of funds in controversy or under the control of the court; (iii) aliens who are (A) ambassadors, ministers, career diplomatic or consular officers, or (B) naval, military or other attaches of foreign embassies and legations, and for the members of their immediate families; (iv) aliens who are accredited representatives of international organizations which are entitled to enjoy privileges, exemptions and immunities as an international organization under the International Organization Immunities Act of December 29, 1945 (22 U.S.C. sec. 288), and the members of their immediate families; (v) aliens temporarily residing in the United States for a period not to exceed 180 days; (vi) aliens not engaged in a trade or business in the United States who are attending a recognized college or university or any training program, supervised or conducted by any agency of the Federal Government; (vii) unincorporated subordinate units of a tax exempt central organization which are covered by a group exemption letter, (viii) a person under 18 years of age with respect to an account opened as a part of a school thrift savings program, provided the annual interest is less than $10; (ix) a person opening a Christmas club, vacation club and similar installment savings programs provided the annual interest is less than $10; and (x) non-resident aliens who are not engaged in a trade or business in the United States. In instances described in paragraphs (a)(3), (viii) and (ix) of this section, the bank shall, within 15 days following the end of any calendar year in which the interest accrued in that year is $10 or more use its best effort to secure and maintain the appropriate taxpayer identification number or application form therefor.

• • • • • •

(b) • • •

(11) A record containing the name, address, and taxpayer identification number, if available, of the purchaser of each certificate of deposit, as well as a description of the instrument, a notation of the method of payment, and the date of the transaction.

(12) A record containing the name, address and taxpayer identification number, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction.

Dated: May 9, 1978.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc. 78-13623 Filed 5-18-78; 8:45 am]

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[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 897-1]

PART 51—STATE IMPLEMENTATION PLANS UNDER CLEAN AIR ACT

Criteria for Proposing Approval of Revision to Plans for Nonattainment Areas

AGENCY: Evironmental Protection Agency.

ACTION: Notice of policy memorandum.

SUMMARY: Reproduced below is a copy of a Memorandum in which the EPA Administrator summarized the elements that must be included in State Implementation Plan Revisions for areas that do not meet national ambient air quality standards under the Clean Air Act. The Memorandum establishes elements which a State Plan submittal must contain in order to be approved by EPA. EPA is publishing this Memorandum for the information of the public.

EFFECTIVE DATE: February 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Darryl D. Tyler, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, N.C. 27711, 919-541-5425.

SUMMARY INFORMATION: New provisions of the Clean Air Act enacted in 1977 require states to revise their State Implementation Plans for all areas that do not attain National Ambient Air Quality Standards. States must submit the necessary Plan revisions to EPA by January 1, 1979.[1]

The Memorandum reproduced below, which the EPA Administrator issued to the ten Regional Administrators on February 24, 1978, summarizes the elements which a Plan submittal must contain in order to be approved by EPA as meeting the requirements of Part D of the Act. Copies of this Memorandum have already been supplied to the state air pollution control agencies, to provide guidance in their preparation of Plan revisions. It is being published now for the information of the public.

EPA considers this Memorandum to state "nationally applicable" Agency policy, but not "regulations promulgated, or final action taken, by the Administrator" that is ripe for judicial review under the first sentence of section 307(b)(1) of the Act (42 U.S.C. 7607(b)(1)). Only after EPA has received actual Plan submittals, and has invited and considered public comment on whether the submittals satisfy the requirements for approval under the Act, will the Administrator take final actions with respect to the individual submittals. The opportunity for judicial review of those final Agency actions under the second and third sentences of section 307(b)(1) of the Act, will provide an opportunity for judicial consideration of the policy issues addressed in this Memorandum.

Dated: May 9, 1978.

DAVID G. HAWKINS,
Assistant Administrator for Air and Waste Management.

On February 24, 1978, the Administrator of the Environmental Protection Agency issued the following Memorandum:

SUBJECT: Criteria for Approval of 1979 SIP Revisions.

FROM: The Administrator (A-100).

TO: Regional Administrators, I-X.

FEBRUARY 24, 1978.

The attachment to this memo summarizes the elements which a 1979 State Implementation Plan (SIP) revision for a non-attainment area must contain in order to be approved by EPA as meeting the requirements of Part D of the Clean Air Act.

In summary, the Act requires the demonstration of attainment of the air quality standards (primary and secondary) as expeditiously as practicable, but in the case of national primary standards not later than December 31, 1982. However, for carbon monoxide (CO) and oxidants (Ox), if the State can demonstrate attainment is not possible by 1982 despite the implementation of all reasonable stationary source and transportation control measures, the Act provides for up to a five-year extension. In those cases the plan revisions must demonstrate attainment as expeditiously as practicable but no later than December 31, 1987. The extension is not automatic; a demonstration of need must be made and the State must fulfill the other statutory requirements.

It is the intent of the Agency to establish reasonable and achievable goals for SIP submissions and to take a firm posture on the imposition of sanctions where the reasonable goals are not achieved. Accordingly, while the policy requires a commitment to many specific strategies in the 1979 submissions (e.g., RACT on stationary sources, inspection/maintenance programs where attainment for carbon monoxide or oxidants extends beyond 1982, other reasonable transportation control measures, etc.) the memo also requires (for carbon monoxide and oxidants) a commitment to a continuing process. This process must be one which extensively involves the public as well as State and local elected officials and which ambitiously pursues a wide range of alternatives.

Since reliance on stationary controls and Federal new car standards alone will not enable most areas with oxidant and carbon monoxide problems to attain these standards by 1982, each Regional Office will need to put particular emphasis on additional measures to reduce transportation system emissions. The process committed to in the 1979 plan submission must lead to the expeditious selection and implementation of comprehensive transportation control measures. In judging the adequacy of the 1979 plan submission for the transportation sector, each Regional Administrator should ensure that ambitious alternatives (as described in the draft "Tranportation Planning guidelines" which have been circulated) will be analyzed.

The Department of Transportation (DOT), Housing and Urban Development (HUD) and EPA are seeking to integrate the transportation/air qual-

[1] The new requirements for nonattainment areas are contained in Part D to Title I of the Act (42 U.S.C. 7501-7508). The general requirements for Plans are set forth in section 110 of the Act (42 U.S.C. 7410). Several consequences that may result if a state fails to adopt and carry out the necessary Plan provisions for a nonattainment area are found in sections 110(a)(2)(I), 173(4), and 176(a)-(b) of the Act. (42 U.S.C. 7410(a)(2)(I), 7503(4), and 7506(a)-(b)). The January 1, 1979, deadline is stated in section 129(c) of the Clean Air Act Amendments of 1977, Pub. L. 95-95 (note under 40 U.S.C. 7502).

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ity planning and implementation required by the Clean Air Act into existing planning and programing procedures. The air planning activities should be included in the Unified Work Program required by DOT and the adopted transportation measures should be included in the Transportation Improvement Program required by DOT. In complying with the Clean Air Act requirements, the Regions should also keep in mind the requirements of the HUD-EPA Agreement which provides for coordination of air quality planning and planning assisted under the HUD Comprehensive Planning Assistance (701) Program. Integration of air and transportation planning with comprehensive planning which incorporates growth management concerns should improve the effectiveness of air quality planning and could reduce the need for enforcement measures in the future.

States will be provided some discretion regarding the amount of emissions growth to be accommodated within the SIP. EPA generally will not question the growth rates desired by the State so long as reasonable further progress is demonstrated and there is a demonstration of attainment by the statutory deadline (1982 or 1987). However, the growth rate identified in the SIP must be consistent with growth rates used (or implied by) other planning programs in the area (e.g., FWPCA §§ 208, 201, HUD § 701, FHWA § 134).

You should note that there are other SIP revisions which are not discussed in the attachment but which are required by the 1977 Amendments. These include:

1. Section 128 (relating to State boards).
2. Section 126 (relating to interstate pollution).
3. Section 127 (relating to public notification).
4. Part C (relating to prevention of significant deterioration).
5. Section 110(a)(2)(K) (relating to permit fees).
6. Section 123 (relating to stack heights for existing source in other than non-attainment areas).
7. Section 121 (relating to consultation).

Although incorporation of these provisions is required by the law, failure to achieve final approval by July 1, 1979 does not trigger the new source prohibition of Section 110(a)(2)(I).

It is important to emphasize to the States that all current SIP requirements remain in effect despite the development of the 1979 revisions. Any suspension or discontinuance of an existing SIP provision must be submitted for EPA approval. This should be done as part of the revision submitted in January 1979. Exceptions to this procedure may be found in certain new provisions of § 110 relating to reduction of on-street parking, bridge tolls, and other measures.

The development of the January 1979 SIPs to meet the minimum requirements of the Clean Air Act Amendments of 1977 is a complex and demanding program. It will require the commitment of significant resources on the part of the air programs staff of the Regional Office to ensure that the States develop and submit a comprehensive and approvable plan. We are working with your staff to develop the necessary guidance and follow-up programs which will assist your office and the State to carry out this very difficult but important part of the overall air program.

Attachment

cc: Air & Hazardous Division Directors, Air Branch Chiefs.

Criteria for Approval of 1979 State Implementation Plan Revisions for Non-Attainment Areas

PURPOSE

The purpose of this document is to define the criteria by which State Implementation Plan (SIP) revisions for non-attainment areas required by the Clean Air Act Amendments of 1977 (the Act) will be approved. These revisions are to be submitted to EPA by January 1, 1979.

CATEGORIES OF SIP REVISIONS

SIP revisions submitted by January 1, 1979 can be divided into two categories:

1. Those which provide for attainment of the Primary Ambient Air Quality Standards (primary standards) for all criteria pollutants on or before December 31, 1982.

2. Those which provide for attainment of the primary standards for sulfur dioxide, nitrogen oxides, and particulate matter on or before December 31, 1982 but show that despite the implementation of all reasonable transportation and stationary source emission control measures attainment of the primary standards for carbon monoxide and/or oxidants cannot be achieved until after this date. In these cases, the revisions must demonstrate attainment as expeditiously as practicable but no later than December 31, 1987.

In order for an adequate SIP revision to fall into the second category, the State has an affirmative responsibility to demonstrate to the satisfaction of EPA that attainment of the primary carbon monoxide and/or oxidants standards is not possible in an area prior to December 31, 1982.

It should be noted that SIP revisions of either category should also provide for attainment of Secondary Ambient Air Quality Standards (secondary standards) as expeditiously as practicable although there is no specific deadline contained in the Act.

GENERAL REQUIREMENTS OF ALL 1979 SIP REVISIONS

Each 1979 SIP revision must contain the following:

1. A definition of the geographic areas for which control strategies have been or will be developed. Consideration should be given to the practical benefits of defining areas which correspond whenever possible to those substate districts established pursuant to Part IV, Attachment A of OMB Circular No. A-95.

2. An accurate, comprehensive, and current (1977 calendar year) inventory of existing emissions.

3. A determination of the level of control needed to demonstrate attainment by 1982 (including growth). This demonstration should be made by the application of modeling techniques as set forth in EPA's Guideline on Air Quality Models. For oxidants, any legitimate modeling technique (e.g., those referenced in "Use, Limitation and Technical Basis of Procedures for Quantifying Relationships Between Photochemical Oxidants and Precursors," EPA 450/2-77-021a. November 1977) can be used. Consideration of background and transport for oxidants should generally be in accordance with the procedures documented in "Procedures for Quantifying Relationships Between Photochemical Oxidants and Precursors." In developing photochem- ical oxidant control strategies for a particular area, states may assume at a minimum that the standard will be attained in adjacent states.

If a state can demonstrate that the level of control necessary for attainment of the primary standards for carbon monoxide and/or oxidant is not possible by 1982 despite the application of all reasonable measures, an extension past 1982 (but not beyond 1987) is authorized.

4. Adoption in legally enforceable form[2] of all measures necessary to provide for attainment by the prescribed date or, where adoption of all such measures by 1979 is not possible, (e.g., certain transportation control measures, and certain measures to control the oxides of nitrogen and total suspended particulate) a schedule for expeditious development, adoption, submittal, and implementation of these measures. The situations in which adoption of measures may be scheduled after 1979 are discussed in the pollutant specific sections of this document. Each schedule must provide for implementation of all reasonably available control measures as expeditiously as practicable. During the period prior to attainment, these measures must be implemented rapidly enough to provide at a minimum for reasonable further progress (see discussion below). Each schedule will be considered part of the applicable implementation plan and thus will represent a commitment on the part of the State to meet the key mile- stones set forth in the submitted schedule.

5. Emission reduction estimates for each adopted or scheduled control measure or for related groups of control measures where estimates for individual measures are impractical. It is recognized that reduction estimates may change as measures are more fully analyzed and implemented. As such estimates change, appropriate responses will be required to insure that the plan remains adequate to provide for attainment and for reasonable further progress.

6. Provision for reasonable further progress toward attainment of the primary and secondary standards in the period prior to the prescribed date for attainment. Reasonable further progress is defined as annual incremental reductions in total emissions (emissions from new as well as existing sources) to provide for attainment by the prescribed date. The plan shall provide for substantial reductions in the early years with regular reductions thereafter.

Reasonable further progress will be determined for each area by dividing the total emission reductions required to attain the applicable standard by the number of years between 1979 and the date projected for attainment (not later than 1987). This is represented graphically by a straight line drawn from the emissions inventory submitted in 1979 to the allowable emissions on the attainment date. However, EPA recognizes that some measures cannot result in immediate emission reduction. Therefore, if a State can show that some lag in emissions reduction is necessary, a SIP will be acceptable even though reductions sufficient to produce decreases at the "straight-line rate" are not achieved for a year or two after 1979. This lag in achieving the "straight-line rate" for emissions reduction is to be accepted only to accommodate the time required for compliance with the first set of regulations adopted on or before January 1, 1979, if immediate compliance is not possible. It does not authorize delays in adoption of control requirements.

The requirement to demonstrate reasonable further progress will, in most areas designated non-attainment for oxidant or carbon monoxide, necessitate a continuous, phased implementation of transportation control measures. In areas where attainment of all primary ambient standards by 1982 is not possible EPA will not accept mere reliance on the Federal Motor Vehicle Control Program by itself as a demonstration of reasonable further progress.

In determining "reasonable further progress", those emission reductions obtained from compliance between August 7, 1977, and December 31, 1979, with (1) SIP revisions that have been submitted after August 7, 1977, and (2) regulations which were approved by the Agency prior to the enactment of the 1977 Clean Air Amendments, can be treated as having been achieved during 1979. There should be an assurance, however, that these are real emission reductions and not just "paper" ones.

7. An identification and quantification of an emissions growth increment which will be allowed to result from the construction and operation of major new or modified stationary sources within the area for which the plan has been developed. Alternatively, an emissions offset regulation can be adopted to provide for major new source growth.

The growth rates established by states for mobile sources and new minor stationary sources should also be specified, and in combination with the growth associated with major new or modified stationary sources will be accepted so long as they do not jeopardize the reasonable further progress test and attainment by the prescribed date. However, the growth rate identified in the SIP must be consistent with the growth rates used (or implied by) the other planning programs in the area (e.g., FWPCA Section 208 [201], HUD Section 701, FHWA Section 134). A system for monitoring the emission growth rates from major and minor new stationary sources and from transportation sources and assuring that they do not exceed the specified amounts must also be provided for in the revision.

8. Provision for annual reporting on the progress toward meeting the schedules summarized in (4) above as well as growth of mobile sources, minor new stationary sources, major new or modified stationary sources, and reduction in emissions from existing sources to provide for reasonable further progress as in (6) above. This should include an updated emission inventory.

9. A requirement that permits be issued for the construction and operation of new or modified major sources in accordance with Section 173 and 110(a)(2)(D).

10. An identification of and commitment to the financial and manpower resources necessary to carry out the plan. The commitment should be made at the highest executive level having responsiblity for SIP or that portion of it and having authority to hire new employees. This commitment should include written evidence that the State, the general purpose local government or governments, and all state, local or regional agencies have included appropriate provision in their respective budgets and intend to continue to do so in future years for which budgets have not yet been finalized, to the extent necessary.

11. Evidence of public, local government, and state legislative involvement and consultation. It shall also include an identification and brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan revisions and of the alternatives considered by the State, and a summary of the public comment on such analysis.

12. Evidence that the SIP was adopted by the state after reasonable notice and public hearing.

ADDITIONAL REQUIREMENTS FOR CARBON MONXIDE AND OXIDANT SIP REVISIONS WHICH PROVIDE FOR ATTAINMENT OF THE PRIMARY STANDARDS LATER THAN 1982

For those SIP revisions which demonstrate that attainment of the primary standards for carbon monoxide and/or oxidants is not possible in an area prior to December 31, 1982 despite the implementation of all reasonable emission control measures the following items must be included in the January 1, 1979 submission in addition to all the general requirements listed above:

1. A program which requires prior to issuance of any permit for construction or modification of a major emitting facility an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social cost imposed as a result of its location, construction, or modification.

2. An inspection/maintenance program or a schedule endorsed by and committed to by the Governor for the development, adoption, and implementation of such a program as expeditiously as practicable. Where the necessary legal authority does not cur-

[2] Written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance or other legally enforceable document, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan. The relevant organizations shall provide evidence that the legally enforceable attainment measures and the "criteria, standards and implementing procedures necessary for effectively guiding and controlling major decisions as to where growth shall and shall not take place," prepared by State and local governments in compliance with Section 701 of the Housing Act of 1954, as amended, are fully coordinated in the attainment and maintenance of the NAAQS.

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rently exist, it must be obtained by June 30, 1979. Limited exceptions to the requirement to obtain legal authority by June 30, 1979 may be possible if the state can demonstrate that (a) there was insufficient opportunity to conduct necessary technical analyses and/or (b) the legislature has had no opportunity to consider any necessary enabling legislation for inspection/maintenance between enactment of the 1977 Amendments to the Act and June 30, 1979. In addition, where a legislature has adequate opportunity to adopt enabling legislation before January 1, 1979, the Regional Administrator should require submission of such legal authority by January 1, 1979. In no case can the schedule submitted provide for obtaining legal authority later than July 1, 1980.

Actual implementation of the inspection/maintenance program must proceed as expeditiously as practicable. EPA considers two and one half years from the time of legislative adoption to be the maximum time required to implement a centralized inspection/maintenance program and one and one half years to implement a decentralized program. In no case may implementation of the program, i.e., mandatory inspection and mandatory repair of failed vehicles be delayed beyond 1982 in the case of a centralized program (either state lanes or contractor lanes) or beyond 1981 in the case of a decentralized (private garage) system.

3. A commitment by the responsible government official or officials to establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as is practicable.

4. A commitment to use insofar as is necessary Federal grants, state or local funds, or any combination of such grants and funds as may be consistent with the terms of the legislation providing such grants and funds, for the purpose of establishing, expanding or improving public transportation measures to meet basic transportation needs.

Note that HUD has prepared guidelines for local development codes and ordinances to provide special requirements for areas which for significant periods of time may exceed the primary standards. These guidelines specify criteria for new construction operation of buildings which minimize pollutant concentrations to ensure a health indoor and outdoor environment. States are encouraged to adopt such measures as part of the SIP.

POLLUTANT SPECIFIC REQUIREMENTS

Sulfur Dioxide

Specifically, with regard to item (4) of the General Requirements, the January 1979 plan revisions dealing with sulfur dioxide must contain *all* the necessary emission limitations and legally enforceable procedures to provide for attainment by no later than December 31, 1982 (i.e., schedules for the development, adoption, and submittal of regulations will not be acceptable).

Nitrogen Oxides

For NO_x, the January 1979 plan must contain all the necessary emission limitations and the legally enforceable procedures, or as a minimum, the appropriate schedules to adopt and submit the emission limitations and legally enforceable procedures which provide for implementation so that standards will be attained by no later than December 31, 1982. EPA is currently evaluating the need for a short term NO_x standard and expects to promulgate such a standard during 1978. If such a standard for air quality is promulgated, a new and separate SIP revision will be required for this pollutant.

Particulate Matter

The January 1979 plan revisions dealing with particulate matter must contain all the necessary emission limitations and legally enforceable procedures for traditional sources. These emission limitations and enforceable procedures must provide for the control of fugitive emissions, where necessary, as well as stack emissions from these stationary sources. Where control of non-traditional sources (e.g., urban fugitive dust, resuspension, construction, etc.) is necessary for attainment, the plan shall contain an assessment of the impact of these sources and a commitment on the part of the state to adopt appropriate control measures, this commitment shall take the form of a schedule to develop, submit, and implement the legally enforceable procedures, and programs for controlling non-traditional particulate matter sources. These schedules must include milestones for evaluating progress and provide for attainment of the primary standards by no later than December 31, 1982, and attainment of the secondary standards as expeditiously as practicable. States should initiate the necessary studies and demonstration projects for controlling the non-traditional sources as soon as possible.

Carbon Monoxide and Oxidant

An adequate SIP for oxidant is one which provides for sufficient control of volatile organic compounds (VOC) from stationary and mobile sources to provide for attainment of the oxidant standard. Accordingly, the 1979 plan revision must set forth the necessary emission limitations and schedules to obtain sufficient control of VOC emissions in all non-attainment areas. They must be directed toward reducing the peak concentrations within the major urbanized areas to demonstrate attainment as expeditiously as practicable but in no case later than December 31, 1987. This should also solve the rural oxidant problem by minimizing VOC emissions and more importantly oxidants that may be transported from urban to rural areas. The 1979 submission must represent a comprehensive strategy or plan for each non-attainment area; plan submissions that address only selected portions of non-attainment are not adequate.

For the purpose of oxidant plan development, major urban areas are those with an urbanized population of 200,000 or greater (U.S. Bureau of Census, 1970). A certain degree of flexibility will be allowed in defining the specific boundaries of the urban area. However, the areas must be large enough to cover the entire urbanized[3] area and adjacent fringe areas of development. For non-attainment urban areas, the highest pollutant concentration for the entire area must be used in determining the necessary level of control. Additionally, uniform modeling techniques must be used throughout the nonattainment urban area. These requirements apply to interstate as well as intrastate areas.

Adequate plans must provide for the adoption of reasonably available control measures for stationary and mobile sources.

For stationary sources, the 1979 oxidant plan submissions for major urban areas must include, as a minimum, legally enforceable regulations to reflect the application of reasonably available control technology (RACT)[4] to those stationary sources for which EPA has published a Control Techniques Guideline (CTG) by January 1978, and provide for the adoption and submittal of additional legally enforceable RACT regulations on an annual basis beginning in January 1980, for those CTG's that have been published by January of the preceeding year.

For rural non-attainment areas, the Ox plan must provde the necessary legally enforceable procedures for the control of large HC sources (more than 100 ton/year potential emissions) for which EPA has issued a CTG by January 1978, and to adopt and submit additional legally enforceable procedures on an annual basis beginning in January 1980, after publication of subsequent CTGs as set forth above.

For mobile sources in urbanized area (population 200,000) SIPs must provide for expeditious implementation of reasonably available control measures. Each of the measures for which EPA will publish information documents during 1978 is a reasonably available control measure. These measures are listed on the following page:

1. To be published by February 1978:
   a. Inspection/maintenance;
   b. Vapor recovery;
   c. Improved public transit;
   d. Exclusive bus and carpool lanes;
   e. Area wide carpool programs.
2. To be published by August 1978:
   a. Private car restrictions;
   b. Long range transit improvements;
   c. On street parking controls;
   d. Park and ride and fringe parking lots;
   e. Pedestrian malls;
   f. Employer programs to encourage car and van pooling, mass transit, bicycling and walking;
   g. Bicycle lanes and storage facilities;
   h. Staggered work hours;
   i. Road pricing to discourage single occupancy auto trips;
   j. Controls on extended vehicle idling;
   k. Traffic flow improvements;
   l. Alternative fuels or engines and other fleet vehicle controls;
   m. Other than light duty vehicle retrofit;
   n. Extreme cold start emission reduction programs.

The above measures (either individually or combined into packages of measures) should be analyzed promptly and thoroughly and scheduled for expeditious implementation. EPA recognizes that not all analyses of every measure can be completed by January 1979 and, where necessary, schedules may provide for the completion of analyses after January 1, 1979 as discussed below. (If analysis after January 1979 demonstrates that certain measures would be unnecessary or ineffective, a decision not to implement such measures may be justifiable. However, decisions not to implement measures will have to be carefully reviewed to avoid broad rejections of measures based on conclusory assertions of infeasibility.)

As described previously, annual incremental reductions in total emissions must occur in order to achieve reasonable further progress during the period prior to attainment of the standards. Therefore, not all transportation measure implementation activities should wait until the comprehensive analyses of control measures are completed. Demonstration studies are important and should accompany or precede full scale implementation of the comprehensive strategy. It is EPA's policy that each area will be required to schedule a representative selection of reasonable transportation measures (as listed above) for implementation at least on a pilot or demonstration basis prior to the end of 1980.

Every effort must be made to integrate the air quality related transportation plan and implementation required by the Clean Air Act into planning and programming procedures administered by DOT. EPA will publish "Transportation Planning Guidelines" which will, if followed carefully, insure that an adequate transportation planning process exists.

EPA recognizes that the planning and implementation of very extensive air quality related transportation measures can be a complicated and lengthy process, and in areas with severe carbon monoxide or oxidant problems, completion of some of the adopted measures may extend beyond 1982. Implementation of even these very extensive transportation measures, however, must be initiated before December 31, 1982.

In the case of plan revisions that make the requisite showing to justify an extension of the date for attainment, the portion of the 1979 plan submittal for transportation measures must:

1. Contain procedures and criteria adopted into the SIP by which it can be determined whether the outputs of the DOT Transportation planning process conform to the SIP.

2. Provide for the expeditious implementation of currently planned reasonable transportation control measures. This includes reasonable but unimplemented transportation measures in existing SIPs and transportation controls with demonstrable air quality benefits developed as part of the transportation process funded by DOT.

3. Present a program for evaluating a range of alternative packages of transportation options that includes, as a minimum, those measures listed above for which EPA will develop information documents. The analyses must identify a package of transportation control measures to attain the emission reduction target ascribed to it in the SIP.

4. Provide for the evaluation of long range (post-1982) transportation and growth policies. Alternative growth policies and/or development patterns must be examined to determine the potential for modifying total travel demand. One of the growth alternatives evaluated should be that prepared in response to Section 701 of the Housing Act of 1954, as amended.

5. Include a schedule for analysis and adoption of transportation control measures as expeditiously as practicable. The comprehensive analysis of alternatives (item 2 above) must be completed by July 1980 unless the designated planning agency can demonstrate that analysis of individual components (e.g., long range transit improvements) may require additional time. Adopted measures must be implemented as expeditiously as practicable and on a continuous schedule that demonstrates reasonable further progress from 1979 to the attainment date. Determinations of the reasonableness of a schedule will be based on the natue of the existing or planned transportation system and the complexity of implementation of an individual measure.

ADDITIONAL CARBON MONOXIDE AND OXIDANT MONITORING REQUIREMENTS

It is EPA's policy to require that all SIPs which provide for attainment of the oxidant standard after December 31, 1982, must contain commitments to implement a complete oxidant monitoring program in major urbanized areas in order to adequately characterize the nature and extent of the problem and to measure the effectiveness of the control strategy for oxidants. The 1979 plan submittal must provide for a schedule to conduct such CO monitoring as necessary to correct any deficiencies as identified by the Regional Office.

SIPS FOR UNCLASSIFIED AREAS REDESIGNATED NON-ATTAINMENT

With respect to unclassified areas which are later found to be non-attainment areas the state will be required to submit a plan within nine months of the non-attainment determination. During plan development, the state will be required to implement the offset policy for that area. However, it should be noted that in many cases, because of previous plan revisions or adoption of previous control regulations, the baseline for offsets will be more restrictive and thus offsets may be more difficult to obtain. For oxidants, state-wide regulatory development (for at least all sources greater than 100 tons/year), however, would permit the state to utilize the regulations developed for the entire state as the applicable plan for the newly designated non-attainment area. This would normally constitute an approvable SIP per the above criteria and could essentially accommodate the proposed growth within the previously submitted state plan and not require offsets once the area is designated as non-attainment.

[FR Doc. 78-13634 Filed 5-18-78; 8:45 am]

[3] As defined by the U.S. Bureau of Census, urbanized area generally include core cities plus any closely settled suburban areas.

[4] While it is recognized that RACT will be determined on a case-by-case basis, the criteria for SIP approval rely heavily upon the information contained in the CTG. Deviations from the use of the CTG must be adequately documented.

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Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-47; RM-2995]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in LeRoy, Ill.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a Class A FM channel to LeRoy, Ill., as that community's first FM assignment. The channel would provide for a station which could render a first full-time aural broadcast service to that community.

EFFECTIVE DATE: June 26, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 11, 1978.

Released: May 12, 1978.

1. The Commission herein considers the notice of proposed rulemaking, adopted February 3, 1978, 43 FR 6635, in the above-entitled proceeding instituted in response to the petition filed by Sono-Mag Corp. ("petitioner"). The petition proposed the assignment of Channel 224A to LeRoy, Ill., as a first FM channel to that community.[1] petitioner filed supporting comments in which it reaffirmed its intention to apply for the channel, if assigned. No oppositions to the proposed were received.

2. LeRoy (pop. 2,435), in McLean County (pop. 104,389),[2] is located approximately 216 kilometers (135 miles) south of Chicago, and 24 kilometers (15 miles) southeast of Bloomington, Ill. There is no local aural broadcast service in LeRoy.

3. Petitioner states that the area surrounding LeRoy is rural in nature with the farming industry contributing heavily to the overall income of McLean County. It asserts that the community relies on some manufacturing as well as retail and trade services. Petitioner has submitted sufficient information which demonstrates LeRoy's need for a first FM assignment.

4. We believe the public interest would be served by the assignment of FM Channel 224A to LeRoy, Ill. An interest has been shown for its use, and an FM station would provide the community with a first full-time local aural broadcast service.

5. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

6. *Accordingly, it is ordered,* That effective June 26, 1978, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended as it pertains to the community listed below:

City and Channel No.
LeRoy, Ill.; 224A.

7. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-13600 Filed 5-18-78; 8:45 am]

[1]Population figures are taken from the 1970 U.S. Census.

[2]The FM station would have to be located 4.8 kilometers (3 miles) north-northeast of the community.

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1003—LIST OF FORMS

Revision of OP-OR-11 Broker Application Forms

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising its broker application form to reflect recent changes in its regulations with regard to property brokerage and to make minor clerical changes. The most significant change in the application form is in the requirement that an applicant list its affiliations.

EFFECTIVE DATE: Applications filed on or after October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

SUPPLEMENTARY INFORMATION: A number of revisions to the Form OP-OR-11 have been made. An explanation of these changes is set forth below.

ITEM II

The Revised Guidelines for Implementation of the National Environmental Policy Act of 1969 are now contained at 49 CFR Part 1108. The reporting requirements for applicants are set forth at 49 CFR 1108.12.

ITEM III

Parts (a) and (d) of this item have been changed to reflect the adoption of the rules at 49 CFR 1045A pertaining to general commodities property brokerage applications. Since the phrase "as individuals and groups" is no longer used by the Commission, see *Passenger Transportation in Special Operations,* 112 MCC 160, 190 (1970) reference to this modifier has been deleted. The revised form lists the two most common requests for authority governed by the use of the OP-OR-11 form, and provides a space for listing any limitations or additions that applicant may wish to add. Part (d) has been eliminated. Applicants wishing to limit service according to the classification of a carrier's status (as, common carrier, or using a carrier's special operations authority only) may already do this in revised Item III(a). The arranging of air, rail, and water carriage does not require broker authority whether the movement is wholly by such means, or in combination with motor travel. Reference to such arrangements has also been deleted to avoid confusion.

ITEM VI

This item is the most significantly changed. The letter application procedure for general commodities property brokerage contains a requirement, at 49 CFR 1045A(b)(4)(ii)(c), that an applicant file information as to affiliations. Altering the information requirement here will make the two forms for brokerage authority consistent, and reflects longstanding Comission concern over affiliations between brokers and other entities. See, for example, *Merriman Broker Application,* 43 MCC 372 (1944).

CERTIFICATE OF SERVICE

The section of the Certificate of Service requirement dealing with service on State boards or officials has been modified, consistent with the Commission's previous actions in Ex Parte No. MC 100 (Sub-No. 2), *Revision of Procedures Requiring Service of Applications on State Officials.*

INSTRUCTIONS

Ex Parte No. 55 (Sub-No. 25) revised application forms for permanent motor carrier, broker, and other authority, and set forth the requirement

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that an applicant had to list: (1) a current balance sheet and income statement, (2) a list delineating equipment and pertinent terminal locations, (3) a brief statement concerning the feasibility of the proposed operation, and (4) a certification of familiarity with applicable safety regulations. Since the second and fourth provisions are not applicable to brokerage operations, they have been deleted from the form to avoid confusion on the part of applicants.

The paragraph describing our certification requirements in 49 CFR 1100.247 has been modified to include pertinent information relating to passenger related applications.

APPENDIX

Minor changes in wording and format occur in the revised appendix to indicate the scope of the OP-OR-11's present use for household goods and passenger brokerage operations.

A copy of the adopted form is reprinted below. Authority for these revisions is contained in 49 U.S.C. 302, 303, 304, 305, and 311 and 5 U.S.C. 552 and 553(b)(A).

Dated May 9, 1978.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. (Do not fill in)

APPLICATION FOR BROKERAGE LICENSE

(Read instructions on page — before answering)

I. (a) Application of (Name and trade name, if any)

_____

(State whether an individual, partnership, corporation, association, fiduciary, or other legal entity. If a partnership, give name of all partners. If a corporation, give name of State in which incorporated, and the names and addresses of all directors and officers.)

whose business is:

_____

(Street No. and address)

_____

(City) (State) (Zip Code)

(b) Applicant's representative to whom inquiries respecting this application may be made is:

_____

(Name)

_____

(Street No. and address)

_____

(City and State) (Zip Code)

II. Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? ☐ YES ☐ NO

If YES, a statement complying with the requirements of 49 CFR 1108.12 as promulgated in Implementation—Natl. Environmental Policy Act, 1969, 340 ICC 431, must be attached to this application.

III. (a) Applicant applies for authority to engage in operation, in interstate or foreign commerce, as a broker to arrange for the transportation of: (check one)

1. ☐ Household goods.
2. ☐ Passengers and their baggage.

*List any limitations or additions to be placed on this authority below:

_____

_____

(NOTE—applicants seeking to operate as a property (other than household goods) broker should refer to the application process in 49 CFR 1045A.)

(b) Applicant requests authority to arrange for transportation from, to or between the following points or described areas:

_____

(In defining the geographical scope of authority sought in an application, the term "United States" shall be construed as including the District of Columbia, and excluding Alaska and Hawaii. Applications seeking to encompass authority to, from, or between points in Alaska or Hawaii shall specifically so state.)

(c) List locations of office facilities (i.e., the points at which the proposed operations will be conducted):

_____

IV. Indicate whether applicant in prosecuting this application will present evidence of witnesses who will testify, in support of the application, as to their need for the service proposed. ☐ YES ☐ NO

(a) If YES, applicant must attach to this application one or more certifications of support which shall be prepared in the form prescribed in the appendix to the instructions accompanying this application form. The certification must be signed by the individual, or by an authorized representative of the corporation, association, or partnership, upon whose support applicant intends to rely. If 10 or less than 10 witnesses will appear, certifications from each witness must be submitted. If more than 10 witnesses will appear in support of the application, applicant must submit with the application additional certifications of support in sufficient number to be reasonably representative of the total number of witnesses to be presented and the scope of the authority applied for.

Except for good cause shown, no application depending upon the supporting evidence of public witnesses will be accepted for filing unless it is accompanied by the certifications of support of such witnesses. The submission with the application of such statements will not prevent applicant from presenting evidence of additional witnesses at a later stage of the proceeding. See Instructions for more details. Note: The information called for in this form, including the certification of support (appendix), may be used, at least in part, as supporting evidence in the application proceeding. See Revision of Application Procedures, 42 FR 62486 (1977).

(b) If the answer is NO, explain why and describe briefly the type of evidence which will be relied upon by applicant to support its burden of proof:

_____

V. (a) If applicant now holds, or has an application pending for, authority from the Interstate Commerce Commission as a motor common or contract carrier, a water common or contract carrier, a transportation broker, or a freight forwarder, identify the lead docket number assigned to such authority or application:

Docket No.: _____

(b) If applicant has within two years of the date of this application applied for authority duplicating in whole or in part that sought in this application, identify the docket number and indicate either the disposition or the current status of the prior application:

_____

(Applicant should understand that applications seeking authority which duplicates in whole or in part that sought in any such pending proceeding either may be rejected or processing thereof may be withheld until final disposition of the pending proceeding.)

VI. (a) Indicate any interest (whether stock, loans, voting, or management arrangements) which the applicant or any officer or director thereof, has in the affairs of other transportation entities:

_____

(b) Indicate any interest (whether stock, loans, voting, or management arrangements) which any transportation entity, including officers and directors thereof, or any person authorized to control a transportation entity, has in the affairs of applicant:

_____

(c) Indicate any interest (whether stock, money, voting, or management arrangements) in the applicant by any person who also holds an interest (whether stock, money, voting, or management arrangements) in another transportation entity:

_____

(d) Indicate any person or persons with which applicant is affiliated. Such information should include, but not be limited to, applicant's parent company or companies, or subsidiaries. Affiliation is defined as a relationship where it is reasonable to believe that one entity's affairs may be managed in the interest of another entity. This can occur through organization or operation of the entities, whether established through common directors, officers, or stockholders, a voting trust, a holding or investment company, or any other direct or indirect means.

_____

VII. (a) If the application is assigned for oral hearing, state where applicant prefers that the hearing be held, and alternate choices:

_____

(The listing of alternate choices may result in a more prompt scheduling of the hearing)

V 43 98

(b) State the approximate number of witnesses applicant will present at the hearing:

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and the approximate time their direct examination will require:

VIII. Applicant must also attach to this application form the information called for in the first paragraph of the instructions. See Revision of Application Procedures, 42 FR 62486 (1977).

Applicant understands that the filing of this application does not, in itself, constitute authority to operate.

OATH

COUNTY OF——— ss:
STATE OF———

(Name of Affiant), being duly sworn, files this application as (indicate relationship to applicant, that is, owner or proprietor, title as officer of applicant corporation or association, member of applicant partnership, or other authorized representative of applicant)

---

and, in such capacity, is qualified and authorized to file and verify the application and to certify with respect to the availability of shippers and public witnesses to present evidence in support; that applicant has carefully examined all the statements and matters contained in the application; and that all such statements made and matters set forth are true and correct to the best of applicant's knowledge, information, and belief. Affiant further states that the application is made in good faith, with the intention of presenting evidence in support in every particular.

Knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense. (See 18 U.S.C. 1001.)

(Signature of Affiant)

Subscribed and sworn to before me, at ——— in and for the State and County above named, this——day of ———, 19—.
(SEAL)

My Commission expires ———.

CERTIFICATE OF SERVICE

I certify that I have delivered a copy of this application, in person or by mail, to the following Regional Director of the Commission's Bureau of Operations for the Region in which the applicant has its headquarters: (List Regional Director and Address)

I further certify that I have delivered a copy of the caption summary regarding this application, in person or by mail, to the State Board (or official) in the State of applicant's domicile. (Name of State Board or Official)

Dated this —— day of ———, 19—.

(Signature)

INSTRUCTIONS

In addition to the other information required in this form, applicant also is required to attach to the form the following information:

(a) A current balance sheet and income statement;

(b) A brief statement concerning the feasibility of the proposed operation.

All information called for in this form must be provided, and each question must be answered. Indicate if any question is not applicable. Incomplete applications will be rejected.

The information called for in this application form and the certification of support (appendix) should be developed as succinctly as possible since both applicant and its supporting witnesses will be given the opportunity to expand upon their evidentiary presentations if the application ultimately is opposed.

Since the Commission will accept and give undiminished evidentiary value to the material contained in this application form, including the certification of support (appendix), neither applicant nor its supporting witnesses need restate material contained in this document, although neither will be prevented subsequently from developing further evidence so submitted. See Revision of Application Procedures, 42 FR 62486 (1977).

Applicant must submit with the application, a check or money order made out to the Interstate Commerce Commission for such amount as may from time to time be fixed by the Commission as the fee for the filing of such application. See 49 CFR 1002.2 for the amount.

If the space provided in the form is not sufficient to supply all of the information required, prepare the information or continue it on a separate sheet, attach it to the application, and give it the same number as the paragraph to which it refers.

The application should be typed, but if made out in neat, legible handwriting, in ink, it will be accepted; if made out in pencil, it will be rejected.

Assistance in the preparation of an application may be obtained from one of the District Supervisors of the Commission's Bureau of Operations. Before requesting assistance, however, the applicant should prepare a rough draft of the application to be used as a basis for discussion with the District Supervisor. Interviews with the District Supervisors should be arranged in advance.

Notice of the filing of this application will be published in the FEDERAL REGISTER. Unless applicant promptly notifies the Commission otherwise, applicant agrees to be bound by the published notice.

The applicant should keep a copy of the application for further reference. The original of the application should be mailed to the Interstate Commerce Commission, Washington, D.C. 20423.

Applicant's name should be stated exactly as it appears in its present authority, if any. If there has been a change in applicant's business address or name, it should submit a signed written request that the Commission's records be corrected to reflect the new address or name.

Attention is called to the provisions of section 211(a) of the Interstate Commerce Act, under which this application is filed, which state, in pertinent part, that a brokerage license is not required by any carrier holding a certificate or a permit under the provisions of this part (or by any bona fide employee or agent of such motor carrier) so far as concerns transportation to be furnished wholly by such carrier or jointly with other motor carriers holding like certificates or permits, or with a common carrier by railroad, express, or water.

Before a license may be issued by the Interstate Commerce Commission in response to any application, the applicant must comply with the rules and regulations of the commission for the protection of travelers or shippers by motor vehicle to be observed by persons holding brokerage licenses, and must furnish a bond or other security approved by the Commission in such form and amount as will insure financial responsibility and the supplying of authorized transportation in accordance with contracts, agreements, or arrangements therefor. See 49 CFR 1043.4.

Special Rule 247(b)(1) of the Commission's General Rules of Practice has been amended to provide for the mandatory filing with the application of the certifications of support, and a caption summary of the authority sought for publication in the FEDERAL REGISTER. Applications not accompanied by a properly completed caption summary of the authority sought will not be accepted for filing.

The caption summary shall be prepared in the general format described in Appendix F to the report in Ex Parte No. 55 (Sub-No. 14), 125 M.C.C. 790 (1976). The docket number and filing date will be assigned when the application is accepted for filing by the Interstate Commerce Commission. Applicant shall print or type (single space) its name and trade name, if any, in upper case above its address. Applicant shall print or type (single space) the name of its representative above the representative's address. The authority sought shall be described in a double spaced paragraph and the commodity description (except specified restrictions and exemptions) and the particular method of transportation involved (e.g., broker) shall be underlined.

Special note: The Commission has adopted the following style changes which shall be used by all parties submitting captions on and after April 1, 1978:

All references to a State name shall use the following two-letter State abbreviations: Alabama, AL; Alaska, AK; Arizona, AZ; Arkansas, AR; California, CA; Colorado, CO; Connecticut, CT; Delaware, DE; District of Columbia, DC; Florida, FL; Georgia, GA; Hawaii, HI; Idaho, ID; Illinois, IL; Indiana, IN; Iowa, IA; Kansas, KS; Kentucky, KY; Louisiana, LA; Maine, ME; Maryland, MD; Massachusetts, MA; Michigan, MI; Minnesota, MN; Mississippi, MS; Missouri, MO; Montana, MT; Nebraska, NE; Nevada, NV; New Hampshire, NH; New Jersey, NJ; New Mexico, NM; New York, NY; North Carolina, NC; North Dakota, ND; Ohio, OH; Oklahoma, OK; Oregon, OR; Pennsylvania, PA; Rhode Island, RI; South Carolina, SC; South Dakota, SD; Tennessee, TN; Texas, TX; Utah, UT; Vermont, VT; Virginia, VA; Washington, WA; West Virginia, WV; Wisconsin, WI; Wyoming, WY.

The word "Highway" in route descriptions should be abbreviated "Hwy".

The word "thence" in route descriptions should be replaced with "then".

The shipper's plantsites, warehouses, or storage facilities should be described simply as "facilities".

Parties should indicate a desired hearing location in parens only as follows: (Hearing site:).

Verified statements submitted in support of an application for broker authority are subject to 49 CFR 1100.247, and must be prepared in accordance with the format described in that rule.

That rule further provides that upon request by any party, the applicant shall furnish such party with copies of all certifications of support filed with the application. If subsequent to the filing of the application additional witnesses become known to the applicant, applicant shall file a certification for each such witness with the Commission and shall concurrently serve three copies upon all parties of record. The total number of witnesses subject to this rule whose testimony is offered in support of the application may not exceed twice the number for whom certifications were filed with the application. In cases designated for oral hearing, certifications of additional witnesses as provided above must be filed and served not later than 30 days prior to the date assigned for oral hearing (however, the presiding officer may authorize additional certifications for witnesses to be presented at a continued hearing, to be filed and served no later than 30 days prior to the date of the continued hearing). No testimony will be received from witnesses for whom such certifications have not been timely received.

NOTE.—The provisions of this paragraph limiting the total number of witnesses shall not be applicable in passenger broker applications, and, certifications for subsequently discovered witnesses shall not be required in cases handled under modified procedure except when reassigned for oral hearing.

An applicant who believes its application is susceptible of handling without oral hearing may request such handling when the application is filed. Any request for an oral hearing shall be supported by a specific explanation as to why the evidence would be more amendable to presentation at oral hearing. Amendments to applications which broaden the scope of the proposed operations will not be allowed. Restrictive amendments acceptable to the Commission may be submitted at any time: *Provided*, That, except as hereinafter provided, in cases assigned for oral hearing amendments must be received by the Commission not later than (1) 30 days after the service date of a notice that the case has been assigned for oral hearing, or (2) the date of prehearing conference assigned to consider such amendments. Restrictive amendment submitted after such date may be considered by the Commission or presiding officer only if exceptional reason is shown why the amendment could not have been timely filed. Prehearing conferences assigned for the consideration of amendments shall be subject to the provisions of subparagraph (e)(6) of Special Rule 247 respecting appearance at hearings.

APPENDIX

APPROVED FORM FOR CERTIFICATION OF SUPPORT OF APPLICATION FOR BROKERAGE AUTHORITY

To the Interstate Commerce Commission:

I, or the corporation, association, or partnership which I represent, have agreed to support the application filed by:

(Name of Applicant)

and to which application this certification will be attached. Applicant's proposed service is desired for the arrangement of the transportation of (check one):

☐ household goods
☐ passengers and their baggage

from and to the following points or areas:

The undersigned supports the following applications for authority similar to that sought in the application. (If none, so state.)

(Give the name(s) of the broker(s), the docket number(s), if available, and the date(s) of filing, if known.)

Describe briefly the transportation services currently used:

Indicate the extent to which applicant's proposed service, if authorized, would be used by you (i.e., volume to be tendered applicant or number and kind of tours to be taken):

The undersigned certifies that support for this application was first made known to applicant on (Date).

By signing and submitting this Certificate of Support, I certify to the Commission that I, or an authorized and qualified representative of the corporation, association, or partnership, will appear and testify on applicant's behalf in any oral hearing on this application.

Should the support for this application be withdrawn or changed in whole or in part, I agree immediately to inform the Interstate Commerce Commission, Washington, D.C. 20423.

I am duly qualified and authorized to make this certification of support, and that in signing this certification am aware that anyone who, in any matter within the jurisdiction of an agency of the United States, intentionally makes or uses any false, fictitious, or fraudulent writing or document, may be subject to prosecution and fined up to $10,000 and imprisoned for up to five years. (18 U.S.C. 1001.)

Dated ———, 19—

(Firm, corporation, association, partnership, etc., represented, if any.)

(Signature)

(Title)

(Typed name)

(Complete address)

[FR Doc. 78-13672 Filed 5-18-78; 8:45 am]

[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 661—SALMON FISHERY

Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final rule: correction.

SUMMARY: This document corrects an error in the regulations implementing the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California, published on April 14, 1978, which misstated the legal minimum size for a certain species of salmon on board freezer-trollers after the head has been removed.

EFFECTIVE DATE: This correction is effective on Monday, May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Johnson, Director, Northwest Region, National Marine Fisheries Service, NOAA, 1700 Westlake Avenue, North Seattle, Wash. 98109, telephone: 206-442-7575.

SUPPLEMENTARY INFORMATION: Section 661.9(c) of the regulations implementing the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California, which appeared in the FEDERAL REGISTER on April 14, 1978 (43 FR 15629), contains a table which shows the minimum legal size of certain species of salmon both as whole fish and with the heads removed. The entry in that table for coho in Areas D and E found on line nine of the table in the "minimum dressed heads-off length" column shows a legal minimum length of 16 inches. This should be 16½ inches.

Signed at Washington, D.C. this 12th day of May, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

§ 661.9 [Amended]

Amend § 661.9(c) by striking 16 in. in line 9 of the table of minimum lengths and substituting 16½ in. so the table reads as follows:

	Minimum total length	Minimum dressed heads-off length
. . . . .		
Areas D and E:		
Chinook	•	•
Coho	•	16½ in.

[FR Doc. 78-13609 Filed 5-18-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contoins notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[1505-01]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[9 CFR Part 318, 320]

COOKING REQUIREMENTS FOR COOKED BEEF ROAST

Notice of Proposed Rulemaking

Correction

In FR Doc. 78-11777, appearing at page 18681 in the issue for Tuesday, May 2, 1978, on page 18681, in the third column, in the last paragraph, in the 6th line, insert the word "and" between the words "time" and "temperature".

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 211]

MANDATORY PETROLEUM ALLOCATION REGULATIONS

Inclusion of Nonrefining Uses of Lower Tier Crude Oil Within the Entitlements Program

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of extension of date for receipt of written comments. (Advance notice of proposed rulemaking.)

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) extends the date for the receipt of written comments on the notice of inquiry entitled "Inclusion of Nonrefining Uses of Lower Tier Crude Oil Within the Entitlements Program" issued on April 17, 1978 (43 FR 16987, April 21, 1978). The due date for receipt of written comments, originally May 21, 1978, is changed to May 30, 1978.

DATE: Comments by May 30, 1978, 4:30 p.m.

ADDRESS: All comments to Public Hearing Management, Box SE, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT:

Robert J. Kane (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Fred A. Wolgel (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 7134, Washington, D.C. 20461, 202-566-2454.

Issued in Washington, D.C., May 11, 1978.

DOUGLAS G. ROBINSON,
Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 78-13576 Filed 5-18-78; 8:45 am]

[3128-01]

Federal Energy Administration[1]

[10 CFR Part 300]

FEDERAL LOAN GUARANTEES FOR DEVELOPMENT OF UNDERGROUND COAL MINES

Proposed Rulemaking; Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) hereby gives notice of a proposal to establish regulations providing for implementation of the Coal Loan Guarantee Program, as authorized by the Energy Policy and Conservation Act (EPCA) and the Energy Conservation and Production Act (ECPA). Under this program, DOE is authorized to issue guarantees of loans obtained for the purpose of developing, expanding, or reopening underground coal mines. Written comments will be received and a public hearing will be held with respect to this proposal.

DATES: Written comments must be received on or before June 19, 1978; requests to speak, on or before June 12, 1978; hearing testimony, on or before June 19, 1978; public hearing date, June 21, 1978.

ADDRESSES: Written comments and requests to speak to Department of Energy, Public Hearing Management, Room 2313, Box *TO*, 2000 M Street NW., Washington, D.C. 20461. The hearing will be held at the Daniel Boone Hotel, Capitol and Washington Streets, Charleston, W. Va.

[1] EDITORIAL NOTE: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Department of Energy.

FOR FURTHER INFORMATION CONTACT:

Robert M. Grubenmann, Department of Energy, Coal Loan Guarantee Program, Resource Applications, Room 3516, Federal Building, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-7575.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comment Procedures

I. BACKGROUND

Section 102 of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163) as amended by section 164 of the Energy Conservation and Production Act (ECPA) (Pub. L. 94-385) authorizes the Administrator of the Federal Energy Administration (FEA) to guarantee loans issued for the development of new underground coal mines, the expansion of existing underground coal mines, and the reopening of underground coal mines which had been previously closed. The Department of Energy Organization Act, 42 U.S.C. 7101 et seq., transferred to DOE the functions of FEA under this program.

The Coal Loan Guarantee Program is designed to encourage and assist small and medium sized coal producers in increasing coal production from low sulfur underground coal mines, to enhance competition among coal producers, and to encourage new market entry by small coal producers. In addition, the program is likely to stimulate additional job opportunities in geographic areas where low sulfur underground coal reserves are located.

Underground mining is encouraged as a means of reducing the impact of coal production on the surrounding environment. Further, the program will also assist coal producers in acquiring the necessary funds to upgrade equipment and provide for better safety mechanisms as specified in the Federal Coal Mine Health and Safety Act.

FEA issued an advance notice of proposed rulemaking on July 18, 1977 (42 FR 36836), in order to obtain the public's views regarding the need for the program, its impact and its feasibility, as well as suggestions regarding program operating procedures. The preliminary regulations offered for comment outlined a procedure by which the FEA would administer its responsibilities to issue loan guarantees.

Certain comments received in response to the advance notice have been incorporated into the proposed regulations. Specifically, the filing and processing fee has been eliminated, the financial reporting requirement has been reduced, and the guarantee has been extended to include accrued interest to enhance the attractiveness of this program. In addition, a requirement for flood insurance has been added if the proposed project is located in an identified flood plain area, as required under the Flood Disaster Protection Act of 1973, Pub. L. 92-234.

The environmental review section has also been revised to establish criteria which will be used by DOE in determining the appropriate level of environmental review to be afforded individual loan guarantee actions. It recognizes that in most cases, the Environmental Protection Agency (EPA) will be involved in these projects through the issuance of National Pollutant Discharge Elimination System (NPDES) permits, which will be subject to an environmental review by EPA. In order to assure consistency of Federal reviews, DOE proposes to utilize the criteria which have been developed by EPA to assist in determining the level of the environmental review required. (See 42 FR 46934, September 19, 1977, for a full discussion of this policy and the basis upon which it was developed.)

In essence, the EPA criteria provide that for underground coal mines of less than 100,000 annual designed tonnage, no routine detailed environmental review (i.e., no environmental assessment or environmental impact statement) will be conducted unless such a review is warranted in a particular case, based on evidence indicating that any of the following may be significant: archaeological sites; wild and scenic rivers; wetlands; prime agricultural lands; significant surface water or groundwater pollution; recreational land uses; air quality; noise levels; mining in a saturated zone; presence of toxic overburden; steep slope mines (over 25 percent); and mining in alluvial valley floors. For underground mines of greater than 100,000 annual designed tonnage, a detailed environmental review will be conducted unless the NPDES permit applicant certifies that he will use "best practice procedures" as set forth in the EPA document entitled, "Best Practices for New Source Surface and Underground Coal Mines."

DOE intends to coordinate its environmental review with that of EPA and other involved Federal agencies, where appropriate.

Other revisions to the preliminary regulations are editorial, procedural, or for the purpose of greater clarity.

Public comments involving the eligibility of surface mines, the duration of coal sales contracts, and the definition of low sulfur coal were not incorporated, since they would require amendments to the enabling legislation.

The proposed regulations outline requirements for the filing and processing of applications for loan guarantees and for the issuance and subsequent servicing of guaranteed loans. The documentation required to be submitted by the applicant, including certain site-specific environmental information described in application forms currently under development, will provide a basis upon which to evaluate the application and determine whether to issue a loan guarantee.

No application for a loan guarantee will be considered unless evidence is provided which establishes that adequate financing could not be obtained without such a loan guarantee.

Consideration will be given only to loan guarantee applications for low sulfur underground coal mining projects, in accord with the legislative requirement contained in section 102(b)(3) of EPCA that "no more than 20 percent of the amount of guarantees issued in any fiscal year may be issued with respect to loans for the purpose of developing, expanding, or reopening underground coal mines which produce coal that is not low-sulfur coal." In view of the seam variability of sulfur in coal, and to permit the guarantee of loans for mines which have variable sulfur content, it is not intended, at present, to make any loan guarantees for mines where low sulfur coal is not required to be delivered pursuant to contract.

Priority consideration will be given to those applications for projects having a plan of operation which indicates a reasonable likelihood of rapid production from proven reserves and which already have available such project infrastructure as access roads, rail systems, and loading facilities.

The total amount of guarantees issued to any person (including all persons affiliated with such person) may not exceed $30,000,000. The amount of a guarantee issued with respect to any loan may not exceed 80 percent of the lesser of (a) the principal balance of the loan, or (b) the cost of the project. The aggregate outstanding principal amount of loans which are guaranteed under this program may not exceed $750,000,000.

The DOE supplemental appropriation for the fiscal year ending September 30, 1978 (Pub. L. 95-240), provides that of the total amount of the appropriation, $6,000,000 shall remain available until expended for a reserve to cover any defaults from loan guarantees issued to develop underground coal mines as authorized by Pub. L. 94-163; and that the indebtedness guaranteed or committed to be guaranteed under this program shall not exceed an aggregate of $62,000,000.

DOE will accept and process applications for loan guarantees and may issue provisional commitments to guarantee loans prior to the final rulemaking and the final programmatic environmental impact statement (EIS) on this program. No final commitments to guarantee will be issued until the EIS and rulemaking are finalized.

Any person submitting an application prior to the finalization of the EIS and rulemaking should be aware that there may be changes in these documents which may affect the terms and conditions of the provisional commitment, or which may not permit DOE to guarantee a particular loan. Also, there may be additional requirements which applicants may not be able to meet or may choose not to meet.

Application may be made to Mr. Robert M. Grubenmann, Coal Loan Guarantee Program, Resource Applications, Department of Energy, Room 3516, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, and shall contain, at a minimum, the information specified in the proposed regulations § 300.21-23. However, DOE may request information in addition to that specified in the proposed regulations. Processing of the application and issuance of a provisional commitment will follow the procedures and requirements of the proposed regulations.

II. COMMENT PROCEDURES

A. WRITTEN COMMENTS

Interested persons are invited to submit written comments with respect to the proposed regulations to Box *TO*, Public Hearing Management, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C., 20461. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Federal Loan Guarantee for Development of Underground Coal Mines." Fifteen (15) copies should be submitted. All written comments and related information should be received by DOE by June 19, 1978, in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. PUBLIC HEARING

1. *Participation Procedures.* A public hearing on the proposed regulations will be held at 9:30 a.m., on June 21, 1978, at the Daniel Boone Hotel, Capitol and Washington Streets, Charleston, W. Va. Any person who has an interest in the proposed regulations or

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who is a representative of a group or class of persons which has an interest in them may make a written request for an opportunity to make oral presentation. Such a request should be directed to Public Hearing Management, Department of Energy, Box *TO*, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, on or before June 12, 1978. The person making the request should describe his or her interest in the proceeding and provide a concise summary of the proposed oral presentation and a phone number where he or she may be reached. Each person who, in DOE's judgment, proposes to pre- sent relevant and material information shall be selected to be heard, shall be notified by DOE of his or her participation before 4:30 p.m., June 14, 1978, and shall submit 15 copies of his or her proposed statement to Public Hearing Management, Department of Energy, Box *TO*, Room 2313, 2000 M Street NW., Washington, D.C. 20461, on or before June 19, 1978.

2. *Conduct of Hearing.* DOE reserves the right to arrange the schedule of presentations to be heard, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard. A DOE official will be designated as presiding officer to chair the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer, who will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 2107, 1200 Pennsylvania Avenue NW., Washington, D.C., 20461, between the hours of 8 a.m., and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

DOE has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Orders 11821 and 11949 and OMB circular A-107. On March 21, 1978, DOE published a notice in the FEDERAL REGISTER (43 FR 11747) to the effect that a draft programmatic environmental impact statement (EIS), DOE/EIS-0004-D, Coal Loan Guarantee Program, had been issued. The statement was prepared pursuant to the National Environmental Policy Act of 1969, to identify potential environmental impacts that might occur as a result of implementation of DOE's proposed Coal Loan Guarantee Program.

Copies of the draft EIS were distributed for review and comment to appropriate Federal, State, and local agencies, and other organizations and individuals known to have an interest in the environmental effects of the program.

The final regulations will not be promulgated until the final EIS is prepared and available for public inspection.

TEXT OF THE AUTHORIZING LEGISLATION

For convenience, the texts of the provisions in EPCA and ECPA authorizing the Coal Loan Guarantee Program have been reprinted below:

ENERGY POLICY AND CONSERVATION ACT INCENTIVES TO DEVELOP UNDERGROUND COAL MINES

SEC. 102. (a) The Administrator may, in accordance with subsection (b) and rules prescribed under subsection (d), guarantee loans made to eligible persons described in subsection (c)(1) for the purpose of developing new underground coal mines.

(b)(1) A person may receive a loan guarantee under subsection (a) only if the Administrator determines that—

(A) Such person is capable of successfully developing and operating the mine with respect to which the loan guarantee is sought;

(B) Such person has provided adequate assurance that the mine will be constructed and operated in compliance with the provisions of the Federal Coal Mine Health and Safety Act and that no final judgment holding such person liable for any fine or penalty under such Act is unsatisfied;

(C) There is a reasonable prospect of repayment of the guaranteed loan;

(D) Such person has obtained a contract, of at least the duration of the period during which the loan is required to be repaid, for the sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and of any applicable implementation plan (as defined in section 110 of such Act);

(E) The loan will be adequately secured;

(F) Such person would be unable to obtain adequate financing without such guarantee;

(G) The guaranteeing of a loan to such persons will enhance competition or encourage new market entry; and

(H) Such person has adequate coal reserves to cover contractual commitments described in subparagraph (D).

(2) The total amount of guarantees issued to any person (including all persons affiliated with such person) may not exceed $30,000,000. The amount of a guarantee issued with respect to any loan may not exceed 80 percent of the lesser of (A) the principal balance of the loan or, (B) the cost of developing such new underground coal mine.

(3) The aggregate outstanding principal amount of loans which are guaranteed under this section may not at any time exceed $750,000,000. Not more than 20 percent of the amount of guarantees issued under this section in any fiscal year may be issued with respect to loans for the purpose of opening new underground coal mines which produce coal which is not low-sulfur coal.

(c) For purposes of this section—

(1) A person shall be considered eligible for a guarantee under this section if such person (together with all persons affiliated with such person)—

(A) Did not produce more than 1,000,000 tons of coal in the calendar year preceding the year in which he makes application for a loan guarantee under this section;

(B) Did not produce more than 300,000 barrels of crude oil or own an oil refinery in such preceding calendar year; and

(C) Did not have gross revenues in excess of $50,000,000 in such calendar year.

(2) A person is affiliated with another person if he controls, is controlled by, or is under common control with such other person, as such term may be further defined by rule by the Administrator.

(3) The term "low sulfur coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before sale of the coal by the producer.

(d) The Administrator shall prescribe such regulations as may be necessary or appropriate to carry out this section. Such rules shall require that each application for a guarantee under this section shall be made in writing to the Administrator in such form and with such content and other submissions as the Administrator shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be issued in accordance with subsections (a) through (c), and—

(1) Under such terms and conditions as the Administrator, in consultation with the Secretary of the Treasury, considers appropriate;

(2) With such provisions with respect to the date of issue of such guarantee as the Administrator, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the Secretary of the Treasury may not, without the consent of the Administrator, result in a delay in the issuance of such guarantee for more than 60 days; and

(3) In such form as the Administrator considers appropriate.

(e) Each person who receives a loan guarantee under this section shall keep such records as the Administrator or the Secretary of the Treasury shall require, including records which fully disclose the total cost of the project for which a loan is guaranteed under this section and such other records as the Administrator or the Secretary of the Treasury determines necessary to facilitate an effective audit and performance evaluation. The Administrator, the Secretary of the Treasury, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any person who received a loan guarantee under this section.

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ENERGY CONSERVATION AND PRODUCTION ACT

Section 164. Section 102 of the Energy Policy and Conservation Act is amended by adding at the end of subsection (c) the following new paragraph:

(4) The term "developing new underground coal mine" includes expansion of any existing underground coal mine in a manner designed to increase the rate of production of such mine, and the reopening of any underground coal mine which had previously been closed.

Issued in Washington, D.C., May 12, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Part 300, as set forth below.

PART 300—THE COAL LOAN GUARANTEE PROGRAM

Subpart A—General Provisions, Purpose and Objectives

Sec.
300.02 Definitions.
300.03 Full faith and credit provision.
300.04 Department of the Treasury concurrence.

Subpart B—Applications

300.20 Determination of eligibility.
300.21 General application information requirements.
300.22 Financial and other application information requirements.
300.23 Project cost documentation requirements.
300.24 Consideration of environmental impacts.

Subpart C—Application Processing

300.40 Approval criteria.
300.41 Conditional commitment.
300.42 Personal and corporate financial statements.
300.43 Guarantee terms.
300.44 Mandatory purchase of flood insurance.
300.45 Interest rate.
300.46 User charge.
300.47 Disbursements.

Subpart D—Servicing the Guaranteed Loan

300.50 Collateral.
300.51 Loan servicing and reporting requirements.
300.60 Project monitoring and audit.
300.61 Assignment of transfer of guaranteed Loan.
300.62 Termination of guarantee.

Subpart E—Default

300.80 Default.
300.81 Liquidation.
300.90 Disclosure.
300.92 Noninterference with Federal, State, and local requirements.

AUTHORITY: Energy Policy and Conservation Act, Pub. L. 94-163; Energy Conservation and Production Act, Pub. L. 94-385; Department of Energy Organization Act, Pub. L. 95-91.

§ 300.02 Definitions.

For the purpose of this part:

(a) "Act" means the Energy Policy and Conservation Act of 1975 (Pub. L. 94-163), as amended by the Energy Conservation and Production Act of 1976 (Pub. L. 94-385).

(b) "Affiliate" means a person who directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with another specified person, where control means direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise. (17 CFR 230.405.)

(c) "Applicant for Guarantee" or "Applicant" means the lender who applies to DOE for a guarantee.

(d) "Application" means the written request of an applicant for a loan guarantee.

(e) "Borrower" means any party directly liable for repayment of any part of a loan guaranteed by DOE.

(f) "Conditional Commitment" means that document, issued by DOE, which sets forth specifically or by reference, the terms and conditions under which DOE may issue a guarantee.

(g) "Contract" means a written coal sales agreement or agreements for at least the duration of the period during which a guaranteed loan is required to be repaid, for the direct and indirect sale or resale of coal to be produced from the subject mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and with any applicable implementation plan (as defined in section 110 of the Clean Air Act).

(h) "DOE" means the Department of Energy.

(i) "Guarantee" means the guarantee contract issued by DOE setting forth specifically or by reference DOE's undertaking to pay the Lender or Holder, in the event of default, principal or accrued interest on the guaranteed portion of the loan, and the terms and conditions of the undertaking.

(j) "Holder" means the person other than the lender who has succeeded in due course to all or part of the right, title and interest in the guaranteed portion of the loan.

(k) "Lender" means any original source of financing, licensed or regulated by a State or the Federal Government or approved by DOE, which provides to a borrower funds to be guaranteed by the DOE. The Lender is also the Applicant.

(l) "Loan Agreement" means the written contract between the Borrower and Lender specifying the terms and conditions under which the Lender provides financing to the Borrower.

(m) "Low Sulfur Coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before the sale of the coal by the Borrower.

(n) "Obligation" means any loan, note, bond, or other evidence of indebtedness.

(o) "Project" means an undertaking by the Borrower which will produce coal by the development of any new underground mine, expansion of any existing mine in a manner designed to increase production of such mine, or the reopening of any underground mine which had previously been closed.

(p) "Secretary" means the Secretary of the Department of Energy, his duly designated representative, or any officer of the United States designated by statute or executive order to succeed to his responsibilities.

§ 300.03 Full faith and credit provision.

Any guarantee issued by DOE shall be conclusive evidence that the guaranteed loan qualifies for such guarantee, and the validity of such guarantee so made shall be incontestable in the hands of a Holder, except for fraud or material misrepresentation on the part of such Holder.

§ 300.04 Department of the Treasury concurrence.

The Secretary shall obtain the concurrence of the Secretary of the Treasury with respect to the date of issue of any loan guarantee, except that this concurrence may not, without the consent of the Administrator, result in a delay in the issuance of a guarantee for more than 60 days.

Subpart B—Applications

§ 300.20 Determination of eligibility.

(a) Each Application must include a signed statement from the Borrower representing that the Borrower (including Affiliates) did not, in the prior calendar year:

(1) Produce more than 1,000,000 tons of coal;

(2) Produce more than 300,000 barrels of crude oil;

(3) Own an oil refinery;

(4) Have gross revenue in excess of $50,000,000.

(b) The Applicant must also submit a signed statement from the Borrower representing that there is no unsatisfied final judgment that holds the Borrower (or Affiliates) liable for any fine or penalty under the Federal Coal Mine Health and Safety Act.

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(c) The Lender will disclose whether any of its officers or directors, major stockholders, or other owners have financial interest in the Borrower. The Lender will disclose whether any of the Borrower's officers or directors, stockholders, or other owners have a financial interest in the Lender.

§ 300.21 General application information requirements.

The Applicant must provide at the time of application the following:

(a) Evidence that the Borrower owns, leases, or otherwise controls sufficient economically recoverable coal reserves at the site described in the application to produce sufficient coal to permit the Borrower to honor any obligation under the Contract;

(b) A letter of intent to purchase coal, a coal sales contract, or a draft coal sales contract, for the sale or resale of the coal to be produced from the project, and, if appropriate, the Secretary may require sufficient financial information concerning the purchaser of such coal, showing that said purchaser has capability to carry out the coal sales contract;

(c) An estimate of the sulfur content of the coal reserve, as mined and as sold, at the site described in the Application;

(d) Adequate assurance that the mine will be constructed and operated in compliance with the Federal Coal Mine Health and Safety Act;

(e) Evidence that the Borrower has been unable to obtain adequate financing without such guarantee. Such evidence may consist of a signed statement from the Applicant representing that he would not provide financing under the proposed terms without a Federal guarantee, and the reasons therefor;

(f) A copy of the mine development plan (normally the same plan submitted to Federal and State officials will suffice) which includes a description of the processes and methods the Borrower plans to use in the Project;

(g) A list of permits, licenses and other authorizations required by local, State or Federal authorities prior to opening of the proposed mine, with copies of any permits already issued and a schedule of expected dates of application for the remaining required permits;

(h) Certain environmental data as requested by the Department, describing environmental characteristics of the Project site.

§ 300.22 Financial and other application information requirements.

(a) The Applicant shall provide information in support of the Application, such as prescribed below: This information shall be used as the basis for the Secretary's determination that the Borrower is capable of successfully developing and operating the mine.

(1) Full description of the scope, nature, extent, and location of the proposed Project;

(2) A description of the Borrower's organization and a copy of the business certificate, partnership agreement, or corporate charter, bylaws, and appropriate authorizing resolutions;

(3) A list identifying Affiliates of the Borrower;

(4) Resumes of the Borrower's key employees which include in reverse chronological order their business and managerial experience, with emphasis on history of recent experience in the coal industry;

(5) A description of any other Federal financial assistance (e.g., direct loans, guaranteed loans, grants, contracts) expected to be applied for or already obtained by the Borrower in connection with the Project;

(6) Itemized estimates of costs of the Project (see § 300.23);

(7) Summary of insurance coverage for the Project;

(8) A schedule of salaries (and other financial remuneration including profit sharing and stock options) to be paid to officers and key employees of the Borrower who are, or will be directly associated with the Project;

(9) An analysis of the Project's economic and financial feasibility including:

(i) Recoverable coal reserves quantity estimate;

(ii) Estimated thickness and pitch of seam(s);

(iii) Physical analysis of coal quality, including Btu and sulfur characteristics;

(iv) Estimated production volume;

(v) Shaft design, if applicable;

(vi) Ventilation plan;

(vii) Description of major equipment and facilities requirements;

(viii) Roof and ground cutting plans;

(ix) Coal handling and processing plan;

(x) Location of openings;

(xi) Storage and disposal facilities;

(xii) Modes of transportation;

(xiii) Building design;

(xiv) Water, sewerage, environmental control systems;

(xv) Access roads;

(xvi)Electrical and mechanical maintenance plans; and

(xvii) Mine closing and reclamation plan.

(10) A List identifying the collateral to be pledged to secure the loan, together with estimated market value.

(b) The required scope of the Project feasibility analysis will depend on the magnitude of the Project. The Secretary may require additional information at his discretion in order to evaluate adequately the likelihood of repayment of the loan.

(c) The Lender must submit evidence, which should contain sufficient information to enable the Department of Energy to make an independent evaluation, of the creditworthiness of the Borrower and the Project for which a loan Guarantee is sought. The evidence submitted should consist of, but not be limited to, such items as:

(1) The credit analysis performed by the Lender.

(2) The following current financial statements of the Borrower which should be prepared by a certified public accountant, contain adequate notes, and be for the three most recent fiscal years (if applicable):

(i) Balance sheet.

(ii) Income statement.

(iii) Cash flow statement.

(iv) Pro forma income statement for the first 5 years of the project for which the loan is made.

(v) The borrower's interim balance sheet and income statement prepared within 90 days of the date of application if the annual statements contained in subdivision (i) and (ii) of this subparagraph above are more than 3 months old.

(d) Projected source and use of funds statement shall be presented on an annual basis for 5 years of the mining operation. In case of mine expansion Projects, the same statements shall be required, identifying separately the financial effect of the expansion and continuing operations.

§ 300.23 Project cost documentation requirements.

(a) Except as provided in paragraph (b) of this section, reasonable and customary costs actually paid, or to be paid, by the Borrower applicable to the development of a Project are generally permitted in computing the estimated aggregate Project cost, as approved by the Secretary. All costs for plant and equipment must relate to facilities to be used substantially in connection with the Project. These costs related to the Project include, but are not limited to the following:

(1) Land and/or mineral rights purchase and lease payments, including reasonable real estate commissions;

(2) Acquisition or construction of buildings, including offices, bathhouses, lamphouses, and other buildings required for development;

(3) Coal preparation plant construction including all machinery and equipment;

(4) Coal handling facilities including tipples, storage facilities and loading facilities;

(5) Machinery and equipment including continuous miners, short and long wall equipment, shuttle cars, loaders, roof bolting equipment, trucks, conventional mining equipment, conveyor belt systems, and all other equipment necessary for coal mine development;

(6) Power plant equipment and transmission lines including installation cost;

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(7) Employee's salaries and wages, consultant fees and independent contractor costs;

(8) Engineering fees, surveys, title insurance, recording fees and legal fees incurred in connection with land and/or mineral rights acquisition;

(9) Technical, financial, environmental, and feasibility studies;

(10) Infrastructure, including site preparation, installation of tracks, access roads, and fencing;

(11) Transportation equipment;

(12) Refuse disposal system;

(13) Water clarification system;

(14) Air pollution control system;

(15) Ventilation system;

(16) Communication system;

(17) Insurance and bonds;

(18) Costs of safety and environmental protection equipment, facilities, and services;

(19) Legal and accounting fees for mine permit acquisition and mine development;

(20) Fees for royalties and licenses;

(21) Reasonable loan fees;

(22) Interest on interim construction financing;

(23) Costs of complying with terms and conditions specified in the guarantee agreement or required by regulations and issuances by Federal, State, and local governments;

(24) Initial working capital;

(25) Other costs not specified which are reasonable and necessary; and

(26) A contingency reserve.

(b) Costs which are not considered as project costs and are excluded from the guaranteed portion of the loan are illustrated below:

(1) Dividends and profit sharing to stockholders, employees and officers;

(2) Expenses not paid or incurred by the Borrower;

(3) Normal operating expenses incurred after an initial period of start-up; and

(4) Costs that are excessive or are not directly required to carry out the project.

§ 300.24 Consideration of environmental impacts.

(a) The issuance of a Federal guarantee for a loan under this program is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq., Pub. L. 91-190). NEPA requires identification and environmental review of "major Federal actions significantly affecting the quality of the human environment." General regulations governing the procedures and policies implementing NEPA issued by the Department of Energy (DOE) are contained at 10 CFR Part 1021 (proposed for promulgation at 43 FR 7232, February 21, 1978).

(b) DOE will initially review the environmental questionnaires submitted by applicants for guarantees under this program. Upon completion of this review, DOE may issue a finding that no significant environmental impact is anticipated, or conduct a more detailed environmental review pursuant to 10 CFR Part 1021.

(c) In addition to the general criteria used for a determination as to the level of environmental review to be accorded individual applications under this program, DOE has determined that is will not routinely conduct a detailed environmental review (i.e., environmental assessment or environmental impact statement) for:

(1) Underground coal mines of less than 100,000 annual designed tonnage unless such a review is warranted in a particular case, based on information available to DOE indicating that impacts relating to any of the following may be significant: Archaeological sites; sensitive ecosystems; habitats of endangered species; historic sites; wild and scenic rivers; wetlands; prime agricultural lands; significant surface water or groundwater pollution; recreational land uses; air quality; noise levels; mining in a saturated zone; presence of toxic overburden; steep slope mines (over 25 percent); and mining in alluvial valley floors; and

(2) Underground coal mines of greater than 100,000 annual designed tonnage where the applicant certifies on his questionnaire that he will use "best practice procedures" as set forth in a document published by the Environmental Protection Agency entitled "Best Practices for New Source Surface and Underground Coal Mines." In such cases, the criteria is applicable in § 300.24(c)(1) shall apply.

(d) No guarantee will be issued prior to completion of the NEPA process.

Subpart C—Application Processing

§ 300.40 Approval criteria.

The Secretary will evaluate the proposed project and will determine whether:

(a) There is a reasonable prospect of repayment of the guaranteed Obligation;

(b) The Borrower is capable of successfully developing and operating the Project mine(s);

(c) The Borrower is of established integrity and demonstrated management capability;

(d) The proceeds from the proposed guaranteed Obligation, together with other available funds, will be sufficient to carry out the Project;

(e) The collateral pledged to secure the loan will adequately protect the interest of the U.S. Government; and

(f) The project is environmentally acceptable.

§ 300.41 Conditional Commitment.

(a) A Conditional Commitment to guarantee the Obligation may be issued by the Secretary. A Conditional Commitment will state that the Secretary is prepared to guarantee an Obligation and will further state the terms and conditions under which the guarantee may be issued. It will also contain certain covenants to be included in the loan agreement. No amendment to a Conditional Commitment shall be made unless reduced to writing and duly executed by the parties to the Conditional Commitment. Conditions in such a Conditional Commitment will include requirements such as:

(1) The Borrower must contribute a specified amount of equity;

(2) The Borrower must obtain an executed coal sales contract acceptable to the Secretary;

(3) DOE must obtain an independent validation of the quantity and quality of the Project coal reserves;

(4) The Borrower must provide for certification by the Environmental Protection Agency that the Borrower's coal can be burned by the purchaser in compliance with all applicable provisions of the Clean Air Act; and

(5) Completion of the DOE NEPA process. Where the NEPA process reveals that mitigation steps should be included as conditions to the guarantee, those steps shall be required by DOE to prevent or minimize significant environmental impacts.

§ 300.42 Personal and corporate financial statements.

(a) Personal endorsements of the loan may be required from major stockholders, owners or others having a major interest in the Borrower. Endorsements of the loan by parent, subsidiaries, or affiliated companies may also be required.

(b) Persons who endorse the loan will:

(1) In the case of personal endorsements, provide current financial statements (not over 90 days old at the time of filing), represented by endorsers to present fairly the financial position of the endorsers.

(2) In the case of corporate endorsers, provide current financial statements, including income statement, balance sheet, and statement of sources and application of funds (not over 90 days old at time of filing), represented by an officer of the corporation, to present fairly the financial position and results of operations of the corporation.

§ 300.43 Guarantee terms

(a) The amount of a Guarantee issued with respect to any obligations may not exceed 80 percent of the lesser of (1) the original principal balance of the obligation, or (2) the cost of the project.

(b) The total amount of Federal financial assistance, including Guarantees under this regulation obtained by

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the borrower for the project, shall not exceed 80 percent of the estimated aggregate cost of the project to be undertaken by the Borrower.

(c) The total amount of guarantees outstanding at any time on behalf of any Borrower (including all persons affiliated with such Borrower) may not exceed $30,000,000 in principal amount.

(d) The terms of such a proposed guaranteed Obligation may require full repayment over a period of no more than 30 years, or a period no longer than the term of the coal sales contract, whichever is less, as determined by the Secretary.

(e) A coal sales contract shall be executed prior to the issuance of a Guarantee.

(f) The coal sales contract need not necessarily provide for sale of all coal production from the Project, but should illustrate the generation of sufficient revenue from sales to provide reasonable assurance of repayment of the loan.

§ 300.44 Mandatory Purchase of Flood Insurance.

The Flood Disaster Protection Act of 1973, Pub. L. 92-234, may require that the Borrower purchase flood insurance as a condition of receiving a guarantee on a loan for acquisition of real estate or construction purposes in an identified flood plain area having special flood hazards. Questions emanating from Borrowers or Lenders regarding compliance with provisions of the Flood Disaster Protection Act and guidelines should be referred to the Department of Housing and Urban Development's Federal Insurance Administration. When the purchase of flood insurance is required, as finally determined by the Secretary, such costs can be included by the Borrower in the estimated project cost.

§ 300.45 Interest Rate.

Interest rates for guaranteed loans may be negotiated between the Borrower and Lender, as approved by the Secretary. They may be fixed or variable, provided they are legal in the jurisdiction appropriate to the Loan Agreement. If approved by the Secretary, it is permissible to have one interest rate apply to the guaranteed portion, and another interest rate apply to the unguaranteed portion of the loan. The interest rate should reflect the value, in terms of security to the Lender, of the Government Guarantee.

§ 300.46 User charge.

User charges imposed on the guaranteed portion of the loan, and computed at a rate to be set forth in the guarantee agreement, will be collected from the Lender and used for the purposes of defraying the cost of administration and probable loss associated with the program. The rate shall be imposed on the actual amount of the guaranteed portion of the loan that is outstanding during the year. The user charge may be passed to the Borrower by the Lender and, in such instances, may be included as an eligible cost. At the time the Guarantee is executed, the Lender shall present to the Secretary payment of the first year's annual user charge. The Secretary will evaluate annually whether the user charge then in effect is sufficient to cover anticipated administrative and guaranteed loan default costs and, whenever appropriate, will establish a revised fee schedule to be applied to new Guarantees. The payment of the user charge by the Lender, or the lack thereof, will in no way impair the guarantee to a Holder of the guaranteed portion of the loan.

§ 300.47 Disbursements.

(a) Requests for disbursement at closing and thereafter shall be supported by such documents as the Secretary may require, as set forth in the Conditional Commitment: For example, but not limited to, copies of unpaid invoices to be paid from disbursements; copies of fully paid invoices together with lien waivers, where appropriate; and copies of canceled checks.

(b) The Secretary shall approve requests for disbursements under the conditions set forth in the Guarantee Agreement.

Subpart D—Servicing the Guaranteed Loan

§ 300.50 Collateral.

(a) The Lender, in coordination with the U.S. Government, is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the Lender, U.S. Government, and any Holders of the guaranteed Obligation.

(b) Collateral may include, but is not limited to the following: Land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interests, revenues, patents, and copyrights.

(c) The Lender may not take separate collateral to secure only that portion of the loan not covered by the Guarantee. The Lender may not require compensating balances or certificates of deposit, other than as used in the ordinary course of business, as a means of reducing his exposure on the unguaranteed portion of the loan.

(d) First liens on all assets pleged as collateral are preferred. Loans collateralized entirely with secondary or other inferior lien positions will receive a lower priority treatment under the program.

§ 300.51 Loan servicing and reporting requirements.

Loan servicing is the responsibility of the Lender who remains a mortgagee or secured party of record, notwithstanding the fact that another may hold a portion of the loan. The Guarantee must specify the Lender's servicing requirements which include, but are not limited to, the Lender notifying the Secretary without delay:

(a) Of the date and amount of disbursements,

(b) Of any nonpayment by the Borrower of principal or interest as required by the Loan Agreement, together with appropriate notices to the Borrower, and

(c) Of any failure by the Borrower, known to the Lender, to comply with the terms and conditions as set forth in the Loan Agreement.

§ 300.60 Project monitoring and audit.

(a) Upon request, the Lender and the Borrower will permit the Secretary of Energy, Secretary of the Treasury, and the Comptroller General, or their duly authorized representatives to inspect and make copies of any of the records of the Lender or Borrower pertaining to DOE guaranteed loans. Such inspection and copying may be made during regular office hours of the Lender or Borrower, or at any other time mutally convenient.

(b) The Secretary will undertake certain loan monitoring functions which will be performed by a representative of the Secretary acting in coordination with the Lender's loan servicing. Specifically, the Secretary's role in loan monitoring will include, but not be limited to, the following:

(1) Written approval of all requests for disbursements as set forth in the Guarantee Agreement. Requests for disbursements should be aggregated to cover development milestones of the project, such as infrastructure improvements, startup equipment purchases, etc.;

(2) Review of periodic financial statements of the borrower;

(3) Periodic inspection of the collateral pledged to secure the loan and the borrower's operating facilities and records.

§ 300.61 Assignment or transer of guaranteed loan.

(a) The Lender may assign, participate, sell, or otherwise transfer any part or all of his right, title, and interest in the guaranteed loan within any limits specified in the Guarantee. The Lender, will, however, retain and continue to be responsible for the collateral and servicing of the loan, unless the Secretary approves a substitute Lender.

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(b) When a guaranteed portion of a loan is transferred from Lender to Holder, the Holder succeeds to all rights of the Lender in the Guarantee to the extent of the portion of the loan purchased by the Holder.

(c) After a transfer, the Lender will promptly notify the Secretary in writing of the fact of transfer and identify the Holder and his mail and telephone addresses. The records of all transactions by Lenders with Holders will be made available to the Secretary at his request.

(d) Any transfer of all or part of a guaranteed loan shall be subject to the condition that the Lender shall have the first option to repurchase the loan from the Holder in the event of default.

(e) The Guarantee Agreement shall be conclusive evidence that the guarantee and the underlying loan are in compliance with the provisions of this regulation, and that such loan has been approved and is legal as to principal and interest and other terms. Such a Guarantee shall be valid and incontestable by the Government, except for fraud or misrepresentation by the Holder of the Obligation.

§ 300.62 Termination of guarantee.

(a) The Secretary may terminate the Guarantee by written notice to the Lender and the Borrower if the Secretary finds that:

(1) Initiation of activity on the Project has not occurred within the period of time set forth in the Guarantee Agreement;

(2) There is noncompliance on the part of the Borrower or the Lender with material terms and conditions set forth in either the Loan Agreement or the Guarantee Agreement.

(b) The Secretary may notify the Borrower and the Lender that the Guarantee has been reduced to the amount that has been disbursed by the Lender as of the date of the notice. Disbursements made by the Lender after such notification is received will not be covered by a Guarantee.

Subpart E—Default

§ 300.80 Default.

(a) In the event of default by the Borrower, as defined in the Guarantee, the Lender shall notify the Secretary within 15 days of such default.

(b) If such default continues for 30 days after the expiration of any grace period, the Lender and Holder may:

(1) Defer payment of the overdue principal and accrued interest, and/or reschedule subsequent payments;

(2) Demand payment by the Secretary of the overdue amount of guaranteed principal and accrued interest originally causing the default; or

(3) Demand payment by the Secretary of the entire outstanding guaranteed principal and accrued interest of the loan.

(c) In the event of default, the Lender shall take such actions as provided in the Guarantee to assure the care, preservation, and maintenance of any collateral, so as to achive maximum recovery upon liquidation of collateral, security, and guarantees for the loan. The Lender shall not waive or relinquish, without the written consent of the Secretary, any collateral or guarantee for the loan.

§ 300.81 Liquidation.

(a) After Borrower default has occurred and demand for payment has been made upon the Secretary, as provided in § 300.80(b)(3), or in the event the Secretary and the Lender agree that default has occurred, the Lender shall, in consultation with the Secretary, prepare a plan for liquidation of the assets pledged as collateral to secure the loan. When the liquidation plan has been developed, the Lender shall proceed to take the necessary steps under applicable law to foreclose upon all of the collateral securing the loan and to sell the collateral for the highest attainable value under the circumstances. Provisions shall be set forth in the Guarantee Agreement for notice to the Secretary of sale of collateral and expenses incurred in such sale, and other matters pertaining to the method of handling the disposition of such collateral in a coordinated manner between the Secretary and the Lender.

(b) The Lender shall give a full accounting of the sale of assets made pursuant to the plan of liquidation, and shall serve in a fiduciary capacity for the benefit of the parties having an interest in the proceeds of the sale of assets.

(c) No action taken by the Lender in liquidation of any of the assets pledged by the Borrower shall affect the rights of any party having an interest in the loan to pursue, jointly or severally, legal actions against the Borrower, or other liable parties, for any deficiencies owing on the guaranteed loan balance after application of the proceeds received upon liquidation.

(d) Funds received by the Lender as a result of liquidation actions shall be applied as follows:

(1) First, to the payment of reasonable and customary fees and expenses incurred in the liquidation process and as set forth in the liquidation plan;

(2) Second, distributed between the legal owners of interests in the loan, pro-rated in accordance with their relative percentage ownership of the loan.

(e) The Secretary shall make payment of any amounts due under the Guarantee in accordance with the terms and conditions set forth in the Guarantee Agreement. Payment shall take place after default, but may be prior to, during, or after liquidation. In any event, once the Secretary has paid a Holder for the share held by him of the loan, the Secretary shall be subrogated to the rights of said Holder in the share of the loan and any collateral or security instrument related thereto.

(f) In the event the Secretary deems it necessary or desirable to protect or futher the interest of the United States in connection with the liquidation of collateral or recovery of deficiencies owing under the loan, he shall take such action as may be appropriate under the circumstances.

§ 300.90 Disclosure.

(a) Subject to the requirements of law, trade secrets, commercial and financial information, geological, geophysical, and geographical information, and data (including maps) concerning mine sites, which the Borrower makes available to DOE on a privileged or confidential basis, during the preliminary discussions or at any other time throughout the duration of the Project, shall be so treated by DOE and shall not be publicly disclosed without the prior written approval of the Borrower.

(b) In order to assist DOE in carrying out this provision, information deemed by the Borrower or Lender to fall within any of the foregoing categories shall be so identified and appropriately marked by the Borrower or Lender as exempt from public disclosure by section 552(b)(4) of the Freedom of Information Act.

§ 300.92 Noninterference with Federal, State, and local requirements.

Nothing in this regulation shall be construed to modify requirements imposed on the Borrower or Lender by Federal, State, and local government agencies in connection with permits, licenses, or other authorizations to conduct or finance underground coal mining activities.

[FR Doc. 78-13605 Filed 5-18-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition of Construction Contractor for Purpose of Surety Bond Guarantee

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule change will establish the Surety Bond Gurarantee size standard for all (general and special trade) construction

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contractors at $3.5 million in annual receipts. The effect would be to raise the present size standard for general construction contractors from $2 million to $3.5 million and decrease the size standard for special trade construction contractors from $5 million to $3.5 million. Also, the size standard for service companies is proposed to be raised from $2 million to $3.5 million.

DATE: Comments must be received by June 19, 1978.

ADDRESS: Comments should be submitted to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Room 800, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Danny J. Gibb, Chief Underwriter, Surety Bond Guarantee, 1441 L Street NW., Washington, D.C. 20416, 202-653-6117.

SUPPLEMENTARY INFORMATION: This proposal was prompted by a need for a Surety Bond Guarantee size standard for all construction contractors. Presently, a general construction concern is small for the purpose of receiving surety bond guarantee assistance if its annual receipts (or average annual receipts of its preceding 3 fiscal years) do not exceed $2 million. In the case of special trade construction (plumbing, heating, electrical, masonry, etc.), the Surety Bond Guarantee program uses the financial assistance standards which are set at $5 million (regardless of the special trade involved). This results in a surety bond guarantee size standard for the special trade industries set at an unrealistic $5 million, as compared with the $2 million general construction standard. Thus the proposed rule will provide a Surety Bond Guarantee size standard for all (general and special trade) construction contractors at $3.5 million. Special trade contractors, however, which are already receiving surety bond guarantee assistance and now have annual receipts in excess of $3.5 million, will be eligible as long as their receipts do not exceed the old size standard of $5 million.

Accordingly, pursuant to the authority in section 308(c), 15 U.S.C. 687(c), and section 411(a), 15 U.S.C. 694b(a) of the Small Business Investment Act of 1958, it is proposed to amend part 121 as follows:

§ 121.3-15 Definition of small business for the purpose of surety bond assistance.

A small business concern for the purpose of surety bond guarantee assistance is a concern that qualifies as a small business under § 121.3-10, with the following exceptions:

(a) *Construction.* Any construction concern (general and special trade) is small if its annual receipts for its preceding fiscal year or its average annual receipts for its preceding 3 fiscal years do not exceed $3.5 million. *Provided,* That those special trade contractors now receiving Surety Bond Guarantee assistance and having annual receipts in excess of $3.5 million, will be permitted to continue receiving surety bond guarantee assistance until such time as their annual receipts (or as averaged over the contractor's last 3 fiscal years) exceed $5 million.

(b) *Service.* Any concern performing a contract for services (including but not limited to services set forth in Division I, Services, of the Standard Industrial Classification Manual) is classified as small if its annual receipts for its preceding fiscal year or its average annual receipts for its preceding 3 fiscal years do not exceed $3.5 million.

(Catalog of Federal Domestic Assistance Program No. 59.016, Bond Guarantees For Surety Companies.)

Dated: May 4, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-13612 Filed 5-18-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Part 302]

[PDR-54A; Docket No. 32466; Dated: May 15, 1978]

RULES OF PRACTICE IN ECONOMIC PROCEEDINGS EXPEDITED PROCEDURES FOR LICENSING AND RATES CASES

Supplemental Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice extends for 25 days the filing date for comments in a rulemaking proceeding about expedited hearing procedures. This action was requested by the American Bar Association.

DATES: Comments by June 30, 1978. Reply comments by July 17, 1978.

ADDRESSES: Comments should be sent to Docket 32466, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Deputy General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5234.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking PDR-54, dated April 18, 1978 (43 FR 19403, May 5, 1978), the Board proposed to establish expedited hearing procedures for (a) processing applications for new or modified route authority by U.S. and foreign carriers, and (b) ratemaking cases. Comments in response to the notice are due June 5, 1978, with reply comments due June 20.

In a letter dated May 10, 1978, the American Bar Association (ABA) requested an extension until June 30 of the period for filing initial comments in response to PDR-54, and a corresponding extension of the reply comment period. The main reason stated for the request is that the extension is essential to useful and meaningful participation by the ABA, in view of the time needed for its Administrative Law Council to review its Aviation Subcommittee's recommended comments.

Upon consideration of the above, the undersigned finds good cause to grant this request for a reasonable extension of time for the preparation of views on the proposed rule.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing initial comments is extended to June 30, 1978. The time for filing reply comments is extended to July 17, 1978.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324.))

SIMON J. EILENBERG,
Associate General Counsel, Rules Division.

[FR Doc. 78-13666 Filed 5-18-78; 8:45 am]

[6320-01]

[14 CFR Part 302]

[Docket 32466]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

EXPEDITED PROCEDURES FOR LICENSING AND RATE CASES

Supplemental Notice of Proposed Rulemaking

MAY 15, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Civil Aeronautics Board has previously published a notice of proposed rulemaking (PDR-54) designed to reduce regulatory delay by expediting procedures for licensing and rate cases. This document is in response to inquiries received by our staff requesting clarification on route cases.

DATES: Comments by: June 30, 1978. Reply comments by: July 17, 1978.

Comments and other relevant information recieved after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 32466, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Deputy General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5234.

SUPPLEMENTARY INFORMATION: Our notice of rulemaking (43 FR 19403, May 5, 1978) said at page 3 that the Board's judges disposed of seventy-eight cases during the FY ended September 30, 1976, of which twenty-two—or about 28 percent—were route cases, that they disposed of ninety-nine cases during FY ended September 30, 1977 of which 31—or 31 percent—were route matters, and that 117 cases were on hand at the end of FY 1977. Our staff has received an inquiry about what percentage of the 117 cases were route cases. The answer is that 22 cases, or about 19 percent were route cases. Of the remaining cases 11 involved foreign air carrier permits, 8 involved rates, 3 involved mergers or acquisitions, and 73 were enforcement matters. We provide this information which we hope will be helpful in responding to our notice of rulemaking.

(Sec. 204, 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788; 49 U.S.C. 1324, 1481, Administrative Procedure Act, 5 U.S.C. 551 et seq.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-13720 Filed 5-18-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1210]

DEVELOPMENT WORK FOR INDUSTRY IN NASA WIND TUNNELS

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rules.

SUMMARY: NASA currently does not have a prescribed policy and procedure for industry to request the use of NASA wind tunnels. These proposed rules define the classes of NASA wind tunnels and the classes of industry work, and provide information on scheduling, occupancy time charges, and test data transmitted.

DATE: Comments or suggestions respecting the proposed revision should be submitted in writing not later than June 19, 1978.

ADDRESS: Director, Space Technology Coordinating Office, Code RC, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Fred J. DeMeritte, telephone 202-755-8501.

SUPPLEMENTARY INFORMATION: NASA current rules deal primarily with the unitary wind tunnel plan facilities and do not specifically indicate a method for industry to follow to request wind tunnel time for NASA wind tunnels. This proposed revision covers all NASA wind tunnels and outlines how to request wind tunnel time, and also updates the general material contained in Part 1210.

1. 14 CFR Part 1210 is revised in its entirety to read as follows:

PART 1210—DEVELOPMENT WORK FOR INDUSTRY IN NASA WIND TUNNELS

1210.1 Introduction.
1210.2 General classes of work.
1210.3 Priorities and schedules.
1210.4 Company projects.
1210.5 Government projects.
1210.6 Test preparation and conduct.

AUTHORITY: 50 U.S.C. 511-515, 42 U.S.C. 2473(c) (5) and (6).

§ 1210.1 Introduction.

(a) *Authority.* The regulations, as they apply to the Unitary Wind Tunnel Plan facilities, are promulgated under authority of the Unitary Wind Tunnel Plan Act of 1949, Pub. L. 85-568, and codified in 50 U.S.C. 511-515. This statute states that "The facilities authorized • • • shall be operated and staffed by the National Aeronautics and Space Administration but shall be available primarily to industry for testing experimental models in connection with the development of aircraft and missiles. Such tests shall be scheduled and conducted in accordance with industry's requirements, and allocation of laboratory time shall be made in accordance with the public interest, with proper emphasis upon the requirements of each military service and due consideration of civilian needs."

(b) *Unitary wind tunnel plan facilities.* The unitary wind tunnel plan facilities are the Ames Research Center 11- by 11-foot wind tunnel, 9- by 7-foot wind tunnel, and 8- by 7-foot wind tunnel; the Langley Research Center 4- by 4-foot high Mach number test section and the 4- by 4-foot low Mach number test section; and the Lewis Research Center 10- by 10-foot wind tunnel. These wind tunnels are operated by NASA for industry, NASA, the Department of Defense, and other Governmental agency projects.

(c) *National aeronautical facilities.* When completed, the national aeronautical facilities will be the national transonic facility at Langley Research Center and the modified 40- by 80-foot wind tunnel at Ames Research Center. The wind tunnels will be operated by NASA for industry, NASA, the Department of Defense, and other Government agency projects.

(d) *All other wind tunnels.* All other NASA wind tunnels will be used primarily for NASA research. However, all of these wind tunnels may be used for industry work when it is in the public interest either in joint programs with NASA or on a fee basis.

(e) *NASA policy.* All the projects to be performed in any of the NASA wind tunnels must be appropriate to the facility.

§ 1210.2 General classes of work.

Work for industry in the NASA facilities shall be divided into four project categories:

(a) *Company projects.* Includes work for industry on:

(1) Projects which are neither under contract nor supported by a letter of intent from a Government agency, and

(2) Company desired tests which are related to a project which is either under contract with or supported by a letter of intent from a Government agency, but are beyond the scope of the tests requested by the Government agency. A fee will be charged for these company projects.

(b) *Government projects.* Includes work for industry on projects which are either under contract with or supported by a letter of intent from a Government agency. The work must be requested by the Government agency. No fee will be charged for this type of work. (An exception is the national transonic facility for which a reimbursable policy is being developed.)

(c) *United States/foreign industry consortium projects.* This involves U.S. companies, which have formed a consortium or any other type of association with foreign companies, that desire tests on aerospace projects of joint or foreign interest. An application for work for such a consortium shall disclose the foreign interest in or anticipated foreign benefit from tests to be conducted and shall first be reviewed by the Director, International Affairs Division for consistency with current U.S. foreign policy and for compatibility with section 102 of the National Aeronautics and Space Act of

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1958, as amended, prior to a final decision being reached on the application. A fee will be charged for these consortium projects unless, in the review procedure above, it is determined that Government agency cooperative sponsorship warrants a nonfee arrangement.

(d) *Foreign company projects.* Foreign company requests for wind tunnel use that are not related to U.S. Government or U.S. industry interests or programs will generally not be granted and will in no event be granted prior to a review, as required in paragraph (c) of this section, by the Director, International Affairs Division.

§ 1210.3 Priorities and schedules.

(a) *Priorities.* Unitary wind tunnels shall be available primarily to industry for development work. However, allocations of laboratory time shall be in accordance with the public interests, with proper emphasis upon the requirements of the military services and due consideration of civilian needs. Research work shall have priority in all other NASA facilities. Priority conflicts may be referred to the Associate Administrator for Aeronautics and Space Technology for review and final determination.

(b) *Schedules.* Schedules showing the allocation of testing time for Government projects and for company projects for unitary wind tunnels and other major wind tunnels will be established by the appropriate Center each month for the ensuing 3-month period and submitted to NASA Headquarters, Attn.: Code RA, by the first day of each month.

§ 1210.4 Company projects.

(a) *Initiation of company projects.* Company projects will be initiated by a letter to the Center Director followed by a conference between company and NASA representatives at the Center having responsibility for the facility proposed for the project. The company representatives will be required to explain the technical need for the project and why the NASA facility is required, as well as to define the extent of the test program, model and equipment requirements, and schedule. The Center shall maintain a file of all company requests and their disposition. The company may be required to provide a safety analysis report (SAR) to augment the wind tunnel SAR by describing potential hazards that the company test program, model and equipment may present to NASA facilities and personnel.

(b) *Scheduling of tests.* In scheduling time for company projects, the responsible NASA Center will take into account priorities as specified in § 1210.3 and all projects, including Government, company, and NASA research work relative to the national interest. Every reasonable attempt will be made to accommodate technically justifiable projects on as timely a basis as possible.

(c) *Fees for company projects.* The policy on charges for the use of NASA facilities is explained in NASA Management Instruction 9080.1A, dated November 21, 1975, titled, "Review, Approval and Imposition of User Charges." The fee imposed for a company project will cover all direct and indirect costs to NASA for the wind tunnel test.

(1) *Occupancy time charge.* (i) The occupancy time will be computed from the start of installation of the test article in the wind tunnel test section through the time on which the test article is removed from the test section and the test section restored to its original condition.

(ii) The occupancy time rate will be computed from the sum of the annual cost of the operating crew plus the estimated annual maintenance cost of the facility and will be determined in accordance with NASA Management Instruction 9080.1A.

(iii) The sum of the annual cost for the operating crew and the estimated annual maintenance cost divided by the number of operational weeks, depending on the facility, gives the weekly occupany rate. This fee will be charged per basic week of 5 days, each day to be one-fifth week. The remaining weeks over the number of operational weeks for each year are the estimated maintenance reserve and holiday allowance; hence, no charge will be made for a holiday occurring during a test period.

(2) *Energy/fuel.* The charge for energy/fuel will be determined from the energy/fuel consumed during the tests and the actual cost to the NASA.

(3) *Data reduction.* The cost of data reduction and the data report will include labor, materials, computing machine rental, and appropriate indirect charges in accordance with NASA Management Instruction 9080.1A.

(4) *Cancellation of scheduled wind tunnel time.* Upon determination of a test schedule by the representatives of the company and of the NASA, it becomes the responsibility of the company to meet this schedule. A project may be canceled by the company without charge on 60 days' notice depending upon the readiness of succeeding projects. In the event subsequently scheduled work cannot be scheduled in leiu of the company's work, when canceled with less than 60 days' notice, the company shall be required to pay the occupancy time charge for the scheduled test period or for the period the facility test section is idle due to the cancellation, whichever results in the smaller charge. Curtailment of a project underway before the end of the scheduled test period may be made by the company. In this event, the company shall be required to pay the occupancy charge for the time used plus the unused scheduled time or for the idle time of the test section, whichever is the smaller.

(5) *High power requirements.* Unavailability of adequate power or economic considerations may, on occasion, cause delay or cancellation of high-powered test runs. The company shall cooperate with the facility staff in the scheduling of low-powered runs during periods when large blocks of power are unavailable. However, should rescheduling of test runs to accommodate power shortages be impractical, occupancy time charge credits will be made for time lost arising from such shortages. The basis for these credits, which will also be made for delays due to breakdown of malfunction of Government-furnished equipment or instrumentation, or due to other reasons beyond the control of the company, will be determined by each Center. The test period allotted for the program may be extended to offset delays in lieu of refund.

(d) *Test data transmittal.* The basic data for company projects will be transmitted to the requesting company without detailed analysis but with the necessary description of methods and techniques employed to permit proper interpretation of the data.

(e) *Proprietary rights.* In order to protect the trade secrets of companies, NASA will generate one set of final results, which will become the property of the company and be promptly transmitted to the company. If, subsequently, there is need to review the results, it will be the responsibility of the company to provide the NASA Center with copies of the resulting data on loan. Upon completion of the review, the data will be returned to the company. Should the company desire to maintain its trade secret rights in the data during the loan period, it should mark the data with a notice stating that the data shall not be used or disclosed other than for review purposes without prior written permission of the company. NASA, in turn, will protect that data covered by the notice which is protected under the law as a trade secret.

(f) *Test preparation and conduct* (see § 1210.6).

§ 1210.5 Government projects.

(a) *Initiation of Government projects.* Government projects shall be initiated through a conference of representatives from the contracted company, the sponsoring Government agency, and the staff of the NASA Center having responsibility for the facility proposed for the project. The purpose of the conference will be to establish the technical basis for the project and why the NASA facility is

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required as well as to define the extent of the test program, model and instrumentation requirements, and schedule. Upon concurrence of the Center Director, the sponsoring Government agency will submit a letter of request to NASA Headquarters for approval as well as clearing the request through the projects allocation and priority group (see paragraph (b) of this section). A safety analysis report (SAR) may be required to augment the wind tunnel SAR by describing the potential hazards that the project test program, model, and equipment may present to NASA facilities and personnel.

(b) *Projects allocation and priority group.* For coordinating Government projects, there is a group established jointly by the Department of Defense and the NASA. It consists of one representative each from the Air Force, Army, Navy, and NASA, competent to determine military priorities in the use of the NASA and other Government-owned facilities. The group is known as the aircraft, missile and propulsion projects allocation and priority group.

(c) *Scheduling of tests.* Government projects will be scheduled with due consideration of the priorities established by the projects allocation and priority group.

(d) *Test data transmitted.* The basic data for Government projects, without detailed analysis but with the necessary description of methods and techniques employed to permit the proper interpretation of the data, will be transmitted to the company for whom the tests were made and the sponsoring Government agency. Further disclosure by NASA of the test results will be made only with the prior concurrence of the sponsoring Government agency.

§ 1210.6 Test preparation and conduct.

(a) *Programing by user.* The user will be given the greatest possible freedom within the objectives of the scheduled program to obtain the precise information it requires, to determine the sequence and number of test runs to be made, and to make modifications to the program arising from the results currently being obtained, subject to requirements of safety, energy conservation, practicability, and the total time assigned.

(b) *Instrumentation.* Each facility will provide basic instrumentation suitable for the test range of the respective facility and computing equipment for the reduction of test data. Information will be furnished for each facility on the permissible size of model, standard balances, safety margins to be used in the construction of models, model mounting details, and other pertinent factors. If the basic instrumentation furnished by the facility does not meet the test requirements, the company will provide suitable instrumentation which will generally be calibrated by the facility staff to insure accuracy of measurement. This instrumentation will be made available sufficiently in advance of the test date to accomplish the calibration. Serious delays arising from inaccuracies in user supplied instrumentation, if occurring during the scheduled test period, may result in reassignment of the position of the tests on the facility schedule. Detailed specifications and arrangements for special instrumentation will be established by mutual agreement. All model criteria required by the facility for safety consideration including the necessary drawings and stress analyses of the articles to be tested will be furnished at a time specified by the facility staff for their use in preparing for the test. The user will also be required to furnish all information necessary to prepare the data reduction software program at a date specified by the facility staff.

(c) *Test program.* All tests will be conducted under NASA supervision and by NASA personnel or by NASA support service contractor personnel unless approved other wise by the facility manager. By agreement between the user (company representatives and the requesting agency) and the Center staff, changes in the test program may be made within the objectives of the scheduled program if time is available. When tests are not totally conducted by NASA personnel or by NASA support service contractor personnel, the NASA Field Installation Safety Officer shall verify that the company personnel are fully cognizant of facility safety problems and operations. A current SAR on the facility shall be available to the company personnel for review.

(d) *Handling test data.* The NASA staff will be responsible for obtaining all test data, its reduction to suitable coefficient form, and the accuracy of the final data, but the NASA will assume no responsibility for the interpretation of the data by others. Transmittal of the data will be made as rapidly as possible. For company projects, the data will be transmitted as directed by the company. The data for Government projects will be transmitted simultaneously to the sponsoring Government agency and the contractor, unless otherwise directed by the sponsoring agency.

(e) *Shops and office space.* During the conduct of user testing, the NASA will make available machine tools in the facility shop and desk space to the user whose projects are under tests.

(f) *Company furnished personnel.* User personnel furnished for each project will be agreed upon between the user and facility staff prior to the test.

MAY 11, 1978.

A. M. LOVELACE,
Deputy Administrator.

[FR Doc. 78-13618 Filed 5-18-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 4]

VESSELS IN FOREIGN AND DOMESTIC TRADES

Extension of Time for Comments Concerning Proposed Amendments to the Customs Regulations Relating to Foreign Repairs to, and Equipment Purchased for, American Vessels

MAY 16, 1978

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice further extends the period of time permitted for the submission of comments in response to the recent proposal by the Customs Service to modify its substantive and procedural requirements relating to entries for foreign repairs and equipment purchases by American vessels. This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATES: Comments must be received on or before June 30, 1978.

ADDRESS: COMMENTS SHOULD BE ADDRESSED TO THE Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Jerry C. Laderberg, Carriers Rulings Branch, Carriers, Drawback and Bonds Division, U.S. Customs Service, Washington, D.C. 20229, 202-566-5706.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 4, 1978, the Customs Service published in the FEDERAL REGISTER (43 FR 14060) notice of proposed amendments to §§ 4.7(d)(1) and 4.14 of the Customs Regulations (19 CFR 4.7(d)(1) and 4.14) to modify its substantive and procedural requirements relating to entries for foreign repairs and equipment purchases by American vessels. The proposed amendments would establish procedures for handling each aspect of a vessel repair entry and are intended to reduce the

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amount of time needed to process the entry.

COMMENTS

Comments on the proposed amendments were to have been received on or before May 4, 1978. At the request of American-flag vessel operators, a notice extending the period of time to comment until June 2, 1978, was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19417). Customs has now received a request for a further extension of time. Therefore, the period of time for comment on the proposed amendments is extended until June 30, 1978.

LEONARD LEHMAN,
Assistant Commissioner
Regulations and Rulings.

[FR Doc. 78-13617 Filed 5-18-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 446]

[Docket No. 78N-0123]

CONCENTRATED LIQUID DOSAGE FORMS OF TETRACYCLINE

Proposal To Revoke Provisions for Certification

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the antibiotic drug regulations by revoking provisions for certification of concentrated liquid dosage forms of tetracycline, which are labeled and formulated specifically for pediatric use. This action is being taken because new evidence reveals continued extensive prescribing of tetracycline liquid dosage forms for children from infancy to the age of 8 years despite the known adverse reactions in this age group. The new evidence supports a finding that the concentrated liquid dosage forms formulated for pediatric patients should be removed from the market.

DATES: Comments by July 18, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Merle L. Gibson, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

SUPPLEMENTARY INFORMATION: The tetracyclines were first introduced for clinical use in 1948. Because of their broad spectrum of antimicrobial activity, drugs of this class have been used extensively since that time. Tetracyclines are currently marketed for oral use as capsules, sirups, concentrated liquids (pediatric drops), and oral suspensions. The pediatric drops, which are marketed under the certification provisions of sirups and oral suspensions, are characterized by a higher drug concentration than other oral dosage forms and are especially convenient for administering to infants and young children.

For many years the use of drugs of the tetracycline class has been known to cause adverse reactions in the fetus during the last half of pregnacy and in the infant and child through the age of 8 years. The recognized adverse reactions, which include permanent staining of the teeth (yellow, gray, brown), increase tendency to caries, enamel hypoplasia, and temporary inhibition of bone growth, are reflected in the labeling of the drugs. Despite the known adverse reactions, new evidence shows that tetracyclines continue to be used extensively in the pediatric age group. With the current availability of safer alternative antimicrobials that are as effective against the bacteria that cause most infections in young children, it is difficult to justify the continued availability of a dosage form of tetracycline that is specifically formulated for the pediatric age group.

Evidence to support this conclusion has been brought to the attention of the Commissioner of Food and Drugs from several sources:

1. At the 18th meeting of the Food and Drug Administration's (FDA) Anti-Infective Agents Advisory Committee, held on November 16, 1976, tetracycline pediatric dosage forms were discussed. The committee members, who are authorities in the fields of pediatrics, internal medicine, and pharmacology, considered new data from two studies prior to their publication from the American Academy of Pediatrics. One was a 6-month study by Ray, Wayne A., Charles F. Federspiel, and William Schaffner, "The Mal-Prescribing of Liquid Tetracycline Preparations." *American Journal of Public Health*, 67(8):762-763, August 1977, and the other was a 2-year study by the same investigators ("Prescribing of Tetracycline to Children Less than 8 Years Old," *The Journal of the American Medical Association*, 237(19):2069-2074, May 9, 1977). Both studies were conducted by the Division of Biostatistics, Department of Preventive Medicine, and the Division of Infectious Disease, Department of Medicine, Vanderbilt University School of Medicine, Nashville, Tenn., on ambulatory pediatric patients participating in the Medicaid program in Tennessee. The 6-month study surveyed 50,606 tetracycline prescriptions written for 27,888 people. Of these prescriptions 2,740 (5.4 percent) were for sirup and 95 (0.2 percent) were for pediatric drops. More than 55 percent of the prescriptions for sirup and 96 percent of the prescriptions for pediatric drops were for children under 8 years of age. Only 13.8 percent of the prescriptions for liquid tetracycline were prescribed for patients 60 years or older.

Data from the 2-year study showed that tetracycline was prescribed 7,046 times for 4,026 children under 8 years of age. Eighty-four percent of the prescriptions were for pediatric drops. Of the 4,026 children receiving tetracycline, 30 percent were less than 2 years of age and 55 percent were less than 4 years of age.

2. The Food and Drug Administration presented to the Advisory Committee data from the "National Prescription Audit-Therapeutic Category Report," a study conducted by IMS-America, Ltd., on new and refilled prescriptions for the liquid dosage forms of tetracyclines covering the period from January 1974 through June 1976. The audit showed that approximately 77 percent of the prescriptions for liquid dosage forms of tetracyclines were written for patients under 9 years of age. Only 3 percent of these prescriptions were written for patients over 65 years of age. All data indicate that a significant proportion of the prescriptions for liquid dosage forms are written for children and very few for other patient populations that may have difficulty taking solid dosage forms, such as the geriatric age group.

3. The Committee on Drugs of the American Academy of Pediatrics has stated in a commentary in *Pediatrics* (55:142-143, January 1975) that it is difficult to identify common pediatric infections for which an oral tetracycline would be a drug of choice. They concluded that there are few, if any, reasons for using tetracycline drugs in children less than 8 years of age.

The Anti-Infective Agents Advisory Committee considered all data presented and recommended that the Commissioner remove the concentrated liquid dosage forms of tetracycline which are for pediatric use from the market. The Committee found, however, that there is insufficient information to conclude that all oral liquid forms of tetracyclines should be removed from the market and that to recommend such an action at this time would not be in the public interest. The Committee believes that, in removing the drugs specifically formulated for use in children and by disseminating information to physicians regarding the prescribing of tetracyclines for children, the incidence of such use will be greatly reduced. The

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Committee also suggested that these measures be evaluated by resurveying prescription use in 6 months to 1 year.

The Committee advised that, in conjunction with removal of the concentrated liquid, the physician labeling for all oral liquid dosage forms of tetracycline that remain on the market should be revised to strengthen the warning concerning permanent discoloration of the teeth in pediatric patients.

The Commissioner has evaluated all available data, including the recommendations of the American Academy of Pediatrics and the FDA Anti-Infective Agents Advisory Committee, and has decided that FDA will take the following actions in regard to tetracycline antibiotics:

1. Propose that the concentrated liquid forms of tetracycline antibiotics that are labeled and specifically formulated for pediatric use be removed from the market. This would be accomplished by revising §§ 446.115a and 446.166 of the regulations (21 CFR 446.115a, 446.166) to limit the amount of active ingredient permitted in sirups to 15 and 25 milligrams per milliliter (mg/ml) respectively. Currently, demeclocycline oral suspension containing 60 mg/ml of demeclocycline and oxytetracycline calcium oral suspension containing 100 mg/ml of oxytetracycline are certifiable in accordance with §§ 446.115a and 446.166, respectively. The revised regulations would no longer permit the certification of these concentrated liquids and outstanding certificates would immediately be revoked.

2. Require that the Warnings section of the physician labeling for all dosage forms of tetracyclines be revised to strengthen the warning concerning permanent discoloration of the teeth in pediatric patients.

3. Require that the Dosage and Administration section of the physician labeling for all dosage forms of tetracyclines be revised by changing the subheading "Children" to read "For children above 8 years of age."

4. Prepare and distribute an "FDA Drug Bulletin" to physicians and other health professionals which will discuss the therapeutic constraints associated with the use of tetracyclines and attempt to dissuade practitioners from prescribing the drugs for pediatric patients except in rare circumstances.

The Commissioner has sent letters to all manufacturers of tetracycline class products, directing them to revise the physician labeling in the "Warnings" section and the "Dosage and Administration" section (Commissioner's conclusions 2 and 3 above) for all dosage forms of tetracyclines. These changes are to be made at the next printing of the labeling.

The Commissioner advises that if the proposal to revise §§ 446.115a and 446.166 of the regulations to limit the amount of active ingredients permitted in sirups and oral suspensions is finalized, all outstanding certificates for batches of tetracycline concentrated sirups and suspensions will be revoked on the date that revision of the regulations is effective. Manufacturers may want to consider this now as they schedule production of batches of tetracycline sirups and oral suspensions.

Within 1 year after the effective date of a final regulation, FDA will survey prescription use and manufacturing practices to determine what effect the above-described actions have had on the incidence of prescribing tetracyclines for pediatric patients.

Copies of the minutes of the Anti-Infective Agents Advisory Committee meeting, the 6-month and 2-year studies, an example of the letters to the manufacturers, current labeling for tetracyclines, the summary of data from the "National Prescription Audit-Therapeutic Category Report," and the commentary of the Committee on Drugs of the American Academy of Pediatrics are available for public inspection at the office of the Hearing Clerk, address given above, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner has determined that this document does not contain an agency action covered by 21 CFR 25.1(b) and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that §§ 446.115a and 446.166 be amended as follows:

1. In § 446.115a, by revising the second sentence of paragraph (a)(1) to read as follows:

§ 446.115a Demeclocycline oral suspension.

(a) • • •

(1) • • • Each milliliter contains demeclocycline equal to 15 milligrams of demeclocycline hydrochloride. • • •

• • • • • •

2. In § 446.166, by revising the third sentence of paragraph (a)(1) to read as follows:

§ 446.166 Oxytetracycline calcium oral suspension.

(a) • • •

(1) • • • Each milliliter contains a quantity of oxytetracycline calcium equivalent to 25 milligrams of oxytetracycline. • • •

• • • • • •

Interested persons may, on or before July 18, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and (OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 12, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Regulatory Affairs.

[FR Doc. 78-13589 Filed 5-18-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-260-74]

INCOME TAX

Deduction for Contributions to Qualified Pension Trusts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating principally to the deduction limitations on contributions to defined benefit pension plans. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974. The regulations would provide the public with guidance needed to comply with that Act and would affect many sponsors of defined benefit plans.

DATES: Written comments and requests for public hearing must be delivered or mailed by July 18, 1978. The amendments are proposed to be effective generally for employers' taxable years beginning in 1976, but earlier (or later) in the case of some plans as provided by the Employee Retirement Income Security Act of 1974.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

J. Douglas Sorensen of the Legisla-

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tion and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3478.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the income Tax Regulations (26 CFR Part 1) under section 404(a) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1013(c) of the Employee Retirement Income Act of 1974 (88 Stat. 921) and are to be issued under the authority of section 404(a)(1) and 7805 of the Internal Revenue Code of 1954 (88 Stat. 921 and 68A Stat. 917; 26 U.S.C. 404(a)(1) and 7805).

Section 404(a)(1) of the Internal Revenue Code of 1954 provides rules governing the deductibility of contributions to qualified pension trusts. Before the enactment of the Employee Retirement Income Security Act of 1974 ("ERISA"), one of the three alternative deduction limitations in that section provided for an annual deduction with respect to past service or other supplementary pension or annuity credits, limited to ten percent of those costs.

As amended by ERISA, section 404(a)(1)(A)(iii) now provides for the amortization of those costs over a 10 year period.

Under section 404(a)(1) prior to the enactment of ERISA, the deductible limit was generally decreased by the full amount of net experience gains and increased by ten percent of the net experience losses. Special rules for handling gains and losses were provided in certain instances. The adjustment to the deductible limit due to a change in actuarial assumption varied depending on the funding method of the plan and the effect on plan costs. Such adjustments were discussed in Rev. Rul. 57-550, 1957-2 C.B. 266, Rev. Rul. 59-153, 1959-1 C.B. 89, Rev. Rul. 65-310, 1965-2 C.B. 145, and Rev. Rul. 67-116, 1967-1 C.B. 95.

The proposed regulations change these rules. In general, the proposed regulations provide that both gains as well as losses may give rise to an amortizable base, and they contain detailed rules regarding the amount to be amortized and the method of determining the annual amortization amount.

RELIANCE ON PROPOSALS

Pending the adoption of final regulations, taxpayers may rely on these proposed rules in preparing their tax returns and other computations affected by these rules. If any provisions of the final regulations are less favorable to taxpayers than these proposed rules, those provisions will be effective only for periods after the date of adoption.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments are available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was J. Douglas Sorensen of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

It is proposed to amend 26 CFR Part 1 by adding the following new section immediately after § 1.404(a)-13:

§ 1.404(a)-14 Special rules in connection with the Employee Retirement Income Security Act of 1974.

(a) *Purpose of this section.* This section provides rules for determining the deductible limit under section 404(a)(1)(A) of the Internal Revenue Code of 1954 for defined benefit plans.

(b) *Definitions.* For purposes of this section—

(1) *Section 404(a).* The term "old section 404(a)" means section 404(a) as in effect on September 1, 1974. Any reference to section 404 without the designation "old" is a reference to section 404 as amended by the Employee Retirement Income Security Act of 1974.

(2) *Ten-year amortization base.* The term "10-year amortization base" means either the past service and other supplementary pension and annuity credits described in section 404(a)(1)(A)(iii) or any base established in accordance with paragraph (g) of this section. A plan may have several 10-year amortization bases to reflect different plan amendments, changes in actuarial assumptions, and experience gains and losses of previous years.

(3) *Limit adjustment.* The term "limit adjustment" with respect to any 10-year amortization base is the lesser of—

(i) The level annual amount necessary to amortize the base over 10 years using the valuation rate, or

(ii) The unamortized balance of the base, in each case using absolute values. To compute the level amortization amount, the base may be divided by the present value of an annuity of one dollar, obtained from standard annuity tables on the basis of a given interest rate (the valuation rate) and a known period (the amortization period).

(4) *Absolute value.* The term "absolute value" for any number is the value of that number, treating negative numbers as if they were positive numbers. For example, the absolute value of 5 is 5 and the absolute value of minus 3 is 3. On the other hand, the true value of minus 3 is minus 3. This term is relevant to the computation of the limit adjustment described in paragraph (b)(3) and the remaining amortization period of combined bases described in paragraph (i)(3) of this section.

(5) *Valuation rate.* The term "valuation rate" means the assumed interest rate used to value plan liabilities.

(c) *Use of plan year in determining deductible limit for employer's taxable year.* Although the deductible limit applies for an employer's taxable year, the deductible limit is determined on the basis of a plan year. If the employer's taxable year coincides with the plan year, the deductible limit for the taxable year is the deductible limit for the plan year that coincides with that year. If the employer's taxable year does not coincide with the plan year, the deductible limit under section 404(a)(1)(A) (i), (ii), or (iii) for a given taxable year of the employer is one of the following alternatives:

(1) The deductible limit determined for the plan year commencing within the taxable year,

(2) The deductible limit determined for the plan year ending within the taxable year, or

(3) A weighted average of alternatives (1) and (2). Such an average may be based, for example, upon the number of months of each plan year falling within the taxable year.

The employer must use the same alternative for each taxable year unless consent to change is obtained from the Commissioner under section 446 (e).

(d) *Computation of deductible limit for a plan year; general rules.* The computation of the deductible limit for a plan year is based on the funding method, actuarial assumptions, and benefit structure used for purposes of section 412, determined without regard to section 412(g) (relating to the alternative minimum funding standard), for the plan year. In making calculations required by this section which involve amortization, any consistent assumption may be made with regard to the time or times during each year that payments will be made. The method of valuing assets for purposes of section 404 must be the same method of valuing assets used for purposes of section 412. However, for purposes of applying the rules of this section (i.e., the computation of normal cost, unfunded liabilities, and the full funding limitation described in paragraph (k) of this section, where applicable) with respect to a given plan year the following adjustments must be made:

(1) There must be excluded from the total assets of the plan the amount of any plan contribution for a plan year for which the plan was qualified under section 401(a) or 403(a) that has not previously been deducted, even though that amount has been credited to the funding standard account under section 412(b)(3)

(2) There must be included in the total assets of the plan for a plan year the amount of any plan contribution that has been deducted with respect to a prior plan year, even though that amount is considered under section 412 to be contributed in a plan year subsequent to that prior plan year.

(e) *Special computation rules under section 404(a)(1)(A)(i)—(1) In general.* For purposes of determining the deductible limit under section 404(a)(1)(A)(i), the deductible limit with respect to a plan year is the sum of——

(i) The amount required to satisfy the minimum funding standard of section 412 (a) (determined without regard to section 412 (g)) for the plan year and

(ii) An amount equal to the includible employer contributions.

The term "includible employer contributions" means employer contributions which were required by section 412 for the plan year immediately preceding such plan year, and which were not deductible under section 404 (a) for the prior taxable year of the employer solely because they were not contributed during the prior taxable year (determine with regard to section 404(a)(6)).

(2) *Rule for an employer using alternative minimum funding standard account and computing its deduction under section 404(a)(1)(A)(i).* This paragraph (e)(2) applies if the minimum funding requirements for the plan are determined under the alternative minimum funding standard described in section 412(g) for both the current plan year and the immediately preceding plan year. In that case, the deductible limit under section 404(a)(1)(A)(i) (regarding the minimum funding requirement of section 412) for the current year is the sum of

(i) Plus the charge under section 412(b)(2)(D), and

(ii) Less the credit under section 412(b)(3)(D),

that would be required if in the current plan year the use of the alternative method were discontinued.

(f) *Computation of deductible limit under section 404(a)(1)(A) (ii) and (iii); adjustments for 10-year amortization bases—(1) In general.* Subject to the full funding limitation described in paragraph (k) of this section, the deductible limit under section 404(a)(1)(A) (ii) or (iii) is the normal cost of the plan (determined in accordance with paragraph (d) of this section)—

(i) Decreased by the limit adjustments of any unamortized 10-year amortization bases required by paragraph (g) of this section that are due to a net experience gain, or to either a change in actuarial assumptions or a plan amendment which decreases the accrued liability, and

(ii) Increased by the limit adjustments of any unamortized 10-year amortization bases required by paragraph (g) or (j) of this section that are due to a net experience loss, or to either a change in actuarial assumptions or a plan amendment which increases the accrued liability.

(2) *Special limit under section 404 (a) (1) (A) (ii).* If the deduction for the plan year is determined solely on the basis of section 404(a)(1)(A)(ii) (that is, without regard to clauses (i) or (iii)), the special limitation contained in section 404 (a)(1)(A)(ii), regarding the unfunded cost with respect to any three individuals, applies notwithstanding the rules contained in paragraph (f)(1) of this section.

(g) *Establishment of a 10-year amortization base—(1) Experience gains and losses.* In the case of a plan valued by the use of a funding method which is an immediate gain type of funding method (and therefore separately amortizes rather than includes experience gains and losses as a part of the normal cost of the plan), a 10-year amortization base must be established in any plan year equal to the net experience gain or loss required under section 412 to be determined with respect to that plan year. The base is to be maintained in accordance with paragraph (h) of this section. Such a base must not be established if the deductible limit is determined by use of a funding method which is a spread gain type of funding method (under which experience gains and losses are spread over future periods as a part of the plan's normal cost). Examples of the immediate gain type of funding method are the unit credit method, entry age normal cost method, and the individual level premium cost method. Examples of the spread gain type of funding method are the aggregate cost method, frozen initial liability cost method, and the attained age normal cost method.

(2) *Change in actuarial assumptions.* If the creation of an amortizable base is required under the rules of section 412(b)(2)(B)(v) or (3)(B)(iii) (as applied to the funding method used by the plan), a 10-year amortization base must be established at the time of a change in actuarial assumptions used to value plan liabilities. The amount of the base is the difference between the accured liability calculated on the basis of the new assumptions and the accrued liability calculated on the basis of the old assumptions. Both computations of accrued liability are made as of the date of the change in assumptions. In the case of a plan using a funding method of the spread gain type (which type does not directly determine the accrued liability of the plan) the accrued liability determinations must be made on the basis of another funding method (of the immediate gain type) that does determine the accrued liability. In that case, the method chosen to determine the accrued liability of the plan upon the change of assumptions must not be different from the method used to establish any other 10-year amortization base maintained by the plan (if any). The base must be maintained in accordance with paragraph (h) of this section.

(3) *Past service or supplemental credits.* A 10-year base must be established when a plan is established or amended, if the creation of an amortizable base is required under the rules of section 412(b)(2)(B) (ii) or (iii), or (b)(3)(B)(i) (as applied to the funding method used by the plan). The amount of the base is the accrued liability arising from, or the decrease in accrued liability resulting from, the establishment or amendment of the plan. The base must be maintained in accordance with paragraph (h) of this section.

(h) *Maintenance of 10-year amortization base—(1) In general.* Each time a 10-year amortization base is established, whether by plan amendment, by change in actuarial assumptions, or by experience gains and losses, the base must, except as provided in paragraph (i) of this section, be separately maintained in order to determine when the unamortized amount of the base is zero. In the case of an immediate gain method described in paragraph (g)(1) of this section, the sum of the unamortized balances of all of the 10-year bases must equal the plan's unfunded accrued liability with the adjustments for carryovers described in paragraph (d)(1) and (2) of this section, if applicable. When the unamor-

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tized amount of a base is zero, the deductible limit is no longer adjusted to reflect the amortization of the base. Except as provided in paragraph (j) of this section (relating to the initial 10-year base for a plan in existence before the effective date of section 404 (a)), the unamortized amount of the base for the plan year for which the base is established is the amount of the base. For any succeeding plan year, the unamortized amount of the base is equal to—

(i) The unamortized amount of the base as of the beginning of that plan year, plus

(ii) Interest at the valuation rate, less

(iii) The contribution made with respect to the base (adjusted for interest at the valuation rate) for that plan year.

(2) *Contribution with respect to each base.* The contribution made with respect to each base is equal to the product of—

(i) The total contribution made with respect to all bases, and

(ii) The ratio of the limit adjustment for the base to the sum (using true rather than absolute values) of the limit adjustments with respect to all bases.

The contribution made for all bases is equal to the difference between the total currently deductible contribution (including carryovers described in section 404(a)(1)(D) to the extent they are currently deductible) and the normal cost (treating a negative difference as a negative contribution). The amount of a contribution which is in excess of the total currently deductible contributions (and which thus creates an additional carryover described in section 404(a)(1)(D)) is not treated as a part of the total contribution with respect to the bases until the carryover becomes deductible under section 404(a)(1)(D). The failure to make a contribution at least equal to the sum of the normal cost plus interest on the unamortized amounts does not create a new base; instead it results in an increase in the unamortized amount of each base and consequently extends the time before the base is fully amortized. The limit adjustment for any base is not increased (in absolute terms) even if the un- amortized amount computed under this subparagraph exceeds the initial 10-year amortization base. Thus, if the total unamortized amount of the plan's bases at the beginning of the plan year is $100,000 (which is also the unfunded liability of the plan), and a required $50,000 normal cost contribution is not made for the plan year, the following effects occur. The total unamortized balance of the plan's bases increases by the $50,000 normal cost for the year, plus interest on the $100,000 balance of the bases; and, because of that increase, it will take a longer period to amortize the remaining balance of the bases. (The annual amortization amount does not change.)

(3) *Required adjustment to 10-year base limit adjustment if valuation rate changed.* If there is a change in the valuation rate, the limit adjustment for all unamortized 10-year amortization bases must be changed, in addition to establishing a new base as provided in paragraph (g) (2) of this section. The new limit adjustment for any base is the level amount necessary to amortize the base over the remaining amortization period using the new valuation rate. The remaining amortization period of the base is the number of years at the end of which the unamortized amount of the base would be zero if the contribution made with respect to that base equaled the limit adjustment each year. This calculation of the remaining period is made on the basis of the valuation rate used before the change. Both the remaining amortization period and the revised limit adjustment may be determined through the use of standard annuity tables. The remaining period may be computed in terms of fractional years, or it may be rounded off to a whole number. The previously amortized amount and the remaining amortization period with respect to such base shall be unchanged by any change in the valuation rate.

(i) *Combining bases*—(1) *General method.* For purposes of section 404 only, and not for purposes of section 412, different 10-year amortization bases may be combined into a single 10-year amortization base if such single base satisfies all of the requirements of paragraph (i) (2), (3), and (4) of this section at the time of the combining of the different bases.

(2) *Unamortized amount.* The unamortized amount of the single base equals the sum of the unamortized amount of the bases being combined (treating negative bases as having negative unamortized amounts).

(3) *Remaining amortization period.* The remaining amortization period of the single base is equal to (i) the sum of the separate products of (A) the unamortized amount of each of these bases (using absolute values) and (B) its remaining amortization period, divided by (ii) the sum of the unamortized amounts of each of the bases (using absolute values). For purposes of this paragraph (i)(3), the remaining amortization period of each base being combined is that number of years at the end of which the unamortized amount of the base would be zero if the contribution made with respect to that base equaled the limit adjustment of that base in each year. This number may be determined through the use of standard annuity tables. The remaining amortization period described in this paragraph may be computed in terms of fractional years, or it may be rounded off to a whole number.

(4) *Limit Adjustment.* The limit adjustment for the single base is the level amount necessary to amortize the combined base over the remaining amortization period described in paragraph (i)(3) of this section, using the valuation rate. This amount may be determined through the use of standard annuity tables.

(5) *Fresh start alternative.* In lieu of combining different 10-year amortization bases, a plan may replace all existing bases with one new 10-year amortization base equal to the unfunded accrued liability of the plan as of the time the new base is being established. This unfunded liability must be determined in accordance with the general rules of paragraph (d) of this section. The unamortized amount of the base and the limit adjustment for the base will be determined as though the base were newly established.

(j) *Initial 10-year amortization base for existing plan*—(1) *In general.* In the case of a plan in existence before the effective date of section 404(a), the 10-year amortization base on the effective date of section 404(a) is the sum of all 10 percent bases existing immediately before section 404(a) became effective for the plan, determined under the rules of old section 404(a).

(2) *Limit adjustment.* The limit adjustment for the initial base is the lesser of the unamortized amount of such base or the sum of the amounts determined under paragraph (b)(3) of this section using the original balances of the remaining bases (under old section 404 (a) rules) as the amount to be amortized.

(3) *Unamortized amount.* The employer may choose either to establish a single initial base reflecting both all prior 10-percent bases and the experience gain or loss for the immediately preceding actuarial period, or to establish a separate base for the prior 10-percent bases and another for the experience gain or loss for the immediately preceding period. If the initial 10-year amortization base reflects the net experience gain or loss from the immediately preceding actuarial period, the unamortized amount of the initial base shall equal the total unfunded accrued liability on the effective date of section 404(a) determined in accordance with the general rules of paragraph (d) of this section. If, however, a separate base will be used to reflect that gain or loss, the unamortized amount of the initial base shall equal such unfunded accrued liability on the effective date of section 404(a), reduced by the net experience loss or increased by the net experience gain for the immediately preceding actuarial period. In this case, a separate 10-year amortization base must be established on the effective date equal to the net experience gain or loss. Thus, if the effective date unfunded accrued plan liability is $100,000 and an experience loss of $15,000 is recognized on that date, and if the loss is to be treated as a separate base, the unamortized balances of the two bases would be $85,000 and $15,000. If the unfunded liability were the same $100,000, but a gain of $15,000 instead of a loss were recognized on that date, the unamortized balances of the two bases would be $115,000 and a credit base of $15,000. In both cases, if only one 10-year base is to be established on the effective date, its unamortized balance would be $100,000 (the unfunded accrued liability of the plan). See paragraph (d) for rules for determining the unfunded accrued liability of the plan.

(k) *Effect of full funding limit on 10-year-amortization bases.* The amount deductible under section 404(a)(1)(A) (i), (ii), or (iii) for a plan year may not exceed the full funding limitation for that year. See paragraph (d) of this section for rules to be used in the computation of the full funding limitation. If the total contribution for a plan year equals or exceeds the full funding limitation for the year, all 10-year amortization bases maintained by the plan will be considered fully amortized, and the deductible limit for subsequent plan years will not be adjusted to reflect the amortization of these bases.

(l) *Transitional rule.* For taxable years of employers commencing before January 1, 1979, a contribution will be deductible under section 404(a)(1)(A) if the computation of the deductible limit is based upon a reasonable interpretation of section 404(a)(1)(A), when considered in conjunction with prior published positions of the Internal Revenue Service under old section 404(a). A computation of the deductible limit may satisfy the preceding sentence even if it does not satisfy the rules contained in paragraphs (c) through (i) of this section. For taxable years of employers commencing on or after January 1, 1979, the computation of the deductible limit must reflect 10-year amortization bases retroactively established as of the first day to which this section applies and maintained in accordance with this section.

(m) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Initial 10-year bases. An employer whose taxable year is the calendar year maintains a calendar year plan, which was in existence on January 1, 1974. The employer computes his minimum funding requirements for the plan and his deductible limit for 1976 on the entry age normal funding method and a 5 percent interest assumption is employed. The plan is valued annually as of the first day of each plan year. The actuarial valuation produced the following data (as of January 1, 1976):

Normal cost	$60,000
Accrued liability	1,000,000
Assets	420,000
Actual unfunded liability	580,000
Expected unfunded liability	600,000
Experience gain recognized ($600,000 less $580,000)	20,000
10 pct base if sec. 404 were not amended by ERISA (original balance)	800,000

In computing the initial 10-year amortization bases under paragraph (j)(3) of this section, the employer chooses to treat the experience gain computed on January 1, 1976, as a separate base. Thus the plan has two initial 10-year amortization bases as of January 1, 1976. Their original balances are $800,000 (the prior 10 percent base arising from the original past service liability), and $20,000 (due to the experience gain). The limit adjustments with respect to such bases are $98,670 and −$2,467, respectively (10-year amortization of each base at 5 percent interest, assuming payments made at the beginning of each year). The unamortized amounts of such bases as determined under paragraph (j)(3) of this section are $600,000 ($580,000 unfunded liability plus the $20,000 gain determined on January 1, 1976) and −$20,000, respectively. The deductible limit for 1976 is $156,203 ($60,000 normal cost plus $98,670, the limit adjustment with respect to the $800,000 base, minus $2,467, the limit adjustment with respect to the $20,000 "negative" balance base).

Example (2). Allocation of contribution. The employer in example (1) contributed $110,000 as of January 1, 1976, and claimed $110,000 as a deduction for the 1976 taxable year. The total contribution made with respect to all bases is $50,000 ($110,000 total deductible contribution minus $60,000 normal cost). The employer did not choose to combine the 10-year amortization bases, and maintained the bases as follows through the end of 1976:

(1) Ten-Year Amortization Base	(2) Limit Adjustment With Respect to Base	(3) Contribution with Respect to Base (2)/Total (2) x Total (3)	(4) Unamortized Amount Beginning of 1976	(5) Unamortized Amount End of 1976 1.05((4)-(3))
$800,000	$98,670	$51,282	$600,000	$576,154
-20,000	-2,467	-1,282	-20,000	-19,654
	$96,203	$50,000		

Example (3). Combining bases. The facts are the same as example (2) except the employer decided to combine the 10-year amortization bases as of January 1, 1976, in accordance with paragraph (i) of this section. The deductible limit for the combined base is determined on the basis of the remaining unamortized balance and the remaining amortization period of the single combined base. The remaining amortization period of the combined single base is derived from the remaining periods of the separate bases which are being combined. The computations are as follows:

(a) The remaining amortization period of the $800,000 10-year amortization base is determined as follows:

(1) Unamortized amount of base beginning of 1976, $600,000.

(2) Limit adjustment with respect to base, $98,670.

(3) Present value of each $1 of the limit adjustment [(a)(1) divided by (a)(2)], $6.08.

(4) Remaining amortization period (equal to period certain of the amount in (a)(3) obtained from standard annuity tables reflecting first-of-year payments), 7 years.

(b) The remaining amortization period of the $20,000 base is 10 years.

(c) The remaining amortization period of the single base is:

$$\frac{\$600,000 \times 7.0 + \$20,000 \times 10}{\$600,000 + \$20,000} = 7.1 \text{ years}$$

(d) The limit adjustment for the combined base is computed as follows:

(1) Present value of annuity certain for 7.1 years (using linear interpolation), $6.15.

(2) Unamortized amount of single base, $580,000.

(3) Limit adjustment with respect to single base [(d)(2) divided by (d)(1)], $94,309.

If the 10-year amortization bases are combined, the maximum deductible limit will be $154,309 ($60,000 normal cost + $94,309 limit adjustment with respect to the single 10-year amortization base).

(n) *Effective date.* This section applies to any taxable year of an employer to which section 404(a) applies. In the case of a plan which was in existence on January 1, 1974, section 404(a) generally applies for contributions on account of taxable years of an employer ending with or within plan years beginning after December 31, 1975. In the case of a plan not in existence on January 1, 1974, section 404(a) generally applies for contributions on account of taxable years of an employer ending with or within plan years beginning after September 2, 1974. See § 1.410(a)-2(c) for rules concerning the time of plan existence. See also § 1.410(a)-2(d), which provides that a plan in existence on January 1, 1974, may elect to have certain provisions, including the amendments to section 404(a) contained in section 1013 of the Employee Retirement Income Security Act of 1974, apply to a plan year beginning after September 2, 1974, and before the otherwise applicable effective date contained in that section.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-13583 Filed 5-18-78; 8:45 am]

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[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 897-7; PP 8E2030/P77]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Methomyl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the insecticide methomyl on beets, collards, dandelions, kale, mustard greens, parsley, Swiss chard, turnip greens, and watercress. The proposal was submitted by the Interregional Research Project No. 4. This amendment to the regulations would establish maximum permissible levels for residues of methomyl on the above crops.

DATE: Comments must be received on or before June 19, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-755-2516.

SUPPLEMENTARY INFORMATION: Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the 1R-4 Technical Committee and the Agricultural Experiment Stations of Alabama, Arizona, Florida, Georiga, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, has submitted a pesticide petition (PP 8E2030) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.253 be amended by the establishment of tolerances for residues of the insecticide methomyl (*S*-methyl *N*-[methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodities beet tops, collards, dandelions, kale, mustard greens, parsley, Swiss chard, turnip greens (tops), and watercress at 6 parts per million (ppm).

The data submitted in the petition and other relevant material have been valuated. The toxicological data considered in support of the proposed tolerances included two-year rat and dog feeding studies with a no-effect level (NEL) of 100 ppm based on systemic effects: acute oral lethal dose (LD_{50}) rat and chicken studies; a hen neurotoxicity tests; 90-day rat and dog feeding studies with NELs at 125 ppm and 400 ppm, respectively; and a three-generation rat reproduction study with an NEL of 100 ppm. An oncogenic study in a second mammalian species, a rabbit teratology study, and mutagenicity studies are studies considered desirable but lacking. However, the small incremental increase in exposure from residues in these additional commodities can be toxicologically supported even though the second oncogenicity study is missing and the tertology study is below the standard of acceptability. The three-generation reproduction study and the rat oncogenicity study provide adequeate assurance that methomyl is not likely to affect reproduction or to be carcinogenic.

Tolerances have previously been established for residues of methomyl on a variety of raw agricultural commodities at levels ranging from 10 ppm to 0.1 ppm. The metabolism of methomyl is adequately understood, and an adequate analytical method (gas chromatography) is available for enforcement purposes. There are no pending regulatory actions against the continued registration of methomyl. There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3).

The pesticide is considered useful for the purpose for which tolerances are being established, and it is concluded that the tolerances established on beet tops, collards, dandelions, kale, mustard greens, parsley, swiss chard, turnip green tops, and watercress at 6 ppm by amending 40 CFR 180.253 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before June 19, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP8E2030/P77". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Office of the Federal Register, from 8:30 a.m. to 4 p.m., Monday through Friday.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: May 9, 1978.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart C, § 180.253 be amended by alphabetically inserting tolerances for residues of methomyl on beet tops, collards, dandelions, kale, mustard greens, parsley, Swiss chard, turnip green tops, and watercress at 6 ppm in the table and revising the paragraph "Vegetables, leafy * * *," as follows:

§ 180.253 Methomyl; tolerances for residues

Commodity:	Parts per million
Beets, tops	6
Collards	6
Dandelions	6
Kale	6
Mustard greens	6
Parsley	6
Swiss chard	6
Turnip greens, tops	6
Vegetables, leafy except beets (tops), broccoli, brussels sprouts, cabbage, cauliflower, celery, collards, dandelions, endive (escarole), kale, lettuce, mustard greens, parsley, spinach, Swiss chard, turnip greens (tops), and watercress	0.2(M)
Watercress	6

[FR Doc. 78-13633 Filed 5-18-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-92; RM-2979; RM-3086]

FM BROADCAST STATIONS IN RHINELANDER, WAUSAU AND WASHBURN, WIS.

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking (Order).

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving FM channel assignments in Wausau, Rhinelander, and Washburn, Wis. It also extends the time to file a statement responsive to the proposed license modification in the Order to Show Cause in this proceeding. Petitioners, Seehafer & Johnson Broadcasting Corp. and Oneida Broadcasting Co., state that more time is needed to analyze the impact of the requested FM channel to Washburn, Wis.

DATES: Comments must be received on or before June 7, 1978, and reply comments on or before June 29, 1978. Statement in response to the proposed license modification must be filed on or before June 7, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 11, 1978.

Released: May 15, 1978.

1. On March 7, 1978, the Commission adopted a notice of proposed rule making and order to show cause, 43 FR 10944, concerning the above-entitled proceeding. The date for filing comments was May 8, and the date for filing reply comments is May 29, 1978.

2. On April 28, 1978, counsel for Seehafer & Johnson Broadcasting Corp., filed a request seeking an extension of time for filing comments and reply comments to and including June 7, and June 29, 1978, respectively. Counsel states that public notice of a petition was given proposing the assignment of an FM channel to Washburn, Wis., which conflicts with the proposed FM channel at Rhinelander, Wis. He asserts that his client's engineers are presently engaged in a study to determine whether this conflict can be resolved.

3. On May 2, 1978, Oneida Broadcasting Co. ("Oneida"), licensee of FM Station WRHN, Rhinelander, Wis., filed a request seeking an extension to June 7, 1978, in which to file a statement responsive to the license modification proposed by the order to show cause in this proceeding. Oneida states that the additional time is necessary in order that it, too, may analyze the impact of the requested FM channel to Washburn, Wis.

4. Through clerical error, the request for extending the comment and reply comment dates was inadvertently misplaced and was not brought to the attention of the Bureau staff until the date for filing comments had expired.

5. However, on the basis of the reasons indicated in the above-mentioned motions, we believe additional time is warranted and will grant both requests. Since one set of comments already has been filed in order to meet the May 8 deadline date, that party may supplement its filing subject to the new deadlines.

6. *Accordingly, it is ordered,* That the motion for extending time submitted by Seehafer & Johnson Broadcasting Corp. is granted and the time for filing comments and reply comments is extended to and including June 7, and June 29, 1978, respectively.

7. *It is further ordered,* That the motion for extending time for the filing of a responsive statement to the license modification proposed by the order to show cause is granted to and including June 7, 1978.

8. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief,
Broadcast Bureau.

[FR Doc. 78-13601 Filed 5-18-78; 8:45 am]

[6712-01]

[47 CFR Part 81]

[Gen. Docket No. 78-67]

INTERCONNECTION AND UPGRADING OF PUBLIC COAST FACILITIES PROVIDING RADIOTELEGRAPH SERVICE

Order Extending Time for Comments; Responses and Replies

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking. (Extension of time for filing comments, responses and replies).

SUMMARY: Commission grants a second extension for filing comments, responses and replies in a rulemaking proceeding instituted to prescribe measures for improvement of maritime mobile communications services rendered by public coast radio-telegraph stations. The petitioners require additional time to complete requested financial and traffic information.

DATES: Comments are required to be filed on or before June 5, 1978. Responses may be files on or before June 26, 1978. Replies may be filed on or before July 8, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James L. Ball, International Programs Staff, Common Carrier Bureau, 202-632-3214.

SUPPLEMENTARY INFORMATION:

Adopted: May 12, 1978.

Released: May 16, 1978.

In the matter of interconnection and upgrading of public coast facilities providing radiotelegraph service (43FR 16355).

1. By notice of proposed rulemaking in the above-referenced matter, released February 27, 1978, FCC 78-115, the Commission instituted a proceeding to prescribe measures for improvement of maritime mobile communications services rendered by public coast radiotelegraph stations, including the interconnection and upgrading of the facilities of such stations. The notice called for interested persons to submit comments and required the licensees of Class IA public coast stations to provide certain information on or before April 17, 1978, for each station operated. It also invited responses to be filed on or before May 8, 1978, and replies to be filed on or before May 18, 1978.

2. On April 13, 1978, we granted the request of TRT Telecommunications Corp. (TRT) to extend the time for submitting comments to May 17, 1978. The time for submitting responses was extended to June 7, 1978, and replies to June 19, 1978.

3. We now have before us for consideration requests filed by RCA Global Communications, Inc. (RCA) and ITT World Communications, Inc. (ITT) for a further extension of time for filing initial comments to June 15, 1978. In support, both carriers assert that they require additional time to compile the financial and traffic information requested by the Commission in the appendix of the notice of proposed rulemaking. They state that they have made good faith efforts to comply with the Commission's request, but are unable to complete this task within the timeframe contemplated.

4. We recognized in our Order of April 13, 1978, that the information re-

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quested by the Commission was extensive. The extension of time then granted was based on our desire to develop an adequate record in this proceeding. It appears that an additional extension of time is warranted to prepare this information. However, the users of public coast radiotelegraph stations have a strong interest in the expeditious resolution of this proceeding. And, over ten weeks have passed since the release of our notice of proposed rulemaking. We therefore will not grant the full extension requested by the petitioners. We believe that the additional time we are according will permit them sufficient time for preparation of the required information.

5. *Accordingly, it is ordered*, pursuant to §0.303 of the Commission's Rules and Regulations, 47 C.F.R. 0.303 (1977), that the request of RCA Global Communications, Inc., and ITT World Communications, Inc., are granted in part and denied in all other respects.

6. *It is further ordered*, that the procedural dates in the proceeding are extended as follows:

Comments, June 5, 1978.
Responses, June 26, 1978.
Replies, July 8, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
JOSEPH A. MARINO,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 78-13611 Filed 5-18-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status and Critical Habitat for Two Species of Turtles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Key mud turtle (*Kinosternon bauri bauri*) and the Plymouth red-bellied turtle (*Chrysemys rubriventris bangsi*) to be Endangered species and to identify critical habitat for these species. This action is being taken because the habitat where these species dwell is subject to intense alteration. The proposed action, if completed, would protect the populations of these turtles and their habitat. The Key mud turtle is known from several islands in the Florida Keys, Monroe County, Fla.; the Plymouth red-bellied turtle is known from Plymouth and Dukes Counties, Mass.

DATES: Comments from the public must be received by July 18, 1978. comments from the Governors of Florida and Massachusetts must be received by August 17, 1978.

ADDRESSES: Comments and materials concerning this proposed rulemaking, preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 6, 1977, the Fish and Wildlife Service published a notice in the FEDERAL REGISTER (42 FR 28903-28904) to the effect that a review of the status of 12 turtles was being conducted. The Key mud turtle and the red-bellied turtles (*Chrysemys rubriventris*) were part of the review. As a result of the notice of review, responses were received from the State of Florida and professional biologists. The comments and supportive documents have been reviewed and a summary is presented below. This information has been considered and is incorporated into the administrative record of this proposal.

Mr. R. M. Brantly, Executive Director of the Florida Game and Fresh Water Fish Commission, supported Federal listing of the Key mud turtle and noted that Florida protects this subspecies. All five biologists that commented on the status of the Key mud turtle recommended that Federal protection be accorded this turtle. The chief threats to the species were cited as being uncontrolled development and the destruction of the few fresh water areas on the Keys by draining. One individual commented that other species of turtles have been introduced into some of the remaining fresh water lakes and that these species could be having an impact as competitors with the Key mud turtle. The biologists that recommended a status recommended consideration as endangered. Big Pine Key was most often cited as in need of critical habitat designation although an area on Cudjoe's Key was also suggested.

The five biologists that commented on the status of the Plymouth red-bellied turtle all noted that this species should be protected by the Endangered Species Act. The chief threats to the species were cited as habitat modification and vandalism. Extant populations are known from Naushon Island, Billington Sea, Boot Pond, Gunner's Exchange Pond, Hoyt's Pond, Crooked Pond, and Island Pond, according to one individual. Most of the biologists commented on the taxonomic status of this subspecies.

A brief mention of the taxonomic status of these two subspecies should be given. The Plymouth red-bellied turtle was described in 1937 on the basis of measurements of the shell. Subsequent work by Roger Conant revealed that the measurements used by Babcock were invalid and, as such, the subspecific status of *"bangsi"* is in doubt. Ernst and Barbour ("The Turtles of the United States," Univ. Press, Kentucky, 1971), in the most recent review of U.S. turtle biology, retain the subspecies *"bangsi"*; letters from Dr. T. Graham and R. Conant, authorities on this turtle, also recommend retention of the name *"bangsi"*. Turtle biologists generally feel that given the isolation of the Plymouth red-bellied turtle, future study will reveal valid reasons for recognizing *C. r. bangsi*. As such, the Service feels justified in proposing this turtle under a trinomial designation.

While the entire species *Chrysemys rubriventris* was part of the notice of review, no information has been received which would indicate that the subspecies *C. r. rubriventris*, known from New Jersey south to North Carolina, is in any way threatened under definitions of the Endangered Species Act.

The subspecific status of the Key mud turtle has been questioned by Dr. John Iverson of the Florida State Museum. Work in progress indicates that clinal variation may be involved and that it is unclear whether subspecific status is warranted. However, Dr. Iverson does recommend listing as a trinomial and supports Endangered status. As such, the Service feels justified in retaining the name *Kinosternon bauri bauri* for the Key mud turtle in this proposed rulemaking.

Section 4(a) of the Act states:

> General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:
> (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
> (2) Overutilization for commercial, sporting, scientific, or educational purposes;
> (3) Disease or predation;
> (4) the inadequacy of existing regulatory mechanisms; or
> (5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of section 4(a) of the Act. These factors, and their application to the two turtles, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—(1) Key mud turtle *Kinosternon bauri bauri*) proposed endangered. The Key mud turtle is known from several islands in the lower Florida Keys. These areas are rapidly being developed, and the associated habitat modification has led to the decline of this species. Development in the Keys is often accompanied by draining the fresh water wetlands on which the turtle depends. As such, populations of the Key mud turtle are extremely sensitive to disturbance. Some of the populations may also be disturbed by road widening projects and the drainage of wetlands for mosquito control.

(2) Plymouth red-bellied turtle (*Chrysemys rubriventris bangsi*) proposed endangered. The Plymouth red-bellied turtle lives in an area that is increasingly being developed for housing. As such, a major threat to this species is the modification of ponds and associated wetlands on which it depends. Some areas may also be adversely affected by road widening projects.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—Not applicable.

3. *Disease or predation.*—Not applicable.

4. *The inadequacy of existing regulatory mechanisms.*—Not applicable.

5. *Other natural or manmade factors affecting its continued existence.*—(1) Key mud turtle. This species is subject to being run over as it crosses roads in the Keys; often this is done wantonly when the turtles could be avoided. In addition, this species may be facing competition from introduced species of pond turtles into its habitat.

(2) Plymouth red-bellied turtle. This species has been subject to harassment by individuals that shoot it for "sport."

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation," states:

> "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical."

A definition of the term "Critical Habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) and is reprinted below:

> "'Critical habitat' means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion."

As specified in the regulations for interagency cooperation as published in the January 4, 1978, FEDERAL REGISTER (43 FR 870), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally;

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

With respect to the Key mud turtle and Plymouth red-bellied turtle, the areas proposed as critical habitat satisfy all known criteria for the evolutionary, ecological, behavioral, and physiological requirements of the species. Nesting and successful incubation of eggs occurs on areas immediately adjacent to the ponds inhabited by these species, and vegetation provides both cover for hatchlings and food for adult red-bellies. Mud turtles are carnivorous, and the ponds and associated wetlands provide a substantial range of potential food items. Logs and snags are present in ponds and provide basking sites for the Plymouth red-bellied turtle. Wintering areas are available in the ponds themselves and surrounding wetlands. The ponds also provide retreats and cover from human and other predators. The areas included as critical habitat for these species include all known ponds inhabited by the Plymouth red-bellied turtle and major populations of the Key mud turtle.

The areas delineated do not necessarily include the entire critical habitat of these turtles, and modifications to critical habitat descriptions may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the critical habitat of the Key mud turtle and Plymouth red-bellied turtle.

All Federal departments and agencies shall, in accordance with section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect critical habitat. Consultation pursuant to section 7 should be carried out using the procedures contained in the January 4, 1978, FEDERAL REGISTER (43 FR 870-876).

There may be many kinds of actions which can be carried out within the critical habitat of a species which would not be expected to adversely affect that species.

This point has not been well understood by some persons. There has been widespread and erroneous belief that a critical habitat designation is something akin to establishment of a wilderness area of wildlife refuge, and automatically closes an area to most human uses. Actually, a critical habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the Act are applicable in a certain area.

A critical habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a critical habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of critical habitat delineations. Such questions should, and can more conveniently, be dealt with after critical habitat has been designated.

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EFFECT OF THE RULEMAKING

In addition to the effects discussed above, the effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. All of those prohibitions and exceptions also apply to any threatened species unless a special rule pertaining to that threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to endangered species, are found at § 17.21 of Title 50, and are summarized below.

With respect to the Key mud turtle and the Plymouth red-bellied turtle in the United States, all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412) provided for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. Such permits involving endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the act, the Director will notify the Governors of Florida and Massachusetts with respect to this proposal and request their comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of these species should or should not be determined to be critical habitat as provided for by section 7 of the act;

(3) Additional information concerning the range and distribution of these species.

Final promulgation of the regulations on the Key mud turtle and Plymouth red-bellied turtle will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from this proposal.

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours or can be obtained by mail. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this proposed rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.11 by adding, in alphabetical order, the following to the list of animals under the heading "Reptiles:"

§ 17.11 Endangered and threatened wildlife.

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Reptiles:							
Turtle, Key mud.	*Kinosternon bauri bauri*	N/A	U.S.A (Florida)	Entire	E	40	N/A
Turtle, Plymouth red-bellied.	*Chrysemysrubriventris bangsi*	N/A	U.S.A. (Massachusetts)	do	E	40	N/A

2. Also, the Service proposes to amend § 17.95(c) by adding critical habitat of the Key Mud Turtle after that of the Plymouth red-bellied turtle as follows:

§ 17.95 Critical Habitat.

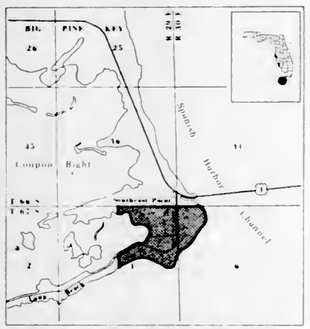
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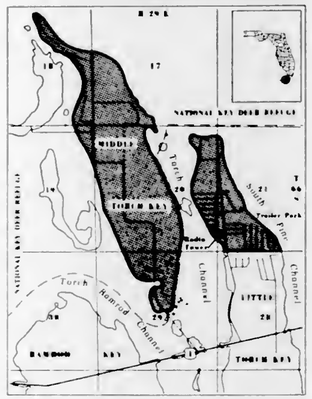
(c) Reptiles.

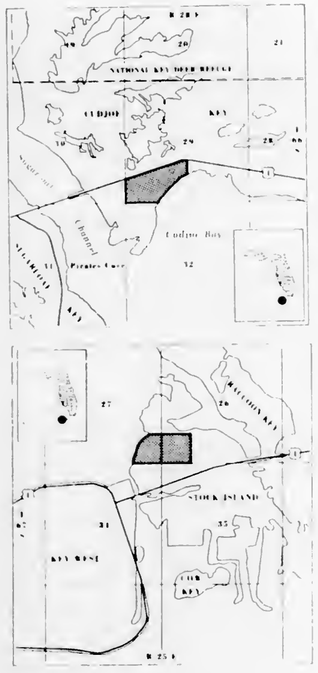
. . . . . .

KEY MUD TURTLE (*Kinosternon bauri bauri*)

Florida—Monroe County. (1) An area on Cudjoe's Key south of U.S. Highway 1 on SW¼ sec. 29, R. 28 E., T. 66 S.; (2) Middle Torch Key, entire island; (3) all areas north of the southern boundary of sec. 21, R. 29 E., T. 66 S., on Little Torch Key; (4) NW¼ sec. 6, R. 30 E., T. 67 S., and NE¼ sec. 1, R. 29 E., T. 67 S., on Big Pine Key; (5) SE⅛ sec. 27, R. 25 E., T. 67 S., and SW⅛ sec. 26, R. 25 E., T. 67 S., on Stock Island.





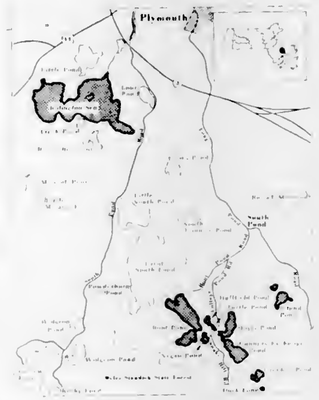


3. § 17.95(c) is further amended by adding critical habitat of the Plymouth red-bellied turtle after that of the leatherback sea turtle as follows:

. . . . . .

PLYMOUTH RED-BELLIED TURTLE (*Chrysemys rubriventris bangsi*)

Massachusetts—Plymouth County. (1) Billington Sea; (2) Boot Pond; (3) Crooked Pond; (4) Duck Pond; (5) Gunners Exchange Pond; (6) Hallfield Pond; (7) Hoyts Pond; (8) Island Pond; (9) unnamed pond 0.1 km northwest of Island Pond; (10) Negro Pond; (11) Turtle Pond.



NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 9, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-13523 Filed 5-18-78; 8:45 am]

[1505-01]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Deregulation of the Mexican Duck

Correction

In FR Doc. 78-8400 appearing at page 13592 in the issue for Friday, March 31, 1978, on page 13594, in the third column, under the center heading "Regulation Promulgation", the section heading now carried as "27.11 [Amended]" should read "17.11 [Amended]". In the amendatory paragraph which follows, the reference to "§ 27.11" should be corrected to refer to "17.11".

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON INFORMAL ACTION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Informal Action of the Administrative Conference of the United States, to be held at 10 a.m., Thursday, June 8, 1978, in the library of the Administrative Conference of the United States, Suite 500, 2120 L Street NW., Washington, D.C.

The Committee will meet to discuss Professor Colin Diver's preliminary outline of his study of assessment and mitigation of civil penalties by federal administrative agencies, and other Committee business.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey Lubbers, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

MAY 11, 1978.

[FR Doc.-13620 Filed 5-18-78; 8:45 am]

[6110-01]

COMMITTEE ON JUDICIAL REVIEW

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 11 a.m., Thursday, June 8, 1978, in the seventh floor Conference Room of Covington and Burling, 888 16th Street NW., Washington, D.C.

The Committee will meet to discuss Professor Frederick Davis' preliminary study of the topic: Challenging the validity of regulations in enforcement proceedings.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey Lubbers, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

MAY 11, 1978.

[FR Doc. 78-13621 Filed 5-18-78; 8:45 am]

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A608]

NEW JERSEY

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Burlington County, N.J., as a result of excessive rainfall November 1 through December 15, 1977, accompanied by tornado-like winds on November 17, 1977, and snow, sleet, and/or rain November 20 through November 30, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 subpart C, exhibit D, paragraph V B, including the recommendation of Governor Brendan T. Byrne's that such designation be made.

Applications for emergency loans must be received by this Department no later than November 6, 1978, for physical losses and May 9, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of May 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc 78-13635 Filed 5-18-78; 8:45 am]

[3410-07]

[Notice of Designation No. A610]

TENNESSEE

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Warren County, Tenn., as a result of drought June 27 through August 25, 1977, and extreme cold, snow, sleet, and high winds November 29, 1977, through February 28, 1978.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 subpart C, exhibit D, paragraph V B, including the recommendation of Governor Ray Blanton that such designation be made.

Applications for emergency loans must be received by this Department no later than November 6, 1978, for physical losses and May 9, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of May 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc 78-13636 Filed 5-18-78; 8:45 am]

[3410-07]

[Notice of Designation No. A609]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of drought April 1 through October 31, 1977, damaging winds March 15 through April 15, 1977, and damaging hail April 19, 1977, in Delta County; drought July 1, 1977, through March 22, 1978, in Duval County; drought July 1, 1977, through March 31, 1978, in Foard County; drought May 15 through August 15, 1977, in Panola County; and drought September 1, 1977, through March 1, 1978, in Randall County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR part 1904, subpart C, exhibit D, paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than November 6, 1978, for physical losses and May 9, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of May 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-13637 Filed 5-18-78; 8:45 am]

[3410-02]

Federal Grain Inspection Service

GRAIN STANDARDS

Delegation of Authority to the State of California

Statement of considerations. Under the provisions of sections 7 and 7A of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "Act") the Administrator of the Federal Grain Inspection Service (FGIS) may delegate authority to a State agency to perform all or specified functions involved in official inspection and official weighing at export port locations within the State, provided the State agency was performing official export inspection services on July 1, 1976 (7 U.S.C. 79, 79a). The Act requires that prior to delegating such authority to a State agency the Administrator shall conduct an investigation to determine whether the agency is qualified and meets the criteria for delegation as provided in section 7 of the Act.

The Department of Food and Agriculture of the State of California made application for delegation of authority to perform official inspection and official weighing functions for grain at the export port locations within the State of California.

FGIS has conducted the required investigation of the State of California which included onsite reviews of all their inspection sites and a determination of the nature of any proscribed conflicts of interest that might have existed with individual employees and licensees of the State of California. All investigations showed that the inspection and weighing operations of the State are in compliance with the Act and that any conflicts of interest situations that may have existed have been resolved.

As a result, the State of California was declared eligible for delegation to perform the functions of official inspection and official weighing at export port locations within the boundaries of the State. The export elevators where the State has been performing official inspection service and will perform official inspection and official weighing services under the new official delegation are: Koppell Bulk at Long Beach; San Diego Public Bulk Terminal at San Diego; the Port of San Francisco Terminal elevator at San Francisco; Stockton Elevator at Stockton; Cargill Elevator at West Sacramento; and the Los Angeles Harbor Grain Terminal at Wilmington. The delegation provides for the automatic inclusion of export elevators at export port locations which may be established in the future and will remain in effect until canceled by mutual agreement of FGIS and the State or until revoked by FGIS.

A document delegating this authority to the State was signed by the Deputy Administrator of FGIS and the Director of the Department of Food and Agriculture of the State of California, effective February 15, 1978.

Done in Washington, D.C., on May 16, 1978.

L. E. MALONE,
Acting Administrator.

[FR Doc. 78-13638 Filed 5-18-78; 8:45 am]

[3410-02]

GRAIN STANDARDS

Delegation of Authority to the State of Minnesota

Statement of considerations. Under the provisions of sections 7 and 7A of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "act") the Administrator of the Federal Grain Inspection Service (FGIS) may delegate authority to a State agency to perform all or specified functions involved in official inspection and official weighing at export port locations within the State, provided the State agency was performing official export inspection services on July 1, 1976 (7 U.S.C. 79, 79a). The act requires that prior to delegating such authority to a State agency the Administrator shall conduct an investigation to determine whether the agency is qualified and meets the criteria for delegation as provided in section 7 of the act.

The Department of Agriculture of the State of Minnesota made application for delegation of authority to perform official inspection and official weighing functions for grain at the export port locations within the State of Minnesota.

FGIS has conducted the required investigation of the State of Minnesota which included onsite reviews of all their inspection sites and a determination of the nature of any proscribed conflicts of interest that might have existed with individual employees and licensees of the State of Minnesota. All investigations showed that the inspection and weighing operations of the State are in compliance with the act and that any conflicts of interest situations that may have existed have been resolved.

As a result, the State of Minnesota was declared eligible for delegation to perform the functions of official inspection and official weighing at export port locations within the boundaries of the State. The export elevators where the State has been performing official inspection service and will perform official inspection and official weighing services under the new official delegation are: Multi Foods, Elevator "A," Elevator "B," and Elevator "C," all located at Duluth. The delegation provides for the automatic inclusion of export elevators at export port locations which may be established in the future and will remain in effect until canceled by mutual agreement of FGIS and the State or until revoked by FGIS.

A document delegating this authority to the State was signed by the Deputy Administrator of FGIS and the Commissioner of Agriculture of the State of Minnesota, effective April 7, 1978.

Done in Washington, D.C., on May 16, 1978.

L. E. MALONE,
Acting Administrator.

[FR Doc. 78-13639 Filed 5-18-78; 8:45 am]

[3410-02]

GRAIN STANDARDS

Delegation of Authority to the State of Wisconsin

Statement of considerations. Under the provisions of sections 7 and 7A of

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the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "Act") the Administrator of the Federal Grain Inspection Service (FGIS) may delegate authority to a State agency to perform all or specified functions involved in official inspection and official weighing at export port locations within the State, provided the State agency was performing official export inspection services on July 1, 1976 (7 U.S.C. 79, 79a). The Act requires that prior to delegating such authority to a State agency, the Administrator shall conduct an investigation to determine whether the agency is qualified and meets the criteria for delegation as provided in section 7 of the Act. The Department of Agriculture, Trade and Consumer Protection of the State of Wisconsin made application for delegation of authority to perform official inspection and official weighing functions for grain at the export port locations within the State of Wisconsin.

FGIS has conducted the required investigation of the State of Wisconsin which included onsite reviews of all their inspection sites and a determination of the nature of any proscribed conflicts of interest that might have existed with individual employees and licensees of the State of Wisconsin. All investigations showed that the inspection and weighing operations of the State are in compliance with the Act and that any conflicts of interest situations that may have existed have been resolved.

As a result, the State of Wisconsin was declared eligible for delegation to perform the functions of official inspection and official weighing at export port locations within the boundaries of the State. The export elevators where the State has been performing official inspection service and will perform official inspection and official weighing services under the new official delegation are: Elevator "KK" and Elevator "E" at Milwaukee; and Elevator "S," Elevator "X," Continental Elevator, Elevator "M," Farmer's Union No. 1, Farmer's Union No. 2, and the Globe Elevator, all located at Superior. The delegation provides for the automatic inclusion of export elevators at export port locations which may be established in the future and will remain in effect until canceled by mutual agreement of FGIS and the State or until revoked by FGIS.

A document delegating this authority to the State was signed by the Deputy Administrator of FGIS and the Secretary of Agriculture, Trade and Consumer Protection of the State of Wisconsin, effective April 6, 1978.

Done in Washington, D.C., on May 16, 1978.

L. E. MALONE,
Acting Administrator.

[FR Doc. 13640 Filed 5-18-78; 8:45 am]

[3410-30]

Food and Nutrition Service

ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name: National Advisory Council on Maternal, Infant, and Fetal Nutrition.
Date and time: 9 a.m., June 21-22, 1978.
Place: Sheraton-Boston Hotel, Prudential Center, Boston, Mass. 02199.

Purpose of meeting. The Council will continue its study of the Special Supplemental Food Program for Women, Infants, and Children (WIC) and the Commodity Supplemental Food Program (CSFP), and will discuss a wide range of matters concerning the operations of these two programs.

Proposed agenda. For the WIC Program, the agenda will cover legislative proposals, the results of various studies and surveys, nutrition education, the food package and general program operations. The regulations for the CSFP and operations of that program will also be covered.

This meeting will be open to the public.

Persons wishing additional information about this meeting should contact Paula Linch Carney, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone, 202-447-6746.

Dated: May 16, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-13646 Filed 5-18-78; 8:45 am]

[3410-11]

Forest Service

UPPER CISPUS PLANNING UNIT LAND MANAGEMENT PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2) (C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Upper Cispus Planning Unit, Gifford Pinchot National Forest, Washington, USDA-FS-R6-FES(Adm)-78-1.

The environmental statement concerns a revised land management plan for the Upper Cispus Planning Unit. The proposed action describes how the various resources of the Unit would be used and what the output for each resource is expected to be.

The final environmental statement was transmitted to EPA on May 12, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave. S.W., Washington, D.C. 20013.
USDA, Forest Service, Pacific Northwest Region, 319 S.W. Pine Street, Portland, Oreg. 97204.
USDA, Forest Service, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

A limited number of single copies are available upon request to Forest Supervisor Robert Tokarczyk, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

EINAR L. ROGET,
Associate Deputy Chief. May 12, 1978.

[FR Doc. 78-13598 Filed 5-18-78; 8:45 am]

[3410-15]

Rural Electrification Administration

DEVELOPMENT OF AN ENERGY CONSERVATION POLICY

Request for Public Comment

AGENCY: Rural Electrification Administration.

ACTION: Notice of intent.

SUMMARY: REA intends to develop an energy conservation policy that will require rural electric systems to dedicate a reasonable amount of resources, both monetary and personnel, to aggressive programs which will aid consumers in eliminating wasteful uses of electric energy. As a first step, REA is seeking recommendations from REA borrowers and the public. The recommendations received will be considered in developing this proposed policy. The proposed policy will cover reductions in energy use possible from adding insulation, building more energy-efficient homes, using more energy-efficient appliances in homes, businesses, schools or in agriculture or other production. The purpose of the policy will be to promote end-use conservation primarily of a long-term nature, such as upgrading insulation, so that both the capacity of the power supply of the system and the energy associated with that power supply are used more effectively by the consumers to keep their costs as low as possible. The policy will not cover load management practices, such as load control devices and techniques or improving the system efficiency, which are designed primarily to reduce or shift peak loads. REA expects to have a draft policy to be prepared in 90 days. When it is completed, a formal notice of proposed energy policy will be issued to allow the public and rural electric systems a further opportunity for comments.

DATE: Written recommendations or comments concerning the development of the draft energy conservation policy will be received through June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Harlan M. Severson, Assistant to the Administrator, Rural Electrification Administration, Room 4324-South, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4246.

SUPPLEMENTARY INFORMATION: A copy of this notice with supplementary information is being mailed directly to all REA-financed electric systems. Others may receive copies of the supplementary information from REA at the address indicated above.

Dated: May 10, 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-13392 Filed 5-18-78; 8:45 am]

[3410-34]

Animal and Plant Health Inspection Service

JAPANESE BEETLE

Availability of Draft Environmental Impact Statement on the Control of the Japanese Beetle at Airports, Including Treatment of Aircraft Interiors Using Insecticides

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability of the draft environmental impact statement on the Japanese beetle program.

SUMMARY: A notice of the Department's intent to prepare the draft environmental impact statement (DEIS) on the Japanese beetle program at airports including treatment of aircraft interiors using insecticides was published in the FEDERAL REGISTER (43 FR 17515) on April 21, 1978. The DEIS has been prepared and sent to the Environmental Protection Agency (EPA) on May 17, 1978, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, by the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service. Copies of the DEIS are available for public inspection at the following location: Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302-E, Administration Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250.

DATE: Comments must be received on or before June 2, 1978.

ADDRESS: Requests for a copy of the DEIS and comments should be addressed to the Regulatory Support Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

H. I. Rainwater, 301-436-8247.

SUPPLEMENTARY INFORMATON: All written submissions made pursuant to this notice will be made available for public inspection in Room 633, Federal Building, Hyattsville, Md. 20782, during regular hours of business, unless the person makes the submission to the Regulatory Support Staff, Plant Protection and Quarantine Programs, and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in the support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the DEIS are invited from all interested members of the public, from State and local agencies which administer plant pest control regulatory programs or are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any national program, issue, or environmental impact involved.

In its order in the case of *Aviation Consumer Action Project v. Secretary of Agriculture* (Civil Action No. 77-1941), the United States District Court for the District of Columbia directed the Department to present the DEIS to the Court no later than June 15, 1978. Therefore, this time constraint allows a limited comment period.

The Japanese beetle is a destructive pest of nearly 300 plants and is under regulation in 24 States and the District of Columbia. The movement of articles which present a hazard to spread the Japanese beetle from infested areas into noninfested areas is regulated by the Japanese beetle quarantine and regulations (7 CFR 301.48 et seq.). The Department has recently proposed amendments to these regulations which would regulate only the interstate movement of aircraft which pose a threat to spread the Japanese beetle into seven Western States (43 FR 16984, April 21, 1978).

The Department is considering treating aircraft transiting and departing hazardous airports destined for noninfested States with a formulation of d-phenothrin or, if necessary, with DDT/carbaryl micronized dust. These formulations have been registered by the EPA for this use. Airports are declared hazardous when adult beetles are on or about aircraft destined for noninfested areas.

It should be noted that on February 28, 1978, March 14, 1978, and March 15, 1978, at Baltimore, Md., Phoenix, Ariz., and San Francisco, Calif., respectively, the Department held public meetings concerning the overall operations of the Japanese beetle program. A number of comments regarding the environmental impact of the program were received by the Department. These comments have been considered in the preparation of the DEIS.

Four letters with comments were received in response to the notice of intent to prepare the DEIS (see 43 FR 17515) from the Wisconsin Department of Agriculture, the Environmental Defense Fund, the Informed Citizens Union and the Aviation Consumer Action Project. Additionally, two letters were received after the closing date for the receipt of comments. These comments will be considered along with any additional comments on the DEIS which may be received pursuant to this notice.

Two of the commentators did not address the impact statement. Specifically, one of these commentators expressed general support for the program, and the other questioned the overall validity of the program.

With regard to the two letters of comment which did address the impact statement from the Aviation Consumer Action Project and the Environmental Defense Fund, a discussion of their comments follows:

Both commentators suggested passengers be informed that an aircraft has been treated prior to boarding. The Department notifies airline and airport officials of hazardous conditions at an airport and the need for treatment of certain aircraft. The airlines inform the Department of flights affected and this same information is available to passengers from airline personnel. As is fully discussed in the DEIS, the insecticides which may be used in the treatment program have been approved for such use by the EPA. Such approval reflects a determination by that Agency that the use of these substances in accordance with the approved labeling requirements will not have a deleterious effect upon human health and the environment. Additionally, the labels approved by EPA for the insecticides do not require such notification. Further, there is no

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statutory requirement of such a notification procedure and there is some question concerning the statutory authority for the Department to require such notification. Therefore, no additional notification requirements are contemplated.

Both commentators expressed concern about d-phenothrin, the replacement chemical for DDT/carbaryl to treat aircraft. This chemical was chosen and approved by EPA for this use because the preliminary data indicate that it is more effective for Japanese beetle control than other pyrethroids and is safe for this use. Further efficacy studies are being planned for this June in compliance with EPA's requirements of registration for Japanese beetle, and this is referenced in the impact statement. These tests will be conducted at Dover Air Force Base in aircraft with no passengers or crew aboard and at Baltimore, Md., in van containers.

Both commentators questioned if there is evidence to indicate the Japanese beetle can survive in the Western States proposed for protection. The DEIS addresses this issue and concludes that the Japanese beetle can establish itself in parts of these Western States.

Both commentators suggested that alternative controls other than pesticides be utilized. The Department is committed to biological control where feasible and alternative biological controls, such as parasites, milky spore disease, etc., have been considered and discussed in the DEIS.

Both commentators expresed concern about the Department's use of and procedures for applying chemicals in aircraft, and exposure of passengers to the chemicals. Use and exposure issues are addressed in the DEIS. The Department will provide guidelines for treating aircraft to insure proper treatment. If DDT/carbaryl is used, the Department's personnel will apply the insecticide. The airlines will be requested to apply d-phenothrin under the direction of Departmental personnel in accordance with the label. Airline personnel will be trained in treatment procedures by the Department.

Both commentators addressed the basic question of whether it is conclusively established that the Japanese beetle can hitchhike on aircraft. As the DEIS indicates, there is no doubt that the Japanese beetle can hitchhike on aircraft and be carried long distances. For example, in 1977, both California and Arizona reported live beetles found on aircraft that had originated at eastern airports.

One of the commentators suggested that mitigating methods to reduce chemical exposure should be used in concert with chemical treatments. Selective spraying of aircraft was suggested. This has been the policy of the Department and will continue to be its policy. For example, no treatments will be applied on rainy days when beetles are not flying. It was also suggested that the restricted areas such as galleys should be protected when treatments are applied. The Department is in agreement with this suggestion and is currently reviewing the safety procedures to be utilized in this program. A waiting period for the insecticide to settle out was suggested prior to the boarding of passengers. Under the present program procedures the aircraft is ventilated for 15 minutes prior to the boarding of passengers and crew. Available research data indicate that this period of time should be adequate to aerate the aircraft. Additional tests will be conducted for d-phenothrin to further examine its settling characteristics. A question was raised concerning the adequacy of cleanup procedures and, also, the effect that the removal of residues during the cleanup operation may have on the efficacy of the treatment. Cleanup procedures are addressed in the DEIS. Monitoring of these various mitigating methods was suggested. Department personnel, as they have in the past, will be instructed to spot check aircraft after treatment to assure instructions are followed. Additionally, the Department is reviewing these procedures in its rulemaking proceeding involving the Japanese Beetle Quarantine (see 43 FR 16984).

With regard to effectiveness of the treatment in light of the cleanup procedures, the Department believes that these procedures are adequate to remove unnecessary residues and that the residues which remain are necessary for effective Japanese beetle control.

One of the commentators suggested that, in lieu of chemical treatments, 100 percent inspection of each aircraft be conducted. This is not feasible in light of the aircraft configuration, the lack of manpower, and the time delays that it would cause for scheduled airlines.

One of the commentators suggested that the use of traps inside the aircraft may be an adequate procedure. Lure traps are effective to detect beetles in nature, but the effectiveness inside an enclosed space is questionable. Further, passengers would find bait odor to be highly offensive. Also, the presence of these traps would tend to attract greater numbers of beetles from the outside of the aircraft to the inside of the aircraft. This would increase the hazard of spread because not all of the beetles would be trapped.

One of the commentators suggested the use of enclosed loading procedures for people and baggage as an alternative to treatment with insecticides. Passengers at many airports are loaded through enclosed systems. With regard to baggage, the commentator suggested the use of baffles or net shields to establish a semi-enclosed system. The Department believes that such measures when loading passengers and baggage may not be adequate to eliminate the necessity of insecticide treatment since none of the airports which may be declared hazardous employ procedures which insure sufficient enclosure to eliminate the risk of beetle infestation. However, the use of such procedures may contribute to individual determinations by inspectors that treatment of particular aircraft or parts of aircraft are not necessary.

One of the commentators suggested the use of camouflage or a repellant to reduce the airplane's attractiveness to the beetles. No such devices or substances are available at the present time, and the Department has no way of evaluating their effectiveness, particularly since, as noted in the DEIS, the reasons why beetles are attracted to aircraft are unknown.

All comments were given full consideration in preparation of the draft environmental impact statement.

NOTE.—The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 17th day of May 1978.

JOSEPH W. GENTRY,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 78-14199 Filed 5-18-78; 9:37 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-5-68; Dockets 31976, 31976; 32099]

AMERICAN AIRLINES, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of May 1978.

In the matter of Miami-Los Angeles low-fare case, California-Florida low-fare case, application of, American Airlines, Inc., for amendment of its certificate of public convenience and necessity for route 4.

On January 11, 1978, the Board, by Order 78-1-35, instituted a new low-fare proceeding to investigate whether the public convenience and necessity require the certification of an additional carrier or carriers between Miami-Fort Lauderdale and Los Angeles-Ontario-Long Beach. In response to petitions for reconsideration, the Board issued Order 78-3-2, expanding the scope of the proceeding to include Tampa-St. Petersburg-Clearwater, Fla. and Oakland, Calif. American Airlines has now filed a petition for reconsideration of the latter order, requesting that the Board include San Francisco and San Jose in addition to Oakland.[1]

American urges inclusion of all three Bay Area airports, based primarily on the need for improved competitive service in the Miami-San Francisco market. It claims that the inclusion of Oakland alone, the smallest of the three area airports, will do little to increase this competition or to attract new low-fare service. American further contends that the addition of San Francisco and San Jose will not unduly expand or delay the case since Oakland has already been consolidated into the proceeding, citing the Board's decision in the *Transcontinental Low-Fare Route Proceeding*, Order 77-6-23, June 7, 1977, in support of its overall position.

National's answer in opposition to American's petition rests on both procedural and substantive grounds. On the procedural point, National argues that the Board's order on reconsideration, Order 78-3-2, is not an interlocutory order within the meaning of rule 37(a)(2) and that American is in effect filing a successive petition for reconsideration. National further contends that American seeks review not of the Board's order on reconsideration, but of instituting Order 78-1-35, and that its petition should be rejected as untimely. National's substantive argument basically claims that inclusion of San Francisco will greatly increase the complexity of the case, shift its "fundamental focus," and bring in new parties. National argues, further, that the reason for expanding the case to include Oakland—i.e., to avoid depriving the public of an opportunity to consider a meaningful application for low-fare service by a new entrant—simply does not apply to American's request to add San Francisco.

Oakland makes the same arguments as National regarding the complexity and focus of the route proceeding; it also voices fundamental reservations about the substantive issues of the case. The city's main concern is that carriers which receive hyphenated authority to the three Bay Area airports have "nearly always concentrated their efforts on San Francisco, to the exclusion of Oakland * * *." It claims that the *transcontinental* case is distinguishable on two grounds. First, the Bay Area was a primary market in the *Transcontinental* case from its inception, whereas the Oakland and Tampa Bay markets are "merely an appendage" to the instant case; second, low fare service, one of the principal elements in both route proceedings, is much more widely available today than at the time of *Transcontinental*. (Specifically, such service already exists between Miami and San Francisco, but not between Miami and Oakland.)

We have decided to grant American's petition for reconsideration, include San Francisco and San Jose in the case, and consolidate American's application into the proceeding.

1. *Procedure.* American's petition is timely and within the scope of the Board's regulations. An order expanding an investigation is in the nature of an instituting order insofar as the new markets are concerned and is clearly an "interlocutory" order within the meaning of the rules of practice. Rule 915[2] specifically provides:

> That where any further order of the Board adds to the geographic scope of a proceeding * * *, failure to file an answer or motion addressed to the Board's first order shall not preclude the filing of a petition under § 302.37, or of a motion under § 202.12, *addressed exclusively to the additional scope or issues* (emphasis added).

American's application falls reasonably within this rule, as their petition requesting the inclusion of San Francisco an San Jose was filed in response to the Board's expansion of the case to include Oakland.[3]

2. *Expansion of the Low-Fare Case.* While we have considered all the arguments to the contrary, we shall expand this case for the same reasons we put forward in the *Transcontinental Low-Fare Route Proceeding.* See Order 77-6-23, June 7, 1977, pp. 4-6. In our view, the addition of San Francisco will neither unduly complicate the proceeding nor shift the "fundamental focus" of the Board's inquiry. We have already stated that the "fundamental focus" of this case is on "the need for low-fare long-haul service between California and Florida." See Order 78-3-2, March 1, 1978, p. 4. Oakland has already been included; the addition of the other Bay Area airports will not alter the shape of the proceeding. In this regard, we find no significant differences between this proceeding and the *Transcontinental* case since we most emphatically do not regard Oakland and Tampa as "appendages" to this one. While we did say that the Tampa/Oakland markets might not, by themselves, warrant a priority hearing, they are an integral part of this route proceeding as it now stands. Oakland's second contention, regarding the present availability of low-fare Miami-San Francisco, does not persuade us to exclude San Francisco. As we stated in instituting the case, the "Board is keenly interested in promoting market conditions that provide the *increased* likelihood of low-fare service" (emphasis added). Order 78-1-35, January 11, 1978. We see no reason to abandon the reasoning of the *Transcontinental* case.[4]

We are sensitive to Oakland's fundamental concern that the award of hyphenated Bay Area authority will lead its increased service to San Francisco to the continued exclusion of Oakland and San Jose. We believe that such concern, however, is properly addressed in the course of the proceeding itself.[5]

Accordingly, it is ordered, That:

1. Docket 31976 shall be expanded to include consideration of the following issues:

(a) Do the public convenience and necessity require the authorization of a different, or additional, carrier or carriers to engage in air transportation between the terminal point Miami-Fort Lauderdale, Fla., the intermediate points Tampa-St. Petersburg-Clearwater, Fla., and Los Angeles-Ontario-Long Beach, Calif., and the terminal point San Francisco-Oakland-San Jose, Calif., *Provided,* That all flights must serve a point in California and a point in Florida?

(b) If the answer to (a) is in the affirmative, which air carrier or air carriers should be authorized to engage in such service?

(c) What terms, conditions, and/or limitations, if any, should be attached to any new authority which may be awarded?

2. Any authority awarded in this case shall be ineligible for Federal subsidy;

3. The application of American Airlines, Docket 32099, be consolidated with Docket 31976 to the extent that it conforms to that proceeding;

4. The motion of the city of Oakland for leave to file a late document is granted;

5. Applications within the expanded scope of the case, and motions to consolidate, shall be filed within 14 days

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[1] The cities of San Jose and San Francisco have filed answers in support of American's petition. National Airlines and the city of Oakland have opposed it.

[2] 14 CFR 302.915(c) (1977).

[3] Contrary to National's contention, American is not filing successive petitions for reconsideration—they made no earlier motions which were rejected. For an illustration of facts which do fall within the prohibition against successive petitions, see *additional Dallas/Fort Worth-Kansas City Nonstop Service Case,* Order 76-6-160, June 24, 1976, n. 3.

[4] Cf: Baltimore/Washington-St. Louis Route Proceeding, Order 78-4-132, Apr. 20, 1978.

[5] Our concern for Oakland's special service needs was manifest when, at our Apr. 19, 1978, meeting, we issued instructions to move forward with an expedited case examining the need for service between Oakland and numerous major cities.

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of the date of service of this order, and answers shall be filed 7 days later;[6] and

6. The name of Docket 31976 be changed to the California-Florida Low Fare Case.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-13679 Filed 5-18-78; 8:45 am]

[6320-01]

WITCHITA CASE ET AL.

Revised Notice

In the matter of *Improved Authority to Wichita Case*, Docket 28848; *Las Vegas-Dallas/Fort Worth Nonstop Service Investigation*, Docket 29445; *Memphis-Twin Cities/Milwaukee Case*, Docket 29186; *Midwest-Atlanta Nonstop Service Investigation*, Docket 28115; *Ohio/Indiana Points Nonstop Service Investigation*, Docket 21162; *Phoenix-Des Moines/Milwaukee Route Proceeding*, Docket 28800.

An omnibus oral argument in these cases will be held on May 17 and 18 to consider the value and extent of multiple permissive awards and the related options of delayed entry and backup authority. The Board's focus will be on the general policy and legal implications of these options. Among the issues will be:

1. Whether the Board can and should adopt a policy of granting route authority to all fit applicants, either generally or in certain categories of cases? Are environmental considerations a barrier to adopting such a policy at this time?

2. If such a policy is desirable and lawful, generally, can it be applied in the six cases specifically in issue, where it was not actually litigated by the parties at the trial stage of the proceedings?

3. On the other hand, if a general policy of open entry is not adopted, should the Board continue to make limited multiple awards as in the *Wichita* and *Ohio/Indiana Points* cases (and, tentatively, in *Las Vegas-Dallas/Fort Worth and Midwest-Atlanta*)? What standards should it apply in deciding how many carriers to certificate? Should awards be limited to the number that the market can support?

4. What role, if any, should delayed multiple authority or conditional backup awards play in the Board's routes policy? Are there any legal barriers to such awards, apart from those generally raised by multiple grants?

5. Should all new route awards be permissive? If not, when should they be permissive and when mandatory?

As announced earlier, the cases under formal consideration will provide varied factual contexts for a discussion of the general policy and legal issues. However, the Board will not hear arguments on narrow issues peculiar to individual cases—including, for example, the traffic forecasts for specific markets or the carrier or carriers to be selected if the Board decides not to grant all applications. Participants should be especially careful to avoid comment on the specific issues in cases in which they are not parties.

Turning to the format of the oral argument, participants will be divided into eight panels as indicated below:

PANEL 1

The Bureau of Pricing and Domestic Aviation
Delta Air Lines
Hughes Airwest
Pacific Southwest Airlines

PANEL 2

Eastern Air Lines
The Federal Trade Commission
The Memphis Parties
North Central Airlines

PANEL 3

Aviation Consumer Action Project
Continental Air Lines
The Kansas Parties
Ozark Air Lines

PANEL 4

Allegheny Airlines
American Airlines
The City of Birmingham
The Columbus Parties
The Massachusetts Port Authority

PANEL 5

The Department of Justice
The Minnesota Department of Transportation
National Airlines
Southern Airways

PANEL 6

The Las Vegas Parties
Texas International Airlines
Trans International Airlines
Western Air Lines

PANEL 7

Braniff Airways
The Cincinnati Parties
Frontier Airlines
The Department of Transportation
The Louisville Parties

PANEL 8

The Cleveland Parties
Northwest Airlines
Trans World Airlines
United Air Lines
The Oakland Parties

The first four panels will be heard on May 17 and last four on May 18. On each day, two will be heard in the morning and two in the afternoon. Each panel, except Nos. 4, 7, and 8 will be allotted a total of 70 minutes; each participant will have 8 minutes for an opening statement and the rest of the time will be devoted to questions by the Board, and to participants' answers to those questions and to each other's statements and comments. Panels 4, 7, and 8 which have 5 participants rather than the usual 4, will be allotted an extra 20 minutes.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

MAY 15, 1978.

[FR Doc. 78-13680 Filed 5-18-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20) the Civil Service Commission authorizes the following agency to fill by noncareer executive assignment in the excepted service the positions listed below:

Equal Employment Opportunity Commission—(1) District Director (New York), District Office, Office of Field Services, Office of the Executive Director, (2) District Director (Chicago), District Office, Office of Field Services, Office of the Executive Director, (3) District Director (Philadelphia), District Office, Office of Field Services, Office of the Executive Director, (4) District Director (Memphis), District Office, Office of Field Services, Office of the Executive Director, (5) District Director (Dallas), District Office, Office of Field Services, Office of the Executive Director, (6) District Director (Baltimore), District Office, Office of Field Services, Office of the Executive Director.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13449 Filed 5-18-78; 8:45 am]

[6325-01]

FEDERAL ENERGY ADMINISTRATION AND DEPARTMENT OF THE INTERIOR

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Departments below to fill by noncareer executive assignment in the excepted service the following positions:

Federal Energy Administration—(1) Deputy Assistant Administrator for Conservation and Environment, Office of Conservation and Environment, (2) Deputy Assistant Administrator for Energy Projects, Office of the Assistant Administrator for Energy Resource Development, (3) Principal Deputy Director, Office of Communications and Public Affairs, Office of the Director

Department of Interior—(1) governor, American Samoa, Office of Territorial Affairs, Office of the Secretary, (2) U.S. Resident Commissioner of the Northern Mariana Islands, Office of Territorial Affairs, Office of the Secretary.

For the U.S. Civil Service Commission

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13448 Filed 5-18-78; 8:45 am]

[3510-03]

DEPARTMENT OF COMMERCE

Maritime Administration

APPLICANT AS TRUSTEE

Notice of Approval

Notice is hereby given that Texas Commerce Bank National Association, Houston, Tex., with offices at 712 Main Street, Houston, Tex., has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21—221.30.

Dated: May 16, 1978.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc. 78-13673 Filed 5-18-78; 8:45 am]

[3510-03]

Maritime Administration

[Docket No. S-606]

COVE VENTURES INC.

Notice of Application

Notice is hereby given that Cove Ventures Inc., Wall Street Plaza, Suite No. 1630, New York, N.Y. 10005, has filed an application dated May 8, 1978, with the Maritime Subsidy Board (the Board) pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), for an operating-differential subsidy contract, to expire December 31, 1978, unless extended, to operate the SS *COVE LEADER*, 71,054 deadweight tons, in the carriage of bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Dry liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For purposes of section 605(c) of the Act, is should be assumed that should the Board grant the requested approval, the vessel named above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such request(s) as an administrative matter for which there is no requirement for further section 605(c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before June 1, 1978 notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act, and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application herein described, with respect to the vessel to be operated in an essential service and served by citizens of the U.S., would be in addition to the existing service or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed with the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS).)

Dated: May 16, 1978.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc. 78-13681 Filed 5-18-78; 8:45 am]

[3510-60]

National Telecommunications and Information Administration

COMPILATION OF ANALYSIS AIDS AND DATA BASES FOR PREDICTING THE PERFORMANCE OF RADIO SYSTEMS

Opportunity to Appear in Federal Catalog

The National Telecommunications and Information Administration, Institute for Telecommunication Sciences, is interested in initiating a continuing effort to compile a library of computer programs and data bases for predicting the performance of radio systems. The basic purpose of this effort would be to provide researchers, in the public and private sectors, with a source of existing computer aids for the evaluation of radio systems which operate in any part of the radio spectrum. We wish also to advise the public about those proprietary computer programs which will be available for public use.

Our first step will be to publish a catalog briefly describing available programs. Accordingly, descriptive information, on donated and proprietary programs, is solicited for inclusion in the catalog. This is not a request for proposals. Those interested in participating should contact:

Institute for Telecommunication Sciences, National Telecommunications and Information Administration, 325 Broadway, Boulder, Colo. 80303. Attention: D. L. Lucas.

(Authority: 15 U.S.C. 272 (13).)

DOUGLASS D. CROMBIE,
Acting Associate Administrator, National Telecommunications and Information Administration.

[FR Doc. 78-13599 Filed 5-18-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1978 a service to be pro-

[6] We delegate to the presiding administrative law judge the authority to consolidate by order any new applications which conform to the scope of this proceeding.

[7] All Members concurred.

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vided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 19, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On december 9, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (42 FR62180) of proposed additioln to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1978:

SIC 0782

Grounds Maintenance (SH), Bergstrom Air Force Base, Tex., for the following AFRES units: Buildings: 1601, 4202, 4526, 4527, 4534, 4535, 4547, 4562 and Apron "D."

C.W. FLETCHER,
Executive Director.

[FR Doc. 78-13603 Filed 5-18-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed deletions from procurement list.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1978 commodities produced by workshops for the blind or other severly handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 21, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following commodities from Procurement List 1978, November 14, 1977 (42 FR 59015):

Class 7220

Mat, Coir fiber, 7220-00-224-6491, 7220-00-205-3100.
Mat, Rubberized fabric, 7220-00-224-6488.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-13604 Filed 5-18-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

TOOELE ARMY DEPOT, UTAH

Filing of Draft Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on May 12, 1978 provided the Environmental Protection Agency with the Draft Environmental Impact Statement concerning Disposal of Hydrogen Cyanide at Tooele Army Depot, Utah.

Copies of the statement have been forwarded to concerned Federal, State and local agencies. Interested organizations or individuals may obtain copies from Project Manager for Chemical Demilitarization and Installation Restoration, Building E-4585, Attn: DRCPM-DR-T (LTC Robert L. Hanson), Aberdeen Proving Ground, Md. 21010, Phone 301-671-2270.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310 Phone 202-694-1163.

Dated: May 11, 1978.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc. 78-13606 Filed 5-18-78; 8:45 am]

[3810-70]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON SOVIET MISSILE DEFENSE

Advisory Committee Meeting

The Defense Science Board Task Force on Soviet Missile Defense will meet in closed session 14-15 June 1978 at the Offices of the Institute for Defense Analyses, Arlington, Va.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task force will review Soviet activities in ballistic missile defense and related subjects and will provide recommendations for appropriate U.S. responses.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Dod/WHS.

MAY 15, 1978.

[FR Doc. 78-13597 Filed 5-18-78; 8:45 am]

[3810-70]

DEFENSE SCIENCE BOARD TASK FORCE ON V/STOL AIRCRAFT

Advisory Committee Meeting

The Defense Science Board Task Force on V/STOL Aircraft will meet in closed session 8 June 1978, in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will evaluate the potential of V/STOL technology for future replacement of our conventional land-based and sea-based tactical aircraft.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives DoD/WHS.

MAY 15, 1978.

[FR Doc. 78-13596 Filed 5-18-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

[DOE/EIS-0002]

PROPOSED ALLOCATION OF PETROLEUM FEEDSTOCK, BALTIMORE GAS AND ELECTRIC CO., SOLLERS POINT, MD. SNG PLANT

Availability of Final Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of availability of final environmental impact statement.

SUMMARY: The Department of Energy gives notice of the availability of the Final Environmental Impact Statement, Allocation of Petroleum Feedstock, Baltimore Gas and Electric Co., Sollers Point, Md., DOE/EIS-0002.

FOR FURTHER INFORMATION CONTACT:

Richard Johnson, Economic Regulatory Administration, Department of Energy, Room 6318, 2000 M Street NW., Washington, D.C. 20461, 202-254-3330.

Carol Borgstrom, Office of NEPA Affairs, Department of Energy, Room 7119, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

J. Thomas Wolfe, Office of the General Counsel, Department of Energy, Room 7146, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION: The final environmental impact statement (EIS) was prepared pursuant to the National Environmental Policy Act of 1969 to support a future Department of Energy administrative decision relating to the proposed allocation of up to approximately 2.2 million barrels of naphtha per year for the production of synthetic natural gas (SNG) at the Baltimore Gas and Electric Co's (BG&E) Sollers Point, Maryland facility.

The plant is expected to operate no more than 180 days per year. Based upon its maximum capacity output of 60,000 Mcf of gas per day, the plant will produce up to 10,800,000 Mcf of SNG annually from naphtha feedstock supplied by the Amerada Hess Corp.

The draft EIS was issued on December 12, 1977. Comments received on that document were considered in the preparation of the final EIS.

Copies of the final EIS have been furnished to those who commented on the draft EIS as well as others who have requested copies. A limited number of single copies of the final EIS may be obtained from:

Office of Specialty Fuels, Room 6318, 2000 M Street NW., Washington, D.C. 20461, 202-254-3330.

In addition, copies may be obtained from:

Technical Information Center, Department of Energy, P.O. Box 62, Oak Ridge, Tenn. 37830, 615-483-8611, ext. 34672.

Copies have also been placed in public reading rooms at the following DOE locations:

Library, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

Room 2107, Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

DOE will take no administrative action with respect to the BG&E application prior to 30 days after publication of this notice in the FEDERAL REGISTER. (June 19, 1978)

Dated at Washington, D.C., this 16th day of May 1978.

For the U.S. Department of Energy.

WILLIAM P. DAVIS,
Deputy Director of Administration, Department of Energy.

[FR Doc. 78-13629 Filed 5-18-78; 8:45 am]

[3128-01]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

1. A meeting of the Industry Supply Advisory Group (ISAG) of the Industry Advisory Board to the International Energy Agency (IEA) will be held on June 6 and 7, 1978, at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning at 9:00 a.m. on June 6. The agenda for the meeting is as follows:

A. Opening remarks.
B. Review draft Appraisal Report of 1978 IEA Allocation Systems Test.
C. Future work program and schedule.

2. A meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency (IEA) will be held on June 7 and 8, 1978, at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning following adjournment of the meeting of the Industry Supply Advisory Group which will be held at New York on June 6 and 7. The agenda for the meeting is as follows:

A. Opening remarks.
B. Review draft Appraisal Report of 1978 IEA Allocation Systems Test.
C. Future work program and schedule.

As provided in section 252(c)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., May 15, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-13558 Filed 5-18-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

[ERA Docket No. 78-003NG]

GREAT LAKES GAS TRANSMISSION CO.

Petition to Amend Its Authorizations to Transport and Deliver Canadian Natural Gas by Displacement

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of receipt of application and invitation to submit petitions to intervene in the proceeding.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of an application under sections 3 and 7 of the Natural Gas Act from Great Lakes Gas Transmission Co. (Great Lakes) to amend its authorizations to deliver imported Canadian natural gas to Northern Natural Gas Co. (Northern). Great Lakes proposes to transport and deliver to Northern up to 75,000 Mcf per day of displaced natural gas, purchased by Northern from Petrosar Limited, Corunna, Ontario. Delivery by Great Lakes to Northern would be made on an Mcf for Mcf basis by a reduction in deliveries by Great Lakes to TransCanada at the United States-Canadian Boundary near Sault Ste. Marie and St. Clair, Mich. Great Lakes currently transports for TransCanada up to 815,000 Mcf per day.

Petitions to intervene are invited.

DATES: Petitions to intervene: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, 2000 M Street NW., Room 6318, Washington, D.C. 20461, telephone 202-254-9730.

Mr. Barry Smoler, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5116, Washington, D.C. 20461, telephone 202-566-9380.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 20, 1978, Great Lakes Gas Transmission Co. (Great Lakes), 2100 Buhl Building, Detroit, Mich., filed in Docket No. 78-003NG an application pursuant to sections 3 and 7 of the Natural Gas Act and Regulations thereunder requesting authorization to amend its authorizations in Federal Energy Regulatory Commission (FERC) Docket Nos. CP66-110, et al., to authorize the deliveries in Minnesota and Michigan of natural gas imported by displacement from Canada by Northern Natural Gas Co. (Northern), as more fully set forth in the application on file with the ERA. Great Lakes' application is open to public in-

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spection in the Public Docket Room at 2000 M Street NW., Washington, D.C., Room B120, between the hours of 1 p.m. to 5 p.m., Monday through Friday, except for Federal holidays.

Great Lakes transports natural gas for the account of Northern from the Emerson interconnection to a point near Carlton, Minn. Great Lakes also transports natural gas for TransCanada Pipelines Limited (TransCanada), (up to 815,000 Mcf per day) from the Emerson interconnection to the United States—Canadian Boundary near Sault Ste. Marie and St. Clair, Mich.

This petition to amend is a companion filing to the application of Northern filed March 17, 1978, with the FERC at Docket No. CP78-237, and filed with the Economic Regulatory Administration (ERA) at Docket No. 78-002NG in which Northern requests authorization to import into the United States natural gas from Canada made available by displacing this volume with SNG produced at the Petrosar Limited plant in Corunna, Ontario. The 75,000 Mcf per day of such gas during the winter period, from November 1 through March 31, will be available each year for a period of five years commencing in November 1978.

By agreement dated March 15, 1978, (Operating Agreement), between TransCanada, Northern and Great Lakes, deliveries by displacement will be made as proposed in Northern's application and Great Lakes' application to amend. When directed, Great Lakes will deliver volumes during the winter months to Northern at Carlton, Minn., and by mutual agreement between the parties, at Grand Rapids, Minn., and Wakefield, Mich. Volumes so delivered to Northern will reduce the volumes Great Lakes delivers to TransCanada at St. Clair under the TransCanada Transportation Contract (FERC Rate Schedule T-4). Great Lakes will not import or export any additional volumes due to this proposed amended service.

By letter agreement dated March 27, 1978, TransCanada and Great Lakes agreed to include the points for redelivery under the TransCanada Transportation Contract dated September 12, 1967, of interconnection with Northern at Carlton, Minn., Grand Rapids, Minn., and Wakefield, Mich. For billing purposes the gas delivered to Northern under the March 15, 1978, agreement shall be included as gas delivered by Great Lakes to TransCanada at St. Clair, Mich.

By letter agreement dated March 29, 1978, Great Lakes and Northern have agreed that volumes delivered by Great Lakes to Northern at the three delivery points shall first be applied against the volumes authorized under Great Lakes' Rate Schedule T-5 under which Great Lakes is currently providing transportation service to Northern. Any volumes in excess of those provided by Rate Schedule T-5 will be considered to be under the proposed Operating Agreement.

The ERA is not, at this time, asking for comments on the petition or for petitions for a hearing, preferring to wait until supplemental filings, related to the instant application, have been filed and ERA has made the determination that Great Lakes' and other related petitions are sufficiently complete to elicit reasoned arguments. At that time the ERA will set a filing date of intervenors desiring to be heard or to make any protest with reference to said application. The ERA is at this time inviting petitions for intervention to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street NW., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., e.d.t., June 2, 1978, and are for the purpose of establishing an official service list.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened therein must file a petition to intervene in accordance with the above mentioned rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the ERA by Section 3 of the Natural Gas Act and the rules of practice and procedure, a formal hearing will not be held on this application if no petition to intervene is filed within the time required, or if the ERA on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. However, if during the appropriate comment period a motion for such hearing is timely filed by an intervenor and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required, further notice of such hearing will be duly given.

Issued in Washington, D.C. on May 12, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-13357 Filed 5-18-78; 8:45 am]

[3128-01]

[ERA Docket No. BPA 78-2]

TRANSMISSION RATES BONNEVILLE POWER ADMINISTRATION

Notice of Intent To Act on Request for Extension of Bonneville Power Administration's Conditionally Approved Transmission Rates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: On May 2, 1978, the Deputy Assistant Secretary for Power Applications, Resource Applications, requested the Administrator of the Economic Regulatory Administration (ERA) to extend the Bonneville Power Administration's conditionally approved transmission rates until such time as final transmission rates have been either approved or rejected. The purpose of this notice is to advise the public that the Administrator of ERA intends to act on the request and to invite interested persons to submit written comments relevant to the proposed extension. An opportunity for an oral presentation will be afforded upon request.

DATES: Written comments are due on or before June 20, 1978. Requests for an oral presentation are due May 30, 1978. If a public hearing is requested it will be held in Portland, Oreg., June 1, 1978, and/or Washington, D.C., June 6, 1978. Speakers may submit written copies of their oral presentation at the hearing.

ADDRESSES: Requests for an oral presentation and/or 10 copies of written comments shall be submitted to: Office of Public Hearing Management, Box TM, Department of Energy, 2000 M Street NW., Room 2313, Washington, D.C. 20461. The public hearing, if held, will be in: Bonneville Power Administration, Headquarters Auditorium, Portland, Oreg. (June 1), Room 3000A, Department of Energy, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. (June 6).

FOR FURTHER INFORMATION CONTACT:

Jerry Nicholas, Office of Utility Systems, Economic regulatory Administration, 1111 20th Street NW., Room 550, Washington, D.C. 20461, phone 202-254-9690.

Richard W. Manning, Office of the General Counsel, 12th and Pennsylvania Avenue NW., Room 6146, Washington, D.C. 20461, phone 202-566-9653.

SUPPLEMENTARY INFORMATION: Pursuant to section 301(b) of the Department of Energy Organization Act (Pub. L. 95-91), the function to confirm and approve power and transmission rates for the Bonneville Power Administration was transferred to the Secretary of Energy. By delegation Order No. 0204-4, effective October 1, 1977, the Secretary of Energy delegated his confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA).

On July 30, 1976, pursuant to the Federal Columbia River Transmission System Act of October 18, 1974 (16 U.S.C. 838), the Secretary of Interior filed with the Federal Power Commission (FPC) a request for the confirmation and approval of certain rate schedules for the transmission of non-Federal electric power and energy over BPA's transmission facilities (FPC Docket No. E-9563). Public notice of Interior's filing invited comment from interested persons. The FPC determined that a substantial amount of analysis would be required before it could fully review the proposed transmission rates and ordered a hearing before an administrative law judge. On January 19, 1977, Interior submitted an amendment to the filing requesting the FPC to confirm and approve the proposed rates on an interim basis subject to retroactive adjustment with interest on the ground that each day of delay in adopting new rates caused a loss of approximately $15,000 in revenue. On June 10, 1977, the FPC conditionally confirmed and approved the proposed transmission rates through June 30, 1978, subject to retroactive adjustment with interest. Review of this matter passed to ERA on October 1, 1977, before a hearing on the merits of the proposal had been conducted by the FPC.

Since final transmission rates have not been confirmed and approved, the Deputy Assistant Secretary for Power Applications, Resource Applications, has requested the Economic Regulatory Administration to extend the Bonneville Power Administration's conditionally approved transmission rates until such time as final transmission rates have been either confirmed or rejected. It is ERA's intention to extend the conditionally approved transmission rates for an interim period not to exceed 1 year. This establishment of interim rates is consistent with the policy of ERA as expressed in the procedures applicable to the Western Area Power Administration, 43 FR 12076 (March 23, 1978).

Comment Procedures: Interested persons are invited to submit comments with respect to the subject matter set forth in this notice to: Public Hearings Management Box TM, Room 2313, Department of Energy, 2000 M Street NW., Washington, D.C. 20461. Such written comments may be mailed or hand delivered and should be received by 4:30 p.m., e.d.t., on June 20, 1978.

Any person who has an interest in this matter or is a representative of a group or class of persons that has an interest in it may make a written request for an opportunity to make an oral presentation at a public hearing. Such a request can be mailed or hand delivered to: Public Hearing Management, Box TM, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461 and must be received before 4:30 p.m., e.d.t., on May 30, 1978.

The request shall state the name of the person making the request, identify the interest represented and if appropriate state why he or she is a proper representative of a group or class of persons that has an interest, give a concise summary of the proposed oral presentation, give a telephone number where the person may be contacted, and set forth the location at which it is desired to make the oral presentation.

DOE reserves the right to select the persons to be heard, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited based on the number of persons requesting to be heard.

The public hearing, if any, will not be adjudicated in nature. A DOE official will be designated to preside at the hearing, if one is held. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding official.

The hearings, if held, will begin at 9:30 a.m., on June 1, 1978, in the Bonneville Power Administration Headquarters Auditorium, Portland, Oreg., and/or on June 6, 1978, in room 3000A, Department of Energy (Federal Building), 12th and Pennsylvania Avenue NW., Washington, D.C.

Public comments, if any, and the hearing record, if any, will be available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., on May 15, 1978.

HAZEL R. ROLLINS,
Deputy Administrator, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-13577 Filed 5-18-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. G-14225, etc.]

MOBIL OIL CORP., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 11, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-14225, D, May 1, 1978	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Columbia Gas Transmission Corp., South Thornwell field, Jefferson Davis Parish, La.	(1)	
CI61-1284, D, Apr. 27, 1978	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Arkansas Louisiana Gas Co., Vixon field, Caldwell Parish, La.	(2)	
CI63-234, D, Apr. 24, 1978	Mobil Oil Corp	Arkansas Louisiana Gas Co., Red Oak field, Latimer, et al., Counties, Okla.	(3)	
CI72-311, D, Apr. 24, 1978	do	Arkansas Louisiana Gas Co., Waveland (Arkoma) field, Yell and Logan Counties, Ark.	(4)	
CI72-311, D, Apr. 24, 1978	do	Arkansas Louisiana Gas Co., Waveland (Arkoma) field, Yell County, Ark.	(5)	
CI76-38, C, Mar. 13, 1978	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Transwestern Pipeline Co., South Empire deep unit Nos. 6 and 10, Eddy County, N. Mex.	(6)	14.65
CI77-331, C, Oct. 11, 1977	Placid Oil Co. (operator), et al., 1600 1st National Bank Bldg., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., block, 291, ship shoal area, south addition, to block 207, ship shoal area, offshore Louisiana.	(7)	15.025
CI77-344, C, May 1, 1978	Southland Royalty Co., 1000 Fort Worth Club Tower, Fort Worth, Tex. 76102.	Panhandle Eastern Pipe Line Co., Shannon sandstone formation from the Hartzog Federal No. 1-28 well located in the NE/4 of sec. 28, T45N, R75W, Campbell County, Wyo.	(8)	15.025
CI78-664, B, Apr. 19, 1978	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Colorado Interstate Gas Co., Wilburton field, Morton County, Kans.	(9)	
CI78-690, A, Apr. 27, 1978	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., "C" platform located on block 61 and attributable to block 60, South Marsh Island area, offshore Louisiana.	(10)	15.025
CI78-699, A, Apr. 27, 1978	The Louisiana Land & Exploration Co., 225 Baronne St., P.O. Box 60350, New Orleans, La. 70160.	Consolidated Gas Supply Corp., certain acreage in block 267, south half, Vermillion area, offshore Louisiana.	(10)	15.025
CI78-700, A, Apr. 28, 1978	Napeco Inc., 122 South Michigan Ave., Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America, Keystone No. 1 well, Eddy County, N. Mex.	(10)	14.65
CI78-701, A, Apr. 27, 1978	Prosper Energy Corp. (successor in interest to Hunt Oil Co.), 2900 1st National Bank Bldg., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., Eugene Island SA block 296 ("X" and "10" sands), offshore Louisiana.	(10)	14.73
CI78-702, A, Apr. 27, 1978	Ocean Production Co., et al., P.O. Box 61780, New Orleans, La. 70161.	Tennessee Gas Pipeline Co., south half of block 246, ship shoal area, in the Gulf of Mexico, offshore Louisiana.	(10)	15.025
CI78-703 (CI64-1403) (G-3054), B, Apr. 28, 1978.	T.E.L. Oil & Gas Corp., et al., P.O. Box 292, Guymon, Okla. 73942.	Western Gas Interstate, Hugoton field Texas County, Okla.	Uneconomical	
CI78-706 (CI67-1642), B, Apr. 20, 1978.	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Natural Gas Pipeline Co. of America, Harry Butler unit well No. 2, sec. 8-17N-16W, Putnam field, Dewey County, Okla.	Lease contributed to unit lapsed by own terms, plugged and abandoned and final sale of gas was January 1970.	
CI78-707 (CI73-3), B, Apr. 24, 1978.	Energy Reserves Group, Inc., P.O. Box 1201, Wichita, Kans. 67201.	El Paso Natural Gas Co., Cha Cha Gallup field, San Juan County, N. Mex.	Plugged and abondoned	
CI78-708, A, Apr. 24, 1978	American Natural Gas Production Co., 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Tex. 77056.	Michigan Wisconsin Pipe Line Co., certain acreage located in Beckham County, Okla.	(10 11)	14.65
CI78-709, A, Apr. 24, 1978	American Natural Gas Production Co.	Michigan Wisconsin Pipe Line Co., certain acreage located in Beckham County, Okla.	(10 11)	14.65
CI78-710, A, Apr. 24, 1978	do	Michigan Wisconsin Pipe Line Co., certain acreage located in Roger Mills County, Okla.	(10 11)	14.65
CI78-711, A, Apr. 24, 1978	do	Michigan Wisconsin Pipe Line Co., certain acreage located in Canadian County, Okla.	(10 11)	14.65
CI78-712 (CI63-1437), B, Apr. 27, 1978.	Atlantic Richfield Co	Arkansas Louisiana Gas Co., West Vixen field, Caldwell Parish, La.	Acreage released, final sale reported was in 1975, plugged and abandoned.	
CI78-713, A, Apr. 28, 1978	Champlin Petroleum Co., P.O. Box 1257, Englewood, Colo. 80150.	Colorado Interstate Gas Co., certain acreage in the Wamsutter area, Sweetwater and Carbon Counties, Wyo.	(12)	14.65
CI78-714, A, Apr. 28, 1978	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co., Midwest Federal "A" No. 1 well, SW/4 sec. 10, T14S, R28E, Chaves County, N. Mex., limited to the premier zone of the Grayburg formation.	(13)	14.65
CI78-715 (CI69-383), B, May 1, 1978.	Otis Russell, P.O. Box 1447, Bay City, Tex. 77414.	Tennessee Gas Pipeline Co., South Lissie field, Wharton County, Tex.	Depleted, production ceased August 1977, leases reverted to owners, plugged and abondoned.	
CI78-716, A, May 1, 1978	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Lake Raccourci field, LaFourche Parish, La.	(10)	14.73
CI78-717, A, May 1, 1978	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	United Gas Pipe Line Co., Dubina area, Colorado County, Tex., limited to the interval between the surface and the base of the Wilcox formation.	(10)	14.65

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Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI78-718, A, May 1, 1978	Cotton Petroleum Corp., 4200 1 Williams Center, Tulsa, Okla. 74103.	Kansas-Nebraska Natural Gas Co., Inc., certain acreage in the Thorpe field, Kimball County, Nebr.	(16)	15.025
CI78-719, A, May 1, 1978	Cotton Petroleum Corp	Panhandle Eastern Pipeline Co., certain acreage in the Wattenberg field, Weld County, Colo.	(16)	15.025
CI78-722 (CI67-867), B, May 3, 1978.	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	St. Mary Parish, La.	Leases released, no economical recoverable reserves underlying released leases, plugged and abandoned.	

¹Effective Oct. 31, 1977, certain nonproducing leases were released and were deleted from the commitment to the contract which expired under its own terms on Nov. 1, 1977. The remaining acreage is now committed to replacement contract dated Jan. 20, 1978.

²There are no known economical reserves underlying released leases. Partial release of oil and gas leases, plugged and abandoned. Applicant retains interest in lease on acreage enclosed within the geographical bounds of Shell Oil Co.'s Hosston 8,650 ft san unit. Totalling 34.2 acres.

³By partial assignment of oil and gas leases (S-6206-DW), effective Feb. 3, 1978, Mobil assigned to Samson Resources Co., small producer in docket No. CS74-86, all of its right, title, and interest in and to that certain acreage fully described in said partial assignment of oil and gas leases. Applicant requests its certificate of public convenience and necessity be amended by deleting a portion of the commitment to the extent, and only to the extent, that the same covers the leases referred to above.

⁴By assignment and agreement effective Oct. 1, 1975, Mobil assigned to CSG Exploration Co. all of its right, title, and interest in and to that certain producing acreage fully described in said assignment and agreement.

⁵By assignment and agreement effective Jan. 1, 1976, Mobil assigned to Rex Oil Co. all of its right, title, and interest in and to that certain acreage fully described in said assignment and agreement. Said assigned acreage nonproducing at time of assignment. Last production was in 1975.

⁶Applicant is filing under gas purchase agreement dated July 2, 1975, amended by letter agreement dated Sept. 30, 1977.

⁷Applicant is filing pursuant to the terms of a transportation service agreement dated Jan. 28, 1977, amended by letter agreement dated Aug. 9, 1977.

⁸Applicant is filing under gas purchase and sales agreement dated Sept. 24, 1976, amended by addendum to gas purchase and sales agreement dated Apr. 10, 1978.

⁹Exxon has terminated a percentage-type contract with Cities Service Co. and is proposing to sell the gas directly to Colorado Interstate Gas Co., under a fix priced contract.

¹⁰Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.

¹¹Applicant and purchaser are affiliated.

¹²Applicant is filing under gas purchase agreement dated Feb. 3, 1978.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total succession. F—Partial succession.

[FR Doc. 78-13506 Filed 5-18-78; 8:45 am]

[6740-02]

WESSELY EXPLORATION, INC., ET AL.

[Docket Nos. CS78-403, etc.]

Applications for "Small Producer" Certificates[1]

MAY 11, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedures, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own moton believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1]This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket Number, Date Filed and Applicant

CS78-403, April 24, 1978, Wessely Exploration, Inc., 2001 Bryan Tower, Suite 953, Dallas, Tex. 75201.

CS78-404, April 24, 1978, Gary D. Turner d.b.a. Turner Properties, P.O. Box 2509, Big Spring, Tex. 79720.

CS78-405, April 24, 1978, Nowata Gathering, Ltd., 2431 East 51st Street, Suite 401, Tulsa, Okla. 74105.

CS78-406, April 24, 1978, M. P. & R. Production Co., P.O. Box 6, Shawnee, Okla. 74801.

CS78-407, April 24, 1978, Birch Gas Limited Partnership 1977, 5660 South Syracuse Circle, Suite 200, Englewood, Colo. 80110.

CS78-408, April 24, 1978, Oil Country Exploration & Recovery, Inc., 5625 FM 1960 West, Suite 617, Houston, Tex. 77069.

CS78-409, April 24, 1978, The Boston Co. of Texas, General Partner for Boston Oil Ltd. 1972, 1116 Southwest Tower, Houston, Tex. 77002.

CS78-410, April 24, 1978, Rudy E. Vodicka, P.O. Box 52396, Lafayette, La. 70505.

CS78-411, April 24, 1978, William K. Young, 750 West Fifth Street, Fort Worth, Tex. 76102.

CS78-412, April 24, 1978, Frank G. Young, 750 West Fifth Street, Fort Worth, Tex. 76102.

CS78-413, April 24, 1978, George M. Young, 750 West Fifth Street, Fort Worth, Tex. 76102.

CS78-414, April 24, 1978, Hawkins Farms, An Oklahoma Partnership, 4701 Free Ferry Road, Fort Smith, Ark. 72903.

CS78-415, April 24, 1978, Robert Lee Hudson, 2001 Kirby Drive, Suite 913, Houston, Tex. 77019.

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CS78-416, April 24, 1978, E. J. Hudson, Jr., 2001 Kirby Drive, Suite 913, Houston, Tex. 77019.
CS78-417, April 25, 1978, Aubert D. Talbot, P.O. Drawer 97, Napoleonville, La. 70390.
CS78-418, April 25, 1978, Robert C. Martin, Jr., Route 2, Box 439, Napoleonville, La. 70390.
CS78-419, April 25, 1978, Ester Fulton, Fourth Floor, Warren Office Complex, Garden City, Kans. 67846.
CS78-420, April 27, 1978, Esperanza Oil & Gas Co. (Successor in Interest to J. and J. Operating Co.), P.O. Box 1050, Corpus Christi, Tex. 78403.
CS78-421, April 28, 1978, M. M. Mahaffey, Box 1547, Riverton, Wyo. 82501.
CS78-422, April 28, 1978, Margaret King, Box 3448, Enid, Okla. 73701.
CS78-423, April 27, 1978, Pacific Oil & Gas Co., 1220 Liberty Tower, Oklahoma City, Okla. 73102.
CS78-424, April 28, 1978, The C. Crady Davis Trust, 4545 South High Street, Denver, Colo. 80110.
CS78-425, April 28, 1978, The Davis Co., 4545 South High Street, Denver, Colo. 80110.

[FR Doc. 78-13505 Filed 5-18-78; 8:45 am]

[6560-01

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Receipt

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from May 8, 1978, through May 12, 1978. The date of receipt for each statement is noted in the statement summary. Under the guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date of submission of comments is July 3, 1978. The thirty (30) day period for each final statement begins the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: May 2, 1978.

JOSEPH M. MCCABE
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities; U.S. Department of Agriculture, Room 412A, Administration Building, Washington, D.C. 20250, 202-447-3965.

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Tyrone Energy Park, Unit 1, Loan Grarantee, Dunn County, Wis., May 11: This action concerns the issuance of Rea-guaranteed loan funds to finance the Dairyland Power Cooperative and Co-operative Power Association in a 30.4 percent individual ownership interest of Tyrone Energy Park, unit 1, Dunn County, Wis. A total of 4,600 acres of land will be used for the park site and would consist of one pressurized, water reactor producing up to 3,411 megawatts thermal steam turbine generators would use this heat to produce 1,150 megawatts of electrical power capacity per unit. The final EIS prepared by the NRC on the construction permit has been adopted as part of this EIS. (USDA-REA-EIS(ADM)78-5-D.) (ELR Order No. 80492.)

Final

Antelope Valley Station, 455 MW, Mercer County, N. Dak., May 12: Proposed is the use of rea-guaranteed loan funds to finance the proposed new Antelope Valley Station (Two 455 MW (nameplate) rating lignite fired steam electric generating units). Makeup water will be pumped through a pipeline from Lake Sakakawea. The primary fule is planed to come from neary new lignite mines, Two new 26-miles, 345-kV transmission lines will be constructed to inter connect the proposed plant with the substation at Basin's Leland Olds plant in Oliver County, N. Dak., and will cross Mercer County. Adverse effects include release of ozides of nitrogen and sulphur, as well as small quantities of particulate matter. Comments made by: USDA, DOT, HEW, FERC, DOI, EPA, COE, State and local agencies, individuals. (ELR Order No. 80503.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn.: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Final

Auasi Harbor, American Samoa, American Samoa, May 11: Proposed are navigation improvements at Auasi, Tutuila Island, American Samoa. The improvements consist of the development of: (1) A small boat harbor, (2) deepening and widening of an existing channel, (3) dredging of a rectangular turning and mooring basin, and (4) protective works. The harbor will be located at Auasi village, between Taugamalama Point on the west and Maatulaumea Point on the east. Adverse effects include changes in water quality and circulation, changes to biota, and commitment of natural resources. (San Francisco District.) Comments made by: DOC, DOI, USCG, local government. (ELR Order No. 80490.)

Pohoiki Bay Navigation Improvements Project, Hawaii County, Hawaii, May 11: Proposed is a Federal and State planned and funded project to provide navigational protection for the launching and recovery of commercial fishing boats at the Pohoiki launch ramp, Island of Hawaii, Hawaii. Three alternatives are proposed: (1) A breakwater, (2) a breakwater with a relocated ramp, and (3) a breakwater with an entrance channel. Adverse effects include the destruction of 8,000 square feet of marine habitat due to breakwater construction, construction-related pollution, and the degradation of inner bay waters. Plan No. 3 would also modify the water chemistry and affect marine biota. (Honolulu District.) Comments made by: DOI, DOC, USCG, EPA, USN, DOD, State and local agencies, groups. (ELR Order No. 80491.)

Coralville Dam and Lake, Operation, Johnson, Iowa, and Linn Counties, Iowa, May 9: The primary purpose of Coralville Lake project is flood control with recreation and wildlife as secondary purposes. The proposed action consists of maintaining lake levels and out flow release rates within the framework of the authorized regulation plan, and to continue the physical maintenance of the project lands at the current level of efficiency. No construction or alterations are planned at this time. Coralville Lake is located in eastern Iowa on the Iowa River. The dam is situated on the Iowa River about 5 miles upstream from Iowa City in Johnson County, Iowa. (Rock Island District.) Comments made by: EPA, DOI, USDA, DOT, HUD, HEW, State and local agencies, groups and individuals. (ELR Order No. 80481.)

DEPARTMENT OF DEFENSE, ARMY

Contact: George Q. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, 202-694-4269.

Draft

Disposal of Hydrogen Cyanide, Tooele Army Depot, Tooele County, Utah, May 12: The proposed action consists of detoxifying 281 pounds of the chemical agent hydrogen cyanide which is stored in two bombs at Tooele Army Depot, Tooele County, Utah. The two bombs will be moved to an incinerator facility where the hydrogen cyanide will be removed by pressurization of the bombs with nitrogen and introduced via a feed/control system into the incinerator which will be operated at a temperature of 1100° F. Effluent gases from the incinerator will pass through an afterburner and discharged into the atmosphere. (ELR Order No. 80497.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Coastal Zone Management Program, Hawaii, several counties in Hawaii, May 12: Proposed is the approval of a coastal zone management program for the State of Hawaii. Approval of the program and implementation would allow program administration grants to be awarded to the State and require that Federal actions be consistent with the program. Through this program the State of Hawaii would establish policies and standards to condition, restrict or prohibit some uses in parts of the coastal zone and encourage development in others through coordinated actions of State and local authorities. (ELR Order No. 80498.)

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DEPARTMENT OF ENERGY

Contact: Mr. Robert Stern, Department of Energy, 1200 Pennsylvania Avenue NW., Room 7119, Washington, D.C. 20461, 202-566-9760.

Final

Allocation of Petroleum Feedstock, Sollers Point, Baltimore County, Md., May 8: The Economic Regulatory Administration (ERA) is considering an allocation of naphtha feedstock of approximately 1,000,000 barrles per year until the spring of 1978 and 2,186,000 barrels per year thereafter. This feedstock will be used by Baltimore Gas & Electric Co. (RG&E) to operate its already constructed SNG facility, located on Sollers Point in Baltimore County, Md. DOE/EIS-0002. Comments made by: DOE, DOI, DOC, EPA, local agencies, groups, individuals, and businesses. (ELR Order No. 80478.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. John Hagan, Region IV, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-881-7458.

Draft

Cement Plant and Limestone Quarry, Permit, Mobile and Monroe Counties, Ala., May 12: The proposed action is the issuance of a NPDES permit and other necessary certificates and permits to the ideal basic industries for construction and operation of a cement plant and limestone quarry. The plant will be located in the Theodore Industrial Park, Mobile County, Ala., on 50 acres and will include docking facility, grinding mills, kilns, storage and mixing silos, storage tanks, and raw material storage piles. The quarry will be located in Monroe County, Ala. on a 4,035 acre site and will consist of in part, docking and loading facilities, clarification basins, limestone storage piles, and fuel tanks. (EPA 904/9-78-005.) (ELR Order No. 80495.)

Contact: Mr. Clinton Spotts, Region VI, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Tex. 75270, 214-767-2716.

Draft

Independence Steam Electric Station, Independence County, Ark., May 9: The proposed action is the issuance of a new source NPDES permit for wastewater discharge from the proposed Independence Steam Electric Station into the White River. The applicants, Arkansas Power & Light Co., Arkansas Electric Cooperative Corp., and the City Water & Light Plant of the city of Jonesboro, proposed to construct and operate a coal-fired steam electric station in Independence County, Ark. Considered alternatives to the proposed project falls into two major categories: Those requiring no new generating capacity, and those requiring the construction of new capacity. (ELR Order No. 80480).

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, 202-566-0405.

Draft

Federal Office Building and Parking, Savannah, Chatham County, Ga., May 9: The proposed action involves the construction of a Federal office building, and parking facility in Savannah, Chatham County, Ga. The new facility would provide space for the COE and 10 other Government agencies presently housed in 10 general-purpose leased locations. The proposed building would provide approximately 173,000 occupiable square feet and about 99,000 square feet for parking, including motor pool space. The facility would be located in or near Savannah's central business district. A site has not yet been selected. (EGA 78000.) (ELR Order No. 80484.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Heritage Park Subdivision, Harris County, Tex., May 9: The proposed action is for the Department of HUD to accept for HUD/FHA mortgage insurance purposes the 671-acre Heritage Park Subdivision located in Harris County, Tex. When completed in approximately 6 years, the subdivision will contain approximately 2,447 single-family homes plus some attached single-family and multi-family housing and shopping and recreational facilities. Adverse effects include the removal of open areas and an increased demand for fossil fuels through heavy dependence on the automobile for transportation, (HUD-R06-EIS-78-13F.) (ELR Order No. 80483.)

Final

The Knolls, Willowbrook, Du Page County, Ill., May 12: Proposed is the provision of HUD mortgage insurance for a 49.28-acre development in Willowbrook, Ill., the proposed development contains 1,200 multifamily apartment units built in four phases. Adverse effects of development include increased traffic and dependence on the automobile, and depletion of ground water resources. (HUD-R05-EIS-77-07F.) Comments made by: COE, USDA, EPA, DOI, DOT, local agencies, and individuals. (ELR Order No. 80501.)

Elmwood III Development, Wayne County, Mich., May 11: Proposed is the construction, by the city of Detroit, of 2,100 dwelling units as the final development phase in a cleared 188 acre urban renewal site for subsidized and non-subsidized rental and sales housing in townhouse, garden apartment, and mid- and hi-rise structures. A community center, institutional uses and recreational space are included. Adverse impacts include construction-related pollution, increased noise and air pollution, and redistributed loads on city services, (HUD-R05-EIS-78-1-F.) Comments made by: DOI, USDA, COE, FERC, State and local agencies. (ELR Order No. 80504.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bulding, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

1979 OCS Oil and Gas Sale No. 49, Mid-Alantic, New Jersey and Delaware, May 12: The proposed action is the leasing of one hundred and thirty-six tracts, totaling 774,273 acres, of OCS lands off the coasts of New Jersey and Delaware in an area known as the Baltimore Canyon through the tracts vary from 50 to 100 miles off shore with depths from 115 to 4,100 feet. The proposal is to lease these tracts for exploration, development, and production of potential oil and gas resources. If implemented, this sale is tentatively scheduled to be held in spring of 1979. (DES-78-20) (ELR Order No. 805000.)

Draft

500 MW Coal Fired Generating Station, Humboldt County, Nev., May 11: This action proposes the construction of two 250 megawatt coal-fired steam-electric generating units in Humbolt County, Nev. by the Sierra Pacific Power Co. This project would encompass approximately 3,100 acres, 940 of which are federally administered. The construction of the proposed power plant, in part, would also include 2 coal-fired boilers, a turbine-generator unit, a baghouse, a mechanical draft cooling tower, well field, coal storage area, evaporation pond for waste disposal, land fill for ash disposal, a railroad spur, an access road, a transmission system, a 500-foot stack, a warehouse, and an administration building. (DES-78-18) (ELR Order No. 80489.)

Final

San Luis Resource Area, Grazing Management, Colorado, May 12: Proposed is a grazing management program on national resource lands in the San Luis Valley, located in southcentral Colorado. The components of the proposal are: (1) intensive management of grazing (allotment management plans of amps) on 473,916 acres, (2) custodial management of grazing on 16,625 acres, (3) elimination of grazing on 5,930 acres, and (4) continuation of unallotted status of range on 19,900 acres. Construction of various range improvements would be required to implement the amps, and fencing would be required to eliminate grazing in some areas, (FES-78-8). Comments made by: DOI, EPA, HUD, USDA, HEW, FPC, State and local agencies, groups and individuals. (ELR Order No. 80496.)

Rio Puerco Livestock Grazing Program, New Mexico County: Sandoval and McKinley County, N. Mex., May 12: Proposed is the initiation of an intensive livestock grazing management program through the implementation of allotment management plans on 393,083 acres of public land in the Rio Puerco Resource Area, Albuquerque district. The proposed action would include consolidation of 96 existing allotments into 61. Grazing systems which reserve sufficient forage for wildlife would be implemented and range improvements would be constructed to facilitate these systems. By the year 2000, the proposed action would approximately double forage production in the Rio Puerco ES area (FES-78-9). Comments made by: DOI, AHP, DOT, USDA, State and local agencies, groups and individuals. (ELR Order No. 80499.)

HERITAGE CONSERVATION AND RECREATION SERVICE

Draft

Owyhee River, Wild and Scenic Designation, Several Oregon and Idaho Counties, May 10: The action concerns a proposal which recommends that a 192 mile segment of the Owyhee River and approximately 69,120 acres comprising its immediate environment in Oregon and Idaho be included into the National Wild and Scenic Rivers

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systems. Segments of the river from the Duck Valley Indian Reservation downstream to China Gulch and from Crooked Creek to the Owyhee Reservoir would be added to the system by Congress. The segment from China Gulch to Crooked Creek would be added first to the Oregon Scenic Waterways system and then to the National system by the Secretary of the Interior. (DES-78-17) (ELR Order No. 80486.)

BUREAU OF RECLAMATION

Draft

Paradox Valley Unit, Salinity Control Program, Montrose and San Miguel Counties, Colo., May 11: This action involves the construction and operation of the Paradox Valley unit of the Colorado River basin salinity contol project located in Montrose and San Miguel Counties in Colorado. The unit would involve pumping brine groundwater from a series of wells along the Dolores River in Paradox Valley to reduce the influx of salt to the river by an estimated 180,000 tons. The brine would be piped to a nearby hydrogen stripping plant and then piped to the radium evaporation pond in the Dry Creek basin. (DES-78-19) (ELR Order No. 80493.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

Draft supplement

Floating Nuclear Power Plants, Part III, (S-1), Florida, May 10: This EIS supplements a draft filed with CEQ in October 1976. This supplement differs from the original draft in that it considers the overall risk and consequences to the environment. Furthermore, it presents an integrated cost-benefit analysis as related to the proposed manufacturing license action, considering the conclusions reached in each of the three parts of the environmental statement, (NUREG-0127, Revision 1) (ELR Order No. 80485.)

STATE DEPARTMENT

Contact: Mr. Cameron Sanders, Office of Environmental Affairs, Department of State, Washington, D.C. 20520, 202-632-9169.

Draft

High Seas Fisheries, North Pacific Ocean Renegotiation, May 11: The proposed action is the adoption of a U.S.-Canada-Japan protocol to amend the International Convention for the High Seas Fishgries of the North Pacific Ocean (INPFC), with annex and agreed minutes, a U.S.-Canada-Japan Memorandum of Understanding on Salmon, and a U.S.-Japan Memorandum of Understanding on Marine Mammals. The purpose of the action is to reduce interceptions of North American origin salmon by Japanese fisheries, development of cooperative research on marine mammals, and eliminate the incidental catch of marine mammals in the North Pacific Ocean and the Bering Sea through international agreements. (ELR Order No. 80494.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

The Greater Rockford Airport, Winnebago County, Ill., May 12: This action involves an airport development plan for the Greater Rockford, Winnebago County, Ill. the proposed improvements include in part; (1) Lengthening of runway 6-24 by 1,000 feet, (2) construction of a parallel taxiway on the taxiway on the north side of runway 6/24, (3) lighting on runway 6-24 is to be upgraded to HIRL, (4) runway 18-36 is to be extended by 800 feet, (5) a new basis utility runway (6R-24L) is to be constructed, and (7) a new terminal building and air carrier apron will be built. Acquisition of approximately 212 acres would be required. (ELR Order No. 80502.)

Final

Asheville Airport Expansion, Buncombe County, N.C., May 9: Proposed is the expansion and improvement of Asheville Airport in Asheville, N.C. The proposed project calls for the construction of a 1500-foot runway and parallel taxiway extension on the north end of the existing 6500-foot runway, and the following associated items: land acquisition for a runway and parallel taxiway extension, construction and lighting of the 150-foot x 1500-foot runway and parallel taxiway extension, and construction of glide slope and localizer site. The VASI-4 will be relocated on runway 1. Comments made by: USDA, DOI, HEW, HUD, EPA, State and local agencies, individuals. (ELR Order No. 80482.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

West of Grand Junction, Study Area, CO-340, Mesa County, Colo., May 10: The proposed project is located in Mesa County, Colo., and identified as project CS 08-0340-14, west of Grand Junction. The proposal includes the study and evaluation of upgrading the transportation system in the southwest quadrant of Grand Junction. Specifically, this study evaluates the existing transportation system serving the redlands areas, particularly SH 340 which presently provides the only access to or from the redlands area. (FHWA-COLO-EIS-77-03-D) (ELR Order No. 80487.)

Final

Del Monte Ave., Washington St.—Monterey, Monterey County, Calif., May 8: The proposed project involves improvements, in two phases, to Del Monte Avenue in the city of Monterey, Calif., phase I starts at Washington Street and runs four blocks to Camino El Estero phase II extends from Camino El Estero to Ramona Avenue near the highway I freeway ramp. Project plans call for widening Del Monte Avenue, and adding travel lanes, median with turn pockets and parking lanes, and sidewalks in appropriate areas. (FHWA-CA-EIS-76-03-F) Comments made by: DOT, EPA, DOI, State and local agencies. (ELR Order No. 80479.)

Sunrise Highway, Suffolk County, N.Y., May 8: This action involves the improvement and reconstruction of a portion of Route 27 as a six lane express facility with parallel service roads from the vicinity of Phyllis Drive in the town of Brookhaven in Suffolk County, N.Y., the proposed expressway facility will provide a 6-lane divided highway (3 lanes in each direction) seperated by a median and flanked by one-way, parallel two-lane service roads on each side of the expressway. (FHWA-NY-EIS-71-44F) Comments made by: DOT, DOC, USDA, EPA, DOI, and State and local agencies. (ELR Order No. 80477.)

S.T.H. 29 (Wausau-Wittenberg Road), Marathon and Shawano Counties, Wis., May 10: Proposed is the construction, on new location, of about 10.6 miles of controlled access four lane freeway together with the necessary local road alterations to provide for the reasonable continuation of local traffic patterns, this central segment, from business highway 51 to 0.9 mile east of Ringle, receives the majority of the environmental analysis in this statement though the project does include two other segments. The proposed project is located in Marathon and Shawano Counties, Wis. (FHWA-WISC-EIS-75-14-F) Comments made by: DOT, USDA, HEW, EPA, DOI, and State agencies. (ELR Order No. 80488.)

OFFICIAL EXTENSION OF REVIEW PERIOD

The review period for the final supplement EIS filed with EPA on April 13, 1978, under the Community Development Block Grant program entitled "Marrero to Lafitte Water Line, Jefferson Parish, La." (ELR No. 80361) has been extended to May 27, 1978.

[FR Doc. 78-13689 Filed 5-18-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

In addition, notice is also given that the operators indicated by an asterisk (*) have established evidence of financial responsibility, with respect to the vessels indicated, as required by subsection (c) of Section 204 Trans-Alaska Pipeline Authorization Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Alaska Pipeline) pursuant to Part 543 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01988	Brostroms Rederi AB: *Dalsland, Columbiland.*
02449	A/S Ivarans Rederi: *Santa Fe.*
02582	Jugoslavenska Tankerska Plovidba Oour Jugotanker: *Rudo.*
02930	Compania Sub-Americana De Vapores: *Tubul.*
03428	Hachiuma Kisen K.K.: *Osumi Maru*
04126	Jugolinija Rijekeka: *Baska.*
04145	Olymbos Shipping Corporation Monrovia: *Aphrodite.*
05529	Julio Zakzuk: *Don Alejo.*
05692	Fuel Services, Inc.: *FS 20.*
06038	Suomen Hoyrylaiva Osakeyhtio Finska Angfartygs Aktiebolaget: *Astrea.*
06248	Commercial Corporation Sovrybflot: *Gektor, Leningrad.*
07574	Georgian Shipping Co.: *Pobeda Oktyabrya; Velikiy Oktyabr.*
07791	Sammisa Co., Ltd.: *Buffalo.*
08103	Spartan Shipping, Inc.: *Phoenix Star.*
08948	Veb Deutfracht/Seereederei rostock: *Gerhart Hauptmann, Brocken.*
09301	Scott Chotin, Inc.: *SC 306 L, SC 308 S.*
09415	Hang Ong Shipping Co. S.A.: *NS-Pioneer.*
09608	Fukuichi Gyogyo Kabushiki Kaisha: *Fukuichi Maru No. 73.*
09763	Atlas Maritime Co. S.A.: *Star Dorian.*
09792	United Fair Agencies Ltd.: *Havmann.*
10391	Norman Wooten Inc. d.b.a. Wooten's River Service and Supply: *Chem 7, Commercial Express.*
12635	Estelina Navigation S.A.: *Bright Peak.*
12676	Oriental Pearl Line Kabushiki Kaisha: *Mayay.*
13249	Keppel Shipyard Ltd: *Keyaki.*
13300	Alaska Marine Shipping: *Snow Bird, Aleut Packer.*
13368	Sanko Kisen (Cayman), Ltd: *Mammoth Monarch.*
13387	Lorelei Shipping Corp.: *Alexa I.*
13519	Crisantema Line S.A.: *Bela rozo, Bela Kosmo, Bela Nickerie.*
13564	Ogden Ebro Transport, Inc.: *Ogden Ebro.*
13571	C. W. Elermann and Houston Barge Rentals Inc.: *HBR-3.*
13618	Maryol Enterprises, Inc.: *Onyx Islands.*
13645	Caddell Dry Dock and Repair Co., Inc.: *Jay Bee VI.*
13662	Western Steel International Corp.: *KTC No. 1.*
13669	Apollon Shipping and Trading Corp. S.A.: *Petrola 27.*
13670	Green Star Shipping and Trading Corp. S.A. Panama: *Petrola 26.*
13687	Canipel S.A.: *Star 1.*
13688	Anangel Might Compania Naviera S.A.: *Anangel Might.*
13695	American Construction Co. Inc.: *Palouse, Mukilteo, Skykomish, Everett.*
13696	Green Mast Shipping Co. S.A.: *Saronikos.*
13707	San Inez Sociedad Argentina de Bugues Frigorificos, Ltd.: *Wittsand.*
13718	Calvin Maritime Co.: *Calvin.*
13727	Pythia Compania Naviera S.A.: *Meridian Ice.*
13728	Maritime Co. Mentor S.A.: *Kimko Stork.*
13733	Pintias S.A.: *Meridian Frio.*
13734	Interstate Bridge Co. of Maryland, Inc.: *Barge 149.*
13735	Seaniseas Petroleum Carriers, Inc.: *Oriental Wisdom.*
13737	Oak Ridge Barge Co.: *Roy, J.O.*
13740	Industrial Navigation Co., Inc.: *Seamaster I.*
13741	El Capitaine Inc.: *Captain John G. P. Lipanos.*
13742	Preferred Shipping, Ltd.: *Sea Lion.*
12743	Neuva Esperanza Corp.: *Nea Elpis.*
13745	Navale Spartivento S.P.A.: *Onorato.*
13746	G. S. Maritime Private Ltd.: *Goldensari II.*
13750	Aspera Compania Naviera S.A.: *Fay C.*
13751	Distra Compania Naviera S.A. Panama: *Fauskanger.*
13753	United International Container Transports Ltd.: *Dart Canada.*
13754	Sociedad Co-op Production Pesquera General Lazaro Cardenas Del Rio S.C.L.: *Lazaro Cardenas.*
13755	Southrong Shipping (PTE), Ltd.: *Nan Feng.*
13757	Servicios Maritimos Mexicanos S.A.: *Colima.*
13758	Ms Norburg Schiffahrtsbeteiligungsgesellschaft MBH & Co.: *Norburg.*
13759	Prospect Bay Shipping Co., Ltd.: *Salambo.*
13760	Panelos Shipping Corp.: *Mount Othrys.*
13761	Arctic Ocean Steamship Co., Ltd.: *Arctic Ocean.*
13762	Indian Ocean Steamship Co., Ltd.: *Indian Ocean.*
13763	K. & P. Compania Naviera S.A.: *Lagada Bay.*
13764	Euroflot S.A.: *Galia.*
13765	River Co-op Co., Ltd.: *Slurry Express.*
13767	Honma Suisan Kabushiki Kaisha: *Katsu Maru No. 81.*
13769	Korea Express Shipping Co., Ltd.: *Dong Woon, Se Woon.*
13771	Raven Bay Shipping Co., Ltd.: *Elkina.*
13772	S.P.A. Copesca: *Gabriella C., Maria C., Giovanni Cefalu.*
13773	Booth Nicaragua S.A.: *Albert J. Ruppel.*
13774	Team Ship VII Ltd.: *Britannia Team, Gothia Team.*
13775	Marcovista Shipping Corp.: *Markos.*
13776	Chagres Compania Naviera S.A.: *Jonni.*
13777	Maritima Ordaz C.A.: *Simms 2, Simms 3, Simms 4.*
13778	Kommanditselskabet Scandinavian Partnership II: *Panstar, Danstar.*
13779	Partenreederei Ms Sonne: *Sonne.*
13789	G. C. Service Co., Inc.: *MST-17.*
13781	Navios Merchant, Inc.: *Navios Merchant.*
13782	Dalei Kaiun Sangyo Kabushiki Kaisha: *Tokyo Reefer.*
13783	South Fortune Shipping, Inc.: *South Fortune.*
13784	A. Radcliffe Steamship Co., Ltd.: *Stolt Llandaff.*
13785	Great American Lines, Inc.: *Sunbelt Dixie.*
13787	Tsuneishi Kaiun Yugen Kaisha: *Harima Maru, Scandinavia Maru.*
13788	Eisho Sangyo K.K.: *Northern Highway.*
13791	Ever Voyager Line Corp.: *Ever Voyager.*
13792	Elounda Shipping Corp.: *Elounda.*
13793	Rutherford Shipping, Inc.: *Levant.*
13794	Korea Shipbuilding and Engineering Corp.: Oration: *Stolt Seoul.*
13796	Avior Maritime Corp.: *Mount Olympos.*
13797	Galleon Shipping Corp.: *Galleon Pearl.*
13798	Saint Mary S.A.: *Saint Chris.*
13802	Mark Shipping Corp.: *Elka.*
13806	Shipmonde Fourth Shipping Co. S.A.: *Baltic Freezer.*
13808	Varassova Shipping Co. S.A.: *Falcon.*
13809	Odin Shipping Co. Pte. Ltd.: *Cherry Vesta.*
13810	Marcoluna Shipping Corp. S.A. Panama: *Angelina The Great.*
13813	Ashleam Bay Shipping Co., Ltd.: *African Violet.*
13814	Kommanditselskapet A/S Motore: *Seahorse.*
13815	Waltham Maritime, Inc. Co. Ltd.: *Blue Sky.*
13816	Kentavros Shipping Co. S.A. Panama: *Anastasios C.*
13819	Maritime Co. Pandora S.A.: *Christina C.*
13820	Scheide Sleepvaart Bedrijf N.V.: *OSA Ghent, OSA Ostend.*
13828	Good Faith Navigation Co., Inc.: *Young Statesman.*
13833	Sohtorik (Shipping and Trading), Inc.: *Norse Transporter.*
13837	West Pacific Carriers, Inc.: *Hawaiian Sun.*
13885	Foyle Navigation Co., Inc.: *Maritime Noble.*
13887	Marine Fueling Service Inc.: *Luminella.*
99008	American Trading Transportation Co., Inc.:* *Baltimore Trader.*
99017	B. P. Tanker Co., Ltd.:* *British Renown.*
99049	Third Shipmor Associates:* *Overseas New York.*
99050	West Coast Shipping Co.:* *Avila, Lompoc, Santa Maria, Santa Paula, Sansinena II.*
99051	Bulk Food Carriers, Inc.:* *Michelle F.*
99052	Fourth Shipmor Associates:* *Overseas Washington.*
99053	Chestnut Shipping Co.:* *Chestnut Hill.*
99054	Interocean Tanker Corp.:* *Southern Lion.*
99055	Ocean Tankships Corp.:* *Overseas Vivian.*
99056	Ocean Transportation Co., Inc.:* *Overseas Aleutian, Overseas Ulla.*
99058	Ingram Ocean Systems Inc.:* *Carole G. Ingram, Martha R. Ingram, IOS 3301, IOS 3302.*
99059	Interstate and Ocean Transport Co.:* *Interstate 50, Interstate 52, Interstate 53, Interstate 54.*
99060	Newport Tankers Corp.:* *Achilles.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-13626 Filed 5-18-78; 8:45 am]

[6730-01]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to part 542 of title 46 CFR.

Certificate No.	Owner/Operator and Vessels
01055	Farrell Lines Inc.: *Adm. Wm. H. Callaghan, Export Freedom, Export Leader, Export Patriot, Lightning, Staghound, Red Jacket, Defiance, Great Republic, Young America, Export Courier, Export Agent, Export Aide, Export Challenger, Export Champion, Export Banner, Export Bay, Export Builder, Export Buyer, Export Defender, Export Diplomat, Export Democracy, Export Ambassador, Export Adventurer, Export Commerce.*
01069	Oglebay Norton Co.: *Ernest T. Weir.*
01116	Trade Ambassador Line Inc.: *Pericles G. C.*
01557	Knut Knutsen O.A.S.: *John Bakke.*
01582	Bibolini Societa Di Navigazione S.P.A.: *Sertum.*
01841	Chas. Kurz. & Co. Inc.: *Chilbar.*
02138	SCNO Barge Lines Inc.: *M/V Bronville, M/V Crescent City, M/V Fort Pierre, M/V Jefferson City, M/V Kansas City, M/V Lexington, Mr. Cole, M/V Nebraska City, M/V Omaha, M/V Robert Crown, M/V Sioux City, M/V Brother Collins, SCNO-1101, SCNO-1102, SCNO-1201, SCNO-1202, SCNO-1203, SCNO-1204, SCNO-1250, SCNO-1251, SCNO-1301, SCNO-1302, SCNO-1303, SCNO-1304, SCNO-1305, SCNO-1306 SCNO-1307, SCNO-1308, SCNO-1309, SCNO-1310, SCNO-1311, SCNO-1312, SCNO-1313, SCNO-1314, SCNO-1315, SCNO-1316, SCNO-1317, SCNO-1318, SCNO-1319, SCNO-1320, SCNO-1321, SCNO-1322, SCNO-1323, SCNO-1324, SCNO-1325, SCNO-1326, SCNO-1601, SCNO-1602, SCNO-1603, SCNO-1327B.*
02168	D/S A/S Vestland: *Sagaland.*
02461	Puget Sound Freight Lines: *Barkley Sound.*
02551	Ellerman Lines, Ltd.: *City of Durban.*
02582	Jugoslavenska Tankerska Plovidba Oour Jugotanker: *Nin.*
02604	Rever Sugar Refinery (a subsidiary of Ingredient Technology Corp.: *Revere Barge No. 1.*
02611	Franz Hagen: *Negah.*
03074	Montemar S.A.: *Sudelmar II.*
03139	Offshore Marine, Ltd.: *Dee Shore.*
03256	Riverway Co.: *Mary L. Hornet.*
03501	Osaka Shosen Mitsui Senpaku K.K.: *Atlas Maru, Suzukasan Maru.*
03517	Tokyo Kaiji Kabushiki Kaisha: *Sendan Maru, Byakudan Maru.*
03614	A/S Kristian Jebsens Rederi: *Frines.*
03893	Skaarup Shipping Corp.: *Gold Bond Trailblazer.*
04081	Jugoslavenska Oceanska Plovidba Kotor: *Kordun.*
04184	M/G Transport Service, Inc.: *Hugh B. Steper.*
04260	Atlantic Navigation Corp. Ltd.: *Theresa.*
04283	Gulf of Georgia Towing Co., Ltd.: *Seaspan Commander.*
04398	Hapag-Lloyd Aktiengesellschaft: *Nurnberg Express.*

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Certificate No.	Owner/Operator and Vessels
04502	Kotoshiro Gyogyo Kabushiki Kaisha: *Kotoshiro Maru No. 38.*
04562	Okada Kaiun Kabushiki Kaisha: *Mighty, Gallant, Hiroshima Maru, Bravery, North Atlantic Maru.*
04834	Tidewater Barge Lines, Inc.: *64.*
05123	Kinkai Yusen Kabushiki Kaisha: *Hokuto Maru.*
05537	Empresa Navegacion Mambisa: *Sandino, Xi Festival.*
05579	Black Sea Shipping Co.: *Unan Avetisyan, Petr Starostim, Andrian Goncharov, Inzhener Yamburrenko.*
05792	Korea Wonyang Fisheries Co., Ltd.: *Beag Du San No. 6.*
06248	Commercial Corp. Sovryboflot: *Vasily Polenov, 18 Sieed Vilkam.*
16510	Compagnie Nationale Algerienne De Navigation C.N.A.N.: *Batna.*
06709	Ahjin Haewoon Jushik Hosea: *Harngjin, Yoonjin.*
06906	Directia Navigatiei Maritime Navrom: *Lotru, Motru, Salva, Viseu, Agnita, Calan, Cimpulung, Muscel, Focsani, Segarcea, Soveja, Saliste, Alba Iulia, Busteni, Dej, Fagaras, Fagel, Faurei, Filiasi, Floresti, Frasinet, Snagov, Tirnareni, Topoloveni, Frunzanesti, Olanesti, Simeria, Teleorman, Neptun, Dumbraveni, Gheorghieni, Plopeni, Sadova, Sadu, Sachele.*
06995	Novrossilsk Shipping Co.: *Boris Butoma.*
07215	Iwate Prefectural Goverment: *Riasu Maru No. 1.*
07366	Compagnie Maritime Des Chargeurs Reunis: *Cap Taillat.*
08323	Marifran S.A.: *Cetbo, Santisima Trinidad.*
08617	Fairmont Enterprises, Ltd.: *Pacific Glory, Hudson Bay, Oriental Merchant, Pacific Pride.*
08699	Taikyu Suisan Kabushiki Kaisha: *Koyo Maru No. 15.*
09189	Government of the Trust Territory of the Pacific Islands: *Micro Trader, Micro Spirit.*
09301	Scott Chotin, Inc.: *Sugarland.*
09516	Filadelfos Cia De Navegaceon S.A.: *Filadelfos.*
10253	Tenn-Tom Towing, Inc.: *B 12, JGH, 33, RWH 43.*
10260	Hollywood Marine, Inc.: *Hollywood 1001.*
10829	Egyptian Navigation Co.: *Al Anfushi.*
10771	Alexandria Shipping & Navigation Co.: *Eihab I.*
11243	Compania Naviera Garoufalia S.A.: *Thistle Star.*
11286	Binion Marine Service, Inc.: *Binmar 2101, Binmar 2102, Binmar 1301.*
11590	Leo Shipping Co., Ltd.: *Oriental Forest.*
11646	Swift Marine, Inc.: *SM-8, SM-9.*
11755	Newgate Shipping Co., Ltd.: *Sunnyway.*
11787	Inlet Marine, Inc.: *Miami, 22, Beluga.*
11873	Columbia Marine Lines, Inc.: *603.*
11937	Latonia Marine Co., LD.: *Hope.*
12051	Asahi Gyogyo Kabushiki Kaisha: *Tomi Maru No. 88.*
12962	Radiant Navigation Co., Ltd., S.A.: *Abs.*
13573	Silver Wind Shipping Co. S.A. of Panama: *Silver Wind.*
13803	Destiny Shipping Corp.: *Oinoussian Destiny.*
13804	Castor Maritime, Inc.: *Ai-Nikolas.*
13805	Transvenezuelian Shipping Co. S.A.: *Caribbean Memories.*
13602	Empresa Antillana De Salvamento: *Siboney, Caribe.*
13874	River & Gulf Transportation Co.: *RGT 917, RGT 918, RGT 919, RGT 920, RGT 921, RGT 922, RGT 1011, RGT 1015, RGT 903, RGT 1003, RGT 1007, RGT 901, RGT 902, RGT 926, RGT 927, RGT 928, RGT 1001, RGT 1005, RGT 1009, RGT 1013, RGT 1010, RGT 1014, RGT 1012, RGT 1016, RGT 1004, RGT 1008, RGT 1002, RGT 1006, Steel Explorer, Steel Rover, RGT 909, Steel Ranger, Steel Trader, Steel Express, Steel Clipper, Steel Pioneer, RGT 923, RGT 924, RGT 925, Steel Patriot, RGT 904, RGT 911, RGT 912, RGT 913, RGT 914, RGT 915, RGT 916, RGT 905, RGT 906, RGT 907, RGT 908, RGT 909.*
13880	Ocean Oil Tankship Corp.: Golar Petrosun.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-13627 Filed 5-18-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 1174]

SPIES SHIPPING CORP.

Order of Revocation

On May 15, 1978, Spies Shipping Corp., 26 Broadway, New York, N.Y. 10004, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1174 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1174 issued to Spies Shipping Corp. be and is hereby revoked effective May 15, 1978.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Spies Shipping Corp.

ROBERT M. SKALL,
Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 78-13675 Filed 5-18-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

P. M. FINANCIAL CORPORATION, INC.

Formation of Bank Holding Company

F. M. Financial Corp., Inc. Claflin, Kans., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 88.66 percent of the voting shares of The Farmers and Merchants State Bank, Claflin, Kans. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 7, 1978.

Board of Governors of the Federal Reserve System, May 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 13676 Filed 5-18-78; 8:45 am]

[6210-01]

FIRST CORPORATION

Formation of Bank Holding Company

First corporation, Henderson, Ky., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 90 per cent or more of the voting shares of The First National Bank of Henderson, Henderson, Ky. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c).

First Corporation, Henderson, Ky., has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Peoples Security Finance Co., Inc., and Peoples Security Investment, Inc., both located in Madisonville, Ky. Notice of the application was published on April 1, 1978, in The Gleaner Journal, a newspaper circulated in Henderson, Ky.; on April 2, 1978, in Messenger-Inquirer, a newspaper circulated in Owensboro, Ky.; on April 3, 1978, in The Paducah Sun-Democrat, a newspaper circulated in Paducah, Ky., in The Messenger, a newspaper circulated in Madisonville, Ky., and in Kentucky New Era, a newspaper circulated in Hopkinsville, Ky.; on April 5, 1978, in Times Argus, a newspaper circulated in Central City, Ky.; and on April 6, 1978, in Franklin Favorite, a newspaper circulated in Franklin, Ky., and in Logan Leader and News Democrat, a newspaper circulated in Russellville, Ky.

Applicant states that the proposed subsidiary would engage in the activities of entering into consumer extensions of credit and acting as insurance agent with respect to the sale of credit life and credit accident and health insurance in connection with consumer extensions of credit. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound, banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 14, 1978.

Board of Governors of the Federal Reserve System, May 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13677 filed 5-18-78; 8:45 am]

[6210-01]

VILLA GROVE BANCSHARES, INC.

Formation of Bank Holding Company

Villa Grove Bancshares, Inc., Villa Grove, Ill., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of Villa Grove State Bank, Villa Grove, Ill. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Federal Reserve Bank, to be received not later than June 9, 1978.

Board of Governors of the Federal Reserve System, May 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13678 Filed 5-18-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on May 11, 1978 (FMC, FTC), and May 12, 1978 (NRC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FMC, FTC and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before June 6, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL MARITIME COMMISSION

The FMC requests an extension, without change, clearance of General Order 14—Shippers' Requests and Complaints Report (46 CFR 527). The report is submitted quarterly to the Commission by each conference and each other body with ratemaking authority under an approved agreement and covers all shippers' requests and complaints received during the preceding 3-month period and the disposition of such requests or complaints. The information furnished assists the Commission in determing the adequacy of the handling of shippers' requests and complaints in the foreign commerce of the United States. The FMC estimates there is a universe of approximately 100 respondents filing 4 reports each year with an estimated reporting time which averages 10 hours per reponse.

The FMC requests an extension, without change, clearance of voluntary Form FMC-9, Information Circular, This circular requests information concerning the methods of operation and the business status of common carriers by water and others engaged in the foreign commerce of the U.S. subject to the Shipping Act, 1916. The information furnished assists the Commission in its daily operations through knowledge of those it regulates. The FMC estimates there is a universe of approximately 500 respondents filing one report per year (or as the occasion requires), with an estimated reporting time of 3 hour per report.

FEDERAL TRADE COMMISSION

The FTC requests clearance of a new, single-time, voluntary questionnaire to be sent to approximately 17 major automobile lessors. The questions in the questionnaire relate primarily to the disclosures made to customers at the time leases are transacted, the terms of the leases, and the methods by which leased automobiles are appraised. The survey is being conducted to determine the extent of the automobile leasing industry's compliance with the Consumer Leasing Act, Pub. L. 94-240, 90 Stat. 257 (1976) (to be codified at 15 U.S.C. §§ 1667-1667e). The Act constitutes Chapter 5 of the Federal Truth in Lending Act. It applies to companies leasing personal property to consumers for personal, family or household purposes. The FTC bears enforcement responsibility for the Consumer Leasing Act vis-a-vis most non-bank lessors. Response to the questionnaire is requested within 30 days from its date of receipt. The FTC estimates reporting time will average approximately 12 hours per response.

The FTC requests clearance of a new, single-time, voluntary Warranty Information Letter, pursuant to the authority granted in the Magnuson-Moss Warranty—Federal Trade Commission Act, (15 U.S.C. 2301 et seq). The FTC's Bureau of Consumer Protection, Division of Product Reliability, will mail this letter to a maximum of 500 consumer product manufacturers throughout the United States. This universe represents an average of 50 manufacturers within a potential maximum of 10 consumer product industries. The inquiry will identify those manufacturers whose written warranties do not comply with abovementioned statutes or the Commission's Rules promulgated thereunder. The Federal Trade Commission estimates that the burden to respondents will average 4 hours per response.

NUCLEAR REGULATORY COMMISSION

The NRC requests an extension, without change, clearance of Form NRC-2, Application for Source Material License. This application form requires specific information relating to the quantity and type of source material to be possessed, the purpose for which the material will be used, an evaluation of the potential radiation hazards associated with each step of the proposed process, training and experience of applicant or his personnel and a description of applicant's equipment and facilities which will be used to protect health and minimize danger to life or property. Potential respondents are commercial and industrial firms, universities and individuals. The NRC estimates it will receive approximately 20 applications annually and reporting burden will average 8 hours per application, and 100 renewals will be filed for which reporting burden will average 1 hour per response.

JOHN M. LOVELADY,
Assistant Director, Regulatory Reports Review.

[FR Doc. 78-13628 Filed 5-18-78; 8:45 am]

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[6280-24]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 64; Docket No. INS 1200]

PUBLIC UTILITIES COMMISSION OF COLORADO

Proposed Intervention Utility Rate Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Public Utilities Commission of Colorado involving an application of Public Service Co. of Colorado for an increase in rates charged for gas and electric service. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, within thirty (30) days of the publication of this notice in the FEDERAL REGISTER, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: May 9, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-13565 Filed 5-18-078; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

SOCIAL SCIENCES RESEARCH REVIEW COMMITTEE

Meeting Change

INFR Document 78-9596 appearing on page 15776 in the issue of Friday, April 14, 1978, the dates for the meeting of this committee have been changed from May 25-27, 1978, to May 24-27, 1978. As a result the meeting will be open to the public from 9 to 9:30 a.m., May 24 instead of May 25 as previously announced. All other arrangements for the meeting remain as announced April 14.

Dated: May 11, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-13354 Filed 5-18-78; 8:45 am]

[4110-86]

Center for Disease Control

CENTER FOR DISEASE CONTROL (CDC) PROGRAMS AND POLICIES ADVISORY COMMITTEE (AD HOC)

Extension

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, the CDC announced the establishment by the Secretary of Health, Education, and Welfare, on December 19, 1977, of the CDC Programs and Policies Advisory Committee (Ad Hoc). Notice was announced in FEDERAL REGISTER, Vol. 43, No. 14, pages 2940-2941, January 20, 1978.

On May 1, 1978, the Secretary of Health, Education, and Welfare approved an extension of the committee from May 1 through June 30, 1978. Authority for this committee will expire June 30, 1978, unless the Secretary formally determines that continuation is in the public interest.

Dated: May 11, 1978.

WILLIAM H. FOEGE,
Director, Center for Disease Control.

[FR Doc. 78-13619 Filed 5-18-78; 8:45 am]

[1110-03]

Food and Drug Administration

[Docket No. 77N-0085]

COMMITTEE FOR A STUDY ON SACCHARIN AND FOOD SAFETY POLICY

Meeting on Saccharin and Its Salts

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that the National Academy of Sciences/National Research Council (NAS/NRC) Committee for a Study on Saccharin and Food Safety Policy will hold a public meeting to receive the views of all interested persons on the subject of saccharin and its impurities. This public meeting will be held in the auditorium of the National Academy of Sciences Building, 2101 Constitution Ave. NW., Washington, D.C. 20418, from 9 a.m. to 3 p.m. on June 19, 1978.

FOR FURTHER INFORMATION CONTACT:

David Goldsmith, National Academy of Sciences (NAS-341), 2101 Constitution Ave. NW., Washington, D.C. 20418, 202-389-6907.

SUPPLEMENTARY INFORMATION: The Saccharin Study and Labeling Act (SSLA), Pub. L. 95-203, became law on November 23, 1977. Among its provisions, the SSLA, which requires a warning on the label and labeling of food containing saccharin, placed an 18-month moratorium on FDA action concerning saccharin. The SSLA also directs FDA first to request NAS to conduct saccharin studies and, if NAS agrees, to enter into an agreement to implement the studies. The studies will include an evaluation of available information on saccharin and its impurities and an assessment of current food safety policy.

This notice announces that the NAS/NRC Committee for a Study on Saccharin and Food Safety Policy will conduct a public meeting on June 19, 1978 from 9 a.m. to 3 p.m. in the auditorium of the National Academy of Sciences Building, on the exclusive subject of saccharin and its impurities. A future meeting will address other issues dealing with food safety policy.

To schedule the public meeting, the committee must be informed of the number of persons who wish to participate and the amount of time requested to give their views. Accordingly, any interested person who wishes to appear at the public meeting to make an oral presentation should send a written request by June 12, 1978 to Mr. David Goldsmith, National Academy of Sciences (NAS-341), 2101 Constitution Ave. NW., Washington, D.C. 20418. Requests must be postmarked before June 12, 1978, and should state the subject of the presentation. Depending on the number of requests, the committee may impose a time limit for each presentation. Individuals and organizations with common interests are urged to consolidate their presentations. Committee and panel members and Academy staff will respond to questions from the floor during a question and answer period.

All submitted material will be incorporated in the record of committee activities. A copy of each request to participate should be sent to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and will be placed on public display in that office.

Any interested person may, in lieu of an oral presentation, submit written views, which will become part of the committee record.

Written views should be addressed to Mr. David Goldsmith at the address noted above, and must be postmarked before June 12, 1978. A copy of any written views should be sent to the Hearing Clerk, Food and Drug Administration, to be placed on public display in that office.

Dated: May 16, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13705 Filed 5-18-78; 8:45 am]

[4110-03]

CONSUMER PARTICIPATION

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: This document announces a forthcoming Consumer Representative Ad Hoc Meeting in Baltimore, Md. The agenda will include the following:

(1) Overview of the Food and Drug Administration;
(2) Current information on food;
(3) Drug labeling;
(4) Cosmetic new ingredient labeling;
(5) Medical devices:
(a) Hearing aids;
(b) Quackery;
(6) Radiation—benefits and risks.

DATE: The meeting will be held from 9 a.m. to 12:30 p.m., Wednesday, June 7, 1978.

ADDRESS: The meeting will be held in the Maryland State Highway Hearing Room, 300 West Preston Street, Room 100, Baltimore, Md. 21201

FOR FURTHER INFORMATION CONTACT:

Alexander Grant, Special Assistant for Consumer Affairs (HFG-1), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1547.

Dated: May 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner, for Regulatory Affairs.

[FR Doc. 78-13590 Filed 5-18-78; 8:45 am]

[4110-03]

CONSUMER PARTICIPATION

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming Consumer Representative Ad Hoc Meeting in Charleston, WV. The agenda will include the following:

(1) Overview of the Food and Drug Administration (FDA);
(2) FDA interactions;
(3) Estrogen;
(4) Brand vs. generic drugs;
(5) Drug labeling;
(6) Food additives;
(7) Cosmetics.

DATE: The meeting will be held from 9 a.m. to 2:30 p.m. on Thursday, June 1, 1978.

ADDRESS: The meeting will be held in the Auditorium of the West Virginia University Medical Building, 3110 MacCorkle Avenue SE., Charleston, W. Va. 25304.

FOR FURTHER INFORMATION CONTACT:

Alexander Grant, Special Assistant for Consumer Affairs (HFG-1), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1547.

Dated: May 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner, for Regulatory Affairs.

[FR Doc. 78-13591 Filed 5-18-78; 8:45 am]

[4110-03]

[Docket No. 78F-0141]

MARSHALL MINERALS, INC.

Filing of Petition for Food Additive Permitted in Animal Feed

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Marshall Minerals, Inc., has submitted a petition proposing that the regulations be amended to provide for the safe use of gentian violet as an aid in controlling fungus and mold growth in poultry feed.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (MF-3703) has been submitted by Marshall Minerals, Inc., P.O. Box 506, Bainbridge, Ga. 31717, proposing that the food additive regulations under part 573 (21 CFR Part 573) be amended to provide for the safe use of gentian violet in a feed premix at a level of 1.60 percent to be added to feed at a rate of 1 pound per ton as an aid in controlling fungus and mold growth in poultry feed.

The petition had been found inadequate for filing under § 571.1 (21 CFR 571.1) of the food additive regulations. However, as a result of an action brought by Marshall Minerals, Inc., filed on December 13, 1977 and in conformity with the judgment entered on April 19, 1978 by the United States District Court for the Middle District of Georgia, the petition is deemed to be filed and this notice has been issued. (See *Southeastern Minerals, Inc. and Marshall Minerals, Inc.* v. *Califano et al.*, Civil Action No. 77N-51 (M. D. Ga. April 19, 1978). The government disagrees with the decision in this case and is considering an appeal.)

The environmental impact analysis report submitted by the petitioner under § 25.1(b)(11) (21 CFR 25.1(b)(11)) has been found incomplete in the absence of specific data supporting safety of gentian violet and specific details of the blending process.

Dated: May 12, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-13474 Filed 5-18-78; 8:45 am]

[4110-03]

[Docket No. 78G-0133]

PROCTER & GAMBLE CO.

Filing of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Procter & Gamble Co. has filed a petition (GRASP MF-3710) proposing affirmation that cellulose fines used as a feedstuff for livestock are generally recognized as safe (GRAS).

DATE: Comments by July 18, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food an Drug Administration, Rm. 4-65, 5600 fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HEV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1786 as amended (21 U.S.C.

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321(s), 348, 371(a))) and the regulations for affirmation of GRAS status (§ 570.35 (21 CFR 570.35)), notice is given that a petition (GRASP MF-3710) has been filed by Procter & Gamble Co., 6100 Center Hill Rd., Cincinnati, Oh 45224, and placed on public display at the office of the Hearing Clerk, proposing affirmation that cellulose fines used as a source of carbohydrates in feeds for ruminants are generally recognized as safe (GRAS).

The petition states that cellulose fines are a byproduct of the production of wood pulp from hardwoods by the sulfite process and that they consist of short fibers separated from the wood pulp after most of the lignin and hemicelluloses have been removed by treatment with acid sulfite cooking liquor and washing. The petition proposes that cellulose fines shall consist predominantly of cellulose and may also contain hemicelluloses, lignin, lipids derived from the wood, mineral matter, lignin sulfonates, not more than 0.5 percent guar gum modified with 2, 3-epoxypropyltrimethyl ammonium chloride, and trace impurities consistent with good manufacturing practices. The petition also proposes that cellulose fines may be supplied for use in feed in a wet or dry state, but on a dry matter basis must contain at least 75 percent total carbohydrates and not more than 6 percent ash.

Any petition that meets the format requirements outlined in § 570.35 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus the filing of a petition for GRAS a affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before July 18, 1978, review the petition and/or file comments (in quadruplicate) with the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

Dated: May 12, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc 78-13475 Filed 5-18-78; 8:45 am]

[4110-92]

Office of Human Development Services

[Program Announcement No. 13628-781]

CHILD ABUSE AND NEGLECT GRANTS PROGRAM

Fiscal Year 1978 Research Grants

AGENCY: National Center on Child Abuse and Neglect/Children's Bureau ACYF, HDS, HEW.

SUBJECT: Announcement of availability of grant funds for fiscal year 1978 Child Abuse and Neglect Grants program research grants.

SUMMARY: The Administration for Children, Youth and Families announces that applications are being accepted for research grants for fiscal year 1978. This program is authorized by the Child Abuse Prevention and Treatment Act, as amended. (Pub. L. 93-247.) Regulations applicable to this program are 45 CFR part 1340 and 45 CFR part 220.

DATES: The closing dates for receipt of applications are July 14, 1978, and September 30, 1978.

SCOPE OF THIS PROGRAM ANNOUNCEMENT

This program announcement is one of four for the Child Abuse and Neglect Grants program:

Research grants. These grants were identified under the child abuse and neglect research and demonstration priority statement published in the FEDERAL REGISTER, January 23, 1978. These projects reflect a need to address gaps in knowledge about the causes and effects of child abuse and neglect, as well as to support creative approaches initiated by social scientists in the field.

A. PROGRAM PURPOSE

The primary purpose of the child abuse and neglect research grants is to support the development of new knowledge which will aid in efforts to prevent and treat child abuse and neglect.

B. ELIGIBLE APPLICANTS

Public and private nonprofit organizations and institutions of higher learning may apply for a grant under this announcement.

C. AVAILABLE FUNDS AND GRANTEE SHARE OF PROJECT

The total appropriation for the fiscal year 1978 Child Abuse and Neglect program is $18.928 million. The amount requested for fiscal year 1979 is approximately $21.3 million. Of these amounts, approximately $100,000 of fiscal year 1978 funds and $500,000 of fiscal year 1979 funds have been allocated for new research projects. A non-Federal share of 5 percent of the total cost of each research project is required as a part of this grants program. Grantees' shares may be in the form of cash or in-kind contributions. Projects will be supported for a period sufficient to allow the research efforts to produce significant findings. Initial project periods may be from one to three years; additional support will be based on a competitive review with new and other continuing applicants. The initial grant will sustain the Federal share of the budget for the first year of the project. Continuation funding depends upon the satisfactory performance of the project and the availability of funds.

D. PROGRAM OBJECTIVES

Applications are solicited for projects which reflect the following program objectives:

1. *For field-initiated research projects.* To advance the understanding of child maltreatment, contribute to the improvement of current programs and provide insights into new approaches to preventing and reducing the problem and its consequences. (As part of the International Year of the Child, ACYF will welcome proposals addressing comparative multinational research projects on the handling of known and suspected cases of child abuse and neglect.)

2. *For longitudinal research on the causes and effects of child maltreatment.* To develop explanatory theories of child maltreatment and its consequences based on holistic, rather than reductionist, explanations of the multiple factors involved over time for more than one generation.

Additional information is provided in the program guidance which accompanies the necessary application forms.

E. THE APPLICATION PROCESS

Availability of application forms. Organizations and agencies wishing to apply under this grant program may request application forms from:

National Center on Child Abuse and Neglect, Children's Bureau/Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013.

Application submission. In order to be considered for a grant under the Child Abuse and neglect Grants program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations of the program.

One signed original and two copies of the grant application, including all attachments, are required.

Applications sent by mail should be addressed as follows:

Department of Health, Education, and Welfare, Office of Human Development Services/Switzer Buyilding, Grants management Branch—Room 1457, 330 C Street SW., Washington, D.C. 20201.

Application consideration. The Commissioner for Children, Youth, and Families determines the final action to be taken with respect to grant applications. All applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the program office. The results of the review assist the Commissioner in considering competing applications. The Commissioner's consideration also takes into account comments of the HEW regional offices and headquarters program office. Comments may also be requested from appropriate specialists and consultants inside and outside the Federal Government.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants are notified in writing of that decision. Successful applicants are notified through issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, the total grantee participation expected and the total period for which support is contemplated.

F. CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Competing grant applications will be reviewed and evaluated by a panel of reviewers/field readers against the following criteria:

1. That the estimated cost to the Government of the project is reasonable considering the anticipated results.

2. That project personnel are or will be well qualified and the applicant organization has or will have adequate facilities and resources.

3. That the proposed procedures or work program, if well executed, will be capable of attaining project objectives.

4. That the applicant's project objectives are identical with or are capable of achieving the specific program objectives defined in the program announcement and the program guidance.

5. That the applicant has included all necessary formal agreements with cooperating agencies.

6. That the proposed project period is reasonable, considering anticipated results.

G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing dates for receipt of applications under this program announcement are:

1. *For field-initiated research projects.* July 14, 1978.

2. *For longitudinal research on the causes and effects of child maltreatment.* September 30, 1978.

Applications received after the closing date, at 5:30 p.m., will be considered ineligible and will not be reviewed and evaluated. The competitive review process is scheduled to be completed and grant awards made: (1) for field-initiated research projects, in September 1978; and (2) for longitudinal research on the causes and effects of child maltreatment, in November 1978.

An application sent by mail will be considered to be received on time by ACYF, if:

a. The application was sent by registered or certified mail not later than July 11, 1978, and September 27, 1978, for the respective sets of projects, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

b. The application is received on or before the closing date by the DHEW mail room in Washington, D.C.

An application delivered by hand must be taken to OHDS, Room 1427 Switzer Building, 330 C Street SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 5:30 p.m. (eastern time), except Saturdays, Sundays, and Federal holidays.

(Catalog of Federal Domestic Assistance Program Number: 13.628—Child Abuse and Neglect Prevention and Treatment.)

Dated: April 17, 1978.

BLANDINA CARDENAS,
Commissioner, Administration for Children, Youth, and Families.

Approved: May 15, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-13667 Filed 5-18-78; 8:45 am]

[4110-92]

[Program Announcement No. 13628-782]

CHILD ABUSE AND NEGLECT GRANTS PROGRAM

Fiscal Year 1978 Demonstration Grants

AGENCY: National Center on Child Abuse and Neglect/Children's Bureau ACYF, HDS, HEW.

SUBJECT: Announcement of availability of grant funds for fiscal year 1978 child abuse and neglect grants program demonstration grants.

SUMMARY: The Administration for children, youth, and families announces that applications are being accepted for demonstration grants in fiscal year 1978. This program is authorized by the Child Abuse and Neglect Prevention and Treatment Act, as amended (Pub. L. 93-247). Regulations applicable to this program are 45 CFR Part 1340 and 45 CFR Part 220.

DATES: The closing date for receipt of applications is July 14, 1978.

SCOPE OF THIS PROGRAM ANNOUNCEMENT

This program announcement is one of four for the child abuse and neglect grants program: *Demonstration projects.* These projects reflect emphases which are built upon past demonstration activities supported by the National Center on Child Abuse and Neglect. These emphases include support of projects with modest budgets to allow for potential institutionalization into on-going service programs, a shift from increasing public awareness to the improvement of prevention and treatment services, a focus on treatment for children, as well as parents, improvement of public child protective services, and a particular sensitivity to the special cultural and linguistic needs of minority children and families. The projects included in this program announcement include ones which address: (1) treatment of specific forms of child maltreatment; (2) remedial services for abused and neglected children; (3) court handling of child maltreatment cases; (4) development of improved procedures for the investigation and correction of the abuse and neglect of children in residential institutions; and (5) targeting of resource development and enhancement for specific professional groups and minority populations (including migrant farmworkers). A related program announcement (program announcement No. 13628-783) includes additional sets of projects aimed at the provision of services for abused and neglected children and their families through the auspices of public child protection agencies and community-based human service agencies (including social service, medical, mental health, educational and law enforcement agencies).

Funding procedures will be designed to achieve an equitable distribution of grants among the States, among geographic areas of the Nation and among urban and rural areas.

A. PROGRAM PURPOSE

The primary purpose of the Child Abuse and Neglect Demonstration Grants is to support the operational design, testing and evaluation of new and refined service techniques and service delivery approaches in preventing and treating child abuse and neglect.

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B. ELIGIBLE APPLICANTS

1. *Clinical demonstration of specialized treatment of: child sexual abuse, adolescent maltreatment, substance abuse-related child maltreatment, and child neglect.*—Public and private nonprofit organizations currently providing services to children and families may apply for a grant under this announcement. In the case of Child Sexual Abuse projects, hospital-based agencies may not apply, though hospital-associated agencies may do so. In the case of substance abuse-related child maltreatment projects, only ongoing drug or alcohol treatment service agencies or child protection agencies may apply.

2. *Clinical demonstration of remedial services for abused and neglected children.*—Public and private nonprofit organizations currently providing therapeutic, developmental or educational services to children or providing child protective services may apply for a grant under this announcement.

3. *Improved juvenile court handling of child protective cases, including provision of legal counsel and guardian Ad Litem.*—Juvenile or family courts (or other civil courts having jurisdiction over child neglect, child abuse and dependency cases) may apply for a grant under this announcement.

4. *Investigation and correction of child abuse and neglect in residential institutions.*—State agencies cited in accordance with the eligibility requirements of Pub. L. 93-247 as the properly constituted authority for the investigation of child abuse and neglect in residential institutions or any other State agencies, independent of service delivery agencies, with legal authority for the investigation and correction of child abuse and neglect in residential institutions may apply for a grant under this announcement.

5. *National resource centers for professional and minority populations.*—National professional membership associations in fields serving children and families (including social welfare, education, health, judicial, and law enforcement) and minority group organizations (including migrant farmworker organizations) with capability for national program implementation may apply for a grant under this program announcement.

C. AVAILABLE FUNDS

The total appropriation for the fiscal year 1978 child abuse and neglect program is $15.928 million. Of that amount, approximately $4,280,000 has been allocated to the child abuse and neglect demonstration grants program. Projects will be supported in the amount and for the period specified below:

1. *Clinical demonstration of specialized treatment of: child sexual abuse, adolescent maltreatment, substance abuse-related child maltreatment, and child neglect.*—Approximately 12 projects in amounts ranging from $90,000 to $130,000 each per year for a project period of 3½ years.

2. *Clinical demonstration of remedial services for abused and neglected children*—Approximately four projects in amounts ranging from $90,000 to $130,000 each per year for a project period of 3½ years.

3. *Improved juvenile handling of child protective cases, including provision of legal counsel and guardian ad litem.*—Approximately four projects in amounts ranging from $100,000 to $200,000 each for the first 2 years, $80,000 to $160,000 each for the third year, and $65,000 to $130,000 each for the fourth year, for a total project period of 4 years.

4. *Investigation and correction of child abuse and neglect in residential institutions.*—Approximately four projects in amount ranging from $65,000 to $80,000 each per year for a total project period of 3 years.

5. *National resource centers for professionals and minority populations.*—Approximately six projects in amounts ranging from $100,000 to $150,000 each per year for a total project period of 3 years.

The initial grant will sustain the Federal share of the budget for the first year of the project. Continuation funding depends upon satisfactory performance of the project and the availability of funds.

D. PROGRAM OBJECTIVES

Applications are solicited for projects which reflect the following program objectives:

1. *Clinical demonstration of specialized treatment of: child sexual abuse, adolescent maltreatment, substance abuse-related child maltreatment, and child neglect.*—a. To generate additional knowledge about the nature, causes, effects and promising preventive, treatment and child protective approaches to the specified form of child maltreatment.

b. To develop new or the refine existing service techniques for dealing with the unique needs of the children and families involved in the specified form of child maltreatment.

c. To develop and test new or refined approaches to the delivery of services needed by children and families involved in the specified form of child maltreatment.

d. To meet the preventive, treatment and child protective service needs as well as other indentified service needs of the children and families served by the projects.

e. To identify resource needs associated with the specified form of child maltreatment including staff qualifications and configurations, staff training, management and administrative processes and program funding.

2. *Clinical demonstration of remedial services for abused and neglected children.*—a. To generate additional knowledge about the nature, causes, effects and promising approaches to the remendiation of the effects of maltreatment on children.

b. To develop new or to refine existing service techniques for dealing with the unique needs of abused and neglected children.

c. To develop and test new or refined approaches to the delivery of services needed by abused and neglected children.

d. to meet the need of abused and neglected children for remedial services as well as to meet the other identified service needs of the children and families served by the projects.

e. To identify resource needs associated with services to remediate the effects of maltreatment on children, including staff qualifications and configurations, staff training, management and administrative processes and program funding.

3. *Improved juvenile court handling of child protective cases, including the provision of legal counsel and guardian ad litem.*—a. To generate additional knowledge about the mission and capabilities of juvenile courts and related services to assist community-wide efforts to identify and treat child abuse and neglect.

b. To identify and demonstrate methods of improving the handling of child protective cases by juvenile courts.

c. To identify and demonstrate methods of providing counsel for the parties and counsel or caseworker/guardian *ad litem* for the children in child protective proceedings.

d. To identify and demonstrate guidelines for improved judicial decision-making in child protective proceedings.

e. To identify and demonstrate methods of improving the management of court records through the use of modern technology (such as word processing and statistical systems).

4. *Investigation and correction of child abuse and neglect in resedential institutions.*—a. To generate additional knowledge about the nature, causes, effects and promising preventive, treatment and child protective approaches to the abuse and neglect of children in residential institutions.

b. To identify and demonstrate methods of encouraging reports of known and suspected child abuse and neglect in all types of residential institutions.

c. To identify and demonstrate methods of receiving reports of known and suspected child abuse and neglect and their investigation by an independent agency.

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d. To identify and demonstrate methods of taking corrective action in substantiated cases of child abuse and neglect in all types of residential institutions.

e. To identify methods that other State, local and citizen groups may use to prevent the abuse and neglect of children in all types of residential institutions.

5. *National resource centers for professionals and minority populations.*—a. To identify and demonstrate methods of raising professional awareness of child abuse and neglect issues and service needs.

b. To identify and demonstrate methods of improving professional skills in dealing with child abuse and neglect.

c. To identify and demonstrate methods of fostering interdisciplinary cooperation.

d. To identify and demonstrate methods of increasing the cultural and linguistic sensitivity of existing agencies and professionals dealing with child abuse and neglect.

e. To identify and demonstrate methods of improving and expanding minority participation in child abuse and neglect prevention and treatment efforts.

Additional information is provided in the Program Guidance which accompanies the necessary application forms.

E. THE APPLICATION PROCESS

Availability of application forms: Organizations and agencies wishing to apply under this grant program may request application forms from:

National Center on Child Abuse and Neglect, Children's Bureau/Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013.

A-95 Clearinghouse Notice: In compliance with the Department of Health, Education, and Welfare's implementation of Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Areawide A-95 Clearinghouses of the intent to apply for Federal assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the state Clearinghouse. Some State and Area Clearinghouses provide their own forms on which such information is to be submitted. Applicants should contact the appropriate State Clearinghouse (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application submission: In order to be considered for a grant under the Child Abuse and Neglect Grants Program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations of the Program.

One signed original and two copies of the grant application, including all attachments, are required.

Applications sent by mail should be addressed as follows:

Department of Health, Education, and Welfare, Office of Human Development Services/Switzer Building, Grants Management Branch-Room 1457, 330 C Street SW., Washington, D.C. 20201.

Application consideration: The Commissioner for Children, Youth and Families determines the final action to be taken with respect to grant applications. All applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the program office. The results of the review assist the Commissioner in considering competing applications. The Commissioner's consideration also takes into account comments of the A-95 Clearinghouses, the HEW Regional Offices and Headquarters program office. Comments may also be requested from appropriate specialists and consultants inside and outside the Federal government.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants are notified in writing of that decision. Successful applicants are notified through issuance of a Notice of Grant Awarded which sets forth the amount of the funds granted, the terms or conditions of the grant, the effective date of the grant, the budget period for which support is given, the total grantee participation expected and the total period for which support is contemplated.

F. CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Competing grant applications will be reviewed and evaluated by a panel of reviewers/field readers against the following criteria:

1. That the estimated cost to the Government of the project is reasonable considering the anticipated results.

2. That project personnel are or will be well qualified and the applicant organization has or will have adequate facilities.

3. That the proposed procedures or work programs, if well executed, will be capable of attaining project objectives.

4. That the project objectives are identical with or are capable of achieving the specific program objectives defined in the program announcement.

5. That the applicant has included all necessary formal agreements with cooperating agencies and certifications of agreement to cooperate with NCCAN-initiated evaluations of the demonstration program.

G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this program announcement is July 14, 1978. Applications received after the closing date, at 5:30 p.m., will be considered ineligible and will not be reviewed and evaluated. The competitve review process is scheduled to be completed and grant awards made in September 1978.

An application sent by mail will be considered to be received on time by ACYF, if:

a. The application was sent by registered or certified mail not later than July 11, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

b. The application is received on or before the closing date by the DHEW mail room in Washington, D.C.

An application delivered by hand must be taken to OHDS, Room 1427 Switzer Building, 330 C Street SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 5:30 p.m. (e.s.t.), except Saturdays, Sundays and Federal holidays.

(Catalog of Federal Domestic Assistance Program Number: 13.628—Child Abuse and Neglect Prevention and Treatment.)

Dated: April 17, 1978.

Approved: May 15, 1978.

BLANDINA CARDENAS,
Commissioner, Administration for Children, Youth and Families.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-13668 Filed 5-18-78; 8:45 am]

[4110-92]

[Program Announcement No. 13628-783]

CHILD ABUSE AND NEGLECT GRANTS PROGRAM

Fiscal Year 1978 Service Improvement Grants

AGENCY: National Center on Child Abuse and Neglect/Children's Bureau, ACYF, HDS, HEW.

SUBJECT: Announcement of Availability of Grant Funds for fiscal year 1978 child abuse and neglect grants program, Service Improvement Grants.

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SUMMARY: The Administration for Children, Youth, and Families announces that applications are being accepted for service improvement grants for fiscal year 1978. This program is authorized by the Child Abuse Prevention and Treatment Act, as amended (Pub. L. 93-247). Regulations applicable to this program are 45 CFR part 1340 and 45 CFR part 220.

DATES: The closing date for receipt of applications is July 14, 1978.

SCOPE OF THIS PROGRAM ANNOUNCEMENT

This program announcement is one of four for the child abuse and neglect grants program, Service Improvement Projects. These projects were identified under the Child Abuse and Neglect Research and Demonstration priority statement published in the FEDERAL REGISTER, January 23, 1978. These projects reflect the need to provide support for service improvements and service expansion in preventing and treating child abuse and neglect. Funding procedures will be designed to achieve an equitable distribution of grants among States, among geographic areas of the Nation, and among rural and urban areas.

A. PROGRAM PURPOSE

The primary purpose of the Child Abuse and Neglect Service Improvement Grants is to support the implementation of effective, proven program components by existing child protection and other human service agencies (including medical, social service, educational, mental health, and law enforcement agencies) which have the potential for providing services to prevent and treat child abuse and neglect.

B. ELIGIBLE APPLICANTS

1. Child protection agency program improvements. Public Child Protection Agencies at the State, sub-State regional and metropolitan or local levels may apply for a grant under this announcement.

2. Community-based prevention and treatment. Public and private nonprofit agencies providing direct services to children and families may apply for a grant under this announcement to support services consistent with their overall missions. Such agencies are defined to include health, mental health, school, law enforcement, child care, and other human service agencies.

C. AVAILABLE FUNDS AND GRANTEE SHARE OF PROJECT

The total appropriation for the fiscal year 1978 child abuse and neglect program is $18.928 million. Of this amount, approximately $2.4 million has been allocated for Child Abuse and Neglect Service Improvement projects. A non-Federal share of project financial support is required in the case of the Community-Based Prevention and Treatment projects, as described below. The non-Federal share may be in the form of cash or in-kind contributions.

Projects will be supported in the amount and for the period specified below:

1. *Child protection agency program improvements.* Approximately 10 projects in amounts ranging from $80,000 to $120,000 each per year for a project period of 2 years.

2. *Community-based prevention and treatment.* Approximately 10 projects in amounts ranging from $80,000 to $120,000 each for the first year, $60,000 to $100,000 each for the second year, and $40,000 to $60,000 each for the third year, for a project period of 3 years. The non-Federal share of project budgets will be 0 percent in the first year, 20 percent in the second year, and 50 percent in the third and final year of the project period.

The initial grant will sustain the Federal share of the budget for the first year of the project. Continuation funding depends upon satisfactory performance of the project and the availability of funds.

D. PROGRAM OBJECTIVES

Applications are solicated for projects which reflect the following program objectives:

1. For child protection agency program improvements. To improve the delivery of child protective services through the installation of additional or modified program components in child protection agencies.

2. For community-based prevention and treatment. (a) To prevent child abuse and neglect by providing services to the host agency's general clientele which improve family capacities to adequately care for children.

(b) To prevent child abuse and neglect by encouraging self-referrals and providing early preventive services to vulnerable families.

(c) To assist public child protection agencies through prompt identification and reporting of known and suspected cases of child abuse and neglect.

(d) To assist diagnostic and treatment efforts of child protection agencies by accepting referrals from them to provide necessary family-supportive services.

Additional information is provided in the program guidance which accompanies the necessary application forms.

E. THE APPLICATION PROCESS

Availability of application forms. Organizations and agencies wishing to apply under this grant program may request application forms from: National Center on Child Abuse and Neglect, Children's Bureau/Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013.

A-95 clearinghouse notice. In compliance with the Department of Health, Education, and Welfare's implementation of Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and areawide A-95 clearinghouses of the intent to apply for Federal assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State clearinghouse. Some State and area clearinghouses provide their own forms on which such information is to be submitted. Applicants should contact the appropriate State clearinghouse (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application submission. In order to be considered for a grant under the child abuse and neglect grants program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations of the program.

One signed original and two copies of the grant application, including all attachments, are required.

Applications sent by mail should be addressed as follows:

Department of Health, Education, and Welfare, Office of Human Development Services/Switzer Building, Grants Management Branch, Room 1457, 330 C Street SW., Washington, D.C. 20201, 13628—783.

Application consideration. The Commissioner for Children, Youth, and Families determines the final action to be taken with respect to grant applications. All applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the program office. The results of the review assist the Commissioner in considering competing applications. The Commissioner's consideration also takes into account comments of the A-95 clearinghouses, the HEW Regional Offices and headquarters program office. Comments may also be requested from appropriate specialists and consultants inside and outside the Federal Government.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants are notified in writing of that decision. Succesful applicants are notified through issuance of a notice of grant awarded which sets forth the amount of funds granted, the terms or conditions of the grant, the effective date of the grant, the budget period for which support is given, the total grantee participation expected, and the total period for which support is contemplated.

F. CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Competing grant applications will be reviewed and evaluated by a panel of reviewers/field readers against the following criteria:

1. That the estimated cost to the Government of the project is reasonable considering the anticipated results.

2. That project personnel are or will be well qualified and the applicant organization has or will have adequate facilities.

3. That the proposed procedures or work program, if well executed, will be capable of attaining project objectives.

4. That the project objectives are identical or are capable of achieving the specific program objectives defined in the program announcement and the program guidance.

5. That the applicant has included all necessary formal agreements with cooperating agencies.

6. That the applicant has included a definite plan for the institutionalization of the program components to be funded by the grant; and, in the case of community-based prevention and treatment applications, that the applicant has included a definite plan for the assumption of the increased non-Federal share during the second and third years of the project period.

G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this program announcement is July 14, 1978. Applications received after the closing date, at 5:30 p.m., will be considered ineligible and will not be reviewed and evaluated. The competitive review process is scheduled to be completed and grant awards made in September 1978.

An application sent by mail will be considered to be received on time by ACYF, if:

(a) The application was sent by registered or certified mail not later than July 11, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(b) The application is received on or before the closing date by the DHEW mail room in Washington, D.C.

An application delivered by hand must be taken to OHDS, Room 1427, Switzer Building, 330 C Street SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 5:30 p.m. (eastern time), except Saturdays, Sundays, and Federal holidays.

(Catalog of Federal Domestic Assistance Program No.: 13.628—Child Abuse and Neglect Prevention and Treatment.)

Dated: April 17, 1978.

BLANDINA CARDENAS,
Commissioner, Administration for Children, Youth and Families.

Approved: May 15, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-13669 Filed 5-18-78; 8:45 am]

[4110-92]

[Program Announcement No. 13628-784]

CHILD ABUSE AND NEGLECT GRANTS PROGRAM

Fiscal Year 1978 Regional Child Abuse and Neglect Resource Center Grants

AGENCY: National Center on Child Abuse and Neglect/Children's Bureau ACYF, HDS, HEW.

SUBJECT: Announcement of Availability of Grant Funds for Fiscal Year 1978 Child Abuse and Neglect Grants Program: Regional Child Abuse and Neglect Resource Center Grants.

SUMMARY: The Administration for Children, Youth and Families announces that applications are being accepted for Regional Child Abuse and Neglect Resource Center grants for Fiscal Year 1978. This program is authorized by the Child Abuse Prevention and Treatment Act, as amended. (Pub. L. 93-247.) Regulations applicable to this program are 45 CFR Part 1340 and 45 CFR Part 220.

DATE: The closing date for receipt of applications is July 14, 1978.

SCOPE OF THIS PROGRAM ANNOUNCEMENT

This program announcement is one of four for the Child Abuse and Neglect Grants Program: Regional Child Abuse and Neglect Resource Centers. These centers are authorized by Sections 2(b), 4(a), and 5 of Pub. L. 93-247. The National Center on Child Abuse and Neglect supported 16 demonstration resource centers between December 1974 and June 1978. In planning for future Federal efforts to prevent and treat child abuse and neglect, NCCAN determined that certain crucial activities could best be undertaken by a modified continuation of the resource center program. Budgetary constraints led to a decision to reduce the number of resource centers from 16 centers to 10 centers.

A. PROGRAM PURPOSE

The primary purpose of the Regional Child Abuse and Neglect Resource Centers is to support State and local efforts to prevent and treat child abuse and neglect. One Regional Child Abuse and Neglect Resource Center will be established by a grant awarded on a competitive review basis in each of the ten HEW Federal Regions. (See Appendix 1.)

B. ELIGIBLE APPLICANTS

Public and private nonprofit organizations or institutions of higher learning may apply for a grant under this announcement. Applicants must be physically located within the geographical Region which they propose to serve at the time application is submitted, and must have the capability of serving all parts of the Regional (multi-state) jurisdiction, including Indian reservations, military installations and migrant farm worker communities. Applications for grants to serve in geographical Regions other than the ones from which the applications are submitted will be considered ineligible and will not be reviewed.

C. AVAILABLE FUNDS

The total appropriation for the fiscal year 1978 Child Abuse and Neglect program is $18.928 million. Of that amount, $2.5 million has been allocated to the Regional Child Abuse and Neglect Resource Center grants program. Funds available for each Regional Resource Center are based upon a formula that includes consideration of child population (under age 18) and geographical/travel requirements. The anticipated funding for fiscal year 1978 is the following:

Region I	$223,220
Region II	240,324
Region III	248,820
Region IV	295,492
Region V	302,407
Region VI	261,420
Region VII	220,442
Region VIII	241,090
Region IX	257,414
Region X	209,369

A local match is not required as a part of this grant program. Projects will be supported for a period not to exceed four years and the initial grant will sustain the Federal share of the budget for the first year of the project. Continuation funding depends upon the satisfactory performance of the project and the availability of funds.

D. PROGRAM OBJECTIVES

Applications are solicited for projects which reflect the following program objectives:

1. To act as Regional libraries of printed and audiovisual materials and as disseminators of information and materials on the prevention, identifi-

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cation and treatment of child abuse and neglect.

2. To facilitate interstate sharing and coordination of program innovations and child protection planning processes.

3. To assist in establishing and improving training programs, with specific focus on improving the capabilities of professionals and paraprofessionals with child protective service responsibilities to respond with sensitivity to cultural and linguistic minority group clients.

4. To assist state and local agencies and organizations within each Region to address Region-specific objectives for improving and expanding child abuse and neglect prevention and treatment services. (Development of subobjectives to implement this objective will be deferred to the first quarter of the grant year.)

5. To organize and facilitate the provision of multidisciplinary child abuse and neglect case consultation, especially to small communities where such consultation is not otherwise readily available.

These objectives are meant to be multidisciplinary and to assist States and local communities in developing, expanding and improving their child protective systems.

Additional information is available in Program Guidance which accompanies the necessary application forms.

E. THE APPLICATION PROCESS

Availability of application forms. Organizations and agencies wishing to apply under this grant program may request application forms from:

National Center on Child Abuse and Neglect, Children's Bureau/Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013.

A-95 clearinghouse notice. In compliance with the Department of Health, Education, and Welfare's implementation of Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Areawide A-95 Clearinghouses of the intent to apply for Federal assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State Clearinghouse. Some State and Area Clearinghouses provide their own forms on which such information is to be submitted. Applicants should contact the appropriate State Clearinghouse (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application submission. In order to be considered for a grant under the Child Abuse and Neglect Grants Program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations of the Program.

One signed original and two copies of the grant application, including all attachments, are required.

Applications sent by mail should be addressed as follows:

Department of Health, Education, and Welfare, Office of Human Development Services/Switzer Building, Grants Management Branch, Room 1457, 330 C Street SW., Washington, D.C. 20201, 13628-784.

Application consideration. The Commissioner for Children, Youth and Families determines the final action to be taken with respect to grant applications. All applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the program office. The results of the review assist the Commissioner in considering competing applications. The Commissioner's consideration also takes into account comments of the A-95 Clearinghouses, the HEW Regional Offices and Headquarters program offices. Comments may also be requested from appropriate specialists and consultants inside and outside the Federal Government.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants are notified in writing of that decision. Successful applicants are notified through issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, the total grantee participation expected, and the total period for which support is contemplated.

F. CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Competing grant applications will be reviewed and evaluated by a panel of reviewers/field readers against the following criteria:

1. That the estimated cost to the Government of the project is reasonable considering the anticipated results.

2. That project personnel are or will be well qualified and the applicant organization has or will have adequate facilities and resources.

3. That the proposed procedures or work program, if well executed, will be capable of attaining project objectives.

4. That the project objectives are identical with or are capable of achieving the specific program objectives defined in the program announcement.

5. That the applicant demonstrates familiarity, experience, and effectiveness in assisting service-providers to enhance prevention and treatment of child abuse and neglect in the Region within which it is to serve.

6. That the applicant certifies willingness to cooperate with established procedures to measure and evaluate performance.

G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications for this program announcement by July 14, 1978. Applications submitted after the closing date, at 5:30 p.m., will be considered ineligible and will not be reviewed. The competitive review process is scheduled to be completed and grant awards are to be made in August 1978.

An application sent by mail will be considered to be received on time by ACYF, if:

a. The application was sent by registered or certified mail not later than July 11, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

b. The application is received on or before the closing date by the DHEW mail room in Washington, D.C.

An application delivered by hand must be taken to OHDS, Room 1427, Switzer Building, 330 C Street SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 5:30 p.m. (Eastern Time), except Saturdays, Sundays, and Federal holidays.

(Catalog of Federal Domestic Assistance Program No. 13.628, Child Abuse and Neglect Prevention and Treatment.)

Dated: April 17, 1978.

BLANDINA CARDENAS,
Commissioner, Administration for Children, Youth, and Families.

Approved: May 15, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

APPENDIX 1—THE FEDERAL HEW REGIONS

Region I—Connecticut, New Hampshire, Maine, Vermont, Massachusetts, and Rhode Island.

Region II—New Jersey, New York, the U.S. Virgin Islands, and Puerto Rico.

Region III—Maryland, Delaware, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

Region IV—North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Mississippi, and Kentucky.

Region V—Ohio, Indiana, Illinois, Wisconsin, Michigan, and Minnesota.

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Region VI—Louisiana, Arkansas, Oklahoma, Texas, and New Mexico.

Region VII—Kansas, Missouri, Iowa, and Nebraska.

Region VIII—Colorado, Utah, Montana, Wyoming, North Dakota, and South Dakota.

Region IX—Arizona, Nevada, California, Hawaii, Guam, and the Pacific Trust Territories.

Region X—Alaska, Idaho, Oregon, and Washington.

[FR Doc. 78-13670 Filed 5-18-78; 8:45 am]

[4110-02]

Office of Education

DESEGREGATION OF PUBLIC EDUCATION

Extension of Closing Date for Receipt of Applications

The Commissioner of Education extends the May 19, 1978 deadline for filing applications for awards under Title IV of the Civil Rights Act of 1964. This deadline was published in the FEDERAL REGISTER on March 20, 1978 (43 FR 11686). The new deadline will be 30 days following publication of final regulations governing awards under Title IV. Proposed regulations for Title IV were published in the FEDERAL REGISTER on March 20, 1978. The proposed regulations are being reviewed in light of public comment on them. The deadline is being extended to give applicants sufficient time to submit or amend their applications to take into account any changes in the regulations when they are published in final form.

The Commissioner will publish a new notice of closing date with the final regulations. That notice will include instructions for submitting applications and program information.

FOR INFORMATION CONTACT:

Mr. Elton W. Ridge, Room 2001, FOB-6, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-8484.

(Catalog of Federal Domestic Assistance Number 13.405, Civil Rights Technical Assistance and Training Programs.)

Dated: May 16, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-13993 Filed 5-18-78; 8:45 am]

[4110-02]

VETERANS' COST-OF-INSTRUCTION PAYMENTS PROGRAM—PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 420 of the Higher Education Act of 1965, applications for funds are being accepted from institutions of higher education under the Veterans' Cost-of-instruction Payments Program.

Applications must be received by the Veterans' Cost-of-Instruction Program Branch, U.S. Office of Education on or before June 19, 1978.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: Veterans' Cost-of-Instruction Program Branch, U.S. Office of Education, Bureau of Higher and Continuing Education, Room 3514, ROB Three, Seventh and D Streets, SW., Washington, D.C. 20202. Attention: 13.540. An application sent by mail will be considered to be received on time by the Veterans' Cost-of-Instruction Program Branch if: (1) The application was sent by registered or certified mail not later than June 14, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or (2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education, Veterans' Cost-of-Instruction Program Branch, Room 3514, ROB 3, Seventh and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. up to and including the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Veterans' Cost-of-Instruction Program Branch, U.S. Office of Education, Bureau of Higher and Continuing Education, Room 3514, ROB 3, Seventh and D Streets, SW., Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program appear at 45 CFR Part 189, and amendments published on November 3, 1977 (42 FR 57638).

(20 U.S.C. 1070e-1)

(Catalog of Federal Domestic Assistance Program Number 13.540: Higher Education—Cost of Veterans' Instruction (VCIP).)

Dated: May 16, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-13994 Filed 5-18-78; 8:45 am]

[4110-08]

National Institutes of Health

CARCINOGENESIS PROGRAM SCIENTIFIC REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Carcinogenesis Program Scientific Review Committee, June 14, 1978, Landow Building, Room 4C18, Woodmont Avenue, Bethesda, Md. 20014. The meeting will be open to the public on June 14, 1978, from 8:30 to 9 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 14, 1978, from 9 a.m. to adjournment, for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information about individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708, will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Carl E. Smith, Executive Secretary, National Cancer Institute, Landow Building, Room 8C37, National Institutes of Health, Bethesda, Md. 20014, 301-496-4141, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.393, National Institutes of Health.)

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-13390 Filed 5-18-78; 8:45 am]

[4110-08]

GENERAL RESEARCH SUPPORT PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Research Support Program Advisory Committee, Division of Research Resources, June 13 and 14, 1978, in Conference Room 6, Building 31-C, National Institutes of Health, Bethesda, Md. 20014.

The meeting will be open to the public from 9 to 11 a.m. on June 13 to discuss administrative matters relating to the biomedical research support

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program and the biomedical research development program.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 13, 1978, from 11 a.m. to 5 p.m. and on June 14 from 9 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications submitted to the biomedical research development program. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, Building 31, Room 5B-13, National Institutes of Health, Bethesda, Md. 20014, 301-496-5545, will provide summaries of the meeting and rosters of the committee members. Dr. Sidney A. McNairy, Jr., Executive Secretary of the General Research Support Program Advisory Committee, Room 5B-31, Building 31, National Institutes of Health, Bethesda, Md. 20014, 301-496-6743, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.337, National Institutes of Health.)

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13388 Filed 5-18-78; 8:45 am]

[4110-08]

BIOMEDICAL LIBRARY REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, on June 19-20, 1978, from 8:30 a.m. to 5 p.m. on June 19, and from 8:30 a.m. to adjournment on June 20, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Md.

This meeting will be open to the public from 8:30 to 11 a.m. on June 19 for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 19 from 11 a.m. to 5 p.m., and from 8:30 a.m. to adjournment on June 20 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Md. 20014, telephone: 301-496-4191, will provide summaries of the meeting, rosters of committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—National Institutes of Health.)

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13391 Filed 5-18-78; 8:45 am]

[4110-08]

NATIONAL COMMISSION ON DIGESTIVE DISEASES

Amended Notice of Meeting

Notice is hereby given of a date correction in one of the three National Commission on Digestive Diseases meetings published in the FEDERAL REGISTER on May 5, 1978, 43 FR 19465.

The first of the three meetings was inadvertently published as being held July 1-4, 1978, and should have been published as being held June 1-4, at the Cherry Hill Inn, Cherry Hill, N.J. The remaining two meetings will be held as originally published; that is, July 20-22, Coolfont Conference Center, Berkeley Springs, W. Va., and August 17-19, Minary Conference Center, Dartmouth College, Hanover, N.H., for the purpose of drafting and reviewing the draft of the long range plan. The three meetings are open to the public.

(Catalog of Federal Domestic Assistance Program No. 13.484, National Institutes of Health.)

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13384 Filed 5-18-78; 8:45 am]

[4110-08]

COMMUNICATIVE SCIENCES STUDY SECTION

Amended Notice of Meeting

Notice is hereby given of a change in the meeting date and time of the Communicative Sciences Study Section, Division of Research Grants, which was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18260).

The Communicative Sciences Study Section was originally scheduled to meet June 14-16, 1978, but will meet June 13-16, 1978, in Conference Room 7, Building 31, National Institutes of Health, Bethesda, Md., the same location for which it was originally scheduled.

The meeting will convene on June 13, 1978, at 6 p.m. The open portion of this meeting will be held at this time for approximately 1 hour. The following sessions (June 14, 15, 16) will convene at 8:30 a.m.

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13389 Filed 5-18-78; 8:45 am]

[4110-08]

POPULATION RESEARCH COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on June 7-9, 1978, in the Landow Building, Room 4C-18, 7910 Woodmont Avenue, Bethesda, Md.

This meeting will be open to the public on June 7, from 9 to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 7 from 10:30 a.m. to adjournment on June 9 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Md., Area Code 301-496-1848, will provide a summary of the meeting and a roster of committee members. Dr. William A. Sadler, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 7C-33, National Institutes of Health, Bethesda, Md. Area Code 301-496-6515, will furnish substantive program information.

(Catalog of Federal domestic Assistance Program No. 13.864, National institutes of health.)

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Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13387 Filed 5-18-78; 8:45 am]

[4110-08]

MEETINGS

Amended Notice

Notice is hereby given of a change in the meeting dates of the following National Institutes of Health Study Sections which were published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18260):

The Cardiovascular and Pulmonary Study Section was to have met June 13-17, 1978, but will meet June 14-17, 1978, at 8 a.m. at the DuPont Plaza Hotel, Washington, D.C., the same time and location for which it was originally scheduled.

The Cardiovascular and Renal Study Section was to have met June 7-10, 1978, but will meet June 7-9, 1978 at 9 a.m. at the Holiday Inn, Bethesda, Md., the same time and location for which it was originally scheduled.

The Metabolism Study Section was to have met June 21-24, 1978, but will meet June 22-24, 1978, at 8:30 a.m. in Conference Room 10, Building 31, National Instututes of Health, Bethesda, Md., the same time and location for which it was originally scheduled.

The Neurology A Study Section was to have met May 31-June 3, 1978, but will meet May 31-June 2, 1978, at 9 a.m. in Conference Room 8, Building 31, National Institutes of Health, Bethesda, Md., the same time and location for which it was originallly scheduled.

These meetings will be open to the public for approximately 1 hour at the beginning of the first session of the first day of the meeting.

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13383 Filed 5-18-78; 8:45 am]

[4410-08]

REPORT ON BIOASSAY OF 3-NITROPROPIONIC ACID FOR POSSIBLE CARCINOGENICITY

Availability

3-Nitropropionic acid (CAS 504-88-1) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 3-nitropropionic acid (95% pure) for possible carcinogenicity was conducted by administering the test chemical by gavage to Fischer 344 rats and B6C3F1 mice.

Groups of 50 rats and 50 mice of each sex were administered 3-nitropropionic acid at one of the following doses by gavage 5 days per week. For male rats, the doses were 0.425 or 0.85 mg/animal/day; for females, they were 0.6 or 1.2 mg/animal/day. For both sexes of mice, the doses were 0.375 or 0.75 mg/animal/day. The rats were administered the chemical for 110 weeks and the mice for 104 weeks. The controls consisted of 50 untreated rats and 50 untreated mice of each sex. All surviving rats were killed at 111 weeks and all surviving mice at 104 or 105 weeks.

Mean body weights and mortality of the dosed animals were not markedly affected by 3-nitropropionic acid under the conditions of this bioassay, indicating that the maximum tolerated dose may not have been reached. The various clinical signs observed were common to both dosed and control groups.

It is concluded that under the conditions of this bioassay, there was an elevated incidence of hepatocellular neoplasms, primarily benign, and of islet-cell adenomas of the pancreas in male Fischer 344 rats receiving 3-nitropropionic acid as compared with controls; however, there was no conclusive evidence that 3-nitroproponic acid was carcinogenic in these animals. The chemical was not carcinogenic in female rats or in male or female B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: May 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-13382 Filed 5-18-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 2,4-DINITROTOLUENE FOR POSSIBLE CARCINOGENICITY

Availability

2,4-Dinitrotoluene (CAS 121-14-2) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of practical-grade 2,4-dinitrotoluene for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. 2,4-Dinitrotoluene was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species. For male and female rats, the high and low time-weighted average dietary concentrations of 2,4-dinitrotoluene were 0.02 and 0.008 percent, respectively. For male and female mice, the high and low time-weighted average concentrations were 0.04 and 0.008 percent, respectively. After a 78-week period of compound administration, observation of the rats continued for an additional 26 weeks and observation of the mice continued for 13 additional weeks.

For the chronic rat bioassay, 25 rats of each sex were placed on test as high dose controls, and 50 rats of each sex served as the low dose controls. For the mice, 50 males and 50 females were placed on test as controls for each of the high dose and low dose groups.

In both species the survival in all groups was adequate for statistical analysis of late-appearing tumors.

Under the conditions of this bioassay dietary administration of 2,4-dinitrotoluene to Fischer 344 rats induced benign tumors (i.e., fribroma of the skin and subcutaneous tissue in males and fibroadenoma of the mammary gland in females). No evidence was provided for the carcinogenicity of the compound in B6C3F1 mice of either sex.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: May 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-13381 Filed 5-18-78; 8:45 am]

[4110-12]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will hold its Family Policy Task Force meeting on Thursday, June 8, 1978 from 7 p.m. to 10 p.m., and, on Friday, June 9, 1978 from 9 a.m. to 3 p.m., in Room 423-A, HEW-

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Herbert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The agenda will include a discussion of day care, White House Conference on Families, domestic violence, social security, and other issues within health, education, and welfare pertaining to family policy.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: May 11, 1978.

SUSAN C. LUBICK,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 78-13631 Filed 5-18-78; 8:45 am]

[4110-12]

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will hold its Health Task Force meeting on Thursday, June 8, 1978 from 7 p.m. to 10 p.m., and, on Friday, June 9, 1978 from 9 a.m. to 3 p.m., in Room 425—A, HEW-Hurbert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The agenda will include a discussion of Departmental initiatives including women and youth and alcoholism, teenage pregnancy, national health insurance, and other issues within health, education, and welfare pertaining to health.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: May 11, 1978.

SUSAN C. LUBICK,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 78-13630 Filed 5-18-78; 8:45 am]

[4110-39]

National Institute of Education

INFORMATION AND DATA ACQUISITION ACTIVITY

Collection; Opportunity for Comments

Pursuant to section 406g(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Institute of Education is proposing an information and data acquisition activity which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

This data acquisition activity as described below is also subject to review by the HEW Education Data Acquisition Council.

Written comments on the proposed activities are invited. Comments should refer to the form number and must be received on or before (insert date 30 days from date of publication), and should be addressed to the Administrator, National Center for Education Statistics, Attn: Management Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from the Project Officer, John Egermeier, Dissemination and Resources Group, National Institute of Education, 202-254-5928.

Dated: May 18, 1978.

RICHARD S. WERKSMAN,
Forms Clearance Officer, National Institute of Education.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Agency/Bureau/Office: National Institute of Education
2. Agency Form Number: NIE 196
3. Title of Proposed Activity: Evaluation of State Capacity Building Program in Dissemination
4. Legislative Authority for this Activity:

"The Institute shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on the following priority research and development needs—* * *

"(E) *improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge.*" (emphasis added) (Section 405(b)(2) of the General Education Provisions Act as amended, 20 U.S.C. 1221e.)

"In order to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of eductional research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals." (Section 405(3)(2) of the General Education Provisions Act as amended, 20 U.S.C. 1221e.)

5. Voluntary/Obligatory Nature of Response: Voluntary.
6. How Information to be Collected Will Be Used:

Background

The proposed study is an evaluation of the State Capacity Building Program in Dissemination. This program offers support to States to improve their dissemination programs. The concept of State dissemination capacity involves:

(a) A comprehensive set of resources
(b) Means of linking the client group to the resource base
(c) Leadership and management relations which facilitate provision of services.

At present, 29 States and Territories are involved in the program.

Evaluation

This study, a comprehensive effort to determine whether or not the program is meeting its goals, is designed to answer two basic questions:

(a) Is dissemination capacity being built? If so, how?

(b) Is the State Capacity Program having an effect? If so, what is the nature of the effects?

In order to answer these questions, it is necessary for the study to have a longitudinal focus and necessarily will include: (1) interviews and questionnaires with State project directors, (2) validation telephone interviews with heads of information resource centers and linking agents; (3) structured interviews with a sample of SEA officials; and (4) longitudinal surveys of users.

Use

The data collected by this effort will be used by the National Institute of Education for policy and planning development in the area of dissemination. The results of this study will provide Congress and other decisionmakers at the State and Federal levels with an evaluation of the effectiveness of the State Capacity Building Program in building the capacity of the States in educational dissemination. States have indicated that the data will be useful for their own internal evaluation and program planning. Client assessment information will fill a void in some States and supplant present instrumentation in other States and will provide project directors with information on which to base decisions concerning their projects.

7. a. Method of Collection: Mail and Interview.
b. Time of Collection: Fall 1978.
c. Frequency: Single time.
8. a. Type: Project Directors SEA.
b. Number: Universe 29.
c. Estimated Average Person-Hours Per Respondent: 2.58.
a. Type: Resource Base Administrators.
b. Number: Universe 29-35.
c. Estimated Average Person-Hours Per Respondent: 0.33.
a. Type: Linkers.
b. Number: Sample 70-90.
c. Estimated Average Person-Hours Per Respondent: 0.25.
a. Type: SEA.
b. Number: Sample 145.
c. Estimated Average Person-Hours Per Respondent: 0.25.
a. Type: Linkers.
b. Number: Sample 70-90.
c. Estimated Average Person-Hours Per Respondent: 0.06.
a. Type: Linkers.
b. Number: Sample 1730.
c. Estimated Average Person-Hours Per Respondent: 0.08.
a. Type: Resource Base Personnel.
b. Number: Sample 1730.
c. Estimated Average Person-Hours Per Respondent: 0.05.
a. Type: Clients.
b. Number: Sample 1730.
c. Estimated Average Person-Hours Per Respondent: 0.08.
a. Type: Clients.
b. Number: Sample 600.
c. Estimated Average Person-Hours Per Respondent: 0.25.
9. Information to be Collected:

Project Directors. The questionnaire, Capacity Building Indicants exercise, and interview are complementary instruments designed to obtain detailed information on all aspects of the project. The questionnaire is designed to provide information on the Contextual Characteristics, System Characteristics, and Outputs in the domains of Leadership/Management, Information Resources, Linkages and Clients. It also contains items surveying NIE program design. The interview is also designed to amplify and extend upon the information provided in the questionnaire and to provide more qualitative information than is possible with a structured questionnaire. The Capacity Building Indicants exercise is designed to measure movement towards capacity building in each of the following areas: Comprehensive Resource Base, Coordinated Resource Base, Comprehensive Linkages, Coordinated Linkages, Institutionalization and Equal Access/Equal Opportunity.

Resource Base Administrators. This individual will be asked to validate and, where necessary, elaborate upon the Project Director's responses to questions dealing with the resource base.

Linkers. This individual will be asked to validate and, where necessary, elaborate upon the Project Director's responses relative to the domain of linkage.

SEA Administrators. This interview guide is designed to collect additional confirmatory information beyond that collected from the Project Director regarding the SEA organizational climate and the perceived relationship of the SEA to LEA's.

Client Assessment Packagc. The remaining instruments in this package are designed to be completed on a sample basis to detail all the parameters surrounding an individual client's request for information and/or assistance. All forms will be utilized on a volunteer basis by participating States, and are designed to meet individual State project management needs as well as evaluation needs. The Client Assessment Package will either supplant or fill a void in those States whch have volunteered to participate in this part of the study. Participating States have rigorously reviewed the instrumentation.

Linkers. This form is designed to gather information concerning the linker's expertise (content knowledge, educational level, and experience) and demographic information (linker's position and function).

Linkers. This instrument is used to collect information concerning the client's request for service including dates, problem statement, purpose statement, information area, grade level, time span client position and status and client location. Through coding it will be possible to link the search with client utilization and satisfaction data.

Resource Base Personnel. The purpose of this instrument is to capture information about the information and/or resource search process in response to a service request.

Clients. For a sample of clients, an immediate feedback form will be sent which deals with the information and/or assistance received (timeliness, relevancy, usefulness, completeness) and overall satisfaction (would reuse services, would recommend services).

Clients. A longer form for obtaining client information will be sent to a subsample of the above mentioned clients. This form will collect information on the intensity of linker/client interactions, information utilization, client follow-up, and the need for information/assistance.

[FR Doc. 78-14224 Filed 5-18-78; 11:36 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 33332, 33351, 33360, 33363, 33364 and 33365]

NEW MEXICO

Notice of Applications

MAY 11, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 7 W.,
Sec. 3, lots 1, 4, N½SE¼ and SW¼SE¼.
T. 29 N., R. 9 W.,
Sec. 11, NE¼NE¼ and N½SW¼;
Sec. 14, NW¼NW¼.

These pipelines will convey natural gas across 0.873 of a mile of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-13567 Filed 5-18-78; 8:45 am]

[4310-84]

[NM 33335]

NEW MEXICO

Notice of Application

MAY 10, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 8 W.,
Sec. 6, lot 1.

This pipeline will convey natural gas across 0.185 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 13568 Filed 5-18-78; 8:45 am]

[4310-84]

[Colorado 25379 I]

NORTHWEST PIPELINE CORP.

Notice of R/W Application for Pipeline

MAY 11, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for 4½" & 6⅝" o.d. natural gas pipeline for the Trail Canyon Gathering System approximately 1.0 mile long, across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 3 S., R. 100 W.
Sec. 30: SE¼NE¼, N½SE¼, SW¼SE¼.
Sec. 31: NW¼NE¼, NE¼NW¼.

The above-named gathering system will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau

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of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-13566 Filed 5-18-78; 8:45 am]

[4310-84]

ROCK SPRINGS DISTRICT GRAZING ADVISORY BOARD

Meeting

MAY 9, 1978.

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Rock Springs District Grazing Advisory Board will be held on June 16, 1978.

The meeting will begin at 9 a.m. in the conference room of the Bureau of Land Management office on Highway 187 North, Rock Springs, Wyo.

The agenda for the meeting will include: (1) review of charter and Board functions; (2) discussion of the status of the sandy grazing Environmental Statement and proposed Allotment Management Plans; (3) a presentation of other scheduled grazing Environmental statements and the proposed procedures; (4) utilization of range betterment funds; (5) availability of State Advisory Board funds; (6) an election of officers; (7) arrangements for the next meeting, and; (8) a reading of letters and public comment period.

The meeting is open to the public. Interested persons may make oral statements to the board during the public comment period, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901 by June 9, 1978. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

DONALD D. RIDDLE,
Acting District Manager.

[FR Doc. 78-13569 Filed 5-18-78; 8:45 am]

[4310-70]

National Park Service

FORT DUPONT PARK

Intention to Renew Concession Permit

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice (June 19, 1978), the Department of the Interior, through the Director of the National Park Service, proposes to renew the concession permit with Joseph O. Thompson, authorizing him to continue to provide mobile food service facilities and services for the public at Fort Dupont Park for a period of approximately six (6) months, from June 15, 1978, through October 30, 1978.

It has been determined that the proposed renewal of this permit does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed his obligations to the satisfaction of the Secretary under a permit, which expired by limitation of time on August 22, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. This provision, in effect, grants Joseph O. Thompson, as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new permit and a preference in the award of the permit, if the offer of mobile vending food service is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before June 19, 1978.

Interested parties should contact the Superintendent, National Capital Parks-East, 5210 Indian Head Highway, Oxon Hill, Md. 20021, Telephone: 301-563-1770; for information as to the requirements of the proposed permit.

EUGENE J. COLBERT,
Superintendent,
National Capital Parks-East.

MAY 5, 1978.

[FR Doc. 78-13624 Filed 5-18-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[AA1921-181]

RAYON STAPLE FIBER FROM BELGIUM

Notice of Investigation and Hearing

Having received advice from the Department of the Treasury on May 2, 1978, that rayon staple fiber from Belgium is being, or is likely to be, sold at less than fair value, the United States International Trade Commission on May 15, 1978, instituted investigation No. AA1921-181 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held on Tuesday, June 20, 1978, in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 9:30 a.m., e.d.t. All persons shall have the right to appear in person or by counsel, to present evidence and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, June 15, 1978.

By order of the Commission.

Issued: May 15, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-13675 Filed 5-18-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. EVEREST & JENNINGS INTERNATIONAL, EVEREST & JENNINGS, INC., AND THE JENNINGS INVESTMENT CO.

Proposed Consent Judgment Agreement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed consent judgment

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agreed to by the United States, Everest & Jennings International, Everest & Jennings, Inc. and The Jennings Investment Co. and a competitive impact statement (both of which are set forth below) have been filed with the United States District Court for the Central District of California in the case of *United States* v. *Everest & Jennings International, et al.*, Civil Action No. 77-1648-R.

The complaint in this action alleged that defendants (referred to collectively as "Everest & Jennings") violated Section 2 of the Sherman Act, 15 U.S.C. 2, by monopolizing and attempting to monopolize the manufacture and sale of wheelchairs and submarkets thereof in the United States. In partnership with an American manufacturer of rehabilitation and fracture equipment, Franklin I. Saemann ("Saemann"), Everest & Jennings participated in foreign joint ventures, Zimmer Orthopaedic Ltd. in Great Britain and Ortopedia G.m.b.H. in West Germany, both of which manufactured wheelchairs after 1955. The complaint alleged, among other things, that Everest & Jennings entered into understandings that the joint ventures would not export wheelchairs to the United States, where Everest & Jennings has had a dominant market position. It was also alleged that Everest & Jennings agreed with Saemann that Saemann's Company, Orthopedic Equipment Co. of Bourbon, Ind., would not manufacture wheelchairs. Everest & Jennings, pursuant to settlement of litigation with Saemann, in 1975 assumed full control of Ortopedia G.m.b.H., which has continued to refrain from exporting wheelchairs to the United States. Saemann since 1975 has assumed full control of Zimmer Orthopaedic Ltd. Everest & Jennings also has fully-owned subsidiaries in Canada, Everest & Jennings Canadian, Ltd.; in Mexico, Arva-Everest & Jennings S.A. de C.V.; and in Great Britain, Everest & Jennings Ltd. All of these manufacture wheelchairs, but do not export them to the United States.

The proposed Final Judgment enjoins Everest & Jennings from entering into or enforcing any agreement with any other person, including with its foreign subsidiaries, to restrict imports of wheelchairs to the United States, to allocate customers or markets within the United States, and to refuse to sell to any person in the United States. Everest & Jennings is also enjoined from preventing its foreign subsidiaries from exporting wheelchairs to the United States, and is required to inform its foreign subsidiaries not to restrict export sales to the United States and to actively seek opportunities for such sales. The Final Judgment is to be effective for ten years and imposes reporting requirements on Everest & Jennings to insure compliance.

Public comment is invited within the statutory 60 day comment period. All comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Douglas E. Rosenthal, Chief, Foreign Commerce Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: May 10, 1978.

CHARLES F. B. MCALEER,
Special Assistant for Judgment Negotiations Office of Operations.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Everest & Jennings International, Everest & Jennings, Inc. and the Jennings Investment Co.*, Defendants.

Civil No. 77-1648-R.

Filed: May 10, 1978.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings: *Provided*, That plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice on the defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever, and the making of this stipulation shall be without prejudice to plaintiff and defendants in this or any other proceeding.

Dated: May 10, 1978.

For Plaintiff: John H. Shenefield, Assistant Attorney General; William E Swope, Charles F. B. McAleer, Douglas E. Rosenthal, Carl A. Cira, Jr., Richard E. Grimm, O. Russel Murray, David J. Eiseman, Carolyn D. Wulfsberg.

For Defendants: Walter T. Kuhlmey, John S. Wilson, Jr., Thomas P. Coffey, Volney F. Morin, Volney F. Morin, Jr.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Everest & Jennings International; Everest & Jennings, Inc., and the Jennings Investment Co.*, Defendants.

Civil No. 77-1648-R.

Filed: May 10, 1978.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on May 6, 1977; plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue; and this Court having determined that there is no just reason for delay in entering a Final Judgment against the consenting defendants:

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any pary hereto with respect to any such issue, and upon consent of the parties hereto it is hereby

Ordered, adjudged and decreed as follows:

I

JURISDICTION AND VENUE

1. This Court has jurisdiction of the subject matter hereof and of the parties consenting hereto. The complaint states a claim upon which relief may be granted against the defendant under Section 2 of the Sherman Act (15 U.S.C. 2)

2. Each of the defendants transacts business and is found within the Central District of California.

II

DEFENDANTS

As used in this Final Judgment, "defendants" means:

1. Everest & Jennings International ("E&J International"), a California corporation formed September 15, 1967 with its present principal place of business in Los Angeles, California.

2. Everest & Jennings, Inc. ("E&J Inc."), a California corporation formed in 1946 and engaged in the manufacture and sale of wheelchairs in the interstate and foreign commerce of the United States with its present principal place of business in Los Angeles, California. E&J Inc. is presently 100 percent owned by E&J International.

3. Jennings Investment Company ("Jennings"), a California corporation, formed in 1955, with its present principal place of business in Los Angeles, California. Jennings is presently 100 percent owned by E&J Inc.

III

The provisions of this Final Judgment shall apply to defendants and to each of their directors, officers, agents, employees, subsidiaries, and the successors and assigns of each, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

DEFINITIONS

As used in this Final Judgment:

1. A wheelchair is a chair-like device, mounted on wheels, which provides handicapped persons with mobility, and which most commonly consists of a seat and accessories mounted on two sets of wheels, two large spoked wheels on either side of the seat and two small caster-type wheels in front. A wheelchair may be of various weights, constructed with various materials and incorporate various characteristics, such as foldability for ease handling. A wheelchair may also be electrically powered. The term "wheelchair" as used in this Final Judgment shall include wheelchairs, attachments and accessories as well as replacement parts.

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2. Person means any individual, firm, partnership, corporation, or other entity.

V

Defendant are enjoined and restrained from directly or indirectly entering into, adhering to, enforcing, claiming any rights under or in any way maintaining or attempting to secure any contract, agreement or understanding with any other person, including any of their foreign subsidiaries, with respect to the manufacture or sale of wheelchairs:

1. To limit or restrict imports into the United States,

2. To allocate, divide or restrict customers, sales territories or product markets in the United States, or

3. To refuse to sell to any person in any sales territory or geographic market in the United States.

VI

Defendants are enjoined and restrained from directly or indirectly preventing or inhibiting their foreign subsidiaries from:

1. Exporting wheelchairs to the United States,

2. Selling wheelchairs to any person or entity for shipment to the United States.

VII

Within 10 days of the entry of the Final Judgment, defendants shall, in the form of the letter attached hereto, inform the management and directors of each of their foreign subsidiaries that defendants have established the following policies, which shall remain in effect for a period of 10 years:

1. Export sales to the United States of wheelchairs manufactured by those subsidiaries are not to be restricted in any way;

2. Any arrangements between any such subsidiaries and defendants, whereby E&J, Inc. or any other defendant has exclusive distribution rights in the United States for wheelchairs manufactured by such subsidiary, are terminated, and no such arrangements shall exist for the term of this Final Judgment;

3. Opportunities to export wheelchairs manufactured by each subsidiary to the United States shall actively be sought by the management of each;

4. Each subsidiary shall have full discretion concerning the prices, terms, and conditions of export sales of wheelchairs into the United States;

5. Each subsidiary shall have full discretion to designate its own distributors and dealers for United States sales;

6. Each subsidiary is free to use trademarks other than trademarks owned by Everest & Jennings for wheelchairs to be sold into the United States; and

7. Each subsidiary shall inform its management and sales employees of these policies.

VIII

Annually, on the anniversary of the entry of this Final Judgment, defendants shall submit a written report to the plaintiff as follows:

1. For each foreign subsidiary which has not yet commenced sales of wheelchairs into the United States, defendants shall report:

(a) The reasons why such sales have not been made,

(b) The efforts made during the reporting year to explore and develop such sales possibilities, and

(c) All inquiries received concerning U.S. sales together with the response to each;

2. For each foreign subsidiary which shall have made U.S. wheelchair sales in the reporting year:

(a) The numbers and lines, types, or models sold,

(b) The persons in the United States to whom or through whom such sales were made, and

(c) The dollar amount of such sales.

IX

Defendants are enjoined and restrained from preventing or restraining, by agreement or otherwise, any person from acting as a dealer or distributor in the United States of wheelchairs made or sold by any person (including any of defendants' foreign subsidiaries) other than defendants.

X

For a period of one year from the date of entry of this Final Judgment, defendants shall immediately provide a copy of a current list of all of their dealers in the United States to any person who requests one at no cost to the requestor.

XI

Defendants and their subsidiaries are enjoined from the acquisition of any financial, equity or management interest in any other person manufacturing or selling wheelchairs in the United States, Canada, Western Europe or the British Isles without the prior approval of the plaintiff.

XII

Defendants shall provide a copy of this Judgment to all of their dealers, all of defendants' subsidiaries, and to all Veterans Administration Hospitals within 60 days of its entry by the Court. For a period of five years thereafter, defendants shall, within 30 days of the appointment of any new dealer, provide such dealer with a copy of this Final Judgment.

XIII

On the basis of this Final Judgment the Department of Justice will not recommend the filing, on behalf of any other agency of the United States Government, of any antitrust action based on the allegations of the complaint in this action.

XIV

A. For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of such defendant, who may have counsel present, regarding any such matters.

B. A defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

C. No information obtained by the means provided in this Section XIV or by Section VIII above shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States Government, except in the course of legal proceedings in which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or for law enforcement purposes, or as otherwise required by law.

D. If at the time informatioin or documents are furnished by any defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or ducumentds which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, "Rule 26(c)(7) protection claimed", then ten (10) days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

XV

Jurisdiction is retained by this Court for the purpose of enabling any of the parties consenting to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XVI

This Judgment shall be of no force or effect beyond ten years from the date of its entry.

XVII

Entry of this Judgment is in the public interest.

Dated: Los Angeles, Calif., ————————, 1978.

————————,
United States District Judge.

ATTACHMENT

[Everest & Jennings International letterhead]

DEAR ————: Pursuant to Paragraph VII of the Final Judgment entered by the Court settling the law suit brought by the U.S. Department of Justice, a copy of which is attached, you are informed that Everest & Jennings International, Everest & Jennings, Inc., and The Jennings Investment Co. have established the following policies, which will remain in effect for a period of 10 years:

1. Export sales to the United States of wheelchairs manufactured by Ortopedia GmbH, Everest & Jennings Canadian Ltd., Everest & Jennings Ltd. (England), and Arva-Everest & Jennings S.A. de C.V. are not to be restricted in any way;

2. Any arrangements between any or all of the four subsidiaries and Everest & Jennings International, Everest & Jennings, Inc., or The Jennings Investment Co. whereby any of the latter have exclusive distribution rights in the United States for wheelchairs manufactured by any of the four subsidiaries are terminated, and no such arrangements shall exist for a period of 10 years;

3. The management of each subsidiary is directed to actively seek opportunities to export wheelchairs to the United States;

4. Each subsidiary shall have full discretion concerning the prices, terms, and conditions of export sales of wheelchairs into the United States;

5. Each subsidiary shall have full discretion to designate its own distributors and dealers for United States sales; and

6. Each subsidiary is free to use trademarks other than Everest & Jennings trademarks for wheelchairs sold into the United States.

You are to inform all management and sales personnel of these policies. In addition, you are directed to maintain records of export sales of wheelchairs to the United States by lines, types or models sold and the names of the persons in the United States to whom or through whom such sales were made, records of your efforts during each year to explore and develop such sales, and records of all inquiries received concerning U.S. sales together with your response to each such inquiry.

Sincerely,

BRUCE C. BLICKENSDERFER,
Executive Vice President.

Carl A. Cira, Jr., Richard E. Grimm, O. Russel Murray, David J. Eiseman, *Antitrust Division*, U.S. Department of Justice, Washington, D.C. 20530, telephone 202-739-4428.

Carolyn D. Wulfsberg, *Antitrust Division*, U.S. Department of Justice, 3101 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012, telephone 213-688-2504, *Attorneys for Plaintiff.*

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Everest & Jennings International, Everest & Jennings, Inc.*, and *The Jennings Investment Co.*, Defendants.

Civil No. 77-1648-R.
Filed: May 10, 1978.

COMPETITIVE IMPACT STATEMENT

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INTRODUCTION

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

The three defendants, though distinct corporate entities, are essentially operated as one firm by their officers and directors. The three corporations are indistinguishable for all purposes of this Final Judgment and as used herein the term "Everest & Jennings" refers to any or all of the defendants.

The United States and the defendants have agreed, in a Stipulation, that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(e)), entry of the Judgment by the Court is conditioned upon its determination that the Judgment is in the public interest.

THE NATURE AND PURPOSE OF THE PROCEEDING

The complaint, filed May 6, 1977, charges Everest & Jennings with violating Section 2 of the Sherman Act, 15 U.S.C. 2, by monopolizing and attempting to monopolize since 1955 the manufacture and sale of wheelchairs and submarkets thereof in the United States. The complaint sought equitable relief under 15 U.S.C. 4 to prevent continuing violations of the Sherman Act by Everest & Jennings, the effects of which have been to restrain actual and potential competition in the manufacture and sale of wheelchairs in the United States.

II

EVENTS GIVING RISE TO THE ALLEGED VIOLATION OF THE ANTITRUST LAWS

By the early 1950's, Everest & Jennings sold more than 70 percent, in both unit and dollar volume, of all wheelchairs marketed in the United States. At trial, the United States would have contended that since 1955 Everest & Jennings has engaged in conduct intended to prevent its dominant market postition from being eroded by competition from new entrants into the United States wheelchair market.

The foremost example of such conduct involved Everest & Jennings' dealings with Franklin I. Saemann. In 1955, Saemann was a successful manufacturer of rehabilitation equipment in the United States and England. He owned two rehabilitation or orthopedic equipment manufacturing companies—Orthopedic Equipment Co., Bourbon, Ind., and Zimmer Orthopaedic Ltd., England—and had begun formation of a third such company, Ortopedia in Germany.

From the early 1950's, Mr. Saemann had planned to begin manufacturing wheelchairs in Europe. Since wheelchairs and rehabilitation equipment are marketed in similar manners, Mr. Saemann's considerable expertise in the manufacture and sale of rehabilitation equipment rendered him well qualified to engage in the manufacture and sale of wheelchairs.

In April, 1955, Everest & Jennings entered into agreements with Saemann which transformed Zimmer and Ortopedia into joint ventures for the manufacture of wheelchairs as well as rehabilitation and orthopedic equipment. Under the agreements, Everest & Jennings acquired 50 percent voting interests in both companies and the exclusive distributorship rights in the United States and Canada for wheelchairs manufactured by the joint ventures. The agreements also provided for the exchange of know-how and other assistance in the parties' respective areas of expertise.

At trial, the United States would have contended that a parol agreement not to compete in their respective product areas in the United States accompanied the formal joint venture agreement. The existence of such an understanding was evidenced by the subsequent actions and statements of the parties.

By 1960, only five years after their formation, the two joint ventures were the largest volume wheelchair manufacturers in Europe and were among the largest in the world. Although both companies have exported large volumes of wheelchairs throughout the world, Everest & Jennings did not permit them to export wheelchairs into the United States or Canada during their 20-year life.

The complaint in this action alleged that by entering into the joint venture agreements with Saemann, Everest & Jennings intended to prevent him from entering the United States market with foreign- or domestic-made wheelchairs.

A second instance of exclusionary conduct by Everest & Jennings involved its 1962 acquistion of the Johnson Wheelchair Manufacturing Co., Ltd. ("Johnson"), then Canada's only wheelchair manufacturer. At the time of the acquistion, Johnson, which has been known as Everest & Jennings Canadian, Ltd. since the acquistion, was a potential entrant into the United States wheelchair market. Since 1962, the new company has not sold any wheelchairs in the United States.

In 1969, Everest & Jennings acquired control over Mexico's only significant wheelchair manufacturer, Industrias Arva, S.A. which is now known as Arva-Everest & Jennings S.A. de C.V. Like Everest & Jennings Canadian, Ltd., Arva-Everest & Jennings has not exported any wheelchairs into the United States.

Finally, in 1967, Everest & Jennings embarked on an effort to gain full control over the Zimmer and Ortopedia joint ventures. This effort was opposed by Saemann and litigation resulted. This litigation was settled in 1975 by an agreement under which Everest & Jennings took full control over Ortopedia, and Mr. Saemann took over full ownership of Zimmer, the smaller of the two companies. The settlement left Everest & Jennings at the helms of two of the world's three largest manufacturer's of wheelchairs, including the largest in Europe and the largest in North America. Consistent with its conduct prior to the settlement, Ortopedia has not entered the United States wheelchair market following the settlement.

As a result of the above-described conduct, Everest & Jennings has been able to retain its dominant position in the United States wheelchair market and in submarkets for the production and sale of relatively expensive wheelchairs sold to long-term handicapped individuals. Only eight manufacturers have made wheelchairs in any significant quantities in the United States since 1950. The seven companies still in business sold $44.9 million in wheelchairs, including parts and accessories, in 1976, of which total more than half was accounted for by Everest & Jennings. Invacare Corp. of Elyria, Ohio, the largest manufacturer after Everest & Jennings, accounts for substantially less than half of Everest & Jennings' sales volume in dollars. The six other manufacturers combined have only about 15 percent of the market. Only two of Everest & Jennings' six American competitors, Invacare

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and Stainless, have ever manufactured or sold premium, custom and prescription wheelchairs in more than a negligible volume. The only foreign company which is a factor in the United States is Biddle Engineering Co. of Britain which sells a limited number of specialized motorized wheelchairs.

Everest & Jennings' share of the overall United States wheelchair market has declined from a level of approximately 70 percent in the 1950's and 1960's to about 60 percent in dollar sales over the last five years. Such a decline has not been evident in its share of the submarkets consisting of the production and sale of premium, custom and prescription wheelchairs. Everest & Jennings' power in these submarkets has been maintained largely through concentrating its major marketing efforts on dealer, doctor and therapist indoctrination. Its entrenched position with the country's major medical equipment dealers has also been a key factor in Everest & Jennings' ability to maintain its market and submarket strength.

III

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The proposed judgment seeks to dissipate the effects of the above-described conduct and to ensure that Everest & Jennings' subsidiaries, as well as other domestic and foreign wheelchair manufacturers, can compete freely in the United States. The judgment's main thrust is to encourage and enable Everest & Jennings' independently managed foreign subsidiaries to actively compete in the United States. This is an innovative form of relief which should serve as a precedent in future cases where dominant United States firms have ownership interests in potential competitors abroad. The relief embodied in the proposed judgment should serve the public interest by providing additional alternatives to United States wheelchair purchasers.

Section V of the proposed judgment proscribes certain types of agreements between Everest & Jennings and other persons, including any of Everest & Jennings' own foreign subsidiaries. Specifically forbidden are agreements which (1) limit or restrict imports into the United States, (2) allocate sales markets, whether by customer, territory or products, in the United States, or (3) prevent sales to certain customers or in certain territories in the United States.

Section VI of the proposed judgment prohibits unilateral conduct which would prevent or inhibit any foreign subsidiary of Everest & Jennings from exporting wheelchairs into the United States or from selling wheelchairs in a foreign country for shipment into the United States.

The principles embodied in the proscriptions of Section VI are imposed affirmatively in Section VII. Everest & Jennings is required to adopt certain policies and communicate those policies to its foreign subsidiaries in a letter, the form of which is attached to the proposed judgment. These policies are that:

1. Export sales to the United States of wheelchairs manufactured by Ortopedia G.m.b.H., Everest & Jennings Canadian, Ltd., Everest & Jennings, Ltd. (England), and Arva-Everest & Jennings S.A. de C.V. are not to be restricted in any way;

2. Any arrangements between any or all of the four subsidiaries and Everest & Jennings International, Everest & Jennings Inc., or Jennings Investment Co. whereby any of the latter have exclusive distribution rights in the United States for wheelchairs manufactured by any of the four subsidiaries are terminated, and no such arrangements shall exist for a period of 10 years;

3. Opportunities to export to the United States wheelchairs manufactured by each subsidiary shall actively be sought by the management of each;

4. Each subsidiary shall have complete discretion concerning the prices, terms, and conditions of export sales of wheelchairs into the United States;

5. Each subsidiary shall have full discretion to designate its own distributors and dealers for United States sales; and

6. Each subsidiary is free to use trademarks other than Everest & Jennings trademarks for wheelchairs sold into the United States.

Perhaps the most significant provision of Section VII is the requirement that defendants direct the subsidiaries to actively seek opportunities to export to the United States.

Section VIII is an annual reporting provision to enable the Justice Department to monitor compliance with the provisions of Sections V, VI, and VII. Each year, Everest & Jennings must report the activity and progress of its foreign subsidiaries in attempting to sell wheelchairs in the United States. If a subsidiary has not as of the date of the report made such sales, Everest & Jennings is required to report the reasons why no sales were made, the efforts made during the reporting year by the subsidiary to explore and develop sales in the United States, and the disposition of every inquiry received by the subsidiary concerning sales in the United States. If a subsidiary has made sales in the United States during the reporting year, Everest & Jennings shall report the number of chairs sold by specific line, type or model and the dollar amounts, plus the direct purchasers or agents for the subsidiary's sales in the United States.

Section IX of the Judgment bars Everest & Jennings from discouraging wheelchair dealers in the United States from carrying wheelchairs manufactured by any competitor, including any of defendants' foreign subsidiaries. Discovery has indicated to the Justice Department that the extensive sales network of loyal dealers that Everest & Jennings has developed over the years may inhibit sales penetration by smaller competitors and potential entrants. While the Justice Department has no reason to believe that Everest & Jennings has required dealers to discriminate against competitors, this measure is imposed as a safeguard for the future to prevent Everest & Jennings from capitalizing for anticompetitive purposes on its relatively entrenched position with dealers.

Section X of the decree obliges Everest & Jennings for one year to give an up-to-date copy of a list of its dealers in the United States to anyone who seeks it. The list must be provided immediately upon request and at no cost to the requestor. This measure is intended to facilitate competition by manufacturers for sales to major wheelchair dealers. Doctors, therapists and consumers interested in influencing dealers to carry a greater variety of wheelchairs could also find this list helpful.

Section XI enjoins Everest & Jennings and its subsidiaries from acquiring any interest in any other wheelchair manufacturer in the United States, Canada, Western Europe or the British Isles without advance Justice Department approval.

Section XII obligates Everest & Jennings to send a copy of the Final Judgment to each of its dealers, to each of its subsidiaries, and to all Veterans Administration hospitals. This requirement ensures that the Final Judgment's provisions will be known to the trade, to doctors and therapists, and to volume purchasers and that those most likely to be interested in exploring purchases of wheelchairs from Everest & Jennings' foreign subsidiaries will be alerted to the possibility.

Section XIII states that on the basis of the Final Judgment the Department of Justice will not recommend the filing, on behalf of any other agency of the United States Government, of any antitrust action based on the allegations of the complaint in this action. This was agreed upon, in large part, because of doubts about the appropriateness of subjecting defendants to a second wave of government litigation based upon the same alleged facts. Further, any damage action on behalf of the Veterans Administration (VA), the most important Federal purchaser of wheelchairs, raised possible defenses based on that agency's "Buy American" policy and the fact that most VA purchases of wheelchairs for individual veterans are made from dealers rather than from manufacturers.

Section XIV is a provision giving the Department of Justice visitation rights to request documents, interviews or reports from Everest & Jennings relating to any of the matters contained in the Final Judgment. This section also controls the use by the Justice Department of any materials or information obtained under Sections VIII and XIV.

Section XV provides that the Court will retain jurisdiction over the parties to the Judgment for enforcement purposes.

Section XVI is a provision terminating the Final Judgment's coverage after 10 years. After that point, it is expected that normal market forces will suffice to assure a competitive climate in this industry. If not, further action may be considered.

IV

EFFECTS OF THE PROPOSED JUDGMENT ON COMPETITION

The object of this Final Judgment is to improve competitive opportunities in the United States for domestic and foreign manufacturers of wheelchairs.

In addition to the general prohibitions against restraints of trade, which should encourage a healthy competitive environment in the relevant markets and submarkets, the Final Judgment anticipates certain specific procompetitive effects. The availability in the United States of wheelchairs manufactured by Everest & Jennings' foreign subsidiaries will help to dissipate the remaining restrictive effects of the 1955–1975 European joint venture agreements and the companion noncompetition agreement between Everest & Jennings and Franklin I. Saemann. Ortopedia and Everest & Jennings Canadian, Ltd. have long been vigorous, largely independent operations. They are capable, in the opinion of the Justice Department, of organizing and managing an export sales effort of the type needed to place their wheelchairs competitively in the United States market. Defendants' recently formed subsidiary in England, Everest & Jennings Ltd., the managment of which is sophisticated in the production and marketing of wheelchairs, also should be capable of commencing export of wheelchairs to the United States within the period of this Judgment. The degree to which consumers stimulate demand for the subsidiaries' products will, of course, also be important in determining the ultimate extent of export activity by the subsidiaries.

Wheelchairs manufactured by the Mexican subsidiary and, especially, by the Canadian subsidiary should be price competitive in a wide geographic area with Everest & Jennings wheelchairs shipped from Los Angeles.

Wheelchairs made by Zimmer, now 100 percent owned by Saemann, have been exhibited and marketed in a preliminary manner in this country since mid-1977. There are also indications that Saemann's Orthopedic Equipment Co. of Bourbon, Ind. may be preparing to begin manufacturing wheelchairs in the United States. Potential sales of wheelchairs by Orthopedic Equipment Co. would inject further competition into the present U.S. market. The Final Judgment may well aid entry of Zimmer wheelchairs, as well as sales by other domestic and foreign competitors, by publicizing the availability of alternatives to Everest & Jennings.

The Judgment also assists present and future competitors in the United States market by assuring that Everest & Jennings will not move to cause its non-exclusive dealers to reject dealerships for other wheelchair manufacturers' products. This provision permits competitors, foreign and domestic, to compete for sales to successful and experienced wheelchair dealers.

V

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and other equitable remedies that they would have had if the proposed Final Judgment had not been entered. However, pursuant to Section 5(a) of the Clayton Act, amended 15 U.S.C. 16(a), the judgment may not be used as *prima facie* evidence in private litigation.

DESCRIPTION OF PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment is subject to a stipulation by and between the United States and Everest & Jennings, which provides that the United States may withdraw its consent to the proposed Final Judgment at any time before the Court has found that its entry is in the public interest. By its terms, the Final Judgment provides for retention of jurisdiction of this action in order, among other things, to permit the parties to apply to the Court for such orders as may be necessary or appropriate for modification.

As provided by the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), any person wishing to comment upon the Final Judgment may, for a 60-day period, submit written comments to Douglas E. Rosenthal, Chief, Foreign Commerce Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. The Department will file with the Court and publish in the FEDERAL REGISTER all such comments together with its response to them, and will carefully evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed Final Judgment.

VII

DESCRIPTION AND EVALUATION OF ALTERNATIVES TO THE PROPOSAL ACTUALLY CONSIDERED BY THE UNITED STATES

In formulating the proposed Final Judgment, the United States considered alternate provisions. The most significant was a requirement that Everest & Jennings divest itself of Everest & Jennings Canadian, Ltd. This would have created another viable independent wheelchair manufacturer, located closer to most major United States population centers than Everest & Jennings itself, capable of producing wheelchairs equal in quality to those of Everest & Jennings. However, divestiture would not have been attainable without a full trial. The opportunity to settle the litigation without divestiture, but on terms reasonably likely to dissipate the remaining anticompetitive effects from Everest & Jennings' activities, was in our judgment the proper alternative.

Our ability to prevail on the merits after a trial and to obtain the requested divestiture relief was called into some question by the decline of Everest & Jennings' share of the overall wheelchair market described above. Although this decline may have been offset factually by Everest & Jennings' continued dominance in the production and sale of premium, custom and prescription wheelchairs, our discovery to date has revealed the existence of substantial problems in establishing the existence and bounds of truly distinct submarkets in these types of specialized chairs.

Additionally, we believe the proposed Final Judgment further lessens the competitive need for divestiture, since wheelchairs manufactured by Everest & Jennings Canadian, Ltd. can reach the United States market under the requirements of Sections VI, VII, and VIII. Another recently formed and so far successful Canadian wheelchair manufacturer, Canadian Wheelchair Co., is also believed to be considering entry into the United States market. Thus, the major anticipated competitive benefit that might have resulted from divestiture of Everest & Jennings Canadian, Ltd. may be achieved by entry of these two firms into the United States market. Since divestiture would not have carried any guarantee that the divested company would enter the American market, the provisions of Sections VI, VII, and VIII come much closer to assuring new competition from abroad.

The Justice Department also considered a specific prohibition against resale price maintenance by Everest & Jennings on the basis of some limited evidence that Everest & Jennings may have pursued such a policy in the late 1950's and early 1960's. However, no evidence has been found that any such practice currently is being followed. Therefore, we have concluded that there is no compelling reason for such a provision in the Judgment.

VIII

OTHER MATERIALS CONSIDERED

There are no materials or documents which the Government considered determinative in formulating the proposed Final Judgment. Therefore, no such materials are being filed along with this Competitive Impact Statement.

Dated: Washington, D.C. May 10, 1978.

Respectfully submitted,

CARL A. CIRA, JR.,
RICHARD E. GRIMM,
O. RUSSELL MURRAY,
DAVID J. EISEMAN,
CAROLYN D. WULFSBERG,
Attorneys, Department of Justice, Antitrust Division, Washington, D.C. 20530, 202-739-2464.

[FR Doc. 78-13572 Filed 5-18-78; 8:45 am]

[4410-01]

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Notice of Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant program to conduct an evaluation of a program to manage patrol operations (MPO).

The primary goals of the evaluation program are:

1. To assess the usefulness of a set of analytic techniques and a training program for identifying and defining patrol performance objectives and patrol strategies to meet those objectives.

2. To determine the degree to which the execution of these patrol strategies leads to the achievement of performance objectives.

3. To identify and describe the factors which hinder and facilitate successful implementation of the program.

The solicitation asks for the submission of draft proposals. A formal application will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than June 22, 1978. All grants are planned for award in September 1978 with funding support not to exceed $425,000 or 24 months in duration for individual grants. Because this is a research grant program, profit making organizations are prohibited by LEAA policy from receiving funding support.

Further information and copies of the solicitation can be obtained by contacting Rosemary Murphy or Phillip Travers, Office of Program Evaluation, NILECJ, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3824.

BLAIR G. EWING,
Acting Director, NILECJ.

[FR Doc. 78-13570 Filed 5-18-78; 8:45 am]

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[4410-01]

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Meeting

This is to provide notice of meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ).

The National Minority Advisory Council will hold its regular quarterly meeting on June 9 and 10, 1978. The meeting will be held at the Atlanta American Motor Hotel, Atlanta, Ga. The meeting is scheduled to run from noon until adjournment on the 9th and from 9 a.m. until adjournment of the 10th. The two sessions will center on the methodology to be utilized on accomplishing the national needs assessment of minorities and their relationship with the criminal justice system. The meeting is open to the public.

Any one wishing additional information should contact Frank de la Fe, Project Monitor, 633 Indiana Avenue NW., Washington, D.C. 20531. Telephone number 202-376-3868.

FRANK DE LA FE,
Profect Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 78-13571 Filed 5-18-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 12th day of May 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MAY 12, 1978

Name of applicant, location of enterprise, and principal product or activity

Robinson Nursing Home, Gardiner, Maine; nursing home care.
Aroostook Health Center, Mars Hill, Maine; nursing home care.
Douglas M. Rader, Summersville, W. Va.; restaurant.
Health Care Fund (Holbrook Nursing Home), Buckhannon, W. Va.; nursing home.
Sam George Kapourales, Williamson, W. Va.; bowling alley.
Hink's Foods, Inc., Somerset, Ky.; supermarket.
De Soto House, Inc., Galena, Ill.; tourist accommodations.
Clark Weatherwax, Jr., Moulton, Ala.; supermarket.
Atlas Pallet, Inc., Brandenburg, Ky.; manufacture of wooden pallets.
Schwerman Trucking Co., Russellville, Ky.; trailer repair and modification.
Modevco, Inc., Bowling Green, Madisonville, and Berea, Ky.; motels.
Lynn L. Thompson, Fulton, Ky.; motel.
Locke Industries, Inc., Bowling Green, Ky.; manufacture of brush block and wood and canvas chairs.
Cutrer Inc., Alma, Ga.; installation, repair and maintenance of heavy machinery and equipment.
Ducane Heating Corp. (tenant of town of Blackville), Blackville, S.C.; manufacture of heating furnaces.
Falcon Industries, Inc. (tenant of town of Estill), S.C.; manufacture of rubber and PVC coated fabric protective clothing.
Pine Grove Nursing Home, Soldiers Grove, Wis.; nursing home.
McNeilus Truck & Manufacturing, Inc., Dodge Center, Minn.; manufacture of concrete mixers.
Boylan Enterprises, Inc. Plainwell, Mich.; sales, leasing and service of golf cars.
Apache Stainless Equipment Corp., Beaver Dam, Wis.; design, manufacture and installation of food processing equipment.
Babbitt Hardware & Lumber, Inc., Babbitt, Minn.; sales of building material, hardware, home furnishings.
General Housing Corp., Bay City, Mich.; manufacture of modular houses.
East Central Farmers Union Grain Association; Cambridge, Minn.; grain handling and grain storage facility.
J&L Super Valu, Inc. Park Rapids, Minn.; supermarket.
W. Va. Welding Supply Co. & Clarksburg Compressed Gas Co., Clarksburg, W. Va.; welding supply and compressed gas company.
Country Squire Restaurant, Inc., Fairmont, Minn.; restaurant.
Le Sueur Cheese Co., Inc., Le Sueur, Minn.; manufacture of cheddar cheese.
Treeline Corp., Chippewa Falls, Wis.; construction—residential and commercial.
David Archie Keller, Bedford, Ind.; fast food service.
Arcadia Furniture Corp., Arcadia, Wis.; manufacture of vinyl covered fiberboard coffee tables and miscellaneous furniture.
Oilfield Production Specialists, Inc., Center, Tex.; manufacture of gas and gas oil well separation equipment, storage tanks and heater treaters.
Fasco Fabricators, Inc., Covington, La.; manufacture of stainless steel, aluminum, and steel enclosures.
Retzer & Retzer, Inc., Colfax, La.; manufacture of pine bark mulch and chips.
Pearson Enterprises, Inc., Pineville, La.; retail and wholesale of pharmaceutical drugs.
Wilds Fish Farm, Inc., El Reno, Okla.; restaurant, smoke house, and mill shed.
Bear Creek Inn, Junction, Tex.; motel.
Farmer Brown's, Inc., Dallas, Tex.; restaurant.
Rancher's Markets Athens Processing Plant, Inc., Athens, Tex.; beef slaughtering house.
D&J Electronics, Inc., Pittsburgh, Kans.; sales, service, installation of burglar alarm, fire alarm, music systems and other related electronic services.
L&K Manufacturing, Inc., Caruthersville, Mo.; manufacturer of gooseneck and bumper pull trailers.
Beto Junction Truck Plaza, Inc., Lebo, Kans.; sales of diesel fuel and gasoline.
Gunnison Valley Care Center, Inc., Gunnison, Utah; nursing home services.
Morrison Petroleum Co., Inc., Woods Cross, Utah; refining of crude oil into finished products.
Walter Karolak, Eloy, Ariz.; restaurant.

[FR Doc. 78-13507 Filed 5-18-78; 8:45 am]

[4510-43]

Mine Safety and Health Administration

ADVISORY COMMITTEE TO REVIEW ADVISORY METAL AND NONMETALLIC MINE HEALTH AND SAFETY STANDARDS

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, and under section 301(b)(2) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, enacted November 9, 1977, notice is hereby given that the Advisory Committee to Review Advisory Metal and Nonmetallic Mine Health and Safety Standards will reconvene beginning at 9 a.m. on Monday, June 5, 1978, and continue each day thereafter through Friday, June 9, 1978, at Conference Room S-52, New Labor Department Building, 3rd and C Streets NW., Washington, D.C. 20210.

It is possible that the Advisory Committee will complete its agenda during the meeting scheduled for May 22 through May 25, 1978. Notice of this meeting was published in the FEDERAL REGISTER on Friday, May 5, 1978 (43 FR 19477). Should the Advisory Committee complete all actions remaining on its agenda during the May meeting, a supplemental notice will be published in the FEDERAL REGISTER terminating the meeting of the Committee in June.

The meetings of the Advisory Committee are open to the public and approximately 50 seats are available on a first-come-first-served basis. Any member of the public may file a written statement with the Advisory Committee before and during the public meetings. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meetings.

Copies of the agenda are available for examination by the public at the office of Frank J. Delimba, Executive Secretary, Room 703, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, telephone 703-235-8597. For further information, or for submission of written statements and comments, contact the Executive Secretary.

Dated: May 15, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-13711 Filed 5-18-78; 8:45 am]

[4510-43]

[Docket No. M-78-21-M]

ALBION VEIN SLATE CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Albion Vein Slate Co., Inc., Teel's Hill, R.D., Pen Argyl, Pa., has filed a petition to modify the application of 30 CFR 57.19-7 (hoists), to its Albion Vein Slate Quarry Mine, located in Northampton County, Pa., in accordance with section 1019c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Petitioner proposes to use a second fully qualified hoist engineer when men are being lowered into or hoisted out of the quarry instead of using a mechanical device to prevent overspeed or overtravel. The auxiliary engineer would be stationed immediately next to the operating engineer as a standby in the event of a sudden health problem of the operating engineer.

(2) The danger of overtravel is more effectively removed by the presence of a standby engineer.

(3) The use of a mechanical device could cause the man box to be suspended in mid-air, thereby creating an increased and unnecessary hazard.

(4) There is no danger of overspeed because the speed of travel is less than 100 feet a minute.

(5) Friction bands on the hoist drum and endless drum provide a natural and constant braking power.

(6) For the reasons set forth above, the Petitioner requests that the requirements of 30 CFR 57.19-7 be modified for the Albion Vein Slate Quarry. The permanent variance would apply to the entire quarry hole; however, the raising and lowering of the hoist would occur only in that part of the hole that is being worked at any one time.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before June 19, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: May 10, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-13686 Filed 5-18-78; 8:45 am]

[4510-43]

[Docket No. M-78-68-C]

HI TOP COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Hi Top Coal Co., P.O. Box 430, Clintwood, Va. 24228, has filed a petition to modify the application of 30 CFR 75.1710-1 (cabs and canopies), to its No. 1 Mine, located in Wise County, Va., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) When tramming a shuttle car, the operator is forced to lean his head and shoulders outside of the canopy because his vision is obstructed.

(2) On the off-standard car, when the operator pulls under the boom of the miner, the miner helper is impossible to see.

(3) When a shuttle car is being loaded, the operator is forced to control his car by standing alongside it rather than from the driver's seat.

(4) For the reasons set forth above, Petitioner requests that modification of 30 CFR 75.1710-1 be granted so that shuttle cars at the No. 1 Mine can be operated without canopies.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before June 19, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: May 10, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-13687 Filed 5-18-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON CUTANEOUS HAZARDS

Meeting

Notice is hereby given that the Standards Advisory Committee on Cutaneous Hazards will meet on May 30 and 31. On May 30, the Committee will meet in Greenfield Room No. 1 of

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the Dearborn Inn, 20301 Oakwood Boulevard, Dearborn, Mich. A field trip is planned for the morning of May 31 to the General Motors Hydramatic Division, Willow Run, Mich. The Committee will return to Greenfield Room No. 1 of the Dearborn Inn for its afternoon meeting on May 31.

The Standards Advisory Committee on Cutaneous Hazards was established under section 7(b) of the Occupational Safety and Health Act of 1970 (Pub. L. 91-596) to assist the Secretary of Labor in his standards-setting function.

On May 30, the Committee will hear status reports from its three working groups. Also, representatives from the chemical industry will address the Committee about how they handle materials which may cause skin or eye problems. A portion of the afternoon session will be given to discussion in preparation for the next day's field trip. The meeting will begin at 9 a.m.

On May 31, the Committee will meet in the Manager's Conference Room at the General Motors Hydramatic Division at 9 a.m. After a briefing by plant personnel on the factory's operations and products, the Committee will tour the facility. When the tour has been completed, the Committee will return to the Manager's Conference Room to discuss what they have seen. At approximately 2 p.m., the Committee will reconvene in Greenfield Room No. 1 to contihue discussion of the morning's plant visit.

Opportunity will be provided for participation by the public in the tour of the General Motors facility, to the extent feasible. Because of the limited number of seats in the vehicles to be used to transport the Committee, a maximum of three members of the public can be included in the tour. In order to determine which members of the public will participate, the Committee's staff will select names in a random drawing from those received by May 24. Anyone who wishes to accompany the Committee should submit his name by mail, telephone, or in person, along with his telephone number, to: Mr. Stephen Kaffee, OSHA Division of Consumer Affairs, Room N-3635, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-8024.

To provide a permanent record of the tour for those unable to participate, a court reporter will accompany the Committee and prepare a verbatim transcript of the proceedings. In addition, detailed minutes of the tour will be prepared and made available to the public.

The Occupational Safety and Health Administration must reserve the right to close to the members of the public accompanying the Committee any portion of the tour where trade secrets might be jeopardized by public participation. The decision to exclude public participation will be made in compliance with section 8(d)(2) of OMB Circular A-63, according to the criteria established under 5 U.S.C. 552(b).

The public is invited to attend all other portions of the Committee's proceedings. For additional information contact Mr. Stephen Kaffee at the address and telephone given above.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation to the Committee should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee, to the extent which time permits.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

NOTE.—It was not possible to meet the requirement for 15 days' advance notice of this meeting because of difficulties encountered in arranging the plant visits which the Committee had requested for May 31. Negotiations with two corporations besides General Motors continued until May 15, when they were finally abandoned and the current plan determined. Because of the limited term of the Committee's charter and the other commitments of its members, it was not possible to reschedule the meeting or the tour.

Signed at Washington, D.C., this 16th day of May 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-13712 Filed 5-18-78; 8:45 am]

[4510-20]

Office of the Secretary

MINIMUM WAGE STUDY COMMISSION

Public Meeting

The first meeting of the Minimum Wage Study Commission will be held on May 24, 1978, at 1:30 p.m., in room S-3215, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. The meeting is open to the public.

It was impossible to give the required period of advance notice because of scheduling difficulties.

The Minimum Wage Study Commission was established by Public Law 95-151 on November 1, 1977, to conduct a study of the Fair Labor Standards Act of 1938 and the social, political, and economic ramifications of the minimum wage, overtime, and other requirements of the act.

The Commission will submit a final report to the President and to the Congress, and will cease to exist 30 days after submission of its final report.

The agenda for the meeting will be concerned with the organization of the Commission, the adoption of procedures and future plans for the work of the Commission.

Telephone inquiries and communications concerning this meeting should be directed to:

Mr. Hugh Conway, Labor Economist, Room C-3309, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

Mr. Conway's telephone number is area code 202-523-8495.

Signed at Washington, D.C., 16th day of May 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-13685 Filed 5-18-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

LITERATURE ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel to the National Council on the Arts will be held June 2, 1978, from 9 a.m.-5:30 p.m.; June 3, 1978, from 9 a.m.-5 p.m.; and June 4, 1978, from 9 a.m.-5 p.m., in Portland, Oreg. On June 2 and 4, the meeting will be held at the Benson Hotel in Portland. On June 3, the meeting will be held on Room 229, of the Smith Center at Portland State University.

A portion of this meeting will be open to the public on June 3, 1978, from 2 p.m.-5 p.m. The topic of discussion will be policy.

The remaining sesssions of this meeting on June 2, 1978, from 9 a.m.-5:30 p.m.; June 3, 1978, from 9 a.m.-1 p.m.; and June 4, 1978, from 9 a.m.-5 p.m.

These meeting are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by

grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER, March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

MAY 11, 1978.

[FR Doc. 78-13622 Filed 5-18-78; 8:45 am]

[7715-01]

POSTAL RATE COMMISSION

[Docket No. A78-1]

GRESHAM, S.C., ROUTE NO. 1 (OLIN JONES, PETITIONER)

Filing of Appeal

MAY 11, 1978.

On May 2, 1978, Olin Jones (hereinafter, "Petitioner"), on behalf of himself and others similarly situated, filed an appeal pursuant to § 404(b) of the Postal Reorganization Act (39 U.S.C. 404(b)) from the action of the United States Postal Service in consolidating Route No. 1, Gresham, S.C., with Routes No. 3, Marion, S.C., and No. 2, Gresham, S.C. Petitioner also filed an Application for Suspension of the Postal Service's action during the pendency of his appeal, as permitted by 39 U.S.C. 404(b)(5) and § 114 of our rules of practice (39 CFR 3001.114).

Petitioner asserts as grounds for relief that: (i) the consolidation violates 39 U.S.C. 101(b) in that it is discriminatory against a rural area; (ii) no notice was given nor opportunity for hearing provided, contrary to § 404(b); (iii) that the action is arbitrary, capricious, and an abuse of discretion in that it favors an urban community while adversely affecting a rural area and producing no substantial savings for the Postal Service; (iv) the action was taken without observing procedures required by § 404(b); and (v) the action is not supported by substantial evidence, no evidentiary record having been made.

Petitioner asks that the Commission require the re-establishment of Routes No. 1 and No. 2, Gresham, S.C., as they were before April 22, 1978; or, in the alternative, that the Postal Service be required to give notice and provide a hearing before effectuating the consolidation.

The appeal papers appear to set forth the Postal Service action complained of in sufficient detail to make it apparent that a substantial legal issue is presented by the appeal. This issue is whether, under the terms of § 404(b) of the Act, the consolidation of one or more rural routes constitutes a matter reviewable by the commission under that section. The answer to this question is potentially dispositive of the entire appeal. For this reason, we are issuing the present Notice[1] to insure that, when they file briefs pursuant to § 115 of our rules of practice (39 CFR 3001.115), the parties will address the jurisdictional issue.

We are inclined to believe, on the basis of the appeal papers, that it is potentially of primary significance in this case to have an informative statement of the respective service functions of a post office and of a rural carrier. Accordingly, we wish the parties to attempt to develop promptly an agreed-upon statement of facts on this issue. If such a stipulation can be reached, it should be filed within 20 days from the publication of this notice. If the parties cannot agree, then they should, also within 20 days, file separate statements.

The Commission does not, by publishing this notice, either determine the existence of jurisdiction or express any views of a preliminary nature on that question. The issue remains entirely open and subject to appropriate legal argument by the parties, as it would if no notice were issued.

In view of the fact that the present notice is being published in the FEDERAL REGISTER and served on the parties, the Commission is concurrently taking the opportunity to issue a schedule of procedural dates in this proceeding for the guidance of the parties. The dates therein are subject to change upon a properly supported motion for such relief by a party. Parties should bear in mind, however, that the 120-day decisional time limit is a statutory requirement (*see* 39 U.S.C. § 404(b)(5)) which the Commission will not attempt to extend.

The act does not contemplate appointment of an Officer of the Commission in § 404(b) cases, and none is being appointed.

PROCEDURAL SCHEDULE—DOCKET NO. A78-1

May 12, 1978—Postal Service answer to petitioner's application for suspension (see 39 CFR § 3001.114(b)).
May 17, 1978—Filing of record by Postal Service (see 39 CFR § 3001.113(a)).
May 22, 1978—Last day for filing of petitions to intervene (see 39 CFR § 3001.111(b)).
June 1, 1978—Petitioner's initial brief (see 39 CFR § 3001.115(a)).
June 16, 1978—Postal Service answering brief (see 39 CFR § 3001.115(b)).
July 5, 1978—(1) Petitioner's reply brief, if petitioner chooses to file such brief (see 39 CFR § 3001.115(c)).
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.
Aug. 30, 1978—Expiration of 120-day decisional schedule (see 39 U.S.C. § 404(b)(5)).

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-13573 Filed 5-18-78; 8:45 am]

[1] The Commission does not intend routinely to publish notices of the filing of appeals in § 404(b) cases. Such notice is not required by the Act or our rules of practice. It is appropriate here, however, because of the need to address the jurisdictional question at an early stage.

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20542 (70-5949)]

ALABAMA POWER CO.

Proposal by Electric Utility To Amend Installment Sales Agreement With Municipal Agency Relating to Pollution Control Facilities

MAY 15, 1978.

Notice is hereby given that Alabama Power Co. ("Alabama"), 600 North 18th Street, Birmingham, Ala. 35291, an electric utility subsidiary company of the Southern Co., a registered holding company, has filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 9(a), 10, and 12(d) of the Act and Rule 44(b)(3) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended declaration for a complete statement of the proposed transaction.

On February 23, 1977, the Commission issued an order (HCAR No. 19900) authorizing Alabama to enter into an installment sale agreement dated as of February 1, 1977 ("agreement") with the Industrial Development Board of the Town of West Jefferson ("Board") to finance certain pollution control facilities at Alabama's Miller Steam Plant ("project"). Pursuant to such agreement the Board purchased the then existing portions of the project, undertook to complete its construction and to sell the completed project to Alabama for a purchase price payable in semi-annual installments over a term of years. To secure its obligations under the agreement, Alabama granted to the Board a security interest in the project subordinate to the lien of the indenture dated as of January 1, 1942, between Alabama and Chemical Bank, as trustee, as supplemented and amended. The Board issued its pollu-

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tion control revenue bonds ("original bonds") pursuant to a trust indenture dated as of February 1, 1977 ("indenture"), in the aggregate principal amount of $40,000,000, The Board assigned all its rights, title, and interest in the agreement, including such subordinate security interest, to the revenue bond trustee as security for the pollution control revenue bonds, including the original bonds, to be issued under the indenture. The proceeds of the sale of the original bonds were deposited by the Board with the trustee under the indenture ("revenue bond trustee"). Such proceeds have been applied to payment of the cost of construction of the project. The total cost of construction of the project will exceed the proceeds of the original bonds. Consequently, Alabama proposes to request that the Board issue up to $60,000,000 in additional revenue bonds ("additional bonds"). Upon issuance of the additional bonds, Alabama's obligation under the agreement to make semi-annual purchase price payments will be increased to require additional payments sufficient (together with other moneys held by the revenue bond trustee under the indenture for that purpose) to pay the principal of and interest on the additional bonds as they become due and payable. The Board and the revenue bond trustee will enter into a supplement ("supplement") to the indenture providing for the additional bonds. The supplement will provide for redemption provisions for the additional bonds comparable to those provided for the original bonds. As in the original bonds, it is proposed that the additional bonds will mature not more than 30 years from the first day of the month in which they are initially issued and will be entitled to the benefit of serial maturities and/or a mandatory redemption sinking fund calculated to retire not less than 25 percent of the aggregate principal amount of the additional bonds prior to maturity.

It is contemplated that arrangements will be made by the Board with one or more investment bankers providing for the placement or underwriting of the additional bonds. Alabama will not be party to such arrangements. In accordance with the laws of the State of Alabama, the interest rate to be borne by the additional bonds will be fixed by the Board. Bond counsel will issue an opinion that interest on the additional bonds presently is exempt from Federal income taxation. Alabama has been advised that the annual interest rates on obligations, the interest on which is tax exempt, historically have been and can be expected at the time of issue of the additional bonds to be 1½ percent to 2½ percent lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to Federal income taxation.

A statement of the fees, commissions, and expenses to be incurred in connection with the proposed transaction will be filed by amendment. The issuance of the additional bonds is subject to the jurisdiction of the Alabama Public Service Commission. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 8, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13647 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 20539; (70-6162)]

AMERICAN ELECTRIC POWER SERVICE CORP. AND AMERICAN ELECTRIC POWER CO., INC.

Proposed Bank Borrowing by Subsidiary Service Company and Guaranty Thereof by Holding Company

MAY 9, 1978.

Notice is hereby given that American Electric Power Co., Inc. ("AEP"), a registered holding company, and American Electric Power Service Corp. ("Service Company"), 2 Broadway, New York, N.Y. 10004, a service company subsidiary of AEP, have filed with this Commission a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, and 12 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Service Company and AEP propose to enter into a loan agreement ("agreement") with the Chase Manhattan Bank, N.A. ("Chase"), concerning borrowings by Service Company of up to $10,000,000 and a guaranty of such indebtedness by AEP. The agreement, to be dated as of May 1, 1978, provides that the notes to be issued thereunder will mature on May 1, 1985, that the borrowings shall bear interest at an annual rate of 105 percent of the Chase's prime rate until May 31, 1979, and at an annual rate of 108 percent of its prime rate from May 31, 1979, until maturity, that Service Company will pay quarterly each year a substitute interest at the rate of ½ of 1 percent per annum on the daily average unused amount of the $10,000,000 credit made available and that prepayment may be made at any time without premium or penalty. There are no fees or charges to be paid to the Chase in connection with the borrowings, and no compensating balances are required. The interest to be paid by Service Company in connection with borrowings under the Agreement will be allocated to member companies of the AEP system in the same manner as expenses are allocated pursuant to the various service agreements in effect between Service Company and such companies.

It is stated that the purpose of the proposed transaction is to provide cash working capital for Service Company and to provide a portion of the funds necessary to finance the construction of a proposed new computer center for Service Company to be built in Canton, Ohio, the cost of which is currently estimated at $4,000,000. It is estimated that a portion of the borrowings will be repaid from the proceeds of a sale-leaseback transaction involving the computer center, to be entered into upon its completion, which is currently estimated to occur in mid or late 1979. The balance of cash borrowings will be repaid with the proceeds of cash capital contributions or interest bearing open-account advances to be made to Service Comapny by AEP.

Declarants claim an exemption from the competitive bidding requirements of Rule 50 under the Act pursuant to Rule 50(a)(2).

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $3,700, including legal fees of $500. It is stated that no State commission and no Federal

commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 5, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13648 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 34-14757; File No. SR-CBOE-78-11]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 61 (June 4, 1975), notice is hereby given that on May 10, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

CBOE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

New material is indicated by italics; material to be deleted is enclosed in brackets.

CHAPTER XVIII ARBITRATION

MATTERS SUBJECT TO ARBITRATION

Rule 18.1.(a) Any *dispute, claim or* controversy, *arising* between parties who are members,[1] or persons associated with a member which arises out of the Exchange business of such parties shall, at the request of any such party, be submitted for arbitration in accordance with these rules.

(b) Any *dispute, claim or* controversy, *arising* between a non-member and a member or persons associated with a member which arises out of the Exchange business of such member or a person associated with a member shall, at the request of such non-member, be submitted for arbitration in accordance with these rules.

(c) Any *dispute, claim, or* controversy between a member and an employee of such member which is related to such employment shall at the request of any such party be submitted for arbitration in accordance with these rules.

(d) (No change.)

• • • Interpretations and policies:

.01 No change.

.02 No change.

[INITIATION OF ARBITRATION PROCEEDINGS]

PROCEDURE FOR ARBITRATION PROCEEDINGS

Rule 18.2.(*a*) A member, a person associated with a member, a non-member, or employee of a member who wishes to initiate arbitration proceedings in accordance with Rule 18.1. shall, within a reasonable time after the event giving rise to the controversy, file with the [Exchange Secretary a written statement requesting arbitration. Such statement shall include (a) a concise description of the controversy; (b) the matters to be arbitrated, and, if possible, the amount in dispute; (c) the names of the parties involved; (d) the names and addresses of counsel, if any, for the person requesting arbitration. The Secretary shall promptly furnish a copy of this statement to the responding party for reply.] *Secretary of the Exchange one (1) executed Submission Agreement and one (1) copy of the Statement of Claim of the controversy in dispute, together with documents in support of the claim. The Statement of Claim shall specify the relevant facts, the remedy sought, and whether or not a hearing is demanded.*

(b) *The Secretary of the Exchange shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim.*

(c) *The Respondent(s) shall within twenty (20) calendar days from receipt of service file with the Secretary of the Exchange one (1) executed Submission Agreement and one (1) copy of the Respondent's Answer, together with supporting documents. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related third party claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) has interposed a third party claim, the Secretary of the Exchange shall endeavor to serve promptly by mail or otherwise a copy of same together with a copy of the Submission Agreement on such third party who shall respond in the manner herein provided for response to the Claim. The Secretary shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, third party claim or other responsive pleading, if any. The Claimant, if a counterclaim is asserted against him, shall within ten (10) calendar days file a Reply to any Counterclaim with the Secretary of the Exchange who will serve a copy of the Reply on the Respondent(s).*

(d) *In its discretion, the Arbitration Committee may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.*

(e) *The Secretary of the Exchange may grant extensions of time to file any pleading upon a showing of good cause.*

(f) *The Arbitration Committee shall be authorized to require the submission of further documentary evidence as it, in its sole discretion, deems advisable.*

• • • Interpretations and Policies:

.01 For purposes of this Chapter an arbitration proceeding will be deemed to be initiated within a "reasonable time", if it is filed no later than one year from the date of the event giving rise to the *dispute, claim or* controversy; provided however, that the Committee may in the exercise of its discretion hear cases filed after the one-year period.

SELECTION OF ARBITRATORS

Rule 18.3. [18.5] (a) Member Controversies. *Any dispute, claim or* controversy between parties who are members, persons associated with a member or employees of members, shall be submitted for arbitration to a panel consisting of three members of the Arbitration Committee chosen by lot. [The party to the controversy may petition the Arbitration Committee for permission to arbitrate the controversy at an alternate situs for arbitra-

[1]The term "member" as defined in the Constitution and used in the Rules includes a nominee of a member organization unless the context otherwise requires.

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tion. Upon Committee approval the parties may proceed with arbitration at such alternative situs.] *Unless either party demands a hearing, or the panel calls a hearing, the panel shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Arbitration Committee.*

(b) Non-Member *Controversies.* If one of the parties to the *dispute, claim, or* controversy is a non-member unless the [parties] *non-member* elects to have the panel of arbitrators selected in accordance with paragraph (a) of the Rule, the controversy shall be submitted for arbitration to a panel consisting of three arbitrators, one member of the Arbitration Committee and two non-members selected by lot from the non-member panel provided for by Rule 2.8. [Any party to the controversy may petition the Arbitration Committee for permission to arbitrate the controversy at an alternate situs for arbitration. Upon approval the parties may proceed with arbitration at such alternate situs.] *Unless either party demands a hearing, or the panel calls a hearing, the panel shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Arbitration Committee.*

[(c) Optional Procedure. An initiating non-member party may at the discretion of the Arbitration Committee have any dispute of $1,000 or less determined solely upon documentary evidence submitted by the parties; provided however, that any explanations or arguments accompanying the documents submitted by any party under this procedure must be notarized.]

* * * *Interpretations and Policies:*

.01 The Arbitration Committee may either establish Exchange arbitration facilities outside the Chicago area or refer arbitration cases to other securities industry arbitration organizations. [where the parties have requested an alternative situs.] In the event a panel chosen in accordance with the provisions of this Chapter conducts the arbitration, such panel shall follow the procedures contained in this Chapter.

AMENDMENTS

Rule *18.4.* [18.6.] No amendment of any claim, reply or counterclaim shall be permitted except with the consent of the *Arbitration Committee* [arbitrators] and upon such terms and conditions as *it* [they] may direct.

TIME AND PLACE OF HEARING

Rule *18.5.* [18.7.] (a) The Chairman of the panel assigned to a particular matter shall appoint a time and place for the hearing and shall cause notice thereof to be given to each of the parties as provided in Rule *18.10.* [18.12.] Notice of the initial hearing shall be given at least 10 business days prior to the date fixed for the hearing, and notice shall be given of each subsequent hearing as determined by the *members of the Arbitration Panel.* [arbitrators.] Attendance at a hearing waives notice thereof.

(b) The arbitration panel may require the parties to post in advance with the Secretary of the Exchange a bond or other security in such amount as it deems necessary to defray expenses of the arbitration proceeding. Such bond or security shall promptly be returned to the parties upon the payment of fees or other costs assessed in compliance with Rule *18.9.* [18.11.]

REPRESENTATION BY COUNSEL

Rule *18.6.* [18.8.] Any party may elect to be represented by counsel at any stage of the arbitration proceedings. A party who is represented by counsel shall provide the [Arbitration Committee] *Secretary of the Exchange* with the name and address of his counsel, and thereafter, papers in the proceeding to be served upon such party shall be served upon his counsel.

ATTENDANCE AT HEARINGS

Rule *18.7.* [18.9.] All parties and their counsel shall be entitled to attend all hearings. If any of the parties, after due notice, fails to be present or represented at a hearing, the [arbitrators] *arbitration panel* may, in [their] *its* discretion, proceed with the adjudication of the controversy.

CONDUCT OF HEARINGS

Rule *18.8.* [18.10.] At the commencement of the hearing, an oath shall be administered to the [arbitrators] *members of the arbitration panel* by any person authorized by law to administer oaths, unless the same shall have been waived by the parties or their counsel. Witnesses, including parties who testify as witnesses, shall be sworn before testifying, unless the same is waived by the parties. Each of the parties shall be permitted to make an opening statement, present witnesses and documentary evidence, to cross-examine opposing witnesses and present closing arguments orally or in writing as determined by the [arbitrators] *arbitration panel.* Formal rules of evidence shall not apply at the hearing, provided that the [arbitrators] *arbitration panel* may exclude irrelevant or unduly repetitious evidence. The [arbitrators] *arbitration panel* shall have such powers of subpoena as may be provided by law.

AWARD OF [ARBITRATORS] ARBITRATION PANEL

Rule *18.9.* [18.11.] (a) Within 30 business days following the date that an arbitration hearing shall have been declared closed (unless the hearings are re-opened by the [arbitrators] *arbitration panel* upon a showing of good cause permitted by law), the [arbitrators] *arbitration panel* shall file with the Secretary of the Exchange a written award signed by a majority of the [arbitrators] *members of the arbitration panel,* and such award shall be served upon the parties by the Secretary of the Exchange in accordance with Rule [18.12] *18.10.* The [arbitrators] *arbitration panel* shall be empowered to assess any costs or fees in connection with the arbitration upon the parties in such manner as they deem to be appropriate. Except as otherwise directed by law, all awards rendered under this Chapter shall be deemed final and not subject to review or appeal.

(b) The [arbitrators] *arbitration panel* may fix in the award the amount of costs chargeable to the parties to cover the expense of the hearing(s) and shall determine the manner in which and by whom such costs shall be borne.

NOTICE

Rule *18.10.* [18.12.] Notices of hearings and of awards shall be *reduced to writing and shall be either served personally or by registered or certified mail upon the parties or their counsel.* [given to parties or their counsel in writing personally or by registered or certified mail.] Notice of an adjourned hearing may be given orally at any preceding hearing. All other notices and documents may be served upon any party by delivering or mailing the same to the party or his counsel.

FEES, COSTS AND EXPENSES OF ARBITRATION

Rule *18.11.* [18.13.] The following schedule shall be published and maintained on file with the Secretary of the Exchange and available to all interested parties.

SCHEDULE OF FEES

1. There shall be a filing fee of $10.00 to be imposed upon each of the parties to the arbitration. The said fee shall be imposed at the time the Submission Agreement is submitted and it shall not be refundable. *This paragraph shall not apply to claims arising under Rule 18.12.*

2. In addition to the filing fee, there shall be an additional amount chargeable to each party not to exceed the following:

If the amount (exclusive of interest and costs) involved is:

[$500 or less . . . $25 per matter]
[More than $500 to $1,000. . . $50 per matter]
[More than $1,000 to $2,500. . . $60 per matter]
$2,500 or less . . . $15 per matter
More than $2,500 to $5,000 . . . $90 per matter
More than $5,000 to $10,000 . . . $90 per hearing
More than $10,000 . . . $120 per hearing

The initiating party and the responding party shall each deposit the amount prescribed by the Schedule above. In the case of multiple hearings, the additional amounts required by the above Schedule shall be submitted in accordance with the direction of the panel of arbitrators presiding. A hearing for fee purposes shall include the proceedings conducted in any one calendar day.

3. The costs which the [arbitrators] *arbitration panel* are empowered to assess under Rule [18.11.] *18.9*(b) shall in no event exceed the maximum amount chargeable to the parties as set forth in the Schedule of Fees above.

4. If the dispute, claim or controversy does not involve or disclose a money claim, the initial amount to be deposited by each party shall be $50 or such amount as the Arbitration Committee or [the] panel [of arbitrators] presiding may from time to time thereafter require not to exceed $250 per hearing. *This paragraph shall not apply to claims arising under Rule 18.12.*

5. Any matter submitted and thereafter settled or withdrawn prior to the date of the first hearing, shall entitle the parties to a refund of all but $25 of the amount deposited with the Exchange [, exclusive of the filing fee].

6. Any matter submitted and thereafter settled or withdrawn on the date set for the initial hearing or subsequent thereto, shall be subject to such partial refund as the *arbitration* panel [of arbitrators] presiding may permit.

7. The *arbitration* panel [of arbitrators] presiding shall have the authority within the maximum and minimum limitations presceibed above to require such deposits or fix such assessments as they may reasonably deem the circumstances shall require.

SMALL CLAIMS

Rule *18.12*

(a) Any dispute, claim or controversy, arising between nonmember customer(s) and a member or a person associated with a member, required to be arbitrated under the Rules of the Chicago Board Options Exchange involving a dollar amount not exceeding $2500.00, exclusive of attendant costs and interest, shall upon demand of the customer(s) or by written consent of the parties be arbitrated as hereinafter provided.

(b) The Claimant shall file with the Secretary of the Exchange one (1) executed Submission Agreement and one (1) copy of the Statement of Claim of the controversy in dispute, together with documents in support of the claim. The Statement of Claim shall specify the relevant facts, the remedies sought and whether or not a hearing is demanded.

(c) The Claimant shall pay the sum of $15.00 upon filing of the Submission Agreement. The final disposition of this sum shall be determined by the arbitrator.

(d) The Secretary of the Exchange shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. The Respondent(s) shall within twenty (20) calendar days from receipt of service file with the Secretary of the Exchange one (1) executed Submission Agreement and one (1) copy of the Respondent's Answer, together with supporting documents. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related third party claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) has interposed a third party claim, the Secretary of the Exchange shall endeavor to serve promptly by mail or otherwise a copy of same together with a copy of the Submission Agreement on such third party who shall respond in the manner herein provided for response to the Claim. If the Respondent(s) files a related counterclaim exceeding $2500.00, the arbitrator may refer the claim, counterclaim and/or third party claim, if any, to a panel of three (3) arbitrators or, he may dismiss the counterclaim and/or third party claim without prejudice to the counterclaimant(s) and/or third party claimant(s) pursuing the counterclaim and/or third party claim in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed $15.00.

(e) The Secretary of the Exchange shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, Third Party Claim or other responsive pleading, if any. The Claimant, if a Counterclaim is asserted against him, shall within ten (10) calendar days either (i) file a Reply to any Counterclaim with the Secretary of the Exchange who will serve a copy of the Reply on the Respondent(s) or (ii) if the amount of the Counterclaim exceeds the claim shall have the right to file a statement withdrawing the claim within such time. If the Claimant withdraws the claim, the proceedings will be discontinued without prejudice to the rights of the parties.

(f) The dispute, claim or controversy shall be submitted to a single arbitrator knowledgeable in the securities industry selected by the Secretary of the Exchange. Unless the non-member customer demands or consents to a hearing, or the arbitator(s) calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Secretary of the Exchange.

(g) The Secretary of the Exchange may grant extensions of time to file any pleading upon a showing of good cause.

(h) The arbitrator shall be authorized to require the submission of further documentary evidence as he in his sole discretion deems advisable.

(i) Upon the request of the arbitrator, the Secretary of the Exchange shall appoint two (2) additional arbitrators to the Panel which shall decide the matter in controversy.

(j) In any case where there is more than one (1) arbitrator, the majority will be public arbitrators.

(k) Except as otherwise provided herein, the general arbitration rules of the Chicago Board Options Exchange shall be applicable to proceedings instituted under this Rule.

CBOE'S STATEMENT OF BASIS AND PURPOSE

RULE 18.12 SMALL CLAIMS

The purpose of the proposed rule change respecting new Rule 18.12 is to provide investors with a simple and inexpensive procedure for the resolution of small claims against member firms. The procedures set forth in the proposed rule were developed by the Securities Industry Conference on Arbitration, which is composed of representatives of the New York Stork Exchange, Inc. and eight other self-regulatory organizations. The proposed rule would provide for determination by a single arbitrator knowledgeable in securities matters of disputes between brokerage firms and customers involving amounts not exceeding $2,500. The participating self-regulatory organizations will offer hearing facilities in different parts of the country, so that a dispute can be heard in a location convenient to the claimant. A claimant will have the right to withdrew his claim without prejudice if a counterclaim in excess of his claim is interposed. The only expense will be filing fee of $15.

In order to be consistent and in conformity with new Rule 18.12, the Exchange has amended its rules relating to arbitration contained in Chapter XVIII.

RULE 18.1 MATTERS SUBJECT TO ARBITRATION

In particular, Rule 18.1 contains minor changes conforming the lan-

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guage relating to a controversy with that contained in Rule 18.12.

RULE 18.2 PROCEDURE FOR ARBITRATION PROCEEDINGS

Rule 18.2, formerly "Initiation of Arbitration Proceedings," is renamed as "Procedure for Arbitration Proceedings". Rule 18.2 has also been amended to include subsections (a) through (f) which will conform procedures for arbitration proceedings with disputed dollar amounts in excess of $2,500 to those below $2,500. Our current rules do not provide that the claimant, in filing his statement of claim, file documents in support of that claim at the time of the initiation of the arbitration proceedings. The Exchange has amended Rule 18.2 to provide for such documentation at the time of initiation. Furthermore, our current rules do not provide for allowance of the respondent to respond 20 calendar days from receipt of service in filing his requisite papers. Rule 18.2 is amended to provide such additional time. At that time the respondent shall file together with his submission agreement one copy of his answer and other supporting documents. Our current rules do not set forth what should be contained in the respondent's answer, whereas, amended Rule 18.2(c) provides that the answer shall designate all available defenses to the claim and may set forth any related counterclaim and/or related third party claim the respondent(s) may have against the claimant or any other person. The rule further provides detailed procedure respecting possible third party claims.

RULE 18.3 SELECTION OF ARBITRATORS

Rule 18.5 has been renumbered as Rule 18.3 "Selection of Arbitrators". Besides conforming to the new Rule 18.12 with respect to member and non-member controversies by allowing the controversy to be solely decided upon the pleadings and evidence filed by the parties where neither party demands a hearing, the rule is additionally amended to omit confusion as to the process for selection of panels in non-member controversies. The old rule was vague and could be interpreted to read that where one of the parties to a controversy is a non-member, either party may elect to have a panel of arbitrators that are all members. This obviously was not the intention, and the rule has been amended to limit election of a panel of arbitrators consisting of all members to the non-member initiating the dispute. In addition, the subparagraph previously numbered as 18.5(c) has been deleted because of the adoption of new Rule 18.12.

RULE 18.4 AMENDMENTS

The rule relating to "Amendments" previously numbered 18.6 is now numbered Rule 18.4. This rule was amended to clarify the proper forum to consider the permissibility of amendments, replies of counterclaims regarding an ongoing arbitration.

RULE 18.5 TIME AND PLACE OF HEARING

The rule relating to "Time and Place of Hearing," previously numbered as Rule 18.7 is newly numbered Rule 18.5 and is amended to be consistent with the changes contained herein and additionally amended to clarify the meaning of the term "arbitrators" in order to eliminate confusion as to whether the term "arbitrators" applies to the Arbitration Committee or a panel.[2]

RULE 18.6 REPRESENTATION BY COUNSEL

The rule relating to "Representation by Counsel", previously numbered Rule 18.8 is newly numbered Rule 18.6 and is amended to provide the Secretary of the Exchange with notice of counsel, rather than the Arbitration Committee.

RULE 18.7 ATTENDANCE AT HEARINGS

Again, the rule relating to "Attendance at Hearings," previously numbered Rule 18.9 is newly numbered Rule 18.7.

RULE 18.8 CONDUCT OF HEARINGS

The rule relating to "Conduct of Hearings," previously numbered Rule 18.10 is newly numbered Rule 18.8.

RULE 18.9 AWARD OF ARBITRATION PANEL

The rule previously entitled "Award of Arbitrators", previously numbered 18.11 is amended and referred to as "Award of Arbitration Panel" and is renumbered Rule 18.9.

RULE 18.10 NOTICE

The rule relating to "Notice", previously numbered Rule 18.12 is renumbered Rule 18.10, and is amended to clarify that notice shall be reduced to writing.

RULE 18.11 FEES, COSTS, AND EXPRENSES OF ARBITRATION

The rule relating to "Fees, Costs and Expenses of Arbitration" previously numbered 18.3 is renumbered Rule 18.11. It is amended to conform with Rule 18.12 in that any arbitrations involving non-member controversies for $2500 or less shall be $15.00 per matter.

The basis under the Act for the proposed rule change is Section 6(b)(5). A uniform rule applicable to small claims by public customers will provide a more effective, efficient and economical dispute resolution system for public investors with small claims and thus will protect investors and the public interest. Additional amendments to the rules contained in Chapter XVIII, "Arbitration," further contribute to the more effective, efficient and economical dispute resolution system for public investors as well as for internal member controversies.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS

No comment has been solicited from the membership.

CBOE'S STATEMENT OF BURDEN ON COMPETITION

The Exchange does not believe that this proposed rule change imposes any burden upon competition.

On or before June 23, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by June 9, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 15, 1978

[FR Doc. 78-13660 Filed 5-18-78; 8:45 am]

[2]Such a clarification is included in the proposed amendments to Rules 18.7, 18.8, 18.9 and 18.11.

[8010-01]

[Rel No. 20538 (70-6153)]

CONSOLIDATED NATURAL GAS CO. ET AL.

Proposed Intrasystem Financing, Issuance, and Sale of Short-Term Notes to Banks and Commercial Paper by Holding Company, and Exemption from Competitive Bidding

MAY 8, 1978.

In the matter of Consolidated Natural Gas Co., 30 Rockefeller Plaza, New York, N.Y. 10020, and CNG Coal Co., CNG Development Co. LTD., CNG Producing Co., CNG Research Co., Consolidated Gas Supply Corp., Consolidated Natural Gas Service Co., Inc., Consolidated System LNG Co., The East Ohio Gas Co., The Peoples Natural Gas Co., The River Gas Co., and West Ohio Gas Co.

Notice is hereby given that Consolidated Natural/Gas Co. ("Consolidated"), a registered holding company, and certain of its subsidiary companies, CNG Coal Co. ("Coal Company"), CNG Development Co. Ltd., CNG Producing Co. ("Producing Company"), CNG Research Co. ("Research Company"), Consolidated Gas Supply Corp. ("Gas Supply"), Consolidated Natural Gas Service Co., Inc., Consolidated System LNG Co. ("LNG Company"), The East Ohio Gas Co. ("East Ohio"), The Peoples Natural Gas Company ("Peoples"), The River Gas Company ("River"), and West Ohio Gas Co. ("West Ohio") have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Act and rules 43, 45, and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Consolidated proposes, from time to time during 1978, to make loans aggregating up to $30,000,000 to three subsidiary companies in the amounts set forth in the table below, for the purpose of partially financing their 1978 capital expenditures. Capital expenditures for all of Consolidated's subsidiaries are estimated at $196,300,000 in 1978. Approximately $140,300,000 thereof is intended for developing additional gas supply sources. The loans will be evidenced by nonnegotiable, long-term notes proposed to be issued by the respective subsidiary companies and proposed to be acquired by Consolidated. the notes will bear interest at the rate of 8.25 percent per annum, which rate is predicated on and substantially equal to the effective cost of money to Consolidated through the issuance and sale by Consolidated of its 8¼ percent Debentures due June 1, 1997, issued in 1977. The notes will be payable from 1983 through 1998 in approximately equal annual principal amounts.

Consolidated also proposes to issue and sell up to $100,000,000 of short-term notes to a group of banks during 1978. Such notes will bear interest at the prime commercial rate in effect from time to time at The Chase Manhattan Bank, N.A. ("Chase Manhattan"). Prepayments may be made in whole or in part, from time to time, upon 5 days' notice without penalty or premium. There will be no closing or related charges or commitment fee, and the notes will mature not more than 12 months from the date of the first borrowing. No compensating balance requirements will be imposed. The average of deposits regularly maintained by the Consolidated companies in the participating banks for normal operating purposes amounted to approximately $25,400,000 for 1977. It is stated that based on a requirement of 10 percent of the proposed credit line and 10 percent of average borrowings thereunder, the average compensating balances would have amounted to approximately $15,600,000 for the year 1977.

Consolidated proposes to use the proceeds from said bank borrowings to make open account advances to its subsidiary companies aggregating up to $100,000,000 for gas storage inventories, payable as gas is withdrawn and sold during the 1978-79 heating season. The advances to subsidiary companies will bear interest at the same rate as the related bank borrowings by Consolidated and will be made in amounts as set forth in the table below. Also shown in the following table are $40,000,000 of open account advances which Consolidated proposes to make from time to time up to May 31, 1979, to subsidiary companies for working capital requirements from part of the proceeds of Consolidated's proposed issuance and sale (described hereinafter) of up to $50,000,000 of commercial paper and/or notes to a bank. These advances will be repaid not more than 1 year from the date of the first advance to each subsidiary with interest at substantially the same effective rate as incurred by Consolidated on the related commercial paper sale and/or bank borrowings.

Subsidiary company	Long-term notes	Advances for seasonal increase in gas storage inventories	Advances for working capital requirements
Producing company	$27,000,000		$4,000,000
Gas supply		$70,000,000	20,500,000
LNG company			10,000,000
East Ohio		15,000,000	
Peoples		15,000,000	4,600,000
River	500,000		500,000
West Ohio	2,500,000		400,000
Coal company			
Research company			
Service company			
Total	30,000,000	100,000,000	40,000,000

Consolidated further proposes to acquire, and the subsidiary companies set forth below propose to issue and sell to Consolidated from time to time during 1978, capital stock up to the following amounts at the par value thereof:

	Number of shares[1]	Aggregate par value
Coal company	25,000	$2,500,000
Producing company	140,000	14,000,000
Research company	20,000	2,000,000
Gas supply	95,000	9,500,000
River	5,000	500,000
Total		28,500,000

[1]$100 par.

The proceeds derived from the proposed sale of stock will be used to finance, in part, the subsidiaries' 1978 capital expenditures. The purchase of said capital stock by Consolidated will be made principally with funds from internal cash genereation, and from the sale of common stock pursuant to its stockholder and employee stock plans. The authorized capital stock of River is not sufficient to cover the additional shares it proposes to issue. Therefore, in order to accommodate the proposed transaction and to provide for future issues, River proposes to amend its certificate of incorportation and increase the number of its authorized shares from 24,000 to 35,000.

As indicated above, Consolidated proposes to issue and sell commercial paper, in the form of short-term promissory notes payable to bearer, in the aggregate face amount not to exceed $50,000,000 outstanding at any one time to a dealer in commercial paper from time to time up to May 31, 1979. The commercial paper will have vary-

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ing maturities of not more than 270 days after the date of issue and will be issued and sold in varying denominations of not less than $50,000 and not more than $5,000,000 directly to the dealer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and like maturities. Consolidated proposes to sell commercial paper only so long as the effective interest cost for such commercial paper does not exceed the equivalent cost of borrowings from a commercial bank on the date of sale.

No commission or fee will be payable by Consolidated in connection with the issue and sale of such commercial paper notes. The dealer, as principal, will reoffer such notes at a discount not to exceed one-eighth of one percent per annum less than the prevailing discount rate to Consolidated. Such notes will be reoffered to not more than 200 identified and designated customers on a list (nonpublic) prepared in advance by the dealer and furnished to the Commission. It is anticipated that the commercial paper will be held by customers to maturity; however, if any commercial paper is repurchased by the dealer pursuant to a repurchase agreement, such paper will be reoffered only to others in the group of 200 customers. The issuance and sale of commercial paper is to provide $40,000,000 for working capital advances to subsidiary companies, and the balance of $10,000,000 is for working capital and contingent requirements of Consolidated during the year.

Consolidated proposes to the extent that it becomes impracticable to issue such commercial paper, to borrow, repay, and reborrow from Chase Manhattan, from time to time up to May 31, 1979, an aggregate principal amount not to exceed $50,000,000 outstanding at any one time, at the prime commercial rate of interest in effect on the date of each borrowing, upon the promissory note or notes of Consolidated having a maturity date not more than 90 days from the date of each borrowing, and with the right of prepayment, in whole or in part at any time or from time to time, without prior notice and without premium. The amount of commercial paper notes and said notes, if any, payable to Chase Manhattan will not collectively exceed $50,000,000 outstanding at any one time. There will be no closing or related charges and no commitment fee with respect to such bank loans, nor will there be any compensating-balance requirements.

Consolidated requests that, for the period commencing upon the date of the granting of this application-declaration and ending May 31, 1979, an exemption be allowed from the provisions of section 6(a) of the Act pursuant to the first sentence of section 6(b), relating to the issuance and sale of short-term notes, by increasing the 5 percent limitation on such notes to a maximum of 6 percent in order to permit Consolidated to have outstanding at any one time up to $50,000,000 principal amount of short-term notes during such period as proposed herein.

Consolidated requests exception from the competitive bidding requirements of Rule 50 with respect to the sale of commercial paper on the grounds that such commercial paper will have maturities of nine months or less, that current rates for commercial paper for prime borrowers, such as Consolidated, are published daily in financial publications, and that it is not practical to invite competitive bids for commercial paper. Consolidated also proposes that the Rule 24 certificates of notification regarding the issuance and sale of the commercial paper and all subsidiary company financings be filed on a quarterly basis.

It is stated that CNG Development Co. Ltd. and Consolidated Natural Gas Service Co., Inc., have no new financing requirements for 1978 at the time of filing and that if such requirements should arise, an amendment to that effect will be filed as part of this proceeding.

The application-declaration states that the Public Service Commission of West Virginia has jurisdiction over the proposed short-term borrowings and stock issuances of Gas Supply and that the Public Utilities Commission of Ohio has jurisdiction over the long-term borrowings of River and West Ohio and the stock issuance proposed by River. It is further stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed $12,500, including $10,000 for the system service company charges, at cost. All of such fees and expenses are to be paid by Consolidated.

Notice is further given that any interested person may, not later than June 1, 1978, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13649 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel Nos. 5930; 14745]

FOREIGN OPTIONS

MAY 11, 1978.

The Securities and Exchange Commission today issued this notice to investors and broker-dealers in connection with the opening of the European Options Exchange, which is located in Amsterdam, Holland. On April 4, 1978, trading began on that Exchange in nine classes of options, three of which are options on the securities of U.S. corporations. The European Options Clearing Corp. in Amsterdam is the issuer and guarantor of those options. Some of these options are on the same stocks and have the same expiration dates and exercise prices as options which are traded on American exchanges. In addition, several U.S. broker-dealer firms, or their affiliates, are member of that Exchange.

The stock options which are traded on the European Options Exchange, and which have been issued and guaranteed by the European Options Clearing Corp., are not included in an effective registration statement filed with the Commission pursuant to the provisions of the Securities Act of 1933. In the absence of such a registration statement or an appropriate exemption, the public offer, distribution, or sale of such options in the United States is unlawful. Such a violation would exist regardless of whether or not the options involved constitute interests on the stock of American issuers, foreign issuers, or foreign issuers whose stock is traded in the United States. All of the stock options traded on national securities exchanges in the United States are issued by the Options Clearing Corp. of Chicago, Ill., and are the subject of an effective registration statement with the Commission.

The Commission warned that if options, which are not the subject of an effective registration statement or which do not qualify for an exemption from the registration requirements of the Securities Act, are publicly offered, distributed, or sold within the United States, such options will be added by the Commission to its Foreign Restricted List of securities which may not be sold to the public or traded by broker-dealers in the United States. The primary purpose of the issuance of the restricted list is to alert not only public investors but also broker-dealer firms that the Commission has received information that particular foreign securities are being offered for public sale in this country in violation of the Securities Act registration requirements.

Broker-dealers who purchase for their own account options which are not the subject of an effective registration statement, nor exempted from the registration requirements of the Securities Act, are reminded that because such options are not readily marketable in the United States, Broker-dealers will receive no value on such options for net capital purposes.

Appropriate enforcement action may be taken against those involved in any illegal offer, distribution or sale of stock options which are not the subject of an effective registration or which do not qualify for an exemption from the registration requirements of the Securities Act. Any person having information concerning the offer, distribution, or sale of such options is requested to inform the Director of the Commission's Division of Enforcement at 500 North Capitol Street, Washington, D.C. 20549.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13657 Filed 5-18-78; 8:45 am]

[Administrative Proceeding File No. 3-5425; File No. 81-328]

LEXITRON CORP.

Application and Opportunity for Hearing

MAY 10, 1978.

Notice is hereby given that Lexitron Corp. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order exempting the Applicant from the obligation to file an annual report on form 10-K for the year ended December 26, 1977, and all other reports required to be filed pursuant to sections 13 and 15(d) of the 1934 Act.

The Application states in part:

(1) As a result of a merger effected on January 12, 1978, Applicant became a wholly owned subsidiary of Raytheon Co. ("Raytheon") whose securities are listed on the New York Stock Exchange.

(2) There is no trading in Applicant's stock or any other security of the Applicant.

(3) Substantially all financial and other information concerning the Applicant which would appear in the form 10-K for the year ended December 26, 1977, was contained in the December 16, 1977, merger proxy statement which was distributed to shareholders.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than June 5, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13650 Filed 5-18-78; 8:45 am]

[Administrative Proceeding File No. 3-5421; File No. 81-326]

MACRODATA CORP.

Application and Opportunity for Hearing

MAY 11, 1978.

Notice is hereby given that Macrodata Corp. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of section 15(d) of the 1934 Act.

The Applicant states, in part:

1. On December 12, 1977, Applicant merged with and became a wholly owned subsidiary of Cutler-Hammer Inc. As a result of the merger, Applicant no longer has any publicly owned common stock.

2. The Applicant has filed with the Commission its form 10-Q for the period ended September 30, 1977, and a form 8-K to reflect said merger.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than June 5, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13651 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 10240 (812-4238)]

NARRAGANSETT CAPITAL CORP.

Filing of Application for Order

MAY 12, 1978.

Notice is hereby given that Narragansett Capital Corp. ("Narragansett"), 40 Westminster Street, Providence, R.I. 02903 registered under the Investment Company Act of 1940 ("Act") as a closed-end, nondiversified management investment company, has filed an application on December 1, 1977, and amendments thereto on May 3, 1978, and May 12, 1978, pursuant to sections 17(b) and 17(d) of the Act and rule 17d-1 thereunder, for an order of the Commission exempting from the provisions of section 17(a) of the Act, and permitting pursuant to section 17(d) of the Act and rule 17d-1 thereunder, (1) a proposed sale of the C-K division of Photo Systems, Inc. ("Photo Systems"), a company controlled by Narragansett, and (2) the restructuring and refinancing of Narragansett's investment in Photo Systems. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

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Narragansett, a federally licensed small business investment company, has authorized 2,000,000 shares of common stock, par value $1. As of March 31, 1977, 923,452 shares of that stock were issued and outstanding. Narragansett states that those shares are publically traded in the over-the-counter market and are held by approximately 1,450 shareholders.

Narragansett states that Photo Systems is a Michigan corporation comprised of three divisions. One division, the Unicolor Division, manufactures and sells darkroom equipment and photographic supplies from its plant located in Dexter, Mich. The other two divisions (Lyndon and C-K division) operate film processing laboratories in Dexter, Mich., and Edmonds, Wash., respectively. Photo Systems has authorized 1,200,000 shares of common stock, par value $.10, of which 1,050,000 shares are issued and outstanding. Of this latter amount, Narragansett owns 800,000 shares, or 76.2 percent, and the balance is held by 15 persons who were employees or spouses of employees of Photo Systems when it was organized. Photo Systems' shares are not publicly traded.

Narragansett asserts that, in addition to its equity investment in Photo Systems, it also holds a note of Photo Systems, in the amount of $1,500,000, which is subordinated to the approximately $950,000 indebtedness of Photo Systems to the Industrial National Bank of Rhode Island ("Inbank").

Photo Systems has five directors, three of whom (William P. Considine ("Considine"), Harvey J. Sarles, ("Sarles"), and Arthur D. Little ("Little")) are directors of Narragansett. In addition to serving as a director of Photo Systems, Considine is also that company's chief executive officer.

Narragansett states that, based on audited figures for the fiscal year ended June 30, 1977, Photo Systems had total net sales of $9,288,752, and net income (before taxes and extraordinary items) of $56,962. The audited balance sheet of Photo Systems as of June 30, 1977, shows total assets of approximately $4,924,949 and a total capital deficiency of approximately $19,943.

According to the application, the C-K division is managed and operated primarily by Pierre F. Wybo ("Wybo"), president of the division, and Paul R. Caisse ("Caisse"), vice-president of the division. Narragansett states that (1) neither Wybo or Caisse are officers or directors of Photo Systems, and (2) Wybo owns 10,000 shares of Photo Systems. Based on unaudited figures for the fiscal year ended June 30, 1977, the C-K division had net sales of $1,764,000 and earnings of $113,000 (after taking into account its pro rata share of corporate overhead). The unaudited divisional balance sheet of the C-K division as of June 30, 1977, shows total assets of approximately $505,000 and a divisional net worth of approximately $413,000.

Narragansett asserts that Photo Systems was organized in 1973, at which time it acquired four operating divisions from KMS Industries, Inc. In connection with the organization of the company, Narragansett purchased $250,000 worth of Photo Systems common stock and loaned the company $1,750,000. According to the application, Photo Systems began to experience financial difficulties shortly after its organization which resulted in substantial operating losses for the fiscal years ending June 30, 1974, and 1975. In June 1975, as a result of these losses, Photo Systems underwent a reorganization ("1975 reorganization"). Among the steps taken as part of the 1975 reorganization were (1) the conversion of $500,000 of Photo Systems' $1,750,000 indebtedness to Narragansett into common stock, (2) the investment of an additional $250,000 and $50,000 by Narragansett in Photo Systems as subordinated debt and equity, respectively, and (3) the election of a third nominee of Narragansett to the Photo Systems' board of directors. As a result of the 1975 reorganization, (1) Narragansett's debt investment in Photo Sytsems was reduced to $1,500,000, and (2) Narragansett's equity investment in Photo Systems was increased to $800,000. Narragansett's total investment in Photo Systems was increased from $2,000,000 to its present level of $2,300,000.

Narragansett states that the 1975 reorganization was effected in two closings. On June 3, 1975, the first closing date, Narragansett and Photo Systems executed an agreement covering the entire reorganization and closed a portion of the recapitalization. The remainder of the recapitalization was closed on June 30, 1975, after a Photo Systems shareholders meeting. Narragansett asserts that at that meeting, which authorized appropriate changes in the capital stock structure of Photo Systems and necessary changes in its by-laws, Narragansett's representatives concluded that Photo Systems chief executive officer should be replaced. Narragansett submits that on July 10, 1975, Photo Systems board of directors elected Considine chief executive officer of Photo Systems.

Narragansett states that Considine's employment agreement, which was made effective as of July 1, 1975, provided that Considine was to be paid $30,000 per year plus out of pocket expenses for his services, payable as the cash flow of Photo Systems permitted. Under Considine's guidance, Narragansett asserts, Photo Systems reduced losses from $1,027,000 for the fiscal year ended June 30, 1975 to $18,000 for the fiscal year ended June 30, 1976. Effective July 1, 1976, Considine was retained by Photo Systems for an additional year, later extended to 2 years. Narragansett states that those employment contracts were approved by the Small Business Administration.

According to the application, Considine devotes about one-half of his time to the management and supervision of Photo Systems and is regarded by Narragansett as a major factor in the substantial improvement in Photo Systems that has occurred in the past 2 years. Narragansett states that, as of May 3, 1978, Photo Systems owed Considine $20,000 salary in arrears.

The transaction in connection with which the Commission's order is sought ("1978 reorganization") involves (1) the separation of the C-K division of Photo Systems from the parent company and (2) the restructuring and refinancing of Narragansett's investment in the two resulting corporations. According to the application, the 1978 reorganization will be accomplished by creating a new corporation, Sound Color Corp. ("SCC"), to take over the operations of the C-K Division. SCC will have an initial capitalization of $1,000,000, of which $150,000 will be comprised of new equity investments. Narragansett will contribute $75,000 for 50 percent of the voting securities, and Wybo and Caisse will contribute $37,500 each for 25 percent of the voting securities each. The balance of the initial capital of SCC, equal to $850,000, will be derived from the sale by SCC to Narragansett of SCC's promissory note in that amount. The SCC note will be payable over 10 years with interest at 12 percent.

Upon its organization, SCC will purchase the assets of the C-K division from Photo Systems, and assume its liabilities, for a net purchase price of $1,025,000. A total of $925,000 will be paid in cash to Photo Systems at the closing, and the balance will be paid by SCC's promissory note of $100,000, payable as to principal in 18 equal semi-annual installments, and bearing interest on the unpaid balance at 8 percent. SCC will retain $75,000 in cash as its initial working capital and will have a seasonal line of credit of up to $100,000 with Inbank.

Upon the closing of the sale of SCC, Photo Systems will utilize (1) $600,000 of the proceeds received to reduce its present indebtedness to Inbank from approximately $950,000 to approximately $350,000, and (2) $300,000 of the proceeds to reduce its outstanding indebtedness to Narragansett from $1,500,000 to $1,200,000. Narragansett represents that none of the proceeds of the sale are earmarked for the payment of Considine's salary, and that Considine will not benefit from

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the proposed transactions, except to the extent that an improved cash flow will permit Photo Systems to pay his salary more promptly.

According to the application, Narragansett will enter into a financial consulting agreement with SCC for 1 year, calling for a fixed payment to Narragansett of $15,000 per annum. This agreement is subject to the approval of the Small Business Administration. The financial consulting services will be provided by directors, officers, and employees of Narragansett, who will make one or two visits monthly to the offices of SCC. The services to be rendered include banking and other financial advice, cash flow management, preparation of financial projections and miscellaneous financial services. The annual fee of $15,000 will be paid into the general funds of Narragansett, and not earmarked for any individual, entity or purpose, and will not directly or indirectly benefit the directors, officers, and employees of Narrangansett performing such services, by bonus, increase in regular compensation or otherwise, except as shareholders of Narragansett if they are such. Narragansett represents that (1) Wybo and Caisse will be officers and directors of SCC and (2) neither Sarles, Little nor Considine will own any shares of SCC stock, or be employed by it or have any interest in it except that one or more of them may serve as a director of SCC.

Narragansett asserts that, as a result of the 1978 reorganization, (1) Narragansett's aggregate investment in Photo Systems will be reduced from $2,300,000 to $2,000,000, (2) Inbank's aggregate investment in senior indebtedness of Photo Systems will be reduced from approximately $950,000 to approximately $350,000 and (3) Photo Systems' capital deficiency will have been eliminated and its net worth will be approximately $1,163,000. Narragansett also asserts that its aggregate investment in the business currently run by Photo Systems will be increased by $625,000, but its position with respect to the investment will have been improved by (a) the decrease in senior debt owed by Photo Systems to Inbank, and (b) the position of its $850,000 loan to SCC, which will be subordinated only to the $100,000 owed to Inbank.

Narragansett states that, although no formal stockholder consent is legally required in connection with the sale of the C-K division, all but four of Photo Systems' stockholders have been advised of and have approved the sale. The four stockholders who have not been apprised of the sale are former employees of Photo Systems.

Section 17(a) of the Act, in part, provides that it shall be unlawful for any affiliated person of a registered investment company, acting as principal, knowingly to purchase from, or sell to, such registered company (or any company controlled by such registered company) any security or other property. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. SCC will be an affiliated person of, and presumed to be controlled by, Narragansett; SCC proposes to purchase from Photo Systems, which is an affiliated person of, and is controlled by, Narragansett, assets of the C-K division. Accordingly, Narragansett requests an order exempting the sale of the C-K division to SCC from the provisions of section 17(a) of the Act.

Section 17d of the Act and rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, to effect any transaction in which such investment company or a company controlled by such registered investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the registered or controlled company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants. Wybo and Caisse, as employees of Photo Systems, are affiliated persons of an affiliated person (Photo Systems) of Narragansett. Accordingly, Narragansett requests an order pursuant to section 17d of the Act and rule 17d-1 thereunder permitting the 1978 reorganization.

Narragansett asserts that (1) the terms of the sale of the C-K division, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person, and (2) the proposed transaction is consistent with the policy of Narragansett as reflected in its registration statement and reports filed under the Act.

In support of its position, Narragansett asserts that (1) the selling price of the C-K division, $1,025,000, was only $60,000 less than the asking price, and (2) the formula by which the asking price was computed (book value at time of sale plus five times divisional after-tax earnings for fiscal 1977) is the same as that employed by Photo Systems in a previous sale of its DNJ division, described as an "arms length" transaction between unaffiliated persons. According to the application, the sale of the DNJ division was made at a price of $1,600,000, also $60,000 less than the "asking" price.

Narragansett states that the initial sales price of the C-K division was $1,000,000, payable in cash. According to Narragansett, these terms were subsequently deemed unsatisfactory since (1) the $1,000,000 cash payment would have restricted SCC's available working capital, and (2) the book value of the C-K division had increased from what is was when the $1,000,000 figure was arrived at. Narragansett submits that as a result of these factors the terms of the sale were altered to their presently proposed form.

Narragansett asserts that the 1978 reorganization will be of benefit to it and its shareholders, since (1) the unsecured and subordinated debt of Photo Systems to Narragansett will be reduced by $300,000, (2) the $850,000 loan to SCC by Narragansett will be made to a profitable business, in Narragansett's opinion, at an attractive rate of interest and will be senior to all debt of SCC except seasonal loans made by Inbank, and (3) the new equity investment of Narragansett in SCC will provide Narragansett and its shareholders with the opportunity to realize a gain in connection with their investment.

Narragansett submits that the sale of the C-K division will benefit Photo Systems by eliminating two areas of business risk: first, the progressive loss of competitiveness as a result of gradual technological obsolescence of processing equipment, and, second, the dependence of the company upon individual laboratory managers for the success of their divisions.

With regard to the first point, Narragansett states that Photo Systems' severe cash flow problems have greatly restricted investments in new equipment in all divisions. As a result, laboratory equipment has gradually fallen behind competitors. If Photo Systems were to continue to own the C-K division, it could not, according to Narragansett, expect the latter's capital equipment situation to improve in the forseeable future.

In support of the second point, Narragansett claims that the laboratory business is service-oriented, requiring continuous personal contact between the laboratory manager and his key customers to build a long-term customer base. According to Narragansett, since this allegiance is associated

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more with the individual manager than with the organization, Photo Systems has found its corporate future significantly dependent on the continued employment of particular individuals.

Narragansett submits that Wybo and Caisse, who, it states, are largely responsible for the success of the C-K division, have become increasingly frustrated by the constraints on new capital equipment, advertising and other corporate controls made necessary by Photo Systems' financial condition. Additionally, they have expressed some dissatisfaction over the fact that the existing distribution of stock ownership and compensation arrangements of Photo Systems do not appear to them to reflect the contribution of the C-K division to the overall business. Were they to leave Photo Systems to compete with C-K, it could prove very damaging to Photo Systems. Under the 1978 reorganization, Wybo and Caisse will each (1) invest $37,500 in SCC, and (2) sign a noncompetition agreement with SCC. Narragansett asserts that the sale of the C-K division will not place Photo Systems or SCC at a competitive disadvantage since (1) the film processing business is basically a regional service, and (2) the two businesses will be located over 2,000 miles apart from each other.

Narragansett states that the 1978 reorganization will (1) relieve Photo Systems of the administrative costs of operating a division located over 2,000 miles from its corporate headquarters, (2) permit Considine and the management of Photo Systems to devote more time to supervising the operations and improving the profitability of the remaining divisions of Photo Systems, and (3) reduce the indebtedness of Photo Systems, with the result that Photo Systems will have a positive net worth and an improved cash flow. Narragansett asserts that SCC will benefit from the 1978 reorganization by being able to provide its management with a substantial ownership position in the new company, thereby creating incentives to the management of SCC to continue their employment and the profitable operation of SCC.

Narragansett asserts the 1978 reorganization is consistent with the general purposes of the Act and that the participation each of Narragansett, Photo Systems and SCC in the 1978 reorganization is not on a basis less advantageous than that of other participants. Narragansett asserts that Photo Systems will receive substantially in excess of the book value of the assets being transferred to SCC; that the minority shareholders of Photo Systems will benefit to the extent that such transfer enables Photo Systems to reduce its outstanding indebtedness; but that any benefit to the minority shareholders of Photo Systems will also benefit Narragansett, as majority shareholder. Wybo and Caisse will pay a total of $75,000 for 50 percent of the shares of SCC. Narragansett will also pay $75,000 for 50 percent of the shares of SCC. Wybo and Caisse will receive compensation as officers of SCC, but, Narragansett asserts, in amounts equivalent to the compensation paid to other managers of professional photography companies of similar size and profitability. Considine will continue as chief executive officer of Photo Systems and will be eligible to receive his annual salary of $30,000, payable as the cash flow of Photo Systems permits.

Inbank will have its loans to Photo Systems partially repaid in connection with the 1978 reorganization and will agree to extend credit to SCC at standard commercial rates. Narragansett asserts that Inbank's participation is not more advantageous than that of Narragansett, Photo Systems or SCC.

Notice is further given that any interested person may, not later than June 6, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13653 Filed 5-18-78; 8:45 am]

[8010-01]

[File No. 500-1]

NATIONAL AMERICAN CORP.

Suspension of Trading

MAY 11, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of National American Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from May 11, 1978, at 2:15 p.m. (e.d.t.) through May 20, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13652 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 34-14772; File No. SR-NSCC-78-5]

NATIONAL SECURITIES CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 2, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Amend Section 1 of Rule 2 of the SCC Division of National Securities Clearing Corporation (the Corporation) as follows (italics indicate material to be added; and material in brackets is to be deleted):

Rule 2. SEC. 1. Except as hereinafter provided in Section 2 or 3 of this Rule or Rule 3, the Corporation shall act only for [member organizations (member firms or member corporations) of a registered national securities exchange or a registered national securities association] *a partnership, corporation or other organization or entity which shall satisfy at least one of the following qualifications: (i) It is a broker or dealer registered under the Securities Exchange Act of 1934; (ii) it is a bank or trust company, including a trust company having limited power, which is a member of the Federal Reserve System or is supervised and examined by state or federal authorities having supervision over banks; (iii) it is a registered clearing agency; (iv) it is an insurance company subject to supervision or regulation pursuant to the provisions of state insurance laws; (v) it is an investment company registered under section 8 of the Investment Company Act of 1940 as amended; or (vi) if it does not qualify under clauses (i) through (v) above, it is a person which demonstrates to the Board of Directors that its business and capabilities are such that it could reasonably expect material benefit from direct access to the Corporation's services and* who applies to the Corporation to act for [them] *it*, whose application[s are] *is* approved by the Corporation and who [have] *has* contributed to the Clearing Fund as provided in Rule 4. The [member organizations] *persons* for whom the Corporation acts and who have contributed to the Clearing Fund, as provided in Rule 4, shall, until the Corporation ceases to act for them, be known as Clearing Members.

A [member organization] *person* whose application to become a Clearing Member has been approved by the corporation shall pay to the Corporation its original contribution to the Clearing Fund determined in accordance with the provisions of Rule 4 and shall sign and deliver to the Corporation an instrument in writing whereby such applicant shall agree as provided in Section 4 of this Rule.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to permit access to the SCC Division of NSCC by those persons entitled to access pursuant to section 17A(b)(3)(B) of the Securities Exchange Act of 1934 (the 1934 Act).

The proposed rule change will permit any (A) registered broker or dealer, (B) other registered clearing agency, (C) registered investment company, (D) bank, (E) insurance company or (F) certain other persons, to become a participant in the services offered by the SCC Division to Clearing Members and will conform the access rules of the SCC Division with the provisions of section 17A(b)(3)(B) of the 1934 Act.

In view of the continuing oversight by the Securities and Exchange Commission into the interfaced relationships between and among registered clearing agencies, the Corporation will provide the Securities and Exchange Commission with such statistics and information as will enable appropriately thorough review thereof, and will not utilize the proposed rule change described above for a period greater than one hundred eighty (180) days after the Securities and Exchange Commission grants approval hereof without making a further request to the Securities and Exchange Commission to do so, in the appropriate manner.

No comments on the proposed rule change have been solicited or received. The proposed rule change is similar, however, to the proposed change in Rule 2 of the SCC Division contained in SR-NSCC-77-10 on which comments have been solicited and as to which no comments on the similar change therein have been received. The proposed rule change is identical to a proposed rule change appearing in filing SR-NSCC-78-3, for which no comments were solicited.

The Corporation does not perceive that any burden on competition will be imposed by the proposed rule change.

In connection with the proposed rule change, NSCC requested that the Commission approve the proposed rule change prior to the thirtieth day after publication in the FEDERAL REGISTER.

On or before June 23, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 9, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13723 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 34-14772; File No. SR-NSCC-78-4]

NATIONAL SECURITIES CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 24, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

AMEND RULE 3 OF THE NCC DIVISION

(NCC) of National Securities Clearing Corporation (the Corporation) by adding a new paragraph (1) thereto as follows:

(1) The Clearing Corporation, in its discretion, may maintain one or more clearing accounts and, in its own name or in such clearing accounts, may act for itself or may act for a clearing agency registered pursuant to the Securities Exchange Act of 1934, as amended ("registered clearing agency") in providing for, or in assisting the registered clearing agency to provide for, the prompt clearance and settlement of securities transactions by the Clearing Corporation or the registered clearing agency and the satisfaction of the Clearing Corporation's or the registered clearing agency's obligations and responsibilities under the Securities Exchange Act of 1934, as amended.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change permits the Corporation to maintain clearing accounts with NCC and thereby to facilitate the linking of clearance and settlement facilities maintained by other clearing agencies and by itself through its SCC Division (SCC) and ASECC Division.

For example, the proposed rule change will permit the Corporation to facilitate the clearance and settlement of over-the-counter transactions by Midwest Clearing Corporation (MCC) and Stock Clearing Corporation of Philadelphia (SCCP) by interpositioning itself between NCC and MCC or SCCP. This is illustrated by the following example:

1. An MCC Participant purchases 100 shares of XYZ common stock from an NCC Participant.

2. The MCC Participant reports its side of the trade to MCC and the NCC Participant reports its side of the trade to NCC.

3. MCC reports the trade to Pacific Clearing Corporation (PCC). NCC also reports the trade to PCC. (This report by NCC is made possible by changes made in the NCC computer programs described below.)

4. PCC compares the trade and reports it back, as a compared trade, to MCC and NCC. At this stage, MCC's books show the MCC Participant long 100 shares and the SCC interface account on MCC's books short 100 shares; NCC's books show the NSCC/MCC account long 100 shares and the NCC Participant's account short 100 shares.

5. MCC, pursuant to SCC Rule 39 and Rule 7, section 10(b), reports to SCC a transaction between SCC's

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MCC interface account and SCC's NCC/MCC interface account. As a consequence, SCC's books show SCC's MCC interface account long 100 shares and SCC's NCC/MCC interface account short 100 shares.

6. As a consequence of the entries produced in steps 4 and 5:

(a) the NCC Participant delivers 100 shares to NCC.

(b) NCC delivers the shares to the NSCC/MCC account.

(c) the NSCC/MCC account delivers the shares to the NCC/MCC account in SCC and to the SCC MCC interface account which delivers the shares to MCC in satisfaction of the short position in the SCC interface account on MCC's books.

(d) MCC delivers the shares to the MCC Participant.

The effect of this procedure is that MCC simply adds the over-the-counter transaction volume to its existing interface with SCC, and NCC simply establishes an additional account which appears to NCC as another participant. This is due to the interpositioning of the Corporation between NCC and MCC.

MCC's and the Corporation's rights, duties and obligations are the same as they are under the existing SCC/MCC interface.

SCCP can be substituted for MCC in the above example.

Substantially the same result can be achieved by other means. For example, MCC could become a Special Clearing Member of NCC pursuant to NCC Rule 3(b). In such event, the above described trade would be handled in the following manner:

After PCC reports the trade back to MCC and NCC, MCC's books would show the MCC Participant long 100 shares and the NCC interface account on MCC's books short 100 shares: NCC's books would show MCC long 100 shares and the NCC Participant's account short 100 shares.

As a consequence of these entries:

(a) the NCC Participant delivers 100 shares to NCC.

(b) NCC delivers the shares to the MCC account.

(c) MCC delivers the shares to the MCC Participant.

This procedure differs from that in which the Corporation interpositions itself, in that MCC deals with NCC in the same manner as any other remote participant in NCC and has the same rights, duties and obligations under the NCC Rules as does an NCC Clearing Member.

Either of the above procedures will operate on the basis of a comparison system which has adequate codes to designate the location at which the parties to a trade clear and settle.

Under existing arrangements, if an NCC Participant effects a transaction with a PCC Participant, the NCC Participant submits trade data to NCC which contains, among other things, the designation code of the contra party. The contra party's designation code contains an alphabetical suffix which designates its clearance and settlement location (e.g., the letter "L" designates that the party clears and settles at PCC's Los Angeles office). Trade input containing a designation code with the suffix "L" is routed by NCC to PCC for comparison and is reported back to NCC after comparison for settlement through the NCC/PCC interface.

The addition of new suffixes to designate a party which clears and settles at, for example, MCC or SCCP, has the following effect: Trade data submitted to NCC which contains a designation code of a contra party which clears and settles at MCC will be routed to PCC for comparison as will trade data submitted by the contra party to MCC. PCC will compare the trade and report back to NCC and MCC.

The designation code of each NCC participant is determined by NCC, under authority of its rules, from time to time. The change in designation codes required to recognize MCC and SCCP participants will be effected by NCC's publication of new designation codes.

A compared trade which contains a designation code which indicates that the contra party is a MCC participant will be posted by NCC, if the Corporation is interpositioned, to the account of the NCC Participant and to the NSCC/MCC account, or, if the Corporation is not interpositioned and MCC is a Special Clearing Member, to the account of the NCC Participant and to the MCC account.

Neither of the arrangements described above requires a special agreement between the Corporation and any of MCC, SCCP or PCC since such arrangements rely upon, in the case of the interpositioning arrangement, the NCC Rules, including the proposed rule change, the SCC Rules and the interface agreements now in effect which have previously been filed by the Corporation with the Securities and Exchange Commission or, in the case in which MCC or SCCP would become a Special Clearing Member of NCC, upon the NCC Rules. If, however, any supplemental agreement is executed by the Corporation wiht another registered clearing agency, it will be submitted to the Securities and Exchange Commission in the appropriate manner.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions and foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by permitting the Corporation, through NCC, to act in a manner which will allow a participant in the registered clearing agency to clear and settle a securities transaction with a participant in another registered clearing agency.

In view of the continuing oversight by the Securities and Exchange Commission into the interfaced relationships between and among registered clearing agencies, the Corporation will provide the Securities and Exchange Commission with such statistics and information as will enable appropriately thorough review thereof, and will not utilize the proposed rule change described above for a period greater than one hundred eighty (180) days after the Securities and Exchange Commission grants approval hereof without making a further request to the Securities and Exchange Commission to do so, in the appropriate manner.

No comments on the proposed rule change have been solicited or received.

NSCC does not perceive that any burden on competition will be imposed by the proposed rule change.

In connection with the proposed rule change, NSCC requested that the Commission approve the proposed rule change prior to the thirtieth day after publication in the FEDERAL REGISTER.

On or before June 23, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 9, 1978.

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For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 16, 1978.

[FR Doc. 78-13724 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 14757; File No. SR-CBDE-78-11]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Filing of Proposed Rule Change

MAY 15, 1978.

The Chicago Board Options Exchange, Inc. ("CBOE") submitted on May 10, 1978, a proposed rule change under Rule 19b-4 to provide investors with a simple and inexpensive procedure for the arbitration of small claims against member firms. The proposed rule would provide for determination by a single arbitrator knowledgeable in securities matters of disputes between brokerage firms and customers involving amounts not exceeding $2,500. In addition, the CBOE has proposed amendments to its existing arbitration rules to provide conformity with the proposed new small claims rules.

Publication of the submission is expected to be made in the FEDERAL REGISTER during the week of May 15, 1978. In order to assist the Commission to determine whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views, and arguments concerning the submission within 21 days from the date of publication in the FEDERAL REGISTER. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-CBOE-78-11.

Copies of the submission and all subsequent amendments, and copies of all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of section 552 of Title 5, United States Code, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13658 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 14755; File No. SR-NYSE-78-21]

NEW YORK STOCK EXCHANGE, INC.

Filing of Proposed Rule Change

MAY 12, 1978.

The New York Stock Exchange, Inc. ("NYSE"), submitted on March 29, 1978, a proposed rule change under Rule 19b-4 to rescind its Article XIV and Rule 345(c), add a new Article XIV and Rules 476 and 477 and amend Articles III, X, and XI. Those proposed amendments are intended to conform the NYSE's disciplinary rules to the provisions of the Act, to organize those rules into a uniform body of enforcement regulations and to clarify certain procedural requirements.

Publication of the submission is expected to be made in the FEDERAL REGISTER during the week of May 15, 1978. In order to assist the Commission to determine whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the FEDERAL REGISTER. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Secruities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-78-21.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing and of the subsequent amendments will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13659 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 34-14754; File No. SR-PSE-78-8]

PACIFIC STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 9, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

PSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange, Inc. ("PSE"), hereby requests to amend Rule XII, by the addition of a new section 10. The proposed rule would, among other things, provide for determination by a single arbitrator knowledgeable in securities matters of disputes between brokerage firms and customers involving amounts not exceeding $2,500. The participating self-regulatory organizations will offer hearing facilities in all areas of the country so that a dispute can be heard in a location convenient to the claimant. A claimant will have the right to withdraw his claim without prejudice if a conterclaim in excess of his claim is interposed. The only expense will be a filing fee of $15.

PSE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to provide investors with a simple and inexpensive procedure for the resolution of small claims against member firms. The procedures set forth in the proposed rule were developed by the Securities Industry Conference on Arbitration, which is composed of representatives of the PSE and eight other self-regulatory organizations.

Rule XII is proposed to be amended to protect investors and the public interest consistent with section 6(b)(5) of the Act by providing a more effective, efficient and economical dispute resolution system for investors with small claims.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS

Comments were received from the members of the Securities and Exchange Commission at an open meeting held on December 8, 1977, to a Report by SICA containing an earlier version of the procedures. Based on those comments, the procedures were revised as presently submitted.

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PSE'S STATEMENT OF BURDEN ON COMPETITION

The PSE has determined that no burden on competition will be imposed by the proposed rule change.

On or before June 23, 1978, or within such longer period: (i) as the Commissioner may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by June 9, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1978.

The text of the proposed rule change is as follows. Italics indicate new material.

RULE XII.—ARBITRATION

UNIFORM RULE APPLICABLE TO SMALL CLAIMS BY PUBLIC CUSTOMERS

Sec. 10. (a) Any dispute, claim or controversy, arising between a public customer(s) and a member, or member organization, required to be arbitrated under the By-Laws and rules of the Pacific Stock Exchange, Inc., involving a dollar amount not exceeding $2,500, exclusive of attendant costs and interest, shall upon demand of the customer(s) or by written consent of the parties be arbitrated as hereinafter provided.

(b) The Claimant shall file with the Arbitration Director one (1) executed Submission Agreement and one (1) copy of the Statement of Claim of the controversy in dispute, together with documents in support of the claim. The Statement of Claim shall specify the relevant facts, the remedies sought and whether or not a hearing is demanded.

(c) The Claimant shall pay the sum of $15.00 upon filing of the Submission Agreement. The final disposition of this sum shall be determined by the arbitrator.

(d) The Arbitration Director shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. The Respondent(s) shall within twenty (20) calendar days from receipt of service file with the Arbitration Director one (1) executed Submission Agreement and one (1) copy of the Respondent's Answer, together with supporting documents. The Answer shall designate all available defenses to the Claim and may set forth any related counterclaim and/or related Third Party Claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) has interposed a Third Party Claim, the Arbitration Director shall endeavor to serve promptly by mail or otherwise a copy of same together with a copy of the Submission Agreement on such Third Party who shall respond in the manner herein provided response to the Claim. If the Respondent(s) files a related Counterclaim exceeding $2,500, the arbitrator may refer the Claim, Counterclaim and/or Third Party Claim, if any, to a panel of three (3) arbitrators or, he may dismiss the Counterclaim and /or Third Party Claim without prejudice to the Counterclaimant(s) and/or Third Party Claimant(s) pursuing the Counterclaim and/or Third Party Claim in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed $15.

(e) The Arbitration Director shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, Third Party Claim or other responsive pleading, if any. The Claimant, if a Counterclaim is asserted against him, shall within ten (10) calendar days either (2) file a Reply to any Counterclaim with the Arbitration Director who will serve a copy of the Reply on the Respondent(s) or (ii) if the amount of the Counterclaim exceeds the Claim shall have the right to file a statement withdrawing the Claim. If the Claimant withdraws the Claim, the proceedings will be discontinued without prejudice to the rights of the parties.

(f) The dispute, claim or controversy shall be submitted to a single arbitrator knowledgeable in the securities industry selected by the Arbitration Director. Unless the public customer demands or consents to a hearing, or the arbitrator(s) calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Arbitration Director.

(g) The Arbitration Director may grant extensions of time to file any pleading upon a showing of good cause.

(h) The arbitrator shall be authorized to require the submission of further documentary evidence as he in his sole discretion deems advisable.

(i) Upon the request of the arbitrator, the Arbitration Director shall appoint two (2) additional arbitrators to a panel which shall decide the matter in controversy.

(j) In any case where there is more than one (1) arbitrator, the majority will be public arbitrators.

(k) In his discretion, the arbitrator may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.

(l) Except as otherwise provided herein, the general arbitration rules of the Pacific Stock Exchange, Inc., shall be applicable to proceedings instituted under this Rule.

** * * Supplementary Material*

FORM OF SUBMISSION

Pacific Stock Exchange, Inc.

In the Matter of the Arbitration between ————————.

SUBMISSION AGREEMENT FOR SMALL PUBLIC CLAIMS

1. The undersigned parties hereby submit to arbitration in accordance with the By-Laws and Rules of the Pacific Stock Exchange, Inc., the present matter in controversy as set forth in the attached statement of claim, answers and all related counterclaims and/or third party claims which may be asserted.

2. The undersigned parties hereby state that they have read the procedures and rules of the Pacific Stock Exchange, Inc., relating to arbitration.

3. The undersigned parties agree that the arbitration between the parties named above shall be held at such time and place as may be designated by the Arbitration Director or the arbitrator(s) and further agree and understand that the arbitration will be conducted according to the rules of the Pacific Stock Exchange, Inc., and its schedule of fees, both of which are to be hereby incorporated into this Submission Agreement.

4. The undersigned parties further agree to abide by and perform any award(s) rendered pursuant to this Submission Agreement and further agree that a judgment and any interest due thereon, may be entered upon such award(s) and, for these purposes, the undersigned parties hereby voluntarily consent to submit to the jurisdiction of any court of competent jurisdiction which may properly enter such judgment.

5. In witness whereof, the parties hereto have signed and acknowledged the foregoing Submission Agreement.

[FR Doc. 78-13661 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 34-14744; File No. SR-PHLX-78-5]

PHILADELPHIA STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 2, 1978, the Philadelphia Stock Exchange, Inc. (the "PHLX") filed with the Securities and Exchange Commission a proposed rule change, supplemented by Amendments No. 1 and 2 thereto submitted on April 26 and May 1, 1978, respectively. The PHLX has provided the Commission with the following statement of the terms of substance, basis and purpose of the proposed rule change.

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change provides for the amendment of PHLX rules necessary to implement the Plan previously submitted to the Securities and Exchange Commission for the purpose of creating and operating an Intermarket Communications Linkage pursuant to section 11A(a)(3)(B) of the Securities and Exchange Act of 1934.

PURPOSE OF THE PROPOSED RULE CHANGE

The purpose of the proposed rule change is to implement the Plan previously submitted to the Securities and Exchange Commission by the New York Stock Exchange by letter dated March 8, 1978, for the purpose of creating and operating an Intermarket Communications Linkage pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934. This plan in general provides for a communications system linkage of the various participant's trading floors in order to permit a trade to take place between the members of different participants.

Pursuant to the intent of the Congress, as expressed in section 11A (a)(3)(B) of the Securities Exchange Act of 1934, as amended, (the Act)—that self-regulatory organizations act jointly in planning, development, operating, and regulating a national market system (or a subsystem or one or more facilities thereof)—the PHLX and the American, Boston, Pacific, and New York Stock Exchanges have entered into a plan agreement (the Plan) providing for an electronic communications system (the System) which will link together the various trading floors maintained by the participating exchanges. This System is intended to support the Intermarket Trading System Application (ITS) and the Pre-Opening Application.

The ITS Application of the System will facilitate intraday (post opening) trades between broker-dealers on different participants. The following example describes the operation of ITS:

Assume that a member firm of the PHLX receives from a customer an order to purchase 100 shares of a given PHLX listed stock that is also traded on the Pacific (PSE) and New York Stock (NYSE) Exchanges and sends that order to the PHLX Floor for execution. There a PHLX member, acting as agent for the customer, will receive the order and attempt to execute it. He will go to the post at which the stock is traded on the PHLX and inquire as to the market for that stock. He may find that the best bid on the PHLX Floor is 40 and that the best offer is 40¼.

A continuously updated quotation display at the same trading post will also show the broker the best bid and offer available throughout the System other than on the PHLX Floor, identifying the participant with the best bid and the participant with the best offer. Thus, the broker may discover that the best bid for the stock from other participants is a bid of 40 on the NYSE and the best offer from other participants is one of 40⅛ on the PSE. Having learned this information, the broker may decide to attempt to buy the 100 shares for his customer from the 40⅛ offer on the PSE. The broker would send, or cause to be sent, through ITS a so-called "commitment to trade" to the PSE. (As used in the Plan the term "commitment to trade" means a message issued by a broker-dealer in one participating market center which is sent to another participating market center through ITS and which communicates the sender's firm offer to buy (or sell) a specific number of shares of a specific security at a specified price or "at the market".) In this example, the broker would send to the PSE a commitment to buy 100 shares of the stock at 40⅛. If the 40⅛ offer on the PSE is still available when the commitment to buy reaches the PSE and if the rules of the PSE permit an execution at that price, then the PSE offer would accept the commitment and an execution at 40⅛ would take place.

The Pre-Opening Application of the System will enable a specialist on any participant who wishes to open his market in a security traded through ITS to obtain through the System any pre-opening interest of other specialists registered in that security on the other specialists registered in that security on the other participants. In this way the specialist in a given stock on one participant may be able to participate (as agent and/or principal) in the opening transaction in that stock on another participant and thus be able to provide an execution for limited price orders left with him which would otherwise go unexecuted. Briefly stated, the Pre-Opening Application would operate as follows:

Whenever a specialist on any participant, in arranging an opening transaction in his market in a stock traded through ITS, determines that the opening transaction will be at a price which is more than ¼ of a point away from the previous day's closing price of that stock, as reported on the consolidated tape, the specialist will notify specialists in that stock on the other participants of such situation by sending a message, called a "pre-opening notification", through the System. This message will identify the stock and will state the side of the market in which the order imbalance exists, the amount of the imbalance, and the amount paired off. The specialist who issues a pre-opening notification is referred to the Plan as the "inquiring specialist".

If any specialist who receives a pre-opening notification desires to participate in the inquiring specialist's opening transaction in the stock in question, he would do so by sending through the System to the inquiring specialist a message, known as a "pre-opening response" containing "obligations to trade", both as principal for his own account and/or as agent for orders left with him, at each price level at which the stock might open. The specialist who issues a pre-opening response is referred to in the Plan as the "responding specialist".

Upon receiving such obligations to trade from the responding specialist(s), the inquiring specialist would combine them with the orders he already holds in the stock in question and, on the basis of this aggregated information, decide upon the opening transaction in that stock.

Responses to pre-opening notifications are voluntary but, each obligation to trade which is included in any pre-opening response, or in any modification of a pre-opening response, will remain binding on the responding specialist, and on any person for whom he is acting, until the inquiring specialist has either opened the stock in question or received a cancellation or modification of such obligation.

ITS and the Pre-Opening Application and the various procedures related thereto as agreed upon by the par-

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ticipants are explained fully in the Plan.

The Plan, which has been submitted separately to the SEC for approval, describes a number of rules and rule changes that each participant agrees to adopt in order to ensure that both the Pre-Opening Application and ITS operate in the manner intended by the Plan participants.

Thus, the general purpose of the proposed By-Law and rule changes submitted in this filing is to provide for the implementation and operation of ITS and the Pre-Opening Application on the Floor of the PHLX in accordance with the provisions and intent of the Plan.

Proposed Rule 2002 would permit the Exchange to assume liability in connection with transactions effected by its members through ITS or the Pre-Opening Application (System transactions). The Exchange's liability would be limited to the extent set forth in proposed new Rule 2001. This rule provides in effect that:

If the PHLX side of a System transaction fails to compare, the Exchange will assume that side of the transaction for its own account and risk when investigation of the details of the trade fails to confirm the identity of the broker on the Floor who issued the instruction which caused the transaction to be consummated and also fails to confirm the identity of the clearing member which knows that side of the transaction;

If the PHLX side of a System transaction is to be settled by an Exchange member who becomes insolvent to clearance, the Exchange may, but would not be required to, assume that side of the transaction for its own account and risk.

The Exchange also proposes to adopt a new Rule 2001, in connection with ITS and the Pre-Opening Application. The purpose of this Rule is to: define key terms that are unique to the Plan; incorporate the salient provisions of the Plan into rule so the Exchange membership will be aware of them and so that they can be properly enforced by the Exchange; and identify those rules which would be applicable to commitments to trade received on the Floor through ITS and those rules which would be applicable to commitments to trade and also obligations to trade issued from the Floor of the Exchange through ITS or the Pre-Opening Application, respecitively.

The Plan provides that the trading rules of the participating market center in which a commitment to trade is received through ITS shall be applicable to that commitment and any execution thereof within the market of that participant.

Thus, the Plan contemplates that such commitments to trade will be handled in the normal course of business in the receiving market center and will not be subject to any special restrictions except those which are specifically agreed to by the participating market centers in the Plan. To further emphasize this principle the Plan provides that the rules of each participant shall provide that a commitment to trade received in its market during the trading day shall, except as otherwise provided for in the Plan, be treated in the same manner and entitled to the same privileges as would an "immediate or cancel" order that reaches the trading floor of that participant at the same time.

The Plan also provides that each participating market center shall be free to determine the extent to which its trading rules will be made applicable with respect to commitments to trade which are issued from such market center. Specifically, the proposed rule changes would make the following existing rules applicable to commitments to trade issued from the Floor of the Exchange: Rules 102, 104, 105, 212, 452, 454, 772, and 774. Moreover, the Exchange has determined that these rules should also be applicable to obligations to trade issued from the Floor of the Exchange through the Pre-Opening Application of the System.

The effect of the proposed rule changes to the above mentioned existing Exchange rules is that:

Rule 102 would be extended to provide that Exchange members can only issue commitments to trade from the Floor during hours when the Exchange is open for business.

Rule 452 would be extended to prohibit an Exchange member from issuing a commitment or obligation to trade for his own account when he holds a customer's order capable of execution at that price.

Rule 772 and Rule 212, which restrict participation in joint accounts for Floor trading, would be extended to cover trading in other markets through ITS or the Pre-Opening Application.

Rule 774 would be extended to prohibit an Exchange member from initiating a discretionary order while on the Floor and using ITS or the Pre-Opening Application to transmit such order to another market center.

Rule 454 would be extended to prohibit a member from issuing a commitment or obligation to trade for his own account in a stock in which he holds an option.

The proposed changes to Rule 228 (f) and (g) concerning the dealings of Exchange specialists would provide, essentially, that when an Exchange specialist effects a principal purchase of a specialty stock in another market through ITS, at or above the price at which he holds orders to sell that stock, the specialist must also fill the orders he holds which remain unexecuted by buying the stock for his own account at the same price as his ITS principal trade. The same principle would apply in the case where the specialist effects a principal sale thorugh ITS. However, certain exceptions are provided, for example, in the case where a transaction on the Floor at that price would not be consistent with the maintenance of fair and orderly markets.

The proposed changes to Rule 228 (f) and (g) are intended to provide a degree of protection to limit orders which are held by PHLX specialists, during the initial phase of ITS. It is expected that future enhancements to ITS which are currently being contemplated would, if implemented, include mechanisms and procedures to provide for Systemwide protection of limit orders.

Changes are also proposed to Exchange trading Rules 104 and 105. These changes are intended to clarify the application and meaning of the rules in terms of System transactions.

In addition, Proposed Rule 2000 makes the provisions of the By-Laws and of all other Rules and Policies of the Board of Governors applicable to trading through the ITS unless the context otherwise requires.

Basis Under the Act

The basis under the Act for the proposed rule change is Section 6(b)(5).

(i) Inapplicable.
(ii) Inapplicable.
(iii) Inapplicable.
(iv) Inapplicable.
(v) The proposed rule change which is designed to implement a previously filed Plan to create and operate an intermarket communications linkage relates to the removal of impediments to and perfection of the mechanism of a free and open market and a national market system.
(vi) Inapplicable.
(vii) Inapplicable.
(viii) Inapplicable.

Comments Received From Members, Participants or Others

No comments have been solicited or received.

Burden on Competition

None.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by June 19, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

May 10, 1978.

[FR Doc. 78-13662 Filed 5-18-78; 8:45 am]

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[Rel. No. 20541 (70-6160)]

SOUTHERN CO. ET AL.

Notice of Proposal to Allocate Consolidated Federal Income Tax Liability by Method Other Than Specified in Rule 45(b)(6)

May 11, 1978.

In the matter of The Southern Co., 64 Perimeter Center East, P.O. Box 720071, Atlanta, Ga. 30346, and Alabama Power Co., Alabama Property Co., Georgia Power Co., Gulf Power Co., Mississippi Power Co., Southern Electric Generating Co., Southern Co. Services, Inc.

Notice is hereby given that The Southern Co. ("Southern"), a registered holding company, and its subsidiary companies have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 12(b) of the Act and rule 45 promulgated thereunder as applicable to the following proposal. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposal.

Southern and its subsidiaries join as a group in the filing of consolidated Federal income tax returns. In accordance with rule 45(b)(6), consolidated Federal income tax liability is allocated among system members by the method provided under section 1552(a)(1) of the Internal Revenue Code of 1954, as amended. Under section 1552(a)(1), consolidated income tax liability is apportioned among members of the consolidated group in accordance with the ratio which that portion of the consolidated taxable income attributable to each member having taxable income bears to the consolidated taxable income.

For 1977, Southern and its subsidiaries estimate that their combined taxable incomes will be approximately $190.5 million and that the consolidated tax, before investment credits, will be approximately $81.3 million. Each of Southern's operating electric utility subsidiaries, except Alabama Power Co. ("Alabama") will have separate taxable income for 1977. Alabama estimates that it will report a taxable loss of approximately $3.0 million.

Because Alabama has a taxable loss, Southern and its subsidiaries state that allocation of the group's consolidated income tax liability for 1977 pursuant to the literal requirements of rule 45(b)(6), as previously modified by Commission orders dated April 26, 1963, and March 15, 1976 (HCAR Nos. 14860 and 19429) would result in certain distortions and inequities in that the companies in the system other than Alabama will benefit from the savings in consolidated tax liability attributable to Alabama's net operating loss for the year. Under rule 45(b)(6), Alabama would derive no benefit from the tax savings generated by its net operating loss.

Southern and its subsidiaries propose, as an exception to rule 45(b)(6), to allocate the consolidated tax liability for 1977 in such a manner that the reduction in the group's tax liability attributable to Alabama's 1977 net operating loss will be allocated in its entirety to Alabama, resulting in an aggregate benefit to Alabama of an estimated $1.7 million. Under the proposed method of allocation, each of Southern's other operating utility companies will be allowed to offset its liability to Alabama by its full investment credits earned. In years when Alabama has taxable income and therefore may be entitled to tax credits under the operating loss carryback and carryover provisions of the Internal Revenue Code, any tax credits remitted to Alabama as a result of the exception from rule 45(b)(6) requested herein will be applied to reduce any credits in future years to which Alabama may otherwise be entitled under the separate return limitations of rule 45(b)(6). The aggregate tax liability allocated any member of the group under the proposed method of allocation will not exceed the amount of tax of such company based upon a separate return computed as if such company had always filed its tax returns on a separate return basis.

Southern and its subsidiaries also propose, as an additional modification to the application of rule 45(b)(6), to allocate the group's minimum tax liability on so-called tax "preference items," which include capital gains, percentage depletion, accelerated depreciation on real property, and amortization of pollution control facilities, to those members of the group in accordance with the ratio which that portion of the total preference items attributable to each member having preference items bears to the total preference items of all members. Under rule 45(b)(6), a company such as Alabama, which did not have ordinary taxable income for 1977 but did have preference items, would not be allocated any part of the minimum tax on those preference items. The proposed method for allocating minimum tax will permit Southern to apportion the burden of the tax among those companies of the group, including Alabama, which report tax preference items. It is stated that current projections indicate there will be minimum tax liabilities for 1978 and subsequent years. For 1977, Southern estimates that the group will report approximately $42.2 million of preference items, of which an estimated $10.9 million will be attributable to Alabama. It is stated that the minimum tax allocated to Alabama under the proposal is approximately $1.3 million.

The fees, expenses, and commissions incurred in connection with this proposal will be filed by amendment. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposal.

Notice is further given that any interested person may, not later than June 6, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate, should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 78-13655 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 10238 (812-4284)]

STATE STREET INVESTMENT CORP.

Filing of an Application

May 11, 1978.

Notice is hereby given that State Street Investment Corp. ("Fund"), 225 Franklin Street, Boston, Mass. 02110,

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a Massachusetts corporation registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on March 20, 1978, pursuant to section 6(c) of the Act for an order of the Commission exempting the fund from the provisions of section 22(d) of the Act to permit a proposed exchange of the Fund's shares at approximately net asset value for substantially all of the assets of the D. P. Co., Inc. ("D. P. Co."), a personal holding company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The fund represents that D. P. Co., a Delaware corporation, was incorporated in 1927 and until 1973 was engaged in the manufacture and sale of glassine and other specialty papers under the name Deerfield Glassine Co. In 1973, this business was sold and the corporate name was changed to the D. P. Co., Inc. Since the latter part of 1973, D. P. Co. has operated as a private investment company, investing and reinvesting its assets in a diversified portfolio of securities. Substantially all of the assets of D. P. Co. are currently in the form of investments in marketable securities, cash, and cash items. The fund asserts that D. P. Co. presently has 36 stockholders, is a personal holding company for Federal income tax purposes and is exempt from registration under the Act by reason of section 3(c)(1) thereof.

On February 21, 1978, the fund and D. P. Co. entered into an agreement ("Agreement") whereby substantially all of the assets of D. P. Co. are to be acquired by the fund in exchange for shares of the fund's common stock. Pursuant to the Agreement, the number of the fund's shares to be acquired by D. P. Co. shall be determined on the closing date, as defined in the Agreement, by dividing the aggregate value of those assets of D. P. Co. which will be delivered to the fund by the fund's then current net asset value per share.

The application states that the fund and D. P. Co. have applied for a ruling from the Internal Revenue Service (the receipt of which is a condition to the consummation of the proposed exchange, although either party may waive such condition) to the effect that the contemplated transaction will constitute a tax-free reorganization, and that, consequently, the fund will not recognize a gain or loss upon acquisition of the D. P. Co. assets.

As of September 30, 1977, the market value of the assets of D. P. Co. which will be delivered to the fund was approximately $6,250,396. Following consummation of the transaction, the fund intends to sell certain of the securities transferred to it pursuant to the Agreement. Such a sale will involve securities having a market value of up to, but not in excess of, 30 percent of the value of the acquired D. P. Co. assets. The remainder of the assets will be retained in the fund's portfolio. Further, in accordance with the Agreement, shares of the fund which will be received by D. P. Co. will be distributed pursuant to the latter's liquidation proceedings. The fund has been advised that the stockholders of D. P. Co. have no present intention of redeeming or otherwise transferring their fund shares.

The fund represents that neither D. P. Co. nor any shareholder, director or officer of D. P. Co. is either an affiliated person of the fund or an affiliated person of any affiliated person of the fund, and that the Agreement was negotiated at arm's length by the principals of the fund and D. P. Co. The fund's investment adviser will bear substantially all of the fund's major expenses with respect to the reorganization.

Section 22(d) of the Act provides, in part, that a registered open-end investment company may sell its shares only at a current public offering price described in the prospectus. The fund does not have an effective prospectus which describes a current offering price for its shares and, accordingly, has filed this application seeking an exemptive order for the proposed transaction from section 22(d) of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision under the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The fund represents that the terms of the proposed exchange are fair to the fund and are consistent with the fund's investment policies. It is further represented that the granting of the requested exemption from the provisions of section 22(d) of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The application asserts that the proposed reorganization will be beneficial to the fund because it represents an opportunity for the fund to acquire additional assets in a single transaction without the expense inherent in a sales program and the offering of shares to the public. The application also asserts that the reorganization will benefit present fund shareholders in that the increase in the assets of the fund will operate to reduce expenses in relation to net asset value per share because the fund's investment advisory contract provides for a reduced rate of management fee on net assets in excess of $300,000,000, and as of September 30, 1977, the fund's net assets had a market value of $299,911,820.

Notice is further given that any interested person may, not later than June 5, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13654 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 14773; SR-SCCP-77-2]

STOCK CLEARING CORPORATION OF PHILADELPHIA ("SCCP")

Order Approving Proposed Rule Change

MAY 16, 1978.

On August 1, 1977, SCCP filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would: (1) enable SCCP to establish interfaces for processing over-the-counter ("OTC") transactions, and (2) permit SCCP to clear and settle OTC transactions. The proposed rule change also contained SCCP's schedule of interface fees. By letter of May 15, 1978, SCCP amended this filing (1) to make the proposed rule change for the establishment of OTC interfaces and the processing of OTC transactions a temporary rule expiring six months after approval by the Commission, and (2) to indicate that SCCP would provide to the Commission, after this filing is approved, copies of any pertinent information regarding the operation of the OTC interfaces or the processing of OTC transactions.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-13866, August 16, 1977) and by publication in the FEDERAL REGISTER (42 FR 43173, August 26, 1977). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The matter of the establishment of OTC interfaces among registered clearing agencies has for some time been one of the principal elements identified by the Commission as necessary for the establishment of a national system for the clearance and settlement of securities transactions. For example, in its Order (Securities Exchange Act Release No. 13163, January 13, 1977) granting registration as a clearing agency to National Securities Clearing Corporation ("NSCC"), the Commission after receiving extensive public comment specified a number of conditions that must be met by NSCC. One of the conditions was the establishment by NSCC of OTC interfaces with other clearing agencies. These interfaces were to be implemented promptly, but have been delayed for an extended period. The proposed rule change approved herein authorizes SCCP to process OTC transactions and to establish an OTC interface with NSCC and other clearing agencies. It is expected that within six months SCCP will file, pursuant to section 19(b) and Rule 19b-4 thereunder, further proposed rule changes to establish OTC interfaces on a permanent basis which reflect experience gained during this temporary period as well as any developments in the national clearance and settlement system.

In view of the foregoing, and in light of the temporary nature of the rules and the undertaking by SCCP to provide pertinent information on a continuing basis, the Commission finds that the proposed rule change as it relates to the establishment of OTC interfaces and the processing of OTC transactions is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies and, in particular, the requirements of section 17A, 15 U.S.C. 78q-1, and the rules and regulations thereunder. The Commission does not, however, approve that portion of SCCP-77-2 relating to interface fees.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That the above-mentioned portion of the proposed rule change be approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13722 Filed 5-18-78; 8:45 am]

[8010-01]

PRIVACY ACT OF 1974

Proposed New System of Records

AGENCY: Securities and Exchange Commission.

ACTION: Notification of Proposed New System of Records.

SUMMARY: The Securities and Exchange Commission proposes to create a new system of records identified as SEC-100, Automated Personnel Information System, which is being published for public comment. The proposed system will provide for a more rapid retrieval of selected data relating to Commission personnel.

DATES: This system shall become effective as proposed on June 19, 1978, unless comments are received on or before that date which would result in a contrary or changed determination.

ADDRESS: Comments should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments received will be available for public inspection and copying in the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Julian T. Pierce, Office of the General Counsel, Securities and Exchange Commission, Washington, D.C. 202-376-7155.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is proposing a new system of records which will supplement and enhance the capabilities of several systems of records currently maintained manually by the Commission's Office of Personnel.

The Commission has submitted a report concerning this proposed new system of records pursuant to Office of Management and Budget, Circular No. A-108, Transmittal Memorandums No. 1 and No. 3, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974, 5 U.S.C. 552a(o).

The proposed system of records will enable the Commission's Office of Personnel to provide a more rapid means to produce notifications of personnel actions and pay changes (currently done by manual preparation of Standard Forms 50); to enable the updating of selected data contained in Official Personnel Folders on a more timely basis and allow easier access to that data by authorized members of the staff; and to supply more up-to-date and more frequent reports on personnel actions and status to SEC management. All information to be stored in the automated system is currently maintained in file folders by the Commission, as described in the Commission's current Systems of Records Nos. SEC-48, 49, 50 and 51 (see 41 FR 41591-41594). This new system of records will have no effect on the present systems of records from which information for the new system will be derived.

SEC-100

System name:

Automated Personnel Information System—SEC.

System location:

Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

Categories of individuals covered by the system:

SEC employees, past and present.

Categories of records in the system:

The system of records consists of summaries of information received from the following category of records: (a) applicant files (Standard Forms 171 and resumes, attorney supplements to applications, applicant correspondence and evaluations, and summer employment files); (b) official personnel folders (Civil Service Commission files); (c) service record cards; (d) merit promotion posting files, including supervisory appraisals for jobs advertised under SEC Merit Promotion Program; (e) chronological copies of personnel actions (Standard Forms 50); (f) employee payroll number; (g) official position description; (h) supergrade submissions (correspondence with Civil Service Commission requesting new supergrade allocations or

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changes with respect to existing ones); and (i) annual performance rating and position classification certification.

Authority for maintenance of the system:

5 CFR, sections 213, 293, 302 and 335 and Civil Service Regulations promulgated thereunder.

Routine uses:

1. The records will be used by the SEC staff for (a) preparation of forms relating to official personnel actions; (b) computation of personnel strength of Commission divisions and offices; (c) certification of employment for credit checks or job applications; (d) recording of personnel actions processed; (e) preparation of reports and statistics on personnel activity; (f) location of personnel having specific skills and training; and (g) monitoring personnel actions concerning the staff (i.e., date of employee's last promotion, employee's position description number, etc.).

2. Any record in this system of records may be used by the Commission in connection with any action or proceeding brought by an employee before another agency or a court of law to review personnel action taken by the Commission or the failure by the Commission to take action.

3. Any record in this system may be used in any proceeding where the federal securities laws are in issue or in which the Commission or past or present members of its staff is a party or otherwise involved in an official capacity.

4. Any record in this system of records may be disclosed as a "routine use" to a federal, state or local governmental authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

5. Any record in this system of records may be disclosed to a federal, state or local governmental authority, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

6. The records in this system of records may be used as a data source for management information, to enable the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies; they may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

7. Records in this system may, in the discretion of the Commission's staff, be disclosed to any person during the course of any inquiry or investigation conducted by the Commission's staff, or in connection with civil litigation, if the staff has reason to believe that the person to whom the record is disclosed may have further information about the matters related therein, and those matters appear to be relevant at the time to the subject matter of the inquiry.

8. Disclosure may be made to a congressional office of information contained in the records relating to an individual in response to any inquiry from the congressional office made at the request of that individual.

9. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

The records are computerized and maintained on magnetic disk (current records) and magnetic tape (historical records and backup).

Retrievability:

Information is retrieved by name, employee identification code, or social security account number.

Safeguards:

Direct access via computer terminals is restricted to certain Office of Personnel staff automatically through use of special identification codes. Access to the files is further restricted to only those computer terminals assigned to the Office of Personnel. Computer disk and tape files, on which the data is stored, are available only through the librarian or chief of operations of the Office of Data Processing. Computerized backup and historical files are stored at a secured auxiliary SEC storge facility. The building where the records are maintained has a 24-hour security guard.

Retention and disposal:

Computerized files on current employees will be retained during the time the employee is employed by the Commission. On becoming separated from the Commission, a separate computer historical file will be created, containing only the basic information needed to show the employee's tenure, employment dates, title, series, grade and organization with the Commission.

System manager(s) and address:

Director of Personnel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

Notification procedure:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be made in person during normal business hours at the SEC Office of Personnel, 500 North Capitol Street, Washington, D.C., or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

Record access procedures:

Persons wishing to obtain information on the procedure for gaining access to or contesting the contents of these records may contact the Office of Personnel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C., or address their inquiries to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

Contesting record procedures:

See Record access procedures above.

Record source categories:

Records in category (a) are obtained from applicant concerned and interviewer evaluating the applicant. Records in categories (b), (d) and (e) are obtained from employee and supervisors concerned. Records in category (c) are obtained from official personnel folder of the employee concerned. Records in category (f) are assigned to the employee by the Commission and are obtained from the employee's official personnel folder. Records in category (g) are obtained from interviews by position classifiers and/or management analysis staff of the Executive Director's Office with employee and his/her supervisor(s) and administrative assistant. Records in category (h) are obtained from official personnel files, office classification files, interviews by position classifiers, and the employee concerned. Records in category (i) are obtained from annual performance rating files.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 10, 1978.

[FR Doc. 78-13698 Filed 5-18-78; 8:45 am]

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[8010-01]

PRIVACY ACT OF 1974

Modification of System of Records

AGENCY: Securities and Exchange Commission.

ACTION: Modification of System of Records.

SUMMARY: The Securities and Exchange Commission proposes to access its Name-Relationship Index (NRS) via computer terminals to provide a faster turn-around of information desired. Present methods involve request forms, keypunching and processing which average from four to five days. The proposed modifications would reduce the time delay by placing the index information on-line and providing a direct inquiry capability.

EFFECTIVE DATE: June 19, 1978, if no comments are received.

FOR FURTHER INFORMATION CONTACT:
Charles A. Moore, Privacy Act Officer, Securities and Exchange Commission, Washington, D.C., 202-523-5550.

SUPPLEMENTARY INFORMATION: On September 22, 1976, there was published in the FEDERAL REGISTER (41 FR 41550 through 41646), annual notices of systems of records pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a. This notice proposes to modify the system of records identified as SEC-42, Name-Relationship Index (NRS) (41 FR 41585). These modifications will alter the manner in which records are retrieved and will change the equipment configuration so as to create the potential for greater or easier access.

A report on the altered system was filed with the Speaker of the House, the President of the Senate, the Office of Management and Budget, and the Privacy Protection Study Commission, on November 24, 1975.

Access to the index information (NRS) is currently obtained via special search request forms which are keypunched and then processed by computer on a periodic basis. The average period between initiating a search request and receiving a reply on a computer printout now is from four to five days. The proposed modification would reduce the time delay associated with these searches by placing the index information on-line and providing a direct inquiry capability via computer terminals.

The revised system notice for SEC-42, Name-Relationship Index System (NRS) is as follows:

SEC-42

System name:

Name-Relationship Index System—SEC.

System location:

Securities and Exchange Commission, Washington, D.C. 20549.

Categories of individuals covered by the system:

Records are maintained on principals and other individuals listed in filings by corporate issuers of securities; principals and other individuals listed in applications for registrations and amendments thereto filed by broker-dealers, investment advisers, transfer agents (non-bank), municipal securities dealers (which are banks or separately identifiable departments or divisions of banks), clearing agencies (non-bank), and securities information processors; individuals who are required to file ownership reports as corporate insiders; individuals, including defendants, respondents and witnesses, named in investigations and enforcement actions relating to securities violations.

Categories of records in the system:

The records are computerized and contain index information that relates the name of the individual to the docketed name of the formal filing or the case name when an enforcement or litigation proceeding is involved. The records include the SEC File numbers, date information on the realtionship, the social security number of the individual (if available), disposition of cases (if applicable), and violations alleged (if any).

Authority for maintenance of the system:

Title 15, United States Code, 77e, 77f, 77g, 77j, and 77o; 78f, 78l, 78m, 78o, 78p, and 78u; 79c, 79f, 79g, 79r, and 79s; 77eee, 77mmm, 77nnn, 77ttt, and 77uuu; 80a-8, 80a-20, 80a-29, 80a-32, 80a-40, 80a-44, and 80a-45; 80b-3, 80b-4, 80b-12, and 80b-16.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

These records and the information in these records may be used as follows:

1. By authorized SEC personnel in connection with their official functions including, but not limited to, the processing of documents filed with the Commission, the conduct of investigations into possible violations of the Federal securities laws, and other matters relating to the Commission's regulatory and law enforcement functions.

2. To conduct name searches upon the request of authorized individuals in other governmental agencies (Federal, State, local or foreign), or securities self-regulatory organizations for purposes of carrying out their designated functions.

3. Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use to the appropriate agency, whether Federal, State, local, foreign or a securities self-regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

4. In any proceeding where the Federal securities laws are in issue or in which the Commission or past or present members of its staff is a party or otherwise involved in an official capacity.

5. In connection with investigations or disciplinary proceedings by a State securities regulatory authority or by a securities self-regulatory organization involving one or more of its members.

6. When considered appropriate, records in this system may be referred to a bar association or similar Federal, State or local licensing authority for possible disciplinary action.

7. A record from this system of records may be disclosed as a "routine use" to a Federal or local governmental authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

8. A record from this system of records may be disclosed to a Federal, State or local governmental authority, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

9. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

10. To aid in responding to inquiries from Members of Congress, the press and the public concerning matters

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that are within the Commission's jurisdiction.

11. In connection with their regulatory and enforcement responsibilities mandated by the Federal securities laws (as defined in section 21(g) of the Securities Exchange Act, 15 U.S.C. 78u(g)), or State of foreign laws regulating securities or other related matters, records in this system of records may be disclosed to national securities exchanges and national securities associations that are registered with the Commission, the Municipal Securities Rulemaking Board, the Securities Investor Protection Corporation, the Federal banking authorities, including, but not limited to, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, State securities regulatory or law enforcement agencies or organizations, or regulatory or law enforcement agencies of a foreign government.

12. Records in this system may be disclosed as a routine use to any trustee, receiver, master, special counsel, or other individual or entity that is appointed by a court of competent jurisdiction, or as a result of an agreement between the parties in connection with litigation or administrative proceedings involving allegations of violations of the Federal securities laws (as defined in section 21(g) of the Securities Exchange Act, 15 U.S.C. 78u(g)) or the Commission's rules of practice, 17 CFR 202.1, et seq. or otherwise, where such trustee, receiver, master, special counsel or other individual or entity is specifically designated to perform particular functions with respect to, or as a result of, the pending action or proceeding or in connection with the administration and enforcement by the Commission of the Federal securities laws or the Commission's Rules of Practice.

13. Records in this system may, in the discretion of the Commission's staff, be disclosed to any person during the course of any inquiry or investigation conducted by the Commission staff, or in connection with civil litigation, if the staff has reason to believe that the person to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

14. A record or information in this system may be disclosed to any person with whom the Commission contracts to reproduce, by typing, photocopy or other means, any record within this system for use by the Commission and its staff in connection with their official duties or to any person who is utilized by the Commission to perform clerical or stenographic functions relating to the official business of the Commission.

15. Records or information from records in this system may be included in reports published by the Commission pursuant to authority granted in Federal securities laws (as defined in section 21(g) of the Securities Exchange Act, 15 U.S.C. 78u(g)).

16. Records or information in records contained in this system may be disclosed to members of advisory committees that are created by the Commission or by the Congress to render advice and recommendations to the Commission or to the Congress, to be used solely in connection with their official, designated functions.

17. Records or information in the records in this system may be disclosed as a routine use to any person who is or has agreed to be subject to the Commission's Rules of Conduct, 17 CFR 202.785-1 et seq., and who assists in the investigation by the Commission or possible violations of Federal securities laws (as defined in section 21(g) of the Securities Exchange Act, 15 U.S.C. 78u(g), in the preparation or conduct of enforcement actions brought by the Commission for such violations, or otherwise in connection with the Commission's enforcement or regulatory functions under the Federal securities laws.

18. Disclosure may be made to a congressional Office from the record of an individual in response to an inquiry from the congressional Office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The records are maintained on magnetic disk and tape.

Retrievability:

Information is retrieved by the name of the individual. Access for inquiry puposes is either by special request forms that are keypunched and processed by computer or by direct means via a computer terminal.

Safeguards:

The special request forms must be authorized by the division or office head or by a member of the staff pursuant to delegated authority. Direct data access via computer terminals is restricted to certain authorized personnel automatically through use of special identification codes assigned to these personnel.

Retention and disposal:

A record of search transactions, either through the forms or via the computer terminals, is maintained on magnetic storage media. Computer tape and disk files, on which the data is stored, are available only through the librarian or chief of operations of the Office of Data Processing. Backup master files on tape are stored at a secured auxiliary SEC storage facility. Records are maintained indefinitely at this time.

System manager(s) and address:

Director, Office of Data Processing, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

Notification procedure:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be made in person during normal business hours at the SEC Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C., of by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

Record access procedures:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact or address their inquiries to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

Contesting record procedures:

See Record access procedures above.

Record source categories:

The sources include filings made by issuers, broker-dealers, investment advisers, insiders, and others; documents relating to enforcement actions. The enforcement documents are comprised of SEC opinions and orders, recommendations from SEC enforcement officials for institution of docketed investigations, court pleadings, and findings and orders issued by State and Federal courts, State securities boards, national securities exchanges and self-regulatory organizations, and individuals, including the individual to whom the information relates. Information may also be received from other State, local or foreign law enforcement or regulatory organizations.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 10, 1978.

[FR Doc 78-13699 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 10239 (812-4288)]

WEEDEN CORPORATE BOND TRUST AND WEEDEN TAX EXEMPT BOND TRUST

Filing of Application for an Order

MAY 12, 1978.

Notice is hereby given that Weeden Corporate Bond Trust and Weeden Tax Exempt Bond Trust ("Applicants"), care of Weeden & Co., 25 Broad Street, New York, N.Y. 10004, unit investment trusts registered under the Investment Company Act of 1940 ("Act"), filed an application on April 4, 1978, pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from the provisions of section 22(d) of the Act to the extent necessary to permit the investment pursuant to an automatic reinvestment option ("Plan") of income and principal distributions made to certificate-holders of predecessor series of the Applicants into units of a subsequent series of the respective Applicants ("Reinvestment Series") or into units of a previously formed series which have been purchased in the secondary market at a reduced sales charge. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants are sponsored by Weeden & Co. ("Sponsor"). Weeden Corporate Bond Trust registered with the Commission under the Act as a unit investment trust on June 25, 1976, and Weeden Tax Exempt Bond Trust similarly registered with the Commission on April 23, 1976. Applicants have commenced distribution of trust units pursuant to a series of registration statements under the Securities Act of 1933 which have been declared effective. Certificate holders of Weeden Corporate Bond Trust may only participate in the Plan with respect to Reinvestment Units of future series of Weeden Corporate Bond Trust and certificate holders of Weeden Tax Exempt Bond Trust may only participate in the Plan with respect to Reinvestment Units of future series of Weeden Tax Exempt Bond Trust.

Applicants represent that the objectives of each series of Weeden Corporate Bond Trust are to preserve capital and to provide investors with a high level of interest income relative to prevailing interest rates on other investments on the date of deposit of each separate series. Applicants state that each series of this Trust consists of a fixed, diversified portfolio of long-term debt securities issued primarily by corporations. Applicants also represent that the objectives of each series of Weeden Tax Exempt Bond Trust are to provide investors with interest income exempt from Federal income taxation and to preserve capital through investment in a diversified portfolio of tax exempt securities. Such securities shall consist of interest bearing state, municipal and public authority bonds, the interest on which is exempt, in the opinion of bond counsel to the respective issuers, from Federal income taxation under existing law. A separate trust indenture is entered into each time a new series of Applicants' respective Trusts is created and the bonds which comprise its portfolio are deposited with the Trustee. Certificate holders are permitted to elect to receive interest and principal distributions from the Trust either on a monthly or semi-annual basis.

Applicants propose to offer the right to participate in the Plan to certificate holders of record in each of its series who have selected the semi-annual plan of distribution. Applicants state that a certificate holder will be able to join the Plan at any time by delivering an Authorization Form to the Trustee. Likewise, a participant may withdraw from the Plan at any time upon written notice to the Trustee in the manner described herein.

Each unit of a Trust represents a fractional undivided interest in the ratio of 1 unit for each $1,000 principal amount of bonds initially deposited in the Trust. Under the Plan (subject to compliance with applicable state blue sky law) fractional units in denominations of one one/thousandth (1/1000th) of a unit ("reinvestment units") will be purchased from the Sponsor at a price equal to the aggregate offering price per unit of the bonds in the Reinvestment Series portfolio divided by 1,000, plus a sales charge equal to 3½% of the offering side evaluation of such bonds—3.627% of the amount invested (the "Reinvestment Price per Reinvestment Unit") plus accrued interest. Thus, it is the Sponsor's intention that each Reinvestment Unit will have a Reinvestment Price approximating $1.04 per unit (as opposed to the public offering price per unit of the Trust which approximates $1,040 per unit). Because Reinvestment Units will be offered in such denominations, Applicants anticipate that virtually the entire amount of a participant's income and principal distribution will be reinvested. Any remainder not reinvested will be less than $1 per unit and will be retained in the participant's reinvestment account with the Trustee for reinvestment on the next distribution date.

Each participant will have his interest and principal distributions reinvested on the semi-annual distribution date in the then currently effective Reinvestment Series of the respective Applicants which is being offered to public investors in primary distribution or in the then currently effective Secondary Unit Series if no Reinvestment Series is then currently effective. It is the Sponsor's intention that a Reinvestment Series will be offered during the last fifteen days of each month in which a semi-annual distribution occurs. Each Reinvestment Series will be a unit investment trust similar to the predecessor series of the respective Applicants except that the Reinvestment Series trust will be comprised of full Units and Reinvestment Units. If (a) the Sponsor does not have a currently effective Reinvestment Series on any Distribution Date or (b) the Reinvestment Series materially differs from the predecessor series of the respective Applicants in the opinion of the Sponsor, then the distributions may be reinvested in units of previously formed series of Weeden Tax Exempt or Corporate Bond Trusts, as the case may be ("Secondary Unit Series") which have been purchased in the secondary market and with respect to which a current registration statement under the Securities Act of 1933 is effective. The Secondary Units will be divided into Reinvestment Units and will be purchased for the accounts of the participants, as described above.

Applicants state that a final prospectus relating to the Reinvestment Series (or the Secondary Unit Series, as the case may be) will be mailed to each participant along with a confirmation which will indicate to each participant that Reinvestment Units have been purchased on his behalf and the transaction will become final unless the participant notifies the Trustee within seven days from the date of the confirmation that he no longer wishes to participate in the Plan or that he does not want to participate in that transaction. If the participant's notification of withdrawal has not been given to the Trustee within such seven day period, the participant will be deemed to have elected to participate in the Plan with respect to that particular distribution, and his withdrawal will become effective for the next succeeding distribution.

Applicants represent that they intend to see to it that a Reinvestment Series will be declared effective by the Commission in sufficient time to allow distribution to Plan participants of final prospectuses relating to such Reinvestment Series. As presently contemplated, it is intended that each Reinvestment Series will become effective on or about each semi-annual record date for determining who is eligible to receive distributions on the related Distribution Date. Applicants state that if a Reinvestment Series has not been declared effective in sufficient time and a then currently effective Secondary Unit Series is not available, the Plan will be suspended with respect to that series and recommenced with the next succeeding series. In such a case, a participant will receive his normal cash distribution.

In order that distributions may be reinvested on the next succeeding Distribution Date, the Authorization Form must be received by the Trustee no later than the 15th day of the month preceding such Distribution

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Date. Any Authorization Form received after such date will result in the commencement of reinvestment on the second Distribution Date thereafter. Once delivered to the Trustee, an Authorization Form will, except in the following instance, constitute a valid election to participate in the Plan for each subsequent distribution as long as the certificate holder continues to participate in the Plan. If there should be a material change in the policies of the Applicants which adversely affect certificate holders or Plan participants, the authorization will be voided and participants will be provided both a notice of the policy change and a new Authorization Form which must be returned to the Trustee before the certificate holder will again be able to participate in the Plan. The Sponsor anticipates that a material change which would result in a voided authorization would be the inclusion of bonds in the Reinvestment Series or Secondary Unit Series portfolio which were not rated "A" or better by either Standard & Poor's Corp. or Moody's Investors Service, Inc., on the date of deposit and on the date of the purchase for reinvestment or, in the case of Weeden Tax Exempt Bond Trust, the inclusion of bonds in the Reinvestment Series or Secondary Unit Series portfolio, the interest income on which was not in the opinion of counsel to the issuer exempt from all federal income taxes.

Unless a certificate holder notifies the Trustee in writing to the contrary, any certificate holder who has acquired units through the Plan will be deemed to have elected the semi-annual plan of distribution and to participate in the Plan with respect to distributions made in connection with units so purchased under the Plan. A certificate holder may withdraw from the Plan with respect to distributions related to units purchased under the Plan, and remain in the Plan with respect to units acquired other than through the Plan. All such distributions made with respect to units purchased under the Plan will be accumulated with distributions generated from the units of the respective predecessor series of the Applicants used to purchase such additional Plan units, but no distributions generated from units of other series of the Applicants will be accumulated with the foregoing distributions for Plan purchases. Thus, if a person owns units in more than one predecessor series of the Applicants (which are not the result of purchases under the Plan), distributions with respect thereto will not be aggregated for purchases under the Plan.

When an investor indicates that he will participate in the Plan, the Trustee will open an account for him, and he will receive a confirmation of the opening of his account. Thereafter, whenever a transaction takes place in the account (such as a purchase of additional Reinvestment Units) the participant will receive a confirmation statement giving complete details of the transaction. Certificates for Reinvestment Units will not be issued, and participants will thereby be relieved of the responsibility for their safekeeping. Both the Sponsor and the Trustee reserve the right to suspend, modify or terminate the Plan at any time. All participants will receive notice of any such suspension, modification or termination.

A participant may withdraw from the Plan by delivering written notice to the Trustee at any time. To aid a participant who might desire to withdraw either from the Plan or from a particular distribution, a Termination Form will be enclosed with each confirmation and with each statement sent to a participant. Unless the withdrawing participant specifically indicates on his Termination Form (a) that he wishes to withdraw from the Plan only for that particular distribution or (b) that he wishes to withdraw from the Plan for less than all series of Weeden Corporate or Tax Exempt Bond Trust which he might then own (and specifically identifies which series are to continue in the Plan), he will be deemed to have withdrawn completely from the Plan in all respects. Once a participant withdraws completely, he will only be allowed to again participate in the Plan by submitting a new Authorization Form. A sale or redemption of a portion of a participant's units will not constitute a withdrawal from the Plan with respect to the remaining units owned by such participant.

Applicants propose to offer Reinvestment Units under the Plan at a price reflecting a sales charge of 3½ percent of the underlying offering side evaluation of the bonds in such series rather than the customary 4 percent sales charge which applies to all primary and secondary sales of units in the various series of Applicants (including primary and secondary sales of Reinvestment Series units other than through the Plan).

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the prospectus, Rule 22d-1 permits certain variations in sales load, none of which are applicable to the proposed Plan.

In support of its request, Applicants assert that applying a sales charge for Plan purchases of less than the customary 4 percent charge is both beneficial to Plan participants, and also warranted in light of the related cost savings. Applicants state that approximately 3 percent of the customary 4 percent sales charge is attributable to brokerage efforts to make the initial customer solicitation, to ascertain the customer's financial requirements and to counsel him on the Applicants' specific product. Applicants represent that since each Reinvestment Series will be substantially similar to the predecessor series of the Applicants which the Plan participant originally purchased, with the exception of the make-up of the bond portfolio and certain portfolio related information, the selling and counselling effort is reduced. It is the Applicants' belief that the related cost savings should be passed on to Plan participants.

However, Applicants believe that a participant may seek professional advice with respect to participation in any particular Reinvestment Series, and thus a reduced sales charge for such financial services is warranted. It is the Applicants' belief that a charge of 1½ percent of the offering side evaluation of the underlying bonds in each Reinvestment Series (or assuming an offering side evaluation of approximately $100 per 100 Reinvestment Units, a sales charge of $1.50) is a reasonable and justifiable expense to be allocated to the soliciting broker for his professional assistance in connection with each Reinvestment Series.

Applicants further assert that implementation and continuation of the Plan will create special out-of-pocket costs which should properly be borne by the Plan participants. It is the Sponsor's belief that the special out-of-pocket expenses related to the Plan (including such items as (a) maintaining Trustee records on participants, (b) mailing, shipping and miscellaneous delivery charges, and (c) separate printing charges) will amount to $1 per 100 Reinvestment Units (1 percent of the assumed approximate value of $100 for 100 Reinvestment Units). Finally, prior experience indicates that the normal out-of-pocket costs for establishing each series of the Trusts approximate 1 percent of the offering side evaluation of the underlying bonds in each Reinvestment series. Applicants represent that all such costs will be covered in the proposed 3½ percent sales charge. Thus, Applicants conclude that the proposed 3½ percent sales charge for Plan purchases not only passes through certain cost savings to Plan participants but also charges such persons for reasonable expenses related to the creation of the Plan, and for fees relating to periodic, professional, financial advice.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, upon application, conditionally or unconditionally, exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 5, 1978, at 5:30 p.m. submit to the Commission in writing a request for hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as, of course, following said date unless the Commission thereafter orders a hearing, upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13656 Filed 5-18-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 663]

ASSIGNMENT OF HEARINGS

MAY 16, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 143515 (Sub-No. 2), P & W Charter Service, Inc., now assigned May 31, 1978 at Yakima, WA, is canceled.

No. 36129, Goodpasture, Inc. v. The Atchison, Topeka and Santa Fe Railway Company Et Al., No. 36460, *Goodpasture, Inc.*—Petition for Declaratory Order—Demmurrage Charges, now being assigned June 6, 1978, at Houston, TX (2 days) in Room 10, 004, U.S. Distric Court Federal Building and Courthouse, 515 Rusk Avenue and contained to June 8, 1978 (7 days), in Room 7006, U.S. Tax Court, Federal Building and Courthouse, 515 Rusk Avenue, Houston, TX.

MC 2900, Ryder Truck Lines, Inc., now assigned May 22, 1978,, at Madison, WI, is canceled and application dismissed.

MC 52680 (Sub-No. 3, T.W. Express of Indiana, Inc. now assigned June 5, 1978 at Indianapolis, IN will be held in Room 284 of the New Federal Building, 575 North Pennsylvania instead of Room 402.

AB 1 (Sub-No.62, Chicago & North Western Transportation Co. Abandonment near Conover and Phelps, in Vilas County, WI, now assigned June 12, 1978 at Eagle River, WI, will be held in the Lincoln Town Hall, Highway 45.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13641 Filed 5-18-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

These applications for long-and-short-haul relief have been filed with the ICC.

Protests are due at the ICC on or before June 5, 1978.

FSA No. 43541, Ro-Lo Pacific Lines No. 1, on intermodal rates on general commodities, from carriers' terminal at U.S. Atlantic and Gulf Coast ports, to ports in the Far East, by way of ports in CA, in its tariff No. 1, ICC No. 1, to become effective June 10, 1978. Grounds for relief—water competition.

FSA No. 43542, Southwestern Freight Bureau, Agent's No. B-744, rates on soda ash, from stations in WY, to stations in LA, in sup. 324 to its ICC 4832, tariff 270-F, to become effective June 12, 1978. Grounds for relief—market competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13642 Filed 5-18-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY, ELIMINATION OF GATEWAY LETTER NOTICES

MAY 12, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 30, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

No. MC 8535 (Sub-No. E42) (correction), filed July 16, 1975, published in the FEDERAL REGISTER issue of September 3, 1975, and republished, as corrected, this issue. Applicant: GEORGE TRANSFER AND RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Applicant's representative: James B. Nestor (same as above). *Aluminum and aluminum products*, generally requiring rigging, special equipment or specialized handling, from points in KY west of Oldham, Shelby, Spencer, Nelson, Marion, Taylor, Adair, Russell and Wayne Counties, to points in CT, MA, RI, and VT. The purpose of this filing is to eliminate the gateway of points in Hancock County, KY.

NOTE.—The purpose of this republication is to correct applicant's name, and also correct the commodity description.

No. MC 60014 (Sub-No. E274), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Applicant's representative: William J. Rorison, (same as above). *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire* in coils, between points in PA, on the one hand, and, on the other, points in RI on and south of a line beginning at the CT-RI State

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line, and extending along RI Hwy 165 to junction RI Hwy 102, then along RI Hwy 102 to junction U.S. Hwy 1, then along U.S. Hwy 1 to junction RI Hwy 1A, then along RI Hwy 1A to the Rock Island Sound. The purpose of this filing is to eliminate the gateways of points in NY, and between points in that part of MA on and east of a line beginning at the MA-NH State line, and extending southwardly along U.S. Hwy 202 to junction MA Hwy 68 (at or near Baldwinville, MA), then along MA Hwy 68 to junction MA Hwy 56 (at or near Hubbardston, MA), then along MA Hwy 56 to junction MA Hwy 12 (near Rochdale, Ma), then along MA Hwy 12 to the MA-CT State line (except points in Barnstable, Dukes, and Nantucket Counties, MA).

No. MC 70015 (Sub-No. E10), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in Berrien County, MI on the one hand, and, on the other, points in that part of PA on, east and south of a line beginning at the MD-PA State line, and extending along Interstate Hwy 81 to junction Interstate Hwy 76, then along Interstate Hwy 76 to the PA-NJ State line. The purpose of this filing is to eliminate the gateways of Steubenville, OH, and Indianapolis, IN.

No. MC 70015 (Sub-No. E27), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in IN on and north of U.S. Hwy 24 and points in Fulton, Miami, Cass, Wabash, Howard, Carroll, Tipton, Clinton, Boone, Marion, Hancock, Madison, Hendricks, Morgan, Shelby, Bartholemew, Brown, Jackson, Jennings, Washington, and Floyd Counties, IN on the one hand and, on the other, points in that part of TN bounded on the west by U.S Hwy 41 and Alternate U.S. Hwy 41 (formerly U.S. Hwy 41W), and on the east by a line beginning at the TN-GA State line, and extending along U.S. Hwy 11 to junction unnumbered hwy (formerly portion U.S. Hwy 11), then along unnumbered hwy through Athens, TN, to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction U.S. Hwy 11W, then along U.S. Hwy 11W to Kingsport, TN, then along unnumbered hwy (formerly portion U.S. Hwy 11W) through Blountsville, TN, to the TN-VA State line. The purpose of this filing is to eliminate the gateway of Jeffersonville, TN.

No. MC 70015 (Sub-No. E29), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, (a) between points in IN on and south of Interstate Hwy 70 on the one hand and, on the other, points in MI; (b) between points in IN on and south of IN Hwy 18 on the one hand and, on the other, points in the lower peninsula of MI on and north of a line beginning at Lake MI, and extending along U.S. Hwy 10 to the Saginaw River; and (c) between points in IN on, south and west of a line beginning at the IL-IN State line, and extending along IN Hwy 18 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-KY State line on the one hand and, on the other, points in MI. The purpose of this filing is to eliminate the gateways of points in IN within 50 miles of Anderson, IN.

No. MC 70015 (Sub-No. E33), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in IN on the one hand and, on the other, points in PA east of U.S. Hwy 15. The purpose of this filing is to eliminate the gateways of points in IN within a 50 mile radius of Anderson, IN, and Steubenville, OH.

No. MC 70015 (Sub-No. E34), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in IN on and west of U.S. Hwy 31 on the one hand, and, on the other, points in PA, except points in Erie, Crawford, Warren, McKean, Forrest, Verango and Mercer Counties, PA. The purpose of this filing is to eliminate the gateways of points in IN within 50 miles of Anderson, IN, and Steubenville, OH.

No. MC 70015 (Sub-No. E37), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in IN on, east and north of a line beginning at the OH-IN State line, and extending along U.S. Hwy 40 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line on the one hand, and, on the other, points in MO on and south of a line beginning at the MS River, and extending along U.S. Hwy 60 to junction U.S. Hwy 66, then along U.S. Hwy 66 to the MO River. The purpose of this filing is to eliminate the gateways of points in IN within 50 miles of Anderson, IN, and Cairo, IL.

No. MC 70015 (Sub-No. E39), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, (a) between points in IN on, north and east of a line beginning at the OH-IN State line, and extending along Interstate Hwy 70 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line on the one hand and, on the other, points in KY on and east of Interstate Hwy 65; (b) between points in IN on, north and east of a line beginning at the OH-IN State line, and extending along Interstate Hwy 70 to junction U.S. Hwy 31 then along U.S. Hwy 31 it the IN-MI State line on the one hand and, on the other, points in KY on and west of Interstate Hwy 65; (c) points in IN on, north and west of a line beginning at the IL-IN State line, and extending along combined U.S. Hwys 50 and 150 to Shoals, IN, then along U.S. Hwy 50 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line, on the one hand and, on the other, points in KY on and east of Interstate Hwy 65; (d) between points in LaPorte and St. Joseph Counties, IN on the one hand and, on the other, points in KY; and (e) between points in Jefferson, Shelby, Spencer and Bullitte, Counties, KY on the one hand and, on the other, points in IN north of U.S. Hwy 50. The purpose of this filing is to eliminate the gateway of Jeffersonville, IN.

No. MC 70015 (Sub-No. E40), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in Perry, DuBois, Crawford, Harrison, Spencer, Warrick, Vanderburg, Posey, Gibson and Pike Counties, IN on the one hand and, on the other, Cincinnati and Norwood, OH. The purpose of this filing is to eliminate the gateway of Jeffersonville, IN.

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No. MC 70015 (Sub-No. E41), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, (a) between points in IN on and south of U.S. Hwy 40 on the one hand and, on the other, points in OH on and north of U.S. Hwy 40; (b) between points in IN on and north of U.S. Hwy 40 on the one hand and, on the other, points in OH on and south of U.S. Hwy 40; (c) between points in IN north of U.S. Hwy 50 and on and south of U.S. Hwy 24 on the one hand and, on the other, points in OH north of U.S. Hwy 50 and south of U.S. Hwy 30. The purpose of this filing is to eliminate the gateways of points in IN within a 50 mile radius of Anderson, IN.

No. MC 70015 (Sub-No. E42), filed June 6, 1974. Applicant: JIFFY VANS MOVING & STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, 1 Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission (a) between points in IN on, east, and south of a line beginning at the KY-IN State line, and extending along Interstate Hwy 65 to junction Interstate Hwy 70, then along Interstate Hwy 70 to the IN-OH State line, on the one hand, and, on the other, points in IL on and north of Interstate Hwy 74; (b) between points in IL on and south of Interstate Hwy 70, on the one hand, and, on the other, points in IN on, north, and east of a line beginning at the OH-IN State line, and extending along Interstate Hwy 70 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line; and (c) between points in IL on and south of Interstate Hwy 74 and north of Interstate Hwy 70, on the one hand, and, on the other, points in IN within the area bounded by a line beginning at the IL-IN State line, and extending along U.S. Hwy 50 to junction U.S. Hwy 31, then along U.S. Hwy 31 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the IN-IL State line. The purpose of this filing is to eliminate the gateway of points in IN within 50 miles of Anderson, IN.

No. MC 70015 (Sub-No. E43), filed June 6, 1974. Applicant: JIFFY VANS MOVING & STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, 1 Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in Boone, Hendricks, Bartholomew, Decatur, Marion, and Clinton Counties, IN, on the one hand, and, on the other, points in IL. The purpose of this filing is to eliminate the gateways of all points in IN within 50 miles of Anderson, IN.

No. MC 70015 (Sub-No. E44), filed June 6, 1974. Applicant: JIFFY VANS MOVING & STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, 1 Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission (a) between points in Posey, Gibson, Knox, Davies, Pike, DuBois, Vanderburgh, Warrick, and Spencer Counties, IN, on the one hand, and, on the other, points in TN within the area bounded by a line beginning at the KY-TN State line, and extending along U.S. Hwy 41 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction U.S. Hwy 11E, then along U.S. Hwy 11E to the TN-VA State line; and (b) between points in Franklin, Dearborn, Ohio, Switzerland, Jefferson, Ripley, and Union Counties, IN, on the one hand, and, on the other, points in TN within the area bounded by Interstate Hwy 75 on the west and on the east by a line beginning at the AL-TN State line, and extending along U.S. Hwy 11 to junction U.S. Hwy 11E, then along U.S. Hwy 11E to the TN-VA State line. The purpose of this filing is to eliminate the gateway of New Albany, IN.

No. MC 103926 (Sub-No. E2), filed May 31, 1974. Applicant: W. T. MAYFIELD SONS TRUCKING CO., P.O. Box 947, Mableton, GA 30059. Applicant's representative: Paul M. Daniell, Suite 1200, 235 Peachtree Street NE., Atlanta, GA 30303. (1) *Contractors' metal tanks,* setup, requiring special equipment and handling, not limited to such tanks as are intended solely for use by contractors, between points in FL west of the Suwannee River, on the one hand, and, on the other, points in NC except those in Columbus, Brunswick, Bladen, Pender, Hanover, and Onslow Counties, NC; (2) *contractors' metal tanks,* setup, requiring special equipment and handling, not limited to such tanks as are intended solely for use by contractors, between points in FL on and east of the Suwannee River on the one hand, and, on the other, points in MS on and north of Interstate Hwy 20; (3) *contractors' metal tanks,* setup, requiring special equipment and handling, not limited to such tanks as are intended solely for use by contractors, between points in FL on and east of the Apalachicola River on the one hand, and, on the other, points in AL on and north of a line begining at the GA-AL State line, and extending along U.S. Hwy 280 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction U.S. Hwy 82, then along U.S. Hwy 82 to the AL-MS State line. The purpose of this filing is to eliminate the gateway of Newnan, GA.

No. MC 106603 (Sub-No. E111), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, 200 Colrain Street SW., Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 48167. *Materials, equipment, and supplies* used in the manufacture, installation, or application of roofing and roofing materials (except commodities in bulk), restricted to those roofing and roofing materials that are building contractor's equipment, materials and supplies, from points in DE, MD, NJ, NY, PA, VA, DC, and WV, to points in the Upper Peninsula of MI on and west of a line commencing at Lake Superior; or at Marquette and extending southeasterly on U.S. Hwy 41 to U.S. Hwy 2 at or near Rapid River. The purpose of this filing is to eliminate the plant-site of Certain-teed Products Corp. at Avery, OH; Whiting, IN; and Wilmington, IL.

No. MC 112304 (Sub-No. E117), filed September 23, 1977. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Commodities* which, because of their size and weight, require special handling or the use of special equipment, from points in VT, NH, MA, CT, and RI to points in CA, NV, and UT; restricted against the transportation to UT and NV of commodities used in or in connection with the construction, maintenance, repair, operations, servicing, or dismantling of pipelines. The purpose of this filing is to eliminate the gateway of Syracuse, NY, and those points in that part of NY within 75 miles of Syracuse.

No. MC 113495 (Sub-No. E1) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies,* when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 or more,

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and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in that portion of NC on and west of a line beginning at the NC-VA State line, and extending along U.S. Hwy 220 to Rockingham, NC, and then along U.S. Hwy 1 to the NC-SC State line, on the one hand, and, on the other, points in Adams, Alexander, Bond, Brown, Calhoun, Carroll, Cass, Christian, Clinton, Fayette, Franklin, Fulton, Greene, Hancock, Henderson, Henry, Jackson, Jefferson, Jersey, Johnson, Knox, Logan, Macon, Macoupin, Madison, Marion, Mason, Massac, McDonough, Menard, Mercer, Monroe, Montgomery, Morgan, Peoria, Perry, Pike, Pope, Pulaski, Randolph, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Stark, Tazewell, Union, Warren, Washington, Whiteside, and Williamson Counties, IL, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the Tennessee River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E3) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, D.C. 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies*, when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in KY (except points in Ballard, Boone, Bracken, Calloway, Campbell, Carlisle, Carroll, Crittenden, Fulton, Gallatin, Grant, Graves, Henderson, Henry, Hickman, Kenton, Livingston, McCracken, Marshall, Oldham, Owen, Pendleton, Trimble, and Union Counties, on the one hand, and on the other, points in Barry, Barton, Bates, Benton, Buchanan, Butler, Camden, Carter, Cass, Cedar, Christian, Clay, Dade, Dallas, Douglas, Dunklin, Greene, Henry, Hickory, Howell, Jackson, Jasper, Johnson, Laclede, Lawrence, McDonald, Mississippi, New Madrid, Newton, Oregon, Ozark, Pemiscot, Platte, Polk, Ripley, St. Clair, Webster, and Wright Counties, MO, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment.

NOTE.—The purpose of this filing is to eliminate the gateway of points in KY west of the Tennessee River. The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E4) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies*, when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *Self-propelled articles*, each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Anderson, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Cheatham, Claiborne, Clay, Cooke, Cumberland, Davidson, DeKalb, Fentress, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, McMinn, Meigs, Monroe, Montgomery, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Smith, Sullivan, Sumner, Trousdale, Unicoi, Union, Van Buren, Warren, Washington, White, and Wilson Counties, TN, on the one hand, and, on the other, points in MO and points in AR (except points in AR: Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Craighead, Crittenden, Cross, Desha, Drew, Jackson, Jefferson, Lafayette, Lee, Lincoln, Lonoke, Mississippi, Monroe, Ouachita, Phillips, Poinsett, Prairie, St. Francis, Union, and Woodruff Counties), restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the Tennessee River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E5) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issued of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies*, when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Adair, Allen, Barren, Bell, Clay, Clinton, Cumberland, Harlen, Knox, Laurel, Leslie, Letcher, McCreary, Metcalfe, Monroe, Perry, Pulaski, Russell, Wayne, and Whitley Counties, KY, on the one hand, and, on the other, points in Alexander, Jackson, Johnson, Massac, Pulaski, and Union Counties, IL, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the TN River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E6) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issued of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Commodities* which, because of special equipment, and *related machinery parts and related contractors' materials and supplies*, when their

transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Adams, Bond, Brown, Calhoun, Cass, Christian, Clinton, Fayette, Franklin, Fulton, Greene, Hancock, Henderson, Henry, Jefferson, Jersey, Johnson, Knox, Logan, Macoupin, Madison, Marion, Massac, Mason, McDonough, Menard, Mercer, Montgomery, Morgan, Peoria, Perry, Pike, Rock Island, Sangamon, Schuyler, Scott, Stark, Tazewell, Warren, Washington, and Williamson Counties, IL, on the one hand, and, on the other, points in TN (except points in Campbell, Claiborne, Clay, Dyer, Fentress, Grainger, Hancock, Hawkins, Jackson, Lake, Lauderdale, Macon, Morgan, Obion, Overton, Pickett, Scott, Tipton and Union Counties), restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the TN River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E7) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 Eleventh Street, NW., Washington, DC 20001. (1) *Commodities* which because of size or weight require the use of special equipment, and *related machinery parts and related contractors' materials and supplies*, when their transportation is incidental to the transportation of commodities which because of size or weight require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 or more, and *related machinery, tools, parts and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Bedford, Benton, Bradley, Cannon, Carroll, Cheatham, Chester, Coffee, Crockett, Davidson, Decatur, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Lake, Lauderdale, Lawrence, Lewis, Lincoln, Madison, Marion, Marshall, Maury, McNairy, Montgomery, Moore, Obion, Perry, Rutherford, Sequatchie, Shelby, Stewart, Tipton, Warren, Wayne, Weakley, Williamson, and Wilson Counties, TN, on the one hand, and, on the other, points in Boone, Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, La Salle, McHenry, and Will Counties, IL, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the TN River. The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 9, 1976.

No. MC 113495 (Sub-No. E8) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 Eleventh Street, NW., Washington, DC 20001. (1) *Commodities* which because of size or weight require the use of special equipment, and *related machinery parts and related contractors' materials and supplies*, when their transportation is incidental to the transportation of commodities which because of size or weight require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 or more, and *related machinery, tools, parts and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Mechlenburg County, NC, on the one hand, and, on the other, points in Vanderburgh County, IN, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the TN River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E9) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representative: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 Eleventh Street NW., Washington, D.C. 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies*, when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Crockett, Dryer, Fayette, Hardeman, Haywood, Lake, Madison, Obion, Shelby, and Tipton Counties, TN, on the one hand, and, on the other, points in IN, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the TN River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E12) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representative: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 Eleventh Street NW., Washington, D.C. 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies*, when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in KY (except points in Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall, and McCracken Counties), on the one hand, and, on the other, points in AR (except points in Arkansas, Ashley, Chicot, Clay, Craighead, Crittenden, Cross, Desha,

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Drew, Greene, Lee, Lincoln, Mississippi, Monroe, Phillips, Poinsett and St. Francis Counties). The purpose of the filing is to eliminate the gateway of points in KY west of the TN River, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E13) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment*, which because of size or weight requires the use of special equipment and related supplies, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, between points in the following counties in WV: Berkeley, Grant, Greenbrier, Hampshire, Hardy, Jefferson, McDowell, Mercer, Mineral, Monroe, Morgan, Pendleton, Pocahontas, Randolph, Summers, Tucker, and Wyoming Counties, on the one hand and, on the other, points in AR. The purpose of this filing is to eliminate the gateways of points in VA on and west of U.S. Hwy 220 and points in KY west of the Tennessee River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Subs 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E19) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment*, which because of size or weight requires the use of special equipment and related supplies, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, from points in OH, to points in the following counties in TN: Anderson, Blount, Bradley, Claiborne, Cocke, Grainger, Hamblen, Hamilton, Jefferson, Knox, Loudon, McMinn, Meigs, Monroe, Polk, Rhea, Roane, Sevier, and Union Counties. The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Subs 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E20) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment*, which because of size or weight requires the use of special equipment and related supplies, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, from points in the following counties in OH: Ashtabula, Belmont, Carroll, Columbiana, Cuyahoga, Geauga, Guernsey, Harrison, Jefferson, Lake, Mahoning, Monroe, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, and Washington Counties, to points in the following counties IN TN: Bledsoe, Coffee, Cumberland, Franklin, Grundy, Marion, Van Buren, and Warren Counties. The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Subs 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E21) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above), and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 Eleventh Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment*, which because of size or weight requires the use of special equipment and *related supplies*, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *Self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, from points in the following counties in OH: Ashland, Ashtabula, Belmont, Carroll, Columbiana, Coshocton, Crawford, Cuyahoga, Delaware, Erie, Geauga, Guernsey, Harrison, Holmes, Huron, Jefferson, Knox, Lake, Licking, Lorain, Lucas, Mahoning, Marion, Medina, Monroe, Morgan, Morrow, Muskingum, Noble, Ottawa, Portage, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Washington, Wayne, Wood, and Wynadot Counties, to points in the following counties in KY: Bell, Harlan, Knott, Leslie, Letcher, and Perry Counties. The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub-Nos. 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E22) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issues of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E.T. Gregory (same as above), and Wilmer B. Hill Ames, Hill & Ames, P.C., 666 Eleventh Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment*, which because of size or weight requires the use of special equipment and *related supplies*, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, from points in OH (except points in Adams, Brown, Butler, Claremont, Clinton, Darke, Greene, Hamilton, Highland, Lawrence, Mercer, Miami, Montgomery, Pike, Preble, Scioto and Warren Counties), to that portion of NC on and west of a line beginning at the NC-VA State line, and extending along U.S. Hwy 220 to Rockingham, NC, and then along U.S. Hwy 1 to the NC-SC State line (except points in Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain and Transylvania Counties). The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub No. 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E23) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above), and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 Eleventh Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment, which because of size or weight requires the use of special equipment and related supplies*, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, between points in Berkeley, Grant, Greenbrier, Hampshire, Hardy, Jefferson, Mercer, Mineral, Monroe, Morgan, Pendleton, Pocahontas, Randolph, Summers and Tucker Counties, WV, on the one hand, and, on the other, points in Allen, Ballard, Barren, Bell, Calloway, Carlisle, Christian, Clay, Clinton, Cumberland, Fulton, Graves, Harlan, Hickman, Knott, Knox, Laurel, Leslie, Letcher, Logan, Marshall, McCracken, McCreary, Metcalfe, Monroe, Perry, Pulaski, Russell, Simpson, Todd, Trigg, Warren, Wayne and Whitley Counties, KY. The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub-Nos. 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E24) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment*, which because of size or weight requires the use of special equipment, and *related supplies*, when their transportation is incidental to the transportation of road-construc-

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tion machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, between points in TN on the one hand, and, on the other, points in Berkeley, Grant, Greenbrier, Hampshire, Hardy, Jefferson, Mercer, Mineral, Monroe, Morgan, Pendleton, Pocahontas, Raleigh, Randolph, Summers and Tucker Counties, WV. The purpose of this filing is to eliminate the gateway of points in VA west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E25) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issued of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment*, which because of size or weight requires the use of special equipment, and *related supplies*, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, between points in Anderson, Bledsoe, Blount, Bradley, Carter, Claiborne, Cocke, Franklin, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Polk, Rhea, Roane, Sequatchie, Sevier, Sullivan, Unicoi, Union, and Washington Counties, TN on the one hand, and, on the other, points in Kanawha Country, WV. The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E26) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment*, which because of size or weight requires the use of special equipment and *related supplies*, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, from the facilities of Athey Products Corp. at or near Wake Forest, NC, to points in TN (except points in Anderson, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Unicoi, Union, and Washington Counties). The purpose of this filing is to eliminate the gateway of KY.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub-Nos. 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E29) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above), and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 Eleventh Street NW., Washington, DC 20001. (1)(a) *Trucks*, designed for off-highway use, each weighing 15,000 pounds or more, in initial movements, in truckaway service, restricted against the transportation of commodities in

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connection with the stringing or picking up of pipeline materials or equipment, and restricted to commodities which are transported on trailers, from Decatur, IL, to points in Arkansas, Ashley, Bradley, Calhoun, Chicot, Clark, Cleveland, Columbia, Crittenden, Dallas, Desha, Drew, Garland, Grant, Hempstead, Hot Spring, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Lonoke, Miller, Monroe, Nevada, Ouachita, Phillips, Pike, Prairie, Pulaski, Saline, St. Francis, Sevier, and Union Counties, AR, and (b) *related parts* for the above-specified commodities moving in connection therewith, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, restricted against the transportation of parts from Decatur, Morton, and Joliet, IL, to points in the Memphis, TN commercial zone as defined by the Commission, from Decatur, Morton, and Joliet, IL, to points in Arkansas, Ashley, Bradley, Calhoun, Chicot, Clark, Cleveland, Columbia, Crittenden, Dallas, Desha, Drew, Garland, Grant, Hempstead, Hot Spring, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Lonoke, Miller, Monroe, Nevada, Ouachita, Phillips, Pike, Prairie, Pulaski, Saline, St. Francis, Sevier, and Union Counties, AR. (2) *Trucks*, designed for off-highway use, the transportation of which because of size or weight require the use of special equipment, in initial movements, in truckaway service, and *related parts*, when their transportation is incidental to the transportation of trucks, designed for off-highway use, which because of size or weight require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), from Decatur, IL, to points in Arkansas, Ashley, Bradley, Calhoun, Chicot, Clark, Cleveland, Columbia, Crittenden, Dallas, Desha, Drew, Garland, Grant, Hempstead, Hot Spring, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Lonoke, Miller, Monroe, Nevada, Ouachita, Phillips, Pike, Prairie, Pulaski, Saline, St. Francis, Sevier, and Union Counties, AR. The purpose of this filing is to eliminate the gateway of TN and points in KY west of the Tennessee River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub-Nos. 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E30) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham St., Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above), and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC. 20001. (1) *Earth-moving, construction, mining, and maintenance machinery and equipment*, which because of size or weight require the use of special equipment or special handling and related machinery parts, when their transportation is incidental to the transportation of earth-moving, construction, mining, and maintenance machinery and equipment which because of size or weight require the use of special equipment or special handling, (2) *self-propelled earth-moving, construction, mining, and maintenance machinery and equipment*, each weighing 15,000 pounds or more and related parts moving in connection therewith, restricted to commodities which are transported on trailers, from the plant- site of Athey Products Corp. at or near Wake Forest, NC, to points in AR and points in Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clinton, Fayette, Franklin, Fulton, Greene, Hancock, Henderson, Henry, Jackson, Jefferson, Jersey, Johnson, Knox, Logan, Macon, Madison, Marion, Massac, Mason, Macoupin, McDonough, Menard, Mercer, Monroe, Montgomery, Morgan, Peoria, Pike, Perry, Pulaski, Randolph, Rock Island, Sangamon, St. Clair, Schuyler, Scott, Stark, Tazewell, Union, Warren, Washington, and Williamson Counties, IL. The purpose of this filing is to eliminate the gateway of points in KY west of the Tennessee River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E52) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham St., Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above), and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC. 20001. *Iron and steel articles*, the transportation of which because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), from points in AR, to points in MA, RI, CT, NY, NJ, PA, MD, DE, and DC. The purpose of this filing is to eliminate the gateways of points in KY west of the Tennessee River and Nashville, TN.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113855 (Sub-No. E425), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Prefabricated metal buildings and sections, knocked down, prefabricated metal building parts, and equipment, materials, and supplies*, used in the installation, construction and erection of prefabricted metal buildings, (A) from points in Whatcom, Skagit, Snohomish, King, Pierce, Thurston, Lewis, Skamania, Clark, Cowlitz, Wahkiakum, Pacific, Grays Harbor, Mason, Kitsap, Jefferson, Island, San Juan, and Clallam Counties, WA, to points in AZ; (B) from points in Washington (except points in Whatcom, Skagit, Snohomish, King, Pierce, Thurston, Lewis, Skamania, Clark, Cowlitz, Wahkiakum, Pacific, Grays Harbor, Mason, Kitsap, Jefferson Island, San Juan, And Clallam Counties), to points in Yuma, Maricopa, Pinal, Pima, Santa Cruz, Cochise, and Graham Counties, AZ; and (C) from points in OR on and west of U.S. Hwy 97 to points in AZ. The purpose of this filing is to eliminate the gateway of facilities of Varc-Pruden, Inc., at or near Turlock, CA.

No. MC 113855 (Sub-No E426), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles*, which because of size or weight require the use of special equipment or special handling (except boats and iron and steel articles), and related machinery parts and related contractor's equipment, materials, and supplies when their transportation is incidental to the transportation of metal or metal articles which, because of size and weight require the use of special equipment, (A) between points in Mercer, Henderson, Hancock, and Rock Island Counties, IL south of U.S. Hwy 6 and points in Adams County, IL, on and north of IL Hwy 104, on the one hand, and, on the other, points in WV on an east of a line beginning at the PA-WV State line along U.S. Hwy 19 extending along U.S. Hwy 19 to junction U.S. Hwy 250 then along U.S. Hwy 250 to junction U.S. Hwy 219, then along U.S. Hwy 219 to junction WV Hwy 39 at or near Marlinton, WV, then along WV Hwy 39 to the WV-VA State line, Steuben County, IN, and points in OH on and north of a line beginning at the IN-OH State line, and extending along U.S. Hwy 6 to junction OH Hwy 53, then along OH Hwy 53 to junction U.S. Hwy 224, then along U.S. Hwy 224 to the OH-PA State line. The purpose of this filing is to eliminate the gateways of Davenport, IA, and Elgin, IL. (B) between points in IL south of U.S. Hwy 6 and on, west and north of

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a line beginning at the junction of U.S. Hwy 6 and IL Hwy 26, then along IL Hwy 26 to Peoria, IL, then along U.S. Hwy 24 to the IL-MO State line, on the one hand, and, on the other, Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, PA, and mines in the part of PA south and west of a line beginning at the PA-OH State line, and extending along U.S. Hwy 224 to junction U.S. Hwy 422, then along U.S. Hwy 422 to Ebensburh, PA, then along U.S. Hwy 22 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction PA Hwy 641 (formerly PA Hwy 433), then along PA Hwy 641 to junction PA Hwy 997, and then along PA Hwy 997 to the PA-MD State line, including points of the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateways of Davenport, IA, and Elgin, IL. (C) between points in IL south of U.S. Hwy 6 on, west and north of a line beginning at the junction of U.S. Hwy 6 and IL Hwy 26, then along IL Hwy 26 to Peoria, IL, then along U.S. Hwy 24 to the IL-MO State line, on the one hand, and, on the other, points in DE, NJ, MA, CT, RI, and DC, points in NY in and east of Tioga, Tompkins, and Cayuga Counties, points in MD on and east of a line beginning at the MD-PA State line, then along U.S. Hwy 140 to junction MD Hwy 97, then along MD Hwy 97 to DC, points in VA in and east of Southampton, Sussex, Prince George, Charles City, New Kent, King William, King and Queen, Essex, and King George Counties, and points in Hyde, Washington, Tyrrell, Dare, Chowan, Gates, Perquimans, Pasquotank, Camden, and Currituck Counties, NC. The purpose of this filing is to eliminate the gateways of Davenport, IA, Elgin, IL, and Scranton, Allentown, and Hazleton, PA.

No. MC 113855 (Sub-No. E427), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building Fargo, ND 58102. *Signs, sign parts, and sign accessories,* which are metal or metal articles, (A) from points in WA and ID, to points in AZ, NM, and CO; (B) from points in OR to points in NM and CO; (C) from points in OR (except Coos, Curry, Douglas, Josephine, Jackson, Klamath, and Lake Counties), to points in AZ (except Yuma and Mohave Counties); (D) from points in NV (except Esmerelda, Nye, Lincoln, and Clark Counties), to points in CO (except Rio Blanco, Garfield, Mesa, Gunnison, Delta, Montrose, Ouray, Hinsdale, Mineral, Rio Grande, Conejos, Archulets, San Juan, La Plata, San Miquel, Dolores, and Montezuma Counties); (E) from points in CA in and North of Santa Cruz, Santa Clara, Stanislaus, Tuolumne, and Alpine Counties, to points in CO. The purpose of this filing is to eliminate the gateway of Clearfield, UT.

No. MC 113855 (Sub-No. E428), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles,* (A) between points in WI, on the one hand, and, on the other, points in WV, KY, OH, and Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, PA, and mines in that part of PA south and west of a line beginning at the PA-OH State line, and extending along U.S. Hwy 224 to junction U.S. Hwy 422, then along U.S. Hwy 422 to junction U.S. Hwy 19 near Rose Point, PA, then along U.S. Hwy 19 to junction unnumbered highway near Portersville, PA, then along unnumbered highway via Prospect, PA, to junction U.S. Hwy 422, then along U.S. Hwy 422 to Ebensburg, PA, then along U.S. Hwy 22 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction PA Hwy 641 (formerly PA Hwy 433), then along PA Hwy 641 to junction PA Hwy 997, then along PA Hwy 997 to the PA-MD State line, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Elgin, IL; (B) between points in WI, on the one hand, and, on the other, points in MA, CT, RI, NJ, DE, DC, points in NY in and east of Tioga, Tompkins, and Cayuga Counties, points in MD on and east of a ine beginning at the MD-PA State line, then along U.S. Hwy 140 to junction MD Hwy 97, then along MD Hwy 97 to DC, points in VA in and east of Southampton, Sussex, Prince George, Charles City, New Kent, King William, King and Queen, Essex, and King George Counties, and Hyde, Washington, Tyrrell, Dare, Chowan, Gates, Perquimans, Pasquotank, Camden, and Currituck Counties, NC. The purpose of this filing is to eliminate the gateways of Elgin, IL, and Scranton, Allentown, and Hazleton, PA; (C) between points in WI, on the one hand, and, on the other, points in IN (except points north and west of a line beginning at the IL-IN State line along U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line). The purpose of this filing is to eliminate the gateway of Elgin, IL; (D) between points in WI on, north and west of a line beginning at the IL-WI State line along WI Hwy 120, then along WI Hwy 120 to junction WI Hwy 36, then along WI Hwy 36 to junction WI Hwy 83, then along WI Hwy 83 to junction WI Hwy 59, then along WI Hwy 59 to Waukesha, WI, then along WI Hwy 164 to junction WI Hwy 74, then along WI Hwy 74 to junction U.S. Hwy 41, then along U.S. Hwy 41 to junction WI Hwy 167, then along WI Hwy 167 to Lake MI, on the one hand, and, on the other, points in IN north/west and of a line beginning at the IL-IN State line along U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line; (E) between points in WI, on the one hand, and, on the other, points in IL south of U.S. Hwy 6 and west and north of a line beginning at the junction of U.S. Hwy 6 and Interstate Hwy 74, then along Interstate Hwy 74 to junction IL Hwy 78, then along IL Hwy 78 to junction IL Hwy 104, then along IL Hwy 104 to the IL-MO State line at or near Quincy, IL; (F) between points in WI in and north of Sheboygan, Calumet, Winnebago, Green Lake, Marquette, Sauk, Iowa, and Lafayette Counties, WI, on the one hand, and, on the other, that part of IL beginning at the junction of U.S. Hwy 6 and Interstate Hwy 74, then along U.S. Hwy 74 to junction IL Hwy 78, then along IL Hwy 78 to junction IL Hwy 104, then along IL Hwy 104 to junction U.S. Hwy 66, then along U.S. Hwy 66 to junction IL Hwy 121, then along IL Hwy 121 to junction Interstate Hwy 74, then along Interstate Hwy 74 to Peoria, IL, then along IL Hwy 29 to junction U.S. Hwy 6 to the point of beginning; (G) between points in WI on and west of a line beginning at Ashland, WI, then along WI Hwy 13 to junction U.S. Hwy 8, then along U.S. Hwy 8 to junction WI Hwy 27, then along WI Hwy 27 to junction U.S. Hwy 12, then along U.S. Hwy 12 to junction WI Hwy 131, then along WI Hwy 131 to junction U.S. Hwy 61, then along U.S. Hwy 61 to the WI-IL State line, on the one hand, and, on the other, points in that part of IL bounded by a line beginning at the junction of U.S. Hwy 6 and IL Hwy 29, then along IL Hwy 29 to junction Interstate Hwy 74, then along Interstate Hwy 74 to junction IL Hwy 121, then along IL Hwy 121 to junction U.S. Hwy 66, then along U.S. Hwy 66 to junction IL Hwy 23, then along IL Hwy 23 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the point of beginning (excluding ponts on the indicated highways except points on IL Hwy 23 and U.S. Hwy 66). The purpose of this filing is to eliminate the gateway of Davenport, IA, in (D), (E), (F), and (G) above.

No. MC 113855 (Sub-No. E431), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles,* (A) between Minot, ND, those points in that part of ND south of a line beginning at the MT-ND State line, and extending along U.S. Hwy 2 to Lakota, ND, then along ND Hwy 1 to the United States-Canada boundary line, not including points on the indicated portions of the highways specified other than Minot, ND, on the one hand, and, on the other, points in WI. The purpose of this filing is to eliminate the gateway of points in MN within 25 miles of the MN-WI State line; (B) between points in that part of ND on the north of a line beginning at the MT-ND State line, and extending along U.S. Hwy 2 to Lakota, ND, then along ND Hwy 1 to the United States-Canada boundary line (except Minot, ND), on the one hand, and, on the other, points in that part of IA on and north of a line beginning at the IA-IL State line, and extending along U.S. Hwy 6 to junction unnumbered highway (formerly portion of U.S. Hwy 6), then along unnumbered highway through Victor and Brooklyn, IA, to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction IA Hwy 90 (formerly portion of U.S. Hwy 6), then along IA Hwy 90 through Colfax, IA, to Des Moines, IA, and on and east of U.S. Hwy 65 from Des Moines to the IA-MN State line. The purpose of this filing is to eliminate the gateway of points in MN within 25 miles of both Sioux Falls, SD, and the IA-MN State line; (c) between points in CO, on the one hand, and, on the other, points in IL on and north of U.S. Hwy 6. The purpose of this filing is to eliminate the gateway of points in MN within 25 miles of both Sioux Falls, SD, and the IA-MN State line.

No. MC 113855 (Sub-No. E434), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Aluminum pipe* (except oilfield pipe as described in *Mercer Extension-Oil Field Commodities,* 74 MCC 459), (A) from points in DE to points in AZ, NM, and points in OK on and west of U.S. Hwy 83. (B) From points in MD on and east of U.S. Hwy 15 to points in AZ. (C) From points in MD on, east and south of Interstate Hwy 83 from the PA-MD State line to junction U.S. Hwy 301, then along U.S. Hwy 301 to the MD-VA State line, to points in NM, except points south and east of a line beginning at U.S. Hwy 60 at the NM-TX State line, then westerly along U.S. Hwy 60 to junction U.S. Hwy 54, then south along U.S. Hwy 54 to the NM-TX State line. The purpose of the filings in (A), (B), and (C) is to eliminate the gateways of a portion of eastern PA, SD, and Hall County, NE. (D) From points in WV to points in AZ and points in NM on, north and west of a line beginning at the NM-TX State line, then along U.S. Hwy 60 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the United States-Mexico international boundary line. The purpose of this filing is to eliminate the gateways of Elgin, IL, points in SD and Hall County, NE. (E) From points in CA in and north of Santa Cruz, Santa Clara, Stanislaus, Calaveras, and Alpine Counties to points in LA and AR. The purpose of this filing is to eliminate the gateway of Hall County, NE. (F) From points in CA on, west and north of a line beginning on the Pacific Ocean on the southern boundary of Orange County, then easterly along the southern border of Orange County and Riverside County to U.S. Hwy 395, then north along U.S. Hwy 395 to the western boundary of San Bernadino County, then north along the western and northern boundaries of San Bernadino County to the CA-NV State line, to points in KS on and east of U.S. Hwy 281, and points in FL on and east of U.S. Hwy 231, and points in GA and SC. The purpose of this filing is to eliminate the gateway of Hall County, NE. (G) From points in CA to points in AL (except points south and west of U.S. Hwy 80 beginning at the AL-MS State line, and extending easterly along to the junction U.S. Hwy 231, then along U.S. Hwy 231 to the AL-FL State line. The purpose of this filing is to eliminate the gateway of Hall County, NE. (H) From points in UT in and north of Tooele, Utah, Wasatch, Duchesne, and Uintah Counties, to points in LA, AR, and points in KS on and east of U.S. Hwy 281. The purpose of this filing is to eliminate the gateway of Hall County, NE. (I) From points in UT to points in MS, TN, AL, GA, SC, and FL. The purpose of this filing is to eliminate the gateway of Hall County, NE. (J) From points in WA, OR, and ID to points in KS east of U.S. Hwy 83 (except from points in and east of Lemhi, Custer, Blaine, Camas, Gooding, and Twin Falls Counties, ID, to points in KS on and east of U.S. Hwy 83 and west of U.S. Hwy 281), OK (except points west of U.S. Hwy 83), points in TX on and east of U.S. Hwy 83, AR, LA, MS, TN, AL, GA, FL, and SC). The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (K) From points in NV on and north of U.S. Hwy 40 to points in TX on and east of U.S. Hwy 75. The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (L) From points in NV on and north of U.S. Hwy 50 to points in OK on and east of Interstate Hwy 35 and points in KS on and east of U.S. Hwy 183. The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (M) From points in NV east of U.S. Hwy 95 to points in AR and LA. The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (N) From points in NV (except points in Clarke County), to points in MS, AL, and FL. The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (O) From points in NV to points in TN, GA, and SC. The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (P) From points in MT to points in TX on and east of U.S. Hwy 83, points in OK on and east of U.S. Hwy 83, points in KS on and east of U.S. Hwy 183, points in AR, LA, MS, TN, AL, GA, and FL. The purpose of this filing is to eliminate the gateways of points in SD east of the Missouri River and Hall County, NE. (Q) From points in WY (except those in Laramie, Goshen, Platte, Albany, Carbon, Sweetwater, Uinta, and Lincoln Counties), to points in AR, LA, and MS. The purpose of this filing is to eliminate the gateways of points in SD east of the Missouri River and Hall County, NE. (R) From points in WY (except points in Goshen, Platte, Laramie, Albany, and Carbon Counties), to points in TN. The purpose of this filing is to eliminate the gateways of points in SD east of the Missouri River and Hall County, NE. (S) From points in WY (except points in Laramie and Albany Counties), to points in AL and GA. The purpose of this filing is to eliminate the gateways of points in SD east of the Missouri River and Hall County, NE. (T) From points in WY to points in FL and SC. The purpose of this filing is to eliminate the gateways of points in SD east of the Missouri River and Hall County, NE.

No. MC 113855 (Sub-No. E456), filed August 10, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Iron and steel articles and aluminum and aluminum articles:* (a) From points in CA, NV, UT, and WY, to points in AK. The purpose of this filing is to eliminate the gateway of Pierce County, WA. (b) From points in CO on, east and north of a line beginning at the CO-NE State line, and extending along CO Hwy 71 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the CO-KY State line, to points in AK. The purpose of this filing is to eliminate the gateways of UT, SD, and Pierce County, WA. (c) From points in KS on and east of U.S. Hwy 83 to points in AK. The purpose of this filing is to eliminate the gateways of WY, SD, east of the Missouri River, and Pierce County, WA. (d) From points in NE, MO, IA, IL, IN, OH, KY, the Lower Peninsula of MI, NY, PA, WV, MD, VA, NC, DE, NJ, MA, CT, RI, and DC, to points in AK. The purpose of this filing is to eliminate the gateways of UT and Pierce County, WA.

No. MC 113855 (Sub-No. E457), filed August 10, 1976. Applicant: INTERNA-

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TIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles* which, by reason of their size or weight, require the use of special equipment or special handling, (a) between points in MN on and west of U.S. Hwy 71, on the one hand, and, on the other, points in IN. The purpose of this filing is to eliminate the gateways of SD and points in MN and IA within 50 miles of Sioux Falls, SD. (b) Between points in MN west of U.S. Hwy 63 and U.S. Hwy 53, on the one hand, and, on the other, points in NJ, DE, CT, RI, MA, and DC. The purpose of this filing is to eliminate the gateways of SD, points in MN and IA within 50 miles of Sioux Falls, SD, Elgin, IL, and Scranton, Allentown, and Hazelton, PA.

No. MC 113855 (Sub-No. E458), filed August 10, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles*, the transportation of which because of size or weight requires the use of special equipment, between points in MN on and west of U.S. Hwy 71, on the one hand, and, on the other, points in WV, KY, OH, and Scranton, Allentown, Reading, Harrisburg, Lancaster, and Hazelton, PA, and mines in that part of PA, south and west of a line beginning at the PA-OH State line, and extending along U.S. Hwy 224 to junction U.S. Hwy 422, then along U.S. Hwy 422 to junction U.S. Hwy 19 near Rose Point, PA, then along U.S. Hwy 19 to junction unnumbered highway near Portersville, PA, than along unnumbered highway via Prospect, PA, to junction U.S. Hwy 422, then along U.S. Hwy 422 to Ebensburg, PA, than along U.S. Hwy 22 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction PA Hwy 641 (formerly PA Hwy 433), then along PA Hwy 641 to junction PA Hwy 997, then along PA Hwy 997 to the PA-MD State line, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateways of points in SD or points in MN or points in IA within 50 miles of Sioux Falls, SD, or Elgin, IL.

No MC 113855 (Sub-No. E459), filed August 10, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles*, which because of size or weight, require the use of special equipment or special handling (except boats and iron and steel articles), (1) between points in IA on and west of U.S. Hwy 77, on the one hand, and, on the other, points in NJ and DE, and (2) between points in IA on and west of U.S. Hwy 59, on the one hand, and, on the other, DC. The purpose of this filing is to eliminate the gateways of points in SD and points in PA on and east of a line beginning at the MD-PA State line, and extending along unnumbered highway (formerly portion U.S. Hwy 15) to junction business U.S. Hwy 15 through Gettysburg, PA, to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction unnumbered highway (formerly portion U.S. Hwy 15), then along unnumbered highway through Clear Springs, PA to junction U.S. Hwy 15, then along U.S. Hwy 15 to the PA-NY State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, PA, and points in PA on and east of U.S. Hwy 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, PA).

No. MC 115841 (Sub-No. E143) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of September 5, 1975, and republished, as corrected, this issue. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, AL 35202. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. *Frozen edible fruits, frozen edible berries, and frozen edible vegetables*, in vehicles equipped with mechanical refrigeration, (1) from points in TN on and east of Interstate Hwy 65 (including Nashville and Davidson Counties), to points in CA, OR, and WA; (2) from points in TN on and west of Interstate Hwy 65 to points in CA, and those points in OR and WA on and west of U.S. Hwy 97; (3) from those points in TN on and east of U.S. Hwy 127 to points in AR on and west of a line beginning at the AR-MO State line, and extending along U.S. Hwy 167, then south along U.S. Hwy 167 to junction U.S. Hwy 65 (including Little Rock, AR), then southeast along U.S. Hwy 65 to the AR-LA State line; (4) from points in TN on and west of U.S. Hwy 51 (including Memphis and Shelby Counties), to points in GA and SC; (5) from points in TN on and north of a line beginning at the TN-NC State line, and extending along Interstate Hwy 40 to junction Interstate Hwy 65 (including Nashville and Davidson Counties), to the TN-KY State line, to Bainbridge, GA. The purpose of this filing is to eliminate the gateway of Birmingham, AL.

NOTE.—The purpose of this republication is to include part (3), previously omitted.

No. MC 115841 (Sub-No. E391), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meat, meat products, meat byproducts, and dairy products* (frozen), as defined in sections A and C of appendix I to the report in descriptions in Motor Carrier Certificates, 61 MCC 209, 273, and 766, from Bowling Green, KY, to points in DE, IA, MD, DC and points in KS and NE on and east of U.S. Hwy 81, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Nashville, TN.

No. MC 115841 (Sub-No. E392), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meats, meat products, and meat byproducts*, as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from Bowling Green, KY, to points in DE, MD, and the DC, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Nashville, TN.

No. MC 115841 (Sub-No. E393), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meat, meat products, meat byproducts, and dairy products* (frozen), as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, 273, and 766, from Bowling Green, KY, to points in MO, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Paris, TN.

No. MC 115841 (Sub-No. E394), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meat, meat products, and meat byproducts* (except commodities in bulk, in tank vehicles) as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from Bowling Green, KY, to points in MO on and west of a line beginning at the junction of MO Hwy 21 and the MO-AR State line, and extending along MO Hwy 21 to the junction of MO Hwy 72, then along MO Hwy 72 to Rolla, MD, then along U.S. Hwy 72 to junction of MO Hwy 28, then along MO Hwy 28 to junction MO Hwy 19, then along MO Hwy 19 to Wellsville, MO, then along MO Hwy 161 to Bowling Green, MO, then along U.S. Hwy 54 to the MO-IL State line; and points in MO, south of U.S. Hwy 62 from the MO-AR State line to the Mississippi River at New Madrid, MO, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Nashville, TN.

No. MC 115841 (Sub-No. E395), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meat, meat products, and meat byproducts* (except in bulk in tank vehicles), as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from Bowling Green, KY, to points in WI and MN, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Nashville, TN.

No. MC 115841 (Sub-No. E396), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meat, meat products, meat byproducts, and dairy products*, as defined in sections A and B of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, 273, 766 and as embraced in *foodstuffs*, from Bowling Green, KY, to points in CA, OR, and WA, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Birmingham, AL.

No. MC 115841 (Sub-No. E397), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese* from Russell Springs, KY, to points in MS starting at the MS-TN State line along the MS River to Greenville, MS, and extending along U.S. Hwy 82, then along U.S. Hwy 82 to junction MS Hwy 15, then along MS Hwy 15 to junction MS Hwy 30, then along MS Hwy 30 to junction MS Hwy 6, then along MS Hwy 6 to junction Interstate Hwy 55, then along Interstate Hwy 55 to the TN-MS State line, then westward along the TN-MS State line to the point of beginning, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway to Memphis, TN.

No. MC 115841 (Sub-No. E398), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese* from Thompkinsville, KY, to points in MS starting at the Mississippi River on the MS-TN State line, along said river to MS Hwy 12, then along MS Hwy 12 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction U.S. Hwy 82, then along U.S. Hwy 82 to Columbus, MS, then along U.S. Hwy 45 to junction MS Hwy 8, then along MS Hwy 8 to Houston, MS, then along MS Hwy 15 to New Albany, MS, then along U.S. Hwy 78 to the TN-MS State line, then along the MS-TN State line to point of beginning, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Memphis, TN.

No. MC 115841 (Sub-No. E399), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese*, from Cynthiana, KY, to points in MS bounded by a line beginning at the Mississippi River on the MS-TN State line, and extending south along the Mississippi River to Greenville, MS, then along U.S. Hwy 82 to the MS-AL State line, then along MS-AL State line to junction U.S. Hwy 78, then along U.S. Hwy 78 to junction MS Hwy 15, then along MS Hwy 15 to the MS-TN State line, then along MS-TN State line to point of beginning, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Memphis, TN.

No. MC 115841 (Sub-No. E400), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese*, from Lexington, KY, to points in MS bounded by a line beginning at the Mississippi River on the MS-TN State line, and extending south along the Mississippi River to Greenville, MS, then along U.S. Hwy 82 to junction MS Hwy 15 to Natchez Trace Parkway, then along the Natchez Trace Parkway to junction U.S. Hwy 78, then along U.S. Hwy 78 to the MS-TN State line, then along the MS-TN State line to points of beginning, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Memphis, TN.

No. MC 115841 (Sub-No. E 401), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese*, from Louisville, KY, to points in MS bounded by a line beginning at the Mississippi River on the MS-TN State line, and extending south along Mississippi River to Greenville, MS, then along U.S. Hwy 82 to junction MS Hwy 15, then along MS Hwy 15 to junction U.S. Hwy 78, then along U.S. Hwy 78 to junction MS Hwy 7, then along MS Hwy 7 to the MS-TN State line to point of beginning, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Memphis, TN.

No. MC 115841 (Sub-No. E402), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese*, from Cynthiana, KY, to points in (1) LA, AR, CA (2) points in WA on and west of Interstate Hwy 5 in a northerly direction from the WA-OR State line to junction Interstate Hwy 405 near Burien, WA, then along Interstate Hwy 405 to junction Interstate Hwy 5, then along Interstate Hwy 5 to the US-CD border; (3) points in OR except points in Malbeur and Baker Counties; (4) points in MS on and south of a line beginning at the Mississippi River at Greenville, MS, and extending easterly along U.S. Hwy 82 to the MS-AL State line; (5) points in TX, except points north and east of a line beginning at the LA-TX State line, and extending along U.S. Hwy 80 to junction TX Hwy 19, then along TX Hwy 19 to Paris, TX, then along U.S. Hwy 271 to the TX-OK State line; and except points in TX north of a line beginning at the OK-TX State line at Carnes, TX, then southerly along TX Hwy 283 to Quanah, TX, then along U.S. Hwy 287 to Amarillo, TX, then along Interstate Hwy 40 to the TX-NM State line, restricted in (1)-(5) above to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateways of Memphis, and Nashville, TN, Birmingham, AL, and Springdale, AR.

No. MC 115841 (Sub-No. E403), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese* from Harrodsburg and Russell Springs, KY, to points in LA, AR, CA, WA, OR and points in MS on and south of a line beginning at the Mississippi River at Greenville, MS, and extending along U.S. Hwy 82 to the MS-AL State line; and points in TX except points north and east of a line beginning at the LA-TX State line, and extending along U.S. Hwy 80 to junction TX Hwy 19, then along TX

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Hwy 19 to Paris, TX, then along U.S. Hwy 271 to the TX-OK State line; and except points north of a line beginning at the OK-TX State line at Carnes, TX, then along TX Hwy 283 to Quanah, TX, then along U.S. Hwy 287 to Amarillo, TX, then along TX Hwy 1061 to junction U.S. Hwy 385, then along U.S. Hwy 385 to Dalhart, TX, then along U.S. Hwy 87 to the TX-NM State line, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateways of Memphis, Nashville and Chattanooga, TN, Birmingham, AL, and Springdale, AR.

No. MC 115841 (Sub-No. E404), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese*, from Lexington, KY, to: (1) points in LA, AR, CA; (2) points in WA on and west of Interstate Hwy 5 northerly from the WA-OR State line to junction Interstate Hwy 405 near Burien, WA, then along Interstate Hwy 405 to junction Interstate Hwy 5, then along Interstate Hwy 5 to the United States-Canadian border; (3) points in OR except points in Malheur County; (4) points in MS on and south of a line beginning at the Mississippi River at Greenville, MS, and extending along U.S. Hwy 82 to the MS-AL State line; (5) points in TX, except points north and east of a line beginning at the LA-TX State line, and extending along U.S. Hwy 80 to its junction TX Hwy 19, then along TX Hwy 19 to Paris, TX, then along U.S. Hwy 271 to the TX-OK State line; except points in TX north of a line beginning at the OK-TX State line at Carnes, TX, then along TX Hwy 283 to Quanah, TX, then along Interstate Hwy 40 to the TX-NM State line, restricted in (1)-(5) above to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateways of Memphis and Nashville, TN, Birmingham, AL, and Springdale, AR.

No. MC 115841 (Sub-No. E405), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese*, from Louisville, KY, to: (1) points in LA, AR, and CA; (2) points in WA on and west of Interstate Hwy 5 in a northerly direction from the WA-OR State line to junction Interstate Hwy 405 near Burien, WA, then along Interstate Hwy 405 to junction Interstate Hwy 5, then along Interstate Hwy 5 to the United States-Canadian border; (3) points in OR on and west of U.S. Hwy 97; (4) points in MS on and south of a line beginning at the Mississippi River at Greenville, MS, and extending easterly along U.S. Hwy 82 to the MS-AL State line; and (5) points in TX, except points north and east of a line beginning at the LA-TX State line, and extending along U.S. Hwy 80 to junction TX Hwy 19, then along TX Hwy 19 to Paris, TX, then along U.S. Hwy 271 to the TX-OK State line, and except points in TX, north of a line beginning at the OK-TX State line at Carnes, TX, and extending along TX Hwy 283 to Quanah, TX, then along U.S. Hwy 287 to Estelline, TX, then along TX Hwy 86 to Bovina, TX, then along U.S. Hwy 60 to the TX-NM State line, restricted in (1)-(5) above to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateways of Memphis and Nashville, TN, Birmingham, AL, and Springdale, AR.

No. MC 115841 (Sub-No. E406), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese*, from Thompkinsville, KY, to: (1) points in LA, AR, CA, WA, OR; (2) points in MS on and south of a line beginning at the Mississippi River, and extending along MS Hwy 12 to junction U.S. Hwy 51, then along U.S. Hwy 51 to Winona, MS, then along U.S. Hwy 82 to the MS-AL State line; (3) points in TX, except points north and east of a line beginning at the LA-TX State line, and extending along U.S. Hwy 80 to junction TX Hwy 19, then along TX Hwy 19 to Paris, TX, then along U.S. Hwy 271 to the TX-OK State line, and except points in TX north of a line beginning at the OK-TX State line at Carnes, TX, and extending along TX Hwy 283 to Quanah, TX, then along U.S. Hwy 287 to Amarillo, TX, then along TX Hwy 1061 to junction U.S. Hwy 385, then along U.S. Hwy 385 to Dalhart, TX, then along U.S. Hwy 87 to the TX-NM State line, restricted in (1)-(3) above to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateways of Memphis and Nashville, TN, Birmingham, AL, and Springdale, AR.

No. MC 117574 (Sub-No. E144) (Partial correction), filed January 20, 1976, published in the FEDERAL REGISTER issue of March 15, 1978, and republished, as corrected, this issue. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: William A. Chesnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Commodities*, the transportation of which because of size or weight, require the use of special equipment, and *related materials, supplies and parts* of such commodities when their transportation is incidental thereto, and (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of self-propelled articles on trailers, * * * (33) Between points in Saginaw and Shiawassee Counties, MI, on the one hand, and, on the other, points in KY, PA, and WV and points in that part of IN, on and south of a line commencing at the IL-IN State line and extending along U.S. Hwy 136 to junction IN Hwy 32, then along IN Hwy 32 to the IN-OH State line. The purpose of this filing is to eliminate the gateway of Columbus, OH, and points within 80 miles thereof.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 117815 (Sub-No. E33), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, IA 50309. *Dairy products* and those packinghouse products dealt in by wholesale grocery and food business houses, from points in that part of IN bounded by a line commencing at the IL-IN State line at unnumbered highway approximately 4 miles north of Effner, IN, and extending northeast (through Brook, Collegeville, Francesville, and Winamac, IN), to Warsaw, IN, then north along IN Hwy 15 to Goshen, IN, and then northwest along to the IN-MI State line near Granger, IN, to points in MN, on and west of a line beginning at the IA-MN State line, and extending north along U.S. Hwy 218 to Austin, MN, then east along U.S. Hwy 16 to junction MN Hwy 56, then north along MN Hwy 56 to Kenyon, MN, then east on MN Hwy 60 to junction MN Hwy 57, then north along MN Hwy 57 to Hader, MN, then north along U.S. Hwy 52 to junction MN Hwy 20, then north along MN Hwy 20 to junction U.S. Hwy 61, then north along U.S. Hwy 61 to junction U.S. Hwy 10, then east along U.S. Hwy 10 to the MN-WI State line, restricted to the transportation of shipments moving from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateways of Chicago, IL, and Iowa Falls, IA.

No. MC 117815 (Sub-No. E37), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, IA 50309. *Canned goods*, from points in that part of WI on the west by U.S. Hwy 51 and on the south by WI Hwy 29, to points in that part of IL within the territory bounded by a line beginning at Savanna, IL, and extending south along a line to Galesburg, IL, then in a southeasterly direction to Peoria, IL, then north along IL Hwy 88 to junction Hwy 52, and then west along U.S. Hwy 62 to point of beginning, restricted to the transportation of shipments moving from, to or between wholesale grocery houses, their warehouses, and retail outlets, The purpose of this filing is to eliminate the gateway of Clinton, IA.

No. MC 117815 (Sub-No. E48), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, IA 50309. *Glassware* which are used by food business houses as materials, equipment, or supplies, from points in that part of IN bounded by a line commencing at the IL-IN State line at unnumbered highway approximately 4 miles north of Effner, IN, and extending northeast along (through Brook, Collegeville, Francesville, and Winamac, IN) to Warsaw, IN, then north along IN Hwy 15 to Goshen, IN, and then northwest along to the IN-MI State line near Granger, IN, to points in MN, those points in WI on and west of U.S. Hwy 51, restricted to the transportation of shipments moving from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Gurnee, IL.

No. MC 117815 (Sub-No. E49), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, IA 50309. *Coffee beans*, from New York, NY, to points in that part of IN on, north, and west of a line commencing at the IL-IN State line on U.S. Hwy 40, then east along U.S. Hwy 40 to Terre Haute, IN, then north along U.S. Hwy 41 to junction IN Hwy 47, then along IN Hwy 47 to junction IN Hwy 32, then east along IN Hwy 32 to junction U.S. Hwy 231, then north along U.S. Hwy 231 to LaFayette, IN, then northeast along IN Hwy 25 to Delphi, IN, then north along U.S. Hwy 421 to Monticello, IN, then east along U.S. Hwy 24 to junction IN Hwy 39, then north along IN Hwy 39 to Buffalo, IN, then east along IN Hwy 119, to Winamac, IN, then north along U.S. Hwy 35 to Bass Lake, IN, then east along IN Hwy 10 to junction IN Hwy 23, and then north along IN Hwy 23 to the IN-MI State line, restricted to the transportation of shipments moving from, to, or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, IL.

No. MC 118831 (Sub-No. E47), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Liquid chemicals*, in bulk (except petrochemicals, fertilizer and fertilizer materials, and anhydrous ammonia), from points in NC, on and east of a line beginning at the NC-SC State line proceeding northward on U.S. Hwy 176 from NC-SC State line to NC Hwy 108, to junction U.S. Hwy 221 to Interstate Hwy 40, to junction NC Hwy 18, to junction NC Hwy 268, to junction U.S. Hwy 601, to junction U.S. Hwy 52 to the NC-VA State line; to points in WI. The purpose of this filing is to eliminate the points in SC.

No. MC 118831 (Sub-No. E48), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals, anhydrous ammonia, fertilizer and fertilizer materials), from points in NC on and east of a line beginning at the NC-SC State line, and proceeding northward on NC Hwy 108 to junction U.S. Hwy 221, to junction Interstate Hwy 40, to junction NC Hwy 18, to junction NC Hwy 90, to junction NC Hwy 901 at Hiddenite, NC, to junction U.S. Hwy 64 through Mocksville to junction U.S. Hwy 29 at Lexington to Interstate Hwy 85 at Greensboro to junction U.S. Hwy 158 at Henderson, to junction NC Hwy 48 through Roanoke Rapids, NC, to junction Interstate Hwy 95 to the NC-VA State line; to points and places in MI. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E49), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals, anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC on and east of a line beginning at the NC-SC State line on NC Hwy 150 northward through Shelby, NC, and Lincolntown, NC to junction Interstate 77, then north on Interstate 77 to Statesville, NC, and then to junction of Interstate Hwy 40, then northeast on Interstate Hwy 40 to junction U.S. Hwy 64, then east on U.S. Hwy 64 to junction U.S. Hwy. 29 at Lexington, then north on U.S. Hwy 29 at High Point, NC to Interstate Hwy 85 to the NC-VA State line, to points in IN. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E50), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals, anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC on and east of a line beginning at the NC-SC State line running northward along NC Hwy 9 to unnumbered hwy to Spindale, NC, then along U.S. Hwy 74 to unnumbered hwy northward to NC Hwy 226, then east along NC Hwy 226 to unnumbered hwy to NC Hwy 10 near Casar, NC, then to NC Hwy 18, then northward along NC Hwy 18 to unnumbered hwy to Connelly Springs, then northward on unnumbered hwy through Baton and Whitnel to Lenoir, then along NC Hwy 18 to NC Hwy 268, then along NC Hwy 268 to U.S. Hwy 601, then along U.S. Hwy 52 to the NC-VA State line; to points in MO (except points in the St. Louis, MO commercial zone). The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E51), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals, anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC on and east of a line beginning at the NC-SC State line on NC Hwy 150 northward through Shelby, NC, and Lincolntown, NC to junction Interstate 77, then north on Interstate 77 to Statesville, NC, and then to junction of Interstate Hwy 40, then northeast on Interstate Hwy 40 to junction U.S. Hwy 64, then east on U.S. Hwy 64 to junction U.S. Hwy. 29 at Lexington, then north on U.S. Hwy 29 at High Point, NC to Interstate Hwy 85 to the NC-VA State line, to points in IN. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E82), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263.

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Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk from points in SC on and east of a line beginning at the GA-SC State line on U.S. Hwy 301, and proceeding northeastward on U.S. Hwy 301 to junction of SC Hwy 125 at Allendale, SC, then northwest along SC Hwy 125 to U.S. Hwy 1, then northeast along U.S. Hwy 1 to junction SC Hwy 126, then northwest along SC Hwy 126 to junction Interstate Hwy 25 at Belvedere; then along U.S. Hwy 25 through Greenwood to Greenville, then northeast along U.S. Hwy 29 to Greer, SC, then northeast along SC Hwy 357 to Campobello, SC, then along SC Hwy 11 to Interstate Hwy 26, then along Interstate Hwy 26 to the NC-SC State line to St. Louis, MO and East St. Louis, IL. The purpose of this filing is to eliminate the gateways of Charlotte, NC and Robertson County, TN.

No. MC 118831 (Sub-No. E83), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk, in tank vehicles, from points in SC on and east of a line beginning at the NC-SC State line on U.S. Hwy 21 and proceeding southward to Columbia, SC, then southward along Interstate Hwy 26 to Charleston, SC, to points in AR on and west of a line beginning at Memphis, TN, and proceeding southward on U.S. Hwy 79 to Marianna, AR, then along AR Hwy 1 through Marvell, AR, then west along U.S. Hwy 49 to U.S. Hwy 79, then southwest along U.S. Hwy 79 to Stuttgart, AR, and Pine Bluff, AR to Fordyce, AR, then along U.S. Hwy 167 through El Dorado to the AR-LA State line. The purpose of this filing is to eliminate the gateway of Charlotte, NC, and Robertson County, TN.

No. MC 118831 (Sub-No. E84), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), from Orangeburg, SC, to points in AR on and west of a line beginning at Blytheville, AR, then southwest along AR Hwy 18 to Jonesboro, then southward along AR Hwy 39 to U.S. Hwy 79, then along U.S. 79 to Pine Bluff, AR, then along U.S. Hwy 79 to AR Hwy 98, at McNeil, AR, then westward along AR Hwy 98 to U.S. Hwy 82, then along U.S. Hwy 82 to Texarkana, AR. The purpose of this filing is to eliminate the gateways of Charlotte, NC, and Robertson County, TN.

No. MC 118831 (Sub-No. E85), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Liquid chemicals*, in bulk, from points in Richmond County, GA, to St. Louis, MO, and East St. Louis, IL. The purpose of this filing is to eliminate the gateways of Charlotte, NC, and Robertson County, TN.

No. MC 118831 (Sub-No. E88), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Liquid petrochemicals*, in bulk, in tank vehicles, from points in the counties of Cherokee, York, Chester, Lancaster, and Chesterfield, SC, to points in FL. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E90), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC, (1) in and west of the counties of Anson, Stanley, Rowan, Iredell, Alexander, Caldwell, and Avery to points in CT, DE, MD, MA, NJ, NY, PA, and RI; and (2) from the NC counties of Scotland, Richmond, Montgomery, Davidson and Davie to points in CT, MA, NJ, NY, PA and RI. The purpose of this filing is to eliminate the gateways of Charlotte, NC, and SC.

N. MC 118831 (Sub-No. E100), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Dimethyl terephthalate*, in bulk, from Gibbstown, NJ, to points in TN lying within the area bounded as follows: Beginning at the MS River and the TN-MS State line proceeding eastward along the TN-MS State line to junction with U.S. Hwy 45, then northward along U.S. Hwy 45 through Selmer, TN, to Henderson, TN, then westward over TN Hwy 100 to junction U.S. Hwy 64, then along U.S. Hwy 64 to Whiteville, TN, then along unnumbered TN Hwy to Cedar Chapel, Eurekatin, Stanton, and Tabernacle by Covington, TN, then along U.S. Hwy 51 to Millington, TN, to Memphis, TN. The purpose of this filing is to eliminate the gateways of the plantsite of E. I. Dupont Co. at Graingers, NC, and Spartanburg County, SC.

No. MC 118831 (Sub-No. E101), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Dimethyl terephthalate*, molten, in bulk, from Gibbstown, NJ, to points in AR. The purpose of this filing is to eliminate the gateways of the plantsite of E. I. Du Pont de Nemours & Co. at Graingers, NC; Spartanburg, SC; and Robertson County, TN.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-13643 Filed 5-18-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., May 23, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

Second quarterly report.
Petition for interim rulemaking (amendment of Reg. 32.11) from Mocatta Metals Corp.
Economic considerations in classifying leverage transactions as contracts for future delivery.
Proposed rule imposing a moratorium on the offer and sale of leverage contracts.

Portions closed to the public:

Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1051-78 Filed 5-17-78; 3:34 pm]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., May 26, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1052-78 Filed 5-17-78; 3:34 pm]

[6515-01]

3

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, May 24, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit reports, Compliance, Litigation, Personnel.

• • •

DATE AND TIME: Thursday, May 25, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of future meetings.
Correction and approval of minutes.
Advisory opinions. AO 1978-20. AO 1978-26.
Nonfiler procedures
Rules of the procedure of the FEC pursuant to 2 U.S.C. 437c(e).
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.

Portions closed to the public:

Any matters not concluded at the executive session of May 24, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone, 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1050-78 Filed 5-17-78; 3:34 pm]

[6740-02]

4

May 17, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 9 a.m., May 17, 1978.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Pending civil litigation.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-1046-78 Filed 5-17-78; 9:52 am]

[6720-01]

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., May 24, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Frank O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of the Remote Service Unit Regulation and Application Procedures.
Consideration of Association Request to Permit a Commercial Bank to Operate ATM's Located on the Outside Wall of a Federal Association Office—Hudson Valley Federal Savings & Loan Association, Kingston, N.Y.
Concurrent Consideration of Two Branch Office Applications—(1) Joliet Federal Savings & Loan Association, Joliet, Ill.; and (2) Standard Federal Savings & Loan Association, Chicago, Ill.
Branch Office Application—Home Federal Savings & Loan Association of San Diego, San Diego, Calif.
Consideration of Withdrawal from Bank Membership—The London Home & Savings Co., London, Ohio.
Mobile Facility Application—Klamath First Federal Savings & Loan Association, Klamath Falls, Oreg.
Branch Office Application—First Federal Savings & Loan Association of Council Bluffs, Council Bluffs, Iowa.
Branch Office Application—First Federal Savings & Loan Association of Beaumont, Beaumont, Tex.
Agency Office Application—San Diego Federal Savings & Loan Association, San Diego, Calif.

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Branch Office Application—Home Federal Savings & Loan Association, St. Petersburg, Fla.
Consideration of Federal Association Investment in HAPE.
Consideration of Proposed Acquisition of Hunter Savings Association, Cincinnati, Ohio, by Great American Insurance Co., Cincinnati, Ohio.
Consideration of Amendment to Resolution No. 78-166, dated March 31, 1978, Regarding—Permission to Organize a New Federal—Ralph E. King, Jr., et al., Winnsboro, La.
Consideration of Request for Extension of Time—Investment Savings & Loan Association, Northridge, Calif.
Branch Office Application—First Federal Savings & Loan Association of Cedar Falls, Cedar Falls, Iowa.

[No. 154, May 17, 1978.]

[S-1054-78 Filed 5-17-78; 3:34 pm]

[6210-01]

6

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, May 24, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed transmittal to the House Committee on Banking, Finance and Urban Affairs of a joint study by staffs of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve Board regarding commercial bank private placement activities.
2. Proposed amendment to Regulation T (Margin Credit Extended by Brokers and Dealers) relaxing the restrictions on subordinated loans between broker/dealers for capital purposes.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3108.

Dated: May 16, 1978.

CATHY B. MINEHAN,
Assistant Secretary of the Board.

[S-1045-78 Filed 5-17-78; 9:52 am]

[6750-01]

7

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m. and 2 p.m., Friday, May 26, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Closed Session: 10 a.m.—Monthly Policy Review Session: Discussion of current and proposed Commission investigations relating to food and nutrition.
Open Session: 2 p.m.—Monthly Policy Review Session: Focus on food and nutrition; discussion about current activities and aims of interest to the FTC of Two Federal agencies in this area and ways in which the FTC can interact with them. Ms. Carol Foreman, Assistant Director, Food and Consumer Services, USDA, and Dr. Donald Kennedy, Commissioner FDA, will be present to participate in this discussion.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-1055-78 Filed 5-17-78; 3:34 p.m.]

[7035-01]

8

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, May 23, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open special conference.

MATTERS TO BE CONSIDERED: 1. Port equalization study (RSPO). 2. Revision of the internal minutes (PRO).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1043-78 Filed 5-17-78; 9:52 am]

[7600-01]

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., May 23, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of decisional format for pending cases and possible discussion of the merits of cases on the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-7970.

Date: May 17, 1978.

[S-1056-78 Filed 5-17-78; 3:34 pm]

[7910-01]

10

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, May 23, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 16 are open to public observation. Matters 17 through 24 are closed to public observation. Matters 25 and 26 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held April 25, 1978, and other Board meetings, if any.
2. Recommended Clearance: HI-Shear Corporation—Califiornia. Consolidated with: Hi-Shear Caribe, HI-Shear Delaware, fiscal year ended February 28, 1974.
3. Partial mandatory exemption of new durable productive equipment: Eastman Kodak Co., fiscal years ended December 29, 1968, and December 28, 1969.
4. Partial mandatory exemption of new durable productive equipment: Kearney & Trecker Corp., fiscal year ended September 30, 1976.
5. Recommended clearances without assignment (List 1902):
   A. Triangle Refineries, Inc., fiscal year ended December 31, 1974.
   B. Kerr McGee Chemical Corp., fiscal year ended December 31, 1974.
   C. Kerr McGee Nuclear Corp., fiscal year ended December 31, 1974.
   D. Southwestern Refining Corp., fiscal year ended December 31, 1974.
   E. Cato Oil & Grease Co., fiscal year ended December 31, 1974.
6. Recommended clearances without assignment (List 1903):
   A. Williams Research Corp., fiscal year ended December 31, 1975.
   B. Swedlow, Inc., fiscal year ended March 28, 1976.
   C. Alcan Aluminum Corp., fiscal years ended October 31, 1975.
   D. Esterline Corp., fiscal year ended December 31, 1974 and 1975.
7. Claim for partial mandatory exemption of new durable productive equipment: Buffalo Forge Co., fiscal year ended November 30, 1975.
8. Recommended clearances without assignment (List 1904):
   A. CapTech Inc., fiscal year ended December 31, 1975.
   B. Intermetrics, Inc., fiscal year ended February 29, 1976.
   C. Ainslie Corp., fiscal years ended July 31, 1975 and 1976.
   D. Hydronautics, Inc., fiscal year ended June 30, 1976.
   E. Carleton Controls Corp., fiscal year ended September 30, 1975.
   F. Dyna-Empire, Inc., fiscal year ended July 31, 1976.
   G. A. C. Ball Co., fiscal year ended August 31, 1976.

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H. Thames Valley Steel Inc., fiscal year ended May 31, 1975.
I. Auto Specialties Manufacturing Co., fiscal year ended August 1, 1976.
9. Assignment to Division:
   A. Kaiser Aerospace & Electronics Corp., fiscal year ended December 31, 1972.
   B. Kaiser Industries Corp. (Agent)—Consolidated with: Kaiser Aerospace & Electronics Corp.; Henry J. Kaiser Co.; Kaiser Engineers, Inc.; Hallanger Engineers, Inc.; fiscal year ended December 31, 1973.
10. Recommended clearance:
   A. Kaiser Steel Corp., fiscal years ended December 31, 1970, 1971, and 1972.
   B. Myers Drum Co., fiscal year ended December 31, 1972.
   C. Kaiser Industries Corp., fiscal year ended December 31, 1972.
   D. Kaiser Engineers, Inc., fiscal year ended December 31, 1972.
   E. Henry J. Kaiser Co., fiscal year ended December 31, 1972.
11. Recommended clearance without assignment (List 1905):
   A. Sedco Systems, Inc., fiscal year ended June 30, 1975.
   B. The Trane Co., fiscal year ended December 31, 1975.
   C. The Cleveland Twist Drill Co., fiscal year ended September 30, 1976.
   C-1. Acme-Cleveland Corp., fiscal year ended September 30, 1976.
   D. Barnes Group Inc. (formerly Associated Spring Corp.), fiscal year ended December 31, 1975.
   E. Prime Tanning Co., Inc., fiscal year ended June 28, 1974 and June 26, 1976.
   F. Xonics, Inc., fiscal year ended March 31, 1976.
   F-1. Telcom, Inc., fiscal year ended March 31, 1976.
   F-2. Telecom Systems, Inc., fiscal year ended March 31, 1976.
12. Recommended clearance without assignment (List 1906):
   A. LaPointe Industries, Inc., fiscal years ended June 30, 1971, 1972, 1973, and 1974.
   B. ASC Systems Corp., fiscal years ended June 30, 1971, 1972, 1973, and 1974.
13. Recommended clearance without assignment (List 1907):
   A. condec Corp., fiscal years ended July 31, 1973 and 1974.
   A-1. Energy Research Corp., fiscal year ended July 31, 1973.
   B. Kollmorgen Corp., fiscal years ended December 31, 1974 and 1975.
   C. Crane Co., fiscal years ended December 31, 1973, 1974, and 1975.
   C-1. CF&I Steel Corp., fiscal years ended December 31, 1973, 1974, and 1975.
   C-2. CF&I Engineers, Inc., fiscal years ended December 31, 1973, 1974, and 1975.
   C-3. Fountain Sand & Gravel Co., fiscal years ended December 31, 1973, 1974, and 1975.
   D. AMBAC Industries, Inc., fiscal years ended December 31, 1974 and 1975.
   E. Donaldson Co., Inc., fiscal year ended July 31, 1976.
   F. Gibraltar Industries, Inc., fiscal year ended June 30, 1975.
14. Exemption recommendation—ACE List No. 3003:
   A. Kilsby Tubesupply Co., fiscal year ended October 31, 1974.
   B. Phipps Products Corp., fiscal year ended August 30, 1975.
15. Recommended clearances without assignment (List 1908):
   A. Brown & Sharpe Mfg. Co., fiscal year ended December 27, 1975.
   A-1. Olmsted Products Co., fiscal year ended December 27, 1975.
   A-2. Browne & Sharpe Mfg. Co. of Texas, fiscal year ended December 27, 1975.
   A-3. Double A Products Co., fiscal year ended December 27, 1975.
   B. Cleveland Tankers, Inc., fiscal years ended September 30, 1973, 1974, 1975, and 1976.
   C. Pacific Northwest Bell Telephone Co., fiscal year ended December 31, 1975.
   D. Johnson & Johnson, fiscal years ended December 31, 1972, December 30, 1973, and December 29, 1974.
   D-1. Ethicon, Inc., fiscal years ended December 31, 1972, December 30, 1973, December 29, 1974, and December 28, 1975.
   D-2. Codman & Shurtleff, fiscal year ended December 31, 1972.
   D-3. DeSimone, A. J. Corp., fiscal year ended December 31, 1972.
   D-4. Personal Products Co., fiscal year ended December 31, 1972.
   D-5. Latady Instruments, Inc., fiscal years ended December 31, 1972, and December 30, 1973.
   E. Torrington Co. (Massachusetts), fiscal year ended December 31, 1975.
   E-1. Thomaston Special Products, Inc., fiscal year ended December 31, 1975.
   E-2. Torrington Co. (North Carolina), fiscal year ended December 31, 1975.
   E-3. Torrington Co. (Ohio), fiscal year ended December 31, 1975.
   E-4. Ingersoll-Rand Research, Inc., fiscal year ended December 31, 1975.
   E-5. Torrington Co. (Michigan), fiscal year ended December 31, 1975.
   E-6. Torrington Co. (Delaware), fiscal year ended December 31, 1975.
   E-7. Torrington Co. (California), fiscal year ended December 31, 1975.
   E-8. Torrington Co. (Connecticut), fiscal year ended December 31, 1975.
   E-9. Torrington Co. (Pennsylvania), fiscal year ended December 31, 1975.
16. Recommended determinations of excessive profits and clearance: Manson & Hanger—Silas Mason Co., Inc., fiscal years ended December 31, 1968, 1969, and 1970.
17. Recommended letter not to proceed: Leon B. Delong, fiscal year ended December 31, 1969.
18. Court of Claims Case: *Galion Amco. Inc.* v. *United States* (Ct. Cl. Nos. 575-71, 860-71, and 407-73).
19. Organization and operations of the Regional Boards.
20. Personnel matter.
21. Recommendation for special accounting agreement: AMF, Inc., fiscal years ended December 31, 1969, and 1970.
22. Draft report on development and revision of regulations.
23. Court of Claims Case: *Airborn, Inc.* v. *United States* (Ct. Cl. No. 553-76).
24. Court of Claims Case: *Martin Manufacturing Company* v. *United States* (Ct. Cl. No. 442-73).
25. Approval of agenda for meeting to be held June 6, 1978.
26. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: May 16, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-1049-78 Filed 5-17-78; 11:10 am]

[8010-01]

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of May 22, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, May 23, 1978, at 10 a.m., and on Thursday, May 25, 1978, immediately following the open meetings. Open meetings will be held on Thursday, May 25, 1978, at 10 a.m., and on Thursday, May 25, 1978, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 23, 1978, at 10 a.m., will be:

Referral of investigatory files to Federal, State, or Self-Regulatory authorities.
Institution injunctive action.
Settlement of injunctive action.
Institution of an administrative proceeding of an enforcement nature.
Settlement of an administrative proceeding of an enforcement nature.
Freedom of Information Act appeal.
Regulatory matters bearing enforcement implications.
Other litigation matters.

The subject matter of the closed meeting scheduled for Thursday, May 25, 1978, immediately following the open meeting at 10 a.m., will be:

Opinion.

The subject matter of the closed meeting scheduled for Thursday, May 25, 1978, immediately following the open meeting scheduled for 2:30 p.m., will be:

Post-oral argument discussion.

V 43 | 98

The subject matter of the open meeting scheduled for Thursday, May 25, 1978, at 10 a.m., will be:

1. Consideration of a petition of the Corporate Finance Committee of the Securities Industry Association: (1) Requesting the adoption of a rule relating to underwriters' liability with respect to registration statements on Form S-16; and (2) requesting suspension of the effectiveness of the availability of Form S-16 for certain primary offerings, or the adoption of an emergency temporary rule.
2. Proposed transmittal of comments regarding H.R. 5999, which would amend section 214 of the Interstate Commerce Act to increase from $1 million to $10 million, the maximum value of securities that may be issued by a motor carrier without authorization of the Interstate Commerce Commission.
3. Proposed adoption of amendments to Form 8-K and proxy rules regarding additional disclosure of information concerning changes in independent accountants.

The subject matter of the open meeting scheduled for Thursday, May 25, 1978, at 2:30 p.m., will be:

Oral argument in the matter of Hinkle Northwest, Inc., et al., concerning an appeal from an initial decision of the Administrative Law Judge based upon violations of the net capital and recordkeeping provisions of the Federal securities laws.

FOR FURTHER INFORMATION, PLEASE CONTACT:

George G. Yearsich at 202-755-1100.

MAY 16, 1978.

[S-1044-78 Filed 5-17-78; 9:52 am]

[8010-01]

12

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 20612, May 12, 1978.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

CHANGE IN THE MEETING: Additional item to be considered:

The following additional item will be considered by the Commission at the open meeting scheduled for Wednesday, May 17, 1978, at 9 a.m.:

Request of Bunker Ramo Corp. and GTE Information Systems, Inc. for a stay of the Options Price Reporting Authority's proposed termination of a retransmission service.

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

MAY 16, 1978.

[S-1053-78 Filed 5-17-78; 3:34 p.m.]

[8120-01]

13

[Meeting No. 1195]

TENNESSEE VALLEY AUTHORITY.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 21408, May 17, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., Wednesday, May 17, 1978.

PLACE OF MEETING CHANGED TO: Auditorium, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

CHANGES IN MATTERS TO BE CONSIDERED: The following items are added to the previously announced agenda:

C—Purchase Awards:

*7. Req. No. 822642—Butterfly valves and operators for proposed Yellow Creek Nuclear Plant.
*8. Req. No. 822335—161-kV medium pressure oil-filled cable bus systems for Hartsville and Phipps Bend Nuclear Plants.
*9. Req. No. 42—Coal for TVA steam plants.
10. Exercise of option to purchase additional uranium concentrates under contract 74P65-19219-1 with Homestake Mining Co.

D—Project Authorizations:

3. No. 3331—Convert Colbert Unit 5 from pressurized to balanced-draft firing by the addition of induced-draft fans.
4. No. 3342—Replace cyclone furnaces in the Paradise Steam Plant Units 1 and 2 boilers.
5. No. 3351—Purchase of two replacement intermediate-pressure spindles for 200 MW units at Kingston, John Sevier, and Colbert Steam Plants.
6. No. 3352—Purchase of two replacement low-pressure spindles for 150-MW units at Kingston Units 1-4 and Shawnee Units 1-10.
7. No. 3353—Purchase of two replacement low-pressure turbine spindles for Allen Steam Plant.
8. No. 3343—Baghouse fly ash collectors for Shawnee Steam Plant.
9. No. 3354—Browns Ferry Nuclear Plant cooling tower modifications.
10. No. 3345—Addition of continuous monitors for the measurement of sulfur dioxide and oxygen at all fossil-fired plants.
11. No. 3033.1—Amendment to project authorization for completion of Yellow Creek Nuclear Plant Units 1 and 2.
12. No. 3346—Study of mineral wool insulating material fabrication from wet bottom boiler slag.
13. No. 3349—Modifications and additions to the Power Production Training Center.
14. No. 3077.2—Amendment to project authorization for development of a TVA materials management system.
15. No. 3300—Addition to Forestry building at Norris.

F—Power Items:

2. Letter agreement with Southeastern Power Administration—Revised rates for Cumberland River power.
3. Bill of sale and quitclaim deed to city of Greeneville, Tenn.—Sale of 8.0-mile section of TVA's Nolichucky Hydro-Erwin 69-kV Line.
4. Amendment to mining lease agreement with Federal American Partners, covering arrangements for acquisition of additional uranium reserves in the Gas Hills area of Wyoming.

G—Real Property Transactions:

1. Grant of permanent easement to the Waterworks Board of the town of Dutton, Ala., for a water treatment plant site, affecting 2.4 acres of Guntersville Reservoir land—Tract XTGR-123WT.
2. Grant of 30-year wildlife-recreation easement to the Alabama Department of Conservation and Natural Resources affecting 4,005 acres of Wheeler Reservoir land—Tract XTWR-45RE.
3. Sale of 4.8-acre tract of Cherokee Reservoir land at public auction—Tract XCK-569.
4. Filing of condemnation suits.

H—Unclassified:

2. Settlement Agreement with Hale Specialties, Inc., and Vulcraft Division of Nucor Corp.—Claim resulting from delivery of defective bar joists.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

SUPPLEMENTARY INFORMATION:

TVA BOARD ACTION

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional items shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Approved: Aubrey J. Wagner and S. David Freeman.

[S-1042-78 Filed 5-17-78; 9:52 am]

*Items informally approved in interval since 5-11-78 Board meeting.

[4410-01]

14

UNITED STATES PAROLE COMMISSION: National commissioners (the three Commissioners presently maintaining offices at Washington, D.C. Headquarters).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 20086-20106, May 10, 1978.

CHANGES IN THE MEETING: The closed meeting scheduled for 9:30 a.m. on Thursday, May 18, 1978 to consider referrals from regional directors of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release has been rescheduled for 9:30 a.m. on Friday, May 19, 1978.

AUTHORITY FOR THE CHANGE: Order of Commissioner Benjamin J. Malcolm, Vice-Chairman and Presiding Officer of the National Commissioners.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-1047-78 Filed 5-17-78; 11:10 am]

[4410-01]

15

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: 2 p.m., Friday, June 2, 1978.

PLACE: Xerox Training Center, Route 7, Leesburg, Va.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 15 cases decided by National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally herd by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-1048-78 Filed 5-17-78; 11:10 am]

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federal register

FRIDAY, MAY 19, 1978
PART II



DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

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[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Delaware:	
DE77-3134	Sept. 30, 1977.
Florida:	
FL77-1142	Dec. 2, 1977.
Illinois:	
IL78-2043; IL78-2044; IL78-2045; IL78-2046; IL78-2048; IL78-2049; IL78-2050.	Mar. 24, 1978.
Indiana:	
IN78-2025; IN78-2030; IN78-2033.	Mar. 10, 1978.
IN78-2029; IN78-2051; IN78-2052.	Mar. 24, 1978.
Louisiana:	
LA78-4013	Feb. 17, 1978.
LA78-4052	May 12, 1978.
Ohio:	
OH78-2006	Feb. 24, 1978.
Pennsylvania:	
PA78-3014	Mar. 24, 1978.
Texas:	
TX77-4264	Sept. 30, 1977.
TX78-4028; TX78-4030; TX78-4031; TX78-4036; TX78-4040; TX78-4043; TX78-4044.	Apr. 14, 1978.
Virginia:	
VA78-3038	Apr. 28, 1978.
Washington, D.C.:	
DC78-3008	Mar. 17, 1978.
Wisconsin:	
WI77-2105; WI77-2109	July 22, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parenthesis following the numbers of the decisions being superseded.

Maryland:	
MD77-3080(MD78-3046)	June 24, 1978.
Missouri:	
MO77-4279(MO78-4053)	Sept. 30, 1977.
Tennessee:	
TN78-1042(TN78-1049)	Apr. 14, 1978.
TN78-1132(TN78-1048)	Oct. 7, 1978.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

General Wage Determination Decision No. AL76-1002, Montgomery County, Alabama is cancelled. Agencies with residential building construction projects pending in this County should utilize the Regulations Part 1 (29 CFR), section 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision No. AL76-1002 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 12th day of May 1978.

DOROTHY P. COME,
Acting Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

DECISION #FL77-1142 - MOD. #2
(42 FR 61435 - December 2, 1977)
Cape Canaveral, Kennedy Space Flight Center, Patrick Air Force Base, and Melbar Radar Site, Florida

	Basic Hourly Rates	Fringe Benefit Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Base zone (within 40 miles of Daytona Bench):					
Electrical contracts of under $100,000	$ 8.15	.45	.58+3%		12
Electricians	8.40	.45	.58+3%		12
Cable splicer					
Electrical contracts of over $100,000	9.15	.45	.58+3%		12
Electricians	9.40	.45	.58+3%		12
Cable splicer					
All work in zone 1 (beyond 40 miles from Daytona Beach):					
Electricians	9.60	.45	.58+3%		12
Cable splicer	9.85	.45	.58+3%		12
ELEVATOR CONSTRUCTORS:					
Mechanics	9.41	.745	.56	a+b	.025
Helpers	6.59	.745	.56	a+b	.025
Probationary Helpers	4.705	.745	.56	a+b	.025

FOOTNOTES:
a. Six paid holidays: A through F.
b. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

MODIFICATIONS P. 1

DECISION NO. DE77-3134 - Mod. #8
(42 FR 52930 - September 30, 1977)
State of Delaware

	Basic Hourly Rates	Fringe Benefit Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DROP:					
Motor patrols(fine grade) from Group 2 of Power Equipment Operators for Building & Heavy Construction					
Conveyors (conveyor building) from Group 3 of Power Equipment Operators for Building & Heavy Construction					
Conveyors (building) from Group 4 of Power Equipment Operators for Building & Heavy Construction					
Concrete spreader from Group 4 of Power Equipment Operators for Building & Heavy Construction					
ADD:					
Conveyors to Group 3 of Power Equipment Operators for Building & Heavy Construction					
CHANGE:					
Power Equipment Operators Building & Heavy Construction:					
Group 1	$12.44	7%	10.3%	g	1.8%
Group 2	12.15	7%	10.3%	g	1.8%
Group 3	11.28	7%	10.3%	g	1.8%
Group 4	10.51	7%	10.3%	g	1.8%
Group 5	10.04	7%	10.3%	g	1.8%
Group 6	9.13	7%	10.3%	g	1.8%
Group 7					
100' & over	$12.69	7%	10.3%	g	1.8%
150' & over	12.94	7%	10.3%	g	1.8%
200' & over	13.18	7%	10.3%	g	1.8%
Power Equipment Operators: Highway Construction					
Group 1	12.15	7%	10.3%	g	1.8%
Group 2	11.28	7%	10.3%	g	1.8%
Group 3	10.51	7%	10.3%	g	1.8%
Group 4	9.13	7%	10.3%	g	1.8%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
DECISION #IL78-2043 - MOD. #1 (43 FR 12542- March 24, 1978) Bureau, Carroll, Henry, Lee, JoDaviess, Ogle, Rock Island, Stephenson, Whiteside, and Winnebago Counties, Illinois					
CHANGE:					
Cement Masons:					
Eastern half of Henry County	$11.99		.20		
Electricians:					
Bureau County; Townships of Walnut, Ohio, Lamoille, Clarion, Bureau, Dover, Berlin and Westfield	13.43	.50	3%+.70		.2 of 1%
Laborers:					
Henry County:					
Unskilled	10.07	.40	.42		.035
Semi-Skilled	10.27	.40	.42		.035
Skilled	10.47	.40	.42		.035
DECISION #IL78-2044 - MOD. #1 (43 FR 12549 - March 24, 1978) Ford, Grundy, Iroquois, Kankakee, LaSalle, Livingston, McLean, Marshall, Putnam and Woodford Counties, Illinois					
CHANGE:					
Electricians:					
Kankakee County; Remainder of Ford and Iroquois Counties	11.67	.50	3%+.70		.2 of 1%
Grundy County; Northern half of Central Southern part of LaSalle County; Walnut, Ohio, Lamoille, Clarion, Bureau, Dover, Berlin and Westville Townships in Bureau County	13.43	.50	3%+.70		.2 of 1%
Laborers:					
LaSalle and Punam Counties:					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035

DECISION #IL78-2044 - MOD. #1
(43 FR 12549 - March 24, 1978)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ADD:					
LABORERS:					
Grundy County:					
CLASS 1					
Common Laborers, Plasterer Laborers, Pumps for DeWatering & other Unclassified Laborers	$ 8.55	.57	1.10		
CLASS 2					
Cement Gun Laborers	8.625	.57	1.10		
CLASS 3					
Scaffold Laborers & Chimney Laborers over 40'	8.05	.57	1.10		
CLASS 4					
Windlass & Cement Gun Nozzle Laborers - Gunnite	8.70	.57	1.10		
CLASS 5					
Stone Handlers & Derrickmen	8.75	.57	1.10		
CLASS 6					
Jackhammermen	8.775	.57	1.10		
CLASS 7					
Concrete Vibrator, Plumbers' Laborer & Chain Saw Operator	8.80	.57	1.10		
CLASS 8					
Firebrick & Boiler Setters' Laborers	8.87	.57	1.10		
CLASS 9					
Chimney Laborers on Firebrick, Caisson Diggers & Well Point System Men	8.90	.57	1.10		
CLASS 10					
Boiler Setter Plastic Laborers	9.00	.57	1.10		
CLASS 11					
Jackhammer on Firebrick Only	9.125	.57	1.10		

DECISION #IL78-2044 - MOD. #1 (Cont'd)

ILL-20-PEO-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ADD:					
POWER EQUIPMENT OPERATORS:					
Remainder of Counties:					
GROUP 1	$11.05	.45	.55		.05
GROUP 2	10.85	.45	.55		.05
GROUP 3	10.27	.45	.55		.05
GROUP 4	10.00	.45	.55		.05
GROUP 5	8.56	.45	.55		.05

POWER EQUIPMENT OPERATORS:

Group 1: Crane, hydro crane, shovels, crane type backfiller, tower cranes-mobile and crawler and stationary derricks and hoist (3-drum); Dragline, Dragline, Drott Yumbo and similar types considered as cranes, backhoe, derrick boats, pile driver and skid rigs, clam shells, locomotive cranes, road pavers - single drum, dual drum and tri batcher, motor patrols and power blades - Dumore, elevating similar types, mechanics central concrete mixing plant operator, blacktop plant operators and plant engineers, grad-all, caisson rigs - requires oiler, skimmerscoopkerhing scooper, dredges (all types) hop-toe-crane type (require oiler), Escalated rate on crane and derricks booms, $.01 per hour, per ft., over 80' including jib all cherry pickers, cherry pickers (over 15 tons require oiler), work boat, Ross carrier, helicopter, dozen and tournadozer

Group 2: Asphalt heater and planter combination (used to plant streets), trench machines, pump crete - belt crete - seqeeze crete - screw type pumps and gysum, bulker and pump, dinkeys, tournapulls-all, and similar types, multiple unit earth movers, $.25 per hour for each scoop over one scoops (all sizes), pushcats, endloaders (all types), side booms, P-H one-pass soil cement machines and similar types, wheel tractors (industrial or farm-type with dozer hoe - end loader or other attachments, backfillers, asphalt surfacing machines euclid loader, fork lifts, formless finishings, jeep w/ditching machine or other attachments, tuneluger, rock crusher, automatic cement and gravel batching mobile drills (soil testing) and similar types, pugmill with pump, flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), power launches, boring machine, C.M.I. and similar types (require oiler), all (1) and (2) drum hoists, dewatering system, straw blower, hydro-seeder, boring machine, hydro-boom, starting engineer on pipeline, F.W.D. and similar types

DECISION #IL78-2044 - MOD. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
CHANGE:					
Laborers:					
Ford, Livingston, Iroquois, Kankakee, Marshall and Woodford Counties:					
Unskilled	$10.30	.40	.42		.035
Semi-Skilled	10.50	.40	.42		.035
Skilled	10.70	.40	.42		.035
McLean County:					
Unskilled	10.15	.55	.42		.035
Semi-Skilled	10.35	.55	.42		.035
Skilled	10.55	.55	.42		.035
DECISION #IL78-2045 - MOD. #1 (43 FR 12555 - March 24, 1978) Fulton, Hancock, Henderson, Knox, McDonough, Mercer, Peoria, Stark, Tazwell, and Warren Counties, Illinois					
CHANGE:					
Laborers:					
Hancock, Henderson, Knox, Stark, McDonough & Warren Counties:					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035

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DECISION #1L78-2046 - MOD. #1
(43 FR 12561 - March 24, 1978)
Champaign, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Macon, Moultrie, Piatt, Shelby, and Vermilion Counties, Illinois

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Cumberland, Coles, Douglas Cos., Twps. of Bondie, Burbon, Arcola & Sargent in Moultire Co; Twps. of Lowe, Jonathan Creek, Whitley & E. Nelson in Shelby County	$11.70	.50	3%+.40		.35%

DECISION #1L78-2048 - MOD. #1
(43 FR 12569 - March 24, 1978)
Clay, Crawford, Edwards, Effingham, Fayette, Hamilton, Jasper, Jefferson, Lawrence, Marion, Richland, Wabash, Wayne & White Counties, Illinois

CHANGE:					
Electricians:					
Twps. of Bishop, Douglas, Lucas, Moccasin, St. Franis, Summit & Teutopolis in Effingham Co.	11.70	.50	3%+.40		.035
Laborers	8.70	.40	.30		.035

DECISION #1L78-2049 - MOD. #1
(43 FR 12574 - March 24, 1978)
Bond, Calhoun, Clinton, Greene, Jersey, Macnupin, Madison, Monroe, Montgomery, St. Clair & Washington Counties, Illinois

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Monroe & St. Clair Cos; Western ½ of Bond Co., Vendy Twp. in Washington Co., & Remainder of Clinton, Madison & Montgomery Counties	$12.00	4%	3%+.65	6%	.25%
Linemen	12.36	4%	3%		.50%
Groundmen Equipment Operator	10.74	4%	3%		.50%
Groundmen Truck Driver:					
W/winch & WO/winch	8.73	4%	3%		.50%
Pick-up-Jeeps	8.14	4%	3%		.50%
Groundmen	8.08	4%	3%		.50%

DECISION #1L78-2050 - MOD. #1
(43 FR 12578 - March 24, 1978)
Alexander, Franklin, Gallatin, Handin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union and Williamson Counties, Illinois

CHANGE:					
Electricians:					
Red Bud Township in Randolph County	12.00	4%	3%+.65	6%	.25%

DECISION NO. IN78-2025 - MOD. #2
(43 FR 10167 - March 10, 1978)
Decatur County, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CARPENTERS:					
Carpenters; Soft Floor Layers	$10.54	.55	.65		.03
Piledrivermen	10.79	.55	.65		.03
Millwrights	11.04	.55	.65		.03
Omit:					
TRUCK DRIVERS Schedule					
Add:					
TRUCK DRIVERS Schedule					

DECISION NO. IN78-2025 (CONT'D)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & c	
GROUP 8	9.45	29.50a	20.00a	b & c	
GROUP 9	9.50	29.50a	20.00a	b & c	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

MODIFICATIONS P. 11

DECISION NO. IN78-2029 - MOD. #2
(43 FR 12581 - March 24, 1978)
Adams, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Fountain, Fulton, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Miami, Montgomery, Morgan, Noble, Shelby, Steuben, Tipton, Wabash, Warren, Wells, White, & Whitley Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CARPENTERS; Millwrights; Piledrivermen; Soft Floor Layers:					
Blackford, Jay, & Madison Cos.:					
Carpenters; Soft Floor Layers	$10.70	.60	.45		.08
Millwrights	11.00	.60	.45		.08
Piledrivermen	10.90	.60	.45		.08
Johnson (Edinburgh), Shelby (Rem. of Co.) Cos.:					
Carpenters; Soft Floor Layers	10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen	10.74	.55	.65		.03
LATHERS:					
Blackford, Hancock, & Jay Cos.	9.85		.35		.01
Fountain Co.	11.49	.45	.40		.01
PLUMBERS; Steamfitters:					
Carroll, Clinton, Fountain, Montgomery, Warren, & White Cos.	11. / 12.95	.50	1.00		.10
Omit:					
TRUCK DRIVERS Schedule Blackford, Hamilton, Hancock, Jay, & Madison Counties					
Add:					
TRUCK DRIVERS Schedule Blackford, Hamilton, Hancock, Jay, & Madison Counties					

MODIFICATIONS P. 12

DECISION NO. IN78-2029 (CONT'D)

TRUCK DRIVERS Blackford, Hamilton, Hancock, Jay, & Madison Counties	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & c	
GROUP 8	9.45	29.50a	20.00a	b & c	
GROUP 9	9.50	29.50a	20.00a	b & c	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy. Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

MODIFICATIONS P. 13

DECISION NO. IN78-2030 - MOD #2
(43 FR 10169 - March 10, 1978)
Statewide, except Lake, LaPorte, Porter, and St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
PAINTERS:					
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.:					
Brush	$ 8.85				
Sandblasting; Spray Structural Steel; Scaffold over 30 ft.	9.85 / 9.10				
Omit:					
POWER EQUIPMENT OPERATORS: (Heavy & Highway Construction)					
Add:					
POWER EQUIPMENT OPERATORS: (Heavy & Highway Construction)					

MODIFICATIONS P. 14

DECISION NO IN78-2030 (CONT'D)

POWER EQUIPMENT OPERATORS (Heavy & Highway Construction)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Allen, Benton, Blackford, Carroll, Cass, Clinton, Dekalb, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties:					
GROUP I	$10.87	.55	.65		.08
GROUP II	9.60	.55	.65		.08
GROUP III	9.10	.55	.65		.08
GROUP IV	8.16	.55	.65		.08
Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Marshall, Newton, Noble, Pulaski, & Starke Counties:					
GROUP I	10.27	.95	.85		.08
GROUP II	9.00	.95	.85		.08
GROUP III	8.50	.95	.85		.08
GROUP IV	7.56	.95	.85		.08
Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, & Washington Counties:					
GROUP I	10.97	.50	.60		.08
GROUP II	9.70	.50	.60		.08
GROUP III	9.20	.50	.60		.08
GROUP IV	8.26	.50	.60		.08
Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties:					
GROUP I	10.20	.40	.50		.08
GROUP II	9.10	.40	.50		.08
GROUP III	8.67	.40	.50		.08
GROUP IV	7.86	.40	.50		.08

MODIFICATIONS P. 15

DECISION NO. IN78-2033 - MOD. #2
(43 FR 10188 - March 10, 1978)
Brown, Clark, Crawford, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, Switzerland, & Washington Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:					
Brown (Hamblin), Jackson, Jefferson, Jennings, & Scott Cos.:					
Carpenters; Soft Floor Layers	$10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen; Welders; & Burners	10.74	.55	.65		.03
Lawrence & Orange Cos.:					
Carpenters; Soft Floor Layers	10.67	.57	.50		
Millwrights; Piledrivermen	11.07	.57	.50		
Switzerland Co.:					
Carpenters; Soft Floor Layers	10.54	.55	.65		.03
Millwrights	11.04	.55	.65		.03
Piledrivermen; Welders; & Burners	10.79	.55	.65		.03
CEMENT MASONS:					
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	10.00				
Omit:					
TRUCK DRIVERS					
All counties except Crawford Co.					
Add:					
TRUCK DRIVERS					
All counties except Crawford Co.					

MODIFICATIONS P. 16

DECISION NO. IN78-2033 (CONT'D)

TRUCK DRIVERS All counties except Crawford Co.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & c	
GROUP 8	9.45	29.50a	20.00a	b & c	
GROUP 9	9.50	29.50a	20.00a	b & c	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

MODIFICATIONS P. 17

DECISION NO. IN78-2051 - MOD. #2
(43 FR 12589 - March 24, 1978)
Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:					
Bartholomew Co. (Rem. of Co.):					
Carpenters; Soft Floor Layers	$10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen; Burners; Welders	10.74	.55	.65		.03
Dearborn Co.:					
Carpenters & Soft Floor Layers	10.54	.55	.65		.03
Millwrights	11.04	.55	.65		.03
Piledrivermen; Burners; Welders	10.79	.55	.65		.03
Delaware Co.:					
Carpenters & Soft Floor Layers	10.70	.60	.45		.08
Millwrights	11.00	.60	.45		.08
Piledrivermen	10.90	.60	.45		.08
LATHERS:					
Delaware & Grant Counties	9.85		.35		.01
PLASTERERS; Plumbers; & Steamfitters:					
Benton, Tippecanoe, & Vigo Cos.	12.95	.70	1.00		.10
PLUMBERS; Steamfitters:					
Vanderburgh Co.	13.20	.50	.90		.06
Omit:					
TRUCK DRIVERS Schedule					
Bartholomew, Dearborn, Delaware, Grant, & Monroe Counties					
Add:					
TRUCK DRIVERS Schedule					
Bartholomew, Dearborn, Delaware, Grant, & Monroe Counties					

DECISION NO. IN78-2051 (CONT'D) MODIFICATIONS P. 18

TRUCK DRIVERS Bartholomew, Dearborn, Delaware, Grant, & Monroe Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & c	
GROUP 8	9.45	29.50a	20.00a	b & c	
GROUP 9	9.50	29.50a	20.00a	b & c	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

MODIFICATIONS P. 19

DECISION NO. IN78-2052 - MOD. #2
(43 FR 12598 - March 24, 1978)
Fayette, Franklin, Henry, Ohio, Randolph, Ripley, Rush, Union, & Wayne Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
BRICKLAYERS; Stonemasons: Fayette, Franklin, Rush, Union, & Wayne Cos.	$10.55	.80			
CARPENTERS; Millwrights; Piledrivermen; Soft Floor Layers: Fayette, Henry, Randolph, Rush (Carthage Twp.), Union, & Wayne Cos.:					
Carpenters; Soft Floor Layers	10.70	.60	.45		.08
Millwrights	11.00	.60	.45		.08
Piledrivermen	10.90	.60	.45		.08
Franklin, Ohio, Ripley Cos.:					
Carpenters; Soft Floor Layers	10.54	.55	.65		.03
Millwrights	11.04	.55	.65		.03
Piledrivermen; Welders; Burners	10.79	.55	.65		.03
Rush Co. (Except Carthage Twp.):					
Carpenters; Soft Floor Layers	10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen; Welders; Burners	10.74	.55	.65		.03
LATHERS: Henry & Randolph Cos.	9.85		.35		.01
PAINTERS: Fayette, Franklin, Henry, Randolph, Rush, Union & Wayne Cos.:					
Brush	8.85				
Sandblasting; Spray	9.85				
Structural steel; Scaffold over 30 ft.	9.10				
Stage & Spray helper	9.10				
Omit: TRUCK DRIVERS Schedule					
Add: TRUCK DRIVERS Schedule					

DECISION NO. IN78-2052 (CONT'D) MODIFICATIONS P. 20

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & c	
GROUP 8	9.45	29.50a	20.00a	b & c	
GROUP 9	9.50	29.50a	20.00a	b & c	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

MODIFICATIONS P. 21

DECISION #LA78-4013 - Mod. #3
(43 FR 7125 - February 17, 1978)
Bossier, Caddo & Calcasieu Parishes, Louisiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Glaziers - Bossier & Caddo Pars	$ 8.28		.30		.04
Calcasieu Parish	9.65				.02
Plumbers & pipefitters: Bossier & Caddo Parishes	10.34	.40	.50	.95	.09
Sprinkler fitters	10.80	.75	1.05		.08

DECISION #LA78-4052 - Mod. #1
(43 FR - May 12, 1978)
Statewide Louisiana

Change:					
Glaziners - Zone 4	8.28		.30		.04
Roofers - Zone 2	8.06	.70	.75	.28	.70

MODIFICATIONS P. 22

DECISION NO. OH78-2006 - MOD. #1
(43 FR 7915 - February 24, 1978)
Allen, Auglaize, Crawford, Defiance, Erie, Hancock, Hardin, Henry, Huron, Knox, Logan, Marion, Mercer, Morrow, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Van Wert, Williams, Wood, & Wyandot Counties, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers: Erie (Pt.), & Huron Cos.	$14.78				
Electricians: Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge, & Salem) Cos.	11.61	.45	3%+.37		.04
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	13.80	.65	3%+.55		.1%
Glaziers: Defiance, Henry, Ottawa, Sandusky, Seneca, Williams, & Wood Cos.	11.175	.55	1.00		.01
Ironworkers: Erie & Huron Cos.	11.72	1.05	1.30		.03
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers: Erie, Huron, & Richland Cos.:					
Marble Setters' Finishers	12.26		1.00		
Terrazzo Workers' Finishers	12.97		.85		
Tile Setters' Finishers	12.79		1.00		
Painters: Allen, Auglaize, Defiance, Hardin, Mercer, Paulding, Putnam, Van Wert, & Williams Cos.:					
Brush; Drywall Taping; & Roller Wall Covering; Swing Stage; Safety Belts; Spiders & Cherry Pickers - Brush or Rollers	9.35	.73	.50		.03
Sandblasting; Spray; Steam-cleaning; Mitts; High pressure water cleaning; Blow Down	9.60	.73	.50		.03
Stilts & Automatic Drywall Tools	9.85	.73	.50		.03
Petroleum storage tanks (over 30 ft. high) brush, rollers	10.10	.73	.50		.03
Structural steel (open skeleton) - brush or roller	9.75	.73	.50		.03
	9.65	.73	.50		.03

MODIFICATIONS P. 23

DECISION NO. OH78-2006 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters: (Cont'd)					
Elevated water tanks & stacks - brush, roller or spray	$10.85	.73	.50		.03
Henry, Ottawa, & Wood Cos.:					
Brush; Paperhangers; Drywall tapers & finishers	10.81	.93	.90		
Sandblasting; Spray; Pressure cleaning	11.36	.93	.90		
Knox Co.:					
Brush; Paperhangers	8.00				
Spray	8.45				
Roofers:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	11.795	.60	.65		.01
Erie, Huron, Ottawa, Sandusky, & Seneca Cos.	14.03	.25	.50		
Sprinkler Fitters	12.75	.75	1.05		.08
Laborers:					
Crawford, Knox, Morrow, & Richland Cos.:					
General laborers; Carpenter tender; Concrete handler	8.81	.70	.70		.10
Mason & Plasterers' tenders; Air & power driven tools; Pipelayer; Dynamite blaster; Mortar Mixer; & formsetter	9.01	.70	.70		.10
Gunnite operator	9.41	.70	.70		.10
Defiance, Henry, & Williams Cos.:					
Unskilled laborers; Cement finishers' helpers; Carpenters' helpers; Carpenters' tenders	8.97	.65	.55		.10
Mason tenders; Gunite pot man	9.09	.65	.55		.10
All power driven tools & buggies, burners, torchmen & nozzle man for concrete pump	9.115	.65	.55		.10
Plasterers' tenders	9.145	.65	.55		.10
Nozzle operator for gunite work	9.62	.65	.55		.10
Bellman; Bottom man; & Brick expeditor	9.205	.65	.55		.10

MODIFICATIONS P. 24

DECISION NO. OH78-2006 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers: (Cont'd)					
Erie, Huron, Ottawa, & Sandusky Cos.:					
Building & construction laborers; Signalman; Flagman; Tool cribman; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erectors	$ 9.96	.70	.70		.10
Bottom men; Scaffold; Tunnel laborers; Pipelayers; Air & power driven tools burner on demolition work; Swinging scaffold; Mucker; Caisson workers; Cofferdam worker; Power men & dynamite blasters; Creosote workers; Mortar mixers; Form setter; Mason tenders; Plasterers' tenders; Hod carrier; Laser beam set up man	10.16	.70	.70		.10
Gunnite Operator	10.56	.70	.70		.10
Hancock, Hardin, Marion, Seneca, & Wyandot Cos.:					
Building & construction laborers; Signalman; Flagman; Tool crib-man; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erectors	8.81	.70	.70		.10
Bottom men; Scaffold builders; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson work; Cofferdam worker; Powder men & dynamite blasters; Creosote workers; Mortar mixers tenders; Plasterers' tenders; Hod carriers; Laser beam set up men	9.01	.70	.70		.10
Gunnite operators	9.41	.70	.70		.10

MODIFICATIONS P. 25

DECISION NO. OH78-2006 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Line Construction:					
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.:					
Linemen	$13.46	.50	3%	a	½%
Technicians	12.99	.50	3%	a	½%
Cable splicers	13.71	.50	3%	a	½%
Operator Class 1	10.72	.50	3%	a	½%
Operator Class 2	9.45	.50	3%	a	½%
Groundman:					
Driver 1st 6 mos.	6.76	.50	3%	a	½%
Driver 2nd 6 mos:	7.33	.50	3%	a	½%
Driver 3rd 6 mos.	8.10	.50	3%	a	½%
Omit:					
Power Equipment Operators Schedule					
Add:					
Power Equipment Operators Schedule					

	ZONE I	ZONE II	ZONE III	Fringe Benefits Payments			
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$12.69	$12.36	$13.17	.66	1.00		.11
GROUP B	12.73	12.70	13.02	.66	1.00		.11
GROUP C	12.38	11.84	12.67	.66	1.00		.11
GROUP D	11.57	11.06	11.89	.66	1.00		.11
GROUP E	11.24	10.73	11.57	.66	1.00		.11
GROUP F	9.28	8.83	9.64	.66	1.00		.11

MODIFICATIONS P. 26

DECISION #PA78-3014 - Mod. # 1 (43 FR 12603 - March 24, 1978) Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Zone 5					
Commercial	$8.75	.85	.70	.75	2%
Industrial	10.40	.85	.70	1.00	2%
Zone 4					
Brush & Roller	9.45	.65	.40		.05
Spray	10.575	.65	.40		.05
Sprinkler Fitters					
Zone 2	12.31	.75	1.05		.08

MODIFICATIONS P. 27

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4264 - Mod. #4 (42 FR 53168 - September 30, 1977) Tom Green County, Texas					
Change:					
Bricklayers	$ 9.00				
DECISION #TX78-4028 - Mod. #1 (43 FR 16112 - April 14, 1978) Armstrong, Carson, Castro, Childress, Collingdworth, Dallam, Deaf Smith, Donely, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
Change:					
Bricklayers & stonemasons	10.40		.30		
Marble masons (exterior)	10.40		.30		
DECISION #TX78-4030 - Mod. #3 (43 FR 16115 - April 14, 1978) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Plasterers	10.15				.01
DECISION TX78-4031 - Mod. #3 (43 FR 16116 - April 14, 1978) Bell, Bosque, Coryell, Falls, Hill & Mclennan Cos., Texas					
Change:					
Building Construction:					
Sheet metal workers - Zone 1	9.29	.35	.44		.07
Zone 2	9.79	.35	.44		.07
Zone 3	10.29	.35	.44		.07
DECISION #TX78-4036 - Mod. #3 (43 FR 16125 - April 14, 1978) El Paso County, Texas					
Change:					
Cement masons	7.12	.67			.03
Power Equipment Ops. - Group 1	7.29	.60	.60		.15
Group 2	7.87	.60	.60		.15
Group 3	7.96	.60	.60		.15
Group 4	8.16	.60	.60		.15
Group 5	8.24	.60	.60		.15
Group 6	8.58	.60	.60		.15
Group 7	8.74	.60	.60		.15
Group 8	8.21	.60	.60		.15
Group 9	8.44	.60	.60		.15
Group 10	8.74	.60	.60		.15

MODIFICATIONS P. 28

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4040 - Mod. #3 (43 FR 16131 - April 14, 1978) Jefferson & Orange Cos., Texas					
Change:					
Truck drivers - Group 1	$ 8.01	.53			
Group 2	8.36	.53			
Group 3	8.55	.53			
Group 4	8.65	.53			
Group 5	8.665	.53			
DECISION #TX78-4043 - Mod. #3 (43 FR 16134 - April 14, 1978) Travis County, Texas					
Change:					
Bricklayers & stonemasons	10.32	.50	.40		.05
Laborers - Group 1	5.855	.275	.40		.02
Group 2	6.005	.275	.40		.02
Group 3	6.18	.275	.40		.02
Group 4	6.255	.275	.40		.02
DECISION #TX78-4044 - Mod. #1 (43 FR 16136 - April 14, 1978) Wichita County, Texas					
Change:					
Bricklayers & stonemasons	9.94		.60		.05

MODIFICATIONS P. 29

DECISION NO. 78-VA-3038 - Mod. #1
(43 FR 18481 - April 28, 1978)
Counties of Accomack, Greensville, Isle of Wight, James City, Northampton, Southampton, Surry, Sussex, York and the Cities of Emporia, Franklin, Suffolk and Willamsburg

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
Flagman					
Roller (Finish)					
DECISION NO. DC78-3008 - Mod. #3 (43 FR 11464 - March 17, 1978) District of Columbia; Maryland-Montgomery and Prince Georges; and D. C. Training School; Virginia - Independent City of Alexandria & Arlington					
Change:					
Boilermakers	$12.025	1.075	1.00		.02
Elevator Constructors	11.77	.745	.56	a+b	.025
Elevator Constructors Helpers	70%J.R.	.745	.56	a+b	.025
Elevator Constructors Helpers (Probationary)	50% J.R.				
DECISION NO. WI77-2105 - MOD. #2 (42 FR 37766 - July 22, 1977) Ashland, Bayfield & Douglas Counties, Wisconsin					
Change:					
Carpenters (Ashland Co.)	$ 9.19	.50	.30	.15	
Millwrights, Piledrivermen (Ashland Co.)	9.39	.50	.30	.15	
DECISION NO. WI77-2109 - MOD. 2 (42 FR 37771 - July 22, 1977) Brown, Door, Kewaunee, and Oconto Counties, Wisconsin					
Change:					
Bricklayers, Marble Masons and Stonemasons	9.95	.65	.40		.02
Carpenters	9.92	.50	.60		.05
Millwrights & Piledrivermen	10.32	.50	.60		.05
Cement Masons	9.45	.65	.40		.02
Laborers:					
Class 1	8.35	.45	.40		.02
CLASS II	8.40	.45	.40		.02
CLASS III	8.55	.45	.40		.02

SUPERSEDEAS DECISION

STATE: Maryland LOCATION: Baltimore City
DECISION NO.: MD78-3046 DATE: Date of Publication
Supersedes Decision No.: MD77-3060 dated June 24,1977 in 42 FR 32476
DESCRIPTION OF WORK: Highway Construction (does not include bridges over navigable waters, tunnels, rest areas which include building structures, and railroad construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 9.80	.75	.69		.07
Cement Masons	10.00	.60	.55		.04
Electricians	10.80	.70	3%+.90		4%
Ironworkers:					
Structural & Reinforcing	10.24	.90	1.76		.06
Fence Erectors	9.89	.90	1.76		.06
Laborers	6.35	.30	.50		.075
Line Construction:					
Linemen, cable splicers, digging and equipment operators	11.95	.45	3%		4%
Winch trucks & trucks with pole or steel handling	8.01	.45	3%		4%
Trucks without winch	7.47	.45	3%		4%
Groundmen	7.53	.45	3%		4%
Truck Drivers:					
Pickups	6.95	1.05	.75	a+b	
Dumps	7.13	1.05	.75	a+b	
Drop-frame,gooseneck, trailer driver	7.33	1.05	.75	a+b	
Euclids & dumpsters	7.44	1.05	.75	a+b	

FOOTNOTES:

a. 9-paid holidays: New Year's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day and employee's Birthday, providing employee has worked one day and was available for work during the holiday week.

b. Employees who have worked 125 days in the previous contract year and have 1 year of service, 1 week's paid vacation; 2 years of service, 2 weeks paid vacation; 10 years of service, 3 weeks paid vacation.

DECISION NO. MD78-3046

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION					
GROUP I	$ 9.19	.95	1.00	a	.12
GROUP II	8.69	.95	1.00	a	.12
GROUP III	8.19	.95	1.00	a	.12
GROUP IV	7.19	.95	1.00	a	.12
GROUP V					
a	9.59	.95	1.00	a	.12
b	9.79	.95	1.00	a	.12
c	9.99	.95	1.00	a	.12
d	10.19	.95	1.00	a	.12
e	10.44	.95	1.00	a	.12

FOOTNOTES:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day provided the employee works three days in the work week in which the holiday occurs.

POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION

GROUP I - Backfiller, backhoe, batching plants, cableway, case type hoe (with a front end bucket over 1½ yds.), concrete mixing plants, concrete paver, derrick, derrick boat, double concrete pump, dragline, elevating grader, excavating scoop (25 yds. and over), front end loader (1-3/4 yds. and over), grader, gradall hoist (2 active drums or more), pile driving machine, power crane, power shovel repair mechanic, standard guage locomotive, trenching machine, tunnel mucking machine, twin engine scoop, welder, whirley rig.

GROUP II - Asphalt spreader, bulldozer, bull float, case type hoe (with a front end bucket 1 ½ yds. and under), concrete mixer (with a slip), concrete pump, concrete spreader, ditch-witch type trencher, excavating scoop (under 25 yds,), finishing machine, front end loader (under 1 3/4 yds.). grout pump, hi-lift, longitudinal float, narrow-guage locomotive, one drum hoist, power roller, screeding machine, stone crusher, stone spreader, tractor with attachments (2 or more provided both attachments are being used), sub-grader, well-drill.

DECISION NO. MD78-3046

POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION - CONT'D

GROUP III - Compressors, conveyors, firemen, fuel truck, grease truck, light plants, mighty midget with compressor, space heaters, welding machines well-point system

GROUP IV - Oilers (all types)

GROUP V - Long boom cranes, including jibs, and on piledriver machines with leads:
a. 130 ft. to 169 ft.
b. 170 ft. to 209 ft.
c. 210 ft. to 249 ft.
d. 250 ft. to 299 ft.
e. 300 ft. and over

SUPERSEDEAS DECISION

STATE: Missouri
DECISION NO. MD78-4053 DATE: Date of Publication
Supersedes Decision No. MD77-4279 dated September 30, 1977 in 42 FR 53074
DESCRIPTION OF WORK AND LOCATION
Highway Construction
(Statewide)
Heavy Construction

Adair	Gasconade	Montgomery
Andrew	Gentry	Morgan
Atchison	Greene	Newton
Audrain	Grundy	Nodaway
Barton	Harrison	Osage
Bates	Henry	Perry
Benton	Hickory	Pettis
Bollinger	Holt	Phelps
Boone	Howard	Pike
Buchanan	Jackson	Platte
Caldwell	Jasper	Polk
Callaway	Jefferson	Pulaski
Camden	Johnson	Putnam
Cape Girardeau	Knox	Ralls
Carroll	Laclede	Randolph
Cass	Lafayette	Ray
Cedar	Lawrence	St. Charles
Charlton	Lewis	St. Clair
Clark	Lincoln	St. Francois
Clay	Linn	St. Louis and City
Clinton	Livingston	Ste. Genevieve
Cole	McDonald	Saline
Cooper	Macon	Schuyler
Crawford	Madison	Scott
Dade	Maries	Scotland
Dallas	Marion	Shelby
Daviess	Mercer	Sullivan
DeKalb	Miller	Vernon
Franklin	Moniteau	Warren
	Monroe	Washington
		Worth

DECISION NO. MD78-4053 Page 2

CARPENTERS & PILEDRIVERMEN:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 1	$11.11	.65	.70	.50	.03
Zone 2	11.00	.50	.30		.05
Zone 3	10.96	.65	.70		
Zone 4	10.71	.65	.70	.50	.03
Zone 5	11.50	.50	.30		.03
Zone 6	10.90	.50	.30		.03
Zone 7	9.85	.65	.70	.50	.03
Zone 8	11.37	.33			.03
Zone 9	11.37	.33			.03
Zone 10	11.02	.53			.03
Zone 11	11.07	.33	.30		.03
Zone 12	10.86	.65	.70	.50	.03

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN ZONES

Zone 1 - Franklin, Jefferson, St. Charles, Counties.
Zone 2 - Clay, Jackson, Platte and Ray Counties
Zone 3 - St. Louis County & City
Zone 4 - Pike, St. Francois & Washington Counties
Zone 5 - Cass and Lafayette Counties
Zone 6 - Atchison, Andrew, Barry, Barton, Bates, Buchanan, Caldwell, Camden, Carroll, Cedar, Christian, Clinton, Dade, Dallas, Daviess, DeKalb, Douglas, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Jasper, Johnson, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clair, Saline, Stone, Taney, Vernon, Webster, Worth & Wright Counties
Zone 7 - Crawford, Dent, Gasconade, Iron, Madison, Maries, Montgomery, Phelps, Pulaski, Reynolds, Shannon and Texas Counties
Zone 8 - Boone, Cooper & Howard Counties
Zone 9 - Adair, Audrain, Benton, Charlton, Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Morgan, Pettis, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby and Sullivan Counties
Zone 10 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Howell, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Ste. Genevieve, Scott, Stoddard and Wayne Counties
Zone 11 - Callaway, Cole, Miller, Moniteau and Osage Counties
Zone 12 - Lincoln and Warren Counties

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Zone 1	10.925	.65	.50		
Zone 2	10.93				
Zone 3	9.50	1.00	.95		
Zone 4	11.80	.65	.50		
Zone 5	7.25	.80	.40	.45	
Zone 6	8.75				
Zone 7	9.325				
Zone 8	10.80				
Zone 9	7.40				
Zone 10	9.75	.65	.50		
Zone 11	10.55				
Zone 12	10.15	1.00	.95		

AREAS COVERED BY CEMENT MASONS ZONES

Zone 1 - Bates, Carroll, Cass and Lafayette Counties
Zone 2 - Dent, Phelps, Pike, Pulaski, and Texas Counties
Zone 3 - Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren & Washington Counties on projects less than $100,000.00
Zone 4 - Clay, Jackson, Platte and Ray Counties
Zone 5 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Scott, Stoddard and Wayne Counties
Zone 6 - Cedar, Christian, Dade, Dallas, Douglas, Greene, Howell, Laclede, Ozark, Polk, Stone, Taney, Webster and Wright Counties
Zone 7 - Benton, Henry, Hickory, Johnson, Morgan, Pettis, Saline and St. Clair Counties
Zone 8 - Adair, Audrain, Boone, Chariton, Cooper, Howard, Linn, Macon, Moniteau, Monroe, Randolph, Shelby, Schuyler, Sullivan and Putnam Cos.
Zone 9 - Barry, Barton, Jasper, Lawrence, McDonald, Newton and Vernon Cos.
Zone 10 - Andrew, Atchison, Buchanan, Caldwell, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, NOdaway and Worth Cos.
Zone 11 - Callaway, Camden, Cole, Gasconade, Maries, Miller, Montgomery, and Osage Cos.
Zone 12 - St. Louis City and County, Jefferson and St. Charles Counties; and Counties of Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren and Washington on projects $100,000.00 and over.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
Zone 1					
Electrical contracts over $10,000.00	11.00	4%	3%	11.5%	1%
Electrical contracts $10,000.00 and under	9.46	4%	3%	11.5%	1%
Zone 2	11.82	.54	3%+.51	.80	.06
Zone 3					
Electrical contracts over $5,000.00	11.82	.54	3%+.51	.95	.06
Electrical contracts $5,000.00 and under	11.27	.54	3%+.51	.95	.06
Zone 4					
Electrical contracts over $5,000.00	11.82	.54	3%+.51	.95	.06
Zone 5					
Electrical contracts over $5,000.00	11.82	.54	3%+.51	.95	.06
Electrical contracts $5,000.00 and under	10.66	.54	3%+.51	.95	.06
Zone 6	10.95	.62	3%+.5½%	15½%	.10
Zone 7					
Electrical contracts over $15,000.00	10.95	.62	3%+5½%	15½%	.10
Zone 8					
Electrical contractrs $15,000.00 and under	10.25	.62	3%+5½%	15½%	.10
Zone 9					
Electrical contracts $15,000.00 and under	7.92	.62	3%+5½%	15½%	.10
Zone 10					
Electrical contracts $15,000.00 and under	5.60	.62	3%+5½%	15½%	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS CONTD:					
Zone 11	11.105	.47	3%+.50	6%	.02
Zone 12	11.595	.47	3%+.50	6%	.02
Zone 13	11.24	.60	3%	7%	.01
Zone 14					
Electrical contracts over $20,000.00	11.47	.60	3%	7%	.01
Electrical contracts $20,000.00 and under	11.24	.60	3%	7%	.01
Zone 15					
Electrical contracts over $20,000.00	11.83	.60	3%	7%	.01
Electrical contracts $20,000.00 and under	11.24	.60	3%	7%	.01
Zone 16					
Electricians	9.90	.35	3%+.50		.01
Cable splicers	10.25	.35	3%+.50		.01
Zone 17					
Electricians	11.89	.27	3%	7%+.30	¼ of 1%
Cable splicers	12.14	.27	3%	7%+.30	¼ of 1%

AREAS COVERED BY ELECTRICIANS ZONES

Zone 1 - Adair, Audrain (that part east of Highway 19), Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Montgomery, Pike, Putnam, Ralls, Schuyler, Scotland, Shelby and Sullivan Cos.
Electrical contracts over $7,500.00
Electrical contracts $7,500.00 and under
Zone 2 - Western half of Clay & Jackson Cos. not including Blue Springs; Northern half of Platte Co.; North Western portion of Cass Co. not including Pleasant Hill
Zone 3 - Remainder of Clay, Jackson, Platte & Cass Cos.:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under
Zone 4 - Bates, Benton, Henry, Johnson, Lafayette and Pettis Cos.:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under
Zone 5 - Carroll, Cooper, Morgan, Ray & Saline Counties:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under
Zone 6 - St. Charles County, St. Louis County and City
Zone 7 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Franklin, Iron, Jefferson, Lincoln, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, Scott, St. Francois, Ste. Genevieve, Stoddard, Warren, Washington and Wayne Cos.:
Electrical contracts over $15,000.00
Zone 8 - Franklin, Jefferson, Lincoln and Warren Cos.
Electrical contracts $15,000.00 and under
Zone 9 - Bollinger, Cape Girardeau, Perry, Scott, St. Francois, and Ste. Genevieve Counties:
Electrical contract $15,000.00 and under
Zone 10 - Butler, Carter, Dunklin, Iron, Madison, Mississippi, New Marid, Pemiscot, Ripley, Reynolds, Stoddard, Washington and Wayne Counties:
Electrical contracts $15,000.00 and under
Zone 11 - Christian, Dallas, Douglas, Greene, Hickory, Howell, Laclede, Oregon, Ozark, Polk, Shannon, Stone, Taney, Texas, Webster, and Wright Counties
Zone 12 - Pulaski County
Zone 13 - Andrew, Buchanan, Clinton and DeKalb Counties
Zone 14 - Caldwell, Daviess, Gentry, Holt and Nodaway Counties:
Electrical contracts over $20,000.00
Electrical contracts $20,000.00 and under
Zone 15 - Atchison, Grundy, Harrison, Livingston, Mercer and Worth Counties:
Electrical contracts $20,000.00 and under
Electrical contracts over $20,000.00
Zone 16 - Barry, Barton, Cedar, Dade, Jasper, Lawrence, McDonald, Newton, St. Clair, and Vernon Counties
Zone 17 - Audrain (except Cuivre Township), Boone, Callaway, Camden, Chariton, Cole, Crawford, Dent, Gasconade, Howard, Maries, Miller, Moniteau, Osage, Phelps and Randolph Counties

IRONWORKERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 1	11.225	.55	.70		.06
Zone 2	10.80	.70	1.40	1.00	.05
Zone 3	10.685	.70	1.40	1.00	.05
Zone 4	10.10	.45	.65		.12
Zone 5	10.75	.55	.65		
Zone 6	9.50	.45	.40		.04
Zone 7	9.90	.45	.65		.02

AREAS COVERED BY IRONWORKERS ZONES

Zone 1 - Audrain, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Iron, Jefferson, Lincoln, Madison, Maries, Miller, Montgomery, Osage, Perry, Phelps, Pike, Pulaski, Reynolds, Shannon, St. Charles, St. Francois, St. Louis & City, Ste. Genevieve, Texas, Warren, Washington, and Wright Cos.

Zone 2 - Andrew, Atchison, Barton, Bates, Benton, Buchanan, Caldwell, Camden, Carroll, Cass, Cedar, Chariton, Clay, Clinton, Cooper, Dallas, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Howard, Jackson, Johnson, Laclede, Lafayette, Linn, Livingston, Mercer, Moniteau, Morgan, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Clair, Saline, Sullivan, Vernon and Worth Cos.

Zone 3 - Christian, Dade, Douglas, Greene and Webster Cos.

Zone 4 - Barry, Jasper, Lawrence, McDonald, Newton and Stone Cos.

Zone 5 - Adair, Clark, Knox, Lewis, Macon, Marion, Monroe, Ralls, Schuyler, Scotland and Shelby Cos.

Zone 6 - Howell, Oregon, Ozark and Taney Cos.

Zone 7 - Butler, Bollinger, Carter, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Ripley, Scott, Stoddard and Wayne Counties.

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1					
Zone 1	8.68	.60	.50	.50	.10
Zone 2	7.28	.60	.50	.50	.10
Zone 3	9.60	.60	.50		.10
Zone 4	8.70	.60	.50		.10
GROUP 2					
Zone 1	8.83	.60	.50	.50	.10
Zone 2	7.43	.60	.50	.50	.10
Zone 3	9.75	.60	.50		.10
Zone 4	8.85	.60	.50		.10
GROUP 3					
Zone 1	8.98	.60	.50	.50	.10
Zone 2	7.58	.60	.50	.50	.10
Zone 3	9.90	.60	.50		.10
Zone 4	9.00	.60	.50		.10
GROUP 4					
Zone 1	9.18	.60	.50	.50	.10
Zone 2	7.78	.60	.50	.50	.10
Zone 3	10.10	.60	.50		.10
Zone 4	9.20	.60	.50		.10
GROUP 5					
Zone 1	9.43	.60	.50	.50	.10
Zone 2	8.03	.60	.50	.50	.10
Zone 3	10.35	.60	.50		.10
Zone 4	9.35	.60	.50		.10

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - General Laborer - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagmen; loading trucks under bins, hoppers, and conveyors; track men and all other general laborers

GROUP 2 - First Semi-skill - Air tool operator; cement handler, bulk or sack; dump man on earth fill; georgie buggie man; material batch hopper man; scale man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers - rock, block or brick; signal man; scaffolds over ten feet not self-supported from ground up; skipman on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only); straw blower nozzleman.

GROUP 3 - Second Semi-skill - Asphalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; vibrator man; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 feet where compressed air is not used; abutment and pier hole men working six (6) feet or more below ground; men working in coffer dams for bridge piers and footings in the river

GROUP 4 - Third Semi-Skill - Laser beam man; asphalt raker; barco tamper; jackson or any other similar tamp; wagon driller; chrun drills; air track drills and all other similar drills; cutting torch man; form setters; liners and stringline men on concrete paving, curb, gutters, ditch liners, manhole builder helpers and mortar men on brick or block manholes; sand blasting and gunite nozzle men; rubbing concrete; air tool operator in tunnels; caulker and lead man; screed man on asphalt machine, chain or concrete saw; cliff scalers working from scaffolds, bosuns' chairs or platforms on dams or power plants over ten (10) feet above ground; grade checker on cuts and filles; string line man for electronic grade control; pressure groutmen

GROUP 5 - Fourth Semi-Skill - Manhole builders, - brick or block; dynamite and powder men; welder

AREA COVERED BY LABORERS

ZONE 1 - Buchanan, Cass and Lafayette Counties

ZONE 2 - Andrew, Barton, Bates, Benton, Caldwell, Carroll, Cedar, Christian, Clinton, Dade, Dallas, DeKalb, Greene, Henry, Jasper, Johnson, Laclede, Lawrence, Livingston, Newton, Pettis, Polk, St. Clair, Saline, Vernon, Webster, Wright, Harrison, Hickory, Holt, McDonald, Mercer, Morgan, Nodaway, Ozark, Stone, Taney and Worth Counties

ZONE 3 - Franklin, Jefferson, and St. Charles Counties

ZONE 4 - Audrain, Bollinger, Boone, Callaway, Cape Girardeau, Chariton, Cole, Cooper, Crawford, Dent, Gasconade, Howard, Iron, Lincoln, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, New Mardrid, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Ralls, Randolph, Reynolds, St. Francois, Ste. Genevieve, Scott, Warren and Washington Counties Adair, Butler, Carter, Clark, Dunklin, Howell, Knox, Lewis, Linn, Macon, Oregon, Putnam, Ripley, Schuyler, Scotland, Shelby, Shannon Counties

LABORERS: ZONE 5	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	9.25	.60	.50	.75	.10
Group 2	9.40	.60	.50	.75	.10
Group 3	9.55	.60	.50	.75	.10
Group 4	9.75	.60	.50	.75	.10
Group 5	10.05	.60	.50	.75	.10

CLASSIFICATION DEFINITIONS

GROUP 1 - General laborer - Carpenter tenders, salamander tenders; dump man, & ticket takers on stock piles; flagmen; loading trucks under bins, hoppers and conveyors; track men and all other general laborers

GROUP 2 - First Semi-Skill - Air tool operator; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pierhole men working below ground); riprap pavers rock, block or brick; signal man; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; from setter helpers; puddlers (paving only)

GROUP 3 - Second Semi-Skill - Crusher feeder; men handling cresote ties or creosote materials; men working with and handling epoxy material or materials (where special protectionis required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe & ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working on underground tunnels where compressed air is not used

GROUP 4 - Third Semi-Skill - Spreader on screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any other similar tamp; wagon driller, churn drills, air track drills and all other similar drills; cutting torch man; form setter; liners and stringline men on concrete paving, curb, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operators; manhole builders helpers and mortar men on brick or block manholes; sand blasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels

GROUP 5 - Fourth Semi-Skill - Manole builder (brick or block); dynamite and powder men.

AREA COVERED BY LABORERS

ZONE 5 - Clay, Jackson, Platte and Ray Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
ZONE 6 - St. Louis City and County:					
General laborer	9.575	.45	1.00		
Plumbers laborer	9.65	.45	1.00		
Dynamiter or powderman	10.075	.45	1.00		
Pier hole	9.825	.45	1.00		
LINE CONSTRUCTION:					
Zone 1					
Lineman	12.28	.45	3%+.15		4%
Lineman operator	11.43	.45	3%+.15		4%
Groundman powderman	8.52	.45	3%+.15		4%
Groundman	8.09	.45	3%+.15		4%
Groundman (1st year)	6.93	.45	3%+.15		4%
Zone 2					
Lineman	11.73	.45	3%+.15		4%
Lineman operator	11.18	.45	3%+.15		4%
Groundman powderman	8.13	.45	3%+.15		4%
Groundman	7.59	.45	3%+.15		4%
Groundman (1st year)	5.69	.45	3%+.15		4%
Zone 3					
Lineman & cable splicers	11.41	.50	3%	12½%	4%
Groundman - winch driver	8.38	.50	3%	12½%	4%
Groundman - driver	8.08	.50	3%	12½%	4%
Equipment operator	10.20	.50	3%	12½%	4%
Groundman - 1st 6 mos.	6.48	.50	3%	12½%	4%
Groundman - next 12 mos.	6.75	.50	3%	12½%	4%
Groundman - next 12 mos.	7.41	.50	3%	12½%	4%
Groundman - thereafter	8.08	.50	3%	12½%	4%
Zone 4					
Lineman	10.58	.45	1%		.25%
Groundman - Class I	9.02	.45	1%		.25%
Groundman - Class II	7.38	.45	1%		.25%
Groundman - Class A	6.72	.45	1%		.25%
Groundman - 1st. 6 mos.	6.42	.45	1%		.25%

AREAS COVERED BY LINE CONSTRUCTION

ZONE 1 - Bates, Benton, Carroll, Cass, Clay, Henry, Johnson, Jackson, Lafayette, Pettis, Platte, Ray and Saline Counties
ZONE 2 - Andrew, Atchison, Barry, Barton, Buchanan, Caldwell, Cedar, Christian, Clinton, Dade, Dallas, Daviess, DeKalb, Douglas, Gentry, Greene, Grundy, Harrison, Hickory, Holt, Jasper, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clar, Stone, Taney, Vernon, Webster, Worth and Wright Counties
ZONE 3 - Crawford, Franklin, Iron, Jefferson, Reynolds, St. Charles, St. Francois, St. Louis, Washington, Adair, Audrain, Boone, Callaway, Camden, carter, Chariton, Clark, Cole, Cooper, Dent, Gasconade, Howard, Howell, Knox, Lewis, Lincoln, Linn, Macon, Maries, Marion, Miller, Moniteau, Monroe, Montgomery, Morgan, Oregon, Osage, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Ripley, Ste. Genevieve, Schuyler, Scotland, Shannon, Shelby, Sullivan, Texas and Warren Counties
ZONE 4 - Bollinger, Butler, Cape Girardeau, Sunklin, Madison, Mississippi, New Madrid, Pemiscot, Scott, Stoddard, and Wayne Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
ZONE 1					
Brush and roller	10.19	.55	.70		.08
Spray	11.19	.55	.70		.08
Bridge	10.94	.55	.70		.08
ZONE 2					
Brush	8.90		.25		
Spray	9.65		.25		
ZONE 3					
Brush	7.05				
Spray	7.45				
ZONE 4					
Brush and roller	9.50	.70	.35		
Spray, structural steel and sandblasting	11.00	.70	.35		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS CONTD:					
ZONE 5					
Brush	10.00				
Bridge	10.75				
Spray; sandblasting operator; work performed on bridges 75 ft., in height	11.00				
All structural steel over 50 ft. in height	10.75				
ZONE 6					
Brush	9.80	.60	.35		
Spray	10.80	.60	.35		
Steel, storage bin and tank	10.20	.60	.35		
ZONE 7					
Brush	7.25				
Spray	7.75				
ZONE 8					
Brush, roller	8.52		.35		
Spray	8.895		.35		
ZONE 9					
Brush	9.75		.20		
Spray	10.25		.20		
ZONE 10					
Brush	10.08	.42	.30		.04
Spray	11.58	.42	.30		.04
ZONE 11					
Brush	9.90	.50			
Spray, bridgemen, steelman	10.40	.50			
ZONE 12					
Brush	7.50				
Structural steel	8.00				
Spray	6.80				

AREA COVERED BY PAINTERS

ZONE 1 - Bates, Caldwell, Carroll, Cass, Clay, Henry, Jackson, Johnson, Lafayette, Livingston, Platte, and Ray Counties
ZONE 2 - Bollinger, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott and Stoddard Counties
ZONE 3 - Lincoln and Pike Counties
ZONE 4 - Camden, Crawford, Dent, Laclede, Maries, Miller, Phelps, Pulaski and Texas Counties
ZONE 5 - Benton, Cooper, Moniteau, Morgan, Pettis and Saline Counties
ZONE 6 - Andrew, Atchison, Buchanan, DeKalb, Gentry, Holt, Nodaway and Worth Counties
ZONE 7 - Adair, Knox, Linn, Macon, Putnam, Schuyler, Scotland, Shelby and Sullivan Counties
ZONE 8 - Barry, Barton, Cedar, Dade, Jasper, Lawrence, McDonald, Newton, St. Clair and Vernon Counties
ZONE 9 - Audrain, Boone, Callaway, Chariton, Cole, Gasconade, Howard, Monroe, Montgomery, Osage and Randolph Counties
ZONE 10 - Jefferson, St. Charles and St. Louis & City Counties
ZONE 11 - Christian, Dallas, Douglas, Greene, Hickory, Howell, Ozark, Polk, Stone, Taney, Webster and Wright Counties
ZONE 12 - St. Francois and Ste. Genevieve Counties

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
GROUP I	11.30	.75	1.00	.75	.10
GROUP II	11.05	.75	1.00	.75	.10
GROUP III	10.45	.75	1.00	.75	.10
GROUP IV	9.20	.75	1.00	.75	.10
GROUP V	11.55	.75	1.00	.75	.10
GROUP VI	11.30	.75	1.00	.75	.10
GROUP VII	9.70	.75	1.00	.75	.10
ZONE 2					
GROUP I	10.52	.50	1.00		
GROUP II	9.97	.50	1.00		
GROUP III	9.52	.50	1.00		
GROUP IV:					
(a)	11.32	.50	1.00		
(b)	12.07	.50	1.00		
(c)	12.52	.50	1.00		
(d)	13.27	.50	1.00		
(e)	11.02	.50	1.00		
ZONE 3					
GROUP I	10.25	.35	.65	.40	.02
GROUP II	10.05	.35	.65	.40	.02
GROUP III	9.85	.35	.65	.40	.02
GROUP IV	9.25	.35	.65	.40	.02
GROUP V	10.50	.35	.65	.40	.02
GROUP VI	10.75	.35	.65	.40	.02
GROUP VII	11.00	.35	.65	.40	.02
ZONE 4					
GROUP I	9.80	.35	.65	.40	.02
GROUP II	9.45	.35	.65	.40	.02
GROUP III	9.25	.35	.65	.40	.02
GROUP IV	8.40	.35	.65	.40	.02
GROUP V	10.05	.35	.65	.40	.02
GROUP VI	10.30	.35	.65	.40	.02
GROUP VII	10.55	.35	.65	.40	.02

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5					
GROUP I	11.30	.75	1.00	.75	.10
GROUP II	11.05	.75	1.00	.75	.10
GROUP III	10.45	.75	1.00	.75	.10
GROUP IV	9.20	.75	1.00	.75	.10
GROUP V	11.55	.75	1.00	.75	.10
GROUP VI	11.80	.75	1.00	.75	.10
GROUP VII	12.05	.75	1.00	.75	.10
ZONE 6					
GROUP I	10.30	.75	1.00	.75	.10
GROUP II	9.95	.75	1.00	.75	.10
GROUP III	9.75	.75	1.00	.75	.10
GROUP IV	8.20	.75	1.00	.75	.10
GROUP V	10.55	.75	1.00	.75	.10
GROUP VI	10.80	.75	1.00	.75	.10
GROUP VII	11.05	.75	1.00	.75	.10
ZONE 7					
GROUP I	11.30	.50	.50		.02
GROUP II	10.95	.50	.50		.02
GROUP III	10.75	.50	.50		.02
GROUP IV	8.95	.50	.50		.02
GROUP V	11.55	.50	.50		.02
GROUP VI	11.80	.50	.50		.02
GROUP VII	12.05	.50	.50		.02
ZONE 8					
GROUP I	11.30	.50	.50		.02
GROUP II	10.95	.50	.50		.02
GROUP III	10.75	.50	.50		.02
GROUP IV	8.95	.50	.50		.02
GROUP V	11.55	.50	.50		.02
GROUP VI	11.80	.50	.50		.02
GROUP VII	12.05	.50	.50		.02

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS ZONE 1

GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; back hoe; blade operator, all types; boilers-2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; highloader-fork lift; hoisting engine-2 active drums; locomotive operator, standard gauge; mechanics and welders, field or shop; maintenance operator; mucking machine; piledriver operator; pitman crane operator; pump-2; quad-trac; scoop operator-all types; pushcat operator; scoopa in tandem; self-propelled rotary drill (Leroy or Equal-not Air Trac); shovel operator; side discharge spreader; side boom cats; skimmer scoop operator; slip form paver (CMI, REX, OR Equal); throttle man; truck crane; welding machine maintenance operator-2

GROUP II - "A" frame truck; asphalt hot mix silo; asphalt plant fireman; drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; backfiller operator; chip spreader; concrete batch plant, dry, power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine-1 drum; Latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator; tractor operator-over 50 h.p.

GROUP III - Boilers - 1; chip spreader (front man); chrun drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; roller operator, other than dredge; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance opeator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper, siphons and jets; sub-grading machine operator; tank car heater operator-combinatin boiler and booster; tractor, 50 hp or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator - 1

GROUP IV - Mechanic's helper, oiler

GROUP V - Clamshells, 3 yd. capacity or over, crane or rigs 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; pile drivers, 80 ft. of boom or over (including jib); shovels and backhoes, 3 yd. capacity or over

GROUP VI - Hoist (each additional drum over 1 drum)

GROUP VII - Oiler driver, all types

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

POWER EQUIPMENT OPERATORS ZONE 2

GROUP I - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted - 16 tons & over; crane, locomotive; derrick, steam; derrick car & derrick boat; dragline; dredge; gradeall, crawler or tire mounted; locomotive, gas, steam & other powers; pile driver, land or floating; scoop, skimmer, shovel, power (steam, gas, electric, or other powers), switch boat; whirley, air tugger 2/air compressor; anchor-placing barge; asphalt spreader; athey force feed loader (self-propelled); backfilling machine, boat operator-push boat or tow boat (job-site); boiler,high pressure breaking in period; boom truck; placing or erecting; boring machine footing foundaion; bullfloat; cherry picker; combination concrete hoist & mixer such as mixermobile; compressors, two, not more than 20 ft. apart; compressors, not more than five ft. apart; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as a pump-crete machine; concrete spreader; conveyor, large (not self-propelled), hoisting ormoving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines, self-powered, used for earth or rock drilling orboring (wagon drills and any hand drills obtaining power from other sources including concrete breakers jackhammers and barco equipment - no engineer required); elevating grader; engineman, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist; concrete and brick (brick cages on concrete skips operating in or on tower, towermobile, or similar equipment); hoist; stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-green); mechanic, on job site; mixer, paving; mixermobile; mucking machine; pipe cleaning machine; pipe wrapping machines; plant asphalt; plant, concrete producing or ready-mix job site; plant heating-job site; plant mixing-job site; plant,power, generating-job site;pump, self-powered, over 2" (one operator will oprate two); pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or sub-grade; scoop, tractor drawn; spreader box; sub-grader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine; tunnel boring machine; vibrating machine; automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

GROUP II - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor air (mounted on truck); concrete saw, self-propelled; conveyor, large (not self-propelled); conveyor large (not self-propelled moving brick and concrete (distributing) on floor level; curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 KW or any number developing over 30 KW; greaser; hoist; one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity, mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; mixer, with outside loader, 2 bag capacity or more; mixer, with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; sweeper, street, welding machine, one over 400 amp.; winch operating from truck

POWER EQUIPMENT OPERATORS ZONE 2 CONTD:

GROUP III - Boat operator-outboard motor (job site); conveyor (such as con-vay-it) regardless of how used; oiler; sweeper, floor
GROUP IV - (a)Air pressure, oiler engineer; operating under ten pounds (b) Air pressure, oiler engineer operating over ten pounds. (c)Air pressure engineer operating under ten pounds. (d)Air pressure engineer operating over ten pounds. (e)Crane-piledriving and extracting; crane using rock socket tool; dragline - 7 cu. yds. & over; shovel, power - 7 cu. yds, and over; crane, climbing (such as Linden); derrick, diesel, gas, electric hoisting material and erecting steel - 150' or more above ground; hoist, three or more drums; scoop, tandem; tractor, tandem crawler
Crane with boom (including jib), over 100' from pin to pin (add 1¢ per foot to maximum of 75¢) above basic rate for crane

Work in tunnel or tunnel shaft, .25¢ above base rate.

POWER EQUIPMENT OPERATORS ZONE 3 and 4

GROUP I - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; autograder; automatic slipform paver; back hoe; blade operator - all types; boat operator - tow; boilers - 2; central mix concrete plant operator; clam shell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launchhammer wheel; locomotive operator - standard gauge; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operatorp quad-trac; scoop operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane, shovel op.
GROUP II - A-frame; asphalt hot-mix silo; asphalt roller operator; asphalt plant fireman (drum or boiler); asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-greene loader; boat operator (bridge & dams); chip spreader; compressor maintenance operator - 2; concrete mixer operator - skip loader; concrete plant operator, concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor; pavement breaker powerbroom - self-propelled; power shield; rooter; slip-form finishing maching; stumpcutter machine; side discharge concrete spreader; throttleman; tractor operator (over 50 hp); welding machine maintenance operator - 2 winch truck

POWER EQUIPMENT OPERATORS ZONE 3 and 4 CONTD:

GROUP II - Boilers - 1; chi spreader (front man); chrun drill operator; clef plane operator; compressor maintenance operator - 1; concrete saw operator (self-propelled); conveyor operator; curb finishing machine; distributor operator; finishing machine, operator; fireman - rig; flex plane operator; float operator; form grader operator; generator-maintenance operator; light plant maintenance operator; maintenance op.; oiler driver; pugmill operator; pump maintenance operator (other than dredge); roller operator, other than high type asphalt; screening & washing plant operator, Siphons & jets; subgrading machine operator; spreader bos operator, self-propelled (not asphalt); tank car heater operator (combaination Boiler & Booster); ulmac, ulric or similar spreader; vibrating machine operator, not hand; welding machine maintenance operator - 1; Tractor operator (50 hp or less)
GROUP IV - Oiler
GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clamshell - 3 yds. & over; crane, rigs or piledrivers, 100' to 150' of boom (incl. jib); hoists - each additional active drum over 2 drums
GROUP VI - Tandem scoop operator; crane, rigs or piledrivers, 150' to 200' of boom (incl.jib)
GROUP VII - Crane, rigs or piledrivers 200 ft. of boom or over (incl. jib)

POWER EQUIPMENT OPERATORS ZONES 5, 6, 7, and 8

GPOUP I - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; automatic slipform paver; autograder; backhoe; blade operator, - all types; boat operator - tow; boilers - 2; central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums;launchhammer wheel locomotive operator - standard guage; mechanics and welders; mucking machine; piledriver operator; sideboom cats; skimmer scoop operator all types; trenching machine operator; truck crane; scoop operators - all types
GROUP II - A-frame; asphalt hot mix silo; asphalt plant fireman (drum or boiler); asphalt roller operator; asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-greene loader; boat operator (bridge & dams); chip spreader; concrete mixer operator - skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor, pavement breaker; power- broom - self-propelled; power shield; rooter; slip form finishing machine; stumpcutter machine; side discharge concrete spreader; throttle man; tractor operator (over 50 hp); winch truck

POWER EQUIPMENT OPEERATORS ZONES 5, 6, 7, and 8 CONTD:

GROUP III - Boilers - 1; chip spreader (front man); chrun drill operator; clef plane operator; concrete saw operator (self-propelled); curb finishing machine; distributor operator; finishing machine operator; flex plane operator; float operator; form grader operator; pugmill operator; roller operator, other than high type asphalt; screening & washing plant operator; siphons & jets; subgrading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator (combination boiler & booster); ulmac, ulric or similar spreader; vibrating machine operator, not hands; tractor operator. (50 hp or less)
GROUP IV - Oiler; oiler driver, fireman - rig; maintenance operators
GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clam-shell - 3 yds. & over; crane, rigs or piledrivers, 100' of boom or over (incl. jib), hoists - each additional active drum over 2 drums
GROUP VI - Tandem scoop operator; crane, rigs or piledrivers 150' to 200' of boom (incl. jib)
GROUP VII - Crane rigs, or piledrivers 200 ft. of boom or over (incl. jib)

AREAS COVERED BY POWER EQUIPMENT OPERATORS ZONES

ZONE 1 - Clay, Jackson, Platte and Ray Counties
ZONE 2 - St. Louis City & County
ZONE 3 - Franklin, Jefferson, Lincoln, St. Charles, and Warren Counties
ZONE 4 - Adair, Audrain, Bollinger, Boone, Butler, Callaway, Cape Griardeau, Carter, Clark, Cole, Crawford, Dent, Dunklin, Gasconade, Howell, Iron, Knox, Lewis, Macon, Madison, Maries, Marion, Miller, Mississippi, MOniteau, Monroe, Montgomery, Morgan, New Madrid, Oregon, Osage, Pemiscot, Perry, PHelps, Pike, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, St. Francois, Ste. Genevieve, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Texas, Washington, and Wayne Counties
ZONE 5 - Buchanan, Cass, Clinton and Lafayette Counties
ZONE 6 - Andrew, Atchison, Bates, Benton, Caldwell, Carroll, Chariton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Johnson, Linn, Livingston, Mercer, Nodaway, Pettis, Saline, Sullivan and Worth Counties
ZONE 7 - Christina, Greene, Jasper, Lawrence and Taney Counties
ZONE 8 - Barry, Barton, Camden, Cedar, Dade, Dallas, Douglas, Hickory, Laclede, McDonald, Newton, Ozark, Polk, St. Clair, Stone, Vernon Webster and Wright Counties

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - St. Louis City and County					
GROUP 1	6.99	a	b	c&d	
GROUP 2	7.19	a	b	c&d	
GROUP 3	7.29	a	b	c&d	

FOOTNOTES:
a - Employer contribution of $12.50 per week
b - Employer contribution of $12.50 per week
c - Paid Holidays; New Year's Day, Thanksgiving Day, Memorial Day, Independence Day, Friday after Thanksgiving Day, Labor Day, Veterans Day, Christmas.
d - Paid vacation of 3 days for 600 hours of service in ay one contract year;
4 days paid vacation for 800 hours of service in any one contract year;
5 days paid vacation for 1,000 hours of service in any one contract year

CLASSIFICATION DEFINITIONS

GROUP 1 - Truck or trailers of a water level capacity of 11.99 cu. yds. or less for lift trucks, job site ambulances, pick-up trucks, flat bed trucks

GROUP 2 - Trucks or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace & similar equipment of same capacity

GROUP 3 - Truck or trailers of a water level capacity of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom trucks & similar equipment of same capacity

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr
ZONE 2					
GROUP 1	9.49	.75	1.00	.75	
GROUP 2	9.69	.75	1.00	.75	
GROUP 3	10.00	.75	1.00	.75	
GROUP 4	10.15	.75	1.00	.75	
GROUP 5	9.265	.75	1.00	.75	

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS

GROUP 1 - One team; station wagons; pickups, material, single axle; tank wagon, single axle

GROUP 2 - Two teams; material tandem; semi-trailers; winch, fork distributor drivers and operators, agitator and transit mix, tank wagon, tandem or semi-trailers, insley wagons, dump, excavating, 5 cu. yds. & over, dumpsters, half-tracks, speedace, euclids and other similar excavating equipment

GROUP 3 - A-frame, low boy, boom

GROUP 4 - Mechanics & welders

GROUP 5 - Mechanic's helpers, oilers, & greasers

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 2 - Clay, Jackson, Platte and Ray Counties

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3					
GROUP 1	12.05				
GROUP 2	12.20				
GROUP 3	12.27				
GROUP 4	12.16				
GROUP 5	11.95				
ZONE 4					
GROUP 1	11.25				
GROUP 2	11.40				
GROUP 3	11.47				
GROUP 4	11.36				
GROUP 5	11.15				
ZONE 5					
GROUP 1	10.59	.75	1.00		
GROUP 2	10.74	.75	1.00		
GROUP 3	10.81	.75	1.00		
GROUP 4	10.70	.75	1.00		
GROUP 5	10.49	.75	1.00		
ZONE 6					
GROUP 1	9.63	.75	1.00		
GROUP 2	9.78	.75	1.00		
GROUP 3	9.90	.75	1.00		
GROUP 4	9.79	.75	1.00		
GROUP 5	9.53	.75	1.00		
ZONE 7					
GROUP 1	8.90	.75	1.00		
GROUP 2	9.05	.75	1.00		
GROUP 3	9.17	.75	1.00		
GROUP 4	9.06	.75	1.00		
GROUP 5	8.80	.75	1.00		

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS

GROUP 1 - Flat bed trucks - single axle; station wagon; pickup trucks; material trucks - single axle; tank wagon - single axle
GROUP 2 - Flat bed trucks - tandem axle; material trucks, tandem axle; tank wagon - tandem axle
GROUP 3 - Semi and/or pole trailers; winch fork and steel trucks; Insley wagons, dumpsters, half tracks, speedace, euclids, and other similar equipment, a-frame and derrick trucks, float or low boy, distributor drivers and operators, tank wagon, semi-trailer
GROUP 4 - Agitator and transit mix trucks
GROUP 5 - Warehouseman

AREAS COVERED BY TRUCK DRIVERS ZONES

ZONE 3 - Franklin, Jefferson and St. Charles Counties
ZONE 4 - Lincoln and Warren Counties
ZONE 5 - Buchanan, Cass, Johnson and Lafayette Counties
ZONE 6 - Andrew, Audrain, Barton, Bates, Benton, Bollinger, Boone, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cedar, Chariton, Christian, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Dent, Douglas, Gasconade, Greene, Henry, Hickory, Howard, Iron, Jasper, Laclede, Lawrence, Linn, Livingston, Macon, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monore, Montgomery, Morgan, New Madrid, Newton, Osage, Pemiscot, Perry, Pettis, Phelps, Pike, Polk, Pulaski, Ralls, Randolph, Reynolds, St. Clair, St. Francois, Ste. Genevieve, Saline, Scott, Shannon, Shelby, Stoddard, Texas, Vernon, Washington, Wayne, Webster, and Wright Counties
ZONE 7 - Adair, Atchison, Barry, Butler, Clark, Dunklin, Gentry, Grundy, Harrison, Holt, Howell, Knox, Lewis, McDonald, Mercer, Nodaway, Oregon, Ozark, Putnam, Ripley, Schuyler, Scotland, Stone, Sullivan, Taney and Worth Counties

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTY: SHELBY
DECISION NUMBER: TN78-1048 DATE: DATE OF PUBLICATION
Supersedes Decision No. TN77-1132, dated October 7, 1977, in 42 FR 54736.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.50	.55	.75		.05
BOILERMAKERS	9.95	1.05	1.05		.02
BRICKLAYERS & STONE MASONS	10.20	.43	.30		.10
CARPENTERS, PILEDRIVERMEN, & SOFT FLOOR LAYERS	9.15	.60	.40		.065
CEMENT MASONS	9.125	.45	.55		.15
ELECTRICIANS:					
Wiremen & Electronic technicians	10.18	.75	3% + .50		½ of 1%
Cable splicers	10.58	.75	3% + .50		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	10.07	.745	.56	4b+a+b	.035
Helpers	7.05	.745	.56	4b+a+b	.035
GLAZIERS	9.00	.75	.40		
IRONWORKERS:					
Structural, Reinforcing, & Ornamental	9.60	.65	.70		.125
LATHERS	9.30	.25			
LINE CONSTRUCTION:					
Linemen	10.48	.75	3% + .50		½ of 1%
Cable splicers	10.58	.75	3% + .50		½ of 1%
Special equipment operators	7.86	.75	3% + .50		½ of 1%
Groundmen	5.24	.75	3% + .50		½ of 1%
MARBLE SETTERS, TERRAZZO WORKERS, & TILE SETTERS	8.65	.45	.20		.05
MILLWRIGHTS	9.65	.56	.40		.12
PAINTERS:					
Commercial	9.10	.40	.45		.075
Industrial, spray, & sandblast	9.35	.40	.45		.075
PIPEFITTERS & AIR CONDITIONING MECHANICS	11.72	.55	.30		
PLASTERERS	9.90				.01
PLUMBERS	11.52	.75	.30		
ROOFERS	9.70		.25		.03
SHEET METAL WORKERS	10.93	3% + .65	.25	.55	.04
SPRINKLER FITTERS	10.80	.75	1.05		.08
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION No. TN78-1048

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$ 6.375	.25	.30		
GROUP B	6.475	.25	.30		
GROUP C	6.525	.25	.30		
GROUP D	6.725	.25	.30		
GROUP E	6.925	.25	.30		
GROUP F	7.05	.25	.30		

GROUP A: General and common laborers, concrete laborers, track laborer walkers, cement finisher helper, plumbers helpers, carpenters tenders, asphalt rakers, tampers, form strippers, roofing helpers.

GROUP B: Well driller helpers, storm and sanitary pipe layers, mat weavers, motor buggie operators.

GROUP C: Chain saw operator, jackhammer, vibrator and electric hammer and all air tool and pueumatic tools.

GROUP D: Deep hole men

GROUP E: Powderman, tool room attendant, torchman on demolition and salvage, sand hog (free air).

GROUP F: Hod carriers, mason tenders and plasterers tenders.

DECISION No. TN78-1048

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 9.175	.40	.50		
CLASS B	8.745	.40	.50		
CLASS C	8.045	.40	.50		
CLASS D	7.645	.40	.50		

CLASS A - Shovels, backhoes, draglines, cranes, gantrys, gradall, winch with boom, motor patrol, trenching machine (18" & over), pile driver, tug boat operator, mechanics (heavy), central mixing plant, locomotive engineer, straddle carriers, core drills (over 3"), tower cranes, hydro cranes, austin western and similar type cranes, drilling of piling, tugger, earth freezing equipment, 3 drum hoist, side boom, dredge operator (engineer), hopto, pump crete, mucking machines, cableways, central compressor plant, derrick boat, concrete pump, welders (men from the craft), helicopter operator, well point system, sweeper, bulldozers, pans, scrapers, fork lift, & front end loader.

CLASS B - Trenching machines (18" and smaller), tandem rollers, pavers, mobile mixers (rubber tired, mobile, mixed on job), back filler, blade graders, dinkey operator over 10 tons, elevating graders, winches (operated from trucks or tractors, without booms and powered by other than the truck), distributors, bituminous surfaces, 1 and 2 drum hoist, grout pumps, motor boat, switchman, earth compactors (motorized - Buffalo-Springfield type).

CLASS C - Locomotive fireman (on boilers 100 h.p. and over), air compressor (stationary), earth drills, scale operators, tractors (40 h.p. and less), motor crane driver and oiler, pumps (larger than 4"), dinkey operators (10 tons and less), oilers on gantrys, & greasers.

CLASS D - Air compressor operator, mechanic helper, locomotive fireman, welding machine operator, deck hand, & elevator operators

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTIES: STATEWIDE
DECISION NUMBER: TN78-1049 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN78-1042, dated April 14, 1978, in 43 FR 16111.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION (except Hamilton County), and HIGHWAY CONSTRUCTION.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air tool operator	$ 4.13				
Asphalt paver	5.31				
Asphalt raker	4.44				
Backhoe operator	6.04				
Bricklayers	7.26				
Bulldozer or Pushdozer operator	6.04				
Carpenter or Leadsman	6.04				
Cement mason - finisher	6.04				
Central mixing (asphalt/concrete)	5.30				
Chain saw	4.12				
Concrete edger	4.55				
Concrete finishing machine	5.95				
Concrete mixer (less than 1yd.)	4.35				
Concrete paver operator	6.04				
Concrete rubber	5.16				
Concrete saw	4.60				
Crane operator	6.04				
Curb machine	5.05				
Distributor-bituminous	4.96				
Ditch paver	4.03				
Dozer/loader - stock pile only	5.14				
Earth drill	4.63				
End loader	6.04				
Electricians	7.26				
Fence erector	5.52				
Fireman	4.03				
Flagman	3.81				
Form setter - steel road	5.62				
Guard rail erector	4.58				
Ironworkers - reinforcing	5.78				
Ironworkers - structural	6.47				
Laborer	4.02				
Mechanic - Class 1 (heavy duty)	6.25				
Mechanic - Class 2 (light duty)	5.72				
Mechanic's helper	4.15				
Mortar mixer	4.04				

DECISION No. TN78-1049

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Motor crane driver	$ 4.24				
Motor patrol - finish	6.17				
Motor patrol - rough	5.41				
Mulcher or seeder	4.24				
Nozzleman or Gunman (gunite)	6.04				
Oiler	4.96				
Painter or Sand blaster	6.04				
Pile driver operator	6.04				
Pipe layer	4.34				
Powder man	5.37				
Roller - high type	5.30				
Roller - other than finish	4.72				
Scale operator	4.24				
Scraper operator	6.04				
Shovel operator	6.04				
Sign erector	4.51				
Soil cement machine	5.31				
Spreader - self propelled	5.19				
Tractor - boom and hoist	5.45				
Track drill operator	4.56				
Tractor - farm	4.49				
Trenching machine operator	5.70				
Truck driver (2, 3 axles)	4.28				
Truck driver (4, 5 axles or more, or heavy duty off road truck)	4.95				

Welders: Receive rate prescribed for craft performing operation to which welding is incidental.

[FR Doc. 78-13426 Filed 5-18-78; 8:45 am]

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federal register

FRIDAY, MAY 19, 1978
PART III



OFFICE OF MANAGEMENT AND BUDGET

federal

IMPLEMENTATION OF FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT OF 1977 (PUB. L. 95–224)

Proposed OMB Guidance

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OFFICE OF MANAGEMENT AND BUDGET

IMPLEMENTATION OF FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT OF 1977 (PUB. L. 95-224)

Proposed OMB Guidance

AGENCY: Office of Management and Budget.

ACTION: Notice of proposed OMB guidance for Federal agency use in implementing the Federal Grant and Cooperative Agreement Act of 1977.

SUMMARY: The Federal Grant and Cooperation Agreement Act distinguishes between procurement and assistance relationships and mandates that Federal agencies use contracts for procurement transactions:

Sec. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient: (1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or (2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

and grants or cooperative agreements for assistance transactions:

Sec. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever: (1) The principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and (2) no substantial involvement is anticipated between the executive agency, acting for Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

Sec. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever: (1) The principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and (2) substantial involvement is anticipated between the executive agency, acting for Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

Federal agencies must implement sections 4, 5, and 6 by February 3, 1979. OMB's intent in issuing guidance is to promote consistent implementation of the Act. Release of final guidance is anticipated by July 1978.

Comments in response to this notice may lead to extensive revisions of the guidance. If it is not possible to obtain consensus on the best manner to treat a specific issue in the time available, the issue will be removed from the guidance and included in the 2-year study of Federal assistance relationships mandated in section 8 of the Act.

The study of Federal assistance relationships will focus on developing a better understanding of alternative means for implementing Federal assistance programs and on determining the feasibility of developing a comprehensive system of guidance for Federal assistance programs. In undertaking the study, OMB is required by the Act to consult and, to the extent practicable, involve representatives of the executive agencies, Congress, General Accounting Office, State and local governments, other recipients, and interested members of the public. To meet the intent of the Act, OMB will publish the draft study plan for comment in the FEDERAL REGISTER in late May-early June 1978.

DATES: Written comments on the proposed guidance must be received on or before June 20, 1978.

ADDRESS: Comments should be sent in duplicate to Vincent Puritano, Deputy Associate Director for Intergovernmental Affairs, Office of Management and Budget, Room 9025 NEOB, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Hadd, Intergovernmental Affairs Division, Office of Management and Budget, Room 9026 NEOB, Washington, D.C. 20503, telephone 202-395-5156.

Draft, OMB Guidance to Agencies for Implementing the Federal Grant and Cooperative Agreement Act, Pub. L. 95-224

Introduction. The Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224), signed February 3, 1978, requires executive agencies to distinguish procurement relationships from assistance relationships. A major objective of the Act is to achieve consistency in the use of legal instruments by agencies for procurement and assistance transactions. This is a preliminary step toward a broad review of the administration of Federal assistance programs and the relationships created by the terms and conditions of legal assistance instruments. Section 4 of the Act requires the use of procurement contracts for all acquistion activity. Sections 5 and 6 require the use of grants or cooperative agreements for specified types of assistance relationships. Section 9 authorizes the Director of the Office of Management and Budget to issue supplementary interpretative guidelines to promote consistent and efficient implementation of sections 4, 5, and 6. Subsection 10(d) authorizes the Director to except individual transactions or programs from the Act's provisions.

In addition, Section 8 of the Act requires OMB to conduct a study of Federal assistance relationships and submit a report to Congress in 2 years. The guidelines that follow are based on OMB authorizations under sections 8, 9, and 10(d).

CONTENTS

A. OMB interpretation of the Act.
B. Distinguishing between procurement and assistance.
C. Characterization of grants and cooperative agreements.
D. Agency decision structure for selection of instruments.
E. Administrative requirements for grants and cooperative agreements.
F. Specific guidelines for grants.
G. Specific guidelines for cooperative agreements.
H. Assistance transactions involving only nonmonetary transfer.
I. OMB exception policy.
J. OMB exception procedures.
K. Joint funding under grants and cooperative agreements.
L. Agency records.
M. OMB reporting requirements.

GUIDANCE

A. OMB INTERPRETATION OF THE ACT

1. *General purposes of the Act.* OMB views the Federal Grant and Cooperative Agreement Act as an important opportunity to review, improve, and simplify the broad array of Federal assistance relationships. It sees the Act's objective of Federal consistency for various types of relationships coinciding with the President's goal of making Federal program actions more understandable and predictable. Agencies should give serious consideration to the policy implications of the Act's provisions, particularly sections 4, 5, and 6, pertaining to the use of contracts, grants, and cooperative agreements as these involve the essence of the way agencies perform fundamental functions.

2. *Orderly implementation of sections 4, 5, and 6.* These sections of the Act require agencies to use contracts for all procurement actions, and grants or cooperative agreements to transfer money, property, services, or anything of value to recipients to accomplish a Federal purpose of stimulation or support authorized by statute. Subsection 10(b) says: "Nothing in this Act shall be construed to render void or voidable any existing contract, grant, or cooperative agreement or other contract, grant, or cooperative agreement entered into up to 1 year after the date of enactment of this Act." The legislative history clearly indicates that Congress intended this provision to provide 1 year for orderly implementation of sections 4, 5, and 6. The Act was signed February 3, 1978. Agencies have until February 3, 1979, to implement these sections in accordance with the OMB guidelines.

3. *Interpretation of specific provisions of the Act.* To promote consistency, agencies should interpret subsections 4(2), 7(a), and 7(b) of the Act as follows:

a. Subsection 4(2) allows the use of contracts "whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate." This is not a negation of section 5 or 6. Two examples of its use might be:

(1) Where an agency is involved in a two-step situation in which it may "procure" medicines which it in turn "grants" to non-Federal hospitals.

(2) Where an agency procures by contract from a supplier, goods or services to be delivered directly to an assistance recipient. Federal procurement of technical assistance to be rendered to a State or local government would come under this subsection of the Act.

This subsection does not authorize the use of a procurement contract with an assistance recipient as the instrument for providing the assistance. Until the Federal Acquisition Regulation is published, the Federal Procurement Regulation and the Armed Services Procurement Regulation govern policy and procedures regarding procurement contracts awarded under the authority of this sub-section.

b. Subsection 7(a) says: "Notwithstanding any other provision of the law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act."

If an agency is presently authorized to use contracts, grants, or cooperative agreements under existing statutes, this provision enables it to enter into any of the three types of arrangements, subject to the criteria set forth in sections 4, 5, and 6. If, however, an agency is prohibited from using one of these types of instruments, this subsection would not affect that prohibition.

c. Subsection 7(b) says: "The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible property purchased with such funds."

The Act repeals the Grants Act, Pub. L. 85-934, which authorized the use of grants for scientific research. This provision continues the authority in the Grants Act to vest title to equipment purchased with Federal funds in a nonprofit research organization and expands this authority to other classes of property.

The principal effect of this will be on agencies that fund research as a procurement under section 4. It allows continuation of existing practices of transferring equipment even though the research is done under a procurement contract.

B. DISTINGUISHING BETWEEN PROCUREMENT AND ASSISTANCE

1. *Basic determinations.* While one of the objectives of the Act is to distinguish between procurement and assistance relationships, neither term is specifically defined. Section 4 requires use of a procurement cotract when the principal purpose is acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government. Sections 5 and 6 require the use of grants or cooperative agreements when the principal purpose is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use by the Federal Government.

Agencies should interpret the language of Section 5 and 6 which call for the use of grants or cooperative agreements to "accomplish a public purpose of support or stimulation authorized by Federal statute" as including but not restricted to traditional assistance transactions. Thus, for example, when an agency authorized to support or stimulate basic research decides to fund a basic research project that does not fit the Section 4 language of "acquisition for the direct benefit or use of the Federal Government," it is authorized to use a grant or cooperative agreement. Conversely, agencies not authorized to accomplish a public purpose of support or stimulation are not authorized to use grants or cooperative agreements. Until the Federal Acquisition Regulation is published, the Federal Procurement Regulation and the Armed Services Procurement Regulation govern policy and procedures regarding procurement contracts.

2. *When to decide on the use of procurement or assistance instruments.* Any public notice, solicitation, or request for applications or proposals should indicate whether the intended relationship will be a procurement contract, or whether a grant and/or cooperative agreement will be used. The decision on whether a procurement or assistance relationship is intended should be made before the public announcement.

3. *What to do if the distinctions between procurement and assistance do not apply to a specific class of transactions.* Agencies should make every effort to ensure their relationships conform with those specified in the Act. If, however, there are individual transactions or programs that are important to an agency which cannot be characterized as principally procurement or assistance, an OMB exception should be requested. Sections I and J deal with OMB exceptions.

C. CHARACTERIZATION OF GRANTS AND COOPERATIVE AGREEMENTS

1. *Anticipated substantial involvement during performance.* The basic statutory criterion for distinguishing between grants and cooperative agreements is that for the latter, "*substantial* involvement is *anticipated* between the executive agency and the recipient *during performance* of the contemplated activity" (emphasis added). To ensure consistent determinations, all agencies should use only this criterion when deciding to use either a grant or a cooperative agreement.

a. As a guide to assist in making these determinations, anticipated substantial involvement during performance does not include:

(1) Agency approval of recipient plans prior to award.

(2) Normal exercise of Federal stewardship responsibilities during the project period such as site visits, performance reporting, financial reporting, and audit to ensure that the objectives, terms, and conditions of the award are accomplished.

(3) Unanticipated agency involvement to correct project deficiencies in project or financial performance from the terms of the assistance instrument.

(4) General statutory requirements understood in advance of the award such as civil rights, environmental protection, and provision for the handicapped. 000

(5) Agency review of performance *after* completion.

(6) General administrative requirements such as those included in OMB Circulars A-95, A-102, and A-110.

b. Conversely, anticipated substantial involvement during performance would exist where the assistance instrument includes provisions such as:

(1) Agency halt to activity if detailed performance specifications (e.g., construction specifications) are not met.

(2) Agency review and approval of one stage before work can begin on a subsequent stage during the period covered by the assistance instrument.

(3) Agency review and approval of proposed subgrants or contracts, or agency participation or approval in the selection or award of subgrants or contracts let under the assistance instrument, if required by statute or authorized by OMB waiver.

(4) Agency involvement in the selection of key recipient personnel. (This does not include assistance instrument provisions for the participation of a named principal investigator for research projects.)

(5) Agency and recipient collaboration where novelty or complexity are involved.

(6) Agency monitoring to permit specified kinds of direction or redirection of the work because of interrelationships with other projects.

(7) Direct agency operational involvement or participation to ensure compliance with such general statutory requirements as civil rights, environmental protection, and provision for the handicapped.

c. Anticipated Federal involvement is a relative rather than an absolute concept. The examples provided are not meant to be a checklist. Rather, they are illustrations of the basic point that:

(1) When the recipient can expect to run the project without agency intervention as long as it is run in accordance with the general terms of the assistance instrument, substantial involvement is not anticipated.

(2) If the recipient can expect the agency to participate in managing the project, substantial Federal involvement is anticipated.

2. *Proposed OMB policy on substantial involvement.* The proposed policy of OMB is to guide agencies to limit Federal involvement in assisted activities to the minimum consistent with program requirements. Agencies should continue to implement existing grant programs through grant instruments as defined in Section 5 of the Act to the degree possible. The choice of instrument must, however, reflect the true relationship intended.

3. *How technical assistance and guidance relate to substantial involvement.* The practice of some agencies of providing technical assistance or guidance to recipients of financial assistance does not constitute substantial involvement if either:

a. The recipients are not required to follow it, or;

b. The recipients are required to follow it but it is provided prior to the start of the assisted activity and the recipient understood this prior to the financial assistance award.

4. *What to do if grants or cooperative agreements do not fit program requirements.* There may be a few cases of assistance programs where neither a grant nor a cooperative agreement is suitable. In such cases, an OMB exception should be requested in accordance with Sections I and J below.

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D. *Agency decision structure for selection of instruments.* The determinations of whether a program is principally one of procurement or assistance, and whether substantial Federal involvement in performance will normally occur are basic agency policy decisions. Agency heads should ensure that these general decisions for each program are either made or reviewed at a policy level.

Congress intended the act to allow agencies flexibility to select the assistance instrument that best suits the anticipated degree of involvement for each transaction. Thus agencies should provide their program managers with criteria for selecting the appropriate instrument, consistent with general program policy decisions.

E. *Administrative requirements for grants and cooperative agreements.*

Present administrative requirements such as OMB Circulars A-95, A-102, and A-110 apply to both grants and cooperative agreements involving the transfer of Federal funds. These administrative requirements will not apply to General Revenue Sharing or Anti-Recession Fiscal Assistance Grants administered by the Treasury Department.

F. SPECIFIC GUIDELINES FOR GRANTS

1. *Increasing Federal involvement during a grant period.* At times an agency may find it necessary to increase the involvement in a grant-funded project during the period of time covered by the grant. This could happen, for example, when standard grant reports or monitoring indicates some sort of problem. If this occurs, agencies should not view the act as restricting their authority to intervene as necessary to bring the project into conformance with original intentions. Agencies should not, however, seek to become substantially involved in a grant-funded activity without converting the grant instrument to a cooperative agreement following negotiation with the recipient.

2. *Distinction between grants and subsidies.* Section 5 of the act applies to grants but not to subsidies. For a few programs, the distinction may not be clear. Where this condition exists, the proposed OMB guidance is that for the purposes of this act:

a. The term "subsidy" does not apply to financial stimulation or support provided to units of State or local government.

b. The term "grant" does not apply to general operating support provided to commercial firms.

G. SPECIFIC GUIDELINES FOR COOPERATIVE AGREEMENTS

1. *Alternative uses of cooperative agreements.* In all cases, the determination of when to use cooperative agreements will be based on the need for substantial Federal involvement in the assisted activity.

a. Some programs now using grants will require the use of cooperative agreements exclusively. This determination should be based on statutory requirements or policy level determinations of substantial Federal involvement in the performance of the assisted project.

b. Other programs may use grants or cooperative agreements, depending on the nature of the project or the abilities of the recipients. For example:

(1) Some projects may start out as cooperative agreements in the first year and be converted to grants after recipient capacity has been established;

(2) Other projects, initially funded as grants, may have to be renewed as cooperative agreements if there is a need to revise the project or upgrade recipient capacity.

2. *Statement of Federal involvement.* Each cooperative agreement should include an explicit statement of the nature, character, and extent of Federal involvement that causes it to be differentiated from a grant. These statements must be developed with care to avoid unnecessarily increasing Federal liability under the assistance instrument.

H. ASSISTANCE TRANSACTIONS INVOLVING ONLY NONMONETARY TRANSFERS

1. *Types of assistance included.* Sections 5 and 6 apply to programs that transfer "property, services, or any thing of value," which would include consultation, technical services, information, and data. This section of the guidance applies to agencies and programs that provide such types of nonmonetary assistance apart from fund transfers.

2. *Applicability of administrative standards.* Section E above stated that existing administrative standards (e.g., OMB Circulars A-95, A-102, A-110) apply to grants and cooperative agreements involving the transfer of funds.

Agencies should use their judgment, however, in applying these standards to nonmonetary transfers that are presently excluded from the coverage of these circulars. For example, a donation of a substantial parcel of land to a local government is the type of Federal action covered by Part II of A-95, but other administrative standards may not apply.

3. *OMB exception for nonmonetary assistance.* OMB exempts programs providing nonmonetary assistance from the provisions of section 5 of the Act. Existing agency practices for providing nonmonetary assistance where no Federal involvement in the assisted activity is anticipated should continue. Thus a formal grant instrument is not required to provide surplus property, consultation, or data. Where Federal involvement in the assisted activity is anticipated, however, a cooperative agreement is required as indicated in section 6 of the Act. Agencies engaged in the provision of nonmonetary assistance will be asked to report on these activities under Section M below.

I. OMB EXCEPTION POLICY

1. *General.* Section 10(d) authorizes the Director of OMB to "except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one year after receipt by the Congress of the study provided for in Section 8 of this Act." Agencies are advised that, unless otherwise indicated, OMB exceptions will run through January 1981.

2. *Exceptions provided in this guidance.* Section H3 of this guidance excepts nonmonetary grants.

3. *Other exceptions under the Act.* Agencies are expected to conform with the terms of the Act unless severe disruption to a program or serious consequences to recipients would result. OMB intends to grant additional exceptions only on the basis of agency requests that include strong justification and an indication of the harm that will result if an exception is not granted. Section J below indicates the procedures agencies should follow in requesting exceptions.

4. Waiver of administrative standards. OMB is responsible for most of the administrative standards that apply to assistance programs. Agencies should follow these standards. The circulars that establish these standards presently provide procedures for granting of waivers. If, the standards appear unsuitable to a particular situation, requests for waivers should be sent to the OMB office responsible for the circular or the responsible agency if not OMB (e.g., for GSA uniform relocation provisions). Requests for waivers to financial management circulars administered by OMB should be addressed to John Lordan, Chief, Financial Management Branch, OMB, Room 6002, NEOB, Washington, D.C. 20503.

In addition, where a specific transaction such as a cooperative agreement is being considered on an experimental basis and the anticipated relationships are so unusual that specific provisions or complete standards would not apply, the agency should submit an appropriate request for a waiver.

J. OMB EXCEPTION PROCEDURES

A request for an OMB exception under this Act should be addressed to Vincent Puritano, Deputy Associate Director for Intergovernmental Affairs, Room 9025, NEOB, Washington, D.C. 20503. It should include:

1. Whether the exception is requested for a complete program or an individual transaction.

2. An explanation of why an exception is requested, including statutory, agency policy, or other reasons.

3. A statement of what the agency will do if an exception is not granted and what the implications would be if this action were taken.

4. An indication of how the agency will handle the situation if the OMB exception expires before there are any changes to either this Act or agency statutes.

JOINT FUNDING UNDER GRANTS AND COOPERATIVE AGREEMENTS

Subsection 10(c) of the Act specifically provides for projects funded under the Joint Funding Simplification Act that include more than one type of assistance relationship. Thus a project with some components funded by grants and others by cooperative agreements is entirely permissible. Agencies should view this Act as providing the opportunity and authority to participate in joint funded projects in any number of funding relationships to serve the best interests of the participating agencies' programs.

L. AGENCY RECORDS

Both Congress and OMB view this Act as a preliminary step toward long-range overhaul of Federal assistance activities. The requirement for agencies to implement sections 4, 5, and 6 in one year is, in large part, to begin the systematic gathering of data about Federal assistance relationships. Agencies should anticipate that Congressional committees, the General Accounting Office, and OMB will be asking extensive questions about the effects of implementing these sections. While the questions may vary from agency to agency, they can reasonably be expected to deal with operating experience for a year or more after full implementation. Agencies should develop systems of records that would allow them to answer questions such as:

1. How many financial grants have been awarded in accordance with section 5 of the Act? What was the dollar volume and what classes of recipients were involved (e.g., State governments, universities, hospitals, individuals)?

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2. For which programs did the agency decide to use grants exclusively?

3. How many financial assistance cooperative agreements have been awarded in accordance with section 6 of the Act? What was the dollar volume and what classes of recipients were involved?

4. For which programs did the agency decide to use cooperative agreements exclusively? What is the nature and reason for the agency involvement?

5. For which programs were both grants and cooperative agreements used? What were the criteria for determining the instrument used?

6. What types nonmonetary assistance transfers were made as grants? What types as cooperative agreements?

7. What was the agency's experience in implementing sections 4, 5, and 6? How did it contribute to improved projects, management, or intergovernmental relations? What problems has the Act presented that can be expected to continue?

M. OMB REPORTING REQUIREMENTS

The experience of the agencies in making decisions necessary to implement sections 4, 5, and 6 of the Act will be important to the study required by section 8. In addition, to the more general questions about the feasibility of a comprehensive system of guidance for assistance activities, the report to Congress must include a summary of the effects of sections 4, 5, and 6. For these reasons, agencies are to provide by March 1, 1979, a report to OMB that includes the following:

1. Distinguishing between procurement and assistance:

a. For what types of activities did the agency have trouble making the distinction between procurement and assistance?

b. On what bases were the issues resolved?

2. Use of procurement contracts:

a. What activities formerly funded through grants or other assistance instruments will now be handled with procurement contracts?

b. What is the anticipated dollar volume of these procurement contracts?

c. What is expected to be the impact of this shift on the agency?

d. Who will be the principal recipients of these contracts?

e. What is expected to be the impact on the recipients?

3. Agency decisions on when to use grants or cooperative agreements:

a. Describe the process by which the agency decided which programs would use: (1) Only grants; (2) only cooperative agreements; (3) both grants and cooperative agreements.

b. Which programs, as listed in the Catalog of Federal Domestic Assistance, will fall into each of the above three categories? For those in category 3 what is the expected mix in terms of total dollars and numbers of transactions?

c. What programs not listed in the Catalog of Federal Domestic Assistance will fall into each of the three categories? For those in category 3 what is expected mix is terms of total dollars and numbers of transactions?

d. What is the anticpated first-year dollar volume of the programs in each of the three categories?

e. What types of Federal involvement in the assisted activity led to the identification of programs that would use only cooperative agreements?

f. What are the anticipated reactions of the recipients of programs using only cooperative agreements?

g. What are the anticipated liability, accountability, and other implications for the programs using only cooperative agreements?

h. What are the agency guidelines on the selection of instruments for programs that may use either grants or cooperative agreements?

i. What is the anticipated dollar volume of grants and cooperative agreements to be awarded under these programs?

j. How will the opportunity to use either grants or cooperative agreements improve administration of these programs?

k. What negative effects are anticipated from the requirement to make a choice of instruments?

l. What programs will use assistance instruments that formerly used contracts and what is the dollar volume of these new uses of assistance instruments?

4. Nonmonetary assistance transfers:

a. What were the types and dollar value of nonmonetary transfers made by the agency using grant instruments?

b. How do these grant instruments compare with monetary grant instruments?

c. What were the types and dollar value of nonmonetary transfer made under the OMB exception that did not use grant instruments?

d. How would the agency have treated these transfers had not OMB granted the exception?

e. What were the types and dollar value of nonmonetary transfers made through cooperative agreements?

f. What was the agency's experience with this use of cooperative agreements?

5. Overall evaluation of the Act:

a. What elements of the Act are contributing to improved program performance and administration?

b. What elements of the Act are particularly troublesome?

c. What proposals would the agency make for revising the Act?

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-13610 Filed 5-18-78; 8:45 am]

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federal register

FRIDAY, MAY 19, 1978
PART IV



CONSUMER PRODUCT SAFETY COMMISSION

BENZENE

Regulation as an Intentional Ingredient or as a Contaminant; Products Requiring Special Labeling; and Substances Requiring Special Packaging

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[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1145]

CONSUMER PRODUCTS CONTAINING BENZENE AS AN INTENTIONAL INGREDIENT OR AS A CONTAMINANT UNDER THE CONSUMER PRODUCT SAFETY ACT

Proposed Rule to Regulate

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to regulate consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant, under the Consumer Product Safety Act (CPSA) instead of under the Federal Hazardous Substances Act (FHSA), to address the risks of blood disorders, chromosomal abnormalities, and leukemia associated with benzene inhalation. According to the CPSA, the Commission may not regulate under the CPSA a risk of injury that could be eliminated or reduced to a sufficient extent under the FHSA, unless the Commission finds by rule that it is in the public interest to do so. The Commission has preliminarily found that it is in the public interest to regulate these products under the CPSA.

DATE: Comments concerning this proposal must be received by June 30, 1978. It is expected that this rule will become effective when any final CPSA rule concerning benzene is effective.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Francine Shacter, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to propose a rule under section 30(d) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2079(d), to regulate consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant, under the CPSA. Although the risk of injury from blood disorders, chromosomal abnormalities, and leukemia associated with these products could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261-1274, the Commission has preliminarily determined that it is in the public interest to regulate these products under the CPSA.

The Commission believes it is in the public interest to regulate these benzene-containing products under the CPSA rather than the FHSA, since the rulemaking proceedings appropriate to regulate these products under the FHSA are likely to be lengthy and resource-consuming.

The Commission also believes it is in the public interest to regulate these products under the CPSA since it may be more difficult for interested persons to participate in rulemaking proceedings under the FHSA than the CPSA because the proceedings under the FHSA are likely to be more complex and formal.

In order to ban hazardous household substances under section 2(q)(1)(B) of the FHSA, the Commission must follow the provisions of section 701(e) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 371(e). Section 701(e) of the FFDCA provides for a two stage rulemaking. After the Commission proposes a regulation, analyzes comments, and issues a final regulation, adversely affected persons may submit objections to the rule and request a public hearing on the objections. If the objections are legally valid, those parts of the regulation objected to are stayed and a hearing is held to receive evidence that is relevant and material to the issues raised by the objections.

After completion of the hearing, the Commission may issue a final regulation. However, this regulation must be based on substantial evidence of record obtained at the hearing, and must set forth detailed findings of fact on which the order is based. The Commission's past experience with formal rulemaking under section 701(e) has been that these proceedings are lengthy, resource-consuming, and often inefficient in eliciting information on which the Commission may make a decision.

In contrast, section 9(a)(2) of the CPSA requires bans to be issued in accordance with the informal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553). Although the CPSA requires the Commission to provide an opportunity for oral presentation of comments before issuing a ban, the oral presentation required by section 9(a)(2) is informal and nonadversarial. A ban under section 8 of the CPSA, while providing an adequate opportuity for public participation, is less likely to involve extensive delay, since the Commission is not required to utilize formal rulemaking. In addition, since the proceedings under section 8 of the CPSA are less complex and formal than those under the FHSA, the Commission is more likely to obtain participation from interested persons including consumers, than if the rulemaking is conducted under the FHSA.

The Commission has also preliminarily determined that it is in the public interest to regulate consumer products containing benzene as an intentional ingredient or as a contaminant under the CPSA rather than the FHSA, since the CPSA, unlike the FHSA, provides that persons who knowingly violate the act are subject to civil penalties. The civil penalty provision may provide additional incentive for compliance under the CPSA.

However, if the Commission does decide to regulate these products under section 8 of the CPSA, the Commission recognizes that automatic repurchase of banned hazardous products would not be available, as it is in the case of a ban under the FHSA. Under section 15 of the FHSA, 15 U.S.C. 1274, and the accompanying regulations at 16 CFR 1500.202 and .203, hazardous substances that have been banned must be repurchased by the manufacturers, distributors, and retailers of the hazardous substance, regardless of whether the substance was banned at the time of its sale. In contrast, a rule under section 8 of the CPSA that bans products distributed in commerce or manufactured after the effective date of the ban would not provide for repurchase of the banned hazardous products.

Elsewhere in this FEDERAL REGISTER the Commission has proposed a ban of benzene-containing consumer products under section 8 of the CPSA.

PROPOSAL

The Commission, therefore, proposes below to regulate consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant under the CPSA instead of the FHSA.

Accordingly, pursuant to provisions of the Consumer Product Safety Act (section 30(d), Pub. L. 92-573, 86 Stat. 1231, as amended 90 Stat 510; 15 U.S.C. 2079(d)), the Commission proposes that title 16, chapter II, subchapter B, part 1145 be amended by adding the following new § 1145.6.

§ 1145.6 Consumer products, except gasoline and solvents and reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant; risk of blood disorders, chromosomal abnormalities, and leukemia associated with benzene inhalation.

The Commission finds that it is in the public interest to regulate the risk of injury from blood disorders, chromosomal abnormalities and leukemia associated with benzene inhalation under the Consumer Product Safety Act rather than the Federal Hazardous Substances Act because of the desirability of avoiding possibly lengthy, resource-consuming, and inefficient rulemaking proceedings under the FHSA and because of the availability of civil penalties under the CPSA.

The Commission also believes that the complexity and formality of the rulemaking proceedings under the FHSA, in contrast to rulemaking proceedings under the CPSA, may make it difficult for interested persons to participate.

Therefore, consumer products, except gasoline and solvents and reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant shall be regulated under the CPSA.

(Sec. 30(d), Pub. L. 92-573, 86 Stat. 1231, as amended, 90 Stat. 510 (15 U.S.C. 2079(d)).)

Interested persons are invited to submit, on or before June 30, 1978, written comments regarding this proposal. Written comments and any accompanying data or material should be submitted preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20007. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C. during working hours Monday through Friday.

Dated: May 15, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-13592 Filed 5-18-78; 8:45 am]

[6355-01]

[16 CFR Part 1307]

CONSUMER PRODUCTS CONTAINING BENZENE AS AN INTENTIONAL INGREDIENT OR AS A CONTAMINANT

Proposal to Ban

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to ban all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene, as an intentional ingredient or as a contaminant at a level 0.1 percent or greater by volume. The Commission is taking this action because of information indicating that benzene inhalation may cause blood disorders, chromosomal abnormalities, and leukemia or cancer of the whitle blood cells in consumers exposed to benzene-containing products. The Commission is particularly interested in public comment on the proposed contaminant level and on the issue of health effects of all potential benzene substitutes. In taking this action, the Commission is granting a petition (HP77-12) from the Health Research Group.

DATES: (1) Written comments on the proposal must be received by June 30, 1978. (2) There will be an opportunity for interested persons to orally present data, views, or arguments on June 14, 1978, at 9:30 a.m. Those wishing to make oral presentations should notify the Office of the Secretary by June 7, 1978. Additionally, a summary or copy of testimony is to be submitted to the Office of the Secretary two working days prior to the public meeting. (3) The Commission proposes that consumer products containing benzene as an intentional ingredient manufactured or imported 60 or more days after publication of the final rule in the FEDERAL REGISTER be declared banned hazardous products. Alternatively, the Commission is proposing a shorter effective date with retrospective application for products containing intentionally-added benzene. Under this option, consumer products containing intentionally-added benzene which are initially introduced into interstate commerce 15 or more days after publication of a final rule would be banned hazardous products. All other consumer products containing intentionally-added benzene, no matter when manufactured or initially introduced into commerce, would be banned 30 days after publication of a final ban. As to products that contain benzene as a contaminant, it is expected that the ban will apply to all such products which are manufactured or imported after the date which is 120 days after publication of the final rule. (4) The time during which the Commission must either publish a final rule or withdraw this proposal is extended to October 16, 1978.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. To the extent practicable, comments on the issue of benzene as an intentional ingredient should be separated from comments on the issue of benzene as a contaminant. Persons wishing to make oral presentations should contact Richard Danca in the Office of the Secretary. These oral presentations will be held in the Commission's 3rd floor hearing room at the address below. All material which the Commission has that is relevant to this proceeding, including any comments that may be received regarding this proposal, may be seen in, and copies obtained from, the Office of the Secretary, Consumer Product Safety Commission, 3rd floor, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Francine Shacter, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207—202-492-6557. Persons wishing to make oral presentations should contact: Richard Danca, Office of the Secretary, 202-634-7700.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On May 5, 1977 the Commission received a petition (HP 77-12) from the Health Research Group requesting that the Commission declare benzene a banned hazardous substance under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261 et seq., and remove all products containing benzene from the marketplace because of evidence that benzene causes leukemia. The petitioner note that new evidence linking worker exposure to benzene to the induction of leukemia had prompted the Occupational Safety and Health Administration (OSHA) to publish an Emergency Temporary Standard (ETS) for benzene on May 3, 1977 (42 FR 22516). HP 77-12 was later supplemented by a statement in support of the petition from Dr. Michael McCann of the Center for Occupational Hazards, Inc. Dr. McCann expressed particular interest in the banning of benzene-containing art supplies used by consumers.

In gathering information on HP 77-12, Commission staff attended hearings sponsored by OSHA which covered their ETS as well as the OSHA proposed permanent standard for benzene (42 FR 27452; May 27, 1977). The OSHA hearings, which began on July 19, 1977 and were held on successive work days through August 10, 1977, included testimony on health, economic, and environmental issues relevant to the OSHA regulations.

Based on information gathered from the OSHA hearings and from other sources, discussed more fully below, the Commission has granted the petition and proposes to ban all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient. The Commission also proposes to ban all consumer products containing benzene as a contaminant at a level of 0.1 percent or greater by volume. The Commission is taking this action because of scientific and technical information indicating that benzene inhalation may cause blood disorders, chromosomal abnormalities, and leukemia in consumers exposed to benzene-containing products. While the Commission recognizes that much of the data discussed below concern benzene exposure in an industrial setting, the Commission points out that it does have some information concerning consumer exposure. In addition, the Commission points out that there is general scientific and medical agreement that there is no known safe level

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of exposure to a carcinogen and that such exposure should, therefore, be reduced to the lowest feasible level.

Although the petition was filed under the FHSA and it appears that the risk of injury from leukemia described by the petitioner is regulatable under the FHSA, the Commission proposes to ban benzene-containing products under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051, et seq. Section 30(d) of the CPSA, 15 U.S.C. 2079(d), as amended, provides that a risk of injury associated with a consumer product which can be eliminated or reduced to a sufficient extent by action under a transferred act, such as the FHSA, may nonetheless be regulated under the CPSA if the Commission, by rule, determines that regulation under the CPSA is in the public interest. Also published in this issue of the FEDERAL REGISTER is a proposed rule issued in accordance with section 30(d) of the CPSA stating the Commission's finding that it is in the public interest to ban the products described herein under the CPSA.

Current Commission regulations under the FHSA (see 16 CFR § 1500.14 (a)(3) and (b)(3)) require that products containing 5 percent or more by weight of benzene must be specially labeled with the signal word "danger", the word "poison", the skull and crossbones symbol, and the statement of the hazard "vapor harmful." Products containing 10 percent or more by weight of benzene must bear the additional statement of hazard "harmful or fatal if swallowed" as well as the statement "If swallowed, do not induce vomiting. Call physician immediately."

The Commission also has a regulation under the Poison Prevention Packaging Act of 1970 (PPPA) applicable to benzene. (16 CFR § 1700.14(a)(15)). The regulation provides that solvents for paints and other similar surface-coating materials that contain 10 percent or more by weight of benzene and that have a viscosity of less than 100 Saybolt Universal Seconds (SUS) at 100° F must be packaged in child-resistant packaging.

Elsewhere in this issue of the FEDERAL REGISTER, the Commission is proposing to amend the FHSA and PPPA regulations to indicate that they will not be applicable to products that are banned hazardous products under any final CPSA rule. The amendments are proposed to be effective when this Part 1307 becomes effective.

OTHER AGENCY ACTION

The Commission notes that other federal agencies have taken action with respect to benzene. As mentioned above, on May 27 1977, OSHA published its proposed permanent standard for benzene which would limit employee exposure to benzene to 1 ppm as an 8 hour time-weighted average concentration with a ceiling level of 5 ppm for any 15 minute period during an 8 hour day. The proposed standard excluded operations in which the only exposure to benzene is from liquid mixtures which contain no more than 1 percent or less of benzene by volume (0.1 percent after one year from the effective date). (42 FR 27452). On February 10, 1978, OSHA published its final permanent standard for benzene limiting employee exposure to the same levels announced in the proposal. However, the percentage exemption for liquid mixtures containing benzene was dropped because OSHA found that the percentage of benzene in a liquid is not necessarily controlling of an employee's exposure level. Thus, the final standard applies to all liquid mixtures containing benzene regardless of the percent of benzene.[1] The standard also provides for the measurement of employee exposure, engineering controls, work practices, personal protective clothing and equipment, signs and labels, medical surveillance, and employee training (see 42 FR 5918).

In addition to the OSHA action, the Commission notes that the Environmental Protection Agency (EPA) on June 8, 1977 published its decision to list benzene as a hazardous air pollutant under section 112 of the Clean Air Act on the basis of scientific reports which strongly suggest an increased incidence of leukemia in humans exposed to benzene (42 FR 29332).

BENZENE'S PROPERTIES AND USES

Benzene (C_6H_6), also known as Benzol, is a clear, colorless, strong-smelling liquid which is extremely flammable. Benzene has a low boiling point and a high vapor pressure and hence evaporates rapdily under ordinary atmospheric conditions, giving off vapors nearly three times heavier than air. It has significant solvent properties and mixes well with the majority of organic solvents. Benzene occurs naturally in crude oil and also as a product of decomposition of organic material.

Today, benzene is used primarily as an intermediate substance in the production of other chemicals. Cumene, cyclohexane, dichlorobenzene, dodecylbenzene, ethylbenzene, maleic anhydride and nitrobenzene are a few of these chemicals. Additionally, benzene is used as a component of unleaded gasoline to increase the octane rating, as a solvent and reactant in numerous chemical applications in laboratories, and in the manufacture of detergents and pesticides. Benzene is predominantly produced today from petroleum by catalytic reformation.

Benzene's characteristics as a solvent have made it figure prominently over the years in the manufacture of consumer products. It has been used in its pure form in some products and in other products as a component of solvents that are used in manufacturing the final product. Based on Commission staff communications with manufacturers, the consumer products which have been identified as containing benzene as an intentional ingredient are paint removers, rubber cements, gasoline, and solvents and reagents for laboratory use. Other products, notably many products containing petroleum distillates, which include many common solvents such as toluene and naphtha, contain benzene as a contaminant. (For further discussion, see the section of this Preamble entitled ECONOMIC CONSIDERATIONS).

NATURE AND DEGREE OF THE RISK OF INJURY

Benzene has long been recognized as a toxic substance capable of producing acute and chronic effects. Inhalation is the primary route of exposure to a human being. Although present evidence suggests that benzene is not readily absorbed through the skin, significant quantities of benzene could be absorbed in the case of injured skin.

The acute effects of benzene exposure include drowsiness and loss of consciousness at high doses. The chronic effects of benzene exposure, which form the basis for this proposed regulation, are detailed below in a technical report on benzene prepared by a Commission consultant, Michael L. Freedman, M.D. of New York University Medical Center. The chronic effects listed in the report fall into three general categories: (1) pancytopenia (a decrease in all the formed elements of the blood—red cells, white cells, and platelets); (2) chromosomal abnormalities; and (3) leukemia, particularly acute myelogenous (produced in the bone marrow) leukemia.

The Freedman report and accompanying bibliography is set forth in its entirety as an appendix to this document. That report discusses the many studies reported in the scientific literature which have implicated benzene exposure in the development of various blood disorders, including leukemia, and chromosomal abnormalities. The Commission has considered this report along with other available information in proposing the ban and makes the following observations.

(1) Pancytopenia, including aplastic anemia, has been demonstrated in

[1] On March 28, 1978 (43 FR 12890), OSHA proposed to amend the final benzene standard to exclude from its coverage work operations where the sole exposure to benzene is from liquid mixtures containing 0.1% or less benzene or the vapors from these liquids. At the same time OSHA stayed the benzene standard to the extent it covers such work operations, pending completion of the rulemaking and proceedings on the amendment.

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both humans and animals following exposure to benzene, although it has not been observed subsequent to exposure to other compounds, such as toluene and xylene, which are commonly associated with benzene environmentally. Both pancytopenia and aplastic anemia, although they are non-cancerous diseases, may themselves be fatal. An additional concern is that some or all of the blood disorders induced by benzene may, if allowed to continue, either progress to or represent a preluekemic stage which may eventually evolve into an actual leukemia.

(2) The development of various chromosomal aberrations, both stable and unstable in nature, in peripheral leukocytes and bone marrow cells have been attributed to benzene exposure.

(3) Leukemia is the most serious blood disorder associated with benzene exposure. Once leukemia is diagnosed, there is virtually no chance of recovery. Despite advances in leukemia therapy, the prognosis of acute myelogenous leukemia (the most prevalent subtype of leukemia in adults and the type most commonly associated with benzene) remains poor. OSHA in their permanent benzene standard states that the average life expectancy of even the victims who enter into a remission (generally averaging 6-8 months) ranges from 12-18 months. (43 FR 5925).

Latency periods between exposure to benzene and development of leukemia can vary widely, ranging from two to twenty years. However, leukemia has been observed in workers exposed for as little as four months to benzene or for as much as 15 years or longer. Individual susceptibility to the effects of benzene also varies significantly. In a recent study of workers exposed to benzene from 1940-1949 in two Ohio plants manufacturing the product "Pliofilm", Infante (see reference No. 51 in Freedman bibliography) demonstrated a five-fold excessive risk of death from all leukemias and a ten-fold excess of deaths from myeloid and monocytic leukemias in the study population compared with the number expected in a non-exposed cohort. Infante stated that benzene concentrations at the two plants ranged from 0 to 10 or 15 parts per million. This study as well as other occupational studies noted in the Freedman report argue convincingly that benzene is a human leukemogen.

The Commission recognizes that much of the documentation in the consultant's report concerns benzene exposure in an industrial setting. However, as the report indicates, in 1977 the National Institute for Occupational Safety and Health conducted an experiment to measure the amount of benzene exposure to a person using a paint remover containing 52 percent benzene by volume (Reference No. 137). An end table was stripped in a home garage having essentially no air circulation. Five sequential, five minute air samples from the worker's breathing zone were taken. The benzene concentration ranged from 73 to 225 ppm with a mean of 130 ppm. In addition, the Commission notes that values from 1971 exist for exposure levels in one man or husband-wife combination commercial paint stripping operations utilizing paint strippers contalning approximately 40 percent benzene. The breathing zone average atmospheric concentration of benzene ranged from 24 to 1216 ppm in 8 such establishments. (Reference No. 138).

In view of the data indicating that blood disorders, including leukemia, have been shown to result from benzene exposure in an industrial setting at levels reported to be as low as 10—15 ppm, the Commission believes that a serious health hazard to consumers may be presented by the use of benzene-containing consumer products.

As an additional matter, the Commission's Health Sciences staff has calculated an assessment of the leukemia risk from consumer exposure to benzene-containing paint strippers. The assessment which uses data from the Infante study discussed above and the NIOSH paint stripper experiment also discussed above is on file at the Commission's Office of the Secretary. For purposes of this assessment, the Commission considered the use of a paint stripper containing 52 percent benzene by a consumer, for 5 hours a day ten times in his life, to be a reasonably foreseeable lifetime exposure. The increased lifetime risk of death from myelogenous and monocytic leukemia induced by this exposure is estimated by the assessment at between 142 and 346 per million exposed.

This is equivalent to a benzene-induced increased risk of between 15.2 percent and 37.1 percent due to the use of such paint strippers. While the Commission is not relying upon a specified percentage of increased risk in issuing this ban, the Commission believes that in view of the seriousness of the risks of injury from benzene exposure, any increased risk is unacceptable.

In addition, the Commission emphasizes that once the carcinogenicity of a substance has been established qualitatively, any exposure must be considered to be attended by risk when considering any given population, because individual susceptibility to a carcinogen varies widely. The Commission, therefore, believes that consumer exposure to benzene at low levels poses a carcinogenic risk to certain individuals. In recognition of the present state of scientific knowledge that there is no known safe level of exposure to a carcinogen, the Commission concludes that it is appropriate that exposure to benzene be reduced to the lowest feasible level.[2] (For further discussion on this point, see the section of the preamble entitled DESCRIPTION OF THE PROPOSED BAN.)

DESCRIPTION OF THE PROPOSED BAN

Proposed Part 1307 would declare that consumer products containing benzene as an intentional ingredient are banned hazardous products under section 8 of the CPSA. Consumer products that contain benzene as an impurity at a level of 0.1 percent or greater by volume would also be declared to be banned hazardous products. For purposes of this Part 1307, "benzene as an intentional ingredient" means benzene which is added deliberately to a product to impart specific characteristics. "Benzene as a contaminant" is any benzene appearing in a final product which is not an intentional ingredient, including any benzene which appears as a component of or impurity in a raw material used in the final product.

The proposed ban applies to products that are customarily produced or distributed for sale to or for the personal use, consumption or enjoyment of consumers in or around a household or residence, a school, in recreation or otherwise. The Commission proposes that consumer products containing benzene as an intentional ingredient manufactured or imported 60 or more days after the publication of the final rule in the FEDERAL REGISTER be declared banned hazardous products. Alternatively, the Commission is proposing a shorter effective date with retrospective application for products containing intentionally-added benzene. Under this option, consumer products containing intentionally-added benzene which are initially introduced into interstate commerce 15 or more days after publication of a final rule would be banned. All other consumer products containing intentionally-added benzene, no matter when manufactured or initially introduced into commerce, would be banned 30 days after publication of a final rule. For

[2] The National Cancer Institute's Ad Hoc committee on the Evaluation of Low Levels of Environmental Carcinogens (1970) has stated: "no level exposure to a chemical carcinogen should be considered toxicologically insignificant for man. For carcinogenic agents, a safe level for man cannot be established by application of our present knowledge." (cited in the OSHA permanent benzene standard at 43 FR 5947). In addition, Bernard Goldstein, M.D. and Muzaffer Askoy, M.D., experts in the field of benzene toxicity, both testified before OSHA that there is no known safe level of exposure to benzene and that, therefore, any exposure should be reduced to the lowest feasible level. (See 43 FR 5947.)

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products containing benzene as an impurity, it is expected that the ban will apply to all such products which are manufactured or imported after the date which is 120 days after publication of the final rule.

Gasoline is exempted from the products banned by the proposal. While most gasoline is specifically for use with motor vehicles and would appear to be considered "motor vehicle equipment" excluded from Commission authority under the CPSA (see section 3(a)(1)(C)), the Commission notes that some gasoline is used by consumers "in or around a permanent or temporary household or residence, a school, in recreation, or otherwise." For instance, gasoline is often sold to consumers for use as a general household solvent or for use with lawn mowers, snowmobiles, and so forth, and the Commission possibly could take regulatory action under the CPSA as to this gasoline. However, since this gasoline generally comes from the same source (i.e. the retail pumps) as motor vehicle gasoline and may be subject to regulation by OSHA, EPA, and/or the National Highway Traffic Safety Administration (NHTSA), the Commission is of the opinion that exposure to benzene from gasoline is a complex interagency problem which would probably best be resolved on an interagency basis.

In addition, the Commission believes that any attempt to eliminate benzene from gasoline would have a major economic impact, necessitating thorough feasibility studies which are beyond the scope of this propsoal. In this regard the Commission notes that benzene is present in gasoline as a contaminant and in unleaded gasoline, as an intentional ingredient used to increase the octane rating. The use of benzene and its closely related aromatic distillates, xylene and toluene, has increased in the past few years because the distillates are the principal substitutes for tetraethyl lead. The Commission has information indicating that the removal of benzene from gasoline motor fuel would entail major adjustments in the petroleum refining industry in terms of capital equipment and performance and price and availability of gasoline as well as other petrochemicals and has, therefore, concluded that the use of benzene in consumer product gasoline should not be restricted at this time. The Commission emphasizes, however, that the complexity of the gasoline question need not delay Commission action on other benzene-containing products.

Besides exempting gasoline, the proposed ban contains an exemption for benzene manufactured and distributed for use in laboratories as a solvent or a reagent. Because benzene is the basic unit on which aromatic hydrocarbon chemistry is built and can be expected to be found in nearly pure form in school laboratories at the high school, college, and graduate levels, the Commission has decided to propose an exemption for such laboratory benzene. The Commission notes that it has information indicating that benzene is essential for certain experiments at the junior and senior college level as well as at the graduate level. The Commission believes that where careful laboratory procedures are followed, such as the use of properly functioning hoods and other appropriate practices, exposure to benzene vapors should be very low. (See OSHA's permanent standard for the regulation of benzene, 43 FR 5918, at 5938.)

In this regard, the Commission points out that OSHA's permanent benzene standard covers benzene exposure in research facilities in both industrial and academic laboratories, where there is at least one employee. All containers of benzene in such laboratories are required to be bear specified labeling, warning of the cancer hazard. In addition, laboratories must comply with all other provisions of the performance standard, which, as is explained in the preamble to the standard, could be met by laboratories in many instances through the use of properly designed hoods. Therefore, the Commission believes that an absolute exemption for laboratory benzene is appropriate because students in educational laboratories using benzene will be protected by the requirements of the OSHA standard.

It should be noted that the proposed ban not only affects products which contain benzene as an intentional ingredient, but also products which contain benzene as a contaminant. In recognition of the medical and scientific agreement that there exists no known safe level of exposure to a carcinogen, the Commission believes that consumer exposure to carcinogens such as benzene must be reduced to the lowest feasible level. The Commission, further, believes that with respect to benzene, the lowest feasible level is not zero, but some low level of benzene contamination in products. (Note: With consumer exposure, unlike occupational exposure, standards based on air monitoring procedures or a requirement for sophisticated protective equipment are impractical. The Commission, therefore, has not attempted to set a permissible air concentration level for benzene, but proposes to rely instead on a percentage limitation on benzene in products.)

The reason that benzene cannot be eliminated entirely from all products is because of the physical properties of petrochemical refining process. As has been mentioned above, benzene occurs naturally in crude oil. It is also formed in the petrochemical refining process as part of a product called reformate from which gasoline and other petroleum products are distilled. These products are distilled into various petroleum distillate fractions according to boiling point range. The boiling point ranges tend to be fairly crude in normal refinery practice so that any particular distillate may have residual or contaminant fractions with boiling points both above and below it. The purity of the distillate depends on the age and technical sophistication of each refinery operation. Additional refining steps may be performed on the distillate in order to strip away the contaminating fractions.

The Commission recognizes that without resorting to extremely expensive special techniques, these refining processes do not result in chemically pure products. The Commission is also aware that reduction of contaminants below the lowest levels generally available in commerce would entail very expensive changes in refinery equipment throughout the industry. Therefore, the Commission proposes to set as the lowest feasible level of benzene contamination, the lowest level generally available in commerce.

Economic information available to the Commission indicates that most common solvents or petroleum distillates which may show traces of benzene contamination are generally available with less than 0.1 percent benzene contamination. Manufacturers, furthermore, substitute one distillate for another or use various combinations of distillates, with a high degree of flexibility. (See "Economic Assessment of a Potential CPSC Benzene Regulation" on file at the Commission's Office of the Secretary). While some benzene substitutes are available with benzene contamination considerably lower than 0.1 percent and others have a higher contamination level (see Table 1 below), the Commission has selected the 0.1 percent level as representative of a feasible impurity level. In so doing, the Commission has preliminarily concluded that it is not now technically feasible to avoid a level of benzene contamination in consumer products below 0.1 percent and has, therefore, decided to propose a ban of products containing benzene traces at or above the level.

While the Commission's current information indicates that contamination below 0.1 percent is the lowest feasible impurity level for benzene in products, the Commission, in recognition of the limited information available on benzene as a contaminant, particularly wishes to solicit public comment on the issue of an appropriate level and the costs of achieving various levels. Based on the comments and other relevant material which may be received in response to the proposal, the Commission may revise the allowable impurity level when the ban is finalized.

ECONOMIC CONSIDERATIONS

Information available to the Commission indicates that the only consumer products which currently contain benzene as an intentional ingredient are paint removers, rubber cements, gasoline, and solvents and reagents for laboratory use. It appears that the OSHA regulations have resulted in a reduction of the use of benzene in consumer products. In fact, only a few firms are using benzene in their consumer products. Since benzene is produced and sold predominantly for industrial use, it is expected that CPSC action will not have a major impact on producers of benzene.

The paint remover industry is one of two industries likely to be affected by a CPSC ban. (As noted above, gasoline and laboratory benzene are proposed to be exempted from the ban.) Generally, there has been a widespread movement away from the use of benzene in paint removers. Commission staff contact with 49 firms revealed only 2 firms presently using benzene in their paint removers. Commission staff estimates that less than 1 percent of the paint removers currently on the market contain benzene as an intentional ingredient.

The reformulation of removers involves the substitution for benzene of various combinations of methylene chloride, toluene, chlorinated hydrocarbons, mineral spirits, or other solvents. Most manufacturers agree that methylene chloride, usually used in conjunction with other solvents, makes a better remover than those currently produced with benzene. However, methylene chloride is a good deal more expensive than benzene. Other solvents which may be substituted for benzene—toluene, for example—will yield a less effective product for approximately the same price. In general, the economic impact on consumers of a ban will be in the form of price increases or utility losses, depending upon which solvent is substituted for benzene.

A ban on benzene-containing products is expected to have a minimal impact on the manufacturers of paint removers. For the few firms that still use benzene in the removers, there may be additional costs associated with reformulation, but these are expected to be small.

The rubber cement industry is another industry likely to be affected by a CPSC ban. In recent years there has been a steady decline in shipments of rubber cement, both in absolute terms and as a proportion of total adhesives shipments. From 1963 to 1973, shipments fell from $87 million to $55 million. During the same period, shipments of adhesives rose from $353 million to $820 million. This implies an absolute decrease in demand for rubber cement, probably in response to the substitution of other adhesives for comparable applications.

Of 52 rubber cement producers contacted, ony one is currently using benzene in his product. Commission staff estimates that less than 0.1 percent of the rubber cements on the market contain benzene. Reformulation costs are, furthermore, expected to be negligible.

Other consumer products such as varnish, wood stains, and household cleaners were investigated by Commission staff to determine whether benzene was present as an intentional ingredient. The products were found not to contain benzene, except possibly as a solvent impurity. Benzene, of course, is also used in almost a pure form in scientific laboratories as a solvent or a reagent. Such benzene is proposed to be exempt from Part 1307.

In addition to products containing intentionally added benzene, products which contain benzene as a contaminant at a level of 0.1 percent or greater are affected by the proposed ban. Many common solvents show traces of brenzene contamination. In fact, any petroleum distillate, even a highly refined solvent, will contain traces of benzene, because of the physical properties of the petroleum refining process. Since there appears to be a wide range of petroleum distillates or solvents generally available with benzene contamination of less than 0.1 percent, it is not expected that the ban on products containing benzene as an impurity will be burdensome to manufacturers or consumers. (See Table 1 below.)

TABLE 1.—*Typical benzene impurities*

	Percent	PPM
Heptane	0.0025	25
Hexane	.5	5,000
Mineral spirits	.1	1,000
Methyl ethyl ketone		0
Methylene chloride		0
Naphtha	.1	1,000
Toluene	.02	200
Xylene	.0025	25

Source: Various industry sources.

As noted above, a ban on consumer products containing benzene will necessitate the use of alternate solvents in manufacturing these products, many of which are other petroleum distillates. Possible substitutes are noted in the chart above. These solvents, with the exception of methylene chloride, are generally not as efficient as benzene, but are accceptable substitutes in most cases. The potential health effects of the use of these substitutes, however, is an issue which the Commission believes merits further study. While the Commission has some information on the health effects of potential substitutes which is summarized below, the Commission believes further information is necessary and specifically requests comment on the subject.

The Commission notes that although conflicting evidence exists, it appears that toluene and xylene may be slightly more acutely toxic than benzene. However, because toluene and xylene are not as volatile as benzene, less of these chemicals may be available in the atmosphere for exposure. (See International Labour Office. "Benzene users, toxic effects, substitutes." Geneva, May 16-19, 1967, pp. 48-89.) Neither toluene nor xylene appear to present the same chronic hazards as benzene. The "Benzene Health Effects Assessment", published as an external review draft in 1977 by the Environmental Protection Agency, states:

> Hematoxicity, particularly pancytopenia, has been observed in both humans and animals, following exposure to benzene. The toxicity does not folllow exposure to other compounds such as toluene and xylene commonly associated with benzene environmentally. (p. 2).

The Commission notes that a review of the scientific literature on benzene indicates that outbreaks of pancytopenia have followed the introduction of benzene to the workplace and have ceased when benzene has been substituted for by other solvents.

Methylene chloride has been for many years the standard active ingredient in paint removers. It is also a likely substitute for benzene in paint remover reformulations. However, it has been noted that methylene chloride, when inhaled, forms carbon monoxide in the body which reduces the blood's potential to carry oxygen and causes stress on the heart. Therefore, the use of methylene chloride-containing products by heart patients or heavy smokers may cause severe illness or even death. (Stewart and Hake, "Paint-Remover Hazard" in JAMA 235: 398-401, 1976). (In a separate matter, the Commission is considering the possibility of requiring special labeling on paint removers containing methylene chloride to warn of this hazard.)

Significant questions have also been raised concerning the potential chronic toxicity of methylene chloride. Long-term animal testing is now being conducted by the Dow Chemical Company and by the National Cancer Institute in an attempt to ascertain whether methylene chloride poses a potential carcinogenic hazard. Results from one of these laboratories should be available shortly. In addition, methylene chloride has been shown to be mutagenic in two types of short-term tests. (See, Proceedings of the 2nd International Conference on Environmental Mutagens: Progress in Ge-

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netic Toxicology—Scott, D., Bridges, B. A., Sobells, FH., eds., Elsevier, North Holland (1977), pp. 249-258.) Further, the Toxic Substances Control Act (TSCA) Interagency Testing Committee has recently recommended to the Administrator of the Environmental Protection Agency that methylene chloride be added to the list of chemicals recommended for priority testing under TSCA. Because of these serious health concerns, the Commission particularly solicits comment on the toxicity of methylene chloride.

The Commission staff economic analysis and supporting materials are available from the Office of the Secretary.

ENVIRONMENTAL CONSIDERATIONS

An assessment has been made of the potential environmental impact of the proposed ban, as required by the National Environmental Policy Act. Based on this assessment, the Commission concludes that there are no significant environmental effects associated with the proposed and that no environmental impact statement is necessary.

The use of benzene as an ingredient in consumer products other than in gasoline and solvents and reagents for laboratory use has decreased over the years to the point where only a few small firms continue to use it. The reasons for this decline are a recognition of the health effects of benzene, the declining maximum allowable exposure limits imposed by State and federal health authorities, and the increased use of benzene as a valuable petro-chemical feedstock that is used to make other chemicals.

Because the use of benzene as an ingredient in consumer products has declined significantly, and since other chemicals have become the standard of the industries that produce such consumer products, no significant environmental effect is expected to result from the ban on benzene as an intentional ingredient. In addition, no significant environmental effect is expected as a result of limiting the level of benzene contamination in products. The level that is proposed appears to be a typical level of contamination in common petroleum distillates, the class of products that is likely to contain benzene as a contaminant.

All of the substitutes for benzene are acutely toxic to humans when inhaled. However, benzene alone has been shown to cause chronic blood disorders, including leukemia, in persons who are exposed to it. While questions have been raised concerning the chronic toxicity of methylene chloride, methylene chloride has long been the standard ingredient in paint strippers. Therefore, a ban on benzene will not substantially increase an already significant use of methylene chloride in these products. The ban, if finalized, is expected to have a beneficial effect on the health of consumers.

The method of disposal of rubber cement and paint strippers that do not contain benzene is the same as for those that do. In nearly all cases of use, the active ingredient in the product is volatile and evaporates into the air. Following use, the container and its residue are disposed of along with other household refuse. The ban is, therefore, expected to have no significant impact on land fills or other disposal media, or on air or water quality.

The environmental assessment is available for review in the Office ofd the Secretary of the Commission.

ANTICIPATED EFFECTIVE DATES

The Commission has preliminarily assessed the possible effects on the relevant industries of banning consumer products, except gasoline and solvents and reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant at a level of 0.1 percent or greater by volume. The Commission notes that the few firms currently using benzene as an intentional ingredient will have to reformulate their products, test the new formulations, and acquire different chemical supplies. Based on discussion with the affected companies and experience with other industries with similar problems, the Commission believes that since few reformulation problems should be presented, 60 days is a sufficient period of time for these firms to bring their products into compliance. Therefore, the Commission proposes that consumer products containing intentionally added benzene manufactured or imported 60 or more days after publication by the Commission of a final rule be declared banned hazardous products.

Alternatively, because of the severe nature of the hazard associated with consumer products containing high levels of benzene, the Commission is also proposing a shorter effective date with retrospective application to all products still in the channels of commerce containing intentionally added benzene. The Commission believes it may be necessary to halt all distribution in commerce of products containing intentionally added benzene shortly after the final ban is published so that consumers will not be able to purchase them and thus, continue to be exposed to benzene while supplies are exhausted. Shortening an effective date to less than 30 days from the date of publication of a final rule is authorized by section 553(d)(3) of the Administrative Procedure Act if the Commission so provides for good cause found and published with the rule.

Therefore, the Commission may make the final ban applicable to consumer products containing intentionally added benzene which are initially introduced into commerce 15 days after publication of a final ban. In addition under this option, all other consumer products containing intentionally added benzene, no matter when manufactured or initially introduced into commerce, would be banned 30 days after the publication of a final ban. This means that 15 days after publication of a final rule, manufacturers would be prohibited from shipping the product to distributors, retailers, consumers, or to others. Further, 30 days after publication of a final rule all manufacturing, selling, offering for sale or distributing in commerce of the described products would be prohibited, no matter when initially introduced into commerce.

The Commission does not believe that this alternative proposed effective date will have a major economic impact because so few firms are currently making products containing intentionally added benzene. The Commission staff is continuing to investigate the potential economic and environmental effects associated with the selection of this alternative date. The Commission is particularly interested in public comment on both proposed effective dates.

As to firms that manufacture products containing benzene as a contaminant at a level that is higher than the proposed limit, the Commission notes that these firms must consider alternative chemicals or new sources of supply and may also have to work down or otherwise dispose of inventories of contaminated ingredients. While little information exists on the difficulties that various firms may actually have in dealing with these problems, the Commission staff estimates that 120 days would be a reasonable time period for firms to bring their products into compliance. On this basis, the Commission proposes that consumer products containing benzene as an impurity at levels of 0.1 percent or greater manufactured or imported 120 days or more after publication of a final rule be banned.

The Commission has decided that the ban on benzene as a contaminant in products need only apply to products manufactured or imported after the effective date, not to those held in inventory after the effective date. The Commission notes that these products contain significantly smaller amounts of benzene than those for which the earlier effective date is proposed. The Commission also believes that banning products containing benzene as an impurity manufactured or imported prior to the effective date of this Part 1307 might result in a chaotic situation since the products were manufactured prior to a significant amount of testing; and therefore, extensive testing would be needed to determine

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hich products contain 0.1 percent or ore of benzene.

SECTION 8—FINDINGS

Section 8 of the CPSA requires that, order to propose a ban, the Commison must find that a consumer prodct is being or will be distributed in mmerce, that it presents an unreaonable risk of injury and that no feaible consumer product safety standd under the CPSA would adequately rotect the public from that unreasonle risk.

The Commission finds that the prodcts banned by the proposal are being d will be distributed in commerce.

A. UNREASONABLE RISK OF INJURY

In determining whether a specific sk of injury is "unreasonable", the ommission generally balances the robability that the risk will result in arm and the gravity of the harm gainst a rule's effect on the product's tility, cost, and availability to the nsumer. In this instance, the Comission notes that the risk of injury om benzene-containing products is reat and includes leukemia as well as ther blood disorders. In addition, the ommission staff risk assessment sugests an increased lifetime risk of eath from myelogenous and monocyic leukemia of between 15.2 percent nd 37.1 percent due to the use of benzene-containing paint strippers for 5 hours a day, ten times in a lifetime.

The Commission has considered the effect on the cost, utility, and availability of benzene-containing products and it is noted that this rule would eliminate the few such consumer products, except gasoline and laboratory benzene, currently on the market. However, the Commission also notes, as is discussed under Economic Considerations, that there are readily available substitute products at approximately the same cost which will yield a slightly less effective product.

After considering the nature and degree of the hazard from benzene-containing products and the availability of substitutes, the Commission concludes that the risk of injury clearly outweighs the effects of the proposed rule on the cost, utility, and availability of the products, and finds that benzene-containing products present an unreasonable risk of injury to the public.

B. FEASIBILITY OF A STANDARD

The Commission has considered all vailable information concerning the isk of injury associated with consumr products containing benzene as an ntentional ingredient and as a conaminant and believes that the risk of njury is inherent in the products as ong as they contain benzene.

The Commission believes that it is ot possible to manufacture safe rubber cements or paint removers containing benzene because a safe level of exposure to benzene is not known. Furthermore, a standard such as OSHA's which sets a permissible air concentration level for benzene and requires protective clothing and equipment is not feasible for the consumer due to the cost of equipment and the knowledge required for its use.

In addition, except for laboratory use, the Commission notes that it does not believe that any required labeling for benzene-containing consumer products no matter how explicit and graphic would be adequate to address the risk of injury. (Current regulations under the FHSA at 16 CFR § 1500.14 (a)(3) and (b)(3) require cautionary labeling for products which contain 5 percent or more by weight of benzene including the words "danger", "vapor harmful", and "poison".) Since there is no known safe level of exposure to a carcinogen, the Commission believes that exposure to benzene must be reduced to the lowest possible level. The cautionary labeling, which would be necessary to approach that level, such as suggesting the use of a laboratory ventilation hood or the wearing of an adequate facemask when using benzene products, is impractical for the average consumer, outside of a supervised laboratory situation. The Commission notes in this regard that the type of respirator (chemical cartridge respirator) that would mitigate the effects of benzene-containing products is not generally available to households and even if it was, the specialized maintenance of this device would be burdensome to consumers. In addition, there is the possibility that any recommended protective measures may not be followed in practice or may be followed by the user but not by bystanders or visitors.

Therefore, the Commission concludes that a standard, including a labeling standard, for consumer products containing benzene as an intentional ingredient or as a contaminant is not feasible at this time and that only banning these products can adequately protect the public from the unreasonable risk of injury associated with them.

EXTENSION OF TIME TO PUBLISH FINAL RULE

Section 9(a)(2) of the CPSA (15 U.S.C. 2058(a)(2)) requires the Commission in declaring a product to be a "banned hazardous product" to publish a notice of proposed rulemaking in the FEDERAL REGISTER and to provide interested persons with an opportunity to participate in the rulemaking through submission of written data, views, or arguments. In addition to these written comments, interested persons must also be given an opportunity for the oral presentation of data, views, or arguments.

Section 9(a)(1) of the CPSA provides that within 60 days after publication of a proposed rule, the Commission shall promulgate a final rule or withdraw the proposal. The Commission may extend the 60 day period for good cause and must publish its reasons for extension in the FEDERAL REGISTER.

In the case of benzene-containing consumer products, the Commission has expressed a particular interest in obtaining public comment on the proposed contaminant level, on the issue of toxicity of substitutes, on the proposed effective dates, and on the various health and economic findings required by section 9(c) of the CPSA (see below). to afford an ample opportunity for obtaining such comment, the Commission has decided that, in addition to holding a public meeting in Washington, D.C., the comment period, in which the public is invited to submit written comments on the proposed ban, is to be longer than the 30 day period usually provided. Written comments may be submitted until June 30, 1978.

It is anticipated that becuase of the extended comment period and the need for careful analysis of the public's oral and written views, more time will be required than the 60 day period provided in section 9(a) of the CPSA between publication of a proposal and publication of any final rule.

Therefore, the Commission has decided that this 60 day period should be extended. In order to conserve the resources that would be needed to issue such an extension of time during the comment and evaluation period, the Commission announces in this proposal that good cause is found to extend for 90 days, until October 16, 1978, the time in which the Commission must either issue a final rule concerning benzene-containing consumer products or withdraw the proposal to ban. This period may be further extended for good cause and announced in the FEDERAL REGISTER.

CONCLUSION AND PROPOSAL

Based on the foregoing information, the Commission proposes to declare that all comsumer products, except gasoline and solvents or reagents for laboratory use, containing intentionally added benzene or containing benzene as a contaminant at levels of 0.1 percent or greater are banned hazardous products.

Accordingly, pursuant to provisions of the CPSA (sections 8, 9, and 30(d), 86 Stat. 1215-17, 1231, as amended 90 Stat. 506, 510; 15 U.S.C. 2057, 2058, 2079(d)), the commission proposes that Title 16, Chapter II, be amended by adding to Subchapter B the following new Part 1307:

Part 1307—Ban on Consumer Products Containing Benzene as an Intentional Ingredient or as Contaminant

Sec.

1307.1 Scope and application.
1307.2 Purpose.

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Sec.
1307.3 Definitions.
1307.4 Exemptions.
1307.5 Consumer products containing benzene as an intentional ingredient as banned hazardous products.
1307.6 Consumer products containing benzene as a contaminant as banned hazardous products.

AUTHORITY: Secs. 8, 9, 30(d), Pub. L. 89-573, as amended, Pub. L. 94-284, 86 Stat. 1215-17, 1231 as amended 90 Stat. 506, 510 (15 U.S.C. 2057, 2058, 2079(d)).

§ Scope and application.

(a) In this Part 1307 the Consumer Product Safety Commission declares that all consumer products, except gasoline and solvents and reagents for laboratory use, containing intentionally added benzene are banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057 and 2058). The Commission also declares that consumer products, except gasoline and solvents and reagents for laboratory use, containing benzene as a contaminant at levels of 0.1 percent or greater by volume are banned hazardous products under sections 8 and 9. This Part applies to products which are customarily produced or distributed for sale to or for the personal use, consumption, or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise.

(b) The Commission has found (1) that the products described in subsection (a) are being or will be distributed in commerce, (2) that they present an unreasonable risk of injury, and (3) that no feasible consumer product safety standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with these products.

§ 1307.2 Purpose.

The purpose of this rule is to ban consumer products containing benzene as an intentional ingredient or as a contaminant. These products present an unreasonable risk of injury because exposure to the fumes increases the risk of developing blood disorders, chromosomal abnormalities, and leukemia.

§ 1307.3 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 1052) apply to this Part 1307.

(b) "Benzene as an intentional ingredient" is benzene which is added deliberately to a product to impart specific characteristics.

(c) "Benzene as a contaminant" is any benzene appearing in a final product, which benzene is not an intentional ingredient. This includes any benzene which appears as a component of or impurity in a raw material used in the final product.

(d) "Imported" is the first entry of a product within a U.S. port of entry.

§ 1307.4 Exemptions.

The following categories of products are exempt from the ban established by this Part 1307:

(a) Gasoline.

(b) Benzene manufactured and distributed for use in laboratories as a solvent or reagent.

§ 1307.5 Consumer products containing benzene as an intentional ingredient as banned hazardous products.

On the basis that consumer products containing benzene as an intentional ingredient present the hazards of blood disorders, chromosomal abnormalities, and leukemia to the public, such products, except gasoline and solvents or reagents for laboratory use, manufactured or imported after the date which is 59 days after publication of the final rule in the FEDERAL REGISTER are banned hazardous products. Alternatively, such products, except gasoline and solvents or reagents for laboratory use, which are initially introduced into commerce 15 or more days after publication of a final ban are banned hazardous products. In addition, all other consumer products containing benzene as an intentional ingredient, no matter when manufactured or initially introduced into commerce, are banned hazardous products 30 days after the publication of a final ban.

§ 1307.6 Consumer products containing benzene as a contaminant as banned hazardous products.

On the basis that consumer products containing benzene as a contaminant at levels of 0.1 percent or greater by volume present the hazards of blood disorders, chromosomal abnormalities, and leukemia to the public, such products, except gasoline and solvents and reagents for laboratory use, manufactured or imported after the date which is 119 days after the publication of the final rule in the FEDERAL REGISTER, are banned hazardous products.

WRITTEN COMMENTS

Interested persons are invited to submit written comments before the close of business on June 30, 1978. Comments may be accompanied by written data, views, and arguments and should be submitted preferably in five copies, addressed to Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received comments and other related material may be seen in the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C., during working hours Monday through Friday.

ORAL PRESENTATIONS

Interested persons will be afforded an opportunity to make an oral presentation of data, views, or arguments in addition to the opportunity to make written comments, or any aspect of the proposed ban on June 14, 1978. The proceedings for the oral presentation will be held at 9:30 a.m. at the Commission's hearing room at 1111 18 Street NW., Washington, D.C. The procedural regulations for oral presentation, 16 CFR Part 1109, promulgated October 14, 1975 (40 FR 49122), shall govern this proceeding.

All persons wishing to make an oral presentation should notify Richard Danca of the Office of the Secretary, 202-634-7700, no later than close of business June 7, 1978, for scheduling purposes. A summary or outline of each oral presentation and an estimate of the length of time it will require should be filed with the Office of the Secretary at least business days prior to the oral presentation.

SECTION 9 FINDINGS

Section 9(c) of the CPSA (15 U.S.C. 2058(c)) requires the Commission, prior to promulgating a consumer product safety rule, to consider and make certain findings for inclusion on that rule. The Commission has discussed information relevant to these findings in the preamble of this document. However, in order to aid the Commission in obtaining the most complete and accurate information before making these findings, the Commission is particularly interested in receiving, either by written comment or through the oral presentation, additional data, views, and arguments as to the following:

1. The degree and nature of the risk of injury the rule is designed to eliminate or reduce;

2. The approximate number of consumer products, or types of classes thereof, subject to the rule;

3. The need of the public for consumer products subject to such rule and the probable effect of such rule upon the utility, cost, or availability of such products to meet that need;

4. Any means of achieving the objective of the rule while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety;

5. The necessity of the rule to eliminate or reduce the unreasonable risk of injury associated with the consumer products subject to the rule;

6. Whether the rule is in the public interest;

7. The feasibility of a consumer product safety standard under the CPSA to protect the public adequately from the unreasonable risk of injury associated with the products which are the subject of this proposed ban;

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8. The potential environmental effects of the rule;

9. Available toxicity data regarding acute and chronic effects of all potential substitutes for benzene in products;

10. The appropriateness of the proposed contamination level for benzene in consumer products and the cost of achieving this level or any other suggested level;

11. The proposed effective dates;

12. Any adverse effects that this proposed ban will have on elderly and handicapped persons; and

13. The need and appropriateness of the gasoline and laboratory benzene exemptions.

Dated: May 15, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

APPENDIX

Benzene is a clear, colorless, non-corrosive, flammable liquid with a rather pleasant odor. Benzene has a low boiling point and a high vapor pressure which causes it to evaporate rapidly, giving off vapors nearly three times heavier than air. These properties are responsible for the fact that considerable concentrations of benzene will rapidly appear in the air when benzene is used in open systems.

In the U.S. approximately 11 billion pounds of benzene were produced in 1976 (*1*). About 86 percent of this benzene was used as an intermediate in the production of other organic chemicals. The remainder was used in the manufacture of detergents, pesticides, solvents and paint removers. Benzene is also present in motor fuels and raises the octane levels of gasoline: In United States gasoline, the average benzene content is roughly one percent but ranges from 0.2-4.3 percent (*2*).

In consumer products benzene may be present in such products as rubber cements, paints, varnishes, stain removers and adhesives. Benzene has been recognized as being a toxic substance for over 75 years. It causes both acute and chronic effects. Considerable evidence has been collected that the chronic toxic effects of benzene include leukemia, bone marrow suppression and chromosomal abnormalities. Since benzene is implicated as a carcinogen and that for any carcinogen there is no zero risk level for a given population, exposure to this compound must be limited.

A. TOXIC EFFECTS OF BENZENE

1. *Metabolism.* The major route of entry of benzene into the body is via inhalation. Benzene rapidly reaches equilibrium with the air in the lungs and rapidly diffuses into the blood (*3*). In experiments with rats, the concentration of benzene in blood was shown to parallel the concentration in the inspired air (*4*). Benzene is retained in the body for many hours after exposure is terminated, and elimination through the lungs accounts for only 12 percent of the elimination during the first six hours after exposure.

Exposure to benzene can also be by direct contact, although benzene absorption through non-damaged human skin is not very great (*5-7*). When direct contact occurs, obviously there usually is inhalation of the vapors.

Benzene is highly lipid soluble and accumulates in various body organs in proportion to their fat content. It accumulates particularly in fat, bone marrow and the central nervous system. Elimination of benzene from the body takes place by respiration and by metabolism. Elimination of unchanged benzene from respiration ranges from 12-50 percent of the total amount absorbed, while very small amounts are excreted in the urine (*8*).

Benzene appears to be metabolized mainly by the liver. The first step appears to be a reaction that forms benzene oxide. This intermediate has been suggested as a possible candidate for the bone marrow toxicity of benzene (*9*). The principal metabolites are the phenols, formed by enzymatic hydroxylation. The phenols are then further processed by sulfation or glucuronization to give the conjugated end products catechol, hydroquinone and phenyl-mercapturic acid which are also found in the urine in small amounts as well as phenol (*7*). It has been reported that both catechol and hydroquinone depress bone marrow activity, and therefore are also candidates for the chronic toxic effects of benzene (*8*).

2. *Acute toxicity.* Benzene concentrations of about 20,000 ppm are fatal within minutes, with death occurring from acute circulatory failure or coma. The symptoms of acute toxicity may include convulsions, muscle tremors, salivation, nystagmus and phenomena of very intense asphyxiation due to paralysis of the medullary respiratory center (*9*). Sub-lethal exposures produce nervious excitation, euphoria, headache, nausea and vomiting, weakness and abdominal pains. This will be followed by a period of depression which can lead to cardiovascular collapse and unconsciousness. Exposures of about 250-500 ppm gives signs and symptoms of mild poisoning, such as dizziness, drowsiness, headache and nausea. These usually disappear rapidly after removal from exposure.

Direct skin contact with liquid benzene also may cause redness and blistering. Chronic skin dryness and scaling have also been found.

3. *Chronic toxicity in man.* The major site of benzene's chronic toxicity is on the bone marrow, the blood-forming organ. In this section representative studies from the medical literature will be cited, demonstrating the diversity and seriousness of benzene exposure on hematopoiesis. This is not meant to be an all-inclusive review of this subject, rather an indication of the diseases that have been implicated to occur with chronic benzene exposure.

The emphasis in this section is primarily on studies that have evaluated substantial numbers of occupationally exposed people, particularly where measurement of dose has been attempted.

In most reported cases of benzene hematoxicity, exposure has been in a working situation where benzene was used as a solvent or manufactured as a product. One problem is that exposure usually occurs to a mixture of volatile compounds, rather than to benzene alone. Despite this, the overwhelming evidence points to an association of hematopoietic disease with benzene. The evidence includes the fact that benzene has been the common demoninator in various settings where exposure to other compounds has varied extensively; there are good epidemiological studies showing that outbreaks of hematoxicity followed the introduction of benzene to the workplace and responded to replacement of benzene with other solvents; and that bone marrow toxicity occurs in animals exposed only to benzene.

It is possible that compounds inhaled along with benzene alter the expression of hematotoxicity. Both other aromatic hydrocarbons, as well as chemically unrelated chemicals could conceivably modify benzene metabolism in man.

(a) *Pancytopenia and aplastic anemia.* Pancytopenia refers to a decrease in all of the formed elements of the blood, red blood cells (erythrocytes), white blood cells (leukocytes), and platelets (thrombocytes). In benzene exposures these elements decrease primarily due to a decrease in production. The term aplastic anemia is often used to describe benzene toxicity. However, this term classically denotes a condition in which pancytopenia is accompanied by a marked decrease in the number of hematopoietic precursor cells within the bone marrow (hypoplasia). In benzene toxicity manifested by pancytopenia, the bone marrow studies have varied, with hypoplasia (*11-13*), normal cellularity (*11, 14*), and even hyperplasia (*11, 14*), being found. For the purpose of this discussion, pancytopenia will be discussed as a single entity, regardless of the bone marrow findings (if performed).

Among the earliest investigations of pancytopenia in benzene exposure were those of workers in rotogravure printing plants (*15-17*). In the studies, the workers had been exposed to benzene for a period of 3-5 years. The benzene contents of the ink solvents and thinners were between 10-80 percent. The air concentrations were analyzed and ranged from 11-1,060 ppm with a median level of 132 ppm. The workers complained of fatigue, lethargy, dizziness, headache, shortness of breath and dryness of the mucuous membranes. Hematological studies were performed in 332 exposed male workers and 81 controls. Sixty-five of these people had some degree of hematological toxicity while 23 were severely affected. Six of these people were hospitalized; the remainder continued working and, following discontinuation of benzene use, recovered (*17*). These investigators found anemia, macrocytosis (large red cells) and thrombocytopenia (low platelet count). They rarely observed neutropenia (low granulocytic white cell count), but a decrease in lymphocytes appeared more commonly. They also found in a few cases prolongation of the bleeding or clotting times, an increase in capillary fragility and an increase in serum bilirubin and reticulocytes.

Wilson (*10*) in 1942 reported a study of 1,104 workers in an American rubber factory exposed to a maximum level of 500 ppm benzene, with an average of approximately 100 ppm. Of these, 83 were found to have mild hematological abnormalities and 25 more had severe pancytopenia. Nine of these 25 were hospitalized and 3 died as a result of the pancytopenia.

A study in England of 200 women exposed to benzene in 13 aircraft factories in England was reported in 1944 (*18*). This was in the manufacture of rubber and the women had been exposed in solvents containing 5-20 percent aromatic hydrocarbons including benzene. In this study, neutropenia was the most consistent indicator of benzene toxicity. No significant differences in red cells or lymphocyte counts was found.

In a rubber raincoat factory in Sweden (*19*), 189 people were studied. The benzene

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levels were measured and found to be 137-218 ppm. Hematological toxicity was found in 60 people. After 16 months of no further benzene exposure, 48 had recovered, 12 still had significant abnormalities and 2 had died. Prominent in this group was the finding of thrombocytopenia.

In an Australian air force workshop study (*20*) of 87 exposed people there was one case of fatal pancytopenia. The benzene peak concentration ranged between 10-1,400 ppm and in most areas the benzene concentration was well above 100 ppm. The average concentration was 10-35 ppm. The solvents contained up to 53 percent benzene.

In 1961 (*21*) a study was performed in rubber coating plants where petroleum naphtha containing 1.5-9.3 percent benzene was in use. Benzene levels were usually less than 25 ppm but did go as high as 125 ppm. In one plant, 5 of 32 men had anemia; in a second plant, 1 of 9 was anemic and in a third plant, all workers studied were normal.

In the Soviet Union, Doskin (*22*) reported an evaluation of 365 workers exposed to benzene for 1-3 years. The benzene levels ranged between 10-40 ppm. It was reported that 40 percent of the workers had hematological changes during the first year. The most common early sign was thrombocytopenia, followed by anemia. An initial increase in white blood cell count was followed in some cases by leukopenia.

In another study, Kozlova and Volkova (*23*) studied 252 workers exposed to benzene over a 5-year period. Initially the benzene concentrations ranged from 47-310 ppm, but by the end of the 5 years had decreased to 25-47 ppm. The workers were classified into 3 groups according to exposure levels, the lowest being 24-39 ppm. In all 3 groups there was a decrease in all cell counts, with the most severe cases being in the highest exposure group. These investigators found leukopenia (mainly neutropenia) and thrombocytopenia as the most prominent early findings. Red cell changes were noted as a later phenomenon.

Savilakti et al. (*24, 25*) evaluated people exposed to benzene in a shoe factory in Finland. In this group of 147 persons, 107 were found to have abnormal blood counts, the most common being thrombocytopenia. Ten people required hospitalization and one died of severe pancytopenia. In 1964 (9 years after cessation of benzene exposure) 125 of these workers were re-examined. Combined assessment of the cell counts revealed the difference between the exposed and the controls was significant for males, but not for females. There was a greater tendency towards recovery of leukocytes rather than erythrocytes or platelets.

Girard and colleagues in France (*26, 27*) questioned all of their patients with hematological diseases concerning benzene exposure and reported the percentage of individuals with a given hematological disease and known exposure to benzene. Pancytopenia had the highest association. Of all of their patients with the diagnosis of aplastic anemia, 20.8 percent had exposure to benzene or toluene. In contrast, only 4 percent of controls (non-hematological disease) had exposure to these agents.

Aksoy et al. (*28*) in Turkey examined 217 apparently healthy men who had worked for 3 months to 17 years in shoe factories using an adhesive containing benzene. These workers were exposed to 30-210 ppm benzene. In 51 of these people some form of hematological abnormality was found. Anemia was the most common finding, but since it was correctable by iron, it was not ascribed to benzene. However, the volume of the cells (mean corpuscular volume) was high normal to slightly elevated range which is unusual for iron deficiency and is more consistent with what has been seen with benzene (macrocytosis). Leukopenia with or without thrombocytopenia was the most common finding attributed to benzene. Pancytopenia was seen in 6 people.

In 1977 Aksoy et al. (*29*) reported they had previously studied 46 patients with aplastic anemia who had been exposed to benzene. Of these patients 14 had died of aplastic anemia, 5 had developed acute leukemia, 1 had developed myeloid metaplasia, 22 were in complete remission, 2 were still under treatment and 2 were lost to follow up. All of these people had been exposed to adhesives containing 9-88 percent benzene and exposure was generally in small shops with poor ventilation. Where measured, the benzene concentration was 150-650 ppm.

In addition to this data in humans there is strong support from the medical literature, using animal models, that benzene causes pancytopenia. The route of administration to animals has been both by inhalation and injection (usually subcutaneously).

In the inhalation studies, Weiskatten et al. (*30*) produced leukopenia, slight anemia and hemorrhages in rabbits exposed to approximately 240 ppm benzene for 10 hours a day. The effects were observed within 2 weeks of exposure. This study found that "small mononuclear white cells" (probably lymphocytes) were the most depressed.

Svirbely et al. (*31*) studied rats and dogs exposed to 1000 ppm benzene 5 days a week, 7 hours a day for 28 weeks. The rats had intermittent leukopenia and lymphocytopenia, while the dogs had lymphocytopenia throughout the study.

Li et al. (*32*) found varying results in dogs exposed to 600 ppm benzene for 42 hours per week over periods of time dependent on their response to benzene. Some animals (least affected) could be exposed to up to one year, while others became moribund in 5-6 weeks. These investigators monitored leukocytes and platelets and found a decrease in the number of both. Protein deficient diets produced greater reductions, which were exacerbated by high fat diets.

Wolff et al. (*6*) exposed rats, guinea pigs and rabbits to benzene for 7 hours periods for various numbers of days. They stated that they saw leukipenia at levels as low as 80 ppm.

Deichmann et al. (*4*) exposed rats to benzene at various doses for 5 hours per day, 4 days a week. They report leukopenia at a benzene concentration as low as 44 ppm for 2-8 weeks. They did not observe leukopenia at concentrations of 31, 29 or 15 ppm. Female animals were more sensitive than males.

Nau et al. (*33*) found leukopenia in rats with exposure to 1000, 200, and 50 ppm benzene. The reported toxicity occurred more rapidly with the higher doses, but did occur at 50 ppm after long exposures.

Ikeda (*34*) exposed rats to 1000 ppm benzene for 7 hours a day, 5 days a week for 60 days. They noted leukopenia which decreased in the following order: adult males, young males, adult females, young females.

Baje et al. (*35*) noted leukopenia in rats exposed to 400 ppm benzene 7 hours a day for 13 weeks.

Benzene-induced hematological toxicity in animals has also been produced by administering benzene by injection. Santession (*36*) in 1897 was the first person to suggest benzene as a cause of hemorrhagic phenomena by subcutaneous injection of rabbits. Selling (*37*) was able to demonstrate severe leukopenia in rabbits by injection of 1 ml/kg benzene (as a 50% solution in olive oil) per day in 4-9 days. In Selling's study complete aplasia of the bone marrow was first noted.

Gerarde (*38*) performed similar experiments in rats treated daily for 2 weeks with 1 ml/kg of benzene (50 percent solution in olive oil). Leukopenia was noted during this time which was reversible.

Latta and Davies (*39*) gave rats 50 percent benzene in olive oil at 2, 3, and 4 ml/kg daily for up to 60 days. They noted first a temporary stimulation of white cell production. After this the leukocyte count fell with lymphocyte production being more severely impaired. With the high dose they found disappearance of bone marrow myelocytes after 24 days and complete aplasia after 60 days.

Speck et al (*11-13*) gave benzene to rabbits at doses of 0.2 and 0.3 ml/kg per day and produced severe leukopenia within 1-9 weeks. They also noted a decrease in red cells, hemoglobin, reticulocytes and platelets. Pancytopenia was a common finding. The bone marrows from the pancytopenic animals were interpreted as very hypoplastic (21 percent), hypoplastic (32 percent), normal (26 percent) and hypercellular (21 percent).

Lee et al. (*40*) treated mice with benzene in corn oil at 400 mg/kg and 2200 mg/kg as single doses and demonstrated that benzene depresses the incorporation of radioactive iron into circulating red cells. Their results are compatible with an effect of benzene at the early bone marrow precursors of red cells.

Summary of Benzene-Associated Pancytopenia

Benzene exposure has been clearly demonstrated to produce hematotoxicity in man. The most commonly reported effect is a decrease in one or more of the formed elements of the blood. In more severe cases this will take the form of pancytopenia, including in some cases an aplastic bone marrow. The evidence that benzene is causally related to pancytopenia includes studies showing that outbreaks of pancytopenia throughout the world have followed the introduction of benzene to the workplace and that these outbreaks will stop when benzene is substituted for by other solvents.

As confirmatory evidence, it is possible to induce similar hematological effects in animals treated with benzene. At the present time it is not possible to establish a definitive, safe dose or time exposure, nor is it possible to state what (if any) age, sex, social or ethnic groups are more or less susceptible to benzene toxicity.

(*b*) *Leukemia:* Leukemia is a term for a group of diseases with an abnormal proliferation of white blood cells or their precursors in the peripheral blood and bone marrow, often with the appearance of abnormal immature white cell precursors in the blood. Leukemia is considered to be a malignant neoplasm. Evidence in man industrially exposed to benzene has strongly implied that benzene is directly related to the development of acute myeloblastic leukemia and its variants such as erythroleukemia and acute myelomonocytic leukemia. There have been numerous case reports in the medical literature suggesting that there is this association. However, in this report

the more recent larger epidemiological studies will be reviewed.

In the past 10 years, Aksoy and his coworkers in Turkey have performed careful studies strongly suggesting that benzene exposure leads to acute leukemia (*29, 41-44*). Their evidence includes reports of workers with aplastic anemia which progressed through a "pre-leukemic" phase to a typical acute myeloblastic leukemia or erythroleukemia. The outbreak of leukemia occurred in shoemakers when benzene use in an adhesive was introduced. Leukemia cases subsided after benzene use was discontinued.

Aksoy et al. (*27, 41, 42*) observed 26 petients with acute leukemia in this group of shoemakers. The benzene concentration in air reached a maximum of 210-650 ppm when the benzene-containing adhesives were in use. The cases included 14 cases of acute myeloblastic leukemia, 3 of acute lymphoblastic leukemia, and 1 each of acute monocytic and promyelocytic leukemia. These investigators had evaluated 28,500 shoe workers in Istanbul and calculated a leukemia risk of 13 per 100,000 in this group (*29*). This is compared to an incidence of leukemia in Turkey of 2.5-3.0 per 100,000. In order to be extremely careful in these studies, Askoy et al compared their results to the incidence of leukemia in developed nations (6 per 100,000). The incidence of leukemia in shoeworkers in Turkey was statistically higher ($p < 0.02$) than this number. These studies, therefore, if anything, underestimate the risk of leukemia on benzene exposure. Furthermore, these investigators did not age-adjust their findings, which also underestimates the risk of leukemia.

Recently, Aksoy (*29*) summarized his experiences with this group of patients. He reported that between 1967-1971 there was a notable incidence of pancytopenia followed by a peak incidence of leukemia between 1971-1973. Since 1969 there was a gradual decline in the use of benzene in this occupation, and there was a decline in leukemia after 1973, with no cases in 1976. Aksoy also reported that he was able to identify pancytopenia in 27.5 percent of the cases 6 months to 6 years before the onset of acute leukemia. The pancytopenia appeared to be recovering before the onset of acute leukemia. Aksoy (*29*) has stated that he is of the opinion that pancytopenia is not a necessary precursor to acute leukemia.

Another series of studies have been reported by Vigliani and his colleagues in Northern Italy. In recent reviews Vigliani (*46*) and Vigliani and Forni (*47*) summarized their experiences from 1942-1975. In Pavia they reported 135 patients with benzene hematotoxicity of which 13 died of acute myeloblastic leukemia (or its variants) and 3 of aplastic anemia. In Pavia the patients were workers in the shoe industry and were exposed to adhesives containing benzene. Benzene concentrations ranged from 25-600 ppm, but usually were 200-500 ppm. In Milan they saw 66 cases of benzene hematotoxicity, of which 11 were cases of acute myeloblastic leukemia (or its variants). In addition to these 11 fatal cases of leukemia, 7 additional patients died of aplastic anemia. In Milan many of the patients were also in the shoe industry, but other occupational groups were also affected. They reported an outbreak of benzene hematotoxicity in the rotogravure industry which occurred after inks and solvents containing benzene were introduced to the workplace. Benzene concentrations in the air were 200-1500 ppm. Vigliani has reported that he knows of at least 150 cases of benzene-induced leukemia in Italy (*46*), and has also reported a 20-fold higher risk of acute leukemia in workers exposed to benzene (*48*).

In France, Girard and his colleagues (*49, 50*) have evaluated the frequency of a benzene exposure in 401 patients hospitalized with hematological diseases as compared to a control group of 124 patients hospitalized for nonhematological diseases. They found a statistically significant increase in benzene exposure in patients with aplastic anemia, acute leukemia, and chronic lymphocytic leukemia as compared to the control.

Recently in the USA, Infante et al. (*51*) have performed an epidemiological evaluation of benzene-exposed workers in two "Pliofilm" factories. These investigators report a five-fold increased risk of total leukemia and a 10-fold risk of acute myeloblastic leukemia (or its variant, myelomonocytic leukemia) in these workers. Since they were unable to determine the status of 25 percent of the workers and assumed that they were still living, if anything, this study would underestimate the risk of leukemia.

In contrast to the pancytopenic effects of benzene where there are abundant animal models, there has only been one study reported in 1932 (*52*) claiming that animals receiving benzene developed leukemia. The absence of controls and the uncertainty as to the strain of mice in this study makes it impossible to evaluate this study. While at least one study is presently being carried out in animals, it is too premature to draw conclusions from it (*53*).

Summary of Benzene-Associated Leukemia

Benzene exposure has been associated with an increased risk of development of acute myeloblastic leukemia and its variants. Most of this evidence has been collected from epidemiological studies of workers exposed to benzene, showing an increased number of cases of leukemia in these groups. Substitution of other solvents for benzene results in a decreased number of cases. There are no animal model systems at the present time. It is not yet possible to establish a safe dose or time exposure, nor is it possible to identify any group of people more susceptible to a leukemogenic effect of benzene. It is not known whether pancytopenia must precede leukemia.

(*c*) *Other abnormalities possibly associated with benzene exposure:* While pancytopenia and acute myeloblastic leukemia are the diseases most commonly considered with benzene exposure, there are other abnormalities which have been reported to occur.

Abnormalities in leukocyte function have been reported by a number of investigators. These changes could be important, as these cells are necessary to fight infection. Among the granulocyte abnormalities are a decrease in phagocytic function (*54*), a decrease in leukocyte alkaline phosphatase activity (*55, 56*), an alteration in osmotic fragility (*57*), a change in fluorescent characteristics of the nuclei (*58*) and the presence of the Pelger-Huet anomaly of the nuclei (*28, 59-62*). The Pelger-Huet anomaly, when it is acquired, has been associated with leukemias.

Lymphocytopenia has been reported to be a common finding in benzene toxicity (*28*) and Goldwater suggested that this is even more common than granulocytopenia (*16*). Other investigators have failed to observe this, and there are some reports of lymphocytosis (*62, 63*) in man. In animals, several groups have shown that benzene decreases lymphocytes and lymphoid tissues (*64, 66*). Snyder et al. (*65*) have recently shown that lymphocytopenia is a very early manifestation of toxicity in rats and mice exposed to 100-300 ppm benzene in the air. Further studies have suggested that there is an altered immune function in benzene-exposed people. Included in these have been findings of leukocyte agglutinins (*66*), decreased serum immunoglobinulins (*67, 68*) and complement levels (*69*) and antibodies against red cells, platelets, and leukocytes (*70*).

The "immune system" of the body includes lymphocytes, lymphoid tissue, immunoglobulins, and complement. This system is involved in protecting people from substances "foreign" to the body, such as infectious agents. It may also be involved in protection against development of malignancies. The noted effects of benzene on the immune system then raise the question of whether the association with leukemia might arise from an altered immune surveillance. Another possibility is that benzene somehow alters the bone marrow so that it is recognized as "foreign" and is attacked by the so-called "suppressor lymphocytes" which have recently been postulated to be involved in aplastic anemia in people (*71, 72*).

Still other leukocyte findings have been reported which include an increased number of another type of white cell, the ecosinophil (*24, 25*), as well as the monocyte, (*73*) with abnormal-appearing monocytes present.

Abnormal platelet function has also been reported in people exposed to benzene independent of a decrease in the number of platelets (*74-83*). Morphdogical abnormalities in peripheral blood platelets, as well as the bone marrow precursor, the megakaryocyte (*28, 80, 81, 82, 83*) have been reported. This also suggests that the coagulation factors are abnormal (*75, 79*).

Macrocytosis (large volume of the red cells) is the most frequently reported abnormality of the red cell associated with benzene toxicity (*16, 19, 28, 85-88*). Large red cell precursors (in the bone marrow, macroerythroblasts) have also been reported (*89, 90*). It has been suggested that macrocytosis is of prognostic importance and might be a warning signal of benzene hematotoxicity (*91, 92*).

Significant destruction of red cells (hemolysis) has also been reported in some people exposed to benzene (*84, 93-97*). There have also been a few cases of paroxysmal nocturnal hemoglobinuria (*98*), a rare hemolytic disorder due to an acquired defect of the red cell membrane. Of note is that this rare disorder has been associated with the development of both aplastic anemia and acute myeloblastic leukemia.

In recent years studies have been performed both in people exposed to benzene (*99, 100*) and in an in vitro rabbit reticulocyte system (*101-105*) showing that benzene affects heme synthesis by inhibiting the enzymatic system necessary to synthesize this compound. Heme is a porphyrin which is a portion of the hemoglobin molecule, but is also a part of many other proteins. It is found in all cells, but it is in greatest amounts in red cells and then liver cells. Recent work has shown that heme is necessary for maximal protein synthesis in most if not all cells (*106*). When heme synthesis in red cell precursors is decreased due to a deficiency of iron (iron deficiency anemia and the anemia of chronic disease) less protein (including hemoglobin) and less red

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cells, will be produced. When the enzymes necessary to synthesize heme are inhibited protein snythesis and red cell production are also inhibited, but iron accumulates in the mitochondria of these cells. The accumulation of iron in the mitochondria gives a characteristic morphological picture and is termed a "sideroblastic anemia" (*107*). Of note is that "sideroblastic anemia" is a common presentation of a "preleukemia". It has been postulated (*108–109*) that a deficiency of heme in bone marrow pluripotential stem cells (precursors of all the marrow elements) could conceivably result in an inability to make protein and thus an inability to mature, divide, and make any of the formed cells of the blood.

While the association of benzene exposure and acute myeloblastic leukemia appears definite, the association with other types of leukemia and malignancies is still unclear. In France it has been noted that there is a relatively high incidence of chronic lymphocytic leukemia, often greater than that of acute myeloblastic leukemia in people exposed to benzene (*49, 50, 110*). Furthermore, three cases of chronic lymphocytic leukemia have been reported from the Soviet Union (*110*). In contrast, Aksoy in Turkey, Vigliani in Italy, and Infante in the United States have not reported this association. The reason for this difference is not yet clear.

There is also inconclusive evidence suggesting that benzene might be associated with other diseases, including acute lymphoblastic leukemia, lymphomas (*110–118*), chronic myelogenous leukemia, and myelofibrosis and myeloid metaplasia (*98, 119–121*).

Evidence has been presented that benzene causes chromosomal aberrations. Since most (if not all) carcinogens are mutagens, the observation that benzene causes chromosomal damage in man suggests that it is also a mutagen. Even though there is a rapid, convenient, accurate in vitro system ("The Ames Test") for mutagen testing (*122*), apparently benzene is too toxic for use in this test system (*123*). In any event the assessment of damage to mammalian chromosomes is probably much more directly relevant to estimation of human health hazards from a mutagen, than any in vitro test system.

Chromosomal damage can lead to cell death if it interferes with cell division (mitotic poison). If it does not interfere with cell division, the lesion is replicated and a mutation may result. Not all mutations will lead to malignant changes, but there is an increased likelihood of a malignancy when mutational events occur.

The mitotic poison effect of benzene has been well demonstrated. There is a decrease in DNA synthesis in in vitro cultures of human (*124, 125*) and animal cells after in vivo exposure to benzene (*11–13, 38, 126, 127*). A defect in RNA synthesis has also been reported (*11*) in the basophilic normoblast, but not in earlier red cell precursors. In these studies (*11*) it was implied that marrow from benzene-treated mice, injected into other mice (lethally irradiated), could still form colonies of bone marrow cells in the spleens. This is evidence that the pluripotential stem cells are not affected by benzene. These studies in animals used very high doses of benzene (0.2–0.3 ml/kg/day at least 3 times per week for 6–12 weeks). The studies were performed only after the animals had become pancytopenic. Of note is that toluene and xylene have not been toxic in these animal systems. Indeed, a recent report by Andrews et al. (*128*) has shown that toulene can protect against benzene-induced decreased incorporation of ^{59}Fe into red cells.

There have been several studies attempting to locate a nuclear lesion within cells of humans exposed to benzene. In healthy workers with a history of exposure to benzene, Tough and Court-Brown (*129–130*) have noted unstable chromosome damage such as breaks and gaps in cultured lymphocytes. Chromosomal abnormalities in people exposed to benzene without any clinical abnormalities have also have been noted in other studies (*55, 131, 132*). These changes were not noted in workers exposed to toluene (*133*).

In addition there have been numerous reports of chromosomal abnormalities in patients with hematological disease and a history of benzene exposure (*44, 133–136*). However, it is impossible to state whether or not these abnormalities are indeed due to benzene or a result of the underlying disease.

Summary. Benzene exposure has been implicated as causing abnormalities in the function of leukocytes, platelets, red cells, and the immune system. In addition, abnormalities in prophyrin and heme synthesis have been reported. It is possible, but not yet proven, that there is an increased risk of developing chronic leukemias and lymphomas. The abnormalities in chromosomes seen with benzene exposure are consistent with a mutagenic potential of this agent. However, these changes could result from the proven ability of benzene to act as a mitotic poison.

B. Conclusions

(1) Chronic benzene exposure has been shown to be associated with an increased risk of developing hematological disorders including pancytopenia, acute myeloblastic leukemia (and its variants, erythroleukemia and myelomonocytic leukemia), and chromosomal abnormalities. There is also evidence that benzene exposure causes abnormalities in poryphrin and heme synthesis and is associated with qualitative abnormalities in leukocytes, platelets, red cells, and the immune system. It is possible that there is also an increased risk of developing other leukemias, lymphomas, and hematological disorders.

(2) Neither the dose of benzene nor the time of exposure required to develop these complications is known. Neither is it known if benzene or a metabolite of benzene is the toxic agent. No particular groups have been definitively shown to be more susceptible to benzene.

(3) In consumer products there is no possible control as to the method of use, extent of exposure or length of exposure. An experiment to determine the amount of benzene exposure from a consumer product was recently performed by NIOSH (137). They used a paint remover purchased over the counter which was found by gas chromatography to contain 52 percent benzene by volume. To simulate a typical exposure, an end table was stripped in a home garage. Five samples of air were collected and found to contain 73–225 ppm benzene, with a mean of 130 ppm. These results were similar to that reported previously by Otterson measuring air concentrations of benzene in commercial furniture stripping factories. Therefore, the presence of benzene in consumer products constitutes a health hazard.

(4) There is no evidence at present that toluene or xylene which have been used as substitutes for benzene have the same chronic effects as benzene.

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[FR Doc. 78-13663 Filed 5-18-78; 8:45 am]

[6355-01]

[16 CFR Part 1500]

PRODUCTS REQUIRING SPECIAL LABELING UNDER SECTION 3(b) OF THE FHSA; BENZENE

Proposed Amendment

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission proposes to amend a regulation under the Federal Hazardous Substances Act (FHSA) which mandates special cautionary labeling for products containing 5 percent or more by weight of benzene. The proposed amendment provides that the FHSA regulation will not be applicable to consumer products, except gasoline, which are subject to a new regulation under the Consumer Product Safety Act (CPSA) banning benzene-containing consumer products, except gasoline and solvents and reagents for laboratory use. Elsewhere in this issue of the FEDERAL REGISTER the Commission proposes the new CPSA banning regulation.

DATES: Comments concerning this proposal must be received by June 30, 1978. It is expected that this amendment will become effective when any final CPSA ban concerning benzene is effective.

ADDRESS: Comments should be sent to Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Francine Shacter, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: In this issue of the FEDERAL REGISTER the Commission has proposed a rule (16 CFR Part 1307) under section 8 of the Consumer Product Safety Act (CPSA), declaring all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant at levels of 0.1 percent or greater to be banned hazardous products.

The Commission notes that there is currently in existence a labeling regulation under the Federal Hazardous Substances Act (FHSA) applicable to benzene which is intended to address, among other things, the risk of blood dyscrasias which may result from benzene inhalation. This regulation, at 16 CFR 1500.14 (a)(3) and (b)(3), requires that products containing 5 percent or more by weight of benzene must be specially labeled with the signal word "danger", the word "poison", the skull and crossbones symbol, and the statement of the hazard "vapor harmful." Products containing 10 percent or more by weight of benzene must bear the additional statement of hazard "harmful or fatal if swallowed" as well as the statement "If swallowed, do not induce vomiting. Call physician immediately."

The Commission now proposes to amend the FHSA regulation to indicate that it will not be applicable to products covered by the FHSA regulation that are also banned hazardous products under any final CPSA rule. Since proposed Part 1307 is applicable only to consumer products and specifically exempts gasoline, the FHSA labeling requirements are proposed to be retained for benzene-containing gasoline and for other hazardous substances containing benzene which are not consumer products—for example, certain automotive products which are excluded from Commission jurisdiction under the CPSA, but not under the FHSA, to the extent they are distributed for use in or around a household. In addition, the Commission concludes that any consumer products containing benzene that might not be covered by any final ban because of the date they are manufactured, imported or introduced into commerce, should continue to be subject to the FHSA labeling requirements.

Since the purpose of this proposed amendment is to eliminate the possibility of confusion concerning labeling products that are banned, it is proposed that the amendment be conditional upon Part 1307 being issued in final form and its continuing in full force and effect. If, at any time, any requirement of Part 1307 relating to products within the scope of § 1500.14 (a)(3) and (b)(3) is stayed, revoked, or set aside by judicial or other action, the amendment restricting the application of the FHSA labeling requirement is to be withdrawn, and a FEDERAL REGISTER notice will be issued reinstating full applicability of the FHSA regulation. It is proposed that this amendment will become effective at the same time any final CPSA ban concerning benzene is effective.

AMENDMENT

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(f)(1)(A), 3(b), 74 Stat. 372, 374, as amended 80 Stat. 1303-1304, 15 U.S.C. 1261(f)(1)(A), 1262(b); sec. 10(a), 74 Stat. 378, 15 U.S.C. 1269); and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231, 15 U.S.C. 2079(a)), the Commission proposes to amend 16 CFR 1500.14(b)(3) by adding a new subparagraph (iv) as follows:

§ 1500.14 **Products requiring special labeling under section 3(b) of the act.**

(a) • • •
(b) • • •
(1) • • •
(2) • • •
(3) *Benzene, toluene, xylene, petroleum distillates.*
(i) • • •
(ii) • • •
(iii) • • •

(iv) Since the Commission has issued a regulation under the Consumer Product Safety Act (CPSA) banning benzene-containing consumer products, except gasoline, covered by this labeling regulation (see 16 CFR Part 1307), subparagraph (i) of this subsection is inapplicable to consumer products containing benzene as an intentional ingredient, except gasoline, which are covered by Part 1307.

Subparagraph (i) continues to apply gasoline and other hazardous substances containing benzene, intended or packaged in a form suitable for use in the household, which are not "consumer products" as that term is defined in the CPSA.

This amendment is conditional upon Part 1307 continuing in full force and effect.

Dated: May 15, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-13664 Filed 5-18-78; 8:45 am]

[6355-01]

[16 CFR Part 1700]

SUBSTANCES REQUIRING SPECIAL PACKAGING; BENZENE

Proposed Amendment

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission proposes to amend a regulation under the Poison Prevention Packaging Act of 1970 (PPPA), which requires child-resistant packaging for certain benzene-containing solvents for paint or other similar surface coating materials. The proposed amendment provides that the PPPA regulation will not be applicable to consumer products covered by the PPPA regulation which are subject to a new regulation under the Consumer Product Safety Act (CPSA) banning benzene-containing consumer products, except gasoline and solvents and reagents for laboratory use. Elsewhere in this issue of the FEDERAL REGISTER the Commission proposes the new CPSA regulation.

DATES: Comments concerning this proposal must be received by June 30, 1978. It is expected that this amendment will become effective when any final CPSA rule concerning benzene is effective.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Francine Shacter, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

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SUPPLEMENTARY INFORMATION: In this issue of the FEDERAL REGISTER the Commission has proposed a rule (16 CFR Part 1307) under section 8 of the Consumer Product Safety Act (CPSA), declaring all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant at levels of 0.1 percent or greater to be banned hazardous products.

There is currently in existence a regulation under the Poison Prevention Packaging Act of 1970 (PPPA) at 16 CFR §1700.14(a)(15) requiring child-resistant packaging for prepackaged liquid solvents (such as removers, thinners, brush cleaners, etc.) for paints or other similar surface-coating materials (such as varnishes and lacquers) that contain 10 percent or more by weight of benzene, toluene, xylene, petroleum distillates, or combinations thereof, and that have a viscosity of less than 100 Saybolt Universal Seconds at 100° F.

It is apparent that many of the products covered by §1700.14(a)(15) will become banned hazardous products when proposed Part 1307, applicable to benzene-containing consumer products, except gasoline and laboratory benzene, is issued in its final form. Therefore, to eliminate any possible confusion which may arise from retaining a PPPA special packaging regulation for certain products which are now proposed to be banned hazardous products under the CPSA, the Commission proposes to amend §1700.14(a)(15) to indicate that it will not be applicable to products covered by the PPPA regulation that are also banned hazardous products under any final CPSA rule.

Since the purpose of this proposed amendment is to eliminate the possibility of confusion concerning requiring special packaging for products that are banned, the amendment is conditional upon Part 1307 being issued in final form and continuing in full force and effect. If, at any time, any requirement of Part 1307 relating to products within the scope of §1700.14(a)(15) is stayed, revoked, or set aside by judicial or other action, the amendment restricting the application of the PPPA special packaging requirement is to be withdrawn, and a FEDERAL REGISTER notice will be issued reinstating full applicability of the PPPA regulation. The Commission proposes that this amendment will become effective when any final ban under the CPSA concerning benzene becomes effective.

AMENDMENT

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (Pub. L 9-601; Secs. 2(4), 3, 5, 84 Stat. 1670-72, 15 U.S.C. 1471(4), 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231, 15 U.S.C. 2079(a)), the Commission proposes to amend 16 CFR §1700.14(a)(15) by adding the following language at the end of paragraph 15:

§1700.14 Substances requiring special packaging.

(a) Substances.

. . . . . .

(15) * * * Since the Commission has issued a regulation under the Consumer Product Safety Act (CPSA) banning consumer products containing benzene as an intentional ingredient (see 16 CFR 1307), this paragraph is inapplicable to those benzene-containing consumer products which are covered by Part 1307. (This amendment is conditional upon Part 1307 continuing in full force and effect.)

Dated: May 15, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-13655 Filed 5-18-78; 8:45 am]

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federal register

FRIDAY, MAY 19, 1978
PART V



DEPARTMENT OF LABOR

Office of the Secretary

■

SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH

Final Rules

federal register

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[4510-30]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Summer Program for Economically Disadvantaged Youth

AGENCY: Department of Labor.

ACTION: Final rules.

SUMMARY: The purpose of this document is to publish final regulations for the summer program for economically disadvantaged youth in order to give summer sponsors guidance for this year's program.

EFFECTIVE DATE: June 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-2646.

SUPPLEMENTARY INFORMATION: Section 304(a)(3) of the Comprehensive Employment and Training Act of 1973, as amended (hereinafter referred to as CETA), states that the Secretary of Labor may provide financial assistance under CETA for programs designed to aid economically disadvantaged youth. Section 702(a) of CETA states that the Secretary may prescribe such rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor, Employment and Training Administration is revising the regulations accompanying Title III, section 304(a)(3) of the Comprehensive Employment and Training Act of 1973 as amended, in order to provide for the implementation of the 1978 summer program.

On April 5 and 7, 1978, the Department of labor published in the FEDERAL REGISTER proposed regulations to implement a Comprehensive Employment and Training Act program for economically disadvantaged youth during the summer months. A thirty day comment period was provided for public reaction to the proposed regulations. The comment period ended on May 5, 1978. Over eighty responses were received during the 30 day comment period. These responses were received from members of Congress, Governors, mayors and county executives, national organizations representing community interests, labor organizations, youth organizations, school administrators, business and employer organizations, as well as numerous prime sponsors. Each comment was carefully studied with respect to the merits of the suggestions on their own and in relation to other comments received on the same or similar subjects.

AN OVERVIEW AND GENERAL INSTRUCTIONS FOR THE 1978 SUMMER PROGRAM

The changes made in these final regulations reflect continued efforts to improve the quality of the summer program so that youth will engage in meaningful work tasks and training programs which will develop their skill levels and enhance their future employability. Major program emphases will be placed on (1) early planning and integration of the summer program and the overall youth employability development strategy of the prime sponsor; (2) monitoring and assessment to learn more about the program and to improve performance; and (3) expanding vocational exploration programs and improving the relationship between education and work through the award of academic credit for competencies gained on the job.

The purposes and short term goals of this program are manifold. Inclusive among these, depending upon local needs of youth, are the provision of: (1) Structured well supervised work to improve work habits; (2) opportunities for vocational exploration; (3) job rotation to provide youth with exposure to different work settings which can assist them in making career decisions; (4) vocational counseling and occupational information; (5) summer income to participants who without assistance would be unable to return to school; (6) assistance for youth with special employability needs; (7) services which will induce and aid dropouts in returning to school; and (8) avenues for securing part-time in-school employment as well as full-time unsubsidized employment where return to school is not expected.

A short explanatory statement is provided to describe the substantive amendments for the final 1978 Summer Program regulations. In addition, typographical corrections have been made. A description of the amendments follows:

SUMMARY OF CHANGES FROM PROPOSED REGULATIONS

SECTION 97.7 PROGRAM PLANNING; PLANNING AND YOUTH COUNCILS

Several comments were received requesting that the provisions of this section be clarified. In the proposed regulations of April 5, 1978, paragraph (b) contained several items that suggested that operational activities such as counseling and job orientation might be undertaken during the planning and design phase of the program year. This is not so. Only activities chargeable to administrative costs may be undertaken prior to the closing of the school year. In response to these comments paragraph (b) has been revised to clarify that only planning and design activities are allowable between the period of January 1 and the close of school each year.

SECTION 97.9 COMMENT AND PUBLICATION PROCEDURES

Various comments were received from several prime sponsors who objected to the provisions which forbade the RA from approving grant applications until after the 30 day comment period. A new sentence has been added to provide that the RA may conditionally approve a grant application within the 30 day comment period provided the prime sponsor subsequently acknowledges any written comments, and, if warranted by these comments, modifies the grant. This change is being made to enable the program to commence operation in the most expeditious manner and to allow youth to be enrolled in the program soon after the closing of school.

SECTION 97.13 BASIC REPORTS FOR PROGRAM OPERATION

The proposed rules indicated in paragraph (c) that services should be provided on an equitable basis to significant demographic segments among economically disadvantaged youth, taking into consideration the Secretary's priorities and the geographic distribution of eligible youth. Numerous comments questioned the meaning of "equitable". There were concerns that it had one meaning when applied to services that would be provided to each significant segment, and another when referring to the distribution of services to youth in different geographic locations. Some comments indicated that the lack of clarity in the proposed regulations might lead to minority youth being served to a lesser degree despite the intensity of their problems.

In response to these comments, the paragraph has been changed to indicate that services must be provided on an equitable basis considering the geographic distribution of eligible youth, and that in serving eligible youth, those most in need, as determined by local conditions and the Secretary's priorities, should be served.

SECTION 97.14 PARTICIPANT ELIGIBILITY

The proposed rules in (a)(1) requires that eligible youth be economically disadvantaged, defined as having a

family income level of 70 percent or less of the Bureau of Labor Statistics lower living standard. Some of the comments requested a revision of the family income criteria to 85 percent of the lower living standard which is the criteria for the Youth Employment and Training Programs under CETA. The arguments for this change were that there were many youth with serious needs living in families with income between 70 and 85 percent of the lower living standard, and that a consistent criteria between the new youth programs and the summer program would permit greater integration. The change was not made because of the intent to serve youth most in need first and the evidence that resources are not adequate to reach all youths below the 70 percent standard. The 70 percent standard is consistent with the definition of the CETA Title I and III programs, and, in fact, the Youth Employment and Training Programs are to give priority to economically disadvantaged youth as defined by the 70 percent standard.

Section (a)(3) in the proposed rules stated that current participants in other CETA programs who at the time of their enrollment into those other programs met the criteria for the summer program would be eligible for the summer program. Comments indicated that youth who met the age criteria at entry into another CETA program might no longer meet the age criteria for the summer program. The section was changed to allow enrollment of current participants in other CETA programs in the summer program without recertification of the youth's family income, but requires that age criteria for the summer program be met at the commencement of participation.

Section 3(b) in the proposed regulations required that participants be citizens of the United States, natives of the territories or permanent resident aliens or other aliens who have been permitted to accept permanent employment in the United States. One comment noted a lack of specification about the treatment of refugees and suggested more straightforward language to clarify the alien population which could be served. Accordingly, the final regulations adopt the language in § 99.42(c)(3) of the Title VI regulations, which provides clear language on this subject and includes a provision for eligibility of refugees and parolees.

SECTION 97.15 TYPES OF EMPLOYMENT AND TRAINING PROGRAMS AVAILABLE

Title II of the Youth Employment and Demonstration Projects Act of 1977 (YEDPA) established the Youth Incentive Entitlement Pilot Projects (YIEPP). Regulations governing the administration and operation of these projects were published in the FEDERAL REGISTER on December 9, 1977 as 29 CFR Part 97, Subpart F. Section 97.522 of these regulations authorizes that funds provided under the summer program may be integrated with YIEPP funds. Therefore a new paragraph (b) has been added to § 97.15 to indicate that prime sponsors operating YIEPP grants may use summer funds for their entitlement project. This paragraph was inadvertently omitted in the publication of the proposed regulations.

SECTION 97.16 VOCATIONAL EXPLORATION PROGRAM

The proposed regulations, at § 97.16(a)(1)(i)(A), proposed to require that allowances rather than wages were to be paid to youths in vocational exploration programs. Allowances were to be paid in accordance with 29 CFR 95.34 which is based on Section 111(a) of the Act. 29 CFR 95.34 provides that youths from families not receiving welfare benefits receive basic allowances equal to the highest of the rate of the Federal minimum wage at sec. 6(a)(1) of the Fair Labor Standards Act, as amended, or the minimum hourly wage prescribed by State or local law for employment in the prime sponsor's area multiplied by the number of hours of participation in the CETA program, computing the basic allowance in this matter results in an allowance that is over $100 for a 40 hour week. 29 CFR 95.34 also provides that youths from families receiving welfare get incentive allowances of $30 per week which are disregarded in computing their families' income eligibility for welfare benefits.

Several commenters opposed the regulations. Most of those in opposition thought that the allowance scheme was very inequitable to youth whose families receive welfare. One labor federation opposed the regulation for the same reason and also because it seemed to legitimize a subminimum "wage" for youth thus encouraging employers to "hire" a youth instead of, for example, an unemployed older worker with several dependents. Some commenters suggested that the Department use an allowance scheme for the summer program different from that in the Title I regulation at 29 CFR 95.34.

The Department, through its regulations, has consistently held that the allowance provisions in Sec. 111(a) of the Act apply to all titles of the Act unless otherwise specifically provided in the Act. Without this interpretation, the $30 disregard provision would apply only to families on welfare whose members are in Title I programs. Therefore, the Department has decided not to set up a separate allowance system for the summer program.

Also, the Department's regulations do not permit individual participants to receive both the basic and incentive allowances, simultaneously. It should be noted that should a youth from a family receiving welfare receive both allowances the basic allowance would be counted as income for welfare eligibility purposes, thus perhaps even lessening the family's overall income.

Recognizing that payment of the incentive allowance alone might discourage welfare youth from participating in a vocational exploration program, even though such youths would be likely to have the greatest need for such services, § 97.16(a)(1)(i)(A)(2) provides for the payment of a stipend in addition to the incentive allowance to cover the exceptional expenses incurred by these participants which might otherwise prevent them from participating in VEP activity. The stipend plus the incentive allowance may not exceed the basic allowance.

The VEP program is a job learning activity and program operators may not place youth in productive activities. Since the program does not involve work, compensation may not be paid in the form of wages. The allowance, therefore, is not meant to be a wage, and program operators and prime sponsors are expected to carefully monitor their programs to make sure that this regulation is adhered to.

SECTION 97.17 STARTUP OF PROGRAM

The Department received a few comments which expressed concern that the proposed provisions of § 97.17 prohibit the hiring of economically disadvantaged college youth to work as program staff. The proposed § 97.17 does not prohibit the hiring of youth as staff but prohibits prime sponsors from starting program activities and enrolling youth into program activities prior to the close of school. This prohibition is not meant to restrict the prime sponsor from taking the steps necessary to assure that the program may begin operation as soon after the close of school as is possible. Economically disadvantaged college students may be hired as staff before the program starts operations; however their salaries must be charged to administrative costs.

Paragraph (b) of this section has been revised in response to some comments which asked that these provisions be revised to clearly state which startup activities are permissible during the planning phase of the program. These revisions have been made to state more clearly that only planning and program design activities may be performed prior to the close of the school year but not program operations such as enrolling partcipants in program activities.

SECTION 97.19 PARTICIPANT BENEFITS

The proposed regulations required that participants in classroom training

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receive workers' compensation as provided in § 98.24(a) of the CETA regulations. The Department received some comments suggesting that coverage under either workers' compensation or health and accident insurance be permitted since it is not always possible or expedient to obtain workers' compensation coverage for such individuals. Accordingly, the language of § 97.19(a) has been revised to clarify that benefits will be provided in accordance with § 98.24(a)(2) which mandates medical and accident insurance coverage for classroom training participants where those similarly engaged are not covered by workers' compensation. Since classroom training does not involve employment, it is generally not covered by workers' compensation laws.

In paragraph (c), concerning work experience participants, language has been added to indicate that unemployment insurance shall be an allowable cost only if required by State law. This provision reflects a determination that excessive expenditures of program funds for unemployment insurance would be inconsistent with the purpose and priorities of the summer program, i.e., the provision of short-term employment and training opportunities to disadvantaged youth.

A new paragraph (e) has been added to indicate that participants in vocational exploration programs shall receive allowances as described in § 97.16, discussed above, and benefits as provided in § 98.24(a)(2). The rationale for providing health and accident insurance coverage, rather than worker's compensation, to classroom training participants also applies to vocational exploration programs, which involve learning experiences rather than productive work.

SECTION 97.23 REPORTING REQUIREMENTS

Paragraph (e) has been relettered (f) and a new paragraph (e) has been added to require prime sponsors to submit information on participants and expenditures in entitlement projects under Title III, Part C, Subpart 1 of the Act which are funded with summer program funds. This provision, as well as § 97.15(b), are authorized by the entitlement provisions, which were enacted into law on August 5, 1978.

SECTION 97.25 ADMINISTRATIVE PROVISIONS

This section of the proposed regulations received the largest number of responses of any provisions of the April 5, 1978 publication. Approximately 130 specific protests against various provisions of this administrative section were received. Letters and telegrams were received focusing upon these provisions protesting the additional paperwork burdens required by this section.. A commenter wrote, "I heartily protest the adoption of these reporting requirements as written and urge that you make substantial revisions in § 97.25, Administrative Provisions, • • •." Many prime sponsors protested that to implement these provisions would be "very costly" and that the "entire section is unwarranted in extent of its prescription." Others stated that the administrative provisions "are in direct conflict with President Carter's and Secretary Marshall's commitment to reducing paperwork."

Only one commenter felt that the provisions should be more prescriptive and suggested additional requirements that should be included in this section.

Considering the concerns expressed by the many responses received recommending revisions to these provisions, the Department has decided to make a number of revisions.

On making such revisions, however, the Department wishes to assure that any abuses which may have occurred previously in the summer program be prevented. Therefore rather than eliminating the provisions of this section, the language of paragraph (b) (3), (4), (5), (6) and 7 has been changed to require assurances of program operators that the abuses addressed in each proposed provision will not occur or have been corrected, rather than prescribing procedures such as the submission of listings or corrective action plans.

In paragraph (b) (3) which previously required that program operators state that all worksites have been evaluated in terms of the requirements of the program, the language has been changed to require program operators to "assure" that such worksites meet the requirements of this subpart. This language change provides consistency with the other provisions of this section requiring assurances.

In paragraph (b) (4) which previously required each program operator to submit the names and qualifications of its personnel, the provision has been changed to require that operators will assure that such information will be available for monitoring purposes.

Similarly in paragraph (b)(5), the requirement that a list of all Federal programs previously administered by summer program operators be submitted with their applications has been changed to "assure" that such information be available for review during monitoring visits. In addition, the Federal programs covered by the provision have been limited to only Department of Labor; Department of Health, Education, and Welfare; and Department of Agriculture programs. This is in response to the numerous comments indicating that in many jurisdictions information on all Federal programs administered by summer program operators is not readily available. Also, some commenters objected to the provision because of the extensive volume of paperwork involved.

To be consistent with the preceding paragraphs, the language of paragraph (b) (6) has been revised to require operators to "assure" that in previous years thay have substantially complied with CETA and the regulations governing the summer program.

The provisions of paragraph (b) (7) have been deleted. Numerous comments suggested the difficulty of securing information on convictions for fraud or obstruction of investigations for all persons subject to the disclosure requirements. There were also uncertainties about the use and interpretation of such information.

Paragraph (b)(8) has been renumbered to become the new paragraph (b)(7).

In addition to these revisions in paragraph (b), the introductory statement of the paragraph has been revised to clarify (1) that all organizations public, private non-profit, and private sector can be funded for allowable activities or operations of the summer program; and (2) that the provisions of this paragraph apply to all subgrants or contracts.

SECTION 97.26 ALTERNATIVE REMEDIES

The proposed regulations specified the Secretary's authority to suspend or terminate in whole or in part a prime sponsor's programs and grants and/or subgrantee or contractor agreements where there is reason to believe that prime sponsor, subgrantee, or contractor has materially violated the provisions of the Act, the regulations, the terms of the summer grant, or is administering the program in an inefficient or incompetent manner. This specification was included to assure timely action since the summer program is of such short duration that extended investigations and corrective actions might not correct or eliminate material violations before the end of the summer.

Some comments were received expressing concern that the long term relationship between prime sponsors and subgrantees would be seriously undermined and the legal concept of "due process" violated by the language in paragraph (a) which allowed the Secretary to employ remedies whenever the Secretary "has reason to believe" that a prime sponsor or one of its subgrantees or contractors has violated a provision of the Act, or the regulations. In response to this concern a new paragraph (c) was added to provide for hearings when the Secretary takes such remedies as allowed under this section.

1. In § 94.3, Consolidated table of contents for Parts 94-99; the table of

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contents for Part 97, Subpart A is revised to read as follows:

SUBPART A—SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

General

Sec.
97.1 Scope and purpose.
97.2 Allocations of funds.
97.3 Unexpended previous year Summer Program funds.
97.4 Eligibility for funds.

Grant Planning, Application and Modification Procedures

97.5 Content and description of grant application.
97.6 Preapplication for Federal assistance.
97.7 Program planning; planning and youth councils.
97.8 Description of the Summer Plan.
97.9 Comment and publication procedures.
97.10 Submission of Summer Plan; review and approval.
97.11 Use of alternative prime sponsor and services by the Secretary; reallocation of funds.
97.12 Modifications to the Summer Plan.

Program Operations

97.13 Basic requirements of prime sponsors.
97.14 Eligibility for participation.
97.15 Types of employment and training programs available.
97.16 Vocational exploration program.
97.17 Start-up of program.
97.18 Worksite standards.
97.19 Participant benefits.
97.20 Training for lower wage industries and relocation of industries.
97.21 Nepotism.
97.22 Nondiscrimination in native American programs.
97.23 Reporting requirements.
97.24 Termination date for the summer program.
97.25 Alternative provisions.
97.26 Alternative remedies.

2. Accordingly, Subpart A of Part 97 of Title 29 of the Code of Federal Regulations is amended to read as follows:

Subpart A—Summer Program for Economically Disadvantaged Youth Under the Comprehensive Employment and Training Act

GENERAL

Sec.
97.1 Scope and purpose.
97.2 Allocation of funds.
97.3 Unexpended previous year summer program funds.
97.4 Eligibility for funds.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.5 Content and description of grant application.
97.6 Preapplication for Federal assistance.
97.7 Program planning, planning and youth councils.
97.8 Description of the summer plan.
97.9 Comment and publication procedures.
97.10 Submission of summer plan; review and approval.
97.11 Use of alternative prime sponsor and services by the Secretary; reallocation of funds.
97.12 Modifications to the summer plan.

PROGRAM OPERATIONS

97.13 Basic requirements of prime sponsors.
97.14 Eligibility for participation.
97.15 Types of employment and training programs available.
97.16 Vocational exploration program.
97.17 Start-up of program.
97.18 Worksite standards.
97.19 Participant benefits.
97.20 Training for lower wage industries and relocation of industries.
97.21 Nepotism.
97.22 Nondiscrimination in native Americans programs.
97.23 Reporting requirements.
97.24 Termination date for the summer program.
97.25 Administrative provisions.
97.26 Alternative remedies.

AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended Pub. L. 93-203, 87 Stat. 839 (29 U.S.C. 801 et seq.); Pub. L. 93-567, 88 Stat. 1845 and Pub. L. 94-444, 90 Stat. 1476), Secs. 702(a) and 304(a)(3), unless otherwise noted.

Subpart A—Summer Program for Economically Disadvantaged Youth Under the Comprehensive Employment and Training Act

GENERAL

§ 97.1 Scope and purpose.

(a) This Subpart A contains the policies, rules, and regulations of the Department in implementing and administering a Summer Program for Economically Disadvantaged Youth (hereinafter referred to as the Summer Program) authorized by Title III, section 304(a)(3), of the Comprehensive Employment and Training Act (hereinafter referred to as the Act).

(b) Programs funded under this Subpart A shall be designed by summer sponsors, defined in § 97.4, to provide summer employment and any other activities and services except public service employment described under Title I of the Act.

(c) Subpart A should be read in conjunction with Parts 94, 95, 97, and 98 of this title. The provisions of Parts 95 and 97, however, apply to this Subpart A only as indicated in specific sections of these regulations. The definitions of Part 94 and the provisions of Part 98 shall apply to this Subpart A, unless otherwise indicated in specific sections of these regulations.

(d) The Division of Indian and Native American Programs in the Office of National Programs shall have field responsibility for all matters pertaining to funds allocated to Indian and Native American Employment and Training Program summer sponsors for programs funded under this Subpart A. All references to RA in this Subpart A shall be read as Director, Division of Indian and Native American Programs, when pertaining to programs for Indian and Native Employment and Training Program summer sponsors.

§ 97.2 Allocation of funds.

(a) *General.* The funds available for Title III, Section 304(a)(3) in any Fiscal Year shall be allocated according to the procedures set forth below; except that the Secretary may reserve up to 5 percent of available funds to fund a national vocational exploration program, and for other discretionary purposes.

(b) *Prime sponsor basic allocations.* Allocations of funds for summer sponsors who are prime sponsors under Title I of the Act shall be based on the following formula:

(1) Fifty percent of such funds shall be allocated based on each sponsor area's proportion of the funds allocated for the previous year Summer Program;

(2) Thirty-seven and one-half percent of the funds shall be allocated based on the ratio of the annual average number of unemployed persons in the sponsor's area (in the most recent year for which data are available) to the total annual average number of unemployed persons in the United States in that year;

(3) Twelve and one-half percent of the funds shall be allocated based on the ratio of the number of persons in low income families in the sponsor's area to the total number of persons in low income families in the United States;

(4) Each sponsor shall receive a new allocation which when added to its unspent previous year's summer funds as of December 31, shall be equal to the amount determined by the above formula; and

(5) To the extent that funds are available, allocations shall be adjusted by the Secretary to insure that each prime sponsor area receives adequate funding to provide at least the same number of opportunities as were available in the area under the Summer Program for Economically Disadvantaged Youth in the previous year.

(c) *Native American prime sponsor allocations.* The total funds for Native American summer sponsors shall be allocated based on the ratio of the number of Native American youth 14 through 21 years of age in the eligible Native American summer sponsor's area to the total number of Native American youth 14 through 21 years in all Native American summer sponsor areas, except that adjustments in the allocations shall be made to insure that to the extent funds are available, no area receives less funds than were provided under the previous year's Summer Program.

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(d) *Other allocation.* The allocation to Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Marianas, in the aggregate, shall be equal to the same percentage of the funds allocated to them in the aggregate under the previous summer program.

§ 97.3 Unexpended previous year summer program funds.

Unexpended summer program funds as of December 31 of each year must be utilized in the next year for appropriate summer activities and expended in accordance with these regulations. During the period between January 1 and the close of the school year, these funds shall be expended consistent with the provisions of §§ 97.7(b) and 97.17.

§ 97.4 Eligibility for funds.

The following are eligible to be summer sponsors:

(a) Prime sponsors designated to operate programs under Title I of the Act; and

(b) Native American Employment and Training Program prime sponsors which are Indian tribes on Federal or State reservations, recognized tribes in Oklahoma and Alaskan native villages.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

§ 97.5 Content and description of grant application.

In order to receive funds, each eligible summer sponsor shall submit a summer plan which, when approved, together with the Prime Sponsor Agreement (PSA), shall become the grant application.

§ 97.6 Preapplication for Federal assistance.

An eligible summer sponsor interested in receiving financial assistance shall submit a preapplication to the RA, the Governor and the appropriate State and areawide A-95 clearinghouses (See Part I of Attachment A, OMB Circular A-95) by a date established by the RA. The preapplication shall consist of Standard Form 424 as prescribed by Federal Management Circular (FMC) 74-7.

(b) State and areawide clearinghouses may request information in addition to that furnished on the preapplication form. Such a request shall be made within 30 days of receiving the preapplication in order to avoid delay in a prime sponsor applicant's preparation of its summer plan.

(c) The A-95 clearinghouses shall within 30 days of receiving the preapplication, inform the prime sponsor applicant of any actual or potential problems with the preapplication and notify the prime sponsor applicant if they wish to review the completed plan. If the prime sponsor applicant receives no such notifications, the prime sponsor applicant has fulfilled its obligation under A-95 and it may submit its plan to the RA without submitting it to the A-95 clearinghouses.

§ 97.7 Program planning; planning and youth councils.

(a) (1) In developing the summer program the prime sponsor shall coordinate such plan with its Title I, YETP, and YCCIP annual plans.

(2) Eligible summer sponsors which are prime sponsors under Title I of the Act shall utilize the planning process and planning council, as described in § 95.13 (b) and (c) of this title; and the youth council established for YETP. The roles and responsibilities of the youth council shall be those described in § 97.705(b) (1), (2), (3), and (5).

(b) Upon approval from the RA, the following planning and design activities shall be allowable beginning January 1 of each year:

(1) Hiring of staff (planners, worksite developers, intake specialists, etc.);

(2) Development of summer plan;

(3) Publication and clearance through A-95;

(4) Worksite development;

(5) Recruitment, intake and selection, but not enrollment;

(6) Establishment of arrangements for supportive services;

(7) Dissemination of program information;

(8) Development of coordination between schools and other services;

(9) Staff training; and

(10) Other activities with the approval of the RA that may be characterized as planning and design but not program operation.

§ 97.8 Description of the summer plan.

The summer plan consists of the following items:

(a) Approval Request Letter.

(b) Application for Federal assistance (Standard Form 424) which is contained in FMC 74-7.

(c) Narrative description of the summer program consisting of the following:

(1) Objectives and needs for assistance—a discussion of:

(i) The program's purpose and goals in terms of local needs of youth; and

(ii) The rationale for the selection of significant segments by the summer sponsor as it relates to the program purposes and goals.

(2) Results and benefits expected—a discussion of:

(i) How the enrollment of participants in the various program activities and the projected program outcomes reflect the program purposes. This should include a description of how the program activities will serve the needs of the particular significant segments designated by the summer sponsors;

(ii) Efforts to obtain academic credit for youth as a result of competencies gained on the job during the summer program; and

(iii) Other benefits which will accrue to participants.

(3) Approach—a description of:

(i) The role of the Youth Council in the formulation of the summer program;

(ii) How analyses of the previous summer program were used in the planning of the program including the selection of the worksites;

(iii) The methods, procedures, standards, etc., used to make worksite selections and items to be covered by worksite agreements;

(iv) Special methods, if any, specifically designed for recruitment of summer participants (as distinguished from other participants) and who the recruiting agent(s) will be;

(v) The intake process, including the particular methods to be used and the identity of the service providers;

(vi) The process of determining eligibility and the verification methods to be used;

(vii) The orientation, assessment, and assignment process;

(viii) The work experience, on-the-job training and; classroom training activities indicating the number of youth who will be served in each of these components, and a discussion of labor market orientation and any skill training and remedial education to be provided;

(ix) Any special services to be provided to designated significant segments;

(x) The supportive services which will be provided to participants;

(xi) Any vocational exploration programs, funded under the summer plan, including:

(A) Number of total participants and planned expenditures;

(B) Name of organizations with which the prime sponsor has a contract or written agreement listing the number of participants and types of occupations to which participants will be exposed;

(C) The methods and techniques which will be used to provide broad career exposure;

(D) The methods the prime sponsor has developed to ensure that youth are not involved in work experience or any other activity which contributes to, or could be expected to contribute to, additional sales or profit for a private-for-profit organization or otherwise result in the subsidization of wages for such organizations; and

(E) Evidence of the approval of labor organizations representing employees in the affected collective bargaining units;

(xii) The methods and delivery agents which will be used in placing participants into jobs, other CETA programs, etc., and of arrangements for providing continuity of services, and the efforts that will be made to encourage participants to return to school;

(xiii) A description of the linkages established with SESA's, local educational agencies and post secondary institutions, labor organizations, the private sector (other than organizations conducting vocational exploration programs), neighborhood and community based organizations and other youth related programs/agencies; and

(xiv) How the summer program will enhance the employment potential of participants and how this strategy will be coordinated with other CETA programs.

(4) Management and Administration Plan.

(i) An organization chart and staffing pattern and an explanation of how it relates to the prime sponsor's regular organization pattern;

(ii) A detailed description of monitoring procedures, including the number of planned visits to each worksite, the activities to be monitored, and procedures and time frames for taking corrective action, including followup visits;

(iii) A discussion of plans to assess the overall program and the performance of each worksite employer, including how the knowledge gained will be used to impove the quality of other youth programs and the next year's summer program;

(iv) A description of any special payroll process or any special allowance payment system not previously described in the PSA; and

(v) A discussion of the cost plan, including an explanation of how administrative costs were determined.

(d) CETA Youth Program Planning Summary and Youth Budget Information summary which provide information on the estimated number of participants and accrued expenditures.

§ 97.9 Comment and publication procedures.

The comment and publication procedures of § 95.15 shall be applicable to the summer program, except that the newspaper publication and provision of the application to Governors, appropriate units of government, appropriate Native American prime sponsors, appropriate labor organizations and State and sub-State clearinghouse(s) may be simultaneous with submission of the summer plan to the RA. However, in order to expedite the start of the summer program operations in the most effective manner, the RA may conditionally approve the grant application within the 30 day comment period: *Provided,* The prime sponsor subsequently acknowledges any written comments pursuant to § 95.15 (e) and if warranted by such comments modifies the grant pursuant to § 95.21(a) (2) (i).

§ 97.10 Submission of summer plan; review and approval.

(a) A program shall be undertaken upon execution of the summer plan between a summer sponsor and the RA. The RA shall send a summer plan package to each eligible summer sponsor. The summer plan shall be submitted to the RA not later than a date set by the RA.

(b) Each summer program shall be reviewed by the appropriate RA using all the standards described in § 95.17 (a) and (b) (1), (7), (8), and (9) of this title.

(c) Each summer plan shall be approved or disapproved under the provisions and conditions described in §§ 95.18 and 95.19 of this title.

§ 97.11 Use of alternative sponsor and services by the Secretary; reallocation of funds.

(a) If a summer plan is not submitted, or is denied, or terminated, the Secretary may make provisions for the use of an alternative sponsor, or provide services directly pursuant to § 95.20 of this title.

(b) The reallocation provisions of § 98.11 of this title shall be applicable to the summer program, except that reallocation may occur immediately (without regard to the number of months that have elapsed in the fiscal year of the grant) after completion of the notice and comment procedure specified in § 98.11(d). The comment period specified in § 98.11(d)(2) shall be limited to 10 days. Priority shall be given in reallocating such funds to other areas within the same State.

§ 97.12 Modification to the summer plan.

(a)(1) A modification to the summer plan requiring prior regional office approval is necessary under any of the following conditions:

(i) Change in duration of the summer plan;

(ii) Change in summer plan allotment; and

(iii) Substantial change in program design and/or program goals defined as follows:

(A) When the cumulative number of individuals to be served is proposed to be increased or decreased by 15 percent or more.

(B) For grants of $100,000 or less, when the cumulative transfer of funds among program activities or cost categories exceeds $15,000.

(C) For grants of over $100,000 when the cumulative transfer of funds among program activities or cost categories exceeds $50,000 or 15 percent of the total grant budget, whichever is less.

(2) A summer sponsor desiring a modification as defined in paragraph (a)(1) of this section, shall submit a revised Youth Budget Information Summary, a revised Youth Program Planning Summary and an explanation of the proposed changes to the RA.

The RA shall notify the sponsor of approval or disapproval within 10 days of receipt of the proposed modification.

(b) The RA may initiate a modification as described in § 95.21(b)(iv) of this title.

PROGRAM OPERATIONS

§ 97.13 Basic requirements for program operation.

Each summer sponsor shall:

(a) Follow the regulations of this subpart;

(b) Follow the provisions described in § 95.31 (a), (b), (e), and (f) of this title;

(c) Provide services to those individuals most in need among its economically disadvantaged youth population, within the prime sponsor's jurisdiction, taking into account any priorities identified by the Secretary. Such services shall be provided on an equitable basis considering the geographic distribution of economically disadvantaged youth within the prime sponsor's jurisdiction;

(d) Design programs which are, to the maximum extent feasible, consistent with every participant's fullest capabilities;

(e) Maintain accounting records in accordance with §§ 98.12 and 98.13 of this title;

(f) Give special consideration to the needs of eligible veterans as described in § 95.32(e)(1) of this title;

(g) Develop outreach and recruitment techniques aimed at all segments of the economically disadvantaged youth population; especially school dropouts, youth not likely to return to school without assistance from the summer program, and youth who remain in school but are likely to be confronted with significant employment barriers relating to work attitude, aptitude, social adjustment, and other such factors;

(h) Provide labor market orientation to all participants. This orientation may include vocational exposure, counseling, testing, resume preparation, job interview preparation, providing labor market information, providing information about other training programs available in the area, including apprenticeship programs, and similar activities. It may be provided on a group or individual basis. Skill training and remedial education may be provided on an as-needed basis. In providing labor market orientation, skill training and remedial education, each sponsor shall make maximum efforts to develop cooperative relationships with other community resources so

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that these activities are provided in the summer program at no cost, or at minimum cost, to the summer program;

(i) Coordinate its summer activities with an organization operating a nationally funded vocational exploration program in its area pursuant to § 97.16(b);

(j) Use cooperative relationships established under YETP with other agencies and institutions that provide employment and training services to youth in the community;

(k) Ensure that adequate supervisions is provided to participants at each worksite;

(l) Make appropriate efforts to encourage educational agencies and postsecondary institutions to award academic credit for the competencies participants gain from their employment;

(m) Ensure that all appropriate efforts are made to closely monitor the performance of service deliverers in compliance with § 97.25(d) as well as Part 98, Subpart B, Assessment and Evaluations. Specifically, prime sponsors shall have sufficient technical and managerial personnel to monitor performance and to measure program outcomes against prime sponsor established goals;

(n) Ensure that enrollee applications are widely available and that jobs are awarded among individuals most severely disadvantaged in an equitable fashion; and

(o) Enter into subgrants and contracts in accordance with § 98.20 and OMB Circular A-102, Attachment O.

§ 97.14 Eligibility for participation.

(a) Each person shall be:

(1) At the time of application economically disadvantaged as defined in § 94.4(s) of this title; and

(2) At the commencement of participation 14 through 21 years of age.

(b) Wards of the court and offenders 14 through 21 years of age determined to have left the family unit or who otherwise do not have access to the benefits that family income would normally be expected to provide shall be treated as a family of one and only income generated by themselves shall be used in determining income status; such a determination shall be based on the certification by an assigned probation officer, or other responsible court official that the youth has lived at home 50 percent or less of the time in the last 6 months.

(c) A current participant in another CETA program who at the time of his or her initial application into that CETA program met the criteria of paragraph (a)(1) of this section may be enrolled in a summer program without recertification of the youth's family income. The provision of paragraph (a)(2) of this section shall apply.

(d) Citizenship may not be used as a criterion to prevent persons from participating in a summer program. However, program participation shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or refugees, including refugees who are parolees.

§ 97.15 Types of employment and training programs available.

(a) A program funded under this Subpart A may include any activity or service specified in § 95.33 of this title, except public service employment. Because of the short term nature of this program, public service employment opportunities which are transitional in nature and likely to lead to regular unsubsidized employment are not appropriate under this program.

(b) As authorized in § 97.522 of this title, prime sponsors operating grants under the Youth Incentive Entitlement Pilot Projects (YIEPP) may use summer program funds for their entitlement projects. When utilizing summer funds for this purpose, the provisions of the regulations governing the entitlement program shall apply.

§ 97.16 Vocational exploration program.

(a) A summer sponsor may conduct a vocational exploration program for the purpose of exposing youth to the operation and types of jobs available in the private sector through observation of such jobs and instruction including, where appropriate, limited practical experience.

(1) The following provisions shall apply to all locally funded vocational exploration programs:

(i) All contracts, subgrants, or written agreements between summer sponsors and other parties for the operation of such programs shall at a minimum assure that:

(A) Participants in a vocational exploration program using summer funds shall receive allowances in accordance with § 95.34 of this title except, (*1*) only allowances may be paid for the vocational exploration portion of combined activities, and (*2*) participants receiving public assistance, as defined in § 94.4(ss), or whose needs or income are taken into account in determining such public assistance payments to others, may receive a stipend as an additional allowance for participation in vocational exploration in the private sector (VEP) activities: *Provided,* That the participant's total allowances (the incentive allowance plus any stipend) does not exceed the basic allowances paid to other participants. This stipend is available to participants eligible for receipt of incentive allowances to provide for the exceptional expenses incurred by these participants which might otherwise prevent the individuals from participating in a VEP activity. The first $30 of such total allowance payment shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs. In prescribing the total allowance payment for each participant, the prime sponsor shall insure that no individual shall receive such allowances which result in a net loss to the participant or his family in terms of total benefits. Other benefits shall be paid in accordance with § 98.24(a)(2) of this title. Wages shall not be paid to participants.

(B) The program has received the approval of any labor organization representing employees in the affected collective bargaining units;

(C) Youth will not be assigned to vocational exploration opportunities which are the subject of a labor dispute involving a work stoppage;

(D) A detailed curriculum has been developed; and

(E) The program shall not displace currently employed workers or prevent the hiring of new workers.

(ii) Organizations which have a contract, subgrant or written agreement with a prime sponsor may be reimbursed only for the costs incurred in the conduct of the program: *Provided,* That payments to employers organized for profit are only made for the costs of training which are over and above those normally provided by the employer.

(2) Whenever opportunities are located with a private-for-profit organization, the summer sponsor shall assure, in addition to items listed in paragraph (a)(1)(i) of this section, that youth will not be involved in work experience or any other activity that contributes, or could be expected to contribute, to additional sales or profit for the private-for-profit organization or otherwise result in the subsidization of wages for the organization.

(b) Where a nationally funded program operates in a summer sponsor's area, the prime sponsor shall enter into an agreement with the local representative of the program which shall include provisions dealing with arrangements for recruitment, selection, referral and certification of the youth entering the nationally funded program.

§ 97.17 Startup of program.

(a) During the planning and design phase of the program prior to the close of the school year, only those activities outlined in § 97.7(b) are permissible. These activities shall be charged to administrative costs. Individuals may not begin participation in the program before the close of school.

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§ 97.18 Worksite standards.

(a) No participants under 18 years of age shall be employed in any occupation which the Secretary has found, pursuant to his authority under the Fair Labor Standards Act, to be particularly hazardous for persons between 16 and 18 years of age (see Subpart E of Part 570, of this title).

(b) Participants who are 14 and 15 years of age will participate only in accordance with the limitations imposed by §§ 570.31 and 570.35 of Subpart C of Part 570 of this title.

(c) Each prime sponsor shall develop a written aggrement with each worksite employer which assure: (1) Adequate supervision of each participant, (2) adequate accountability for participant time and attendance, and (3) adherence to the rules and regulations governing the Summer Program. Such written agreements do not have to be contracts or subgrants. They may be memoranda of understanding, simple work statements or other documents which indicate an estimate of the number of participants at the worksite and any operational conditions to which the worksite is expected to adhere.

(d) Each prime sponsor shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the worksite agreements and the terms and conditions of subgrants and contracts.

(e) No participant shall be required to work, or be compensated for more than 40 hours of work per week. Nothing in this section shall be construed as limiting an individual to a maximum number of total hours of employment in the Summer Program. While the Department uses a 9-week, 26-hour week job as the basis for estimating the number of youth to be served, it is not intended to take away the flexibility of the prime sponsor to establish job slots in keeping with the needs of the area and the youth to be served.

§ 97.19 Participant benefits.

(a) Participants in classroom training shall receive allowances as described in § 95.34 of this title and benefits as provided in § 98.24(a)(2) of this title.

(b) Participants in on-the-job training shall be compensated as specified in § 95.35 of this title, as applicable, and shall be assured of appropriate benefits and working conditions as provided in § 98.24 of this title.

(c) Participants in work experience shall receive wages, benefits and working conditions as provided in § 95.33(d)(4) (viii) and (ix) and § 98.24 of this title. Unemployment insurance, shall be an allowable cost only if required by State law.

(d) Participants receiving services (including orientation to jobs/activities), other employment and training activities, or combined activities shall be compensated as specified in § 95.33(d) (5)(v), (6)(ii), and (7)(ii) of this title.

(e) Participants enrolled in vocational exploration activities shall receive allowances as described in § 97.16, and benefits as provided in § 98.24(a)(2) of this title.

§ 97.20 Training for lower wage industries and relocation of industries.

The provisions of § 95.37 of this title shall apply to the summer program.

§ 97.21 Nepotism.

(a) The provisions of § 98.22 of this title regarding nepotism apply to summer sponsors who are prime sponsors under Title I of the Act.

(b) (1) The provisions of § 98.22 (a) and (b) of this title regarding nepotism apply to Native American Employment and Training Program summer sponsors except as modified by paragraphs (b) (2), (3), and (4) of this section.

(2) No Native American Employment and Training Program summer sponsor or subgrantee shall hire, or permit the hiring of, any person in a position funded under this Subpart A if a member of that person's immediate family is employed in an administrative capacity by the Native American Employment and Training Program summer sponsor. For the purposes of paragraphs (b) (2), (3), and (4) of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister and the term "administrative capacity" means persons who have selection, hiring, or supervisory responsibilities for participants in a program under this Subpart A, or operational responsibility for the program.

(3) If a subgrantee cannot hire program participants without an immediate family member being included, the Director, Division of Indian and Native American programs may waive the requirement of paragraph (b)(2) of this section if adequate justification is received from such subgrantee that no other persons within the subgrantee's jurisdiction are eligible and available for participation.

(4) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the prime sponsor shall follow the tribal rule in lieu of this policy.

§ 97.22 Nondiscrimination in Native American employment and training programs.

Section 98.21 of this title shall be applicable to Indian programs funded pursuant to this Subpart A, except that participants must be Native Americans and staff may be limited to Native Americans. Native American summer sponsors may also require that subgrantees agree, to the maximum extent feasible, to hire qualified Native Americans to provide services called for pursuant to the subgrant in accordance with 42 U.S.C. 2000e–2(i).

§ 97.23 Reporting requirements.

Each summer sponsor shall submit the following reports to the RA:

(a) A Youth Program Status Summary, as of September 30, based on the enrollment records required under §§ 98.8, and 98.18 of this title (separate reporting of the Vocational Exploration Program component will be included in this report);

(b) Two Youth Financial Status Reports, as of September 30 and December 31, based on the accounting records required under §§ 98.8, 98.12, and 98.13 of this title (separate reporting of the Vocational Exploration Program component will be included in this report);

(c) Separate Quarterly Summary of Youth Characteristics reports, as of September 30, based on the participant records for (1) this program and (2) the Title I summer component, required under § 98.18 of this title;

(d) Selected information required on the above reports shall be submitted for informational purposes for participants and expenditures in summer components funded with monies in the sponsor's current Title I annual plan;

(e) Selected information required on the above reports shall also be submitted for reporting purposes, for participants and expenditures in entitlement projects funded with funds provided under this subpart, as well as in the required entitlement reports; and

(f) The reports in this section shall be submitted to the RA no later than 30 days after the end of the report period.

§ 97.24 Termination date for the summer program.

(a) Participants shall not be enrolled in program activities beyond September 30.

(b) Allowable activities after September 30 include: report and record preparation and submittal, completion of followup activities, completion of evaluations and assessments of worksite employees and the overall program or other elements of the summer program, and audits.

§ 97.25 Administrative provisions.

(a) Summer sponsors shall comply with the provisions of Part 98 of this title.

(b) Summer sponsors may enter into subgrants or contracts for those allowable activities or operations of the summer program only with organizations that demonstrate sufficient program capability and shall have reasonable assurances that such organizations:

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(1) Have sufficient capability to operate the program;

(2) Have financial management capability as required by § 98.5 of this title;

(3) Assure in their applications that all proposed worksites meet the requirements of this subpart, and that such worksites will meet the standards of § 97.18;

(4) Assure in their applications that they will have available for review and monitoring the names and qualifications of their officers, directors, and managing personnel, including the names and qualifications of officers, directors and managing personnel of any affiliate, subsidiary, etc., who have operational or fiscal responsibilities for the summer program;

(5) Assure in their applications that they will have available a list of all Department of Labor; Department of Health, Education, and Welfare; and Department of Agriculture programs under which they have received financial assistance during the last three years and provide in their applications a statement that to the best of their knowledge, they have substantially complied with the requirements, procedures and objectives of such programs;

(6) Assure in their applications that there is no information available to them showing substantial noncompliance with the Act and regulations in operation during the terms of the previous summer program, or if there is, they shall include in their applications a copy of an acceptable plan to correct such deficiencies; and

(7) Assure in their applications that all their personnel will have some basic training in the program and regulations before the summer program begins.

(c) In selecting subgrantees and contractors the prime sponsor shall consider the capability of such organizations to:

(1) Provide worthwhile work to participants (i.e., work that is appropriate in terms of participants needs and local market demands);

(2) Provide specific services contracted for;

(3) Restrict expenditures to allowable cost items only;

(4) Submit timely and accurate reports;

(5) Authorize payment only for time worked by a participant or an employee of the project sponsor; and

(6) Provide such public information regarding the program worksites and its administrators as may be requested, including the information required to be kept under paragraphs (b)(4) and (e) of this section.

(d) To effect compliance with Part 98, Subpart B, Assessment and Evaluation, of this title, prime sponsors shall, or shall require their contractors and subgrantees to:

(1) Have supervisory and operational personnel for monitoring each site to which their participants are assigned;

(2) Assure that all sites where participants will be assigned, have the capability and facilities to provide services to summer youth in a sanitary and safe environment; and

(3) Train their own personnel and site personnel with regard to duties and responsibilities, including monitoring.

(e) Each prime sponsor shall compile and continually update a list of worksites (broken down by subgrantee and contractor) to aid in its monitoring efforts and to be made available to the public on request.

(f) Each prime sponsor shall visit worksites of each subgrantee or subcontractor on a sample basis during the first half of the summer program to determine whether:

(1) The activities on the site are those described in the worksite agreement;

(2) There is enough meaningful work to occupy all the youth assigned during the hours they are at the site;

(3) Attendance records which accurately record time worked by each enrolee are being maintained, and

(4) The requirements of the Act and this subpart are being met.

(g) In addition to following the monitoring requirements of § 98.31 of this title, each prime sponsor shall:

(1) Promptly review the reports written by its own and Federal monitors;

(2) Revisit worksites where monitors report problems; and

(3) Close worksites where it finds serious or continual violations of the Act, the regulations or the grant which are not likely to be remedied by quick remedial action.

§ 97.26 Alternative remedies.

(a) In addition to the remedial procedures available to the Secretary under Subpart C of part 98 of this title, the Secretary, in view of the short-term nature, and the national program character, of the summer program, may employ any of the following remedies whenever the Secretary has reason to believe that a prime sponsor or one of its subgrantees or contractors has materially violated the provisions of the Act, the regulations, the terms of the summer program grant, or that the program is being administered in an inefficient or incompetent way:

(1) The Secretary may immediately terminate or suspend the prime sponsor's program in whole or in part provided the Secretary offers the prime sponsor an opportunity for a subsequent hearing; or

(2) The Secretary, for good cause, may order a subgrant or contract suspended or terminated in whole or in part effective on the date of the Secretary's order or on such other date as the Secretary determines. In cases of termination, the Secretary may allow the subgrantee or contractor to expend further funds only for purposes of closing out the subgrant or contract, including the transfer of participants into other prime sponsor's summer program slots in accordance with the Secretary's directions. Whenever the Secretary orders termination of suspension of a subgrantee or contractor under this paragraph, the Secretary may take whatever action is necessary including direct legal action against the subgrantee or contractor, or an order to the prime sponsor that it take such legal action, to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the summer program.

(b) All grants, subgrants and contracts under the summer program shall contain the provisions of this section.

(c) Where a subgrant or contract is suspended or terminated in whole or in part, the Secretary shall offer the subgrantee or contractor an opportunity for a hearing.

Signed in Washington, D.C. this 17th day of May 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-14198 Filed 5-18-78; 8:45 am]

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[3195-01]

Title 3—The President

Executive Order 12061 • **May 18, 1978**

Small Business Conference Commission

By the authority vested in me as President by the Constitution of the United States of America, and in order to create in accordance with the Federal Advisory Committee Act (5 U.S.C. App. I) an advisory committee on a White House Small Business Conference, it is hereby ordered as follows:

1-1. *Establishment of Commission.*

1-101. There is established a Small Business Conference Commission. The Commission shall be composed of five members.

1-102. The members of the Commission shall be appointed by the President. The President shall designate a Chairman from among the members.

1-2. *Functions of the Commission.*

1-201. The Commission shall recommend appropriate alternate dates for holding a White House Conference on Small Business in the Fall of 1979.

1-202. The Commission shall recommend issues to be considered by the Conference, including those relating to fostering of small business and the expansion of opportunities for entry into small business enterprises.

1-203. The Commission shall recommend candidates for delegates to the Conference. It shall seek the majority of representatives from those engaged in small business activity, but shall also include others interested in small business concerns, such as government regulators, financiers, public interest and academic representatives.

1-204. Prior to the White House Conference on Small Business, the Commission shall hold open regional and local meetings or conferences. These open meetings shall seek to identify the specific issues which should be addressed at the Conference and shall solicit candidates for Conference delegates.

1-205. The Commission shall make periodic recommendations to the President and the Administrator of the Small Business Administration, and shall offer such other advice at such times as the Administrator may request.

1-3. *Administrative Provisions.*

1-301. The Commission may request any Executive agency to furnish such information as may be useful in fulfilling the Commission's functions. Each such agency is authorized, to the extent permitted by law and within the limits of available funds, to furnish such information to the Commission.

1-302. Each member of the Commission who is not otherwise employed by the Federal Government shall receive no compensation from the United States by virtue of their service on the Commission, but all members may

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receive transportation and travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703).

1-303. All necessary administrative staff services, support, facilities, and expenses of the Commission shall, to the extent permitted by law, be furnished by the Small Business Administration.

1-4. *General Provisions.*

1-401. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I), except that of reporting annually to the Congress, which are applicable to the Commission shall be performed by the Administrator of the Small Business Administration in accordance with guidelines and procedures established by the Administrator of General Services.

1-402. The Commission shall terminate on December 31, 1979, or 60 days after the conclusion of the White House Conference on Small Business, whichever is sooner.

Jimmy Carter

THE WHITE HOUSE,
May 18, 1978.

[FR Doc. 78-14463 Filed 5-19-78; 11:02 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Cherry Reg. 17]

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Grade, Size, and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade, size, and container requirements for fresh shipments of Washington sweet cherries during the period June 1, 1978, through July 13, 1978. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Washington Cherry Marketing Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of sweet cherries, as hereafter provided, will tend to effectuate the declared policy of the act.

This regulation is based upon an appraisal of the current and prospective market conditions for Washington sweet cherries. The committee estimates that 34,500 tons of sweet cherries will be available for fresh shipment during the 1978 season compared to actual shipment of 31,978 tons last season. The 1978 Washington sweet cherry crop is reported to be of good quality at this time. Shipments are expected to start about June 4, however, a few shipments may occur as early as June 1, 1978.

Under the grade and size requirements, ample supplies of cherries of the better grades and more desirable sizes would be available in the interest of producers and consumers pursuant to the declared policy of the act. Orderly marketing conditions would be maintained by preventing the demoralizing effect on the market caused by the shipment of lower quality and smaller-sized cherries when more than ample supplies of the more desirable grades and sizes are available to serve consumers' needs. The container requirements are designed to prevent deceptive packaging practices and to promote buyer confidence.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting.

It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 923.317 **Cherry Regulation 17.**

Order. (a) *Grade and sizes.* During the period June 1, 1978, through July 13, 1978, no handler shall handle, except as otherwise provided in paragraphs (b) and (c) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries," unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries:

(i) A total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided,* That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $^{45}/_{64}$ inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) of this section and subparagraph (3) of this paragraph.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than $^{54}/_{64}$ inch in diameter and not more than 5 percent, by count, of such cherries may be less than $^{45}/_{64}$ inch in diameter.

(b) *Containers.* During the period June 1, 1978, through July 13, 1978, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries," unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of 15⅛ by 10½ by 4 inches shall not be less than 20 pounds; and all containers of cherries shall contain at least 12 pounds, net weight, of cherries.

(2) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee:

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than $^{54}/_{64}$ inch in diameter, and not more than 5 percent, by count, of such cherries may be less than $^{45}/_{64}$ inch in diameter.

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(c) *Exceptions.* Notwithstanding any other provisions of this section, any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraph (a) and (b) of this section, and of §§ 923.41 and 923.55 of this part:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(d) Cherry Regulation 16 (42 FR 27912, 32761) is hereby terminated as of the effective date hereof.

(e) *Definitions.* When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550 effective April 29, 1978, WAC 16-414-050); "face-packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: May 17, 1978, to become effective June 1, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-14161 Filed 5-19-78; 8:45 am]

[4810-33]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 24—PROCEDURES AND STANDARDS APPLICABLE TO SUSPENSIONS AND PROHIBITIONS, WHERE A FELONY IS CHARGED

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: The procedures and standards set forth in this final rule will be applicable to proceedings by the Comptroller of the Currency to suspend and/or prohibit from participation any officer or director or other person participating in the affairs of a national bank, where such person is charged with a felony involving dishonesty or breach of trust. This final rule is also intended to make available to such persons a hearing where they may present such facts as will aid the Comptroller in determining whether any existing suspension and/or prohibition order should continue in effect.

EFFECTIVE DATE: June 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert S. Pasley, Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1989.

SUPPLEMENTARY INFORMATION: Substantially identical regulations were adopted by the Federal Deposit Insurance Corporation on November 14, 1977 (42 FR 59491) and by the Federal Home Loan Bank Board on March 14, 1978 (43 FR 10546).

The Comptroller of the Currency's proposed regulations for the procedures and standards applicable to suspensions and prohibitions of directors and officers of national banks were published in the FEDERAL REGISTER for comment on January 24, 1978 (43 FR 3368), and three formal comments were received in response to the proposed regulations. Two bank trade associations wrote to express their support for the proposed regulations, with one recommending a technical addition to the regulations. The third commentator, a national bank, also expressed its support for the proposed regulations, but recommended that the word "shall" in § 24.1 be changed to "may" in order to make it clear that the Comptroller will have discretion in determining whether to suspend a director or officer of a national bank even when the standards set forth in the rule have been met. For this reason, the recommended change was adopted in the final rule.

Based on further internal staff review of the proposed regulations, certain grammatical and organizational changes were made in order to clarify the final rule. In addition, time limits were placed on the filing of a petition for a hearing and on the submission of a written argument in the event the hearing is waived. Also, the fact that the records and transcripts of any proceeding brought under this regulation may be released to other government agencies was set forth in the final rule. Further, the final rule makes clear that all hearing witnesses must testify under oath, contrary to the proposed regulation which would have made sworn testimony optional. This last change reflects the staff's belief that the quality of evidence offered will be enhanced without significantly affecting the informal character of the hearing.

DRAFTING INFORMATION

The principal drafter of this document was Robert S. Pasley, Attorney.

ADOPTION OF AMENDMENT

Accordingly, the Comptroller hereby adopts 12 CFR Part 24, to read as follows:

Sec.
24.1 Suspension and prohibition where a felony is charged.
24.2 Notice of opportunity for a hearing.
24.3 Scheduling and conduct of hearing.
24.4 Waiver of hearing.
24.5 Decision of the Comptroller.
24.6 Reconsideration by the Comptroller.
24.7 Relevant considerations.

AUTHORITY: 12 U.S.C. 1818(g)(1) and 1818(n).

§ 24.1 Suspension and prohibition where a felony is charged.

Whenever a director or officer of a national bank, or any other person participating in the conduct of the affairs of such bank, is charged in any State, Federal, or territorial information or indictment, or in any complaint authorized by a United States Attorney, with the commission of or participation in a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal Law) involving dishonesty or breach of trust, the Comptroller, upon a preliminary determination that the offense alleged in the information, indictment or complaint is, or may be, within any or all of the criteria established in § 24.7, may, by written order served upon such director, officer, or other person, by registered United States mail, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank, or both. A copy of the order of suspension and/or prohibition shall also be served upon the bank.

§ 24.2 Notice of opportunity for a hearing.

(a) Any order of suspension and/or prohibition issued pursuant to § 24.1 shall be accompanied by a copy of these regulations and a specific notice to the individual that he may petition in writing for a hearing where he may present evidence and argument as to why the suspension and/or prohibition order should not continue in effect. This notice shall also indicate that the individual may, pursuant to § 24.4, waive the right to a hearing and elect instead to have the matter determined by the Comptroller on the basis of written submissions alone.

(b) A petition for a hearing filed pursuant to paragraph (a) of this section, or a written argument submitted pursuant to § 24.4, shall state with particularity the relief desired and the grounds for such relief.

(c) A petition for a hearing filed pursuant to paragraph (a) of this section must be filed with the Comptroller within fifteen (15) days of the individual's receipt of an order of suspension and/or prohibition.

(d) Failure to comply with the time restrictions set forth in paragraph (c) of this section or in § 24.4 will result in the denial of a hearing or the refusal to consider the written argument submitted, unless, in the opinion of the Comptroller, good cause exists for altering or waiving the time restrictions.

(e) If an individual fails to file, in a timely fashion, a petition for a hearing, or a statement of intent and a written argument where a hearing has been waived pursuant to § 24.4; or fails to show good cause why a late filing should be allowed; or fails to appear at a hearing either in person or through an attorney, the suspension and/or prohibition order shall remain in effect until the information, indictment or complaint is finally disposed of, or until the suspension and/or prohibition order is terminated by the Comptroller.

§ 24.3 Scheduling and conduct of hearing.

(a) After the receipt of a petition complying with § 24.2, the Comptroller shall order a hearing to commence within thirty (30) days, to be held in Washington, D.C., or in such other place as is designated by the Comptroller, before a panel designated by the Comptroller to conduct said hearing.

(b) A Notice of Hearing shall be served by the Comptroller upon the party afforded the hearing, and shall set forth the time and place of the hearing, and the names and business addresses of the members of the hearing panel.

(c) The subject individual may appear at the hearing personally, through counsel, or personally with counsel. Members of the Comptroller's legal staff may also attend the hearing, and may participate as a party. No other individual or corporate representative shall be allowed to attend the hearing, either as a party or as an observer, unless specifically permitted by the Comptroller.

(d) Each party shall have the right to introduce relevant and material evidence, and to present an oral argument before the panel.

(e) Witnesses may be presented so long as a list of witnesses is furnished to the panel prior to the hearing. All witnesses shall be sworn before being permitted to testify. The panel may ask questions of any witness and each party shall have the opportunity to cross-examine any witness presented by another party.

(f) Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 551, et seq.) shall apply to the hearing.

(g) The proceedings shall be recorded and a transcript of the proceedings shall be furnished to the subject individual upon request and after the payment of the cost thereof. The records and transcripts, or any portion thereof, of any proceeding brought under this regulation may, upon proper request and in the discretion of the Comptroller, be released to any other State or Federal government agency.

(h) Upon the request of any party to the hearing, the record of the hearing shall remain open for a period of five (5) business days following the end of the hearing, during which time the parties may make any additional, relevant, submissions to the record. Thereafter, the record shall be closed.

(i) The panel shall make its recommendations to the Comptroller within ten (10) business days following the closing of the record, except that such period may be extended by the Comptroller.

§ 24.4 Waiver of hearing.

(a) The subject individual may, in writing, waive the right to a hearing and elect instead to have the matter determined by the Comptroller on the basis of written submissions alone.

(b) In the event the right to a hearing is waived pursuant to this section, a written statement of intent to submit a written argument must be filed with the Comptroller within fifteen (15) days of the individual's receipt of an order of suspension and/or prohibition. The submission of the written argument must be made within sixty (60) days of the individual's receipt of an order of suspension and/or prohibition.

§ 24.5 Decision of the Comptroller.

(a) Within thirty (30) days following receipt of the panel's recommended decision, or receipt of the subject individual's written submissions where a hearing has been waived pursuant to § 24.4, the Comptroller shall render his decision. The decision shall include a statement of the basis for the decision and shall be provided to the subject individual and to the bank.

(b) The Comptroller may extend this thirty (30) day time period for good cause, but in no instance shall the extension be for more than sixty (60) days after the close of the record of after the receipt of written submissions if the hearing has been waived. Where an extension has been granted, the individual shall be notified of the reason for the extension and of the expected date upon which a final decision will be rendered.

§ 24.6 Reconsideration by the Comptroller.

(a) The subject individual shall have ten (10) business days following receipt of an adverse decision of the Comptroller in which to petition the Comptroller for reconsideration.

(b) The subject individual shall also be entitled to petition the Comptroller for reconsideration of an adverse decision any time after the expiration of a one-year period from the date of the Comptroller's decision: *Provided, however,* That no petition for reconsideration may be made within one year of a previous petition.

(c) A petition for reconsideration shall state with particularity the basis for reconsideration, the relief sought, and any exceptions the individual takes to the Comptroller's decision. A petition may be accompanied by a memorandum of points and authorities in support of the petition, and any supporting documentation the individual may wish to have considered.

(d) No hearing need be granted on any such petition for reconsideration. The Comptroller shall promptly render his decision following receipt of the petition.

§ 24.7 Relevant considerations.

(a) In deciding the question of suspension and/or prohibition under this section, the Comptroller shall consider the following:

(1) Whether the alleged offense: (i) Is a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law), and (ii) involves dishonesty or breach of trust;

(2) Whether the subject individual's continued service as a director or officer of a national bank, or his continued participation in the conduct of the affairs of the bank, constitutes a possible danger to the safety of deposits or the soundness of the bank because of: (i) The nature and extent of the individual's participation in the conduct of the affairs of the bank; or (ii) the nature of the offense with which the individual has been charged;

(3) Whether there is cause to believe that there may be an erosion of public confidence in the integrity, safety, or soundness of the particular national bank or the national banking system (either generally or in the particular locality in which the bank is situated) if the subject individual is permitted to continue as a director or officer of the bank or is permitted to continue to participate in the conduct of the affairs of the bank.

(4) Whether the subject individual is covered by the bank's fidelity bond and, if so, whether the bonding company is likely to revoke the bond, or coverage under the bond is likely to be adversely affected, if the subject individual is permitted to continue as a director or officer of the bank or is permitted to continue to participate in the conduct of the affairs of the bank.

(b) The Comptroller may consider any other factors which, in the specific case, appear relevant to the continuation of a suspension and/or prohibition order.

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(c) In deciding whether an order of suspension and/or prohibition shall continue in effect or shall terminate, the Comptroller shall not consider the ultimate question of the guilt or innocence of the subject individual with regard to the offense with which he has been charged.

Dated: May 3, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 78-14160 Filed 5-19-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 17909; Amdt. 39-3219]

PART 39—AIRWORTHINESS DIRECTIVES

Britten-Norman Model BN-2A and BN-2A Mark III Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspections of the elevator and flap control rods for corrosion on Britten-Norman Model BN-2A Islander and BN-2A Mark III Trislander series airplanes and rectification, as necessary. The AD is prompted by reports of severe electrolytic corrosion occurring under the bonding clips on elevator and flap control rods. This condition if not rectified could result in a loss of elevator and flap control.

DATES: Effective date: June 6, 1978.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from: Britten-Norman (Bembridge) Limited, Technical Publications Unit, Bembridge, Isle of Wight, England.

A copy of the service bulletin is contained in the rules docket for this amendment in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: The FAA has determined that the elevator and flap control rods on Britten-Norman BN-2A Islander and BN-2A Mark III Trislander series airplanes are subject to electrolytic corrosion in the areas under bonding clips. This condition if allowed to progress could result in a failure of the control rod and a loss of elevator and flap control. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued to require inspections of the elevator and flap control rods and the cleaning or replacement of corroded rods, as necessary, on Britten-Norman Model BN-2A and BN-2A Mark III series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region and S. Podberesky, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

BRITTEN-NORMAN. Applies to Models BN-2A Islander and BN-2A Mark III Trislander series airplanes, certificated in all categories, that have not been modified in accordance with Britten-Norman Modification NB/M/929.

Compliance required as indicated, unless already accomplished.

To detect and prevent electrolytic corrosion of the elevator and flap control rods, accomplish the following in accordance with Britten-Norman Service Bulletin No. BN-2/SB.101, Issue 2, dated August 10, 1977, or an FAA-approved equivalent:

(a) Within the next 2 weeks after the effective date of this AD, and thereafter at intervals not to exceed 6 months, inspect the elevator and flap control rods at bonding clip attachment points for electrolytic corrosion.

(b) If during an inspection required by paragraph (a) of this AD corrosion is found, before further flight——

(1) Replace the control rod with a part of the same part number; or

(2) Clean the part until the metal is free of corrosion. However, if the metal cleaned from the control rod reduces the rod diameter in excess of 0.010 in., replace the control rod with a part of the same part number.

(c) The inspections required by this AD may be discontinued upon the replacement of the installed elevator and flap control rod untreated bonding clips with light alloy or cadmium coated clips in accordance with Britten-Norman Modification No. NB/M/929 or an FAA-approved equivalent.

(d) Airplanes may be flown in accordance with the requirements of FAR 21.197 and 21.199 to a base where the inspections and repairs required by this AD may be performed.

This amendment becomes effective June 6, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on May 12, 1978.

R. L. COLLIE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-13763 Filed 5-19-78; 8:45 am]

[4910-13]

[Docket No. 17910; Amdt. 39-3218]

PART 39—AIRWORTHINESS DIRECTIVES

Short Brothers Ltd. Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires repetitive inspections for cracks and replacement, as necessary, of the main landing gear downlock stop on Short Brothers Ltd. Model SD3-30 airplanes. Based on testing, it has been determined that cracks could occur in the downlock stop. Cracks, if left undetected, could result in failure of the downlock stop and collapse of the gear.

EFFECTIVE DATE: June 6, 1978. Compliance as scheduled in body of AD.

ADDRESSES: The applicable service bulletins may be obtained from: SD3-30 Coordinator, Product Support Department, Short Brothers Ltd., P.O. Box 241 Airport Road, Belfast BT3 9DZ, Northern Ireland. A copy of the service bulletins are contained in the rules docket for this amendment in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: The FAA has determined that fatigue cracking could develop in the downlock stop of the main landing gear of Short Brothers Ltd. Model SD3-30 airplanes. Such cracking, if undetected, could result in failure of the downlock stop and inability to lock the gear in the down position. Fatigue testing by the manufacturer of the landing gear has shown that cracking could occur early in the life of the part. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued to require repetitive inspections and replacement of the downlock stops, as necessary, on Model SD3-30 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this amendment are F. J. Karnowski, Europe Africa and Middle East Region and S. Podberesky, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

SHORT BROTHERS LTD. Applies to Model SD3-30 airplanes, certificated in all categories.

Compliance required as indicated.

To detect cracking and prevent possible failure of the main landing gear downlock stop, P/N 17780-1 or -3, which could result in collapse of the gear, accomplish the following:

(a) Prior to accumulating a total of 2,000 landings or within the next 50 landings after the effective date of this AD, whichever occurs later, unless already accomplished within the last 450 landings, and thereafter at intervals not to exceed 500 landings, inspect the downlock stop for cracks using a dye penetrant method of inspection in accordance with paragraph 7, "Accomplishment Instructions", and figure 1 of Menasco Manufacturing Service Bulletin 32-18, Revision 1, dated October 13, 1977, or an FAA approved equivalent.

(b) If a crack is found during an inspection required by paragraph (a) of this AD, before further flight, except that the airplane may be flown in accordance with FAR 21.197 and 21.199 to a base where the repair can be performed—

(1) Replace the downlock stop with a new part of the same part number and continue to inspect in accordance with paragraph (a) of this AD; or

(2) Replace the stop as specified in paragraph (c) of this AD.

(c) The inspections required by this AD may be terminated upon replacement of the downlock stop, P/N 17780-1 or -3, with a stop, P/N 17780-5, in accordance with paragraph 10, "Accomplishment Instructions", of Menasco Manufacturing Service Bulletin 32-7, Revision 1, dated October 12, 1977, or an FAA approved equivalent.

NOTE: Short Brothers Ltd. Service Bulletins SD3-32-25 and SD3-32-18 cover this same subject.

This amendment becomes effective June 6, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on May 12, 1978.

R. L. COLLIE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-13766 Filed 5-19-78; 8:45 am]

[4910-13]

[Docket No. 17911; Amdt. 39-3217]

PART 39—AIRWORTHINESS DIRECTIVES

Short Brothers Limited Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires replacement of the main landing swivel sub-assembly and accomplishment of associated modifications on certain Short Brothers Limited Model SD3-30 airplanes. The landing gear manufacturer's fatigue testing program has established that failure of the affected landing gear component could occur if left in service beyond 5,000 landings. Failure of the component could result in failure of the landing gear.

EFFECTIVE DATE: June 6, 1978.

Compliance schedule as prescribed in body of AD.

ADDRESSES: The applicable service bulletins may be obtained from:

SD3 Coordinator, Product Support Department, Short Brothers Limited, P.O. Box 241 Airport Road, Belfast BT3 9DZ, Northern Ireland.

A copy of the service bulletins are contained in the rules docket for this amendment in Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D.C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: The FAA has determined that failure of Short Brothers Ltd. Model SD3-30 airplane main landing gear swivel subassemblies, that were manufactured to an early production standard, could occur if left in service beyond 5,000 landings. This life limit has been established by the manufacturer of the landing gear components (Menasco Manufacturing). Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued to require replacement of the main landing gear swivel sub-assembly with an assembly manufactured to an improved standard and the incorporation of associated modifications on early production Short Brothers Ltd. Model SD3-30 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this amendment are F. J. Karnowski, Europe, Africa, and Middle East Region and S. Podberesky, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

SHORT BROTHERS LIMITED. Applies to Model SD3-30 airplanes, S/Ns 3003 through 3010, certificated in all categories.

Compliance required prior to accumulating 5,000 landings or within 100 landings after the effective date of this AD, whichever occurs later, unless already accomplished.

To prevent failure of the main landing gear swivel assembly, remove the swivel subassembly, P/N 17684-1, -3, -7, -9, or -9A, the flange collar, P/N SD3-40-0023, and associated fasteners and replace with a swivel subassembly, P/N 17684-13, flanged collar, P/N SD3-40-0040xB, and new fasteners all in accordance with paragraph 2, "Accomplishment Instructions", of Short Brothers Limited Mandatory Service Bulletin SD3-32-03, Revision 3, dated March 3, 1978, or an FAA-approved equivalent, and paragraph 10, "Accomplishment Instructions" of Menasco Manufacturing Service Bulletin 32-8, Revision 1, dated January 24, 1978, or an FAA-approved equivalent.

This amendment becomes effective June 6, 1978.

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a),

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1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on May 12, 1978.

R. L. COLLIE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-13768 Filed 5-19-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-RM-06]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Denver, Colo. 1200' transition area. The alteration was necessary because the present description utilizes airways from the Denver VOR which is being relocated. Additionally, the amendment expands the 1200' transition area to include controlled airspace which is apparently floored above 1200' and will allow additional radar vectoring areas and chart clarity.

EFFECTIVE DATE: 0501 G.m.t. July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

HISTORY

On March 30, 1978 the FAA published for comment, a proposal to alter the Denver, Colo. transition area (43 FR 13393). The only comment received expressed no objections.

RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) redefines the 1200' transition area at Denver, Colo. The amended transition area will clarify the legal description necessitated by the relocation of the Denver VOR, allow for additional radar vectoring areas and clarify the charts.

DRAFTING INFORMATION

The principal authors of this document are Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, and Mr. Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective July 13, 1978 as follows:

By amending Subpart G, § 71.181 so as to alter the following transition area to read:

DENVER, COLO.

• • • that airspace extending upward from 1200 feet above the surface bounded on the north by latitude 40°30'00" N., thence northeast bound by V207, thence eastbound by latitude 41°00'00" N., on the east by V169, on the south by 39°00'00" N., on the west by longitude 106°00'00" W., excluding the airspace within Federal airways.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo. 80010 on May 9, 1978.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc. 78-13764 Filed 5-19-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-WE-1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone, Twentynine Palms, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a control zone for the Expeditionary Air Field (EAF), Marine Corps Base, Twentynine Palms, Calif. This action is necessary to provide controlled airspace at the Expeditionary Air Field, Marine Corps Base, for the High VOR/DME/TACAN RWY 28 approach procedure.

EFFECTIVE DATE: July 13, 1978.

ADDRESSES: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261, telephone 213-536-6182.

SUPPLEMENTARY INFORMATION:

HISTORY

On January 24, 1978, the FAA proposed to amend Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a control zone for the Expeditionary Air Field (EAF), Marine Corps Base, (MCB) Twentynine Palms, Calif. to provide controlled airspace for the High VOR/DME/TACAN RWY 28 approach procedure. Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. Three comments were received in response to the Notice of Proposed Rulemaking (NPRM) all expressing no objection. The NPRM was published in the February 6, 1978, FEDERAL REGISTER (43 FR 4868).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes a new control zone. The control zone will provide controlled airspace below 1,200 feet above ground level (AGL) to contain the new High VOR/DME/TACAN RWY 28 instrument approach procedure to the Expeditionary Air Field (EAF), MCB, Twentynine Palms, Calif.

DISCUSSION OF COMMENTS

Although no objections were received, we did receive a comment concerning the control zone extension encompassing a privately owned airport. Aircraft on the privately owned airport would have difficulty in establishing and maintaining two-way radio communications with the EAF military control tower. It was, therefore, prudent to exclude the airspace surrounding the privately owned airport.

Further review of the proposed procedure to EAF Airport resulted in determining that the approach radial should be 298° T in lieu of 299° T. Action taken herein will include both changes.

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DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., July 13, 1978.

§ 71.171 [Amended]

1. By amending § 71.171 (43 FR 355) of Part 71 of the Federal Aviation Regulations by designating a new control zone as follows:

TWENTYNINE PALMS, CALIF.

Within a 5-mile radius of the Expeditionary Air Field (EAF), Marine Corps Base (latitude 34°17'20" N., longitude 116°10'20" W.) and with 2 miles each side of the Twentynine Palms VORTAC 298° radial extending from the 5-mile radius zone to 16 miles west of the VORTAC. This control zone is effective from 0730 to 1630 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on May 11, 1978.

JAY R. ADSEN,
Acting Director, Western Region.

[FR Doc. 78-13767 Filed 5-19-78; 8:45 am]

[4910-13]

[Airspace Docket Number 78-CE-4]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone, Sedalia, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to change the name of the Sedalia, Mo, Control Zone to the Knob Noster, Mo., (Whiteman AFB) Control Zone to eliminate confusion between the Sedalia, Mo., and Whiteman Air Force Base terminal areas.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to change the name of Sedalia, Mo., Control Zone to the Knob Noster (Whiteman AFB) Control Zone. Presently, the Control Zone serving Whiteman Air Force Base is named for the City of Sedalia, Mo., which city is located approximately 20 miles east of Whiteman AFB. Sedalia has an airport of its own and a transition area. The Control Zone surrounding Whiteman AFB would more appropriately be name for a community near the air base to wit, Knob Noster, Mo. All Navaids serving Whiteman Air Force Base are named after the air base and are listed in military approach procedures under Knob Noster, Mo. Since this change is clarifying in nature, is of minor consequence and imposes no additional burden on any person, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than thirty (30) days after its publication.

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Air Traffic Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

Accordingly, the Federal Aviation Administration proposes to amend Subpart F, section 71.171, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 355), by altering the following transition area:

KNOB NOSTER, MO. (WHITEMAN AFB)

Within a 5 mile radius of Whiteman AFB, Knob Noster, Mo. (Latitude 38°43'50" N., Longitude 93°33'00" W.); within 2 miles each side of Whiteman VOR 010° radial, extending from the 5 mile radius to 2 miles north of the Whiteman VOR, and within 2 miles each side of the Whiteman TACAN 185° radial, extending from the 5 mile radius to 7 miles south of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on May 4, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-13769 Filed 5-19-78; 8:45 am]

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-173, Amdt. 38; Docket 31552]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

New or Modified Certificate Route Authority Applications; Economic and Operational Data

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule adds a new section that requires all appplications for new or modified certificate route authority to be accompanied by a motion for hearing which contains certain economic and operational data. The Board initiated this rulemaking to ensure that carriers file applications which they have an intention of processing.

DATES: Adopted: May 12, 1978. Effective: June 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Vicki Gottlich, Legal Processing Division, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5842.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking PDR-47, 42 FR 57132, November 1, 1977, the Board proposed to amend its Rules of Practice in Economic Proceedings (14 CFR Part 302) by adding a new section that requires all applications for new or modified certificated route authority to be accompanied by a motion for hearing which contains certain economic and operational data. PDR-47 specifically proposes that a motion for hearing containing the same information as is required now by § 302.18(a-2) be filed simultaneously with the application, that the time to answer be extended from seven to thirty days, that specified persons be

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served, and that motions to consolidate applications for the same authority need not be accompanied by motions for hearing.

Comments were filed by three civic parties, five trunkline carriers and Pan American, three local service carriers, and one supplemental air carrier.[1] Piedmont opposes the amendment, and Eastern and the civic parties totally support it. All the other comments support it in part, with reservations or suggested modifications.

After considering the comments, we have decided to alter the proposed rule and adopt it with the modifications discussed below. Except as modified, the Board adopts as final the tentative findings and conclusions set forth in PDR-47.

Several carriers expressed concern or uncertainty about situations requiring the filing of a motion for hearing. We would like to reiterate that a motion for hearing will be required only in situations in which carriers are required to file one now. United reads PDR-47 to require applications filed under Subpart M and N of Part 302 to be accompanied by such a motion. This was not our intention in drafting the proposed rule, and we will modify the final rule to clarify that the procedures under Subparts M and N will not be changed by the new rule. Delta, Piedmont, and TWA raise the question of applications, such as those for route realignment or restriction removal, that the Board has traditionally processed by show-cause procedures, and suggest that they be exempted from proposed § 302.908(a), or, alternatively, that these applications be accompanied by petitions for show cause procedures. We will adopt the latter suggestion and allow air carriers to file petitions for show-cause procedures as an alternative to motions for hearing or consolidation. That change is more in keeping with our decision to require that applications be accompanied by a carrier's request for specific procedural action.

Braniff and Piedmont find the provisions of proposed § 302.908(d) dealing with the consolidation of applications unduly burdensome. Braniff states that a second applicant for essentially the same authority should be allowed to adopt data previously submitted by a carrier or a civic party, and that if a carrier applies for slightly different authority, it should file only data related to authority not previously covered. We agree with Braniff that the filing of duplicative data should be discouraged, and so intended in our drafting of proposed § 302.908(d). In fact, we believe that our draft rule covered the situations Braniff discusses in its answer. To avoid confusion, however, we will amend the language of proposed § 302.908(d) (1) and (2) so that (1) an application for the same route authority as requested by another air carrier or in a petition by a civic party, and for which the requisite information has been filed, need not be accompanied by the same data, and (2) an application for expanded authority need include data relating only to the additional point or market. United also objects to these provisions, claiming that they place the first applicant which must supply information subsequent applicants do not have to provide, at a disadvantage. We find no essential unfairness in the added burden placed on the first applicant for new authority. A carrier will be an initiator sometimes and a follower other times and waste and duplication will, overall, be avoided.

Many of the carriers object to the information that a motion for hearing must contain. PDR-47, however, proposes changes only in the procedures for filing a motion for hearing, and not in the data which the motion must contain. To consider substantive changes now would be to divert the focus of the rule, as well as to delay introduction of a rule which the majority of commentators support.[2] However, we view the amount of information which must be filed as a serious problem that limits entry into the industry and we intend to review in the near future how best to remedy the situation.

Both Delta and Braniff suggested in their comments that the Board impose upon itself a specific time limit for acting on route applications. We agree with them that the handling of our workload should be expedited, and we have taken steps recently toward this goal.[3] Nevertheless, we do not believe that this is the proper forum to consider imposing deadlines for Board action on route applications. As with the issue of the information to be filed, the issue of time limitations is too complex to consider here and would change the focus of this proceeding.

Several commentators have complained that the service list is too burdensome, and that it would require a thorough search of all dockets to determine the persons to be served.[3a] TWA has suggested that we modify proposed § 302.908(c)(1) (ii) and (vi) by requiring service on carriers applying for the authority in issue and commuters operating in the markets at issue instead of at any one of the points in issue. We will not modify proposed § 302.908(c) as any modification would eliminate interested persons from receiving service. For instance, a carrier applying for authority at a point involved, while seemingly interested in a market other than the one at issue, may actually be interested in providing connecting or multiple-stop service to the market in issue. If we were to adopt TWA's proposed modification, such a carrier would not be served. Therefore, to ensure that all persons who may be interested in a market receive service of any application for authority in that market, we will require that all the persons delineated in proposed § 302.908(c) be served.

Finally, we have received various other comments concerning the time to answer and also the advisability of authorizing replies. Only Allegheny finds the time to answer insufficient, and only Pan American has suggested that we modify the language concerning the time period to make the computation of the answer date more readily determinable. We believe that we have allowed sufficient time to frame an answer, and have stated the time period in a comprehensible manner. Therefore, we will not modify the proposed rule. We also will not include a provision authorizing replies. We have found that, for the most part, replies do not state any new information or add anything relevant to the record. We will continue to grant motions for leave to file an unauthorized document when the accompanying reply adds new information or refutes an argument which the applicant could not have anticipated.

FINAL RULE

Accordingly, the Civil Aeronautics Board amends Part 302 of its Rules of Practice (14 CFR Part 302) effective June 21, 1978, as follows:

1. The table of contents of Part 302 is amended by adding a reference to new § 302.908, "Applications for new or modified certificated route authority," as follows:

Sec.

. . . . . .

Subpart I—Rules Applicable to Route Proceedings Under Sections 401 and 402 of the Act

. . . . . .

APPLICATIONS FOR ROUTE AUTHORITY

302.908 Applications for new or modified certificated route authority.
302.909 Renewal of fixed-term route authorizations granted by exemption.

. . . . . .

2. Add a new § 302.908 as follows:

§ 302.908 Applications for new or modified certificated route authority.

(a) An application for new or modified certificated route authority, other than one filed under Subpart M or N of this Part 302, shall be accompanied by a motion for hearing, a motion to consolidate, or a petition for an order to show cause.

(b)(1) A motion for hearing on an application for new or modified certificated route authority shall include a statement of economic data or other matters which the movant desires the Board to notice officially, and affidavits establishing such other facts as it wants the Board to rely upon. Motions of air carriers for hearing shall contain at least the following economic and operating data on an annual basis:

(i) Present and proposed schedules by type of aircraft;

(ii) Number of departures, plane-miles, passengers and passenger-miles;

(iii) Estimate of self-diversion or diversion from other carriers, if applicable;

(iv) Anticipated operating revenues; and

(v) Estimate of impact of proposal on operating expenses, which, in the case of local service carriers, should be computed in accordance with Subpart K of this part.

In addition, for local service carriers, the following:

(vi) Estimate of allowance for return on investment and taxes, computed according to Subpart K of this part; and

(vii) Increase or decrease in subsidy requirements.

(2) The motion shall contain the names of the parties served and a notice to such parties that they may, within 30 days of the date the motion is served (excluding Saturdays, Sundays, and holidays) file and serve an answer in support or in opposition.

(c) Service of application: (1) A copy of an application and the accompanying motion for hearing or motion for consolidation shall be served on the following parties, who shall be presumed to have an interest in the subject matter of the application:

(i) Any air carrier which is authorized to render regular service to any point involved in the application;

(ii) Any person whose application for a certificate of public convenience and necessity, or for an exemption, authorizing regular service to or from any such point, has been filed with the Board and has not been finally disposed of by it;

(iii) The chief executive of any State, territory, or possession of the United States in which any such point is located: *Provided, however,* That if there be a State commission or agency having jurisdiction over transportation by air, service shall be made on that commission or agency, rather than the chief executive of the State;

(iv) The chief executive of the city, town, or other unit of local government at any such point located in the United States or any territory or possession thereof;

(v) The Board, commission, manager, or other body or individual having direct supervision over and responsibility for the management of the airport located in the United States which is being used to serve such point at the time the application is filed; and

(vi) Any commuter air carrier operating under Part 298 of this chapter or other exemption authority which provides at least five round trips per week between two or more points, one of which is involved in the application, and which publishes schedules in the "Official Airline Guide" or in the "Air Cargo Guide" which include service to a point involved in the application.

(2) Additional service of notice. The Board may, in its discretion, order additional service made on such person or persons as the facts of the situation warrant.

(d) Consolidation of proceedings: The consolidation of applications for route authority shall be in conformity with § 302.12.

(1) If the application to be consolidated is for the same route authority as requested by another air carrier or in a petition of a civic party, and the economic and operating data for the market or markets in issue have already been filed, no statement of economic and operating data need be filed;

(2) If the application to be consolidated is for enlarged or expanded authority or authority which is closely related to, but not exactly the same as, the authority requested by another party that has supplied the requisite information, the motion to consolidate shall include a statement of economic and operating data only relating to the additional point(s) or market(s) as required by paragraph (b)(1) of this section.

(e) Except as otherwise provided here, the provisions of Subpart A of this Part are applicable.

(f) Applications shall be set for hearing in accordance with the standards for determining priorities of hearing set forth in § 399.60.

3. Delete and reserve § 302.18(a-2).

§ 302.18 Motions.

(a-1) • • •

(a-2) [Reserved]

. . . . . .

(Sec. 401 of the Federal Aviation Act of 1958, as amended; 72 Stat. 754 as amended by 76 Stat. 143; 82 Stat. 867; 90 Stat. 883 (49 U.S.C. 1371).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX

The following parties filed comments: Allegheny Airlines, Braniff Airways, Delta Air Lines, Eastern Air Lines, Hughes Airwest, Pan American World Airways, Piedmont Aviation, Trans International Airlines, Trans World Airlines, United Air Lines, The Commonwealth of Virginia, The City of Philadelphia, and The Seattle Parties.[4]

[FR Doc. 78-14157 Filed 5-19-78; 8:45 am]

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[1] A list of commentators is set forth in the Appendix.

[2] See e.g., PR-150, adopted March 9, 1976, and PS-71, adopted August 24, 1976. See PDR-54, April 18, 1978.

[3] Braniff and Delta also suggest we first determine new standards for priority of hearing and then modify the data required by proposed § 302.908(1) to reflect those standards. We do not think it desirable to delay the implementation of this needed rule change until a final conclusion is reached in PDR-45.

[3a] The Board is devising a specific list to be kept in the Docket Section showing route applications, listed alphabetically by city, and specifying carrier applicant and docket number.

[4] The Port of Seattle Commission, which owns and operates Sea-Tac International Airport; the City of Seattle; the County of King; the Seattle Chamber of Commerce and the Puget Sound Traffic Association.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

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[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2921]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

Firestone Photographs, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair and deceptive acts or practices, this consent order, among other things, requires a Columbus, Ohio, promoter and seller of photographic equipment and supply franchises to cease misrepresenting its repurchase plan, potential profits, connection or affiliation with others, and the training and business assistance provided franchisees. The order further requires the firm to make full and timely disclosures and provide prescribed data regarding any cooling-off periods, cancellation and refund rights, and the financial history of both the corporation and previous franchisees. The firm is additionally required to maintain specific records and to institute a surveillance progam designed to ensure compliance with the terms of the order.

DATE: Complaint and order issued April 20, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Director, Cleve-

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[1] Copies of the Complaint and the Decision and Order filed with the original document.

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land Regional Office, Federal Trade Commission, Suite 500, Mall Building, 118 Saint Clair Avenue, Cleveland, Ohio 44114. 216-522-4207.

SUPPLEMENTARY INFORMATION: On Thursday, October 27, 1977, there was published in the FEDERAL REGISTER 42 FR 56622, a proposed consent agreement with analysis In the Matter of Firestone Photographs, Inc., a corporation, Firestone Photo Co., a corporation and Daniel Firestone, individually and as an officer of said corporations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission.

The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly: 13.10-1 Availability of merchandise and/or facilities; § 13.15 Business status, advantages or connections: 13.15-30 Connections or arrangements with others; 13.15-35 Contracts and obligations; § 13.42 Connection of others with goods; § 13.50 Dealer or seller assistance; § 13.60 Earnings and profits; § 13.70 Fictitious or misleading guarantees; § 13.105 Individual's special selection or situation; § 13.155 Prices: 13.155-5 Additional charges unmentioned; 13.155-95 terms and conditions; § 13.185 Refunds, repairs, and replacements; § 13.205 Scientific or other relevant facts; § 13.250 Success, use or standing; § 13.270 Trademark registration or use. Subpart—Appropriating Trade Name or Mark Wrongfully: § 13.295 Appropriating trade name or mark wrongfully: 13.295-20 Competitor. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements: 13.533-20 Disclosures; 13.533-45 Maintain records: 13.533-45(c) Complaints; § 13.533-55 refunds, rebates and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1370 Business methods, policies, and practices; § 13.1395 Connections and arrangements with others; § 13.1513 Operations generally; § 13.1565 Trade names.—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1608 dealer or seller assistance; § 13.1615 Earnings and profits; § 13.1675 Law or legal requirements; § 13.1697 Opportunities in product or service; § 13.1725 Refunds; § 13.1740 Scientific or other relevant facts; § 13.1755 Success, use, or standing; § 13.1760 Terms and conditions: 13.1760-50 Sales contract.—Prices: § 13.1778 Additional costs unmentioned. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1854 History of products; § 13.1882 Prices: 13.1882-10 Additional prices unmentioned; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions: 13.1905-50 Sales contract. Subpart—Offering Unfair, Improper and Deceptive Inducements to Purchase or Deal: § 13.1935 Earnings and profits; § 13.1980 Guarantee, in general; § 13.1985 Individual's special selection or situation; § 13.2013 Offers deceptively made and evaded; § 13.2015 Opportunities in product or service; § 13.2045 Sales assistance; § 13.2063 Scientific or other relevant facts; § 13.2080 Terms and conditions; § 13.2090 Undertakings in general. Subpart—Simulating Another or Product Thereof: § 13.2205 Advertising matter; § 13.2240 Trade name of another.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-13706 Filed 5-19-78; 8:45 am]

[6750-01]

[Docket C-2920]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Townsman-Cenco International, Ltd., et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a New York City importer, manufacturer and distributor of clothing products to cease misrepresenting or failing to properly identify the wool and fiber content of their products.

DATES: Complaint and order issued April 25, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Albert H. Kramer, Director, Bureau of Consumer Protection, Federal Trade Commission, Sixth and Pennsylvania Ave. NW., Washington, D.C. 202-523-3727.

SUPPLEMENTARY INFORMATION: On Thursday, February 16, 1978, there was published in the FEDERAL REGISTER, 43 FR 6808, a proposed consent agreement with analysis In the Matter of Townsman-Cenco International, Ltd., a corporation, and Newcastle Imports, Ltd., a corporation, and Seymour Hertling, and George Center, individually and as officers of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.30 Composition of goods; 13.30-100 Wool Products Labeling Act; § 13.45 Content; § 13.73 Formal regulatory and statutory requirements; § 13.73-70 Wool Products Labeling Act. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; 13.533-37 Formal regulatory and/or statutory requirements. Subpart—Invoicing Products Falsely: § 13.1108 Invoicing products falsely; 13.1108-40 Federal Trade Commission Act; 13.1108-90 Wool Products Labeling Act. Subpart—Misbranding or Mislabeling: § 13.1185 Composition; 13.1185-90 Wool Products Labeling Act; § 13.1200 Content; § 13.1212 Formal regulatory and statutory requirements; 13.1212-90 Wool Products Labeling Act. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1590 Composition; 13.1590-90 Wool Products Labeling Act; § 13.1605 Content; § 13.1623 Formal regulatory and statutory requirements; 13.1623-90 Wool Products Labeling Act. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1845 Composition; 13.1845-80 Wool Products Labeling Act; § 13.1850 Content; § 13.1852 Formal regulatory and statutory requirements; 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-13713 Filed 5-19-78; 8:45 am]

[1] Copies of the Complaint and the Decision and Order filed with the original document.

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[6750-01]

[Docket C-2919]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

Insilco Corp., et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Meriden, Conn., distributor of pre-cut housing products and its subsidiary to cease misrepresenting or failing to make relevant disclosures with regard to product assembly, delivery costs, legal building requirements, need for skilled building tradesmen, mortgage liens, and cancellation rights—in Spanish, if applicable. The order further requires the firm to acknowledge and resolve complaints in a prescribed manner. Additionally, the firm must cease failing to provide consumers, in connection with the extension of credit, such material disclosures as required by Federal Reserve Board regulations.

DATE: Complaint and order issued April 19, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Director, Chicago Regional Office, Federal Trade Commission, 55 East Monroe Street, Suite 1437, Chicago, Ill. 60603, 312-353-4423.

SUPPLEMENTARY INFORMATION: On Friday, February 10, 1978, there was published in the FEDERAL REGISTER 43 FR 5846 (corrections at 43 FR 9623), a proposed consent agreement with analysis. In the Matter of Insilco Corp., a corporation, and Miles Homes, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections: 13.15-20 Business methods and policies; 13.15-35 Contracts and obligations; 13.15-70 Financing activities; 13.15-240 Properties and rights; § 13.71 Financing; § 13.135 Nature of product or service; § 13.155 Prices: 13.155-5 Additional charges unmentioned; 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; § 13.205 Scientific or other relevant facts; § 13.225 Services; § 13.260 Terms and conditions; § 13.275 Undertakings, in general. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements: 13.533-20 Disclosures; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records: 13.533-45(c) Complaints; 13.533-50 Maintain means of communication. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.677 Delaying or failing to deliver goods or provide services or facilities. Subpart—Failing to Provide Foreign Language Translations: § 13.1052 Failing to provide foreign language translations. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1417 Financing activities; § 13.1553 Services.—Goods: § 13.1623 Formal regulatory and statutory requirements: 13.1623-95 Truth in Lending Act; § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts; § 13.1760 Terms and conditions: 13.1760-50 Sales contract.—Prices: § 13.1778 Additional costs unmentioned; § 13.1795 Coverage or extras; § 13.1823 Terms and conditions: 13.1823-20 Truth in Lending Act.—Promotional Sales Plans: § 13.1830 Promotional sales plans.—Services: § 13.1835 cost. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements: 13.1852-75 Truth in Lending Act; § 13.1882 Prices: 13.1882-10 Additional prices unmentioned; § 13.1885 Qualities or properties; § 13.1892 Sales contract, right-to-cancel provision: 13.1892-10 Recording liens or executing judgment on same; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions: 13.1905-50 Sales contract; 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46., Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, et seq.)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-14137 Filed 5-19-78; 8:45 am]

[1] Copies of the Complaint and Decision and Order filed with the original document.

[4810-22]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-138]

PART 111—CUSTOMHOUSE BROKERS

Custom Regulations Amended

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to customhouse brokers to (1) reflect a change in the title of the Customs Service office responsible for the inspection and audit of customhouse broker's books and records, (2) permit the use of microfiche for the reproduction of books and papers required to be kept by customhouse brokers, and (3) eliminate the use of Customs Form 3079, Record of Transactions of Licensed Customhouse Brokers. These changes are required in order to reflect (1) a reorganization within the Customs Service, (2) the decision by the Customs Service to permit the use of microfiche record retention systems by customhouse brokers, and (3) a commitment by the Customs Service to reduce the number of Customs public use forms.

EFFECTIVE DATE: June 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Marcus Sircus, Regulatory Audit Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-2812.

SUPPLEMENTARY INFORMATION:

BACKGROUND

As a result of a reorganization within the Customs Service, the Regulatory Audit Division of the Office of Operations has assumed overall responsibility relating to the inspection or audit of the books and records of customhouse brokers. Formerly, this responsibility was carried out by the Office of Security and Audit. The functions previously exercised by the regional director, security and audit, in connection with the inspection or audit of the books or records of customhouse brokers are now exercised

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by the Regional Director, Regulatory Audit. Similarly, the activities of Customs field auditors in this area are now performed by Customs regulatory auditors. These changes affect various provisions of Part 111 of the Customs Regulations, the part of the regulations which concerns customhouse brokers.

To reflect the changes in titles necessitated by this reorganization, §§ 111.22(b), 111.22(c), 111.23(b)(5), 111.24, 111.25, and 111.27 of the Customs Regulations (19 CFR 111.22 (b) and (c), 111.23(b)(5), 111.24, 111.25, 111.27) are amended by substituting "Regional Director, Regulatory Audit" for "regional director, security and audit" and "regulatory auditors" for "field auditors", wherever those terms appear.

In addition, the Commissioner of Customs has received numerous requests from customhouse brokers for permission to adopt microfiche record retention systems. Under the current provisions of § 111.23(b) of the Customs Regulations, customhouse brokers are permitted, upon approval of the district director, to record on microfilm any of the books and papers required to be kept by them (except books of accounts and powers of attorney).

After a review of the law and regulations and other relevant considerations, the Commissioner has determined that the microfiche reproduction of these books and records can and should also be permitted. Accordingly, § 111.23 is further amended by adding a new paragraph (d) to provide that under certain circumstances a broker, with the approval of the district director for the district in which he is licensed, may utilize other methods of reproduction, including microfiche, for the reproduction of books and papers, other than books of accounts or powers of attorney, permitted to be microfilmed under paragraph (b).

In response to Presidential and Treasury directives, the Customs Service made a commitment to reduce the number of Customs public use forms, one of which is Customs Form 3079, Record of Transactions of Licensed Customhouse Broker. The Customs Service has determined that Customs Form 3079 may be abolished. However, it is necessary to continue to require that customhouse brokers record their transactions in a manner and format that is acceptable to Customs.

Consequently, § 111.22 of the Customs Regulations (19 CFR 111.22), which provides for the use of Customs Form 3079 by the customhouse broker in recording all of his Customs transactions in an acceptable manner, is being further amended by elimination of references to Customs Form 3079 and by the addition of a new paragraph (d) to require a customhouse broker to keep a record of all his Customs transactions in a prescribed format.

Drafting Information

The principal author of this document was Suellen Ferguson, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in its development.

Inapplicability of Public Notice Requirement

These amendments clarify or liberalize the Customs Regulations, or conform them with existing practice, and impose no additional duty or burden on the public. Accordingly, the Commissioner determined that no advance notice of the amendments or solicitation of public comments prior to their adoption was necessary under 5 U.S.C. 553.

Amendments to the Regulations

Under the authority of R.S. 251, as amended (19 U.S.C. 66), and sections 624 and 641, as amended, 46 Stat. 759 (19 U.S.C. 1624, 1641), §§ 111.22, 111.23, 111.24, 111.25, and 111.27 of the Customs Regulations (19 CFR 111.22, 111.23, 111.24, 111.25, 111.27) are amended as set forth below:

Section 111.22 is amended by changes in paragraphs (a), (b), and (c) and the addition of a new paragraph (d) to read as follows:

§ 111.22 Additional record of transactions.

(a) *Additional requirement.* In addition to the regular records of account required by 111.21, each broker shall keep current a record of all his Customs transactions in the format set forth in paragraph (d) of this section, unless an exemption has been granted under the authority of paragraph (b) of this section. If a transaction has been handled only in part by the broker, he shall supply only the information required by this section which relates to his transaction.

(b) *Exemption.* If the information required in paragraph (a) is disclosed in other books and records regularly kept and maintained by a broker and if such information is in a systematic, convenient, and readily available form so that Customs regulatory auditors can make an effective and complete inspection thereof, the district director, with the concurrence of the Regional Director, Regulatory Audit, may in writing exempt the broker from the requirements of paragraph (a) of this section. A written request for the exemption shall be addressed to the district director and shall include:

(1) A statement of facts as to the records kept; and

(2) An agreement that, if the exemption is granted, no change in the system of books and records or the manner of keeping and maintaining them will be made without prior written approval of the district director and concurrence in the change by the Regional Director, Regulatory Audit.

(c) *Withdrawal of exemption.* Whenever an audit by a Customs regulatory auditor indicates that a broker to whom an exemption has been granted as provided for in paragraph (b) of this section is not keeping and maintaining records in conformity with the requirements of that paragraph, the exemption of such broker shall be withdrawn by notice in writing from the district director, and such broker shall thereafter keep and maintain records as required by paragraph (a) of this section.

(d) *Prescribed format.* Each licensed customhouse broker shall keep in the format set forth below and in the detailed manner indicated therein, a complete, correct, itemized record revealing all of his financial transactions as a broker. A separate sheet shall be used for the transactions with each of the broker's clients and all entries shall be made immediately after the transactions are accomplished.

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Name of broker..... Port of .....

Address..... Name of importer or exporter (client).....

Entry number	Symbol (footnote)	Date of entry 19—	Amounts deposited with United States	Amounts refunded payee by United States	Amounts disbursed to client on account of refunds made by U.S. Government	Broker's fee	Bond premium	Foreign forwarding charge	Inland freight or express	Storage or cartage	Deck and messenger service	Public stores	Warehouse withdrawal	Miscellaneous	Cash received from clients	Remarks disposition of merchandise if entry not completed
															Amount Date 19—	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)

NOTE.—The following symbols shall be used to show the class of entry: "C", consumption; "W", warehouse; "WWC", warehouse withdrawal for consumption; "WWT", warehouse withdrawal for transportation; "R", re-warehouse; "R & W", re-warehouse and withdrawal; "T & E", transportation and exportation; "IT", immediate transportation; "T", immediate transportation; "E", exportation; "A", appraisement; "I", informal; "PP", packed packages; "D", exportation with benefit of drawback; "EWW", exportation under warehouse withdrawal; "F", exportation; "A", appraisement; "I", informal; "PP", packed packages.

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Section 111.23 is amended by a change in paragraph (b)(5) and the addition of a new paragraph (d) to read as follows:

§ 111.23 Retention of books and papers.

• • • • •

(b) *Microfilming of books and papers.*

• • • • •

(5) *Expense of reproductions.* Brokers shall bear the expense of making hardcopy reproductions of any or all microfilmed records required by the Regional Director, Regulatory Audit, the special agent in charge, or other proper official of the U.S. Customs Service for the audit or inspection of books and records.

• • • • •

(d) *Other methods of reproduction for record retention.* A broker may, with the approval of the district director for the district in which he is licensed, utilize other methods of reproduction, including microfiche, for the reproduction of books and papers, other than books of account or powers of attorney, permitted to be microfilmed under paragraph (b), provided the requirements of paragraphs (b) and (c) of this section are met.

Section 111.24 is amended to read as follows:

§ 111.24 Books and papers confidential.

The books and papers referred to in this part and pertaining to the business of the clients serviced by the broker shall be considered confidential, and the broker shall not disclose their contents or any information connected therewith to any persons other than such clients and the Regional Director, Regulatory Audit, the special agent in charge, or other duly accredited agents of the United States except on subpoena by a court of competent jurisdiction.

Section 111.25 is amended to read as follows:

§ 111.25 Books and papers shall be available.

During the period of retention, the broker shall maintain his books and papers in such manner that they may readily be examined, and they shall be made available for inspection, copying, reproduction or other official use by Customs regulatory auditors or special agents on demand within the period of retention or within any longer period of time during which they remain in the possession of the broker.

Section 111.27 is amended to read as follows:

§ 111.27 Audit or inspection of books and papers.

The Regional Director, Regulatory Audit, shall make such audit or inspection of the books and papers required by this subpart to be kept and maintained by a broker as may be necessary to enable the district director and other proper officials of the Treasury Department to determine whether or not the broker is complying with the requirements of this part. Furthermore, the Regional Director, Regulatory Audit, and/or the special agent in charge, may inspect such books and papers to obtain information regarding specific Customs transactions for the purpose of protecting importers or the revenue of the United States. The Regional Director, Regulatory Audit, and the special agent in charge conducting an audit or inspection under this section shall submit a report of the findings to the Commissioner and the district director.

(R.S. 251, as amended, secs. 624, 641, as amended, 46 Stat. 759 (19 U.S.C. 66, 1624, 1641).)

Approved: May 5, 1978.

G. R. DICKERSON,
Commissioner of Customs.

[FR Doc. 78-13616 Filed 5-19-78; 8:45 am]

[1505-01]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 4]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Subpart K—Employment—Wages—Self-Employment — Self-Employment Income

INCOME FROM SELF EMPLOYMENT OF LIMITED PARTNER

Correction

In FR Doc. 78-13252 appearing at page 20972 in the issue of Tuesday, May 16, 1978 § 404.1050(b)(1) was inadvertently omitted and should be inserted on page 20973, first column immediately above the designated paragraph (2), § 404.1050(b)(1) should read:

§ 404.1050 Definition of net earnings from self employment.

• • • • •

(b)(1) For taxable years beginning after December 31, 1977. An individual's gross income (see paragraph (c) of this section) from a trade or business ordinarily is determined in accordance with Subtitle A (Income Taxes) of the Internal Revenue Code of 1954, as amended. Gross income does not include income derived by an individual from an activity which is not a trade or business within the meaning of section 211(c) of the Act and § 404.1070 of this Subpart. Also, for social security purposes the gross income determined in accordance with that Code does not include a limited partner's distributive share of income or loss (see paragraph (a)(2)(i) of this section) unless it is a guaranteed payment described in section 707(c) of that Code for services actually rendered to or on behalf of the partnership by the limited partner, as described in paragraph (a)(2)(i) of this section. Section 706(a) of that Code and the regulations interpreting that provision, financial liability with respect to the obligations of the partnership is limited to the amount of his or her financial investment in the partnership. Generally, the individual will not have performed services in the operation of, or participated in the control of, the business carried on by the partnership for the taxable year involved.

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-186]

PART 110—ANCHORAGE REGULATIONS

Islands of Hawaii, Kauai, and Oahu, Hawaii; Amendment, Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: This document corrects CGD 76-186 (FR Doc. 77-35141 published in 42 FR 62001, December 8, 1977), by changing the coordinates in two anchorages and making some clerical changes in two other anchorages for clarification. These corrections are for the Island of Oahu, Hawaii.

EFFECTIVE DATE: May 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

In consideration of the foregoing § 110.128d of Title 33 CFR is amended by revising paragraphs (a) through (d) to read as follows:

§ 110.128d Island of Oahu, Hawaii.

(a) *Kaneohe Bay (1).* The waters of Kaneohe Bay enclosed by a line beginning at 21°26'28" N. latitude, 157°46'00" W. longitude; thence to 21°26'00" N. latitude, 157°46'14" W. longitude; thence to 21°26'20" N. latitude, 157°47'24" W. longitude; thence to 21°27'00" N. latitude, 157°48'25" W. longitude; thence to 21°26'46" N. latitude, 157°48'37" W. longitude; thence along the shoreline to the beginning point.

(b) *Kaneohe Bay (2).* The waters of Kaneohe Bay enclosed by a line beginning at 21°27'28" N. latitude, 157°49'08" W. longitude; thence to 21°28'10" N. latitude, 157°50'03" W. longitude; thence to 21°29'10" N. latitude, 157°50'40" W. longitude, thence to 21°30'46" N. latitude, 157°50'14" W. longitude; thence along the shoreline to the beginning point.

(c) *Keehi Lagoon.* The waters of Keehi Lagoon enclosed by a line beginning at 21°19'04" N. latitude, 157°53'50" W. longitude; thence to 21°19'06" N. latitude, 157°53'44" W. longitude; thence to 21°19'37" N. latitude, 157°54'00" W. longitude; thence to 21°19'35" N. latitude, 157°54'06" W. longitude; thence to the beginning point.

(d) *Sans Souci Beach.* The waters of Sans Souci Beach enclosed by a line beginning at 21°15'49" N. latitude, 157°49'31" W. longitude; thence to 21°15'49.2" N. latitude, 157°49'29" W. longitude; thence to 21°15'56.2" N. latitude, 157°49'31" W. longitude; thence to 21°15'56" N. latitude, 157°49'33" W. longitude; thence to the beginning point.

• • • • •

Dated: May 9, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 78-13593 Filed 5-19-78; 8:45 am]

[4910-14]

[CGD 77-207]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Passaic River, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This changes the operation regulations for the Stickel Memorial bridge across the Passaic River, mile 5.8, to require eight hours notice, except during periods of emergency when the draw shall open on two hours notice. This change will relieve the bridge owner of the responsibility for maintaining constant attendance at this bridge.

EFFECTIVE DATE: This amendment is effective on June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On February 2, 1978, the Coast Guard published a proposed rule (43 FR 4439) concerning this amendment. The Commander, Third Coast Guard District, also published these proposals as a Public Notice dated February 24, 1978. Interested persons were given until March 6, 1978 and March 27, 1978, respectively, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Stephen H. Barber, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Two comments were received. One had no objection to the proposal. The other requested that in an emergency the draw open on two hours notice. The applicant agreed to provide openings under emergency conditions within two hours and this proviso is included in this final rule.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended by: (1) Revising the last line of paragraph (a) of § 117.200 to read as follows "(c), (f), or (j) of this section." (2) Adding a new paragraph (j) to § 117.200 to read as follows:

§ 117.200 Newark Bay, Passaic and Hackensack Rivers, and their navigable tributaries; general regulations.

• • • • •

(j) *Route 280 (Stickel) Bridge, mile 5.8 Passaic River.* The draw shall open on signal if at least eight hours notice is given. However, in an emergency the draw shall open on two hours notice.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: May 15, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 78-14139 Filed 5-19-78; 8:45 am]

[3410-11]

Title 36—Parks, Forests, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 223—SALE AND DISPOSAL OF TIMBER

Bidding Methods

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth bidding methods which may be used for the sale of National Forest timber. It implements Pub. L. 95-233. Under this rule, bidding methods used for the sale of National Forest timber will be substantially the same as bidding methods used prior to the passage of the National Forest Management Act of 1976. However, the Chief, Forest Service, is authorized to prescribe the use of sealed bidding or a mix of bidding methods in areas where he has reasonable belief that collusive bidding may be occurring or where he determines that less than normal competitive bidding exists.

EFFECTIVE DATE: May 22, 1978.

FOR FURTHER INFORMATION CONTACT:

George M. Leonard, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: On March 30, 1978, the Secretary of Agriculture published a proposed rule (43 FR 13401) which would revise bidding methods for National Forest timber. Its purpose was to reinstate bidding methods in effect prior to the passage of the National Forest Management Act of 1976. The revision of bidding methods was authorized by Pub. L. 95-233 which amends section 14e of the National Forest Management Act (90 Stat. 2959; 16 U.S.C. 472a(e)).

A number of responses to the proposed regulation were received. Generally the responses favored the proposal, although there were several suggestions for changes.

DISCUSSION OF MAJOR COMMENTS

Many comments were directed to the use of the term "fair market value" rather than the statutory term "ap-

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praised value" in paragraph (a), item (3). Questions were raised as to the significance of the change. The Department of Agriculture has long interpreted "appraised value" as used in the 1897 Organic Act and in the National Forest Management Act of 1976 to mean "fair market value." The legislative history of the National Forest Management Act supports this interpretation. For example, the Section-by-Section Analysis in the report of the Senate Committee on Agriculture and Forestry on S. 3091 indicates that, "The Secretary is required to sell at not less than appraised value so that the United States will obtain fair market value for timber and timber products." Because fair market value is descriptive of the appraisal objective, the term is retained in the final rule.

Many comments were received on the requirement that sealed bidding be used on sales within Federal Sustained Yield Units. This requirement was proposed because competition for timber in the Units has generally been less than competition in adjacent National Forest areas. Community stability within the Units is protected by requirements that timber from the Units be processed in local communities.

A number of commenters pointed out that this requirement might cause economic and social problems when applied to the Lakeview Federal Sustained Yield Unit. The Lakeveiw Unit embraces two separate communities, Lakeview and Paisley, each largely dependent upon the timber industry. Little, if any timber is available from private lands. The policy statement for the Lakeview Unit restricts purchasers of timber within the Unit from buying National Forest timber outside the Unit. Thus, if a sale needed by mills in one community is purchased by firms in the other community or by a new firm, the mills in the first community do not have the opportunity to reach out to other sources of timber. Because of the apparent validity of the concerns expressed, an exception to the general policy of sealed bidding in Federal Sustained Yield Units is provided in the final rule, which will permit the use of oral bidding in the Lakeview Unit. The Chief has the authority under paragraph (e) to further change the bidding methods in this Unit should he find that it is necessary to assure free competitive bidding.

In response to other commenters there were minor editorial changes in paragraph (a) which did not change the substance.

Accordingly, 36 CFR 223.6 is revised to read:

§ 223.6 Bidding methods.

(a) Competitive sales of National Forest timber shall be offered through either sealed or oral auction bidding. The method chosen for each sale will (1) insure open and fair competition, (2) insure that the Federal Government receives not less than fair market value for the public resource, (3) consider the economic stability of communities whose economies are dependent upon National Forest timber, and (4) be consistent with the objectives of the National Forest Management Act of 1976, as amended, and other Federal Statutes.

(b) As a prerequisite to participation in an oral auction, bidders shall submit a written sealed bid at least equal to the minimum acceptable bid prices specified in the advertisement. No price subsequently bid at oral auction shall be accepted if it is less than the written sealed bid.

(c) The Chief, Forest Service, shall specify the use of sealed bids or a mix of bidding methods in areas where he has reasonable belief that collusive bidding may be occurring or where he determines that less than normal competitive bidding is occurring.

(d) Sealed bids shall be used for sales within Federal Sustained Yield Units, except where the policy statement for the Unit restricts purchasers of timber within the Unit from buying National Forest timber outside the Unit and the Chief determines that oral bidding will protect individual communities within the Unit.

(e) The Chief, Forest Service, may authorize departures from the requirements of paragraphs (c) and (d) of this section when he determines that departures are necessary to protect the public interest.

(f) The Chief, Forest Service, may authorize the testing and evaluation of alternative bidding methods for National Forest timber.

(92 Stat. 32, (16 U.S.C. 472a).)

M. RUPERT CUTLER,
Assistant Secretary.

MAY 17, 1978.

[FR Doc. 78-14162 Filed 5-19-78; 8:45 am]

[6820-34]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER A—GENERAL

[FPMR Amdt. A-29]

PART 101-2—PAYMENTS TO GSA FOR SUPPLIES AND SERVICES FURNISHED GOVERNMENT AGENCIES

Clarification of Provisions

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: GSA is amending its regulations concerning billing for supplies and services furnished to Government agencies and the procedures for payment and adjustment of these billings. Editorial and related changes are being made to clarify provisions.

EFFECTIVE DATE: May 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Karasinski, Chief, Federal Supply Programs Branch, Office of Finance, General Services Administration, Washington, D.C. 20405, 202-566-0938.

The table of contents for Part 101-2 is amended to correct the following entry:

101-2.1-103 SIBAC payment procedures.

Subpart 101-2.1—Billings, Payments, and Adjustments

1. Section 101-2.101(c) is revised as follows:

§ 101-2.101 Background.

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(c) In providing for goods or services for Government agencies, GSA must, under certain regulations, provide for payment of the procurement to the vendors for the agencies. The payments are made by GSA without confirmation of actual receipt of the goods or services by the agencies. These procedures are essential to comply with the payment terms and conditions of the purchase order or contract and to earn cash discounts. The payments are made by GSA from revolving funds which are reimbursed from the agencies' appropriations and funds in accordance with §§ 101-2.103 or 101-2.105. The agency that ordered and received the goods or services is responsible for the voucher audit (matching of the purchase documents, evidence of receipt, and billing documents). If the receiving agency has not received the goods or services in accordance with purchase order or contract, it is the agency's responsibility to report the losses or discrepancies to GSA in accordance with § 101-2.106 so that GSA may obtain credit from the vendor for overpayments. Credit to the ordering agency will be made by GSA in these cases based upon the report from the agency, and a claim will be placed by GSA against the carrier or vendor for recovery.

2. Section 101-2.103 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101-2.103 SIBAC payment procedures.

• • • • • •

(a) Treasury TFS Form 7306 (illustrated at § 101-2.4903-7306) will be used as the paid billing document in connection with this procedure. GSA as the SIBAC billing agency will attach supporting documentation only when the transaction cannot be adequately described on TFS Form 7306.

(b) The paid billing statement shall be accounted for by the billed agency as an accomplished or paid document and reported on its current SF 224, Statement of Transactions (similar to reporting the charge side of SF 1081, Voucher and Schedule of Withdrawals and Credits). GSA as the SIBAC billing agency will report the credit received from these charges on its SF 224. Both sides of the transaction will be accomplished as of the payment date of the paid billing statement. Immediate payment is accomplished by authorizing GSA to credit its own 8-digit agency pay station symbol and to charge the billed agency's 8-digit pay station symbol for services purchased or supplies shipped.

3. Section 101-2.104 is amended by revising the introductory paragraph to include the statement formerly in paragraph (b)(4), revising paragraph (b)(2), and deleting paragraph (b)(4) as follows:

§ 101-2.104 SIBAC chargeback procedures.

Agencies participating in the SIBAC system with GSA may utilize the chargeback procedure to obtain billing adjustments in accordance with the Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies, part VI, chapter 5000; instructions contained in GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8) or as outlined in § 101-2.106. For DOD the appropriate advice codes contained in the DOD Handbook, MILSBILLS, 4000.25-7-M, shall be used to request adjustments.

• • • • • •

(b) • • •

(2) Agencies other than DOD shall submit documentation to the GSA billing office in support of the chargeback taken. The documentation shall consist of an SF 238, SIBAC Adjustment Voucher for Chargebacks, SIBAC detail line item billing card(s) covering items being charged back (when available), and a copy of the detail billing register (GSA Form 952) with items that were charged back clearly annotated. Such documentation shall cite the authorization number provided by the GSA SIBAC representatives and, for FSS supply billings, the appropriate Billing Adjustment Advice Code(s) contained in the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8).

• • • • • •

(4) [Deleted]

4. Section 101-2.106 is amended by revising paragraphs (b) and (e) to read as follows:

§ 101-2.106 Adjustments.

• • • • • •

(b) Agencies shall notify GSA immediately of discrepancies or deficiencies in shipments or nonreceipt of shipments so that appropriate action may be taken. The discrepancies or deficiencies shall be submitted to the GSA office which made or directed shipment in accordance with GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8).

• • • • • •

(e) Credit adjustments for authorized return sales will be issued by GSA upon receipt of the returned material. The credit will be included on the next bill issued.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Dated: May 10, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-13717 Filed 5-19-78; 8:45 am]

[6820-35]

Title 45—Public Welfare

CHAPTER XVI—LEGAL SERVICES CORPORATION

PART 1623—PROCEDURES GOVERNING SUSPENSION OF FINANCIAL ASSISTANCE

AGENCY: Legal Services Corporation.

ACTION: Final regulation.

SUMMARY: The Legal Services Corporation establishes procedures to insure that financial assistance provided for a recipient will not be suspended without an opportunity to show good cause. The suspension power is only used when it's necessary to discharge the Corporation's statutory authority. This regulation specifies the circumstances in which a suspension may occur and the limitation on that power.

EFFECTIVE DATE: June 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen S. Walters, Legal Services Corporation, 733 15th Street NW., suite 700, Washington, D.C. 20005, 202-376-5113.

SUPPLEMENTARY INFORMATION: Section 1011 of the Legal Services Corporation Act requires the Corporation to establish procedures to insure the financial assistance to a recipient will not be suspended without an opportunity for the recipient to show cause why the suspension should not occur. The proposed regulation was published for comment on January 3, 1978 (43 FR 19). That regulation is now being republished without change, to be effective June 21, 1978. The suspension power is in many ways the most extreme sanction available to the Corporation in discharging its responsibilities under the Act. Financial assistance is continued during proceedings to deny applications for refunding and to terminate financial assistance, and in most instances the Corporation establishes a new grantee to provide service in the community affected. This is not the case with suspension. That power should, therefore, be used only as a last resort to correct serious deficiencies in a program where the recipient has refused to do so voluntarily.

In light of these considerations, this Part provides that financial assistance can be suspended only where a recipient is guilty of a substantial failure to comply with a provision of law, a Corporation rule, regulation, guideline, or a term or condition of its current grant, or has substantially failed to provide high quality, economical, and effective legal assistance. In most cases, suspension proceedings cannot be initiated unless the recipient has been informed of its failure and had a reasonable opportunity to correct it.

The second major restriction on the power to suspend financial assistance is that a particular suspension cannot be in effect for a total of more than 30 days. The Corporation employee who orders suspension may set the effective date of the suspension to coincide with the Corporation's schedule for making grant payments, and may rescind or modify the suspension at any time based on considerations such as the progress made toward compliance and the ability of the recipient to continue serving existing clients. After financial assistance has been suspended for a total of 30 days, however, the Corporation must initiate termination proceedings if it believes further action is necessary. The recipient may, of course, agree to an extension of the suspension instead, if it believes that compliance is imminent and does not wish to suffer the expense and dislocation of termination proceedings.

Chapter XVI of title 45 of the Code of Federal Regulations is amended by adding a new Part 1623 as follows:

Sec.
1623.1 Purpose.
1623.2 Definition.
1623.3 Grounds for suspension.

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Sec.
1623.4 Suspension.
1623.5 Time extension and waiver.
1623.6 Interim funding.

AUTHORITY: Secs. 1006(b)(1), 1011 (42 U.S.C. 2996e(b)(1), 2996j).

§ 1623.1 Purpose.

By providing procedures for prompt review that will insure informed deliberation by the Corporation when there is reason to believe that financial assistance to a recipient should be suspended, this Part seeks to avoid unnecessary disruption in the delivery of legal assistance to eligible clients.

§ 1623.2 Definition.

"Suspension" means any action temporarily suspending or curtailing financial assistance to a recipient in whole or in part prior to the expiration of the recipient's current grant from or contract with the Corporation.

§ 1623.3 Grounds for suspension.

Financial assistance provided to a recipient may be suspended when:

(a) There has been substantial failure by a recipient to comply with a provision of law, or a rule, regulation, or guideline issued by the Corporation, or a term or condition of the recipient's current grant from or contract with the Corporation; or

(b) There has been substantial failure by a recipient to provide high quality, economical, and effective legal assistance, as measured by generally accepted professional standards, the provisions of the Act, or a rule, regulation, or guideline issued by the Corporation.

(c) In the absence of unusual circumstances, suspension shall not take place unless the Corporation has given the recipient notice of its failure and an opportunity to take effective corrective action.

§ 1623.4 Suspension.

(a) When there is reason to believe that financial assistance to a recipient should be suspended, the Corporation shall serve a written preliminary determination on the recipient stating the grounds and effective date for the proposed suspension, and identifying, with reasonable specificity, any facts or documents relied upon as justification for the suspension. The preliminary determination shall also specify any corrective action that the recipient must take to avoid or end the suspension.

(b) The preliminary determination shall advise the recipient that it may, within 5 days of receipt of the preliminary determination, request an informal meeting with the Corporation at which it may attempt to show that the proposed suspension should not become effective. The Corporation shall designate the place for such a meeting and shall set the time at least 5 days after the recipient's request is received. The preliminary determination shall also advise the recipient that, within 10 days of its receipt of the preliminary determination and without regard to whether it requested an informal meeting, it may submit written materials in opposition to the proposed suspension.

(c) The Corporation shall consider any written materials submitted by the recipient in opposition to the proposed suspension and any oral presentation or written materials submitted by the recipient at the informal meeting, if one is requested. If after considering these materials the Corporation concludes that the recipient has failed to show that the suspension should not become effective, it may suspend financial assistance to the recipient in whole or in part and under such terms and conditions as it deems proper.

(d) Written notice of the suspension shall be promptly transmitted to the recipient, and the suspension shall become effective when the notice is received by the recipient or on such later date as is specified in the notice.

(e) The Corporation employee ordering suspension may at any time rescind or modify the terms of the suspension and, on written notice to the recipient, reinstate the suspension without further proceedings under this Part. In no event shall the total time of suspension exceed 30 days, unless the Corporation and the recipient agree to a continuation of the suspension for an additional period of time and without further proceedings under this Part.

§ 1623.5 Time extension and waiver.

(a) Any period of time provided in this Part, except the total time for suspension, may, upon good cause shown and determined, be extended by the person issuing the preliminary determination under § 1623.4 or by the President.

(b) Requests for extensions of time shall be considered in light of the overall objective that the procedures prescribed by this Part ordinarily shall be concluded within 30 days of the preliminary determination.

(c) Any other provision of this Part may be waived or modified by agreement of the recipient and the Corporation, or by the President upon good cause shown and determined.

§ 1623.6 Interim funding.

Failure by the Corporation to meet a time requirement of this Part shall not entitle a recipient to continued funding. Pending the completion of suspension proceedings under this Part, the Corporation shall provide the recipient with interim funding necessary to maintain its current level of legal assistance activities under the Act.

THOMAS EHRLICH,
President.

[FR Doc. 78-13703 Filed 5-19-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21466; RM-2885; RM-2918]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Swainsboro and Soperton, Ga., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: FCC assigns FM Channel 280A to Swainsboro, Ga., and FM Channel 269A to Soperton, Ga. This action is expected to bring a second FM radio station to Swainsboro and a first FM radio station to Soperton. These channel assignments resulted from petitions filed by Emanuel County Broadcasters and Center Broadcasting Co.

EFFECTIVE DATE: June 26, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: May 11, 1978.

Released: May 16, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Swainsboro and Soperton, Ga.), Docket No. 21466, RM-2885, RM-2913.

1. The Commission has before it the Notice of Proposed Rulemaking, 42 FR 58769, released November 10, 1977, inviting comments on alternative plans proposing the assignment of a second FM channel to Swainsboro, Ga., and/or a first FM channel to Soperton, Ga. The proceeding was instituted on the basis of petitions filed by Emanuel County Broadcasters ("Emanuel") and Center Broadcasting Co. ("Center"), seeking channel assignments to Swainsboro and Soperton, respectively. Both petitioners filed supporting comments.

2. As was stated in the Notice of Proposed Rulemaking, each petitioner requested the assignment of FM Channel 269A. Since the proposals were mutually exclusive, the towns being only 32 kilometers (20 miles) from each other instead of the required 104 kilometers (65 miles), they were and are being considered jointly. We agreed that both proposals merited consideration. In addition to proposing the assignment of Channel 269A to one community or the other, (Plans II and III), the Commission proposed Plan I under which Channel 280A, available for assignment only to Swainsboro, would be assigned to that city, with Soperton being assigned Channel 269A.

3. Petitioners have indicated in their comments that Plan I is the preferred proposal since it accommodates both their requests for channel assignments. Both Emanuel and Center state their intentions to apply for Channels 280A and 269A, respectively, if assigned as proposed. Further, in response to questions raised by the Commission in the Notice, Center indicates that assigning Channel 280A to Swainsboro would result only in preclusion on that channel in that area.[1] Also, both parties indicate that a suitable transmitter site is available for the proposed Channel 280A assignment to Swainsboro.[2] Also, in support of its request for a second Class A FM assignment to Swainsboro, Emanuel made the requested *Roanoke Rapids/Anamosa*[3] showing indicating that the proposed operation would provide first FM and first aural services at night to 1,168 persons in an area of 98 square kilometers (38 square miles) and second such services to 13,890 persons in an area of 1,070 square kilometers (414 square miles).

4. Upon careful consideration of the comments filed, we believe it would be in the public interest to adopt Plan I and assign Channel 280A to Swainsboro, Ga. (pop. 7,325),[4] the seat of Emanuel County, and Channel 269A to Soperton, Ga. (pop. 2,596), the seat of Treutlen County. Swainsboro has no daily newspaper and only 1 weekly newspaper. As the economic center of its county, Swainsboro has approximately 27 manufacturing businesses in the city and is served by 2 bus lines, 12 truck lines and 1 ne rail line. The city presently has two aural services, Class A Station WJAT-FM and daytime-only AM Station WJAT, which simulcast, and just recently has been granted an AM station on 1590 kHz.[5] In view of these facts, as well as those indicating that a suitable transmitter site for Channel 280A is available and that preclusion is minimal, in addition to proponent's *Roanoke Rapids/Anamosa* showing, it is appropriate to assign Channel 280A to Swainsboro.

5. In regard to Soperton, Channel 269A would be a first FM assignment to a city and county which have only one aural facility, daytime-only AM Station WYOK, licensed to proponent. Further, we note that Soperton has no daily newspaper and only one weekly newspaper. Since 1930, the city has shown a dramatic population growth, with over a 12 percent increase from 1960 to 1970. Soperton depends on agriculture, livestock and industry for its livelihood, with five manufacturing plants located in the city. Not only is Soperton on the mainline of the Seaboard Airline Railroad between Macon and Savannah and is serviced by Southern Trailways Bus Line, but the city also has an airport. In light of the above facts, the assignment of Channel 269A to Soperton is warranted.

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules: *It is ordered*, That effective June 26, 1978, the FM Table of Assignments (§ 73.202(b) of the rules) is amended with respect to the communities listed below:

City and Channel No.
Swainsboro, Ga.—252A, 280A.
Soperton, Ga.—269A.

7. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-13940 Filed 5-19-78; 8:45 am]

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[1] A preclusion study was not required for the proposal to assign Channel 269A to Soperton as this was a request for a first Class A FM assignment.

[2] Under Plan I there were restrictions on both transmitter sites. The site for Channel 280A must be located 3.2 kilometers (2 miles) west of Swainsboro, and the one for Channel 269A must be located 4.8 kilometers (3 miles) northeast of Soperton. However, our concern, based on aeronautical considerations, was limited to the ability to find a site in the Swainsboro area.

[3] *Roanoke Rapids*, 9 FCC 2d 672 (1967); and *Anamosa and Iowa City, Iowa*, 46 FCC 2d 520 (1974).

[4] All population figures are taken from the 1970 U.S. Census.

[5] An application (BP-20223), filed by WSJ Radio, Inc., for an AM station on 1590 kHz at Swainsboro, Ga., was granted on November 15, 1977.

[6712-01]

[FCC 78-314]

PART 97—AMATEUR RADIO SERVICE

Application for an Alien Permit

AGENCY: Federal Communications Commission.

ACTION: Order (rulemaking).

SUMMARY: The amateur radio service rules are amended to direct alien amateurs to send their applications for a permit to Gettysburg, Pa., instead of Washington, D.C. This change will improve the speed of service for alien permits.

EFFECTIVE DATE: May 30, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert Cassler, Safety and Special Radio Services, 202-634-6620.

SUPPLEMENTAL INFORMATION:

Adopted: May 10, 1978.

Released: May 17, 1978.

Order. In the matter of application for an alien permit in the Amateur Radio Service.

1. The Communications Act of 1934, as amended, gives the Commission the authority to grant to alien amateurs licensed in their country a permit to operate their amateur radio stations in the United States. This authorization may be granted to an alien amateur if there is a reciprocal agreement with the alien's government allowing United States amateurs operating privileges in the alien's country.

2. Section 97.305(b) of the amateur rules states that the application for an alien permit must be filed by mail or in person with the Federal Communications Commission in Washington, D.C. 20554. For some time now, the actual processing of alien permits has taken place in the Personal Radio Division's Facilities Branch in Gettysburg, Pa. and alien permits filed in Washington are simply referred to that Branch. This has resulted in some unnecessary delay in the processing of alien permits. We are, therefore, by this Order amending § 97.305(b) to direct that all applications for an alien amateur permit be filed in Gettysburg, Pa. 17325.

3. Inasmuch as this rule represents merely a change in Commission procedure, the notice, public procedures, and effective date provisions of the Administrative Procedures Act, 5 U.S.C. 553, are unnecessary. Authority for the amendment of this rule appears in Sections 4(i) and 303 of the Communications Act of 1934, as amended.

4. *Accordingly, it is ordered*, That Part 97 of the Commission's rules is

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amended, effective May 30, 1978, as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 97 of Chapter I of title 47 of the Code of Federal Regulations is amended, as follows:

§ 97.305 [Amended]

1. In § 97.305, paragraph (b) is revised to read as follows:

• • • • • •

(b) The application form shall be completed in full in English and signed by the applicant. A photocopy of the applicant's amateur operator and station license issued by his government shall be filed with the application. The Commission may require the applicant to furnish additional information. The application must be filed by mail or in person with the Federal Communications Commission, Gettysburg, Pa. 17325, U.S.A. To allow sufficient time for processing, the application should be filed at least 60 days before the date on which the applicant desires to commence operation.

[FR Doc. 78-14167 Filed 5-19-78; 8:45 am]

[4910-06]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION DEPARTMENT OF TRANSPORTATION

[FRA Docket No. 2172, Notice No. 3]

PART 256—FINANCIAL ASSISTANCE FOR RAILROAD PASSENGER TERMINALS

Revision of Regulations

AGENCY: Federal Railroad Administration ("FRA"), Department of Transportation.

ACTION: Revisions to final rule.

SUMMARY: This rule amends the FRA's regulations governing financial assistance for railroad passenger terminals (49 CFR Part 256) to delete provisions for financial assistance for planning or preservation of terminals which are to be converted solely to nontransportation uses. Such funding is now administered by the National Endowment for the Arts ("National Endowment"). Various technical amendments are also made to the surviving amendments.

DATES: This amendment takes effect on June 21, 1978. Comments received on or before July 21, 1978 will be considered.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Anne Murphy Bergner, Rail Passenger Programs Division, Office of Federal Assistance, Federal Railroad Administration, 400 7th Street SW., Washington, D.C. 20590, 202-755-9332.

Principal Attorney: Lawrence A. Friedman, Office of Chief Counsel, Federal Railroad Administration, 400 7th Street SW., Washington, D.C. 20590, 202-426-8220.

SUPPLEMENTARY INFORMATION: As originally enacted, section 4(i) of the Department of Transportation Act (49 U.S.C. 1653(i)) ("Act") authorized the Secretary of Transportation ("Secretary"), among other things, to make grants to eligible persons to help finance: (1) the development of plans for the conversion of railroad passenger terminals of historical or architectural significance into intermodal passenger terminals, civic or cultural centers, or both; (2) the preservation of such railroad passenger terminals pending the completion of plans for their conversion; and (3) the promotion of the conversion of not less than three historically distinctive railroad passenger terminals into intermodal passenger terminals on a feasibility demonstration basis. The Secretary has delegated his authority to the Federal Railroad Administrator (49 CFR 1.49(r)).

Congress determined in 1976, that the conversion of terminals which have no future transportation use could be more appropriately handled by the National Endowment. By section 706 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 125) ("4R Act"), Congress transferred to the National Endowment the authority to provide assistance to eligible persons for such terminals to be converted to civic or cultural use.

Section 706 of the 4R Act also amended section 4(i) of the Act to authorize the appropriation of $5 million to the Secretary for planning and $5 million for interim maintenance (preservation) of terminals. A maximum of one-half of the appropriated funds ($2.5 million for planning and $2.5 million for preservation) were to be available to the National Endowment. Congress later enacted section 219 of the Rail Transportation Improvement Act (Pub. L. 94-555, 90 Stat. 2629) which transferred the funding authorization of $2.5 million for planning and $2.5 million for interim maintenance from section 4(i) of the Act to section 11(a)(1) of the National Foundation on Arts and Humanities Act of 1965 (20 U.S.C. 960(a)(1)) and provided for direct appropriations for those purposes to the National Endowment.

In view of this transfer of authority to the National Endowment, the FRA regulations are amended to eliminate from their coverage, provisions pertaining to financial assistance for the planning or preservation of railroad passenger terminals solely for nontransportation uses. The regulations continue to include provisions for financial assistance for projects combining intermodal passenger activities and civic or cultural activities.

Because of the continued availability of funds for the program, the regulations are also amended to extend the deadlines for filing applications under § 256.11.

The regulations regarding application requirements for demonstration projects are amended to reference the use of the standard forms prescribed in Appendix M of Office of Management and Budget Circular A-102, formerly Federal Management Circular 74-7 (42 FR 45828, September 12, 1977), when applying for Federal assistance.

The regulations are further amended to require applicants to furnish assurances that they will comply with section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR Part 265, which prohibit nondiscrimination under the Intermodal Terminal Program.

Section 256.7(d) is revised to include a provision prohibiting the use of Federal funds to augment the non-Federal share of allowable project costs unless the funds are provided through a program which specifically authorizes such a practice.

The Administrator has determined that these regulations are not significant within the meaning of sections 2 and 3 of Executive Order 12044 of March 23, 1978 (43 FR 12661), and do not require a regulatory analysis. Pursuant to section 8(b)(2) of the Secretary's Memorandum of January 31, 1978, entitled "Improving Government Regulations" (43 FR 9582), an evaluation of these regulations has been placed in the public docket quantifying to the extent practicable, the estimated cost to the private sector, consumers, Federal, State and local governments as well as the anticipated benefits and impacts. The Administrator has also determined, under DOT Order 5610.1B, published October 30, 1974 (39 FR 35234), and the proposed FRA Order, issued January 19, 1977 (42 FR 5171), that these amendments do not constitute a major Federal action within the meaning of the DOT Order or the proposed FRA Order.

Under § 256.11(f)(3) of existing regulations, no new applications can be filed because the deadline for the filing of applications for planning and preservation of funds expired January 1, 1976; and the deadline for demonstration applications expired September 1, 1976. There is a pressing need to permit applications to be filed without further delay. In addition, the other changes in the regulations are either in response to the changes in the law previously discussed and, therefore, should be made without further delay, or are purely procedural and solely for the purpose of simplifying the application process. Accordingly, these amendments are being made effective 30 days after publication. Written comments, data, and views may be submitted, however, and such submissions will be evaluated and acted upon in the same manner as if this document were a proposal. Submissions must be made on or before July 21, 1978 to the Docket Clerk, Attention: FRA Docket No. 2172, Notice No. 3, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 7th Street SW., Washington, D.C. 20590. Until such time as further changes are made, however, these amendments will remain in effect, thus permitting the public business to proceed more expeditiously. The Administrator has considered the provisions of the Department's Consumer Representation Plan (41 FR 42822, September 28, 1976), section 2(c) of Executive Order 12044, and section 6(f) of the Secretary's Memorandum of January 31, 1978, and has concluded that this publication is in accordance with their provisions.

In consideration of the foregoing, 49 CFR Part 256 is amended as follows:

1. The table of sections is revised to read as follows:

Sec.
256.1 Purpose.
256.3 Definitions.
256.5 Eligibility.
256.7 Financial Assistance.
256.9 [Reserved]
256.11 Applications.
256.13 Review and Approval of Applications.
256.15 Disbursement of Financial Assistance.
Appendix A. Certificate.

2. The authority clause is revised to read as follows:

AUTHORITY: Sec. 4(i) of the Department of Transportation Act, 49 U.S.C. 1653(i), as amended by (1) sec. 15 of the Amtrak Improvement Act of 1974, Pub. L. 93-496, 88 Stat. 1528; (2) sec. 13 of the Amtrak Improvement Act of 1975, Pub. L. 94-25, 89 Stat. 93; (3) sec. 706 of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, 90 Stat. 125; and (4) sec. 219(a) of the Rail Transportation Improvement Act, Pub. L. 94-555, 90 Stat. 2629; and Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(r).

3. Section 256.3 is amended by renumbering definition "(n)" as "(o)" and by inserting the following new definition:

§ 256.3 Definitions.

• • • • • •

(n) "4R Act" means the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, Pub. L. 94-210, 90 Stat. 125, 49 U.S.C. 1653.

4. In § 256.5, subparagraphs (b)(6), (c) (3) and (6), and (d) (2) and (5) are revised to read as follows:

§ 256.5 Eligibility.

• • • • • •

(b) • • •

(6) The applicant has provided the information and documentation required under section 256.11(c).

(c) • • •

(3) There is a reasonable likelihood that the railroad passenger terminal will be converted to or conditioned for reuse as an intermodal passenger terminal. The primary use of the terminal shall be for intermodal purposes, but facilities for the provision of civic and cultural activities may be incorporated to the extent feasible. Such dual use of the terminal is particularly encouraged when it is recommended by the Council or the Chairman.

• • • • • •

(6) The applicant has provided the information and documentation required by section 256.11(d).

(d) • • •

(2) The applicant incorporates into its plans for the conversion of an historic terminal into an intermodal passenger terminal, features which appear reasonably likely to attract private investors willing to finance the planned conversion and/or its subsequent maintenance and operation. The primary use of the terminal shall be for intermodal purposes, but facilities for the provision of civic or cultural activities may be incorporated to the extent feasible.

• • • • • •

(5) The applicant has provided the information and documentation required under section 256.11(e).

5. In § 256.7, paragraphs (c) and (d) are revised to read as follows:

§ 256.7 Financial assistance.

• • • • • •

(c) *Planning Funds.* Federal financial assistance granted under subsection 4(i)(4) of the Act for the development of plans for the conversion of a railroad passenger terminal into an intermodal passenger terminal, which may incorporate civic and cultural activities where feasible, may be expended for the following project costs if incurred within two years after project approval:

(1) Cost of a study or studies to (i) assess the need for and the feasibility of converting an existing railroad passenger terminal into an intermodal passenger terminal which may incorporate civic and cultural activities where feasible; (ii) develop a fiscal plan and agreements for the plan's implementation; and (iii) (A) relate the project to other transportation priorities in the area; and (B) evaluate alternate means of providing needed intermodal passenger services within the community.

(2) Costs of preparation of preliminary architectural and engineering design documents for the project, including: (i) plans, sections, and sketches illustrating the functional as well as preservation aspects of the recommended development; (ii) assessment of the condition of existing structural and utilities systems and requirements for their improvement; (iii) outline specifications and preliminary estimates of project costs; and (iv) required environmental impact reviews and analyses.

(d) *Federal Share.* The Federal share of any project under this part shall not exceed sixty percent of the total allowable project costs. The non-Federal share may not be augmented by any Federal funds, directly or indirectly, unless the funds are provided through a Federal program which specifically authorizes the augmentation of a non-Federal share of a federally-assisted program with such funds.

§ 256.9 [Reserved]

6. Section 256.9 is revoked and the section is reserved.

7. Section 256.11 is revised to read as follows:

§ 256.11 Applications.

(a) *Incorporation by Reference in Application of Previously Submitted Information or Material.* Any information or material of any kind which has been submitted by an applicant need not be resubmitted if the prior submission is identified and incorporated by reference in the application. Where the prior submission is in need of any changes of any kind, the changes may be submitted provided the prior submission is identified and incorporated by reference with the changes. Any assurance, certification, or affirmation previously made by the applicant, in connection with a prior submission, must be reaffirmed by the applicant when any identification and incorporation by reference of previously submitted materials is made.

(b) *Pre-applications for Demonstration Funds.* In accordance with Apendix M of Office of Management and Budget Circular A-102, applicants shall use the pre-application form directed for use for construction, land acquisition, and land development projects when applying for demonstration funds under this program. Applicants shall include under Part IV (Program Narrative) of the pre-application form:

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(1) A statement of whether the railroad passenger terminal is listed in the National Register;

(2) A statement as to the interest and anticipated cooperation of the terminal owner and the relevant transportation companies;

(3) Where the applicant contemplates using funds it has received or will receive from other Federal programs for the planning or preservation stage of the projects, a brief description of the sources, and total anticipated amount of such funds; and

(4) A breakdown of the total allowable project costs.

(c) *Applications for Demonstration Funds.* Upon notification of the approval of the pre-application, applicants shall submit a final application for demonstration funds using the Federal Assistance Application for Construction Programs in accordance with Appendix M of Office of Management and Budget Circular A-102. Applicants shall include under Part IV (Program Narrative) of the form:

(1) A list of all organizations which will participate in the planning, implementation, or operation of each project, along with a discussion of the role of each organization;

(2) A full discussion of the desirability and feasibility of the project and a summary of the benefits to be derived;

(3) A summary of each proposed use of the intermodal passenger terminal for a civic or cultural activity;

(4) A description and documentation of existing or potential markets for interline intermodal service making use of the project facility, and of any changes in existing services which must be provided to achieve this potential;

(5) The proposed period during which the project will be evaluated to determine whether it has achieved the goals set forth in section 256.13(b);

(6) A detailed description of the rail passenger terminal (including where applicable the description on file with the National Register), the available transportation facilities, and the proposed intermodal passenger transportation improvements;

(7) Evidence that the architectural integrity of the railroad passenger terminal will be preserved;

(8) A detailed estimate of the total allowable project costs, listing and identifying each cost to the maximum possible extent;

(9) Evidence of the applicant's ability and intent to furnish its share of the total allowable costs;

(10) Evidence that the applicant has established, in accordance with Attachment G of Office of Management and Budget Circular A-102, adequate procedures for financial control, accounting, and performance evaluation, in order to assure proper use of the Federal funds;

(11) An assurance by the applicant that it will use Federal funds provided under the Act solely for the purpose for which assistance is sought and in conformance with the limitations on the expenditures allowed under the Act and applicable regulations;

(12) A description of the proposed methods of monitoring and evaluating the demonstration;

(13) Copies of the following: preliminary architectual and engineering design documents, plans, sections, sketches, and outline specifications;

(14) A proposed draft of an environmental impact statement, including documentation that the project includes all possible planning to minimize harm to the historic nature of the facility as required by section 4(f) of the Act (49 U.S.C. 1653(f)), to be reviewed, analyzed and used by the Administrator in preparation of a final Environmental Impact Statement under Department of Transportation Order 5610.1B (39 FR 35234, September 30, 1974);

(15) Two copies of an affirmative action program prepared in accordance with section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR Part 265;

(16) Assurances that the applicant will comply with the following Federal laws, policies, regulations and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964 42 U.S.C. 2000d et seq., and 49 CFR Part 21;

(ii) Section 905 of the 4R Act (45 U.S.C. 803), and 49 CFR Part 265;

(iii) Executive Order 11246, as amended (30 FR 12319, 32 FR 14303) and 41 CFR 60-4, as amended (43 FR 14888, April 7, 1978) which require equal employment opportunity in federally-assisted construction programs.

(iv) Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., and 49 CFR Part 25;

(v) 42 U.S.C. 4151 et seq., with regard to Federal policies ensuring that physically handicapped persons will have ready access to, and use of, public buildings;

(vi) The Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to nondiscrimination under Federal grants;

(vii) The Hatch Act, 5 U.S.C. 1501 et seq., which limits the political activities of employees; and

(viii) Where applicable, the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., and 31 CFR Part 51.

(17) Evidence of all legal commitments including, but not limited to, operating agreements and right-of-way leases which have been obtained from private carriers, public transportation operating agencies, and other entities as appropriate, to assure continued operation of the transportation services during the evaluation period;

(18) Evidence (including, but not limited to, copies of leases, deeds, easements, certificates of title, and mortgage agreements) that the applicant's property interest in the railroad passenger terminal is or will be, at the commencement of the project, sufficient for the applicant to implement the project;

(19) A summary of each proposed agreement permitting the use of any portion of the imtermodal passenger terminal for commercial purposes other than the provision of transportation services (if a standard form contract is to be used, applicant may submit a copy of the standard contract, a list of parties with whom it has contracted, and a list of any terms not common to the standard contract);

(20) An opinion of the applicant's legal counsel advising that (i) counsel is familiar with (A) the applicant's corporate or other organization powers; (B) section 4(i) of the Act, as amended (49 U.S.C. 1653(i)); (C) the other Acts referred to in these regulations; and (D) any regulations issued to implement those Acts; (ii) the applicant is authorized to make the application including all certifications, assurances, and affirmations required; (iii) the applicant has the requisite authority to carry out the actions proposed in the application and to fulfill the obligations created thereby, including the obligation to pay a share of the costs of the proposed project; (iv) the applicant has the authority to enter into all of the legal commitments referred to in paragraph (16) of this subsection and that these commitments are legal and binding by their terms; and (v) the applicant's property interest in the railroad passenger terminal is sufficient for the applicant to implement the project;

(21) For projects located in urbanized areas, as defined by the Bureau of the Census, a statement that the application has been coordinated with the metropolitan planning organization, designated by the Governor of the State in which the project is located pursuant to 23 U.S.C. 104(f)(3);

(22) A certification by the applicant that, in accordance with Office of Management and Budget Circular A-95 (41 FR 2052, January 13, 1976), section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334), and section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231), notification of the project has been submitted to, and comments thereon have been solicited from, the appropriate State and regional agencies and clearinghouses; and

(23) Any other information that the Administrator may require.

(d) *Applications for Preservation Funds.* Each application for preservation assistance shall include:

(1) The complete name and principal business address of the applicant;

(2) The complete name, title, and address of the person to whom correspondence regarding the application should be addressed;

(3) A list of all organizations which will participate in the planning, implementation, or operation of each project, and a discussion of each organization's role;

(4) A full discussion of the desirability and feasibility of the project and a summary of the benefits to be derived;

(5) A detailed description of the rail passenger terminal (including where applicable the description on file with the National Register), the available transportation facilities, and the proposed intermodal passenger transportation improvements;

(6) Documentation of the threat to the existing terminal, involving demolition, dismantling, or further deterioration of the terminal and the causes thereof;

(7) Evidence that the planning for conversion or reuse of the terminal has commenced and that it is proceeding in a timely manner, including a copy of the projected planning schedule;

(8) A proposed draft of an environmental impact statement or a negative declaration, including documentation that the project includes all possible planning to minimize harm to the historic nature of the facility as required by section 4(f) of the Act, 49 U.S.C. 1653(f), to be reviewed, analyzed, and used by the Administrator in preparation of a final Environmental Impact Statement or Negative Declaration as required by Department of Transportation Order 5610.1B (39 FR 35234, September 30, 1974);

(9) A detailed estimate of the total allowable project costs, listing and identifying all anticipated preservation costs to the maximum extent possible;

(10) The total amount of Federal assistance requested;

(11) Evidence of the applicant's ability and intent to furnish its share of the total allowable project costs;

(12) Where the applicant contemplates using funds which it has received or will receive from other Federal programs for the planning or demonstration stage of the project, a brief description of the sources, use and total anticipated amount of such funds;

(13) Evidence that the applicant has established in accordance with Attachment G of Office of Management and Budget Circular A-102, adequate procedures for financial control, accounting, and performance evaluation in order to assure proper use of the Federal funds;

(14) An assurance by the applicant that it will use Federal funds provided under the Act solely for the purpose for which assistance is sought and in conformance with the limitations on the expenditures allowed under the Act and applicable regulations;

(15) Evidence of substantial local public and/or private interest in organizing a project to convert the existing railroad passenger terminal to an intermodal passenger terminal, which may include use for civic or cultural activities;

(16) An opinion of the applicant's legal counsel stating that (i) counsel is familiar with (A) the applicant's corporate or other organizational powers; (B) section 4(i) of the Act, as amended (49 U.S.C. 1653(i)), (C) the other Acts referred to in these regulations; (D) and any regulation issued to implement those Acts; (ii) the applicant is authorized to make this application including all certifications, assurances, and affirmations required; (iii) the applicant has the requisite authority to carry out the actions proposed in its application and to fulfill the obligations created thereby, including the obligation to pay a share of the cost of the proposed project, and (iv) the applicant is empowered, for an interim period pending the formulation of plans for the conversion of the existing railroad passenger terminal, to maintain the terminal building and prevent its demolition, dismantling, or further deterioration;

(17) For projects located in urbanized areas, as defined by the Bureau of the Census, a statement that the application has been coordinated with the metropolitan planning organization, designated by the Governor of the State in which the project is located, pursuant to 23 U.S.C. 104(f)(3);

(18) A certification by the applicant that, in accordance with Office of Management and Budget Circular A-95 (41 FR 2052, January 13, 1976), section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334), and section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231), notification of the project has been submitted to, and comments thereon have been solicited from, the appropriate State and regional agencies and clearinghouses;

(19) Two copies of an affirmative action program prepared in accordance with section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR Part 265;

(20) Assurances that the applicant will comply with the following Federal laws, policies, regulations and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and 49 CFR Part 21;

(ii) Section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR Part 265;

(iii) Executive Order 11246, as amended (30 FR 12319, 32 FR 14303) and 41 CFR 60-4, as amended (43 FR 14888, April 7, 1978), which requires equal employment opportunity in Federally-assisted construction programs.

(iv) Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., and 49 CFR Part 25;

(v) 42 U.S.C. 4151 et seq., with regard to Federal policies ensuring that physically handicapped persons will have ready access to, and use of, public buildings;

(vi) the Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to nondiscrimination under Federal grants;

(vii) The Hatch Act, 5 U.S.C. 1501 et seq., which limits the political activities of employees; and

(viii) Where applicable, the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., and 31 CFR Part 51; and

(21) Any other information that the Administrator may require.

(e) *Applications for Planning Funds.* Each application for planning assistance shall include:

(1) The complete name and principal business address of the applicant;

(2) The name, title, and address of the person to whom correspondence regarding the application should be addressed;

(3) A list of all organizations which will participate in the planning, implementation, or operation of each project, and a discussion of each organization's role;

(4) A preliminary statement of work, and a detailed estimate of all planning costs broken down by project task;

(5) A proposed schedule for the planning process;

(6) A full discussion of the desirability and feasibility of the project and a summary of the benefits to be derived;

(7) A detailed description of the rail passenger terminal (including, where applicable, the description on file with the National Register), the available transportation facilities, and the proposed intermodal passenger transportation improvements;

(8) The total amount of Federal assistance requested;

(9) Evidence of the applicant's ability and intent to furnish its share of the total allowable project costs;

(10) Where the applicant contemplates using funds which it has received or will receive from other Federal programs for the preservation or demonstration stages of the project, a brief description of the sources, use, and anticipated amount of such funds;

(11) Evidence that the applicant has established, in accordance with Attachment G of Office of Management and Budget Circular A-102, adequate procedures for financial control, accounting, and performance evaluation, in order to assure proper use of the Federal funds;

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(12) An assurance by the applicant that it will use Federal funds provided under the Act solely for the purpose for which assistance is sought and in conformance with the limitations on the expenditures allowed under the Act and applicable regulations;

(13) An opinion of the applicant's legal counsel stating that (i) counsel is familiar with (A) the applicant's corporate or other organization powers; (B) section 4(i) of the Act, as amended, 49 U.S.C. 1653(i); (C) the other Acts referred to in these regulations; and (D) any regulations issued to implement those Acts; (ii) the applicant is authorized to make this application including all certifications, assurances, and affirmations required; and (iii) the applicant has the requisite authority to carry out the actions proposed in its applications and to fulfill the obligations created thereby, including the obligation to pay a share of the costs of the proposed project;

(14) A proposed schedule for the implementation of the applicant's completed designs and plans;

(15) For projects located in urbanized areas, as defined by the Bureau of the Census, a statement that the application has been coordinated with the metropolitan planning organization, designated by the Governor of the State in which the project is located, pursuant to 23 U.S.C. 104(f)(3);

(16) A certification by the applicant that, in accordance with Office of Management and Budget Circular A-95 (41 FR 2052, January 13, 1976), section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334), and section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231), notification of the project has been submitted to, and comments thereon have been solicited from, the appropriate State and regional agencies and clearinghouses;

(17) Two copies of an affirmative action program prepared in accordance with section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR Part 265;

(18) Assurances that the applicant will comply with the following Federal laws, policies, regulations, and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. and 49 CFR Part 21;

(ii) Section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR Part 265;

(iii) Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq. and 49 CFR Part 25;

(iv) 42 U.S.C. 4151 et seq., with regard to Federal policies ensuring that physically handicapped persons will have ready access to, and use of, public buildings;

(v) The Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to nondiscrimination under Federal grants;

(vi) The Hatch Act, 5 U.S.C. 1501, et seq., which limits the political activities of employees; and

(vii) Where applicable, the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., and 31 CFR Part 51;

(19) A statement that the applicant is prepared to develop practicable plans meeting the zoning, land use, and other requirements of the applicable State and local jurisdictions in which the rail passenger terminal is located.

(20) An assurance by the applicant that the designs and plans for the conversion to an intermodal passenger terminal, including any use for civic or cultural activities, will be completed within two years following the approval of the application for Federal financial assistance;

(21) A description of how the applicant can incorporate features which appear reasonably likely to attract private investors willing to share in the implementation of the planned conversion and its subsequent maintenance and operation;

(22) An environmental assessment using an interdisciplinary approach in identifying the type, degree, effect, and probability of occurence of potential environmental impacts due to the conversion to an intermodal passenger terminal; and

(23) any other information that the Administrator may require.

(f) *Execution and Filing of Applications.* (1) The original application shall bear the date of execution and be signed by the Chief Executive Officer of the applicant or by the applicant, where the applicant is an individual. Each person required to execute an application shall execute a certificate in the form of Appendix A hereto.

(2) The original application and two (2) copies shall be filed with the Federal Railroad Administrator, Department of Transportation, 400 7th Street SW., Washington, D.C. 20590. Each copy shall show the dates and signatures that appear in the original and shall be complete in itself.

(3) Pre-applications for demonstration funds must be submitted to the Administrator no later than August 21, 1978. Applications for planning, preservation and demonstration funds must be submitted to the Administrator no later than September 19, 1978. Applications received after these deadlines will not be considered for funding, unless all funds are not granted to applicants who have met the application deadline.

7. Section 256.13 is amended by revising paragraph (a) and the introductory language of paragraph (b); paragraph (d) is amended by deleting "final" before "application" to read as follows:

§ 256.13 Review and approval of applications.

(a) *Pre-applications.* Pre-applications for demonstration funds shall be reviewed by the Administrator in consultation with the Chairman and the Council.

(b) *Applications.* The Administrator shall review applications in consultation with the Chairman and the Council and select and monitor projects most likely to accomplish the following goals.

* * * * *

§ 256.15 [Amended]

9. Section 256.15(a) is amended by striking "a final" before "application" and inserting "an".

10. Appendix A of this part which appeared when this part was originally published in the FEDERAL REGISTER does not appear in 49 CFR as revised October 1, 1976. Appendix A is revised and republished as follows:

APPENDIX A—CERTIFICATE

The following is the form of the certificate to be executed by each person signing a pre-application or application: ———— (Name of Person) certifies that he is the Chief Executive Officer of ———— (Name of Agency or Organization); that he is authorized to sign and file with the Federal Railroad Administrator this (pre-application or application); that he has carefully examined all of the statements contained in the (pre-application or application) relating to ————; that he has knowledge of the matters set forth therein and that all statements made and matters set forth therein are true and correct to the best of his knowledge, information and belief.

Dated: May 10, 1978.

JOHN M. SULLIVAN,
Administrator, Federal Railroad Administration.

[FR Doc. 78-14120 Filed 5-19-78; 8:45 am]

[4910-59]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-19 Notice 24]

PART 567—CERTIFICATION

Bumper Standard Certification

AGENCY: National Highway Traffic Safety Administration, (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends the method by which manufacturers are required to certify compliance with applicable Federal safety standards to require, in the case of passenger cars, simultaneous certification of compliance with Federal bumper standards. This action fulfills statutory labeling requirements and avoids the cost and inconvenience of requiring a separate bumper certification label.

EFFECTIVE DATE: May 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. David Fay, Engineering Systems Staff, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2817.

SUPPLEMENTARY INFORMATION: On March 6, 1978, the NHTSA published a notice (43 FR 9167) proposing to amend 49 CFR Part 567, Certification, to implement § 105(c) of the Motor Vehicle Information and Cost Savings Act (the Act) (15 U.S.C. § 1901, et seq.), which requires certification of compliance with applicable bumper standards. The agency proposed that the manufacturer or distributor of a passenger car furnish to the distributor or dealer at the time of delivery, a single certification of compliance with all applicable safety and bumper standards. The proposal fulfilled the statutory labeling requirements and avoided the cost and inconvenience of requiring a separate bumper certification label, by simply supplementing the existing requirements of Part 567 for certification to applicable safety standards.

No unfavorable comments were received on the concept of allowing a single certification label for both safety and bumper requirements. One commenter suggested that the agency also encompass the fuel economy standards of Title V of the Act within the certification requirement of Part 567. However, Title V imposes average fuel economy requirements on manufacturer's fleets as a whole rather than on individual vehicles, making fuel economy certification labels inappropriate.

General Motors suggested allowing the label applicable to passenger cars to be used, at the manufacturer's option, on non-passenger vehicles as well, maintaining that use of two different labels could lead to control problems and increased costs. The same statement that the vehicle meets "all applicable safety and bumper standards" could technically be used on non-passenger vehicles because no bumper standards are "applicable" to this vehicle type. The agency declines to adopt General Motors' proposal, however, because consumers may be misled by such a statement into assuming that non-passenger vehicles also meet a bumper performance standard.

Several manufacturers pointed out that the proposed immediate effective date for the change would not allow sufficient lead time for preparation and printing of certification labels. To avoid difficulty phasing in the new certification labels, the amendment has been modified to allow conversion to the new label at any time prior to September 1, 1978. This change is consistent with the provision of § 571.215 which permits the manufacture of Part 581 bumpers prior to September 1, 1978, and will not be misleading since all vehicles bearing the new label will in fact comply with either the Standard 215 or Part 581 bumper requirements.

The amendment is expected to have no measurable environmental impact.

In consideration of the foregoing, Part 567, Certification (49 CFR 567), is amended as follows:

1. Section 567.1 is amended to read:

§ 567.1 Purpose and scope.

The purpose of this part is to specify the content and location of, and other requirements for, the label or tag to be affixed to motor vehicles required by section 114 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1403) (the Act) and by section 105(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. § 1915(c)(1)) (the Cost Savings Act), and to provide the consumer with information to assist him in determining which of the Federal Motor Vehicle Safety Standards (Part 571 of this chapter) (Standards) are applicable to the vehicle.

2. Section 567.3 is amended by the addition of a new sentence at the end of the text to read:

§ 567.3 Definitions.

* * * All terms that are defined in the Act and the rules and standards issued under its authority are used as defined therein. The term "bumper" has the meaning assigned to it in Title I of the Cost Savings Act and the rules and standards issued under its authority.

3. Section 567.4(g)(5) is amended by the addition of a new sentence at the end of the test to read:

§ 567.4 Requirements for manufacturers of motor vehicles.

* * * * *

(g) * * *

(5) The statement: "This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above." The expression "U.S." or "U.S.A." may be inserted before the word "Federal." However, in the case of passenger cars, the expression "and bumper"—

(i) May, at the option of the manufacturer, be included in the statement following the word "safety"; and

(ii) Shall be included in the statement following the word "safety" in the case of passenger cars manufactured on or after September 1, 1978.

4. Section 567.7(a)(2) is amended by the addition of a new sentence at the end of the text to read:

§ 567.7 Requirements for persons who alter certified vehicles.

* * * * *

(a) The statement: "This vehicle was altered by (individual or corporate name) in (month and year in which alterations were completed) and as altered it conforms to all applicable Federal Motor Vehicle Safety Standards in effect in (month, year)." The second date shall be no earlier than the maufacturing date of the original vehicle, and no later than the date alterations were completed. However, in the case of passenger cars, the expression "and bumper"—

(1) May, at the option of the manufacturer, be included in the statement following the word "safety"; and

(2) Shall be included in the statement following the word "safety" in the case of passenger cars manufactured on or after September 1, 1978.

The principal author of this notice is Richard Hipolit, Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); secs. 102, 105, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912, 1915); delegation of authority at 49 CFR 1.50.)

Issued on May 15, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-13702 Filed 5-19-78; 8:45 am]

[4910-59]

[Docket No. 72-23; Notice 03]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Seat Belt Anchorages

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 210, Seat Belt Assembly Anchorages, to eliminate the "buckle cutout" as an optional configuration of the body block test device used for testing the strength of lap-shoulder belt anchorages, and to clarify the illustration (figure 2) of body blocks used for testing lap belt anchorages. The optional configuration is being deleted because it unnecessarily complicates the test of the anchorages and is no longer being used by manufacturers.

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

William E. Smith, Division of Crash-

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worthiness, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2242.

SUPPLEMENTARY INFORMATION: Standard No. 210 (49 CFR 571.210) requires seat belt anchorages in motor vehicles to comply with specified strength requirements. The procedure for strength testing is set forth in paragraph S5 of the standard. The tests involve the attachment of a seat belt to the anchorage, followed by the application of force to the seat belt which is thereby transferred to the anchorage itself. Force is applied to type 1 and type 2 seat belt assemblies through body blocks that simulate the human torso. The body blocks are illustrated in figures 2 and 3 of the standard. This notice modifies figures 2 and 3 in accordance with the notice of proposed rulemaking issued December 16, 1976 (41 FR 54050).

Figure 2 describes the body block used for lap belt anchorage testing, and there has been some confusion concerning certain minor specifications in the figure. This amendment modifies the drawing in figure 2 to clarify the description of the body block. The change does not affect the substantive requirements of the standard in any way.

Figure 3 describes the body block used for combination shoulder and lap belt anchorage testing. An optional "buckle cutout" is shown on the surface of the body block in figure 3, permitting a manufacturer to make an indentation in the face of the body block to accommodate buckle hardware. NHTSA compliance test experience with the cutout demonstrates that the edge of the cutout causes additional stress on the belt webbing and interferes with its movement, thereby interfering with the test of the underlying anchorage. Comments to the proposal favored deletion of the "buckle cutout" option since it is disadvantageous to manufacturers and is no longer being utilized. This amendment, therefore, deletes the optional cutout from figure 3.

General Motors' comment recommended additional modifications of the drawing in figure 2. The agency has determined, however, that the suggestion to add shading to define the area of the body block to be covered by foam padding does not significantly alter the clarity of the drawing. General Motors also recommended a substitute test device for the lap-shoulder belt body block. This recommendation will possibly be considered in future rulemaking.

The engineer and lawyer primarily responsible for the development of this notice are William Smith and Hugh Oates, respectively.

Since this amendment does not make any substantive change in the requirements of the standard, it is found that an immediate effective date is in the public interest.

§ 571.210 [Amended]

In consideration of the foregoing, Standard No. 210, 49 CFR 571.210, is amended by modifying figures 2 and 3 as follows:



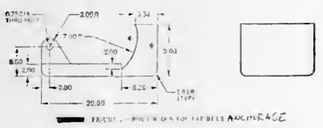


FIGURE 3 BODY BLOCK FOR COMBINATION SHOULDER AND LAP BELT ANCHORAGE

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on May 15, 1978.

JOAN CLAYBROOK,
Administrator, National Highway Traffic Safety Administration.

[FR Doc. 78-13563 Filed 5-19-78; 8:45 am]

[4910-59]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Notification to Vehicle Manufacturers "Designated Seating Position"

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notification to vehicle manufacturers.

SUMMARY: The purpose of this notice is to reemphasize to manufacturers that any position in the front seat of a vehicle capable of accommodating a person at least as large as a fifth percentile adult female will be considered a "designated seating position" by the agency, if the overall seat configuration and design is such that the position is likely to be used as a seating position while the vehicle is in motion. This notice is necessary because several recent vehicle models have been designated as having only two front seating positions, even though the vehicles are clearly capable of accommodating three adult occupants. This situation represents a serious threat to safety since these vehicles have no restraint system for the center seat passenger, so that a person is not provided with sufficient occupant crash protection.

FOR FURTHER INFORMATION CONTACT:

Hugh Oates, Office of Chief Counsel, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2992.

SUPPLEMENTARY INFORMATION: Safety Standard No. 208 requires manufacturers to provide occupant crash protection for each "designated seating position" in a passenger car. As defined in 49 CFR Part 571.3, "designated seating position" means:

> [A]ny plan view location intended by the manufacturer to provide seating accommodation while the vehicle is in motion, for a person at least as large as a fifth percentile adult female, except auxiliary seating accommodations such as temporary or folding jump seats.

Manufacturers are required to permanently affix a placard to the glove compartment door specifying the particular vehicle's designated seating capacity—expressed in terms of total number of occupants and in terms of occupants for each seat location (§ 4.3 of 49 CFR Part 571.110).

Thus, under the definition of "designated seating position", it is up to the manufacturer to determine the number of seating positions that are in his vehicle for purposes of complying with the occupant crash protection requirements, the seating system requirements, and several other safety standards.

This does not mean, however, that the manufacturer's designation will be accepted by the agency if there are additional, obvious seating positions that are likely to be used by occupants while the vehicle is in motion. The agency unquestionably intends to require protection for all vehicle occupants.

As early as 1971, the agency issued a letter of interpretation emphasizing that a manufacturer's seat designations will not always be accepted. That letter involved the question whether a seating accommodation that the manufacturer labels as "not for use while the vehicle is in motion" may be disregarded in determining which vehicle doors must comply with Standard No. 206. The agency made the following points:

The relevant question is whether the seating position in question is "intended by the manufacturer to provide seating accommodation while the vehicle is in motion." While Standard 207 will require all seats intended by the manufacturer not to be used while the vehicle is in motion to be so labeled, it does not necessarily follow that the label will be accepted in all cases as conclusive evidence of the manufacturer's intent. The design of the seat and its location in the vehicle must also be considered. As an example, if it were found that a manufacturer had previously intended that a particular seat be used while the vehicle is in motion, and that he now attached the label merely to evade the Standard 206 requirement without changing his design, the application of Standard 206 to the vehicle would not be barred. The ultimate question in such cases is whether the label clearly is in accord with the manufacturer's intent, in light of all the facts. (Letter to Mr. David J. Humphreys dated August 19, 1971.)

A letter issued by the agency in 1972 involved the question whether a manufacturer could designate certain seats in the crew compartment of a particular truck design as "auxiliary seating accommodations." The agency rejected the manufacturer's arguments and stated:

> Since the seats are essential to the use of the vehicle and since the passenger carrying function of the compartment is not secondary to some other use, it follows that the seats are not auxiliary and that they should be considered "designated seating positions" as defined in 49 CFR 571.3. In new vehicles, therefore, the crew compartment must be equipped with seat belts. (Letter to Mr. Michael Rind dated March 9, 1972.)

The definition of "designated seating position" was written to allow manufacturers wide latitude in vehicle seat design. As emphasized in the above letters, however, a manufacturer's intent concerning seating positions will be determined on the basis of all facts and his declarations will not always be accepted by the agency if they are inconsistent with the actual vehicle design. The manufacturer's designation must be made in good faith and must conform to the basic policies of the National Traffic and Motor Vehicle Safety Act. Otherwise, a manufacturer could label all seats in a passenger car as "not intended for use" and avoid the requirements of many safety standards.

The National Highway Traffic Safety Administration is currently investigating several vehicle models that have only two designated seating positions for the front bench seat or split-bench seat, even though there is adequate width for seating three adult occupants and the vehicles are apparently being so used. Many of these models have the same seat configurations as other models in the same car lines that have three front designated seating positions. Due to this inconsistency in designated seating capacity, the agency's Office of Vehicle Safety Compliance has asked the manufacturers of these vehicles to explain the criteria used to designate seating positions. The agency is very concerned that the third front seat passenger in these vehicles is not provided with a restraint system, particulary since the third center-seat passenger may often be a child.

This notice is intended to emphasize to vehicle manufacturers that the agency will consider any position in the front seat of a vehicle capable of accommodating a person at least as large as a fifth percentile adult female to be a "designated seating position", if the overall seat configuration and design is such that the manufacturer knows the position is likely to be used as a seating position while the vehicle is in motion.

Issued on May 15, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-13564 Filed 5-19-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Revised Service Order No. 1313]

PART 1033—CAR SERVICE

Railroads Authorized to Forward Portions of Certain Multiplecar Shipments Transporting Less Than Minimum Quantities Specified by Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Revised Service Order No. 1313.

SUMMARY: Many railroad tariffs require the tender of from two to twenty-four cars at one time. Because of severe car shortages the railroads are unable to furnish at one time all of the cars required to transport the shipment. Serious delays to cars occur while the shipper awaits receipt of the remaining cars required. Required Service Order No. 1313 requires railroad to accept and forward without delay partial shipments when the carrier is unable to furnish at one time all of the cars required to transport the minimum quantities specified by the tariffs. The shipper tendering such partial shipment is required to complete the multiple-car shipment before tendering additional shipments in the same kind of cars.

DATES: Effective, 12:01 a.m., May 17, 1978. expires, 11:59 p.m., June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 16th day of May, 1978.

The tariffs of various railroads contain minimum weight provisions which require that shipments of two or more cars be tendered at one time on one bill of lading for shipments of various commodities. Because of an extreme shortage of plain boxcars, covered hopper cars, gondola cars and *hopper cars, the carriers are unable to assemble the required number of cars without excessive car delay and loss of car utilization. This condition can be alleviated if carriers are authorized to forward the completed portions of multiple-car shipments of these commodities promptly without awaiting the assembly of all of the cars required to complete the shipment.

It is the opinion of the Commission that an emergency exists; that there is good cause to authorize the immediate forwarding of the completed portions of certain multiple-car shipments; notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1313 Railroads authorized to forward portions of certain multiple-car shipments transporting less than minimum quantities specified by tariffs.

(a) *Application.* (1) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

*(2) This order shall apply to all freight cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 407, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", "XMI", "LO", "GA", "GB", "GD", "GH", "GS", "HFA", "HK", "HM", "HMA", "HT", "HTA", including any such cars to which the suffix "C", "R", or "S" has been added to the mechanical designation.

(3) This order shall apply to any multiple-car shipment comprised two (2) and not more than twenty-four (24) cars described in part (2) of this section, required to be tendered to the carrier as a single shipment, on one bill of lading, at one time to comply with carrier's tariffs as to the number of cars to be shipped or the minimum quantity to be transported.

(4) The provisions of Service Orders Nos. 1234, 1280, 1303, and 1310, revi-

*Change.

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sions thereof or amendments thereto, shall remain fully in effect.

(5) All tariff provisions not specifically modified by this order shall remain in effect.

*(b) *Partial shipments to be forwarded.* When the carrier is unable to furnish all of the cars of any of the kinds listed in Section (a)(2) of this order to enable completion of a multiple-car shipment as described in Section (a)(3) of this order on one bill of lading on one day, the carrier shall accept instructions from shipper and immediately forward the completed portion of the shipment.

(c) *Completion of remaining portion.* The remaining portion of any partial shipment tendered to and forwarded by the carrier by authority of Section (b) of this order must be completed by the shipper before tender of any other shipments of the same commodities or requiring the use of the same kind of car is accepted by the carrier. The term "tendered" as used in this section means completion of loading by the shipper and receipt of instructions authorizing the immediate forwarding of the partial shipment.

(d) *Minimum weights.* The minimum weights applicable to each car in a multiple-car shipment and the minimum quantity required to be transported in a multiple-car shipment provided in the applicable tariffs shall remain fully in effect.

(e) *Billing to be endorsed.* The bills of lading and the waybills covering each car of a partial multiple-car shipment authorized by this order to be forwarded shall bear the following endorsement:

Multiple-car shipment of (—) cars. Partial shipment of (—) cars forwarded authority ICC Revised Service Order No. 1313. (—) additional cars to follow.

*(f) *Effective date.* This order shall become effective at 12:01 a.m., May 17, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

*Change.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

Effective date: May 17, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-14163 Filed 5-19-78; 8:45 am]

[7035-01]

[Ex Parte No. MC-75 (Sub-No. 1)]

PART 1047—EXEMPTIONS

Agricultural Cooperative Transportation exemption; Modification of Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Final regulations.

SUMMARY: In the Report and Order of December 22, 1977, the Commission modified its regulations governing agricultural cooperation transportation exemptions. After consideration of the petitions for administrative review, the modification to the regulation governing one-way Trip-leasing has been further clarified to prevent misunderstanding or misinterpretation.

EFFECTIVE DATE: July 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 292-275-7292.

SUPPLEMENTARY INFORMATION: By Notice and Order entered November 18, 1976, the Commission on its own motion, instituted this rulemaking proceeding and published in the FEDERAL REGISTER proposed modifications to the regulations pertaining to the agricultural cooperative transportation exemptions published at 41 FR 52893, December 2, 1976, and corrected at 41 FR 54009, December 10, 1976. Pursuant to a Report and Order of the Commission of December 22, 1977, modifications to the regulations were promulgated. These were published in volume 4 of the FEDERAL REGISTER on January 17, 1978 (43 FR 2396). Petitions for administrative review were filed and among other things, the petitions contended that the modification to § 1047.21(a) of the regulations was confusing and misleading. In order to clarify further the meaning of the modification and to prevent any possible misunderstanding or misconstruction the modification has been made more explicit in intent and meaning by the insertion of additional language.

The subsection now reads as follows (modification in italics):

§ 1047.21 Computation of tonnage allowable in nonfarm-nonmember transportation.

. . . . . .

(a) The phrase "incidental to its primary transportation operation and necessary for its effective performance" means that the interstate transportation of the cooperative association or federation of cooperative association for nonmembers as described above is performed with the same trucks or tractors employed in a prior or subsequent trip in the primary transportation operation of the cooperative association or federation, that it is not economically feasible to operate the trucks or tractors empty on return trips (outbound trips in cases where the primary transportation operation is inbound to the association or federation), and that the additional income obtained from such transportation is necessary to make the primary transportation operation financially practicable. *Transportation for nonmembers as described above performed by a cooperative or federation through the use of trucks or tractors trip-leased for one-way movements with the cooperative association or federation acting as leasee, is not incidental and necessary;* * * *

. . . . . .

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-14136 Filed 5-19-78; 8:45 am]

[7035-01]

SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

[No. 36557]

PART 1241—ANNUAL, SPECIAL OR PERIODIC REPORTS

Reporting Railroad Track Maintenance

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission adopts new schedules in the Annual Report, Form R-1 for class I railroads to report track maintenance data by main and branch lines and to disclose deferred track maintenance assessed by carriers.

DATE: This reporting revision is effective for the year beginning January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Brown, Jr., Chief, Section of Accounting, Bureau of Accounts, Interstate Commerce Commission, phone 202-275-7446.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking (NPR) dated June 17, 1977, published in the FEDERAL REGISTER on June 28, 1977, and served July 5, 1977 (42 FR 32819), the Commission announced that it had under consideration certain revisions to Annual Report Form R-1 filed with the Commission by class I railroads. The revisions consist of new schedules for reporting track maintenance data, and a new schedule for disclosing deferred track maintenance, as assessed by the railroads.

Inadequate track maintenance is a major problem for many railroads, which decreases the efficiency, quality, and profitability of railroad service. The Commission, and others who are concerned with the railroad industry, need information to analyze the adequacy of track maintenance. However, the current Annual Report Form R-1 filed by class I railroads does not provide sufficient data for this purpose. Therefore, the Commission shall require class I railroads to (1) report statistics on actual track and traffic conditions in greater detail than currently required in Form R-1, and (2) disclose the amount of deferred maintenance, if any, assessed by railroad management, and explain the methodology used in making the calculations. These disclosures will provide the Commission and others with useful information concerning track conditions of individual railroads, and the extent of their track maintenance efforts. The disclosures will also enable analysts to examine overall trends of track maintenance in the railroad industry, and to study the impact of measures taken by the Commission to reduce deferred maintenance.

Below are the schedules we have added to Form R-1. Additional information will be forwarded upon request. Contact Mr. Bryan Brown, Jr., Chief, Section of Accounting. Bureau of Accounts, Interstate Commerce Commission.

AUTHORITY: 49 U.S.C. 12 and 20.

H. G. HOMME, Jr.,
Acting Secretary.

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SCHEDULE 512 TRACK AND TRAFFIC CONDITIONS

Track Category	Mileage of Tracks at End of Period	Average Annual Traffic Density in Millions of Gross Ton-Miles Per Mile	Average Running Speed Limit	Average Speed Reduction Per Slow Order Mile	Miles Under Slow Orders at End of Period
A					
B					
C					
D					
E					
F					
Potential Abandonments					
TOTAL					

Instructions: (1) For purposes of this schedule, the track categories are defined as follows:

Track Category

A — 20 million or more gross ton-miles per mile per year (including track over which passenger service is provided - see Category F)

B — Less than 20 million gross ton-miles per mile per year but at least 5 million (does not include track over which passenger service is provided - see Category F)

C — Less than 5 million gross ton-miles per mile per year but at least 1 million (does not include track over which passenger service is provided - see Category F)

D — Less than 1 million gross ton-miles per mile per year (does not include track over which passenger service is provided - see Category F)

E — Way and yard switching tracks (passing tracks, crossovers and turnouts shall be included in appropriate Category A, B, C, D, F, and Potential Abandonments, as appropriate)

F — Track over which any passenger service is provided (other than potential abandonments); however, if annual traffic density is greater than 20 million gross ton-miles per mile per year, the track shall be included in Track Category A

Potential Abandonments — Route segments identified by railroads as potentially subject to abandonment as required by Section 1a(5)(a) of the Interstate Commerce Act.

(2) This schedule shall only include those lines maintained by the reporting carrier. It shall not include track maintained by others over which the reporting carrier has trackage rights.

(3) If, for two consecutive years, a line segment classified in one track category maintains a traffic density which would place it in another, it shall be reclassified into that category as of the beginning of the second year.

(4) Average speed reduction per slow order mile shall be based on reductions from the maximum authorized timetable train speeds.

(5) Miles under slow order shall not include those due to ongoing maintenance, or other temporary track conditions such as floods or derailments.

SCHEDULE 513 (A) TIES LAID IN REPLACEMENT

Track Category	Number of ties laid in replacement							% of Spot Maintenance
	New ties				Second-hand ties		Total	
	Wooden Treated	Wooden Untreated	Concrete	Other	Wooden Treated	Wooden Untreated	Other	
A								
B								
C								
D								
E								
F								
Potential Abandonments								
TOTAL								
Remarks								

Note: The term "spot maintenance" means repairs to track components during routine inspections as opposed to programmed replacements aimed at upgrading the general condition of the tracks. "% of Spot Maintenance" refers to the percentage of total ties laid in replacement considered to be spot maintenance. Please refer to Schedule 512 for explanation of line segments to be included in this schedule, and for definition of track categories.

SCHEDULE 515 (A) RAILS LAID IN REPLACEMENT

Track Category	Miles of rail laid in replacement (rail-miles)							% of Spot Maintenance
	New Rail			Second-hand rail			Total	
	Welded rail	Bolted rail	Welded rail	Relay Rail	Bolted rail	Other		
A								
B								
C								
D								
E								
F								
Potential Abandonments								
Other								
TOTAL								
Remarks								

Note: Please refer to Schedule 512 for explanation of line segments to be included in this schedule, and for definition of track categories.
Please refer to Schedule 513 (A) for the definition of "spot maintenance."

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SCHEDULE 520 SUMMARY OF TRACK MAINTENANCE

Track Category	Ties		Rail		Ballast	Track Surfacing	
	Number of ties replaced	% Replaced	Miles of rail replaced (rail-miles)	% Replaced	Cubic yards of ballast placed	Miles Surfaced	% Surfaced
A							
B							
C							
D							
E							
F							
Potential Abandonments							
TOTAL							

Instruction: In columns with the heading "%" give the percentage of replacements to total units of property at year-end.

Note: Please refer to schedule 512 for explanation of line segments to be included in this schedule, and for definition of track categories.

SCHEDULE 522 TEN-YEAR SUMMARY OF TRACK MAINTENANCE

Year	Ties		Rail		Ballast	Track Surfacing	
	Number of ties replaced	% Replaced	Track Miles of rail replaced	% Replaced	Cubic yards of ballast placed	Miles Surfaced	% Surfaced
(current year)							
(first preceding)							
(9th preceding)							

Instruction: (1) Report in appropriate columns total numbers of replacements for all categories of track lines and the percentage of replacements to the units of property.
(2) Explain in "Remarks" changes in track mileage due to acquisition, mergers, major abandonments and other disposals.

Note: Please refer to Schedule 512 for explanation of line segments to be included in this schedule.

Remarks

SCHEDULE 524 DEFERRED MAINTENANCE - TRACKS

Type of Track	Amount of Deferred Maintenance	
	End of the Year	Beginning of the Year
A		
B		
C		
D		
E		
F		
Potential Abandonments		
Total Tracks		

Selected Track Material	Quantities of Deferred Maintenance	
	End of the Year	Beginning of the Year
Cross ties		
Rail		
Ballast		

Remarks

Explain below methods and/or calculations used in determining amounts and quantities reported above.

Note: Please refer to schedule 512 for explanation of line segments to be included in this schedule, and for definition of track categories.

[FR Doc. 78-13607 Filed 5-19-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 25]

[Docket No. 17914; Notice 78-8; SFAR 13]

MODIFIED DOUGLAS DC-3 AIRPLANES WITH THREE TURBOPROP ENGINES

Proposed Type Certification Standards

AGENCY: Federal Aviation Administration/DOT (FAA).

ACTION: Notice of proposed rule making.

SUMMARY: The Federal Aviation Administration is considering amending Special Federal Aviation Regulations SFAR 13 as applicable to DC-3 airplanes to provide a basis for approval by the Administrator of modifications that would replace the two existing reciprocating engines with three turbopropeller engines. The proposal was developed as a result of a petition for rule making from Specialized Aircraft that, in effect, seeks to allow the DC-3 modifications without making application for a new type certificate.

DATES: Comments must be received on or before: August 22, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17914, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, Telephone: (202-755-8716).

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. In addition, commentators are encouraged to address the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice. Communications should identify the regulatory docket or notice number and be submitted in duplicate. All communications received on or before August 22, 1978 will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this notice of proposed rulemaking will be filed in the docket.

AVAILABILITY OF NPRMS

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

DISCUSSION OF THE PROPOSED RULE

In recent years, interest has been expressed by some persons in making modifications to the Douglas DC-3 involving replacement of the two installed reciprocating engines with three turbopropeller engines. According to the aircraft mofidiers, there have been increasing problems with the DC-3 propulsion system. In this connection, it is reported that the engine manufacturers no longer supply engines or replacement parts for the installed engine types, and that the old engines have a high failure rate and relatively short engine life between engine overhauls which directly affect safety and cost of operations. It is further reported that there are no other reciprocating engines suitable as direct replacements for the installed engines.

Under the provisions of § 21.19, and person who proposes to change the number of engines in a normal, utility, acrobatic, or transport category aircraft must make application for a new type certificate. The current standards applicable to a new type certificate for large airplanes and for all transport category airplanes are contained in FAR part 25. The Douglas DC-3 was originally designed and certificated on the basis of airworthiness standards in effect prior to 1940. Those standards are contained in Bulletin 7-A promulgated by the former Bureau of Air Commerce and in the initial Part 04 of the formerly effective Civil Air Regulations which was basically a recodification of Bulletin 7-A. Inview of the significant changes that have been made to the airworthiness standards in the years which followed the certification of the DC-3, the FAA believes that a showing of compliance with the current Part 25 requirements in their entirety, as would be required under § 21.19 for a modificaiton involving installation of three turbopropeller engines in the airplane, would not be possible. Moreover, an extensive redesign of the Douglas DC-3, to meet the overall current Part 25 requirements as well as to provide for the installation of the three turbopropeller engines, would be neither feasible nor practical.

Section 121.157 of the Federal Aviation Regulations permits air carriers to operate airplanes, such as the DC-3, that were certificated before July 1, 1942, if they meet the requirements specified in Part 121. SFAR 13, initially adoped by the Civil Aeronautics Board as SR-398 on October 7, 1953, provides specifically for airworthiness approvals of modified DC-3 ariplanes subject to compliance with later transport category certification requirements applicable to the modification being made. Read together, § 121.157 and SFAR 13 evidence the agency's determination that special rules are justified for the DC-3 airplane. In this connection, the FAA believes that the reasons for adopting § 21.19(b)91) as a rule of general applicability remain valid, and that no change to that section should be made merely because of the unusual circumstances with regard to the DC-3.

Consistent with its service safety record and the certification policy and procedures applied to the DC-3 over the years, the FAA believes that the basis exists to allow further modification of the DC-3. Adoption of the proposal would permit type certification of the modification in accordance with airworthiness standards developed specifically for the DC-3 rather than the currently effective standards specified in § 21.19. For DC-3 airplanes to be modified by the installation of three turbopropelier engines, the proposal would require compliance with all of the flight, powerplant, and operating limitations and information requirements of Part 25 in effect on the date of application for a supplemental type certificate. Compliance would also be required with certain provisions of part 25 relating to structure, fail safe criteria, flutter, airframe lightning protection, fire protection of engine mounts and flight structure, cockpit standardization, instrument arrangement and visibility, and systems and equipment, and with Special Conditions. In addition, the modified airplane would be required to meet the Part 36 noise standards applicable to subsonic transport category large airplanes.

DRAFTING INFORMATION

The principal authors of this document are Nicholas S. Dobi, Flight Standards Service, and Joseph D. Jeffrey, Office of the Chief counsel.

THE PROPOSED AMENDMENT

In consideration of the foregoing, it is proposed to amend Special Federal Aviation Regulations SAFR 13 by adding a new paragraph 3(e) to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS SFAR 13

. . . . .

3. *Specific conditions for approval.*

. . . . .

(e) *Installation of three turbopropeller engines in the DC-3.* Contrary provisions of § 21.19 of the Federal Aviation Regulations notwithstanding, an applicant for a supplemental or amended type certificate for a DC-3 airplane powered by three turbopropeller engines instead of two reciprocating engines must show that the airplane meets the following Federal Aviation Regulations in effect on the date of application and the additional requirements prescribed:

(1) The total engine power of the turbopropeller engines may not exceed 125 percent of the total engine power of the engines being replaced. No increase in the airplane's airspeed limitations or the certificated maximum weight will be permitted under this paragraph 3.

(2) Part 25, Subpart B—Flight.

(3) Part 25, Subpart C—Structure: § 25.345(b)(1) Effects of propeller slipstream on flaps; § 25.361 Engine torque; § 25.363 Side load on engine mount; § 25.367 Unsymmetrical loads due to engine failure; § 25.371 Gyroscopic loads; and § 25.581 Lightning protection.

(4) Part 25, Subpart D—Design and Construction: § 25.629(d) Fail-safe criteria; § 25.629 Whirl mode assessment (if the engine change significantly alters the mass stiffness of the wing, a detailed flutter assessment may be required); § 25.771 Pilot compartment; § 25.773 Pilot compartment view; § 25.777 Cockpit controls; § 25.779 Motion and effect of cockpit controls; § 25.781 Cockpit control knob shape; and § 25.865 Fire protection of flight controls, engine mounts, and other flight structure.

(5) Part 25, Subpart E—Power plant.

(6) Part 25, Subpart F—Equipment: § 25.1301 Function and installation; § 25.1305 Powerplant instrument; § 25.1309 Equipment, systems, and installations; § 25.1321 Instruments arrangement and visibility; § 25.1329 Automatic pilot system (if applicable); § 25.1337 Powerplant instruments; § 25.1351 Electrical systems and equipment, General; and § 25.1435 Hydraulic systems.

(7) Part 25, Subpart G—Operating limitations and information.

(8) Compliance with a particular detailed requirement of §§ 25.777, 25.779, 25.781, and 25.1321 is not necessary if the Administrator finds that such compliance would be impractical and would not contribute materially to cockpit standardization.

(9) Special Conditions prescribed in accordance with §§ 21.16 and 21.101.

(10) Airplanes modified in accordance with this paragraph 3 are considered to be, and must comply with provisions applicable to, subsonic transport category large airplanes under Part 36.

[Secs. 313(a), 601, 603 and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423, and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); 14 CFR 11.45]

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation Guidelines.

Issued in Washington, D.C. on May 15, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc 78-13765 Filed 5-19-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Parts 47, 178 and 179]

[Reference Notice Nos. 321 and 322]

FIREARMS REGULATIONS

Notice of Proposed Rulemaking; Extension of Comment Period

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Extension of comment period.

SUMMARY: Due to the scope of the proposals published in the FEDERAL REGISTER on March 21, 1978 (43 FR 11800 and 43 FR 11803), the Bureau is allowing an additional comment period on the notices of proposed rulemaking. This will give interested persons additional time to respond to the proposals.

DATE: Comments must be received on or before June 30, 1978.

ADDRESS: Written data, comments, or suggestions should be submitted to the Director, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226, Attention: Regulations and Procedures Division.

FOR FURTHER INFORMATION CONTACT:

James A. Hunt, Research and Regulations Branch, 202-566-7626.

Signed: May 19, 1978.

REX D. DAVIS,
Director.

[FR Doc. 78-14444 Filed 5-19-78; 9:33 am]

[4410-01]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[28 CFR Part 16]

[Order No. 784-78]

PRIVACY ACT OF 1974

Exemption of Records Systems

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice proposes to issue regulations exempting a new system of records, JUSTICE/CRM-025, Tax Disclosure Index File and Associated Records from provisions of the Privacy Act of 1974, 5 U.S.C. 552a.

DATES: All comments must be received no later than June 21, 1978. No oral hearings are contemplated.

ADDRESS: Written comments on the proposed exemptions should be clearly labeled "Privacy Act Exemption Comments" and sent to: Assistant Attorney General, Criminal Division, United States Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:

Bronson Clayton, Acting Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530, 202-739-5361.

SUPPLEMENTARY INFORMATION: The Department of Justice proposes to issue regulations exempting a system of records maintained by the Criminal Division known as JUSTICE/CRM-025, Tax Disclosure Index File and Associated Records, from the provisions of subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H), and (I), (e) (5) and (8), (f) and (g) of 5 U.S.C. 552a. The principal function of the Criminal Division pertains to the enforcement of criminal laws. The purpose of these exemptions is to maintain the confidentiality and secu-

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rity of tax information obtained from the Internal Revenue Service for those purposes authorized under 26 U.S.C. 6103 (h) and (i), as well as information derived from investigation based on such material, or reports compiled from such material at any stage of the process of enforcement of the criminal laws for which such material is obtained. The exemptions also serve to maintain in a broader sense the confidentiality and security of information compiled for criminal investigation and law enforcement purposes at all stages of the law enforcement process, and to maintain the confidentiality and security of the identity of witnesses, informants, and others protected in witness security programs. The exemptions may not apply to all records contained in this system of records. A determination will be made as to the exemption of a specific record at the time a request for notification or access is made.

The exemption of this system of records pursuant to the Privacy Act of 1974 is accomplished by the amendment of existing 28 CFR 16.91 (i) and (j) by adding JUSTICE/CRM-025, Tax Disclosure Index File and Associated Records, to the systems exempted by subsection (i) and utilizing the reasons set forth in existing subsection (j) which are equally applicable to this system. The proposed subsections (i) and (j) of 28 CFR 16.91 are set forth below in their amended form.

By virtue of the authority vested in me by 5 U.S.C 552a (j) and (k) and as Attorney General of the United States, the following sections is amended as follows:

Section 16.91, paragraphs (i) and (j) of Title 28, Code of Federal Regulations, are revised to read as follows:

§ 16.91 Exemption of Criminal Division Systems—limited access as indicated.

• • • • •

(i) The following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H) and (I), (e) (5) and (8), (f) and (g) of 5 U.S.C. 552a:

(1) Information File on Individuals and Commercial Entities Known or Suspected of Being Involved in Fraudulent Activities System of Records (JUSTICE/CRM-006).

(2) The Stocks and Bonds Intelligence Control Card File System of Records (JUSTICE/CRM-021).

(3) Tax Disclosure Index File and Associated Records (JUSTICE/CRM-025).

These exemptions apply only to the extent that information in these systems are subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(j) The systems of records listed in paragraphs (i)(1), (i)(2) and (i)(3) of this section are exempted, for the reasons set forth, from the following provisions of 5 U.S.C. 552a:

(1) (c)(3) The release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for these systems of records, would permit the subject of an investigation of an actual or potential criminal violation to determine whether he is the subject of a criminal investigation, to obtain valuable information concerning the nature of that investigation, and the information obtained, or the identity of witnesses and informants, and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f)(1) is specifically exempted for this system of records.

(2) (c)(4) Since an exemption is being claimed for subsection (d) of the Act (Access to Records), this section is inapplicable to the extent that these systems of records are exempted from subsection (d).

(3)(d) Access to the records contained in these systems would inform the subject of an investigation of an actual or potential criminal violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful completion of the investigation, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(4) Exemption is claimed from subsections (e) (1), (2) and (3), (e)(4) (G), (H) and (I), (e)(5) and (e)(8) for the reasons stated in subsections (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), (b)(9) and (b)(10) of this section.

(5)(f) Procedures for notice to an individual pursuant to subsection (f)(1) as to the existence of records pertaining to him dealing with an actual or potential criminal investigation or prosecution must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or prosecution pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since an exemption is being claimed for subsection (d) of the Act (Access to Records), the rules required pursuant to subsection (f) (2) through (5) are inapplicable to these systems of records.

(6)(g) Since an exemption is being claimed for subsections (d) (Access to Records) and (f) (Agency Rules), this section is inapplicable and is exempted for the reasons set forth for those subsections.

• • • • •

Dated: May 12, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-14211 Filed 5-19-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 898-6]

AMERICAN MAIZE-PRODUCTS CO. HAMMOND, IND.

State and Federal Administrative Orders Permitting a Delay in Compliance with State Implementation Plan Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to the American Maize-Products Co. The Order requires the company to bring its No. 3 starch ring dryer at Hammond, Ind., into compliance with certain regulations contained in the federally-approved Indiana Implementation Plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring final compliance by September 21, 1978. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATE: Written comments and requests for public hearing must be received on or before June 21, 1978. All request for a public hearing should be accompanied by a statement why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place as announced in the FEDERAL REGISTER.

ADDRESS: Comments and requests for a public hearing should be submitted to Mr. James O. McDonald, Director, Enforcement Division, U.S. Environmental Protection Agency Region V, 230 South Dearborn, Chicago, Ill. 60604. Material supporting the public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Louise Gross, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn, Chicago, Ill. 60604, or telephone at, 312-353-2082.

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SUPPLEMENTARY INFORMATION: The American Maize-Products Co. operates a starch ring dryer at Hammond, Ind. The proposed Order addresses the particulate emissions from the dryer at this facility, which are subject to Indiana Air Pollution Control Regulation APC-19. This regulation governs the issuance of construction and operating permits and is part of the federally-approved State Implementation Plan. After American-Maize Products Co. conducted emissions tests on its new starch ring dryer, it found that the particulate emissions exceeded that rate specified in its permit. The Company, therefore, has agreed to modify its dryer so as to achieve final compliance by September 21, 1978. The source has further agreed to meet the Order's increments during the period prior to and including this informal rulemaking and has committed to reasonable and practicable interim emission requirements. Because of the nature of the Company's pollution control devices, continuous emission monitoring is not feasible.

The proposed Order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act), 42 U.S.C. 7413(d). If the Order is issued, source compliance with its terms would preclude further U.S. Environmental Protection Agency enforcement against the source for violation of the regulation covered by the order while the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

EPA proposes issuance of the Order under section 113(d) (1) of the Clean Air Act and 40 CFR Part 65. The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of an Order under section 113(d) of the Act. In addition, Part 65 will contain sections summarizing Orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn and replace by a notice promulgating these new regulations.

Comments received by the date specified above will be considered in determining whether U.S. Environmental Protection Agency should issue the order. Testimony given at any public hearing concerning the order will also be considered. Final action on the order will be published in the FEDERAL REGISTER.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

1. By revising § 65.190 to read as follows:

§ 65.190 Federal delayed compliance order issued under section 113(d)(1).

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

[Order No. EPA-5-78-A-]

ORDER

In the Matter of: American Maize Products Co., Hammond, Ind. Proceeding Under Section 113(d) of the Clean Air Act, as amended.

The following Order is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended 42 U.S.C. Section 7401 et seq. (hereinafter referred to as "the Act"). Public notice, opportunity for public hearing and 30 days' notice to the State of Indiana and the Hammond Air Pollution Control Department have been provided pursuant to Section 113(d)(1) of the Act. This Order contains a schedule for compliance, for interim control requirements and reporting requirements. Final compliance is required as expeditiously as practicable, but not later than September 21, 1978.

On October 1, 1976, the Hammond Air Pollution Control Department issued an installation permit to the American Maize-Products Co. (hereinafter referred to as "the Company") for its No. 3 Starch Ring Dryer at the Company's Hammond facility. Such permit was issued pursuant to 40 CFR 51.18, Indiana Regulation APC-19 and Hammond Air Quality Control Ordinance number 3522, promulgated pursuant to Section 110(d) of the Act. Such permit was based on the condition that, inter alia, the Dryer operate at an emission rate of 18.1 pounds of particulate matter per hour. This emission limit reflected the best available control technology, while the Dryer's construction was to result in emission offsets such that a net particulate matter reduction of 26 percent was to occur.

On November 4, 1977, the Company conducted emissions tests on its No. 3 Starch Ring Dryer. The resultant particulate emissions exceeded 18.1 pounds per hour.

On November 30, 1977, at the U.S. EPA Region V Office, a meeting was held at the Company's request to discuss the operational difficulties with the Dryer. Present were representatives of the company, the Hammond Air Pollution Control Department and the U.S. EPA. At that time, the Company agreed to commit itself to a control schedule through an order issued under Section 113(d) of the Act.

The Company has waived its right to a Notice of Violation under Section 113(a)(1) of the Act.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is as expeditious as practicable, and that the terms of this Order comply with Section 113(d) of the Act. Therefore, it is hereby Ordered that:

I. The Company shall complete the following acts with respect to its No. 3 Starch Ring Dryer on or before the dates specified:

A. Commence engineering of Dryer modifications—December 15, 1977.

B. Complete engineering of Dryer modifications; obtain appropriations, award contracts—February 9, 1978.

C. Submission by contractor of completed plans, drawings and specifications—March 9, 1978.

D. Commence construction and installation of necessary equipment—June 27, 1978.

E. Complete construction—August 24, 1978.

F. Conduct stack tests to demonstrate compliance—September 21, 1978.

G. Submit stack test results to the Hammond Air Pollution Control Department and U.S. EPA—October 19, 1978.

II. The Company shall achieve final compliance with its permit emission limit of 18.1 pounds per hour at its No. 3 Starch Ring Dryer by September 21, 1978.

III. Pursuant to section 113(d)(7) of the Act, during the period in which this order is in effect, the Company shall use the best practicable system(s) of emmission reduction so as to minimize particulate emissions and to avoid an imminent and substantial endangerment to the health of persons and shall further comply with the requirements of the applicable implementation plan insofar as it is able to.

IV. During the period in which this order is in effect, the Company shall operate its No. 3 Starch Ring Dryer at a maximum production feed rate to the dryer of 40,557 pounds per hour at approximately 38% moisture and an interim emission limit of 26 pounds of particulate matter per hour. The Company shall further operate the scrubber as increased to a water flow rate of 750 gallons per minute, as operated during the November 1977 emissions testing. The Company shall maintain records throughtout the period in which this order is in effect which demonstrate that the provisions of this Paragraph are being followed. Such records shall be available for inspection by the U.S. EPA and the Hammond Air Pollution Control Department.

V. The Company shall submit reports to the U.S. EPA detailing progress made with respect to each requirement of this order. Such reports shall be submitted within five (5) days fo the completion of such requirement. In addition, no later than October 19, 1978, the Company shall certify to the U.S. EPA that the facility is in final compliance with its permit emission limit.

VI. All submissions and notifications to the U.S. EPA pursuant to this order shall be made to the Chief, Air Compliance Section, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604.

VII. Nothing in this order shall be construed so as to affect the Company's responsibility to comply with any other Federal, State or local regulations.

VIII. Nothing in this order shall be construed as a waiver by the Administrator of any rights of remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. section 7603.

IX. The Company is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Company will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines on the record, after notice and hearing, that an inability to comply with the permit emission limitation no longer exists.

XI. This order shall be effective upon FEDERAL REGISTER promulgation.

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Date ———————————

Administrator or Delegate
U.S. Environmental Protection Agency

The American Maize-Products Co. has reviewed this order and believes it to be a reasonable means by which its No. 3 Starch Ring Dryer can achieve compliance with its permit emission limit of 18.1 pounds per hour. The Company stipulates as to the correctness of all facts stated above and consents to the requirements and terms of this order. The Company waives its right to a Notice of Violation under section 113(a)(1) of the Clean Air Act. The Company further agrees not to challenge the reasonableness of this order.

Date ———————————

American Maize-Products Company
Dated: April 26, 1978.

VALDAS V. ADAMKUS,
Deputy Regional Administrator, Region V.

[FR Doc. 78-13719 Filed 5-19-78; 8:45 am]

[1505-01]

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1061]

[CSA Instruction 6132-2a]

CHARACTER AND SCOPE OF SPECIFIC PROGRAMS

Community Food and Nutrition Programs (CFNP)

Correction

In FR Doc. 78-13221 appearing at page 21016 in the issue of Tuesday, May 16, 1978, on page 21019, third column under the heading, "4. Allocation of Fiscal Year 1978 CFNP Funds by Program Category" the fourth entry under the millions column now reading, "3.3" should be corrected to read, ".8".

[6820-35]

LEGAL SERVICES CORPORATION

[45 CFR Part 1607]

GOVERNING BODIES OF RECIPIENTS

AGENCY: Legal Services Corporation.

ACTION: Proposed regulation.

SUMMARY: The Legal Services Corporation proposes to amend the regulations to require that one-third of the program board be persons who are eligible to be clients under the Legal Services Corporation's guidelines. The proposal implements the Legal Services Corporation Act Amendments of 1977. The proposed amendment maintains the goal of ensuring that legal services programs will be accountable to the community that it serves.

DATES: Comments must be received on or before July 6, 1978.

ADDRESS: Legal Services Corporation, 733 15th Street, NW., Suite 700, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT:

Stephen S. Walters, 202-376-5113.

SUPPLEMENTARY INFORMATION: Section 11 of the Legal Services Corporation Act Amendments of 1977, Pub. L. 95-222, amended section 1007(c) of the Act to require that at least one-third of a recipient's governing body consist of "persons who are, when selected, eligible clients who may also be representatives of associations or organizations of eligible clients." The effective date of this provision was delayed until July 1, 1978, "to afford local boards time, if needed to comply • • •." Sen. Rep. No. 95-172, 95th Cong., 1st Sess. (1977), at 8. These proposed amendments to Part 1607 implement the new statutory requirement.

The proposal that follows maintains the approach of the current Regulation by requiring that most members of a program board be selected by appropriate associations or groups. That requirement is at the heart of the Corporation's attempt to insure that programs will be accountable to the communities that they serve. Although the statute provides only that eligible clients on a program board "may" be representatives of their communities, the proposed regulation makes that requirement mandatory.

The proposal also contains a new § 1607.7, concerning compliance with the board composition requirements. Immediate compliance is required, but recipients may apply for an extension of time in which to comply with the new statutory language. This approach should help to avoid disruption of programs that have recently restructured their boards to comply with the current regulation or for which immediate compliance would otherwise be unduly burdensome. Given the importance of the issue, however, extensions should not be granted lightly, and all recipients must be in compliance by July 1, 1979. The Corporation is particularly interested in receiving comments on the compliance section.

At present, the relevant parts of this section read as follows:

Section 1607.3 *Composition.*

• • • • •

(d) At least one member of a governing body shall be, when selected, an eligible client, and at least one-third of the members shall be either eligible clients, or representatives of associations, groups, or organizations of eligible clients.

(e) The members who are, or who represent those who are, eligible clients shall be selected from, or designated by, a variety of appropriate groups including, but not limited to, client and neighborhood associations and organizations.

(f) The categories of "attorney" and "eligible client representative" are not mutually exclusive; a single individual may be counted toward satisfaction of both requirements.

(g) • • •

(h) • • •

(i) Members of a governing body may be selected by appointment, election, or other means. The method of selection and composition shall be subject to approval by the Corporation. A recipient whose current governing body does not satisfy the requirements of this section shall submit for approval a plan for achieving compliance as soon as possible.

PART 1607—GOVERNING BODIES OF RECIPIENTS

The Committee proposes to amend Part 1607 of title 45 of the Code of Federal Regulations as follows:

1. Section 1607.3 (d) and (e) are revised to read as set forth below.

2. Section 1607.3(f) is deleted and paragraphs (g), (h), and (i) are redesignated (f), (g), and (h).

3. Section 1607.3(i) is amended by deleting the final sentence.

§ 1607.3 Composition.

• • • • •

(d) At least one-third of a governing body shall be, when selected, eligible clients.

(e) The members who are eligible clients shall be selected from, or designated by, a variety of appropriate groups including, but not limited to, client and neighborhood associations and organizations.

• • • • •

4. A new § 1607.7 is added to read as follows:

§ 1607.7 Compliance.

(a) A recipient whose current governing body does not satisfy the requirements of this Part shall submit a plan for achieving compliance to the relevant Regional director immediately.

(b) The President may, upon application, extend the time in which a recipient must comply with the requirements of § 1607.3 (d) and (e). The application shall state:

(1) The current composition of the recipient's governing body, and the date upon which the composition was achieved;

(2) The date upon which the term of each current member of the recipient's governing body will expire;

(3) The recipient's plan for complying with the requirements of § 1607.3 (d) and (e) with all possible speed; and,

(4) The reasons why complying immediately would be unduly burdensome to the recipient.

(c) An application for an extension of time under paragraph (b) of this section must be received by the Corporation no later than [30 days after the effective date of the Regulation]. A copy of the application shall also be sent to the National Clients Council, which shall transmit its comments on the application, if any, to the corporation. An extension may be granted for no more than six months, and no more than two extensions may be granted to any recipient. In no event may the time for compliance be extended beyond July 1, 1979.

THOMAS EHRLICH,
President.

[FR Doc. 78-13701 Filed 5-19-78; 8:45 am]

[6820-35]

[45 CFR Part 1611]

APPLICANTS FOR LEGAL SERVICES

Eligibility

AGENCY: Legal Services Corporation.

ACTION: Proposed regulation.

SUMMARY: The Legal Services Corporation proposes to amend the eligibility requirements for an applicant seeking legal services. The current regulation disqualifies an applicant for legal services automatically, if the applicant has refused employment without good reason. The proposed amendment eliminates automatic disqualification upon that evidence. This proposal reflects congressional intent under the Legal Service Corporation Act Amendments of 1977.

DATE: Comments must be received on or before July 6, 1978.

ADDRESS: Legal Services Corporation, 733 15th Street NW., Suite 700, Washington, D.C. 20005

FOR FURTHER INFORMATION CONTACT:

Stephen S. Walters, 202- 376-5113.

SUPPLEMENTARY INFORMATION: Prior to its amendment last year, section 1007(a)(2)(B)(iv) of the Legal Services Corporation Act provided that evidence of a prior determination that an applicant for legal assistance had refused employment without good cause woud automatically disqualify that person for service. Section 9 of the Legal Services Corporation Act Amendments of 1977 changed that language to permit a program to consider such evidence in determining eligibility, without requiring disqualification. These proposed amendments to Part 1611 reflect that change. Both the House and Senate versions of the amendments were clear as to their intentions on this issue. The Senate Committee, for example, stated:

This amendment states that an individual's unwillingness without good cause, to seek or accept an appropriate employment situation shall be taken into consideration by a legal services program in determining an individual's eligibility for services. Such prior determination, however, is not to be an automatic disqualification or, for that matter, dispositive as to whether an individual is eligible to receive legal services. Other later considerations may be more relevant to an applicant's current need for assistance. (S. Rept. No. 95-172, 95th Cong., 1st sess. (1977), at 12.)

Similarly, the House Committee observed:

Programs may consider circumstances surrounding a person's lack of income, but should not be required to make retrospective judgments requiring them to turn away poor people having serious legal problems. (H. Rept. No. 95-310, 95th Cong., 1st sess. (1977), at 10.)

The proposed amendment to § 1611.5 implements this congressional intent.

At present, the relevant parts of § 1611.5 read as follows:

Section 1611.5. *Determination of eligibility.*

(b) In addition to income, a recipient shall consider other relevant factors before determining whether a person is eligible to receive legal assistance. Factors considered shall include:

• • • • •

(8) Other factors related to financial inability to afford legal assistance.

(c) Evidence of a prior administrative or judicial determination that a person's present lack of income results from refusal or unwillingness, without good cause, to seek or accept suitable employment, shall disqualify the person from receiving legal assistance under the Act. This paragraph does not bar provision of legal assistance to an otherwise eligible person who seeks representation in order to challenge the prior determination.

PART 1611—ELIGIBILITY

The Committee proposes to amend Part 1611 of title 45 of the Code of Federal Regulations as follows:

1. Section 1611.5 (b)(8) is revisesd to read as set forth below.

2. Section 1611.5 (c) is deleted and paragraph (d) is redesignated as (c).

§ 1611.5 Determination of eligibility.

• • • • •

(b) • • •

(8) Other factors related to financial inability to afford legal assistance, which may include evidence of a prior administrative or judicial determination that the person's present lack of income results from refusal or unwillingness, without good cause, to seek or accept suitable employment.

• • • • •

THOMAS EHRLICH,
President.

[FR Doc. 13700 Filed 5-19-78; 8:45 am]

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[49 CFR 395]

[BMCS Docket MC-70-1; Notice Number 78-11]

FEDERAL MOTOR CARRIER SAFETY REGULATIONS, HOURS OF SERVICE

Advance Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, Department of Transportation.

ACTION: Advance notice of proposed rulemaking and public hearing notice.

SUMMARY: The Federal Highway Administration is proposing revision of the regulations pertaining to hours of service limitations for commercial vehicle drivers engaged in interstate or foreign commerce. This action is being taken in response to numerous petitions and requests from public interest groups, labor organizations, and individual drivers for the revision of these regulations. Public comment is being sought on the proposed changes.

DATES: Written comments must be received on or before November 20, 1978. Requests to speak must be received on or before July 21, 1978. Hearing dates to be announced later.

ADDRESSES: Comments and requests to speak to: Director, Bureau of Motor Carrier Safety, Room 3402, Federal Highway Administration, U.S. Department of Transportation, Washington, D.C. 20590. Hearing locations: Atlanta, Ga.; Dallas, Tex.; Chicago, Ill.; Los Angeles, Calif.; New York City, N.Y.; Portland, Oreg.; and Washington, D.C.—exact particulars to be announced later.

FOR FURTHER INFORMATION CONTACT:

Principal Program Contact—Gerald J. Davis, Chief, Driver Requirements Branch, Bureau of Motor Carrier Safety, Federal Highway Administration, 202-426-9767.

Gerald M. Tierney, Esq., Motor Carrier and Highway Safety Law Division, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0346.

SUPPLEMENTARY INFORMATION: On February 12, 1976, the Federal Highway Administration (FHWA issued an Advance Notice of Proposed Rulemaking (Docket MC-70, Notice 76-14, 49 FR 6275) which stated that FHWA was considering an extensive review of the Hours of Service of Drivers, Part 395 of the Federal Motor Carrier Safety Regulations.

The rationale for the hours of service regulations is justified by the con-

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cept that the longer a person drives, the more fatigued that person becomes, and, consequently, the more prone to becoming involved in accidents.

A comprehensive industrial survey and analysis by the Department of Labor has established that fatigue is a limiting factor in efficiency and output as well as a causative factor in accidents. A worker's effectiveness will vary with the physical demands which his job makes on him. A person will tire faster at some types of work than at others. Where the demands on a person are greater than that person can bear, that person either breaks down or slows down so as to stretch available energy over a longer working schedule. The consequences of such an action are the undermining of work quality and the endangerment of employees and others.[1]

According to the conventional view, there are many kinds of fatigue and the more basic categorization distinguishes objective fatigue (reduction of work quality), subjective fatigue (the experience of tiredness), and physiological fatigue (change or reduction in a specific body process).

There are several symptoms of fatigue. When it is present in a healthy person, there is reluctance to undertake any form of exertion and there is a slowing of responses coupled with a decrease in accuracy and performance. Other symptoms include poor judgment and disorganization of skill.[2]

Fatigue following short bursts of activity, whether by the whole body or by isolated muscle groups, is characterized by increases in lactic acid and temporary inability to continue. Fatigue from depletion of fuel resources results in a low level of blood sugar. Fatigue from working in stressful environments has several manifestations, the most simple to measure being an increase in heart beat rate.

As early as the 1930's, fatigue was suspected of being a major causative factor in motor vehicle accidents. One of the earliest research projects in the field was prepared by Ryan and Warner in 1936. Their purpose was to determine the effect of a moderately long day (8½ hours) of driving on the efficiency of the driver. Subjects were tested both before and after driving, and on alternating days of driving and rest.

The testing procedure consisted of: (a) a physiological measure, the vascular skin reaction test; (b) two psychomotor measures—postural steadiness and hand-eye coordination; (c) a "visual efficiency" test; and (d) two tests requiring intellectual activity—color naming, and mental addition. The effects of driving were demonstrated by comparing the test—retest results of the group on driving days with their performance on non-driving days. it was found that significant losses occurred on each of the measures taken on driving days.[3]

Another early study was one performed by Lahy in 1937. A van equipped with apparatus to administer psychological and physiological tests followed a commerical truck for 560 miles. Test results on the two driving subjects showed physiological changes, however, in comparing subjects there was no systematic pattern of changes.[4]

Recognizing the growing public concern the Interstate Commerce Commission in 1938 requested the U.S. Public Health Service to conduct research to aid in the establishment of a rational limit to the hours a commercial vehicle driver is allowed to operate. This research was performed by Jones, Flinn, and Hammond and involved 889 interstate truck drivers who were given a battery of psychological and physiological tests as they finished their trips. Comparison of test results was made between a control group with no driving prior to the time of testing, those who drove from 0.1 to 9.9 hours, and those who had spent 10 hours or more behind the wheel.

The tested variables were speed of finger tapping, reaction/coordination time, body sway, manual steadiness, vigilance, simple reaction time and critical flicker fusion. The test results showed a consistent reduction in quality of performance (in the order shown) with increasing hours of driving. This study was published in 1941 afer the intitial hours of service regualtions had become effective.[5]

Various combinations of driving environments—simulators, closed-circuit tracks, the open road, and a variety of driver assessment techniques were used in the different studies. The earlier studies did not measure or test actual driving performance, but rather skills which were similar in principle to those required in driving.

The first notable second generation investigation was conducted by McFarland and Moseley in 1954. Long hours of driving were imposed to bring about a state of fatigue, and the effect on driving was then noted. Comparison of performance during the first and last hours of the drive showed considerable reduction in the number of steering wheel movements in the last half hour.

Through questioning, McFarland and Mosely noted that numerous drivers experienced hypnagogic (sleep inducing) hallucinations. These drivers after driving long distances imagined seeing something on the road, and made emergency stops; sometimes driving off the road, without recognizing that the situation was not real. All 33 of a group of long haul truck drivers interviewed, reported having experienced these hallucinations, mainly at night, while none of a group of 20 local truck drivers had done so. These drivers thought that the frequency of the hallucinations had been reduced considerably after the introduction of a shorter working day.[6]

Lauer and Suhr reported in 1959, results which showed that frequent rest pauses do much to reduce deterioration of performance due to prolonged driving.

In their 3 year laboratory study the 56 subjects were divided into two groups of 28 each, matched for age and driving experience. The control group was given 6 hours of continuous performance on the Drivometer (a simulated-auto testing device). The experimental group was given a rest period every 1½ hours during a corresponding period of performance. Tea and additives were available and provided on request.

Ratings indicated that an extended period of automobile driving without pause or refreshments resulted in changes in behavior pattern which could adversely affect driving performance. Likewise, the drivers as a group, consistently made higher scores on the days that they were given a rest pause. The effect became more pronounced as driving time increased.[7]

Another test utilizing a Drivometer was conducted by Platt in 1963. This experiment consisted of sending out a two-man team in a car equipped with a Drivometer. This test involved a 2,400 mile round trip, over four-lane divided-limited access highways. Because fatigue was felt to be accelerated by the monotony of the highway environment, this kind of highway seemed the most important in loss-of-control accidents.

Experiments indicated that some drivers have more skill in tracking

[1]Bureau of Labor Statistics, Hours of Work and Output, Bulletin No. 917 (Washington, D.C.: U.S. Superintendent of Documents, 1947).

[2]Canada Department of Labour, Review of Literature Pertaining to the Effects of Fatigue on Driving (OTTAWA: Canada Department of Labour, 1972).

[3]A. H. Ryan and M. Warner, "The Effect of Automobile Driving on the Reactions of the Driver." The American Journal of Psychology, 48 (July 1936).

[4]Bernard Lahy, "Les Conducteurs de 'Poids Lourds'" Le Travail Humain, (5 March 1937).

[5]U.S. Public Health Service, Fatigue and Hours of Service of Interstate Truck Drivers, Public Health Bulletin No. 265 (Washington, D.C.: U.S. Superintendent of Documents, 1941).

[6]Ross A. McFarland and Alfred L. Moseley, Human Factors in Highway Transport Safety (Boston: Harvard School of Public Health, 1954).

[7]A. R. Lauer and Virtus W. Suhr, "The Effect of a Rest Pause on Driving Efficiency," Perceptual and Motor Skills, Vol. 9, pp. 363-371, (1959).

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than in speed control; others were more skillful in maintaining a uniform speed. Relatively few drivers were well coordinated in both controls simultaneously. When a driver became tired, his sensitivity to both parts of the task deteriorated. The loss of ability in either tracking control or speed control is critical from a safety viewpoint.[8]

Herbert's (1963) study is notable because it involved 180 drivers who were tested while driving. They operated over a 12 mile desert driving course, and were required to duplicate vehicle control maneuvers. A reduction in the quality of performance occurred in Herbert's testing, which showed progressive loss in performance through 7 hours of driving.[9][10]

Lisper et al. (1968) investigated changes in reaction time and then validated it with brake reaction time. The intention was to examine whether brake reaction time would be prolonged as a function of hours of driving when measured parallel with reaction time.

Lisper concluded that reaction time increased over the driving period and that it could be considered to reflect changes in the driver's performance, as there was a reduction in potential readiness to react to irregular events.[11]

Research, investigating driver alertness, was authorized by the National Highway Traffic Safety Administration and was conducted by the Cornell Aeronautical Laboratory in 1970. Tests conducted over 48 data runs of 4 hours duration showed:

1. That the driver's ability to maintain his vehicle on the road under non-alerting conditions decreased linearly with time over the 4 test hours.

2. The rate of steering wheel corrections made by the driver also decreased linearly with time.

3. On a per subject basis, there was a significant negative correlation between position error and steering wheel correction frequency. This may be taken to indicate that either the subject perceptually sampled his road position less frequently after driving a number of hours or he processed and reacted to his road position less frequently over long duration driving.

4. Measurements of position accuracy during a simulated emergency indicated that the driver was less likely to be able to control his vehicle accurately during an emergency.

5. Analysis of occipital EEG recordings reveal an increase in the occurrence of alpha bursts for all subjects.[12]

Research testing by Kaluger and Smith of Ohio State University (1970), although different in tact, was consistent with earlier findings. They filmed the changes in driver's eye-movement patterns over a 9-hour period under open-road conditions at different speeds. Indications showed that fatigue caused drivers difficulty in maintaining their proper lane position, and that fatigue could be offset longer when rest breaks were taken.

As time progressed on the test runs, subjects' eyes tended to focus closer to the vehicle rather than further down the road. Their eye movements shifted away from the center of the road to the righthand side. After a rest break, eye patterns moved back toward the left and upward.

Research indicated that an additional effect of fatigue was an increase in the speed the subject maintained when denied the use of a speedometer.

The increased speed and reduced viewing distance ahead combined in producing a situation in which the driver had great difficulty in retaining complete control of his vehicle.[13]

In 1971, the Federal Highway Administration (FHWA) awarded a contract to study the interrelationship between fatigue, hours of service, and commercial vehicle driver safety. The main objective was to identify the factors that cause commercial vehicle driver fatigue and contribute to unsafe operations. Other objectives of this contract were to develop scientifically valid data upon which to assess present rules and to determine whether there was a relationship between driver's hours of service and commercial motor vehicle accidents.

This human factors study (Phase 1) did not make recommendations but did identify the five most important factors to be considered in analyzing the problem. The final report consisted of a review of previous research, an opinion survey of drivers and company officials, an analysis of selective accident data, and the result of physiological and performance measurements on selected drivers employed by carriers in regularly-scheduled service.

The research endeavor reported the difficulty in even defining what is meant by commercial vehicle driver performance, thus, techniques for measuring this performance had to be developed. Fatigue cannot be measured directly; it must be inferred from other variables through analysis of driver performance, physiological changes of the driver, and the subjective feelings of the driver.[14]

Additional research is being performed in the area of hours of service and accidents and the relationship between fatigue and drivers who work and drive irregular schedules.

Since the FHWA-sponsored research was initiated, other research has continued. In 1973, Laurell and Lisper published a paper on fatigue in driving, covering an experiment in which drivers were supposed to drive until they fell asleep. For safety reasons, this experiment was run on the runway system of an air force base with a short break for food and gas every 4 hours. Driver endurance in this situation ranged from 9 to 12 hours of driving and by that time the subjects had fallen asleep several times.[15]

Some of the most comprehensive research over the last 8 years has been done by Yajima of the Institute of Medical Electronics, University of Tokyo, and Sugi of Isuzu Motors. They measured driver's physiological and psychological responses during freeway driving over a 7 to 10 hour driving day.

Results showed that driver's biological rhythm was at the lowest level at daybreak, and if fatigue was present then, the driver's reserve power was so depleted that continued driving was hazardous. They found, as had Kaluger and Smith in 1970, that fatigue caused a narrowing of vision and attention, ultimately resulting in the driver missing signs and signals. Because the central nervous system recovered slowly once it became fatigued, rest breaks became imperative. Experiments indicated that the most successful driving was done when rests of 20 to 30 minutes were taken every 1.5 to 2 hours.[16]

The overall effect of fatigue on driving ability over time is a decrease in

[8]Fletcher N. Platt, "A New Method of Measuring the Effects of Continued Driving Performance," Driver Characteristics, Night Visibility, and Driving Simulation, Highway Research Record No. 25 (Washington, D.C., Highway Research Board, 1963) pp. 33-57.

[9]Marvin J. Herbert, "Analysis of a Complex Skill: Vehicle Driving," Human Factors, August 1963, pp. 363-372.

[10]Marvin J. Herbert and William E. Jaynes, "Performance Decrement in Vehicle Driving," Journal of Engineering Psychology, Vol. 3, No. 1 (January 1964), pp. 1-8.

[11]Hans-Olof Lisper et al., "Effects of Prolonged Driving Upon a Subsidiary Serial Reaction Time," 52nd. report (Uppsala, Sweden: University of Uppsala, 1968).

[12]E.. Donald Sussman and Dominic F. Morris, Cornell Aeronautical Laboratory, *An Investigation of Factors Affecting Driver Alertness*, (Springfield, Va.: National Technical Information Service, 1970 (PB-195920, $6.50)).

[13]N. A. Kaluger and G. L. Smith, "Driver Eye-Movement Patterns Under Conditions of Prolonged Driving and Sleep Deprivation," *Night Visibility and Driver Behavior*, Highway Research Record No. 336 (Washington, D.C. Highway Research Board, 1970).

[14]William Harris et al., Human Factors Research, Incorporated, *Study of the Relationships Among Fatigue, Hours of Service, and Safety of Operations of Truck and Bus Drivers*, (Springfield, Va.: National Technical Information Service, 1972 (PB-213 963, $8.00)).

[15]Hans Laurell and Hans-Olof Lisper, "Fatigue in Driving," *Proceedings of the First International Driver Behavior Research Conference* (Zurich: October 1973).

[16]Kazuyoshi Yajima, "Fatigue in Automobile Drivers Due to Long Time Driving," Society of Automotive Engineers Paper No. 760050 (Detroit: Society of Automotive Engineers, 1976).

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driver performance. Physiological and psychological testing show diminishing driver alertness, judgment, reaction time, foveal vision, peripheral vision, and attention span. Adequate rest breaks, on the other hand, may slow the onset of fatigue.

PROPOSED REVISIONS OF PART 395

Based upon research studies, accident data, petitions and requests from public interest groups, labor organizations, individual drivers, and comments in response to Docket MC-70, the FHWA has determined that Part 395—Hours of Service of Drivers, needs extensive revision. Some of the changes presently under consideration include:

1. Longer off-duty periods between driving and/or work assignments.
2. Mandatory rest periods during long driving assignments.
3. Elimination of the numerous exemptions now found in Part 395, as public comments filed in response to Docket MC-70 produced no significant data to support any of these current exemptions.
4. New methods to record hours of service.

As an initial step in the revision process, FHWA has developed a preliminary set of proposals covering drivers' hours of service for public comment.

To further facilitate the input of information into the process of revising the drivers' hours of service regulations, FHWA has decided to conduct public hearings in Washington, D.C., and 6 other cities.

For purposes of clarity, ease of identification and comparison, these three preliminary proposals have been designated plan I, plan II, and plan III. Plans I and II are alternative proposals covering single driver operations. Plan III is a proposal that is applicable only to sleeper berth operations using two drivers.

Some of the major differences between each of the three plans may be seen in the following chart:

1. Cumulative Limits (Maximum Weekly Hours)	60 hours in 7 consecutive days with 36 hour extended rest period	60 hours in 7 consecutive days with 36 hour extended rest period	Non Specified
2. Duty Tour Limits (Maximum On-Duty Time)	12 hours	15 consecutive hours	80 consecutive hours
3. Minimum Off-Duty Time Periods	0<4 hours on duty = 8 hours off duty 4-12 hours on duty = 12 hours off-duty	0<4 hours on duty = 8 hours off duty 4<12 hours on duty = 12 hours off duty 12<13 hours on = 14 hours off-duty 13<14 hours on = 16 hours off-duty 14-15 hours on = 18 hours off-duty	0<2 hours on duty = 12 hours off duty 2<40 hours on duty = 24 hours off duty 4<80 hours on duty = 36 hours off duty 60-80 hours on duty = 48 hours off duty
4. Driving Limitation	10 hours or 450 miles	11 hours or 500 miles	Dictated by time spent
5. Driving Relief Periods	30 minutes every 2 1/2 hours	30 minutes every 3 hours	30 minutes for each change of duty status
6. Intermittent Duty Status Allowed?	Yes - But only for meal periods	NO	NO
7. Mandatory Meal Periods?	Yes - 1 hour as off-duty time	Yes - 1 hour as on-duty time	Not Specified
8. Special Provisions for Night Driving Assignments?	NO	YES	NO

The details of these proposals for revision of part 395 are as follows:

PLAN I FOR SINGLE DRIVER OPERATIONS

Subpart A—General

§ 395.1 Knowledge of and compliance with rules in this part; duties of carrier-drivers; aiding or abetting violations.

(a) *General.* Every motor carrier and its officers, employees, agents, or representatives shall have full knowledge of and shall be in full compliance with all of the rules in this part.

(b) A motor carrier who employs himself as a driver must comply with all rules in this part that are applicable both to a motor carrier and to a driver.

(c) No person shall aid, abet, encourage, or require a motor carrier, its officers, employees, agents, or representatives to violate the rules in this part.

§ 395.2 General exemptions.

Lightweight mail truck drivers. The rules in this part do not apply to a driver who drives only a motor vehicle that is used exclusively to transport mail under contract with the U.S. Postal Service; and has a manufacturer's gross vehicle weight rating of 10,000 pounds or less.

§ 395.4 Definitions.

(a) As used in this part, the following words and terms shall mean:

(1) *Motor Carrier*—Includes any type of motor carrier subject to the regulations in this part and its officers, employees, agents, and representatives who are responsible for hiring, training, supervision, and assignment of its employees.

(2) *Employer*—Includes any motor carrier, commercial enterprise, business entity, organization or any person; who or which hires, rents, or leases the services of another person for compensation.

(3) *Regularly employed driver*—Includes any person who has been hired after processing and found to be fully qualified by a motor carrier in accordance with Part 391 of the FMCSR concerning minimum standards and who continues to remain in the employment of such motor carrier even if such driver may be in a layoff status.

(4) *Part-time driver*—Includes any person whose employer engages him or her both as a driver, and in some other category or occupation. It shall also mean all persons commonly referred to as extra board, relief, casual, temporary, rental, labor pool, or trip lease drivers.

(5) *Multi-occupation drivers—Includes any person who is engaged by one or more employers, either as a driver or in some other capacity.*

(6) *On-duty time*—All time spent at the disposal of the employer, his agent or representative or other authorized person. On-duty time shall commence at the time an employee reports for a duty tour (as defined in paragraph (a)(10) of this section) at the place so designated by the employer and shall be continuous unitl the duty tour ends.

(7) *Off-duty time*—All time during which the employee has no responsibilities, duties, is not accountable to the employer, may freely dispose of his or her time and move about as he or she may please.

(8) *Seven consecutive days*—Means any period of 168 hours, commencing at 12:01 a.m. on any day.

(9) *Calendar week*—Means any period of 168 hours, commencing at 12:01 a.m. on Sunday and terminating at 11:59 p.m. on Saturday.

(10) *Duty tour*—This term may be used interchangeably with tour of duty or workshift and means any period of time spent at the disposal of the employer. A duty tour commences at the time the employee reports for work, at the place so designated by the employer and runs continuously until such time as the employer shall terminate it.

(11) *Driving time*—The terms drive and driving time shall include all time spent at the driving controls of a motor vehicle in operation.

(12) *Driving relief period*—Means the 30-minute period that drivers spend away from driving duties, as required by § 395.6(e). The driver shall have access to and be free to get refreshments and have access to toilet facilities during this time. During these periods, the employer may require a driver to perform nondriving duties, such as en route vehicle and cargo safety/security inspections, report preparation, fueling and overseeing the general custody and security of the vehicle and its contents.

(13) *Standby time*—Means all time spent in readiness to report for a duty tour as may be required by the employer, his agent, or representative. Standby time shall, at the option of the employer, be performed at the motor carrier's terminal, at the employee's residence or wherever the employer may designate.

(14) *Sleeper berth time*—Means all time spent resting in a regulation sleeper berth as defined in § 393.76.

Subpart B—Driver's Hours of Service

§ 395.6 Maximum on-duty and minimum off-duty periods.

(a) *Cumulative limit.* No driver shall be required or permitted to be on duty for more than 60 hours in any period of 7 consecutive days. All drivers shall be required to start an extended rest period of at least 36 consecutive hours of off-duty time at least once during this same period of 7 consecutive days. The extended rest period (of 36 consecutive off-duty hours) may be accomplished by extending a mandatory 12-hour off-duty period by 24 hours or by extending a mandatory 8-hour off-duty period by 28 hours. While the 36 consecutive hours of off-duty time must be started within the 7 consecutive day period, it shall not be necessary for it to be entirely completed prior to the expiration of the seventh day. In all instances, the driver must complete the minimum 36 consecutive hours of off-duty time prior to returning to an on-duty status again.

(b) *Duty tour limit.* During any single duty tour, no driver shall be required or permitted to remain on duty for more than 12 hours at the maximum and the minimum period shall be at the option of the employer.

(c) *Minimum off-duty periods.* All drivers shall be required to be off-duty for a minimum of 12 consecutive hours, immediately following a tour of duty. *Exception:* A tour of duty that is less than 4 hours in duration, shall be immediately followed by a minimum of 8 consecutive hours of off-duty time.

(d) *Driving limit.* No driver shall be required or permitted to drive for more than 10 hours during any one 12-hour duty tour or 450 miles, whichever shall occur first; provided that all speed limits are strictly observed. No driver shall be required or permitted to be on duty any time after the thirteenth hour (the 12-hour duty tour plus the 1-hour meal period) since his or her last mandatory 12 (or 8) hour off-duty period.

(e) *Minimum driving relief periods.* No driver shall be required or permitted to drive for more than 2½ consecutive hours without a driving relief period. Such periods shall be computed and recorded as on-duty time and shall not be less than ½ hour in duration.

(f) *Meal periods.* All drivers shall be required to take a meal period of at least 1 hour during each tour of duty that is more than 8 hours in duraton. Such meal periods shall be scheduled for the approximate mid-point of the duty tour. Whenever this mandatory 1-hour meal period shall happen to fall due at approximately the same time as a driving relief period as specified in paragraph (e) of this section, then the 1-hour meal period may be substituted for the required driving relief period, at the discretion of the employer. All time spent during a meal period shall be off-duty as defined in § 395.4(a)(7) and shall be computed and recorded as such.

§ 395.10 Intermittent duty status prohibited.

Except as provided in § 395.6(f) no driver shall be required or permitted to be temporarily placed in an off-duty status at any time prior to the end of a duty tour.

§ 395.12 Interruptions of off-duty periods prohibited.

During the mandatory periods of off-duty time, as specified in § 395.6(c), no driver shall be contacted, disturbed or restricted in any way whatever. *Exception:* Any employer, his agent or representative who makes contact with a driver during such periods, shall cause a penalty period of 4 additional hours of off-duty time for each contact of 1 hour or less. Such penalty time shall be added to the required minimum mandatory rest period and shall be completed by the driver, prior to his returning to an on-duty status again.

§ 395.14 Scheduling of duty tours.

(a) *General.* Except as provided in paragraphs (b), (c), and (d) of this section, every motor carrier shall assign all of its drivers to a regular starting time for their duty tours at the beginning of each calendar week. Every possible effort shall be made to adhere to such starting times for the balance of that week or at least until the next extended rest period as defined in § 395.6(a) has been taken.

(b) *Schedule changes.* Whenever it shall become necessary to change a driver's starting time during a calendar week, such change shall be limited to a maximum of plus or minus 3 hours on any single day and shall not exceed 6 hours in the aggregate during any one calendar week. *Exception:* Any driver who is reporting for duty at the conclusion of an extended rest period as defined in § 395.6(a) may be assigned to a new starting time, if the driver is notified of the new time at least 24 hours in advance thereof. This notification shall not cause a penalty period to be applied under § 395.10.

(c) *Standby time.* When business conditions so dictate, an employer may elect to place a driver on a standby basis instead of giving a definite reporting time. All drivers shall compute and record all standby time as on-duty time and all such time shall thus be considered as part of the maximum 12 hour duty tour limit.

(d) *Part-time and multi-occupation drivers.* All part-time, extra board, relief, temporary, or casual drivers must be given as much advance notice of a duty tour as is possible. Such drivers may be contacted any time prior to or after their mandatory off-duty periods as defined in § 395.6(c), and given a reporting time. In no case shall any driver be assigned to a tour of duty, if the driver has been awake for more than 10 consecutive hours, until such driver has first taken as least 10 consecutive hours of rest.

§ 395.16 Sleeper berth time.

(a) Except as provided in paragraphs (b) and (c) of this section, all time spent resting in a sleeper berth of a stationary vehicle maybe computed as off-duty time, provided that it is for 8 or more consecutive hours.

(b) Any period of less than 8 consecutive hours spent in a sleeper berth must be computed as on duty time.

(c) Any period of time spent resting in the sleeper berth of a stationary vehicle may be combined with and computed as a portion of off-duty time, provided that the two periods are consecutive.

§ 395.18 Travel time.

Whenever a driver is traveling at the direction of the employer, his agent or representative; but is not performing any duty or responsibility, then such time shall be computed and recorded as on-duty time. *Exception:* If the driver is given at least 12 consecutive hours of off-duty time immediately after arrival at the destination, then the entire travel period may be computed as off-duty time.

§ 395.20 Part-time and multi-occupation drivers.

Any driver who works for more than one employer, either as a driver or in any other capacity, regardless of the type of business or organization involved, and if compensated for such work, shall compute and record all such time as either driving or on-duty-not-driving time, as the case may be.

§ 395.22 Drivers declared out of service.

No change from present rule.

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§ 395.24 Relief from regulations.

(a) Any motor carrier who has been requested to provide relief services in time of emergencies or disasters, such as floods, earthquakes, and pestilence, may request relief from these regulations. Such relief shall apply only to those drivers directly engaged in and/or supporting those engaged in such relief or emergency operations.

(b) relief from the regulations must be requested via telephone, by an official of the motor carrier, giving full details to the Director, Regional Motor Carrier Safety Office in which the motor carrier is domiciled. If it is determined that relief from the regulations is vital and necessary to enhance the motor carrier's performance of the emergency relief service effort, then such relief shall be promptly granted along with any restrictions that shall be deemed necessary.

(c) Within 24 hours after such emergency relief has been orally granted, a formal written request shall be submitted to the Director, Regional Motor Carrier Safety Office, giving full details of the relief operation, the regulatory relief sought, and the period of time that such relief is requested. All approvals may be subject to special conditions as deemed necessary.

Subpart C—Driver's Daily Log

No change from the present rules.

Currently, a majority of drivers are required to prepare a daily log or multi-day log. Comments are requested on other methods which may be used to control hours of service.

PLAN II (FOR SINGLE DRIVER OPERATIONS)

Subpart A—General

§ 395.1 Knowledge of and compliance with the rules in this part; duties of carrier drivers; aiding or abetting violations.

Same as in Plan I.

§ 395.2 General Exemptions.

Same as in Plan I.

§ 395.4 Definitions.

Same as in Plan I.

Subpart B—Driver's Hours of Service

§ 395.6 Maximum on-duty and minimum off-duty periods.

(a) *Cumulative limit.* No driver shall be required or permitted to be on duty for more than 60 hours in any period of 7 consecutive days. All drivers shall be required to start an extended rest period of at least 36 consecutive hours of off-duty time at least once during this same period of 7 consecutive days. The extended rest period (of 36 consecutive off-duty hours) may be accomplished by extending a mandatory 12 hour off-duty period by 24 hours or by extending a mandatory 8 hour off-duty period by 28 hours. While the 36 consecutive hours of off-duty time must be started within the 7 consecutive day period, it shall not be necessary for it to be entirely completed prior to the expiration of the seventh day. In all instances, the driver must complete the minimum 36 consecutive hours of off-duty time prior to returning to an on-duty status again.

(b) *Duty tour limit.* During any single duty tour, no driver shall be required or permitted to remain on duty for more than 15 consecutive hours at the maximum and the minimum period shall be at the option of the employer.

(c) *Minimum off-duty periods.* Immediately after any duty tour, all drivers shall be required to be off-duty for the following minimum periods of time:

(1) Duty tours of 14 to 15 hours duration require 18 consecutive hours off.

(2) Duty tours of 13 hours but less than 14 hours require 16 consecutive hours off.

(3) Duty tours of 12 hours but less than 13 hours require 14 consecutive hours off.

(4) Duty tours of 4 hours but less than 12 hours duration require 12 consecutive hours off.

(5) Duty tours of less than 4 hours duration require 8 consecutive hours off.

(d) *Driving limit.* No driver shall be required or permitted to drive for more than 11 hours during any one 15 hour duty tour or 500 miles, whichever shall occur first; provided that all speed limits are strictly observed. No driver shall be required to drive any time after 13 hours since his or her last mandatory 12 (or 8) hour off-duty period.

(e) *Minimum driving relief periods.* No driver shall be required or permitted to drive for more than 3 consecutive hours without a driving relief period. Such periods shall be computed and recorded as on-duty time and shall not be less than ½ hour in duration.

(f) *Meal periods.* All drivers shall be required to take a meal period of at least 1 hour during each tour of duty that is more than 8 hours in duration. Such meal periods shall be scheduled for the approximate mid-point of the duty tour. Whenever this mandatory 1-hour meal period shall happen to fall due at approximately the same time as a driving relief period as specified in paragraph (e) of this section, then the 1-hour meal period may be substituted for the required driving relief period, at the discretion of the employer. All time spent during such meal periods shall be on-duty time and shall be computed and recorded as such.

§ 395.10 Intermittent duty status prohibited.

No driver shall be required or permitted to be temporarily placed in an off-duty status at any time prior to the end of a duty tour.

§ 395.12 Interruptions of off-duty periods prohibited.

Same as in Plan I.

§ 395.14 Scheduling of duty tours.

(a) *General.* Except as provided in paragraphs (b), (c), and (d) of this section, every motor carrier shall assign all of its drivers to a regular starting time for their duty tours at the beginning of each calendar week. Every possible effort shall be made to adhere to such starting times for the balance of that week or at least until the next extended rest period as defined in § 395.6.(a) has been taken.

(b) *Schedule changes.* Whenever it shall become necessary to change a driver's starting time during a calendar week, such change shall be limited to a maximum of plus or minus 3 hours on any single day and shall not exceed 6 hours in the aggregate during any one calendar week. *Exception:* Any driver who is reporting for duty at the conclusion of an extended rest period as defined in § 395.6(a) may be assigned to a new starting time, if the driver is notified of the new time at least 24 hours in advance thereof. This notification shall not cause a penalty period to be applied under § 395.10.

(c) *Standby time.* When business conditions so dictate, an employer may elect to place a driver on a standby basis instead of giving a definite reporting time. All drivers shall compute and record all standby time as on-duty time and all such time shall thus be considered as part of the maximum 15-hour duty tour limit.

(d) *Part-time and multioccupation drivers.* All part-time, extra board, relief, temporary, or casual drivers must be given as much advance notice of a duty tour as is possible. Such drivers may be contacted any time prior to or after their mandatory off-duty periods as defined in § 395.6(c) and given a reporting time. In no case shall any driver be assigned to a tour of duty if the driver shall have been awake for more than 10 consecutive hours, until such driver has first taken at least 10 consecutive hours of rest.

(e) *Night assignments.* Any driver who is to be assigned to a tour of duty that will involve driving for a period between the hours of 10 p.m. and 6 a.m. shall be notified of such an assignment at least 8 hours prior to the commencement of such duty tour.

§ 395.16 Sleeper berth time.

(a) Except as provided in paragraphs (b) and (c) of this section, all time spent resting in a sleeper berth of a stationary vehicle may be computed as off-duty time, provided that it is for 10 or more consecutive hours.

(b) Any period of less than 10 consecutive hours spent in a sleeper berth must be computed as on-duty time.

(c) Any period of time spent resting in the sleeper berth of a stationary vehicle may be combined with and computed as a portion of off-duty time, provided that the two periods are consecutive.

§ 395.18 Travel time.

Whenever a driver is traveling at the direction of the employer, his agent or representative, but is not performing any duty or responsibility, then such time shall be computed and recorded as on-duty time. *Exception:* If the driver is given the prescribed minimum consecutive hours of off-duty time as specified in § 395.6(c) immediately after arrival at the destination, then the entire travel period may be computed as off-duty time.

§ 395.20 Part-time and multi-occupation drivers.

Same as in Plan I.

§ 395.22 Drivers declared out of service.

No Change from present rule.

§ 395.24 Relief from regulations.

Same as in Plan I.

Subpart C-Driver's Daily Log

Same as in Plan I.

PLAN III (FOR TWO PERSON SLEEPER BERTH OPERATIONS)

Subpart A—General

§ 395.1 Knowledge of and compliance with rules in this part; duties of carrier-drivers; aiding or abetting violations.

Same as in Plan I and Plan II.

§ 395.2 General Exemptions.

Same as in Plan I and Plan II.

§ 395.4 Definitions.

(a) As used in this part, the following words and terms shall mean:

(1) *Motor carrier*—Same as in Plan I and Plan II.

(2) *Employer*—Same as in Plan I and Plan II.

(3) *Regularly employed driver*—Same as in Plan I and Plan II.

(4) *Part-time driver*—Same as in Plan I and Plan II.

(5) *Multi-occupation drivers*—Same as in Plan I and Plan II.

(6) *On-duty time*—Same as in Plan I and Plan II.

(7) *Off-duty time*—Same as in Plan I and Plan II.

(8) *Seven consecutive days*—Same as in Plan I and Plan II.

(9) *Calendar week*—Same as in Plan I and Plan II.

(10) *Duty tour*—Same as in Plan I and Plan II.

(11) *Driving time*—Same as in Plan I and Plan II.

(12) *Minimum relief periods*—Means the ½ hour periods that all drivers spend away from driving duties, which they must take for each change of duty status, as required by § 395.6(d). During these periods the driver and co-driver shall have access to and be permitted to use motel and restaurant facilities. During these periods, the employer may require a driver or a co-driver to perform nondriving duties, such as en route vehicle and cargo safety/security inspections, report preparation, fueling and overseeing the general custody and security of the vehicle and/or its contents.

(13) *Standby time*—Same as in Plan I and Plan II.

(14) *Sleeper berth time*—Same as in Plan I and Plan II.

Subpart B—Driver's Hours of Service

§ 395.6 Maximum on-duty and minimum off-duty periods.

(a) *Duty tour limit.* No driver shall be required or permitted to remain on duty for more than 80 consecutive hours during any one duty tour. The minimum period shall be at the option of the employer.

(b) *Minimum off-duty periods.* Immediately after any duty tour, all drivers shall be required to be off-duty for the following minimum periods of time:

(1) Duty tours of 60 to 80 hours duration require 48 consecutive hours off.

(2) Duty tours of 40 hours but less than 60 hours duration require 36 consecutive hours off.

(3) Duty tours of 20 hours but less than 40 hours duration require 24 consecutive hours off.

(4) Duty tours of less than 20 hours duration require 12 consecutive hours off.

(c) *Driving limit.* (1) Except as provided in paragraph (c) (2) of this section, no driver shall be required or permitted to drive for more than 10 hours or 450 miles, whichever shall occur first, provided that all speed limits are strictly observed, between rest periods in the sleeper berth.

(2) Any of the following combinations of resting in the sleeper berth and driving cycles may be chosen by a driving team: 4 hours and 4 hours; 5 hours and 5 hours; 6 hours and 6 hours; 7 hours and 7 hours; 8 hours and 8 hours; 9 hours and 9 hours; or 10 hours and 10 hours. In no instance, shall any driving period exceed the amount of time spent in the sleeper berth just prior to that particular driving period.

(3) During any single tour of duty, the drivers shall agree as to the driver rest cycle that they desire to use and shall follow that cycle throughout that particular tour of duty.

(d) *Minimum relief periods.* For every change of duty status (driving to sleeper berth or sleeper berth to driving), all drivers shall be required to take a relief period of not less than ½ hour duration. *Exception:* Such relief periods need not be taken at the precise point of the duty change, if the drivers wish to combine two ½ hour relief periods into a single 1 hour relief period. *Provided however,* That during any maximum duty tour (of 80 consecutive hours) they shall be required to take a minimum total of 8½ hours of such relief periods. Such relief periods may be combined up to a maximum of three (that is taken as one period of 1½ hours) if and only if, the drivers involved choose to do so; but they may not be required to do so by the employer, his agent or representative. All time spent during such relief periods must be computed as on-duty time.

§ 395.10 Intermittent duty status prohibited.

No driver or co-driver shall be required or permitted to be temporarily placed in an off-duty status at any time prior to the end of a duty tour.

§ 395.12 Interruptions of off-duty periods prohibited.

During the mandatory periods of off-duty time as specified in § 395.6(b), no driver or co-driver shall be contacted, disturbed, or restricted in any way whatever. *Exception:* Any employer, his agent, or representative who makes contact with a driver or co-driver during such periods, shall cause a penalty period of 4 additional hours of off-duty time for each contact of 1 hour or less. Such penalty time shall be added to the required minimum mandatory rest period and shall be completed by a driver or co-driver, prior to returning to an on-duty status again.

§ 395.14 Scheduling of duty tours.

(a) *General.* Except as provided in paragraphs (b), (c), and (d) of this section, every motor carrier shall assign all of its drivers to a regular starting time for their duty tours at the beginning of each calendar week. Every possible effort shall be made to adhere to such starting times for the balance of that week.

(b) *Schedule changes.* Whenever it shall become necessary to change the driver's starting time during a calendar week, such change shall be limited to a maximum of plus or minus 3 hours on any single day and shall not exceed 6 hours in the aggregate during any one calendar week.

(c) *Standby time.* When business conditions so dictate, an employer may

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elect to place the drivers on a standby basis instead of giving a definite reporting time. All drivers and co-drivers, shall compute and record all standby time as on-duty time and all such time shall thus be considered as part of the maximum 80-hour duty tour limit.

(d) *Part-time and multioccupation drivers.* All part-time, extra board, relief, temporary, or casual drivers must be given as much advance notice of a duty tour as is possible. Such drivers may be contacted any time prior to or after their mandatory off-duty periods as required in § 395.6(b) and given a reporting time. In no case shall any driver or co-driver be assigned to a tour of duty, if either one shall have been awake for more than 10 consecutive hours until they have first taken at least 10 consecutive hours of rest.

§ 395.16 Sleeper berth time.

All time spent resting in the sleeper berth shall be recorded as sleeper berth time and any sleeper berth period of less than 4 consecutive hours must be computed as on-duty time. Any period of sleeper berth time may be combined with and computed as a portion of off-duty time, provided that the two periods are consecutive.

§ 395.18 Travel time.

Whenever a driver or co-driver is traveling at the direction of the employer, his agent or representative, but is not performing any duty or responsibility, then such time shall be computed and recorded as on-duty time. *Exception:* If the driver or co-driver is given the prescribed minimum consecutive hours of off-duty time as specified in § 395.6(b) immediately after the arrival at the destination, then the entire travel period may be computed as off-duty time.

§ 395.20 Part-time and multioccupation drivers.

Same as in Plan I and Plan II.

§ 395.22 Drivers declared out of service.

No Change from present rule.

§ 395.24 Relief from regulations.

Same as in Plan I and Plan II.

Subpart C—Driver's Daily Logs

Same as in Plan I and Plan II.

COMMENT PROCEDURES

A. WRITTEN COMMENTS

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this Advance Notice of Proposed Rulemaking. Interested persons are particularly invited to submit any data concerning the safety or economic impact these proposals would have on motor carrier operations. It is also desirable to know which, if any, of the proposed plans or parts of plans that you favor; if none, then indicate your proposed alternatives.

All comments should refer to the docket number and notice number that appear at the top of this document and should be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. Comments received prior to the closing date for comments, will be considered before further action is taken. Comments received will be available for examination by any interested person in the Docket Room of the Bureau of Motor Carrier Safety, Room 3402, 400 Seventh Street SW., Washington, D.C., both before and after the closing date for comments.

B. PUBLIC HEARINGS

1. *Request procedure.* The cities in which public hearings are to be scheduled are Atlanta, Ga.; Dallas, Tex.; Chicago, Ill.; Los Angeles, Calif.; New York City, N.Y.; Portland, Oreg.; and Washington, D.C. The exact time and place will be announced sometime after the closing date for hearing requests. If necessary to present all testimony, the hearing will be continued to the next business day.

Anyone submitting written comments prior to the closing date for hearing requests may include along with their comments a separate written requests for an opportunity to make an oral presentation. The person making the request should describe their interest and, if appropriate, state whether he or she is a proper representative of a group or class of person that has such an interest. A telephone number should be given where he or she may be contacted up until the day before the hearing. Each person selected to be heard will be so notified by the FHWA at least 30 days in advance of the hearing.

2. *Conduct of the hearings.* The FHWA reserves the right to limit the number of speakers from any one group or organization to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons or organizations requesting to be heard.

An FHWA official will be designated to preside at the hearing, which will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross examination of persons presenting statements.

Any person attending a hearing and who wishes to ask a question may submit the question in writing, to the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FHWA and made available for inspection at the Bureau of Motor Carrier Safety's Docket Room 3402, 400 Seventh Street SW., Washington, D.C. 20590, between the hours of 7:45 a.m. and 4:15 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

NOTE.—The Federal Highway Administration has determined that this document does contain a major proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

A draft regulatory analysis of this proposal has been prepared and placed in the public docket. Interested persons are invited to examine the draft regulatory analysis and to provide comments responding to it.

This advanced notice of proposed rulemaking is issued under the authority of section 204 of the Interstate Commerce Act (49 U.S.C. 304), section 6 of the Department of Transportation Act (49 U.S.C. 1655), and the delegations of authority by the Secretary of Transportation at 49 CFR 1.48 and the Federal Highway Administrator at 49 CFR 301.60.

Issued on May 15, 1978.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 78-14138 Filed 5-19-78; 8:45 am]

[4110-59]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 74-14; Notice 13]

OCCUPANT CRASH PROTECTION

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a petition for rulemaking submitted by General Motors Corp., the NHTSA is proposing to amend Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, to give vehicle manufacturers the option of using alternatives to latches for occupant release from passive seat belt systems and of using means other than pushbuttons to operate the mechanism for releasing occupants from these belt systems. The proposed amendment would provide manufacturers greater latitude in designing emergency release mechanisms for passive belt systems, thereby permitting the use of systems aimed at limiting passive belt disconnection by motorists. Generally, the proposed amendment would allow manufacturers to experiment with various passive belt designs prior to the effective date of the passive restraint requirements, to determine which designs best serve the interests of public safety and public acceptability. This, in turn, should lead to a smoother implementation of the passive restraint standard.

DATES: Comment closing date: July 3, 1978.

PROPOSED EFFECTIVE DATE: Date of publication of a final rule.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Ralph Hitchcock, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2212.

SUPPLEMENTARY INFORMATION: Last July, the Secretary of Transportation issued a final rule amending Safety Standard No. 208 (49 CFR Part 571.208) to require that passive belts, air bags or some other means of passive protection, be installed in certain new cars in 1982-3 and in all new cars beginning in 1984 (42 FR 34289; July 5, 1977). The rule was issued after a lengthy comment period and a public hearing and was followed by extensive Congressional review.

It appears that there may be many new cars in the early to mid 1980's equipped with passive belts. Passive belts differ from the belts in most cars today in that the passive belts automatically move into place around a person when he or she sits in a front seating position and closes the door. The passive belt system in the Volkswagen Rabbit has only a shoulder belt, while the systems in the front seating systems in most cars today have both lap and shoulder belts. One end of the Rabbit passive shoulder belt is attached between the two front seating positions. The other end is attached to the rear upper corner of the door.

Safety Standard No. 208 requires each seat belt assembly installed in a passenger car to have a latch mechanism that releases at a single point by pushbutton action, i.e., a single pushbutton buckle for fastening and unfastening a seat belt. The original purpose of this requirement was to ensure uniformity of buckle design to facilitate the day-to-day fastening and unfastening necessary for active belts and the exiting of occupants from a vehicle in an emergency. The requirement for a latch mechanism that releases by pushbutton action means that there must be complete separation of the load-bearing elements of the seat belt assembly. The passive belt system which is optional on Volkswagen Rabbits complies with this requirement through the use of a pushbutton-operated buckle which is attached to the rear upper corner of the front doors on the Rabbit. The buckle is not intended to be detached except in emergencies. Operation of the buckle is not necessary for putting the belt on or getting it off in normal use since that is accomplished automatically by opening and closing of the door. If the buckle is detached, the belt would be wound up by the retractor between the two front seats.

General Motors has petitioned to amend Standard No. 208 for relief from the latch mechanism and pushbutton requirements to permit it to use a "spool release" design for one of its passive belt systems. If this design were used, the passive shoulder belt would not detach at either end. Instead, the design would allow the belt to "play-out" or unwind from the retractor in an emergency so that there is sufficient slack to permit the door to be opened and the occupant to exit from the vehicle. General Motors states it would use the "spool release" design on a test fleet of cars it intends to offer for sale in the near future.

The purpose of the "spool release" design is, according to General Motors, to minimize the disconnection of passive belt systems by motorists. As indicated above, the passive belt system in Volkswagen Rabbits can be easily disconnected by a buckle release identical to buckles on today's active belt systems. Volkswagen has voluntarily installed a starter interlock to discourage such disconnection. Recent NHTSA safety belt usage observations indicate that the current use rate of the Rabbit passive belt is about 70 percent.

The General Motors petition also requests that mechanisms other than pushbuttons be permitted for releasing occupants from belts. General Motors is considering a lever release mechanism that would release the "spools" of both front passive belts at the same time.

The NHTSA is very concerned about the usage rate of passive belts by motorists, particularly if motorists who would prefer air bags in a particular car line can only obtain passive belts. Therefore, the agency is interested in the anticipated rate of installation of passive belts and in any passive belt designs that would seek to minimize the rate of disconnection. The agency wishes to emphasize, however, that there are other factors to be considered in evaluating the petition. A passive belt system must be safe in all respects and must be sufficiently acceptable to the public so that a substantial number of the systems are not permanently defeated (by cutting, for example).

In order to obtain detailed public comment on all aspects of General Motors' arguments as quickly as possible and thereby potentially facilitate the early offering of passive restraints to the public, the General Motors petition is set out verbatim below. The NHTSA is especially interested in obtaining answers to the following questions as they relate to the proposed amendment:

1. How should the NHTSA or the vehicle manufacturers monitor the efficacy of and public reaction to various systems for discouraging disconnection of passive belts (such as the latch mechanism with a 4-8 second audible/visible warining system that operates if the belt is not connected when the ignition is turned on, a latch mechanism with additional warning or interlock systems voluntarily installed by a vehicle manufacturer, or a lever operated spool release as requested by General Motors)?

2. Are there safety or other considerations that would make it inadvisable to allow the spool release at this time as an option to vehicle manufacturers which install passive belts.

3. Compared with a passive belt system equipped with the currently-required latch mechanism, would a passive belt system equipped with a spool release whose actuation lever is located between the seats have substantial disadvantages for emergency exit or extraction from a vheicle that would offset any possible increase in usage in the passive belts?

4. If the NHTSA decides to permit the use of alternative occupant release mechanisms, should such use be permitted indefinitely or only for a finite period, e.g., several years, to allow field testing of the various systems? If a finite period were to be established, when should it begin and end?

The NHTSA emphasizes that the arguments in the General Motors petition are not necessarily shared by the agency. They are being set forth in full merely to facilitate and expedite the comment process. The agency will continue to investigate the desirability and efficacy of the petition during the comment period and make a final decision following an analysis of all comments and other available information.

Commenters should note that this proposal is tentative as to the language and substance of the amendment that might be adopted in response to General Motors' petition.

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The proposed amendment should have no adverse economic or environmental consequences.

In consideration of the foregoing, it is proposed that Safety Standard No. 208, 49 CFR 571.208, be amended pursuant to the General Motors petition set forth below.

GENERAL MOTORS

PETITION FOR AMENDMENT OF FMVSS 208 LATCH MECHANISMS

General Motors hereby petitions the NHTSA to revise existing latch mechanism provisions in MVSS 208 as they apply to automatic seat belt systems. Specifically, the petition requests that section S7.2 of MVSS 208 be revised to; (1) allow alternatives to latch mechanisms for occupant release on automatic seat belt systems, and (2) allow occupant release from automatic belt systems to be initiated by means other than pushbutton action.

This petition is submitted because of General Motors concern that the present requirements are design restrictive, and as such inhibit innovation and preclude the introduction of alternative designs which have the potential to maximize automatic seat belt usage. Such designs would not require a manually initiated separation of belt webbing in order to release the vehicle occupant. We believe this potential for improvement exists because the presently required buckle release invites separation even though a manufacturer may voluntarily provide that his design be "guarded by an interlock." An individual may circumvent the interlock deterrent by releasing his buckle after vehicle start, or as was seen during the period when interlocks were required with active belt system, permanently defeat the interlock by disabling associated electrical circuitry—which does not involve "defacing" the vehicle interior. Further, regulation cannot presently require an interlock to discourage defeat.

The need for positive release in emergency situations was cited by the NHTSA as a major reason for the adoption of the existing pushbutton activated buckle release system for automatic belt systems (Docket 74-04, Notice 1). General Motors believes that automatic seat belt design concepts which can accommodate occupant egress in emergency situations without belt webbing separation are feasible. An example of one such concept involves a "spool release" which releases the retractor locking forces, initiated by a manual release device. Our petition would allow for "spool release" and other design concepts which could provide for rapid egress without use of a buckle release mechanism. It would not, however, preclude the continued use of designs which involve release by separation; thus, allowing a manufacturer to select from a wider range of feasible alternatives for his individual vehicle design. Additionally, our petition, if granted, would facilitate a more complete evaluation of release alternatives for automatic seat belts in advance of the time when passive restraints are required on all vehicles.

The present wording of S7.2 is basically the language established when MVSS 208 was promulgated to regulate active seat belt systems. Of major concern at that time was the assurance that the actions required by an occupant to use his belt system would not be confusing. When coupled with the fact that separation of the active belt system was necessary in all cases for egress, the standardization of a release mechanism appeared to be sound from a human engineering standpoint.

The needs of the occupant are considerably changed when an automatic belt restraint system is used in lieu of an active belt system. First, a buckle or latch mechanism is not required to provide a means for the occupant to use his system. The very nature of the automatic belt system is meant to provide occupant restraint without any required action on his or her part. Secondly, no unlatching of the automatic belt is required for routine egress, or emergency egress where the belt webbing retractors are operable. A method of releasing the retractor locking feature required by S7.1 of MVSS 208 will only be necessary in those instances where retractor lockup is not automatically disengaged, e.g., situations where the vehicle attitude locks the retractor. Thus, the release mechanism should not be required to be standardized with existing latch mechanisms for active belts. The method selected by the manufacturer for release should, however, be simple to operate, readily accessible, positive acting in terms of the specific automatic belt design, and its function should be obvious.

Of present design concepts, General Motors favors the "spool release" activated by a lever arm centrally located between the driver and front passenger seating locations. The lever arm would also be used to manually restore the retractor locking feature. Our petition, however, would not preclude the use of other design concepts for occupant release. Different techniques are conceivable which may be more compatible for specific belt designs or belt-vehicle combinations and, as such, should be allowed.

For those design concepts which incorporate manual rather than automatic restoration of the retractor locking feature a method of warning the occupant when the lockup portion of the retractor is inoperative must be provided. The warning should be continuous when the lockup feature is inoperative, and be easily noted by the vehicle driver. In this regard we believe that the warning should be electrically coupled to the existing warning system required by S7.3 of MVSS 208. Both the visual and audible warnings incorporated in that system would be familiar to the occupant. Further, the visual portion, if used to indicate release of the lockup feature, would be centrally located for easy observation. We have not, however, evaluated the relative merits of either signal in terms of consumer acceptance. On that basis we believe either an audible or visual warning, or both, should be allowed.

General Motors recognizes that the issue of latch mechanisms for automatic belt systems has been previously discussed. In fact, the NHTSA in 1971 (Docket 69-7, Notice 11) proposed to require a release mechanism that would have precluded release belt separation. Subsequently in 1974, NHTSA withdrew their proposal in favor of the latch mechanism established for active belt systems (Docket 74-4, Notice 1). General Motors believes that this decision should be reconsidered on the basis that; (1) the Administrator's proposal would have, unlike this petition, been unduly design restrictive in not allowing consideration for alternate designs which would have satisfied user needs, and (2) very little was known at the time of that decision regarding designs of passive belt systems. Further, automatic belt "defeat" rates were not a significant issue at that time since no mandate existed which would have required the use of passive restraints on all vehicles, and the final rule (Docket 74-04, Notice 2) contemplated that buckle mechanisms would be "guarded by an interlock."

Most comments to Docket 69-7, Notice 11 expressed concerns regarding various aspects of that proposal. These concerns have been categorized below, and appropriate comment has been provided:

A. *Proposal was design restrictive.*—Most commenters objected to the arbitrary restriction prohibiting the continued use of buckle mechanisms. General Motors agrees with those criticisms of the proposed rule which would have precluded the continued use of a feasible automatic belt release alternative. This objection would not be applicable to this petition since, as previously stated, we are requesting an allowance to use other feasible alternatives. We are not advocating restrictions on other alternatives which may best fit the needs of an individual manufacturer in terms of his vehicle.

B. *Technical provisions not fully assessed.*—The proposal contained several technical provisions which could not be fully assessed in terms of the then existing automatic belt designs.

A major concern of commenters was a provision which would allow for automatic release "in the event of a crash." Several commenters noted that the provision was vague, and as such could introduce questions of reliability and might jeopardize occupants in cases where multiple collisions were involved. General Motors concurs, and on that basis has not included a provision for such type release.

Other comments objected to the proposed automatic self-restoring requirement. Specifically, these comments pointed out that such a requirement would involve considerable complexity and cost, would require two-handed operation, and again, raised questions regarding reliability especially where severe crashes were involved. We believe that considerable advances in technology have occurred since 1971 which may overcome these objections. Thus, we believe that this option should be available for a manufacturer if he so chooses. A manufacturer who does not choose this option may use an inherently simple and reliable manual means guarded by an appropriate warning system for restoring the retractor locking feature.

C. *Anti-defeat not a factor.*—Several of the commenters concluded that egress should have priority over anti-defeat features. While this conclusion was fully justified at that time we do not believe it has the same degree of validity when applied to the mandatory incorporation of automatic restraint systems. As we noted previously maximum usage will be a major concern beginning with the effective dates of the mandate established in June 1977; thus necessitating additional consideration for designs which show promise in helping to ensure that vehicle occupants avail themselves of the inherent safety benefits of automatic belt restraints.

D. *Rapid egress could be compromised.*—It is difficult to remove all subjectivity in addressing a concern of this nature. As noted previously, egress is possible without any automatic belt emergency release except in those instances where retractor lockup has occurred. Considering those distinct instances where release may be necessary there is, to our knowledge, no clear cut advantage of one emergency release system over another. While it appears that release by separation might be slightly more convenient in a particular instance, our evaluations suggest that pushbutton activated buckle release may be difficult for some people in another instance, e.g. where a vehicle would come to rest on its top after a collision.

E. *Standardization of release mechanisms important.*—The assumption contained in this concern is that familiarity with standardized release methods will preclude occupant confusion in emergency situations. We believe that in emergency situations the actions of an occupant will, to a large degree, be guided by instinct. Thus, in the case of automatic belts an occupant can be expected to instinctively grasp the belt webbing to slip it over his or her head to facilitate release regardless of the type of release device incorporated in the vehicle. In the limited cases where a retractor release is needed the actuating device should be readily accessible, properly identified, and of obvious function. We do not, however, believe that standardization of either the release mechanism or its location will substantially reduce egress time. It would be most unfortunate if the potential for maximum automatic belt usage was unnecessarily compromised because it was *assumed* that standardization of the release mechanism was required to assure rapid egress in the relatively few cases where an emergency release mechanism would be needed.

F. *Retractors could be damaged in severe crashes.*—Concerns were voiced relative to the susceptibility of retractors to damage in severe crashes with a resultant failure of the release devices. In most cases the retractor will be located in a protected area between the occupant seats. In vehicle designs where such location is not possible the vehicle designers may have to choose an alternative release mechanism to ensure reliability of operation. This is one of the reasons why we are advocating that release of the retractor emergency lock feature be allowed rather than required.

G. *Extrication of injured could be difficult.—With regard to the extrication of injured occupants we do not believe the type of release mechanism to be a major factor. Our investigations show that in some cases involving active belts extrication of injured occupants was achieved by cutting of the webbing even though a simple pushbutton activated release device was available. Also, release devices that do not involve webbing separation offer an advantage in crash type situtations in that a single release mechanism could provide for the simultaneous release of both front seat occupants.*

H. *Egress from opposite side could be difficult.*—Several comments were directed at the difficulties which could confront an occupant who chooses to exit a vehicle from the opposite side. Interior packaging, in general, for a vehicle intended by design for two passengers, make exit in this manner more difficult especially where other vehicle equipment, such as a console, is floor mounted. While admittedly exits can be difficult we do not believe that seat belt release mechanisms are major factors in this problem. Further, this increased difficulty in exiting from the opposite side of the vehicle would, in all but an exceptional case, relate solely to convenience and should not be treated as a rulemaking issue.

On the basis of the above, General Motors requests that Section S7.2 of MVSS 208 be revised, as follows (additions are in *italics*):

§ 571.208 Standard No. 208; occupant crash protection.

. . . . . .

S7.2 Latch mechanism. A seat belt assembly installed in a passenger car shall have a latch mechanism—

(a) Whose components are accessible to a seated occupant in both the stowed and operational positions;

(b) That releases both the upper torso restraint and the lap belt simultaneously, if the assembly has a lap belt and an upper torso restraint that require unlatching for release of the occupant; and

(c) That releases at a single point by a pushbutton action. *Or, on passive seat belt systems, as an option, include a mechanism—(a) that manually releases the retractor locking feature required by Section S7.1; and*

(b) that either automatically or manually restores the retractor locking feature. If manual, activation of the release mechanism shall be indicated to the seated driver, by either, or both, the visual or audible warning signal(s) required by S7.3 except that the signal(s) shall be continuous.

. . . . . .

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on May 15, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate
Administrator for Rulemaking.

[FR Doc. 78-13561 Filed 5-16-78; 10:09 am]

[1505-01]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1079]

MILK IN THE IOWA MARKETING AREA

Proposed Suspension of Certain Provisions of the Order

Correction

In FR Doc. 78-13163 appearing at page 20817 in the issue for Monday, May 15, 1978, in the "DATE" paragraph, the due date for comments on the proposed rule now given as "May 23, 1978" should have been "May 22, 1978."

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

LONE TREE PLANNING UNIT, LAND MANAGEMENT PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Lone Tree Planning Unit, Gifford Pinchot National Forest, Washington, USDA-FS-R6-FES(Adm)-78-5.

The environmental statement concerns a revised land management plan for the Lone Tree Planning Unit. The proposed action describes how the various resources of the Unit would be used and what the output for each resource is expected to be.

The final environmental statement was transmitted to EPA on May 16, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, Oreg. 97204.

USDA, Forest Service, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

A limited number of single copies are available upon request to Forest Supervisor Robert Tokarczyk, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Dated: May 16, 1978.

EINAR L. ROGET,
Associate Deputy Chief.

[FR Doc. 78-14122 Filed 5-19-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 32485]

BALTIMORE/WASHINGTON-ST. LOUIS ROUTE CASE

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 8, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. before Administrative Law Judge Greer M. Murphy.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before May 31, 1978, and the other parties on or before June 5, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Pricing and Domestic Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., May 16, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-14153 Filed 5-19-78; 8:45 am]

[6320-01]

[Order 78-5-85; Docket 32397]

ALL U.S. AND FOREIGN DIRECT AND INDIRECT AIR CARRIERS AUTHORIZED TO OPERATE PASSENGER CHARTERS

Order Granting Motion for Stay

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of May 1978.

In a calendar meeting held April 19, 1978, the Board orally granted U.S. and foreign direct and indirect air carriers an emergency blanket waiver of various provisions of our Economic and Special Regulation charter rules for a temporary 90-day period. This action was taken to assist charter operators marketing their programs in competition with the deeply discounted fares offered by scheduled carriers, by removing certain restrictions contained in our charter rules which inhibit the sale of charter flights.

Among other things, the Board granted in the blanket waiver authority which permits a charter operator who is forced to cancel a flight due to insufficient sales to transfer any passengers already booked on that flight to a comparable scheduled flight.[1] The waiver provides that the passengers may be charged no additional cost; but that the rate to be charged the charter operator by the scheduled carrier for this service is negotiable and may be as low as the carrier's applicable charter rate. By authorizing the transfer of passengers from charter to scheduled service, the Board felt that charter operators would be better able to salvage programs where the bookings were insufficient to warrant operation of the charter, which, in turn, would enable passengers whose trips would otherwise be canceled to complete their travel plans.

On May 3, 1978, Capitol International Airways, Inc., Evergreen International Airlines, Inc., Trans International Airlines, Inc., and World Airways, Inc. (the "Joint Carriers") filed a motion for stay of that portion of the Board's action of April 19 which authorizes the transfer of charter passengers to scheduled service at the applicable charter rate.[2] In their motion for stay, the Joint Carriers characterized the Board's grant of this transfer authority as tantamount to authorizing "Part Charters", something which

[1]The blanket waiver, which is in effect from April 19-July 18, 1978, also authorizes: (1) the intermingling of passengers on Advance Booking Charters (ABC's), Inclusive Tour Charters (ITC's) and One-stop-inclusive Tour Charters (OTC's) and the elimination of the minimum group size requirement on such charters subject to a minimum contract of 20 seats; (2) the sale of one-way ABC's, except to or from points in the United Kingdom; (3) the conversion of empty seats on ITC and OTC flights to ABC's without having to refile the charter prospectus; (4) price flexibility on ABC's, ITC's, and OTC's; (5) on split charters, final payment to the direct air carrier 15, rather than 30, days in advance of the flight; and (6) at the direct air carrier's option, the operation of less-than-planeload charters.

[2]Concurrently, the Joint Carriers filed a petition for reconsideration of this provision.

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the Board has previously been unwilling to do and which, the carriers argue, is even less appropriate to authorize in the context of the instant expedited proceeding. The Joint Carriers further argue that the transfer issue was not raised by the Board in its order setting oral argument on the possibility of granting a blanket waiver (Order 78-4-49, April 11, 1978); that the matter was first brought up in the course of the oral argument on April 18; and that the following day the Board adopted the proposal without the benefit of public comment on the issue.

The Joint Carriers further allege that there is evidence that scheduled carriers are actively encouraging charter operators, through the payment of substantial commissions, to cancel their charter flights in order to transfer passengers to scheduled service; and that charter operators are entering into charter contracts which they have no intention of fulfilling "so that they may receive windfall commissions for shifting these passengers to scheduled service." The Joint Carriers request that the Board consider more fully the ramifications of its action in granting transfer authority, and particularly the effects on the supplemental industry, and that the Board stay this portion of the blanket waiver pending such reconsideration.

We have carefully considered the arguments of the Joint Carriers and have decided to grant their motion for stay pending a final decision on their petition for reconsideration of this matter. Our action granting the stay applies only to the portion of the blanket waiver which authorizes the transfer of charter passengers to scheduled service.[3] All other authority granted as part of the blanket waiver is in effect and remains the same.

In Taking this action, we note the arguments of the Joint Carriers that at the time of our decision on April 19 we did not focus upon the impact the transfer authority provision may have on charters as well as scheduled service. We are now persuaded that such a decision would benefit from public comment. In order for all interested parties to have an opportunity to file comments on the Joint Carrier's petition, we shall set the date for such responses to be ten days from the date of service of this order.

Accordingly, *it is ordered*, That:

1. The motion of the Joint Carriers for a stay of the effectiveness of the charter-scheduled service transfer provision of the blanket waiver granted April 19, 1978, more fully described above, is granted;

2. This order shall become effective immediately and shall remain in effect until the Board's final decision on the petition for reconsideration filed by the Joint Carriers on May 3, 1978, in this docket;

3. The date for filing responses to the petition for reconsideration described in paragraph 2, above, shall be extended until ten days after the date of service of this order; and

4. This order may be amended or revoked by the Board at any time without hearing.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-14151 Filed 5-19-78; 8:45 am]

[6320-01]

[Order 78-5-84; Dockets 32126, etc.]

TWIN CITIES-KANSAS CITY-OKLAHOMA-TEXAS ROUTE PROCEEDING

In the matter of applications of Northwest Airlines, Inc., Texas International Airlines, Inc., Continental Air Lines, Inc., Ozark Air Lines, Inc., Western Air Lines, Inc., American Airlines, Inc., North Central Airlines, Inc., Delta Air Lines, Inc., for certificates of public convenience and necessity or amendments thereto. Petition of City of San Antonio and Greater San Antonio Chamber of Commerce for service to Minneapolis/St. Paul, Dockets 32126 30574 & 32215, 31278, 30614, 32200, 31240, 32216, 29583 & 31927, 31634 and 31385.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of May, 1978.

By Order 78-2-76, February 14, 1978, the Board instituted the *Twin Cities-Kansas City-Oklahoma-Texas Route Proceeding* in Docket 32126. With respect to the scope of the proceeding, the Board stated the following:

We have decided to institute the *Twin Cities-Kansas City-Oklahoma-Texas Route Proceeding*, Docket 32126, to consider whether the public convenience and necessity require (a) new nonstop service between the terminal point Minneapolis/St. Paul, the intermediate point Dallas/Ft. Worth, and the terminal point Houston; (b) new nonstop service between Kansas City and the Twin Cities and between Kansas City and Oklahoma City/Houston; (c) new one-stop service between Minneapolis/St. Paul, on the one hand, and Tulsa, Oklahoma City and Houston, on the other; and (d) modifications of long-haul restrictions in Continental's certificate for Route 29 to preclude Kansas City-Tulsa/Oklahoma City turnaround service instead of requiring Kansas City-Tulsa flights to serve specified beyond points, and to require Houston-Tulsa/Oklahoma City and Tulsa-Oklahoma City flights on segment 5 to serve Kansas City instead of Portland or Seattle.[5] (p.4)

[5]We will not entertain competing applications for Houston-Tulsa, Houston-Oklahoma City, Tulsa-Kansas City, and Tulsa-Oklahoma City authority. Continental is seeking only modifications of long-haul restrictions in these markets and not new authority. Thus, *Ashbacker* considerations do not apply.

Applications, motions to consolidate, and petitions for reconsideration were to be filed within 20 days of service of the order and answers within 15 days thereafter.

Timely new applications to provide services within the defined scope of this proceeding have been filed by Ozark Air Lines, Inc. (Docket 32200), Western Air Lines, Inc. (Docket 31240, amended application),[1] Continental Air Lines, Inc. (Docket 30614, "Amendment Number Two"), Northwest Airlines, Inc. (Docket 32215), American Airlines, Inc. (Docket 32216), North Central Airlines, Inc. (Dockets 29583 and 31927), and Delta Air Lines, Inc. (Docket 31634, Amendment 1).[2] Each application was accompanied by a motion to consolidate it into Docket 32126 for hearing and consideration. Since the issues in these applications are the same as those in the investigation,[3] we find that their consolidation into Docket 32126 will be conducive to the proper dispatch of the Board's business and to the ends of justice and will not unduly delay this proceeding. We shall order their consolidation into this case.

[1]Western's application is in fact broader than the scope of the case as initially fixed by the Board. However, as noted below, its motion to consolidate is in the alternative; it seeks either to have that part of its application consolidated which conforms to the scope of the case as fixed by Order 78-2-76, or, if its petition for reconsideration is granted, in whole or in part, to have all or such parts of its application as are granted consolidated. We explain below why its entire application will not be consolidated.

[2]Delta's application also seeks to amend Condition 3 of its certificate for Route 8 by striking Houston therefrom, thus permitting it to fly nonstop from Kansas City to Houston without serving both Springfield, Mo. and Memphis, Tenn. on the same flight, if it should be successful in this case. At the prehearing conference Northwest objected to this on the ground that it exceeded the scope of the case (Tr. pp. 7-9). However no objection to Delta's motion to consolidate was filed by Northwest or anyone else. We find that all of Delta's application in Docket 31634 (Amendment No. 1) falls within the scope of this proceeding.

[3]In this connection we are considering Western's application and motion to consolidate only to the extent that it conforms to Order 78-2-76 and the changes in the scope of the proceeding approved in this order.

[3]Member Richard J. O'Melia did not vote to approve the grant of the blanket waiver, and intends to issue a dissenting statement when the order confirming the blanket waiver is issued. However, he concurs with the grant of the motion to stay the provision for the transfer of charter passsengers, this being one of the provisions prompting his dissent.

[4]All Members concurred.

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The City of Dallas, the Dallas Chamber of Commerce, the City of Forth Worth, the Fort Worth Chamber of Commerce, and the North Texas Commission—a corporation whose aim is to develop North Texas transportation needs, with emphasis on air transportation—(herein collectively Dallas-Fort Worth) have moved to intervene. We find that these persons have a substantial interest in the proceeding which they alone can best represent. We find that this intervention will be conducive to the ends of justice and will not unduly delay the conduct of the proceeding. We shall permit them to intervene.

The Board's order instituting this proceeding was prompted by the application of Northwest in Docket 30547 (together with its motion for hearing) and the application of Continental, as amended, in Docket 30614. After consideration of these applications, and the positions of other persons both opposing and supporting these applications, we instituted this proceeding to canvass the needs of the long-haul, north-south, monopoly markets connecting, on a nonstop basis, the Twin Cities with Kansas City/Dallas/Fort Worth/Houston, Kansas City with Oklahoma City/Houston, and, on a one-stop basis, Twin Cities with Tulsa/Oklahoma City/Houston.

Petitions for reconsideration have been filed. TXI seeks to exclude from the case new turnaround authority between Dallas/Fort Worth-Houston as being outside the intended scope of the case and introducing an issue which will complicate and delay the proceeding. The Bureau alone answered this contention. It opposed the proposed pre-trial restriction on the ground that TXI will be free to demonstrate the need for such a restriction at the hearing. We did not express an intention to exclude Houston-Dallas/Fort Worth turnaround service from this case. On the contrary, the broad scope of the issues that we stated should be subject to investigation negates any such view. There are only two Federally certificated carriers in this large market and we are unwilling to establish such a prehearing restriction. Although some additional hearing time may be involved we think it is clearly justified. We shall deny TXI's petition for reconsideration.

Western's petition for reconsideration seeks to add these seven additional markets to the case: Tulsa-Twin Cities, Tulsa-Dallas/Fort Worth, Tulsa-Houston, Oklahoma City-Twin Cities, Oklahoma City-Dallas/Fort Worth, Oklahoma City-Houston, and Tulsa-Oklahoma City. Justification for the additional markets involving the Twin Cities is found by combining the traffic flows of Twin Cities-Tulsa with those of Twin Cities-Oklahoma City. The other markets are asserted to be warranted by size of their traffic flows. The Tulsa Parties' petition for reconsideration also requested that Twin Cities-Tulsa nonstop service be considered in the case (even though immediately available traffic would not support such service) since it would not delay the case in view of one-stop Twin Cities-Tulsa service being at issue. Western supported the Tulsa Parties' petition. The Bureau's consolidated answer opposes the expansion of the proceeding except for the Twin Cities-Tulsa, Twin Cities-Oklahoma City, and Tulsa-Oklahoma City nonstop markets. Since one-stop service in the first two markets is already included in the case, it contends, consideration of nonstop service would not unduly expand it. The third market, Tulsa-Oklahoma City, is needed, it states, to permit a carrier to combine the relatively small traffic flows between the Twin Cities and each of the Oklahoma points.

Other answers in opposition to the petitions of Western and the Tulsa Parties were filed by the Houston Parties and Continental. They contend that the grant of Western's petition would double the size of a complicated case and change its nature from one in which competitive service in fairly large monopoly markets is considered to examination of markets which already receive competitive * nonstop service from two to five other carriers. Further, they assert, the Twin Cities-Tulsa/Oklahoma City markets are too small to receive competitive service alone, and if combined, substantial circuity results.

The petitions of the Tulsa Parties and Western and the Bureau's answer convince us that as a matter of discretion we should expand this proceeding to include the Twin Cities-Oklahoma City/Tulsa nonstop markets. These are already in the case on a non-stop basis (via Kansas City) and their consideration on a nonstop basis should neither burden nor delay the case unduly. We are cognizant that their current traffic flows are relatively small and that the institution of nonstop service is not immediately likely. For this reason, we shall place in issue the Oklahoma City-Tulsa market, thus permitting a combination of the traffic flows in the Twin Cities markets involved.[4] Our action will permit the institution of service as soon as traffic permits without further recourse to the Board. In the meantime the possible presence of a second carrier will provide a competitive spur to the present monopoly carrier. The petition for reconsideration of the Tulsa Parties will be granted.

On the other hand, the other markets sought to be added by Western seem to us to change the nature and size of the proceeding so materially as to warrant their exclusion. Moreover, all of them already have competitive nonstop service from two or more carriers. We shall deny Western's petition for reconsideration except to the extent that it seeks the expansion of the proceeding provided above.

The San Antonio Parties have also filed a petition for reconsideration of Order 78-2-76 because of our denial of their motion to consolidate their petition for improved Minneapolis authority into this proceeding.[5] In Order 78-2-76 the reason we assigned for denying the motion of the San Antonio Parties was that the San Antonio-Minneapolis market was small and no air carrier had expressed an interest in providing service. We said that the "market generated 1729 true O & D plus interline connecting passengers in the year ended June 20, 1976." This was in error. In fact, as the San Antonio Parties state, this market generated 20,040 true O & D plus interline passengers in the year ended June 30, 1976.[6] Correction of this error, however, does not alter our judgment that the Twin Cities-San Antonio market should not be added to this case. It remains comparatively small and no air carrier seeks to serve it. Further, if any carrier with authority between San Antonio and Houston or Dallas/Fort Worth receives authority from Twin Cities to the more northern Texas cities, new single plan service will be possible in the San Antonio-Minneapolis market.

Accordingly, *it is ordered*, That: 1. The petition for reconsideration filed by the Tulsa Parties be granted.

2. Except to the extent granted herein, the petitions for reconsideration filed by Texas International Airlines, Inc., Western Air Lines, Inc., and the San Antonio Parties be denied.

3. The issues set forth in paragraph 5 of Order 78-2-76 shall be expanded to include the following:

(a) Do the public convenience and necessity require the certification of an air carrier or air carriers to provide new nonstop service between Minneapolis/St. Paul and Oklahoma City/Tulsa, and between Oklahoma City and Tulsa;

(b) If the answer to any part of (a) is in the affirmative, which air carrier or carriers should be authorized and whether the new or existing authority should be subject to any terms, conditions, or limitations.

4. Any authority awarded upon consideration of the issues in paragraph 3 shall be subsidy-ineligible.

[4] We do so notwithstanding this is not a monopoly market.

[5] The petition for reconsideration was filed in Docket 31385 in which their original petition for improved service was filed.

[6] The Bureau's answer agrees that we erred factually but urges that the case not be expanded on that account.

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5. The motions to consolidate into Docket 32126 the applications filed by Ozark Air Lines, Inc. (Docket 32200), Continental Air Lines, Inc. (Docket 30614, Amendment Number Two), Northwest Airlines, Inc. (Docket 32215), American Airlines, Inc. (Docket 32216), North Central Airlines, Inc. (Dockets 29583 and 31927), and Delta Airlines, Inc. (Docket 31634, Amendment No. 1) be granted.

6. The motion of Western Airlines, Inc. to consolidate its application in Docket 31240 be granted to the extent that it conforms to the scope of this proceeding as expanded herein and that otherwise it be dismissed.

7. The motion for intervention in this proceeding by "Dallas-Fort Worth" be granted.

8. All carriers hereafter filing applications or amended applications in Docket 32126 shall file environmental evaluations covering such applications or amendments pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of the service date of this order.

9. Applications, motions to consolidate, and petitions to reconsider matters decided in this order for the first time shall be filed within 20 days of the service date of this order and answers to such pleading shall be filed no later than 10 days thereafter.

10. Except to the extent granted, all other written requests in this proceeding be denied.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-14155 Filed 5-19-78; 8:45 am]

[6320-01]

CALIFORNIA/SOUTHWEST-WESTERN MEXICO ROUTE PROCEEDING

[Order 78-5-69; Dockets 32665, 30979, 26761, 32223, 32191]

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of May, 1978.

In the matter of application of Continental Air Lines, Inc., Frontier Airlines, Inc., Hughes Air Corp. d.b.a. Hughes Airwest, Western Air Lines, Inc.

On January 20, 1978, a new bilateral agreement between the United States and Mexico was signed.[1] It provides for a number of new routes for United States carriers, which include:

(A.3.) Los Angeles-Mazatlan/Puerto Vallarta/Manzanillo/Zihuatanejo;[2]
(A.4.) Los Angeles/San Diego-Loreto/La Paz/San Jose del Cabo;
(A.5.) Albuquerque, El Paso-Hermosillo, Bahia Kino, Guaymas, Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara, Manzanillo, Zihuatanejo, Acapulco.[3]

Importantly, routes A.3 and A.4 may be combined among themselves or with route A.1, if the same airline is designated.[4] In the case of any combination of these routes the designated airline will not have traffic rights for nonstop flights between San Francisco and Loreto/La Paz/San Jose del Cabo/Mazatlan-Puerto Vallarta/Guadalajara/Manzanillo/Zihuatanejo or between San Diego and Mazatlan/Puerto Vallarta/Guadalajara.

We have received several petitions from U.S. carriers requesting designation for all or part of the new authority. Frontier (Docket 26761) and Continental (Docket 30979) have filed applications for amendments to their certificates to authorize service between the coterminal points of Albuquerque and El Paso and the terminal point Acapulco, with intermediate points at Hermosillo, Bahia Kino, Mazatlan, La Paz, San Jose del Cabo, Puerto Vallarta, Guadalajara, Manzanillo, and Zihuatanejo.[5] Frontier is currently authorized to operate Albuquerque/El Paso-Mazatlan/Guadalajara by exemption granted in Order 76-11-125, November 24, 1976, although it has not yet instituted service.[6] Continental currently operates domestic services to Albuquerque and El Paso but is not authorized for U.S.-Mexico service.

Western (Docket 32191) and Hughes Airwest (Docket 32223) have filed applications for amendment to their certificates to authorize service between (a) the terminal point Los Angeles, and the coterminal points Mazatlan, Puerto Vallarta Manzanillo, and Zihuatanejo, and (b) the coterminal points of Los Angeles and San Diego, and the coterminal points Loreto, La Paz, and San Jose del Cabo. Airwest holds U.S.-Mexico authority to Guaymas, La Paz, San Jose del Cabo, Puerto Vallarta, and Guadalajara through the gateways of Phoenix and Tucson.

The existing single-plane service between the points at issue in this proceeding is very limited. Specifically, such service is available only from Los Angeles and is generally provided by Mexican carriers on a monopoly basis.[7] Thus, although certificated single-plane service is provided between Los Angeles-La Paz/Manzanillo/Mazatlan/Puerto Vallarta/San Jose del Cabo, competitive services exist only between Los Angeles and Mazatlan/San Jose del Cabo.[8] The only single-plane U.S. Flag service available in any of these markets is provided by Airwest between Los Angeles and Mazatlan. Although there are connecting opportunities currently available to passengers, primarily through Phoenix and Tucson, the scaricity of available direct single-plane service warrants evaluating the need for additional air service.

Petitions for leave to intervene have been filed by the City of Albuquerque and the Albuquerque Chamber of Commerce filing jointly in Docket 26761;[9] the City of Albuquerque, the Albuquerque Aviation Department, and the Albuquerque Airport Board in Docket 26761;[10] and the City of Albuquerque and the Greater Albuquerque Chamber of Commerce in Docket

[7] All members concurred.

[1] The contracting parties agreed by that document to amend and extend the Air Transport Agreement of August 15, 1960.

[2] This route may be divided into two routes, provided that any such division not duplicate the Mexican points, and that the division and carrier designation take place before October 1, 1979.

[3] This route may be divided into two routes, each of which would include Albuquerque and El Paso, provided that such division takes place before October 1, 1979, and does not duplicate the Mexican points.

[4] Route A.1 includes San Francisco/Los Angeles/San Diego-Guadalajara/Mexico City/Acapulco. Western Airlines is already certifcated over all of the points on this route except San Francisco and Guadalajara, and its application for these additional points is under consideration in Docket 32050. Order 78-3-156, dated March 31, 1978. The designated United States carrier on Route A.1 is not permitted to serve San Francisco-Mexico City nonstop until October 1, 1981, or until a second Mexican carrier serves San Francisco-Mexico City nonstop, whichever occurs first. Moreover, this route is further restricted to indefinitely prohibit traffic rights for nonstop flights between San Francisco/San Diego and Guadalajara.

[5] By Order 77-8-87, August 19, 1977, the Board dismissed Frontier's application as stale. On September 6, 1977, Frontier filed a petition for review which automatically stayed our order of dismissal.

[6] This exemption is effective for a period of two years or until 60 days after the final decision on its application in Docket 26761, whichever occurs first.

[7] Service is currently available as follows:
(a) Los Angeles-La Paz: one daily nonstop roundtrip (AeroMexico);
(b) Los Angeles-Manzanillo: one nonstop and three one-stop roundtrips per week (AeroMexico);
(c) Los Angeles-Mazatlan: one daily nonstop roundtrip (Mexicana) four one-stop and three two-stop roundtrips per week (Airwest);
(d) Los Angeles-Puerto Vallarta: one daily nonstop roundtrip (Mexicana);
(e) Los Angeles-San Jose del Cabo: three one-stop roundtrips per week (Mexicano) and 3 nonstop roundtrips per week (Aero-Mexico).
Source: Official Airline Guide, North American Edition April 15, 1978.

[8] Daily roundtrip single plane commuter service is also provided between Los Angeles and Loreto via Baja Cortez Airlines.

[9] Filed June 24, 1974.

[10] Filed April 3, 1975.

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30979.[11] The petitioners indicate that each has an interest in these dockets which satisfies the Board's requirements for Rule 15 intervention. No answers to these petitions have been filed.

In view of the foregoing and all the facts of record, we have determined to institute a proceeding to consider the need for U.S.-flag service over the above-described routes entitled the *California/Southwest-Western Mexico Route Proceeding* in Docket 32665. We have consolidated these three new bilateral routes for hearing because it is a more efficient use of the Board's and the parties' time and resources.

As we stated in Order 78-3-112, March 23, 1978,[12] it is our policy that the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new or additional authority and, if so, which carrier or carriers should be selected. We therefore expect the instituted proceeding to include an examination of the need for and feasibility of various new price/quality options in addition to the traditional service benefits.[13] Moreover, the parties and the judge should focus on whether any new authority should be temporary or whether contingent back-up awards should be made. Any authority awarded in this proceeding will be ineligible for subsidy.[14]

The applications of Continental (Docket 30979), Frontier (Docket 26761), Hughes Airwest (Docket 32223) and Western (Docket 32191) are consolidated to the extent they conform to the scope of the case. All petitions to intervene are granted.

Finally, the applicants have not submitted sufficient information for us to determine the environmental consequences of their requested certificate amendments. Therefore, we will require Continental, Frontier, Hughes Airwest and Western to file environmental evaluations pursuant to Part 312 of the Board's Procedural Regulations. These carriers and all other applicant carriers will be allowed 30 days from the service date of this order to file environmental evaluations.

It is therefore ordered, That: 1. A proceeding entitled the California/Southwest-Western Mexico Route Proceeding, Docket 32665, be instituted, and shall be set down for hearing before an administrative law judge of the Board at a time and place to be designated;

2. The proceeding instituted by paragraph 1 shall include consideration of the following issues:

(a) Do the public convenience and necessity require certification of one or more U.S. flag carriers over route A.3 to engage in foreign air transportation on a subsidy ineligible basis between the following points:

(1) Los Angeles, Calif., and Mazatlan, Mexico.

(2) Los Angeles, Calif., and Puerto Vallarta, Mexico.

(3) Los Angeles, Calif., and Manzanillo, Mexico; and

(4) Los Angeles, Calif., and Zihuatanejo, Mexico?

(b) Do the public convenience and necessity require the certification of a U.S. flag carrier over route A.4 to engage in foreign air transportation on a subsidy ineligible basis between Los Angeles and San Diego, Calif., on the one hand, and Loreto, La Paz and San Jose del Cabo, Mexico, on the other?

(c) Do the public convenience and necessity require the certification of one or more U.S. flag carriers over route A.5 to engage in foreign air transportation on a subsidy ineligible basis between the following points:

(1) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and Hermosillo, Mexico, on the other;

(2) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and Bahia Kino, Mexico, on the other;

(3) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and Guaymas, Mexico, on the other;

(4) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and Loreto, Mexico, on the other;

(5) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and La Paz, Mexico, on the other;

(6) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and San Jose del Cabo, Mexico, on the other;

(7) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and Mazatlan, Mexico, on the other;

(8) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and Puerto Vallarta, Mexico, on the other;

(9) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and Guadalajara, Mexico, on the other;

(10) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and Manzanillo, Mexico, on the other;

(11) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and Zihuatanejo, Mexico, on the other;

(12) Albuquerque, N. Mex., and El Paso, Tex., on the one hand, and Acapulco, Mexico, on the other?

(d) Should the points set forth in (a) and (b) above be combined among themselves or with the points contained in route A.1 of the U.S.-Mexico Air Services Agreement?

(e) If the answer to (a), (b) and/or (c) is affirmative in whole or in part, which air carrier(s) should be authorized to engage in such service? What conditions, if any, should be placed on the operation of such carrier(s)?

(3) The applications of Continental Air Lines, Inc. in Docket 30979, Hughes Air Corp., d.b.a. Hughes Airwest in Docket 32223, and Western Air Lines, Inc. in Docket 32191 are consolidated in this proceeding to the extent that they conform with the proceeding instituted in paragraph 1 above;

4. The petition for review of Order 77-8-87 filed by Frontier Airlines in Docket 26761 is granted and its application is consolidated in this proceeding to the extent that it conforms with the scope of the proceeding instituted in paragraph 1 above;

5. To the extent they do not conform to the issues in this proceeding set forth in 2 above, the applications of Continental Air Lines, Inc. in Docket 30979, Frontier Airlines, Inc. in Docket 26761, Hughes Air Corp., d.b.a. Hughes Airwest in Docket 32223, and Western Air Lines, Inc. in Docket 32191 are dismissed without prejudice;

6. The joint petition of the city of Albuquerque and the Albuquerque Chamber of Commerce for leave to intervene in Docket 26761 is granted;

7. The joint petition of the city of Albuquerque, the Albuquerque Aviation Department, and the Albuquerque Airport Board for leave to intervene in Docket 26761 is granted;

8. The joint petition of the city of Albuquerque and the Greater Albuquerque Chamber of Commerce for leave to intervene in Docket 30979 is granted;

9. Continental Air Lines, Inc., Frontier Airlines, Inc., Hughes Air Corp., d.b.a. Hughes Airwest, Western Air Lines, Inc. and any other carrier filing an application shall file an environmental evaluation pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of the date of service of this order;

10. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within twenty (20) days from the date of service of this order and answers thereto shall be filed within ten (10) days thereafter; and

11. This order shall be served on Continental Air Lines, Inc., Frontier Airlines, Inc., Hughes Air Corp. d.b.a. Hughes Airwest, Western Airlines, Inc., the city of Albuquerque, the Albuquerque Airport Board, the Albuquerque Aviation Department, and the Greater Albuquerque Chamber of Commerce.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[15]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-14154 Filed 5-19-78; 8:45 am]

[11] Filed June 19, 1977.

[12] Caribbean Area Service Investigation, Docket 30697; U.S.-Bahamas Service Investigation, Docket 32294.

[13] We invite the applicants and other interested parties to focus on the possible subdivision of routes A.3 and A.5, as well as the possible combination of routes A.1, A.3, and A.4.

[14] These routes will therefore fall within Category II subsidy ineligible status. See Order 78-1-116, January 27, 1978.

[15] All Members concurred.

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[6335-01]

CIVIL RIGHTS COMMISSION

ARKANSAS ADVISORY COMMITTEE

Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arkansas Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 6 p.m. on June 10, 1978, at Camelot Inn (Markham and Broadway) Board Room, Little Rock, Ark. 72201.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, 106 Broadway, San Antonio, Tex. 78205.

The purpose of this meeting is for the subcommittee to meet on the Block Grant Program Planning Project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-13690 Filed 5-19-78; 8:45 am]

[6335-01]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 4:30 p.m. and will end at 7:30 p.m., on June 7, 1978, Quincy School, Boston, Mass.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-13691 Filed 5-19-78; 8:45 am]

[6335-01]

WEST VIRGINIA ADVISORY COMMITTEE

Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the West Virginia Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 5 p.m. on June 15, 1978, Conference Room AFL-CIO Offices at 1018 Kanawha Boulevard, Charleston, W. Va.

Persons wishing to attend this factfinding meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is to discuss civil rights issues within West Virginia.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-13692 Filed 5-19-78; 8:45 am]

[6335-01]

NEBRASKA ADVISORY COMMITTEE

Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nebraska Advisory Committee (SAC) of the Commission will convene at 3:30 p.m. and will end at 5:30 p.m. on June 8, 1978, State Capitol, Room 2102, Lincoln, Nebr.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.

The purpose of this meeting is to review program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-13693 Filed 5-19-78; 8:45 am]

[6335-01]

TENNESSEE ADVISORY COMMITTEE

Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) of the Commission will convene at 11 a.m. and will end at 5:30 p.m. on June 23, 1978, 920 Broad Street, Sheraton Hotel, Cabinet Room, Nashville, Tenn. 37203.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, 75 Piedmont Avenue NE., Atlanta, Ga. 30303.

The purpose of this meeting is to be an overview of regional conference, SAC programming for fiscal year 1979 and fiscal year 1980.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-13694 Filed 5-19-78; 8:45 am]

[6335-01]

VERMONT ADVISORY COMMITTEE

Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 10 p.m. on June 7, 1978, St. John's Club, Burlington, Vt.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

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Dated at Washington, D.C., May 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-13695 Filed 5-19-78; 8:45 am]

[6335-01]

CONNECTICUT ADVISORY COMMITTEE

Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on June 7, 1978, Central Avenue, Wallingford, Conn.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-13696 Filed 5-19-78; 8:45 am]

[6335-01]

MAINE ADVISORY COMMITTEE

Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 9:30 p.m. on June 8, 1978, Augusta Civic Center, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-13697 Filed 5-19-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

BAGATELLE INTERNATIONAL, LTD., WILLOW FABRICS, LTD., AND PINELLAS SEAFOOD CO.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing on May 16, 1978, from three firms: (1) Bagatelle International, Ltd., 530 Seventh Street, New York, N.Y. 10018, a producer of women's sports wear, outerwear and suits; (2) Willow Fabrics, Ltd., 92 Field Street, New York, N.Y. 11704, a producer of double knit fabric; and (3) Pinellas Seafood Co., 333 16th Avenue, South St. Petersburg, Fla. 33701, a supplier of mackerel fillets, whole lobster and lobster tails. The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-13938 Filed 5-19-78; 8:45 am]

[3510-25]

Industry and Trade Administration

UNIVERSITY OF ILLINOIS MEDICAL CENTER, ET AL

Applications For Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897. Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before June 12, 1978. Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00193. Applicant: University of Illinois Medical Center, College of Medicine, 1853 West Polk Street, Chicago, Ill. 60612. Article: Nuclear Magnetic Resonance Spectrometer, Model CXP-180. Manufacturer: Bruker Physik, A. G., West Germany. Intended use of article: The article is intended to be used in studies of the conformation and molecular dynamics of hormones (peptide hormones), key neurotransmitters (e.g., acetycholine) and drug membrane interactions. The article will also be used in studies of metabolism in intact cells, in obtaining information regarding physiological processes at nerve endings (synaptosomes) and in studies of the binding of ligands to hemoproteins and the interelation between the binding and the conformation. The experiments to be conducted will include: (a) Oxygen-17 chemical shift measurements in the presence of paramagnetic ion probes, (b) oxygen-17 nuclear relaxation measurements, (c) determination of carbon-13 chemical shift tensor components in the solid state of oligopeptides and peptide hormones by means of transfer of polarization from the protons spin system to the carbon-13 nuclei, and (4) deuterium NMR chemical shift and line shape analysis of deuterium labeled peptides. The article will also be used for training in a teaching program in Nuclear Magnetic Resonance and its applications. Application received by Commissioner of Customs: April 27, 1978.

Docket No. 78-00194. Applicant: Harvard Medical School, VA Hospital, 1400 VFW Parkway, West Roxbury, Mass. 02132. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section animal tissues which have been embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic animal tissues, developmental studies on animal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, and subcellular changes in cells induced by changes in their biochemical and physical environments. Application received by Commissioner of Customs: April 27, 1978.

Docket No. 78-00205. Applicant: U.S. Department of Agriculture, SEA—Fruit and Vegetable Chemistry Laboratory, 263 South Chester Avenue, Pasadena, Calif. 91106. Article: Mass Spectrometer, Model MM 70/70F (127 mm radius double focusing dual electron impact-chemical ionization). Manufacturer: VG-Micromass, Ltd., United Kingdom. Intended use of article: The article intended to be used for the study of natural products from plant or microbial sources, or chemically modified products from these sources. The three main areas of research are (1) studies of the composition of plant materials and determination of the structures and quantities of the individual constituents, (2) studies of the structure-biological activity relations of plant constituents with emphasis on bitter or sweet taste responses, enzyme-substrate interactions, and bioregulatory responses of natural and synthetic effector molecules, and (3) studies of the biosynthesis, metabolism, and regulation of plant constituents to improve crop quality and yield. Experiments will be conducted to determine the chemical structure of these materials, and/or the relative or absolute amounts of the materials present in mixtures. Application received by Commissioner of Customs: April 27, 1978.

Docket No. 78-00208. Applicant: University of Michigan, Biophysics Research Division, I.S.T. 2200 Bonisteel Boulevard, Ann Arbor, Mich. 48109. Article: Rotating Anode Generator, Model GX-20 and accessories. Manufacturer: Marconi-Avionics-Elliott, Ltd., United Kingdom. Intended use of article: The article is intended to be used to study the diffraction of x-rays by crystalline proteins, with the aim of determining the three-dimensional structure (i.e., the atomic arrangement) of the proteins. The article will also be used in the training of advanced graduate students registered for research-level courses on x-ray diffraction. Application received by Commissioner of Customs: May 1, 1978.

Docket No. 78-00212. Applicant: Purdue University, West Lafayette, Ind. 47907. Article: Complete unit, 3-stage axial compressor with variable speed motor, speed control, torque, flow and speed measuring devices. Manufacturer: IDOS Ltd., United Kingdom. Intended uses of article: The article is intended to be used for the instruction on the aerodynamic theory, performance analysis and operating characteristics of axial flow compressors covering the following topics: Blade element fluid deflection and loss performance radial equilibrium theory, stage design and off-design performance, stall and surge phenomena, secondary flow phenomena, and effects of inlet flow distortion on compressor performance. The courses involved will include: ME433 Principles of Turbomachinery, ME438 Gas Turbine Engines, ME533 Advanced Turbomachiner, and ME/AAE538 Air Breathing Propulsion. Application received by Commissioner of Customs: May 1, 1978.

Docket No. 78-00213. Applicant: General Foods Corp., Technical Center, 555 South Broadway, Tarrytown, N.Y. 10591. Article: Temperature-Jump Spectrophotometer System and accessories. Manufacturer: Dia-Log, Gesellschaft Fur Digitial-Analoge Datentechnik GmbH, West Germany. Intended use of article: The article is intended to be used for studies of the kinetics of unfolding of protein molecules and the kinetics of binding of other molecular systems such as metal ions (e.g., Fe#, Cu#, Ca#), carbohydrates (e.g., mucopolysaccharide——), lipids. These reactions will take place in time range of 5 microseconds to milliseconds. Application received by Commissioner of Customs: May 1, 1978.

Docket No. 78-00214. Applicant: University of Illinois at the Medical Center, Research Resources Center, 933 Building, P.O. Box 6998, Chicago, Ill. 60680. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for varied research projects which include the following:

Synaptogenesis in the trigeminal mesencephalic nucleus (oral anatomy).
Separation of neurons and glia by density gradient centrifugation (biological chemistry).
Study of the fine structure of pigment cells during development of the chick tetina, with emphasis of differences between nuclear and peripheral retinal areas (anatomy).
Nucleolus and nuclear differentiation in the oral epithelium of zink deficient rats (oral pathology).
The ultrastructure of normal primate lung and lung in shock (surgery).
Neonatal and other incremental lines in human enamel (oral histology).
Study of the fine structure of developing neuromuscular junctions in the chick (anatomy).
Fixation of tissues by metallizable chloro-etrozines (oral pathology).
Localization of salivary gland virus particles in SGV-sensitive cell lines (oral pathology).
Search of virus particles from spontaneously transformed normal calvarium derived tissue culture cells to transplantable neoplasms in mice (oral pathology).
Chemical and physical properties of feline leukemia and sarcoma virus (pathology).
Fine structural aspects of ganglion cell differentiation of chick retina anatomy.
Electron transport characteristics of isolated sarcoplasmic reticulum (medical pharmacology).

The article will also be used for training for faculty, students, and technical personnel who require capability for research. Application received by Commissioner of Customs: April 27, 1978.

Docket No. 78-00215. Applicant: University of North Carolina at Wilmington, P.O. Box 3725, Azalea Station, Wilmington, N.C. 28406. Article: CD-4 Parkinson-Cowan Dry Gasometer and Accessories. Manufacturer: Barchard Engineering Ltd., Canada. Intended use of article: The article is intended to be used for educational purposes in the course PED 316 Exercise Physiology which is concerned with human physiological response to exercise and training. The article will also be used

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for PED 416, Advanced Exercise Physiology as well as in various research projects involving measurement of exercise metabolism. Application received by Commissioner of Customs: May 1, 1978.

Docket No. 78-00216. Applicant: Cornell University—Materials Science Center, Room 625, Clark Hall, Ithaca, N.Y. 14853. Article: X-Ray Microanalyzer Electron Probe system with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the following projects in conjunction with the micron level quantitative local chemical analysis of materials of complex composition:

(1) Chemical characterization of starting materials and thin film surfaces in the preparation processes of high quality single crystals and thin films of complex alloys for researchers.

(2) Determination of solute atom distribution in grain boundaries and the study of the grain boundary diffusion rate as a function of the geometry of the grain boundaries.

(3) The study of phase changes in samples of geologic materials at high pressures and high temperatures.

(4) Quantitative chemical analysis of coatings on very fine spheroconial diamond tips and thin film samples deposited on microcircuit substrates by the high pressure group.

Application received by Commissioner of Customs: April 27, 1978.

Docket No. 78-00217. Applicant: Sandia Laboratories, Kirtland AFB, East Albuquerque, N. Mex. 87115. Article: 2 (Two) CO_2 Lasers TEA 103-2 and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article will be used to identify and study chemical processes that can be stimulated by laser radiation. This work will emphasize the selection of laser frequencies that will stimulate molecular vibrational frequencies and thus lead to the production of molecular radicals. Application received by Commissioner of Customs: May 1, 1978.

Docket No. 78-00218. Applicant: University of Washington, Quaternary Research Center, Seattle, Wash. 98195. Article: VG Micromass 903 Triple Collector Isotope Ratio Mass Spectrometer-Siamese and Accessories. Manufacturer: VG Micromass Ltd., United Kingdom. Intended use of article: The article is intended to be used to analyze $^{18}O/^{16}O$ ratios in ice cores from Antarctica to provide information about major climatic fluctuations. A study of past climatic variations is critical to understanding and predicting future long-term global climatic changes. The article will also be used to study the $^{13}C/^{12}C$ ration in tree rings in research designed to assist in determinations of the proportion of CO_2 in the atmosphere that results from fossil fuel combustion. In addition, the article will be used to train students in the isotope ratio mass spectrometry techniques. Application received by Commissioner of Customs: May 1, 1978.

Docket No. 78-00219. Applicant: University of California, San Francisco, Department of Biochemistry and Biophysics; Third and Parnassus, San Francisco, Calif. 94143. Article: Axiomat light microscope and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the following varied research projects:

(1) The study of the three-dimensional folding pattern of polytene chromesomes in intact salivary glands,

(2) Structural study of polytene bands and interbands,

(3) Structural studies of the diploid interphase chromosomes,

(4) Genetic characterization of a homeotic locus of *Drosophila melanogaster*, engrailed (2-260),

(5) Cytological assay to permit the isolation and characterization of the enzymes and regulatory elements involved in the regulation of gene expression,

(6) Elegant tissue grafting experiments in insects, and

(7) Identification of the molecules and sequence of events required for synapse formation between neurons and target cells.

The article will also be used in a course in optical microscopy to teach graduate students and post doctoral fellows the theoretical and practical aspects of this area of research especially as it applies to the technique that can be used with this microscope. Application received by Commissioner of Customs: April 27, 1978.

Docket No. 78-00220. Applicant: Oklahoma College of Osteopathic Medicine and Surgery, P.O. Box 2280, Tulsa, Okla. 74101. Article: Electron Microscope, Model H-300 and Accessories. Manufacturer: Hitachi, Perkin-Elmer, Japan. Intended use of article: The article is intended to be used for the investigation of the ultrastructural changes in kidney following mycotoxin exposure granulomatous response to microbial lipids and the pathology of myocardial ischemia. In addition, the article will be used in the following courses:

(1) Pathology (Clinical Sciences 1413) A course covering the basic mechanisms of the disease processes.

(2) System Biology I (Neuromusculo- skeletal). To provide to students the exposure necessary to gain a fundamental knowledge of the neuromusculo- skeletal systems as a background for their clinical learning.

(3) Systems Biology II (Respiratory, cardiovascular and hematology). A continuation of the systems approach in the study of medicine consisting of lectures, demonstrations and/or laboratories involving the respiratory, cardiovascular and hematology systems.

(4) Systems Biology III (Obstretrics-gynecology, pediatrics and the genitourinary tract system). A continuation of the systems approach in the study of osteopathic medicine.

Application received by Commissioner of Customs: April 27, 1978.

Docket No. 78-00221. Applicant: LDS Hospital (Intermountain Health Care, Inc.), 325 8th Avenue, Salt Lake City, Utah 84143. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare various types of biological specimens. Principally, such pathological tissues will be obtained from patients from biopsy or autopsy, embedded in plastic, thin sectioned, and examined in the microscope after appropriate staining of histochemical reactions. The research to be conducted will include focus on the ultrastructural alteration occurring in the lungs of experimental animals and man with acute respiratory distress syndrome. Other research uses may include studies of the alterations of macrophage cell surfaces occurring during macrophage activation and participation in tumor killing. The article may also be used as an educational tool for pathology residents and research fellows. Application received by Commissioner of Customs: May 1, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-13937 Filed 5-19-78; 8:45 am]

[3510-25]

ADVISORY COMMITTEE ON EAST-WEST TRADE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. I (1978 ed.), notice is hereby given that a meeting of the Advisory Committee on East-West Trade will be held on Tuesday, June 6, 1978, at 9:30 a.m. in Room 6802, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

The Committee was established to advise the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to further its mission to promote and encourage the orderly expansion of commercial and economic relations between the United States and the Communist countries.

Agenda items are as follows:

MORNING SESSION, ROOM 6802

9:30 a.m. to 12:15 p.m.

(1) Summary of recent developments in East-West trade by Edward H. Stroh, Deputy Assistant Secretary for East-West Trade (Acting).

(2) Human rights considerations and the future of East-West trade.

(3) Recent developments in China.

AFTERNOON SESSION, ROOM 6802

1:30 to 4 p.m.

(4) National Export Policy Update.

(5) Prospects for the Soviet gas industry.

(6) Review of items submitted by Committee members.

(7) Review of items submitted by the public.

The meeting will be open to public observation and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments should be submitted in writing before June 1, 1978. Other public statements regarding committee affairs may be submitted at any time before or after the meeting.

Approximately 50 seats will be available for the public (including 5 seats reserved for media representatives) on a first-come first-served basis.

Inquiries about committee matters and/or proceedings should be addressed to Gary R. Teske, Committee Control Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Room 4814-B, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4691.

Copies of the minutes will be available 30 days after the meeting upon written request addressed to the Industry and Trade Administration, Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

EDWARD H. STROH,
Deputy Assistant Secretary for East-West Trade (Acting).

[FR Doc. 78-14125 Filed 5-19-78; 8:45 am]

[3510-13]

National Bureau of Standards

NATIONAL BUREAU OF STANDARDS' VISITING COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the National Bureau of Standards' visiting Committee will meet on Tuesday, June 27, 1978 from 8:30 a.m. to 4 p.m. in Lecture Room B, Administration Building, National Bureau of Standards, Gaithersburg, Md.; and Wednesday, June 28, 1978 from 9 a.m. to 2:30 p.m. in Room 5851, Department of Commerce, Washington, D.C.

The NBS Visiting Committee is composed of five members prominent in the fields of science and technology and appointed by the Secretary of Commerce.

The purpose of the meeting is to review the efficiency of the Bureau's scientific work and the condition of its equipment in order to assist the Committee in reporting to the Secretary of Commerce as required by law.

The public is invited to attend, and the Chairman will entertain comments or questions at an appropriate time during the meeting. Any persons wishing to attend the meeting should inform Ms. Kay Byerly, Office of the Director, National Bureau of Standards, Washington, D.C. 20234, telephone 301-921-3413.

Dated: May 17, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-14127 Filed 5-19-78; 8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

COASTAL MANAGEMENT PROGRAM: HAWAII

Public Hearing on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the draft environmental impact Statement for the coastal management program of the State of Hawaii.

The hearings will be held on June 26, 1978, at 7 p.m., in the Kauai County Council Chambers, Lihue, Kauai; on June 27, 1978, at 7 p.m., in the Hawaii County Council Chambers, Hilo, Hawaii; on June 28, 1978, at 7 p.m., in the Kahului Library, Kahului, Maui; and on June 29, 1978, at 7:30 p.m., in the State Capitol Auditorium, Honolulu, Hawaii.

The views of interested persons and organizations are solicited. These may be expressed orally or in written statements.

Presentations will be scheduled on a first-come-first-serve basis, but may be limited to a maximum of 10 minutes or as otherwise appropriate. Priority will be given to those with written statements. Time will be available at the end of the meeting for persons without statements to present their views orally. The Office of Coastal Zone Management staff may question any speaker following presentation of his/her statement. No verbatim transcript of the hearing will be maintained; but staff present will record the general thrust of the remarks.

Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management as soon as possible so that an appearance schedule may be drawn up and definite times established for presentation. Please contact: June Cradick, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235, phone 202-634-6791.

Written comments may also be submitted by mail to the Office of Coastal Zone Management. Such comments should be received before July 3, 1978, to assure adequate consideration for inclusion in the final environmental impact statement.

Copies of the draft environmental impact statement may be obtained by contacting the Office of Coastal Zone Management or: Dick Poirier, Department of Planning and Economic Development, P.O. Box 2359, Honolulu, Hawaii 96804, phone 808-548-4609.

Comments may address the adequacy of the impact statement and/or the nature of the Hawaii coastal management program.

Following consideration of the comments received at these hearings, as well as written comments submitted, the Office of Coastal Zone Management will prepare the final environmental impact statement pursuant to the National Environmental Policy Act of 1969 and implementing guideline.

Dated: May 17, 1978.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc. 78-14140 Filed 5-19-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 16, 1978.

The participants of the USAF Scientific Advisory Board Workshop on Strategic Issues and the ICBM will hold a meeting on June 13-14, 1978 at HQ SAC, Offutt Air Force Base, Nebr., from 8:30 a.m. to 4:30 p.m. each day.

The participants will hold a preparatory meeting to organize the upcoming Summer Study. The discussions will be classified.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-14129 Filed 5-19-78; 8:45 am]

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[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 15, 1978.

The USAF Scientific Advisory Board Aeronautics Panel Subcommittee on Turbine Engine Health Monitoring Systems will meet on June 8 and 9, 1978, at Wright-Patterson Air Force Base, Ohio. The purpose of the meeting is to review the flight test plans for the several systems. The Subcommittee will meet from 9 a.m. to 4:30 p.m. each day.

This meeting will be open to the public. For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-14128 Filed 5-19-78; 8:45 am]

[6360-01]

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 24, 1978, commencing at 1:30 p.m. The hearing will be a part of the Commission's regular May business meeting which is open to the public. Both the hearing and the meeting will be held at the Commission's offices, 25 State Police Drive, West Trenton, N.J. The subject of the hearing will be application for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to section 3.8 of the Compact.

1. *Burlington Township (D-70-252 CP).* Upgrading of the LaGorce Square sewage treatment plant located in Burlington Township, Burlington County, N.J. About 95 percent of BOD5 and 92 percent of suspended solids will be removed from a wastewater flow of 210,000 gallons per day. An additional 100,000 gallons per day of wastewater flow will be diverted to the City of Burlington's sewage treatment plant. Treated effluent will discharge to Assincunk Creek. The plant is an interim facility and may be abandoned if a proposed regional study so indicates.

2. *Pequest River Sewer Authority (D-71-94 CP-Rev.).* Modifications in the Authority's proposed plans for the sewage treatment plant to serve the Town of Belvidere and a portion of White Township, Warren County, N.J. Changes will be made in the location of the treatment facility and the method of sludge disposal. About 90 percent of BOD5 and suspended solids will be removed from a wastewater flow of approximately 500,000 gallons per day. Treated effluent will discharge to the Delaware River.

3. *Pequest River Sewer Authority (D-71-96 CP-Rev.).* Modifications in the Authority's proposed plans for the sewage treatment plant to serve Oxford Township and a portion of White Township, Warren County, N.J. About 90 percent of BOD5 and suspended solids will be removed from a wastewater flow of approximately 500,000 gallons per day. The proposed point of discharge of treated effluent has been relocated from Furnace Brook to the Pequest River.

4. *Village of Deposit (D-74-27 CP).* A watershed work plan providing for improved erosion and flood control in the Village of Deposit and adjacent areas of Broome County, N.Y. The plan provides for land treatment measures, construction of two dams, a channel and several dikes. The watershed plan is co-sponsored by the Broome and Delaware County Soil Conservation Districts, Broome and Delaware County Boards of Supervisors, and the Village of Deposit.

5. *North Penn Water Authority (D-77-53 CP).* A well water supply project to augment public water supplies in the Authority's distribution area in Montgomery County, Pa. Designated as N.P. Well No. 34, the new facility is expected to ultimately yield up to 288,000 gallons per day. Pumping of water will be increased in stages. The augmented supplies will be made available in Lansdale and Souderton Boroughs and several adjacent townships.

6. *Collegeville-Trappe Joint Water System (D-77-97 CP).* A well water supply project to augment public water supplies in the Boroughs of Collegeville and Trappe, Montgomery County, Pa. A new well designated No. 9 is expected to yield approximately 108,000 gallons per day.

7. *Bradford Glen Water Co. (D-77-98 CP).* A well water supply project to provide water service to the Bradford Glen housing development in West Bradford Township, Chester County, Pa. Designated as Well Nos. 1, 3 and 7, the new facilities are expected to produce a combined yield of approximately 196,000 gallons per day.

8. *Bally Municipal Authority (D-78-19 CP).* A well water supply project to augment public water supplies in the Borough of Bally, Berks County, Pa. Designated as Well No. 3, the new facility is expected to yield about 432,000 gallons per day.

9. *Artesian Water Co. (D-78-30 CP).* A well water supply project to augment public water supplies in the company's service area in New Castle County, Del. The Collins Park Well No. 3 will replace an existing well with a new facility which is expected to yield about 580,000 gallons per day.

10. *Schwenksville Borough Authority (D-78-33 CP).* A well water supply project to be used on an emergency basis for public water supply purposes in the Borough of Schwenksville and adjacent townships in Montgomery County, Pa. Designated as Well No. 6, the new facility is expected to have a yield of approximately 290,000 gallons per day.

11. *Midlantic National Bank (D-74-25).* A sewage treatment plant to serve the Kings Grant development project in Evesham Township, Burlington County, N.J. Approximately 98 percent of BOD5 and suspended solids will be removed from a wastewater flow of 300,000 gallons per day. Treated effluent will be discharged to two 2.5 acre infiltration lagoons.

12. *Air Products and Chemicals, Inc. (D-77-86).* A well water supply project to provide water for industrial cooling purposes at the company's Paulsboro plant, Greenwich Township, Gloucester County, N.J. Two wells will replace an existing surface water source and will provide a yield of 173,000 gallons per day.

13. *South Jersey Port Corp. (D-77-103).* A stream encroachment in the form of a pier to be constructed by the Corporation in Camden County, N.J. Designated as Pier No. 4, the new facility will be located in the City of Camden at River Mile 98.8, and will allow for expansion of operations and handling of increased volumes of cargo.

14. *Getty Refining and Marketing Co. (D-77-111).* An industrial waste treatment project at the company's refining facility at Delaware City, New Castle County, Del. New facilities will remove approximately 99 percent of hydrogen sulfide and ammonia from a wastewater flow of about 1.8 million gallons per day. Treated effluent will discharge to the Delaware River.

15. *Amerada Hess (D-78-3).* Expansion of existing docking facilities near the company's plant in Pennsauken, Camden County, N.J. New docking facilities along the Delaware River will allow accommodation of larger tankers.

16. *Atlas Powder Co. (D-78-7).* An industrial waste treatment project to upgrade treatment facilities at the company's Reynolds Plant located in Walker Township, Schuylkill County, Pa. Acid neutralizing and sludge handling facilities will be applied to a wastewater flow of approximately 1.8 million gallons per day. Treated effluent will discharge to the Little Schuylkill River.

17. *Philadelphia Port Corp. (D-78-15).* A docking facility located along the Delaware River in the area between Laurel and Shackamaxon Streets in Philadelphia, Pa. Existing collapsed piers will be removed. River bottom will be dredged to 35 feet and fill will be used in the construction of the dock.

18. *Conard-Pyle Co. (D-78-21).* A well water supply project at the company's "Star Roses" facility in London Grove Township, Chester County, Pa. Two existing wells and a proposed new well will provide a combined yield of about 390,000 gallons per day which will be used for domestic, boiler, and irrigation purposes.

19. *MacAndrews and Forbes Co. (D-78-26).* An industrial waste treatment project at the company's facility in Camden, Camden County, N.J. Approximately 86 percent of BOD5 will be removed from a contaminated cooling water flow of about 360,000 gallons per day. Treated effluent will discharge to the Delaware River.

20. *Inmont Corp. (D-78-28).* An existing well water supply project at the company's recently acquired facility in Belvidere, Warren County, N.J. The facility will yield approximately 500,000 gallons per day which will be used for noncontact cooling purposes.

21. *Harbison Walker Refractories, Dresser Industries, Inc. (D-78-9).* An existing discharge of wastewater into Delaware Bay about 1 mile from Cape May Point, Cape May County, N.J. The company extracts magnesium from the seawater and requests to continue the discharge of this wastewater without treatment for pH and suspended solids.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested

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to register with the Secretary prior t the date of the hearing.

Dated: May 12, 1978.

W. BRINTON WHITALL,
Secretary.

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[DOE-EIS-0016]

CUMULATIVE PRODUCTION/CONSUMPTION EFFECTS OF THE CRUDE OIL PRICE INCENTIVE RULEMAKINGS

Availability of Final Programmatic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of availability of final environmental impact statement.

SUMMARY: The Department of Energy gives notice of the availability of the Final Programmatic Environmental Impact Statement for the Cumulative Production/Consumption Effects of the Crude Oil Price Incentives Rulemakings.

FOR FURTHER INFORMATION CONTACT:

Jim Maynard, Economic Regulatory Administration, Department of Energy, Room 2304, 2000 M Street NW., Washington, D.C. 20461, 202-632-5210.

Carol Borgstrom, Office of NEPA Affairs, Department of Energy, Room 7119 Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

Janine Landow-Esser, Office of the General Counsel, Department of Energy, Room 5115, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9380.

SUPPLEMENTARY INFORMATION: The environmental impact statement was prepared pursuant to the National Environmental Policy Act of 1969 to support Department of Energy actions, pursuant to the Energy Policy and Conservation Act and the Energy Conservation and Production Act, intended to ameliorate the impact of inflation and provide additional price incentives for domestic crude oil production. The effects of special price incentives for tertiary oil recovery operations as well as the exemption of stripper well oil from price controls and the pricing treatment of California and Alaska crude oil are analyzed in the statement.

The draft environmental impact statement was issued on August 26, 1977. Comments received on the draft statement were considered in the preparation of the final statement.

Copies of the final statement have been furnished to those who commented on the draft statement as well as others who have requested copies.

Copies are available from the Technical Information Center, Department of Energy, P.O. Box 62, Oak Ridge, Tenn. 37830, 615-483-8611, extension 34672.

Copies have also been placed in public reading rooms at the following DOE locations:

Library, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

Room 2107, Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Dated at Washington, D.C. this 18th day of May, 1978.

For the U.S. Department of Energy.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-14296 Filed 5-19-78; 8:45 am]

[3128-01]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Cancellation of Public Hearing on Notice of Intention To Issue Construction Orders to Certain Major Fuel Burning Installations

On May 11, 1978, the Department of Energy (DOE) gave notice in the FEDERAL REGISTER (43 FR 20260) of its intention to issue Construction Orders pursuant to Section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) as amended, and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 307 to the following installations in the early planning process:

Docket No.	Owner	Installation	Units	Location
OCU-3060-2-1	General Electric Co	Noryl Utility Division.	6001A	Selkirk, N.Y.
OCU-3060-2-2	do	do	6001B	Do.

DOE hereby gives notice of cancellation of the public hearing also announced at that time (43 FR 20260) to be held on May 23, 1978 at 10 a.m., in the Legislative Office Building, Hearing Room C, Albany, N.Y. The purpose of the hearing was to allow interested persons to present oral data, views, and arguments regarding the proposed orders. The Hearing has been cancelled based on information submitted by the General Electric Co. on May 15, 1978, certifying that the company plans to construct only one unit with a design firing rate of less than 100 million BTU/hr at the Noryl Utility Division installation, instead of the originally planned units 6001A and B.

The Department of Energy, therefore, has no plans to reschedule the public hearing.

Issued in Washington, D.C., May 17, 1978.

BARTON R. HOUSE,
Assistant Administrator for Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-14220 Filed 5-19-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. RI78-51]

CHACE OIL CO., INC.

Petition for Special Relief

MAY 11, 1978.

Take notice that Chace Oil Co., Inc. (Chace), 313 Washington SE., Albuquerque, N. Mex. 87108, filed on April 17, 1978, a petition for special relief pursuant to 18 CFR § 2.76 requesting a rate of $1.48 per Mcf at 14.73 psia for the sale of its gas from Jicarilla 70-2 located on Jicarilla Apache Tribal Lease No. 70, Rio Arriba County, N. Mex., to El Paso Natural Gas Co. The sale is currently being made pursuant to the certificate issued to Chace in Docket No. CS73-209 at the rate of 52 cents per Mcf at 14.73 psia.

Chace states that the relief is requested due to economic loss resulting from the application of the 52 cent rate to gas obtained by reentering an old well. The well was abandoned in 1958 and since reentry is producing approximately 150 Mcf per day. Chace estimates recoverable gas reserve to be

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563,750 Mcf at 14.73 psia. Chace further states that gas and oil reserves are being produced from previously penetrated productive zones that were not produced during the old well attempt in 1958.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13968 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. ER78-361]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Filing of Second Revision to Interconnection Agreement

MAY 15, 1978.

Take notice that on May 8, 1978, Central Illinois Public Service Co. (CIPS) tendered for filing proposed second revisions to service schedules B and C to interconnection agreement dated May 2, 1972, with Southern Illinois Power Cooperative. The effective date of the proposed revisions is July 1, 1978.

CIPS indicates that said revised agreement revises the reservation charges for short-term non-firm and short-term firm power transactions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before June 9, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13969 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. CP78-320]

COLORADO INTERSTATE GAS CO.

Application

MAY, 15, 1978.

Take notice that on May 8, 1978, Colorado Interstate Gas Co. (Applicant), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP78-320 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with and sale to Northwest Pipeline Corp. (Northwest), pursuant to a gas gathering and transportation agreement dated March 16, 1978, between Applicant and Northwest, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The March 16, 1978, agreement provides that Northwest and RMNG Gathering Co. (RMNG) would gather at the wellhead and transport up to 5,000 Mcf of natural gas per day from certain gas supplies that Applicant controls in the Carbonera and Bridle Fields in the Jim Canyon area of Colorado to an existing interconnection between Applicant and Northwest at Green River, Wyo., it is indicated. Applicant states that Northwest is contractually authorized to purchase 25 percent of the gas delivered by CIG into Northwest's gathering system at the same average price paid by Applicant for such gas; that Applicant would pay Northwest for its cost of service for those costs attributable to Applicant's gas incurred from the wellhead to RMNG's South Canyon pipeline; that Applicant would reimburse Northwest 8.0 cents per Mcf of natural gas for the cost of service attributable to the transportation of Applicant's gas through RMNG's South Canyon system, and that Applicant would pay Northwest an initial rate of 16.03 cents per Mcf of gas for Applicant's gas transported from the Bar "X" delivery point, where RMNG's South Canyon line interconnects with Northwest's 26-inch pipeline in Mesa County, Colo., to the point of interconnection between Applicant and Northwest near Green River, Wyo.

In addition, it is indicated that Applicant understands that Northwest would construct the necessary wellhead gathering facilities to RMNG's South Canyon line pursuant to its gas purchase budget-type authorization.

Applicant states that the gas delivered by it to Northwest would be adjusted prior to redelivery to it as follows:

1. Reduced by the volumes purchased by Northwest (25 percent).

2. Reduced by an allowance for fuel usage on Northwest's system applicable to Applicant's share of the volume, estimated to be approximately 2 percent.

3. Reduced to achieve a thermal balance (The gas from the wells in the Jim Canyon area averages just over 900 Btu at the wellhead, and the redelivered gas at Green River is currently in excess of 1,060 Btu.).

Any person desiring to be heard or to make any protest with reference to said application should on or before June 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13970 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. RP73-65 (PGA 78-2)

COLUMBIA GAS TRANSMISSION CORP.

Filing of Stipulation and Agreement in Settlement of Rate Proceeding

MAY 10, 1978.

Take notice that on April 27, 1978, Columbia Gas Transmission Corp. (Columbia) submitted a stipulation and agreement which is proposed in settlement of the issues in the above-captioned rate proceeding. The stipulation and agreement, if approved, would resolve all of the issues presented in this proceeding.

Any person desiring to be heard or to protest such stipulation and agreement should file initial comments by May 31, 1978, and reply comments by June 15, 1978, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 13971 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. RP72-157 (PGA Nos. 78-8, 78-8a and 78-8b)]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

MAY 10, 1978.

Take notice that Consolidated Gas Supply Corp. (Consolidated) on May 5, 1978, tendered for filing proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes shown on Revised Second Substitute Alternate Second Revised Sheet No. 16, to be effective May 1, 1978, were made pursuant to the FERC order of May 2, 1978, in the referenced docket.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13972 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. ER78-365]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Filing of Tariff Changes

MAY 12, 1978.

Take notice that on May 5, 1978, Consolidated Edison Co. of New York, Inc. (Con Edison) tendered for filing three successive proposed changes in its rate schedule for transmission service to the Power Authority of the State of New York (PASNY), Con Edison Electric Rate Schedule FPC No. 42, Supplement No. 1. Con Edison states that the proposed changes have the cumulative effect of increasing revenues from jurisdictional service to PASNY by $303,657 annually. Con Edison requests waiver of the Commission's notice requirements to allow for effective dates of May 25, 1977, for the First Revision, July 1, 1977, for the Second Revision and July 28, 1977, for the Third Revision.

Con Edison indicates that the changes represent the transmission charges for PASNY's proportionate share of a rate increase granted to Con Edison by the New York Public Service Commission.

A copy of the filing has been served upon PASNY, according to Con Edison.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13973 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. RI78-49]

CONTINENTAL OIL CO.

Petition for Special relief or, in the Alternative, Abandonment

MAY 11, 1978.

Take notice that on April 7, 1978, Continental Oil Co. (Continental), P.O. Box 2197, Houston, Tex. 77001, filed a petition in the above-captioned docket pursuant to section 1.7 of the Commission's rules of practice and procedure and section 4 and 7 of the Natural Gas Act and the rules and regulations thereunder; (1) to authorized Continental to collect increased rates of at least $1.60 per Mcf from Transcontinental Gas Pipe Line Corp. (Transco) to reflect increased royalty payments ordered by the U.S. District Court for the Western District of Texas, El Paso Division, with respect to certain gas sold pursuant to its FPC Gas Rate Schedule No. 102; or in the alternative, (2) to authorize Continental to abandon, effective March 24, 1972, the sale of one-eighth of the gas sold to Transco pursuant to the FPC Gas Rate Schedule No. 102 in order to satisfy Continental's royalty obligations to its lessors.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13974 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. CP71-222, et al.]

GREAT LAKES TRANSMISSION CO.

Petition To Amend

MAY 11, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402(a) (1) or (2) of the DOE Act.

Take notice that on April 28, 1978, Great Lakes Gas Transmission Co. (Petitioner), 2100 Buhl Building, Detroit, Mich. 48226, filed in Docket No.

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CP71-222, et al., a petition to amend the order of June 1, 1971 (45 FPC 1034) issued by the Federal Power Commission in the instant dockets pursuant to Section 7(c) of the Natural Gas Act so as to authorize the replacement of an existing power turbine and authorizing the modification of related facilities at a mainline compressor station, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of June 1, 1971, petitioner was authorized to construct and operate, among others, a 20,000 horsepower turbine driven centrifugal compressor addition at its Shevlin Station No. 3 on its pipeline system in Minnesota. Petitioner indicates that it completed construction and commmenced operation of the compressor addition, which consist of a gas generator, a two-stage power turbine, and a centrifugal compressor, in 1971.

Petitioner states that due to an operational problem, extensive repair of the two-stage power turbine or replacement with a same design power turbine, which is available, is now required. Petitioner states that, from an operational standpoint, replacement is preferred and would cost $203,000. The cost of repairs is estimated at $160,000.

It is stated that in order to maximize the efficiency which would result in considerable fuel savings, it would be necessary to replace the two-stage power turbine with an improved design three-stage power turbine and modify the gas generator and the centrifugal compressor unit. The proposed three-stage power turbine utilizes the latest technology in metallurgy and is more efficient than the two-stage power turbine, it is said.

Petitioner further indicates that the modifications would result in an increase of 2,500 horsepower.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13975 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. ES78-35]

IDAHO POWER CO.

Application

MAY 15, 1978.

Take notice that on May 8, 1978, Idaho Power Co. (Applicant) filed an application with the Federal Energy Regulatory Commission seeking an Order pursuant to Section 204 of the Federal Power Act authorizing the Company to enter into a Guaranty Agreement with the Trustee of Pollution Control Revenue Bonds to be issued by the Port of Morrow, Oreg., in the amount of $5,500,000 which Bonds will be sold by the Port as soon as possible after obtaining approval of this Guaranty.

Applicant is incorporated under the laws of the State of Maine, and is duly qualified to do business in the States of Idaho, Oregon, Nevada, and Wyoming, with its principal business office at Boise, Idaho.

Applicant indicates that the Bonds of the Port will be sold to purchase pollution abatement equipment at the Boardman Power Station in the County of Morrow, Oreg., in which the Idaho Power Co. will have a 10 percent interest in the first unit. The first unit is expected to be completed in 1980. Said equipment will be leased by the Port to the Applicant and payments under said Lease will be sufficient to pay principal, premium, if any, and interest due on said Bonds. The Bonds will not be issued by the Applicant. The rate of interest will be negotiated at a private sale of the Bonds between the Port and the Underwriters.

According to Applicant, the authorization sought is for Applicant to issue an independent Guaranty to the Trustee for the benefit of the holders of the Bonds of payment of principal, premium, if any, and interest on said Bonds. No payments will be required under the Guaranty if all payments are made pursuant to the Lease.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13976 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. CP78-318]

MISSISSIPPI RIVER TRANSMISSION CORP.

Application

MAY 15, 1978.

Take notice that on May 5, 1978, Mississippi River Transmission Corp. (Applicant), 9900 Clayton Road, St. Louis, MO. 63124, filed in Docket No. CP78-318 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing October 8, 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system nautral gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the applications on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange of gas with Applicant.

Applicant states that the total estimated cost of the proposed facilities would not exceed $1,000,000, with no single project to exceed $250,000. Applicant indicates that the cost of the proposed facilities would be financed with available funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13977 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. CP78-319]

MISSISSIPPI RIVER TRANSMISSION CORP.

Application

MAY 15, 1978.

Take notice that on May 5, 1978, Mississippi River Transmission Corp. (Applicant), 9900 Clayton Road, St. Louis, Mo. 63124, filed in Docket No. CP78-319 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the 12-month period commencing August 16, 1978, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $1,400,000, and that the cost of any single project would not exceed $350,000. It is indicated that these costs would be financed by Applicant from available funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13978 Filed 5-19-78; 8:45 am]

[6740-02]

[Project No. 803]

PACIFIC GAS & ELECTRIC CO.

Granting Intervention

MAY 15, 1978.

On April 12, 1978, the State of California, acting through its Department of Fish and Game (Department), filed a petition to intervene respecting an application filed by Pacific Gas & Electric Co. (PG&E) for a new major license for Project No. 803 known as the De Sabla-Centerville Project. The project is located on West Branch Feather River, Butte Creek, and Philbrook Creek in the vicinity of the towns of Chico and Oroville, Butte County, Calif. and affects lands of the United States under the supervision of the Forest Service and the Bureau of Land Management. No response to the petition has been received.

In its petition the Department states that it is charged with the administration of affairs of the State of California concerning the protection, propagation and preservation of fish and wildlife in the state. The Department claims: (a) that the manner of the operation of the project can materially affect the magnitude of the trout and salmon fisheries and wildlife populations in the project area, and (b) that the Department and PG&E are conducting studies of the fishery, wildlife, recreational and commercial resources in the project waters to determine conditions of operation to protect these resources. The Department states that it plans to negotiate an agreement with PG&E, but that it seeks, through intervention, the right to be heard and present evidence in any proceeding that the Commission may conduct to resolve any differences that may arise.

It appears to be in the public interest to allow the Department to participate in this proceeding.

Pursuant to Section 3.5(a)(30) of the Commission's Rules of Practice and Procedure (Rules), 18 CFR § 3.5(a)(30) (1977), as promulgated by Federal Power Commission Order No. 577 (issued December 10, 1976), the Department is hereby permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act: *Provided,* That participation of the Department shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene: *Provided further,* That the admission of the Department shall not be construed as recognition by the Commission that the Department might be aggrieved by any order entered in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13979 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. ER78-337]

PUBLIC SERVICE CO. OF NEW MEXICO

Extension of Time

MAY 12, 1978.

On May 11, 1978, Plains Electric Generation and Transmission Cooperative, Inc., filed a motion to extend the time for filing petitions to intervene fixed by Notice issued May 5,

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1978, in the above-designated proceeding.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 19, 1978, for filing petitions to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13980 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. CP 77-659]

SOUTHERN NATURAL GAS CO.

Informal Conference

MAY 15, 1978.

Take notice that on May 25, 1978, at 10 a.m. an informal conference will be convened of all interested persons with a view toward clarifying the issues in the above-captioned proceeding. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., in room 8402.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties will be expected to come fully prepared to discuss the merits of all issues arising in full evidentiary hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13981 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. CP78-315]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

MAY 15, 1978.

Take notice that on May 4, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-315 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service rendered to Elizabethtown Gas Co. (Elizabethtown) pursuant to authorization granted in Docket No. CP77-35, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by order issued February 11, 1977, in Docket No. CP77-35 it was authorized to transport quantities of natural gas for Elizabethtown from production of Elizabethtown's producing affiliate, National Exploration Co. (National), in the Boggy Creek Field, Anderson County, Tex. The subject gas was delivered to United Gas Pipe Line Co. (United) in Anderson County and United delivered equivalent quantities (less quantities retained by United for company use, lost and unaccounted for gas) to Applicant for the account of Elizabethtown at mutually agreeable existing authorized exchange points between Applicant and United, it is stated. Applicant redelivered the transportation quantities (less fuel and line loss makup) to existing points of delivery to Elizabethtown in New Jersey, it is indicated.

Applicant states that due to a depletion of reserves in the Boggy Creek Field, National has filed and application in Docket No. CI78-364 requesting authorization to abandon the sale of gas to Elizabethtown.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules and practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13982 Filed 5-19-78; 8:45 am]

[6740-02]

[Project No. 2812]

APPALACHIAN POWER CO.

Application for Preliminary Permit

MAY 15, 1978.

Public notice is hereby given that an application was filed under the Federal Power Act, 16 U.S.C. §791a-824r, on August 30, 1977, by Appalachian Power Co. (Correspondence to: Mr. John W. Vaughan, executive vice president, Appalachian Power Co., 40 Franklin Road, Roanoke, Va. 24009; and Mr. A. Joseph Dowd, senior vice president and general counsel, American Electric Power Service Corp., Two Broadway, New York, N.Y. 10004) for a preliminary permit to study the feasibility of the proposed Brumley Gap Hydroelectric Project, designated FERC Project No. 2812. The project would be located on Brumley Creek, a tributary of the North Fork Holston River, at Brumley Gap in Washington County, Va., near the Town of Holston. The project would affect the interests of interstate commerce.

According to the application, the project would be a pure pumped storage hydroelectric project consisting of an upper dam impounding a reservoir with surface area of approximately 620 acres at full pool elevation 3,720 feet msl, a lower dam and saddle dike impounding a reservoir with surface area of approximately 1,335 acres at full pool elevation 1,880 feet msl, and an underground powerhouse with one or more water passages connecting the two reservoirs. The powerhouse would house up to 3,000 MW of installed capacity. Applicant states that the entire pumped storage capability that could be developed by this project would be utilized by the integrated American Electric Power System and that the project could be tied into this system by constructing a minimal amount of additional 765-kV transmission line. As tentatively planned, parts of the project would be located on private lands within the boundaries of the Jefferson National Forest.

A preliminary permit does not authorize the construction of a project. A permit, if issued, gives the permittee during the period of the permit the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Any person desiring to be heard or to make protest with reference to said application should, on or before July 17, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR §1.8 or §1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

The public should take further notice that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy was activated on October 1, 1977. The functions which are the subject of these proceedings were specifically transferred to the FERC.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13984 Filed 5-19-78; 8:45 am]

[6740-02]

[Project No. 2813]

APPALACHIAN POWER CO.

Application for Preliminary Permit

MAY 15, 1978.

Public notice is hereby given that an application was filed under the Federal Power Act, 16 U.S.C. §791-825r, on August 30, 1977, by Appalachian Power Co. (Correspondence to: Mr. John W. Vaughan, executive vice president, Appalachian Power Co., 40 Franklin Road, Roanoke, Va. 24009; and Mr. A. Joseph Dowd, senior vice president and general counsel American Electric Power Service Corp., Two Broadway, New York, N.Y. 10004) for a preliminary permit to study the feasibility of the proposed Powell Mountain Hydroelectric Project, designated FERC Project No. 2813. The project would be located on Stony Creek and the south fork of the Powell River in the vicinity of Norton and Big Stone Gap, Va. The project would affect the interests of interstate commerce and would affect federally owned lands within the Jefferson National Forest.

According to the application, the project would be a pure pumped storage hydroelectric project consisting of an upper dam on the south fork of the Powell River impounding a reservoir with surface area of approximately 790 acres at full pool elevation 3,200 feet msl, a lower dam on Stony Creek impounding a reservoir with surface area of approximately 485 acres at full pool elevation 1,790 feet msl, and an underground powerhouse with one or more water passages connecting the two reservoirs. The powerhouse would house up to 3,000 MW of installed capacity. Applicant states that the entire pumped storage capacity that could be developed by this project would be utilized by the integrated American Electric Power System and that the project could be tied into this system by constructing a minimal amount of additional 765-kV transmission line.

A preliminary permit does not authorize the construction of a project. A permit, if issued, gives the permittee during the period of the permit the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Any person desiring to be heard or to make protest with reference to said application should, on or before July 17, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR §1.8 or §1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

The public should take further notice that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of these proceedings were specifically transferred to the FERC.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13985 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. EL78-13]

CENTRAL VIRGINIA ELECTRIC COOPERATIVE, INC., CRAIG-BOTETOURT ELECTRIC COOPERATIVE, INC., SOUTHSIDE ELECTRIC COOPERATIVE v. APPALACHIAN POWER CO.

Extension of Time

MAY 15, 1978.

On May 10, 1978, Appalachian Power Co. filed a motion to extend the time for filing petitions to intervene or protests, as fixed by Notice issued May 3, 1978, in the captioned proceeding. Appalachian Power states that the May 3, 1978, notice of application was not received until May 8, 1978, and requests an extension of time until June 19, 1978.

Upon consideration, notice is hereby given that an extension of time is granted to and including June 5, 1978, within which to file petitions to intervene or protests in this matter.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13986 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. CP74-126]

EL PASO NATURAL GAS CO.

Petition To Amend

MAY 15, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(A)(1) of the DOE Act.

Take notice that on May 4, 1978, El Paso Natural Gas Co. (Petitioner), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP74-126 a petition to amend the order of April 2, 1975, as amended, issued by the Federal Power Commission (FPC) in the instant docket pursuant to Section 7(c) of the Natural Gas Act so at to provide for an additional exchange point for the exchange of natural gas between Petitioner and Natural Gas Pipeline Co. of America (Natural) in Washita County, Okla., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

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It is indicated that pursuant to the order of April 2, 1975, as amended, Petitioner and Natural were granted authorization in Docket Nos. CP74-126 and CP74-162, respectively, to construct and operate certain facilities and to exchange natural gas in quantities aggregating up to 65,000 Mcf of natural gas per day.

Petitioner indicates that Natural has acquired additional natural gas supplies in Washita County, Okla., which it desires to cause to be delivered to Petitioner under the existing exchange arrangement. Petitioner further indicates that Natural would purchase the natural gas from Inexco Oil Co. (Inexco) from the Strout No. 1 and Floyd Niece Nos. 1 and 2 wells which are presently connected to Petitioner's existing gathering system in Washita County, Okla. The petition states that to facilitate Natural's receipt of such additional gas supplies, Petitioner and Natural have executed Amendatory Agreement No. 10, dated March 21, 1978 further amending the gas exchange agreement dated September 24, 1973, as previously amended, which Amendatory Agreement provides that Natural would deliver, or cause the delivery of natural gas for its account, to Petitioner at the wellhead measurement facilities connected to Petitioner's existing gathering system in the area, which wellhead delivery points are to be known as the Washita No. 2 exchange point. Petitioner states that deliveries of natural gas at the Washita No. 2 exchange point would be commingled with the natural gas received by Petitioner and delivered into Petitioner's existing gathering system through common measurement facilities owned and operated by Petitioner.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13987 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. ER78-338]

PUBLIC SERVICE CO. OF NEW MEXICO

Extension of Time

MAY 15, 1978.

On May 11, 1978, the City of Gallup, N. Mex., filed a motion to extend until May 30, 1978, the time for filing petitions to intervene or protests to the Public Service Co. of New Mexico's proposed change in rates, filed April 28, 1978, and noticed May 5, 1978, in the captioned proceeding.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 30, 1978, within which to file petitions to intervene or protests in this proceeding.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13988 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. CP66-43]

TEXAS EASTERN TRANSMISSION CORP.

Changing Conference Date

MAY 15, 1978.

On May 11, 1978, Texas Eastern Transmission Corp. filed a request that the conference date set by Commission Notice issued May 8, 1978, in the captioned proceeding be changed from May 17, 1978, to May 31, 1978.

Upon consideration, notice is hereby given that the conference of all parties to this proceeding to discuss the status of the application and the applicant's compliance with deficiency letters is changed to May 31, 1978, at 10 a.m., at the Federal Energy Regulatory Commission. The room number will be posted on the hearing board on the second floor on the day of the conference.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13989 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. CP78-300]

TEXAS GAS TRANSMISSION CORP.

Application; Correction

MAY 15, 1978.
MAY 3, 1978.

Page 1, caption: Change "CP73-300" to read "CP78-300."

Page 1, line 4: Change "CP73-300" to read "CP78-300."

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13990 Filed 5-19-78; 8:45 am]

[6740-02]

[Docket No. ER78-310]

UNION ELECTRIC CO.

Order Accepting for Filing and Suspending Proposed Cancellation of Rate Schedules, Granting Intervention and Instituting Investigation and Hearing Procedures

MAY 12, 1978.

Pursuant to 18 CFR § 35.15 on April 14, 1978, Union Electric Co. (Union) tendered for filing a Notice of cancellation[1] relating to an Interchange Agreement between Union and Associated Electric Cooperative, Inc. (Associated)[2] dated March 27, 1978, as amended. This Agreement which is on file with the Commission as Union Rate Schedule FPC No. 69, has an initial term extending to June 1, 1978 and is subject to termination by either party at the end of the initial period (or any anniversary date thereof) by the giving of not less than three years written notice of intention to terminate.

In its filing Union states that Original Notice of Cancellation was sent to Associated on May 27, 1975 in accordance with the termination provisions of the Agreement.

Union states that such Notice of Cancellation resulted from a number of disputes that arose during the term of the agreement regarding the interpretation and effect of various provisions, which disputes the parties were unable to resolve satisfactorily. Accordingly, "Union determined it would be in its best interests to terminate the existing contract and negotiate a successor agreement to cover any future interconnection operations between the parties".

Public notice of Union's April 14 filing was issued for publication in the FEDERAL REGISTER on April 20, 1978 with protests or petitions to intervene due on or before May 1, 1978. On May 1, 1978, Associated filed a Protest and Petition to Intervene requesting that the Commission order a full five-month suspension of Union's filing, and direct Union to continue operations under Union FPC Rate Schedule No. 69 until further Commission order. In support thereof, Associated states that suspension of the proposed cancellation is necessary in the public interest "to assure uninterrupted

[1] Designated as Union Electric Co., Supplement No. 19 to Union Rate Schedule FPC No. 69.

[2] Associated is a large generation and transmission cooperative providing service in portions of Missouri, Iowa, Nebaska and Oklahoma to its members: Sho-Me Power Cooperative, M&A Power Cooperative, Northeast Missouri Power Cooperative, Kamo Power Cooperative, Northwest Power Cooperative and Central Electric Power Cooperative.

power supply and dependable service to rural Missouri" and "to allow for further inquiry by the Commission into the facts and circumstances involved in this case." Associated cites *Southwestern Electric Power Co.*, Docket No. E-7711, Order Suspending cancellation of Rate Schedule, issued March 8, 1972 as further support for its requests.

We shall accept Union's April 14 Notice of Cancellation for filing, assign it an effective date of June 1, 1978, as requested, grant Associated's request for a five-month suspension of Union's April 14 filing, and order Union to continue serving Associated under Union FPC Rate Schedule No. 69 through November 1, 1978, unless a final Commission order issues before such date. We shall further institute an investigation and hearing to determine whether Union's cancellation is in the public interest.

Our review of Associated's petition to intervene indicates that Associated has an interest in this proceeding which is sufficient to warrant its intervention herein, and that its participation in this proceeding may be in the public interest. Accordingly, the petition shall be granted as herein ordered and conditioned.

In its May 1 Protest and Petition to Intervene, Associated states that it is a large rural electric cooperative providing service in 112 of Missouri's 114 counties and in portions of Iowa, Nebraska and Oklahoma; that it has approximately 1800 MW of generating capacity with another 2200 MW planned to be in operation by 1985; and that it has extensive high-voltage transmission facilities (168 KV and 345 KV) and more than 50 interconnections with neighboring utilities involving "numerous contractual arrangements for interchanges, reserves, pooling, etc."

To illustrate the relative locations of Union's and Associated's transmission facilities, Associated attached to its May 1 filing a map depicting the points of interconnection and delivery between itself and Union. Associated asserts that the map shows that a large segment of Missouri depends on Union's high-voltage transmission lines; that loss of the Union—Associated interconnection system would "directly affect such utilities as Kansas City Power & Light, The City of Columbia, Mo., and Arkansas-Missouri Power Co.; and that such loss could also affect Empire Electric District, Southwestern Power Administration, Kansas Gas & Electric and other utilities in Oklahoma and Iowa.

Associated states that the subject interchange agreement dated March 27, 1968, provides for integrated and interconnected operations involving Union's and Associated's high-voltage transmission network in rural Missouri and specifies eight interconnection points and seven delivery points.[3] Associated also alludes to language in the agreement which emphasizes the importance of integrated operations between the parties.[4] Associated points out that the subject Agreement contemplates emergency energy, economy energy, short-term power, firm power and excess energy transactions and provides for load control and cooperation between the two utilities in the development of arrangements with other interconnected systems. In sum, Associated asserts that "the Agreement is vital to the continued supply of reliable electric service in rural Missouri".

Associated refers to the portion of Union's April 14 filing pertaining to Union's willingness to negotiate[5] and states it also is "more than willing to negotiate". Associated states that the parties first and only negotiating session was on March 17, 1978, power supply problems, namely the coal miners' strike, having precluded prior sessions.

Union's April 14 Notice of Cancellation constitutes a rate schedule change pursuant to Section 205 of the Federal Power Act, and is thus, subject to our suspension powers under that Section.[6] Furthermore, Union's April 14 Notice must also meet the requirements of 18 CFR § 35.15 and must be shown to be consistent with the public's interest.[7]

Union has complied with 18 CFR 35.15, having filed its Notice of Termination at least 30 but not more than 90 days before the proposed termination is to take effect. However, our review of Union's April 14 filing and Associated's May 1 Protest and Petition to Intervene indicates that Union's proposed cancellation of the Union-Associated interchange agreement which effectively operates as a proposed termination of service to Associated, may not be in the public interest. We believe that cancellation of the interchange agreement and consequent possible cessation of Union-Associated integrated operations may have an adverse effect on Associated's ability to render reliable and economic service to its member cooperatives and their electric customers.

Union and Associated have been engaging in interconnected operations and transactions since 1964, and under their March 27, 1968, interchange agreement, as amended, have expanded their integrated operations and transactions. Staff's analysis of Union's 1977 FERC Form 1 indicates that Union received 56,260,000 kWh from Associated and delivered 353,955,000 kWh to Associated for a net settlement cost of $4,383,349 to Associated under Union FPC Rate Schedule No. 69.[8] Such interchanges of power involved economy, emergency and excess energy sales, and the foregoing magnitude of such sales indicates the importance of Union's and Associated's integrated operations to electric consumers in Missouri and surrounding affected States.

Other party	Union purchases from Associated	Associated purchases from Union
Associated Electric Cooperative, Inc.:		
Economy sales*	$114,806	$4,844,388
Emergency*	444,764	355,516
Excess*	308,625	$1,640
Total	868,195	5,251,544

*Union's 1977 Form 1, page 424 D&E.

Although Union states that it notified Associated of its intent to terminate the March 27, 1968 Interchange Agreement approximately three years ago, the parties' filings indicate that they had only one negotiation session during the intervening three year period. Notwithstanding such minimal, reported negotiation efforts, both parties indicate in their filings a desire and willingness to negotiate a new

[3] Associated states that it and Union first signed long term contracts in 1964 providing for integrated operations between their systems and specifying four interconnection points and three delivery points.

[4] Contract recital:

"WHEREAS, the systems of the parties are now interconnected, both directly and indirectly, and will be further interconnected in the future; and such interconnections will permit mutual support in emergencies, decrease overall transmission losses, facilitate long or short-term power sales, and minimize duplication of transmission lines;"

Section 1:

"*Scope.* The parties shall operate their systems in synchronism, maintain reasonable and equitable reserves, maintain adequate interconnections with other utility companies, and cooperate in furnishing through the various points of interconnection of their systems such quantities of electric power and energy as either party may, from time to time, request, in accordance with the following terms and conditions."

[5] "During the term of the Agreement a number of questions have arisen as to the interpretation and effect of various provisions. Because of the inability of the parties to reach satisfactory agreement on these disputes, Union determined it would be in its best interests to terminate the existing contract and negotiate a successor agreement to cover any future interconnected operations between the parties."

[6] See "Order Suspending Cancellation of Rate Schedule", *Southwestern Electric Power Co.*, Docket No. E-7711, issued March 8, 1978.

[7] See *Pennsylvania Water and Power Co. v. Federal Power Commission*, 343 U.S. 414 (1952).

[8] Settlement of interchange power for Union Electric Co. under FPC Rate Schedule No. 69.

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agreement. However, neither of the parties' filings indicates whether negotiations are on-going or planned despite the proposed service termination date of June 1, 1978.[9] Furthermore, Union's April 14 filing refers to unspecified disputes pertaining to interpretation of the subject Interchange Agreement and Associated's May 1 filing does not shed light on the nature of the disputes. Absent a contractual, or Commission ordered,[10] basis with just and reasonable rates, terms and conditions for integrated operations and transactions between Union and Associated, we believe that the reliability and adequacy of electric service to electric consumers in Missouri and surrounding States may be adversely affected by Union's April 14 filing.

Given the foregoing situation we shall order an investigation to determine if Union's proposed cancellation is in the public interest. We shall also suspend the operation of Union's April 14 filing for five months, to become effective thereafter November 1, 1978, unless a final Commission order issues before such date. In order to implement the foregoing, we shall order a prehearing conference at which a Presiding Administrative Law Judge shall set further procedural dates and establish procedures for expeditious discovery of relevant facts in order that a final Commission decision pertaining to Union's proposed cancellation may be issued prior to November 1, 1978.

The Commission finds: (1) Good cause exists to accept Union's April 14, 1978 Notice of Cancellation for filing, assign it an effective date of June 1, 1978 as requested by Union, and suspend its operation for five months to become effective thereafter on November 1, 1978, unless a final Commission order issues before such date.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon an investigation and hearing to determine the circumstances leading up to and surrounding Union's proposed cancellation of Union FPC Rate Schedule No 69 and to determine if such proposed cancellation is in the public interest.

(3) Good cause exists to require Union to continue to provide electric service to Associated under Union FPC Rate Schedule No. 69 during the suspension period or until further order of the Commission prior to the expiration of such suspension period.

(4) Participation by Associated in this proceeding may be in the public interest.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act particularly Sections 202, 205, 206, 301, 307, 308 and 309 thereof and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), an investigation shall be instituted and a public hearing shall be held to determine the circumstances leading up to and surrounding Union's proposed cancellation of Union FPC Rate Schedule No. 69 and to determine if such proposed cancellation is in the public interest.

(B) Union's April 14, 1978 Notice of Cancellation is hereby accepted for filing with an effective date of June 1, 1978, as requested by Union, its operation suspended for five months to become effective on November 1, 1978, unless a final Commission order, pursuant to the investigation and hearing ordered in paragraph (A) herein, issues before such date.

(C) Union is hereby ordered to continue to provide electric service to Associated under Union Rate Schedule FPC No. 69 during the suspension period or until further order of the Commission prior to the expiration of such suspension period.

(D) A prehearing conference shall be held at 10 a.m., May 22, 1978 for the purposes of setting further procedural dates and establishing procedures for expeditious discovery of the relevant facts in order to insure that the Commission will be in a position to issue a final decision in this proceeding before November 1, 1978. A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge (See Delegation of Authority, 18 CFR § 33.5(d)) shall convene a prehearing conference in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(E) Associated is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(F) Nothing contained herein shall be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.8 of the Commission's Rules of Practice and Procedure.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-13991 Filed 5-19-78; 8:45 am]

[9] Associated states that by letter dated April 27, 1978, a copy of which was not attached to its filing, Union offered to extend the proposed termination date to June 30, 1978. Associated does not indicate its response to such offer and the letter offering an extension of service has not been filed pursuant to Section 205 of the Federal Power Act. A copy of the April 27, 1978, letter was received by the Commission on May 2, 1978. The letter appears to have been submitted for informational purposes, only, since it was not proferred as a rate schedule charge under Section 35.13 of the Regulations under the Act, and in addition did not contain a form of notice as required by Section 35.8 of a proper filing fee as required by Section 36.2 of the Regulations under the Act.

[10] Associated indicates that if, subsequent to the expiration of the five month suspension period, a satisfactory substitute contract or Commission order is not forthcoming, it "will request the Commission to enter an order under Section 202 of the Act to maintain the interconnections under just and reasonable terms."

[6740-02]

[Project No. 2113]

WISCONSIN VALLEY IMPROVEMENT CO.

Change in Land Rights

MAY 15, 1978.

Public notice is hereby given that an application was filed under the Federal Power Act, 16 U.S.C. § 791a-825r, on October 20, 1977, by Wisconsin Valley Improvement Co. (Correspondence to: Mr. L. L. Sheerar, Secretary, Wisconsin Valley Improvement Co., 501 Jefferson Street, Box 988, Wausau, Wis. 54401) for a change in land rights at the Rainbow Reservoir Development of FERC Project No. 2113. Rainbow Reservoir is located on the Wisconsin River in Oneida County, Wis.

Applicant request Commission approval to convey the necessary right-of-way to Oneida County for the relocation and replacement of the existing bridge and approaches carrying County Trunk Highway "O" over the Rainbow Reservoir. Oneida County's proposed road realignment and bridge replacement would require Applicant to transfer about 1.80 acres of project lands.

Any person desiring to be heard or to make protest with reference to said application should, on or before June 26, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

The public should take further notice that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 05-91, 91 Stat. (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of these proceedings were specifically transferred to the FERC.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-13992 Filed 5-19-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 898-7; PFT-27]

FOOD ADDITIVE PETITIONS

Filing

Pursuant to the provisions of section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

FAP 8H5180. Culligan USA, Northbrook Ill. 60062. Proposes that 21 CFR 193 be amended by establishing a regulation permitting the use of the antimicrobial agent trichloroisocyanuric acid in an experimental program involving the application of the antimicrobial agent to potable water sources with a tolerance limitation of 0.3 part per million (ppm) for residues of cyanuric acid. SRB (202-755-4851).

FAP 8H5185. Amchem Products, Inc., Brookside Avenue, Ambler, Pa. 19002. Proposes that 21 CFR 193 be amended by establishing a regulation permitting the use of the growth regulator 2-(m-chlorophenoxy) propionic acid in an experimental program involving the application of said regulator to growing pineapple with a tolerance limitation of 3.0 ppm in pineapple bran. SRB.

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street, SW., Washington D.C. 20460. Inquiries concerning these petitions may be directed to the Special Registration Branch (SRB), Registration Division (WH-567) Office of Pesticide Programs, at the above address, or by telephone at the number cited. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 15, 1978.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 78-14219 Filed 5-19-78; 8:45 am]

[1505-01]

[FRL 895-6]

FUELS AND FUEL ADDITIVES

Applications for Suspension of January 1, 1978, Lead Phase-Down Standard

Correction

In FR Doc. 78-13013 appearing on page 20550 in the issue for Friday, May 12, 1978, make the following corrections: (1) In the first paragraph, in the fourth line, insert "0.8" immediately before "gpg". (2) In the first paragraph, in the 6th line, "(30 days after publication)" should be deleted and "June 12, 1978" should be inserted.

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

DOMESTIC LAND MOBILE RADIO ADVISORY COMMITTEE; 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Meeting

MAY 17, 1978.

In preparation for the 1979 World Administrative Radio Conference, the next meeting of the Common Carrier Domestic Land Mobile Radio Advisory Committee, headed by Wendell R. Harris, will be held on Tuesday, June 13, 1978, at 10 a.m., in Room 8210, 2025 M Street NW., Washington, D.C.

The meeting will be open to the public and any member of the public is invited to participate and present oral or written statements of relevance to the agenda upon recognition of the Chairman.

The meeting will be conducted in accordance with the following agenda:

1. Committee Chairman's opening remarks.
2. Comments on the eighth notice of inquiry in Docket 20271.
3. Further business.
4. Adjournment.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-14130 Filed 5-19-78; 8:45 am]

[6712-01]

[CC Docket No. 78-149]

GRANDFATHERED PBX AND KEY TELEPHONE SYSTEM

Opinion and Order

Adopted: May 10, 1978.

Released: May 11, 1978.

In the matter of compilation of a list of "grandfathered" PBX and key telephone systems to implement the Commission's third report and order in Docket No. 19528, and Part 68 of the Commission's rules and regulations.

1. In its third report and order in Docket No. 19528, FCC 78-248, released April 13, 1978, the Commission adopted new rules and procedures for the connection of private branch exchange (PBX) and key telephone systems to the nationwide telephone network under the FCC's Part 68 rules. In that order, the Commission authorized the Chief of the Common Carrier Bureau to issue an appropriate order directed to the compilation of a list of PBX and key telephone systems eligible for "grandfathered" treatment under Part 68, and this document is directed to that end.

2. In establishing previous lists of "grandfathered" equipment (for telephone, data, and ancillary equipments), the Commission ordered all telephone companies to furnish lists of all such equipments directly connected in their service areas to the nationwide telephone network. Many of the submissions were duplicative of others, and much unnecessary effort was expended by the submittors and by the Commission in culling a unified list from these submissions. In view of this, and because of the nature of PBX and key telephone systems, we will follow a somewhat different course at this time.

3. The larger telephone companies (e.g., A.T. & T. and the larger Independent telephone companies) will be required to submit such information. This information will be compiled to-

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gether with the Rural Electrification Administration's list of approved PBX and key telephone systems to form an initial master list of PBX and key telephone systems eligible for "grandfathered" treatment. Other telephone companies and interested parties will then be given an opportunity to propose additions to the initial list, with the expectation that a relatively complete list will be compiled shortly after release of the initial list.[1]

4. Establishment of a list of "grandfathered" systems by system description, without further refinement or listing of their constituent components, poses certain problems however. We do not directly address components in and of themselves under the registration program, however it is important to assure that a particular combination of such components forming a "grandfathered" system is proper.

5. Thus, we must adopt procedures for the connection and use of "grandfathered" systems which assure that all components making up a particular "grandfathered" installation are eligible for the transitional procedures adopted in the third report and order. To that end, we are requiring that the qualified installation supervisor file in his or her affidavit to the local telephone company a statement that all components used with or forming the particular PBX or key telephone system in question are eligible for "grandfathered" treatment as components of the systems which are eligible.[2]

6. In essence, the list will establish the boundaries of contemplated system components. For example, a "1A2 key telephone system" contemplates the use of certain plug-in cards and key telephones. So long as these cards and telephones are included in the ambit of the systems eligible for "grandfathered," even if the cards are within one manufacturer's system listing and the telephones are within another manufacturer's system listing, no further information need be provided by the installation supervisor. However, if an uncontemplated component is used with a system, e.g., a dataset or answering device which normally is not part of the system, such components will individually have to be qualified as "grandfathered" or registered.

7. In accordance with the foregoing, the following named telephone companies are hereby ordered to furnish the Commission lists of all PBX and key telephone systems directly connected to the telephone network within their service areas as of October 17, 1977: American Telephone & Network Co. (on behalf of the Bell System companies); GTE Service Corp. (on behalf of the General System companies); Continental Telephone Corp.; United Telecommunications; Mid-Continent Telephone Corp.; and Rochester Telephone Corp. Such lists should be furnished no later than 15 days after release of this order, and should contain the following information: (1) system type (PBX or key telephone), (2) system designation by its manufacturer, (3) manufacturer. Any components normally used with such a system in the telephone company's service area which are not included in another system listed in the submitted information should be separately identified in conjunction with the system with which they are used.

8. Accordingly, *it is hereby ordered*, Pursuant to sections 215, 218, and 220 of the Communications Act of 1934, as amended, and pursuant to authority delegated thereunder by the Commission's rules and by the third report and order in Docket No. 19528, par. 163, FCC 78-248, released April 13, 1978, that the telephone companies listed in paragraph 7 herein shall furnish, within 15 days of release of this order, lists of PBX and key telephone systems directly connected to the nationwide telephone network within their service areas as of October 17, 1977.

9. *It is further ordered*, That in order to make the use of these lists effective, and to minimize to the extent feasible potential disputes between customers and telephone companies in using these lists, installation supervisors shall adequately identify conformance of particular installations of "grandfathered" PBX and key telephone systems in accordance with paragraphs 5 and 6 of this order.

JOSEPH A. MARINO,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 78-14158 Filed 5-19-78; 8:45 am]

[Report No. 1120]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

MAY 16, 1978.

Docket or RM No.	Rule No.	Subject	Date received
19995	Pt. 76, subpt. P	Amendment of subpt. P of pt. 78 of the Commission's rules and regulations with respect to network program exclusivity protection by cable television systems. Filed by Reed Miller and Robert Alan Garrett, attorneys for Virginia Broadcasting Corp., (WVIR-TV).	May 9, 1978
21135		The simplification of the licensing and call sign assignment systems in the amateur radio service. Filed by Robert M. Booth, Jr., attorney for The American Radio Relay League, Inc.	May 8, 1978
21116	Pt. 2	Amendment of pt. 2 of the Commission's rules to prohibit the marketing of external radio frequency power amplifiers capable of operation on any frequency from 24 to 35 MHz.	
21117	Pts. 2 and 97	Amendment of pts. 2 and 97 of the Commission's rules to require type acceptance of equipment marketed for use in the amateur radio service. Filed by Frederick O. Maia, W5YI, executive director and G. M. Howard, attorney for American Radio Council.	May 9, 1978

NOTE.—Oppositions to petitions for reconsideration must be filed on or before June 8, 1978. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION.
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-14131 Filed 5-19-78; 8:45 am]

[6712-01]

WESTERN UNION TELEGRAPH CO.

Declaratory Ruling and Order

Adopted: April 20, 1978.

Released: May 16, 1978.

By the Commission: Commissioner Fogarty concurring in the result; Commissioner Brown dissenting and issuing a statement.

1. We have under consideration a petition filed on June 21, 1977, by the Computer and Business Equipment Manufacturers Association (CBEMA) seeking a declaratory ruling regarding the compliance of Western Union Telegraph Co. (Western Union) with the Commission's maximum separation policy and section 64.702 of the Commission's Rules in the offering of its Securities Industry Communication Service (SICOM).

2. Western Union's SICOM service has appeared before this Commission intermittently since its inception in 1968.[1] It was initially offered for the purpose of transmitting buy and sell orders for brokerage houses. Western Union's Tariff FCC No. 251 described the SICOM service as a computer-based information communications service for members of the brokerage community, i.e., persons, firms, or corporations in the continental United States who are members of the New York Stock Exchange, the American Stock Exchange, or other exchanges in the United States dealing in the buying and selling of securities and commodities, and their correspondents. Subsequently, Western Union added six collateral services to its basic SICOM offering.[2] While basic SICOM service had previously been found to be a properly tariffed common carrier activity,[3] it was determined that some of the collateral services could not be offered on a tariffed basis. In a Memorandum Opinion and Order, released April 28, 1976,[4] we considered the issue as to whether any or all of the six collateral services consituted separate data processing offerings within the meaning of Section 64.702 of our Rules.[5] We found therein that four of the six collateral services—Order Match, Execution Recap, Data Collection, and Microfilm Journal—were not so interrelated as to form a single integrated hybrid service but, rather, were separate data processing services. Accordingly, we rejected the revisions to Western Union's SICOM Tariff FCC No. 251, whereby the data processing collateral services were offered on a tariffed basis, as being in violation of the Commission's rules and policies adopted in our initial Computer Inquiry.[6] Since we concluded that the four data processing collateral services are data processing rather than common carrier communications services, they may be offered by Western Union only in accordance with the "maximum separation" requirements of Section 64.702.[7]

3. Western Union subsequently implemented the version of SICOM and the collateral offerings which CBEMA has challenged in its instant petition. On March 24, 1977 Western Union filed a tariff revision deleting the four data processing services from the regulated SICOM offering and announced that Western Union Service, Inc. (WUS), a wholly-owned subsidiary, would offer the data processing collateral services to the public and simultaneously provide message switching service to Western Union. This tariff revision, Transmittal No. 7255, which deleted the data processing collateral services from the SICOM Tariff FCC No. 251 stated:

> Effective at the close of business March 24, Western Union will transfer its SICOM computers and other assets to a separate affiliate, Western Union Services, Inc. Western Union will thereafter obtain message switching capacity from the new affiliate and will continue to offer all features of the SICOM service other than the four "collateral" services enumerated above. The affiliate will offer those services directly to the using public.

4. On April 20, 1977 Western Union filed a statement[8] with the Commission as required by Section 64.702(c), setting forth the agreements entered into between it and WUS.[9] Western Union indicated that the collateral data processing services had been separated from the tariffed SICOM services and were being separately provided by WUS. The following agreements were stated to have been entered into between Western Union and WUS:

> The Telegraph Co. has transferred to WUS, as a contribution to capital, the computers and certain related peripheral equipment which had a net book value of approximately $2,031,788 at the time of transfer.
>
> Certain employees of the Telegraph Company employed in operating the SICOM

[1] It should be noted that the list itself does not determine eligibility for "grandfathered" status; that is determined by the fact of direct connection to the telephone network as of October 17, 1978. The purpose of the list is only to aid in resolution of any disputes which may arise.

[2] We are not foreclosing the use of a component usually forming part of one manufacturer's system with another manufacturer's system by this.

[1] E.g., The Western Union Telegraph Co., 11 FCC 2d 1 (1967) (found basic SICOM service to be tariffable common carrier communications service); Computer Inquiry, Tentative Decision, 28 FCC 2d 291 (1970) (stated broadening of SICOM would prompt further Commission inquiry); The Western Union Telegraph Co., 26 FCC 2d 1022 (1970) (suspended Western Union's tariff supplement which would have detariffed SICOM); Letter of May 13, 1971, from Chief, Common Carrier Bureau, to Mr. J. W. Harrington (rejected tariff supplement which would detariff SICOM); Letter of March 28, 1975, from Chief, Common Carrier Bureau, to Robert N. Green, Counsel for Western Union (requested comments and reply comments on issues of whether SICOM and collaterals were combined into single integrated service, and if so, whether that service constituted hybrid communications or hybrid data processing); The Western Union Telegraph Co., 59 FCC 2d 140, released April 20, 1976 (found four collateral services to be data processing not combined with SICOM into single integrated service); recon denied, 62 FCC 2d 518 (1976).

[2] The six collateral services are: (a) Order Match—matches execution reports with orders entered into the computer center by the customer in connection with the trading of securities listed on the New York and American Stock Exchanges. It also provides open order file maintenance and permits inquiries and adjustments to that file; (b) Execution Recap—involves furnishing the customer with a daily list on magnetic tape of all executed orders; (c) Data Collection—provides for furnishing to the customer, on magnetic tape, trading and accounting information on the customer's security transactions; (d) Data Dissemination—involves the transmitting of bulk data, from magnetic tapes received from the customer, to the customer's terminals on the SICOM network; (e) Microfilm Journal—provides for furnishing to the customer a monthly microfilm record of all messages entered into the computer center by the customer; (f) Pseudo Station Service—provides for the diversion of messages for temporary storage at the computer center and their subsequent transmission to a station or stations on the customer's network.

[3] 11 FCC 2d 1 (1967).

[4] In the Matter of Western Union Telegraph Co. SICOM Service, 59 FCC 2d 140 (1976), recon den. 62 FCC 2d 518 (1976) (hereinafter cited as "SICOM" decisions).

[5] 47 CFR § 64.702.

[6] Regulatory and Policy Problems Presented by the Interdependence of Computer and Communications Services and Facilities, 28 FCC 2d 291 (1970) (Tentative Decision); 28 FCC 2d 267 (1971) (Final Decision), aff'd in part sub nom. *GTE Service Corp.* v. *FCC*, 474 F. 2d 724 (2d Cir. 1973); decision on remand, 40 FCC 2d 293 (1973).

[7] See footnote 17, infra, for a statement of the Commission's rules with respect to maximum separation.

[8] Letter of Joel Yohalem, General Solicitor, Western Union to Vincent J. Mullins dated April 20, 1977.

[9] 47 CFR § 64.702(c) provides: Each such common carrier shall file with the Commission a complete statement of the terms and conditions of every written or oral contract, agreement or other agreement entered into between such carrier and any such separate corporation within 30 days after the contract, agreement, or other arrangement is made.

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computers and in marketing SICOM "data processing" services have been transferred to and become employees of WUS.

WUS has agreed to provide switching service to the Telegraph Company for the latter's SICOM communication service on computers owned by WUS for a monthly service fee of $38,430.

The Telegraph Co. has agreed to provide maintenance service on the SICOM computers; based on present estimates WUS' share of the total maintenance expense will be $6,237 per month.

WUS has sublet from the Telegraph Co. the premises in which the SICOM computers are located for a monthly rental of $8,167.

5. CBEMA's petition questions whether the arrangements made between Western Union and WUS comply with the spirit or letter of maximum separation. It contends that "Western Union's description of the WUS arrangement leaves the unmistakable impression that the same SICOM-Order Match services are being offered by the same computers with only a paper change in ownership of the facilities." CBEMA doubts that the services have been separated in any meaningful sense, rather "the impression is that Western Union has drawn lines on the floor of its building and on its corporate books which purport to establish separate facilities and companies without making any real change in the SICOM offering."[10] It contends that there has been no basic change in the service, since all SICOM facilities were transferred to WUS and the data processing and communications service are now run essentially by the subsidiary. CBEMA asserts that there is no functional or physical separation between the communications service and the data processing service. CBEMA questions the sufficiency of Western Union's statement pertaining to the Western Union/WUS arrangements, and whether the arrangements violate the requirement that a carrier and its data processing entity utilize separate computing equipment, personnel, and maintain separate books of accounts.[11] It contends that if the Western Union/WUS arrangements with respect to the tariffed SICOM and unregulated collateral services are found to be acceptable, the Commission's maximum separation policies and rules would appear to be a practical nullity.

6. Western Union notes that its SICOM service has been under attack by CBEMA since its inception. It notes that CBEMA expresses "grave doubts" as to whether the Western Union/WUS arrangement complies with the "spirit or letter of maximum separation," but states that the petition consists largely of a series of questions. Western Union contends that it has supplied all the information required by Section 64.702 from which the Commission may properly conclude that Western Union and WUS have separated SICOM and the collateral services to the extent required by the Commission's rules. Moreover, it contends that on two occasions since the present arrangements were implemented the Common Carrier Bureau has expressed the view that these arrangements are consistent with the present rules.[12] Western Union further states that its letter of April 20, 1977 is a complete statement of all arrangements between it and WUS and that there are no undisclosed arrangements between the two.

7. CBEMA asserts that the SICOM controversy is one of the few concrete precedents construing maximum separation that can guide carriers and data processing service vendors as to the application of the maximum separation requirement in the context of proposed common carrier and non-common carrier offerings. It contends that a definitive ruling as to whether the arrangements between Western Union and WUS conform with the maximum separation rules is necessary to avoid confusion regarding the practical requirements of Section 64.702. It urges the Commission to issue a declaratory ruling holding the WUS offering in violation of Section 64.702 or to begin the process necessary to obtain information on which to base a dispositive ruling.

8. In addition to seeking a determination as to the specific requirements of Section 64.702, CBEMA asserts that Commission action is needed in this matter in order to clear the way for judicial review of the SICOM Decisions. Following rejection of its former attempts to tariff SICOM and the collateral services, Western Union petitioned for Court of Appeals review of the SICOM decisions.[13] On Western Union's own motion, however, the Court of Appeals issued an *Order*, on August 30, 1977, dismissing the review proceedings, while retaining jurisdiction for possible reinstatement of the Western Union Petition for Review within 60 days of the release of a final Commission order on the merits of the SICOM modification. By this action the court delayed the possibility of judicial review of the prior SICOM decisions until after the Commission acted on CBEMA's Petition for Declaratory Ruling. CBEMA asserts, therefore, that there is a need for the Commission to act on its present petition.[14]

Discussion

9. Sections 4(i) and (j) of the Communications Act confer on the Commission broad power to issue such orders as are appropriate for the performance of our functions under the Communications Act. Moreover, as an administrative agency we are vested with discretionary powers to use procedures, such as the issuance of declaratory rulings, to remove uncertainty affecting the regulation of interstate and foreign communications.[15] It is appropriate in this case to take action by way of a declaratory ruling for two reasons: first, to remove uncertainty as to the construction and application of the Commission's maximum separation rules, and second, to facilitate the process of appellate review of prior Commission decisions.

Maximum Separation Policy

10. Our maximum separation policy has its origin in the first *Computer Inquiry*.[16] *The Computer Inquiry* was initiated to explore problems raised by the close and intimate relationship found to exist between data processing and communications. A determination was made that the offering of data processing was essentially a separate, competitive undertaking and that except as to the role of communications common carriers in providing such services, public interest considerations did not require government regulation of data processing services. In order to minimize the potential for certain abuses we required that there be maximum separation of a carrier's regulated communications services from its unregulated data processing offerings. This policy was premised on an awareness of a "• • • potential for abuse in the form of a commingling of costs associated with the rendition of communications and data processing services, which can give rise to • • • problems of cross-subsidization and other unfair competitive practices in the pricing of regulated and nonregulated services." *Computer Inquiry, Tentative Decision*, at 302. Section 64.702 of the Commission's Rules and Regulations implements the maximum separation policy and essentially "prescribes the conditions under which common carriers may engage in the offering of data processing services to others." *GTE Service Corp.* v. *FCC*, 474 F.2d at 726. It is directed at regulated communications common carriers and establishes the relationship that should exist between the carrier and its data processing affiliate. The rule provides, in essence, that no common carrier subject to the Communications Act may furnish data processing services to others except through a separate corporation which must maintain its own books, have separate offices, employ separate operating personnel and utilize separate computing equipment and facilities. It also requires that a carrier file a statement of all agreements entered into between it and its data processing subsidiary.[17]

11. Our mandate is ". . . to make available, so far as possible, to all people of the United States a rapid, efficient, Nation-wide and world-wide wire and radio communication service with adequate facilities at reasonable charges . . .".[18] Commission jurisdiction extends over interstate and foreign communications and communication common carriers subject to Title II of the Act. In contrast, regulatory forebearance has been established with respect to data processing services. In adopting the maximum separation policy we made clear that

> . . . we are not seeking to regulate data processing as such, nor are we attempting to regulate the substance of any carrier's offerings of data processing. Rather we are limiting regulation to requirements respecting the framework in which a carrier may publicly offer particular non-regulated services, the nature and characteristics of which require separation before predictable abuses are given opportunity to arise.

Computer Inquiry, Final Decision, para. 30. It is our responsibility to insure just and reasonable rates and to protect against preferential or discriminatory conduct on the part of communications common carriers. The Commission's regulatory interests must focus on the communications sector and not the competitive data processing market.[19] It is within this context that Section 64.702 is to be applied and construed.

12. Aside from acting on various requests for waiver of the maximum separation rules,[20] the basic determination before the Commission in the area of maximum separation has been whether it applies to a particular carrier offering,[21] i.e., whether an offering constitutes communications, data processing, or a hybrid of either.[22] In this case, however, the determination has already been made that Western Union's offering of four collateral SICOM services constitutes data processing and must be offered through a separate corporate entity. The question presently before us is whether Western Union, in separating the collateral services from its communications offerings, has in fact separated the data processing offerings in a manner consistent with Section 64.702.

13. CBEMA questions the sufficiency of Western Union's April 20, 1977 statement of the agreements entered into between Western Union and WUS. For purposes of our decision herein, we will assume that the April 20 statement describes all such agreements. The arrangements entered into between the two companies will be analyzed in terms of compliance with Section 64.702 and, to the extent that we are unable to make a definitive determination in this regard, the burden will be placed on Western Union to provide such additional information as may be required.

14. The first question to be addressed is whether Western Union's transfer of the SICOM computers to WUS violates the proscription against carriers "selling, leasing, or otherwise making available to any other entity any capacity or computer system component used in the provision of its common carrier communications services."[23] This prohibition was adopted as a means of preventing computer facilities of a carrier, the expense of which is borne by the communications ratepayer, from being utilized for both regulated communication and unregulated data processing services. It was specifically adopted to prevent a carrier from selling or otherwise making available its "off-peak" or "back-up" computing system capacity to other entities and to enable the Commission to properly allocate investment and identify the various costs associated with a carrier's provision of its regulated communications services. We noted that:

> While it may be true that costs allocated to the sale of such capacity would reduce the revenues required from communications services, we believe that the potential abuses inherent in operations of this nature outweigh whatever benefits might be

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[10] Petition for Declaratory Ruling p. 7.

[11] The Appendix hereto contains a list of questions CBEMA raises regarding the Western Union/WUS arrangements the answers to which, it contends, would demonstrate the degree of separation actually involved.

[12] Letter, dated April 13, 1977, denying the Association of Data Processing Service Organization's petition to reject Transmittal No. 7211, and letter to Stephen R. Bell, Esq., dated April 13, 1977. It should be noted that these letters preceded the April 20, 1977 statement by Western Union detailing the Western Union/WUS arrangements and do not address the specific issue raised by CBEMA, i.e., whether the existing separation complies with the specifics of Section 64.702.

[13] *Western Union Teregraph Co.* v. *FCC*, FCC 77-4065 (2d Cir. 1977).

[14] Because Commission inaction on its petition would delay that much further a determination whether the Court of Appeals will review these SICOM decisions. CBEMA filed a petition, on October 20, 1977, seeking expeditious action on its Petition for Declaratory Ruling. Response and reply comments were filed by Western Union and CBEMA, respectively.

[15] Section 5(e) of the Administrative Procedure Act, 5 U.S.C. § 554(e).

[16] See footnote 6, *supra*.

[17] Section 64.702 provides, in part:

(b) Except as provided herein, no common carrier subject, in whole or in part, to the Communications Act shall engage directly or indirectly in furnishing data processing service to others except as expressly provided in paragraph (c) of this section. This prohibition shall apply to all communications common carriers, including section 2(b)(2) carriers, where any carrier itself has annual operating revenues exceeding $1 million or any such carrier is directly or indirectly controlled by, or is under common control with, another carrier or carriers, and the combined annual revenues of all such carriers exceed $1 million.

(c) Except for Companies of the Bell System, common carriers may, subject to other provisions of law, have a controlling or lesser interest in, or be under common control with, a separate corporate entity that furnishes data processing service to others provided the following conditions are met:

(1) Each such separate corporation must maintain its own books of account, have separate officers, utilize separate operating personnel, and utilize computing equipment and facilities separate from those of the carrier for its data processing service offerings.

(2) Each such common carrier shall file with the Commission a complete statement of the terms and conditions of every written or oral contract, agreement or other arrangement entered into between such carrier and any such separate corporation within 30 days after the contract, agreement, or other arrangement is made.

(3) No such common carrier subject to the prohibition of paragraph (b) of this section shall engage in the sale or promotion of data processing services on behalf of any such separate corporation.

(d) No common carrier subject in whole or in part to the Communications Act of 1934, as amended, shall sell, lease, or otherwise make available to any other entity any capacity or computer system component on its computer system or systems which that carrier uses in any way for the provisions of its common carrier communications services.

[18] 47 U.S.C. § 151.

[19] "Commission concern over anti-competitive abuse in communications is proper; however, concern over data processing is *ultra vires*." *GTE Service Corp.* v. *FCC*, 474 F. 2d 724, 733-34.

[20] See, Letter of Bernard Strassburg, Chief, Common Carrier Bureau to Lee R. Marks, Esq., Attorney for Continental Telephone Corp., July 14, 1972; Letter of Walter R. Hinchman, Chief, Common Carrier Bureau to Robert Michelson, Esq., Western Union International, Inc., July 12, 1974; Letter of Walter R. Hinchman, Chief, Common Carrier Bureau to William F. Finnegan, Esq., ITT World Communications, Inc., July 31, 1974. CBEMA references these Bureau decisions which deny waivers of the maximum separation requirements, as support for a strict application of maximum separation. The issue before us, however, is not whether there should be a waiver of maximum separation. Moreover, any value ascribed to the Marks letter has been completely negated by the deletion of the former Section 64.702(c)(5). See *GTE Service Corp.* at 733.

[21] In addition to SICOM, see, *American Telephone and Telegraph Co. (AT&T) Revisions to Tariffs FCC Nos. 269 and 267 Relating to Dataspeed 40/4*, 62 FCC 2d 21 (1977), *aff'd sub nom. International Business Machines Corporation et al.* v. *FCC*, (Docket No. 77-4005), —— F.2d —— (2d Cir. 1978.).

[22] 47 CFR § 64.702(a) sets forth a definitional structure for distinguishing between data processing and communications. It also establishes categories of "hybrid data processing" and "hybrid communications". A carrier determined to be offering a data processing or a hybrid data processing service must do so through a separate corporate entity.

[23] 47 CFR § 64.702(d).

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achieved. . . . Such arrangements could result in an unacceptable conflict with the vital public functions for which the carriers are licensed.

• • • • •

Our experiences with attempting to allocate investment and costs between and among communications services provided by fungible plant and operated by the same personnel of a common carrier convince us of the great difficulties which could be involved in allocation procedures between communications and data processing activities.

Computer Inquiry, Final Decision, 28 FCC 2d at 271. We concluded, therefore that "• • • a carrier's computer system or systems should be dedicated exclusively to its public communications services or to its "in-house' data processing requirements incidental thereto."[24]

15. Since this prohibition is directed against the dual usage of a communications common carrier's computer facilities, there is no violation of Section 64.702 if the data processing affiliate uses its own computer facilities in the provision of its data processing or other computer services. Section 64.702 does not address the situation where a carrier chooses to no longer provide its own computer capacity but, rather, decides instead to use facilities of an unregulated entity for use in the provision of its communications services. Nor was it intended to prevent a carrier from disposing of computer equipment it no longer desires to retain.[25] It is one thing to prohibit a carrier from using its computer facilities for both regulated and unregulated services; it is quite another proposition, however, to state that a carrier cannot dispose of its computer system or a component thereof that it no longer wants, or that a carrier cannot acquire needed computer capacity from another entity as an alternative to carrying its cost, the possibly excess computer capacity, in its rate base.

16. When viewed in the context within which this proscription was adopted this distinction goes to the basis of the maximum separation policy. A fundamental concern in adopting the maximum separation policy was to preserve an element of control in determining the reasonableness of the rates charged by carriers for their various communications services because of the potential problems in allocating costs associated with the acquisition and use of such facilities to the respective communications services. Once a component of a carrier's system is removed from the rate base, the cost allocation problems and other cost components involved in offering a service become irrelevant within the context of the cross subsidy premise of the maximum separation policy. If as a result of the transfer of the SICOM computers to WUS the computers can be said to be those of WUS, and not Western Union's, and the costs incurred by Western Union in acquiring and using the SICOM computers are removed from its rate base so as to no longer constitute a burden on the communications ratepayer, then such a transfer is not in violation of Section 64.702. If it should be shown, however, that investment costs associated with the SICOM computers are still being borne by the communications ratepayer, then the use of such computers by WUS in providing data processing services would be in violation of Section 64.702(c)(1).

17. It becomes necessary to determine, therefore, what impact, if any, the transfer of the computers to WUS has on the communications ratepayer. The transfer between Western Union and WUS must satisfy a threshold condition implicit in the maximum separation rules that the communications ratepayer be relieved of all economic responsibility associated with the transferred computers. Our concern is to insure that the communications ratepayer is not saddled with investment or other costs associated with the SICOM computers if they are to be used to provide data processing services. We are unable to make this determination, however, based on the information provided in the April 20 statement. Western Union has characterized the transfer of the SICOM computers to WUS as a "contribution to capital" of approximately $2,031,788. The effect of a "contribution to capital" is unclear in terms of whether or not an economic burden is being borne by the carrier which may affect the rates charged for communications services. In order to ascertain the effect of this transfer on the communications ratepayer, we will require Western Union to file with the Commission a statement of the accounting measures taken and the journal entries made on the books of Western Union pertaining to both the original acquisition of the SICOM computers by Western Union and the transfer of these computers to WUS, including all intervening entries pertaining to these computers such as depreciation allocations, etc. This will enable us to determine what impact, if any, the transfer might have on the rates charged for communications services and whether or not such a transfer results in a subsidy of the affiliate's data processing services at the expense of the communications ratepayer. After a review of the accounting procedures employed by Western Union in transferring the SICOM computers, we will decide what, if any, further Commission action is warranted.

Message Switching

18. Under the new arrangement WUS is to provide switching service to Western Union using its own computers. While Section 64.702 establishes the degree of separation required of a carrier, it in no way limits the computer services which a data processing affiliate can provide to a carrier. Section 64.702 only restricts the use to which a carrier can put its own computers. Regulatory limitations or restrictions on the scope of permissible activity by unregulated entities result from the requirements imposed by Title II of the Communications Act and Commission constructions thereof, but not as a result of the maximum separation policy per se. As long as a particular computer service offered by a carrier's affiliate, or for that matter by any unregulated entity, is not a communications service or uniquely a communications common carrier activity, the maximum separation policy or rules do not restrict the type of unregulated services that may be offered.[26]

19. When a carrier establishes a separate entity to provide data processing services pursuant to Commission requirement as in the case of maximum separation, the separate entity enjoys the same status as any other unregulated entity and is free to provide computer services to the carrier. In the initial *Computer Inquiry* an attempt was made to prevent a carrier from obtaining the data processing services offered by its separate data processing entity. It was determined that this prohibition, in essence, prevented the data processing affiliate from dealing with the carrier and was specifically rejected as constituting an intrusion into the data processing market over which the Commission announced a policy of regulatory forebearance. See *GTE Service Corp.* at 733. Just as the data processing subsidiary is free to market its services to its affiliated carrier, correspondingly, the carrier is free to obtain whatever unregulated services the data processing affiliate has to offer. In the instant case, the maximum separation rules do not prohibit Western Union from obtaining message switching capacity from WUS. This is not to say, however, that serious questions may not be raised by such an arrangement. To the extent that a carrier leases switching capacity from an unregulated entity, it would appear that a certain degree of carrier control over an important component of the communications service is lost. While it may presently lie within the carrier's discretion whether or not to utilize its own facilities or to lease computer capacity from another entity, concern must still be expressed for the quality and reliability of service the carrier provides to the communications customer. We raise these questions realizing that they are not dispositive of the issues we are considering under the maximum separation policy. We merely note our concern in this regard at this time and leave any specific determinations to another proceeding, should the need arise.[27]

Personnel and Premises

20. Section 64.702(c)(1) requires that the officers and operating personnel of the carrier be separate from those of its data processing affiliate. This means that the two entities cannot have common operating personnel. While Western Union states that certain of its employees involved in operating the SICOM computers and in marketing the separated SICOM services have been transferred to and have become employees of WUS, we note that Western Union has agreed to provide maintenance service on the computers transferred to WUS. Such an arrangement is prohibited under the maximum separation rules. This is precisely the type of arrangement that Section 64.702(c)(1) was designed to prevent, i.e., the sharing of carrier personnel between the two entities. This applies even though the carrier is reimbursed for the services rendered by its personnel. Moreover, it is implicit within Section 64.702 that any officer or personnel of the data processing affiliate, or any carrier personnel transferred to its data processing subsidiary, must not at the same time be in the carrier's employment and the costs of their salaries and other perquisites must not be borne by the carrier. Western Union is to inform the Commission in what respects, if any, its relationship with WUS does not accord in this regard. In any event, Western Union is to cease utilizing its computer maintenance personnel for the maintenance and upkeep of the computers utilized by WUS.[28]

21. Western Union states that it has sublet the premises on which the SICOM computers are located. It is important that the barriers separating the WUS computers from the rest of the Western Union plant be not merely "lines on the floor."[29] The separation between the employees and facilities of Western Union and WUS should be the same as might be expected if Western Union was dealing with a non-related entity. At a minimum, the space which is leased to WUS should be separated from the Western Union premises in such a way that any outsider doing business with Western Union would not associate the staff, equipment, and premises of WUS as being those of Western Union. This would seem to require that there be a structural barrier of a permanent nature to separate the personnel and facilities of Western Union from those of WUS. Beyond these broad guidelines we do not believe that further discussion would prove beneficial. In this regard, however, we will require Western Union to inform the Commission as to the nature of the separation which currently exists and what additional steps toward separation it may be taking, if any.

Conclusion

22. We conclude that the maximum separation rules do not prevent the outright disposal by a carrier of its computer facilities—as opposed to the sale or lease of "excess" or "backup" computer capacity—to an affiliate or any other entity as long as the computer facilities are thereby no longer those of the carrier and the transfer does not work to the detriment of the communications ratepayer. Moreover, the maximum separation rules do not prevent an unregulated entity from offering computer capacity to a carrier for message switching purposes. Questions have been raised as to the effect the transfer of the SICOM computers to WUS has on the ratepaying customer. Uncertain as to the implications of a "contribution to capital" in this regard, the burden is placed on Western Union to establish that any financial or economic burden associated with the transfer of the SICOM computers rests with the shareholders of Western Union and not with the communications ratepayer. We have applied the maximum separation rule to the agreements reached between Western Union and WUS. The only agreement in specific violation of the maximum separation rules is the agreement by Western Union to provide maintenance on the computers utilized by WUS. Section 64.702 is clear that there is to be separate operating personnel for the two entities, and the sharing of computer maintenance personnel comes within this prohibition. In addition, Western Union is being requested to inform this Commission in what respects, if any, the Western Union/WUS arrangement does not conform to the guidelines set forth herein.[30]

23. Accordingly, Western Union is hereby ordered to cease utilizing its computer maintenance personnel for the maintenance and upkeep of the computers utilized by WUS.

24. *It is further ordered*, That within 15 days of the release of this order, Western Union is to provide the Commission with information as to the accounting measures taken and the journal entries made on the books of Western Union relevant to both the acquisition of the SICOM computers by Western Union and the subsequent transfer of the computers to WUS, including all entries made in the interim pertaining to the SICOM computers.

25. *It is further ordered*, That within 15 days of the release of this order Western Union is to advise the Commission as to the separation of its personnel, facilities, and equipment, from that of WUS, and how such separation complies with what has been stated herein.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Appendix

Questions raised by CBEMA relating to the Western Union/WUS arrangement:

Contracts, Agreements or Other Arrangements—Does the foregoing statement by Western Union encompass "a complete statement of the terms and conditions of every written or oral contract, agreement or other arrangement" between WU and WUS as required by section 64.702(c)(1)?

Separate Officers—Who are they? What are their salaries? Are any benefits such as retirement plans or health insurance paid by or included in Western Union Telegraph Co. agreements?

Separate Books of Account—How much capital was contributed to this corporation?

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[24] *Computer Inquiry, Final Decision*, 28 FCC 2d at 271.

[25] A literal reading of Section 64.702(d), void of the content in which it was adopted, would prevent a carrier from selling, leasing, or otherwise disposing of computer equipment which is technologically obsolete, or inadequate for its present communications needs.

[26] While it has been the general practice for carriers to utilize their own computers for their message switching needs, the Commission has never made the determination that the offering of computer capacity for message switching purposes in and of itself is a communications service or that it is a common carrier activity.

[27] As was stated in the *Computer Inquiry*, ". . . if abuses emerge which require the exercise of corrective action by the Commission, we shall not hesitate to re-examine the policies set forth herein." *Tentative Decision*. 28 FCC 2d at 298. Moreover, no allegations are made herein that Western Union is engaging in preferential or discriminatory practices in its relationship with WUS with respect to other unregulated entities.

[28] Many of the questions raised by CBEMA (see Appendix) relate to the operations of the data processing affiliate. As we have already stated, however, Commission concern under the maximum separation rules should properly focus on the activities of the communications common carrier.

[29] Section 64.702(c)(3) specifically prohibits the sale or promotion of data processing services by a carrier on behalf of its separate corporation.

[30] In Docket No. 20828 we are addressing the regulatory boundary between unregulated data processing and regulated communications and permissible computer processing activities that may be engaged in by communications common carriers without evoking the maximum separation requirements. While we indicated that the maximum separation policy would be maintained, to the extent that the maximum separation policy should be addressed in that proceeding, our decision herein is subject to any determination made therein. (Docket No. 20828: *Notice*, 61 FCC 2d 103 (1976); *Supplemental Notice*, 64 FCC 2d 771 (1977)).

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Where did it come from? What is the most recent public financial report or auditor's report for this corporation? Where and when was the corporation incorporated?

Separate Operating Personnel—How many employees were transferred from Western Union to WUS and what are their functions? Do any employees of Western Union have any responsibility for Order Match services? Do any WUS employees receive benefits or salary supplements or bonuses from Western Union?

Separate Computing Equipment—Are the WUS computers used for anything besides Order Match services and SICOM switching? Is any time on the WUS computers given or rented to others? What back-up computing equipment is available? Who owns the back-up equipment and where is it located? How was the monthly charge to Western Union for switching service derived?

Separate Facilities—What is the rental agreement between Western Union and WUS? How was the monthly rent for physical facilities determined? Who takes care of utility services, maintenance repair of the premises? Does the sublease include space for testing and maintaining the computers? Are there dividers of a substantial nature between the premises used by WUS and those of WU; or are the arrangements such that there are only imaginary lines between the two areas with easy mixture of personnel and other facilities?

Maintenance on the Computers—How was the monthly charge to WUS derived? How can this be reconciled with the equipment for separate computing equipment?

Switching service leased from WUS—How is this service physically connected to and incorporated in the tariffed SICOM service? How can this arrangement be reconciled with the prohibition on the sale of computer systems used for tariffed services? How can this be reconciled with the requirement that there be separate equipment?

DISSENTING STATEMENT OF COMMISSIONER TYRONE BROWN

Re: Western Union Telephone Co.'s Compliance With the Maximum Separation Rules

I dissent from the Declaratory Ruling and Order in this matter because I believe Western Union's proposal completely frustrates the purpose of the maximum separation rules and violates the letter of section 72.602(d).

Western Union proposes to transfer its communications common carrier computer equipment to a new subsidiary and then lease-back its message-switching requirements. I agree with the Majority that the opinion in the initial Computer Inquiry did not specifically address the situation where a carrier uses equipment owned by an unregulated data processing affiliate for its common carrier requirements. The Commission focused instead on the potential for abuse inherent in carrier-owned equipment used for data processing services. However, potential abuses also exist where there is common use of equipment owned by a non-regulated affiliate for both regulated and non-regulated services.

The sale to a non-regulated affiliate of computer equipment and concurrent lease-back from that affiliate of time on that equipment for common carrier services simply transfers the potential for cross-subsidization from the carrier's investment accounts to its expense accounts.[31] We should not—as the Majority does—simply walk away from this circumvention of the purpose of maximum separation rules merely because the equipment itself is no longer in the common carrier's rate base.

I also believe that Western Union's proposal violates the literal language of section 64.702. That section provides:

No common carrier subject in whole or in part to the Communications Act of 1934, as amended, shall sell, lease, or otherwise make available to any other entity any capacity or computer system component on its computer system or systems which that carrier uses in any way for the provision of its common carrier communications services.

On its face the provision plainly prohibits this transfer. Indeed, the Majority in a footnote (see note 25) concedes the point. It dismisses the point by stating that "• • • void of the context in which it was adopted," section 64.702 would prevent a carrier from selling or disposing of inadequate or technologically obsolete equipment. That, however, is not what the provision states. The section prohibits the transfer of the equipment only if the carrier will continue to use it "in any way for the provision of its common carrier communications services." That is precisely what Western Union proposes here, and on that basis I dissent.

[FR Doc. 14159 Filed 5-19-78; 8:45 am]

[6712-01]

BROADCAST SERVICE WORKING GROUP 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Schedule of Meeting

MAY 16, 1978.

Pursuant to Pub. L. 92-463, notice is given of the followig meeting for June 1978.

WARC-79 INTERNATIONAL BROADCASTING SERVICE GROUP

Wednesday, June 14, 1978—2 p.m.-4:30 p.m., Room 8210, 2025 M Street NW., Washington, D.C. Chairman: Stanley Leinwoll. FCC Liaison: Darrell E. Bauguess.

The agenda will be as follows:

1. Call to order and announcements by the Chairman.
2. Approval of minutes of previous meeting.
3. Discussion of eighth notice of inquiry in Docket 20271.
4. Reports from task groups.
5. Further discussion.
6. Next meeting date and adjournment.

The above meeting is open to broadcast industry representatives and interested members of the general public.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-13948 Filed 5-19-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

BELLEVUE HOLDING CORP. AND COLONIAL GENERAL, INC.

Formation of Bank Holding Company

Bellevue Holding Corp., Geneva, Switzerland, and Colonial General, Inc., New York, N.Y., have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 62 percent or more of the voting shares of First Coolidge Corp., Watertown, Mass., and thereby to acquire indirectly Coolidge Bank & Trust Co., Watertown, Mass. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Washington, D.C. 20551, to be received no late than June 14, 1978.

Board of Governors of the Federal Reserve System, May 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13943 Filed 5-19-78; 8:45 am]

[6210-01]

COMMUNITY HOLDING CO.

Acquisition of Additional Shares of Bank

Community Holding Co., Knoxville, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 50 percent or more of the voting shares (less director's qualifying shares) of the Community National Bank & Trust Co. of Knoxville, Knoxville, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 14, 1978.

Board of Governors of the Federal Reserve System, May 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13944 Filed 5-19-78; 8:45 am]

[6210-01]

INDIAN HEAD BANKS, INC.

Acquisition of Bank

Indian Head Banks, Inc., Nashua, N.H., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the Carroll County Trust Co., Conway, N.H. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 14, 1978.

Board of Governors of the Federal Reserve System, May 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13942 Filed 5-19-78; 8:45 am]

[1610-10]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on May 15, 1978 (NRC), and May 16, 1978 (CAB, FMC). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB, FMC and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before June 9, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports, Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

NUCLEAR REGULATORY COMMISSION

The NRC requests clearance of a letter containing reporting requirements for one unresolved safety issue. Failure of BWR Control Rods to Fully Insert on Scram. This failure has occurred at several plants and NRC is in the process of investigating the extent of this problem and its potential safety significance. The letter will be sent to approximately 15 licensees and will request that the respondents report within 30 days of receipt of the letter that either no such events occurred at the facility(s) during calendar year 1977 or that within 90 days of receipt of the letter respondents will provide a summary tabulation of the events. For each such event, respondents will be asked to identify the number of rods not fully inserted, the position of the rods, the cause for failure to fully insert and any related maintenance activities. References to reports that already describe such events will be acceptable. NRC is also requesting clearance of recordkeeping requirements which will be for respondents to the letter to keep an ongoing tabulation of any additional such events that may occur during the calendar year 1978. NRC states that should its evaluation of the 1977 data warrant, a similar request for data covering calendar year 1978 may be made. NRC estimates respondents will be 15 licensees and that reporting burden will average 16 hours per plant and recordkeeping burden will average 4 hours per plant.

CIVIL AERONAUTICS BOARD

The CAB requests an extension without change clearance of the reporting requirements contained in Part 245 of the Board's Economic Regulations-Reports of Ownership of Stock and Other Interests. Submission of the data called for in several sections of this Part are mandatory under the Federal Aviation Act of 1958, as amended.

Reports are required to be filed 30 days after an officer or director is first elected under section 245.1 and annually thereafter on Form 2786, Report of Ownership of Stock and Other Interests Under Section 407c of the Federal Aviation Act of 1958 and Part 245 of the Economic Regulations. Section 245.12 requires an annual report be filed by April 1 each year by every person owning either beneficially or as a trustee, more than 5 percent of any class of the capital stock or capital, as the case may be, of an air carrier. Section 245.13 requires that every person acquiring ownership, either beneficially or as trustee of more than 5 percent, in the aggregate, of any class of the capital stock or capital of an air carrier shall within 10 days after acquiring such ownership file with the Board a report covering the share or the interest so acquired. Section 245.14 requires a bank or broker which holds as trustee more than 5 percent of any class of the capital stock or capital of an air carrier to file within 30 days after the last day of each calendar quarter (i.e., March 31, June 30, Sept. 30 and Dec. 31) a report covering the shares so held on the last day of such quarter. Section 245.15 requires any person who has granted, pledged, assigned, hypothecated or otherwise transferred a security interest in more than 5 percent of any class of the capital stock or capital of an air carrier to another person shall within 30 days after such transaction file with the Board a report containing name and address of person to whom security interest was granted, the term of the security agreement and a brief description of the rights accruing to the holder of the security interest, including the remedies available to him in the event of a default by the person reporting.

The CAB estimates respondent burden per response will average one-half hour for Part 245.1, one and one-half hours for Part 245.12, 3 hours for Part 245.14 and one-half hour for Part 245.15.

FEDERAL MARITIME COMMISSION

The FMC requests clearance of a revision to the reporting requirements contained in General Order 11, Amendment 2 (46 CFR 512, Report of Rate Base and Income Account by Vessel Operating Common Carriers in the Domestic Offshore Trades—Subpart 2) to include the reporting requirements contained in General Order 11 (46 CFR 512—Subpart A). General Order 11 (Subpart A) requires vessel operating common carriers (VOCCs) engaged in the operation of cargo vessels in the common carriage of persons or property in the domestic offshore trades (except persons engaged in intrastate operations in Alaska and Hawaii) who file tariffs with the Commission pursuant to the Intercoastal Shipping Act, 1933, to file annually, in triplicate, Statements of Rate Base and Income Account for each domestic offshore trade served

[31] If there is something in Western Union's earnings history which makes it unlikely that cross-subsidization will take place in this case, the Commission should rest its decision on that basis rather than on an unprecedented interpretation of the maximum service rules.

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by the carrier within 150 days after the close of the carrier's fiscal year.

General Order 11 (Subpart B) requires nonvessel operating common carriers (NVOCCs) engaged in the common carriage of property in the domestic offshore trades (except persons engaged exclusively in the carriage of used household goods), to file annually, in duplicate, financial statements and supplementary data within 90 days after the close of each fiscal year. FMC estimates that there is a respondent universe of approximately 40 VOCCs and 90 NVOCCs filing on an annual basis (or as the occasion requires) with an estimated reporting burden of 40 hours each for VOCCs and 16 hours each for NVOCCs.

JOHN M. LOVELADY
Assistant Director, Regulatory Reports Review.

[FR Doc. 14156 Filed 5-19-78; 8:45 am]

[6820-24]

GENERAL SERVICES ADMINISTRATION

[Temporary Regulation F-466]

FEDERAL PROPERTY MANAGEMENT REGULATIONS

Delegation of Authority

Subject: Delegation of authority.

1. *Purpose.* This regulation delegates authority to the Secretary of the Treasury to represent the interests of the Department of the Treasury in proceedings before the California Public Utilities Commission involving authority to receive unpublished telephone information.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of the Treasury to represent the interests of the Department of the Treasury before the California Public Utilities Commission involving access to unpublished telephone information, (Case No. 10206).

b. The Secretary of Treasury may redelegate this authority to any officer, official, or employee of the Department of the Treasury.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: May 8, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-13708 Filed 5-19-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION AND OF ITS SEARCH COMMITTEE

Closed Meetings

Notice is hereby given, pursuant to Pub. L. 92-463, that the National Advisory Council on Vocational Education's Search Committee will hold a meeting, closed to the Public, beginning at 6 p.m. on June 20, 1978, to recess at 11 p.m., and reconvening at 9 a.m. on June 21, 1978, adjourning at 3 p.m., at the Ramada O'Hare Inn, Chicago, Ill.

The National Advisory Council on Vocational Education will hold a meeting, closed to the Public, beginning at 3 p.m. on June 21, 1978, recessing at 11 p.m. If business is finished, this will be an adjournment. If not, the meeting will continue on June 22, 1978 from 7:30 a.m. to adjournment at 10:30 a.m.

These meetings are closed to the public in accordance with the provisions of section 10(d), Federal Advisory Committee Act, Pub. L. 92-463 and Title 5, U.S. Code, section 552b(c) (2) and (6). The purpose of the closed meetings is to discuss personnel matters and procedures, and documents may be presented which, if open to the public would constitute a clearly unwarranted invasion of personal privacy.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of, preparation of general regulations for, and operation of vocational education programs, supported with assistance under the Act; review the administration and operation of vocational education programs under the Act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress, and conduct independent evaluation of programs carried out under the Act and publish and distribute the results thereof.

The Agenda shall include, both for the Search Committee and the Council, on a continuing basis, procedures to be followed in final selection of a candidate for the position of Executive Director of the Council, detailed discussion of resumes and relative merits of applicants, and possible interview of applicants.

Records of the meeting proceedings shall be kept and made available for public inspection at the office of the Council, located at 425 13th Street NW., Suite 412, Washington, D.C.

A summary of the activities at the closed sessions and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting.

For further information call Virginia Solt: 202-376-8873.

Signed at Washington, D.C. on May 12, 1978.

REGINALD PETTY,
Executive Director.

[FR Doc. 78-13721 Filed 5-19-78; 8:45 am]

[4110-02]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Committee Structure

Notice is hereby given, pursuant to Pub. L. 92-463, that the Committee Structure of the National Advisory Council on the Education of Disadvantaged Children for fiscal year 1978-79 shall be as follows:

COMMITTEE ON MANDATED STUDIES

The Committee has responsibility for the examination of the U.S. Office of Education's studies and evaluation efforts implemented by the Office of Planning, Budgeting and Evaluation (OPB&E) funded by ESEA Title I setaside or evaluating ESEA Title I and other compersatory education programs, and the National Institute of Education's Parent Involvement Study. The Committee will prepare a final report on its findings.

MEMBERS

Mrs. Dorothy Fleegler, Chairman
Mr. J. Alan Davitt
Mr. Marvin Pomerantz
Mrs. Rosella Lipson
Mr. M. Alan Woods

COMMITTEE ON URBAN EDUCATION

The Committee has responsibility for an examination of urban school district educational services. The examination will focus on areas of educational funding, management, curriculum offerings, home/community relations and student/teacher attitudes which impact upon effective service delivery. The Committee will prepare a final report on its findings.

MEMBERS

Mrs. Sarah Moore Greene, Chairman
Mrs. Carol Schwartz
Senator John Leopold
Dr. George Willeford
Mr. M. Alan Woods

COMMITTEE ON BILINGUAL EDUCATION

The Committee has responsibility for the development of the policy paper on the issue of transitional and maintenance bilingual education programs. The Committee will prepare a final report on its findings.

MEMBERS

Dr. Ben Reifel, Chairman
Dr. Wilbur Lewis
Mrs. Mary Anne Clugston
Mrs. Rosella Lipson
Dr. John Calhoun

COMMITTEE ON MIGRANT EDUCATION

The Committee has responsibility for examining the current and proposed federal legislation and regulations pertaining to ESEA Title I compensatory education services to eligible children of migrant parents or those youths who are themselves migrant. The Committee will prepare a final report on its findings.

MEMBERS

Dr. Ben Reifel, Chairman
Dr. Wilbur Lewis
Mrs. Mary Anne Clugston
Mrs. Rosella Lipson
Dr. John Calhoun

COMMITTEE ON TITLE I ELIGIBLE NONPUBLIC STUDENTS

The Committee has responsibility for examining the participation in ESEA Title I programs of eligible children enrolled in nonpublic schools. The Committee will review the rates of participation, the types of services provided and the federal, state and local policies and practices which inhibit equitable participation. The Committee will prepare a final report on its findings.

MEMBERS

Mr. J. Alan Davitt, Chairman
Mrs. Sarah Moore Greene
Mrs. Barbara Kilberg
Dr. Wilbur Lewis

THE EXECUTIVE COMMITTEE

The Committee is composed of the Chairmen of all committees and performs interim assignments as delegated by the Chairman of the NACEDC.

Ex-Officio on all Committees: Dean Owen F. Peagler, Chairman, NACEDC.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

All committee meetings will be announced in the Federal Register and will be open to the public unless otherwise indicated. Records will be kept of all meetings and will be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 13th Street NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C., on May 17, 1978.

ROBERTA LOVENHEIM
Executive Director.

[FR Doc. 78-14123 Filed 5-19-78; 8:45 am]

[4110-02]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Closed Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of Closed Meeting.

SUMMARY: This notice describes the purpose of a forthcoming closed meeting of the Selection Committee of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). The meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and under the exemptions contained in the Government in the Sunshine Act, Section 552b(c) (2) and (6) of Title 5, U.S.C.

This document is intended to notify the general public of the closed meeting of the Selection Committee from 8 a.m. to 4:30 p.m., on May 24, 1978. There will be personal interviews and a discussion of applicants' qualifications, and documents may be presented which, if open to the public, would constitute an unwarranted invasion of privacy.

DATE: Meeting: May 24, 1978.

ADDRESS: Council Office, 425 13th Street NW., Suite 529, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT:

Richard F. McCarthy, Associate Director, National Advisory Council on Extension and Continuing Education, 425 13th Street NW., Suite 529, Washington, D.C. 20004, telephone 202-376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all federally supported extension and continuing education programs.

On Wednesday, May 24, from 8 a.m. to 4:30 p.m., the meeting of the Selection Committee will be closed to the public in order for the Committee to review applications and interview applicants for the position of executive director of the Council.

The Council has been without an executive director since April 1 and wishes to conclude its selection of a replacement as quickly as possible so that work of the Council can be continued without lengthy interruption.

Since a preliminary screening of candidates by the Selection Committee was not completed at the meeting held on May 10, another Selection Committee meeting is required. May 24 is the only date compatible to the schedules of the members and which would allow the recommendations of the Search Committee to be circulated to the members of the full Council prior to the next meeting on June 21-23. Thus the normal requirement of 15 days of advance public notice could not be met.

A summary of the activities at the closed meeting and related matters which are informative to the public consistent with the policy of Title 5, U.S.C. 552b(c) will be available to the public within 14 days of the meeting.

All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 13th Street NW., Washington, D.C.

Dated: May 18, 1978.

RICHARD F. MCCARTHY,
Associate Director.

[FR Doc. 78-14345 Filed 5-19-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. n-78-873]

PRIVACY ACT OF 1974

New Systems of Records

AGENCY: Department of Housing and Urban Development.

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ACTION: Notification of new systems of records.

SUMMARY: The Department is giving notice of three new systems of records it intends to maintain that are subject to the Privacy Act.

EFFECTIVE DATE: The three systems of records shall become effective without further notice in 30 calendar days (June 21, 1978) unless comments are received on or before June 21, 1978, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone 202-755-5192.

SUPPLEMENTARY INFORMATION: The systems are identified as: (1) HUD Child Care Center Files (HUD/DEPT-58) will consist of socio-economic, educational and medical information of applicants, their children and Center staff members; (2) Urban Reinvestment Task Force Data (HUD/PD&R-3) will contain socio-economic, demographic and housing characteristics of families in approximately 45 Neighborhood Housing Services program areas; and (3) Prepurchase Counseling Demonstration and Evaluation Records (HUD/PD&R-4) result from counseling first-time homeseekers.

A new system report was filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget on April 12, 1978.

The prefactory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 42 FR 54765 (October 7, 1977). Appendix A which lists the addresses of HUD's field offices was published at 42 FR 54777 (October 7, 1977).

HUD/DEPT-58

System name:

HUD Child Care Center Files.

System location:

Headquarters Office.

Categories of individuals covered by the system:

Children enrolled in the Center and their parents, staff of the Center, others who may be involved in special programs of the Center, and names of donors.

Categories of records in the system:

Information on the child, including parents names and addresses and income; health records of children and staff; information on staff including work history; current work evaluations, and other work-related information; evaluation of the children's progress in the Center; names of donors and amounts of donations to the Center.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

See Routine Uses in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

Storage:

Paper records in file cabinets.

Retrievability:

By name of child or name of staff member.

Safeguards:

Records will be main lockable file cabinets with access limited to authorized personnel of the Center.

Retention and disposal:

Records of children who leave will be stored for one year; records of staff who leave will be stored for three years. At the expiration of those periods, records will be disposed.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure:

For information, assistance or inquiry about the existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedure:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories:

Applicants; current and formerly enrolled children and their parents; current and former staff members; doctors, and former institutions attended by the children.

HUD/PD&R-3

System name:

Urban Reinvestment Task Force Data.

System location:

Cambridge, Mass.

Categories of individuals covered by the system:

Participants in Neighborhood Housing Services (NHS) program and other residents of NHS neighborhoods.

Categories of records in the system:

Socio-economic, demographic and housing characteristics of participants, their perceptions of the Neighborhood, and of the NHS program, and housing investment behavior of residents.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

In file folders, punch cards, magnetic tape and computer disc.

Retrievability:

Identification code.

Safeguards:

Access to file folders and computer files limited to authorized personnel.

Retention and disposal:

Retained until June 1980 and then destroyed.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories:

Survey participants.

HUD/PD&R-4

System name:

Prepurchase Counseling Demonstration and Evaluation Records.

System location.

Cambridge, Mass.

Categories of individuals covered by the system:

Individuals who seek homes and inquire about the program; first-time homeseekers who join the program, counseled individuals after they purchase a home or decide not to purchase; and counseled individuals who default on their mortgages.

Categories of records in the system:

Socio-economic, demographic, financial, attitudinal and, if appropriate, mortgagor payment information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Routine Uses in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

In file folders and on magnetic tape.

Retrievability:

Name and Identification No.

Safeguards:

Files are maintained in a secured data storage bank and in lockable file cabinets with access limited to authorized persons.

Retention and disposal:

Records are retained until December 31, 1980 and then destroyed.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories:

Subject individual, institution servicing the mortgage and HUD approved counseling agency.

AUTHORITY: 5 U.S.C. 552a. 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d).)

Issued at Washington, D.C., May 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

MAY 17, 1978.

[FR Doc. 78-14293 Filed 5-19-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[W-63498]

WYOMING

Notice of Application

MAY 11, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 6⅝ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 38 N., R. 90 W.,
Sec. 6, Lots 1 and 2
T. 39 N., R. 90 W.,
Sec. 29, E½SW¼, SW¼SW¼
Sec. 31, SE¼NE¼, E½SE¼
Sec. 32, W½NW¼

The proposed pipeline will transport natural gas from the MDU#1-6 Margaret Monsanto well located in the N½NE¼ of section 6, T. 38 N., R. 90 W., to a point of connection with an existing pipeline located in the NE¼SW¼ of section 29, T. 39 N., R. 90 W., Fremont County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their names and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-13709 Filed 5-19-78; 8:45 am]

[4310-84]

[W-63256]

WYOMING

Application

MAY 11, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo. filed an application for a right-of-way to construct two 4½ inch O. D. pipelines for the purpose of transporting natural gas across the following described public lands:

V 43 99

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 17 N., R. 94 W.,
Sec. 18; Lots 15, 16, 18, 19 and 20

The proposed pipelines will transport natural gas from the Champlin 237 Amoco E-1 well located in the SW¼ of section 13, T. 17 N., R. 95 W., and the Champlin 237 Amoco D-1 well located in the SW¼ of section 17, T. 17 N., R. 94 W., to a point of connection into Colorado Interstate Gas Co.'s existing pipeline in the S½ of section 18, T. 17 N., R. 94 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-13710 Filed 5-19-78; 8:45 am]

[4310-10]

Office of the Secretary

ANIMAL DAMAGE CONTROL POLICY STUDY

Extension of Time for Written Testimony

Notice is hereby given to extend the time period for persons to submit written testimony concerning the U.S. Fish and Wildlife Service Animal Damage Control Policy Study draft report. Public hearings concerning the study and availability of the draft report were announced on april 20, 1978 in the FEDERAL REGISTER (43 FR 16816-7). This notice extends the deadline to submit written testimony to allow interested persons additional time to submit written statements. Written statements must be received by June 10, 1978 and shall be limited to 10 double-spaced pages. Written statements are to be sent to Ms. Sheila Minor, Office of the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, Washington, D.C. 20240, 202-343-4945.

Dated: May 17, 1978.

RICHARD J. MYSHAK,
Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 78-14124 Filed 5-19-78; 8:45 am]

[4310-84]

[INT DES 78-21]

PROPOSED HOT DESERT GRAZING MANAGEMENT PLAN WASHINGTON COUNTY, UTAH

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of Interior's Bureau of Land Management (BLM) has prepared a draft environmental statement for the proposed Hot Desert Grazing Management Plan in Washington County, Utah.

The BLM proposal involved implementation of 42 allotment management plans, 14 custodial plans, and plans to eliminate grazing on three allotments. The objective of the proposal is to provide land use management on the basis of multiple use and long term sustained yield of the natural resources on 529, 564 acres of public land.

The Department of the Interior invites written comments on the draft statement to be submitted on or before July 14, 1978, to the District Manager, Bureau of Land Management, P.O. Box 729, 1579 North Main Street, Cedar City, Utah 84720.

A limited number of copies are available upon request to the District Manager at the above address. Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-5717.
Cedar City District Office, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, telephone 801-586-2401.
Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, telephone 801-534-4227.
Dixie Resource Area Office, Bureau of Land Management, 24 East St. George Boulevard, St. George, Utah 84770, telephone 801-673-4654.

Notice is hereby given that oral/or written comments will be received at a public hearing held at the Washington County Courthouse, St. George, Utah, on June 29, 1978, at 7 p.m.

Written and oral comments on the draft environmental statement will receive consideration in preparation of the final environmental statement.

Dated: May 19, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-14439 Filed 5-19-78; 9:32 am]

[4310-84]

[INT DES 78-22]

PROPOSED LIVESTOCK GRAZING MANAGEMENT IN THE SANDY AREA, SOUTHWESTERN WYOMING, ROCK SPRINGS DISTRICT, WYOMING

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared an environmental statement on proposed livestock grazing management in the Sandy area of southwestern Wyoming, and has made copies of the document available for public review and comment.

The draft statement analyzes environmental impacts that would result from the implementation of the grazing systems in sixteen (16) proposed allotments and thirty-three (33) custodial pastures, providing for livestock grazing management and use of available forage on approximately 1,997,330 acres, including necessary range improvements, and from maintaining management of 970 acres upon which livestock grazing would be excluded. The statement further analyzes the environmental impacts that would result from the implementation of each of six (6) alternatives to that proposal.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Land Management, Rock Springs District Office, Highway 187 North, Rock Springs, Wyo.
Bureau of Land Management, Pinedale Resource Area, Molyneux Building, Pinedale, Wyo.
Bureau of Land Management, Kemmerer Resource Area, Highway 189, Across from Port of Entry, Kemmerer, Wyo.
Bureau of Land Management, Wyoming State Office, Branch of Records and Data Management, 2515 Warren Avenue, Cheyenne, Wyo.
Bureau of Land Management, Rawlins District Office, 1300 Third Street, Rawlins, Wyo.
Bureau of Land Management, Lander Resource Area, Highway 287 South, Lander, Wyo.
Library, Big Piney, Wyo.
Fremont County Public Library, 451 North Second Street, Lander, Wyo.
Uinta County Public Library, 36 Tenth Street, Evanston, Wyo.
Bureau of Land Management, Casper District Office, 951 Union Boulevard, Casper, Wyo.
Bureau of Land Management, Worland District Office, 1700 Robertson Avenue, Worland, Wyo.
Rock Springs Public Library, 400 "C" Street, Rock Springs, Wyo.
Western Wyoming College Library, College Hill, Rock Springs, Wyo.
Carnegie Public Library, 177 North Center, Green River, Wyo.
Library, Superior, Wyo.
Lincoln County Public Library, Court House, Kemmerer, Wyo.
Sublette County Public Library, 40 South Fremont Avenue, Pinedale, Wyo.
Coe Library, University of Wyoming, Laramie, Wyo.
Laramie County Library, 2800 Central Avenue, Cheyenne, Wyo.
Teton County Public Library, 320 South King Street, Jackson, Wyo.

Single copies of the draft statement can be obtained from the Team Leader, Bureau of Land Management, Sandy Environmental Statement, P.O. Box 1869, Rock Springs, Wyo. 82901; or, the State Director (952), Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyo. 82001.

Written comments on the draft environmental statement will be accepted on or before July 10, 1978. They are to be addressed to Dean F. Forsgren, Team Leader, Bureau of Land Management, Sandy Environmental Statement, P.O. Box 1869, Rock Springs, Wyo. 82901.

Oral and written comments will also be received at public hearings on June 28, 1978, at the East Junior High School Auditorium, Gobel Street, Rock Springs, Wyo. Hearing sessions will begin at 1:30 p.m. and 7 p.m.

Oral testimony of ten minutes duration will be accepted from each witness at the hearing, in lieu of written comments or in addition to any written comments submitted by such a witness. The ten minute limitation will be strictly enforced by the presiding officer, an Administrative Law Judge, U.S. Department of the Interior. Complete text of prepared speeches may be filed at the hearing whether or not the speaker has been able to finish with oral delivery in the allotted ten minutes.

Speakers will be heard in their established order on the witness list. After the last listed witness has been heard, the presiding officer will consider the request of any other person present and wishing to testify. Only one witness will be allowed to represent the viewpoints of a single organization. However, any witness will be permitted to give germane testimony if offered as the views or opinions of a private citizen.

Written requests to testify orally should be received at the Rock Springs District Office of the Bureau of Land Management at the above address prior to close of business on June 21, 1978. Requests should identify the organization represented, should be signed by the prospective witness, and should state the approximate time (afternoon or evening) for giving oral testimony. The cutoff date is necessary so that a witness list can be made available in the Rock Springs District Office on the day before the public hearing.

Comments on the draft environmental statement, whether written or oral, will receive equal consideration in preparation of a final environmental statement.

Dated: May 19, 1978.

LARRY E. MOICROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-14438 Filed 5-19-78; 9:32 am]

[4310-09]

Bureau of Reclamation

COLORADO RIVER STORAGE PROJECT

Meeting

Pursuant to Title VI, Pub. L. 90-537, Colorado River Basin Project Act of September 30, 1968, the Bureau of Reclamation has scheduled a meeting of Federal and State representatives to organize a cooperative study group to develop hydrologic basis and procedures for determination of the storage requirements specified in section 602(a) of the Act for the coordinated long-range operation of Colorado River reservoirs.

The meeting will be held at 9 a.m. on Monday, June 5, 1978, in the Conference Room of the Upper Colorado Region, Bureau of reclamation, 7102 Federal Building, 125 South State Street, Salt Lake City, Utah.

For further information contact Eugene Hinds, Director, O&M Policy Staff, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone 202-343-5104.

Dated: May 19, 1978.

CLIFFORD I. BARRETT,
Acting Commissioner of Reclamation.

[FR Doc. 78-14456 Filed 5-19-78; 10:42 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-52]

CERTAIN APPARATUS FOR THE CONTINUOUS PRODUCTION OF COPPER ROD

Investigation

Notice is hereby given that on April 11, 1978, Southwire Co. (complainant), 126 Fertilla Street, Carrollton, Ga. 30117, filed a complaint with the U.S. International Trade Commission under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). The complaint alleges unfair methods of competition and unfair acts in the unauthorized importation of certain apparatus for the continuous production of copper rod, including in-line rolling mill and pickling system (the production apparatus), and components thereof, and replacement parts therefor, or in their sale, by reason of the alleged coverage of the production apparatus or components thereof, or replacement parts therefor by all the claims of U.S. Letters Patent 3,881,337 and 3,766,763 (the '763 patent) (collectively, the apparatus patents).

The complaint further alleges unfair methods of competition and unfair acts in an unauthorized importation of the production apparatus, and components thereof, and replacement parts therefor, or in their sale, by reason of the contribution of the imported production apparatus or components thereof, or replacement parts therefor to the infringement of U.S. Letters Patent 3,317,994, 3,623,532, 3,672,430, 3,806,366, and claim 6 of the '763 patent (collectively, the method patents), and U.S. Letters Patent 3,716,423 (the product patent). In addition, the complaint alleges unfair methods of competition and unfair acts in the unauthorized importation of the production apparatus, or components thereof, or replacement parts therefor or in their sale, by reason of the incorporation in the manufacture, installation, and operation of the production apparatus of certain misappropriated proprietary information of complainant. The complaint alleges that such unfair methods of competition have the effect or tendency to destroy or substantially injure an industry efficiently and economically operated in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States.

Complainant requests a permanent exclusion order against production apparatus or components thereof, or replacement parts therefor which infringe any of the claims of the apparatus patents or contribute to the infringement of any of the claims of the method patents or the product patent. Complainant also requests exclusion from entry into the United States, except under bond, on the production apparatus or components thereof, or replacement parts therefor, during the investigation of this matter (a temporary exclusion order).

Having considered the complaint, the U.S. International Trade Commission on May 15, 1978, *ordered:*

1. That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the complaint and the evidence adduced, there is a violation or reason to believe that there is a violation of subsection (a) of this section in the unauthorized importation of certain apparatus, used for continuous production of copper rod (the production apparatus), or components thereof or replacement parts therefor, into the

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United States, or in their subsequent sale, by reason of: (1) the alleged coverage of the production apparatus or components thereof, or replacement parts therefor by all the claims of the U.S. Letters Patent 3,881,337 and 3,766,763 (the '763 patent); (2) the contribution of the imported production apparatus or components thereof, or replacement parts therefor to the infringement of U.S. Letters Patent 3,317,994, 3,623,532, 3,672,430, 3,806,366, and claim 6 of the '763 patent, and U.S. Letters Patent 3,716,423; and (3) the incorporation in the manufacture, installation, and operation of the production apparatus, or components thereof, or replacement parts therefor of certain misappropriated proprietary information of complainant, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States.

2. That, for the purpose of this investigation so instituted, the following are hereby named as parties:

(a) The complainant is:

Southwire Co., 126 Fertilla Street, Carrollton, Ga. 30117.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, and are parties upon which the complaint and this notice are to be served.

American Telephone & Telegraph Co., 195 Broadway, New York, N.Y. 10007.
Western Electric Co., Inc., 195 Broadway, New York, N.Y. 10007.
Nassau Recycle Corp., Dutch Center, Suite 350, 810 Dutch Square Boulevard, Columbia, S.C. 29210.
Fried Krupp G.m.b.H., Krupp Industrie-und Stahlbau, Duisburg 14, Federal Republic of Germany.
Krupp A.G., Essen, Federal Republic of Germany.
Krupp International, Inc., 550 Mamaroneck Avenue, Harrison, N.Y. 10528.

(c) Edward M. Lebow, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation.

3. That, for the purpose of the investigation so instituted, Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's rules of practice and procedure, as amended (19 CFR 210.21). Pursuant to § 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint, as computed pursuant to §§ 210.14 and 210.16 of the rules. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The complaint, with the exception of business confidential information, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City Office of the Commission, 6 World Trade Center.

Issued: May 17, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-14142 Filed 5-19-78; 8:45 am]

[7020-02]

[TA-406-2, TA-406-3, and TA-406-4]

CLOTHESPINS FROM THE PEOPLE'S REPUBLIC OF CHINA, THE POLISH PEOPLE'S REPUBLIC, AND THE SOCIALIST REPUBLIC OF ROMANIA

Investigations and Hearing

Investigations instituted. Following receipt of a petition on May 3, 1978, filed by the Clothespin and Veneer Products Association (CVPA), the U.S. International Trade Commission on May 16, 1978, instituted investigations under section 406(a) of the Trade Act of 1974 to determine, with respect to imports of clothespins provided for in items 790.05, 790.07, and 790.08 of the Tariff Schedules of the United States, which are the products of the People's Republic of China, the Polish People's Republic, and the Socialist Republic of Romania, whether market disruption exists with respect to such articles produced by a domestic industry. Section 406(e)(2) of the Trade Act defines market disruption to exist within a domestic industry if "imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry."

Public hearing. A public hearing in connection with these investigations will be held in Portland, Maine, at 9:30 a.m., e.d.t., on Thursday, June 22, 1978. The location of the hearing will be announced later. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington, D.C., not later than noon, Thursday, June 15, 1978.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City office of the Commission located at 6 World Trade Center.

Issued: May 16, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-14141 Filed 5-19-78; 8:45 am]

[4810-25]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

ADVISORY COMMITTEE ON JOINT BOARD ACTUARIAL EXAMINATIONS

Meeting

Notice is hereby given that the Advisory Committee on Joint Board Actuarial Examinations will meet in Room 4125, Main Treasury Building, 15th Street and Pennsylvania Avenue NW., Washington, D.C., on June 28, 1978, at 9:30 a.m.

The purpose of the meeting is to discuss the feasibility of jointly administered examinations to meet the basic and pension actuarial knowledge requirements of the regulations governing enrollment to perform actuarial services under the Employee Retirement Income Security Act of 1974.

The meeting will be open to the public as space is available. Time permitting, after discussion of agenda subjects by Committee members, interested persons may make statements germane to the topic. Persons wishing to make oral statements should advise the Committee Management Officer in writing by June 21, 1978, and should submit the written text or, at a minimum, an outline of comments they propose to make orally. Such comments will be restricted to ten minutes in length. In addition, any interested person may file a written statement for consideration by the Committee. All requests and statements must be sent to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

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Dated: May 15, 1978.

LESLIE S. SHAPIRO,
Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 78-14133 Filed 5-19-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 783-78]

PRIVACY ACT OF 1974

Notice of Systems of Records

Attached hereto is a notice of a proposed system of records maintained by the Department of Justice and required to be published in the FEDERAL REGISTER and in annual compilation form pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579.

The following system of records will be maintained by the Criminal Division of the Department of Justice and is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) is currently published in the FEDERAL REGISTER. The system JUSTICE/CRM-025, Tax Disclosure Index File and Associated Records, will come into existence on June 21, 1978.

Pursuant to 5 U.S.C. 552a(e)(11) interested persons are invited to submit written comments on those portions of the notice which describe the routine uses of the system of recored listed. Comments may be submitted in writing to the individual listed under the heading "System manager and address" in the record system description. All comments must be received on or before June 21, 1978.

No oral hearings are contemplated.

Dated: May 12, 1978.

GRIFFIN B. BELL,
Attorney General.

JUSTICE/CRM-025

System name:

Tax Disclosure Index File and Associated Records.

System location:

U.S. Department of Justice, Criminal Division, 10th and Constitution Avenue NW., Washington, D.C. 20530.

Categories of individuals covered by the system:

Taxpayers about whom the Criminal Division has requested and/or obtained disclosure of tax material from the Internal Revenue Service pursuant to 26 U.S.C. 6103.

Categories of records in the system:

The system contains all requests for tax material, any such material provided by the Internal Revenue Service or duplicated or extracted by the Criminal Division from such material, and related records necessary to the application for and/or safeguarding of such material received on or after January 1, 1977.

Authority for maintenance of the system:

This system is established and maintained pursuant to 26 U.S.C. 6103(p)(4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

A record maintained in this system of records may be disseminated as a routine use of such record (A) to any officer or employee of the Criminal Division who is personally and directly engaged in preparation for any proceeding (or investigation which may result in such proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute not involving tax administration or to the enforcement of a Federal criminal statute in any manner involving tax administration; and (B) to any person outside of the Criminal Division where such dissemination is or reasonably appears to be in furtherance of proper preparation for any proceeding (or investigation which may result in such proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute not involving tax administration or to the enforcement of a Federal criminal statute in any manner involving tax administration. Such dissemination shall be permitted to the extent authorized under 26 U.S.C. 6103(h), 26 U.S.C. 6103(i), 26 CFR 404.6103(h)(2)-1, 26 CFR 404.6103(i)-(1), and Rule 6(e), FR Crim. P. The above mentioned routine uses include the following:

(1) Dissemination to an attorney of the Criminal Division assigned responsibility with respect to an above-mentioned proceeding or an investigation which may result in such proceeding;

(2) dissemination to an officer or employee of the Department of Justice with supervisory or clerical responsibility with respect to an above-mentioned proceeding, or an investigation which may result in such proceeding;

(3) Dissemination to an officer or employee of another Federal agency (as defined at 5 U.S.C. 551(1)) with investigative, supervisory, or clerical responsibility working under the direction and control of such attorneys of the Department of Justice as are assigned responsibility with respect to an above-mentioned proceeding, or an investigation which may result in such proceeding;

(4) Dissemination to a taxpayer to whom such record relates, or to such taxpayer's legal representative, to properly interview, consult, depose, or interrogate or otherwise obtain information relevant to an above-mentioned proceeding, or an investigation which may result in such proceeding, from such taxpayer or his legal representative;

(5) Dissemination during the course of an investigation which may result in an above-mentioned proceeding to any witness who may be called on to give evidence in such a proceeding to properly interview, consult, depose, or interrogate or otherwise obtain relevant information from such potential witness;

(6) Dissemination to any person having special knowledge or technical skills (such as handwriting analysis, photographic development, sound recording enhancement, or voice identification) to properly obtain the services of such person in an above-mentioned proceeding, or an investigation which may result in such proceeding;

(7) Dissemination to an officer or employee of the Department of Justice, another Federal agency (as defined at 5 U.S.C. 551(1)), or a foreign government to properly utilize international contacts and judicial assistance in an above-mentioned proceeding, or an investigation which may result in such proceeding;

(8) Dissemination to an officer or employee of the Internal Revenue Service to obtain additional disclosure pursuant to 26 U.S.C. 6103 in an above-mentioned proceeding, or an investigation which may result in such proceeding;

(9) Dissemination to a Federal grand jury;

(10) Dissemination to an officer or employee of the Department of Justice to obtain a court order to compel testimony pursuant to 18 U.S.C. 6002 and 6003 in any above-mentioned proceeding, or an investigation which may result in such proceeding;

(11) Dissemination to any party to an above-mentioned proceeding to properly conduct negotiations concerning, or obtain authorization for, disposition of the proceeding, in whole or in part, or to obtain stipulations of fact in connection with the proceeding;

(12) Dissemination to a judicial or administrative body (such as the United States Parole Commission) in an above-mentioned proceeding or in preparation therefor, or in any post-conviction proceeding resulting from an above-mentioned proceeding;

(13) Dissemination to a court reporter in an above-mentioned proceeding, or as required, in preparation therefor.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

A record contained in this system is stored manually on index cards and in file jackets.

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Retrievability:

A record is retrieved by name of the taxpayer in indices maintained in individual sections of the Criminal Division.

Safeguards:

Records are safeguarded in accordance with Department of Justice rules and procedures. Buildings in which records are located are under security guard, and access to premises is by official identification. Records are stored in spaces which are locked outside of normal office hours and in safe type filing cabinets which are locked when not being accessed. Access to such cabinets is limited to Division personnel whose duties and responsibilities require such access and to whom access may be permitted. A record of access is kept which indicates the name of each person who gains access to material from the secured area and the date and time of each access.

Retention and disposal:

Records not retained are returned to the Internal Revenue Service or rendered undisclosable in accordance with 26 U.S.C. 6103(p)(4)(f)(ii). Currently there are no provisions for disposal of records contained in this system that are not returned to the Internal Revenue Service or are otherwise rendered undisclosable.

System manager(s) and address:

Assistant Attorney General, Criminal Division, U.S. Department of Justice, 10th Street and Constitution Avenue NW., Washington, D.C. 20530.

Notification procedure:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2). Inquiry concerning the system should be addressed to the system manager listed above.

Record access procedures:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2). To the extent that this system or records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

Contesting record procedures:

Taxpayers desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

Record source categories:

Sources of information contained in this system are the Internal Revenue Service, Federal investigative agencies, Federal prosecutors, and personnel of the Criminal Division, Department of Justice.

System exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G), (H), and (I), (e) (5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the FEDERAL REGISTER.

[FR Doc. 78-14210 Filed 5-19-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITY

National Endowment for the Arts

DANCE ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel to the National Council on the Arts will be held June 10, 1978, from 9:15 a.m.-5:30 p.m.; June 11, 1978, from 9:15 a.m.-6:30 p.m.; June 12, 1978, from 9 a.m.-7 p.m.; and June 13, 1978, from 10 a.m.-2 p.m., in Room 1422, of the Columbia Plaza Office Building, 2401 E Street NW, Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 12, 1978, from 2-7 p.m. The topic of discussion will be policy.

The remaining sessions of this meeting on June 10, 1978, from (9:15 a.m.-5:30 p.m.; June 11, 1978, from 9:15 a.m.-6:30 p.m.; June 12, 1978, from 9 a.m.-2 p.m.; and June 13, 1978, from 10 a.m.-2 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

Dated: May 16, 1978.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-13945 Filed 5-19-78; 8:45 am]

[7537-01]

EXPANSION ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held June 7, 1978, from 9:15 a.m.-5:30 p.m.; June 8, 1978, from 9:15 a.m.-5:30 p.m.; and June 9, 1978, from 9:15 a.m.-5 p.m., in Room 1422 of the Columbia Plaza Office Building, 2401 E Street NW, Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 7, 1978, from 9:15 a.m.-5:30 p.m. Topics of discussion will be policy and reports.

The remaining sessions of this meeting on June 8, 1978, from 9:15 a.m.-5:30 p.m., and June 9, 1978, from 9:15 a.m.-5 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

Dated: May 16, 1978.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-13946 Filed 5-19-78; 8:45 am]

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[7537-01]

SPECIAL PROJECTS ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Special Projects Advisory Committee to the National Council on the Arts will be held June 8, 1978, from 9 a.m.-5:30 p.m.; and June 9, 1978, from 9 a.m.-5:30; in the Holiday Inn, 125 Calhoun Street, Charleston, S.C.

A portion of this meeting will be open to the public on June 9, 1978, from 9 a.m.-12 30 p.m. The topic of discussion will be guidelines.

The remaining sessions of this meeting on June 8, 1978, from 9 a.m.-5:30 p.m., and June 9, 1978, from 12:30 p.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

Dated: May 16, 1978.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-13947 Filed 5-19-78; 8:45 am]

[6820-36]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

OPEN MEETING

In accordance with Subsection 10(a) of the Federal Advisory Committee Act, Pub. L. 92-463, the National Transportation Policy Study Commission announces the following meeting:

Name: Meeting of the Commission.
Date: May 25, 1978.
Time: 9 to 1 p.m.
Place: 2167 Rayburn House Office Building, Washington, D.C. 20515.
Type of meeting: Open.
Contact person: Beth Singley, National Transportation Policy Study Commission, 1750 K Street NW., Suite 800, Washington, D.C. 2006.

Purpose of the Commission: The National Transportation Policy Study Commission was established under Section 154 of the Federal-Aid Highway Act of 1976 (Pub. L. 94-280) to report findings and recommendations with respect to the Nation's transportation needs, both national and regional, through the year 2000.

Tentative agenda: Progress Report; Special Studies; Future Scenarios; and Policy Generation.

Dated: May 15, 1978.

EDWARD R. HAMBERGER,
General Counsel.

[FR Doc. 78-13941 Filed 5-19-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-237 and 50-249]

COMMONWEALTH EDISON CO.

Issuance of an Exemption from the Provisions of "Inservice Inspection Requirements"

The U.S. Nuclear Regulatory Commission (the Commission) has issued an exemption to Commonwealth Edison Co. (the licensee), for Dresden Station Units 2 and 3 (the facilities) located in Grundy County, Ill. The exemption is effective as of its date of issuance.

In response to the licensee's request dated March 20, 1978, the Commission has issued an exemption, which exempts the licensee from the provisions of 10 CFR 50.55a(g), "Inservice Inspection Requirements." The purpose of this action is to allow a common date for implementing the inservice inspection programs for Dresden Station Units 2 and 3. Therefore, the exemption authorizes the licensee to implement the inservice inspection programs for Dresden Station Units 2 and 3 on November 1, 1978, rather than February 9, 1979 (Unit 2) and July 18, 1978 (Unit 3).

The application for exemption complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations to 10 CFR Chapter I, which are set forth in the letter authorizing the exemption. Prior public notice of this action was not required since this action does not involve a significant hazards consideration.

The Commission has determined that the issuance of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the exemption.

For further details with respect to this action, see (1) the licensee's request dated March 20, 1978; and (2) the Commission's letter authorizing the exemption dated May 5, 1978, which contains the related evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and the Morris Public Library at 604 Liberty Street, Morris, Ill. 60451. A single copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 5th day of May 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-13950 Filed 5-19-78; 8:45 am]

[7590-01]

[Docket No. 50-409]

DAIRYLAND POWER COOPERATIVE

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

DAIRYLAND POWER COOPERATIVE (LACROSSE BOILING WATER REACTOR) PROVISIONAL OPERATING LICENSE NO. DPR-45

This action is in reference to a notice published by the Commission on April 10, 1978, in the FEDERAL REGISTER (43 FR 15021) entitled "Receipt of Application for Facility Operating License; Consideration of Conversion of Provisional Operating License to Full-Term Operating License; and Opportunity for Hearing."

The Chairman of this Board and his address is as follows:

Ivan W. Smith, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

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The other members of the Board and their addresses are as follows:

Dr. George C. Anderson, Department of Oceanography, University of Washington, Seattle, Wash. 98195.
Mr. Lester Kornblith, Jr., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

For the Atomic Safety and Licensing Board Panel.

Dated at Bethesda, Md., this 16th day of May 1978.

JAMES R. YORE,
Chairman.

[FR Doc. 78-13951 Filed 5-19-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-498 and STN 50-499]

HOUSTON LIGHTING & POWER CO., ET AL.

Issuance of Amendments to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 1 to Construction Permit Nos. CPPR-128 and CPPR-129 issued to Houston Lighting & Power Co., et al. for construction of the South Texas Project, Unit Nos. 1 and 2, located at the Permittee's site in Matagorda County, Tex.

The amendment deletes two construction permit requirements related to measures for controlling siltation and erosion.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the amendment to the construction permits, and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to this action.

For further details with respect to this action, see (1) the application for amendment dated March 10, 1978, (2) Amendments No. 1 to Construction Permit Nos. CPPR-128 and CPPR-129, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and in the Matagorda County Courthouse, 1700 Seventh Street, Bay City, Tex. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 15th day of May 1978.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-13953 Filed 5-19-78; 8:45 am]

[7590-01]

[Docket Nos. 50-498 and 50-499]

HOUSTON LIGHTING & POWER CO., ET AL.

Negative Declaration Supporting Amendment Relating to the Deletion of Certain Construction Permit Requirements, South Texas Project, Units No. 1 and 2 (CPPR-128 and CPPR-129)

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the proposed Amendment relating to the construction permits for the South Texas Project, Units No. 1 and 2 (CPPR-128 and CPPR-129), located in Matagorda County, Tex., issued to Houston Lighting & Power Co. The Amendment would authorize the deletion of two construction permit requirements related to measures for controlling siltation and erosion.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal for the Amendment, and has concluded that an environmental impact statement for this particular action is not warranted. This conclusion is based on the fact that there will be no significant environmental impacts attributable to the proposed action, and any impacts which might occur will be less than those predicted and described in the Final Environmental Statement for the South Texas Project, Units No. 1 and 2, published in March 1975.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Matagorda County Courthouse, 1700 Seventh Street, Bay City, Tex. 77914. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 15th day of May 1978.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-13952 Filed 5-19-78; 8:45 am]

[7590-01]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear powerplants. These codes and guides will be developed in the following five areas: Government organization, siting, design, operation, and quality assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-D3, "Protection Systems and Related Features in Nuclear Power Plants," has been developed. The Working Group, consisting of Mr. L. Stanley (Nuclear Services Corporation), United States of America; Mr. J. Redondo, Federal Republic of Germany; and Mr. E. Yaremy, Canada, developed the initial draft of this Safety guide from an IAEA collation during a meeting in March 1976. The Working Group draft of this Safety Guide was reviewed by the full Technical Review committee (TRC) on Design at its meetings in June 1976, November 1976, and December 1977. Meetings of an expanded working group consisting of the original Working Group and several TRC members were held in

september 1976 and May 1977 during which time the guide was substantially revised. The Senior Advisory Group first reviewed this Guide at its meeting in October 1977 and approved the guide for review by Member States at its meeting in February 1978. We are now soliciting public comments on this modified draft. Comments on this draft received by June 23, 1978, will be useful to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Md., this 10th day of May 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc. 78-13954 Filed 5-19-78; 8:45 am]

[7590-01]

[Docket No. 50-220]

NIAGARA MOHAWK POWER CORP.

Issuance of Facility License Amendment

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 24 to facility operating license No. DPR-63 to the Niagara Mohawk Power Corp. (the licensee) which revised technical specifications for operation of the Nine Mile Point nuclear station, unit No. 1 (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

The amendment modifies the technical specifications to permit operation with one recirculating loop isolated.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) the application for amendment dated April 14, 1977, (2) amendment No. 24 to license No. DPR-63, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oswego County Library, 46 East Bridge Street, Oswego, N.Y. 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 15th day of May 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-13955 Filed 5-19-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-522, STN 50-523]

PUGET SOUND POWER & LIGHT CO., ET AL., (SKAGIT NUCLEAR POWER PROJECT, UNITS 1 AND 2)

Order Convening Evidentiory Hearing

The Atomic Safety and Licensing Board at the last session held on March 15, 1978, of the previous evidentiary hearing in this proceeding indicated that the next evidentiary hearing would convene on June 19, 1978. Since that March date, schedule arrangements make it necessary to convene the hearing on June 20, 1978.

Wherefore, *it is ordered*, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Nuclear Regulatory Commission, that an evidentiary hearing in this proceeding shall convene at 9 a.m. on Tuesday, June 20, 1978, in the GSA Hearing Room 3086 of the New Federal Building, 915 Second Avenue, Seattle, Wash. The matters to be considered at this evidentiary hearing will include data presentations respecting the proposed Ranney Well water supply, the health effects of nuclear as compared with coal generated electric facilities (including S-3 aspects), alternative site considerations and the extent to which the meteorological model for alternate sites may be dependent upon the Argonne model (both items with reference also to ALAB-471), as well as the unresolved geologic and seismic issues. Additional considerations to be given at the hearing will involve clarification of (1) the recently submitted aeromagnetic maps (substituted for exhibits 138 and 140) which do not display the local geography for identification of areas depicted, and (2) the significance of the so-called Ed Con data which lack explanatory materials.

Issued: May 16, 1978, Bethesda, Md.

THE ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc. 78-13956 Filed 5-19-78; 8:45 am]

[7590-01]

[Docket No. 50-338 and 50-339]

VIRGINIA ELECTRIC & POWER CO.

Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to facility operating license No. NPF-4, issued to Virginia Electric & Power Co. (the licensee), for operation of the North Anna power station, unit No. 1 located in Louisa County, Va.

The amendment would revise the provisions in the technical specifications to permit increase in fuel storage capacity from 400 to 966 fuel assemblies in the spent fuel pool of the North Anna power station, unit No. 1 and unit No. 2. The amendment would also revise design features and associated operating limits for the storage pool, as necessary, to accommodate the increased storage capacity, in accordance with the licensee's application for amendment, dated May 1, 1978. North Anna power station, unit No. 2 is under construction and approximately 90 percent completed. The technical specifications issued with facility operating license NPF-4 for the North Anna power station, unit No. 1 will also be used for North Anna power station, unit No. 2 when the plant is operating.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By June 21, 1978, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject operating license. Petitions for leave to intervene must be filed in accordance with the provisions of this FEDERAL REGISTER notice and section 2.714 of 10 CFR Part 2 of the Commission's regulations.[1] A petition for leave

[1]The provisions in this notice conform to the requirements of 10 CFR 2.714, as amended, effective May 26, 1978 (43 FR 17798, April 26, 1978).

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to intervene must set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, and the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene. Such petitions must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael W. Maupin, Esq., Hunton, Williams, Gay & Gibson, P.O. Box 1535, Charlottesville, Va. 23212, the attorney for the licensee.

Not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to 10 CFR 2.751a, or where no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference, the petitioner shall file a supplement to his petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter, and the basis for each contention set forth with reasonable specificity.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment, dated May 1, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Board of Supervisors' Office, Louisa County Courthouse, P.O. Box 27, Louisa, Va. 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Va. 22901.

Dated at Bethesda, Md., this 15th day of May 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 13949 Filed 5-19-78; 8:45 am]

[7590-01]

RISK ASSESSMENT REVIEW GROUP

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of an open meeting of the Risk Assessment Review Group of the U.S. Nuclear Regulatory Commission (NRC), to be held at 8:30 a.m., on June 5 through 8, 1978, at the University of California, Lawrence Berkeley Laboratory, Berkeley, Calif. The meeting will be held on June 5 and 6 in Room 191 of Building 70. On June 7 and 8, the meeting will be in Room 3148 of Building 90. The purposes of this meeting are to continue the review of the final report of the Reactor Safety Study (WASH-1400) and the peer comments thereon and to discuss subjects that might be included in the report of the Review Group. This meeting may be extended a day or so if deemed necessary by the Chairman.

The Risk Assessment Review Group is an independent group established by the NRC (42 FR 34955) for the purpose of providing advice and information to the Commission regarding the final report of the Reactor Safety Study, WASH-1400 (NUREG-75/014), and the peer comments on the Study, advice and recommendations on developments in the field of risk assessment methodology and courses of action which might be taken on future development and use of risk assessment methodology. This advice and information will assist the Commission in establishing policy regarding the use of risk assessment in the regulatory process. It will also clarify the achievements and limitations of the Reactor Safety Study. The Review Group will submit a report to the Commission on or before July 1, 1978.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 10 readily reproducible copies to the Review Group at the beginning of the meeting. Comments should be limited to areas within the Group's purview. Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than May 29, 1978, to Dr. John H. Austin, Office of Policy Evaluation, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting. Of course, comments not received in time for this meeting will be circulated to the members of the Review Group for consideration at a future meeting. Comments should pertain to the field of risk assessment methodology or should be based on the final report of the Reactor Safety Study, copies of which are available for public inspection at:

(1) The NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

(2) The NRC's five Regional Offices of Inspection and Enforcement:

Region I, 631 Park Avenue, King of Prussia, Pa. 19406.
Region II, Suite 1217, 230 Peachtree Street, Atlanta, Ga. 30303.
Region III, 799 Roosevelt Road, Glen Ellyn, Ill. 60137.
Region IV, Suite 1000, 611 Ryan Plaza Drive, Arlington, Tex. 76012.
Region V, Suite 202, 1990 North California Boulevard, Walnut Creek, Calif. 94596.

Copies of the Final Report may be obtained from:

U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Probabilistic Analysis Staff, Attn: Melea S. Fogle, 7735 Old Georgetown Road, Bethesda, Md. 20014, Telephone 301-492-8377.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The time allotted for such statements will be at the discretion of the Chairman. The Review Group will receive oral statements on topics relevant to its preview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on June 2, 1978, to the Office of Policy Evaluation, telephone 202-254-5184, Attn: John Austin, between 8:15 a.m. and 5 p.m. e.d.t.

(d) Questions may be asked only by members of the Review Group.

(e) Statements of views or expressions of opinion made by members of the Review Group at open meetings are not intended to represent final determinations or beliefs.

(f) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(g) A copy of the minutes of the meeting will be available for inspection on or after June 30, 1978, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. Copies may be obtained upon payment of appropriate charges.

MAY 22 1978 UMI

Dated at Washington, D.C., this 19th day of May 1978.

JOHN C. HOYLE,
Advisory Committee, Management Officer.

[FR Doc. 78-14449 Filed 5-19-78; 9:33 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 9, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

Energy Conservation Survey (see Part 2 of Supporting Statement), AHS-2 (section VI-A), annually, 65,000 households in 46L PSU design, Clearance Office, 395-3772.

NATIONAL SCIENCE FOUNDATION

Undergraduate Instructional Improvement Program Grantee Questionnaire, single time, 950 project directors of NSF course development grants, Warren Topelius, 395-6132.

IMMIGRATION AND NATURALIZATION SERVICE

Questionnaire for Residential Survey of Undocumented Aliens, single time, 10,300 households in 100 central tracts and rural residentials in 12 states, Office of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF ENERGY

Inventory of Energy Research and Development—1978 through 1978, annually, 10,000 Government and industry doing energy-related research, C. Louis Kincannon, 395-3211.

SMALL BUSINESS ADMINISTRATION

Guide to Interview of Banks—Small Business Administration Portfolio Management Study, single time, 20 management studies, Warren Topelius, 395-6132.

EXECUTIVE OFFICE • • • OTHER

The White House Fellowships 1979-80 Application, WHP-1, single time, 3,000 U.S. citizens early in their careers, Warren Topelius, 395-6132.

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service-Economics, Grain Sorghum Fertilizer Rates Survey, annually, 572 sorghum growers, Clearance Office, 395-3772.

Departmental and Other Advisory Committee Membership Background Information, annually, 450 advisory committee members, Ellett, C. A., 395-6132.

Economics, Statistics, and Cooperatives Services-Statistics, Grazing Lease Survey Forms, single time, 698 grazing livestocks, Clearance Office, 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, Health Systems Agency Application for Designation, Grant Applications and Related Report Forms, annually, 205 applicants for HSA designation, Richard Eisinger, 395-3214.

Health Services Administration, NHSC Supplemental Manpower Application, on occasion, 200 grant applicants in manpower shortage areas (2,100), Richard Eisinger, 395-3214.

Health Resources Administration, Annual Space Utilization and Enrollment Report for Nursing and Health Professions, annually, 416 authorizing offices in each nursing and health professions school, Clearance Office, 395-3772.

National Institutes of Health, Survey Questionnaire for User Evaluation of Index of Dermatology, single time, 200 clinical care, Richard Eisinger, 395-3214.

Office of Education, Validation Form—Basic Educational Opportunity Grant Program, OE-623, annually, 204,000 students and parents as individual financial officers of IHE's, Laverne V. Collins, 395-3214.

Alcohol, Drug Abuse, and Mental Health Administration, Survey of Residential Treatment Centers for Emotionally Disturbed Children—1978, single time, 2,800 RTC staff WUKK complete form on individual from record, Clearance Office, 395-3772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, Field Validation of Door and Windows Security Standards, other (see SF-83), 1,000 and preselected public housing sites, Caywood, D. P., 395-3443.

DEPARTMENT OF LABOR

Bureau of International Labor Affairs, Survey of TRA and UI Recipients, ILAB-239, single time, 1,500 TAA and UI recipients, Strasser, A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-14237 Filed 5-19-78; 8.45 am]

[3110-01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 10, 1978 (44 U.S.C. 3509). the purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Census, 1978 Census of Agricultural Area Sample, 78-A1(S3), 78-A3, 78-A14, 78-A15, single time, 504,000 heads of households and other farm operators in seg. seltd., Office of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, Goal Operationalization and Client Impact Instrumentation/Runaway Youth Act, other (see SF-83), 3,820 staff and clients of runaway project; representatives of commercial agencies, Human Resources Division, 395-3532.

REVISIONS

ACTION

Action Volunteer Application (for Use by Locally Recruited and Univ. Year for Action Applicants), A-35A, on occasion, Action programs, 6,000 responses, 6,000 hours, Reese, B. F., 395-3211.

Action Volunteer Application, A-35, on occasion, Action programs, 50 000 responses, 50,000 hours, Reese, B. F., 395-3211.

VETERANS ADMINISTRATION

Application for Education Loan, 22-8725, on occasion, veteran, 150 000 responses, 100,000 hours, Caywood, D. P., 395-3443.

Architect-Engineer Fee Proposal, 8-6298, on occasion, architect-engineer firms, 200 responses, 400 hours, Caywood, D. P., 395-3443.

V 43 99

DEPARTMENT OF AGRICULTURE

Food and Nutition Service, Administrative Review Report Summer Food Service Program for Children (Site), FNS-19-1 and 19-2, on occasion, food service sites, 2,397 responses, 1,769 hours, Human Resources Division, 395-3532.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, Annual Housing Survey—National Sample, AHS-1, AHS-2, AHS-4(L1), AHS-4(L2), AHS-3, annually, households in 461 PSU design, 1,800 responses, 600 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, National Crime Survey Basic Screen Questionnaire, Crime Incident Report, Noninterview Record, Control Card, NCS-1 and 2, 7, 500, other (see SF-83), selected households in District Heights, Md., and Alexandria, Va., 628,860 responses, 126,124 hours, Clearance Office, 395-3772.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service-Statistics:
Potato Objective Yield Survey, other (see SF-83), 2,790 responses, 1,298 hours, Clearance Office, 395-3772.
Off-Farm Stocks of Grain and Oilseed, quarterly, 37,000 responses, 10,453 hours, Clearance Office, 395-3772.

DEPARTMENT OF DEFENSE

Department of the Navy, Design Workload and Forecast Report (Naval Ships), BSHPS GRAP, quarterly, 80 responses, 160 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, Case Service Report: Federal-State Program of Vocational Rehabilitation, OS-22-75, on occasion, 1,200,000 responses, 50,000 hours, Human Resources Division, Office of Federal Statistical Policy and Standard, 395-3532.
Center for Disease Control, Congenital Rubella Syndrome—Case Report, HSM 4271, on occasion, 60 State and territorial epidemiologists, 200 responses, 100 hours, Office of Federal Statistic1 Policy and Standard, 673-7959.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit:
Low-Rent Public Housing Construction Report, HUD 5378, other (see SF-83), 14,400 responses, 14,400 hours, Caywood, D. P., 395-3443.
Request for Acceptance of Changes in Approved Drawings and Specifications, FHA-2577, on occasion, 10,000 responses, 5,000 hours, Caywood, D. P., 395-3443.
Application for Insurance of Advance of Mortgage Proceeds, FHA-2403, on occasion, 3,600 responses, 720 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF LABOR

Employment Standards Administration, Monthly Employment Utilization Report, SF 257, monthly, 240,000 responses, 120,000 hours, Strasser, A., 395-6132.

DEPARTMENT OF TREASURY

Bureau of Customs, Application and Permit for Unlading—Lading—Overtime Services, CF3171, on occasion, 120,000 responses, 12,000 hours, Clearance Office, 395-3772.

DAVID R. LEUTHOLD,
Budget and Management officer.

[FR Doc. 78-14238 Filed 5-19-78; 8:45 am]

[3110-01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 11, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

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Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service, a Household Survey of Immigration Attitudes, single time, 600 adult Hispanic origin residents in Texas, Laverne V. Collins, 395-3214.

DEPARTMENT OF TRANSPORTATION

Departmental and other, Problems of Independent Truckers: Comparison of Minorities Women and Others, single time, 100 truck owner-operators and motor carriers, Strasser, A., 395-6132.

REVISIONS

GENERAL SERVICES ADMINISTRATION

Subcontracting Program Quarterly Report of Participating Large Company on Subcontract Commitments, OF-61, on occasion, offerors on Government contracts, 400 responses, 200 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service, Poultry Lot Information from Records of Official Establishments, MP-514-2, on occasion, poultry processing plants, 200,000 responses, 6,700 hours, Clearance Office, 395-3772.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service:
Federal Review of State Agencies' QC System, annually, 7,325 responses, 25,208 hours, Human Resources Division, Warren Topelius, 395-3532.
QC Statistical Sampling and Reporting of Review Findings (Food Stamp), FNS-247-1, 2, 3 FNS-248, semiannually, 2,430 responses, 3,545 hours, Human Resources Division, 395-3532.
Farmers Home Administration, Request for Verification of Employment—FHA Borrowers, FHA 410-5, on occasion, 75,000 responses, 12,500 hours, Clearance Office, 395-3772.
Agriculture Research Service, Taxonomic Data Input Cards—Insect Genus and Species, ARS-125 and 126, on occasion, 2,345 responses, 195 hours, Clearance Office, 395-3772.
Food and Nutrition Service, Quality Control Review Schedule (Food Stamp), FNS-245, on occasion, 154,450 responses, 1,053,100 hours, Human Resources Division, Warren Topelius, 395-3532.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-14239 Filed 5-19-78; 8:45 am]

[3110-01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 12, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

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NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Adminstration (Medicare) Rural Health Clinic Billing, HCFA-31, 31A, on occasion, 700,000 rural health clinics, Richard Eisinger, 395-3214.

DEPARTMENT OF LABOR

Employment and Training Administration, CETA Grant Application, ETA 2-202, annually 2,367,392 State and local agencies, Strasser, A., 395-6132.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, Survey of Private Citizens To Obtain Information on Passive Restraint Systems, single-time, 1,500 licensed drivers living in households, Strasser, A., 395-6132.
Federal Aviation Administration, Voice Response System (VRS) Survey, NA-6490-1, single-time, 6,680 pilots in the Washington, D.C. and surrounding counties, Strasser, A., 395-6132.

REVISIONS

DEPARTMENT OF LABOR

Employment and Training Administration, CETA Reporting Requirements, ETA-5-134, other (see SF-83), State and local agencies, 4,403,762 responses, 2,136,345 hours, Strasser, A., 395-6132.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agency's FHPM 1-6-2, on occasion, D.C. and State highway departments, 52 responses, Strasser, A., 395-6132.

EXTENSIONS

RENEGOTIATION BOARD

Standard Form of Contractors Report—Statement of Nonapplicability of the Renegotiation Act of 1951, RB-1, RB-90, annually, 7,800 responses, 41,500 hours, Lowry, R. L., 395-3772.

DEPARTMENT OF HOUSING AND URBAN COMMUNITY PLANNING AND DEVELOPMENT

Urban Renewal Program Physical Progress Report, HUD 6000, HUD 6000A, semiannually, Local public agencies with urban renewal grants, 320 responses, 3,840 hours, Housing, Veterans and Labor Division, Caywood, D. P., 395-3532.

DEPARTMENT OF LABOR

Bureau of Labor Statistics:
(Imports)—Interview International Price Program/Price Reporting, BLS 3007A, BLS 3007C, quarterly, 8,000 responses, 1,333 hours, Clearance Office, 395-3772.
(Exports)—Interview International Price Program/Price Reporting, BLS 2894A, BLS 2894C, quarterly, exporters, 16,000 responses, 2,666 hours, Clearance Office, 395-3772.
Employment Cost Index, BLS 3038A-E, BLS 3076C, BLS 3077, quarterly, 15,966 responses, 22,067 hours, Office of Federal Statistical Policy and Standards, 673-7959.
Employment Standard Administration:
Employee Mail Interview Form, WH-42, on occasion, 105,000 responses, 35,000 hours, Strasser, A., 395-6132.
Handbook for Homeworkers (Puerto Rico and Virgin Islands), WH-75, on occasion, 2,500 responses, 2,500 hours, Strasser, A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-14240 Filed 5-19-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1472]

ARKANSAS

Declaration of Disaster Loan Area

Boone and Carroll Counties and adjacent counties within the State of Arkansas constitute a disaster area as a result of damage caused by hail, rain and high wind which occurred on April 30, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 13, 1978, and for economic injury until the close of business on February 12, 1979, at: Small Business Administration, District Office, 611 Gaines Street, Suite 900, Little Rock, Ark. 72201, or other locally announced locations.

[Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.]

Dated: May 12, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-13770 Filed 5-19-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1470]

LOUISIANA

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Jefferson, Orleans, St. Bernard and St. John the Baptist Parishes constitute a disaster area because of damages resulting from severe storms and flooding beginning about May 3, 1978. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the abovenamed parishes and adjacent parishes within the State of Louisiana. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 10, 1978, and for economic injury until the close of business on February 8, 1979, at:

Small Business Administration, District Office, Plaza Tower—17th floor, 1001 Howard Avenue, New Orleans, La. 70113.

or other locally announced locations.

[Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.]

Dated: May 15, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-13771 Filed 5-19-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1464]

SOUTH DAKOTA

Declaration of Disaster Loan Area

The listing below of the nine counties and adjacent counties within the State of South Dakota constitutes a disaster area as a result of natural disasters as indicated:

County, Natural Disaster(s) and Date(s)

Brown.—The 1977-78 winter started with snow in early November and kept building up all winter.
Clark.—Severe winter and record snowfall, Dec. 1, 1977, to Apr. 1, 1978.
Corson.—Winter storms, Nov. 18, 1977, to Mar. 31, 1978.
Dewey.—Drought, severe winter, in 1977: Nov. 1, 1977, to Apr. 30, 1978.
Harding.—Drought, winter storms and heavy snow, in 1977: Nov. 15, 1977, to Mar. 28, 1978.
Perkins.—Winter set in with a severe storm on Nov. 17, 1977, and continued ruthlessly until mid-March 1978, Nov. 17, 1977, to Mar. 15, 1978.
Kingsbury.—Snow, wind and cold, Nov. 1, 1977, to Mar. 31, 1978.
Potter.—The severe winter did affect the crop loss, Dec. 1, 1977, to Apr. 1, 1978.
Ziebach.—Heavy snow cover since mid-November, southeast blizzard Feb. 5-9, 1978, and additional 12-18 inches of snow on Feb. 11, 12, and 19, 1978. Extremely cold temperatures during entire winter.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 15, 1978, and for economic injury until the close of business on February 15, 1979, at:

Small Business Administration, District Office, 8th and Main Avenue, Sioux Falls, S. Dak. 57102.

[Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.]

Dated: April 15, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-13772 Filed 5-19-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1467; amdt No. 1]

VIRGINIA

Declaration of Disaster Loan Area

The above numbered Declaration (See FR 20070) is amended by adding

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the Independent Cities of Hampton and Norfolk and the counties of Franklin, Isle of Wight, Halifax, and York and adjacent counties within the State of Virginia, constitute a disaster area because of damage resulting from high winds, rain, high tides, and flooding which occurred on April 26, 1978 through April 30, 1978. The time for filing applications is extended to July 14, 1978, for physical damage and February 14, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 11, 1978

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-13773 Filed 5-19-78; 8:45 am]

[8025-01]

[License No. 06/06-5197]

PAN AMERICAN CAPITAL CORP.

Issuance of a License To Operate as a Small Business Investment Company

On December 20, 1977, a notice was published in the FEDERAL REGISTER (42 FR 63842) stating that Pan American Capital Corp., Suite "A", Planters Trust & Savings Bank Building, 110 Bellevue Street, Opelousas, La. 70570, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1977) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business January 9, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA issued License No. 06/06-5197 to Pan American Capital Corp. on January 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 16, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-13774 Filed 5-19-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 129—FUTURE AVIATION FREQUENCY SPECTRUM REQUIREMENTS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 129 on Future Civil Aviation Frequency Spectrum Requirements to be held June 14-15, 1978, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C. commencing at 9 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of Eleventh Meeting held June 22-23, 1977; and (3) Review and prepare Aviation Service Working Group (SC-129) comments on Federal Communications Commission Eight Notice of Inquiry, Docket 20271.

Attendance is open to the interested public but, limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006, 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May 12, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-13725 Filed 5-19-78; 8:45 am]

[4810-35]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1977 Rev., Supp. No. 20]

IOWA MUTUAL INSURANCE COMPANY

Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Iowa Mutual Insurance Company, DeWitt, Iowa, under Sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective this date.

The company was last listed as an acceptable surety on Federal bonds at 42 FR 34074 July 1, 1977.

With respect to any bonds currently in force with Iowa Mutual Insurance Company, bond-approving officers of the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

Dated: May 12, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 78-13762 Filed 5-19-78; 8:45 am]

[4810-22]

Office of the Secretary

AUDIBLE SIGNAL ALARMS FROM JAPAN

Antidumping; Tentative Determination of Sales at Not Less Than Fair Value

AGENCY: United States Treasury Department.

ACTION: Tentative negative determination.

SUMMARY: This notice is to advise the public that no sales of audible signal alarms from Japan to the United States at less than fair value within the meaning of the Antidumping Act, 1921, have been found. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Interested persons are invited to comment on this action not later than 30 days from the effective date of this notice.

EFFECTIVE DATE: May 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Steve Garment, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: Information was received on October 11, 1977, from counsel acting on behalf of the Delta Electric Division of Halle Industries, Inc., Marion, Ind., alleging that audible signal alarms from Japan were being sold in the United States at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of establishment of, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of November 16, 1977 (42 FR 59343).

For purposes of this notice, the term "audible signal alarms" means an electro-mechanical audible signal alarm having a signal of at least 85 decibels at ten feet, and suitable for use as a component of smoke detectors.

TENTATIVE DETERMINATION OF SALES AT NOT LESS THAN FAIR VALUE

On the basis of the information developed in Customs' investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are no reasonable grounds to believe or suspect that the purchase price of audible signal alarms from Japan is less than the fair value of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above tentative determination are as follows:

a. *Scope of the investigation.* It appears that 81 percent of all units of the subject merchandise imported from Japan were manufactured by the Kobishi Electric Co., Ltd. Therefore, the investigation was limited to this manufacturer.

b. *Basis of comparison.* For purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between purchase price and the home market price of similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since 99 percent of all export sales appear to be made to unrelated purchasers in the United States. Home market price, as defined in section 153.2, Customs Regulations (19 CFR 153.2), was used since similar merchandise appears to have been sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with section 153.31(b), Customs regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports of audible signal alarms from Japan during the period July 1, 1977, through November 30, 1977.

c. *Purchase price.* For the purposes of this tentative determination, since virtually all merchandise was purchased, or agreed to be purchased, prior to the time of exportation by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, purchase price has been calculated on the basis of f.o.b. port price to the United States, with deductions for export clearance charges, inland freight and shipping charges, as appropriate.

(d) *Home market price.* For the purposes of this tentative determination, the home market price was calculated on the basis of the weighted-average delivered price to the purchaser, with deductions for inland freight and interest charges. Additions were made for differences in merchandise and differences in packing, as appropriate.

The adjustment for differences in merchandise made pursuant to section 153.11 of the Customs Regulations (19 CFR 153.11) are based on differences in the cost of manufacturing gas buzzer signal alarms and sold in the home market and the smoke detector signal alarms exported to the United States (since the latter are not sold in the home market). Such cost differences relate to direct labor and material costs; since no evidence has been presented with respect to direct factory overhead costs, no adjustments for such costs have been made.

Adjustments for packing expenses relate to the difference in those costs between home market packing and the packing for export models to the United States.

e. *Results of fair value comparisons.* Using the above criteria, purchase price was found to be not less than the home market price of similar merchandise. Comparisons were made on approximately 100 percent of audible signal alarms from Japan sold to the United States by Kobishi during the period of investigation.

In accordance with section 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be submitted to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than June 6, 1978. such requests must be accompanied by a statement outlining the issues wished to be discussed, which issues may be discussed in greater detail in a written brief.

All written views or arguments likewise should be submitted to the Commissioner of Customs in ten copies in time to be received by his office not later than June 21, 1978. All persons submitting views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and respondent are also requested to send to each other all written submissions, including nonconfidential summaries or approximated presentations of all confidential information.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.34(a), Customs Regulations (19 CFR 153.34(a)).

Dated: May 16, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-14126 Filed 5-19-78; 8:45 am]

[4810-40]

[Department Circular, Public Debt Series—No. 12-78]

TREASURY NOTES OF MAY 31, 1980

Series P-1980

MAY 18, 1978.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,390,000 of United States securities, designated Treasury Notes of May 31, 1980, Series P-1980 (CUSIP No. 912827 HT 2). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated May 31, 1978, and will bear interest from that date, payable on a semiannual basis on November 30, 1978, and each subsequent 6 months on May 31 and November 30, until the principal becomes payable. They will mature May 31, 1980, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

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2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 23, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 22, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender alloted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, May 31, 1978, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, May 26, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, May 26, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the fact amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will promptly provided.

PAUL H. TAYLOR,
Acting Fiscal Assistant Secretary.

[FR Doc. 78-14306 Filed 5-18-78; 3:15 pm]

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[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 664]

ASSIGNMENT OF HEARINGS

MAY 17, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. AB 102 (Sub-No. 6), Missouri-Kansas-Texas Railroad Co., abandonment near Parsons and Coffeyville in Labbette and Montgomery Counties, Kans., now being assigned June 26, 1978 (1 week), at Coffeyville, Kans., in a hearing room to be later designated.

No. 36875, *Celanese Chemical Company* v. *The Denver & Rio Grande Western Railroad Company, et al.*, now being assigned pre-hearing conference on June 20, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 128270 (Sub-No. 24), Redlehs Interstate, Inc., now assigned June 12, 1978, at Denver, Colo., is cancelled, application dismissed.

No. MC 10169 (Sub-No. 4), Hatcher Trucking Co., Inc., now assigned June 19, 1978, at Raleigh, N.C., is postponed to September 25, 1978 (1 week), at Raleigh, N.C., in a hearing room to be later designated.

No. MC 107993 (Sub-No. 58), J. J. Willis Trucking Co., is now assigned for hearing June 12, 1978 (3 days), at Denver, Colo., and will be held at OSHA, Room 1718, Prudential Plaza, 1050 17th Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-14143 Filed 5-19-78; 8:45 am]

[7035-01]

[Notice No. 46]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before June 21, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicant's representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularly the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestants believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77545, filed February 13, 1978. Transferee: JAMES G. CREEL, P.O. Box 370, Daisetta, TX 77533. Transferor: E. A. Johnson & Sons, Inc., P.O. Box 550, Daisetta, TX 77533. Applicant's representative: William D. Lynch, Attorney at Law, P.O. Box 912, Austin, TX 78767. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 19922 and, Certificate of Registration No. MC 19922 (Sub-No. 3) issued September 9, 1957 and June 1, 1964 respectively as follows: *Specified commodities* between points in TX. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section. 210a(b).

No. MC-FC-77576, filed March 14, 1978. Transferee: FUGAZY CONTINENTAL CORP. OF NEW JERSEY, INC., 645 Madison Avenue, New York, NY 10022. Transferor: Carey Airport Limousine Service of New Jersey, Inc., Jay Scott MacNeill, Trustee, Successor in Interest, 555 Westfield Avenue, Westfield, NJ 07090. Applicant's representative: Arthur Wagner, Esquire, 600 Madison Avenue, New York, NY 10022. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 142630 issued November 15, 1977, as follows: *Passengers and their baggage, and pets*, in the same vehicle with passengers, with certain restrictions, between John F. Kennedy International Airport, NY and Ramsey, NJ via La Guardia Airport, NY, over specified routes, serving all intermediate points. Transferee presently holds no authority from this Commission. Application for temporary authority under Section 210a(b) was denied by the Motor Carrier Board on April 3, 1978, and such application is pending on applicant's petition for reconsideration.

No. MC-FC-77621, filed April 11, 1978. Transferee: BRADLEY F. MARVIN, d.b.a. MARVIN TRANSFER, Route 1, Hillsdale, WI 54744. Transferor: Willard Balog, d.b.a. Stalker Transfer, 49 South 7th Street, Barron, WI 54812. Applicant's representative: James T. Flescher, Practi-

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tioner, 1745 University Avenue, St. Paul, MN 55104. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 34650, issued July 19, 1961, as follows: *Stock and poultry feed*, from Minneapolis, St. Paul, South St. Paul, and Newport, MN to points in Barron County, WI. *Stone*, from St. Cloud, MN to Barron, WI. *Livestock*, between points in Barron County, WI to McKinley, Lorain, and Johnstown, Polk County; Roosevelt, Burnett County; Barronett, Washburn County, WI, on the one hand, and, on the other, South St. Paul and Newport, MN. *Dairy cattle*, from points in Barron County, WI to points in IL and IA, and from points in St. Louis County, MN to points in Barron County, WI. *Emigrant movables*, between points in Barron County, WI, on the one hand, and, on the other, points in IA and IL. *Farm machinery*, from points in the Minneapolis-St. Paul, MN commercial zone, as defined by the Commission, to points in Barron County, WI. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-14144 Filed 5-19-78; 8 45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 17, 1978.

These applications for long-and-short-haul relief have been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43543, Traffic Executive Association-Eastern Railroads, Agent's E.R. No. 3069, commodity column rates on various commodities, between points in official territory, with certain exceptions, to be published in its tariff E-2009-I, ICC C-1008. Grounds for relief—revised rate structure.

FSA No. 43544, Orient Overseas Container Line, Inc., No. 9, on intermodal rates on general commodities, from ports in the Far East, to rail carriers' terminals at ports on the U.S. Gulf and Pacific Coasts by way of Baltimore, Md., and Charleston, S.C., in its tariff No. 9, ICC No. 9, to become effective June 10, 1978. Grounds for relief—water competition.

FSA No. 43545, Trans-Continental Freight Bureau, Agent's No. 526, on beet or cane sugar, in bags, minimum 80,000 pounds in not more than two trailers, from Crockett and Richmond, Calif., to specified points in Illinois, to be published in its tariff 23-R, ICC 1945. Grounds for relief—rate relationship.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-14145 Filed 5-19-78; 8:45 am]

[7035-01]

[Notice No. 78]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 15, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 40 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 32882 (Sub-No. 93 TA), filed April 27, 1978. Applicant: MITCHELL BROS., TRUCK LINES, 3841 North Columbia Boulevard, P.O. Box 17039, Portland, OR 97217. Applicant's representative: Edward G. Rawle, P.O. Box 17039, 3841 N. Columbia Boulevard, Portland, OR 97217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel plate, shapes, pipe, wire rod and coil*, from Los Angeles County, CA, to Sale Lake County, UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Viking Steel Corp., 12862 Garden Grove Boulevard, Ste., 290, Garden Grove, CA 92643. (2) Balfour Gutherie & Co., Ltd., 555 East Ocena Boulevard, Long Beach, CA 90744. Send protests to: R. V. Dubay District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

No. MC 69397 (Sub-No. 40TA), filed April 7, 1978. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, U.S. Route 13, Pocomoke City, MD 21851. Applicant's representative: Wilmer B. Hill, 666 Eleventh Street NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass tanks and parts and accessories thereof and materials, equipment and supplies* used in the installation of fiberglass tanks, (except commodities in bulk), from the facilities of Beetle/Justin Plastics, Inc., at or near Georgetown, DE, to points in the United States west of MN, IA, MO, AR, and LA (except AK and HI), for 180 days. Supporting shipper(s): Beetle/Justin Plastics, Inc., P.O. Box 511, Georgetown, DE 19947. Send protests to: Hersman District Supervisor, Interstate Commerce Commission, 12th & Constitution Avenue NW., Room 1413, Washington, DC 20423.

No. MC 82079 (Sub-No. 62TA), filed April &, 1978. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue SW., Grand Rapids, MI 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, (execpt commodities in bulk), from facilities of M&M/MARS at or near Chicago, IL, to points in MI in vehicles equipped with mechanical refrigeration, restricted to traffic originating at origin point and destined to destination points, for 180 days. Applicant has also filed an underlying ETA seking up to 90 days of operating authority. Supporting shipper(s): M&M/MARS, Inc., High Street, Hackettstown, NJ 07840. Send protests to: C.R. Flemming District Supervisor, 225 Federal Building, Lansing, MI 48933.

No. MC 94265 (Sub-No. 267TA), filed April 10, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Applicant's representative: Olin C. Cooper, Jr., P.O. Box 035, Windsor, VA 23487. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pizza crust*, from the facilities of Virga Pizza Crust of Virginia, Inc., at or near Portsmouth, VA, to Benton Harbor, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 30 days of operating authority. Supporting shipper(s): Virga's Pizza Crust, Inc., of Virginia, 4005 Victory Boulevard, Portsmouth, VA 23701. Send protests to: Paul D. Collins District Supervisor, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

No. MC 94265 (Sub-No. 268TA), filed April 17, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Applicant's representative: Clyde W. Carver, 5399 Roswell Road NE., Suite 212, Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh, smoked, or processed meats, meat products, and meat byproducts*, from the facilities of Kahn's & Co. at Cincinnati, OH, to Salem, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kahn's & Co., 3241 Spring Grove Avenue, Cincinnati, OH 45225. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502 Federal Building, 400 North Eighth Street, Richmond, VA 23240.

No. MC 95876 (Sub-No. 240TA), filed April 25, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., P.O. Box 1377, 203 Cooper Avenue North, St. Cloud, MN 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from Greenville, MS, to points in CO, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Gypsum Co., 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 96770 (Sub-No. 12TA), filed April 17, 1978. Applicant: FLORIDA TERMINALS & TRUCKING ROAD CO., 1014 East Land Street, Orlando, FL 32809. Applicant's representative: John A. Sutton, P.O. Box 367, Orlando, FL 32802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, heavy and bulky commodities, cement, commodities requiring refrigeration, and household goods as defined by the Commission), having a prior movement in interstate commerce by common, or motor contract carriers, between all points and places within the State of FL south of State Road 50 (running east-west from Brooksville, FL, on the west of Titusville, FL, on the east), over irregular routes, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Robertson Warehouse Co., 2600 Shader Road, Orlando, FL 32804. (2) USF Warehouse, Inc., 7575 Chancellor Drive, Orlando, FL. (3) United Coatings, Inc., 3050 North Rockwell, Chicago, IL 60618. (4) Ames A. McDonough Co., Box 1774, Parkersburg, WV 26101. (5) ABC-Trans National Transport, Inc., 201 11th Avenue, New York, NY 10001. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 103051 (Sub-No. 441TA), filed April 27, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue North, P.O. Box 90408, Nashville, TN 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish solubles* (in bulk, in tank vehicles), from Beaufort, NC, to Fernandina Beach, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): H. J. Baker & Bro., Inc., P.O. Box 12306, Northside Station, Atlanta, GA 30355. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 103993 (Sub-No. 934TA), filed April 27, 1978. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Applicant's representative: James B. Buda, 28651 U.S. 20 West, Elkhart, IN 46515. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Solar temperature conditioning units*, from the plantsite of Champion Home Builders Co., Champion Solar Division at or near York, NE, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Champion Home Builders Co., Champion Solar Division, P.O. Box 503, York, NE 68467. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 106674 (Sub-No. 311TA), filed April 7, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN. 47977. Applicant's representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt, in bags*, from the facilities of Hardy Salt Co., at or near Manistee, MI, to points in IL, IN, OH, and WI, points on and east of U.S. Hwy 169 in IA and the following cities and their commercial zones: Baltimore, MD, Bird-In-Hand and Mifflintown, PA, Lexington and Louisville, KY, and St. Louis, MO, and (2) *salt, in bulk*, in dump vehicles, with or without conveyors, from the above-named facilities to points in IL, IN, and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hardy Salt Co., P.O. Drawer 449, St. Louis, MO 63166. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 106674 (Sub-No. 319TA), filed April 28, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Applicant's representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, roofing and siding and materials* used in the installation and application of such commodities, (except commodities in bulk), from Franklin (Warren County), OH, to Imperial, Herculaneum, O'Fallon and Hawk Point, MO, for 180 days. Supporting shipper(s): Bird & Son, Inc., Washington Street, East Walpole, MA 02032. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 110380 (Sub-No. 9TA), filed April 27, 1978. Applicant: BERSCHENS OF MADISON, INC., 120 West Verona Avenue, P.O. Box 187, Verona, WI 53593. Applicant's representative: Rolfe E. Hanson, 121 West Doty, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, conduit, and materials, supplies and tools*, (except commodities in bulk), used in the installation of plastic pipe and conduit, from Janesville, WI, to points in IL, IN, IA, MI, MN, MO and OH, for 180 days. Applicant has also filed an

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underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Freedom Plastics, Inc., P.O. Box 1488, Janesville, WI 53545. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 111045 (Sub-No. 151TA), filed April 26, 1978. Applicant: REDWING CARRIERS, INC., 7809 Palm River Road, P.O. Box 426, Tampa, FL 33601. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, (in bulk, in tank vehicles), from Stilesboro and Smyrna, GA, to points in AL, LA, and MS, and from Macon, GA, to points in AL, for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): Amax Resources Recovery Systems, Inc., 350 Prado East-5600 Roswell Road NE., Atlanta, GA. 30342. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW. 53rd Terrace, Miami, FL 33166.

No. MC 112223 (Sub-No. 112TA), filed April 28, 1978. Applicant: QUICKIE TRANSPORT CO., 1700 New Brighton Boulevard NE., Minneapolis, MN 55413. Applicant's representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Castings*, from Berlin and Waupaca, WI, to Fridley, MN, for 180 days. Supporting shipper(s): Onan Corp., 1400-73rd Avenue NE., Minneapolis, MN 55432. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 112989 (Sub-No. 62TA), filed April 5, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99, South, Eugene, OR 97405. Applicant's representative: John W. White, Jr., 85647 Highway 99, South, Eugene, OR 97405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings, and accessories*, (1) from Turner, OR, to points in AZ, CO, ID, MT, NV, NM, OR, TX, UT, WA and WY; and (2) from Turner, OR, to the International Boundary line between the United States and Canada, located at or near Blaine, WA, for 180 days. Supporting shipper(s): American Brass & Iron Foundry, 7825 San Leandro Street, Oakland, CA 94621. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 SW. Yamhill Street, Portland, OR.

No. MC 113822 (Sub-No. 7TA), filed April 7, 1978. Applicant: DALGARNO TRANSPORTATION, INC., P.O. Box 340, 4200 West Yellowstone, Casper, WY 82602. Applicant's representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and byproducts, and *machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, between points in WY, UT and Caribou, Bear Lake, Bonneville, Teton, Fremont and Madison Counties, ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (8) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies which may be examined at the field office named below. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

No. MC 113908 (Sub-No. 440TA), filed April 27, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar and vinegar stock*, (other than wine vinegar and wine products), in bulk, from Manitowoc, WI, to Los Angeles, Orange, Riverside, San Bernadino, San Francisco, and San Mateo, CA, for 180 days. Supporting shipper(s): American Industries Corp., San Francisco, CA. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 114457 (Sub-No. 388TA), filed May 4, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and plastic products*, from Shelbyville, IL, to points in the states of IA, MN, NE, ND and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Continental Group, Inc., 800 East Northwest Highway, Palatine, IL 60067. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 114569 (Sub-No. 220TA), filed April 7, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 416, New Kingstown, PA 17072. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, PA 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, from the facilities of United Packing Co., Pepper Packing Co., and Peppertree Beef Co., at Denver, CO, to points in the states of NY, NJ, PA, MD, CT, and NH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Pepper Packing Co., and Peppertree Beef Co., 901 East 46th Avenue, Denver, CO 80216. (2) United Packing Co., 5000 Clarkson, Denver, CO 80216. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

No. MC 117147 (Sub-No. 9TA), filed April 7, 1978. Applicant: STARR'S TRANSPORTATION, INC., Upper Main Street, North Troy, VT 05859. Applicant's representative: Mary E. Kelley, 11 Riverside Avenue, Medford, MA 02155. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pulpboard and corrugated containers*, from Northampton, MA, to points in ME, NH, VT, NY, RI, CT, and NJ, and (2) *materials and supplies* used in the manufacture, processing, sale, and distribution of pulpboard and corrugated containers, from points in ME, NH, VT, RI, CT, NY and NJ, to Northampton, MA, under a continuing contract or contracts with Packaging Corp. of America, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Packaging Corp. of America, 1603 Orrington Avenue, Evanston, IL 60204. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, 87 State Street, P.O. Box 548, Montpelier, VT 05602.

No. MC 117439 (Sub-No. 58TA), filed April 26, 1978. Applicant: BULK TRANSPORT, INC., 5500 Florida Blvd., P.O. Box 1429, Baton Rouge, LA 70821. Applicant's representative: Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud* (in bulk and in bags), between points in AR on the one hand and, on the other, points in LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): N. L. Industries, Inc., P.O. Box 1675, Houston, TX 77001. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

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No. MC 119765 (Sub-No. 51TA), filed May 5, 1978. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, P.O. Box 7356, South Omaha Station, Omaha, NE 68107. Applicant's representative: Arlyn L. Westergren, 7171 Mercy Road, Suite 610, Omaha, Ne 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Norfolk Iron and Metal Co. located at or near Norfolk, NE, to points in IL, IN, IA, KS, MN, MO, MT, OK, SD, TX, UT, WI, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dan D. Coulter, Traffic Manager, Norfolk Iown and Metal Company, 300 Braasch Avenue, Norfolk, NE 68701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 119917 (Sub-No. 48TA), filed April 27, 1978. Applicant: DUDLEY TRUCKING CO., INC., 724 Memorial Drive SE., Atlanta, GA 30316. Applicant's representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, between the facilities of Midland Glass Co. at or near Cliffwood, NJ on the one hand and, on the other, Williamsburg, VA, and points within its commercial zone and the facilities of Midland Glass Co. at or near Newport News and Suffolk, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: E. A. Bryant, District Supervisor, Interstate Commerce Commission, Room 300, 1252 W. Peachtree Street NW., Atlanta, GA 30309.

No. MC 121006 (Sub-No. 3TA), filed May 5, 1978. Applicant: GADSDEN TRUCK LINE, INC., 1708 Mt. Zion Avenue, Gadsden, AL 35901. Applicant's representative: H. B. Holloway, Jr., 1708 Mt. Zion Avenue, Gadsden, AL 35901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from the facilities of Republic Steel Corp. and Hanna Steel Corp. at Gadsden, AL, to points in GA and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Republic Steel Corp., Alabama City Station, Alabama City, AL 35901. Send protests to: Mabel E. Holston, Transportation Assistant, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 121420 (Sub-No. 11TA), filed April 10, 1978. Applicant: DART TRUCKING CO., INC., P.O. Box 158, 61 Railroad Street, Canfield, OH 44406. Applicant's representative: Beery & Spurlock Co., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural limestone* in bulk, in dump vehicles), from the facilities of Basic, Inc. located at or near Maple Grove, OH, to points in Chautauqua and Allegheny Counties, NY, points in PA, on and west of U.S. Hwy 15; and those points in WV, which are on and north of U.S. Hwy 60 and on and west of U.S. Hwy 219, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Basic, Inc., 845 Hanna Building, Cleveland, OH 44115. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 121718 (Sub-No. 1TA), filed May 4, 1978. Applicant: MURPHY BONDED WAREHOUSE, INC., 4002 Mansfield Road, P.O. Box 3722, Shreveport, LA 71103. Applicant's representative: Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Washing machines, dryers, dish washers, waste food disposals, and parts thereof*, in truck load shipments for account of the Maytag, Co., having a prior movement by rail in trailer-on-flat-car service, from the railroad to FC facilities located at Shreveport, LA, to points in AR, LA, and TX, within a radius of 125 airline miles of Shreveport, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Maytag Co., 403 W. Fourth Street, N. Newton, IA 50208. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 124078 (Sub-No. 801TA), filed April 27, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bags, from Milwaukee, WI, to points in MN, for 180 days. Supporting shipper(s): National Gypsum Co., Cement Division, 17515 W. Nine Mile Road, Southfield, MI 48075. (E. J. Lubeck) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Wilwaukee, WI 53202.

No. MC 124078 (Sub-No. 802TA), filed April 27, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc* (in bulk, in tank vehicles), from Chatsworth, GA to Houston, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Koppers Co., Inc., 850 Koppers Bldg., Pittsburgh, PA 15219. (Clinton E. Appleby) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 128409 (Sub-No. 4TA), filed April 25, 1978. Applicant: HAROLD A. MILLER, P.O. Box 623, Moorhead, MN 56560. Applicant's representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sugar* (in bulk, in tank vehicles), from the facilities of American Crystal Sugar Co. at or near Renville and Moorhead, MN, to Milwaukee, WI, and points within its commercial zone, restricted to traffic originating at the facilities of American Crystal Sugar Co., under a continuing contract or contracts with American Crystal Sugar Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Crystal Sugar Co., 101 North 3rd Street, Moor-

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head, MN 56560. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

No. MC 128648 (Sub-No. 11TA), filed April 25, 1978. Applicant: TRANSUNITED, INC., 6750 West Chekema Drive, Box 44, Palos Heights, IL 60463. Applicant's representative: Joseph Winter, 33 North La Salle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used in the manufacture of insulated glass (except commodities in bulk), from the facilities of Allmetal Weatherstrip Co. at Bensenville, IL, to Sparks, NV and Irving, TX, under a continuing contract or contracts with Allmetal Weatherstrip Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allmetal Weatherstrip Co., Paul W. Collin, President, 636 Thomas Drive, Bensenville, IL 60106. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 133233 (Sub-No. 60TA), filed April 27, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum powder* (except in bulk), *aluminum billets, blooms, ingots, pigs and slabs, and aluminum rod*, from Milam County, TX, to Logans Ferry, Glassport, and Robesonia, PA; Berea and Solon, OH; New Johnsonville, TN; Shelbyville, IN; and Hendersonville, NC, under a continuing contract or contracts with Aluminum Co. of America, for 180 days. Supporting shipper(s): James W. Lyle, Supervisor, Rate Research, Aluminum Co. of America, 1501 Alcoa Building, Pittsburgh, PA 15219. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 133566 (Sub-No. 109TA), filed April 7, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Applicant's representative: Charles W. Beinhauer, One World Trade Center, Suite 4959, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, and agricultural commodities* otherwise exempt from economic regulation under section 203(b)(6) of the act, from Albany, NY, Port of New York, NY, and NJ, and Baltimore, MD, to KY, OH, IN, IL, MN, WI, IA and MO, for 180 days. Supporting shipper(s): Chiquita Brands, Inc., 95 Chestnut Ridge Road, Montvale, NJ 07645. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne St., Suite 113, Fort Wayne, IN 46802.

No. MC 133566 (Sub-No. 115TA), filed April 27, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Applicant's representative: Charles W. Beinhauer, One World Trade Center, Suite 4959, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of Continental Freezers at or near Chicago, IL, to points in KY, IN, MI, OH, PA, NY, and WI, restricted to traffic originating at the above named plantsite and destined to the named destination states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Continental Freezers, 4220 South Kildare Blvd., Chicago, IL 60632. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 134820 (Sub-No. 7TA), filed May 5, 1978. Applicant: R. S. ALBRIGHT, INC., 2212—1st Avenue South, Seattle, WA 98134. Applicant's representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, from the facilities of Consolidated Paper, Inc., at Wisconsin Rapids, WI, to the facilities of Allied Paper Co., at Tacoma, WA; Paper Mills Agency at Portland, OR, and Alaska Paper Co., Inc., at Anchorage, AK; under a continuing contract, or contracts, with West Coast Paper Co., of Seattle, WA, for 180 days. Supporting shipper(s): West Coast Paper Co., 2203—1st Avenue, South Seattle, WA 98134. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

No. MC 135197 (Sub-No. 13TA), filed April 27, 1978. Applicant: LEESER TRANSPORTATION, INC., Route 3, Palmyra, MO 63461. Applicant's representative: Herman W. Huber, 101 East High Street, Jefferson City, MO 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from Randolph County, MO, to points in IL, IA, and KS, for 180 days. Supporting shipper(s): NEMO Coal Co., P.O. Box 633, Moberly, MO 65270. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 135684 (Sub-No. 79TA), filed April 27, 1978. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Applicant's representative: Ronald L. Knorowski, P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resin* (except in bulk), from the facilities utilized by Tenneco Chemicals, Inc., at or near Bellmawr and Trenton, NJ, to the facilities of Armstrong Cork Co., at or near Lancaster, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Tenneco Chemicals, Inc., P.O. Box 367, Piscataway, NJ 08854. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 138274 (Sub-No. 46TA), filed April 13, 1978. Applicant: PAYNE MOTOR LINES, INC., 251 West Commercial, P.O. Box 1937, Elko, NV 89801. Applicant's representative: D. Michael Jorgensen, P.O. Box 2465, Salt Lake City, UT 84110.Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and feed ingredients, supplements, additives, materials, and supplies* used in the manufacture and promotion of animal feeds, from the plantsites of Kal Kan Foods, Inc., at or near Columbus, OH, to points in PA, NY and NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kal Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 138627 (Sub-No. 33TA), filed April 21, 1978. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Route 4, Fort Dodge, IA 50501. Applicant's representative: Russell J. Hilken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Jones & Laughlin Steel Corp., at or near Putnam County, IL, to Kansas City, KS, and Kansas City, MO, and their commercial zones and points in NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jones & Laughlin Steel Corp., Hennepin, IL 61327. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 139482 (Sub-No. 54TA), filed April 26, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in packages or blocks, from Manistee and Port Huron, MI, Rittman, OH, and Huthinson, KS, to Belmont, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pelton Belmont Warehouse Co., Belmont, WI 53510. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 139577 (Sub-No. 20TA), filed April 13, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, 204 East Winnebago Street, Friesland, WI 53935. Applicant's representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, container ends, container accessories, and materials and supplies* used in the manufacture, sale, and distribution of the aforementioned commodities, from Friesland and Baraboo, WI, to Auburn, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Libby, McNeill & Libby, Inc., Baraboo, WI 53813. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 140633 (Sub-No. 1TA), filed March 27, 1978. Applicant: CAPITAL PARCEL DELIVERY CO., P.O. Box 161115, 1831 I Street, Sacramento, CA 95816. Applicant's representative: Thomas M. Loughran or Jonathan M. Lindeke, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* such as are dealt in by department stores and mail order houses (except commodities in bulk or requiring the use of special equipment), between the facilities of Sears, Roebuck & Co., at Sacramento, CA, and (1) Redding, Santa Rosa, Sacramento, Yuba City, Stockton, and Modesto, CA, and (2) Reno, NV, restricted to service to be performed under a continuing contract, or contracts, with Sears, Roebuck & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sears, Roebuck & Co., 900 South Fremont Avenue, Alhambra, CA 91803. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main Street, Suite 500, San Francisco, CA 94105.

No. MC 142288 (Sub-No. 3TA), filed April 25, 1978. Applicant: HAMILTON TRUCKING CO., OF OKLAHOMA, INC., 12612 East Admiral Place, Tulsa, OK 74115. Applicant's representative: Gary Brasel, M102 Beacon Building, Tulsa, OK 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed limestone*, (in bulk, in dump vehicles), from the plantsite of Carthage Crushed Limestone & Independent Gravel Co. at Carthage, MO, to plantsite of Liberty Glass Plant at Sapulpa, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Liberty Glass Co., P.O. Box 520, Sapulpa, OK 74066. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest 3d, Oklahoma City, OK 73102.

No. MC 142672 (Sub-No. 19TA), filed April 6, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric motors, grinders, buffers, dental lathes, dust collectors and pedestals and parts, accessories, and attachments thereof and materials, equipment, and supplies* used in the manufacture and distribution thereof (except commodities in bulk), from Fort Smith, AR, to points in AZ, CA, CO, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, and WY, restricted to the transportation of traffic originating at the plantsite and facilities of Baldor Electric Co., at or near Fort Smith, AR, for 180 days. Supporting shipper(s): Baldor Electric Co., 5711 South Seventh Street, Fort Smith, AR 72901. Send protest to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 142668 (Sub-No. 10TA), filed April 27, 1978. Applicant: AERO DISTRIBUTING CO., INC., 4818 Fulton Industrial Boulevard, Atlanta, GA 30336. Applicant's representative: Kim G. Meyer, P.O. Box 872, 235 Peachtree Street NW., Atlanta, GA 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products dealers for the account of Fuller Brush Co., from Memphis, TN, to points in AL, under a continuing contract, or contracts, with the Fuller Brush Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Fuller Brush Co., P.O. Box 729, Great Bend, KS 67530. Send protests to: E. A. Bryant, District Supervisor, Interstate Commerce Commission, Room 300, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 143540 (Sub-No. 2TA), filed April 27, 1978. Applicant: MARINE TRANSPORT CO., 1901 Carolina Branch Road, Wilmington, NC 28401. Applicant's representative: Robert McGeorge, 1054 31st Street NW., Washington, DC 20007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles, including wood pulp, fiberboard, and pulpboard*, between the facilities of Federal Paper Board Co., Inc., in Riegelwood, NC, on the one hand, and, on the other, port facilities at Newport News and Norfolk, VA, Charleston, SC, Savannah, GA, Wilmington and Morehead City, NC, under a continuing contract, or contracts, with Federal Paper Board Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Federal Paper Board Co., Inc., Riegelwood, NC 28456. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 143651 (Sub-No. 5TA), filed March 17, 1978. Applicant: BLACKHAWK EXPRESS, INC., Lake View, LA 51450. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, from Le Mars, IA, to AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Richard Ernst, Traffic Manager, Dubuque Packing Co., of Le Mars, P.O. Box 340 Le Mars,

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IA 51031. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 143963 (Sub-No. 1TA), filed April 27, 1978. Applicant: P. J. LOMBARDI TRUCKING, INC., 1308 71st Street, Brooklyn, NY 11228. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical conduit fasteners and fittings and materials, supplies, and equipment* used in the manufacture thereof, between points on the International boundary between Canada and the United States in NY and MI, Tampa, FL, East Braintree, MA, Atlanta, GA, New York, NY, and their respective commercial zones, under a continuing contract, or contracts, with Gould, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gould, Inc., 123 Smith Street, East Farmingdale, NY 11735. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 144117 (Sub-No. 11TA), filed April 26, 1978. Applicant: TLC LINES, INC., P.O. Box 1090, 1666 Fabick Drive, Fenton, MO 63026. Applicant's representative: Daniel C. Sullivan, 10 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paperboard or paperboard, not corrugated, in packages*, from the facilities of the Scott Paper Co., Inc., Beveridge Division, Indianapolis, IN, to points in NM, CO, WY, MO, ID, UT, AR, NV, OR, WA, and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Scott Paper Co., Beveridge Division, 717 West Washington Street, Indianapolis, IN. Send protests to: Peter E. Binder, Acting District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 144323TA, filed February 16, 1978, and published in the FEDERAL REGISTER issue of March 29, 1978, and republished as corrected this issue. Applicant: RICHARD P. CHARAPATA, d.b.a., CHARAPATA TRUCKING, North 30 West 26466, Peterson Drive, Pewaukee, WI 53072. Applicant's representative: Wm. C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Polyethylene film and sheeting*, from Clifton, NJ, to points in IL, IN, WI, and Buffalo, Elmira, Rochester, and Victor, NY, and Cleveland, Sandusky, and Toledo, OH, under a continuing contract, or contracts, with Andmar Plastic Co., Inc., for 180 days. Supporting shipper(s): Andmar Plastic Co., Inc., Hwy 45 and Trenton Avenue, Clifton, NJ 07015 (Howard C. Walsh). Send protests to: Gail Daugherty, Transportation Assitant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202. The purpose of this republication is to show the origin point as Clifton, NJ, in lieu of Clinton, NJ.

No. MC 144458 (Sub-No. 2TA), filed April 27, 1978. Applicant: DAVID E. OWEN, 147 Pullen Boulevard, Centralia, IL 62801. Applicant's representative: Douglas G. Brown, The INB Center, Suite 555, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refrigerated or frozen, fresh or processed meats, and meat products, poultry, and fish*, from points in IL, KY, and TN, on the one hand, to stores and warehouses owned, operated, leased, or designated by Big John Super Stores, Inc., in IL, KY, and TN, on the other hand, under a continuing contract, or contracts, with Big John Super Stores, Inc., for 180 days. Supporting shipper(s): Donald L. Green, Meat Supervisor and Buyer, Big John Super Stores, Inc., P.O. Box 385, Carmi, IL 62621. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 144600TA), filed April 12, 1978. Applicant: RAMCO TRANSPORTATION, INC., P.O. Box 175, 1875 South River Road, West Sacramento, CA 95691. Applicant's representative: Edward J. Hegarty or Jonathan M. Lindeke, Loughran & Hegarty, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum oil and greases* (except in bulk, in tank trucks, but including return of empty drums) between Richmond, CA, and points and places in the States of OR and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Witco Chemical Co., Golden Bear Division, 10100 Santa Monica Boulevard, Suite 1470, Los Angeles, CA 90067. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main Street, Suite 500, San Francisco, CA 94105.

No. MC 144630TA), filed April 27, 1978. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46015. Applicant's representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and plastic containers and closures therefor, and accessories and books* used in the home canning industry, in mixed loads with the items named above, from the facilities of Ball Corp., at Muncie, IN, to points in CA, CO, MT, OR, UT, and WA, for 180 days. Supportings shipper(s): Ball Corp., 345 South High Street, Muncie, IN 47302. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 144681 (Sub-No. 2TA), filed April 20, 1978. Applicant: WINTZ MOTOR FREIGHT, INC., 656 Pelham Boulevard, St. Paul, MN 55114. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard corrugated products*, from Lakeville, MN, to points in IA, SD, and WI, under a continuing contract, or contracts, with the Menasha Corp., Neenah, WI, for 180 days. Supporting shipper(s): Menasha Corp., P.O. Box 367, Neenah, WI. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 144682 TA, filed April 27, 1978. Applicant: R. R. STANLEY, Box 95, Mesquite, TX 75149. Applicant's representative: Richard T. Churchill, 5001 South Hulen, Suite 106, Fort Worth, TX 76132. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods, NOI; prepared dough, not frozen; cakes, cookies, rolls, frozen; icing paste*, from the plantsite of the Pillsbury Co., 3400 Texoma Drive, Denison, TX, to Rapid City, SD, and points in WY and MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Pillsbury Co., 3400 Texoma Drive, Denison, TX. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

No. MC 144682 (Sub-No. 1TA), filed April 27, 1978. Applicant: R. R. STANLEY, Box 95, Mesquite, TX 75149. Applicant's representative: Richard T. Churchill, 5001 South Hulen, Suite 106, Fort Worth, TX 76132. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods, NOI; prepared dough, not frozen; cakes, cookies, rolls, frozen; icing paste*, from the plantsite of the Pillsbury Co., 3400 Texoma Drive, Denison, TX, to Salt Lake City, UT; Pocatello and Boise, ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Pillsbury Co., 3400 Texoma Drive, Denison, TX 75020. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

PASSENGER CARRIER

No. MC 144164 (Sub-No. 1TA), filed April 10, 1978. Applicant: DONALD R. SPRAY, d.b.a., Elk River Lines, 302 South Atlantic Street, Tullahoma, TN 37388. Applicant's representative: Rick L. Moore, 300 North Jackson Street, Tullahoma, TN 37388. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, between Tullahoma, TN, and Hollywood, AL, serving all intermediate points: From Tullahoma over State Hwy 55 to Manchester, then over Interstate 24 to South Pittsburgh, then over State Hwy 72 to Hollywood, AL, and return over the same route, for 180 days. Supporting shipper(s): There are approximately 16 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-14146 Filed 5-19-78; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD.

Notice of addition of items to the May 12, 1978, meeting agenda; M-128, Amdt. 2, May 10, 1978.

TIME AND DATE: 10 a.m., May 12, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 12a. Docket 29000, Lake Tahoe Service Investigation, (BPDA, Memo No. 7956). 14a. Docket 29034, Alaska Subsidy Mail Rates, (BPDA, Memo No. 5755-G).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: A public target date of May 12, 1978, has been set for consideration of Docket 29000, Lake Tahoe Service Investigation. This item was inadvertently excluded from Friday's Board meeting agenda.

Alaska Airlines, Inc., Docket 29034, has been on an open rate since March 23, 1976. Although the carrier has reported substantial profits throughout the open-rate period, the carrier has been receiving temporary subsidy pay at an annual level of approximately $2,154,194. In light of the Board's continuing responsibility to guard against overpayment of subsidy pending the establishment of final rates, the staff recommends that the Board promptly propose to establish a reduced temporary subsidy rate of zero annually for Alaska effective as of January 1, 1978. Accordingly, the following Members have voted that agency business requires the addition of these items to the May 12, 1978 meeting agenda and that no earlier announcement of these additions was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1069-78 Filed 5-18-78; 10:55 am]

[6320-01]

2

[M-128, Amdt. 4, May 11, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items to the May 12, 1978, meeting agenda.

TIME AND DATE: 10 a.m., May 12, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 12. Docket 32075, Eastern's Motion for Hearing on Albany, N.Y./Newark (Memo No. 7817-A, BPDA). 20. Consumer Abuses by Tour Operators—Proposed Interpretive Letter (Memo No. 7497-A, BOE, BPDA, OEA, OCA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: In response to a recent petition for a show-cause order, the staff is in the process of revising its earlier recommendation on Eastern's application for Albany, N.Y. nonstop authority, Docket 32075.

In order to provide the staff with sufficient time to do additional work, Item 20, Consumer Abuses by Tour Operators—Proposed Interpretive Letter should be deleted from the calendar. Accordingly, the following Members have voted that agency business requires the deletion of Items 12 and 20 from the May 12, 1978 calendar and that no earlier announcement of these deletions was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1062-78 Filed 5-18-78; 10:11 am]

[6320-01]

3

[M-128, Amdt. 5, May 12, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the May 12, 1978 meeting agenda.

TIME AND DATE: 10 a.m., May 12, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 14a. Docket 29034, Alaska Subsidy Mail Rates (BPDA, Memo No. 5755-G).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Due to informal negotiations continuing with the carrier Item 14a has been deleted from the May 12, 1978 meeting agenda and will be rescheduled in two weeks. Accordingly, the following Board Members have voted that agency business requires Item 14a be deleted from the May 12, 1978 agenda and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1063-78 Filed 5-18-78; 10:11 am]

[6320-01]

4

[M-128, Amdt. 6, May 12, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the May 12, 1978 meeting agenda.

TIME AND DATE: 10 a.m., May 12, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 5. Docket 31957, Part 221, Rulemaking requested by TWA for modification of advance filing period for property tariffs (Memo No. 7844-A, OGC). 21. Petition of National Airlines, Inc. for review of Staff Action denying National's request for Special Tariff Permission to meet competitive fares of Western (Memo No. 7893, Chairman's Memo dated April 17, and Member Bailey's memo dated April 28, BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Due to a lack of sufficient time in which to review related memoranda dealing with Items 5 and 21, these items were deleted from the May 12, 1978, meeting agenda and have been rescheduled for the May 19, 1978, meeting. Accordingly, the following Board Members have voted that agency business requires Items 5 and 21 be deleted from the May 12, 1978, agenda and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1064-78 Filed 5-18-78; 10:11 am]

[6320-01]

5

[M-129, May 10, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., May 17, 18, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral Argument—Docket 28848; *Improved Authority to Wichita Case,* Docket 29445; *Las Vegas-Dallas/Fort Worth Nonstop Service Investigation,* Docket 29186; *Memphis-Twin Cities/Milwaukee Case,* Docket 28115; *Midwest-Atlanta Nonstop Service Investigation,* Docket 21162; *Ohio/Indiana Points Nonstop Service Investigation,* and Docket 28800; *Phoenix-Des Moines/Milwaukee Route Proceeding.*

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-1065-78 Filed 5-18-78; 10:11 am]

[6320-01]

6

[M-130, May 12, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., May 19, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 32321, Southern Airways, Inc., Proposed settlement of Enforcement Proceeding (Memo No. 7951, BOE).
3. Amendment of Part 399, a policy statement announcing the routine public release of certain internal staff memoranda discussed at open Board meetings (OGC).
4. Part 208—Proposed rule to revoke § 208.30 which requires supplemental air carriers to include the words "supplemental air carrier" in their advertisements and conduct business in the name authorized by the Board; (Memo No. 7954, OGC, BPDA).
5. Docket 31957—Part 221, Rulemaking requested by TWA for modification of advance filing period for property tariffs (Memo No. 7844-A, OGC).
6. Docket 28780, Revised Order—Petition of Trans World Airlines, Inc., for reconsideration of Order 76-1-2, Blanket waiver to U.S. and Swiss carriers authorizing the performance of Swiss-originating charters pursuant to Swiss rules in accordance with the understanding of November 24, 1975 (Memo No. 5797-C, OGC).
7. Docket 30565, Deutsches Reiseburo GmbH (Germany), Application for Foreign Indirect Air Carrier Permit (OGC, BPDA, BIA).
8. Docket 32115, Boise-Denver Nonstop Proceeding Petitions for Reconsideration (OGC, Memo No. 7608-B).
9. Docket 32152 et al., Las Vegas-Houston Competitive Service Investigation (OGC).
10. Docket 31212, Baltimore-Detroit Nonstop Service Case, (OGC).
11. Docket 25352, Japan Air Lines, Emergency authorization to carry Europe-Japan, via Alaska, passengers on flights between Alaska and Japan, required by reason of diversion of aircraft to accommodate Northwest strike passengers (Memo No. 5028-B, BPDA).
12. New low fares between Chicago Midway Airport, on the one hand, and Minneapolis/St. Paul, Detroit, and Cleveland on the other hand, proposed by Northwest (Memo No. 7961, BPDA).
13. Docket 27918, North Atlantic Fares Investigation, (Memo No. 5317-G, BPDA).
14. Petition of National Airlines, Inc., for review of Staff Action denying National's request for Special Tariff Permission to meet competitive fares of Western (Memo No. 7893, BPDA).
15. Docket 32524, application for exemption from its tariff requested by Midwest Air Charter (BPDA).
16. New low fares proposed by Northwest (BPDA).
17. Docket 32432, petition by United for reconsideration of Order 78-4-83, which suspended charter rate increases proposed by Southern (BPDA).
18. Docket 31129, Commuter Airlines application for large aircraft exemption (BPDA).
19. Several dockets—Applications by supplemental air carriers for grandfather all-cargo certificates under section 418 (BPDA).
20. Docket 32601, blackout dates proposed by United (BPDA).
21. Docket 31185, Airwest's Subpart M Application for Authority to Provide Reno-Los Angeles/Spokane Nonstop Service (Memo No. 7329-A, BPDA, OGC).
22. Docket 30132, Northwest's Motion for Issuance of an Order To Show Cause Why The Existing Single-Plane Restriction In Its Milwaukee-California Markets Should Not Be Removed (Memo No. 7388-A, BPDA).
23. Docket 31790, petition for reconsideration of Order 78-2-11 (Memo No. 7742-A, BPDA, OGC).
24. Dockets 29706, 31216 and 31956—Motion of Allegheny for immediate hearing on its application for Philadelphia-Bermuda nonstop authority and motion of Eastern to dispense with a hearing (Memo No. 7541-A, BPDA, BIA).
25. Docket 28366, Alaska Airlines' Motion For Hearing On Alaska/Seattle-Denver (Memo No. 7953, BPDA).
26. Dockets 30233, 30339, 32151, and 32145, Subpart N Application of Northwest for Nonstop Seattle-Atlanta Authority, Motions to Consolidate of Braniff and United, and Motion to Consolidate and Expand by Eastern (Memo No. 7711-A, BPDA).
27. Dockets 31680, 31699, 29764, 31757, 29108, 31147, 28273, 28366, 32282, 30233, Currently Queued Route Cases, Status of Procedures; Termination of Rulemaking (Memo No. 5971-K, BPDA).

Included Memos: 7808, 7879, 7887, 7657-A, others in process.

Closed: 28. IATA Traffic Conference Resolution previously approved by the Board (Memo No. 7959, BPDA, OGC, OEA, BIA).

STATUS: Items 1 through 27—Open. Item 28—Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This item involves consideration of continued Board approval of IATA traffic conference resolutions it has previously approved. In order for the Board to discuss fully the issues in this matter, it will be necessary for it and its staff to exchange opinions, analyses, recommendations and views regarding the attitudes and likely actions of foreign governments and IATA itself. The Board is involved in ongoing formal and informal negotiations with many of these governments. Premature disclosure of the opinions and recommendations of the Board and its staff it likely to significantly frustrate the ability of the U.S. delegations to achieve agreements in the national interest.

Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552(b)(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting will be closed:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member, Lee R. West; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.

Assistants to Board Members.—Mr. Mike Roach, Mr. James Casey, Mr. John Golden, Mr. Elias Rodriquez, Mr. Ford Cole, and Mr. David Kirstein.

Office of the Managing Director.—Mr. Dennis Rapp and Mr. John Hancock.

Bureau of Pricing and Domestic Aviation.—Mr. Michael Levine, Mr. Norman D. Schwartz, and Mr. S. A. Kandarian.

V 43 99

Office of the General Counsel.—Mr. Philip Bakes, Mr. Gary Edles, Mr. Peter Schwarzkopf, and Mr. Michael Schopf.
Bureau of International Aviation.—Mr. Donald Farmer, Mr. Donald Litton, Mr. Joseph Chesen, Mr. Tony Largay, Ms. Mary Pett, and Mr. Ivy Mellops.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.
Reporter.—North American Reporting.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552(b)(c)(B) and 14 CFR 310b.5(9)(B).

PHILIP J. BAKES, Jr.,
General Counsel.

[S-1066-78 Filed 5-18-78; 10:11 am]

[6320-01]

7

[M-131, May 17, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., May 24, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral argument—Dockets 30591 and 30587, Colonial Airlines, Inc.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-1067-78 Filed 5-18-78; 10:11 am]

[6320-01]

8

[M-128, Amdt. 3, May 11, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the May 12, 1978 agenda.

TIME AND DATE: 10 a.m., May 12, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 4. Docket 30452, UATP Agreement. 17. Evergreen International Airlines, Inc., and McCulloch International Airlines, Inc.—Petition for review of staff action denying a request for refund of filing fees for "gambling" charter waivers (Memo No. 7001-B, BPDA, OMD, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff could not complete coordination in time to have Item 4 ready for the May 12 meeting. The staff requested that Item 17 be deleted from the May 12 agenda in order to permit OGC to review the memorandum more thoroughly and make any necessary revisions. Accordingly, the following Members have voted that agency business requires the deletion of items 4 and 17 and that no earlier announcement of these deletions was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1061-78 Filed 5-18-78; 10:11 am]

[1410-01]

9

COPYRIGHT ROYALTY TRIBUNAL.

TIME AND DATE: 10 a.m., Wednesday, May 31, 1978.

PLACE: Room 450, 1111 20th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed rule for the filing of claims to cable royalty fees. The Tribunal proposed the rule on May 5, 1978 (43 FR 19423).

2. Consideration of terms and rates of royalty payments for the use of certain works in conection with non-commercial broadcasting.

CONTACT PERSON FOR MORE INFORMATION:

Thomas C. Brennan, Chairman, Copyright Royalty Tribunal, 202-653-5175.

THOMAS C. BRENNAN,
Chairman.

[S-1059-78 Filed 5-18-78; 10:11 am]

[1410-01]

10

COPYRIGHT ROYALTY TRIBUNAL.

TIME AND DATE: 10 a.m., Tuesday June 6, 1978.

PLACE: Room 450, 1111 20th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of terms and rates of royalty payments for the use of certain works in conection with non-commercial broadcasting.

CONTACT PERSON FOR MORE INFORMATION:

Thomas C. Brennan, Chairman, Copyright Royalty Tribunal, 202-653-5175.

THOMAS C. BRENNAN,
Chairman.

[S-1060-78 Filed 5-18-78; 10:11 am]

[6570-06]

11

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1030-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 11 a.m. (eastern time), Friday, May 19, 1978.

CHANGE IN THE MEETING: The following item is added to the portion open to the public:

Statistical report on field office charge processing. A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; and Ethel Bent Walsh, Commissioner.
Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive officer, Executive Secretariat, at 202-634-6748.

This notice issued May 17, 1978.

[S-1070-78 Filed 5-18-78; 3:45 pm]

[6740-02]

12

MAY 17, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., May 24, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

POWER AGENDA—121ST MEETING, MAY 24, 1978, REGULAR MEETING (10 A.M.)

I. ELECTRIC RATE MATTERS

ER-1.—Docket Nos. ER78-292, ER78-313 and ER78-335, New England Power Pool.
ER-2.—Docket No. ER78-311 and ER77-511, New York Power Pool.
ER-3(A).—Docket No. ER78-339, Public Service Co. of New Hampshire.
ER-(B).—Docket No. EL78-15, Public Service Co. of New Hampshire.
ER-4.—Docket No. ER77-531, Illinois Power Co.
ER-5.—Docket No. ER77-277, Pennsylvania Power Co.
ER-6.—Docket No. E-8615, Louisiana Power & Light Co.
ER-7.—Docket No. ES78-19, Black Hills Power & Light Co.
ER-8.—Docket No. EL78-4, Florida Power & Light Co.
ER-9.—Docket No. EL78-6, Illinois Power Co.

POWER AGENDA—121ST MEETING, MAY 24, 1978, REGULAR MEETING

CAP-1.—Docket Nos. ER78-333 and ER78-334, Florida Power Corp.
CAP-2.—Docket No. ER78-341, Central Power & Light Co.
CAP-3.—Docket No. ER78-304, Boston Edison Co.
CAP-4.—Docket Nos. ER77-127, ER77-215, ER78-306, ER77-336, ER77-502, and ER78-61, Oklahoma Gas & Electric Co.
CAP-5.—Docket No. E-9408, American Electric Power Service Corp.
CAP-6.—Docket No. ES78-19, Northwestern Public Service Co.
CAP-7.—Docket No. ES78-24, El Paso Electric Co.
CAP-8.—Docket No. ES78-28, Gulf States Utilities Co.
CAP-9.—Project No. 2105, Pacific Gas & Electric Co.
CAP-10.—Project No. 2370, Pennsylvania Electric Co.
CAP-11.—Project No. 309, Pennsylvania Electric Co.
CAP-12.—State Director, Bureau of Land Management, Portland, Oreg. (OR-17364).
CAP-13.—Docket No. DA78-222—Washington, Bureau of Land Management.
CAP-14.—Docket No. DA-1129—California, U.S. Forest Service.

MISCELLANEOUS AGENDA—121ST MEETING, MAY 24, 1978, REGULAR MEETING

M-1.—Docket No. RM75-25, Policy With Respect to Certification of Pipeline Transportation Agreements.
M-2(A).—Docket No. RM76-15, Regulation of Small Producers.
M-2(B).—Docket No. CS77-767, Emon A. Mahony.
M-3.—Secretary of Energy's Proposed Rule Amending 10 CFR Parts 205, 211, and 212.

MISCELLANEOUS AGENDA—121ST MEETING, MAY 24, 1978, REGULAR MEETING

CAM-1.—Kentucky Power Co.

GAS AGENDA—121ST MEETING, MAY 24, 1978, REGULAR MEETING

I. PIPELINE RATE MATTERS

A. Pipeline rates

RP-1.—Docket No. RP78-56, Northern Natural Gas Co.
RP-2.—Docket No. RP74-61 (PGA77-5); RP76-10 (PGA77-5); RP77-54, and RP77-55, Arkansas Louisiana Gas Co.

II. PRODUCER MATTERS

A. Producer certificates

CI-1.—Docket No. CI77-412, Phillips Petroleum Co.
CI-2.—Docket No. R-389-B, Texas Oil & Gas Corp.

III. PIPELINE CERTIFICATES MATTERS

A. Pipeline Certificates

CP-1.—Docket Nos. CP78-123, et al., Northwest Alaskan Pipeline Co.
CP-2.—Docket Nos. CP75-372 and CP75-373, Tennessee Gas Pipe Line Co., a division of Tenneco Inc.
CP-3.—Docket No. CP77-267, Mid-Louisiana Gas Co. and Transcontinental Gas Pipe Line Corp.
CP-4.—Reserved.
CP-5.—Reserved.

B. Order No. 2 Authorizations

CP-6.—Docket No. CP78-45, Transcontinental Gas Pipe Line Corp.
CP-7.—Reserved.
CP-8.—Reserved.
C.—Curtailments.
CP-9.—Docket No. TC78-5, Alabama-Tennessee Natural Gas Co.
CP-9.—Docket No. TC78-6, Algonquin Gas Transmission Co.
CP-9.—Docket No. TC78-7, Arkansas-Louisiana Gas Co.
CP-9.—Docket No. TC78-8, Cities Service Gas Co.
CP-9.—Docket No. TC78-9, Colorado Interstate Gas Co.
CP-9.—Docket No. TC78-10, Columbia Gas Transmission Corp.
CP-9.—Docket No. TC78-11, Consolidated Gas Supply Corp.
CP-9.—Docket No. TC78-12, East Tennessee Natural Gas Co.
CP-9.—Docket No. TC78-13, Eastern Shore Natural Gas Co.
CP-9.—Docket No. TC78-14, El Paso Natural Gas Co.
CP-9.—Docket No. TC78-15, Equitable Gas Co.
CP-9.—Docket No. TC78-16, Florida Gas Transmission Co.
CP-9.—Docket No. TC78-17, Michigan-Wisconsin Pipe Line Co.
CP-9.—Docket No. TC78-18, Midwestern Gas Transmission Co.
CP-9.—Docket No. TC78-19, Mississippi River Transmission Co.
CP-9.—Docket No. TC78-20, National Fuel Gas Supply Corp.
CP-9.—Docket No. TC78-21, Natural Gas Pipeline Co. of America.
CP-9.—Docket No. TC78-22, Northern Natural Gas Co.
CP-9.—Docket No. TC78-23, Northwest Pipeline Corp.
CP-9.—Docket No. TC78-24, Panhandle Eastern Pipe Line co.
CP-9.—Docket No. TC78-25, Southern natural Gas Co.
CP-9.—Docket No. TC78-26, Tennessee Gas Pipeline Co.
CP-9.—Docket No. TC78-27, Tennessee Natural Gas Lines, Inc.
CP-9.—Docket No. TC78-28, Texas Eastern Transmission Corp.
CP-9.—Docket No. TC78-29, Texas Gas Transmission Corp.
CP-9.—Docket No. TC78-30, Transcontinental Gas Pipe Line Corp.
CP-9.—Docket No. TC78-31, Transwestern Pipeline Co.
CP-9.—Docket No. TC78-32, Trunkline Gas Co.
CP-9.—Docket No. TC78-33, United Gas Pipe Line Co.

GAS AGENDA—121ST MEETING, MAY 24, 1978, REGULAR MEETING

CAG-1.—Docket No. RP 72-110 (PGA No. 78-7), Algonquin Gas Transmission Co.
CAG-2.—Docket No. CP73-329 (PGA No. 78-4), Chattanooga Gas Co.
CAG-3.—Docket No. RP73-8 (PGA No. 78-5), North Penn Gas Co.
CAG-4.—Docket No. RP78-59, Northwest Pipeline Corp. Docket No. RP78-60, El Paso Natural Gas Co.
CAG-5.—Docket No. RP72-99, Transcontinental Gas Pipe Line Corp.
CAG-6.—Docket No. CP78-123, Alcan Pipeline Co. Docket No. CP78-124, Northern Border Pipeline Co. Docket No. CP78-125, Pacific Gas Transmission Co.
CAG-7.—Docket No. RI77-121, Walter E. Bailey.
CAG-8.—Docket No. CI78-288, Maguire Oil Co.
CAG-9.—Docket No. CP77-627, Tennessee Gas Pipeline Co., Columbia Gulf Transmission Corp.
CAG-10—Docket Nos. CP78-102 and CP78-111, Columbia Gulf Transmission Co.
CAG-11.—Docket No. CP78-226, Cities Service Gas Co.

KENNETH F. PLUMB,
Secretary.

[S-1058-78 Filed 5-18-78; 10:11 am]

[6740-02]

13

MAY 18, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 2 p.m., May 25, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Delegations of authority to staff.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-1072-78 Filed 5-18-78; 3:45 pm]

[7590-01]

14

NUCLEAR REGULATOHY COMMISSION.

TIME AND DATE: Week of May 15, 1978 (Cancellation).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTER TO BE CONSIDERED: Wednesday, May 17, 2:30 p.m. (approximately)—Discussion of procedural questions in Clearance Rule Public Hearing (approximately 1 hour—public meeting) is cancelled.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

MAY 17, 1978.

[S-1068-78 Filed 5-18-78; 10:11 am]

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[7600-01]

15

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: None.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., May 23, 1978.

CHANGES IN THE MEETING: Change of time to 2 p.m.

Dated: May 18, 1978.

[S-1071-78 Filed 5-18-78; 3:45 am]

[6714-01]

16

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 3:30 p.m., May 24, 1978.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.
Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Strasburger & Price, Dallas, Tex., in connection with the liquidation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Strasburger & Price, Dallas, Tex., in connection with the receivership of Sharpstown State Bank, Houston, Tex.

Memorandum proposing an agreement between FDIC and Teachers Insurance and Annuity Association of America regarding the sharing of payments that may be received from European-American Bank & Trust Co., New York, N.Y., in connection with its guarantee of the payment of capital notes issued by European-American Bancorp.

Memorandums proposing the amendment and extension of the Omaha and Richmond Regional Office leases.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of security transactions authorized by the Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1057-78 Filed 5-18-78; 10:11 am]

[6714-01]

17

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 3:00 p.m., May 24, 1978.

PLACE: Room 6135, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for consent to purchase assets and assume liabilities and to establish branches:

Commercial Security Bank, Ogden, Utah, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Helper State Bank, Helper, Utah, also an insured State nonmember bank, and for consent to establish the three offices of the latter bank as branches.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,513-L—The Monroe Bank & Trust Co., Monroe, Conn.

Case No. 43,515-NR—The State National Bank of Lovelady, Lovelady, Tex.

Case No. 43,516-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Case No. 43,519-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,520-L—South Texas Bank, Houston, Tex.

Case No. 43,521-L—International City Bank & Trust Co., New Orleans, La.

Case No. 43,522-NR—United States National Bank, San Diego, Calif.

Case No. 43,523-L—Franklin National Bank, New York, N.Y.

Case No. 43,524-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Case No. 43,527-NR—Swope Parkway National Bank, Kansas City, Mo.

Case No. 43,528-L—International City Bank & Trust Co., New Orleans, La.

Memorandum re The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1057-78 Filed 5-18-78; 4:48 pm]

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Federal Register

MONDAY, MAY 22, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

IMPROVING GOVERNMENT REGULATIONS

Proposals for Implementing Executive Order 12044

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PREVIOUSLY PUBLISHED PROPOSALS

Listed below are other documents on implementation of Executive Order 12044 previously published in the FEDERAL REGISTER:

Agency	1978 Date of Issue	Vol. 43 FR, Page No.
Selective Service	April 11	15211
Energy Department	May 1	18634
National Capital Planning Commission	May 15	20945

PROPOSALS SCHEDULED FOR LATER PUBLICATION

Listed below are other Executive order implementation documents on file with the Office of the Federal Register which will be published later:

Agency	1978 Date of Issue
Civil Service Commission	May 23

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[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-15]

IMPROVING GOVERNMENT REGULATIONS

First Report

NASA is issuing this notice to implement Executive Order 12044 and to request public comments on its first Report. The Report describes procedures for developing new regulations, proposed criteria for defining a significant agency regulation, proposed criteria for defining regulations requiring regulatory analysis and proposed criteria for selecting existing regulations for review.

Because of the nature of NASA's work, few significant regulations are anticipated and only an occasional regulation will require a regulatory analysis. NASA is a research and development agency and generally does not issue regulations with any significant impact on the public.

A process for reviewing NASA regulations, both internal and those published in 14 CFR Chapter V, is in place and predates the Executive Order. For this reason, the agency believes that development of a new plan for reviewing existing regulations is unnecessary and not required by the Executive Order.

The public is invited to send written comments on this report to: Louis N. Lushina, Director, Information Systems Division (Code NSM-12), Office of Management Operations, NASA Headquarters, Washington, D.C. 20546. Comments received by July 21, 1978, will be considered in preparing the revised report, which will also be published in the FEDERAL REGISTER.

PART I: PROCESS FOR DEVELOPING REGULATIONS

POLICY

Regulations will be written clearly and concisely. They will not be issued or continued unless necessary for the effective and efficient performance of an agency function. Before adopting a regulation, meaningful alternatives and costs of compliance, paperwork and other burdens on those affected will be considered.

CURRENT PROCEDURE

NASA regulations are developed by the office having a need for the regulation (the initiating office). Draft regulations are coordinated with (1) other appropriate offices including the Office of General Counsel and the Office of Management Operations and (2) other Federal agencies having an interest in the subject matter.

During coordination the Office of Management Operations identifies regulations which may require publication in 14 CFR Chapter V and notifies the initiating office. The Office of General Counsel determines whether or not the regulation will be published in 14 CFR Chapter V.

The Chief Counsel at each field installation identifies field installation regulations which may require publication in 14 CFR Chapter V and forwards copies of such regulations to the Office of General Counsel, NASA Headquarters, for determination.

If determined to be CFR material, the regulation is forwarded to the Office of Management Operations. The Office of Management Operations ascertains whether there is an agency regulation on the subject. If there is not, the field installation regulation is forwarded to the appropriate Headquarters initiating office with a request that an agency regulation be developed in accord with established procedures.

The Office of General Counsel determines whether a 14 CFR Chapter V regulation will be published as a proposed rule or as a final rule.

The Office of Management Operations establishes and maintains procedures for identifying, coordinating, obtaining signature and publishing regulations in 14 CFR Chapter V.

Proposed rules usually provide at least a 30-day comment period and are approved by the Administrator or Deputy Administrator. Final rules are approved by the Administrator.

NASA's recently revised management directives system, which consists of both internal directives and regulations published in 14 CFR Chapter V, in our judgment includes the underlying policy expressed in EO 12044. It also requires initiating offices to review annually all regulations and revise or cancel them if appropriate.

CHANGES TO BE MADE

NASA is revising its internal directive on development of CFR regulations to comply with EO 12044. The revised directive should be finalized at the same time NASA's final report is published in the FEDERAL REGISTER. The revised directive will include the following changes in NASA's process for developing regulations:

(1) When the need for a regulation is identified, the initiating office immediately will determine, in consulation with the Office of General Counsel, whether the regulation:

(a) Would have external impact requiring that it be published in 14 CFR Chapter V,

(b) Meets the criteria for a significant regulation (see Part II of this Report);

(c) Requires a regulatory analysis (see Part III of this Report) or is one that may require such analysis and therefore must be referred to the Administrator for a determination.

(2) If an affirmative determination is made under (1), the initiating office will submit a written report to the Office of Management Operations describing the nature of the required regulations, the responsible official, the proposed timetable for development, proposed coordination and the determinations made under (1). Subsequent changes in this information will be reported in a timely fashion.

(3) The initiating office will prepare the regulatory analysis, if one is required, before developing regulations with a major impact, and submit the analysis to the Administrator along with the proposal that regulations be developed. The Administrator will make the final decision on whether regulations are to be developed.

(4) Criteria for defining significant regulations (see Part II of this Report) will be included.

(5) Agency documentation of the eight factors listed in Section 2(d) of EO 12-44 will be required.

(6) Public comment period for significant regulations will be extended to at least 60 days unless the Administrator determines in a given case that this is not possible. Should this occur a brief statement of the reasons for a shorter period will be included in the preamble to the regulation.

(7) Initiating offices will be required to submit material for inclusion in the semiannual agenda of significant regulations.

(8) Requirements will be incorporated for the preparation and publication in the FEDERAL REGISTER by the first Monday of October of the schedule of semiannual agenda and the semiannual agenda of significant regulations.

(9) Criteria will be included for identifying regulations requiring regulatory analysis (see Part III of this report).

PART II: PROPOSED CRITERIA FOR DEFINING SIGNIFICANT AGENCY REGULATIONS

Any regulation that meets one or more of the following criteria will be considered significant:

(1) It is a matter of major concern to the public, especially if substantial public comments are anticipated;

(2) It may impose heavy compliance and reporting burdens on the public, especially on small business;

(3) It may substantially affect the quality of the environment, and the public health and safety; and

(4) It involves important NASA policy which will require substantial resources to develop and enforce.

PART III: PROPOSED CRITERIA FOR IDENTIFYING REGULATIONS REQUIRING REGULATORY ANALYSIS

A draft Regulatory Analysis shall be prepared for each proposed significant regulation which:

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(1) Could have an annual effect on the economy of $100 million or more;
(2) Could cause a major increase in costs or prices for individual industries, levels of government or geographic regions; or
(3) The Administrator determines that the proposed regulation deserves such analysis.

PART IV: PROPOSED CRITERIA FOR SELECTING EXISTING REGULATIONS TO BE REVIEWED

At this time 14 CFR Subpart 1204.4 and 14 CFR 1204.508 are being reviewed and will be canceled or revised if appropriate.

A review of all other NASA regulations in 14 CFR Chapter V was completed during the summer of 1977. Regulations no longer necessary were canceled. Those requiring revision were identified and scheduled for updating. A November reorganization required rescheduling and affected additional regulations. Revisions are now in process or scheduled for action. Another annual review of all regulations in 14 CFR Chapter V is scheduled for completion in August 1978. Based on this review, unnecessary regulations will be canceled and those requiring revision will be scheduled for update.

Because reviews are now required on an annual basis, and have recently been done, NASA does not propose to establish an additional review. Written comments concerning existing regulations in 14 CFR Chapter V are invited at any time and will be considered during the annual review.

ROBERT A. FROSCH,
Administrator.

[FR Doc. 78-13602 Filed 5-16-78; 12:14 pm]

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[8320-01]

VETERANS' ADMINISTRATION

EXECUTIVE ORDER 12044, SECTION 5(A)

Draft Report

Regulations issued by the Veterans' Administration (VA) consist of title 38, Code of Federal Regulations, "Pension, Bonuses, and Veterans' Relief," and title 41, "Public Contracts and Property Management," chapter 8. VA regulations are issued by the Administrator of Veterans Affairs to implement legislation passed by the Congress and approved by the President or to implement Presidential Executive orders. All decisions pertaining to regulations are made by the Administrator/Deputy Administrator and are signed by the Administrator or the Deputy Administrator.

The majority of VA regulations are drafted by the Department of Medicine and Surgery (medical care and treatment, research and development, rehabilitation, etc.) and the Department of Veterans Benefits (compensation, pension, education, home loan guaranty, veterans assistance, etc.). Unlike most regulatory agencies, we are benefits-oriented toward the veterans and their beneficiaries. VA regulations, therefore, are mainly mandated by legislation which leaves very few options or leeway for interpretation.

As a rule, proposed regulations are published in the FEDERAL REGISTER and the public allowed 30 days to comment. Exceptions are those relating to internal management or personnel and where editorial changes are required. There have also been a few exceptions to the 30-day comment period due to reasons such as statutory requirements not subject to interpretation. Advance copies of proposed regulations and advance copies of final regulations are forwarded to the chairpersons of the Senate and House Committees on Veterans' Affairs and to the heads of 38 service-oriented organizations.

To implement Executive Order 12044 the Veterans' Administration will:

(1) Continue the practice of approval and signature by the Administrator or Deputy Administrator;

(2) Continue the involvement of the Administrator or Deputy Administrator in the processing of new or revised regulations;

(3) Establish procedures to insure that regulations are written in plain English, and understandable by the general public and still meet legislative requirements with a minimum of redtape;

(4) Continue sending advance copies of proposed regulations and advance copies of final regulations to the Senate and House Committees on Veterans' affairs and to the 38 service-oriented organizations (and new procedures developed whereby regulations will also be forwarded to publications likely to be read by those affected);

(5) Continue giving the public 30 days notice of opportunity to comment on regulations (and for significant regulations the public will be given 60 days to comment, where possible);

(6) Establish criteria to define those regulations as significant which impose a burden of some sort such as observing certain recordkeeping requirements (necessary to show compliance in certain instances by individual institutions, for example, schools or hospitals, businesses, organizations, or State and local governments), or cause additional costs for compliance by recipients receiving Federal financial assistance; and

(7) Institute procedures whereby a regulatory analysis will be prepared for those regulations designated as significant which may also have major economic consequences for the general economy, for individual industries, or for geographical regions or levels of government.

In lieu of listing possible regulations for the initial review of existing regulations, procedures now pending were drafted prior to the EO, requiring that all VA regulations be reviewed to insure that they are current and accurate, consistent with existing laws, essential to the efficient operation and administration of the VA, and in good taste. First priority for review will be given to those regulations which are designated significant. Due consideration will also be given to comments from the public which express a preference as to the order in which the regulations are to be reviewed. Our target date for completion of this across-the-board review of regulations is August 31, 1979.

Written comments on the foregoing draft report should be addressed to Mr. William E. Stewart, Management Services Staff (075B), 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-3770.

Approved: May 12, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-13632 Filed 5-16-78; 4.06 pm]

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[6705-01]

FARM CREDIT ADMINISTRATION

IMPROVING GOVERNMENT REGULATIONS

Draft Report; Implementation of Executive Order 12044

AGENCY: Farm Credit Administration.

ACTION: Request for public comment.

SUMMARY: The Farm Credit Administration, an independent agency in the executive branch, publishes this report for public comment to cooperate with Executive Order 12044 which deals with policies and procedures to improve existing and future regulations. The Executive Order sets out the policy that regulations should be as simple and clear as possible; should achieve legislative goals effectively and efficiently; and should not impose unnecessary burdens on the economy, on individuals, on public or private organizations, or on State and local governments. It provides for a reform of the development process for regulations, to be published in the FEDERAL REGISTER; the agency head has to be furnished a work plan; an opportunity for public participation in the development of regulations; the agency head to make certain determinations before approving all significant regulations. The Order also requires a regulatory analysis in accordance with certain specified criteria and procedures and a periodic review of existing regulations

DATES: Comments by July 21, 1978.

ADDRESS: Please address written comments on this draft report to C. K. Cardwell, Deputy Governor, Farm Credit Administration, 490 L'Enfant Plaza SW., Washington, D.C. 20578. Copies of all communications received will be available for examination by interested persons in the Office of Director, Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Jon F. Greeneisen, Deputy Governor, Office of Administration, Farm Credit Administration, 409 L'Enfant Plaza SW., Washington, D.C. 20578, 202-755-2181.

SUPPLEMENTARY INFORMATION: Farm Credit Administration regulations may be divided into three groups:

Group 1 concerns the organization and management of the agency and is exempt from Executive Order 12044 by Section 6(b)(3). Public comment on Group 1 regulations is not required by the Administrative Procedure Act (5 U.S.C. 553(a)(2)) or sought prior to final adoption. No change in this procedure is contemplated.

Group 2 governs the banks and associations of the Farm Credit System. By reason of the Administrative Procedure Act, public comment is obtained on these regulations prior to their consideration for final adoption.

Group 3 concerns the release of information pursuant to the Freedom of Information Act and the Privacy Act. The procedure applicable to Group 2 regulations generally is followed for these regulations except that, unlike Group 2 regulations, these are not ordinarily submitted to the Farm Credit banks for comment prior to their publication in the FEDERAL REGISTER for public comment.

DRAFT REPORT

DESCRIPTION OF AGENCY

The Farm Credit Administration is an independent agency in the executive branch of the Government. Its function is to regulate, examine, and supervise the institutions of the Farm Credit System. The institutions of the Farm Credit banks, 13 banks for cooperatives, 522 Federal land bank associations, and 427 production credit associations. These banks and associations are member-owned, federally chartered lending institutions which operate under the Farm Credit Act of 1971. They provide financing and closely-related services to American farmers and ranchers and their cooperatives.

The Farm Credit Administration is comprised of the Federal Farm Credit Board, the Governor of the Farm Credit Administration, and such other personnel as is necessary to carry out its statutory responsibilities. There are 13 members of the Federal Farm Credit Board, twelve are appointed by the President with the advice and consent of the Senate for staggered 6 year terms; one member is appointed by, and serves at the pleasure of, the Secretary of Agriculture. The Board is the general policy making body of the agency and approves rules and regulations for the implementation of the Farm Credit Act of 1971. The Governor is appointed by, and serves at the pleasure of, the Board and, as the chief executive officer of the agency, executes all regulations promulgated by the agency.

PROCEDURE FOR ADOPTING REGULATIONS

The regulations issued by the Farm Credit Administration may be divided into three groups.

Group 1 is published in 12 CFR Parts 600 and 601. These regulations concern the organization and management of the agency and are exempt from Executive Order 12044 by Section 6(b)(3). Public comment on them is not required under the Administrative Procedure Act, 5 U.S.C. 553(a)(2), or sought prior to their final adoption. No change in this procedure is contemplated.

Group 2 is published in 12 CFR Parts 611 through 619. These regulations govern the banks and associations of the Farm Credit System. They were issued primarily pursuant to the Farm Credit Act of 1971, 12 U.S.C. 2001 et seq. Under ordinary circumstances, suggested substantive changes to these regulations are presented to the Federal Farm Credit Board for its initial consideration. If the Board agrees that the proposed change merits further consideration, the Farm Credit banks are requested to comment upon the proposal. The Farm Credit banks and the local associations which they supervise are the organizations directly affected by these regulations. Summaries of the comments received from the banks and a staff recommendation are presented to the Board, and with its concurrence, a proposed rule reflecting the change is published in the FEDERAL REGISTER. It is also forwarded directly to the Farm Credit banks. Not less than 30 days has been allowed for comment from the public and the banks. Hereafter, this comment period will be 60 days for proposed rules which are considered to be significant. Summaries of the comments received as a consequence of this publication and a staff recommendation are presented to the Federal Board. If the Board approves the proposed regulation, with such changes as it deems advisable, the regulations is adopted and published as a final rule in the FEDERAL REGISTER.

The Governor may issue a proposed or a final rule reflecting a change required by a law other than the Farm Credit Act of 1971 without prior approval of the Board if time limitations imposed by such law make Board consideration impractical. In such cases, the action of the Governor is promptly reported to and ratified by the Board.

The Federal Board (or the Governor in appropriate cases) will address each of the points set out in section 2(d) of Executive Order 12044 prior to approving as a final rule any significant regulation. The material prepared by the staff for consideration of the Board or the Governor with respect to the proposal shall contain sufficient information as to allow the Board or the Governor to determine that:

1. The proposed regulation is needed;
2. The direct or indirect effects of the regulation have been adequately considered;
3. Alternative approaches have been considered and the least burdensome of the acceptable alternatives chosen;
4. Comments received have been considered and an adequate response prepared;

5. The regulation is written in clear language so as to be readily understandable to those who must comply with it;
6. An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;
7. The name, address, and telephone number of a knowledgeable agency official is to be included in the public notice of the regulation; and
8. A plan for evaluating the regulation after its issuance has been developed.

Technical amendments to these regulations are ordinarily adopted without publishing the proposal for public comment. No change is contemplated in this procedure. However, the published notice of the amendment shall state that the amendment is technical and is not intended to alter the meaning of the regulation.

Changes in these regulations which are necessitated by an emergency or a statute or judicial decision containing short-term deadlines may be adopted without the opportunity for public comment. Such changes are exempted from from Executive Order 12044 by Section 6(b)(6). With respect to changes made under these circumstances the Farm Credit Administration will publish a statement of the reason why it is impractical or contrary to the public interest for the agency to follow the procedure of the Executive Order. This statement shall include the name of the official in the agency responsible for this determination.

Group 3 is published in 12 CFR Parts 602 and 603. These regulations involve the release of information pursuant to the Freedom of Information Act and the Privacy Act. The procedure for making revisions in these regulations in the same as that described for Group 2 above except that the proposed changes are not ordinarily submitted to the Farm Credit banks for comment prior to their publication in the FEDERAL REGISTER as a proposed rule. The comments of these institutions are not specifically requested because they are not subject to the Acts as is the Farm Credit Administration.

SIGNIFICANT REGULATIONS

A proposed regulation is considered significant if it:

1. Authorizes Farm Credit Institutions to engage in a new program or activity;
2. Imposes additional requirements having a substantial effect upon Farm Credit institutions and their activities;
3. Directly or indirectly affects competition;
4 Impacts upon other governmental programs or activities; or
5. Involves the issuance or redemption of bonds and other obligations of Farm Credit institutions.

The notice of a proposed regulation shall include a statement as to whether the regulation is considered significant under the above criteria.

REGULATORY ANALYSIS

Under current agency procedures, a regulatory analysis is made for each change in the regulations. The analysis is considered by the Federal Board and the Governor in acting upon the proposed changes. The analysis includes the following:

1. A discussion of the issue necessitating the development of the proposed regulation;
2. A description of the alternatives considered;
3. A recommendation as to which alternative should be pursued and the reasons therefor; and
4. A discussion of the advantages and disadvantages of the recommended approach.

Pursuant to section 3 of Executive Order 12044, for any proposed regulation covered by the Order which may result in (a) an annual effect on the economy of $100 million or more, or (b) a major increase in cost or prices for individual industries, levels of government, or geographic regions, the regulatory analysis will also include an analysis of the economic consequences of each alternative considered by the agency and a detailed explanation of the reasons for choosing one alternative over the other. Such an additional analysis will also be made for any other proposed regulation when requested by the Governor or the Board. In these circumstances, the agency will include in its notice of the proposed rule an explanation of the regulatory approach selected and a short description of the alternatives considered. A statement as to how the public may obtain a copy of the draft regulatory analysis will be included in the notice. A final regulatory analysis will also be prepared and available to the public upon publication of the final regulation.

REVIEW OF REGULATIONS

The Farm Credit Administration will periodically review its existing regulations to determine whether they are achieving their purpose and the policy goals of the Executive Order. The review will follow the same procedural steps outlined for the development of new regulations. In selecting regulations to be reviewed, the following criteria will be used:

(a) The continued need for the regulation;
(b) The type and number of complaints or suggestions received;
(c) The burdens imposed on those directly or indirectly affected by the regulation;
(d) The need to simplify or clarify language;
(e) The need to eliminate overlapping and duplicative regulations;
(f) The length of time since the regulation has been evaluated; and
(g) Any changes in economic conditions or other factors in the area affected by the regulation.

The following regulations will be considered by the Farm Credit Administration for its initial review:

12 CFR 612.2030—Nepotism.
12 CFR 614.4260(c)—Banks for Cooperatives (Seasonal loans to finance commodities).
12 CFR 615.5120(a)—Purchase eligibility requirements (Farm Credit Investment Bonds).
12 CFR 615.5330(a)—Banks for Cooperatives (Surplus).

SEMIANNUAL AGENDA

Beginning with fiscal year 1979, the Farm Credit Administration will establish semiannually an agenda of significant regulations which it has under development or review. Such agenda will be approved by the Governor and published in the FEDERAL REGISTER. Each agenda will describe the regulations under consideration, the need and legal basis for the action being proposed, and the status of the regulations previously listed on the agency agenda. The name and telephone number of a knowledgeable official will be listed for each item on the agenda, and if possible, a statement of whether a regulatory analysis of the type described in the Executive Order will be prepared with respect to the item. On the first Monday in October, the Farm Credit Administration will publish in the FEDERAL REGISTER the dates on which the agency's agenda for the coming fiscal year will be published.

C. T. FREDRICKSON,
Acting Governor,
Farm Credit Administration.

[FR Doc. 78-13983 Filed 5-17-78; 2:55 pm]

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

IMPROVING REGULATIONS

Response to Executive Order No. 12044

AGENCY: Department of Agriculture.

ACTION: Request for public comment on proposed report.

SUMMARY: The Department of Agriculture is publishing the following report on actions it proposes to take to implement Executive Order 12044, Improving Government Regulations (43 FR 12661, March 24, 1978). The proposed actions include: analysis of all impacts of proposed actions; increased focus on identifying significant actions; encouraging public participation; reviewing existing regulations; establishing calendars listing proposed actions; and assuring clarity of rule-writing.

DATE: Comments by July 21, 1978.

ADDRESS: Comments or requests for further information should be addressed to: Mr. Linley E. Juers, Office of Budget, Planning and Evaluation, Office of the Secretary, Room 117-A Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6667.

FOR FURTHER INFORMATION CONTACT:

Linley E. Juers, 202-447-6667.

SUPPLEMENTARY INFORMATION:

I. Request for Comments

In Executive Order No. 12044, the President directed all executive agencies to improve regulations. This report describes a set of proposed actions to be undertaken in the Department of Agriculture to achieve the President's objectives. Additional information on any aspect of these actions can be obtained from the contact person listed above.

The Department of Agriculture invites public comment on these proposed actions. After receiving and considering public comments, the report will be revised as needed and published.

Comments should be sent to Mr. Linley E. Juers, at the address listed above. Identify the submission as "comments" on the outside envelope and on the documents that are submitted. The USDA will consider all comments received by July 21, 1978, before final action is taken.

Any confidential information submitted pursuant to the above procedures must be so identified and submitted in one copy only. However, the USDA reserves the right to determine the confidential status of the information and to treat it accordingly.

Issued in Washington, D.C. May 18, 1978.

Carol Tucker Foreman,
Acting Secretary.

Improving USDA Regulations

Response to Executive Order No. 12044

USDA's proposed actions are intended to make the existing decisionmaking system perform better. The decisionmaking system must be responsive to the people affected by the actions of the Department. Public understanding of why and how decisions are made will lead to better acceptance and to improve program effectiveness. Public involvement in decisions can make the total process more efficient.

The proposed actions spelled out in this report are:

Establishing Decision Calendars.
Identifying Significant Actions.
Encouraging Public Participation.
Analysis of Impacts.
Developing New Regulations.
Reviewing Existing Regulations.
Writing Clearer Regulations.

These proposed actions are specifically designed to bring essential information to bear on decisions and to require that this information be thoroughly analyzed before decisions are made.

The Secretary of Agriculture is specifying new USDA procedures in a series of directives initiating activities and assigning responsibility for each of the proposed actions.

These procedures will be applied to all *informal* rulemaking in the Department except for those areas exempted in Executive Order No. 12044 which involve agency management, personnel selection and Federal Government procurement.

Formal rulemaking procedures, which are covered under the Administrative Procedures Act, are also exempted because of the strict rules that already apply to the conduct of hearings and the handling of evidence and information. In USDA, formal rulemaking procedures apply primarily to marketing orders for milk and fruits and vegetables. Nevertheless, agencies using formal rulemaking procedures will be required to respond to the spirit of Executive Order No. 12044 in writing decisions and regulations in clear language and providing sufficient public notice and involvement, and preparing impact analyses and statements.

Establishing Decision Calendars

An important aspect of improving decisions is to assure that all interested people know what is being planned and by whom. This will permit the planning of effective input and directing it to where it will best be used. Decision Calendars will serve this purpose. They will provide:

The title, a broad description of and the authority for the proposed action.

The current stage of development and projected dates for each subsequent step including pre-notice, proposal, public comment and final decision.

The names, addresses and phone numbers of persons to contact for additional information.

The name of the Department's official designated to approve each stage of the rulemaking procedure.

Each agency will maintain a decision calendar covering actions assigned to that agency by statute or by delegation. This calendar will include both regulatory and non-regulatory proposed actions. The agency calendar will be maintained under the direction of the agency head.

The Department will maintain a coordinating calendar covering all agency actions that are determined to be significant. After approval by the Secretary, this Department Calendar will be published at least twice annually in the Federal Register. It will be subject to continual update in the Office of the Secretary and will be available to the public. Periodic amendments will be published in the Federal Register.

Identifying Significant Regulations

Among the proposed actions on the Agency Decision Calendars there will be some which may affect large numbers of people, involve large economic or resource adjustments, or are controversial due to conflict over questions of fact or impact. All proposed actions that require a decision or concurrence by an Assistant Secretary or a higher level will by definition be "Significant." Proposed "Significant" actions will be listed on the Departmentwide Decision Calendar maintained in the Office of the Secretary. Criteria for designating a regulation "Significant" are:

Will cause a substantial increase or reduction in program coverage that will affect a significant number of people.

Will cause a substantial change in total program dollars or in the level of direct, indirect or induced benefits or costs.

Will substantially alter enforcement or compliance requirements.

Will significantly expand or contract public services which might affect any stage of production, processing, distribution, or consumption.

All proposed regulations will be reviewed for Significance when the prenotice of proposed action is to be entered on the agency agenda. The Administrator will recommend through the appropriate program Assistant Secretary, to the Director, Economics, Policy Analysis and Budget, that the action be added to the Department's Decision Calendar. The Director, together with the program Assistant Secretary and other officials of the Department, will be responsible for final determination of Significance and for entry of the proposed regulation on the Department's Calendar.

Assistant Secretaries will be responsible for periodically reviewing and monitoring the decision calendars of their agencies, giving particular attention to the standards used by the agencies in applying the Significance criteria.

National organizations representing general purpose State and local governments have been asked by the President to notify the senior intergovernmental official if they believe that a regulation included on a regulation agenda would have major intergovernmental significance. The senior intergovernmental official in USDA is the Deputy Director for Intergovernmental Affairs, Office of Governmental and Public Affairs, who will coordinate intergovernmental activities with the Department's Public Participation Officer.

Encouraging Public Participation

Public participation is an important device for obtaining ideas and information to better serve the public. Therefore, the Secretary of Agriculture has directed all agencies to actively solicit public comment and other inputs. Agencies are encouraged to use several means to obtain the greatest possible public input. These means may include: financial aid for costs incurred in presenting views, organizing public meetings, soliciting added comment on proposals, organized followup on complaints and training in government procedures related to using public comment.

Each agency will be required to have a Public Participation Office reporting directly to the Administrator. A coordinating Public Participation Staff is being created at the Department level. At the initiation of each rulemaking procedure, agencies will be required to have a Public Participation plan for that action. The Department level staff will review and approve the methods and effectiveness of agency procedures before they are implemented. It will also monitor agency followup on public suggestions and complaints that have been submitted.

Public Participation plans should be tailored to the agencies' constituencies and should stimulate the broadest possible range of public input at each significant stage—pre-proposal analysis, comment on proposals, comment and complaints in post rulemaking evaluation and on the needs for review of regulations. Each agency Public Participation office will coordinate with the Department's Public Participation officer.

The Departmental Public Participation Staff, reporting to the Director of Economics, Policy Analysis and Budget will advise the Secretary on the performance of Public Participation in USDA. Their functions will include:

Concurrence in agency Public Participation plans.

Maintenance of the USDA Decision Calendar (and review of the supporting agency Calendars).

Regulatory complaint monitoring and followup.

Assurance that proper procedures are followed in developing Significant regulations.

Impact Analysis

It is USDA philosophy that all decisions, whether major or minor, can only be made with confidence after an appraisal has been made of the impact of each alternative course of action which could be taken to reach the stated objective. The document that contains this information is the draft Impact Analysis.

The extent of the documentation which may be required for different decisions may vary considerably. In some cases, the course of action and the impacts may be obvious. Thus the documentation may be no more than a simple declaratory statement.

In other cases, several possible courses of action may exist for reaching the primary goal alone with differences in secondary impacts on environment, inflation, economy, and on compliance burden. Where such alternatives exist, a careful analysis of differences in efficiency and effectiveness with which each alternative action may achieve the primary objective will be required along with spelling out the secondary impacts that might detract from the primary objectives.

A draft Impact Analysis provides the analytic base for a proposed action. It, together with public participation and the legal authority for the proposed action, provides the basis for a final decision. Upon arriving at a final decision, a Final Impact Analysis Statement will be prepared. The intent is to avoid some of the duplication when separate analyses and statements are prepared to cover the various impacts of a decision.

When an Environmental Impact assessment adequately covers all of the impacts of a proposed action, it will serve the purpose of the draft Impact Analysis. When the final action is taken, the key information from the Environmental Impact Statement will become the final impact statement.

There shall be a draft Impact Analysis and a final Impact Statement for each proposed action. At the time comments are reviewed and the decision is finalized, an Impact Analysis Statement will be prepared. It will be a summary of the supporting documentation contained in the "Draft Impact Analysis" and any additional information obtained during the comment period.

With respect to all "significant" proposed actions, the responsibility for determining that the draft Impact Analysis and final Impact Statements provide an adequate analytical base for a decision is assigned to the Director of Economics, Policy Analysis and Budget. The Director shall approve all draft Impact Analysis and final Impact Statements for "significant" proposed actions. Agency heads will approve impact analysis on all other actions. But the Director will monitor and provide Departmental oversight on the quality of all impact analysis.

Rather than institute a separate regulation analysis procedure for those decisions or actions leading to new rules or regulations, USDA will simply add appropriate specific requirements to the existing Impact Analysis process. Analysis of the compliance burden and notice of the availability of an impact statement will be required. (The USDA Impact Analysis guidelines are included at the end of this report.)

Developing New Regulations

When consideration is given to carrying out a program or implementing authority by rulemaking, before any action is undertaken the agency Administrator will review: The need to take action; the alternative actions already authorized or available to achieve the desired results; the need and plans for public comment; and the tentative schedule for completing all stages of developing the regulation.

If this review indicates that a regulation is needed, the Administrator will place the action on the agency Decision Calendar. Simultaneously, the Administrator will initiate the development of the draft Impact Analysis, publish a "pre-notice" indicating plans and opportunities for public involvement in developing the proposed regulations and indicate what opportunities will be provided both before and after publication of the proposed regulations. (This procedure will also be followed for non-regulation program actions.)

If the proposed action is "Significant", it will be placed on the Department Decision Calendar which then places the oversight responsibility with the Office of the Secretary. When a regulation has not been classified as Significant, a statement to that effect shall be included with publication of the proposed regulation.

In developing the proposed regulation, the Administrator will make certain: That a draft Impact Analysis has been prepared; that the Public Participation plan is being followed; and that

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clear language is used and compliance burdens are reduced to the extent possible.

Prior to publication of the proposed regulation, the Administrator shall obtain the appropriate level of review required for the proposed decision.

In publishing the proposal, a statement shall be included indicating: The availability of the draft Impact Analysis; the input desired from the public; and that at least 60 days will be allowed for public comment on the proposal. If less time is to be allowed, a specific justification for the abbreviated allotment will be spelled out.

(When an emergency situation requires immediate program action, an agency may promulgate and implement needed regulations or regulation changes without delay. But in publishing the emergency regulations, the agency must state the basis on which the "emergency" determination was made and must immediately schedule the regulations for review. This review must adhere to the procedures described above.)

In preparing the final regulation, the Administrator must be prepared to assure (and provide documentation to the Secretary's Office on Significant regulations) that all procedural steps have been followed. These assurances will be submitted to the appropriate Assistant Secretary or Department official before the regulation may be approved and signed.

Review of Existing Regulations

In Executive Order No. 12044, agencies are directed to review their existing regulations applying the procedures developed for new regulations. No USDA regulation should exist for more than 5 years without being reviewed for need, currency and effectiveness. Ass regulations are revised in the course of review, a time for the next periodic review or a termination date will be added.

Some categories of regulations are regularly renewed every year or so. These will not require a review schedule, but will be subjected to the new rulemaking procedures.

The selection of regulations proposed for review will be the responsibility of the heads of USDA agencies or independent offices. Their selections will be based on the following criteria: No review has been conducted within 5 years of issuance; there is a need to improve function; complaints received on operations; and suggestions received through Public Participation Programs.

The Public Participation Staff will evaluate agencies' proposals for review as a part of the process of approving listings for the Department Decision Calendar.

The process of reviewing USDA regulations will be as follows:

1. *Selecting regulations for review.* On each 6-month Department Decision Calendar, a section will be reserved for "Review of USDA Regulations." Under this heading, each USDA agency will have a separate listing (a) "Regulations Proposed for Review" and (b) "Regulations Scheduled for Review," along with appropriate description and contact points. At the same time, each agency will publish notice: Inviting appropriate public participation in the review process; and seeking comments on the list of regulations proposed for review in the following 6-month period. The Calendar listing and notices will be subject to periodic amendment to advise the public of progress on new stages in the review process.

After considering public comments on "Regulations Proposed for Review" a revised list will be put in the next calendar under "Regulations Scheduled for Review."

2. *Applying the process for reviewing existing regulations.* There will be three parts to the review process: (a) the agency will seek public comment and input for an Impact Analysis; and (b) the agency will conduct an Impact Analysis following the same procedure established for developing a new regulation; and (c) the agency will review the language for clarity and understandability.

On the basis of this analysis, the agency head will recommend: (a) Proposed changes in the regulation to be promulgated as in the case of a new regulation, or

(b) That no change is needed and notice should be published finalizing the review, stating the basis for this conclusion and recommending the time for the next review of that regulation.

Writing Understandable Regulations

The President's mandate that regulations be "written in plain English" and be "understandable to those who must comply" is the subject of a separate directive.

Agency Administrators are assigned primary responsibility for preparing understandable regulations. They are directed to involve their public information officers in writing regulations to make certain the language is clear and understandable. The USDA Office of Governmental and Public Affairs is directed to guide agencies in developing a better writing process and to review their progress for the Secretary.

Impact Analysis and Impact Statement Guidelines and Procedures

According to Secretary's Memorandum No. —— decisions should be made on the basis of careful, objective analysis of the consequence of meaningful alternatives. Therefore, Impact Analysis prepared for Department decisions should cover impacts on the economic and social well-being of our society including differential effects on the costs and welfare of various sectors of our society such as on farmers, consumers, industries, governments, minority groups, environmental interests, small businesses, and other commercial and financial enterprises. This is no different than any other competent analysis for decisionmaking purposes. To assure that all significant impacts on all groups are properly considered in Department decisonmaking at all levels, it is the Department's policy to require thorough, understandable impact statements presenting the analyses prepared in support of decisions.

Impact Analysis Requirement

An Impact Analysis is required for proposed USDA policies, regulations, or program-related actions (excluding administration facilitating provisions) including: Major legisiative, regulatory, or rulemaking proposals; Non-procedural actions and authorizations requested by the Board of Directors of the Commodity Credit Corporation; and Program and policy proposals to be considered by the Program and Budget Review Board outside the regular annual program and budget decision process consistent with the Departmental decision calendar and at the discretion of policy officials and agency administrators.

Impact Analysis Statement

A Draft Impact Analysis must accompany proposals for Department regulations and policy or program actions. The purpose of the Impact Analysis Statement is to provide a full explanation of the implications of proposed actions on each important sector of our society and to explain to the public how a decision was made. It should be thorough and written in plain language so that anyone will be able to understand what is being proposed, why it is being proposed, and what significant implications the proposals and the options considered have for our society. Numbers and absolutes rather than generalities should be used to show magnitudes.

Relation of Impact Analysis to Other Directives for Analysis

A variety of procedures for administering USDA programs call for impact analyses of one type or another. Impact Analyses will be used to meet requirements for analysis of economic and social consequences with such modification as needed, to avoid duplication and inefficient use of Department resources. Thus, Impact Analysis Statements may, where appropriate and feasible, include that information requested by and substitute for Consumer Impact Statements, Civil Rights Impact Analysis, Regulatory Impact Evaluation, CCC Docket Analyses Pesticide Impact Assessments, Regulatory Impact Evaluation, Options Papers, and others. Environmental Assessments or Environmental Impact Statements, when prepared, include the complete analysis required for the Impact Analysis and shall either be used to substitute for or to provide the information to be incorporated into the Impact Analysis Statement.

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Public Notice

The assignments of responsibilities and the procedures for formal and informal rulemaking remain unaffected by this directive except that a Notice of Proposed Rulemaking for a significant regulation must include a certification by the responsible official that, "An approved Draft Impact Analysis is available from ——." The publication of final rulemaking must include the same certification for the final Impact Analysis Statement.

Impact Analyses Procedures

A format for the Impact Analysis and Statement is attached. A summary should be provided for lengthy Impact Statements.

Each agency is responsible for making an adequate draft or final Impact Analysis available to responsible officials at least two weeks prior to decision date for action or publication in the Federal Register. The Impact Analysis should be attached to each proposal for decisionmaking.

The Director of Economics, Policy Analysis and Budget is responsible for Impact Analysis guidelines. The OBPE Policy Analysis Staff will review draft and final Impact Analyses for sufficient and provide technical guidance to agencies for preparing Impact Analyses.

Impact Analysis Statement

Date: ——————
Agency: ——————
Contact: ——————
Phone: ——————

1. *Title.*
2. *Nature of Proposed Action and Groups Impacted* (intended—and, when feasible, unintended).
3. *Purpose and Need for the Action.*
4. *Options Considered* (brief description of each feasible option considered). For each option considered provide: (In full detail for Draft Impact Analysis, but summarized for all but the proposed option in Final Impact Analysis Statement).
5. *USDA and Other Federal Costs* (dollars, man-years, and offsets from non-federal sources).
6. *Expected Impacts:*
(a) *Impact on main purpose and need to which action is and duration.*
(b) *Cost impacts* (compliance burdens and other cost impacts for each group affected significantly).
(c) *Other Significant Economic Impacts* (employment, prices, market structures and systems, competition, terms of trade, supply and utilization, farm inputs, input markets, energy use, resource use, technology, productivity, investment, credit supply, etc.).
(d) *Other Significant Social Effects* (health, safety, nutrition, civil rights, institutions, invasion of privacy and other human concerns).
(e) *Distribution of Effects* (geographic concentration or dispersion, time trends, income classes or size classes of enterprise effected within impacted groups, etc.).
7. *Reason for Selection of Proposed Option* (this need not be provided in draft impact analysis).
8. *Public Comment* (summary and analysis of comments requested from the public; final Impact Analysis should be responsive to public input).

Report Style and Approach

Impact Analysis Statements on significant actions will become publicly available documents. Therefore, they should be written to the point in clear, concise language and avoid technical jargon. Use numbers and absolutes rather than generalities to show magnitudes. Statements about impacts should be supportable by facts and accepted principles. All backup methodology or analytic work and data should be available in agency files. Original is to be filed with Director of Economics, Policy Analysis and Budget.

USDA Regulations Proposed for Review

The following USDA regulations are recommended for review. They are listed by USDA agency along with the name and address of the appropriate contact point. Public comment is invited on whether these or other regulations should be reviewed at this time.

Rural Electrification Administration

The following is a listing of REA bulletins which are currently in the process of being revised. Unless otherwise indicated, the Rural Electrification Act, as amended, establishes the authority for these bulletins. Interested parties are invited to submit their comments on these listed bulletins, as well as suggestions of other regulations which should be considered for review. Comments should be forwarded to the Director, Management Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. A contact person has been shown at the beginning of each listing if additional information on a specific bulletin is necessary.

A. Joseph Vellone, Assistant Administrator-Administration, room 4062-S, telephone number 202-447-3863, is the contact person on the following REA bulletin:

185-1:465-1—*Audit of REA Borrowers' Accounting Records.* REA policy and requirements regarding audits of the accounts and records of REA borrowers including the selection of independent certified public accountants to perform such audits.

B. Richard F. Richter, Assistant Administrator-Electric, room 4056-S, telephone number 202-447-6237, is the contact person for these bulletins:

1. 5-1:305-1—*Joint Use of REA Borrowers' Facilities by Electric and Telephone Systems.* REA policy and procedure for the joint use of REA borrowers' facilities by other electric and telephone systems.

2. 20-14—*Supplemental Financing for Loans Considered Under 4 of the Rural Electrification Act.* REA policy concerning supplemental financing for loans considered under Section 4 of the Rural Electrification Act.

3. 20-21:320-21—*National Environmental Policy Act.* REA policy and procedure concerning the implementation of the National Environmental Policy Act as it relates to the REA program.

Authority: National Environmental Act of 1969.

4. 40-6—*Construction Methods and Purchase of Materials and Equipment.* The requirements of REA concerning construction of distribution, transmission, generation, and headquarters facilities, and the purchase of materials and equipment by REA electric borrowers.

5. 41-1—*Engineering Services for Electric Borrowers.* REA policy and procedure for electric borrowers' selection of engineers and arrangements for engineering services.

6. 60-8—*System Planning Guide for Electric Distribution Systems.* REA guidelines to borrowers for long range electric distribution system planning.

7. 62-1—*Transmission Line Manual.* REA specifications and other requirements for the design of transmission lines.

8. 65-1—*Guide for the Design of Substations for Rural Distribution Systems.* REA guidelines for the design of electric substations built with REA loan funds.

9. 105-5—*Financial Forecast—Electric Distribution Systems.* Guidelines for the preparation of long range financial forecasts by electric distribution borrowers.

10. 105-7—*Long Range System and Financial Planning—Power Supply Borrowers.* Policy and recommendations of REA for its power supply borrowers with respect to the preparation of long range system and financial plans.

11. 107-1:407-1—*Data Processing Systems.* REA policy concerning the selection and use of data processing systems by REA borrowers.

12. 108-2—*Operating Reports—Power-Type Borrowers and Distribu-*

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tion Borrowers with Generating Facilities. The requirements of REA on the preparation and submission of operating reports by power-type borrowers and distribution borrowers with generating facilities.

13. 112-3—*Area Coverage Service.* The policy of REA concerning the extension of electric service to rural users by borrowers on an area coverage basis.

C. C. R. Ballard, Assistant Administrator—Telephone, room 4048-S, telephone number 202-447-4305, is the contact person for the bulletins listed below. The RE Act is the authority for issuing these publications.

1. 344-3:43-9 (Supplement)—*"Buy American" Requirement.* REA requirements with respect to the "Buy American" provision of the Rural Electrification Act.

2. 345-13—*REA Specification for Telephone Cable for Aerial and Underground Duct Applications.* REA requirements concerning telephone cable for aerial and underground duct applications on REA-financed telephone systems.

3. 345-14—*REA Specification for Telephone Cables for Direct Burial.* REA requirements concerning telephone cables for direct burial on REA-financed telephone systems.

4. 345-18—*REA Specification for Plastic-Insulated, Plastic-Jacketed Station Wire.* REA requirements concerning plastic-insulated, plastic-jacketed station wire installed on REA-financed telephone systems.

5. 345-19—*REA Specification for Figure 8 One-Pair Distribution Wire.* REA requirements concerning figure 8 one-pair distribution wire installed on REA-financed telephone systems.

6. 345-20—*REA Specification for Figure 8 Multipair Distribution Wire.* REA requirements concerning figure 8 multipair distribution wire installed on REA-financed telephone systems.

7. 345-21—*REA Specification for Polyethylene Raw Materials.* REA requirements concerning polyethylene raw material installed on REA-financed telephone systems.

8. 345-22—*REA Specification for Voice Frequency Loading Coils.* REA requirements concerning voice frequency loading coils installed on REA-financed telephone systems.

9. 345-36—*REA Specification for Parallel Conductor Drop Wire.* REA requirements concerning parallel conductor drop wire installed on REA-financed telephone systems.

10. 345-39—*REA Specification for Telephone Station Protectors.* REA requirements concerning telephone station protectors installed on REA-financed telephone systems.

11. 345-50—*REA Specification for Trunk Carrier Multiplex Equipment.* REA requirements concerning trunk carrier multiplex equipment installed on REA-financed telephone systems.

12. 345-52—*REA Standard for Station Installation.* Provides details on telephone installations, including mobile home installations, and an emphasis on buried plant.

13. 345-64—*REA Specification for Ringers.* REA requirements and guidelines concerning ringers installed on REA-financed telephone systems.

14. 345-65—*REA Specification for Cable Shield Bonding Connectors.* REA requirements concerning cable shield bonding connectors installed on REA-financed telephone systems.

15. 345-66—*REA Specification for Subscriber Carrier Equipment.* REA requirements concerning older carrier systems (not covered in 345-56) installed on REA-financed telephone systems.

16. 345-68—*REA Specificiation for Two-Electrode Gas Tube Protectors.* REA requirements concerning the two-electrode gas tube protectors installed on REA-financed telephone systems to protect communications circuits and equipment from foreign voltages.

17. 345-70—*REA Specification for Filled Buried Wire.* REA requirements concerning filled buried wire installed on REA-financed telephone systems.

18. 345-71—*REA Specification for Three-Electrode Gas Tube Protectors.* REA requirements concerning the three-electrode gas tube protectors installed on REA-financed telephone systems to protect communications circuits and equipment from foreign voltages.

19. 380-3—*Weekly Progress Report of Telephone Construction and Engineering Services.* Report by the borrower's engineer to the telephone borrower and REA on the progress of engineering services and construction activities.

20. 384-3—*Central Office Equipment Contracts and Specifications.* Procedures required by REA for the use of central office equipment contracts and specifications by telephone borrowers.

21. 385-2—*Purchasing and Installing Special Electronic Equipment.* Procedures required by REA of telephone borrowers in purchasing and installing special electronic equipment with REA loan funds.

22. 415-1—*Sale of Property by Telephone Borrowers.* Requirements of REA with respect to the sale, lease, or transfer of property by telephone borrowers.

FARMERS HOME ADMINISTRATION

Regulations Proposed for Review

Instruction, Title, and Contact Point, Address and Phone No.

1904-C—Farmer Program Loans (7 CFR 1904, Subpart C), Mr. James Lee, Farmers Home Administration, 14th and Independence Avenue SW., Washington, D.C. 20250, 202-447-4597.

1933-A—Community Facility Loans (7 CFR 1933, Subpart A), Mr. Dwight O. Calhoun, Farmers Home Administration, 14th and Independence Avenue SW., Washington, D.C. 20250, 202-447-7287.

427.1—Title Clearance and Loan Closing (7 CFR 1807 & 1890t), Mr. L. D. Elwell, Farmers Home Administration, 14th and Independence Avenue SW., Washington, D.C. 20250, 202-447-5177.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Regulations Proposed for Review

Plant Protection and Quarantine.

Nursery Stock Plant and Seed Quarantine No. 37 (7 CFR 319.37). This regulation restricts the importation of plants and specifies the nursery stock, plant propagative material, other plants and plant products, and seeds which are prohibited entry and the countries or localities from which such material is prohibited. The regulation also specifies plants required to be grown under post-entry quarantine.

Foreign Cotton and Covers (7 CFR 319.8). Because of pink bollworm, golden nematode, flag smut, and other diseases, the importation of cotton and certain cotton covers from foreign countries into the United States is prohibited except under the conditions that are stated in the regulation.

Imported Fire Ant (7 CFR 301.81). This regulation imposes a quarantine on specific articles originating in the imported fire ant quarantine area. The regulation also specifies the conditions under which these articles may be moved interstate (i.e., after an acceptable treatment).

Gypsy Moth and Browntail Moth (7 CFR 301.45). This regulation imposes a quarantine on specific articles originating in the gypsy moth and browntail moth infested states (quarantine area). The regulation also specifies the conditions under which these articles may be moved interstate (i.e., after an acceptable treatment).

VETERINARY SERVICES

Inspection of Certain Animal and Poultry and Certain Animal and Poultry Products; Inspection and Other Requirements for Certain Means of Conveyance and Shipping Containers Thereon (9 CFR Part 92). Because of various animal and poultry diseases, this regulation prohibits the entry of animals, products, or birds into the United States from foreign countries except under the conditions that are stated in the regulation.

Contact: Sam Ladd, Budget Div., APHIS, USDA 20250, 202-447-3321.

AGRICULTURAL MARKETING SERVICE

Regulations Proposed for Review

7 CFR Chapter IA, Part 28D. Cotton Classification and Market News Services for Organized Groups of Producers.

Summary: The Smith-Doxey Amendment to the Cotton Statistics and Estimates Act authorizes and directs the Secretary of Agriculture to furnish cotton classification and market news services, without charge, to groups of producers, organized to promote the improvement of cotton. The regulations in Subpart D implement this Amendment by defining organized groups and giving requirements for filing application with USDA to receive the classing and market news services. The regulations also contain requirements and details governing the sampling and classing of cotton for producers, and the distribution of market news.

7 CFR Chapter IA, Part 33. Regulations Issued under the Export Apple and Pear Act.

Summary: The regulations prescribe minimum quality and other requirements for apples and pears shipped to export markets; mandatory inspection and certification for compliance with such requirements; informational and educational activities to inform and promote understanding of the regulations by shippers, exporters, freight forwarders, and export carriers. Periodic examinations of carrier files are made for certificates covering export shipments for apples and pears. Possible violations are investigated to assure compliance with the Acts and regulations.

7 CFR Chapter IC, Part 75. Inspection and Certification of Quality of Agricultural and Vegetable Seeds under the Agricultural Marketing Act of 1946.

Summary: The regulations for the inspection and certification of quality of seeds was formerly contained in the Part 68 regulations for the inspection of grain and related commodities. On April 15, 1977, there was published a FEDERAL REGISTER notice of transfer of the Part 68 regulations applicable to inspection of seed to Part 75 and continuing in effect those regulations administered by the Agricultural Marketing Service. The regulations contain requirements for applying for inspection services and specify the fees and charges for such services.

9 CFR Chapter II, Parts 201.14, 201.15, 201.16. Licensing Provisions for Live Poultry Market Agencies and Live Poultry Dealers Operating in Designated Live Poultry Markets Located in Large Metropolitan Areas.

Summary: This part of the regulation covers licensing procedures applicable to markets which are no longer in existence.

7 CFR Chapter IA, Part 29C, Sections 2501 through 2696. Official Standard Grades for Kentucky and Tennessee Fire-cured Tobacco (U.S. Types 22 and 23).

Summary: This section of the regulations provides criteria for the physical determination of official standard grades for fire-cured tobacco, U.S. Types 22 and 23.

7 CFR Chapter IE, Part 103, Sections 69 through 73. This regulation provides for tobacco classification on the warehouse floor. Grade determinations are strictly based on the Department's official standard grades for respective types of tobacco auctioned at tobacco warehouses.

7 CFR Chapter IE, Part 102.80 through 102.95. Grain Appeals (Grain Warehouses).

Summary: This regulation provides for an appeal procedure in case a question arises as to the true grade of grain stored or to be stored in a licensed warehouse, for which official grain standards of the U.S. are in effect and for which a grain inspection certificate has been issued.

Contact for AMS regulations: Bob Brown, Assistant Deputy Administrator, Management, AMS-USDA, Washington, D.C. 20250, 202-447-3817.

SCIENCE AND EDUCATION ADMINISTRATION

Regulations Proposed for Review

7 CFR 500. Conduct on National Arboretum Property. The rules and regulations in this part apply to the buildings and grounds of the National Arboretum, Washington, D.C., and to all persons entering in or on such property.

7 CFR 501. Conduct on U.S. Meat Animal Research Center, Clay Center, Nebr. The rules and regulations in this part apply to all property of or under the charge or control of the U.S. Meat Animal Research Center, Clay Center, Nebr., and to all persons entering in or on such property.

7 CFR 502. Conduct on Agricultural Research Center Property, Beltsville, Md. The rules and regulations in this part apply to the buildings and grounds of the Agricultural Research Center, Beltsville, Md., and to any persons entering in or on such property.

7 CFR 503. Conduct on Plum Island Animal Disease Center. The rules and regulations in this part cover the buildings, grounds, and vessels of the Plum Island Animal Disease Center, Orient Point, N.Y., and apply to all persons entering in or on such properties both on the mainland, Orient Point, N.Y., and on Plum Island.

Contact for the above regulations: Charles B. Totten, Chief, Property Management Branch, General Services Division, Room 511, Federal Building, Hyattesville, Md. 20782, 301-436-8217.

7 CFR 510. Public Information. The regulations in this part govern the availability of records of the Agricultural Research Service (now SEA-FR) to the public.

Contact for the above regulations: Nicholas Bedessem, Management Analyst, General Services Division, Room 534, Federal Building, Hyattsville, Md. 20782, 301-436-8860.

9 CFR 445. National Poultry Improvement Plan. The National Poultry Improvement Plan provides a cooperative State-Federal program through which new technology can be effectively applied to the improvement of poultry and poultry products throughout the country.

9 CFR 447. Auxiliary Provisions on National Poultry Improvement Plan. The provisions of the National Poultry Improvement Plan are changed from time to time to conform with the development of the industry and to utilize new information as it becomes available.

Contact for the above regulations: Dr. James W. Smith, Chairman, Animal Physiology and Genetics Institute, Room 102, Building 173, BARC-East, Beltsville, Md. 20705, 301-344-2259.

FOREST SERVICE

The Forest Service proposes to review the following regulation: 36 CFR, Part 200, Subparts A and B. The regulation contains the following sections:

Part 200—Organization, Functions, and Procedures.

Subpart A—Organization. This subpart describes both the central and field organization of the Forest Service.

Section 200.1—Central organization. This section describes the Central Office of the Forest Service, and defines the major components—the Chief, the Deputy Chiefs, Program and Legislation, National Forest System, Research, and State and Private Forestry programs.

Section 200.2—Field organization. this section describes the components of the field organization: regions, composed of National forests, and Ranger districts; experiment stations for forest and range research including laboratories and field facilities; area for State and private forestry cooperation; and also includes a list of field addresses.

Subpart B—Functions and Procedures. this subpart describes the functions and procedures of the Forest Service, including its role as a leader in forest use, and general administrative procedures.

Section 200.3—Forest Service functions. This describes the work of the Forest Service, its legislative authority, and its major programs.

Section 200.4—General procedures. Included in this section is a description of Forest Service regulatory media and a description of their use.

Section 200.5—Information available. This describes information available to the public.

Section 200.6—Indexes. This gives information about availability of reference materials.

Section 200.7—Offices where information is available. This informs the

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public of the locations of offices where information is available and states that personnel will assist applicants in locating needed materials.

Section 200.8—Where information may be copied. This states where information may be copied, and where it may not.

Section 200.9—Rules governing inspection and copying. This gives hours when offices are open for inspection and copying of materials, and states fee guidelines.

Section 200.10—Request for records. This section states which officials can receive and process requests for records, and gives parameters for replies to such requests.

Section 200.11—Appeals. This sets forth guidelines for the public to appeal decisions for requests for information.

For further information, contact: Mary Davis, Administrative Management Directives Group, Room 4233-S, Forest Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7847.

SOIL CONSERVATION SERVICE

Regulations Proposed for Review

Repromulgation of 7 CFR, Chapter VI, Part 611—Soil Surveys. This was published in 1974. It provides the rules and regulations for the reproduction and distribution of soils data to the public and managing the National soil survey program. It also includes cartographic operations.

For further information contact: Klaus W. Flach, Assistant Administrator for soil Survey, SCS, USDA, Washington, D.C. 20250, 202-447-75667.

Reason for review: To determine any change in public involvement in this program.

Repromulgation of 7 CFR, Chapter VI, Part 652—Relocation Assistance. This was published in 1974. It provides the rules and regulations on the implementation of Pub. L. 91-646.

For further information contact: Leo Link, Chief, Real Estate and Property Management Branch, SCS, USDA, Washington, D.C. 20250, 202-447-5111.

Reason for review: To determine any change in public involvement in this program.

Repromulgation of 7 CFR, Chapter VI, Part 631—Great Plains Conservation Program. This was published in 1975. It provides for the rules and regulations on the long range voluntary conservation program in the Great Plains area to assist farmers and ranchers to work out a land use development and treatment program to reduce the effects of the erratic climate of the Great Plains area.

For further information contact: David P. Overholt, Director, Conservation Operations Division, SCS, USDA, Washington, D.C. 20250, 202-447-7145.

Reason for review: To determine any change in public involvement in this program.

Repromulgation of 7 CFR, Chapter VI, Part 661—Freedom of Information and Privacy Act Regulations. This was published in 1973. It provides for the rules and regulations governing the public availability of Soil Conservation Service materials and records.

For further information contact: John Brush, Chief, Records and Communications Management Branch, SCS, USDA, Washington, D.C. 20250, 202-447-3907.

Reason for review: To determine any change in public involvement in this program.

FOOD AND NUTRITION SERVICE

Since the majority of FNS regulations have either been updated recently or are in the process of being revised, FNS has only one regulation in need of review at this time, CFR, Part 250, Donation of Food for Use in the United States, Its Territories and Possessions and Areas Under Its Jurisdiction.

Contact: Gene P. Dickey, Acting Deputy Administrator for Special Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250.

FOOD SAFETY AND QUALITY SERVICE

Regulations Governing Use of Nitrites in Red Meat Products. FSQS has regulations governing the use of nitrites and nitrates as a preservative and coloring agent in meat products. These regulations are currently under review since nitrites have been shown to be carcinogenic when used in red meat products as cooked and prepared for human consumption. This review will continue pending study by industry and USDA of methods of elimination of the formation of carcinogenic substances in these products when nitrites are used in the curing process.

Regulations Governing the Procedures Used for Inspection of Meat and Poultry by FSQS. Currently, FSQS is conducting a major review of its entire meat and poultry inspection system to determine the necessity of the current method of inspection (every carcass is inspected by FSQS) as compared to "sampling," "quality control," and other methods. This review, once completed, will result in adopting recommended changes in the inspection procedure, if necessary, which will then entail changing the regulations governing such procedures, or certifying that the regulations have been reviewed and no changes were found to have been necessary.

Regulations Establishing the Procedure for Poultry Post-Mortem Inspection. Currently, FSQS regulations require every poultry carcass inspected to be personally examined by an FSQS inspector. FSQS is reviewing these regulations, and will continue to do so for several months, to determine whether they can be revised to permit "hands off" inspection while retaining the same degree of safety we currently have.

Canning Regulations. Currently, FSQS has several sets of regulations governing quality control procedures to be used by canners which include meat products in their canned goods. This entire set of regulations is and will be for some time under review to determine the necessity of tightening the quality control procedures and establishing more objective criteria for FSQS inspectors to use in judging the adequacy of canning procedures.

Regulations Establishing Criteria for Withdrawal of FSQS Inspection and/or Grading Services. The entire enforcement procedure for FSQS for encouraging compliance with FSQS substantive regulations through threatened or actual withdrawal of FSQS services will be reviewed. All regulations governing such withdrawal will be reviewed, with necessary changes incorporated in a new proposed regulation.

For further information, contact: Mr. David Lenny, Office of the Administrator, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-9520.

[FR Doc. 78-14257 Filed 5-18-78; 12:39 pm]

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[6732-01]

FEDERAL MEDIATION AND CONCILIATION SERVICE

IMPROVING GOVERNMENT REGULATIONS

Report on Steps Taken To Implement Executive Order 12044

This report is submitted as required by section 5 of Executive Order 12044 (the order).

(1) In developing regulations, the Federal Mediation and Conciliation Service (FMCS) has followed the Administrative Procedures Act. Proposed regulations, drafted internally, have been published in the FEDERAL REGISTER. Written comment has been solicited. Copies of proposed regulations have been sent to all relevant publications. Attempts have been made to notify directly interested parties or their representatives.

In order to comply with the provisions of section 2(c) of the order, FMCS will, where at all possible, give the public at least 60 days to comment on its proposed regulations and will publish advance notice of proposed rule-making.

(2) FMCS is not a regulatory or enforcement agency. Accordingly, the Agency has no present regulations which are significant under the criteria of section 2(e) of the order. There are no subject areas within the present jurisdiction of the Agency in which regulations significant under those criteria would be necessary.

(3) FMCS neither has in effect nor contemplates any regulations with major economic consequences within the meaning of section 3 of the order.

(4) Pursuant to section 4 of the order, FMCS will select regulations for review in accordance with the criteria of section 4. In selecting regulations, the Agency will also examine the question of whether the procedures set forth in the regulations can be improved. The regulations reviewed initially will be those dealing with Arbitration Services (29 CFR Part 1404) and Mediation Assistance in the Federal Service (29 CFR Part 1425).

Comments and inquiries regarding this report may be directed to Scott Kruse, General Counsel or David Vaughn, Associate General Counsel, FMCS, Washington, D.C. 20427, telephone 202-653-5305.

Dated: May 17, 1978.

SORINE A. PRELI,
Acting Director of Administration.

[FR Doc. 78-14258 Filed 5-18-78; 12:53 pm]

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[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

IMPROVING GOVERNMENT REGULATIONS

DOD Implementation

AGENCY: Office of the Secretary of Defense.

ACTION: Notice of implementation of Executive Order No. 12044.

SUMMARY: This draft report is published to implement the President's Executive Order 12044, "Improving Government Regulations."

DATE: The public is invited to provide comments before the final report is issued. Written comments must be received on or before July 21, 1978.

ADDRESS: Department of Defense, Office of the Deputy Assistant Secretary of Defense (Administration), Pentagon, Room 3E843, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Colonal Ralph Kennedy, 202-697-1142.

SUPPLEMENTARY INFORMATION: The Department of Defense has reviewed Executive Order 12044, "Improving Government Regulations," March 24, 1978, to determine the extent of its application to the DOD and the actions required to comply with its provisions. Section 6(b)(2), which excludes "regulations issued with respect to a military or foreign affairs function of the United States," would appear to exempt most of the DOD from the Order's coverage. Notwithstanding this exclusion, a comprehensive review of DOD Directives, and other issuances which outlines basic Defense policies, was initiated to determine if any had a major impact on, or required significant action by the public. Following this review, it was determined that the primary purpose of most DOD issuances is to disseminate internal policy or management guidance. However, certain of them regulate, or impact on, public activities. Although many of the issuances in this latter category are prepared by the U.S. Army Corps of Engineers, there are also several which are under the responsibility of other DOD components. Consistent with the President's desire that Federal regulations be made simpler and less burdensome on the public, and that the public be allowed to participate in their development, the DOD in its review will include all issuances which have a significant effect on the public. For the purposes of this initial report all U.S. Army Corps of Engineers regulations were reviewed.

REPORT

As required by the Executive Order, the following four areas are addressed:

1. PROCESS FOR DEVELOPMENT OF REGULATIONS AND CHANGES TO COMPLY WITH THE EXECUTIVE ORDER

a. Current process: At present each regulation is drafted by the DOD component having responsibility for the program which is being addressed. It is then staffed within the DOD for substance and compliance with procedural requirements. The draft is also submitted to other Federal agencies for comment as appropriate. In most instances, public participation is encouraged when the draft regulation is published in the FEDERAL REGISTER and comments are requested from the public. After comments have been received and analyzed, they are used in revising the regulation, as appropriate. In addition, prior to publishing the final version, meetings are held with interested groups or individuals to insure maximum participation by appropriate parties. Following publication, several means are used to insure maximum understanding. These include press releases, public information meetings, and individual contacts.

b. Changes contemplated: Current DOD processes comply with the general intent of the Executive Order. However, to insure absolute compliance with its spirit, policy guidance will be issued to the effect that all significant DOD issuances, as described in section 2, will be developed in full accordance with the provisions of section 2(d) of the Executive Order. Furthermore, the policy guidance will specifically include direction for complying with the other sections of the Order.

2. PROPOSED CRITERIA FOR DETERMINING SIGNIFICANT REGULATIONS

Significant agency regulations will be those which meet any of the following tests:

a. Regulations which would require submissions by the public in order to obtain information, services, or funds or other resources.

b. Regulations which would provide guidance on public conduct (such as rules for public use of military facilities or boating areas).

c. Regulations which would govern recurring interaction between the public and DOD (such as the conduct of business on military installations).

3. PROPOSED CRITERIA FOR IDENTIFYING REGULATIONS REQUIRING REGULATORY ANALYSIS

Regulatory analysis will be conducted on those regulations which meet any of the following tests.

a. Regulations which would have an annual effect on the economy of $100 million or more.

b. Regulations which would require a substantive change in the policies or procedures of State or local Governments.

c. Regulations which would have a major financial, environmental, or social impact on those segments of the affected public.

4. PROPOSED CRITERIA FOR SELECTION OF EXISTING REGULATIONS TO BE REVIEWED AND LIST OF REGULATIONS FOR INITIAL REVIEW

Any regulation which qualifies as significant under the criteria of section 2 will be reviewed. As previously indicated, U.S. Army Corps of Engineers regulations constitute the initial review. Those to be reviewed are:

a. 33 CFR 320—General Regulatory Policies.
b. 33 CFR 321—Permits for Dams and Dikes in Navigable Waters of the United States.
c. 33 CFR 322—Permits for Structures or Work in or Affecting Navigable Waters of the United States.
d. 33 CFR 323—Permits for Discharges of Dredged or Fill Material into Waters of the United States.
e. 33 CFR 324—Permits for Ocean Dumping of Dredged Material.
f. 33 CFR 325—Processing of Department of the Army Permits.
g. 33 CFR 326—Enforcement.
h. 33 CFR 327—Public Hearings.
i. 33 CFR 328—Harbor Lines.
j. 33 CFR 329—Definition of Navigable Waters of the United States.
k. 36 CFR 327 (EC 1130-2-159)—Rules and Regulations Governing Public Use of Water Resource Development Projects administered by the Chief of Engineers.
l. 36 CFR 327 (ER 1130-2-411)—Regulation of Seaplane Operations at Civil Works Water Resource Development Projects.

In addition to the regulations covered under the Order, the DOD is currently in the process of revising its procurement regulations, even though they are excluded from coverage. The Department believes that this is a particularly important effort when placed within the context of the President's objectives.

Subsequent review of regulations identified as "significant" will be conducted, with full public notification, in accordance with the provisions of Executive Order 12044.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MAY 18, 1978.

[FR Doc. 78-14316 Filed 5-18-78; 3:33 pm]

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[6820-27]

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

IMPROVING GOVERNMENT REGULATIONS

AGENCY: Administrative Committee of the Federal Register.

ACTION: Notice and request for comment.

SUMMARY: This document identifies certain issues being considered by the Administrative Committee of the Federal Register as part of the government-wide regulatory improvement program generated by Executive Order 12044, Improving Government Regulations. Comments are requested from both Federal agencies and the public on these issues and other issues relevant to the authority of the Committee.

DATE: Comments must be received on or before July 23, 1978.

ADDRESS: Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT:

Martha Girard, Office of the Federal Register, National Archives and Records Service, Washington, .D.C 20408, 202-523-5240.

SUPPLEMENTARY INFORMATION: The Administrative Committee of the Federal Register is taking the opportunity presented by the Executive order on improving Government regulations to examine both its regulations and the current needs of users of the FEDERAL REGISTER. Because most of the Administrative Committee's regulations affect inter-agency procedures, many provisions of EO 12044 do not apply. However, the Federal Register/Code of Federal Regulations system is the vehicle used by the Federal agencies to communicate its rules and regulations to the public. Therefore, the quality and usefulness of this publication system directly affects the public's understanding and access to regulations.

The Committee has reviewed the process by which it has issued past regulations, and the specific requirements of its regulations. This review has taken into consideration the two distinct audiences affected: Federal agencies issuing regulations and the public. The Committee has identified certain areas that could be improved, and is soliciting comments from the agencies and the public on these improvement goals.

Many of the proposals made in this document directly affect Federal agencies and their relationship with the Office of the Federal Register. More significant, however, is that the publication requirements and services of the Federal Register system affect the usefulness of the regulations issued by Federal agencies. Since the ultimate impact of regulations is on the public, the Committee is soliciting comments from both the public and Federal agencies on its proposals.

REGULATIONS PROCESS

Most of the regulations of the Administrative Committee of the Federal Register are developed to improve the public's access to Government regulations. The Committee's present process requires:

The full Committee act directly on all changes in its regulations, both in the proposed and final stages; and

All its regulations be published in proposed form for public comment prior to adoption.

EO 12044 requires agencies to establish criteria for determining "significant" regulations and imposes additional requirements on regulations determined to be significant. However, since each member of the Committee acts directly on all regulatory changes, it is not necessary to distinguish between those that are significant and those that are not. Additionally, the regulations of the Committee do not affect the economy so a regulatory analysis is not required.

The present regulations process meets both the spirit and the intent of Executive Order 12044 and no changes in the process are proposed.

REVIEW OF REGULATIONS

The Committee reviewed all of its regulations in light of the goals of the Executive order. The Committee believes that the present regulations can be streamlined and restated more clearly. The Committee requested the Federal Register staff to be responsible for this project and to report its progress to the Committee. In addition, the Committee believes that its publications can be further improved with assistance from the public.

The Committee specifically requests comments in the following regulatory areas:

ORGANIZATION OF THE FEDERAL REGISTER

Material now published in the FEDERAL REGISTER is grouped as follows.

Presidential documents;
Rules and Regulations;
Proposed Rules; and
Notices.

In recent years, Federal agencies have developed innovative ways of seeking more effective public participation (advanced notices of proposed rulemaking, notices of intent, etc.). The question thus arises should additional categories be created?

An alternative approach that merits consideration is whether the FEDERAL REGISTER should be organized according to the issuing agency? Specifically, should all documents published by an agency on a particular day be grouped together, regardless of whether they are rules, proposed rules or notices?

ORGANIZATION OF THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations (CFR) was designed in 1938 to parallel the United States Code (U.S.C.). The theory was that if Congress enacted a law into Title 5 of the U.S.C., you would be able to find any implementing regulations in Title 5 of the CFR. Changes in the executive branch have tended to blur the similarities between the U.S.C. and the CFR. One possible reform would be to strictly comply with the original design. Another would be to completely redesign the CFR along Federal agency lines so that the regulations of one agency would be in a single title. Under the present system, for example, the regulations of the Department of Transportation are scattered throughout the CFR in Titles 14, 23, 33, 46, and 49. The system under consideration would place all of these regulations in one title.

EXPANSION OF TABLE OF CONTENTS AND OTHER RESEARCH AIDS

The Committee sees a need to expand the coverage of the Table of Contents of the daily FEDERAL REGISTER. However, the time limitations involved in preparing a daily publication, combined with the unpredictable number of documents submitted on a given day, inhibit preparation of a more comprehensive Table of Contents.

If interest warrants, the Committee could require agencies to submit appropriate Table of Contents entries with the documents so that they are listed under specific subject headings. For example, in addition to the present agency listing, documents affecting grant programs would be listed under the heading Grants; documents relating to specific geographic areas could be listed under an area heading.

Especially helpful would be suggestions for subject headings that could be established for the Table of Contents.

Agency cooperation with an expanded Table of Contents may be the first stage of developing a comprehensive index to the daily FEDERAL REGISTER. The Administrative Committee has often been urged to expand indexes to its publications, but with present resources has not been able to do so. Agency involvement in developing index entries would make comprehensive indexes a realistic goal.

In addition to the specific areas discussed above, the regulations of the Administrative Committee of the Fed-

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eral Register also deal with: publication schedules, subscriptions to all Federal Register system publications; the working relationship between the Office of the Federal Register and Federal agencies as well as services to Federal agencies; and also services to the public. The goal of the Committee is to review the present system to identify any improvements that would improve the usefulness and accessibility of Federal Register publications. The Committee is therefore interested in obtaining recommendations in the areas mentioned as well as any others.

Dated: May 18, 1978.

FRED J. EMERY,
Secretary, Administrative Committee of the Federal Register.

[FR Doc. 78-14472 Filed 5-19-78; 11:44 am]

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[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

IMPROVING GOVERNMENT REGULATIONS

Plans for Implementing Executive Order 12044

AGENCY: Office of Mangement and Budget.

ACTION: Request for public comment.

SUMMARY: The Office of Management and Budget is seeking comments on its proposal to implement Executive Order 12044, Improving Government Regulations (43 FR 12661, March 24, 1978). The proposal sets forth new OMB procedures for developing directives which have the effect of regulations and describes a comprehensive review of existing directives.

DATE: Comments are due July 21, 1978.

ADDRESS AND CONTACT FOR FURTHER INFORMATION:

Ms. Velma Baldwin, Assistant to the Director for Administration, Room 243, Executive Office Building, Washington, D.C. 20503, 202-395-4790.

Implementation of Executive Order 12044 by the Office of Management and Budget

INTRODUCTION AND COVERAGE

As a staff agency to the President, we believe that the Office of Management and Budget has a special obligation in complying with the spirit and intent of President Carter's Executive Order 12044 on Improving Government Regulations.

The Office of Management and Budget is not normally thought of as a regulatory agency. Although it is true that OMB ordinarily does not issue rules and regulations directly requiring compliance by members of the public, it does issue directives that are applicable to all executive agencies. When agencies, in turn, apply these directives, the effect on the public is often the same as regulations. Therefore, OMB must be sensitive to the ultimate effect of its requirements on the public.

The intent of the Order is to make government requirements more understandable and more open to public participation. In the past, OMB did not seek public comment on its draft instructions to the agencies. Over the years, many of OMB's directives (circulars and bulletins) have taken on increasing importance for grant-in-aid programs, contracting procedures, State and local consultation, reports clearance, and paperwork reduction. In recent years, some of these circulars have been published in final form in the FEDERAL REGISTER and a few have been published in draft form for public comment. (Circular A-21, "Cost principles for educational institutions," was published on March 10, 1978, an is currently open to comment.)

Circulars and bulletins are developed by individual program offices within OMB. Proposed OMB directives are circulated to the General Counsel, the Assistant to the Director for Public Affairs, the Budget and Management Officer, and appropriate divisions within OMB. Based on the comments received, the directive is revised and sent to the agencies for comment. The final directive incorporates agency comments and is signed by the Director of OMB.

In keeping with the President's desire to expand opportunities for public participation in the regulatory process, OMB will now undertake a systematic effort to increase public participation in the development of circulars and bulletins that are likely to have a significant impact on the public, on State and local governments, and on public and private institutions.

The process by which OMB will develop new circulars and bulletins is described in this report. These procedures will be incorporated into a new system of directives currently being developed for OMB.

OMB invites comments on its effort to carry out the President's program. Comments should be sent no later than July 21, 1978, to Ms. Velma Baldwin, Assistant to the Director for Administration, Room 243, Executive Office Building, Washington, D.C. 20503, 202-395-4790.

DEVELOPMENT OF NEW OMB DIRECTIVES

OMB generally issues two types of directives—bulletins and circulars. Bulletins are short-term instructions to the agencies that require one-time action or are of a temporary nature. Circulars are long-term instructions to the agencies that remain in effect until rescinded. These OMB directives govern a wide range of agency requirements including administrative requirements for grants and agreements with universities, hospitals, and other nonprofit organizations; policies for acquiring commercial or industrial products and services for government use; clearance of agency requests for information from the public; user charges; coordination of proposed Federal and federally-assisted development programs and projects; guidelines for the use of consulting services, etc.

For all new and revised directives, OMB adopts as its general policy, the principles stated in section 1 of Executive Order 12044. The specific requirements of section 2 will apply to all directives which are likely to affect:

(1) The existing procedures by which State or local governments contribute to or participate in the development of Federal policy;

(2) The nature and scope of information collected by Federal agencies from non-Federal respondents;

(3) The nature and scope of information provided by agencies of the Federal Government under the Privacy Act;

(4) The standards by which agencies establish requirements associated with grants, contracts, or other forms of financial assistance.

Those bulletins and circulars that outline procedures to be followed by departments and agencies for the President's budget and legislative program will not be covered. In addition, OMB directives on procurement are excluded from coverage. Procurement regulations are excluded by section 6 of the Order but are developed with full public participation under the provisions of the Office of Federal Procurement Policy Act, Pub. L. 93-400.

AGENDA AND OVERSIGHT

Twice each year OMB will publish an agenda of upcoming action on OMB directives covered by Executive Order 12044. The agenda will include both new directives and existing directives under review. A schedule of publication dates will be published in the FEDERAL REGISTER on the first Monday in October. Before any action can be included on an agenda (or supplement if necessary), the responsible Associate Director will be required to notify the Director of work begun on new or revised directives. This notification will include:

(1) A statement of the problem addressed by the directive and the means by which this problem was brought to the attention of OMB.

(2) The legal basis for issuance of the directive and the name of a knowledgeable agency official.

(3) A statement as to whether or not a regulatory analysis will be required.

(4) A statement of the issues involved and the alternatives being explored.

(5) A plan for public involvement and the target dates for steps in the development process.

A copy of this notification will also be sent to the Assistant to the Director for Administration and the General Counsel. The Assistant to the Director for Administration will compile the agenda of upcoming agency actions from the first three required items and will include on the agenda the status of actions listed on the previous agenda. Each agenda will be approved by the director and sent to the FEDERAL REGISTER for publication.

PUBLIC PARTICIPATION

To the fullest extent possible, OMB will extend to the public an opportuni-

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ty to participate in the development of OMB directives. OMB will consult with and notify affected parties through the FEDERAL REGISTER and other publications.

To implement the President's March 23, 1978, instruction to the agencies, State and local governments or their representatives may request the Deputy Associate Director for Intergovernmental Affairs to develop a specific plan for appropriate intergovernmental consultation.

When the draft directive is published in the FEDERAL REGISTER, it shall be accompanied by a brief description of the intergovernmental consultations conducted, the suggestions received, and the proposed response to these suggestions.

REGULATORY ANALYSIS

Executive Order 12044 requires that a regulatory analysis be prepared whenever there are major economic effects resulting from an agency's regulatory actions. OMB will prepare an analysis if: (a) the directive has an annual effect on the economy of $50 million or more, or (b) it will result in a major increase in costs or prices for individual industries, public and private institutions, levels of government, or geographic regions. In addition, at the discretion of the Director of OMB, a regulatory analysis may be conducted on any new or revised OMB directive.

If one of these criteria is met, a regulatory analysis will be prepared and made available at the time the directive is published for comment. A final analysis will be prepared along with the final directive and made available to the public. Such an analysis shall contain a statement of the problem, a description of the major alternative ways of dealing with the problem, an analysis of the economic consequences of each of these alternatives and a detailed explanation of the reasons for choosing one alternative over the others.

OMB directives covered by the Executive Order will be published for a 60-day comment period. If this is not possible, the directives will be accompanied by a brief statement of the need for a shorter time period.

APPROVAL

All OMB directives covered by the Executive Order will be signed by the Director. The responsible Associate Director will assure that the proposed directive:

(1) Is clear and understandable;

(2) Is necessary to address a significant policy question;

(3) Has been carefully analyzed for both direct and indirect effects and burdens;

(4) Is responsive to public comments;

(5) Has been evaluated for possible new reporting requirements and an estimate of the burdens has been made;

(6) Is accompanied by a plan for evaluating the directive; and

(7) Will be published along with the name, address, and telephone number of a knowledgeable agency official.

REVIEW OF EXISTING REQUIREMENTS

To comply with section 4 of the Executive Order, OMB is conducting a fundamental review of the structure and content of its entire system of circulars. Circulars which are outdated, not clearly written, unnecessarily burdensome, or which do not deal with significant government-wide policy matters will be updated or eliminated. Seven circulars have already been eliminated or transferred. When possible, requirements for submissions of reports to OMB will be reduced. Circulars A-36 (Deferred paydays), A-40 (Clearance of plans and report forms under the Federal Reports Act), A-44 (Management review and improvement program), A-48 (Responsibility for planning training investments and regulations governing reductions in payments to employees), A-72 (Federal employees occupational health service programs), and A-113 (Preparation and submission of management plans) will come under particular attention at the beginning of this review. Public comment on this review is welcome and should be addressed to Velma Baldwin, Assistant to the Director for Administration.

Only significant policy material that can be easily updated will be contained in new or revised circulars. A new classification and numbering system will be developed for OMB directives.

In a related action, on May 4, 1978, OMB announced a joint effort by the Office of Federal Procurement Policy, the Defense Department, and the General Services Administration to develop a single set of government-wide procurement regulations. The single set of regulations will replace more than 62 different sets of regulations currently in use. The effort is another step in the President's program to reduce the paperwork burden on the private sector, to eliminate conflicts, redundancies and inconsistencies, and to eliminate unnecessary burdens on the economy, organizations and individuals.

In the future, OMB will review periodically its existing requirements:

(1) in response to agency and public comment;

(2) when conditions affecting the requirements change; and

(3) when there is a need to simplify or clarify the requirements.

Members of the public will be informed of OMB reviews of existing directives through the semiannual agenda and other public notices.

JAMES T. MCINTYRE, Jr.,
Director.

[FR Doc. 78-14473 Filed 5-19-78; 11:50 am]

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PRIVACY ACT ISSUANCES, 1977 COMPILATION

The 1977 Compilation of Privacy Act Issuances has been printed in six volumes and may be purchased by using the order form below.

Volumes I through V contain the systems of records and access regulations that were published in the FEDERAL REGISTER during September, 1977, by the various government departments and agencies. Volume VI contains the same information for those government departments and agencies that published at a time other than during September, 1977. For a list of agencies in each volume, consult the October-December FEDERAL REGISTER Index.

The date(s) in parentheses following Volumes I through VI indicates the 1977 FEDERAL REGISTER issue dates that comprise that volume.

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